

**OFFICIAL PROCEEDINGS
OF THE
PLANNING-CITIZEN ADVISORY COMMISSION
CITY OF LOWELL, MICHIGAN**

For the Regular Meeting of the Planning-Citizen Advisory Commission July 25, 2005 at 7 p.m.

The Meeting was called to order at 7:00 p.m. by Chairman Jahnke and the Clerk called the Roll.

Present: Commissioners Berry, Dimmick (arrived at 7:14 p.m.), Grimm, Hall, LaPonsie, Schmaltz, Teelander and Chairman Jahnke.

Absent: None.

Also Present: City Manager David Pasquale, City Clerk Betty Morlock, Councilmember Jim Hodges, Mayor Jeanne Shores, and Building Inspector Doug Hopkins.

City Manager Pasquale noted Vice Chairman Debra Hinton has given her resignation due to personal conflicts with her schedule. Pasquale suggested a new Vice Chair be appointed to this position.

IT WAS MOVED BY TEELANDER and seconded by BERRY to excuse the absence of Commissioner Dimmick.

YEA: 7. NAY: 0. ABSENT: 1. MOTION CARRIED.

IT WAS MOVED BY TEELANDER and seconded by SCHMALTZ to nominate Maryalene LaPonsie as Vice Chair of the Planning Commission.

YEA: 7. NAY: 0. ABSENT: 1. MOTION CARRIED.

IT WAS MOVED BY HALL and seconded by LAPONSIE to approve the minutes from the June 27, 2005 meeting as corrected.

YEA: 7. NAY: 0. ABSENT: 1. MOTION CARRIED.

Item #1. **APPROVAL OF AGENDA**. Chairman Jahnke suggested Item 6C (Review of Industrial zoning for property located at the southeast corner of Grand River and Division) be deferred until August 22, 2005.

IT WAS MOVED BY HALL and seconded by LAPONSIE to approve the agenda as amended.

YEA: 7. NAY: 0. ABSENT: 1. MOTION CARRIED.

Item #2. **PUBLIC HEARING.**

- A. Amendment to provisions regarding mining in the Zoning Ordinance – consideration and recommendation to the City Council. Several months ago, an issue was raised regarding the definition of mining, particularly involving the work done at the west end of Bowes Road. Comments were given as to what mining really meant. After several months of review, an amendment had been proposed to the zoning ordinance which defines what a mine is as well as more specifications for a special use permit. City Manager Pasquale read the following into record:

Section 1. Amendment of Section 2.14 of Chapter 2 of Appendix A. Section 2.14 of Chapter 2 of “Appendix A – Zoning Ordinance” of the Code of Ordinances of the City of Lowell is amended by the addition of the following definition:

Mine.

- A. An area of land from which minerals are extracted in nonliquid form or, if in liquid form, are extracted with workers underground,
- B. Private ways and roads appurtenant to such area, and
- C. Lands, excavations, underground passageways, shafts, slopes, tunnels and workings, structures, facilities, equipment, machines, tools or other property including impoundments, retention dams, and tailings ponds, on the surface or underground, used in or to be used in, or resulting from the work of extracting such minerals from their natural deposits in nonliquid form, or if in liquid form with workers underground, or used in, or to be used in, the milling of such minerals, or the work of preparing minerals, and includes custom coal preparation facilities.
- D. An area of land where the overburden, consisting of unconsolidated rock, glacial debris, or other earth material overlying bedrock is extracted from the surface. Extraction occurs on a one-time basis or intermittently as need occurs, for use as fill materials by the extracting party in the form in which it is extracted. No milling is involved, except for the use of a scalping screen to remove large rocks, wood and trash. The material is used by the extracting party more for its bulk than its intrinsic qualities on land which is relatively near the land from which the material is being extracted.

Section 2. Amendment of Section 17.04 C of Chapter 17 of Appendix A. Section 17.04 C of Chapter 17 of “Appendix A – Zoning Ordinance” of the Code of Ordinances of the City of Lowell is amended to read as follows:

- C. Mine Operations (Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or minerals resources)
 - 1. Any site (property) that falls under the jurisdiction of MSHA as determined by Code of Federal Regulations Title 30 shall be considered a mine operation and will not be allowed any of the exception in 17.04© (2).
 - 2. No soil, sand, gravel, or other earth material shall be removed from any land within the city without special land use approval, with the following exceptions:

- a. When earth removal is incidental to an operation for which a building permit has been issued by the city;
 - b. When the earth removal involves any normal landscaping, driveway installation and repairs, or other minor projects;
 - c. The earth removal will not alter predominate drainage patterns or cause drainage impacts to adjoining properties;
 - d. The earth removal involves less than one hundred (100) cubic yards;
 - e. The earth removal is for the purpose of construction of a swimming pool;
 - f. The earth removal will not be transported across more than ½ mile (1320 Feet) of public property, right-of-way or property now owned by the same entity.
- D. The soil removal will not be in violation of any other section of this ordinance, other city ordinance, Soil Erosion and Sedimentation Control Act of 1972, or any other applicable state or federal law.

No comments were received from the public hearing.

IT WAS MOVED BY LAPONSIE and seconded by HALL to recommend approval to the City Council of the amended ordinance regarding mining as written.

YEA: 7. NAY: 0. ABSENT: 1. MOTION CARRIED.

Item #3. **NEW BUSINESS**

A. **SITE PLAN REVIEW**

1. Amendment – Grand Wittenbach – 749 W. Main (southeast corner of S. Pleasant and W. Main). Jack Bos, co-owner of the Grand Auto Family submitted a revised site plan for its body shop. The addition has been eliminated. In its place would be a fenced area. This will be used for storage of wrecked vehicles. The parking lot and all other proposed improvements will remain the same.

City Manager Pasquale explained the following amendments have been proposed:

- Eliminate the 32' X 60' addition
- Provide a 32' X 52' enclosure in its place screened by a six foot high chain link fence with vertical plastic slats. The surface would be graveled for the storage of wrecked cars. The gravel is to allow for eventual construction of an addition. Pasquale noted DPW Director DesJarden would rather have this area asphalted, since this is within the well head protection area. Also, Pasquale stated he would rather have the owner provide a wood fence.
- A new service door is placed on the south side of building.

Commissioner Teelander questioned the runoff. Chairman Jahnke suggested a catch basin

be installed. Bos noted a substance can be placed to absorb such runoff.

Bos noted the area around the building will be asphalted beside the sidewalk, as well as new concrete in the front of the building.

Hall wanted to protect and enhance the neighborhood. Homeowners are making an investment in the area.

Hall suggested the engineers (Moore and Bruggink) be involved with the potential chemical run off.

IT WAS MOVED BY HALL and seconded by DIMMICK to approve the site plan amendment to Grand Wittenbach body shop at 749 W. Main requiring the lot be hard surfaced and the chemical run off collection system be designed by an engineer with final approval by City staff. Further, the fence should be consistent with that of the Grandville lot showing a chain link fence with slats.

YEA: 8. NAY: 0. ABSENT: 0. MOTION CARRIED.

B. VARIANCES – RECOMMENDATION TO THE ZONING BOARD OF APPEALS

1. 206 S. Pleasant – Habitat for Humanity – setback variance for a new accessory building. Director of Habitat for Humanity, Pam Doty – Nation explained this parcel of property (807 Bowes) was deeded to Habitat for Humanity in 1997. Since this time, Habitat has been working with Frances Swearingen (206 S. Pleasant) regarding Habitat building on the property as well as making improvements to her property. Upon receipt of the deed, it became known Swearingen's shed was actually located on the Habitat property. As part of the final agreement, it was decided the roof on her current home would be replaced as well as providing a new storage facility due to the existing structure being on Habitat's property. Upon placement of the shed, it was discovered this was nine feet from the accessory building to the house and the setback requirements would not be met. It was noted, Swearingen preferred the shed to be in the back of her house.

It was also noted Swearingen's house sits on Habitat's property by approximately 4 inches. Additionally, the existing garage is less than 10 feet from the house.

City Manager Pasquale stated the current zoning ordinance allows two accessory buildings. Currently, there is an unattached garage and another shed.

Building Inspector Doug Hopkins explained this is a corner lot with two front yards. Therefore, there is no rear yard. The requirements of both the primary and secondary setbacks must be met. Hopkins estimated the distance between the existing garage and the house at approximately 15 feet.

The Commission reviewed the following criteria which are necessary in order to grant the variance.

- A. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district. Commissioner Schmaltz had no opinion. All other Planning Commissioners did not believe there were any exceptional circumstances.
- B. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. By general consensus, the Commissioners did not believe this condition was met.
- C. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance. By general consensus, the Commissioners did not believe this condition was met.
- D. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood. Commissioners Hall, Teelander, Berry, Schmaltz and Jahnke believed the criteria was not met. Commissioners Grimm, LaPonsie and Dimmick believed the criteria was met.
- E. The variance will not impair the intent and purpose of this Ordinance. By general consensus, the Commissioners did not believe this criteria was met.
- F. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant. Commissioners Teelander and Hall did not believe the applicant caused the problem. All other Commissioners did not believe this criteria had been met.

IT WAS MOVED BY DIMMICK and seconded by HALL to recommend denial of the setback variance request for a new accessory building at 206 S. Pleasant to the Zoning Board of Appeals due to not meeting the necessary criteria.

YEA: 8. NAY: 0. ABSENT: 0. MOTION CARRIED.

Item #4. **ANY OTHER BUSINESS/ON GOING BUSINESS.**

- A. Master Plan Update. A worksession is scheduled for Tuesday, August 9, 2005 at 7 p.m. to review specifications for a master plan update.
- B. Coordination of balloons display for west side businesses. Chairman Jahnke stated he would provide a report on this issue on August 22 2005.

Item #5. **BUILDING INSPECTORS REPORT**. No comments were received.

Item #6. **PUBLIC COMMENTS**. No comments were received.

Item #7. **COMMISSIONER COMMENTS**. Commissioner Dimmick apologized for being late.

Commissioner Berry commented on the high gasoline prices in Lowell.

Commissioner LaPonsie questioned why the property at 206 S. Pleasant Street was split. City Manager Pasquale stated the property came into the City's possession a number of years ago. Habitat then built a house. Commissioner Hall noted this is a very attractive home.

Commissioner Teelander asked when the lane changes would be complete on Hudson Street. Pasquale understood it would be done this summer. However, he has not received a date from the County Road Commission. Mayor Jeanne Shores stated the restriping has begun.

Teelander also commented on the "Protect Our Pedestrian" banner over Main Street downtown. She questioned who should receive credit for the banner. Pasquale stated a merchant committee approached the Downtown Development Authority regarding the need to bring attention to individuals crossing the street.

Chairman Jahnke commented on temporary sign outside the 88¢ Superstore. Hopkins indicated a second notice of violation has been sent.

IT WAS MOVED BY LAPONSIE to adjourn at 8:19 p.m.

DATE:

APPROVED:

Clark K. Jahnke, Chairman

Betty R. Morlock, City Clerk