

MINUTES
AUSTIN CITY PLANNING COMMISSION
TUESDAY, OCTOBER 11, 2005
5:30 P.M.
AUSTIN CITY COUNCIL CHAMBERS

MEMBERS PRESENT: Suzanne McCarthy, Lynn Spainhower, Sue Grove, Gordon Kuehne, Glen Mair, Rich Bergstrom, Brian D Johnson and Elizabeth Banks

MEMBERS ABSENT: Janet Anderson

OTHERS PRESENT: Craig Hoium, Craig Byram, Council Member Dick Pacholl, public and media

The meeting was called to order by Commission Member Johnson at 5:32 P.M.

Commission Member Mair made a motion to approve the September 13, 2005 minutes as written, seconded by Commission Member Spainhower.

OPEN PUBLIC HEARING: To consider a request from Richard and Deborah Stehlík, 1000 8th Ave SE, Austin, MN, for a 4 foot variance to be issued pursuant to Austin City Code Section 11.75, Subd.4 which regulates the minimum front yard setback for decks constructed within an "R-1" Single-Family Residence District. This action has been requested for a handicap ramp/landing constructed in the petitioners front yard area.

Craig Hoium reviewed the request. The SEMCIL agency is a group that assists citizens with providing accessibility to the residence. Mailings went out with no response for or against the request.

Commission Member McCarthy asked if there could be a ramp leading to the back door.

Mr. Hoium said it is possible, but it would be difficult for the resident to get to an accessible spot for ramp entrance.

Commission Member Spainhower asked if the ramp and landing were acceptable.

Mr. Hoium said the building aspects are all fine, the setbacks with this ramp is where the problem lies.

Commission Member Mair asked why they built it if there are discrepancies.

Mr. Hoium said the contractor applied for the permit, one or two days later when I contacted them they indicated that the project was already done.

Commission Member Mair asked why they did not follow the city procedures.

Mr. Hoium said the contractor constructs ramps in several communities in Southeastern Minnesota and I assume they were under the understanding that once they made the application they were okay to start the project. Our procedure is to first make the application, then we review the site plan, do the building code compliance review and then the building permit is mailed.

Commission Member Kuehne made a motion to recommend approval of this variance do to the hardship and health of the petitioner, seconded by Commission Member Bergstrom. Motion passed unanimously.

OPEN PUBLIC HEARING: To consider a request from Lawrence Arens, 1817 4th St NE, Austin, MN, for a variance to be issued pursuant to City Code Section 11.01 which limits the aggregate accessory structure area to 1,000 sq.ft. for properties located in an "R-1" Single-Family Residence District. This action has been requested for the proposed construction of a 12' x 30' detached garage carport addition.

Mr. Hoium reviewed the request. The carport addition would be for storing a recreational vehicle. Mailings went out with no response for or against. When making a recommendation please refer to the state statutes.

Commission Member Kuehne asked if the building will be smaller than the neighbors.

Mr. Hoium was not sure but the neighbor to the west had a variance request approved similar to this request.

Commission Member Grove asked if the shed would be staying.

Mr. Hoium said he believes the shed will stay, the owner is here, he may answer that question.

Commission Member McCarthy asked if the owner is going to store his boat there.

Lawrence Arens, 1817 4th St NE, said he would like to put the boat under the carport, it would free up more of the back yard and look better, nice and neat.

Commission Member Spainhower asked what the foundation of the addition would be.

Mr. Lawrence said it would be a floating slab.

Commission Member Johnson asked if the shed would be staying.

Mr. Lawrence said he would like to keep it.

Mr. Hoium said there are no exterior walls on this proposed carport, you might want to consider that this addition shall remain open and stating that in your recommendation to the council.

Commission Member Grove made a motion to recommend approval of the request as it meets the two statutory requirements and it should remain open as a carport, seconded by Commission Member McCarthy. Motion passed unanimously.

OPEN PUBLIC HEARING: To consider a request from the Austin Port Authority, 500 4th Ave NE, and the Austin Packaging Company, 1118 North Main Street, Austin, MN, for the amendment to an existing conditional use permit to accommodate the proposed construction of a 189' x 123'2" warehouse addition. Said action is pursuant to City Code Sections 11.41, Subd.3 and 11.56 for properties located in a "B-2" Community Business District.

Mr. Hoium reviewed the request. The petitioner has acquired an additional business client which is the reason for the planned additional space. Mailings went out with no response for or against the request. The six staff recommendations should be considered in the motion if approved.

Commission Member Mair made the motion to approve the amendment of the conditional use permit since it will not create any excessive burden, the exterior appearance will be okay, existing businesses would not be adversely affected and traffic would not appear to change and the six staff conditions are met, seconded by Commission Member Grove. Motion passed unanimously.

OPEN PUBLIC HEARING: To consider a request from Steve Wheeler, 504 4th St SW, Austin, MN, and Misty Christ, 505 10th St NW, Austin, MN, for a conditional-use permit to allow for the proposed operation of a home occupation pursuant to City Code Section 11.30, Subd.3, for properties located in an "R-1" Single-Family Residence District. This requested action, if approved, would accommodate this business operation of a photography studio on this property under review.

Mr. Hoium reviewed the request. The business operator must reside on the property, Misty Christ is in the process of buying the home from Steve Wheeler and will be residing on the property. Mailings went out with no response speaking for or against the request. There are seven staff conditions to consider if approved.

Commission Member McCarthy asked if the occupation will be in the house.

Mr. Hoium said the business must be on the first floor of the home or primary structure, the petitioner has a future plan to build an addition to the attached garage.

Commission Member Kuehne pointed out that number one in the staff report counters the two square foot signage rule.

Mr. Hoium said the Planning Commission can make the decision to go either way with that item.

Commission Member Spainhower voiced her concern with customer parking and number of customers.

Mr. Hoium said after visiting the property there is room for at least five vehicles in the driveway so the parking shouldn't be a problem.

Commission Member Spainhower asked about group photos, like sports and families, appointments overlapping and customers picking up proofs.

Mr. Hoium said the business cannot take up more than 1/3 of the first floor space of the primary structure.

Commission Member Spainhower asked if there would be any employees.

Misty Christ, 505 10th St NW, said she has never had any employees, just friends helping out.

Commission Member Spainhower asked Mr. Hoium if that is the same as an employee and how is this enforced.

Mr. Hoium said one of the required conditions for a home occupation is that no persons are employed except the member of the household residing on the premises. No we do not usually stop and check on that, but in most cases if there is a problem we hear about it from neighbors.

Commission Member Johnson said the considerations on the first page are per the ordinance and are not changeable.

Mr. Hoium said that is correct and if this conditional use permit is approved the petitioner has to be in compliance with the eight items in Section 11.30, Subd.3(D).

Ms. Christ said her studio is by appointment only for sittings and pickups, I can make a point to enforce that. I would be more picky if I am at my residence.

Commission Member McCarthy said she is not concerned about the home occupation but the set up of where it is at. There is no alley behind the residence and no parking on fourth street.

Commission Member Bankes was concerned more about people parking on fourth street while they run in to pick up pictures quick.

Ms. Christ said pick ups would be by appointment only also.

Commission Member Spainhower said a lot of time customers do not listen. What are your proposed business hours?

Ms. Christ said her desired business hours would be Monday-Saturday from 10:00 A.M to 7:00 P.M.

Commission Member Johnson asked if one customer at a time would be an issue.

Ms. Christ said it shouldn't be if she makes it specific on what time they can come.

Commission Member Johnson said if we made it two customers that would take care of it.

Ms. Christ said yes.

Commission Member Kuehne asked if there is any signage planned.

Ms. Christ said she would like to have something hanging on the porch that would match the house.

Commission Member Spainhower asked if this was a business decision.

Ms. Christ said it is a business decision so she could have yard and outdoor props, Skinners Hill is close by and the house is beautiful for indoor pictures. I have outgrown the space that I am in.

Commission Member Spainhower asked the square footage of her current location.

Ms. Christ was not sure but she has measured all of her props and set up a layout of where they would fit. I do not have them with me, my father is ill and I just got back to town.

Commission Member Spainhower said that is an important statement when you say you are growing out of my business as opposed to wanting to be there for better pictures. If you are growing out of that location how are you going to manage on 1/3 of your floor space at this location.

Ms. Christ said she wants to add the garage to the house with plans to add a pure white room. My props are in the basement at my current location and there is water leakage. This house has a yard, I would like to use a pond outside, live plants and flowers. I would have a lot more options at this location that I do not currently have without extra costs to customers.

Commission Member Spainhower asked Mr. Hoium if outside space is considered part of the overall space we have to limit.

Mr. Hoium said the occupation must only occur in the principal residential structure on this site.

Commission Member Spainhower said the outdoor photos would be prohibited. It is limited to the residence on the first floor.

Craig Byram said he has not researched it but that is how it reads.

Michaell Bednar, 505 4th St SW, said she appreciates how hard it is to make a living. She has put a lot of money investing in her home. She feels a business with even a minimal sign will detract from the historical area. I wonder about the comprehensive plan of the City of Austin, I don't think the conditional use is in harmony with the comprehensive plan. The Port Authority has a lot of buildings available that she could look into. I feel residential areas should remain residential.

Commission Member Kuehne asked about Mr. Loeschen's business down the street from Mrs. Bednar.

Mrs. Bednar said there is no signage and we never hear anything from him. There is another gentleman who gives piano lessons and there is no traffic or problem because there is no signage.

City Council Member Dick Pacholl, 815 10th Ave SW, said there are a lot of people in Austin running home occupations with no permits or city approval. Here is a young lady trying to do the right thing and do it the legal way and have a business of her own. These people seem to get stung just because neighbors don't want to see a home occupation next to them.

Commission Member Spainhower said she can appreciate that argument, however if there are businesses operating that have not come forward we will know about them if it is creating a hardship in the neighborhood.

Commission Member Kuehne said his problem with this is that everyone assumes Ms. Christ is going to cause a problem.

Commission Member McCarthy said it is a very busy business.

Ms. Christ asked about Stenhjem Photography that was on fourth street for years and if people complained about him. I would like to have the same chance he did.

Commission Member McCarthy said he had parking right next to his house.

Ms. Christ said she is planning on cutting down a huge tree out front and making that into a nice driveway.

Commission Member McCarthy said then you have the problem of kids on bicycles.

Ms. Christ asked about the apartments on fourth street.

Commission Member Johnson asked if there is room to turn around in the driveway.

Ms. Christ said there is a back entrance and if need be could turn that into an entryway.

Commission Member Mair asked if all the houses on that street had driveways on the street.

Mrs. Bednar said all the other houses have alley entrances except for two.

Commission member Bergstrom asked if she can take pictures in her yard.

Mr. Byram said the operation of the business must take place in the residence, in the structure itself.

Commission Member Bergstrom asked the petitioner if that will work.

Ms. Christ said she still has Skinners Hill that she could use and it is close by.

Commission Member Spainhower said she thought that was more expensive and you wanted to get away from that.

Ms. Christ said it will be fine, I want the location.

Commission Member Kuehne said her charges and fees have nothing to do with this permit.

Commission Member McCarthy said she hates to see Ms. Christ leave the downtown.

Ms. Christ said she does not want to be downtown.

Commission Member Mair asked if a motion could be made.

Commission Member Johnson said not yet.

Ms. Christ said this location is the perfect location for my studio. I would be accessible at all times without running back and forth from home to the studio.

Commission Member Bergstrom asked about the outgrowing of the current location, do you mean space and props or customers.

Ms. Christ said it is more props, her customer base and income has been the same for the last four years.

Commission Member Mair made a motion to approve this conditional use permit with the seven staff conditions, the hours of 10:00 A.M to 7:00 P.M. and the addition of number eight to read all photos be done inside the dwelling, seconded by Commission Member Bergstrom. Four ayes, three nayes. Those

opposed were Commission Members McCarthy, Spainhower and Bankes. Motion passed. There is a fifteen day appeal.

Mr. Hoium said if you want to appeal you must fill out the form mailed by the Planning Department and return it to the Community Development Directors office.

Mr. Byram said this is not the first time a home business has come before the us in appeal. The last few have been massage therapists or barber shops that would come and go with signage issues. The consideration is always traffic and impact on the neighbors and if it is an appropriate location. I do not want the public to have the perception that the City of Austin condones not having a conditional use permit for home run businesses. We expect people to come before the city and get the appropriate permits.

Mr. Hoium said he gets many calls for proposed home businesses. He makes copies of the specific ordinance so they know exactly what the stipulations are and the list of specific types of businesses before they petition for a conditional use permit.

Commission Member Spainhower asked what the codes are for the handicap community.

Mr. Hoium said there is a state code and she will have to build a ramp, that has been reviewed with her.

OTHER BUSINESS:

Mr. Hoium said an update on this past summers Walmart proposal. He has met with the officials from Walmart and they are looking at revising their plan before they resubmit to the City of Austin. I can't tell you if that will for sure happen or when. I sent you a copy of the letter extending the sixty days.

Commission Member Kuehne made a motion to adjourn the Planning Commission Meeting at 6:40 P.M., seconded by Commission Member Bergstrom. Motion passed unanimously.

