

Minutes of the Regular Meeting of the Planning & Zoning Commission of the City of Lava Hot Springs, Idaho held Monday, June 22, 2020 at 6:30 p.m., Lava City Hall, 115 West Elm Street, Lava Hot Springs, Idaho.

Present:

Neil Anderson, Chairman
Fred Hinz, Commission Member
Curtis Waisath, Commission Member

Vicky Lyon, Commission Member
James Page, Commission Member
Canda L. Dimick, City Clerk

Guests: Sandra Drummond

Neil Anderson, Commission Chairman, called the meeting to order at 6:30 p.m.

Agenda Amendment

City Clerk informed the Commission that she failed to mark agenda item #2 as an action item and that Sandra Drummond will also be addressing plans to operate a home occupation from her residence.

Approval of Minutes

Canda Dimick, City Clerk reported that there are some minutes that she still needs to transfer off of her old computer and that she finally found the zoom recording for the June 1st 2020 minutes today. The zoom meeting would not play and had to be transferred over to another program. Neil Anderson, Commission Chair, reported that he found one spelling error on the first sentence on the last page of the March 23rd, 2020 meeting minutes. It was agreed that the wording should read: He is sick of living by the bars but he ~~feels~~ feels it makes more sense to expand the vacation rental zone along East Elm Street then it does over by the LDS Church. Motion was made by Fred Hinz, Commission Member and seconded by Curtis Waisath, Commission Member approving the March 23, 2020 minutes as transcribed with spelling correction. All voted aye, unanimous. The April, 2020 and May, 2020 regular meetings were cancelled.

Side yard encroachment - Residential addition (mud room) on existing patio – 291 East Elm Street – Sandra Drummond, Owner/Applicant/Contractor

Sandra Drummond explained that she would like to put up a wall on an existing concrete slab for an enclosed four (4) foot by four (4) foot mud room. The mud room will provide an area where shoes can be taken off when coming in from outside. She wants to construct the mud room before laying down new carpet in her living room. It will make it easier to enter the laundry area and not drag a bunch of stuff in on their feet.

Neil Anderson, Commission Chair, reported that he visited the site this afternoon and the home is already out of compliance with current side yard setback requirements. There is only approximately five (5) feet between the house and the property line. The proposed plan to construct a mud room would not encroach any closer than the existing structure but it does add to the noncompliance.

James Page, Commission Member questioned if the house was built before the side yard setback was changed. Commission Members all agreed that the house was built prior. James Page, Commission Member, commented that the it is obvious that reason the house is noncompliant is because the setbacks were changed after the house was built.

Neil Anderson, Commission Chair, commented that there has also been some other situations where property owners have wanted to do certain things that would have made it easier for them, specifically referring to a ten (10) foot road that a property owner wanted to construct and the code requires no less then twelve (12) foot one way. The property owner's argument was that there are existing right-of-ways that is less then twelve (12) feet. The Commission can't control what has happened in the past. There are regulations in place to look for what the future impact might be.

Vicky Lyon, Commission Member, commented that the proposed plan keeps within the five foot setback that has already been established, there are no alternatives and it actually is a safety issue. It would be safer to access the home through the mud room in the winter rather than going up to the front door.

Curtis Waisath, Commission Member, agreed and added that the concrete is already existing; all that has to be done is to put a wall up and enclose the corner. Plan does not change or increase the existing footprint.

Sandra reported that the brick will also be pulled off and placed on the outside so that it matches and the roof that goes across is going to be underneath and not attached to the existing roof. House was built in the 60's.

Motion was made by James Page, Commission Member, recommending approval. Motion was clarified by Vicky Lyon, Commission Member, to recommend approval based on the facts that it is not increasing the five (5)' setback with the existing house, proposed plan is using the existing footprint and an existing concrete slab as the foundation and it is not making any differences with the house it is basically enclosing an existing area. The mud room is four (4) feet by six (6) feet.

Curtis Waisath, Commission Member, commented on the plans showing the construction of an awning over the front door entrance. Sandra Drummond reported that the awning is already up and did not require a building permit according to the building inspector. The awning is more for looks then anything.

Motion was formally clarified by James Page, Commission Member, recommending approval to use the existing concrete pad to enclose a four (4) foot by six (6) foot mudroom. A building permit will be required. Motion was seconded by Fred Hinz, Commission Member. All voted aye, unanimous.

Sandra Drummond was informed that the Planning & Zoning Commission's recommendation will be presented to the City Council for consideration at the regular meeting scheduled for July 9, 2020. Sandra commented that the neighbors have no objections.

Sandra Drummond informed Commission Members that she is having a gas line installed for a pizza oven located on her patio. She has already scheduled for the State to come out and look at it. Sandra reported that she is needing to stop doing the work that she is doing which is housekeeping and she is wanting to open a home based business and do pizzas and maybe something off her smoker. Orders will all be delivery only and order by phone. No one will know the address.

A site plan of the patio showing where the pizza oven will be located was presented. Sandra reported that Building Inspector, Jim Lynch has been out and he thought it would be OK and stated that it was fine with building codes as long as a permit for the gas line is pulled and approved by the State. Sandra reported that she has already scheduled a plumber to do the work.

Sandra questioned if her property is zoned to do a home based business because she needs to find some way to supplement her income.

The retail sales will be locally taxed.

Vicky Lyon, Commission Member, asked Sandra if she had talked with the Health Department. Sandra stated that she has not contacted the Health Department because she first wanted to see if her property is zoned for a home based businesses.

The business will be ran by her and her son, no employees.

Vicky Lyon, Commission Member, informed Sandra that the Health Department is pretty stringent about a business plan. Sandra reported that she will do a full business plan for the Health Department but she wants to see if it is even feasible before doing a business plan.

Neil Anderson, Commission Chair, questioned the City Clerk about the zoning. Canda Dimick, City Clerk, reported that the property is located in the residential zone and a home occupation is a permitted use in a residential zone. The ordinance definition for a home occupation is any gainful operation, profession or craft, which is customarily incidental to or carried on in a dwelling place, and wherein the use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, and which occupation is carried on only by the immediate members of the family residing within the dwelling, and which meets all of the following conditions. A) The use does not change the character of the dwelling. B) Not more than one-half (1/2) of the area of one (1) floor of said dwelling is used for the use. C) No external alterations or construction of features not customarily in dwelling is involved, and no external indications of said home occupation except for a sign as provided in the ordinance. Sandra reported that she had already talked with the City Clerk about her plans and they had went over the definition and it looks like her plan of operation will fall under the ordinance terms for a home occupation but before she goes to the state to do the tax ID number and to do a business plan she wants to see if her property is zoned for the use.

Sandra commented that she realizes that she is approaching things backwards. She is wanting to see if it is even feasible before she spends any money.

Vicky Lyon, Commission Member, informed Sandra to also check with the Health Department before spending any money. The Health Department is going to require refrigeration, food safety counters and all kinds of stuff.

Neil Anderson, Commission Chairman, questioned if the business operation will all be within the home or will it involve building. Sandra reported that she has planned on putting in the pizza oven anyway and she thought that since her doctor does not want her doing what she is doing anymore, she came up with the idea to sale phone order food items by delivery only. Everything will be inside the house except for the pizza oven and the smoker and they are located outdoors on the patio.

There will be no pickups. All orders will be delivery only. Sandra stated that it will only be a local thing for Lava and hours of operation would be from 3 pm to midnight so that after hours when most restaurants close after 9 pm or 10 pm, food could be ordered and delivered. The business will not be a big restaurant. It will be a small business operation that she can handle and make some supplemental income.

Vicky Lyon, Commission Member, commented that it sounds like it is a little niche that is probably well needed but she is concerned about what kind of commercial equipment that the Health Department will require.

Sandra will be the sole owner and operator and her son living with her will help.

Commission Members expressed opinions that it was a good idea. Sandra reported that the menu will be small; fully loaded brats, pulled pork sandwiches and a variety of pizzas.

Other Business – Parking Ordinance Amendment

Canda Dimick, City Clerk, informed Commission Members that the City Council is working with the City Attorney to revise the parking ordinance. A copy of the proposed ordinance was given to each Commission Member. City Clerk explained that the notes in red are concerns and comments that she has addressed back to the City's Attorney.

James Page, Commission Member, questioned if the ordinance regulates parking in the commercial area or within the entire city limits. Canda Dimick, City Clerk, reported that regulations will apply to parking in general it does not apply to any specific area or zone.

Canda Dimick, City Clerk, reported that the ordinance amendment is a work in progress and that she feels that the Commission should be aware of the proposed changes. Commission Members were asked to review it and if they have any concerns or input to please email them to her so that they can be addressed while the ordinance is in the draft stage.

The City Council would like to adopt the ordinance before July 4th and if that happens, the City Clerk will need input back from Commission Members by tomorrow or Wednesday at the latest.

Canda Dimick, City Clerk, expressed that there is quite a bit of work to be done and she does not see the ordinance being adopted before July 4th.

Neil Anderson, Commission Chair, questioned if the ordinance can be adopted without a public hearing. A parking ordinance does not require a public hearing.

The City Clerk would like some more eyes reviewing it. She expressed concerns with the proposed changes. The City Attorney has deleted all of the old provisions out and it appears that he is specifically referencing provisions from Idaho Code.

Canda Dimick, City Clerk, reported that there are reasons why the existing parking provisions were enacted, such as the no RV parking for camping purposes in public parking lots and on vacant lots. The City Clerk has tried to explain to the City Attorney that she does not see where any of the existing provision are covered in the new ordinance and has tried to give him an idea why the provision were enacted.

The City Clerk will make sure that the Commission Members input is passed onto the City Attorney.

The City Council has had the ordinance since the last council meeting and no one has addressed any comments or concerns. Everyone seems strapped for time and is having a hard time finding time to review the proposed ordinance right now.

Other Business – Zoning Ordinance

Fred Hinz, Commission Member, questioned the status of the Commission's proposed ordinances coming back from City Council.. Canda Dimick, City Clerk, reported that COVID has delayed the process because City Council did not want to conduct a Zoom work session by teleconference to work on the Zoning Ordinance. They want to meet at City Hall to do it. Hopefully the City Council can schedule a meeting in the next month to work on it unless for some reason Bannock County has to go back to Stage 3 like Ada County did today.

Other Business – Noise Ordinance

Canda Dimick, City Clerk, reported that the City Council has approved the purchase of a decibel meter and when it is received the Commission will need to decide on how they want to conduct the testing. City Clerk questioned if the Commission is wanting to do the testing or if they are wanting the staff to do the testing.

Canda Dimick, City Clerk, reported that the City did receive a complaint from a neighboring property owner last Friday about the noise coming from the Roof Top Bar the night before. The individual that submitted the formal complaint stated that he has a decibel meter and that he had went down the hill a ways from his residence and his sound meter read 75 at 11:30 p.m.

Vicky Lyon, Commission Member, commented that she could hear the noise at the Greystone.

Sound carries and it seems that it carries different ways at different times. The noise is not always coming from the Roof Top Bar.

Curtis Waisath, Commission Member, questioned equipment noise. The proposed noise ordinance that the Commission sent to the City Council for consideration addressed equipment noise.

As soon as the City gets the reader some testing will be done.

Comments followed on how sounds travels and echoes in mountain terrain.

Schedule Next Meeting

The next regular meeting is scheduled for July 20, 2020. Fred Hinz, Commission Member reported that he may be out of town.

Adjournment

Motion was made by Fred Hinz, Commission Member and seconded by Curtis Waisath, Commission Member to adjourn. Meeting adjourned at 7 p.m.

Transcribed by:

Signed:

Canda Dimick, City Clerk

Neil Anderson, Commission Chair