

Minutes of the Regular Meeting of the Lava Planning & Zoning Commission of the City of Lava Hot Springs, Idaho held Monday, March 23, 2020 at 6:30 p.m., Lava City Hall, 115 West Elm Street, Lava Hot Springs, Idaho.

Present: Neil Anderson, Commission Chair  
Fred Hinz, Commission Member  
Curtis Waisath, Commission Member  
James Page, Commission Member  
Canda L. Dimick, City Clerk

Excused: Vicky Lyon, Commission Member

Guests: Jordan Cheirrett

Neil Anderson, Commission Chair, called the meeting to order at 6:30 pm.

**Residential Home Design Plan Changes – East Fife Street – John & Michelle Taylor, Owners/Contractor**

Neil Anderson, Commission Chairman, questioned if the Taylors were going to be at the meeting to discuss their plan changes. City Clerk reported that the Taylors were not in attendance at the City Council meeting when the changes had been presented to City Council. The City Council has requested a Planning & Zoning Commission review. City Clerk reported that the City Code Enforcement Officer has been corresponding with Taylors but details of the conversations are unknown.

Commission Members have looked over the plans but the fine print was not legible. Neil Anderson, Commission Chairman, explained that the biggest changes that he saw were that they're putting the garage on the other end of the house and they're putting in extra dormers.

The problem with the initial permit was with the height of the home. The height didn't comply with restrictions. Neil Anderson, Commission Chair, reported that the changes being made do not alter the height of the house and as far as making changes on the interior part of the house the Commission has no control over those. Neil Anderson, Commission Chair, stated that as far as he is concerned and with the fact that the height has not increased the Commission needs to send plans back to City Council with recommendation to approve. James Page, Commission Member, agreed that it looked like the height was not being changed just the roof line. Fred Hinz, Commission Member, disagreed. He understands that the height measurement is over the regulation. Time was taken to enlarge plans. The North elevation shows a height of thirty point one (30.1) feet and the South elevation shows a height of eighteen point six (18.6) feet. The North and South elevations averaged is twenty-four point thirty-five (24.35) feet which is under the twenty-five (25) foot height restriction. The property owner will be required to bring fill around the sides so that all four sides averaged is under twenty-five (25) feet.

Fred Hinz, Commission Member, questioned the process and responsibilities of checking on height during the construction progress to avoid having a structure built that does not comply and having to deal with remedies after the fact. Neil Anderson, Commission Chair, stated that

John and Michelle are very much aware that the problem that they had in the first place was with the height and they are going to be watching it.

The foundation has been poured. The footprint is not being increased.

Neil Anderson, Commission Chair, entertained a motion to recommend approval.

Motion was made by Curtis Waisath, Commission Member, and seconded by James Page, Commission Member, recommending approval of the plan changes. All voted aye; unanimous.

### **Parcel Lot Split – 151 East Elm Street – Jordan Cheirrett, Owner**

Jordan Cheirrett explained that he bought his home at 151 East Elm Street a couple of years ago and when they were in the final purchasing stages it came to their attention that the property lines went past the existing fence and trees. It was described to him that his property line went to both sides of his neighbor's homes on the east and west literally to their back door.

Jordan reported that when he talked with the previous home owners they had straightened out some of the property lines but not all of them. He was wondering where everything stands and what he needs to do to make sure everything is good so that he can get rid of the property. He doesn't want to be paying property taxes on property that he is not using.

Neil Anderson asked if there were drawings available. Jordan reported that he was asked to provide a map but he was not sure what was wanted. Jordan presented a map that he pulled off of Bannock County parcel view online. He showed Commission Members on the map where the property lines on the east and west butts up to neighboring homes.

He is wanting to give the neighbors his property that they have fenced in and the same on the opposite side.

The neighbor's property on the west has recently been surveyed so that she could build a deck attached to her home.

Jordan showed Commission Members a letter dated back in 2018 that the previous owners gave to him showing that eleven (11) feet of his property along the east side had been approved by the City but he does not know if it was ever filed or completed. Everything that he has seen does not show that anything was finalized. Jordan questioned what he needs to do for the next step.

Curtis Waisath, Commission Member questioned the titled legal description of Cheirrett's property. Neil Anderson, Commission Chair, asked if the title to Mr. Cheirrett's property matches the map. Jordan confirmed that it did.

James Page, Commission Member, asked Jordan how much property would he still own. Jordan reported that according to the records the house was built on three city lots so by giving ten (10) feet on both sides he is still going to own two and one half (2 ½) city lots.

Mr. Cheirrett wants the property owners using the property to pay the taxes on it and he doesn't want any liability. It is good practice to have property lines defined. When he sells the house the next property owner will know what they are buying. He wanted to move to Lava bad enough they just bit the bullet and went ahead and purchased the property knowing there were issues.

City Clerk questioned if there would still be ten (10) feet from Cheirrett's house to the property line on both sides after footage is given to the neighbors. Jordan stated that there should be and if not it will be right near ten (10) feet. The side yard setback requirement is ten feet according to ordinance. Jordan stated that if he doesn't have ten (10) feet to his fence; the neighbors dang sure do not have ten (10) feet to their side either.

James Page, Commission Member, questioned when the houses in that area were built. Jordan replied "before he was born". James Page, Commission Member, commented that the ten (10) foot side yard requirement was probably not enacted when the homes were built and he doesn't know what the City can do about that now. He notices that some of the older homes in town were built real close. City Clerk explained that the older homes that do not meet setbacks would be nonconforming uses according to the ordinance. Jordan explained that the only part that would probably be in question is the property on the east where the City has already approved splitting off eleven (11) feet.

According to the Bannock County tax parcel map it shows that Cheirrett still owns the eleven (11) feet. Jordan doesn't know how accurate the tax parcel map is.

Neil Anderson, Commission Chair, explained to Jordan that the Commission needs a description drawn out with the footages that goes all away across; the property as it exists, and then the proposed ten (10) feet he is going to give to each neighbor laid out with calculation of the total square footage so that the Commission knows what can be approved without putting the property into noncompliance status.

City Clerk questioned if the Commission is going to want the property surveyed. The neighbor's property line to the west was surveyed a year ago. No survey has been completed on the east side. It was suggested that Jordan talk with Mark & Julie Patterson, neighboring property owner on the east about completing a survey.

James Page, Commission Member, feels that as long as Cheirretts still have what is required by the City for setbacks and lot size (meaning area) requirement he has no problem with the lot split.

City Clerk reported that the side yard setback requirement is ten (10) feet and minimum area requirement is five thousand five hundred (5500) square feet. Jordan reported that the problem with the ten (10) foot side yard setback is that the way it is now Mark & Julie Patterson's property is out of code because they do not own ten (10) feet from their home to their property line. It was explained that Patterson's property would be considered a nonconforming use and Cheirrett's property would not be considered a nonconforming because it complies with the ordinance.

Jordan stated that he is pretty sure he will still own ten (10) feet on each side of his home. Jordan will measure the side yards and get everything drawn out.

Jordan asked if the Commission recommended a survey. Commission Members informed him that a survey would be to his own advantage. A surveyor is probably going to need to prepare the legal descriptions for the parcels that Cheirretts deed to neighboring property owners. Jordan will proceed with having the property lines surveyed. It was recommended to Mr. Cheirrett to ask the neighboring property owners to participate in the cost for the survey. Jordan stated that he plans on asking the neighboring property owners to pay for the survey for the property that he deeds over. If they don't agree to pay for the survey he will move his fence.

Jordan stated that he has no desire to do vacation rentals but questioned why the south side of Elm Street is not allowed to do vacation rentals. His next door neighbor is the Alpaca Inn. His property is nicely situated between two (2) bars. There is no neighbors. He thinks that the City should consider allowing vacation rentals on both sides of East Elm Street from Center to 3<sup>rd</sup> East. James Page, Commission Member, stated that he does not know when it was put into place but the Commercial Zone is one block North and South of Main Street. Mr. Cheirrett's property sits in the next block up. Jordan commented that it does him no good to suggest it. He

is sick of living by the bars but he feels it makes more sense to expand the vacation rental zone along East Elm Street then it does over by the LDS Church.

The Zoning Ordinance was adopted in the 80's. Mr. Cheirrett asked if the ordinance could be changed. Commission Members replied that the ordinance could be changed with a great deal of difficulty.

Jordan will have a surveyor draw up a map and report back.

### **Approval of Minutes**

City Clerk reported that she had presented some minutes at the last meeting which need to be approved along with the set of minutes in the Commission's packets. She is still trying to get caught up.

The City has hired a code enforcement officer. The City Clerk's plan is to eventually have the code enforcement officer be the secretary for the Commission rather than her so down the road there will be a change if the Mayor is receptive of it.

James Page, Commission Member, questioned if the code enforcement officer is full time. City Clerk reported that she is supposed to be full time but there have been some scheduling issues. It was questioned and confirmed that she also works at the Royal. She has not been able to work forty (40) hours a week yet due to COVID-19 impacting babysitter situations.

City Clerk expressed that she feels that the code enforcement officer needs to be involved. It would be a good education for her to learn the zoning ordinance. The City Clerk will stay involved.

City Clerk informed Commission Members that the reason Taylor's home design plan changes got referred to the Commission is because at the City Council meeting, the Council was not OK with approving it without going through the proper steps and having the Planning and Zoning Commission review it and make recommendation. Neil Anderson, Commission Chair, commented that he liked the changes that were made interior wise; the upstairs master bedroom is phenomenal.

Neil Anderson, Commission Chair, asked members if all of them had a chance to read the minutes. Fred Hinz, Commission Member, stated that they were hard to read. He would like to see them separated by paragraphs. Fred Hinz, Commission Member, brought it to the City Clerk's attention that there is a spelling error in the October 28, 2019 minutes; at the bottom of page two (2) under the Zoning Ordinance Draft agenda item; it should read sell not sale. Correction was noted.

Motion was made by Curtis Waisath, Commission Member, and seconded by Fred Hinz, Commission Member, to approve the minutes. All voted aye, unanimous.

### **Other Business**

None

**Schedule Next Meeting**

Next meeting is scheduled for April 27, 2020 at 6:30 pm. .

**Adjournment**

Motion was made by Fred Hinz, Commission Member, and seconded by James Page, Commission Member, to adjourn. All voted aye, unanimous. Meeting adjourned at 7: pm.

Transcribed by:

Signed:

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Canda Dimick, City Clerk

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Neil Anderson, Commission Chair