2.5.2018

Duquesne Mo.

Planning and Zoning Commission Minutes

7:02 Call to order: President Ray Brown

In Attendance:

Ray Brown, President (2018)

Gary Jackson (2022)

Tom Johnston (2019)

Chris Ellsworth B of A Rep (2019)

Rick Gamboa (2022)

Absent

Steven Williams, Secretary (2018)

Val Carter, Vice Pres. (2021) Excused

Mickey Sherman (2019)

Agenda Approval: P&Z Ellsworth requested an addition after public comments to discuss possible rezoning and sale of current AAA auction building by Buds Bait Shop.

Motion to approve amended agenda: Johnston/Jackson. Vote to approve 4-0.

7:05 PM Public Hearing Open on 611 Walnut Ridge from R-1 to C-2

Mayor Heilbrun reports the request will make the property non-conforming.

P&Z Gamboa asked if we had previously allowed other non-conforming uses.

P&Z Ellsworth said that we had allowed the 13th and Katherine apartments.

City attorney Talley discussed the difference between a non-conforming lot size and a non-conforming use.

Jane Baine 4250 East 13 Street stated concerns that we are allowing exceptions for this property that we did not allow for other business in the past. Concerned that we are setting a precedent by allowing this non-conforming use.

Aaron Garman 3801 East 7th responded that he had had about 20 surveys and has jumped through more hoops than normal. He said this proposal is the original request and planning and zoning approved it

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P&Z Johnston said that the original proposal approved involved tearing down of the rental properties in question and making the entire property commercial.

Garman replied that was never discussed.

P&Z Gamboa replied that he was present and heard Aaron Garman turn to the person with him and ask when he could be out of the house and they both agreed on 30 days for the house that was occupied and the other was already empty and it would not be a problem to tear them down.

Jane Baine spoke up to say she heard that.

P&Z Johnston spoke up to say he heard that.

Troy Salchow 31 South Main, Webb City representing the Garmins spoke that the Garmins have gone through the process of getting all surveys, permits, inspections and building plans. He said that he has not seen any building permit that was predicated on the tearing down of any buildings. After a meeting with all parties to include the Garmans, Mayor Heilbrun and City Attorney Talley, they came up with this solution. He believes that all parties agree that this solution is legal even if the use is non-conforming to the code for commercial.

He stated that you could go to any city and see residences that are operating in commercially zone land and that is perfectly legal.

P&Z Johnson addressed City Attorney Talley with one question as to if this rezoning met the current city code. City Attorney said that a “non conforming” use if granted is legal. He sees no other solution. P&Z Johnston asked if we allow this are we going to allow leeway to everyone that asks for it in the future. Talley said no leeway should be allowed. He said that this application is within code.

7:26 PM Public Hearing Closed

Discussions: None

Motions to recommend: P&Z Ellsworth/Brown

Yes: Brown, Ellsworth, Johnson No: Gamboa, Jackson

City Attorney Talley said the motion cannot go to the board with a Yes recommendation unless we have 5 votes of the 8 members to recommend according to our code. This information will be passed on to the Board of Alderman for a final decision. In the future if we only have 6 members, we must have 4 to pass or deny.

7:32 PM Public Hearing Open on 615 Walnut Ridge from R-1 to C-2

No comments were made.

7:33 Public Hearing Closed

No further discussion

Motion to recommend: P&Z Ellsworth/Brown

Yes: Brown, Ellsworth, Johnston No: Gamboa, Jackson

7:34 PM Public Hearing Open on 1402 South Rex from R-1 to R-3

Jane Baine 4250 East 13th street: Thinks the property has been a continual problem with fire and police calls and broken windows. Has an issue as to how it could become a four plex in this condition

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Penny Graves 3300 East 13th street. Does not understand why it was zoned as R-1. It was a nursing home and then a flophouse. They are not good neighbors. Asked if the building would be torn down.

P&Z Ellsworth stated that all we may consider is if the lot size meets the zoning requirements. This property meets the lot requirements

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June Boyer, 3204 East 13th street. If it is R-1 now, how have they been renting all these rooms in the past? How did they get away with this all these years?

P&Z Johnston said he also inquired about that and that they probably had been doing this before we were even a city and had city codes.

7:41 PM Public Hearing closed

Discussion; P&Z Brown asked if plans were submitted and P&Z Johnston wondered what they were. P&Z Ellsworth said we cannot ask and cannot consider those in the decision. We can only act on the request as it relates to the lot conforming to the requirements of the code for re zoning. We cannot consider future use.

Motion to recommend: Johnston/Ellsworth: Yes 5 No 0.

7:43 Public Hearing Open on 1408 South Duquesne.

John Johnston, 1401 Johnson court. Wanted to know if you have to live within 185 feet of the property to comment. P&Z Gamboa stated any resident could comment.

He doesn’t feel the 185 feet is adequate for people affected in the area. Wants to know if we can consider future use. P&Z Ellsworth stated that as long as he is compliant to the zoning code, that’s all we can consider. Johnston wanted to know what C-2 meant which P&Z Ellsworth explained and advised that we would give him a complete copy if he would like. Johnston complained that now it was a junkyard, with chain saws running in the afternoon and backhoes running at 10:30pm. He has a piece of property that he would like to build a house on but it will be hard to sell with the mess created across a little horse fence. He wanted to know if anyone has ever complained. P&Z Ellsworth said he has never heard a word. P&Z Gamboa said that some of the concerns should be brought to the Board of Alderman such as the construction of a barrier or suitable fence as outlined in the code to insulate residences from commercial annoyances. Running a backhoe for example at 10:30 at night should be dealt with in the form of a complaint. This commission can only act on the merits of the property as it relates to conforming to the code with regards to lot size and measurements.

P&Z Johnston reports that he wants to advise everyone that he has done a minor amount of business with the owner and would be willing to recuse himself from any vote if anyone present or the commission felt it would be a problem. No objections from the audience or commission were noted.

7:54 PM Public Hearing closed

Discussion: P&Z Ellsworth stated the Duquesne Road in the long-range plan for the city is a commercial zone and did not see any basis to deny.

Motion to recommend: Ellsworth/Johnston; Yes 5 No 0

Minutes for January and December are not prepared as Val is absent and working a new job. Tabled.

P&Z Ellsworth wanted to give everyone a heads up regarding the AAA Auction Building on 13th street. Bud Bait shop has this property under contract to expand his business and use it as warehousing and distribution center. He will be making an application to change it to C-2 at the next meeting. His personal feelings are that this will be a great addition to the area and they will be paying sales tax. He proposes that we allow him to pave the front customer area and not the entire back lot, which is what we allowed Superior rental to do.

Public Comment: John Johnson 1401 Johnson court asked why the sound system was not working.

P&Z Ellsworth asked the audience for help in finding new members for this commission.

Next Meeting: Monday March 5th

8:07 Adjourn: Motion Ellsworth/Johnston Yes 5 No 0

Submitted;

Rick Gamboa