

City of Excelsior  
Planning Commission Meeting  
Minutes  
Tuesday, October 8, 2013

1. CALL TO ORDER

Chair Craig called the meeting to order at 7:05 pm.

2. ROLL CALL

Present: Busch, Craig, Hannah, Wallace, and Wilson

Absent: Duyvejonck, and Wright

Others: Braaten, Richards, and Staunton

3. APPROVAL OF MINUTES

(a) Planning Commission Meeting of September 4, 2013

Commissioner Busch moved, Hannah seconded, to approve the Planning Commission Minutes of September 4, 2013 with the revisions discussed. Motion carried 5/0.

4. PENDING ISSUES/PROJECTS

(a) Appoint Liaison to City Council (October 21, 2013)

Dan Wallace volunteered to be the Council liaison for the October 21, 2013 meeting.

5. PUBLIC HEARINGS – (Continued)

None

6. PUBLIC HEARINGS

(a) Variance from Rear and Side Yard Setback Requirements Per Article 41 of Appendix E, Sec. 41-7 for an Attached Garage Addition at 335 College Avenue, P.I.D.# 34-117-23-13-0043 – Debra Hutchinson and Greg Miller

Braaten introduced the topic. Braaten explained the existing site conditions and the proposed attached garage addition. The variance request was necessary because the application was proposing to construct an attached garage at a setback of 2 feet from the side lot line and 21.4 feet from the rear lot line vs. the required 10 foot minimum side yard setback and the required 35 foot minimum rear yard setback in the R-1, Single Family Residential zoning district.

Greg Miller, 335 College Ave, informed the Commission that the home was built in 1920 with a very small attached garage. He stated that his property was one of the few homes in the neighborhood that does not have a useful garage. Mr. Miller stated that the proposed addition would match the exterior to the existing home. Due to the location of the home and the topography on the parcel they were having an issue positioning the addition and they felt the proposed plan was the best their best option.

Chair Craig opened the public hearing at 7:20 PM

Tim Gephart, the adjacent property owner at 575 William Street, stated that his main concern was with the footprint of the building addition coming within 2 ft. of the shared property line. He stated he was not as concerned

with the rear yard setback encroachment due to the character of the neighborhood. Mr. Gephart had some further concerns regarding increased runoff if the new addition were allowed to be constructed at a 2 ft. setback. He stated that he had some discussion prior to the meeting with Roelofs Remodeling, but still has concerns about how the stormwater would be mitigated. Furthermore, he had concerns with the applicants need for a construction easement from him in order to build and maintain the structure. Mr. Gephart asked the Commission to consider the fact that there are other locations on the parcel for placement of a garage that would be less intrusive to neighboring property owners.

Busch asked Mr. Gephart about the existing conditions and what currently happens to the stormwater runoff. Mr. Gephart explained how the stormwater currently flows and that he usually had some water in his basement/garage in the spring due to the melting of the snow pile that occurred at the end of Grathwol Lane every winter. He stated that if the further stormwater were directed on to his parcel the tuck under garage would be impacted the most.

Hannah asked the applicant if they had a stormwater plan to direct the water away from the neighboring property. Jerry Roelofs, Roelofs Remodeling, stated that the proposed addition would not impact the neighboring property and most of the neighbors water issues are caused by snow melt. They are proposing to use gutters and downspouts along with raising the floor of the garage to direct stormwater away from Mr. Gepharts property, which he felt would help improve the existing drainage conditions on the site.

Mr. Roelofs stated that they would be able to retain the existing shared retaining wall and were proposing to remove 2 trees. Furthermore, he explained the existing floor plan of the home and how they proposed to construct the addition with as little impact as possible on the neighboring property. He stated that any other location for the garage on the parcel would mean a complete reconfiguration of the living space within the house.

Richards asked why the existing home couldn't be reconfigured. Mr. Roelofs explained that moving the garage further to the east would alter the architecture of the building by covering a significant window in the home and requiring the property owner to remove and reconfigure the entire backyard. He explained that it was their intent to save the developed backyard and the windows/vista out of the hearth room. Craig understood the concern to retain the existing windows as an architectural feature, but questioned if the garage could be shifted further to the east and still be functional. Discussion followed regarding an alternate location for the proposed garage addition.

Hannah stated that he had some concerns regarding the proposed location of the attached garage if further stormwater would be directed toward the neighboring property owner. Mr. Roelofs responded that the current water issue is not caused by the Miller property but by the snow melt in the

spring. Mr. Gephart replied that the proposed roof would come within 1 ft. of the property line directing more water in a concentrated area.

Discussion followed regarding the existing site conditions and the consideration of other locations on the parcel for a new garage space.

Discussion followed regarding the existing ordinance language and previous variance applications.

Wallace asked the applicant to explain the current stormwater runoff situation and what they were proposing to do to mitigate stormwater from the propose project. Mr. Roelof explained that they were proposing to raise the garage floor, which would allow them to direct the stormwater away from the Gephart property and to also reconfigure the paved surface on Grathwol Lane to fix the current drainage issues.

Discussion followed regarding the property line, drainage, gutters, maintenance, and allowing an attached versus detached garage on the parcel.

Greg Miller stated that they had looked at the possibility of a detached garage but found that the proposed attached garage design to be less intrusive. He explained they were trying to add a reasonable garage addition without totally disrupting their entire yard. He stated that they would not be directing any new stormwater onto the neighboring property, in fact the raingutters and the proposed grading improvements would be a improvement for the neighboring property.

Discussion followed regarding the possibility of moving the proposed garage addition away from the west property line and still having a functional garage on site.

Wallace stated that based on the comments of the property owners the water issue is more about the snow storage area at the end of Grathwol Lane than the stormwater from the Miller/Hutchinson property. Wallace stated that the larger issue is the location of the proposed garage two feet from the property line. Discussion followed regarding what a reasonable setback from the neighboring property would be based on the site conditions.

Mr. Miller commented that the proposed garage dimensions allowed for a very small garage that would barely fit two vehicles. Based on the site conditions their initial planning had been done with the thought that the property line was in a much different location than what was finally shown by the Certificate of Survey.

Mr. Gephart commented that the lot was surveyed a number of years ago so they were both aware of the property line boundary prior to this application. Mr. Gephart stated that it seemed like the applicants wanted to place the attached garage on the property where it worked best for them without thinking about the neighboring properties. He questioned if the location of a window and some finished landscaping was a good enough reason for the Commission to grant a side yard variance if there was

sufficient room to move the garage away from the property line. He felt there were other options on the site that would only encroach into the rear yard setback rather than the side and rear yard setbacks.

Discussion followed regarding stormwater mitigation and the improved section of the Grathwol Lane.

Craig commented that it is reasonable to have an attached garage in our climate, but not necessarily reasonable to allow a variance so that the property owner does not lose windows or landscaping. Craig commented that there are other options on the property rather than allowing a 2 ft. side yard setback.

Discussion followed regarding the requested 2 ft. side yard setback, reasonable setbacks, and how the stormwater could/would be mitigated.

Wallace commented that there are other options on the parcel for placement of a garage and the homeowner needs to decide what is acceptable to them and come back with a revised design for the Commission to consider.

Miller stated that the plan was to improve the stormwater situation along with the construction of the new garage. Miller stated that they could probably make their plan work with a 3 or 4 ft. setback from the side lot line.

Busch commented that a four foot setback from the side lot line was reasonable based on the proposed stormwater mitigation comments made by the applicant and their contractor.

Craig questioned why it was not acceptable to require the applicant to meet the required 10 foot side yard setback if there is sufficient room on the subject parcel to do so. Miller explained that he felt the proposal was reasonable and that they would like to make the proposed improvements without losing the window or destroying the back yard area. He stated that they may be able to make it work at 4 feet, but requiring a 10 ft. setback would be unreasonable.

Mr. Gephart commented that he was comfortable with requiring the 10 ft. side yard setback and allowing a variance from the rear yard setback. He stated that not wanting to remove windows or remove landscaping is not a reasonable variance argument.

Discussion followed regarding what the Commission considered a reasonable setback based on the site conditions.

Wallace moved, Busch seconded, to continue the application to the November Planning Commission meeting allowing the applicant time to revise the proposed design to include a more significant setback from the side lot line.

Discussion followed regarding an acceptable setback. Wallace stated that a detached garage would be the best option in his opinion and he was comfortable with a setback of 5 ft. from the side lot, the same as in the R-2

zoning district, because the neighbor's home was a significant distance from the property line. Craig commented that the proposed garage should meet the 10 ft. minimum setback requirement if at all possible. Busch commented that she was comfortable, based on the mitigation of stormwater, with approving a variance for the proposed garage addition at 4 ft. from the side lot line.

Hannah stated that if the stormwater was being mitigated he would be comfortable with a setback of less than ten feet. Furthermore, he was sensitive to preserving the backyard of the homeowner because it served as there only outdoor space due to the topography of the site.

Motion carried 5/0.

- (b) Design Standards Review and Conditional Use Permit Amendment to Expand the Micro-Brewery Operation at 421 Third Street, P.I.D.# 34-117-23-11-0027 – John Klick, Excelsior Brewing Company

Richards introduced the application. Richards informed the Commission that the applicant was requesting approval of an amendment to their existing Conditional Use Permit and approval of Design Standards. He stated that the brewery was proposing to expand and use the entire space at 421 Third Street, which is currently occupied by East Lake Auto and formerly Petunias. Richards went on to explain the existing site conditions and the proposed improvements which included the use of the existing alley as an outdoor space and the development of an outdoor seating sidewalk space. The proposed improvements meet parking requirements, were in compliance with the Comp Plan and are a permitted use with a Conditional Use Permit.

Craig called a 5 minute break at 8:57 PM.

Craig reconvened the meeting at 9:01 PM.

Discussion followed regarding the proposed outdoor lighting. Richards informed the Commission that Ordinance requires full cutoff lighting and the proposed lighting did not meet that standard.

Richards informed the Commission that the proposed outdoor space would be in close proximity to the row houses developed across Third Street and there have been some concerns voiced with outdoor seating in such close proximity to residential properties.

Braaten informed the Commission that in addition to the information provided in their packets he had provided two letters of concern from neighboring property owners and one letter of support from a neighboring property owner. Both letters of concern were regarding the possible increase of noise within such close proximity to their homes if the proposed expansion were allowed.

Bruce Cornwall, LHB Architects, commented on the parking spaces required and the proposed exterior light fixtures. Mr. Cornwall stated that it was difficult to find a full cutoff light fixture to meet the historic standards. They

provided an option that wasn't a full cutoff but had a more automotive look to fit the history of the property. He stated that the majority of the light would be directed down by the fixture and they were intended more as ambiance than to light the exterior. Busch asked if a different fixture could be installed with full cutoff or totally downward lit. Mr. Cornwall explained that they were looking for a balance to meet the standards of the HPC and fit the character of the building. Discussion followed regarding lighting.

Mr. Cornwall informed the Commission that they had removed some of the exterior stucco to investigate the condition of the existing brick underneath. The hope is that the all of the stucco and lathe can be removed and the brick will just need to be cleaned and tuck pointed. Furthermore, they had met with a window restoration specialist and they are cautiously optimistic that they will be able to reuse the existing original windows. He followed that up by stating any replacement windows would match as closely as possible.

Discussion followed regarding windows, painted brick panels, and the proposed aqua colored doors.

Craig opened the public hearing at 9:25 pm.

Doug Schmidt, Heritage Preservation Commission (HPC) Chair, stated that the HPC was enthused about the design. Schmidt stated that the HPC did allow a different awning design than what would typically be allowed in the Downtown Historic District in order for the transom windows to be visible. The HPC overall is excited about the restoration of the building to brick. The HPC had developed a subcommittee to consider the brick situation upon uncovering some of the stucco areas.

Bill Stoddard, SHV Inc, informed the Commission that he was the developer responsible for the 5 row houses constructed on Third Street. Mr. Stoddard's intent is to begin construction of the 5 remaining un-built row houses in the spring of 2014. Mr. Stoddard stated that he liked the proposed design of the building, but the additional outdoor seating in such close proximity to his residential development caused him some concern. Mr. Stoddard was concerned about the noise, the odor, and the possible hours of operation. He stated that he was in support of the outdoor alley seating, but not in support of the seating in front of the building along Third Street.

Discussion followed regarding outdoor seating and how late the brewery would be allowed to serve alcohol.

Wallace asked about the proposed temporary alley seating and future special events on the property. John Klick, Excelsior Brewing, commented that the alley seating and barrier are proposed to be up all summer long and removed in the winter months. Mr. Klick stated that they are allowed to have up to 6 tent events per year and they intended to use all of them.

Busch asked if the rear garage area that is currently being used for outdoor seating would remain in use if the proposed expansion was allowed. Mr.

Klick explained the proposed interior layout of the building with a taproom which would be entered directly off of Third Street. He stated that they would not be serving any food nor have a food truck on site.

Discussion followed regarding indoor seating, outdoor seating, and special events on the property.

Richards commented that the proposed expansion of the brewery, based on the floor plans provided, required 24 parking spaces and the property has 28 parking spaces on site.

Ann Jensen, 448 Third Street, informed the Commission that she and her husband had recently entered into a purchase agreement to purchase one of the row houses across from the brewery. She stated they had concerns with the tent events and outdoor seating and how that may increase the noise in close proximity to their home. She asked if the brewery would be open more often with the proposed expansion. Mr. Klick responded that they were considering adding Wednesdays to their current schedule if the expansion were approved.

Discussion followed regarding outdoor seating capacity and noise.

Ms. Jensen stated that her other concern was with the increased production level and odor. Mr. Klick responded that they would be making more beer which would in turn add more of the brewery odors, but he felt it was no more offensive than the smells of restaurants, coffee shops, and bakeries.

Discussion followed regarding the details of the brewing cycles.

Orrin Welch, property owner who recently purchased one of the row houses along Third Street, commented that he was a patron of the brewery and loved the business. He had concerns with the outdoor space and noise on possibly Wednesday and Thursday evenings when citizens had to be up in the morning to go to work. He also had questions about how the tent events would work and the use of indoor/outdoor amplified music. Mr. Klick stated that they would respect the noise levels and were not allowed to have outdoor amplified music.

Hearing no more public comments Chair Craig closed the public hearing at 9:58 PM.

Wallace asked staff about the existing outdoor noise ordinance. Staunton stated that it was based on the MPCA noise level standards and enforcement was complaint driven. He stated that the noise ordinance was very tough to enforce.

The Commission considered the design standards comments and the proposed conditions of approval in the staff report.

Wallace moved, Hannah seconded, to recommend approval of the proposed Conditional Use Permit Amendment and Design Standards Review with the conditions discussed. Motion carried 5/0.

7. UNFINISHED BUSINESS

- (a) Proposed Ordinance to Amend Article 17, General Yard, Lot Area and Building Regulations of Appendix E of the Excelsior City Code of Ordinances Related to Residential Design Standards – Galvanized Building Materials

The Commission had a short discussion regarding the use of galvanized building materials. They discussed the use of galvanized as an accent material, painted versus unpainted metal, and if the look of unfinished metal material was an acceptable design feature.

Hannah moved, Wilson seconded, directing staff to make revisions to the proposed galvanized material language and schedule a public hearing to consider adoption of Ordinance language regulating the use of galvanized materials in the City. Motion carried 5/0.

- (b) Formula Business Regulations (Franchises)

Richards explained the proposed formula business regulation changes and proposed language.

Busch moved, Wilson seconded to continue this agenda item to the November Planning Commission meeting for further discussion. Motion carried 5/0.

#### 8. NEW BUSINESS

- (a) Proposed Ordinance Amendment Pertaining to Administrative Extensions

Staunton introduced the topic. Staunton informed the Commission that some Councilmembers were concerned with how the City is currently handling the extension of Variances and Conditional Use Permits. Currently the Ordinance requires applicants who have received approval of a Variance or CUP to act on the application within 1 year of the approval date. If for some reason the applicant cannot act within a year of approval the City Ordinance allows staff to extend the expiration date another year for just cause. Based on discussions at the Council level they would like to make applicants come back to the Council for an extension to their applications. The proposed Ordinance Amendment needs to discuss having the Council engaged in the extension of the applications and developing some criteria of when the Council could refuse an extension request.

Hannah moved, Busch seconded, directing staff to develop ordinance language for consideration at the November Planning Commission meeting and to schedule a public hearing for consideration of the language. Motion carried 5/0.

- (b) Dates for Additional Work Session(s)  
None

#### 9. COMMUNICATIONS & REPORTS

- (a) Next Planning Commission Meeting – Wednesday, November 6, 2013

#### 10. MISCELLANEOUS

(a) Recent City Council Actions

Staunton informed the Commission of recent City Council actions.

11. ADJOURNMENT

Busch moved, Wilson seconded, to adjourn the meeting at 10:20 pm. Motion carried 5/0.

Respectfully submitted,

Lane L. Braaten  
City Planner