

CITY OF NORTHVILLE
Planning Commission
June 2, 2015
Northville City Hall – Council Chambers

1. CALL TO ORDER:

Chair Wendt called the meeting to order at 7:30 p.m.

2. ROLL CALL:

Present: Steve Kirk
Carol Maise
Dave Mielock
Christopher Miller
Matthew Mowers
Mark Russell (7:35 p.m.)
Anne Smith
Jeff Snyder
Jay Wendt

Absent: none

Also present: James Allen, Mayor Pro Tem
Patrick Sullivan, City Manager
Sally Elmiger, Planning Consultant

3. APPROVAL OF AGENDA: by consensus

4. MINUTES OF PREVIOUS MEETING: May 19, 2015

Recording secretary McGuire was asked to listen to the recording of the May 19, 2015 meeting and make corrections to the following paragraphs as appropriate. As a result, the following amendments were made to the May 19, 2015 minutes:

Page 2, 3rd paragraph under **C. PLANNING COMMISSION:**

A general discussion regarding rezoning followed, especially in the area of Grace and Rayson Streets, currently zoned R-1 but master planned for R-1B. ~~Typically a landowner would request the zoning change to that shown in the Master Plan. Typically, the way a property was rezoned was that a property owner would request that the property be rezoned to match the zoning shown in the Master Plan.~~ However, it was also possible for the City to initiate a zoning change, as in the Cady Street Overlay District.

Page 2, 1st paragraph under **7. PUBLIC HEARING:**

Chair Wendt opened the public hearing. He noted that no public was present except for a high school student who was present as part of a school assignment. Chair Wendt then closed the public hearing.

Page 4, 8th full paragraph:

Commissioner Mielock addressed paragraph 3.: *The problem and resulting need for the variance did not result from the actions of the applicant and/or the applicant's immediate predecessor....* ~~Commissioner Mielock addressed the issue of a third owner being able to ask for a variance, and ways of gaming the system using a third owner to obtain a variance.~~ Commissioner Mielock said that this language allowed a third owner to request a variance. For example, in the instance of a lot split, a lot could be sold by the original owner/immediate predecessor to a second owner, who could end up selling again and the third owner could then ask for a variance. Yet all along the situation would be a self-created one.

Page 5, last paragraph of public hearing:

~~Chair Wendt closed the public hearing.~~

Motion Kirk support by Mielock, to approve the May 5, 2015 minutes as amended. Motion carried unanimously.

5. **AUDIENCE COMMENTS:** None

6. **REPORTS:**

A. **CITY ADMINISTRATION:** None

B. **CITY COUNCIL:**

Mayor Pro Tem Allen said that at last night's council meeting Council Member Nancy Darga acknowledged she would be running for re-election. Mayor Johnson and Council Member McKindles would not be seeking re-election.

C. **PLANNING COMMISSION:** None

D. **OTHER COMMUNITY/GOVERNMENTAL LIAISONS:** None

7. **PUBLIC HEARINGS:**

NORTHVILLE CIDER MILL

Planning Consultant Elmiger gave the background for this agenda item. She explained that the property owner had requested that the Cider Mill/Winery business be added to the PR-1 (Performance Related Industrial District) as a permitted use. This would give them the flexibility to expand the business without having to continually go back to the Board of Zoning Appeals; currently it was a nonconforming use. The Planning Commission had discussed this previously and asked Carlisle/Wortman to draft some language regarding this request. They had done that, being careful to allow only the current uses and also specifically prohibit uses that were unrelated to the manufacturing business, such as a stand-alone restaurant or bar. The draft language did allow the cider/winery and brewery manufacturing as well as wholesale and retail sales and consumption of those goods that were manufactured on site.

Chair Wendt opened the public hearing.

Bruce Russell, 530 Rouge Street, Northville MI, spoke in support of this proposed change to the Zoning Ordinance. Speaking as a neighbor of the Cider Mill – he lived two blocks away – Mr. Russell said that

the Mill was a treasure, that it brought in out of town visitors which were important to the City, and it would benefit the Cider Mill not to have to go to the Board of Zoning Appeals for needed expansions, etc.

Robert L. Nelson, 16401 Winchester Drive, Northville MI and principal in the Northville Cider Mill, asked about the requirement that retail activities not exceed 25% percent of gross volume sales (Section 13.02.b).

City Manager Sullivan explained that the 25% limitation would not apply to the Cider Mill because the Cider Mill would be a permitted use, just as the lumber yard was a permitted use under Section 13.02.c. Commissioner Maise further explained that the specific overrode the general in the ordinance, and read from Section 26.01: *The particular shall control the general.*

Robert E. Nelson, 211 West Lake Street, South Lyon MI, and principal in the Northville Cider Mill, pointed out that the proposed ordinance change did not include “spirits” as a permitted use. The Cider Mill did have a license for spirits, and he asked that this also be included as part of the permitted use. Spirits were not brewed, but were distilled.

After brief discussion, the consensus of the Commission was to change the proposed text to read:

d. *Manufacture of cider, pies, preserves, doughnuts and other similar products; and manufacture of wine, distilled and brewed products.*

At 7:45 p.m., seeing that no one else wanted to speak, Chair Wendt closed the public hearing and asked for a motion.

MOTION by Russell, support Mielock, that the Planning Commission recommend approval to City Council the amendment to Chapter 48-1 “Zoning” in the Code of Ordinances, City of Northville under Article 13, Performance Regulated Industrial District No. 1 (PR-1), under Section 13.02.d as presented this evening, with the added change that the *manufacture of wine, distilled and brewed products* would be allowed.

Chair Wendt asked for a roll call vote:

Russell	yes
Snyder	yes
Smith	yes
Miller	yes
Kirk	yes
Mielock	yes
Maise	yes
Mowers	yes
Wendt	yes

Therefore, the motion carried **unanimously.**

GARDEN ORNAMENTS

Before discussion began on this item, Chair Wendt asked Commissioner Mowers if he felt he should recuse himself because there was commonality between what Commissioner Mowers was trying to do and what was being discussed this evening. Commissioner Mowers replied “No.”

Chair Wendt asked the Commission generally if they were okay with Commissioner Mowers remaining seated during this discussion. By consensus, the Commission indicated consent.

Planning Consultant Elmiger gave the background for this agenda item. She explained that the proposed modifications were intended to clear up ambiguities about what relatively small garden ornaments were considered for the front yard. The draft language defined garden ornaments and included examples such as benches, birdbaths, fountains and arbors, and also included a size limitation of 32 square feet in area and 8 feet in height. The draft definition also excluded some items such as fences, play structures, animal pens, chicken coops and other similar items. The number of ornaments was not restricted except for arbors, trellises and pergolas. One such structure was permitted in a front yard, but in a corner lot only one structure was permitted – it could be placed in one yard but not both front yards. The location of the garden ornaments was limited to be outside the right of way, three feet from a shared property line, and to not interfere with the visibility from a driveway or the intersection of a street.

Chair Wendt opened the public hearing at 7:50 p.m. and, seeing that no one wished to speak, closed the public hearing at 7:51 p.m.

Commissioner Kirk asked if the 8-foot height had been clarified to mean the bottom of the height, or the top of it, or the point? Planning Consultant Elmiger said that the proposed language did not clarify that the 8-foot height was to the top of the ornament; this could be added. Commissioner Kirk thought the 8-foot height should be defined but 8 feet tall did not seem very high – he was open for discussion.

Commissioner Snyder said he did not think 8 feet was high enough. Nine feet seemed more reasonable. He wondered what standard other communities used.

Planning Consultant Elmiger said that some communities did allow taller structures, as well as allowing larger ornaments in the front yard generally.

Commissioner Snyder asked where the 8 feet began. What if a structure was built on a platform? Planning Consultant said she assumed the height would be 8 feet from grade, though this was not specified in the language.

Chair Wendt pointed out that the limitation of no greater than 32 square feet might be a natural height limitation, as a taller structure would be very narrow with that area limitation. Commissioner Snyder pointed out that a trellised walkway could be narrow – with the sides only five or six feet apart.

Commissioner Miller said he thought the Commission was on the right track. He felt the height restriction should be nine feet from grade for these relatively small ornaments. A simple definition would keep the ordinance from becoming overly complicated.

Commissioner Mowers wondered if the grade would be measured at the property line or the house.

Commissioner Snyder spoke to the difficulties of wording the ordinance so that it was not too complicated and would give residents some latitude in terms of using garden ornaments in their front yards.

Commissioner Mowers asked the common definition of a trellis. Was it something that was built from the ground up? Was it a single structure? Did it have sides?

Commissioner Russell gave his understanding of what an arbor was (big and long); a trellis was something people moved through more quickly and functioned as a demarcation of an entry point.

Planning Consultant Elmiger said that some other cities did contain definitions for trellises, arbors and pergolas. Generally a trellis was defined as a flat piece of latticework that a plant could grow on and up. An arbor was defined as an entry space, with some sort of latticework on top, with plants also able to grow up it. A pergola was more of an outdoor room, with a slatted type of roof and with posts that created a sense of enclosure. These definitions could be added to the ordinance.

Commissioner Maise said a common dictionary would have these definitions. Planning Consultant Elmiger said that adding the definitions might add clarity to the ordinance. Mayor Pro Tem Allen wondered if the definitions mattered, since whatever the structure was it would have to meet the requirements and prohibitions of the ordinance.

Commissioner Mowers wondered if some definition were necessary. A trellis could be 3 inches deep and 60 feet long, and still meet the proposed ordinance requirement of 32 square feet.

Commissioner Mowers said that benches, birdhouses, etc. were considered garden ornaments. He agreed with Commissioner Snyder that an 8-foot height limitation for structures was not tall enough. An average person walking into a home improvement store and wishing to do a weekend project would find that trellises might start at 8 feet, but it was hard to find an arbor or pergola that wasn't taller than that.

Commissioner Mowers suggested removing arbors, trellises, and pergolas from the ordinance, and regulating these as structures. The rest of the items in the ordinance – benches, planters, birdbaths, etc. – were ground features. Arbors and pergolas and some trellises had to be anchored.

Regarding excluding play structures, Commissioner Mowers asked if play structures were *structures*. Planning Consultant Elmiger said play structures were not garden ornaments and could not be placed in the front yard.

In answer to a further question from Commissioner Mowers, Planning Consultant Elmiger said that the number of structures in rear yards and side yards were not regulated, as long as lot coverage requirements were met.

Commissioner Mowers noted that someone also might want to build a 32 square foot gazebo or canopy. Again, he suggested removing any language that might permit this from the garden ornament ordinance, leaving in what was originally intended, and allowing structures to be structures and regulated as such.

Commissioner Maise said she agreed with removing structures from the proposed ordinance change. She also had some difficulty with including standards in the definition. She was accustomed to having the standards in the actual regulation, not in the definition. Also, the proposed language said that garden ornaments were not considered accessory structures. However there was language regulating them in the accessory structure section. She wondered if it would be better to have a reference only in Article 18.04, but place the actual regulation in 18.11.

Commissioner Maise agreed that some of the things – arbor, trellis, pergola – discussed this evening were structures, and any standards regarding those things did need to be put in 18.04.

Commissioner Russell said that if those items were accessory structures, they would fall under lot coverage regulations. Planning Consultant Elmiger said that items were only included for lot coverage if they had a solid roof.

Commissioner Mowers referred to 18.04.g: *Detached accessory buildings shall not be used as habitable space. Sleeping, eating, cooking or offices uses shall not be permitted within detached accessory buildings.* Would cooking and eating be permitted in an open-roofed structure? Would an open-roofed structure be considered non-habitable? Planning Consultant Elmiger said that an open roofed structure was not considered habitable. Commissioner Mowers thought that having some additional definitions would help define habitable and non-habitable spaces. Commissioner Russell said that habitable space was *conditioned space*.

Planning Consultant Elmiger read the definition of *habitable space* from the Ordinance, which was the same definition as that found in the State Building Code: *Habitable Space: Is a space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utilities spaces and similar areas are not considered habitable spaces.*

Commissioner Mielock pointed out that 18.04.g spoke directly to garages and carriage houses.

Planning Consultant Elmiger reviewed the discussion thus far:

26.02 Definitions:

- Arbors, trellises and pergolas were being removed from the definition of garden ornaments.
- The accessory structure section would be referenced after the sentence: *Fences, play structures, animal enclosures such as pens or chicken coops, and similar items are not considered garden ornaments.*
- The height limitation would be increased to 9 feet.
- The height would be measured to the highest point of the ornament from the existing grade at the base of the ornament.

Planning Consultant Elmiger asked for clarification of suggested changes in 18.04 Accessory Buildings.

Commissioner Maise said the ornaments were addressed in 18.11. Regulation regarding ornaments could be removed from 18.04. A cross reference could be placed in 18.04.

Planning Consultant Elmiger summarized that garden ornaments generally were going to be removed from 18.04. However, arbors, trellises, pergolas would be left in 18.04 as structures, and the locational requirements would also be kept in 18.04 for arbors, trellises, and pergolas.

Commissioner Russell said that as currently discussed arbors, trellises, and pergolas would be omitted from 18.04.

Commissioner Mowers asked if pillars were garden ornaments. Planning Consultant Elmiger said pillars would fall under *pier*.

Commissioner Russell asked about the prohibition of placing garden ornaments within 3 feet of a shared property line. If someone wanted to put a pier in on their property line, they should be allowed to do that.

Why couldn't garden ornaments be placed right on the property line everywhere? Planning Consultant Elmiger clarified that the proposed language applied only to front yards.

Commissioner Russell pointed out that the property line was the right of way line, which was one foot in from the sidewalk. Requiring placement of 3 feet from the property line meant that a garden ornament could not be placed any closer than 4 feet from the sidewalk. Planning Consultant Elmiger clarified that the 3-foot requirement only applied to shared property lines, or the sides of the property.

Commissioner Russell still felt the 3-foot rule might be inappropriate. Garden ornaments would be floating 3 feet away from the property line. Planning Consultant Elmiger said that the 3-foot rule only applied to shared property lines, and the intent was to give the neighbor a little space.

Commissioner Snyder thought the 3-foot rule a good one. Allowing garden ornaments right on the line encouraged people to create a fence. Planning Consultant Elmiger said the proposed language prohibited the arrangement of garden ornaments to create a fence. Commissioner Snyder asked how this would be defined. If garden ornaments were placed every four feet, was that a fence?

Commissioner Russell said that shared property lines occurred in areas other than the front yard.

Commissioner Miller said he thought removing trellises, arbors and pergolas from the proposed language, and treating those items as structures resolved most issues. He thought the 3-foot rule should apply to those structures, and not to ground garden ornaments.

A Commissioner said that a birdbath was a very different type of ornament than a stone pillar.

Commissioner Russell pointed out that two piers with a planter atop were common ornaments in front yards along property lines. Someone might want to put the same piers on a side property line.

Commissioner Russell asked how many garden ornaments someone could have. Planning Consultant Elmiger said there was no limitation on number. The 32 square foot limitation was per ornament.

City Manager Sullivan asked if the intent of the ordinance was to allow as many ornaments as desired as long as each one was less than 32 square feet. Shouldn't the limitation of 32 square foot be cumulative?

Planning Consultant Elmiger asked if there was consensus regarding the 3-foot prohibition from the property line.

Commissioner Maise supported allowing piers and pillars on the property lines.

Mayor Pro Tem Allen said that this was getting to be more confusing than what they had before.

Commissioner Russell pointed out that the 3 feet from property line rule forced homeowners to pay attention to sight lines and view triangles.

Chair Wendt noted that the proposed ordinance said that garden ornaments could not interfere with line of sight from a car. City Manager Sullivan said that while that was the intent, what the language said was that *Garden ornaments may not interfere with the visibility from a driveway or intersection*. Was there a definition elsewhere regarding visibility?

Planning Consultant Elmiger said there was a corner clearance triangle definition. City Manager Sullivan said this needed to be referenced when talking about garden ornaments.

Commissioner Maise asked if these standards were for residential and commercial. Planning Consultant Elmiger said they were for both.

Commissioner Russell asked if a 9-foot high, 3 square foot pier would be allowed. Planning Consultant Elmiger said it would be allowed, as long as it was not 32 square feet.

Planning Consultant Elmiger asked if the Commission wanted the 32 square feet to be cumulative or individual? Discussion was held whether or not this was too restrictive.

Commissioner Russell commented that he thought he liked *cumulative*, but he also felt it was too restrictive. Planning Consultant Elmiger said the square footage could be increased if the Commission wanted cumulative.

Commissioner Maise said that under this ordinance, no relief could be granted from the BZA because there was no practical difficulty. Was the proposed ordinance being over-restrictive?

Commissioner Russell said that he thought the ordinance was intended to address “stuff in the air.”

Commissioner Maise said that a restaurant with outdoor seating would have some of these things. Even tables and chairs might be counted as garden ornaments. Was the intent for this to be primarily residential or was it intended to include commercial?

Planning Consultant Elmiger said she thought the intent was to be primarily residential when Don Wortman started the process.

Commissioner Russell said he thought a lot of this stemmed from a project he worked on at the old school building/community building. They had wanted to put up two piers and a couple of benches. To him this added to the ambiance and appropriate scale of the street. But these plans were rejected.

Planning Consultant Elmiger said one way to approach this issue was not to include any of this in accessory structures, but rather to say garden ornaments – with examples – were not accessory structures, and leave it at that.

Commissioner Mowers said that perhaps the ordinance could say, instead of *Garden ornaments shall not be arranged to constitute a fence . . .* perhaps it should say *a barrier*. That would give the Code Official enough wiggle room to enforce a reasonable standard, to say, “This is a barrier. You’re putting up enough things that . . . these are not accessory structures but they can’t be assembled to create a barrier.”

City Manager Sullivan asked if there would be a cumulative limit or not. Without a cumulative limit, someone could get four 4x8 pergolas and arrange them 6 inches apart. Planning Consultant Elmiger pointed out that pergolas were no longer going to be garden ornaments.

Chair Wendt suggested that Planning Consultant Elmiger rework this language.

Commissioner Maise said she thought Planning Consultant Elmiger needed a little more direction. It was a pretty big point whether they were going to regulate this stuff or not.

Commissioner Smith asked if there had been abuse in the City regarding front lawn ornaments. Chair Wendt said he had seen instances of abuse.

Commissioner Mowers said they wanted to give people the opportunity to beautify their properties, whether it was fountains or piers. Right now these projects bounced because these things were identified as structures. They needed language that said, yes you can have these things and it is expected that people are going to want to make their property better. The reason he came up with *barriers* is because that gave the Code Official enough wiggle room to say something was not acceptable, and then they could go to BZA where they know they are not going to be accepted. So if it was piers – something simple, something tasteful –

Commissioner Smith asked who would make that determination.

Commissioner Mowers replied, “Craig,” and then the BZA.

Commissioner Smith wondered if something like what Tyree Guyton did in Detroit would be permitted.

Commissioner Miller said he liked the suggestion to define garden ornaments and then to omit them from accessory structures, as Planning Consultant Elmiger suggested. In response to a question from City Manager Sullivan, Planning Consultant Elmiger said that then garden ornaments would be allowed, and not be regulated, except for the corner visibility issue, which would not require a new ordinance.

Commissioner Mowers said that Building Official Strong said that if the garden ornaments were not excluded, perhaps 80% of the City had nonconforming structures, which made enforcement difficult.

Commissioner Russell spoke to a point made by Mayor Pro Tem Allen in that if downtown had pots, benches, low walls, and other things, regardless of whether or not it was in a public right of way, and the elements discussed this evening would not be in the public right of way but would be on private property, perhaps they did not need to be regulated. Also, perhaps this was a conversation that needed to include the Building Official. They could try to get some terminology from him that might be able to help him more easily enforce. But, when a bench was allowed right in front of the rec building and not in front of the community center because it was a garden ornament and the City put the bench in front of the rec center – what was happening? The City was providing the element in the public realm but didn’t allow people to place one on their own private property.

Commissioner Snyder commented that tonight’s meeting was published as a public hearing, and no matter what type of issues the City was having, no one was interested enough to come. He could not see that there was a big problem when no public had showed up. There needed to be some general guidelines but he didn’t think it needed to be so restrictive that it became limiting, especially when according to the Building Official, many homes would be rendered nonconforming.

Commissioner Mowers said he thought the Building Official should come back to the Planning Commission when this was heard again. He thought the Building Official wanted to move from the previous tradition of selective enforcement to a consistent standard that could be consistently enforced. They needed to hear from Building Official Strong what he thought was reasonable.

Planning Consultant Elmiger said she would review tonight’s discussion and future proposed language changes with Building Official Strong.

Chair Wendt asked if a new meeting would have to be published again. Planning Consultant Elmiger said because the direction seemed to be to less-restrictive language, it would not have to be re-published. However, if the changes in the proposed languages were substantial they should probably re-publish.

Commissioner Russell commented that people in Northville generally had good taste. However, it was the one offender that would cause people to look for some regulation.

Commissioner Maise asked what was driving this new ordinance. Commissioner Russell reiterated that he thought it was his application to put in piers and benches for the seniors at the Community Center – he was hired by the Parks and Rec Department to do this. The Historic District Commission had approved these conditioned on the improvements meeting the Zoning Ordinance. Planning Consultant Elmiger explained that the benches and piers were considered accessory structures under the Zoning Ordinance, and thus were rejected.

Commissioner Mielock said that that now they were proposing to identify these elements as non-structures.

Planning Consultant Elmiger further explained that pergolas, arbors and trellises would be included as structures and the proposed standards for them would remain.

Commissioner Mielock pointed out that if pergolas, arbors and trellises were accessory structures, they would not be allowed in any front yard.

Commissioner Mowers read the definition of structure: *Is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or comprised of parts joined together in some definite manner.*

Commissioner Mowers thought that pergolas, arbors and trellises should be considered structures, and their use and location should fall under appropriate regulations.

Commissioner Mielock asked if structures were accessory buildings.

Planning Consultant Elmiger said that the ordinance was confusing. Under ‘Accessory Use, Accessory Building, or Accessory,’ there was a paragraph that said: *Accessory building is a subordinate building or structure on the same lot, or part of the main building, occupied or devoted exclusively to an accessory use.* Therefore an accessory building could be a structure.

Commissioner Maise said some ordinances said everything was a structure, and a building was a type of structure. What separated a structure from a building was the roof.

Commissioner Mowers read the definition of accessory building from the Ann Arbor code, which stated that structures that were less than 200 square feet in size did not require a building permit but still required zoning compliance. Commissioner Maise pointed out that this was State Building Code language.

Chair Wendt wondered how many homes in the City of Northville would not comply with this proposed ordinance. Commissioner Mowers said he had asked City Manager Sullivan to compile this same

information, at least in the Cabbagetown area. Chair Wendt continued that he could not think of more than one or two instances in the whole city where this might be a problem.

Commissioner Russell disagreed and said that he could think of a significant number. Commissioner Maise said she thought there was more than Chair Wendt thought.

Commissioner Mielock said that the proposed changes as now being discussed this evening would allow those garden ornaments, and make properties in the city more, and not less, conforming.

Commissioner Russell clarified that what the Commission was trying to do was determine what the height of a structure was for a trellis, pergola, and arbor. To Commissioner Mower's point, they should go into the definition of structure and modify that because that went along with something City Manager Sullivan said earlier in that currently a structure was anything that came up out of the ground, with a footing foundation or not.

Commissioner Mielock explained that a structure less than 200 square feet did not require a footing. Commissioner Russell asked why not have the definition of accessory structures tie into the Building Code? Commissioner Mielock said this seemed to be the direction they were headed. Commissioner Russell said this was "meat and potatoes," something to seek their teeth into, that was enforceable, and was black and white, consistent throughout Michigan.

Planning Consultant Elmiger asked if arbors, pergolas and trellises could then be in the front yard because they were less than 200 square feet. She pointed out that any structure under 200 square feet still had to meet zoning standards.

Commissioner Russell commented that they needed to simplify the changes.

Commissioner Maise asked if there was a definition of accessory buildings or buildings. She was directed to page 1 of tonight's handout, DEFINITIONS. She pointed out that *26 Building* included in the definition *having a roof*. She pointed out that the accessory section was only regulating buildings – this needed to be cleaned up.

Planning Consultant Elmiger said she would like to see *or structure* removed from the second paragraph under 26.02.2, so that it read: *Accessory Building is a subordinate building ~~or structure~~ on the same lot.*

Commissioner Russell said he did think the definition of building needed to be amended. Commissioner Maise said that it was actually a typical definition, used in several other cities' ordinances. Planning Consultant Elmiger agreed with Commissioner Maise that everything was a structure, and specific structures were called *buildings*.

Planning Consultant Elmiger asked if it would be all right to start with garden ornaments and just change that, and then later move on to pergolas, arbors and trellises.

Commissioner Kirk reiterated that they needed Building Official Strong's input.

Commissioner Mowers asked about building heights and average lots. Regarding Article 18.04.a., he was confused about the interpretation of habitable space as applied by this section to structural attachments between the accessory building and main buildings. What about breezeways? There was a home being built right now with a breezeway. The house had a 25-foot setback from the rear yard, and then had the

accessory building closer to the property line. However, because they had a breezeway it made the accessory structure part of the main building which meant that the 25-foot setback requirement was no longer met, but the accessory structure had gone up to two stories. In some ways this construction had the best of both worlds. Yet if the breezeway made the accessory building part of the main building, then there was an ordinance violation regarding rear yard setback. If the breezeway did not make it part of the main building, then there was an ordinance violation regarding height.

Commissioner Maise remembered that this had been discussed years ago.

City Manager Sullivan suggested that the City clarify the attached garage and living space definition. He agreed with Building Official Strong in that just having a roof with four walls did not necessarily constitute a living space. He pointed out some homes that were approved in previous years under this same definition had garages that were two stories high.

Commissioner Maise asked if the Building Official interpreted the ordinance that if the connecting structure was open with a roof, that the garage in the back was an accessory building.

City Manager Sullivan said the Building Official interpreted the ordinance that the garage was not attached to the main structure because it was not attached by a habitable space. Planning Consultant Elmiger agreed.

Commissioner Maise asked what would constitute living space. Would it be walls, heating, etc?

Commissioner Kirk said that living space was conditioned space. Planning Consultant Elmiger added that while this was not in the ordinance, it was in the Building Code. Commissioner Kirk said it was possible to erect a space as non-habitable, and yet later to add heat and make it habitable.

Commissioner Mielock agreed with the situation Commissioner Mowers described – there was a violation in either case in that instance. This needed to be discussed with the Building Official and a determination made whether this should be modified and clarified in the ordinance. Perhaps the direction this was going would help with the volume and mass of new construction.

Commissioner Russell asked if roofed structures that connected the garage to a main structure were factored into lot coverage. Planning Consultant Elmiger said she believed they were.

Commissioner Mowers said that while the lot coverage didn't change, connecting the accessory structure to the main structure changed the height limit from 14 feet to 30 feet.

Commissioner Mielock reminded the Commission that covered porches were not counted as part of the lot coverage.

Chair Wendt asked Planning Consultant Elmiger to review the issues and suggestions brought out this evening and bring back revised language to the Commission. He closed the discussion on this item.

8. DISCUSSION

Planning Consultant Elmiger said that the front yard averaging amendment was set for public hearing on July 21.

Planning Consultant Elmiger said that she had given City Manager Sullivan some proposed modifications to the tree ordinance. They would work on this together and then bring the proposed changes to the Commission for review and recommendation to City Council.

9. ADJOURN

As there was no further discussion, Chair Wendt asked for a motion to adjourn.

MOTION Maise, support by Smith, to adjourn the Planning Commission meeting at 8:52 p.m.
Motion carried unanimously.

Respectfully submitted,
Cheryl McGuire
Recording Secretary

Approved as amended 7/21/15