

**PLANNING COMMISSION MINUTES**  
CITY OF ROELAND PARK  
4600 W 51<sup>st</sup> Street, Roeland Park, KS 66205  
February 17, 2015, 7:00 P.M.

The Roeland Park Planning Commission met on February 17, 2015, in City Hall, 4600 West 51<sup>st</sup> Street.

Chair Mohart declared a quorum and called the meeting to order at 7:00 p.m.

Present: Kyle Rogler Mike Hickey Darren Nielsen  
Julie Mohart Mark Kohles

Staff: Mike Flickinger, Building Official  
Neil Shortlidge, Council to Planning Commission  
Jennifer Jones-Lacy, Assistant City Administrator

Absent: Paula Gleason, Linus Orth

**I. Roll Call**

**II. Approval of Minutes**

Jennifer Jones-Lacy noted a proposed change to the minutes. At the previous meeting Kyle Rogler had proposed a new ordinance that would require at least half of the site to be permeable. After reviewing the City Code with that provision, he would like for his remarks to align with the code's provision of the site to be at least 55 percent permeable.

Julie Mohart moved, seconded by Kyle Rogler, to approve the Planning Commission Meeting Minutes, with revisions, of January 20, 2015. (Motion carries 5-0)

**III. Public Hearing**

Julie Mohart moved, seconded by Kyle Rogler, to open the Public Hearing. (Motion carries 5-0)

**1. Concrete Definition**

The concrete definition was changed is to read, "Concrete, pervious or impervious, which is designed or used for residential dwelling purposes in the form of a driveway, patio, sidewalk, garage floor, shed floor, basement floor, step, porch or any other use designed to be permanent in nature shall be considered a structure. This excludes concrete used as anchors for signs, posts or similar items."

City Attorney Shortlidge stated the priority is for resolving the yard definitions and would like to see these items postponed for presentment to Council until that discussion is complete. He added that there will be two public hearings, one relating to definitions, the other for an incorporation by reference to the ordinance. He also added that there will be some publishing costs to publicize the hearings.

**2. Setbacks for Detached and Accessory Structures**

Mr. Flickinger stated the intent of these changes is strictly for detached structures. The code as written would allow someone to pour a patio up to a property line as well as build a shed. He added that currently there is no setback for a shed unless it is ten feet tall or taller. The Planning Commission recommended to establish a setback of minimally five feet from the back and side so the property can be maintained around the structure and not obtrusive to surrounding property owners. The reference in Section 16-613, Setbacks for Accessory Structures, up to this time has never been defined other than one-third of a unit that is ten feet or taller. The exception would be the pouring of sidewalks front to back.

### **3. Sign Ordinance Changes and Grammatical Edits**

Ms. Jones-Lacy said this is an update to the Chapter 16 code to reflect some of the changes that were to be made in 2010 and due to editing errors was omitted. She noted the reason for the changes was due to mostly grammatical errors. One substantive change was the sign ordinance, to remove the information about political signs. This change will fix those omission errors.

### **4. Metal Roofs on Residential Property**

Ms. Jones-Lacy noted that it was discussed at the last Planning Commission meeting to eliminate the possibility of corrugated metal roofs being utilized as part of properties or homes in Roeland Park. Commissioner Gleason had expressed some concern about noise from the use of standing seam metal roofs. Mr. Flickinger had shared an article with the Commission about what the noise level factor is and found it to be negligible. The recommendation was to add language stating if a standing seam metal roof is to be installed, it will have to have a solidly sheathed surface to dampen the noise from weather.

The Commission discussed the limitations of roof color for residences and reached agreement that standing seam metal roof colors would be limited to those normally found in traditional asphalt shingles as determined by the building official.

### **5. Special Event Definition Changes**

Mr. Flickinger wanted to discuss this issue with the Planning Commission in the hopes of avoiding an issue that occurs every October or in election years where the church puts up approximately 30 or 40 crosses on their property which essentially would be a violation of the sign ordinance if the crosses are, in fact, determined to be signs. The Mayor has had a conversation with the church about this issue, who stated they would be willing to live within the parameters of the City's existing statutes. There has only been one complaint regarding the crosses and did not know if the City's ordinances needed to be changed for only one group and could this be designated as a special event.

City Attorney Shortlidge believed that loosening the restrictions for one group creates a slippery slope for others to follow.

Mr. Flickinger added this is only geared toward non-profits groups like churches, libraries.

City Attorney Shortlidge stated if there is a concern that as a result of the conversation that the Mayor had with the church that it was not clear to the church that there is a limit of three signs per lot, there is still time to get that clarification before October. If there is a misunderstanding, then there will be time to fix it.

The Planning Commission recommended to table this discussion to a future time if needed.

Ms. Mohart moved, seconded by Mr. Kohles, to close the Public Hearing. (Motion carries 5-0)

#### **IV. Discussion Items**

##### **1. Review KOMA/KORA**

City Administrator Otto had recommended a brief overview of KOMA/KORA and wanted signatures on the ethics ordinance.

City Attorney Shortlidge stated he would not go into depth as he would rather address the full Commission. He noted the most significant issue the Commission needed to be aware of is remembering that the Open Meetings Act applies where there is interactive communications between a majority of the body, which would be four members of the Planning Commission. Interactive communications between four members is a meeting. If that meeting has not been noticed, then it is a potential Open Meetings violation. Interactive communications can take place in a physical setting, on the phone with a conference call, or by e-mail. Mr. Shortlidge added that e-mail can be particularly dangerous because it can inadvertently create interactive communication. If one member of the Commission sends out an e-mail communication to the Commission, that is not a problem. If people begin to reply or hit reply all, then it does not take very long before four members are interacting. He stressed to the Commission that it is best not to have communications on a substantive issue at all. If they reply to an e-mail, please do not reply all. Since City Administrator Otto is not a member of the City Council he can send out an e-mail to all the Governing Body and is not an interaction unless people start replying and a majority are in on the discussion.

Mr. Shortlidge noted that as a Commission KORA is not a concern, as this is mostly an operational and a staff issue.

##### **2. Review and Signature of Ethic Ordinance**

Ms. Jones-Lacy presented to the Commission the Ethics Ordinance and asked them to review the ordinance as last amended in 1997. After review, she asked the Commission to sign, date it and return it to her. She also wanted to make sure she had current accurate contact information for each of the Commissioners.

City Attorney Shortlidge noted that he is not a fan of the Ethics Ordinance and would not get in the middle of disputes between Councilmembers about ethics. The ordinance creates a separate position of an ethics attorney. Whenever there are any issues that arise under this ordinance, David Waters, the City's Ethics attorney, will become involved. Mr. Waters has recommended to the Council a number of amendments to this ordinance that's been put into charter ordinance form for presentation to the City Council at a later date. Mr. Shortlidge noted that charter ordinances have special passage and effective date requirements. They're published twice for two consecutive weeks in the official City newspaper and they don't take effect for 61 days. And within that time period citizens can file a petition to request an election on the charter ordinance, so they're not looking for changes to take effect until June at the earliest. Mr. Shortlidge did add that he was fine with the change recommendations Mr. Waters has made.

Ms. Jones-Lacy stated the Council had discussed the changes in the Committee of the Whole and at January's City Council meeting it was voted down by the Council.

##### **3. Yard Definitions**

Ms. Jones-Lacy requested moving Discussion Item Number 3, Yard Definitions, to the beginning of the agenda since Mayor Marquardt was present to discuss this issue.

Roeland Park Mayor Marquardt stated he had spoken with Planning Commission members since the last meeting and before tonight's meeting. He felt that progress has been made as a result of the discussions. He noted there was a merging of ideas with regards to yard definitions for front, side and rear yards of a property and the property setbacks. He did believe the code language as written needed further clarification to define the edges of a yard and the property line definition. Some comments he made are that not all properties in the City face the street with back yards in the rear of the property and setback language needed to be clarified with regard to corner house properties. He also felt an amendment was needed to include language to state, "front yard shall also be defined as those yards of existing houses in which the front of the house faces the street." Street would be considered which side the house predominately faces.

The second item the Mayor wished to discuss was Section 16-423, Yard Exceptions - Platted Setback Lines. "Where a setback line for a front yard, side yard or rear yard is established on any plat approved by the City, which platted setback is more restrictive than the yard requirements set forth in this title, the setbacks shall control and building permits shall not be issued for any building or structure outside of the platted setback which would not otherwise be allowed to be located in the yard pursuant to this title."

Mayor Marquardt would like language excluding fences and RVs from platted setbacks, if the side yard is in front of other properties on the same street, to maintain uniformity on the street.

The Mayor also stated he did not like having side yards touching the street. Mr. Flickinger added that there is currently an exclusion prohibiting items closer than 15 feet from the street on a side yard. He added that a side yard does not extend to the street, but runs parallel to it. Mayor Marquardt felt additional terms could be added to include an "alternate front yard" or "front yard No. 2" to differentiate from a side yard.

Mr. Flickinger stated that making changes to terminology in the code could trigger multiple revisions, but they will look to make certain it is congruent through the code.

Mr. Hickey directed the Commission to Section 16-613(b)(3) Side yard. "A fence or wall may be constructed on the side property line, except that no fence shall be closer than 15 feet to any collector or local street right-of-way. In addition, no fence shall be permitted in any platted landscape easement except as a part of an approved master fence/screening plan." Mr. Hickey felt this section addresses the corner line and the 15-foot right-of-way, but would like to see it modified to prohibit motor homes and camping trailers from being parked on the street side of a corner lot.

Mark Kohles wanted to make sure that corner lot properties with a minimal back yard of 15 feet would be allowed a variance for fences in side yards.

The Planning Commission and the Mayor had extensive discussion on setback provisions, exclusions, minimal back yard size and allowances in a side yard.

The Mayor stated his main concern is keeping items out of the setback to include buildings, fences and RVs.

There was discussion of the existing fence ordinance that requires placement to be 15 feet back from the right-of-way, with fences allowed up to 8-feet tall to the front face of house. Mr. Flickinger added that most of the BZA requests for a variance are for fences in the side yard of a corner lot and to date none of these have been turned down. He added that there are restrictions for fences and other objects blocking the sight visibility triangle, but would work with a resident for sight issues before bringing any request before the BZA.

Mayor Marquardt requested for a list of properties to plot to test the different scenarios using the definitions and see what's acceptable.

Darren Nielsen stated he potentially had no problem with a fence on the side yard of a corner lot, but would not like to see an 8-foot tall fence. He felt by allowing residents to have fencing in their corner lot side yard it would provide safety for pets and children and also encourage residents to buy and stay in Roeland Park.

Section 16-613(h)(1) states "Where permitted in residential districts, storage of not more than one of the following is permitted: a boat, a camping trailer, a pickup camper, a motor home, a recreational vehicle or a hauling trailer. Storage shall not occur in the front yard or the street side of a corner lot."

Mayor Marquardt: I wonder if we can't use align, you know, parallel to the side yard or to the side property line parallel with the house or something like that."

Mr. Flickinger: You can say parallel to the street.

Mayor Marquardt: Parallel to the street aligned with the house.

Mr. Flickinger: To the closest point of the house.

Mayor Marquardt: Aligned parallel to the street, aligned with the nearest point of the house.

Mr. Kohles: In this case, doesn't matter rear, front or back.

Ms. Jones-Lacy clarified, parallel to the street, but out to the front corner.

Mr. Flickinger stated that 15 feet back from the right-of-way is about 26 feet or more from the curb already.

There was Commission discussion that that figure may be excessive.

Mayor Marquardt read Section 16-423, Yard Exceptions - Platted Setback Lines. "Where a setback line for a front yard, side yard or rear yard is established on any plat approved by the City, which platted setback is more restrictive than the yard requirements set forth in this title, the setbacks shall control and building permits shall not be issued for any building or structure outside of the platted setback which would not otherwise be allowed to be located in the yard pursuant to this title."

Mayor Marquardt questioned the use of "outside" versus using "within" as structures are not allowed within the platted setback.

Mr. Kohles stated the RV terminology of parallel to the street to the face of the house seems appropriate for an RV. He also proposed the language regarding fence placement is acceptable the way it is currently written. He would propose for discussion an exception that if the back yard is less than 15 feet, then the fence can go to the right of way instead of 15-feet from the right -of way as long as it's four feet or less in height.

Mr. Flickinger noted that would require amending Section 16-613 under the Fence Setbacks and would require another public hearing.

Ms. Jones-Lacy stated there are very few BZA hearings and at this point this is not an issue.

Mr. Flickinger did not recommend saying rear property line as it is most likely the side property line. He added that once the back yard is defined, adding language about the size of the rear yard and taking into consideration the sight visibility triangle for safety a fence variance could be discussed. He added that going through the BZA does protect the Commission. He also noted that during March and August, the \$100 fee is waived. It allows for safety checks to be conducted to make sure fences are not going to interfere with traffic. Also all the neighbors within 100 feet are notified and given an opportunity to voice their opinion either for or against the variance.

Mayor Marquardt stated the discussions were addressing the RV issues, as well as fencing concerns. He noted that Mr. Kohles could redraw the plans of the different property scenarios. He would like to see the need for the exception for existing houses that face the side yard by definition, that "yard" shall be considered the front yard. He added an exception was needed that states, "In places where the existing house orientation faces the long property line, that yard shall be considered the front yard." He further clarified that where the house faces the long side of the block, it will have a different definition of yard than from a house that faces the corner. He also added that as long as the RV deal that has been discussed and the structures are covered within these setbacks, the only thing allowed within the platted setbacks are the fences and there are some rules to address that.

Flickinger stated that to make the side yard line to the front corner of the house parallel to the street right-of-way that it faces will solve the problem making a house on a corner to have two front yards.

Mr. Kohles recapped that when the property has an L-shaped front yard the side yard is parallel to that of the street on either side of the corner and the back yard is what's left over. From an RV standpoint that's covered, and from a fence standpoint it's covered in the sight visibility triangle.

There was further discussion of the diagrams, positions of houses, location of fences, and where front, side and rear yards begin and end. There was also more discussion on setbacks and the height of a fence with relation to the sight visibility triangle.

Mr. Flickinger added that if a fence cannot pass the front corner of the house, the front corner of the house is not in the sight visibility triangle to begin with because it's more than 15-feet off the road in all directions.

The definition of sight visibility triangle is further explained in Section 16-426, Yard Exceptions—Sight Distance on Corner Lots.

Ms. Jones-Lacy stated she would meet with Mr. Flickinger and Mr. Kohles to work on the issues expressed during the meeting.

The Commission thanked Mayor Marquardt for his participation in this discussion.

*(Mayor Marquardt left the meeting)*

Mr. Kohles stated he was going to draw to scale the property scenarios plotting the right-of-way line or the sight triangle, whichever is more restrictive.

City Attorney Shortlidge commented if the definition of yards is changing, then a public hearing would not be needed since the public hearing for this item was already held. If the code on fences changes, that would require a public hearing.

Mr. Rogler stated the modification of the definitions can be discussed at the March meeting with the public hearing for any additional items that have not already been held can be scheduled for April.

Ms. Jones-Lacy added that yard definitions will need to be finalized and sent to City Council. She added that extra effort needed to be made to include the Mayor's recommendations or there might not be Council support for the changes. She added that she will speak with the Mayor to make certain his concerns have been addressed.

Mr. Nielsen requested Ms. Jones-Lacy find out from the Mayor if Section 16-423 would be an issue that would prevent the Council from moving forward. Ms. Jones-Lacy stated the Mayor did mention referring to restrictions to RVs when he had mentioned this section.

Mr. Kohles felt the Mayor was comfortable after the discussion that issues restricting RVs, boats and fences were addressed.

Mr. Flickinger stated he felt changing the diagram will fix the RV issue and the fence issue altogether because the main thing it will affect is the diagonal house.

Mr. Kohles wanted to ensure that the diagrams and the language match up.

Mr. Flickinger noted that if an exception is made for a fence on a side yard in Section 16-613(b), then the issue would have to go to a public hearing. He added that he would review the setbacks on corner properties in the City.

Ms. Jones-Lacy requested to meet with Mr. Kohles and Mr. Flickinger to decide when to meet to discuss the yard definitions.

Mr. Hickey requested that if making a modification to a fence in a side yard that it not be allowed to be higher than 36 to 42 inches.

Mr. Flickinger added that currently a front yard fence is limited to a height of 30 inches. Chain link fences on a side yard don't normally interfere with visibility or create a blind spot. A privacy fence would create visibility issues and would have more restrictions. He stated the language cannot limit just the height of a fence, it needs to include language for the sight visibility triangle. He added that this setback discussion will also address the Mayor's concerns of utility box placement in a yard.

#### **4. Sustainable Code Review – Mark Kohles**

The Planning Commission agreed to postpone this discussion when there is a full committee and more time.

### **IV. Future Discussion Items**

#### **1. Utility Box Placement**

Ms. Jones-Lacy stated that a review of Chapter 13 regarding the location of utility boxes should be reviewed in conjunction with the definition of yard discussions as this many eliminate many of the eye sores the boxes present to a number of properties. She was looking for a Commissioner to check with other municipalities' regulations and what can and cannot be done, if there are any requirements to placing them in a back yard or putting them below grade.

Mr. Kohles noted this was one of the topics that Mayor Marquardt was concerned about.

Mr. Flickinger felt that once the yard definitions were finalized, this item would take care of itself.

#### **2. Accessory Structures – Little Libraries**

Ms. Jones-Lacy said that City Administrator Otto had requested the Planning Commission look into any requirements associated with the little library structures that are popping up nationwide.

Mr. Flickinger wanted to know if the Planning Commission would like to restrict them, if there needs to be setbacks or should there be any guidelines for them. He stated that currently the only accessory structures allowed in a front yard are a flag pole, a basketball hoop, mailbox and or similar items.

Mr. Rogler felt this discussion could be postponed until after the yard definitions are complete.

There was preliminary ideas offered by the Planning Commission for future discussion of little library structures.

City Attorney Shortlidge added that Leawood was addressing this issue and this has also become a national phenomenon. He also noted that best practices may come from some place other than locally.

#### **V. Adjournment**

Ms. Mohart moved, seconded by Mr. Kohles, to adjourn. (Motion carries 5-0)