

**CITY OF MASCOUTAH  
PLANNING COMMISSION  
#3 WEST MAIN STREET  
MASCOUTAH, IL 62258-2030**

**FEBRUARY 17, 2016**

The minutes of the Regular Meeting of the Planning Commission of the City of Mascoutah.

**PUBLIC HEARING – 7:00PM**

**PC 16-02 – Rezoning of 711 W. Church Street from RS-5, Single-Family Residential, to DC, Downtown Commercial.**

Assistant City Manager Lisa Koerkenmeier explained that the applicant, Lonnie and Diane Casey, own the property at 711 W. Church Street. The property includes a single-family dwelling, detached garage and 36' x 40' detached storage building. The property is L-shaped and includes 50' of frontage on W. Church Street and 100.33' of frontage on W. Green Street. Originally the property was comprised of three (3) separate parcels or zoning lots. She explained how the applicants desired to improve the property in 2002 and build a 36' x 40' storage building, and at that time City staff informed the applicants that an accessory building could not be constructed on a separate parcel and the parcels would need to be combined. This provision remains in the present code. The applicants combined the three parcels and the building permit for the storage building was issued.

Staff stated that the applicants desire today is to split the parcel to allow them to keep the storage building on a half lot for their own use. The residence and detached garage would remain on one parcel to be sold. The applicants also expressed an intention to use the storage building in conjunction with their business, Lonnie's Tire & Auto Care, located at 1034 W. Main Street. Staff informed them that the property at 711 W. Church may not be used in conjunction with their auto business since the property is not zoned for commercial use.

Koerkenmeier talked about the City's Zoning Code and how it does not allow requests for use variances or exceptions if a resident wants to deviate from a particular requirement. The only option staff could offer the applicants is to request rezoning the property to a zoning district which allows the storage building to be used as a principal commercial building/use if the property was split. The applicants are pursuing to rezone the property from RS-5, Single-Family Residential, to DC, Downtown Commercial. The DC zoning district would allow the property to be split; the accessory storage building would become a principal building and would meet the DC setback requirements. She also stated that the DC District would allow automotive parts, accessories and tires to be stored and sold; motor vehicle sales; and motor vehicle repair services.

Koerkenmeier explained the legal notice for the public hearing was published and notices were sent to 27 property owners within 250' of the subject property. As of the date of the hearing, staff received a call from Winnie Kyro, owner of 618 W. Green Street who spoke in opposition of the rezoning petition.

Mr. Casey told the Commission how the lot and shed became his and how it has never been used for business. He stores his old cars in there and uses it for personal storage. Nothing on Green Street has anything to do with business except the tow truck due to 24hr service. He stated that he can move that to the business at any time and he wants to make it clear that he is not planning on using the property on Green Street for any type of business. He did explain how a few times over the past years he would put a vehicle in the shed off of Green Street due to a police tow.

Jung stated that he thinks the rezoning is awfully complex for what he is asking to do. Koerkenmeier explained that there was no other option when following the code.

Koerkenmeier said the code requirement of not allowing an accessory structure on a lot without a principal structure on the lot has been in the City's zoning code for a long time and it keeps people from just putting up storage sheds anywhere without having a house. This requirement helps to keep property conditions and property values up and is a typical zoning requirement in any community.

Chairman Zacharski explained to the applicant that the Commission is not concerned with him or what he has done with his property, but once you change the zoning and then if you ever sell, the next owner would be allowed to use the property in this residential neighborhood for any type of business permitted in the DC District.

Thompson concurred with Chairman Zacharski's concerns that once the property is rezoned then future owners may use the property for anything permitted in the DC District.

Casey asked if there could be something in writing so that if he sells the shed it would go back to RS-5. It was stated by Koerkenmeier that it cannot be rezoned with clauses or provisions. Applying provisions to a rezoning is considered "contract" zoning and does not hold up in the courts.

Casey asked about combining lots next to the storage shed and also building a small house on the lot with the storage shed. Staff explained how if you can combine the property where the storage structure sits with a principle structure (a residence) on an adjoining lot, and the new lot meets RS-5 requirements, than no zoning change would need to be made. Additionally, if a new lot is created for the storage shed, a new home is constructed on the lot, and it meets RS-5 requirements, no zoning change would be needed. The City would still have look at how permits would be issued since the Code states that an accessory structure is not be built prior to the principal structure.

Klopmeyer asked about granting a variance. Koerkenmeier stated that the zoning code does not include a provision to give relief for a requirement you don't like in the code. She explained how the City also does not hear "use variances" because it is a process that would undermine the intent of the zoning code.

Joyce Johnston inquired if the City has laws or rules to address a situation when the owner is using the property inappropriately or not taking care of the property. Staff noted that the City does follow the zoning requirements to deal with those situations and also may treat some situations as a nuisance to have the problem remedied.

Shelley questioned “spot” zoning and if this request is conflicting with the comprehensive plan. Koerkenmeier provided her opinion that this request would be “spot” zoning. The Comprehensive Plan depicts the property for low-density residential use. She also told the applicant she understands his situation, but staff weighs the gain to the individual with the gain to the community if the rezoning is granted. The City’s present code does not include a minimum district size in the DC zoning district, so it was an option for the applicant to request DC zoning for the property regardless of the size of the parcel.

City Manager Cody Hawkins suggested to the applicant a lot lease type of agreement that he could make with the potential buyer to allow him to still use the storage building.

Casey also stated he helps the City in any way possible and has widened Green Street at his expense. He also mentioned that there are standalone buildings all over town. Staff noted they are aware of other accessory structures on separate lots; likely most of them at one time had a primary structure that was demolished or removed.

Before closing the hearing Casey asked if he could combine his shed property with his house across Green Street. Staff stated no that the parcels were not contiguous and divided by public right-of-way.

There was no further discussion.

#### **PUBLIC HEARING ADJOURNED at 8:01 PM**

#### **CALL TO ORDER at 8:02PM**

Chairman Ken Zacharski called the meeting to order.

#### **PRESENT**

Commission members Charles Lee, Jack Klopmeier, Glenn Shelley, Rich Thompson, Bruce Jung, Jim Connor and Chairman Ken Zacharski were present.

**ABSENT** – None

#### **ALSO PRESENT**

Administrative Assistant Melissa Schanz, Assistant City Manager Lisa Koerkenmeier, City Manager Cody Hawkins, Danny Schrempp, Lonnie and Diane Casey & Joyce Johnston.

#### **ESTABLISHMENT OF A QUORUM**

A quorum of Planning Commission members was present.

#### **GENERAL PUBLIC COMMENT**

None

#### **AMEND AGENDA**

There was no need to amend Agenda.

#### **MINUTES**

Lee moved, seconded by Thompson, to approve the minutes of the January 20, 2016 Planning Commission Meeting.

### **THE MOTION BY ROLL CALL**

Charles Lee aye, Jack Klopmeier aye, Glenn Shelley aye, Rich Thompson aye, Bruce Jung aye, Jim Connor aye and Chairman Ken Zacharski aye

7-ayes, 0-nays

### **PC 16-02 –Rezoning of 711 W. Church Street from RS-5, Single-Family Residential (RS-5), to Downtown Commercial (DC).**

Discussion was held during the Public Hearing Process. Please see Public Hearing section of these minutes for details.

### **MOTION**

Lee moved to deny the rezoning request for 711 W. Green Street from RS-5, Single-Family Residential, to DC, Downtown Commercial, subject to the Findings attached but the motion was not seconded. Chairman Zacharski called for a new motion. No motion was made and therefore no recommendation was made by the Planning Commission on the applicants rezoning request.

**MISCELLANEOUS** – Koerkenmeier started the review with the Planning Commission of the Unified Land Development Code, (Chapter 34).

### **ADJOURNMENT**

Thompson moved, seconded by Lee, to adjourn at 8:24 p.m. All were in favor.