

City of Piney Point Village
Planning & Zoning Commission Meeting
Minutes from
February 25th, 2021

Members Present: Vincent Marino-Chairman, Bill Burney, Don Jones and Margaret Rohde.

Members Absent: Charles Peterman and Diane Wege.

City Staff: Annette Arriaga, Director of Planning, Development, & Permits and David Olson with Olson and Olson.

Council: Mayor Pro Tem- Joel Bender, Councilman Michael Herminghaus, Mayor Mark Kobelan, Councilman Henry Kollenberg and Councilman Brian Thompson.

Board Members: Roland Sauermann

On line Zoom Quest: Not all names known.

Guests/Residents: Tim Murray, Donna and Leon Freedman, and Gerano and Laura Mafridge.

On Line Quests: Several on line quests, not captured.

Zoom Virtual Meeting ID: 812 1152 6044 **Passcode:** 102720

Guests:

- 1.) **Call to order:** 7:03 P.M.
- 2.) **Meeting Minutes:** Motion for approval of minutes from the January 28th, 2021 regular Planning and Zoning Commission meeting; Vincent Marino stated that on page 2 of the draft meeting minutes, after the approval of the Specific use permit for Ecclesia, he wanted to add a comment that the motion had passed. Vincent Marino made the motion first to approve and it was seconded by Margaret Rohde. Upon vote, such minutes were unanimously approved.
- 3.) **Public Hearing/Certificate of Occupancy:** **Vincent Marino** opened up the public hearing to discuss the draft revised Ordinance 74-176 Certificate of Occupancy. **Vincent Marino** gave a brief summary of the Temporary Certificate of Occupancy, and he stated that the original ordinance allowed for up to 45 days to complete the home and now the new amended ordinance would allow up to a total of 105 days to complete the construction of a new home. **Tim Murray**, a resident, stated that he was the first to receive a temporary Certificate of Occupancy in 2013. He thinks that the ordinance is an overreach. He continued to say that there are less intrusive ways to accomplish what you want, instead of coming up with all these requirements. **Tim Murray** stated that there has to be an easier way to get things done instead of requiring a fiscal security deposit and if you fail to comply, the city will fine you. If you look at all the other cities, you will not find the phrase, "liquidated damages." If we have to use that phrase, then that ought to tell you something. If the inside of the house is completed, then why do we have to comply with all of this? All the resident wants to do is move in his furniture. How is that a hazard to life and safety? **Roland Sauermann** indicated that he lives on Hermosa Court and he is the President of the Tynewood Home Owner Association. He also indicated that he is very supportive of the deposits for the City. He mentioned that enforcement is difficult. We are seeing a lot of people thumbing their noses at some of the processes and procedures, so holding people accountable is really important and that the City is going about it in a good way. **Roland Sauermann** also added that in the future, they might require builders to place a \$10,000.00 dollar deposit. He also added that it is

not the City's fault, but sometimes it can take a long time when dealing with third parties. City cannot control that.

- 4.) **Discussion of Public Hearing/Certificate of Occupancy:** **Vincent Marino** indicated that he does think that all the comments need to be addressed. **Don Jones** agreed. **Mayor Mark Kobelan** stated that this ordinance was created to allow for Temporary Occupancy up to (45) days and with this new and revised ordinance, it will allow the builder/owner up to 105 days, which includes the 2 possible (30) day extensions. This is allowing more time. **Margaret Rohde** indicated that this would allow more time for those home owners who would like to move in early and for builders to follow up and complete the project. **David Olson** stated that some cities don't require a process like this at all. They require that you complete the house before you can move in. He also added that the deposit requirement was already in the ordinance, and it is not new. **Tim Murray** suggested that the City should place liens on the property. **David Olson** indicated that was an option, but it does put the burden back on the City to collect. **David Olson** also indicated that the penalty provision that is specified in the ordinance is language that is taken right out of Chapter 54, which is the State's, Local Government Code.

Vincent Marino made a motion to recommend approval to City Council on the final changes that are red lined in the proposed draft Ordinance 74- 176 Certificate of Occupancy in item number f, subject to consideration of all the public comments received by the Planning and Zoning Commission. **Don Jones** seconded that motion. Recommendation to City Council approved.

- 5.) **Public Hearing/Establishing Regulations for Side and Rear Yards:** **Vincent Marino** opened up the public hearing to discuss the revised draft Ordinance 74-244 Regulations. Size of yards dealing with setback lines on certain streets, Gingham Drive, Jan Kelly Lane, Surrey Oaks Lane and Dana Lane. These particular streets, historically, had to go before the Board of Adjustment to seek relief for a front yard setback. The Board was granting relief on these same certain streets. This ordinance, as written, codifies it so that these certain streets can have reduced front yard setback lines.

- 6.) **Discussion of Public Hearing/Establishing Regulations for Side and Rear Yards:** **Don Jones** indicated that this would streamline the process. **Joel Bender** indicated that this would help assist Annette so that they wouldn't have to apply for a variance each and every time and that this would help streamline the permit process on those particular streets. **Vincent Marino** had a comment regarding the draft ordinance on the first paragraph, line 4, *certain identified streets are platted and improved at a lessor front and side yard setbacks; and*. **Vincent Marino** indicated that the word should be lessor not *lessor*. **Vincent Marino** indicated that in the second paragraph, *Whereas, the City Council desires to establish setbacks on those identified nonconforming lots and streets that reflect actual lot configurations and established building locations;* **Vincent Marino** suggested that it should read; *Whereas, the City Council desires to establish setbacks on those identified nonconforming lots and streets that take into account actual lot configurations and established locations;* **Vincent Marino** also suggested that on the second page, under (c) Area regulations; size of yards. (1) Front yard. *There shall be a front yard having a depth of not less than 50 feet; provided, however, front yards for Gingham Drive and Jan Kelly Lane shall have a depth of not less than 40 feet.* He stated that Surrey Oaks Lane, Dana Lane, etc. should have *a front yard having a depth of not less than 25 feet.* **Vincent Marino** made a motion to recommend to city council to approve the proposed draft ordinance, 74-244. Establishing regulations for side and rear yards with the requested changes. **Don Jones** seconded that motion. Recommendation to City Council approved.

- 7.) **Public Hearing/Continuance of Nonconforming Buildings and Structures:** **Vincent Marino** opened up the public hearing on the new draft Ordinance 74-212 Nonconforming building and structures and he indicated that this relates to a first floor nonconforming building or structure that can be enlarged or extended into a side or rear yard, as long as it does not exceed the encroachment created by the nonconforming main building, for example if the main structure encroaches a foot, then you can build to that one foot, but in no event would it allow an

encroachment into the front yard. **Roland Sauermann**, who serves on Board of Adjustment, stated that this is absolutely critical and he is in favor of it because in the past, he had to turn down someone that wanted to extend into a side yard, and it was just a small area, but he was not able to because if the Board approved it, then it would open up the doors to all of the same type of variance requests. So, he is glad to see the ordinance.

8.) **Discussion of Public Hearing/ Continuance of Nonconforming Buildings and Structures:** **Vincent Marino** made a motion to recommend approval to City Council on the proposed drafted Ordinance 74-212 Nonconforming buildings and structures. **Don Jones** seconded that motion. Recommendation to City Council approved.

9.) **Public Hearing/Fences and Walls in Required Yards:** **Vincent Marino** opened up the public hearing on the revised draft Ordinance 74- 245 Supplementary district regulations, fences and walls in required yards. **Vincent Marino** stated that this ordinance has to do with fences that are adjacent to a street, both side and rear, so if you do not have a lot adjacent to a street, then this ordinance does not apply to you. The current fence ordinance states that if you are adjacent to a street, then you can have a six foot in height fence, and it has to be an eighty percent fence on a side or rear yard. The new proposed ordinance states that you can have, either, an 80% fence or a wooden fence, eight feet in height. But, if you want a wooden fence, then you have to have landscaping that has been approved, and that landscaping has to cover that fence within three years and there is also maintenance of the fence plan included. **David Olson** stated that it does give another alternative to just having an eighty percent fence. **Laura Mafridge** stated that she lives on the corner of Memorial and backs up to Greenbay Street. She mentioned she had attended the last Planning and Zoning meeting in regards to the fence ordinance and was part of that discussion. She asked the Commission to clarify the definition of the eighty percent fence. **David Olson** read out loud the definition; A eighty percent fence as defined in the City of Piney Point Zoning Ordinance is *a fence constructed in such a manner that any portion of the fence that exceeds three feet in height contains at least eighty percent unobstructed, open views, comprised of uniformly spaced seven-foot see-through sections, separated by visually solid columns (maximum of two feet in width), and supports for such fence are of visually solid construction uniformly spaced, and such fence contains no wire or chain-link portions.* **David Olson** indicated that is how it is defined in the Zoning Ordinance. It's a mathematic calculation that is used. **Gerano Mafridge** discussed the issues with her house being on the corner lot and fence restrictions. They are exposed to everyone on Memorial. They need security. People can see over their back yard. They have elevation issues, as it relates to their lot. They have a damaged fence. **Laura Mafridge** wanted to know why a cedar fence? Why not a solid wall? **Henry Kollenberg** discussed with the Planning and Zoning Commission that he wanted to make the Commission aware that he had complained. They are making significant changes to the Zoning Ordinances at a time where it is difficult for residents to get together. It was discussed that not only posting in the newspaper, but also a V-LINC would be sent out and a notice would be mailed to the residents and that did not happen. He stated that he was disappointed that the meeting was still happening. He stressed his concerns to the Mayor. **Henry Kollenberg** stated that in respect to the fence ordinance, the origin of the fence ordinance is about twenty to twenty five years old. The idea behind the fence ordinance was because they were seeing a lot of solid brick walls being built. They did not feel like that was what Piney Point Village was all about. **Henry Kollenberg** stated that the eighty percent fence was an iron fence with landscaping behind it, so that people could not see through it. If they had not passed the fence ordinance, you would have seen a lot of solid brick walls along Memorial Drive and as you turn onto Piney Point Road and go North, Carsey Lane at the time was undeveloped. At the corners of Quail Hollow Lane and onto Green Bay and at Piney Point Road you would have seen solid brick walls, but now you see trees. That was the concept to provide security and encourage people to plant greenery. It will be less attractive seeing solid brick walls. The current version of the new fence ordinance is to allow solid fences on corner lots with landscaping. **Brian Thompson** indicated that the V-LINC went out prior to the meeting. He has been on city council for six years trying to get the fence ordinance changed. He has been working on the new fence ordinance for over a year. Other cities like Bunker Hill and Hunters Creek do not have this fence ordinance and they do not look like a walled city. **Brian**

Thompson questioned the visibility and added that criminals can still jump fences. Jamestown is a perfect example of what they want to do. So, that people on the outside can see beautiful landscaping and people in their back yard can enjoy their privacy and have a fence like everyone else. **Joel Bender** indicated that he follows Brian Thompson's thought process and he stated that he had chaired Planning and Zoning for several years and has worked on several different versions of the fence ordinance. He wanted to come up with something that was compatible and thankfully the Beautification Committee has come up with a landscaping plan that includes irrigation. So, this would be aesthetically pleasing for the people that are concerned about it. **Joel Bender** stated if you are one house in, then you can put up an eight foot fence but, if you are a corner lot then you cannot have an eight foot fence. Front yards are still open. You are still going to see green space. People are still entitled to their privacy. He added that this is his third time dealing with the fence ordinance and this issue keeps coming up and coming up and what that indicates to him is a need to change the fence ordinance. Even though this is one of the safest cities, it is important that people are still entitled to their sense of privacy and security in their own back yard. **Donna Freedman** spoke and confirmed that word has not gone out enough to all the residents in regards to the fences. She suggested that they send out a drawing to all the residents and the community so they can clearly understand what is being discussed and voted on. **Mayor Mark Kobelan** spoke and indicated that he has been Mayor for almost 5 years, and in his second meeting as Mayor, in May of 2016, there was a huge crowd at city hall, at least 50 or 60 people, in discussion of the fence ordinance. He had been blindsided and unaware of all of the issues. It became clear that there was a battle of people who wanted the security and privacy of solid fence and there were a number of people that wanted the city to not look like a walled city and who wanted the greenery. Over the last 4.8 years, we have worked to come up with a plan to accommodate both. So, this plan provides for privacy and security with a solid fence. It requires a landscape plan with greenery and it has to have irrigation and be maintained to look good. The Beautification Committee came up with all of the requirements, as it relates to the spacing and planting and thought it would be a great solution. This would cover over 200 homes that are either on corner lots, back up to, or are adjacent to a street. **Mayor Mark Kobelan** stated that he thinks this would be an excellent plan and that the fence ordinance should be passed. **Roland Sauermann** stated that in response to houses on corners, he moved to Piney Point for the green space. He especially liked Tynewood because it had more green space and it had more deed restrictions that were stronger than Piney Point. When people live on a corner that does not have a fence, they tend to later decide to put up a new fence and they want to challenge and change the ordinance to put up a fence. When they bought the house, they knew that they were living on the corner lot. We have builders that want to put up a fence and they want to add eight foot wing walls to the house. **Roland Sauermann** stated that when he asks them why they want eight foot walls, the builder's response is always for security. He added that security from theft is the biggest threat in Piney Point right now. Whether it is a six foot or an eight foot fence it won't make a difference. No one is able to make a compelling case in Tynewood on why we should allow an eight foot fence to be built. He also commented that he has a problem with fences on corner lots and side streets that are eight foot tall. He did agree that the meeting was not well attended and it is important that the residents know about it and he stated that it is unfortunate. As a volunteer for the city of over twenty years, he agrees with a lot of what the city is doing. It does need a broader hearing and after what just happened with the winter storm and pandemic, he thinks that this item should be tabled. **Leon Freedman** mentioned that he has lived in Piney Point for two and a half years. He lives in a house that was actually built in 1954 that had a split rail fence. The split rail fence was considered to be a nonconforming fence, and the city wouldn't allow for them to repair the split rail fence because it was considered to be his front yard. Annette wouldn't allow for it to be replaced exactly like it was and she indicated that it had to be three feet in height, which is next to the road. They have been repairing it as it is. **Michael Herminghaus** indicated that this was also his first rodeo, as it relates to the fence ordinance. He indicated that with our repeating everything that has been discussed about the new fence ordinance, that this was a good compromise because it relates to the people who want privacy in their back yards and it has a green look on the outside. There was some criticism that the fence ordinance would be hard to enforce. He added the version of the landscape plan had a very specific plan in regards to the maintenance of the fence, as well as the maintenance of the

landscaping. **Michael Herminghaus** stated that he is very much in favor of the fence ordinance and this is a workable compromise to all the residents of Piney Point. **Laura Mafridge** added that when she moved here over a year ago, she had no idea that there were all these restrictions, as it related to her fence, and that it would be difficult to take down a wall that was in disarray and needed to be repaired or replaced, that they would end up paying for it make it look nice. **Laura Mafridge** added that people who live on the corner lot have an onerous burden to plant and add landscaping. Why doesn't the home owner association do the planting and allow the residents to just put up a fence or wall? **Mayor Mark Kobelan** wanted to comment in regards to Roland Sauermann comments. He stated that he had only referred to corner lots and that residents knew what they were getting into when they purchased their lots. He added that on his street, Memorial Point, they have six homes that back up to Piney Point Road. One of the homes that had gotten badly flooded was then sold and a new resident purchased the property and tore the old house down and built a new house. He is not on a corner lot, but his back yard backed up to South Piney Point Road and when he built his house he had to tear the old fence down and put up a six foot iron fence. He was, and still is, furious. There was a solid fence that had been there for over thirty years, but he had to replace it with wrought iron. So, the question is if the resident knew that before he purchased the property and the answer is no. He did not know that when he had purchased his lot. **Roland Sauermann** wanted to comment in response to what was stated and he added, that when you buy a house on the corner like the one on Hermosa Court and Tynebridge that backs up to Greenbay Road, the current city ordinance would allow you to put up a fence along Tynebridge side, but currently there is not a fence. That is doing your due diligence by knowing what you can do before you purchase a very expensive piece of property. You should know if you can put up a fence or not, by familiarizing yourself with the deed restrictions and the ordinances. **Vincent Marino** asked if the Board of Adjustment has any authority to make exceptions to the fence ordinance if passed, and would they have to add any wording in the ordinance to allow for that. **David Olson** indicated that if there is a hardship that is shown, exceptions could be made. They would have to establish a legal hardship. No extra wording needs to be added, there are several other sections and chapters that already refer to that.

- 10.) **Discussion of Public Hearing/Fence and Walls in Required Yards:** **Don Jones** mentioned that when he saw in his packet that there was going to be a discussion about the fence ordinance he thought there would be a lot of residents at the hearing and that city hall would be full of people. When, Henry Kollenberg stated that he didn't think that it was well communicated properly, **Don Jones** stated that he agreed that it was a valid point. It is such an important issue and everyone has been working on this a long time, that he felt another meeting should happen to make sure, without a doubt, that everyone knows about the hearing. He thought a letter should be sent out with more detail as to the ordinances and the explanation of the eighty percent fence. **Don Jones** felt that the city should have a little more transparency. **Margaret Rohde** indicated that they have been discussing this issue for more than a year. She added that they did suggest that a letter should go out explaining in more detail that the revised fence ordinance was an option, as long as they followed certain guidelines. She believes many residents didn't get the message and there might be a lot of confusion, between the cost of a wooden fence and having to add all the green space, and residents wondering if this fence ordinance applies to them or not. The city would benefit by sending out a letter. It was not sent through V- LINC, but through *info@pineypoint* instead. It did have the ordinances, but the information about the ordinances was very vague, as it was general information and not specific. **David Olson** indicated that the city had been closed due to the weather and that the city typically would have, but they did send out the notification prior to the hearing. **Margaret Rohde** indicated that the residents on Country Squire are still dealing with the fencing along Memorial Drive. **David Olson** spoke and indicated that Laura Mafridge fence is different because her fence, on the Memorial Drive side, is considered a subdivision fence and that she is in more of a unique situation because the subdivision fence is located on her property. **Laura Mafridge** stated that the previous owner indicated that it was not a subdivision fence. **David Olson** added that if it was not a subdivision fence, then she wouldn't be able to put it back. She would only be able to add the three foot fence, as per the ordinance. The new ordinance would allow some flexibility if she wanted to add a cedar fence with the landscaping. **Laura Mafridge** asked if they could decide not to do anything. **David Olson**

commented and told them that they do not have to put up a fence if they do not choose to. The ordinance doesn't require them to do so. **Gerano Mafridge** stated that on his lot there were a lot of trees in front of that fence, so he asked the city if they could take them down and the city agreed, since the tree roots were growing under the fence. That fence was placed on their property and it looks terrible because it is busted in several places. He mentioned that he wanted to replace it with something that looks nice. He asked if he could apply for a variance. David Olson indicated that he can apply or go before the Board of Adjustment to seek some relief. **Gerano Mafridge** asked if he could take down the fence. **David Olson** agreed, but they would have to also discuss that with the home owner association. He does recognize the restrictive covenants of the subdivision, but as far as the city is concerned, they can take down the fence. **Gerano Mafridge** added that the home owner association doesn't want to do anything about the fence and they are requiring us to grant them an easement. **Laura Mafridge** stated they will try and work with the home owner association. **Bill Burney** apologized for tuning in late, due to traveling. However, he commented on the fence landscape plan and requested that there be cedar specifications on all the fences and that the city requires them to look similar. If there were no specifications, then they will see all sorts of different designs with different stains. If there is planting, then it will be hard to fix the damaged fences. He didn't want to see a bunch of fences in bad condition and falling down. **Vincent Marino** indicated that fence ordinance had an attachment that had a landscape plan, but not cedar specifications and agreed that the ordinance should have the landscaping attachment. **David Olson** stated that those are separate issues that will need to be taken up with city council, if they want to change that for all uniform fences. The city could take a hard look at that and require certain standards if they wanted to. **Vincent Marino** made a motion to recommend to city council that they consider the lack of full notice of this meeting and to consider some specifications for wooden fences as well as all the other comments received by the Commission and that City Council consider them all. **Bill Burney** seconded that motion. Recommendation to city council approved.

- 11.) **Adjournment:** Motion to adjourn at 8:31 P.M. Motion made first by Vincent Marino and seconded by Bill Burney. Motion to adjourn approved.

Date Approved on March 25, 2021
Chairman Vincent Marino

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(Required Signature)

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