

City of Piney Point Village
Planning & Zoning Commission Meeting
Minutes from
September 24th, 2020

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.

City Council: Henry Kollenberg and Michael Herminghaus.

Guests: Residents, Don Al Safi and Laura Mafrige.

Virtual Zoom Hearing: Meeting ID: 829 3637 5264 Phone Houston +1 346 248 7799 Password: 639102

- 1.) **Call to order:** 7:03 P.M.
- 2.) **Meeting Minutes:** No approval of the meeting minutes from the August 26, 2020. Vincent Marino requested to review the meeting minutes again.
- 3.) **CERTIFICATE OF OCCUPANCY:** Vincent Marino requested that they see all of the red line mark ups so that they can see all of the changes. David Olson agreed. David Olson indicated that the ordinance would allow the City Administrator the authority to grant two additional (30) day extensions. It seemed that giving the applicant only 45 days wasn't enough time. Also, if there were some unforeseen or extraordinary circumstances that happened, then this would allow the applicant additional time. David Olson confirmed that F and G were added to the Certificate of Occupancy draft ordinance, and there was a provision added in regards to liquidate damages clause that allowed us to collect for failure to comply. Bill Burney asked David Olson, what would be extraordinary circumstances. David Olson indicated, it would be unforeseeable circumstances like, mother nature, rain, or a pandemic something keeping them from finishing the home. Michael Herminghaus indicated that looking back at some of the cases, and after analyzing them; they were just a few days over the forty five day time period. So, if they asked for an extension, then that would allow them some more time to complete and finish the process. Forty five days just wasn't enough. Vincent Marino asked about the penalty for not complying. David Olson indicated that the applicant pays a twenty five thousand dollar deposit and the city will deduct two thousand dollars a day. Vincent Marino asked if anyone had been forfeited. David Olson indicated that no one had been. Henry Kollenberg indicated that no one had been forfeited even after being several months over the required deadline. Margaret Rohde asked if they could better define extraordinary circumstances. David Olson agreed that would be a good idea and he would look at some ideas and came up with a more precise standard before they prepared their final report.
- 4.) **ESTABLISHING REGULATIONS FOR SIDE AND REAR SETBACKS:** David Olson gave a brief update to the Planning and Zoning Commission, as to the side and rear yard setbacks ordinance. He indicated that the city has front and side yard standards, fifty feet for the front yard and fifteen percent of the lot width at the building line for the side yard. However, a side yard should be no less than 15 feet or be required to be more than 30 feet. David Olson indicated that the Board of Adjustment commonly recognized in the past, appropriate setbacks for those particular streets or those particular lots. The revision to the ordinance for the side and rear yards were an attempt to eliminate some redundancy on having applicants going before the Board of Adjustment for the same front and side yard relief on these same streets. These streets, specified as

Gingham Drive, Jan Kelly Lane, Dana Lane, Surrey Oaks Lane, and a section of the Lanecrest Lane were added in an attempt to recognize situations where variances were given routinely in the past. The Board thought those setbacks was appropriate and the houses were consistent to the neighboring homes. These streets were smaller and non-conforming lots, and these streets seem to be the ones that the Board of Adjustment saw a lot. So, in the interest of being consistent, council wants them to be identified. **Bill Burney** indicated so all the front of the houses will line up and they will have the same front yard as everyone else. **David Olson** also indicated that new construction homes would be able to be built at the same setbacks as the neighbors. **Henry Kollenberg** added that the lots on Surrey Oaks had been granted variances by the Board of Adjustments for the front and side yards fairly routinely. They are smaller lots and the same situation applies to every house. The houses on Dana Lane and South side of Lanecrest, which are identified, have been granted variances on several instances. The idea is, why make them go before the Board of Adjustment when the Board has routinely granted variances. In regards to Gingham and Jan Kelly Lane, they have been granted modest front yard variances but with no side yard changes. These are streets that have already been granted variances. The lots are already pretty uniform and consistent and it's more of a time saving effort. **Vincent Marino** asked a question about resident notification. He indicated that although it is beneficial for those streets, will the residents receive any special notice or certified mail prior to the next meeting? **David Olson** indicated that he has also asked about how these ordinances should be categorized. Is this a zoning change or change of classification? If you would like for the city to send out certified notification to the affected lots, then we can. But, I do not believe it would be required by law. **Henry Kollenberg** added that the city will send out an announcement, through V Link, in regards to all of the four zoning changes. In addition, every resident will receive a letter from the city. **Vincent Marino** asked if there were any other addresses on those streets that were not included, maybe some on the street want to be included. **David Olson** stated that yes, there is a section that is not included on Lanecrest Lane; there are two separate sections, the other is not numerated in this ordinance, and they are much larger lots. But, they will also get notice of the actual changes. **Margaret Rohde** asked David Olson if this would preclude another non-conforming lot, on another street, from getting a different set back in their front or side yard. These are the ones that have been identified as the most problematic right? David Olson agreed. It would not preclude somebody else to seek a variance. These streets are clearly identified as streets that are routinely getting relief from the Board of Adjustment and this will just help expedite that process. **Margaret Rohde** asked **Henry Kollenberg** about the city council notice and if any detailed explanation would be added to that notice. **Henry Kollenberg** added that the particulars of the notice had not yet been discussed. **David Olson** added that they will come up with a general comment that makes sense as to some of the streets that were not identified in the ordinance. **Vincent Marino** asked David Olson about restrictive covenants on one or more of these lots that have more restrictive setbacks lines and what was his position on which controls? **David Olson** indicated that we as a city do not have the authority to enforce private restrictive covenants. The more restrictive setback is the one that controls. We have shared that information with the associations. **Henry Kollenberg** added that, in respect to these identified lots, there is not an issue. **Vincent Marino** added that, in respect to plats, we usually add a note on the plat that specifies that the plat does not attempt to alter or remove any restrictive covenants that are recorded. **Margaret Rohde** asked if two houses on Dana Lane would be combined and re-plated, would that make a difference on the front and side yards. **David Olson** indicated that it would not make a difference, the front and side yard would still be the same.

5.) CONTINUANCE OF NONCONFORMING BUILDINGS AND STRUCTURES:

David Olson indicated that this issue was brought up when the mayor brought to his attention a situation where an individual had an older home and he wanted to add on to the back of the house. He was going to still keep the existing side yard setback, just do a small addition. He couldn't do the addition to the back of his house, because it would encroach and the new addition didn't meet the city's side yard setback requirements. He would not be able to add on to the structure. His house was an older non-conforming structure and his house was setback ten feet from his property line. So, this ordinance as specified in item 1, would allow for someone to add on or extend onto their first floor of the main house, as long as it doesn't exceed the encroachment created by the

non-conforming building. **David Olson** continued with an example that if someone wanted to add onto the main house by adding a bathroom and the house was ten foot away from the fence and our existing ordinance said you had to be fifteen foot away, then this ordinance would allow you to build in that side yard as long as it didn't extend further into the side yard setback. This ordinance wouldn't allow for you to bring that structure further into the rear yard and it wouldn't allow for you to add a second floor that encroaches. This only applies to the main first floor. So, Item 2 still means that all the rules, regulations and the building codes have to be met. **Henry Kollenberg** added that if you were going to expand your house, then you couldn't use this ordinance to cover more than fifty percent with impermeable surfaces because of drainage. **David Olson** added that in the past, city council revised their ordinances to allow some relief for older homes when it came to the fifty percent value regulation. So, if you exceed the fifty percent on the cost of improvement value as shown on HCAD, then that would require you to bring the entire house into compliance. The city amended its ordinance to allow for you to get a third party appraisal on your home, so that you can show that this house has more than a nominal value and show that the house is worth more. The city would look at that. So that would allow more flexibility. Sometimes, on these older homes just adding a new sink to a guest bedroom would require you go over the fifty percent regulation. This ordinance just gives them some more flexibility when renovating older homes. But, if you exceed fifty percent of the lot improvements, then, regardless, you will have to bring the lot into compliance and sometimes that requires you to re-build. **Henry Kollenberg** indicated that he was more concerned with the ordinance that prohibits someone from covering more than fifty percent of permeable surfaces. When you have someone that has a non-conforming lot and they have extended it into the side yards and then they want to add something in the rear and to say that you can't cover more than fifty percent of lot with impermeable coverage. **Vincent Marino** confirmed with **David Olson** that the way the ordinance was written was for both, the side and rear, yards. **David Olson** indicated that it's for any yard. **Margaret Rohde** asked if there were many front yards that were non-conforming, and what if the existing house is not set back very far from the street, could this mean that they could take advantage and build that out. **Henry Kollenberg** indicated that when an old house is torn down, they have to build at the fifty foot building line. But, the way the ordinance is written, if they had a non-conforming front building line, then they could extend the house to the side or to the back but no further to the street. **David Olson** indicated that he could limit this to enlarge or extend into a side or rear yard and not make a reference to the front yard. **Margaret Rohde** stated she wasn't comfortable with allowing homes to extend in the front yard. She asked about the house that started the draft ordinance and wanted to know if it was a side yard. **Henry Kollenberg** confirmed that it was a side yard. **Bill Burney** agreed and didn't want to include the front yards. **Margaret Rohde** asked if someone had a big garage and if it was attached, could they bring it all the way to the back. **David Olson** confirmed that they could, as this ordinance is written. **Margaret Rohde** added that she sees that this applies to more ranch style homes where the bedroom is way off to the side and they want to extend, a bathroom or exercise room, off of the master bedroom. **David Olson** stated that he could add some language excluding attached garage as part of the main structure. You couldn't use an attached garage to be considered as justification for extending an encroachment into the side or rear yard. **Margaret Rohde** added that it could mention second floors. **David Olson** stated that part of the exclusion he could add the attached garages. **Margaret Rohde** also asked about the front yards. **David Olson** was just going to qualify the yards in the ordinance by saying it may be enlarged or extended into a side or rear yard. **Henry Kollenberg** added that the ordinance goes a long way to define an accessory structure once, to start talking about attached garages they may say that it's not an attached garage, it may be something else. **Michael Herminghaus** wanted to remind everyone the purpose of the ordinance was to encourage people to remodel instead of tearing down. If you put too many restrictions, then they will not remodel.

- 6.) **FENCE AND WALLS IN REQUIRED YARDS:** **David Olson** discussed with the commission about how everyone knows about the eighty percent rule, in regards to the fence ordinance and fence, in regards to corner lots. This ordinance was an attempt to give the residents another option. So, the new part in the ordinance is (ii) *a wooden fence with landscaping from a City approved landscaping plan*. **David Olson** continued that this would give the residents some privacy. But, the original ordinance was so that the City didn't look or appear to be a walled City

and it was also to preserve the natural green space look for Piney Point. So, with the eighty percent fence ordinance the residents would be encouraged to plant, add bushes and landscaping, so that it would still give them some privacy and it would still have a green look. With that same reasoning, they decided to allow residents to put in a solid wood fence, as long as they put in landscaping, irrigation and maintained it. Cary Moran and Joel Bender met with the Beautification Committee to come up and create an approved landscaping plan. So, the draft ordinance included the landscape plan. **Bill Burney** stated it sounded complicated. **David Olson** agreed, but city council felt like all these issues needed to be addressed for the worse case scenarios. **Bill Burney** stated that there needs to be a fence standard and an eight foot fence needs to be defined like a 2 x 12 rot board at the bottom and a 2 x 6 cap, whether we would allow stained or not stained. They need to all look alike and they need to do it the right way. **Margaret Rohde** mentioned that the fences are going to be covered with landscaping. The goal is to try and mimic what you would see with an eighty percent fence. **Bill Burney** indicated that if not built right, the fences will look decrepit. **David Olson** said that he could add fence conditions in the landscape plan. **Margaret Rohde** mentioned that would be good if it was uniform throughout the City. There have been fence issues in the past that have been brought up before city council about neighbor fences and how horrible they looked. **David Olson** indicated that she may have identified a larger problem and maybe that needs to be looked at. **Margaret Rohde** added that there are grandfathered fences. **David Olson** agreed that there are legally non-conforming fences and they can repair those fences. **Margaret Rohde** and **Bill Burney** both agreed that Brian Thompson can come up with a fence standard. **Laura Mafrige**, a resident of Piney Point, wanted to ask a few questions. She stated that she lives at the corner of Memorial and Greenbay, and she wanted to know how many lots and residents would this affect. **Margaret Rohde** indicated that it was close to 150 and **Michael Herminghaus** stated that it was closer to more like 200. But, that not everybody has complained about the lack of privacy. This was more like a compromise to accommodate those who want privacy and, on the other hand, it also accommodates those that want to keep Piney Point a green City. Then, they can plan as per the prepared landscape plan. **Laura Mafrige** wanted to know about the two thousand dollar a day penalty and who decides if the landscaping is not kept up to par. **David Olson** stated the penalty is a statutory maximum provided by law for zoning ordinance infractions. Whether or not a fine is assessed, that would be for the municipal court to decide. This is only used in extreme circumstances where someone takes advantage. This would allow the City some ability to address it, other than just be an advisory. **Don Al Safi Mafrige** discussed his fence conditions and he stated his fence is low and anybody can see into their side yard. The house is two and a half feet higher than the street. The fence is three feet and anyone can jump it. If someone wanted to, they could drive directly into their garage and kitchen. The fence is broken into pieces. There is no privacy or security. He would recommend an eight foot fence to be built by either the home owner association or let them build an eight foot fence. **Margaret Rohde** wanted everyone to know that that house was on the corner of Greenbay and Memorial and fronts Country Squire. She indicated they have a beautiful house. **Margaret Rohde** likes the back side of the fence, which is a solid fence with a lot of greenery. The side fence that faces Greenbay is the brick with iron fence. **Margaret Rohde** added that the fence ordinance would apply to them. This would allow a change to the fence height and it would add more privacy as long as there was landscaping in front of the fence. She added that they did discuss brick fences but maybe they might bring brick fences back into discussion. **Bill Burney** added that he wanted to have language and leverage in the ordinance, in regards to cedar fences, because they will start looking bad after several years. The cedar fences need to be built correctly. So, the ordinance needs to have some teeth in it for residents to maintain, repair and replace the fences when they start looking bad. **Henry Kollenberg** stated that the prospect of changing the fence ordinance is not a unanimous decision of the city council, but the votes to do something are. The fence ordinances are moving along, considering the original fence ordinance was enacted over twenty five years ago. He thinks that there will be problems enforcing a fence that is required to have landscaping in front of it, as opposed to our current fence ordinance which having a wrought iron fence and if you want the privacy you can landscape. **David Olson** will add in the ordinance some language that the property owners are required to maintain the fence and the landscaping. There would be an obligation for them to maintain the fence. **Laura Mafrige** wanted to add, that in the ordinance they used the word *may*, and there is no way that they are going to put themselves in a situation for building a

fence and encumber this property by installing fence and then having to maintain the landscape. She wanted to know any alternatives. **David Olson** added that they have two alternatives 1.) No, fence or 2.) Install an eighty percent fence. **Laura Mafrige** asked if she could just leave the fence as is. **David Olson** stated, yes. **David Olson** stated that they can either comply with the eighty percent fence or if they wanted privacy they could put in a solid fence following the landscaping plan. But, they aren't required to put up a fence. **Margaret Rohde** asked David Olson if he could add that they have to maintain the wooden fences. **David Olson** stated, yes he could by just adding a condition of the landscaping plan. **Margaret Rohde** asked about new construction fences and if we would require new fences to have the same language. **David Olson** stated that the fence ordinance as written doesn't put any burden for maintenance on fences. **Vincent Marino** referred to the ordinance in (ii) and asked David Olson if someone could have less than an eighty percent fence and put up a sixty percent fence and still cover it with landscaping. **Vincent Marino** indicated that that would be his suggestion. **David Olson** indicated that would be something for consideration. **Margaret Rohde** talked about the Beautification Committee how they came up with the landscape plan that would achieve coverage of the fence within three years. They considered what plants, spacing and size that would achieve coverage. The goal was to cover the fence. So, before and after photos would be required. **David Olson** requested that the red line draft of the ordinances be sent out to the commission.

- 7.) **ADJOURNMENT:** Motion to adjourn at 8:25 P.M. Motion made first by Vincent Marino and seconded by Margaret Rohde. Motion to adjourn approved.

Date Approved on October 22nd, 2020
Chairman Vincent Marino

(Required Signature)

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