

FLOOD PLAIN PERMIT COMMITTEE MEETING
201 West Gray, Building A, Conference Room D
Monday, March 17, 2014
3:30 p.m.

Minutes

PRESENT: Shawn O’Leary, Director of Public Works
Susan Connors, Director of Planning/Community Development
Scott Sturtz, City Engineer
Ken Danner, Subdivision Development Manager
Jane Hudson, Principle Planner

OTHERS PRESENT: Todd McLellan, Development Engineer
Julie Shelton, Staff
Leah Messner, Legal
Sean Rieger, Attorney
Tyson Heltzer, Property Owner
Shea Wesson, Property Owner
Evelyn Smith, Property Owner
William Smith, Property Owner
Kelly Ford, Property Owner

NOT PRESENT: Neil Suneson, Citizen Member
Sherri Stansel, Citizen Member

The meeting was called to order by O’Leary who informed the committee that Suneson and Stansel would not be in attendance for the meeting.

Item No. 1 Approval of Minutes: O’Leary asked for a motion for approval of the minutes from the meeting of January 21, 2014. Motion to approve minutes by Connors. Seconded by Sturtz. Approved 5-0.

Item No. 2, Flood Plain Permit Application No. 539: O’Leary introduced Application No. 539 as a request for a flood plain permit for a house addition at 6474 West Rock Creek Road. McLellan introduced Shea Wesson, the applicant and stated that the applicant’s engineer, JW Dansby, was not present for the meeting. McLellan showed the committee the location of the property and indicated that this location is in the Ten Mile Flat Creek flood plain. Additional information regarding the size of the home and lot were given. McLellan explained that the new addition will be approximately 900 square feet and will have conventional footings and a slab on grade. It was noted that the elevation of the new slab will be at the same elevation of the floor on the existing home.

The committee reviewed the floor plan and foundation plan. It was verified that this addition does not meet the 50% substantial improvement threshold of the flood plain ordinance. Additional applicable ordinance requirements were reviewed and it was noted that the

existing ground elevation is approximately 0.9 feet above the base flood elevation (BFE). McLellan also indicated that a letter of map amendment could be obtained by the applicant for the house to remove it from the flood plain. McLellan added that the floor slab of the new addition as well as the existing house floor will be elevated 2.5 to 3 feet above the BFE. McLellan finished by stating that staff recommended the application be approved. O'Leary asked Wesson if he had additional comments and Wesson had no additional information. Motion for approval from Sturtz. Seconded by Danner. Approved 5-0.

Item No. 3, Flood Plain Permit Application No. 540: O'Leary introduced the application as a request for a flood plain permit to build a stockade fence on property located at 6060 24th Avenue NW. McLellan introduced Tyson Heltzen, the applicant, and stated that the applicant's engineer, JW Dansby, was not present for the meeting. Also in attendance at the meeting was Sean Rieger, the attorney representing Heltzen. McLellan showed the committee the location of the property and confirmed that it is located in the Little River flood plain.

McLellan stated that a complaint was received indicating that a stockade fence had been constructed in the general vicinity of the north boundary between 6060 24th Avenue NW and 6110 24th Avenue NW. City of Norman staff then investigated the site and reviewed the flood plain permit files and it was determined that a flood plain permit had not been obtained for the fence construction. McLellan confirmed that the installation of this type of fence in the flood plain without a flood plain permit was in violation of the City Code of Ordinances, Chapter 22, Section 29.1. It was added that the property owners at 6110 24th Avenue NW believe that the fence was also constructed on their property.

McLellan informed the committee that a violation notice was sent to Heltzen, the responsible party for the fence construction. A flood plain permit application was submitted by Heltzen on February 4, 2014. It was noted that the fence meets the requirements of the flood plain ordinance, but that no survey, legal description, or other information had been submitted by the applicant to verify the fence was constructed on Heltzen's property.

The committee was shown pictures of the property with the constructed fence. Applicable ordinance requirements were reviewed to include break-away requirements for construction of fences in the flood plain and a no rise statement from the applicant's engineer. McLellan finished with recommendations that due to lack of a survey or a legal description being provided to staff to show that the fence was constructed on the applicant's property, staff recommends the application for a flood plain permit be denied.

O'Leary asked for comments from applicant Heltzen or applicant's attorney, Rieger. Rieger asked for McLellan to show the aerial map on the screen which indicated the floodway and clarified to the committee that Heltzen went through the permitting process and construction process as required by the City of Norman. Rieger added that he does not believe that Heltzen did anything to violate any City ordinance and that the fence was built more or less on the property line. Rieger added that the new fence was placed at the exact location of the existing fence location and added that the City should not have the authority to deny an application on the basis that is outside of the realms of the ordinance and added that this is a

civil dispute. Rieger continued by explaining that zoning, platting, or engineering issues are not typically resolved based on a conflict between property owners and confirmed that Heltzen had met all requirements needed for approval of the permit.

O'Leary opened the meeting up for additional comments. Evelyn Smith introduced herself as the property owner of 6110 NW 24th Avenue, which is the property immediately north of the applicant Heltzen. Smith made comment that she had contacted the City of Norman to have a surveyor come out to her residence to confirm the location of the property line. Smith stated that this was done as flooding had recently occurred since the construction of the fence. It was indicated that the existing fence was on Smith's property approximately 6-10 feet. Additional comments were made from Smith who voiced her concerns regarding how much flooding occurs when there is a large rain event. Smith added that she just wanted the fence moved off of her property.

McLellan clarified that the City of Norman did not have a survey crew visit the property. Discussion ensued about who came out to the property to indicate where the property line was located, and it was confirmed that no employee from the City of Norman had been out to the property location. O'Leary stated the survey pin in the road was not placed by City personnel.

Leah Messner, City staff attorney, introduced herself and stated that she had reviewed the City of Norman Flood Plain Ordinance. Messner referred the committee to a specific section in the ordinance and clarified that there is no criteria for denial when there is a dispute among property owners. Messner recommended that the committee review the criteria and base the decision on whether the fence was built to the standards required in the ordinance and whether the fence is located properly in the flood plain as opposed to where the fence is located. She followed by stating that the court system should address the private civil dispute and not the City of Norman.

Danner stated that as the fence has been properly constructed according to the requirements of the flood plain ordinance, he would recommend a motion for approval of the permit application. Seconded by Connors who clarified that the permit should be approved according to its construction, but, not legal location. Danner agreed. Approved 5-0.

Miscellaneous Discussion:

Brief miscellaneous discussion among committee.

Meeting adjourned at 3:55 p.m.