

**PAYETTE PLANNING & ZONING COMMISSION
REGULAR MEETING
June 23, 2011**

6:00 PM – Planning & Zoning Meeting

ROLL CALL

Members Present: Brent King, Randy Choate, Jim Franklin, Tom Ladley

Members Absent: Gary Youngberg, Larry Hogg, Kevin Hanigan

Staff Present: Tiffany Howell, Assistant Deputy Clerk/Treasurer; Mary Cordova, City Clerk

APPROVAL OF MINUTES

A motion was made by Franklin and seconded by King to approve the rescheduled meeting minutes of 06/02/2011 as written.

After a unanimous voice vote by the Commission, the motion CARRIED.

COMMUNICATIONS

None Heard.

PUBLIC HEARINGS

A. An application by James Gonzalez for a Conditional Use Permit to build a 6' tall wood fence in his back yard at 1834 3rd Avenue South, RICHARDS SUBDIVISION, LOTS 10& 11 BLK 1. The property is zoned A-Residential.

James Gonzalez – 1834 3rd Avenue South –

Mr. Gonzalez stated that he wants a 6 foot fence along his backyard, but the problem is that there are streets behind him. They are Sunrise and Sunset and they are both dead ends. The reason I want to put a fence up there is privacy and security. I have teenagers in the summer time that cross through my yard and up my steps to the next street. One time a man cut across my yard when I was out there. When cars drive by they can see right into my back yard, so I feel like I'm always on show. My girls play outside all the time and we have stray dogs that come through. Basically I want the fence for privacy and security of my family.

Commissioner Franklin asked Mr. Gonzalez what he thought of a 3 foot tall fence. Mr. Gonzalez stated that someone could see that 3 foot tall fence and jump right over it pretty easily and dogs can too. That is why I did not want a 3 foot tall fence. I want people to second guess themselves. Commissioner King stated that they are concerned with visibility and traffic hazards. Mr. Gonzalez stated that it is not a 90 degree corner; it's more of a circular drive. A person can drive to the intersection and still see the cars coming. Commissioner Ladley asked what Mr. Gonzalez thought of a chain link fence. Mr. Gonzalez stated they would still be able to see down into the back yard. Commissioner Ladley stated that it would give you the security you are looking for. Mr. Gonzalez stated yes, it would give me the security, but it won't give me the privacy that I'm looking for. Commissioner Ladley stated that you also want to go out to the curb but how about if we move it in. Mr. Gonzalez stated that on one side of his yard is a hill, where the curve is at, it will be moved in a

little bit. I have 6 foot long 2'x4's so it will come in a little bit. I drove my car out there just to test it out, and I don't want people to get into wrecks and I drove it and I can see.

Commissioner King stated that the problem would be the people coming down off of the hill, not going up. Mr. Gonzalez stated that the fence is starting 40 foot back from 3rd, and the only issue is the corner of Sunrise and Sunset Drive. Commissioner Ladley asked Mr. Gonzalez how he felt about a fence with slats in it so cars can at least see a little bit. Mr. Gonzalez stated that that could be a possibility but I do want the privacy and want it fenced off. I don't want my neighbors Chihuahua coming in and my dog eating him. I understand where you guys are coming from regarding the view. Commissioner King stated that it would cause some visibility issues don't you think. Mr. Gonzalez stated no, you can see oncoming cars with the 6 foot fence. Commissioner King stated Sunrise is a bit higher isn't it. Mr. Gonzalez stated yes. It is not a 90 degree and that is why you cannot see. My understanding is that on a corner lot you have to be 30 foot back from the center of the road so when I do that there is really only a 4 foot difference.

Commissioner Choate asked what the 4 foot was. Mr. Gonzalez stated that if you are standing on the corner 30 foot would only cut off 4 or 5 foot in length. My girls are always out there and I don't want a stranger coming in there. Even with a chain link fence they can still see and maybe they will be watching more and with a wood fence it would be harder to see. I have 2 registered sex offenders within a 3 block radius and I have 31 within a mile radius. If something happened to my girls I would be in jail. We are really the only ones with kids in that area so that may be why no one worried about a fence. Commissioner Ladley asked if you were going to start right after the big tree. Mr. Gonzalez stated yes and we want to go all the way to the other tree. Commissioner Choate asked Mr. Gonzalez if he was just running the fence along the back property line. Mr. Gonzales stated yes. Commissioner Choate asked Mr. Gonzalez how that was going to keep people out of his back yard. Mr. Gonzalez stated that it will tie into the house but that is not an issue. Commissioner Ladley asked Mr. Gonzalez if he was going to block the step entrance to the street from his property. Mr. Gonzalez stated yes. Commissioner Choate asked if you are building the fence around the whole property or just the back. Mr. Gonzalez stated just the back yard. Commissioner Choate stated that you want to build a 6 foot tall fence to enclose your property is that correct. Mr. Gonzalez stated yes, that is correct. The reason I am here is just for the little section. I am allowed to do everything else as long as it is 30 feet.

Sandra Massey – 1920 3rd Avenue South –

Mrs. Massey stated that she is totally in agreement with everything he said about security and people being able to see into their back yard. When I shut my drapes I can see right into their yard. I can see the issue with the traffic. People come whipping around Sunset and in the six years that I have lived here I have learned that you crawl up the hill. I have driven this several times thinking what it would be like with a 6 foot tall fence but it is going to be hard to see. Because of the curvature of Sunrise and Sunset on the other side they cannot see even now, so my concern is the traffic but I would like to see them get some kind of security. I am just against putting the fence right up against the curb. They do have some property where they could set it back a little ways.

Paula Winsor – 345 Sunrise Drive –

Mrs. Winsor stated that she lives on Sunrise and as soon as she rounds the bend you can see right into their back yard. I can appreciate that there are always kids walking up and down the road. The next closest bus stop is on Iowa and when they are late they cut off on the dirt road that runs behind our house, run through our yard, and then running through their yard. There is a problem up there with dogs that just run wild. My biggest concern is the kids, and that blind corner is hard with kids. We get a lot of people who just drive through the neighborhood and there is not a stop sign or a yield sign

up there. My concern is one of the kids are going to get caught on that blind corner. When we moved in 10 years ago the people who owned the home had pines trees along that corner to give themselves a little bit of privacy. Commissioner Ladley asked what the vision level was when the pine trees were there. Mrs. Winsor stated that it wasn't clear, right now when you come up you can see what is coming and it would go back to being limited. I don't know what the answer really is, whether it is putting up a sign, but I understand their concerns. Commissioner Ladley asked what Mrs. Winsor thought of them putting up a 3 foot tall fence. Mrs. Winsor stated that you would be able to see, but that isn't going to do them any good, you will still be able to see right into their back yard. The house is far enough away and it steps when you drive down you can see right into their yard. Commissioner Choate asked if there sidewalks. Mrs. Winsor stated no, there was a house that was built later and they have sidewalk right in front of their house but nowhere else. There are not a lot people that live up there for the amount of traffic we get. Commissioner Ladley stated that you have a total of 7 houses up there. Mrs. Winsor stated yes that is correct.

Commissioner Choate stated that we have a letter that was submitted from Byron & Nancy Dale that will be entered into record.

RECEIVED
JUN 16 2011
CITY OF PAYETTE

Byron & Nancy Dale
313 Sunrise Drive
Payette, Idaho 83661
(208) 642-0838

June 13, 2011

Re: Notification of Public Hearing

To Whom It May Concern,

In response to your notice of request for a Conditional Use Permit from James Gonzalez; we understand the desire for privacy as his back yard is still very much a front yard in regard to traffic flow. Our concern is for the safety of those passing through the Sunrise Sunset intersection. Whether or not a safe compromise is possible with Mr. Gonzalez setting his fence back in at the point of the intersection would need to be determined by The City.

Sincerely,

Byron & Nancy Dale

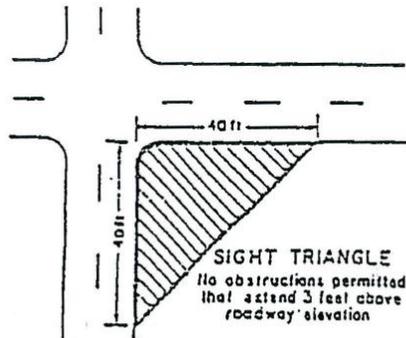
49-221. Removal of traffic hazards.

(1) It shall be the responsibility of the owner of real property to remove from his property any hedge, shrubbery, fence, wall or other sight obstructions of any nature except buildings and trees where these sight obstructions constitute a traffic hazard. The above sight obstructions shall not extend more than three (3) feet in height above the existing center line highway elevation within the vision triangle of vehicle operators. The boundaries of the vision triangle are defined by measuring from the intersection of the edges of two (2) adjacent highways forty (40) feet along each highway and connecting the two (2) points with a straight line. The sight distance obstruction is also applicable to railroad-highway grade crossings with vision triangle defined by measuring forty (40) feet along the railroad property line.



(2) When the department or any local authority determines upon the basis of an engineering and traffic investigation that a traffic hazard exists, it shall notify the owner and order that the hazard be removed within fifteen (15) days.

(3) The failure of the owner to remove the traffic hazard within fifteen (15) days shall constitute a misdemeanor and every day the owner shall fail to remove the obstruction shall be a separate and distinct offense.



Back yard of 1834 3rd Ave South .
Looking down Sunrise Dr.



Back yard of 1834 3rd Ave South on left.
Looking East on Sunset Dr.



Back yard of 1834 3rd Ave South on Right Side
Looking South on Sunrise Dr.



James Gonzalez – 1834 3rd Avenue South –

Mr. Gonzalez stated that I see the concern with the traffic but on Sunset where the visibility is an issue; there is only one person that lives there. If I have to go over there and talk to them then I will, maybe we need a stop or yield sign. Commissioner Franklin asked Mr. Gonzales if it is possible for him to set the fence back from the curb. Mr. Gonzalez stated yes, I was going to anyways because of the whole 6 foot pole that I cannot bend, so I would have to set it back from the curb.

Commissioner Choate stated that my concern is that you have kids in this neighborhood and they have to walk to and from the bus stop. We build a fence to sit right on the curb and you have kids and cars traveling on the same road and no way to get off the road. There is definitely a public safety issue with the fence. Mr. Gonzalez stated that right now if there was an accident and a child had to get off the road they would roll down my hill. Commissioner Choate stated that he is trying to find a way for there to be an escape route for someone.

Commissioner Franklin asked if there is a width for a sidewalk back there. Mr. Gonzalez stated just where the curvature is, the rest will need to go all the way to the curb. Commissioner King asked how close you can put your fence up to the curb, isn't there a distance you have to be back? Clerk Cordova stated that it is actually 25 feet back from the City right of way. Sunrise is a 40 foot right of way, so 40 foot back would be the property line, so it sits back from the road. We would have to measure from the center line. The right of way on that road is 40 foot back from the property line. It has to be 25 foot from the property line and it shall not exceed 3 foot high. Consider this, since he is on a corner lot he is considered to have 2 front yards therefor which cannot exceed 3 foot in height. Mr. Gonzalez stated that he thought it was from the corners not from the center of the road. Basically I want to put the fence the way I had it. On Sunrise it just goes straight down and where the curve is at there is about 4 foot. If I put it back 40 foot that defeats the purpose, people can still see in the back yard. Commissioner Ladley stated that he is going to go down the back of his property with the fence; he has about 4 foot where the purple bush is. Commissioner King stated that it is a moot point, he cannot build in our right of way. Clerk Cordova stated that he could if the City granted him permission; with the understanding that if they had to go through there at any time and do work it would be at the owner's expense to take the fence down.

Clerk Cordova stated that Title 12 states that nothing should cause a vision obstruction; you have the Idaho Code attached. If you look at page 25 that shows 40 and 35 foot right of way, whether it is a dead end or not it is an obstruction. You have to measure 40 foot back and then go over on both ends and that is your sight triangle.

Mr. Gonzalez stated that if the City can approve it and if something has to be built and I have to take it down, then I would take that chance. I would even get the neighbors together and let them know. Commissioner Franklin wanted to know if the Public Safety Department could go out and look at this.

B. An application by Russell & Julie Warden for a Conditional Use Permit to sell beer & wine at Kloy's Pizza & More at 120 North Main Street, A PORTION OF BLOCK 6, LOTS 5 & 6 OF GORRIE ADDITION. The property is zoned C1- Commercial District – Downtown.

Russ Warden – 445 No 7th St –

Mr. Warden stated that they want to continue to sell beer and wine at Kloy's Pizza. Commissioner Ladley asked if they took over the existing business that already sold this type of beverages. Mr. Warden stated yes, that is correct. Clerk Cordova stated that the conditional use permit stays with the person not the property which is why Mr. Warden is here tonight.

OLD BUSINESS

A. Design review guidelines –

A motion was made by Franklin and seconded by Ladley to move this item to the next agenda.

After a unanimous voice vote by the Commission, the motion CARRIED.

B. Proposed Used Cars & Used Car Lot Ordinance -

A motion was made by Franklin and seconded by King to send a favorable recommendation to the City Council for the Proposed Used Car & Used Car Lot Ordinance with the change that they lower the trailer weight.

At the roll call:
Ayes: Choate, Franklin, King
Nays: Ladley
The motion CARRIED.

NEW BUSINESS

A. Conditional Use Permit – Larry Kelley – November 2010 -

Larry Kelley – 726 North 4th Street

Mr. Kelley stated that he needs to expand his garage to 24' x 28' because he measured wrong and his truck will not fit in it.

A motion was made by Franklin and seconded by Ladley to amend the original conditional use permit size to 24' x 28' to Larry & Nancy Kelley at 726 North 4th Street.

At the roll call:
Ayes: Hogg, King
Nays: Ladley
The motion CARRIED.

B. Conditional Use Permit – James Gonzalez – 1834 3rd Avenue North -

A motion was made by Franklin and seconded by King to deny the conditional use permit as written for a 6' fence at 1834 3rd Avenue North.

After a unanimous voice vote by the Commission, the motion CARRIED.

C. Conditional Use Permit – Russ & Julie Warden – 120 North Main Street –

A motion was made by King and seconded by Ladley to approve the conditional use permit application to sell beer & wine at 120 North Main Street with the stipulation that the permit can be revisited upon any complaints.

After a unanimous voice vote by the Commission, the motion CARRIED.

ADJOURNMENT

A motion was made by Franklin and seconded by Ladley to adjourn to at 7:32 PM.

The motion CARRIED.

Recording Secretary
Tiffany Howell