

# Planning Commission

## Regular Meeting Minutes Thursday, July 9, 2015 7:00 p.m., Council Chambers



City of South Haven

### 1. Call to Order by Paull at 7:00 p.m.

### 2. Roll Call

Present: Frost, Heinig, Peterson, Smith, Stimson, Wall, Webb, Paull  
Absent: Miles

Motion by Wall, second by Peterson to excuse Miles.

All in favor. Motion carried.

Upon receiving a mixture of ayes and yeses, Paull explained that the city charter and commission charters had been explored and researched and the conclusion reached is that it is acceptable for the commission to use the ayes and nays as always. Yes and no responses are mandated only for City Council.

### 3. Approval of Agenda

Motion by Heinig, second by Wall to approve the agenda as presented.

All in favor. Motion carried.

### 4. Approval of Minutes – June 4, 2015

Motion by Wall, second by Stimson to approve the June 4, 2015 regular meeting minutes as written.

All in favor. Motion carried.

### 5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda

**Charlene Klein, 24 Lakeshore Drive.** Spoke about the potholes particularly around the horseshoe curve at the end of Lakeshore Drive and also reported “sand everywhere so you cannot see the numbers of the parking places”.

## 6. New Business – Public Hearings

- a. Special use request from Gary Barner, of Barner Farms, South Haven, to operate a seasonal farm market at 615 Phillips Street.

Motion by Smith, second by Wall to open the public hearing.

All in favor. Motion carried.

Gary Barner, 65245 C.R. 388. Raises vegetables and wants to sell them in town. Had success last year and hopes to improve this year with better access for the public.

Wall asked for confirmation that Family Dollar approved to which Anderson responded, "Yes, the owner of a property has to sign the application." Wall also inquired about insurance which Anderson noted had been addressed between the applicant and property owner.

Frost asked if Charlie Brown will be working the stand to which Barner responded that those details are still being worked out. Smith asked if the new location will be set up similar to last year and Barner responded that they will not have a permanent structure but a trailer with a canopy.

Jean Conlisk, 60 Lakeshore Drive. "How many days will the stand be open; which days; and will the applicant clean up the site every day when finished?" Barner stated the site will be cleaned up at the end of the day and that he is leaning toward being closed on Wednesday and Saturday so as not to compete with Farmer's Market. Barner noted that the stand will probably be open from 10:00 a.m. to 6:00 p.m.

Motion by Wall, second by Stimson to close the public hearing.

All in favor. Motion carried.

Motion by Wall, second by Frost to approve the special use permit for Gary Barner to operate a seasonal produce stand on Family Dollar property with the following conditions:

1. The setback for any tents or covers shall be at least 25 feet from the property line.
2. The area will be kept clear of all debris.
3. Trash bins shall be provided but will need to be removed after hours.
4. The stand shall be secured when not open for business.
5. Only one sandwich board sign is permitted on a property.

All in favor. Motion carried.

- b. Ellen Montenaro of Evanston, Illinois has requested a special use permit to create a second floor apartment at 319 Center Street. This property is in the Central Business District and will have retail uses on the main floor.

Motion by Heinig, second by Wall to open the public hearing for item 6b.

All in favor. Motion carried.

Anderson reviewed the details of the request in the absence of the applicants, noting that the applicants have purchased the building and plan to have retail on the first floor and a second floor residence. No off-street parking is required as they are requesting only one unit. This is a request that is supported by the Zoning Ordinance and by the Master Plan, with a goal that the planning commissioners encourage this type of development in the downtown to keep the downtown vibrant, especially in the off season.

Peterson commented that this seems cut and dried if the building inspector is okay with it. Anderson commented that the building official is still working on the site plan review, but the applicants have been consulting him throughout the planning process.

Motion by Smith, second by Wall to close the public hearing.

All in favor. Motion carried.

Motion by Heinig to approve the special use permit to have an apartment on the second floor of a retail business in the Central Business District with the condition that the building code for residential units is in compliance as determined by the city building official. Second by Wall.

All in favor. Motion carried.

- c. Public hearing on proposed amendments to the R1-C Zoning District regulations.

Anderson began by explaining that each year the City Council does goal setting. One of their 2015-2016 goals was to look at the regulations in the R1-C zoning district due in part to the significant number of complaints received from residents of the area. The Planning Commission Subcommittee started working on this in February of this year and drafted the text in the agenda. The draft amendments were brought to the full Planning Commission which wanted to wait until July when summer residents would be in town. The Planning Commission will be hearing comments tonight, sending them back to the subcommittee, but no decision will be made tonight.

Motion by Heinig, second by Wall to open the public hearing on proposed amendments to the R1-C Zoning District regulations.

All in favor. Motion carried.

Anderson noted over thirty-five (35) emails were received and forwarded to the commissioners; about fifteen (15) phone calls also in opposition were received and a few people came into the office. Anderson noted that generally all comments were in opposition.

Chair Paull noted that he read all of the correspondences and has been discussing this with Anderson over the last two weeks. Paull noted that some of the communication is rather confrontational. "This is not a debate over issues or decisions. The recommendations we have are what we are considering. What we need tonight is specific comments on the recommendations. The tone of some of the correspondence has been rather confrontational in nature. I am not going to tolerate that. We (the Planning Commission and City Council) are simply trying to do our job."

Eileen Kohler, 24 Grand Boulevard. Spoke about the Fire Marshall's concern with the challenges of fighting fires in this area; noted her concerns are greatly to do with fire safety; spoke about the 2001 assessments for water main and sewer which included two (2) new fire hydrants being added to the existing six (6) inch water service and noted the sites. Spoke about the fire on Labor Day 2007 when 18 Grand Boulevard caught fire; that firefighters tried all four of the hydrants, including the new ones, one in front of 31 Promenade and one at 92 Chicago; none worked. Firefighters had to stretch their hoses all the way to North Shore Drive to get water and time was wasted. Does not think the hydrants have ever been repaired. Suggested that an annual report to residents on the status of hydrants would be helpful; shared a map of the locations of all four (4) hydrants.

Wall requested, for the record, that the fire chief get a copy of that map and the comments made to which Anderson responded that she would be sure that was done.

David Beidermann, 98 Chicago Drive. Spoke to the length of time he has been coming to, working as a contractor and living full time in South Haven. Spoke about the first fire in the twenty (20) years he has lived here was the Rockeys' and most of this code is related to the fire department. Commented he is in favor of keeping the three (3) foot setbacks; that Monroe Park does not need eight (8) feet between properties. Spoke about sewer and water upgrades being talked about ever since he has been building here but nothing has been done.

Meredith Thompson Salinas, 92 Avery Street. Spoke about this property which dates back to the late 19<sup>th</sup> century; stated it has been in her family since 1934. Reviewed the history of upgrades done by the current owner, her father, Dan Thompson for which he used various local contractors and suppliers. Spoke about the inability for current and future owners to rebuild houses if the new recommendations are implemented. Requested that the commissioners not pass these amendments.

Michael Slonoff, 26 Lake Shore. Stated that he wanted to get a clarification of what he has read in the newspaper and conversations he has heard about a "grandfather" situation and if it did apply. Asked, "If the footprint were recreated only to replace what was there, would that be an option or would new ordinances apply?"

Chair Paull explained that under the current zoning there is a regulation giving the ability to rebuild according to current size and footprint. After a questions and comments Anderson noted that there is nothing in the ordinance about leaving one wall standing in order to rebuild on the current footprint.

Jack Fritzer, 24 ½ Grand Boulevard. Commented on the rebuild of his cottage fifteen (15) years ago, within the general footprint, which required a variance. Spoke about seeing

lawsuits, disputes and dissolved friendships over zoning issues. Thanked the commission for considering amendments but stated he feels the process started is maybe a little more draconian than necessary. Suggested having some residents work with the subcommittee to point out the positives and negatives. Does not think the three (3) foot setbacks or eight (8) foot setbacks are a good solution. Commented on the need for change in the Zoning Ordinance and change in the manner those regulations are adjudicated.

Jean Koopsen, 86 Esplanade. Spoke about the age (100 years) and length of ownership (50 years) of their cottage in Monroe Park. Spoke of the need for an additional bathroom and not knowing with the zoning laws now where it could be added unless we go upstairs and it is a one story house. Commented that the cottage is for sale at the present time and that these issues are very vital to the sale.

Greg Brown, 85 Esplanade. Stated that he also owns 34 Lakeshore Drive; that he practiced law for twenty-eight (28) years and reviewed the proposed changes from that perspective. Cited various setbacks in the proposed amendments and why they cannot work; that none of the lot sizes even fit the proposed minimum width for anyone that wants to build or rebuild, which makes the lots unsaleable and unbuildable. Anyone with an old house wanting to rebuild is limited to a structure about the size of two sheets of plywood. Stated this proposal is an unconstitutional taking; that private property cannot be taken for public use; that if the city wants to make Monroe Park bigger the city will have to buy it. Asked three questions: "What is the reasonable governmental interest in this regulation? What is the specific public purpose for this regulation?" and "Is the commission willing to pay just compensation for the taking of our property?"

Carla Muller, 25 Promenade. Spoke about people who live in Monroe Park living there because they love the charm and everything about it. Noted that the charm is part of the problem. Muller lives on a lot that does not conform with many of the proposed changes to the zoning. Spoke about the committees' concerns such as runoff on neighbor's properties; fire safety and low water pressure. "Fire safety is a concern of the residents, as well." Stated she is not aware of anyone in Monroe Park having issues with runoff; rezoning will not fix most of the problems; increasing setbacks won't help because two thirds of the lots are nonconforming. Suggested restricting open flames; fire cracker use; testing fire hydrants; and researching any firefighting equipment that would make it possible to use the Black River to fight fire. Commented on the percentage of compliant and noncompliant houses and grandfathering.

Marie McKinley, 50 North Shore. Expressed her lack of understanding of how there can be adequate fairness with the adoption of this rule with the current three (3) foot setbacks. Stated she has observed so many extraordinary variances that have been allowed in the past and grossly large structures in the area that were surely built with the approval of the city. Stated these proposed amendments could cause people to lose their property value; the values of some of the old structures would be significantly reduced. Asked how there could be just compensation for this great loss. Presumes the committee will consider these things when these issues are discussed. Expressed her concern with how small houses on a small lot would lose seventy-five (75) percent of their value due to changes in the zoning ordinance.

Bill Masterson, 27 Grand Boulevard. Stated he is in opposition to what is proposed so far; is in agreement with everything his friends stated; is in agreement with Mr. Fritzer that the committee should engage the Monroe Park residents. Spoke about encroachment and lot setbacks. Commented their home could not be replaced with this proposal. "Fight what causes fires: open flames and fire crackers." Spoke about the city doing great fireworks but people doing private fireworks until 1:00 a.m. over the 4<sup>th</sup>.

Tom Erle, 37 North Shore Drive. Distributed handouts. Introduced his wife as Margaret. Stated that of the ninety-four (94) residences in Monroe Park about seventy (70) percent of the houses failed the proposed setbacks; twenty-two (22) of the homes were less than six (6) feet apart; others were six (6) to seven (7) feet apart. Stated one side of his home is too close and he has an impervious driveway which he spent six thousand (6,000) dollars on and is now told it is not a good driveway. Spoke about condos and apartment buildings that have just a wall between them for which the building code has different fire restrictions. Encouraged the Planning Commission to look at what is already in the building codes for fire protection. Spoke about protecting the residents and that monetary concerns are important to everybody he knows. "If I can't sell my place, it's going to cost me money. Agreed with having a group of residents work with the committee.

Everett MacIntyre, 55 Kalamazoo Street. Stated he purchased his property last August and had he seen this kind of change he probably would not have bought it. Spoke about buying the property for his family to enjoy for more than the next couple of generations. Spoke about the need for change as well as constraint around how places should be built and the sizes. Spoke about people not being able to build houses anywhere near the size they have today and indicated that removing grandfathering from the ordinance is a concern for many.

Paull noted that he is hearing some redundancy and his hope is that the seven people left on the list have some new comments.

Mike Connolly, 22 Lakeshore Drive. Stated he would like to give Carla his time as he would like to hear what she has to say.

Anderson noted that all must be heard before anyone is heard a second time.

Chris Rockey, 18 Grand Boulevard. Noted he is the one who had a fire in 2007. Stated he is a practicing structural engineer and architect. Spoke about the proposed forty-three (43) foot minimum lot width which excludes two-thirds of the existing lots. Asked how many existing structures on the remaining one-third of the lots are unbuildable. Stated that every single built structure in the neighborhood is not up to the proposed zoning; that by striking the restoration and repairs section if someone wants to rebuild they cannot. Explained that fire safety issues can be addressed in the building code and with modern firefighting techniques. Noted that while it is good to start the discussion it is hard when most of the lots and buildings are not compliant with the proposed amendments.

Wendy Schencaried, 84 Esplanade. Lives in a very old home that occupies the whole lot. Stated that without being grandfathered if her home was destroyed she would have an empty lot.

Jean Conlisk, 60 Lakeshore Drive. Stated this is an unrealistic proposed ordinance. Questioned whether each of you people are aware of Monroe Park, have seen it, have walked it. Commented, regarding impervious materials, that commissioners really need to go over and see the area. Commented that the area is over one hundred fifty (150) years old; firefighting equipment has gotten bigger and bigger and the city should provide a small truck and a pumper truck for this area.

Bill Provenzano. 83 Esplanade. Spoke about many of the cottages in Monroe Park nearing the end of their lives; cost of repairing falls on the current and future owners; he has no problem with the three (3) foot setbacks; his concern is that the opening salvo from this committee makes seventy (70) percent of our properties worthless and the committee is starting from that proposition.

Michael Beidermann. Owns homes at 88 Avery Street and 98 Avery Street; vacant lots at 63 and 65 North Shore Drive and another on the corner of Avery and North Shore Drive. Beidermann stated none of the lots he owns would conform to the proposed zoning, rather than having his property become useless or valueless he would like to sit on a committee and review the issues. Stated the two issues are houses that are overbuilt for lot sizes and inadequate distance between structures. Given property values and the desire for land in that neighborhood, he questions both of those items, based on supply and demand and based on economics. Noted that perhaps those are a matter of opinion; one person's cottage is another person's mansion. Suggested looking into the flame-spread rating of building materials; that there are many examples of urban areas we can cite and reference for life safety and combustibility issues.

Chair Paull thanked everyone; noted it is important that we hear the kinds of concerns being expressed. "Some of those concerns are not much different than what mine are. There is no intention of speeding towards a resolution of this particular topic; this will be months in coming." Spoke about the importance of hearing specific concerns and dealing directly with the people concerned. Stated he is fully aware, having been here for forty-five (45) years, that the Monroe Park area is unique. "When I moved here it was even 'uniquer' than it is now. It's always been a very proud thing for South Haven to say we have a neighborhood like Monroe Park." Spoke about the fact that there are some life safety and fire safety issues to deal with.

Motion by Wall, second by Stimson, to close the public hearing.

All in favor. Motion carried.

## **7. Other Business – Discussion of animal ordinance**

Anderson explained that the Planning Commission has been asked to discuss the issue of animals running loose on the property of the owner. Some have voiced their opinion that animals should not be able to run loose in the yard of the property owner, but either have a fenced yard or have the animal on a leash at all times. Anderson stated the ordinance requires that animals be under the control of the owner when in the owner's yard. Anderson explained that the commissioners need to determine whether they want to reopen the animal control ordinance and make another amendment or leave it stand as it is.

Stimson said that we spent a lot of time on the dog ordinance before and to restrict it any more than that is not reasonable at this time.

Peterson agrees with Stimson.

Wall said emails have been received by council, sounds good in theory when we are locals living here. We have problems in the summertime with rentals; our dogs are not used to the neighbor's dogs; are not used to the commotion. Would like to reconsider that dogs be fenced in, on leashes or confined within invisible fences. We are opening the city up to major lawsuits. If dogs attack, we (the Planning Commission) said it would be okay. Wall wondered if something could be done where we have something in place for six months out of the year because of the way the wave of population is. Thinks it is wrong to turn a deaf ear to some of the concerns we hear. "Firecrackers make dogs go crazy and little people are at their level."

Paull said he lived through this past holiday with his fifty (50) pound dog. Noted that for ten (10) months out of the year nothing is going on and for two (2) months everybody and their aunt are walking past his property. Paull noted that he has his dog on a tether. "I am a responsible pet owner. I am not going to start imposing things on other pet owners. If you don't restrain your dog and be responsible, and it does something you will pay the consequences. It's unfortunate but living in a tourist town we have these circumstances; we need to live with them and work with them, not use rules and regulations and financial costs to try to control a limited problem. We've dealt with the ordinance; let it lie."

Frost agreed with Paull's comments. Stimson noted that the concerns at the last meeting were about people going to school and the people owning the dogs live here year round.

Wall stated it was her suggestion at council to bring the dog ordinance back to the Planning Commission with the caveat that Planning commissioners can agree or disagree and council will live with their decision. Wall felt the constituent in her ward and her own observation needed to be heard.

Smith asked if the language is solid enough that we can go after this person to which Anderson responded that if a dog is not under control the police should be called. The police are responding very quickly to dog complaints. Anytime you have your dog in your yard it has to be under control. Stimson said if a dog should be growling or scaring someone the police should be called. Webb argued that even a good dog might growl if you come to their territory. Paull asked whether the commission feels we can leave things as they are. Anderson stated that if your dog cannot be under your control then do not let it out.

## **8. Commissioner Comments**

Wall: Spoke about the concerns from people in the dense little location [Monroe Park] for fireworks

Stimson: Asked whether it is the state law that regulates when we can have fireworks to which Wall responded that the state law is that fireworks can be used the day before, day of and the day after a holiday, with 1:00 a.m. to 6:00 a.m. being the time they cannot use

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fireworks. Wall also noted that she believes some people do not realize how much the water in South Haven enhances noise.

**9. Adjourn**

Motion by Heinig, second by Wall to adjourn at 8:21 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,  
Marsha Ransom  
Recording Secretary