

PLANNING & ZONING COMMISSION MEETING MINUTES
June 4, 2013 - 7:00 p.m.

Chairman Carbonetti called the meeting to order at 7:00 p.m. Clerk Wells called roll. Commission members present: Jim Carbonetti, Mike Grieshop, Jim Hutchinson, John Killeen and Philip Smith. Commission members absent: Glenda Miller and Jim Pagles. Also present were City Clerk Wells and members of the audience. Attorney Joe Kline, Steve Conaghan, Bert Erslinger and Justin Lindas were present on behalf of the petitioners.

Planning and Zoning Commission Minutes of May 7th, 2013 – Approved

Moved by Commissioner Grieshop, seconded by Commissioner Smith to accept the minutes of the Planning and Zoning Commission meeting of May 7th, 2013, as presented. All ayes. Motion carried.

Steven Conaghan & Bertram Irslinger - Appeal Zoning Officer's Decision Property Located at 206 E. Diggins St., Harvard, IL

Chairman Carbonetti opened the hearing in the petition of Steven Conaghan and Bertram Irslinger for an appeal of the Zoning Officer's decision, dated July 17th, 2012, which served the petitioner formal notice that the multi-family, non-conforming residential use of 206 E. Diggins St., had been discontinued pursuant to Section 17.48.040D.2. City records indicated that the property at 206 E. Diggins St. had been vacant for over a 12 month period and the subsequent use of the property is now required to be a single-family use. The property cannot be sold or utilized as a multiple family home, due to insufficient lot size.

The parties of interest in the petition were present. City Clerk Wells confirmed that the fees have been paid. Chairman Carbonetti indicated that there are not any publication or adjoining owner notification requirements for a hearing to appeal a zoning officer's decision. The completed petition was entered into the record as submitted by the petitioners.

Identification of Objectors/Supporters/Witnesses/Audience Participation

No objectors, supporters or witnesses were identified.

Presentation of Evidence by Petitioners

City Clerk Wells swore in the following witnesses: Steve Conaghan, Bert Erslinger and Justin Lindas.

Attorney Joe Kline gave an overview of the petitioners' request to continue the multi-family, non-conforming residential use of property located at 206 E. Diggins St., Harvard. The petition was submitted for purposes of supporting the proposition that the use was not abandoned or discontinued by the property owner and that any delay in continuing work on the property was the result of circumstances beyond the control of the petitioners at the time. Attorney Kline further noted that converting the property to a single family home would cause a hardship as much of the work already completed would have to be abandoned and would require changing out the electrical service and putting in a stairway which would result in a significant expenditure of funds which are not available to the petitioners at this point in time.

The petitioners request that the City of Harvard continue the multi-family use of the property located at 206 E. Diggins St. due to hardships as outlined in the petition and circumstances beyond the petitioner's control.

Questions by Planning and Zoning Commissioners to Petitioners

- At Commissioner Killeen's inquiry, the petitioner indicated that the general contractor didn't seek any kind of extension from the city.
- The upstairs apartment is ready for occupancy and an occupancy permit was issued by the City in 2011, but the downstairs is not complete and needs drywall.
- Community Development Director Santeler indicated that the loss occurred forty months ago in February 2010 and the original permit was issued in July, 2010.
- Commissioner Grieshop indicated his company was the electrical contractor on the project and he could support everything the petitioners said was truthful. He further noted that the parties involved

dealt with issues/hassles with the banks and the insurance company about funding which caused delays.

- At Commissioner Grieshop's inquiry, Community Development Director Santeler indicated the required lot size for multi-family in an R2 Residence District is 12,000 sq. ft.; the subject property is non-conforming because the lot size is 5,335 sq. ft. Community Development Director Santeler further noted that even if one of the two units were occupied, it would still lose its non-conforming status because the property was not being maintained as a two family legal non-conforming status.
- Community Development Director Santeler referred to a prior case where a two-flat was in process of being remodeled and as a result of a death in the family, the property remained vacant for a period over 12 months and subsequently lost the multi-family, non-conforming residential use even though there were circumstances beyond the property owner's control.
- Commissioner Killeen felt the City code was pretty clear that the non-conforming use was lost if not occupied for a period of 12 months.
- The petitioner indicated that if necessary, the driveway could be widened to accommodate four cars; Community Development Director Santeler noted that would require an additional variation.
- There was discussion as to how occupancy is determined. Chairman Carbonetti stated that occupancy can be determined by volume of water usage as measured by the water meter.
- Community Development Director Santeler noted there is evidence of an interior stairway and indicated in his professional opinion, the property was designed and built as a single family home.

Staff Report:

Community Development Director Santeler indicated that the property has been vacant for 40 months which is 3½ times the allowable limit.

Closing Argument

Attorney Pline felt that the process allows for there to be a consideration as to hardship and the intent of the parties and asked the Commission to consider the hardship due to circumstances that the petitioner had no control over. Further, the upper unit is ready for occupancy consistent with the non-conforming use. Attorney Pline stated that in order to put the property back to a single family use, most of what was already done would have to be undone. Attorney Pline asked that the Commission consider the hardship as laid out in the petition, the expense, the intent of the parties and the circumstances which was always in every action taken throughout the process consistent with continuing the non-conforming use.

Audience Participation:

At Alderman Marzahl's inquiry, the petitioner clarified time frames as outlined in their petition that each of the units at the subject residence were vacant.

Vote on Petition

Moved by Commissioner Killeen, seconded by Commissioner Hutchinson to recommend to the City Council to deny the petitioner's appeal and uphold the Zoning Officer's original decision. Roll call vote: Grieshop, no; Hutchinson, aye; Killeen, aye; Smith, aye and Carbonetti, aye. Motion approved four to one.

Clerk Wells stated that the Planning and Zoning Commission's recommendation will come before the City Council at their next regular meeting on Tuesday, June 25th, 2013, at 7 p.m.

At 7:30 p.m., moved by Hutchinson, seconded by Smith to adjourn the meeting. All ayes. Motion carried.

Submitted by:



City Clerk Andy Wells

Date: _____

6-14-13