

**JUNCTION CITY/GEARY COUNTY, KANSAS  
METROPOLITAN PLANNING COMMISSION  
BOARD OF ZONING APPEALS**

**MINUTES**

**August 25, 2011  
7:00 P.M.**

**Members  
(Present)**

**Members  
(Absent)**

**Staff**

Brandon Dibben  
Maureen Gustafson  
Ken Mortensen  
John Moyer  
Mike Ryan  
Mike Steinfort  
Mike Watson

David Yearout  
Shari Lenhart

**1. CALL TO ORDER AND ROLL CALL**

Chairman Steinfort called the meeting to order at 7:05 p.m. and noted all members present.

**2. APPROVAL OF MINUTES**

Commissioner Moyer moved to approve the minutes of the July 14th meeting as presented. Commissioner Ryan seconded the motion and it passed 6 to 0 with Mr. Watson abstaining.

**3. OLD BUSINESS – None.**

**4. NEW BUSINESS**

**Item No. 1 – Seating of new Metropolitan Planning Commission/Board of Zoning Appeals member.**

Chairman Steinfort stated that Commissioner Rick Ziegler had formally resigned and that Mike Watson has been appointed by the County Commission to fulfill the remainder of Mr. Ziegler's term, which will expire in June 2013. Chairman Steinfort asked Tyler Ficken,

Junction City City Clerk, to administer the Oath of Office to Mr. Watson. Following the swearing in, members welcomed Commissioner Watson aboard.

**Item No. 2 – Case No. VC-08-01-11 – Public hearing on the petition for the vacation of a platted building setback line at 1001 Cedar Street, Junction City, Kansas.**

Chairman Steinfort opened the public hearing on the petition of Wayne and Ruth Dishman, owners, praying for the vacation of a platted building setback line along Cedar Street for property located at 1001 Cedar Street, Junction City, Kansas.

Mr. Yearout reviewed the staff report stating that this area was first platted in 1958 with a 30' building setback line for this lot along both Highland Drive and Cedar Street. In 1962 a replat was filed that eliminated the platted setback along Highland Drive, but retained the 30-foot building setback requirement along Cedar Street. This home faces Cedar Street with an attached 2-car garage. A building permit was issued in 1965 for the construction of the home and the documentation shows the builder was aware of and complied with the plat restrictions. Mr. Yearout indicated he had driven the area and there are no other properties in this subdivision with structures encroaching into the required 30-foot platted setback requirement.

Mr. Yearout informed the Commission that the vacation of the platted setback line is the first step to allow construction of the requested carport, if everything were to be approved. The applicants have also filed a request for a variance from the 25-foot front yard setback requirement in the City's Zoning Regulations to be considered when the Commission convenes as the Board of Zoning Appeals later at this meeting. Mr. Yearout stated he had discussed the situation with Mr. Dishman on several occasions and did not encourage the applications, but Mr. Dishman opted to pursue his right to make such applications.

In this situation, the Planning Commission's recommendation will be submitted to the City Commission for final determination. As indicated in the staff report the City Commission must determine that the public will suffer no loss or inconvenience by such vacation and that no private rights will be injured or endangered thereby. A building permit could not be issued until the vacation and variance were approved.

Mr. Yearout stated it is staff's opinion that the facts in this case support a recommendation to the City Commission that the vacation of the platted building setback be denied.

Chairman Steinfort asked Mr. and Mrs. Dishman if they wished to comment. Mrs. Dishman stated they were just doing what they were required to do to seek permission to place the carport. She stated that the garage houses their lawnmower for Mr. Dishman's lawn mowing business, as well as other yard equipment, meaning they can not park their vehicles in the garage. They want to protect their vehicles with the carport from ice and snow by installing the carport.

There being no further appearances, Chairman Steinfort closed the public hearing and opened the matter for discussion and action by the Commission.

In response to questions from the Commission, Mr. Yearout stated that if the vacation and variance were approved the proposed carport would extend to within 8 feet of the property line, but did not appear to interfere with visual clearance of the Cedar Street and Highland Drive intersection. Discussion ensued between the Commissioners regarding setting a precedent for this area and the fact that other property owners within the City have been required to remove illegal carports and other non-conforming sheds and buildings. There being on further discussion Chairman Steinfert called for a motion.

Commissioner Mortensen moved that Case No. VC-08-01-11, the request of Wayne and Ruth Dishman, owners, for the vacation of a platted building setback line along Cedar Street for property located at 1001 Cedar Street, Junction City, Kansas, and described in the petition for vacation be recommended for denial to the City Commissioners of Junction City, Kansas, based on the findings in the staff report and as noted at this public hearing. Commissioner Moyer seconded the motion and it passed unanimously.

**Item No. 3 – Case No. Z-08-01-11 – Public hearing on the application for rezoning of property at 11606 South Highway K-57, Junction City, Kansas.**

Chairman Steinfert opened the public hearing on the application of Chad Ziegler, owner, requesting to rezone from “A” Agricultural District to “CG” General Commercial District, a portion of the property at 11606 South Highway K-57, Junction City, Geary County, Kansas.

Mr. Yearout stated this case was initiated due to complaints of a boat repair business at this location. Following confirmation of the existence of the business, Mr. Ziegler was notified his commercial business was not permitted in the “A” district. Mr. Ziegler was advised his options were to close the business or apply to have the property rezoned to an appropriate classification. He has opted to apply for the rezoning.

In 2008 a building permit was issued for a 40 foot by 60 foot shop addition (attached to the existing home) and permit application makes no mention that the intended use was to repair boat engines and other minor boat repairs. To remain, the building would need to meet commercial building codes.

Mr. Yearout indicated this is a tough case because of the requirements of the zoning regulations. Mr. Ziegler’s type of business is specifically listed in the “CG” District; therefore the Special Use Permit option is not available and limiting the “CG” zoning to just this use is considered “contract zoning” which is prohibited by State law. The extensive list of allowed uses in the “CG” district would not be appropriate at this location. The proposed County Zoning Regulations would allow this case to be considered as a Conditional Use, which could limit the use to the boat repair operation only. However, those regulations have not been adopted.

Mr. Yearout concluded by stating he is sympathetic with the situation but that staff is recommending denial of Mr. Ziegler's request to rezone from the "A" district to the "CG" district based on the belief that most of uses permitted in the "CG" district are not appropriate at this location.

There being no questions of staff from the Commission, Chairman Steinfert opened the hearing for comments from the audience.

Chad Ziegler, 11606 South Highway K-57, indicated he opened his business at this location for economic reasons. He stated his business is boat repair and maintenance. He indicated he has purchased older boats and fixes them up for sale. In response to questions, Mr. Ziegler stated he does have outside storage for boats during the winter with no intentions to erect any boat storage sheds or buildings. Mr. Ziegler stated he has no other employees; does very minimal repair to the boats themselves except possibly seat repair, but no fiberglass type work. He stated he is aware that the shop area will need to meet commercial building code requirements.

Mr. Ziegler further stated he has no intentions to convert the operation to any other type of business and has no intentions of selling the property.

Cheryl Bennett, 8735 Johnston Court, indicated she had no problem with Mr. Ziegler's boat repair business. The area is clean and not full of junk. The operation can not be seen from the road and she said she felt Mr. Ziegler should be allowed to continue.

There being no further comments, Chairman Steinfert closed the public hearing.

Discussion between staff and Commissioners ensued regarding various aspects dealing with allowed uses in the "CG" district and option available under the proposed County Zoning Regulations. Mr. Yearout stated an option would be to table Mr. Ziegler's application until the November meeting. This suggested time frame would allow for consideration and possible adoption of the proposed County Zoning Regulations. He explained that Mr. Ziegler has complied with the zoning violation letter request to either stop work or apply for rezoning. Tabling the application will put the zoning violation issue on hold. Mr. Ziegler could continue his operation until the November meeting. Mr. Yearout stated this would not set a precedent because this is no different than what was done on the situation with Lead Horse Technologies at the Munson Farm.

There being no further discussion or comments, Chairman Steinfert called for a motion.

Commissioner Moyer moved to table case Z-08-01-11, request of Chad Ziegler, owner, requesting to rezone from "A" Agricultural District to "CG" General Commercial District, a portion of the property at 11606 South Highway K-57, Junction City, Geary County, Kansas, until the regular meeting of the MPC in November, 2011. Commissioner Ryan seconded the motion and it passed unanimously.

**RECESS AS METROPOLITAN PLANNING COMMISSION AND CONVENE AS BOARD OF ZONING APPEALS**

Commissioner Gustafson moved to recess as the Metropolitan Planning Commission and convene as the Board of Zoning Appeals. Commissioner Dibben seconded the motion and it carried unanimously.

**1. OLD BUSINESS – None**

**2. NEW BUSINESS**

**Item No. 1 – Case No. BZAV-08-01-11 – Public hearing on the application for a variance to reduce the street setback on property at 1001 Cedar Street, Junction City, Kansas.**

Chairman Steinfert opened the public hearing on the application of Wayne and Ruth Dishman, requesting a variance to decrease the front yard setback along Cedar Street to allow installation of a carport for property at 1001 Cedar Street, Junction City, Kansas.

Mr. Yearout reiterated that this case was filed in conjunction with the vacation request previously heard and the information presented on that case applies to this one as well. This request is for a variance of approximately 22 feet, leaving a setback of approximately 8 feet from the property line. Mr. Yearout reviewed the staff report and stated it is staff's opinion this request does not meet the required standards for granting the requested variance. The staff report provides the reasoning for that recommendation.

Chairman Steinfert asked if there was anyone present wishing to speak on this application.

Mr. Dishman stated he mows yards around town and he believed there are other carports located in the manner which he is requesting, so he felt his request was not inappropriate.

Mr. Yearout stated staff has been working with the Code Enforcement office to identify all carports and other accessory buildings that have been erected inappropriately around the City. Numerous such structures have been identified and many have been removed by the owners once the violations have been identified. Regardless, staff does not believe this situation is a basis to support granting a variance for the placement of the carport in the manner requested.

There being no further appearances, Chairman Steinfert closed the public hearing and called for comments or a motion.

Commissioner Mortensen noted that if this carport was allowed it would be the only one in the area encroaching into required setbacks. As outlined by staff, he felt the requirements for variance approval have not been met.

Commissioner Gustafson moved that Case No. BZAV-08-01-11, the request of Wayne and Ruth Dishman, owners, for a variance to reduce the building setback line along Cedar Street for property located at 1001 Cedar Street, Junction City, Kansas, be denied for the reasons stated in the staff report and as stated at the public hearing. Commissioner Mortensen seconded the motion and it carried unanimously.

**Item No. 2 – Case No. BZAV-08-02-11 – Public hearing on the application for a variance to reduce the street setback on property at 701 South Madison Street, Junction City, Kansas.**

Chairman Steinfort opened the public hearing on the application of Janet A. Williams, owner, requesting a variance to decrease the front yard setback along Vine Street for property at 701 South Madison Street, Junction City, Kansas, to allow construction of garage addition.

Mr. Yearout reviewed the staff report and noted this request is to allow an addition onto the north side of the home at the southeast corner of Madison and Vine. This is a modest home with a single-car garage attached on the north side, with the home facing Madison even though the platted lot faces Vine Street. According to the applicant, this home does not have a basement and the owner wishes to have more room for storage. There is one smaller detached accessory storage building to the south of the house, but the owner does not wish to enlarge or replace that building.

Mr. Yearout stated it is staff's opinion the standards that must be met for the variance to be granted do not support approval of this request. Staff believes there is sufficient space for an addition to the home to the south, or the existing accessory building could be enlarged or replaced to provide the desired space. There are no other properties along Vine Street with additions or other improvements that encroach beyond the setback line established by the Zoning Regulations. If approved and constructed, this would be the first such encroachment in this neighborhood.

There being no questions of staff, Chairman Steinfort opened the public hearing for comments from the audience.

Janet Williams, the applicant, discussed at length her desire to put the addition onto her home. She explained she felt this was the only way to add the space and not have to make significant alterations to the interior of her home. She stated the bedrooms were on the south end of the home, which she felt limited how additions could be made on that end of the house. She also stated she was not interested in enlarging the detached accessory storage building because she did not wish to gain access to it from the outside.

There being no further comments from the public, Chairman Steinfort closed the public hearing and called for comments or action from the Board.

Commissioner Gustafson asked staff if an addition was made to the south end of the home whether any variances would be necessary. Mr. Yearout noted there was sufficient room

for an addition on the south side without any special approvals from the Board being necessary.

Commissioner Mortensen moved that Case No. BZAV-08-02-11, the request of Janet Williams, owner, for a variance to reduce the building setback line along Vine Street for property located at 701 Madison Street, Junction City, Kansas, be denied for the reasons stated in the staff report and as stated at the public hearing. Commissioner Moyer seconded the motion and it carried unanimously.

## **ADJOURN AS BOARD OF ZONING APPEALS AND RECONVENE AS METROPOLITAN PLANNING COMMISSION**

Commissioner Moyer moved to adjourn as the Board of Zoning Appeals and reconvene as the Metropolitan Planning Commission. Commissioner Ryan seconded the motion and it passed unanimously.

### **7. GENERAL DISCUSSION**

Mr. Yearout noted that the work on the proposed update to the Geary County Zoning and Subdivision Regulations had reached the point that consideration should be given to setting the public hearing. Mr. Yearout handed out some additional language proposed to be added to the documents for the public hearing; one a definition of "agritourism" and the other some language regarding the manner in which lands that are zoned Suburban Residential upon the adoption of the Regulations are to be platted if further divided.

Mr. Yearout noted the Geary County Sanitation Code will also be updated as previously discussed, but that follows a different process for adoption than the Zoning and Subdivision Regulations. Lisa Davies was not able to be present at this meeting, but she has confirmed all is ready for the Board of County Commissioners to begin the process of enacting the new Sanitation Code as discussed. She has also confirmed the changes with the Kansas Department of Health and Environment.

The Commissioners requested the proposed definition of "agritourism" be shared with the owners of Sun Rock Ranch, Munson Farms and Hildebrand Farms so they all know what the overall intent of the new regulations regarding their operations are. Otherwise, there were no problems with including the proposed language in the documents for the public hearing.

Commissioner Moyer moved to set the public hearing on the proposed update to the Geary County Zoning and Subdivision Regulations, including the language provided at this meeting, for the October 13, 2011, regular meeting. Commissioner Dibben seconded the motion and it carried unanimously.

**8. ADJOURNMENT**

There being no further business, Commissioner Moyer moved the meeting be adjourned. Commissioner Mortensen seconded the motion and it carried unanimously. Chairman Steinfort declared the meeting adjourned at 8:52 p.m.

**PASSED AND APPROVED this \_\_\_\_\_ day of September, 2011**

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**Mike Steinfort, Chairman**

**ATTEST:**

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**David L. Yearout, Secretary**