

Planning And Zoning Commission/Board Of Zoning Appeals

Minutes Of The Meeting Of June 26, 2017

MEMBERS PRESENT: Bob Gilmore, Chairperson
Laura Klusener, Vice Chairperson
Mike Creel
Francis DeMott
Patty Horgan
Tim Kundiger
Mike Wilber

OTHERS PRESENT: Marcee Binder, 411 E. 12th, Pittsburg
Stacey Burke, 1918 S. Joplin, Pittsburg
Wayne Bockelman and Megan Corrigan, 205 W. Euclid, Pittsburg
Kurt and Wendy Bolinger, 601 Windsor Cir, Pittsburg
Paige Bowman, 809 E. 10th, Pittsburg
Robin Carson, 661 S. 27th, Pittsburg
Allen Childers, 117 W. 22nd, Pittsburg
Chassedi Cooper, 308 E. 16th, Pittsburg
Taylor Cronister, 1407 Bitner Place, Pittsburg
Jason Denney, 506 E. 27th, Pittsburg
Morgan Ebbs, 604 N Walnut, Pittsburg
Kristen Fecke, 8134 Finch RD, Neosho, MO
Camillin Fermonti, 423 E. Jefferson, Pittsburg
Gabriel Fernandez, 208 W. Kansas
Drew Fitzwater and Mary Lenhausen, 721 W. 2nd, Pittsburg
Catherine Geiger, 604 N. Walnut, Pittsburg
Mona Rae Jurshak, 404 W. Jefferson, Pittsburg
Jace Johnson, 110 Appleton Drive, Frontenac
Jennifer Katzer, 809 W. Ford, Pittsburg
PJ Lassiter, 117 W. 22, Pittsburg
Christina and Wayne Lucas, 417 E. Madison, Pittsburg
Jessical Marrel, 104 W. Quincy, Pittsburg
Stacy Mathes, 207 W. Euclid, Pittsburg
Krisitn Mawn, 404 W. Jefferson, Pittsburg
Casey McCafferty, 922 E. 6th, Pittsburg
Rhonda Miller, 2308 S. Tucker, Pittsburg
Leann Moore, 1709 N Walnut, Pittsburg
Jacob Neisler, 421 Fieldcrest, Pittsburg
Bruce Remsburg, 104 S. Pine, Pittsburg
Carole & Billy Rink, 777 S. 196th, Pittsburg
Jamie Rink, 2103 Colonial Drive, Pittsburg
Lauren Paige and Logan Rink, 210 W. Kansas, Pittsburg
Nikki Sanders, 396 S. 190th, Pittsburg
Carman Simon, K.D.A., Manhattan, KS
Elizabeth Spence, 309 W. Park, Pittsburg
Sharon Stanley, 201 W. Pine, Pittsburg
M. Dirk Thibodaux, 504 Village PKWY, Rogers AR 72753
Mekayla Tipton, 306 S. Walnut, Pittsburg
Margo Troike, 460 W. 680th AVE, Girard, KS
Valerie Weilert 1308 E. 16th, Pittsburg
Amelia Wheeler, 804 W. 7th, Pittsburg
Cameron Alden, Director of Public Works
Dexter Neisler, Building Official
Andrea Holtzman, Administrative Support Assistant I

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The Pittsburg Planning and Zoning Commission met on Monday, June 26, 2017, at 5:30 p.m., in the Municipal Court Room of the Law Enforcement Center. Chairperson, Bob Gilmore called the meeting to order at 5:30 p.m. with eight (8) members present. Chairperson, Bob Gilmore opened the meeting and led the flag salute.

The first order of business was the approval of the minutes. Tim Kundiger inquired about the last sentence in the fourth paragraph on page 3. The word "and" needs to be deleted Mike Wilber moved, seconded by Francis DeMott to approve the minutes with this change reflected.

The first order of business under Presentation of Requests and Petitions was the review of a site plan submitted by Bart Arnett of Crossland Construction on behalf of Six Pack, LLC, for the construction of a new building to be located at 910 South Broadway.

Dexter Neisler introduced Bart Arnett of Crossland Construction and Bruce Remsburg of PEC. Both gentlemen were present to speak in favor of the request.

Bruce Remsburg indicated that since the time the variance request was approved, Six Pack, LLC has purchased the property to the north of the original building for which the variance was requested. Mr. Remsburg showed the updated site plan indicated the drainage will carry water from the north to the south of the property. The site was previously developed and the new construction should not change the storm water run-off too much. He indicated the landscaping plan has also been submitted.

Dexter Neisler indicated the City has reviewed the plans. Mr. Neisler indicated that City would like to have the entire alley improved.

Patty Horgan asked what will be done with the newly purchased building. Bart Arnett indicated the plan was to demolish the new structure.

Mr. Neisler indicated the City would recommend the Commission approve the request with the entire alley being improved.

There being no further questions or comments from the Commission, Mike Creel moved to approve the site plan with the recommended alley improvements. This motion was seconded by Tim Kundiger and the motion carried unanimously.

The second order of business under Presentation of Requests and Petitions was the review of a site plan submitted by Dirk Thibidaux of Gray Rick on behalf of Arvest Bank for the construction of a new building to be located at 2305 South Rouse.

Dexter Neisler introduced Dirk Thibidaux to speak to speak in favor of the request.

Tim Kundiger asked if the new electric poles being placed on South Rouse has affected the building plan in any way. Cameron Alden indicated the poles are being placed further south of the proposed construction.

Mr. Thibidaux indicated the water would drain to the east of the property. He indicated the plans are the basic plans for the company.

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Patty Horgan indicated the South Rouse area is becoming very congested and suggested the City look at possible intersection improvements.

Dexter Neisler indicated the City recommends approval of the plans as submitted.

There being no further questions or comments from the Commission, Laura Klusener moved to approve the site plan as submitted. This motion was seconded by Mike Creel and the motion carried unanimously.

The third order of business under Presentation of Requests and Petitions was a request submitted by Lauren Paige and Logan Rink of 210 West Kansas Street, to consider a request for a Conditional Use under the provisions of Article 30 of the Pittsburg Zoning Ordinance to allow a Canine Group Home Shelter to be located on the property located at 210 West Kansas Street.

The applicants, Loren Paige and Logan Rink were present to speak in favor of the request.

Dexter Neisler indicated the current zoning of the property is R-2, Two- Family Residential district. By the existing City definitions, any residence with more than four (4) dogs is considered a "kennel."

Ms. Paige and Ms. Rink explained Gypsy Soul Rottweiler Rescue is a unique business. They are both certified trainers, licensed through the State, and have adopted out over 100 canines. They explained the focus for their business is on the dogs that need specialized help and care due to overcrowding and under staffing in animal shelters. Ms. Paige and Ms. Rink explained that although the state license allows for 19 dogs at a time, they do not keep that many dogs at their home. The dogs they have are spread out to foster families. The only time they have more than 10 dogs on their property at one time is when they are doing socialization or other training with the dogs at the residence and in foster care homes. When these special trainings take place, the animals are never outside without supervision. They indicated the existing pen on their property was there before they moved into the residence but they are willing to remove it if required. The nature of their business is new and doesn't fall under the existing definitions of the City Zoning Ordinances. Ms. Paige and Ms. Rink explained their route to properly maintain the property.

Bob Gilmore asked if they have liability insurance. Ms. Paige and Ms. Rink explained they have up to \$500,000 in liability insurance.

Chairperson, Bob Gilmore opened the floor to those who wish to speak in favor of the request.

Stacy Mathis, 207 W. Euclid, indicated she has never had any problems with the dogs at the Rescue. Ms. Mathis indicated Ms. Paige and Ms. Rink have helped them incorporate their new dog into their family.

Mekayla Tipton, 306 S. Walnut, indicated she has not witnessed Ms. Paige or Ms. Rink ever leave the dogs unattended and has never had the maximum number of dogs.

Gabriel Fernandez, 208 W Kansas, indicated he hasn't had any issues with the Rescue as it is currently. If the business was to start incorporating the typical kennels outside that could create a problem, however the way the Rescue is set up currently, there are no issues in his opinion.

Lauren Paige indicated they have no intentions of setting up kennels in the future.

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Carmen Simon, Kansas Department of Agriculture, indicated when the State came up with the Group Home Shelter, they intended it be designed for the special dogs that uneducated people deem as aggressive. She indicated the dogs they have are not necessarily aggressive but scared or nervous the Ms. Paige and Ms. Rink are trained to recognize those types of dogs and provide an alternative temporary shelter and assist with getting these dogs adopted. Ms. Simon also indicated the dogs are not outside unsupervised at the Rescue.

Mike Wilber asked if the State sees group home shelters in towns. Carmen said it was designed for personal care of the special dogs that can't be housed in shelters.

Amelia Wheeler, Good Boy Professional Dog Trainer, explained both girls are certified trainers. She indicated they are an asset to the rescue community.

Nikki Sanders, 396 S. 190th Street, indicated Loren and Logan are very goal oriented and focused on making their business grow. She indicated she and Loren have discussed building a new home in the future with a Commercial Loan to help the dogs learn in a family environment. Ms. Sanders also fosters dogs when needed.

Kristen Fecke, 8134 Finch Road, Neosho, MO, is the Landlord of 210 W. Kansas, spoke in favor of the request. She indicated Loren is a good tenant and the house is in good shape. She indicated the business is needed in this area.

Dexter Neisler indicated the following criteria are considered when a change of zoning case is heard. Although these criteria are not required when considering a Conditional Use, it is used as a guideline when considering one.

1. Character of the neighborhood. The property is located on the Northeast corner of Walnut and Kansas. It is completely surrounded by residential zoned districts.
2. Zoning and uses of nearby properties. The properties directly to the North, east and west of this property are zoned R-2 Two Family Residential District. The properties located directly to the southeast is zoned R-1C Single family district.
3. Suitability of the subject property for the uses to which it is being considered. The City has determined with our zoning regulations that a maximum of four dogs may be kept per resident without being considered a kennel. Kennels or pens are required to meet minimum setback requirements that cannot be achieved because of lots dimensions. However, in this situation pens are not being used. If approved the Planning and Zoning Commission/Board of Zoning Appeals should set a limit to the number of dogs to be kept in pens at this location.
4. Length of time the subject property has remained vacant as zoned. Property is currently not vacant and contains a single family home.
5. The extent to which removal of the restrictions will detrimentally affect the nearby property. Granting of a conditional for this applicant and property could be detrimental to neighboring properties should the area not be properly maintained. Other neighboring properties could also apply for the same type of conditional use.

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6. Relative gain to public health, safety, & welfare. Health, Safety, and Welfare could be affected should maintenance of the property not be kept up regularly.

There being no one else to speak in favor of the request, Chairperson, Bob Gilmore opened the floor to the public wishing to speak in opposition of the request.

Megan Corrigan, 205 W. Euclid, indicated she lives across the alley from the 210 W. Kansas. She indicated she has witnessed dogs get loose when they are being transferred to a vehicle without a leash. She has also witnessed more than 10 dogs in the yard on numerous occasions. She feels uncomfortable with the dogs at this location due to two (2) dogs that jumped the fence in 2016 while she was walking to Lakeside Park, causing her to feel unsafe. She indicated the stress and sleep deprivation of having the Rescue close to her home has caused damage to her health and welfare. She feels this is not an ideal location for the Rescue due to the traffic numbers on Walnut Street. She indicated she has spoken with the Animal Control regarding too many dogs. She has also filed complaints to the State. The State indicated they have no jurisdiction and should refer to the local zoning ordinances. According to existing definitions, the residence in question is a kennel. She feels the business does adversely affect the public health safety and welfare.

Wayne Bockelman, 205 W Euclid, also spoke in opposition to the request. The dogs are being kept in the pen outside in the backyard because they cannot be kept with the rest of the dogs. There are City Ordinances against nuisance barking but when he contacts the police department and animal control, he doesn't feel he gets results. He indicated the pen is not 30 foot off the property, as City Ordinances require. Therefore the Conditional Use should not be approved. He indicated the business has been in violation for over a year. He indicated there is no such thing as a Canine Group Home Shelter in City Ordinances. The City Ordinances only define a boarding or breeding kennel. He understands the company has a lot of support however, the positioning of the current location in the middle of the residential area is not ideal for this type of business. Carl Junction, Frontenac and recently Arcadia have all banned Rottweilers. Pittsburg currently has no special restrictions on Rottweilers but they do on Pitt Bulls. The Gypsy Soul Rottweiler Rescue specializes in Rottweilers but also take on dogs that have special needs. They also bring in animals from other areas. They should not be brought to a backyard residential area. Mr. Bockelman showed photos of the fence with dogs. He indicated the fences are too low and the signed "Beware of Dogs" is not sufficient responsibility. He read stats about Rottweiler killings and requested the Planning and Zoning Commission/Board of Zoning Appeals deny the request.

There being no one else to speak against the request Chairperson, Bob Gilmore closed the Public Hearing for discussion amongst the Board.

Bob Gilmore indicated he has spoken with Topeka and the City Ordinances regulate over the State. He indicated his concern is they do not own the property and they may need to increase their insurance.

Patty Horgan indicated the newness of the licensure for the state needs to be addressed by the Commission. However, that doesn't help with case tonight. Ms. Horgan suggested getting a higher fence in the area.

Dexter Neisler indicated the City recommends approval with conditions of a limit on the number of animals at the residence and a higher fence.

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After a brief discussion amongst the Board, Patty Horgan moved to approve the request with the listed conditions of; applicants need to construct a minimum of a 6-foot fence and there will be a maximum of 10 dogs on the property at one time and the Conditional Use will terminate when the tenants move or the business completes. The Board granted a variance for a 6-foot privacy fence along Walnut. This motion was seconded by Francis DeMott. The motion passed unanimously. The Planning and Zoning Commission/Board of Zoning Appeals agreed the fence should be complete within 60 days.

Dexter Neisler indicated this Conditional Use would go before the Governing Body on July 11, 2017 for consideration.

Under New Business, Patty Horgan indicated it would be a good idea for the Board to review their definitions.

There being no further business, Mike Creel moved and Mike Wilbur seconded to adjourn the meeting at 7:40 p.m. This motion passed unanimously.

Respectfully Submitted,
Andrea Holtzman
Administrative Support Assistant I