

**Millersburg Planning Commission
August 9, 2016**

Present: Planning Commissioners Ryan Penning, Steve Vogler, Anne Peltier, Connie Lepin, Dave Post, Ed Perlenfein, Skylar Bailey, City Planner Don Driscoll, City Administrator/Recorder Barbara Castillo

The Millersburg Planning Commission was called to order at 6 p.m. by Chairman Ed Perlenfein.

MINUTES OF JULY 12, 2016

Dave Post moved, seconded by Steve Vogler to approve the minutes of July 12, 2016 as written. The motion passed

BAILEY VARIANCE REQUEST

The Bailey Variance Hearing was opened by Dave Post. The applicant, Skylar Bailey, is requesting approval for an Accessory Structure Variance that is 2,880 square feet in size. The specified maximum size is 800 square feet unless a Variance is approved as defined in Code Section 2.600.

Dave Post called for members of the Commission to identify any potential conflict of interest, bias or any communication concerning this request. Both Skylar Bailey and Ed Perlenfein declared a conflict of interest and moved to the audience and did not participate in any discussion as a member of the Commission regarding this request.

Wally Lien, special counsel for the city dealing with land use issues explained that this matter began with a request for administrative approval on a variance request. The way the code was written it looked like the City Administrator could make a decision, but when she looked at the degree of magnitude, it was determined it shouldn't be an administrative decision, but was referred to the Planning Commission for a Variance. The next issue is a timing crunch. The Notice of Public Hearing came up one day short. The code requires a 20 day advance notice, but the actual number of days was 19. When it is one day short, there is the ability for that to be waived. However, the city received an objection from Edward F. Schultz, attorney for Michael B. Brink and Julie A. Brink because they did not receive proper notice and they requested that the city should not proceed with anything.

Lien said the options are when there is a faulty notice:

- Open the hearing and allow testimony. The hearing can't be closed because we have not given 20 days notice.
- Grant the request from Ed Schultz to not do anything.

Dave Post opened the hearing on the Skylar Bailey Variance Request to allow discussion regarding procedures, and it would be ex parte communication to discuss this issue without opening the hearing.

The hearing was opened on the Skylar Bailey Variance Request.

Ed Schultz, PO Box 667, Albany, OR 97321 told the Planning Commission they have already heard that proper notice of 20 days was not given. Schultz said if you just continue tonight and the adjacent property owners don't receive further notice, they will never receive the 20 days notice that is required. The issue we are talking about is the process and their constitutional rights on the ownership of their own property and to make sure that others have that same right. Schultz urged the Planning Commission to please postpone it and have notice sent to all adjacent property owners.

Forrest Reid said what you have before you is two legal positions. We can hold the hearing and take testimony now, but the issue won't be deliberated until September 13th; or do as Mr. Shultz requested and close the hearing without taking testimony. That would appease the objection and may be more amenable. Reid said the other issue is we would need a quorum.

After consulting with the Planning Commission, it was noted there would not be a quorum available on the second Tuesday of September, September 13th. There was a discussion and it was decided that September 13th would not work out, so the date of September 7th was decided on. Both the Planning Commission and adjacent property owners would be available to attend the meeting on that date.

Anne Peltier moved, seconded by Connie Lepin to postpone testimony and discussing the Bailey Variance request until Wednesday, September 7, 2016 at 6 p.m. The motion passed unanimously.

GRAY PARTITION TENTATIVE PLAN REQUEST

Dave Post announced the applicant's, Frederick and Mary Gray are requesting approval of a Partition Tentative Plan to divide an existing 1.31 acre property located at 2531 Alexander Lane into two Urban Conversion parcels containing approximately 27,586 sq. ft. each exceeding the 10,000 sq. ft. minimum.

No members of the Planning Commission declared any potential conflict of interest, bias or any communication concerning this request.

The applicant, Fred Gray said his intent is to sell the vacant parcel.

City Planner Don Driscoll said the Oregon Revised Statutes (ORS), Chapter 92, the Millersburg Comprehensive Plan and the Millersburg Land Use Development Code provide the applicable criteria for evaluation of the requested action.

Steve Vogler moved, seconded by Anne Peltier to approve the Gray Partition Tentative Plan Request contingent upon compliance with the Findings and Conditions of Approval contained in the Staff Report. The motion passed unanimously.

CONDITIONS FOR APPROVAL OF THE REQUEST:

Approval may be granted for the Gray Land Partition Tentative Plan Request subject to compliance with the following Conditions of Approval. The applicable Sections of the **Millersburg Code** are noted.

1. The Applicant shall comply with the **Final Partition Plat** requirements of **Section 2.330** of the **Code**.
2. No site development plan is required or presented at this time. The Applicant or Owner of the property shall submit building plans to the City for Building Permit approval by the City
3. Parcel 1 and 2 are oversized with a potential for further division of Parcel 2. Parcel 2 may be divided in the future with access taken from Woods Road.
4. Municipal water and sewer are available from Alexander Lane & Woods Road.
5. Future connections to municipal water and sewer shall be verified with the City Engineer prior to construction. All work shall remain open for inspection and approval prior to backfilling.
6. Water systems shall comply with the fire flow needs for the properties.
7. Property owners shall comply with the fire protective standards administered by the Fire Protection District.
8. Other public and private utilities to serve the proposed Partition shall be coordinated and provided when development occurs. All utilities shall be underground as specified in **Section 5.129** of the **Code**.
9. It is the obligation of the property owner to provide proper drainage and protect all runoff and drainage ways from disruption or contamination. On-site drainage is required and downstream improvements or on-site storm water detention may be required to accommodate flows. The Owner shall provide proper drainage and shall not direct drainage across another property except within a continuous drainage way. Maintaining proper drainage is a continuing obligation of the property owners.
10. The land division shall not cause adverse impacts such as erosion, slide hazards and storm water runoff due to cut and fill of the property. Grading together with cuts and fill shall be regulated by the City Engineer.

11. The Applicant shall provide adequate Clear Vision Areas in accordance with **Section 5.122 (6)** of the Millersburg Code for all vehicle ingress and egress to the properties.
12. All partition requirements specified herein shall be provided prior to signing the final Partition Plat.
13. Any Tentative Plan changes shall be submitted to the City for approval. If proposed changes are not in conformance with City Ordinances or the approved Tentative Plan, the Applicant shall be notified and the non-complying elements shall be corrected and resubmitted prior to approval of the Final Plat.

HALF STREET IMPROVEMENTS

The Planning Commission once again had a discussion regarding when half street improvements would be required to be paid to the City of Millersburg. Connie Lepin said if the lot on 54th is modified in any way, then that was supposed to trigger the street fees. Since that lot had a lot line adjustment and the lot was changed in size even though there's only a single house being built, her interpretation is that is a modification which should then trigger the street fees. Lepin was told the Bailey property accessible from 54th, is not part of the subdivision with access from Alexander Lane.

The meeting adjourned at 6:50 p.m.

Respectfully submitted,

Barbara Castillo
City Administrator/Recorder