

Pekin Zoning Board of Appeals
111S. Capital Street
City Council Chambers 2nd Floor
March 9, 2022
5:00 PM

Present: Bill Craig, Chris Deverman, Kim Joesting, Mary Lanane, Chris Lang, Kelly Madden, James Ruth, Steve Thompson, and Amy Wilson

The regular meeting of the Pekin Zoning Board of Appeals was called to order at 5:00pm and a quorum was declared. Staff present: Matt Fick, Community Development Director, David Bess, CDBG Program Manager, Jeffrey Gaster, Legal Counsel, Nic Maquet, Chief Building Official, and Dave Nutter, Councilmember.

MOTION by Commissioner Thompson to approve an amended agenda for the March 9, 2022 meeting removing item 6.1 (Case FPR 2022-01), seconded by Commissioner Deverman. Motion carried 9-0.

Minutes for the February 9, 2022 meeting were approved with all members present voting aye.

City Council Action Report – Matt Fick noted that the City Council affirmed recommended determinations from the previous Zoning Board of Appeals meeting with the exception of a modified condition to the previously reviewed SU 2022-01 and V 2022-02. The condition for approval was modified to require the new property owner to establish 100 foot hard surface aprons for all adjoining roadway access points as opposed to the 50 foot recommended by the Board.

Case RZ 2022-02 Public Hearing Opened at 5:04 PM

Rezoning request submitted by Covenant Heating & Air, LLC from B-3 General Business to I-1 Light Industrial for property located at 301 2nd Street, with legal description of Sec 3 T24N R5W Cincinnati Add Lots 31 & 32 (Exc W 10') NW1/4 with the following P.I.N.#04-10-03-200-006, in Tazewell County, Illinois.

The petitioner's attorney, Bridgette Lobacz was present and indicated that she believed all documents were in order and requirements for rezoning met. A member of the public, Mark Rendleman was present and voiced concern that a rezoning action would impact his home. It was explained by Commissioner Craig and Commissioner Wilson that the rezoning would only impact the property indicated in the notice and his zoning would remain the same. Additionally, Commissioner Wilson did note that an impact could occur to his property insofar as the use of the property being rezoned could be anything allowed within the new zoning designation. Mr. Rendleman stated he attended only to ensure that his own property is not being rezoned. Public hearing was closed at 5:08 PM.

MOTION by Commissioner Deverman to approve seconded by Commissioner Ruth. Motion carried 9-0.

Other Discussion

Ordinance Proposing Zoning Code Changes to Include Regulation of Short-Term Rentals

Jeffrey Gaster provided a summary of a draft ordinance addressing short-term rentals in the City of Pekin. Mr. Gaster explained that the ordinance would allow Airbnb and similar uses within all residential tiers with the requirement that the special use process be followed for each parcel utilized for a use meeting the definition of a short-term rental. Mr. Gaster noted that short-term rentals are defined in the draft document as owner-occupied properties which allows for additional care and control by the owner which is part of the intent of the ordinance hence the narrow definition within the ordinance.

Mr. Gaster went on to explain there are provisions within the ordinance requiring a license to be issued by the Pekin Police Department for short-term rental use. The ordinance was noted to require life safety inspections to ensure the safety of tenants and that structures being used in this manner were not a fire risk. Under the current draft, Mr. Gaster stated that the ordinance does not discuss or allow for the use of parcels in business districts (such as for second story units) for short-term rentals and should the City wish to include short-term rentals in business districts, additional language would be necessary.

Commissioner Lanane requested clarification from Mr. Gaster that the current draft ordinance would not allow for the purchase of property solely or largely for short-term rental use due to the owner-occupant requirement. Mr. Gaster confirmed that the draft ordinance would only allow short-term rentals of owner-occupied properties, however, the City does have the option to loosen those restrictions but warned against completely allowing non-owner occupied properties to be used as short-term rentals such as through owner residency or residence distance requirements.

Commissioner Wilson indicated that she was against entirely preventing short-term rental of non-owner occupied as this would prevent whole structures from being rented. Discussion was held between multiple commissioners as to the ramifications of not allowing entire structures to be rented. Commissioner Ruth observed that the draft ordinance stipulates that owners only need to live in the property for 20 days during the year to be considered owner-occupied.

Mr. Gaster explained that some communities have a distance requirement as it relates to the owner's place of residence such as requiring that the owner live within 500 feet of the short-term rental unit and that the City does have the option to expand this radius to whatever is deemed appropriate. Commissioner Madden and Commissioner Craig mentioned the possibility of a county-based residency requirement. Commissioner Lanane noted that services such as Airbnb collect reviews and if a property is properly maintained, the reviews will reflect such issues and it is unlikely that it will continue to be rented.

Mr. Fick brought up the topic of rental inspections. Mr. Gaster stated that the current draft language does not include inspections requirements but it can be added. Commissioner Thompson inquired if a fee would be included to pay for inspection fees. Commissioner Craig replied that he felt there should be fees as the taxpayers should not have to pay for the inspections.

Nic Maquet opined that neither the buildings department nor the fire department have had the opportunity to review the draft document. Commissioner Ruth opined that the short-term rentals should be subject to the same rules as hotels and motels. Commissioner Madden inquired as to how many of these units currently exist, to which Mr. Maquet responded he believes 10 or 11 when last looking on Airbnb.

Mr. Fick questioned Mr. Gaster on whether current short-term rental units would be grandfathered in or would special use requests be required for existing units. Commissioner Wilson suggested a period of time or grace period to come into compliance for existing units. Mr. Maquet stated the buildings department generally provides 30 days for compliance so long as items in need of correction are not a life or safety issue.

Commissioner Wilson discussed the concept of whether inspection fees or other related fees would be waived for existing units as part of the grandfathering. Mr. Maquet noted observing of significant safety issues within existing units such as basement rentals with no egress windows. Commissioner Thompson discussed the importance of life and safety issues as it pertains to allowing short-term rentals.

Mr. Fick noted that other cities like Havana have found success allowing short-term rentals in business districts so that could be a future goal for Pekin. Commissioner Wilson brought up the significant expense associated with necessary safety modifications like sprinkler systems. Mr. Maquet noted an anticipated cost for sprinkling of \$7 per square foot.

Mr. Maquet inquired as to whether there is a fine indicated in the draft ordinance language. Mr. Gaster suggested that a cross reference to the standardized ordinance violation language already existing in the City's code could be added. Mr. Gaster also noted that the City would need to decide whether the Code should address whether tenants could list units for short-term rental or whether it should be restricted in property owners only. Discussion was held on how most lease agreements would likely preclude subleasing in this manner but there is the option to include it in the ordinance language to ensure that is the case for all units.

Ordinance Proposing Zoning Code Changes Regarding Signage

Commissioner Deverman noted on packet page 16, the language indicates that no signs may be painted on walls but inquired as to why there is then a section on murals. Mr. Maquet stated that wall paintings with a business name included would fall under the signs portion while those without would fall under murals. Commissioner Thompson noted that he believes murals would be more associated with a work of art. Commissioner Deverman suggested that in looking at other communities with painted artwork advertising businesses, the paintings are not an issue if done tastefully. Further, Commissioner Deverman stated that perhaps a review could be conducted prior to completion. Commissioner Lanane agreed that the style (of painted walls) fit the downtown. Commissioner Deverman suggested that perhaps a rework can be done of the language in the draft ordinance to allow for such paintings with business names if approved.

Mr. Gaster inquired as to how the City can define tastefully completed artwork. Mr. Gaster noted that the current draft ordinance specifies obscene, indecent, or immoral content as not allowed. Commissioner

Deverman agreed that the approval is more of a quality-related concern and would perhaps suggest a proposed mural be brought for review by City staff before completion. Mr. Fick opined that the City would need to determine if they wanted a mural to be a special use. Commissioner Wilson voiced the topic of whether all wall art or signs should instead be considered murals regardless of whether a business name is included.

Mr. Fick noted that Morton restricts murals to public entities. Commissioner Thompson confirmed that if City staff denied a mural, the appeal would then come to the Board for consideration. Commissioner Wilson discussed the language of applying mural standards to all business-related mural signage.

Mr. Gaster inquired as to whether the Board had concerns with deteriorating murals. Commissioner Deverman responded that he felt that owners would need to be required to keep a certain quality level. Commissioner Wilson discussed that as a mural ages, sometimes the age of the mural becomes historical to the building and the current or future owners may wish to keep the mural in the same condition for historical reasons.

Mr. Gaster stated the City has the option to add a process for owners to apply for a historical mural status which would preclude the owner from having to keep up with quality standards. Commissioner Thompson noted that he has been to certain towns such as one outside of St. Louis where there are faded murals and they fit the look of the town.

Commissioner Deverman noted that on packet page 17, section 5F disallows illuminated LED signage while packet page 20 indicates up to 5% of a window area can be illuminated with LED strips and questioned the actual difference between installing LED signage and installing a sizeable LED lighted area around a sign in a window.

Commissioner Ruth and Commissioner Wilson noted that often, structures are architecturally designed to allow for lighting methods. Commissioner Deverman agreed that static lights are not particularly concerning but flashing or moving lights are areas of concern. Commissioner Craig suggested eliminating packet page 17, section 5F from the draft ordinance.

Commissioner Deverman observed that on packet page 23, section 5F, electronic message signs must stay on for no less than 4 seconds and any message changes must be instantaneous without scrolling. However, page 34, Section 5A and 5B states that message changing signs must stay on no less than 10 seconds with transitions completing in less than 3 seconds.

Commissioner Lanane pointed out that on packet page 14, Sections 2 and 5, as well as packet page 15, Sections 2, 3, and 4, the draft language references the Planning and Zoning Commission instead of the newly combined group. Commissioner Lanane also inquired about packet page 14's language stating that sign permits are valid for 180 days and whether that is referring to the time period for install. Mr. Maquet stated that the 180-day period for installation is standard for all permits with the City.

Commissioner Lanane observed that packet page 31, Section 15, provides provisions for portable signs but never specifically indicates that it is allowed or permitted. Political signs were only referenced within portable signs and appeared to suggest that a permit might be required. Discussion was held regarding the wording of how to address elections-related signage. Mr. Maquet suggested adding language to address such signage at the end of Section 15.

Mr. Gaster inquired whether it was common for local communities to require the pick-up of political-related signage and voiced concerns with language that compels individuals to pick up their election-related signs.

Commissioner Deverman asked whether spinners, or individuals holding signs, was addressed and whether it was a permitted activity. Commissioner Deverman suggested that a permit be required for this type of activity similar to the provisions within the attention-getting device portion of the draft ordinance. Commissioner Deverman also requested clarification for open bulb code references. Mr. Maquet replied that open bulbs in the draft ordinance refer to classic open bulbs without shielding or recess. Mr. Maquet noted that most open bulb-style signage utilizes methods like these for safety as in the event of breakage, these can become dangerous.

Commissioner Lanane discussed packet page 12 where it indicates that banners are not allowed, then shortly thereafter another banner material is noted as allowed, and later the language shows indicates that temporary banners are allowed. Commissioner Madden inquired how temporary is defined, whether that mean 2 weeks or 2 years. Mr. Fick voiced concerns in enforcing temporary banner provisions but something like a 30-day allowance period with a 30-day required gap in between reposting of banners could be included.

Commissioner Wilson opined that it would not be preferred that a banner to be placed, for example, above a gaming parlor and that owner leaves it there forever. Commissioner Deverman suggested making a maximum timeframe such as 30 days and then specifying a timeframe thereafter before it can be reposted such as another 30 days. Commissioner Wilson pointed out that a 30-day period may not be long enough for certain events such as fundraisers. Discussion was held regarding enforcement of such requirements and whether businesses would know to obtain a permit.

Mr. Gaster inquired if the timeframe for defining temporary should be 30 days and whether banners provisions are going to be removed or enforced. Continued discussion was held on this topic. Mr. Gaster also his concerns with defining immoral as indicated on packet page 18, Section 9 as the word immoral is subjective and can result in many different interpretations. Mr. Gaster also noted that the definitions for the section barring references to the word immoral were taken directly from Supreme Court case law. Commissioner Deverman suggested removing the term immoral and leaving indecent and obscene within the draft ordinance.

Informal

The presence of the “for sale or lease” sign at Broadway and 11th Street was discussed. It was noted that construction is being seen and Mr. Maquet stated permits had been pulled yet the sign remains. David Bess indicated that last year the City Council passed an ordinance creating a business license registry and that portal is now available to area businesses accessible via the City’s website. Mr. Bess noted that mailings will be sent in the near future to most area businesses to notify of them of the portal’s availability.

MOTION to adjourn, adjourned at 6:13 PM.

Next meeting will be April 13, 2022, at 5:00 PM.

Matt Fick, Secretary
Zoning Board of Appeals