

THE CITY OF OLMOS PARK
PLANNING AND ZONING COMMISSION
MINUTES OF MEETING HELD
JANUARY 26, 2022

The Planning and Zoning Commission for the City of Olmos Park, Texas held a meeting at 5:30 p.m. on Wednesday, January 26, 2022 at City Hall. Members present were John Cornelius, Paul Covey, Adam Harden, Jim Hyslop, Lorin Runnels and Richard Wolf. Member not present was Shannon Collins. Administrative staff present was City Manager, Celia DeLeon; City Secretary, Kyndra Munoz and Building Official Ricardo Cavazos. Also present was City Attorney, Austin Beck; Ceci Goldstone, 146 Park Drive, Jeanne Latimer, 159 Park Hill Drive; Beth O'Brien, 103 E. Mandalay and Deanna Rickabaugh, 302 Luther Drive.

Vice-Chair Adam Harden called the meeting to order and announced a quorum was present at 5:32 p.m.

Jim Hyslop moved to recess the Planning and Zoning meeting to allow the Board of Adjustment to conclude their scheduled meeting.

John Cornelius seconded the motion.

The vote in favor of the motion was unanimous.

Vice-Chair Adam Harden recessed the meeting at 5:33 p.m.

Vice-Chair Adam Harden reconvened into regular session at 5:47 p.m.

Citizens to be heard: This time is provided for citizens to address the Council on issues and concerns. No action can or will be taken on issues raised under this portion of the meeting. Please state your name and address for the record and limit your remarks to a period not to exceed three minutes.

Ceci Goldstone, 146 Park Drive stated I wanted to speak on agenda item number 6 regarding looming structures. As I understand, the ordinance that is in effect right now has a height of 35 feet. My concern is we are considering the height be measured from the natural topography. In our case, there is a project at 151 Park Hill that has had a significant height increase from the natural topography. My concern would be the new regulation adequately address how you measure height and also how you enforce it. Also, we would not be able to get around the existing and proposed ordinance by building platforms and higher foundations.

Jeanne Latimer, 159 Park Hill Drive stated I second everything Ceci Goldstone has just mentioned. She lives behind the new project at 151 Park Hill Drive and I live adjacent to it. We moved here more than 30 years ago. I was not able to locate anything on the looming ordinance but there was referral in the previous minutes that you have looked into similar ordinances as Terrell Hills and Alamo Heights. In the current ordinance, it states 35 feet to the plate line and I second Ceci's recommendation that you take a look at the natural topography of where the slope starts. If you have not driven by here, they have put earth and berms as the building base platform layer. When this started, my husband asked, can you build a 15-foot berm and a 20-foot house. I have a 5-foot stone wall, I am 5 foot 3 inches tall and I took a picture of the earth over my head that is a foot or 2 over the stone wall. This is where they will then start their foundation work, then start their one and a half story house that I think has been permitted, but I do have some questions regarding this. I do encourage you to look at not just the total height and where it is but the entire topography and surrounding lots.

Approve special minutes from November 16, 2021.

Jim Hyslop moved to approve the special minutes from November 16, 2021.
John Cornelius seconded the motion.
The vote in favor of the motion was unanimous.

Administer the Oath of Office to re-appointed member Adam Harden and newly appointed members Paul Covey and Lorin Runnels.

City Secretary Kyndra Munoz administered the Oath of Office to re-appointed member Adam Harden and newly appointed members Paul Covey and Lorin Runnels.

Elect Chairperson and Vice-Chairperson.

John Cornelius moved to elect Adam Harden as Chairperson to the Planning and Zoning Commission.

Jim Hyslop seconded the motion.

The vote in favor of the motion was unanimous.

Adam Harden moved to elect John Cornelius as Vice-Chairperson to the Planning and Zoning Commission.

Jim Hyslop seconded the motion.

The vote in favor of the motion was unanimous.

Consider/Adopt preliminary report regarding proposed ordinance amending Section 40-41 – Building Height to establish regulations that minimize the impact of looming structures on adjacent lots.

City Attorney Austin Beck stated as a refresher, currently Olmos Park does not have a looming ordinance that limits building height other than the maximum total of 35 feet. You can build up to 35 feet tall right at your setback line. Other cities have adopted anti-looming ordinances where the closer you get to your neighbor's property line, the lower the total maximum height you can be at. The purpose of this is, at the vantage point of the neighbor, they are looking at a house that gets taller the further away from the property line as opposed to potentially the maximum height right at the setback.

Jim Hyslop stated a critical issue is how we measure the height of a particular building at 35 feet. It is not a simple process and there are a lot of issues Ric faces.

Austin Beck stated the process in which height is measured is not in the ordinance that is in front of you today. This can be discussed as a future agenda item should City Council send it to the Planning and Zoning Commission for review.

John Cornelius stated it was my understanding the reason this came up was because of an accessory building and because of the construction of a new home. To me, we have gone down a rabbit hole regarding looming structures; when what we need is just a simple addition or correction to the existing code to address the height. It doesn't seem to make sense to change everything about the way you build in Olmos Park because of a garage apartment.

Austin Beck stated simply lowering the maximum height for an accessory structure, regardless of where it is located, is certainly something that can be considered.

John Cornelius stated the reason behind this is, if you drive through Alamo Heights you will see houses that look off balance and not centered because of the looming ordinance. It must be difficult for the contractor as well as the architect. Personally, I think we should go back and visit just height restrictions and not the looming ordinance.

Paul Covey stated I support what John has just said. I had a difficult time referring to this ordinance as looming. We are talking about reducing height adjacent to setback lines. Looming is defined as a shadowy figure with connotations of evil and foreboding. We should refer to this as only what it is, which is reduction in allowable height.

Austin Beck stated looming is a common term in building codes and neighbors standing next to a 35-foot building might describe it as looming.

John Cornelius stated from what I understand in Texas, most of the looming structure ordinances originally came out of Austin where it took 2 years to complete the process and not just a simple zoning ordinance.

Austin Beck stated for today's business, for the ordinance that has been presented to Planning and Zoning, you can adopt a preliminary report. This can be recommended City Council adopt the ordinance as is, recommended City Council does not adopt this at all, or recommended City Council adopt with modification.

Paul Covey asked was the instruction to develop an ordinance to deal with accessory structures? The document we have received refers to both primary and accessory structures.

Austin Beck stated most looming ordinances deal with both primary and accessory structures. If you want to make a recommendation City Council adopt an ordinance that only deals with one, we can certainly do that.

City Manager Celia DeLeon stated it was the original intention of City Council to direct the Planning and Zoning Commission to look at accessory structures.

Lorin Runnels stated in section A of the proposed ordinance, I understand the maximum height is listed at 35 feet. Could you please explain how section B of this ordinance will be enforced?

Austin Beck stated currently, Ric looks at the setback line to make sure there isn't anything more than 35 feet here, or in the case of an accessory structure, more than 25 feet. With this ordinance, Ric would instead follow the language in that there is a lower cap at the setback line. The setback lines are 10 feet where right at the setback line you can go up to a maximum 20 feet instead of 25 feet. As you move in, the higher you can go, in which every foot you move in will give you 2 feet of height.

Paul Covey stated my future objection to this proposal is when looking at a few houses near me, almost every two-story house will become a non-conforming structure. I do not have as much sympathy for accessory structures and I think we need to take a hard look at this issue.

Austin Beck stated when you envision a lot and look at a blank slate, what do you want that house to look like? Whatever you want this to look like, I can write a rule that directs to build this way.

John Cornelius stated I don't think we take a cookie cutter approach to this. If you look at Olmos Park now, all of the different architecture and types of the houses is what makes it unique. We also had the discussion on smaller lots. If you place a 25-foot accessory structure on one of the smaller lots, it will look huge as where you place it on an acre lot, it will get lost.

Jim Hyslop asked Ric, could you address the lot sizes?

Ricardo Cavazos stated as Mr. Covey mentioned, if the looming ordinance goes into effect, a lot of properties will become non-conforming. As long as there is not major construction on the non-conforming it can remain for years to come.

Paul Covey stated being grandfathered in means you can keep the current use until you make an alteration. This can include a fire or the fact you want to make an addition which is perfectly permitted under the setbacks; because you are a nonconforming structure you will have to go to the Board of Adjustment for a variance.

Austin Beck stated the rules will affect future construction and are designed not to penalize for what is already here. If we change the rules, it might affect you in a year or 30 years from now and essentially you will look around and not see buildings that don't conform with the rules adopted today. As far as rebuilding a legal nonconforming structure, this does require a variance. Back when some of these houses were built, there were not setback lines.

Paul Covey stated the code reads they can continue as long as there aren't any alterations. Some might interpret remodeling the kitchen as an alteration.

Austin Beck stated it refers only to the exterior. Generally, the courts interpret the grandfather process as changes involving exterior.

Chair Adam Harden asked do we know what percentage of the existing homes in Olmos Park would become nonconforming if this ordinance were to pass?

Paul Covey stated I estimated between 100 – 200 homes, but the more I look, I believe there will be more.

Austin Beck stated there are ways to distinguish between large and small lots. You can make an exception or alternative rules such as smaller lots subject to a 6-foot setback would receive an additional 10 feet free. All of these numbers can change.

Jim Hyslop stated when some of these setbacks were added to the code, we had buildings that were out of conformance. Every time you make an adjustment to the code you will have nonconforming structures; it is about what do we want looking forward and how you want to manage the rebuilding of these homes in the future. I think what we are trying to say is we have to have some sort of conformance so we don't have this looming issue.

Lorin Runnels asked Paul Covey what is your recommendation regarding the setback and height of these structures?

Paul Covey stated I think the real issue here is the issue of accessory buildings and not so much the primary structures. I feel many of the accessory building rules we have now are archaic and think we should take a look at revising our accessory structure ordinance to allow them to come closer to the primary house. I do not think the setbacks should be 3 feet from the property line and should be moved back. I am very sympathetic for making primary houses nonconforming and have a lot less sympathy for accessory structures. I think there is a legitimate objection to building up to 25 feet right at the 3-foot setback line.

Jim Hyslop stated I agree. I think if you can bring in the accessory building, this will help the whole issue.

Paul Covey stated there is also the issue of how you measure which is also tied up with issues of sitework and drainage. I know these ordinances have been recently revised but we need to take into account the objections raised at 151 Park Hill. A lot of the problem here is they did not consider the neighbors and what was going to happen to the water. I think we can do some improvements so when they do a drainage plan, they take a look at the surround lots and make sure to not impede the flow which is already state law. I really have a problem with what I saw in the ordinance that will make hundreds on nonconforming primary structures and think this will be a disservice to the people who live here.

Austin Beck assuming we struck primary structures and are just talking about accessory structures; when you limit the height at the setback and someone wants to build at 25 feet and they must go inward, on smaller lots they can be very close to the house and there is a rule they have to be a certain distance from the house. You are exactly right in that one change will beget other changes.

Chair Adam Harden stated we will probably need different rules for different sized lots similar to the chart provided. Are we able to workshop this item? We have had a few discussions I am hearing some solutions for meeting in the middle. The reason we are here is because of accessory structures but as you brought up, with a change there are ripple effects. Are you able to address if we can hammer out some of these other issues mentioned?

Austin Beck stated you can appoint a subcommittee provided it is less than a quorum to meet with Ric and I to bring back something to the Board with their input. This can be done in between meetings. As long as it is within Planning and Zoning, it can be addressed in one ordinance.

Paul Covey asked does this Board look at subdivision and planning as well, or is it just the zoning code?

Austin Beck stated it is just planning and zoning. You do not do too much subdivision because you are pretty much built out.

John Cornelius stated it will be difficult to determine a height without knowing how much of the lot is going to be built up. Is there some type of regulation regarding setting a grade state and altering the amount of fill?

Ricardo Cavazos stated currently there is only a definition. What I need help with regarding limiting height restrictions is how to bring in the properties that do have to build up and addressing the slope issue. There are a lot of properties in Olmos Park similar to 151 Park Hill in which the upper end is towards the street and the backside drops down.

Paul Covey stated I think this is what we are getting at, it is not just one ordinance to deal with height. It also deals with grading, drainage and I have a problem with writing an ordinance that will only deal with height when the real problem is accessory structures, drainage and alterations.

Austin Beck stated drainage is in the building code and is beyond the purview of Planning and Zoning. Building height and the location of buildings is under Planning and Zoning. If you appoint a subcommittee they can work with Ric and I with a goal of bringing back an ordinance that addresses height definitions as well as limits looming for accessory structures. For the agenda today, if you do not adopt the preliminary report, there will be no need for the public hearing.

Jim Hyslop moved to table a preliminary report regarding proposed ordinance amending Section 40-41 – Building Height to establish regulations that minimize the impact of looming structures on adjacent lots.

Paul Covey seconded the motion.

The vote in favor of the motion was unanimous.

Chair Adam Harden stated I appoint Paul Covey, John Cornelius and Richard Wolf to a subcommittee and direct this subcommittee to work in coordination with Building Official Ricardo Cavazos and/or City Attorney Austin Beck to review and revise a proposed ordinance that analyzes height in relation to setbacks and accessory structures to present to the Planning and Zoning Commission at the next meeting.

Paul Covey asked do we have the authority to review the entirety of the accessory building, not just the height?

Celia DeLeon stated City Council did not give that direction.

Public hearing regarding agenda item No. 6.

Lorin Runnels moved to table public hearing regarding agenda item No. 6 to the February Planning and Zoning meeting.

Jim Hyslop seconded the motion.

The vote in favor of the motion was unanimous.

Consider/Adopt final report regarding agenda item No. 6.

Lorin Runnels moved to table consider/adopt final report regarding agenda item No. 6 to the February Planning and Zoning meeting.

Jim Hyslop seconded the motion.

The vote in favor of the motion was unanimous.

Discuss and review Planning and Zoning Annual report for 2021; take possible action.

Celia DeLeon stated City Council requires an annual report from the Planning and Zoning Commission. This was drafted by Dr. Alison Wiesenthal and contains all discussions and decisions made by Planning and Zoning.

Jim Hyslop moved to approve the Planning and Zoning Annual report for 2021 and submit to City Council.

Lorin Runnels seconded the motion.

The vote in favor of the motion was unanimous.

Discuss future agenda items.

Paul Covey asked if Planning and Zoning has not been directed by City Council, can we place anything on our agenda or can we only look at items that City Council has asked us to look at?

Austin Beck stated I will review your Code more carefully but the Planning and Zoning Commission lists 10 different powers and none explicitly say on initiative review parts of the code and corrective issue. Traditionally, City Council will direct the Planning and Zoning Commission to look at items. Outside of your authority as a Planning and Zoning member and as a resident of Olmos Park, if you think there is something to be discussed, there are no restrictions for public comment at the City Council meetings.

Chair Adam Harden stated we will discuss building height as it pertains to accessory structures

at our next meeting.

Set time and date of next meeting.

Celia DeLeon stated our next meeting is scheduled for Wednesday, January 26, 2022 at 5:00 p.m.

There was no other business and the meeting adjourned at 6:41 p.m.

Chair

ATTEST:

Kyndra Munoz
City Secretary