



Planning Commission Meeting Minutes
April 20, 2021

Chairperson: Todd Culver, Presiding
Commissioners Present: Jeremy Moritz, Susan Jackson Kurt Kayner and Kent Wullenwaber
Absent: Roger Bristol, and Rhonda Giles
Staff Present: City Administrator/Planner Michele Eldridge, and Finance Officer/Deputy City Recorder Cathy Nelson
Meeting Location: Harrisburg Municipal Center located at 354 Smith St.

CALL TO ORDER AND ROLL CALL: Order was called at 7:00pm by Chairperson Todd Culver.

CONCERNED CITIZEN(S) IN THE AUDIENCE. Everyone present were there for items on the agenda.

APPROVAL OF MINUTES

Moritz motioned to approve the minutes for March 16, 2021 and was seconded by Wullenwaber. The Planning Commission then voted unanimously to Approve the Minutes for March 16, 2021.

PUBLIC HEARING

THE MATTER OF THE SIMS APPLICATION FOR A VARIANCE REQUEST FOR PROPERTY LOCATED ON TAX LOT 10300 OF 15S04W16AA.

Chairperson Todd Culver read aloud the order of proceedings, and noted the procedures for a continuance, and the process to keep the record open.

At the hour of 7:02PM, the Public Hearing was opened.

Culver asked if there were any Conflicts of Interest or any Ex Parte contacts.

Culver stated that he had Ex Parte contacts with the previous owner. He attended church with him over two (2) years ago and discussed the property briefly. He informed the owner to contact City Hall with any questions. Culver noted that the contact would not influence his decision either way. **There were no rebuttals in relation to Conflicts of Interest, or Ex Parte Contacts.**

Culver then read aloud the criteria that were relied upon for this land use hearing and noted additional copies of criteria near the door. He also directed the audience on how they would need to direct testimony towards the applicable criteria, and how an appeal could be made.

STAFF REPORT: Eldridge gave a brief background of the property noting that it is a small 5,000 ft² lot that was grandfathered into the current ordinances. It does not meet the lot requirements for building a dwelling. The property owner has requested a variance. The lot and situation meet all five (5) conditions for granting a variance.

The City of Harrisburg received written public testimony from Charles and Diane Alton as seen on pages 21-22 of the agenda packet. The letter cited ORS 227.190 regarding Solar Access Easements. Eldridge pointed out that this is a State Ordinance not a Harrisburg Ordinance. The Planning Commission could add a condition of solar easement if they wanted to allow it. She cited HMC18.95.070(2), and noted that the Planning Commission can limit the height, size, or location of a building or other structure. If the builder is planning on a single-story residence, then both parties could be happy with that decision. However, she stated that if the Planning Commission does not allow the condition, with both parties agreeing, either party can appeal to the City Council.

- Culver stated that he had never heard of this ORS or mandates for Solar Energy Easements, meaning we have no guidance. Eldridge also noted that as seen in the language, it is a recommendation and not a mandate.
- Wullenwaber asked if this meant that we could tell someone to only build a one (1) story home. Eldridge said that yes, according to the ORS, but only on new construction, not existing dwellings.
- Moritz noted that we do not know if anyone is building a one (1) or two (2) story dwelling until it is built. Eldridge agreed that he was correct; the Planning Commission does have the right to apply conditions to a future structure.

APPLICANTS TESTIMONY: Applicant Kevin Sims addressed the Planning Commission. He reviewed his application and added that he wants to help beautify the area and add character and landscaping. He is aware that his neighbor is requesting a Solar Easement. If the easement is granted as a condition, it will limit the height of any building to 15 feet on over half of the property and encroaches on the next property too. He was the previous owner of the church and sold it to the person requesting the Solar Easement. He did offer to sell the lot to his neighbor before putting it on the market. He pointed out that the solar panels are not currently installed. The Altons own a larger lot and could place the panels elsewhere on the lot. He requested that the Planning Commission accept his request without the additional Solar Easement Condition.

- Kayner asked Sims when he offered to sell the lot to his neighbors. Sims replied that it was about 60 days ago.
- Wullenwaber wanted to clarify that there are no solar panels on the neighbor's property right now. Sims said there were not.
- Culver asked if he was going to personally build on the property. Sims said he was just getting the lot ready to sell and wanted to make sure the variance was done beforehand.

TESTIMONY IN FAVOR, IN OPPOSITION, AND NEUTRAL TESTIMONY WAS ASKED FOR.

In Favor:

None given.

In Opposition:

Diane Alton of Harrisburg read her written testimony. She added that 38 States currently have Solar Easement Legislation and that homes of the future will have more solar panels and solar walls. She is not against the applicant developing a home on his property. The purpose of the Solar Easement is to protect access to solar usage in the future. They do not have the solar panels yet due to the Pandemic.

- Kayner asked why she was asking for the easement now, why not be proactive and come earlier. Alton said that she has no other option than to act now. Wullenwaber said that she does have other options. There are other locations on her property because you have not already installed the solar panels. Alton pointed out that according to the easement she would have a twelve (12) month window, if the panels are not in place, then the easement is void.
- Culver stated that ORS 227.190 was an Oregon State Ordinance. It is up to the City Council to adopt it as a Harrisburg Ordinance, not the Planning Commission. We must look and then act on what Ordinances we already have in place in Harrisburg. If we deny the condition, then the Altons can appeal to the City Council. Kayner added that we have guidelines that we must follow. We take direction from the City Council. If the result of our decision is not what you want, then you would appeal and go before City Council. Culver agreed, it must go to City Council. At this point we can do nothing.
- Alton asked how long the appeal process takes. Eldridge said that if the Planning Commission decided to not give the easement, the appeal would go to the City Council to have the decision overturned. The timeline would be dependent on when the City Council could hear the appeal.
- Kayner asked if she had talked to the applicant about this before coming to the Planning Commission. Alton said that once the applicant sells the property, it is out of his control and the new owner could build anything.
- Jackson asked when they purchased the church property. Alton responded that they bought it in 2018.

Neutral:

- None given.

No rebuttal of testimony or additional questions for the public.**The public hearing was closed at the hour of 7:43 pm.**

- Wullenwaber stated that there are currently no panels on the property, and a Solar Easement is not in our code. It should go to the City Council as an appeal. He drove by the property and there are other placement options in their yard.
- Moritz wanted to clarify that this is for new construction only, not old construction. Eldridge said that there is nothing in the code to address this. If we get this code added, the easement could not be added to current dwellings. Jackson added that she was somewhat familiar with solar easements. It is for new construction only.

- **Kayner motioned to approve with conditions as proposed application LU 427-2021 subject to and based on the findings of deliberations of the Planning Commission. He was seconded by Wullenwaber. The Planning Commission then voted unanimously to approve with conditions as proposed application LU 427-2021 subject to and based on the findings of deliberations of the Planning Commission.**

OTHERS

- Eldridge noted that Kevin Reed is working with Tim Walters, and contacted her with some questions. They are looking at being 2-years out on manufactured homes. There are people 55+ who have lost homes in the fires. He wanted to know if it was possible for them to live on the lots until the homes arrived in RVs. The emergency clause passed by City Council does allow for people to live on in RVS on resident's property if they are directly affected by wildfire. Staff will need to talk to the City Council, State agencies and other regulatory agencies before moving forward.
- The City has not received a plot plan for Woodhill Crossing. The owner changed engineering firms. He has until the May meeting to request an extension from the Planning Commission.
- John Hitt will be back for the May meeting with more Code Amendments.

With no further discussion, the meeting was adjourned at the hour of 8:01 pm.

Chairperson

City Recorder

City of Harrisburg
PLANNING COMMISSION

NOTICE OF DECISION

REQUEST: The applicant requests approval of a Variance (LU #427-2021) that will allow construction of a dwelling on property that has less than 60 feet of width at the Building Line.

LOCATION: Linn County Assessor's Map 15S 04W 16AA, Tax Lot 10300

HEARING DATE: April 20, 2021

ZONING: R-2 (Medium Density Residential)

APPLICANT

Kevin Sims
22045 Gap Rd
Harrisburg, OR 97446

OWNER

Lion Investment Group
22045 Gap Rd
Harrisburg, OR 97446

APPEAL DEADLINE: April 28, 2021

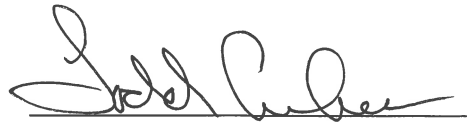
DECISION: The Harrisburg Planning Commission conducted a public hearing on April 20, 2021 and voted to approve the request with conditions of approval. The Planning Commission adopted the findings contained in the April 12, 2021 Staff Report to the Planning Commission, and portions of the minutes from the meeting that demonstrate support for the Planning Commission's actions. Criteria relied upon for review is found in HMC 18.115.

APPEALS: The decisions may be appealed by filing a Notice of Appeal with the City Recorder at 120 Smith Street. The Notice of Appeal should be filed by the Appeal Deadline date listed above. Specific information on the requirements for an appeal or a copy of the complete file of this land use action may be obtained at Harrisburg City Hall. There is a fee of \$425.00 plus actual expenses for appealing a Planning Commission to the City Council.

EFFECTIVE DATE: April 28, 2021, unless an appeal has been filed with the City Recorder.

EFFECTIVE PERIOD: Variance approvals shall be effective for one year from the date of approval. Where the Planning Commission finds that conditions have not changed, at its discretion and without a public hearing, the Commission may extend the period one time for a period not to exceed one additional year.

Unless appealed, this Variance approval will expire on April 20, 2022.



Todd Culver
Planning Commission Chair

CONDITIONS OF APPROVAL

1. **BUILDING PERMITS:** This variance approval applies only to the construction of a residential dwelling. Prior to construction, the applicant shall obtain all necessary building permits for the construction of the new home.