



## TOWN OF BEAUX ARTS VILLAGE

### PLANNING COMMISSION

#### MINUTES

September 20, 2007  
Casey

**Present:** Acting Chairperson Dennis Casey, Commissioners, Jake Donoghue, Gordon Roberts and Town Planner Mona Green.

**Absent:** Commissioner Karen Scott. (Commissioner John Chihak resigned in August; his replacement has not yet been confirmed by Mayor Wells.)

**Deputy Town Clerk:** Angela Kulp

Acting Chairperson Casey called the meeting to order at 7:33pm.

**Minutes:** Commissioner Roberts moved to approve the June 21, 2007 minutes as written. Commissioner Donoghue seconded. Vote: 3 For, 0 Against, 0 Abstain. Motion carried.

#### **Old Business:**

##### **Zoning Code Clarification of Setback Language:**

Clerk-Treasurer Spens reported in the June Town Council Meeting that, in response to the Council's request for a clarification of how setbacks were to be measured under the rules that allow limited intrusions, the Planning Commission offered the following: *The intrusion into the setback must be measured from the closest applicable property line to the farthest protruding point on the eave or fireplace. The distance between the property line and eave or chimney intrusion must be less than 8 feet 6 inches for side setbacks, etc. for front and back setbacks. (10' side setback less 18" = \*8'6")* In other words, start from the property line and measure **in** for the setback; nothing can be in that setback (like siding thickness or window mold) except the approved intrusion (like a chimney) at 18" total when completed with all finish materials.

It was the consensus of the Council at this June meeting that setback measurements should be established in relation to property lines and the foundation walls of the planned structure with a description of the allowed intrusions. (For example, the setback measurement should be stated in its entirety, i.e. side setbacks are 10 feet from the property line, etc. with a description of the allowed intrusions, e.g. 18 inches for a chimney.) It was also the consensus of the Council that Town Planner Mona Green is asked to provide the Planning Commission with the guidance needed to clarify the entire ordinance for setback issues.

Town Planner Green began by stating our current definition of a setback in our Zoning Code 349:

**Setback:** a term establishing a minimum distance from a lot line to the outermost projection of any structure, including, but not restricted to porches, overhanging portions of the roof, carports, garages, and cantilevered portions. The setbacks establish an area at the edges of a lot upon which building, appurtenant devices and structures may not be placed, and conversely, the area enclosed by the setback lines is the only area upon which such things may be located.

Planner Green reviewed other jurisdiction setback definitions to show we are consistent with other jurisdictions on definition, and stated the confusion comes on where and how to measure intrusions in the setbacks. Planner Green maintained that measuring **in** from a property line, rather than **out** from a foundation eliminates worrying about thicknesses of building materials. She urged the Commission to keep it simple by asking us to state what can be allowed to intrude in a setback, and nothing more. Planner Green concluded our definition of a setback in the BAV code will need to be simplified in order to accommodate the intrusions that we've recently allowed.

The commissioners agreed unanimously that rather than trying to guess every scenario to encompass in a statement when measuring out, that the original recommendation agreed upon in May of measuring in from the property line should stand. Since it was agreed the Council needed clarification to understand this viewpoint, Town Planner Green would present it to the entire Council at their next meeting along with a question and answer session. Planner Green will include a new setback definition in the memo she prepares for the Council for that presentation.

#### **Reconstruction/Remodel Definition:**

All commissioners agreed, as the current definitions stand, remodels can keep non-conformity, and reconstructions must conform to all current zoning codes. Depending on the cost of construction on a large job, at our current dollar cap of \$250K, it may be easier to just reconstruct, which encourages tear-downs at this point:

**Reconstruction:** any construction in which the enclosed living space added to the existing structure comprises more than 20% of the existing structure and/or the value of the construction is more than the greater of the assessed value of the existing improvements or \$250,000.

**Remodel:** any construction in which the enclosed living space added to the existing structure comprises 20% or less of the existing structure and the value of the construction is less than or equal to the greater of the assessed value of existing improvements or \$250,000.

Acting Chair Casey reiterated his position on supporting raising the dollar limit of \$250K to encourage remodels over reconstruction. Commissioner Donoghue- while wanting to abstain from voting due to his conflict of interest- did restate his position of also raising the dollar limit, so long as non-conformity is not increased on remodels, and open green space is preserved. After further discussion on

percentages, dollar amounts and indexes, Planner Green expressed her concern of needing to bring all structures into conformity with current codes, attach limits and do what we can to not force teardowns. Ms. Green then stated for our next meeting, our main focus should be on establishing a specific objective, with tools to accomplish it, keeping an end goal in mind. She added we may need to look at time frames on dollar amounts to discourage multiple permits as a loophole.

**New Business:**

**New Commissioner:**

Acting Chair Casey asked we be informed by the Mayor and the Council on the status of a new commissioner, and request that commissioner be available, beginning at our October meeting.

**Driveways in the Setback:**

Acting Chair Casey brought forth a resident's concern on allowing driveways in the setbacks, particularly for underground garages, as it reduces green space, disrupts neighbors, and affects privacy. Acting Chair Casey asked we review a letter submitted by this resident he distributed, and be ready to discuss this issue at our next meeting.

**Next Meeting:** Will be held on the 3<sup>rd</sup> Thursday of October, 7:30pm on October 18, 2007 at Commissioner Robert's home.

**Adjourn:** Commissioner Donoghue moved to adjourn the meeting at 9:12pm. Commissioner Roberts seconded. Vote: 3 For, 0 Against, 0 Abstain. Motion carried.

Respectfully submitted,

Angela Kulp  
Deputy Town Clerk