



MINUTES KEIZER PLANNING COMMISSION

**Wednesday, November 8, 2023
Keizer Civic Center**

- 1. CALL TO ORDER** **CALL TO ORDER:** Chair Matt Lawyer called the meeting to order at 6:01 pm.

ATTENDANCE:

Present:

Matt Lawyer, Chair
Jeremy Grenz
Ron Bersin
Fernando Lopez
Mo Avishan (6:07)
Angelica Sarmiento
Avendano

Council Liaison Present:

Councilor Juran

Staff Present:

Shane Witham, Planning Director
Dina Horner, Assistant Planner
Shannon Johnson, City Attorney
Dawn Wilson, Deputy City Recorder

Absent:

Robb Witters
Sarah Hutches, Vice Chair

- 2. APPROVAL OF MINUTES** Councilor Juran asked for a correction to be made to Minutes by noting that he was absent.

Commissioner Jeremy Grenz moved for approval of the October 2023 Minutes with the Correction of Councilor Juran being absent. Commissioner Fernando Lopez seconded. Motion passed unanimously as follows: Lawyer, Bersin, Lopez, Grenz and Avishan in favor with Hutches and Witters absent.

- a. October 11, 2023
Meeting Minutes**

- 3. APPEARANCE OF INTERESTED CITIZENS** None.

- 4. PUBLIC HEARING** Chair Lawyer called the Planning Commission to recess at 6:11 p.m. to allow for Councilor Witters to arrive.

Chair Lawyer called the meeting back to order at 6:20 p.m. Commissioner Witters called and was still on his way to the meeting. He would participate

in the audience.

Chair Lawyer opened the Public Hearing at 6:21 p.m. City Attorney Shannon Johnson read a notice on the Quasi-Judicial Hearing procedure, which is a land use hearing, that is required by State law. The hearing is a two-part case on the partition and a major variance. He asked if there was any objection to waive the reading of the actual criteria because it's in the Decision and copies are in the back of the room. No objection was made, so City Attorney Johnson waived the reading.

City Attorney Johnson read that testimony and arguments must be directed to the criteria and summarized other points in the statement. Prior to the close of the hearing, anyone in the audience must indicate if they have any objections to the jurisdiction of the Planning Commission to hear this matter, opportunity to be heard, conflicts of interests, objections to bias, or ex-parte contact. Commissioner Ron Bersin made a declaration about driving by the property. There were no other conflicts of interest, bias, or ex-parte contact expressed. The applicant and their representatives have a total of 15 minutes to speak. Any other parties who wish to testify have 5 minutes per person. The applicant has a 10-minute rebuttal period. Mr. Weckert, the appellant, received clarification as to having the conditions in the packet and a handout.

Planning Director Shane Witham expressed appreciation to see the audience being engaged. The hearing is on the partition and a major variance case with a lot of conditions, which was appealed. The appellant stated in the appeal there were six different errors cited. Staff's decision is based upon conditions in the Development Code. An overview of the case is that the application was for a partition for one piece of property with one current dwelling unit and to add a house to go along with the additional dwelling unit (ADU) that was already on the property. Public Works and the Keizer Fire Department reviewed the criteria. The City requires a house be built when there is an existing ADU.

Planning Director Witham stated that the partition portion of the appeal is generally a staff-level decision and gets appealed to the hearings officer. Since there is a major variance, it has to go before the Planning Commission and with the combined application, that is why everything is before the Planning Commission. In this case, the applicant requested a major variance to the setback requirement for an access easement. A major variance is a 20% change to a quantified standard. The Keizer Fire District prefers the wider easement and supports a major variance. Mr. Witham clarified that there is no zone change being proposed with the application. The City received a letter from both Mr. Wendell Weckert (appellant) and Mr. Michael Le (applicant) this afternoon that are on the dais. The handout with a picture of a tree on front is from the appellant, Mr. Wendell Weckert.

Chair Lawyer reminded the applicant that he can speak for 15 minutes. Applicant *Michael Le*, Honolulu, and his tenant, *Mrs. Logan Baker, Keizer*, testified that he purchased the property in 2019. Mrs. Baker was his first tenant in front of the property. Mr. Le bought the house on Dearborn because it is an investment. With the help of Mrs. Baker's rent, he uses the income to care for his family. He told her that he would build another home and partition the lot into two lots. He prepared the site plans. He intends to be compliant with all conditions, and he has spoken with a civil engineer on all of the requirements. He looks forward to building a second home on it to provide additional income for his family.

Mrs. Logan Baker testified that she lives on Dearborn and speaks highly of Michael Le. She understands the construction concerns. Michael and Susie Le have been understanding and addressing her concerns of potential noise, and the additional home could be a benefit to others needing a lower-income home.

Commissioner Avishan confirmed with Mr. Michael Le that he plans to comply with all of the conditions.

Chair Lawyer reminded the appellant that he has five minutes to speak. *Mr. Wendell Weckert*, Tualatin and Keizer, the appellant, testified that the issues he has with the additions have not been the same experience that Mr. Le had. They have separate opinions as to where their property lines are and expectations, so the relationship has deteriorated. He stated that he has lost one tree for a different circumstance, and this would cost him about \$50,000. The relationship with Mr. Le has turned adversarial. Mr. Weckert stated that Mr. Le hired an arborist to cut trees on Mr. Weckert's property. He intends to escalate this to one more level. He asks that the Commission authorize the advancement of this to go through the chain to be more of a humanistic approach to the problem.

Commissioner Grenz asked about the property line dispute. Mr. Weckert stated that the surveyor told him where the property line is. Mr. Weckert said that the issue is that the tree limbs or roots go over the property line, and he shouldn't be in fear of losing his trees when the house is built if excavation is done or a concrete slab is constructed. He stated that he values the trees differently from Mr. Le. Mr. Le responded by saying the property has not been surveyed and that the tree limbs and roots are over the line and he shouldn't be in fear of losing the trees when the house is built or excavating is done.

Ms. Pat Ozenna-Lemay, Keizer, lives on the adjacent property. Ms. Ozenna-Lemay said that she has lived there for almost 25 years and she has an emotional attachment that nobody else has, except for two other persons. Her way of life will be changed when the property is developed. She bought her property as her forever home. She said that when variances are granted,

it should not be based solely upon square footage of property. She has put up with partying from the neighbors for three years. Partying should not go on until 2:30 a.m., and she fears retribution for reporting the partying with the police. Once the building starts, she will no longer have peace and protection from sounds. She stated that it would be tiny and crowded and you can't see this when driving by. She believes that the Planning Commission should consider some human elements. She feels like there will be no impact as to what's going on at the property, unless the Commissioners consider the human conditions rather than just numbers and square footage.

Chair Lawyer reminded the audience that if they want to say something about the application, that this is their opportunity.

Mr. Stephen Kalb, Keizer, stated that his property abuts the concerned property. He expressed concern with the additional living units and that there is no allowance for turnaround for parking or who enforces the parking situation. There is an easement on the north side of his property, so he is concerned about people parking in the easement on a regular basis. He would have to knock on their door so that he could access his property. His property doesn't have a house, but it's his backyard. He is concerned with the number of automobiles associated with those homes that might be on the property. He thinks that there's a possibility of pushing parking into other areas of the neighborhood. He said that he heard screaming inside their house about 100 feet away for about two years, so there are impacts to others in the neighborhood.

Chair Lawyer stated that the applicant has an opportunity for rebuttal.

Michael Le, the applicant, Honolulu, thanked Mr. Weckert, Ms. Ozenna-Lemay and Mr. Kalb for their testimonies. He shares Mr. Kalb's concerns. He said that he has tried to be a good neighbor. He said the tree situation with Mr. Weckert has become more adversarial after he asked and notified Mr. Weckert that he was going to trim the tree branches. He looked at the concrete slab, which is built above the ground, using two-by-fours, and there was no digging into the ground so there was no damage to the tree. His intention is not to build a smaller ADU in the back of the front house as shown in the site plan. His intent is to build a second small home with a second parcel as shown in the plan, and he will follow the codes and meet the conditions. He had an arborist look at the trees and will try to build the house foundation farther away from the trees and use a smaller footprint for the house. So, the house will be 20 feet away from the trees rather than 10 feet. He said that he does have respect for the trees and has an appreciation for them in Oregon. He apologized for noises coming from the tenants and asked that they let him know about the noises, so he can address this again with his tenants. He plans to work with everyone to have a good neighborly environment.

Commissioner Bersin asked about the number of units. Mr. Le confirmed that there are only three units. Mr. Witham said that the decision shows the house, ADU and the new proposed house. He thinks that the four units were in the request for comments that was initially sent out from the City of Keizer. Mr. Le confirmed that the ADU is currently rented and said that his civil engineer confirmed that there is room for on-site parking even with the turnaround.

Commissioner Lopez asked about designated parking for the ADU. Mr. Le confirmed that there is parking in the site plan for the ADU at 525 Dearborn. New parking is proposed above the new turnaround for the new house.

Chair Lawyer confirmed with City Attorney Shannon Johnson that if the Order is adopted, Mr. Weckert or any other participants can appeal the decision to the City Council.

Commissioner Bersin confirmed with Mr. Witham that hearing is on the partitioning and major variance.

Chair Lawyer stated that he heard from Mr. Le that he intends to work with the site plan. Mr. Witham said they are only looking at the land development conditions, not the house. Mr. Witham stated that the applicant adhere to the land development conditions. Marion County also requires that the land must be surveyed, engineered, monumented and meet the provisions of ORS 92.060. Conditions must be met prior to the land being legally divided.

Discussion ensued on the condition to build the house within one year of the recording of the partition or the ADU has to be removed. Commissioner Grenz clarified the condition about building a house within a year of dividing the lot. Mr. Witham said that it is when the house is constructed pursuant to Condition 9 on page 15 of Staff Report and Condition 13. Mr. Grez asked about the one-year delay for demolition. Mr. Witham confirmed that this condition has been done several times for accessory buildings.

Commissioner Avishan asked about a drawing not being proper and if the City should ask for engineering approval. Mr. Witham said that approval is preliminary at the time the application is submitted.

Chair Lawyer asked about the private access and maintenance. Mr. Witham confirmed that maintenance is the responsibility of the property owner pursuant to Condition 4 on page 15. He also spoke to the no parking and access easement testimony. The City's Code Enforcement can cite people on access easements and private streets, so the City does respond to those complaints.

Chair Lawyer asked for clarification on storm water run off. Mr. Witham

confirmed that the City's conditions set out the drainage requirements of the property owner.

Chair Lawyer called to close the hearing at 7:35 p.m. on the Application of Michael and Susie Le for a Partition and Major Variance on Property Located at 527 Dearborn Ave N, Keizer, Oregon (Case No. 2023-12).

Jeremy Grenz moved that the Planning Commission adopt the Order In the Matter of the Application of Michael and Susie Le for a Partition and Major Variance on Property Located at 527 Dearborn Ave N, Keizer, Oregon (Case No. 2023-12). Mo Avishan seconded. Motion passed unanimously as follows:

AYES: Lawyer, Grenz, Bersin, Lopez, Witters and Avishan (6)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: Hutches and Witters (2)

Chair Lawyer appreciated the applicant and appellant for participating and expressed how difficult these types of development issues are and that they are bound by the laws of what they can do.

Commissioner Bersin appreciated the applicant and appellant testifying so they can hear each other's concerns.

Commissioner Grenz read the full staff report and said he did not hear anything tonight that points to the relevant conditions and criteria.

Commissioner Avishan stated that it is hard for them to make the decision when having to comply with the Development Code.

a. ORDER - In the Matter of the Application of Michael and Susie Le for a Partition and Major Variance on Property Located at 527 Dearborn Avenue N, Keizer, Oregon (Case No. 2023-12)

5. NEW-OLD BUSINESS/STAFF REPORT

Planning Director Shane Witham reported that the City is in the process of the scenario work and will have ODOT's representation for the transportation piece to the Walkable Area Plan. The Verda Apartments have been built with landscaping. They have requested inspections and will have informational displays. The River Road Apartments are moving right along.

- 6. COUNCIL LIAISON REPORT** Councilor Juran reported that the Keizer Fire Department levy passed.
Youth Liaison Angelica spoke on the Orchestra Organization for the Keizer Orchestra.
- 7. COUNCIL REPRESENTATIVE:** Commissioner Lopez will report to the Council on November 20th.
Sara Hutches,
Monday, November
20, 2023
- 8. NEXT MEETING:** Chair Lawyer cancelled the December meeting by consensus.
December 13,
2023
- 9. ADJOURNMENT** Meeting Adjourned at: 7:41 p.m.

Minutes Approved: 01/10/2024

“Agenda Management Services are being supported, in whole or in part, by federal award number 21.019 awarded to City of Keizer by the U.S. Department of the Treasury.”