

City of Clearwater, Kansas
Sedgwick County
Planning Commission - **MINUTES**
October 4, 2022
Clearwater City Hall
129 E. Ross Avenue Clearwater, KS 67026

1. Call to Order

Lyle Berntsen called the meeting to order.

2. Roll Call

Deputy City Clerk called the roll to confirm the presence of a quorum. The following members were present:

Lyle Berntsen, Kenny Watson, Michael McBee, J.J. Riggins, and Ryan Karrick were present. Samantha Warkins, and John Hurley were absent.

The following staff member was present:

Courtney Zollinger, City Administrator; Carol Reitberger, Deputy City Clerk and City Attorney Andrew Foulston.

The following were also present:

Gary & Pat Tripp, Shaun Weaver, Steve & Terry McMillen, Dr. Karl May, Logan Mills, Richard Bloomer, Doug Bird, Mark Bird, and Larry Bradt.

3. Approve Minutes from August 2, 2022

Motion: *McBee* moved, *Watson* seconded to approve the minutes of July 5, 2022, as presented. The motion passed unanimously 5-0

4. Public Forum

Nothing at this time.

5. Public Hearing

Nothing at this time.

6. Other Business:

a. Wood Street One Step Plan

Zollinger introduced the plat by stating the following. Shaun Weaver has submitted a One-Step Final Plat for lot that the McMillen Apartments are on (404 – 414 E Wood). Weaver would like to split the one lot into 3 lots to put more apartments. However, the area of town has not been platted and cannot be split without platting.

To qualify for a small tract plat the subdivision must comply with the following

1. The subdivision shall not include more than ten acres for a residential development, or more than five acres for any other type of development.

a. Wood Street Addition is 1.42

2. The proposed subdivision shall not create more than five lots, tracts, or parcels of land.

a. 4 tracts have been submitted for review and approval

3. The plat shall not create new streets or access easements or other improvements requiring dedication of public spaces.
 - a. **This plat complies**

Logan Mills with Certified Engineering Design, agent for the applicant Shaun Weaver, reviewed the one-step plat with the board and audience. Since 3 out of the 4 variances were passed staff asked if they wanted to proceed with the plat as presented or was the plans going to change. Weaver asked if the board would consider reduction in lot area from 5,000 to 4,000.

Attorney Foulston stated that is a matter for the Board of Zoning Appeals and would need to go through another hearing. Foulston stated the Planning Commission, if they wished, could continue this Planning Commission meeting to later in the evening and open another BZA meeting since all parties are present that would need to be notified.

Motion: *Berntsen* moved, *McBee* seconded to continue the Planning Commission meeting until later this evening. The motion passed unanimously 5-0

This meeting was continued at 7:45p.m.

Since the variances have been approved, Weaver would like to continue the plat as submitted. Mills continued that Reserve A is there for utility maintenance. He explained the drainage for the lot will run along the new driveway as this is the natural flow. Mr. Bird still conveyed concern for his personal sewer line that will, if the driveway is constructed, be under concrete or asphalt and there will be a lot more traffic that will travel over it. He reported the line is buried 4' in the ground and Mills stated the minimum lot depth is 30" so at 4' that is more than enough to keep a sewer line safe. Weaver assured Mr. Bird that if the line was damaged during construction, he would take full responsibility and repair the damage at no cost to Mr. Bird. Bird is still concerned who will pay for the repair if 20 years down the road the line needs to be dug up and now there is a drive over it. Will he be responsible for paying to replace the pavement? Mills stated that the discussion of who is responsible for the repairs is something the property owners need to discuss amongst themselves as the city has no ownership on service lines.

The board discussed and did not have any issue with the plat as presented with the approved variances but decided the property owners needed to come up with an agreement for maintenance on the sewer line.

Motion: *Riggins* moved, *McBee* seconded to approve the one-step final plat contingent upon an agreement between the homeowners on the private sewer line. The motion passed unanimously 5-0

b. Park Glen Estates Preliminary Plat

Zollinger introduced the preliminary plat by stating the following. Shaun Weaver has submitted a Preliminary Plat for Park Glen Estates 2nd Addition.

SITE SIZE: 20.05 Acres

NUMBER OF LOTS
Residential: 36

CURRENT ZONING: Planned Unit Development

STAFF COMMENTS:

1. Clearwater will require a letter of credit for 50% of estimated principal cost of the project. When at least 50% of the lots or parcels within the benefit district are owned by parties who are all unrelated to each other, the Developer may make written request for a 50% reduction of the face amount of any letter of credit or surety bond issued to secure payment of special assessments levied against such property. At 75% owned by unrelated parties the Developer may make written request for a 100% reduction of the face amount of any letter of credit or surety bond issued to secure payment of special assessments levied against such property
2. Proposed zoning changed from PUD to R-1 – There is no recorded Planned Unit Development design standards on file for this area. This land was identified as PUD during the re-zoning with ordinance 836. Prior to that it was labeled as un-developed land.
3. All setback requirements are met for Residential.
4. All minimum design standards are met.

Shaun Weaver and Logan Mills had nothing else to add.

The board inquired about sidewalks in the addition and if Weaver intended on adding them. It was stated that neither Park Glen nor Park Glen Estates currently have sidewalks through the neighborhood. Park Glen has a walking path around their retention pond and Weaver intends to do the same in Park Glen Estates but there is no intension of putting sidewalks in through the 2nd addition since they don't exist elsewhere.

The board had no other questions or comments.

Motion: *McBee* moved, *Karrick* seconded to approve the preliminary plat. The motion passed unanimously 5-0

c. Park Glen Estates Final Plat

Zollinger stated since there were no changes to the preliminary plat would the board like to consider the Final Plat for Park Glen Estates.

Motion: *Watson* moved, *McBee* seconded to approve the final plat. The motion passed unanimously 5-0

d. Pocket Park Plan

The city owns the empty lot at the corner of Ross and Tracy. Over the years council has discussed how to utilize the area whether it be turned into parking lot or a park. The council has leaned more towards a park to draw people downtown and help with beautification of downtown. Through the comprehensive plan there were many areas touched on for future/goals for the city. The plan being presented is an idea formed by Tricia Nichols. Tricia is the individual who created and runs the Annual Clearwater Art Walk.

The Planning Commission, by code, must determine if this plan is conformity of the Comprehensive Plan and be approved before Council considers it

The plan presented was to turn the empty lot into a park that will contain plants, benches, flowers, art on display, signage, and added parking on Tracy Ave. She points out it could be used for lunch time, story time summer readings, jazz night in the park, and the city Christmas tree could be located there. Suggestions of easily maintained greenery, benches, and shade could be added. After reviewing the plan Chairman Berntsen called on Dr. May in the audience because he had a comment. Dr. May stated he like the idea but asked the board not to support the plan because he is working on another project with the

school to put a mural on the side of his building. He feels if plantings and art features are placed on the lot it will cover or take away from the mural that could be on his building. He feels the better use for that property would be to turn it into a parking lot since the downtown area can become congested with cars and minimal spaces to park.

Zollinger informed Dr. May that this board does not approve or disapprove a particular project they just review to conclude if it is in conformity with the comprehensive plan. These ideas and concerns should be brought before council to consider because that is the board that will have a say on if a project gets funding or not. Foulston added that if Dr. May felt there was something that did not conform with the Comprehensive Plan those are the types of arguments for this board.

With no other discussion

Motion: *Watson* moved, *Riggins* seconded that the pocket park plan was in conformity with the comprehensive plan. The motion passed unanimously 5-0

7. Adjournment

The meeting adjourned at 8:43 p.m.

CERTIFICATE

State of Kansas }
County of Sedgwick }
City of Clearwater }

I hereby certify that the foregoing is a true and correct copy of the approved minutes of the October 4, 2022, Planning Commission meeting.

Given under my hand and official seal of the City of Clearwater, Kansas, this 1st day of November 2022.

Carol Reitberger, Deputy City Clerk, Secretary

Lyle Berntsen, Chairperson

City of Clearwater, Kansas
Sedgwick County
Board of Zoning Appeals - **MINUTES**
October 4, 2022
Clearwater City Hall
129 Ross Avenue Clearwater, KS 67026

1. Call meeting to order

Lyle Berntsen called the meeting to order at 6:30 p.m.

2. Roll Call

Deputy City Clerk called the roll to confirm the presence of a quorum. The following members were present: Lyle Berntsen, Kenny Watson, Michael McBee and J.J. Riggins were present. Samantha Warkins was absent.

The following staff member was present:

Courtney Zollinger, City Administrator; Carol Reitberger, Deputy City Clerk and City Attorney Andrew Foulston

The following were also present:

Gary & Pat Tripp, Shaun Weaver, Steve & Terry McMillen, Dr. Karl May, Logan Mills, Richard Bloomer, Doug Bird, Mark Bird, and Larry Bradt.

3. Approval of Minutes from August 2, 2022

Motion: *McBee* moved, *Watson* seconded to approve the minutes of the August 2, 2022, as presented. The motion passed unanimously. 4-0

4. Public Hearing

a. 4th Steet Variance

Berntsen opened the public hearing at 6:31 p.m. and called on the Secretary to determine that proper notice has been given. Reitberger stated the notice was published in the Times Sentinel on September 8, 2022, which was 26 days prior to the meeting and all residents within 200' of the property were notified by mail.

Zollinger introduced Mr. Richard Bloomer and stated he is requesting to build a 4-car garage on the empty lot behind his house. There is an alley that separates the two properties. The empty lot is between 431 and 451 S. Fourth.

Richard Bloomer addressed the board and explained the garage will be used to store cars and would have an alley entrance. The building will have water and electricity and will have siding and a roof to match his residence across the alley. The building will be like surrounding homes in the neighborhood. He stated there would not be a lot of traffic in and out.

The board inquired about the existing shed on the property and whether it will be removed for the garage. Mr. Bloomer stated he would like to keep it as it holds his riding lawnmower to mow the lot. The board had no other questions.

Neighbor Gary Tripp was here in support of the Variance being granted by the Board.

A letter had been mailed out to neighbors 200sqft. from the building and no opposition.

Zollinger closed the open hearing by stating that Ordinance 835 states no accessory building shall be larger than 900 sqft nor can an accessory building be constructed upon a lot until the construction of the main dwelling is complete. The 4-car garage size requested is 1,344 sqft and Mr. Bloomer does not have any intention at this time to put a dwelling on the property.

Berntsen closed the hearing at 6:39 p.m.

The Board deliberated and discussed the uniqueness, adjacent property, hardship, public interest, and general spirit of the requested variances were supported.

Motion: *McBee* moved, *Watson* seconded to approve the variance as presented. The motion passed unanimously. 4-0

b. Wood Variance

Berntsen opened the public hearing at 6:45 p.m. and called on the Secretary to determine that proper notice has been given. Reitberger stated the notice was published in the Times Sentinel on September 8, 2022, which was 26 days prior to the meeting and all residents within 200' of the property were notified by mail.

Zollinger introduced the variance requested by Weaver Holdings LLC stating he had submitted a Plat proposal for Wood Street Addition. This section of town has not been platted and to split the lot it must go through the platting process and this lot is too small to do a Planned Unit Development.

The variances requested are as follows:

1. Reduction in rear setbacks for lots from 25' to 12.5'
2. Reduction in front setback from 25' to 20'
3. Reduction in minimum lot area from 5,000 sqft to 3,000 sqft
4. Reduction in lot depth from 100' to 82.5'

Logan Mills with Certified Engineering Design, agent for the applicant Shaun Weaver, explained that Shaun Weaver and Steve McMillan have an agreement to share ownership of the property and they are trying to make the most out of the large lot to add more affordable rental housing. Mr. Mills stated there have been some questions about service lines such as the electrical and sewer for the residents along 1st Avenue. Mr. Mills stated that the overhead electrical line is noted on the map in red and the "orange" service lines are owned and maintained by Evergy until the resident's meter which is located near their homes. Any concerns about maintenance for the 1st Ave homeowners should be cleared up since Evergy will maintain them. The other issue that had arose was the sewer service line for Mr. Bird at 301 N First Ave is piggybacking on the service line for McMillan Apartments (404 – 414 E Wood Ave) In the map presented by Weaver and McMillan, they intend to put a driveway along the east side of their property to give a private drive to the apartments in the back lots. Mr. Bird, Mr. Mills, and Mr. Weaver spoke in the audience amongst each other since the sewer issue is a private matter. The board listened to the concerns, but attorney Foulston pointed out that the driveway they are discussing doesn't have anything to do with the variances that are being discussed. The drive should be discussed through the plat discussions. Mr. Foulston informed the audience that the board will just be speaking of the variances and will bring up the drive during the plat discussion.

The board questioned Weaver about the size of the apartments and what available parking there will be. Weaver reported they will be 3 bedrooms on a slab, no basement and there will be 2 spaces per unit which is the minimum per code. Mills stated there may be room on either side to stripe for additional parking. The board expressed concern about the number of units, the size of each in relation to the lot

size.

The board had no further questions. Berntsen closed the public hearing at 7:08 p.m.

Staff had no closing comments.

The Board deliberated and discussed the following:

The uniqueness, adjacent property, hardship, public interest, and general spirit of the request in Reduction in rear setbacks from 25' to 12.5' to be supported.

The uniqueness, adjacent property, hardship, public interest, and general spirit of the request in Reduction in front setbacks from 25' to 20' to be supported.

The uniqueness, adjacent property, hardship, public interest, and general spirit of the request in Reduction in minimum lot area from 5,000sqft to 3,000 sqft to be unsupported.

The uniqueness, adjacent property, hardship, public interest, and general spirit of the request in Reduction in lot depth from 100' to 82.5' to be supported.

Motion: *McBee* moved, *Watson* seconded to approve the rear setback contingent upon the approved plat. The motion passed unanimously. 4-0

Motion: *McBee* moved, *Watson* seconded to approve the front setback contingent upon the approved plat. The motion passed unanimously. 4-0

Motion: *McBee* moved, *Watson* seconded to deny the minimum lot area request. The motion passed unanimously. 4-0

Motion: *McBee* moved, *Watson* seconded to approve the lot depth contingent upon the approved plat. The motion passed unanimously. 4-0

Adjournment

With there being no other business, McBee moved, Watson seconded to adjourn the meeting. Voted and passed unanimously. 4-0

The meeting adjourned at 7:18 p.m.

State of Kansas }
County of Sedgwick }
City of Clearwater }

I hereby certify that the foregoing is a true and correct copy of the approved minutes of the October 4, 2022, Board of Zoning Appeals Board.

Given under my hand and official seal of the City of Clearwater, Kansas, this 1st day of November 2022.

Carol Reitberger, Deputy City Clerk, Secretary

Lyle Berntsen, Chairperson

City of Clearwater, Kansas
Sedgwick County
Board of Zoning Appeals SPECIAL MEETING- **MINUTES**
October 4, 2022
Clearwater City Hall
130 Ross Avenue Clearwater, KS 67026

1. Call meeting to order

Lyle Berntsen called the meeting to order at 6:41 p.m.

2. Roll Call

Deputy City Clerk called the roll to confirm the presence of a quorum. The following members were present: Lyle Berntsen, Kenny Watson, Michael McBee and J.J. Riggins were present. Samantha Warkins was absent.

The following staff member was present:

Courtney Zollinger, City Administrator; Carol Reitberger, Deputy City Clerk and City Attorney Andrew Foulston

The following were also present:

Shaun Weaver, Steve & Terry McMillen, Dr. Karl May, Logan Mills, Richard Bloomer, Doug Bird, Mark Bird, and Larry Bradt.

3. Public Hearing

c. Consider Amending Intensity use Regulations from 5,000 to 4,000 for Wood Street Plat

Berntsen opened the public hearing at 7:41 p.m.

Logan Mills asked if the board would approve intensity use regulations for Wood Street Plat from 5,000 to 4,000sqft to put 3-unit apartments on lots 2 and 3. Lot 2 size is a little more than 12,000sqft and lot 3 is greater than 15,000sqft.

There was no public comment.

Staff had no furtherer comments.

Berntsen closed the hearing at 7:44

The Board deliberated and discussed the following:

The uniqueness, adjacent property, hardship, public interest, and general spirit of the request in Reduction in use regulation from 5,000 to 4,000 to be supported.

Motion: *McBee* moved, *Watson* seconded to approve the use regulation contingent upon the approved plat. The motion passed unanimously. 4-0

Adjournment

With there being no other business, McBee moved, Watson seconded to adjourn the meeting. Voted and passed unanimously. 4-0

The meeting adjourned at 7:44 p.m.

CERTIFICATE

State of Kansas }
County of Sedgwick }
City of Clearwater }

I hereby certify that the foregoing is a true and correct copy of the approved minutes of the October 4, 2022, Board of Zoning Appeals Board.

Given under my hand and official seal of the City of Clearwater, Kansas, this 1st day of November 2022.

Carol Reitberger, Deputy City Clerk, Secretary

Lyle Berntsen, Chairperson