

# Plat, Annexation and Zoning Committee Minutes

October 26, 2011

11:20 a.m. to 12:00 noon

City Council Chambers, 140 W. Pine Street

**Members Present:** Bob Jaffe, Ed Childers, Dick Haines, Marilyn Marler, Renee Mitchell, Pam Walzer, Jason Wiener, Jon Wilkins, Cynthia Wolken, Lyn Hellegaard,

**Members Absent:** Dave Strohmaier, Stacy Rye,

**Others Present:** Tom Zavitz, Laval Means, Jim Nugent, Jen Gress, Steve Mauer, Deni Forestek

## I. Approval of Minutes from October 19, 2011 approved as presented

## II. Public Comment on Items not on the Agenda

## III. Staff Announcements

## IV. Consent Agenda Items

## V. Regular Agenda Items

1. Discuss clarifications to the regulations for non-conforming uses and structures in Title 20, Missoula City Zoning Ordinance, especially pertaining to 20.80.040 Nonconforming Uses, 20.110.050 C3 Exceptions to Side Setbacks, and 20.80.030 Nonconforming Structures. ([Memo](#))—Regular Agenda (Tom Zavitz) (Referred to committee: 08/22/11)  
**HELD IN COMMITTEE**

Tom Zavitz presented [information](#) on this topic, highlights including:

- By nonconforming structures and uses, they mean ones that are legal, that have been grandfathered into present day zoning. The theory was that over time, as they deteriorate or are abandoned, they are removed and replaced by structures that are compliant with current zoning code.
- Many nonconforming uses and structures now exists as a patchwork in the community.
- The current process has been when a use or structure is abandoned the nonconforming status continues for a year and then is lost.

Clarifications that needed to be discussed were:

1. Side yard setback exceptions
2. Rear yard setback exceptions

Four options for language changes were presented to the Committee to discuss

3. What constitutes an expansion for residential use

This is currently not defined in Title 20

4. Loss of nonconforming use status

Currently the time limit is one year; however, three options were suggested for discussion.

Discussion of the Committee on rear and side yard setback exceptions included:

- Mr. Childers felt that when a building along the property line increased in height, it caused a problem for the neighbor.
- Mr. Wilkins felt that adding an addition to a nonconforming house on the property line would cause safety, fire and health issues. Mr. Zavitz clarified that fire code standards limit additions to 3 feet from the property line. Mr. Wilkins did not feel 3 feet was enough, he would rather it stayed within the setbacks.

Chair Jaffe clarified that current practice allows an extension and if they disallowed or required review, that would be pushing those projects to the Board of Adjustment or Design Review Board.

- Ms. Mitchell felt that nonconforming structures should have Board of Adjustment approval to add onto. This way the property owners would have to show a hardship exists and the neighbors would be allowed to comment.
- Ms. Marler felt additions should conform to the setbacks; however she did not know how much of a problem or expense this might be for the homeowner.
- Mr. Wiener felt that was a difference between going higher in the front yard setback was less intrusive than a height increase in the side or rear.
- Ms. Walzer felt it was important to consider there are a lot of these structures within the city and it would be nice to figure out how to deal with these problems. She was in favor of administrative adjustments.
- Ms. Wolken would like to have a map of nonconforming structures to view some of these examples. Chair Jaffe explained that these are not inventoried, they can be found in all neighborhoods.
- Chair Jaffe felt that what usually creates contention with the neighbors was the increase in height; he felt that height increases should not be allowed in the setbacks.

Due to time constraints, the discussion was continued to the next meeting.

## **VI. Items to be Removed from the Agenda**

## **VII. Held in Committee or Ongoing in Committee**

1. Annexation. (see separate list at City Clerk's Office for pending annexations) (Ongoing in Committee)
2. Request to rezone the property legally described as Lot 3 of Scott Street Lots Subdivision, located in Section 16, T13N, R19W, P.M.M. form D (Industrial) to I-1 (Light Industrial), based on the finding of fact and conclusions of law. (PAZ [05/21/08](#)) (Returned from Council floor: 6/2/08)
3. Ongoing discussion of City planning issues with members of the Planning Board.—Regular Agenda (Bob Jaffe) (Referred to committee: 3/20/06)
4. Resolution repealing resolution No. 7404 and declaring the annexation of Lots 53 and 54 Dinsmore's Orchard Homes No. 5 null and void. ([memo](#))—Regular Agenda (Jessica Miller) (Referred to committee: 01/10/2011)

## **VIII. Adjournment**

The meeting adjourned at 12:03 p.m.

Respectfully Submitted,

***Deni Forestek***

Recording Secretary  
Office of Planning and Grants

***The recording of these minutes is available in the City Clerk's Office (for up to three months after approval of minutes). These minutes are summary and not verbatim.***