

The City Council of the City of Eminence, Kentucky met in a special session on Monday, September 14, 2020 at 6:15 p.m. with Mayor Drane Stephens and the following members present: Danny Meadows, Fred Downey, Steve Metcalfe, Leo Mason, Lee Ann Armstrong and Polly Troxell. Also, in attendance were City Attorney Bill Brammell; City Clerk Robin Mullins; Public Works Director Matt McAllister; Chief Mike Wells, Major John Dudinskie, Henry County Local Editor Aaron Nelson, Magistrate Scott Bates, Henry County P&Z Administrator Amanda Ricketts, Deanne Downey, Ashley Downey, Wayne Gunnell, Lance Minnis, Regan Wann, Attorney Preston Cecil and resident Justin Wayman.

Mayor Stephens called the Planning & Zoning Hearing to order at 6:16 p.m.

Pledge of allegiance held.

Mayor Stephens asked Planning & Zoning Administrator Amanda Ricketts to give an overview to the council.

Amanda Ricketts: The Planning & Zoning Commission met on July 8, 2020, they had received an application for Zone Change from A-1 to R-2 from Fred Downey on July 1, 2020 requesting a 2-acre tract for the property located at 633 North Penn Ave, Eminence, Kentucky. The proposed findings were:

- The proposed Zone change for the 2-acre tract meets the Goals & Objectives of the Henry County Comprehensive Plan regarding the area(s) to consider for expansion of development surrounding the existing city limits
- The proposed location is within the designated area for future growth on Map #7 of the Henry County Comprehensive Plan.
- The proposed development will be supported by existing City of Eminence utility services as stated in the text for Future Land Use in the Henry County Comprehensive Plan.

Conditions Were:

- Existing regulation for Residential Zones would need to be followed
- Residential development only

Mayor Stephens asked someone to speak for the applicant.

Applicant Fred Downey: Fred Downey addressed the following three complaints from Mr. Lance Minnis:

1. Spot Zoning – It has been done in the past and he did it when he sold the two lots off is current farm to the old Dollar Store and the Bank.
2. Subdivision - The prior owner of the property had every intention of turning it into a subdivision which is why there are already two houses built on Dogwood. Also, Mr.

Minnis wanted to purchase the property with the garage on it and it would have had to be rezoned for him to purchase it.

3. Traffic – two houses are not going to cause traffic.

Member Meadows asked when was the garage built. Applicant Downey said 1976.

Mayor Stephens asked who would speak on behalf of the opposition:

Attorney Preston Cecil addressed the following points:

1. Public Notice is defective in its face because it doesn't have a street address listed.
2. The structure on the property is too close to Mr. Minnis property.
3. There was no meets & bounds descriptions or plat of the property to be rezoned
4. Applicant has to be the owner of property.
5. The applicant argued the original classification of agriculture was improper with no real explanation.
6. The use of Grandfather is no longer in existence, because the building has been abandoned.
7. If the City grants the rezoning the opposition requests additional restrictions
 - 8-foot fence
 - Buffer of trees
 - Restrict use of garage to not be used as a dwelling or third-party business

Mayor Stephens asked for questions or clarification from Amanda:

Planning & Zoning Administrator Ricketts said that the Commission took all the arguments Attorney Cecil said into consideration and still made the decision to approve the zone change from A-1 to R-2 based on the findings and conditions.

Lance Minnis brought up motions the commission made but were not carried forward. He also spoke about the property being vandalized before and no-one had lived there for over ten years. If anyone lives there it will be to the detriment of the surrounding properties. He asked the council to not allow this application that has serious flaws and if you do please put restrictions on the application.

Bill Brammell - It is important for the City Council to consider the recommendation based upon the record you have regardless of what you believe grandfather is. Once a grandfather had been discontinued for 12 months it no longer continues to be grandfathered. What type of use I can't address.

Dee Dee Downey addressed Mr. Minnis's and Attorney Cecil's complaints. Ms. Downey's first point was Fred has put a lot of money into that property and they are trying to improve the city. The garage is currently occupied by a person who is using it to work on cars for himself and his son. It is not being used for commercial use. Up until a couple of weeks ago the property didn't have a legal address, and that was when the electric was turn on. The property has been surveyed

and there is a signed notarized agreement to purchase the property. Asking for a privacy fence and trees is ridiculous, there are no windows or doors on the back of the garage. The garage shouldn't be used for anything other than a garage, why would you waste the space when it already set up for an apartment. The application can be done by anyone who has interest in the property.

Attorney Cecil wanted to make sure that everyone understood he was talking about the address in the Public Hearing Notice, not the address on the application being invalid. He also said there was no meets and bound descriptions. The grandfather no longer exists.

Lance Minnis said the property is only six inches from his property. Any work they have to do, they will have to get on his property. It doesn't matter how good the property looks it is still to close, that is the reason for the fence. They will give them permission to build a fence.

Attorney Brammell – found a KRS that said that the lawful use of a building or crevasses existing at the time of the adoption of the zoning regulation may continue on up to such use do not conform up to provisions of such regulations. He didn't know if our ordinance had such language about a specific period of time.

Planning & Zoning Administrator Ricketts – All residential regulations would be enforced. Placement doesn't meet the setbacks, but you can't force someone to move a structure.

Mayor Stephens said he was going to allow each party one more chance to speak.

Attorney Cecil – Said that the grandfathered use was stopped and it can't be started back up. The garage is too close so if you do proceed, we ask for the proposed buffers.

Applicant Fred Downey – said there are property off sets and vacant buildings that don't comply with planning and zoning all over town. We can't go around and change buildings that were built a long time ago and require offsets of today to apply. Mr. Downey also spoke about how the property line has changed over time because it was originally done with chains and they move, but now it is done with line of sight.

Mayor Stephens spoke to the City Council and told them their role was to make a motion to override the recommendation of the Planning & Zoning or do nothing. It would take a majority. Member Downey would have to abstain because he had interest in the property.

Henry County Planning Commission Docket Number 2020-03Z was considered on the record of the Commission at a hearing/meeting of the Eminence City Council held on September 14, 2020 at the Eminence School Hub and after notice. Said docket related to property located at 633 North Penn Avenue, Eminence, Ky. Public comment was taken and then Council was given the opportunity for a motion to be made to override the recommendation of the planning commission to change the zoning map for the subject property to R-2. No motion to override the recommendation was made.

Motion made by Member Meadows to close the Public Hearing and seconded by Member Armstrong at 6:56 p.m. All members present voted “yea”

Mayor Stephens called the special meeting to order at 6:56 p.m. everyone listed above was present except the following people: Scott Bates, Amanda Ricketts, Deanne Downey, Ashley Downey, Wayne Gunnell, Lance Minnis, Regan Wann, and Preston Cecil.

OLD BUSINESS:

Subject: Minutes – The minutes of the previous regular session held on August 10, 2020 were reviewed. Mayor Stephens asked for any additions or corrections to the minutes. With no additions or changes noted, Mayor Stephens stated they would stand as presented.

Subject: Second Reading of an Ordinance to Change in the Henry County Planning & Zoning Map a Partial Rezoning 2 Acres from a 19 Acres Tract Located at 633 N Penn Ave. Attorney Brammell held the second reading of Ordinance Number 2020-005 enacting said zone change. Motion made by Member Meadows and Second by Member Armstrong the ordinance was adopted with all voting in favor and none voting against. Councilman Downey abstained because of interest in the matter.

Subject: Property Tax Rate Discussion: Clerk Mullins reviewed the compensating and 4% allowed rates for real and personal property. The compensating rate on real property is 31.2% per one hundred dollars of assessed value and the 4% allowed rate on real property is 32.4% per one hundred dollars of assessed value. The compensating rate on personal property is 31.2% per one hundred dollars of assessed value and the 4% allowed rate on personal property is 32.4% per one hundred dollars of assessed value. Discussion held. Consensus of the council to take the compensating rate of 31.2% for real and personal property taxes and the 26.6% on motor vehicle and watercraft.

Subject: Property Tax Rate Ordinance – Attorney Brammell held the first reading on an ordinance setting the real and personal property tax rates at 31.2% per \$100.00 assessment and the motor vehicle and watercraft rate at 26.6% per \$100.00 assessment for 2020.

Subject: Warrants - The warrants for payment were presented and reviewed. Motion made by Member Armstrong and seconded by Member Metcalfe to approve the warrants for payment as presented. On a call for votes, all Members present voted “Yea”.

With no further business to be discussed, motion made by Member Armstrong and seconded by Member Downey to adjourn. All Members present voted “Yea”. Meeting adjourned at 7:13 p.m.

Drane Stephens, Mayor
DRANE STEPHENS, MAYOR
CITY OF EMINENCE, KENTUCKY

ATTEST: Robin L. Mullins, Clerk
ROBIN L. MULLINS, CITY CLERK
CITY OF EMINENCE, KENTUCKY

