



IDAHO

MINUTES : REGULAR COUNCIL MEETING

THURSDAY, APRIL 12, 2018 6:00 p.m.

DOVER CITY HALL, 699 LAKESHORE AVENUE, DOVER, IDAHO

Present: Mayor Shaha and Councilmembers Brockway, Evans, Guthrie. Strand was absent. Staff – Planner, Clare Marley; Engineer, Jay Hassell; Clerk, Michele Hutchings

Public present: Denise Travis, Cary Childress, Curtis Johnson, Victor Vachon, Marty Taylor, Brett Evans, Tom Evans

CALL TO ORDER AND PLEDGE OF ALLEGIANCE: Mayor Shaha called the meeting to order at 6:00p.m. and led the Pledge of Allegiance.

II. PUBLIC COMMENT: No public comment was offered.

III. NEW BUSINESS:

1) City file #ADMIN008-18 Appeal of Administrative Review-133 Lakeshore Ave., Trenbeath [Action Item] – Marley opened with description of property and explained administrative appeal process. Owners eligible for variance with hardship proven. Yard definitions within ordinance are difficult to interpret, no provisions for oddly shaped property. K. Evans asked if new owners were aware of setback prior to purchase. Marley thought so. Brockway does not see triangle and agrees with way staff representation. K. Evans agreed. Mayor asked if pond of neighbor property has to adhere to setbacks, Marley confirmed setbacks apply to buildings. Taylor entered map as included in Trenbeath's appeal. He interprets Dover code differently stating you can't have rear yard without an opposite front yard. Denise Travis, Cary Childress share two lot lines. Travis read from submitted letter/map (include as addendum to minutes). Taylor states the appellants are aware of setbacks and are exercising their appeal right, not requesting code changes. B. Evans asked if there are building plans developed yet. Taylor said concepts only, dependent on appeal or possibly variance. K. Evans asked if lot is still buildable without appeal, Taylor affirmed. Brockway appreciated Taylor's input, still cannot make a triangle out of the lot lines. **Brockway moved** to affirm the administrative decision in this matter, finding that the decision is in accord with Title 12, Dover City Code and that the lot is not triangular. **2nd by Evans. Roll call vote:** Brockway-Aye, Evans-Aye, Guthrie-Nay, Strand-Absent. **Motion carried** to affirm Administrative Review Decision.

2) Road Standards [Action Item] - Marley working with Hassell on two potential subdivisions. Found no resolution or ordinance adopting Urban Area Transportation Plan. Hassell stated Ordinance has information but no details. Would recommend graphical information, supplementing the ordinance to bring current. Brockway in agreement and agrees streets are very important, Mayor concurs. B. Evans asked about estimated time and investment for Dover noting typical standards available. Hassell has previous experience developing road standards, expects to be supplementing with more detail. No estimate to council for development as yet. **Brockway moved** to direct Mayor to work with staff to draft a road standards ordinance or resolution for future council consideration, **2nd by Evans. Roll call vote:** Brockway-Aye, Evans-Aye, Guthrie-Aye, Strand-Absent. **Motion carried,** Mayor will move forward with staff on road standards.

3) Future Fees public hearing – proposed date/time [Action Item]– Much discussion while reviewing proposed fee schedules. Notes made will be reflected on future fee schedule as council requested for future consideration. Mayor suggests 1st discovery meeting of one hour be free (PL3 fee) - anything after is "preliminary" and will require fee. Marley stated Building Permits are most time consuming of all, can get expensive. All agree good idea to allow for interim billing. FP2 community acknowledgments take Clare about 1 hour. M10d will update to current market price type verbiage. Mayor discussed utility fee schedule and need for rate study which is in 2018 budgets. Brockway noted fee study takes quite some time. Brockway feels important to justify any rate increase.

4) Future Ordinance public hearings – AM012-18 Junk/Nuisance code, AM-013-18 RV Occupancy [Action Item]– Mayor explained P&Z public hearings need to be held first. Marley felt replacement map is most important and P&Z would like RV Occupancy in place before summer. Marley affirmed these are legislative issues so they may be discussed at council. Brockway brought up concerns about noise and how "excessive" is determined. Marley explained approach using general public and distance as guidelines. Title 4 will be in front of council only not P&Z. General nuisances are not land use issues. Mayor asked how the ordinances apply within PUD. Marley explained all would apply to PUD with the exception of an RV Park. Much discussion about RV ordinance, sewer/water connections, enforcement and time limits. Mayor and Marley want to be sure Ordinances are not conflicting. B. Evans asks about Old Dover snow birds' RVs. Marley stated difference

As approved by Council at meeting on 5/10/2018 (mch)



between storage and living in. Setbacks are stated in draft ordinance. B. Evans asks about junk ordinance and how it will be enforced. Marley reviewed with attorney, typically would be driven by complaint. Mayor agreed only complaints would be considered. Mayor encouraged residents and council to participate in public hearings for P&Z May 3rd. Council agreed to plan for council public hearing date/time of 5/25 at 6:00 p.m.

5) Dover 30th celebration/plans (Incorporated: August 10, 1988) [Action Item] - August is Dover's 30th birthday. Guthrie suggested bench by post office, beautification, flower pots. K. Evans would like walls of art, painting of bridge, murals welcoming into Dover. Local artists could be sought for suggestions. Mayor noted no funds were budgeted. Guthrie suggested city should invest some general funds money for flowers and beautification near post office.

6) Planning for Budget Fiscal Year 2018-2019 [Action Item] – Mayor reviewed budget documents prepared for meeting as a starting point. Mayor would like council to consider taking the 3% increase. Guthrie adamant city takes the 3%, Brockway in agreement. Guthrie asks about 5% payroll. Mayor explained used as guideline, up to but no more than. Mayor asked what more she and staff can do for future budget presentations to council. Brockway asked for categories and subcategories, run rates, project 12 months for each category to present at May 10th meeting. Mayor requested council offer ideas within comp plan for beautification efforts in next year's budget even with minimal amount in budget. Brockway reminded paving is most often requested but street fund is low, could add some funds from general funds. Hassell will be offering prioritizing paving. Pavement plan is key.

7) Acknowledgment of Guthrie letter of resignation [Action Item] - Guthrie cites family obligations with grandkids. Mayor and Council thanked Guthrie for her service.

IV. OLD BUSINESS:

1) Congleton culvert relocation, proposed negotiated solution [Action Item] - Mayor reviewed Hassell's report and the two reasonable options. Brockway concerned 1st option ~~concerned~~ could increase flow through Hawkins' property. Hassell affirms flow would increase and noted this is why easement will need to be obtained. Flow already exists. Hassell suggests Congleton take city's draft easement to Hawkins for approval. If no easement, existing culvert need to be restored, unblocked. Brockway asked if 1st option is least costly. Hassell's has no opinion because of unknown status of Hawkins' agreement to easement. Brockway favors option 1. Mayor stated City already incurred \$2,000 in legal and engineering costs to date related to this culvert issue. Brockway felt now is time for Congleton to correctly plug culvert and walk easement through at his expense. Guthrie and Evans agree. Clerk to check if fees paid for encroachment yet \$350. **Brockway moved** to accept option 1 of Hassell's report with addition that owner incurs any and all further costs with project including Marley & Hassell's time at tonight's meeting, **2nd by Guthrie. Roll call vote:** Brockway-Aye, Evans-Aye, Guthrie-Aye, Strand-Absent. **Motion carried,** Option 1 is approved. Hassell will draft email for Mayor and Attorney review then will contact Congleton.

2) ADMIN006-18 – Johnson/Vachon proposed easement [Action Item] - Marley reviewed site map from previous meeting. Council had no questions. **Evans moved** to approve easements granting access across City of Dover property in Section 26, Township 57 North, Range 3 West, to benefit landowners Curtis and Cora Johnson and Victor and Jessie Vachon, and authorize the Mayor to sign the documents, upon the following: 1) Payment of fees and costs by the Johnsons and Vachons to the City of Dover for review and preparation of the documents; 2) Issuance of a joint use permit by Idaho Transportation Department from U.S. Hwy 2; 3) Review and approval of the final documents by the Mayor; 4) Receipt of notarized signatures of the grantees on the access easements. **2nd by Brockway. Roll call vote:** Brockway-Aye, Evans-Aye, Guthrie-Aye, Strand-Absent. **Motion carried.** Johnson asks if fees and costs are estimated as yet. Negative. Mayor asked Marley to work with ITD for joint use permit.

3) UP Grant application update [Action Item] – Clerk reported that grants are no longer accepted from municipalities.

4) Draft Audit Fiscal Year 2016-2017 [Action Item] – Mayor reported no audit findings, mostly adjustments, most of concerns were with PERSI but was SPOT related. **Guthrie moved** to authorize Mayor to sign audit representation letter, **2nd by Brockway.** All in favor, **motion carried.**

V. CONSENT AGENDA [All Consent Agenda items are Action Items]: No questions from council. Brockway noted the BCATT reports were very thorough. **Guthrie moved** to accept the consent agenda items as presented, **2nd by Evans.** All in favor, **motion carried.**

V. FUTURE AGENDA ITEMS/MEETINGS: Mayor reviewed upcoming meetings. City Hall closed Friday May 4th.

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VI. ADJOURNMENT: Brockway moved to adjourn, 2nd by Evans. All in favor - motion carried. Meeting adjourned at 8:08 p.m.

Respectfully submitted – Michele Hutchings, Clerk

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Property Owners of
227 Lakeshore Avenue
Dover, Idaho 83825
April 12, 2018

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Mayor Annie Shaha
Council President Bill Strand
Councilwoman Diane Brockway
Councilwoman Ruth Guthrie
Councilwoman Kristy Evans

**Re: City File #ADMIN008 - 18 Appeal of Administrative Review for
133 Lakeshore Avenue, Dover, Idaho 83825, Applicant: Trenbeath**

Honorable Mayor, Council President, and Councilwomen,

As direct neighbors who share two lot lines with the above applicant of 133 Lakeshore Avenue, we ask you to deny this Administrative Appeal Application.

The current zoning regulations and current interpretation by the City of Dover's Planning and Zoning Administrator, Clare Marley, of Ruen-Yeager and Associates, should be followed because these are the existing regulations and such regulations have consistently determined, for all other people, the size and placement of the structures that can be built on 133 Lakeshore Avenue.

I met with Clare Marley at Ruen-Yeager this past year, May 16, 2017, and specifically questioned the set backs of each lot line of 133 Lakeshore Avenue. (See map on Page 5 of this letter; 133 Lakeshore Avenue is marked in dark green color.) Administrator Marley affirmed the following:

- a. the north street entrance to 133 Lakeshore Avenue is where the historical existing entrance gates are located and that is a 25 foot setback from the street lot line;
- b. the west side yard of the property (adjacent to our property) is a 10 foot setback;

- c. from the street gate entrance, the south rear setback of the property (the second lot line adjacent to our property) is again a 25 foot setback;
- d. the water side of the property is a 40 foot setback.

The Trenbeath appeal letter states: "The ONE consistent factor in any of the lake or riverfront property is the water. No matter what the configuration/access of the property, the water will always serve as the 'back' of the property." This statement is not true. The 4 adjoining neighborhood lots next to the property, do not have the water as the back of the 4 properties. The water is the front of the property for the owners (1) Jim Janish, (2) George Eskridge, (3) Scott Brixon, and (4) Bridgett Kayser.

I am also current Real Estate Broker and this next door property adjacent to us, 133 Lakeshore Ave., has been for sale for approximately 3 years, since January, 2015. I personally had multiple Buyers contact me about the property. I financially lost these Buyers because they did their due diligence before buying the property because they did not want a big surprise later, after the sale. When their research revealed the legal zoning setbacks, and that they could not build the size of the house they wanted, they aborted both their plans and their investment regarding the purchase of 133 Lakeshore.

I am not the only real estate agent that dealt with this situation. In a meeting at our local Selkirk Real Estate Board, one agent approached me that he had done all the work with a client to purchase 133 Lakeshore Avenue. His Buyer, in doing their due diligence, had their architect draw up house plans and learned that they could not build the size of the house they wanted because of the orientation of the historical gate entrance on the street frontage and the written zoning setbacks in place for the rear lot line. After paying the architect, this Buyer disappointedly aborted the purchase because of these legal setbacks.

The discrepancy is not what the new owners interpret the setbacks to be now, but rather that these setbacks are the ones that consistently existed for all others. It is unfair to all previous Buyers to suddenly determine the setbacks differently now. Most probably, too, the seller would have sold the property sooner, and for more money in a rising market, if the zoning setbacks had been determined differently, earlier.

As owners of 227 Lakeshore Avenue, we are the only shared lot-line neighbors of 133 Lakeshore Avenue. We are directly affected by this proposed appeal to change the south 167 foot rear zoning setback regulation: 25 feet down to 10 feet. For anyone to say that, “practically speaking,” 133 Lakeshore Avenue is only 3 sided is misleading. “Practically speaking” verbiage to ignore a property line does not belong to any legal description. 133 Lakeshore Ave. has 4 sides. The west side lot line exists. It is 67 feet, perpendicular to the gated, front street side. The existing 67 feet cannot be ignored because it is 30% of the length of the waterfront shoreline.

If the Dover City Council were to ignore the City’s existing zoning regulations in place and grant this appeal, we would have the possibility of a new neighbor’s house encroaching fifteen feet closer to our property with the roof line eaves of the house able to legally encroach even further toward us, closer than the 10 feet. This approximate 60% reduction of Privacy Barrier for us would potentially allow increasing the buildable structure/s size of 133 Lakeshore Avenue of approximately an additional 2,000 square feet.

Also, very near this south rear lot line in question, we have always had a significant landscaped water feature. We have a waterfall, a good-sized pond, a second waterfall, and a stream, amid many plants. This is a very special, quiet, reflective sitting area. Changing the zoning setback regulation from 25 feet down to 10 feet on this south rear lot line would financially affect our property values with the proximity of a housing structure and additional building/s 15 feet closer to our waterfall pond lot line. It would also directly affect our “distance privacy” from our neighbor.

Mr. and Mrs. Trenbeath, the applicants in this zoning appeal application contacted us and we discussed the local neighborhood’s sensitivity to the existing trees on their property; we shared how grateful we all would be for them to consider protecting as many trees as possible for the ever-present eagle, osprey, and other wildlife habitat at their site.

The Trenbeath’s also mentioned that they would be appealing the current City of Dover’s Administrative Review regarding the rear lot line setback of their property because the existing zoning setbacks were so limiting on the size of

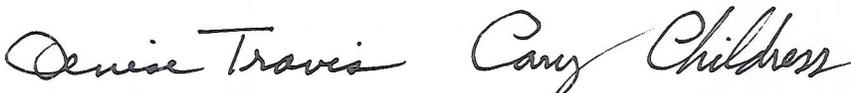
what they would be able to build. We mentioned to them that we understood the building limitations on their lot with the current zoning setbacks but, as a business decision, we would also be asking the City of Dover to maintain the current City zoning building setbacks.

Current City zoning ordinances and policies are carefully considered and recommended by the Planning Commission and then discussed and voted on by the City Council, all with the continued opportunity for public interaction and public response. The size of a house and its setbacks influence the distances between neighbors, the surrounding properties, and the surrounding neighborhood during the complete time of its existence. Once a setback is reduced and buildings are built, the footprint of these additions will “run with the property” and in all practicality, will be “forever.”

Because of the current zoning laws in place, we assume the Council would not change the City’s long Street Frontage setback of 133 Lakeshore Avenue from 25 feet to 10 feet and allow structures to be built 15 feet closer to the City Street’s frontage. If this is so, why would it be allowable to grant this Appeal to change this same setback down to 10 feet on our side and give the applicants the opportunity to build an extra 15 feet closer to the entire length of our 167 foot property line?

In conclusion, Madam Mayor, and Members of the Dover City Council, we respectfully request that you deny the Trenbeath Appeal of Administrative Review regarding 133 Lakeshore Avenue. We request that you uphold your current zoning regulation setbacks on this property as consistently determined by your Planning and Zoning Administrator.

Sincerely,



Denise Travis and husband, Cary Childress
227 Lakeshore Avenue
Dover, Idaho 83825
DeniseTravis3@gmail.com

