

MINUTES OF THE PLANNING AND ZONING COMMISSION

Chairperson Stutz called the Planning and Zoning Commission to order at 7:00pm on January 10, 2023

ROLL CALL: Adelberg P , Duke P , Karjalahti P , Baumann P ,
Briscoe P , Motta P , Stutz P .

Others in attendance: Tyler Avis, Nick Peiffer, Sam Peiffer, Ann Peiffer, Dan Johnson, Dan Agnew, Sheryl Newburg, Randall Caldwell, Crystal Loving, Gail Bonath, Mike Stewart, Julie Davis.

APPROVAL OF MINUTES From November 29, 2022: Duke moved to approve the minutes; Motta seconded the motion. The minutes were approved unanimously.

APPROVAL OF AGENDA: The agenda was approved unanimously.

COMMUNICATIONS: Avis read the staff report as it was written, and then introduced Randall, an attorney whom has represented the City in the Court regarding bringing the property in question to be rezoned into compliance with the zoning regulations.

NEW BUSINESS:

1. Review a rezoning application from Nicholas R. Peiffer to amend the zoning classification of 1533 West St from R-1: Single-Family Residential, to C-1: General Commercial and permit the property to be utilized as a lawn care and snow removal business. The Commission will then make a recommendation to City Council for approval or denial of the request.

Caldwell explained that the matter at hand is a request for rezoning the property to commercial. He explained the Board can look at how the change could effect property values, be in accordance with the comp plan, and if this would lead to a precedence being set for spot zoning of these types of businesses to be located elsewhere in primarily residential zoning districts within Grinnell. He further explained that this matter began in 2019 in trying to get the property to come into compliance. He explained that from the beginning Mr. Peiffer was told he could not utilize the property as a commercial business, but instead he has been doing just that. He explained that the court record would show there are multiple dispositions detailing how the property has been in noncompliance with the zoning regulations, and there are multiple orders detailing that business operations should cease, ultimately leading to an order of contempt being charged against Mr. Peiffer for failing to abide by the court's order. He finished with explaining that it does not appear Mr. Peiffer wants to follow the rules outlined by the regulations and that is why there is a rezoning request, to change the rules that need to be followed.

Adelburg asked if the other properties nearby are zoned as R-1.

Avis explained and showed on a map that everything north of 10th avenue is primarily R-1 with the exception of a couple multi-family residential apartment/townhouse developments, and all properties adjoining this lot are zoned as R-1.

Adelburg commented that in a previous rezoning request meeting where a different type of structure was to be placed that required a zoning change, and that it was agreed upon that there must be consistency within districts, and to be careful about changing the zoning.

Karjalahti asked why N. Peiffer's character was brought up by the attorney, mentioning the contempt charge and time served.

Caldwell explained he isn't trying to change anyone's decision based on that fact, and if that is not something someone wants to use to help make their decision then that is fine, but that he brought it up to because based on the decision tonight its possible for others in the future to circumvent the city's regulations and court orders by simply requesting to let the rules be changed for that particular individual.

Karjalahti asked if N. Peiffer served jail time because his house was being used inappropriately.

Caldwell explained that he served time because he was found in contempt of a court order.

Stutz requested that N. Peiffer be allowed to speak.

N Peiffer explained that he believes the court indicated that he was in compliance with the regulations. He explained that Caldwell isn't familiar with the case. He explained that an attorney with Caldwell advocated for him during the last hearing in that he was working to become in compliance. He explained that he has ben railroaded by the City concerning how to achieve compliance. He explained the condition of the property before he purchased it, containing an abandoned dwelling that was torn down before he purchased it. He continued to explain that there was a lot of back and forth with Avis on plans for the building/property. He explained that the building was built too tall and that Avis placed a stop work order on the construction which delayed it from being finished for a year, which makes Avis look like a fool for issuing the permit but then finding an issue and then stopping work from being done. He explained that a variance meeting was held to approve the building's height and that it was a circus show. He explained the he feels this matter is personal with Avis coming at him and that he is the only lawn care company being taken to court by the City when he knows of several other companies that are doing what he is, explaining that he is only staging out of his home and garage, where they then takes off to go do work, and that they don't hang around or do work there, but that they are trying to make the community look better, and he is the only one that is feeling pressure. He explained another company that has been around for 20 years and he parks his equipment all over the street but he gets no flack from the city. He explained it has

been going on since December of 2020 and that he has served 6 days in jail, and he believes it is a personal issue where Avis has a personal issue with him. He then explained that Avis' former in-laws, Germans, built a building and completed a rezoning to expand their business, and that there were no issues and that it just happened.

Stutz asked if any commissioners had any questions for N. Peiffer.

Loving explained that at the last court hearing N. Peiffer was found in compliance with the only exception being that you can only have one employee, being yourself. She explained that it is biased that there are only photos submitted by Avis showing the property and not photos from them which show over the past 4 months that the property is in compliance. She explained its not circumventing the rules to try and change the zoning to commercial but instead trying to work with the City to find a solution for someone who lives and works in the community. She explained that the 2004 plan is being updated and that this lot is not like other lots in that it is in a corner lot. She explained that as part of the plan to rezone the property they would place fencing and screening to make it its own isolated thing, and that the screening would hide what can be seen and bring the property into compliance. She explained N. Peiffer hasn't had any guidance from the City Leadership and said to ask for a variance. She explained there is nowhere in Grinnell to relocate this business to, and that N. Peiffer has looked tons of times and there just aren't places in town where that is possible. She explained that this process is punitive, and that bringing the court matter into this has happened because the City forced that, but that shouldn't come into play on this decision because this is one property that they want to make commercial to help it stay a viable business within the City. She then showed photos of the property.

Newburg explained she is the Chair of the Historic Preservation Commission. She explained she worked hard about 15 years ago to get the North Grinnell Historic District registered, and detailed the condition of the house that was torn down before the metal building was put up. She explained that this property is in close proximity to one of Grinnell's oldest homes and that it is an abomination to have a metal building and commercial spot-zoning right across from it. She then explained that the north entrance into Grinnell is the most attractive, and that this rezoning would not make it as attractive as it could be. She explained that the Historic Preservation Committee does not have a position on the matter as they didn't have a chance to meet to discuss. She then asked if the matter was advertised in the paper.

Avis explained it was in the double-issue between Christmas and new year's.

A Peiffer explained she is N. Peiffer's mother, and that she hasn't ever been to a meeting like this, but that her husband had when it all began. She explained that she has been to the court hearings, and that the condition of the house that was at the site before N. Peiffer had purchased it was in horrible shape, being overran with racoons and other varmints. She explained that it was approved to be built, and that there were some errors made on both sides, but N. Peiffer is trying to earn a living and support his family, and that it has been going on for more than 3 years. She explained it is costing the City and N. Peiffer a lot of money and time,

and that N. Peiffer just wants to rezone it, not to avoid anything, but to earn a living. She explained he is complying, and that as his mother she is on him about that, and that this has become personal, and it shouldn't be. She explained that we need to move this forward, its gone on too long.

Bonath explained her concern is that if this is rezoned to commercial, it will forever then be commercial which could potentially allow a gas station or other type of use to be located there, and that is something she doesn't want to see in that area. She explained that she talked to 2 of her neighbors who were unable to come to tonight's meeting and they were also opposed to the rezoning. She explained that he was granted the variance to allow it to be built, but that there shouldn't be equipment in the yard and piles of gravel, and that if he had complied with that then she would be happy.

Stewart explained that the property could be sold next week and if the zoning is changed then a car repair place could be located there, and as he looked through the code he noted this would open the door for many different types of businesses to be located there. He then detailed he looked through the packet and noted the letter explaining that how N. Peiffer stated he would be in compliance, and that Stewart believes he hasn't even attempted to come into compliance which explains why potentially up to 60 days in jail is possible. He further explained that he rides his bike by the property all the time and there is debris there all the time, plus there are a number of trucks that park on this property and along Merrill Park, and that people who want to visit the baseball fields can't because of N. Peiffer's business vehicles parked there. He explained he doesn't think it would be a good idea to rezone the property to commercial based on how N. Peiffer has handled the property, and that rezoning it to commercial is open-ended and can allow anything to go there.

S. Peiffer explained he is N. Peiffer's younger brother. He explained he drives by the property at least twice every day and that he has been aware of all this happening since it originated. He explained that he was close with Avis, and this has escalated over time. He believes a mistake was made by the City, and rather than admit it, it was pressed and pushed on his brother. He explained that the idea of having the property rezoned and then N. Peiffer leaving wouldn't make sense as his family has been in Grinnell for 4 generations. He explained that his family has contributed to the city, they are vested in the city, and that they want to help keep it to prosper. He believes this is personal, and hindering his brother, and targeted. He explained the idea that he went to jail is absurd, that the city is continuing to spend money on lawyers after all this time is absurd, and that this should come to an end, and he hopes that after this meeting that it does.

Briscoe asked what mistake was made.

S. Peiffer explained the blueprints, were submitted and construction began, but as soon as the frame was up construction was halted, and his brother was expected to eat the expense for the entire time, and over the winter the equipment was ruined. He then had to repay for the equipment and pay the builders over that time.

Briscoe asked if N. Peiffer knew this was a residential property when he bought it.

S. Peiffer explained that he lived next to the lot where the building is before it was constructed but there was a abandoned house there for decades before his brother purchased it.

Briscoe again asked if the lot was zoned R-1 before he purchased and built on it.

Avis explained that yes it has always been zoned residential.

N. Peiffer explained that it was communicated to him that it was which is why he submitted the letter with 5 bulbs detailing he would use the property per the code. He explained that he thought as long as he didn't make any waves everything would be ok, and that when construction was halted, it was because it was too tall, and that was the excuse Avis used to put the stop-work order on the construction. He detailed that Avis told him the garage couldn't be taller than the peak of your house, and that the answer he got until he got until he has his own guy measure was Avis didn't know how much taller it was. He explained the building construction was halted in April of 2019 and the building was finished in May of 2020, being fully exposed to the elements for an entire year. He said he never came after the city to pay for those expenses in reducing the life of the untreated wood.

Briscoe again asked that when the property was bought if it was already zoned residential.

N. Peiffer said correct and that he was told he could store his equipment in his building, but that he was delayed for a year, and that's why there was equipment stored outside during that time, and things being stored outside the rest of the time were probably poor choices.

Davis asked if the property is still for sale, and if it is who is the realtor.

N. Peiffer explained that Matt Karjalahti was his realtor but that it is no longer for sale.

Karjalahti explained that he noticed one of the photos did include his sign, and that yes he had the property listed, and that he has continuing knowledge about the whole situation from multiple people present and he said that N. Peiffer is a friend of his as many others are, but that he would not be contributing a vote in this matter tonight.

S. Peiffer explained that he has also seen something that he had never seen before in that the City went out of their way to put his family's name in the local newspaper when he was sentenced to go to jail. He explained that Avis contacted the newspaper or the newspaper contacted him, and that his name was plastered on the main story just because his brother went to jail for this. He believes there is plenty of evidence that shows this matter is very personal and that it has affected him and his family, especially his brother, but the newspaper bought his entire family into it.

Bonath explained that she herself contacted the newspaper when she asked about what was going on, and that she felt it was of interest to the community. She didn't know if Avis contacted the paper or not, but that she did herself.

Avis thanked Bonath for explaining that.

A. Peiffer explained that she also contacted the paper when her name appeared in the article on the front page of the article, and that she talked to Peggy Elliott, whom wrote the article, and that Peggy told her that she contacted Tyler and that they talked, which A. Peiffer thought was fine, but she explained to Peggy that she needed to talk to both sides to get the full story. She explained they wanted N. Peiffer to do this on his own, but this needs to come to end and stop now and that this is personal. She explained that he needs to earn a living, and that there are other businesses in residential areas but this one just happens to be a big building and if you drive by it now or the past few months it has been cleaned up as best it can, and that he's tried to grow grass.

N. Peiffer said he thinks were getting off topic, and that he just wants to be able to get up, go to work, and come home. He said as much as Avis driving by, the City driving by, or police driving by everyday and ticketing his vehicles for parking at Merrill Park, that he has lived in Grinnell for 38 years and never heard of one person getting a parking ticket for parking at Merrill Park, and he has gotten 6. He claimed he had an abandoned vehicle ticket from Officer Johnson who told another officer to go and ticket his trailers knowing he was in jail because of this matter. He claimed the harassment level has escalated.

Loving explained it is a beautiful corner lot and that if it were rezoned to commercial that would require screening and fencing from the neighbors, and that the property has met all the requirements from the Court for compliance other than the employees issue.

Stutz explained that the commission would discuss the matter, and then make a recommendation tonight.

Loving asked about the 2004 Comp Plan and the 2030 plan being currently discussed in the community.

Avis explained that the 2030 plan is a private plan seeking out information that isn't related to the City's zoning regulations or Planning and Zoning Commission. He explained that the PZC is planning to complete an update to the 2004 Comp Plan and the process is to being in the next few months as a consultant has recently been selected to lead that process.

Stutz explained that he appreciates everything N. Peiffer does and thinks there is a need for local lawn care and snow removal, but where the property is, is one of the main corridors into the City, and that to him it's been an eyesore, and he has an issue with all the trucks being parked along Merrill Park.

N. Peiffer asked what does Stutz see when he comes into Grinnell from the other sides of town, and then detailed that there are Casey's at all of them.

Stutz said that he is correct and why this entrance is different and is probably the best corridor the City has because there isn't business when you come in.

N. Peiffer said he is only asking for the lot where the business is located to be rezoned, and not where his house is. He explained he doesn't believe Casey's could build on a lot as small as this lot and that the lot is too narrow for a house to be built.

Duke said she thinks the personal animosity is unfortunate and she feels sorry that N. Peiffer feels he has been abused from the beginning, but that he knew this property was zoned residential from the very beginning. She said she walks past the property almost everyday, and that the property is unpleasant, and that the photos they submitted do not reflect what the property looks like regularly.

N. Peiffer asked when the last time was Duke walked by it.

Duke explained when she walks by there's always stuff there whether its piles of things, equipment, or tractors and that from the beginning she feels N. Peiffer knew it was residential and how it was to be used.

Baumann said she appreciates N. Peiffer coming and making the request but as both neighbors present referenced, once something is zoned one way it is hard to undo it. She also thinks that it should stay residential but that he should do the things that are being asked.

N. Peiffer said he asked about putting a fence up and was told no. He claimed he has gotten no direction from the City other than to go to jail. He claimed it is hard to work with them when at the last hearing it was asked if there is some central ground that can be met on before going forward and that Avis said no and is unwilling to work with them.

Baumann explained that given what everyone has discussed so far, although she thinks that N. Peiffer would do good, she won't be favorable of the request and hopes the City and him can come to a solution.

N. Peiffer abruptly left the Chambers.

Loving asked if Grinnell has conditional zoning or if an application for a variance could be put in place only for N. Peiffer while he owns the property to meet certain things that them and the City could come to agreement on.

Avis explained that the PZC is responsible for things that deal with making amendments to the current zoning regulations. The Board of Adjustment is the entity where variances could be

sought to not have to comply with the Home Occupation Regulations, and that has been explained.

Loving then asked so it is possible for a variance to be heard.

Avis explained yes, it is possible, but that when the original permit was submitted and the letter detailing that N. Peiffer would meet all the home occupation regulations, the building was to be used as a personal garage to store his lawn equipment. He further explained it hasn't been used just as a garage, but a building used for business operations.

Lovig explained that Avis must be careful because he is making assumptions about what is occurring at the site based on what is visible in the driveway, but not based on what is happening in the building.

Avis explained that the regulations apply to the whole property.

Lovig detailed that its good to know that a variance is another option they can seek.

Karjalahti asked Caldwell if a deed restriction could be placed upon the property limiting the timeframe of a use dependent on the owner.

Avis asked who would enforce the deed restriction.

Karjalahti explained that would be an issue as it would have to be the City since there is no homeowners or neighborhood association present for this property.

Caldwell confirmed that would be the case.

Avis detailed that could be something that City Council could discuss with N. Peiffer, and that this is simply this first step in the process and that the PZC is simply just making a recommendation in the matter and that City Council holds the final decision.

Motta said he had an issue with being able to hear some things so people need to speak into the microphone.

Adelburg said she wasn't aware of all the drama, and that when the Comp Plan gets updated these things will be looked at, but that for this location because everything else is zoned as R-1 it should continue.

Stutz asked for a motion on the matter.

Duke made a motion to accept the recommendation of staff and deny the rezoning request of 1533 West St. Briscoe seconded the motion. The Roll call vote was as follows:

Adelberg Yes, Duke Yes, Karjalahti Abstain, Baumann Yes,
Briscoe Yes, Motta Yes, Stutz Yes.

The motion to accept the recommendation of staff and deny the rezoning request of 1533 West St was approved.

ADJOURN: Adelberg moved that the meeting be adjourned. Duke seconded the motion. Motion passed unanimously. Meeting was adjourned at 7:58 p.m.

KEVIN STUTZ, CHAIR

ATTEST:

SECRETARY

