

**CITY OF KIRKWOOD**

**PLANNING AND ZONING COMMISSION**

**SPECIAL MEETING**

**JANUARY 29, 2020**

**PRESENT:** **ABSENT:**

Allen Klippel, Chairman Jim O’Donnell, Vice Chairman

Wanda Drewel, Secretary/Treasurer

James Diel

Madt Mallinckrodt

David Eagleton

Jim Adkins

Ron Evens

Greg Frick

Pursuant to notice of meeting duly given, the Planning and Zoning Commission convened on Wednesday, January 29, 2020, in the City Hall Council Chambers at 139 South Kirkwood Road. City Attorney John Hessel, City Planner Jonathan Raiche, Assistant City Planner Amy Lowry, and Administrative Assistant Patti Dodel also attended the meeting.

**1.** Chairman Klippel called this special meeting to order at 7:00 p.m. and informed the audience of the Speaker Cards and procedures for making comments. Chairman Klippel announced that Commissioner O’Donnell was absent and his absence was excused.

**2. ZONING, SUBDIVISON, AND SIGN CODES REWRITE UPDATE**

*Architectural Review (Procedural Recommendations for Binding Decisions)*

City Planner Raiche stated that review by the Architectural Review Board is currently advisory for single-family and for commercial projects outside of the National Historic District and is binding for commercial projects inside the National Historic District and for multi-family throughout the whole city. The current proposed Code would make the ARB’s review and decision binding for all projects that are not single-family residential. The City Attorney had expressed concern for ensuring that proper public notification be provided for binding decisions by the ARB, revised language was drafted for Section 25-21 to address the concern for notification as well as ensuring a decision within 90 days for binding decisions.

There were no questions from the Commission. Chairman Klippel asked if any Speaker Cards were completed and turned in, and the following were called to the podium for their comments:

Jeff Day, Jeff Day and Associates, provided guidelines from the City of Olivette and asked how the revisions would impact new houses.

Michael Chiodini, 13 Taylor Woods, stated he is Co-chair of the Architectural Review Board and has not had an opportunity to review the proposed Code.

In response to Commissioner Diel’s question, City Planner Raiche stated that a binding decision for commercial is common practice for communities as a way to ensure high-quality development in areas that have a large visual impact on the community.

Motion was made by Commissioner Drewel and seconded by Commissioner Frick to revise the Draft Code dated December 18, 2019, as reflected in Exhibit A of the Staff Memo dated January 27, 2020. The motion was unanimously approved.

 Excerpt from Exhibit A

 Section 25-21(c)(3)(ii)

 b. Notification of the public meeting shall be provided in accordance with Section 25-16(i), but the Director of Public Services shall post notice on the property when the Architectural Review Board is making a binding decision.

 ~~d. In making its decision, the Architectural Review Board may approve, approve with modifications or supplementary conditions, or deny the application.~~

 Section 25-21(c)(3)(iv)

a. Within ~~180~~ 90 days after the Architectural Review Board application is determined to be complete, the Architectural Review Board shall review any application for a development or activity that is subject to a binding decision on architectural review, and shall, at a minimum, consider the reports and opinions transmitted by the Director of Public Services, all documents and reports submitted by the applicant, and the review criteria of this section.

 b. If the Architectural Review Board fails to act within ~~180~~ 90 days from the date the application is determined to be complete, or an extended period of time as may be agreed upon by the Architectural Review Board and the applicant, then the application shall be considered approved as submitted.

 c. In making its binding decision, the Architectural Review Board may approve, approve with modifications or supplementary conditions, or deny the application.

*Side-yard Setbacks (R-3 and R-4 Nonconforming)*

City Planner Raiche stated that the proposed Code requires a side yard setback for new construction in the R-3 Zoning District for lots less than one hundred feet wide to be the lesser of 20% of the lot width or 12 feet. Additions to existing houses on non-conforming narrow R-3 lots can have a side setback of 12% of the width of the lot but not less than 8 feet.

The current Code requires a 5-foot side yard setback for non-conforming narrow lots in the R-4 Zoning District. So, a 60 foot wide lot requires an 8-foot side yard setback (44 foot wide buildable area) and the side setback drops on a 59-foot wide lot from 8 feet to 5 feet (49 foot wide buildable area). The proposed Code requires a side setback of 13% of the lot width, but not less than 5 feet. The current Code allows certain encroachments in the side yard (i.e., roof overhangs, fire places, air conditions, generators). An area free of encroachments at the ground level shall be preserved in the 8’ side yard setback in the R-3 District and 5’ in the R-4 District. For clarification, subgrade egress windows are not prohibited in the setback area. Existing air conditioners that currently encroach in this side setback can be removed and replaced as close as possible to the foundation wall as long as they are not replaced in a location that encroaches further compared to the existing unit.

Commissioner Adkins spoke in favor of the revisions. In response to Commissioner Diel’s question, City Planner Raiche stated that the issue discussed by the Steering Committee is highlighted when these encroachments (chimneys or air conditioners) are installed opposite to each other in the 5-foot side back which can result in this items only having 5’ between them on adjacent properties. Commissioner Mallinckrodt asked about wall mounted air conditioners. Mr. Raiche stated that chimneys and HVAC’s (wall mounted, etc.) cannot encroach in this area.

Chairman Klippel asked if any Speaker Cards were completed and turned in, and the following were called to the podium for their comments:

David Molner, Molner Homes, would prefer to keep the side setback regulations and encroachments as regulated in the current Code.

Michael Mahn, Mahn Custom Homes, stated he is opposed to the buildable area of a 50-wide lot in the R-4 District shrinking to 37 feet and is also opposed to the removal of the encroachments.

John Suelthaus, Kingbridge Homes and representing the HBA, believes there are 4,100 lots in the R-3 Zoning District and 2,400 of them are less than 100 feet wide and about 800 of those are 60 foot or less in width. He conducted a sampling of three areas zoned R-4; and in those three areas 53%, 74% and 61% were 50 feet wide or less. He believes the City should determine how many lots are non-conforming in the R-3 and R-4 Zoning Districts and notify those property owners before making a decision.

Maureen Reed, 1007 Krauswood Drive, stated the Planning and Zoning Commission should forward the proposed code updates to the City Council because a professional consultant was retained and that it would be a waste of tax payers money not to approve it.

Don Anderson, 344 West Adams, believes not allowing encroachments will decrease the size of prospective homes.

Ben Ellermann, Blaes Architects, asked if a one-story house has a chimney in the side yard setback and they decide to add a second story, can the non-conforming chimney be extended. He believes houses will be built deeper into the lots because they won’t be as wide.

Jeff Schindler, Schindler Homes, believes varying widths allow for creativity by the developer and allows for flexibility in elevations. He believes that a 37-foot wide house on a 50-foot wide lot is not practical.

Joe Roeser, Roeser Home Remodeling and resides at 654 Evans Avenue, believes the City should retain the current setbacks and cantilever requirements for non-conforming lots. He is concerned about locating HVAC systems at the rear of the house.

Brandon Holzheuter, 335 Lee Avenue, stated he purchased property in 2016 and began the process of razing the house to build a new home. He believes a new house can still be built on the non-conforming lots, but not the type of house that would maximize the value of the lot and the proposed changes will drive property values down.

Kim Spurgeon, retired architect at 407 Central Place, stated she worked for many years with the existing ordinance and would describe the current code as “masterful”.

Kathy Paulsen, 401 Frieda (R-3), stated 67% of those responding to the survey last June wanted stronger residential standards and that’s what she supports. She believes any reduction in the side yard setback in R-3 is a problem because the side yard setback defines the zoning and character of neighborhood, greenspace, which provides storm water and noise mitigation. She believes smaller homes with high-end amenities are preferred by new home buyers.

Allen McCoy, 625 Laven-Del, stated he is concerned that making houses smaller by increasing side setbacks and FAR, is taking money out of the school district’s pocket. He wants to see property values remain and allow builders to maximize the value of the lot.

Mark Gorris, is moving to 305 North Harrison this summer, believes the encroachments are small but important to the builders and that consumer demand will dictate the market.

Commissioner Drewel stated the noise level of an air conditioner and accessibility between houses are reasons that the Steering Committee discussed as to why it should be located in the back of the house.

In response to Commissioner Diel’s question regarding notice to property owner’s of non-conforming lots, City Attorney Hessel stated that notifying every property owner is not required from a legal standpoint and not sure what it would accomplish from a practical standpoint. Mr. Raiche also clarified that an existing legal non-conforming encroachment, including replacement of exterior HVAC equipment or home generators can be replaced {Section 25-47(d)(4)}.

Motion was made by Commissioner Drewel and seconded by Commissioner Adkins to revise the Draft Code dated December 18, 2019, as reflected in Exhibit B of the Staff Memo dated January 27, 2020. The motion passed six to two (Commissioners Diel and Frick were opposed).

Exhibit B

Section 25-47 (d)(7)

(iii) For additions, alterations, and expansions to nonconforming structures, when nonconforming setbacks are considered the required setbacks; or for structures granted a variance to setback requirements, the only encroachments permitted are roof overhangs, sills, belt courses, cornices and other architectural features as provided for in Table 47-1. Additionally, unenclosed porches or decks not more than one story in height or paved patios are permitted to encroach 10 feet measured from the conforming setback line or the applicable setback line prior to issuance of a variance, whichever is applicable.

Commissioner Frick made a motion to revise the Draft Code dated December 18, 2019, Section 25-47(d) and all relevant clauses that address the allowance of the encroachments into the 8-foot and 5-foot side yard setbacks for the R-3 and R-4 Districts. The motion was seconded by Commissioner Diel and passed seven to one (Commissioner Drewel was opposed).

*Floor Area Ratio (General)*

City Planner Raiche stated the percentages and maximums for FAR are not changing, what is changing is what goes into those numbers, i.e., garages and half stories. Regardless of the zoning district, lots equal to or less than 10,000 square feet, are allowed to have the greater of a FAR of 35% of the lot size or a floor area of 2,250 square feet. FAR was added to the Zoning Code in 2007 as a way to further regulate the size of single-family homes. Prior to that, size was dictated by setbacks, lot coverage, and height restrictions. For lots 10,001 to 19,999 square feet, the FAR is 30% but no less than 3,500 square feet; and lots greater than 20,000 square, the FAR is 25% but no less than 6,000 square feet. Finished space in a detached structure is not included in the FAR calculations but is controlled by lot coverage, setback, and height requirements. Exhibit C clarifies the language that FAR is calculated on the principal structure.

There being no questions from the Commissioners, Chairman Klippel asked if any Speaker Cards were completed and turned in, and the following were called to the podium for their comments:

Mark Gorris, 305 North Harrison, stated he believes the storm water control guidelines should be given more time to see that affect before other changes are made. He believes older residents who want an attached garage should not be penalized.

Mike Lewis, Lewis Homes and resident at 204 Peeke, referenced a map from 2013 when the Council voted against including 100% of the attached garage in the FAR. The changes would have an effect on homeowners who want to add on a garage, it’s not just new houses. The thickness of the wall is also included in the FAR, which he believes is 150 to 200 square feet. He also believes the 300 square foot exemption in lot coverage for front porches should not be reduced to 200 square feet.

Dan Stauder, Stauder Architecture and resident at 1618 West Woodbine, believes counting 100% of an attached garage in the FAR will encourage detached garages. This will increase the impervious area and cost of construction.

Ben Ellerman, Blaes Architects, is opposed to the reduction of the front porch square footage in the lot coverage calculation.

Matt Williams, 549 North Taylor, believes the City should make small corrections in the Code and allow the storm water controls to have an effect.

Liz Fendler, a realtor, discussed a house on Dickson that has been for sale for more than a year and is concerned about the effect the changes will have on existing homeowners.

Motion was made by Commissioner Mallinckrodt and seconded by Commissioner Drewel to revise the Draft Code dated December 18, 2019, as reflected in Exhibit C of the Staff Memo dated January 27, 2020. The motion was unanimously approved.

Exhibit C

Section 25-46, Measurements, Computations, and Exceptions

## Floor Area Ratio (FAR) Measurements

The Floor Area Ratio (FAR) of a lot is calculated by totaling the floor area of each story of the principal structure and dividing the total floor area of all stories of the principal structure by the total lot area as follows:

* + 1. Floor area for the first and full second floor shall be measured from the exterior of the building excluding exterior wall treatments (e.g., siding, brick, etc.).
		2. Any area with a ceiling height greater than 15 feet shall be counted at 200 percent.
		3. All floor space above 5 feet in height in a half-story shall be counted at 100 percent if the space is conditioned or provides access through a permanent staircase. See also Section 25-48(c)(2) for calculation of half-stories.
		4. Attached garages, carports, or porte cocheres shall be counted at 100 percent of the floor area.
		5. Basement areas that are not defined as a story per **Section 25-46(h)** and unenclosed patios, porches, or decks are excluded.

*Floor Area Ratio (Garages – Attached & Detached)*

City Planner Raiche, stated that the current Code includes 50% of the square footage of an attached garage in the FAR and does not include a detached garage. The proposed Code includes 100% of the square footage of an attached garage and does not propose to make a change to include a detached garage. The typical two-car garage ranges from 20’x20’ to 24’x24’ and would result in an additional 200 to 288 square feet of additional area being included in the FAR. The Steering Committee’s recommendation is based on the current regulations producing too large of a house on a small lot.

Commissioner Drewel stated the surveys returned indicate there is a concern of the bulk of a structure and half stories add to the bulk of a structure. This change would help to manage the bulk. Homeowners are converting garages to living space, whether it’s a rec room or for storage. Commissioner Evens believe that a detached garage is taking up more space, and maybe the same regulations should be in place for detached garages. Mr. Raiche added that detached structures have separate constraints for size and the City has recently adopted storm water management (BMP’s) requirements in place for increased impervious area.

Chairman Klippel asked if any Speaker Cards were completed and turned in, and the following were called to the podium for their comments:

Jeff Day, Jeff Day and Associates, stated more consideration should be given to the architecture and massing of the adjacent properties. The BMP’s installed by the developer will fail if not maintained by the homeowner.

Michael Mahn, Mahn Custom Homes, is opposed to including 100% of the garage square footage in the FAR. Homeowners who want a smaller home, want a master bedroom on the first floor of the story and a half homes.

Ben Ellermann, Blaes Architects, believes the loss of the 200 to 250 square feet of area will result in three-bedroom in lieu of four-bedroom homes or possibly the loss of a dining room or study on the first floor.

Laurie Smith, believes FAR should be about finished floor area and not a tool to change the mass of the house. A garage is not a tempered space, it’s not finished space.

Josh Peterman, 827 Culloden Road, believes including 100% of the attached garage in the FAR will encourage a detached garage. Moving it to the rear of the lot will not solve the issue. Detached garages have more impervious surface and grading, and the BMP’s have not had time to take effect.

John Vella, owns 324 North Taylor, believes the changes will have a domino effect. He’s currently working with a builder and architect to either rehab or demolish the house at 324 North Taylor. If 100% of the attached garage is included in the FAR, and if the side setback is more than 5 feet, and if the height of the garage is limited to 15 feet, the degree of difficulty in developing the property is exponential.

Dan Stauder, Stauder Architecture and resident at 1618 West Woodbine, presented a picture of a house that was awarded the Infill of Merit, and the house could not be built under the proposed Code.

Nick Schellert, 439 Lee Avenue, stated a detached garage would take away from the back yard area. He believes everyone should be notified by a utility bill insert regarding the proposed Code. The larger houses generate more taxes and that revenue could be used to improve the sewer system.

Kevin O’Brien, Agape Construction and resident at 1021 Barberry, stated most of his business is remodeling. He was contacted by a homeowner on Briarcreek for a first-floor master bedroom room addition. If an additional 200 square feet of the garage is included in the FAR, the homeowner would not be able to add onto their house.

David Fendler, realtor, there is no other city in the St. Louis area that has prospered like Kirkwood.

Commissioner Frick made a motion to revise Section 25-46(g)(4) of the Draft Code dated December 18, 2019, to continue to count 50% of the floor area of attached garages, carports, and porte cocheres towards the Floor Area Ratio. The motion was seconded by Commissioner Adkins. After discussion, the motion passed five to three with Commissioners Adkins, Eagleton, Diel, Klippel, and Frick in favor and Commissioners Evens, Drewel, and Mallinckrodt opposed.

*Floor Area Ratio (1/2 Stories)*

City Planner Raiche stated that the current Code does not include half stories in the FAR and the proposed Code would include all floor space above five feet in height in a half-story at 100 percent if the space is conditioned or provided access through a permanent staircase. The current code allows a 5% increase in lot coverage for homes that are less than two stories tall and the proposed code keeps that provision intact. As an extreme example of the effect half stories can have on the visual bulk of homes, elevations for a new house with a gambrel roof was shown; and the half story, which was finished, was not included in the FAR. City Planner Raiche referenced that this example was provided to the Steering Committee and that the example was one of the more extreme examples for homes that appear very similar to a two story home, but are considered to be one and a half story by the current code. This means that the additional floor area is allowed on top of the regular allowed floor area. City Planner Raiche recommended that if the Commission considers removing the inclusion of half-stories in the FAR calculation, they should also consider prohibiting gambrel and mansard roof styles from consideration as a half-story.

Chairman Klippel asked if any Speaker Cards were completed and turned in, and the following were called to the podium for their comments:

David Molner, Molner Homes, stated he built the house shown by Mr. Raiche, and it sold in a month. He would like to know if there is a way to salvage the half story exemption and give up the gambrel roof, that might be an option.

Michael Mahn, Mahn Custom Homes, believes that, if the City counts the square footage in a half story, there’s no incentive; and more two-story homes will be built. The curb appeal will be lost and vertical vinyl boxes will be built.

Ben Ellermann, Blaes Architecture, stated a homeowner who bought a house that was built one hundred years ago that currently has a staircase or pull-down stairs to unfinished attic space would not be able to finish the space. More two-story houses will be built.

Dan Stauder, Stauder Architecture and resident at 1618 West Woodbine, believes if the intent is to minimize bulk, not sure not encouraging a story and a half is the way to do it.

Mark Gorris, 305 North Harrison Avenue, stated the county calculates it differently, they don’t count garages as living space, which is how taxes are based. Older houses should be preserved but you have to look at the economics. He looked at his street; and believes that the infill redevelopment is a “home run” on Harrison Avenue. There’s a variety of architecture.

Kevin O’Brien, Agape Construction and resident at 1021 Barberry Lane, built a house in 2014 and received the Infill of Merit Award. He has dormers over the garage and over the dining room and his intent was to finish the space in the future. With the proposed rules, he would only be able to finish one of the spaces, finishing both would exceed the FAR. The outside of the house would not change. He wants the City to keep FAR as they are, he believes we are ten years into a fifty year plan. He wants the City to notify homeowners how these changes will affect them and the value of their house.

Chris Fischer, representing the HBA, stated a fourth bedroom, den, or bonus area is preferred by young families. Finishing the vacant space area contributes little if any to the bulk of the home. He presented two elevations – the Whitehall, a three bedroom, 2 bath, 1,800 square foot ranch home and the Parker, a four bedroom, 3 bathroom, 2,590 square foot one and a half story home. Both homes look identical from the exterior, but by rotating the staircase in the Parker adds 790 square feet with two additional bedrooms. He believes the survey represents a small percentage of the population. He stated the builders are here representing what their clients want, not what the builders want to make more money.

Don Anderson, 344 West Adams, stated the most beautiful house is a high-pitched roof, and the proposed change is penalizing homeowners for using the space. The previous Code measured height to the middle of the roof, not the peak. With that, 50 percent of the houses he built had a third floor that contained two or three bedrooms and a bathroom.

Monte Herring, 307 Central, stated you can’t tell if attic space is finished or unfinished, and the finished square footage in a basement isn’t counted towards FAR.

Commissioner Frick stated the half story shouldn’t be counted. After discussion and a question, City Planner Raiche commented that the revised Code was sent to the Chair and Co-Chair of the Architectural Review Board for comments. Commissioner Adkins made a motion to revise Section 25-46(g)(3) of the Draft Code dated December 18, 2019, by counting 50% of the square footage in a half story and not 100%. The motion failed for lack of a second.

Commissioner Diel made a motion to keep the Code as it is currently written {basement areas, unenclosed porches, and half story (attic) living areas are excluded from FAR}. The motion was seconded by Commissioner Frick. There being no discussion, the motion failed four to four (Commissioners Adkins, Diel, Eagleton, and Frick were in favor and Commissioners Drewel, Evens, Klippel, and Mallinckrodt were opposed).

Commissioner Adkins made a motion to revise Section 25-46(g)(3) of the Draft Code dated December 18, 2019, and related sections by counting 50% of the square footage in a half story and not 100%. The motion was seconded by Commissioner Diel and passed five to three (Commissioners Adkins, Diel, Eagleton, Klippel, and Frick were in favor and Commissioners Drewel, Evens, and Mallinckrodt were opposed).

Chairman Klippel opened up the meeting to other comments concerning the proposed Code and asked if any Speaker Cards were completed and turned in, and the following were called to the podium for their comments:

Rob Griffith, Kirkwood-Webster Construction and resident at 410 Central Place, is opposed to the maximum height of 15 feet and additional side yard setbacks for detached garages.

Mark Gorris, 305 North Harrison Avenue, is opposed to the reduction to 200 square feet for porches. He also inquired about the Sign Code and “branding” signs being allowed in the right-of-way.

Laurie Smith, believes a dormer wider than four feet should count towards FAR to encourage the one and a half story look. Carports and porte cochers have some roof coverage but are “see through” and should not be counted towards building mass. Front porches and screened porches are also “see through”.

Don Anderson, 344 West Adams Avenue, stated his house is on a corner lot and has a big porch. He believes porches are a part of Kirkwood’s heritage. He also believes garages shouldn’t have a low-pitched roof, the pitch of the roof on a detached garage should match the pitch of the roof of the house.

John Vella, 324 North Taylor, also doesn’t want a flat roof on a garage especially on secondary front yards.

Monte Herring, 307 Central Place, also believes the roof and architecture of a detached garage should match the house.

Dan Stauder, Stauder Architecture and resident at 1618 West Woodbine Avenue, believes porches add to the front of a house, especially houses on a corner lot. He would like to see the exemption of 300 square feet be allowed on each frontage of a corner lot.

Ben Ellermann, Blaes Architectures, believes garages will look the same whether they are 20’, 22’, or 25’ wide. As you push the garage towards the middle of the yard, it will be much more visible to the adjacent side neighbors.

Commissioner Diel made a motion to retain the 300 square foot lot coverage exemption for front porches and revise Section 25-46(f)(2) of the Draft Code dated December 18, 2019, by changing 200 to 300. The motion was seconded by Commissioner Frick and passed five to three (Commissioners Adkins, Diel, Eagleton, Frick, and Mallinckrodt were in favor and Commissioners Drewel, Evens, and Klippel were opposed).

Commissioner Eagleton provided the history and benefits of the Grants Trail. He also cited various efforts the City has conducted in various planning efforts to become more bikeable including one of the goals in the EnVision Kirkwood 2035 Comprehensive Plan is to make Kirkwood more bikeable and walkable. Commissioner Eagleton made a motion to amend Section 25-67(a) by deleting “Residential buildings with three or less dwelling units and all properties located on Manchester Road and Kirkwood Road shall be exempt from the requirements of this section.” Commissioner Diel seconded the motion. After discussion, Commissioner Eagleton amended his motion, seconded by Commissioner Diel, to amend Section 25-67(a) as follows: “Residential buildings with three or less dwelling units ~~and all properties located on Manchester Road and Kirkwood Road~~ shall be exempt from the requirements of this section.” The amended motion was unanimously approved.

Motion was made by Commissioner Frick and seconded by Commissioner Mallinckrodt to approve the Draft Code dated December 18, 2019, as amended tonight. The motion passed seven to one with Commissioner Drewel dissenting.

There being no further business, motion was made by Commissioner Frick and seconded by Commissioner Drewel to adjourn at 10:37 p.m. The next regular meeting will be held on February 5, 2020, at 7 p.m. in the Council Chambers at Kirkwood City Hall.

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 Allen Klippel, Chair

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 Wanda Drewel, Secretary/Treasurer

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