

**Rockville Planning Commission
Regular Meeting
Rockville Community Center, Town Hall
October 12, 2021 – 6:00 pm**

1. **CALL TO ORDER – ROLL CALL:** Chair Jane Brennan called the meeting to order at 6:02 p.m. Also present were Cheryl McGovern, Linda Brinkley, and Tim Arnold. Ken Rybkiewicz appeared via Zoom. Alternate Commissioners, Brooke Wright and Garth Tyler were present as well as Town Attorney Dayton Hall. Town Clerk Vicki S. Bell recorded the meeting.
2. **DECLARATION OF CONFLICT OF INTEREST WITH AN AGENDA ITEM:** Tim Arnold declared a conflict of interest with agenda item No. 8.
3. **PUBLIC COMMENT:** There were no public comments.
4. **CONSIDERATION AND POSSIBLE ACTION ON AN APPLICATION FOR A HALLOWEEN BANNER TO BE POSTED ON THE FRONT LAWN OF THE COMMUNITY CENTER LOCATED AT 43 E. MAIN STREET FROM OCTOBER 28-30, 2021 – LIZ TOTTEN:** Liz Totten asked to put up a banner announcing the Halloween Event on October 30th from 3:30pm to 5:30pm. The event will be held outside in the park this year due to Covid.

Linda **MOVED** to approve the posting of the banner to be put up on October 28 and removed the evening of the 30th following the event. Tim **SECONDED** the motion.

VOTE on Motion:

**Ken Rybkiewicz: Aye
Cheryl McGovern: Aye
Tim Arnold: Aye
Linda Brinkley: Aye
Jane Brennan: Aye**

The motion PASSED unanimously.

5. **CONSIDERATION AND POSSIBLE RECOMMENDATION FOR A REQUEST FOR REASONABLE ACCOMMODATION BY DOYLE TIMMONS AT 449 W. MAIN STREET, ROCKVILLE CONTINUED FROM THE AUGUST 10TH MEETING – DOYLE TIMMONS:**
Will Bangerter, applicant's attorney, and Kevin Thomas, draftsman for the project, were present representing Doyle Timmons. Mr. Bangerter began by stating that he sent the Town a copy of Doyle's wife's diagnosis of Alzheimer's disease that was made two years ago. Explaining that both her cognitive and physical health are declining rapidly. So, in total there will be two residents of the home that fall under the protected class of people under the Fair Housing Act. His son-in-law, who has M.S. is the other resident with a disability and his condition is declining as well.

Mr. Bangerter advised the Planning Commission that when arguing for Reasonable Accommodation in Federal Court, he has found that the most common claims have been disparate treatment, disparate impact and failure to accommodate. He specified that he does not think there is any disparate treatment. There is no intentional discrimination against a disability going on. Only that the Planning Commission is trying to uphold the ordinances that are in place.

However, Mr. Bangerter said he believed that there is disparate impact in this case. Specifically, the requirement that the garage be detached from the 4000 square foot home. He admits that on its face it seems like it applies to everybody equally, when in fact it significantly impacts a disabled person and their ability to enjoy and access the garage without dealing with snow, rain, or heat.

Mr. Bangerter also believes that there is a failure to accommodate on the part of the Town

as well. While the Commission did offer two options for the accommodation request, the first being that Mr. Timmons could keep the 4300+ square foot home if he detached all of the garages. The other was that he could attach one garage if the actual building footprint was brought down to 4000 square feet. He explains that these are not actual accommodations, that they are only adjusting things to make Mr. Timmon's home fit within the Town's Code.

Mr. Bangerter expressed his hope of working with the Planning Commission to get them to give actual accommodations which would not just be asking Mr. Timmons to reduce the size of his house to fit within the Town's Code, but to allow him the 4000 square feet plus their accommodations.

There was some further discussion between Mr. Bangerter, Dayton Hall, and the Commissioners regarding the ADA compliance of the home. It was agreed that as a single-family home, it does not have to be ADA compliant, though one would expect that it at least be wheelchair accessible if the applicant is requesting reasonable accommodation. Mr. Bangerter pointed out that there are portions of the home that are wheelchair accessible for the son-in-law.

Kevin Thomas came forward to offer further clarification and answer additional questions. Mr. Thomas explained that nearly all of the home is wheelchair accessible. The doorways are wide enough for a wheelchair and there is extra space in the showers, rooms, halls, etc. for "turn around." Chair Brennan asked if Mr. Thomas was the original architect on the project. He was not but has now taken on that responsibility and has made various updates to the plans.

Garth stated that he has a degree in mechanical engineering and asked Mr. Bangerter, Mr. Thomas, and the Council members to look at some small changes that he was able to make to bring the plans down in square footage to the required 4,000 square feet. These are changes that would not impact the accessibility of the home to either of the disabled individuals.

Garth's changes included things like removing dead space, shortening the master bedroom, taking some space out of a storage room, only having one sink in a bathroom and then adjusting things accordingly. Garth displayed these plan changes on his computer so everyone could see that the changes were do-able would not impact the homes accessibility to handicapped persons.

Mr. Thomas responded that he could make a 1400 square foot home handicapped accessible and while it is possible to squeeze square footage out of the plans, that is not what Mr. Timmons wants and he should be able to build the house he wants. Mr. Thomas went on to ask, who are we to say what Mr. Timmons needs? We may think that the master bedroom is plenty big enough, but we don't know what the Timmons' may want to put in there. Mr. Thomas went on to say that they do need extra rooms for rehabilitation and exercise equipment though.

Tim thanked Garth for taking the time to go over the plans and see if there were feasible changes to be made, thus giving them another possible accommodation to consider. Tim further expressed his concerns that the Planning Commission had come up with possible accommodations for Mr. Timmons and they got nothing from him in return. He has offered no options for a possible compromise whatsoever.

Mr. Bangerter said that Mr. Timmons wants to make this work. He went on to say that he felt like it is a reasonable proposal to shrink the house down in some respects as long as they still have the rehabilitation room. Chair Brennan said that room was not an issue and Garth affirmed that he had not touched that room in his proposal.

Linda brought up the importance of having a two-car garage that is attached to the home, allowing both family members with disabilities access to the home through the garage. She

felt it important that they make sure there is enough room for two vehicles, one for each disabled person, as well as room for each of them to get in and out of their vehicle. After some discussion the Commission members agreed with that assessment and decided that they could make the accommodation by allowing a 4,000 square foot home with the additional square footage of an attached two-car garage.

Mr. Bangerter said that he thought they could make that work and that it was not an unreasonable proposal by any means. There was some more discussion and clarification about what would be allowed. Tim again said to Mr. Bangerter that if Mr. Timmons was not satisfied with the proposal, then he should come back with a compromise idea of his own to present to the Commission as they have spent the time to prepare three different proposals for Mr. Timmons.

Mr. Bangerter asked the Commission to continue this item until the November meeting to allow him time to take this new suggestion for accommodation to Mr. Timmons.

Chair Brennan **MOVED** to continue this agenda item until the next meeting on November 9, 2021. Cheryl **SECONDED** the motion.

VOTE on Motion:

Ken Rybkiewicz: Aye
Cheryl McGovern: Aye
Tim Arnold: Aye
Linda Brinkley: Aye
Jane Brennan: Aye

The motion PASSED unanimously.

6. **CONSIDERATION AND POSSIBLE ACTION ON AN APPLICATION FOR A CONDITIONAL USE PERMIT TRANSFER TO NEW OWNERS OF THE DESERT THISTLE, NEIL & LORRAINE ECONOMY LOCATED AT 37 W. MAIN IN ROCKVILLE – NEIL ECONOMY:** Chair Brennan reported that this item is being withdrawn and postponed until the November 9th meeting per Neil and Lorraine Economy.

7. **CONSIDERATION AND POSSIBLE ACTION ON AN APPLICATION FOR A HOME OCCUPATION PERMIT FOR ZWEEDLES & BEES FOR THE PURPOSE OF DOING INTERNET SALES LOCATED AT 161 E. MAIN STREET IN ROCKVILLE – JONAH TERRY:** Jonah explained that his business would mainly consist of creating CBD products and selling them online only. Chair Brennan asked if those products are legal to sell here and if he has met all the State requirements to conduct such a business. Jonah said that once he had a business license from the Town of Rockville, he would have everything he needed to begin conducting business legally. Chair Brennan reminded him that this business would need to be completely separate from the fruit stand business that he already has, and that Jonah could not sell the internet products at the fruit stand. Chair Brennan began the motion, whereas the application for a home occupation permit submitted by Jonah Terry for an internet sales business at his residence at 161 E. Main St. is complete, and the home based internet sales business does not conflict with the 333Rockville Land Use Code Chapter 4.1, and the home based internet sales business will not have any employees that do not reside at 161 E. Main Street, and the home based internet sales business will not have any signage, display of goods and will not be associated with the allowed produce stand also on the property, and the internet sales business remains incidental to the residential nature of the home, the use is consistent with and does not compromise the General Plan. The application complies with all requirements of the Code. The use is compatible with the residential character of the neighborhood.

Chair Brennan then **MOVED** to approve the permit. Cheryl McGovern **SECONDED** the motion.

VOTE on Motion:

Ken Rybkiewicz: Aye
Cheryl McGovern: Aye
Tim Arnold: Aye
Linda Brinkley: Aye
Jane Brennan: Aye

The motion PASSED unanimously.

8. **CONSIDERATION AND POSSIBLE ACTION ON AN APPLICATION FOR A BUILDING PERMIT TO ADD AN ADDITION TO THE EXISTING HOME LOCATED AT 39 S. 140 W. IN ROCKVILLE – TIM ARNOLD:** Alternate Brooke Wright took Tim's place as a voting commissioner for this item due to Tim's conflict of interest.

Tim said that he believes that he has done all that the Town requires before issuing a building permit. He even had to add an additional septic tank, which was installed, tested, and has been okayed by the County. The building inspector also approved the project. Chair Brennan asked what the total square footage will be and was told 2,315 square feet.

Chair Brennan **MOVED** to approve the application and plans for a building permit for an addition to the house at parcel number R-1184-B, known as 39 S 140 W, submitted by Kimberlee and Tim Arnold. The addition complies with the Rockville Land Use Code and does not conflict with the Rockville General Plan. And the Arnolds have complied with and received approval for a flood plain permit. And due to the multiple step process the Arnold's needed to take in submitting this application, the building inspector has already reviewed and approved their plans. Linda Brinkley **SECONDED** the motion.

VOTE on Motion:

Ken Rybkiewicz: Aye
Cheryl McGovern: Aye
Brook Wright: Aye
Linda Brinkley: Aye
Jane Brennan: Aye

The motion PASSED unanimously.

9. **APPROVAL OF THE MINUTES FOR THE SEPTEMBER 14, 2021, REGULAR MEETING:** Cheryl McGovern **MOVED** to approve the minutes. Tim Arnold **SECONDED** the motion.

VOTE on Motion:

Ken Rybkiewicz: Aye
Cheryl McGovern: Aye
Tim Arnold: Aye
Linda Brinkley: Aye
Jane Brennan: Aye

The motion PASSED unanimously.

10. **APPROVAL OF THE MINUTES FOR THE SEPTEMBER 14, 2021, WORK MEETING:** Tim Arnold **MOVED** to approve the minutes. Cheryl McGovern **SECONDED** the motion.

VOTE on Motion:

Ken Rybkiewicz: Aye
Cheryl McGovern: Aye
Tim Arnold: Aye
Linda Brinkley: Aye
Jane Brennan: Aye

The motion PASSED unanimously.

INFORMATION / DISCUSSION / NON-ACTION ITEMS

11. PLANNING COMMISSION ADMINISTRATIVE BUSINESS

- a. **NEXT PLANNING COMMISSION MEETING WILL BE NOVEMBER 9, 2021:** Chair Brennan asked if all Commissioners would be available for the next meeting. There were no conflicts.

- 12. ADJOURNMENT:** Linda Brinkley **MOVED** to adjourn the meeting. Cheryl McGovern **SECONDED** the motion.

VOTE on Motion:

Ken Rybkiewicz: Aye
Cheryl McGovern: Aye
Tim Arnold: Aye
Linda Brinkley: Aye
Jane Brennan: Aye

The motion PASSED unanimously.

The meeting adjourned at 7:40 p.m.

Minutes Prepared by:

Candace Harris, Deputy Town Clerk
Town of Rockville

APPROVED:



Planning Commission Chair/Vice Chair

The foregoing minutes were posted in the cabinet of the Rockville Town Office by
Wick S Reel at approximately 8:30 AM on the Rockville website.

Wick S Reel



Rockville Planning Commission
Regular Meeting
October 12, 2021 6:00 p.m.
Rockville Community Center
43 E. Main Rockville, UT 84763

PLEASE SIGN YOUR NAME AND PLACE OF RESIDENCE FOR THE RECORD

NAME	ADDRESS
Robin Smith	388 W Main
Elizabeth Toffen	138 Apple Ln. Springdale
Shirley Ballad	40 South Rockville
Wil Bangerter	912 W. 1600 S., suite A-200, St. George, UT 84770
Jonah Terry	161 E Main, Rockville
Travis Terry	
Kevin Thomas	Draftsman For Timmons