

## **ASTORIA PLANNING COMMISSION MEETING**

Astoria City Hall  
August 28, 2018

### CALL TO ORDER:

President Fitzpatrick called the meeting to order at 6:30 pm.

### ROLL CALL:

Commissioners Present: President Sean Fitzpatrick, Vice President Kent Easom, Jennifer Cameron-Lattek, Daryl Moore, Jan Mitchell, Joan Herman, and Brookley Henri.

Staff Present: Planner Nancy Ferber. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

### APPROVAL OF MINUTES:

President Fitzpatrick asked for approval of the minutes of the July 24, 2018 meeting. Vice-President Easom moved that the Astoria Planning Commission approve the minutes as presented; seconded by Commissioner Herman. Motion passed unanimously.

### PUBLIC HEARINGS:

President Fitzpatrick explained the procedures governing the conduct of public hearings to the audience and advised that handouts of the substantive review criteria were available from Staff.

### ITEM 4(a):

V18-07                      Variance Request V18-07 by Joseph Michael Fortier from the maximum 30 percent lot coverage to 36 percent lot coverage to construct a porch on the rear of an existing single-family dwelling at 193 W. Duane Street.

President Fitzpatrick asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. He asked if any member of the Planning Commission had any conflicts of interest or ex parte contacts to declare. Hearing none, he asked Staff to present the Staff report.

Planner Ferber reviewed the written Staff report. No correspondence had been received and Staff recommended approval of the request with the conditions listed in the Staff report. She suggested a condition be added to confirm the exact square footage of the porch.

President Fitzpatrick opened the public hearing and called for a presentation by the Applicant.

Joseph Fortier, 193 W. Duane St. Astoria, thanked the Commission for their time and consideration of his request. His lot slopes and the back yard is hard to see from a certain angle. The decline goes from about 10 percent to 20 percent from east to west. This makes it difficult to use the backyard. The existing porch is more of a stoop, which is not useable for any kind of recreation. The porch was an addition to the original structure. He did not know when the porch was added, but remnants of a former porch, the style of the existing porch, and the materials that were used suggest it was added some time after the house was constructed. He believed the original porch ran the length of the house, more in keeping with the porch that is on the front of the house, which is in line with his proposal.

Commissioner Henri asked if Mr. Fortier was talking about the balcony on top or the porch that was a few feet off the ground.

Mr. Fortier clarified he was talking about the entire structure. There is a cement slab at the base and a roof. When he purchased the house, there was no railing on the second floor, just a doorway to nowhere. That suggested the house had a larger porch. His homeowner's insurance company threatened to cancel his policy unless he added a railing for safety. He confirmed the porch would be a deck and a balcony. The deck and balcony would only be connected by an interior stairway and no exterior stairway would be built. The south west

corner of the house provided evidence of a former stairwell that led down from the second floor along the exterior.

Commissioner Herman said she understood the request was just for the lower portion of the porch. She asked if both the bottom and top levels would extend the length of the house.

Mr. Fortier explained his idea was to expand the bottom and the roof across the width of the porch. If he used the roof, he would add a railing across the top. That would allow him to maximize his use of outdoor space while maintaining a minimum footprint.

President Fitzpatrick called for any testimony in favor of, impartial to, or opposed to the application. Hearing none, he called for closing comments of Staff. There were none. He closed the public hearing and called for Commission discussion and deliberation.

Commissioner Cameron-Lattek stated she believed the application met the requirements for a variance. It looked like the porch would be in line with the architecture of the building and would not strongly impact any of the structures around it.

Vice-President Easom, Commissioners Henri, Moore, Mitchell, and Herman said they agreed and had no objections to the request.

Commissioner Herman added that the lot is undersized and increasing the deck would greatly increase the livability of the property, which supports the Comprehensive Plan.

President Fitzpatrick said his only concern was the hardship. He believed the City was being very creative in finding a hardship, although he had nothing against the application.

Vice-President Easom moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Variance Request V18-07 by Joseph Michael Fortier, with the additional condition requiring confirmation of the total square footage, which shall not exceed 38 percent lot coverage; seconded by Commissioner Moore. Motion passed unanimously.

President Fitzpatrick read the rules of appeal into the record.

#### ITEM 4(b):

V18-10                      Variance Request V18-10 by Ben Bradshaw from the off-street parking requirements of one space to operate a one-bedroom Home Stay Lodging (transient lodging) with zero off-street parking in an existing single-family dwelling at 510 Duane Street.

President Fitzpatrick asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. He asked if any member of the Planning Commission had any conflicts of interest or ex parte contacts to declare. Hearing none, he asked Staff to present the Staff report.

Planner Ferber reviewed the written Staff report. No correspondence had been received and Staff recommended approval of the request with the conditions listed in the Staff report.

Commissioner Herman asked what would preclude the residents from obtaining a second vehicle. Planner Ferber said family members and long-term renters would not trigger parking requirements. A second vehicle could potentially exacerbate the tightness of the parking situation in the area. However, the lot is nonconforming, so guests are allowed. But, as soon as a room is rented, a variance is required.

President Fitzpatrick opened the public hearing and called for a presentation by the Applicant.

Ben Bradshaw, 510 Duane St. Astoria, said he understood the determination would be made based on the zoning and parking availability, but he wanted the Commission to know about his family and his business plan. Acceptance of his business license is solely dependent on compliance with zoning laws and parking regulations. He and his husband moved to Astoria eight years ago and purchased the Cove Bed and Breakfast at the end of



Duane Street. They have raised two sons and provided a safe place for as many as 20 foster children. He and his family have worked to strengthen the community through volunteer efforts. He became a Scout Master with Astoria Troop 211 and currently serves as their Committee Chair. He was appointed as the first chair of the Columbia Pacific CCO Community Advisory Council. His husband sat on the council with him as they advocated for stronger mental health services in the community. They were two founding members of the Lower Columbia Q Center, Oregon's only non-profit LGBTIQ resource center outside of the Portland metro. They provided comprehensive LGBTIQ cultural competency and systems of oppression training throughout the region and at the Oregon District Attorney's Conference in Bend. His husband volunteered at the Astoria Warming Center and they volunteer for the food bank. In January 2008, when they decided to back out of all of their service projects to focus on themselves, they had a bit of trouble setting up their business because they had never focused on making money for themselves. They struggled for about two months and became really excited when they found a solution. They decided to donate 10 percent of the proceeds of their guests' stays to two charities, the Lower Columbia Q Center and The Harbor. He understood there was a lot of push back about people opening bed and breakfasts in town. He had served the community for most of the last decade and if other people running bed and breakfasts committed 10 percent of their proceeds to local non-profits, he could only imagine what the city would look like. He was 100 percent committed to the concept. His business would not create a lot of waste or destroy the environment. They are just inviting one family at a time to come stay with them. Their financial projections indicate that the business would make about \$70,000 a year, which would provide about \$7,000 for local charities.

Commissioner Moore asked if the Applicant was comfortable with all of the conditions of approval, including the requirement to park several blocks away in the middle of winter.

Mr. Bradshaw replied absolutely. He worked as a victim's advocate for the Clatsop County District Attorney's Office and had a parking spot a block and a half away. If his employment changed, he would rent out parking. He did not use his car.

President Fitzpatrick called for any testimony in favor of, impartial to, or opposed to the application. Hearing none, he called for closing comments of Staff.

Planner Ferber clarified that bed and breakfasts have between three and seven bedrooms. This request was just for one bedroom, which is homestay lodging.

President Fitzpatrick closed the public hearing and called for Commission discussion and deliberation.

Commissioner Mitchell said she lived up the hill from this house and she drives by it often. The area is not busy and it is a pretty quiet neighborhood. The house is not far from the courthouse either. She was amazed that there were two houses up against that part of the hill. They are historic and at the end of a dead-end street. After looking at the Staff report and the maps, she believed this project was doable. She was aware of the work the Applicant has done in the community and she supported the application.

Commissioner Cameron-Lattek stated that at first, the request seemed to present a challenging situation, but the Staff report captured some key conditions that would make it work.

Vice-President Easom was concerned about the parking because the street was very narrow and access to existing parking would be difficult. The Commission would approve parking more than 600 feet away for a commercial use; therefore, he did not support the request.

Commissioner Henri said she believed this unique situation seemed to work. The location is tucked away, so she did not believe the use would be burdensome to neighbors. When she lived in Portland, many families did not have cars because parking was a problem in many neighborhoods. If the homeowners want to park their car off site in a legally designated parking space and give their existing onsite parking to guests as a condition of making the use legal, then it fits.

Commissioner Herman asked how the City would ensure that the next owner did not try to use the permit. Planner Ferber explained that the homeowners are required to obtain a business license for homestay lodging. The licenses are renewed annually. If a new owner wanted homestay lodging in the same house, they would have to apply for a business license and parking would be reviewed at that time. There was a high probability



that homestay lodging policies would change in the next few months and that might trigger some other reviews for license renewals and implement a more formal permitting process.

Commissioner Moore said considering the topography and platting in the neighborhood that there was sufficient cause for a variance. He supported the application with the conditions recommended by Staff.

President Fitzpatrick asked if the homeowners shared a car.

Mr. Bradshaw replied yes, but they only use it to go grocery shopping. His husband works at Fort George and he works two blocks away at the courthouse, so they just walk down Duane. They will not have two cars, nor will they have any additional renters or children in the house for the foreseeable future.

Commissioner Moore moved that the Astoria Planning Commission adopt the Findings and Conclusions contained in the Staff report and approve Variance Request V18-10 by Ben Bradshaw; seconded by Commissioner Henri. Motion passed 6 to 1. Ayes: President Fitzpatrick, Commissioners Cameron-Latteck, Moore, Henri, Mitchell, and Herman. Nays: Vice-President Easom.

President Fitzpatrick read the rules of appeal into the record.

#### ITEM 4(c):

CU18-06 & ADU18-04 Conditional Use CU18-06 and Accessory Dwelling Unit ADU18-04 by Sarah Jane Bardy to convert an existing garage into an ADU at 1659 Irving Avenue in the R-1 zone.

President Fitzpatrick asked if anyone objected to the jurisdiction of the Planning Commission to hear this matter at this time. There were no objections. He asked if any member of the Planning Commission had any conflicts of interest or ex parte contacts to declare.

Vice-President Easom declared that he owned the property until 2012 or 2013 and lived there from 1995 to 2008. He believed he could be impartial about this request.

President Fitzpatrick asked Staff to present the Staff report.

Planner Ferber reviewed the written Staff report. No correspondence had been received and Staff recommended approval of the request with the conditions listed in the Staff report.

Commissioner Herman confirmed the structure was built as a duplex and was designated historic. She asked how changing to a single-family residence would affect the structure's integrity as historic. Planner Ferber explained the historic review would be triggered if changes were made to the character of the building, not the use. In this case, because the existing garage is historic and would be expanded, a historic review is required. The HLC does not review the use.

Commissioner Moore asked when a roommate that shares utility costs becomes a renter in a single-family home according to the Development Code. He assumed that because of the historic implications, the duplex would not be fully converted to a single-family home. There would be a vacant apartment. He asked if the homeowner would be able to share that apartment with a friend or roommate without violating this conditional use. Planner Ferber said the Development Code did not distinguish between renter and roommate. However, a dwelling unit is defined. Something with a full kitchen, bathroom, and living area is considered a dwelling unit. The City could require the Applicant to remove the stove in the kitchen, but she believed that was overkill because the dwelling could potentially be converted back in the future. However, the Commission could require that as a condition of approval. The Applicant could not rent the space or use it as a separate dwelling unit because that would create parking impacts on the neighborhood.

Commissioner Mitchell stated there is a need for worker and market rate housing. This is a historic duplex. If the façade remains unchanged and there are not a lot of people parking in the street, a goal of the community could be achieved. If there is a way to honor what is happening today while holding on to the character of the neighborhood that should be considered. It would be a shame to lose a unit that was constructed for that purpose. She questioned whether the Code needed to be modified. Around World War II, Astoria had 20,000



people and somehow they all fit. Planner Ferber said she discussed this at length with the Applicant. The intent of the structure was a duplex and it would be unfortunate to lose a housing unit. The next time that housing policy code amendments are discussed, she recommended considering language about why the City required permits for single-family dwellings and what the impacts would be if ADUs were allowed with duplexes. In this case, the trigger is the R-1 zoning, which considers lot density and parking, and requires a conditional use permit.

Commissioner Cameron-Lattek understood that if this existing nonconforming duplex in an R-1 zone were converted to a single-family dwelling with an ADU, there would be a way to reactivate the duplex as an ADU if the currently proposed ADU were to go away in the future. Planner Ferber confirmed that hypothetically, if the use of the proposed ADU were to cease, the use of the duplex could not revert because it would not longer be existing nonconforming. However, the Applicant could request a new conditional use permit for an ADU on one side of the duplex.

Vice-President Easom stated that two units in the duplex had separate utility meters. He asked if one meter would be required. Planner Ferber explained that the second meter would not be needed.

President Fitzpatrick noted that Applicant would not be allowed to collect rent for the owner-occupied unit, which could be the main home or the ADU, which precluded a roommate situation. He noted a typographical error in the Staff report and asked for clarification about the deed restriction requirements. Planner Ferber confirmed the word "submitted" or "received" was missing. The deed restriction must be on file with the City. She would correct the Staff report.

President Fitzpatrick opened the public hearing and called for a presentation by the Applicant.

Sarah Jane Bardy, 1661 Irving Avenue, Astoria, said her house was built as a duplex in 1905. It has two front doors and two identical top and bottom units. She lives upstairs and her mother lives in the downstairs unit. The garage has been unusable for quite some time. The roof lifts heavily to one side and she does not even park her car in the garage because the interior is usually wetter than the outside. Her mom is losing her vision. The downstairs apartment is lovely, but there are stairs, the layout is a maze, and there is not a lot of natural light. So, she would like to build a custom smart home with natural lighting and voice activated appliances. She appreciated all of the comments and questions. This is a complicated scenario because of the zoning and because it is nonconforming. It is unfortunate that she is in the R-1 zone because she can throw a rock and hit a giant apartment complex across the street. She understood that she could not have three units on the property, but one way or the other she could have two. Planner Ferber was wonderful about explaining to her how this worked. She initially thought the simple option would be to convert her house to a single-family unit. However, she was a purist when it comes to architecture and it would break her heart to do that. Also, there is not much of a market for really large single-family homes in Astoria. The houses across the street from her are very large and they have been for sale for over two years. Additionally, she had a moral issue with converting her duplex because Astoria has such a housing shortage. The duplex has a perfectly usable two-bedroom, one bath apartment within walking distance to town. So, her other option was to allow the duplex to remain and not use the ADU as a dwelling. If the ADU did not have a fully functioning kitchen it would not be considered a third dwelling unit. She would not have an additional meter. The utilities would tie in with her upstairs unit so that the bills would be lumped together. She had ample off-street parking and there was also a ton of available on street parking. Her driveway is more than 90 feet long. She was willing to make this work. Any work done would be beautiful. Currently, the garage is an eyesore and it would look like an architecturally congruent back house. She did not believe it would stress the neighborhood. Her original thought was to change the deed and convert the house to a single-family dwelling. But, now it just seems better to build the ADU with a bedroom and a bathroom, but not a fully functional kitchen.

Commissioner Herman asked if the downstairs duplex would have a stove.

Ms. Bardy said not if the house were converted to a single-family dwelling, which she did not want to do. She just now realized that a better option would be leave the duplex as is and convert the garage to a bedroom and bathroom with a fridge and toaster oven for her mom. The ADU would not be an official dwelling. It seems wrong on so many counts to take away a two-bedroom apartment in the center of town.

Commissioner Herman stated that did not sound practical for Ms. Bardy's mother, but she would not decide that.



Ms. Bardy confirmed she and her mother would figure it out. She confirmed that they could share a kitchen even with her mother's sight issues.

Commissioner Moore asked if the Applicant was retracting her request.

Ms. Bardy believed her application still applied because she was converting a garage to a habitable space and the footprint would be expanded.

Planner Ferber clarified the project would still require a historic review for the expansion. Technically, the ADU application could be withdrawn, but she had concerns about permitting a dwelling without calling it an ADU. A dwelling is defined as one or more rooms designated for permanent occupancy by one family. She needed to look into if parking requirements would be triggered and if the unit would still be considered an ADU.

Commissioner Moore asked if the Applicant wanted this hearing to be continued or if she wanted the Commission to vote on whether she be allowed to build an ADU.

Ms. Bardy said whatever was in her best interest. She was already here and it would be nice to know if she could or could not build an ADU, then she would know how to move forward. She had seen this done in other places. She rented a house in Portland that had what the city referred to as exterior bedrooms outside. They were small houses with a bathroom, bedroom, living area, and a kitchenette. Unfortunately, Portland allowed them to be used as homestay lodgings and they were just rented out on Airbnb. That was not her intention.

Commissioner Moore confirmed that Ms. Bardy wanted to move forward with this application for an ADU.

President Fitzpatrick believed it would be best for the Commission to consider a continuance if they could not figure out what the Applicant planned to do or what the Commission believed would be best.

Planner Ferber stated the findings of fact did not address the grey area in the Code about an ADU without a kitchen. She was not comfortable pursuing the ADU without a kitchen knowing that it would be a full-time living area. The application could be considered as if the kitchen would be included and then the Applicant would have two years to decide whether to convert the garage to a full ADU. Or, the hearing could be continued so that Staff could do some more research on kitchens in dwellings and how buildings codes would apply if someone is living in the space. A continuance would also allow the Applicant to amend her proposal. The HLC review is scheduled for September.

President Fitzpatrick asked how many occupants and how many vehicles were currently on the property.

Ms. Bardy confirmed that she and her mother were the only occupants. There were currently two vehicles on the property, both belonging to her, and she would be selling one. Her mother cannot drive because she could not see.

President Fitzpatrick asked if the Applicant planned to have others join the household in the future.

Ms. Bardy said she might have a roommate, which would add a second car on the property. If she had a roommate, it would be while her mother was living on the property.

President Fitzpatrick reminded Ms. Bardy that she would not be able to derive income from the primary residence.

Ms. Bardy said she understood but believed she could still have a friend live with her.

President Fitzpatrick called for any testimony in favor of, impartial to, or opposed to the application. Hearing none, he called for closing comments of Staff. There were none. He closed the public hearing and called for Commission discussion and deliberation.

Vice-President Easom did not want to lose housing stock. The duplex has a two-bedroom unit and a three-bedroom unit. This proposal would create one large five-bedroom unit and a one-bedroom unit, but one of the



units would have to be owner-occupied. That would degrade the use of the property. His mother-in-law is blind and she had no issues with the lower unit. He also had an issue with the tandem parking. If someone needed to get out, someone else would have to move a car. One car would end up on the street because that situation is very inconvenient. During the day, a lot of people from the college park on that street.

Commissioner Cameron-Lattek said she preferred a continuance since the Applicant is reconsidering the project. She was concerned that the owner-occupancy requirement would take a rental unit off the market. It would be a shame to lose an interesting historic duplex.

Commissioner Henri stated she was also concerned about the parking even though there would only be one car on the site. She was concerned about losing a duplex and believed that would degrade the potential value and use of the property. She wanted to hear about opportunities to create a dwelling unit or an accessory unit in the existing garage before making a decision.

Commissioner Herman stated she was also concerned about losing the duplex. She agreed the City should reconsider the housing Codes. She had been by the house several times because she used to live on Irving and she never noticed the garage. She wished this property could have a duplex and an ADU.

Commissioner Mitchell said she was glad this decision could be delayed while options for retaining a viable historic duplex were considered. She did not have a problem with parking, but she looked forward to hearing from Staff.

Commissioner Moore said he was a fan of allowing people to do what they wanted with their property. Duplex owners are not required to rent out half, so he did not feel like the city would be losing housing stock. The proposal is to add housing stock. The housing goals in the Comprehensive Plan clearly state that the community's existing housing stock should be maintained and rehabilitated. Converting a duplex to a single-family dwelling would eliminate a unit even if the unit remains livable. He did not know how the Applicant could allow a roommate to live in the duplex rent free and without deriving income. All of the other aspects of the project are fine and the property owner has the right to leave half of the building unoccupied.

Commissioner Herman confirmed the ADU would have one bedroom.

Ms. Bardy added that the unit in the duplex had two bedrooms, so the community would be losing one bedroom. She did not want to convert the duplex, but that was how the Code was written. She understood variances only applied to numerical values, not uses.

President Fitzpatrick thanked the Applicant for her narrative explaining why she wanted to convert the garage to an ADU. Currently, the parking is not an issue, but it could be with future occupants. He asked if the Applicant preferred a continuance or a decision.

Ms. Bardy asked if she could amend her request.

Planner Ferber explained that if the Commission denied this request as is, Staff would need to revise the findings of fact to support that denial. In that case, she recommended a tentative denial at this hearing and a continuance. However, if the hearing is going to be continued anyway, Staff might as well find answers to the questions and review it at the next meeting. She wanted to find out if attaching the garage to the house somehow would allow for the additional living space. However, that would trigger more historic criteria.

President Fitzpatrick asked if the lower unit could be modified to work for the situation.

Ms. Bardy said it could be, but the unit is 1,200 or 1,300 square feet, which is too large for her mother to clean and maintain. There is not a lot of natural light, so the kitchen and bedrooms are very dark. Additionally, there are stairs up the front and back. The ADU would be a flat, walk-in space. She asked if the permit could expire if she sold the property as a way to alleviate concerns about parking problems caused by future owners.

President Fitzpatrick explained that once converted, the duplex could not be converted back in the future. He did not believe a deed restriction would resolve their concerns.

Ms. Bardy stated she did not want to convert her house to a single-family dwelling. She just wanted to build a unit in the backyard. She would prefer a continuance to October.

Commissioner Moore moved that the Astoria Planning Commission continue the hearing on Conditional Use CU18-06 and Accessory Dwelling Unit ADU18-04 by Sarah Jane Bardy to October 23, 2018; seconded by Vice-President Easom. Motion passed unanimously.

REPORTS OF OFFICERS/COMMISSIONERS:

Commissioner Mitchell reported that she attended the most recent City Council meeting and was very distressed by the process. The Council did not remand the decisions on the hotel back to the HLC because the importance of the historic structures was minimized. She hoped the Historic Landmarks Commission did not feel their efforts had been diminished and that Council reconsidered some of the statements that were made. The Applicant had presented an entirely new set of drawings and the Council was distracted by the confusion about what to review.

Planner Ferber noted a member of the Design Review Committee (DRC) was present, so this could be considered ex parte contact.

Commissioner Mitchell said she valued the input of the HLC and DRC and hoped they felt their efforts had been recognized.

Vice-President Easom stated he would not be present for the September meeting, but could participate via telephone.

President Fitzpatrick said he was distracted at the end of the second hearing. He wished he had pointed out that he was very concerned about the parking situation. However, the deed restriction made him a bit more comfortable. He did not want that decision to look like a precedent.

STAFF UPDATES:

Planner Ferber shared the following meeting dates:

- September 13, 2018– Riverfront Vision Plan Town Hall, 6:30 pm to 8:00 pm, Clatsop Community College, Columbia Hall, Room 219
- September 25, 2018 – Planning Commission Meeting
- Dates for the work sessions on the Riverfront Vision Plan were displayed on the screen.

Commissioner Herman asked if conversations on social media were considered ex parte contact.

Planner Ferber explained that the Riverfront Vision Plan was a legislative review, not a quasi-judicial review like permits. There is more leeway and she would follow up with more details.

PUBLIC COMMENTS:

There were none.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 7:57 pm.

**APPROVED:**

  
\_\_\_\_\_  
Community Development Director

  
\_\_\_\_\_  
Date