



# City of Keller

## Planning & Zoning Commission

### Meeting Minutes

Keller Town Hall  
1100 Bear Creek Parkway  
Keller, TX 76248  
817-743-4000  
[www.cityofkeller.com](http://www.cityofkeller.com)

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Monday, October 14, 2019

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#### **PRE-MEETING BRIEFING 6:30 P.M.**

##### **A. CALL TO ORDER - Chairperson Gary Ponder**

Chairperson Gary Ponder called the Pre-Meeting Briefing to order at 6:30 P.M.

The following Commissioners were present:

Ralph Osgood, Vice Chairperson

Bob Stevens

Leslie Sagar

Paul Alvarado, Alternate (voting)

Staff present included Katasha Smithers, Planner I; Jerald Ducay, Planner I; and Tracy Talkington, Police Captain.

**PRESENT:** 5 - Chairperson Gary Ponder, Leslie Sagar, Bob Stevens, Ralph Osgood and Paul Alvarado

**ABSENT:** 4 - Carey Page, Vice Chairperson Dave Reid, Vernon Stansell and Robert Apke

##### **B. ADMINISTRATIVE COMMENTS**

1. [Briefing regarding City Council action on Tuesday, October 1, 2019.](#)

Planner Smithers informed the Planning and Zoning Commission that at the City Council meeting on October 1, 2019, the FLUP was tabled until November 2, 2019. The 501 Elaine Street Variances were approved unanimously, but the amendment to remove "Minor medical emergency clinic" as a use from Town Center was denied unanimously.

Commissioner Sagar asked if the decision was based on the building already constructed for that particular use and also asked if any answers were found as to what the original use was.

Planner Smithers stated that she had conducted research on this building and found that the use was for a Medical.

Commissioner Sagar stated that it was built as a minor medical emergency clinic, but had not been used as such.

Planner Smithers affirmed and reiterated that the first and only tenant realized they were competing with themselves so they stopped operations in favor of their clinic in an adjacent City and the tenant still has a lease for another five and half years with the clinic in Keller.

Commissioner Sagar asked if City Council provided any insight.

Planner Smithers responded that no discussion was held.

Commissioner Alvarado asked if there was any way to attack this with excluding that property because that property can now effect the rest of our Town Center? He also stated that he can understand why they would vote that way because we don't want to create a hardship for that property owner, but is there any way to look at it where we isolate that one building, because it is not even matter of it being walk-able to Town Center.

Planner Smithers stated that she does not believe that there is now that the City Council denied the request.

Commissioner Sagar asked if a SUP is required.

Planner Smithers stated that, yes what a SUP is required.

Commissioner Stevens asked if the emergency clinic would need a new SUP since it had not been occupied for four years.

Planner Smithers said it would.

Chairperson Ponder asked where we stood on medical uses for Town Center.

Planner Smithers responded that "Medical clinic" has now been removed from the Center's use chart as recommended by P&Z and approved by City Council. Then P&Z sent a recommendation to City Council to remove "Minor medical emergency clinic", this was denied by Council, it will remain on the use chart with an SUP.

2. [Briefing regarding current DRC projects and Long-Term Projects.](#)

Planner Smithers explained comments had been sent to the developer, staff was awaiting resubmittal.

Planner Ducay further explained that the first submittal was too preliminary and only conceptual.

Planner Smithers reverted back to the "Minor medical emergency clinic" discussion. Out of 143 businesses, 21 (14.69%) of the businesses were retail, 28 (20%) of businesses are food establishments, and also 28 (20%) of the businesses are medical.

Commissioner Sagar suggested staff send an email to P&Z with those statistics.

Commissioner Alvarado asked what kind of business was considered medical and asked if the lowest level of medical would be chiropractic.

Planner Smithers stated that the criteria was any type of medical including chiropractic, orthopedic, optometrist, physical therapy, and dental.

3. [Discussion regarding November 25, 2019, Planning and Zoning Commission Meeting.](#)

Planner Smithers asked the Commission who would be in town for that meeting.

Commissioner Sagar said that four members had to be present for that meeting to form a quorum. Four commissioners confirmed they would attend.

Planner Smithers stated that there is nothing in the code that would prevent moving P&Z meetings to Tuesday evenings, and City Council would consider on their November 5th work session.

Chairperson Ponder stated that it would be good to make new candidates for P&Z aware of this change.

Planner Smithers responded that staff will reflect this change on the website and on social media as well.

## **C. DISCUSS AND REVIEW AGENDA ITEMS**

Item D (1). Approval of the Minutes

Commissioner Stevens mentioned that there was a “be” missing from item B (1) on line two, page one.

Item E (1). 1120 Melody Lane SUP for an Accessory Structure

Planner Ducay stated that the applicant had changed the height and materials, to try and address the Commission’s concerns. The average height had changed from 26.3 feet to 21 feet, and the applicant added a 4-foot brick veneer along three sides of the building. However, the remaining facades would be metal. Planner Ducay specified that there would be 35% of brick veneer on two of the elevations, and 52% brick veneer on the west side.

Commissioner Alvarado asked if the Applicant was available for questions.

Planner Ducay responded that he would be present for questions.

Commissioner Stevens asked for the previous proposed peak of the roof.

Planner Ducay responded that the previously proposed peak was 31.5 feet, and the currently proposed height was 26 feet.

Commissioner Alvarado asked if there was an overall percentage of veneer given.

Planner Ducay responded that there was not an overall percentage, but rather by each elevation.

Commissioner Alvarado stated that the remainder of the building, aside from the cedar accents, was still metal. Commissioner Alvarado also asked if the applicant increased the square-footage of the building.

Planner Ducay stated that the size had always been 2160 square-feet, but was not reflected during the first meeting; the plans had not changed. Planner Ducay then passed around pictures provided by the Applicant of his backyard.

Commissioner Stevens questioned the percentages provided by the Applicant.

Planner Ducay responded that he had discussed his concerns with the Applicant, and that the Applicant was fairly confident in these percentages.

Chairperson Ponder asked if the structure that made this previously non-compliant had been removed.

Planner Ducay responded that the structure had been removed the day following the previous P&Z meeting.

Commissioner Osgood asked about how the Texas materials bill impacts this proposed structure.

Planner Smithers responded that if the Applicant did not have to apply for a SUP then he could build this structure without any revisions.

Commissioner Sagar stated that the ordinances have not changed and the applicant is seeking three variances, and the SUP triggered to why the Commission could ask for certain percentages or materials.

Commissioner Alvarado asked that if there was no SUP application then the applicant could build an all metal building.

Commissioner Stevens stated that if the SUP were denied, they should not use the materials as a reason.

Commissioner Alvarado brought up the point there is no hardship to support the need for variances or an SUP.

Commissioner Sagar expressed concerns over the height of the proposed structure and stated that commercial uses like discount tire have car lifts. None of them require this sort of height.

Commissioner Alvarado stated that he believed the garage entrance is on the short side of the building and does not need the twenty-six feet for a car lift.

Planner Smithers responded that she believed that it would be used for storage but was not entirely sure.

Commissioner Sagar stated that it was not clear in the previous meeting and was under the assumption that the car lift was what was driving the height.

Commissioner Alvarado reiterated that there were no hardships.

Chairperson Ponder asked what the conditions would need to be to approve a structure over 1200 square-feet.

Commissioner Sagar stated that you have to look at what is in front of us.

Chairperson Ponder responded that if he were the applicant and he got denied, his first question would be what it is going to take to get this approved.

Commissioner Sagar stated that the applicant should look at the ordinances for

guidance.

Chairperson Ponder responded that this means all phases of the ordinance.

Commissioner Alvarado stated that the Commission was clear on what changes to the structure needed to improve on.

Chairperson Ponder responded that the direction to the Applicant was to work with staff to get closer to the ordinances.

Commissioner Alvarado stated that the Applicant will have to meet the ordinance requirements or make substantial strides towards the ordinance. Commissioner Alvarado continued that the Applicant was proposing almost the same structure as the previous meeting, and the brick percentage is no more than 10%.

Commissioner Stevens asked if the base of the roof would have to be lowered to meet the fifteen-foot requirement.

Planner Ducay stated that this was correct.

Commissioner Alvarado asked how the Commission would rule if a business came in over the height requirement. Commissioner Alvarado followed up by stating that we would probably tell them no.

Commissioner Sagar responded that she did not remember any businesses coming through exceeding the height regulations.

Commissioner Stevens stated that there were a lot of signatures from the neighbors in favor of this structure.

Planner Smithers responded that the Applicant gathered the signatures before the first meeting.

Commissioner Stevens asked if staff had received any comments from the

public.

Planner Smithers responded that staff had not.

Chairperson Ponder asked how much of a factor the adjacent neighbors warranted in this decision for the Commission.

Commissioner Alvarado stated that he goes by the variance request, the guidelines for approving a variance request, and the decision tree that was given to the Commission

at the beginning of the year. Commissioner Alvarado continued that based on these guidelines he does not see any basis or any reason this should be approved.

Chairperson Ponder asked how the Commission should handle the support of neighbors and what the ordinance allows.

Commissioner Sagar stated that these decisions set precedence.

Commissioner Alvarado stated that he had the same issues as from the previous meeting.

Commissioner Sagar responded that she cannot remember a metal building that was approved for a non-agricultural use.

## **D. ADJOURN**

Chairperson Gary Ponder adjourned the Pre-Meeting at 7:02 P.M.

## **REGULAR MEETING 7:00 P.M.**

### **A. CALL TO ORDER – Chairperson Gary Ponder**

Chairperson Gary Ponder called the meeting to order at 7:08 P.M.



## B. PLEDGE OF ALLEGIANCE

Chairperson Ponder led the Pledge of Allegiance to the United States Flag and the Pledge to the Texas Flag.

1. Pledge to the United States Flag
2. Pledge to the Texas Flag - "Honor the Texas Flag: I pledge allegiance to Thee, Texas, one State under God, one and indivisible."

## C. PERSONS TO BE HEARD

This is a time for the public to address the Board/Commission on any subject. However, the Texas Open Meetings Act prohibits the Board/Commission from discussing issues which the public has not been given seventy-two (72) hours' notice. Issues raised may be referred to City Staff for research and possible future action.

Jim Brown, a resident at 1609 Whitlow lane, expressed support for the accessory structure in question tonight. He stated that he admired the diversity in lots, structures, and living facilities in Keller and believed that this building will be well hidden. He finished by saying that there is no reason for this person to have this building denied.

## D. NEW BUSINESS

1. [Consider approval of the minutes of the Planning and Zoning Meeting on September 23, 2019.](#)

**A motion was made by Commissioner Leslie Sagar, seconded by Commissioner Paul Alvarado, to approve as amended Consider approval of the minutes of the Planning and Zoning Meeting on September 23, 2019. The motion carried by the following vote:**

**AYE:** 4 - Chairperson Ponder, Commissioner Sagar, Commissioner Stevens and Commissioner Alvarado

**ABSTAI** 1 - Commissioner Osgood

**N:**

## E. OLD BUSINESS

1. [PUBLIC HEARING: Consider a request for a Specific Use Permit \(SUP\) for an accessory building, proposed to be a 2,160 square-foot accessory garage and workshop to exceed the maximum 15-foot height requirement and size ratio of fifty percent \(50%\) of the main structure, on an approximately 1.244-acre tract of land, located on the south side of](#)

Melody Lane, and approximately 1,000 feet east of the intersection of Roanoke Road and Melody Lane, being Lot 7R1, Melody Hills Estates Addition, at 1120 Melody Lane, and zoned Single-Family Residential-36,000 square-foot lot minimum (SF-36). Kevin and Marsha Holmes, owners/applicants.

Planner Ducay gave a brief presentation on item E (1).

Marsha Holmes, the Applicant, stated that they are wanting to add this space for additional garage storage to compliment and add value to their home. She stated that they have revised their plans per the Commission's request. The main reason for this structure was a place to teach their two sons auto mechanics and work on fixing up these cars together. She reiterated that this structure will not be used for a commercial business. She then explained the plans and what they had changed.

Kevin Holmes, the applicant, stated that the percentage of the accessory structures surpasses the main structure by 53% and mentioned that the numbers on TAD were not correct. The height of the roof pitch was brought down as recommended.

Commissioner Sagar expressed concerns over the height and thanked the Applicant for working with staff to lower the height down. Commissioner Sagar reiterated that no Kwik Lube or Discount Tire had the height that the Applicant was requesting.

Marsha Holmes responded that the height is not being driven by the car lift but for the storage.

Commissioner Sagar also expressed concerns over the proposed façade materials; and that there's no hardship to justify this request.

Commissioner Stevens asked if the Applicant could better comply with the ordinances in regards to the height.

The Applicants stated that if the roof height were to be dropped, it would look more commercial and not as complimentary to the house.

Commissioner Stevens stated that he is not against the project, but it might help their case if they dropped the height down.

Commissioner Alvarado thanked the Applicants for going through the process, but stated there were no substantial changes to their project from their previous submittal. Commissioner Alvarado explained that there were guidelines in place for a reason, and if they were within the regulations of the code then they would be free to construct what they wanted.

Commissioner Osgood was not as concerned about the height because the height matches the main structure. The major concern that was expressed was setting precedent of an all-metal building for a non-agricultural use.

Chairperson Ponder expressed his understanding for this project, and mentioned each of the Commissioners' concerns. He did not want to deny this project, but mentioned the ordinances in place. Chairperson Ponder asked if they could get any closer to those ordinance requirements, or if the Applicants preferred to have P&Z make their recommendations.

Marsha Holmes responded that she believed they were close, and mentioned using different materials such as stucco and wood. She continued that they could add more brick veneer on the back, but believed that there was limited room to bring the height down.

Kevin Holmes stated that he believed that the height could be brought down around a foot, but would have to check with the builder to see if this was feasible.

Commissioner Stevens asked the Applicant if the garage door impacted the height.

Kevin Holmes responded that he did not want to do a roll-up garage door but rather a sectional door, and stated that it was around ten-feet.

Commissioner Stevens stated that the height is geared towards where the lift will be.

Marsha Holmes stated that this is correct.

Chairperson Ponder expressed his support for this project and reiterated that Council will most likely have the same questions.

Commissioner Sagar stated that she would be voting based on if a hardship was needed, and expressed admiration for the Applicant's property.

**A motion was made by Commissioner Paul Alvarado, seconded by Commissioner Leslie Sagar, to deny PUBLIC HEARING: Consider a request for a Specific Use Permit (SUP) for an accessory building, proposed to be a 2,160 square-foot accessory garage and workshop to exceed the maximum 15-foot height requirement and size ratio of fifty percent (50%) of the main structure, on an approximately 1.244-acre tract of land, located on the south side of Melody Lane, and approximately 1,000 feet east of the intersection of Roanoke Road and Melody Lane, being Lot 7R1, Melody Hills Estates Addition, at 1120 Melody Lane, and zoned Single-Family Residential-36,000 square-foot lot minimum (SF-36). Kevin and Marsha Holmes, owners/applicants.. The motion failed by the following vote:**

**AYE:** 2 - Commissioner Sagar and Commissioner Alvarado

**NAY:** 3 - Chairperson Ponder, Commissioner Stevens and Commissioner Osgood

**A motion was made by Commissioner Bob Stevens, seconded by Commissioner Ralph Osgood, to approve PUBLIC HEARING: Consider a request for a Specific Use Permit (SUP) for an accessory building, proposed to be a 2,160 square-foot accessory garage and workshop to exceed the maximum 15-foot height requirement and size ratio of fifty percent (50%) of the main structure, on an approximately 1.244-acre tract of land, located on the south side of Melody Lane, and approximately 1,000 feet east of the intersection of Roanoke Road and Melody Lane, being Lot 7R1, Melody Hills Estates Addition, at 1120 Melody Lane, and zoned Single-Family Residential-36,000 square-foot lot minimum (SF-36). Kevin and Marsha Holmes, owners/applicants. The motion carried by the following vote:**

**AYE:** 3 - Chairperson Ponder, Commissioner Stevens and Commissioner Osgood

**NAY:** 2 - Commissioner Sagar and Commissioner Alvarado

## **F. ADJOURN**

**Chairperson Gary Ponder adjourned the meeting at 7:49 P.M.**

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Chairperson

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Staff Liaison