Please refer to Planning Commission Rule #25: Any action taken during this meeting is subject to reconsideration during this meeting or at the next. A request for reconsideration at the next meeting must be submitted in writing by a Planning Commissioner (who voted on the prevailing side) by the close of business the day following the meeting.

Roll Call, Opening Statements, Agenda and *Consent Agenda.

Commissioners Present:    Chris Guinn  Mike Stepovich
                          John Perreault  Charles Whitaker
                          David Brandt  Eric Muehling
                          Mindy O’Neall

Commissioners Absent & Excused:  Wendy Presler  Doug Sims
                                    Robert Peterson  Patricia Thayer

APPROVAL OF THE AGENDA AND CONSENT AGENDA

*MINUTES

2. *Minutes from the February 27, 2018 Planning Commission Meeting.

Audio Track 1

AGENDA AND CONSENT AGENDA APPROVED NOTING WITHDRAWAL OF RZ2018-004

APPEALS

1. GR2018-085: An appeal by Robert and Loa Hubbard of the denial of a request for affirmative recognition of legal nonconforming structure status (grandfather rights) for an existing structure with a nonconforming south front-yard setback of 16.1 feet instead of the required 20 feet in the General Commercial (GC) zone for the property on Tax Lot 4, Kolde Homestead (located at 208 Gaffney Road, on the north side of Gaffney Road, east of Noble Street and north of Airport Way). (Staff Contact: Stacy Wasinger)

Audio Track 1

FINDINGS OF FACT

1. This grandfather rights application is for a commercial structure previously utilized as a bar on the subject lot in the General Commercial (GC) zone. This structure does not comply with GC zoning setbacks because it has a south front-yard setback of approximately 16.1 feet instead of the required 20 feet.

2. FNSBC 18.04.010 Definitions states that a nonconforming building means “a building the size, dimension, or location of which was lawful prior to the adoption, revision or amendment to this title, but fails by reason of the adoption, revision or amendment to conform to the present requirement of the zoning district in which it is located".
3. The property was annexed into the City of Fairbanks corporate limits on August 24, 1954. The subject parcel was zoned General Residential at that time. The General Residential zone established a minimum required 15 foot front-yard setback.

4. The front portion of the property was zoned Business I (BS-I) in 1959. At time of zoning, the BS-I zone had a minimum required street-yard setback of 35 feet from the centerline of Gaffney Road.

5. City of Fairbanks building permit records reflect that a bar and residence existed at this site on November 4, 1957. At that time, the City of Fairbanks had both zoning and building authority within City limits.

6. The subject parcel was described by deed in its current configuration on October 27, 1967. The front lot line was established in its current lot configuration on or before that date.

7. FNSB aerial photography from 1967 shows a structure on the subject parcel.

8. The City of Fairbanks issued permits for a new “retail” building in October of 1967.

9. The subject parcel was zoned Business (BS) with the adoption of Ordinance No. 67-34 on March 28, 1968. The BS zone had a zero foot minimum required street yard setback.

10. FNSB Assessor record reflects in a note that they “picked up a new building” during a site inspection on January 9, 1969. At that time, the required front-yard setback was zero feet.

11. FNSB aerial photography shows that the structure on the subject parcel in 1969 was different than the structure shown on the parcel in 1967. The structure built in 1969 is in the same location as the structure shown in the May 2017 aerial photograph.

12. Ordinance No. 70-18, adopted on June 11, 1970, removed the BS zone and established the Business I (BS-I) and Business II (BS-II) zones. The subject parcel was zoned BS-II, which established a 20 foot street yard setback. With the BS-II zone, the front-yard street setback of 16.1 feet became non-conforming.

13. The subject property was rezoned to General Commercial (GC) with the adoption of Ordinance No. 88-010, effective on April 25, 1988. The required front yard setback remained 20 feet.

14. On April 25, 1988, FNSBC 18.56.020 stated that “any nonconforming building, structure, use, or lot which existed lawfully prior to the effective date of this ordinance or any lawful building, structure, use, or lot which has become nonconforming upon the adoption of this ordinance or any subsequent amendment thereto, may be continued, subject to the restrictions in this chapter…”

15. On October 4, 2017, the applicant obtained a demolition permit from the City of Fairbanks to remove the existing building down to the foundation. The roof and the walls were subsequently removed but the foundation remained intact.

16. On November 9, 2017, the applicant obtained a building permit from the City of Fairbanks to construct a “new” commercial building on the existing foundation. The building permit states that the proposed use of the structure will be insurance offices. The City of Fairbanks did not require a FNSB zoning permit or zoning compliance letter for the reconstructed structure or the proposed new use before issuance of the building permit.
17. No FNSB zoning permit has been issued for the proposed new use of the building.

18. Insurance offices are an allowed use in the GC zone.

19. New exterior walls were constructed in the same location on the foundation as was located for the previous building. The building was not expanded beyond the footprint of the previous building as a result of the reconstruction of the roof and walls.

20. FNSBC 18.108.040(A)(1) states that a “non-conforming building may be enlarged or altered as long as the enlargement or alteration does not create a new non-conformity of this code.” FNSBC 18.04.010 Definitions states that “alteration” means “any change in size or shape of a building”. The terms “enlargement”, “demolition”, “re-construction”, “restoration” and “replacement” are not defined in Title 18.

21. Borough code does not expressly provide for reconstruction, restoration or replacement of a non-conforming building that has been destroyed or demolished.

22. The changes made to the subject building in 2017 included demolition of the building to the foundation and rebuilding new walls and the roof, which constitutes substantial reconstruction; these changes are not considered to be an “alteration” of the existing building.

**GR2018-0852 APPEAL DENIED (GRANDFATHER RIGHTS DENIED)**

[FOUR IN FAVOR / THREE OPPOSED]

Excuse Future Absences, Commission’s Comments and Adjournment.

Audio: Track 1
Further information may be obtained from *FNSB Department of Community Planning* at 459-1260