



THESE ARE THE MINUTES OF THE **PLAN REVIEW BOARD** MEETING HELD ON THURSDAY, **AUGUST 22, 2019** AT 4:30 P.M. IN THE COMMON COUNCIL CHAMBERS OF CITY HALL, 2000 NORTH CALHOUN ROAD, BROOKFIELD, WISCONSIN

ALDERMAN RICK OWEN PRESIDING

MEMBERS PRESENT: Commissioner Lisa Chang, Commissioner Mike Smith (3 members physically present to meet quorum)

STAFF PRESENT: Building and Zoning Administrator Larry Goudy, Administration & Licensing Clerk Mary Schulz

1. Roll Call

Alderman Rick Owen called the Plan Review Board meeting to order at 4:32 p.m. A quorum was present.

2. Announcements

- a. Approval of these items must also be given at the regular Plan Commission meeting of September 9, 2019 and the Common Council meeting of September 17, 2019.
- b. The next regularly scheduled Plan Review Board meeting will be held on September 19, 2019.

3. New Business

a. Carl Thomas: special needs fence

Request of Carl Thomas, for approval of a Special Needs fence at 15750 Hill Court, Brookfield.

Larry Goudy reported: 1. Inspection Services staff observed the start of construction on a fence at this location on 7/9/19. Staff contacted the homeowner to inform him of the regulations regarding decorative fences (no higher than 4' and 50% or more open).

2. On 7/30/19, staff observed that the remainder of the fence had been completed and it did not meet the code. Orders to Correct Conditions were issued to the homeowner.
3. The homeowner contacted staff to see what he could do. He corrected a small portion of the fence to see how it would look. He then inquired about special needs fencing, as his goal was to contain his child and dog and provide a safe environment.
4. The property owner has given staff a letter from Dr. Heidi Pernitz, Psychologist, that recommends a fence to assist in the child's special needs.
5. The current fence has 5" slats and has 1 1/2" air gaps between.
6. Special Needs fences are typically 6' and solid, so children cannot climb over. The installed fence is 4' in most areas and has support structure on the interior side. It appears that this style fence provides no additional protection than a code compliant decorative fence.

Mr. Goudy added the city has approved 4 to 5 special needs fences over a 10-year period. Typically, they are a 6 foot solid fence and normally they address children that are climbing risks. The requested fence is 4 feet in most areas and has a support structure on the interior side. Staff's point of view is that this style of fence allows no additional protection than a code compliant fence.

This request was reviewed by the City Attorney two different times. The first time it appeared that the applicant met the minimum of the code in requiring a letter from a medical professional. The second time the request was looked at it was determined that a Psychologist is not truly a medical professional; where a Psychiatrist is truly a medical doctor. Finally, there is a possibility that the eastern portion of the fence is in a drainage easement. Typically, the engineering department would not want anything located in that area. He is not sure if they would allow the fence to be in that area.

Given how this has occurred, staff recommends denial.

Carl Thomas and Lindsey Strzyzewski, owner and fiancée, appeared before the board for comments and/or questions.

Mr. Thomas stated when he received the call from Dean Toth, Code Compliance Inspector about the fence not being up to code standards, he felt Mr. Toth did not specifically state it was not up to code, just to be careful with spacing, but otherwise it looks good. He did not specifically say 'the fence is not up to code'. Mr. Toth asked Mr. Thomas if he understood the code.

Mr. Thomas noted as far as the fence not being up to code for a special needs fence; they were not aware of the exception to build the fence higher or

tighter together. However, the fence that is in place is pretty strong. He said he tried to space the boards 2" apart, but fence seemed brittle.

Ms. Strzyzewski indicated that the diagnosis for ADHD should be taken into consideration as the back of the yard faces Capitol Drive. There are many distractions on the 3 lane road and across the street.

Alderman Owen indicated that the City of Brookfield is known as a 'fenceless' community. Some residents have fences that have been in place since 1979 which would 'grandfather' them. There are a few exceptions, such as if resident is close to a business or a special needs child.

Mr. Goudy stated the city has specific guidelines on special needs fences. It requires the fence to be no greater than 6' in height, requires some landscaping to break up the look of it from the exterior. The city recently allowed vinyl fencing for special needs fences. Typically, a flat panel goes into the post. Colors must be white or natural.

Commissioner Smith said this is a tricky request. He asked if a permit is required. Mr. Goudy replied there is no permit for a decorative fence that is 4' high and 50% open; but a special needs fence does require a permit. Therefore, the fence in question does need a permit if it is considered a special needs fence. At this point, enforcement is stalled in order to make the determination if it is a special needs fence. Orders have been given to remove the fence.

Commissioner Chang questioned why the applicant put in a 5" board with a 1 1/2" air gap between. Mr. Thomas said the boards seem to be standard board being sold. He purchased the fence panels used. He did not want the fence to be completely open.

Alderman Owen noted there are certain aspects of this requests that are troubling. Being on a major road cannot be used as a factor in the board's decision. There must be ways to reach a happy medium to meet our code.

Mr. Goudy stated to meet the standards of a decorative fence; the applicant would have to either reduce the size of the pickets and/or go with a different size, and reduce it to 48" to make it a legal decorative fence. Per the City Attorney's Office, a different medical professional must submit a letter and the issue of locating the fence in the easement would have to be addressed. Mr. Thomas stated a permit was already signed off by the Engineering Department to place the fence in the drainage easement. Mr. Goudy stated that would have to be confirmed.

Alderman Owen asked Mr. Thomas, in hearing the comments from Mr. Goudy, does he have any suggestions on how to meet the city code. Mr. Thomas indicated he sent in his proposal, which stated he did not like the look of the thinner pickets. He could cut the pickets in half and space 2 ¼" apart. Although, he feels this is not an appealing look.

Commissioner Smith sees the frustration the owner has, but the city has codes in place for a reason. The applicant needs a letter from a different authority to keep current fence in place.

Mr. Goudy said if standards were met with the code in regards to getting a letter from a medical professional, this would take the board's ability to say 'no'. Ms. Strzyzewski, stated she works in a special needs school. She noted her child is being treated by a professional for his ADHD and is given allowances at school. How is this not deemed enough to allow a structure to keep him safe. Alderman Owen stressed the code reads 'medical professional', which means a 'medical doctor'. He was concerned with the report by the Psychologist regarding 'climbing things excessively'. Therefore, a taller fence would be a better option than a shorter fence. In addition, if this was granted as proposed there could be a huge number of requests for fences.

Mr. Goudy stated if the request is denied, it would put it back in enforcement mode giving them two options: either comply with code (decorative fence) where staff handles or bring in letter from MD and goes back to the Plan Review Board. Ms. Strzyzewski noted she can get another letter from a different professional. Alderman Owen stressed that going with a special needs fence may be a good option.

Motion by Smith, seconded by Chang to approve staff's recommendation of denial of a Special Needs fence at 15750 Hill Court, Brookfield. The board directed the applicant to either bring the fence into compliance as a decorative fence, or submit medical documentation for a special needs fence. Motion carried 3-0.

b. Homes for Independent Living: monument sign

Request of Homes for Independent Living, for a monument sign at 1250 S. Sunnyslope Road, Brookfield.

Larry Goudy reported: The sign dimensions are 3'9" x 3'9" = 14 sq. ft. and height above the roadway is 6'2". The sign content is: Homes For

Independent Living, A Mypath Company, address. The structural material and color is aluminum face sign with vinyl graphics on brick base. There will be no lighting.

Staff recommends approval.

Melissa Schrot, of Signarama, appeared before the board for comments and/or questions.

Commission Smith stated this request is straightforward with the materials matching those of the building.

Motion by Smith, seconded by Chang to approve staff's recommendation of approval of a monument sign at 1250 S. Sunnyslope Road, Brookfield. Motion carried 3-0.

c. **BP: monument sign**

Request of BP, for a monument sign at 3075 N. 124th Street, Brookfield.

Larry Goudy reported: The sign dimensions are 8'4" x 7'2" = 61 sq. ft. and height above roadway is 10'. The sign content is: BP, logo, price sign, LED message center. The structural material and color is routed aluminum sign, green and white backgrounds, digital display. Lighting will be internal.

Staff recommends approval subject to the regulations for EMC's (5 minute intervals for change of message, static imagery only). Per Engineering, sign needs to be relocated and it is in the water easement.

Bob Krause, of Bauer Sign Company, appeared before the board for comments and/or questions.

Mr. Krause stated he will work with Engineering to move the sign. Commissioner Chang asked if the Engineering Department request the applicant to look at view obstructions. Mr. Goudy stated if the sign is at a controlled intersection, there are no problems with site obstructions.

Motion by Smith, seconded by Chang to approve staff's recommendation of approval of a monument sign at 3075 N. 124th Street, Brookfield. Motion carried 3-0.

d. **Peace United Methodist Church: replace monument sign**

Request of Peace United Methodist Church, for approval of a replacement monument sign at 12860 W. North Avenue, Brookfield.

Larry Goudy reported: The sign dimensions are 9'5" x 8'2" = 77 sq. ft. and height above roadway is 8'2". The sign content is: Peace United Methodist Church, logo, EMC, address. The structural material and color is routed aluminum sign, dark blue background, white copy, digital display. Lighting will be internal. The sign is located in same location as existing monument.

Staff recommends approval subject to the regulations for EMC's (5 minute intervals for change of message, static imagery only). Engineering suggested the applicant check with the County to make certain it won't be impacted by the North Avenue expansion project.

Brian Green, of Silverleaf Signs and Eric Scott, Music Director at Peace United Methodist Church appeared before the board for comments and/or questions.

Motion by Smith, seconded by Chang to approve staff's recommendation of approval of a replacement monument sign at 12860 W. North Avenue, Brookfield subject to the sign being removed from the construction area. Motion carried 3-0.

Motion by Chang, seconded by Smith to adjourn the Plan Review Board meeting. Motion carried 3-0. 5:15 p.m.

Minutes respectfully submitted by Mary Schulz CAP, Administration & Licensing Clerk