



Meeting Minutes
Planning & Zoning Board

Monday, July 13, 2020

5:30 PM

Town Hall

Zoom Meeting ID: 838 9349 5737

ROLL CALL

- Present** 6 - Vice Chairman Jim Millspaugh, Marc Mariano, Peter Kyres, Brand Shank, Pam Kern, and Joseph Namey
- Absent** 1 - Chairman Bonnie-Sue Brandvik

SCHEDULED PUBLIC HEARING

Persons are advised that, if they decide to appeal any decision made at this meeting/hearing, they will need a record of the proceedings, and, for such purposes, they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Mr. Millspaugh asked if there were any exparte communicatons. None were expressed.

[20-0165](#)

Request for Variance - 3 Winston Drive

JP Murphy-Town Manager-Introduced case; provided property details, new home under construction; approval of variance would allow for construction of fence which would encroach into 25ft primary front yard setback resulting in a 0ft setback. Detailed proposed location, fence would be 15ft back from the back of curb, columns are proposed for an 11ft spacing; showed aerial photos of proposed placement to help address resident concerns regarding where it would be placed. Noted that the house is at northerly extent of building setback line.

Town Clerk swore in those wishing to speak.
Rick Tutwiler, Gregg Gallagher, Janice Metz

Rick Tutwiler-applicant-discussed background of property; provided details of his request; available for questions.

Mr. Murphy requested applicant to clarify dimensions of fence and intent.

Mr. Tutwiler provide further explanation as to the design of fence; stated fence was not to exceed 4 ft. in height.

Mr. Millspaugh opened the floor to board for discussion.

Ms. Kern commented on lack of detail as to what the proposed fence will look like; difficult for her to make a decision.

Mr. Tutwiler discussed position of columns; was in agreement with Ms. Kern; will get more specific visuals if moving forward.

Craig Gallagher-Contractor- Stated examples provided in packet are very similar to what is being proposed in architectural plan.

Mr. Kyres in agreement with Ms. Kern; concerned with proximity to street. Mr. Gallagher said it would be 15 ft. from curb.

Mr. Millspaugh stated most of examples were estate properties and on larger lots; property in question is a small lot; difficult to compare; need comparable properties to this one.

Mr. Gallagher noted that even those that are estate have a similar distance from the curb as being requested; still ability for a sidewalk to be installed later on.

Ms. Kern discussed criteria for granting conditional approval for a variance; stated variance stands on it's own, not wanting to get sidetracked by comparing similar properties.

Marc Mariano has no questions, feels it is a straight forward request and there is room.

There was no cross examination from staff; Mr. Tutwiler had no cross examination or questions.

Mr. Gallagher stated the fence and gate will be similar to other residents and feels the applicant should be able to do the same.

Janice Metz-Resident-thanked for clarifying some of the issues; Winston Dr. was a narrow street with no outlet at one end. (call dropped)

Al Acken-resident-took oath provided by Mr. Murphy. Commented on fencing for estate sized lots; concerned with allowing here; unsure of where the lot lines are. Mr. Murphy clarified location. Mr. Acken is against fences along Winston.

Ms. Metz called back in; commented on street being narrow; believes it closes the street up; opposed to it; put left it to the board.

Mr. Murphy stated there were 3 emails from residents stating they were against the request. Asked if there were any parties for the request.

Michael Mucci-sworn in by Town Manager; echoed Ms. Metz's comments regarding aesthetics; it is first house and would change appearance of street.

Mr. Tutwiler provided rebuttal; discussed problems in past regarding dogs; fence would be aesthetically pleasing.

Mr. Murphy had questions regarding area near seawall and how it would to be closed off; Mr. Tutwiler responded; fence at seawall not to exceed the height requirement; taper down at seawall.

Meeting was closed to public comment.

Mr. Shank commented on number of neighbors opposed; no further questions.

Mr. Mariano commented on previous board actions and zoning districts; over-arching objective in maintaining park like setting; recognized safety aspect; doesn't want to create a precedent.

Ms. Kern referred to variance conditions needed; not seeing an undue hardship; if dogs are issue, other avenues that could be pursued.

Mr. Murphy stated the recommendation of the board would go forward to the Commission on the 21st.

Pam Kern moved to deny. Seconded by Brand Shank.

Aye: 6 - Vice Chairman Millspaugh, Mariano, Kyres, Shank, Kern, and Namey

Absent: 1 - Chairman Brandvik

CITIZENS COMMENTS

None given.

APPROVAL OF MINUTES

[20-0167](#) Approval of March 9, 2020 Meeting Minutes

Marc Mariano moved to approve the minutes. Seconded by Joseph Namey.

Aye: 5 - Vice Chairman Millspaugh, Mariano, Kyres, Shank, and Namey

Absent: 1 - Chairman Brandvik

Abstain: 1 - Kern

GENERAL AGENDA

[20-0164](#) Election of Officers

Pam Kern moved to table. Seconded by Marc Mariano.

Aye: 6 - Vice Chairman Millspaugh, Mariano, Kyres, Shank, Kern, and Namey

Absent: 1 - Chairman Brandvik

[20-0169](#) Discussion of Fence Ordinance

Mr. Murphy discussed definitions regarding secondary front yard setbacks; interpretations; other issue regarding plantings and ensuring they are being done, suggestion to require a landscape plan as part of the permit approval process for a fence; lastly chainlink fencing and aesthetics.

Deputy Mayor Rettstatt-commented on code enforcement having to get involved when not being followed; as far as landscaping, fencing companies pulling permits, a landscape plan would require property owner to finish job; code enforcement is costly to pursue issue.

Discussions ensued regarding options; bonding or mitigation until vegetation installed;

avoiding expense of code enforcement; maintaining park-like setting by keeping them covered.

Mr. Shank questioned current enforcement process; Mr. Murphy stated 1st action would be to give 30 days to remedy, if not responsive, taken to county court as ordinance violation which is \$250/day fine; other option is special magistrate hearing process; found in compliance or not, code compliance fine up to \$250/day repeat can be up to \$500/day; liens imposed and sometimes not able to recoup costs associated with foreclosure proceedings.

Mr. Mariano commented on getting intended screening placed on fence application.

Board discussions regarding providing list of plantings and requirements for screening; ongoing maintenance information; adding to permit process.

Deputy Mayor commented on making sure that applicants requesting fence variances to provide for detailed information to the board and the commission; Mr. Murphy commented on variance request regarding the information provided; needing to supply more detail.

Mr. Mariano spoke on not setting precedence; mandatory elevation details.

Mrs. Kern stated landscaping plan should be provided at application of permit; bond required; total front elevation provided; variance request criteria.

OTHER BUSINESS

No further business.

COMMISSION ADVISOR REPORT

Deputy Mayor Rettstatt - Nothing further to report.

ADJOURNMENT

Meeting adjourned in due form at 7:15 PM.

APPROVED:

VICE CHAIRMAN