WAYZATA PLANNING COMMISSION
MEETING MINUTES
NOVEMBER 20, 2023

AGENDA ITEM 1. Call to Order

Chair Stockton called the meeting to order at 6:30 p.m.

Chair Stockton read a prepared statement outlining multiple options for joining remotely or submitting comments and questions in advance.

AGENDA ITEM 2. Roll Call

Chair Stockton asked Community Development Director Goellner to take roll call.

Present at roll call were Commissioners: Douglas, Stockton, Sorensen, Schwalbe, Severson, and Elg. Community Development Director Emily Goellner, Assistant Planner Valerie Quarles, and City Attorney David Schelzel were also present.

Absent at roll call was: Commissioner Merriam

AGENDA ITEM 3. Approval of Agenda

Chair Stockton asked for a motion to approve the agenda for the meeting.

Commissioner Sorensen made a motion, seconded by Commissioner Elg, to approve the November 20, 2023 agenda as presented. The motion carried unanimously.

AGENDA ITEM 4. Consent Agenda

a.) Approval of the November 6, 2023 Planning Commission Meeting Minutes
b.) Approval and Adoption of Planning Commission Report and Recommendation of Approval for PUD Amendment and Shoreland Residential PUD/CUP at 825 Mill Street E

Chair Stockton read the items on the consent agenda and asked if any Commissioner wished to pull an item for further discussion. She noted page 14, line 45 of the meeting minutes and explained that she thinks the word 'livable' was intended to be 'shoppable' and asked for that change to be made to approved November 6 meeting minutes.

Hearing no objections and no request to pull either item, Chair Stockton asked for a motion to approve the Consent Agenda as amended.

Commissioner Elg made a motion, seconded by Commissioner Douglas, to approve the Consent Agenda as amended. The motion carried unanimously.

AGENDA ITEM 5. Public Hearing Item

a) Application for Fence Variances at 728 Wayzata Boulevard E

Assistant Planner, Valerie Quarles, gave an overview of the application for an existing fence at 728 Wayzata Boulevard E and reviewed the project location, the applicable and surrounding neighborhood zoning and land use, and the existing conditions. She noted that the fence was constructed in 2022 without a required City permit, and is too tall in the front and side yards. She further noted that rather than modifying the fence to comply, the owner has chosen to apply for a variance. She reviewed details of the variance requests and noted that if approved, the owner has proposed to add some additional landscaping. She explained that the City had received one public comment earlier in the day from a neighbor to the west who expressed that he was opposed to the request. He stated that he appreciated the many improvements the applicants had made to the property overall, but felt that this fence detracted from the improvements.

At the conclusion of the staff presentation, Chair Stockton asked if the Commission had any questions for staff.

Commissioner Schwalbe asked when the guidelines for fence height and other details were made in the City.

Planner Quarles stated that the original standards for height and opacity are a few decades old. She noted that the City had modified the zoning regulations earlier this year which did allow fences in the front yard to be a bit taller and a bit more solid.

Commissioner Schwalbe asked how they had decided that those modifications would be in the best interests of the community.

Planner Quarles explained that the Commission had discussed this extensively, and noted that she thinks a large part of it was related to the character of neighborhoods and that it was fairly rare to have tall fencing in the front yard that blocks the view of the home.

Commissioner Severson asked if she was correct in her assumption that the Applicant's fence never would have been compliant even under the older regulations.

Planner Quarles stated that was correct.

Commissioner Douglas asked if there was a possibility to have landscaping along the west side of the fence or if it would be on the neighbor's property.

Planner Quarles stated that she thinks there may be some room to add some landscaping, but not on the exterior of the fence as it gets closer to the rear.

Chair Stockton stated that this fence is 6 feet tall, and asked how tall it is on top of the retaining wall from the sidewalk level.

Planner Quarles stated that she believed the retaining wall was probably around 3-4 feet in height.

Chair Stockton stated that would then be about 10 feet high from the sidewalk level. She asked about the distance between the retaining wall and the fence.

Planner Quarles stated that she believed that was about 3-4 feet.

Commissioner Severson asked about the location of the fence along the property line.

Planner Quarles explained that the City did not have any regulations on how close the fence should be to the property line but noted it is good practice to keep it a bit off the property line. She stated that the applicant submitted a survey, so they have been able to confirm that the fence is not on the neighbor's property.

There being no further questions from the Commission for staff, Chair Stockton invited the applicant to address the Commission.

Applicant Lacey Bickel, 728 Wayzata Boulevard E, explained that she was the wife of the property and homeowner, Stuart Bickel, and noted that they had just recently gotten married. She expressed her appreciation to Planner Quarles for helping them work through this issue, and apologized that they had not initially pulled a permit for the fencing. She stated that they had a contractor put in the fence who has done a lot of business out of state, and explained that they had relied on the contractor to lead them through the process and had not double checked on what permits may have been required. She stated that they want the fencing to be aesthetically pleasing for the neighborhood, and explained that they had wanted to put in the fencing for safety and privacy reasons because Wayzata Boulevard is a pretty busy street for both vehicles and foot traffic. She stated that there is also a large 3 story office building on Chicago Avenue that is opposite their property. She explained that the way the lot curves down, the home sits very high, which means when they are in their yard, they are on display to everyone, which was why they had installed this fence for privacy and safety reasons. She stated that they have no intention of selling and very specifically purchased a home in Wayzata because they love the area and this neighborhood. She stated that landscaping has always been part of their plans, and they had not intended it to be the large blocked off fence look.

Chair asked if the commissioners had any questions for the applicant.

Commissioner Elg asked whether the timbers in the retaining wall are currently there or if there were planned for part of the overall landscaping.

Ms. Bickel stated that the wood retaining wall is currently there and was there when they purchased the home.

Commissioner Schwalbe asked if there was any fencing when they had purchased the home.

Ms. Bickel stated that she has seen old photos of the property where there was a fence on a portion of the property, but when they purchased it there was no fencing.

Chair Stockton asked if when her contractor had put in the fence, if they had put in footings.

Ms. Bickel confirmed that they had put in concrete footings.

There being no additional questions from the Commission for the applicant, Chair Stockton opened the public hearing on the application at 6:54 pm.

There was no one present in City Hall that wished to speak, and Community Development Director Goellner stated there were no people that called in to the meeting that have asked to speak at the public hearing.

There being no member of the public wishing to comment on the application, Chair Stockton closed the public hearing at 6:55 pm.

Chair Stockton asked for the Commission to share their questions and feedback on the application.

Commissioner Severson asked Ms. Bickel what they would have done if they had pulled the permits at the start of this process. She asked if they would have built a compliant fence and if so, what it would have looked like.

Ms. Bickel stated that she believes that she would still have come to the Commission and asked for these same variances in order to put in a fence the way it is styled currently.

Commissioner Elg stated that he understands the applicant's plight, and noted that he has looked at photos and driven by the property. He noted that he did not think it was particularly unattractive, and noted that because of the location of the lot there really isn't a true back yard. He stated that children will have to have a place to play and understands the concern for safety and the issue of traffic in the area. He stated that he feels this fencing will help provide some reduction of traffic noise, as well as block some of the visual access to the yard. He stated that he thinks the proposed landscaping does a nice job of softening the appearance of the fencing. He stated that he does not have any objections with the fencing where it is, and noted that he feels this appears to be a pretty well-designed way to approach fencing on this property. He stated that the shape of the property is challenging, and noted that they are not able to do anything about the traffic on Wayzata Boulevard and have to live with it. He explained that he was in favor of the two variance requests.

Commissioner Schwalbe stated that she drives down Wayzata Boulevard E quite often and every time she comes down the street she is a bit shocked by all this fencing that creates such a huge barrier. She stated that, to her, it is distracting and thinks that when the City has rules and regulations, she thinks it is very important to stick with them. She stated that she thinks it would be just as beautiful of a fence if it were 2 feet shorter and less opaque, because it would fit in better with the community. She stated that the existing fencing is jarring, and she has noticed it prior to this application coming before the Commission.

Commissioner Sorensen noted that when he initially read the application, he felt this request seemed reasonable and had enough unique circumstances that warranted granting the requests. He

stated that he appreciates the concerns raised by Ms. Bickel related to noise and safety. He stated that he thinks the fact the house and yard sit above the street a bit is a good thing for noise and safety, and noted that he also felt this was a good example of why the City has a fence ordinance. He stated that the existing fence does catch your eye as you go by, and is the only one along Wayzata Boulevard that looks this way. He stated that he feels the City needs to be careful about setting a precedent and while he is empathetic to the Bickels' situation, the Commission's job is to look at what is best for the community and the neighborhood. He stated that if the fencing is changed so it is in compliance, he believes that there are a lot of opportunities with greenery to deal with some of the issues that Ms. Bickel shared concerns about. He stated that he was inclined to recommend enforcing the fence standards of the ordinance that are in place in this situation and not grant the variances.

Commissioner Douglas stated that she has never noticed this fence when she was been driving by until someone mentioned something at a meeting last week. She stated that she has mixed feelings about these requests, and gave the example of a fence that was approved on Bushaway Road and at the time, she had said to herself, 'no more fences'. However, she noted that there was a variance on the north side of Wayzata Boulevard about 2 blocks west where there is a large retaining wall, and they allowed a 6 foot fence in addition. She stated that there is also a row of solid arbor vitae in front of it for a side yard which was approved about 3 or 4 years ago. She stated that she drove by that fence today and noted you cannot even see the fence because of the greenery and landscaping. She further noted that it is similar to what is shown in the renderings for this application. She stated that she drove by the property tonight prior to the meeting and just as she was pulling into the neighbor's driveway, a big bus stopped right in front of the home, so she can understand how that would factor in Ms. Bickel's concerns. She stated that if she were to recommend approval, she would ask that they do some landscaping to help appease the neighbor's concerns. She stated that she has not yet made up her mind which way she will vote on this request.

Commissioner Severson stated that she also has mixed feelings on this request. She stated that she is on a frontage road that faces Wayzata Boulevard, so she understands the concerns raised regarding noise, traffic, and the 'public-ness' of their location. She stated that this is a jarring fence and the City had just spent a lot of time over the last year working on the fence ordinance, and noted that it had been done for a reason and she would like to honor that work. She stated that she feels that they need to be in compliance and does not like that the contractor put the fence in without checking on City rules and regulations. She concluded that she was inclined to follow the standards of the fence ordinance.

Commissioner Elg stated that the City has created the variance process so people can make their case to do things outside of being compliant. He stated that he thinks that it would be wrong of the City to flatly say that every fence has to be in compliance. He stated that the variance process allows the applicant to make their case and explain the uniqueness of their property and other details, such as traffic that make the fence desirable. He stated that the City is allowed to bestow the ability to do something outside of the ordinance in certain conditions. He stated that he agrees that the fence may be a little jarring right now, but believes with the landscaping it will look a lot softer. He stated that because of the slope of the yard, he noted that a 4 foot fence may not allow most individuals walking by to be able to see into the yard, which could also be an option. But, he reiterated his support for the case raised by the applicant.

Chair Stockton noted that she lives on County Road 101 and has a fence in her back yard. She stated that the fence was designed within the regulations in place at the time and one of the ways to contend with a large wall surface was to sort of undulate the fence in and out, which is what her fence has done in order to allow for deeper plantings in different areas. She stated that there is some uniqueness to this site, such as the 3 story office building nearby, but didn't really think any height of fence would help with privacy. She noted that safety is also a concern, but felt that the height of the retaining wall would add to that aspect. She stated that as the fence stands now, it is pretty dominant. She stated that the Commission had put a lot of thought into how fences should be in the City, and why there should be opacity, when they had made the recent changes to the ordinance. She stated that she walked through the area recently, and did feel this tall fence structure was off-putting which is not the vibe they want in the City. She stated that she understands Commissioner Douglas referencing the other fence project, but noted it precedes the recent efforts that have been made to draw a consensus about how the City wants to address fences and the reality is that this fence feels, in her opinion, a bit ominous. She stated that she also has concerns about wind with the large, long, tall structure. She stated that she feels the variance request would be more reasonable if this was a flat lot or did not have the retaining wall. She stated that if the plantings were done as shown in the renderings, it would definitely help with the aesthetics. She stated that the contractor the applicants used for this work should have checked with the City, and noted that they may be able to go back to them if the City determines that some sort of alteration is required to the fencing. She agreed that this is a busy road and understands the concerns related to safety.

Commissioner Schwalbe stated that she appreciates what the applicants have done to clean up this property, believes they will be very good Wayzata residents and was glad that they have chosen Wayzata, but she thinks that for the community and the City, it would be better if the fence were 2 feet lower. She explained that she would prefer that the City stay within their ordinance in this particular instance.

Chair Stockton stated that she can think of a time when she lived abroad and had a fence on a very busy road and they were required to have complete green coverage on any type of a solid fence. She stated that in order to get to the height they wanted, they ended up putting plantings on the interior of the fence. She stated that she believes there are other ways to get around some of the height restrictions. She stated that she does not want to see this set any kind of precedent for others who want this type of fencing because she feels that it would become a pretty unfriendly boulevard. She stated that one of the objectives in the Comprehensive Plan is to create a walkable, friendly atmosphere, but noted that she was sympathetic to the situation.

Commissioner Severson asked that the Commission imagine if there was a fence like this all the way along Wayzata Boulevard. She stated that even though she is sympathetic to the applicant, she would not want to see fence after fence after fence along the roadway. She stated that natural fencing such as trees and shrubs is a much more appealing look.

Commissioner Elg asked to see the images that show the front, side, and back yard areas. He stated that if this fence were in compliance in all three areas, the pink area in the diagram would have to be no taller than 48 inches and 75% solid; the yellow area in the diagram would be 48

inches and 100% solid; and the green area, could be 6 feet tall and solid. He stated that if the Commission denies these requests, that is what the homeowner would be left with and explained that it would not just be taking it down to 4 feet in the front because there will also be the opacity issue. He stated that he feels that this fence, if you are down on the street, will still look pretty tall at 48 inches. He stated that like others on the Commission, he is certainly sympathetic to the applicants, but stated that he has been somewhat persuaded by other Commissioners opinions. He explained that he wished there was a happy in between, such as 4 feet tall fence that is solid in the pink area of the diagram that staff showed in their presentation of the application.

Commissioner Severson stated that may be a variance that the Commission would approve.

Commissioner Elg stated that he feels that compromise could give the applicants the privacy that they are looking for.

Commissioner Douglas asked why the area behind the house depicted in pink is considered the front yard.

Planner Quarles explained that the way the fence code defines it is if you stand on Wayzata Boulevard and look at the house, there is one front of the house and if you stand on Chicago and look at the house, there is another front of the house because the front yard is always adjacent to the right of way.

Commissioner Douglas asked if the perceived side of the house on the east side was also considered the front of the house.

Planner Quarles stated that was correct.

Commissioner Elg stated that it is because it is a corner lot, which contributes to the uniqueness.

Commissioner Douglas shared a possible example of a way to fence in the yard with solid fencing.

Planner Quarles stated that they could do it that way, but noted that once they get to the yellow and pink areas in the diagram, it will have to get shorter and less opaque.

Commissioner Douglas stated that this is an unusual lot.

Commissioner Schwalbe suggested that the idea raised by Commissioner Elg was interesting, with the thought of enforcing the height but allowing for a variance in relation to the opacity.

Commissioner Douglas stated that she wishes some of the other Commissioners could have the seen the fence she referenced earlier. She noted that she agreed with the statement made by Commissioner Severson that she did not want Wayzata Boulevard to be all fenced in, but in the example she referenced, there is such solid landscaping, you don’t even realize that there is a fence behind it.

Commissioner Schwalbe stated that they cannot control that type of thing for future plantings.

Chair Stockton stated that this fence does stand out as unique on this road because there is not another fence like it.

Commissioner Douglas questioned whether there was another lot like this one.

Chair Stockton stated that she is concerned about allowing something to be permitted related to something that the City has spent a lot of time and effort to not have happen.

Commissioner Elg stated that it sounds like this variance is not likely to move forward with a recommendation for approval, he would suggest the applicant come back with another request asking for a 4 foot tall, solid fence, for the front yards. He stated that they could still plant the arborvitae trees which will give them the height and could be a good middle ground.

There being no further discussion, Chair Stockton asked for a motion on the application.

Commissioner Schwalbe made a motion, seconded by Commissioner Sorensen, to direct staff to prepare a draft Planning Commission Report and Recommendation with appropriate findings reflecting a recommendation of denial for Fence Variances at 728 Wayzata Boulevard E, for review and adoption at the next Planning Commission meeting. The motion carried unanimously.

AGENDA ITEM 6. Other Items:

a) Review of Development Activities

b) Planning Commission Meeting Schedule

Community Development Director Goellner stated that she intends to cancel the Planning Commission meeting scheduled for December 4, 2023 and may also cancel the December 18, 2023 meeting due to lack of agenda items. She noted that the 2024 calendar was included in the meeting packet and recommended that Commissioners look at those meetings closely because there are quite a few oddities within the schedule due to elections and holidays.

AGENDA ITEM 7. Adjournment.

There being no further business on the agenda, Chair Stockton asked for a motion to adjourn.

Commissioner Severson made a motion, seconded by Commissioner Schwalbe, to adjourn the Planning Commission meeting. The motion carried unanimously.

The Planning Commission meeting was adjourned at 7:31 p.m.

Respectfully submitted,
Kayla Atkins Rokosz
TimeSaver Off Site Secretarial, Inc.