



PLANNING COMMISSION SYNOPSIS

Thursday, February 25, 2016

CALL TO ORDER

Chairperson Nordstrom called the Planning Commission meeting to order at 6:00 PM in the City Council Chambers of the Bloomington Civic Plaza.

COMMISSIONERS PRESENT: Nordstrom, Willette, Batterson, Fischer, Goodrum

COMMISSIONERS ABSENT: Spiess, Bennett

STAFF PRESENT: Markegard, Schmidt, O'Day

ITEM 2

6:07 p.m.

CASE:	NA (study item)
APPLICANT:	City of Bloomington
LOCATION:	N/A
REQUEST:	Discuss 2016 Miscellaneous Issues Ordinance

PUBLIC HEARING DISCUSSION:

Schmidt presented the proposed 2016 Miscellaneous Issues Ordinance. He noted the item is scheduled to move to Planning Commission as a public hearing on March 10, 2016 and to City Council on April 4, 2016.

The first policy question was regarding fences. In 2015, City Council approved two variances for a 6 foot privacy fence in a side and/or rear yard abutting a street. Staff is looking for direction on whether the Code should be amended to allow six foot privacy fences by right in side and/or rear yards abutting a street.

Markegard gave a brief history of the fence ordinance prior to 2008. Prior to 2008, a six foot privacy fence could be placed anywhere on a lot outside clear view triangles. Based on Planning Commission and City Council concerns about changing neighborhood character due to fences, fence standards were amended to limit height and opacity in front yards and side/rear yards adjacent to a street. Markegard displayed graphics showing where six foot tall privacy and four foot tall open fences are currently allowed and showing photo examples of each type of fence style.

Markegard said that the primary concerns regarding the new fence standards heard by staff relate to the side and rear yards along streets for corner lots. He displayed graphics depicting two fence variances approved in 2015 in side or rear yards adjacent to a street. One approved fence variance was located on 82nd Street and Pillsbury Avenue. Staff and Planning Commission recommended approval and City Council approved the variance. The other

variance was located on 108th Street and Xerxes Avenue. Staff and Planning Commission recommended denial but the City Council approved the variance.

He provided three options for amending the fence standards to address the location of a 6 foot tall privacy fence in side and rear yards adjacent to streets. A first option is to allow a six foot tall privacy fence in a side and rear yard adjacent to street. The option moves away from providing an open character for the neighborhood and walls off interior lots. It also limits the crime prevention aspects of having more eyes on the street by blocking the side windows of the house from the street. A second option is to allow a six foot tall privacy fence in only the rear yard adjacent to a street. The advantage is there are more eyes on the street while still allowing flexibility to have a larger yard area with more privacy. Markegard noted Minneapolis uses the second option. A third option is to keep the fence standards as they are now. It's important to note there is an exception that allows a six foot privacy fences along arterial streets. Local and collector streets may only have four foot tall open style fences in yards adjacent to streets.

Goodrum asked about the City Council approval for the 108th Street and Xerxes Avenue variance.

Markegard stated the neighbor provided an affidavit of consent that likely played a role in the City Council's decision.

Goodrum noted there were special circumstances with this variance. He suggested the a six foot privacy fence be allowed adjacent to a street if it met the setback requirement for a structure.

Markegard said a 6 foot tall fence is currently allowed in a yard adjacent to a street provided it meets the setback requirements of a principal structure.

Nordstrom stated people want to make the best use of their property. He understands the need for privacy from traffic and noise along busier streets.

Nordstrom supports option one because it allows privacy.

Batterson supports the current fence standards because it allows for an open front yard and residential character. He provided an example where it is difficult to see around the corner due to a 6 foot tall fence in the front yard. He suggested a 6 foot fence could come out 8 to 10 feet out from the house in a side or rear yard adjacent to a street but an open yard should be maintained along the street.

Fischer liked giving people flexibility on fences but understands the importance of sight lines. With the 8 to 10 foot beyond the structure idea, there is concern about open yard areas.

Markegard asked Fischer as a law enforcement officer for his thoughts on maintaining eyes on the street.

Fischer stated a privacy fence can be a good thing in some cases and provide a buffer between feuding neighbors. At the same time, a 6 foot tall fence can pose an issue with security and sight lines.

Willette noted there are many corners in Bloomington that have large plantings that block the sight line.

Goodrum stated the variance process gives a good opportunity to evaluate each circumstance.

Nordstrom noted a fence should not be placed in an easement.

Markegard said, on new lots, there is typically a 10 foot drainage and utility easement beyond the typical 12 feet of right-of-way adjacent to a street. If an easement occupied by public utilities exists, an encroachment agreement is required to place a fence within it.

Batterson said a 6 foot tall fence in the front yard of an adjacent lot can devalue a property.

Goodrum said it is important to be cautious about corner lots.

Markegard asked the Commission for their thoughts on the proposed 8 to 10 foot approach from the home in a side and rear yard adjacent to a street.

Fischer discussed the space constraints with an 8 to 10 foot approach.

Willette asked if a gate is required to be the same material as a fence.

Markegard said it is not.

Schmidt noted there are encroachment standards for porches, decks, etc. within yards along street. He suggested using encroachment standards with fences.

The Commission discussed a particular example of a tall fence in a front yard.

Goodrum asked what the main resident concerns are.

Markegard noted the majority of the concerns come from corner properties. Most often, people are not aware of the 2008 ordinance change and construct the fence without discussing it with staff because they have seen other similar legally nonconforming fences that predate the 2008 changes.

Schmidt asked the Commission about a potential minimum distance between the property line and the fence.

Goodrum recommended a 12 foot right-of-way plus a 10 foot easement which leads to a minimum 22 feet of green space.

Batterson suggested 15 feet clear beyond the right-of-way.

The consensus is to allow 6 foot tall privacy fences to be placed 8 feet closer to the street than the principal structure or garage.

Schmidt discussed the current clear view triangle standards. At intersections, it is measured 15 feet from the property line in both directions. For driveways, the clear view triangle is measured 15 feet from the curb. The issue is that the driveway measurement does not provide adequate visibility for pedestrians and bicyclists on sidewalks. The proposed change is to adjust where the clear view triangle is measured.

Nordstrom noted an instance where a driveway is close to the property line and a neighboring fence impacts the clear view triangle.

Markegard stated nonconformity law would allow a legally nonconforming fence to be rebuilt.

Goodrum stated he thought the clear view triangle would have little impact if an 8 to 10 foot approach for fences were adopted as fences would not be allowed in the clear view triangle except along arterials, where most lots do not have driveways to the arterial anyway.

Markegard stated if the fence code doesn't change or changes as the Planning Commission proposes, clear view triangle violations would be a rare issue.

Batterson provided an example where one neighbor has an existing nonconforming six foot tall fence along the property line and the next door neighbor builds a new detached garage with a new driveway and a neighboring fence that blocks the clear view triangle for the new driveway. He predicts it will negatively impact the ability to add new driveways and cause an issue for residents and staff.

Fischer provided an example of his lot and asked about the plantings in the corner.

Markegard said it would have to remain open on the corner for the clear view triangle.

Schmidt added shrubs cannot be greater than 4 feet in height.

Schmidt stated sometimes clear view triangles for driveways encroach into neighboring properties. He was unsure if staff reviews clear view triangle with driveway permits.

The consensus is to keep the clear view triangle ordinance as it is now.

Schmidt discussed other amendments to the Miscellaneous Issues Ordinance. Transient lodging is currently prohibited within the city. The proposed amendment enhances the definition of transient lodging and strengthens the rental code.

Nordstrom asked about post-secondary education housing.

Markegard stated if they stayed in the house for at least 30 days, it would not be considered transient lodging. It must include no more than four unrelated guests.

Batterson supported the strict requirements of transient lodging. He strongly suggested strict enforcement with these standards.

Markegard stated that Bloomington is one city that both prohibits transient lodging and follows up with enforcement.

Schmidt noted changes in the Use Table which include the addition of licensed day care facilities within places of assembly, schools, colleges and universities as a conditional accessory use, addition of colleges and universities as a conditional use in the Lindau Mixed-Use Zoning District, and addition of a dwelling unit for a hotel manager as an accessory use.

Batterson asked if student housing is included in the City Code.

Markegard confirmed and gave Bethany College as an example.

Schmidt noted a proposed change with the location of accessory structures. Currently, the Code limits an accessory structure between the home and the street on through lots. The proposed change will permit accessory structures in the rear yard of through lots if the accessory structure meets the required setback for principal structures.

Batterson asked if there is enforcement of exterior materials of accessory structures. He is concerned about temporary structures. Does it have to be screened?

Markegard stated the accessory structure must match or complement the principal dwelling.

Schmidt discussed the proposed changes to detached garages. The location of a detached garage must accommodate a code complying driveway in the future even if a driveway is not proposed.

Since the agenda packet was distributed, there have been changes to the draft ordinance. Staff is proposing to delete the change regarding irrevocable letters of credit and maintain them as allowed forms of sureties in the Zoning Ordinance. Also, staff added three additional standards for tax parcel combinations and splits including identical ownership, lying within the same jurisdiction and requiring the approval of a mortgage holder.

Fischer asked if there has been an issue with people building and then abandoning a project because of insufficient funding.

Markegard stated the City has been lucky over the last 22 years and in that timeframe has not had to cash in the money. Staff collects sureties primarily for landscaping and erosion control.

Goodrum asked if there are changes to the storage of boats and trailers.

Markegard stated there are no changes proposed and that the recreational vehicle can come 8 feet in front of the house. If the boat goes further than 8 feet in front of the house, a recreational vehicle permit is required.