

**MINUTES OF THE BROOKLYN PARK PLANNING COMMISSION
REGULAR MEETING**

OCTOBER 14, 2009

Approved Minutes

The meeting was called to order at 7:00 p.m.

1. CALL TO ORDER

2. ROLL CALL/ PLEDGE OF ALLEGIANCE

Those present were: Commissioners Conn, Holm, Jechorek, Johansen, Cupka, Lessard Nguyen, and Sullivan, Planning Director Sherman, and Senior Planner Larson.

Those absent and excused were: Council Liaison Rich Gates

3. EXPLANATION BY CHAIR

4. APPROVAL OF AGENDA

MOTION HOLM, SECOND JOHANSEN TO APPROVE THE OCTOBER 14, 2009 MEETING AGENDA WITH THE REMOVAL OF ITEM 6B, MILLS PROPERTIES INC.
MOTION PASSED UNANIMOUSLY.

5. CONSENT ITEMS

6. PUBLIC HEARING

A. Steve Simons- Case# 09-113 for a Variance for a six foot privacy fence as an extension of a current fence in the front yard along the east property line at 5469 102nd Trail North

Senior Planner Larson reviewed the staff report and staff recommendation to approve a variance for the continuation of a six foot privacy fence along the east property line in the front yard at 5469 102nd Trail North. Mr. Larson pointed out that the neighbor has a chain link fence in his rear yard, which abuts Mr. Simons front yard. Mr. Simons currently has a partial wood fence of his own, but he would like to extend it to meet up with the neighbor's fence. This unfenced space is a ten to fifteen foot wide section of property. Landscaping in lieu of a fence would not produce an effective barrier there.

The hearing was opened for public comment. Seeing no one approach the podium, Chair Conn closed the public hearing and confined comments to the Planning Commission members.

APPROVED MINUTES

Chair Conn asked if there was any other way to do this without a Variance.

Planning Director Sherman said the only way to do that would be if person who built the chain link fence had built a wood fence all the way across his property. There is no way this resident can do this without a variance. The neighbor with the chain link fence could have continued the fence because this fence is in their back yard. The current fencing is in the Simons front yard. When 102nd Trail comes in this fencing will be removed, but the neighbor at the dead end has indicated he is not selling or sub dividing for the foreseeable future, so this is the best privacy solution.

Commissioner Johansen said the key for him is that when 102nd Trail goes thru this portion of fence will come down so he is in favor of this for that reason.

Commissioner Holm questioned where this fence would be built and if the two residents' fences would connect. Planning Director Sherman advised that they will not connect. They will remain two separate fences, though they will look like they are right next to each other.

Commissioner Cupka questioned if the telephone box that is there will cause any access problems and Senior Planner Larson said no. Commissioner Cupka said he feels this is a good use of a Variance since adding this fence could have been done without a variance if this was a rear yard instead of a front yard. In this instance, a front yard fence is acceptable.

Commissioner Lessard asked who owns this section of property. Senior Planner Larson said this property is split between both parties and a portion of it is city right of way.

Commissioner Conn stated that he agrees with Commissioner Cupka on why a variance is a good idea in this case. He also supports it because the fence will be removed when the street goes through.

Commissioner Holm wondered about the fax received from one of the neighbors in opposition of the fence. Mr. Simons said that neighbor thought the variance was referring to the chain link fence and that he is ok with the Simons fence, which he indicated in a second fax.

Commissioner Lessard questioned if this would be approved with a contingency that when the right of way goes through that this fence comes down. Senior Planner Larson confirmed this. He also indicated that this would probably be several years away.

MOTION JOHANSEN, SECOND LESSARD TO RECOMMEND APPROVAL OF VARIANCE 09-113 ALONG THE EAST PROPERTY LINE FOR CONTINUATION OF A SIX FOOT PRIVACY FENCE IN THE FRONT YARD AT 5469 102 TRAIL NORTH SUBJECT TO THE CONDITIONS IN THE DRAFT RESOLUTION.

MOTION PASSED UNANIMOUSLY

Chair Conn advised that this application will be considered by the City Council on October 26, 2009.

C. Miguel Cruz Gomez- Case# 02-144 to approve a Variance for the height of a fence in the front yard of property located at 8708 Brooklyn Blvd

Planning Director Sherman reviewed the staff report and staff recommendation to approve a variance for a fence in the front yard at 8708 Brooklyn Blvd. She stated that a variance was approved in 2002, as currently proposed. Mr. Gomez was unable to construct the fence at that time. He is now coming back to request the variance be re-approved. There are only three homesteads on this stretch of the road, with the rest of the property along the road being owned by the state so the homes are pretty isolated. They are requesting to continue the fence that currently exists on the side of their yard across the front of the yard.

The hearing was opened for public comment. Seeing no one approach the podium, Chair Conn closed the public hearing and confined comments to the Planning Commission members.

Commissioner Holm said he agrees with this variance because this is a very busy street. He asked what type of fence would be constructed.

Planning Director Sherman said it would be constructed of wood, the same material as the neighbors fences.

Chair Conn wondered if the fence would go all the way to the driveway on both sides. He is concerned about there being three homes there with people coming out of the driveways out of nowhere with these front yard fences.

Planning Director Sherman said that the right of way is about eleven feet back from the front of the curb.

Commissioner Lessard asked about Mr. Gomez requesting the variance seven years ago. He wondered why he was re-applying for a variance. Planning Director Sherman stated that the permit had expired. She stated that Mr. Gomez now has one year to construct the fence.

Commissioner Johansen said he is in favor of this variance. He said that he generally opposes front yard fences, but this is in a unique location.

Commissioner Jechorek questioned when the office-warehouses across the street was built. Planning Director Sherman stated that it was within the last two years.

Commissioner Conn said he also supports the variance since this is a very busy street.

MOTION LESSARD, SECOND NGUYEN TO APPROVE VARIANCE 02-144 FOR A FENCE IN THE FRONT YARD OF PROPERTY AT 8708 BROOKLYN BLVD SUBJECT TO CONDITIONS IN THE DRAFT RESOLUTION
MOTION PASSED UNANIMOUSLY.

Chair Conn advised that this application will be considered by the City Council on October 26, 2009.

D. Fitness Planet- Case# 09-116 Conditional Use Permit for a 15,590 square foot fitness facility at 8028 Brooklyn Boulevard

Planning Director Sherman reviewed the staff report and staff recommendation to approve a Conditional Use Permit proposed by Inland Commercial Properties for a 15,590 square foot exercise and fitness facility in Park Square Shopping Center. She stated that they will enhance the façade to make a stronger statement as a major tenant in this shopping center.

Rick Plessner from Inland Commercial Properties introduced himself. He stated that they have wanted to improve tenancy in this shopping center. He said that they have found a junior anchor tenant in Planet Fitness. He stated that Planet Fitness currently has 325 locations, but that they are new to this area. Ten of their facilities are owned by the corporation, the rest have franchisees. He introduced Cory Koskie, former Minnesota Twins player, is the franchisee for this facility. He will invest over \$1,000,000 into this project and the landlord will invest \$400,000.

The hearing was opened for public comment. Seeing no one approach the podium, Chair Conn closed the public hearing and confined comments to the Planning Commission members.

Chair Conn stated that he thinks it's good for Brooklyn Park. He stated that he didn't notice an aerobics studio and wondered about the plan for this facility.

Commissioner Nguyen questioned the operational hours and if this business is like Anytime Fitness.

Mr. Koskie explained that there will be about one hundred pieces of equipment, including weights and cardio, no aerobics, no babysitting, and membership costs of ten and twenty dollars. He said their biggest selling point is that people can go there to work out without being judged. He said that for eighty percent of their members this is their first gym membership. There are no high pressure sales. He plans to be open from 5AM to 10PM initially. If demand requires it, he will look at being open longer.

Commissioner Johansen said he thinks this will be a great addition to the shopping center. He also stated that it seems different enough from other fitness facilities in the area.

Mr. Koskie said another thing that makes them different from Fitness 19 and Anytime Fitness is that they will have locker rooms and showers in their facility. It will be a gym for the everyday person.

MOTION HOLM, SECOND JOHANSEN TO APPROVE CONDITIONAL USE PERMIT
09-116 FOR A 15,590 SQUARE FOOT HEALTH AND EXERCISE FACILITY IN THE PARK
SQUARE SHOPPING CENTER AT THE NORWEST CORNER OF BROOKLYN
BOULEVARD AND WEST BROADWAY SUBJECT TO CONDITIONS IN THE DRAFT
RESOLUTION

MOTION PASSED UNANIMOUSLY

Chair Conn advised that this application will be considered by the City Council on 10/26/09.

E. Zoning Ordinance Modifications- Case# 09-115

Senior Planner Larson stated that this is the public hearing request for a portion of the zoning amendments the Planning Commissioners have seen in the past work sessions. There has been discussion about changes with residential accessory uses and commercial vehicle parking

standards. He said that those portions are not quite ready for Commission consideration, but the portion regarding accessory structures in commercial and business districts is ready to go. Staff recommends approval of the changes as outlined.

The hearing was opened for public comment. Seeing no one approach the podium, Chair Conn closed the public hearing and confined comments to the Planning Commission members.

Chair Conn stated that he supports this change for the two types of businesses addressed.

Commissioner Holm asked if a church could put up large garage instead of just an accessory structure if they wanted to.

Senior Planner Larson stated that a single family residential property was allowed one thousand square feet or the equivalent of a five car garage. If the lot is larger, the garage can be larger also. He said that it is possible that a church or daycare could have that size, but he stated it is unlikely to happen. Larson also stated that the city could add a size limitation to the approval, if the Commission prefers.

Chair Conn asked if it is necessary to put a maximum size on that. He stated that if usage changed, this would not apply.

Senior Planner Larson stated that if a church or a daycare did build a large sized garage, and the property was sold for another use, it would become legal non-conforming.

Commissioner Johansen recommended that the Planning Department could go back and tweak the residential portion of the code if the usage changed.

Commissioner Jechorek mentioned that some churches get their own buses or vans and that might determine how big a garage they need.

Chair Conn stated that if the church or daycare is successful and they have a need for a garage then he doesn't see a problem with it.

Commissioner Lessard stated that he thinks size is a concern. He thinks good planning should look at maintaining a certain size and put a size limit on it right now.

Commissioner Johansen stated that this would have to be sent back for staff to do review and recommend an appropriate size. The Planning Commissioner could not decide that at this time.

Chair Conn stated that he doesn't believe there needs to be a size restriction.

MOTION JOHANSEN, SECOND HOLM TO APPROVE ZONING CODE AMENDMENT 09-115 ALLOWING CERTAIN ACCESSORY STRUCTURES IN BUSINESS DISTRICTS.

MOTION PASSED 7-1 WITH LESSARD DISSENTING.

Chair Conn advised that this application will be considered by the City Council on October 26, 2009.

7. DISCUSSION ITEMS

Presentation of recommendations

Planning Director Sherman stated that at last month's meeting there seemed to be quite a bit of confusion about the action taken on an item. The staff provides options for the Commission because previous Commissioners felt they could not take an action different from that outlined. A motion should always be made to approve an item and then it would be voted against for decision.

Commissioner Johansen agreed that the Review For Council Action should say approval, but wondered if language could be added to allow for alternatives to be considered.

Chair Conn wondered if an asterisk could be added that says motions can be approved or denied, but all motions are worded in the affirmative.

Commissioner Lessard stated that if the primary vote fails, there should be a statement advising that the other two motions aren't being voted on.

Chair Conn stated that the Planning Commission just recommends, City Council approves or denies.

Sherman stated they will propose language with the rest next month's agenda items and get feedback then.

8. OTHER BUSINESS

A. Approval of Minutes – September 09, 2009

Commissioner Johansen had a correction to the minutes from the September 9, 2009, meeting. He stated that the first motion to recommend denial shows himself and Commissioner Nguyen dissenting and that is incorrect; they voted in favor of the motion.

MOTION JOHANSEN, SECOND LESSARD TO APPROVE THE MINUTES OF THE SEPTEMBER 09, 2009 MEETING WITH THE CHANGES DISCUSSED.

MOTION PASSED 7-1 WITH CONN ABSTAINING.

9. INFORMATIONAL ITEMS

A. City Council Liaison for August 24, 2009 Meeting

It was noted that Commissioner Conn is the City Council Liaison for the October 26, 2009 meeting.

The Commission inquired as to Council action on the Highpointe application.

Planning Director Sherman gave a recap of the City Council meeting discussion. Sherman said the City Council had a lengthy discussion and did recommend approval of the two zoning changes. The second reading is scheduled for the Council meeting on October 19 for the ordinances and the site plan approval. Commissioner Nguyen said he believes two dissented at

the Council meeting. He also stated that only one person spoke on behalf of the other neighbors and had a petition opposing.

10. ADJOURNMENT

MOTION LESSARD, SECOND HOLM TO ADJOURN THE REGULAR BROOKLYN PARK PLANNING COMMISSION MEETING.
MOTION PASSED UNANIMOUSLY.

Adjournment time was 8:14 p.m.

Respectfully submitted,

Kathy Valez
Planning Assistant