



**Board of Zoning Appeals & City Planning Commission Minutes
Tuesday, May 4, 2021
7 P.M.
Via Video and Audio Conference**

Members Present: David E. Weiss, Mayor
Sean P. Malone, Council
Joseph J. Boyle III, Member
Kevin Dreyfuss-Wells, Member
Joanna Ganning, Member

Others Present: Joyce G. Braverman, Director of Planning
William M. Gruber, Director of Law
Daniel Feinstein, Senior Planner

The meeting was called to order by Mayor David Weiss at 7PM.

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Approval of the April 6, 2021 Meeting Minutes

It was moved by Mr. Dreyfuss-Wells and seconded by Mr. Boyle to approve the minutes.

Roll Call: Ayes: Weiss, Malone, Boyle, Dreyfuss-Wells, Ganning
Nays: None

Motion Carried

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#2102. Hathaway Brown School – 19600 North Park Boulevard:

A Public Hearing was held on the request of Richard Washington, CT Consultants, on behalf of Hathaway Brown School, 19600 North Park Boulevard, to the Board of Zoning Appeals in order to install a temporary fence around the soccer field and softball diamond. The applicant proposes to install a 12-foot tall temporary black mesh fence netting around the soccer field and softball diamond. The fencing is proposed to be located at the edge of the fields ranging from 12 feet to 111 feet from South Park Boulevard and 64 feet 6 inches from Sherbrooke Road. The zoning code allows fence heights around athletic facilities to be exempted from fence height requirements. The code does restrict fences in the front yard of this Institutional property to be set back two thirds of the required 75-foot setback, which is 50 feet from the sidewalk. The black mesh netting and poles are intended to keep errant balls and players safely on the fields. The temporary fencing is proposed to be erected seasonally each year from spring through fall.

CITY OF SHAKER HEIGHTS

Mr. Feinstein showed slides of the site. He stated this is a request for a variance to the fence regulations for a seasonal fence around the soccer field and softball diamond. The school proposes to install a 12-foot tall black mesh fence around these two fields seasonally from spring to fall. Code exempts the height requirements for athletic field fencing. The required setback from South Park Boulevard is 50 feet. The fencing is proposed to be between 12 and 111 feet from South Park Boulevard. A landscape plan with mounding will soften the view. Staff supports the request.

Valerie Hughes, Chief Financial Officer, Hathaway Brown, described a brief background of the school field and parking lot construction. The fence is for students and spectator safety. They have 12 foot mesh fencing now on their other field and the tennis court fencing along Sherbrooke Road.

Richard Washington, CT Consultants, said the red line on the plan is the netting and described the poles in sleeves. The blue line on the plans is the required 50-foot setback. This is a unique property as all sides of the site are front yards. The approved landscape plan will help with screening and includes native plants for education and adds mounding. This new mounding is 2 – 3 feet tall and includes a combination of shrubs and trees which will mature to 6 to 20 feet tall over time. A rain garden will catch runoff to alleviate sidewalk overflow. All large oak trees remain. The fence creates the division between landscaping and turf.

Mr. Boyle asked about the posts. Will they be removed or will they stay year-round? Will this reduce the parking. Will it remain adequate for special events?

Mr. Washington said spaces were added to the Courtland lot and 6 in by gym. The total number of parking spaces on the site have remained the same.

Ms. Hughes said they leave the posts on the other fields. They are removable, but only the netting will be removed. It is difficult to remove the posts and they would likely remain next to the field on the ground. There is now on-street parking on Sherbrook and South Park for games.

Mr. Washington said there are 30 spaces along Courtland Boulevard that have been added as well as spaces on the street.

Mayor Weiss asked if it is the only western portion of the fence that requires a location variance.

Mr. Feinstein said only the western portion requires a variance. The 50 foot setback is two thirds of the required fence setback. About half the South Park Boulevard side of the fence is closer than 50 feet.

Mr. Washington said the driveway apron will be kept to allow an ambulance access. They will leave the gate, re-pave, and add a catch basin.

Mayor Weiss opened the Public Hearing.

Mr. Feinstein read a comment into record. Mr. Brueck and Ms. Smith of 19300 Shaker Boulevard are concerned with the view of the fence across South Park Boulevard. They suggest a tall evergreen hedge or trees would screen that view.

Ms. Braverman read a comment received online. Robert Grant Perry approves of the request. He is concerned about damage to the post footers by pulling them out each season.

Mrs. Janiki, 2751 Sherbrooke Road, asked if the stakes on the ground now indicate the pole locations.

Diane Bayard, 2761 Sherbrooke Road, supports the field and temporary seasonal fence. She can see the other existing temporary fence from her house and finds it unobtrusive.

William Powel, 20200 North Park Boulevard, is a former Hathaway Brown parent and trustee. This proposal is similar to other athletic fields at University School and at the Middle School field. He supports approval and only one end is close to South Park Boulevard.

Felix Brueck, 19300 Shaker Boulevard, asked if Hathaway Brown is willing to plant dense evergreens where the fence is closer than 50 feet.

Bonnie Marcus, 2750 Inverness Road, said she is a Trustee for Hathaway Brown and a 25-year Shaker Heights resident. Hathaway Brown has done their due diligence and committed to being a good partner in the community. She supports the request for the safety of students and to protect the property of the residents.

Caroline Barrow, 17600 Parkland Drive, supports the progress and commitment to neighbors and green space. It is important to have appropriate fencing for safety.

Joe Kubik, 15900 South Park Boulevard, said the existing black fence is unobtrusive, especially from a distance.

Mayor Weiss asked if the footings would be damaged due to removal each year.

Mr. Feinstein said he believes University School and the City leave their athletic field fencing posts up year-round.

Mr. Washington said there are 27 posts at 20 to 25 feet apart. The Sherbrooke Road side of the field is depressed so it is close to tennis court fence height.

Mayor Weiss asked if the flags on the photos are the pole locations.

Mr. Washington said he is not aware of these flags and does not think they mark the pole locations.

Mayor Weiss asked about the landscaping proposed around the field and fence.

Mr. Washington described the proposed landscaping and how it is consistent with existing landscaping. The mounding is 3 feet high on the eastern end. The west end planting will mature to 8 feet tall, and the eastern end plantings to 20 feet tall.

Dr. Ganning asked when the field was considered originally, did they consider a solid evergreen hedge.

Mr. Washington said a solid hedge creates visibility and safety concerns.

Mr. Dreyfuss-Wells asked if it is connecting to the house on Fontenay Road.

Ms. Lamb said no, the fence is to protect from South Woodland Road, not Fontenay Road.

Mayor Weiss asked about the style of fence.

Ms. Lamb said the top 18 inches is lattice and the fence is similar to others in the neighborhood.

Dr. Ganning said 6 feet tall is twice the allowable 3 foot fence height. This is much closer to the street than code allows.

Ms. Lamb said the top of the fence is lattice. The existing fence is 5 feet tall with portions being 5 ½ feet tall, so the openness of the lattice on the top is part of the improvement. The existing taxus bushes are 8 feet tall and the hemlocks will grow from 5 feet at installation to hide the fence better than the existing fence.

Dr. Ganning noted the fence is moving 1 ½ feet further and is one (1) foot taller than the existing fence.

Mr. Boyle said it will not be seen due to the landscaping. The bushes are taller than the fence.

Mayor Weiss said the solid portion of the proposed fence is lower than the existing fence.

Mayor Weiss opened the Public Hearing.

Mr. Feinstein summarized the comments received prior to the meeting.

Ann and Joe Juster, 3007 Fontenay Road, support the request especially the fence style.

Kimberly and Agustin Ponce de Leon, 3008 Brighton Road, support the request and like the fence style.

Mayor Weiss said he could support approval based on the comments on height. There is already a 5 foot tall fence in almost the same place and heavy landscaping. He believes the lattice is a nice addition to the fence design.

Dr. Ganning said this is a better fence, but she is concerned with precedent.

Mayor Weiss noted there is precedent of a fence on Aldersyde Drive, with a scalloped top.

It was moved by Mr. Boyle and seconded by Mr. Malone to approve the request based on the findings of fact and conclusions of law as set forth in the Action Sheet.

Roll Call: Ayes: Weiss, Malone, Boyle, Dreyfuss-Wells
 Nays: Ganning

Motion Carried

#2106. Monachino Property – 16500 South Park Boulevard:

A Public Hearing was held on the request of Thomas J. Monachino, property owner, 16500 South Park Boulevard, to the Board of Zoning Appeals for a variance to the fence location and height requirements for a corner lot. The applicant proposes to install a 5 foot 2 inch tall wood gate on this corner lot at South Park Boulevard and Lee Road. The gate stretches across the Lee Road driveway in between existing brick piers. The gate is proposed to be located 6 inches behind the Lee Road sidewalk. Code requires that fences located in corner side yards not extend in front of the setback line of the adjacent lot. The adjacent setback is 75 feet off Lee Road. Code allows a fence height in a front or corner side yard of 3 feet tall. An existing hedge extends along the Lee Road yard on either side of the brick piers.

Mr. Feinstein showed slides of the site. He stated this is a request for a variance to the fence regulations on this corner lot at South Park Boulevard and Lee Road. The applicant proposes to install 5 foot 3 inch tall wood gate between two existing brick piers at the Lee Road driveway entrance. The gate is proposed approximately 2 feet behind the Lee Road sidewalk. Code requires a 75-foot setback from Lee Road and allows a maximum of 3 feet tall. Staff supports this request with a condition of the Architectural Board of Review approving the color of the gate.

Mr. Monachino said they are two years into renovation of this house. There is a lot of traffic on Lee Road. The only way to get a truck in to the house is through the Lee Road driveway. The gate is original to the property. The gates help close the driveway and reduce the view of Lee Road.

Mayor Weiss asked how the gate is attached to the piers.

Mr. Monachino said it will be installed on a metal post on either side. They will use a square post with a cap on top.

Mr. Malone said the investment is greatly appreciated. How will the gate operate?

Mr. Monachino said it is too expensive for automatic gates. The gates will open in. A wider apron will allow a car to pull in to wait.

Mr. Dreyfuss-Wells said it is nice to have original gates. It is a good solution. If it swings in, will it need to lift up a bit?

Mr. Monachino said yes, the gate will be 2 inches off grade. Yes they will prohibit it from swinging out.

Mr. Boyle said he would normally prefer wrought iron, but the historic nature of the gate is a good reason to maintain this gate.

Mayor Weiss opened the Public Hearing.

Mr. Feinstein said there were two letters received prior to the meeting.

Harold Madorsky, 16500 Shaker Boulevard, supports a gate but would prefer a wrought iron gate.

Lisa Vigil Schattinger, 16301 Shaker Boulevard, said she has no objections.

Joe Kubic said the intersection is busy with traffic. He greatly appreciates the renovation to the house. If the gate helps add safety, then it is fine with him.

Mayor Weiss said the pillars on the South Park Boulevard side were fixed and the renovation is welcome.

Mr. Dreyfuss-Wells said the gate is good quality and original to the house in color and design. It should be inswing only and white.

It was moved by Mr. Dreyfuss-Wells and seconded by Mr. Malone to approve the request based on the findings of fact and conclusions of law as set forth in the Action Sheet with the condition that the gate hardware allows only an inswing opening gate.

Roll Call: Ayes: Weiss, Malone, Boyle, Dreyfuss-Wells, Ganning
 Nays: None

Motion Carried

CITY PLANNING COMMISSION

#2103. Clites Residence - 3696 Townley Road:

A Public Hearing was held on the request of Brian Clites, 3696 Townley Road, to the City Planning Commission for subdivision of land in order to consolidate the adjacent vacant lot with the property on which the home is located. The adjacent lot is owned jointly with the house lot. The house parcel (736-21-057) is proposed to be combined with the vacant lot (736-21-058). The combined lot will continue to be used as part of the yard. This combined lot meets code requirements in the SF-3 Single Family Residential zoning district. Subdivision of land requires City Planning Commission approval.

Mr. Feinstein showed slides of the site. He stated this is a request for subdivision of land in order to consolidate the adjacent vacant lot with the lot the house is on. The adjacent lot is jointly owned with the house lot. The request is to combine parcel 736-21-058 with parcel 736-21-057. The combined lots meet lot and block standards for the SF-3 Single Family Residential zoning district. Staff supports this request.

Mr. Clites said they moved to this house in 2013. They created order in their landscape and added a fence to the extra side yard. They intend to incorporate the second lot into the house and maintain it.

Mayor Weiss opened the Public Hearing. No comments were received in reference to this application.

Mayor Weiss said as a general rule they prefer lots be consolidated. This is a lovely house and yard.

Mr. Dreyfuss-Wells said google street view shows very nice improvements in the landscaping.

Mr. Malone said he has questions about the late night and 24 hour business.

Mayor Weiss asked about the dumpster location change. He needs to understand the 11 feet to the fence and neighbor's garages on top of the slope. He asked about landscaping and the appearance of the site and its maintenance.

Mr. Thompson said there is 2 feet on the top of the slope that is flat so there is enough room for the fence. He explained landscaping will be installed on the hill. Pachysandra will be ground cover to help any erosion of the hill under the trees and the fence.

Mayor Weiss asked about the type of fence.

Mr. Thompson said a double sided board-on-board fence is proposed.

Mr. Dreyfuss-Wells said maybe a more solid fence is appropriate.

Bob Shea, 3361 Avalon Road and architect for the project, said the fence does not allow a direct view, but air goes through.

Dr. Malakooti said the fence is double sided, overlapping boards so you can't see through. It is up about 3 feet off the parking lot so it is a total of 9 feet tall above the lot.

Dr. Ganning noted the general deferred maintenance with the building. What is the plan to address those maintenance code issues.

Dr. Malakooti said all new windows and doors will be installed in addition to a new roof. That is the next phase of this project.

Mr. Malone is concerned with the 24/7 operation. Their locations in Cleveland do not abut a residential neighborhood. The City needs to weigh development versus public impact. He is not clear that they or the City need overnight operation. He accepts the rest of the proposal.

Leor Reef, goPuff, said it is critical to the business plan to be available 24/7. It fills the gap where other businesses leave off. They expect 3 deliveries per hour at those late hours.

Mr. Feinstein explained after 9 p.m. is delivery only.

Mayor Weiss said this is different than a retail operation on site 24/7.

Mr. Dreyfuss-Wells asked about precedent.

Mr. Feinstein explained the other delivery and late night businesses in the city.

Mr. Malone said if willing to extend beyond 11 p.m., but asked what hours are important.

Mr. Reef said 3:30 a.m. would be the earliest the business can close in order for goPuff to make the investment and open for operation.

Mr. Boyle said 24/7 deliveries from the store versus allowing customers going to the store 24/7 is the same. What is the difference?

Dr. Ganning asked if the 3:30 a.m. cut off is acceptable to the applicant.

Mr. Reef said if required, it is acceptable close delivery from 3:30 to 5:00 a.m.

Dr. Malakooti said the property has been vacant. Investment in the building is long overdue and this tenant will allow that investment.

Mr. Reef said there will be on-site management should there be any issues. The manager will work with Police to be a good neighbor and provide a service.

Dr. Malakooti said this property has been vacant for 20 years. There is a level of economic hardship with the high standards of Shaker Heights. Only employees will have access to the building with 2 or 3 drivers during late night hours. This is not a bar with 20 people coming and going.

Mayor Weiss opened the Public Hearing.

Mr. Feinstein summarized the letter received prior to the meeting.

Belinda Johnson, resident, had concerns with traffic, landscaping, and the lack of a brick wall in the rear yard.

Mayor Weiss summarized comments and issues. Are there any issues with the Conditional Use Permit similar to assembly and packaging?

Mr. Feinstein confirmed this Conditional Use Permit is acceptable to the Planning Department.

Mayor Weiss said technically Mr. Boyle is correct, but this is not a normal business. On-site pick up is 9 to 9 and beyond that it is outgoing delivery from 9 to 3:30 a.m. This use is not encouraging assembly at those later hours. He finds it acceptable. He expects the maintenance and landscape proposed are upgrades to the building as well as new doors and windows. It is good not to see the dumpster from street. The additional landscape islands variance has been granted before.

Mr. Malone said he is encouraged by the investment and is willing to have 3:30 a.m. be the cut off of activity.

Dr. Ganning said she seconds the Mayors summary and includes that suitable maintenance of the building code as a condition.

Mr. Dreyfuss-Wells agrees with the other members. The new landscape helps and helps the use to not adversely impact neighbors.

Dr. Malakooti said they will conduct themselves in a professional way and respect neighbors. They will present plans to the Building Department and satisfy requirements.

