

City of Duluth  
Planning Commission  
August 11, 2020 Meeting Minutes

*Due to the COVID-19 emergency, many planning commission members participated through video conference from home. The meeting was held as a Special Meeting pursuant to Minnesota Statute 13D.021 in response to the Covid-19 emergency. Public comment was taken at [planning@duluthmn.gov](mailto:planning@duluthmn.gov) prior to and during the meeting, and via verbal comment through public attendance in the WebEx video conference during the meeting.*

Call to Order

President Margie Nelson called to order the meeting of the city planning commission at 5:00 p.m. on Tuesday, August 11th, 2020.

Roll Call

**Attendance:** (\* Via WebEx video conferencing – all votes conducted via roll call)

Members Present: Gary Eckenberg\*, Tim Meyer\*, Margie Nelson\*, Eddie Ratnam\*, Michael Schraepfer\*, Andrea Wedul\*, Sarah Wisdorf\*, and Zandra Zweibel\*

Member Absent: Jason Crawford

Staff Present: Adam Fulton\*, Robert Asleson\*, Kris Liljeblad\*, John Kelley\*, and Chris Lee\*

The Commissioners introduced themselves and welcomed new planning commissioner Eddie Ratnam.

Public Comment on Items Not on Agenda - None

Approval of Planning Commission Minutes – July 14, 2020

**MOTION/Second:** Wisdorf/Eckenberg approved the minutes

**VOTE: (8-0)**

Consent Agenda

PL 20-060 Variance to Shoreland Setbacks for a Garage at 2130 Abbotsford Avenue by Leonore Baumler

PL 20-091 Vacation of a Portion of Calvary Road at 5 W Calvary Road by the city of Duluth

PL 20-106 Vacation of a Portion of Calvary Road at 1 Calvary Road by the city of Duluth

~~PL 20-109 Variance to Build a Garage at 1221 W. 5<sup>th</sup> Street by Matthew Unzeitig~~  
(Removed by Applicant)

PL 20-110 Variance to Front Yard Setback for New Single-Family House at Anson Avenue by Daniel and Jodi Slick

PL 20-111 Concurrent Use Permit for Low Clearance Signage at 36<sup>th</sup> Avenue E by St. Louis and Lake Counties Railroad Authority

PL 20-112 Concurrent Use Permit for Low Clearance Signage at 32<sup>nd</sup> Avenue E by St. Louis and Lake Counties Railroad Authority

PL 20-118 Vacation of W. Michigan Street at 2102 W Superior Street by Jon Aamodt

PL 20-119 Vacation of Slope Easement at 2102 W Superior Street by Jon Aamodt

**Staff:** N/A

**Applicant:** N/A

**Public:** PL 20-060: The applicant Robert Baumler is in attendance if the commissioners have comments or questions. PL 20-091 and PL 20-106: Deputy Director Adam Fulton shared Mark Baker's email related to comments that he doesn't feel the area should be vacated and is opposed. PL 20-110: Neighbors Bill and Pat Kron are in support. PL 20-111 and 20-112: Wade Smith feels the design is inappropriate for a residential area. He is opposed. Steve Schneider doesn't feel it fits the neighborhood, and is opposed. PL 20-091: Fulton shared the full text of an email from Mike Casey who stated the vacation seems odd to him, and doesn't benefit the public in any way. He is opposed. PL 20-111: Josh Larson lives on Greysolon Road and noted the signs look too large and industrial for a residential area. He is opposed. Scott Stemehar (applicant rep from Krech and Ojard) noted this is a challenging area with low bridges. It would be less impactful to the neighborhood to have the proposed passive signage. He noted the aesthetics, and the full design aren't finalized. The signs will be fully located in the city Right-of-Way. Richard Leighton questioned the weight and height of the clearance bars. He also had frost depth questions. Stemehar noted the clearance bars are light in weight. The impact to vehicles would be minimal compared to hitting the bridge. The bars have a break-away feature. He noted the frost depths are typical and will be certified by a professional engineer.

**Commissioners:** PL 20-111 and 20-112: Andrea Wedul asked if there will be lighting involved. City senior transportation planner Kris Liljeblad stated no supplemental lighting is proposed. There is current street lighting in existence, which would add ambient lighting.

**MOTION/Second:** Eckenberg/Wedul approved the consent agenda items as per staff recommendations.

**VOTE: (8-0)**

#### Public Hearings

(The next two agenda items are related, and will be introduced at the same time.)

PL 20-103 Variance to Fence Height at 2316 W 7<sup>th</sup> Street by Justin Lee and

PL 20-104 Concurrent Use Permit for a Fence in the Right of Way

**Staff:** Chris Lee introduced the applicants' proposal for an eight-foot tall wood privacy fence in the front yard, instead of the maximum four feet allowed by code. The applicant expressed that the practical difficulty and desire for a high fence stems from the lack of privacy, the unsafe conditions of the street, and the containment of an athletic dog. Staff determined that these aspects do not fall constitute practical difficulty related to construction of a conforming fence on the site. The applicant has provided a petition with 37 signatures from their immediate neighbors who are in support. Based on the findings of fact listed in the staff report, staff recommends denial of the variance. Chris Lee then introduced the applicants' proposal for a concurrent use permit for right of way improvements to allow an eight-foot tall fence. The area proposed to be used is roughly 50 feet long by eight feet wide and occupies 400 square feet. Staff recommends approval of the concurrent use permit with the conditions listed in the staff report.

**Commissioners:** Gary Eckenberg questioned why staff recommended denial for PL 20-103 and then recommended approval for PL 20-104. Does this mean the fence can remain at a lower height? Lee affirmed. Wedul asked about snow removal. Are there concerns? Lee noted the applicant will perform their own sidewalk snow removal. Wedul asked if they will be blowing it back into their yard over the fence. Lee deferred to the applicant. Deputy Director Fulton noted it is not uncommon for a concurrent use permit, but staff is concerned about the fence height. Zandra Zwiebel asked about the view from the back. Is the 3' build-up from the yard, which will make it 11' high? Lee affirmed and noted it would be more substantial in height. In the past, they usually don't allow a fence on top of another structure. Zwiebel stated it is important to set a proper precedent.

**Applicant:** Justin and Julia Lee addressed the commission. Justin apologized for not following the rules to begin with. They have lived in Duluth since 2018, and began constructing the fence a year later. He noted they have removed the snow themselves. They have never placed the snow in the street, or on their neighbors' property. He noted the knee wall and the fence on grade into a sloping corner. The rear fence elevation remains consistent with the rest of the fence. It was a practical and aesthetic choice. He noted they have received 46 letters in support. He also received comments from a city engineering employee stating the fence looked good aesthetically. He commented that a neighbor's house for sale recently sold for full price. Tim Meyer asked if they had a permit before they started the project. The applicant plead ignorance and stated that they did not obtain a permit. They did the work themselves, and did not hire a contractor. They want to make it right. Meyer stated as an architect the first step is to check with city planning and construction services before starting a project. He noted the fence's nice design and is aware of their neighbors' support. Eddie Ratnam asked about the hardscaping. Lee stated they didn't want to tether the dogs. Ratnam asked about electrical underground fences. The applicant stated he didn't feel it was humane, and noted the opaque fencing lessens the dogs barking.

**Public:** Chris Lee noted the received 47 petitions in support and also a comment from a Tara who was upset that this was in issue, and is in support.

**Commissioners:** Zwiebel noted the fence design has a significant amount of slope. It is a beautiful fence, but thinks it is too high. She is concerned about setting a precedent. Eckenberg noted a 4' fence is standard. He doesn't feel the proposed height is appropriate. Wedul stated the fence is well-designed, but feels a 4' fence is appropriate, and agrees with Zwiebel and Eckenberg and is also concerned about setting a precedent. Michael Schraepfer noted although the neighborhood needs investment, it is important to look at the bigger picture and not set a precedent.

**MOTION/Second:** PL 20-103: Zwiebel/Eckenberg denied as per staff recommendations.

**VOTE: (8-0)**

PL 20-104 Concurrent Use Permit for a Fence in the Right of Way (ROW) of W 7<sup>th</sup> Street at 2316 W 7<sup>th</sup> Street by Justin Lee

**Staff:** (See above.) Chris Lee noted engineering has approved, and fences are allowed in the ROW with a concurrent use permit. Staff is okay with the location of the fence in the ROW and recommends approval with the conditions listed in the staff report.

**Commissioners:** Chair Nelson asked about other residences that have concurrent use permits for fences. Lee noted there are some, but a lot are likely unpermitted and they have enforced beginning in 2017. Some applicants back away from obtaining the permit due to cost and the procedure involved.

**Applicant:** Julia Lee provided examples of other fences in the ROW. Justin noted an 8' fence on a nearby commercial lot. He doesn't feel their fence is different. The city should be enforcing

other non-conforming fences. He doesn't feel the fence closes them off. Chair Nelson noted the importance of setting a good precedent. Chris Lee noted transparency includes decorative rod iron designs. Zwiebel noted the importance of transparency and feels the fence creates a closed off feeling. They need to work on a more inviting look for pedestrians. She gave an example of the downtown brick AT&T building, and how it is not pedestrian friendly.

**Public:** No comments.

**MOTION/Second:** Eckenberg/Zwiebel recommended approval as per staff recommendations.

**VOTE: (7-1, Meyer Opposed)**

#### Communications

Land Use Supervisor (LUS) Report – Deputy Director Fulton gave an overview. A brown bag discussion to discuss UDC changes will be forthcoming.

Heritage Preservation Commission – Commissioner Wisdorf gave an overview. Tiffany windows at the Depot will remain in place, and keep their landmark status.

Joint Airport Zoning Board – No report.

Duluth Midway Joint Powers Zoning Board – No report.

#### Adjournment

Meeting adjourned at 6:34 p.m.

Respectfully,

  
Adam Fulton – Deputy Director  
Planning and Economic Development