

The Thorntown Plan Commission met in a regular meeting on August 14, 2023, at 6:00 PM in the Town Hall.

Members in attendance were as follows:

- Don Gray, President – Citizen Member.
- Erick Smith – Citizen Member.
- Jerry Seymour – Citizen Member.
- Drew Guenther – Town Employee.
- Frank Clark – Town Employee. (Arrived at 6:15 PM)

Others in attendance: Oksana Polhuy, Planning Administrator; Drew Guenther, building inspector.

President Gray calls the meeting to order at 6:00 PM.

OPENING CEREMONIES

Mr. Gray leads the Plan Commission in the Pledge of Allegiance.

DETERMINATION OF QUORUM

President Gray states that four members are present and declares that there is a quorum. He mentions that one additional member is expected to arrive later.

He mentions that Jerry is a citizen member and that Drew, as Building Inspector, is a town employee member, sworn in to be Plan Commission members. He says that the Commission is short one member, but that the remaining seat must be filled by a town employee or official.

AGENDA CONSIDERATIONS

Due to the absence of Mr. Clark, the Commission postponed adoption of the Minutes to when Mr. Clark arrives.

President Gray asks if there are any items that need to be added to the agenda. There is no response. He then reads out the agenda for the evening.

[Mr. Clark arrived at the meeting].

MINUTES

President Gray states that there are Minutes available for adoption from May meeting.

Motion by Mr. Smith, second by Mr. Clark, to approve May 8, 2023, Minutes as presented.

AYES: Don Gray, Jerry Seymour, Frank Clark, Erick Smith, Drew Guenther. NAYS: Zero. ABSTAIN: Zero.
Motion carries 5, 0, 0.

OLD BUSINESS

None.

NEW BUSINESS

ITEM #1. Fence Questions

Mrs. Polhuy says that she was told there have been a few questions from applicants about where they are allowed to build a fence. Commissioners confirmed. Mrs. Hatcher of 210 Plum Street and Christian Church brought questions to the Commission separately. She then asked for clarification on what about the ordinance was creating confusion.

Mr. Guenther explains that the ordinance does not say explicitly whether fences are allowed to encroach upon the front, side, and rear yards or if they are to be treated as accessory structures. He attempts to describe the situation at 210 Plum Street while exhibiting a map or satellite image of the property in question. There is some difficulty discerning the image, but Mr. Guenther explains that the daycare next door to 210 Plum Street has built an extension of their building and their fence to the property line, and that the daycare workers and children walk around the extension, thus entering onto Mrs. Hatcher's property, to enter the fenced-in play area.

Mrs. Hatcher mentions that the daycare has multiple doors they can use and until recently had never taken this route to get to their play area. She explains that until she mentioned wanting to fence in her yard, the daycare workers did not do this. She expresses concern about the liability of the children coming onto her property.

Mr. Guenther has been to the property and exhibits a picture(s) from his visit.

The discussion gets a little bit sidetracked by discussion about why the daycare is trespassing, the care and maintenance of both properties, and other details or particulars about the situation, but Mrs. Polhuy brings the discussion back to discussion of the code.

Mrs. Polhuy explains that as the code is written now, fences are considered an accessory structure and therefore the building setback regulations apply to fences as well. She also describes that other communities have written their zoning ordinances to make an exemption for fences.

Mr. Smith asks for clarification on this point, and Mrs. Polhuy reiterates that as the code is written now, Mrs. Hatcher is not permitted to build her fence to the property line.

Mr. Smith asks if there is any need for the APC to deal with the trespassing issue or the licensing issue, and Mrs. Polhuy says that is something Mrs. Hatcher and her neighbor will have to handle between themselves or with the help of law enforcement.

Mr. Guenther notes that the town has never enforced this interpretation of the code.

Mrs. Polhuy states that to her understanding, few if any parts of the zoning code have been enforced up to now, and that they need to start enforcing somewhere.

Mr. Guenther asks about the practicality of allowing fences to be built on the property line. He wonders how to deal with the possibility that neighbors may want to build different fences and says that if this is first-come, first-serve, then one neighbor could get a permit for a 4ft chain link fence, for example, while their neighbor would prefer a 6ft wooden privacy fence.

Mrs. Polhuy states that it should be left up to neighbors to figure out how they want to split costs, share maintenance, and other such considerations. She explains that from a planning and zoning

perspective, fence regulations seek to create a more open, visible condition from the street to maintain visibility while allowing for higher more opaque fencing in the rear for privacy.

Mr. Smith asks again what the code as it is written now allows Mrs. Hatcher to do, and Mrs. Polhuy says that she is permitted to build her fence up to the building setback lines: 20 feet in the front, 10 in the rear, and 5 on the sides.

Mrs. Hatcher asks for clarification about whether she is liable for what happens in the 5 feet between her fence and the property line, and Mrs. Polhuy and Mr. Smith reiterate that the side yard is still her property, and she can still ask the neighbors to not trespass and call the police if they do.

Mr. Gray also suggests that she put up a “No Trespassing” sign on the outside of her new fence.

Someone asks if the “pretty side” of the fence should face towards the neighbor or inside towards your yard.

President Gray says it should face outwards towards the neighbor because it adds street appeal to your property and suggests that this is something else the code might need to address.

Mrs. Polhuy says that it is not necessary for the code to go to that level of granularity as that is something that an HOA might regulate.

Mr. Smith asks if it’s possible to get a new fence ordinance written and what the timeline would be.

Mrs. Polhuy explains that writing or revising the code is not a “routine” task covered by her current contract, so a modification to the existing contract or a new contract would be necessary to get the code finished. She says that the APC could recommend to the Town Council that they modify the contract to include finishing the code. She estimates about a month to write new code provisions and another month to schedule the public hearing.

Mr. Smith summarizes the discussion for the benefit of Mrs. Hatcher, stating that as the code is written now she is permitted to build a fence up to the building setback line and that she could put a “No Trespassing” sign on the fence. He suggests that she may be able to request a variance, but Mrs. Polhuy reminds him that there is no ordinance for the BZA or the process for submitting a variance application. Alternatively, he suggests that if they can get the Town Council to modify Mrs. Polhuy’s contract, in an ideal world, Mrs. Hatcher would be able to build her fence at the property line in about 6 months.

Mr. Guenther suggests that Mrs. Hatcher have the county surveyor come out to identify the property line, and states that he will enforce setbacks on fences as the building inspector.

Mrs. Polhuy uses an aerial image to show Mrs. Hatcher where the fence could be built to.

Final recommendation for Mrs. Hatcher: get a survey done to identify the property line and then build fence, respecting the setbacks as required by the current code.

Church’s Fence Question

Mr. Guenther introduced the other question from the Christian Church, who wants to enclose the grassy area behind their building.

There is a discussion of the ideas of where a fence could go in to encircle a potential play area. The discussion lands to a similar conclusion with a direction where a fence is allowed according to the current zoning requirements.

Mrs. Polhuy explains that because it is a corner lot, they have two front setbacks and two side setbacks that they need to abide by when building the fence. Mrs. Polhuy clarifies that setbacks are measured from the property line, not from the street or the sidewalk.

Ms Polhuy explains that the kind of conversations about the fence requirements that they are having tonight are exactly the kind of conversations that need to happen before these codes are written.

OTHER BUSINESS

President Gray asks about what the best way to go about bringing up the issue of finishing the code to the Town Council. Mrs. Polhuy suggested that he go to the next meeting and tell them that they are getting many questions about fences and signs which are not covered by the current ordinance and that the APC is in dire need of updates to the zoning ordinance and that the APC strongly supports any proposal the Council receives for finishing the code.

Mrs. Polhuy discussed the way various other communities have regulated fences and signage to provide examples.

Mrs. Polhuy presents a PowerPoint about subdivision and primary and secondary plats and how the Planning Staff reviews plats for approval.

ADJOURNMENT

President Gray makes a motion to adjourn. Meeting adjourned at 7:53 PM.

Donald Gray President

Secretary

(typed)