



**Board of Zoning Appeals & City Planning Commission Minutes
Tuesday, June 6, 2023
7 P.M.
City Hall Council Chambers**

Members Present: David E. Weiss, Chair
Sean P. Malone, Council
John J. Boyle III, Member
Joanna Ganning, Member
Jason Russell, 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 Council Member Malone at 7:00 p.m.

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Approval of the May 2, 2023 Meeting Minutes

It was moved by Mr. Russell and seconded by Mr. Boyle to approve the minutes.

Roll Call: Ayes: Malone, Boyle, Ganning, Russell
Nays: None

Motion Carried

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#2205. ECKSTEIN RESIDENCE – 2970 BROXTON ROAD:

A Public Hearing was held on the request of Michael & Lisa Eckstein, 2970 Broxton Road, to the Board of Zoning Appeals for a variance to the fence location, height and landscaping regulations on a corner lot. The applicant proposes to replace an existing fence with a 6-foot tall solid wood fence on this corner lot at Broxton and South Woodland Roads. The fence is proposed to replace an existing fence located on the western property line, 4 feet off the South Woodland Road sidewalk. Code requires that fences located in corner side yards not extend in front of the setback line of the principal building on the adjacent lot. The adjacent house on South Woodland Road is set back 60 feet. Code allows a fence height of 3 feet tall on a corner front yard. The fence is proposed to replace the existing 6-foot tall wood fence that was approved in 1993. The existing fence was approved with landscape screening on the western side of the fence. No landscaping was installed

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and the applicant does not intend to plant that landscaping when the proposed replacement fence is installed.

Mr. Feinstein showed pictures of the site. He stated this is a request for a variance to the fence regulations on a corner lot. The applicant proposes to replace an existing 6-foot tall wood fence on this corner of Broxton and South Woodland Roads. The western property line fence is 4 feet tall and about 6 feet from the South Woodland Road sidewalk, and steps up to 6 feet tall about 15 feet back from the sidewalk. The fence was approved in 1992 with landscaping installed on the western side of the fence. That landscaping was never installed. The applicant proposes to replace the fence without adding that landscaping. A corner lot fence is not allowed to extend closer than the adjacent house to the street, which is 60 feet off South Woodland Road. The maximum allowable height for a front yard fence is 3 feet tall. Staff suggests the fence is installed 5 to 10 feet to the east, into the applicant's property, so that their existing landscaping screens the western view from Lee Road.

Michael Eckstein, homeowner, explained the fence history. He has lived in the city since grade school. They have lived in two homes, one on Warwick and this one on Broxton for over 40 years. The Lee and South Woodland intersection is noisy. This fence has been in place for 30 years. Mrs. Roberts, the next door neighbor, did not and still does not want landscaping on her side. She has no complaints about the fence without landscaping. A wind storm damaged the fence. If it had not fallen down it would still be there. He appreciates the work the Board of Zoning Appeals does. There are exceptions to the rule. He asked for common sense in installing this fence. There are fences not landscaped from the street view in his neighborhood. He spoke to the eight neighbors who view the fence. Seven were fine with the new fence. Mrs. Roberts still lives next door and still does not want landscaping on her property. They cannot move the fence inside their landscaping. If there is no fence he will not have privacy. The neighbor's do not care. People who drive by do not care. The fence makes a big difference to the quality in this yard. It will be replaced with nicer fencing than is there now.

Mr. Gruber asked if the existing fence posts are installed on the wrong side.

Ms. Braverman said yes, the fence posts are supposed to be installed on the inside of the fence.

Mr. Russell asked if they could replace just the damaged section of fencing.

Mr. Feinstein said if just a part of the fence is replaced it could be considered a repair and not need a permit or variance request.

Mr. Eckstein said the fence damage is now extensive and not a small repair. They intended to comply with the original approval but a neighbor said no, so they did not install the landscaping. He did not know this is an issue and nothing has been said for 30 years.

Mr. Malone asked about the letter from 1993 included in the packet. This clearly indicates the landscaping is missing.

Mr. Eckstein said he never knew there was an issue. There is no need for the landscaping to be installed now.

Mr. Feinstein said when a new fence is installed it needs to comply with the existing approved zoning ordinances.

Mr. Eckstein said if the fence is moved into their property then it will destroy their landscaping. Then he will have to look at the Lee Road intersection.

Mr. Malone asked about the staff recommendation to move the fence into the applicant's property. How far would it move?

Mr. Feinstein said it would need to move at least 10 to 15 feet into the applicant's yard in order to avoid damaging the existing landscaping.

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Mayor Weiss joined the meeting.

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Dr. Ganning suggested the fence be located behind the landscaping then jog out to the property line where the neighbor's fence intersects it.

Mr. Malone said the city did not ultimately enforce the landscaping requirements, but the letter shows there was a violation 30 years ago.

Mr. Malone opened the Public Hearing. No comments were received in regard to this application.

Dr. Ganning said there is now 30 years of nice mature landscaping on the applicant's property. Is the fence still needed?

Mr. Eckstein said the fence makes a big difference to block the noise from Lee Road.

Mr. Boyle said it could be difficult to maintain the landscaping on the other side of the fence on the neighbor's side of the yard.

Mr. Malone asked if the fence is on the property line. Is there precedent for landscaping on the neighbor's property?

Mr. Feinstein said it is assumed the fence is on the property line. A couple of instances of landscaping required on the neighbor's property over the years have not worked out well.

Ms. Braverman said there is precedent for requiring landscaping from the street view of a fence on a corner lot. The more open the fence the less landscaping is required. The more solid the fence, the more landscaping is required.

Mr. Eckstein said if the fence were brand new then he understands the code requirements.

Ms. Braverman asked if the applicant would be open to a more open style fence. Will the new fence be stained brown like the existing fence?

Mr. Eckstein said it is a privacy fence and sound barrier so it needs to be solid. He could stain it however required.

Mr. Feinstein said the existing stain is a darker brown.

Mr. Malone asked if the fence is needed for the first 20 feet from South Woodland since that section of landscaping is very mature.

Mr. Eckstein said yes, the fence effectively blocks the view of Lee Road.

Dr. Ganning said that a fence set back further from the street might have her support a more solid fence.

The Mayor asked if the entire fence is being replaced. What is the recommendation to move?

Mr. Feinstein explained the recommendation is to move the fence about 10 feet into the applicant's property so it is behind their existing landscaping.

Dr. Ganning said the fence impacts the view eastward down the street in her view. She suggested a compromise.

Mr. Malone said this is a prominent intersection and highly visible to others.

Mr. Russel said just because the applicant did not install landscaping 30 years ago, does not make it correct. It was required as approval in 1992 and if it had been installed it would not be a problem now.

Mr. Eckstein said the fence was installed and they did not hear otherwise.

Mr. Boyle said the fence can be allowed to be replaced, but how the view is softened is the question.

Mayor Weiss suggested climbing ivy on the east side of the fence. It is low maintenance.

Dr. Ganning said she believes in 1992 there should have been 2 to 3 feet tall bushes.

Mr. Malone said the applicant should have the opportunity to compromise.

Mr. Eckstein said he did not purposely ignore the landscaping. If a letter from all the neighbors will help he will get those letters. He is open to trying to compromise. This has not bothered anyone in 30 years.

Mr. Boyle said he could support it if the last two sections of fence are eliminated so it is further from South Woodland Road. That setback is similar to the setback of other approved fences.

Mr. Russell said that is a fair compromise.

Mayor Weiss and Mr. Malone agreed.

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#2210. GILTZ COMPANY – 3626 AND 3630 MENLO ROAD:

A Public Hearing was held on the request of Harry Giltz, Giltz Company LLC, 3626 and 3630 Menlo Road, to the Board of Zoning Appeals and City Planning Commission for site plan review, subdivision of land, and variances to the rear setback requirements, house width and garage regulations for two new single family attached houses. The applicant proposes to construct two new attached, two-bedroom houses on these vacant lots, with attached garages located behind the houses. One house is a one-story design and is a mobility impaired, accessible unit and the other house is a two-story unit. Three vacant lots are proposed to be combined into two lots measuring 48 and 66 feet by 120 feet for a total of 5,760 and 7,920 square feet. Code requires a minimum lot size of 5,600 square feet in the TF Two Family Residential zoning district. The minimum house width required is 55% of the lot width. A variance is required for both houses as the two-story house is only 38% of its lot width and the one story house is only 42% of its lot width. Both garages are proposed to be attached to the rear of the homes. A detached garage is required on this block as the majority of existing garages are detached. A variance is required as the one story accessible house has a one-car garage proposed. A two-car garage is required. The two car attached garage extends the house to 17 feet from the rear property line. A variance is required to the 25-foot rear yard setback. Site plan review is required for all new houses.

Mr. Feinstein showed pictures of the site. He stated this is a request for site plan review, variances, and subdivision of land to build two attached single-family homes. The applicant proposes two houses with a common wall at the corner of Menlo and Hampstead Roads. One house is a one-story design with mobility impaired access design. The other home is a two-story house. The existing three vacant lots will be combined into two new lots that meet code requirements. The minimum house width is 55 percent of the lot. A variance is required as the two-story house is 38 percent and the one story house is 42 percent of their respective lots. A detached 2-car garage is required as the majority of garages on the block are detached. The applicant proposes attached garages. The one story house has a 1 ½ car garage proposed. Two car garages are required. The two-story house garage extends to 17 feet from the rear property line. A 25-foot rear yard setback is required for the attached garage. A site plan is required for all new houses. The Architectural Board of Review has reviewed the house designs as proposed on the corner lot and conceptually approved the design. A final review is required. Staff recommends approval with the conditions listed in the staff report including, final Architectural Board of review approval, moving the house to 20 feet from Hampstead Road, retaining the tree lawn trees, a maintenance plan for the shared roof, porch and common walls and staff approval of air conditioning condenser locations.

Harry Giltz said he proposes to build market rate homes on Menlo Road. There are 4 new single family homes, two sets of two homes, each on its own lot. The single story homes are handicap accessible. The two story homes are starter homes of 1,200 square feet. They are attached to each other. He submitted a letter which outlines his request. He is generally agreeable to the conditions suggested in the staff report.

Mayor Weiss asked if there is access between the homes on the inside.

Mr. Giltz said no.

Mr. Boyle asked if there is a jog in the property line. He does not like a property line that is not straight. What is the area between the breezeway?

Mr. Russell asked about moving the house 10 feet to the north. Is the lot a code conforming size?

Dr. Ganning agreed. Then it would need a lot width variance.

Mr. Feinstein said yes, it would.

Mr. Russell said perhaps it could be moved 5 feet.

Mayor Weiss opened the Public Hearing.

Pam Fletcher, Menlo Road resident, asked about landscaping. Is there a basement? She asked that the street trees be saved.

Mr. Giltz said there are no basements. There is storage inside the house. The breezeway is open between the homes and the garage but for a roof.

Dr. Ganning said there should be some additional design changes to the exterior design between the two sets of homes.

Ms. Braverman said the Single Family Infill Design Guidelines are adopted design regulations. She suggested the design differentiation be referred to the Architectural Board of Review.

Mr. Russell said moving the houses 5 or 8 feet toward Nicholas is acceptable. Both measurements meet lot size requirements. He would like a street tree added near the corner of Hampstead Road. He is happy to see new housing in this neighborhood.

Dr. Ganning asked that the Architectural Board of Review address design differentiation between the homes.

Mr. Giltz said the house colors can be different but costs are high and interest rates make it hard to keep the houses affordable. He has already changed the house design per the Architectural Board of Review.

It was moved by Mr. Russell 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 following conditions.

1. Final Architectural Board of Review approval that includes design differentiation between the two housing sites on Menlo Road.
2. Relocate the house to be 22 feet off Hampstead Road, which moves the house and lot lines 8 feet north.
3. Retain both tree lawn trees.
4. A final revised plat is submitted to the city and recorded at the County.
5. A maintenance plan and agreement for the roof, porch and common walls is submitted for staff review and recorded with the County.
6. Add a tree lawn tree in the Menlo Road tree lawn near the corner with Hampstead Road.

design at yesterday's meeting. Staff recommends approval with the condition of evergreen landscaping proposed to screen the front yard parking spaces.

Robert Carroll, Annum Architects, said they have held two community meetings with neighbors and two meetings with the Architectural Board of Review. The goal is to modernize the middle school and the library. He explained the existing building and additions through time. He showed the location of the new addition. The bulk of the addition is behind the existing Brown Hall front façade of the historic building. This addition also creates accessibility with an elevator. They will remove and replace the library space. He showed interior circulation space, rendered views from the circle, and views from Brantley Road. They do propose additional landscaping they recently re-located the parking away from the building by the new play field area. This project now accomplishes that for the Middle School side of the property.

Terrie Brightman, landscape architect, said the community is using the newly built recreation area on the side of the property. The parking spaces are located on existing driveway pavement. This allows them to move parking away from the building. They have added passive recreation area near the building and created adequate turnaround and emergency access. She showed the extended parking area is within the 100 foot setback, but still set back 60 feet. They do not want to push parking to neighboring streets. The landscaping is a mix of native plants and trees. They will add additional evergreen landscaping to screen the parking. The planting materials are similar to the lower school color and materials.

Mr. Carroll said there are 101 parking spaces on site now. This design proposes 105 spaces, with 10 percent of them within the 100-foot setback. They will screen the new spaces with existing and new vegetation.

Mr. Malone said it is a nice design. He understands the desire to push a bit of parking away from the building. How about turnaround space, which is currently an issue?

Mr. Carroll described the turnaround and all delivery are staged near the rear of the building.

Mr. Russell said he supports the parking location with landscape screening. Pedestrians will make their own way to Brantley Road so adding some informal paths may help the landscape design.

Ms. Brightman said yes, they plan to make a pathway to accommodate pedestrians.

Ms. Braverman said they would want to see the parking landscaping.

Ms. Brightman said it includes over 60 evergreen shrubs and explained the location.

Mayor Weiss said it is a beautiful plan. He asked about the location of the new enclosed porch area on the building addition.

Mr. Carroll explained how the corridor and porch connects the parts of the new and old buildings.

Mr. Boyle confirmed there are 10 spaces within the setback.

