

TOWN OF BROOKFIELD  
PLAN COMMISSION MINUTES  
October 24, 2023

**The regular meeting of the Plan Commission was held in the Erich Gnant Room of the Town Hall, 645 N Janacek Road, Brookfield, WI.**

1) CALL TO ORDER.

Chairman Keith Henderson called the meeting to order at 7:43 p.m. with the following people present: Town Planner Bryce Hembrook, Town Supervisor Ryan Stanelle, Plan Commission members William Neville, Len Smeltzer, and Jeremy Watson; Gordon Gaeth was absent and excused; Kevin Riordan was absent. Also in attendance was Town Attorney Michael Van Klunen.

2) MEETING NOTICES.

The meeting was noticed in accordance with Open Meeting Law.

3) APPROVAL OF AGENDA

Motion by Supervisor Stanelle to approve the agenda.

Seconded by Mr. Watson.

*Motion Passed Unanimously.*

4) APPROVAL OF MINUTES.

a. Motion by Supervisor Stanelle to approve the September 26, 2023 Joint Public Hearing Minutes as presented.

Seconded by Mr. Watson.

*Motion Passed Unanimously.*

b. Motion by Supervisor Stanelle to approve the September 26, 2023 Plan Commission minutes with the following correction: on page 2, item a, remove the denial of the field fence portion of the line.

Seconded by Mr. Watson.

*Motion Passed Unanimously.*

5) **Citizen Comments: Three-minute limit.**

None.

6) **Old Business:**

a. David Wimmer for a Conditional Use Permit Amendment to Northbrook Apartment Building to increase the number of proposed dwelling units by 3 units, located at 700 North Barker Road (BKFT1122993005).

Chairman Henderson asked for clarification regarding comments made in tonight's public hearing, that some residents in the Brook Park area reported that they did not receive notice of the public hearing at the beginning of this project. Mr. Hembrook was clear that notices did go out, and showed the 300-foot buffer zone for this proposal. Mr. Watson asked if the Town keeps a record of who receives public hearing notices as a general rule. Mr. Hembrook will check with the clerk's office for that information. Chairman Henderson then asked about a previous multi-family development (Poplar Creek Apartments) by Wimmer Properties, which had a similar situation. Mr. Wimmer stated the reason for that change was that there were two satellite elevator lobbies that added some extended space, and decided that would it would be better as units. Supervisor Stanelle asked about density, Planner Hembrook confirmed that it does meet the criteria, even with additional units. It was clarified what was originally planned for that space was a concrete pad for an outdoor courtyard/ patio. The proposed plan is to place 3 units (1 per level) on that space. There are 60 underground parking spaces for 35 units. There is a significant amenity center for the development.

Motion was made by Jeremy Watson to **recommend approval** of a Conditional Use Permit Amendment to Northbrook Apartment Building to increase the number of proposed dwelling units by 3 units, located at 700 North Barker Road (BKFT1122993005).

*The motion was not seconded, therefore the motion failed.*

Motion made by Mr. Neville to **recommend denial** of a Conditional Use Permit Amendment to Northbrook Apartment Building to increase the number of proposed dwelling units by 3 units, located at 700 North Barker Road.

Seconded by Mr. Watson.

*Motion Carried 3-1, with Supervisor Stanelle dissenting.*

- b. Town of Brookfield for a recommendation of approval for a Zoning Code Text Amendment to Section 17.02(14)(g)11 related to fences.

Planner Hembrook included two options, with the word "solid" in option 2 and removing "solid" from option 1, referring to the survey requirement for solid fences. Regarding double frontage lots, Planner Hembrook suggested adding to the amendment that in some situations, the request could come before the Plan Commission for a recommendation. That would not require a public hearing. Chairman Henderson inquired why Plan Commission as opposed to Architectural Review Committee (ARC). Planner Hembrook responded that Plan Commission would review Conditional Use for fences, but can go to ARC if that is desired. Attorney Van Kluenen suggested striking the requirement for a neighbor(s) signed agreement. This requirement creates an additional burden on staff, and a proposed document could be unclear as to what is included in an agreement. Destruction of property could be a reason for denial. Additionally, under the Conditional Use Permit (CUP) process, a neighbor would be notified of the proposed fence and have the opportunity at a public hearing to express support or opposition to the proposal. Supervisor Stanelle explained the reasoning for a neighbor agreement is to try to keep all that would be impacted by a privacy fence satisfied, allowing those that want a fence up to the property line the ability to do so, while also understanding those who do not want a fence on the property line and trying to accommodate them. Mr. Watson indicated that he is not in support of a neighbor agreement requirement. Mr. Smeltzer opined that if there is 6 feet of dead space between back-to-back neighbor's fences, it does not make sense. It was clarified that a fence can go up to the property line in the proposed changes to the text amendment. Supervisor Stanelle suggested simplifying the foot markers for the requirements. The importance of a survey was stressed. Commissioner Neville inquired about existing fences that do not comply with the current code, and what the remedy is for that situation. Chairman Henderson responded that if there is an open complaint on an existing fence, it would fall under what the ordinance is at the time of the complaint. Mr. Smeltzer expressed strong opposition to allowing privacy fences up to the front foundation of a dwelling for the side yard. Chain link, etc. materials were clarified as being prohibited, however Planner Hembrook mentioned the possibility of coated chain link. A property owner could also pursue a chain link fence through the CUP process. Planner Hembrook outlined the fees that would be involved with a CUP, including a survey (averaging over \$1,000); \$300 for the CUP process; fees that Planner Hembrook charges for his consulting services; adding up to approximately \$2,000 for fees alone. Other options were discussed regarding requirements for a CUP, including the possibility of a CUP requirement at 5 feet. Chairman Henderson read through the fence checklist as provided by Planner Hembrook. Changes to the proposed fence zoning code text amendment, and including permit application changes/ additions are as follows:

- Address utility easements, clarify that the utility has the right to remove if necessary at the owner's expense (add to permit application);
- Make grammatical corrections as noted in "Residential Fence Checklist" section;
- Show fence placement on diagram;
- Strike "signed agreement" from "Solid Fences" section;
- 5' requires survey for solid and open fences;
- 3' requires CUP, no CUP required for open fences;

- Open or solid in corner or double frontage lots are allowed (one diagram, which says open or solid and covers both. Then add another diagram for a street yard. Instead of saying solid fence example, just indicate “fence example”);
- Permit required for ornamental fences;
- Double frontage lots to Plan Commission for approval as Zoning Administrator/Town Planner sees fit;
- Garden enclosures, pet kennels would not require a permit.

Further discussion included that it is acceptable to use a previous survey. The corners of the yard must be staked based off a current or previous survey. Options regarding chain link fences were considered, including green or black coating, and rust resistant finishes. It was the consensus that chain link fences that can be seen from the street are undesirable. Chairman Henderson suggested showing on the diagrams where a fence can be, by actually putting a fence on the diagram. Additional comments were made regarding a signed neighbor agreement for solid fences, versus notification via CUP process. Attorney Van Klunen cautioned that there is nothing in the code which says before a property owner can do something on their own property, permission is required from someone else (i.e. neighbors). Mr. Van Klunen went on to say that according to the zoning code, a person’s opportunity to be heard is when you get a notification by mail, or it gets published on-line on the Town of Brookfield website, in the newspaper, and is posted on the bulletin boards around the town. If neighbors are opposed, they can submit their concerns at the public hearing, or via a letter or email. For open fences, a survey would be required within 5 feet, but not a CUP. Mr. Watson clarified that the Plan Commission was focusing on Option 1. Planner Hembrook also mentioned that any changes made to the fence zoning code must be communicated to the public, and Chairman Henderson suggested Town Tidings; highlight it on the town website, bulletin boards, and social media outlets.

Motion was made by Commissioner Watson to add the recommendations as discussed and tabled to be brought back to the next Plan Commission meeting to recommend approval for a Zoning Code Text Amendment to Section 17.02(14)(g)11 related to fences.

Seconded by Supervisor Stanelle.

*Motion passed unanimously.*

7) **New Business:**

- a. None.

8) COMMUNICATION AND ANNOUNCEMENTS.

Add agenda item to discuss December’s regular Plan Commission meeting, which is currently scheduled for December 26.

Trick or Treating is Tuesday, October 31<sup>st</sup> from 6-8pm.

Tree lighting is the first Saturday in December at The Corners of Brookfield.

9) ADJOURN.

Motion by Commissioner Neville to adjourn at 9:35pm.

Seconded by Commissioner Watson.

*Motion Passed Unanimously.*

Respectfully submitted,  
Bryce Hembrook, Town Planner