

**MINUTES OF PLANNING COMMISSION MEETING
OF THE CITY OF FAIRWAY, KANSAS**

The Planning Commission of the City of Fairway, Kansas (the "Commission") conducted a meeting on Monday, February 26, 2024. The meeting was called to order at 6:00 P.M.

Present: Commissioners Jeremy Deeken, Rorric Pfalzgraf, Michael Hoelscher, Ron Denton.

Absent: Commissioners Shae Pelkowski and Ben Zwick.

Presiding: Chair Wendy Bailey.

Staff Present: City Clerk Abbie Aldridge; Zoning Counsel Anna Krstulic; Community Development Director Basil Alani; Recording Secretary Barb Fox.

Visitors: Eric Geraghty, Farha Roofing, 1828 Walnut St 3rd floor, Kansas City, Missouri; Jordan Allison, Block and Company, Inc.

SELECTION OF CHAIR PRO TEM TO CHAIR MEETING

1. **APPROVAL OF MINUTES**

Chair Bailey asked for a motion to approve the minutes from the January 29, 2024 meeting.

MOTION: Motion was made by Commissioner Denton to approve the January 29, 2024. Commissioner Hoelscher seconded the motion.

The motion carried unanimously.

2. **OLD BUSINESS**

None.

3. **NEW BUSINESS**

a. **SITE DESIGN STANDARDS, 6148 REINHARDT DRIVE, FAIRWAY, KANSAS, AS SUBMITTED BY ERIC GERAGHTY OF FARHA ROOFING ON BEHALF OF PROPERTY OWNERS DUNCAN AND CECELIA WOODS. REQUEST FOR APPROVAL OF PRIMARY ROOFING MATERIAL.**

Chair Bailey requested the staff report.

Director Alani reported that the roof was installed without a permit. The applicant is seeking an exception to the roofing material because the material installed is not listed in the Code as an acceptable primary material. The roofing material is Province Slate from DaVinci Roofscapes and it does have an approved ICC evaluation report. The applicant has provided a sample.

Staff recommends approval of the roofing material. If the Planning Commission recommends approval of the requested submittals, the following conditions need to be met:

1. Building permit must be obtained and fees paid, as required by City Code.
2. Project must comply with all City Ordinances and the 2012 International Building Code and other incorporated codes.
3. Application and approval are void if the building permit is not obtained within one year of the date of Planning Commission approval.

Chair Bailey asked if there were questions for staff.

Director Alani explained that there are several homes in Fairway that have a similar roofing material installed, but those did not come before the Commission for approval. The Commission did approve the exact same material recently for the Fairway Shops.

Chair Bailey asked for discussion from the Commission. Hearing none, she asked for a motion.

MOTION: Motion was made by Commissioner Deeken to approve the Site Design Standards -- primary roofing material – 6148 Reinhardt Drive, Fairway, Kansas, as submitted by Eric Geraghty of Farha Roofing on behalf of property owners Duncan and Cecelia Woods, subject to staff recommendations. Commissioner Denton seconded the motion.

The motion carried unanimously.

- b. SITE DEVIATION – 2820 W 53RD STREET, FAIRWAY, KANSAS, AS SUBMITTED BY JORDAN ALLISON OF BLOCK AND COMPANY, INC. ON BEHALF OF FAIRWAY RESTAURANT GROUP, PROPERTY OWNER, FOR A SIGN DEVIATION TO THE TEMPORARY SIGN SIZE.

Chair Bailey requested the staff report.

Director Alani reported that the applicant is requesting one temporary sign approximately 10 feet by 2 feet (20 square feet).

Staff supports the requested deviation. If the Planning Commission grants the request, staff recommends the following conditions:

1. Building permit must be obtained and fees paid, as required by City Code.
2. Project must comply with all City Ordinances and the 2012 International Building Code and other incorporated technical codes.
3. Application and approval are void if the building permit is not obtained within one year of the date of Planning Commission approval.

Chair Bailey asked for discussion from the Commission. Hearing none, she asked for a motion.

MOTION: Motion was made by Commissioner Denton to approve the Site Deviation – 2820 W 53rd Street, Fairway, Kansas, as submitted by Jordan Allison of Block and Company, Inc. on behalf of Fairway Restaurant Group, property owner, for a sign deviation to the temporary sign size, subject to staff recommendations. Commissioner Pfalzgraf seconded the motion.

The motion carried unanimously.

c. DISCUSSION TO CONSIDER REGULATIONS TO REQUIRE TEMPORARY FENCING OF LOTS DURING CONSTRUCTION PROJECTS.

Chair Bailey reported that the packet contains a draft of the proposed Regulations.

City Clerk Aldridge added that Commissioner Zwick also sent in comments and those are included in the packet.

Responding to Chair Bailey's question, City Clerk Aldridge explained that if the existing fencing is adequate, i.e., if the backyard already has an existing fence, then no additional fencing would be required. In the event the backyard fence was actually the neighbor's fence, the temporary fencing would still not be required.

City Clerk Aldridge explained that the majority of complaints are for the visual view of the construction activity and debris during new home construction or during a large remodel, which could go on for over a year.

Chair Bailey explained that her main concern is safety. While she understands there may be some construction sites that become unsightly and cluttered, there are other construction sites that are maintained. She does not feel comfortable requiring temporary fencing just because people don't like what they are looking at.

Commissioner Denton pointed out that most of the remodels in Fairway are in the back of the home with people adding onto their kitchens or family rooms so there would be less obstruction in the front yard.

There is a discussion concerning whether adding the temporary fencing would limit where the construction vehicles can park on the site, forcing them to park in the street. City Clerk Aldridge explained that contractors mostly park on the street. Director Alani added that the contractors also use the front lot for material storage and even if the construction is in the backyard, material is still delivered and stored in the front of the house.

Commissioner Pfalzgraf explained that the proposed Regulations would require fencing if the addition is more than 25 percent of the footprint of the home. He thinks this could be problematic if the entire lot had to be fenced if the homeowner is staying in their home during

construction. He suggested that the Building Official be allowed to grant exceptions to the provision if the fencing is determined to be unnecessary.

Chair Bailey asked if Item D was needed or if exterior construction would be already covered in Item C.

Responding to Chair Bailey's question, Director Alani confirmed that the proposed language would not require a property owner to install the temporary construction fence if they were removing and replacing their roof.

Responding to Commissioner Deeken's question, Zoning Counsel Krstulic explained that a provision could be added so that the property owner would be required to come to the Commission to seek an exception to the temporary fencing requirement. This would allow the Commission to know the exact situation as opposed to just requiring fencing if the project is more than 25 percent of the footprint. She thinks that most large projects are already coming before the Commission for site plan approval.

Director Alani stated that the requirement for a project to come to the Commission is if the applicant is adding 50 percent or more to the footprint of the home. Staff decided to lower the requirement for fencing to 25 percent to capture some of the projects where property owners are gutting the entire house, adding a second story, or adding a room in the back. He added that Item D was added to the Regulations to capture the major renovations that are happening around the City.

Director Alani explained that staff is receiving complaints on both new builds and additions.

Chair Bailey suggested that the fencing only be required on new builds for now and then the language can be revised, if necessary, in the future.

City Clerk Aldridge stated that both Prairie Village and Mission Hills require temporary construction fencing for projects. Staff followed the Regulations from Prairie Village except that the base requirement for fencing was modified to capture the remodels and the different types of projects that occur in Fairway.

Zoning Counsel Krstulic added that Prairie Village's Regulations require fencing for projects that add more than 600 square feet to the existing building. Prairie Village also requires fencing for any remodel that tears down more than 10 percent of the existing structure. Therefore, Fairway's Regulations would be less restrictive than those in Prairie Village.

Commissioner Pfalzgraf agreed that the fencing should be required for new buildings. As for remodels, he would like the Building Official to decide what the required fencing should be for a particular situation. He noted that his neighbor across the street remodeled their entire house and he couldn't hardly tell that was even going on. So, requiring them to put up fencing around the entire lot seems excessive and would make the situation worse.

Referring to the house for which staff has received several complaints, Commissioner Denton explained that the property owner did not add a lot of square footage, but they have done a terrible job of maintaining the site. Equipment is parked all around the lot, trash has piled up in the front yard for weeks at a time and they don't seem to respond to complaints. This is in contrast to the experience Commissioner Pfalzgraf discussed with his neighbor where he could hardly tell they even had construction going on. Finally, he does not agree that the determination of whether or not fencing is required should be left up to staff.

Commissioner Deeken asked if the purpose of the Regulations was for safety or aesthetics. He can understand the argument of eliminating Item D because that would just apply if there is not some sort of pit that someone could fall into. Alternatively, maybe the Commission should consider keeping Item D as it would perhaps motivate the builder to be more expeditious in their cleanup knowing that they are paying for a temporary fence.

City Clerk Aldridge explained that she contacted a fencing company and the rental cost, installation and removal of 200 feet of fencing, including screening and sandbags to hold the fencing in place, would be \$1,800 for 12 months.

Chair Bailey pointed out that the contractor probably doesn't care how much the temporary fencing costs as it will be charged to the property owner, plus 15 percent.

Commissioner Pfalzgraf thinks that it would be more impactful to focus on the safety aspect. It comes down to whether or not the construction site is accessible to the public. If it is a renovation inside the house, it is not accessible; however, if it is a new construction with only framing up, it would be accessible and the fence should be required. Either way, the fence doesn't look great but it is probably better than seeing a bunch of dumpsters and trash in the yard. He wondered if there was a way to enforce that trash be kept in the dumpster on construction sites.

Chair Bailey pointed out that even if there is a fence, neighbors will be able to see the debris in the yard from their second story, so requiring the fence would not prevent the next-door neighbors from seeing the debris in the yard. She agreed that open excavations are a reason to require a fence, but if it is just because the neighbor doesn't like looking at a construction site, then she does not agree that fencing should be required.

Commissioner Hoelscher suggested that fencing be required until the site is secured rather than until final grading.

Commissioner Deeken also suggested that in addition to requiring fencing for safety that any gates should be required to be secured when there are no personnel on the site.

City Clerk Aldridge asked if the language should be revised in Item C so that instead of requiring fencing on additions of 25 percent or more, that fencing be required for additions adding more than 50 percent of new living space. This change would capture most second-

floor additions over the existing square footage. This would also allow for Item D to be removed.

Chair Bailey asked if the language in Item A was acceptable. She suggested that language be added that fencing would be required for any new structure on a vacant lot until the structure is secured.

Commissioner Denton thinks that once the fence is up for new construction, it should just remain in place until the construction is completed.

Commissioner Pfalzgraf responded that normally a new house is framed, roofed and closed in within three months of the start of the project.

City Clerk Aldridge stated that she thinks that the fencing companies offer both a six-month rental and also a one-year rental.

Commissioner Pfalzgraf stated that he is mostly worried about the \$3,000 to \$4,000 cost to the contractor and then the contractor marks the cost up and it is \$5,000. So, the Commission would make every new house in Fairway cost \$5,000 more by requiring fencing and he is not a huge fan of that.

Director Alani explained that some builders are already putting up a fence.

Chair Bailey asked if the Commissioners had comments concerning Item B.

Director Alani stated that the intention for Item B was if the contractor pulled a permit and demolished the home but then they leave the hole in the ground for some time until they start building the new house. Typically, once the demolition begins, it is completed in two or three days and all the debris is removed. Staff does require that the basement hole be filled within a reasonable time, that the area be graded and sod installed for erosion control.

Chair Bailey next asked for discussion on Items C and D.

Commissioner Deeken stated that he would be agreeable to removing Item D as long as language is added to ensure that the area is secured when there are no personnel on the site.

Commissioner Denton asked if language could be added so that as long as the property owner keeps the site neat that a fence does not have to be put up and conversely, if they do not keep the site cleaned up, then a fence will be required.

Commissioner Deeken suggested removing Item D and revising Item C from 25 percent of the existing building footprint to 25 percent of floor area. This would alleviate the situation of someone taking a one-story house and turning it into a two-story house, which would be a much larger project, without being required to install fencing.

City Clerk Aldridge suggested that the term living space be used instead of floor area.

Chair Bailey stated that she isn't sure that a fence is solving any problems for a re-roof situation or adding a second story.

Zoning Counsel Krstulic explained that she would make revisions to the Regulations based on the Commission's comments, keeping in mind that the key reason for requiring fencing is for safety and not so much about aesthetics. She also offered to review other regulations in the property maintenance Code or International Building Code regarding construction debris.

Director Alani explained that the property maintenance Code deals with existing property, not properties under construction. Once construction begins, the Building Code regulations apply and to his knowledge, there is nothing in the Building Code about construction debris.

Director Alani stated that he would like the language to be clear because he doesn't want to be put in the position of residents questioning why he made a decision on one house and then made a different decision on another.

There is a discussion concerning whether the criteria in Items C and D should be changed to require fencing for projects over 600 square feet rather than 25 percent of the footprint. Director Alani stated that staff looked into the 600 square feet option but some houses in Fairway are only 1,100 square feet so a project over 600 square feet, would be a massive addition.

Chair Bailey stated that she would be in favor of omitting Items C and D, and adding language stating that if the addition results in an excavation or basement, then the fencing would be required.

Director Alani is concerned this will also cause complaints and he discussed issues related to performance bonds being required for excavating a crawlspace or basement and those bonds not being required for trench footings.

Chair Bailey asked that staff and Zoning Counsel Krstulic revise the Regulations based on comments from the Commission and then share those revisions with herself and Commissioner Denton so they can discuss the revised draft prior to the March meeting.

Chair Bailey asked for a motion.

MOTION: Motion was made by Commissioner Denton to continue the discussion to consider Regulations to require temporary fencing on lots during construction projects to the March 25, 2024 meeting. Commissioner Deeken seconded the motion.

The motion carried unanimously.

4. ADDITIONAL BUSINESS

a. NEXT MEETING

City Clerk Aldridge stated that the next meeting is scheduled for March 25, 2024.

5. ADJOURNMENT

Chair Bailey asked for a motion to adjourn.

MOTION: Motion was made by Commissioner Denton to adjourn. Commissioner Deeken seconded the motion.

The motion carried unanimously.

Hearing no further business, the meeting adjourned at 6:56 P.M.

Abbie Aldridge, City Clerk