

**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 27, 2023. The meeting was called to order at 6:05 P.M.

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

Absent: Commissioner Shae Pelkowski.

Presiding: Chair Wendy Bailey.

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

Visitors: Mark Eddy, Gahagan-Eddy Building Company, 4113 Oxford Road, Prairie Village; Gerald Janssen, ESC Architects, 7133 W. 95th Street, Overland Park; Todd Higgins, Backyard by Design, 9130 Flint Street, Overland Park.

1. APPROVAL OF MINUTES

Chair Bailey asked for a motion to approve the minutes from the January 30, 2023 meeting.

MOTION: Motion was made by Commissioner Denton to approve the January 30, 2023 minutes. Commissioner Zwick seconded the motion.

The motion carried unanimously.

2. OLD BUSINESS

None.

3. NEW BUSINESS

- a. SITE PLAN – 5734 WINDSOR DRIVE, FAIRWAY, KANSAS, AS SUBMITTED BY MARK EDDY OF GAHAGAN-EDDY BUILDING COMPANY, ON BEHALF OF AUSTIN AND MARGARET GATES, PROPERTY OWNERS, FOR NEW SINGLE-FAMILY RESIDENCE AND EXCEPTION REQUEST TO EXCEED MAXIMUM WIDTH FOR DRIVEWAY.

Chair Bailey requested the staff report.

Director Alani reported that the applicant submitted plans for a new single-family residence. The existing grade elevation is 944.17 feet and the proposed grade elevation is 944.17. The height of the new structure equals 29.99 feet. The applicant is seeking an exception for the driveway in front of the building line as it is greater than 20 feet.

Staff does not support the request based on the Code requirements. Should the Planning Commission approve the site plan, staff recommends the following conditions:

1. Three (3) complete sets of plans and one electronic set be submitted for plan review and approval.
2. Building permit must be obtained and fees paid, as required by City Code.
3. Project must comply with all City Ordinances, the 2012 International Building Code and other incorporated technical codes.
4. Application and approval are void if the building permit is not obtained within one year of the date of Planning Commission approval.

The watershed analysis shows the proposed hardscape will increase from 5,587 square feet to 6,637 square feet, increasing runoff from 2.83 CFS to 2.97 CFS. Storm detention is not required.

Director Alani stated that applicant has revised the plans reducing the width of the driveway to meet the Code requirements. Based on the revisions, an exception is not required.

Chair Baily asked if there were other questions for staff. Hearing none, she asked if there were questions for the applicant.

Mark Eddy of Gahagan-Eddy Building Company, 4113 Oxford Road, Prairie Village, stated that he is the builder on the project. In response to Commissioner Denton's question, Mr. Eddy explained that the sleeping room will be used by the homeowner as he works nights and wants a quiet dark room to sleep in during the day.

Responding to Commissioner Zwick's question concerning the chimney height, Zoning Counsel Krstulic reviewed Code Section 15-297, which states that projections (chimneys, bays, eaves and other massing elements) that are integral to the design and style of the structure may project into the required setback and building massing standards, subject to them being between 2 feet and 4 feet.

Gerald Janssen, ESC Architects, 7133 W. 95th Street, Overland Park, stated that the top of the chimney is about 4 feet above the roof ridge.

Zoning Counsel Krstulic confirmed that based on Mr. Janssen's comments, the chimney height would meet Code requirements.

Chair Bailey asked if there were other questions for the applicant. Hearing none, she asked for discussion from the Commission. Hearing none, she asked for a motion.

MOTION: Motion was made by Commissioner Denton to approve the site plan for 5734 Windsor Drive, Fairway, Kansas, as submitted by Mark Eddy of Gahagan-Eddy Building Company, on behalf of Austin and Margaret Gates, property owners, for new single-family residence, with the modification that the driveway width be reduced to

meet the Code requirements, subject to staff recommendations. Commissioner Pfalzgraf seconded the motion.

The motion carried unanimously.

- b. SITE PLAN – 5810 WINDSOR DRIVE, FAIRWAY, KANSAS, AS SUBMITTED BY TODD HIGGINS OF BACKYARD BY DESIGN, INC., ON BEHALF OF CHARLES AND TRACY TETRICK, PROPERTY OWNERS, FOR EXCEPTION REQUESTS TO THE GREENSPACE REQUIREMENT AND FOR MORE THAN ONE ACCESSORY BUILDING.

Chair Bailey requested the staff report.

Director Alani reported that in 2018, an addition and remodel was completed on the home. The applicant is seeking approval for two exceptions. The first exception is to exceed the allowable hardscape. The lot size is 22,890 square feet and the required greenspace is 15,667.5 square feet (68.4%). The existing greenspace is 14,537 square feet (63.5%). The proposed greenspace per the plan will be 12,355 square feet (54%).

The second exception requested is to allow a second accessory building. The proposed accessory building is considered a large pergola and the property already has a storage shed.

The watershed analysis shows the proposed hardscape will increase the runoff to the rear and a detention system basin will be installed.

Staff is not supportive of either exception request based on the Code requirements. Should the Planning Commission approve the site plan, staff recommends the following conditions:

1. Three (3) complete sets of plans and one electronic set be submitted for plan review and approval.
2. Building permit must be obtained and fees paid, as required by City Code.
3. Project must comply with all City Ordinances, the 2012 International Building Code and other incorporated technical codes.
4. Application and approval are void if the building permit is not obtained within one year of the date of Planning Commission approval.

Responding to Chair Bailey's question, Director Alani stated that he is not sure whether the homeowner or the builder submitted the 2018 plans. He included information concerning the 2018 remodel in his report so that the Commission would understand that the remodel was completed after the greenspace requirements were revised in 2016 or 2017. The applicant would have received an exception to the greenspace requirements in 2018.

Director Alani explained that he discussed the accessory building with the applicant. The pergola is free standing and not attached to the structure. Director Alani considers it to be an accessory building. The applicant thinks the pergola should be considered decorative.

Chair Bailey asked the applicant to address the Commission.

Todd Higgins of Backyard by Design, 9130 Flint Street, Overland Park, stated that he is the landscape architect on the project. He was not involved in the 2018 project and does not know the history of the exception that would have been granted at that time. The structure is labeled as a pergola on the plans but is really a rock wall with wood beams on the backside of the property for privacy. The structure is more like a decorative trellis and does not extend over the patio or provide shade.

Discussion follows concerning the height of the rock wall. Director Alani believes it is 8 feet tall. City Clerk Young explained that walls and fences are limited to 6 feet. She added that even though the Code allows fences and walls to be 6 feet tall, this structure has footings and would therefore meet the definition of an accessory building.

Zoning Counsel Krstulic explained that accessory building is defined in Code Section 15-798, as follows:

A building detached from a principal building located on the same lot and clearly and customarily incidental and subordinate to the principal building or use.

She further explained that a building is defined as:

A structure having a roof, supported by columns or walls, whether or not completely enclosed.

Finally, an accessory structure is defined as:

Any structure or use that is: (1) Clearly incidental to and customarily found in connection with the principal building or use; (2) Subordinate to and serves a principal building or use; (3) Contributes to the comfort, convenience or necessity of the occupants of the principal building or use served; and (4) Located on the same lot and under the same ownership as the principal building or use served.

Mr. Higgins pointed out that there is no roof on the structure.

Chair Bailey agreed; however, the structure does have columns.

Zoning Counsel Krstulic explained that according to the Code, an accessory building would include any structure having a roof that is supported by columns or walls, whether or not completely enclosed. She added that the term "roof" is not defined.

Commissioner Zwick asked if there was additional information provided by the applicant.

Director Alani responded that the applicant is initially provided limited information. When Director Alani questioned the pergola, some additional information concerning the pergola was provided.

Responding to Commissioner Denton's question, Mr. Higgins confirmed that the cross members over the rock wall are 4 feet long and decorative in that they keep light from shining down on the patio.

With respect to the hardscape exception, Chair Bailey explained that in order to meet the Code requirements, the project would need 68 percent greenspace. With the proposed plan, the greenspace will be at 54 percent.

Mr. Higgins stated that with changes in new homes construction, many lots are over the allowed hardscape. If a property owner wants to add a patio or invest in their backyard, they have issues because they are already over the allowed greenspace with the home. Mr. Higgins stated that the current property owner is the same property owner who requested and received the exception to greenspace in 2018.

Chair Bailey explained that this situation is frustrating for the Commission. On several occasions, property owners have come before the Commission seeking approval for a site plan that builds right up to the limit of greenspace. The Commission then advises the applicant that there will be no additional area in the future for hardscape. Then, the property owner comes back later seeking an exception for a patio, for example. The Commission tries to follow the standards but property owners keep requesting exceptions.

Mr. Higgins stated that he understands the situation but he has addresses of 10 properties on the same street that are well over what he is asking for. Because of the way the Code is written, the property owner will not be able to add anything to their back yard.

Chair Bailey responded that in that situation, the property owner should have built a smaller home to begin with. She explained that a recent applicant had a similar request for an exception and the Commission approved a compromise, although the project still exceeded the greenspace allowed.

Discussion followed concerning whether the applicant can reduce the hardscape to reach 60 percent greenspace. Mr. Higgins stated that originally the sidewalks around the pool were not included but were added after the watershed analysis was completed. The pool is approximately 16 feet x 32 feet. The walkways around the perimeter are 4 feet wide on the back side and 6 feet on the house side of the pool. He thinks the walk around sidewalks could be removed.

Commissioner Zwick thinks that the applicant should consider ways to get closer to the greenspace requirement, although it is difficult for him to evaluate based on the information provided. He would like to see more information concerning the scale of the project as it is hard to process exactly how big it is.

Chair Bailey agrees there are ways to trim down the size by removing some planting beds and reducing walkways.

City Clerk Young clarified that the Code states that any area of greenspace that is less than 4 feet in any dimension does not count toward greenspace. In this situation, the planting beds are not considered hardscape and do not count against greenspace.

Mr. Higgins asked if he were to eliminate hardscape in some areas, what the percentage would be that the Commission would grant the exception.

Commissioner Pfalzgraf recalled that a very similar application was reviewed several months ago and the Commission approved the plan with 60 percent greenspace. He thinks the proposed project is a similar size.

Mr. Higgins also asked if the hardscape was reduced to meet the 60 percent greenspace, whether the applicant would be required to come back before the Commission for approval.

Chair Bailey responded that the Commission would need to discuss that issue but potentially the applicant would not need to return to the Commission.

Chair Bailey asked if there were other questions for the applicant. Hearing none, she asked for discussion from the Commission.

Commissioner Zwick asked for confirmation that the exceptions being requested are for the accessory building and the greenspace.

Chair Bailey stated that the Commission would need to further discuss the accessory building, noting that it does not have a roof.

Zoning Counsel Krstulic responded that on further review and based on the definitions, she does not see specific regulations that would apply to this situation. The focus of the Code is on accessory buildings and the definitions of accessory building and accessory structure are pretty much the same. She does not think the structure being proposed can be considered an accessory building based on the definitions and therefore, an exception would not be required.

With respect to the exception for greenspace, Commissioner Deeken stated that he would be supportive of allowing 60 percent greenspace.

Commissioners Pfalzgraf and Hoelscher agreed.

Commissioner Denton asked if the applicant would need to return to the Commission for approval, or if staff could approve the revised plans.

Director Alani responded that he would be comfortable reviewing the plans to confirm that they meet the 60 percent greenspace requirement.

Chair Bailey asked if there was further discussion. Hearing none, she asked for a motion.

MOTION: Motion was made by Commissioner Deeken to approve the site plan for 5810 Windsor Drive, Fairway, Kansas, as submitted by Todd Higgins of Backyard by Design, Inc. on behalf of Charles and Tracy Tetrick, property owners, subject to staff recommendations, with the additional requirement that the plan be revised to meet 60 percent greenspace and staff be allowed to review and approve the revised plans. In addition, the exception for the accessory building is granted in that it is considered an accessory structure. Commissioner Pfalzgraf seconded the motion.

The motion carried unanimously.

4. ADDITIONAL BUSINESS

a. NEXT MEETING

City Clerk Young stated that the next meeting is scheduled for March 27, 2023.

5. ADJOURNMENT

Chair Bailey asked for a motion to adjourn.

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

The motion carried unanimously.

Hearing no further business, the meeting adjourned at 6:47 P.M.

Kim H. Young, City Clerk