

**Item 23-0588: Request from [JoAnn F.] at [address] for a Terrace Occupancy Permit to keep an existing 3' fence in the street terrace along N. Wilmer Avenue**

**Municipal Services Committee**

Mon, May 22, 2023, 4:30PM

**Aldersperson Katie Van Zeeland (District 5) 07:02**

23-0588 requests from Joanna Fedika at 1619 East Pauline Street for a terrace occupancy permit to keep an existing three-foot fence in the street terrace along North Wilmar Avenue. Do we have a motion?

**Aldersperson Vered Meltzer (District 2) 07:20**

Move to approve.

**Aldersperson Katie Van Zeeland (District 5) 07:23**

I'll second for discussion. Any questions or concerns from the committee or alders present? Alder Hartzheim?

**Aldersperson Sheri Hartzheim (District 13) 07:33**

Thank you Chair. I'm aware that this particular property came to the Zoning Board of zoning appeals—don't say that wrong. And I'm interested in how this all—this piece also came to this committee.

**Aldersperson Katie Van Zeeland (District 5) 07:52**

Director Block?

**Director Danielle Block (Department Of Public Works) 07:54**

Thank you. So it came in at the same time through inspections. So this was a team effort between Community Development and Public Works with the request for the additional one foot on the fence that was along private property. That was on private property past the right of way line so that was a board of zoning appeals requests. Anything from the right of way into the into the road, in the public right of way, falls to municipal services committee, and it fell under the new street terrace policy that that we had updated, let's see, November of 2022.

**Director Danielle Block (Department Of Public Works) 08:32**

So this item was—it's all one fence, but when you enter the right of way, it drops down to three feet right before then. So it's a three-foot fence that encroaches into the right of way, and she desires to keep it where it's placed. So the avenue for that is the terrace occupancy permit and approval by the committee and payment of the annual terrace permit fee.

**Aldersperson Katie Van Zeeland (District 5) 09:00**

Yes, alder Hartzheim.

**Aldersperson Sheri Hartzheim (District 13) 09:02**

Thank you. May I follow up?

**Aldersperson Katie Van Zeeland (District 5) 09:03**

Yes.

**Aldersperson Sheri Hartzheim (District 13) 09:04**

Director Block, in the additional requirements portion of page two of three that was attached to the agenda. There's a notation that says certificate of insurance or waiver. Can you explain that further as well?

**Director Danielle Block (Department Of Public Works) 09:17**

Sure. So in lieu of providing the certificate of insurance, they could also sign a waiver accepting and disclosing that they do have insurance to cover the any liability of that fence within the right of way. So she has signed that waiver and we have that on file in our office.

**Aldersperson Sheri Hartzheim (District 13) 09:34**

Okay. And then as a final question, I think, is there any concern from your inspections division that this is a block to any kind of traffic, any kind of pedestrians, etc. that would be harmed by this remaining fence that this—that this piece is still in that right of way?

**Director Danielle Block (Department Of Public Works) 09:57**

That is one of the items we looked at, and staff did not have concerns from inspections or from public works in terms of entering the public right away.

**Aldersperson Sheri Hartzheim (District 13) 10:05**

Thank you.

**Aldersperson Katie Van Zeeland (District 5) 10:08**

Any other questions? Alder Doran, you are—I'm sorry.

**Aldersperson Chad Doran (District 15) 10:14**

Thank you.

**Aldersperson Vered Meltzer (District 2) 10:17**

You just turned it off.

**Aldersperson Chad Doran (District 15) 10:18**

Yep. Anyways. Director Block, could you just clarify, I guess. So in the request, the photo that we're looking at, the fencing in question is obviously shown there. Right? So the idea is that that is within the three feet as it currently exists. They're not asking to extend it. Correct?

**Director Danielle Block (Department Of Public Works) 10:40**

Correct [glitch in audio] the height.

**Aldersperson Chad Doran (District 15) 10:41**

Okay. So how did it come about that that was brought before the staff's attention? Was that? Is that on—do we do those on a complaint basis, then?

**Director Danielle Block (Department Of Public Works) 10:49**

Correct. The entire fence, I believe, had a complaint.

**Aldersperson Chad Doran (District 15) 10:54**

Gotcha.

**Director Danielle Block (Department Of Public Works) 10:55**

And depending whether it was on public or private, it went to the separate departments.

**Aldersperson Chad Doran (District 15) 11:00**

Okay. Thank you.

**Aldersperson Katie Van Zeeland (District 5) 11:02**

Was the complaint regarding if it was in the public right away, or in another private space?

**Director Danielle Block (Department Of Public Works) 11:08**

I believe the complaint came in as just a general complaint about the fence in its entirety. So when staff began looking at it, we reviewed it from each angle, and the private side, and then if it was in compliance from the public side, and it was not.

**Aldersperson Katie Van Zeeland (District 5) 11:27**

Okay. I guess my concern was if it was the neighborhood saying this is unsafe, that wasn't something that you heard?

**Director Danielle Block (Department Of Public Works) 11:34**

No.

**Aldersperson Katie Van Zeeland (District 5) 11:34**

Okay. Thank you. Any other questions or discussion? All right, with that we'll vote. All those in favor say aye. Aye. Any opposed? That motion passes three, one.