

**REPORT OF THE ZONING BOARD OF APPEALS OF THE CITY OF WISCONSIN RAPIDS  
AUGUST 13, 2019**

The Wisconsin Rapids Zoning Board of Appeals met at 1:00 PM on Tuesday, August 13, 2019 in the 2nd Floor Conference Room at City Hall.

**Members Present:**

Lee Gossick  
Bruce King  
Dennis Polach (1<sup>st</sup> Alternate)  
Jim Gignac (2<sup>nd</sup> Alternate)

**Members Absent:**

Mike Hittner, Chairperson  
Jerry Feith  
Rick Pompa

**Others Present:**

Jason Zimmel, Browns Living  
Long Thao  
Peng Thao  
Janet Johnson  
Howard & Judy Joling  
Alderson Scott Kellogg  
Adam Tegen, Community Development

With a quorum present, acting chairperson Bruce King called the meeting to order at 1:00 p.m.

1. Approval of the report from the May 14, 2019 Zoning Board of Appeals meeting.

**Motion by Polach, second by Gossick, to approve the May 14, 2019 report.**

**Motion carried (4-0).**

2. **Public Hearing on VARI-19-0613; Browns Living LLC.** The applicant is requesting a variance to allow an increase in the allowable height for a fence in the side and rear yard from 6 feet to 8 feet. The subject property is located at 1410 Baker Street (Parcel 34-05946).

The Public Hearing opened at 1:02 p.m.

Jason Zimmel, applicant, stated that the facility located at this property has two residents and 3 to 4 caretakers. One of the residents has caused damage to the neighbor's fence. The neighbors have expressed a concern with the situation and have a concern with the damage and the threat to their dogs. As a result, they are proposing to construct a fence on the property to alleviate the situation.

Polach questioned what type of fence is proposed.

Zimmel noted that the intent is to construct a wood privacy fence that would be double sided and 8 feet in height.

Polach questioned what the neighbor's opinion is regarding the variance.

Zimmel stated that he has had conversations with the family and they are supportive of the plan to erect the fence.

Scott Kellogg noted that he lives next to another facility that is run by the same operators. Although there have been issues, the company has consistently worked with the neighborhood to minimize their impact. If this type of facility is going to locate in residential neighborhoods, the City should look at ways to incorporate them more effectively.

Howard Joling, owner of 1440 Baker Street, questioned how the facility located in a residential property and whether the resident should reside at this location.

Adam Tegen stated that an adult family home with two or fewer residents is allowed to locate within a residential property in the city. The state made the determination that they are a residential use and are regulated in the same manner.

Gignac questioned if the fence will enclose the entire back yard.

Zimmel stated it would.

Long Thao and Peng Thao, 431 15<sup>th</sup> Street North, stated they are not opposed to the variance, but they wanted to learn more about the request.

Gossick noted that he has a similar facility in his neighborhood and they have not experienced any issues with it as long as it has remained well maintained.

Zimmel stated that the question before the board is not whether the facility should be in this location, rather whether the fence deserves a variance. The operator wishes to improve the property and minimize an expressed concern from a neighbor.

Gignac questioned if other options for the resident have been explored.

Zimmel noted that multiple other options were looked into, but none were found to be acceptable.

King stated that the City Attorney has recommended denial and reminded the board of the standards that are reviewed by the board. In the past, he has normally been supportive of variances that accommodate concerns of the neighbors even when it is possible to argue the standards were not met. In this situation, he questions if the higher fence will remedy the issue.

Gignac noted the concern from the Fire Department regarding access to the yard.

Zimmel stated they are aware of the concern and will work with the department to ensure proper access.

Janet Johnson, 1351 Baker Street, noted her concerns with the facility being located at the property and stated she did not see a need for gate access towards Baker Street.

Tegen stated that staff is recommending denial as outlined in the staff report due to the request not meeting the necessary standards.

Gignac questioned if other 8-foot fences exist in the neighborhood.

Tegen noted that they are only allowed in situations where residential is adjacent to commercial.

The Public Hearing closed at 1:30 p.m.

3. **Action on VARI-19-0613; Browns Living LLC**

Gignac stated that the City Attorney recommends denial and the points made in her recommendation make sense.

Gossick noted that he understands where staff is coming from in their recommendation for denial, but he is supportive of the request based on the unusual situation posed by the tenant issues.

Polach stated he sees both sides but is leaning towards approval.

**Motion by Polach, second by Gossick, to approve VARI-19-0613 as requested by the applicant, subject to the following conditions:**

1. **The variance shall only apply to the installation of fencing in the side and rear yard as shown on the submitted site plan. The fencing shall not exceed 8 feet in height and shall be maintained.**
2. **Gates shall be provided on the north and west sides of the fencing with hardware providing access for emergency personnel in compliance with the fire code.**
3. **In the event the property is no longer utilized as an Adult Family Home, the fence shall be removed or modified to be no more than 6 feet in height.**

Gignac clarified that regardless of whether or not the variance is approved some sort of work on the fence will need to be done. He also requested an additional condition to require additional bracing and reinforcement in the construction of the fence.

**Polach amended his motion, second by Gossick, to add an additional condition:**

4. **The fence shall be constructed with additional bracing and reinforcement to minimize the potential for damage.**

**Motion as amended carried (4-0).**

5. Adjourn.

**Motion by Gignac, second by Gossick, to adjourn.**

**Motion carried (4-0).**

Meeting adjourned at 1:38 p.m.

**Appeals:** The decisions contained herein may be appealed by a person aggrieved by any decision or by any officer, department, board or bureau of the municipality by filing an action in certiorari in the circuit court for this county within 30 days after the date of filing of this decision. The municipality assumes no liability for and makes no warranty as to reliance on this decision if construction is commenced prior to expiration of this 30-day period.

Submitted by Adam Tegen on August 14, 2019