



MEMO

TO: Municipal Services Committee

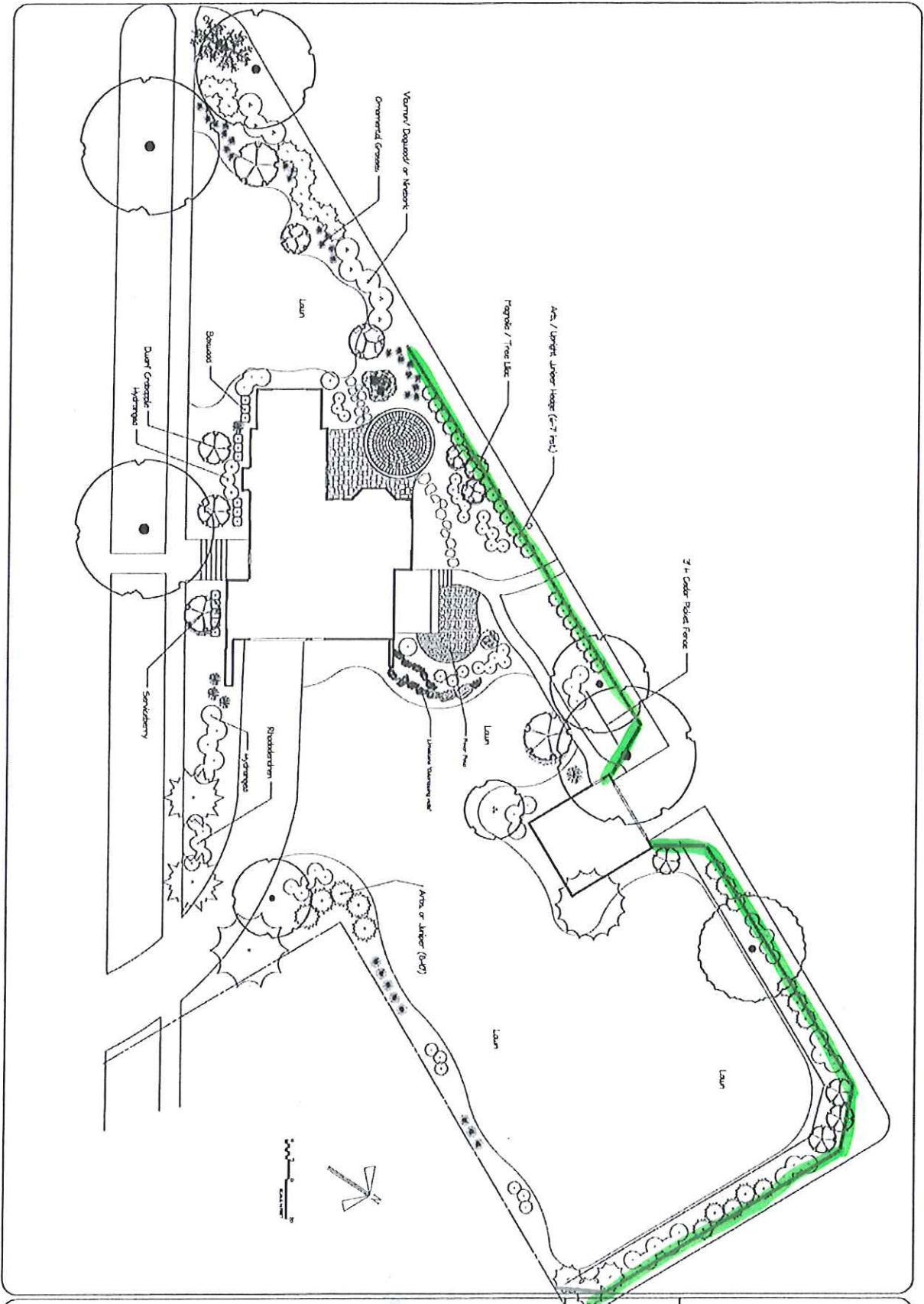
FROM: Paula Vandehey, Director of Public Works *PAV*

DATE: May 7, 2014

SUBJECT: Request from Brian & Amanda Jenkins to amend their exception to the Street Terrace Policy relative to the non-front yard portion at 115 N. Green Bay Road to include a 3-foot fence.

In 2012 the Common Council approved an exception to the Street Terrace Policy to allow for plantings within the street right-of-way at 115 N. Green Bay Road. Attached is a copy of the Municipal Services Committee minutes from March 27, 2012. Also attached is a copy of the Indemnification and Hold Harmless Agreement that was required as part of the Council approval. The Jenkins Family would like to amend their exception in order to install a fence as shown on the attached drawing.

Attachments



The Jenkins Residence

115 N. Green Bay Rd.

DATE: February, 2015

2015 Fence Request

2012

Dear City Council Members,

We moved to Appleton last August and purchased the home at 115 N. Green Bay Road intending to update the property. Our family, is requesting you grant us permission to move forward with the plans proposed by Andrew Smith of Lowney's Landscaping Center. Privacy for our family and increased safety for our young daughter are at the heart of the proposed design. The plan would require granting an exception to the guidelines of the Appleton Street Terrace Policy.

We ask that you consider the following factors:

- We purchased the home on Memorial Day Weekend, when many people were out of town. Therefore, we were under the impression that this was a quiet, low traffic location. However, there is constant foot & car traffic on all sides of our house, which drastically impacts our privacy.
- There were large (over grown) groups of "scrubby" plants that were in place along Catherine St. when we purchased the home. We knew that they should be replaced, with healthier, well kept plantings, but were happy to have them since the shrubs provided privacy. Unfortunately, we lost several large trees and much of the shrubs during the storm of Labor Day weekend.
- Cars speeding around the boulevard are common and we would like to create a safe barrier from the road for our young children. In addition to this, the north side of our property is exposed to Washington Street. Our children are at risk of walking into the street, or more concerning, someone else walking into our yard while our children are playing.
- People walking, jogging often look into our home, as the streets and sidewalks are just feet from our windows. As well as cars parking on both sides of Catherine St. steps from our backdoor.
 - We were not aware of the restrictions/ rules that applied to our unique property. Had we known that the existing vegetation could not be replaced or restored without a prolonged process, we may have bought elsewhere. We are simply asking to restore the size of plantings that existed when we bought our home.

The landscaping plan would provide much needed privacy, safety for our family and improve the neighborhood aesthetic. We would like to have the opportunity to present the landscape plan at your next meeting. Please advise us as to when the next council meeting takes place.

Thank You for your consideration in this matter,

Sincerely,

Dr. Brian & Amanda Jenkins
115 N Green Bay Dr.
Appleton, WI 54911

MUNICIPAL SERVICES COMMITTEE MEETING MINUTES

March 27, 2012

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K. Plank asked what the utilities were like in Haskell Street and Cotter Street. J. Brown indicated no utilities within Haskell and Cotter Streets. We will be installing storm sewer to address drainage issues in a portion of this project.

J. Clemons closed the Public Hearing.

ACTION ITEMS:

e. Request from Brian and Amanda Jenkins for an exception to the Street Terrace Policy at 115 North Green Bay Road

Andrew Smith, Lowney's Landscaping, stated the plans for the property is for privacy and security and other improvements. He stated there would be some limitations at the corner of Catherine Street and Green Bay Road. He gave the history of the property and what he has done to comply with the City requirements.

Brian Jenkins, 115 North Green Bay Road, stated he bought the property not realizing the issues he would face to replace the vegetation that was already in place and didn't realize the property line was right in front of his house.

A. Smith stated he proposes privacy screening along Catherine Street. He went over the landscaping plan with the Committee.

P. Vandehey stated her concern is allowing plantings for privacy and safety for one person and not for others. She stated if the Committee allows this request, there would have to be a contingency the City is not liable for damage to any plantings because of snowplowing.

R. Hill stated he remembers when there was a fence around the property, but it wasn't maintained. He stated he doesn't want the City to be responsible for plantings in the right-of-way.

K. Plank asked if the Committee was granting an easement. P. Vandehey stated the Committee is granting an exception to the Street Terrace Policy. K. Plank stated there have been several people requesting to plant, which the City has denied with the reason the plantings cannot be outside the property line.

R. Hill moved, seconded by K. Plank that the request from Brian and Amanda Jenkins for an exception to the Street Terrace Policy at 115 North Green Bay Road, BE APPROVED.

K. Plank stated she wouldn't feel comfortable approving this until we have something in writing that says the City is indemnified from anything, like utility work, reconstruction of the street, etc. Brian Jenkins stated he would have no problem signing a form.

E. Totzke stated the wording would be to approve the request by adding an amendment to be contingent upon a signed indemnification agreement by the property owner to the City regarding the plantings in the right-of-way.

MUNICIPAL SERVICES COMMITTEE MEETING MINUTES

March 27, 2012

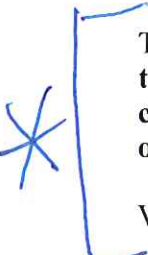
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J. Clemons stated the vote is on the amendment. E. Totzke stated the verbage should be to approve contingent upon the execution of an indemnification agreement for the benefit of the City regarding any damage to the plantings due to City work.

Vote on Amendment. (3-0)

P. Vandehey asked about the plantings at the vision corner. A. Smith stated the juniper would be removed and lowering the sight line.

K. Plank moved, seconded by R. Hill to include vision corner language into amendment. (3-0)

 The request from Brian & Amanda Jenkins for an exception to the Street Terrace Policy **relative to the non-front yard portion at 115 N. Green Bay Road contingent upon vision corner criteria being met and an execution of an indemnification agreement protecting the interest of the City of Appleton in regards to the plantings in the City right-of-way.**

Vote on Motion to Approve as Amended. (3-0)

d. **Resolution #8-R-12/Spars – “Connected and strong neighborhoods are vital to the quality of life we experience in Appleton.**

Be it resolved that the neighborhood block party permit requirements and fees be reevaluated and fees be lowered to \$15.00.”

R. Hill moved, seconded by K. Plank that Resolution #8-R-12 be held. (3-0)

- a. **Award 2012 Bridge Inspection Services Contract to Bloom Companies, LLC**
- b. **Staff be directed to develop the Parking Utility 5-Year Capital Improvement Plan based on the Blue (City Center) Ramp being replaced no later than 2020**
- c. **Award 2012 Digital Orthophotography Contract to Aero-Metric, Inc.**

R. Hill moved, seconded by K. Plank that Items a, b and c, BE APPROVED.

P. Vandehey handed out a new chart for Item b regarding the Blue Ramp Estimated End-of-Life Maintenance and Replacement Cost Comparison. She stated all the money is at today's cost.

Vote on Motion to Approve Items a, b and c. (3-0)

INFORMATION ITEMS:

a. **Director's Update**

No additional information.

INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

WHEREAS, Brian and Amanda Jenkins, 115 North Green Bay Road, Appleton, Wisconsin, tax parcel 31-1-0708-00, are desirous of landscaping their lot so as to ensure that a privacy barrier of plantings exist in the non-front yard area of their property;

WHEREAS, based upon the unique shape of the lot, the only practical manner in which they may place such plantings involves encroaching on the street right-of-way;

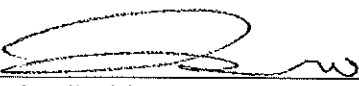
WHEREAS, the City of Appleton Street Terrace Policy would normally not permit such plantings;

WHEREAS, the Municipal Services Committee reviewed and approved an exception to the Street Terrace Policy, based upon the plans presented to the Committee on March 27, 2012 in exchange for the execution of this Indemnification and Hold Harmless Agreement by the Jenkins; and

WHEREAS, said exception was approved by the Appleton Common Council on April 4, 2012,

Brian and Amanda Jenkins agree to indemnify, defend and hold harmless the City of Appleton and its officers, officials, employees and agents from and against any and all liability, loss, damage, expense, costs arising from, deriving during, or resulting in any way from the removal or damage of any such plantings due to any utility work whether the City's or any other utility service located within the street right of way, any road work, or any other necessary work that may need to occur within the street right of way.

Dated this 10 day of April, 2012.

By: 
Brian Jenkins, Owner, 115 North Green Bay Road

By: 
Amanda Jenkins, Owner, 115 North Green Bay Road