

**CITY OF ELIZABETH CITY
PLANNING COMMISSION
REGULAR SCHEDULED MEETING
TUESDAY, July 11, 2023
4:00 PM**

MEMBERS PRESENT

Earnest Sutton
Suzanne Stallings
Kevin Johnson
Alyn Goodson
Gary White
Cameron Reynolds
Adam Swain

Also present: Cheryl Eggar, Planner II; Kelly Hoeltzel, Planner I; Bret Flory, Applicant.

Chairman Sutton called meeting to order at 4:10pm.

Chairman called to approve minutes as presented from last meeting, Commission member Swain made motion, Commission member Reynolds seconded. **Motion carried unanimously.**

Planner Eggar read statement of disclosure.

Planner Eggar presented CASE NO: V 02-23 presented by Bret Flory on behalf of Caliber Collision located at 1685 Tanglewood Parkway South. The property is located in the Halstead Boulevard Overlay District. The Overlay Districts requires high quality fencing, similar to wrought iron, to be used for screening outdoor display areas. Privacy screening is required when the displays are unsightly. The Applicant is requesting a variance to keep all of the wood fencing that is currently in place along the sides and rear of the site.

Planner Eggar read Article 12-10.2-7 found in the Overlay District

Planner Eggar explained that former director Long had a phone conversation with the civil engineer for Caliber Collision. According to the applicant, ~~the said phone conversation with former director Long indicated that wood fencing was not explicitly prohibited in the Halstead Overlay district,~~ Kellen quoted the overlay fencing requirements and stated that "no this ordinance does not prohibit wood fencing" however a lot of businesses have been using black decorative aluminum fencing that resembles wrought iron. In your case there would be a need for a screening material..." thus the engineer took this as permission to use wooden fencing.

In January 2023 Planner Eggar ~~completed a site inspection and raised questions of the rear, north, and east sides of the property. Planner Eggar noticed that those areas were enclosed with wooden fencing instead of the accepted fencing resembling wrought iron.~~ visited the site and noted that stockade fencing had been installed along the rear and side property lines, not the approved metal fencing with privacy screening. The fencing along the front was the decorative metal type yet lacked the privacy screening. It was noted that the dumpster enclosure was constructed with stockade fencing and not the approved cmu block material.

Planner Eggar required Caliber Collision to post a bond for 125% of the cost of labor and materials for removal of the wooden fencing on the sides of the building and the addition installatiobn of the metal fencing and privacy sreening resembling wrought iron.

Applicant Bret Flory, architect for the Caliber Collision project, brought forth comments. Applicant Flory noted that the initial contractor left off the black mesh along the front fcencing which was meant to be installed to provide further screening. Flory noted that if the variance is granted, black mesh will be added to the front fencing. Flory indicated that the civil engineer employed at the time of the project reached out to former Director Long for clarification and was looking to utilize the most cost-effective materials. Flory proposed to enhance the existing fencing by staining, adding trim caps ~~noted that with the vegetation that has been installed,~~ and by including vining plants, that the fence will not be very visible as the vegetation is meant to provide a living screen.

Discussion and questions were brought forth by Commission members.

Commission member Reynolds asked for clarification on whether or not wood fencing was specifically prohibited, Planner Eggar explained that the Halstead Overlay Ordinance does not specifically prohibit wood, however the wording of "high quality fencing resembling wrought iron" which is used in the ordinance is ~~vague and~~ subjective.

Commission member Alyn Goodson asked for clarification on former Director Long's role and whether or not phone calls and emails are considered official channels of record keeping for the City of Elizabeth City. Goodson also inquired as to who the final approveal is for the decisions of the rear and side property fencing. Material changes in the fencing would have required the Director's approval.

Planner Eggar noted that she believed the spirit and intent of the ordinance was met by allowing the rear of the property being fenced with the current wood fencing and being screened by the abundant natural vegetation found along the southern property line

Chairman Sutton asked for clarification on the project timeline.

Planner Eggar explained that the initial plans for the project were approved in March, 2022. January 2023 a site ~~inspection~~ visit was ~~completed~~ done where Planner Eggar encountered discrepancies from the approved plans. Caliber Collision never submitted new plans after the fencing and dumpster enclosure had been changed from wrought iron and cmu to wood stockade fencing.

Commission member Johnson requested clarification on former Director Long's response. Johnson asked whether ~~or not~~ Long signed off on the plans. Planner Eggar indicated that Long signed off on the original plans which included the wrought iron fencing. Chairman Sutton indicated there were some internal snafus and that there should be a procedural discussion internally.

Commission member Reynolds raised the point that high quality fencing was indicated for the Halstead Overlay and that wood fencing would not look the same as high quality fencing after 5-10 years.

Chairman Sutton indicated he was considering approving this variance for wood fencing with the Planning Commission working to ensure that fencing issues in the Halstead Overlay do not happen again.

Commission member Reynolds indicated he would prefer to deny the variance in order to keep the area aesthetically similar as developments in the area are on the rise.

Commission member Stallings indicated that Caliber Collision should accept some responsibility as the developments in the area are uniform. Stallings noted that Caliber should have noticed all the developments in the area have a similar look and that Caliber should not have opted for a cheaper option. Commission member Stallings asked the procedure to change wording in the Overlay District development standards.

Planner Eggar indicated that the Halstead Overlay developmental standards are vague and need improving, she suggested the Planning Commission work towards a text amendment for further clarity.

Mr. Flory, in response to Commission member Stallings, indicated that Tractor Supply (also located in the Halstead Overlay District) does not have wrought iron fencing in the back.

Planner Eggar indicated that the area of fencing for Tractor Supply is the dumpster and loading area, which according to the code are not required to have wrought iron or the same "high quality" fencing.

Mr. Flory explained that the engineer at the time believed wood fencing would be allowed, but that the engineer did not get the required final approval for the change.

Commission member Johnson asked Mr. Flory for clarification on how long the wood fencing would remain intact.

Mr. Flory indicated that with regular re-staining every 7-8 years that the wood fencing would remain intact for up to 20 years.

Commission member Swain requested clarification on whether the certificate of occupancy had been withheld or taken back.

Mr. Flory indicated that after the wood fencing was observed by Planner Eggar that the CO remained and the fence was allowed to stay per Planner Eggar with the appropriate bond posted at 125% of cost of labor and materials.

Commission Member Johnson inquired whether this variance would set a precedent for future variances.

Commission Member Swain indicated that variance requests are evaluated on a case by case basis and a precedent would not be set.

Commission Member Stallings indicated that she believed that the Commission should back up the words of former employee Long, and that the Commission is responsible for the decisions of an employee of the department.

Commission Member Stallings brought forth a motion to grant a variance for the current wooden fencing on the property at Caliber Collision with the stipulations that the fence is stained brown, end caps are added, and trellises are added with flowering vines. Swain seconded the motion. All in favor: Swain, Stallings. Opposed: Johnson, Reynolds, Goodson. **Motion failed.**

Mr. Flory was excused.

Commissioner Stallings asked the next steps. Planner Eggar indicated that since a bond was posted that Caliber would install the metal fencing and screening and then the bond would be released. complete the necessary repairs and the bond would be refunded.

Commissioner Reynolds, Johnson, and Swain made note that the terms used in the Halstead overlay district such as "high-quality fencing" were ambiguous and subjective. Discussion noted that the wording should be amended with clearer language to be adopted. Planner Eggar suggested she would send out the Halstead Overlay information to the Commissioners and that it may be helpful to dedicate the next Planning Commission meeting to a possible working meeting to make review changes to the Halstead Overlay text.

Commissioner Reynolds made note that based on the variance request the rear fencing at Caliber Collision must also be removed and replaced with wrought iron.

Committee moved on to staff report, Planner Eggar had no report to bring forth. Chairman Sutton inquired about current staffing, Planner Eggar advised that both she and Interim Director Goodson are part time. Chairman Sutton indicated the need for internal discussion regarding full time staffing, a full time Director, and the possibility of hiring more staff.

Chairman called for a motion to adjourn, Johnson made motion, Swain second. **Motion carried.**

Meeting adjourned approximately 5:10pm.