

The meeting was called to order at 5:33 p.m. by Z. Fowler.

Roll Call – Present: Chairman M. Leach. Members Z. Fowler, G. Luecht, M. Madouse, S. Ford and J. Emmett. Members C. Rynders and M. Leach absent. Administrator Sandra Kulik. Audience (5).

Meeting Notice was read by S. Kulik:

NOTICE IS HEREBY GIVEN that the Board of Appeals of the Village of Hales Corners will convene at the Municipal Building located at 5635 South New Berlin Road, on July 23, 2025 at 5:30 P.M. regarding a request by Milwaukee County – Parks Department, Guy Smith, Parks Executive Director, acting for Milwaukee County, for the property located at 5879 S. 92nd Street, for the necessary variance to permit a nine (9) foot high fence on parcel number 699-9999-000.

Per Village Code Article XIV. Fences and hedges. Section §445-14.4 E. Security Fences. Security fences are permitted, with Plan Commission approval, on the property lines in all districts except residential districts, but shall not exceed eight feet in height and shall be of an open type similar to woven wire or wrought iron fencing.

The subject parcel is zoned P-1 Parks and Institutional Use and therefore the request is to permit a fence that is one (1) foot higher than permitted under Section §445-14.4 E.

All interested persons will be given an opportunity to be heard at this meeting.

S. Kulik reviews procedures. Petitioner will provide support for the variance request. Board may ask questions and must make a decision based on 1.) Exceptional circumstances 2.) Absence of Detriment 3.) Hardship not created by owner. Before the Board of Appeals deliberates and renders a decision, you will be able to address the board.

Petitioner: Sarah Toomsen and Andrea Wallace, Milwaukee County Parks Department, 9480 Watertown Plank Rd, Wauwatosa, WI addressed the Board regarding the request.

Staff: S. Kulik reported on the fence installation and previous Plan Commission approval at the 7 foot height.

Public: None.

Board of Appeals:

S. Ford inquired if the fence was already installed. S. Toomsen reported that it was due to a misunderstanding from the prior Park Manager who was unaware that it needed to be installed as approved.

M. Madouse inquired about how the fence was designed. S. Kulik reported that the fence is designed as a wire fence as required under the code.

Z. Fowler commented that they are requesting this to add to the security of the garden from deer and vandalism. S. Ford asked if their plantings created the deer draw and was then in fact created by the Park as the owner. S. Toomsen requested staff to confirm that a garden was a permitted use in the P-1 District. S. Kulik reported that it was a permitted use. She further commented that State Law provides latitude for Counties to manage their parklands in the best interest of the citizenry and would therefore allow the garden as well. The Village has overlying zoning regarding placement of structures but not necessarily the garden

itself. J. Emmett asked if the parking at the back had trees that could stop or deter deer from jumping the fence especially as the fence was installed without permission, it would assist in decision-making. S. Ford commented that the parking lot and a field is behind the 9 foot fence and it would provide room to run and jump high enough. The issue of whether a deer would jump over the fence at 8 ft versus the requested 9 ft just for food should be determined. The Plan Commission discussion indicated that the 7 ft is a sufficient deterrent unless deer are being chased. S. Toomsen reported that the deer are jumping the fence in other areas that are less than 8 ft and can jump as high as 10 ft.

S. Ford commented he feels that the park use and their garden has created the issue.

Z. Fowler commented that the Potters Forest and surrounding area cause this. S. Ford commented that the deer are used to feeding where they have been and the Park placed the garden already knowing this was an issue. G. Luecht commented that the garden was drawing them but the area has always done this.

S. Toomsen commented that the county expert on this matter states that 8ft is not high enough to deter the deer browse, that the test for hardship is that the plantings are in line with the zoning and the collection that is planted there has significant value. She commented that the garden is not the hardship, the deer population is.

S. Ford inquired if they were having this issue in any other area of the park. A. Wallace reported that they are having it all over the park, but the value of the special plantings makes this area more vital for control.

S. Toomsen commented that the secured areas the fences are not deterring the deer browse and they have had issues throughout the park with vandalism. Plants are dug up or some well-meaning citizen drops off their “donations” and then park staff has to get rid of them.

Motion - (Fowler, Luecht) to approve the variance based upon the following conditions:

- 1) A unique condition exists as the garden is next to a forest where deer population can access the gardens without the control of the 9 foot fence;
- 2) There is not detriment to adjacent properties by allowing the fence; and
- 3) A hardship is not self-created as it is not from the garden but the deer existing in the area and the resulting damage from the deer browse.

S. Ford commented that in his opinion they did create the hardship issue as the plantings caused them to need a 9 ft fence versus no fence at all.

M. Madouse commented that the deer are the issue and that this is what they eat.

On the motion; Ayes: Fowler, Luecht, Madouse, Emmett; abstain Ford. Motion passes 4-1.

Adjournment-Motion (Luecht, Ford) to adjourn meeting at 6:11 p.m.

(e) Sandra M. Kulik

Sandra M. Kulik
Administrator