



# Milwaukee Historic Preservation Commission Staff Report

LIVING WITH HISTORY

**HPC meeting date: 10/9/2017**  
**Ald. Robert Bauman District: 4**  
**Staff reviewer: Tim Askin**  
**PTS #114370 CCF #170745**

<b>Property</b>	2401 W. WISCONSIN AV.	Eagles Club Building
<b>Owner/Applicant</b>	EAGLES AUDITORIUM INC C/O A BALESTRIERI 2401 W WISCONSIN AVE MILWAUKEE WI 53233	Joseph Balestrieri Eagles Auditorium, Inc 2401 W Wisconsin Ave Milwaukee, WI 53233 Phone: (414) 342-0300

**Proposal** Applicant installed a fence without a Certificate of Appropriateness. Applicant was granted an electrical permit for installing lights on the fence piers, but did not obtain a fence permit. The fence encircles the front of the property around its front parking lot. Originally, the front of the property was carefully landscaped; however, this was gone before the time of the designation. The fence appears to have been built to the property line on all three sides of the parking lot.

Applicants have been gracious in allowing access to the property for staff to photograph and take measurements.

**Staff comments** The Eagles Club dates to 1926 and was built in a Pan-Mediterranean Exotic Revival style. Originally, the front of the property was a carefully executed lawn with a reflecting pool; however, it has been a parking lot for many decades now.

The fence is of an appropriate design. The piers are clad in what is apparently a ceramic tile that closely resembles the stone on the building and the metal pickets are in a style that could be approved. However, the light fixtures atop the piers and heights of nearly every portion of the fence are not appropriate to this property or surrounding properties. Further, the area is zoned for residential and low-rise office use (RO2) and is therefore required to comply with residential fence standards.

*Height Limits (Piers & Pickets)*

Residential fences have a strict 6'0" height limit for piers and 6'2" limit for pickets. The extra two inches is allowed only for piers and only if they do not touch the ground. The purpose is strictly for avoidance of rust or rot (MCO 239-2-4). Some pickets along street frontages are themselves less than 6' tall, but they are installed in such a way that they are 6'6" or more from top of picket to grade. No picket was below a height of 6'6"; many were substantially taller.

No piers were less than 7'0". The only pier on 24<sup>th</sup> Street that was not part of a gate was 8'0". This exceeds the city's six-foot height limit in a residential zone (RO2). (The extra two inches [6'2'] is not granted to piers, as they are inherently in contact with the ground.)

Plan exam staff indicated that they would not consider the lamps atop the piers to be part of the height limit unless they were egregiously out of proportion and clearly intended to violate the spirit of the height limit. HPC staff concedes this point about excluding light fixtures no taller than the present ones from height calculations.

### *Gates*

Portions of fences that can be considered a gate are allowed to be 10'0". Only the gate areas are compliant with the height limits. The piers at the 24<sup>th</sup> Street "gate" were 9'9" and 9'0". While they are compliant, their height does seem excessive.

The Wisconsin Avenue gate has 8'0" piers and pickets at a max of 8'2". This is compliant with code and staff does find this gate acceptable as built (excluding the light fixtures).

### *Setbacks*

- No setbacks are required on Wisconsin Avenue
- On the west side, the fence is required to be built to the lot line. This appears to be the case.
- It is unclear to staff if the vision triangle setback is met. An attempt was clearly made to do so by applicants. HPC staff did not attempt to measure compliance with this setback because it would have required standing in the middle of Wisconsin Avenue.
- On 24<sup>th</sup> Street, there is a setback requirement of 11'0" from the outside edge of the curb and 5'0" from the sidewalk. The 5'0" from the sidewalk is clearly not met and this has been acknowledged by the applicant's representative.

### *Parking Lot Fencing*

When an existing parking lot next to residential use of any kind is fenced, it must comply with the fence portion of landscaping requirements in the code. As the lot was pre-existing, only the portion relating to fences is required. The planting and layout requirements are not triggered. The west property line abuts an apartment building, so this is triggered. The relevant parking lot landscaping is Type H. Basic requirements are opacity of the fence, minimum 6'0" height, and a stepdown for the front yard. Staff believes a partial height wall topped with pickets might be appropriate to achieve some screening, but full height opacity is not recommended.

295-405-1-b-8. Type "H" Landscaping (Residential Buffers). This type is primarily intended to surround or visually separate parking lots and structures from residential uses. Examples of items to be screened with type "H" landscaping include parking lots for churches and schools, apartment buildings and non-residential uses, as well as principal-use parking lots and structures. This type of landscaping relies primarily on opaque fencing, but also requires trees and shrubs when the parking lot or structure provides parking for uses other than single-family or two-family dwellings, educational uses or community-serving uses. Opaque fencing provides screening from the ground to at least 6 feet above grade.

### *Lighting*

The lamps are very modern and in a faux historic style. They are also of a design that is clearly meant for a pole mount rather than this use. The base of the lamps is the width of a pole mount. They are not compatible with the Exotic Revival character of the building. They also violate the spirit of the prohibition of lampposts in the front yards of designated properties (*Living with History* p. 112). A flatter fixture would be much more appropriate.

### *Variations*

The following variations will need to be approved by the Board of Zoning Appeals for the fence to be allowed to remain. Each is a separate issue that must be ruled upon independently by the Board with a separate application fee.

1. Opacity of west lot line (Type H landscaping)
2. Height stepdown on west lot line (Type H landscaping)
3. Height for all portions of fence except gate areas.
4. N. 24<sup>th</sup> Street setback.

*Conclusion*

In sum, no portion of the fence was found to be less than 6'6". Some pickets and metal posts were over 7'0" and no pier was less than 7'0. This is a clear and significant violation of zoning code fence regulations for this neighborhood. Had the applicant come to apply for a fence permit, staff would have directed them to comply with these basic zoning code requirements and directed them to a different lighting solution. This project puts the Commission in the very awkward of requesting approval for something that only in minimal portions is compliant with zoning code.

Staff does support the general design concept, exclusive of the light fixtures, but not the excess heights and ignored setbacks.

The Commission should note that any approval it should issue on the design has no effect on the base zoning requirements or on any rulings by the Board of Zoning Appeals. BOZA is an independent body that has no obligation to consider HPC's determination of appropriateness.

Staff recommends only the following:

1. Recommend to the BOZA that variances for Type H landscaping requirements along the west lot line be granted. A different design and the stepdown would be aesthetically awkward with the rest of the fence design and not address security concerns in the area. It may be appropriate to build a partial height wall here of 3-4 feet here to screen some vehicles and asphalt from the view of the ground floor apartments.
2. Allow Wisconsin Avenue gate to remain as built, but with different light fixtures to be approved by staff.

**Recommendation**

Recommend HPC Denial

**Conditions**

If the Commission chooses to approve the fence, staff recommends several conditions.

1. Require that the light fixtures be changed or eliminated. They are inappropriate to the style of the building, inappropriate to massive piers such as these, and awkwardly proportioned.
2. Make clear which, if any variances it recommends for BOZA approval.
  - A. If approved, the height variances are a given.
  - B. Opacity and height on the west lot line (Staff recommends allowing this, if the fence is allowed. For both security and aesthetics, it is better if the fence remains a consistent height and remains open, although a partial height wall for screening may be appropriate.)
  - C. Setback from sidewalk on the 24th Street elevation. Staff does not recommend supporting a variance for this as built.
3. Require 24<sup>th</sup> Street frontage to be rebuilt to be no taller than the Wisconsin Avenue frontage and comply with the setback or explain why they cannot comply with the setback. Increased setback would help reduce the excess heights of this side by bringing it closer to the grade at the Wisconsin Avenue frontage.
4. The type of survey required for permitting at DNS shall be submitted to HPC staff with additional information that notes heights of the various members for the record.

**Previous HPC action**

**Previous Council action**