

**Minutes of Meeting  
Zoning Board of Adjustment  
Electronic/Virtual Meeting**

***August 5, 2020***

ROLL CALL: Board members present: Hanson, Rossow, Hollander, Birkenholz, and Billingsley

Board members absent:

STAFF PRESENT: Brian Dunkelberger, City Planner  
Matt Muckler, City Administrator

A quorum being present, Chair Hollander called the meeting to order at 4:38 p.m.

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In accordance with the Americans with Disabilities Act, Chair Hollander questioned if there was anyone present that may require special assistance in being able to participate in this public meeting: No response.

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**Minutes**

The Board reviewed the minutes of the previous meeting from May 13, 2020.

**Motion** by Billingsley, **seconded** by Birkenholz to approve the minutes from May 13, 2020. Approved, 5-0.

**Public Hearing**

- A. V20-3: Front yard setback variance, 801 North 19<sup>th</sup> Avenue East, Arcosa Wind Towers Inc., Applicant.

Staff reviewed the prepared staff report and shared documents provided by the applicant. Staff informed the Board of two previous applications for setback variances at properties directly to the west of the subject property. Those variances were approved in 2009 and 2014. No comments were received in advance of the meeting after notices were sent to nearby neighbors and published twice in the Newton Daily News, once on July 21<sup>st</sup> and again on July 28<sup>th</sup>. City Staff and the applicant met at the site before the variance application to discuss the proposal and provide feedback. All City Departments and local utility companies were provided a copy of the proposal, and no concerns were received to date.

Hollander asked Staff for clarification regarding height of the proposed bump-outs and proximity to existing privately-owned fire protection water lines. Dunkelberger shared the proposed building design and informed the Board that the bump-outs would not exceed the height of the current structure and that he would inform the applicant if the variance was approved.

Birkenholz highlighted that two similar setback variances were granted in the past for neighboring properties, thus providing precedents for justifying this variance. She emphasized that the bump-outs would extend no further than existing structures on that block, as the bump-outs would align with the other neighboring properties to the west with structures built with 0' front yard setbacks. Billingsley voiced his displeasure with the absence of the applicant or a representative to address the Board and answer questions. Hollander called for a motion to close the public hearing.

**Motion** by Billingsley to close the public hearing, **seconded** by Birkenholz. Voice Vote: Approved, 5-0.

Members discussed the variance and began to review the six legal questions along with answers provided by the applicant. Billingsley reiterated that the answer to the second legal question submitted in the agenda materials was unsatisfactory. Billingsley also voiced his concern with approving a variance without an applicant present to address the Board and to clarify.

Hollander felt that the answers provided by the applicant were reasonable and well-thought-out. Hollander explained how it was the Board's responsibility to review the submittal materials, and then provide a ruling for the six legal questions to ultimately determine if the variance was approvable or not. He asserted that he concurred with the answers provided to questions 1, 3, 4, 5, and 6, but that the answer to question 2 should be a "yes." Other members voiced their agreeance and support for the variance.

Hearing no additional comments, Hollander called for a motion.

**Motion** by Rossow to approve the setback variance with the conditions that the applicant will locate the private underground fire protection line and establish the north property line by survey before approval of a building permit, **Seconded** by Birkenholz. Approved 5-0.

#### **New Business**

Dunkelberger notified the Board members to expect another meeting in September based on recently submitted applications.

#### **Adjournment:**

**Motion** by Birkenholz to adjourn the meeting, **Seconded** by Billingsley. Approved, 5-0. The meeting was adjourned at 5:16 pm.