

Minutes of Meeting Zoning Board of Adjustment Regular Meeting

November 9, 2022

ROLL CALL: Board members present: Billingsley, Birkenholz, Hanson, Otto

Board members absent: Rossow

STAFF PRESENT: Brian Dunkelberger, City Planner

A quorum being present, Vice Chair Otto called the meeting to order at 4:31 PM

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

Minutes

The Board reviewed the minutes of the previous meeting from October 19, 2022, and one misspelling was noted. **Motion** by Billingsley, **seconded** by Birkenholz to approve the minutes from October 19, 2022, with the understanding that the one misspelling would be corrected. **Voice vote:** approved, 4-0.

Public Hearing

- A. V22-2: Side yard setback & lot coverage variance for 1113 & 1117 S. 12th Ave. W. Carroll & Nancy DePenning, applicant.

Dunkelberger reviewed the prepared staff report and shared several images and plans submitted by the applicant. No comments or questions were expressed by Board members or the audience.

Hearing no additional questions or comments, Vice Chair Otto called for a motion to close the public hearing. **Motion** by Birkenholz, **seconded** by Billingsley. **Voice vote:** Approved 4-0.

Otto stated that she felt comfortable with approval of the variance based on the fact that the subject properties are located within an older neighborhood developed with lower setback requirements. If this was a new development, the answer may be different. She emphasized a couple pieces of information shared in the staff report to express support. Billingsley agreed and felt that this was a significant component of the request, and he also shared that he agreed with the answers provided to the six variance questions.

Motion by Billingsley to approve V22-2 with the following conditions: 1) No future additions or structures are permitted at 1117 S. 12th Ave. W. unless reviewed and approved by the Newton Zoning Board of Adjustment due to the proposed building coverage exceeding 40% (approximately 42.3%), as allowed by the R-2 zoning district; and 2) The new house shall be positioned in the middle of the lot to create equidistant measurements between the exterior walls of the house and the east and west property lines, **seconded** by Hanson. **Roll call vote:** Approved 4-0.

- B. V22-3: Variance to allow 5' front yard chain link fence at 701 E. 5th St. N. Summer Hesse, applicant.

Dunkelberger reviewed the prepared staff report. No questions were asked, so Vice Chair Otto asked if anyone in the audience had comments or questions about the variance application.

Ron Toppenberg, 713 E. 5th St. N., stated that he was the abutting neighbor to the north and described how the dogs at the property have prevented mail delivery in the past by jumping on the fence. Since witnessing that incident, he had not seen that dog outside again. He believed the height of the fence was appropriate even though it was not "normal" like a 4-foot-tall fence. Billingsley asked if he thought the fence was too tall, and Mr. Toppenberg replied jokingly that it probably was not tall enough.

Hearing no additional questions or comments, Vice Chair Otto called for a motion to close the public hearing.

Motion by Birkenholz, **seconded** by Billingsley. **Voice vote:** Approved 4-0.

Otto stated that she felt that the real issue was with the fence contractor who should have checked on the local regulations before installing the fence. She expressed thanks to staff for reaching out to the contractor to prevent the same problem from happening again in the future. Hanson agreed and suggested that the contractor may have been from out of town, but that they should be aware of the regulations in Newton. Dunkelberger shared more information about said regulations and the permitting requirement. Birkenholz shared that she drove by the subject property and thought the fence itself looked nice.

Motion by Billingsley to approve V22-3 as requested, **seconded** by Birkenholz. **Roll call vote:** Approved 4-0.

New Business

Dunkelberger previewed a conditional use permit application that will be reviewed at a future meeting. He shared information about the conditional use permit process and determined that December 7, 2022, would be the best date for the next meeting to hold the public hearing and review the application.

Old Business

- A. Review of Minutes from August 15, 2022.

Board members agreed that the corrections to the minutes were approvable. **Motion** by Birkenholz to approve to approve the minutes from the August 15, 2022, meeting as written, **seconded** by Hanson. **Roll call vote:** Approved 4-0.

Motion by Billingsley to adjourn the meeting, **seconded** by Birkenholz. **Voice Vote:** approved, 4-0. The meeting was adjourned at 5:03 PM.