

Minutes of Meeting Zoning Board of Adjustment Electronic/Virtual Meeting

November 18, 2020

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

STAFF PRESENT: Brian Dunkelberger, City Planner
Erin Chambers, Community Development Director
Matt Muckler, City Administrator

A quorum being present, Chair Hollander called the meeting to order at 4:32 p.m.

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.

Minutes

The Board reviewed the minutes of the previous meeting from September 9, 2020.

Motion by Rossow, **seconded** by Birkenholz to approve the minutes from September 9, 2020. Approved, 4-0.

Public Hearing

- A. Consideration and review of conditional uses authorized in 2018 for exterior storage at the property located at 1300 East 8th Street North.

Dunkelberger reviewed the prepared staff report and agenda attachments including images of the property and letters from the Iowa Department of Natural Resources (IDNR). Dunkelberger reviewed the options available to the Zoning Board of Adjustment to consider in response to the existing violations at the property. Staff recommended that the Board should provide guidance to the permit holder and property owner regarding specific deadlines and expectations for bringing the property into compliance.

Ronald Albrecht, Global Fiberglass Solutions (GFS) Chief Operating Officer, described the communications between the IDNR and GFS. He shared that they had between 30 and 45 days to establish a binding agreement with the IDNR to show progress towards compliance and to avoid penalties. Albrecht also shared that GFS planned to repair the fencing but had been waiting for approval from their insurance company but had only recently learned that insurance would not cover the repairs. Therefore, GFS would handle the repairs but were struggling to find a local contractor after the August storm. He then provided details regarding the operations and intentions for recycling the wind turbine blades in the future.

Hollander questioned the proposed timeline and inquired about the plans to begin processing the blades. Albrecht responded by highlighting their intentions for the recycling process and how the blades should be considered as inventory at that time. He described how the recycling process would easily work through the 850+ blades and eventually get to “just-in-time processing.”

Hanson asserted that his primary concerns were regarding the fencing and how the current condition was unacceptable. He stated that the various points of access could prove to be problematic such as

children entering the property and injuring themselves. Hanson shared that safety should be the first priority and that GFS should agree to secure the existing fencing immediately.

Linda Dalton, neighbor at 1303 E 8th St N, shared that the fence had been down all summer and that the August Derecho storm was not the sole cause of the issues at this property. Dalton stated that she had only witnessed one single occasion of effort from anyone to fix the fencing. She also described how animals were living inside the blades, and that it was an unsightly property.

Patrick Dederling, Senior Vice President of Phoenix Investors, shared details about their position on the matter. Dederling introduced himself and described how Phoenix Investors had entered Newton back in the spring of 2015 by acquiring the old Maytag Plant property. He detailed to the Board and audience how it has been a challenging yet rewarding endeavor to stimulate job growth in both the community of Newton and the broader region as a whole. Dederling stated that he questioned GFS' ability to follow through with their promises based on their financial capacity, existing stockpile of blades, the stresses on recycling equipment for such an operation, etc.

James Pray, Attorney from BrownWinick Law representing Phoenix Newton Industrial Investors LLC, defined his role with the situation and commented on the current status of the property. Pray stated that it is not in anyone's best interests to have the attention of the IDNR. He defined how the IDNR works to protect Iowa citizens, not only rural but also citizens of Newton, but only to a certain extent. Pray articulated that Phoenix Investors would like to work with GFS, but there is a need for immediate action. He encouraged their complete cooperation with the IDNR, and he encouraged coordination between the City and the IDNR to ensure progress is being pursued. Pray stated that ultimately there needs to be more than just a plan; Pray stated that both the City and Phoenix Investors need to see immediate action on the part of the recycling of the blades, and if there is none then enforcement should be pursued.

Linda Dalton asked if there was a specific deadline in place from the IDNR for the processing of the blades, since the deadline for the plans was 30-45 days. Albrecht answered no, and that it would be a part of the plan. He described how the plan would be a binding agreement with fines and/or penalties for any violations or if GFS fails to comply or meet a deadline.

Paul Brush, Global Fiberglass Solutions Director of Plant Development, shared that they had only just recently learned of the violations and meeting. Dederling replied by disagreeing with that statement by detailing communications dating back as far as August. Rossow asked Brush if GFS had local employees tasked with taking care of such issues. Brush responded by stating there were a few locally who informed him that the fence was worked on in the past.

Rossow asked Staff if the Board was considering just the fence or more. Dunkelberger responded by informing the Board that they should consider all conditional uses authorized for this property from 2018 including the use and the conditions regarding fencing. He stated that the Zoning Board of Adjustment ultimately decides on action based on the question of compliance with the approved conditional use permits.

Birkenholz asked about the recycling plant owned by GFS located in Sweetwater, Texas. Albrecht answered by describing that location and how they were hoping to use it as a model for future operations including the future plans for their Newton, Iowa location. Birkenholz followed-up by asking if the existing building at the property would be sufficient for their planned operations, and Albrecht confirmed that it would be.

Hearing no additional questions or comments, Hollander called for a motion to close the public hearing. **Motion** by Birkenholz to close the public hearing, **seconded** by Rossow. Approved, 4-0.

Rossow stated that not only the Board but the whole community had been looking at the blades for more than two years. She also stated that with the IDNR and Phoenix Investors pushing GFS, there is a need for immediate action. She commented on how she was understanding of the issue with a lack of local contractors to repair the fencing, but encouraged GFS to look for one outside of the central Iowa region which was so severely impacted by the storm.

Birkenholz agreed and shared that her primary concern was with the condition of the fencing, and called for immediate action. Hanson concurred, and agreed it would be a big project but that safety is essential to protect the neighborhood, children playing, etc.

Hollander recalled that in 2018, the blades had already been at the property and the conditional uses were granted with the understanding that secured and screened fencing was to be constructed. He shared that he supported a deadline of 30 days for immediate repairs to the temporary fencing. If GFS failed to meet the deadline, the permits would be revoked.

Rossow asked about what would happen if the deadline was not met by GFS. Dunkelberger replied by suggesting the Board should provide that guidance. Whether that involve the Board reconvening after 30 days to consider the progress made at the property, or if it could be administrative decision. Erin Chambers, Director of Community Development, clarified the answer by informing the Board that the City Attorney encouraged a public hearing for such action so the Board should reconvene after 30 days.

Hollander commented on the options available to the applicant (GFS) and felt that it may prove to be difficult to acquire another conditional use permit if revoked. Chambers responded and said that it was too premature for that and if that eventually was the case that the Board and applicant could consider additional or different conditions that could apply to the property.

Hollander asked the other Board members about their thoughts regarding a reasonable deadline, and stated his support for his earlier deadlines for both the immediate repairs to the temporary fencing within 30 days (to ensure the fencing is vertical, screened, and stable) and the construction of permanent fencing within 6 months. Hanson agreed and described how permanent fencing would be more appropriate considering the planning and requirements involved with constructing permanent fences. Rossow agreed and commented that there should be no question of the ongoing maintenance and repairs when the Board reconvenes after 30 days had passed.

Hearing no additional comments, Hollander called for a motion.

Motion by Rossow to establish a deadline of 30 days for the applicant to bring the temporary chain-link fencing into compliance by ensuring it is repaired to a safe and secure condition, and also a deadline of 6 months, or by May 17, 2021, to construct permanent screened and secured fencing around the entire property. **Seconded** by Birkenholz. Approved 4-0.

New Business

Dunkelberger confirmed an upcoming meeting scheduled for Wednesday, December 2, 2020, to review a fence height variance.

Adjournment

Motion by Birkenholz to adjourn the meeting, **Seconded** by Rossow. Approved, 4-0. The meeting was adjourned at 5:42 pm.