

# Minutes of Meeting Zoning Board of Adjustment Regular Meeting

***February 1, 2023***

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

STAFF PRESENT: Brian Dunkelberger, City Planner  
Craig Armstrong, Development Specialist

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

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## Minutes

The Board reviewed the minutes of the previous meeting from January 4, 2023. **Motion** by Otto, **seconded** by Billingsley to approve the minutes as written. **Voice vote**: approved, 4-0.

## Public Hearing

- A. CU23-1: Conditional Use Permit for an addition to an accessory structure with a footprint exceeding 1,000 sq. ft. at 907 W. 8<sup>th</sup> St. N. (located in R-2: One and Two-Family Residential and A-1: Agricultural zoning districts). Stephen Ezell, applicant.

Dunkelberger reviewed the prepared staff report and shared maps and images of the proposed structure. Dunkelberger also shared two submitted comments from neighbors who wished to remain anonymous.

The first neighbor called on 1/31/2023 to voice strong opposition to the proposed building addition due to a history of noise issues and disruptions within the neighborhood. Some past noise issues mentioned include engine revving and burnouts/tires squealing up and down W. 8<sup>th</sup> St. N., maintenance work being done at all hours of the night, and music being played at high levels. The yard is also reverting back to being a junk yard and was only cleaned up a bit because the Community Services Officers tagged the property. Said neighbor is concerned that this building addition would exacerbate those issues.

Neighbor who wishes to remain anonymous called on 2/1/2023 to voice strong opposition to the requested conditional use permit. Said neighbor was concerned that the large additional structure would worsen the issues that have been occurring at the subject property. Such issues involve excessive noise, unsightly exterior storage, too much traffic in and out, burnouts, vehicles blocking the road, etc.

Otto asked about the neighborhood feedback and history of issues at the subject property. Billingsley inquired about the use of the property and home occupations rules and regulations. Discussion ensued regarding parking rules, exterior storage and zoning, and home occupation rules. Rossow inquired about enforcement of home occupation rules and regulations. Billingsley asked if some enforcement activity drove the application. Dunkelberger confirmed and described the process for nuisance enforcement and his communications with the applicant prior to the meeting.

Billingsley asked if the motivation behind the building was to hide all the “stuff.” Dunkelberger shared that to the owner’s credit, he relocated or removed the stuff that was tagged as a nuisance violation in 2021, but

yes, the owner had shared that the building would be used for both additional storage space and space to conduct his business operations. Billingsley summarized that a home occupation is allowable as long as it is done right. Dunkelberger confirmed.

A representative for the applicant in the audience mentioned something and was invited to speak, but declined the opportunity.

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

**Motion** by Hanson, **seconded** by Otto. **Voice vote:** Approved 4-0.

Rossow stated that in light of the home occupation not following the guidelines, she did not feel the large building addition could be approvable at this time.

Billingsley stated that he was unsure how he felt about the application. He assumed that staff originally viewed the proposed building addition as a possible remedy to the past issues, and he asked what information caused the recommendation to change. Dunkelberger shared that the feedback received from the neighborhood and additional information learned about the home occupation activities at the property were the reasons for the change and because such issues violate the four required criteria for granting conditional use permits.

Otto shared her primary concern revolved around the sheer size of the new structure and home occupation issues. Her understanding of home occupations was that the residence was the primary use and the accessory structure/home occupation should be ancillary. With the proposed addition, that would flip that at this property. Dunkelberger looked up the total size of the residence to provide context to this thought. The residence was under 1,000 sq. ft. while the total footprint of the accessory structure would be 4,000 sq. ft. Board members discussed this concern and the fact that the property is located within a residential neighborhood, but if the business were within a commercial or industrial zone it could be approvable.

Discussion regarding the home business and operations occurring in the future without the addition. Members conversed about the proposal and the total size, possible alternatives if this application were to be denied, and how the home business could fit into the neighborhood. It was made clear that entrepreneurship should never to be discouraged, but the residence is the primary use and negative impacts to the neighborhood needed to be avoided. Hanson asked if staff could reach out to the applicant after the meeting to explore alternative options. Dunkelberger confirmed. Billingsley shared that the application broke down on the second listed criteria for granting conditional use permits.

**Motion** by Billingsley to deny the CU23-1 application, citing the logic discussed during the meeting and referencing how the four required criteria for granting conditional use permits as defined by the Newton Zoning Code were not achieved, and to direct staff to reach out to the applicant after the meeting to consider alternative options in the future. **Seconded** by Otto. **Roll call vote:** Motion to deny, approved 4-0.

#### **Old Business**

None.

#### **New Business**

None.

**Motion** by Otto to adjourn the meeting, **seconded** by Billingsley. **Voice Vote:** approved, 4-0. The meeting was adjourned at 5:01 PM.