

MEETING RECORD

NAME OF GROUP:

CITY BOARD OF ZONING APPEALS

**DATE, TIME AND
PLACE OF MEETING:**

Friday, May 29, 2020, 1:30 p.m., City Council Chambers,
First Floor, County-City Building, 555 S. 10th Street, Lincoln,
Nebraska

**MEMBERS IN
ATTENDANCE:**

Tracy Edgerton, David Johnson, Vickie McDonald, Steve
Miller; Annette McRoy absent. Tim Sieh of the Law
Department; Ron Rehtus of the Building and Safety
Department (via broadcast); Brian Will and Rhonda Haas of
the Planning Department.

**STATED PURPOSE
OF MEETING:**

Regular City Board of Zoning Appeals meeting.

Vice Chair Miller called the meeting to order and acknowledged the Open Meetings Act posted at the back of the room.

The first order of business was approval of the minutes of the City Board of Zoning Appeals hearing of March 29, 2019. Motion for approval made by McDonald, seconded by Miller and carried 4-0: Edgerton, Johnson, McDonald, Miller and voting 'yes'; McRoy absent.

BOARD OF ZONING APPEALS 20002

**REQUESTED BY GLACIER PARK, LLC, FOR A VARIANCE TO HEIGHT OF LINCOLN MUNICIPAL
CODE AIRPORT ZONING 27.59.040, TO ALLOW INSTALLATION OF TOWERS, WHICH EXCEED
THE 150-FOOT MAXIMUM ALLOWED HEIGHT ABOVE ELEVATION, ON PROPERTY GENERALLY
LOCATED AT 4201 NW 70TH STREET**

PUBLIC HEARING:

May 29, 2020

There were ex parte communications disclosed. Board Member Johnson stated that he personally knows the applicant, and has worked with them in the past, and he further stated they are currently working on a project together; however, the project has nothing to do with what is before him today.

Ann Post, Baylor Evnen, 1248 O Street, Suite 600, came forward on behalf of Glacier Park, LLC and Doug Rath. She stated that they are requesting a variance to allow the installation of a 60-foot tower on property just west of Lincoln. She shared that the applicant has acquired two 60-foot towers, which used to stand at the State Fairgrounds Racetrack. The towers originally installed in the 1940s, were used to allow race officials to sit and observe the racing. The towers remained in place, until the grounds were converted into Innovation Campus. The applicant removed the towers in an effort to preserve them as part of Lincoln's history. Post stated the

applicant wants to install a tower on their property in a location that will allow for recreational viewing of the area, and a potential use for hunting. They are limited to where the tower is placed because of the way the tower is enclosed, which only allows for a view from one side. In 2019, a special permit approved and allowed for the installation of the towers at the 60-foot height, which does exceed the 35-foot maximum height of AG zoning. Post stated at that time it was stated that this property also falls within the Airport Zoning Regulations. The Airport Zoning Regulations is another layer of zoning over current zoning to prevent the creation of airport hazards. This property falls within the Turning Zone of the Lincoln Airport Zoning Regulations, which states that structures that are 150-feet above the nearest runway end are not allowed. At the proposed location, the tower would stand 176.9 feet above the nearest runway. Post stated the Lincoln Airport Authority has stated they did not see an issue with this. An application with the Federal Aviation Administration (FAA) for a determination of no airport hazard was submitted. The official letter received stated that the proposed tower would not create an airport hazard, which was included in the board member's packet. Post noted that the request for the variance is not from the general zoning code, but from the Airport Zoning Regulations. There are special circumstances for this application because these towers are part of Nebraska's History. She shared this will honor what the towers were and keep them useful in and around the community.

Johnson asked if they would be installing both towers. Post stated they are just requesting to install one tower. Post added that when they install the second tower it will be in a place where this process is not necessary.

Miller inquired if there were any other stipulations required from the FAA. Post said no, but the applicant is required to inform the FAA when installed.

McDonald asked if they would be installing any type of satellite or monitoring systems for the internet. Post said no.

Miller asked if the property has lower elevations where the tower could be installed and why they selected this location. Post shared the location selected is higher on the property and would provide a nice view of Lincoln. This location is also an ideal spot to view the rest of the property for hunting. Miller asked if the tower would be visible from the adjoining properties. Post could not say for sure that it would not be visible.

McDonald asked about steps leading to the top of the tower. Post explained it would be a ladder and not stairs, and when not in use a section of the ladder will be removed to prevent others from climbing to the top.

Mill stated that this would add a certain degree of security to the tower. Post said yes, they are committed to making this a safe.

There was no public testimony in support or opposition.

Staff Questions:

Johnson asked about the criteria that needs to be met by the applicant before approved. **Tim Sieh, City Attorneys' Office**, came forward and stated that the Stated of Nebraska has a State Statute that makes a specific exception for this type of installation. Sieh stated if an application is reviewed and approved, then the written documentation from the FAA, serves as sufficient factual basis to grant a variance of this type.

APPEAL NO. 20002

ACTION BY THE CITY BOARD OF ZONING APPEALS:

May 29, 2020

Miller moved to grant the variance on the height restriction to Glacier Park, LLC for the installation of the tower based on the determination of no hazard from the FAA, seconded by Edgerton and carried 4-0: Edgerton, Johnson, McDonald, Miller and voting 'yes'; McRoy absent.

There being no further business, the meeting was adjourned at 1:50 p.m.

Note: These minutes will not be formally approved by the City Board of Zoning Appeals until their next regular meeting.