

MEETING RECORD

Advanced public notice of the City Board of Zoning Appeals meeting was posted on the County-City bulletin board and the Planning Department's website. In addition, a public notice was emailed to the Lincoln Journal Star for publication on Thursday, February 9, 2024.

NAME OF GROUP: CITY BOARD OF ZONING APPEALS

DATE, TIME AND PLACE OF MEETING: Friday, February 23, 1:30 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Annette McRoy, Cindy Ryman Yost, Steve Miller, David Johnson and Vickie McDonald. Tim Sieh of the Law Department; Ron Rehtus and RJ Hamilton of the Building and Safety Department; Steve Henrichsen, Brian Will and Clara McCully of the Planning Department; and other interested parties.

STATED PURPOSE OF MEETING: Regular City Board of Zoning Appeals meeting.

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

Miller called for a motion approving the minutes of the City Board of Zoning Appeals hearing of July 25, 2023.

Motion for approval made by McRoy, seconded by McDonald, and carried 4-0-1: Johnson, Miller, McDonald, and McRoy voting yes; Ryman-Yost abstained.

Miller called for a motion to nominate a Vice Chair.

Miller moved to nominate Johnson as Vice Chair, seconded by McRoy, and carried 5-0; Johnson, Miller, McDonald, McRoy, and Ryman-Yost voting yes.

BOARD OF ZONING APPEALS 24001, A REQUEST FOR A VARIANCE TO LINCOLN MUNICIPAL CODE 27.69.040, TO ALLOW A FREESTANDING SIGN IN EXCESS OF THE MAXIMUM ALLOWED HEIGHT OF 25' WHEN LOCATED OUTSIDE THE REQUIRED FRONT YARD, ON PROPERTY GENERALLY LOCATED AT 1140 CALVERT STREET.

PUBLIC HEARING: February 23, 2024

There were no ex parte communications disclosed.

Applicant:

Liam Wakeman, 4200 West Milton, appeared on behalf of Lincoln Inn Hotel LLC as Travelodge. He is requesting for a height of 55 feet. The business is locally owned and located one block east of Nebraska Parkway. A few businesses separate the hotel from Nebraska Parkway. The property was purchased on April 14, 2021, and had been operated as Days Inn. The pole is 50 feet tall. A face change permit was issued in 2008. It is unclear when the sign cabinet was removed. Now it is outside of the 2-year window for a face change permit. This request is based on exceptional and extraordinary circumstances due to the fact that a more sophisticated business is likely less burdened by the code. At least one business along Nebraska Parkway has one sign above the height. Corporate businesses likely have better access to council which allows for greater opportunity to navigate codes. They are also burdened by the additional costs for deconstructing the existing pole and are burdened by other nonconforming uses between the hotel and Nebraska Parkway. They would like to utilize the existing structure on the property as it was purchased. A strict application of the zoning sign regulation would produce undue hardship as well because there is no other method to physically advertise the location of the business given it is blocked from the view of Nebraska Parkway. The hardship is not shared by others in the same zoning district and same vicinity. The approval of this variance will likely generate increased business. Approval of this variance is based on the reason of demonstrable exceptional hardship distinguished from purpose, convenience, profit, or caprice.

Staff questions:

Johnson asked Staff to share the history of the site on the lot.

Brian Will, Planning Department, 555 South 10th Street, stated at one time the sign was allowed up to 50 feet. The original 1998 sign permit was approved. In 2008 or 2009 the sign code was modified and lowered to 25 feet for this district and the sign became nonconforming. Building and Safety found the sign cabinet was removed in 2018 or 2019, which is now outside of the 2-year window for replacement, and preservation of the nonconforming status. Within two years it could have existed as it was and had the sign cabinet replaced, but it was taken off and not replaced. At this point any changes to the sign must conform to the code in effect today.

Johnson stated the applicant referred to other nonconforming signs in the area, is there any information?

Will stated he does not know if they are. They may be nonconforming but pre-existing, so they may be legally existing. Once the nonconforming status is lost any future development needs to meet the requirements of the code.

McDonald asked if any business with nonconforming signs goes out of business, does the new

business always have two years to change it?

Will stated Building and Safety will issue a permit for the sign face within two years to keep it at the same height as the nonconforming sign.

McDonald stated the applicant says a conforming height sign wouldn't be seen because of all of the taller ones. There was nothing in the agenda packet that showed obstruction.

Will stated the code does allow 25-foot signs. He presented Exhibit A to show the visibility of the property from the right-of-way.

McRoy asked if they could use the nonconforming pole or have to take it down.

Will stated it could be shortened.

Miller asked if the total height limit is 25 feet or the pole height limit is 25 feet.

Will stated the total height 25 feet.

Applicant Rebuttal:

McDonald asked if the property was recently purchased.

Wakeman stated the business was purchased in 2021. While staff pointed out that advertising is popular online, a visitor still needs to find it when driving up.

Johnson stated the sign came down in 2018 or 2019. Given it wasn't purchased until 2021 the existing improvements should be considered part of the conditions of the property.

Ryman- Yost stated she understands the presentation that was made but looking at codes, doesn't feel a variance is appropriate.

APPEAL NO. 24001

ACTION BY THE CITY BOARD OF ZONING APPEALS:

February 23, 2024

Johnson moved to deny a variance to the maximum allowed sign height, seconded by McRoy, and carried 5-0: Johnson, Miller, McDonald, McRoy, and Ryman-Yost voting yes.

There being no further business, the meeting was adjourned at 1:52 p.m.

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

Exhibit A

