

**Minutes of Meeting
Zoning Board of Adjustment
Special Meeting**

August 18, 2021

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

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

A quorum being present, Chair Hollander called the meeting to order at 4:30 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 May 19, 2021.

Motion by Rossow, **seconded** by Hanson to approve the minutes from May 19, 2021, as written. Approved, 3-0.

Public Hearing

- A. CU21-1: Conditional Use Permit for retail use in I-L zoning district at 315 East 12th Street South. Robert W. Smith, applicant.

Dunkelberger reviewed the prepared staff report and shared images of the property, the zoning map, and the proposed floor plan and plot plan submitted by the applicant. Rossow asked staff for clarification about the text amendment that the applicant had already pursued. Dunkelberger explained that general retail was previously listed as a conditional use within the I-L: Light Industrial zoning district, but only if it was accessory to a permitted use *and* if the retail use constituted less than 50% of a facility’s business. The zoning text amendment changed that language to simply list “general retail” as a conditional use in the I-L zoning district. Rossow asked the applicant to describe the proposed use of the property.

Robert W. Smith, applicant, responded with his intentions for the property and listed the types of goods that would be sold. The art and consignment store would sell items created by Iowa artists and makers such as custom wood signs, paintings, photography art, jewelry, cards, candles, lotions, and home décor. He went on to discuss hours of operation which would be Friday afternoons and evenings, all day Saturdays, and by appointment until if and when the business grew and expanded hours were needed. Hanson asked about what would be required in terms of remodeling and wall removal.

Smith did not anticipate any significant remodeling would be needed beyond the addition of parking spaces in the front. Hollander asked if the current garage would remain as a parking space or utilized for the business. Smith answered that it would be used as a work room and the remainder of the floor space would

be used for sales and display. Rossow and Hollander asked about the proposed parking and if the two additional spaces would be sufficient for required parking and onsite circulation. Smith answered and described how the spaces would be utilized and that he would need to work with staff to make that final determination. Rossow asked if it was an existing business or startup. Smith replied that it would be a startup, but that he had tested the idea with mobile vendors but wants it to be more permanent thus the motivation behind this conditional use permit. Hanson asked the applicant to repeat the proposed initial hours of operation.

Julia Prendergast, 1123 1st Ave E, shared concerns regarding onsite parking and questioned if there would be adequate parking available. She was not interested in her property negatively impacted by the new use. Discussion ensued regarding minimum code requirements and whether or not two additional parking spaces would be sufficient considering the proposed use and customer visits.

Hearing no additional questions or comments, Hollander called for a motion to close the public hearing. **Motion** by Rossow, **seconded** by Hanson. Approved 3-0.

Rossow commented that she felt the Board should consider the requirement of three parking spaces instead of two and to evaluate onsite traffic circulation. Dunkelberger suggested that the matter could be explored further by the Newton Traffic Safety Committee. Hanson replied that he appreciated the idea and expressed his support. Rossow felt that a patron visited the property to shop, that was a bit different as compared to someone living at a property familiar with the area and backing out onto a public street.

Hollander summarized the discussion and felt that a minimum of three parking spaces should be a requirement for the conversion of the property in addition to design adjustments suggested by staff. Hollander asked staff about who would be responsible for converting the property back to a residential use if they chose to do so in the future. Dunkelberger explained that whoever owned the property would be responsible for removing the front yard parking spaces if they desired to revert the use of the property back to residential. Discussion about a motion for approval.

Motion by Hanson to approve CU21-1, a conditional use permit to convert 315 East 12th Street South into a retail use with the following conditions: a site plan shall be submitted to ensure a safe design and feedback from city staff shall be satisfied before approval; a minimum of three additional parking spaces shall be required; sale of fireworks is prohibited; the conditional use shall run with the permit holder; and a building permit application shall be required after site plan approval to initiate the final update to the Certificate of Occupancy. **Seconded** by Rossow. **Roll call vote:** approved 3-0.

B. CU21-2: Conditional Use Permit for single-family residence in I-L zoning district at 1313 East 12th Street North. Scott & Linda Greene, applicant.

Dunkelberger reviewed the prepared staff report and shared images of the property, the zoning map, and the proposed floor plan submitted by the applicant. Rossow commented on a past conditional use permit similar to CU21-2 (CU20-4 approved on May 13, 2020, for single-family residence at 1306 N. 11th Ave. E.). She explained how the Board approved that conditional use permit with a condition that required a separate conditional use permit review if any future expansions of the residential space were ever proposed. Hollander called the applicant to speak on the application.

Scott Greene, 1549 S. 12th Ave. W., explained his motivations for constructing a single-family residence within the new building at the subject property and for selling his current home. The building is located on the same parcel as his business, *S & L Auto Parts*, but the new building was constructed for personal use and would be separate from the business.

With no other comments or questions, Hollander called for a motion to close the public hearing. **Motion** by Rossow, **seconded** by Hanson. Approved 3-0.

Rossow commented that she had no additional questions or issues regarding the proposed conditional use at 1313 East 12th Street North. Hanson agreed. Hollander stated that he felt a quasi-precedent was set on May 13, 2020, with the approval of CU20-4 which was a similar conditional use permit.

Motion by Hanson to approve CU21-2, a conditional use permit for a single-family residence at 1313 East 12th Street North with the following conditions: the owner shall schedule a final inspection after building permit approval, obtain an updated Certificate of Occupancy, and any future expansion of the residential space shall require a separate conditional use review by the Newton Zoning Board of Adjustment. **Seconded** by Rossow. **Roll call vote:** approved 3-0.

Old Business

Dunkelberger reminded Board members of another upcoming Zoning Board of Adjustment meeting scheduled for Wednesday, September 1, 2021.

Dunkelberger also shared an update regarding the Global Fiberglass Solutions wind turbine blade storage at 1300 East 8th Street North. The Board revoked the conditional use permit for exterior storage and related operations at the property on May 19, 2021. Since that date, the Iowa Department of Natural Resources' case had been referred to the attorney general's office by the Iowa Environmental Protection Commission. Global Fiberglass Solutions faced a series of DNR orders and agreements but missed deadlines to recycle the blades, bury them in certified landfills, or ship them out of state.

Motion by Hanson to adjourn the meeting, **Seconded** by Rossow. Approved, 3-0. The meeting was adjourned at 5:12 pm.