

MINUTES
REGULAR MEETING OF THE OWOSSO ZONING BOARD OF APPEALS
CITY OF OWOSSO
AUGUST 18, 2015 at 9:30 AM
CITY COUNCIL CHAMBERS

CALL TO ORDER: The meeting was called to order by Randy Horton at 9:30 a.m.

ROLL CALL: Was taken by Recording Secretary Bridget Cannon

MEMBERS PRESENT: Chairman Randy Horton, Secretary Dan Jozwiak, Commissioner Kent Telesz, Commissioner Taylor, and Alternate John Horvath

MEMBERS ABSENT: Vice-Chairman Christopher Eveleth and Alternate Matthew Grubb

OTHERS PRESENT: Ms. Susan Montenegro, Assistant City Manager and Director of Community Development; Charles Rau, Owosso Building Official; Devin Ellenberg & Max Ellenberg, Tyler Cords, Owosso Iron & Metal, 229 S. Cedar St.; Scott Gould, Attorney at Law, 117 W. Oliver Street

AGENDA: IT WAS MOVED BY SECRETARY DAN JOZWIAK, AND SUPPORTED BY BOARD MEMBER KENT TELESZ, TO APPROVE THE AGENDA OF AUGUST 18, 2015 AS PRESENTED.
YEAS: ALL. MOTION CARRIED.

MINUTES: IT WAS MOVED BY SECRETARY JOZWIAK AND SUPPORTED BY BOARD MEMBER TELESZ TO APPROVE THE MINUTES OF JULY 21, 2015 AS PRESENTED.
YEAS: ALL. MOTION CARRIED.

COMMUNICATIONS:

1. Staff memorandum
2. ZBA minutes from July 21, 2015
3. Variance Request – 229 S. Cedar Street – Owosso Iron & Metal
4. Public Notice

COMMISSIONER/PUBLIC COMMENTS: Commissioner Dan Jozwiak had a family member present in the public, he felt this would be a conflict of interest for him to be seated as a board member for this variance request. He excused himself from the panel.

PUBLIC HEARINGS:

1. **VARIANCE – 229 S. CEDAR STREET**

Petitioner wishes to construct a fence between its buildings along S. Cedar Street to provide safety, security, improve the aesthetics of the property and act as a sound deadening barrier. The property is zoned I-1 light industrial and is considered a nonconforming use under the current zoning ordinance. The addition of a fence to the property is considered an “expansion of use” and is not allowed based on the Owosso Code of Ordinances: Section 38-378 (3)(4).

Attorney Scott Gould, representing Dice-Dex, LLC as owner of 229 S. Cedar Street, also known as Owosso Iron & Metal, stated his clients need the fence in question at their place of business. The fence was constructed in October, 2014, without a permit. A citation was issued by the City of Owosso’s building official and is a pending misdemeanor. There is a court date scheduled for this matter. Gould’s clients recognize they should have applied for the permit first before fence construction. Today’s issue is the clients’ request to the board to grant a variance for the fence and allow the “expansion of use.” The current building for Owosso Iron & Metal was constructed in 1905. The business has been operating in the same location for three generations. The clients feel this fence is appropriate because it benefits not only the clients, but also benefits the community. The fence in question faces the west, and runs north and south between the two buildings of Owosso Iron & Metal. Gould presented two photos of the existing

wooden fence. Gould contends the fence is a nice, quality wood constructed fence with a materials cost of about \$700. Inventory is kept in their two main buildings. He stated the fence provides a level of security for both buildings; it prevents theft from criminals outside regular business hours, provides a barrier to keep kids from entering the property and possibly getting injured, and keeps stray animals out. Owosso Iron and Metal is located in a residential area and it is the intent of the clients to make the property aesthetically pleasing to the neighborhood and the community. Gould states the fence acts as a sound deadening barrier for the light industrial activity from the residents. Gould showed a Google maps picture of area in question before the Ellenberg brothers owned the property. The fence provides security for the items that are pictured in this space – a business truck is pictured. The fence also prevents the business owners from having to lock and unlock their buildings throughout the work day. Clients are aware there is a concern about the noise created by their business activity, and this is a separate issue. Gould stated that there was community concern in the past, that the Ellenberg brothers were using the business for auto salvage for a short period of time. Gould contends this was merely metal scrapping, and the Ellenberg brothers have conceded to the fact this type of auto scrapping is not an option in this location. They would have to obtain a dealer's license. Residents should not be concerned about a future auto salvage business at this location. The new owners are trying to create business for themselves, create jobs in the community and support the local community businesses.

Commissioner Taylor asked if it was the Ellenberg Brothers future endeavor to have the property completely enclosed. Devin Ellenberg stated yes, there is only one section of fence missing at this time. It had fallen over the day before the meeting, and they would be applying for a fence permit to replace this section.

Chairman Horton called for a three minute intermission. After intermission, Chairman Horton opens up the floor for public comments.

Thomas Klockziem – 221 S. Cedar Street – Mr. Klockziem lives next door to this business. He does not believe this fence is necessary to the business, as the past business owners did not have a fence in this area and never stored any items between the two buildings. Mr. Klockziem does not feel theft is an issue in this neighborhood.

Alejandro Vargas – 218 S. Howell Street -- Mr. Vargas stated he felt the fence was a good thing. Not only does it provide privacy for the business owners, it also serves as a barricade that prevents theft. He believes there are bigger issues within the city that should be addressed, other than this fence. He feels the current business owners are fixing up this property little by little, and it is a good thing for the city of Owosso.

Martha Stinson – 208 S. Cedar Street – Ms. Stinson feels the fence represents an expansion of use for this business, and should not be allowed to remain.

Jane Back – 224 S. Cedar Street – Ms. Back presented a photo of the fence to the board. Ms. Back feels this fence does not act as a sound deadening barrier, as all of the noise from the business is generated on the north side of the building.

Michael Law – 182 W. Wilkinson Road – Mr. Law is currently working part-time for Owosso Iron & Metal. Mr. Law stated when the fence was not there, the business was not aesthetically pleasing. The Ellenberg brothers are trying to make the business look nice. They will be replacing the section of fence that has fallen with new fencing. These owners are generating business in Owosso, and support local businesses.

Judy Lamphere – 431 Curwood Drive – Ms. Lamphere owns multiple properties in Westtown. She drove by this property, and views the fence as a moot point. She does believe the owners need this fence between their two buildings. Ms. Lamphere feels the fence masks Owosso Iron & Metal's piles of scrap metal. She is in favor of the fence, and believes 'fences *do* make good neighbors.' She and her husband own Lamphere's Plumbing & Heating, and used water heaters and other scrap materials are taken to

Owosso Iron & Metal. If they were to remain on her business grounds, people would try to haul the materials away and steal.

Chairman Horton asked if there were any additional public comments and then brought discussion back to the board.

Discussion as to whether the fence in question was a replacement fence, or a newly constructed fence. According to permit details, and agreement of business owners and residents, this is a newly constructed fence.

Commissioner Taylor asked of any business changes since the new ownership and the newly constructed fence. Devin Ellenberg stated employees may now leave the doors open to the two buildings during regular business hours, and the fence is used as a barrier for employee parking. Ellenberg states regular business hours are 9 am – 6 pm. There is no work going on in the fenced area, as it is only estimated at being 2,200 square feet.

Ms. Montenegro referred to picture of property from several weeks ago that included a dumpster parked in area in question and a box truck. This is considered “expansion of use.” Devin Ellenberg stated the dumpster had been moved since the picture was taken, and they have also moved the box truck pictured.

Mr. Rau stated the community had complained about the dumpster and trailers behind the fenced in area. He asked them to remove these items, and the Ellenberg brothers complied.

Commissioner Telesz stated this business is listed as Class B Non-Conforming Use. Therefore, no overnight parking is allowed on the property.

MOTION BY COMMISSIONER TELESZ, SUPPORTED BY ALTERNATE HORVATH AFTER REVIEWING THE CASE FOR 229 S. CEDAR STREET, (050-660-023-111-00), THE OWOSSO ZBA HEREBY APPROVES THE PETITION TO PERMIT THE VARIANCE REQUEST FOR THE FENCE BETWEEN BUILDINGS ALONG THE WESTERN FRONT, CONDITIONED ON THE FOLLOWING:

- 1. NO OVERNIGHT PARKING ALLOWED BEHIND THE FENCED SECTION**
- 2. NO STORAGE OF BUSINESS MATERIALS BEHIND THE FENCE**
- 3. NO DUMPSTERS STORED BEHIND THIS SECTION OF FENCE**
- 4. DAYTIME PARKING BY EMPLOYEES DURING REGULAR BUSINESS HOURS ONLY**

YEAS ALL. MOTION CARRIED. COMMISSIONER JOZWIAK ABSTAINED FROM THE VOTE DUE TO CONFLICT OF INTEREST.

BUSINESS ITEMS: NONE

COMMISSIONER/PUBLIC COMMENTS: NONE

ADJOURNMENT:

MOTION BY BOARD MEMBER JOZWIAK, SUPPORTED BY BOARD MEMBER TELESZ TO ADJOURN AT 11:15 A.M. UNTIL THE NEXT REGULARLY SCHEDULED MEETING ON TUESDAY, SEPTEMBER 15, 2015, IF ANY REQUESTS ARE RECEIVED.

YEAS: ALL. MOTION CARRIED.

Dan Jozwiak, Secretary

Owosso Iron and Metal Variance Responses

David Clark (517) 331-0053

Does not want Owosso Iron & Metal to obtain variance and believes the business is already too big for a residential setting. Enlarging the business will only make more issues for neighborhood.

Phone call received August 17, 2015 @ 3:47 pm

Brooke Klockziem (989) 795-7707

She and her husband are not in favor of the variance to place a fence between the buildings at the Owosso Iron and Metal business. The Klockziem's own property at 221 S. Cedar and believe allowing the variance will only increase the amount of noise and dust already happening at the place. Brooke says the guys are working hard to be successful but need to move out of the residential area to make it work properly. Brooke has lived in her house since she was nine years old and says she is in her 70s now. She would like to live somewhere else but doesn't feel it is fair to make her and her husband go in debt at this stage of their lives.

Phone call received August 17, 2015 @ 2:45 pm

Teresa Klockziem (989) 277-3513

Called to say she does not want the variance to go through for Owosso Iron and Metal. Teresa lives at 841 Center Street here in Owosso but states her parents live next to this business and it is loud and messy. Teresa says her parents have health issues and the noise and mess are affecting them.

Phone call received August 17, 2015 @ 1:36 pm







