

**ZONING BOARD OF ADJUSTMENT  
MINUTES  
DECEMBER 21, 2021**

1. **CALL TO ORDER** – Behrens called the meeting to order at 4:00 p.m.
2. **ROLL CALL**  
Members Present: Behrens, Olson, Skudler, Tritsch and Vargas  
Members Absent: None  
Staff: Gibbons, Monrroy and Wade
3. **PLEDGE OF ALLEGIANCE**
4. **ADOPTION OF AGENDA**  
Motion by Olson, second by Skudler, to adopt the agenda as presented. Motion carried by unanimous voice vote.
5. **APPROVAL OF THE AUGUST 17, 2021 MEETING MINUTES+**  
Motion by Vargas, second by Skudler, to approve the minutes as presented. Motion carried by unanimous voice vote.
6. **PROOF OF PUBLICATION** – Gibbons
7. **REVIEW OF MEETING PROCEDURES** – Behrens
8. **PUBLIC HEARINGS**
  - A. Case #BA-21-004: Public hearing on the request of Cynthia Realty Company Inc., d/b/a Future Foam, for a variance from Section 15.20.050, *Site Development Regulations, I-1/Light Industrial District* of the Municipal Code (Zoning Ordinance) to allow a principal structure to have a zero foot interior side yard setback, as opposed to required 10 feet, on property legally described as Lots 2-11, Block 17, Halls Addition along with the vacated east/west alley and vacated Avenue F right-of-way adjacent; and Lots 2-11, Block 18, Halls Addition along with the vacated east/west alley and north one-half of vacated Avenue E right-of-way adjacent, City of Council Bluffs, Pottawattamie County, Iowa. Location: 600 North 10<sup>th</sup> Street.

Monrroy provided an overview of the request.

The following members of the public spoke in favor of the request:

Dan Kerns, Schemmer Associates, 1044 North 115<sup>th</sup> Street, Suite 300, Omaha, NE 68144, spoke as the architect of record for the project. Kerns stated that the applicant was requesting a full waiver from the required 10-foot setback to the westerly property line for two reasons: (1) a zero-foot interior side setback would facilitate access to the rail spur to the west, and (2) the proposed building addition must align with the existing foam line to the south. Kerns stated that the applicant would be unable to expand their operation without approval of the requested variance.

Patrick Medinger, Future Foam, Inc., 1610 Avenue ‘N,’ Council Bluffs, IA 51501, spoke as a representative of the applicant of the request. Medinger provided additional operational details on the production of foam to explain why the proposed building addition has to align directly with the existing foam line.

No one spoke in opposition of the request. Behrens closed the public hearing.

Motion made by Vargas to approve a 1 ½-foot variance from Section 15.20.050, *Site Development Regulations, I-1/Light Industrial District* of the Municipal Code (Zoning Ordinance) to allow a principal structure to have an 8 ½-foot interior side yard setback, as opposed to required 10 feet, on property legally described above, as per Staff’s recommendation. Motion did not receive a second, therefore motion failed.

Behrens asked if the applicant's testimony provided any new information to Staff. Gibbons stated Staff has visited the Future Foam site in the past, and is aware the foam production plant has been in operation for several decades. Gibbons stated that during initial discussions between the City and the applicant on the proposed building expansion project, Staff recommended rezoning the subject property to the P-I/Planned Industrial District and adopting a planned industrial development plan. Gibbons explained the development plan would establish a specific set of standards for the Future Foam site, which would allow the construction of the building addition as proposed while taking into consideration existing conditions on the subject property, including nonconformities. Gibbons stated that with the adoption of a development plan, the applicant would not have to obtain a variance from the Board every time they have plans to expand their facility, which would facilitate any development that occurs on the subject property in the future. Gibbons stated the applicant preferred to obtain a variance rather than adopting a development plan. Gibbons stated Staff recognized the need for some relief due to existing physical constraints, but noted it was hard to justify the requested variance since almost half of the building area proposed to be demolished is currently located 8 ½ feet from the westerly property line and has operated in such manner for years.

Vargas asked if the Board could approve the requested variance on the condition that the applicant adopts a planned industrial development plan for the subject property. Gibbons stated the Board has the authority to deny the variance and direct Staff to work with the applicant to adopt a development plan. Wade stated a development plan would be a more efficient tool to provide the necessary relief for the Future Foam project since the burden of proof on the applicant is higher for a variance.

Olson asked the applicant whether Staff's recommendation to approve a variance less than requested provided sufficient relief to accommodate the proposed building addition. Medinger stated that the 8 ½-foot interior side yard setback recommended by Staff would not address their needs. Olson suggested the applicant and Staff should work together to prepare a development plan since approval of a variance less than requested, as per Staff's recommendation, would not provide the necessary relief to allow the proposed building addition.

Skudler asked whether the applicant had any concerns with the adoption of a development plan. Medinger stated that although there were no particular concerns with a development plan, they preferred to obtain a variance since the Board had approved similar requests at this site in the past. Medinger also stated that he anticipated approval of the variance since no adverse impact on surrounding properties was expected as a result of this request.

Behrens stated she coincided with Olson and suggested the Board should continue the public hearing on the request to the January 18, 2022 meeting to allow the applicant to work with Staff and find an alternate solution.

Motion made by Vargas, second by Olson, to continue the public hearing on the request of Cynthia Realty Company Inc., d/b/a Future Foam, for a variance from Section 15.20.050, *Site Development Regulations, I-1/Light Industrial District* of the Municipal Code (Zoning Ordinance) to allow a principal structure to have a zero foot interior side yard setback, as opposed to required 10 feet, on property legally described above, to the January 18, 2022 Zoning Board of Adjustment meeting to allow the applicant to work with Staff to determine the exact variance required to allow the construction of the proposed building addition and begin negotiations to rezone the subject property to the P-I/Planned Industrial District and adopt a planned industrial development plan for Future Foam.

VOTE: AYE – Behrens, Olson, Skudler, Tritsch and Vargas. NAY – None. ABSTAIN – None. Motion carried.

**9. OTHER BUSINESS**

A. Items of interest: Gibbons stated there were no additional items of interest to discuss.

**10. ADJOURNMENT** – Behrens adjourned the meeting at 4:30 p.m.

*The recording of this proceeding, though not transcribed, is part of the record of each respective action of the Zoning Board of Adjustment. The recording of this proceeding is incorporated into these official minutes of this Board meeting as if they were transcribed herein.*