



ZONING BOARD OF APPEALS
Tuesday, December 16, 2014
5:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Minutes on Website: <http://rockfordil.gov/community-economic-development/construction-development-services/land-use-zoning/zoning-board-of-appeals.aspx>

Present:

ZBA Members: Melissa Luciani-Beckford
Thomas Fabiano
Kimberly Wheeler-Johnsen
Alicia DiBenedetto-Neubauer
Dan Roszkowski
Craig Sockwell

Absent: Scott Sanders

Staff: Scott Capovilla – Zoning and Land Use Administrator
Angela Hammer – Assistant City Attorney
Sandra Hawthorne - Administrative Assistant
Marcy Leach – Public Works
Tim Morris – Rockford Fire Department
Lafakeria Vaughn - Assistant City Attorney
Kerry Partridge – City Attorney
Officer Don Dulgar – Rockford Police Department

Others: Alderman Teena Newburg
Kathy Berg, Court Stenographer
Applicants and Interested Parties

Sandra Hawthorne explained the format of the meeting will follow the Boards Rules of Procedure generally outlined as:

The Chairman will call the address of the application.

- The Applicant or representative will come forward and be sworn in.
- The Applicant or representative will present their request before the Board
- The Board will ask any questions they may have regarding this application.
- The Chairman will then ask if there are any Objectors or Interested Parties. Objectors or Interested Parties are to come forward at that time, be sworn in by the Chairman, and give their name and address to the Zoning Board of Appeals secretary and the stenographer

Special Use Permit for a 10' tower extension on the existing 70' ATC tower for an overall height of 80' in a C-2, Limited Commercial Zoning District
Laid Over from November

The subject property is located within the Forest Plaza Shopping Center and is 12.91 acres in size. The neighborhood is a mixture of commercial uses to the north and residential uses to the south. Doug Dolan, Applicant, reviewed the request for Variation. They are wanting to add a 10 foot extension in order for Verizon to co-locate on this tower. An equipment shelter for backup generator at the base of the tower will also be installed. Mr. Dolan explained they are asking for the ten foot extension because there is a distance that co-locators are required to meet between each antenna. This Applicant would be the second to co-locate on this tower.

Alicia Neubauer expressed her appreciation that the Applicant was co-locating on an existing tower rather than wanting to build a new tower.

Staff Recommendation is for Approval with (2) conditions. No Objectors or Interested Parties were present.

A **MOTION** was made by Alicia Neubauer to **APPROVE** the Special Use Permit for a 10' tower extension on the existing 70' ATC tower for an overall height of 80' in a C-2, Limited Commercial Zoning District at 6449 East State Street. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Submittal of a revised site plan to include vinyl fencing and landscaping to be incorporated along all sides.
2. Must meet all applicable building and fire codes.

ZBA 046-14
Findings of Fact for Approval of a Special Use Permit
For a 10' Tower Extension on the Existing 70' ATC Tower
For an Overall Height of 80'
In a C-2, Limited Commercial Zoning District at
6449 East State Street

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will not substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the C-2 District.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.

- The special use shall, in all other respects, conform to the applicable regulations of the C-2 Zoning District in which it is located.

ZBA 049-14

Applicant
Ward 05

401 Harrison Avenue

Electric Guard Dog, LLC

Special Use Permit to allow an electric fence that is not an approved material in an I-1, Light Industrial Zoning District

The subject property is located 239 feet east of the Harrison Avenue and Energy Avenue intersection. The existing electric fence has been installed without a permit. Cindy Gsell and Bill Russo were present.

This item and items ZBA 050-15 and ZBA 051-14 are all for the same request at different locations and will be discussed together. Ms. Gsell is representing Electric Guard Dog. She explained that if the circuit is breached, it will submit a small volt of electricity. She stated this voltage will not hurt anyone because of the small voltage and brief timeframe. The fence is activated by setting an alarm and turning it off similar to a home security session. Ms. Gsell reviewed the Findings of Facts as defined in Staff Report. She felt this fence is actually beneficial for the neighborhood by detouring crime. Knox boxes have been installed with a kill switch for first responders per the Fire Department's request. She reviewed comments from a 2009 application that came before the Zoning Board.

Kim Johnsen stated she had touched a livestock fence that gave her quite a jolt and asked if it was the same voltage. In response, Ms. Gsell stated current fencing is patterned after the same feature, with newer technology and safety features. There is a 5 second delay prior to the voltage clicking in. She felt this 5 second delay avoids false alarms.

Alicia Neubauer stated she understood their company has a total of 4 locations where electrical permits were installed. She asked Staff if any other buffering could be installed that would make electrical fencing more agreeable to approval.

Mr. Capovilla responded that Staff would still recommend Denial if an application came before the board prior to the fence being installed. There are many other ways that are allowed by code to deter crime other than electrical fencing which has the potential to be harmful. Mr. Fabiano asked Ms. Gsell what the reasons were for other jurisdictions not approving electric fencing. Ms. Gsell stated she could not think of any. She did recall they stopped perusing one in Chicago because of the time frame for approval through the Chicago process.

Mr. Sockwell stated his concern is that the fence that came before the Board in 2009 was also installed without a permit, that the applicant was made aware that a permit was required, and yet they still installed 3 more fences without permits. Ms. Gsell stated in 2009 she made Staff aware that others were installed and they were told to wait to come back. He asked why they waited 5 years. Mr. Capovilla stated the fences at the three locations on the agenda at the current meeting were brought to their attention by the police department. The Applicant did not apply until this occurred.

Staff Recommendation is for Denial. No Objectors or Interested Parties were present for this application. (See item ZBA 050-14 for additional speaker for that item only).

During discussion Mr. Sockwell again stated he had a problem with the Applicant installing these fences without consulting with Staff or obtaining a permit. He felt the Applicant should have come before the Board sooner rather than 5 years later, and only at this time after the Police brought these fences to Staff's attention.

Alicia Neubauer felt if the signs were the biggest deterrent, why not just have signs. Melissa Beckford felt she was still concerned with the health and safety issues. Kim Petersen stated she has visited all three of

these locations and they are all quite a distance from people traffic. She asked Staff if there were any other electric fences in town that they were aware of. Mr. Capovilla stated they were not aware of any because there are other deterrents that business owners have used that meet code. Barb wire is a very good example of a deterrent that is allowed in industrial areas.

A **MOTION** was made by Kim Johnsen to **APPROVE** the Special Use Permit to allow an electric fence that is not an approved material in an I-1, Light Industrial Zoning District at 401 Harrison Avenue. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 4-2 with Tom Fabiano and Alicia Neubauer voting Nay.

ZBA 049-14
Findings of Fact for Approval of a Special Use Permit
To Allow an Electric Fence That is Not an Approved Material
In an I-1, Light Industrial Zoning District at
401 Harrison Avenue

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will not substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use does conform to the applicable regulations of the I-1 Zoning District in which it is located.

ZBA 050-14
Applicant
Ward 14

5456 Sandy Hollow
Electric Guard Dog, LLC
Special Use Permit to allow an electric fence that is not an approved material in an I-1, Light Industrial Zoning District

The subject property is located 330 feet west of the Sandy Hollow Road and Precision Driver intersection. The existing electrical fence has been installed without a permit.

This item was discussed under ZBA 049-14

Staff Recommendation is for Denial. One party in Support of this application was present.

Thomas Rudnicki, 5463 International Drive, stated his business abuts the subject property to the North. Mr. Rudnicki stated he is in agreement of allowing the Applicant to receive a vote of approval and feels his property would also benefit by this deterrent.

A **MOTION** was made by Kim Johnsen to **APPROVE** the Special Use Permit to allow an electric fence that is not an approved material in an I-1, Light Industrial Zoning District at 5456 Sandy Hollow Road. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 4-2 with Alicia Neubauer and Tom Friedman voting Nay

ZBA 050-14
Findings of Fact for Approval of a Special Use Permit
To Allow an Electric Fence That is Not an Approved Material
In An I-1, Light Industrial Zoning District at
5456 Sandy Hollow Road

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use does conform to the applicable regulations of the I-1 Zoning District in which it is located.

ZBA 051-14
Applicant
Ward 05

208 Quaker Road
Electric Guard Dog, LLC
Special Use Permit to allow an electric fence that is not an approved material in an I-2, General Industrial Zoning District

The subject property is located 900 feet northwest of the Quaker Road and Seminary Street intersection. The existing electrical fence has been installed without a permit. This item was discussed under ZBA 049-14

Joe Erlichman who is the owner of the motor freight terminal business at this location, reviewed the police calls. He stated there have been very minimal problems at this location because this business had an existing fence that would allow an electric fence to be installed within it. He stated 1100 Seminary Street for example is a location of police calls because their existing fence was of different material that was not conducive to installing an electrical fence within. Mr. Erlichman stated a semi-tractor trailer had previously been stolen from his property prior to the installation of the electrical fence. Mr. Fabiano asked how the fence was breached. Mr. Erlichman explained bolt cutters were used to open the gate and the vehicle was driven out. He felt an alarm system does not allow for a fast enough response time in this case.

Staff Recommendation is for Denial. No Objectors or Interested Parties were present for this application.

A **MOTION** was made by Kim Johnsen to **APPROVE** the Special Use Permit to allow an electric fence that is not an approved material in an I-2, General Industrial Zoning District at 208 Quaker Road. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 4-2 with Alicia Neubauer and Tom Fabiano voting Nay.

ZBA 051-14
Findings of Fact for Approval of a Special Use Permit
To Allow an Electric Fence That is Not an Approved Material
In an I-2, General Industrial Zoning District at
208 Quaker Road

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been or will be provided.
5. Adequate measures have been taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use does conform to the applicable regulations of the Zoning District in which it is located.

ZBA 052-14
Applicant
Ward 03

210 North Main Street

Dyn Rockford, LLC

Variation to reduce the parking drive aisle width from 24' to 22' in a C-4, Urban Mixed Use Zoning District

The subject property is located on the west side of North Main Street. Attorneys Marvin Keys and Tim Muldowney were present, representing the applicant. This property is a stand-alone parking lot. The lot currently has one way traffic flow. Attorney Muldowney explained that currently the alley is the only means of exit through the parking lot. This becomes problematic during the winter months when snow is present. Perpendicular parking would allow customers the option to have a second exit. The new design of perpendicular parking would encroach on the drive aisle in order to maintain the same depth of the parking space, which is the reason for this Variation request.

Alicia Neubauer stated there is access to the adjacent property to the west and it appears that the proposed layout would create a parking space right in front of a door to their building. Attorney Keys stated this is a "no access" door and should not be a problem. Ms. Neubauer further asked about vehicles larger than compact cars and feels this would create a problem with inadequate access in the

drive aisle width. Attorney Keys stated people recognize the width of the aisle and turning area and this has not been a problem. The parking lot is not open to the public at this time and there are signs stating vehicles will be towed. As of this date that has not been a problem and no vehicles have had to be removed. This has always been a private lot. Until the 326 Jefferson Street site is developed, they have no specific use for this parking lot. He explained they would be looking at 14 apartments at the Jefferson site and the existing 29 spaces should be sufficient to handle that use.

Staff Recommendation is for Approval with (2) conditions. No Objectors or Interested Parties were present.

Mr. Roszkowski stated he had no problem with this application.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Variation to reduce the parking drive aisle width from 24' to 22' in a C-4, Urban Mixed Use Zoning District at 210 North Main Street. The Motion was **SECONDED** by Kim Johnsen and **CARRIED** by a vote of 5-1 with Alicia Neubauer voting Nay

Approval is subject to the following conditions:

1. Must be in accordance to Exhibit D.
2. Must submit an application for a parking lot permit to include the landscape island

ZBA 052-14
Findings of Fact for Approval of a Variation
To Reduce the Parking Drive Aisle Width
From 24 Feet to 22 Feet
In a C-4, Urban Mixed Use Zoning District at
210 North Main Street

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the Zoning District in which it is located.

Other Business

2015 Zoning Board of Appeals Meeting Schedule

Mr. Capovilla explained that the January and February filing deadlines and meeting dates for 2015 will remain the same at this time. He explained that a change in City Council meeting dates may have an affect on the remaining months of the year for Zoning Board filing deadlines and meeting dates. Therefore, Mr. Capovilla asked the board to Approve the filing deadlines and meeting dates for January and February 2015 only until a decision is made on the months of March through December 2015.

A **MOTION** was made by Kim Johnsen to **APPROVE** the 2015 Zoning Board of Appeals Filing Dealing and Meeting Dates for January and February as presented. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

NOTE: After this meeting it was confirmed that the Zoning Board of Appeals filing and meeting dates will not be affected and will remain as originally proposed for 2015. Below is a listing of the approved schedule for the complete year of 2015.

It was brought to the attention of the Board that the January and February 2015 meeting dates are on a Wednesday due to the Monday holidays.

ZONING BOARD OF APPEALS

2015 SCHEDULE of PUBLIC HEARINGS

FILING DEADLINE: (Thursday, 5:00 P.M.)	MEETING DATE: (Third Tuesday of the Month)
<u>December 18, 2014</u>	<u>January 21, 2015-Wed</u>
January 15, 2015	February 18, 2015-Wed
February 12, 2015	March 17, 2015
March 19, 2015	April 21, 2015
April 16, 2015	May 19, 2015
May 14, 2015	June 16, 2015
June 18, 2015	July 21, 2015
July 16, 2015	August 18, 2015
August 13, 2015	September 15, 2015
September 17, 2015	October 20, 2015
October 15, 2015	November 17, 2015
November 12, 2015	December 15, 2015
December 17, 2015	January 20, 2016-Wed

With no further business to come before the Board, the meeting was adjourned at 6:43 PM

Respectfully Submitted,

Sandra A. Hawthorne, Administrative Assistant
Zoning Board of Appeals