

**Minutes
Board of Appeals
Ground Floor Conference Room
Tuesday, August 11th, 2015, 8 a.m.**

Members Present

Dave Van Nieuwenhuizen, Allison Dvorak, and Jarrod Smart

Members Absent

Terry Kelly and Liz Squyer

Guests Present

Jeff Hazard

Approval of Minutes of Last Meeting

A motion was made by Ms. Dvorak and a second was made by Mr. Smart to approve the minutes of the Tuesday, May 19th, 2015 hearing. Yeses, 3. Noes, 0.

New Business

1. **Appeal No. 4-2015.** Jeff Hazard of Koch Hazard Architects presented plans for the Jones 421 project to be located at 421 N. Phillips Avenue. The project consists of the renovation of the existing Feeding South Dakota Building, currently located at 417 N. Phillips Avenue, with a 4 story addition to the south. The intended use is to have basement parking, retail/office/restaurant uses on the first story with three levels of apartments above. Because the north elevation of the existing Feeding South Dakota building is located on the property line, openings are not allowed. No openings are allowed in an exterior wall that is located less than 3 feet from an adjoining property line. Instead of purchasing enough land to replat a property line to the north, which currently is a parking lot serving the adjoining Falls Center located at 431 N. Phillips Avenue; Mr. Hazard submitted an easement to assure that there will never be a structure built within 8 feet of the existing property line to the north. The 8 foot no-build/air light easement would allow 25% of the exterior wall to consist of unprotected window openings which is desired for natural light into the proposed tenant spaces. Because exterior wall fire resistivities and opening protections are only referenced by platted property lines, Mr. Hazard requested the use of the easement to accommodate the proposed window openings on the north elevation for the proposed tenants and to construct decks for the apartment uses on the second and third stories. Mr. Van Nieuwenhuizen expressed his concern that precedents have been established by accepting the no building/air rights easements to allow window openings, but there has

never been an approval of a deck projection beyond a property line based on easements. The secretary specified that the building code requires certain fire separation distances relating to projections in close proximity to platted property lines. Mr. Hazard offered to increase the easement dimension from 8 feet to 10 feet to accommodate the window openings and to allow him time to either review the possibility of a replat for the decks, or to come back to the board on the deck projection issue. A motion was made by Mr. Smart and a second by Ms. Dvorak to approve the no building/air rights easement with an amendment from 8 to 10 feet to accommodate the window openings. Motion passed unanimously.



Secretary