

Sponsor:

Peters / Elliott

ORDINANCE NO. 29-23

AN ORDINANCE AUTHORIZING THE MAYOR TO GRANT A SUPPLEMENTAL EASEMENT TO THE CHILLICOTHE TELEPHONE COMPANY DBA HORIZON TELCOM, INC., ON PROPERTY OWNED BY THE CITY OF JACKSON FOR PAYMENT TO THE CITY OF \$20,000.00, PURSUANT TO R.C. SECTION 723.121 AND DECLARING AN EMERGENCY.

WHEREAS, the City of Jackson is the owner of certain real property upon which The Chillicothe Telephone Company dba Horizon Telcom, Inc. (hereinafter "Horizon") is in need of an easement in furtherance of a City project; and

WHEREAS, Horizon has agreed to pay to the City of Jackson the total sum of \$20,000.00 for the easement in a form substantially similar to that attached hereto as Exhibit A and subject to approval of the locations by the Service-Safety Director after the completion of surveys by Horizon; and

WHEREAS, the City finds that the grant of the requested easement will not interfere with the City's use of the property for a municipal purpose and the interest so conveyed is not needed by the City for a municipal purpose and this conveyance is authorized pursuant to R.C. section 723.121 and without competitive bidding as this is a non-exclusive easement and Horizon has a unique need for the easement for its specific purposes and there are no other interested persons and for the further reason that this constitutes a valid exercise of powers granted to the City of Jackson pursuant to the home rule provision of the Ohio Constitution, Article XVIII, Section 3; and

WHEREAS, this matter constitutes an emergency necessary for the preservation of the health, safety and welfare of the City as the grant of the easement at the earliest possible date will permit the planned expansion and improvements to its system in the City to proceed; and

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE AUTHORITY OF THE POLITICAL SUBDIVISION OF THE CITY OF JACKSON, THAT THE INTEREST TO BE CONVEYED BY EASEMENT IS NOT NEEDED FOR A MUNICIPAL PURPOSE AND THE MAYOR IS HEREBY AUTHORIZED TO EXECUTE AND DELIVER THE SUPPLEMENTAL EASEMENT IN A FORM SUBSTANTIALLY SIMILAR TO THAT ATTACHED HERETO IN EXCHANGE FOR THE AGREED UPON PAYMENT AND DECLARING AN EMERGENCY

This Ordinance is hereby declared to be an emergency Ordinance necessary for the immediate preservation of the public peace, health or safety of the City of Jackson, Ohio and for the further reason set forth above. Therefore, this Ordinance shall go into effect upon passage and approval by the Mayor, as provided in Ohio Revised Code Section 731.30.

In the event this Ordinance receives a majority vote for passage but fails to receive the required number of votes to pass as an emergency, then this Ordinance shall be deemed to have passed but with no emergency clause, and shall take effect at the earliest time permitted by law.

OPEN MEETING. It is hereby found and determined that all formal actions of this council concerning and relating to this Ordinance were adopted in an open meeting, and that these deliberations of this council and its committees resulted in such formal action, or in meeting open to the public, in compliance with all legal requirements including section 121.22 of the Ohio Revised Code.

PASSED AND ADOPTED by the Legislative Authority of the Political Subdivision on this 22nd day of May, 2023.

David D. Fuller
President of Council

ATTEST:
Cindi Kuhn
Clerk of the Legislative Authority

Approved this 22nd day of May, 2023.

RANDY RAY
Mayor

Point-of-Presence (PoP) SITE EASEMENT AGREEMENT

THIS PoP SITE EASEMENT AGREEMENT (the "Agreement") is made this _____ day of _____, 2023 by and between **The City of Jackson, Ohio** (collectively, the "Grantor") and **The Chillicothe Telephone Company dba Horizon Telcom, Inc., an Ohio corporation** ("Horizon") Grantee.

WITNESSETH:

WHEREAS, Grantor is the owner of a tract of land containing 4 acres, commonly known as Jackson County Auditor Tax Parcel Id. No.: H140190010300, as more particularly described in Exhibit "A", attached hereto and by this reference incorporated herein (the "Grantor Tract");

WHEREAS, Horizon desires to acquire from Grantor easements on a portion of the Grantor Tract to operate and maintain a PoP Site (the "Premises"), as that term is hereinafter defined, and easements for access, ingress, egress and utilities on the Grantor Tract;

WHEREAS, Grantor and Horizon desire to establish certain easements and rights with respect to the Premises, which easements and rights shall burden the Grantor Tract, as such easements and rights are described herein, upon the terms and conditions stated herein.

NOW, THEREFORE, for and in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, Grantor and Horizon hereby agree as follows:

1. **Grant of Easement**. Grantor hereby grants and conveys to Horizon, subject to the limitations further described herein, an easement unto Horizon for a period of twenty (20) years commencing on the date hereof and ending on the date which is twenty (20) years thereafter (the "Term"); TO HAVE AND TO HOLD, unto Horizon, its transfers, its successors and assigns:

(a) over, across, under, through, and upon a portion of the Grantor Tract, for the purpose of installing, operating, and maintaining utilities, conduits, and lines (the "Utility Easement") on the Grantor Tract which is more particularly described on Exhibit "B";

(b) over, across, under, through, and upon a portion of the Grantor Tract for the construction, operation, and maintenance of a point of presence fiber site on a portion of the Grantor Tract measuring (twenty) feet (20') by (twenty) feet (20 ') ("Pop Site Easement"), which is more particularly described on Exhibit "C" and as depicted on Exhibit "C"; and

(c) access, ingress, and egress over, across, and through the Grantor Tract, from the public right of way of Dickason Street to the real property described in this Agreement as the Premises (the "Access Easement") as is more particularly described on Exhibit "D". The Utility Easement, Pop Site Easement and Access Easements shall collectively be referred to as the "Easements". Horizon may permit its agents, employees, contractors, and subcontractors to utilize the Utility and Access Easements, subject to the terms and conditions of this Agreement. The consideration paid by Grantee for the easements granted under this Agreement shall be Twenty Thousand and No/100 Dollars (\$20,000.00) and shall be paid as one (1) lump sum payment within thirty (30) days of the date on Grantee's written notice to Grantor that the Conditions Precedent, as defined below in Section 6, have been satisfied by Grantee. Once paid, Grantee's payment shall be non-refundable.

(d) Horizon shall have the right to extend this Agreement for one (1) additional term of twenty (20) years ("Renewal Term"). In the event that Horizon wishes to extend this Agreement for the Renewal Term, Horizon shall pay Grantor the sum of Twenty-Five and No/100 Dollars (\$25,000.00) as consideration of the Renewal Term.

2. **Temporary Construction Easement.** For a period commencing on the date that construction activities commence and ending six (6) months thereafter, Grantor hereby grants and conveys to Horizon, and any contractors or subcontractors engaged by, through or under Horizon, a temporary easement over portions of the Grantor Tract, as depicted on Exhibit "E", within forty (40) feet of the Easements for the purpose of permitting the construction of the PoP Facilities. Horizon further agrees to restore any property or landscaping damaged or destroyed in connection with or as a part of such installation.

3. **Maintenance.** Horizon acknowledges that the Premises are now in good repair and accepts the same in their present condition, "as-is." Horizon shall keep the Premises in good order and in a clean and sanitary condition through the Term, and shall provide all maintenance of the Premises, including ordinary maintenance of utility facilities, lines, connections, and services servicing the Premises. Mowing, sweeping, snow and ice removal, and similar maintenance of the Premises shall be the responsibility of Horizon. Horizon shall also pay for

any repairs and maintenance caused by the negligence or wrongful acts of Horizon or its agents, employees, contractors, and subcontractors to the Grantor Tract, Easements, or the Premises.

4. **Grantor's Representations and Warranties.** Grantor represents and warrants to Horizon and Horizon's successors and assigns that:

(a) Grantor has the authority to enter into and be bound by the terms of this Agreement;

(b) There are no pending or threatened administrative actions including bankruptcy or insolvency proceedings under state or federal law, suits, claims or causes of action against Grantor or which may otherwise affect the Grantor Tract;

(c) To the best of Grantor's knowledge, Grantor represents and warrants that there are no easements, licenses, rights of use or other encumbrances on the Easements which will materially and adversely interfere with or constructively prohibit Horizon's use of the Easements as a site for the construction and maintenance of an antenna, equipment shelter or cabinets, and related facilities ("Intended Use") of the Easements.

These representations and warranties of Grantor shall survive the closing anticipated by the exercise of this Agreement.

5. Grantor hereby grants to Horizon, its agents, employees, contractors, and subcontractors the right and privilege to enter upon the area of the Easements at any time after the date of this Agreement, to perform or cause to be performed test borings of the soil, environmental audits, engineering studies and to conduct a survey of the Easements. Grantor shall provide Horizon with any necessary keys or access codes to the Grantor Tract if needed for ingress and egress. Horizon shall not interfere with Grantor's use of the Grantor Tract in conducting these activities. Upon each and every entry onto Grantor's Tract or the Easements for any purpose whatsoever, Horizon shall restore, repair, and/or replace any damage caused to Grantor's Tract or the Easements as it relates to damage incurred to lawns, driveways, landscaping, fencing, walls, drainage systems, irrigation systems, utilities, improvements, and structures of every and any kind, to as good a condition as the Grantor's Tract or the Easements were in prior to Horizon's entry, tests, inspections, audits, studies, surveys, construction, installation, operation, maintenance, repair, or replacement.

6. **Conditions Precedent.** Horizon's obligation to perform under this Agreement shall be subject to and conditioned upon:

(a) Horizon securing appropriate regulatory or zoning and land use approvals for Horizon's Intended Use of the Grantor Tract and the Easements from the Federal Communications Commission and any other federal, state, or local regulatory authority or administrative agency or body having jurisdiction over Horizon's Intended Use of the Grantor Tract and Easements;

(b) Horizon may at Horizon's sole cost and expense procure and obtain an abstract of title or a commitment to issue a policy of title insurance on the Easements. In the event that Horizon objects to any material defect or cloud on title to the Easements or if Horizon is unable to secure releases of any liens that encumber the Easements or, alternatively, a non-disturbance and attornment agreement with any lien holder containing such terms, covenants and conditions as Horizon may reasonably require, Horizon may declare this Agreement and any obligation of Horizon to lease the Easements or acquire the Easements to be void and of no further force or effect, whereupon this Agreement shall become null and void and there shall be no further liability of Horizon to Grantor, except as set forth in Section 5 hereof;

(c) Horizon shall have the right to have the Easements surveyed and to have such engineering analyses performed as Horizon deems reasonable and necessary. In the event that any defects or circumstances are shown by the survey or the engineering analyses, which in the opinion of Horizon, may adversely affect Horizon's use of the Easements, Horizon shall have the right to rescind this Agreement immediately upon written notice to Grantor; and

(d) Horizon shall have the right to have an environmental audit of the Easements performed by an environmental consulting firm of Horizon's choice. If the environmental audit reveals that the Easements are contaminated with Hazardous Materials, as that term is hereinafter defined, Horizon shall have no obligation to perform under this Agreement if Horizon provides written notice to Grantor.

Horizon's inability to successfully satisfy these conditions shall relieve Horizon from any obligation to perform under this Agreement, subject to the notice provisions herein provided. The foregoing conditions precedent shall be waived by Horizon in the event that Horizon fails to assert any of the foregoing conditions precedent by written notification to Grantor within one hundred eighty (180) days of the date of this Agreement.

7. **Further Acts.** Grantor shall cooperate with Horizon in executing any documents or applications for the regulatory or zoning and land use approvals necessary to protect Horizon's rights under this Agreement or Horizon's use of the Easement and to take such action as Horizon may reasonably require to affect the intent of this Agreement.

8. **Improvements; Utilities; Access.**

(a) Horizon shall have the right, at Horizon's sole cost and expense, to erect and maintain on the PoP Site Easement improvements, personal property and facilities, including without limitation, equipment shelters or cabinets with vinyl siding installed on the exterior of such shelters and/or cabinets, or some other exterior material approved by Grantor in advance of such installation, emergency power generators and related facilities (collectively the "PoP Facilities"). The PoP Facilities shall remain the exclusive property of Horizon throughout the term and upon termination of this Agreement. Grantor grants Horizon the right to clear all undergrowth or other obstructions and to trim, cut, and keep trimmed and cut all tree limbs which may interfere with or fall upon Horizon's improvements, communications equipment, or easement rights;

(b) Horizon shall have the right to install utilities, at Horizon's expense, and to improve present utilities on the Utility Easement and PoP Site Easement. Horizon shall have the right to permanently place utilities on or to bring utilities across or under the Utility Easement to service the PoP Facilities. Grantor shall, upon Horizon's request, execute a separate written easement to the utility company providing the service in a form which may be filed of record evidencing this right, so long as such easement is reviewed and approved by Grantor in advance and such utilities are contained within the area of the Utility Easement;

(c) Grantor represents and warrants to Horizon that Horizon shall at all times during this Agreement enjoy access, ingress, and egress from the PoP Site Easement to an open and improved public road which presently exists and which shall be adequate to service the PoP Facilities.

9. **Taxes.** Horizon shall pay any personal property taxes assessed on, or any portion of such taxes attributable to, the PoP Facilities. Grantor shall pay when due all real property taxes and all other fees and assessments attributable to the Grantor Tract. Horizon shall pay any increase in real property taxes levied against Easements or the Grantor Tract which are directly attributable to Horizon's use of the Easements, and Grantor shall furnish proof of such increase to Horizon. In the event that Grantor fails to pay when due any taxes affecting the Grantor Tract or the Easements, Horizon shall have the right but not the obligation to pay such taxes and to demand reimbursement from Grantor for said amounts.

10. **Insurance.** Horizon shall, at all times during the Term, keep and maintain in force, at its own cost and expense the minimum insurance coverage limits set forth below:

- (a) "All Risk" Property Insurance, fire and extended coverage, for its personal property's, furnishings', inventories', equipment's, decorations', contents', and trade fixtures' replacement cost.
- (b) Worker's Compensation Insurance with benefits afforded under the law of the State of Ohio and Employer's Liability Insurance with minimum limits of \$1,000,000.00 for bodily injury (each accident), \$1,000,000.00 for bodily injury by disease (policy limits), and \$1,000,000.00 for bodily injury by disease (each employee). To the fullest extent allowable by law, the policy must include a waiver of subrogation in favor of Grantor.
- (c) Commercial General Liability Insurance covering Horizon's Permitted Use and operations on the Grantor Tract, with \$2,000,000.00 combined single limit, per occurrence and in the aggregate; \$1,000,000.00 each occurrence sub-limit for all bodily injury or property damage incurred in any one occurrence; \$1,000,000.00 each occurrence sub-limit for personal injury and advertising; \$2,000,000.00 products/completed operations aggregate limit, with a \$1,000,000.00 each occurrence sub-limit for products/completed operations; and fire legal liability sub-limits with a minimum of \$1,000,000.00. Grantor shall be listed as an additional insured on this policy. The policy must include a waiver of subrogation in favor of Grantor.
- (d) Umbrella/Excess Liability Insurance with limits of at least \$3,000,000.00 each occurrence with terms and conditions at least as broad as the underlying Commercial General Liability Insurance, Commercial Automobile Liability, and Employer's Liability policies.
- (e) Commercial Automobile Liability Insurance with minimum limits of \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage, with coverage extending to all owned, hired, and non-owned vehicles. Grantor shall be listed as an additional insured on the Commercial Automobile Liability policy.
- (f) All policies of insurance required to be carried by Horizon shall be written in such form, and by such company or companies, as shall be reasonably acceptable to Grantor. The original policies, certified copies thereof or certificates of insurance, together with evidence of the payment of all premiums, shall be delivered to Grantor on the Effective Date. Not less than thirty (30) days prior to the expiration of any policy, or prior to the due date of any premium of any then current policy, Horizon shall deliver to the Grantor any necessary renewal policy, a certified copy thereof, or other evidence satisfactory to the Grantor of the renewal of such insurance and of the

payment of such premium. All such policies of insurance shall provide that the same cannot be canceled without at least thirty (30) days prior written notice to all insured loss payees, that the naming of Grantor as an additional insured shall not obligate Grantor to pay premiums or to give notice of loss or to any other similar conditions, and that any loss shall be payable notwithstanding any act or negligence of the primary insured which might otherwise result in a forfeiture of the insurance. Notwithstanding the foregoing, the insurance required herein on the part of Horizon may be provided by Horizon through an umbrella policy as long as the coverage thereunder is at least equal to the coverage which would be provided under a separate policy covering only the Premises.

10. **Assignment.** Horizon may not transfer or assign this Agreement, or any right or interest hereunder or sublet the Premises or any part thereof without first obtaining the prior written consent and approval of Grantor, which shall not be unreasonably withheld, conditioned, or delayed; provided, that, Horizon may, without Grantor's prior written consent (but with notice to Grantor as soon as reasonably practicable after the transfer or assignment), transfer or assign this Agreement or any right or interest hereunder or sublet the Premises to any Affiliate (as defined herein), parent, subsidiary, or successor of Horizon which, at the time of such transfer, assignment, or sublet, is of comparable financial strength and stability as Horizon. Horizon shall promptly notify Grantor after any such permitted transfer, assignment, or subletting. For purposes of this Agreement, Affiliate shall mean any other person or entity directly or indirectly controlling, or controlled by, or under the direct or indirect common control with, a specified person or entity, including any subsidiaries or parent corporate entities, through majority stock or other ownership interest. "Control" of a person or entity means the power (directly or indirectly) to direct the management or policies of that person or entity, whether through the ownership of voting securities, by contract, by agency, or otherwise. A change in Control of Horizon shall not constitute an assignment of this Agreement. Any sublease, license or assignment of this Agreement that is entered into by Grantor or Horizon shall be subject to the provisions of this Agreement. Additionally, Horizon may, upon notice to Grantor, mortgage or grant a security interest in this Agreement and the PoP Facilities and may assign this Agreement and the PoP Facilities to any such mortgagees or holders of security interests including their successors and assigns (hereinafter collectively referred to as "Secured Parties"). In such event, Grantor shall execute such consent to leasehold financing as may reasonably be required by Secured Parties. Grantor agrees to notify Horizon and Horizon's Secured Parties simultaneously of any default by Horizon and to give Secured Parties the same right to cure any default as Horizon except that the cure period for any Secured Party shall not be less than 10 days after the receipt of the default notice. If a termination, disaffirmance or rejection of the Agreement pursuant to any laws (including any bankruptcy or insolvency laws) by Horizon shall occur, or if Grantor shall terminate this Agreement for any reason, Grantor will give to the Secured Parties prompt notice thereof and Grantor will give the Secured Parties the right to enter upon the Easements during a 30-day period

commencing upon the Secured Party's receipt of such notice for the purpose of removing any PoP Facilities. Grantor acknowledges that the Secured Parties shall be third-party beneficiaries of this Agreement.

11. **Waiver of Grantor's Lien.** Grantor hereby waives any and all lien rights it may have, statutory or otherwise, in and to the PoP Facilities or any portion thereof, regardless of whether or not same is deemed real or personal property under applicable laws.

12. **Notices.** All notices or other communications required or permitted to be given pursuant to the provisions of this Agreement shall be in writing and shall be considered as properly given if mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, or by delivering same in person (which may include by a nationally recognized overnight delivery service) to the intended addressee. Notice so mailed shall be effective upon its deposit in the custody of the United States Postal Service for mailing in accordance with the foregoing. Notice given in any other manner shall be effective only if and when received by the addressee. For the purposes of this Agreement, Grantor's address shall be initially designated as:

City of Jackson
145 Broadway Street
Jackson, Ohio 45640

And Horizon's address shall be designated as:

Horizon Telcom, Inc.
68 East Main Street
Chillicothe, OH 45601
Attn.: Secretary/Treasurer

Either party may change its address for notice purposes hereunder by a notice of such change given to the other party hereto, in the manner set forth herein.

13. **Successors, Transfers and Assigns.** This Agreement and the Easements shall inure to the benefit of and shall be a burden and binding upon Grantor, Horizon, and their respective successors, transfers and assigns, and shall run with and bind the Grantor Tract and the Easements. The rights hereto and the obligations hereunder shall be assigned when title to the Grantor Tract or the Easements, as applicable, is conveyed.

14. **Governing Law.** This Agreement shall be construed under and governed by the laws of the State of Ohio.

15. **Estoppel Certificates.** Grantor and Horizon hereby covenant and agree to execute and deliver to the other, within fifteen (15) days after written request therefor by the party making such request, an estoppel certificate addressed to the party making the request, or such other addressee designated by the party making the request, certifying (if such be the case) (i) the party making the request is not in default under this Agreement, and (ii) no charges, payment, or other monies are due or owing from the party making the request for the estoppel certificate, or if such charges, payments, or other monies are due or owing the amount thereof.

IN WITNESS WHEREOF, the Grantor hereto has hereunto set its hand this _____ day of _____, 2023.

“GRANTOR”

By: _____

“GRANTOR”

By: _____

State of Ohio)
) ss
County of _____)

Before me, a notary public, in and for said county, personally appeared the above named _____, who acknowledged that he did sign the foregoing instrument, and that the same is his free act and deed. In testimony whereof, I have hereunto subscribed my name at _____, this ___ day of _____, 2023.

WITNESS my hand and seal this ___ day of _____, 2023.

Notary Public

My Commission Expires:

IN WITNESS WHEREOF, the Grantee hereto has hereunto set its hand this _____ day of _____, 2023.

HORIZON TELCOM, INC.

By: _____
Tammy D. Perry, Director of FTTP
Program Management

State of Ohio)
) ss
County of _____)

Tammy D. Perry of the aforementioned, Horizon Telcom Inc, who represented that she is duly authorized in the premises, and who acknowledged that she did sign the foregoing instrument, and that the same is her free act and deed as such Director of FTTP Program Management and free act and deed of said Horizon Telcom Inc., an Ohio corporation.

WITNESS my hand and seal this ___ day of _____, 2023.

My Commission Expires:

Notary Public

This Documents was Prepared by: Horizon Telcom/RAP

**EXHIBIT A
GRANTOR TRACT**

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to the Point-of-Presence (PoP) SITE EASEMENT AGREEMENT dated _____, 2023, by and between The City of Jackson, Ohio and The Chillicothe Telephone Company dba Horizon Telecom, Inc. and its subsidiaries, an Ohio corporation ("Horizon").

The Property is legally described as follows:

Parcel No.: H140190010300

Address: 0 Huron Street and Dickason Street, Jackson, Ohio

Instrument No.: Deed Book 131 / Page 533

Acres: 4

Current Owner: The City of Jackson, Ohio

(LEGAL DESCRIPTION TO BE ADDED FROM TITLE REPORT)

Being Out Lot Forty Nine (49) in the south half of the town, now City of Jackson, Jackson County, Ohio

Board of Zoning Appeals Meeting
Council Chambers
May 22, 2023 6:30PM

Members Present: Ryan Peters, Sid Smith, Bob Mayhew, Jeff Elliott-President

Also Present: Mayor Evans, SD Swackhammer, Dan Fulks, Harold Newkirk, Joe Kirby, Clerk Cindi Kuhn

Public: Alex McWilliams

Mr. Elliott called the meeting to order at 6:30PM

Purpose:

- 1) To Consider a request for a variance for fence height from 6' to 8' at a property located at 101 Austin Way.
- 2) To Consider a request for a variance for a fence height of 6' with a 4' setback along an alley and a 4' high fence with a 3-4' setback along the street for the property located at 123 Columbia St.

101 Austin Way

- Mr. Swackhammer said that Mr. McWilliams wanted to increase his fence height around his patio for privacy. Mr. McWilliams explained that due to the incline on the property the 6' fence still didn't give him privacy on his patio. The neighbors were at an elevation that still overlooked his outdoor space. He is requested the BZA allow him to increase the fence height to allow for that privacy.

Neighbors were contacted about this meeting. David Shrefler, his neighbor, contacted the clerk and expressed his only concerns were:

- If the fence was to go down the entire property that he might be asked to share in the cost.
- And concern that trucks or equipment used for building the fence might tear up his property or disrupt his utilities (wifi).

Mr. Peters made the motion to approve the variance for the fence height, with a second from Mr. Smith. All members were in agreement. Motion Carried.

123 Columbia St.

- Mr. Swackhammer allowed Mr. Elliott to explain what he wanted to do, since it was his property. Mr. Elliott explained that the alley is very busy and he wanted the fence there for privacy. He is also concerned about the setback. If he followed the zoning regulations it would be so far into his property that it really wouldn't be beneficial to even build a fence. He is requesting a variance for a setback and height on this side of the property.

Board of Zoning Appeals Meeting

Council Chambers

May 22, 2023 6:30PM

- There were questions as to whether his property was a corner lot. It is on the corner of Columbia and an alley. Mr. Kirby said there is not state guidance on whether it being on the corner of an alley and a street makes it a corner lot.
- Mr. Elliott wanted to do a fence along Columbia St. as well. There are concerns with the property line and he will need to do a survey in order to determine which of the land is city property and which is his. He is requesting a variance for a setback on this side of the property.

Mr. Peters said he didn't feel these fences or setbacks created any obstructions. He motioned to grant the height variance and the setback pending the survey. Mr. Smith seconded the motion. All were in favor, with no one against, and Mr. Elliott abstained. Motion Carried.

Mr. Peters needed to be acting chairman to sign for this variance since it would be a conflict of interest for Mr. Elliott to sign his paperwork. Mr. Elliott made a motion for Mr. Peters to be the pro-tem, with a second from Mr. Smith. All were in favor. Motion Carried.

Mr. Peters made a motion to adjourn with a second from Mr. Mayhew. In a voice vote, all members agreed.

Adjourned – 6:48 PM

Cindi Kuhn

05-22-23