



Approved

MINUTES

CITY OF DUBUQUE ZONING BOARD OF ADJUSTMENT REGULAR SESSION

4:00 p.m., Thursday, October 23, 2008

City Council Chamber, Historic Federal Building

Board Members Present: Chairperson Mike Ruden; Board Members Randy Klauer, Jeff Cremer and Bill Gibbs.

Board Members Excused: None.

Staff Members Present: Guy Hemenway, Kyle Kritz and Wally Wernimont.

AFFIDAVIT OF COMPLIANCE: Staff presented an Affidavit of Compliance verifying the meeting was being held in compliance with the Iowa Open Meetings Law.

CALL TO ORDER: The meeting was called to order by Chairperson Mike Ruden at 4:00 p.m.

MINUTES & NOTICES OF DECISION: Motion by Klauer, seconded by Cremer to approve minutes of the September 25, 2008 meeting and Notices of Decision for Dockets 50-08, 57-08, 58-08, 60-08, 61-08, 62-08, 63-08, 64-08, 65-08 and 66-08. Motion carried by the following vote: Aye – Klauer, Cremer, Gibbs and Ruden; Nay – None.

SPECIAL EXCEPTIONS

DOCKET 59-08: Application of Ronald Brooks/Diana Fouche for a special exception (tabled from September 25, 2008) for property located at 2513 Broadway Street to construct a front porch 5 feet from the front property line, 20 feet required, in an R-2 Two-Family Residential zoning district.

Diane Fouche introduced Ronald Brooks. Ms. Fouche said that she wants to construct a front porch that will extend in front of her home and wrap around the side. She explained that the front porch will encroach into the front yard setback. She distributed photos of older houses in the immediate neighborhood that had porches similar to the proposed porch.

Staff Member Wernimont distributed photos of the site and reiterated the special exception request to build a wrap around historic-style porch. He said that the proposed porch is in keeping with the historic character of the neighborhood. He

explained that the open-style porch will not block the views to the sidewalk and street from the adjacent properties.

The Board discussed the request and found that it met the criteria for granting a special exception.

Motion by Gibbs, seconded by Klauer, to approve the special exception request, as submitted. Motion carried by the following vote: Aye – Klauer, Cremer, Gibbs and Ruden; Nay – None.

DOCKET 67-08: Application of David & Doris Hedrick for a special exception for property located at 1090 Roosevelt to build a 22 foot by 26 foot carport 6 inches from the east side property line, 6 feet minimum required; and 1,074 square feet of accessory structure, 988 square feet maximum allowed, in an R-1 Single-Family Residential zoning district.

David Hedrick outlined the special exception request to the Board. He explained that the proposed carport will be built over an existing paved driveway. He referred to a site diagram that was included in the Board's packet. He submitted a letter from Gary Bernard, 1180 Roosevelt, in support of the proposed carport.

The Board reviewed photos of the site and renderings of the building design.

Staff Member Wernimont reviewed the staff report. He explained that the adjacent property was recently surveyed. He discussed the style, structure, materials and design of the carport. He recommended that storm water runoff be directed away from the adjacent property and that the carport is approved with an open design.

Motion by Klauer, seconded by Gibbs, to approve the special exception with the condition that the carport remain an open design and that storm water be diverted away from the adjacent property. Motion carried by the following vote: Aye – Klauer, Cremer, Gibbs and Ruden; Nay – None.

DOCKET 68-08: Application of Application of Paul Demkier for a special exception for property located at 2839 Brueck Road to build a 24 foot by 30 foot storage shed 4 feet from the front property line (Northwest Arterial), 20 feet minimum required, in an R-1 Single-Family Residential zoning district.

The applicant was not in attendance.

Staff Member Hemenway explained that Paul Demkier's contractor was supposed to attend the meeting to explain the request. Staff Member Hemenway presented the staff report. He noted that the storage shed is located in proximity to the side property line

and the Northwest Arterial. He explained that at one point in time, the Demkier's property had a rear yard setback; however, the Northwest Arterial was constructed which changed the rear yard into a front yard.

The Board reviewed the special exception request and felt that it would have limited impact on the adjacent properties.

Motion by Klauer, seconded by Cremer, to approve the special exception, as submitted. Motion carried by the following vote: Aye – Klauer, Cremer, Gibbs and Ruden; Nay – None.

DOCKET 69-08: Application of Ricardo Segura & Michelle Harry for a special exception for property located at 2316 Prince Street to build a 12 foot by 6 ½ foot storage structure 1 foot 3 inches from the south side property line, 3 feet minimum required, in an R-2A Alternate Two-Family Residential zoning district.

Michelle Harry, 2316 Prince Street, explained her request to the Board. She said she would like to build a storage shed 1 foot 3 inches from the south side property line. She explained that the shed will be used to store bicycles and lawn maintenance equipment. She said that the shed will not obscure views from the adjacent properties. She said that the roof will direct water away from the side property line.

Staff Member Hemenway distributed photos of the site to the Board.

The Board asked if the shed is already constructed. Ms. Harry said that the shed has not been completed. She said there is an on-going dispute with the adjacent property owner regarding the location of the property line. Ms. Harry presented photos of the site to the Board.

The Board discussed the location of the shed in respect to the property line. Ms. Harry said that a survey was done two years ago on her property. The Board discussed the location of the adjacent property owner's garage to the property line.

Anna Brown, 2314 Prince Street, said that she is the adjacent property owner and is being encroached upon. She said that Ms. Harry's fence is placed two feet onto her property. She said that she does not agree with the submitted survey.

Board Chairperson Ruden said that it is not the Board's responsibility to determine where the property line is located. He said that the Board should review the structure in relationship to the property line to determine if the request meets the criteria for granting a special exception.

The Board reviewed photos of the site.

Ms. Brown distributed a letter of opposition and an aerial photo of the site.

Ms. Harry said that a survey was done two years ago on the property. She explained that her lot was surveyed because of a dispute regarding the location of the lot line. She said that she has undergone a legal process to determine the location of the fence relative to the property line.

Board Member Ruden said that the Board will review the request to see if it meets the criteria for granting a special exception.

Staff Member Hemenway presented the staff report to the Board. He explained the special exception request noting the size of the shed and its distance from the side property line. He noted that the shed will not block the view to the sidewalk nor to the street from the adjacent properties. He explained that the Board has the ability to place conditions upon approval. He said that a survey marker was found on-site. He explained that the survey marker was located on the property line between Ms. Brown and Ms. Harry's property.

The Board discussed the location of the property line with the applicant. Ms. Harry explained that the two adjacent property owners paid for a survey of her property because they were disputing the location of the lot line. She explained that she went to court which ruled in her favor regarding the location of the fence.

Staff Member Hemenway distributed a copy of the survey plat of the subject lot.

Board Member Klauer asked if the Board could approve the request with the condition that a survey is obtained, or if they could use the existing survey plat. Ms. Harry said that they have a survey of the property from two year's ago which was upheld by the court.

The Board felt that the request meets the criteria for granting a special exception.

Motion by Klauer, second by Gibbs, to approve the special exception request, with the condition that the structure be built 1 foot 3 inches from the side property line, as established by the submitted survey plat dated September 8, 2005.

CONDITIONAL USE PERMITS

DOCKET 70-08: Application of Greg & Peggy Stover / Fannie Stout LLC for a conditional use permit for property located at 1145 Locust Street to open a bed and breakfast establishment and re-open a meeting and event center operation.

Greg Stover, 1145 Locust Street, said that he is a part-time resident at 1145 Locust. He outlined the history of the property. He explained that he operated a meeting center at this location for about 8 months from 2001 to 2002. He said that neighbors are present at the meeting in support of the proposed project. He discussed parking issues with respect to the proposed business. He said that adequate parking is available in the immediate area. He said that he wants to reopen the meeting and events center. He explained that he initially wants to open the bed and breakfast with four to five rooms and gradually increase the operation to nine rooms. He said that the average occupancy rate of a bed and breakfast is 30%.

Lenore Nesler, owner of the Naughty Dog Restaurant at 1108 Locust Street, spoke in favor of the request. She said that parking is not a problem in the neighborhood. She said she enthusiastically supports the conditional use permit request.

Jane Weiland, 1182 Locust Street, said that she has six garage spaces for her residential apartment complex. She explained that parking is not a problem in the immediate area. She spoke in favor of the request.

Staff Member Wernimont outlined the request for a conditional use permit. He noted the history of the property and the conditions of the original conditional use permit. He discussed parking requirements and the sale of the parking lot. He explained that the applicant could lease parking, or apply for a parking variance from the Zoning Board of Adjustment, or create nine additional off-street parking spaces for the operation, in order to meet the parking requirements. He said the facility currently has enough parking to open a seven-room bed and breakfast. Staff Member Wernimont recommended that, if the Board approves the conditional use permit, it is contingent upon the applicant applying for and being granted approval of a parking variance.

The Board discussed the request. The Board discussed the possibility of tabling the application to allow the applicant to apply for a parking variance. Mr. Stover said that he did not want to table the conditional use application.

Motion by Klauer, seconded by Cremer, to approve the conditional use permit, contingent upon the applicant receiving a parking variance. Motion carried by the following vote: Aye – Klauer, Cremer, Gibbs and Ruden; Nay – None.

VARIANCES

DOCKET 71-08: Application of Jim Gross / Hagar LLC for a variance for property located at 1920-1998 Elm Street to pave 100% of the lot area, 20% permeable area required, in a C-2 Neighborhood Shopping Center District.

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This agenda item was withdrawn from the agenda as per staff recommendation. No vote was taken.

ITEMS FROM BOARD:

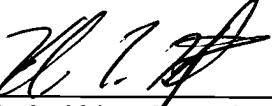
Airport Zoning Board of Adjustment Membership

The Board discussed appointing members of the City Zoning Board of Adjustment to the Airport Zoning Board of Adjustment.

Motion by Cremer, seconded by Gibbs, to approve Board Chairperson Mike Ruden and Vice-Chairperson Randy Klauer to the Airport Zoning Board of Adjustment. Motion carried by the following vote: Aye – Klauer, Cremer, Gibbs and Ruden; Nay – None.

ADJOURNMENT: The meeting adjourned at 5:35 p.m.

Respectfully submitted,



Kyle L. Kritz, Associate Planner

11-20-08

Adopted

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