



Approved

**MINUTES
CITY OF DUBUQUE ZONING BOARD OF ADJUSTMENT
REGULAR SESSION**

5:30 p.m.

Thursday, April 28, 2022
City Council Chambers, Historic Federal Building

Board Members Present: Chairperson Jonathan McCoy, Board Members Keith Ahlvin, Bethany Golombeski, Gwen Kosel and Matt Mauss.

Board Members Excused: None

Board Members Unexcused: None

Staff Members Present: Shena Moon, Jason Duba and Ryan Kirschman

CALL TO ORDER: The meeting was called to order by Chairperson McCoy at 5:30 p.m.

MINUTES: Motion by Mauss, seconded by Ahlvin, to approve the minutes of the March 24, 2022 Zoning Board of Adjustment meeting as submitted. Motion carried by the following vote: Aye – Ahlvin, Golombeski and Mauss; Nay – None.

DOCKET – 08-22 Tabled from March: Application of Ethan Lenertz, Kwik Trip, Inc. to install a freestanding sign 65' in height where 40' maximum height is permitted in a HI Heavy Industrial zoning district.

Dax Connely, Kwik Trip, La Crosse, spoke in favor of the request. He explained that this is a unique property with the elevated highway approximately 31' above ground level. He stated that they are proceeding with site plan review and purchasing the property following a development agreement. He commented that the store would not be able to attract as many customers without a tall sign. Mr. Connely explained the renderings of the sign in location that he provided and noted the height of the cabinet and price signs. He also pointed out visual impediments such as trees and the westbound off-ramp being far away. He stated that company recognition and branding is very important.

Staff Member Duba detailed the staff report noting the details of the request and its stated purpose to allow northbound traffic on Highway 61/151 to see the sign and exit at Kerper Boulevard to access the business. He described the visibility challenges posed by the site and the elevated highway structure. He noted the limited impact that approval of the variance would likely have on adjacent properties. He also shared the guiding principles of aesthetics that apply to the city's Signage Overlay District, which regulates off-premise signage in this corridor of Highway 61/151, though this is an on-premise sign and not subject to the regulations.

Chair McCoy asked about the height of nearby free-standing signs at nearby BP and Kwik Stop on East 16th Street. Staff Member Duba responded that they are both at 40', compliant with the code, and showed imagery of their signs.

Chair McCoy explained to the applicant that in reviewing a variance request the Board does not consider the review from a perspective of financial loss or gain to the applicant, but rather they review the project based on the requirements set forth in the Unified Development Code.

Board member Ahlvin asked about state sponsored signage on the highway, and Staff Member Duba responded that was not an option due to the elevated highway structure.

Board member Kosel wondered whether the other gas stations in the area of the subject property would want a 65' sign. Staff Member Duba responded that they may want such a sign, but the Board's action does not set a precedent and any future cases would be considered on their own merits.

Board member Mauss noted that both existing gas stations are more visible from the highway and the bank of the highway would make seeing the subject property signage harder.

Board member Golombeski referred to her question from the March ZBA meeting asking again about the heights of other freestanding signs in the city and specifically questioning whether any exceed the 40' maximum permitted by code. Staff Member Duba noted that he researched other free-standing signage throughout the city and referenced a freestanding signage exhibit provided in the staff report. Duba reviewed the signage exhibit, noting that the Q Casino freestanding sign is 75' tall and received a variance. Other freestanding signs throughout the city are compliant at 35' to 40' maximum heights.

Motion by Mauss, seconded by Ahlvin, to approve the request as submitted. Motion carried by the following vote: Aye –Golombeski, Kosel and Mauss; Nay – Ahlvin citing requirements 1, 3, 4 and 5 and McCoy citing requirements 1, 4 and 5 of the Unified Development Code for the nay votes. (See below.)

1. The particular property, because of size, shape, topography, or other physical conditions, suffers singular disadvantage, which disadvantage does not apply to other properties in the vicinity; and
3. This disadvantage does not exist because of conditions created by the owner or previous owners of the property; and
4. Granting the variance requested will not confer on the applicant any special privilege that is denied to other lands, structures, or buildings in the same district; and
5. Granting of the variance will not be contrary to the public interest, will not adversely affect other property in the vicinity, and will be in harmony with the intent and purpose of the provision waived.

DOCKET – 09-22: Application of Jamie Beresford, 2155 Paul Street to allow a deck 0' from the rear and side yard property lines, where 20' and 6' minimum is required, respectively, and to allow 82% lot coverage where 40% maximum lot coverage is permitted in an R-2 Two-Family Residential zoning district.

Jamie Beresford, 2155 Paul Street, spoke in favor of the request. He asked the Board if he could read his letter into the record, or if they would like to read it themselves, and they read it to themselves.

Chair McCoy clarified that the deck was completed and now the property owner is coming back to request approval of it.

Mr. Beresford detailed how he constructed the deck to create usable outdoor area on the property and to clean up the property. He also provided a response to the neighbor complaints by identifying some challenges with the neighboring property including invasive unkept trees and a dilapidated garage structure located close to his property. Chair McCoy reminded him that the Board is only reviewing the request for his property and would not be addressing neighborly disputes. Mr. Beresford stated that they are seeking to have a nice, aesthetically pleasing structure that is a safe space for the two children who reside in the home to play. He specifically identified that the new railing along the alley side of the property protects the children from falling to the alley below.

Robert Boge, 2703 North Grandview Avenue, owns a rental property at 521 Clarke Drive, stated that Mr. Beresford has improved this property and the neighborhood by renovating this formerly vacant and abandoned property.

Tiffany Ramos, 2155 Paul Street, stated there is not yard area for her two children and the back deck allows them to be outside in a safe manner. She noted that tree branches fall on this area, so the deck roof provides protection from this.

Staff Member Moon detailed the staff report noting the original request was for a special exception to allow 82% lot coverage, but the lot coverage was re-evaluated and found to be under 80%, so that is no longer part of the request. She stated that the special exception request for setbacks is still as noted in the staff report. She noted this is a unique property with higher elevation than the neighboring street and alley, a smaller lot, and a rock wall surrounding the property. She explained that the deck has been constructed, and they are now seeking to legalize it. She pointed out the covered part of the deck is 12' x 25'.

Board member Ahlvin asked whether building permits have been obtained for the deck and Mr. Beresford responded no.

Mr. Ahlvin asked about the property lines and Mr. Beresford responded that they are at the edge of the retaining walls, but the walls are on the neighbor's property.

Board member Mauss stated that he sees how this property is bound by its surroundings.

Board member Golombeski asked if the deck was stained, and Mr. Beresford replied that he intends to paint or stain the deck.

Chair McCoy asked if the applicant would accept the condition of getting a building permit and Mr. Beresford agreed. Chair McCoy further asked if the applicant would accept the three conditions proposed by city staff and Mr. Beresford agreed.

Motion by McCoy, seconded by Mauss, to approve the request with the following conditions:

1. The applicant shall obtain a building permit.
2. The property owner demonstrates the location of the north property line to the satisfaction of the Building Official.
3. The deck remain an open design.
4. Stormwater be managed on the subject property or, if directed to the alley, approved by the Engineering Department.

Motion carried by the following vote: Aye – Ahlvin, Golombeski, Kosel, Mauss and McCoy; Nay – None.

DOCKET – 10-22: Application of Larry Miller, D Wingate Real Estate LLC, Eastgate Court, PIN 1028207080 to construct a multi-family residential structure 17' from the front property line where a 20' minimum front yard setback is required in an R-4 Multi-Family Residential zoning district.

Larry Miller, Miller Construction, spoke in favor of the request. He explained that the west end of the building needs space for utilities, moving it 7' over. He noted that the proposed location will line up with the building to the north to maintain uniformity, and the design will be the same as the buildings to the south. He pointed out the curve of the cul-de-sac is the challenge here.

Staff Member Duba detailed the staff report noting the characteristics of the subject property and the surrounding properties. He pointed out that the surrounding properties are owned and developed by the applicant and this project will be consistent in design and scale with adjacent development. He noted the challenge of accounting for utility lines, roads, and other features, such as the curve of the cul-de-sac. He stated the development would comply with all other Unified Development Code regulations including use, lot coverage, area, and side and rear yard setbacks.

The Board had no questions or concerns.

Motion by Mauss, seconded by Golombeski, to approve the request as submitted. Motion carried by the following vote: Aye – Ahlvin, Golombeski, Kosel, Mauss and McCoy; Nay – None.

DOCKET – 11-22: Application of Tom Giese, Giese Company, 1209 Peosta Street to construct a storage building addition 7' from the side property line where 20' minimum side yard setback is required in a LI Light Industrial zoning district.

Tom Giese, Giese Sheet Metal, spoke in favor of the request. He explained that the existing building is 30' x 175', and they're planning to build a 50' addition to the north and tear down the existing open shed. He stated that he talked to the neighbor to the north who was okay with it if they were going to clean up the area. He stated the north wall would be 5' south of the existing fence.

Chair McCoy listed the three suggested recommendations from the city's staff report questioning whether the applicant would be accepting of the conditions. Mr. Giese stated he had no concerns with the conditions presented.

Staff Member Moon detailed the staff report noting that the proposed addition would be 7' from the north property line. Because this property is zoned Light Industrial and the property to the north is zoned R-1 Single-Family Residential, a 20' setback is required. She noted that the proposed addition would be consistent in design, style, and finish with the existing building.

Chair McCoy asked about the requirement for screening exterior storage and Staff Member Moon explained that screening would only be required per the Unified Development Code when storage is exterior of a structure. For the subject site the applicant proposes to remove the existing exterior storage on the site and intends to store everything inside to the proposed building, so additional screening is not required at this time. Furthermore, Moon explained that if any exterior storage was proposed on the site in the future that screening may be required.

Board member Ahlvin stated that he felt the three proposed conditions should be sufficient.

Board member Mauss stated that he felt storing inside the proposed building is better than having exterior storage.

Motion by Mauss, seconded by Golombeski, to approve the request as submitted with the following conditions:

1. All exterior lighting luminaires shall be designed and installed to shield light from the luminaire at angles above 72 degrees from vertical.
2. All surface parking lot lighting shall be designed, installed, and maintained so that no light sources shall provide illumination onto adjacent lots, buildings, or streets.
3. Exterior storage shall be screened in accordance with the Unified Development Code Section 13-4-10, Exterior Storage in Nonresidential Districts.

Motion carried by the following vote: Aye – Ahlvin, Golombeski, Kosel, Mauss and McCoy; Nay – None.

DOCKET – 12-22: Application of Emily Sewell, AIA; Gronen, 125 West 9th Street to construct three new residential units with a deficit of 4 off-street parking spaces within an existing multi-family residential building in an OR Office Residential zoning district.

Emily Sewell, 14247 N Cascade Rd, spoke in favor of the request. She explained that this property was formerly the Henry Stout, Iowa Inn, and YMCA. She said they are seeking to add three units to basement in part to enhance their tax credit application. She noted there are currently 33 units with no designated parking spaces.

Staff Member Moon detailed the staff report noting that the project is seeking to add units to this building that has a long history. She explained there is a parking credit of 50 spaces based on previous uses. The total of 36 units would require 54 parking spaces based on current code requirements, so there is shortcoming of four parking spaces, thus requiring a variance. She pointed out that surrounding development includes commercial properties, the fire station, and a parking ramp.

Board member Ahlvin noted there are parking garages nearby that residents could use.

Motion by Ahlvin, seconded by Mauss, to approve the request as submitted. Motion carried by the following vote: Aye – Ahlvin, Golombeski, Kosel, Mauss and McCoy; Nay – None.

ITEMS FROM PUBLIC: None

ITEMS FROM BOARD: Chair McCoy asked which Commissioners had participated in the Iowa State Training for Boards & Commissions. Chair McCoy and Board Member Golombeski had received the training.

Planning Services Manager Wernimont stated that funding for the training was approved, and it would be set up for the Board with the Zoning Advisory Commission and City Council.

ITEMS FROM STAFF:

- By-Law Amendments regarding Robert's Rules of Order

Chair McCoy stated that he was hesitant to put Robert's Rules of Order in the by-laws without training to better understand Robert's Rules of Order.

Planning Services Manager Wernimont stated that City Attorney Brumwell offered training that could be provided again.

- Election of Officers

Chair McCoy noted that the Board is required to appoint officers and recommended the Board nominate and motion to approve the positions.

The Board nominated McCoy as Board Chair and Ahlvin as Vice Chair.

Motion by Ahlvin, seconded by Kosel, to appoint Jonathan McCoy as Board Chair. Motion carried by the following vote: Aye – Ahlvin, Golombeski, Kosel, Mauss and McCoy; Nay – None.

Motion by McCoy, seconded by Golombeski, to appoint Keith Ahlvin as Vice Chair. Motion carried by the following vote: Aye – Ahlvin, Golombeski, Kosel, Mauss and McCoy; Nay – None.

- Appointment to the Airport Zoning Board of Adjustment

Staff Member Moon noted that The Zoning Board of Adjustment is required to appoint two of its members to the Airport Zoning Board of Adjustment per Unified Development Code Article 8-1(E). Moon noted that it is a voluntary position which requires City Council Appointment.

The Board nominated Ahlvin and Golombeski as liaisons.

Motion by McCoy, seconded by Mauss, to appoint Keith Ahlvin and Bethany Golombeski as the Zoning Board of Adjustment liaisons to the Airport Zoning Board of Adjustment. Motion carried by the following vote: Aye – Ahlvin, Golombeski, Kosel, Mauss and McCoy; Nay – None.

- Annual Goal Setting

Board Members discussed the planned revision of the Unified Development Code. Board Member Ahlvin suggested ideas related to permitting parking and short-term rental housing. Staff Member Moon stated these were items worth discussing during the process and also brought up enforcement challenges with permitting parking on private property and the state's preemption of local control on short-term rentals.

Planning Services Manager Wernimont explained that the UDC update would create task forces and request volunteers to provide feedback.

Chair McCoy expressed appreciation for staff's improvements to sharing information during meetings via the computers and screens.

ADJOURNMENT: Motion by Kosel, seconded by McCoy, to adjourn the April 28, 2022 Zoning Board of Adjustment meeting. Motion carried by the following vote: Aye – Ahlvin, Golombeski, Kosel, Mauss and McCoy; Nay – None

The meeting adjourned at 6:38 p.m.

Respectfully submitted,



Shena Moon, Associate Planner

5-26-2022

Adopted