

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

5:30 p.m.

Thursday, May 26, 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 Kosel, seconded by Ahlvin, to approve the minutes of the April 28, 2022 Zoning Board of Adjustment meeting as submitted. Motion carried by the following vote: Aye – Ahlvin, Golombeski, Kosel, Mauss and McCoy; Nay – None.

DOCKET – 13-22: Application of Mark & Deb Rothweiler, 1575 Curtis Street to construct a garden shed 0' from the front property line where 20' minimum setback is required in an R-1 Single-Family Residential zoning district.

Deb and Mark Rothweiler, spoke in favor of the request. They explained that they purchased land from the DOT and consolidated it with their property. They noted they just want to build a garden shed, but since the rear of their property has frontage on Dodge Street, it is considered a front yard and subject to the 20' setback requirement. They said that placing the shed 20' from the frontage with Dodge would put it in the middle of their yard.

Staff Member Kirschman detailed the staff report noting the location and characteristics of the subject property and the neighborhood around it. He noted the large size of the property and its status of having two front yards – one along Curtis Street and one along Dodge Street. He explained the special exception would allow the garden shed to be placed 0' from the property line along the Dodge Street frontage, which is on the subject property within the sound barrier wall separating the property from the highway.

The Board had no questions or concerns.

Motion by Mauss, seconded by Ahlvin, to approve the request as submitted. Motion carried by the following vote: Aye – Ahlvin, Golombeski, Kosel, Mauss and McCoy; Nay

– None.

DOCKET – 14-22: Application of Ron and Silvana Wagner, 2719 Brunskill Road to construct a 3,500 square foot detached garage 21' in height where 1,000 square feet and 15' height maximum are permitted in an R-1 Single-Family Residential zoning district.

Ron and Silvana Wagner, 2719 Brunskill Road, spoke in favor of the request. Mr. Wagner explained the need for the larger garage to store his large work truck, which also has a lift gate and tool boxes, noting the dimensions of the vehicle and equipment. He noted the truck is currently stored outside on the driveway. He explained that he does not do business from home, he just stores the truck there. He noted that the garage would hardly be visible from the road because it is behind the house and downhill, and he also noted the distance from the garage to the street and other residences. He explained that all the other garage spaces on the property are occupied with vehicles and equipment, and that he would like additional space to store his vehicles and equipment in a manner that is not so confined.

Fred Krapfl, 365 Doe Court, supported the special exception. He said he heard talk of objecting to this special exception, but he wanted to know more, so he talked to Mr. Wagner. Mr Krapfl stated there is no factual objection to this request because there is no problem with visibility, and no one in Oak Meadows would be impacted, and traffic would not increase. He noted the only change is where things are stored, the customers do not come to the property, so it won't be commercial.

Paul Barnett, 2711 Brunskill Road, stated he would be the most likely to be impacted as the next-door neighbor, but this would be an upgrade. He stated Ron and Silvana's property is aesthetically pleasing.

Chad Welsh, 2833 Brunskill Road, agreed with the other supporters. He stated he would be impacted as a next-door neighbor with a view of the property, but he's not concerned, as it will be hard to see the garage. He noted he's thankful for the Wagner's being friendly neighbors.

Jerelyn O'Conner, 3005 Deerwood Circle, expressed concern about the size and height of the garage. She noted the staff report didn't cover the view from the street. She expressed that the neighboring garage is out of place.

Staff Member Duba detailed the staff report noting the size and height of the proposed garage. He placed it within the context of the large subject property and the surrounding neighborhood, which includes another large garage that received a special exception. He noted the land to the rear is undevelopable steep hillside.

Board Member Ahlvin asked about the regulations on commercial activity, and Staff Member Moon explained that a home-based business is allowed, but on-site commercial activity is prohibited. Ahlvin noted it would be a large garage, but it is well-concealed.

Board Member Golombeski asked about construction method and materials. Mr. Wagner responded that it would have a concrete foundation with frame construction. He stated he's not sure about siding, but he wants to make it look as good as possible. He asked if it needs to look like the house.

Chair McCoy stated that sometimes that is required, that similar materials should be used. Mr. Wagner stated he could do that, but there are budgetary concerns, and it's behind the house.

Board Member Golombeski asked which way the peak is facing, and Mr. Wagner responded that it's front to back on a 70' line and would mirror the garage peak on the main residence.

Board Member Golombeski asked how many garage doors there would be, and Mr. Wagner responded two, one for the work truck and one for the pickup truck.

Board Member Kosel asked if there were any intentions to turn this into a residential space. Mr. Wagner responded no, that he planned to put in climate controls, maybe water, and he wasn't sure about a bathroom.

Board Member Mauss asked about protecting against a future accessory dwelling unit (ADU), and Staff Member Moon explained that an ADU would require a conditional use permit which would require review by the Board.

Chair McCoy asked if the applicant was okay with conditions requiring the garage be aesthetically pleasing and similar to the existing home, that no commercial activity be allowed, and the small existing shed be removed. Mr. Wagner asked what is okay for siding and roof. McCoy stated it needs to be similar to the home to address neighbors' concerns, and that the review process with the City will cover this.

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

1. That no commercial activity be allowed.
2. The small, detached shed shall be removed.
3. The garage shall be finished in residential-style materials that are complimentary to the finishes of the existing single-family residence.

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

DOCKET – 15-22: Application of Roux Conlon Loar and Tim Conlon, 620 South Grandview Avenue and 333 Bryant Street to allow for the establishment of a Planned Unit Development for a project site totaling approximately .18 acres where a minimum of 2 acres is required.

Roux Conlon Loar, spoke in favor of the request. She explained that they purchased the

Milk House and salon to make it function as one property and business. They're planning to renovate the Milk House and construct a new structure where the salon is to serve as the bakery for the business. She said they plan to make one campus, where these properties are currently zoned differently from each other.

Chair McCoy clarified that the Board is considering the first of three steps. If they allow this to proceed, the Zoning Advisory Commission would hear the PUD rezoning request, and then the City Council would have the final approval. Staff Member Moon confirmed that was correct, and added they would also go through the site plan review process.

Kathy Schmit, 606 South Grandview Avenue, said she has talked to Tim and Roux and other neighbors, and wondered if this zoning can be conditional. She asked if it were sold, could it go back to the former zoning. She was concerned about parking and traffic. She asked if there were any other zoning options besides PUD since it's so small. She asked if there will be enough parking if it's a restaurant. She suggested talking to the school about sharing parking. She asked if they have to have beer and wine, and she's afraid it could be turned into a bar.

Chair McCoy encouraged her to participate in every step of the process, but this stage doesn't have to do with allowing specific uses or reviewing traffic or parking.

Staff Member Moon detailed the staff report noting the site and neighborhood characteristics, the current zoning, and the history of businesses here. She explained how the PUD process would proceed from here. She noted the existing PUDs in the city, including seven that are under the two-acre requirement. She explained how the conceptual development plan would provide requirements for the development such as uses and bulk regulations. She noted the PUD would run with the property. She explained the applicants held a neighborhood meeting, and the City notified all property owners within 200' for the purpose of the public hearing. She said some comments and inquiries have been received including one statement of support.

Board Member Ahlvin asked about the conditions of a PUD. Staff Member Moon explained that the concept plan would go before the ZAC and City Council, and other details would go through site plan review which requires review by the City's Development Review Team.

Board Member Ahlvin asked if the Board should make this conditioned on approval of the PUD. Chair McCoy asked if the applicants would be okay with that, and they responded yes.

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

1. The Variance approval is contingent on the PUD being approved by the ZAC and City Council.

Motion carried by the following vote: Aye – Ahlvin, Golombeski, Kosel, Mauss and

McCoy; Nay – None.

Chair McCoy stated that both docket items for 2319 Manson Road would be heard and vote on together.

DOCKET – 16-22: Application of Kristin and Steve Vaassen, 2319 Manson Road to allow a detached accessory dwelling unit in an R-1 Single-Family Residential zoning district.

DOCKET – 17-22: Application of Kristin and Steve Vaassen, 2319 Manson Road to allow a 7,520 square foot detached accessory dwelling unit where a maximum of 600 square feet is permitted in an R-1 Single-Family Residential zoning district.

Kristin and Steve Vaassen, 2319 Manson, spoke in favor of the request. They explained their intentions for use of barn were no longer commercial but just for short-term rental, which is allowed by Iowa code. They gave an overview of the history of the barn and the various zoning actions they've achieved and been denied. They explained they are seeking to change the status of the barn from an accessory structure to an accessory dwelling unit (ADU). They acknowledged their plans for the barn changed over time, but they updated the City as those changes occurred. They disputed that the requested change would diminish property values, and they stated they are not going to host commercial uses or events. They pointed to support from their nearest neighbor and asked the board to focus on the requests at hand.

Chair McCoy asked what facilities are in the barn, and Ms. Vaassen replied that the lower level is utilized as a garage and workshop, and the upper levels contain one bedroom, one kitchen, and a bathroom.

Peter Arling, 1744 Creek Wood Drive, objected to both requests. He noted the barn was originally planned for storage and horses, not bedrooms and a kitchen. He said they built and then asked for permission. He pointed out how much larger the barn is than the allowed 600 square feet for an ADU, and he said this is not incidental and subordinate. He noted the impact the barn has on the neighborhood and displayed a recording of music overheard from the barn.

Marty McNamer, 1800 Manson Road, North Cascade Road Developers, opposed the requests. He asked who dropped the ball with this project implying it was either the City or the Vaasen's. He doesn't believe the Vaasen's to be malicious but stated it's not fair if they're able to get around the regulatory process.

Bob Hartig AIA, 1804 Creek Wood Drive, referred to the opposition message he sent. He stated the rules of the UDC need to apply and not be eroded, and this project has gotten bigger and different than what was approved.

Larry Vogt, 1750 Creek Wood Drive, expressed opposition to the requests, noting that a family renting the property could be large and noisy, and there have been large gatherings there previously.

Davin Curtis, attorney, on behalf of the McCoy family, 1834 Creek Wood Drive, stated the application fails definitionally. He expressed the barn is too large for an ADU and that approving it would compound the previous errors in the regulatory process.

Chair McCoy asked how big the barn is, and Mr. Vaassen explained the size of the various components of the structure. Staff Member Moon noted the gross floor area, 7,520 square feet, is based on summing the 3,600 square foot lower level, 2,800 square foot main level, and 1,120 square foot loft.

David Bright, attorney with Pugh Hagan Prahm, 425 Oakdale Boulevard, Coralville, Iowa, spoke on behalf of the applicants and stated it is important to note that the board has the information to decide in favor of applicant. He explained the applicants don't intend to use the barn for commercial purposes or disruptive activity. He expressed that the applicants would be agreeable to a condition prohibiting commercial use.

Ms. Vaassen expressed that they are not trying to create problems with their neighbors but just want to utilize the barn and have a peaceful neighborhood.

Staff Member Moon detailed the staff report noting the history of the site and the history of ZBA decisions. She described the site characteristics, including zoning, geography, and neighboring properties. She detailed the current applications under consideration, including the requirements for an ADU. Moon explained the Iowa State Code regarding short-term rentals, including what is allowed, what is not allowed, and that the City is precluded from regulating them. She displayed a map showing neighbors who had submitted public input.

Board Member Ahlvin stated that he voted in favor of previous special exceptions, but he noted that in 2017 it was for storage, and 2020 was approval after the fact. He stated that he had issues with the current requests.

Board Member Mauss expressed that he initially wondered whether they could regulate the number of occupants but now knows they can't. He noted that members of the opposition have shown what impacts this structure can have.

Motion by McCoy, seconded by Mauss, to approve Docket 16-22, the conditional use permit request, as submitted. Motion failed by the following vote: Aye – None; Nay (each member citing standards not met) – Ahlvin (A, F, H), Golombeski (F, H), Kosel (A, F, H), Mauss (H) and McCoy (A, F, H).

Standards for granting Conditional Use Permit:

- A. The proposed conditional use will comply with all applicable regulations of this title, including lot requirements, bulk regulations, use limitations, and all other standards or conditions contained in the provisions authorizing such use.
- F. The location and size of the conditional use, the nature and intensity of the activities to be involved or conducted in connection with it, the size of the site in relation

thereto, and the location of the site with respect to streets giving access to the conditional use, shall be such that it will be in harmony with the appropriate and orderly development of the district and neighborhood in which it is located.

- H. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is located and will contribute to and promote the convenience and welfare of the public.

Motion by McCoy, seconded by Kosel, to approve Docket 17-22, the special exception request, as submitted. Motion failed by the following vote: Aye – None; Nay (each member citing standards not met) – Ahlvin (A, B, E), Golombeski (B, C), Kosel (B, C), Mauss (A, B) and McCoy (A, B, E).

Requirements for granting a Special Exception:

- A. That the specific proposed exception will not be detrimental to or endanger public health, safety, comfort or general welfare.
- B. That the specific proposed exception 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.
- C. That establishment of the specific proposed exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zone in which such property is located.
- E. That, except for the specific exception being proposed, any structure shall in all other respects conform to the applicable regulations or standards of the zone in which it is to be located.

ITEMS FROM PUBLIC: None

ITEMS FROM BOARD: None

ITEMS FROM STAFF: None

ADJOURNMENT: Motion by Ahlvin, seconded by Mauss, to adjourn the May 26, 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 7:31 p.m.

Respectfully submitted,



Shena Moon, Associate Planner

June 23, 2022

Adopted