

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

5:30 p.m.

Thursday, April 27, 2023

City Council Chambers, Historic Federal Building

**Board Members Present:** Acting Chairperson Gwen Kosel, Board Members Matt Mauss and Rena Stierman.

**Board Members Excused:** Chairperson Jonathan McCoy, Vice Chairperson Keith Ahlvin.

**Board Members Unexcused:** None.

**Staff Members Present:** Wally Wernimont, Travis Schrobilgen, and Jason Duba

**CALL TO ORDER:** The meeting was called to order by Acting Chairperson Gwen Kosel at 5:30 p.m.

**MINUTES:** Motion by Mauss, seconded by Stierman, to approve the minutes of the March 23, 2023 Zoning Board of Adjustment meeting as submitted. Motion carried by the following vote: Aye – Kosel, Mauss, and Stierman; Nay – None.

**DOCKET – 08-23:** Application of Straka Johnson Architects P.C., 1248 Iowa Street to allow residential use on the first floor where it is only allowed above the first floor in a C-4 Downtown Commercial zoning district.

Marty Johnson, Straka Johnson Architects, 3555 Digital Drive, spoke in favor of the request. He explained that he was representing the property owner on a historic renovation to create new apartments. He stated the property is zoned commercial. He explained they are planning to have a total of 16 residential units, which triggers the requirement of one ADA accessible unit, and that the unit is proposed to be on the ground floor at the rear of the building and that a ramp will provide access to the unit. He noted the upper portion of the building was modified four to five times in the past, and they intend to demolish those sections and reconstruct them to a full three stories.

There was no public input.

Staff Member Schrobilgen detailed the staff report noting the C-4 district permits residential use above the ground floor only. He stated the intent of the code language was to promote commercial activity on the ground floor and preserve commercial storefronts in the downtown. He said the applicant is looking to put the ADA accessible residence at the rear of the building and that the commercial business and the commercial

front would not be altered. He noted the building plans have been submitted and all residential units would need to meet all applicable city code including building, fire, and housing code. He also noted that the Historic Preservation Commission has approved the exterior alterations. He stated that without this ADA unit, the developer could not finance the proposed project.

The Board had no questions or concerns.

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

**DOCKET – 09-23:** Application of Kevin Herman, 2770 Pennsylvania Avenue to construct a 6' high fence in the required front yard (Pennsylvania Avenue) where 4' high maximum is allowed in an R-1 Single Family Residential zoning district.

Kevin Herman, 2770 Pennsylvania Avenue, spoke in favor of the request. He explained that he would like to keep the 6' fence the way it is because he has two front yards, and it has been there since at least 1977.

There was no public input.

Staff Member Duba detailed the staff report noting that the existing 6' fences is in what is effectively the side or rear yard but is considered a front yard because it has street frontage, where fences have a 4' height limit. The fence was observed during inspection by the Zoning Enforcement Officer who was in the area for other matters, so the violations did not stem from complaints about the fences. He noted the property owners had the option of cutting the fence down to 4' or to apply for and be granted Special Exception from the Board. Mr. Duba noted the characteristics of the fence, property, and surrounding area, and that the fence is in keeping with neighboring development. He expressed that the fence should not obstruct visibility for passing drivers, pedestrians, or people using the driveway.

Board Member Mauss asked whether all neighbors were notified, and Duba confirmed they were.

Acting Chairperson Kosel asked whether an approval of this Special Exception would allow expansion of the fence along the property line. Duba confirmed that approval would be limited to what is currently under review. Planning Services Manager Wally Wernimont expanded on the response stating that the application materials, which include the details of the fence, are kept with the Special Exception file and that no expansion of the fence would be permitted at a height of 6' unless the applicant again came before the Board for a separate approval. .

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

**DOCKET – 10-23:** Application of Matthew Cornwall, 827 Garfield Avenue to construct a 6' high fence in the required front yard (Humboldt Street) where 4' high maximum is allowed in an R-3 Moderate Density Multiple-Family Residential zoning district.

Matthew and Chase Cornwall, 827 Garfield Avenue, spoke in favor of the request. They explained that the fence serves as a sound barrier, provides privacy, and keeps their dog in. He stated that the fence has been there about 17 years, and the neighbors across Humboldt Street have a similar fence that is also well kept.

There was no public input.

Staff member Duba read an email into the record which was in favor of the request. He detailed the staff report noting the characteristics of the fence, property, and surrounding area, and that the fence is in keeping with neighboring development. He noted the fence was observed during inspection by the Zoning Enforcement Officer who was in the area for other matters, so the violations did not stem from complaints about the fences. He expressed that the fence should not obstruct visibility for passing drivers, pedestrians, or people using the alley.

The Board had no questions or concerns.

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

**DOCKET – 11-23:** Application of Brandon Bauerly, 903 Garfield Avenue to construct a 6' high fence in the required front yard (Humboldt Street) where 4' high maximum is allowed in an R-2A Alternate Two-Family Residential zoning district.

Brandon Bauerly, 903 Garfield Avenue, spoke in favor of the request. He explained that his request was similar to his neighbors', and was hoping to keep his 6' fence. He noted this fence was constructed recently but in a similar location to the original fence. He said that he assumed it had been approved by City of Dubuque staff. He said that the fence was expensive, and the manufacturer said it was not possible to cut it to 4'. He stated he is hoping to maintain the fence to provide privacy, security and sound protection.

There was no public input.

Staff Member Duba detailed the staff report noting the characteristics of the fence, property, and surrounding area, and that the fence is in keeping with neighboring development. He noted the fence was observed during inspection by the Zoning Enforcement Officer who was in the area for other matters, so the violations did not stem from complaints about the fences. He expressed that the fence should not obstruct visibility for passing drivers, pedestrians, or people using the alley.

The Board had no questions or concerns.

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

Staff Member Schrobilgen explained that both docket items for 115 W 13<sup>th</sup> Street could be heard at the same time as they are related with similar background information, but that two separate motions and votes would be needed. The Board proceeded to hear the related cases together.

**DOCKET – 12-23:** Application of Fortin Real Estate LLC, 115 W 13<sup>th</sup> Street to convert a two-unit town house into three units with 1,600 square feet of lot area and 16’ of frontage where 50’ of frontage and 1,200 square feet of lot area per dwelling unit is required in an OR Office Residential zoning district.

Patrick Fortin, spoke in favor of the special exception and parking variance requests. He explained that he bought the property last year, and there were three residences, but an inspection led to the determination that it was currently only two dwelling units. He explained that there is one apartment on the first floor, one in the basement, and one expanding across the second and third floors. He noted the parking has not changed, and there are two existing stalls behind the building.

There was no public input.

Staff Member Schrobilgen detailed the staff report noting that this issue arose from a rental license application from the Housing and Community Development Department. The request was for three dwelling units, but research showed only two dwelling units were active historically. He noted that past rental licenses included three rooming units, which were considered portions of the existing dwelling units. He noted that an increase from two to three dwelling units required review and approval by the Board. He explained that the three rooming units will be converted into one dwelling unit. He expressed that this may lead to a reduction in the intensity of use and parking. He explained that going from two units to three shifts the property from a duplex to a multi-family dwelling, which changes the bulk and parking requirements. He explained the site is legally non-conforming regarding the parking requirement, noting the site has two off-street parking spaces present and is credited for two stalls accounting for a total of 4 off-street parking spaces. He then explained that increasing the number of units from two to three would shift the use and requirements to Multi-Family, which requires 1.5 stalls per unit. He said the total required spaces would be 5 and so there would be a deficit of one stall. He expressed that given the historic use of the property as two dwelling units and three rooming units, that the status quo for the site would be maintained and noted there is little to no concern to public safety or a negative impact on the neighborhood.

Board Member Mauss asked if the property is adequately set up for three units? Mr. Schrobilgen replied that the rental license and inspection process will require review of the units and that all building, housing, and fire code requirements must be met.

Board Member Stierman shared Mr. Mauss' question and was satisfied with the response. She also felt the parking variance was explained adequately and thought the proposal was appropriate.

Motion by Mauss, seconded by Stierman to approve Docket 12-23, the Special Exception request as submitted. Motion carried by the following vote: Aye –Kosel, Mauss, and Stierman; Nay – None.

**DOCKET – 13-23:** Application of Fortin Real Estate LLC, 115 W 13<sup>th</sup> Street to convert a two-unit town house into three units with a deficit of two off-street parking spaces where two new off-street parking spaces are required in an OR Office Residential zoning district.

Motion by Mauss, seconded by Stierman to approve Docket 13-23, the Variance request as submitted. Motion carried by the following vote: Aye –Kosel, Mauss, and Stierman; Nay – None.

**ITEMS FROM PUBLIC:** None

**ITEMS FROM BOARD:** Mauss inquired about his previous request to consider a different day of the week for the board to meet. Staff said that they would survey the board members on which days could work and look at the availability of the Council Chambers. All Board members present noted the 5:30 pm time slot worked well.

Stierman and Kosel expressed appreciation for the ISU Planning and Zoning Training.

Planning Services Manager Wally Wernimont discussed some of the uniqueness about Dubuque compared to other communities in Iowa noting that not all Iowa's cities offered a Special Exception and that it is important to be flexible due to the age and topography of our community. He expressed that it has been considered at great length and previously explored to come up with some code language to address double frontage properties related to fence height, but that the many variables of those types of properties throughout the city make it very difficult.

**ITEMS FROM STAFF:**

- City of Dubuque Goal Setting for Fiscal Year 2024

Mr. Wernimont described the annual Board and Commission input for City Council Goal Setting Fiscal Year 2024. He said that the Board responds to items that come, can assist with the upcoming UDC update, and helps implement the Imagine Dubuque Comprehensive Plan. He asked the Board if there were other successes to note. Commissioner Stierman commented that the Board has had a consistent track record of retaining all 5 members and that her appointment to the Board was seamless.

Motion by Mauss, seconded by Stierman to approve the City Council Goal Setting document for Fiscal Year 2024. Motion carried by the following vote: Aye –Kosel, Mauss, and Stierman; Nay – None.

**ADJOURNMENT:** Motion by Kosel, seconded by Mauss, to adjourn the April 27, 2023 Zoning Board of Adjustment meeting. Motion carried by the following vote: Aye –Kosel, Mauss, and Stierman; Nay – None

The meeting adjourned at 6:13 p.m.

Respectfully submitted,

  
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Shena Moon, Associate Planner

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May 25, 2023  
Adopted