

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

5:30 p.m.

Thursday, December 14, 2023

City Council Chambers, Historic Federal Building

Board Members Present: Chairperson Jonathan McCoy, Board Members Keith Ahlvin, Rena Stierman, and Matt Mauss

Board Members Excused: Gwen Kosel

Board Members Unexcused: None

Staff Members Present: Shena Moon, Travis Schrobilgen, and Jason Duba

CALL TO ORDER: The meeting was called to order by Chairperson McCoy at 5:35 p.m.

MINUTES: Motion by Ahlvin, seconded by Stierman, to approve the minutes of the November 16, 2023 Zoning Board of Adjustment meeting as submitted. Motion carried by the following vote: Aye – Ahlvin, Mauss, and Stierman; Nay – None; Abstain – McCoy.

DOCKET – 48-23: Application of Greg Prehm, 25 Bissel Lane to construct a building 10' from the side and rear property lines where 20' is required for each in a C-3 General Commercial zoning district.

Greg Prehm, 8505 Southern Hills Court, spoke in favor of the request. He explained that he purchased two small parcels with the intention of constructing a shop/garage like those on Cedar Cross Road. He would have overhead access doors. He explained that he would occupy one space and have two others to rent out.

There was no public input.

Staff Member Duba detailed the staff report noting the character of the neighborhood, the proposed shop, and the requested variance for reduced setbacks. He expressed that the shop could have impacts on surrounding properties and recommended a condition of requiring screening around the subject property. He explained that the contractor shop development would require site plan review and approval by the city's Development Review Team.

Staff Member Duba summarized a letter of opposition submitted from Stephen Barry, an adjacent property owner, who expressed concern about aesthetics and character, noise and mess, and a general detraction for the adjacent residences and potential future development.

Chairperson McCoy expressed concerns about noise from a machine shop and cited criteria 2, 3, and 5 as concerns.

Board Member Stierman asked the applicant about the size of the proposed shop and if it could be smaller. Mr. Prehm replied that he had considered building the shop with a 0' south setback but decided to center it a little more on the site. He stated that he was hoping to have three shops to make the cash flow work for the property. He expressed that he was trying to be similar in size to shops on Cedar Cross Road.

Board Member Mauss shared some of the concerns expressed in the letter of opposition, and asked if the Board is just reviewing setbacks or if uses could be discussed also. Mr. Prehm observed that the letter seems to focus on the use, which was handled at the rezoning hearings and that he's just asking for a setback variance. He stated that he's not against some restrictions in use and noted he's seeking contractors such as plumbers and electricians to occupy the spaces and thinks it would be a quiet shop used mostly for storage and not an auto mechanic shop.

Chairperson McCoy asked if it was within the Board's purview to restrict uses. Staff Member Moon stated that the Board may talk about how use impacts adjacent properties and propose ways to limit that impact. Chairperson McCoy noted that limiting hours would seem to fit this, but even that gets complicated with respect to enforcement.

Staff Member Schrobilgen stated that the variance is pertaining to the setback of the structure and not the specific uses. He said that the Board can make any reasonable condition. He added that it isn't clear if a condition limiting permitted uses would be considered reasonable. Chairperson McCoy concurred, noting that the variance would apply to future owners and any permitted uses that might be on the property.

Staff Member Moon noted that exterior storage would be limited and screened, if the site allowed for it. Mr. Prehm stated that he plans to store everything inside to keep it out of the seasonal elements and to keep people from climbing on equipment.

Board Member Ahlvin asked how high a fence could be built. Staff Member Schrobilgen replied that there is no maximum height and noted the recommended condition to require site screening is a code requirement and cannot be waived through a waiver from site design standards.

Chairperson McCoy expressed that there did not appear to be enough support to approve the request at this meeting and explained to Mr. Prehm that he could request to table the request to a future meeting in order to allow him to iron out some of these questions before coming back to the Board. Board Member Ahlvin expressed that he would like to know what the shop would look like and what materials would be used. Mr. Prehm requested to table the item to a future meeting.

Motion by McCoy, seconded by Mauss, to approve the request to table Docket 48-23 to a future meeting. Motion carried by the following vote: Aye – Ahlvin, Mauss, Stierman,

and McCoy; Nay – None.

DOCKET – 49-23: Application of Edward Marinko, 2925 Shiras Avenue to construct a 168 sq. ft. shed for a total of 1,168 sq. ft. of detached accessory structures where 1,000 sq. ft. maximum is permitted in an R-1 Single-Family Residential zoning district.

Edward Marinko, 2925 Shiras Avenue, spoke in favor of the request. He explained that he's lived there 40 years, the parcel is 336,000 square feet in area, and he likes to take care of the property. He explained that he's hoping to build a 12' x 14' shed that would increase the square footage of detached accessory structures to 1,136 square feet. He intends to use the shed to store wood cutting equipment that he uses to maintain his property. He expressed that he didn't know about the maximum area limit for accessory structures.

There was no public input.

Staff Member Schrobilgen detailed the staff report noting the size of the proposed shed, the size of the applicant's existing detached accessory structures, and stated that the applicant's square footage estimate of 1,136 square feet could be used and that staff's number of 1,168 is an estimate. He recommended the Board review the project with the size as published in the staff report to reduce confusion and that the size is not substantially different. He noted that while the shed will be on sleds, it will have to meet setbacks and that it should have little to no impact on adjacent property owners or the neighborhood due to the large size of the property.

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, Mauss, Stierman and McCoy; Nay – None.

DOCKET – 50-23: Application of Resurrection Church to install a 112 sq. ft. sign 15' in height where 32 sq. ft. and 10' in height is permitted in an R-1 Single-Family Residential zoning district.

Mark Jobgen, 5525 Wintergreen Drive, and Sam Bechen, 16494 Middle Road, spoke in favor of the request. They explained that they want to install a larger sign and have a portion of the sign have an electronic message board. They noted that they plan to install it on one side of the entry drive, and that utility easements are driving the sign location and that the sign will be located outside of the visibility triangle. They expressed that this size sign is typical for the neighborhood and nearby commercial properties.

Chairperson McCoy asked if they were amenable to a condition of maintaining the size of the electronic message sign as shown in the application. Mr. Jobgen replied yes. Chairperson McCoy asked about the lighting of the upper portion, and Mr. Bechen replied that it would be illuminated with external up lighting. Chairperson McCoy asked if they plan to run the sign 24-7, and Mr. Jobgen replied yes.

There was no public input.

Staff Member Duba detailed the staff report noting the requested sign size and height compared to the allowances. He detailed other freestanding signs for commercial properties in the area. He explained that this stretch of Asbury is commercial, including commercial zoning across the street, so no residential uses should be impacted by the sign.

Board Member Mauss asked if the sign could be lower, and Mr. Bechen replied that they raised it to ensure it remains visible when vehicles are entering and exiting the driveway. Board Member Ahlvin stated that the subject property was a unique R-1 zoning district with respect to use and proximity to commercial uses.

Mr. Jobgen asked if they could place it on the east side of the drive to help visibility and noted that it wouldn't go too far east since it would then go over the hill and not be visible again. The Board sought confirmation from staff on whether that is appropriate. Staff Member Duba indicated that yes, it could be placed elsewhere on the site if reviewed and approved by the Board.

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

DOCKET – 51-23: Application of Andrew and Amy Mozena, Kane Street to construct a residence 716' from the front property line where 50' maximum is permitted in an R-1 Single-Family Residential zoning district.

Andrew Mozena, 296 North Grandview Avenue, spoke in favor of the request. He explained that they recently purchased four lots between Kane and Kaufman that they are zoned residential. He noted that in order to build the house where they want, they need to be further than 50' from the street.

There was no public input.

Staff Member Schrobilgen detailed the staff report noting the location of the proposed dwelling according to the diagram. He explained the code requirements for utility connection, fire safety and emergency response. He noted the proposed location is at least 50' above Kaufmann Avenue and surrounded by trees. He stated that staff had no expectations that the dwelling would impact surrounding properties. He recommended the Board consider conditions of approval that require the property owner to obtain approval from the appropriate city departments regarding emergency apparatus access requirements, fire safety requirements, and utility connection requirements.

Chairperson McCoy asked the applicant if he was aware of building codes related to access, safety, and fire requirements, and Mozena replied yes.

Board Member Ahlvin asked if 716' is the maximum distance the home could be set back

from the street, and Staff Member Schrobilgen replied yes, but clarified that some flexibility is afforded to the applicant to account for unexpected site conditions but that any substantial deviation from a setback distance approved by the Board would require the property owner to return to the Board for another review/approval. Mr. Mozena noted that the house can't go further back because there is a cliff in that direction.

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

- 1) The property owner shall obtain approval from all appropriate city departments regarding the emergency apparatus access requirements, fire safety requirements, and utility connection requirements.

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

Chairperson McCoy stated the two dockets for 2613 University Avenue would be heard together.

DOCKET – 52-23: Application of Alex Ellerbeck, 2613 University Avenue, to operate businesses with a deficit of 10 off-street parking spaces in a C-1 Neighborhood Commercial zoning district.

DOCKET – 53-23: Application of Alex Ellerbeck, 2613 University Avenue, to allow an indoor restaurant as a conditional use in C-1 Neighborhood Commercial Zoning district.

Alex Ellerbeck, 5670 Clay Ridge Drive, spoke in favor of the request. He explained that they intend to have half the first floor as a salon of 900 square feet, and half with a coffee shop with gelato of 900 square feet. He noted they have 10 parking spots, and parking on Van Buren is usually empty. He stated they may be able to create more parking on-site.

Bill Gourley, 2607 Van Buren Street, expressed concerns about the lack of parking on the subject property and in the vicinity. He said Van Buren is narrow when vehicles are parked along both sides and close to the intersection, and expressed concern that this could lead to safety issues.

Staff Member Moon detailed the staff report noting that she would talk about both the conditional use permit request and the variance request. She described the proposed uses of the property, including the requested indoor restaurant/coffee shop which requires the conditional use permit, a beauty salon, a spray tanning booth, a residence on the second floor, and storage for those uses in the basement. She noted the unique shape of property.

Staff Member Moon listed the parking requirements associated with the beauty salon, spray tanning booth, coffee shop, and residential uses. She outlined the parking requirement calculations, factoring in a parking credit for past uses and the number of existing spaces. She explained that even if the conditional use permit is denied for the

coffee shop, a parking variance would still be required for a deficit of three spaces. She noted that staff had received a couple of calls from members of the public inquiring about the details of this request.

Chairperson McCoy expressed concerns about parking and suggested that the applicant might want to consider reworking their proposal. He noted that the Board has heard parking concerns with other properties in this vicinity before.

Board Member Ahlvin agreed with McCoy's concerns about parking. He stated that he's interested in knowing the proposed hours of operation and seeing a site plan.

Board Member Mauss shared concerns about parking and wondered how much parking could be added to the site. He noted that this intersection has difficult visibility. He asked the applicant about the basement use, and Mr. Ellerbeck replied that it would be for storage for businesses in the building.

Board Member Stierman shared concerns about parking and expressed that the potential for all uses in the building requiring the maximum parking spaces at the same time may be low, but the Board still needs to consider it.

Staff Member Moon clarified that if the conditional use permit were approved from the coffee shop, any future restaurant would have to be similar in operation and size to the coffee shop or would need to seek a new conditional use permit and may potentially require an additional parking variance. She expressed that any new curb cuts on the site would require review by Engineering staff.

Chairperson McCoy expressed to the applicant that many factors need clarification, but the request can be tabled to give them time to work through the concerns expressed. Staff Member Moon noted that staff will work with the applicant to address those questions with Engineering. Mr. Ellerbeck requested to table to a future meeting.

Board Member Mauss asked if a parking lease with a neighboring property could count toward their required parking, and Staff Member Moon stated it had been done in the past, but it would be a private agreement between property owners and that is difficult for the city to regulate and/or enforce.

Motion by Mauss, seconded by McCoy, to approve the request to table Docket 52-23 to a future meeting. Motion carried by the following vote: Aye – Ahlvin, Mauss, Stierman, and McCoy; Nay – None.

Motion by Mauss, seconded by McCoy, to approve the request to table Docket 53-23 to a future meeting. Motion carried by the following vote: Aye – Ahlvin, Mauss, Stierman, and McCoy; Nay – None.

DOCKET – 54-23: Application of Zachary Hinman, 475 Summit Street to construct a deck 10' from the front property line where 20' minimum is required in an R-2 Two-Family Residential zoning district.

Zachary Hinman, 475 Summit Street, spoke in favor of the request. He explained that he would like to build a 32 square foot deck, which is larger than the 25 square feet allowed.

Chairperson McCoy asked if the applicant was amenable to a condition that that deck be of an open design. Mr. Hinman replied yes.

There was no public input.

Staff Member Schrobilgen detailed the staff report noting the size of the proposed deck at 4' x 8' and the allowance limiting the projection into the front setback to 5'. He noted most properties on this side of Summit Street have reduced front yard setbacks. He said that the deck would be outside of the visibility triangle. He stated the property is in a historic district and a conservation district, and the proposed deck has been reviewed and approved by historic preservation staff. He also noted that any potential future changes to the property would need to be reviewed by the City staff regarding Historic Review.

Motion by Ahlvin, seconded by Mauss, to approve the request with the following condition:
1) The deck shall remain of an open design.

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

ITEMS FROM PUBLIC: None.

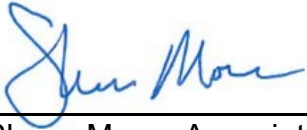
ITEMS FROM BOARD: Chairperson McCoy made an inquiry regarding the loss of parking on a multi-tenant residential building in the downtown area. Staff discussed how the property may be legally nonconforming with respect to parking and may have had a right to park on an adjacent property through a private agreement, which the city would not be able to enforce on. Staff stated they would research the matter further and report back to the Board at a future meeting.

ITEMS FROM STAFF: Staff Member Schrobilgen addressed Board Member Stierman's comment from earlier in the meeting regarding allowing shared parking agreements between private property owners. He noted that when staff is aware of a shared parking agreement, staff will consider those uses/activities when calculating the total number of required parking spaces for a property. He explained that it either needs to be an obvious shared parking situation or additional information needs to be provided by the applicant.

ADJOURNMENT: Motion by McCoy, seconded by Mauss, to adjourn the December 14, 2023 Zoning Board of Adjustment meeting. Motion carried by the following vote: Aye – Ahlvin, Mauss, Stierman, and McCoy; Nay – None

The meeting was adjourned at 6:45 p.m.

Respectfully submitted,



Shena Moon, Associate Planner

January 25, 2024

Adopted