

MINUTES
CITY OF DUBUQUE ZONING BOARD OF ADJUSTMENT
REGULAR SESSION

5:30 p.m.

Thursday, April 25, 2024

City Council Chambers, Historic Federal Building

Board Members Present: Chairperson Jonathan McCoy (virtually), Board Members Keith Ahlvin, Gwen Kosel, and Rena Stierman.

Board Members Excused: Matt Mauss.

Board Members Unexcused: None.

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

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

MINUTES: Motion by Stierman, seconded by Kosel, to approve the minutes of the March 28, 2024 Zoning Board of Adjustment meeting as submitted. Motion carried by the following vote: Aye – Kosel, Stierman, and Ahlvin; Nay – None; Abstain – McCoy.

Board Member Stierman recused herself from Docket 43-23.

DOCKET – 43-23: Application of Tim Mueller, 2901 Hillcrest Road, to permit an accessory dwelling unit (ADU) in an R-1 Single-Family Residential zoning district.

Tim Mueller, 2901 Hillcrest Road, spoke in favor of the request. He shared a PowerPoint presentation in which he discussed that his property is a large lot and the ADU would be located 100 or more feet from the nearest neighbors, he discussed the property's development history including building permits for the barn which contain the proposed ADU and noted that the upper unit of the barn is an owner-occupied "man cave."

Mr. Mueller discussed the need for rental units in Dubuque according to the Housing Needs Assessment. He shared that he rents to traveling nurses through the Furnished Finder website and he displayed some positive reviews provided from his previous tenants. Chairperson McCoy interjected and directed Mr. Mueller to focus on the criteria for granting a Conditional Use Permit (CUP). Board Member Ahlvin read the eight criteria to the applicant.

Mr. Mueller outlined some benefits of granting a CUP for this ADU. He expressed that impacts on neighboring properties would be minimal and positive. He noted the distance between the ADU and the nearest neighbor, which is further apart than most other neighborhood properties. He shared maps showing other rental properties in the

neighborhood and discussed how those units have had little to no impact on the neighborhood.

Bob Renne, 1950 Avalon Road, presented a petition in opposition to the request which contained 17 signatures. He expressed that he wants the neighborhood to remain single-family, owner-occupied. He stated that Mr. Mueller has a history of constructing non-conforming, non-permitted structures. He referred to the standards for granting a CUP and expressed that they were not all met, namely criteria D, G, and H.

Lisa Mueller, 2901 Hillcrest Road, described the work that she and Mr. Mueller have done to the property and the poor treatment they've received from the Renns. Chairperson McCoy reminded the speaker not to speak on personal matters between neighbors. Ms. Mueller stated that she was trying to show that the Renns have a conflict of interest.

Cindy Renne, 1950 Avalon Road, stated she is opposed to rental housing. Chairperson McCoy reminded her that this meeting is not about rentals. Ms. Renne stated she is opposed because this affects the value of homes in neighborhood and she wants to keep it single-family.

Tim Mueller rebutted comments by showing other nearby rental properties and referring to conversations he has had with Gary Conrad, a local realtor, who stated this request would not be detrimental to property values. Mr. Mueller stated that when he initially pulled permits for the ADU, he was not told he needed a CUP. He noted that he's been renting the property without incident for a number of years. He stated that he's counting on the rental income as part of his retirement plan.

Staff Member Schrobilgen detailed the staff report noting that this request was originally heard in November. He noted that the Board is reviewing whether the request meets the conditions for an ADU and not what kind of rental it may be. He stated that all the UDC criteria (A through H) for establishing/constructing an ADU have been met. He showed a map of neighbor support and opposition. He stated that this case was brought to the City's attention through a complaint. He described the zoning violation process and noted that the applicant is currently in administrative relief. He noted that the use is allowed to continue while in administrative relief and if there were any life safety concerns, it would be addressed by the Housing Department or the building department through their respective codes. He confirmed that the Housing Department, in their review, did not find life safety concerns or structural problems, so the unit was able to continue to be used until the results of this CUP review. He noted that the applicant provided an email from a City inspector noting that all housing and building code inspections, permits, and licenses were approved and the ADU review/approval is the remaining review. He noted that this is not an expansion of the structure but a renovation to create a 600-square foot accessory dwelling unit. He said the unit could not expand, that the property will remain R-1, and that either the ADU or the house must be owner-occupied. He stated that the property meets the parking requirement and noted the distances to adjacent properties. He expressed that there should be little impact on or to the neighborhood. He stated that only one ADU is allowed on a property, and it would be held to standards A through H.

He noted that the conditions for the ADU are separate from the criteria the Board uses to make a decision. He stated that the Board's charge is to decide if the request meets the criteria for granting a CUP.

The Board had no questions or concerns.

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

Board Member Stierman returned to the meeting.

DOCKET – 05-24: Application of Kennedy Mall, Ltd, 555 John F. Kennedy Road, to allow a 196-square foot wall sign where 100 square feet is permitted in the Kennedy Mall Planned Unit Development.

Richard Launspach, 12739 Sherrill Road, spoke in favor of the request. He explained that they are seeking an additional 95 square feet over the 100 square feet that are allowed by code. He noted that the installed HomeGoods sign appears small on the large bulkhead, and he provided photos.

There was no public input.

Staff Member Duba detailed the staff report noting the specifics of the request. He explained that the Kennedy Mall PUD applies C-3 zoning district sign regulations, which allows 100-square foot wall signs on multi-tenant properties and shopping centers such as this. He noted that a wall sign of approximately 80-square feet had received a sign permit and been installed on the façade, and photos of the sign were displayed. STAFF Member Duba noted the significant distance, 470', between the building façade and the edge of the Wacker Drive right-of-way. Additionally, he pointed out that two outlet buildings, Texas Roadhouse and Dubuque Bank & Trust, obstruct the view of the property from adjacent roadways. He expressed that approving this variance would likely have the beneficial impact of making the HomeGoods store easier to locate for those seeking it out or passing by.

Chairperson McCoy stated that the property is a PUD (Planned Unit Development) with a specific amount of signage and that he is not in support of allowing additional sign area.

There were no other questions or concerns expressed by the Board Members.

Motion by Kosel, seconded by Stierman, to approve the request as submitted. Motion denied by the following vote: Aye –Kosel and Stierman; Nay – Ahlvin and McCoy, both citing the following variance criteria:

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
2. Because of this disadvantage, the owner is unable to make reasonable use of the

affected property; 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.

DOCKET – 06-24: Application of Mike Hansen, 790 Kirkwood Street, to construct a detached garage 0' from side property line where 6' minimum is required and 7' from front property line (along Cox Street) where 20' minimum is required in an R-2A Alternate Two-family Residential zoning district.

Mike Hansen, 790 Kirkwood Street, spoke in favor of the request. He explained that he desires to build a 20' x 40' garage at the back of his property.

There was no public input.

Staff Member Moon detailed the staff report noting the applicant is seeking to demolish the existing garage and build a new, larger garage in it the same general location. She noted the request includes a 0' setback from the side property line where 6' is required and 7' setback from the front property line (along Cox Street) where 10' minimum is required. She explained that the initial agenda had listed the required front setback at 20' which was incorrect. She noted that due to the area's topography, the garage will be below street level and she shared Google street view images with the Board.

Chairperson McCoy stated that a condition should be made to require stormwater retention on the property.

Board Member Ahlvin asked to confirm that there would be no access from Cox Street, and Mr. Hansen stated no.

Board Member Kosel noted that it's a large garage and asked what the applicant was planning to use it for. Mr. Hansen stated that it would be for his cars and his personal family use. Board Member Kosel asked about a condition that no commercial activity be allowed, and Mr. Hansen was amenable to that.

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

1. Stormwater shall be contained to the subject property.
2. The property lines shall be demonstrated to the satisfaction of the building official.
3. The garage shall not be used for commercial purposes.

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

DOCKET – 07-24: Application of VanGuard Enterprises, 1300 Synergy Court, to allow vehicle maneuvering on Synergy Court where no vehicle maneuvering is permitted in the street per the Dubuque Industrial Center West Planned Unit Development.

Cody Austin, civil engineer, Origin Design, 137 Mains Street, spoke in favor of the request. He explained that the applicant is looking to expand the existing building with an addition to the north. He explained that the variance request is for truck turning movements because the PUD does not allow truck turning movements in the street. He displayed a drawing showing the truck movements, and he stated there would be one or two trucks per day. He noted there are no neighbors across street as that property is in the flood plain and they received a letter of support from the neighbor directly to the north.

There was no public input.

Staff Member Moon detailed the staff report noting that the PUD stipulates no vehicle maneuvering on the street. She explained that the applicant is hoping to position the loading docks so trucks back straight in and out versus having an angled delivery dock which would use more of the property that is otherwise needed for parking. She explained that the configuration has been reviewed by the Engineering Department and their largest concern was avoiding blocking Synergy Court during peak traffic times, and that the Board may wish to consider limiting truck delivery during the 7:30 - 9:00 AM window. She also explained that the Engineering Department does have a code that would limit delivery vehicles from being in the right-of-way for periods longer than 15 minutes. She pointed out that there is vacant land at the end of the court that could have businesses in the future. She noted a letter of support submitted was submitted from the property owner directly to the north along Synergy Court.

Board Member Ahlvin discussed that they had not seen an application like this before. Staff Member Moon clarified that the variance would apply only to the subject property and not to the PUD as a whole.

Chairperson McCoy pointed out that the variance would live in perpetuity with the property, so they should consider future use of the street. Board Member Ahlvin suggested prohibiting the time to avoid the peak traffic period from 7:30 AM – 9:00 AM. Mr. Austin expressed that he could not comment on how the applicant would receive that restriction, and he did note that they're expecting the two trucks in the morning. He also expressed concern that it could be difficult to enforce such a provision.

Tim Weiss, 8305 Wildlife Ridge, Vanguard, noted that these are delivery trucks, and the timing of their arrival is sometimes hard to control. He explained that the truck will just be out on the street for a momentary, then truck will be completely on the facility while they are being loaded and unloaded. Staff Member Moon noted that parking is allowed on the street which would provide room for a waiting truck and Synergy Court is a wide street.

Board Member Stierman recognized the difficulty of enforcing limits on this type of practice.

Board Member Ahlvin asked if other relevant City codes apply. Staff Member Moon noted that an Engineering code limits the time a vehicle can be in the street.

Chairperson McCoy asked how many trucks would come each day, and Mr. Austin noted one to two. Chairperson McCoy suggested a condition of limiting the truck to no more than one per hour. Mr. Austin stated that the trucks that will be coming are delivery trucks and are not owned and operated by the business and therefore it would be very hard to regulate the delivery schedule.

Staff Member Schrobilgen described the zoning enforcement process. Staff Member Moon stated the Board may wish to incorporate a condition of approval that would be consistent with the Engineering code restricting the time trucks could be in the street as this would allow for zoning enforcement if need be in the future.

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

1. That delivery vehicles shall not impede or block the street for periods in excess of 15 minutes.

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

DOCKET – 08-24: Application of Jessica Heiar and Jace Pins, 2547 Windsor Avenue, to install 6' high and 9' high fences in the front yard where 4' high maximum is permitted, and to allow an accessory structure 16' from the front property line where 20' minimum is required in an R-2 Two-Family Residential zoning district.

Jessica Heiar, 2547 Windsor Avenue, spoke in favor of the request. She explained that they are looking to build a 6' privacy fence around the yard to contain their dog and chickens. She noted they have two front yards as they have a corner property. She stated they are willing to angle the fence to provide visibility for the triangle at the driveway.

There was no public input.

Staff Member Schrobilgen detailed the staff report, describing the property and the requested fencing. He displayed an aerial map identifying the locations of the proposed fences. He noted that this is an R-2 zoning district, and one- and two-family structures are exempt from the visibility triangle at the driveway, though it is often a condition of the Board. He noted that hens only are allowed and that the run is treated as a fence and could be 7' in height in other parts of the yard outside the front yard. He explained that the proposed fence along Windsor is 4' from sidewalk and appears to be 0' from the right-of-way.

Board Member Ahlvin asked about the fence along Windsor Avenue protruding beyond the front of the neighbor's house to the south. He also asked about the spacing between the proposed fence and the neighboring home to the south. Ms. Heiar expressed that she talked with the neighbors, and they didn't seem worried about it as long as they can get a lawn mower between the fence and house. The Board discussed the proposal and agreed that the fence along Windsor Avenue should be moved back to align with the front façade of the neighbor's house and clarified that it should align with the building façade.

and not the and not just the porch.

Motion by Kosel, seconded by Ahlvin, to approve the request with the following condition:

1. That the fence along Windsor Avenue shall be moved west so as to align with the front building façade of the neighboring single-family residence located to the south.

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

DOCKET – 09-24: Application of Carl LuGrain, 2626 Queen Street to construct a deck 0' from the side property line where 6' minimum is required and to cover 42% of lot with structures where 40% maximum is permitted in an R-2 Two-Family Residential zoning district.

Carl LuGrain, 2626 Queen Street, spoke in favor of the request. He explained that he already started building the deck, but he had to stop to get this Special Exception. He provided a note of support from his neighbor, Kevin Adams, 2624 Queen Street, stating that he's okay with the deck as proposed.

Chairperson McCoy asked if the applicant would be okay with the condition that the deck remain of an open design, and LuGrain replied, yes.

Board Member Ahlvin proposed the condition that the applicant demonstrate the property line to the satisfaction of the building official.

There was no public input.

Staff Member Duba detailed the staff report noting the existing conditions of the property and the surrounding neighborhood and the proposed deck. He noted that this property is legally nonconforming for lot width and lot area, and that the current UDC requirements for setback and lot coverage in the R-2 zoning district are generally intended for wider, larger lots that are more typical in that zoning district.

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

1. The deck shall remain of an open design.
2. The applicant must demonstrate the property line(s) to the satisfaction of the building official.

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

DOCKET – 10-24: Application of Andrew Rupp, 855 Rush Street, to store a vehicle 0' from the front property line (along Quince Street) where 20' minimum is required in an R-1 Single Family Residential zoning district.

Andrew Rupp, 855 Rush Street, spoke in favor of the request. He explained that he

temporarily had a utility trailer parked on the grass last year and got a zoning violation notice. He said he wanted to make sure he had a legal spot to store his trailer for portions of the year. He stated that due to the site topographic, area is limited on his site and the proposed location would be a paved space adjacent to the driveway. He also intends to build a retaining wall.

There was no public input.

Staff Member Schrobilgen detailed the staff report noting there is a significant grade change on the property, that Quince Street has a wide right-of-way and is approximately 19' from the back of curb, there is no concern of blocking visibility for passing traffic, and that no public input was received.

Board Member Ahlvin asked if the storage space would be paved, and Schrobilgen replied yes and noted two recommended conditions: that the storage space be paved and that the paving be poured at least to the outside dimensions of what's being stored.

Mr. Rupp replied that the pad can be bigger than the vehicle. Staff Member Schrobilgen confirmed that it could be poured larger and that the request was the storage use in the proposed location which has a minimum size but no maximum. He noted that anything built in the right-of-way would require Engineering approval, and that the trailer in question fits within the bounds shown on the request and the subject property.

Chairperson McCoy asked the size of trailer, and Rupp replied that it's 12' x 6' and noted that it's stored in Wisconsin in winter and spring.

Chairperson McCoy asked the Board if they wished to discuss the length of the space or times of year it could be stored. Ahlvin expressed that he was not as concerned due to the limited size of the pad. Schrobilgen noted a storage area would be restricted to the size on the diagram, which is 13' x 7'.

Board Member Kosel expressed concern that the size was restrictive. Staff noted that a larger storage area could be requested in the future by the current or a future property owner. Staff noted that a stored vehicle could be longer but would encroach into the right-of-way and anything in the right-of-way would fall under the review of the Engineering Department.

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

1. The vehicle storage location shall be hard surfaced.
2. The vehicle storage area shall be built to the outside dimensions of the vehicle being stored.
3. The vehicle storage area shall be no larger than 13' x 7'.

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

DOCKET – 11-24: Application of Andrew McCready, 395 W. 9th Street, to allow five wall

signs where two are permitted in a C-4 Downtown Commercial zoning district in a locally designated historic district.

Andrew McCready, 1268 Locust Street, representing Bridge Church, spoke in favor of the request. He explained the nature of the site with one-way street traffic, vehicles, and pedestrians. He stated they would like to keep the three wall signs they have and add pillar signs where there used to be signs.

There was no public input.

Staff Member Duba detailed the staff report noting the current signage on the site and displaying photos of all the signs. He explained the recent history of this signage and how one of the wall signs had been installed with a temporary sign permit. He described the challenge of providing signage for this building and location, and shared the applicant's statement that the new signage has helped, and there have been no complaints about it. He expressed that this signage would have limited impact on the community in general but could benefit motorists and pedestrians seeking the offerings of Bridge Christian Church and the public events it hosts.

Board Member Ahlvin asked about the lighting on the signs. McCready stated they are not lit, and they are not planned to be lit, though there is evidence that the monument sign was lit. Board Member Ahlvin proposed a condition of no lighting on the wall-mounted signage. He expressed that it is an oddly shaped building, so he has no concerns with the request.

Chairperson McCoy expressed concern about the request and asked about the material of the wall signs. Duba stated that the signs are vinyl and noted that while the historic guidelines do not recommend vinyl, they do not prohibit it, either. He stated that the design guidelines seek to minimize damage to buildings from sign installation. Duba also stated that a historic review had occurred, and were approved. Chairperson McCoy stated that when he installed signs on his business, he had specific materials he was able to use, and that did not include vinyl. Staff pointed to UDC Section 15-21(E) which states that "sign faces in all types of signs may be made of metal, glass, wood, fabric, or other approved materials" and that any material limitations for similar properties likely stemmed from application of the Architectural Guidelines.

Board Member Stierman asked if their review was about the type of material. Staff Member Duba replied no, it was about the number of signs, and that the Planning Services Department would review material in the sign permit application. Board Member Stierman stated she had no concerns about the number of signs.

Board Member Kosel stated she had no questions or concerns.

Board Member Ahlvin stated that he had no concerns about the number of signs, and he proposed the conditions that all other sign codes apply, and the wall signs remain unlit. Mr. McCready stated that they don't intend to internally light the signs, and he noted that

they think the pillar signs were externally lit in the past. Staff Member Duba noted the sign regulations that prohibit internal illumination but that a variance request could be made to light them.

Motion by Ahlvin, seconded by Stierman, to approve the request with the following conditions:

1. The signs mounted to the building walls remain unlit.
2. The sign materials shall adhere to all applicable city codes and regulations.

Motion carried by the following vote: Aye – Kosel, Stierman, and Ahlvin; Nay – McCoy, citing the following variance criteria:

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
2. Because of this disadvantage, the owner is unable to make reasonable use of the affected property; 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.

ITEMS FROM PUBLIC: None.

ITEMS FROM BOARD: None.

ITEMS FROM STAFF:

- Staff response to Board inquiry related to parking at 469 Emmett Street.
- Election of Officers
- Appointment to the Airport Zoning Board of Adjustment

The Board discussed postponing the discussion for 469 Emmett Street to a future meeting when Chairperson McCoy is attending in-person. They also discussed postponing the Election of Offices and the Appointment to the Airport Zoning Board of Adjustment to the next meeting as they desired all Board Members to be present for the voting.

ADJOURNMENT: Motion by Ahlvin, seconded by McCoy, to adjourn the April 25, 2024 Zoning Board of Adjustment meeting. Motion carried by the following vote: Aye – Ahlvin, Kosel, Stierman, and McCoy; Nay – None

The meeting adjourned at 8:02 p.m.

Respectfully submitted,



Shena Moon, Associate Planner

June 27, 2024

Adopted