



Approved

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

5:30 p.m.

Thursday, November 21, 2024
City Council Chambers, Historic Federal Building

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

Board Members Excused: Rena Stierman

Board Members Unexcused: None

Staff Members Present: Shena Moon and Jason Duba

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 October 24, 2024 Zoning Board of Adjustment meeting as submitted. Motion carried by the following vote: Aye – Ahlvin, Mauss, and McCoy; Nay – None; Abstain – Kosel.

DOCKET – 37-24: Application of Church of the Resurrection, 4300 Asbury Road, to construct a 5,930 square foot ground mounted solar array totaling 7,440 square feet of detached accessory structures where 100 square feet and 1,000 square feet maximum is permitted in an R-1 Single-Family Residential zoning district.

Melissa Turner, spoke in favor of the request on behalf of the Church of the Resurrection. She explained that this is part of their Green Initiative. She said they are also planning a prairie on the north side of the property. She explained the location is near the ball field, going up the hill, which will allow the panels to be flatter against the hill. She said they intend to plant landscaping around the array and plants and shrubs along the property line. She noted there will also be a water retention pond south of the array.

Chairperson McCoy asked about how they selected this location. Ms. Turner responded that if the array is on flat property it will have to be taller.

Jill Schweikert, 2507 Millstone Drive, expressed opposition to the request, stating her property would be very close to the array and they don't want to see it from their backyard. She stated she had consulted realtors who said the presence of an array would diminish their property value. She expressed support of solar energy, but not this location because the church has other locations on their property where they could locate the array.

Brad Schweikert, 2507 Millstone Drive, expressed opposition to the request, stating the

array would be lurking over his property. He said he considers it a nuisance and an obstruction as it would be visible from the sidewalk. He expressed concern about stormwater runoff onto his property.

Casey Kizzier, 2491 Millstone Drive, expressed opposition to the request, stating that the array would be visible straight out their kitchen window. He said kids play on the hill and field where the array is proposed to go.

Jennifer Schultz, 2523 Millstone Drive, expressed opposition to the request, stating her concern about noise pollution, electromagnetic field radiation, and other health risks. She noted she wouldn't want her granddaughter playing in her backyard in such close proximity to the array. She expressed concern about property value reduction.

Tim Luhart, 3650 Seville Drive, expressed support for the request, stating he has rooftop solar panels, and he feels healthy and hasn't heard noise. He said he is joining with others to protect the environment, and he sees Resurrection as a beacon of hope as the solar array will show environmental stewardship is possible. He noted facts about the electricity generation and carbon reduction potential of the proposed array.

Terry Balk, 2498 Millstone Drive, expressed opposition to the request, stating prairie grass shouldn't be more important than houses and that relocating the array to elsewhere on the property would be better. He asked how tall the screening plants are going to be.

Chairperson McCoy summarized the comments as dealing with variance criteria relating to public interest, property value, and special privilege.

Kent Kraus, Eagle Point Solar, stated that the new location on the hillside allows the array to fit closer to hillside and be lower to the ground. He noted this also allows the distance between rows to be shorter to blend in with the landscape. He referred to academic studies showing that solar arrays have not harmed property values of nearby properties, and that electromagnetic field radiation is not a significant health risk. He explained that the array will be installed with a pier-driven system, so the grass will not be scraped, and runoff should not be significantly different. He stated that noise from the inverter is minimal and displayed a video showing that.

Chairperson McCoy said he thought the noise complaint was about noise reflection from the highway.

Staff Member Duba stated this request was heard last month, tabled, and the applicant was asked to find a more suitable location. He detailed the staff report noting the characteristics of the subject property and the surrounding neighborhood. He said the property is zoned as R-1 Single Family Residential. He noted the area of the church property is over 900,000 square feet, yet it is held to the same 100-square foot array size that a residential property of 5,000 square feet is. He noted the proposed array faces southwest and neighboring homes are to the east. He pointed out this array would generate local electricity, enhancing the sustainability, and resilience of the community.

Staff Member Moon noted the project would require site plan review by the City's Development Review Team and the stormwater runoff would be evaluated through that process.

Chairperson McCoy reviewed the variance criteria, stating that he felt the project does not meet them.

Board Member Ahlvin agreed with Chairperson McCoy that the request doesn't meet the variance criteria, also noting this property is zoned R-1.

Board Member Mauss said he felt the public opposition to the array's visibility is valid. He said he is not totally opposed to it if screening were adequate. He said he understands that putting it elsewhere doesn't work.

Board Member Kosel concurred with Chairperson McCoy and Board Member Ahlvin that the project doesn't meet the variance requirements.

Motion by McCoy, seconded by Ahlvin, to approve the request as submitted. Motion failed by the following vote: Aye – None; Nay – Ahlvin, citing criteria 1-5; Kosel, citing criteria 1-5; Mauss, citing criteria 5; and McCoy, citing criteria 2-5.

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; 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 – 39-24: Application of Andrew McCready, 1701 Central Avenue, to allow a residential use on the first floor where it is only allowed above the first floor in a C-4 Downtown Commercial zoning district.

Andrew McCready, 1268 Locust, spoke in favor of the request. He explained that he is working to purchase the building from Dubuque Initiatives. He noted there is an overstock of commercial space, so to make the project financially viable, he is proposing to split the building to make a front commercial unit and a back residential unit. He stated they would keep the storefront while creating a residential unit in back. He noted it could be an owner-

occupied store and residential unit.

Jon Wegmann, 1710 Jackson Street, noted that he is the owner of 1643 Central Avenue. He stated there is an excess of vacant storefronts on Central, creating the perception of a struggling neighborhood. He expressed that this is not a lack of community potential, but rather shifting economic realities driven by malls and big box retail. He expressed that two characteristics of successful area are density and entrepreneurial immigrants, which Dubuque is lacking here. He said the conversion to residential may help mitigate the housing shortage, blight, and the perception of vacancy. He stated that this approach is not experimental, it has succeeded elsewhere, and it is a step forward.

Ricky Pottebaum, 709 Garfield Avenue, stated that he owns several nearby properties on Central. He noted that there have been talks about allowing first floor residential units for years, that there is too much commercial, and there's a need for more residential and people in the neighborhood.

Staff Member Moon detailed the staff report noting the property has three street frontages. She noted the applicant is working to renovate and convert portion of the ground floor to a studio apartment and they desire to make the unit ADA accessible, and they are working through the design details for this. She noted the request maintains the commercial storefront along Central Avenue.

Board Member Mauss asked if they should define the size of the residential space. Staff Member Moon suggested referring to the site plan and the applicant regarding this. Mr. McCready stated they needed 600 square feet minimum. Chairperson McCoy suggested limiting the residential unit to no more than 650 square feet.

Chairperson McCoy expressed opposition, stating conversion of a commercial space to a residential unit would be more appropriately addressed through a text amendment to the zoning regulations, and that he could not make the finding for granting a variance.

Board Member Ahlvin expressed that he had no issues with the request, since it is maintaining the storefront.

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

1. The ground floor residential unit shall be no more than 650 square feet in area.

Motion carried by the following vote: Aye – Ahlvin, Kosel, and Mauss; Nay – McCoy, citing criteria 1-5.

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; 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 – 40-24: Application of Mike Lange, 1458 Locust Street, to allow two freestanding signs where one is permitted, to allow one sign to be 8' high and the other to be 7'-9" high where 6' in height is permitted, to allow one sign to be 32 square feet where 8 square feet is permitted, and to allow one sign to be in a visibility triangle in an OR Office Residential zoning district and a historic district.

Magdalene Grace Deane, Master Liturgical Artist, spoke in favor of the request, noting that she also designed the signs for St. John's Episcopal Church, which received a variance two years ago. She showed how the proposed signs for the Community Center are similar in design to the previously approved signed for St. John's, thereby creating continuity and helping to alleviate the confusion people have between the two buildings and where to park. She stated the four existing signs on the property will be removed when the new signs are installed. She explained how she designed the signs to fit the buildings and the neighborhood and provided small model signs for the Board's consideration.

Dave Stuart, 1470 Locust Street, spoke in favor of the request, noting that he has seen many confusions between the church and the community center. He expressed that this building is not historic, that the visibility triangle not a concern due to the one-way street, and that the church is a good neighbor.

Staff Member Duba detailed the staff report noting the characteristics of the property and the neighborhood. He displayed renderings of the signs, detailing their dimensions and the sign regulations for the OR Office Residential zoning district in a historic district. He noted that St. John's received a variance for similar signs at the church building two years ago. He read a statement from Traffic Engineer Justine Hull stating that the sign on the corner should not be an issue for passing vehicles but that it could block visibility for vehicles exiting the parking lot. He noted that the applicant has stated they would remove the four existing signs, and he suggested that be made a condition of approval.

Chairperson McCoy expressed that a condition of approval should be included to removal of the four existing signs and require that they can't be put back up.

Board Member Ahlvin expressed concern for the visibility triangle encroachment for vehicles exiting the parking lot on to Locust. Ms. Deane said that it's a low standing sign, and it would be similar to looking over the hood of a car. Board Member Ahlvin expressed concern for pedestrians, and Board Member Mauss also expressed concern about the sidewalk. Board Member Mauss asked if the church was willing to lose one parking spot to move the sign out of the visibility triangle. Ms. Deane expressed that the sign would be

more difficult to see then, and she pointed to the church where a similar sign was installed without issue. The Board looked at Street View imagery of the location to try to picture how the sign might affect visibility. Ms. Deane said they tested it and did not find a visibility impediment. Staff Member Moon suggested the Board may wish to request diagrams or additional visual information so as to better understand the potential impacts of the sign within the visibility triangle along the driveway. Chairperson McCoy asked if that was something the sign contractor could provide, and Mike Lange replied yes. Chairperson McCoy questioned whether the applicant would wish to table the request so that additional information could be provided. Ms. Deane confirmed that they would like to table the request.

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

DOCKET – 41-24: Application of Jill Barden, 2600 Dodge Street, to allow a sign to extend above the parapet wall where such placement is not permitted in a PC Planned Commercial zoning district.

Mike Barden, 1540 Douglas Street, spoke in favor of the request. He explained that they are seeking to extend the sign one foot above the parapet, noting that it is difficult to see from nearby. He noted that one other business received this type of variance.

There was no public input.

Staff Member Duba detailed the staff report stating the sign has already been installed without a permit. He noted the characteristics of the property and the surrounding area. He noted other signs in the shopping center that extend above the parapet. He explained that under canopy signs are also available to the applicant. He stated that the president of Plaza 20 wrote a letter of support.

The Board had no questions or concerns.

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

ITEMS FROM PUBLIC: None.

ITEMS FROM BOARD: None.

ITEMS FROM STAFF: Planning Services Director Wernimont discussed the UDC update and outreach to the Zoning Board of Adjustment. Board Member Ahlvin and Chairperson McCoy expressed interest in meeting individually with the consultant working on the update. Chairperson McCoy expressed an interest in clarifying the relationship between historic guidelines and UDC codes. Mr. Wernimont explained that the consultant, Camiros, will be reaching out via email in order to get feedback and input from the Board as well as other stakeholders.

ADJOURNMENT: Motion by McCoy, seconded by Ahlvin, to adjourn the November 21, 2024 Zoning Board of Adjustment meeting. Motion carried by the following vote: Aye – Ahlvin, Kosel, Mauss, and McCoy; Nay – None

The meeting adjourned at 6:55 p.m.

Respectfully submitted,



Shena Moon, Associate Planner

December 19, 2024

Adopted