



Approved

MINUTES
CITY OF DUBUQUE ZONING BOARD OF ADJUSTMENT
REGULAR SESSION

4:00 p.m.

Thursday, May 27, 2010

City Council Chamber, Historic Federal Building

Board Members Present: Vice Chairperson Randy Klauer; Board Members Jeff Cremer, Heath Hutchinson and Bill Gibbs; Staff Members Wally Wernimont and Kyle Kritz.

Board Members Excused: Chairperson Mike Ruden.

AFFIDAVIT OF COMPLIANCE: Staff presented an Affidavit of Compliance verifying the meeting was being held in compliance with the Iowa Open Meetings Law.

CALL TO ORDER: The meeting was called to order by Vice Chairperson Randy Klauer at 4:02 p.m.

NOTE: Board Member Heath Hutchinson arrived at 4:30 p.m.

MINUTES: The minutes of the April 22, 2010 meeting were approved unanimously, as submitted.

SPECIAL EXCEPTIONS

DOCKET 10-10: Application of Daniel Herr for a special exception for property located at 2025 Simpson Street (tabled from last meeting) to build an attached garage 0 feet from the west side property line, 6 feet required, in an R-1 Single-Family Residential zoning district.

Daniel Herr reviewed his request noting that the property was surveyed. He explained that storm water runoff from the garage will be directed towards the rear yard. He explained that an existing detached garage will be removed and a new garage built in its place. He said that since the proposed garage will be located close to the side property line that it would need to be constructed to comply with the one-hour firewall building code requirement.

No one spoke in opposition to the request.

Staff Member Wernimont distributed photos of the site to the Board. He reviewed the reasons for tabling the special exception from the last meeting. He discussed the size and setback of the proposed garage and that visibility along the street will not be impacted.

Motion by Gibbs, seconded by Cremer, to approve the special exception with the condition that storm water from the garage be directed away from the adjacent property.

Motion carried by the following vote: Aye – Cremer, Hutchinson, Gibbs and Klauer; Nay – None.

DOCKET 15-10: Application of Rick & Joyce Cottrell for a special exception for property located at 1780 Chaney Road to build a 14 foot by 28 foot attached front porch 3 feet from the north side property line, 6 feet required, in an R-1 Single-Family Residential zoning district.

Rick Cottrell reviewed his request with the Board. He noted the location of the proposed deck in relationship to property lines and driveway.

Staff Member Wernimont distributed photos of the site to the Board.

No one spoke in opposition to the request.

Staff Member Wernimont reviewed the request, noting the style of the building and the location of the deck. He explained that the proposed deck will be built over an existing impervious surface.

Motion by Gibbs, seconded by Hutchinson, to approve the special exception request, as submitted. Motion carried by the following vote: Aye – Cremer, Hutchinson, Gibbs and Klauer; Nay – None.

DOCKET 16-10: Application of Nancy Harrington-Chartier for a special exception for property located at 1041 W. 5th Street to build a pergola/carport 0 feet from the west side property line, 6 feet required, and 12 feet from the front property line, 20 feet required, in an R-2 Two-Family Residential zoning district.

The applicant was not in attendance.

The Board decided to table the application to the next meeting.

Motion by Gibbs, seconded by Cremer, to table the application to the June 24, 2010 Zoning Board of Adjustment meeting. Motion carried by the following vote: Aye – Cremer, Hutchinson, Gibbs and Klauer; Nay – None.

DOCKET 17-10: Application of Wilfred R. Bahl for a special exception for property located at West of 7010 Asbury Road to build a single-family home 90 feet from the front property line, 50 feet maximum allowed, in an R-1 Single-Family Residential zoning district.

Bill Bahl reviewed his request with the Board. He explained that he would like to build a single-family home further than 50 feet from the front property line. He said that the proposed house will be located approximately 90 feet from the front property line.

No one spoke in opposition to the request.

Staff Member Wernimont distributed an aerial photo of the site showing the proposed location of the single-family in relationship to property lines. He reviewed the location of the proposed new home, reviewed the reason for the maximum required setback and the paving requirements for a driveway. He explained that the property was recently rezoned from Agricultural to R-1 Single-Family Residential.

Motion by Gibbs, seconded by Hutchinson, to approve the special exception request, as submitted. Motion carried by the following vote: Aye – Cremer, Hutchinson, Gibbs and Klauer; Nay – None.

DOCKET 18-10: Application of Donna Schmitt for a special exception for property located at 785 Kaufmann Avenue to construct a 10 foot by 12 foot open attached front porch 7 feet from the front property line, 20 feet required, in an R-1 Single-Family Residential zoning district.

Donna Schmitt, 785 Kaufmann Avenue, reviewed her request with the Zoning Board of Adjustment. She explained that the proposed front porch will be of an open design and be located at the same elevation as the existing stoop.

No one spoke in opposition to the request.

Staff Member Wernimont distributed photos of the site to the Board. He reviewed the special exception request noting that the porch will be located approximately 15 feet from Kaufmann Avenue and that staff does not perceive any visibility issues with drivers backing their vehicles out of driveway to see oncoming traffic.

Motion by Gibbs, seconded by Cremer, to approve the special exception request, as submitted. Motion carried by the following vote: Aye – Cremer, Hutchinson, Gibbs and Klauer; Nay – None.

DOCKET 19-10: Application of Benny & Patricia King for a special exception for property located at 1776 Randall Place to build a second story addition, 2 feet from the northeast side property line, 6 feet required, in an R-1 Single-Family Residential zoning district.

Benny King, 1776 Randall Place, explained the request to the Board. He said that the new addition will actually be located 2.6 feet from the side property line. He reviewed the layout of the proposed addition to the house and noted that only the second story above an existing porch that will be enclosed is subject to the special exception request.

Staff Member Wernimont distributed photos of the site and an aerial photo to the Board.

Mike and Shauna Poppen, property owners of 1760 Randall Place, spoke in opposition to the request because of the impact to their property. They indicated that they have submitted a letter of opposition outlining their concerns which includes loss of trees and open space.

Mr. King clarified that the existing tree is located on the Poppins' property.

Vice Chairperson Klauer said that only the second story addition is subject to the special exception request.

The Poppers said that the second story addition would still reduce light, visibility and air to the second story of their home.

Mr. King stated that the tree in question actually grows over the property line onto his property. He said that he proposes to cut the tree limbs back to the property line and that is the only action he would take in order to build the addition.

Staff Member Wernimont summarized the issue of tree trimming in response to the question. He reviewed the request noting the existing house and garage are legally nonconforming. He explained that only the second story addition to the existing enclosed porch is subject to the special exception request. He explained that the majority of the addition will meet the required setback.

Motion by Gibbs, seconded by Cremer, to approve the special exception request. Motion carried by the following vote: Aye – Cremer, Hutchinson and Klauer; Nay – Gibbs.

DOCKET 20-10: Application of Tony & Angie Cross for a special exception for property located at 2752 Broadway Street to build a 16 foot by 30 foot detached garage 2 feet from the south side property line, 6 feet required, in an R-1 Single-Family Residential zoning district.

Tony Cross reviewed the request with the Zoning Board of Adjustment. He said that he is reducing the size of the garage from what was originally submitted. He explained that the proposed garage will be 14 feet wide by 30 feet deep instead of 16 feet wide by 30 feet deep. He explained the reduction in the garage size will allow for more room between his house and the proposed garage. He explained that his plan is to reconstruct a driveway and foundation this year and to construct the garage next year.

No one spoke in opposition to the request.

Staff Member Wernimont distributed photos of the site to the Board. He reviewed the special exception request, referred to the photos of the site and described the topography of the site. He explained that, if approved, the Board should place a condition that storm water runoff be directed away from the adjacent property.

Motion by Gibbs, seconded by Cremer, to approve the special exception request, with the condition that storm water is directed to the rear yard and not directly onto the adjacent property. Motion carried by the following vote: Aye – Klauer, Cremer, Hutchinson and Gibbs; Nay – None.

DOCKET 21-10: Application of Craig Krausman for a special exception for property located at 1676 Amy Court to erect a 6 foot high privacy fence along the front property line (Pennsylvania Avenue), 4 foot maximum permitted, in an R-1 Single-Family Residential zoning district.

The applicant was not in attendance.

The Zoning Board of Adjustment decided to table the application to the next meeting.

Motion by Gibbs, seconded by Hutchinson, to table Docket 21-10 to the June 24, 2010 Zoning Board of Adjustment meeting. Motion carried by the following vote: Aye – Cremer, Hutchinson, Gibbs and Klauer; Nay – None.

DOCKET 22-10: Application of Jeff & Tina Schwartz for a special exception for property located at 855 Rush Street to build an attached front porch, 10 feet from the front property line (Rush Street), 20 feet required, in an R-1 Single-Family Residential zoning district.

Jeff & Tina Schwartz reviewed the request with the Zoning Board of Adjustment. They discussed the location of the proposed deck, the position of the driveway and that the addition will not impact visibility along the street. Mr. Schwartz reviewed the design of the porch with the Board.

No one spoke in opposition to the request.

Staff Member Wernimont distributed photos of the site to the Board. He reviewed the special exception request noting that the front porch/deck will sit well above the grade of Rush Street and that visibility along Rush Street will not be impacted.

Motion by Gibbs, seconded by Cremer, to approve the special exception request, as submitted. Motion carried by the following vote: Aye – Cremer, Hutchinson, Gibbs and Klauer; Nay – None.

DOCKET 23-10: Application of Matt McElmeel / Julie Lott for a special exception for property located at 255 Quince Street to build an attached garage 4 feet from the north side property line, 6 feet required, and 6 feet from the rear property line, 20 feet required; and to build a deck 6 feet from the rear property line, 20 feet required; and to build a front porch 0 feet from the front property line, 20 feet required, in an R-2 Two-Family Residential zoning district.

Rita Sutton, representing Matt McElmeel, reviewed the request noting that the deck on the front and rear of the structure be of an open design. She also explained that the detached garage will be located 6 feet from the rear property line and 4 feet from the north property line.

Staff Member Wernimont distributed photos of the site to the Board.

Duane Lattner, 854 Cleveland, spoke in opposition to the location of the proposed deck. He explained that he would like to see the deck located on the south side of the structure. The Board reviewed the objection by the neighbor.

Staff Member Wernimont reviewed the request. He noted that Quince Street has a wide right-of-way and that it appears that there is quite a bit of front yard for the

subject property when there is not. He explained the changes to the Unified Development Code as they relate to rear yard setback requirements in residential districts. He explained that the Zoning Board of Adjustment has the option to approve all of the request, modify the request, or deny the request.

The Board discussed each request. Vice Chairperson Klauer noted that the garage is being proposed to be located within 6 feet of the rear property line and that the neighbor has no objection to that setback. He explained the adjacent property owner only has an objection to the 6 foot rear yard setback for the rear deck.

Board Member Gibbs said that the deck will only be located 3 feet above grade and will not negatively impact the surrounding properties.

Motion by Gibbs, seconded by Cremer, to approve the special exception request, as submitted. Motion carried by the following vote: Aye – Klauer, Cremer, Hutchinson and Gibbs; Nay – None.

DOCKET 24-10: Application of Dan Wedig / Carl Summer, Locators Ltd. for a special exception for property located at 629/645 Fenelon Place to build a four-plex and cover 55% of the lot with structure, 40% maximum allowed, in an R-3 Moderate Density Multi-Family Residential zoning district.

Dan Wedig reviewed the proposed project noting that all setbacks will be complied with, but that the lot coverage will be exceeded and is asking for a special exception.

Staff Member Wernimont distributed photos of the site to the Board.

The Board asked Staff about the ability to build duplexes on the two lots.

Staff Member Wernimont explained that there is not enough lot size in order to construct two separate duplexes in an R-3 District. He explained that it is required to have 6,000 square feet per lot for a duplex and that the proposed sites only have 5,300 square feet for each lot.

The Board asked about the dimension along the front of the lot. Staff Member Wernimont indicated that the front property line dimension is 100 feet. The Board asked about the length of a standard parallel parking stall on the street. Staff Member Wernimont noted that perpendicular stalls typically are 9 feet wide by 19 feet deep. He explained that it all depends on how people park in the spots in order to figure out how many on-street parallel parking spaces are across the front of the property. He also noted that the applicant is proposing to take access to the garages from the alley at the

rear and then no curb cut will be placed along the front of Fenelon Place; and, therefore, no on-street parking will be removed.

The Board asked if the property is located in a historic preservation district. Staff Member Wernimont explained that the Fenelon Place neighborhood has been identified to be a National Register eligible historic district; however, it has not gone through the process in order to be listed.

Marcos, 663 Fenelon Place, spoke in opposition to the request noting that there is a connection between the size of the project and the number parking spaces available in the neighborhood.

Evelyn Nadeau, 663 Fenelon Place, presented a petition in opposition to the request. She stated that approving the request would compromise the quality of the neighborhood. Forty percent lot cover requirement was necessary to promote air, light and ventilation. She explained she has concerns that traffic on the alley would be dangerous to children who use the alley to get to places in the neighborhood.

Mary Oberdoerster, 420 Summit Street, spoke in opposition to the request. She said she has concerns about the amount of parking being allowed at the site and that the alley is being used more like a street than just alley access. She indicated that within two blocks along Fenelon Place there are approximately 50 parking spaces located off the alley. She explained that her primary concern is the safety of pedestrians in the alley.

Brian Meyer, 607 Fenelon Place, spoke in opposition to the request. He said he is opposed to the granting of the 55% because it allows the applicant to provide a number of parking spaces along the alley. He explained that the additional demand that the four-plex will have on parking and traffic in the alley will add to the potential traffic accidents.

Carrie Rogers, 607 Fenelon Place, spoke in opposition to the request because the building will diminish light and ventilation and have a negative impact on her garden and the beauty of the neighborhood.

Jim Lindsay, 690 Fenelon Place, spoke in opposition to the request. He said that he is in favor of having the 40% lot area requirement kept. He explained that with the approval to 55% that it is a 38% increase in lot coverage. He explained that the lot coverage requirement is there in order to help manage storm water runoff, provide recreational space on the lot. Mr. Lindsay spoke about the tourist nature of the neighborhood, reviewed the Federalist architecture throughout the neighborhood, and

how rare it is. He explained that the new building will not be a benefit to the neighborhood and that it is a 38% increase over what currently is allowed.

Mary and Carl Summers, sellers of the property, reviewed other properties that they own in the neighborhood. They explained that there are many large homes in the area that exceed the required 40% lot coverage and do not provide off-street parking. Mr. Summers noted that there are people who park in the alley now—which forces drivers to drive onto their property in order to navigate the alley. They explained that with, or without, the approval of the Board, a four-plex will be constructed at the site.

Dan Wedig explained that the issue at hand is the amount of lot being covered. He explained that he can build a four-plex with, or without, approval of the special exception.

Staff Member Wernimont noted that staff received two letters of opposition to the request. One letter of opposition was from William Manning, 658 Fenelon Place, and the other letter of opposition was from Brad and Shirley Brown, 590 Fenelon Place. He explained that both letters discuss issues with on-street parking throughout the neighborhood and density. He explained that parking is accessory to the principle use that it serves. He explained that only the off-street parking associated with the four-plex can be used by occupants of the structure. He explained that the parking cannot be leased out for any other purpose throughout the neighborhood. He emphasized that the request is to exceed the lot coverage requirement and not the parking requirement. He noted that a site plan is required, and that the proposed structure will meet the old traditional neighborhood design guidelines. He explained that since a site plan is required, the Engineering Department will review storm water runoff through that process.

Vice Chairperson Klauer asked about the height restrictions in an R-3 District. Staff Member Wernimont noted that the height requirement in an R-3 District is 30 feet and how the height requirement is calculated. Vice Chairperson Klauer asked about the historic nature of the area. Staff Member Wernimont reviewed the current designation of the neighborhood and the process of designating the property as a City designated historic district.

Mr. Wedig indicated that the actual structure will be closer to 50% rather than the 55%. He explained that he would like have the 55% to give the architect a bit more room to work with the design of the building.

The Board discussed the request. Motion by Gibbs, seconded by Cremer, to approve the special exception request, with the condition that storm water not cause drainage

problems on the adjacent properties. Motion denied by the following vote: Aye – None; Nay: Klauer, Cremer, Hutchinson and Gibbs.

CONDITIONAL USE PERMITS:

NOTE: Vice Chairperson Randy Klauer decided to hear Conditional Use Permit Docket 25-10 and Variance Request Docket 26-10 concurrently and to vote on them separately.

DOCKET 25-10: Application of Bethany Home for a conditional use permit for property located at 1005 Lincoln Avenue to allow a three-story addition to the south side of Bethany Home, in an R-3 Moderate Density Multi-Family Residential zoning district.

Linda Manternach, Bethany Home, noted the request is for a conditional use permit for an addition and a variance in height and setbacks to the property line for the same addition. She explained that the first floor will be composed of garages at grade level. The upper units will be rooms. She explained that the design will match the existing building.

Vice Chairperson Klauer asked if the proposed addition will be closer to the street than the existing structure. Ms. Manternach indicated that the proposed structure will not encroach any closer to the street than the existing structure.

Vice Chairperson Klauer asked about the height of the structure and if it would exceed the height of the existing structure. Ms. Manternach indicated that the proposed addition will not exceed the existing height of Bethany Home.

No one spoke in opposition to the request.

Staff Member Kritz presented the staff report. He noted the previous history of Bethany Home in relationship to the Zoning Board of Adjustment. He explained that Bethany Home has received previous approvals for variances in height and setback requirements. He noted that the variance request is for a height and a front and side yard setback. He explained that the conditional use permit is to allow for the addition to Bethany Home. He explained that he reviewed visibility from the proposed garage floor to the street with the Engineering Department. He explained that the Engineering Department feels there is adequate visibility for vehicles entering onto the street to see oncoming vehicle and pedestrian traffic.

Staff Member Kritz explained that Bethany Home will be required to install a screening fence, in addition to some landscaping along the south side as a buffer from the adjacent residences.

Motion by Gibbs, seconded by Hutchinson, to approve the conditional use permit request. Motion carried by the following vote: Aye – Cremer, Hutchinson, Gibbs and Klauer; Nay – None.

VARIANCES:

DOCKET 26-10: Application of Bethany Manor for a variance for property located at 1005 Lincoln Avenue to allow a 40 foot high addition, 30 feet maximum height permitted; and to allow an 8 foot front yard setback for both Lincoln Avenue and High Bluff Street, 20 feet minimum required; and a 10 foot south side yard setback, 20 feet minimum required, in an R-3 Moderate Density Multi-Family Residential zoning district.

Motion by Gibbs, seconded by Hutchinson, to approve Docket 26-10 as submitted. Motion carried by the following vote: Aye – Klauer, Cremer, Hutchinson and Gibbs; Nay – None.

DOCKET 27-10: Application of Greg & Peggy Stover / Fannie Stout LLC for a variance for property located at 1145 Locust Street to build a detached garage 3 inches from the south side property line, 3 feet required; and 0 feet from the front property line (Bluff Street), 10 feet required; and to cover 60% of the lot with structure, 50% maximum allowed, in an OC Office Commercial zoning district.

Greg and Peggy Stover, 1145 Locust Street, reviewed the variance request with the Board. They reviewed the history of the property, provided photos of the former garage building that occupied most of the back yard, explained that the garage was used by the funeral home to hold vehicles and was torn to make room for a new garage. Mr. Stover noted that the former garage had a 0 foot setback along Bluff Street which wasn't unusual for structures in the neighborhood. He noted that the 3 inch setback is measured from the garage overhang to the property line and that the garage will actually be built 1 foot 10 inches from the property line. He reviewed a concrete wall that was constructed by the neighbor which is located approximately 1 inch from the south side property line. He indicated that his plan is to keep the wall of his garage 5 feet from the wall of the adjacent neighbor's garage.

Clyde Overturff, 1105 Locust Street, spoke in opposition to the request noting that the previous garage of the funeral home was not located 0 feet from Bluff Street. He explained that he objects to the variance and the side yard setback as it is necessary to

buffer between his building and the adjacent building. He explained that this spacing allows for storm water runoff and aesthetic reasons. He explained that he has concerns that during heavy rains and snow and ice will fall off the roof, over the gutter and onto his property. He explained that the former garage was located approximately 6 feet from the side property line and had a flat roof. Mr. Overturff noted that the maintenance of the proposed structure will be difficult if a variance for a side yard setback is approved. He indicated that the request does not meet the requirements for granting a variance.

Lenore Nesler, 1108 Locust Street, spoke in opposition to the request. She explained that she was in favor of the Stover's receiving a parking variance for the Bed and Breakfast; however, she feels that with the approval of the garage, it will impact the amount of off-street parking available on site.

Deb Overturff, 1105 Locust Street, spoke in opposition to the request noting that the proposed new garage will be higher and closer than the previous garage and will limit the visibility from several windows located in their home. Ms. Overturff reviewed the configuration of her home and the garage. She explained the spacing for the side yard setback is there to provide for light, air and ventilation between the homes. She stated she does not feel that the request meets the variance requirements. She explained that the concrete wall that they constructed was to divert all of the water that was coming from the subject property onto their property. She explained that the applicants still can make reasonable use of their property. She said that if the Board approves the variance, it will confer a special privilege onto the applicants that is not enjoyed by others in the neighborhood.

Leland Scheckel, 1105 Locust Street, spoke in opposition to the request. He reviewed the criteria for granting a variance. He explained that the current owner made the situation by tearing down the existing garage. He felt that granting of a variance will adversely impact his property due to the close proximity and the potential of rain, snow and ice falling onto his property.

Greg and Peggy Stover rebutted the comments. Mr. Stover explained that this is a historical area and that he did not place the house where it is located and other various structures located on the property. He reviewed water problems that existed when they purchased the home and demolished the garage. He stated that they could build a garage that could meet the required setbacks, but they have tried to work with the neighbors in the past in order to develop a proposal that would be more fitting with the historic character of the neighborhood. He explained that if he were to build a garage to meet the setback requirements, he would still have visibility issues due to the location of the Fanny Stout House Gate House and the Stout House location.

Vice Chairperson Klauer stated that the major concern is with the side yard setback and not the lot coverage and setbacks to Bluff Street. He said that he is in favor of the request if it meets the side yard setback requirement.

Staff Member Wernimont reviewed the location of the property, approval of the garage design by the Historic Preservation Commission and referred to photos located in the packet. He discussed the reasons why the applicants needed to apply for a variance instead of a special exception. He explained that the 3 foot side yard setback would be taken from the property line to the foundation and that the garage be allowed to have a 1 foot overhang.

The Board discussed how side yard setback is measured regarding district bulk regulations. The Board discussed the request noting that the issue at hand is primarily the side yard setback. They asked if the applicant was in favor of moving the garage in order to meet the 3 foot side yard setback. The Stovers were in agreement to shifting the building to meet the 3 foot side yard setback.

Motion Gibbs, seconded by Cremer, to approve the variance request subject to determining the location of the lot line, to address storm water runoff and that the south side yard setback meet the district standard of 3 foot. Motion carried by the following vote: Aye – Klauer, Cremer, Hutchinson and Gibbs; Nay – None.

ADJOURNMENT: The meeting adjourned at 6:35 p.m.

Respectfully submitted,



Kyle L. Kritz, Associate Planner

Adopted—June 24, 2010