

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

4:00 p.m.

Thursday, June 24, 2010

City Council Chamber, Historic Federal Building

Board Members Present: Vice Chairperson Randy Klauer; Board Members Jeff Cremer and Bill Gibbs; Staff Members Wally Wernimont and Guy Hemenway.

Board Members Excused: Chairperson Mike Ruden; Board Member Heath Hutchinson.

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 Klauer at 4:00 p.m.

Vice Chairperson Klauer said that there are only three board members present and that three affirmative votes are required to approve a request. He asked if any of the applicants present would like to table their application to the next meeting.

MINUTES: Motion by Gibbs, seconded by Cremer to approve the minutes of the May 27, 2010 meeting, as submitted. Motion carried by the following vote: Aye – Klauer, Cremer and Gibbs; Nay - None.

SPECIAL EXCEPTIONS

DOCKET 16-10: Application of Nancy Harrington-Chartier (tabled from May 27, 2010) 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.

Nancy Harrington-Chartier, 1041 W. 5th Street, outlined her request. She introduced Jim Meter as her contractor. She said she wants to build a pergola 0 feet from the west side property line.

The Board and the applicant discussed the driveway configuration relative to the pergola location.

Vice Chairperson Klauer asked how the property line was established. Ms. Harrington-Chartier said that she has located the property pins. She said that the pergola will be open on the sides and will have a clear Lucite panel roof.

No one was present to speak in opposition to the request.

Staff Member Wernimont distributed photos of the site to the Board. He reiterated the request. He said that the lot lines are not perpendicular but are angled to the street. He referred to a brochure that was submitted by the applicant indicating the design of the pergola. He said that because the pergola will be covered and partially enclosed it is considered the same as a carport. He recommended that the Board require the applicant to clearly demonstrate the lot line location in the field for the Building official.

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

DOCKET 21-10: Application of Craig Krausman (tabled from May 27, 2010) 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.

Craig Krausman, 1676 Amy Court, explained his request. He said that he would like to install a fence higher than what is allowed. He said he has spoken with his two neighbors and that they are not opposed to the request.

Staff Member Hemenway presented photos of the site to the Board. Mr. Krausman explained that the fence will be a 6 foot high vinyl privacy fence. Board Member Gibbs asked why he would like to exceed the 4 foot high requirement. Mr. Krausman said that wants to install the fence for the safety of his children and to reduce traffic noise from Pennsylvania Avenue.

Board Member Cremer asked about driveway access to the lot. Staff Member Hemenway said that the Engineering Department typically would answer the question regarding driveway access. He said that it is unlikely that the Engineering Department will grant access from Pennsylvania Avenue to the subject property. He said that the subject lot has access to Amy Court.

No one spoke in opposition to the request.

Staff Member Hemenway presented the staff report. He explained the orientation of the house to Amy Court and Pennsylvania Avenue. He said that the fence will be located along Pennsylvania Avenue and will not block the view from the front yards of the adjacent properties to the sidewalk and street.

Board Member Klauer asked about the location of the fence in respect to the sidewalk located along Pennsylvania Avenue. Mr. Krausman said that the fence will be located approximately 5 to 7 feet inside of the sidewalk.

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

DOCKET 28-10: Application of Tim McDonald for a special exception for property located at Lot 2-100 of Finley, Waples and Burton's Addition to allow construction of a new single-family home 14 feet from the rear property line, 20 feet required, in an R-1 Single-Family Residential zoning district.

Tim McDonald said that he purchased the property, demolished the house and subdivided the lot. He said that he tried to have the lot rezoned from R-1 Single-Family Residential district to R-2 Two-Family Residential district in order to construct a duplex but was denied by the Zoning Advisory Commission. He said that he has received approval from the Zoning Advisory Commission and City Council to subdivide the large lot into two substandard lots. He said that has built a single-family home on one of the lots. He said that he will need to receive approval for a rear yard setback to enable him to build a single-family home on the second lot.

Kevin DeMoss, 2486 Pearl Street, spoke in opposition to the request. He said that approval of a special exception would only benefit Mr. McDonald. He said that Mr. McDonald was denied by the Zoning Advisory Commission and City Council for construction of a duplex on the site. He said that Mr. McDonald is now trying a different approach, proposing to build two small single family homes on the two lots. He said that the small lots do not fit in with the character of the neighborhood.

Mr. McDonald said that the house will be a raised ranch with a two-car garage underneath. He explained that he has already received approval from the Zoning Advisory Commission and City Council for the subdivision of the original lot. He said that the proposed lot could be sold as additional yard area for the house he currently is constructing.

Staff Member Hemenway distributed photos of the site to the Board. He reiterated the request. He said that Mr. McDonald received approval for the lot split. He said that when the lot was split it created two substandard lots. He discussed current required setbacks noting that the 1985 Zoning Ordinance would have allowed the structure to be built as is being requested. He said that in October of 2009 the 20% lot depth rear yard setback requirement was changed to a uniform 20 foot rear yard setback. He explained that the house will meet the required front and side yard setbacks. He said that the house will not block the view to the sidewalk and street from the adjacent properties.

The Board asked staff how the lot could be approved for two substandard lots. Staff Member Hemenway explained that the applicant applied for a lot split for the property and that substandard lot splits must be reviewed by the Zoning Advisory Commission

and City Council. He explained that all subdivisions and substandard lot splits are reviewed by the Zoning Advisory Commission and the City Council.

Motion by Gibbs, seconded by Cremer, to approve the special exception request, as submitted. Motion denied for lack of 3 affirmative votes by the following vote: Aye – Gibbs; Nay – Cremer and Klauer.

DOCKET 29-10: Application of Rick & Sandy Hoerner for a special exception for property located at 1715 Plymouth Court to build an attached garage/deck/front porch 3 feet from the east side property line, 6 feet required, in an R-1 Single-Family Residential zoning district.

Rick Hoerner, 1715 Plymouth Court, outlined his request for the Board. He noted the angled nature of the side property line and discussed the building setbacks for the proposed structure. He said that he wants to provide additional garage space and off-street parking for his property.

Board Member Gibbs asked if the retaining wall would be removed. Mr. Hoerner said that the retaining wall would be relocated up to the property line.

Attorney Paul Jensen said he represents Dan Harris, property owner of 875 S. Grandview Avenue. Mr. Jensen said that his client is concerned that the relocated retaining wall will encroach upon his property. He said that Mr. Harris is concerned with the safety and aesthetics of the proposed addition and retaining wall. He asked that the Zoning Board of Adjustment deny the request.

Mr. Hoerner said that relocating the existing retaining will improve the safety of the site. He said that the retaining wall will not encroach on the neighboring property.

Vice Chairperson Klauer asked Mr. Hoerner, Mr. Jensen and Mr. Harris to approach the table and to review the submitted site diagram. The applicant, neighbor and Board discussed building design and lot layout.

Staff Member Wernimont distributed photos of the site to the Board. He referenced an aerial photo noting the neighboring lot layout and building orientation and setbacks. He recommended that the Board review the criteria for granting a special exception.

Vice Chairperson Klauer said that he is satisfied that the criteria are met and that he does not need to review them. The other Board members agreed.

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

DOCKET 30-10: Application of Jeff & Mary Horn for a special exception for property located at 1800 W. 3rd Street to build a 1,456 square foot detached garage, 1,000 square feet maximum permitted, and 22 feet in height, 15 feet maximum allowed, in an R-1 Single-Family Residential zoning district.

Jeff and Mary Horn outlined their request for the Board. Mr. Horn said that he wants to build a larger garage than allowed by the Zoning Ordinance. He said that he and his wife have a large lot relative to the adjacent properties and that they need additional storage space. He said that he has spoken to his neighbors and they are not opposed to the project. He said that they would like to have the back half of the building be two stories and the front be a single story.

Mary Horn said that they have asked for the maximum height and area, but that the design may be a somewhat smaller single-story garage. She said that the ultimate design will depend upon cost estimates for the construction.

The Board reviewed photos and a site diagram.

Larry Lyons, 1785 Hale Street, said that he is the neighbor directly to the south of the applicant's property. He said that he is in favor of the project.

Staff Member Wernimont outlined the special exception request. He referred to photos of the site noting the location of the existing garage to be demolished. He said that the applicants are requesting the maximums for the structure size and height. He explained that the Horns may build a smaller garage depending on cost estimates.

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

DOCKET 31-10: Application of Bruce Freiburger for a special exception for property located at 622 E. 22nd Street to build a 14 foot by 26 foot detached garage 7 feet from the west property line (22nd Street) and 2 feet from the north property line (Windsor Street), 10 feet required for both setbacks, and to cover 67% of the lot with structure, 50% maximum allowed, in an R-2A Alternate Two-Family Residential zoning district.

Bruce Freiburger, 622 E. 22nd Street, explained his request to the Board. He said that he had just received a letter from Mr. and Mrs. Mike Wiener. Vice Chairperson Klauer said that the Board had just received a letter and would like to take time to review it.

The Board reviewed the letter of opposition submitted by Mr. and Mrs. Mike Wiener. Mr. Freiburger said that the letter indicates the proposed detached garage will impede visibility at the intersection of Providence Street and Windsor Avenue.

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

Mr. Freiburger said that the garage will be located over 29 feet from Providence Street and will be located outside of the visibility triangles at Providence Street and Windsor Avenue and E. 22nd Street and Windsor Avenue. He said that the letter refers to a traffic light that has been knocked over by vehicles.

Mr. Freiburger said that he established the dimensions of the lot using the sidewalk and street.

Vice Chairperson Klauer expressed concerns with the line of sight as it affected visibility at the intersection. Mr. Freiburger said that the intersection of E. 22nd Street and Windsor Avenue is a controlled intersection. He explained that the detached garage will be located outside of the visibility triangle of Windsor Avenue and E. 22nd Street. He said that he came before the Zoning Board of Adjustment in the past and was denied a request to build a larger garage. He said that in response to the Board's concerns he has reduced the size of the garage.

Board Member Gibbs asked Mr. Freiburger if the site currently has a garage. Mr. Freiburger said the house does not have a garage but has small utility shed.

Board Member Cremer asked why the applicant did not place the garage closer to Providence Street. Mr. Freiburger said that there is an enclosed front porch along E. 22nd Street and that he would like to have the garage start directly behind it so as to be aligned with the main portion of the house.

No one was in attendance to speak in opposition to the request.

Staff Member Hemenway presented the staff report. He said that the detached garage would meet the required setback from the front property line along Providence Street. He said that as the subject property is bordered by Windsor Avenue, E. 22nd Street and Providence Street, storm water runoff would be directed towards the City streets and storm sewer and not on to the adjacent residential property. He said that if the Board approves the request the Engineering Department must approve a curb cut onto Providence Street prior to construction of the garage. He said that the proposed detached garage will not encroach into the visibility triangle of Windsor Avenue and E. 22nd Street.

Motion by Gibbs, seconded by Cremer, to approve the special exception request, as submitted. Aye – Cremer and Gibbs; Nay – Klauer. The special request was denied for lack of three affirmative votes.

DOCKET 32-10: Application of Erik & Cristine Thoms for a special exception for property located at 1120 Nowata Street to build a two-story garage/addition 1 foot from the south side property line, 6 feet required, in an R-1 Single-Family Residential zoning district.

Staff Member Hemenway said that the Thoms asked that their application be tabled to the July 22, 2010 Zoning Board of Adjustment meeting.

Motion by Cremer, seconded by Gibbs, to table Docket 32-10 to the July 22, 2010 Zoning Board of Adjustment meeting. Motion carried by the following vote: Aye – Klauer, Cremer and Gibbs; Nay – None.

DOCKET 33-10: Application of Dan Wedig / Carl Summer, Locators Ltd. for a special exception for property located at 629/645 Fenelon Place to build a two-story garage/addition 1 foot from the south side property line, 6 feet required, in an R-1 Single-Family Residential zoning district.

Staff Member Wernimont noted that Mr. Wedig has asked to withdraw the special exception request. He said that he is proposing to build the multi-family structure so as to meet the required setbacks and lot coverage.

Motion by Cremer, seconded by Gibbs, to approve the request to withdraw the application. Motion carried by the following vote: Aye – Klauer, Cremer and Gibbs; Nay – None.

ITEMS FROM PUBLIC:

Bruce Freiburger, 622 E. 22nd Street, asked the Zoning Board of Adjustment to reconsider his request. He said he would like to have it heard before a full Board. Staff noted that the Zoning Board of Adjustment may grant a reconsideration request and that the motion must be made by a member of the prevailing vote.

Motion by Klauer, seconded by Cremer, to grant reconsideration of Docket 31-10. Motion carried by the following vote: Aye – Klauer, Cremer and Gibbs; Nay – None.

Tim McDonald asked why his request was denied. Vice Chairperson Klauer said that he has concerns with the density of single-family homes in the area. He said that Mr. McDonald took a single-family lot and subdivided into two substandard lots in order to construct two homes. He said that the newly created lots increase the density in the neighborhood. He said that a single-family home could be built on the lot so as to meet the required setbacks.

ADJOURNMENT: Motion by Klauer, seconded by Cremer, to adjourn the meeting. Motion carried by the following vote: Aye – Klauer, Cremer and Gibbs; Nay – None.

The meeting adjourned at 5:40 p.m.

Respectfully submitted,

Guy Hemenway, Assistant Planner

Adopted—July 22, 2010