



Approved

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

4:00 p.m.

Thursday, August 26, 2010

City Council Chamber, Historic Federal Building

Board Members Present: Chairperson Mike Ruden; Board Members Randy Klauer, Jeff Cremer, Heath Hutchinson and Bill Gibbs; Staff Members Wally Wernimont and Guy Hemenway.

Board Members Excused: None.

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 Chairperson Ruden at 4:00 p.m.

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

SPECIAL EXCEPTIONS

DOCKET 32-10: Application of Erik & Cristine Thoms (tabled from June 24, 2010) 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 - Family Residential zoning district.

Erik & Cristine Thoms, 1120 Nowata Street, explained their request to the Board. They explained the setbacks from the property lines to the proposed addition. They said that the garage will be level with the street grade.

Board Member Klauer asked if the proposed addition would be blocking access to the detached garage located on the rear of the property.

Mr. Thoms said that the garage will remain in the rear yard for storage. He explained that there will be a private sidewalk that will go around the house to the garage.

No one spoke in opposition to the request.

Staff Member Hemenway reiterated the request. He noted the setbacks to the property lines. He said that the foundation will be located 2 feet from the property line and that the overhang will be located 1 foot from the property line.

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

DOCKET 39-10: Application of Andrew & Lynn Lassen for a special exception for property located at 16263 Middle Road to build a single-family house, 125 feet from the front property line, 50 feet maximum allowed, in an AG RROD zoning district.

Andrew Lassen, 16263 Middle Road, reviewed his request with the Board. He said he is proposing to build a single-family house 125 feet from the front property line. Staff Member Wernimont distributed photos of the site.

No one spoke in opposition to the request.

Staff Member Wernimont reviewed the staff report and a letter that was submitted from the Fire Marshal regarding the driveway access. He indicated that the adjacent properties have homes that are located over 100 feet from the front property line. He noted that the Fire Marshal is requiring certain conditions for access to the property.

The Board felt that the request met the criteria for granting a special exception.

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

DOCKET 40-10: Application of Buesing & Associates / Ron Klein, Ron Klein Construction for a special exception for property located on Tanzanite Drive to allow a two-unit townhouse, 19 feet from the rear property line, 22 ½ feet required, and 19 feet from the access easement line, 20 feet required, in a PUD Planned Unit Development with a PR Planned Residential District designation.

Terry Koelker, Buesing & Associates, explained the history of the property. He said that Ron Klein assumed that the setback was 19 feet; however, the site plan showed the setback at 22 ½ feet.

No one spoke in opposition to the request.

Staff Member Wernimont distributed photos of the site to the Board. He discussed the existing configuration of buildings and noted that there is a shared driveway accesses

to the lots. He said that the concept plan and site plan indicated that the building setback would be 22 ½ feet, but, after the property was surveyed it was discovered that the buildings were located 19 feet from the property line. He recommended that the Board review the criteria for granting a special exception request.

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

DOCKET 41-10: Application of Stanley & Linda Irwin for a special exception for property located at 2140 Judson Drive to construct a deck 11 feet from the rear property line, 20 feet required, in an R-1 Single-Family Residential zoning district.

Stanley Irwin, 2140 Judson Drive, reviewed his request with the Board. He explained that he is asking to build a deck closer to the rear property line than what is allowed.

No one spoke in opposition to the request.

Staff Member Hemenway distributed photos of the site. He reiterated the request. He explained that, with the adoption of the Unified Development Code, the rear yard setback requirement was changed from 20% of lot depth to 20 feet. He described the topography of the site and the adjoining properties. He said that he received a call from one of the adjacent property owners in support of the special exception request.

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

DOCKET 47-10: Application of Steve & Martha Christ for a special exception for property located at 88 Princeton Place to build a 22 foot by 11 foot attached garage 4 feet from the east side property line, 6 feet required, in an R-1 Single-Family Residential zoning district.

Steve and Martha Christ presented their application to the Board. Mr. Christ discussed the setbacks from the attached garage to the property lines.

Staff Member Hemenway distributed photos of the site. The Board discussed the site diagram and the location of the home in respect to the property lines.

No one spoke in opposition to the request.

Staff Member Hemenway presented the staff report. He said that the proposed attached garage be located over 30 feet from the nearest structure on the adjacent

property. He explained that the proposed garage addition will be located below the grade of the adjacent residence.

The Board discussed the submitted site diagram and setbacks to the attached garage and existing deck.

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

VARIANCES:

DOCKET 37-10: Application of Robert Devereaux for a variance (tabled from July 22, 2010) for property located at 2850 Burlington Street to open a beauty salon, with a deficit of 6 off-street parking spaces, in a C-1 Neighborhood Commercial zoning district.

Robert Devereaux explained his request to the Board.

Robert Gomoll, 2859 Muscatine Street, spoke in opposition to the request. He expressed concerns with an accumulation trash, noise, parties and parking from the proposed business. He said that the property is not well maintained and that a ground hog lives in the debris pile located on the property. He explained that vehicular access along Burlington Street is limited during heavy snowfall.

Barb Scholl, 2855 Burlington Street, spoke in opposition to the request. She distributed photos illustrating on-street parking status and property maintenance. She said that she has concerns with depreciation of property values in the neighborhood. She said that the neighbors' properties are well maintained.

Travis Kirby, 474 Primrose, said that he is a realtor. He said that it is difficult to sell a house that is located next to a rental property. He said that this affects property value. He said that the streets in the area are narrow and it is difficult for the City bus to negotiate them. He explained that it is not ideal for a business to be located in the middle of a residential neighborhood.

Chairperson Ruden asked if property values are affected by property maintenance. Mr. Kirby said that this property may not be appropriate for commercial use.

Adele Lenane, 475 Primrose Street, spoke in opposition to the request. She explained that the property is poorly maintained and is an eyesore that impacts property values. She explained that parking has been a problem in the past.

Effie Scholz, 2925 Burlington Street, spoke in opposition to the request. She voiced concerns with parking during the winter.

Chris Piper, 2820 Burlington Street, spoke in opposition to the request. He expressed concerns with traffic safety and parking.

Staff showed a video that was submitted by Bill Eichman, 2831 Burlington Street and Paul and Bernice Behnke, 2835 Burlington Street. They discussed the property history and expressed concerns with parking and traffic safety.

Mr. Devereaux said he wanted to clarify his intent for the proposed business. He said the building is configured as a store and not suited to a residential use. He said that he wants to rent the property to a woman who plans to operate a beauty shop with the possibility of buying the property in the future. He said that there is a parking lot along the alley that is dedicated to the residential apartment. He said that the building was originally designed as a store and that the commercial space is currently vacant. He said that he wants to improve the property. He said that beauty salon business would have a steady stream of traffic, but would be low volume.

Board Member Gibbs asked about on-going building maintenance. Board Member Cremer asked if the carport could be used for parking and not storage.

Staff Member Wernimont outlined the staff report including property history, parking status, permitted uses in a C-1 zoning district. He recommended that the Board review the criteria for granting a variance.

Board Member Klauer read the criteria for granting of a variance. He said that the previous property owner created the problem by selling the existing off-street parking area. He said that he felt that approval of the request would have a negative impact on the adjacent residential properties.

Motion by Klauer, seconded by Gibbs, to approve the variance request. Motion denied by the following vote: Aye – None; Nay – Klauer, Cremer, Hutchinson, Gibbs and Ruden.

CONDITIONAL USE PERMITS:

DOCKET 42-10: Application of Michelle Mihalakis for a variance for property located at 380 E. 21st Street to open a rooming/boarding house, with a deficit of two off-street parking spaces, on a 1,700 square foot lot, 5,000 square feet minimum required, in an OR Office Residential zoning district.

The Board decided to hear Docket 42-10 Conditional Use Permit and 43-10 Variance simultaneously.

Michelle Mihalakis said that she is proposing to convert a single-family home at 380 E. 21st Street into emergency transitional housing for single women. She explained that the residence will only be available to women and that no children will be allowed. She said that there are other shelters available for women with children. She said that she will improve the dilapidated residence and that the property will be well maintained and managed.

Board Member Gibbs asked if the project funding will be continuous. Ms. Mihalakis said that she will be funding the project herself. She said that the facility will be staffed by a property manager.

Staff Member Wernimont outlined the conditional use permit request. He noted that the request is for a conditional use permit and a parking variance. He said that the applicant received approval from the City Council to rezone the property from R-2A to OR Office Residential. He explained that there is no space available for off-street parking on the property. He said that, typically, many of the people living in shelters do own a vehicle.

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

VARIANCES:

DOCKET 43-10: Application of Michelle Mihalakis for a variance for property located at 380 E. 21st Street to open a rooming/boarding house, with a deficit of two off-street parking spaces, on a 1,700 square foot lot, 5,000 square feet minimum required, in an OR Office Residential zoning district.

This request was heard simultaneously with Docket 42-10.

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

DOCKET 44-10: Application of David Petersen, Garling Construction/Casey's Marketing Co. for a variance for property located at 2699 Rockdale Road to build an addition 13 feet from the west side property line, 20 feet required when abutting a residential district, in a C-2 Neighborhood Shopping Center zoning district.

David Peterson, said that he is the general contractor for the site. He said that Casey's is proposing to build an addition. He discussed the use of the addition.

Staff Member Hemenway distributed photos of the site.

No one spoke in opposition to the request.

Staff Member Hemenway reiterated the variance request. He noted that the proposed addition will be 13 feet by 40 feet in size. He discussed the setback from the commercial structure to the adjacent residential property. He explained the topography of the site relative to the adjoining properties. He said that the subject property is located in a mixed-use neighborhood.

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

DOCKET 45-10: Application of John Yager for a variance for property located at 4480 Dodge Street, to place a second free-standing sign on the property, 1 sign per premises maximum permitted, in a C-3 General Commercial zoning district.

Keith Wolff, Dubuque Sign Co., explained the variance request to the Board. He noted the distance from the highway to the subject building. He said that the commercial building sits below the grade of Highway 20/Dodge Street. He said that the existing free-standing sign has no additional sign area available.

No one spoke in opposition to the request.

Staff Member Hemenway presented the staff report. He said that the property was formerly used as an auto dealership. He said that the former auto dealership was permitted two free-standing signs; however, when the building was converted to a multi-tenant commercial building, only one free-standing sign was permitted. He said that the proposed sign is approximately 94 square feet in area and 15 feet in height. He said that the proposed free-standing sign is located over 100 feet from the other free-standing sign on site.

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

DOCKET 46-10: Application of Steve Smith / Asbury Square LLC for a variance for property located at 2255 Kennedy Road to install roof-mounted signs, where none are allowed, in a C-2 Neighborhood Shopping Center District.

Tom Kelzer, Platinum Realty, said that he represented the applicants. He said that Hartig Drug has relocated from one of interior storefronts to an end unit. He said that, as part of the approval for the relocation, the property owner was required to make improvements to the entire site. He explained that the applicants are proposing to install roof-mounted signs on the mansard roof. He noted that there are other properties throughout the city that have signs on their roofs.

Board Member Gibbs asked why the applicant is requesting to install signs on the roof instead of below the roof. Mr. Kelzer said that it is because of aesthetics.

Board Member Klauer asked if the property owner had established a requirement for the size and types of signs permitted on the roof. The Board discussed roof-mounted signage.

Board Member Klauer expressed concerns with the number of tenants that could be located in the building. He said that if each tenant had a roof-mounted sign it could clutter the building.

Board Member Ruden noted that he was a member of the Sign Committee when the Unified Development Code was rewritten. He said that the Sign Committee was opposed to roof-mounted signs.

Board Member Klauer said he is not opposed to roof-mounted signs, however, he is concerned with the potential number of signs that could be placed atop the building.

The Board discussed the potential number of signs that could be placed on the roof of the subject building. They noted that the signs could be stacked on top of each other on a mansard roof.

Board Member Cremer recommended that the signs be limited 5 foot by 10 foot in size and not be stacked above each other. He said that this would provide some consistency with signage across the building.

Bill Gibbs said that he is not in favor of roof mounted signs at all.

The Board discussed the amount of free-standing signage on the property.

Staff Member Hemenway presented the staff report. He explained that the request is to allow roof-mounted signs at this location. He explained that existing wall-mounted signage is limited to 50 square feet. He said that the Sign Committee was opposed to allowing roof-mounted signs and that is why they are prohibited by the Unified Development Code. He discussed the signage requirements for a multi-tenant building.

He noted that Asbury Square is grandfathered for 3 free-standing signs, when current regulations would allow one sign. He said that the Board has the ability to place conditions upon their approval.

Board Member Klauer said he would like to see consistent signage on the building referring to another multi-tenant building that he said has uniform signage.

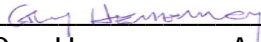
The Board discussed tabling the request until a comprehensive sign package was submitted to the Board for their review.

Mr. Kelzer said that he is not in favor of tabling the request. He explained that the applicants have tenants that want to install signs and that they cannot hold off for another month. He explained that he is not in favor of having the signage extend above the roof of the building.

Motion by Klauer, seconded by Gibbs, to allow the roof-mounted signs, with the conditions that; 1) the signs not project above the mansard roof and, 2) the signs be located side by side and not stacked. Motion carried by the following vote: Aye – Klauer, Hutchinson and Ruden; Nay – Cremer and Gibbs.

ADJOURNMENT: The meeting adjourned at 6:30 p.m.

Respectfully submitted,



Guy Hemenway, Assistant Planner

Adopted—September 23, 2010