



Approved

MINUTES

CITY OF DUBUQUE ZONING BOARD OF ADJUSTMENT REGULAR SESSION

4:00 p.m.

Thursday, September 23, 2010

City Council Chamber, Historic Federal Building

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

Board Members Excused: 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 Chairperson Ruden at 4:00 p.m.

MINUTES: The minutes of the August 26, 2010 minutes were approved unanimously, as submitted.

SPECIAL EXCEPTIONS

DOCKET 47-10: Application of Jonathan Adams for a special exception for property located at 2235 Fuller Place to build an attached carport 0 feet from the south property line, 6 feet minimum required, in an R-1 Single-Family Residential zoning district.

Jonathan Adams, 2235 Fuller Place, said that he wants to build a carport onto his existing home. He said that he started construction of the carport prior to getting a building permit and said that he was not aware a permit was required. He said that he plans to install a gutter along the roof edge and direct the water towards Fuller Place. He said that the property line is located on the other side of the fence, which is located between him and his neighbor. He said that he will try to establish the property line by finding the property stakes. He said that he will have a gutter along the driveway and will pitch the driveway away from the adjacent property.

Staff Member Wernimont reiterated the request. He noted that there was a letter submitted from Thomas Blake, 357 Kaufmann Avenue, in opposition to the request. Staff Member Wernimont noted that Fuller Place functions as an alley. He explained that the subject lot is located behind lots that face Kaufmann Avenue. He requested

that the Board place a condition on the request that the property owner demonstrate to the Building Official the location of the property line, or obtain a survey.

The Board discussed the request and recommended that, if approved, a gutter be placed on the south side of the carport to direct water towards Fuller Place and not onto the adjacent property. The Board discussed installing curbing on the driveway and drain tile to direct water onto Fuller Place.

Motion by Klauer, seconded by Cremer, to approve the special exception, with the condition that storm water is directed from the carport and driveway to Fuller Place and that the property owner survey the lot or locate the property pins. Motion carried by the following vote: Aye – Klauer, Cremer, Gibbs and Ruden; Nay – None.

DOCKET 48-10: Application of Marty & Nancy McNamer for a special exception for property located at 1800 Manson Road to construct a house 1,990 feet from the front property line, 50 feet maximum permitted, in an R-1 Single-Family Residential zoning district.

Marty McNamer, 1749 Creekwood Drive, said that he purchased the mobile home park that is adjacent to the Creekwood subdivision. He said that he is proposing to construct a single-family home 1,990 feet from the front property line. He said that he has been working with the Fire Department to insure emergency access to the proposed single-family home. He said that the Fire Department requires a 20 foot paved driveway with a turn-around and installation of public water service to the site.

Staff Member Wernimont outlined the special exception request. He noted discussions with Fire and Water Departments to insure access and possible water main and hydrant extension. He said that all manufactured homes will need to be removed from the lot prior to obtaining a building permit. He said that the home should be addressed at the driveway from the public right-of-way.

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

VARIANCES:

DOCKET 49-10: Application of Fareway Stores, Inc. / KIN Properties, Inc. for a variance for property located at 2050 Kennedy Road to install a 248 square foot wall-mounted sign, 100 square foot maximum permitted, in a C-3 General Commercial zoning district.

Matt Sherwood, Vice President of Engineering for Fareway Foods, 2300 E. 8th Street, Boone, Iowa, presented the request to the Board. He said that Fareway is planning to install a large wall-mounted sign on the front façade of the building that will be visible from Kennedy Road. He explained that the property has three street frontages. He said that the property would be allowed to have a wall-mounted sign on each street frontage; however, they would like to combine all the signs into one large sign on the Kennedy Road street frontage. He noted the distances from the building to the street and the visibility of the sign.

No one spoke in opposition to the request.

Staff Member Hemenway presented the staff report. He explained the site location and the sign regulations for a multi-tenant building in a C-3 General Commercial zoning district. He referred to previous signs for Big Lots and Eagle Country Market that were located on the front of the building. He said that the applicant could place 100 square foot wall-mounted signs on three façades of the building.

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

DOCKET 50-10: Application of Bird Sign Inc. / QHQ for a variance for property located at 4110 Dodge Street to locate an off-premise sign (billboard) 350 feet from the nearest off-premise sign, 750 foot minimum required, in a C-3 General Commercial zoning district.

Eugene Bird, 15323 Woodwind Court, Peosta, Iowa, said that he is requesting to place a sign on the gas station property that is next to Wal-Mart and Lowes. He explained the spacing requirement between billboards along Highway 20. He said that he was a member of the Zoning Advisory Commission at the time the discussion of text amendment was being proposed for spacing between billboards. He said because he is a sign contractor that he excused himself from the Commission during the discussion of the text amendment. He said that he has always been opposed to the change in billboard separation. He said that the distances from the two nearest off-premise signs would be approximately 400 feet to the Carpetland sign and the Harley Davidson sign located on the hotel property across from the proposed site. He explained that the hardship is the spacing requirement between billboards along Highway 20.

Board Member Klauer asked about the location of the Wal-Mart sign and why it is not classified as an off-premise sign.

Staff Member Hemenway explained that the sign is located on part of the zoning lot for Wal-Mart and Lowes.

Board Member Klauer asked about the dimensions of the billboard. Mr. Bird noted that the billboard will be 40 feet high and that the Wal-Mart and Lowes billboards are 25 feet high.

The Board discussed the proliferation of signage in this area. Board Member Ruden asked about the 750 separation requirement between billboards.

Jim Schumacher, Lamar Advertising spoke in opposition to the request. He explained that billboards have been allowed in the City since 1972 and that they are now only allowed to be located on commercial property. He said that billboards used to be allowed in residential and agricultural properties. He explained that, at the State level, the IDOT allows spacing between billboards to be 100 feet in incorporated areas and 300 feet in rural areas. He explained the reasons for the implementation of the text amendment for the 750 space requirement. He said that Bresler Outdoor Advertising was placing signs throughout the Midwest. He said that their intent was to locate places for billboards and to construct them and sell them to individuals and companies.

He said he was not in favor or against the request for Bird Sign. He said that when the 750 foot spacing requirement was passed, it put Lamar Advertising in a position where most of their existing signs are non-conforming. He said that because they are non-conforming they will eventually go away. He said it is difficult to find space in Dubuque that meets the 750 foot spacing requirement. He also said that it is very difficult to prove a hardship for a variance for location of a billboard. He explained that he has been before the Zoning Board of Adjustment in order to request approval for relocation of signs due to hardship that was denied. He said that he was on the Sign Committee when the City of Dubuque was developing the Unified Development Code. He said that he had concerns with the separation between billboards at that time also.

Chairperson Ruden said that the City developed a Sign Committee during the Unified Development Code process. He said that several members of the community, including the sign industry, were invited to discuss sign issues. He said that the role of the Sign Committee was to create a set of rules. He said one option for a sign that does not meet the rules is to apply for a variance. He said that it is very difficult to prove a hardship for installation of a sign that does not meet the rules.

Mr. Bird rebutted the comments. He said that his task is to show the Board that there is a hardship. He explained that at the time the ordinance was passed he had five signs located in the City of Dubuque. He said that he felt the language was appropriate

at the time because Bresler Outdoor Advertising was trying to construct billboards throughout the City.

Staff Member Hemenway presented the staff report. He said that Mr. Bird and Mr. Schumaker explained the history of the separation requirement. He noted the previous distance requirements between off-premise signs. He referred to the location of the two off-premise signs that impact this site for separation. He explained how separation is calculated between billboards. He said that the existing sign location is 350 feet from the Harley Davidson sign and 450 feet from the Carpetland sign. He recommended that the Board review the criteria for granting a variance.

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

APPEAL:

DOCKET 51-10: Application of Robert Johnson / Bethany Golembeski / Bradford Parks to appeal staff's interpretation that natural limestone does not qualify as a required hard-surfaced driveway/parking area for property located at 550 / 570 Arlington Street.

Chairperson Ruden reviewed the process for hearing an appeal. He excused himself from the Board due to a conflict of interest.

Robert Johnson referred to a plan that was submitted in the packet to the Board. He explained that the use of natural limestone is a gray area and is a unique situation. He explained that the Code requires him to provide a hard surface. He said that some of the area will be paved with asphalt; however, he is asking for the existing limestone shelf to remain and to be used as a hard surface for off-street parking. He said he would like the Board to approve the request. He also said there is a possibility that the City could allow them to look at allowing the hard limestone shelf as a pilot project and then after 24 months to revisit the site and see if paving would be required at that time.

Staff Member Hemenway presented the administrative officer's reasoning as to why natural limestone is not a permitted hard surface material. He asked the Board to uphold the definition of hard surface as defined in the Unified Development Code. He said that the definition specifies concrete and asphalt are the only permitted hard surfaces.

Board Member Klauer noted that the applicants could apply for a variance in parking instead of appealing staff's interpretation.

Staff Member Hemenway said that the Board's responsibility is to determine if limestone is a hard surface as defined by the Unified Development Code.

Board Member Gibbs said that the Board's charge is to review whether or not the limestone is a permitted hard surface. He explained that the Board would have to look at adding limestone as a permitted hard surface to the definitions and then discuss what level of limestone could meet the requirements for being hard surface.

Staff Member Hemenway rebutted. He said there is a possibility that this site plan could be reworked and paving could be installed in order to meet the off-street requirement for the site.

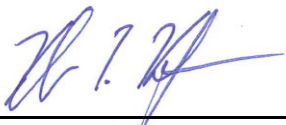
Motion by Klauer, seconded by Gibbs, to uphold staff's interpretation that natural limestone does not qualify as a required hard surface driveway/parking area. Motion by Klauer, seconded by Gibbs, to approve the motion. Motion carried by the following vote: Aye – Klauer, Cremer and Gibbs; Nay – None; Abstain – Ruden.

ITEMS FROM BOARD:

The Board discussed the criteria for granting a variance as it relates to the signs.

ADJOURNMENT: The meeting adjourned at 6:15 p.m.

Respectfully submitted,



Kyle L. Kritz, Associate Planner

Adopted