



Approved

## MINUTES

### CITY OF DUBUQUE ZONING BOARD OF ADJUSTMENT REGULAR SESSION

4:00 p.m.

Thursday, June 23, 2011

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 Matthew O'Brien, Guy Hemenway and Wally Wernimont.

**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 at 4:00 p.m.

**MINUTES:** The minutes of the May 26, 2011 meeting were approved unanimously, as submitted.

### **SPECIAL EXCEPTIONS**

**DOCKET 32-11:** Application of Nick & Sarah Ryan for a special exception for property located at 459 Tamarack Court to build a 6 foot high fence along the front property line (Cedar Cross Road), when 4 feet high maximum is permitted, in a PR Planned Residential zoning district.

Nick Ryan introduced his wife, Sarah, and stated that they have built a 6 foot high fence in their rear yard along Cedar Cross Road without knowing that there were height limits for the fence. He said that a 6 foot high fence is necessary to help block the noise and headlights from passing traffic. He submitted a letter of support from an adjacent property owner and the home owner's association.

No one spoke in opposition to the request.

Staff Member Matt O'Brien reiterated the request. He noted that the fence would not block the view for vehicular traffic or the view from the front of the adjacent residential structures to the street.

Board Member discussed the request and felt it 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, Gibbs and Ruden; Nay – None.

**DOCKET 33-11:** Application of Lucas & Taresa David for a special exception for property located at 469 Tamarack Court to place a 6 foot high fence along the front property line (Cedar Cross Road), 4 feet maximum permitted, in a PR Planned Residential zoning district.

Taresa David, 469 Tamarack Court, outlined her request. She said she would like to block the lights and noise from vehicles that are accessing East Dubuque Savings Bank's parking lot. She also said she would like to secure her yard for her children.

No one spoke in opposition to the request.

Staff Member O'Brien outlined the request. He noted that the lot is a through lot and stated that the fence would not block the view from adjacent residential properties or affect the visibility for vehicles.

The Board members discussed the request and felt it 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, Gibbs and Ruden; Nay – None.

NOTE: Commissioner Heath Hutchinson entered the meeting at 4:10 p.m.

**DOCKET 34-11:** Application of Thomas Teal for a special exception for property located at 1117 Rhomberg Avenue to build a 6 foot high fence along the front property line (Fengler Street), 4 feet high maximum permitted, in an R-2A Alternate Two-Family Residential zoning district.

Thomas Teal, 1117 Rhomberg Avenue, said that he would like to place a 6 foot high fence along the Fengler Street side of his lot and also between his property and his neighbor's property. He said that the fence will be vinyl and a solid design.

Staff Member O'Brien outlined the request. He noted that the proposed fence would not block the view for vehicular traffic or block the view from the neighbor's to the street.

The Board members discussed the request and felt it is appropriate.

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 35-11:** Application of Steve Lutgen for a special exception for property located at 840 Walker Street to add a 10 foot wide garage addition, one foot from the front property line (Inwood Street), 20 feet minimum required, in an R-1 Single-Family Residential zoning district.

Steve Lutgen, 840 Walker Street, outlined his request. He said that he would like to extend his garage over a paved area along the side of his house. He said it will enable him to store his garden tractor and other items. He said he will continue to use the existing driveway access for the garage.

Board Member Klauer clarified the garage setback with staff.

Laura Potter, 842 Walker Street, expressed concerns with traffic safety specifically as it regarded visibility at the corner. The Board discussed the visibility at the intersection of Walker and Inwood Streets. They noted that the garage will be sit back well behind the visibility triangle. Ms. Potter expressed additional concerns with the potential loss of green space on the lot.

Roberta Potter, 890 Walker Street, said that she did not receive notification regarding Mr. Lutgen's request. She said that neighborhood aesthetics are important to her. She said that Mr. Lutgen could redesign his project so as to place the garage behind the structure. She said that she is opposed to special exception.

Mr. Lutgen said that placing a garage along the side of the building is his preferred design. He said that there will be plenty of green space left over in his yard.

Board Member Gibbs clarified the building design and noted that the residence is an extended ranch.

Staff Member Wernimont outlined the staff report. He clarified the City's policy regarding notification informing the neighbors that only adjacent property owners receive written notification. He noted that if Mr. Lutgen's project is approved, the total area of his structures would cover less than 20% of his yard versus the 40% permitted under R-1 District guidelines. He noted that there should be no public safety issue regarding vehicular visibility at the corner even if Inwood Street were to be improved. He said that the garage addition will be located below the grade of Inwood Street and well outside of the visibility triangle. He said that he would notify the Engineering Department about the concern expressed by the neighbors regarding landscaping in the public right-of-way at the corner of Inwood and Walker Streets.

Board Member Klauer read the special exception criteria. Board members said they felt that the request meets said criteria.

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 36-11:** Application of Cindy & Mark Hermesen for a special exception for property located at 620 Piper Court to build an attached porch/deck 13 feet 6 inches from the rear property line, 20 feet required, in an R-1 Single-Family Residential zoning district.

Cindy & Mark Hermesen, 620 Piper Court, addressed the Board. They outlined the request to build a porch and deck with the gazebo. Mr. Hermesen said that the deck will be an open design with an octagon component at one end that will accommodate a screened gazebo.

Chairperson Ruden asked for design clarification. Mr. Hermesen submitted a drawing showing an elevation of the project.

Staff Member Wernimont reiterated the request stating that there would be a gazebo at the northeast end of the deck. He noted a letter submitted by the adjacent property owners opposed to the original limited setback waiver requested by the Hermesens. He discussed the topography of the site and said that the proposed deck will not block the views from adjacent properties or impact public safety.

The Board members discussed the request and felt it 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 37-11:** Application of Tim & Christina Conlon for a special exception for property located at 480 Wartburg Place to allow a 1,252 square foot detached accessory building, 1,000 square foot maximum permitted; 22 feet in height, 15 feet maximum permitted, with 848 square feet of gross dwelling unit floor area, 600 square feet maximum permitted, in an R-1 Single-Family Residential zoning district.

Board Member Ruden noted that the Board would discuss Dockets 37-11 and 38-11 for 480 Wartburg Place simultaneously and vote on each docket separately.

Christina Conlon, 480 Wartburg Place, stated that they have removed a deteriorated old garage and are planning to build a new garage at the same location. She said the upstairs

of the garage will be primarily used for storage. She said that they would like to include plumbing and electrical on the second floor to accommodate possible living space for guests and children. She said that they do not intend to use the second story space for guests very often.

No one spoke in opposition to the request.

Staff Member Hemenway presented the staff report. He noted the area and size requirements for accessory structures and accessory units in an R-1 District. He discussed the floor area requirement noting that the special exception request is to waive building height, square footage and floor area for the accessory dwelling unit. He said that if the Conlons choose to create habitable space on the second floor they are required to be granted a conditional use permit. He noted that the subject lot is large and that the proposed carriage house will be in excess of 200 feet from both the public right-of-way and the adjacent residential property. He said that all other bulk standards, including parking requirements, will be met.

Board members discussed the request and felt that because of the size of the property and the distance of the proposed garage from the adjacent lots and the public right-of-way that the special exception and conditional use permits are appropriate.

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.

#### **CONDITIONAL USE PERMITS:**

**DOCKET 38-11:** Application of Tim & Christina Conlon for a conditional use permit for property located at 480 Wartburg Place to allow an accessory dwelling unit in an R-1 Single-Family Residential zoning district.

Docket 38-11 was discussed as part of the Special Exception request for Docket 37-11.

Board members felt the request met the criteria established for granting a conditional use permit.

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

**DOCKET 39-11:** Application of Rick Worcester / Premier Bank for a conditional use permit for property located at 371/373 Bluff Street to operate a coffee shop/bar in an OC Office Commercial zoning district.

Rick Worcester, 373 Bluff Street, stated that he is the owner of Monk's. He said he would like to sell spirits at the pub.

Mike Siegert, 391 Bluff Street, said that his building is located directly adjacent to Monk's. He said that he owns Shamrock Jewelers and that there are three residential units above the jewelry store. He spoke in favor of the request stating that Monk's has been a good neighbor and that he is concerned with the conversion of businesses into residential properties in Cable Car Square.

Ellen Goodman Miller, 421 W. 3<sup>rd</sup> Street, stated that she is a neighbor and that her back yard adjoins Monks property. She spoke in favor of the request stating that Monk's is a good neighbor, is a family oriented business, and that maintenance of commercial space in Cable Car Square is vital to the overall economic health of the area.

John Blocker, 454 W. 4<sup>th</sup> Street, said that he has lived in the neighborhood for 11 years. He said that he is in favor of the request noting that Mr. Worcester has made a number of improvements to the property and that he has always been a good neighbor.

Staff Member Hemenway outlined the property history discussing the original conditional use permit for the coffee shop and noted that there have been a number of changes to the business. He said that the original conditional use permit limited alcohol sales to wine and beer. He said Mr. Worcester's request is to modify the original conditional use permit to allow the sale of spirits, in addition to wine and beer.

The Board members discussed the request and felt that it is appropriate.

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

**DOCKET 40-11:** Application of Mark Lightcap / Dan Wolff for a conditional use permit for property located at 1987 Washington Street to open an auto sales lot in a C-4 Downtown Commercial zoning district.

Chairperson Ruden said that the Board will hear both Docket 40-11 and 41-11 for the property at 1987 Washington Street simultaneously and vote on each separately.

Mark Lightcap stated that he is requesting a variance and a conditional use permit. He said that he has an existing shop and storage area on Diesel Drive in the County. He said that he would like to use this property for vehicle display because of the increased traffic volume.

Dan Wolff, 3230 Arrowwood Lane, stated that he owns the subject property. He said that he operated at this location for 20 years. He said that the car wash business has been closed. He spoke in favor of the request stating that a sales lot would generate less noise than a 24-hour car wash.

Staff Member Hemenway presented the staff report. He noted that the request is for a variance in required lot area for an auto sales dealership, and a conditional use permit for an auto sales dealership in a C-4 District. He discussed the C-4 District regulations noting the intent to protect upper story residential properties from the potential negative impacts generated by auto-related businesses. He said that the subject property is surrounded by commercial uses and is located along a heavily traveled street. He said that Mr. Lightcap had submitted a site diagram that was not drawn to scale. He said that staff had redrawn the site diagram and included it in the packet as Exhibit 1. He said that the redesign offered adequate customer and employee parking spaces, sales display area and garage access. He recommended that, if approved, the Board require the property to be configured as per Exhibit 1.

The Board members discussed the request and felt that it is appropriate.

Motion by Klauer, seconded by Gibbs, to approve the conditional use permit, with the condition that the property be configured as per Exhibit 1. Motion carried by the following vote: Aye – Klauer, Cremer, Hutchinson, Gibbs and Ruden; Nay – None.

#### **VARIANCES:**

**DOCKET 41-11:** Application of Mark Lightcap / Dan Wolff for a variance for property located at 1987 Washington Street to open an auto sales lot with 6,900 square feet of lot area, 20,000 square feet minimum required, in a C-4 Downtown Commercial zoning district.

Board members discussed Docket 41-11 as part of Docket 40-11.

Board members felt that the variance request is appropriate.

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

**DOCKET 42-11:** Application of Easy Street/David Schmitt / Tom Kluck for a variance for property located at 30 Main Street to open an outdoor service area, accessory to a bar/restaurant, thereby creating a deficit of 8 off-street parking spaces in a C-3 General Commercial zoning district.

Dave Schmitt, 30 Main Street, said that he would like to be able to create an outdoor service area. He said that the proposed outdoor service area is currently a dysfunctional parking lot that gets little use. He said that he has spoken with adjacent property owners including Chris Miller and a representative of Metz Baking Company and that they are in favor of the request. He said that if the variance were approved it would enable him to create an outdoor smoking area for his patrons. He noted that access to Jones Street has been eliminated and that this makes access to the rear parking area difficult. He stated that he would like to fence the outdoor service area.

Staff noted that there are no regulations in this district regarding fence height.

No one spoke in opposition to the request.

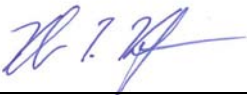
Staff Member Hemenway outlined the staff report noting that fencing an outdoor service area at the back of the building will eliminate 8 potential parking spaces. He said that the property directly adjacent to the parking lot had been sold limiting access. He said this would make vehicle circulation through the parking area difficult. He said that he had received a call from Chris Miller, an adjacent property and owner of Riverworks, and that he had expressed no concerns with the request.

The Board members discussed the request and felt it is appropriate.

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

**ADJOURNMENT:** The meeting adjourned at 5:05 p.m.

Respectfully submitted,



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Kyle L. Kritz, Associate Planner

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Adopted—July 28, 2011