



Approved

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

4:00 p.m.

Thursday, July 28, 2011

City Council Chamber, Historic Federal Building

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

**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 4:05 p.m.

**MINUTES:** The minutes of the June 23, 2011 meeting were approved, unanimously, as submitted.

**SPECIAL EXCEPTIONS**

**DOCKET 43-11:** Application of Kevin & Mary Love for a special exception for property located at 3554 Lunar Drive to build an attached garage 1 foot from the west side property line, 6 foot minimum required, in an R-1 Single-Family Residential zoning district.

Kevin & Mary Love introduced themselves. Mr. Love said that they want to attach a one-car garage to the side of their existing two-car garage. He explained the garage position on the lot and the driveway access. He said that the garage will encroach towards toward the City park. He discussed the roof design and noted the garage would have a single 9 foot-wide garage door.

Staff Member Wernimont reiterated the request noting the park location relative to the attached garage. He said that Leisure Services Manager Marie Ware has reviewed the proposed addition. She asked if storm water could be directed away from the park.

Chairperson Ruden noted that the amount of storm water coming off the roof would be relatively small.

Staff Member Wernimont said that the property owners have located their property pins.

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 44-11:** Application of Joe Lancer for a special exception for property located at 701 Peru Road to build a detached garage 1 foot from the front property line (Louise Street) and 2 feet from the side property line, 20 feet and 6 feet respectively allowed, in an R-1 Single-Family Residential zoning district.

Joe Lancer, 701 Peru Road, noted that he would like to tear down a garage and build a new one. He said that the location of the new garage would be a little bit further back on the lot than the existing garage and will be the same distance from the side property line.

No one spoke in opposition to the request.

Staff Member Hemenway distributed photos of the site to the Board. He presented the staff report noting the request and the distance to the property lines. He explained that the subject property is a through lot which has double frontage. He said that the new garage will be larger and set back further on the lot than the existing garage and will have limited impact on site visibility for drivers backing their vehicles into the street. He said that Louise Lane is a dead-end street.

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

**DOCKET 45-11:** Application of Josh Jansen / Reva Jansen for a special exception for property located at 2445 Roosevelt Street to build an attached garage/addition, 0 feet from the front property line (Jansen Street), 20 feet required, in an R-1 Single-Family Residential zoning district.

Josh Jansen, 2445 Roosevelt Street, explained his request to the Board.

Staff Member Hemenway distributed photos of the site.

The Board discussed with the applicant, the location of the existing carport and the location of the property line.

Mr. Jansen said that the proposed garage will be located 12 feet from the raised curb along Jansen Street to the foundation of the new garage. He said that he is in the process of obtaining a survey as required by the City of Dubuque Engineering Department.

No one spoke in opposition to the request.

Staff Member Hemenway presented the staff report. He said that the proposed garage will not be located in the visibility triangle of Roosevelt Street and Jansen Street. He said that Mr. Jansen has been working with the Engineering Department regarding the encroachment into the public right-of-way. He said that Engineering is in the process of reviewing the request to see how the proposed garage impacts utilities and site visibility. He said that, if the Board approves the request, the applicant's next step will be to obtain a survey, then apply for a revocable license to build in public right-of-way.

Board Member Klauer asked about the illegal fence placed in the right-of-way. Staff Member Hemenway said that the applicant will need to apply for a special exception for the height of the fence.

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 46-11:** Application of Jacqueline Johnson / Angela Sutter for a special exception for property located at 1085 Clara Court to erect a 6 foot high fence in the front yard (Wooten Street), 4 feet high maximum permitted, in an R-1 Single-Family Residential zoning district.

Angela Sutter and Jacqueline Johnson, 1085 Clara Court, explained the request to the Board. Ms. Sutter said that they would like to build a 6 foot high fence along their property line. She said that their property is located across from Medical Associates Clinic and Mercy Hospital. She said that the fence will provide privacy and serve as a buffer between their property, the clinic and the hospital.

Board Chair Ruden asked what kind of fence they are proposing. Ms. Sutter said that they are proposing a 6 foot high solid cedar fence.

Helen Maro, 1065 Clara Court, spoke in opposition to the request. She said that she is concerned that the fence will increase the amount of drifting snow at the end of her driveway.

The Board discussed vehicular visibility and the potential for drifting snow. They asked Ms. Maro if she understood that a 4 foot high fence could be constructed at this location. She said that she is concerned with any fence being placed there.

Ms. Sutter said that she does not know if the fence will add to the drifting snow. She said that they will place a 4 foot high fence at the same location, if a 6 foot fence is not approved.

Staff Member Hemenway presented the staff report. He explained the property has a double frontage. He explained that the houses face Clara Court, with the rear of the properties facing Wooten Lane. He said the fence is set back from the side property line in order to provide site visibility to the street.

The Board discussed the configuration of the lot noting that the property line is at an angle. The Board felt the fence will not increase the amount of drifting snow.

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

**DOCKET 48-11:** Application of Steve Spiegelhalter / 3IN1 Construction / Dave & Joyce Banfield for a special exception for property located at 975 Center Place to build an addition/garage 10 feet from the rear property line and 4 feet from the north side property line, 20 feet and 6 feet respectively required, and to cover 42% of lot with structure, 40% maximum permitted, in an R-1 Single-Family Residential zoning district.

Steve Spiegelhalter, 12707 Whispering Ridge, said that his client is requesting to build an addition on the back of his house. He said the addition will be built to provide handicap access to the home.

Staff Member Wernimont reiterated the request. He explained the historical development of the neighborhood. He said that there are several garages located less than 2 feet from the rear property line along the alley. He said that the applicant is proposing to place the garage further away from the alley in order to increase the turning radius into the structure.

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 49-11:** Application of Maggie Udelhofen / Jason Olgesby for a special exception for property located at 1695 Garfield Avenue to build a two-story addition 0 feet from the front property line (Hamilton Street), where 10 feet is required, in an R-2A Alternate Two-Family Residential zoning district.

Maggie Udelhofen, 1695 Garfield Avenue, said that she would like to place an addition on the side of the house facing Hamilton Street. She said that the addition will be built over the property line and they will need to obtain a revocable license from the City Engineering Department enabling them to encroach on the public right-of-way.

No one spoke in opposition to the request.

Staff Member Wernimont presented the staff report. He said that the proposed addition is comprised of a one-story addition, a two-story addition, a deck and open porch/veranda. He explained that the additions will transcend the property line and that the applicant is in the process of applying for a revocable license from the City Engineering Department. He said that the Zoning Board of Adjustment only has the authority to approve a 0 lot line setback, and that the Engineering Department must approve the encroachment into the public right-of-way.

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.

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

**DOCKET 50-11:** Application of James Edwards for a conditional use permit for property located behind & across the alley at 408 Hill Street (parcel #10.25.177.006 & 016) to allow an off-premise residential garage in an R-3 Moderate Family Multi-Family Residential zoning district.

James Edwards explained his request to the Board. He said that he wants to purchase an existing two-car detached garage from the estate located across the alley from his home. He said that he will use the garage as storage for his house at 390 Hill Street.

No one spoke in opposition to the request.

Staff Member Hemenway explained the request to the Board.

Board Member Klauer asked if the current property owner sells the off-street parking, could they add units to the structure without providing the required amount of off-street parking.

Staff Member Hemenway explained that the property owner would be required to apply for a parking variance at that time, or provide the required amount of off-street parking.

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

**DOCKET 51-11:** Application of USCOC of Greater Iowa LLC / Hohnecker Incorporated for a conditional use permit for property located at 2200 Kennedy Road to construct a 100 foot monopole for wireless services and associated equipment, in a C-2 Neighborhood Shopping Center zoning district.

Brian Ramirez, Wireless Group LLC, said he represents USCOC of Greater Iowa LLC. He explained the request to the Board. He discussed the site plan noting the pole location behind Hohnecker's retail store. He explained that the monopole will have additional co-location sites. He said that the monopole will be screened and landscaped as required. He said that the proposed monopole meets the required setbacks. He said that the property currently is zoned C-2 Neighborhood Shopping Center District. He displayed photos of the proposed monopole from various perspectives. He discussed attempts to co-locate on other towers in the area. He showed examples of other monopole structures.

Jeff Banaszek, RF Engineer for USCOC, spoke regarding coverage area. He discussed propagation maps that were provided to the Board.

Board Member Klauer questioned the need for the additional tower. Jeff Banaszek said that a strong signal may be received outside while driving in a vehicle; however, some people do not receive a signal inside a steel building or in a basement.

Rita Russo, 2275 Pasadena, asked about the future leased area shown on the site diagram and what it would be used for, what type of fencing and landscaping would be provided and how many antennae would be attached to the monopole.

Brian Ramirez said that the monopole will be required to have additional co-location space and that the future lease area would accommodate an equipment building for a potential second carrier.

Staff Member Wernimont said that the City requires co-location on poles 100 feet or higher.

Ms. Russo asked about the need for barbed wire.

Staff Member Wernimont explained that barbed wire is permitted above 8 feet in commercial zoning districts.

Coleen Whalen, 2305 Pasadena, spoke in opposition to the request. She said that the structure will have negative impact on her property value.

Mary Schlader, 2305 Pasadena Drive, spoke in opposition to the request. She expressed concern with the potential for diminished property values.

Board Member Klauer said that there has been no proof supplied that cell towers have affected property values.

Mr. Hohnecker, 2200 Kennedy Road, spoke in favor of the request stating that there are existing arborvitae that are approximately 20 feet high that serve to effectively screen the tower. He said that he will plant more screening in the future along the property lines in order to screen his commercial property from the adjacent residential property.

Staff Member Wernimont presented the staff report. He noted that he had received a call from an adjacent property owner questioning the pole design. He reiterated the variance request noting the City's requirements for height, co-location, screening and setback. He discussed that the Zoning Board of Adjustment has the ability to require stealth construction for the pole. He discussed existing poles located throughout the community and former Zoning Board of Adjustment conditional use permit reviews. He recommended that the Board review the criteria for granting a conditional use permit.

Board Member Klauer read the criteria for granting a conditional use permit out loud.

Board Member Cremer said that he feels the request meets the requirements for granting a conditional use permit. He discussed the possibility for additional screening.

Board Member Gibbs noted that he has concerns with the potential impact on property values. Board Member Klauer said that it has not been demonstrated to him that there is a need for additional service in this area. He said that he is a current client of US Cellular and he has had service in the area.

Chairperson Ruden expressed concerns with the views from the back yards of the condos to the monopole. He said that it may have an impact on property values. He said that he feels that the request does not meet criteria G and H for granting a Conditional Use Permit.

Board Member Gibbs said that the tower may impact the harmony of the neighborhood.

Board Member Klauer said that it is difficult to locate towers that are not in proximity to residential development.

Chairperson Ruden said that the Board's task is to see if a monopole meets the criteria for granting a conditional use permit.

Board Member Cremer said he feels that the tower would not impact value of the property and is appropriate because of the existing commercial use of the property.

Motion by Klauer, seconded by Gibbs, to approve the conditional use permit, as submitted. Motion denied by the following vote: Aye –Cremer; Nay – Klauer, Gibbs and Ruden.

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

Respectfully submitted,



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Kyle L. Kritz, Associate Planner

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Adopted—August 25, 2011