

MINUTES

CITY OF DUBUQUE ZONING BOARD OF ADJUSTMENT REGULAR SESSION

4:00 p.m.

Thursday, October 27, 2011

City Council Chamber, Historic Federal Building

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

Board Members Excused: Board Member Randy Klauer.

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 September 22, 2011 meeting were approved, unanimously, as submitted.

SPECIAL EXCEPTIONS

DOCKET 61-11: Application of Nancy Faber-Gasell for a special exception for property located at 1100 N. Booth Street, to build a 12 foot by 20 foot detached garage 3 feet from the north side property line, 6 feet required, and 15 feet from the front property line (Nevada Street), 20 feet required, in an R-1 Single-Family Residential zoning district.

Nancy Faber-Gasell, 3080 Highway 11, Hazel Green, Wisconsin, introduced her contractor. He outlined the request to build a 12 foot by 20 foot detached garage noting the garage setbacks and stating that access would be taken from Booth Street. The Board discussed the orientation of the garage on the property.

Staff Member Wernimont reiterated the request noting the garage location, site access, topography and existing landscaping. He said that the garage would not block the view to the street for vehicles, or from the adjacent residential property. He said that the addition of paved off-street parking spaces will bring the property into compliance with the current parking requirements. Chairperson Ruden questioned the property line location. Staff Member Wernimont clarified the lot line location relative to the adjacent residential property.

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

DOCKET 62-11: Application of Steve Schmidt/MSA / Westside Place Town Homes LLC for a special exception for property located at the north end of Millstone Drive, to build 24 townhouse dwellings in excess of 40% lot coverage, 40% maximum allowed, in an R-3 Moderate Density Multi-Family Residential zoning district.

Steve Schmidt, MSA Professional Services, outlined his request for the proposed townhouse development. He discussed site metrics noting the difficulty of maintaining the 40% maximum coverage on some of the interior lots. He said that overall, the site is compliant. He said that some of the structures will cover up to 45% of the lot while coverage for the overall site will only be 35%.

Staff Member Kritz discussed the plat, noting the townhome layout and highlighting the non-compliant lots. He discussed a rendering of the townhouses and noted that a similar request had been approved for the property on the south side of Millstone Drive.

Board Members discussed the request and felt it was appropriate.

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

VARIANCES:

DOCKET 63-11: Application of Jack Coulter, Vinny Vanuchie's / Advanta Signs for a variance for property located at 164/180 Main Street, to install a third wall-mounted sign on the building, 2 signs maximum permitted, in a C-4 Downtown Commercial zoning district.

The applicant was not in attendance. Chairperson Ruden moved the request to the end of the agenda.

DOCKET 64-11: Application of Alfredo Luna for a variance for property located at 2515 Northwest Arterial to permit 3 wall-mounted signs (72 square feet each), two signs maximum permitted, in a PC Planned Commercial zoning district.

Alfred Luna presented his request to the Board. He stated that his business is located at 2515 Northwest Arterial and that he would like to be able to keep a third sign on the building. He said that the signs have already been installed and that he would like to be granted permission to get a permit and correct the violation.

Staff Member Hemenway distributed photos of the site to the Board. He noted that the signs are located on the south, north and west building walls. Board Member Gibbs asked why the sign on the rear of the building is necessary. Mr. Luna said it is needed for visibility for southbound traffic on the frontage road.

No one spoke in opposition to the request.

Staff Member Hemenway outlined the request. He explained the planned commercial district sign regulations for a multi-tenant building noting that the tenant space has two frontages and therefore, is allowed two signs.

Chairperson Ruden said that he feels there is a hardship in that the building is visible from 3 sides and, therefore, should have 3 signs.

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

DOCKET 65-11: Application of Kevin Hedley for a variance for property located at 4989/4991 Radford Court to install one, 120 square foot wall-mounted sign, 50 square foot maximum permitted, in a PC (Default C-2) Planned Commercial zoning district.

Kevin Hedley, 777 Angela Street, presented his request. He said he is asking for a 120 square foot sign in lieu of the 50 square foot that is permitted. He said that he would place the sign on the front of the building at the location of the former Dollar General store facing Radford Road. He said that he is attempting to increase the visibility of the business to vehicular traffic on Radford Road.

Staff Member Wernimont reiterated the request. He discussed existing sign regulations noting that when the Unified Development Code was adopted in 2009 there had been a change reducing the amount of square footage allowed in the C-2 District.

The Board discussed the request noting that the business was located well back from Radford Road and that that may constitute a hardship.

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

CONDITIONAL USE PERMITS:

DOCKET 66-11: Application of Joel Callahan, Callahan Construction Inc, for a conditional use permit for property located at Commerce Park (Lot 3 Block 3 Westbrook Subdivision) to build an 18-unit multi-family residence, 12 units maximum permitted, in an R-4 Moderate Density Multi-Family Residential zoning district.

Joel Callahan, 7629 Commerce Park, said that he needs to obtain special permission for an 18-unit apartment building. He noted that he can subdivide and build 2 nine-plexes with the same amount of units, density and parking requirements without the need for a conditional use permit. He said that by combining the units into one structure, he can create more open space. He said that it would be more economical to build an 18-unit building. He said that he has contacted his neighbors about the project. He said that the building would be approximately 30-40 feet from the single-family residential lots to the north on Westbrook Drive. He said that he feels that the units ultimately would be condos, but that they will start out as rental units. He discussed former development along Commerce Park including two twelve-plexes and one six-plex that he has built in the past several years. He said the traffic will flow onto Seippel Road and not affect the adjacent subdivision.

The Board discussed development on Commerce Park, including the existing lots where multi-family residential development had been constructed. Board members discussed the surrounding uses. Board Member Gibbs asked if Mr. Callahan had received any input from the adjacent property owners. Mr. Callahan said that he did not.

Ryan Martinson, 7730 Westbrook Drive, asked to view the aerial photo and other materials submitted for the request. He said that he does not have any serious concerns because the proposed apartment building will be 39 feet back from the property line.

Staff Member Hemenway outlined the staff report noting that to exceed twelve units in an R-4 District requires that a conditional use permit be reviewed and approved by the Board. He explained the change in the Unified Development Code making a conditional use permit an option for property owners in the R-4 District. He discussed the site layout, including the topography, and the setbacks for the building, parking and garages.

Board Members discussed the request and felt it is appropriate.

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

DOCKET 67-11: Application of Chad Hallahan / Greg Esser for a conditional use permit for property located at 901 Rhomberg Avenue to open a tattoo parlor in a C-2 Neighborhood Commercial zoning district.

Chad Hallahan, 901 Rhomberg Avenue, outlined his request to open a tattoo parlor at 901 Rhomberg Avenue.

Staff Member Wernimont discussed the history of regulation of tattoo parlors in the City, noting that a recent change had been implemented by the City Council, which made licensure for tattoo parlors much easier. He noted that the off-street parking requirements for the business as currently configured would be met. He noted that the City Council had approved a rezoning for property from C-1 to C-2 at last month's council meeting. He said that he received no input from the adjacent property owners.

The Board discussed the request and felt that a tattoo parlor at this location would not generate a lot of traffic or cause any problems.

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

DOCKET 56-11: Application of USCOC of Greater Iowa LLC / Hohnacker Incorporated for a conditional use permit (tabled from August 25, 2011) 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, USCOC, reiterated the request that was tabled from August 25, 2011 asking to construct a 100-foot monopole at 2200 Kennedy Road. He noted the concerns raised by the Board at that meeting regarding aesthetics and property value. He said that in an effort to address these concerns U.S. Cellular had reduced the diameter of the array, that the pole would not be lit, and that additional landscaping would be provided. He said that the landscaping would include poplar trees along the entire back property line. He said that he scheduled an informational meeting on October 19, 2011 and that three neighbors had attended. He said that one of the attendees, was the president of the condominium association. He said that the neighbors discussed on-going concerns regarding property values. He said that U.S. Cellular, in an effort to determine the potential impact the tower would have on property values, contacted Dave Sandman, a local realtor. He said that Mr. Sandman provided a written report regarding the affect of local towers on the value of adjacent residential properties. He said that the conclusion was that the sale, resale and value of properties close to towers were not significantly affected.

Board Member Gibbs asked if Mr. Sandman had submitted hard numbers regarding the property values.

Staff Member Wernimont noted the page in the report that quantified Mr. Sandman's findings. Board Members read through the information provided by Mr. Sandman.

Mr. Ramirez discussed the report provided by Mr. Sandman. He compared the towers outlined in the report with the proposed tower, noting that the proposed tower would not be lighted, would be shorter in stature and would be painted neutral colors. He also distributed photos of a former tower that he said was located close to the subject site. He said that the tower had been removed in 2000. He discussed the Cornerstone Court tower which he said was built in Cedar Rapids in 2004. He said that high-end real estate had developed directly adjacent to, and surrounding, the tower. He said that, due to their nature, towers cannot be hidden, but that U.S. Cellular had tried to make the tower less invasive. He said that a tower at this location is necessary because U.S. Cellular was having capacity and in-building service issues. Mr. Ramirez said that he felt that U.S. Cellular has met or exceeded the criteria established for granting a conditional use permit. He said that they have met the requirements for setbacks and landscaping. He noted that U.S. Cellular has failed to find other locations or co-locations in the immediate area. He said that the tower will make a quiet neighbor relative to other uses that are permitted in a C-2 District.

Chairperson Ruden questioned the real estate report asking if any properties with towers in their back yards were researched. Jeff Banaszek, RF Engineer for U.S. Cellular, said that computer modeling dictates what height the tower must be to provide effective coverage. Board Member Gibbs asked if the tower could be lowered. Mr. Banaszek said that, to be effective for transmission and co-location, the tower cannot be lowered. In response to questions by the Board, he also said it is unlikely that the tower would interfere with adjacent tv and radio service and that the FCC requires that tower not interfere.

Scott and Abby Klein, 3240 Asbury Road, discussed a letter submitted by their realtor. They said that their realtor said that a tower at this location would decrease their property value by \$10,000. Mr. Klein said that no amount of landscaping would hide a 100-foot tower from view from their back yard. Ms. Klein said that the equity in their home would be threatened.

Rita Russow, 2275 Pasadena Drive, said that she is the Board President of the adjacent condominium association. She said that she has spoken with the affected condo owners. She said that most did not have concerns, noting that only 10 property owners will be able to see the tower from their backyards. She said that those who did express concerns were told they would have to speak to the Board of Adjustment for themselves. She noted that none were in attendance. She said that she does not

believe that a tower at this location will affect the condo owners' properties. She said that U.S. Cellular has made a good faith effort to provide additional landscaping to help screen the back yards of the adjacent condominium properties.

Mr. Ramirez noted that he is willing to provide additional landscaping to the Kleins if the request is approved.

The Board discussed landscaping species and options.

Staff Member Wernimont noted letters of opposition for the record. He also noted that a letter in favor of the request had been submitted by Mr. Hohner. Board Members acknowledged that they had read the letters.

The Board discussed the request and felt it is appropriate. Motion by Cremer, seconded by Gibbs, to approve the conditional use permit, as submitted. Motion carried by the following vote: Aye – Cremer, Hutchinson and Gibbs; Nay – Ruden.

VARIANCE:

DOCKET 63-11: Application of Jack Coulter, Vinny Vanuchie's / Advanta Signs for a variance for property located at 164/180 Main Street, to install a third wall-mounted sign on the building, 2 signs maximum permitted, in a C-4 Downtown Commercial zoning district.

Jake Bettcher, speaking on behalf of Vinny Vanuchie's restaurant, outlined the request for an additional sign on the front of the building. He said that people walk by the business and do not notice the canopy mounted sign as it is above the sidewalk and is oriented parallel to the street. He said that people have to be out in the street, or across the street, to be able to see the existing canopy sign.

Board Member Hutchinson said that he will abstain from this discussion.

Board members discussed the sign location and type.

Staff Member Hemenway presented the staff report noting sign regulations for the C-4 zoning district and existing signage in the neighborhood. He said that the business has two frontages and is permitted two wall-mounted signs. He stated that canopies with text on them are considered a sign. He said that the total sign area on the front of the building would be approximately 45 square feet, where 100 square foot maximum is permitted. He said that the proposed sign is located in a historic district and that the Secretary of Interior's Guidelines dictate that the sign be made of either wood or metal and that it not be internally illuminated.

Board members discussed the existing signage in the neighborhood and former variance requests for the Old Main area. They said that they felt the request is appropriate.

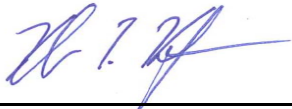
Motion by Gibbs, seconded by Cremer, to approve the sign variance, as submitted. Motion carried by the following vote: Aye – Cremer, Gibbs and Ruden; Abstain – Hutchinson.

ITEMS FROM BOARD:

Board Member Gibbs noted that he will be leaving for Florida on December 11, 2011 and will not be able to attend the December through March meetings.

ADJOURNMENT: The meeting adjourned at 5:55 p.m.

Respectfully submitted,



Kyle L. Kritz, Associate Planner

Adopted—November 17, 2011