

MINUTES

CITY OF DUBUQUE ZONING BOARD OF ADJUSTMENT REGULAR SESSION

4:00 p.m.

Thursday, August 23, 2012

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 Guy Hemenway and Wally Wernimont.

CALL TO ORDER: The meeting was called to order by Chairperson Ruden at 4:00 p.m.

AFFIDAVIT OF COMPLIANCE: Staff presented an Affidavit of Compliance verifying the meeting was being held in compliance with the Iowa Open Meetings Law.

MINUTES: The minutes of the July 26, 2012 meeting were approved, unanimously, as submitted.

SPECIAL EXCEPTIONS

DOCKET 32-12: Application of Mark & Debra McDonnell for a special exception (tabled from June 28, 2012) for property located at 314 Jones Street to allow a duplex on a 3,237 square foot lot, 5,000 square feet minimum required, in an OR Office Residential zoning district.

The applicant requested that the agenda item be tabled to the September 27, 2012 meeting.

The Board voted unanimously in favor of tabling the request to the September 27, 2012 ZBA meeting.

DOCKET 41-12: Application of Joe Mulgrew / Anne Schreiber for a special exception for property located at 2535 Clarke Crest Drive to build an attached garage 0 feet from the west side property line, 6 feet required; and 13 feet from the front property line, 20 feet required, in an R-1 Single-Family Residential zoning district.

The Board noted that they received written correspondence from the applicant asking to remove Docket 41-12 from the agenda.

DOCKET 42-12: Application of Roy & Deborah Buol for a special exception for property located at 2640 Becker Court to build an attached carport 0 feet from the west side property line, 6 feet minimum required, in an R-1 Single-Family Residential zoning district.

Roy Buol, 2640 Becker Court, presented his request to the Board. He noted that the Board had previously granted a special exception permitting him to build an attached carport 1 foot from the west side property line. He said that his intent is to build an attached carport 0 feet from the west side property line in order to provide additional space for opening a car door. He noted that the lot has been surveyed.

Chairperson Ruden asked if a gutter will be installed along the western edge of the carport. Mr. Buol indicated that a gutter will be added to the side of the carport.

Fred Becker, 2877 Arbor Hills Drive, said that he represents his mother who he said resides at 2684 Becker Court. He said that he opposes the request noting that there is currently 28 feet between the houses. He said that if the request is approved, there will be approximately 14 feet from the edge of the carport to his house.

Chairperson Ruden explained that Mr. Buol had been approved for a special exception to construct a carport 1 foot from the west side property line at a previous meeting. He said that the proposed carport will not be built parallel to the lot line noting that only the front portion of the structure will be located within 1 foot of the side property line.

Mr. Buol explained the reason for the carport. He indicated that the columns that will support the roof will be stone and have a similar design to the house.

Board Member Gibbs asked if the width of the columns can be reduced. Mr. Buol said that, if viewed from the cul-de-sac, the proportions of the smaller columns would not look appropriate.

The Board discussed the roof design.

Staff Member Hemenway reiterated the request. He noted that Mr. Buol received approval for a 1 foot setback for the west side property line at a previous meeting. He explained that the proposed carport will not encroach any closer to the street than the existing home and will be in line with the garage on the adjacent residence. He explained that the carport will have an open design and that the property has been surveyed. He recommended that storm water runoff from the car port roof be captured in a gutter and be directed away from the adjacent property.

The Board discussed approval of the previous special exception of a 1 foot setback. Board Member Klauer reviewed the criteria for granting a special exception. Chairperson Ruden said that he felt that the request meets the requirement, if the storm water is directed away from the neighboring properties.

Motion by Klauer, seconded by Gibbs, to approve the special exception request with the condition that a gutter be installed on the west side of the car port to direct storm water from the adjacent property, and that the property owner clearly demonstrate the lot line location to the building official. Motion carried by the following vote: Aye – Klauer, Cremer, Hutchinson, Gibbs and Ruden; Nay – None.

DOCKET 43-12: Application of Martin Wing for a special exception for property located at 1825 Ann Street to build a two-story addition, 2 feet from the front property line, 10 feet required, in an R-2A Alternate Two-Family Residential zoning district.

Mark Kressing said he represents Martin Wing. He said that Mr. Wing wants to add a second story addition to his house.

Staff Member Wernimont explained that the applicant is requesting to build a two-story addition on the front of his home. He discussed the design of the house noting that the lot is located at the end of Ann Street. He said that the adjacent property owners were notified and that no one has contacted him regarding the 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 44-12: Application of Portzen Construction, Inc. / Trinity Townhouses LLC for a special exception for property located at 1700-1702 Rhomberg Avenue to build a detached garage 2 feet from the front property line (Hamilton Street), 20 feet required, and 2 feet from the north side property line, 4 feet required, in an R-4 Multi-Family Residential zoning district.

Mike Portzen, 16748 Thunder Hills Drive, said that he purchased the subject property from Holy Trinity Church. He explained that there are two duplexes, each located on separate lots. He noted that the lot at 1702 Rhomberg will be replatted. He said that the existing garages will be demolished and new garages will be constructed. He explained that the garages will be accessed from an alley located at the rear of the property.

Noel Kurt, 1954 Hamilton Street, said he supports the special exception request.

Staff Member Wernimont discussed the size of the garages, existing and proposed setbacks and property history. He explained that the existing garage at 1700 Rhomberg Avenue is oriented toward Hamilton Street and that the access driveway is located very close to the alley. He explained that the new garage will be repositioned and will be accessed from the alley which he said will improve site visibility at the intersection.

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 45-12: Application of Keith Wolff, Dubuque Sign / Marty McNamer for a variance for property located at 2100 Asbury Road to install a 75 square foot free-standing sign, 40 square feet maximum permitted, in an OS Office Services District.

The applicant was not in attendance.

Motion by Klauer, seconded by Gibbs, to table the request to the September 27, 2012 meeting. Motion carried by the following vote: Aye – Klauer, Cremer, Hutchinson, Gibbs and Ruden; Nay – None.

DOCKET 46-12: Application of Chris Staver, STW LLC for a variance for property located at 2987 Jackson Street to place a 60 square foot projecting sign on the building, 25 square feet maximum permitted, in a C-1 Neighborhood Commercial zoning district.

Chris Staver said that he would like to replace the Copper Kettle Sign, located at 2987 Jackson Street. He said that he removed the sign to refurbish it and would like to reinstall it on the building.

No one spoke in opposition to the request.

Ron Shaw spoke in favor of the request. He indicated that his company is in the process of refurbishing the sign.

Staff Member Hemenway discussed the sign regulations for properties located in C-1 zoning districts. He explained that the Copper Kettle sign was legally non-conforming; however, once it is removed from the building he said that it lost its grandfather status. He explained that a variance was needed to permit reinstallation of the sign. He discussed the surrounding land use and noted that the sign was historic and not out of scale or character with the building or the 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.

CONDITIONAL USE PERMITS:

DOCKET 47-12: Application of Randy Black for a conditional use permit for property located at 235 W. 2nd Street to open a drive-in carryout restaurant in a C-4 Downtown Commercial zoning district.

Randy Black, 4431 Cruiser Drive, Galena, IL, explained his request to the Board. He noted that the subject property operated in the past as a take-out food service kiosk. He said that his operation will have a limited menu and that he will make improvements to the interior of the structure. He said that his business will not be a typical drive-through which he said generally has two windows—one for ordering and one for pick up. He indicated that ordering and pick-up will occur at the same window. He explained that the original site plan for the conditional use permit for the coffee kiosk had two driveways. He explained that his operation will not require two driveways. He said that one window will be used for walk-up traffic and the other for drive-through traffic.

Staff Member Hemenway distributed photos of the site to the Board.

Chairperson Ruden said that there is limited stacking space for vehicles in the drive-through lane. He expressed concern with a one-car stacking space. He indicated that this may encourage vehicles to block the sidewalk and cue out into the street. He said that he approved the original request because the amount of time required to prepare coffee is somewhat limited and that he still had concerns with the stacking of vehicles waiting to be served.

Mr. Black said that he does not expect a large volume of vehicular traffic. He explained that his food is cooked and kept in a warmer so that it may be served rapidly. He explained the wait time will be brief only lasting as long as it takes to assemble a hot dog or a sandwich. He said that he anticipates having two employees during peak hours of operation and that one person will be taking the orders and one will be preparing the food. He said that his proposed hours of operation are from 11:00 a.m. to 3:00 p.m. Monday through Friday and from 11:00 p.m. to 3:00 a.m. Friday and Saturday nights.

The Board discussed the late night hours of operation. Mr. Black said that he would like to serve food to walk-in traffic at night. He said that he will have no outdoor seating.

Sue Butt, 241 Main Street, spoke in opposition to the request. She said she has no objection to the kiosk closing at 10:00 p.m., but she does not want them to cater to the bar traffic at night. She said that this would encourage people to hang around the neighborhood longer. She said that, in the past, she had issues with public urination and noise late in the evening.

Jennifer McCoy, 216 Main Street, spoke in opposition to the request. She expressed concern with the noise generated by people gathering on the sidewalks and streets on Friday and Saturday nights. She said that she has cleaned up litter and vomit from her front steps. She also noted that there is only one garbage can available in the entire area.

Nick Wagner said that he operates Oakridge Design at 235 W. 2nd Street. He said that he is concerned that people will loiter in front of his building at night. He explained that his business leases parking in the lot shared with the proposed food kiosk.

The Board reviewed the site plan with Mr. Black and Mr. Wagner discussing the existing leased parking arrangement. Chairperson Ruden stated that he still has concerns with the vehicle stacking at the drive-through, but, that he is not opposed to a walk-up.

Board Member Klauer said that he is not concerned with stacking of vehicles. He said that if a car is waiting, customers will drive by and park elsewhere.

Mr. Black said that he anticipated 60% of his business will be walk up and that the drive-through will be there for added customer convenience. He said that if the drive-through is a concern, then he will consider removing it from the request; however, he said that he would rather have both walk-up and drive-through service.

Mr. Wagner said that he has concerns with the late-night pedestrian traffic and parking. He said that he is a tenant and not the property owner and that he was not notified of the request.

Staff Member Hemenway explained that all property owners within 200 feet of the subject parcel were notified. He indicated that it is the responsibility of the property owner to inform their tenants of the conditional use permit request.

Mr. Black said that he was surprised by the neighbor's comments regarding disorderly conduct at night. He said he has been on Main Street at night and it has been busy, but he had not witnessed the misbehavior.

Chairperson Ruden asked staff why a conditional use permit is required. Staff Member Hemenway said that the conditional use permit is required for a drive-up, carryout restaurant in a C-4 district.

The Board discussed issues with the stacking of vehicles and traffic safety.

Board Member Cremer said that Mr. Black's business should not be held responsible for the conduct of the late night crowd in the neighborhood.

The Board discussed the hours of operation.

The Board reviewed the criteria for the granting of a conditional use permit.

Staff Member Hemenway presented the staff report noting the emails that have been provided by property owners at 235-241, 261 and 263 Main Street. He said that the Zoning Board of Adjustment approved a conditional use permit in 2006 to operate a coffee kiosk at this location. He referred to the original conditions established for the former conditional use permit. He said that the Board has the ability to modify the request and add conditions.

Mr. Black said that he is willing to limit his hours of operation from 8:00 p.m. to midnight on Friday and Saturday nights.

Sue Butt said that she does not oppose the business being open until 10:00 p.m. but that she is opposed to the business being open until midnight. She stated that if the business was located in an enclosed building, she would have less concern.

The Board discussed the possibility of eliminating the drive-through as a condition of approval. They said that limiting the hours of operation penalizes the applicant for the conduct of bar patrons along Main Street.

Commissioner Gibbs stated that he would like to limit the weekend hours to no later than 10:00 p.m. Mr. Black said that he has concerns with having to cease sales at 10:00 p.m.

Board Member Cremer said that it is unfair that the applicant has to be limited to less hours than others in the neighborhood are allowed.

Ms. McCoy said that she has issues with the noise and litter that may be generated by the proposed kiosk. She said that she is in favor of the drive-through because customers would be confined to their vehicles and would leave the site immediately after being served.

Board Member Hutchinson asked about the hot dog stand he said is frequently located in front of Lot 1. He indicated that it is located on the public right-of-way and provides food service until closing time.

Chairperson Ruden said that he did not feel that Criteria 3 and 6 established for granting a conditional use were satisfied. He indicated that if the drive-through were removed, he would be more likely to vote in favor of the request.

The Board asked the applicant if he would consider eliminating the drive-through from his request. Mr. Black said that if agrees to walk-up traffic only he is concerned that he will be required to block off the driveways. He said that in an effort to satisfy the neighborhood, he is willing to limit his hours of operation from 8:00 p.m. until Midnight on Friday and Saturday nights.

The Board discussed barricading the drive-through and redesigning the site to assure pedestrian only access.


Motion by Klauer, seconded by Gibbs, to table this agenda item. Motion carried by the following vote: Aye – Cremer, Klauer, Hutchinson, Gibbs and Ruden; Nay – None.

ADJOURNMENT: The meeting adjourned at 6:05 p.m.

Respectfully submitted,



Kyle L. Kritz, Associate Planner



Adopted