

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

4:00 p.m.

Thursday, June 28, 2012

City Council Chamber, Historic Federal Building

Board Members Present: Vice-Chairperson Randy Klauer; Board Members Jeff Cremer and Bill Gibbs; Staff Members Wally Wernimont and Guy Hemenway.

Board Members Excused: Chairperson Mike Ruden and 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 Vice-Chairperson Klauer at 4:05 p.m.

MINUTES: The minutes of the May 24, 2012, meeting were approved, unanimously, as submitted.

SPECIAL EXCEPTIONS

DOCKET 29-12: Application of Carol Lammers / Rosalie Loes Trust for a special exception for property located at 1172 Main Street to build an attached garage 0 feet from the side property line and 18 feet from the rear property line, where 3 feet and 20 feet are required, and to cover 80% of the lot with structure, 50% maximum permitted, in an OC Office Commercial zoning district.

Cyril Lammers, 410 Moore Heights, represented his mother, Carol Lammers. He outlined, the special exception request noting the reduction in side yard setbacks.

Staff Member Wernimont distributed photos of the site to the Board. Vice-Chairperson Klauer asked if the garage would be accessed from the alley. Mr. Lammers stated that the garage will be accessed from the alley. Mr. Lammers indicated that the proposed use of the building will be single-family residential.

The Board discussed the garage design and the setbacks.

Staff Member Wernimont reiterated the request noting the setbacks and lot coverage. He said that the applicant also is in the process of rezoning the property from C-4

Downtown Commercial to OC Office Commercial District. He said that in a C-4 Downtown District, residential use is not allowed on the first floor. He explained that setbacks for property located in a C-4 District are 0 feet from the side property lines. He said that because the applicant is proposing to rezone the property from OC Office Commercial, and that the garage would not be constructed until after the rezoning, the attached garage will need to meet the required setbacks in Office Commercial. He recommended that the Board make approval of the request contingent upon the property being rezoned from C-4 Downtown Commercial to OC Office Commercial District.

Motion by Gibbs, seconded by Cremer, to approve the special exception request, with the condition that the property be rezoned from C-4 Downtown Commercial District to OC Office Commercial. Motion carried by the following vote: Aye – Klauer, Cremer and Gibbs; Nay – None.

DOCKET 30-12: Application of Kelly Blewett for a special exception for property located at 2399 Abbott Street to build a 35 foot by 28 foot detached garage, 7 feet from the front property line, 20 feet required; 3 foot from the side property line, 6 feet required, in an R-1 Single-Family Residential zoning district.

Kelly Blewett introduced her husband, Harry Blewett. She outlined her request noting the setbacks from the property lines to the detached garage.

Board Member Gibbs clarified with the applicant that the detached garage will not be close to any adjacent residences.

Vice-Chairperson Klauer asked how close the detached garage would be to the edge of the street. Mr. Blewett said that the detached garage will be approximately 18 to 19 feet from the edge of the street. He asked if sidewalk would be required to be installed.

Staff Member Wernimont noted that when a property owner makes improvements to their lot, they may be required to install sidewalk. He explained that there is an ordinance that the building department regulates that determines whether or not a sidewalk is required.

Vice-Chairperson Klauer discussed issues with distances between the garage and the sidewalk. He said he was trying to determine if parking a vehicle in front of the garage would obstruct the sidewalk.

Staff Member Wernimont discussed the topography of the site noting a significant change in grade. He said the property currently does not have off-street parking. He explained that the proposed garage would provide the required two off-street parking spaces. He explained that Abbott Street is located in a subdivision that has very little through traffic.

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

DOCKET 31-12: Application of James & Kristine Noonan for a special exception for property located at 2115 Sunnyview to build an attached garage addition 11 feet from the front property line (St. Ambrose Street), 20 feet minimum required, in an R-1 Single-Family Residential zoning district.

Molly Bodush, daughter of Jim & Kristine Noonan, explained the request to the Board. Staff Member Hemenway distributed photos of the site to the Board. The Board reviewed the photos and renderings of the proposed garage addition.

No one spoke in opposition to the request.

Staff Member Hemenway presented the staff report. He reiterated the request explaining that the garage doors will face Ambrose Street. He noted other houses in the neighborhood with similar setbacks.

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

DOCKET 32-12: Application of Mark & Debra McDonnell for a special exception 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.

Staff member Wernimont noted that the applicants requested that their application be placed on the August 23, 2012 Zoning Board of Adjustment meeting.

DOCKET 33-12: Application of Brad Brissey / The National Bank for a special exception for property located along Tanzanite Drive (Lot 5 Emerald Acres #4) to build a duplex 5 feet from the rear property line, 20 feet minimum required, in a PR Planned Residential zoning district.

Brad Brissey, 1326 Tomahawk Drive, noted that he represents The National Bank. He explained that there currently is an offer on the property.

Staff Member Hemenway distributed photos of the site to the Board. Mr. Brissey presented a sketch of the site to the Board.

The Board discussed the use of a shared driveway. Mr. Brissey said that the applicant will not use the shared driveway. He said they will create their own access from Tanzanite Drive.

Rod Tschiggfrie, 600 Sapphire Circle, asked about the existing setbacks for structures in the neighborhood.

Staff Member Hemenway noted that the duplexes in the neighborhood have to be built to either the concept plan or R-3 zoning regulations.

Mr. Tschiggfrie asked if the special exception is approved, if this would be approved for all of the remaining lots along Tanzanite Drive.

Staff Member Hemenway said that in order for the remaining proposed duplexes to be built close to the property line, they would either have to amend the PUD Ordinance or apply for a special exception on each lot.

Staff Member Hemenway presented the staff report. He explained that the property is regulated by a conceptual development plan for a Planned Residential District or the R-3 Moderate Density Multi-Family District regulations. He explained that the building will look very similar to the adjacent duplexes. He said that the proposed duplex will not use the shared driveway access and will have access onto Tanzanite Drive.

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

CONDITIONAL USE PERMITS:

DOCKET 34-12: Application of Cyndi Mueller / Robert Renne for a conditional use permit for property located at 1950 Avalon Road to open a home-based pet grooming business as a conditional use in an R-1 Single-Family Residential zoning district.

Cyndi Mueller and Robert Renne, 1950 Avalon Road, stated that they would like to open a home-based pet grooming business. Ms. Mueller said that the hours of operation will be from 9:00 a.m. to 5:00 p.m. She said that she is licensed with the State of Iowa for a dog grooming business. Mr. Renne said that there should be no issues with barking dogs. He explained that the dogs will not be allowed to be outside and will be confined to a kennel inside the home. He explained that the dogs will only be outside when they are transferred from the vehicle to the house. He said that there will be no exercising area in their yard.

Ms. Mueller said that she anticipates that they will have approximately 4-6 dogs per day. She said they are by appointment only with the appointments lasting around one

to two hours. She said that currently, she runs a dog grooming business at 3341 Hillcrest Road. She explained that her existing business is located in a multi-tenant building and the dogs are kept in kennels.

The Board asked how barking dogs are handled. Mr. Renne said that the dogs will not bark. He said that barking should not be an issue. Ms. Mueller said that dogs trained at a younger age do not bark. She said there are existing home-based dog grooming businesses in the city.

Todd Stevenson, Kane, Norby and Reddick, said that there are a number of conditions that a home-based business will need to meet. He said that the applicants did not set up a neighborhood meeting prior to the owner's obtaining a notice from the city. He said that the R-1 Single-Family Residential zoning district is the most restrictive district in the City. He said that the only places where these businesses are allowed are in a C-2 and C-2A zoning district. He said that it appears they are going to be using the garage for their business. He said that his clients have concerns with ventilation and noise. He explained that the garage door is located 10 feet from his client's bedroom window. He explained that if dogs are dropped off in the morning and picked up at night around 5:00 p.m., the dogs will need to go to the bathroom. He said that his client spends a significant amount of time outside working in his garden. He explained that there have been dog complaints in the past regarding the applicant.

Mr. Stevenson said that the business is not in harmony with the neighborhood and that it will have a negative impact on the surrounding properties. Mr. Stevenson said that the applicant currently is doing business in an approved location that is zoned properly for a dog grooming business. He said that his clients have concerns with the operation from 9:00 a.m. to 5:00 p.m. and the traffic that will be generated by the home-based business. He also expressed concerns with how the products for the dog grooming business will be delivered to the home. He said that there is limited on-street parking in the neighborhood. He said that a home-based business would be injurious to the resale value of his client's home because some people may not want to purchase the home because of its proximity to a dog grooming business. He said that his dog is kenneled at a dog grooming business and he can hear his dog barking from the outside when he goes to pick him up. Mr. Stevenson referred to a denial of a previous Zoning Board of Adjustment case for home-based business in an R-1 Single-Family Residential zoning district. He explained that business was proposed to be an architectural office that would have had far less impact than a dog grooming business.

Bobby Smrcina, 1960 Avalon Road, spoke in opposition to the request. She said she saw a client of the applicant have their dog go to the bathroom on an adjacent business next to their dog grooming business at Hillcrest Road. She said approximately 10-12 years ago, there was a complaint with the applicant's dog barking and a dog bite incident. She said she has concerns with parking and traffic in the neighborhood.

Kay Weiland represented her daughter Kari Weiland who she said resides at 1982 Avalon Road. She read a statement from her daughter stating that she is opposed to the proposal because of traffic and barking dogs.

Robert Smrcina, 1960 Avalon Road, said he likes his peace and quiet. He said he has concerns with parking, traffic, barking dogs and odors.

Steve Greenwood, 1925 Jeffrey Drive, spoke in opposition to the request noting concerns with parking, barking dogs and smells.

Cynthia Tucker, 1940 Avalon Road, said that Ms. Mueller spoke to her about the dog grooming business. She said she has concerns with pet waste and odors. She said that she is also concerned with diseases being transferred from one dog to another. She explained that she takes her dog to a groomer and when the dog has to relieve itself, they take the dog outside.

Board Member Gibbs asked about regulation on dog excrement on sidewalks and yards.

Staff Member Hemenway said that the owner is required to pick up the waste. He said that if a property owner has excessive waste in the yard the Health Department would be involved.

Tim Mueller, 2901 Hillcrest Road, said that he used to be married to Cyndi Mueller. He explained that his ex-wife was trying to have a dog grooming business, illegally, in their home. He said that he spent numerous times at her business on Hillcrest Road and that the dogs were barking constantly.

Lisa Weiderholt, 2901 Hillcrest Road, said that she is a dog owner and that there are other dog owners in the neighborhood. She said that the dogs in the neighborhood will bark at the site of a strange dog.

Teresa Pluym, 1921 Avalon Road, spoke in opposition to the request. She expressed concerns with property values. She said she bought a home in a residential district and no businesses should be allowed.

Cyndi Mueller addressed the comments. She said that there are already existing businesses in the neighborhood. She said there is an in-home daycare located at 1975 Avalon Road. She said that she would not be the only one to benefit from the proposed dog grooming business because her clients also benefit. She said in the past she has groomed barking dogs and that she has the ability to calm them down so they will not bark. She said dogs do bark; however, the dogs she cares for do not bark excessively. She explained that there will be no boarding on the site. She said she will receive dog

grooming products via Fed Ex. She explained that the dogs are required to be vaccinated and they should have no diseases when they are groomed.

Mr. Renne said that the garage will be remodeled and that the window and door will be eliminated. He explained that the space will be heated and cooled and that the dogs will not go to the bathroom outside. He said that he does not believe that property values will go down because of the business in the neighborhood. He said that Cyndi runs a dog grooming business on Hillcrest Road that is licensed by the State. He reiterated that the dogs will not go outside to go to the bathroom.

Staff Member Hemenway distributed a petition with 32 names of property owners in the neighborhood opposed to the request. He provided a map showing those property owners that are opposed. He said that letters have been distributed to the Board from adjacent property owners. He reiterated the request and discussed the requirements for a home-based business and a conditional use permit. He explained that staff does not perceive an increase in traffic throughout the neighborhood. He referred to an aerial photo showing available on-street parking in the neighborhood. He said that the neighbors have concerns with noise, waste and odor. He said that the business must meet all of the criteria established for a home-based business if they are to be granted a conditional use permit.

Staff Member Hemenway noted that Section 7-1.1(8) of the Unified Development Code states that a home based business may not produce noise, vibrations, smoke, odors, heat or glare that would exceed what is normally produced by a single-family residence, as determined by the City Planner.

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

ADJOURNMENT: The meeting adjourned at 5:27 p.m.

Respectfully submitted,



Kyle L. Kritz, Associate Planner



Adopted