



Approved

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

4:00 p.m.

Thursday, May 23, 2013

City Council Chamber, Historic Federal Building

Board Members Present: Chairperson Randy Klauer; Board Members Jeff Cremer, Heath Hutchinson, Bill Gibbs and Eugene Bird; Staff Members Guy Hemenway and Wally Wernimont.

Board Members Excused: None.

CALL TO ORDER: The meeting was called to order by Chairperson Klauer at 4:07 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 April 25, 2013 meeting were approved by the following vote: Aye – Klauer, Cremer, Hutchinson, and Gibbs; Nay – None; Abstain - Bird.

City of Dubuque Economic Development Director David Heiar asked the Board if it was possible to move Dockets 20-13 and 21-13 to the beginning of the meeting. He noted he needed to attend another meeting. The Board agreed to move the dockets to the beginning of the meeting.

SPECIAL EXCEPTIONS

DOCKET 20-13: Application of the City of Dubuque for the property located at 346-348 West Locust Street to allow a five-plex on a 7,440 square foot zoning lot, 10,000 square foot required, in an R-4 Multi-Family Residential zoning district.

Economic Development Director David Heiar noted that the City owns the building, and they are seeking developers to rehabilitate the structure. He said that the City Council has designated the building as blighted, and that the City has provided incentives to encourage development of housing stock in the downtown. He said that the prospective buyer is proposing to convert the three-plex into a five-plex. He indicated that the developer is rehabilitating two other properties in the immediate neighborhood.

Board Member Klauer noted that they would hear both Docket 20-13 and Docket 21-13 simultaneously and vote on them separately.

Mr. Heiar discussed the parking variance for the proposed five-plex. He said that the Economic Development Department will be requesting funding in the next fiscal year's budget for public improvements to create additional on-street parking in the neighborhood. He said that the plans are preliminary and have not been finalized.

No one spoke in opposition to the request.

Staff Member Wernimont noted that the requests are for lot area and parking deficits. He discussed the property history, noting that it is located in the Jackson Park Historic District. He said that, as the property is located in a historic district, it would have to be rehabilitated to the Secretary of Interior Standards. He said that he spoke with a neighbor who was in favor of the request. He said the neighbor said that several of the properties in the neighborhood are in need of rehabilitation, and that this would be a good start.

The Board discussed the request and felt that approval of the special exception and variance requests will help facilitate the rehabilitation of a blighted property and improve the neighborhood.

Motion by Gibbs, seconded by Cremer, to approve the special exception. Motion was approved by the following vote: Aye – Bird, Gibbs, Hutchinson, Cremer and Klauer; Nay – None.

DOCKET 21-13: Application of the City of Dubuque for a parking variance for property located at 346-348 West Locust Street to allow a five-plex with a deficit of three off-street parking spaces in an R-4 Multi-Family Residential zoning district.

The board heard this docket simultaneously with Docket 20-13.

Motion by Gibbs, seconded by Cremer, to approve the parking variance. Motion was approved by the following vote: Aye – Bird, Gibbs, Hutchinson, Cremer and Klauer; Nay – None.

DOCKET 08-13: Application of Tait Lunceford for a conditional use permit (tabled) for property located at 910 Hawkeye Drive to open a firearms business as a home-based business in an R-1 Single-Family Residential zoning district.

Tait and Cynthia Lunceford, 910 Hawkeye Drive, noted that they would like to acquire a federal firearms license (FFL). Mr. Lunceford said that the home-based business they propose will primarily involve going to auctions and conducting gun transfers.

Chairperson Klauer noted that Mr. Lunceford has dropped off a packet of information that was not included in the mailing. He asked the Board to take time to review it and have Mr. Lunceford explain the information provided.

Mrs. Lunceford said that she prepared the packet of information. She referred to the criteria for granting a conditional use permit. She said that she has provided a statement from local realtor Sue Conlon that addresses property values in the immediate area of previously approved home-based firearm sales businesses. She noted that her findings indicated that there is no negative impact, and that some properties have increased in value. She referred to a letter that was submitted by Deputy Sheriff Thomas Reittinger. She indicated that Mr. Reittinger has a FFL and he indicates the process necessary to obtain the license. She said that he indicated that he has had no issues operating the business out of his home.

Mrs. Lunceford stated there they are going to be installing a home safety security system. She said that the guns are stored in a safe and that no ammunition is stored close by. She said that their primary business will involve transferring licenses at auctions and gun shows. She said they do not anticipate transferring many of guns from their home. She indicated that Deputy Sheriff Reittinger said that in a good year, he has only transferred approximately 10-12 guns.

Board Member Gibbs noted that Deputy Sheriff Reittinger's letter indicates that he sells fire arms to Police Officers. Mr. Lunceford said that they are only proposing to conduct home transfers to close friends and family, and not to people they do not know.

Board Member Gibbs asked about internet sales of firearms. Mrs. Lunceford noted that they are required to have a FFL in order to conduct gun transfers. She said that the guns transfers will be conducted at their home and that the people receiving fire arms are required to provide identification. She said they would then run an FBI check on the proposed purchaser.

Chairperson Klauer asked if the Lunceford's are planning on making changes to the home. Mr. Lunceford said that they are not proposing to make any changes to the home. He indicated they currently have two to three gun safes.

Board Member Gibbs asked if the Lunceford's are proposing to install a security alarm and cameras. Mr. Lunceford said that they plan to install a security system.

Board Member Cremer asked about the brokering of firearms. He asked if the Lunceford's would advertise on a website which may possibly draw attention to their home's location. Mrs. Lunceford said that they will be on a list that indicates they can transfer FFLs.

Chairperson Klauer asked if they would be making repairs to firearms. Mr. Lunceford said that they will not repair guns. He said that in the future they make consider expanding their business to include gun repair.

Board Member Cremer asked who would regulate the firearms business on their property. Mr. Lunceford noted that the ATF regulates in-home firearms sales businesses. Board Member Cremer asked how often the license is renewed. Mr. Lunceford said that licenses are good for three years.

Chairperson Klauer asked that if the conditional use were approved, would they be opposed to putting a restriction on hours of operation. Mr. Lunceford said that their hours of operation would primarily be on weekends.

Beverly Knockel, 900 Hawkeye Drive, spoke in opposition to the request. She said that she represents the Hawkeye Drive Neighborhood. She indicated she has submitted a petition with 44 signatures in opposition to the request and one signature in favor. She said that realtor Peg Hingtgen provided a letter noting that a firearms home-based business would have a negative impact on the neighborhood. She referred to previous Zoning Board of Adjustment approvals that were made in the neighborhood. She indicated that they all relate to setbacks from property lines. She noted that no approvals were for home-based businesses. She indicated that the neighborhood has concerns with traffic circulation and the security of their homes. She said that there is a possibility that people will break into the Lunceford home to steal firearms. She said that she lives next door to the Luncefords and is concerned that thieves would mistakenly break into her home instead of the Luncefords.

Ms. Knockel referred to the Unified Development Code and R-1 zoning regulations. She discussed the preamble for the R-1 Single-Family Residential zoning district, and referred to the conditional uses allowed in the district. She said that she felt that the proposed business is not compatible with other conditional uses allowed in a residential neighborhood. She referred to the criteria for granting a conditional use. She said that a home-based firearms business is not in harmony with the neighborhood. She also expressed concerns with the potential traffic generated by the business. She said firearms sales should not be a permitted home-based business. She asked the Zoning Board of Adjustment to deny the request.

Suzanne Dodd, 3735 Buckeye Court, spoke in opposition to the request. She said that the home-based firearms business will adversely affect her property. She expressed concerns with traffic. She also discussed the potential for people to stop by the Lunceford's residence unsolicited inquiring about firearms. She referred to the conditional use permit criteria F and H, and said the property's only access is by a single street.

Bill Stevens, 3765 Buckeye Court, noted that he is a retired 33-year law enforcement officer from Los Angeles. He indicated he has no problems with the sale of guns. He said has more of an issue with traffic, and business being located in a single-family residential neighborhood.

Bethany Stevens, 3765 Buckeye Court, spoke in opposition to the request. She said that she is currently in college, and has concerns about transactions of firearms being conducted out in the open as her younger brother walks by to the bus stop.

Mark Neyens, 985 Hawkeye Drive, noted that there are several storefronts located in the downtown area that allow firearm sales. He said that the entire neighborhood is opposed to the request.

The Luncefords addressed the neighbor's comments. Mrs. Lunceford said that the neighbor's primary concern appeared to be the potential for increased traffic. She provided an article on home-based businesses and noted that their home has adequate off-street parking. She said that the business is part of their retirement plan and that their current business plan does not include a storefront. She indicated that deliveries to the home would be made by either UPS or FedEx vehicles. She reiterated the letters that were submitted by Sue Conlon and Deputy Sheriff Reittinger. She said that their home looks like everyone else's in the neighborhood and that if a conditional use permit was not required, no one would know they were selling firearms out of their home.

Board Member Bird asked how many guns the applicants are proposing to sell out of their home. The Lunceford's said they would probably have 10-12 gun transfers out of their home per year. Mr. Lunceford indicated they are not trying to run a gun store. He said that the proposed business will not generate 10-12 vehicle trips a day, but at most, 10-12 vehicle trips a month. Mrs. Lunceford said that their primary business would be conducting gun transfers at auctions. She said that she felt that the reason the neighbors are opposed is because the business involves firearms, and not because of traffic. She indicated that people can sell Avon out of their home and they would have more vehicle trips to their property than their proposed business.

Board Member Bird indicated that he is more concerned with traffic in the neighborhood than he is with the sale of guns. He suggested that the applicants work with the neighbors to come to an agreement on the operation of the business.

Board Member Gibbs agreed with the Board Member Bird. Mrs. Lunceford noted that she sent out informational letters to all the property owners within 200 feet of their property. She indicated that only one person contacted them to discuss the business. She said that they made an attempt to work with the neighbors.

Board Member Hutchinson said that most of the revenue from the proposed firearms business appears to be generated off-site at auctions and gun sales. He suggested that no guns sales be operated out of the home restricting them to at auctions and gun shows only.

Chairperson Klauer asked about home-based firearms businesses that were previously approved by the Board. Staff Member Hemenway noted that there have been four home-based fire arms businesses approved by the Board and he said that he is not aware of any complaints regarding these businesses. He indicated that the Board has placed conditions on hours of operation and on-site client contact.

Chairperson Klauer read the criteria for grant a conditional use permit.

Staff Member Hemenway reviewed the staff report. He referred to permitted home-based businesses noting that the Unified Development Code allows those that are small scale and likely to be compatible with the residential setting. He said that the Board can place conditions on approval in an effort to mitigate any negative impacts they feel the business may generate. He said that the Board can limit the hours of operation, pick-up times and the number of customers permitted to be on-site. He discussed traffic concerns in the neighborhood, indicating that the R-1 Single-Family Residential zoning district allows schools and churches, which he said may generate more traffic than the proposed home-based business.

Board Member Gibbs said that both the neighbors and applicants have done a great job presenting the information for and against.

The Board discussed hours of operation. Board Member Bird said that he preferred letting the neighbors and applicants discuss the proposed business before voting on the request. The Board discussed limiting the business hours to Monday through Saturday, 9:00a.m. to 5:00 p.m.

Motion by Gibbs, seconded by Hutchinson, to approve the conditional use permit with the condition that the transfer of firearms on-site be limited to Monday through Saturday from 9:00 a.m. and 5:00 p.m. Motion was denied by the following vote: Aye – Hutchinson; Nay – Klauer, Cremer, Gibbs and Bird.

DOCKET 18-13: Application of Justin Klauer for a special exception for property located at 1483 Old Mill Road to a five-foot high fence in the front yard, four-foot high maximum permitted, in an R-1 Single-Family Residential zoning district.

Justin Klauer, 1483 Old Mill Road, said that he wants to fence his front yard. He said that he owns two Great Danes and has concerns about the safety of the dogs. He indicated the fence has already been installed and he was unaware of the fence regulations.

Staff Member Hemenway distributed photos of the site. He presented the staff report noting fence height requirements. He said that the proposed fence will no inhibit the view for drivers backing their vehicles into the street. He indicated that the proposed chain link fence would only be one-foot higher than what is presently allowed in an R-1

district. He said that a portion of the fence is located in the public right-of-way and that the property owner must obtain a revocable license from the City Engineering Department permitting the fence to remain.

No one spoke in opposition to the request.

Motion by Cremer, seconded by Bird, to approve the special exception. Motion was approved by the following vote: Aye – Bird, Gibbs, Hutchinson, Cremer and Klauer; Nay – None.

DOCKET 19-13: Application of Charles and Linda Giese for a special exception for property located at 400 Villa Street to build a new single-family home 5 feet from the front property line (Villa Street) 20 foot minimum required, in an R-1 Single-Family Residential zoning district.

Charlie Giese, 940 Prince Phillip Drive, said that they have purchased the home at 400 Villa Street. He indicated that he has hired Marty Johnson of Straka Johnson Architects to develop plans for a single-family home.

Marty Johnson noted that the existing house is non-conforming as it does not meet current required setbacks. He said that they would like to receive approval for the setbacks before the final design of the home can be completed. He said that the existing home will be deconstructed, and he distributed a concept plan of the footprint of the new home proposed for the site. He indicated that the garage will be located on the north side. He said that this garage will be located approximately 5 feet from the front property line and would be side loaded. He said that positioning the home closer to Villa Street will make the building foundation more structurally sound and reduce the impact on the neighbor's view to the river.

Paula Giese, 395 Villa Street, indicated that she would like to see the proposed footprint of the home. She said that she cannot determine if the home would block their view. Charlie Giese said that the proposed home is not going to be higher than the existing home. He said that moving the house closer to Villa Street will have less of an impact on the view than moving it further away from Villa Street.

The Board discussed that three concept plans submitted by the applicant. Mr. Johnson indicated that design #3 is what the Giese's are proposing to construct.

Staff Member Hemenway presented the staff report. He said that if the home was required to meet the current setbacks, the foundation would be very costly due to the site topography and that there would be a greater impact to the view from the adjacent properties.

The Board said that they have not received a concept plan, only a general diagram of the footprint of the home. They asked staff what they can approve. Staff Member Hemenway said the applicant is bound by the footprint of the home as indicated on the submitted diagram. Chairperson Klauer asked that the Board consider tabling the request until a more concrete plan is submitted.

Tim O'Brien, 450 Villa Street, indicated that he is in favor of the request to position the home closer to Villa Street. He said that he would rather not have the home built closer to his property; but, he said that he was aware that the applicant is permitted to build within six feet of the side property line.

Motion by Gibbs, seconded by Cremer, to table the application. Motion was approved by the following vote: Aye – Bird, Gibbs, Hutchinson, Cremer and Klauer; Nay – None.

ITEMS FROM BOARD: The Board of Adjustment welcomed new member Eugene Bird.

ADJOURNMENT: The meeting adjourned at 6:17 p.m.

Respectfully submitted,

Kyle L. Kritz, Associate Planner

Adopted