



Approved

MINUTES
CITY OF DUBUQUE ZONING BOARD OF ADJUSTMENT
REGULAR SESSION
4:00 p.m.
Thursday, November 21, 2013
City Council Chamber, Historic Federal Building

Board Members Present: Vice Chairperson Jonathan McCoy; Board Members Jeff Cremer, Heath Hutchinson and Bill Gibbs; Staff Members Guy Hemenway and Wally Wernimont.

Board Members Excused: Chairperson Eugene Bird, Jr.

CALL TO ORDER: The meeting was called to order at 4:10 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 October 24, 2013 Zoning Board of Adjustment meeting were approved unanimously as submitted.

Vice Chairperson McCoy noted that a minimum of three affirmative votes are required to approve a request and, as there are only three board members present, the applicants may ask that their docket be tabled or moved to the end of the meeting. He said a fourth board member will be present but is running a little late.

SPECIAL EXCEPTIONS

DOCKET 41-13 Application of Richard S. Kelly, Sr., 2975 Lenox Street for a Special Exception to build a single family home 0 feet from the north and south side property lines, 6 feet minimum required, in and R-1 Single Family Residential zoning district.

Richard Kelly outlined his request. He noted that only a small corner of the house will encroach into the 6-foot required side yard setback.

Steve and Sandy Heiar said that they recently purchased the adjacent property located at 2999 Lenox Street. Mr. Heiar said that their home was recently constructed and that they were granted a limited setback waiver to build 4 feet from the side property lines. He said that he is opposed to a 0-foot side yard setback, but would have no objection to a 4-foot or greater setback. He said that the grading of his yard is not complete and that they may have difficulty getting a skid loader between the two structures to access the

rear yard. He submitted five letters of opposition to the 0-foot side yard setback from the following property owners:

- 1) Joyce R. Kirk, 2960 Pennsylvania Avenue
- 2) Jack Frain, 2954 Illinois Avenue
- 3) Nick and Laura Trievieler, 2996 Van Buren Avenue
- 4) Joe Munson, 2964 Illinois Avenue
- 5) Nicole Lee Munson, 2964 Illinois Avenue

Staff Member Wernimont clarified that the initial request was to construct the overhang 0 feet from the side property line with the foundation set back approximately 2-3 feet. He noted that the initial application included a drawing provided by a surveyor that indicated the distance from the building to the property line. He said the drawing appeared to indicate the building footprint and that staff assumed the 0 foot setback would be needed to accommodate an overhang. He said that the dimensions on the drawing indicated not the distance from the house to the property line, but how far the building would project into the 6-foot side yard setback. Therefore, he said that the applicant is actually requesting to build 3 feet 8 inches from the north side property line and 4 feet 3 inches from the south side property line.

Carol Fruend, 2996 Pennsylvania Avenue, expressed concerns with traffic safety, fire safety and snow removal. She said that the spacing of the house is not consistent with other residences located in the neighborhood.

Larry McCready, 2999 Van Buren Avenue, spoke in opposition to the 0-foot setback. He said that most houses in the neighborhood have a 6-foot side yard setback. He expressed concerns with snow removal and school bus safety.

Mr. Kelly rebutted noting that the adjoining property owner at 2999 Lenox Street received approval for a similar setback. He said that he has the ability to reduce the house size in order to fit the lot. However, he said that he would like to build closer to the property lines in order to maximize the square footage of the building.

Board Member Cremer entered the meeting at 4:24 p.m.

Board Member Gibbs expressed concerns with density in the neighborhood. Mr. Kelly noted that the property owner to the north received a limited setback waiver to build a home 4 feet from the north and south side property lines and that his request is very similar. Board Member Gibbs asked Mr. Kelly if he could build a home and meet the 6-foot setback. Mr. Kelly said it is possible to reduce the building size and meet the 6-foot side yard setback.

Staff Member Wernimont outlined the property history, noting that a limited setback waiver was granted for the adjacent lot. He clarified that the request is to build a single-

family home 3 feet 8 inches from the north side property line and 4 feet 3 inches from the south side property line. He explained that the two corners of the house encroach slightly into the required 6-foot side yard setback because the lot is irregular and that the applicant is trying to position house parallel to the street.

Vice Chairperson McCoy asked the applicant if he could shift the house 4 inches so it could have an approximately 4-foot side yard setback to be consistent with the newly constructed home on the adjacent lot.

Board Member Cremer expressed concerns with the density of houses in the neighborhood. He said he is not overly concerned with the 4-foot side yard setback.

Board Member Hutchinson noted that reducing the home by 4 inches would require building plans to be modified and might be difficult. Mr. Kelly noted that he can modify his plan and build the home to meet the 4-foot side yard back on both sides.

Motion by Hutchinson, seconded by Cremer, to approve the special exception with the condition that the house's foundation wall be built a minimum of 4 feet from the north and south side property lines. Motion was approved by the following vote: Aye – McCoy, Cremer, Hutchinson and Gibbs; Nay - None.

DOCKET 42-13: Application of Diana and Mark Huggins, 1820 Hale Street, for a Conditional Use Permit to operate a home based dog training business.

Diana Huggins, 1820 Hale Street, noted that she would like to conduct dog training at her home. She said that she would be training dogs to help assist individuals with medical disabilities. She specifically noted that the dogs can help detect low blood sugar levels for diabetic individuals, and help assist those people who suffer from rheumatoid arthritis. She indicated that she has a large, secluded back yard.

Board Member Gibbs expressed concerns with barking dogs. Mrs. Huggins said that one of her services is to train dogs to stop barking. She noted that dogs will be staying at her house for two to three days at a time.

Board Member Cremer asked Mrs. Huggins if she has any dogs of her own. Ms. Huggins indicated she owns four dogs. She said that in addition to her four dogs, there may be two dogs staying overnight during the training periods.

Richard Kelly, 2090 Hale Street, noted that he lives down the block from the subject property. He said that he is concerned that the property may begin to resemble a kennel. He said he has no objections to the dog training business; however, he wants to know how the rules would be enforced if the business were to be in violation.

Mrs. Huggins said that she understands the neighbor's concerns, but, that she is not going to be running a kennel. She said that she keeps her place clean.

Amy Hartwick, Galena, Illinois, said she is in the process of having one of her dogs trained by Ms. Huggins. She noted that the dog will assist a friend with rheumatoid arthritis. She said that Mrs. Huggins provides a great service by training dogs to help assist people with medical conditions.

Staff Member Hemenway presented the staff report. He explained why a home-based dog training business requires a conditional use permit. He said that it is approximately 200 feet from the rear of the applicant's house to the rear property line. He noted that the applicant's rear yard abuts Washington Jr. High's athletic field. He said that the City Health Department regulates barking dogs. He said if dogs are barking the neighbors can contact the Animal Control Officer. He said that the property owner will usually be warned about the barking dogs, and if the disturbance continues, a citation may be issued. Staff noted that there is no limit on the number of dogs that a resident can have. He said that the Board has the ability to establish any conditions they feel are necessary to help mitigate any concerns they may have. He said that they can limit the number of dogs allowed outside of the home and require that the yard be kept free of animal waste.

Mrs. Huggins said that she has spoken with her neighbors and noted that many of them did not realize that she had four dogs.

Staff Member Hemenway said that all property owners within 200 feet of the subject property were notified.

Board Member Cremer said that typically he would be concerned with a home-based dog training business because of the potential for barking dogs. He noted that the applicant has spoken with the adjacent property owners and there is relatively little neighborhood opposition to her request.

Motion by Gibbs, seconded by Cremer, to approve the Conditional Use Permit as submitted. Motion was approved by the following vote: Aye – McCoy, Cremer, Hutchinson and Gibbs; Nay - None.

DOCKET 43-13: Application of Peter Otterbeck, 719 Hill Street, for a Special Exception to build an addition 7 feet from the front property line and 0 feet from the north side property line, 20 feet and 4 feet minimum required respectively, in an R-3 Moderate Density Multi-Family Residential zoning district.

Peter Otterbeck, 719 Hill Street, explained his building project to the Board. He said that he was not aware of the required side yard setback.

David Krier, 662 W. 8th Street, said that he is not opposed to the building project but that he has concerns about excavation that has caused water damage and undermines his property. He said that he wants Mr. Otterbeck to resolve the drainage problem.

Staff Member Wernimont discussed the property's configuration, noting ownership of adjacent lots.

Mr. Otterbeck said that he will install drain tile to help resolve the drainage problems between the two properties. Mr. Krier said he owns a five-foot strip along the side of his property. The Board said they were encouraged that Mr. Otterbeck is willing to work with the neighbor to resolve the drainage issue.

Staff Member Wernimont outlined the staff report. He discussed the building configuration, lot layout, and ownership of adjacent properties. He reiterated the request for a waiver of the required setbacks. He explained that the applicant is building on top of an existing limestone foundation which already encroaches into the required setback. He recommended that, if approved, the Board require that storm water from the addition be directed away from adjacent property. He noted that storm water management issues between the adjoining properties are a private matter.

Motion by Gibbs, seconded by Cremer, to approve the Special Exception with the condition that storm water from the addition be directed away from the adjacent property. Motion was approved by the following vote: Aye – McCoy, Cremer, Hutchinson and Gibbs; Nay - None.

DOCKET 35-13: Application of Douglas Blong and Elaine Reiss, 2501 Harriet Street, for a Special Exception (reconsideration) to build a detached garage 8' from the front property line, 20' minimum required, for a total of 1,625 square feet of accessory buildings, 1,000 square foot maximum permitted and 18 ½ feet in height, 15 feet maximum permitted in an R-1 Single-Family Residential zoning district.

Doug Blong outlined his request for the Board. He apologized for not including the porch on the detached garage with his previous request.

No one spoke in opposition to the request.

Staff Member Hemenway noted that Mr. Blong submitted the final design plans that included a porch at the previous meeting, after notification was mailed to the adjacent property owners. He noted that the additional square footage includes a storage shed that was overlooked and the proposed attached porch.

Motion by Gibbs, seconded by Cremer, to approve the Special Exception as submitted. Motion was approved by the following vote: Aye – McCoy, Cremer, Hutchinson and Gibbs; Nay - None.

DOCKET 33-13: Application of Susan Caspar, 40 Milwaukee Street, for a Special Exception (reconsideration) to build a detached garage 1 foot from west side property line, 3 feet required, and zero feet from the rear property line, 6 feet required for a legal non-conforming house located in an LI – Light Industrial zoning district.

Susan Caspar outlined her request. She said that she would like to build 3 feet 9 inches from the paved portion of the alley. Ms. Caspar submitted an aerial photo that she said was provided to her by the City Assessor's Office.

Vice Chairperson McCoy asked for public input.

Roger Gartner, 47 E. 32nd Street, said that the exact location of the property line is not clear. He said that he would be opposed to any reduction of the required 6-foot setback. He said that all the garages in the alley were built at the minimum setback as required by ordinance at the time of their construction.

Staff Member Wernimont outlined the special exception request, noting that the applicant is requesting to build 1-foot from the side property line and 0-foot from the rear property line. He discussed the location of property pins on the lot directly across the alley from the subject property. He noted that the alley is 20-feet wide, and that by measuring from those pins, the location of the rear lot line does not agree with the lot line as indicated by Ms. Caspar. He noted that as conflicting information is being provided regarding the location of the property lines, he recommends that the Board require a survey to clearly establish the lot lines. He said that the garage on the adjacent lot to the west is approximately 6 feet from the rear property line and that the garage on the adjacent lot to the east is approximately 3 feet from the rear property line.

The Board discussed the request and agreed that a survey should be required in order to clearly establish the lot lines. They discussed the adjacent garages and their proximity to the rear property line. They noted that several garages along the alley are built three feet from the rear property line and that included the garage located directly across the alley from the subject lot. They said that they felt that a three foot setback would not be out of character with the neighborhood and would meet the criteria necessary for granting a special exception.

Motion by Gibbs, seconded by Cremer, to approve the Special Exception with the condition that a property survey be required prior to construction and that the garage foundation be located a minimum of 3 feet from the rear property line. Motion was approved by the following vote: Aye – McCoy, Cremer, Hutchinson and Gibbs; Nay - None.

DOCKET 44-13: Application of Randy Dolter, 2794 University Avenue, for a Variance to allow a 136.5 square foot wall-mounted sign and a 102 square foot wall-mounted

sign, 100 square foot maximum permitted per sign for each tenant located in a multi-tenant building in a C-3 General Commercial zoning district.

Keith Wolff, Dubuque Sign Company, introduced Randy Dolter. Mr. Wolff outlined the sign variance request, noting issues with topography and the distances from adjoining streets to the building.

Board Member Gibbs asked if the proposed sign is to be illuminated. Mr. Dolter noted that the sign will be internally illuminated, and that it can be turned off at night. He said that they are building an energy efficient building and it would make sense to turn the sign off at night to conserve energy.

No one spoke in opposition to the request.

Staff Member Wernimont reiterated the variance request. He noted that the property accommodates a multi-tenant building which limits the amount of wall-mounted signage. He said the site is allowed multiple freestanding signs.

The Board asked Mr. Dolter if he intends to install a freestanding sign. Mr. Dolter indicated that he would install a freestanding sign; however, he said that it will not be as large as the 300 square feet allowed.

Board Member Gibbs noted that he had concerns with the visual clutter of signs but is sympathetic because of the topography of the site and the distance of the building from Dodge Street.

Motion by Gibbs, seconded by Cremer, to approve the sign variance as submitted. Motion was approved by the following vote: Aye – Cremer, Hutchinson and Gibbs; Nay – None; Abstain - McCoy.

DOCKET 45-13: Application of Abby Leib, 2184 St. John Drive, for a Conditional Use Permit to allow the keeping of 4 hens in an R-1 Single-Family Residential zoning district.

Abby Leib, 2184 St. John Drive, noted that she is applying for a Conditional Use Permit to have 4 hens on her property.

Staff Member Hemenway distributed a letter of opposition submitted by a surrounding property owner. He distributed photos of the site to the Board. He reiterated the request, and explained the conditions required for the keeping of hens. He said that a coop is required to be located a minimum of 10 feet from the nearest property line and 50 feet from the nearest residence noting that the existing coop is located 10 feet from the property line and 85 feet from the nearest residence. He discussed that the letter of opposition that was submitted noting concerns with waste from chickens and the

ramshackle appearance of the chicken coop. He said that the chicken coop consists of a fenced in area with a tarp tied over the top. He noted that the Board can choose to:

- 1) Approve the request as submitted;
- 2) Approve the request with conditions; or
- 3) Table the request and require that the applicant submit a more aesthetically pleasing coop design.

The Board discussed the size, location and appearance of the chicken coop. They said that they felt that it would be better if a more permanent and visually appealing coop was constructed.

Zoning Enforcement Officer Charlie Miller noted that he received a complaint from adjoining property owners about chickens running freely in the neighborhood. He noted that City regulations require all animals to be securely contained on-site.

Ms. Lieb said that the entire structure has been completely enclosed with fencing and tarps.

The Board discussed the chicken enclosure and coop design. Vice Chairperson McCoy noted that he is okay with the design of the structure and that it meets the requirement for the setbacks.

Motion by Cremer, seconded by Gibbs, to table the conditional use permit request and require that the applicant return to the Board with a more substantial and aesthetically appropriate chicken coop design. Motion was approved by the following vote: Aye – McCoy, Cremer, Hutchinson and Gibbs; Nay - None.

ITEMS FROM STAFF: None.

ITEMS FROM BOARD: None.

ITEMS FROM PUBLIC: None.

ADJOURNMENT: The meeting adjourned at 6:15 p.m.

Respectfully submitted,

Kyle L. Kritz, Associate Planner

Adopted