



Approved

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

4:00 p.m.

Thursday, October 24, 2013

City Council Chamber, Historic Federal Building

Board Members Present: Chairperson Eugene Bird, Jr.; Board Members Jonathan McCoy, Jeff Cremer, Heath Hutchinson, and Bill Gibbs; Staff Members Guy Hemenway, Kyle Kritz, and Wally Wernimont.

Board Members Excused: None.

CALL TO ORDER: The meeting was called to order by Chairperson Bird 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 September 26, 2013 Zoning Board of Adjustment meeting were approved unanimously as submitted.

DOCKET 38-13: Application of Mulgrew Oil/Dubuque Sign for a variance for property located at 1215 East 16th Street to allow installation of a roof mounted sign in a C-3 General Commercial zoning district.

Keith Wolff, Dubuque Sign Company, said that he represented Mulgrew Oil Company. He noted that Mulgrew's building is a residential-style architecture with a gable roof, which he said leaves no room below the eaves for the standard commercial signage. He said the signage will be placed on a louvered panel that will be located on the roof and parallel to the front building wall, similar to a parapet. He cited examples of other similar signs in the Dubuque area. He submitted renderings and photos of the building and signs for the Board's review.

Staff Member Wernimont noted that the square footage of the proposed sign is compliant; however, he said that as the sign is not below the eave or located on the parapet wall it is considered a roof-mounted sign and prohibited by the Unified Development Code. He said that Mulgrew is proposing to utilize less square footage than the maximum permitted. He said that the sign has been designed to be an integral part of the building. He recommended the Board review the criteria for granting a variance.

Motion by McCoy, seconded by Cremer, to approve the installation of a roof-mounted sign in a C-3 District. Motion carried by the following vote: Aye – McCoy, Cremer, Hutchison, Gibbs, and Bird; Nay – None.

DOCKET 39-13: Application of Renee Krier and Gary Carner for a variance for property located at 2307 Central Avenue to construct an addition 0 feet from the front property line (23rd Street), 20 feet minimum required, in a C-3 General Commercial zoning district.

Gary Carner, 1664 Washington Street, noted that he is the general contractor for Ms. Krier. Renee Krier, 2307 Central Avenue, introduced herself as the owner of Romper Stompers Child Care Facility. Mr. Carner noted that they are proposing to build a kitchen addition that will be more easily accessible.

Tim Murphy, 70 W. 23rd Street, spoke in opposition to the request, stating that the child care facility consumed on-street parking. He said that expanding the building may limit the ability for fire trucks to safely negotiate the street and alley. He expressed concerns with the potential loss of employee parking and green space. He said that the applicants are continuing to expand and cover the lot with buildings.

Ms. Krier noted that the building area will be 12' by 30' and will not consume any employee parking. She said that the addition will place the kitchen in a safer location. She noted that they currently have in excess of the required playground area.

Mr. Carner noted that employee parking would not be impacted, and that the existing parking is not fully utilized.

Staff Member Hemenway outlined the staff report, noting the non-conforming status of the existing building. He discussed the proposed building addition setback and stated that visibility for vehicles existing the rear parking lot would not be affected. He said that a conditional use permit had been granted for the licensed child care facility several years ago and that at that time, the applicant was able to demonstrate to the satisfaction of the Zoning Board of Adjustment and the State Department of Human Services that they had adequate drop-off and pick-up area, employee parking and outdoor recreation area. He noted that the applicant had submitted a written statement detailing the need to locate the building addition so as to take advantage of the existing basement and plumbing configuration.

The Board noted that the building has always been zoned commercially and used for commercial purposes. Board Members discussed the request and felt it was appropriate.

Motion by Gibbs, seconded by Cremer, to approve the variance application as submitted. Motion carried by the following vote: Aye – McCoy, Cremer, Hutchison, Gibbs and Bird; Nay – None.

DOCKET 40-13: Application of Application of DeeAnn Ballard for a Special Exception for property located at 1342 Forest Lane to build a single family home 5 feet from the front property line and 2 feet from the side property lines, 20 feet and 6 feet minimum required respectively, in an R-2 Two Family Residential zoning district.

DeeAnn Ballard, 1342 Forest Lane, stated that she would like to demolish her existing house and build a new house, expanding the footprint. She said that she would like to elevate the home so that the main floor is at street grade and expand the house to the west within two feet of the side property line.

Vincent Thor noted that he owns the adjacent rental property at 1380 Forest Lane. He said that he felt that the applicant should verify the lot line location and maintain the existing fence.

Ms. Ballard said that she was willing to keep and maintain the fence between the two properties.

Staff Member Hemenway presented the staff report. He noted the setback requirements for the zoning district and the existing building footprint and lot configuration. He said that the house expansion would be parallel to the street and that it would not encroach closer to the east and front property lines but that it would be built closer to the west property line. He said that he felt cars backing from the paved pad on the adjacent property would still have adequate sight visibility to the street.

Board Member Cremer asked about the establishment of the property lines. Staff Member Hemenway noted that the Board could require a survey, or that the property owner could be required to establish the property line to the satisfaction of the building official. Board Member Cremer said he would like the fence to remain in place.

Board Members discussed the request and felt it was appropriate.

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

DOCKET 41-13: Application of Jeffrey Streinz for a variance for property located at 2195 Central Avenue to allow construction of an addition less than 1 foot above the Regulatory Base Flood Elevation.

Jeff Streinz, 2894 Thornwood Court, said that he would like to place an addition on the west side of the Meineke Muffler Shop. He discussed the recent FEMA flood plain determination and subsequent IIW Engineer Technical Report regarding the flood status of the property. He noted there had been no flooding within the building during the July 2011 storm event. He said that expanding the building will enable him to add jobs.

Staff Member Kritz outlined the staff report, noting that the applicant is requesting to be granted a variance from the flood plain development regulations, which he said have their own set of criteria. He discussed FEMA's requirements regarding elevation of structures above the base flood elevation. He said that the owner of the property has indicated that elevating the floor of the addition will create a trip hazard for employees traversing the two halves of the building. He discussed the flood history of the area utilizing aerial photos of past flood events. He noted that special criteria for granting a variance from the flood plain ordinance have been established and are outlined in Section 6-4.14 of the Unified Development Code.

The Board questioned the City's liability in the event that the Board would approve a variance and that subsequent flood damage would occur. Staff Member Kritz noted that if the variance is approved, the City Planner is required to prepare a letter noting that it is likely that insurance rates for the property would increase and that the proposed construction may increase the risk to personal injury and property damage. He said that this requirement is outlined in Section 6-4.14(D)(4) of the Unified Development Code (UDC).

Staff Member Kritz read each of the 12 criteria outlined in Section 6-4.14(E) regarding the factors the Board shall review in consideration of the variance request.

The Board Member discussed all of the criteria outlined in Section 6-4.14(E) of the UDC and said they felt that the information provided by the applicant, their engineer and City staff adequately demonstrated that the criteria had been met.

Chairperson Bird asked Mr. Streinz if he understood that, if approved, he will bear all of the risk to the structure and employees should there be a future storm event. Mr. Streinz said that he understood.

Board Member Hutchison asked if the Board could include indemnification clause with the variance approval. The Board and staff discussed this idea and felt that it would be more appropriate for the City's Legal staff to consider that issue.

Board Member McCoy said that the applicant and the engineers have demonstrated that they have done their due diligence.

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

Motion by Bird, seconded by McCoy, to request that the City Attorney explore the use of an indemnification agreement for the City and Board to be included with any variance approval. Motion carried by the following vote: Aye – McCoy, Cremer, Hutchison, Gibbs and Bird; Nay – None.

ITEMS FROM STAFF: None.

ITEMS FROM BOARD: None.

ITEMS FROM PUBLIC: Sue Caspar, 40 Milwaukee Street, asked for the Board's reconsideration of her Special Exception request regarding the setback of a garage on her lot. She noted that the Board had recently approved her request, but that she would now like to build the garage closer to the rear property line. Board Members and staff asked that she provide an accurate detailed site plan for the Board's further consideration.

Motion by McCoy, seconded by Hutchison, to reconsider Docket No. 33-13 for a special exception at the November 21, 2013 Zoning Board of Adjustment meeting. Motion carried by the following vote: Aye – McCoy, Cremer, Hutchison, Gibbs and Bird; Nay – None.

ADJOURNMENT: The meeting adjourned at 5:00 p.m.

Respectfully submitted,

Kyle L. Kritz, Associate Planner

Adopted