



Approved

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

5:00 p.m.

Thursday, July 24, 2014

City Council Chamber, Historic Federal Building

**Board Members Present:** Vice Chairperson Jonathan McCoy; Board Members Jeff Cremer, William Gibbs; Staff Members Wally Wernimont, Guy Hemenway.  
**Board Members Excused:** Chairperson Eugene Bird

**CALL TO ORDER:** The meeting was called to order at 5:00 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 June 26, 2014 meeting were approved unanimously as submitted.

**DOCKET 22-14:** Application of Louis Mihalakis, for a Special Exception for property located at 1212 Miller Road to build an addition 14 feet from front property line and 10 feet from rear property line, 20 feet required for both setbacks, and to build a garage storage shed zero feet from the east side property line, 6 feet minimum required, in an R-1 Single Family Residential zoning district.

Louis Mihalakis, 1212 Miller Road, noted that he has acquired property adjacent to his lot on 1212 Miller Road. He explained that at the previous meeting there were concerns about debris and material on the site. Mr. Mihalakis explained that the materials located on site would be used to construct a new addition on the home. He explained that the city was enforcing on him for having materials in the public right-of-way. He indicated that trusses were removed from the right-of-way and placed at the rear of the property. He said that there are piles of lumber on the site that will be used for construction of the home. He said he is waiting for approval so that he can proceed with the work, and that at that time the stored materials will be removed.

Board Member Cremer asked if salvage materials will be located on site. Mr. Mihalakis indicated that he does operate a salvage business, however, he said he will not be storing materials on-site. Staff Member Wernimont explained that the storage shed is now compliant as additional land has been acquired by Mr. Mihalakis. He explained that the structure will meet the rear yard setback because Mr. Mihalakis has acquired additional land at the rear of the property. He said that the only request is to reduce the front yard setback.

The board reviewed the request noting the discussion held at the previous meeting.

Motion by Gibbs, second by Cremer to approve the Special Exception. Motion carried by the following vote: Aye – McCoy, Cremer, Gibbs; Nay - none.

**DOCKET 28-14:** Application of Adam Johnson, Architect (for Chris and Gary Stelpflug, Weaver Castle LLC) for a Special Exception for property located at 1576 Locust Street to allow an addition/garage 0 feet from the north side property line, 3 feet minimum required, in an OR Office Residential zoning district.

Adam Johnson, 211 West Fourth Street, Galena, Illinois, explained that the property owner is rehabilitating the house into three units utilizing Historic Tax credits. He explained the interior building configuration and noted that the property owners are going to maintain the historic integrity of the building. He said there is an existing garage foundation where the new garage will be constructed.

The Board asked Mr. Johnson if the previous garage was one story. Staff Member Wernimont said that based on the Sanborn Fire Insurance map, it appears that the former garage was one story. Mr. Johnson said that the proposed garage addition will include a story above.

Dan Tepley explained that he owns the properties on both sides and directly behind the subject property. He explained that he would like to see renderings of the building. Staff provided renderings of the building to Mr. Tepley. He said he had concerns with a second story being added to the garage in such close proximity to his property line. Mr. Tepley reviewed photos and elevations of the project, and expressed concerns about storm water runoff from the site. The Board asked how storm water runoff from the proposed addition will be managed. Mr. Johnson said that a gutter will be installed along the side of the gable roof to direct water to the alley or to the other side of the property, away from Mr. Tepley's property.

The Board discussed the status of the alley and whether or not it will be constructed using a permeable surface. Staff Member Wernimont indicated that he did not know if the alley would be reconstructed. He noted that the proposed garage will be built over an existing impermeable area.

Mr. Johnson asked the Board to table the application to provide him an opportunity to meet with the neighbor and address his issues.

Motion by Gibbs, second by Cremer, to table the application at the applicant's request. Motion carried by the following vote: Aye – McCoy, Cremer, Gibbs; Nay - none.

**DOCKET 29-14:** Application of Tom Burbach for a Special Exception for property located at 2539 Jackson Street to construct a detached garage 6 feet from the front property line (White Street) where 20 feet is required and 2 feet from the north side

property line where 3 feet is required in an R-2A Alternate Two Family Residential zoning district.

Tom Burbach, 2539 Jackson Street, said he would like to erect a two car detached garage that would take access from White Street. No one spoke in opposition to the request.

Staff Member Wernimont outlined the staff report noting that the property has two street frontages. He explained that Mr. Burbach would like to construct the detached garage closer to the frontage along White Street and one foot closer to the side property line. He said that there appears to be no impact to visibility from adjacent properties and that all adjacent property owners were notified and no input was received.

Vice Chairperson McCoy asked if the garage will be aligned with the two adjacent garages. Mr. Burbach noted the garage would not be closer to the street than the existing garage. Motion by Gibbs, second by Cremer, to approve the special exception with the condition that:

1. The garage be no closer to White Street than the garages immediately adjacent to the subject property, or 6 feet back from the property line, whichever is more restrictive, and,
2. Stormwater be directed away from the adjacent property to the north.

Motion carried by the following vote: Aye – McCoy, Cremer, Gibbs; Nay - none.

**DOCKET 30-14:** Application of Rodney & Mary Jane Krapfl for a special exception for property located at 1632 Manson Road to allow 1,400 square feet of detached accessory structures, 1,000 square foot maximum allowed, in an R-1 Single Family Residential zoning district.

Rodney and Mary Jane Krapfl, 1632 Manson Road, said they would like to construct a 32 foot by 28 foot detached garage on their 1.6 acre lot. They indicated that the detached garage would meet the required setbacks. No one spoke in opposition to the request.

Staff Member Wernimont reiterated the request and explained that the garage would meet the setback and height requirements. He explained that the property already accommodates two detached accessory structures and that the garage would be located outside of the 100 year flood plain.

Motion by Gibbs, second by Cremer, to approve the Special Exception as submitted. Motion carried by the following vote: Aye – McCoy, Cremer, Gibbs; Nay - none.

**DOCKET 31-14:** Application of Jeremy Jones for a Special Exception for property located at 2093 Bald Eagle Court to allow an 8 foot high privacy fence in the rear yard, 7 foot maximum permitted, in a PR Planned Residential zoning district.

Jeremy Jones, 2093 Bald Eagle Court, said he would like to build an 8 foot high fence in his rear yard to provide privacy from the adjoining properties to the north. He explained that the 7 foot high fence would not adequately screen his rear yard. He said there is significant grade change from his lot to the lots directly behind his home. No one spoke in opposition to the request.

Staff Member Wernimont discussed the topographic map of the area, noting the grade changes of the terraced lots. Board member Gibbs asked if the fence would only be located in the back yard of the property. Mr. Jones said the 8 foot high privacy fence would only be located in the rear yard.

Staff Member Wernimont noted that included in the packet is a site diagram and that, if approved, the 8 foot fence would be bound by the submitted diagram.

Motion by Gibbs, second by Cremer, to approve the Special Exception as submitted. Motion carried by the following vote: Aye – McCoy, Cremer, Gibbs; Nay - none.

**DOCKET 32-14:** Application of Digital Designs (Premier Bank) for a sign variance for property located at 140 West 9<sup>th</sup> Street to allow a 50 square foot canopy sign, 20 square foot allowed, and a 112 square foot and 165 square foot wall mounted signs, 100 square feet maximum allowed each, in a C-4 Downtown Commercial zoning district.

Ron Shaw, Digital Designs, explained that Premier Bank would like to apply window decals on the building. He explained that the window decals would be applied to the exterior of the window. He said that if these were to be applied to the interior of the window the variance would not be required. He said that Premier Bank is marketing a new service that they are providing.

The Board discussed the location of the window signs and the possibility of allowing the signage for a certain period of time.

Staff Member Hemenway said that the project involved the application of vinyl decals to the exterior of the window. He explained that the site is allowed three wall mounted signs. He referred to photographs and discussed the number of signs on the building.

Vice Chairperson McCoy asked about the signs that are located in the drive-up and the existing free standing sign. Staff member Hemenway explained the approval for the free standing sign in the sidewalk area. He noted that the temporary signs located in the drive through area have been put up without a permit and are illegal at this time.

Board member Gibbs said that he is more inclined to approve the sign variance if a timeframe was established for how long the signs are allowed to remain. Board Member Cremer noted that there appears to be a lot of signs on the property. Vice Chairperson McCoy said that the Board should review the variance without considering the illegal signs, as they are not a part of the application.

The Board discussed placing a timeframe on how long the signs would be allowed to remain, and discussed options that are available for the signage on the building. Staff Member Hemenway indicated that Premier Bank could remove the illegal signs and downsize the existing signage to meet the sign requirements and then no sign variance would be required.

Motion by Gibbs, second by Cremer to approve the sign variance. Motion was denied by the following vote: Aye – none; Nay – McCoy, Cremer, Gibbs.

**DOCKET 33-14:** Application of Mike Bieniek / SBA Communication / Verizon Wireless for a Conditional Use Permit for property located at 3500 Pennsylvania Avenue to construct a 120 foot high monopole communications tower and associated equipment shelter in an R-1 Single Family Residential zoning district.

Clayton Springer, attorney at 1001 West Higgins Road, Rosemont Illinois, represented Mike Bieniek. He explained that they are applying for a conditional use permit in order to construct a monopole communications tower with the lightning rod and to install a storage shelter for associated equipment.

Board Member Cremer noted there are several members in the audience that would like to look at renderings of the proposed communication tower. Mr. Springer provided multiple copies of the site plans and elevations to people in attendance. He referred to a radio frequency propagation map and explained the coverage for the cell tower. He explained that over time technology has changed and that the older towers only had the capacity to handle standard phone calls. He said that phones now include data plans which provide internet access and data downloading that tend to generate greater demands on the capacity of the towers. He said that the proposed communication tower will also assist with 911 coverage in the area. He explained the setbacks for the monopole tower and discussed the technical information provided by an engineering firm outlining the structural characteristics of the tower and how it is designed to collapse if there were to be a catastrophic structural failure.

Beth and Scott Killgore, 1685 Westridge Drive, expressed concerns with the safety if the cell tower were to fall. Ms. Kilgore noted that their insurance agent stated that if the cell tower were to fall the damages to their property would not have to be paid for by the cell tower company.

Peter Hesselman, 1645 Westridge Drive, noted concerns with the reduced setback of the tower. He said that his wife operates a day care at their home and he expressed

concerns with the proximity of the cell tower, and the potential impact to property values in the neighborhood.

Sandra Herrig, 1655 Westridge Drive, had concerns with safety and property values in the neighborhood. She stated that there were previously applying for FHA loans for a different property but were denied because of proximity to a communications tower. Bob Hein, 1635 Westridge Drive, had concerns about access to the property and how the communication tower would impact property values and his homeowners insurance.

Duane Jelinek 1695 Westridge, had concerns with the height of the tower. He indicated that he is a present Verizon wireless customer and that he has no issue with service in the area, however, he does not have a data plan. He stated that there are adjacent commercial properties in the area where the cell tower could be placed instead of being located in a residential area. He indicated that his neighbor at 1665 Westridge could not attend and dropped off a letter for him to deliver.

Chairperson McCoy asked Mr. Springer to address the comments. Mr. Springer indicated that it appears many people had questions related to property value, insurance, safety and aesthetics of the communication tower. Mr. Springer indicated that the cell communication tower company is required to have an insurance policy that if the cell tower were to fall, they would be liable to cover the costs of damage. In regard to the safety issues, he referred to a letter provided by the manufacturer noting that if there was a catastrophic failure, the communication tower would fold in two and fall in the 75 foot area. He noted that there have been several studies indicating that towers have little impact on property values within neighborhoods. He discussed the aesthetics of the tower and the equipment shelter, indicating that they are required to provide screening around the shelter and tower and close the compound area.

Staff Member Hemenway outlined the staff report, indicating that the request is for a conditional use permit and a variance for a communication tower. He noted that the required setback in the past was based on the height of the tower because if the previous constructed towers were to fail, they would fall over rather than fold inward. He referred to the site diagram provided by the applicant noting that access to the compound will be taken off of the north terminus of Kebbie Drive. He explained that the enclosure would be screened at the ground level from the adjacent properties.

Vice Chairperson McCoy asked if there was a representative from the Dubuque Bible Church at the meeting.

Mr. McCreedy, Board Member of the Dubuque Bible Church, was present at the meeting. The Board asked Mr. McCreedy if there was a possibility to relocate the tower closer to the church so as to comply with the fall hazard area. Mr. McCreedy said that there was a possibility to relocate the tower and explained how the engineers originally established the cell tower location. He indicated that Verizon Wireless decides where the cell tower is located on the site and not the property owner.

Staff Member Hemenway noted that the applicant could table the application and the Board could ask for additional information to be provided at the next meeting to address the neighbors' concerns. The Board and Mr. Springer discussed the possibility of meeting with the neighbors and addressing their issues.

Motion by Cremer, second by Gibbs, to table the conditional use permit at the applicant's request. Motion carried by the following vote: Aye – McCoy, Cremer, Gibbs; Nay - none.

**DOCKET 34-14:** Application of Mike Bieniek / SBA Communications / Verizon Wireless for a Variance for property located at 3500 Pennsylvania Avenue to install a 120 foot high monopole communications tower 75 feet from the property line where 120 feet is required.

The board discussed this item with the previous docket.

Motion by McCoy, second by Cremer, to table the variance at the applicant's request. Motion carried by the following vote: Aye – McCoy, Cremer, Gibbs; Nay - none.

**DOCKET 35-14:** Application of Tim and Christine Conlon for a Special Exception for property located at 480 Wartburg Place to build a 240 square foot pool house for a total of 1,400 square feet of accessory structures, 1,000 square foot maximum permitted in an R-1 Single Family Residential zoning district.

Ian Moore, 420 Moore Heights, represented the Mr. Conlon. He noted that the proposed pool house would be 240 square feet in area and accessory to the in-ground swimming pool. He explained that the pool house would have a restroom, lounge and area for mechanical equipment used to running the pool.

The Board reviewed plans for the pool house. No one spoke in opposition to the request.

Staff Member Hemenway outlined the staff report. He explained the total amount of accessory structures on the site and the location of the pool house on the site. He indicated that all adjacent property owners were notified and that he received no input.

Motion by Cremer, second by Gibbs, to approve the special exception as submitted. Motion carried by the following vote: Aye – McCoy, Cremer, Gibbs; Nay - none.

**ADJOURNMENT:** The meeting adjourned at 6:40 p.m.

Respectfully submitted,

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Kyle L. Kritz, Associate Planner

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Adopted