

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

5:00 p.m.

Thursday, June 25, 2015

City Council Chamber, Historic Federal Building

Board Members Present: Chairperson Eugene Bird, Jr.; Board Members Jeff Cremer, Jonathan McCoy, and Bethany Golombeski; Staff Members Guy Hemenway and Wally Wernimont.

Board Members Excused: Board Member Joyce Pope.

CALL TO ORDER: The meeting was called to order by Chairperson Bird 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 May 28, 2015 meeting were approved by the following vote: Aye – Cremer, Golombeski, Bird; Abstain McCoy; Nay – None.

Docket 18-15: Application of Tim Mueller, 2901 Hillcrest Road, for a Special Exception to allow a total of 1,850 square feet of detached accessory structures, 1,000 square foot maximum allowed, in an R-1 Single-Family Residential zoning district.

Motion by Cremer, seconded by McCoy, to bring the request back to the table. Motion carried by the following vote: Aye – Cremer, Golombeski, McCoy and Bird; Nay - None.

Chairperson Bird said that the request was back to where it was the end of the last meeting after public input had been closed.

Staff Member Wernimont noted that Mr. Mueller eliminated the detached garage from his original request. He recommended the Board review the minutes of the last meeting.

Board Member Cremer said that he felt that the solar array was too large. Board Members McCoy and Golombeski agreed. Chairperson Bird said that he felt that the applicant's request did not meet the criteria for granting a Special Exception.

Motion by McCoy, seconded by Cremer, to approve the request to allow 1,850 square feet of accessory structures, 1,000 square foot maximum permitted, in an R-1 Single-Family Residential zoning district. The request was denied by the following vote: Aye – None; Nay – Cremer, Golombeski, McCoy, and Bird.

Docket 22-15: Application of the Church of the Resurrection for a Special Exception for property location at 2525 St. Anne Drive, to allow an 8-foot high fence in a required front yard, 4-foot maximum allowed, in an R-1 Single-Family Residential zoning district.

Ron Christopherson said that he was the grounds keeper for Resurrection's property at 2525 St. Anne Drive. He said that existing vegetation has died and their intent is to remove all the landscaping and replace it along the entire property line with an 8-foot high privacy fence.

Jonathan Barz, 2555 Wilbricht Lane, said that he is the neighbor that lives across the street from 2525 St. Anne Drive. He said that the fence would affect his view to Flora Park and that it was out of character with the neighborhood. He said that he was opposed to the request.

Mr. Christopherson noted that the tall arborvitae that will be removed also block the view and could be replaced in lieu of the fence.

Chairperson Bird inquired as to the fence materials. Mr. Christopherson said that it will be a fully opaque privacy fence.

Board Member Golombeski asked why a 6-foot high fence would not work. Mr. Christopherson said that he was just forwarding the request from the Church, and could not answer the question.

Staff Member Wernimont outlined the staff report, noting that the subject property is a through-lot with two frontages. He discussed aerial photos of the site, noting the existing landscaping and lot configuration. He said that several neighbors had contacted him with questions regarding the proposed fence. He discussed the existing fences on the adjacent properties. He said that the subject lot has an unusual configuration with half of the property being along a platted frontage and half being along a private drive.

Board Member McCoy noted that landscaping gives a natural appearance but an 8-foot high opaque privacy fence does not.

Board Member Golombeski said she felt an 8-foot high fence is too tall and out of character with the neighborhood.

Chairperson Bird noted that the 8-foot high fence would be significantly lower than arborvitae or other vegetation.

Board Member Cremer noted that vegetation, unlike a fence, offers a natural appearance.

Chairperson Bird asked if the applicant would like to modify their request so as to have a consistent lower height along the property line.

After further discussion, the applicant asked that his request be tabled until the next meeting.

Motion by Cremer, seconded by McCoy, to table the request. Motion carried by the following vote: Aye – Cremer, Golombeski, McCoy and Bird; Nay – None.

Docket 23-15: Application of Larry Steffen, 2201 W. 32nd Street for a Special Exception to store a vehicle 2 feet from the side property line, 6-foot minimum required, in an R-1 Single-Family Residential zoning district.

Larry Steffen, 2201 W. 32nd Street, noted that he has a 22-foot travel trailer and that he would like to park it in his side yard during the summer between camping trips. He noted that he has no access to his rear or east side yards.

No one spoke in opposition to the request.

Staff Member Hemenway presented the staff report, noting the vehicle storage requirements outlined in the Unified Development Code. He said that vehicles are treated as structures and therefore must meet the required side yard setbacks. He discussed the site visibility, noting that a camper stored 2 feet from west side property line would be positioned well away from any adjacent residences and would be partially screened by vegetation and a fence. He said that as the applicant had indicated his front yard was not eligible for storage and his rear and east side yards are inaccessible.

Board Members discussed the request and felt it was appropriate.

Motion by McCoy, seconded by Cremer, to approve the request to store a vehicle 2 feet from the side property line, 6-foot minimum required. Motion carried by the following vote: Aye – Cremer, Golombeski, McCoy and Bird; Nay – None.

Docket 24-15: Application of Terrance and Linda Weidemann, 3080 Shiras Avenue, for a Special Exception to construct a 1,500 square foot detached garage, 1,000 square foot of accessory structures maximum allowed, 18-feet in height, 15 feet maximum height allowed, in an R-1 Single-Family Residential zoning district.

Mike Weidemann, 3080 Shiras Avenue, said he would like to store his vintage cars, bike collection and lawn equipment in a larger, detached accessory structure.

No one spoke in opposition.

Staff Member Wernimont noted the receipt of an anonymous letter opposing the request, stating that the property may be used for business purposes. He discussed aerial photos of the site, noting the location of a large detention embankment behind the residence. He noted the garage location, stating it will be screened from view and built well away from adjacent residences. He said that although the garage will meet

the setbacks it will slightly exceed the maximum height permitted. He discussed structural renderings of the garage.

Board Member McCoy asked if the garage were used illegally for business purposes, what the City's recourse was. Staff Member Wernimont noted the zoning enforcement process regarding illegal home-based businesses.

Board Member Golombeski discussed the architectural design of the garage, noting the roof truss and overall building height. She also noted that it would be set well back from the road.

Board Members discussed the request and felt that because of its remote location and its distance from adjacent residences, that the garage was appropriate.

Motion by McCoy, seconded by Cremer, to approve the request to construct a 1,500 square foot detached garage. Motion carried by the following vote: Aye – Cremer, Golombeski, McCoy and Bird; Nay – None.

Docket 25-15: Application of Charles and Donna Breitbach, 2404 Lincoln Avenue, for a Special Exception to build a carport attached to an existing garage 1-foot from the rear property line, 6-feet required, in an R-2A Alternate Two-Family Residential zoning district.

Donna and Charles Breitbach explained their request to the Board. They noted that they would like to place a carport in front of their garage to keep the snow off their vehicles parked outdoors.

No one spoke in opposition to the request.

Staff Member Hemenway presented the staff report, noting that the carport will be attached to the existing garage and will be of an open design. He said that as the design is open, the view from a vehicle backing to alley would not be inhibited. He referred to an aerial photo of the property and noted the location of other legally non-conforming garages in the neighborhood, which he said were built very close to the rear property lines.

Board Members discussed the request and felt it was appropriate.

Motion by Cremer, seconded by McCoy to approve the request to build a carport attached to an existing garage 1-foot from the rear property line. Motion carried by the following vote: Aye – Cremer, Golombeski, McCoy and Bird; Nay – None.

Docket 26-15: Application of Robert Smith for a Conditional Use for property located at 1051 White Street to expand a vehicle sales and parking lot in a C-4 Downtown Commercial District.

Robert Smith, 2935 Cottonwood Court, noted that he had been utilizing the vacant lot for storing motorcycles and other vehicles during the day when he was utilizing his shop area.

No one spoke in opposition to the request.

Staff Member Hemenway noted that Mr. Smith would like to expand his business located on Central Avenue across the alley and utilize a currently vacant and graveled lot. He said that, if approved, the lot would have to be paved and landscaping added. He noted the property is located in a C-4 District, which he said is mixed use and often accommodates upper story and adjacent residential development. He said the lot will be utilized for storage of vehicles, display and some parking. He said the lot is not likely to be redeveloped because of the small size of the lot and because there is no access on to White Street.

Board Members discussed the request. Chairperson Bird asked if the CUP runs with the property or the property owner. Staff Member Hemenway noted that the conditional use permit would run with the property.

Board Members discussed the request and felt that paving and landscaping the lot would be an improvement to the neighborhood.

Motion by Cremer, seconded by McCoy, to approve the request to expand the vehicle sales lot and parking lot in a C-4 Downtown District. Motion carried by the following vote: Aye – Cremer, Golombeski, McCoy and Bird; Nay – None.

Docket 27-15: Application of Jeffrey Jaeger for a conditional use permit for property located at 1097 White Street to develop an auto display and parking lot in a C-4 Downtown Commercial District.

Jeff Jaeger, 1097 White Street, said that he would like to expand his business out onto the graveled lot adjacent to his auto sales business.

No one spoke in opposition to the request.

Staff Member Hemenway reviewed the history of the property, noting that there had been a recent fire and that three residential units have been demolished and replaced with a gravel lot. He noted the surrounding land use, which he said included two residences, parking lots, contractor shops, retail sales establishments, and additional parking lot area. He said Mr. Jaeger was intent on expanding his existing business, which is located at the corner of 11th & White Streets. He said that an auto sales lot in this district requires a conditional use permit. He noted the lot would have to be paved and landscaped, if approved.

Board Members discussed the request and said it was very similar to Mr. Smith's request, and was appropriate.

Motion by McCoy, seconded by Golombeski, to approve the auto display and parking lot in a C-4 Downtown District. Motion carried by the following vote: Aye – Cremer, Golombeski, McCoy and Bird; Nay – None.

Docket 28-15: Application of Laura Lenz, 1849 Madison, for a Special Exception to construct a privacy barrier on rear deck 0 feet from the side property line, 4-foot required, in an R-3 Moderate Density Multi-Family Residential zoning district.

Laura Lenz, 1849 Madison Street, submitted a letter from a neighbor in support of her request. She said that her neighbor's at 1921 Madison Street have positioned cameras on their buildings, and removed vegetation in such a fashion as to spy on her. She said that the 9-foot high barrier is needed to protect her privacy.

Tricia DeLire, 1921 Madison Street, noted the history of deck construction on the subject property. She said that it was agreed that no construction in addition to what was approved was allowed. She said that the applicants had been the ones that removed significant vegetation on their property. She said that a portion of the deck and structure crosses her property line and was built without a permit. She said that only 2 of their 7 cameras are oriented toward the applicant's property and that the cameras are needed for security and safety reasons. She said the City is considering creating a historical district in this area and that the barrier is unsightly and out of character with the neighborhood. She said that they had trimmed their lilac bushes because they were diseased and that they would grow back and create an effective privacy barrier. She said that she and her husband had originally agreed to an encroachment on their property but the deck was not built according to the approved specifications.

Laura Lenz and Gustafo (sp) said that the DeLire's house is poorly maintained. She said that the privacy barrier has been safely built. Mr. Gustafo noted that the barrier was needed to ensure privacy on their property.

Board Member Cremer asked if the applicant's had obtained a building permit, and they answered no.

Staff Member Wernimont outlined the staff report, distributing photos of the privacy barrier. He noted the barrier's location and its physical attachment to the subject residence. He discussed the property history and noted that no permit had been obtained for the barrier. He said that the deck was now compliant with the terms of the Special Exception that had been formerly granted. He explained that there is some dispute over the location of the landing in respect to the property line. He discussed the lot topography and configuration, noting the odd shape of the lot which he said creates a disadvantage for development. He asked that letters provided by Dean Ramson, James Chaple, and Sandy Feehan be entered into the record.

Chairperson Bird asked about the distance between the houses. He noted that the barrier is located fairly far away from the adjacent residence.

Zoning Board of Adjustment Minutes – June 25, 2015

Staff Member Wernimont said that the Building Department is still determining if the deck is compliant with structural standards outlined in the International Building Code.

Board Members discussed the barrier and deck location. Staff Member Wernimont said the property line had been established by a licensed land surveyor, however, because of the height of the deck above grade, it was difficult to determine its relationship to the property line.

Board Member Golombeski asked about the extent of the National Register Historic District. Staff Member Wernimont noted that the proposed Historic District designation separated the two parties and that the applicant's property is not within the proposed district.

Board Member Cremer said that he did not oppose the privacy barrier, and it would be up to the Building Department to determine whether the deck and barrier were compliant.

Board Member McCoy said that the privacy barrier was poorly designed, not well built and out of character with the neighborhood.

Board Member Golombeski said that the barrier was not in keeping with the character of the neighborhood, and out of scale in height relative to the deck and house.

Chairperson Bird said that he felt there was no reason to screen the deck area because of the distance between the residences.

Motion by McCoy, seconded by Cremer, to approve the request to construct a 9-foot high privacy barrier on the deck 0 feet from the side property line. Motion was denied by the following vote: Aye – Cremer; Nay – Golombeski, McCoy and Bird.

ITEMS FROM STAFF: Staff Member Wernimont discussed the proposed text amendment options for regulation of solar arrays. He noted that one of the recommendations was to require arrays of over a certain size receive a special exception, which he said the Board would review.

ADJOURNMENT: The meeting adjourned at 6:30 p.m.

Respectfully submitted,

Guy Hemenway, Assistant Planner

Adopted