



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

5:00 p.m.

Thursday, March 26, 2015  
City Council Chamber, Historic Federal Building

**Board Members Present:** Chairperson Eugene Bird, Jr; Board Members Jeff Cremer, Jonathan McCoy, Joyce Pope and Bethany Golombeski; 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 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 February 26, 2015 were approved as submitted by a vote of 4 to 0 with 1 abstention.

**Docket 06-15:** Application of Ty Weiner, 2341 Rhomberg Avenue, for a special exception to build a 24' by 28' detached garage one foot from the south side property line, 3 foot minimum setback required, in an R-2A Alternate Two-Family Residential zoning district.

Ty Weiner, 2341 Rhomberg Avenue, explained his request to the Board. He said he has an existing 24-foot wide by 26-foot detached garage that he would like to demolish and build a new garage on the existing footprint that would extend 2 feet closer towards his house. He noted the new garage will not encroach any closer to the adjoining property or the rear property line. He said that the roof will have a gutter that will direct storm water toward the alley.

Staff Member Hemenway presented the staff report, detailing the setback request. He referred to a photo of the site. He explained the location of the proposed garage and its impact on sight visibility to the alley from the subject and adjacent properties. He said it will not encroach closer to the neighboring property than the existing garage.

Motion by McCoy, seconded by Cremer, to approve the special exception. Motion carried by the following vote: Aye – McCoy, Cremer, Pope, Golombeski, and Bird; Nay - None.

**Docket 07-15:** Application of Mary's Inn for a conditional use permit for property located at 2750 Balboa Drive to allow a group home as a conditional use in an R-3 Moderate Density Multi-Family Residential zoning district.

John Freund, 1005 Main Street, said he is the attorney representing Mary's Inn. He explained the mission of Mary's Inn and noted that it will be a safe haven for pregnant teenage women. He said that the Zoning Advisory Commission and City Council have rezoned the property from R-1 Single-Family Residential to R-3 Moderate Density Multi-Family Residential with the condition that the permitted use for the property is limited to a single-family home. He explained that rezoning to R-3 Moderate Density Multi-Family Residential will allow them to apply for a conditional use permit to operate a group home at this location. He explained that Mary's Inn is proposing to have up to 8 women and their babies with one full-time resident staff on the property. He referred to the standards for granting a conditional use permit. He explained there will be no physical changes to the exterior of the building. He stated that there will be on-site staff 24 hours a day, 7 days a week and that there will be strict rules that residents will be required to follow. He said that the group home will not have a substantial negative impact on property values. He noted that Realtor Harry Blewett, Ruhl & Ruhl, spoke to both the Zoning Advisory Commission and City Council and provided documentation regarding property values within close proximity to group homes. He noted Mr. Blewett has worked with several ARC and DAC homes in residential neighborhoods.

Board Member McCoy said that he felt that the property is going to significantly change. He noted that with up to 8 mothers with babies on-site the use no longer seems to fit into a single-family zone. He asked Mr. Freund to address this.

Mr. Freund explained that Mary's Inn will start out with 1-2 expectant mothers with the goal to eventually accommodate up to 8 mothers and their infants.

Board Member Golombeski asked Mr. Freund about the size of the house and number of bedrooms. Mr. Freund said there are two bedrooms located on the first floor and one conforming and one non-conforming bedroom located in the basement. He explained they are proposing to have multiple beds per bedroom.

Board Member Pope asked about parking associated with the property. Mr. Freund explained that the teenage girls would not be permitted to have vehicles on site. He said; however, they are reconsidering this restriction because young homeless women may have a vehicle and have nowhere to keep it. He said that, in this case, they would permit the vehicle to be parked on-site. He explained there is room for two cars in the garage with two additional spaces available in the driveway.

Harry Blewett, 1675 Fox Drive, Realtor with Ruhl & Ruhl, noted that he has worked with ARC on finding locations in residential neighborhoods. He explained the information provided to the Board in the agenda packet noting that it was a comparison of property values. He explained that the subject property and house is the most expensive in the neighborhood.

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Board Member McCoy asked about the density of an ARC home compared to Mary's Inn. Mr. Blewett noted that he has dealt with different ARC homes that range from as few as two residents to some with more. Mr. Freund noted that Mary's Inn will not house the same 8 women for a significant time. He explained the goal is to have transitional housing and that they most likely will not have 17 people (8 mothers, 8 babies and on-site staff) at one time.

No one spoke in opposition to the request.

Staff Member Hemenway presented the staff report noting that he submitted information that was provided to the Zoning Advisory Commission and City Council. He referred to the number of people opposed to the request as noted in the documents. He explained that the applicant has received approval to rezone the property from R-1 Single-Family Residential to R-3 Moderate Density Multi-Family Residential district with the condition that permitted use be limited to a single-family home. He explained that group homes are generally allowed throughout the city. He explained that there are protected classes that are permitted by right to be located in a single-family home; however, he noted that, pregnant women are not classified as a protected class. He said that is why Mary's Inn is required to obtain a conditional use permit for a group home.

Staff Member Hemenway said that based on the square footage of the property, the facility would be limited to no more than 16 people. He discussed the letter provided by Mary's Inn stating that the inn will have a house mother who will reside on-site 24 hours a day, seven days a week; that no boyfriends will be allowed on site, and that there be no vehicles allowed for the young women. He said that it appears that Mr. Freund has indicated that some of these provisions may have changed. He said that the Board can place conditions on approval that they feel may help mitigate any potential concerns in regard to the group home.

Board Member Pope asked how many units are allowed in an R-3 Moderate Density Multi-Family Residential Zoning District. Staff Member Hemenway explained that an R-3 property is allowed up to six units; however, the Zoning Advisory Commission and City Council approved the rezoning with the condition that the permitted use be limited to a single-family home. He said that the conditional uses listed in an R-3 district were left in place which he noted permits Mary's Inn to apply for a group home.

Chairperson Bird asked if this is the first group home the Zoning Board of Adjustment has heard. Staff Member Hemenway noted that this is the first group home that the Board has heard that he is aware of.

Chairperson Bird noted that he had concerns on density, parking and an action plan for dealing with uncooperative boyfriends.

Board Member Cremer noted that he would like to see the number of mothers reduced from the 8 proposed. He explained that the applicants could always come back before

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the Zoning Board of Adjustment and apply for a new conditional use permit to expand the number of young women.

Board Member Pope agreed with Board Member Cremer's concern regarding reducing the number of young women on-site in order to decrease density in the neighborhood.

Board Member Golombeski discussed the possibility of reducing the number of young women. She noted that there is always the potential for people to visit the home and questioned how the residents will be provided access to transportation for appointments and grocery shopping, etc.

Chairperson Bird asked Mr. Freund about addressing some density issues with regard to the property. He asked if Mary's Inn proposal could be reduced to less than 17 individuals.

Colleen Pasnik, 1535 Alta Vista, Director of Mary's Inn, addressed the Board.

Chairperson Bird noted that they had concerns with the use of a non-conforming bedroom as sleeping quarters. Ms. Pasnik explained that they are proposing to use the non-conforming bedroom as a chapel. She also noted that the house mother will not sleep on-site but that there will be shifts.

The Board discussed reducing the number of mothers at the site with Ms. Pasnik. Ms. Pasnik stated that they could reduce the number to 5 young women.

Board Member Pope asked about reducing the number to three young women.

Tim Roth, owner of the subject property, noted that there is a master bedroom suite located downstairs that is 12' by 24'. He explained the current house configuration, and noted he has had three children living at the home. He stated that at one point in time, they had 15 cars of friends coming over to visit parked in the neighborhood.

The Board discussed limiting the number of mothers to 4 mothers with their babies.

Chairperson Bird discussed with Ms. Pasnik about an action plan on how to deal with boyfriends. Ms. Pasnik noted they have been consulting with other maternity homes that have allowed boyfriends. She noted they have a security plan and will be installing cameras on site.

The Board discussed whether to allow 3 or 4 young women within the facility.

Motion by McCoy, seconded by Cremer, to approve the Conditional Use Permit with the condition that the group home be limited to a maximum of 4 young women and their infants plus 1 house mother. The motion carried by the following vote: Aye – Cremer, Pope, Golombeski, and Bird; Nay – McCoy.

**Docket 08-15:** Application of Adobe Reo Solar for a variance for property located at 2165 Suzanne Drive to allow an 18 foot high freestanding solar array, 15 foot maximum height allowed, in an R-1 Single-Family Residential zoning district.

Jack Potter, owner and contractor for Adobe Reo Solar, and Mike Brosius, property owner at 2165 Suzanne Drive, explained the request to the Board. Mr. Potter outlined the request, noting the installation process. He noted that the solar panel orientation can be changed throughout the year. He explained that the array was not installed on the roof because the house is oriented to the east/west as opposed to north/south. He said they have received all the necessary permits and checked setbacks for the structure with the Zoning Department. He explained that they did not check on the maximum height for the solar array. He explained he was not aware of the height requirement until staff inspected the installation. He said that the structure cannot be lowered anymore because of electrical code in regard to the height of the base of the panel from the grade.

Tim Hamel, 2174 St. Celia, introduced his wife Kathy to the Board. He explained that he lives at the base of the hill and that the solar array appears to look like a large billboard from his property.

Dean and Lori Kies, 2171 Suzanne Drive, spoke in opposition to the request. They explained that the structure looks like a billboard from the rear of their property. They explained the solar array is aesthetically displeasing.

Staff Member Wernimont read a letter of support from Aaron and Megan Witter, owners of the property at 2174 Suzanne Drive, into the record.

Mr. Potter noted that they could raise the grade of the soil underneath the array in order for the structure to meet the height requirement.

Staff Member Wernimont presented the staff report. He discussed photos there were included in the packet and noted that a building permit was pulled for the structure. He discussed the grade change between Suzanne Drive and St. Celia, indicating that the subject property is terraced. He said that the applicants installed a freestanding solar array on the terraced portion of the yard in order to maximize the southern solar exposure. He explained how building height is calculated for a solar array and that detached accessory structures are permitted a maximum height of 15 feet. He explained that the solar array is designed to be tilted in order to maximize the solar gain, and that during certain times of the year, the structure will meet the required height restriction. However, he said that during the winter months when the structure is tilted to its highest point, it would exceed the height requirement. He explained that the applicant has the possibility of either reducing the structure to meet the height requirement or raising the grade at the base of the structure to meet the height requirement.

Staff Member Kritz discussed the history of applicable zoning regulations noting that the Zoning Ordinance has been amended several times to accommodate unforeseen structures. He discussed the installation of a large garage that he said prompted an amendment to the ordinance limiting accessory structures to 1,000 square feet. He said that the Planning Services Department is considering an amendment to the ordinance that would require a conditional use permit for freestanding solar arrays.

The Board noted that the applicant has the option to raise the grade of the yard in order to meet the height requirement. Board Members discussed the potential for screening to help soften the appearance of the structure.

Board Member Pope asked the adjoining neighbors that were present if they were okay with installation of screening.

Mr. Hamel noted that screening would not help because he is located at the base of the hill.

Laura Kies noted that screening from their property may help with visual impact of the structure.

Motion by McCoy, seconded by Pope, to approve the special exception with the condition that the applicant provide screening around the solar array. Motion carried by the following vote: Aye – McCoy, Cremer, Pope, Golombeski and Bird; Nay – None.

**ITEMS FROM STAFF:** Staff Member Kritz discussed proposed new rules and regulations regarding quarries located in the city. He noted that all existing quarries in the city would be grandfathered; however, any expansion of a quarry or a new quarry being established within the city limits would require a conditional use permit.

Board Member Golombeski discussed the possibility for requiring a quarry to have a minimum of 100-foot setback from the right-of-way.

Staff Member Kritz agreed and noted he would take the comments and revise the amendment prior to submitting to the Zoning Advisory Commission and City Council for their review and approval.

**ITEMS FROM BOARD:** None.

**ITEMS FROM PUBLIC:** None.

**ADJOURNMENT:** The meeting adjourned at 6:49 p.m.

Respectfully submitted,

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Kyle L. Kritz, Associate Planner

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Adopted