

**MINUTES
ZONING BOARD OF ADJUSTMENT
REGULAR SESSION**

4:00 p.m., Tuesday, March 3, 2009
Majestic Room, Five Flags Civic Center

Board Members Present: Chairperson Mike Ruden; Board Members Randy Klauer and Jeff Cremer.

Board Members Excused: Board Members Bill Gibbs.

Staff Members Present: Guy Hemenway, Kyle Kritz and Wally Wernimont.

AFFIDAVIT OF COMPLIANCE: Staff presented an Affidavit of Compliance verifying the meeting was being held in compliance with the Iowa Open Meetings Law.

CALL TO ORDER: The meeting was called to order by Chairperson Ruden at 4:00 p.m.

MINUTES & NOTICES OF DECISION: Motion by Klauer, seconded by Cremer to approve the minutes of the December 18, 2008 meeting. Motion carried by the following vote: Aye – Klauer, Cremer and Ruden; Nay – None.

SPECIAL EXCEPTIONS

DOCKET 01-09: Application of Greg Prehm, GNP LLC, for a special exception for property located at 1484/1486 Cornell Street to build a duplex on a 4,240 square foot lot, 5,000 square feet minimum required, and to cover 45% of the lot with structure, 40% lot coverage maximum allowed, in an R-3 Moderate Density Multi-Family Residential zoning district.

Greg Prehm, GNP LLC, explained his request to the Board.

Staff Member Hemenway distributed photos of the site to the Board.

Mr. Prehm explained that the duplex will have two off-street parking spaces for each unit. The Board reviewed photos of the site.

The Board discussed the size of the lot.

Mr. Prehm estimated that the lot is approximately 42 feet by 100 feet. He explained that the lot to the south contains a single-family home and the lot to the north contains a multi-family home. The Board discussed the footprint of the proposed duplex.

Staff Member Hemenway explained the building envelope area of the proposed lot.

The Board noted that the proposed duplex will meet current setback requirements.

Dave Shroeder, 1493 Cornell Street, spoke in opposition to the request. He said he has issues with on-street parking in the neighborhood. He explained that the area is located in a residential parking permit district.

Carlene Shroeder, 1493 Cornell Street, spoke in opposition to the request. She said that the proposed curb cuts would remove approximately three to four off-street parking spaces in the neighborhood.

Mr. Prehm addressed the neighbor's comments. He said that he has been a property manager in the immediate area for five years. He said the duplex will provide the required off-street parking.

Staff Member Hemenway presented the staff report. He explained the notification process. He said that if the applicant was requesting a parking variance, staff would be required to notify all property owners within 200 feet. He explained that this request is a special exception request and therefore, staff is only required to notify properties that are adjacent to the subject lot. Staff Member Hemenway said that the proposed driveway will remove approximately two to three on-street parking spaces. He said that due to the close proximity to adjacent buildings and topography of the site that he would recommend that the applicant submit a site plan to show how storm water will flow from the site.

Motion by Klauer, seconded by Cremer, to approve the special exception request, with the condition that a site plan be submitted prior to commencement of development. Motion denied by the following vote: Aye – None; Nay – Klauer, Cremer and Ruden.

DOCKET 02-09: Application of John & Lori Strub for a special exception for property located at 2193 Suzanne Drive to build a 32 foot by 32 foot (1,024 square foot) detached garage, 18 feet in height, 1,000 square feet and 15 feet maximum allowed, and 4 feet from the north side property line, 6 feet required, in an R-1 Single-Family Residential zoning district.

John Strub, 2193 Suzanne Drive, said that he wants to build a 32 foot by 32 foot detached garage, 18 feet in height. He explained that the detached garage will be used to store two vehicles, a boat, lawn mowers and that he likes to hang his bicycles from the ceiling joists. He said that he will be extending his driveway from the front around the side of his house to the garage.

Shane O'Brien, 2196 St. Celia spoke in opposition to the request. He said that an 18-foot high garage will tower over his house and block the skyline. He said he has concerns that the garage may be used for commercial purposes and that storm water runoff will be an issue. He said that his neighbor expressed concerns regarding storm water runoff.

Joe Gulyash, 2190 St. Celia, spoke in opposition to the request. He voiced concerns with storm water runoff.

Chairperson Ruden discussed storm water management for the subject lot and surrounding property.

Mr. O'Brien and Mr. Strub discussed surface water flow from the site.

Staff Member Wernimont discussed a previously approved Limited Setback Waiver. He said that the proposed detached garage will be located at the rear of the property and should have little impact on traffic safety. He said that the driveway will be required to be paved and that the garage cannot be legally used for commercial purposes.

Chairperson Ruden questioned the building height and the pitch of the roof with the applicant.

The Board read the criteria for granting a special exception request.

Chairperson Ruden said he feels that the special exception request meets the criteria.

Motion by Klauer, seconded by Cremer, to approve the special exception with the condition that the garage have four downspouts, one located at each corner, to help disperse storm water from the site. Motion carried by the following vote: Aye – Klauer, Cremer and Ruden; Nay – None.

CONDITIONAL USE PERMITS:

DOCKET 03-09: Application of Steve Lampe/Marde (A partnership) for a conditional use permit for property located at 2616 Windsor Avenue to reopen a restaurant in a C-1 Neighborhood Commercial zoning district.

Phil Mihalakis, 2602 Hacienda Drive, outlined the request for a conditional use permit. He explained that Mr. Lampe wants to reopen the former Bar X Restaurant.

Staff Member Wernimont clarified the history of the property and the legal non-conforming status of the business.

Mr. Mihalakis said that the property owner will put in new sidewalks and make the business handicap accessible. He said Mr. Lampe will not be expanding the number of chairs and tables in the existing building.

Linda Shaw, 2607 Windsor Avenue, spoke in favor of the request. She said that she used to work at the restaurant. She explained that the Bar X operated more like a restaurant than a bar. She said the food sales were well over 50% of the total revenue generated by the business.

Linda Atkinson said that she will be the owner and operator of the restaurant. She explained that the restaurant will be open until 10:00 p.m. on weekdays and until 11:00 p.m. on weekends.

Staff Member Wernimont outlined the staff report. He discussed the previous non-conforming use of the property. He discussed the 50% sales/revenue rule as it relates to the difference between a bar and a restaurant.

Motion by Klauer, seconded by Cremer, to approve the conditional use permit. Motion carried by the following vote: Aye – Klauer, Cremer and Ruden; Nay – None.

DOCKET 04-09: Application of Pat Chew, Holiday Oil / Trevor Olson, Burlington Trailways for a conditional use permit for property located at 400 Rhomberg Avenue to open a passenger transfer facility in a C-2 Neighborhood Shopping Center zoning district.

Trevor Olson, Burlington Trailways, spoke in favor of the request.

The Board discussed the proposed facility with the applicant.

Mr. Olson explained that the Burlington Trailways bus would enter the property from Rhomberg Avenue and pull into the parking lot behind the building. He said the bus would exit onto Garfield Avenue. He explained that there will be adequate area for passenger pick up and drop off without blocking street traffic. He said that there are parking stalls available for customer parking in the front of the building. He explained that one employee will work at this site. He said that a majority of the people that take Burlington Trailways are either dropped off by family or friends, or take public transportation to the bus depot.

City Council Member, Ric Jones, spoke in favor of the request. He explained that the City Council is in favor of this site. He said that the City plans to subsidize Burlington Trailways' operation. He also explained that the neighborhood association is in favor of the bus depot. He said that the site will more than likely be temporary until the City builds an intermodal transit facility.

Linda Green, 421 Rhomberg Avenue, spoke in opposition to the request. She said that she is a 50-year resident of the neighborhood. She said that there is not enough parking on the site and that there are traffic issues with the Five-Point Intersection. She said that there are new businesses in the area that will generate more traffic.

Dave McDermott, agent for Burlington Trailways, said that he will be the employee operating the site. He said that approximately 5 people get on the bus for each scheduled stop at the current site. He explained where employee parking will be on the site and that in the past they average approximately four cars in the parking lot.

The Board discussed employee parking. Chairperson Ruden raised concerns with customer parking located at the rear of the property where the bus will be stopping. The Board discussed providing an employee parking spot at the rear of the building.

Dave McDermott and Trevor Olson said they are not opposed to limiting employee parking to the rear of the lot only.

Staff Member Hemenway distributed an aerial photo of the site to the Board. He explained the conditional use permit request. He discussed the parking layout and explained that the property will meet the off-street parking requirements for a passenger/transfer facility. He said that the current parking lot is not striped. He recommended that, if approved, the Board require that the lot be striped.

Motion by Klauer, seconded by Cremer, to approve the conditional use permit with the following conditions: 1) That the site parking is striped as submitted by staff; and 2)

that the one-car employee parking spot is striped. Motion carried by the following vote: Aye – Klauer, Cremer and Ruden; Nay – None.

THE BOARD RECESSED FOR FIVE MINUTES.

VARIANCES:

DOCKET 05-09: Application of Jay Javors, Manager / Walgreens for a variance for property located at 345 E. 20th Street to install a total of 7 signs (6 wall-mounted and 1 free-standing), with 311 total aggregate square feet, when 2 signs and 200 aggregate square feet maximum are permitted in a C-2 Neighborhood Shopping Center zoning district.

Jay Javors, representing Walgreens, explained the request to the Board. He discussed the location of the building on the site. He said that typically, the building would be set back with parking in the front. He explained that the building location was moved to the front at the request of the property owner and the neighborhood.

Peter Arling, 700 Locust Street, Suite 200, said he represents Walgreens. He referred to materials that were included in the Board's packet. Mr. Arling debated the sign requirements in a C-2 District. He explained how he interpreted the sign ordinance. Mr. Arling said that the site is bordered by three streets. He said that Walgreens is requesting additional signage on the building. Mr. Arling said that proposed signage would be permitted if the Board were to following his interpretation of the sign ordinance. He explained the location of the proposed wall-mounted signs. He explained that the building was constructed toward the front property line in order to accommodate the neighborhood. He said that the wall-mounted sign on the south façade will not be visible while driving east on 20th Street.

Chairperson Ruden questioned why you would place three signs on the south façade if you cannot see them when you are driving on 20th Street. Board Member Klauer noted that when you travel on 20th Street, you would be able to see the free-standing sign at the intersection.

Mr. Arling explained that the space located between the Walgreens Store and the opposite buildings on Washington Street is very tight and it will not be very effective to place a sign on the west façade.

Board members discussed the view to Walgreens from various locations. The Board discussed the visibility of the free-standing sign from multiple locations.

Mr. Javors explained that Walgreens wants more signs for marketing noting that some people may not know that the business has a photo lab or a pharmacy.

The Board discussed signage locations from multiple vantage points.

Staff Member Hemenway said that the proposed Walgreens signs located on the south and east façade are approximately 80 square feet in area and the other signs are approximately 19 square feet each.

Mr. Arling said he feels it is difficult to view the signage on the east side of the building. He referred to photos 3 and 4 located in the packet. He explained that while traveling down Rhomberg Avenue, the gas canopy on the adjacent business blocks the view to the building.

Board Member Klauer explained that he feels the east façade does not meet the hardship requirement due to the visibility of the freestanding sign. Chairperson Ruden explained that he is not opposed to allowing wall-mounted signage on the south and east side; however, the number of signs on the building is excessive. The Board discussed allowing 110 square feet of wall-mounted signs on the south and east façade and to allow 100 square feet for the free-standing sign.

Staff Member Hemenway explained the procedures for appealing staff interpretation. He explained that the intent of the Zoning Ordinance is to balance a business' need to advertise and the impact excessive signage has on the surrounding neighborhood. He explained that the proposed free-standing sign will have an electronic message center that they will be able to advertise all the products and services offered by Walgreens.

Board Member Klauer said that he received a letter at his home. He explained that since all Board members did not receive it, he would disregard the comments made in the letter.

Motion by Klauer, seconded by Cremer, to approve the sign variance, with the condition that one wall-mounted sign not to exceed 110 square feet be permitted on the south side of the building, and one wall-mounted sign not to exceed 110 square feet be permitted on the east side of the building, and to allow an 82½ square foot free-standing sign. Motion carried by the following vote: Aye – Klauer, Cremer and Ruden; Nay – None.

WORK SESSION: Unified Development Code: Article 6 Overlay Districts; Article 7 Supplemental Use Regulations, Article 8 ZBA Applications & Procedures; Article 9 ZAC

Applications & Procedures; Article 10 Historic Preservation; Article 16 Administrative Procedures, and Article 17 Legal Status Provisions.

Staff Member Kritz review the proposed changes to the Unified Development Code. He discussed the inclusion of wind energy conversion systems. Board Member Klauer expressed concerns with wind generators located in a heavy industrial district. He suggested that all wind energy conversion facilities in industrial districts be required to obtain a conditional use permit from the Zoning Board of Adjustment.

ITEMS FROM STAFF:

Review Amendment of Bylaws

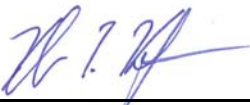
Chairperson Ruden signed the amended Bylaws.

ITEMS FROM BOARD:

The Board discussed how they should handle letters that are sent to them at home. Staff explained that if Board member received letters at home they should be directed to staff to be mailed with the Board packets so that all members are aware information has been provided.

ADJOURNMENT: The meeting adjourned at 6:26 p.m.

Respectfully submitted,



Kyle L. Kritz, Associate Planner

Adopted—March 26, 2009