



Approved

MINUTES  
CITY OF DUBUQUE ZONING BOARD OF ADJUSTMENT  
REGULAR SESSION

5:00 p.m.

Thursday, August 27, 2015  
City Council Chamber, Historic Federal Building

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

**Board Members Excused:** Board Member Jonathan McCoy.

**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 July 23, 2015 meeting were approved unanimously as submitted.

**DOCKET: 31-15** (Tabled from July 23, 2015 Meeting): Application of Robert Leigh, 77 Hill Street, for a Special Exception to build a 6' by 12' attached porch addition and 45' long by 9' high privacy barrier, 0 feet from the north side property line, 6 feet minimum required, in an R-2 Two-Family Residential zoning district.

Motion by Pope, seconded by Golombeski, to bring this item back to the table. Motion carried by the following vote: Aye – Cremer, Golombeski, Pope, and Bird; Nay – None.

Robert Leigh, 77 Hill Street, explained his request to the Board. He said that the fence will not block the view to the sidewalk and street for his neighbor. He explained that the roof on the proposed porch will have a hanging gutter that will direct storm water runoff away from his neighbor. He said that he could channel the storm water and the downspouts into a tile which is buried in his yard.

No one spoke in opposition to the request.

Staff Member Hemenway presented the staff report. He explained that the request was tabled at the last meeting because a site inspection revealed there was a privacy barrier that required a Special Exception. He said that Mr. Leigh has provided a retracement plat that notes the location of the property line and distances from existing structures. He also noted the plat shows that portion of the neighbor's garage is located on Mr. Leigh's

property. He recommended that due to the close proximity to the side property line, the stormwater should be directed away from the adjoining neighbor.

The Board discussed the request. Board Member Pope said that the Board should require that storm water be directed away from the adjoining property.

Motion by Cremer, seconded by Pope, to approve the Special Exception with the condition that stormwater be directed away from the adjoining property. Motion carried by the following vote: Aye – Cremer, Golombeski, Pope, and Bird; Nay – None.

**DOCKET: 38-15:** Application of Joshua Baal, 1445 Curtis Street, for a Special Exception to construct a 34' x 30' attached garage, 8 feet from the front property line (York Street), 20 feet minimum required and to cover 47% of the lot with structure, 40% maximum permitted in an R-1 Single-Family Residential zoning district.

Joshua Baal, 1445 Curtis Street, said that he wants to add an attached garage to the back of his house, which is located on a corner lot. He explained that the existing garage's basement is too small. He explained that the attached garage would be used to provide off-street parking and for storage of vehicles and lawn maintenance equipment.

Staff Member Wernimont provided photos of the site to the Board. He reiterated the request. He discussed photos of the site, noting that the property slopes down from Curtis Street. He explained that the request was for a waiver of the front yard setback. He noted that the Unified Development Code permits adjustment of front yard setbacks so no waiver of the front yard requirement is necessary. He explained the Zoning Board of Adjustment's only review would be for lot coverage. He explained that stormwater runoff from the site will drain to the northeast corner, making its way to the IDOT ditch along U.S. Highway 20. He said that the location of the attached garage will not impact visibility to the sidewalk or street from the adjoining properties. He said the property currently has a non-conforming gravel driveway, which will be required to be paved with approval of the addition. He also noted that the property owner will be required to install a sidewalk.

The Board debated whether the addition could be reduced in size in order to meet the 40% lot coverage. Board Member Pope noted that if reduced to meet the 40% lot coverage limit, the garage would be substandard.

Board Member Golombeski asked if the location of the power pole would impact the driveway access. Mr. Baal said that the driveway will be paved and will not be impacted by the location of the power pole. He said that the attached garage will have a flat roof with a porch located on top of it.

Zoning Board of Adjustment Minutes

August 27, 2015

Page 3

The Board discussed the garage offset relative to the house. The Board felt that if the garage addition was to line up with the bay windows it would be more in character with the neighborhood.

Motion by Cremer, seconded by Pope, to approve the Special Exception with the condition that the front of the garage align with the bay windows on the York Street side. Motion carried by the following vote: Aye – Cremer, Golombeski, Pope, and Bird; Nay – None.

**DOCKET: 39-15:** Application of Young-Us Child Care Center, 3375 Kennedy Circle/ 3392 Hillcrest Road, for a Conditional Use Permit to expand a licensed childcare facility to accommodate 380 children and 50 staff in a C-3 General Commercial zoning district. Deb McDonald, 1840 Asbury Road, discussed the child care center's history and student population, noting that they currently have a waiting list of over 100 children. She discussed the acquisition of the adjacent commercial multi-tenant building located at 3392 Hillcrest Road. She said they are proposing to expand their facility into the adjacent multi-tenant building, and to allow the existing tenants to remain there until their leases expire. She said that the entire property will have a campus setting with two buildings that are accessed from two different streets.

No one spoke in opposition to the request.

Staff Member Wernimont provided aerial photos of the site to the Board. He discussed the architectural diagrams which show the two buildings that will utilize a common playground area. He explained the history of Young-Us Child Care Center at 3375 Kennedy Circle, noting that a site plan was reviewed and that the Zoning Board of Adjustment issued a conditional use permit for the original facility. He said that the Planning Services Department has not received any complaints regarding the child care center since it was constructed. He described the subject area, noting the adjacent land uses. He discussed the loading/unloading area and the parking requirements for the day care center. He explained that at the present time, Young-Us is only proposing to expand into one of the units in the multi-tenant building; however, Planning staff felt it was appropriate to apply for a Conditional Use Permit for entire facility so they do not need to reapply to the Zoning Board of Adjustment for subsequent expansions.

The Board discussed the request and felt it met the criteria for granting a Conditional Use Permit.

Motion by Cremer, seconded by Pope, to approve the Conditional Use Permit as submitted. Motion carried by the following vote: Aye – Cremer, Golombeski, Pope, and Bird; Nay – None.

Zoning Board of Adjustment Minutes

August 27, 2015

Page 4

**DOCKET: 40-15:** Application of Diana Huggins, 2363 Theda Drive, for a Conditional Use Permit to operate a home-based dog training business, in an R-1 Single-Family Residential zoning district.

Diana Huggins, 2363 Theda Drive, noted that in the past she received Zoning Board of Adjustment approval to operate a dog training business at a different location. She explained that she has moved from that home to 2363 Theda Drive and would like to continue to operate a home-based dog training business.

Steve Brown, 2312 Theda Drive, said the residents of Theda Drive are opposed to the dog training business. He said there are kids in the neighborhoods and they are concerned they might be bitten by a dog. He submitted a petition in opposition to the request.

Diana Huggins rebutted the comments. She said that there are several other people in the neighborhood who have dogs including neighbors located directly behind her and on both sides of her that have dogs. She explained that she is a certified dog trainer and that the dogs that she is training are obedient service dogs.

Board Member Golombeski asked what the applicant's hours of operation were. Ms. Huggins said that the hours of operation would be from 7 a.m. to 5 or 6 p.m. Chairperson Bird asked Ms. Huggins if she was currently operating the business. Ms. Huggins stated she is operating the business would approval of a conditional use permit.

She said she had to move and she needed to maintain her income. Board Member Golombeski asked how many dogs she trains at a time. Ms. Huggins indicated she is training two dogs at a time. She said that she currently owns two dogs at her home. She said that the neighbors' dogs often bark. Board Member Cremer asked Ms. Huggins the typical training hours. She said that the dogs are with her approximately 6-7 hours a day. Chairperson Bird asked if the dogs stayed overnight. Ms. Huggins indicated that in some cases, the dogs do spend the night.

Chairperson Bird asked about the previous conditional use permit approval for her dog training business. She noted she received a conditional use permit to operate a dog training business at a previous address. She said her existing site is similar to the original site; however, she has neighbors located behind her at the current site.

Jolene Nowack, 2312 Theda Drive, expressed concerns with excess parking and traffic in the neighborhood. She said she works from home and that barking prevents her from keeping her windows open. Board Member Pope asked if she has contacted Animal Control with regard to this complaint. Ms. Nowack said the barking has not been constant and; therefore, she has not contacted the Animal Control Officer.

Zoning Board of Adjustment Minutes

August 27, 2015

Page 5

Staff Member Hemenway reiterated the request. He said that the applicant has fenced in half of the rear yard of the property. He explained that home-based businesses are permitted in some cases but that this type of business requires a conditional use permit. He said that the Planning Services Department has not received complaints with regard to the applicant's previous dog training business located on Hale Street. He referred to letters from the neighbors. He read the names and addresses of the property owners that submitted letters stating opposition to the request.

He said the Board has the ability to establish conditions intended to alleviate potential negative impacts generated by the dog training business. He referred to the previously approved dog training business in which the established conditions limited the business to no more than 2 dogs at a time, that dogs not be free to run without supervision, that dog waste be picked up, and that the property be enclosed with a 6-foot high privacy fence.

The Board discussed the rear yard of the subject property. Ms. Huggins noted that half of the yard is fenced in with a 6-foot high opaque fence. Board Member Pope inquired as to the number of pets a person is allowed to own in the city. Staff Member Hemenway said the city does not limit the number of dogs a person may own. Board Member Golombeski asked about the ordinance regarding barking dogs. Staff Member Hemenway explained that barking dog complaints are followed up with the Health and Police Departments. Board Member Cremer said that he has issues with dogs being boarded overnight and the potential of supervising 6 dogs at a time. He explained that he has no issues with two dogs being trained at a time. Board Member Pope reviewed the standards for granting a Conditional Use Permit and said that she felt the applicant's request met the criteria. She also stated she was hesitant to limit the number of dogs that can be trained at one time.

Board Member Golombeski said that she felt that the dogs need to be under direct supervision. She talked about placing a restriction on the hours of operation and about limiting the number of dogs outside at one time.

Board Member Pope said that she felt that the neighbors should strive to get along. She said that dogs are also a typical feature of neighborhoods.

Chairperson Bird noted that he agrees with the neighbors. He said that when the neighbors bought their homes, they did not have to contend with this issue. He said establishing a dog training business changes the status of the neighborhood.

The Board discussed using the conditions established for the previous dog training business. They discussed the possibility of prohibiting the kenneling of dogs overnight, limiting the hours of operation and limiting the total number of dogs being trained outside. They discussed the possibility of having a limit of 5 dogs on site at one time and allowing only 2 to be trained outside at one time.

Zoning Board of Adjustment Minutes

August 27, 2015

Page 6

Motion by Golombeski, seconded by Cremer, to approve the conditional use permit with the following conditions:

1. That no more than 2 trainee dogs be located outside at one time.
2. That a maximum of 5 trainee dogs be allowed on the premises at one time.
3. That the hours of operation be limited to 7:30 a.m. to 6:00 p.m.
4. That dogs are not allowed to run outside unattended.
5. That the property be kept free of animal waste.
6. That the rear yard be enclosed with a 6-foot high fully opaque privacy fence.

Motion carried by the following vote: Aye – Cremer, Golombeski, and Pope; Nay – Bird.

**DOCKET: 41-15:** Application of Paul Hammond, 495 N. Grandview Avenue, for a Conditional Use Permit to operate a carry-out restaurant (coffee shop), in a C-2 Neighborhood Shopping Center zoning district.

Brittany Hammond, representing Paul Hammond, outlined the Conditional Use Permit request. She said that their intent is to establish a carry-out restaurant at 495 N. Grandview Avenue.

No one spoke in opposition to the request.

Staff Member Hemenway presented the staff report noting that a carry-out restaurant located in a C-2 commercial district requires a conditional use permit. He explained the history of the site and described the location at the intersection of Grandview Avenue and multiple streets. He explained that there is a parking lot located in front of the building that can be accessed from two sides.

The Board asked Ms. Hammond about the hours of operation. She indicated that the restaurant will operate between the hours of 5 a.m. and 6 p.m. and that it will only be carryout and will have no interior seating.

Motion by Cremer, seconded by Pope, to approve the Conditional Use Permit as submitted. Motion carried by the following vote: Aye – Cremer, Golombeski, Pope, and Bird; Nay – None.

**DOCKET: 42-15:** Application of Susan Faber – Black & Veatch (Agent for SBA Towers V, LLC) for a Conditional Use Permit for property located at 555 John F. Kennedy Road (Kennedy Mall) to construct a 120' high monopole tower and associated wireless communications facility equipment in a PC Planned Commercial District.

Zoning Board of Adjustment Minutes

August 27, 2015

Page 7

Susan Faber explained the request to erect a 120-foot high communications tower in the parking lot located directly west of JoAnn Fabrics on the Kennedy Mall property. She explained that the tower has the capacity to accommodate additional carriers and that the monopole will meet the required setbacks. She said that they held a public meeting with all the neighbors that received written notification noting that only one person showed up and that they had no objections to the request.

No one spoke in opposition to the request.

Staff Member Hemenway outlined the staff report. He noted the proposed location of the facility and referred to documents provided by the applicant that detailed the tower's design. He discussed the adjoining properties and land use noting that the subject property is commercially zoned.

The Board felt that the application met the criteria for granting a conditional use permit.

Motion by Cremer, seconded by Golombeski, to approve the conditional use permit as submitted. Motion carried by the following vote: Aye – Cremer, Golombeski, Pope, and Bird; Nay – None.

**DOCKET: 43-15:** Application of Philip Neal, 1786 Jackson Street, for a Special Exception to allow an 8' x 12' storage shed, zero feet from the north side property line, 3' minimum required, in an R-2A Alternate Two-Family Residential zoning district.

The applicant was not present to explain his request. The Board tabled the request to the next meeting.

Motion by Cremer, seconded by Pope, to table the special exception request to the next meeting. Motion carried by the following vote: Aye – Cremer, Golombeski, Pope, and Bird; Nay – None.

**ADJOURNMENT:** Motion by Bird, seconded by Cremer to adjourn the meeting. Motion carried by the following vote: Aye – Cremer, Golombeski, Pope, and Bird; Nay – None. The meeting adjourned at 5:21 p.m.

Respectfully submitted,

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Kyle L. Kritz, Associate Planner

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Adopted