



Approved

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

5:00 p.m.

Thursday, July 23, 2015

City Council Chamber, Historic Federal Building

Board Members Present: Chairperson Eugene Bird, Jr.; Board Members Jeff Cremer, Bethany Golombeski, Jonathan McCoy and Joyce Pope; Staff Members Guy Hemenway 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 June 25, 2015 Zoning Board of Adjustment meeting were approved unanimously as submitted.

SPECIAL EXCEPTIONS

DOCKET: 22-15: (Tabled from June 25, 2015 meeting) Application of the Church of the Resurrection for a special exception for property located at 2525 St. Anne Drive to allow an 8-foot high fence in a required front yard (Wilbricht Lane), 4 foot high maximum permitted, in an R-1 Single-Family Residential district.

Chairperson Bird noted the application has been withdrawn at the applicant's request.

DOCKET: 29-15: Application of Richard and Rochelle Rehfeldt for a special exception for property located at 1725 Diane Court to build an attached deck 8 feet from the rear property line, 20 feet minimum required, in an R-1 Single-Family Residential district.

Richard Rehfeldt, 1725 Diane Court, noted that he would like to remove an 8' by 21' deck and replace it with a 16-foot wide L-shaped deck.

Staff Member Wernimont reiterated the request, noting the proposed deck location referencing aerial photos. He said that he was contacted by a neighbor regarding the request. He said that there would be no visibility issues with the proposed deck and

consequently it should have little impact on the adjacent properties. He said that the nearest house is approximately 70 feet away.

Board Member discussed the request, and noted that the proposed deck should have limited impact on the adjacent properties due to the space between structures.

Motion by McCoy, seconded by Cremer, to approve the special exception request to build an attached deck 8 feet from the front property line, 20 feet minimum required, in an R-1 Single-Family Residential district. Motion carried by the following vote: Aye – Cremer, Golombeski, McCoy, Pope and Bird; Nay – None.

DOCKET: 30-15: Application of Norman and Vicki Larson for a special exception for property located at 2415 Cherry Street to build an attached deck 8 feet from the front property line (Finley St.), 20 feet minimum required, and 1 foot from the north side property line, 6 feet minimum required, and to allow a 6 foot high fence in the front yard (Finley St.), 4 foot maximum height allowed in an R-1 Single-Family Residential district.

Norman Larson, 2415 Cherry Street, noted that his property is a corner lot with two frontages. He said that his neighbor is not opposed to the request. He said that the 6-foot high fence will provide privacy for the back yard.

Staff Member Wernimont outlined the staff report, noting setbacks for the proposed deck, fence height and the locations of the structures on the lot. He discussed corner lot regulations, noting that the property has two front yards. He distributed photos of the site. He said that the fence was installed in error. He mentioned a letter submitted by Mark Larson, a neighboring property owner.

Board Members decided to discuss the fence and deck requests separately.

Board Member Pope said she was concerned with the one-foot setback for the deck.

Staff Member Wernimont noted the criteria necessary for granting a special exception, stating that it is not necessary for an applicant to demonstrate a hardship. He said the primary concerns include the proposed structures impact on public safety and on the use, value and enjoyment of the adjacent properties. He discussed the sidewalk location relative to the property.

Board Member Cremer questioned how the property line was determined.

Vicky Larson, 2415 Cherry Street, noted the property history, discussing the lot configuration and the adjacent ownership.

Board Members expressed concerns with the 1-foot setback.

Chairperson Bird noted that the Board could modify the request by increasing the setback from 1-foot to whatever they decided was appropriate.

Board Member Cremer said that he was concerned with continuing maintenance on the deck should a fence be placed on the property line.

Board Member McCoy said that the 6-foot setback is logical.

Board Member Pope said that the 6-foot setback is consistent with other structures in the neighborhood.

Staff Member Wernimont noted that with approval of the adjacent property owners the applicant could be granted a limited setback waiver allowing the deck to be placed 4 feet from the side property line.

Board Members discussed the request and felt that 4 feet was more appropriate.

Board Members discussed the fence height and location. Chairperson Bird noted the location of the fence on the lot using aerial photos.

Staff Member Wernimont said the fence can be placed directly on the property line.

Board Member McCoy asked if the applicant could continue the fence beyond the area indicated on the aerial photo. Staff Member Wernimont said that the fence could not be continued along the lot line without the applicant applying for another special exception.

Board Member Pope said that she would prefer a 4-foot high fence with a decorative lattice on top, which she said was a better fit for the neighborhood.

Board Member Cremer said that he felt the fence was appropriate because it is in the backyard of the house.

Board Member Golombeski said that she felt the fence was too high due to its proximity to the sidewalk.

Motion by McCoy to approve the request to place the deck 1 foot from the north side property line. Motion failed for a lack of a second.

Motion by Cremer, seconded by McCoy, to approve the deck with the condition that is be setback 4 feet from the north side property line. Motion was approved by the following vote: Aye – Cremer, Golombeski, Pope and Bird; Nay – McCoy.

Motion by Cremer, seconded by McCoy, to approve the 6 foot high fence as submitted. Motion failed by the following vote: Aye – Cremer and Bird; Nay – Golombeski, McCoy and Pope.

DOCKET: 31-15: Application of Robert Leigh for a special exception for property located at 77 Hill Street to build a 6' by 12' attached porch addition 0 feet from the north side property line, 6 feet minimum required, in an R-2 Two-Family Residential district.

Robert Leigh, 77 Hill Street, presented his request to the Board, noting that he had been approved previously to build a garage 2 feet from the side property line. He said that there was a covered porch with pillars at the same location that had been removed, and he would like to replace it with a larger porch cover 6 inches from the property line.

No one spoke in opposition to the request.

Staff Member Hemenway presented the staff report, reviewing the history of the 2011 special exception for the garage. He discussed the location of the original porch, the property line location, and noted the possibility of obtaining a survey as the applicant is asking to build 0 feet from the property line. He said that the existing privacy barrier was built without a permit and would also have to receive the approval from the Board for the reduced setback. He noted that the request for the privacy barrier could not be heard at this meeting.

Chairperson Bird asked the applicant if the porch would be attached to the privacy barrier. The applicant said that it would be.

Board Member Golombeski asked if the porch would be of an open design. The applicant noted the porch would be open on the west side but would have doors on the east side.

Board Members discussed the privacy barrier located on the top of the garage.

Board Member Pope asked the applicant about the exact location of the property line. Mr. Leigh noted that he had received approval to build a portion of the garage 6 inches from the property line.

Board Members discussed the previous ZBA approval in regard to the location of the property line. Mr. Leigh indicated that he had a survey conducted for his property.

Board Member McCoy asked the applicant to amend his application to include the privacy barrier and come back to the Board with a modified request. The Board discussed tabling the request.

Mr. Leigh agreed to table the request.

Motion by McCoy, seconded by Golombeski, to table the request for resubmittal to include the privacy barrier. Motion carried by the following vote: Aye – Cremer, Golombeski, McCoy, Pope and Bird; Nay – None.

DOCKET: 32-15: Application of Michael Burns for a special exception for property located at 245 Olympic Heights Road to build a 40' by 40' detached garage for a total of 2,300 square feet of detached accessory structures, 1,000 square feet maximum permitted, and 10' from the front property line (Hawkeye Drive), where 20' is required in an R-1 Single-Family Residential district.

Michael Burns, 245 Olympic Heights Road, said that he would like to build a 40' by 40' garage 10 feet high for storing boats and other personal equipment.

Chairperson Bird asked Mr. Burns if there would be any commercial use of the storage building. Mr. Burns said that there would be absolutely no commercial use in the structure.

Staff Member Wernimont clarified the request noting setbacks for the corner lot.

Mr. Burns said that the garage would be accessed from the same frontage as the existing garage is accessed.

Staff Member Wernimont distributed aerial photos of the property noting the location, of the garage on the lot. He said that the adjacent property owners were notified and that one expressed concerns that the storage building would be used for commercial purposes. Staff Member Wernimont reinforced the fact that no commercial use is permitted on a residentially zoned lot.

Board Members discussed the request, asking about access to the building and the rules that govern the use of the structure. Board Members said that they felt that as this is a large property, the additional square footage was acceptable.

Motion by McCoy, seconded by Pope, to approve the special exception request to build a 40' by 40' detached garage. Motion carried by the following vote: Aye – Cremer, Golombeski, McCoy, Pope and Bird; Nay – None.

DOCKET: 33-15: Application of Paul and Nancy Papin for a special exception for property located at 2955 Jackson Street to build a detached garage addition 1.5 feet from the north side property line and 4 feet from the rear property line, 3 feet and 6 feet required respectively, in an R-2A Alternate Two-Family Residential district.

Paul and Nancy Papin, 2955 Jackson Street, explained their request to the Board. Mr. Papin discussed the location of the garage addition. He noted concrete had already

been poured which he said included a footing for the garage addition. He said that the building would be located on the footings of the paved area.

Chuck Harris, 2473 Jackson, said he represented the North End Neighborhood Association. He said he had no objection to the request.

Staff Member Hemenway presented the staff report, noting that the garage addition will extend the existing legally non-conforming garage wall along the north side property line and continue back 4 feet from the rear property line.

Board Members noted that the request represents an extension of an existing garage wall along the property line.

In response to concerns expressed by the Board, the applicant said that the deteriorated fence on the north side of the property would be removed.

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

CONDITIONAL USE PERMITS

DOCKET: 34-15: Application of Matt and Kathleen Haas for a Conditional Use Permit for property located at 3364 Ashley Lane to produce wine as a home-based business in an R-1 Single-Family Residential district.

Matt and Kathleen Haas, 3365 Ashley Lane, said that they had previously obtained a conditional use permit to produce wine at their current residence. They said that they have purchased the property across the street with the intention of building a new house and that they would like to relocate their business there. Ms. Haas noted that the wine is sold at Farmers Market and other special events, and not on-site.

Staff Member Hemenway presented the staff report, noting the previous conditional use approval for wine making. He said that staff had not received any complaints regarding the property at 3364 Ashley Lane. He also noted that the property owner at 2880 Dahlia Court sent a letter supporting the Haas's request. He explained the criteria necessary for granting a conditional use permit.

Board Members discussed the use and felt it was appropriate.

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

DOCKET: 35-15: Application of Chris Konzen, Cedar Cross Road, for a conditional Use Permit to construct two upper-story residential units in an LI Light Industrial district.

Daniel Baumhover, Architect for IIW, said that he represented Mr. Konzen. He explained that the building will be a two-story commercial building with six tenant spaces on the ground level, and two upper story apartments. He said each unit will have two bedrooms. He noted that two of the commercial spaces will be occupied by the Remote Car and Stereo business, and the other four spaces will be businesses that are as yet unknown.

Staff Member Hemenway presented the staff report, stating that the property is located in a light industrial district. He discussed surrounding land use, zoning, and existing and proposed development. He also stated that the UDC permits owners of light industrial property to apply for a conditional use permit to create upper story residential space as a means of protecting both the residential and commercial users from potential negative impacts. He referred to aerial photos of the site, noting the site design and parking, stating that the building is well buffered from adjacent commercial development. He said a convenience store is proposed for the adjacent property. He discussed the permitted uses in a light industrial district.

Board Members discussed the building location in respect to the property lines and the adjacent uses. Board Members discussed the residential use relative to the lower level commercial activity and adjacent commercial uses. Board Members expressed some concerns with separation of the uses, noting that it would be wise to have soundproofing between the upper and lower stories of the subject building.

Board Members said that they felt the request was appropriate.

Motion by McCoy, seconded by Cremer, to approve the construction of two upper story residential units in a Light Industrial District. Motion carried by the following vote: Aye – Cremer, Golombeski, McCoy, Pope and Bird; Nay – None.

VARIANCES

DOCKET: 36-15: Application of Verizon Wireless, rep. by SSC, for a variance for property located at 1525 West 3rd Street to install a ground-based equipment shelter 3 feet from the front property line, 20 feet minimum required, in an R-2 Two-Family Residential district.

Steve Fester, SSC Corporation, said he was speaking on behalf of Verizon Wireless.

Chairperson Bird clarified the location of the equipment shelter relative to the sidewalk.

There was no public input.

Staff Member Wernimont distributed aerial photos of the site, noting the shed's size and location and the adjacent land use. He said the shed will not be located in the visibility triangle. He noted that although the property is located in a residential zone, the lot accommodates a water tower and other communication equipment with no adjacent residential buildings.

Steve Fester said that the property will be filled and leveled to accommodate the shed.

Staff Member Wernimont said that the accessible sidewalk will be relocated so as to maintain access to Cancer Survivors Park.

In response to a question from the Board, Mr. Fester said that there is no other space on the site to place the equipment shed because of the location of the legs of tower and other communication shelters on the lot.

Board Members discussed the location of the existing vegetation and of the vegetation that was removed. They discussed the location and design of the proposed vegetation, the chain link fence, the retaining wall and the sidewalk. Board Members discussed access to the park from the relocated sidewalk. Board Member McCoy expressed concern with the large retaining wall directly adjacent to the sidewalk, stating that it would have been helpful if the applicant had submitted an elevation of the wall.

Staff Member Wernimont clarified that the arborvitae that had been removed would be replaced with like plantings.

Board Members discussed the request and Board Member McCoy asked the applicant if they would be amenable to a limestone facing on the surface of the exposed foundation wall along the West 3rd Street frontage. Mr. Fester said that they would gladly place the limestone facing on the foundation wall as requested.

Motion by McCoy, seconded by Pope, to approve the variance with the condition that limestone facing be placed on the exposed surface of the foundation wall along the West 3rd Street frontage. Motion carried by the following vote: Aye – Cremer, Golombeski, McCoy, Pope and Bird; Nay – None.

DOCKET: 37-15: Application of Collins Community Credit Union for a variance for property located at 4855 Asbury Road Suites 1 & 2 to place two wall-mounted signs on a multi-tenant building, one-sign maximum permitted, in a C-3c General Commercial with conditions district.

Scott Frost, Chief Lending Officer for Collins Community Credit Union, explained the history of Collins Community Credit Union in the community. He said they are asking to place an additional sign on the north building wall because it will more adequately

advertise the location of the credit union. He noted that Collins is leasing two tenant spaces and that there is an existing wall-mounted cabinet sign on the west wall of the building facing the parking lot.

Dan Lange, Lange Sign Group, explained the location and size of the existing and proposed signs.

The applicants and the Board discussed the visibility of the sign as it related to the street and parking lot.

No one spoke in opposition.

Staff Member Hemenway explained the request noting the location and size of the existing and the proposed signs. He discussed the current freestanding sign on the property noting that this site is limited to a 108 square foot, 25-foot high freestanding center sign, whereas most C-3 Districts allow a 300 square foot 40-foot high sign for multi-tenant buildings. He said that the existing cabinet sign above the door is 36 square feet in area and that the sign proposed for the north building wall would be 100 square feet in area.

Board Member McCoy noted that the Collins Community Credit Union would enjoy the use of two building walls with two signs, where the other tenants in the center would only be allowed one.

Chairperson Bird asked if the credit union relocated would the variance stay with the property. Staff Member Hemenway noted that if the Board approved the initial request any other business could move into that location and utilize the existing signage.

Board Member Golombeski said that she was not concerned with the sign itself, but with the size of the sign because it faces the street.

Board Members discussed the permitted and proposed signage. Mr. Frost noted that if they are only permitted a single sign they would opt for the 100 square foot sign on the north building wall.

Board Members discussed options, including the 100 square foot sign on the north building wall, and a 6 square foot directional sign above the main entrance on the west wall, or the use of interior window signage for the building. Board Members discussed the request and felt a compromise would be to grant Collins Community Credit Union two signs but limit the aggregate sign area to 100 square feet.

Motion by McCoy, seconded by Cremer, to approve the request for two signs, with the condition that the aggregate square footage of both signs not exceed 100 square feet.

Motion carried by the following vote: Aye – Cremer, Golombeski, McCoy, Pope and Bird; Nay – None.

ITEMS FROM STAFF: None.

ITEMS FROM BOARD: Board Members asked if a conditional use is discontinued, can the use be re-activated at any time. Staff said they would investigate.

ITEMS FROM PUBLIC: Rich Rehfeldt, 1725 Diane Court, asked what his next step would be. Staff informed him he needed to obtain a building permit from the Building Services Department.

ADJOURNMENT: The meeting adjourned at 7:30 p.m.

Respectfully submitted,

Guy Hemenway, Assistant Planner

Adopted