



Approved

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

5:00 p.m.

Thursday, September 24, 2015

City Council Chamber, Historic Federal Building

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

Board Members Excused: None.

CALL TO ORDER: The meeting was called to order by Chairperson Bird at 5:10 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 August 27, 2015 Zoning Board or Adjustment meeting were approved by the following vote: Aye – Cremer, Golombeski, Bird; Nay – None; Abstained: McCoy.

SPECIAL EXCEPTIONS

DOCKET 43-15: Application of Philip Neal for a Special Exception (tabled from August 27, 2015 meeting) for property located at 1786 Jackson Street to allow an 8' by 12' storage shed, 0 feet from the north side property line, 3 feet minimum required, in an R-2A Alternate Two Family Residential zoning district.

The applicant was not in attendance.

Motion by Pope, seconded by McCoy, to table the applicant's request, asking that he attend the next meeting. Motion carried by the following vote: Aye – Cremer, Golombeski, Bird, McCoy, and Pope; Nay – None.

DOCKET 44-15: Application of Brian and Virginia Hinman for a Special Exception for property located at 3403 Jackson Street to construct a 17' by 38' detached garage 0 feet from the west side property line, where 3 feet is required, and 8 feet from the front property line (Jackson Street) where 20 feet is required, and 0 feet from the front property line (Diamond Street), where 10 feet is required, and to cover 75% of the lot with structure, 50% maximum allowed in a Light Industrial (default R-2A Alternate Two-Family Residential) zoning district.

Brian Hinman, 3403 Jackson Street, said he would like to install a 17' by 38' detached garage next to his house on Jackson Street. When asked by Board Member McCoy about the material stored on the property, Mr. Himan noted they were for renovation of the house and the roof.

Staff Member Hemenway outlined the staff report. He referred to photographs and a sketch diagram of the proposed garage. He noted the surrounding land use, and stated that staff is concerned with the encroachment on the visibility triangle at the corner of Jackson and Diamond Streets and the impact the garage will have on the visibility of the commercial driveway on the west side of the property. Staff Member Hemenway said that if the garage were shortened by 2 feet on either end, it would fully clear the visibility triangle at Jackson and Diamond Streets and have less impact of the visibility of the commercial driveway behind the subject property.

Board Member Golombeski asked about the garage door location. Staff Member Hemenway said that the garage door was oriented toward Jackson Street.

Board Members discussed reducing the size of the garage so as to lessen its impact on sight visibility.

Board Member Pope asked if the garage would be used for residential or commercial purposes. Mr. Hinman said that he would use it as a residential garage, but that he also would place his contractor equipment in the garage.

Chairperson Bird asked if the Board would consider reducing the size of the garage. Board Members discussed the garage depth, noting that 34 feet was long enough to park a full-size pickup and have room left over for shop area. Board Members expressed concerns with lot coverage, lack of green space, and impact on sight visibility.

When asked why the garage was not built flush with the house, Staff Member Hemenway noted that it would be located fully in the visibility triangle if flush with the front of the house.

Board Members discussed reducing the size of the garage from 38 to 34 feet, removing 2 feet from both ends and increasing the setback to 10 feet on the Jackson Street frontage and 2 feet from the west side property line.

Mr. Hinman said that he had no objection to slightly reducing the size of the garage.

Board Members discussed the request and felt that the applicant's garage, while not ideal, allowed the applicant to improve the property by placing a detached garage on a somewhat constrained lot.

Motion by McCoy, seconded by Pope, to approve the request, with the conditions that:

- 1) The garage dimensions not exceed 17 by 34 feet;
- 2) The garage be setback 10 feet from the front property line along Jackson Street, 0 feet along the front property line on Diamond Street, and 2 feet from the west side property line;
- 3) The structures not cover more than 72% of the lot; and
- 4) Storm water be directed from the garage on to the subject lot.

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

DOCKET 45-15: Application of Tim Mueller for a Special Exception for property located at 2901 Hillcrest Road to install a 138.6 square foot freestanding solar array, 100 square feet maximum permitted, 12 feet in height, 10 feet maximum allowed and to allow a total of 1019 sq. ft. of detached accessory structures, 1000 sq. ft. maximum allowed in an R-1 Single-Family Residential zoning district.

Tim Mueller, 2901 Hillcrest, outlined his request, noting that his property is in excess of 20,000 square feet in area and that the solar panel will be small relative to the lot.

Chairperson Bird referenced a submittal from Attorney Todd Locher, representing Robert Renne at 1950 Avalon Street.

Todd Locher stated he was the attorney representing Bob Renne at 1950 Avalon Street. He said this is the third time that the Board has heard Mr. Mueller's request. He said the sketch diagram provided by Mr. Mueller is unclear regarding the dimensions of the solar panel. He said the sketch diagram is contradictory and it is unclear as to what the panel size and angle is. He said the panel appears to be bigger than the square footage requested. He said that he does not believe that solar arrays are in character with the residential neighborhoods. He said that the Renne's concern is that the solar array may be used to showcase Mr. Mueller's business, which Mr. Locher said is currently illegal. Mr. Locher noting that the panel will be located next to a park that is often occupied by young children. He expressed safety concerns regarding the panel's temperature, electrical wiring and sharp edges. He said the City has worked tirelessly to establish new limitations on freestanding solar arrays, and that the Board should respect the 100 square foot limit as established. Mr. Locher noted that Mr. Mueller has an 880 square foot detached barn and other buildings that could accommodate solar arrays on the roof. He asked that the Board deny the request.

Bobbie Smrcina, 1960 Avalon Street, discussed the property topography and solar array location. She said that the array will not block any of the adjacent neighbors'

views and that it will not be unsafe as these types of panels have been installed in school yards and various other areas.

Bob Renne, 1950 Avalon Street, spoke in opposition to the request. He noted Mr. Mueller's presentation to the Council stating that he said 100 square feet of panel area is not big enough to be useful. Mr. Renne said that Mr. Mueller could install the solar panels on the existing detached barn.

Mr. Renne discussed the number and type of buildings located on Mr. Mueller's lot. He said that the solar array constituted a safety issue regarding heat, electricity and sharp edges, noting that it will be in close proximity to a city park. He also expressed concerns with the possible glare given off by the solar panel, loss of green space and its potential impact on the value of the adjacent properties. He said that he felt Mr. Mueller had been disingenuous with his requests.

Cynthia Renne, 1950 Avalon Road, said that she and her husband had built a beautiful addition and deck onto the back of their property and that the solar array will impact their view to the park. She said that the array will have a negative impact on their property value. She said she felt the panel could be placed on top of Mr. Mueller's barn.

Robert Smrcina, 1960 Avalon Road, said that he did not feel that the solar panel would impact property value and that the installation will not be unsafe.

Mr. Mueller said that he had used up all available roof area that has either a southwest orientation or does not have skylights. He said that he is in the process of moving his business. He said that the panels are safe as they are UL approved and have been installed elsewhere.

Board Members discussed the panel size and clarified that the panel, if approved, could not exceed 6'6" by 21' or 138 square feet in area, regardless of its height or orientation. Mr. Mueller verified that the panel would not exceed the aforementioned size.

Board Member Pope asked if the panel could be moved elsewhere on the lot. Mr. Mueller said the panel could be relocated; however, at the proposed location it was far away from the property lines and the adjacent residences. In reply to a question from Board Member Pope, Mr. Mueller said that the 138 square feet of panel area was necessary to complete the energy offset needed for his house.

Staff Member Wernimont outlined the staff report, noting that the City Council set the 100 square foot limitation with the understanding that the Zoning Board of Adjustment could review larger arrays, taking into account lot area, topography, and surrounding land use. He clarified the panel's dimensions and detailed how the panel is measured. He noted that Mr. Mueller has a 27,000 square foot lot and that, if approved, only 9% of

the lot would be covered with structures, when 40% is permitted in an R-1 District. He said that, if approved, Mr. Mueller is aware that the small storage shed has to be removed prior to installation of the panel. He explained how height for solar arrays is calculated.

Board Member Pope discussed the possibility of repositioning the panel or utilizing landscaping to buffer or screen it.

Board Member McCoy said that he felt that no screening is necessary as the panel is far enough away from adjacent residences so as to not be offensive.

Board Member Cremer said that the 100 square foot standard could be waived given the unique circumstances of the lot and surrounding land use.

Board Member Golombeski said that she felt that the request was reasonable given the small size of the panel relative to the lot and its distance from adjacent residences.

Chairperson Bird said that the request was well within reason given the large size of the lot.

Motion by McCoy, seconded by Pope, to approve the request to install a 138.6 square foot freestanding solar array. Motion carried by the following vote: Aye – Cremer, Golombeski, Bird, McCoy, and Pope; Nay – None.

VARIANCES:

DOCKET 46-15: Application of Craig Breitbach / Rod Maas for a variance for property located at 525 E. 19th Street to install a sign with a 36-inch projection, 0 inch projection allowed, in an LI Light Industrial District.

Jill Barden, Big River Sign Company, said she represented Rod Maas. She asked the Board to approve a projecting sign, noting that it would not be illuminated. Board Members asked about the height of the sign above grade. Ms. Barden noted that the sign would be installed above the first story of the building.

Staff Member Hemenway reiterated the request, noting that the Light Industrial zoning district does not allow signs to project. He said that the structure is an historic brick building that had been recently refurbished and that it was atypical of other LI buildings, which he said are generally single-story metal contractor shops. He noted that the Board had approved projections from historic industrial buildings in the past, citing several examples. He said that the sign is much smaller than a typical wall-mounted sign, which he said could be up to 250 square feet in area and internally illuminated. He said that the sign would be a 2' by 12', 24 square feet, non-illuminated metal sign, and would be in keeping with historic district and Historic Millwork District regulations.

Board Member McCoy said the sign looked nice and complimented the building refurbishment. Board Member Golombeski said that the sign is historically appropriate.

Motion by McCoy, seconded by Golombeski, to approve the installation of a wall-mounted with a 36-inch projection, 0–inch projection allowed in a Light Industrial District. Motion carried by the following vote: Aye – Cremer, Golombeski, Bird, McCoy, and Pope; Nay – None.

ITEMS FROM BOARD: Board Member McCoy discussed several issues regarding signs. He noted that he would like to file an appeal regarding staff's interpretation of audio signs. Staff Member Wernimont presented him with an application and discussed the process for submitting an appeal to the Board.

Mr. McCoy also discussed the regulation of window signage, noting that signage on the exterior of the windows should be regulated. Staff Member Hemenway discussed the existing definition of a window sign, noting the somewhat ambiguous language, and said that he would forward the request to review this language to the Planning Services Manager.

Board Member McCoy expressed frustration with the difficulty in enforcing temporary sign regulations. Staff Members Hemenway and Wernimont noted that both the Building Services and Planning Departments regulate temporary signs and they do often tend to proliferate. He said that City staff responds to complaints and have enforced on signs; however, signs tend to come and go frequently.

Board consensus was to ask staff to explore other avenues of enforcement that may be more expeditious and effective regarding temporary signage.

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

Respectfully submitted,

Kyle L. Kritz, Associate Planner

Adopted