



Approved

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

5:00 p.m.

Thursday, February 25, 2016

City Council Chamber, Historic Federal Building

Board Members Present: Chairperson Jonathan McCoy; Board Members Joyce Pope, Jeff Cremer, and Keith Ahlvin; Staff Members Guy Hemenway, Kyle Kritz, and Wally Wernimont.

Board Members Excused: Board Member Bethany Golombeski.

Board Members Unexcused: None.

CALL TO ORDER: The meeting was called to order by Chairperson McCoy 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 January 28, 2016 Zoning Board of Adjustment meeting were approved unanimously as submitted.

Docket 03-16/Variance: Application of Doug Mills, 331 W. 4th St, for a variance to install one, 38.9 sq. ft. wall-mounted sign, 8 sq. ft. maximum permitted, in an OC Office Commercial & Historic District.

Keith Wolff, 3188 Highland Park Drive, said he represented Dubuque Sign Company and the applicant. He noted that the building is set back 70 feet from the street and he said that many of the other buildings in this district are built up to the street. He said that Bluff Street is one-way at this location and he provided renderings showing the sign at the permitted 8 square feet and at the requested 38.9 square feet.

Staff Member Hemenway presented the staff report. He noted that the signage was located in a historic district and he explained that the building sits back 60 feet from the edge of pavement and is shielded by a large building to the north that he said blocks the view from southbound traffic along one-way Bluff Street. He said that other buildings in this district are built much closer to the street and have utilized 8 square foot freestanding signs up to the sidewalk to draw attention to their businesses. He referred to the renderings supplied by Mr. Wolff, noting the difference between the 8 square foot and the proposed 38.9 square foot signs. He said that the sign would have

to meet HPC regulations and that it will not be internally illuminated. He noted that the size of the wall the sign will be placed is approximately 1,800 square feet.

Chairperson McCoy asked if signage could be placed closer to the street. Staff Member Hemenway noted that a freestanding sign could be placed up to the sidewalk, but that it would be 60 feet away from the main entrance to the business.

Board Member Pope asked about signage permitted in both historic districts and OC districts in general. Board Members asked if there had been a larger sign previously at this location. Mr. Wolff noted that there had been a larger sign at the former business and that the outline of the sign could still be seen on the building wall.

Chairperson McCoy asked if the signage could be limited to a single sign. Board Member Pope asked if a freestanding sign could be utilized instead of a wall-mounted sign.

Mel Zabell, 400 Bluff Street, said he is Mr. Mills business partner. He said that placing the sign along the sidewalk would be confusing as it would still be 60 feet away from the business entrance and separated by the parking lot.

Board Member Pope said she felt the sign as submitted was too large. She said that in other OC Districts that are not historic districts, the signage can only be 16 square feet in area. She said she is okay with a 16 square foot sign. She asked if the sign were to be removed, if another sign of the same size could replace it. Staff Member Hemenway noted that if the sign were to be removed, another sign of the very same size, style and location, could be installed. He said that any other changes would have to meet current code or re-apply for, and be granted, a sign variance.

Board Member Ahlvin said due to the deep setback of the building, that he felt the property suffered from lack of visibility. He said he did not have a problem with a sign of this size at the proposed location.

Board Member Cremer said that he was in favor of the sign as it was in scale with the building wall. He said he has no problem with limiting any additional signage for the property.

Chairperson McCoy asked if the applicants would consider reducing the size of the sign as he said that it appeared they did not have the 3 votes necessary for approval. Board Member Pope asked if the applicants would be willing to create a smaller sign.

Board Members and the applicants discussed reconfiguring the sign by removing some of the text, in an effort to reduce the size of the sign. Board Member Pope said she was amenable to a 20 square foot sign. Board Member McCoy said that he was okay with a 16 square foot sign.

Board Members discussed the potential for reducing the sign area and asked the business owner if he would be willing to table the request to the next meeting. Mr. Zabell said he would be willing to table the request.

Motion by McCoy, seconded by Cremer, to table the variance request at the applicant's request. Motion carried by the following vote: Aye – Cremer, Ahlvin, Pope and McCoy; Nay – None.

Docket 04-16/Special Exception: Application of Theothoros Giannakouros, Blue Sky Solar, 2700 Arbor Hills Drive, for a Special Exception to construct a 780 sq. ft. freestanding solar array, 100 sq. ft. maximum permitted, in an R-1 Single-Family District.

Theothoros (Rocky) Giannakouros, 1640 Lawndale Street, discussed his request, noting that the only property affected by the proposed solar array belonged to the person who sold the lot to the applicant. He noted that the array would have a significant setback from the adjacent residential properties and be lower in elevation and relatively hidden. He said the array would be 59.5 feet long and 11 feet wide.

Staff Member Wernimont reiterated the request, noting the area, height, and location of the proposed array. He discussed the new bulk standards for solar arrays established by the City Council. He noted that the subject lot is 13 acres in size. He discussed the array's architecture, noting that the height of the proposed array is 7 feet above grade. He discussed the potential effect on adjacent properties.

Board Members discussed the array's size and location, noting that due to the significant distance from neighboring properties and the large scale of the lot, they felt it would have very limited impact on the adjacent properties.

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

Docket 05-16/Special Exception: Application of City of Dubuque Housing Department for a special exception for property located at 595 Angella Street to complete construction of a single-family house 3 inches from the east side property line, 3 feet minimum required, and 18.6 feet from the front property line (Catherine Street), 20 feet minimum required in an R-2A district.

Todd Carr, said that he is a rehabilitation inspector for the City of Dubuque Housing Department. He said the subject property had been left abandoned and the City had assumed ownership. He said that the building has not been completed and has deteriorated. He noted that a Limited Setback Waiver had been granted for the property but that the existing foundation had been built closer than is permitted to the side property

line. Mr. Carr noted that the entire second floor of the structure will have to be removed and replaced with new construction.

Board Member Ahlvin asked if the foundation is 3 inches from the property line. Staff Member Hemenway noted that if a 4-inch gutter was placed on the structure it would be located slightly more than 3 inches from plane of the property line.

Board Member Pope asked if several feet could be added onto the front of the building facilitating the removal of the encroachment on the other side of the building. Mr. Carr said that based on the existing frost wall and footings, and the location of the sewer and water lines, it would be difficult to remove a portion of the building foundation. Mr. Carr noted that, if approved, the City will require that a structural engineer review the condition of the building and guarantee that any subsequent construction will be building code compliant.

Staff Member Hemenway presented the staff report, noting the property history. He said that the former property owner had obtained a Limited Setback Waiver, built the structure illegally, and then abandoned the project prior to completion which resulted in the building's deterioration. He said that the City subsequently took possession of the property. He said that the City is now trying to resolve the illegal installation. He said that a 4-inch gutter could be placed along the side of the building in an effort to direct the storm water away from the adjoining property. He said that the next door neighbor had originally expressed concerns with the current state of the property.

Chairperson McCoy stated that he felt that renovation of this property could be positive for the neighborhood and that he was prone to approve.

Board Member Ahlvin said that he feels that this is an ideal opportunity for the City to resolve the encroachment and remove the foundation.

Board Member Cremer said that he felt moving the building forward was impractical and that the fastest way to resolve the issue would be to approve the request so that the deteriorated portion of the building could be removed and the project completed.

Staff Member Hemenway noted the distance between the two structures and the current R-2A setback regulations.

The Board discussed the request. Board Member Pope said she felt the rehabilitation of the property would be the catalyst for redevelopment in the neighborhood. Board Member Ahlvin said this request afforded the Board the opportunity to eliminate the encroachment by denying the Special Exception.

Mr. Carr noted that the foundation is not parallel to the property line, and that the foundation tapers from the closest point at 8-inches to 1.9 feet at the opposite end.

Staff Member Hemenway noted the distance of the house from the Catherine Street frontage. He said that a minimum of 20-feet of paved driveway is required for parking.

Board Members asked if they could compel the applicant to install sidewalks and to finish the building in a specified period of time. Staff Member Hemenway noted that the sidewalk requirement could be waived by the City Council and the Board could not usurp the Council's authority. He also said that if the Board placed a time limit on construction and the construction was not completed with said time, the new property owner would have to come back and ask for a Special Exception again.

Board Members discussed the request and some felt that it met the criteria for granting a Special Exception.

Motion by Cremer, seconded by Ahlvin, to approve the Special Exception request as submitted. Motion carried by the following vote: Aye – Cremer, Pope and McCoy; Nay - Ahlvin.

ITEMS FROM PUBLIC: Keith Wolff, 3188 Highland Park Drive, said that he would like to receive clarification on previous sign variances approved by the Board. He noted a number of sign variance cases, including Unity Point Health, where he said that Board approval was granted. He said he would like the Board to explain what hardships were noted for the sign approval.

Chairperson McCoy said that he would defer to City staff regarding past information for variance cases. Board Member Pope said that she felt that the request Mr. Wolff referenced had demonstrated a hardship. Mr. Wolff said there are six other sign variances that were approved, and he contended that the Board did not articulate hardships for those as noted in the minutes. He said that he was required to demonstrate a hardship for his sign variance requests, and he demanded clarification on why other cases did not have to demonstrate said hardship.

Board Member Cremer asked Mr. Wolff what his end goal was. Mr. Wolff said that he feels he is being held to a different standard than other sign contractors.

Chairperson McCoy noted that each case considered poses a different set of circumstances, and is judged on its merits. He said that he feels that the Board is not being selective in their decisions. Mr. Wolff said that he felt both Chairperson McCoy and Board Member Pope have treated him unfairly by requiring him to prove a hardship while others have not.

Staff Member Hemenway noted that the minutes are not a transcription of the meetings, and that they are staff's attempt to distill and summarize the Board discussion. He did note that the Board sometimes does not articulate all of the reasons for either approving or denying the request.

Mr. Wolff said that he would provide the past cases and minutes to the Board and ask for their response. He said that he is asking for consistency when the Board makes a determination.

Board Member Ahlvin said that he has reviewed past minutes and that he feels that the Board should work diligently to express the reasons for approval, including hardship.

Staff Member Kritz said that the Board is a quasi-judicial entity. He said that each case is unique, and is judged on its individual merits.

Chairperson McCoy asked that Mr. Wolff submit his request and supporting documentation in writing to Planning Services staff for processing. He said that then the Board would determine how to proceed.

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

Respectfully submitted,

Kyle L. Kritz, Associate Planner

Adopted