



Approved

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

5:00 p.m.

Thursday, April 28, 2016

City Council Chamber, Historic Federal Building

**Board Members Present:** Vice Chairperson Jeff Cremer; Board Members Bethany Golombeski, Joyce Pope and Keith Ahlvin; Staff Members Guy Hemenway and Wally Wernimont.

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

**Board Members Unexcused:** None.

**CALL TO ORDER:** The meeting was called to order by Vice Chairperson Cremer 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 March 24, 2016 Zoning Board of Adjustment meeting were approved by the following vote. Aye – Cremer, Ahlvin and Golombeski; Nay – None; Abstain – Pope.

At the request of the applicants Board Chairperson Cremer moved Docket 14-16 to the beginning of the meeting due to a scheduling conflict.

**Docket 14-16/Special Exception:** Application of Austin & Elizabeth Reed, 150 Bradley Street, to build an addition six (6) feet from the rear property line, 20 feet minimum required, in an R-1 Single Family residential zoning district.

Austin Reed, 150 Bradley Street, said he would like to place a pool house and gymnasium addition six feet from his rear property line. Elizabeth Reed, 150 Bradley Street, noted that a detached structure on their lot could be built six feet away from the property line and up to 15 feet in height. She said that attaching the structure would provide access directly from the addition to the house. She discussed elevations of the proposed addition. Mr. Reed submitted photos of the property. Elizabeth Reed said she would like to keep the roofline of the addition below the roofline of the existing house.

Mike Bradley, 155 South Grandview, submitted a letter from himself and a letter from an adjacent property owner. He expressed concerns with the loss of view to the golf course, the proximity of the structure to the lot line and the potential for diminished property value. He said that he did not want to see the roofline of the addition from the rear of his house.

Mrs. Reed noted the proximity of the Bradley house to the golf course. She said that she worked to keep the addition as low as possible to reduce the potential impact on the neighbor's views. She said the addition will be located between the back yards of the adjacent property owners, not directly behind their houses. She noted that the existing vegetation in the adjacent back yards already have a significant impact on views. She said that the addition will not result in storm water runoff onto adjacent properties because of the topography of the yard. Mr. Reed said that, based on City Assessor's records, property values are not affected by limited views. He distributed the City Assessor's property values for properties along South Grandview whose view to the golf course is screened by houses along Bradley Street.

Staff Member Wernimont discussed the photos included in the packet. He noted that a detached structure could be built 15 feet in height and six feet from the property line and that the primary structure and addition could be built up to 30 feet in height under current regulations. He discussed the building renderings and site elevations, noting that the addition has a two-foot overhang that will be built four feet from the plane of property line. He said that the adjacent lots with frontage along Grandview Avenue sit higher in elevation than the subject property. He discussed view sheds, noting that the City does not regulate views.

Board Member Pope discussed the criteria for granting a special exception.

Board Member Golombeski questioned lot coverage. Staff Member Wernimont said that the house and addition would not exceed the maximum lot area coverage.

Board Member Ahlvin asked if the applicant could build a 15-foot high detached structure. Vice Chairperson Cremer said he initially questioned lot coverage, but after seeing the photos, was no longer concerned. Board Member Pope said that she felt the request meets the criteria necessary for granting a special exception as the addition should not affect public safety or the use, value and enjoyment of adjacent residential properties.

Board Member Golombeski said that the peak of the existing house is more imposing than the peak of the proposed addition. Board Member Ahlvin said that he felt the addition would have little or no impact on adjacent views or property values.

Vice Chairperson Cremer noted that a higher accessory structure could be built six feet from the rear property line which he said would have more of a negative impact.

Board Members discussed the request and felt it was appropriate.

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

**Docket 09-16/Special Exception:** Application of Patrick Kress, 1755 Wood Street, to construct a storage shed 10 feet from the front property line, twenty (20) feet minimum required, and three (3) feet from the side property line, six (6) feet minimum required, in an R-1 Single-Family Residential Zoning District.

Patrick Kress, 1755 Wood Street, introduced his wife, Tanya. He stated that the City has an unusually large right-of-way in front of his house which places his front property line well back from the curb. He said he spoke with his neighbor about the side yard encroachment, and the neighbor did not express concerns. He said that he would like to use the building for storage as his basement is wet. He said that placing the shed on the paved pad will afford him direct access to the shed and will avoid having to install steps.

Board Member Pope asked about the grade change between the paved pad and the yard. She also asked if the shed could be turned sideways. Mr. Kress said that if the shed is turned sideways it will encroach into the patio area. Mr. Kress noted that he will be able to remove his cargo trailer once he has a storage shed in place.

Staff Member Wernimont reiterated the request, noting that Mr. Kress would like to place the storage shed on an existing elevated parking pad. He said he has not received any input from the adjacent property owners. He discussed the right-of-way, noting that the parkway is wider than standard. Mr. Kress said that the existing landscaping will remain.

Board Member Pope asked about the encroachment on the side yard setback. Staff Member Wernimont discussed access to the property and the neighborhood development pattern.

Board Member Golombeski noted that the shed would not block the view from the neighbor's window.

Board Members discussed the request and felt it was appropriate.

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

**Docket 10-16/Special Exception:** Application of Dwayne Frommelt, 3980 Central Avenue, to build a 1,152 square foot garage, 1,000 square feet maximum permitted, in an LI Light Industrial (default R-2A) District.

Dwayne Frommelt, 3980 Central Avenue, said that he would like to build a 1,152 square foot garage for storing his vehicles and materials.

No one spoke in opposition.

Staff Member Hemenway presented the staff report, noting that the property is currently zoned LI and is governed by R-2A District regulations. He said the garage would be built on two large lots that will be joined by the structure. He said that the two lots will total more than 20,000 square feet. He noted that the neighborhood is mixed use and that the garage would be built well away from any adjacent residences.

Board Members discussed the request and felt it was appropriate.

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

**Docket 11-16/Special Exception:** Application of Dave Lindecker, 1005 Locust Street, to add two (2) dwelling units for a total of seven (7) dwelling units with a deficit of 4,027 square feet of lot area in an OR Office Residential District.

Dave Lindecker, 1005 Locust Street, said that he purchased the building two years ago and when he applied for a City grant for rehabbing the 7-plex, he was told that he was only allowed five units. He said the property was configured as a 7-plex when he bought it, and he is just asking for the building to remain the status quo. He said the building is currently fully occupied and that he has been in contact with City staff regarding building safety and housing code requirements.

Board Member Golombeski asked where the applicant's current tenants park. He said that he pays half of the cost for on-street parking permits for his tenants. He said that only one of his tenants does not drive. Board Member Golombeski asked if some of the units could be combined to reduce the number to five. Mr. Lindecker said that they would like to continue operating the building as a 7-plex.

Staff Member Wernimont said that Mr. Lindecker's application for a rental license and subsequent inspection prompted the need for a Special Exception. He said the units may have been added in the past without proper review and approval by the City. He said that some of the interior rooms were formerly office spaces do not meet current housing code requirements for a dwelling unit. He noted that if the Board approves the request the City's Housing and Building Inspectors will inspect the units and provide the

measures necessary to meet the housing and building codes. He noted that the property is located in an historic district and that exterior modifications would have to meet the Secretary of Interior's Guidelines. He discussed photos of the site and stated that he had been contacted by the adjacent property owner who he said expressed concerns regarding parking. He discussed downtown parking, noting what parking is required and what parking credit is granted to the property.

Mr. Lindecker said that he has three off-street parking spaces behind the building.

Board Member Golombeski reiterated that the residential units had been in the building prior to 2009. Board Member Ahlvin said that the lot area deficit is more of an inconvenience to the residents of the building, not to the adjacent property owners.

Vice Chairperson Cremer said that he was pleased that the applicant is trying to resolve the outstanding code issues, and that parking is not an issue that the Board is reviewing.

Board Member Pope said that she felt that the yard area is needed for recreational space. Vice Chairperson Cremer said that safety concerns for the existing units are paramount.

Board Member Pope noted that the deficit of yard area would be the same whether the building is converted to a five-plex or remains a seven-plex. She asked about the minimum size requirements for interior residential rooms. Staff Member Wernimont referenced the Housing Code regarding interior living space and noted that the primary concern is ingress and egress to the basement apartments.

Board Member Golombeski noted that a number of the adjacent residences have similar lot area deficits. Board Member Ahlvin said that he felt that the special exception request met all of the required criteria and that any new residents would be aware of the lack of yard area.

Mr. Lindecker noted that he has two decks which serve as outdoor space for the tenants,

Board Members discussed the request and felt it was appropriate.

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

**Docket 12-16/Special Exception:** Application of Jeff Schmidt, 2325 Roosevelt Avenue, to construct a twenty-two (22) by twenty-four (24) foot detached garage for a

total of 1,158 square feet of detached accessory structures, 1,000 square feet maximum permitted, in an R-1 Single Family Residential zoning district.

Jeff Schmidt, 2701 Rhomberg, said that he is the contractor for the property owner, Mr. Lungwitz. He said that Mr. Lungwitz is in his 70's and would like to have a more level access from his garage to his house.

Board Member Golombeski asked about the alley access to the garage.

Staff Member Hemenway outlined the request, noting that the subject property does not have frontage on a city street, but that the house is accessed from a 25-foot wide alley right-of-way. He said that the proposed garage will not be visible from the front of the adjacent residential properties as they are oriented toward Roosevelt Street. He said that the garage would be built six feet from the property line affording a vehicle backing from the garage adequate sight visibility. He noted that the lot is 20,000 square feet in area and that the total square footage of all of the accessory structures are less than 200 square feet over what is permitted.

Board Member discussed the request and felt it was appropriate.

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

**Docket 13-16/Special Exception:** Application of Adam & Amanda Zell, 1710 Churchill Drive, to construct a six (6) foot high fence in the front yard (Pennsylvania Avenue), four foot maximum permitted, in an R-1 Single Family Residential zoning district.

Adam Zell, 1710 Churchill Drive, noted that he and his wife would like to enclose their back yard. He said that he is on a corner lot and that the fence will help reduce noise and increase privacy and safety in his back yard. He said that the fence will be located inside the east side property line because of an easement.

Board Member Golombeski asked about site landscaping and Mr. Zell said that he would build the fence inside of the landscaping.

Mary Meyer, 1722 Churchill, said that she has concerns with the location of the fence because the property line has not been clearly established.

Board Members asked staff about common methods used to establish the property line. Staff Member Hemenway said that the Board could require that the applicant clearly establish the property line by using field methods or by having a site survey.

Board Member Pope asked Mr. Zell if he could establish the property line. Mr. Zell said his intent is to clearly establish the property line prior to installing the fence.

Vice Chairperson Cremer asked the applicant how he was going to establish the lot line. Mr. Zell said that he would try to find the property pins, and if the pins were not found, he may have to have the property surveyed.

Staff Member Hemenway presented the staff report. He explained the fence height requirements and their rationale, noting that the sight visibility from an adjacent driveway or front of a house will not be affected. He noted that it is the applicant's responsibility to clearly establish the property line prior to installing the fence.

Board Member Ahlvin said he felt the request clearly met the criteria required for granting a special exception as the proposed fence will not obstruct views from the adjacent properties. He said he does not have any concerns with the request.

Board Member Golombeski agreed, stating that the fence would be built inside the existing landscaping.

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

**Docket 15-16/Special Exception:** Application of Jay Keeple, 2655 Asbury Road, to allow storage of a recreational vehicle ten (10) feet from the front property line (Chaney road), twenty (20) feet minimum required, in an R-1 Single-Family Residential zoning district.

Eileen Keeple, 2655 Asbury, said that she and her husband had purchased a fifth wheel trailer and parked it forward so as to be able to gain easy access from the house to the door of the trailer. She said they tried to move the trailer back 20 feet, but they had to remove landscaping and it resulted in an encroachment on the adjacent property and the clothes line.

Staff Member Wernimont discussed current setback requirements for stored vehicles, noting that the request is to be 10 feet from the Chaney Road frontage. He said that when the RV is moved back, it begins to encroach on the side yard setback of the adjacent property owner. He said that he spoke with the neighbors when he was in field, and that they did not express any concerns with the request. He said that if the vehicle was moved 20 feet back, the applicant would have to pave a large driveway and widen the curb cut.

Board Member Golombeski asked if the RV was centered on the lot. The applicant said it was approximately centered on the lot.

Board Member Pope said that she was pleased that the neighbors had no concerns and she said that she felt that the camper represented a somewhat temporary use.

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

**Docket 16-16/Special Exception:** Application of Roger & Ann Pickel, 944 Liberty Avenue, to install a 10'X30' paved pad for storage 10 feet from the front property line, twenty (20) feet minimum required, in an R-1 Single-Family Residential zoning district.

Roger Pickel, 944 Liberty Avenue, explained his request to place a stored boat 10 feet from the front property line. He said that beyond 10 feet the yard tapers off to a hillside. He expressed concerns with security if the vehicle were to be placed back away from the street.

No one spoke in opposition to the request.

Staff Member Hemenway reviewed the request with the Board. He noted that the Zoning Enforcement Officer had been contacted regarding storage of the boat, and subsequently, Mr. Pickel had consolidated his lot enabling him to store a boat legally in his yard. He noted the location of the proposed pad relative to the street. He said that there is no house on the same side of the street as Mr. Pickel and that the boat would be positioned well away from the side of the houses across the street. He said that the yard slopes and if the boat were to be placed 20 feet back, it would require extensive grading or a retaining wall to keep the pad level. He discussed the history of the property, noting that the City had received the property after a condemnation and that the junkyard had been cleared. He said that subsequently Mr. Pickel purchased the lot and it has been well kept ever since.

Board Members discussed the request and felt it was appropriate.

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

**Docket 17-16/Special Exception:** Christopher & Christine Feldman, 1675 Amy Court, to erect a six (6) foot high fence in the front yard (Pennsylvania Avenue), four foot high maximum permitted, in an R-1 Single-Family Residential zoning district.

Staff Member Wernimont outlined the request. He noted the property configuration and fence location relative to Pennsylvania Avenue and adjacent properties. He said that the fence will not block the view from the fronts of adjacent properties or driveways, and



that it will help reduce the noise and lights coming down Rosemont Street and the kids cutting through from Hempstead High School.

Board Members discussed the request and felt it was appropriate.

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

**Docket 18-16/Conditional Use Permit:** Application of Al Urbain Construction Management, Inc. to convert building into a restaurant with a drive-through for property located at 800 & 804 Rhomberg Avenue.

Al Urbain noted the location of the property and stated that they would like to renovate the building, reverting it to its original use as a restaurant. He said it was a Dog & Suds drive-in in the past. He said that a conditional use permit is required for the drive-through component of the proposed restaurant. He said that the curb cuts along Stafford Street will be removed and that access will be taken from Rhomberg Avenue with an exit into the alley. He discussed traffic circulation on the site.

Staff Member Hemenway presented the staff report. He noted the historical uses of the property and he explained that Board approval would be contingent upon the applicant being granted a rezoning by the City Council. He discussed the drive-through configuration, stating that the City's Engineering Department had given preliminary approval for access and egress. He noted that the property is currently zoned C-1 and is grandfathered for an auto sales and service center. He said that the existing zoning and grandfather status of the property could present potential negative impacts if redeveloped.

He noted that the 16 seat restaurant will have an excess of off-street parking spaces. He discussed traffic counts along Rhomberg Avenue. He said that cars would enter the drive-through from Rhomberg Avenue and then exit into the alley and then onto Stafford Street. He said that repurposing the building would help renovate a currently vacant commercial structure, which he said if left undeveloped, could contribute to deterioration of the building and an accumulation of trash and contribute to urban blight in the neighborhood.

Board Member Golombeski asked about the accessible stall, noting she felt it did not have adequate backing space. Mr. Urbain said they have reviewed traffic circulation for the site and they have the potential to block off access to the alley. He noted that they had sent letters to the adjacent property owners within 200 feet and had received minimal response.

Board Members discussed the request and felt it met the criteria for granting a conditional use.

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

**ADJOURNMENT:** The meeting adjourned at 7:00 p.m.

Respectfully submitted,

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Kyle L. Kritz, Associate Planner

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Adopted