

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

5:00 p.m.

Thursday, January 26, 2017

City Council Chamber, Historic Federal Building

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

Board Members Excused: None.

Board Members Unexcused: None.

CALL TO ORDER: The meeting was called to order by Chairperson McCoy 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: Motion by Cremer, seconded Ahlvin, to approve the minutes of the December 22, 2016 Zoning Board of Adjustment meeting. Motion was approved by the following vote: Aye – Ahlvin, Golombeski, and McCoy; Abstain – Cremer and Pope.

DOCKET 01-17: Application of Nesper Sign Advertising, Inc., for a Sign Variance to install a 100 square-foot wall-mounted sign, for a total of 627 square feet of wall-mounted signage, 550 square feet maximum permitted, in the Warren Plaza PC Planned Commercial District.

Phil Garland, President of Nesper Signs, 4620 J Street SW, Cedar Rapids, Iowa, explained the request to the Board. He said that Hy-Vee's proposal is to add a 100 square-foot "Market Grille" sign to the east building wall. He said that the proposed sign and existing signs are proportionate to the building wall and that it is necessary to advertise the additional amenity to the Hy-Vee Store.

No one spoke in opposition.

Staff Member Hemenway reiterated the request. He explained the Warren Plaza Planned Commercial District sign regulations. He referred to a sign rendering showing the square footage and location of the building signage for the Hy-Vee Store. He noted that Hy-Vee was permitted an unlimited number of wall-mounted signs with a maximum aggregate of 550 square feet of sign area. He said that the plaza developer and Hy-

Vee established the sign regulations for their business.

Chairperson McCoy discussed the expansion of signage for Hy-Vee. He said that retailers are typically allowed 400 square feet of wall-mounted sign area, and that Hy-Vee was allowed up to 550 square feet. He said that they are now asking to place additional signage on the building. He said that the applicant has not adequately demonstrated a hardship.

Board Member Golombeski said that the "Hy-Vee Wine & Spirits" sign could be reduced in size. She said that reconfiguring the existing signs may permit the addition of the proposed sign while keeping within the 550 square feet permitted.

Mr. Garland proposed boxing in around each letter of the wall signs and issuing a sign permit for each. He said that some communities do this to reduce the amount of square footage. He said that reducing the sign area by placing the text closer together is not visually appealing. He said that the signs as proposed are not detrimental to the commercial area.

Chairperson McCoy discussed the possibility of reconfiguring the signage to meet the 550 square feet.

Board Member Pope asked how the 550 square feet was established. Staff Member Hemenway said that the developer and the business owner created the sign regulations. He said that a text amendment had been granted to Hy-Vee to allow them to increase the amount of signage originally allowed to 550 square feet. He clarified that Hy-Vee is allowed an unlimited number of signs provided they do not exceed the aggregate square footage. He discussed how wall-mounted sign area is calculated, noting that the Unified Development Code requires boxing around the extremes of the text.

Board Member Pope said that she felt that Hy-Vee suffered a hardship because of its location and distance from the adjacent public right-of-way.

Board Member Cremer said that he did not feel that the Hy-Vee has demonstrated a hardship.

Board Member Ahlvin agreed, stating he did not feel that the business suffered a hardship.

Board Member Golombeski said she did feel the additional sign was warranted because of the multiple entrances on the building, but that they could still live within the square footage permitted.

Board Member Cremer said that a comprehensive building sign plan could be designed so as to keep within the allotted square footage.

Board Member Pope said that she felt that the applicant did not meet Criteria 3 regarding the criteria established for granting a variance.

Board Member Golombeski said she did not feel that the applicant met the criteria.

Board Member Cremer said that he felt that the applicant did not meet Criteria 2 & 3.

Board Member Ahlvin said that he did not feel that the applicant met Criteria 1, 2 & 3.

Chairperson McCoy said that he felt the applicant did not meet Criteria 2, 3 & 4.

Motion by McCoy, seconded by Pope, to approve the approve the sign variance application as submitted. Motion was denied by the following vote: Aye – None; Nay - Cremer, Ahlvin, Pope, Golombeski and McCoy.

DOCKET 02-17: Application of Kim Schmit, 2225 Clydesdale Court, for a Conditional Use Permit to create an accessory dwelling unit as a Conditional Use in an R-1 Single-Family Residential Zoning District.

Chairperson McCoy stated that the Board would hear Dockets 02-17 Conditional Use Permit for 2225 Clydesdale Court, and 03-17 Special Exception for 2225 Clydesdale Court simultaneously and vote on each separately.

Staff Member Hemenway explained that the request had changed slightly based on an email received from the applicant. He said that they have asked to reduce the square footage of the accessory unit from 2,000 square feet to 1,611 square feet. He also noted that he had received correspondence from the Thomas W. and Francine M. Paisley, 2320 Clydesdale Court and Jay and Lori Fedje, 2245 Clydesdale Court, that included Police Department calls for service and photographs, which he submitted to the Board. The Board took a moment to review the submitted documents.

Kimberly Schmit, 2225 Clydesdale Court, said that her home is approximately 4,800 square feet in size, and that she moved to this location in 2002. She said that she is a foster parent and cares for a number of young people. She said that the Police report reflected some of the problems the children had, but there had not been any calls since 2014. She said that she had up to 10 children at a time. She said that the house has seven bedrooms and that she provides in-home daycare. She said that the family has been very active with people coming and going. She said that as some of the children have left the house, the amount of activity has slowed down significantly.

Ms. Schmit said that some of the children have returned home, and that a kitchen had been added to the basement so their son and daughter-in-law and their child could live independently. She said that no additional electrical work would be done in the basement. She said that most people in the neighborhood park in their garage or on their driveway and not in the street. She said that there is plenty of surplus on-street

parking in the neighborhood. She explained the change in the request, noting that she would only be using 34% of the total space of house for the accessory dwelling unit.

Mary Furst, 2220 Clydesdale Court, said that she opposes the request to create the additional unit. She said that she has lived at her present location since 1991. She expressed concerns with the potential impact on property values. She said that a 1,600 square-foot unit is not incidental or subordinate to the Schmit residence. She said that the house has had 41 calls for service over the past several years. She said that although the house has 7 off-street parking spaces, the garage is filled with storage goods, and outdoor projects take up some of the available driveway parking. She said that the occupants of the house have parked their vehicles on the street and block her mail box.

Lori Fedje, 2245 Clydesdale Court, said that she lives next to the Schmit property and has just recently moved to this location. She said she has noticed an increase in traffic in the neighborhood, and she expressed concerns with parking and untethered dogs. She noted there has been an accumulation of trash and other items in the yard of the subject property. She said she was also concerned with the impact on the value of her property, and had always thought this was a single-family neighborhood. She said she did not know that the applicant had proposed to create a rental property, and said she was opposed to a duplex.

Chip Murray, 2280 Clydesdale Court, said that he agrees with the concerns noted by his neighbors. He expressed concerns with barking dogs and discussed the potential impact the proposed unit may have on the quality of life in the neighborhood.

Brian Sanger, 2250 Clydesdale Court, said he has lived in the neighborhood since 2015. He said he has concerns with the proposed additional dwelling unit and its impact on his quality of life and the value of his property. He said he has concerns with the amount of people coming and going, and other activity generated by the residents of the subject property.

Tom Paisley, 2320 Clydesdale Court, said he built his house in this neighborhood in the 1980s. He said he has concerns with traffic safety and the impact on the value of his property.

Kim Schmit said that she had not met with her new neighbor, and this was the first she heard of the concerns she raised. She said that money generated from the additional rental unit would help her to build a fence, which would improve privacy and contain the dogs. She said the people that are coming and going from her house are her family. She said that the Board could, if they chose, impose additional conditions on approval. She said she could provide the names of the residents and limit their visits. She said that her son had moved to Kansas, and that she currently is not able to remove the accumulated furniture and other debris from the driveway.

Staff Member Hemenway presented the staff report. He explained that whatever the Board's decision is, it would not set precedent as each case is heard independently.

Staff Member Hemenway explained the history of the accessory unit provision that was included in the Unified Development Code re-write in 2009. He said that the intent was that the unit be accessory to the principle use and that it would be incidental and subordinate to primary residence. He said that the standards established limited the floor area to 600 square feet and was initially intended to help people care for their elderly parents or returning college students. He said; however, that residency is not in limited to family.

He discussed the criteria established for approving an accessory dwelling unit. He noted the definition of family, which he said included any number of individuals related by blood, marriage or formal adoption and foster children, plus not more than three unrelated individuals. He discussed the definition of accessory uses. He noted that the applicant had reduced the request from 2,000 square feet to 1,600 square feet as the floor plans initially submitted by the applicant were not detailed. He said that the site currently has a surplus of parking.

Staff Member Hemenway said that there have been three accessory units approved in the past, and that staff had not received any complaints regarding these properties.

Chairperson McCoy said that he felt that because of the size of the proposed dwelling, it would not meet the definition of an accessory unit. He said it would be a de facto duplex in an R-1 Single-Family Residential zoning district. He said he felt there are other criteria the request would not meet.

Motion by Pope, seconded by Cremer, to approve the request for a Conditional Use Permit as submitted. Motion was denied by the following vote: Aye – None; Nay – Cremer (Criteria H), Ahlvin (Criteria H), Pope (Criteria C, F, G & H), Golombeski (Criteria H) and McCoy (Criteria F).

DOCKET 03-17: Application of Kim Schmit, 2225 Clydesdale Court, for a Special Exception to create a 2,000-square foot accessory dwelling unit, 600 square feet maximum permitted, in an R-1 Single-Family Residential zoning district.

The Board relied on information heard in the joint review for the conditional use and special exception to reach a determination.

Motion by McCoy, seconded by Pope, to approve the Special Exception request as submitted. Motion was denied by the following vote: Aye – None; Nay – Cremer (Criteria B & E), Ahlvin (Criteria B & E), Pope (Criteria B & C), Golombeski (Criteria A & B) and McCoy (Criteria A, B & E).

DOCKET 04-17: Application of Chris Miller for a Sign Variance to install a 30-square foot wall-mounted sign, 16 square feet maximum permitted, in an OC Office Commercial zoning district for property located at 40/44 Main Street.

Heidi Drapeau, owner of a salon at 44 Main Street, said that she is asking for additional signage area because of the remote location of her business. She said that the business is difficult to see from any point along Main Street.

Staff Member Wernimont noted that the main entrance to the subject business was located on the back side of the building. He said that the building is a large-scale brick warehouse. He discussed the building's orientation and its proximity to the street. He said that the building had formerly been zoned C-4 Downtown Commercial District, which would have permitted up to 100 square-feet of wall-mounted sign area per business. He said that the property owner rezoned the property to OC Office Commercial district to allow ground floor residential development. He discussed the location of other office commercial properties, including those located in the Cable Car Square, noting there generally smaller scale, often two-story houses. He discussed the surrounding land use and zoning.

Board Members discussed the request and felt that based on the size of the building, its proximity to adjacent streets, and the location of the business on the back side, that the request was appropriate.

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

DOCKET 05-17: Application of Jake Willey for a Conditional Use Permit to open a vehicle service/repair/body shop at 1781 White Street/54 E. 18th Street in a C-4 Downtown Commercial zoning district.

Jake Willey, 3060 Pennsylvania Avenue, introduced Tim Hitzler, 24 North Grandview, both representing Key City Creative Center. He said that their intent is to create a maker space concept. He said that the proposal would be a great addition to the downtown area.

Staff Member Wernimont defined a maker's space and discussed the proposed floor plan for the building. He said that most of the uses within the makers' space would be permitted in the C-4 District as a contractor's shop. He said that auto repair requires a conditional use permit because it may be located close to residential use. He said the Board could explore conditions on approval that could include limiting the hours of operation. He discussed the surrounding land use noting it was mixed residential and commercial. He said that property owners within 200 feet had been notified and that he had received no input.

Board Members expressed concerns with the potential for noise that may be generated by auto repair activities.

Chairperson McCoy said he is concerns with the potential impact on the residential neighborhood. He said that noise from these types of uses can be problematic. He asked how the applicants intended to operate the facility. Mr. Hitzler said that noise will not be continual. He said there will be a car lift, air wrenches and a welder for repair purposes. He noted that the facility would be open 24/7. He said that the garage door could be closed, except; for entry/exit.

Board Member Pope stated that the doors could be required to be closed for a specified period of time.

Board Member Golombeski asked if there was any additional off-street parking available, and the applicant replied there were several other garage doors on the facility with access to parking.

NOTE: Board Member Pope left at 6:30 p.m.

Mr. Hitzler noted that the air conditioning had been installed which would enable them to close the doors more frequently.

Board Member Cremer expressed concerns with enforcement issues. He recommended that the applicants be sensitive and respectful to their neighbors.

Motion by McCoy, seconded by Ahlvin, to approve the approve the conditional use permit request with the condition that the garage door for the auto repair portion of the building be closed from 9:00 p.m. to 7:00 a.m. except for brief entry and exit. Motion carried by the following vote: Aye – Cremer, Ahlvin, Golombeski and McCoy; Nay – None.

ITEMS FROM PUBLIC: Kimberly Schmit, 2225 Clydesdale Court, said that her home had locks on all the doors because she had rented in the past. She expressed frustrations with the concerns raised by her neighbors. The Board noted that it was important that she try to get along with her neighbors. Board Member Cremer stated that the Board did not base their decisions on the concerns raised by the neighbors, but based them on the criteria established for granting both a conditional use and a special exception.

ADJOURNMENT: The meeting adjourned at 6:45 p.m.

Respectfully submitted,

Kyle L. Kritz, Associate Planner

Adopted

