



Approved

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

5:00 p.m.

Thursday, February 23, 2017  
Room 223, Historic Federal Building

**Board Members Present:** Chairperson Jonathan McCoy; Board Members Keith Ahlvin, Bethany Golombeski, and Joyce Pope; Staff Members Ose Akinlotan, Guy Hemenway, Kyle Kritz, and Wally Wernimont.

**Board Members Excused:** Jeff Cremer.

**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 Ahlvin, seconded by Golombeski, to approve the minutes of the January 26, 2017 meeting as amended. Motion carried by the following vote: Aye – Ahlvin, Pope, Golombeski and McCoy; Nay – None.

**Docket 06-17/Special Exception:** Application of Michael Thill, 1629 Rhomberg Avenue, to construct a 25' x 25' detached garage nine (9) feet from the front property line (Hamilton Street), 10' minimum required, and zero (0) feet from the rear property line (alley), six (6) feet minimum required in an R-2A Alternative Two-Family Residential district.

Michael Thill, 1625 Rhomberg Avenue, explained his request to the Board. He said that he is going to tear down an existing 300 square foot detached garage and construct a new 25' by 25' detached garage. He explained that the new garage will be accessed from the alley.

Staff Member Akinlotan presented the staff report noting that the proposed detached garage will encroach slightly into the visibility triangle of the alley and Hamilton Street.

The Board discussed the request, and felt that the detached garage is in character with other existing garages in the neighborhood. Chairperson McCoy asked Mr. Thill how he plans on managing storm water from the garage. Mr. Thill noted that stormwater will be captured in a gutter.

Motion by Pope, seconded by Ahlvin, to approve the Special Exception request with the condition that storm water be directed onto the subject property. Motion carried by the following vote: Aye – Ahlvin, Pope, Golombeski and McCoy; Nay – None.

**Docket 07-17/Conditional Use Permit:** Application of Daniel McNamer, 2891 Northridge Drive, to allow a home-based firearms mail order and repair business in an R-1 Single-Family Residential district.

Daniel McNamer, 1865 Phyllrich Drive, said he has been operating a home-based firearms mail order/repair business for six years at his current location. He explained that he has customer contact on site by appointment only. He said on average, he conducts approximately four sales per month.

Tom Buelow, 2881 North Ridge Drive, said that he is the closest neighbor to the property at 2891 Northridge Drive. He said that he sees no danger with the firearms mail order and repair business since it is regulated by the ATF. He said that there is potential for additional traffic and impact on property value in the neighborhood. He said that there are several renters who reside at the property at 2891 Northridge Drive that currently create parking issues in the neighborhood.

Jim Lansing, 2890 Northridge Drive, explained that he is the neighbor on the opposite side of 2811 North Ride Drive property. He said he has concerns with property value. He said that he did not see any real detriment created by the firearms business, and that it would be good to see younger people in the neighborhood. He said that it would be nice to hear from other neighbors in the Phyllrich Drive neighborhood regarding Mr. McNamer's current property.

Staff Member Wernimont read a letter into the record from Ron Turner who resides at 1866 Phyllrich Drive.

Bill Rhomberg, 2825 Northridge Drive, said that he is a long-term resident of the neighborhood, and that he welcomes new neighbors. He said that there is not a lot of traffic to the existing property at this time.

Dave Feltes, 2830 Northridge Drive, said that he had concerns with traffic generated by a business in the neighborhood. He asked what will happen if the business becomes very popular and expands. He also asked if Mr. McNamer would be selling assault rifles, and what the requirements for a background check are.

Lou Fautsch, 2833 Northridge Drive, said that he was surprised that selling firearms is a legal home occupation. He expressed concerns with traffic and undesirable individuals who may visit the premises.

Harold Styer, 2845 Northridge Drive, said he is opposed to the business.

Jim Seitz, 2837 Northridge Drive, said he wanted some clarification with regard to retail sales and what happens if the business activity increases and there are more frequent visitors.

Mr. McNamer said that he will not repair firearms. He said that the property will have no signs and the FBI does background checks on all customers who will be purchasing firearms. He said his business generates very little traffic and most of his business is with hunters and sportsmen. He said he does not maintain an inventory and that purchases will be delivered to the home and stored in a gun safe for a short time until the customer clears a background check and can pick-up the firearm. He said he does not anticipate any increase in his business volume.

Staff Member Wernimont presented the staff report. He noted that 2011 Zoning Board of Adjustment approval for Mr. McNamer's operation at his present address on Phyllrich Drive. He explained the conditional use permit criteria for a home-based business. He said that if a home-based business is not listed as permitted or prohibited, that a conditional use permit can be applied for. He explained that conditional use permit approval is tied to the land and does not follow the property owner, and hence the reason for Mr. McNamer's application for a new conditional use permit. He explained that the ATF requires zoning verification for a home-based firearms business prior to issuance of a federal firearms license.

Board Member Pope and Chairperson McCoy said it appears that Mr. McNamer has a good track record at his present location. They said they felt that the home-based business meets the criteria for granting a conditional use permit.

Motion by Pope, seconded by Ahlvin, to approve a home-based firearms mail order and repair business at 2891 Northridge Drive in an R-1 Single-Family Residential district. Motion carried by the following vote: Aye – Ahlvin, Pope, Golombeski and McCoy; Nay – None.

**Docket 08-17/Special Exception:** Application of Clyde Kay, Lot 16-18 Morgan Subdivision (NW Corner of 16<sup>th</sup> & Cornell), to build a six-unit residence ten (10) feet from the front property line (W. 16<sup>th</sup> Street & Cornell Street), twenty (20) feet required in an R-3 Moderate Density Multi-Family Residential district.

Clyde Kay, 6081 Valleywood Court, Asbury, said that he would like to construct a six-plex at this location. He said that under current regulations he could construct a six-plex and have six curb cuts along 16<sup>th</sup> Street. He said that if he is approved, he could place the six plex closer to the street, and put parking behind with garages located in the lower level. He said driveway access would then be taken from Cornell Street, which he said would eliminate the need for curb cuts along W. 16<sup>th</sup> Street.

Vicky Klinkhammer, 1630 Cornell Street, said that she lives at the end of a dead-end street. She said the 10-foot setback would be place the structure too close to her property. She discussed photos of the site and location of the neighbors' houses. She expressed concerns with storm water runoff. She discussed the property's history and noted that the units will probably be rented to college students, who she said are not good neighbors. She said Cornell Street is in bad shape and needs to have curb and gutter installed.

Gary Schlosser, property owner of 1589 Cornell and 528 W. 16<sup>th</sup> Street, said he had concerns with on-street parking and snow removal. He noted that the property is part of a residential parking permit district.

Mr. Kay said that he understands the neighbors' concerns. He said he will be required to meet the City's standards for parking, building construction and storm water management. He said that by positioning the buildings closer to the street and taking access off Cornell Street he will not be eliminating any on-street parking. He said that this is important, given that this property is located in a residential parking permit district. He said that he also may be required to put in curb and gutter along Cornell Street.

Board Member Golombeski asked if there would be additional parking located behind the structure. Mr. Kay said there would be approximately 40 feet of pavement behind the building that will allow parking in the garage and immediately outside the garage doors.

Staff Member Wernimont presented the staff report noting neighborhood concerns regarding parking. He explained that the applicant is proposing to construct six units either as laterally attached townhouses or as three duplexes. He said the off-street parking requirement for a six-plex is 1 ½ parking space per unit and two parking space per unit for a duplex. He said that a sidewalk will be required to be installed along W.16<sup>th</sup> Street. He said that there is currently enough lot area to accommodate six units. He explained the setback requirements in the district, noting that the proposed structure will be in keeping with neighboring residences. He said that off-street parking will be accessed from Cornell Street. He noted that if additional curb cuts are installed along 16<sup>th</sup> Street much of the on-street parking would be removed from the existing residential parking permit district. He discussed the definition of a single-family and the number of tenants that could reside in a unit.

The Board discussed the request, noting that the applicant is permitted by right to construct a six-unit building or three duplexes at this location. They noted that the proposed setbacks are in keeping with the adjacent residences and that the project will not eliminate on-street parking.

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

**Docket 09-17/Variance:** Application of the Dubuque Racing Association, 1855 Greyhound Park Road, to install six wall-mounted signs for a total of 696 square feet of sign area, four signs and 400 square feet max permitted in a CR Commercial Recreation district.

Brian Southwood, Vice-President of Grant & Special Projects for Dubuque Racing Association, explained the request to the Board. He discussed the location of the casino and other buildings on the Chaplain Schmitt Island. He discussed the history of the previous and existing land uses. He said that the signage is needed to attract people to the casino property. He said the property suffers a disadvantage because it is located on an island and sits well below the grade of the freeway. He compared the signage for the Dubuque Greyhound Park to what the Diamond Jo Casino has in the Port-of-Dubuque.

No one spoke in opposition to the request.

Staff member Hemenway presented the staff report. He noted the amount of wall-mounted signage that is allowed for the casino. He explained the variance request, noting the square footage and location of the proposed wall-mounted signage. He explained the previously approved sign variance request for the freestanding sign. He noted the location of the freestanding signs and outlined the Sign Overlay District (SOD) regulations.

Board member asked staff if the Sign Overlay District regulations apply to on-premise signs. Staff member Hemenway said they apply to both on- and off-premise signs.

Chairperson McCoy asked about the free-standing sign and the previous sign variance approval. Staff member Hemenway explained the previous sign variance request.

Board member Pope asked if they have any existing wall-mounted signage. Mr. Southwood said that they do not have wall-mounted signage for the casino. Board member Pope asked where the businesses (casino, restaurant, dog track, etc.) entrances are located. Mr. Southwood noted the main entrance locations.

The Board reviewed the criteria for granting of a sign variance.

Board member Golombeski noted that the building has multiple businesses. She said that she understands the need for the signs that face the freeway, but not the signs that face the parking lot.

Board member Alvin said he is more open to approving larger signs due to size of the building and distance from the road than the number of signs.

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

Board member Alvin noted that the sign variance did not meet criteria 1 or 2. Board member Golombeski noted the sign variance did not meet criteria 2. Board member Pope noted the sign variance did not meet criteria 2, 4 or 5. Chairperson McCoy noted the sign variance did not meet criteria 2, 4 or 5.

**Docket 10-17/Conditional Use Permit:** Application of the City of Dubuque for property located along the South Fork of Catfish Creek (West of Cousins Road) to excavate stream bank slopes to a two to one (2:1) slope or flatter and install Longitudinal Peaked Stone Toe Protection (LDSTP) on outside of sharp bends along the South Fork of the Catfish Creek West of Cousins Road. Section 16-6-4.12 of the City Code requires a Conditional Use Permit prior to work commencing.

Note: Board member Keith Alvin left the meeting.

Staff member Kritz, representing the City of Dubuque, explained the request to the Board. He said that the Unified Development Code's Flood Plain regulations require that a conditional use permit be reviewed and approved by the Board. He said that the City has received approval from the Iowa Department of Natural Resources and the United States Army Corp of Engineers for the proposed bank stabilization project. He explained the reason for the work and showed photos of bank erosion and bank armoring.

No one spoke in opposition to the request.

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

**ITEMS FROM STAFF:** Staff person Kritz discussed the Zoning Board of Adjustment By-Laws noting that all Board and Commission By-Laws are being revised. He explained the proposed changes to the By-Laws. Board member Pope asked that the sentence regarding voting requirements remove the reference to majority because regardless of the number of members present, three affirmative votes are required to pass a docket.

Motion by Pope, seconded by Golombeski, to approved the revised By-Laws. Motion carried by the following vote: Aye – Pope, McCoy and Golombeski; Nay – None.

**ITEMS FROM BOARD:** Board member Pope thanked Staff for very thorough explanation of staff reports.

**7ITEMS FROM PUBLIC:**

**ADJOURNMENT:** The meeting adjourned at 6:38 p.m.

Respectfully submitted,



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Kyle L. Kritz, Associate Planner

03/23/2017

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Adopted