



Approved

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

5:00 p.m.

Thursday, January 25, 2018

City Council Chamber, Historic Federal Building

Board Members Present: Chairperson Jonathan McCoy, Board Members Keith Ahlvin, Bethany Golombeski, Jeff Cremer 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 5:05 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 December 21, 2017 Zoning Board of Adjustment meeting as amended. Motion carried by the following vote: Aye – Ahlvin, Pope and Golombeski; Abstain – Cremer and McCoy.

Docket 51-17/Special Exception (tabled): Application of Jeremy Biedermann, 830 Fremont Avenue, to build a 50' by 100' (5,000 square feet) detached garage for a total of 6,151 square feet of detached accessory structures, 1,000 square foot maximum permitted and 20' in height, 15' maximum allowed, in an R-1 Single-Family Residential zoning district.

Anthony Wright, 1449 Miller Road, said that he represents Jeremy Biedermann. He said Mr. Biedermann would like to build a large garage for storing his motorhome and other vehicles. He said that the structure will not be a steel building and will not be used as a contractor's shop.

Dale Dalsing, 815 Valentine Drive, said that he does not feel that Mr. Biedermann needs this large of a storage building. He said that the property and building will likely be used as a contractor's shop with the resultant commercial activity. He said he believes the garage will be used for Mr. Biedermann's business.

Bob Isenhardt, 793 Valentine Drive, said that Midwest Storm Contractors lists this property as their business address. He said that the building will be used for commercial purposes, and may have a negative effect on the value of his property. He said that several trucks and other construction equipment are parked on the property during the day. He said that the steep driveway access is problematic as it constitutes a traffic safety problem.

Gary Flynn, 799 Valentine Drive, expressed concerns with the potential for future commercial use of this building should it be sold. He said that this commercial activity would generate noise that would impact his property.

Mr. Wright said that the noise that the neighbors have been hearing is a result of the ongoing renovation of the house. He said that Mr. Biedermann's business mostly works out of town. He said that Midwest Storm Contractors have a shop in Muscatine, Iowa, and he said that supplies are either stored in Muscatine or delivered directly to the homes under construction. Mr. Wright said he was uncertain whether the trees along the western property line would be removed, but he said he was sure that Mr. Biedermann would be willing to plant additional landscaping should the Board require it.

Staff Member Wernimont outlined the staff report. He said that the applicant's intent is to remove an existing 1,900 square foot building and replace it with a 5,000-square foot building. He discussed the accessory structure regulations, noting that the structure should be incidental and subordinate to the principal use, which is the residence itself. He asked if any of the neighbors were aware of the activity went on the site prior to Mr. Biedermann's purchase. He said that under current Unified Development Code regulations, construction equipment and commercial materials cannot be stored on-site. He said that staff recommends that, if approved, the Board stipulate that the property cannot be used for commercial purposes, and that the driveway access to the structure must be hard-surfaced as per City standards.

Board Members discussed the building height. Board Member Ahlvin noted that the existing building could be demolished and a new building constructed on the same footprint.

Staff Member Wernimont reiterated that the Board could require additional screening and landscaping on the site as part of any approval.

Chairperson McCoy said that if approved, the property will consist of three accessory buildings up to six times of that allowed in a standard residential district. Board Member Golombeski noted that if the building is moved closer to the property line, it will be more imposing. She said that she agreed that the excessive building height is also problematic.

Board Member Ahlvin said that he feels that the building, whether used for commercial purposes or not, is too large and out of character with the neighborhood. He said that it will look commercial, regardless of its use.

Chairperson McCoy asked if the Board could just approve the excess height and not the increased square footage. Staff Member Wernimont said yes, if the applicant was confined to the footprint shown on the submitted diagram. Chairperson McCoy asked if Mr. Wright would be willing to table the request to consult with the applicant regarding the minimum dimensions necessary for the storage of the motorhome. Mr. Wright said that the motorhome will not fit within the footprint of the existing building.

Board Member Golombeski asked if the building could be reconfigured slightly smaller in square footage and still accommodate the motorhome. Board Member Pope asked the applicant if he would like to table the request in an effort to resolve the outstanding building size and configuration issue. Mr. Wright asked that the Board table the Special Exception request.

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

Docket 01-18/Special Exception: Application of David and Janice Schultz, 2434 Broadway, to construct a 24' by 32' detached garage 0' from the south side property line, 6' minimum required, in an R-2 Two-Family Residential Zoning district.

David Schultz, 2434 Broadway, said that the former garage on the site was old and dilapidated and that it was torn down. He said that it was too small to be functional. He said he would like to build slightly larger and that the original footprint.

Staff Member Wernimont outlined the staff report, noting the location of the former garage on aerial photos. He said that the new garage will be built over the footprint of the old garage but will be deeper, thus, requiring a Special Exception. He said that he has received no input from the neighbors. He recommended that if the Board were inclined to approve the request, that the applicant be required to clearly establish the lot line to the Building Official's satisfaction, and that a gutter be placed along the roof edge and storm water be directed away from the adjacent property.

Board Member Golombeski said that the garage would not be out of character with other structures in the neighborhood.

Motion by Ahlvin, seconded by Pope, to approve the Special Exception request with the conditions that:

- 1) The applicant clearly establishes the property line to the Building Official's satisfaction; and
- 2) A gutter be placed on the south building roof edge to direct storm water away from the adjacent residential property.

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

DOCKET 02-18 Special Exception: Application of John and Mantea Schmid, 200 Fremont Avenue, to construct a single-family residence 479' from the front property line, 50' maximum permitted, in an R-1 Single-Family Residential zoning district.

Pat Ready, IIW Engineering, introduced co-worker Cody Austin. He referred to diagrams showing the existing lot configuration and the proposed re-plat of the property. He said that the Schmid's had discussions with the University of Dubuque regarding purchase of the balance of the property. He read a list of property owners that were notified regarding the request. He said that the re-plat would involve subdividing the Schmid property and creating a flag lot with access from Fremont Avenue.

Mr. Ready said that he spoke with Dave Krieg regarding access, and that the engineers tried to configure the driveway and place screening in such a fashion as to limit the amount of exposure the Krieg residence has to headlights. He said that the driveway alignment will still meet the Engineering Department's requirements for safe access to Fremont Avenue. He noted that the paved driveway will meet the requirements necessary for emergency vehicle access and egress. He said that the rectangle shown on the second illustration represents the buildable area and the approximate footprint of the house is shown within. He referred to trees along the east property line that he said impede the view of the golf course.

Mr. Ready referred to elevation views of the proposed residence from various adjacent properties and from Coates Street and Fremont Avenue. He discussed an oblique aerial view showing the subject property and adjacent properties, noting that there are several properties in the neighborhood where houses are setback in excess of 50 feet from the front property lines. He referred to the criteria required for granting a Special Exception, noting that the proposal would not substantially diminish property values and that the proposed single-family home would not be out of character with the neighborhood. He said that proper access and drainage would be provided.

Chairperson McCoy referred to Exhibit B, and noted that the applicant could build a house on the existing flag lot. Mr. Ready said that the applicants preferred to relocate the new residence directly behind their house. He said that there are mature trees on the site that they did not want to remove. He discussed the previous Special Exception approval.

Board Member Golombeski noted there is an approximately 25-foot grade change and asked what the building height is. Mr. Ready said that they did not have architectural plans, but that Mr. Schmid was able to reach the architect, and he noted that the building height would be 27 feet. He said that the Schmid's are working with their architect to finalize the building plans.

Chairperson McCoy read the letters the Board had received – one from the University of Dubuque, one from Mr. Scott Arnold of 240 Fremont Avenue, and one from Gwen Kosel of Exit Realty. He noted that Ms. Kosel stated that she felt a house at the proposed location would have a negative impact on the adjacent property values.

Marilee Tart and Chris Dempsey, 262 Fremont Avenue and 130 Fremont Avenue, said they spoke on behalf of a number of neighbors. She said they had two primary concerns. She said they feel the current back yards create a park-like environment with an unobstructed view. She said she felt placing a house behind their houses would be injurious to the use and enjoyment of their property. She said there are 13 homes in a row along Fremont Avenue that do not have structures in their rear yards. She said the elevations that were provided by IIW were showing mature trees that did not exist. She said that trees lose their leaves over the winter months during which time the proposed house would not be screened. She said that the previous Special Exception request that was approved would have placed the house much further away from her house.

Chris Dempsey, 130 Fremont Avenue, said he had concerns with the potential impact the new house may have on the value of his property. He referred to photos taken from various perspectives within his house and on his property.

Marilee Tart said that she spoke on behalf of Dave and Anne Krieg, Scott & Carolyn Arnold, Bob and Cindy Wagner, Marilee and David Tart, Ivan and Kathleen Gruhl and Chris and Lindsey Dempsey. Referencing the photos provided by IIW, she said she was not sure where they were taken from and not sure that they accurately portray the views from the adjacent properties. She said that the previous Special Exception request was denied unanimously by the Board in May of 2017. She said that the minutes indicate that the Board members felt that the request, if approved, would be detrimental to the value of the property.

Jim Steiner, University of Dubuque Finance Director, said that there is no agreement between the Schmid's and the University regarding the disposition of the adjacent property. He said that the University received the initial house and property as a gift. He said the University decided not to acquire the flag portion of the lot at this time.

Board Member Pope asked what the house is currently being used for. Mr. Steiner said that it is in the process of being renovated as the President's house, but is currently vacant.

Mr. Ready asked that, given the current circumstances and confusion surrounding the disposition of the remnant parcel and the University of Dubuque, the Board table the request until such time as the applicant could finalize the property configuration and disposition.

Chairperson McCoy asked if IIW could provide an elevation showing the building height at the next meeting. Board Member Golombeski asked that the applicants provide a rendering taken from the perspective of the University's property.

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

DOCKET 03-18/Conditional Use Permit: Application of Edward and Corrine Lehman to expand an auto repair business for property located at 98 E. 10th Street in a C-4 Downtown Commercial District.

Dan Steffens, 13806 Sherill Road, said that he owns the Toys Done Right body shop. He said he would like to purchase the property that is kitty-corner from his, and use it for an expansion of his business. He said the building is metal clad brick. He said that he needed additional space in which to dismantle vehicles. He said it will not be used for body repair. He said that insurance requirements dictate that he have a separate building conduct this activity.

Chairperson McCoy asked what Mr. Stephan's current hours of operation are. Mr. Steffens noted that he currently operates until 6:30 or 7:00 p.m. He said that one of his existing lots is screened and that he leaves no vehicles outside overnight.

No one spoke in opposition to the request.

Staff Member Hemenway presented the staff report. He discussed the building size and location noting that it is a barn block structure with a steel-clad exterior. He said that in a C-4 District, conditional uses are necessary because of the mixed-use nature of the neighborhood and the potential for negative impacts generated by an auto repair shop, which he said can include paint fumes and noises from air wrenches and storage of vehicle parts. He said that Mr. Steffens has several properties in the neighborhood and that Planning staff have never received a complaint regarding his current operations. He said the Board could place conditions on approval that could include hours of operation and exterior storage.

Board Members discussed the request and felt it was appropriate to limit the hours of operation. The Board discussed hours of operation and whether or not the exterior door should be closed.

Motion by Pope, seconded by Golombeski, to approve the Conditional Use Permit with the following conditions:

- 1) That no repair vehicles be stored outside;
- 2) That the hours of operation be limited to 7 a.m. to 7 p.m. Monday through Friday; and
- 3) That the doors be closed after 7 p.m.

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

ITEMS FROM STAFF: None.

ITEMS FROM BOARD: None.

ITEMS FROM PUBLIC: None.

ADJOURNMENT: Motion by McCoy, seconded by Cremer, to adjourn the January 25, 2018 Zoning Board of Adjustment meeting. Motion carried by the following vote: Aye – Cremer, Ahlvin, Pope, Golombeski and McCoy; Nay – None

The meeting adjourned at 6:50 p.m.

Respectfully submitted,



Kyle L. Kritz, Associate Planner

Adopted