

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

5:00 p.m.

Thursday, September 26, 2019

City Council Chamber, Historic Federal Building

Board Members Present: Chairperson Jonathan McCoy, Board Members Keith Ahlvin, Jeff Cremer, Bethany Golombeski, and Gwen Kosel; Staff Members Guy Hemenway and Travis Schrobilgen.

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.

DOCKET: 40-19

Applicant:

Address:

Proposal:

Special Exception – (Tabled)

Samuel A Thoma

1738 Atlantic Street

To install a 6' high fence 10' from the Atlantic Street frontage and 3' from the Delaware Street frontage, where 4' high maximum is permitted, and to place a storage shed 3' from the front property line, where 20' is required, in an R-1 Single-Family Residential zoning district.

Samuel Thoma, 1738 Atlantic Street, noted the changes to his original request. He said he would like to relocate his storage shed 3' from the property line. There was no public input.

Staff Member Schrobilgen noted the changes from the original request. He said that the property is located in a single-family neighborhood on a corner lot and that there are some steep embankments along the street frontages. He said that the embankments are heavily vegetated. He said that the fence and shed will not be located in the visibility triangle. He said that the fence will be placed ten feet back from the property line and be partially screened by existing vegetation. He said that the fence will not block adjacent views but may be out of character with the neighborhood. He recommended that, if approved, the visibility triangle remain clear from a height of 2' to 8'.

Board Member Kosel said she was pleased with the changes. Staff Member Schrobilgen noted that the fence had been moved back 10' from the original request and lowered from 8' to 6'. He said that it was also moved out from the visibility triangle.

In response to Board Member Ahlvin's question the applicant said that the fence will be a wooden dog-eared privacy fence. Board Member Cremer said that he was pleased that the fence had been lowered and moved out of the visibility triangle.

Board Members discussed the request and felt it was appropriate.

Motion by Cremer, seconded by Kosel, to approve the Special Exception request as submitted. Motion was approved by the following vote: Aye – Cremer, Ahlvin, Kosel and McCoy; Nay – None.

DOCKET: 41-19

Special Exception

Applicant:

Ken Lin

Address:

778 W 8th Street

Proposal:

To construct a deck and stairs zero feet from the front property line (W. 8th Street), where 10' minimum is required, and to cover 100% of the lot w/structures, 50% max permitted, in an R-2A Alternate Two-Family Residential zoning district.

Ken Lin, 778 W. 8th Street, detailed his request. He said that he would like to build a new deck and steps for his house.

Staff Member Hemenway explained the request noting that the proposed deck was slightly larger than the existing deck and that it will encroach upon the public right-of-way. He said that the Engineering Department had already reviewed the request and determined that the steps would not limit visibility or access along the sidewalk. He noted that the lot was very small and that the existing deck, stairs and house completely consume the property. He said that the new deck would not encroach any farther on to the public right-of-way than the existing steps do. He said that he had received no opposition from adjacent property owners.

Board Member McCoy asked if the property had received a Special Exception in the past. Staff Member Hemenway said that it had not. Board Member McCoy asked if the deck would cover more of the permeable area in the yard. Staff Member Hemenway said that the deck would cover a little bit more of the permeable area, however, the deck design would allow infiltration of water through to the underlying soil.

Board Member McCoy asked the applicant if the deck would be of an open design. Mr. Lin said that the deck would remain open.

Motion by McCoy, seconded by Ahlvin, to approve the Special Exception request with the condition that the deck remain open. Motion was approved by the following vote: Aye – Cremer, Ahlvin, Kosel and McCoy; Nay – None.

DOCKET: 42-19

Variance

Applicant:

Greg Howell

Address:

1085 University Avenue

Proposal:

To allow a dwelling unit below the first floor, where dwelling units are permitted above the first floor only, in a C-2 Neighborhood Shopping Center zoning district.

Greg Howell, 47184 161st Street, Bellevue, Iowa, outlined his request. He said that he commutes from the Bellevue area and would like to have an apartment below his business so he did not have to drive back and forth.

Board Chair McCoy asked what was in the basement space. The applicant said it is a storage area, but that it does have access on the exterior and interior of the building.

Staff Member Hemenway noted that residential use is not permitted on the first floor of commercial buildings in this district. He said that the intent of the ordinance is to maintain a critical mass of retail activity at the street level. He said that staff had never encountered a request to create a residence below the first floor in a commercial building. He said creating a residential space below the first floor would not impact the street level retail activity and would meet the intent of the ordinance. He said that the building was a walkout that had rear access and that any interior modifications to create a residential unit would have to meet all building and fire code requirements.

Board members discussed the request and said they felt it was appropriate.

Motion by Ahlvin, seconded by Kosel, to approve the Variance request as submitted. Motion was approved by the following vote: Aye – Cremer, Ahlvin, Kosel and McCoy; Nay – None.

DOCKET: 43-19

Special Exception

Applicant:

Schaul Properties

Address:

2173 Broadlawn

Proposal:

To construct a 12' x 22' garage 1' from the side property line, where 6' minimum is required, in an R-1 Single-Family Residential zoning district.

Tracy Schaul, 9009 Royal Wood, Peosta, Iowa, said that she would like to replace the deteriorating carport with a new garage.

John Davis said that his daughter owns the neighboring property at 2189 Broadlawn. He expressed concerns with water run-off from the proposed structure. He said that he was not sure where the property line is.

Board Chair McCoy asked Mr. Davis if he would be opposed if the garage were to be built within the same footprint as the existing carport. Mr. Davis asked about the roof design. Ms. Schaul said that the garage roof would be joined with the existing roof line and change very little.

Board Chair McCoy asked Ms. Schaul who would be responsible for locating the lot line and managing storm water.

Board Member Golombeski arrived at 5:25 p.m.

Board Members discussed possible storm water management options for the property.

Staff Member Schrobilgen outlined the staff report noting the neighborhood characteristics and parking status. He said that the garage would not constitute a safety issue. He said that if the storm water is managed properly the proposal would have limited impact on the adjacent residential lot.

Board Members discussed property line issues and felt that it was contingent upon the applicant to clearly establish the property line.

Motion by McCoy, seconded by Ahlvin, to approve the Special Exception request with the condition that water run-off from the proposed garage be directed away from the adjacent property and that the property line be established to the satisfaction of the building official or that a property survey be obtained. Motion was approved by the following vote: Aye – Cremer, Ahlvin, Kosel and McCoy. Abstain – Golombeski; Nay – None.

DOCKET: 44-19

Applicant:

Address:

Proposal:

Special Exception

Michael Gansemer

1790 Garfield Avenue

To store a vehicle 0' from front and side property lines, where 10' and 3' minimum required respectively, in an R-2A Alternate Two-Family Residential zoning district.

Staff informed the Board that the applicant had asked to table his request.

Motion by McCoy, seconded by Cremer, to table docket 44-19 Special Exception at the applicants' request. Motion was approved by the following vote: Aye – Cremer, Ahlvin,

Golombeski, Kosel and McCoy; Nay – None.

DOCKET: 46-19

Special Exception

Applicant:

Dan & Molly Dietzel

Address:

2651 Broadway Street

Proposal:

To construct a 28 x 32 detached garage 3' feet from the front & side property lines, where 20' and 6' minimum required respectively, in an R-1 Single-Family Residential zoning district.

Dan Dietzel, 2651 Broadway Street, noted that an old garage had been removed and a retaining wall had been built. He said he would like to build a new garage partially into the hillside to help stabilize the embankment. He said that the garage may be smaller than he originally stated.

Board Chair McCoy discussed the current site design. Staff Member Schrobilgen outlined the staff report noting the site topography. He said that the garage shown on the aerial photo had been removed. He said that the proposal had very limited impact on public safety or the use and value of the adjacent property.

Board Members reviewed the site photos. Board Member Ahlvin asked if the garage would be at the same grade or higher relative to the street level. The applicant said that the garage would be 2-3' above street level.

Board Chair McCoy asked if the garage could be moved closer to the house. The applicant said the cost of building a concrete retaining wall farther back would be prohibitive.

In response to a question by Board Member Golombeski, the applicant said that the steps for the garage would be on the interior requiring the increased width. Board Member Cremer said that he felt the design was good and that the project would increase the property value.

Board members discussed the dimensions of the garage. Board Members Ahlvin and Golombeski said they felt the topography constituted a hardship as it affected the garage location. Board members and the applicant discussed potential reduced garage size.

Motion by McCoy, seconded by Golombeski, to approve the Special Exception request with the conditions that: 1) the garage is set back a minimum of 3' from the common property line with the residential lot at 2680 Greeley Street, 2) the garage is set back a minimum of 6' from front property line along the Broadway Street frontage, and 3) the garage dimensions do not exceed 28' x 28'. Motion was approved by the following vote: Aye – Cremer, Ahlvin, Golombeski, Kosel and McCoy; Nay – None.

DOCKET: 47-19

Applicant:

Address:

Proposal:

Special Exception

Craig & Nancy Pape

2653 Broadway

To place an 8' x 16' shed 0' from the front property line, where 20' minimum is required, in an R-1 Single-Family Residential zoning district.

Craig Pape, 2653 Broadway Street, said that he had installed a shed in good faith but misunderstood the setback requirements on a corner lot. He said that he knew where his property line was. He said that he had installed a retaining wall to create a level spot to place the storage shed. He said that moving the shed back 20' would place it in the middle of the yard and would not be practical.

In response to a question for Board Chair McCoy the applicant said he could possibly move the shed back four to five feet.

Staff Member Schrobilgen outlined the staff report. He noted neighborhood characteristics, site topography and the current location of the shed. He said that the shed will not block the view from adjacent vehicular or pedestrian traffic, but that it may be somewhat out of character with the neighborhood.

Board Member Golombeski asked about the current location of the shed. The applicant said the grade of the yard limited placement of the shed.

Board Member Kosel asked if the back of the shed faces Greeley Street.

Board Chair McCoy said that he felt that there are other areas on the lot that the shed could be placed and that at its current location it is somewhat out of character with the neighborhood.

Board Member Ahlvin said that he felt that a zero-foot setback is a problem. He said that if it were to be moved back and some screening added he might be more prone to approve it.

Board Member Cremer said that he is not comfortable with the shed at its current location. Board Member Golombeski agreed. Board Member Ahlvin asked if the applicant would consider tabling his request and submitting a modified site diagram showing an increased setback and added screening. The applicant agreed to table his request.

Motion by McCoy, seconded by Golombeski, to table Docket 47-19 at the applicants' request. Motion was approved by the following vote: Aye – Cremer, Ahlvin, Golombseki, Kosel and McCoy; Nay – None.

DOCKET: 48-19

Special Exception

Applicant:

Brandon Merrick

Address:

890-892 Vinton Street

Proposal:

To construct an 84' x 56' duplex 10' from the front property line (Oneida St.), where 20' minimum is required, in an R-1 Single-Family Residential zoning district.

Brandon Merrick, 8110 Southern Hills Circle, noted that he had been approved for a similar request in the past, but because the building was being expanded from 40 to 56 feet in depth he needed approval.

Staff Member Hemenway noted that the original request was for a duplex to be built 10' from the front property line along Oneida Street. He said that the diagram and notice stated such. He said that the current request is to enlarge the structure and encroach more along the Oneida Street frontage than was originally approved. He said that this constituted the need for a new Special Exception. He said that the neighborhood conditions are the same and that the building will not block the view to the street from any adjacent residential properties and will not constitute a safety problem. He said the only change is that the building is 16 feet deeper than what was originally proposed.

Board members asked for a clarification on the 27' setback indicated on the sketch diagram submitted by the applicant. Staff Member Hemenway noted that the building would be 20' back from the front property line as indicated on the second diagram submitted.

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

DOCKET: 49-19

Conditional Use Permit

Applicant:

Travis & Keisha Bruns

Address:

705 Caledonia Place

Proposal:

To open a tourist home as a conditional use in an R-2A Alternate Two-Family Residential zoning district.

Travis and Keisha Bruns, 18134 21st Street, Monmouth, Iowa, said they would like to create a tourist home within one of the units in their duplex. Ms. Bruns said that after discussions with staff she realized that she could only use one of the two residential units for the tourist home, therefore limiting the use of the third story of the structure. She said that she would like to increase the number of occupants from what she originally requested from 4 to 12. She said that she can create 6 bedrooms in the

space.

Staff Member Hemenway said that the subject lot is located in the R-2A District. He noted that the original structure had a kitchen and bathroom on the third level. He said that building permit records, rental license history and city directory information indicated that the structure has always been listed as a duplex. He said that a Conditional Use Permit is required to permit a tourist home in one of the two units in the duplex. He said that neighbors within 200' have been notified and there have been a few calls, but none in opposition. He discussed the change to the number of occupants in the tourist home proposed by the applicants after they were made aware that they were only allowed a maximum of two units in the structure. He said that the neighbors that called were informed that the applicants proposed a maximum of four occupants in the unit. He said that, based on the submitted floor plan, the second unit could be rented to a maximum of 12 people.

Board members discussed the request and felt that staff should renotify the neighboring properties informing them of the increased number of residents proposed by the applicants. The applicants agreed to table their request.

Motion by McCoy, seconded by Ahlvin, to table Docket 49-14, Conditional Use Permit for 705 Caledonia Street. Motion was approved by the following vote: Aye – Cremer, Ahlvin, Golombeski, Kosel and McCoy; Nay – None.

MINUTES: Motion by Cremer, seconded by Kosel, to approve the minutes of the August 22, 2019 Zoning Board of Adjustment meeting as submitted. Motion was approved by the following vote: Aye – Cremer, Golombeski and Kosel; Abstain – Ahlvin and McCoy. Nay – None.

ITEMS FROM PUBLIC: None

ADJOURNMENT: Motion by Cremer, seconded by McCoy, to adjourn the September 26, 2019 Zoning Board of Adjustment meeting. Motion was approved by the following vote: Aye – Cremer, Ahlvin, Golombeski, Kosel and McCoy; Nay – None

The meeting adjourned at 6:25 p.m.

Respectfully submitted,



Guy Hemenway, Assistant Planner

10-24-19

Adopted