

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

5:00 p.m.

Thursday, August 27, 2020

Virtual Meeting

The Zoning Board of Adjustment met at 5:00 p.m. on Thursday, August 27, 2020. Due to the COVID-19 pandemic and mandates for social distancing, this meeting was conducted virtually.

Board Members Present: Chairperson Jonathan McCoy, Board Members Keith Ahlvin, Bethany Golombeski, and Gwen Kosel.

Board Members Excused: Matt Mauss

Board Members Unexcused: None

Staff Members Present: Wally Wernimont, Guy Hemenway, Travis Schrobilgen, and Jason Duba

CALL TO ORDER: The meeting was called to order by Chairperson McCoy at 5:00 p.m.

MINUTES: Motion by Ahlvin, seconded by Kosel, to approve the minutes of the July 23, 2020 Zoning Board of Adjustment meeting as submitted. Motion carried by the following vote: Aye – Ahlvin, Golombeski, Kosel, and McCoy; Nay – None.

DOCKET – 34-20: Application of Timothy Schmitt, 2515 Pennsylvania Ave., to construct a deck and pool for a total of 2,040 sq. ft. detached accessory structures and 5' from the west side property line, where 1,000 sq. ft. maximum is permitted and 6' minimum is required respectively, in an R-1 Single-Family Residential zoning district.

Timothy Schmitt, 2515 Pennsylvania Avenue, spoke in favor of his request. He explained how the deck and pool would be tucked away behind garage and shed. He said his neighbors are supportive. He explained that his neighbor, Jim Cosley of 2580 Green Street, asked for a privacy fence, which Mr. Schmitt agreed to erect.

Staff Member Schrobilgen detailed the staff report noting the dimensions and location of the deck and pool, their distance from neighboring properties, existing screening, and elevation change. He noted five neighbors submitted letters of support.

The Board discussed the proposal and asked the applicant if he would be amenable to constructing a privacy fence as requested by the neighbor. Mr. Schmitt said that he would agree to build the requested privacy fence

Motion by McCoy, seconded by Ahlvin, to approve the request to construct a deck and pool for a total of 2,040 sq. ft. of detached accessory structures and 5' from the west side property line with the condition that a privacy fence with a minimum of seven feet in height above grade be placed along the west side of the pool and deck. Motion carried by the following vote: Aye – Ahlvin, Golombeski, Kosel, and McCoy; Nay – None.

DOCKET – 35-20: Application of Micah Spivey, 3475 Pennsylvania Ave. to add a unit to a multi-family residence for a deficit of two off-street parking spaces in an R-4 Multi-Family Residential zoning district.

Micah Spivey, 780 Cedar Cross Road, spoke in favor of his request. He explained that these are multi-family properties jointly owned with his partner. He said that half of the basement is finished with a laundry area, and they want to build out the other half for a residential unit. He noted that he receives requests for rental units from low-income people who like being close to work and transit. He stated that approximately half of tenants do not own a vehicle, so there is less demand for parking, making the request feasible.

Staff member Hemenway suggested hearing the applicant's two cases (35-20 and 36-20) together as they were similar requests in close proximity to each other. Chairperson McCoy asked the applicant if the cases were similar and if he wanted to hear them together. Mr. Spivey noted the requests were nearly identical and that his presentation for both would be generally the same.

The Board decided to discuss Docket 35-20 and Docket 36-20 together, as they were very similar. Chairperson McCoy noted that separate votes for each case would be taken.

Staff Member Hemenway detailed the staff report including the Unified Development Code requirement for parking spaces and the deficit that would result from adding another residential unit. He said that the State Urban Design Standards (SUDAS) would not allow driveway access to Pennsylvania Avenue and would not allow additional parking to be created with direct pull-in/back-out access to Westridge Court, making it difficult, if not impossible, to create a compliant parking lot. He also noted that images provided in the packet and those pulled up during the meeting showed empty parking spaces and added that on-street parking was allowed around Westridge Court. He said that a variance for 3 total parking spaces should not adversely impact adjacent properties.

Board members stated they did not have any concerns or questions regarding the case.

Motion by Ahlvin, seconded by Golombeski, to approve the request to add a unit to a multi-family residence for a deficit of two off-street parking spaces in an R-4 Multi-Family Residential zoning district. Motion denied for lack of three affirmative votes by the following vote: Aye – Ahlvin and Golombeski. Nay – Kosel and McCoy both citing

criteria 4.

DOCKET – 36-20: Application of Micah Spivey, 3495 Pennsylvania Ave. to add a unit to a multi-family residence for a deficit of one off-street parking space in an R-4 Multi-Family Residential zoning district.

The Board decided to discuss Docket 35-20 and Docket 36-20 together, as they were very similar. Chairperson McCoy noted that separate votes would be taken. See Docket 35-20 for proceedings of the discussion.

Motion by Ahlvin, seconded by Golombeski, to approve the request to add a unit to a multi-family residence for a deficit of one off-street parking space in an R-4 Multi-Family Residential zoning district. Motion denied for lack of three affirmative votes by the following vote: Aye – Ahlvin and Golombeski. Nay – Kosel and McCoy, both citing criteria 4.

DOCKET – 37-20: Application of Steven and Kimberly Cotton, 190 Bradley St. to build a 20' x 16' deck 8' from the front property line (Whelan Street) where, 20' minimum is required, in an R-1 Single-Family Residential zoning district.

Steven Cotton, 190 Bradley Street, spoke in favor of his request. He clarified that the aerial photo shown with the rendering of his deck was taken before the addition to his house was completed. Staff displayed a current Pictometry view showing the addition enabling the Board to better understand the request.

Staff Member Schrobilgen explained that the proposed deck will be set back approximately 4' from the side of the house, 8' from the property line and 22' from the Whelan Street pavement. He said the deck should not block the view for vehicular or pedestrian traffic along Whelan Street or from the nearest driveway.

The Board asked whether the greenery along Whelan Street would remain. Mr. Cotton indicated that it would.

Motion by Golombeski, seconded by Ahlvin, to approve the request to build a 20' x 16' deck 8' from the front property line (Whelan Street). Motion carried by the following vote: Aye – Ahlvin, Golombeski, Kosel, and McCoy; Nay – None.

DOCKET – 38-20: Application of Joshua Martyn and Natalie Romeo-Martyn, 2620 Knob Hill Dr. to place a 7' high fence along the front property line (Knob Hill Dr.) where, 4' high maximum is permitted, and to place a deck and pool 5' from the front property line and 0' from the south side property line where, 20' and 6' minimum are required, respectively, in an R-1 Single-Family Residential zoning district.

Joshua Martyn, 2620 Knob Hill Drive, spoke in favor of his request. He said that the proposed location of the pool was at the bottom of the hill in the back yard and placed

well away from neighbors to reduce the impact of noise associated with the pool. He said the purpose of the pool was for aquatic therapy for his son, who he said has not been able to do therapy because of COVID19 closing pools. He also stated that he made some revisions to his request by lowering the fence height to six feet, planting vegetation in front of the fence, and moving the fence back another two feet from its current location. He noted he had contacted his adjacent neighbors and that prompted him to make the revisions.

Steve Rodham, 850 Camilla Court, spoke against the proposal, saying the pool would be a nuisance due to noise and that the six-foot fence would give the yard a “compound” look and that both the fence and pool would lower nearby property values.

Mr. Martyn said that he had contacted realtors who thought a fence and pool would not have much effect on property values. He said that he does not want to be a nuisance, so he will work to make fences match and will screen with plants. He stated his neighbor across the street is in favor of the proposal.

Mr. Martyn also noted that he plans to remove a chicken coop because of the neighbors’ complaints. He said that he is concerned, because people have been coming onto his property to take pictures and he is on a corner lot that lacks privacy. He said that he is hoping to get some privacy for his back yard and family. He said that he does not know what he can do to screen the pool and limit the impact to the neighbor at 850 Camilla who is situated uphill. He said he is working to make the yard more appealing.

Staff Member Hemenway detailed the staff report. He explained that corner lots such as these have the disadvantage of having two frontages. He also noted the property may have a topographic hardship due to the grade change across the back yard. He noted that the proposed location would move the pool further from the neighbors at 850 Camilla and would be in a better position for screening from the remaining adjacent neighbors.

The Board asked about the slope, which was displayed on screen with a topographic layer. Staff noted that this indicated a change in grade of about six feet. The Board noted they were hesitant to approve the request because they agreed with some of the neighbors’ concerns. The Board asked Mr. Martyn if he would be willing to table his request until next month to give him time to work with his neighbors on a compromise.

Mr. Martyn expressed pessimism about this option and noted that his experience with the neighbors over the last few weeks was unpleasant, He said; however, that he would be willing to try and was amenable to tabling.

Motion by McCoy, seconded by Kosel, to approve the applicant’s request to table the request until the next regular meeting. Motion carried by the following vote: Aye – Ahlvin, Golombeski, Kosel, and McCoy; Nay – None.

DOCKET – 39-20: Application of Erin & Jeremiah DeHeck, 1010 S. Grandview Ave. to construct a 28' x 35' detached garage, 16' in height, for a total of 1,280 sq. ft. of detached accessory structures and 3' from the northwest side property line, where 15' in height, 1,000 sq. ft. maximum detached accessory structures, and 6' minimum are required respectively, in an R-1 Single-Family Residential zoning district.

Erin DeHeck, 1010 S. Grandview Avenue, spoke in favor of her request. She explained that the proposed garage would have a 980-square foot footprint. She noted that they already removed one of the decks and will remove the shed when the garage is completed. She said the 100-square foot lower deck would remain. She noted that their neighbor at 1000 S. Grandview, whose property line would be nearest, submitted a letter of support acknowledging the three-foot setback.

Staff Member Schrobilgen detailed the staff report. He noted he received an inquiry regarding the case that asked about the height of the structure, the footprint of accessory structures and concerns about four wheelers. He noted that height is measured from grade level to the mid-point between the soffit and peak of the roof.

Staff member Hemenway noted that he replied to the same person via email regarding those concerns. He stated that the neighbor dropped his concerns after clarification and did not submit a letter of opposition. Ms. DeHeck clarified that they do not own four-wheelers.

The Board asked for confirmation that the loft in the garage would not be used for residential purposes. Ms. DeHeck confirmed that it was for storage. Staff member Hemenway explained that a Conditional Use Permit would be required to use the space as an accessory dwelling unit and would therefore, need to be brought before the Board for approval.

Motion by McCoy, seconded by Kosel, to approve the request to construct a 28' x 35' detached garage, 16' in height, for a total of 1,280 sq. ft. of detached accessory structures and 3' from the northwest side property line. Motion carried by the following vote: Aye – Ahlvin, Golombeski, Kosel, and McCoy; Nay – None.

DOCKET – 40-20: Application of David TeBrake, Miller Architects & Builders, 3860 Asbury Rd. to expand an existing mortuary to include an event space and crematorium.

David TeBrake, 3335 W St Germain in St Cloud, Minnesota, spoke in favor of his request. He explained that his client had been approved for a Conditional Use Permit at the June 25 Zoning Board of Adjustment meeting to expand by 3400 square feet (32% increase) the existing mortuary to include an event space and crematorium. He said his client is now seeking approval for a bigger garage in back, which he said would be a 37% increase over the original size.

Staff Member Schrobilgen detailed the staff report noting the applicant proposes to add

an additional 600 square feet to the north side of the previously approved addition. He said that the expansion should not generate significantly more noise, activity, traffic or demand on parking than it currently does or from what was previously approved, so staff does not recommend any conditions. He also noted that the Fire Department had approved the expanded addition regarding fire safety and emergency access.

The Board noted they did not have any concerns or questions regarding the request.

Motion by Kosel, seconded by Ahlvin, to approve the request to expand an existing mortuary to include an event space and crematorium. Motion carried by the following vote: Aye – Ahlvin, Golombeski, Kosel, and McCoy; Nay – None.

DOCKET – 41-20: Application of Deb McDonnell, Barb Weber, 3392 Hillcrest Rd. to permit two (2) two-story units occupying the main floor and basement level, where residential use is allowed above the first floor only, in a C-3 General Commercial zoning district.

Deb McDonnell spoke in favor of her request. She noted that she and her partner own three attached buildings on Hillcrest Road. She said that the one that houses the two units proposed to be converted was currently vacant. She said they are hoping to turn it into two apartments, one of which they have a renter for already.

Staff Member Schrobilgen detailed the staff report noting that two commercial units would be converted into two residential units. He said that C-3 permits residential use above the first floor only. He said that the applicant's request would augment their income and/or provide living space for the owners. He stated that because the property contains three attached single-story structures, the applicants cannot take advantage of the mixed-use capabilities of the C-3 district. He explained that, if approved, the mix of uses would be distributed at ground level as opposed to vertically throughout a multi-floor structure. He also noted that the C-3 zoning district preamble states that the district is intended to provide locations for commercial uses which are designed for the motoring public. He said that the area currently includes many mixed-use developments and a majority of the structures on the property would remain commercial. He said that, if approved, the subject property would continue to meet the intent of the district.

Board members stated they did not have any concerns or questions regarding the case.

Motion by McCoy, seconded by Golombeski, to approve the request to permit two (2) two-story units occupying the main floor and basement level. Motion denied for lack of three affirmative votes by the following vote: Aye – Ahlvin and Golombeski; Nay – Kosel citing criteria 3,4,5 and McCoy citing criteria 2,3,4,5.

DOCKET – 42-20: Application of Tim Coefield, Reworx Service Group, 3939 Pennsylvania Ave. to construct a 10' x 20' equipment shelter 10' from the east side property line, where 20' minimum is required in a C-3 General Commercial zoning district.

Tim Coefield, 1213 Club Walk Drive, Brookhaven, Georgia, spoke in favor of his request. He noted that he represents a fiber-optic company. He described the dimensions of the shelter and said that the church wants the shelter to be ten feet closer to property line to prevent losing three parking stalls. He noted that this was not a deal breaker, but it would make the church happier.

Staff Member Duba detailed the staff report noting that the adjacent residentially zoned property is the Usha Park parking lot. He said that the intent of the setback requirement is to protect adjacent residences and properties from commercial structures and commercial activity. He noted that the shelter would be approximately 170' from the rear property line of the nearest residence to the east.

The Board asked whether a representative of the church was present. The applicant said they did not plan to attend but he had spoken at length with Pastor Terry Bemis and represented their wishes. The Board questioned whether any other location on the church's property would be acceptable for installation of the equipment shelter. Mr. Coefield noted that the northwest corner is too steep, the south side is aesthetically unacceptable as it fronts Pennsylvania Avenue, and the island is not preferred, either.

Board member Kosel noted she had no questions or comments regarding the proposal. Board member Golombeski stated that the proposed location was the best corner. Board member Ahlvin said he had no issues with the proposal as the subject lot does not abut residential property.

Motion by McCoy, seconded by Ahlvin, to approve the request to construct a 10' x 20' equipment shelter 10' from the east side property line. Motion denied for the lack of three affirmative votes by the following vote: Aye – Ahlvin and Golombeski; Nay – Kosel citing criteria 4 and McCoy citing criteria 2,3, and 4.

ITEMS FROM PUBLIC: None

ITEMS FROM BOARD: None

ITEMS FROM STAFF: Staff noted that a Special Meeting of the Zoning Board of Adjustment had been scheduled for Friday, September 4 at 12:00 PM.

ADJOURNMENT: Motion by Golombeski, seconded by McCoy, to adjourn the August 27, 2020 Zoning Board of Adjustment meeting. Motion carried by the following vote: Aye – Ahlvin, Golombeski, Kosel, and McCoy; Nay – None

The meeting adjourned at 6:26 p.m.

Respectfully submitted,



Guy Hemenway, Assistant Planner

September 24, 2020

Adopted