



# Approved

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

5:00 p.m.

Thursday, November 19, 2020  
Virtual Meeting

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, Gwen Kosel and Matt Mauss.

**Board Members Excused:**

**Board Members Unexcused:** none

**Staff Members Present:** 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 October 22, 2020 Zoning Board of Adjustment meeting as submitted. Motion carried by the following vote: Aye – Ahlvin, Golombeski, Kosel, Mauss and McCoy; Nay – None.

**DOCKET – 55-20:** Application of Deb McDonnell and Barb Weber, 3392 Hillcrest Rd., to permit residences occupying the first floor and basement, where residential use above the first floor only is permitted, in a C-3 General Commercial District.

Deb McDonnell, 2254 Antler Ridge, Asbury, spoke in favor of the request. Mrs. McDonnell said that she is the owner of 3392 Hillcrest and explained that the property has three buildings. She said that the middle building (#2) is a hair salon, the far building (#3) is a childcare, and they want building #1, which has units 1A and 1B, to be permitted for residential use. She noted that currently one of these units is a spa. She said that she is concerned with the inability to rent the space for commercial purposes. She said that she spoke with surrounding property owners, and they were not opposed to her request. She discussed the mixed nature of the surrounding properties noting both commercial and residential development that she said constitutes a walkable neighborhood. She said that they would monitor the property closely.

Staff Member Schrobilgen detailed the staff report noting that generally, the Unified Development Code (UDC) prohibits residential use on the first floor of commercial buildings. He said the intent is to allow mixed-uses while maintaining a critical mass of commercial activity at the street level. He said that the C-3 district preamble states that

the district is intended to provide locations for commercial uses which are designed for the motoring public. He said that as the area currently includes many forms of mixed-uses and as 66% of the structures on the property would remain commercial, the subject property would continue to meet the intent of the UDC and the C-3 district.

The Board discussed the neighborhood noting the mix of residential and commercial properties. Several Board members said that they felt residential use in the subject building would not be out of character with the surrounding land use. Some said that they felt that the addition of residential use would not affect the commercial viability of the site.

Mrs. McDonnell clarified that their first goal would be to find commercial tenants with residential tenants as a back-up plan.

Several Board members expressed concerns with having residential uses directly adjacent to commercial uses. Board members questioned the proximity and availability of green space and outdoor recreation area for the residential use. The applicant noted that there is some green space directly adjacent to the proposed residential unit.

A question arose about how the tenant space would be safely converted to residential unit and staff member Hemenway stated that the unit would have to meet Building, Fire and Housing codes and that regular inspections would be conducted.

Motion by McCoy, seconded by Mauss, to approve the request to permit residences occupying the first floor and basement. Motion carried by the following vote: Aye – Ahlvin, Golombeski and Mauss; Nay – Kosel, citing conditions 3, 4, and 5 and McCoy, citing conditions 2, 3, 4, and 5.

**DOCKET – 59-20:** Application of Don and Angie Heim, 596 University Ave. to construct a 12' x 20' carport 7' from the front property line (University Ave) where 20' minimum is required in an R-3 Moderate Density Multi-Family Residential zoning district.

Don and Angie Heim, 596 University, spoke in favor of the request. Mr. Heim explained that the framed carport would be placed on his driveway and remain of an open design

Staff Member Hemenway summarized a letter submitted by an attorney hired by the Heim's neighbors. He noted that the neighbors were concerned that the carport may encroach on their property. He said that they requested that the carport be set back a minimum of 6' from their property line. Staff member Hemenway explained that staff considered the common property line between the neighbors behind the Heims to be a side property line with a minimum 4' setback. He said that as the property was recently surveyed, a building inspector would be able to determine where the property lines are.

The Board discussed the feasibility of the request in light of the plans submitted by the applicant. The Board debated the advantages of requiring a 6' setback. Board members noted that the plans show a carport built over a driveway that is 29' long from

the front sidewalk to the rear property line. They noted that the request was to build 7' from the front property line, and for the carport to be 20' long, leaving only 2' left to the property line at the back of the structure. The Board considered other options, such as the Limited Setback Waiver, but ultimately recommended that the Heims request tabling their application to in an effort to accurately redraft their plans before next month's meeting. Mr. Heim requested that the Board table their application.

Motion by McCoy, seconded by Ahlvin, to table the request to construct a 12' x 20' carport 7' from the front property line (University Ave). Motion carried by the following vote: Aye – Ahlvin, Golombeski, Kosel, Mauss and McCoy; Nay – None.

**DOCKET – 61-20:** Application of Will Rutherford, 1865 Radford Rd. to construct a building 45' in height where 40' maximum is permitted in an OC Office Commercial zoning district.

Will Rutherford, Horizon Development Group, spoke in favor of the request. Mr. Rutherford explained that Horizon plans to build a 44-unit senior apartment complex. He said that Horizon has secured a 9% tax credit from the Iowa Finance Authority. He said that they are still in design phase and that the preliminary building height is just under 42'. He said that they want to have a cushion in case there is a slight change the design, in part because the property has topographical and geological challenges. He said that without the extra height, they may have to remove a floor and expand the footprint.

Staff Member Schrobilgen detailed the staff report noting that the concept plan for the property indicates a 44-unit senior housing community with underground parking. He said that without the variance, the applicant would need to eliminate an entire floor and expand the footprint of the structure, which he said may limit the reasonable return for the project. He noted that the developer said that the building location faces challenges regarding topography and geology. He said that the variance would allow for five additional feet in height which is not significantly more than the 40' that is permitted. He said that the proposal should have little impact on adjacent properties.

Board members felt that, given the surrounding land use and built environment, the additional building height would have little impact on the surrounding properties. The Board had no questions or concerns about the application.

Motion by Ahlvin, seconded by Golombeski, to approve the request to construct a building 45' in height. Motion carried by the following vote: Aye – Ahlvin, Golombeski, Kosel, Mauss and McCoy; Nay – None.

**ITEMS FROM PUBLIC:** None

**ITEMS FROM BOARD:** The Board discussed the current status of two cases that they previously reviewed. Board Chair McCoy noted that the 9' front setback for 955 Mt. Loretta was denied, but they subsequently applied for and received a Limited Setback Waiver

and are permitted to build with a 13' 6" setback. Staff Member Hemenway explained that this LSW mechanism was adopted in 2009 when the ZBA was being overwhelmed with setback requests, and it has helped reduce the Board's case load.

The Board noted that the McGrath Collision Center has now installed a sign that they were denied. Staff Member Hemenway explained that they were allowed to do this by reducing the Certified Service sign to 6 square feet. He said that they have not reduced the area for the directional sign and so he emailed them to give notice that the illegal sign must be reduced in area or taken down.

**ITEMS FROM STAFF:** None

**ADJOURNMENT:** Motion by McCoy, seconded by Golombeski, to adjourn the November 19, 2020 Zoning Board of Adjustment meeting. Motion carried by the following vote: Aye – Ahlvin, Golombeski, Kosel, Mauss and McCoy; Nay – None

The meeting adjourned at 6:15 p.m.

Respectfully submitted,

  
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Guy Hemenway, Assistant Planner

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12-17-2020  
Adopted