



Approved

MINUTES

CITY OF DUBUQUE ZONING BOARD OF ADJUSTMENT REGULAR SESSION

4:00 p.m., Thursday, May 28, 2009
City Council Chamber, Historic Federal Building

Board Members Present: Chairperson Mike Ruden; Board Members Randy Klauer, Jeff Cremer, Heath Hutchinson and Bill Gibbs.

Staff Members Present: Guy Hemenway, Kyle Kritz and Wally Wernimont.

AFFIDAVIT OF COMPLIANCE: Staff presented an Affidavit of Compliance verifying the meeting was being held in compliance with the Iowa Open Meetings Law.

CALL TO ORDER: The meeting was called to order by Chairperson Ruden at 4:06 p.m.

MINUTES & NOTICES OF DECISION: Motion by Klauer, seconded by Gibbs to approve the minutes of the April 23, 2009 meeting. Motion carried by the following vote: Aye – Klauer, Hutchinson and Gibbs; Nay – None; Abstain – Ruden.

SPECIAL EXCEPTIONS

DOCKET 17-09: Application of James & Delila Healey for a special exception for property located at 1750 Adair Street to build a detached garage, 0 feet from the south side property line, 6 feet required, in an R-1 Single-Family Residential zoning district.

James Healey said he wants to remove the existing carport and place a detached garage behind the house. He said that both side property pins have been located. He explained that the garage will be 16 feet wide by 24 feet deep with an 8 foot high side wall.

Staff Member Wally Wernimont outlined the special exception request. He noted that adjacent properties have garages that have similar setbacks. He explained that the overhang will be 0 feet from the side property line with the foundation located 1 foot away. He recommended that storm water be directed away from the adjacent properties.

The Board discussed the topography of the site.

Motion by Klauer, seconded by Gibbs, to approve the special request with the condition *that storm water be directed away from the adjacent property*. Motion carried by the following vote: Aye – Klauer, Hutchinson, Ruden and Gibbs; Nay – None.

DOCKET 18-09: Application of Mike Muench for a special exception for property located at 322 Jones Street to build a detached garage 0 feet from the west side property line, 3 feet required, in an OR Office Residential zoning district.

Mike Muench said that he wants to place a detached garage on the west side of his property. He discussed the design of the proposed detached garage noting that it will match the house and will have a 10 foot high side wall.

Staff Member Wernimont reiterated the special exception request. He referred to photographs that were distributed to the Board. He explained that the property is located in the Cathedral Historic Preservation District. He explained that the applicant also will need to receive approval from the Historic Preservation Commission for the design. He recommended the following conditions: 1) That the property owner demonstrates the location of the property line to the building inspector; 2) that storm water runoff be directed away from the adjacent property; and 3) that the Historic Preservation Commission approve the building design.

Motion by Klauer, seconded by Gibbs, to approve the special request with the following conditions: *1) That the property owner demonstrate the location of the property line to the building inspector; 2) that storm water runoff be directed away from the adjacent property; and 3) that the Historic Preservation Commission approve the building design.* Motion carried by the following vote: Aye – Klauer, Hutchinson, Gibbs and Ruden; Nay – None.

DOCKET 19-09: Application of Kevin Griesinger for a special exception for property located at 2919 Jackson Street to build a 30 foot by 36 foot (1,080 square foot) detached garage, 1,000 square foot maximum allowed and 13 feet 6 inches from the front property line (White Street), 20 feet required, in an R-2A Alternate Two-Family Residential zoning district.

Kevin Griesinger said that he would like to build a 30 foot by 36 foot detached garage. He said that the adjacent neighbor to the south has a large garage with a setback similar to what he is proposing. He said that he would like to build closer to White Street in order to preserve his back yard area. He noted that he has already removed a small detached garage.

The Board asked the applicant for clarification regarding the location of the garage. The Board discussed the request noting that the garage is built back further than the old garage and matches the adjacent neighbor's garage setback.

Staff Member Wernimont outlined the special exception request noting that the property is a through lot with frontage on both White Street and Jackson Street. He said that White Street has a relatively narrow right-of-way. He discussed the lot layout and site characteristics.

Motion by Klauer, seconded by Gibbs, to approve the special exception request, with the following conditions: *1) That the driveway be paved; and 2) that the garage **not** be used for commercial purposes.*

NOTE: Commissioner Cremer entered the meeting at 4:25 p.m.

Motion carried by the following vote: Aye – Klauer, Hutchinson, Gibbs and Ruden; Nay – None.

CONDITIONAL USE PERMITS:

DOCKET 12-09: Application of Radio Dubuque / Nativity Parish (tabled from April 23, 2009) for a conditional use permit for property located at 1225 Alta Vista Street to erect a 50 foot high radio communication tower in an OS Office Services zoning district.

Tom Parsely, Radio Dubuque, outlined his conditional use permit request. He explained that Radio Dubuque is proposing to build a new studio building and to erect a 50 foot high radio communication tower. He explained that the tower will be located behind the building and that the base will be surrounded by an enclosure.

Board Member Klauer asked the applicant about the request to change the height of the tower from 75 feet to 50 feet high. Mr. Parsely said that they have reengineered the tower. He said that receiving tower in East Dubuque will be raised by 20 feet making the shorter transmitting tower height possible. Mr. Parsely said that the tower will have a smaller footprint than the original proposal, will not be lit and will be attached to the building.

Board Member Gibbs thanked Mr. Parsely for going back to the drawing board and revising the initial request. He said that it is admirable that the Zoning Board of Adjustment could help Mr. Parsley reach a compromise with the neighbors.

Tom Cigrand, 3427 Crestwood, said that he owns property on Nevada Street. He spoke in favor of the request.

Staff Member Kritz reviewed the history of the conditional use permit request. He explained the change of tower height from 75 feet to 50 feet. He said that the proposed tower will have a smaller profile and that it will not affect helicopter flights from Finley Hospital. He said that the FFA does not require the tower to be lighted. He said that the tower will be a minimum of 1,000 feet from existing historic preservation districts.

The Board discussed the request. Motion by Klauer, seconded by Gibbs, to approve the conditional use permit request, *as submitted*. Motion carried by the following vote: Aye – Klauer, Cremer, Hutchinson, Gibbs and Ruden; Nay – None.

DOCKET 20-09: Application of Lynn Schmitz for a conditional use permit for property located at 2411 Central Avenue to expand an auto sales dealership in a C-4 Downtown Commercial zoning district.

Amy Schmitz reviewed the request for the conditional use permit noting the location of the proposed paved auto display area and green space.

Staff Member Hemenway noted the location, existing sales lot and expansion area for the business. He also discussed the demolition of the former residential structure. He explained why auto sales lots are conditional uses in C-4 Downtown Commercial zoning district. He recommended that screening be installed north and west of the proposed auto sales lot expansion to help buffer adjacent residences.

Motion by Klauer, seconded by Gibbs, to approve the conditional use permit request with the following condition: *that a site plan be approved by the City that includes the required 20% green space and screening along the north and west property lines.* Motion carried by the following vote: Aye – Klauer, Cremer, Hutchinson, Gibbs and Ruden; Nay – None.

DOCKET 21-09: Application of David Schneider / Elaine Kelly & Norman Breiner for a conditional use permit for property located at Whistlewind Lane (south of Middle Road) to allow the placement of fill as part of development of a campground in a designated Flood Hazard Area, Zone A.

Dave Schneider, Schneider Land Surveying, said that he is representing Elaine Kelly and Norman Breiner. He discussed the location of the campground. He said that he has worked with the DNR and the City regarding installation of electrical and septic systems. He explained that fill is needed along the access road to the campground and that some grading within the floodplain will be necessary.

The Board reviewed the areas of the campground where fill is proposed to be placed.

Staff noted that several area campgrounds are located in flood plains.

Mr. Schneider noted that the building will have to be flood proofed.

Board members and two neighbors reviewed the site plan at the Board table.
Mr. Schneider discussed the location of the hard surfaced and gravel roads within the campground.

Staff Member Kritz said the applicant is in the process of receiving DNR review and approval for the project. He noted that the Board can approve the request contingent upon final DNR approval. He said that the City campgrounds and the Swiss Valley Park campground are located in flood plain areas. He explained that camping is seasonal and that campers can easily be relocated in a brief timeframe. He discussed the roads located throughout the campground and said that the Fire Department has approved the proposed road surfaces.

Motion by Klauer, seconded by Gibbs, to approve the conditional use permit *subject to DNR approval.* Motion carried by the following vote: Aye – Klauer, Cremer, Hutchinson, Gibbs and Ruden; Nay – None.

VARIANCES:

DOCKET 22-09: Application of James Mino, Hormel Foods Corporation for a variance for property located at 1205 Chavenelle Court to plant 66 trees and 227 shrubs where 215 trees and 344 shrubs are required by the Dubuque Industrial Center West Planned Unit Development district regulations.

James Mino, Hormel Foods Corporation, based out of Austin, Minnesota, explained the request to the Board. He asked for a variance from landscaping requirements due to the proximity of bird and rodent habitat to the building's entry doors. He explained that what is at issue is food safety and sanitation. He said that he wants to plant 66 trees and 227 shrubs near the front of the building. He said that the Hormel plant will have doors on all sides of the building. Mr. Mino submitted an original landscape plan with full complement of trees shown noting that more vegetation increases the probability that birds and rodents will gain access to the building. He said that the U.S. Meat Association recommends keeping vegetation away from the facility.

Mike Shear, Dubuque Screw Products, said that covenants should be followed. He said that the PUD regulations were in place when Hormel purchased the property. He said that providing only one-third of the required trees is not reasonable.

Dan McDonald, Greater Dubuque Development Corporation, spoke in favor of the request. He said vegetation standards for the Dubuque Industrial Center West are somewhat excessive and cost prohibitive. He said Hormel, unlike other businesses in the industrial park, has to meet food safety standards.

Greg Stover said that he has sold equipment to Hormel and agreed that birds and rodents constitute a health hazard. He said that Hormel is a good corporate citizen and recommended approval of the request.

Mr. Mino said he appreciated any comments regarding food safety. He said he wants to minimize health risks. He explained that the landscaping at the building's front is similar to that on the original plan, but landscaping on the sides and the rear of the building has been eliminated.

Chairperson Ruden asked for a more detailed landscaping plan. Board Member Klauer said that the City's intent is to keep park area green. He questioned if Hormel can be required to provide trees elsewhere in the Dubuque Industrial Center West.

Chairperson Ruden asked about the PUD requirements for landscaping. Staff Member Kritz said that the Board needs only to consider the number of trees and shrubs, not the actual landscaping plan. He said that the Greater Dubuque Development Corporation and the City of Dubuque drafted the Dubuque Industrial Center West PUD, including the landscaping requirements.

Mr. Mino said that Hormel's primary concern is for food safety—not the cost of landscaping. He said that Hormel has applied for Gold LEED Certification by using a white roof and Portland concrete to help reduce heat island affect.

Chairperson Ruden said he does not think hardship has been demonstrated.

Mr. McDonald said he felt that Hormel had a team of engineers who had done their homework. He asked that the Board approve the request.

Mr. Shear asked that the Zoning Board of Adjustment to error on the side of the manufacturer. He said that the Dubuque Industrial Center West's vegetation is excessive and that 66 trees are adequate.

Board Member Gibbs asked if a balance can be struck.

Mr. Stover said that the nature of food manufacturing is different than other businesses.

Staff Member Kritz said that when the ordinance was written, landscaping requirements were seriously considered. Board Member Hutchinson said the submitted landscaping plan is aesthetically appealing and will look good from the public right-of-way.

Motion by Klauer, seconded by Gibbs, to approve the variance request, *as submitted*. Motion carried by the following vote: Aye – Klauer, Hutchinson and Gibbs; Nay – Cremer and Ruden.

DOCKET 23-09: Application of Brickwall LLC, Greg & Peggy Stover for a variance for property located at 1858 Central Avenue to expand a bar/restaurant, with a deficit of 2 off-street parking spaces, in a C-4 Downtown Commercial zoning district.

Greg Stover reviewed his request, noting the location, existing number of seats and layout of the bar/ restaurant. He reviewed the proposed expansion including 18 seats, two pool tables and approximately 400 square feet of dance floor area. He reviewed the availability of on-street parking noting that there are sufficient parking spaces in the neighborhood most of the time. He said that the hours of operation are from lunch time to late at night.

Staff Member Hemenway presented the staff report. He reviewed how the parking requirement was determined. The Board discussed parking credits applied to the subject property.

Kurt Heine, owner of Bulldog Billiards, discussed the need to expand the restaurant/bar because of the changing market conditions and demand for parking. He explained that the seating capacity is 72, with the proposed addition of 18 seats.

Staff Member Hemenway reviewed the request explaining how parking requirements are calculated. He said the Board needs to consider the demand for parking in the area based on input from the surrounding property owners and residents.

Staff Member Hemenway noted that complaints were received when the bar first opened but that he has not recently received any complaints.

Motion by Klauer, seconded by Gibbs, to approve the variance request, *as submitted*. Motion carried by the following vote: Aye – Klauer, Cremer, Hutchinson, Gibbs and Ruden; Nay – None.

DOCKET 24-09: Application of Clark & Linda Wolff / Steven Boge for a variance for property located at Key Way Drive (Lot 2 Hillcrest Plaza #2) to create a one-acre Planned Residential Development, two-acre minimum required.

Steve Boge reviewed the request noting that the Planned Unit Development requires two acres with the proposed site only having one acre. He explained that he proposes to build 15 townhomes on the lot.

Clair Lattner, 1131 Hunters Ridge, said she owns the adjacent property (dental office). She spoke in opposition noting that the number of units is excessive and does not provide enough off-street parking. She expressed concerns with water runoff problems along Key Way Drive. She stated concerns with snow storage, access to the site and traffic problems.

Clark Wolff, owner of the property, explained he has four apartments located above the salon. He reviewed the surrounding land uses and availability of parking, noting that the development will provide 32 off-street parking spaces.

Staff Member Hemenway answered questions regarding the number of units and off-street parking spaces required. He reviewed the purpose of the Planned Unit Development ordinance, and the role of the Zoning Board of Adjustment in reviewing a variance. He discussed the surrounding land uses, layout of the concept plan and access to the site.

Motion by Klauer, seconded by Cremer, to approve the variance, *as submitted*. Motion carried by the following vote: Aye – Klauer, Cremer, Hutchinson and Ruden; Nay – Gibbs.

ITEMS FROM BOARD:

The Board requested that updated Board Member names, addresses and phone numbers be emailed to each member.

ADJOURNMENT: The meeting adjourned at 6:30 p.m.

Respectfully submitted,



Kyle L. Kritz, Associate Planner

Adopted—June 25, 2009