

**MINUTES OF THE
ROCK ISLAND BOARD OF ZONING APPEALS**

Regular Meeting

7:00 p.m.

August 14, 2013

ATTENDANCE:	(x) Present	() Absent
(x) Kevin Day		(x) Karen Williams
(x) Dave McAdam		() Larry Tschappat
(x) Gary Snyder		(x) Robert Wild
(x) Faye Jalloh		

Staff Present: Alan Fries and Ben Griffith

Chairman Snyder called the meeting to order at 7:00 p.m.

Approval of Minutes – Mr. Wild made the motion to approve the Minutes of the July 10, 2013 meeting. Mr. McAdam seconded the motion, and it passed unanimously.

Procedural Explanation – Chairman Snyder explained the procedure to be followed for the public hearing. He said there is an Interested Party identified for Case #2013-25.

Public Hearing #2013-25 - Request from Dave Parochetti for a variance of 13’6” of the 30 foot north rear yard building setback requirement for a commercial use adjacent to a residential zoning district, a variance of 8’6” of the 15 foot wide landscape area requirement adjacent to the north property line and a variance of five feet of the ten-foot wide landscape area requirement adjacent to the parking area along the south front yard in a B-3 (community business) district at 3825 18th Avenue.

Mr. Fries presented the staff report. He explained that the zoning ordinance requires that B-3 zoned commercial uses adjacent to R-3 zoning have a 15-foot wide bufferyard and a 30-foot setback requirement (Sections 27.6 and 36.6), and a ten foot wide landscape area for a parking area adjacent to a public street (Section 36.5). The applicant proposes to locate a three-unit commercial structure (approximately 4,056 square feet in total area) with a restaurant drive thru on the north side of the site.

The applicant has resubmitted a request because he has revised elements of his previous request and site plan in order to be considered by the Board prior to the required six-month waiting time period. The proposed one-story structure would have up to three separate commercial uses (one will be a Jimmy John’s with the other two unknown at this time). Jimmy John’s will utilize the drive-through lane on the north side of the property (see attached site plan). The Jimmy John’s is proposed to not have “late-night” hours (the Zoning Ordinance does not regulate business hours).

The applicant’s revised request and site plan has changed the orientation of the drive-thru lane by eliminating the northerly access point off of 39th Street and widened the southerly 39th Street access point to have vehicles utilizing the drive-thru to enter there. The stacking space variance has been eliminated since there is now adequate space identified on the site plan to stack seven vehicles (ordinance requirement is to provide six stacking spaces).

The applicant has also moved the screened-in refuse area to the south and changed the door orientation to face towards 18th Avenue rather than residential uses to the east. Additional landscaping has been added along the east property line (row of arborvitae trees) to help buffer this area from residential uses to the east.

Finally, two canopy trees have been added to the proposed 6.5-foot wide north bufferyard area (along with maintaining a proposed row of arborvitae trees). The ordinance allows for a reduction of a bufferyard width down to six feet with 90% of the required plantings and a continuous fence. With the addition of the canopy trees the ninety per cent landscaping requirement is met, but the existing six-foot tall continuous fence is located on the neighbor's property.

A total of 17 parking spaces will be provided on the site. The only known use at this time is the Jimmy John's, which will primarily be a drive-thru and delivery restaurant service (small eat-in public area will be used to figure parking requirements). Once more information is known about future tenants (retail, office, restaurant or service uses) an additional parking variance may be necessary. The applicant also has a cross easement parking agreement with the owners of the property where the auto parts store is located (west of the site). This agreement will also allow customers and/or employees to park in the adjacent 42 space lot parking lot.

Staff recommends two stipulations. The first is that when details of tenant uses are known that the applicant contact staff in order to determine if a parking variance will be required. The second stipulation is that if the six-foot tall privacy fence is removed from the property to the north that a six-foot tall continuous privacy fence meeting code requirements be required to be located along the north property line.

He said that an e-mail of support had been received from Alderwomen Joy Murphy, 4502 7th Avenue, citing that the site is located on the commercial corridor of 18th Avenue and that the property to the north already has a business located on its first floor. He added that a Statement of Interested Party had been received from John Brixey, 1553 39th Street.

Chairman Snyder called for proponents.

Tera Moffit, 1120 Arlington Avenue in Davenport an attorney representing Mr. Parochetti, was sworn in. She said that the variances should be approved because the lot is a small corner lot with two front yards. She added that there is a business use on the main floor of a two-story structure located just to the north of the subject site. She said that the only way her client can get a reasonable rate of return on the property is to construct a structure of the size proposed. She said that a smaller building would cost him more than \$2.00 a square foot to lease in order to get a reasonable return.

Chairman Snyder asked if the Interested Party had any questions. Mr. Brixey replied not at this time.

Chairman Snyder then asked for opponents.

Mark Churchill, 2627 127th Avenue in Milan, Illinois and attorney representing Tom Wakeland of 1716 39th Street in Rock Island. Mr. Churchill said that he disagrees with staff in allowing the application to be submitted prior to the six-month waiting period for denied requests. He said the request is not substantially different than the prior request as three of the four requested variances are the same. He said there is nothing unique about the subject lot as it is a rectangular lot and that the landscaping should not be reduces because it will be adjacent to a residential use.

Ben Kluff, 3959 53rd Avenue in Bettendorf, and general manager of Advance Auto Parts located to the west of the subject site was sworn in. He said there is no known parking agreement with his company and that he would put up barriers to keep people from parking on his parking lot.

John Brixey, 1553 39th Street, was sworn in. He said he lives across the street from the site and that the

intersection that will be used for access to the development (39th Street and 18th Avenue) is in poor condition. He said the subject site is a terrible location to get in and out of. He cited concerns over parking, lighting, utilities, garbage, number of employees and the low level of landscaping proposed.

Chairman Snyder called for a rebuttal from the applicant.

Ms. Moffit stated her belief that Mr. Brixey would oppose any development on the subject site. She said that the cross-easement parking agreement was part of the title purchase agreement with the owner previous to Advance Auto Parts. She said the property to the north is not a house, but has a business on the first floor minimizing the importance of the large landscape bufferyard requirement. She said that Chris Wilkins from Premier partners provided information on the rate of return on the property and the belief that a building smaller than the one proposed would not be feasible financially.

Chairman Snyder asked if she, or her client, made an attempt to contact the store manager for Advance Auto Parts. He asked for Mr. Parochetti to make a statement.

Dave Parochetti, 48 Country Club Court in LeClaire, Iowa, was sworn in. He said he worked with the previous owner, which was a local investing group who sold it to current owner (Steven Olson) and that the parking easement was part of the purchase agreement that goes with the property.

Ms. Williams asked if the parking agreement goes on into eternity. Mr. Parochetti replied it would unless it was revised by the present owner.

Mr. McAdam said he was aware that the original ownership sold the property to another investor that has nothing to do with Advance Auto Parts.

Ms. Williams asked what they would do if employees from Advance Auto Parts put in barriers to block use of the parking lot to Mr. Parochetti. Ms. Moffit replied they would take the issue to court.

Mr. Brixey asked if he could now ask a question.

The Board decided to grant three minutes for him to question the applicant.

Mr. Brixey asked about the feasibility of having a drive-thru and parking standards for the uses proposed for the subject site.

Mr. Parochetti said the proposed sandwich shop would not have late-night hours as the once proposed Taco Bell restaurant would have had. He said the sandwich shop is more of a day-time business with a bigger lunch crowd over a dinner crowd. He said he could not guarantee the proposed hours, but other Jimmy John's restaurants in the area close at 9:00 to 10:00 p.m. on weekdays and midnight on weekends.

As there were no further questions and no one else requesting to speak, the public hearing was closed.

Decision Case #2013-25 – Mr. Wild made a motion to approve the request because:

1. The proposed variances will improve the return on the property.
2. The lot is a corner lot with two front yards and a smaller rear yard.
3. The proposed variances will not alter the character of the neighborhood.

He added two stipulations:

1. The property owner contact staff when details of all tenants are known to determine if a parking variance will be required.
2. If the six-foot tall privacy fence is removed from the property to the north, then that a six-foot tall continuous fence meeting code requirements be required to be located along the north property line of the subject property.

Mr. McAdam seconded the motion.

Ms. Williams said the applicant has come back with a better site plan that is a good fit on the property and with the neighborhood.

Mr. McAdam agreed that the changes were helpful to make a better site plan.

Chairman Snyder called for a vote on the motion to approve the request with the two stipulations and it passed unanimously.

Public Hearing #2013-26 - Request from John and Chris Herbert for a variance of four feet of the six foot setback requirement from an alley property line for an accessory structure in a rear yard in an R-3 (one and two family residence) district at 1536 29th Street.

Mr. Fries presented the staff report. He explained that the zoning ordinance requires a six-foot setback from a property line adjacent to an alley (Section 8.5A). The applicant proposes to construct a new detached garage (22' x 26') in the west rear yard.

The applicant will remove the existing one-car detached garage on the property in order to accommodate a two-car detached garage. The proposed garage will be located at the same distance from the alley as the existing garage, but since it will be wider, it will extend closer to the tree. The applicant hopes to receive the variance because he believes moving it in further than proposed will damage the root system of the tree. There is a detached garage located at 1542 29th Street that is also located approximately two feet from the alley property line.

Chairman Snyder called for proponents.

John Herbert, 1536 29th Street, was sworn in. He said that he wants to remove the existing older garage and complete new concrete work in his rear yard. He added that wants to save an old oak tree in the rear yard that was planted when the subdivision was platted to establish landscaping in the neighborhood.

As no one else wished to speak, the public hearing was closed.

Decision Case #2013-26 – Ms. Williams made a motion to approve the request because:

1. The proposed variance will improve the return on the property.
2. The applicant desires to locate a new garage close to the alley property line in order to save a large oak tree in the rear yard.
3. The proposed variance will not alter the character of the neighborhood.

Mr. Day seconded the motion, and the motion passed unanimously.

Public Hearing #2013-27 - Request from QC General for Denkman Elementary School for a variance to substitute a lighted LED freestanding message board sign for an existing interior lighted freestanding message board sign in an R-2 (one family residence district at 4101 22nd Avenue.

Mr. Fries presented the staff report. He explained that the sign ordinance requires that signs for institutional uses in residential zoning districts not be lighted (Section 6[a] [8]). The applicant proposes to erect a new LED message board sign (4' x 7.5') to replace the existing lighted message board sign.

The sign face for the proposed sign is attached. The sign area will be identical in size to the existing sign (4' x 7.5'). The total height will also not change. The LED message board function can be changed from inside without removing the sign cabinet cover and physically changing the lettering on the sign. This will make it easier for school staff and also allow for the ability to have several different messages on the sign. The applicant has been made aware of the ordinance's five-second requirement in changing sign messages.

The applicant has also indicated that they will abide by the 1996 Board stipulation to have the lighting for the sign be set on a timer to turn off at 7:30 p.m.

Chairman Snyder called for proponents.

Andy Love, 2815 44th Street and representing QC General, was sworn in. He said his business will be installing the sign for the school and that it will be a higher end LED sign with sensors that will drop the light intensity of the message board lights at night.

Mr. Wild said he does not think the staff suggested stipulation to have the lights turned off at 7:30 p.m. is necessary because there is not a house facing the line of sight of the sign location.

Mr. Day agreed and said there are school events that occur after 7:30 p.m., so it is necessary to have the message board sign operating longer into the evening.

As no one else wished to speak, the public hearing was closed.

Decision Case #2013-27 – Mr. McAdam made a motion to approve the request because:

1. The proposed variance will improve the ability and ease for the school to change messages on the sign.
2. The proposed variance will not alter the character of the neighborhood.

Mr. Day seconded the motion.

Ms. Williams suggested keeping the stipulation to turn off the sign lights at 7:30 and if there is a future need to change it the Board could consider revising the stipulation in the future.

Mr. Wild said the light from the sign will not affect traffic or people, so it should not be included with the motion.

Chairman Snyder agreed and said that if there is problem with the lights the principal would resolve the

situation. He then called for a vote on the motion, and it passed unanimously.

Chairman Snyder adjourned the meeting at 8:15 p.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Ben Griffith". The signature is written in a cursive style with a large, stylized initial "B".

Ben Griffith, AICP, Secretary
Rock Island Board of Zoning Appeals