



ZONING BOARD OF APPEALS
Wednesday, January 21, 2015
5:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Minutes on Website: <http://rockfordil.gov/community-economic-development/construction-development-services/land-use-zoning/zoning-board-of-appeals.aspx>

Present:

- ZBA Members:** Kimberly Wheeler-Johnsen
Alicia DiBenedetto-Neubauer
Dan Roszkowski
Scott Sanders
Craig Sockwell
- Absent:** Melissa Luciani-Beckford
Thomas Fabiano
- Staff:** Todd Cagnoni – Director Community & Economic Development
Scott Capovilla – Zoning and Land Use Administrator
Angela Hammer – Assistant City Attorney
Sandra Hawthorne - Administrative Assistant
Jamie Rott – Public Works
Lafakeria Vaughn - Assistant City Attorney
- Others:** Alderman Joseph Chiarelli
Alderman Thomas McNamara
Cindi Schwitters, Court Stenographer
Applicants and Interested Parties

Sandra Hawthorne explained the format of the meeting will follow the Boards Rules of Procedure generally outlined as:

The Chairman will call the address of the application.

- The Applicant or representative will come forward and be sworn in.
- The Applicant or representative will present their request before the Board
- The Board will ask any questions they may have regarding this application.
- The Chairman will then ask if there are any Objectors or Interested Parties. Objectors or Interested Parties are to come forward at that time, be sworn in by the Chairman, and give their name and address to the Zoning Board of Appeals secretary and the stenographer
- The Objector or Interested Party will present all their concerns, objections and questions to the Applicant regarding the application.

ZBA 053-14
Applicant
Ward 10

241 North Phelps

Jeffrey Linkenheld, Representative / DRM, Inc.

- (A) **Special Use Permit** for a fast food restaurant with a drive-thru that includes site, parking and landscaping plans with deviations from the regulations
- (B) **Variation** to the required eight (8) feet in height monument style free-standing business identification sign to a 25 feet in height pylon business identification freestanding sign.
- (C) **Variation** to increase the maximum allowable square footage for a free-standing sign from 64 square feet to 108.6 square feet
- (D) **Variation** to increase the number of allowable business identification wall signs from two (2) to four (4) in a C-3 General Commercial Zoning District

The subject property is located on the east side of North Phelps Avenue, 375 feet north of East State Street. The property is surrounded by commercial uses.

Jeffrey Linkenheld, Arc Design Resources Inc. was present representing the property owner, DRM, Inc. They are the franchisee for Arby's and interested in establishing an Arby's at this location. Mr. Linkenheld gave a brief presentation on the history of development along East State Street. There was an Arby's at this location in the past, but because of failing business it was closed and the building demolished. The owners have had difficulty finding a buyer for the property and would like to build a new Arby's on the same location. However, they feel that part of the reason for the failure of the original fast food restaurant was because of the lack of visibility in signage, causing an unawareness of the restaurant. Mr. Linkenheld presented a letter from the owner in response to the Staff Recommendation of Denial. Mr. Linkenheld stated they have tried to work with Northwest Bank to allow shared signage on their main pylon sign on East State Street to no avail. The applicant submitted photos with an illustration of a 25 foot survey pole in several locations showing how a sign at this height is not uncommon or oversized for this area, particularly for a business set back from East State Street.

Ms. Neubauer asked if the Applicant had given consideration to an off premise sign along State Street to allow more visibility. Mr. Capovilla verified that this could be applied for through a Special Use Permit. Mr. Linkenheld stated neither he nor his client has considered any other option other than the Northwest Bank. Discussion was held suggesting the Culver's sign currently on the Northwest bank pylon sign could easily be divided in half and share the space with Arby's if they were agreeable. It was not known if Culver's had an agreement with Northwest Bank to only allow their advertisement on the sign.

Staff Recommendation is for Approval of the Special Use Permit and Denial of the (3) Variations with (10) conditions. No Objectors or Interested Parties were present.

Ms. Neubauer asked Staff to explain the "provide cash in lieu of sidewalk" statement in condition (8). Mr. Capovilla stated the Intention was that if the expense was incurred for sidewalks for Phelps Avenue or Phelps Court, it may be better served to use that funding for sidewalks along E. State Street. Mr. Sanders stated this is a tough area for visibility of businesses set back from E. State Street.. Ms. Neubauer felt she would tend to support Staff's requests for Denial of signage Variations on the basis that the intent of the Ordinance has been to bring signs into conformance for existing and new signs and the Board normally votes with this intent. Kim Johnsen felt signage should be evaluated on a case-by-case basis. She expressed that a 25 foot sign would be helpful in creating awareness of the Arby's location to attract customers. Alicia Neubauer felt even if the pylon sign was approved, it would still be difficult to see. Dan Roszkowski felt monument signs don't really work in this area. He agreed that it was very difficult to find the original Arby's at that location.

A **MOTION** was made by Kim Johnsen to **APPROVE** the (A) Special Use Permit for a fast food restaurant with a drive-thru that includes site, parking and landscaping plans with deviations from the regulations; to **APPROVE** the (B) Variation to the required eight (8) feet in height monument style free-standing business identification sign to a 25 feet in height pylon business identification freestanding sign; to **APPROVE** the

(C) Variation to increase the maximum allowable square footage for a free-standing sign from 64 square feet to 108.6 square feet; and to **DENY** the (D) Variation to increase the number of allowable business identification wall signs from two (2) to four (4) in a C-3 General Commercial Zoning District at 241 North Phelps. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 4-1 with Alicia Neubauer voting Nay.

Approval is subject to the following conditions:

1. Meet all Building and Fire Codes.
2. Submittal of Building Permits for Staff's review and approval.
3. Submittal of a revised civil plan to include the removal of sidewalk within the right-of-way.
4. Must develop site and lighting in accordance with photometric plan and fixture details approved by Staff.
5. Must construct dumpster enclosure in accordance with site plan and dumpster detail approved by Staff.
6. Must obtain separate permits for signage and sign must be constructed to match building design and in accordance with submitted sign elevations.
7. Must develop site in accordance with revised civil and landscaping plans approved by Staff.
8. Provide cash in lieu of sidewalk installation on North Phelps Avenue and Phelps Court.
9. Must develop building in accordance with elevations approved by Staff.
10. All conditions must be met prior to establishment of use.

ZBA 053-14
Findings of Fact for Approval of a Special Use Permit
For a Fast Food Restaurant with a Drive-Thru
That includes site, Parking and Landscaping Plans with Deviations from the Regulations
In a C-3, General Commercial Zoning District Located at
241 North Phelps Avenue

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the Zoning District in which it is located.

ZBA 053-14
Findings of Fact for Approval of a Variation
To the Required Eight (8) Feet in Height Monument-Style,
Free-standing Business Identification Sign
To a (25) Feet in Height Pylon Business Identification Freestanding Sign
In a C-3, General Commercial Zoning District Located at
241 North Phelps Avenue

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 053-14
Findings of Fact for Approve of a Variation
To Increase the Maximum Allowable Square Footage
For a Free-Standing Sign From (64) Square Feet to (108.6) Square Feet
In a C-3, General Commercial Zoning District Located at
241 North Phelps Avenue

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.

3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, nor increase the danger of fire, or endanger the public safety, nor substantially diminish nor impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 053-14
Findings of Fact for Denial of a Variation
To Increase the Number of Allowable Business Identification Wall Signs
From Two (2) to Four (4)
In a C-3, General Commercial Zoning District Located at
241 North Phelps Avenue

Denial of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would not result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are not unique to the property for which the Variation is sought and are applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is not caused by this Ordinance and has been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does not comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 054-14
Applicant
Ward 11

2421 and 25XX 9th Street
Ballard Properties Group II, LLC
Special Use Permit for a truck storage yard with outdoor storage of trucks and truck trailers in an I-1, Light Industrial Zoning District

The subject property is located on the east side of 9th Street and is about 230 feet south of the 9th Street and 23rd Avenue intersection. The neighborhood is a mixture of commercial and industrial uses, with some residential to the north. Ramiro E. Ramirez, Real Estate Broker was present representing the Applicant. His client would like to purchase this property to park trucks and tractor trailers. Mr. Ramirez also stated the Applicant wishes to keep the chain link fence for security.

Alicia Neubauer stated it appears there is a fence immediately on 9th Street and there will be landscaping in between the chain link fence and a new vinyl fence and wished to verify. Mr. Ramirez stated this is correct. The applicant is agreeable to paving within the time frame of 3 years as stated in Staff conditions. Mr. Roszkowski asked if there would be any visibility of the trailers over the fence, to which Mr. Ramirez stated they probably would. Mr. Roszkowski suggested that the fence height be increased. Alicia Neubauer did not feel that was necessary. Scott Sanders suggested he would prefer to see more landscaping and trees rather than a taller fence, which would probably be less costly to the Applicant. There was agreement from the Board.

Mr. Ramirez believed the existing chain link fence was 6' high. Mr. Capovilla clarified that with the 20 foot setback, a 6' chain link would meet code. Anything less than a 20 foot setback would need to be reduced to 4' and could not be chain link.

Staff Recommendation is for Approval with (12) conditions. Objectors or Interested Parties were present.

Karen Elyea, Alderman of the Ward, was unable to attend the meeting and expressed her concerns in an e-mail to Staff. She stated she is not in favor of allowing outside truck storage on the parcel. She further wrote that she "fears it becoming an unsightly dumping ground".

Ray Ferguson, representing Rock River Industrial at 2501 9th Street owner adjacent to the south of the Applicant's property spoke in objection. He stated his client has put a lot of time, energy and money into his property and is objecting to this due to the possibility of vandalism. His client feels this is only going to be a parking lot. He further stated immediately to the south of his client's property there is a property with a large amount of vehicles parked on it as well. His client's concerns are that there are too many motor vehicles being parked in this area, he is concerned with possible code violations, the parking lot never being paved even though it is one of Staff's conditions of Approval, and other individuals parking on the lot. His client feels the property should be paved prior to establishing the storage yard.

Randy Ballard, current owner of the property wished to respond. He stated the Applicant's property currently has no vehicles on it. It is sealed off and there is no parking allowed at this time. Mr. Ballard stated he also owns the property across the street from Rock River Industrial's property and there is no parking allowed there as well.

In response, Mr. Ramirez stated the intent of his client is to park his own personal trailer as well as some of his friends trailers there as well. The property will be well secured. The owner has 3 trailers and a semi. He also has a couple of friends that want to park there – Mr. Ramirez estimated no more than ten truck trailers. Mr. Sockwell asked if passenger vehicles would be parked there when the owners come to pick up the truck trailers. Mr. Ramirez stated he did not know how that would be handled. Scott Sanders asked if the plan was to park significantly more trucks on this lot in the future. Mr. Ramirez again stated he did not know what the intent was for the future. Mr. Roszkowski asked if the Applicant would be willing to remove the small area of paving in the south east area of the property and landscape along the south property line to create a buffer. Mr. Ramirez stated it is the intent of the Applicant to plant trees in that area. Mr. Capovilla stated improvements would require the property to be brought up to code which would include a detention area.

Mr. Sockwell asked if conditions should be added limiting the amount of trucks and trailers. Mr.'s Roszkowski and Sanders felt there was a significant amount of parking available and pointed out condition 11 limited outside storage to trucks and truck-trailers. Kim Johnsen asked about the 3 year pavement timeframe in condition 5. Mr. Capovilla explained the Applicant is starting out small and has no need for that large amount of paving at this time, but would like the option to pave further as the need requires.

A **MOTION** was made by Alicia Neubauer to **APPROVE** the Special Use Permit for a truck storage yard with outdoor storage of trucks and truck trailers in an I-1, Light Industrial Zoning District at 2421 and 25XX 9th Street. With added conditions that the southeast corner of pavement be removed and that there be landscaping on the south side of the property as a buffer between the adjacent property. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Meet all Building and Fire Codes.
2. Submittal of a Final Agreement for Staff review and approval that addresses the business operation and improvements to the site.
3. Submittal of a civil plan to include improvements and expansion of the parking lot.
4. Submittal of a Parking Lot Permit for Staff review and approval.
5. That the improvements and expansion of the parking lot shall be completed within three (3) years or last day of May 2018, whichever comes first.
6. Submittal of a full landscape plan including plant species and size for Staff's review and approval.
7. Submittal of a dumpster detail and rendering for Staff's review and approval.
8. Submittal of a photometric plan with fixture details and fixture specifications for Staff's review and approval.
9. Must obtain separate permits for signage and sign must be constructed to match building design and in accordance with plans approved by Staff.
10. Must develop site in accordance with revised civil and landscaping plans approved by Staff.
11. The outside storage will be limited to trucks and truck-trailers.
12. All conditions must be met prior to establishment of use.
13. Removal of the pavement at the southeast corner and establish approximately one-third of the lot as green space along the south property line..
14. Landscaping shall be installed on the south side of the property as a buffer between the adjacent property.

ZBA 054-14
Findings of Fact for Approval of a Special Use Permit
For a Truck Storage Yard with Outdoor Storage of Trucks and Truck-Trailers
In An I-1, Light Industrial Zoning District Located at
25XX 9th Street

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.

5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the Zoning District in which it is located.

ZBA 055-14

Applicant
Ward 1

626 Shiloh Road

James E. Stevens

Modification of Special Use Permit #011-06 for a Planned Unit Development
to add 46 town homes in an R-3, Multi-family Residential Zoning District

The Applicant has requested this item be Laid Over to the February 18, 2015 meeting.

A **MOTION** was made by Alicia Neubauer to **LAY OVER** the Modification of Special Use Permit #011-06 for a Planned Unit Development to add 46 town homes in an R-3, Multi-family Residential Zoning District at 626 Shiloh Road. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 5-0.

With no further business to come before the Board, the meeting was adjourned at 6:43 PM

Respectfully submitted,
Sandra A. Hawthorne, Administrative Assistant
Zoning Board of Appeals