



**ZONING BOARD OF APPEALS**  
**Tuesday, August 18, 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:** Alicia DiBenedetto-Neubauer  
Tom Fabiano  
Dan Roszkowski  
Scott Sanders  
Craig Sockwell  
Kimberly Wheeler-Johnsen

**Absent:** Melissa Luciani-Beckford

**Staff:** Scott Capovilla – Zoning and Land Use Administrator  
Angela Hammer – Assistant City Attorney  
Sandra Hawthorne - Administrative Assistant  
Marcy Leach – Public Works  
Lafakeria Vaughn - Assistant City Attorney  
Chad Moe – Fire Department

**Others:** Alderman Teena Newburg  
Alderman Joseph Chiarelli  
Kathy Berg - Court Stenographer  
Applicants and Interested Parties

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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.

- The Board will ask any questions they may have of the Objector or Interested Party.
- The Applicant will have an opportunity to rebut the concerns/questions of the Objector or Interested Party
- No further discussion from the Objector or Interested Party will occur after the rebuttal of the Applicant.
- The Board will then discuss the application and a vote will be taken.

It was further explained to the public in attendance, applicants, objectors and interested parties that this meeting is not a final vote on any item. The date of the Codes & Regulations meeting was given as Monday, August 24, 2015, at 5:30 PM in City Council Chambers of this building as the second vote on these items. The public in attendance, applicants, objectors and interested parties were instructed that they could contact the Zoning Office for any further information and the phone number was listed on the top of the agenda which was made available to all those in attendance. The City's web site for minutes of this meeting are listed on the agenda as well.

The meeting was called to order at 5:41 PM. A **MOTION** was made by Alicia Neubauer to **APPROVE** the minutes of the July 21 meeting with one correction on Page 16 to read Scott Sanders instead of Craig Sanders. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-0, with Tom Fabiano abstaining and Melissa Beckford absent.

**ZBA 010-15**  
Applicant  
Ward 12

**3231 North Main Street**  
Bill Keedi

- (A) Variation** to allow a reduction in landscape frontage from 10' in width to 4' 10 ½" in width.
- (B) Variation** to reduce the sign setback from five (5) feet to zero (0) feet for a free-standing landmark-style sign
- (C) Variation** to reduce the required four (4) shade trees to two (2) shade trees in a C-2, Limited Commercial Zoning District.

**Laid Over from May, June & July 2015**

Prior to the meeting, the Applicant's Attorney requested this item be Laid Over to the September 15<sup>th</sup> meeting.

A **MOTION** was made by Alicia Neubauer to **LAY OVER** the **(A)** Variation to allow a reduction in landscape frontage from 10' in width to 4' 10 ½" in width; the **(B)** Variation to reduce the sign setback from five (5) feet to zero (0) feet for a free-standing landmark-style sign and the **(C)** Variation to reduce the required four (4) shade trees to two (2) shade trees in a C-2, Limited Commercial Zoning District at 3231 North Main Street. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 6-0.

**ZBA 020-15**  
Applicant  
Ward 01

**7401 Argus Drive**  
Shannon Asta

**Variation** to increase fence height from 6' to 9' for an outdoor seating area on the north side of building in a C-3, General Commercial Zoning District

**Laid Over from July, 2015**

Shannon and Ryan Asta joint applicants, were present. Mr. & Mrs. Asta wish to construct a fence 9' in height for an outdoor seating area at their proposed restaurant and bar. It was clarified that the 9' portion would actually be the pergola - the fence itself is proposed at 6'. Mr. Asta stated their intent is to give the outdoor seating area more appeal. There will also be a fire place within the outdoor seating area. After discussion with Chad Moe from the Fire Department, also in attendance, the Applicant understood that no

actual fire would be allowed due to restriction on outside fires. Mr. Asta verified that they did not intend to use the fire place for anything other than atmosphere and it would not be actively used.

Staff Recommendation was for Approval with 2 conditions. No Objectors or Interested Parties were present.

A **MOTION** was made by Kim Johnsen to **APPROVE** the Variation to increase fence height from 6' to 9' for an outdoor seating area on the north side of building in a C-3, General Commercial Zoning District at 7401 Argus Drive. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Must meet all applicable building and fire codes
2. Construction of the outdoor seating area must be in accordance to Exhibit E and F

**ZBA 020-15**  
**Findings of Fact for Approval of a Variation**  
**To Increase Fence Height From 6' to 9'**  
**For An Outdoor Seating Area on the North Side of Building**  
**In a C-3, General Commercial Zoning District at**  
**7401 Argus Drive**

**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 023-15**  
Applicant  
Ward 03

**825 North Main Street**

Keith Country Day School

**Special Use Permit** for faculty and student housing (Group Living not otherwise classified)

**Variation** to allow existing parking and landscaping per the site plan in a C-1, Limited Office Zoning District

**Laid Over from July, 2015**

Prior to the meeting the Applicant requested that this item be Laid Over to the September 15<sup>th</sup> meeting.

A **MOTION** was made by Alicia Neubauer to **LAY OVER** the Special Use Permit for faculty and student housing (Group Living not otherwise classified); the Variation to allow existing parking and landscaping per the site plan in a C-1, Limited Office Zoning District at 825 North Main Street. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 6-0.

**ZBA 026-15**  
Applicant  
Ward 11

**217 Peoples Avenue**

Daniel Erb

**Special Use Permit** for outdoor vehicle storage and towing in an I-2, General Industrial Zoning District

Neither Applicant nor Representative were present. Staff did not receive enough information from the Applicant to prepare a report. In addition, the full application fee has not been paid. Scott Capovilla explained that Staff has tried diligently to reach out to the applicant and his Attorney to get them to provide required information and to pay additional funds that were not paid as part of the application fee. Neither the Applicant nor his Attorney returned any calls nor provided and further information or payment.

A **MOTION** was made by Alicia Neubauer to **LAY OVER** the Special Use Permit for outdoor vehicle storage and towing in an I-2, General Industrial Zoning District at 217 Peoples Avenue. The Motion was **SECONDED** by and **CARRIED** by a vote of 6-0.

**ZBA 027-15**  
Applicant  
Ward 03

**1735 Camp Avenue**

Bradley Robinson & David Mulcahey

**Variation** to increase the fence height from 4 feet to 6 feet in the front yard along Hancock Street in an R-1, Single-Family Residential Zoning District

David Mulcahey & Bradley Robinson were present. They explained that a portion of the existing fence along Hancock Street is deteriorating and they wish to replace it with cedar privacy fence. They propose to install a six foot high privacy fence from the corner of the garage to the deck, and will then lower the fence to four feet for the remaining distance.

Staff Recommendation was for Approval with (2) conditions. No Objectors or Interested Parties were present. Letters of support from surrounding neighbors were received and included with Staff report.

A **MOTION** was made by Scott Sanders to **APPROVE** the Variation to increase the fence height from four feet to six feet in the front yard along Hancock Street in an R-1, Single-Family Residential Zoning District at 1735 Camp Avenue. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Installation of the six foot cedar picket fence must be installed in accordance to Exhibit D.
2. It is the owner's responsibility to maintain landscape areas in a neat, clean and orderly manner, and to keep plant materials in a healthy condition. Maintenance must include, among other things, adequate watering, pruning, mowing and removal of litter not only of the owner's property, but also the area between the property line and the street curb or edge of pavement.

**ZBA 027-15**  
**Findings of Fact for Approval of a Variation**  
**To Increase Fence Height from Four Feet to Six Feet**  
**In the Front Yard Along Hancock Street**  
**In an R-1, Single-Family Residential Zoning District at**  
**1735 Camp 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 028-15**  
 Applicant  
 Ward 02

**503 Welty Avenue & 2410 Jackson Street**

Mary Shaughnessy

**Special Use Permit** to re-establish a non-conforming use to allow an antique store in the rear building in an R-1, Single-family Residential Zoning District

Mary Shaughnessy and Elizabeth Bole, Co-Applicants, were present. Ms. Shaughnessy and Ms. Bole are sisters and wish to open an antique store at 503 Welty, facing Jackson Street. The subject property is located on the north east corner of Welty Avenue and Jackson Street. Ms. Bole stated they wish to rehab the building into a beautiful little shop and offer vintage items as well as other period items. They plan to take down the boarded up windows, install a new door, rehab the stoop and include greenery as well by installing window boxes. They feel this atmosphere will blend into the other shops in the area.

The Applicants presented research information, layout, and exterior designs to the Board, showing examples of the improvements they intend to make. Hours of operation will be Thursday through Saturday 10:00 AM to 5:00 PM and Sunday 12:00 Noon to 4:00 PM. Signage will be up to code and there will be no free-standing signs or outside storage. Regarding concrete removal in the parkway and landscaping requirements listed in Staff Condition 2, the Applicants recommended placing some 12" planters that would be tall and narrow and keep them full year round. This would allow them to use the parking area and also serve a dual purpose of preventing customers from driving up on the sidewalk. They will be bringing the building up to full code and will meet handicapped accessibility requirements.

Staff Recommendation is for Approval with 9 conditions. No Objectors or Interested Parties were present. One letter of concern was received from Renee Jensen. Ms. Jensen expressed concerns regarding parking, traffic, noise, and safety for children.

In response to these concerns, Ms. Shaughnessy explained that they do not anticipate large deliveries that would require trucking on a regular basis. Adequate parking will be provided as they do not feel they will have that many customers at one time. Safety for children was also a big concern for them, as Ms. Shaughnessy stated she also has children. Both Applicants are from this area of town and have fond memories of the neighborhood. They would like to add benches on the concrete stoop, under the window area so the neighbors could use them as a "visiting place" to stop by and have a cup of coffee. Their goal is to be set up before the holiday season.

Marcy Leach, Public Works, stated once the 12" planters are decided upon, they would require approval by Public Works. The parking stalls are approximately 14' wide, so parking would have to be angled. The parking area would also have to have signs that no trucks may park there as well. Parking would be mostly compact cars stalls. This design would prevent vehicles from hanging out into the street. Ms. Leach felt the planters are a good idea and would look good, but would need to be certain parking is angled.

During discussion, Kim Johnson felt condition 5 should refer to the South side rather than North. Mr. Capovilla was in agreement.

A **MOTION** was made by Kim Johnsen to **APPROVE** the Special Use Permit to re-establish a non-conforming use to allow an antique store in the rear building in an R-1, Single-family Residential Zoning District at 503 Welty Avenue and 2410 Jackson Street with revision to Condition 5 to read "South" instead of "North" and to revise Condition 2 to state "site plan to include angled parking and planters". 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 site plan for Public Works approval to include angled parking and planters.
3. Business hours are limited to Thursday through Saturday 10:00 AM to 5:00 PM and Sunday from 12:00 PM to 4:00 PM.
4. Any change in the business operations and/or use will required the Modification of the Special Use Permit.
5. A non-illuminated wall sign will be allowed up to a maximum of 16 square feet above the main entrance on the south side of the building.
6. Submittal of a Sign Permit for Staff review and approval.
7. That there shall be no free-standing signs of any kind allowed.
8. There shall be no outdoor storage on the property.
9. All conditions must be met prior to establishment of use.

**ZBA 028-15**

**Findings of Fact for Approval of a Special Use Permit  
To Re-establish a Non-Conforming Use to Allow  
An Antique Store in the Rear Building  
In an R-1, Single-Family Residential Zoning District at  
503 Welty Avenue and 2410 Jackson 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 R-1 Zoning District in which it is located.

**ZBA 029-15**  
Applicant  
Ward 01

**7525 Blairmore Drive**

Irene Boswell

**Variation** to reduce the required parking spaces from 28 parking spaces to 19 parking spaces for a medical clinic in a C-1, Limited Office Zoning District

Mr. Ray and Dr. Irene Boswell were present. Mr. Boswell reviewed their application. Dr. Boswell is a physician and wishes to open her practice in what was originally intended to be a clubhouse for a multi-family development. In April of this year, a modification of that Special Use Permit was approved to allow a professional office. The building has stood vacant for about a year and was recently rezoned for an office building. In order to use it as a medical clinic, the ordinance requires 28 parking stalls based on square footage of the building. The parking lot is located on the north side of the building. The area further to the north, which is not part of their property, is used as a detention pond so is not available. There is a transformer on the property to the west and Mr. Boswell stated this parcel is so small this is not a reasonable option. This leaves the south side as the only option to add additional parking. Mr. Boswell further explained in thinking about using this south property, he considered this is really a residential neighborhood and he does not want to put a parking lot next to a residential area. He does not want to change the aesthetic and the atmosphere that exists. If this Variation were granted, the neighborhood look would not change and they would maintain a beautiful piece of landscape. He understands they would also have to put in an additional curb cut on the south side.

They have 6 employees, including Dr. Boswell. He felt the maximum required for parking would be perhaps 14 stalls in the less common situation where appointments are running behind or visitors are also in attendance with the patients.

Mr. Roszkowski asked if the landscaping plan was the original plan submitted. Mr. Boswell stated it was. Mr. Roszkowski stated he anticipates that all the landscaping submitted under the original plan would be



in place at this time and not changed or showing planting loss due to damaged or dying plantings. Dr. Boswell stated she has been in solo practice since 2003. Mr. Roszkowski was also concerned that in the future, should they sell the property or add another physician, the parking requirements would change. He did state that at the current plan he agrees with the Applicants that parking is currently more than adequate.

Staff Recommendation was for Approval with 3 conditions. No Objectors or Interested Parties were present.

Discussion was held on adding conditions of more parking required should additional staff be added. Mr. Capovilla stated he does not feel that this is an area of concern at this time. Should parking be required to be increased in the future, the applicant would have to build an additional parking lot as required.

A **MOTION** was made by Scott Sanders to **APPROVE** the Variation to reduce the required parking spaces from 28 parking spaces to 19 parking spaces for a medical clinic in a C-1, Limited Office Zoning District at 7525 Blairmore Drive. The Motion was **SECONDED** by Alicia Neubauer and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. The clubhouse must obtain a change of use permit to a medical clinic and submit drawings by a design professional.
2. The existing Stonehaven Clubhouse signs must be removed.
3. Any new proposed signs must be reviewed and approved by Staff via the permitting process.

**ZBA 029-15**  
**Findings of Fact for Approval of a Variation**  
**To Reduce the Required Parking Spaces**  
**From 28 Parking Spaces to 19 Parking Spaces For a Medical Clinic at**  
**7525 Blairmore Drive**

**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.

With no further business to come before the Board, the meeting was adjourned at 6:35 PM.

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