



ZONING BOARD OF APPEALS
Tuesday, September 15, 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: Melissa Luciani-Beckford
Tom Fabiano
Alicia DiBenedetto-Neubauer
Kimberly Wheeler-Johnsen
Dan Roszkowski
Scott Sanders
Craig Sockwell

Absent:

Staff: Scott Capovilla – Zoning and Land Use Administrator
Angela Hammer – Assistant City Attorney
Sandra Hawthorne - Administrative Assistant
Lafakeria Vaughn - Assistant City Attorney
John McGee – Fire Department

Others: Alderman Joseph Chiarelli
Alderman Teena Newburg
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 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, September 28, 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 5:35 PM. A **MOTION** was made by Kim Johnsen to **APPROVE** the minutes of the August 18th meeting with a correction to page four to add Kim Johnsen as the second Motion. The Motion was **SECONDED** by Scott Saunders and **CARRIED** by a vote of 6-0 with Melissa Beckford abstaining.

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 1/2" 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, August, September 2015

Prior to the meeting the applicant's attorney requested that this item be Laid Over to the October 2015 meeting. The Board asked Mr. Capovilla what the delay was on this applicant, since Staff Recommendation has been for approval since May. Mr. Capovilla explained that the applicant has come up with alternates, two of which were rejected by Staff, and they are going to provide an additional plan. A new Staff report will be prepared once this plan is received.

A **MOTION** was made by Scott Sanders to **LAY OVER** the Variation to allow a reduction in landscape frontage from 10' in width to 4' 10 1/2" in width; the Variation to reduce the sign setback from five (5) feet to zero (0) feet for a free-standing landmark-style sign; and the 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 Alicia Neubauer and **CARRIED** by a vote of 7-0.

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, August, September 2015

Prior to the meeting an e-mail was received from the Applicant stating they wished to **WITHDRAW** this application. No further action will be taken on this item. Mr. Capovilla explained the Applicant has decided they will have just the 3 faculty members minus the student, which is an allowed use.

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
Laid Over from August 2015

Insufficient information has been received from the Applicant to allow Staff to create a Planning & Zoning Report. Efforts by Staff to contact the Applicant have not received any response. However, Mr. Capovilla stated the applicant's attorney contacted Staff just prior to the meeting and requested a Lay Over

A **MOTION** was made by Scott Sanders 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 Craig Sockwell and **CARRIED** by a vote of 7-0.

ZBA 030-15
Applicant
Ward 06

2734 11th Street
S & H Auto, Inc.
Special Use Permit for retail automobile sales in a C-3, General Commercial Zoning District

The subject property is located on the east side of 11th Street and is currently a vacant building. Attorney Thomas Laughlin, representing the Applicant, reviewed the request for Special Use Permit. The license that was issued for this lot was for wholesale sales only and is not the appropriate Special Use for retail sales. The Applicant needs a Special Use Permit for retail automobile sales. The State of Illinois Permit was for wholesale sales and the applicant morphed into retail sales without our knowledge.

Mr. Capovilla stated this is a case of an on-going violation as the Applicant continues to have retail sales. However, the wholesale operation has not been prohibited and has continued up to this date.

Staff Recommendation is for Approval with (5) conditions. No Objectors or Interested Parties were present.

Scott Saunders asked Attorney Laughlin if he had an anticipated time line for complying with staff condition number 5 stating landscaping, paving, and building must be brought up to code. Attorney Laughlin stated it could be two or three years, but he stated the condition will not get any worse than it is at this time. Per Mr. Capovilla, Staff will not sign off on retail auto sales until all conditions of approval are met and he requested the Board uphold this request.

Mr. Capovilla further clarified that only brokerage sales will be allowed on this site until all conditions are met.

A **MOTION** was made by Scott Sanders to **APPROVE** the Special Use Permit for retail automobile sales in a C-3, General Commercial Zoning District at 2734 11th Street with revision to number 5 to read "establishment of retail sales" The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 7-0.

Approval is subject to the following conditions:

1. Must meet all applicable building and fire codes.
2. The sale of vehicles must be limited to (20) vehicles.
3. The applicant must provide a minimum of eight (8) parking spaces.
4. Any future signage on the property must comply with the current sign regulations.
5. Prior to establishment of retail sales the landscaping must be installed, the display area and customer parking must be paved and the building must be brought up to code.

ZBA 030-15
Findings of Fact For Approval of a Special Use Permit
For Retail Automobile Sales
In a C-3, General Commercial Zoning District at
2734 11th 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 C-3 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 C-3 Zoning District in which it is located.

ZBA 031-15
Applicant
Ward 03

1422 National Avenue

Harry Pastores

Variation to reduce the required side yard setback from 6 feet to 0 feet along the north property line for a new 23 feet by 10 feet addition to the north side of the existing garage in an R-1, Single-family Residential Zoning District.

Prior to the meeting the Applicant requested that this item be Laid Over to the October meeting.

A **MOTION** was made by Scott Sanders to **LAY OVER** the Variation to reduce the required side yard setback from 6 feet to 0 feet along the north property line for a new 23 feet by 10 feet addition to the north side of the existing garage in an R-1, Single-family Residential Zoning District at 1422 National Avenue. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 7-0.

ZBA 032-15

Applicant
Ward 06

2622 Bluffside Drive

Christopher and Brigitte Hoppe

Variation for a 13 feet and 1 inch by 10 feet driveway extension in the required front yard in an R-1, Single-family Residential Zoning District

The subject property is located approximately 760 feet west of the Bluffside Drive and Chesterfield Avenue intersection and is a single-family residence. The driveway addition was completed without obtaining a permit. Christopher Hoppe, Applicant, reviewed his request for driveway extension. He stated a misunderstanding between he and his contractor resulted in a violation and fine from the City. Mr. Hoppe stated they have 5 vehicles when his children are home for the summer from college breaks. They do have access to street parking; however he feel that this arrangement is not practical

Mr. Sanders clarified that they removed some of the public sidewalk to expand the driveway. Mr. Hoppe stated that a 3' section has been cut out but has since been reseeded and the sidewalk has been replaced. Mr. Capovilla explained the layout of the 18 feet taper requirement. Mr. Hoppe verified that the driveway goes beyond the garage and all the way to the back fence.

Mr. Capovilla explained the reason for this code was to prevent people from paving the majority of their front yards. In addition, the ordinance allows a maximum of 4 vehicles to be parked outside. In this case, they could end up with 6 or 7 vehicles parked outside the property.

Mr. Sockwell asked Mr. Hoppe to explain the "misunderstanding" with the contractor. Mr. Hoppe explained that he was of the understanding the contractor was going to apply for the permit and he did not. Neither party followed up to verify that a permit had been issued prior to doing the work. Mr. Hoppe was in agreement that it was his responsibility to see that a permit was obtained prior to any work being started.

Mr. Sanders would like a little more clarification in the ordinance. Ms. Neubauer agreed. Mr. Roszkowski stated he agrees with the Ordinance in the attempt to prevent home owners from paving most of their front yard and turning it into a parking lot. Mr. Capovilla also clarified that most of the homes in this neighborhood are older and some have extensions in the front yard that were added prior to the Ordinance.

Staff Recommendation is for Denial. No Objectors or Interested Parties were present. Two letters of support were received from neighbors.

A **MOTION** was made by Kim Johnsen to **APPROVE** the Variation for a 13 feet and 1 inch by 10 feet driveway extension in the required front yard in an R-1, Single-family Residential Zoning District at 2622 Bluffside Drive. The Motion was **SECONDED** by Alicia Neubauer and **CARRIED** by a vote of 6-1 with Dan Roszkowski voting Nay.

ZBA 032-15
Findings of Fact for Approval of a Variation
For a 13 feet and 1 inch by 10 feet driveway extension
In the Required Front Yard
In an R-1, Single-family Residential Zoning District at
2622 Bluffside 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, 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 033-15
Applicant
Ward 04

3557 Ryebrook Court

Jacob Chance

Variation to reduce the front yard setback from 30' to 24'3" for a garage addition in an R-1, Single-family Residential Zoning District

The subject property is located on the north side of Ryebrook Court and is a single family residence. Jacob Chance, representing the owners of the property, reviewed the request for Variation. The Applicants want to put a 10 foot addition on the front of their garage to add a mud room and laundry room. One of the Applicants has been injured in a car accident and can no longer go up or down stairs.

Staff Recommendation is for Approval with (2) conditions. No Objectors or Interested Parties were present.

A **MOTION** was made by Scott Saunders to **APPROVE** the Variation to reduce the front yard setback from 30' to 24'3" for a garage addition in an R-1, Single-family Residential Zoning District at 3557 Ryebrook Court. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 7-0.

Approval is subject to the following conditions:

1. Construction of the proposed addition must be consistent to Exhibit D
2. Submittal of an elevation plan for Staff's review and approval

ZBA 033-15
Findings of Fact for Approval of a Variation
To Reduce the Front Yard Setback from 30' to 24'3" for a Garage Addition
In An R-1, Single Family Residential Zoning District at
3557 Ryebrook Court

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 034-15
Applicant
Ward 01

1475 South Perryville Road

Rockford Health Physicians

Variation to reduce the required 56 parking spaces to 40 parking spaces for a medical clinic / hospital in a C-1, Limited Office Zoning District.

The subject property is located on the northwest corner of Newburg and South Perryville Roads. Attorney Bruce Ross-Shannon, representing Rockford Health Physicians, reviewed the request for Variation. They

wish to build an 8,000 square foot medical building on the north portion of the property, which has not yet been subdivided. They will have 5 physicians. Attorney Ross-Shannon explained there are two large drainage ways on the property which limits the area that can be built on and parking lot construction. There is an underground sewer on the back of the north lot, resulting in a 25 foot easement. The entrance will be on Redansa Drive. They do not anticipate any overflow parking on Redansa. Rockford Health Physicians are currently working on a shared access and parking agreement with First Midwest, who anticipate their use to be office use only. The Applicants feel 40 parking spaces will be more than adequate for their use.

Mr. Sanders pointed out that if they are sharing parking, than the clinic would actually have less than 40 parking spaces. Mr. Roszkowski felt there is adequate parking for their needs.

Staff Recommendation is for Approval with (3) conditions. No Objectors or Interested Parties were present.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Variation to reduce the required 56 parking spaces to 40 parking spaces for a medical clinic / hospital in a C-1, Limited Office Zoning District at 1475 South Perryville Road. The Motion was **SECONDED** by Melissa Beckford and **CARRIED** by a vote of 7-0.

Approval is subject to the following conditions:

1. Must meet all applicable building and fire codes.
2. Submittal of a revised landscaping plan including species and sizes of landscape units.
3. Placement of landscape units must be reviewed by Public Works Engineering within drainage and storm sewer easement.

ZBA 034-15
Findings of Facts for Approval of a Variation
To Reduce the Required 56 Parking Spaces
To 40 Parking Spaces
For a Medical Clinic/Hospital
In a C-1, Limited Office Zoning District at
1475 South Perryville Road

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 035-15
Applicant

Text Amendment
City of Rockford

AMENDMENT TO 10-007-C. CONFLICT WITH PRIVATE AGREEMENTS AND COVENANTS

Prior to presentation, Mr. Roszkowski announced he would be abstaining from discussion and vote on this item.

Mr. Capovilla stated as a result of further input from City Council as well as citizens, it was decided that Medical Facilities and Banking Facilities should be among those uses that shall not be allowed to instill restrictions as to the use of the property for a like use.

Ms. Johnson asked if other types of facilities could be restricted. Mr. Sanders stated he would like to see a blanket agreement that no property have restrictions of use applied as long as those uses meet with City Ordinance.

Mr. Capovilla explained that a restriction of like use would be effective if the previous Medical Facility or Bank or other applicable business moved more than a half mile and wished to include such a restriction for one year. Scott Sanders asked if this one year limit would apply from the date the property was vacated or the business closed, or from the date they actually sold the property. Attorney Hammer did not have a definite answer to this question; Mr. Capovilla stated he will recommend making this effective from the date of the actual site closing of the business. This one year restriction only applies if the vacating business moves within a half mile from the subject location and could be extended to three years under some conditions.

The proposed text amendment additions, modifications, and clarifications and changes are as follows:

10-007-C. CONFLICT WITH PRIVATE AGREEMENTS AND COVENANTS

3. *Notwithstanding Section 10-007-C (1), and subject to the following sentence, a private agreement that purports to impose recorded negative use restrictions upon real property in the City so as to prohibit or have the economic or practical effect of prohibiting the use of such real property financial institution or medical facility purposes after a financial institution or medical facility owner or operator of a store has terminated operations at the site, when such uses would otherwise be permitted, including as a special use, under the Zoning Ordinance, and which negative use restriction has a term of more than one year, shall be against public policy, shall be void and unenforceable, and shall be subject to the City's remedial and enforcement powers under Section 71-003 (with each day such negative use covenant remains of record or otherwise effective constituting a separate and distinct*

offense). The foregoing prohibition shall not apply to an owner or operator of a financial institution or medical facility which terminates operations at a site for purposes of relocating such operations into a comparable or larger store located within the city and within one-half mile of the site where operations have terminated, provided such relocation and the commencement of operations at the new site occurs within two years and the negative use restriction imposed does not have a term in excess of three years. The Zoning Officer shall have the discretion to extend the one-half mile limit set forth in the preceding sentence by one-half mile (i.e. to one mile) and to extend the two year commencement of operations by one year (i.e. to three years) upon written request of an owner or operator and such requesting party's presentation of evidence establishing extenuating circumstances that establish good cause for such extension. The requesting party shall also provide notice and a copy of such written evidence to the alderman or aldermen of the ward in which the closed store and the new store are located at the same time such submission is made to the Zoning Officer. The foregoing prohibition in this section shall apply regardless of whether the private agreement is incorporated in a deed restriction, a lease or memorandum of lease, or any recorded or unrecorded instrument.

A **MOTION** was made by Kim Johnsen to **APPROVE** the Zoning Text Amendment to amend Section J10-007-C as presented. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0 with Dan Roszkowski abstaining.

ZBA 036-15
Applicant
Ward 11

1539 South 4th Street

The Home Depot Foundation & Veteran's Drop-In Center

Special Use Permit for a not-for-profit Veteran's Drop-In Center Office in an R-2, Two-family Residential Zoning District

The subject property is located on the northwest corner of South 4th Street and 15th Avenue. Patricia Ambrose was present representing the Veteran's Drop-In Center. She stated they presently rent from Jubilee Center and they are running out of space. They would also would like to extend their hours of operations but are limited to only those hours the Jubilee Center is open. Home Depot has offered to redo the building at the subject property for them. She emphasized that there is a need for support for Veterans in our community.

Scott Sanders mentioned his concern for adequate parking. Melissa Beckford stated most of the Veterans are homeless and do not have vehicles – Ms. Ambrose agreed.

Staff Recommendation is for Approval with (3) conditions. No Objectors or Interested Parties were present.

A **MOTION** was made by Kim Johnsen to **APPROVE** the Special Use Permit for a not-for-profit Veteran's Drop-In Center Office in an R-2, Two-family Residential Zoning District at 1539 South 4th Street. The Motion was **SECONDED** by Melissa Beckford and **CARRIED** by a vote of 7-0.

Approval is subject to the following conditions:

1. Must meet all applicable building and fire codes.
2. Future signage shall not exceed four (4) feet in height and eight (8) square feet in size (2' x 4').
3. Must obtain all necessary building permits for the change of use for an office and may require a design professional.

ZBA 036-15
Findings of Fact for Approval of a Special Use Permit
For a Not-For-Profit Veteran's Drop In Center Office
In An R-2, Two-Family Residential Zoning District at
1539 South 4th 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 R-2 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-2 Zoning District in which it is located.

With no further business to come before the Board, the meeting was adjourned at 6:48 PM.

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