



ZONING BOARD OF APPEALS
Wednesday, January 20, 2016
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
Kimberly Wheeler-Johnsen
Melissa Luciani-Beckford
Dan Roszkowski
Craig Sockwell

Absent: Scott Sanders
Tom Fabiano

Staff: Scott Capovilla – Zoning and Land Use Administrator
Sandra Hawthorne - Administrative Assistant
Marcy Leach - Public Works
Lafakeria Vaughn - Assistant City Attorney
Tim Morris - Fire Department

Others: 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, January 25, 2016, 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 5:30 PM. A **MOTION** was made by Kim Johnsen to **APPROVE** the minutes of the December meeting as presented. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 4-0 with Melissa Beckford abstaining and Scott Sanders and Tom Fabiano absent.

ZBA 046-15

Applicant
Ward 14

3302 American Road

Electric Guard Dog / Cindy Williams / Donald McClellan

Special Use Permit to allow use of battery powered, low voltage, perimeter security fence in an I-1, Light Industrial Zoning District

The subject property is located 350 feet north of the Sandy Hollow and American Road intersection. Cindy Williams with Electric Guard Dog, and Mark Landry and Brian Simikoski, both representing Federal Express were present. Ms. Williams reviewed their request for Special Use Permit. Because this application has come before the Board on other occasions for different locations, Ms. Williams gave a short presentation. She did state this fence is monitored 24-7 by an alarm and that the crime deterrent has proven to be very effective.

Kim Johnsen noted the Soils report expressed a concern that wildlife may be trapped, injured or killed by the proposed fence and that plans and procedures should be in place to deal with these potential incidents. Ms. Williams stated they did speak to the SPCA in Virginia when they had such an incident and felt this to be a rare event. Ms. Neubauer asked Federal Express representatives to explain their reasoning behind installing an electric fence. Mr. Landry stated they will not be putting electric fences in all areas, only those based in locations of risk. They have had situations at this facility which they feel warrant electric fencing. He further stated they have found it to be extremely effective as opposed to additional cameras or security. Ms. Neubauer stated this property is out in the middle of nowhere and asked if he could elaborate on those reasons. Mr. Landry explained they have had 2 break-ins at this location, one in 2008, and one in March of 2013. They have not had any crime activity recently, but are wanting to take a proactive approach. He further stated they handle weapons, and certain types of explosives which are items that they wish to avoid getting out into the general population. They are fencing approximately 25 out of 100 sites. Craig Sockwell asked how an intruder would know this fencing was electric in nature. Ms. Williams showed an example of the postings situated along the fences. Mr. Landry stated they have zero successful break ins at any of the other locations where they have installed electric fencing.

Staff Recommendation was for Approval with 3 conditions. No Objectors were present. One Interested Party was present.

Thomas Rudnicki stated he owns Smith Industrial Rubber which is directly adjacent to Fed Ex. He expressed his support for this application.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Special Use Permit to allow use of battery powered, low voltage, perimeter security fence in an I-1, Light Industrial Zoning District at 3302 American Road. The Motion was **SECONDED** by Melissa Beckford and passed by a vote of 5-0.

Approval is subject to the following conditions:

1. Must meet all applicable building and fire codes.
2. A Hold Harmless Agreement with the City shall be provided in conjunction with a fence permit.
3. Must meet the five (5) conditions as stated in the newly proposed Text Amendment in reference to electric fences.

ZBA 046-15
Findings of Fact for Approval of a Special Use Permit
To Allow Use of Battery Powered, Low Voltage
Perimeter Security Fence in An
I-1, Light Industrial Zoning District at
3302 American Road

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 I-1 Zoning District in which it is located.

ZBA 047-15
Applicant
Ward 11

1310 11th Street, 1603 12th Avenue
K. Paul Steen
Special Use Permit for an auto repair shop and parking in an R-2, Two-family Residential Zoning District

The subject property is located on the east side of 11th Street and on the south side of 12th Avenue. Kenneth Paul Steen, property owner and applicant, reviewed his request for Special Use Permit. Mr. Steen stated he previously owned a shop on 20th and Harrison for 10 years. He was approached by the

State to vacate and relocate, for which they gave him money for assistance. The subject property is formerly Red's Transmission Shop. Mr. Steen stated he has put approximately \$17,000 in numerous repairs, including hoists and insulation. He further explained that he received a violation for the dumpster and during inspections other violations were noticed. Mr. Steen stated these were not intentional and all violations have been taken care of, with the exception of the dumpster location. He is asking for Staff's input on an acceptable location for the dumpster during the process of this application.

Staff Recommendation is for Approval with (7) conditions. One Interested Party was present.

Terry J. Meyers, Jr. stated he is a tenant of the building just to the north and east of the Applicant's property on 12th Avenue. He stated he pays an extra \$100 a month to park his vehicle in the garage near the alley. Mr. Meyers stated parts delivery trucks, tool trucks, and customers coming to pick up their vehicle block his garage so that he is unable to get in or out. He stated he is not necessarily opposed to Mr. Steen's business, but he would like to see signage placed in that area telling customers and delivery trucks that this is a no parking area.

In response, Mr. Steen stated the owner of Mr. Meyer's building had told him that he could park there any time he wanted. He stated he also does not want people parking in the alley and blocking in Mr. Meyers as well. He would be very agreeable if a sign could be put up to say parking is not allowed in this area.

Mr. Capovilla stated the dumpster shown on the site plan could be acceptable, but they need to work on parking and other items that would work with the proposed dumpster location. Mr. Capovilla stated signage to avoid blocking the garage is something that could be looked at as well.

A **MOTION** was made by Alicia Neubauer to **APPROVE** the Special Use Permit for an auto repair shop and parking in an R-2, Two-family Residential Zoning District at 1310 11th Street and 15603 12th Avenue. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Must meet all applicable building and fire codes including to be evaluated by a design professional.
2. Any future signage must meet current code.
3. No outside storage of inoperable/operable vehicles.
4. No outside storage of vehicle parts
5. Submittal of a revised site plan including striping for parking and landscaping improvements for Staff's review and approval.
6. Submittal of an elevation plan showing building façade improvements
7. Installation of landscaping and striping of parking lot to be completed by July 1, 2016.

ZBA 047-15
Findings of Fact for Approval of a Special Use Permit
For an Auto Repair Shop and Parking
In an R-2, Two-Family Residential Zoning District at
1310 11th Street and 1603 12th 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 R-2 Zoning District in which it is located.

ZBA 048-15

Applicant

Ward 03

214 East State Street

Brent Hughes

Special Use Permit for a night club and banquet facility in a C-4, Urban Mixed Use Zoning District

The subject property is located on the east side of Rock River and on the north side of East State Street. Brent Hughes, Applicant, reviewed his request for Special Use Permit. He stated he purchased this property with the intention of opening a restaurant. They now have plans to create a rooftop experience as part of a banquet facility and event space. The second and third floor plans are for a banquet and wedding standard, with tenant spaces on first floor and lower level.. He is proposing live entertainment on Wednesday nights, open to the public, including the roof top use.

Kim Johnsen asked the Applicant about the possibility of expanding beyond Wednesday night to the public. She asked if this item is approved, would the applicant be limited to Wednesday night only. Mr. Capovilla explained Staff is asking him to comply with his business plan at this time. If they wish to alter this in the future and prove to be a good tenant, Staff would be open to the possibility of expanding beyond Wednesday. If the Applicant wanted to have any private events within the interior, he would not be restricted by this SUP. Mr. Hughes further stated they are working with RAMP on a parking agreement and the fence separating the entrance to his building from the alley. They do not have a written agreement yet, but hoping this will come to fruition. Craig Sockwell asked about people living in the lofts downtown and asked if noise from the rooftop would be a factor. Mr. Capovilla stated as long as the noise ordinance is followed this would not be a problem.

Staff Recommendations were for Approval with (8) conditions. No Objectors or Interested Parties were present. Mr. Capovilla added that Ald. McNamara was unable to make this meeting but wished to express that this project, located in his Ward, has his full support.

A **MOTION** was made by Kim Johnsen to **APPROVE** the Special Use Permit for a night club and banquet facility in a C-4, Urban Mixed Use Zoning District at 214 East State Street. The Motion was **SECONDED** by Melissa Beckford and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Must meet all applicable building and fire codes.
2. Compliance with submitted business plan.
3. Submittal of written authorization to construct the staircase on the adjacent property owner's land on the east side of the building prior to construction.

4. Submittal of an easement agreement for emergency egress from the proposed staircase through the adjacent owner's property for Staff's review and approval prior to approval of the staircase construction plans.
5. Outdoor music would have to cease operations at 10:00 PM per the City's Noise Ordinance (Section 17-33).
6. The rooftop venue will be subject to the City's Liquor Codes.
7. Submittal of a parking agreement between The Standard and RAMP including a site plan indicating the number of spaces provided for Staff review and approval prior to approval of zoning clearance for The Standard.
8. Submittal of a security plan for the proposed live entertainment on Wednesday nights per Staff approval.

ZBA 048-15
Findings of Fact for Approval of a Special Use Permit
For a Night Club and Banquet Facility
In a C-4, Urban Mixed-Use District Located at
214 East State 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 C-4 Zoning District in which it is located.

ZBA 049-15
 Applicant
 Ward 13

200 North Johnston Avenue
 Ponds Family Properties
Special Use Permit for a Planned Unit Development (PUD) for a funeral home and crematory in an R-1, Single-family Residential Zoning District

The subject property is bounded by West Jefferson Street to the north, North Henrietta Avenue to the west, Mulberry Street to the south, and North Johnston Avenue to the east and consists of 1.68 acres. This building is the former Henrietta School. Danita Stanford and Timothy Nabors Jr. were present. Ms. Stanford reviewed their request. They would like to use this property for a funeral home and crematorium using the existing building. Mr. Nabors had a question on why additional landscaping would be required. Ms. Neubauer explained the need to provide a sight barrier from the parking lot for the neighboring residents.

Staff Recommendation was for Approval with (9) conditions. One Objector was present.

Laverne Huggins stated she lives at 224 North Henrietta. She stated the children play in the old school playground on this property, and they would have no place to play if this funeral home was established. She feels if this occurs, the neighborhood would be gone. She has a concern with traffic and further stated this use would be depressing. She felt holding funerals in this area would be a life-changing event. She felt the Ponds Family ran a good business and she would like to see them locate on that part of town, but not at this location.

In response, Mr. Nabors stated he expected this would be a concern because the children do use the park area. He apologized that this lot would no longer be available to them. He stated this location is only a half block away from their current business location and would give them much more space for parking. They could not expand at their current location because they would have to purchase some homes in the area. Ms. Stanford stated she also has children so understands Ms. Huggins' concerns; however, there is a park two blocks away. They intend to remove the playground equipment. On that note, Mr. Capovilla stated they have been in touch with the Park District and they are working with Staff to possibly move the equipment to for other nearby park locations. Some members of the Board asked what could be done to follow up on the Park District providing alternative parks. Mr. Capovilla stated Staff is willing to work with them to find an additional location for parks; however, Staff is not comfortable adding a condition of Approval based on the Park District's involvement with this area.

A **MOTION** was made by Craig Sockwell to **APPROVE** Special Use Permit for a Planned Unit Development for a funeral home and crematory in an R-1, Single-family Residential Zoning District at 200 North Johnston Avenue. The Motion was **SECONDED** by Kim Johnsen and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions/

1. Meet all applicable Building and Fire Codes.
2. Submittal of a building permit for Staff review and approval establishing the funeral home (undertaking) and crematory.
3. Submittal of a revised landscape plan to include designating 50% of the proposed mix of deciduous and evergreen shrubs around the reconfigured parking lot along North Henrietta Avenue and Mulberry Street to be evergreen shrubs, identify the existing mature trees and landscaping to be preserved and the number and type of plant species for Staff's review and approval.
4. Submittal of a photometric plan with fixture details and fixture specifications for Staff's review and approval.
5. That the freestanding sign shall be a low-profile (landmark-style) sign and be limited to a maximum of 48 square feet.
6. Must obtain separate permits for signage and signs must be constructed to match building design and in accordance with plans approved by Staff.
7. Must develop site in accordance with new landscaping plan approved by Staff.
8. That the property shall conform to State and Federal DPA Regulations.
9. All conditions must be met prior to establishment of use.

ZBA 049-15
Findings of Fact for Approval of a Special Use Permit
For a Planned Unit Development (PUD)
For a Funeral Home and Crematory
In an R-1, Single-Family Residential Zoning District at
200 North Johnston 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 050-15
Applicant

Text Amendment
City of Rockford

Text Amendment to the City of Rockford Zoning Ordinance to Definitions 91-044; Article 55, Section 55-001-B (6); and addition of New Section 51-001-E

Scott Capovilla, representing the City of Rockford, reviewed the request for Text Amendment. He explained the intent of this Text Amendment is to provide stable and continuous regulations to allow for consideration of Special Use Permits for electric fencing. The Board had a question on 51-001-E (3) regarding signs required every 50 feet along the fence with lettering being a minimum of 1" high. Mr. Capovilla stated it was felt that having a larger quantity of signs closer together would not have any benefit as what is proposed is easily seen when approaching the fence. This is also an effort to avoid having an abundance of signs where less would be sufficient.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Text Amendment to the City of Rockford Zoning Ordinance to Definitions 91-044; Article 55, Section 55-001-B (6); and addition of New Section 51-001-E. The Motion was **SECONDED** by Melissa Beckford and **CARRIED** by a vote of 5-0.

Text Amendment is Approved as follows:

Add Definitions to Article 91:

91-044 Fence, Electric – *A fence made entirely of standard smooth or high-tensile wire that is electrically charged to give humans or animals touching it a slight warning shock.*

Article 55 | FENCES AND DUMPSTER ENCLOSURES

Amend Section 55-001-B. (6) to read as follows:

6. It shall be unlawful for any person to erect or maintain any electric fence within the City without the approval of a special use permit by City Council.

Add New Section as follows:

51-001-E. ELECTRIC FENCE AS SPECIAL USES

City Council may, following a hearing by the Zoning Board of Appeals, permit, as Special Use within industrial districts or for industrial uses provided:

- 1. No electric fence shall be installed or used unless it is completely surrounded by a non-electrical fence or wall that is not less than six-feet in height and*
- 2. The electric fence may only be run by lead-acid or dry cell batteries, or a smaller battery kept charged by a solar panel. The electric fence energizers may not be hooked into a permanent electrical circuit or grid and*
- 3. The electric fence is required to display signage with the words WARNING ELECTRIC FENCE or DANGER ELECTRIC FENCE. Any lettering should be indelible, at least 1" high. These signs shall be placed at intervals of not less than 50 feet along the fence and*
- 4. The electric fence shall not carry a charge greater than 25 milliamperes nor a pulsating current lower than one-tenth second in a one second cycle. All electric fences must carry the seal of an approved testing laboratory and should the council find that the findings of fact in Section 63-005 have been satisfied, and the location, size and height of the proposed electric fence will not have a detrimental effect on the safety, privacy, use, light or enjoyment of any nearby properties.*
- 5. A Knox Box shall be required and installed per the standard and direction of the Fire Department.*

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

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