



ZONING BOARD OF APPEALS
Wednesday, February 20, 2013
6:30 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 Neubauer
Aaron Magdziarz
Dennis Olson
Dan Roszkowski

Absent:

Craig Sockwell
Scott Sanders

Staff:

Jennifer Cacciapaglia – City Attorney
Todd Cagnoni – Deputy Director, Construction & Development Services
Mark Marinaro – Fire Department
Marcy Leach – Public Works
Sandra Hawthorne - Administrative Assistant

Others:

Kathy Berg, 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 are to 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
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- 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, March 4, 2013, at 4:45 PM in Conference Room A 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 6:40 PM. A **MOTION** was made by Aaron Magdziarz to **APPROVE** the minutes of the January meeting as submitted. The Motion was **SECONDED** by Dennis Olson and **CARRIED** by a vote of 4-0 with Craig Sockwell and Scott Sanders absent.

Mr. Cagnoni explained to the Board that all four members would have to vote for Approval in order for an item to move forward. If one member of the Board voted Nay, the item would move forward to the Codes & Regulations Committee with a vote of Denial. Chairman Roszkowski gave the Applicants the option of having their application heard at this meeting or requesting a Lay Over to the March meeting. The Applicant for 821 Kishwaukee Street requested that his item be Laid Over.

ZBA-038-12 419 and 499 North Madison Street
 Applicant Dave Honkamp & Steve Hoepfner
 Ward 3 **Special Use Permit** for approximately 10,000 square feet expansion of the existing 8,500 square feet building pursuant to Section 80-007-C as a legally non-conforming use, pursuant to the site plan and rendering submitted in a C-4 Urban Mixed Use District
Laid Over from November, December and January meetings

The subject property is located on the southeast corner of Prairie Street and Madison Street and is an Industrial warehouse use. Dave and Andrew Honkamp were present. Dave Honkamp is President and CEO of Cellusuede. He stated Cellusuede Products is celebrating 75 years of business. He gave an in-depth history of the business. He explained in this time frame Cellusuede has generated millions of dollars into the City of Rockford as well as provided jobs. He presented a drawing of the proposed building that he felt would be visually enticing for the area and that also would be feasible for someone looking to establish another business in the same building should they move. He stated their employees have good paying manufacturing jobs and they are trying to preserve this benefit. Mr. Honkamp further stated he is unable to imagine with the unemployment in Illinois that the City would not consider keeping a viable building in this location. Mr. Honkamp felt Madison Street will never be a "stroll down" type of street. He felt the proposed design of this new addition is not going to ruin Madison Street, but will make it better. They are not asking for money from anyone. He showed a rendering of the layout as well and stated they could cut back 5 feet on the east side to allow more alley space and 5 feet on the north side for more green space if required. The new addition is about 6' higher than the existing building to allow for storage of racks that hold pallets.

Staff Recommendation is for Denial. Objectors were present.

Gary Anderson, 200 Prairie Street, was present as at Objector, representing the Prairie Hill Brew House LLC. He stated they have invested over 12 million dollars in the Brew House project, including the recent expansion. They feel the proposed application would stifle future development on the riverfront and the

Brew House project. The Prairie Hill Brew House LLC neighbors would like to find a win/win situation for both parties. Mr. Anderson stated they have assisted in helping the Applicant find a new location prior to their lease running out as well as offered financial assistance to extend the time frame to move their facility. The Brew House project will create over 125 new jobs, as well as tax income for the City. The future development along the riverfront is at stake.

Alderman Doug Mark was present as an Objector as Alderman of this Ward. He explained that in 2006 this area went through a zoning change for development in the area. In this process the City provided grandfathering for those doing business as long as they continued to operate at their current location. He asked the Board to look at what the City is trying to accomplish and to make a decision on where we want to see ourselves in the future for this Madison Street area.

Brian Huels, 313 Hill Street was present as an Objector. He emphasized that all employees at Brew House are far above minimum wage as well. He stated the Applicant had an additional option than what was presented and that was to relocate to a new building. Mr. Huels stated on December 15, 2012, Cellusuede was presented with a new lease, another one on January 7th of 2013, and again on February 11th. He stated they did not receive a written response from the Applicant until February 13th. If the Applicant does not relocate, this is not helping to develop the corridor. He presented a copy of the Development Agreement of May 14, 2012 between the City and Prairie Street Brew House LLC. He was concerned that 8 months after signing this agreement they are now faced with something that may hinder development. He stated walking by an industrial building is not as enjoyable when walking along the river. The parking lot that was developed was along the lines with this development agreement. The long term vision for this lot was that this parking would occur for mixed use and not just for Cellusuede.

Don Bissell, 112 North Wyman Street, was present as an Objector. He stated the goal is to seek investors for feasible projects for this area.

Kurt and Sarah Bell, 504 N. First Street, adjacent property owners, were present as Objectors. Mr. Bell stated they have watched Madison Street change over the 40 years they have been there. They feel the Brew House Project is one of the most exciting things to happen to the Madison Street area. Mrs. Bell stated when the City made a commitment to change the zoning they were finally on the edge of development. The Applicant's proposed two story building would be right across the street from their backyard.

Peter Riggs, 408 N. First Street was present as an Objector. Stated he also owns property on the corner of Lafayette and his brother owns property adjacent to him. He has always liked the diversity of the neighborhood and feels they are heading in the right direction with the City's plans.

In response, Dave Honkamp stated the reason he wants this Variation in order to have leverage on their Lease. He stated they are not going to get a new lease until they get approved for this Variation to use as leverage to obtain said lease. He stated the leases presented to them were unacceptable. He stated he would rather lease than build. Andrew Honkamp explained first lease presented to them was a 25% increase over their agreement. The second lease came back with no increase, but with an opt out with one year's notice. He stated if they build in the design as presented this meeting the building could fit in with several other types of business. To move Cellusuede, they would almost need to be set up in another plant and ready to run before they could shut down where they are currently. The main plant is wet-processing and it would take months to move. He asked if this application were not approved, what are their alternatives? This proposed building is for battery fiber cutting only. If they are forced to go to two shifts they would be competing with Brew House and Mary's Place for parking at night.

During Board discussion, Ms. Neubauer stated she feels the applicant wants to move, but is unable to at this point so his alternative is to improve upon what he has. She feels he wants to make a commitment to improve the corridor and if he is building a structure that can be beneficial for future development this would be beneficial to the area. She asked the other members of the Board if they were willing to

approve this application with conditions such as changing the building design so that windows would follow the C-4 building requirements. Mr. Roszkowski questioned if this building became retail in the future, would there be enough parking to support this use. Mr. Olson felt if this was approved, it undermines everything the City has been trying to do for this area for many years. He does not agree with Approval.

A **MOTION** was made by Alicia Neubauer to **APPROVE** the Special Use Permit for approximately 10,000 square feet expansion of the existing 8,500 square feet building pursuant to Section 80-007-C as a legally non-conforming use, pursuant to the site plan and rendering submitted, in a C-4 Urban Mixed Use District at 419 and 499 North Madison Street with added condition that the building façade have a minimum of 50% of this area be transparent, with clear, non-reflective windows, of the street-facing building façade between a height of 4 feet and 10 feet above the sidewalk that allow views of indoor commercial space or product display areas. The Motion was **SECONDED** by Aaron Magdziarz and **FAILED TO CARRIED** by a vote of 2-2 with Dan Roszkowski and Dennis Olson voting Nay. The Application will move forward with a recommendation of Denial.

ZBA 038-12
Findings of Fact for a Special Use Permit
For Approximately 10,000 Square Feet Expansion
Of the Existing 8,500 Square Feet Building Pursuant to Section 80-007-C
As a Legally Non-Conforming Use
Pursuant to the Site Plan and Rendering Submitted
In a C-4, Urban Mixed Use District at
419, 499 North Madison Street

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

1. The establishment, maintenance or operation of the Special Use Permit will be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will 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 not been provided.
5. Adequate measures have not been taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets. More than half of the existing parking spaces will be eliminated.
6. The special use does not conform to the applicable regulations of the C-4 Zoning District in which it is located.

ZBA-046-12 **939 North 2nd Street**
Applicant Kurt Johnson
Ward 3 **Special Use Permit for a Planned Unit Development** consisting of a bed and breakfast
to include event venues in an R-1, Single-family Residential Zoning District.
Laid Over from December and January meetings

This item has been **WITHDRAWN** by the Applicant.

ZBA-001-13 **821 Kishwaukee Street**
Applicant James A. Haas
Ward 5 **Modification of Special Use Permit #018-10** to include used vehicle sales in a C-3,
Commercial General Zoning District

The Applicant requested this item be Laid Over to the March meeting based on only four members of the Board being present.

A **MOTION** was made by Alicia Neubauer to **LAY OVER** the Modification of Special Use Permit #018-10 to include used vehicle sales in a C-3, Commercial General Zoning District at 821 Kishwaukee Street. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 4-0.

ZBA-002-13 **3004 Spring Creek Road**
Applicant Christine Garner
Ward 12 **Special Use Permit for a Planned Unit Development** for a residence and law office in
an R-1, Single-family Residential Zoning District

The subject property is located on the north side of Spring Creek Road and is approximately 1.45 acres in size. Christine Garner, Applicant, reviewed her request for Special Use Permit for PUD. She explained she is an attorney who does Real Estate Law. She stated she is absolutely open to putting restrictions or changing her request as the Board may suggest. She has taken over a practice that does Short Sales and has been doing this for 3 years now. Ms. Garner explained she is not looking to turn this property into a Law Office. The primary use will be as a residence for her family. Only 10% of her business is in the Rockford area. There would be no clients or closings at the home. Her business is by phone, fax, and e-mail. She further explained they process the paperwork to get approval for Short Sale closings. She stated she is fine with a stipulation of not having any clients coming to the home. She stated the lower level would be for employees as well as a portion of the second floor, and the third floor is devoted entirely to her family. She is not asking for a sign in the front yard. She would be fine with a restriction to not even put her address on her letterhead. Her goal is to bring her responsibilities together. She has 10 children, the youngest is 4. She is trying to make a proposal that will be seamless and sightless to anyone else. There is room for 6 vehicles in the two garages. Ms. Garner further stated the layout she submitted showing 15 vehicles in the drive was not to indicate she would have that many employees, but to indicate that she did have that much parking space. There is no other home visible to this home and they would not be able to see people come and go from the residence. She would not be marketing this as a commercial property or business home should she get to the point of selling the property. She does not want to do anything to decrease the value or the privacy of the area neighbors. Employees start at flexible times. She is willing to limit the number of vehicles on her property if the Board wishes. Even on the most hectic day, she clarified that her business would only be adding 10 vehicles to the 21,000 vehicles that drive down Spring Creek daily. She is asking for desks, computers and phones in her home and will deal with as few employees as the City requires. Ms. Garner stated this is a unique day and age

in our society. We have the ability to communicate electronically and this is what she is asking to do. Her plan is that anyone driving by that home will only know that it is a residence. This home has been on the market for over a year and there is not a large market for a 5,000 square foot home.

Staff Recommendation is for Denial. Objectors were present. Letters of Objection were also received.

Letters of Objection:

Theresa Castrogiovanni, 2774 Spring Creek Road, not an Adjacent Property owner, stated in her letter that she and her mother live at the 2774 address. Her letter expressed concern with an increase in vehicles and delivery trucks. In her letter she stated “This is a residential area not a area for business. We feel it would lower our property value. What will stop the next person and the next person to open a business in a residential area.”

W. Stephen Minore, 2616 Spring Creek Road, not an Adjacent Property Owner, submitted a letter of Objection. Dr. Minore wrote “This is a very nice residential area that has no commercial real estate in it whatsoever. My home is quite close to this and my driveway will be mistaken as a result of this commercial project. I feel this is the worst thing that could be done in this residential area. The speed limit along Spring Creek Road is 45 miles an hour. People will have to stop to find the driveway and then they will have to back down upon Spring Creek road which is extremely dangerous at any time.” He further stated “to subdivide a home into 16 cubicles for office individuals will necessarily increase the amount of people who are wandering through this area. I feel that to do so will further reduce the declining home values in our area. If the people who live there wanted to live in an office park, we would have purchased our homes in office parks. I feel this is an insult and would be to the many people who live and maintain their homes in a professional fashion along Spring Creek Road, as well as extremely dangerous.....”

Rosemary Nicolosi, 3208 Spring Creek Road, not an Adjacent Property Owner, provided a letter of Objection. In her letter she states “Even though the homes are located on a busy thoroughfare, the property values for this area are preserved by and dependent upon the unique and historical makeup of this area being maintained as residential.” “There is no question that the comfort and unique nature of this area would be detrimentally impacted by allowing a Special Use Permit for a business to operate in that home.” She further wrote: “There will be traffic in and out of this residence all day long by a large number of people to keep the business going. Making room for parking on the premises completely changes the character and makeup of the neighborhood. The idea of renting space for employees to park and shuttling them to and from this home is not only impractical and uncertain but would potentially add to even more traffic to and from the residence.” She expressed concerns with Ingress and Egress on Spring Creek Road and also an increase in traffic brought about by the Applicant’s proposed business.

Bruce Mer, 3008 Spring Creek Road, Adjacent Property Owner, submitted a letter of objection. Mr. Mer is in Arizona and unable to attend the meeting. In his letter he stated: “The area is residential and has always been residential. My home is a valuable piece of property and I feel the value will be diminished as a result of this commercial project. I feel there will be a loss of privacy to me and my family. The speed limit on Spring Creek Road is 45mph. People travelling from the East mistake my driveway for the driveway at 3004. Before they realize their mistake they have crossed my property, or more dangerously have backed down onto Spring Creek Road. A commercial enterprise will only increase these incidents.” His son, who lives at the property, was present to speak on his behalf.

Objectors Present:

Mark and Erick Carlson, 2912 Spring Creek Road, Adjacent Property Owner stated he is a neighbor directly to the West. Mr. Carlson stated lights from every car that comes up the Applicant’s driveway

come into his bedroom window. He discussed the heavy traffic flow on Spring Creek Road and the difficulty in turning into his drive without being rear-ended. Mr. Carlson further stated there is commercial space close to the area that is available. He feels the market is turning around for housing sales. He discussed the history of accidents on Spring Creek. Erick Carlson stated he felt once the Variation is granted it stays. He stated there is no reason for this to go forward and her reasons don't really make sense.

Philip Nicolosi, representing his mother at 3208 Spring Creek Road, not an Adjacent Property Owner. He expressed concern with the traffic safety factor on Spring Creek Road. He feels the Applicant's driveway will be difficult in the winter with ice or snow causing vehicles slipping into Spring Creek Road, which is common because of the long drives in that area. Feels this is not the right area of a business. He states he knows this is a big operation that the Applicant is proposing and feels it would create a nuisance and affect the character of the homes in the area.

Daniel Mer, 3008 Spring Creek Road, Adjacent Property Owner, presented his objections to this application. His driveway is adjacent to the Applicant's and their drive has often been mistaken from the subject property. He has a concern with privacy because they are able to see directly into the bottom floor of the home from his house and they can see into his house from the subject property. He expressed concerned with property value, shuttle service and deliveries causing increased traffic.

George Hampilos, 3412 Spring Creek not an Adjacent Property Owner, was present as an Objector. His concerns mirrored those of the previous Objectors. States he knows the Applicant and can speak highly of her. He stated he would definitely welcome her and her family to the subject property but not her business. He does not understand shuttling employees from a mile away. If work is done by fax, phone and computer than he feels her employees could work from their own homes. He does not understand the wisdom of the Applicant wishing to work out of the home. Mr. Hampilos feels this will bring down the value of homes in the area. He said the Applicant can't shift the burden of being a mother and wanting to work on your neighbors. He is also concerned with traffic issues, particularly with clients who are not familiar to the area. Mr. Hampilos stated the Applicant's request is "bizarre and strange and a bad idea" for Rockford.

Hugh McHugh, 2903 Spring Creek Road, not an Adjacent Property Owner Mr. McHugh feels there are other locations that could house a law office and he and his wife do not feel a residential area is appropriate for a business.

Paige Snedegar, 2902 Spring Creek Road, not an Adjacent Property Owner was present as an Objector. She feels vehicles will need momentum to get up the Applicant's driveway safely.

Kristine Carlson, 2912 Spring Creek Road, Adjacent Property Owner stated she would welcome the Applicant as a neighbor but not as a business. She stated in the winter with ice and snow the road and driveway is very dangerous.

Martin Cieslesz, 2911 Spring Creek Road, Adjacent Property Owner expressed concern with the problems of snow and ice, the speed of vehicles on Spring Creek, and is concerned with the potential of serious accidents.

Colleen Donovan, 2424 Bradley Road, not an Adjacent Property Owner is worried that if we make an exception for this item than it opens the door to other businesses in the area.

In response, Ms. Garner stated she understood that everyone is trying to protect their homes and property. She is not there to encourage others to do home base businesses; however, there are other home based businesses already in the area. She had thought the Special Use Permit only applied to her specifically and thought if she sold the property the Special Use Permit would not be in effect. She does

have employees that work remotely, but some are unable to do that. As far as privacy, she is willing to put up a fence to avoid any vehicle lights and stated even if she moved there only for residential use she would put up a fence if residents could see into each other's homes. She asked the Board to please look at what is truly only the facts and if she has only 4 or 5 employees that enter the homes two times a day is that really impacting traffic. This request is a result of her trying to find a way to manage her family as well as a business.

Mr. Olson stated he might be persuaded if the Special Use Permit died along with the sale of the property but it does not. Mr. Magdziarz stated he does not have a problem with it and does not feel the Applicant will have people coming and going. Ms. Neubauer stated the Applicant did indicate she was comfortable with limiting to 5 employees and no signage.

A **MOTION** was made by Alicia Neubauer to **APPROVE** the Special Use Permit for a Planned Unit Development for a residence and law office in an R-1, Single-family Residential Zoning District at 3004 Spring Creek Road, with a condition of limiting on site employees to 5 employees. The Motion was **SECONDED** by Aaron Magdziarz and **FAILED TO CARRY** by a vote of 2-2 with Dan and Dennis voting Nay. The Application will move forward with a recommendation of Denial.

ZBA 002-13
Findings of Fact for a Special Use Permit
For a Planned Unit Development
For a Residence and Law Office
In an R-1, Single-Family Residential Zoning District at
3004 Spring Creek Road

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

1. The establishment, maintenance or operation of the Special Use Permit will be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will impede the normal or orderly development and improvement of the surrounding property for uses permitted in the R-1 Zoning District.
4. Adequate utilities, access roads, drainage and/or necessary facilities have not been provided.
5. Adequate measures have not been taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use does not conform to the applicable regulations of the R-1 Zoning District in which it is located.

ZBA-003-13 **3304 Gilbert Avenue**
Applicant Rockford Area Habitat for Humanity
Ward 7 **Variation** to reduce the required average front yard setback from 19' to 12' along Vermont Street in an R-1, Single-family Residential Zoning District

The subject property is located on the southwest corner of Vermont and Gilbert Streets and is a vacant lot. Tonya Thayer was present representing Rockford Area Habitat for Humanity. She explained they have just built their 100th house in the City of Rockford. This lot is 50 x 133 and is a corner lot. They have built 7 others in this neighborhood on corner lots and needed Variations for 4 of them.

Staff Recommendation is for Approval with (1) condition. No Objectors or Interested Parties were present.

A **MOTION** was made by Alicia Neubauer to **APPROVE** the Variation to reduce the required average front yard setback from 19' to 12' along Vermont Street in an R-1, Single-family Residential Zoning District at 3304 Gilbert Avenue. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 4-0.

Approval is subject to the following conditions:

1. Construction of single-family home to be consistent to Exhibit D

ZBA 003-13
Findings of Fact for a Variation
To Reduce Required Average Front Yard From 10' to 12'
Along Vermont Street
In an R-1, Single Family Residential Zoning District at
3304 Gilbert 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.

With no further business to come before the Board, the meeting was adjourned at 8:50 PM

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