



**ZONING BOARD OF APPEALS**  
**Tuesday, July 16, 2013**  
**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:**

Aaron Magdziarz  
Alicia Neubauer  
Dennis Olson  
Dan Roszkowski  
Scott Sanders  
Craig Sockwell

**Absent:**

**Staff:**

Patrick Hayes – City Attorney  
Kelly Nokes – Public Works  
Matt Vitner – Public Works  
Todd Cagnoni – Deputy Director, Construction & Development Services  
Mark Marinaro – Fire Department  
Sandra Hawthorne - Administrative Assistant

**Others:**

Alderman Joseph Chiarelli  
Alderman Karen Elyea  
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 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
- 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, July 29, 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 5:45 PM. A **MOTION** was made by Scott Sanders to **APPROVE** the minutes of the June meeting as submitted. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 5-0 with Dan Roszkowski abstaining.

**ZBA 012-13**

**916, 920, and 926 Harding St, 15XX Clifton Ave. and 1515 Clifton Ave. 907, 913, and 9XX Hopkins Court**

Applicant  
Ward 05

McClure Engineering / Israel of God's Church  
**Special Use Permit** to allow a religious assembly in an R-1, Single-Family Residential Zoning District  
**Laid Over from May and June meetings**

The subject property is located on the south side of Harding, approximately 130' west of Clifton Avenue, north of Hopkins and is approximately one acre in size. Paul Johnson and Tim Hinkens were present. Mr. Hinkens stated they are proposing to demolish the existing structure and rebuild a new building with parking and detention pond. Staff had concerns of sufficient parking and the applicant has since satisfied those requirements with 54 spaces. There will be an entrance on the southeast corner and full access on the South at Hopkins Road.

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

A **MOTION** was made by Aaron Magdziarz to **APPROVE** the Special Use Permit to allow a religious assembly in an R-1, Single-Family Residential Zoning District at 916, 920 and 926 Harding Street, 15XX Clifton Avenue, and 1515 Clifton Avenue and 907, 913 and 9XX Hopkins Court. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-0 with Scott Sanders abstaining.

Approval is subject to the following conditions:

1. Must meet all applicable building and fire codes.
2. Landscaping units must be installed in accordance with Exhibit E.
3. Signage must be in compliance with the sign ordinance for properties located within the R-1 District.

**ZBA 012-13**  
**Findings of Fact for Approval of a Special Use Permit**  
**To Allow a Religious Assembly**  
**In an R-1, Single-Family Residential Zoning District at**  
**916 Harding 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-1 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 016-13**  
Applicant  
Ward 07

**4457 Auburn Street, Auburn Street**

Patrick W. Birkett

**Zoning Map Amendment** from County, R-1, Single-Family Residential Zoning District to C-3, General Commercial Zoning District.

**Special Use Permit** for an auction house in a C-3, General Commercial Zoning District

The subject property is located on the northeast corner of Day Street and Auburn Street and is currently in the County. Patrick W. Birkett, Applicant, reviewed his request. Mr. Birkett stated he wished to establish an auction house at this location. Mr. Cagnoni explained this property is located in Unincorporated Winnebago County at this time. The applicant had contacted Winnebago County in regards to a zoning change and was directed to the City. Even though it is zoned County Residential, for a number of decades this property has had a commercial use. Mr. Birkett stated he handles estate auctions and they are done inside the building.

Mr. Saunders stated he would like to see the access drive to the west be abandoned and allow the green scape to flow in that direction. Applicant stated "OK" to this request.

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

A **MOTION** was made by Scott Sanders to **APPROVE** the Zoning Map Amendment from County, R-1, Single-Family Residential Zoning District to C-3, General Commercial Zoning District and to **APPROVE** the Special Use Permit for an auction house in a C-3, General Commercial Zoning District at 4457 Auburn Street, Auburn Street. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes.
2. Submittal of a landscape plan for Staff's review and approval.
3. All signs must be brought into compliance with the current sign ordinance.
4. Parking spaces must be secure for events that take place within the auction house.
5. That the property is annexed into the City.

**ZBA 016-13**  
**Findings of Fact for Approval of a Zoning Map**  
**From County R-1, Single Family Residential District to**  
**City C-3, General Commercial Zoning District at**  
**4457 Auburn Street**

**Approval** of this Zoning Map Amendment is based upon the following findings:

1. The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
  - a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and surrounding uses;
  - b. This proposal protects the character, scale and stability of the adjacent residential and commercial because the proposed development will meet all development requirements of this site; and
  - c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood
2. The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as C-Retail.

**ZBA 016-13**  
**Findings of Fact for Approval of a Special Use Permit**  
**For an Auction House**  
**In a C-3, General Zoning District at**  
**4457 Auburn 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-2 Zoning District in which it is located.

**ZBA 017-03**

Applicant  
Ward 05

**185 15<sup>th</sup> Avenue**

Jerry West

**Zoning Map Amendment** from RE, Rural Estate Zoning District to I-1, Light Industrial Zoning District

The subject property is located on the southwest corner of 15<sup>th</sup> Avenue and Christina Street and is surrounded by residential and some commercial uses. Jerry West, Applicant, and Attorney Steve Zimmerman were present. Attorney Zimmerman reviewed the Applicant's request for Zoning Map Amendment. The property is currently owned by Rockford Park district, adjacent to Blackhawk Park. The Applicant intends to repair C & C machines and there will be no outside storage. This is a separate parcel of record. The Applicant has a reciprocal parking agreement that will be signed upon closing. They have a circulation easement to allow people to drive out to 15<sup>th</sup> Avenue or to Christina Street. A lot of the work is done at the client's site. Deliveries would be at the back door. Normal business hours are 7:00 AM to 5:00 PM. Facility would be for storage of equipment and parts. Mr. Olson stated he was concerned with truck traffic. Mr. West stated UPS would provide delivery service. 95% of the work is done at the customer's facility. Currently Mr. West and his wife are the only employees, but he anticipates they could perhaps increase to (5) at some time in the future.

Staff Recommendation is for Approval subject to (2) conditions. Objectors or Interested Parties were present.

One letter of Objection was received from Dorothy Pygon, 1624 Christina Street. Ms. Pygon was concerned with the loss of this property as a park area and turning the property into Industrial use. She mentioned concerns of traffic and noise and a decline in housing property values. Ms. Pygon's letter stated "If the plot is rezoned, it will be sold for private industrial use and will forever be lost to the Rockford Park District, setting a dangerous precedent whereby parkland established by the City Fathers as places for citizens to play, exercise and congregate in perpetuity for future generations could be sold at the whim of a government body such as the Park District as long as it didn't make economic sense". Her letter further stated this property had a 50 year lease that expired in 1997, and that the structure should have been demolished and the park returned to its original state.

In response, Attorney Zimmerman felt the presentation at this meeting dealt with many of Ms. Pygon's concerns.

A **MOTION** was made by Aaron Magdziarz to **APPROVE** the Zoning Map Amendment from RE, Rural Estate Zoning District to I-1, Light Industrial Zoning District at 185 15<sup>th</sup> Avenue. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Submittal of a Building permit for Staff review and approval.

**ZBA 017-13**  
**Findings of Fact for Approval of a Zoning Map Amendment**  
**From RE, Rural Estate Zoning District to**  
**I-1, Light Industrial Zoning District at**  
**185 15<sup>th</sup> Avenue**

**Approval** of this Zoning Map Amendment is based upon the following findings:

1. The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
  - a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and surrounding uses;
  - b. This proposal protects the character, scale and stability of the adjacent residential and commercial because the proposed development will meet all development requirements of this site; and
  - c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood
  
2. The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as PE, Existing (Quasi-) Public Facility.

**ZBA 018-13**

Applicant  
Ward 12

**912, 914 West Riverside Boulevard & 3600 North Main Street**

Bruce Swartz

**Special Use Permit** for sale of retail merchandise and short term loans (pawn shop) in a C-2, Limited Commercial Zoning District

The subject property is located on the southeast corner of Riverside Boulevard and North Main Street. The neighborhood is a mixture of residential and commercial uses. Bruce Swartz, William Jachimek and Attorney Brent Blair were present. Attorney Blair reviewed the request for pawn shop. This business would incorporate two vacant spaces, totaling a little less than 7,000 square feet. Traffic and business has decreased at the North Town Mall and they feel this will generate business for this area that has become a slow business area over the years. He does not believe there will be any visual impact on the area other than the façade signage. Attorney Blair stated this will not be a “junk dealer” as some other pawn shops in Rockford have become. He presented photographs of the type of operation his clients had in mind. Mr. Swartz has been in the tenant space two doors away from this space for 38 years. Mr. Jachimek stated he and Mr. Swartz have decided to go into this business together. Mr. Jachimek said they will try to help out a customer who needs money. If that customer has an item worth a loan of \$20, they will do so. They will also have more upscale items. They will require photo i.d. and will video tape each transaction. Hope to have 15-20 pawn transactions per day. Because they are a specialized use they do not anticipate being as busy as a barber shop or retail store. Open 7 days a week, 10:00 AM - 7:00 PM thru the week, 10:00 AM – 6:00 PM Saturday, and 11:00 AM to 5:00 PM Sunday. Attorney Blair stated there were no other pawn shops in the area, but there are other Pay Day Loans and a car-title type loan business.

Staff Recommendation is for Denial. No Objectors or Interested Parties were present.

Mr. Cagnoni asked the Applicant what component of the business would include services of purchasing goods without pawning. The Applicant responded they would purchase items if people just want to sell items. Mr. Cagnoni asked if it was their intention to keep the existing jewelry store open as it currently functions and this venture to be a pawn and second hand store as well. Mr. Swartz stated this was

correct. Mr. Cagnoni further asked if the business practice related to due diligence for pawn service would be the same for the purchase of second hand merchandise. The Applicants responded Yes. Mr. Cagnoni wished to clarify that Staff Recommendation for Denial was based on the limited information received from the Applicant at the time of Application. With the further clarification this meeting, Staff felt the Board could move forward with Approval with conditions that could be perfected as this application progresses, or they could recommend denial and Staff could work with the Applicant prior to the Codes & Regulations meeting to address any further concerns.

Alicia Neubauer stated she is not in favor of supporting this application due to criminal activity and complaints within the parking lot.

A **MOTION** was made by Alicia Neubauer to **DENY** the Special Use Permit for sale of retail merchandise and short term loans (pawn shop) in a C-2, Limited Commercial Zoning District at 912, 914 West Riverside Boulevard and 3600 North Main Street. The Motion was **SECONDED** by Dennis Olson and **FAILED TO CARRY** by a vote of 3-3, with Aaron Magdziarz, Craig Sockwell and Dan Roszkowski voting Nay. The recommendation will move forward with a recommendation of Denial.

**ZBA 018-13**  
**Findings of Fact for Denial of a Special Use Permit**  
**For the Sale of Retail Merchandise and Short-Term Loans (Pawn Shop)**  
**In a C-2, Limited Commercial Zoning District at**  
**012-014 West Riverside Boulevard & 3600 North Main 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, and will 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.
6. The special use does not conform to the applicable regulations of the Zoning District in which it is located.

**ZBA 019-13**  
Applicant  
Ward 10

**300-320 N. Alpine Road & 43XX Morsay Drive**  
Jeff Kaney / White House Plaza LLC  
**Variation** to reduce parking from the required 210 parking spaces to 133 parking spaces in a C-2, Limited Commercial Zoning District

The subject property is located on the northwest corner of Morsay Drive and North Alpine Road and is a tenant space within a strip mall. Jeff Kaney, Applicant, reviewed his request for Variation. This building was built in the early 80's and is just north of Rock River Ford. Their request for Variation is for economic

reasons. He stated they purchased the strip center in 2007. They established a plan to lease the spaces in such a way as to minimize parking impact – i.e. insurance agency, men’s big and tall store, tanning salon – business that do not have a lot of traffic. They are now looking to add a low impact food choice business that would go well with their other tenants. Mr. Kaney explained they determined parking usage by doing an actual inventory. They have surveyed the customers and spoke with current tenants. Employees park in the rear of the building so that the customer parking is not affected. This property is landlocked and they cannot purchase property to the North. There is a green space retention area behind that cannot be built on to add parking. Mr. Sanders stated he is a customer of this mall and has never had a parking problem.

Staff Recommendation is for Approval subject to (2) conditions. Interested Parties were present.

Tyler Brewer, 4350 Morsay Drive, was present as an Interested Party. He requested clarification on what the term of reducing parking spaces actually implied to be certain they were not asking to reduce existing parking spaces. Mr. Cagnoni explained the reduction is to allow the existing tenant space to have a business based on the existing amount of parking and it will not actually reduce the existing parking spaces. Mr. Brewer understood the request and stated he has no concerns with this application.

A **MOTION** was made by Scott Sanders to **APPROVE** the Variation to reduce parking from the required 210 parking spaces to 133 parking spaces in a C-2, Limited Commercial Zoning District at 300-320 N. Alpine Road & 43XX Morsay Drive. The Motion was **SECONDED** by Craig Sockwell 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. The proposed restaurant is limited to the space shown on Exhibit E.

**ZBA 019-13**  
**Findings of Fact for Approval of a Variation**  
**To Reduce Parking From the Required 210 Parking Spaces to 133 Parking Spaces**  
**In a C-2, Limited Commercial Zoning District at**  
**300-320 North Alpine 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 020-13**

Applicant  
Ward 03

**518 Walnut Street & 123 South 3<sup>rd</sup> Street**

David Vikse

**Modification of Special Use Permit #026-11** to add murals in a C-4, Urban Mixed-Use Zoning District

The subject property is located northwest of the Walnut Street and 3<sup>rd</sup> Street intersection. This property was granted a Special Use Permit for a Planned Unit Development consisting of an auto museum with consignment sales, souvenir shop, prep area and vehicle repair shop in September 2011 for the same Applicant. David Vikse reviewed his request. He explained he purchased this building about a year ago for a car museum use. He has improved the façade and presented photos of the improvements. Mr. Vikse stated a lot of auto museums in the country have been installing murals. He is asking for a modification to the original Special Use Permit to add murals as well.

Mr. Sanders stated he “loved” the idea with the exception of the two doors that are the fire exit. He stated this was just his personal preference, but he loved the concept. Mr. Vikse stated his sign permit application will be consistent with what was submitted and is in the Staff report. He will be installing cement board, then sealing that, the mural will be applied and then sprayed with a U.V. protection.

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 Modification of Special Use Permit #026-11 to add murals in a C-4, Urban Mixed-Use Zoning District at 518 Walnut Street & 123 South 3<sup>rd</sup> Street. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Mounting of murals must be in accordance to Exhibits E and F. Any modifications to material and/or image of murals will require a Modification of Special Use Permit.
2. Sign permits shall be required including an illustration of proposed paintings shall be submitted with the permit applications.
3. The mural panels may not consist of a vinyl banner material within a frame.

**ZBA 020-13**

**Findings of Fact for Approval of a Modification of Special Use Permit #026-11  
To Add Murals in a C-4, Urban Mixed-Use Zoning District at  
518 Walnut Street and 123 South 3<sup>rd</sup> Street**

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

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the Zoning District in which it is located.

**ZBA 021-13**

Applicant  
Ward 01

**2013 McFarland Road and XXXX North Perryville Road**

Meijer Stores Limited Partnership / Jim Ostrowski

- (A) **Zoning Map Amendment** from C-1, Limited Office Zoning District, C-2, Limited Commercial Zoning District with Preannexation Agreement to C-3, Commercial General Zoning District for parcel A and B
- (B) **Special Use Permit** for Gas Station
- (C) **Variation** to eliminate interior landscaping requirements in the C-3, General Commercial Zoning District for parcel B
- (D) **Variation** to increase sign height from 8' to 16'
- (E) **Variation** to increase the maximum square footage of 64 to 96 square feet for a landmark style sign
- (F) **Special Use Permit** for grocery/retail store with outdoor garden center and drive thru pharmacy
- (G) **Variation** in the interior landscaping to eliminate building foundation landscaping and reduce interior landscaping from 10% to 4%
- (H) **Variation** to eliminate 4 foot open green spaces along south property line
- (I) **Special Use Permit** for off premise business sign at McFarland and Rote Road in a C-3, General Commercial Zoning District

The subject property consists of 18.35 acres of land, located on the east side of North Perryville Road, north of Rote Road, and west and east of McFarland Road. It is currently used as farmland. The property is regulated by two Preannexation agreements approved by City Council in 2000 and 2001. The Preannexation agreements allow a number of retail uses, including grocery/retail store.

Jim Ostrowski, Real Estate Manager for Meijer, and Michael Mondus, Architect, were present. Mr. Ostrowski reviewed the history of Meijer's. They have progressed to a "super center" concept with 200 stores. Mr. Ostrowski stated Meijer Stores has a commitment to the communities. Examples are programs such as donation of 6% of profits to local charities.; free prescription of antibiotics for children and free Lipitor supplement. Meijer Stores have filled over 14 million prescriptions since 2006, saving people over \$200,000.00. They have one of their stores Leed Certified each year and all stores built that year are built to those standards. They own all of their real estate. Mr. Ostrowski further explained they held a neighborhood meeting on July 11<sup>th</sup> to talk to all of the neighbors residing behind the store to the east. They are still working with issues regarding buffers and are committed to work with the neighborhood to make certain they are adequately buffered. The proposed store is 192,000 square foot and is a 24 hour store with a gas station. One entrance is closed after 10:00 PM and some of the parking lot lights are reduced. They try to reduce light scatter as much as possible to work with the community.

Mr. Mondus, Architectural Engineer, reviewed the specifications of this project. The development will include a 192,000 square ft. Super Center Store, a 2500 sq. ft. gas station, and the construction of approximately 1300 linear feet of roadway which would include the extension of McFarland Road to the

north limits of the Meijer property as well as a new access with right in/ right out access. There will be parking for 750 vehicles located primarily to the west of the store. The project includes a 21000 square foot garden center at the SE corner of the building and pharmacy drive thru lane located at the SW corner. The loading dock area is side loaded and faces north. The proposed gas station located along Perryville Road has 5 dispensers with 10 stations. They are agreeable to revising their request to C-2 Zoning instead of the original request of C-3 per Staff recommendation. Mr. Mondus stated they are willing to also work with Staff relative to McFarland Road and the landscaping enhancements as outlined in the buffer along the neighboring property line. The existing detention basin will be relocated to the south. This detention does not serve Meijer's but is for the property to the south that has already been developed. Mr. Cagnoni stated in conjunction with the titlement process that the Applicant is going through, the development will also be required to continue through the platting process. The Master Developer, First Rockford Group, is going through the process of revising the Tentative Plat to reflect the configuration that would include the Meijer's footprint as proposed. As part of the revision to the tentative plat the applicant will provide information regarding the detention requirements. They have provided some of the calculations for detention, which are currently going through review in Public Works. The Developer for this site is in the process of securing an area adjacent to Perryville Road from Winnebago County Highway Department and in addition taking detention off site to a property that is adjacent to Vista Green on the west side of Perryville Road. It is anticipated that the detention for this store and well as for future development will be developed with on-site detention or in the area on Vista Green on the west side of Perryville Road..

Public Works City Engineer Matt Vitner wished to clarify that they have not reached a mutual agreement as yet on detention area. He would advocate developing an area in a holistic manner for the entire development. He also verified that First Rockford Group is in the process of acquiring the property in the R-O-W from the County for a detention area. In terms of developing the Perryville promenade, Mr. Vitner would feel more comfortable seeing storm water requirements on the plat up front with an entire drainage pattern established to include future development.

The Gas Station is proposed on Lot 6. Mr. Cagnoni clarified the difference between what is known as Lots A & B. Lot 6 is "B" which is the proposed gas station, and Lot 3 is "A" for the proposed Meijer's grocery store. In response to a question from Mr. Roszkowski, Mr. Cagnoni stated there was a gas station approved recently for Rote and Perryville, but is not aware of the status of that project as of this meeting.

The Buffer was addressed. The Applicants explained they will keep the existing tree line, supplement it with additional landscaping and a fence beyond that. They have received input from the community after meeting with them and are committed to working with them. The building height is 20' in back, front elevation is just short of 40'. Mr. Sanders wish to verify there would be substantial landscaping during the winter months. Mr. Mondus stated they have offered to provide more evergreen trees to supplement the plan to enhance the buffer during the winter as well. The fence is described as wood board-on-board. The height of the fence is still under discussion according to the Applicant. Mr. Sanders stated his opinion is that the buffer in the back of the building needs to be beefed up beyond what would normally be considered reasonable because of the residential area. He would like to see the inclusion of a Boulevard as a tradeoff to accommodate the Applicant's request to reduce interior landscaping is a boulevard. Regarding interior landscaping, Mr. Mondos stated they would have to sacrifice some parking without interior landscaping reduction. Mr. Cagnoni stated the Applicant would still meet shade tree requirements with this reduction. He further clarified that the Applicant does exceed the landscaping requirements in other areas besides the gas station. They are requesting to eliminate 4' of landscaping along the south. The Applicant stated this request is because there will be separate further development in the south side of the lot. Meijer does not see their parking lot expanding to the north. Lighting will be directed down and into the site, with light shields. There will be zero light levels along the east property line. Lights on the rear are mounted on poles with flat lenses and cut off shields to direct light into the site. Delivery traffic flow will enter the site off of Perryville Road. It was clarified that Meijer is a 24-hour operation. Mr. Sanders stated there is a healthy amount of landscaping along the western perimeter and he would like to see some wraparound to the north. Mr. Mondos stated their parking lot to the north will not expand, but he cannot speak to the development to the north which could affect this concept.

Signage was discussed. There is a proposed monument signs - Perryville Road entrance, and one at the McFarland Road entrance. Ms. Neubauer stated she could not support a 16' sign. Mr. Roszkowski pointed out that the Meijer sign on the underside of the canopy at the gas station is going to be 16-18 feet tall. The Board felt that this would be visible signage as well.

Objectors were present. In addition letters of Objection and (1) Petition of Objection was received as included in the Planning & Zoning Report distributed prior to the meeting.

Mitesh Bhalavat, 1858 Grandchester Place Mr. Bhalavat expressed that this is a Super Center, not just a "regular grocery store". He is concerned with the Garden Center adjacent to residential. Because of the curve of the road, he felt sight will be obscured from the entrance/exit to Rote Road to the south. He requests a type of berm adequate enough to be certain there is no sight or noise issue affecting the residential area. He is asking for a berm, or retaining wall with sound barrier. He stated a fence is good for site obstruction, but not for noise. He is concerned that a fence is installed to prevent people coming from the Meijer's property to walking around in their neighborhood. He also feels that the Applicants should obtain Leed Certification. Mr. Bhalavet stated he is concerned with two gas stations so close together as well.

Gail Pickering, 1825 Grandchester Place Ms. Pickering stated at first when we heard that Meijer's wanted to build one of their super stores off of Perryville, most of us in our neighborhood had no objection because we thought it would be located on the front parcel of the property directly off of Perryville. We as homeowners thought we were protected by the C-1 and C-2 zoning that was in place directly behind our neighborhood which would allow a buffer or soft zone for smaller retail businesses and office buildings. We have since found out that in 2000 and 2001 the City Council changed the zoning rule without the general public's knowledge that the developers could build any type of businesses at any location in order to bring revenue to the City without regard to the established neighborhoods. She expressed concerned with the impact of such a large development backing up to their neighborhoods. She stated Meijer is asking for a 30% rebate on taxes. Traffic, noise, lighting, drainage, and property values were some of her concerns. She quoted from Article 10 and 21 of the City of Rockford Ordinance stating this development is in direct violation of these ordinances. Ms. Pickering is felt many customers will access from Rote Road and Grandchester because McFarland will not be extended to Spring Creek, per information provided at the July 11<sup>th</sup> neighborhood meeting. Customers will not all be entering through Perryville and will short cut through their neighborhood. She stated Rote Road is not designed for commercial traffic. This store will double or triple traffic on Rote and possibly Grandchester because they will use it as a cut through.

Brenda Kickertz, 7044 Sentinel Road. Ms. Kickertz lives to the south of the proposed development site. She stated she has been to many Meijer Stores and they are "lovely" stores. She explained in general she does welcome development to the north that would allow her the opportunity to walk nearby to shop, and dine. She does understand that the area has been zoned for commercial development for a long time. The purpose of having a zoning ordinance implementing adopted plans and policies is to protect the character of established residential neighborhoods, maintaining economically vibrant as well as visually attractive businesses in residential areas and insuring adequate light, air, privacy and access to property. C-1 is a buffer between residential and commercial. In 2000 a Preannexation agreement was worked out and she felt great liberty was given to First Rockford Group. She stated the adjacent property owners did work with them and did a lot of compromising to come up with the existing Zoning Plan. In 2001, an amendment for gas station was allowed, and then, in 2003 First Rockford applied for a Variance. All during this process adjacent property owners compromised and were willing to work with the developer for offices. A McDonalds was applied for in 2003 and was withdrawn because it did not fit in with the character of the area. In discussing the application before the Board this evening, Ms. Kickertz stated a grocery store is allowed in a C-2; zoning district; however, Meijer is not just a grocery store – it is a Mega-Store with groceries, automotive, soft goods, home décor. These stores do serve a purpose but they should be in a C-3 area. She was also concerned that changing to C-3 zoning opens the door for any other Commercial uses that apply in C-3 zoning such as drive thru restaurants. She has no

opposition to the Gas Station as long as it is in a C-3 area. She is opposed to all variations to reduce or eliminate landscaping and to sign variations. Ms. Kickertz repeated the concerns of other objectors of an increase in volume and type of traffic, and noise from the garden area.

Cass Wolfenberger, 1984 Grandchester. Mr. Wolfenberger stated he is concerned with all of the issues the previous objectors addressed. He stated he previously lived behind Eagle at Mulford and Riverside and the berm worked very well for noise and visual control. The distance from the tree line to the proposed building is 50 foot going west as explained by Mr. Cagnoni. He stated this berm needs to happen. He feels a berm of 16-18 feet should be installed and would like to see a fence on top of it to keep out foot traffic and to block out all light and sound. He expressed concern with semi-truck traffic and noise coming through their neighborhood, especially with children in the area.

Bill Bowers, 1822 Grandchester Place and his interpreter, Luke Welch was present. Mr. Bowers stated he was deaf and would voice his concerns through Mr. Welch. He is concerned specifically with the proposed road and has issues with foot traffic, bicycle traffic, people littering on property, and potential increase in crime with people being able to see into their homes and back yards. TMr. Bowers felt this created a potential for break ins within the neighborhood. If there must be a route through that field for Fire Trucks he understands, but requests that it not be near their land.

Tim Fischer, 7214 Vanista Court. Mr. & Mrs. Fischer moved to Rockford from Michigan in October 2012. They had two Meijer stores within 10 miles of their residence. When moving to Rockford, they chose their home for this location, and because of the zoning for the subject property. With this zoning, they saw an opportunity for Rockford to expand their retail base and to bring in a retail box store. Mr. Fischer stated Meijer's is second to none as far as a box store goes. However, he did not expect to have a big box store and would have given it a second thought before moving to Rockford. He can hear Interstate 90 and Perryville Road at night with the windows open, but it is not objectionable. He stated he knew that I-90 and Perryville Road were already there before they purchased their home. However, bringing in trucks that will be accelerating and decelerating will have a big impact on their residents. Because this is a 24 hour operation Mr. Fischer believes that eventually they will have 24 hour deliveries as well. Mr. Fischer feels the city needs to maintain the quality of the neighborhood. If this development goes in, he believes the subdivision values will decrease. A lot of the Meijer stores in Michigan do not back up to neighborhoods. They are built off of major highways like State Street, Riverside, and I-90. Mr. Fischer stated there is so much land on the north side of Rockford such as Riverside/McFarland or Riverside/I-90 area that would be so much more suitable for a development like this. Having a development of this size backing up to a relatively crime free, nice neighborhood is not the right step for Rockford and their subdivision.

Brian Léger, 2716 Ware Road Mr. Leggero stated he is not an adjacent property owner but has lived in this area since 1979. He stated the natural water retention area is right by the proposed gas station. Along Perryville Road to the west is a National Preserve area, with State signs signifying this right along where the gas station is proposed. He does not feel that a mega store of this type will fit in the area. He stated this will be the 5<sup>th</sup> store in this area – Logli' s, Woodman's, Highlander, Target, Schnucks. He asked how much of a business of this nature can an area take before it affects the other businesses in the area. He questioned how this supercenter will affect the crime rate. With the increase of traffic generated by this development, he believes the crime rate will increase

In response Mr. Ostrowski stated Meijer is receiving no tax rebate or financial incentive for this store and will not approach the City of Rockford for any financial incentives. They have paid market rate for this land. He explained again that Meijer gets one building a year Leed Certified and all other buildings that are built that year are built to those certifications. Regarding buffering behind the store, a Type C buffer requires a 20 foot buffer – they are requiring 50 feet of width. He understood from the meeting that the neighborhood wanted trees and evergreen and landscaping rather than a berm. If a berm is what they want, Meijer's will build one. They are a contract purchaser going through the process of entitlements. They have built stores in close proximity to other residences. He invited people to call or visit other places where they exist in close proximity to other residences. There is no increase in crime rate due to Meijer's.

Mr. Mondus further explained the current zoning would divide the building onto two zoning separate zoning districts. Meijer's was of the understanding that C-3 zoning was appropriate for this development. Staff reviewed and stated they could still have this development by extending the C-2 area rather than the C-3 zoning. The gas station sign is actually 13.5' tall, not 16 feet which could have been a mistake in the staff report. Regarding drainage Mr. Mondus stated their site is lower than the residents to the east and they are continuing to accept water from that area and that water will continue to flow west. Mr. Ostrowski explained their typical store has deliveries from 6-7 AM to 8-9 PM. They do have 1 to 2 overnight deliveries for produce only. Mr. Roszkowski asked if the Fire lane connecting to Rote Road was necessary. The Applicants responded from an operational standpoint they do not need it, but have offered to provide that road. Mr. Marinelli, Fire Department, stated there are two access points to the site which would meet the Fire department requirement. Mr. Cagnoni stated this was not a designated fire lane even though we have used that term. When going through a planning process for a development, this road or driveway is anticipated for additional development of property to the south.

During Discussion, Mr. Sanders felt there is a lot of land involved and there are other options within that same portion of the land that would not back up to residential. Mr. Olson stated he lived behind the Eagle store and their berm was very effective. He stated he did not even know the store was there. Mr. Sanders discussed berm options. Ms. Neubauer agreed that there was a lot of land available and felt if the property was sighted closer to Perryville it might be more appropriate and the neighborhoods might be more inclined to support this project. Mr. Sanders felt it could be developed more to the North.

Regarding this, Mr. Cagnoni provided some background information. He explained it is important to take into considerations decisions made prior to this meeting. There are Preannexation agreements in place that include rights for development as well as requirements for buffering. Generally the proposal as submitted meets those requirements of the annexation agreements that regulate the property. The C-2 zoning allows retail uses in an unlimited capacity, which include this type of development. This property has been marketed for a Lifestyle Center in the past and other large retail developments. There are portions of that agreement that require the buffering adjacent to residential. Because there are two Preannexation agreements there are different requirements for buffering. The Applicant has requested C-2 zoning because of the split in existing zoning classification. This project is expected to be in place much longer than the Preannexation agreements which lapse in approximately ten years and would result in a significant investment, a part of which that would become non-conforming one the Preannexation agreement runs out. This request is not required in order to construct the proposed development, but rather to conserve the development upon completion. This was taken into consideration when the Staff report was prepared. Regardless of the outcome of this zoning request, much of it is obligated and permissible under the Preannexation agreement. The Agreements in 2000 & 2001 were subject to the permissibility of uses allowed under the 1993 zoning ordinance. Since then the City has adopted the 2008 zoning ordinance. The proposed gas station is predominately in the C-3 District, which allows a gas station as a performance use. The Special Use Permit is required only because they do not satisfy the interior landscaping requirement. However, the amount of landscaping behind the building significantly exceeds the amount of landscaping typically seen at a gas station site. Anything that is not listed as excluded in the Preannexation agreement is a permitted use on the property, including the retail center and garden center which are allowed under the current zoning district. The focus was on landscaping because the retail center is allowed. The development has no proposed building foundation lights. It was felt that focusing on getting landscaping on McFarland Road would have a much greater effect on the residential area. The proposed buffering by the applicant satisfies and exceeds landscaping requirements Staff Report has recommended additional buffering along the east property line and Meijer has been quite open to providing this. He further clarified that because water flows east to west on this parcel a large berm in that area that would interfere with this flow could not be created. He finalized by stated that there are agreements in place that the Board needs to be conscious of regarding this proposal.

Mr. Sanders felt a 50 foot buffer was not adequate. He asked Staff if the project could develop If the applications were denied; Mr. Cagnoni stated this was correct. Staff further clarified that condition (8), dealing with the development of McFarland Road from Rote Road to Spring Road is a requirement. Mr. Sanders asked for clarification on buffer requirements of the easternmost road extending to Rote. Mr.

Cagnoni understood that there may be an agreement between Meijer and the developer to construct and landscape the proposed road. Mr. Sockwell was concerned this road would encourage people to go to the back of the building. Mr. Cagnoni stated predominately customers would follow the natural flow into the parking area. .

A **MOTION** was made by Scott Sanders to **Approve** of a Zoning Map Amendment from C-1, Limited office Zoning District, C-2, Limited Commercial Zoning District with Preannexation Agreement to C-3, Commercial General Zoning District for parcel B and **Deny** of a Zoning Map Amendment from C-1, Limited Office Zoning District, C-2, Limited Commercial Zoning District with Preannexation Agreement to C-3, Commercial General Zoning District for parcel A and **Approve** of a Zoning Map Amendment from C-1, Limited Office Zoning District, C-2, Limited Commercial Zoning District with Preannexation Agreement to C-2, Limited Commercial Zoning District for parcel A and **Approve** of a Special Use Permit for Gas Station and **Approve** of a Variation to eliminate interior landscaping requirements in the C-3, General Commercial Zoning District for parcel B, **Deny** of a Variation to increase sign height from 8' to 16', **Deny** of a Variation to increase the maximum square footage of 64 to 96 square feet for a landmark style sign, **Approve** a Special Use Permit for grocery/retail store with outdoor garden center and drive thru pharmacy, **Approve** Variation in the interior landscaping to eliminate building foundation landscaping and reduce interior landscaping from 10% to 4%, **Approve** Variation to eliminate 4 foot open green spaces along south property line, and **Approve** of a Special Use Permit for off premise business sign at McFarland and Rote Road in a C-3, General Commercial Zoning District. The Motion was **SECONDED** by Alicia Neubauer and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes
2. That the signage is in accordance with Exhibit L
3. Submittal of a revised landscape plan for staff review and approval, including additional landscape units for Lot 3 along proposed Anjali Drive and to include additional buffering along the East property line. (add Lot 6)
4. That the property develop in accordance with the tree preservation plan and tree inventory.
5. That a revised street design inclusive of a landscape median in conformance with City Engineer requirements is submitted for Staff review and approval.
6. That detention is provided in accordance with the requirements of the City Engineer.
7. That the installation and maintenance of the landscape within the McFarland Road median shall be the responsibility of the development.
8. That McFarland Road is constructed from Rote Road to Spring Road in accordance with the requirements of the City Engineer including a bike path on the east side of the road and a sidewalk on the west side of the road.
9. That a Final Plat is approved and recorded for the property.

**ZBA 021-13**  
**Findings of Fact for Denial of a Zoning Map Amendment**  
**From C-1, Limited Office Zoning District**  
**To C-2, Limited Commercial Zoning District**  
**With Preannexation Agreement**  
**To C-3, General Commercial Zoning District For Parcel A at**  
**2013 McFarland Road**

**Denial** of this Zoning Map Amendment is based upon the following findings:

1. The proposed Zoning Map change is not consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
  - a. This proposal does not promote the health, safety, comfort, convenience, morals and

- general welfare for the citizens of Rockford because it is not consistent with the comprehensive plan and surrounding uses;
  - b. This proposal does not protect the character, scale and stability of the adjacent residential and commercial because the proposed development will not meet all development requirements of this site; and
  - c. The proposed map amendment would not allow for a reasonable development to take place consistent with the surrounding neighborhood
- 2. The proposed Zoning Map Amendment is not consistent with the Preannexation Agreement.

**ZBA 021-13**  
**Findings of Fact for Approval of a Zoning Map Amendment**  
**From C-1, Limited Office Zoning District**  
**To C-2, Limited Commercial Zoning District**  
**With Preannexation Agreement**  
**To C-2, Limited Commercial Zoning District for Parcel A at**  
**2013 McFarland Road**

**Approval** of this Zoning Map Amendment is based upon the following findings:

- 1. The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
  - a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and surrounding uses;
  - b. This proposal protects the character, scale and stability of the adjacent residential and commercial because the proposed development will meet all development requirements of this site; and
  - c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood
- 2. The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as C Retail.

**ZBA 021-13**  
**Findings of Fact For Approval of a Zoning Map Amendment**  
**From C-1, Limited Office Zoning District**  
**To C-2, Limited Commercial Zoning District**  
**With Preannexation Agreement**  
**To C-3, General Commercial Zoning District for Parcel B at**  
**2013 McFarland Road**

**Approval** of this Zoning Map Amendment is based upon the following findings:

- 1. The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
  - a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and surrounding uses;



- b. This proposal protects the character, scale and stability of the adjacent residential and commercial because the proposed development will meet all development requirements of this site; and
  - c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood
2. The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as C Retail.

**ZBA 021-13**  
**Findings of Fact for Approval of a Special Use Permit**  
**For a Gas Station**  
**In a C-3, General Commercial Zoning District at**  
**2013 McFarland 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 C-3 Zoning District in which it is located.

**ZBA 021-13**  
**Findings of Fact for Approval of a Special Use Permit**  
**For Grocery/Retail Store with Outdoor Garden Center and Drive-Thru Pharmacy**  
**In a C-3, General Commercial Zoning District at**  
**2013 McFarland 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 C-3 Zoning District in which it is located.

**ZBA 021-13**  
**Findings of Fact for Approval of a Variation**  
**To Eliminate Interior Landscaping Requirements**  
**In the C-3, General Commercial Zoning District for Parcel B at**  
**2013 McFarland 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 021-13**  
**Findings of Fact for Denial of a Variation**  
**To Increase Sign Height From 8' to 16'**  
**In a C-3, General Commercial Zoning District at**  
**2013 McFarland Road**

**Denial** of this Variation is based upon the following findings:

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

**ZBA 021-13**  
**Findings of Fact for Denial of a Variation**  
**To Increase the Maximum Square Footage of 64 to 96 Square Feet**  
**For a Landmark Style Sign**  
**In a C-3, General Commercial Zoning District at**  
**2013 McFarland Road**

**Denial** of this Variation is based upon the following findings:

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

4. The alleged difficulty or hardship is not caused by this Ordinance and has been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does not comply with the spirit and intent of restrictions imposed by this Ordinance.

**ZBA 021-13**  
**Findings of Fact for Approval of a Variation**  
**For Interior Landscaping to Eliminate Building Foundation Landscaping**  
**And Reduce Interior Landscaping from 10% to 4%**  
**In a C-3, General Commercial Zoning District at**  
**2013 McFarland 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 021-13**  
**Findings of Fact for Approval of a Variation**  
**To Eliminate 4 Foot Open Green Space**  
**Along the South Property Line**  
**In a C-3, General Commercial Zoning District at**  
**2013 McFarland 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 021-13**  
**Findings of Fact for Approval of a Special Use Permit**  
**For Off Premise Business Sign**  
**At McFarland and Rote Road**  
**In a C-3, General Commercial Zoning at**  
**2013 McFarland 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 C-3 Zoning District in which it is located.

**ZBA 022-13**

Applicant  
Ward 14

**1309 Esmond Drive**

Angela M. Lisk

**Variation** to allow installation of a chain link fence in the front yard along Arnold Avenue in an R-1, Single-Family Residential Zoning District

The subject property is located on the east side of Arnold Avenue and west of Esmond Drive and is a single-family home on a corner lot. Angela Lisk reviewed her request for Variation. She stated her lot is a corner lot and is also an irregular shaped lot with the back lot measuring 17' x 24'. There is an existing privacy fence to the west on her neighbor's property. To the South is her garage leaving only a 4' walk space behind the garage. She feels any other type of fencing would be sight obstructing to the adjacent neighbor when backing out of their property. She feels a wrought iron fence would be a safety hazard to a child or small dog getting stuck between the bars causing a strangulation issue. Ms. Lisk stated Staff report said there was only one property on Arnold Avenue that had a chain link fence. From East State just one block from Orchard Avenue to her house there are 13 properties using chain link fencing to enclose the rear yards.

Mr. Sanders wished to clarify that the Variation is for the fence material itself, not the 4' height. He stated he did not feel an aluminum style fence would be more sight obscuring than a chain link fence. He explained that chain link is allowed in rear yard, which was the case in most of the properties Ms. Lisk observed, but not the front. Mr. Cagnoni further clarified the change in ordinance came into effect in 2009 that disallowed chain link in the front yard.

Staff Recommendation is for Denial. No Objectors were Present but there were Supporters. One letter of support was received from Pam & Gale Rigotti, 1318 Esmond Drive, stating they felt the Applicant's request was reasonable.

Ronald Winebrenner, 1312 Arnold, was present. Mr. Winebrenner spoke in support of the Applicant's proposal. He stated the fence she is proposing would run between his lot and hers. He feels any other type of fence that he could not see through would be detrimental to his backing out of the driveway.

Alderman Joseph Chiarelli was present and spoke in support of Ms. Lisk's proposal. He stated she keeps an immaculate yard and he feels strongly that she will definitely take care of this fence. Mr. Sanders asked if she would consider a vinyl coated chain link fence. She stated she did speak to the fence company about that and they told her the vinyl coating does not last as long, that the vinyl starts to peel over time.

Lucy Hulvey, 1322 Esmond Drive, was present. She stated she is three houses over from Ms. Lisk. She stated she is very impressed with how Ms. Lisk has maintained her property. She does not have any concerns with allowing a chain link fence as requested.

In closing, Ms. Hulvey stated she has put over \$30,000 in improvements to her property in the short time that she has lived there. She is going with a higher gauge wire fencing. She now has a blood hound and requires a strong fence to allow him area to exercise.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Variation to allow installation of a chain link fence in the front yard along Arnold Avenue in an R-1, Single-Family Residential Zoning District at 1309 Esmond Drive. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 4-2 with Scott Sanders and Alicia Neubauer voting Nay.

**ZBA 022-13**  
**Findings of Fact for Approval of a Variation**  
**To Allow Installation of a Chain Link Fence**  
**In the Front Yard Along Arnold Avenue**  
**In an R-1, Single-Family Residential Zoning District at**  
**1309 Esmond 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 023-13**

Applicant

Ward 01

**70XX Rote Road, 18XX McFarland Road, and 20XX North Perryville Road**

First Perryville Development Corp.

**Zoning Map Amendment** from C-1, Limited Office Zoning District to C-2, Limited Commercial Zoning District

The subject property is located in the northwest quadrant of North Perryville Road and Rote Road and is surrounded by residential and commercial uses. There is a Preannexation Agreement in place allowing a variety of uses as performance uses and the development of the property in accordance with the C-2 District. Attorney Marvin Keyes verified that the request is to rezone this parcel from C-1 to C-2. This property is under the same Preannexation Agreement as ZBA 021-13 for the Meijer's item. Their intent is

to avoid discouraging tenants from looking at the space because the annexation agreement will expire in the future. This rezoning provides a better overall perspective for future tenants. Attorney Keys explained that any "Objectionable Uses" such as pawn shops, would require a Special Use Permit and go through the Zoning Board Process.

Staff Recommendation is for Approval. No Objectors were present, and one Interested Party was present.

Diane Bowers, 1822 Grandchester Place was present. Ms. Bowers asked for clarification on zoning compared to use allowed. Mr. Roszkowski explained and Ms. Bowers did not express any objections.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Zoning Map Amendment from C-1, Limited Office Zoning District to C-2, Limited Commercial Zoning District at 70XX Rote Road, 18XX McFarland Road, and 20XX North Perryville Road. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 5-1 with Alicia Neubauer voting Nay.

**ZBA 023-13**  
**Findings of Fact for a Zoning Map Amendment**  
**From C-1, Limited Office Zoning District**  
**To C-2, Limited Commercial Zoning District at**  
**20XX North Perryville Road, 18XX McFarland Road, & 70XX Rote Road**

**Approval** of this Zoning Map Amendment is based upon the following findings:

1. The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
  - a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and surrounding uses;
  - b. This proposal protects the character, scale and stability of the adjacent residential and commercial because the proposed development will meet all development requirements of this site; and
  - c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood
2. The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as C, Retail.

With no further business to come before the Board, the meeting was adjourned at 9:32 PM

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