



ZONING BOARD OF APPEALS
Tuesday, July 15, 2014
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
Scott Sanders
Craig Sockwell

Absent:

Dennis Olson
Dan Roszkowski

Staff:

Todd Cagnoni – Director, Community & Economic Development Dept.
Scott Capovilla – Zoning and Land Use Administrator
Angela Hammer – City Attorney
Sandra Hawthorne - Administrative Assistant
Tim Morris - Fire Department
Kelly Nokes – Public Works
Lafakeria Vaughn - Assistant City Attorney
Officer Spencer Berke – Police Department

Others:

Alderman Ann Thompson-Kelly
Alderman Joseph Chiarelli
Alderman Franklin Beach
Alderman Kevin Frost
Kathy Berg, Court 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
- 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 28, 2014, 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 5:35 PM. A **MOTION** was made by Alicia Neubauer to **APPROVE** the minutes of the June meeting. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 3-0 with Dennis Olson and Dan Roszkowski absent and Scott Sanders abstaining.

ZBA 020-14
Applicant
Ward 08

3816 Broadway
SBA Communications / Mike Douchant
Special Use Permit to construct a 150' high cell tower in a C-2, Limited Commercial District
Laid Over from June meeting

The subject property is located on the northeast corner of Broadway and Parkside, south of Charles Street, and is the East Gate Shopping Center. Mike Douchant, Applicant, was present. Mr. Douchant stated there are 5 new sites planned by Verizon within the city. Their preference is to co-locate to an existing structure, but this is not always possible. Mr. Douchant revised his application to 120' in height, stating in order to meet the filing deadline they were unsure of the exact height so chose 150'. Mr. Douchant further explained that he obtained a letter from the property owner of the East Gate Shopping Center stating this structure will not affect the existing and future tenants of the shopping center in any way. He explained that this towers will also allow for co-location of other users. Mr. Douchant presented a map showing the new towers proposed by Verizon. Mr. Douchant stated he was agreeable to Staff conditions.

Ms. Neubauer stated she was uncomfortable with approving a new tower without having the ability to look at an overall plan for all existing and proposed cell tower sites in the City. She asked Mr. Douchant if Verizon considered co-locating on the Fifth 3rd Bank site. Mr. Douchant stated they did assess this roof top tower, but it did not have the capacity to handle their needs.

Staff Recommendation is for Denial of a 150' high cell tower and Approval of a 120' high cell tower, with the following recommended conditions.

1. Must meet all applicable building and fire codes.
2. The fencing material must be vinyl.

3. No more parking spaces may be eliminated and the lease area will be restricted to the area shown on the site plan.

One Objector was present.

Alderman Franklin Beach stated this was not in his ward but is directly across the street. He stated generally cell towers have been nestled in trees and not so obvious; however, this one is quite visible with no landscaping. He wished to clarify he was not speaking for the Alderman of the ward this property is in, but as the Alderman of his adjacent Ward.

In response, Mr. Douchant stated people do get used to seeing cell towers and poles and in a short period of time they do not notice them. They are open to a taller fence, or extending the fence and would be willing to remove the wood trash container, have another entrance for the container and incorporate it within a vinyl fence.

Mr. Magdziarz asked what precautions they had in place in the event the pole were to fall. Mr. Douchant stated cell towers do not fall from the base – they crumble upon themselves within the compound. Mr. Sanders explained to the applicant that he felt Alderman's Beach concern was not the view at ground level, but the fact that a structure this high would be obvious. Mr. Capovilla stated Staff took into consideration that landscaping would take more parking spaces which were needed for the shopping center.

Ms. Neubauer again reiterated she was not comfortable with approving any cell towers without an inventory of existing and proposed cell towers. She felt this site is very visible.

A **MOTION** was made by Alicia Neubauer to **DENY** the Special Use Permit to construct a 150' high cell tower and to **DENY** a Special Use Permit to construct a 120' high cell tower in a C-2, Limited Commercial Zoning District at 3816 Broadway. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 4-0.

ZBA 020-14
Findings of Fact for Denial of a Special Use Permit
To Construct a 150' High Cell Tower
In a C-2, Limited Commercial Zoning District at
3816 Broadway

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.

6. The special use does not conform to the applicable regulations of the C-2 Zoning District in which it is located.

ZBA 020-14
Findings of Fact for Denial of a Special Use Permit
To Construct a 120' High Cell Tower
In a C-2, Limited Commercial Zoning District at
3816 Broadway

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.
6. The special use does not conform to the applicable regulations of the C-2 Zoning District in which it is located.

ZBA 022-14
Applicant
Ward 11

1418 and 1422 Broadway
Ricardo Chavez
Special Use Permit for an auto repair, tire store
Variation to allow parking and landscaping as per submitted site plan in a C-4,
Urban Mixed Use District
Laid Over from June Meeting

The subject property is located on the north side of Broadway, approximately 90 feet west of Parmele Street. This item was laid over last month to allow the applicant to work with Staff on issues with the request. Since that meeting, the applicant has submitted a revised business plan, site plan and interior floor plan.

Mr. Capovilla clarified that the Applicant was made aware that towing would not be allowed in this zoning district and that part of the application is no longer being requested.

Applicants Ricardo Chavez and Julio Salgado, and architect Ron Belles were present. Mr. Chavez stated he and Mr. Salgado are partners. This building is the former Rockford Labor News building. Mr. Salgado explained that he and Mr. Chavez acquired this property over a year ago and have been unable

to find a tenant. He further stated there are 56 out of 93 storefronts in that area that are vacant. Mr. Salgado stated if they were unable to establish the proposed business they would need to demolish the building. Mr. Belles explained how the space within the building fit in nicely with their auto repair needs. The auto repair would take up the rear of the building, and the front area could be used for office space. The second floor is office space with a need to update. The Applicants have auto sales next door to the proposed location which would fit in with the proposed use of this building. Mr. Belles stated he doesn't know what other use this building would meet. Mr. Salgado presented a list of 110 signatures of support of the proposed establishment. Mr. Salgado stated it was his feeling the Alderman of the Ward was against this because his brother ran against her in the last election.

Staff Recommendation is for Denial. Objectors or Interested Parties were present.

Objectors

One letter of Objection was received from Alderman Karen Elyea, Alderman of the Ward. In her letter, Alderman Elyea stated "Broadway has a plethora of auto sales, repair shops and other auto related uses. I don't believe it is in the best interests of the Broadway Business District to add another auto repair shop to their list of businesses". "However, I would encourage the Board to think of the long term negative effects of additional auto related uses along Broadway".

Toby Haldeman, 1413 Parmele was present as an Objector. He stated he lives directly north of the Applicant's property. Mr. Haldeman stated he clarified the intentions of the Applicant during a conversation with Mr. Salgado and during this conversation he told Mr. Salgado that he was not comfortable with this type of business. Mr. Halderman was concerned with the decline of the value of their home, adding that there is already a problem with customers urinating in the alley and near his property in full view. He has concerns with the noise emanating from this business and stated it will greatly affect the quality of his and his elderly mother's life. He was not acceptable with the hours of operating and asked if there would be a bathroom open to the public to alleviate the outdoor urinating that he must now contend with. He stating the building has asbestos and he is concerned that it will float over to his property during any construction. Mr. Haldeman stated he wanted testing of the property for health risks before the business started operation and yearly testing after.

Supporters

Teresa Brady, 5411 East State Street stated her family owned this building for many years. There have always been auto uses of one sort of another in the area. Her family lived in the upstairs area.

Tuffy Quinonez, 203 16th Avenue felt this was a good use to fill a vacant storefront. He would not want to see this place demolished because this is an old building that is part of the neighborhood. He understands that the Applicant would landscape and pave the property as required.

Jaime Salgado, 1311 S. 5th Street brother of the Applicant, stated he also lives in this Ward. He emphasized that this is not the first time a car lot use has been proposed in this area. He feels this is a great opportunity and he does not have any problem with this type of business. Mr. Salgado also stated his feeling that the use of this vacant building would help deter crime.

Rudy Valdez, 1109 North Prospect, stated he does not live in this Ward. He stated he works with a lot of businesses in the area of the Applicants and their goal is to bring in more businesses into the area as well as revenue.

Ryan Clay was not certain of his address, but stated it could be 712 Buckbee or 513 Buckbee. Mr. Clay spoke in support of the applicant, stating he felt it was a positive use.

In response, Mr. Belles stated currently there are two overhead doors that were constantly used by the Labor News with no noise issues. He stated there will be a landscape buffer to the north and they would

be willing to extend landscaping. Mr. Belles said he would be willing to do whatever the City would request.

Mr. Salgado stated they are trying to work with the neighbors and the community and to create jobs. He said he lives in this area and loves the Broadway area. He wants to develop Broadway to bring in more business and to create a safe environment. Vacant buildings create an environment for crime and prostitution and he and Mr. Chavez are looking to find a use for a vacant building. He stated he is paying \$7,000 a year in property taxes for this building that at this point he is unable to use.

During discussion, Ms. Neubauer stated she would be inclined to deny based on the plans presented. Mr. Sockwell stated he understood Mr. Haldeman's concern as a home owner, but these are some of the issues that homeowners have when they move into a commercial area.

Mr. Sanders stated Staff Report seemed to base denial on the number of auto related uses on Broadway, and Mr. Capovilla agreed. He also stated, however, that Staff was willing to work with the Applicant should the Board chose to approve. .

With this in mind, the Board agreed that the towing facility portion of the request be removed.

A **MOTION** was made by Aaron Magdziarz to **APPROVE** the Special Use Permit for an auto repair and tire store and to **APPROVE** the Variation to allow parking and landscaping per submitted site plan with added 13 conditions. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 4-0.

Approval is subject to the following conditions:

1. A towing business shall not be permitted. If towing occurs it shall be limited to customer's vehicles.
2. Development of site shall be in accordance with submitted site plan Exhibit D.
3. No access to and from the alley on the north side, if the alley is used in the future, it must be paved with the required standards.
4. Removal of all existing signage and any future signage must comply with current sign ordinance.
5. Must meet all applicable building and fire codes.
6. Submittal of a change of use permit, by a design professional for staff's review and approval.
7. Submittal of an exterior building elevation plan for staff's review and approval.
8. Hours of operation are limited to those provided in business plan Exhibit F.
9. No outside storage of auto parts, equipment and materials, and/or inoperable and operable vehicles.
10. Any change of use or business operation will require a review by the Zoning Officer and approval of the Zoning Officer.
11. The proposed use shall not include a junk yard or a salvage yard.
12. All conditions must be met prior to establishment of the use.
13. Landscaping and fencing shall continue along the alley to the corner of the building

ZBA 022-14
Findings of Fact for Approval of a Special Use Permit
For an Auto Repair, Tire Store and Towing Facility
In a C-4, Urban Mixed Use Zoning District at
1418, 1422 Broadway

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 022-14
Findings of Fact for Approval of a Variation
To Allow Landscaping and Parking As Per Submitted Site Plan at
1418, 1422 Broadway

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 024-14

Applicant
Ward 06

5009 35th Street

Roger L. Mills

Planned Unit Development consisting of a boarding house in an RE, Rural Estate Zoning District

The subject property is located on the southwest corner of Samuelson Road and 35th Street and consists of 2.52 acres.

Roger Mills, Applicant, stated he has been running a boarding house for 12 or 13 years without the City's knowledge because he was unaware he needed of requirements that needed to be in place. The home has 9 bedrooms, 2 washrooms, 4 full sized bathrooms and two farm kitchens according to Mr. Mills. All the furniture, bedding, etc. belong to Mr. Mills and the only thing the tenants bring in are their clothing.

Attorney Hammer read the individual conditions to the Applicant and he stated he was agreeable.

Mr. Sockwell stated in the report Staff had a concern with the gravel drive and asked if that should be paving that drive should be included in the conditions. This will be looked at when the Applicant submits his building permit.

Staff Recommendation is for Approval with (4) conditions. No Objectors or Interested Parties were present. One letter of Objection was received.

Attorney Randall Talley, representing Doris Dorn, 5056 35th Street, submitted a letter from Ms. Dorn. Her property is in Winnebago County but is directly across the street to the east of the subject property. Ms. Dorn's letter expressed concern with safety issues for the neighborhood. The letter stated "Specifically, it is very difficult for people to maintain a neighborhood watch on suspicious activity in the area when the residents of a boarding house are constantly changing." "Several years ago, an intoxicated person, believed to be a boarder at the subject property, mistakenly attempted to enter my home." In addition she stated a boarding house is inconsistent with the single-family character of the neighborhood.

In response, Mr. Mills stated Mrs. Dorn is an elderly lady, a very good neighbor, and a very strong woman with a good family. He does not understand the drinking problem mentioned in her letter, as intoxication has not been an issue. He stated he has never received a complaint in all the years he was running the boarding home from Mrs. Dorn until now. When asked what the average time is that a tenant stays in the home, Mr. Mills responded that he has one tenant that has been there for 7 years and normally a tenant stays 3-4 years.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Special Use Permit for a Planned Unit Development consisting of a boarding house in an RE, Rural Estate Zoning District at 5009 35th Street. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 4-0.

Approval is subject to the following conditions:

1. Meet all applicable Building and Fire Codes.
2. Submittal of a Building Permit for Staff review and approval establishing the boarding house and for egress windows and doors in the basement.
3. That the boarding house shall have no more than seven (7) bedrooms or seven (7) individuals renting the rooms.

4. The Special Use Permit #024-14 for the boarding house with a maximum of seven (7) rooms is only in effect for a period up to five (5) years or the last day of July, 2019, unless the boarding house is terminated by the property owner, whichever comes first.

ZBA 024-14
Findings of Fact for Approval of a Special Use Permit
For a Planned Unit Development
Consisting of a Boarding House
In an RE, Rural Estate Zoning District at
5009 35th 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 RE Zoning District in which it is located.

ZBA 025-14
Applicant
Ward 07

3017 Wallin Avenue
CST Holdings, LLC / Dolan Realty Advisors LLC
Special Use Permit for a 130' monopole cellular tower in a C-3, General Commercial Zoning District

The subject property is located on the north side of Wallin Avenue, approximately 150 feet west of Kilburn Avenue. Mike Douchant, Applicant, reviewed his request. He supplied a drawing of the triangle area as requested in an earlier item by Ms. Neubauer. Mr. Douchant felt a tower in this particular location would be an enhancement. He is open to a dialog regarding landscaping, a recommendation of tree types whatever Staff recommends. Due to potential colocation in the future, he asked that Staff consider leaving the site plan of structures as is instead of "flipping it around" as suggested. If they have to reorient the site plan, they will incur additional costs. By leaving the site plan as it, it will be more conducive to co-location in the future.

Staff Recommendation was for Approval with the following conditions:

1. Must meet all applicable building and fire codes.
2. Submittal of a revised site plan showing tower 30'

No Objectors or Interested Parties were present.

During discussion, Mr. Sanders stated he did agree that it would be helpful to have an overall plan of where cell towers were going. Ms. Neubauer stated she would not be inclined to approve without this information from the City.

A **MOTION** was made by Alicia Neubauer to **DENY** the Special Use Permit for a 130' monopole cellular tower in a C-3, General Commercial zoning District. The Motion was **SECONDED** by Craig Sockwell and **FAILED TO CARRY** by a vote of 3-1 with Scott Sanders voting Nay and will move forward to Codes and Regulations with a vote of **DENIAL**.

ZBA 025-14
Findings of Fact for Denial of a Special Use Permit
To Construct a 130' High Cell Tower
In a C-3, Commercial General Zoning District at
3017 Wallin Avenue

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

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-3 Zoning District in which it is located.

ZBA 026-14
Applicant
Ward 11

1507 Kishwaukee Street
CST II, LLC / Dolan Realty Advisors LLC
Special Use Permit for a 150' monopole cellular tower in an I-1, Light Industrial Zoning District

The subject property is located on the west side of Kishwaukee and 120 feet north of 15th Avenue. Mike Douchant, Applicant, stated based on the previous discussions on the two cell tower items earlier on the agenda, he was confused as to what specifics needed to be provided or met in order to get these cell towers approved.

Mr. Capovilla explained the City would need to do an overall assessment of the cell towers in the City including those proposed, and will need to work with cell tower providers to obtain this. Mr. Cagnoni further indicated that this item and the previous cell tower applications on this agenda could move forward

and the Applicant could contact Mr. Capovilla to work with Staff requirements and recommendations for this project.

Mr. Douchant stated he was uncertain what he could do at this point to meet requirements without the assessment from the City that the Board is asking for.

Staff Recommendation is for Approval subject to the following conditions:

1. Submittal of a revised site plan to include a 100' setback from the right of way along the south alley, fencing to be changed from chain link to vinyl and for the landscaping to be incorporated along both alleys.
2. Must meet all applicable building and fire codes.
3. Must submit documentation of approval through FAA

One Interested Party was present.

Eric Willard, 7555 Royal Troon, stated he was not present as an Objector or Supporter. Mr. Willard stated he is a telecommunications and cell tower consultant and happened to be here for another item on the agenda. He stated he understood the Board's request for the assessment and offered his services.

Mr. Magdziarz asked if these cell towers generated any noise. Mr. Douchant compared it to a standard light fixture at a football game.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Special Use Permit to construct a 150' high cell tower in an I-1, Light Industrial Zoning District at 1507 Kishwaukee Street. The Motion was **DIED** For Lack of a Second.

A **SECOND MOTION** was made by Alicia Neubauer to **DENY** the Special Use Permit to construct a 150' high cell tower in an I-1, Light Industrial Zoning District at 1507 Kishwaukee Street. The Motion was **SECONDED** by Aaron Magdziarz and **FAILED TO CARRY** by a vote 2-2 with Scott Sanders and Craig Sockwell voting Nay and will move forward with a recommendation of Denial.

ZBA 026-14
Findings of Fact for Denial of a Special Use Permit
To Construct a 150' High Cell Tower
In an I-1, Light Industrial Zoning District at
1507 Kishwaukee 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.

6. The special use does not conform to the applicable regulations of the C-2 Zoning District in which it is located.

ZBA 027-14

**75XX Royal Troon Drive; 7589, 7584, 7525 and 75XX Blairmore Drive
75XX Western Gales Drive**

Applicant
Ward 01

Timothy McDonnell
Modification of Special Use Permit #078-05 and 032-05 to include two family units and to convert the clubhouse to a dentist office in an R-3, Multi-family Residential Zoning District and C-1, Limited Office Zoning District

The subject property is located north of Rockford Christian School and south of the Golf Shack on the east side of North Bell School Road. Timothy McDonnell, Applicant, stated he is a business partner of this request. He was the original builder of the subdivision, but did not build the clubhouse. They are requesting duplexes as an option in place of the 3 family buildings originally planned. The second portion of the application is for the existing clubhouse. Mr. McDonnell explained that partial development was completed and when the economy collapsed in 2007, they ended up with some vacant units. The land was acquired from Northwest Bank and the clubhouse was part of the deal. The property owner is requesting a dental office be established in the clubhouse. This request would not increase density.

Staff Recommendation is for Approval with (3) conditions as follows:

1. The clubhouse must obtain a change of use permit to a dentist office and submit drawings by a design professional.
2. All development standards must be met according to the submitted site plan inclusive of site improvements.
3. Construction of two (2) family units must be in accordance to the submitted building elevations.

Interested Parties/ Objectors were present.

Don Sikora, 7521 Blairmore Drive stated he is President of the Association and also lives across from the Clubhouse. He stated the Association is reluctantly agreeing to the Applicant's request but they do have some concerns. They are concerned with addressing using the "XX" in the address numbers. Mr. Sikora further stated the Association felt comfortable with a Dentist Office, but what type of assurances can they be given that another use would not go in this building in the future. He had concerned with signage, parking, and entrance to the parking lot off of Bell School Road or another area to avoid what he states now requires access from two neighborhood streets to get to the parking area.

Regarding the addressing, Mr. Capovilla stated "XX" is used for undeveloped lots that do not have addresses assigned yet. There are 5 or 6 parcels that are not assigned addresses because they are not yet developed. He further explained if there were any other type of use other than a dental office, it would need to come back before the Board and adjacent property owners would be notified. Mr. Capovilla clarified that the unassigned addresses listed in the application are for the development of the two family units. In respect to signage, Mr. Capovilla stated a 64 sq. ft. monument sign would be the limit in the C-1 district, which would most likely be along Bell School Road. The City of Rockford does not govern Bell School Road and it has been stated by the County that there shall be no access off of Bell School Road other than the two residential accesses currently in place.

In response, Mr. McDonnell stated he owns several units in this development and would not create a situation that would be negative to the existing development in which is property is located.

Erick Williard, 7555 Royal Troon, was concerned with traffic coming in off of Bell School, and Mr. Capovilla again stated this would not be allowed. Mr. Williard further stated there is an existing sign that is lite that is an annoyance and hopes the City of Rockford takes lighting into consideration with any future signage.

Greg Thorpe, 7538 Blairmore was present and expressed concerns also that the dental office would not be used for any use that would be detrimental to the neighborhood. He also had concerns with what the landscaping would be.

In response, Mr. McDonnell stated they will be using similar materials for the façade as is existing. He stated he purchased all the materials at the beginning of the subdivision so will be using them in this proposed development. There will be 29 parking places required, creating the addition of ten. This parking was already proposed in the original plan for the subdivision. There will be no changes to the exterior of the building. The main sprinkler system will remain inside the existing building.

A **MOTION** was made by Aaron Magdziarz to **APPROVE** the Modification of Special Use Permit #078-05 and #032-05 to include two-family units and to convert the clubhouse to a dentist office in an R-3, Multi-family Residential Zoning District and C-1, Limited Office Zoning District. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 4-0.

Approval is subject to the following conditions:

1. The clubhouse must obtain a change of use permit to a dentist office and submit drawings by a design professional.
2. All development standards must be met according to the submitted site plan inclusive of site improvements.
3. Construction of two (2) family units must be in accordance to the submitted building elevations.

ZBA 027-14

Findings of Fact for Approval of Modification of Special Use Permits #078-05 and #032-05 To Include Two-Family Units and to Convert the Clubhouse to a Dentist Office In an R-3, Multi-Family Residential Zoning District and C-1, Limited Office Zoning District at 75XX Royal Troon Drive, 7589, 7584, 7525, 75XX Blairmore Drive and 75XX Western Gailes Drive

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 028-14
Applicant
Ward 01

7340 East State Street

David Isreal

- (A) **Special Use Permit** for a drive-through in conjunction with a donut shop (fast food restaurant)
- (B) **Variation** to reduce the required parking from 101 parking spaces to 79 spaces \
- (C) **Variation** to reduce the required 20 feet front yard setback for a parking lot to 15 feet along East State Street
- (D) **Variation** to reduce the required 20 feet wide frontage landscaping to 15 feet wide along East State Street
- (E) **Variation** to reduce the required 20 feet front yard setback for a parking lot to 5.3 feet along Sundae Drive
- (F) **Variation** to required 20 feet wide frontage landscaping to 5.3 feet wide along Sundae Drive in a C-2, Limited Commercial Zoning District

Because there were only 4 members of the Board in attendance, with one of the members having to abstain from discussion and attendance on this item, a majority vote could not be obtained and the item would have had to move forward with a recommendation of Denial. The Applicant was made aware of this prior to the meeting and decided to request a Lay Over to the August 19th meeting.

A **MOTION** was made by Aaron Magdziarz to **LAY OVER** this application to the August 19, 2014 meeting. The Motion was **SECONDED** by Alicia Neubauer and **CARRIED** by a vote of 4-0.

ZBA 029-14
Applicant
Ward 12

3501 North Main Street

Tony and Anna Chiarelli

- (A) **Variation** to reduce required parking spaces from 10 parking spaces to 7 parking spaces
- (B) **Variation** in the required landscaping as per the submitted site plan in a C-2, Limited Commercial Zoning District

The subject property is located on the northeast corner of North Main Street and Belmont. Tony and Anna Chiarelli, applicants and John Slack were present. Mr. Chiarelli reviewed his requests for this application and the following application for 3505 North Main, as they are the owner of both properties. Their business was part of the relocation program and IDOT is now acquiring a portion of the property along North Main frontage due to the widening of North Main. Mr. Chiarelli stated when this property and the 3505 North Main property - which is the next item on the agenda - share parking, which works out well for their alternating business hours. Mr. and Mrs. Chiarelli own the subject property, and Mrs. Chiarelli owns the property at 3505 North Main Street.

Staff Recommendation is for Approval of both Variations with conditions as follows:

1. That a final site plan is submitted for staff review and approval upon final determination of right-of-way takings from IDOT.
2. Replacement of freestanding sign must be a landmark style sign 64 square feet and 8 feet in height.
3. Must meet all applicable building and fire codes.
4. Any future changes to uses and/or expansion to 2nd floor may require review of parking spaces.

Neither Staff nor the Board had any questions of the Applicants.

A **MOTION** was made by Aaron Magdziarz to **APPROVE** Variation to reduce required parking spaces from 10 parking spaces to 7 parking spaces and to **APPROVE** the Variation in the required landscaping as per the submitted site plan in a C-2, Limited Commercial Zoning District at 3501 North Main Street. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 4-0.

Approval is subject to the following conditions:

1. That a final site plan is submitted for staff review and approval upon final determination of right-of-way takings from IDOT.
2. Replacement of freestanding sign must be a landmark style sign 64 square feet and 8 feet in height.
3. Must meet all applicable building and fire codes.
4. Any future changes to uses and/or expansion to 2nd floor may require review of parking spaces.

ZBA 029-14
Findings of Fact for Approval of a Variation
To Reduce Required Parking Spaces
From 10 Parking Spaces to 7 Parking Spaces at
3501 North Main Street

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 029-14
Findings of Fact for Approval of a Variation
In Required Landscaping as Per the Submitted Site Plan
In a C-2, Limited Commercial Zoning District at
3501 North Main Street

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 030-14

Applicant
Ward 12

3505 North Main Street

Anna Chiarelli

- (A) Variation** to reduce the required parking spaces from 22 parking spaces to 14 parking spaces
- (B) Variation** in the required landscaping as per the submitted site plan in a C-2, Limited Commercial Zoning District

The subject property is located on the northeast corner of North Main Street, approximately 49 feet from Belmont Boulevard. This item was discussed in the previous application, ZBA 29-14.

Staff Recommendation is for Approval of both Variations with the following recommended conditions:

1. That a final site plan is submitted for staff review and approval upon final determination of right-of-way takings from IDOT.
2. Replacement of freestanding sign must be a landmark style sign, 64 square feet and 8 feet in height.
3. Must meet all applicable building and fire codes.
4. Any future changes to uses and/or expansion to 2nd floor may require review of parking spaces.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Variation to reduce required parking spaces from 22 parking spaces to 14 parking spaces and **APPROVE** the Variation in the required landscaping as per the submitted site plan in a C-2, Limited Commercial Zoning District at 3505 North Main Street. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 4-0

Approval is subject to the following conditions:

1. That a final site plan is submitted for staff review and approval upon final determination of right-of-way takings from IDOT.
2. Replacement of freestanding sign must be a landmark style sign, 64 square feet and 8 feet in height.
3. Must meet all applicable building and fire codes.
4. Any future changes to uses and/or expansion to 2nd floor may require review of parking spaces.

ZBA 030-14
Findings of Fact for Approval of a Variation
To Reduce Required Parking Spaces
From 22 Parking Spaces to 14 Parking Spaces at
3505 North Main Street

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 029-14
Findings of Fact for Approval of a Variation
In Required Landscaping as Per the Submitted Site Plan
In a C-2, Limited Commercial Zoning District at
3505 North Main Street

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 8:00 PM

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