

ZONING BOARD OF APPEALS
Tuesday, August 16, 2011
6:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Present:

LAB Members: Aaron Magdziarz
Alicia Neubauer
Dennis Olson
Dan Roszkowski
Julio Salgado

Absent: Craig Sockwell
Scott Sanders

Staff: Jennifer Cacciapaglia – City Attorney
Todd Cagnoni, Deputy Director - Construction Services Division
Matt Knott, Chief – Fire Department
Marcy Leach – Public Works
Sandra Hawthorne - Administrative Assistant

Others: Alderman Nancy Johnson (left at 7:05 PM)
Alderman Frank Beach
Kathy Berg, Stenographer
Applicants and Interested Parties

Sandra Hawthorne explained the format of the meeting will follow the Boards Rules of Procedure generally outlined as:

The Chairman will call the address of the application.

- The Applicant or representative are to come forward and be sworn in.
- The Applicant or representative will present their request before the Board
- The Board will ask any questions they may have regarding this application.
- The Chairman will then ask if there are any Objectors or Interested Parties. Objectors or Interested Parties are to come forward at that time, be sworn in by the Chairman, and give their name and address to the Liquor Advisory Board 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, August 29, 2011, at 4:45 PM in Conference Room A of this building as the second vote on these items. The public in attendance, applicants, objectors and interested parties were instructed that they

could contact the Zoning Office for any further information and the phone number was listed on the top of the agenda which was made available to all those in attendance. The City's web site for minutes of this meeting are listed on the agenda as well.

The meeting was called to order at 6:35 PM. A **MOTION** was made by Aaron Magdziarz to **APPROVE** the minutes of the July meeting as submitted. The Motion was **SECONDED** by Alicia Neubauer and **CARRIED** by a vote of 6-0 with Dan Roszkowski abstaining and Craig Sockwell absent.

ZBA 025-11

Applicant
Ward 8

2319 23rd Street

David Smith

A Variation to increase the maximum square footage of accessory structures (garage and shed) from 720 square feet to 820 square feet in an R-1, Single family Residential District.

The subject property is located 700 feet south of the Wesleyan Avenue and 23rd Street intersection and is a single family residence. The Applicant is proposing a detached garage of 672 square feet. There is currently a 148 square feet shed on the property which will remain. David Smith, Applicant, reviewed his request. Mr. Smith has difficulty going up and down stairs and would like to have a larger building to move his woodworking equipment to a ground level. He explained it is not his intent to run a business and that woodworking is his hobby.

Staff Recommendation was for Approval with 4 conditions. No Objectors were Present. Alderman Nancy Johnson spoke in favor of the Applicant's requests, pointing out there were letters of support in Staff's Report. She stated this building will not be unusual to this area as there are others of equal size. This request is based on a hardship in the Applicant's inability to go up and down stairs. She reiterated this will not be a business.

A **MOTION** was made by Aaron Magdziarz to **APPROVE** the Variation to increase the maximum square footage of accessory structures (garage and shed) from 720 square feet to 820 square feet in an R-1, Single-family Residential District at 2319 23rd Street. The Motion was **SECONDED** by Dennis Olson and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Must meet applicable building and fire codes.
2. Submittal of Building Permits for Staff review and approval.
3. Site and garage must develop in accordance with site plan building elevations on file.
4. No business allowed within the detached garage

ZBA 025-11
Findings of Fact for a Variation
To Increase the Maximum Square Footage of an Accessory Structures
(Garage and Shed) From 720 Square Feet to 820 Square Feet
In an R-1, Single-family Residential District at
2319 23rd 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 026-11

Applicant
Ward 3

518 Walnut Street

David Vikse

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 a C-4, Urban Mixed-Use Zoning.

The subject property is located NW of the Walnut and 3rd Streets intersection and is currently Vecchio Signs. David Vikse, Applicant was present and reviewed his request. He explained in the early 1900's this building housed vehicles and it is his desire to establish an auto museum with approximately 40-50 vehicles. Hours of operation will be Saturday and Sunday 10:00 to 6:00 and if he is successful, Monday through Friday as well. Mr. Roszkowski asked if the Applicant has that many vehicles. Mr. Vikse responded he has 3 himself, but planned to car clubs and other owners who would want to show their vehicles as well.

Staff Recommendation is for Approval with 4 conditions. No Objectors or Interested Parties were present.

A **MOTION** was made by Alicia Neubauer to **APPROVE** the 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 a C-4, Urban Mixed-Use Zoning District at 518 Walnut Street. The Motion was **SECONDED** by Dennis Olson and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Meet all Building and Fire Codes.
2. Submittal of Building Permits for Staff review and approval.
3. There shall be no overnight storage of vehicles on the property.
4. No outside storage of any auto parts, equipment, materials or inoperable vehicles on the property.

ZBA 026-11
Findings of Fact for 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 a C-4, Urban Mixed-Use Zoning District at
518 Walnut Street

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

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

ZBA 027-11

Applicant
Ward 11

1234 Broadway

James Sadewater
A Special Use Permit for Tattoo and Body Modification Studio in a C-4, Urban Mixed-Use District.

The subject property is located on the north side of Broadway, approximately 110' west of 9th Street and is currently a vacant commercial retail space. The Applicant is currently operating at North Main and Auburn Street area. James Sadewater, Applicant, was present. Due to the roundabout project at that location, they need to relocate. Mr. Sadewater explained shop hours will be 11:00 AM to 10:00 PM Monday thru Saturday. Architectural designs have been presented to Staff.

Staff Recommendation was for Approval with 4 conditions. No Objectors were present. Alderman Nancy Johnson spoke on behalf of Alderman Elyea in her support of this application, stating it was consistent with other businesses in the area.

A **MOTION** was made by Dennis Olson to **APPROVE** the Special Use Permit for Tattoo and Body Modification Studio in a C-4, Urban Mixed-Use District at 1234 Broadway. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Must meet all applicable building and fire codes.
2. All signage must be in compliance with the Zoning Ordinance.
3. Submittal of a building permit for the proposed use.
4. Hours of operation shall be limited to 11:00 A.M. to 10:00 P.M. Monday through Saturday.

ZBA 027-11
Findings of Fact for a Special Use Permit
For a Tattoo and Body Modification Studio
In a C-4, Urban Mixed-Use District at
1234 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 C-4 District.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-4 Zoning District in which it is located.

ZBA 028-11
Applicant
Ward 10

308 North Mulford Road
First Rockford Group, Inc.
A Variation to increase the sign height from the maximum 8' to 20' and a Variation from a landmark style sign to a pole sign in a C-3, Commercial General District.

Prior to the meeting, a request to Lay Over this item to the September meeting was received.

A **MOTION** was made by Aaron Magdziarz to **LAY OVER** the request for Variation to increase the sign height from the maximum 8' to 20' and a Variation from a landmark style sign to a pole sign in a C-3, Commercial General District at 308 North Mulford Road. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-0.

ZBA 029-11
Applicant
Ward 10

2303 & 2239 Charles Street

Alacran Development

- (A) Variation to reduce the required setback in the front yard from 15 feet to 0 feet along Charles Street
- (B) Variation to reduce the required setback in the side yard from 6 feet to 0 feet along the west property line
- (C) Variation in parking to 43 parking spaces
- (D) Variation to landscaping as per submitted landscape plan in a C-3, Commercial General District .

Dan Roszkowski stated he would need to abstain from participation and vote on this application and temporary Chair was passed to Aaron Magdziarz.

The subject property is located on the south side of Charles Street and is currently commercial retail, office and storage use. Thomas Okite, Artisan Consulting, representing the applicant was present. He explained this is an area that has had a difficult time attracting businesses. The project fits into the neighborhood very well. The properties contain two buildings and one garage and total almost an acre in size together. A Family Dollar store is proposed in the NW corner of the lot. Mr. Okite explained that the existing building on the NE side of the property will remain and the other two buildings will be demolished. Variation (A) is to allow the building to be built closer to the sidewalk. He stated this location would match the setback of the existing structure on the property and would maintain the character and nature of the lot. This is a urban style neighborhood with buildings up to the sidewalk. Mr. Okite stated Variation (B) would also match the existing building and would allow delivery vehicles to go between the buildings. Because of the closeness to the sidewalk, a request for Variation (D) to landscaping is part of the application. He further explained the request for Variation (C) would still allow the existing building to maintain the 13 parking spaces it currently requires while allowing the Applicant to meet the needs of the proposed Family Dollar Store.

Alicia Neubauer asked about the landscaping on the Charles Street (north) side of the lot. Mr. Cagnoni stated Staff has included a request for a revised landscaping plan in their Staff report. He explained Staff does not require full compliance with landscaping because this is an existing site, but is asking that some landscaping requirements be met to provide a buffer zone between the ROW and the building. Staff is agreeable to a revised landscaping plan along Charles and some landscaping islands. He explained there is a large concrete area in a dead space in the middle of the site which could benefit from landscaping without affecting the use of the property.

Staff Recommendation was for Denial of Variations (A) and (D) and approval of all Variations with revisions to (A) and (D), subject to 4 conditions. No Objectors or Interested Parties were present.

A **MOTION** was made by Alicia Neubauer to **DENY** the Variation to reduce the required setback in the front yard from 15' to 2.5'; to **APPROVE** a Variation to reduce the required setback in the front yard from 15' to 5'; to **APPROVE** the Variation to reduce the required setback in the side yard from 6' to 2.7'; to **APPROVE** a Variation in parking to 43 parking spaces; to **DENY** a Variation to landscaping as per submitted landscape plan and to **APPROVE** the Variation to landscaping per revised landscaping plan in a C-3, Commercial General Zoning District at 2239, 2303 Charles Street. The Motion was **SECONDED** by Dennis Olson and **CARRIED** by a vote of 4-0 with Dan abstaining.

Approval is subject to the following conditions:

1. Must meet all applicable building and fire codes.
2. Submittal of a revised landscaping plan for staff's review and approval to include interior landscape island.
3. Submittal of Building elevations including masonry on all sides for staff's review and approval.
4. Approval and recordation of a final plat of Subdivision.

ZBA 029-11
Findings of Fact for a Variation
To Reduce Required Setback in the Front Yard From 15' to 2.5'
In A C-3, Commercial General Zoning District at
2239, 2303 Charles Street

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 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 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 029-11
Findings of Fact for a Variation
To Reduce Required Setback in the Front Yard From 15' to 5'
In A C-3, Commercial General Zoning District at
2239, 2303 Charles 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 029-11
Findings of Fact for a Variation
To Reduce Required Setback in the Side Yard From 6' to 2.7'
In A C-3, Commercial General Zoning District at
2239, 2303 Charles Street

Approval of this Variation is based upon the following findings:

1. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
2. The alleged difficulty or hardship is caused by this 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.
3. 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.
4. 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 029-11
Findings of Fact for a Variation
In Parking to 43 Parking Spaces
In a C-3, Commercial General Zoning District at
2239, 2303 Charles 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 029-11
Findings of Fact for a Variation
To Landscaping as Per Submitted Landscape Plan
In a C-3, Commercial General Zoning District at
2239, 2303 Charles Street

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 029-11
Findings of Fact for a Variation
To Landscaping as Per Revised Landscape Plan
In a C-3, Commercial General Zoning District at
2239, 2303 Charles 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 030-11

Applicant

4231 East State Street

Midwest Title Loan – Attorney John Nelson

An appeal of determination of use classification made by the Zoning Officer that Midwest Title Loan is categorized as a “Pawn Broker” under the City of Rockford Zoning Ordinance.

A request was made by the Applicant to Lay Over this item to the September meeting. The Applicant agreed to waive the 45 day requirement for a response to this application in order to have this item heard at the September 20th Zoning Board of Appeals meeting.

A **MOTION** was made by Dennis Olson to **LAY OVER** the appeal of determination of use classification made by the Zoning Officer that Midwest Title Loan is categorized as a “Pawn Broker” under the City of Rockford Zoning Ordinance. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 6-0.

With no further business to come before the Board, the meeting was adjourned at 7:15 PM

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