



ZONING BOARD OF APPEALS
Tuesday, October 18, 2016
5:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Minutes on Website: <http://rockfordil.gov/community-economic-development/construction-development-services/land-use-zoning/zoning-board-of-appeals.aspx>

Present:

ZBA Members: Melissa Luciani-Beckford
Alicia DiBenedetto-Neubauer
Tom Fabiano
Scott Sanders
Kimberly Wheeler-Johnsen
Dan Roszkowski
Craig Sockwell

Absent:

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

Others: Kathy Berg - Court Stenographer
Applicants and Interested Parties

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

The Chairman will call the address of the application.

- The Applicant or representative will come forward and be sworn in.
- The Applicant or representative will present their request before the Board
- The Board will ask any questions they may have regarding this application.
- The Chairman will then ask if there are any Objectors or Interested Parties. Objectors or Interested Parties are to come forward at that time, be sworn in by the Chairman, and give their name to the Zoning Board of Appeals secretary and the stenographer
- The Objector or Interested Party will present all their concerns, objections and questions to the Applicant regarding the application.
- The Board will ask any questions they may have of the Objector or Interested Party.

- The Applicant will have an opportunity to rebut the concerns/questions of the Objector or Interested Party
- No further discussion from the Objector or Interested Party will occur after the rebuttal of the Applicant.
- The Board will then discuss the application and a vote will be taken.

It was further explained to the public in attendance, applicants, objectors and interested parties that this meeting is not a final vote on any item. The date of the Codes & Regulations meeting was given as Monday, October 24, 2016, at 5:30 PM in City Council Chambers of this building as the second vote on these items. The public in attendance, applicants, objectors and interested parties were instructed that they could contact the Zoning Office for any further information and the phone number was listed on the top of the agenda which was made available to all those in attendance. The City's web site for minutes of this meeting are listed on the agenda as well.

The meeting was called to order at 5:30 PM. A **MOTION** was made by Kim Johnsen to **APPROVE** the minutes of the September 2016 meeting as presented. The Motion was **SECONDED** by Alicia Neubauer and **CARRIED** by a vote of 6-0 with Tom Fabiano abstaining.

ZBA 025-16
Applicant
Ward 12

2816 North Main Street

Attorney James Rodriguez for AW Bennett Enterprises, Inc
Special Use Permit for a Planned Unit Development for a Mixed-Use Development consisting of two fast food restaurants with drive-throughs, one light retail/commercial building, and three (3) eighty-unit, four story residential buildings including site, parking, and landscaping plans with deviations from the regulations in a I-1, Light Industrial Zoning District
Laid Over from September meeting

Staff is recommending that this item be Laid Over to the November 15th meeting.

A **MOTION** was made by Scott Sanders to **LAY OVER** the **Special Use Permit** for a Planned Unit Development for a Mixed-Use Development consisting of two fast food restaurants with drive-throughs, one light retail/commercial building, and three (3) eighty-unit, four story residential buildings including site, parking, and landscaping plans with deviations from the regulations in a I-1, Light Industrial Zoning District at 2816 North Main Street. The Motion was **SECONDED** by Melissa Beckford and **CARRIED** by a vote of 7-0.

ZBA 027-16
Applicant
Ward 14

805 Phelps Avenue

Dennis & Jill Trowbridge
Variation to increase the maximum allowable square footage for an accessory structure (detached garages) from 1,395 square feet to 2,414 square feet in an R-1, Single-family Zoning District

The subject property is located on the west side of South Phelps Avenue, 500 feet south of the South Phelps Avenue and Alma Drive intersection and is a single-family residence. Dennis & Jill Trowbridge, Applicants, were present and reviewed their application for Variation. Ms. Trowbridge stated Alderman Chiarelli was in favor of this request.

Mr. Sanders asked if they currently had an attached garage as well as another detached garage. Mr. Trowbridge stated that was correct. Mr. Sanders asked Staff if there was a limit on the amount of detached structures that would be allowed on a property. Mr. Capovilla replied there was not. Mr. Trowbridge stated they have a lot of greenspace on this lot. This property is one of the old H & S Apple Orchards so there is an abundance of apple trees on the property. They are also applying for a 10' x 13' wood shed attached to the existing garage as well as to build a second detached garage. Mr. Trowbridge stated he uses these spaces as a work shop, and storage of equipment and other items.

Mr. Capovilla stated Alderman Chiarelli was not able to attend the meeting but wished to express his support for this proposal.

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

Alicia Neubauer stated this property is barely an acre and feels there is not enough land to support all of the proposed structures. Mr. Sanders stated he does not feel he can support this application. Mr. Fabiano pointed out that the Board has denied previous applications due to over-building.

A **MOTION** was made by Kim Johnsen to **APPROVE** the Variation to increase the maximum allowable square footage for an accessory structure (detached garages) from 1,395 square feet to 2,414 square feet in an R-1, Single-family Zoning District. The Motion was **SECONDED** by Melissa Beckford and **FAILED TO CARRY** a vote of 2 to 5 with Scott Sanders, Craig Sockwell, Alicia Neubauer, Tom Fabiano, and Dan Roszkowski voting Nay.

ZBA 027-16
Findings of Fact for Denial of a Variation
To Increase the Maximum Allowable Square Footage
For an Accessory Structure (Detached Garages)
From 1,395 Square Feet to 2,414 Square Feet
In An R-1, Single-Family Residential Zoning District at
805 South Phelps Avenue

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.

The application for **ZBA 028-16** was **WITHDRAWN** prior to publication. No action will be taken on this item.

ZBA 029-16

Applicant
Ward 11

424 7th Street

Children's Home & Aid

Special Use Permit for an office space for agency personnel and housing for a crisis nursery on the rear half of the first floor in a C-4, Urban Mixed-Use District

The subject property is located on the northeast corner of 7th Street and 4th Avenue. The applicant is Children's Home and Aid, (CHA) currently located at 910 2nd Avenue. MotherHouse Crisis Nursery, an agency of the CHA, is located at 1603 S. 4th Street. Lisa Pieper, Regional V.P. for Children's Home & Aid reviewed their request.

Ms. Pieper expressed they would like to have both of these programs in one buildings. This would be cost effective for utility and rental costs, convenient for their clients, and would allow them to serve more children. MotherHouse Crisis Nursery provides services to allow children to stay overnight on an emergency basis. Using just less than half of the ground floor of the building at the proposed location would allow them to serve 12 – 15 children at a time because of the increase in floor space. Ms. Pieper explained their services would result in 100 staff members that would use the businesses in the area as well. She further stated they have had a huge number of visitors to their holiday shop and these people would also take advantage of the shops available in the area. They would be self-sufficient in their parking which would not affect on-street parking for existing businesses. Ms. Pieper further explained that after looking all over the City for other possible locations, this one is the best fit for their services in terms of cost, size, and easy access to the location for the families. Most of their clients are in a family situation or single mothers. The age of the children they would serve are from birth to 6 years old, which is the oldest they can take. This building is a 3 story building. At this time, the basement would probably just be used for storage. Ms. Pieper stated this location is already zoned for a day-care center. The only reason this application is required is because they are allowing children to spend the night. She stated if she wanted to open a day care with a large amount of children she would be allowed to do so without coming before the Zoning Board. The service at this location is only for children ages birth to 6 years. Adults are not allowed an overnight stay. They are not allowed to take in children over 6 years of age. The offices and conference rooms would be located in the front of the first floor area, and the children in the back of the first floor. Children would be located on the first floor for safety reason, such as a fire or emergency, to allow them the fastest escape route. There will also be a small kitchen and dining area.

Staff Recommendation is for Approval with (3) conditions. Those conditions are:

1. Must meet all applicable building and fire codes.
2. Submittal of the lease agreement including the designated parking lot for the Children's Home and Aid to ensure that there is sufficient employee parking.
3. MotherHouse Crisis Nursery is limited to the area shown on Exhibit H

Objectors or Interested Parties were present.

The Applicant presented 6 letters and 46 signatures of support as well, and a separate letter was received from Tom Myers, Vice President of Marketing & Strategy at SwedishAmerican Health System. Their letter stated "Midtown District is an awakening community with much promise and as you know, Swedes has invested much time and resources to assure the strength and vibrancy of this neighborhood." "As an organization that we have supported for many years, we are glad Children's Home & Aid, and their 100 employees, will be closer neighbors". "We want you to know that as a long-time resident of Midtown, SwedishAmerican Health System supports Children's Home & Aid and their consolidation of services at 424 7th Street".

In Objection: Alderman Karen Elyea was present and spoke in Objection. She stated she could not support this request because having this particular type of social services on the first floor does not fit in with the vision of what she would prefer to see on 7th Street. She felt the goal of the City was to encourage shops and retail to be at this location. She feels this is not a practical place for a child service because there is no outside play area for the children.

In Support: Mariel Heinke was present as President of 7th Street Coffee Inc., d/b/a Katie's Cup. Ms. Heinke spoke in support of this application. She stated development in this area has improved greatly after years and years of neglect and expressed how wonderful it would be to welcome this organization to the area. She is not adverse to having 100 people across the street who would bring in business for her. She stated "it would be an honor to have Children's Home and Aid be right across the street from us".

In Objection: Matt Idzikowski stated he owns two restaurants in the downtown area. He stated he is considering opening a restaurant in the 7th Street area and is opposed to this application. He feels the ground floor of the building needs to be retail in order to continue with the revitalization of 7th Street. He stated any time social services moves into an area it creates a losing situation by creating a population of people who will not be shopping in the area. He stated he will not develop here if this Application is "across the street" because it will deter further retail development in that space.

In Objection: Attorney Jeff Orduno, representing Urban Equity spoke in Objection of this application. He stated his client is not opposed to the services provided by MotherHouse, but rather their choice of this location. He distributed a map showing what he said were dozens of store fronts. He stated they have been working with the City "for years" on properties located centrally in the 400 block of 7th Street. He stated Urban Equity has invested a lot of money in development downtown and felt they have made the improvements that makes the downtown area what it is today. It was his client's opinion that this proposal will impede the development improvement of this Ward. Attorney Orduno further stated Urban Equity is the largest developer in downtown Rockford, and they feel this project will impede future funding for development. He asked if the children do not need to go outside according to the Applicant, than why do they have equipment and a lawn at the current location. He stated when he worked for non-profit organizations, they did not have the 60 million dollar a year income that CHA has. He stated this application is about kids, but there are a lot of things about kids and this is not the right location for this venture.

In Support: Melissa Leuzinger is a Board of Trustees of Children's Home and Aid CHA. She stated CHA does belong downtown. It is an area where they can combine what they need for children and family. This building has been vacant for a long period of time. CHA can afford the lease and can afford to be there for ten years. She stated "there is a point in time where we need to blend the economic needs of the city and what is the right thing to do". There will be administration in this building so it will bring customers to the shops and restaurants. She emphasized they were talking about children ages 0 to 6 who's parents are in a crisis situation. " This might be the right thing to do for our children."

In Support: Chuck Hansel stated he is a Board member of CHA and worked alongside them for 34 years. He also submitted a letter of support. Mr. Hansel stated no one wants to not do the best they can for kids. This is an opportunity for this area to find one of the best neighbors that they possible can, putting aside business versus service industry. He feels there does need to be a balance between these two. Mr. Hansel stated if they spoke with some of the businesses in this area now, you would find they are

welcome to this agency. Mr. Hansel stated he is kind of tired of hearing how it has to be only a one way vitalization to the area. It does need to be a mixed vitalization and CHA is truly important to revitalization to this area.

In Support: Renee Haley-Harden stated she has worked with CHA for 10 years. CHA has been in their current building for 16 plus years. They have had several issues of flooding of the building. Staff have been evacuated from the basement at least three times and they cannot get this resolved for a safe use. They have staff on the third floor that are currently crammed in due to lack of space. The front half of the building will be meeting / conference rooms which is what a passer-by will see from the street. This location is on a sheltered bus stop right across the street. Parking is often difficult downtown where there is a limit of 2 hour parking. This location makes the most sense for them for their immediate needs and the long haul.

In rebuttal, Ms. Pieper, stated the playground and yard at the old location that was referred to by one of the objectors is located at one of the most dangerous intersections in the City. There are bullet holes in the fencing. In this proposed location, there is a park just down the street. They may also have a very small play area outside. Regarding large amounts of funding that Attorney Orduno spoke of, she advised that last year they had to front the 2 million dollars waiting to come from the State of Illinois, so understand they are not as lucrative as was previously mentioned.

Mr. Capovilla stated it is true CHA could move into this location without coming before the Zoning Board as this use is permitted in all Commercial zoning districts. The location is the appropriate zoning for their use with the exception of the MotherHouse Crisis Nursery and the overnight stay of children, which requires them to come before the Board for the Special Use Permit request.

Mr. Sanders stated he personally feels that he does not like the connotation that if the Board doesn't support the location they don't support the mission. He does feel this area would be better served by retail and business. Craig Sockwell asked just how much square footage would be lost by allowing the Applicant to establish at this location. He felt this amount of square footage seems to mean a lot to some people. Mr. Fabiano stated there is no expert that can say this use will actually affect the vitalization part. Mr. Sockwell further questioned if the first floor of this one building affects 7th Street development so much, actually how much development is there in this area? Alicia Neubauer stated this agency is doing great things, but she does not feel this location is the very best one for the City. She does want to acknowledge that finding a location has been a heavy process for the applicant but she cannot support this request. Mr. Roszkowski stated the downtown State Street development with businesses on the first floor and living quarters on the above floors seems to be working well and is in conjunction with what the City wants for development. Kim Johnsen stated she sees the building being occupied by a lot of people on a daily basis and what is under consideration is for the use in the rear of the building for MotherHouse. She stated the business directly across the street is very much in support of this Application. Melissa Beckford expressed her feeling that the ability to have long term parking would benefit the Applicant because she also has had negative experience with having to move her vehicle every two hours when she worked in the area.

A MOTION was made by Kim Johnsen to **APPROVE** the Special Use Permit for an office space for agency personnel and housing for a crisis nurse on the rear half of the first floor in a C-4, Urban Mixed-Use District at 424 7th Street. The Motion was **SECONDED** by Alicia Neubauer and **FAILED TO CARRY** by a vote of 3 to 4 with Scott Sanders, Alicia Neubauer, Tom Fabiano and Dan Roszkowski voting Nay.

ZBA 029-16
Findings of Fact for Denial of a Special Use Permit
For an Office Space for Agency Personnel and Housing
For Crisis Nursery On the Rear Half of the First Floor
In a C-4, Urban Mixed-Use District at
424 7th 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 or will not be 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-4 Zoning District in which it is located.

ZBA 030-16

Applicant
Ward 12

3211 North Main Street

Attorney James Rodrigues for John Voulgaris

Variation to reduce the required 20 feet wide frontage landscaping to 10 feet wide in a C-2, Limited Commercial Zoning District

Staff Recommended that this item be Laid Over to the November 15th meeting as a detailed site plan and landscaping plan were not provided by the Applicant.

A **MOTION** was made by Scott Sanders to **LAY OVER** the Variation to reduce the required 20 feet wide frontage landscaping to 10 feet wide in a C-2, Limited Commercial Zoning District at 3211 North Main Street. The Motion was **SECONDED** by Melissa Beckford and **CARRIED** by a vote of 7-0.

With no further business to come before the Board, the meeting was adjourned at 7:00 PM.

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