

ZONING BOARD OF APPEALS
Tuesday, November 15, 2011
6:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Present:

LAB Members: Aaron Magdziarz
Dennis Olson
Julio Salgado
Scott Sanders
Craig Sockwell

Absent: Alicia Neubauer
Dan Roszkowski

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

Others: 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, November 28, 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 6:58 PM. A **MOTION** was made by Craig Sockwell to **APPROVE** the minutes of the October meeting as submitted. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 3-0 with Aaron Magdziarz abstaining and Dan Roszkowski and Alicia Neubauer absent.

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 was received from the Applicant to Lay Over this item to the December meeting.

A **MOTION** was made by Aaron Magdziarz to **LAY OVER** the 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 030-11

Applicant
Ward 10

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 a categorized as a "Pawn Broker" under the City of Rockford Zoning Ordinance.

Prior to the meeting a request was made to Lay Over this item to the December meeting.

A **MOTION** was made by Aaron Magdziarz to **LAY OVER** the An appeal of determination of use classification made by the Zoning Officer that Midwest Title Loan is a categorized as a "Pawn Broker" under the City of Rockford Zoning Ordinance at 4231 East State Street. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-0.

ZBA 043-11

Applicant
Ward 12

3007 N. Main Street

Taco John's International – Jim Nichols

A Variation to increase the maximum allowable height for a free-standing sign from 8 feet to 20 feet for one business on a single lot in a C-2, Limited Commercial Zoning District.

The subject property is located on the east side of North Main Street, approximately 160 feet south of the North Main Street and Country Club Beach intersection and is the existing Taco John's restaurant. The Applicant's existing sign is located on the west side of the parking lot, east of North Main Street. Jim Nichols, representing Taco John's International, reviewed the request. He stated they plan to open in December of this year. Mr. Nichols stated the existing sign does not conform with the newer Taco John's sign design. Their newer style requires a taller sign, which will not meet City code.

Mr. Cagnoni explained to the Board that the applicant would be allowed to change out the sign face but when going beyond that as in this case, it requires conformance to ordinance or approval of a Variation. Mr. Nichols stated they have refurbished over 420 stores and this new sign design is part of it. He stated there are other signs in the area that are higher than their existing sign. Mr. Sanders explained to the Applicant that although there are many signs higher than the ordinance now allows, as those signs are changed and they come before the Zoning Board the goal is to bring them into code with the current ordinance.

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

A **MOTION** was made by Aaron Magdziarz to **DENY** the Variation to increase the maximum allowable height for a free-standing sign from 8 feet to 20 feet for one business on a single lot in a C-2, Limited Commercial Zoning District. The Motion was **SECONDED** by Dennis Olson and **CARRIED** by a vote of 5-0.

ZBA 043-11
Findings of Fact for a Variation
To Increase the Maximum Allowable Height for a Free-Standing Sign
From 8 Feet to 20 Feet for One Business On a Single Lot
In A C-2, Limited Commercial Zoning District at
3007 North Main 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 044-11
Applicant
Ward 14

1425 S. Mulford Road
Dr. Thomas Chung
A Special Use Permit for a dentist office in an R-1, Single-family Residential Zoning District.

The subject property is located 178 feet north of the South Mulford Road and Newburg Road intersection and is currently a vacant church and parsonage. The property is zoned R-1, which does not allow a dental office. A previous Special Use Permit was approved in April 1984 for the Church and Parsonage. Attorney Aaron Szeto, representing the Applicant, reviewed the request for Special Use Permit. Attorney Szeto stated Dr. Chung has practiced in Rockford for ten years under a leased location and wishes to purchase this site. Attorney Szeto stated this type of business is low key, quiet, and a low traffic generator. Dr. Chung will be practicing alone with no partners. He felt this practice should not have any impact on this area. Attorney Szeto referenced Staff's requirement of sidewalks being installed at this site. He stated he is not aware that there is an actual Ordinance requiring sidewalks under these circumstances and further stated installation of sidewalks would result in a large financial cost to the Applicant. He further pointed out that there are retaining walls in that area as well which would make adding a sidewalk difficult. Concern signage, Attorney Szeto asked that a new sign that meets code not be required as the one currently on site was in good condition.

The Applicant, Thomas Chung, was present. He stated at the present time it is his plan to have four employees. The office has potential for growth, but if this occurs it will be sometime in the future.

Mr. Sanders asked Staff if landscaping should be a condition of Approval of this request. Mr. Cagnoni stated it would be difficult to remove parking for additional landscaping. In regards to the sidewalk requirement, Mr. Cagnoni explained historically there have been other dental offices along this corridor under a Special Use Permit and they were required to construct a sidewalk and did comply. A jewelry store also met this requirement. He further explained that over the course of time all of the sidewalk components would be within the corridor. It is important to realize that this is a residential property changing to a commercial use under the Special Use Permit. Mr. Sanders asked if we were comfortable with the sidewalk going into the available space or would we require removal of the wall. Mr. Cagnoni responded this would require further study. Regarding signage, Mr. Sanders asked if the sign being on the two posts could be resolved by using the same structure but turning it into a monument sign. Mr. Sanders asked the proximity of the sidewalk to the street requirements. Marcy Leach, Public Works, stated 8' behind the curb is standard, but the City has worked around grades and retaining walls when feasible. Mr. Cagnoni stated the City would be happy to take a closer look at the sidewalk issue in regards to the financial challenge to the applicant. Public Works did stated that it was their requirement for the sidewalk in an effort to eventually fill in the gaps where sidewalks are lacking, with a goal to have sidewalks in the entire area. Ms. Leach stated Public Works could look at a sidewalk easement of about 5 foot along the retaining wall. Mr. Olson stated he did not feel the installation of a sidewalk was an unreasonable request.

Staff Recommendation was for Approval with 5 conditions. No Objectors or Interested Parties were present.

A **MOTION** was made by Dennis Olson to **APPROVE** the Special Use Permit for a dentist office in an R-1, Single-family Residential Zoning District at 1425 S. Mulford Road. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Meet all applicable Fire Codes
2. Meeting all applicable building codes, specifically construction documentation from a licensed design professional (i.e. Architect), licensed in the State of Illinois indicating how the proposed use will meet all appropriate building codes for the "Change of Use" and any construction to take place.

3. That the freestanding sign shall be a landmark style sign in accordance with Sign Ordinance replacing the existing freestanding sign.
4. Sidewalk is installed along South Mulford Road the length of the property.
5. All conditions must be met prior to establishment of use.

ZBA 044-11
Findings of Fact for a Special Use Permit
For a Dentist Office
In an R-1, Single-Family Residential Zoning District at
1425 South Mulford Road

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

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

ZBA 045-11

Applicant
 Ward 8

2611 Broadway

Robia & Miquel Gongora
 A Special Use Permit for a hand car wash and detail in a C-4, Urban Mixed-Use Zoning District

The subject property is located on the south side of Broadway, 114 feet east of 22 Street and currently is a vacant building, formerly a drive-through cleaners. The Applicants have opened a car wash without proper zoning and are currently in violation for the-is use as well as for signage. Since the Applicants did not discontinue the use upon notice of violation, they were sent to code hearing. Ed Hornbeck, Real Estate Agent for the Applicant reviewed the request. He stated the building was built in the 1950s and has been vacant for about 5 years. Mr. Hornbeck felt the neighbors were happy to have the Applicants at this location. He stated it takes about 15-20 minutes to wash a car and feels this is not a high traffic impact compared to the church use. The entire property is either concrete or blacktop. He feels the use for this type of building is very limited. The Applicants do not own the building at this point. Mr. Hornbeck stated if they do not get this request approved than they will not purchase the building.

Mr. Olson felt this statement of Mr. Hornbeck's shows a lack of willingness by the Applicant to work with Staff.

Mr. Sanders asked if their decision is based more on their violations. He stated some concerns of Staff were that the Applicants did not supply adequate information, including a site plan. Mr. Sanders asked if a Lay Over would allow the applicants to continue to operate this business at this location for another month. He also stated drawings submitted by a design professional would show an interest by the Applicants in working with Staff and would allow Staff to know what is actually being proposed. Mr. Cagnoni concurred. Mr. Sanders stated the information submitted by the Applicant's is less than what Staff would require for information on which to base their decision. The Board agreed a Lay Over would allow the Applicant to provide further information to Staff.

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

A **MOTION** was made by Dennis Olson to **LAY OVER** the Special Use Permit for a hand car wash and detail in a C-4, Urban Mixed-Use Zoning District at 2611 Broadway. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 5-0.

ZBA 046-11
Applicant
Ward 10

45XX Turner Street
Kelley Williamson Company
A Zoning Map Amendment from R-3, Multi-family Residential to C-3, General Commercial Zoning District.

The subject property is located on the north side of Turner, approximately 215 feet east of North Alpine Road and is currently vacant. Attorney Russell Anderson and Bob Sanders were present. Attorney Anderson reviewed the request for Zoning Map Amendment. This parcel had been a McDonald's parking lot, a used car lot, and the subject of a Special Use Permit. The proposed use is a carwash and gas station. It has been determined that a portion of the property was zoned as R-3, which does not allow for a gas station. Attorney Anderson reviewed the Findings of Facts for Approval as written in Staff's report. A revised but not final site plan was shown at the meeting based on discussions with Staff. Further revisions may occur in as discussions continue, based on the City's requirement. Appropriate buffering will be developed between the two zoning districts.

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

A **MOTION** was made by Craig Sockwell to **APPROVE** the Zoning Map Amendment from R-3, Multi-family Residential to C-3, General Commercial Zoning District at 45XX Turner Street. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 5-0.

ZBA 046-11
Findings of Fact for a Zoning Map Amendment
From R-3, Multi-Family Residential District
To C-3, Commercial General District at
45XX Turner Street

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

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

2. The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as C-3, General Commercial District.

ZBA 047-11

11XX - 1100 Edson Road
87XX - 8700 Friday Road

Applicant
Ward 6

Eagle View Farms Trust
A Zoning Map Amendment from Winnebago County AG, Agriculture District to the City of Rockford I-2, General Industrial Zoning District, in conjunction with Annexation.

The subject property is located in unincorporated Winnebago County, adjacent to the Winnebago County Forest Preserve which is also adjacent to the City of Rockford municipal boundary. This property is subject to a pre-annexation agreement approved in 2006 in which the property was agreed to be zoned I-2, General Industrial upon annexation into the City. Richard Gensler, Applicant, reviewed his request.

Staff Recommendation is for Approval with no conditions. Interested Parties were present. In addition a letter was received from Winnebago County Forest Preserve. Although not a letter of Objection, it did express concerns they had regarding future development of this property.

Jim Jennings, representing environmental services group, was present and wished to point out that a landfill sits next to this property. He asked that this be taken into consideration when voting.

Ken Diehl, Village President of the Village of Davis Junction had submitted a letter for the property next on the agenda, but felt it also pertained to the subject property. They had asked that junk yards or salvage yards be excluded as an allowed use for this property as well as other clarifications to future development. He stated the Village does support a business district. Mr. Cagnoni verified that as part of the amendment to the annexation agreement, auto salvage or junk yards are not a permitted use.

In response, Mr. Gensler stated they feel they have been working with the City and it is their goal that whatever is worked out results in a job creation situation.

Mr. Cagnoni explained the letter from the Winnebago county Forest Preserve was concerned with environmental protection and it is Staff's goal to be environmentally sensitive. Regarding the three items mentioned in their letter, Mr. Sanders asked for clarification. There was concern with problem soils area and the 100 year floodplain portions; runoff into Kilbuck Creek; and the ability to provide comment on specific plans in the platting stage of future development. Mr. Cagnoni stated run off will be complied with, and Staff will be happy to provide site development plans. However, regarding the request that the problem soils area be dedicated as park land or private conservation area, and to keep portions of the site as AG is not a request the City fulfill as part of the annexation agreement. Mr. Cagnoni expressed the City would be happy to work with them on the forest preserve district to see if something could work out beneficial to both parties during the development stage.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Zoning Map Amendment from Winnebago County AG, Agriculture District to the City of Rockford I-2, General Industrial Zoning District, in conjunction with Annexation. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 5-0.

ZBA 047-11
Findings of Fact for an Annexation Agreement and Zoning Map Amendment
From County AG to City I-2, General Industrial District at
11XX, 1100 Edson Road & 87XX, 8700 Friday Road

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

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

ZBA 048-11
Applicant
Ward 6

8650 Junction Road

Yvonne Wolfenberger

A Zoning Map Amendment from the Ogle County AG-1, Agriculture District to the City of Rockford I-2, General Industrial Zoning District, in conjunction with Annexation.

The subject property consists of approximately 390 acres located in unincorporated Ogle County, adjacent to the Winnebago County line and will be contiguous to the City of Rockford municipal boundary. The Applicant is requesting annexation into the City under I-2 Zoning. Attorney Jim Stoddard, representing the Applicant, reviewed the request. Regarding letter from Village of Davis Junction, they have no objections to the restrictions listed in their letter.

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

A letter from Village of Davis Junction was entered as discussed previously. In response, Attorney Stoddard stated the Applicant had no objections to the restrictions listed in their letter. Mr. Cagnoni stated the concerns of the Village can be incorporated into the findings presented to Codes & Regulations and City Council.

Tom Hartley with Winnebago County Forest Preserve was present. He stated WCFP also wished to have the ability to receive information on plans for this property to provide their input on conservation and landfill. This was agreeable to Staff.

Deborah Maas, Attorney for Kishwaukee Drainage District wished to reiterated some of the same concerns of WCFP. She stated some of this property contains part of a drainage district canal going west across the Applicant's property. She requested any addition to drainage be given consideration prior to development. Ms. Maas stated they also wish to have the opportunity to review and comment on development plans for this property.

Jim Jennings from environmental services also asked that the use of this property be in keeping with the industrial sect.,

In response Attorney Stoddard stated he felt these were reasonable concerns; however, his client will not be the developer of this property and those concerns will be worked out between the City and future developers. Mr. Cagnoni explained the City will be happy to work with concerned parties as requested.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Zoning Map Amendment from the Ogle County AG-1, Agriculture District to the City of Rockford I-2, General Industrial Zoning District, in conjunction with Annexation at 8656 Junction Road. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 5-0.

ZBA 047-11
Findings of Fact for an Annexation Agreement
And Zoning Map Amendment
From County AG to City I-2, General Industrial District at
8650 Junction Road

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

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

2. The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as I-G, General Industrial District.

With no further business to come before the Board, the meeting was adjourned at 7:55 PM

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