



ZONING BOARD OF APPEALS
Tuesday, December 18, 2012
6:30 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:	Alicia Neubauer Aaron Magdziarz Dennis Olson Dan Roszkowski Scott Sanders Craig Sockwell
Absent:	Dan Roszkowski Julio Salgado
Staff:	Kerry Partridge – City Attorney Todd Cagnoni – Deputy Director, Construction & Development Services Mark Marinaro – Fire Department Marcy Leach – Public Works Sandra Hawthorne - Administrative Assistant
Others:	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 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, January 7, 2013, at 4:45 PM in Conference Room A of this building as the second vote on these items. The public in attendance, applicants, objectors and interested parties were instructed that they could contact the Zoning Office for any further information and the phone number was listed on the top of the agenda which was made available to all those in attendance. The City's web site for minutes of this meeting are listed on the agenda as well.

The meeting was called to order at 6:40 PM. A **MOTION** was made by Aaron Magdziarz to **APPROVE** the amended minutes of the November meeting as submitted. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 4-0 with Dennis Olson abstaining.

033-12 **2602 Kilburn Avenue**
 Applicant Bryan McWilliams / Attorney Chester Chostner, Jr.
 Ward 7 **Special Use Permit** for a paving business in a C-2, Limited Commercial Zoning District
 Laid Over from September, October and November meetings

This item was Laid Over at the September, October and November meetings, requiring further information from the Applicant. Neither Applicant nor Representative were present at this meeting.

Todd Cagnoni advised that staff met with the applicant but did not support the request. Because the applicant was not in attendance it was within the Board authority to dismiss the case.

A **MOTION** was made by Dennis Olson to **DISMISS** the Special Use Permit for a paving business in a C-2, Limited Commercial Zoning District at 2602 Kilburn Avenue. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 4-1 with Neubauer voting Nay

038-12 **419 and 499 North Madison Street**
 Applicant Dave Honkamp & Steve Hoepfner
 Ward 3 **Special Use Permit** for approximately 10,000 square feet expansion of the existing
 8,500 square feet building pursuant to Section 80-007-C as a legally non-conforming use,
 pursuant to the site plan and rendering submitted in a C-4 Urban Mixed Use District
 Laid Over from November meeting

Prior to the meeting, a request was received by the Applicants to Lay Over this item to the January meeting.

A **MOTION** was made by Aaron Magdziarz to **LAY OVER** the Special Use Permit for approximately 10,000 square feet expansion of the existing 8,500 square feet building pursuant to Section 80-007-C as a legally non-conforming use, pursuant to the site plan and rendering submitted in a C-4 Urban Mixed

Use District at 419 and 499 North Madison Street. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-0.

043-12 **1441 Kishwaukee Street**
Applicant McDonald's USA, LLC / Attorney James E. Olguin
Ward 05 **Variation** to increase the maximum permitted wall signs from two (2) to four (4) in a C-2,
 Limited Commercial Zoning District

The subject property is located on the west side of Kishwaukee, west of Broadway and is a McDonald's Restaurant. Attorney James Olguin was present. As part of their exterior renovation, McDonald's would like to add two additional letter type signs. There will be no signage on the West side. . Would like the word "McDonald's" placed on two locations of the building – east and south side. They feel this would be advantageous for traffic coming down Broadway and Kishwaukee.

Staff Recommendation was for Approval with (1) condition. No Objectors or Interested Parties were present.

Alicia Neubauer questioned the location of the sign on the south elevation. Attorney Olguin stated the Applicant did feel this would be an advantage, particularly since the owner had redesigned the building. Mr. Sanders stated he was agreeable to the application. Attorney Olguin wished to express his appreciation to Brenda (Alegria) Muniz in the Zoning Department. He stated she did her job very well, was always pleasant, made their experience on this project easier and he wanted to acknowledge her publically.

A **MOTION** was made by Aaron Magdziarz to **APPROVE** the Variation to increase the maximum permitted wall signs from two (2) to four (4) in a C-2, Limited Commercial Zoning District at 1441 Kishwaukee Street. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 4-1 with Neubauer voting Nay.

Approval is subject to the following conditions:

1. Must obtain a sign permit for each sign and be consistent to Exhibits.

ZBA 043-12
Findings of Fact for a Variation
To Increase the Maximum Permitted Wall signs
From Two (2) to Four (4)
In a C-2, Limited Commercial District at
1441 Kishwaukee 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.

044-12 **2101 Auburn Street and 2029 Auburn Street**
 Applicant Deliverance Crusaders Center / Traci Madison
 Ward 09 **Special Use Permit** for a church in an R-3, Multi-family Residential District and R-2,
 Two-family Residential District

The existing building on the subject property is located on the northwest corner of Auburn Street and Ridge Avenue and the parking lot is located on the northeast corner of Auburn Street and Ridge Avenue. This vacant building is the former Girl Scout office building. Traci and Robert Madison were present. They wish to use this building as a full service church. They are currently located on West State Street and are being relocated due to the road improvements planned for that corridor. Mr. Madison reviewed the request for Special Use Permit. He believes the building is a landmark in itself and wished to reclaim it for a church, which is what it was originally.

Staff Recommendation is for Approval with (2) conditions. No Objectors or Interested Parties were present.

A **MOTION** was made by Aaron Magdziarz to **APPROVE** the Special Use Permit for a church in an R-3, Multi-family Residential District and R-2, Two-family Residential District at 2102 Auburn Street and 2029 Auburn Street. The Motion was **SECONDED** by Craig Sockwell 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. A design professional must evaluate the building to ensure that the building satisfies required building codes.

ZBA 044-12
Findings of Fact for a Special Use Permit
For a Church in an R-3, Multi-Family Residential District
And R-2, Two-Family Residential District at
2101, 2029 Auburn Street

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

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.

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

045-12

Applicant
Ward 1

7130 East State Street

Chick-fil-A

- (A) Special Use Permit** for a drive-thru in conjunction with a fast food restaurant
- (B) Variation** to reduce the required parking from 723 parking spaces to 544 parking spaces
- (C) Variation** to allow building lighting wall sconces and trash enclosure lighting to have a 75 degree cutoff or greater when lighting with less than a 75 degree cutoff is required
- (D) Variation** to allow for a free-standing pylon sign when a free-standing landmark-style sign is required in a C-2, Limited Commercial Zoning District

The subject property is a 15.81 Acre parcel located on the northeast corner of Perryville Road and East State Street, and is a portion of the Lowe's Home Center. Todd Richards and Jason Hill, Applicants, were present. Mr. Hill reviewed the request. He stated they opened their first store in Chicago about 3 years ago and this would be their first store in Illinois. He stated it is important to them that their Operators are involved with the community as well. Mr. Hill further stated that about 60 percent of their business is drive thru. Mr. Richards reviewed the site plan. This parcel will be subdivided through the subdivision process to create Lots 28 and 29, Plat 4 of Buckley Commercial Center. The Applicant's request is for the proposed Lot 29, which will be located on the northwest corner of the existing lot. The applicant is proposing a fast food restaurant with a building of 5,012 square feet, and outdoor seating area of 1,000 square feet. He reviewed access. There is a free standing pylon sign along East State Street and also one on Perryville. Mr. Richards felt the pylon signs were imperative to visibility along these high traffic roads. Mr. Hill discussed Staff's landscaping requirements and felt this could be accomplished by working with Staff. He further stated they had intended to incorporate into the existing Lowe's sign but due to the type of structure this was not feasible.

Ms. Neubauer asked about lighting plans and location of the lighting. The Applicant presented a façade drawing showing lighting and verified the type of lighting as shown in submitted information to Staff. She asked if there were other type of fixtures other than the TWA fixture that would be considered. Mr. Cagnoni stated Staff felt if they worked with the Applicant they could come up with a solution that would satisfy their concerns as well as Staff's. He stated the key at this location would be having light sources that would not have a negative impact to traffic. Mr. Olson stated he could understand signage requirements on East State Street, but felt the building was obvious to Perryville traffic. Mr. Sanders stated he would support the pylon sign on East State Street only.

Staff Recommendation is for Approval of (A), (B), and (C) and Denial of (D), with 6 conditions. No Objectors or Interested Parties were present. Mr. Cagnoni wish to clarify if the Board approved signage along E State they would not need to include the pylon sign along Perryville because that was a separate

lot and permissible. The Board had the option to Deny the freestanding sign along Perryville location, and to Approve of freestanding sign along East State Street.

A **MOTION** was made by Aaron Magdziarz to **APPROVE** the Special Use Permit for a drive-thru in conjunction with a fast food restaurant; **APPROVE** the Variation to reduce the required parking from 723 parking spaces to 544 parking spaces; **APPROVE** the Variation to allow building lighting wall sconces and trash enclosure lighting to have a 75 degree cutoff or greater when lighting with less than a 75 degree cutoff is required; to **APPROVE** Approval of the Variation to allow for a free-standing pylon sign along east state street, and to **DENY** a Variation to allow a free-standing pylon sign along Perryville in a C-2, Limited Commercial Zoning District at 7130 East State Street. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 4- 1 Alicia Neubauer voting Nay.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes.
2. Submittal of a revised landscape plan to include building foundation landscaping of at least 50% for the proposed building, and plant species for Staff's review and approval.
3. Must obtain separate permits for signage and sign must be constructed to match building design and in accordance with submitted sign elevations.
4. Must develop site in accordance with site and landscaping plans approved by Staff.
5. Must develop site and lighting in accordance with Exhibit H, the photometric plan approved by Staff.
6. Must develop building elevations in accordance with Exhibit L.

ZBA 045-12
Findings of Fact for a Special Use Permit
For a Drive-Thru in Conjunction with a Fast Food Restaurant
In a C-2, Limited Commercial Zoning District at
7130 East State 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-2, Limited Commercial Zoning District in which it is located.

ZBA 045-12
Findings of Fact for a Variation
To Reduce the Required Parking to 544 Parking Spaces
In a C-2, Limited Commercial Zoning District at
7130 East State 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 045-12
Findings of Fact for a Variation
To Allow Building Lighting Wall Sconces and Trash Enclosure Lighting
To Have a 75 Degree Cutoff or Greater
When Lighting with Less Than a 75 Degree Cutoff is Required
In a C-2, Limited Commercial Zoning District at
7130 East State 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 045-12
Findings of Fact for a Variation
To allow for a Free-Standing Pylon Sign
When a Free-Standing Landmark-Style Sign is Required
In a C-2, Limited Commercial Zoning District at
7130 East State 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, nor substantially increase the congestion of the public streets, or increase the danger of fire, nor 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.

046-12 **939 North 2nd Street**
Applicant Kurt Johnson
Ward 3 **Special Use Permit for a Planned Unit Development** consisting of a bed and breakfast with event venues in an R-1, Single-family Residential Zoning District

The subject property is 4.49 acres and is bounded by North 2nd Street to the north, Oakland Avenue to the west, Greenmount Street to the south, and Ridgewood Road to the east and is located within the Browns Hills / Knightsville Historic District. The existing use is a single-family residence. Kurt Johnson, Applicant, reviewed his request for Special Use Permit. The Applicant wishes to operate a 7 room Bed and Breakfast with small event venues and a parking lot. Kurt Johnson clarified the event venues would not be for large scale events that would disrupt the neighborhood. Mr. Johnson stated he has a hospitality background of 25 years as an executive chef at 5-star hotels. He feels this use is very involved in giving back to the community. A Certificate of Appropriateness was not received from the Historic Preservation Commission (HPC) for parking lot improvements but was laid over for one month by the Historic Preservation Commission.

Ms. Neubauer asked for clarification on what would constitute event venues. As part of this response, Mr. Cagnoni clarified the application is required because a bed and breakfast is not a permitted use in a residential zoning classification. He explained Staff recommended Lay Over of the event venues portion of this application until further clarification was given by the Applicant on what these events would entail. Also, anytime a Certificate of Appropriate is required from the HPC, it must be approved in advance of consideration by the Zoning Board of Appeals. The Board would have the ability to act upon the bed and breakfast component at this time, but not on the parking lot or event venues until a determination is made by the HPC. To assist in clarification, Mr. Johnson stated some examples of events would be wine tastings, writers retreats, and business meetings. Mr. Cagnoni further clarified that when individuals have large gatherings at their homes, they are along the line of family events, but when if they chose to hold such an event at a location where they are providing compensation, it becomes a business operation and therefore requires a Special Use Permit.

Staff Recommendation is for Approval of the Special Use Permit for a Planned Unit Development for bed and breakfast with (3) conditions and to Lay Over the request for event venues. Objectors and Interested Parties were present. In addition, letters of Objection were received.

Monica Krysztopa, Executive Vice President of the Rockford Area Convention of Visitors Bureau, (RACVB) was present as a Supporter of this project. She stated the Applicant intends to keep the architectural nature of the home. She stated Mr. Johnson had asked the RACVB for help on niche marketing. The RACVB holds small international media tours and felt this would be a great venue in the community. They also host VIPs for associations and sporting events and see this as a niche for this market. Ms. Krysztopa feels Mr. Johnson has been honest with his plans and integrity for this bed and breakfast and believes it will be an addition to the City.

Bruce Altman, 1219 Oakland Avenue, was present as an Objector. He feels there is no evidence to support the Findings of Fact. He is requesting specifications on the events and parking lot prior to making a decision on this item. He feels this type of business will impair property values and that it will be more of a hotel with as many as 75 people for events. He is also concerned with vehicle headlights shining directly onto his property and stated the view from his window will be a parking lot. He is concerned with excess traffic, including deliveries. Oakland Avenue is a dead-end street. Mr. Altman also stated his opinion that this project will have a negative effect on property values. There is no evidence of adequate drainage, according to Mr. Altman. He stated they already have drainage issues and adding pavement will exacerbate the problem. He further stated Ingress and Egress design is not specific on Oakland. Currently some residents park on a street that only allows parking on one side and it

is already difficult to maneuver. He feels additional traffic would increase liability. He further stated Mr. Johnson will not occupy the business and feels this makes it a hotel rather than a bed and breakfast.

In rebuttal, Mr. Johnson reiterated that this proposal is for a bed and breakfast. He stated Bed and Breakfasts are normally between 4 and 10 rooms. He pointed out that this property will be owner occupied. Regarding drainage, the Soils and Water report did not indicate any problems with drainage should this property be developed. He stated additional landscaping screening would reduce the problem of lighting. He stated that all across the country bed and breakfasts host many events. He is not seeking to be a hotel nor talking about conventions, but rather family birthday parties and things of this nature. Mr. Johnson stated he does not feel his proposal is over and above what is reasonable.

Michael Fumo, 842 Ridgewood, spoke as a supporter of the bed and breakfast, but objected to the event venue. He explained he and his family live directly north of this property and feel this is a wonderful idea for Rockford in general but that having an event every night of the week or frequently during the summer is not something feasible for the neighborhood. He has 4 small children and does not wish to have increased traffic in the neighborhood. He also stated the owner is not actually occupying the house itself but rather the staff house also on the property.

In response, Mr. Johnson stated there is a responsibility on his part to be sensitive to the closeness of the neighbors. They will live on the property whether it is in the staff house or within the main house. Regarding traffic, he does not feel with 7 rooms they will generate much traffic. The event venues several times a month would not generate that much.

Curtis Worden, 912 Ridgewood Road, was present as an Objector. Mr. Worden stated there are three houses between his home and the Applicant's. He wished to remind the Board that this is a fairly large Historic District. His understanding is that a bed and breakfast is limited to 4 bedrooms. Regarding the Planned Unit Development (PUD) portion of this application, he stated this is a property that has a home as well as a second home on the same lot. He feels this property does not have the characteristics to fit into a PUD situation. He stated Staff reports refers to 75 people outside and 50 inside. He feels this site is not large enough for 125 people to park. He explained access to this property is such that there would be quite an increase in traffic in the neighborhood. He stated this conflicts with the Historic nature of the neighborhood.

In response, Mr. Johnson stated the numbers are not necessarily accurate but he needed to provide figures as part of the application. He estimated 50 to 75 as a "guesstimate". He stated there are 7 rooms in this house. A 4 room bed and breakfast is not a viable option. He continues to feel this proposal will be an asset to the community.

Chuck Prorok, 1515 Greenmount Street, stated he was Objecting mostly to the event venue. He stated he and his wife are not really opposed to the bed and breakfast. They are concerned with the event venue portion of the application. If the Applicant is not successful or decide to sell the property, the Special Use Permit would stay with the property and would open the doors to other types of events in the neighborhood that may not be conducive to a residential situation.

Mr. Johnson had no response to Mr. Prorok's statements.

Ms. Neubauer asked if the Applicant was granted the Special Use Permit for the bed and breakfast, could a sunset clause be included that would apply the Special Use Permit only to Mr. Johnson. Mr. Cagnoni stated they would not be able to apply a condition that the Special Use Permit expire on condition of sale. A time frame could be applied for a number of years and then the Special Use Permit would lapse and the Applicant would need to reapply for either a new SUP or a Modification.

Ms. Neubauer asked about water runoff to Oakland. Marcy Leach, Public Works, stated there are ways the Applicant can incorporate to illuminate water runoff or to collect water runoff.

Mr. Olson stated the majority of the Objectors seemed to be in favor of the bed and breakfast, but against the event venue. He asked if the bed and breakfast were approved, would the event venue come before the Board next month? Mr. Cagnoni explained the Board had the option of denying the parking lot and event venue should they chose and it could move forward with that recommendation, or they could approve the bed and breakfast and revisit the event venue and parking lot separately after HPC has made a decision.

Mr. Sanders felt a bed and breakfast could fit harmoniously into this neighborhood, but is inclined to feel the event venue and parking lot would not fit into an established residential neighborhood.

Mr. Olson stated he could not support the event venue but would be in favor of the bed and breakfast. Ms. Neubauer stated she is not willing to vote no at this time without hearing more about the events. She is in favor of laying over that portion of the application.

A **MOTION** was made by Dennis Olson to **APPROVE** the Special Use Permit for a Planned Unit Development consisting of a bed and breakfast with seven (7) guest rooms, owner-occupied guest house and **LAY OVER** the request for event venues in an R-1, Single-family Residential Zoning District at 939 North 2nd Street. The Motion was **SECONDED** by Alicia Neubauer and **CARRIED** by a vote of 4-1 with Aaron Magdziarz voting Nay.

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 bed and breakfast.
3. That the establishment of events will require a modification for the Special Use Permit for the Planned Unit Development
4. The special use permit for the planned unit development does not include the approval of a parking lot.

ZBA 046-12
Findings of Fact for a Special Use Permit
For a Planned Unit Development
Consisting of a Bed and Breakfast
In an R-1, Single-Family Residential Zoning District at
939 North 2nd 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 R-1 Zoning District in which it is located.

047-12 **6115 Forest Hills Road**
Applicant David Roby
Ward 4 **Variation** to increase the maximum allowable square footage of a detached garage (accessory structure) from 720 square feet to 1,032 square feet in an R-1, Single-family Residential Zoning District

Prior to the meeting the Applicant requested this item be Laid Over to the January 16, 2013 meeting. They will be out of town and unable to attend this meeting.

A **MOTION** was made by Aaron Magdziarz to **LAY OVER** the Variation to increase the maximum allowable square footage of a detached garage (accessory structure) from 720 square feet to 1,032 square feet in an R-1, Single-family Residential Zoning District at 6115 Forest Hills Road. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-0.

048-12 **Zoning Text Amendments**
Applicant City of Rockford
Ward N/A Zoning Text Amendments as follows:

Article 20 Residential Districts

20-004 Uses:

Table 20-1 Use Classification Table: Add Wildlife Rehabbers "S", in the RE, R-1, R1-U, R-2, R-3 and R-4 Districts

Article 91 General Terms

Add Definition of drop box in Article 91, General Terms as follows:

Wildlife Rehabber – an individual licensed by the Illinois Department of Natural Resources under Section 5/3.22. Chapter 520 of the Illinois Compiled Statutes.

Todd Cagnoni, Deputy Director of Construction and Development Services, reviewed the request for Zoning Text Amendment. The request to allow wildlife rehabilitation originated from correspondence from Kathy and Gordon Bode on behalf of local wildlife rehabilitators. He stated this group has been established for decades in a positive way and there has been no disruption in the residential neighborhoods. Based on this, Ms. Bode suggested that provisions for wildlife rehabilitators be incorporated into the City ordinance. Mr. Cagnoni stated there are a number of properties that the City felt could be a wildlife rehab use without any effect on the surrounding neighborhood. If there are areas thought to be less conducive, a Special Use Permit may be applied for as a determination of appropriateness. Mr. Cagnoni stated there are regulations from the Illinois Department of Natural Resources. The permit from IDNR allows them only to rehab certain species.

Interested parties were present:

Kathy Bode, 530 West State Street, Cherry Valley. Ms. Bode has had a permit from DNR for over 25 years. She discovered rehabbers within the City of Rockford were in violation of the Ordinance and approached the City to incorporate a section into the existing Ordinance to allow rehabbers. She stated the deal with Opossums, squirrels, rabbits, raccoons, woodchucks, etc. 80% of their calls are for animals

that are “left alone” and they do not require any action. Animals are only released on private rural property with the consent of the owner.

Christa Keller, 538 13th Street was present. Ms. Keller stated there was a problem a few years ago when she caught several outside cats and turned them over to Animal Control and the neighbor turned her in for rehabbing wildlife. Animal Control had been bringing wildlife to her. She stated she sometimes had 20-40 opossums and raccoons at one time. Ms. Keller said it was very upsetting for her to find she was in violation of city code when her intent was to save these animals. Mr. Sockwell asked how many species the DNR allowed them to have. She stated she was allowed to have as many as she could handle. Sometimes she had 20 different species at one time.

Joyce Kegan, 1315 Geneva Avenue is also a rehabber and presented photos of raccoons that she rehabbed. She stated she only takes in raccoons. She stated if rehabbers were not allowed to operate, a lot of citizens would try to take care of these animals themselves.

Travis Greer, 1612 Evans Avenue, Loves Park stated he ran an organization called Port of Storm in Loves Park. He explained licenses break down in specific orders. Reformer license include squirrels, woodchucks, raccoons, opossums, etc. Deer, foxes, migratory and predatory birds and the like are covered under different type of licenses. The care is long term and ongoing. He stated it cost him \$7,000 to run his rehab operation because of the cost of food, care, etc.

Mr. Magdziarz asked if there was any limit on how many animals an individual could have. Mr. Cagnoni stated this would be handled on a case-by-case basis.

A **MOTION** was made by Alicia Neubauer to **APPROVE** the Zoning Text Amendments as presented. The Motion was **SECONDED** by Dennis Olson and **CARRIED** by a vote of 5-0. Proposed Text amendments are as follows:

Add Definitions to Article 91:

Wildlife Rehabilitation Specialist – an individual licensed by the Illinois Department of Natural Resources pursuant to 520 ILCS 5/3.22.

Amend Regulations:

Residential Districts

Add to Table 20-1, Wildlife Rehabilitation “S”, in the RE, R-1, R1-U, R-2, R-3 and R-4 Districts.

049-12	<u>2311 Green Street</u>
Applicant	Clifton L. Sims
Ward 13	Variation to allow a 4’ chain link fence in a front yard in an R-1, Single-family Residential District

The subject property is located on the north side of Green Street, 94 feet west of Foster Avenue and is a single family home. This application is a result of a violation for installation of a chain link fence in the front yard. Lorraine and Clifton, owners of the property, were present. Ms. Sims stated they hired a fence company who obtained a permit in July, 2009, to install a chain link fence. The application that was submitted by Dach Fence only showed a chain link fence in the side and rear yards as shown in Staff’s report. A chain link fence was also installed in the front yard, which was not indicated on the application by the fence company, which is prohibited by the 2008 Zoning Ordinance.

Mr. Cagnoni wished to clarify that the application for fence permit was submitted by the fence company, not the Applicants. The fence company is the one who indicated the fence would only be in the side and rear yards. He stated the Applicants have been put in an unfortunate situation not of their own cause. Mr. Cagnoni stated the City has the opportunity to take the fence company to code hearing.

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

Phyllis & Clayborn Sockwell, 323 Foster Avenue Ms. Sockwell stated the applicants keep an immaculate yard and the fence help to stop debris from blowing into the yard. Mr. Sockwell stated there are several houses in this neighborhood that have chain link around the front.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Variation to allow a 4' chain link fence in a front yard in an R-1, Single-family Residential District at 2311 Green Street. The Motion was **SECONDED** by Alicia Neubauer and **CARRIED** by a vote of 5-0.

ZBA 049-12
Findings of Fact for a Variation
To Allow a 4' Chain Link Fence in a Front Yard
In an R-1, Single-Family Residential District at
2311 Green 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 items to come before the Board, the meeting was adjourned at 9:20 PM

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