



ZONING BOARD OF APPEALS
Tuesday, November 20, 2018
5:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Present:

ZBA Members: Thomas Fabiano
Kim Johnsen
Alicia Neubauer
Dan Roszkowski
Jennifer Smith

Absent: Craig Sockwell
Maurice Redd

Staff: Scott Capovilla – Zoning and Land Use Administrator
Jeremy Carter - Public Works
Samuel Bellone – Administrative Assistant
Matthew Flores, Assistant City Attorney
Lafakeria Vaughn – Assistant City Attorney
Tim Morris - Fire Department
Karl Franzen- Director of Community & Economic Development

Others: Alderman Tuffy Quinonez
Kathy Berg - Court Stenographer
Applicants and Interested Parties

Scott Capovilla 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, November 26, 2018, at 5:30 PM in City Council Chambers in 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. This information was also presented in written form attached to the agendas and letters to adjacent Property owners.

The meeting was called to order at 5:36 PM. A **MOTION** was made by Kim Johnsen to **APPROVE** the minutes from the October, 2018 meeting as written. The Motion was **SECONDED** by Tom Fabiano and **CARRIED** by a vote of 4-0 with Jennifer Smith abstaining and Maurice Redd and Craig Sockwell absent.

ZBA 036-18

Applicant
Ward 11

1418, 1422 Broadway

Octavio Marquez

Special Use Permit for an auto repair shop and tire service with towing in a C-4, Urban Mixed Use Zoning District

Laid Over from September and October meetings

The subject property is located on the north side of Broadway and approximately 90 feet west of Parmele Street. There was previously a petition to establish an auto repair shop, tire store and towing and a variation to allow parking and landscaping as per submitted site plan in a C-4, Urban Mixed Use Zoning District. The previous request was denied due to the area having over saturated uses of auto related businesses.

Attorney Andrew Vella, representing the Applicant, and Octavio Marquez, the applicant, were present. Attorney Vella stated that Mr. Marquez is seeking a Special use Permit for an auto repair shop and tire service. He provided the Board with copies of the proposed floor plan and site plan for the property. He explained that the property used to be a print shop, but, it has been vacant for quite a while. Mr. Marquez has been in the auto repair and tire servicing business for over ten (10) years and would like to be able to have a tow truck to tow vehicles so he can work on them at his shop. He explained that Mr. Marquez will improve the property and provide necessary landscaping, with the landlord's permission. Attorney Vella stated the applicant wants the hours of operation to be 9:00 AM to 5:00 PM Monday to Sunday. Mr. Marquez has knowledge on proper disposal of chemicals and oils.

Alicia Neubauer stated that the area is heavily saturated with auto repair shops and car lots and that this request would not be diversifying Broadway. Ms. Neubauer asked Attorney Vella if he was able to look over staff's recommendation. Attorney Vella stated that he reviewed them and that one concern from previous petitions was about the noise. He further stated that the applicant is able to limit the amount of noise from his proposed business.

Kim Johnsen asked Mr. Capovilla if there have been any previous applications from the landlord of the subject property. Mr. Capovilla stated that this application is the second attempt for an auto repair business by the current owner of the property.

Alderman Tuffy Quinonez spoke in support of the applicant and the special use permit. Alderman Quinonez stated that he wants to see store fronts being filled and more jobs opened to the public. He also agreed that there are a lot of auto repair shops on Broadway, but one more auto repair shop will not hurt the neighborhood.

Toby Haldeman spoke against the proposal. Mr. Haldeman stated that there has not been any improvements to the building or property. He has spoken to many of the homeowners in the neighborhood and none of them want approval of the auto repair shop. He stated that it would not create tax dollars, and it would take away from the already established businesses on Broadway. He further stated that if the Special Use Permit gets approved he would like conditions of approval.

Mr. Haldeman's conditions are stated below:

1. Neon, digital or flashing signs are not permitted.
2. Lot must be paved with asphalt
3. No towing
4. No outdoor displays
5. No storage of working and non-working vehicles
6. No tire storage
7. Hours from 9am to 5 pm Monday thru Friday and 9am to 1pm on Saturdays
8. No loitering in front of store or in parking lot
9. Building brought up to code
10. Adhere to City of Rockford code and zoning ordinances
11. Signage ordinance

Attorney Vella, in response to Mr. Haldeman, stated that the applicant will be willing to maintain the building and landscaping, follow any City of Rockford codes and ordinances and the Special Use Permit be granted with any conditions placed on it.

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

A **MOTION** was made by Kim Johnsen to **APPROVE** the Special Use Permit for an auto repair shop and tire service with towing in a C-4, Urban Mixed Use Zoning District at 1418, 1422 Broadway. The Motion was **SECONDED** by Tom Fabiano and **CARRIED** by a vote of 4-1 with Alicia Neubauer voting Nay.

Approval is subject to the following conditions:

1. Neon, digital or flashing signs are not permitted.
2. Lighting must be per the ordinance and not shine onto adjacent properties.
3. Parking lot must be paved.
4. Towing is not permitted.
5. Outdoor Storage is prohibited.
6. Inoperable vehicles may not be stored on site.
7. Business must close at 5pm Monday thru Friday, 1 pm on Saturday and is not permitted to operate on Sunday.
8. Overhead doors must be closed when vehicles are being repaired.
9. No outdoor music is allowed.
10. Must meet all applicable Building and Fire Codes and the Applicant must hire a licensed architect to design the plans
11. Must comply with all applicable landscaping plans.
12. Must comply with the sign ordinance.

ZBA 036-18
Findings of Fact for Approval of a Special Use Permit
For an Auto Repair Shop, Tire Service and Towing Facility
In a C-4, Urban Mixed Use Zoning District at
1418, 1422 Broadway

Approval of this Special Use Permit is Based upon the Following Findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the C-1 Zoning 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 040-18

Applicant
Ward 12

930 West Riverside Boulevard

Lisa Donmeyer / McDonalds USA, LLC

(A) Variation to increase the maximum permitted number of wall signs from two (2) to five (5)

(B) Variation to increase the maximum allowed height for a menu board from 6 feet to 6.75 feet in a C-2, Limited Commercial Zoning District

The subject property is located 310 feet east of West Riverside Boulevard and North Main Street intersection. The neighborhood is a mixture of residential and commercial uses. Joe Kerchner, representing McDonalds USA, LLC was present. They are looking to have variances for wall signs and a menu board.

Mr. Kercher explained each of the variances. Variance (A), is for the two (2) inside logos be moved to the walls on the north and west sides of the building. There will only be one (1) new wall sign added to the building. Mr. Kerchner explained, that the reason is for visibility, and to draw customers to the business. With Variance (B), the menu board will have a nine (9) inch increase. Mr. Kerchner explained that the sole reason for the application is to stay within McDonald's national standard of menu boards. The national standard is 6.75 feet. However, he did explain that there are options that would fit within the City of Rockford requirements.

Kim Johnsen asked why there are five (5) signs needed and not the two (2) current ones. Mr. Kerchner responded that it is to draw customers in and to show that the business is open. Alicia Neubauer stated, in the past that they have not approved similar applications and she wants to be consistent. Tom Fabiano stated that the McDonald's is currently perfectly visible and does not need any additional

signage. Dan Roszkowski and Jennifer Smith agreed that they don't have a major issue with the menu board request, but only with the wall signs.

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

A **MOTION** was made by Jennifer Smith to **DENY** Variation to increase the maximum permitted number of wall signs from two (2) to five (5) and **DENY** Variation to increase the maximum allowed height for a menu board from 6 feet to 6.75 feet in a C-2, Limited Commercial Zoning District at 930 West Riverside Boulevard. The Motion was **SECONDED** by Alicia Neubauer and **CARRIED** by a vote of 5-0.

ZBA 040-18
Findings of Fact for Denial of a Variation
To Increase the Maximum Permitted Number of
Wall Signs from Two (2) to Five (5) in a C-2, Limited
Commercial Zoning District at
930 West Riverside Boulevard

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 040-18
Findings of Facts for Denial of a Variation
To Increase the Maximum Allowed Height For a
Menu Board From 6 Feet to 6.75 Feet
In a C-2, Limited Commercial Zoning District at
930 West Riverside Boulevard

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 041-18

Applicant
Ward 6

3864 Samuelson Road

Serafin Hernandez

Variation to increase the maximum square footage allowed for accessory buildings from 4,725 square feet to 8,240 square feet in an R-1, Single family Residential Zoning District

The subject property is located on the north side of Samuelson Road. The Applicant, Serafin Hernandez, was present. He is looking for a variance to increase the maximum square footage allowed for an additional accessory building. Mr. Hernandez explained that he bought the property about two (2) years ago. The property was in poor condition when purchased. Mr. Hernandez has fixed the property and now he and his family live in the property. He explained that he is always trying to improve the property. He wants to build a building for storage and to keep his equipment and tools safe from rain and theft. He only owns cars and trucks, and not heavy equipment. Mr. Hernandez is unsure of the size of the storage building, but will make sure it is kept up and looking nice.

Alicia Neubauer asked staff for the requirements of a home business. Mr. Capovilla explained that a home business needs to be more of an office type environment. He further explained that there should only be one person living on the property for a home business and that the operation of heavy machinery

is not permitted under the Residential Zoning District. The property was part of an Annexation Agreement and a Zoning Map Amendment in 2007. The lot was previously located in the County and is now City. Mr. Capovilla further stated, that the area surrounding the subject property has recently been zoned residential. Kim Johnsen asked for clarification on the staff report concerning the square footage for what is allowed and what the applicant is seeking. Mr. Capovilla clarified that the maximum square footage of 8,240 square foot is allowed.

Peggy Schmidt is an adjacent property owner speaking in favor of the variation. Ms. Schmidt's property is located behind the subject property. She has no issue with allowing Mr. Hernandez extra storage due to stealing and vandalism. Ms. Schmidt believes that Mr. Hernandez is trying to improve his property and the City of Rockford.

Scott Capovilla stated that the Land Use Planners found that the applicant never mentioned he was running a business from his home and that the property was in poor condition. Mr. Capovilla stated that if the applicant would have first went through the PUD process, then it would be better and easier to work with. Ms. Neubauer stated that the application could be laid over to update the gravel lot and improve the overall condition of the property. Dan Roszkowski stated that it would be better to deny the application and move forward with the PUD process. Mr. Capovilla stated that he encourages the applicant to apply for the PUD.

Staff Recommendation is for Denial. Interested Parties were present.

A **MOTION** was made by Kim Johnsen to **DENY** Variation to increase the maximum square footage allowed for accessory buildings from 4,725 square feet to 8,240 in an R-1, Single Family Residential District. The Motion was **SECONDED** by Alicia Neubauer and **CARRIED** by a vote of 5-0.

ZBA 040-18
Findings of Fact for Denial of a Variation
To Increase the Maximum Square Footage
Allowed for Accessory Buildings from 4,725 square feet
To 8,240 square feet in an R-1, Single Family Residential District at
3864 Samuelson Road

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.

With no further business to come before the Board, the meeting was adjourned at 6:31 P.M.

Respectfully submitted,
Samuel Bellone, Administrative Assistant
Zoning Board of Appeals