



ZONING BOARD OF APPEALS
Wednesday, October 16, 2019
5:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Present:

LTAB Members: Dan Roszkowski
Craig Sockwell
Jennifer Smith
Kim Johnsen
Tom Fabiano

Absent: Alicia Neubauer
Maurice Redd

Staff: Lafakeria Vaughn – Assistant City Attorney
Samuel Bellone – Administrative Assistant
Scott Capovilla – Zoning and Land Use Administrator
Tim Morris – Fire Prevention Coordinator

Others: Kathy Berg - Court Stenographer
Joseph Chiarelli – Fourteenth Ward Alderman
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, October 28, 2019, 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 Jennifer Smith to **APPROVE** the minutes from the September 17, 2019 meeting as written. The Motion was **SECONDED** by Kim Johnsen and **CARRIED** by a vote of 4-0 with Tom Fabiano abstaining.

A **MOTION** was made by Kim Johnsen to **APPROVE** the minutes from the September 24, 2019 special meeting as written. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 4-0 with Dan Roszkowski abstaining.

ZBA 045-19

Applicant
Ward 14

49XX East State Street, 215 Easton Parkway

Remedies Renewing Lives, Inc.

Special Use Permit for a **Planned Unit Development** for a medical clinic with methadone services and administrative offices in an R-4, Multi-family Residential Zoning District.

Attorney Ann Dempsey representing Remedies Renewing Lives Inc., and Gary Halback, President of Remedies Renewing Lives Inc., were present. The applicant is requesting a Special Use Permit with a Planned Unit Development for a medical clinic with methadone services and administrative offices. The subject property is located approximately three hundred (300) feet south of East State Street and west of Easton Parkway.

Attorney Dempsey stated that Remedies has been operating at an adjacent property and that the new building would improve service to their clients. Remedies services victims of domestic violence and people with substance abuse issues. This new building will just be for substance abuse services and it would also add a new nurse station that would improve efficiency.

Attorney Dempsey explained that the new property would combine two (2) vacant parcels and would be a total of four (4) and a half acres in size. There will be a parking lot with fifty-nine (59) parking spaces. There will be sidewalks that will connect each building and the neighborhoods surrounding the property.

Dan Roszkowski stated that he does not understand how Easton Parkway will connect to the neighborhoods and asked for clarification. Mr. Halbach noted that the sidewalk would connect on the east and west sides of the property and there would be access to Manhattan Drive. Easton Parkway would not connect to the south of the creek.

Kim Johnsen asked what the hours of operation would be for the clinic. Mr. Halbach stated that the methadone services are done by 9:00 AM but the clinic will close at 5:00 PM. The administrative services continue past 9:00 AM and they have groups that can use the rooms for therapy services.

Mr. Roszkowski asked if the building would be two (2) stories. Mr. Halbach stated that the building is one (1) story, but the basement would be utilized for storage. Mr. Roszkowski further asked if the patients would be spending the night. Mr. Halbach stated that no one would stay overnight at the facility.

Staff Recommendation is for Approval with seven (7) conditions. Objectors or Interested parties were present.

Joe Vaughn spoke in support of the applicant. Mr. Vaughn is a retired social worker and he stated that he has known Mr. Halbach for over thirty (30) years. Mr. Vaughn said that the quality of the facility and experience that Mr. Halbach has is going to guarantee that any difficulties would be addressed.

A **MOTION** was made by Jennifer Smith to **APPROVE** the Special Use Permit for a Planned Unit Development for a medical clinic with methadone services and administrative offices in an R-4, Multi-family Residential Zoning District. The motion was **SECONDED** by Tom Fabiano and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes.
2. Submittal of a final plat including a north-south multi-use circulation path easement through the property for Staff's review and approval.
3. Submittal of cross access agreements for parking and pedestrian circulation for staff's review and approval.
4. Submittal of a Preservation Plan for the existing mature trees.
5. Submittal of a detail landscape plan for staff's review and approval.
6. Submittal of building elevation plan for staff's review and approval.
7. That the property be developed in substantial compliance with the site plan submitted.

**FINDINGS OF FACT FOR APPROVAL OF A SPECIAL USE PERMIT
FOR A PLANNED UNIT DEVELOPMENT CONSISTING OF A MEDICAL CLINIC WITH A
METHADONE FACILITY AND ADMINISTRATIVE OFFICES
IN AN R-4, MULTI-FAMILY RESIDENTIAL ZONING DISTRICT
LOCATED AT 49XX EAST STATE STREET AND 215 EASTON PARKWAY**

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, and will not substantially diminish or 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-4 Districts.
4. Adequate utilities, access roads, drainage and/or necessary facilities will be provided.
5. Adequate measures will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall conform to the applicable regulations of the R-4 Districts in which it is located.

ZBA 046-19
Applicant
Ward 03

136 North 1st Street
Sarah Stewart / Sarah Stewart Tattoo LLC
Special Use Permit for a body arts facility in a C-4, Urban Mixed-Use Zoning District

The applicant, Sarah Stewart, and Attorney Richard Porter were present. Attorney Porter, who is representing Ms. Stewart, stated that she wants to open a tattoo shop on 1st Street. The subject property is located 268 feet north of East State Street and on the southwest corner of Market Street and North 1st Street. Commercial and institutional uses surround the subject property. Attorney Porter explains that Ms. Stewart is an accomplished artist and has graduated from college with a degree in arts. The business will be by appointment only, and each tattoo artist will have an OSHA license, and the facility will receive a full license for tattooing. Attorney Porter stated that the alderman of the ward, Alderman Tuneberg, is in support of this application.

Ms. Stewart stated that her goal for the tattoo shop is to create a positive and safe space. She believes it would be an excellent addition to the art quarter in the City of Rockford. She has experience as an artist and has been tattooing for nine (9) years. She would also like to integrate an art gallery into the tattoo shop. She stated that she would follow a strict schedule for station and tool cleaning. She will make sure all tattooing equipment is disposable, and she will give care sheets to customers. She also stated that this would be the first female-owned tattoo shop in Rockford.

Dan Roszkowski asked how an appointment-only tattoo parlor would work with an art gallery. Ms. Stewart explained that her work would be by appointment only and that the other tattoo artists would have walk-in customers. The art gallery would be open to allow people to look around. Mr. Roszkowski further asked how many artists she would like to have in the parlor. Ms. Stewart said that she would like to have four (4) artists.

Jennifer Smith asked what the hours of operation would be. Ms. Stewart explained that tattooing would go from 12:00 PM to 8:00 PM. However, she would like the ability to stay open later for gallery events. Attorney Porter stated that she would like to have the hours changed to 12:00 PM to 10:00 PM when there is an art gallery event.

Scott Capovilla asked if the days of operation would change. Ms. Stewart stated that they would not change and would remain to be Tuesday through Saturday.

Staff Recommendation is for Approval with three (3) conditions. No Objectors or Interested parties were present.

A **MOTION** was made by Jennifer Smith to **APPROVE** the Special Use Permit for a body arts facility in a C-4, Urban Mixed-Use Zoning District amending condition three (3) stating, "Hours and days of operation shall be limited from noon to 8:00 PM for tattoo services and art gallery hours limited from noon to 10:00 PM. 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 Building and Fire Codes.
2. Submittal of Building Permits for Staff review and approval.
3. Hours and days of operation shall be limited from noon to 8:00 p.m. for tattoo services with an art gallery from noon to 10:00 pm, Tuesday through Saturday.

FINDINGS OF FACT FOR APPROVAL OF A SPECIAL USE PERMIT
FOR A BODY ART FACILITY
IN A C-4, URBAN MIXED-USE ZONING DISTRICT

LOCATED AT 136 NORTH 1ST 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, and will not substantially diminish or 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, are being, or will be 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 conform to the applicable regulations of the C-4 District in which it is located.

ZBA 047-19

Applicant
Ward 12

2115 Clinton Street

Andrew Capone

Variation to reduce the required setback from the alley for a sight obstructing fence six (6) feet in height from 2.5 feet to zero (0) feet along the east property line, a **Variation** to increase the maximum allowed fence height in rear yard from six (6) feet to 8.5 feet, a **Variation** to reduce the required setback of a play house from six (6) feet to zero (0) feet along the east and south property lines and a **Variation** to reduce the required setback for an attached deck from six (6) feet to 4.33 feet along the south property line in a R-1, Single-family Residential Zoning District

The Applicant, Andrew Capone, and his wife Sang Capone were present. Attorney Ian Linnabary was representing them. The subject property is located 182 feet north of the Clinton Street and Harper Avenue intersection and surrounded by residential uses. Attorney Linnabary stated the property already has an existing fence, deck and playhouse but the applicant needs variations to come into compliance. The applicant has made an effort to improve his own and other property values in the neighborhood. Attorney Linnabary reviewed the findings of fact and explained why the application should be approved.

Tom Fabiano asked if the property owners had constructed the fence, deck, and playhouse. Mr. Capone explained that the deck was first installed as a wedding gift. Then they constructed the wooden fence and playhouse. Mr. Fabiano further asked if everything was built before finding out that the fence, deck, and playhouse were not in compliance with city ordinances. Mr. Capone confirmed that they were and now they just want to make it right.

Craig Sockwell asked how long the playhouse would last and if the building department has been out to inspect the safety of the structures. Mr. Capone stated that the playhouse would last about another five (5) years. Mr. Capovilla explained that the building department staff would not inspect the structures until everything has been approved, and the correct permits are obtained.

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

Before the meeting, Samuel Bellone received a letter of opposition by email. Mindy Lemonholm, an adjacent property owner, submitted a letter of objection. In the letter, Ms. Lemonholm stated that her concern is for the safety of the children and the usage of playhouse when the kids become older.

Eric Lemonholm, an adjacent property owner, spoke in support of the application. He is currently trying to construct a fence around his property for privacy. Mr. Lemonholm stated that the fence that the applicant has built is a quality fence and he has worked with neighbors if they had any concerns. Mr. Lemonholm noted that he talked to Mr. Capone and that the playhouse would not be permanent. Mr. Fabiano asked Mr. Lemonholm if he had read his wife's email. Mr. Lemonholm explained that his wife is passionate about having a fence, their yard and privacy within their own home. Mr. Sockwell asked if Mr. Lemonholm has a contractor ready to construct a fence for his property. Mr. Lemonholm stated that he does, but he is waiting to see if the application will be approved or denied before he does anything. Mr. Fabiano asked if he has any objection to the application. Mr. Lemonholm explained that he did not since the playhouse will not be permanent.

During board discussion, Jennifer Smith explained that she lives across the street from the applicant's property. She further explained that she has lived there for seven (7) years, and she did not know that there was a playhouse in the rear of the yard. Dan Roszkowski explained that he did not have an issue with the application if there is a timeline for the demolition of the playhouse.

A **MOTION** was made by Kim Johnsen to **APPROVE** the **Variation** to reduce the required setback from the alley for a sight obstructing fence six (6) feet in height from 2.5 feet to zero (0) feet along the east property line, a **Variation** to increase the maximum allowed fence height in the rear yard from six (6) feet to 8.5 feet, a **Variation** to reduce the required setback of a playhouse from six (6) feet to zero (0) feet along the east and south property lines and a **Variation** to reduce the required setback for an attached deck from six (6) feet to 4.33 feet along the south property line in a R-1, Single-family Residential Zoning District. The motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Removal of the playhouse within five (5) years.

**FINDINGS OF FACT FOR APPROVAL OF A VARIATION TO REDUCE
THE REQUIRED SETBACK FROM THE ALLEY FOR A SIGHT OBSTRUCTING FENCE
SIX (6) FEET IN HEIGHT FROM 2.5 FEET TO ZERO (0) FEET ALONG THE EAST PROPERTY LINE
IN R-1, SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT
LOCATED AT 2115 CLINTON 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 is 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.

FINDINGS OF FACT FOR APPROVAL OF A VARIATION TO INCREASE THE MAXIMUM ALLOWED FENCE HEIGHT IN REAR YARD FROM SIX (6) FEET TO 8.5 FEET IN R-1, SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT LOCATED AT 2115 CLINTON 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 is 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.

FINDINGS OF FACT FOR APPROVAL OF A VARIATION TO REDUCE THE REQUIRED SETBACK OF A PLAY HOUSE FROM SIX (6) FEET TO ZERO (0) FEET ALONG THE EAST AND SOUTH PROPERTY LINES IN R-1, SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT LOCATED AT 2115 CLINTON 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 is 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.

**FINDINGS OF FACT FOR APPROVAL OF A VARIATION TO REDUCE THE REQUIRED SETBACK
FOR AN ATTACHED DECK FROM SIX (6) FEET TO 4.33 FEET ALONG THE SOUTH PROPERTY
LINE IN R-1, SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT
LOCATED AT 2115 CLINTON 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 is 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 048-19

Applicant
Ward 09

3445 Elmwood Road

Doyle Signs Inc.

Variation to increase the maximum square footage permitted for a free-standing sign from 48 square feet to 64 square feet in an RE, Rural Estate Zoning District

Terrance Doyle, the president of Doyle Signs, and Louie Bageanis, the president of Our Lady of the Sacred Heart, were present. The subject property is approximately 26.9 acres in size with a private religious school, and related school uses. Mr. Doyle explained that they had previously applied for a variation to increase the maximum sign height. This application was recently approved by City Council. Mr. Doyle stated that there had not been any opposition to the application. Mr. Doyle then addressed the findings of fact for the approval of the variation.

Dan Roszkowski asked why the square footage request was not attached to the last application. Scott Capovilla explained that the previous application was already processed and published before the correction could be made.

Jennifer Smith asked if the sixty-four (64) square feet includes the bricks. Mr. Doyle explained that the variation would be just for the sign face and not the bricks or architectural elements around it.

Tom Fabiano asked if the increase in square footage would increase visibility. Mr. Doyle explained that it would make the sign easier to read with the speed limit of 45 miles per hour.

Mr. Roszkowski asked if the sign would be allowed if it was in a commercial district. Mr. Capovilla stated that the sign would be allowed if it was zoned commercial.

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

During board discussion, Kim Johnsen stated that she does not think the sixteen (16) square foot increase is a significant variation. Mr. Roszkowski stated that his main concern is that this application was "piece meal", and the boards were not able to get the full application at once. Ms. Johnsen said the previous application at this property was denied by ZBA but was reversed and approved by City Council.

A **MOTION** was made by Kim Johnsen to **APPROVE** a Variation to increase the maximum square footage permitted for a free-standing sign from 48 square feet to 64 square feet in an RE, Rural Estate Zoning District. The motion was **SECONDED** by Craig Sockwell and **FAILED** by a vote of 3-2. This item will move forward to the Code and Regulation Committee as a **DENIAL**.

FINDINGS OF FACT FOR DENIAL OF A VARIATION
TO INCREASE THE MAXIMUM SQUARE FOOTAGE PERMITTED FOR A FREE-STANDING SIGN
FROM 48 SQUARE FEET TO 64 SQUARE FEET
IN RE, RURAL ESTATE ZONING DISTRICT
LOCATED AT 3445 ELMWOOD ROAD

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 is based are not 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 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 7:06 PM.

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