

ZONING BOARD OF APPEALS
Tuesday, July 19, 2011
6:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Present:

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

Absent: Dan Roszkowski

Staff: Kerry Partridge – City Attorney
Todd Cagnoni, Deputy Director - Construction Services Division
Matt Knott, Chief – Fire Department
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 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, August 1, 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 6:40 PM. A **MOTION** was made by Dennis Olson to **APPROVE** the minutes of the June meeting as submitted. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0 with Dan Roszkowski absent.

ZBA 022-11

Applicant
Ward 06

3004 11th Street

St. Edwards Church

Variation to increase the maximum allowable fence height in the front yard from four (4) feet to eight (8) feet along 11th Street, **Variation** to increase the maximum allowable fence height in the front yard from four (4) feet to eight (8) feet along Kinsey Street, and a **Variation** to increase the maximum allowable fence height in the side yard from six (6) feet to eight (8) feet in an R-1, Single family Residential District.

The subject property - St. Edwards Church - is located directly east of the 11th Street and Brooke Road intersection and is surrounded by commercial and residential uses. The property has street frontage on three sides. The ordinance states "any yard adjoining a street shall be considered a front yard and shall meet the required setback for the respective district in which it is located. The height allowance for a front yard per code is 4 feet. The applicant is requesting to increase the three front yard height to 8 feet and the side yard height from the required 6 feet to 8 feet along the north property line only.

Jill Renteria and Joseph Winkelmann (Larson & Darby) were present representing St. Edwards Church. Mr. Winkelmann presented easel photos of the property and a drawing showing the location of the proposed fence. Mr. Olson asked if the proposed fence is a result of any problems from the adjacent bar. He and Ms. Renteria stated there have not been problems, but feel the fence would be a physical distraction from the bar for children playing or attending their church. Mr. Cagnoni stated the adjacent alley is going through a vacation process at this time. Should the ally vacation not be approved, the application would need to be amended. Mr. Winkelmann stated it was his understanding that there currently was a fence all along the bar that went across the alley. The bar in question is not occupied at this time, but had several owners in the past. Mr. Sanders asked if there would be any space between the existing bar and the proposed 8 foot wall coming right to the edge, stating there may be a concern for safety of someone walking down the sidewalk in the evening hours. Mr. Cagnoni stated it is really close, approximately inches.

Staff Recommendation was for Approval with 5 conditions. No Objectors were present. One Interested Parties was present. Karen Gillespie, 1642 Pershing Avenue, adjacent property owner, asked the applicant to clarify the location of the proposed fence. The Applicant responded the fence will only be along the north property line.

A **MOTION** was made by Aaron Magdziarz to **APPROVE** the Variation to increase the maximum allowable fence height in the front yard from four (4) feet to eight (8) feet along 11th Street, **APPROVE** the Variation to increase the maximum allowable fence height in the front yard from four (4) feet to eight (8) feet along Kinsey Street, and to **APPROVE** the Variation to increase the maximum allowable fence height in the side yard from six (6) feet to eight (8) feet in an R-1, Single family Residential District at 3004 11th Street. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Meet all applicable Building and Fire Codes.
2. Submittal of Fence permit for Staff review and approval.
3. The fence must be developed in accordance with the submitted elevation Exhibit F.
4. The fence needs to be even with the adjacent building to the north and cannot encroach into that established front yard setback along 11th Street.
5. City Council approval of the alley vacation for the portion of the fence that is located in the alley.

ZBA 022-11
Findings of Fact for a Variation
To Increase the Maximum Allowable Fence Height in the Front Yard
From Four (4) Feet to Eight (8) Feet Along 11th Street
In An R-1, Single-Family Residential District at
3004 11th 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 022-11
Findings of Fact for a Variation
To Increase the Maximum Allowable Fence Height in the Front Yard
From Four (4) Feet to Eight (8) Feet Along Kinisey Street
In An R-1, Single-Family Residential District at
3004 11th 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 022-11
Findings of Fact for a Variation
To Increase the Maximum Allowable Fence Height in the Side yard
From Six (6) Feet to Eight (8) Feet
In An R-1, Single-Family Residential District at
3004 11th 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 023-11
Applicant
Ward 01

249 Deane Drive

Michael Bivins-Image Signs

Variation to increase the maximum permitted number of wall signs from two (2) to four (4) and a **Variation** to increase the square footage from the maximum 240 square feet to 410 square feet in a C-2, Limited Commercial.

The subject property is located on the east side of Deane Drive. Michael Bivins was present representing the Applicant, Ross Dress for Less. Mr. Bivins feels the building setback of 700 feet, as well as the trees on the rear elevation contribute to the hardship for this property. They are requesting an 81 square foot sign on the south elevation, 100 square feet signage on the west elevation, and additional signage on the side location. Mr. Bivins felt this signage request is consistent with other commercial property in the vicinity. Ms. Neubauer asked where the 4th sign would be located. Mr. Bivins clarified if the two lined sign on the front elevation as shown in the Staff Recommendation report were considered as one sign, it would be over the sign square footage, but if considered as two it was within the square footage. Mr. Sanders felt the applicant was stretching a bit on stating the front sign was two. Mr. Sanders also felt the trees on the rear elevation were actually not large enough and that they were planted there to act as a landscape barrier to hide the back of the building. Mr. Bivins stated Borders on State Street was blocking their view as well.

Mr. Sanders asked if Staff was open to the Board denying the Variation from 2 signs to 4, and approving the Variation to increase signage to 410 square feet. Mr. Cagnoni stated he did not feel this would meet the request of the Applicant. Mr. Olson stated he agreed that the west elevation required a sign. Members of the Board were not in agreement on what signage would be allowed on which elevation.

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

Mr. Sanders suggest the Board could approve the number of wall signs from 2 to 3 with the conditions of the east and south elevations as submitted in the application. The Board was in agreement. Staff clarified the request for Variation to increase the square footage of signage was not needed.

A **MOTION** was made by Aaron Magdziarz to **DENY** the Variation to increase the maximum permitted number of wall signs from two to four and to **APPROVE** a Variation to increase the maximum permitted number of wall signs from two to three; in a C-2, Limited Commercial District at 249 Deane Drive. The Motion was **SECONDED** by Dennis Olson and **CARRIED** by a vote of 6-0.

ZBA 023-11
Findings of Fact for a Variation
To Increase the Maximum Permitted Number of Walls Signs
From Two (2) to Four (4)
In a C-2, Limited Commercial District at
249 Deane Drive

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 023-11
Findings of Fact for a Variation
To Increase the Maximum Permitted Number of Walls Signs
From Two (2) to Three (3)
In a C-2, Limited Commercial District at
249 Deane Drive

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 024-11
Applicant
Ward 05

1118 Ferguson Street

Joseph Bove

Modification of Special Use Permit (#119-83 and #071-01) for construction of a new 36' by 52' metal service building and a Variation to allow a 6' setback with no additional landscaping in an R-2, Two Family Residential.

The subject property is located on the northeast corner of Loomis Street and Ferguson and is currently an auto repair shop. Richard Grismer, Nova Consulting, and Joseph Bove, Applicant, were present. Mr. Grismer stated the Applicant is asking to build an additional 36' x 52' metal building to expand the auto shop and to eliminate the required landscaping. Mr. Grismer stated this fence already has a 6' solid metal fence all around the property to shield it from the surrounding neighbors. This building would be used for those vehicles that are longer term repairs or waiting for parts.

Mr. Cagnoni stated the prepared Staff Recommendation included a condition of approval that the material used be masonry products. Mr. Bove stated he thought this was a typing error and not a serious request. The Board felt this condition could be removed.

Staff Recommendation was for Approval of both requests with 2 conditions. No Objectors or Interested Parties were present.

A **MOTION** was made by Dennis Olson to **APPROVE** the Modification of Special Use Permit (#119-83 and #071-01) for construction of a new 36' by 52' metal service building and **APPROVE** the Variation to allow a 6' setback with no additional landscaping in an R-2, Two Family Residential District at 1118 Ferguson Street with the elimination of condition 2. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Must meet all applicable building and fire codes.

ZBA 024-11
Findings of Fact for a Modification of Special use Permit (#119-83 & #071-01)
For Construction of a New 36' x 52' Metal Service Building
In an R-2, Two-Family Residential District at
1118 Ferguson 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 Zoning District in which it is located.

ZBA 024-11
Findings of Fact for a Variation
To Allow a 6' Setback With No Additional Landscaping
In An R-2, Two-Family Residential District at
1118 Ferguson 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 business to come before the Board, the meeting was adjourned at 7:25 PM.

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