



MINUTES
Zoning Board of Adjustment
October 22, 2020



By this reference all reports, documents, presentations, videos and the hearing's video recording are incorporated into the minutes.

I. Call to Order:

Board member Loebach called the Zoning Board of Adjustment meeting to order in City Hall Council Chambers, Davenport, Iowa at 4:05 p.m.

Board Members present: Loebach, Cochran, Quinn, and Darland.

Board Members excused: Reistroffer.

Staff present: Koops, Werderitch, Berkley, and City Attorney Thomas Warner.

II. Secretary's Report:

Minutes were approved for the 10-08-20 meeting by voice-vote.

III. Old Business:

None.

IV. New Business:

Request HV20-10 of Tanner Brandt on behalf of Tommy's Car Wash for a hardship variance at 4200 Brady Street for a second freestanding sign. Proposed sign would be located at the northeast (Brady Street/42nd) corner of the lot; the site has an approved freestanding sign for the northwest corner (Welcome Way/42nd) of the property. Section 17.12.060.D. limits the property to one freestanding sign. [Ward 7]

Koops presented the staff report to the Board.

Findings: (Per the staff report)

- Item #1 application of the ordinance creating hardship has not been established;
- Item #2 physical surroundings imposing hardship has not been established;
- Item #3 unique circumstance has not been established;
- Item #4 protection of essential character has not been established;
- The submitted application does not provide the necessary evidence required to prove that any of the zoning code's approval standards have been met.

Recommendation:

Staff recommends denial of the requested hardship variance based on the findings of the staff report.

The petitioner addressed the Board and related to the Board the reasons for the sign, as included with the application. Due to the grade elevation and the location of some brush, the sign is needed at the corner of 42nd Street and Brady.

Motion

Quinn moved to approve the request HV20-10, seconded by Darland. Roll call vote was taken: Cochran, no; Darland, no; Quinn, no; and Loebach, no. The motion failed (0-4).

Request SU20-06 of Gregory Mathews at 619 Marquette Street (owned by Saini Property) for consideration of a Special Use for a minor vehicle repair shop in the existing structure located on the northeast corner of the lot. Property is zoned C-1 Neighborhood Commercial. Section 17.08.020. of the Davenport Municipal Code allows for minor vehicle repair/service in the C-1 District subject to special use approval in compliance with Section 17.08.030.CC. [Ward 3]

Koops presented the staff report to the Board. There was one comment against the request; the comment has been emailed to the Board ahead of the hearing.

Findings:

The location/design/construction of the proposed use meets the requirements of a Special Use.

Recommendation:

Staff recommends approval of the request subject to the following conditions:

1. The special use shall/must be in conformance with all seven (7) listed conditions of Section 17.08.030.CC. (as published on June 16, 2020) for the duration of the operation of the use; failure to comply with Section 17.08.030.CC at all times could result in an immediate stop work order;
2. Should complaints arise from adjacent owners and/or neighborhood residents, or other members of the public due to noncompliance of any of these conditions or of other nuisances or code violations at the site, and/or if staff is aware of infraction(s) to these conditions and/or code violations, a rehearing of the special use shall be scheduled per Davenport Municipal Code specifications for Zoning Board of Adjustment Special Use public hearings at which the Special Use may be modified or revoked/denied;
3. Vehicular access to the site must be from the rear access and shall not be direct from West 7th Street. A driveway from West 7th Street shall not be installed nor shall a curb approach permit be granted by the City for such accesses;
4. Any outdoor storage occurring on the site shall be removed from the site prior to the issuance of an occupancy permit;
5. The existing illegal temporary storage container/shipping container shall be removed from the site prior to the issuance of an occupancy permit; no additional accessory storage structures or sheds shall be permitted/allowed on the site;
6. All repair work shall be conducted within the existing repair bay/garage structure as proposed in the petitioner's Special Use application; no loud tools/devices shall be used such as automotive air tools; a towing operation shall not be allowed;
7. The use shall not be expanded or enlarged at any point; no additional storage bays shall be allowed beyond the one repair bay which is proposed; no additional parking/pavement shall be added to the property; all vehicles shall be on a paved surface at all times;
8. The petitioner shall designate areas for employee parking and locations for customers to drop off their vehicles;
9. Records, including dates of storage and ownership, for all vehicles being parked/stored on site as conditioned by the 15 day allowance period, shall be kept up-to-day at all times and shall be available to City staff upon request;
10. The site shall conform to all other City, State, and Federal Regulations;
11. The petitioner shall provide articles of incorporation or other equivalent ownership documentation prior to the issuance of a certificate of occupancy;
12. The Special Use shall be limited to this owner only; should the business be sold wholly or by more than 50%, a new Special Use shall be required and shall have a public hearing per Davenport Municipal Code requirements for Zoning Board of Adjustment Special Use public hearings.

Motion

Quinn moved to approve request SU20-06 with staff conditions, seconded by Darland. During discussion Darland moved an amendment to the motion, and it was seconded by Quinn, to add condition #13 limiting the days/hours of operation to Mondays through Saturdays, 8:00am to 6:00pm. This amendment was approved (4-0) via roll call vote.

Roll call vote for the main motion as amended, subject to the original 12 conditions and the additional 13th condition was approved unanimously (4-0).

Cochran, yes; Quinn, yes; Darland, yes, and Loebach, yes, with the following 13 conditions:

1. The special use shall/must be in conformance with all seven (7) listed conditions of Section 17.08.030.CC. (as published on June 16, 2020) for the duration of the operation of the use; failure to comply with Section 17.08.030.CC at all times could result in an immediate stop work order;
2. Should complaints arise from adjacent owners and/or neighborhood residents, or other members of the public due to noncompliance of any of these conditions or of other nuisances or code violations at the site, and/or if staff is aware of infraction(s) to these conditions and/or code violations, a rehearing of the special use shall be scheduled per Davenport Municipal Code specifications for Zoning Board of Adjustment Special Use public hearings at which the Special Use may be modified or revoked/denied;
3. Vehicular access to the site must be from the rear access and shall not be direct from West 7th Street. A driveway from West 7th Street shall not be installed nor shall a curb approach permit be granted by the City for such accesses;
4. Any outdoor storage occurring on the site shall be removed from the site prior to the issuance of an occupancy permit;
5. The existing illegal temporary storage container/shipping container shall be removed from the site prior to the issuance of an occupancy permit; no additional accessory storage structures or sheds shall be permitted/allowed on the site;
6. All repair work shall be conducted within the existing repair bay/garage structure as proposed in the petitioner's Special Use application; no loud tools/devices shall be used such as automotive air tools; a towing operation shall not be allowed;
7. The use shall not be expanded or enlarged at any point; no additional storage bays shall be allowed beyond the one repair bay which is proposed; no additional parking/pavement shall be added to the property; all vehicles shall be on a paved surface at all times;
8. The petitioner shall designate areas for employee parking and locations for customers to drop of their vehicles;
9. Records, including dates of storage and ownership, for all vehicles being parked/stored on site as conditioned by the 15 day allowance period, shall be kept up-to-day at all times and shall be available to City staff upon request;
10. The site shall conform to all other City, State, and Federal Regulations;
11. The petitioner shall provide articles of incorporation or other equivalent ownership documentation prior to the issuance of a certificate of occupancy;
12. The Special Use shall be limited to this owner only; should the business be sold wholly or by more than 50%, a new Special Use shall be required and shall have a public hearing per Davenport Municipal Code requirements for Zoning Board of Adjustment Special Use public hearings.
13. That the days/hours of operation be limited to Mondays through Saturdays, 8:00am to 6:00pm.

Request SU20-07 of Ryan Kopf at 1460 West 3rd Street for consideration of Special Use for a bar in a C-1 District. Table 17.08-1 of the Davenport Municipal Code requires a Special Use for a bar on property zoned C-1 Neighborhood Commercial District. [3rd Ward]

Koops presented the staff report. There was one comment against the request; the comment has been emailed to the Board ahead of the hearing.

Recommendation & Findings

Findings:

The location/design/construction of the proposed use meets the requirements of a Special Use.

Recommendation:

Staff recommends approval of the request subject to the following conditions:

1. the Special Use shall be limited to this owner only; should the business be sold wholly or by more than 50%, a new Special Use shall be required and shall have a public hearing per Davenport Municipal Code requirements for Zoning Board of Adjustment Special Use public hearings;
2. the petitioner shall provide articles of incorporation or other equivalent ownership documentation prior to the issuance of a certificate of occupancy.

The petitioner addressed the Board and reiterated the request as proposed in the submitted application.

Four adjacent owners/residents spoke before the Board against the petitioner. Concerns were raised over parking and safety.

During the course of discussions with the adjacent owners and the petitioner, city staff stated that any additional parking shall need to be reviewed and approved before any expansion of the parking lot would be able to occur. Staff also commented on the use of the site for storage of items not related to legal uses on the site, stating that only items from the proposed business or personal items from any legal residential tenants are allowed to be stored on the site. Any other such storage would require the appropriate zoning at another site. The site shall not be used for commercial or industrial storage as those uses are not allowed uses for this C-1 zoning District.

Motion:

Quinn moved to approve the request SU20-07 subject to the following conditions:

1. the Special Use shall be limited to this owner only; should the business be sold wholly or by more than 50%, a new Special Use shall be required and shall have a public hearing per Davenport Municipal Code requirements for Zoning Board of Adjustment Special Use public hearings;
2. the petitioner shall provide articles of incorporation or other equivalent ownership documentation prior to the issuance of a certificate of occupancy.

Darland seconded the motion and the motion carried 3-1.

Cochran, no; Quinn, yes; Darland, yes; and Loebach, yes.

V. Other Business

None.

VI. Adjourn

The meeting adjourned unanimously by voice vote at approximately 5:40 p.m.