



For more information, contact:

Patricia A Pfiffner
Administrative Assistant Zoning
City of Cedar Rapids
Office: (319) 286-5836
PatP@cedar-rapids.org
www.cityofCR.com/zoning

ZONING BOARD OF ADJUSTMENT

Monday, January 12, 2015 @ 3:00 PM
Third Floor Council Chamber
101 1st Street SE, Cedar Rapids IA 52401

DECISION AND ORDER

Members Present: Chair Dave Lodge, Bill Vernon, Todd Barker, Sue Lowder and Nancy Lee Ziese

Staff Present: Ruth Fuessley, Patricia A Pfiffner Building Services
Dave Houg, Vern Zakostecky Development Services
Jeff Hintz Community Development & Planning,

Others Present: Pat McAllister Nesper Sign Advertising, Jeff Harding MediaQuest Sign Company,
Verle Allen, Matthew Biewen

New Business

Chair, David Lodge called the January 12, 2015 Regular Board of Adjustment meeting to order at 3:00 PM. Attendance taken and a quorum declared. The Board of Adjustment is a Quasi-Judicial Board created by the City of Cedar Rapids. The Board is empowered to vary the regulations of the Zoning Ordinance in harmony with its general purpose and intent where the Board makes Finding of Fact that there are practical difficulties or unnecessary hardships in the way of carrying out the literal provisions of the Ordinance.

This Board reviews Conditional Use requests. When considering a Conditional Use, the Board will keep in mind the following: Is the requested use consistent with the intent and purpose of the Ordinance and with the Future Land Use policy plan; will the use have a substantial adverse effect upon adjacent property and the character of the neighborhood; and will the proposed use be compatible with the immediate neighborhood. This Board also reviews Variance requests. A Variance request should only be granted if the Petitioner establishes that an unnecessary hardship will result if the Zoning regulations are enforced. There are seven criteria for actions on a Variance which were to be addressed in your application. To review they are: Unique Circumstances, Not exclusively for financial gain, Hardship not self-created, Substantial rights denied, not special privilege, not detrimental and No other remedy. A general rule of thumb is that a Variance should prevent a hardship, not grant a special privilege not available to other landowners in similar situation.

Typically “Unnecessary Hardship” means: The land in question cannot yield a reasonable return if used only for the purpose allowed in that zone; the issue in question is due to unique circumstances and not to the central conditions of the neighborhood; the hardship must not be self-created; and the use authorized by the Variance will not alter the essential character of the locality.

We are an independent volunteer Board of citizens appointed by the Mayor and approved by the City Council. We are not part of the City Administration. We are governed by both City and State Codes and Ordinances. The Board is made up of five Board members. The Chair cannot make a motion but has a vote. There must be three (3) affirmative votes to pass. No motion made by the Board will be the same as a denial. Today we have 4 members present.

As a Board of the City, we welcome all testimony. We make our decisions based on the facts and evidence allowed under City Code, presented at this open meeting. While your case is being read by our Secretary we ask that the Petitioner comes forward so your testimony can be heard and recorded. Please give your name and address for the record. You will then be able to present your case. If the proceedings become lengthy, we may ask that testimony be focused on the new facts or evidence not already presented. We will then ask for any objectors. At that time objectors will come forward, state name and address for the record, and then state your objections. The Board will then give the City Staff an opportunity to present information for the case. I will then call for any Board questions or any Board discussion. Final summaries and additional comments may then take place. Based on a motion and a second the Chair will then call for a vote. If your Variance is approved, please understand that you may still have to comply with other regulations and codes, such as applicable Building Codes, to work within. Please visit with the Building Services Department Official for any clarifications. Today there are 4 Board Members present. You have the option to request your case be Tabled. We do have a quorum. Todd Barker moved to approve the December 8, 2014 Board of Adjustment minutes, seconded by Bill Vernon, motion carried.

V01-2015-15590: A Public Hearing regarding an application submitted by Petitioner Nesper Signs for Mc Grath Collision Center hereby requesting that the Board of Adjustment authorizes the issuance of a Sign Permit to install a 116 square feet freestanding pole sign on the North elevation primary lot frontage that is 50 feet from an existing freestanding sign in lieu of the minimum required 100 feet separation and thereby will not comply with the following provisions of the Municipal Code of the City of Cedar Rapids, IA. on the property at 1919 Dodge Rd NE.

Findings of Fact: The Board finds that the Applicant is requesting a Sign Permit. The Board finds that Subsection 32.06.030.C – On-Premise Signs Table states - freestanding signs must provide a 100 ft. separation between freestanding signs on the same lot. The Board finds that appellant submitted the required criteria sheet indicating unique circumstances that there are two existing signs within 100 feet of one another and topography in relation to both Highway 100 and Dodge Rd NE. The proposed sign will be placed into an existing sleeve of a previous pole sign and will be smaller in size, eliminating the need for the previous variance to exceed the max square footage. The existing sign only faces north whereas the proposed sign will face east and west providing necessary visibility. The appellant also cites hardship not self-created as the condition exists from the previous owner. Not granting the variance would deny the business the necessary visibility afforded to the previous owner and does not constitute a special privilege. The applicant mentions that the sign will not be detrimental, but will enhance aesthetics, street appeal of the property, and the tax base. The Board acknowledges a previous sign variance (V03-2008) was granted for this property to exceed the maximum allowed square footage for freestanding signs. This allowed a 348 square feet electronic pole sign in the location of the proposed sign. However this sign was removed at a later date. The approved site plan for this variance also mentioned the removal of the existing 10 feet x 22 feet freestanding sign but this was never followed through with. The Board finds this lot is 3.51 acres and is the new home for McGrath’s Collision Center. The proposed sign will be a reduced 116 square feet and 33 feet in overall height compared to the 348 square feet and 45 feet in overall height of the previous sign approved under V03-2008. This would bring the

total freestanding sign square footage to 336 square feet rather than the 478 square feet approved under V03-2008. The proposed sign will also be a static sign, whereas the previous sign had been electronic. The Board acknowledges the Building Services Department has not received any concerns/complaints regarding the proposed sign. The variance request had been sent to Community Development Department/Planning for further review/comment. The Board finds no objectors present.

Disposition: By a vote of 4-0 the Board of Adjustment approved V01-2015-15590 an application submitted by Petitioner Nesper Signs for Mc Grath Collision Center hereby requesting that the Board of Adjustment authorize the issuance of a Sign Permit to install a 116 square feet freestanding pole sign on the North elevation primary lot frontage that is 50 feet from an existing freestanding sign in lieu of the minimum required 100 feet separation and thereby will not comply with the following provisions of the Municipal Code of the City of Cedar Rapids, IA. on the property at 1919 Dodge Rd NE. The appellant stated the request is for reduced separation. Following discussion Nancy Lee Ziese moved for approval of V01-2015-15590 citing not detrimental. Todd Barker seconded, motion carried. Therefore be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V01-2015-15590 is hereby approved as written.

V02-2015-15592: A Public Hearing regarding an application submitted by Petitioner MediaQuest Signs on behalf of "Unity Point" hereby requesting that the Board of Adjustment authorize the issuance of Sign Permits to install two new 6.25 square feet panels on existing freestanding monument signs NE that when combined with the existing 400 square feet freestanding pole sign, the 67.5 square feet monument sign, and the 53 square feet monument sign, would total 533 square feet in lieu of the maximum 521 square feet granted per V28-2003 and to install a new 220 square feet wall sign on the north occupancy frontage at 625 A Ave NE that when combined with the existing 228 square feet wall sign will exceed the maximum 240 square feet allowed and thereby would not comply with the following provisions of the Municipal Code of the City of Cedar Rapids. on the property at 1100 1st Ave NE and 625 A Avenue NE.

Findings of Fact: The Board finds that the Applicant is requesting Sign Permits. The Board finds that Subsection 32.06.030.C –Table 32.06-1 – On-Premise Signs state Freestanding Signs are limited to a maximum of 400 square feet for the primary lot frontage. - Wall Signs are limited to 2 square feet per foot of occupancy frontage for the primary frontage. The Board finds the appellants submitted the required criteria sheet indicating that the proposed signs are being added to the existing monument signs and to one of the entrances to the Med Quarter District to identify that you are in the Med Quarter District as a whole and do not advertise for any particular business. They therefore believe that the signs are more consistent with a "campus" environment like Coe College. The appellants also mention that the signage will not be detrimental in that the size of the signs compliment the overall aesthetics of the existing signage and completes the visual continuity of the signs along 1st Ave and along A Ave NE. The applicant also mentions that previous similar variances were approved recently for Coe College and on Murray Hall. The lot at 1100 1st Ave NE is approximately 2.5 acres with 3 freestanding signs along the 1st Ave frontage. The Board finds that a previous variance (V28-2003) was granted to exceed the maximum square footage for freestanding signs up to 521 square feet in lieu of the maximum 400 square feet allowed. The lot at 625 A Ave NE is 16,800 square feet with the 120 feet x 140 feet building taking up the entire lot. The A Ave frontage is the primary frontage and is 120 feet wide. There is currently a 228 square feet Hospital Sign directing traffic to "Emergency, Heart Center, and SurgiCare." The Board finds the proposed freestanding signage will be placed on existing monument signs, but will be adding square footage by utilizing new space not accounted for in the original permits. Community Development is also currently working on an Ordinance update for a Med Quarter Overlay District that will include an option for relief from the code requirements for signs specific to the Med Quarter District. Appellant states this is for a campus environment and the mural project was approved by the City for the proposed Med Quarter Overlay District. The Board acknowledges that Staff has not received any concerns or complaints regarding this variance request. The variance request has been sent to Community Development Department/Planning for further review/comment. The Board finds no objectors present.

Disposition: By a vote of 4-0 the Board of Adjustment approved V02-2015-15592 an application submitted by Petitioner MediaQuest Signs on behalf of "Unity Point" requesting that the Board of Adjustment authorize the issuance of Sign Permits to install two new 6.25 square feet panels on existing freestanding monument signs NE that when combined with the existing 400 square feet freestanding pole sign, the 67.5 square feet monument sign, and the 53 square feet monument sign, would total 533 square feet in lieu of the maximum 521 square feet granted per V28-2003 and to install a new 220 square feet wall sign on the north occupancy frontage at 625 A Ave NE that when combined with the existing 228 square feet wall sign will exceed the maximum 240 square feet allowed. Following discussion Todd Barker moved for approval citing unique circumstances and not detrimental. Bill Vernon seconded, motion carried. Therefore be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V02-2015-15592 is hereby approved as written.

V04-2015-15588: A Public Hearing regarding an application submitted by Petitioner Verle T Allen hereby requesting that the Board of Adjustment authorize the issuance of a Building Permit to replace an existing detached accessory structure with a new 28 feet by 20 feet single story detached accessory structure at 24 inches from the side lot line in lieu of minimum 5 feet interior side yard required and the overhang, including the gutters will be as close as 3 inches to the lot line in lieu of 2 feet required on the property at 2128 Greenwood Dr SE.

Findings of Fact: The Board finds that the Applicant is requesting a Building Permit for the accessory structure. The Board finds that Subsection 32.05.010.A.4.a.iv. (ORD. 027-14) – Placement and separation for detached accessory structures and buildings shall not be located closer than three (3) feet to any interior side or rear lot line. The roof overhang of any accessory structure shall not be located closer than two (2) feet to any interior or rear lot line. The Board finds that the appellant submitted the required criteria sheet indicating the new accessory structure is not for a financial gain. This irregular shaped parcel is approximately 8,580 square feet in size. The total footprint of the proposed detached accessory structure is 560 square feet. The current detached accessory structure is 90 years old. It also suffered some termite damage and the property owner would like to replace it with the new one by extending it 8 feet into the back yard. The sloped back yard leveled by the system of lime stone walls and position of the house are limiting factors in utilization of the space available in the back yard. The Board acknowledges the proposed structure will provide the property owner additional storage space and ability to secure their vehicles, belongings, and equipment required to maintain the property. At least four other properties along Greenwood Dr SE have their detached accessory structures built with the reduced interior side yard setback similar to what is found in this case. The Board finds that the single family dwelling was built in 1924. An existing detached accessory structure is 400 square feet in size. By replacing it with the new detached accessory structure 560 square feet in size, it will create the storage area for lawnmowers, items that they would like to save from elements, and tools utilized for the property maintenance. The proposed 28 feet by 20 feet two-stall detached garage with 21 inch overhang would be 24 inches away from the side lot line and 12 feet 4 inches away from the house. An existing driveway and detached accessory structure allows for two off-street parking spaces with or without the proposed garage. The Board acknowledges an existing one-story detached accessory structure 20 by 20 feet in size was built in the same location in 1924. A reduced setback for detached accessory structures (garages) is found along this street. The Board acknowledges Zoning received no objections since BOA Notification signs were posted. The Variance request has been sent to Community Development for further review/input.

Objector: Randy Stevens, 2120 Greenwood Dr SE, objected to the garage being constructed on the easement and the neighbor using his yard area to access the garage. He stated he is uncomfortable with the proposed new structure, with the overhang over the property line, and concern where the property line is located. Vern Zakostelecky explained this is not an easement. Petitioner has met with City Building Staff. The request meets both Building and Fire Codes. Petitioner is concerned for the property value. In the future if he would sell his property his concern is for the new structure being constructed too close to him.

By a vote of 4-0 the Board of Adjustment approved Verle T Allen requesting that the Board of Adjustment authorize the issuance of a Building Permit to replace an existing detached accessory structure with a new 28 feet by 20 feet single story detached accessory structure at 24 inches from the side lot line in lieu of minimum 5 feet interior side yard required and the overhand, including the gutters will be as close as 3 inches to the lot line in lieu of 2 feet required on the property at 2128 Greenwood Dr SE. Following discussion Todd Barker moved for approval of V04-2015-15588 citing unique circumstances subject to the condition that Petitioner to 1) obtain a survey to establish boundary and submit to the City for review prior to obtaining a permit and 2) the sidewall be constructed 2 feet from established boundary. Bill Vernon seconded, motion carried. Therefore be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V04-2015-15588 is hereby approved as subject to conditions:

- 1) Petitioner to obtain a survey to establish boundary and submit to the City for review prior to obtaining a permit.
- 2) The sidewall be constructed 2 feet from established boundary.

V05-2015-15657: A Public Hearing regarding an application submitted by Petitioners Matthew J & Jennifer L Biewen hereby requesting that the Board of Adjustment authorize the issuance of a Building Permit/Certificate of Occupancy for a newly constructed 330 square feet carport addition (with 14 inch overhang) that when combined with the existing 884 square feet detached garage has an aggregate total of 1,214 square feet, is as close as 3 feet 10 inches from the interior side property line in lieu of the 5 feet minimum required single interior side yard setback and currently is not made of similar material to that of the primary structure on the property at 1215 42nd Street NE.

Findings of Fact: The Board finds that the Applicant is requesting a Building Permit for a newly constructed carport addition. The Board finds that Subsection 32.05.010.A.4.c. (Ord. No. 027-14) Detached Accessory Structures and Buildings – Exceptions to Size of Structure states the nine hundred (900) square feet limit may be exceeded if all the following criteria, i-vi below are met (for the proposed accessory structure): The height shall not exceed the height of the primary structure on the lot. Structures may have no more than three (3) vehicle doors facing the primary street. All other doors shall not face the primary street. Doors for exclusive use of a person shall be excluded. The accessory structure shall be setback no less than the primary structure on the lot. Structure shall not be placed in a required side yard as required by section 32.05.010.B. 1 of the Municipal Code. Aggregate square footage of all structures on the lot shall not exceed the Maximum Lot Coverage set forth in 32.05.010.B.1. of the Municipal Code. Subsection 32.05.010.b.1 (Table 32.05-1) requires a minimum 14 feet combined side yards and 5 feet single interior side yard setback. Subsection 32.05.010.D.2.a. (Table 32.05-3) states a required yard shall be open, unoccupied, and unobstructed from grade to the sky except for permitted encroachments as set forth in Table 32.05-3 which states architectural features including i.e., sills, eaves, and cornices, gutters and downspouts shall encroach no more than 2 feet into the yard, as measured from the building; except when the yard is 9 feet or more in depth they may encroach no more than 3 feet.

The Board acknowledges that the Appellants submitted the required criteria sheet indicating unique circumstances due to the irregular shape and deep lot whereas it is not detrimental as the structure is not readily visible from the street and there are existing larger accessory structures in the neighborhood. The improvement is not for financial gain, rather the sole purpose is to make the property more functional and make use of wasted space. Appellant further indicates the hardship is not self-created and substantial rights denied as they just want to enhance storage options – keeping yard equipment secure/away from the elements in an unusable portion of the yard that was difficult to maintain which is not a special privilege, as there are other large structures in the neighborhood enjoyed by other homeowners. Found no other remedy from the size and placement in efforts to provide a solution for visually non-invasive storage to make use of a space not viable for grass. The Board acknowledges the subject property is an irregular shaped lot. Due to this and the location of the detached accessory structure – it is not very visible from the street right-of-way. In addition,

there is an existing 6 feet high solid fence around the perimeter of this subject yard that also screens it and/or diminishes visibility. The existing dwelling has painted redwood siding (6 – 7 inch board style), and the new detached garage has vinyl siding (4 -5 inch style). They are painted nearly the same color. Noting, the owners/appellants indicate that it is their plan to improve the dwelling with new windows, roof and siding in the future, and they would use the same vinyl siding at that time. The Board finds the structure came to the attention of the Building Services staff due to a neighbor's complaint. The structure was built without the required Building Permit. The property owner/appellant obtained the required permits for a Wrecking Permit (June 2013) and a Building Permit (March 2012) for the existing 884 square feet detached garage. The carport structure does not comply with "completely enclosed" building requirements as applicable to storage compliance per the Zoning Ordinance. (Discussed with the applicants in detail) The Building Official has visited/inspected the site and reviewed the plans and has no objection to the structure, as built. The Board acknowledges that Staff has not received any additional questions, concerns or objections from neighbor(s) or otherwise since the pink public notification signs were posted. The Board acknowledges Petitioner submitted a picture of the privacy fence for Board review The Board finds no objectors present. Therefore be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V05-2015-15657 is hereby approved as written.

Disposition: By a vote of 4-0 the Board of Adjustment approved V05-2015-15657 an application submitted by Petitioners Matthew J & Jennifer L Biewen requesting that the Board of Adjustment authorize the issuance of a Building Permit/Certificate of Occupancy for a newly constructed 330 square feet carport addition (with 14 inch overhang that when combined with the existing 884 square feet detached garage has an aggregate total of 1,214 square feet, is as close as 3 feet 10 inches from the interior side property line in lieu of the 5 feet minimum required single interior side yard setback and currently is not made of similar material to that of the primary structure on the property at 1215 42nd Street NE. Following discussion Todd Barker moved for approval of V05-2015-15657 citing unique circumstances and subject to the condition that 1) structure be for residential use only, no commercial. seconded, motion carried. Therefore be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V05-2015-15657 is hereby approved subject to condition.

1. The structure is for residential use only, no commercial.

- Election of Vice-Chair for year 2015.

Todd Barker moved to re-elect Bill Vernon as Vice-Chair person for year 2015. Seconded by Sue Lowder, motion carried. Nancy Lee Ziese moved that nominations cease.

Todd Barker moved for adjourn at 4:00 PM, motion carried.

Prepared by Patricia A Pfiffner
Recording Secretary Board of Adjustment