



MINUTES
Zoning Board of Adjustment
July 22, 2021



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 approximately 4:04 p.m.

Board Members present: Reistroffer, Darland, Boyd-Carlson and Loebach.

Excused: Quinn.

Staff present: Matt, Berkley and Attorney Hoyt.

II. Secretary's Report:

Minutes were approved for the 7-8-21 Hearing by voice-vote.

III. Old Business:

Request HV21-03 of Jim and Amy Holt at 4710 W. 60th Street for a Hardship Variance to construct an approximate 40' x 64' (2,560sq.ft.) detached garage in the rear yard. Section 17.09.030.K. of the Davenport Municipal Code allows a detached garage of 1,681 sq. ft. (existing dwelling is 3,363 sq. ft.). The proposed garage exceeds the allowed garage area by 879 sq. ft. [Ward 2]

Berkley presented the staff report. No comments were received in favor the request.

Review of Approval Standards:

The Zoning Board of Adjustment decision must make findings to support each of the following:

(1. Strict ordinance application of will result in hardship unless specific relief requested is granted.

Applicant Response:

We would like to build a pole barn on our residential property in the west end of Davenport. We line on 3.72 acres. The back portion of our property had been being managed by a farmer from when we purchased the property (2013) until last fall when we decided to take it over.

We were supposed to start the pole barn process last fall until the derecho. Then our contractor put all new buildings on hold so he could focus on all the repairs. We would like to a pole barn approximately 40' x 64' in the northeast portion of our lot to store machinery for the up keep of all property.

We will have a paved driveway that connect to the neighbor's driveway on the east side of the lot. Our Home Owners Association covenant requires machinery to be stored inside. The pole barn is needed to house the equipment we need.

Staff Comments:

Items owned by the petitioner are not grounds for a hardship variance. The site allows for a total of 2,765 sqft. storage space without a hardship variance. Garage space over and above the allowed 2,765 square feet of storage/garage space is a convenience to the petitioner.

2. The particular physical surroundings, shape, or topographical conditions of the specific property impose a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.

Applicant Response:

We are wanting this pole barn to accommodate the machinery to maintain this property. Having additional storage actually does apply to the majority of nearby properties. As stated before we have three neighbors (not zoned Ag) that have at least one pole barn for the exact reason of why we are wanting one.

Staff Comments:

Properties built 5, 10 to 20 years ago when the zoning ordinance was different are not grounds for a hardship variance. The need for the variance must be unique to the physical traits of the subject property.

3. The plight of the owner is due to unique circumstances that do not apply to a majority of adjoining or nearby property, and is not a self-created hardship.

Applicant Response:

The building will be a rectangle shape building with a low sheen [paint finish]. There will be two garage doors facing east. The hardship would be not having a storage facility for the machinery [needed] to maintain the property.

Staff Comments:

The site allows for a total of 2,765 sqft. storage space without a hardship variance. Garage space over and above the allowed 2,765 square feet of storage/garage space is a convenience to the petitioner. A unique circumstance has not been demonstrated by the petitioner.

4. The hardship variance, if granted, will not alter the essential character of the locality.

Applicant Response:

Being granted this variance will not alter the character of the locality at all. We have three neighbors to the north east that have pole barns as well. We are in the city limits but all of the families in this residential are live on 3+ acres. We have a great design and appropriate colors for this proposed pole barn. We have every intention of maximizing this barn to fit into our existing property.

Staff Comments:

While the character of the area may not be immediately impacted by the proposed structure, the hardship variance and the existing attached garage do present a very large amount of storage space for a single-family dwelling. This excessive storage space which will be difficult for the normal single-family household to utilize may very well impact the character of the neighborhood as any new or future owners could look for ways to maximize the use of the property by renting out the storage space for others to use for person or business uses, both of which are illegal uses in this low density dwelling district.

Findings & Staff Recommendation:

Findings: (supported by the previous analysis)

- The petitioner has not demonstrated by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or by reason of exceptional topographical conditions or other extraordinary or exceptional situations, that this property subject to the strict application of this title results in peculiar and practical difficulties;
- Item #1 application of the ordinance creating hardship has not been demonstrated;
- Item #2 physical and topographical conditions do not limit use of the site;
- Item #3 unique circumstance has not been established;
- Item #4 essential character of the area will not be protected;

Items of Concern:

- Need for the garage has not been supported by a detailed inventory of items to be storage in the garage/size of the items have not been determined/provided to staff and the covenant has not been provided;
- Staff has no assurance that the garage will not be converted to a business in the future
- Ownership of mowing/turf equipment will be difficult to determine, home owner vs business owned; business equipment cannot be legally storage at this property;
- Access rights to the adjacent gravel drive have not been provided;

Recommendation:

Staff strongly recommends denial of the request as it does meet any of the approval criteria necessary for a hardship determination.

Additionally, if the hardship is approved, there will exist a threat to single-family investment in this neighborhood as the large storage building will be enticing for those who seek inexpensive locations in which to locate a business.

Item #1 Zoning Code Created Hardship, #2 Physical/topographical Hardship #3 Unique Circumstance Hardship and item #4 Protection of Essential Character have not been met per the approval criteria established in Section 17.14.060 of the Davenport Municipal Code.

Bob Inghram spoke against the request. Mr. Inghram stated the property is truly non-conforming with the zoning code. He stated that the use was not compatible.

The petitioner Jimmy Holt addressed the Board and stated his request.

Motion

Darland moved to approve, seconded by Loebach, request HV21-03 as proposed; Reistroffer abstained. The motion failed (0-3).

Roll call: Darland, no; Loebach, no; Boyd-Carlson, no; Reistroffer, abstain.

IV. New Business:

Request SU21-05 of Kevin Koellner on behalf of Elmore Storage LLC at 6403 Elmore Ave for a Special Use for an outdoor storage facility being a continuation of the existing use located on the C-3 property. Table 17.08-1 requires a Special Use for an outdoor storage facility on property zoned C-3 General Commercial District.

Berkley presented the staff report. No comments were received in favor or against the request.

Findings & Staff Recommendation:Findings:

1. The petitioner proposed location/design/construction meets Special Use requirements
2. This use is compatible with adjacent land uses and type of development
3. Security measures in place shall limit unwanted access to the site.
4. The proposed Special Use is in accordance with the criteria for Special Use approval.

Recommendation:

Staff recommends that Board adapt staff's findings and approve request SU21-05 subject to the following conditions:

1. Prior to occupancy the pad sites shall be enclosed with the same or similar style of fencing as the existing fence to the south;
2. The new portion of the site shall have restricted access to the site in a similar or same manner than the area to the south;
3. Should complaints arise due to noncompliance of these conditions, and/or if staff is aware of infractions to these conditions and/or any other 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, re-approved or revoked.

The petitioner addressed the Board and explained the request.

Motion

Quinn moved to approve, seconded by Darland, the request as proposed with the following staff conditions:

The motion carried and was approved unanimously (4-0).

Darland, yes; Loebach, yes; Boyd-Carlson, yes; Reistroffer, yes.

V. Other Business

None.

VI. Adjourn

The meeting adjourned unanimously by voice vote at approximately 4:45 p.m.