



MINUTES
Zoning Board of Adjustment
August 12, 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 4:02 p.m.

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

Excused: Darland.

Staff present: Koops, Berkley and Attorney Hoyt.

II. Secretary's Report:

Minutes were approved for the 8-12-21 Hearing by voice-vote.

III. Old Business:

None.

IV. New Business:

Request SU21-06 of Nicholas Bragg on behalf of NB Properties LLC for a special use to consider a Neighborhood Commercial Establishment (retail sales/carry-out restaurant) at 330 East 15th Street. Municipal Code 17.08.030.V. allows for Neighborhood Commercial Establishments to be established in nonresidential structures within residential districts (excluding R-1) with the granting of a Special Use. [Ward 3; abutting Ward 5]

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

Findings/Approval Standards

1. The establishment, maintenance, and operation of the proposed special use will not endanger the public health, safety, or welfare.

As each business is unique and as each business is operated under different business plans, this 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.

The management and daily operation of this store will be vital to achieving health and safety for near-by residents and property owners. Whether or not this use will endanger the public remains to be seen.

2. The proposed special use is compatible with the general land use of adjacent properties and other property within the immediate vicinity.

Interior use of the existing building as a commercial business is compatible with the adjacent neighborhood as a general concept. Concern exists over how the store will be managed and whether activity outside may impact adjacent residents and property owners.

3. The special use in the specific location proposed is consistent with the spirit and intent of this Ordinance and adopted land use policies.

The proposed use is in keeping with the intent of the neighborhood commercial establishment parameters; however, as with most businesses successful management of the business will ensure consistency with the intent and spirit of the Zoning Ordinance

Recommendation & Findings

Findings:

The location/design/construction of the proposed use meets the requirements of a Special Use; successful management of outdoor activity will be vital to neighborhood compatibility.

Recommendation:

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

1. The special use shall be in conformance with all six (6) listed conditions of Section 17.08.030.V. (as published on June 16, 2021) for the duration of the operation of the use; failure to comply with Section 17.08.030.V. at all times could result in an immediate stop work order and potentially revocation of the Special Use;
2. Retail sales of alcohol is prohibited; retail sales of tobacco products, electronic cigarettes, and vaping, tobacco, and marijuana smoking accessories and supplies is prohibited;
3. Should the use become noncompliant with any of these conditions or Section 17.08.030.V., and/or if staff is aware of infractions to these conditions 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, approved or revoked;
4. The use shall not be expanded or enlarged at any point; no additional storage or building additions shall be allowed;
5. Loitering on the premises shall be prohibited.
6. All Building, Neighborhood Services, and Fire Department codes shall be met prior to occupancy;
7. The dumpster shall be located in the rear yard and shall be screened by a gated 6-foot solid enclosure (fence); daily all outside trash and debris shall be removed from the grounds and placed in the dumpster.
8. The site shall conform to all other City, State, and Federal Regulations;
9. 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.

The petitioner addressed the Board and explained the request.

Motion

Quinn moved to approve, seconded by Boyd-Carlson, the request as proposed with the following staff conditions and an added 10th condition limiting the hours and days of operation to seven days a week, 6:00AM to 10:00PM, stated as follows:

1. The special use shall be in conformance with all six (6) listed conditions of Section 17.08.030.V. (as published on June 16, 2021) for the duration of the operation of the use; failure to comply with Section 17.08.030.V. at all times could result in an immediate stop work order and potentially revocation of the Special Use;

2. Retail sales of alcohol is prohibited; retail sales of tobacco products, electronic cigarettes, and vaping, tobacco, and marijuana smoking accessories and supplies is prohibited;
3. Should the use become noncompliant with any of these conditions or Section 17.08.030.V., and/or if staff is aware of infractions to these conditions 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, approved or revoked;
4. The use shall not be expanded or enlarged at any point; no additional storage or building additions shall be allowed;
5. Loitering on the premises shall be prohibited.
6. All Building, Neighborhood Services, and Fire Department codes shall be met prior to occupancy;
7. The dumpster shall be located in the rear yard and shall be screened by a gated 6-foot solid enclosure (fence); daily all outside trash and debris shall be removed from the grounds and placed in the dumpster.
8. The site shall conform to all other City, State, and Federal Regulations;
9. 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.
10. Hours and days of operation shall be limited to seven days a week, 6:00AM to 10:00PM.

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

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

V. Other Business

None.

VI. Adjourn

The meeting adjourned unanimously by voice vote at approximately 4:35 p.m.