

CITY .DSS

Acting Chairperson Cunningham called to order the July 26, 2017, regularly scheduled meeting of the Board of Adjustment at 5:32 p.m. in the City Council Chambers, West Des Moines City Hall, located at 4200 Mills Civic Parkway, in West Des Moines, Iowa.

Roll Call: Celsi, Christiansen, Cunningham, Pfannkuch.....Present
Blaser - absent

Item 1 – Consent Agenda

Item 1a – Minutes of June 14, 2017

Moved by Board Member Christiansen, seconded by Board Member Pfannkuch to approve the June 14, 2017 meeting minutes.

Vote: Celsi, Christiansen, Cunningham, Pfannkuch.....Yes
Motion carried.

Item 2 – Old Business

There were no Old Business items reported.

Item 3 – Public Hearings

Item 3a – Johanningmeier Variance, 720 Maple Street – Approval of a sixteen foot (16’) variance from the twenty foot (20’) front yard building setback requirement to allow placement of an existing residential structure that is to be moved from its current location onto the subject property – Renae Johanningmeier – VAR-003552-2017

Acting Chairperson Cunningham opened the public hearing and asked the Recording Secretary to state when the public hearing notice was published. The Recording Secretary indicated that the notice was published on July 17, 2017, in the Des Moines Register.

Acting Chairperson Cunningham then asked for a motion to accept and make a part of the record all testimony and all other documents received at this public hearing.

Moved by Board Member Christiansen, seconded by Board Member Celsi, the Board of Adjustment accepted and made a part of the record all testimony and documents received at the public hearing.

Vote: Celsi, Christiansen, Cunningham, Pfannkuch.....Yes
Motion carried.

Applicant Renae Johanningmeier, 720 Maple Street, was invited to present her variance. She said they purchased the lot and have searched for years to find a home which would fit. Due to the small size, any home would require a variance with the exception of a double-wide mobile home. The proposed home, relocated from 50th Street, will save the City \$20,000 in demo costs if she is allowed to move this attractive home onto the lot. There is opportunity to add a two stall garage. The setback from the front street meets requirements. The only variance requested is the setback to the sidewalk. Ms. Johanningmeier stated that she had met with neighbors and had a positive response to adding a nice home to that location. She submitted signed petitions to support this point. She noted that this is an opportunity to take a very nice house off 50th and bring it to Valley Junction to add to the affordable housing options. Ms. Johanningmeier noted she is open to ideas regarding location of the house on the site, and

demonstrated options considered with staff.

Board Member Christiansen asked if Ms. Johanningmeier had reviewed all the comments from the City regarding their response to her application. Ms. Johanningmeier affirmed that she had. She submitted additional examples for homes that did not meet current setbacks that are closer to the project location than previously provided. She clarified the lot size as 50 feet and confirmed that she was in agreement with each of the comments noted by staff.

Board Member Celsi noted that this was the very nice house, which was required to be relocated from the 50th Street location due to road widening.

Acting Chairperson Cunningham paused the Public Hearing to read the preamble at this time for the benefit of the audience regarding meeting procedure. He then asked for any other questions or comments from the audience.

Lindy Larson, 205 9th Street, expressed concern that there are a lot of accidents on that intersection and this house will create a blind spot. She doesn't think the house looks like affordable housing; the house doesn't match the smaller houses in the neighborhood and she questioned whether other people getting their homes bull-dozed would be granted variances as well.

Jack Hon, 212 7th Street, stated that he owns other homes on 7th Street, and expressed support for the variance. He said it would be an enhancement to the neighborhood, save the City some money, and improve the taxes. He observed that two houses south of this location are also sitting out close to the road.

Jason Fisher, 612 Walnut Street, commented that he believed there was sufficient room for traffic to stop and noted that it's going to save the City \$20,000 in demolition costs; the property taken off will be brought up to standards for another home; it will generate tax revenue by having this house there; this is an addition to the City.

Ed Engler, 128 11th Street, stated that he spent 12 years up here on the Board, and wanted to address a couple issues. He didn't have a concern about visibility issues as the house sits back considerably; and noted that it helps the City in other aspects of moving property onto this site; He commented that it will affect the appearance on that corner but there's nothing there now; no taxes are currently being paid. He requested time with Board following the meeting, stating he wished to support affordable housing efforts. He added that he supports some good comments made by Vickie Long Hill, and has personally built 4-5 homes in Valley Junction; he wholeheartedly supports this home being located at this site.

Kevin Trevillyan, 324 34th Street, begin by clarifying that he was present as a resident and property owner, not as a City Council member. He noted that he had lived in Valley Junction for 26 years. He observed that almost every street has houses that sit close to the sidewalks; although he realizes this was before zoning changes. Mr. Trevillyan stated that Valley Junction is a little different from the rest of West Des Moines in that it has smaller lots, and a number of homes close to the street. He noted that this is a nice corner on Maple Street, it has been kept mowed and nice, but is lacking housing. The affordable housing is needed and this is going to be an affordable house. Mr. Trevillyan stated that he supports the variance so that the lot on 50th street can be sold for another home to be to built and increase the tax base.

Acting Chairperson Cunningham asked if there were any additional comments from the audience, and hearing none, closed the hearing and asked for Staff Comments.

Linda Schemmel, Development Coordinator noted that the house does comply with the City's requirements for view angle clearance at intersections. She stated that staff had a very short review period, thus the one condition of approval which the applicant will need to respond to.

Acting Chairperson Cunningham asked if the staff recommended approval.

Ms. Schemmel responded that the City has an interest in the situation, as the house that's going to be moved is City-owned, and therefore staff will not make a recommendation.

Board Member Christiansen questioned how the applicant gained the house.

Ms. Schemmel replied that the applicant was in a bid process with the City regarding disposal of property, which has not been finalized, and is contingent on the variance; the City still owns property.

Acting Chairperson Cunningham asked Ms. Schemmel whether she would agree that this Board was limited in its decision ability to approving conditional use and variance requests, and not involved with affordable housing. Board Member Christiansen clarified that they were actually looking at the setback requirements. Ms. Schemmel affirmed.

Acting Chairperson Cunningham noted that we're not moving a house, but questioned whether in the past the Board of Adjustment had granted similar variances for setback requirements when there had been some modification by a resident to improve Valley Junction.

Ms. Schemmel responded that there had been setback variances approved but that she does not remember a situation with a house being moved.

Acting Chairperson Cunningham noted he was in favor of the notion of providing variances for reasonable setback requirements in order to improve this particular area, which is uniquely situated because it predated the zoning ordinance.

Ms. Schemmel affirmed that the older houses hadn't been subject to a zoning ordinance; and stated that she couldn't give the Board a specific example with this particular condition.

Board Member Christiansen questioned whether this would still be regulated as a flood-plain area.

Ms. Schemmel affirmed that it was but noted that it is protected by a levy; which is similar but not same as 500 year floodplain; commenting that it would not require flood insurance.

Board Member Celsi asked whether cost of moving would borne by new homeowner.

Ms. Schemmel replied that it would be.

Board Member Celsi questioned how much notice would be given for the route.

Ms. Schemmel stated that she was not sure; Engineering and City Clerk would need to determine if there's a prime time of day to move, and noted that it is part of process.

Board Member Celsi requested that the move not take place on the first day of school.

City Attorney Scieszinski noted that there are conditions set by the City regarding the move.

Acting Chairperson Cunningham asked if there were any other questions for staff. As there were none, he asked if there was any further comment or discussion from Board. He asked if there was a motion.

Board Member Christiansen had one question on the motion. He commented that the Board would normally word the motion that they were moving to approve based on staff recommendations. He questioned whether to rephrase the motion with the Board approving, leaving out the language regarding the Staff recommendation.

Ms. Schemmel affirmed that this was correct and stated that Staff would sit down with the Board following the meeting tonight to discuss that process, but the actual wording should reflect the decision was from Board.

City Attorney Scieszinski interjected that the Board should set the conditions, and could craft the wording later.

Acting Chairperson Cunningham then withdrew the initial motion and referred the Board members to handout Resolution A. He then motioned to accept the draft resolution in Attachment A granting the variance request for the setback as requested by the petitioner be granted under the following findings:

1. That the proposed development use is consistent with the West Des Moines comprehensive plan and any applicable subarea plan, founded on the following information: 720 Maple Street is listed as single family on the comprehensive plan, and is zoned SF-VF (Single Family-Valley Junction)
2. There are special circumstances or exceptional characteristics applicable to the subject property with regard to size, shape, topography or location, which do not apply generally to comparable properties in the same vicinity and zones. The lot is only 51' wide. The 20' front yard setback from Maple Street and the 7' side yard setback would only allow a house 24' in width. Current house designs do not lend themselves very well to such a narrow lot. The only alternative would be a simple rectangle manufactured home, which typically do not add to the character and aesthetic quality of the area.
3. That the strict application of the zoning regulation as they apply to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations provided that such hardships shall not be self-imposed by the applicant or his or her successor in interest. As described in question 2, almost any proposal for construction of a home at this location would require some setback variance.
4. That there have been no changes in the character of the site or its surroundings which detrimentally affect the environment.
5. That the granting of such variance does not, under the circumstances and conditions applied in this particular case, adversely affect the health of safety of persons, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements. The proposed location only requires a variance to the setback along Maple Street, therefore it does not negatively affect any of the adjoining properties or neighbors.
6. Subject to conditions set by staff.

Board Member Christiansen seconded motion.

Vote: Celsi, Christiansen, Cunningham, Pfannkuch.....Yes
Motion carried.

Acting Chairperson Cunningham stated that the applicant shall have a period of one (1) year to execute the building permit and commence with construction. If after the one (1) year period these requirements have not been met, the variance shall become null and void. Any variance granted by the Board shall be for the specific project as stated in the request. Any subsequent expansions or additions which would encroach into the required setbacks as set forth in Title 9, Zoning, shall be required to be reviewed by the Board of Adjustment through the established variance process.

Item 3b. The Quilt Block Sign Variance, 325 5th Street – Approval of a Sign Variance to allow the attachment of a sign to an existing pylon sign pole on that property located at 325 5th Street – Mary Miller/VJ Foundation – VAR-003545-2017

Acting Chairperson Cunningham opened the public hearing and asked the Recording Secretary to state when the public hearing notice was published. The Recording Secretary indicated that the notice was published on July 17, 2017, in the Des Moines Register.

Acting Chairperson Cunningham then asked for a motion to accept and make a part of the record all testimony and all other documents received at this public hearing. Moved by Board Member Celsi, seconded by Board Member Pfannkuch, the Board of Adjustment accepted and made a part of the record all testimony and documents received at the public hearing.

Vote: Celsi, Christiansen, Cunningham, Pfannkuch.....Yes
Motion carried.

Acting Chairperson Cunningham invited the applicant to present their variance request. Jim Miller, Director of Valley Junction Foundation, introduced himself as representing Mary Miller (no relation), The Quilt Block, and 325 5th Street. He stated that The Quilt Block is the first selected in an application process with the CoSign program from American Sign Museum in Cincinnati. He noted that they only needed one variance. There is an existing pole located there from a previous owner. Evaluated for stability, it was found capable of supporting signage.

Mr. Miller placed artwork on the dais. He noted that the building would not support the sign without some serious improvements. Two sign fabricators said they would not put the sign on the awning. Ms. Miller met with City staff and fabricators and felt this was their best option. The pole has not been in use for 24 years, but was previously used for signage. The proposed sign would be 4ft.x3ft. The pole would be cut off at 12 feet, painted, and the projected sign would be eight feet off the ground. Mr. Miller concluded that they were asking for consideration as the pole is existing and building would not support the sign.

Acting Chairperson Cunningham clarified whether the proposal was to lower the pole so the top of sign would be at the top of the awning. Mr. Miller responded that the pole right now is much taller. The pole would be cut off at the top of the parapet. He added that they had looked at an option of a monument like one across the street, and did not feel that was a good option for this.

Board Member Christiansen asked whether Valley Junction was promoting this type of sign. Mr. Miller affirmed that the Foundation is promoting this program and that these signs are referred to as projecting signs. Nine other businesses will have their projecting signs mounted to their buildings.

Board Member Pfannkuch observed that these signs were consistent with the Valley Junction time period. Mr. Miller agreed and stated that they had spent years trying to amend the sign code to allow projection signs; noting that they wanted to encourage this. The signs would be visible to the pedestrian and vehicle traffic.

Acting Chairperson Cunningham asked whether there were any other questions for the applicant, by the Board. Hearing none, he asked if anyone from the audience wished to comment on the request.

Lindy Larson, 205 9th Street, commented that she thought the sign that looks nice and would add character to the area; noting that you can't see the building real well, and this would look nice.

Ed Engler, 128 11th St, stepped forward to ask Mr. Miller a quick question. Acting Chairperson Cunningham redirected Mr. Engler to address the Board. Mr. Engler agreed, and said that right here even on 5th street, we need a lot of changes; I think this is good.

Acting Chairperson Cunningham addressed Mr. Engler's earlier request for a private hearing following the Board Meeting regarding affordable housing, stating that the Board had limited jurisdiction; dealing only with conditional permitted uses and variances. He said that the Board was subject to the open meetings law, and would not be available to meet after the meeting. He invited Mr. Engler to talk privately with any of the Board members, noting that they were volunteers.

Acting Chairperson Cunningham then asked if anyone else wished to comment. Hearing none, he closed the public hearing item and asked for Staff's presentation on the proposed request.

Kevin Wilde, Sign and Zoning Administrator, opened by commenting that Mr. Miller really didn't go into a lot of detail regarding the CoSign project, noting that this has been a very interesting process. The proposed sign

for The Quilt Block is one of ten sign proposals that was jury selected as part of the Valley Junction CoSign project, a competitive national program started in 2013 by people associated with the American Sign Museum in Cincinnati, Ohio. Valley Junction is the first community in Iowa selected for the pilot program when the program went national. The City just adopted a new sign code in May. Pole signs were not approved. Mr. Wilde said he wouldn't call this a pole sign. This is a projecting sign which could be mounted on the building, if the building would support it. Since it would not, they need to use what is available. He observed that The Quilt Block had done a lot of things. The City was involved in the CoSign process and so was not in a position to step forward and make a recommendation. The proposed sign would meet the projection requirements written into the sign code, it just requires a variance due to the pole.

Acting Chairperson Cunningham asked for clarification whether the sign code prohibited projection signs with special allowance for Valley Junction. Mr. Wilde said projection signs were allowed throughout the City. The only difference here is the sign being mounted on the pole.

Acting Chairperson Cunningham asked if there was a prohibition of pole signs. Mr. Wilde replied that there is.

Acting Chairperson Cunningham commented that he didn't know if they could approve the variance without a finding. Mr. Wilde stated that the City had talked about whether we wanted to allow pole signs in Valley Junction – but decided it would be consistent to not approve them throughout the City. He noted that this projection sign would be mounted on the side of the pole.

Board Member Pfannkuch clarified the variance was a request regarding the placement of the sign. Board Member Christiansen added, that the Board was not setting a precedence for pole signs. Mr. Wilde affirmed that this was correct.

Acting Chairperson Cunningham questioned whether the sign was ok with regards to City code for how far it projects. Mr. Wilde responded that the sign wouldn't project any further out if it were allowed on the building; there's a one foot difference regarding the pole location but the size of the sign keeps it within the code limitations.

Board Member Pfannkuch reiterated that if the Board approved the request, it's not for approval as a pole sign, just a different location to mount the sign since it could not be supported by the building. Mr. Wilde affirmed that this was how he worded it.

Acting Chairperson Cunningham asked whether there were any other comments or discussion by the board. Hearing none he requested a motion.

Board Member Christiansen moved to approve Resolution 3b. Ms. Schemmel reminded the Board that they would have to follow same process as the earlier variance. Acting Chairperson Cunningham remarked that the Board could refine it after the meeting.

Acting Chairperson Cunningham requested that the Board look at attachment A for Resolution 3b and moved to adopt the draft resolution approving the variance with the following findings:

1. First, that the proposed use is consistent with the West Des Moines comprehensive plan and any applicable subarea plan, founded on the following information - that we are dealing with an architecturally significant area and a unique situation. The project signs are permitted. Code prohibiting signs mounted on poles is not being violated.
2. There are special circumstances which do not apply to comparable properties, based on the following, this is an architecturally scenic and significant area and the existing structure won't hold the sign; it meets all requirements for a projection sign because of the unique structure of the building, it can't be

mounted onto the building, and noted that this is an area of special character.

- 3. Strict application of zoning requirements will result in some practical difficulties and hardships not self-imposed, based on the unique character of the area and design of the building and circumstances surrounding this sign and how it will be attached. It's consistent with the character and the unique structural properties of this building and that the granting of this variance under these circumstances does not adversely affect the health or safety of persons, is not materially detrimental to the public welfare, nor injurious to nearby property and meets all current existing setback requirements for the area and the current ordinance.

Board Member Pfannkuch seconded the motion.

Vote: Celsi, Christiansen, Cunningham, Pfannkuch.....Yes
Motion carried.

Acting Chairperson Cunningham stated that the applicant shall have a period of one (1) year to execute the building permit and commence with construction. If after the one (1) year period these requirements have not been met, the variance shall become null and void. Any variance granted by the Board shall be for the specific project as stated in the request. Any subsequent expansions or additions which would encroach into the required setbacks as set forth in Title 9, Zoning, shall be required to be reviewed by the Board of Adjustment through the established variance process.

Mr. Wilde made a comment supporting the CoSign project.

Mr. Miller announced that there would be a public unveiling of the Valley Junction signs on October 6, with VIP showing scheduled for September 29. He listed the participating businesses as Cindy's Boutique, 2AU Limited, Inspired Grounds Coffee shop, MoMere, AOK Antiques, Dressmakers, Olson-Larson Galleries, Vino 209 Wine Café, Wines of Iowa, Dressmakers and Quilt Block. Each sign is unique; drawings were submitted by 80 artists.

Mr. Wilde stated his belief that this project will promote higher quality signs in West Des Moines.

Mr. Miller noted that they had received \$100,000 in funding from various sources, and that these signs were raising the bar.

Item 4 – New Business

There were no New Business items presented.

Item 5 – Staff Reports

There were no Staff Reports.

Acting Chairperson Cunningham made a motion to move into Executive Session. Motion was seconded by Board Member Christiansen. City Attorney Scieszinski noted that there would be no legal matters or discussion related to the responsibility to craft findings so an Executive Session was not required.

A general discussion between the Board members and City staff occurred related to the Board of Adjustment establishing findings based on the testimony provided at the meeting for variance actions, rather than the current process of staff providing recommendations and findings in the staff report. The board noted that on several occasions it has disagreed with staff's recommendations and provided different findings. However, they do rely on staff's recommendations as staff has the benefit of several weeks of review and analysis of the issues as part of the application process. It was determined that staff would still provide recommendations on approval or denial, staff's

findings would be provided as a separate exhibit rather than within the body of the staff report, with the understanding that should the project have a city interest, staff would not provide a recommendation or findings at all. Under standard items (no city interests) the Board would then have the option to accept staff's recommendations for approval or denial and any or all findings, accept any or all of the applicant's findings, or craft their own findings based on the testimony provided at the meeting.

Discussion also occurred on Permitted Conditional Use applications. Staff noted that there would be no change in the current process, staff would be providing recommendations as they have in the past. Staff did note that the current process does result in the Board approving both the use and the site improvements for Permitted Conditional Use applications. Several Board members were surprised to learn that and all noted that they are uncomfortable approving site and building improvements as part of the Permitted Conditional Use approval. With that information, staff recommended that the process be revised to bring forward approval of only the use to the Board and follow the approval process used for permitted uses for the site improvements related to the use which is to present the site plan to the Plan and Zoning Commission and City Council for consideration. The Board was in agreement with that change in process.

Item 6 – Adjournment

Chairperson Blaser asked for a motion to adjourn the meeting.

Moved by Board Member Christiansen, seconded by Board Member Pfannkuch, the Board of Adjustment meeting adjourned.

Vote: Celsi, Christiansen, Cunningham, Pfannkuch.....Yes
Motion carried.

The meeting adjourned at 7:02 p.m.

Tom Cunningham, Acting Chairperson
Board of Adjustment

Jennifer Canaday, Recording Secretary