

CITY1392.DSS

Vice Chairperson Blaser called the regular Board of Adjustment meeting of July 29, 2015, to order at 5:30 p.m. in the Council Chambers of West Des Moines City Hall, located at 4200 Mills Civic Parkway, in West Des Moines, Iowa.

Roll Call: Blaser, Celsi, Cunningham..... Present
Christiansen, Stewart..... Absent

Item 1 – Consent Agenda

Item 1a – Minutes of July 15, 2015

Vice Chairperson Blaser asked for any comments or questions regarding the meeting minutes from the July 15, 2015 meeting. Hearing none, asked for a motion to approve the meeting minutes as presented.

Moved by Board member Celsi, seconded by Board member Cunningham, the minutes of the July 15, 2015, meeting are approved as presented.

Vote: Celsi, Cunningham, Blaser..... Yes
Christiansen, Stewart..... Absent

Motion carried.

Item 2 – Old Business

There were no Old Business items reported.

Item 3 – Public Hearings

Item 3a – Elite Edge Gym, 2700 University Avenue, Suites 310 and 312 – Approval of a Permitted Conditional Use Permit to open a physical fitness facility in an existing shopping center – Austin Hedstrom - PC-002756-2015

Vice Chairperson Blaser 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 10, 2015, in the Community Section of the Des Moines Register.

Vice Chairperson Blaser 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 Cunningham, seconded by Board member Celsi, the Board of Adjustment accepts and makes a part of the record all testimony and documents received at this public hearing.

Vote: Cunningham, Celsi, Blaser..... Yes
Christiansen, Stewart..... Absent

Motion carried.

Austin Hedstrom, 6900 Westown Parkway, West Des Moines, representing the tenant Elite Edge Gym, indicated that they are proposing to occupy a tenant space at 2700 University Avenue in the Governor’s Square shopping center and would like to open the business as soon as they are able.

Board member Cunningham raised questions as to who was the previous tenant of the space and if the renovations were restricted to the interior of the tenant space.

Dan Corron, Denny Elwell Company, 726 SE Williams Court, Waukee, indicated that it is his understanding that it was a soft goods retailer but that it has been vacant for some time. After Denny Elwell Company secured possession of the tenant space, they emptied the entire section that was not currently being used. He confirmed that the renovations are restricted to the interior of the space only.

Vice Chairperson Blaser asked for any other questions or comments from the audience and upon hearing none, closed the public hearing.

Brad Munford, Planner, explained that the fitness facility is proposing to go into the existing building and perform interior renovations. Their request is for a Permitted Conditional Use Permit to operate a physical fitness facility; as part of the review and recommendations, staff typically recommends right-of-way and street light agreements. The applicant's representative has requested that conditions #2 through #4 of the Conditions of Approval as written in the staff report be removed, similar to what was approved for the Bark Avenue application approved by the Board at their October 22, 2014, where a tenant improvement for a canine day care was approved in the same center and the right-of-way agreement and street light agreement were removed from the conditions of approval.

Board member Cunningham inquired if the applicant has met the requirements for the Permitted Conditional Use Permit. Planner Munford replied affirmatively.

Board member Cunningham then inquired if at the time the facility was constructed if it was it in compliance with right-of-way and lighting requirements. Planner Munford replied affirmatively.

Board member Cunningham questioned if the requirements of the Comprehensive Plan had changed after the shopping center was constructed.

Planner Munford answered that that the City's Comprehensive Plan had been updated in 2010.

Board member Cunningham then asked that if the proposed changes did not include any exterior modifications couldn't it be grandfathered in as is until such changes occur.

Planner Munford responded that under the City's code and current policies, a Permitted Conditional Use Permit is perceived as development and is no different than if a new building were being constructed and it is what is guiding staff's recommendation of the proposal.

Vice Chairperson Blaser asked if there was anything that distinguished the Elite Edge Gym application differently from Bark Avenue's. Planner Munford replied negatively.

Vice Chairperson Blaser questioned that with properties that are non-conforming in relation to such requirements as setbacks, if there a reason that those issues couldn't be addressed with the acquiring property owner at that time.

Kara Tragesser, Planner, stated that staff does not have a policy in place when ownership changes to review a site plan. Staff would review a site plan if requested, which would then fall under the guidelines of a zoning compliance letter.

Vice Chairperson Blaser inquired of the applicant that of the four (4) listed conditions of approval, they would like conditions #2 through #4 to be removed, but are in agreement with Condition #1 regarding noise compliance.

Mr. Corron replied affirmatively and added that they have requested that all activities occur within the premise. The tenant space has been double-walled on both sides to mitigate any noise as well.

Board member Cunningham confirmed that the site plan that was submitted is strictly for interior improvements. Mr. Corron replied affirmatively.

Vice Chairperson Blaser stated that regarding the Bark Avenue project, the Board did vote to not permit the City to require the access of the right-of-way and street lights. At that time, it was indicated by the City that the City Attorney’s office would review and address this policy in further detail. He concluded that he does not plan to alter his position from the Bark Avenue topic and still does not believe that if an applicant otherwise meets the necessary requirements, their request shouldn’t be granted.

Board member Cunningham stated that his primary concern is even though the property owner acquired the property knowing that it was in non-compliance regarding the setbacks, they are not proposing any exterior changes. They satisfy the criteria for a Permitted Conditional Use Permit and are proposing only interior changes. However, he does not feel that it is appropriate to require this agreement if they’re not making any other changes other than occupying the space.

Board member Celsi indicated agreement with the statements as presented by Board member Cunningham.

Moved by Board member Cunningham, seconded by Board member Celsi, the Board of Adjustment adopts a resolution for approval of the Permitted Conditional Use Permit to allow Elite Edge Gym to operate a 5,000 sq. ft. physical fitness facility (SIC 7991) within the multi-tenant commercial center located at 2700 University Avenue, subject to meeting all City Code requirements and the following:

- 1. The fitness facility operator acknowledging and agreeing that any noise from activities of the facility which affects surrounding properties and/or businesses shall be appropriately mitigated;

Vote: Celsi, Cunningham, Blaser..... Yes
 Christiansen, Stewart..... Absent

Motion carried.

Item 4 – New Business

There were no New Business items presented.

Item 5 – Staff Reports

The Recording Secretary indicated that the next Board meeting of August 12, 2015, currently does not have any items scheduled for the agenda and that if that meeting should be cancelled she would inform them.

Item 6 – Adjournment

Vice Chairperson Blaser asked for a motion to adjourn the meeting.

Moved by Board member Celsi, seconded by Board member Cunningham, the Board of Adjustment meeting adjourns.

BOARD OF ADJUSTMENT MEETING MINUTES

July 29, 2015

Vote: Celsi, Cunningham, Blaser.....Yes
Christiansen, Stewart.....Absent
Motion carried.

The meeting adjourned at 5:51 p.m.

Michael Blaser, Vice Chairperson
Board of Adjustment

Michelle Riesenberg, Recording Secretary