

CITY .DSS

Chairperson Blaser called to order the September 6, 2017, regularly scheduled meeting of the Board of Adjustment at 5:30 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: Blaser, Celsi, Christiansen, Cunningham, Pfannkuch.....Present

Item 1 – Consent Agenda

There were no items on the Consent Agenda.

Item 2 – Old Business

There were no Old Business items reported.

Item 3 – Public Hearings

Item 3a – Silver’s Building, 224 5th Street – Approval of a Permitted Conditional Use Permit for a Drinking Place and to permit existing legal non-conforming upper floor residential – Scott Cutler – PC-003591-2017 and PC-003622-2017

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 August 18, 2017, in the Des Moines Register.

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

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

Scott Cutler, 4930 Woodland Ave, Des Moines, presented a request for use of Silver’s Building, located at 224 5th Street, in Valley Junction, as a drinking place and upper floor residential space. The first floor has 4200sf retail space, and applicant is planning separate spaces for a bar and restaurant. The developer is Ryan Cooper, owner of Cooper’s on 5th. Intent is to create a high-end cocktail lounge, with hours ending at midnight, similar to area drinking establishments. Mr. Cutler believes this would be a positive addition to Valley Junction.

Board Member Celsi questioned whether the location was the same building as General Store. Mr. Cutler responded that it was not. He clarified that it is directly across from Cooper’s on 5th.

Mr. Cutler detailed that the occupant would occupy both bays. There is a non-load bearing partition between the two, allowing pass-through. The bar/cocktail lounge will be on smaller side, restaurant on southern bay.

Board Member Christiansen asked if Mr. Cutler had reviewed and was accepting of the conditions. Mr. Cutler affirmed his agreement.

Board Member Cunningham asked whether a sprinkler system would be required for second floor residential use. Mr. Cutler stated that it was. He added that they were investing a significant amount in the building to bring it up to code and add high end residences upstairs. There would be sprinklers, and upgraded HVAC and electrical. They

were working with City of WDM on incentive programs for development.

Board Member Pfannkuch asked whether Coopers was planning to move. Mr. Cutler replied that they were not. The new bar would be managed by Coopers, with similar quality and atmosphere. but with a different concept.

Chairperson Blaser then asked for any other questions or comments from the audience.

Jim Miller, Historic Valley Junction Foundation, 137 5th Street, addressed the Board to say he was supportive of this type of project happening. He added that the City is onboard with incentives, and noted that the applicant was working from a master project. He stated that these type of projects are exciting to the Foundation. The shared sprinkler system is working cooperatively. He also noted that he was happy about the housing, commenting that they have people in the office every week seeking high end housing similar to what this will provide.

Chairperson Blaser asked if there were any other questions or comments, and hearing none, asked for staff's presentation.

Planner Munford noted that there are two separate items of use being requested, the residences upstairs and the drinking establishment on the first floor. It was agreed that there would be separate votes for each part of the resolution. Regarding the six findings noted in the staff report, Planner Munford stated that the application was consistent with the West Des Moines Master Plan and Comprehensive Plan. The Valley Junction Historic Business District allowed restaurant, specialty retail, and upper story residential. The drinking establishment was not addressed in the Comp Plan, but the zoning ordinance allowed them in this use district, with permitted conditions as noted. Vino 209 is an example of a similar establishment being allowed in the same are. Sixty percent of the proposed property would be used to serve food; during the evening that restaurant portion would be closed, and the bar would remain open from 10 pm to midnight. The food sales after that hour may not exceed 50% of the sales, thereby affecting the zoning requirements. Staff believes this use to be consistent with the Comprehensive plan. There were no concerns by other departments, applicant agreed to meet all Code requirements, and the site is an established business.

There was one citizen who voiced opposition, noted in the staff report. The citizen commented that there were too many bars in the Valley Junction area already. Planner Munford went on to recommend approval with two stipulations 1) a sprinkler system was required, and 2) this application only approves use. A site plan must also be presented separately for approval.

Regarding second story residential use, Planner Munford noted that the City would require 1) appropriate rental licenses and inspections, and 2) that the applicant work with City staff regarding addressing of units.

Board Member Christiansen questioned whether the Board was only being asked to approve use as a drinking establishment and not for the restaurant. Planner Munford stated that this was correct.

Board Member Celsi noted concerns about the citizen's letter as far as police patrols through the area. Planner Munford replied that anytime there is alcohol, there is concern. However, currently in Valley Junction there are seven establishments serving alcohol. The only two which would be solely considered a bar would be Vino 209 and this establishment. Fox Brewery is on the other side of Railroad on the South, the others are restaurants which serve alcohol. Staff perception is that these are not just bars.

Board Member Celsi questioned whether the apartments were going to all be market rate. The applicant affirmed that they were.

Chairperson Blaser noted that the Board would be voting first on the use as a drinking establishment, and second for use as a residence. He asked whether there was any more discussion, and hearing none, asked for a motion.

Motion for approval by Board Member Pfannkuch, seconded by Board Member Cunningham, the Board of Adjustment adopted a resolution to approve the Permitted Conditional Use Permit to allow use as a drinking establishment, subject to meeting all City Code requirements, regulations, and the following:

1. With the tenant improvements, the sprinkler and alarm system shall be installed for the bar/restaurant and the second floor apartments. The fire sprinkler and fire alarm system shall comply with the West Des Moines Fire Code requirements.
2. If renting any of the apartments, the applicant shall obtain a Rental Certificate from Rental Inspections.
3. The applicant shall work with planning staff to assign addresses to the units accordingly.
4. This approval is only for the uses allowed in the building. If at any time, the applicant would like to make modifications to the building or site, they shall apply for the appropriate planning or building permit applications. Permits shall be obtained prior to initiation of any work.

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

Motion for approval by Board Member Christiansen, seconded by Board Member Cunningham, the Board of Adjustment adopted a resolution to approve the Permitted Conditional Use Permit to allow use as a legal non-conforming upper floor residential site, subject to meeting all City Code requirements, regulations and conditions noted above.

Vote: Blaser, Christiansen, Cunningham, Pfannkuch.....Yes
Celsi.....No

Motion carried.
Board Member Celsi noted that she would like to see more affordable housing in Valley Junction.

Item 3-b – Maple Grove United Methodist Church, 9391 Ashworth Road – Approval of expansion of religious use – Ron Sweeney – PC-003491-2017

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 August 28, 2017, in the Des Moines Register.

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 Pfannkuch, the Board of Adjustment accepted and made a part of the record all testimony and documents received at the public hearing.

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

Shane Devick, Civil Engineering Consultants, 2400 86th Street, #12, Urbandale, representing Maple Grove United Methodist Church, located at 9391 Ashworth Road, requested approval to expand the religious use of their site by

relocating the existing church on site, with future plans to add a second building. He stated it would be necessary to move the structure in order to accommodate the planned widening of Ashworth Road. The applicant is in agreement with staff conditions.

Board Member Celsi asked if this section of Ashworth Road was being widened now. Mr. Devick responded that this would be in the future. At this time the church was interested in expanding and would relocate at the same time.

Chairperson Blaser then asked for any other questions or comments for the applicant; hearing none, Chairperson Blaser asked for staff presentation.

Planner Kara Tragesser stated that staff supports the expanded use. She noted that a site plan would be presented to the Plan and Zoning Commission, and to City Council; a copy had been provided in the staff report for reference.

Chairperson Blaser asked for clarification regarding the second access point being “planned” or “obtained”; when full access was no longer available. Planner Tragesser explained that the City requires access points, but during projects which are phased, use of only one access may be allowed for a limited time. The second phase would be construction of the Community Center. She noted that the City was working with the church to select from multiple options how their site plan could accommodate those access points. City staff met Tuesday morning with the Development and Planning City Council Subcommittee regarding access points and are close to selecting them. Until the access points are determined, the church will not be able to move forward with a site plan. Ashworth Road will have a right in/right out, and eventually a median, and full access may eventually be eliminated. She added that the City is doing an interchange justification report, and off ramp study, trying to make sure they can keep access for members, visitors, and emergency vehicles.

Chairperson Blaser observed that if the Board approved tonight, there would be a process in place to complete the access the requirements. Planner Tragesser affirmed.

Chairperson Blaser asked, if there was no further discussion, for a motion and a second for this item.

Moved by Board Member Christiansen, seconded by Board Member Celsi, the Board of Adjustment adopted a resolution to approve the Permitted Conditional Use Permit to allow expansion of religious use by the Maple Grove United Methodist Church, subject to meeting all City Code requirements, regulations, and the following:

1. This approval is to allow only the use of the property for a religious use. A site plan for the development of the property for the new building will be presented to the Plan and Zoning Commission and City Council.
2. Adequate access to the site needs to be planned for the probable case that full access to the site from Ashworth Road is no longer available.

Vote: Blaser, Celsi, Christiansen, Cunningham, Pfannkuch.....Yes

Item 4 – New Business

There were no New Business items presented.

Item 5 – Staff Reports

There were no staff reports. An invitation was shared with Board members to attend a public presentation of the Valley Junction signs presented to the board on July 26.

Item 6 – Adjournment

Chairperson Blaser asked for a motion to adjourn the meeting.

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

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

The meeting adjourned at 5:58 p.m.

Michael R. Blaser, Chairperson
Board of Adjustment

Jennifer Canaday, Recording Secretary