

**MINUTES OF THE REGULAR MEETING OF
THE ZONING BOARD OF ADJUSTMENT**

AMES, IOWA

MAY 22, 2019

The Ames Zoning Board of Adjustment met, pursuant to law, in regular session at 6:00 p.m. on May 22, 2019, in the Council Chambers of City Hall with the following members present: Ronald Schappaugh, Kyle Perkins, Amelia Schoeneman, and Rob Bowers. Aladdin Al Katheri was not present. Assistant City Attorney Jane Chang and City Planner Eloise Sahlstrom were also present.

ELECTION OF OFFICERS: Moved by Perkins, seconded by Bowers, to elect Amelia Schoeneman for the office of Chair of the Zoning Board of Adjustment.
Roll Call Vote: 4-0. Motion declared carried unanimously.

Moved by Perkins, seconded by Schoeneman, to elect Rob Bowers for the office of Vice Chair of the Zoning Board of Adjustment.
Roll Call Vote: 4-0. Motion declared carried unanimously.

APPROVAL OF MINUTES: Moved by Perkins, seconded by Bowers, to approve the Minutes of the meeting of March 13, 2019, as written.
Vote on Motion: 3-0-1. Voting aye: Perkins, Bowers, Schoeneman. Voting nay: none. Voting to abstain: Schappaugh, due to absence from the meeting on March 13, 2019. Motion declared carried.

CASE NO. 19-01

SPECIAL USE PERMIT – NICK HULSTROM, RMH ARCHITECTS, 120 ABRAHAM DRIVE (Amended 6/26/19: Perkins/Schappaugh: “HULSTRUM” 4-0.)

Public Hearing on application for a Special Use Permit to allow Enlargement of a Nonconforming Use in the RH (Residential High Density) Zoning District:

City Planner Eloise Sahlstrom introduced the request and reviewed the site plan, project description, applicable law, and Findings of Fact and Conclusions.

Planner Sahlstrom noted that this particular property started at this site in 1978, and it was permitted as Commercial Use as a theater at that time. Since that time, the City changed the zoning to Residential High Density (RH) making this structure nonconforming in the current zone. The City recognizes that this happens over time. Given the nonconforming use, there are certain standards in place. It does not mean that they have to go out of existence, but there are limitations on how they can continue into the future if they wish to expand either the building or the use. In this case, the building is nonconforming for the rear setback so they can't extend that nonconformity any further. However, they can extend the building where it would not impact the rear setback. They are proposing to extend to the north where they do have room and where the code will allow. An expansion of use within the code is limited to 125% as the maximum that they can expand. The code places reasonable limits on expansion of nonconformities. Even

though it may be enlarged to 125%, it is not allowed to increase in intensity of operation.

Ms. Sahlstrom stated that the existing building is 80' x 80' with a first floor area of 6400 sq. ft. and a second floor area of 2689 sq. ft., totaling 9,089 sq. ft. The applicant wishes to add an 18' addition to the front of the building, increasing the first floor area by 1,195 sq. ft. and the second floor area by 1,076 sq. ft., with a total of 2,271 sq. ft. The expansion is limited to no more than 2272.25 sq. ft. The proposed addition is just under the maximum allowed square footage. The proposed first floor addition will be utilized for an entry corridor, entry vestibule, and gathering space. The second floor addition will be utilized for costume storage space. The intensity of use is based upon seating capacity and as a nonconforming use cannot be expanded. The current seating capacity of the theater is 136 seats and that will not change.

The expanded parking will result in accommodating a total of 40 parking spaces, including two ADA accessible spaces. The proposed changes will include parking lot lighting. A photometric plan and lighting cut sheets indicate that the lighting will be in compliance with the code for control of up lighting and light trespass. Lighting is also proposed on the building itself. Included are four lights above an area desired for display of temporary banner signage. Additionally, accent lighting with LED neon-flex red and blue strip lighting is proposed to highlight the building façade and building marquee. Although this type of lighting is generally permissible in commercial areas, as a residentially zoned area, the Special Use Permit allows for scrutiny of the lighting proposal for compatibility with the residential surroundings. The greatest impact would be to the residence on the west side of the site. The residence (addressed as 200 & 202 Abraham Drive) is a duplex. The applicant indicates that the building and accent lighting will only be illuminated 40 nights a year. This will include actual show evenings, dress rehearsals, season announcement and donor appreciation evenings. Lights will be turned off by 10:30 PM. The applicant notes that during the summer months the illumination will be for a shorter period of time, given the lengthened daylight hours.

The total area of site landscaping provided on the proposed site plan is approximately 19.4%. This would exceed a typical commercial zone standard of 15%. The area proposed for grass, trees & shrubs equates to 7,252 sq. ft. The expansion of the parking lot requires the inclusion of a landscape high screen between the parking and the adjacent residential properties. The applicant is proposing a 6' privacy fence along the south and west property perimeter as part of the high screen, along with seven overstory trees and 15 high screen shrubs. The seven overstory trees also meet the parking lot tree requirement.

Existing shrubbery on the adjacent property at 200/202 Abraham Dr. helps screen and buffer the "RL" (Residential Low Density) zoned lot from the more intense theater use. The code provides flexibility for constrained nonconforming redevelopment sites and indicates that although full compliance may not be achievable, all sites must advance towards compliance with current requirements in terms of location of plantings and quantity of plantings.

The landscape plans meet the required landscaping for the new parking area. However, no front yard landscaping has been included. Most of the area is already paved, leaving little room for landscaping. To add front yard landscaping would require some of the existing pavement to be removed along Abraham Drive and would result in a reduction of at least one parking space.

Notification was made to all owners of property within 200 feet. In addition, a notice of public hearing was placed on the subject property. To date, only inquiries have been received, and there have been no objections to the granting of the Special Use Permit.

Staff concludes that the request for a Special Use Permit to allow enlargement of a Nonconforming Commercial use in a Residential Zone, at 120 Abraham Drive, is consistent with the standards required for granting of a Special Use Permit, provided the approval includes the conditions described in Alternative #1. Therefore, based upon the Findings of Fact and Conclusions, it is the recommendation of the Department of Planning and Housing that the Zoning Board of Adjustment act in accordance with Alternative #1.

Applicant Mike Jackson, 5615 Thunder Road, Ames, was sworn in and testified under oath. Mr. Jackson stated that the ACTORS building was originally complying when it was first built forty years prior. He shared his concerns with the three main requirements. He stated that ACTORS does not want to increase the amount of seats in the theater, but they would like fewer restrictions on the number of performances that can be put on each year. The number of shows is sometimes determined by the popularity of the performance, and in years past there have been more than 40 performances. There is also the possibility that the outside lights will be on past 10:30 pm. If a show were to go past 10:30 pm, the parking lights would be on for the safety of the patrons leaving the show. ACTORS want to be able to comply with the requests. The third requirement, adding shrubbery to the parking was a surprise, but not an issue.

Board Member Kyle Perkins asked for specific information on the other organizations that ACTORS has worked with in the past. Mr. Jackson asked that Mr. Rabe, also from ACTORS, come up and give that information.

Stanley Rabe, 219 Wildflower Drive, Ames, was sworn in and testified under oath. Mr. Rabe stated that the Ames Choral Society has done cabaret at the ACTORS facility. The Ames Arts Council has also held an event there. AMOS brought in a show and ACTORS hosted them. When Story Theater Company was developing, ACTORS coached them and they performed in the building. The ACTORS facility also hosted Eric Schneider, the Public Relations police officer, when he did some of his public relations videos. On Fridays, the Story County Volunteer Center comes in and holds a class. Until a couple years ago, public elections were held at this site.

Mr. Perkins asked how many parking spaces the facility currently has and how many it will have once the project is completed. Mr. Rabe said that he didn't recall how many parking spaces they currently have, but that they really won't be adding any, just changing the striping and adding a few handicap spaces.

Discussion regarding lighting and the number of performances per year ensued between the Zoning Board members, Mr. Rabe, and Mr. Jackson.

Nick Hulstrum, 1615 Golden Aspen Drive, Suite 110, Ames, was sworn in and testified under oath. Mr. Hulstrum stated that there is a lighting exception of 1800 lumens. Anything that exceeds that has to be properly shielded due to the night sky ordinance. With the LED strip

lights, there is a neon strip with a low output. One strip at 46 feet has a lumen output of 4.75 lumens per foot. For a 46-foot strip, the output is 210 lumens. Mr. Hulstrum went through and calculated everything for blue light output and it totaled 1265 lumens, well below the required 1800 lumens. The red lights in the center of the marquee have a lumen output of 1195.

Further discussion regarding the number of performances per year ensued between the Zoning Board members, Mr. Rabe, and Mr. Jackson.

Board member Aladdin Al Katheri arrived at 7:04 pm.

No comments were made from the public.

Planner Sahlstrom stated that staff is comfortable with a number that exceeds 40 but is less than 90 nights of operation per year. She also said that City staff would support not having an overstory tree in the front yard landscaping, but instead accept an understory tree or additional shrubs in that space.

Ms. Schoeneman asked to recap the new evidence presented during the testimony before making a motion. She asked if all Board members and staff agreed that 60 performances sounded about average. Board members and staff agreed with that conclusion.

Moved by Perkins, seconded by Schappaugh, to adopt ORDER NO. 19-01, thereby approving a Special Use Permit to allow Enlargement of a Nonconforming Commercial Use in the Residential (RH) Zone at 120 Abraham Drive with the following conditions:

- A. The building and accent lighting will be illuminated no more than 80 nights per year and lighting will be turned off by 11 pm. *Note-Lighting will be subject to the design and performance standards of the Zoning Ordinance, regardless of the allowance to have lighting*
- B. Strike condition B stating that evening performances and events shall be limited to 80 days in a calendar year.
- C. Create a front yard landscape planter on the south side of the entrance and plant one overstory tree and seven low shrubs, to comply at least in part, with the front yard landscaping requirement.

Moved by Schappaugh, seconded by Al Katheri, to amend the motion to strike the overstory tree and only include the seven shrubs on condition C.

Moved by Schoeneman, seconded by Perkins, to amend the motion to reinstate condition B, which states that evening performances and events shall be limited to 80 days in a calendar year.

At the request of Ms. Schoeneman, Planner Sahlstrom reviewed the Findings of Fact (Amended 6/26/19, Perkins/Shappaugh: to discuss and accept how the proposed changes and conditions still met the Findings of Fact. 4-0.)

Ms. Schoeneman asked Assistant City Attorney Jane Chang if the Zoning Board needs to take

separate votes on each motion or if one vote is ok. Ms. Chang advised that the motion and amendments be withdrawn and a new motion presented.

Amendments withdrawn. Motion withdrawn.

Moved by Perkins, seconded by Bowers, to adopt ORDER NO. 19-01, thereby approving a Special Use Permit to allow Enlargement of a Nonconforming Commercial Use in the Residential Zone at 120 Abraham Drive with the following conditions:

- a. The building and accent lighting will be illuminated no more than 80 nights per year and building and accent lighting will be turned off by 11 pm. *Note-Lighting will be subject to the design and performance standards of the zoning ordinance, regardless of the allowance to have lighting.*
- b. Evening (after 6pm) performances and events shall be limited to 80 days in a calendar year.
- c. Create a front yard landscape planter on the south side of the entrance and plant seven low shrubs, to comply at least in part, with the front yard landscaping requirement.

Before Ms. Schoeneman voted, she said that she is acquainted with Nick Hulstrum, but she remains impartial in this vote.

Roll Call Vote: 5-0. Motion declared carried unanimously.

CASE NO. 19-02

SPECIAL USE PERMIT – CCRC OF AMES, 3305 STANGE ROAD

Public hearing on a request for a Special Use Permit to allow the construction of a garden and garden pavilion at Northridge Village, a senior living facility in the FS-RM (Suburban Residential Floating Zone, Residential Medium Density) Zoning District.

City Planner Eloise Sahlstrom introduced the request and reviewed the site plan, project description, applicable law, and Findings of Fact and Conclusions.

Ms. Sahlstrom stated that the request is to construct a garden and garden pavilion on approximately .5 acres of vacant ground within the existing Northridge Village campus. The 12.35-acre site is located between George Washington Carver Avenue and Stange Road. The site was rezoned to FS-RM (Suburban Residential Medium Density) along with Master Plan approval on December 17, 2013. Northridge Village is a senior living facility located at 3300 George Washington Carver Avenue and 3305 Stange Road. The current facility includes two buildings. Access to the site is from both George Washington Carver Road and Stange Road with a connecting driveway between the two streets providing access to each of the two facilities.

The first phase building on the west side of the site includes a continuum of care facility comprised of 39 independent senior living apartments, 34 assisted living units, and 34 skilled nursing beds. A Special Use Permit for this building, its site plan, and uses was approved on February 12, 2014 and subsequently amended on February 11, 2015.

The second building is on the east side of the site and houses 39 independent senior living units. A Special Use Permit was required for the second building because of its classification as an Independent Senior Living facility for consistency with the master plan, which indicated 50 to 60 units of memory care or independent living units on the eastern part of the site. A Special Use Permit for this building, its site plan, and uses was approved on September 9, 2016.

Any changes proposed to the Northridge Village campus (such as the 600 sq. ft. garden pavilion) must be approved by Special Use Permit, given the primary use of the property and the FS-RM zoning. The garden pavilion would be considered an accessory structure, meaning that it is detached and subordinate to the principal building(s) and its use would be incidental and accessory to the use of the principal building(s).

One of the Suburban Residential Development Principles is the “provision of common open space in residential areas where the maintenance of the open space is the responsibility of those directly benefitting”. The proposed garden will provide both food and therapy for Northridge Village residents. It will be supervised by the Northridge Village dietary manager, maintenance staff and employees in cooperation with the ISU Extension Office, so it can be considered an appropriate common open space use for the Northridge Village community.

The FS-RM zoning district includes landscaping and buffering requirements between dissimilar zones, specifically a 10-foot high screen buffer along FS-RL property lines as exists along the south property line related to the proposed site work. Notably, with the 2nd phase approval, a high screen was created adjacent to the driveway extension near the middle of the site rather than the property line. With the Board’s acceptance of this existing condition the proposed garden and pavilion would not trigger any additional landscaping or parking. Sidewalks are required to connect the pavilion to the existing sidewalk system.

Utilities currently serve the senior living facilities and can be extended to service the pavilion. A condition of approval is completing utility easement requirements. Easements would need to be identified and recorded prior to additional certificates of occupancy being issued.

Notification was made to all owners of property within 200 feet. A notice of public hearing was placed on the property and published in the newspaper. As of this writing, no comments have been received.

Staff concludes that the proposed .5-acre garden and 600 sq. ft. pavilion with utilities within the Northridge Village Continuum of Care Campus is consistent with the general and specific residential standards and criteria required for granting a Special Use Permit. Furthermore, it meets the zone-specific and general requirements for the zoning ordinance. Therefore, based upon the Findings of Fact and Conclusions, it is the recommendation of the Department of Planning and Housing that the Zoning Board of Adjustment act in accordance with Alternative #1.

Nicole Neal, 3401 SE Crossroads Drive, Suite G, Grimes, IA was sworn in and testified under oath. Ms. Neal stated that she is in support of all staff comments.

Applicant Karen Laybourne, 11827 W. 112th St, Suite 103, Overland Park, KS, was sworn in and testified under oath. Ms. Laybourne stated that the residents are very excited about this garden. She said that the main goal is to grow produce for consumption for the residents. The residents probably won't be out there working, but they will hopefully use the pavilion. Another goal is for ISU to take the garden and run with it however they want to use it.

Mr. Schappaugh called for a recess at 7:51. The meeting was called back to order at 7:52.

Moved by Bradbury (Amended 6/26/19, Perkins/Shappaugh: "Bowers" 4-0.), seconded by Perkins, to adopt ORDER NO. 19-02 thereby approving the request for a Special Use Permit to allow the construction of a .5-acre garden and 600 square foot pavilion with utilities within the Northridge Village continuum of care campus in the FS-RM Zoning District at 3305 Stange Road and the following condition:

- a. All easements for public utilities on site will be provided prior to the City issuance of any future certificates of occupancy.

Roll call Motion: 5-0. Motion declared carried unanimously.

COMMENTS: There were no comments by the Board.

ADJOURNMENT: Moved by Schoeneman, seconded by Perkins, to adjourn the meeting at 7:56 p.m.

Jacque Higgins, Recording Secretary

Amelia Schoeneman, Chair