

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

AMES, IOWA

OCTOBER 23, 2019

The Ames Zoning Board of Adjustment met, pursuant to law, in regular session at 6:00 p.m. on October 23, 2019, in the Council Chambers of City Hall with the following members present: Amelia Schoeneman, Ronald Schappaugh, and Kyle Perkins. Not present was Rob Bowers. Assistant City Attorney Vikki Feilmeyer and City Planners Benjamin Campbell and Ray Anderson were also present.

APPROVAL OF MINUTES: Moved by Perkins, seconded by Schappaugh, to approve the Minutes of the meeting of October 9, 2019.

Vote on Motion: 3-0. Motion declared carried unanimously.

CASE NO. 19-08

**SPECIAL HOME OCCUPATION PERMIT – YASSIR OBEID, CLEAN INDEED
CARPET, 4004 ARKANSAS DRIVE**

Public Hearing on application to allow carpet cleaning, water damage mitigation, and odor removal as a Special Home Occupation at 4004 Arkansas Drive:

City Planner Benjamin Campbell introduced the request and reviewed clarifications that the Zoning Board had requested when CASE NO. 19-08 was first presented on September 11, 2019. Planner Campbell stated that Special Home Occupations shall employ only members of the household residing in the dwelling unless approval is granted by the Zoning Board for the employment of up to two non-family members. The ordinance does not differentiate between on-site or off-site and does not make a distinction between part-time and full-time employees. Mr. Campbell said staff determined that the Code permits a maximum of two non-household employees regardless of total hours worked or whether they visited the site or not. He noted a previous Special Home Occupation in 2013 for a cleaning company, where the Board required the applicant to reduce the number of non-household employees to two.

Planner Campbell said in Chapter 18 of City Code, it is unlawful for any person to park any vehicle for a period greater than 48 hours upon a city street and an unhitched trailer cannot be parked on the street for any period of time. Mr. Campbell spoke with the Police Department, and they said that none of the parking complaints received for Arkansas Drive resulted in a ticket, because the vehicles were always moved when the person was asked by officers. The Police Department also said that Arkansas Drive has no more parking issues than any other street in Ames. Mr. Campbell said the sign ordinance specifically exempts signage on vehicles that are operable, and the City doesn't require a permit for signage on vehicles.

Board Member Schoeneman asked Mr. Campbell to clarify the definition of a delivery vehicle. Planner Campbell said that the City doesn't have a definition of a commercial vehicle or delivery vehicle. Ms. Schoeneman said that the parking criteria states that only one delivery vehicle associated with the activity may be parked on the street for no more than four hours. Planner Campbell said he felt a delivery vehicle is one dropping off supplies rather than the applicant's work vehicles.

Applicant Yassir Obeid, 4004 Arkansas Drive, Ames, IA, 50014, was sworn in and testified under oath. Mr. Obeid stated that there was some information he forgot to mention the last time he testified. He stated that he works part-time three to four days per week from 5 a.m. to 9 a.m. at BioLife Plasma as a member of management. He said the total amount of working hours for non-household employees is 10-25 hours per week. Ms. Schoeneman asked if he understood that with the approval of the two non-household employees, Mr. Obeid would have to reduce down to no more than two employees. Mr. Obeid said he would do so if necessary.

Ms. Schoeneman stated that the Public Hearing was closed at the September 11 hearing, but she would entertain a motion to reopen the public hearing if only new facts or evidence were presented.

Moved by Perkins, seconded by Schappaugh to reopen the public hearing.

Vote on Motion: 3-0. Motion declared carried unanimously.

Anne Packard, 3908 Arkansas Drive, Ames, Iowa, 50014, was sworn in and testified under oath.

Ms. Packard asked Mr. Campbell to display several images that she had brought with her. She stated that there are a total of 13 on-street parking spaces and the applicant has at least one of his vehicles parked on the street at all times. She said he has left his van doors open in his driveway unattended for 15-30 minutes with the chemicals in his van accessible to anyone in the neighborhood. Ms. Packard also stated that Mr. Obeid has added a significant amount of advertising and signage to his personal vehicle.

Justin Schares, 4018 Arkansas Drive, Ames, IA, 50014, was sworn in and testified under oath. Mr. Schares stated that he moved to Arkansas Drive because it was a quiet neighborhood. He said his greatest concern with Mr. Obeid's business is the potential risk of children in the neighborhood coming into contact with chemicals. He said he has worked in labs for years, and chemical safety is very serious to him. He questioned if the chemicals were signed off by the Fire Marshall purely from a fire hazard standpoint or if that includes health or reactivity hazards. Mr. Schares asked Planner Campbell to display a materials safety data sheet for Microban X590 which he found listed on the Clean Indeed website. He said the primary hazard from this chemical is eye damage or skin irritation. He was concerned that children would come into contact with spilled chemicals, not know what they had gotten into, and then not be able to properly inform medical personnel.

Katherine Dinas, 3914 Arkansas Drive, Ames, IA, 50014 was sworn in and testified under oath. Ms. Dinas expressed concern about the property values in the neighborhood going down. She also said Mr. Obeid and his wife have been really good neighbors to her.

Ms. Schoeneman closed the public hearing.

Board Member Perkins asked staff if any signage is required for chemicals at the home. Mr. Campbell replied that there is nothing in the ordinance that states signage is required.

Ms. Schoeneman asked if the carpet cleaning business that came before the board in 2013 had any conditions for approval. Mr. Campbell didn't have information about the specific case in 2013. He did find conditions pertaining to chemicals from a case in 2000 that specified that all chemicals were to be stored in the business van, garage, or the home.

Ms. Schoeneman asked Mr. Obeid what the added structure is near his garage. He said he needed a charging station for his new Mercedes, so he built a small house-like structure to keep his car charger protected. Ms. Schoeneman asked him if the Mercedes goes to job sites. He said the Mercedes is his personal vehicle and never goes to the job site. He also stated that chemicals are stored in the garage or the van.

Moved by Schoeneman, seconded by Perkins, to adopt ORDER NO. 19-08, thereby approving the request for a Special Home Occupation Permit to allow carpet cleaning, water damage mitigation, and odor removal with a maximum of two non-family member employees at 4004 Arkansas Drive with the following conditions:

1. There shall be no on-site operation of cleaning equipment for customers
2. The service truck and van shall not be parked on the street for more than four hours and no more than one at a time
3. Loading and unloading of service vehicles may only take place in the driveway
4. Chemicals shall be secured in the garage or in work vehicles
5. The Special Home Occupation Permit shall be reviewed with a public hearing in one year's time

Discussion: Mr. Perkins stated that he felt the conditions address the primary complaints while still allowing business operation. Ms. Schoeneman stated that though the motion includes a one-year review of the permit, any complaints received would call the permit back to the Zoning Board for review.

Roll Call Vote: 2-1. Voting Aye: Perkins, Schoeneman. Voting Nay: Schappaugh. Motion failed for lack of a majority vote.

Moved by Schappaugh, seconded by Perkins, to table CASE NO. 19-08 to the next meeting of the Zoning Board of Adjustment, which will be on November 13, 2019.

Roll Call Vote: 3-0. Motion declared carried unanimously.

CASE NO. 19-10

EXCEPTION – AMES PHI KAPPA BUILDING COMPANY, 2110 LINCOLN WAY & 117 BEACH AVENUE

Public Hearing on application for an exception to allow reduction in the parking lot drive aisle width to be less than the minimum required 24-foot width, and the length of parking spaces to be less than the minimum required 19 feet, as proposed by the Applicant:

City Planner Ray Anderson introduced the request and reviewed the site plan, project description, applicable law, and Findings of Fact and Conclusions. Mr. Anderson stated that Phi Kappa Theta Fraternity is proposing removal and reconstruction of the existing deteriorated parking lot pavement on their property at 2110 Lincoln Way and 117 Beach Avenue. The existing parking lot is shared by occupants of the two buildings; the new parking lot will continue to be shared. A Plat of Survey to consolidate the parcel for the fraternity, and the parcel for the apartment building, into a single Parcel "N," was approved by the City Council on October 8, 2019. Once the Plat of Survey is filed with the Story County Recorder's Office, and a copy of the recorded Plat is received by the City Clerk's Office, there will be one parcel addressed as 2110 Lincoln Way.

Mr. Anderson said the applicant is requesting an exception to allow a length of 18 feet, instead of the required 19 feet, for 11 proposed parking spaces next to the west property line, in the rear yard behind the fraternity and apartment building. The second part of the request for an exception is for a reduction in the width of the drive aisle between the two buildings that varies in width from 16.1 feet to 21.6 feet. The minimum required drive aisle width is 24 feet. He said the property owner desires to construct the new parking lot in the same location as the parking lot that is being removed. The existing parking lot has a number of nonconformities, and there is not adequate space on the site to construct a new parking lot and bring all the nonconformities into compliance with the current zoning standards. The property owner is required to construct the minimum number of required parking spaces for the uses that exist on the property. Any increase in the nonconforming aspects of the existing parking lot is prohibited. It is generally the policy of the City to eliminate such other nonconformities as quickly as practical.

The applicant is addressing many of the nonconformities that exist with the current parking lot. Front yard parking along Beach Street is not permitted in the Residential High Density zoning district. The proposed site plan includes front yard parking, however, it has been setback 10 feet from the property line along Beach Avenue. The width of the front yard parking area has increased by 10 feet to accommodate parking spaces and a drive aisle that meets the minimum required dimensions. The number of parking spaces in the front yard has been decreased from 12 to nine in the proposed site plan. The proposed amount of land area paved for parking in the front yard is approximately the same as what currently exists. The nonconformity of the front yard parking in the proposed site plan will not be resolved, but the proposed site plan will not increase the nonconformity.

Landscaping is required for the new parking lot. The width of the landscape area along the perimeter of the parking lot next to the west and south property lines is only one to two feet wide, and does not meet the minimum required seven-foot wide planter area for trees, nor does it allow for any overhang for vehicles along the west property line. A high screen is also required when abutting a residential zone. The site plan does not include a high screen, so that portion of the parking lot landscaping will remain as nonconforming. The proposed site plan adds four additional trees along the perimeter of the front yard parking to meet the minimum requirements for the number of parking lot trees. Seven are required, and eight (four proposed and four existing) are shown on the Landscape Plan. Parking lot landscaping along the south and west perimeters will remain as nonconforming.

There are no handicap-accessible parking spaces in the existing parking lot. The proposed site plan includes two handicap-accessible spaces; one is van-accessible. This meets the minimum number required based upon the total number of spaces in the parking lot. This existing nonconformity will be eliminated by construction of the new parking lot.

In the existing parking lot, there is a trash dumpster that is not enclosed, therefore it does not meet screening standards. The proposed parking lot includes an enclosure for the dumpster in order to meet current zoning requirements. This existing nonconformity will be resolved with construction of the dumpster enclosure in the new parking lot.

Applicant John Washington, 26114 520th Avenue, Ames, IA, was sworn in and testified under oath. He pointed out the 16.1-foot dimension on the drive aisle, stating that it is in a transition

area from two-way to one-way. He also stated that the city of Des Moines' parking space depth is 18 feet deep.

Jay Hinkhouse, 5876 Arrasmith Trail, Ames, IA, was sworn in and testified under oath. He said he represents the corporation that owns the property next door. He said new City Code states that Phi Kappa Theta should have a seven-foot buffer between properties. He stated his concern about rain runoff affecting flooding in the area. He also questioned if the landscaping law is for all properties regardless of zoning. He said he knows there is a zoning ordinance for fraternities and sororities different from high density housing and he assumed the apartment complex would become fraternity housing since a lot line will be removed. He asked if there will be changes with parking. Planner Anderson stated that the number of parking spaces for the apartment building is based upon an apartment building not a fraternity. There are 15 spaces required for the apartment building and 11 spaces required for the fraternity. Apartment parking is based upon the amount of bedrooms, and fraternity parking is based on the number of beds. The total of the two is 26 so the minimum requirement has been met. Mr. Hinkhouse asked if the fraternity house will stay fraternity and apartment will stay apartment housing even though they're on the same lot. Mr. Anderson confirmed that both buildings will stay as they are.

Ms. Schoeneman asked if this project triggered the city's stormwater requirements. Mr. Anderson said that it didn't trigger the retention requirement and that he knows they're taking rain drainage into account. Ms. Schoeneman also inquired about the seven-foot buffer that Mr. Hinkhouse mentioned. Mr. Anderson stated that it varies depending on the use of the property, and this property is nonconforming.

Eric Van Gorp, Phi Kappa Theta, 2110 Lincoln Way, Ames, IA, was sworn in and testified under oath. He stated that the parking lot is 45 to 50 years old, and Phi Kappa Theta could do a one inch overlay which would not require any permits, but they are choosing to do things the right way. In regards to drainage, he feels that Phi Kappa Theta has become the victim over the last 15 years stating that everything on that block runs through their parking lot. With Fox Engineering and Manatt's, they are trying to work on the drainage to flow to the middle of the lot and then out onto Beach. They are putting curb and gutter along 117 Beach to try to help create a buffer to force the water to a desired location. He said the reason they are putting the two properties on one plat is because the city requested that the two lots be consolidated.

Mr. Schappaugh said Attachment D shows elevation lines that are different than Attachments B and C. He wondered if Attachment D shows the contours post-construction. Mr. Washington stated that the plans are to depress the middle of the parking lot, aiding in the drainage onto Beach which is reflected in Attachment D.

Moved by Perkins, seconded by Schappaugh, to adopt CASE NO 19-10, thereby approving the application for an exception to allow reduction in the parking lot drive aisle width to be less than the minimum required 24-foot width, and the length of parking spaces to be less than the minimum required 19 feet, as requested by the Applicant.

DISCUSSION: Ms. Schoeneman said she understood that there are nonconformities with this property and they are not being increased. She also said that the quality of the parking lot is being improved and the drainage will be about the same. She wanted to clarify that the zoning of the two buildings is based on the use of the two buildings and that the city is not creating a parcel that is split zoned. Mr. Anderson said one of the buildings was on the property line, and now both buildings will be on one parcel and there will be no split zoning.

Roll Call Vote: 3-0. Motion declared carried unanimously.

ADJOURNMENT: Moved by Perkins, seconded by Schoeneman, to adjourn the meeting at 6:56 p.m.

Jacque Higgins, Recording Secretary

Amelia Schoeneman, Chair