

**BOARD OF ADJUSTMENT
MINUTES**

December 2, 2009

The Urbandale Board of Adjustment met in regular session on Wednesday, December 2, 2009, at the Urbandale Administrative Offices Building, 3600 86th Street, with Chairperson Patrick Kirchner calling the meeting to order at 6:00 p.m.

Board members present were John Pittman, Patrick Kirchner, Mark Wandro, and Tom Muselman. Staff members present were Heather Mac Bean, Planner II, and Cheryl Vander Linden, Department Secretary.

There were no objections to the official publications as they appeared in the Urbandale/Johnston Register.

Mr. Kirchner said this is a 5-member board and the Code of Iowa requires 3 affirmative votes to grant any variance or conditional use, regardless of how many members are present or may have a conflict of interest and be unable to participate and vote on a particular appeal. A minimum of 3 members must be present to constitute a quorum and allow the meeting to be held. In such case a unanimous vote is necessary. A vote of 2 to 1 in favor, or 2 to 1 with one abstention, if 4 were present, as examples, would constitute a denial. Knowing that, anyone who wishes to have his or her item deferred until a future meeting may do so by requesting a deferral now or at any time prior to a motion being made. Once a motion has been made, it will no longer be possible to request deferral. If denied, a variance or conditional use cannot be resubmitted for the Board's consideration for a minimum of one year. We ask that each person addressing the Board this evening please speak from the podium at the front of the room so your voice will be picked up by the sound system, state your name and address for the record prior to making your presentation. Also please turn off your cell phones or, at a minimum, set them to silent or vibrate.

November 4, 2009 meeting minutes.

Mr. Muselman moved, and it was seconded by Wandro, to approve the November 4, 2009, meeting minutes. On roll call: Ayes: Muselman, Wandro, Pittman, Kirchner; Passes: none; Nays: none. Motion carried.

The next item on the agenda was the Satellite City Wall Sign Variance, 11101 Plum Drive, Case number 011-2009-01.23.

Mr. Kirchner said my understanding is that this request for a variance has been withdrawn.

Mr. Wandro moved, and it was seconded by Muselman, to approve the withdrawal of the Satellite City Wall Sign Variance. On roll call: Ayes: Wandro, Muselman, Pittman, Kirchner; Nays: none. Passes: none. Motion carried.

The next item on the agenda was the Rotary Club of Northwest Des Moines Temporary Sign Variance, 4000 86th Street, Case number 011-2009-01.25.

Mr. James Arthur, 5315 NW Burr Oak Drive, Johnston, said I'm a member of the Northwest Des Moines Rotary, a member of the board, and I'm here to request a variance from the Sign Ordinance pertaining to the placement of temporary signs. We meet just about every Friday from 11:30 a.m. to 1:00 p.m. at the Urbandale Golf and Country Club. We would like to place a temporary sign out during the course of those meetings in order to notify Rotarians from out of town of the location of our meeting. Our intent would be to comply with all the requirements of the Sign Ordinance in terms of size, weighting the sign, and so forth. But we require a variance, as I understand, because the frequency of placement would not be in line with the way the ordinance is written. He said we would probably place the sign there normally sometime around 11:00 a.m. or a little later, perhaps, and have it up until 2:00 p.m. on the Friday of each meeting day.

Mr. Kirchner asked do you have a picture or examples of what the sign would look like?

Mr. Arthur said I didn't bring one. It would say simply "Northwest Des Moines Rotary meets here today 11:30 a.m.".

Mr. Kirchner asked how many out of town visiting Rotarians do you typically have at your meetings?

Mr. Arthur said typically we'll have one, or two, maybe three, visitors, other Rotarians. Most of those are Rotarians from this metropolitan area but sometimes they're from out of state, occasionally they're even from outside the country.

There was no one present who wished to speak in opposition.

Ms. Mac Bean said the action required on this item is to approve or deny a variance from Section 4.3 F.(2) of the Sign Ordinance, to allow a temporary A-frame sign to be displayed more than the maximum of 40 days per year permitted by the Ordinance.

Mr. Jim Arthur, representing the Rotary Club of NW Des Moines, is requesting that a temporary A-frame sign be allowed to be placed in front of the Urbandale Golf and Country Club, located at 4000 86th Street, every Friday from 11:00 a.m. until 2:00 p.m. The sign will be used to announce the Rotary Club meetings that are held there during that time period. Other than the number of days it would be displayed, the proposed sign complies with all of the other requirements for a temporary ground sign.

Section 4.3 F.(2) of the Sign Ordinance states that a temporary sign shall not be displayed for more than ten (10) consecutive days for each event and shall comply with

all requirements of this Ordinance and the permit issued for such sign. Permits may be applied for consecutive ten-day event periods, provided that the maximum duration of all permits shall not exceed a total of forty (40) days in each calendar year. (A temporary Ordinance is in effect until December 31, 2009 allowing temporary sign displays for 25 consecutive days for each occurrence, and maximum total of 100 days per calendar year.)

The Country Club property has a total area of 77.8 acres and is zoned "A-2" Estate Residential District. The property has one access from 86th Street. The single-family residences located to the south and to the east of 86th Street are zoned "R-1S" Suburban Density Single Family District. Single family attached residences located to the north of the Country Club property are zoned "P.U.D." Planned Unit Development and are regulated by "The Meadow" P.U.D. There is a church to the northeast of the 86th Street and Aurora Avenue intersection that is also zoned "A-2".

The appellant notes that Rotarians visiting from other cities will not be aware of the location of the meeting without this signage. This property is normally used by the Golf and Country Club membership, with the exception of the Rotary meetings. The appellant also indicates that the variance is requested only for the frequency of 3 hours per week and care will be taken to observe all other requirements of the Sign Ordinance. The club meets weekly, so the four-time display of a temporary sign that is permitted under the Ordinance would not meet their needs.

Ms. Mac Bean said Staff analysis is as follows:

1. This property does not appear to be unique compared to other similarly zoned properties. However the Rotary Club meeting is unique, since the community service organization meets at the Country Club once a week for a short length of time, on a more or less permanent basis. Accordingly, the Rotary has a need for ongoing, but temporary identification of its location. Needs for identification customarily are met by either permanent identification signs, or the need is a short, seasonal duration that is addressed under the Ordinance's allowance for a temporary sign.
2. The Sign Ordinance includes provisions for permanent identification signs for nonresidential uses in the "A-2 zoning districts, and includes provisions for temporary signs for special events held by churches, charitable organizations, service organizations etal, and seasonal sales in a temporary location, but did not contemplate a long-term need for a temporary identification sign for identification such as this. Therefore, it appears that the Ordinance may have created a hardship.
3. The Ordinance intent is to allow temporary signs to advertise special events or sales, and accordingly limits the display of temporary signs to not more than 4 events annually, for 10 days each, and a total of 40 calendar days; or for seasonal

sales limited to a season of the year (such as garden produce or Christmas tree sales). The Rotary sign will only be displayed for 3 hours once a week or approximately 19 days total during the calendar year, less than what is permitted for other uses, more frequently than allowed by the Ordinance given the weekly meetings and exceeding the total days when each day of display is counted, but for far less total display time than allowed when the actual hours of display are counted. Therefore, it appears that the Rotary's temporary sign conforms to the spirit and intent of the Ordinance and will not alter the essential character of the neighborhood and the spirit and intent of the Ordinance will be preserved.

4. There does not appear to be a reasonable alternative to the variance. The Rotary is not allowed to have any permanent signage on the Country Club property, and simply directing new or out-of-town Rotarians to the Club is not an effective alternative since the Club itself has limited sign identification by choice given its nature (membership use). Accordingly, the variance to allow a temporary A-frame sign appears to be the best and only alternative for providing necessary location identification for the Rotarians.

Therefore, the Board could find that the property is not unique; no hardship exists; the proposed variance could be detrimental to health, safety and welfare; that the spirit and intent of the Ordinance has not been satisfied; that a reasonable alternative exists; and that the requested variance should be denied. Or, the Board could find that subject property is unique; hardship has been created by the Ordinance; the proposed variance does not create a negative impact upon the character of the neighborhood, and the spirit and intent of the Ordinance have been satisfied; health, safety, and welfare have been preserved; no reasonable alternative to the variance exists; and that the requested variance be approved.

Ms. Mac Bean said Staff recommends approval of a variance from Section 4.3 F. (2) of the Sign Ordinance to allow a temporary A-frame sign to be displayed more than the maximum of 40 days per year permitted by the Ordinance, subject to the sign being displayed only between the hours of 11:00 a.m. to 2:00 p.m. of each day that a meeting of the full membership is being held.

Mr. Kirchner asked is staff's recommendation based upon its belief that the requisite showing of unnecessary hardship has been met?

Ms. Mac Bean said yes.

Mr. Kirchner asked if Mr. Arthur had anything further to add?

Mr. Arthur said no.

Mr. Pittman said I am a member of the Northwest Des Moines Rotary Club, so I will

abstain from voting, for conflict reasons.

Mr. Wandro moved, and it was seconded by Muselman, to approve the Rotary Club of Northwest Des Moines Temporary Sign Variance, case number 011-2009-01.25, based upon the fact that it appears that the sign conforms to the spirit and intent of the ordinance and will not alter the essential character of the neighborhood, and the spirit and intent of the ordinance will be preserved, and predicated on the fact that the conditions listed in the staff recommendation of 40 days and the hours of from 11:00 a.m. to 2:00 p.m. On roll call: Ayes: Wandro, Muselman, Kirchner; Passes: Pittman; Nays: none. Motion carried.

Mr. Wandro said there was an article in the newspaper about this type of temporary signage in Urbandale, those sandwich boards.

Ms. Mac Bean said yes it was. And that's basically what they look like, if you saw the pictures in that article, that's what they all look like. It's just the timeframe on this sign.

Mr. Wandro asked do you see the Ordinance changing?

Ms. Mac Bean said we have not had anything submitted, as far as I know, from the Chamber. Because, for 2009, there was an Ordinance extending the time frame for the signs and that will end and revert to the total of 40 days as of December 31. We're just waiting to see if the Chamber brings something forward asking for the change to be made permanent.

Mr. Muselman said the Buccaneers and the Menace signs that you see where they've put them on the corners, maybe they have permission from the property owners, I don't know.

Ms. Mac Bean said those end up going on Fridays or Saturdays, when the office is not open. Temporary signs like those are not legal and they get picked up sometimes but not always. People are slowly getting the message about the bandit signs, and actually we've become more diligent with our enforcement because of the temporary signs that are now allowed.

Mr. Muselman said I was just curious.

Mr. Wandro asked how about on the Hy-Vee corner when a person is out there with a sandwich board on them?

Ms. Mac Bean said unfortunately we can't do anything about that, because they're a person holding a sign. The only thing we can do is tell them they may want to stand back from the curb or they could get hit by a car.

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Regarding Staff reports, Ms. Mac Bean said I put at your places the 2010 meeting schedule so you can have that and know what next year's schedule is. We may have a meeting next month, there is one potential case out there for a directory sign, but we'll see. The agenda doesn't close until a week from Friday. Also, keep in mind that the election of chair and vice-chair will happen at the end of the next meeting, whether it's January or February. So that will be on the next agenda. Other than that, I don't have anything.

Mr. Wandro said happy holidays to all of you!!

The meeting adjourned at 6:15 p.m.