

**MINUTES
ZONING BOARD OF ADJUSTMENT
OCTOBER 2, 2012
5:30 P.M.
CITY HALL COUNCIL CHAMBERS**

Present: Allen Harvey, Jim Edgmond, Larry Wolf, and Rochelle Conway.

Excused: Jane Reischauer.

Staff Present: Andrew Fangman, City Planner.

Others Present: Clyde Evans, Laura Evans, and Duane Goedken.

Acting Chairperson Harvey called the meeting to order at 5:30 p.m. He informed the appellants that there were only four members present and they could choose to table their case until October when more members may be present. A request to table should be made prior to Board deliberation of that particular request.

Minutes: Allen Harvey pointed out the minutes from September 11, 2012, did not indicated the Board voted to approve Conditional Use Case No. 220. Jim Edgmond motioned to approve the minutes from the September 11, 2012, meeting, subject to their revision to show approval of this conditional use case; seconded by Larry Wolf. All ayes, motion carried.

Appeal Case No. 897 filed by Laura Evans, 2800 Cedar Street, request to exceed to the 1,440 square foot limit for accessory building in the R-1 Zoning District.

Clyde Evans representing Laura Evans presented and explained a display of pictures of the subject parcel and the garage in question. Upon being asked he indicated that he wished for the appeal to be heard despite there only being four member of the Zoning Board of Adjustment present.

He then explained the timeline of how this appeal came to be. In July of 2012 a building permit was issued for the construction of a 1,428 square foot storage building for the parcel located at 2800 Cedar Street. Laura Evans is the owner of this parcel, however it was explained the intent was for Clyde Evans, her father a resident of a nearby parcel, to use the storage building for storage of a motor home. The application for this permit omitted mention of an existing square foot garage located on the subject parcel. Section 10-19-1(B)(2) allows a maximum of 1,440 square feet of accessory buildings, inclusive of any attached garages for a parcels located in the R-1, R-2, or R-3 zoning district. The subject parcel is located in the R-3 district. Combined the square footage of the existing attached garage and the under construction storage building totals 1,668 square feet, exceeding what is allowed under Section 10-19-1(B)(2). On August 16th this fact was brought to the attention of the City of Muscatine and construction on the partially completed storage building was halted. Mr. Evans indicated that the roof remains incomplete leaving some trusses exposed and door installed. Mr. Evans went on the explain that on September 11, 2012, he on behalf of Laura Evans submitted an

appeal to the Zoning Board of Adjustment to allow for the limit on storage building square footage to be exceeded and construction of the storage building to be completed.

Allen Harvey asked which side of the subject parcel the storage building was located on. Mr. Evans answered that it was located on the east side of the subject parcel.

Allen Harvey asked if Mr. Evans had spoken to the surrounding property owners prior to beginning construction on the storage building. Mr. Evans said that he had spoken to all the surrounding property owners this summer and that at that time none objected to construction of the storage building in question. He then went on to give a lengthy account of the discussion he had with Charles Edwards, 2118 W. Bay Drive, the property owner adjoining the subject parcel to the east, regarding the trimming a line of crab apples trees located on Mr. Edwards property, but which hang over the property line.

Mr. Evans detailed the significant amount of money that he had already invested in the storage building in question, and the significant cost to modifying the partially built storage building to not exceed the 1,440 square foot limit.

Duane Goedken, 319 E. 2nd Street, an attorney representing Charles and Linda Edwards adjoining property owners at 2118 W. Bay Drive, then outlined his clients concerns regarding this appeals, he also submitted a letter outlining the same. He also stated that ill health prevented his clients from personally attending the meeting.

His clients do not object to the construction of the storage building itself, but are deeply concerned about the effect that the over 5,000 square foot driveway, which by City Code must be paved, would have on storm water runoff on to their property. He explained that the subject parcel and a significant area located further to the west drains across his property. Mr. Goedken then detailed past flood events where storm water running from the subject parcel on to his property caused his clients house to flood. He then explained how the in 1981 the City installed a storm sewer that drained water from a low spot on his property into a City storm Sewer that eventually drained into Papoose Creek. He also indicated that the Edwards contributed \$10,000 towards this City of Muscatine project. Mr. Goedken went on to explain that this storm sewer was not entirely successful and that in the mid 1980's that the Edwards house once again flooded after a heavy storm, and that after this they installed, at their own expense, a three foot high berm to protect their home, which has not flooded since. Mr. Goedken explained that his clients were gravely concerned that the installation of such a large impervious surface, in the form of a paved driveway of over 5,000 square feet, would increasing storm water runoff coming on to their property to such a level that it would overwhelm the protective measure that they have put in place and once again cause their home to flood during heavy storms. Mr. Goedken stated that his clients were requesting that this case be continued so that they could work towards a mutually agreeable resolution with the Evans.

Mr. Evans said that he had contacted a civil engineer to do an analysis on what the impact of the construction of the storage building and paved driveway would have on storm water runoff flowing from the subject parcel to the Edwards property. He submitted and signed and sealed letter from L. Lynn Pruitt, P.E., Civil Engineering Seal No. 6143, dated September 28, 2012, which stated if 4,000 square feet of impervious surface were constructed that in a 24-hour 100-year frequency storm, 6 inches of rain per hour, the flow of water across the property line would increase by 1.6% a rise 1/6 of an inch.

Jim Edmond said that this analysis made a lot of sense to him because over acres worth of storm water drainage was flowing across the property line in question, that paving 5,000 square feet at this location would have a negligible effect.

Mr. Evans was asked if tabling the appeal for at least a month would be a hardship. He indicated that he felt it would as the storage building had been setting incomplete and exposed to the elements since August.

Member of the Board then discussed various conditions that might be attached a potential approval of the appeal. The timeline for how the building permit for the storage building was issued in July, in error, was reviewed.

Rochelle Conway then question why the issue of storm water drainage was even being discussed since the appeal was solely to exceed the maximum square foot limit for storage buildings. She then made a motion to approve the appeal. Larry Wolf seconded this motion. The motion carried 4-0. The Board then recommended Mr. Edwards to continue to work with the Edwards regarding their concerns in the interest of being a good neighbor.

Election of Officers: The Board members present decided to delay the election of officers until the next meeting when all members of the Board may be present.

Adjourned.

Respectfully Submitted,

Steve Boka, Secretary
Director of Community Development

ATTEST:

Allen Harvey
Acting Chairperson