

CITY OF DECORAH  
BOARD OF ADJUSTMENT  
Minutes of September 16, 2020

This meeting was an electronic meeting pursuant to Iowa Code section 21.8 – In circumstances where such a meeting is impossible or impractical due to concerns about COVID-19 and social distancing for the safety of commission members and the public.

In support of Iowa Governor Kim Reynolds' proclamation declaring a State of Public Health Disaster Emergency in Iowa, the current COVID-19 situation makes it "impossible and impractical" to meet in one location. The Decorah City Hall was open. However, seating was limited to ensure proper social distancing. Seating was available on a first-come, first served basis for the September 16, 2020 Board of Adjustment meeting. However, the meeting was available telephonically. The public was able to hear and participate in the Board meeting.

Sue Sander called the meeting to order at 5:15 p.m. and the following answered roll: Carol Hagen, Janelle Pavlovec, Kraig Tweed, and John Jenkins.

Also, in attendance: City Attorney John Anderson and City Engineer Jeremy Bril.

0:04.18

Approval of Minutes of the August 5, 2020 and September 2, 2020 meeting  
**Tweed moved and Jenkins seconded a motion to approve the minutes of August 5, 2020.**  
**The meeting minutes of the September 2, 2020 meeting were not completed for the Board's review.**  
**Roll call vote: Ayes: Tweed, Jenkins, Pavlovec, Hagen, and Sander.**  
**Motion was approved.**

0:04.40

Maureen Larson for 412 Winnebago Street requesting permission to construct a new detached garage contrary to the R-3 Zoning District regulations (17.16.030)

Ms. Larson reviewed the project. She stated she is adding a single car garage to her property as there is currently no such structure. She stated accessory structures are required to be 5' from the property line. In reviewing the plans, she noted the structure is proposed to be set back from the front of the principle structure but 2-feet from the North property line. She identified a need to have a covered structure for her vehicle.

Sander asked if there were any comments from the public; Bird stated there were no comments from the public.

There were no further comments and she closed the public hearing.

In board discussion; Hagen asked about the finished material and what the garage would look like. Larson stated she had hired a company to side the garage with a composite siding and also re-side the principle structure to match.

Jenkins questioned the dimension of 17 feet 6 inches on the plan, towards the rear of the lot and asked if that was to the rear lot line. In discussion, it was determined that dimension is to an existing fence in the rear-yard.

There were no additional public comments.

The Board had no further questions or comments.

**Tweed moved and Hagen seconded a motion to approve the variance for the side-yard setback to two-feet on the North property line for the construction of an accessory structure.**

**Roll call vote: Unanimously approved.**

0:13.42

**Continued from September 2, 2020** - Appeal from the Zoning Administrator's interpretation or administration of this title for property located at 105 St. Lawrence Street requesting permission to construction a Multi-Family Residential Unit in the R-3 Zoning District (17.76.040 and 17.52)

The board continued its discussion of the Lee Hackman, et, all appeal regarding the proposed site plan for a multi-family structure at 105 St. Lawrence Street.

Bird noted this appeal has been continued from the September 2, 2020 board meeting and both meetings had been property noticed and published as required by law.

Anderson raised the question as to whether it is appropriate for board member Tweed to participate in discussions, deliberations, and / or voting on items before the board since Tweed was not in attendance during the September 2, 2020 meeting.

The appellant, represented by Mr. Karl Knudson argued Tweed should be allowed to participate and vote as he had access to the records and recordings of the September 2, 2020 meeting.

0:15.51

Anderson stated that if all parties agreed to Tweed's participation there were no bright line rules that may bar his participation.

Knudson noted the appeal is decided on the materials and the record. He believed it is possible for Mr. Tweed to participate in the hearing.

Bird agreed and didn't see any issues for the City.

Tweed noted he would participate in the discussion, questioning, and deliberations.

There were no objections by board members.

Anderson and Bird introduced a findings report from the appellant, filed by Mr. Knudson that introduced the assertion by the appellant that Statewide Urban Design and Specification (SUDAS) standards should be applied to this site plan and he presented a brief with 44 additional points of findings and information Knudson desire the board to consider.

Sander and Jenkins requested the board confine the discussion and review of information to the original matters of law the appellant presented to the Board at and before the September 2, 2020 hearing and as part of their original appeal filing.

In discussion;

0:25.58

Knudson argued that SUDAS is applicable because a portion of the parking lot driveway is in the public right-of-way and therefore a public improvement. Knudson also pointed out that since Bird mentioned SUDAS during the September 2, 2020 hearing, it has relevance to the appeal and site plan.

Anderson read a portion of the SUDAS code referencing the definition of *public improvement*.

He pointed out the definition did not appear to point to a finding that the drive to the parking lot fit the definition of public improvement.

Bird noted he had mentioned SUDAS in the September 2 hearing as a point of reference and comparison but had made it clear SUDAS had not been referenced or used in review of the July 13, 2020 site plan, the subject of this hearing and appeal so he did not believe SUDAS had standing in this hearing on September 16.

Knudson argued it is relevant due to the driveway.

Hagen and Anderson discussed that a vote on the matter is relevant because the finding of whether SUDAS applies or not has an impact on other matters in this appeal.

0:41.48

**Hagen moved and Sander seconded a motion the Statewide Urban Design and Specifications standards do not apply to this site plan review, the appeal, or these deliberations.**

**Jenkins noted the key word for him in SUDAS is “may” be required.**

**Roll call vote:**

**Ayes; Hagen, Sander, Jenkins, Pavlovec, and Tweed.**

**The board voted 5-0 that SUDAS does not apply to these proceedings.**

**Unanimously approved.**

Sander suggested the board review the required findings of fact and vote on them individually and then proceed to the required findings of law and vote on them individually.

Bird reviewed the application for appeal from the Zoning Administrator’s interpretation of City zoning code. He noted the appeal has been brought forward by Attorney Karl Knudson on behalf of Lee Hackman, et. al. as an appeal of approval of the July 13, 2020 site plan of 105 St. Lawrence Street by Quandahl Properties.

He noted the board had made initial findings of fact and received a general consensus, without vote on the findings and begun a general review of the findings of law in detail, with no voting on their conclusions during the September 2, 2020 hearing.

The Appellants request the BOA to make the following findings of fact:

*We are appealing the zoning administrator's interpretation of the zoning ordinance, and his administrative action in issuing a checklist and giving oral advice to the City Council approving a July 13, 2020 site plan submitted by Quandahl Investment Properties LLC ("Quandahl") for development of an 8-plex at 105 St. Lawrence Street.*

*We are also appealing the 5-2 vote taken by the Decorah City Council on July 20, 2020 to approve the site plan, as the decision was inconsistent with the facts and the zoning ordinance.*

*We also seek a correct interpretation of certain portions of the zoning code which we believe were misinterpreted by the zoning administrator, the P&Z Commission, and the City Council.*

*The relief we seek is a reversal of the City Council approval of the July 13, 2020 site plan.*

*And a correct interpretation of certain points in the City Zoning Ordinance, as discussed in more detail beginning (below).*

0:47.06

Sander proceeded to review each point made in the petition and ask the board to vote on the facts and findings of law as separate and individual acts.

1. The July 13, 2020 site plan shows two of the 16 required spaces, numbered #15, and #16, to be on a driveway in the front yard on the north side of the house.

On September 2, 2020, the board agreed to this as a matter of factual finding. Jenkins stated he did not see anything unique about these spaces and believed them to be applicable parking.

Hagen agreed with Jenkins' statement and reasserted the opinion the owner or developer needs to properly administer and manage use of these spaces for proper usage.

There were no other board member comments.

**Jenkins moved and Sander seconded a motion to find there are two parking spaces on a driveway on the North side of two garages as part of the structure.**

**Roll call vote:**

**Ayes; Jenkins, Sander, Hagen, Pavlovec, and Tweed.**

**The board voted 5-0 to find there are two parking spaces on the North side of the structure.**

**Unanimously approved.**

0:57.45

2. The July 13, 2020 site plan shows that parking spaces #15, #16, and #10 directly block garage parking spaces #13, #14, and #11.

On September 2, 2020, the board argued the term "directly" as it applied to these specific parking spaces and noted the spaces defined were "partially" blocked.

In further conversation on September 16, Sander noted spaces #15 and #16 do not block spaces #13 and #14. She further argued the board should only consider #10 and #11 as the others have been addressed. Hagen again argued administration and management of the use of the spaces is critical to their viability.

**Hagen moved and Tweed seconded a motion to find point #2 is factual and a resolution may be found in the findings of law in regard to this statement.**

**Roll call vote:**

**Ayes; Hagen, Tweed, Jenkins, Sander, and Pavlovec.**

**The board voted 5-0 to find point #2 is factual and a resolution may be found in the findings of law in regard to this statement.**

**Unanimously approved.**

1:02.20

3. The July 13, 2020 site plan shows that the 20-foot by 9-foot parking space #10 is too close to the nearby rounded curb to allow a 10-foot access to parking space #12. The measurement of the gap between parking space #10 and the rounded curb is not shown in the site plan, but is clearly less than 10 feet, depriving parking space #12 of a 10-foot-wide access lane which can be used without invading parking space #10.

On September 2, 2020, the board argued the term “too close” was argumentative and subjective. The board agreed the measurement is not provided but undetermined from the site plan as to actual measurement.

On September 16, City Attorney Anderson cautioned the board that this paragraph is loaded with many arguments and is not clearly worded.

Jenkins questioned the measurements in the Mohn plans submitted by the appellant.

Hagen noted it is subjective to say the space is “too close” without knowing the measurement.

Jenkins led the board through a table top review of the site plan and suggested the board consider the distance discussed in item #3 is 8.88 feet from the rounded curb which is clearly less than ten feet.

1:10.42

**Jenkins moved and Tweed seconded a motion to find the space to the rounded curb from the parking space #10 to be 8.88 feet.**

**Roll call vote:**

**Ayes; Jenkins, Tweed, Hagen, Sander, and Pavlovec.**

**The board voted 5-0 to find the space to the rounded curb from the parking space #10 to be 8.88 feet.**

**Unanimously approved.**

1:11.15

4. The July 13, 2020 site plan shows a 90-degree parking space #7 which lacks a 24-foot aisle width which can be used without invading the 5-foot setback at the perimeter of the parking lot.

On September 2, 2020, the board agreed this is factual but argued whether it is relevant or not.

On September 16, the board found the 24-foot aisle width should be measured from the center of parking space #7.

**Hagen moved and Tweed seconded a motion to find the 24-foot aisle width should be measured from the center spacing of parking space #7 without invading the five-foot parking lot setback.**

**Roll call vote:**

**Ayes; Hagen, Tweed, Jenkins, Sander, and Pavlovec.**

**The board voted 5-0 to find the 24-foot aisle width should be measured from the center spacing of parking space #7.**

**Unanimously approved.**

1:19.52

5. The July 13, 2020 site plan shows the driveway on the north to be a total of 30 feet in length between the street right-of-way and the garage.

On September 2, 2020, the board agreed this is factual.

On September 16, there was no additional discussion on this item.

**Tweed moved and Jenkins seconded a motion to find the driveway on the north to be a total of 30 feet in length between the street right-of-way and the garage.**

**Roll call vote:**

**Ayes; Tweed, Jenkins, Sander, Pavlovec, and Hagen.**

**The board voted 5-0 to find the driveway on the north to be a total of 30 feet in length between the street right-of-way and the garage.**

**Unanimously approved.**

1:20.35

6. The July 13, 2020 site plan does not show any landscape plantings.

On September 2, 2020, the board disagreed with this as factual.

On September 16, there was no additional discussion on this item and the board disagreed with this as a factual statement noting the site plan does show landscaping and grass area.

**Sander moved and Tweed seconded a motion to find the site plan does show the landscaping and grassy area plantings.**

**Roll call vote:**

**Ayes; Sander, Tweed, Jenkins, Pavlovec, and Hagen.**

**The board voted 5-0 to find the site plan does show the landscaping and grassy areas.**

**Unanimously approved.**

1:23.07

7. The plat of the property shows that the east, north, and west property lines do not meet at a 90-degree angle with each other, and that the lot narrows from north to south. The plat of survey of the streets shows that St. Lawrence Street has a bearing of N 88 degrees, 28 minutes, 24 seconds, and Baker Ave has a bearing of S 00 degrees, 48 minutes and 28 seconds. The effect of this anomaly shows up in the Erdman survey of the June 6, 2020 site plan. In that site plan, a rectangular building was designed to be set back exactly 20 feet from the west property line, but the distance from the SE corner of the building to Baker Ave. is shown to be one foot shorter than the distance from the NE corner of the building to Baker Ave.

The sketched site plan, which was not professionally drawn and signed, assumes a lot with parallel east and west boundaries, and fails to show how the narrowing of the lot would affect the site plan, especially the impact on the side yard with Baker and the impact on the fit of the parking lot on the south of the building.

Knudson noted he had submitted an amendment to this paragraph on September 1, 2020. The amendment is shown again here.

*Please substitute the following amended paragraph #7, at page 3 of the appeal:*

*The plat of the property shows that the east, north, and west property lines do not meet at a 90-degree angle with each other, and that the lot narrows from north to south. The plat of survey of the streets shows that St. Lawrence Street has a bearing of N 88 degrees, 28 minutes, 24 seconds, and Baker Ave has a bearing of S 00 degrees, 48 minutes and 28 seconds. The effect of this anomaly shows up in Mohn Exhibits #1 and #2 which show the July 13, 2020 site plan drawn by a certified engineer onto the plat of Lot C. In that drawing, the rectangular building is shown drawn in with a side yard of exactly 10 feet on the west. The north side yard is drawn perpendicular to the west yard, and is 25 feet wide on the west end, but 25.34 feet wide on the east end. The East side yard is 19.30 feet wide on the north end, but tapers to 18.85 feet wide at the SE corner of the building. Quandahl's sketched July 13, 2020 site plan, which was not professionally drawn and signed, assumes a lot with parallel east and west boundaries, and fails to show how the narrowing of the lot would affect the site plan, especially the impact on the fit of the parking on the south of the building and the access to the south parking garage. Professionally drawn, the site plan reveals that parking space #7 lacks a full 24-foot aisle; and that the south garage parking lacks a 10-foot wide drive access.*

Knudson noted this as relevant because it changes the parking lot dimension to the West.

On September 2, 2020, the board agreed with this information as factual.

On September 16, there was additional discussion on this item and the board disagreed with the amendment to Mohn Surveying plat versus the original Erdman Engineering plat.

Jenkins believed some of the statement to be factual and Sander wondered if the section should be considered as relevant at all since the site plan and building still show conformance to the setback requirements.

1:23.07

Jenkins moved and Tweed seconded a motion to find the plat of the property shows that the east, north, and west property lines do not meet at a 90-degree angle with each other, and that the lot narrows from north to south. The plat of survey of the streets shows that St. Lawrence Street has a bearing of N 88 degrees, 28 minutes, 24 seconds, and Baker Ave has a bearing of S 00 degrees, 48 minutes and 28 seconds. The effect of this anomaly shows up in Mohn Exhibits #1 and #2 which show the July 13, 2020 site plan drawn by a certified engineer onto the plat of Lot C. In that drawing, the rectangular building is shown drawn in with a side yard of exactly 10 feet on the west. The north side yard is drawn perpendicular to the west yard, and is 25 feet wide on the west end, but 25.34 feet wide on the east end. The East side yard is 19.30 feet wide on the north end, but tapers to 18.85 feet wide at the SE corner of the building and that the south garage parking #12 has an 8.88 wide access drive.

**Roll call vote:**

**Ayes; Jenkins, Tweed, Sander, and Hagen.**

**Pavlovec abstained as she did not understand or follow the logic and discussion. Sander questioned whether this is relevant as the project meets the setbacks regardless.**

**The board voted 4-0 to find the plat of the property shows that the east, north, and west property lines do not meet at a 90-degree angle with each other, and that the lot narrows from north to south. The plat of survey of the streets shows that St. Lawrence Street has a bearing of N 88 degrees, 28 minutes, 24 seconds, and Baker Ave has a bearing of S 00 degrees, 48 minutes and 28 seconds. The effect of this anomaly shows up in Mohn Exhibits #1 and #2 which show the July 13, 2020 site plan drawn by a certified engineer onto the plat of Lot C. In that drawing, the rectangular building is shown drawn in with a side yard of exactly 10 feet on the west. The north side yard is drawn perpendicular to the west yard, and is 25 feet wide on the west end, but 25.34 feet wide on the east end. The East side yard is 19.30 feet wide on the north end, but tapers to 18.85 feet wide at the SE corner of the building and that the south garage parking #12 has an 8.88 wide access drive.**

**Finding approved.**

1:33.53

8. The procedural prerequisites for the site plan had not been completed at the time the site plan was presented to the Planning and Zoning Commission (P & Z) and the City Council. The site plan presented lacked complete information. The P & Z and the Council were not presented with a letter from the City Engineer.

On September 2, 2020, the board disagreed with this as factual.

On September 16, Anderson stated this is a complex and confusing question with several compound sentences and noted there may be a mix of fact and findings of law in this paragraph.

Jenkins noted the P&Z Commission and City Council did receive a copy of the City's Engineer's statement. He asked for a copy of the checklist and Engineer's letter.

Knudson drew attention to his instruction booklet and paragraph #37 for the board's consideration.

1:48.30

At 7:00pm, the board took a five-minute break.

1:58.33

**Jenkins moved and Hagen seconded a motion to find the site plan application contained complete information and was timely filed.**

**Roll call vote:**

**Ayes; Jenkins, Hagen, Tweed, Sander, and Pavlovec.**

**The board voted 5-0 to find the site plan application contained complete information and was timely filed.**

**Unanimously approved.**

There was additional discussion regarding factual findings on items #3 and #7 and the board wished to revisit those for further discussion.

Because of discussion regarding the wheel barrier setback and the board believing such a setback is not required, the board wished to modified the measurements around the wheel barrier.

For item #3:

**Jenkins moved and Tweed seconded a motion to revise the measurement of the space to the rounded curb from the parking space #10 to be 10.48 feet.**

**Roll call vote:**

**Ayes; Jenkins, Tweed, Sander, and Pavlovec.**

**Nays; Hagen**

**The board voted 4-1 to find a revision in the measurement of the space to the rounded curb from the parking space #10 to be 10.48 feet.**

**Revised finding approved.**

For item #7:

**Jenkins moved and Tweed seconded a motion to revise the finding for item #7 the distance from the SE corner of the building and the South garage parking space #12 has a 10.48 wide access drive.**

**Roll call vote:**

**Ayes; Jenkins, Tweed, Sander, and Hagen.**

**Pavlovec again abstained as she did not understand or follow the logic and discussion.**

**The board voted 4-0 to revise the finding for item #7 the distance from the SE corner of the building and the South garage parking space #12 has a 10.48 wide access drive.**

**Revised finding approved.**

Sander suggested the board next review the appellant's request for findings of law and vote on them individually.

Bird again reviewed the application for appeal from the Zoning Administrator's interpretation of City zoning code.

He noted the board had made a very preliminary review of the findings of law and received a general consensus, without a vote on the findings and with no voting on their conclusions during the September 2, 2020 hearing.

The Appellants request the BOA to make the following findings of law:

1. An eight-plex site plan must show proper 16 off-street parking spaces. Decorah Ordinance Section 17.52.020- Off-street parking area required.

On September 2, 2020, as a matter of law, Hagen agreed this is the application of law. Jenkins agreed with the interpretation.

Pavlovec noted this type of parking may lead to more on-street parking. Hagen noted the reservation and use of specific spaces needs to be clarified in the tenant leases.

2:02.56

On September 16, in general discussion;

**Tweed moved and Sander seconded a motion to find, as a matter of law, the site plan application and plat of survey submitted by Quandahl Investment Properties for July 13, 2020 shows 16 parking spaces according to city code section 17.52.020 subsection A 9.**

**Roll call vote:**

**Ayes; Tweed, Sander, Jenkins, Hagen, and Pavlovec.**

**The board voted 5-0 to find, as a matter of law, the site plan application and plat of survey submitted by Quandahl Investment Properties for July 13, 2020 shows 16 parking spaces according to city code section 17.52.020 subsection A 9.**

**Unanimously approved.**

2:06.23

2. Each such parking space must comply with the definition of Ordinance 17.08.510- Parking space (off-street.). Sec. 17.08.510 requires each such space to be "a permanently surfaced area of not less than one hundred eighty square feet plus necessary maneuvering space for the parking of a motor vehicle." Furthermore, 17.08.510 specifically references "Attachment E" as a parking illustration further explaining the definition of "Parking Space (off-street.)" Section 17.08.510 pertains to all off-street parking required in the Decorah Zoning Ordinance, including residential parking, and so does Attachment E to Section 17.08.510.

On September 2, 2020, as a matter of law; Hagen noted concern about the practicality of #10 blocking #11 and expressed greater concern with #13 blocking #15. There were no other concerns noted by the board.

On September 16, in general discussion; Jenkins noted he believed there must be 24 feet aisle widths.

Hagen noted in the findings of fact the board agreed the 24 feet is measured from the center of a parking space and she believes that just gets by, as a minimum standard.

Sander said the spaces comply when the spaces are measured from the center of the spaces.

Knudson argued the standard should be measure from any point on the parking space. He also noted, as a matter of law, the two-foot setback should be required.

**Sander moved and Tweed seconded a motion to find, as a matter of law, the parking spaces in this site plan comply when spaces are measured from the center of the space.**

**Hagen asked if this is an "if and when" statement and Sander noted yes, when measured, they would be measured from the center of the space.**

**Roll call vote:**

**Ayes; Sander, Tweed, Pavlovec, and Jenkins.**

**Nays; Hagen**

**The board voted 4-1 to find, as a matter of law, the parking spaces in this site plan comply when spaces are measured from the center of the space.**

**Finding approved.**

2:30.50

3. Attachment E illustrates and sets out further parking requirements, and includes a table which requires that parking spaces set at a 90-degree angle must be at least 9 feet wide ("curb length") and 20 feet long from "Stall toCurb." The illustration of Attachment E also shows that the curb is to be set back at least 2 feet from the edge of a parking lot to allow for vehicular overhang. Therefore, the total space required for an off-street parking space plus its two-foot setback must be 22-foot-long by nine feet wide.

On September 2, 2020, as a matter of law; there was general confusion as to the findings of fact and the findings of law and it was noted the original appeal brief had been mislabeled and should have read "findings of law".

However, during that conversation and as a matter of law; Sander commented access to the lot is in compliance, noting once one enters the lot off Baker Street, they are now in the parking lot. She noted the code does not say 10' within the lot, just for access to the lot. Hagen expressed there should be a common-sense approach to interpretation and access to the lot itself is one issue and access to spaces is another. Access to each space should be maintained.

On September 16, in general discussion; Sander stated the site plan is compliant with the 9 x 20 parking space dimensions.

**Sander moved and Tweed seconded a motion to find, as a matter of law, the site plan is in compliance with regard to the 9 x 20 parking space dimensions.**

**Roll call vote:**

**Ayes; Sander, Tweed, Pavlovec, Jenkins, and Hagen.**

**The board voted 5-0 to find, as a matter of law, the site plan is in compliance with regard to the 9 x 20 parking space dimensions.**

**Unanimously approved.**

2:37.10

4. Attachment E also requires, for 90-degree angle parking, an "Aisle Width" of 24.0 feet. The illustration of Attachment E makes it clear that the "Aisle Width, in the case of 90-degree parking refers to an unobstructed 24-foot by 9-foot rectangular area immediately behind such a parking space which will enable a vehicle to safely back out of the parking space and then make the necessary turn to exit the lot. The aisle width illustrated in Attachment E is the 13-foot aisle width required for 45-degree angle parking and is shown with a large letter "B" to match that designation in the table to Attachment E:

On September 2, 2020, as a matter of law; Hagen expressed concern with the 24' aisle access width behind space #7 but questioned where along the 9' width of the space is the 24' distance to be measured, from the left line, middle of space, or right line?

Sander questioned whether the measurement is justified across the entire parking lot, noting code does not provide clarity or guidance.

There was general discussion about the location to measure the space from and vehicle maneuverability.

On September 16, in general discussion; the board agreed this item is similar in nature to findings of law item #2 and did not issue a separate ruling.

2:38.27

5. A 90-degree parking area is also illustrated in Attachment E, which can be seen to have the 24-foot aisle width required for such parking, by comparison of the width of the aisle with the length of the 20-foot parking stall:

On September 2, 2020, as a matter of law; there was no specific additional discussion.

On September 16, in general discussion; the board agreed this item is similar in nature to findings of law item #2 and item #4 and did not issue a separate ruling.

2:38.53

6. All parking spaces must be accessible by an "access drive not less than ten feet in width." Sec. 17.52.020- "Off-street parking area required." At paragraph C.

On September 2, 2020, as a matter of law; there was no specific additional discussion.

Knudson shared his argument is that an access drive must be made to each parking area / space, not just the lot.

On September 16, in general discussion; the board agreed with their revised finding of fact in fact item #3 and that this item is irrelevant. The board did not rule on a matter of law and did not issue a separate ruling.

2:58.16

7. "No part of any parking space or drive shall be closer than ... five feet from property perimeter on non-street right-of-way sides within residentially zoned districts." Sec. 17.52.020- "Off-street parking area required," at paragraph C. "All parking lots containing ten or more parking spaces shall provide peripheral landscaping. The peripheral landscaping shall consist of a landscaped strip not less than five feet in width and shall be located between the parking area and the abutting property line " 17.52.020 - Off-street parking area required, at paragraph G. The landscaping must include at least one tree each 50 feet. "Each such planting area shall be landscaped with grass, ground cover or other landscaping material, excluding paving," Sec. 17.52.020 (G).

Read together, paragraphs C and G of Sec. 17.52.020 require a five-foot landscaped buffer area between the parking lot and surrounding property.

Because the "aisle" for parking is meant to be paved and driven on, it should not encroach upon the required 5-foot landscaped and unpaved buffer.

On September 2, 2020, as a matter of law; there was no specific additional discussion.

On September 16, in general discussion; the board agreed the site plan complied with the requirements.

**Hagen moved and Tweed seconded a motion to find, as a matter of law, the site plan is in compliance with code for landscaping.**

**Roll call vote:**

**Ayes; Hagen, Tweed, Pavlovec, Sander, and Jenkins.**

**The board voted 5-0 to find, as a matter of law, the site plan is in compliance with code for landscaping.**

**Unanimously approved.**

3:01.19

8. The required illustrations in a site plan include "Location and type of all plants, grasses and trees to be used in the landscape of the proposed development." Sec. 17.36.060 - "Required illustrations" at paragraph J. This requirement also applies to site plans for eight-plexes in an R-3 district.

On September 2, 2020, as a matter of law; there was no specific additional discussion.

On September 16, in general discussion; the board concluded this item closely resembled item #7. The board did not rule on a matter of law and did not issue a separate ruling.

3:02.00

9. "All site plans shall be drawn at a scale not less than one-inch equals fifty feet. Ten copies of the site plan shall be submitted to the zoning administrator. The purpose of the site plan is to show all information needed to enable the zoning administrator, the planning and zoning commission, the city engineer, and the city council to determine if the proposed development meets the requirements of this title."  
17.36.040 - Site plan requirements.

In the case of an irregular shaped lot which does not have square corners, it is necessary that the site plan show how the development fits onto the site through measurements that reveal such anomalies, especially when the planned development is a tight fit to the property in terms of yard setback requirements, parking space requirements, access lane requirements, parking aisle requirements,

and requirements regarding the 5-foot landscaped perimeter buffer. A mere sketch made on the assumption that the lot has parallel boundaries and square corners is not enough, when the survey shows otherwise.

On September 2, 2020, as a matter of law; there was no specific additional discussion.

On September 16, in general discussion; the board concluded the site plan met all requirements for submittable.

Bird share the scale was an architectural scale versus an engineering measuring scale.

**Sander moved and Hagen seconded a motion to find, as a matter of law, the site plan submittal was complete and copies so supplied to all commission and council members as required.**

**Roll call vote:**

**Ayes; Sander, Hagen, Pavlovec, Tweed, and Jenkins.**

**The board voted 5-0 to find, as a matter of law, the site plan submittal was complete and copies so supplied to all commission and council members as required.**

**Unanimously approved.**

*This is where the board revised #7 and #3 in the findings of fact, as noted above at 1:48.30 and restated again here for chronological order.*

3:05.55

There was additional discussion regarding factual findings on items #3 and #7 and the board wished to revisit those for further discussion.

Because of discussion regarding the wheel barrier setback and the board believing such a setback is not required, the board wished to modify the measurements around the wheel barrier.

For item #7:

**Jenkins moved and Tweed seconded a motion to revise the finding for item #7 the distance from the SE corner of the building and the South garage has a 10.48 wide access drive.**

**Roll call vote:**

**Ayes; Jenkins, Tweed, Sander, and Hagen.**

**Pavlovec again abstained as she did not understand or follow the logic and discussion.**

**The board voted 4-0 to revise the finding for item #7 the distance from the SE corner of the building and the South garage has a 10.48 wide access drive.**

**Revised finding approved.**

For item #3:

**Jenkins moved and Tweed seconded a motion to revise the measurement of the space to the rounded curb from the parking space #10 to be 10.48 feet.**

**Roll call vote:**

**Ayes; Jenkins, Tweed, Sander, and Pavlovec.**

**Nays; Hagen**

**The board voted 4-1 to find a revision in the measurement of the space to the rounded curb from the parking space #10 to be 10.48 feet.**

**Revised finding approved.**

3:07.18

8:21pm, Janelle Pavlovec left the meeting due to a prior engagement.

3:08.02

Final discussion and findings of the board in regard to the appellants' request the board make the following findings of law:

Anderson stated he has not heard a final closing statement from the board and recommended the board make a final statement.

Hagen questioned the driveway width at the access to Baker Avenue, noting it is 24 feet and narrowing to 16 feet. Bird noted his interpretation, as zoning administrator, is the requirement is 10 feet as previously discussed in 17.52.020C.

Knudson reviewed the code definition of "front-yard" and debated the board on the definition and application of the definition.

Sander noted it is a driveway and not a yard.

Knudson read the definition of a "yard" from 17.08.660; namely,

"Yard - means an open space between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure from thirty inches above the ground upward except as otherwise provided in this title. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of the rear yard, the minimum horizontal distance between the lot lines and the main building shall be used. (See Attachment B, at the end of this title, for yard illustrations.) (Ord. 952 (part), 1993)"

He argued the yard includes a driveway and makes it ineligible for parking.

Jenkins stated the subsections allow for parking on a driveway, as it states "...not prohibit parking on a driveway."

Knudson stated his opinion is front-yard parking would require a variance and argues the two spaces are not compliant.

Sander asked the board to close comments and begin to draw final conclusions.

3:34.25

**Sander moved and Tweed seconded a motion to find in favor that the Zoning Administrator has properly applied the code to this site plan and it is in compliance with city code.**

**In discussion; Hagen noted she has reservations about the two points previously discussed and to which she voted in dissent or expressed some reservations.**

**Roll call vote:**

**Ayes; Sander, Tweed, and Jenkins.**

**Nays; Hagen**

**Absent; Pavlovec**

**The board voted 3-1 to find in favor that the Zoning Administrator has properly applied the code to this site plan and it is in compliance with city code.**

**The boards finding that the Zoning Administrator has properly applied the code is approved.**

Jenkins asked if any possible amendments to the site plan, by the developer could be allowed. Anderson noted any changes must come through the P&Z Commission as a new site plan or an amended site plan.

Other Business:

Sander announced Wednesday, October 7, 2020 at 5:15pm as the next meeting and confirmed member in-person attendance.

There being no other business, the meeting was adjourned at 8:53pm.

Respectfully submitted,

