

d. Discussion:

Mr. Lampe opened the public hearing.

Mr. Kohout stated for the Board he has spoken with the Waverly building inspector, Randy McKenzie and copied the Board with the correspondence and the City will enforce a 75 foot building code standard, because of the proximity of the proposed propane tank to the existing tank. Mr. Kohout stated the City is still researching ordinance amendments to address the current 200 foot setback requirement of structures within M-2, as measured from any R district property line. Mr. Kohout also presented the State of Iowa Fire Marshall office approved application and the City of Waverly building code standards.

Mr. Randy Dillavou, property owner and applicant, addressed the Board. Mr. Dillavou stated he desires more storage capacity to limit refilling of the propane tanks. Mr. Dillavou stated he believes the State Fire Marshall approving the setback for placement of the proposed propane tank at 50 feet is sufficient and believes the past ruling by the Board to grant placement of a diesel storage tank at less than 200 feet from the south property line should be considered by the Board as grounds for approval of this request.

Mr. Lampe stated for the public there are three board members present, covered the counting of votes for Board Members procedures and confirmed with both applicants on the agenda they wished to proceed with the requests as advertised.

Mr. Cary Lehman, of New Hampton Repair company, contractor installer of the proposed storage tank, stated he believes the requested storage tank at 50 feet is sufficient setback. Mr. Lehman stated he believes the design of the tank and proposed construction methods make the request appropriate for the proposed location. Mr. Lehman confirmed with Mr. Kohout he has not spoken to the Waverly building inspection office and confirmed he is aware of hospital locations in addition to Waverly that have a greater setback from adjacent property lines than the 50 feet required by the State Fire Marshall.

Mr. Gary Schneider, property owner of land immediately adjacent to and to the east of the applicant's property, stated he supports the request. Mr. Schneider stated the history of this area of town and that when the properties in this area were established, they were in the Bremer County jurisdiction and outside of City limits. Mr. Schneider stated when the City annexed his property and Mr. Dillavou's property, and when the south property was rezoned to an R-4 zoning district, this restricted the space on their properties where construction may commence, with the 200 foot setback imposed.

Mr. Don Blake, property owner of land immediately adjacent to and south of the applicant's property, stated he objects to the request. Mr. Blake stated he purchased the land platted for the construction of condominium housing. After constructing a new condominium and advertising for sale for many months, he has had to ask for a lower price due to the existence of storage tanks on the north property. Mr. Blake stated allowing an additional tank at less than the enforced setback will make selling any additional condominiums more difficult, and at a lower price.

Ms. Brandt confirmed with Mr. Dillavou the existing propane tank is 30,000 gallons and will remain with the installation of the proposed 30,000 gallon tank to be located east of the existing propane tank and west of the existing diesel tank. Mr. Dillavou stated the tank present was erected in 1990.

Ms. Shea stated she thinks the Board is not ruling on what is safe or not safe, and the Board is seeking to see if there is a hardship, the Board has discretion to make its own decision. Ms. Shea stated she thinks the Board is focused on the sight, sound, smells and relationship to adjacent property uses rather than safety. Ms. Shea referenced a recent court case in Dubuque where the Board denied a request to further expand a non-conforming setback for a new tank, and the applicant appealed to circuit court. Ms. Shea stated she thinks the business owner expressing a desire to expand is not a significant hardship in and of itself.

Mr. Lampe stated he thinks the City annexing the property imposed a 200 foot setback which makes it difficult to comply with, when observing the property depth allows for a 25 foot wide building site situated towards the middle of the property, when enforcing the front and rear yard setbacks by the Code.

Ms. Barb Benson, of 1206 1st Ave. NE, stated she supports the request. She stated the history of the property and discussed with the Board how the berming and evergreen trees, located south and on the residential side of the property line, came to be.

There being no one else present wishing to speak, Mr. Lampe closed the public hearing.

e. Motion by the Board:

Motion By: Shea Seconded By: Brandt

Move to allow for the proposed above ground storage tank at a setback of 60 feet from the south property line.

Yes: 3 No: 0 Absent: 2

2. Case # 20150602, Variance governing the off-street parking requirements for permitted uses allowed for in the R-4 zoning district at 350 1st Ave. NW.

a. The Applicant's Requested Zoning Variance:

Deneui Holdings, Inc., property owner at 350 1st Ave. NW, Waverly, Iowa, is requesting a variance to the zoning regulations governing the parking requirements for proposed permitted commercial uses allowed for in the R-4 zoning designation out of the building known as the former junior high building for Waverly-Shell Rock School District. The variance requested is from 273 spaces to zero (0) off-street parking spaces as there are no current off-street parking spaces.

b. The Zoning Regulations State:

Per City Code, the requirements call for uses out of this structure to meet a set number of off-street parking requirements based upon cumulative usage. See Code of Ordinances Section 100.19.02, Off-street parking area requirements.

c. Interested Property Owners:

Mr. Kohout confirmed for the Board no correspondence was received on this request.

d. Discussion:

Mr. Lampe opened the public hearing.

Mr. Mike Deneui, manager of Deneui Holdings, LC and property owner, addressed the Board on speakerphone as he was in the State of California. Mr. Deneui presented a statement which he read aloud that outlined his request is to itemize all the required parking, per the Waverly Code, and to ask for relief of the parking requirements because the building he is renovating is a converted Junior High School building, formerly utilized by the Waverly-Shell Rock school district. Mr. Deneui stated there are no off-street parking spaces on the same property as the building and there are 58 on-street spaces immediately adjacent to the structure which he desires to utilize with the building tenants and occupants.

Mr. Kohout stated for the Board the request is for a variance for parking for the Gym 24 usage, the wrestling camp boarding house usage, permitted R-4 uses for office use and use of the auditorium. Mr. Kohout stated when applying the size requirements for number of spaces, the need is for 273 spaces. Mr. Kohout confirmed for the Board there was a special provisional use granted by the City Council for the Gym 24 and wrestling camp uses that will expire in October 2015 and Mr. Deneui would have to have these uses reviewed and approved again, following review by the Council on the impact(s) these two permitted uses generated upon the surrounding on-street parking demands.

Ms. Shea stated she has a concern over the request and resulting parking demand on 4th Street NW. Ms. Shea also stated she is hesitant to support the parking variance request due to sight triangle issues around the street intersections resulting from continuous on-street parking in lieu of off-street parking spaces being provided.

Mr. James Hinders, of 216 3rd St. NW, spoke in opposition to the request. Mr. Hinders stated he bought his house in 2000 and seeing the impact of the Fareway grocery store expanding has had on increasing traffic in his neighborhood, he does not support additional on-street parking and traffic in the area from uses permitted out of the subject property. Mr. Hinders stated he does not see a hardship with this request as the uses would dictate the off-street parking.

Ms. Barb Benson, of 1206 1st Ave. NE, stated she supports the request. Ms. Benson stated she finds recent actions such as moving the Gym 24 entrance to the south, off of 1st Ave. NW, has decreased on-street parking on 4th St. NW and supports expanded usage out of the auditorium for events such as children's ballet and dance recital activities.

Mr. Jason Hendrickson, nearby property resident, spoke in opposition to the request. Mr. Hendrickson stated rental property parking in the area is an issue and thinks that if rental property owners are expected to provide for off-street parking for tenants, a commercial business at this location should be expected to do the same. Mr. Hendrickson stated when the building was used as a junior high

building, parking was in high demand for sporting events and other special events. Mr. Hendrickson stated 4th St. NW is especially congested with on-street parking and thinks the City should look into ways to limit parking or to better enforce parking requirements on 4th St. NW to provide for easier motorist travel in this area.

Mr. Hank Bagelmann, Chair of Planning and Zoning Commission, stated procedural concern over this request. Mr. Bagelmann stated the Commission recommended approval of the Gym 24 and wrestling camp boarding house uses set to expire in October 2016. Mr. Bagelmann stated the Council approved a resolution stating an expiration date of these uses for October 19, 2015. Mr. Bagelmann stated he thinks an application for variance should wait until this point in time prior to applying for relief of off-street parking requirements for any uses to better determine what, if any, action may be deemed appropriate to address any concerns revealed during this time period.

Mr. Lampe confirmed with Mr. Kohout the Board may grant a variance for parking with restrictions and accommodating the timeline for the uses as established by Council. Mr. Lampe stated support of working a motion to better address the sunset of the variance to go with the sunset of the approved uses, as outlined by the Council.

Ms. Shea stated she does not support additional uses and the resulting additional off-street parking demands outside of the Gym 24 and wrestling camp boarding house uses.

Mr. Deneui confirmed the proposed layout of the three floors of the junior high building with the Board.

There being no one else present wishing to speak, Mr. Lampe closed the public hearing.

e. Motion by the Board:

Motion By: Shea Seconded By: Brandt

Move to allow for the variance of the regulations governing off street parking spaces resulting from the permitted special provisional use and include the professional service establishments until the timeline of review set by the City Council in October 2015, in the R-4 zoning district, up to 57 spaces. And, to the extent the City approves the identified special provisional uses, an extension of the approval by the Board shall run with the two special provisional uses and the professional service establishments R-4 uses.

Yes: 3 No: 0 Absent: 2

E. Old Business:

None

F. New Business:

1. Mr. Kohout stated for the Board there will be the Gentleman Of the Road music festival in Waverly from June 19 through June 20 and to expect roadway detours from June 17 through June 21.

G. Adjournment:

Motion By: Shea

Seconded By: Brandt

That the Board of Adjustment meeting be adjourned.

Yes: 3

No: 0

Absent: 2

Meeting adjourned at 8:55 p.m.

Respectfully Submitted,

Ben Kohout, Secretary