

**ZONING BOARD OF APPEALS**  
**Tuesday, September 21, 2010**  
**6:30 P.M. – City Council Chambers**  
**Rockford City Hall, 425 East State Street**

**Present:**

**ZBA Members:**

Dennis Olson  
Dan Roszkowski  
Julio Salgado  
Scott Sanders  
Craig Sockwell

**Absent:**

Aaron Magdziarz  
Alicia Neubauer

**Staff:**

Jennifer Cacciapaglia – City Attorney  
Todd Cagnoni - Deputy Director, Construction Services  
Sandra Hawthorne – Admin. Assistant, Construction Services  
Jon Hollander – City Engineer, Public Works  
Matt Knott– Chief, Fire Prevention  
Jessica Roberts, Planner II

**Others:**

Kathy Berg, Stenographer  
Applicants and Interested Parties

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Sandra Hawthorne explained the format of the meeting will follow the Boards Rules of Procedure generally outlined as follows:

The Chairman will call the address of the application.

- The Applicant or representative are to come forward and be sworn in.
- The Applicant or representative will present their request before the Board
- The Board will ask any questions they may have regarding this application.
- The Chairman will then ask if there are any Objectors or Interested Parties. Objectors or Interested Parties are to come forward at that time, be sworn in by the Chairman, and give their name and address to the Zoning Board secretary and the stenographer
- The Objector or Interested Party will present all their concerns, objections and questions to the Applicant regarding the application.
- The Board will ask any questions they may have of the Objector or Interested Party.
- The Applicant will have an opportunity to rebut the concerns, answer questions of the Objector or Interested Party
- No further discussion from the Objector or Interested Party will occur after the rebuttal of the Applicant.
- The Board will then discuss the application and a vote will be taken.

It was further explained to the public in attendance, applicants, objectors and interested parties that this meeting is not a final vote on any item. The date of the Codes & Regulations meeting was given as Monday, October 4, 2010, at 4:30 PM in Conference Room A of this building as the second vote on these items. The public in attendance, applicants, objectors and interested parties were instructed that they could contact Sandra Hawthorne in the Zoning Office for future information and that her phone number was listed on the top of the agenda which was made available to all those in attendance at the beginning of the meeting. The City's web site address for minutes of this meeting are listed on the agenda as well.

The meeting was called to order at 6:30 PM. A **MOTION** was made by Scott Sanders to **APPROVE** the minutes of the August 17, 2010 meeting as submitted. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-0 with Aaron Magdziarz and Alicia Neubauer absent.

**ZBA 024-10**

Applicant  
Ward 5

**371 Blackhawk Park Avenue**

Warren Strom

**Renewal of Special Use Permit #054-08** for an auto salvage or recycling center in an I-2, General Industrial Zoning District

The subject property is located on the southeast corner of Seminary Street and Blackhawk Park Avenue. The existing Special Use Permit was approved March 16, 2009 with 9 conditions. The Applicant wishes to renew this permit for an additional two year period. It should be noted that the original conditions would be applied to this renewal if approved. The Zoning Ordinance does not allow modifications, deletions, or additions to any of the previously imposed conditions. Warren Strom, representing Rockford Auto Parts, Applicant, reviewed the request.

Mr. Strom explained the delay in moving forward with the SUP obtained in 2008. Mr. Strom stated their intent was to use recycled asphalt, but the Applicant could not get this at a reasonable price. He further stated the economy affected his clients because of the "cash for clunkers" program, which reduced their business potential. The demand at this time does not justify putting money into the property.

Mr. Sanders pointed out #7 condition referred to recycled asphalt and asked the Applicant if they would still move forward with this intent. Mr. Strom stated at this point in time they were still interested in using this product.

Staff Recommendation is for Approval with the original 9 conditions. No Objectors or supporters were present.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Renewal of Special Use Permit #054-08 for an auto salvage or recycling center in an I-2, General Industrial Zoning District subject to the same 9 conditions as the original Special Use Permit at 371 Blackhawk Park Avenue. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Meeting all Building and Fire Codes.
2. Submittal of Building Permits for Staff review and approval.
3. Submittal of Engineered drawings for Staff's review and approval.
4. Submittal of detailed landscape plan to include the type of species to be planted for Staff's review and approval.
5. The site is limited to the storage of vehicles and shall not allow the dismantling of vehicles on site.
6. The fencing along Blackhawk Park Avenue (north side), Seminary Street (west side), and the first one hundred (100) feet of the south boundary should be 8 feet high solid wood staggered every 100 to 125 feet as proposed by the applicant fencing.
7. The surface has to be covered in Recycled Asphalt Product (RAP) and stone as per the final approved plan by Staff.
8. All conditions must be met prior to establishment of use.
9. That the property shall conform to State and Federal EPA regulations.

**ZBA 024-10**  
**Findings of Fact for Renewal of Special Use Permit #054-08 (2009-029-0)**  
**For an Auto Salvage or Recycling Center**  
**In an I-2, General Industrial Zoning District at**  
**3721 Blackhawk Park Avenue**

**Approval** of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the I-2 Zoning District in which it is located.

**ZBA 025-10**

Applicant  
Ward 3

**514 Prairie Street**

Theresa Mleczko

**Special Use Permit** for a private practice and therapy office with owner and one (1) other therapist in an R-2, Two-family Residential District and the Arts and Cultural District Overlay

The subject property is located on the north side of Prairie Street, approximately 81 feet west of 3<sup>rd</sup> Street and is currently a vacant residence. Theresa Mleczko, Applicant, and Ellen Emmerich were present. Ms. Mleczko reviewed the request for Special Use Permit. Ms. Mleczko owns the property and it is currently up for sale. Ms. Mleczko explained she has recently gotten married and her home has been up for sale for about two years, Ms. Mleczko felt she would like to run a private practice and therapy office with Ms. Emmerich on a temporary basis out of this home rather than let it sit vacant. Clients would be by appointment only. She estimates there would be no more than 15 clients total a week for 50 minute sessions, between the both of them. Ms. Mleczko further explained she and Ms. Emmerich are both part-time therapists at Family Counseling Services so this application is for a limited practice. Substance abuse clients would not be a primary practice as they are not trained in these areas. Mr. Olson asked if there were any clients that would be intimidating to the neighborhood. Ms. Mleczko stated they would be screening applicants and would not be doing any contracts with sexual offenders, people on probation, etc. Ms. Mleczko further explained they would not be taking on any clients that would be a known threat not only to the neighbors but to themselves as well. She stated they have not come across too many potentially dangerous clients in their careers. There are other empty houses on this street so parking will not be a problem.

Mr. Sanders asked Staff if the Board should add conditions relating to substance abuse clients, sexual offenders. Mr. Cagnoni did not feel this would be a requirement since this is a limited practice, but did make the Applicants aware that there were conditions of approval.

Staff Recommendation is for Approval with 4 conditions. No Objectors or Interested Parties were present.

A **MOTION** was made by Scott Sanders to APPROVE the Special Use Permit for a private practice and therapy office with owner and one (1) other therapist in an R-2, two-family Residential District and the Arts and Cultural District Overlay at 514 Prairie Street. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes.
2. The use of the property is limited to therapy.
3. Signage must be in compliance with the Arts and Cultural District.
4. Approval of a building permit for a change of use.

**ZBA 025-10**  
**Findings of Fact for a Special Use Permit**  
**For Private Practice and Therapy Office with Owner and One (1) Other Therapist**  
**In an R-2, Two-Family Residential District and the Arts and Cultural District Overlay at**  
**514 Prairie Street**

**Approval** of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the R-2 District and the Arts and Cultural District Overlay.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the R-2 Zoning District in which it is located.

**ZBA 026-10**  
Applicant  
Ward 14

**2685 Sandhutton Avenue**  
Post Office Self Storage LLC / Marvin Keys  
**Variation** to maximum sign size  
**Variation** to maximum sign height to permit signage in accordance with submitted design in an I-1, Light Industrial / Business Park District

The subject property is located on the south side of Wansford Way, west of Sandhutton Avenue, and east of East Rock Drive and is currently a self-storage facility with six of the proposed 15 mini-warehouse

buildings. Marvin Keys, representing the Applicant, reviewed the requests for Variation. He stated this property sits between 6 and 12 feet lower than the Harrison traffic and the Applicant has had problems getting business. The sign will go in the same location as the existing sign, which is a two sided east/west sign. The new one will be single faced, facing North. Mr. Cagnoni explained one portion of the sign will be an electronic message center and the other portion will be a standard sign. Code allows 64 square foot of signage – the proposed sign is 100 square feet.

Staff Recommendation is for Approval of both requests, with 3 conditions. No Objectors or Interested Parties were present.

Mr. Sanders felt this property was a block away from the street and he was not necessarily in favor of allowing larger signs simply because the business is not closer to the road.

A **MOTION** was made by Dennis Olson to **APPROVE** the Variation to maximum sign size, and to **APPROVE** the Variation to maximum sign height to permit signage in accordance with submitted design in an I-1, Light Industrial / Business Park District. At 2685 Sandhutton Avenue. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 4-1 with Scott Sanders voting Nay

Approval is subject to the following conditions:

1. Must be constructed in accordance with Exhibit D.
2. The freestanding sign must be landscaped in accordance with Section 1403.5.
3. The free-standing sign must meet the required setbacks.

**ZBA 026-10**  
**Findings of Fact for a Variation**  
**To Maximum Sign Size**  
**In an I-1, Light Industrial / Business Park District at**  
**2685 Sandhutton Avenue**

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.

7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

**ZBA 026-10**  
**Findings of Fact for a Variation**  
**To Maximum Sign Height to Permit Signage**  
**In Accordance with the Submitted Design**  
**In an I-1, Light Industrial / Business Park District at**  
**2685 Sandhutton Avenue**

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

**ZBA 012-10**  
Applicant  
Ward 10

**280 North Phelps Avenue, Unit E**  
Louis Messina / Secrets Apparel & Gifts Inc.  
**Special Use Permit** for the operation of a sexually-oriented bookstore business  
in a C-3, General Commercial Zoning District  
**Laid Over from May, June, July & August meetings**

Mr. Cagnoni reviewed the current status of this application. This item has been laid over due to a pending lawsuit involving the city and the applicant. When the applicant presented the request, there were some issues with the City and the Applicant in coming to an agreement on the Special Use Permit. The Alderman was not in favor of this request and there were objectors at the May ZBA meeting.

Staff Recommendation remains at Approval with the original 4 proposed conditions. He explained if the Board were to approve this item, Staff would most likely have additional conditions prior to final approval.

Mr. Sanders asked why the applicant was not present. Mr. Cagnoni stated it was in part because the city was not certain they would move forward. A city attorney had contact the applicant's attorney but he was not able to make this meeting. Mr. Cagnoni further explained that because the applicant's representative did make a presentation at the first meeting the Board could act on this item. Mr. Olson pointed out that at the first meeting it was laid over with instructions sent to the applicant that he needed to attend the June meeting and he was not present at that meeting.

Mr. Sanders stated this business has been operating for a number of years with no problems and Mr. Cagnoni agreed. Mr. Sanders stated it was hard to make a case for the Objectors since the business had been operational for a number of years with no Objections from anyone.

Mr. Olson wish to verify that this was only a retail sales operation and no booths or movies being shown, and this was verified by Staff.

A **MOTION** was made by Scott Sanders to **APPROVE** the Special Use Permit for the operation of a sexually-oriented bookstore business in a C-3, General Commercial Zoning District at 280 North Phelps Avenue, Unit E. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Meet all Building and Fire Codes.
2. The hours and days of operation must be submitted for Staff review and approval.
3. Submittal of Building Permits for Staff review and approval.
4. The operation of the sexually-oriented bookstore is limited to Unit E of 280 North Phelps Avenue.

**ZBA 012-10**  
**Findings of Fact for a Special Use Permit**  
**For the Operation of a Sexually-Oriented Bookstore**  
**In a C-3, General Commercial Zoning District at**  
**280 North Phelps Avenue, Unit E**

**Approval** of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.

6. The special use shall, in all other respects, conform to the applicable regulations of the C-3 Zoning District in which it is located.

### **Other Business**

Mr. Cagnoni stated the zoning map update heard at the August 17<sup>th</sup> meeting has been referred back to the Board for the October 19<sup>th</sup> meeting. Staff will be sending written notification to approximately 3,000 property owners affected by the zoning map update area. The Illinois Municipal Code requirements were followed in regards to publication of the original hearing ; however, if any entity has the ability to access adjacent property owner addresses, the Illinois Supreme Court had determined that they have to be notified.

With no further business to report, the meeting was adjourned at 7:15 P.M.

Respectfully submitted,  
Sandra A. Hawthorne, Administrative Assistant  
Zoning Board of Appeals