

## ZONING BOARD OF APPEALS

Tuesday, June 19, 2007

6:30 P.M. – City Council Chambers  
Rockford City Hall, 425 East State Street

### Present:

**ZBA Members:** Tom Morgan, Chairman  
Fred Money  
William Orr  
David Peterson  
Dan Roszkowski

**Absent:** Alice Howard  
Tom Przytulski

**Staff:** Todd Cagnoni – Manager of Current Planning  
Sandra Hawthorne – Administrative Assistant  
Jon Hollander – City Engineer, Public Works  
Kerry Partridge – City Attorney, Legal Department  
Mark Marinaro – Fire Prevention Division

**Others:** Alderman Joe Sosnowski  
Kathy Berg, Stenographer  
Applicants and Interested Parties

The meeting started at 6:30 P.M. A **MOTION** was made by Dan Roszkowski to **APPROVE** the minutes of the May 15, 2007 meeting as submitted. The Motion was **SECONDED** by William Orr and **CARRIED** by a vote of 5-0 with Alice Howard and Tom Przytulski absent.

**021-07**            **4804 Crescent Drive**  
Applicant        Daniel R. LaBine  
Ward 14           **Variation** to allow a pool and deck in the front yard as a  
permitted obstruction in an R-1, Single-family Residential District

This item was Laid Over from the May meeting. Daniel LaBine, Applicant, reviewed the Variation request. Mr. LaBine explained the pool and deck were in existence when he purchased the property. In looking at the property, the Board was in agreement that the structure would be difficult to fit in the rear of the property.

Staff Recommendation was for Denial. Mr. Cagnoni recommended that if the Board wished to approve, a condition be added that the Variation apply to this pool and deck structure only, and that any future such structure needs to conform to Ordinance.

A **MOTION** was made by Dan Roszkowski to **APPROVE** the Variation to allow a pool and deck in the front yard as a permitted obstruction in an R-1, Single-family Residential District at 4804 Crescent Drive. The Motion was **SECONDED** by Fred Money and **CARRIED** by a vote of 5-0. Approval is subject to the following conditions:

1. This Variation applies to the existing pool and deck only. Any future pool and/or deck needs to conform to City of Rockford Ordinance.

**ZBA 021-07**  
**Findings of Fact for a Variation**  
**To Allow a Pool and Deck in the Front Yard**  
**As a Permitted Obstruction**  
**In an R-1, Single Family Residential District at**  
**4804 Crescent Drive**

**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 a Variation is 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. This property is a corner lot.
3. The purpose of the 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 the 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, nor substantially increase the congestion of the public streets, nor increase the danger of fire, or endanger the public safety, nor 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.

**029-07**                    **2201 North Main Street**  
Applicant                Dan Roszkowski  
Ward 12                    **Special Use Permit for a Planned Mixed-Use Development** for an auto repair facility in  
   a C-2, Commercial Retail District

Prior to the meeting, a letter was received from the Applicant requesting that this item be **Withdrawn**.

**033-07**                    **602 Garfield**  
Applicant                Bill & Melissa Erickson  
Ward 7                    **Variation** to allow a pool in the front yard as a permitted obstruction in an R-1, Single-  
   family Residential District

This property is on the southwest corner of the intersection of Garfield Avenue and Ridge Avenue. Bill Erickson, Applicant, reviewed the request for Variation. Mr. Erickson explained that due to the landscaping of this property, only one location was suitable for the pool. He stated this property is located on a hill and the yard is divided into two levels and obstructed by a retaining wall.

Staff Recommendation was for Approval with no conditions. No Objectors were present. Rebecca Anderson, 807 Garfield Avenue, not an adjacent property owner, requested clarification from the Applicant on the location of the pool. Upon receiving this information, Ms. Anderson stated she was not in Objection.

A **MOTION** was made by William Orr to **APPROVE** the Variation to allow a pool in the front yard as a permitted obstruction in an R-1, Single-family Residential District at 602 Garfield. The Motion was **SECONDED** by Fred Money and **CARRIED** by a vote of 5-0.

**ZBA 033-07**  
**Findings of Fact for a Variation**  
**to Allow a Pool in the Front Yard**  
**As a Permitted Obstruction in an R-1, Single-Family Residential District at**  
**602 Garfield 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 a Variation is 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 the 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 the 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, nor substantially increase the congestion of the public streets, nor increase the danger of fire, or endanger the public safety, nor 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.

**034-07**                    **3014 Auburn Street**  
Applicant                Pablo Castro  
Ward 7                    **Special Use Permit** for an auto body shop that does not satisfy the Performance Criteria of 600 feet away from a residential district in a C-3, Commercial General Zoning District

The subject property is located 150 feet west of the Auburn Street and Kilburn Avenue intersection. Pablo Castro and Attorney Tony Renteria were present. Attorney Renteria reviewed the request for Special Use Permit. He stated start up costs for Mr. Castro have been significant and requested that landscaping be allowed to remain "as is". Attorney Renteria further stated that the subject property has been in similar use for approximately 80 years with no landscaping. He also stated the Applicant wanted to wait until after this item was approved before paving the lot. Mr. Cagnoni explained that conditions are normally met prior to the operation of the business itself, and that would be after approval by City Council. The lot would need to be paved prior to establishing use, but not before City Council approval.

Staff Recommendation was for Approval with 8 conditions. No Objectors were present.

Regarding landscaping, Mr. Cagnoni explained the requirement for landscaping would be the interior lot, and along the alley. He stated Staff would be willing to work with the Applicant to evaluate what landscaping would be reasonable for both parties.

A **MOTION** was made by Fred Money to **APPROVE** the Special Use Permit for an auto body shop that does not satisfy the Performance Criteria of 600 feet away from a residential district in a C-3, Commercial General Zoning District at 3014 Auburn Street. The Motion was **SECONDED** by Dan Roszkowski and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. The lot must be paved with cement or blacktop.
2. That the property and use shall comply with all Building and Fire Codes.
3. Submittal of detailed landscape plan to include the type of species to be planted for Staff's review and approval.
4. No outside storage of any auto parts, equipment material that must be approved by Staff.
5. Site plan showing dumpster enclosure and material that must be approved by Staff.
6. Disposal and storage of hazardous materials must follow the Illinois Environment Protection Agency guidelines.
7. There shall be no overnight storage of vehicles on the property.
8. All conditions must be met prior to establishment of use.

**ZBA 034-07**  
**Findings of Fact for a Special Use Permit**  
**For an Auto Body Repair Shop that Does Not Satisfy the Performance Criteria of 600 Feet**  
**Away from a Residential District in a C-3, Commercial General Zoning District at**  
**3014 Auburn 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 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.

**035-07**                      **3520 School Street**  
Applicant                  Steven Curington  
Ward 13                      **Special Use Permit for a Planned Mixed Use Development**  
consisting of a group home for adjustment, private education, counseling facility, worship center, and dormitory in a C-1, Limited Office District

Prior to the meeting, a request was received by the Applicant to Lay Over this item to the July 17<sup>th</sup> agenda.

A **MOTION** was made by Fred Money to **LAY OVER** the Special Use Permit for a Planned Mixed-Use Development consisting of a group home for adjustment, private education, counseling facility, worship

center, and dormitory in a C-1, Limited Office District at 3520 School Street. The Motion was **SECONDED** by Fred Money and **CARRIED** by a vote of 5-0.

**036-07**            **3919 Sandy Hollow Road**  
Applicant        Richard McQuality  
Ward 14         **Special Use Permit for a Performance Use** consisting of an auto repair facility that can not satisfy the performance criteria of 600 feet from the nearest residential district in an I-1, Light Industrial District

Prior to the meeting, a request was received by the Applicant to Lay Over this item to the July 17<sup>th</sup> agenda.

A **MOTION** was made by Dan Roszkowski to **LAY OVER** The Special Use Permit for a Performance Use consisting of an auto repair facility that can not satisfy the performance criteria of 600 feet from the nearest residential district in an I-1, Light Industrial District at 3919 Sandy Hollow Road. The Motion was **SECONDED** by William Orr and **CARRIED** by a vote of 5-0.

**037-07**            **2510 Kishwaukee Street**  
Applicant        Maria & Juan Torres  
Ward 11         **Special Use Permit** for an auto paint shop  
                     **Special Use Permit** for auto repair shop  
                     **Special Use Permit** for Passenger Vehicle Sales that does not satisfy the Performance Criteria of 600 feet away from a residential district in an I-1, light Industrial Zoning District

The subject property is located 250 feet north of the Kishwaukee Street and Harrison Avenue intersection. Rudy Compos and Javier Carillo were present. Mr. Compos reviewed the application for Special Use Permits. He stated the Applicant has invested substantial money in this property and would be employing 8 people. He confirmed it is currently operating as an auto repair facility.

Staff Recommendation was for Denial. No Objectors were present.

Mr. Cagnoni explained this parcel is part of a TIF planning area which has been created specifically for Industrial development. There has been concern with other auto related uses in the area for this reason. Staff feels an industrial use would be more suitable for this property. Mr. Cagnoni stated if this is correct and the Applicant is currently operating at this site, there is most likely an outstanding zoning violation. Staff has not approved any auto related uses at this property. This site has had several zoning and neighborhood standard violations in the past, and a recent site inspection showed outside storage and outside storage on gravel violations.

A **MOTION** was made by William Orr to **DENY** the Special Use Permit for an auto paint shop; **DENY** the Special Use Permit for auto repair shop; and **DENY** the Special Use Permit for Passenger Vehicle Sales that does not satisfy the Performance Criteria of 600 feet away from a residential district in an I-1, Light Industrial Zoning District at 2510 Kishwaukee Street. The Motion was **SECONDED** by Fred Money and **CARRIED** by a vote of 5-0.

**ZBA 037-07**  
**Findings of Fact for a Special Use Permit**  
**For an Auto Body Repair Shop That Does Not Satisfy**  
**The Performance Criteria of 600 Feet Away**  
**From a Residential District in an I-1, Light Industrial Zoning District at**  
**2510 Kishwaukee Street**

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

1. The establishment, maintenance or operation of the Special Use Permit will be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will 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 not been provided.
5. Adequate measures have not been taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use does not conform to the applicable regulations of the I-1 Zoning District in which it is located.

**ZBA 037-07**  
**Findings of Fact for a Special Use Permit**  
**For Passenger Vehicle Sales That Does Not Satisfy the Performance Criteria**  
**of 600 Feet Away from a Residential District**  
**In an I-1, Light Industrial Zoning District at**  
**2510 Kishwaukee Street**

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

1. The establishment, maintenance or operation of the Special Use Permit will be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will 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 not been provided.
5. Adequate measures have not been taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall does not conform to the applicable regulations of the I-1 Zoning District in which it is located.

**ZBA 037-07**  
**Findings of Fact for a Special Use Permit**

**For an Auto Paint Shop that Does Not Satisfy the Performance Criteria  
of 600 Feet Away From a Residential District  
In an I-1, Light Industrial Zoning District at  
2510 Kishwaukee Street**

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

1. The establishment, maintenance or operation of the Special Use Permit will be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will 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 not been provided.
5. Adequate measures have not been taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall does not conform to the applicable regulations of the I-1 Zoning District in which it is located.

**038-07**                    **6957 Olde Creek Road, Building 1, Suite 100-1**  
Applicant                Mefmet Ahmeti  
Ward 1                    **Special Use Permit** for the sale of alcohol by the drink within the indoor restaurant  
                                 **Special Use Permit** for the sale of alcohol by the drink with the outdoor seating area in a  
                                 C-1, Limited Office District

This property is located 185 feet south of Olde Creek Road on the west side of North Perryville Road. Property to the south and west is residential. Attorney Chris Logli and Mefmet Ahmeti were present. Attorney Logli reviewed the requests for Special Use Permits. He explained there would be two patio areas – on 10' x 70' on the western portion and 10' and 50' on the eastern portion of the building. Total seating will be 104 in the dining area, and 46 in the bar. Each outdoor area will have 6 tables. The restaurant itself will be open from 11:00 A.M. to 2:00 A.M. The patio on the west is non smoking and will close at 10 P.M. The east patio will remain open until 2:00 A.M.

Staff Recommendation was for Approval with 4 conditions. One letter of Objection from Jared and Maura Himes, 6980 Hedge Cliff Court, adjacent property owners, was received. Their concern was of noise, traffic, lighting and loss of privacy they felt these Special Use Permits would cause. In addition, the following objectors were present.

Robert Dixon, 6950 Hedgecliff Court	David and Carol Nelson, 2865 Hedgecliff Drive
Shirley Pleitt, 2967 Hedgecliff Drive	Mary Johnson, 2915 Hedgecliff Drive
Deborah Beard, 2899 Hedgecliff Drive	George Chobanian, 2897 Hedgecliff Drive
Robert Jakeway, 2863 Hedgecliff Drive	James Wikstrom, 2881 Hedgecliff Drive
Franklin Sathanand, 6968 Hedgecliff Court	

The most common objection was the location of the west patio in relationship to the residences owned by the above objectors. All felt it was too close to the residential district and were concerned with the resultant noise, traffic, and lighting. There were concerns of this patio not being conducive to residential living. Traffic entering and leaving the site was a concern as well. Mr. Sathanand stated all vehicles entering the restaurant park on the west side and even if the west patio closes at 10:00 P.M., patrons from the east patio and restaurant will be accessing their vehicles at the west location.

Attorney Logli responded that the Applicant's requests were not for an outdoor patio for the restaurant since the patios are a permitted use. He explained there will be two points of access for deliveries at the eastern portion and northwestern area. The western outdoor seating area is 220 feet to the property line, and 400 feet to the south property line according to Attorney Logli. He stated the required parking is 43 spaces, and there are over 200 spaces at Perryville Place. Attorney Logli pointed out Staff recommendation of Approval with conditions. The Applicant verified a full menu will be served until 11:00 P.M. and appetizers and sandwiches until 2:00 A.M. He stated there will be no outside entertainment on the west side, but "something", including just a few small speakers on the east side.

Mr. Cagnoni explained in this property and the adjacent neighbors were annexed in 1990. At that time it was anticipated R-2 zoning would be adjacent to commercial and retail. There has been no zoning action for this property since the date of annexation. The existing facility is in conformance with the preannexation agreement. Landscaping is required along with a 6 foot fence, which has been completed. Staff's opinion is that the property has complied with the requirements of the annexation agreement. The southern portion of the fence is being complied to ordinance per staff's request. Mr. Cagnoni stated staff is willing to review lighting, but added that no violation has occurred to their knowledge up to this point. He further stated the use of an outdoor patio is permitted within this zoning classification. The introduction of alcohol is reasonable, and because of neighboring concerns Staff has put a condition of approval concerning the time frame for closing on the west patio.

A **MOTION** was made by Fred Money to **APPROVE** the Special Use Permit for the sale of alcohol by the drink within the indoor restaurant; and to **APPROVE** the Special Use Permit for the sale of alcohol by the drink within the outdoor seating area in a C-1, Limited Office District at 6957 Olde Creek Road, Building 1, Suite 100-1. The Motion was **SECONDED** by William Orr and **CARRIED** by a vote of 4-1 with Tom Morgan voting Nay. Approval is subject to the following conditions:

1. Meet all applicable liquor codes.
2. This Special Use Permit is limited to the space identified as Suite 100-1 and the identified adjacent patios.
3. That the sale of alcohol by the drink is in conjunction with a restaurant. The outdoor seating area on the west side shall not have any music and/or televisions playing after 10:00 P.M. and must be closed by 11:00 P.M.

**ZBA 038-07**  
**Findings of Fact for a Special Use Permit**  
**For the Sale of Alcohol by the Drink**  
**Within an Indoor Restaurant**  
**In a C-1, Limited Office District at**  
**6957 Olde Creek Road, Building 1, Suite 100-1**

**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 as allowed under the Pre-annexation Agreement.
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-1 Zoning District, Pre-annexation Agreement, liquor codes and conditions of approval in which it is located.

**ZBA 038-07**  
**Findings of Fact for a Special Use Permit**  
**For the Sale of Alcohol by the Drink**  
**Within an Outdoor Seating Area at**  
**6957 Olde Creek Road, Building 1, Suite 100-1**

**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 as allowed under the Pre-annexation Agreement..
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-1 Zoning District, Pre-annexation Agreement, liquor codes and conditions of approval in which it is located.

**039-07**                      **325 Heath Street**  
Applicant                    Pastor Barbara D. Heath  
Ward 5                        **Special Use Permit for a Planned Mixed-Use Development**  
                                     consisting of a church and an emergency 24 hour homeless shelter in an R-1, Single-family Residential District

This property is southwest of the downtown Rockford Area, west of South Main Street and is surrounded by Single-Family Residential Zoning. Pastors Barbara & Alphonso Heath, Applicants, were present. Pastor Barbara Heath stated they wish to operate the church as a homeless shelter. She stated they would use the sanctuary area of the church for the homeless to sleep. This area would hold at least 35 people. Homeless individuals have been sleeping at the church; however, because the church does not meet Building and Fire codes, as well as health codes, they have discontinued this practice pending the outcome of this application. The Applicant's asked if the Board would consider approval pending upgrades required by the City to allow them time to raise the finances. They feel they have adequate staff along with two people that are licensed per the requirements of food sanitation. They stated all properties adjacent to the church and across the street from the church are owned by the Heath family. Because of Fire Department concerns, they have agreed not to have people sleeping in the basement. Pastor Barbara Heath stated this is a male-only shelter. Women and children are not accepted. If a woman does come to the church, they will let them stay in one of their apartments overnight.

Staff Recommendation was for Denial. No Objectors were present.

Chairman Morgan asked Staff if it would be feasible to lay over this item. Todd responded that any homeless shelter in a residential district will be looked at very closely. There are several concerns from the Building and Fire Departments. Human Services Department also has numerous concerns and has suggested the Applicants first obtain the required funding, staff and training prior to establishing a homeless shelter or find a suitable building in another location. There is no plan of action to meet those concerns at this time. However, staff indicated they would be willing to work with the applicants and the Human Services Department as well as other departments to see if they can meet the needs of both parties.

A **MOTION** was made by Dan Roszkowski to **LAY OVER** the Special Use Permit for a Planned Mixed-Use Development consisting of a church and an emergency 24 hour homeless shelter in an R-1, Single-family Residential District. The Motion was **SECONDED** by William Orr and **CARRIED** by a vote of 5-0.

**040-07**                    **401 East State Street**  
Applicant                B. A. Taylor & Associates  
Ward 3                    **Special Use Permit** for a performance use consisting of a financial institution including a drive-in facility that cannot satisfy the performance criteria in a C-4, Commercial District

Prior to the meeting, written notice was received by the owner and applicant requesting that this item be **Withdrawn**.

**041-07**                    **509 East State Street**  
Applicant                River District Association  
Ward 3                    **Special Use Permit** for a mural painted on panels to be mounted on the west exterior wall in a C-4, Commercial Oldtown District

This property is located on the south side of East State Street, 90 feet east of 2<sup>nd</sup> Street. Kim Wheeler, Director of the River District Association, reviewed the request for Special Use Permit. This panel would be on the west exterior wall of the CRU Restaurant building. The mural would consist of three panels, 4' by 6' each. The intent of the murals is to reflect the culture, history and vision of Rockford's neighborhoods.

Staff Recommendation was for Approval with four conditions. No Objectors were present.

A **MOTION** was made by Dan Roszkowski to **APPROVE** the Special Use Permit for a mural painted on panels to be mounted on the west exterior wall in a C-4, Commercial Oldtown District at 509 East State Street. The Motion was **SECONDED** by Fred Money and **CARRIED** by a vote of 4-1 with William Orr voting nay.

Approval is subject to the following conditions:

1. Submittal of a Maintenance Plan prior to mounting of mural panels.
2. Mounting of mural panels must be according to request; any modifications to materials and/or image of mural will require a Modification of Special Use Permit.
3. A sign permit shall be required including an illustration of proposed painting shall be submitted with the permit application.
4. The mural panels may not consist of a vinyl banner material within a frame.

**ZBA 041-07**  
**Findings of Fact for a Special Use Permit**  
**For a Mural Painted on Panels**  
**To Be Mounted on the West Exterior Wall**  
**In a C-4, Commercial Oldtown District at**  
**509 East State 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 C-4 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-4 Zoning District in which it is located.

**042-07            1503, 1509, 1511 and 1517 East State Street**  
**114, 118, 122, 126, 130 Williams Park Boulevard**  
**1514 and 1518 1<sup>st</sup> Avenue**

Applicant        SwedishAmerican Health Systems  
Ward 2            **Special Use Permit for a Planned Mixed-Use Development** for a day-care facility in an  
R-2, Two-Family Residential District

This application was originally for a Zoning Map Amendment from R-2, Two-family Residential District, to C-2, Commercial Community District, but was withdrawn and amended to the Special Use Permit. The subject properties are on the corner of Williams Park and State Street and 1<sup>st</sup> Avenue. Glenn Evans and David Cody were present. The Applicants explained this would be a 14,600 square feet, single story building, with a fenced in play ground. SwedishAmerican currently has a day care center in their Dorm Three building, but this needs to be vacated within two years.

Staff Recommendation was for Approval with 5 conditions. One Objector was present.

Erik Sandquist, 1522 1<sup>st</sup> Avenue, not an adjacent property owner, stated his objections. He stated Williams Park Boulevard has become a place for SwedishAmerican employees to smoke now that smoking is not allowed on campus. He had questions regarding water run off, access to the facility, and demolition procedures.

Mr. Evans stated he would be willing to sit down with Mr. Sandquist and other residents to discuss their plans in detail. Mr. Cagnoni also gave Mr. Sandquist a copy of the Zoning Report.

A **MOTION** was made by Dan Roszkowski to **APPROVE** the Special Use Permit for a Planned Mixed-Use Development for a day-care facility in an R-2, Two-Family Residential District at 1503, 1509, 1511 and 1517 East State Street; 114, 118, 122, 126, 130 William Park Boulevard; and 1514 and 1518 1<sup>st</sup> Avenue. The Motion was **SECONDED** by Fred Money and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes.
2. Submittal of a site plan for staff review and approval.
3. Building materials and architectural features for the proposed building shall be reviewed and approved by staff prior to the issuance of building permit.
4. Submittal of signage, illumination, dumpster location, will be required for staff review and approval and meet all applicable codes and ordinances prior to the issuance of building permit.
5. Submittal of landscaping plan for staff review and approval

**ZBA 042-07**  
**Findings of Fact for a Special Use Permit**  
**For a Planned Mixed-Use Development for a Day Care Facility**  
**In an R-2, Two-Family Residential District at**  
**1503, 1509, 1511 and 1517 East State Street**  
**114, 118, 122, 126, 130 Williams Park Boulevard**  
**1514 and 1518 1<sup>st</sup> 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 R-2, Two-family Residential Zoning District in which it is located.

**043-07**                    **52XX Newburg Road & 14XX Geneva Avenue**  
Applicant                Sanotta General Contractors  
Ward 14                   **Special Use Permit for a Planned Residential Development**  
                                 consisting of eight (8) homes in an R-1, Single-family Residential District

Staff had not received adequate information from the applicant to allow the preparation of a Planning and Zoning Report for this meeting. It is anticipated that information will be received from the applicant for the July meeting.

**044-07**                    **326 North Alpine Road**  
Applicant                Meredith Dooley  
Ward 10                 **Variation** to increase the number of allowable free-standing signs from one to two on the same street frontage in a C-2, Commercial Community Zoning District

This property is located approximately 115 feet from the intersection of East State Street and North Alpine Road. Meredith Dooley, Applicant, reviewed the request for Variation. This property is an existing Carpetland store. Ms. Dooley stated there are two street frontages and an on-premise billboard on the property. The agreement for the billboard expires in 2010, and will not be renewed. The billboard will be removed. It is the intent of the applicant to put up their own sign indicating their business.

Staff Recommendation was for Approval with 1 condition. No Objectors were present.

A **MOTION** was made by Fred Money to **APPROVE** the Variation to increase the number of allowable free-standing signs from one to two on the same street frontage in a C-2, Commercial Community Zoning District at 326 North Alpine Road. The Motion was **SECONDED** by Dan Roszkowski and **CARRIED** by a vote of 5-1.

Approval is subject to the following conditions:

1. Submittal of an agreement for staff review and approval that in 2010 there will be no new lease agreement for the billboard and the billboard and billboard structure will be removed.

**ZBA 044-07**  
**Findings of Fact for a Variation**  
**To Increase the Number of Allowable Freestanding Signs**  
**From One to Two on the Same Street Frontage**  
**In a C-1, Commercial Limited District at**  
**326 North Alpine Road**

**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 a Variation is 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 the 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 the 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, nor substantially increase the congestion of the public streets, nor increase the danger of fire, or endanger the public safety, nor 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.

With no further business to report, the meeting concluded at 8:15 P.M.

Respectfully submitted,

Sandra A. Hawthorne  
Administrative Assistant  
Planning/Zoning Division