CITY OF DES MOINES’
ZONING BOARD OF ADJUSTMENT
AGENDA
FOR THE MEETING SCHEDULED FOR
February 27, 2019
MEETING TO BEGIN AT 1:00 PM IN THE “MSC BOARD ROOM”
(2ND FLOOR) WITHIN THE CITY’S MUNICIPAL SERVICE CENTER AT
1551 EAST MARTIN LUTHER KING, JR. PARKWAY, DES MOINES, IA 50317.

The Zoning Board of Adjustment has the power under Iowa law and the Zoning Ordinance of the City of Des Moines (City Code Chapter 134) to hear requests and make decisions on matters such as Variances and Exceptions from the regulations in the Zoning Ordinance, Conditional Use Permits, Special Permits, and appeals of the decisions of City staff in the administration of the Zoning Ordinance.

MEETING PROCEDURE:
The meeting is an open and informal meeting that is recorded and broadcast on DMTV Mediacom Cable Channels 7.1 and 7.2. The Board members receive copies of the agenda and staff recommendations before the meeting. Copies of the agenda and staff recommendations are available to the general public.

The Board is required to base its decision on each case upon the criteria established by law for the type of relief sought by the applicant. The law applicable to each case is identified in the written staff report. If the facts, as determined by the Board, demonstrate that the criteria established by law for granting the request have been satisfied, then the Board must grant the request. Otherwise, the Board must deny the request. All speakers are requested to focus their comments upon those facts that demonstrate whether or not the criteria established by law have been satisfied. All material used as part of any presentation must be submitted as a part of the permanent record and will not be returned.

Items listed on the Consent Public Hearing Items portion of the agenda will not be individually discussed and will be considered for approval in accordance with the recommendation in the staff report unless an individual present or member of the Board requests that the Item be removed from the Consent Public Hearing Items portion agenda and separately considered under the Non-Consent Public Hearing Items portion of the agenda. Each appeal will be announced in the order it appears on the agenda and then City staff will present a brief explanation of the appeal. Any written comments received by staff prior to the hearing will be distributed to the Board for review.

All speakers are requested to speak from the podium and to start their presentation by giving their name and address. After staff introduces a request, the appellant or a representative of the appellant is allowed to speak first, and will be allowed ten minutes to present the appeal. Anyone else present in support of the appeal will then each be allowed five minutes to present their comments. Anyone present in opposition to the appeal will then be allowed five minutes each to present their comments. The appellant/representative will then be allowed three minutes for rebuttal or other closing comments. The hearing will then be closed to public comment and the Board will make a decision. The decision and the reason will be announced.

The Board has 7 members. It takes the affirmative vote of at least 4 members to grant any appeal or request, regardless of the number of members actually present at any meeting. If 5 or fewer members of the Board are present when the Chair calls an Item, the applicant may request that the Item be continued until the next monthly meeting to have the opportunity to present the matter to a full Board. The request should be made as soon as the Chair calls the Item and before the staff report is given. The Board has discretion to grant or deny any such request. If a continuance is granted, there is no guarantee that more members of the Board will be present at the next meeting.

Following the meeting, any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment under the provisions of this chapter, or any taxpayer, or any officer, department, board, or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

The City of Des Moines is pleased to provide accommodations to disabled individuals or groups and encourages participation in City government. To better serve you, please contact City staff at least three business days in advance when possible at 515-283-4209, to request any special accommodations that may be required. Assistive Listening Devices are available for meetings in the Council Chambers.

DART will provide public transportation to and from a City of Des Moines meeting held at the Richard A. Clark Municipal Services Center at 1551 East Martin Luther King Jr. Parkway. Transportation can be scheduled to and from DART Central Station at 820 Cherry Street. To reserve your route, please call DART On Call Scheduling at (515) 283-8136. Calls for trips will be accepted up to 5:00 PM the day before the meeting. Be sure to mention in your request that you require transportation for a City of Des Moines meeting.

If you have questions, please contact City staff at 515-283-4257 or visit the Zoning Board of Adjustment’s website at http://www.dmgov.org/government/boards/ZoningBoardofAdjustment.
**ITEMS 1 THROUGH 9**

Each Item listed on this portion of the agenda will be reviewed in turn by the Board, at which time the Item will either be approved or forwarded to the Non-Consent Public Hearing portion of the agenda for further discussion and action.

### Item 1  ZON 2019-00003  True Bible Baptist Church, Vicinity of 4101 Amherst Street

**Appellant:** True Bible Baptist Church, represented by Pastor Philip Herman, 4101 Amherst Street, Des Moines, IA 50315. A small portion of the property is owned by the City of Des Moines, represented by Phillip Wageman, 400 Robert D. Ray Drive, Des Moines, IA 50309.

**Premises Affected:** Vicinity of 4101 Amherst Street.

**Legal Description:** On file with the Community Development Department.

**Current Zoning:** “R1-60” One-Family Low-Density Residential District.

**Applicable Neighborhood Association:** Highland Park Neighborhood Association.

**Proposal:**
- Construction of an addition, generally measuring 6 feet by 16 feet, to the south façade of the building, which would be within 0 feet of the front (south) property line along East Shawnee Street.
- Retention of mechanical equipment along the south façade of the building that is within 0 feet of the front (south) property line along East Shawnee Street.
- Construction of an addition, measuring 5 feet by 26.25 feet, to the north façade of the building, which would be within 0 feet of the side (north) property line.
- Installation of mechanical equipment to the west of the building, which would be within 12 feet of the front (west) property line along Amherst Street.

**Appeal(s):** Special Permit for an institution of religious character.

*Required by City Code Section 134-1326(4)*

### Item 2  ZON 2019-00004  Hockmuth, 4021 East 28th Street

**Appellant:** Angela Hockmuth, 4021 East 28th Street, Des Moines, IA 50317.

**Premises Affected:** 4021 East 28th Street.

**Legal Description:** On file with the Community Development Department.

**Current Zoning:** “R1-60” One-Family Low-Density Residential District.

**Applicable Neighborhood Association:** Douglas Acres Neighborhood Association.

**Proposal:** Construction of a 1,214-square foot paved driveway within the front yard area, which have a width of 20 feet wide at the front property line and be tapered on both sides to have a maximum width of 30 feet.

**Appeal(s):** Exception of 148 square feet of paving over the maximum allowed 1,066 square feet of paving within the front yard area [25% of the 100-foot by 42.64-foot (4,264 square feet) front yard area].

*Required by City Code Section 134-1377(m)(3)*
**Item 3 ZON 2019-00006 McBride & Tallman, 3807 & 3817 Lanewood Drive Exceptions**

**Appellant:** Todd McBride, 1363 Pennsylvania Avenue, Des Moines, IA 50316 and Matthew Tallman, 3807 Lanewood Drive, Des Moines, IA 50311  
**Premises Affected:** 3807 & 3817 Lanewood Drive.  
**Legal Description:** On file with the Community Development Department.  
**Current Zoning:** “R1-60” One-Family Low-Density Residential District.  
**Applicable Neighborhood Association:** Drake & Beavertdale Neighborhood Associations.

**Proposal:** Reconfiguration of two (2) existing parcels, each containing single-family dwellings, so that each parcel would have at least 7,200 square feet of lot area and at least 50 feet of lot width. The dwellings would have at least 3.5 feet of side yard setback on any side and at least 7.5 feet of total side yard setbacks.

**Appeal(s):** Exception of up to 300 feet less than the minimum 7,500 square feet of lot area required for a single-family residential use.  
Exception of up to 10 feet less than the minimum 60 feet of lot width required for a single-family residential use.  
Exception of up to 3.5 feet less than the minimum required 7 feet of side yard setback on any one side.  
Exception of up to 7.5 feet less than the minimum required 15 feet of total side yard setbacks.  

*Required by City Code Sections 134-414(1)(a), 134-414(2)(a), & 134-414(4)(a)*

**Item 4 ZON 2019-00007 City of Des Moines, Vicinity of 5300 Indianola Avenue Special Permit**

**Appellant:** City of Des Moines, represented by Phillip Wageman, 400 Robert D. Ray Drive, Des Moines, IA 50309.  
**Premises Affected:** Vicinity of 5300 Indianola Avenue.  
**Legal Description:** On file with the Community Development Department.  
**Current Zoning:** “R1-80” One-Family Residential District.  
**Applicable Neighborhood Association:** Easter Lake Area Neighborhood Association.

**Proposal:** Construction of a 235-foot tall public safety communications tower and related ground equipment, including but not limited to a 11.67-foot by 16.5-foot equipment building, a gas-fired generator, and a 1,000-gallon above-ground liquid propane tank. The proposed tower and ground equipment would be surrounded by an 8-foot tall chain link fence topped with barbed wire. The proposed tower would be setback 240 feet from the south property line and 274 feet from the west property line.

**Appeal(s):** Special Permit for any use of structures or land by any department of the city, township, county, state or federal government.  

*Required by City Code Section 134-1326(a)*
### Item 5  ZON 2019-00008  Hagan, 3343 McKinley Avenue  Exception

**Appellant:** Rod Hagan, 3343 McKinley Avenue, Des Moines, IA 50321.  
**Premises Affected:** 3343 McKinley Avenue.  
**Legal Description:** Lot 4 of Skyline Plat 1.  
**Current Zoning:** “R1-80” One-Family Residential District.  
**Applicable Neighborhood Association:** Southwestern Hills Neighborhood Association.  

**Proposal:** Retention of the southernmost 8 feet (179 square feet) of the existing paved driveway, which has an overall paved area of 1,087 square feet.  

**Appeal(s):** Exception of 179 square feet of paving over the maximum allowed 908 square feet of paving within the front yard area, which is immediately in front of and the minimum width reasonably necessary to provide access to a three-car garage.  

*Required by City Code Section 134-1377(m)(3)*

### Item 6  ZON 2019-00009  International Reformed Holy Spirit Unity Church in America  Special Permit

**Appellant:** International Reformed Holy Spirit Unity Church in America, represented by Firmin Ntakimazi, 1017 Forest Avenue, Des Moines, IA 50314.  
**Premises Affected:** 4000 East 29th Street.  
**Legal Description:** On file with Community Development Department.  
**Current Zoning:** “C-1” Heavy Industrial District and “R1-70” One-Family Low-Density Residential District.  
**Applicable Neighborhood Association:** Douglas Acres Neighborhood Association.  

**Proposal:** Use of the existing structure for a church use, with up to 2,890 square feet of space in the principal auditorium, and for community service uses, such as a food pantry. The existing structure is within 0 feet of the north (side) property line, within 0 feet of the east (front) property line along East 29th Street, and within 0 feet of the south (front) property line along East Madison Avenue. The use would also include an off-street parking lot located to the west of the building, and setback at least 5 feet from the front property line along East Madison Avenue, that would include, at a minimum, one (1) off-street parking space per 80 square feet of principal auditorium.  

**Appeal(s):** Special Permit for an institution of religious and philanthropic character.  

*Required by City Code Sections 134-1326(4) & 134-1377(a)(4)*
Item 7  ZON 2019-00010  PDM Precast, Inc, Vicinity of 3500 Vandalia Road  Conditional Use Permit

| Appellant: | PDM Precast, Inc., represented by Adam Petersen, 220 Southeast 6th Street, Des Moines, IA 50309. The property is currently owned by the City of Des Moines, represented by Phillip Wageman, 400 Robert D. Ray Drive, Des Moines, IA 50309. |
| Premises Affected: | Vicinity of 3500 Vandalia Road. |
| Legal Description: | On file with the Community Development Department. |
| Current Zoning: | “M-2” Heavy Industrial District. |
| Applicable Neighborhood Association: | None. |

Proposal: Use of the property for the outdoor production of products and for the outdoor storage of recycled materials. These outdoor operations would be screened by a solid fence.

Appeal(s): Conditional Use Permit for a use in an “M-2” Heavy Industrial District that is not otherwise permitted in an “M-1” Light Industrial District.

 Required by City Code Section 134-1122(5)

Item 8  ZON 2019-00012  Gen Homes, LLC, 903 & 907 East Bell Avenue  Exception

| Appellant: | Gen Homes, LLC, represented by Dale Belieu, 3529 Southwest 37th Street, Des Moines, IA 50321. |
| Premises Affected: | 903 & 907 East Bell Avenue. |
| Legal Description: | On file with Community Development Department. |
| Current Zoning: | “R1-60” One-Family Low-Density Residential District. |

Proposal: Construction of two (2) single-family dwellings, where the dwelling on the lot known as 903 East Bell Avenue would be within 5 feet of its west (side) property line and the dwelling on the lot known as 907 East Bell Avenue would be within 5 feet of its east (side) property line.

Appeal(s): Exception of 2 feet less than the minimum 7-foot side yard setback required for a single-family residential use.

 Required by City Code Section 134-414(4)(a)
## Item 9  ZON 2019-00013  Perez, 4120 Southeast 14th Street  Exception

**Appellant:** Gerardo Perez, 4120 Southeast 14th Street, Des Moines, IA 50315.  
**Premises Affected:** 4120 Southeast 14th Street.  
**Legal Description:** On file with Community Development Department.  
**Current Zoning:** “C-2” General Retail and Highway-Oriented Commercial District.  
**Applicable Neighborhood Association:** South Park Neighborhood Association.

**Proposal:** Construction of a 1-story commercial structure, containing 3,750 square feet of retail space, which would be within 13 feet of the east (front) property line along Southeast 14th Street. The development would include an off-street parking lot containing at least 10 parking spaces.

**Appeal(s):** Exception of 12 feet less than the minimum required 25-foot front yard setback.  
*Required by City Code Section 134-949(3)*

****** END CONSENT PUBLIC HEARING ITEMS ******

****** BEGIN DISCUSSION PUBLIC HEARING ITEMS ******

**Item 10 was continued from the January 23, 2019 Zoning Board of Adjustment meeting.**

## Item 10  ZON 2018-00256  322 E Court, LLC, 322 East Court Avenue  Conditional Use Permit

**Appellant:** 322 E Court, LLC, represented by Jake Christensen, 215 East 3rd Street, Suite 300, Des Moines, IA 50309. The business would be operated by Margarita Factory, LLC, represented by Gerald Seals, 1829 Goose Lake Circle, North Liberty, IA 52317.  
**Premises Affected:** 322 East Court Avenue.  
**Legal Description:** On file with Community Development Department.  
**Current Zoning:** “C-3B” Central Business Mixed-Use District.  
**Applicable Neighborhood Association:** Historic East Village Neighborhood Association.

**Proposal:** Use of up to 2,700 square feet within the northeastern portion of the existing building, including a small area within a mezzanine level, for a tavern use.

**Appeal(s):** Conditional Use Permit for a tavern selling alcoholic liquor, wine, and beer.  
*Required by City Code Section 134-954*
Item 11  ZON 2019-00011  Capitol Hill Christian Church  Vicinity of 3322 East 25th Street  Exception

**Appellant:** Capitol Hill Christian Church, represented by Lindsey Buehler, 3322 East 25th Street, Des Moines, IA 50317.

**Premises Affected:** Vicinity of 3322 East 25th Street.

**Legal Description:** On file with the Community Development Department.

**Current Zoning:** “R1-60” One-Family Low-Density Residential District.

**Applicable Neighborhood Association:** Fairmont Park Neighborhood Association.

**Proposal:** The appellant is proposing to subdivide the westernmost 254 feet of the property as four (4) lots for single-family residential development along East 24th Street, including a “flag lot” that would have at 20 feet of street frontage along East 24th Street and at least 60 feet of width at the building line.

**Appeal(s):** Exception of 40 feet less than the minimum 60 feet of lot width required for a single-family dwelling.

*Required by City Code Sections 134-64(4)(d) & 134-414(2)(a)*

Item 12  ZON 2016-00077  Shop N Save Number 2, LLC, 1372 East 14th Street  Appeal of Zoning Enforcement Officer’s Determination, Use Variance, and/or Conditional Use Permit

**Appellant:** Shop N Save Number 2, LLC, represented by Loyd Ogle, 301 East Walnut Street, Suite 2, Des Moines, IA 50309. The business is operated by Shop N Save Number 2, LLC, represented by Santokh Singh Nagra, 2015 Olson Drive, Waukee, IA 50263. The property is currently owned by Dover Holding, LLC, 2100 S Ocean Blvd, Suite 501N, Palm beach, FL 33480, and formerly owned by Stratford Holding, LLC, represented by Mark Langfan, 119 West 57th Street, Suite 9, New York, NY 10019-2303.

**Premises Affected:** 1372 East 14th Street.

**Legal Description:** Lots 444 & 445 of Polk & Hubbell’s Addition.

**Current Zoning:** “C-1” Neighborhood Retail Commercial District.

**Applicable Neighborhood Association:** Capitol Park Neighborhood Association.

**Proposal:** Use of the 2,156-square foot building for a “Limited Food/Retail Sales Establishment” (Shop N Save) with sales of alcoholic liquor, wine, and beer.

**Appeal(s):** Appeal of the Zoning Enforcement Officer’s determination that the applicant may not continue sales of alcoholic liquor with a class “E” liquor license.

Use Variance of the permitted uses in a ”C-1” District (Limited Food/Retail Sales Establishment selling alcoholic liquor, wine, and beer).

Conditional Use Permit for a Limited Food/Retail Sales Establishment selling alcoholic liquor, wine, and beer.

*Required by City Code Sections 134-63, 134-842, & 134-954*

**Approval of Minutes for the January 23, 2019 Zoning Board of Adjustment meeting.**