CITY OF DES MOINES’
ZONING BOARD OF ADJUSTMENT
AGENDA
FOR THE MEETING SCHEDULED FOR
NOVEMBER 20, 2019
MEETING TO BEGIN AT 1:00 PM IN THE 2ND FLOOR BOARD ROOM
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, should special accommodations 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 620 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.
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.

<table>
<thead>
<tr>
<th>Item 1</th>
<th>ZON 2019-00203</th>
<th>Chau &amp; Nguyen, 2007 East 33rd Street</th>
<th>Exception</th>
</tr>
</thead>
</table>
| **Appellant:** Andy Chau & Thoa Nguyen, 2823 Brockway Drive, Des Moines, IA 50320.  
**Premises Affected:** 2007 East 33rd Street.  
**Legal Description:** Lot 4 of Douglas Manor Plat 1.  
**Current Zoning:** “R1-60” One-Family Low-Density Residential District.  
**Applicable Neighborhood Association:** Grays Woods Neighborhood Association.  
**Proposal:** Construction of a single-family dwelling that would be within 30 feet of the west (front) property line along East 33rd Street.  
**Appeal(s):** Exception of 8 feet less than the calculated minimum required 38-foot front yard setback.  

Required by City Code Section 134-1276(e) |

<table>
<thead>
<tr>
<th>Item 2</th>
<th>ZON 2019-00204</th>
<th>Briel, 1116 57th Street</th>
<th>Exception</th>
</tr>
</thead>
</table>
| **Appellant:** Thomas Briel, 1116 57th Street, Des Moines, IA 50317.  
**Premises Affected:** 1116 57th Street.  
**Legal Description:** Lot 58 of Windsor Square.  
**Current Zoning:** “R1-80” One-Family Residential District.  
**Applicable Neighborhood Association:** Waveland Woods Neighborhood Association.  
**Proposal:** Construction of a 24-foot by 30-foot (720 square feet) detached garage within the rear yard area.  
**Appeal(s):** Exception of 50 square feet over the maximum allowed 670 square feet of aggregate area for accessory buildings.  

Required by City Code Section 134-1276(c)(3) |
<table>
<thead>
<tr>
<th>Item</th>
<th>ZON 2019-00208</th>
<th>Patterson &amp; Hall, 4002 Ashby Avenue</th>
<th>Exceptions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Appellant:</strong></td>
<td>Lisa Patterson &amp; Jason Hall, 4002 Ashby Avenue, Des Moines, IA 50310.</td>
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<tr>
<td><strong>Premises Affected:</strong></td>
<td>4002 Ashby Avenue.</td>
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<tr>
<td><strong>Legal Description:</strong></td>
<td>On file with the Community Development Department.</td>
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<tr>
<td><strong>Current Zoning:</strong></td>
<td>“R1-60” One-Family Low-Density Residential District.</td>
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<td><strong>Applicable Neighborhood Association:</strong></td>
<td>Beaverdale Neighborhood Association.</td>
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<tr>
<td><strong>Proposal:</strong></td>
<td>Construction of a 24-foot by 36-foot (864 square feet) garage that would be 1.5 stories with a maximum height of 21 feet.</td>
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</tbody>
</table>
| **Appeal(s):** | Exception of 4 feet over the maximum 17 feet of height allowed for an accessory structure.  
Exception of a 0.5 story over the maximum 1 story allowed for an accessory structure.  
*Required by City Code Sections 134-414(6)(b) & 134-414(7)(b)* |

<table>
<thead>
<tr>
<th>Item</th>
<th>ZON 2019-00209</th>
<th>Hraha, 2725 Cambridge Street</th>
<th>Exception</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Appellant:</strong></td>
<td>Michael Hraha, 2725 Cambridge Street, Des Moines, IA 50313.</td>
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<tr>
<td><strong>Premises Affected:</strong></td>
<td>2725 Cambridge Street.</td>
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<tr>
<td><strong>Legal Description:</strong></td>
<td>Lot 17 of Martha Hall Heights.</td>
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<tr>
<td><strong>Current Zoning:</strong></td>
<td>“R1-60” One-Family Low-Density Residential District.</td>
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<td><strong>Applicable Neighborhood Association:</strong></td>
<td>Union Park Neighborhood Association.</td>
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<tr>
<td><strong>Proposal:</strong></td>
<td>Construction of a 12-foot by 20-foot covered porch addition to the existing single-family dwelling, which would be within 20 feet of the west (front) property line along Cambridge Street.</td>
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</tbody>
</table>
| **Appeal(s):** | Exception of 8 feet less than the calculated minimum required 28-foot front yard setback.  
*Required by City Code Section 134-1276(e)* |

<table>
<thead>
<tr>
<th>Item</th>
<th>ZON 2019-00213</th>
<th>McCammon, Vicinity of 801 18th Street</th>
<th>Exception</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Appellant:</strong></td>
<td>Robert &amp; Michele McCammon, 805 18th Street, Des Moines, IA 50314.</td>
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<tr>
<td><strong>Premises Affected:</strong></td>
<td>Vicinity of 801 18th Street.</td>
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<tr>
<td><strong>Legal Description:</strong></td>
<td>On file with the Community Development Department.</td>
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<tr>
<td><strong>Current Zoning:</strong></td>
<td>“R-HD” Residential-Historic District.</td>
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<tr>
<td><strong>Applicable Neighborhood Association:</strong></td>
<td>Sherman Hill Neighborhood Association.</td>
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<tr>
<td><strong>Proposal:</strong></td>
<td>Relocation of a single-family dwelling to the property, where the structure would have a 21.5-foot setback from the south (front) property line along Center Street.</td>
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</tbody>
</table>
| **Appeal(s):** | Exception of 1.5 feet over the maximum 20-foot setback from the front property line along Center Street allowed for the block face lying north of and adjoining Center Street between 17th and 18th Streets.  
*Required by City Code Section 134-774(3)* |
### Item 6  ZON 2019-00215  Andrew & Albright-Andrew, 3900 Southeast 34th Street

**Variance**

**Appellant:** James Andrew & Nancy Albright-Andrew, 1407 Linden Lane, Des Moines, IA 50315.

**Premises Affected:** 3900 Southeast 34th Street.

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

**Current Zoning:** “R1-80” One-Family Residential District.

**Applicable Neighborhood Association:** None.

**Proposal:** Construction of a single-family dwelling that would be within 10 feet of the south (front) property line along East Watrous Avenue right-of-way.

**Appeal(s):** Variance of 20 feet less than the minimum required 30-foot front yard setback.

*Required by City Code Section 134-344(3)*

### Item 7  ZON 2019-00216  Myer, LLC, Vicinity of 608 Southeast 30th Street

**Amend Conditional Use Permit**

**Appellant:** Myer, LLC, represented by David Silverstein, 306 Southeast 5th Street, Des Moines, IA 50309.

**Premises Affected:** Vicinity of 608 Southeast 30th Street.

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

**Current Zoning:** “M-2” Heavy Industrial District

**Applicable Neighborhood Association:** None.

**Proposal:** Amend Conditional Use Permit, as granted on January 24, 2018, by Docket ZON2017-00216, to include an additional 50-foot wide strip of land. The approved Conditional Use Permit allows use of the property for a salvage yard use that includes multiple structures, outdoor storage of material, and outdoor operations. The outdoor storage and operations would be screened by a 10-foot tall solid metal fence.

**Appeal(s):** Amend 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 2019-00217  Ochoa & Beltran, 1205 Leland Avenue  Exception

**Appellant:** Edwin Ochoa & Giovanna Beltran, 1205 Leland Avenue, Des Moines, IA 50315.

**Premises Affected:** 1205 Leland Avenue.

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

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

**Applicable Neighborhood Association:** Watrous South Neighborhood Association.

**Proposal:** Construction of a wrought iron fence with a maximum height of 5 feet that would be within the front yard area.

**Appeal(s):** Exception of 1 foot over the maximum 4-foot height allowed for a fence with openings comprising at least 75% of the fence (decorative wrought iron fence) within a front yard area.

*Required by City Code Section 134-1296(i)(3)(a)*

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Item 9  ZON 2019-00218  Davidson, Vicinity of 2901 CB & Q Street  Conditional Use Permit, Exception, & Variance

**Appellant:** Don Davidson, 3200 Evergreen Avenue, Des Moines, IA 50320. The business would be operated by U-Pull-It, represented by Jason Alberico, 1405 Grace Street, Omaha, NE 68117.

**Premises Affected:** Vicinity of 2901 CB & Q Street.

**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 a salvage yard use that would include multiple structures, outdoor storage of material, and outdoor operations. One of the proposed structures, as well as paved outdoor parking and storage areas, would be within 12.5 feet of the north (front) property line along CB & Q Street. The outdoor storage and operations would be screened by a minimum 8-foot tall 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.

Exception of 12.5 feet less than the minimum required 25-foot front yard setback along CB & Q Street right-of-way.

Variance of the provision that limits any solid fence within a minimum required front yard setback to 3 feet in height.

*Required by City Code Sections 134-1122(5), 134-1124(1), & 134-1296(i)(2)(a)*

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Item 10  ZON 2019-00219  Razatos & Stearns, 720 Broad Street  Exception

Appellant: Spiro Raki Razatos & Carrie A. Stearns, 25876 Old Road #44, Stevenson Ranch, CA 91381.

Premises Affected: 720 Broad Street.

Legal Description: East 65 Feet of Lot 9 of Proctors Addition.

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


Proposal: Construction of a 24-foot by 14-foot porch porch/pergola addition to the existing single-family dwelling, which would be setback at least 13 feet from the north (front) property line along Broad Street.

Appeal(s): Exception of up to 13 feet less than the calculated minimum required 26-foot front yard setback.

Required by City Code Section 134-1276(e)

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

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

Item 11 has been withdrawn by the appellant.

Item 11  ZON-2019-00142  Schneider, 3121 Forest Avenue  Variances & Exception

Appellant: Mark Schneider, 3121 Forest Avenue, Des Moines, IA 50311. The property would be redeveloped by Neighborhood Development Corp., represented by Abbey Gilroy, 3209 Ingersoll Avenue, Suite 205, Des Moines, IA 50312.

Premises Affected: 3121 Forest Avenue.

Legal Description: On file with the Community Development Department.

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

Applicable Neighborhood Association: Drake Neighborhood Associations.

Proposal: Redevelopment of the site with a commercial building generally measuring 42 feet by 100 feet, where the building would be within 9 feet of the south (front) property line along Forest Avenue and within 2 feet of the west (front) property line along 32nd Street. The proposed development would include an off-street parking lot containing approximately 22 parking stalls and a dumpster enclosure that would be within 4 feet of the north (rear) property line.

Appeal(s): Variance of 16 feet less than the minimum 25-foot setback required from the south (front) property line along Forest Avenue.

Variance of 23 feet less than the minimum 25-foot setback required from the west (front) property line along 32nd Street.

Variance of 6 feet less than the minimum 10-foot setback required from the north (rear) property line adjoining an “R” Residential District.

Exception of 2 parking spaces less than the minimum required 24 spaces.

Required by City Code Sections 134-845(3), 134-845(5), & 134-1377(a).
Item 12  ZON2019-00175  Kum & Go, LC, Vicinity of 3104 University Avenue
Conditional Use & Variances

Appellant: Kum & Go, LC, represented by Dan Garneau, 1459 Grand Avenue, Des Moines, IA 50309. A portion of the property is owned by Mirrell Flats Condominiums, represented by Dan Garneau, 1459 Grand Avenue, Des Moines, IA 50309.

Premises Affected: Vicinity of 3104 University Avenue.

Legal Description: On file with Community Development Department.

Current Zoning: “NPC” Neighborhood Pedestrian Commercial District.


Proposal: Allow a gas station/convenience store to have sales of alcoholic liquor in addition to the otherwise permitted sales of wine and beer. As a gas station/convenience store, the business would be allowed to derive no more than 40% of its gross sales from alcoholic liquor, wine, beer, and/or tobacco products. The property within 202 feet of a property at 3223 University Avenue, which contains both a church and a licensed child care facility use. The appeals would also allow the gas station use to have more than six (6) fueling locations.

Appeal(s): Conditional Use for a business selling liquor, wine, and beer.

Variance of the provision that requires any gas station convenience store in an “NPC” District to provide at least 500 feet of separation from any church, school, public park, or licensed child care facility.

Variance of the provision that limits any gas station in an “NPC” District to no more than six (6) fueling locations.

Required by City Code Sections 134-954, 134-954(a), & 134-912(2)(q)
<table>
<thead>
<tr>
<th>Item 13</th>
<th>ZON 2019-00202</th>
<th>DeVault, 4645 East Broadway Avenue</th>
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<td>Special Permit &amp; Variances</td>
</tr>
</tbody>
</table>

**Appellant:** Chrisanne & Tracy DeVault, 6287 73rd Avenue, Indianola, IA 50125. The business is operated by Luke & Brandy Judd, 4645 East Broadway Avenue, Des Moines, IA 50317.

**Premises Affected:** 4645 East Broadway Avenue.

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

**Current Zoning:** "A-1" Agricultural District.

**Applicable Neighborhood Association:** None.

**Proposal:** Use of the entire 40-foot by 40-foot (1,600 square feet) accessory structure for a general motor vehicle repair business, which would involve the outdoor parking and storage of vehicles awaiting repair and where the operators of the business do not own the property.

**Appeal(s):**

- Special Permit for a Home Occupation.
- Variance of the provision that limits a Home Occupation to no outside operation, storage or display of materials or products.
- Variance of the provision that limits a Home Occupation to not more than one-half of the area of an accessory structure.
- Variance of the provision that limits a Home Occupation to be in effect only for so long as the premises are owned and occupied by the applicant.

required by City Code Sections 134-310(1)(a), 134-310(2)(a), 134-1326(10), 134-1326(10)(f), 134-1326(10)(g), & 134-1326(10)(m)

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<thead>
<tr>
<th>Item 14</th>
<th>ZON 2019-00207</th>
<th>Emogine, Inc., 100 Indiana Avenue</th>
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<td></td>
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<td>Conditional Use</td>
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</tbody>
</table>

**Appellant:** Emogine, Inc., represented by Stuart Alexander Napier, 100 Indiana Avenue, Des Moines, IA 50314. The business would be operated by Top It Off, LLC, represented by Frank Thomas, PO Box 321, Norwalk, IA 50211.

**Premises Affected:** 100 Indiana Avenue.

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

**Current Zoning:** "M-1" Light Industrial District.

**Applicable Neighborhood Association:** River Bend Neighborhood Association.

**Proposal:** The Conditional Use would allow use of a maximum 14,000-square foot area within the second floor of the building, for an event hall use and catering business, which would include the sale of alcoholic liquor, wine, and/or beer.

**Appeal(s):** Conditional Use for a tavern-type use selling alcoholic liquor, wine, and/or beer.

required by City Code Section 134-954
## Item 15  ZON 2019-00210  Merle Hay Investors, LLC, Vicinity of 3850 Merle Hay Road

**Variances**

| Appellant: | Merle Hay Mall, LP, represented by Donna Stapleton, 3850 Merle Hay Road, Suite 101, Des Moines, IA 50310. |
| Premises Affected: | Vicinity of 3850 Merle Hay Road. |
| Legal Description: | On file with Community Development Department. |
| Current Zoning: | “C-4” Shopping Center Commercial District. |

**Proposal:** Installation of a 1.75-foot by 20.63-foot (36.09 square feet) sign on the east facade of the Merle Hay Mall structure to identify a tenant of the mall (GNC Live Well) that has no occupant frontage facing a public street.

**Appeal(s):** Variance of one wall-mounted sign over the maximum zero (0) identification signs for an occupant that does not have occupant frontage facing a public street.

Variance of 36.09 square feet of signage area over the maximum allowed zero (0) square feet of on-premises type B identification or advertising signs for an occupant that does not have occupant frontage facing a public street.

*Required by City Code Sections 134-3 (definition of “occupant frontage”), 134-1054 & 134-951(2)*

## Item 16  ZON 2019-00211  DSM International Airport, Vicinity of 5800 Fleur Drive

**Conditional Use**

| Appellant: | Des Moines International Airport, represented by Bryan Belt, 5800 Fleur Drive, Suite 218, Des Moines, IA 50321. |
| Premises Affected: | Vicinity 5800 Fleur Drive. |
| Legal Description: | On file with the Community Development Department. |
| Current Zoning: | “M-3” Limited Industrial District. |

**Proposal:** The Conditional Use would allow construction of a tavern-type area within “Concourse C”, which would serve alcoholic liquor, wine, and/or beer. The Conditional Use would also allow for consumption of alcohol throughout both Concourse A and Concourse C within the airport.

**Appeal(s):** Conditional Use for a tavern-type use selling alcoholic liquor, wine, and/or beer.

*Required by City Code Section 134-954*
**Item 17**  
**ZON 2019-00212 Phothisomphan Meditation Monastery**  
2560 Southeast 14th Street Special Permit

**Appellant:** Phothisomphan Meditation Monastery, represented by Khamvahn Kanlagna, 715 37th Street, Des Moines, IA 50312.  
**Premises Affected:** 2560 Southeast 14th Street.  
**Legal Description:** On file with the Community Development Department.  
**Current Zoning:** “C-2” General Retail and Highway-Oriented Commercial District & “R1-60” One-Family Low-Density Residential District.  
**Applicable Neighborhood Association:** Indianola Hills Neighborhood Association.

**Proposal:** Use of the existing 12,920-square foot structure for a religious assembly use, while providing at least 28 paved off-street parking spaces, as well as graveled off-street parking spaces that may be paved at a later date.

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

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

**Item 18**  
**ZON 2019-00214 Lippert, 1517 East Madison Avenue** Variances

**Appellant:** Patricia Lippert, represented by Tim Lippert, 1511 East Madison Avenue, Des Moines, IA 50313.  
**Premises Affected:** 1517 East Madison Avenue.  
**Legal Description:** Lot 6 of Madison Place.  
**Current Zoning:** “M-1” Light Industrial District.  
**Applicable Neighborhood Association:** Highland Park Neighborhood Association.

**Proposal:** Provision of an outdoor storage and parking area that would be within 10 feet of the north (front) property line along East Madison Avenue. The storage area would be surfaced with asphalt millings.

**Appeal(s):** Variance of 15 feet less than the minimum required 25-foot front yard setback required for outdoor storage.

Variance of the provision that requires all driveways, parking lots and areas used for temporary storage of vehicles to be surfaced with an asphaltic or Portland cement binder pavement or such other surfaces as shall be approved by the city engineer so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area.

*Required by City Code Sections 134-1087(4)(a), 134-1087(4)(c)(1), & 134-1377(f)(5)*

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