ZONING BOARD OF ADJUSTMENT
CITY OF DES MOINES, IOWA
DECISION AND ORDER

This Decision and Order of the Board of Adjustment does not constitute approval of any construction. All necessary permits must be obtained before any construction is commenced upon the Property. A Certificate of Occupancy must be obtained before any structure is occupied or re-occupied after a change of use.

Any use allowed by this Decision and Order shall not be commenced or resumed until all the requirements imposed on such use by the Zoning Ordinance and this Order have been satisfied. The use allowed by this Order must be commenced within two years or this Order will be void and of no further force and effect.

IN THE MATTER OF THE APPEAL FROM

TRUE BIBLE BAPTIST CHURCH
ON PROPERTY LOCATED AT
VICINITY OF 4101 AMHERST STREET

DOCKET: ZON 2019-00003
PUBLIC HEARING: FEBRUARY 27, 2019

SUBJECT OF THE APPEAL

Proposal: Expansion of the existing church use to include the following:
- 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 6 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)

FINDING

Granting the Special Permit would be consistent with the intended spirit and purpose of the Zoning Ordinance and in harmony with the essential character of the locality of the land in question so long as any mechanical equipment is adequately screened and any additions are constructed with building and roofing materials that are compatible with the existing structure. The proposed use complies with the standards for issuance of a Special Permit, as they relate entirely to the permitted religious use of the property. The proposal would adequately safeguard the health, safety and welfare of the occupants of adjoining and surrounding property; would not unduly increase congestion in the public streets; would not increase public danger of fire and safety; would not diminish or impair established property values in surrounding areas; and would have no significant detrimental impact on the use and enjoyment of adjoining properties.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for a Special Permit for an institution of religious character, to allow expansion of the existing church use to include construction of an addition, generally measuring 8 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; and 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, is granted, subject to the following conditions:

1. Any addition shall be constructed with building and roofing materials that are compatible with the existing structure, to the satisfaction of the City's Planning Administrator.

2. Any mechanical equipment shall be screened, to the satisfaction of the City's Planning Administrator.

3. Any construction shall be in compliance with all applicable Site Plan, Building Code, and Fire Code requirements, with issuance of all necessary permits by the Permit and Development Center.

VOTE

The foregoing Decision and Order was adopted by a vote of 7-0, with all Board members voting in favor thereof.

Signed, entered into record, and filed with the City of Des Moines Community Development Department serving as the office of the Board, on March 6, 2019.

Mel Pins, Board Chair

Bert Drost, Board Secretary
This Decision and Order of the Board of Adjustment does not constitute approval of any construction. All necessary permits must be obtained before any construction is commenced upon the Property. A Certificate of Occupancy must be obtained before any structure is occupied or re-occupied after a change of use.

Any use allowed by this Decision and Order shall not be commenced or resumed until all the requirements imposed on such use by the Zoning Ordinance and this Order have been satisfied.

The use allowed by this Order must be commenced within **two years** or this Order will be void and of no further force and effect.

**IN THE MATTER OF THE APPEAL FROM** .......................................................... **DOCKET: ZON 2019-00004**

**ANGELA HOCKMUTH** ......................................................................................... **PUBLIC HEARING: FEBRUARY 27, 2019**

**ON PROPERTY LOCATED AT** ................................................................. **4021 EAST 28TH STREET**

**SUBJECT OF THE APPEAL**

**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)*

**FINDING**

Granting the Exception with conditions would be consistent with the intended spirit and purpose of the Zoning Ordinance and in harmony with the essential character of the neighborhood of the land in question. The appellant faces a practical difficulty in constructing a driveway that is large enough to meet their needs given the location of an existing utility pole in the adjoining right-of-way and the need to provide a front yard setback for the proposed dwelling that is compatible with the essential character of the neighborhood of the land in question. The proposed driveway relates entirely to a use that is allowed in an "R1-60" District.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for an 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], to allow 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, is granted subject to the following conditions:

1. Issuance of any necessary drive approach permit by the City’s Permit and Development Center.

2. The driveway shall be constructed in substantial conformance with the submitted site sketch.

VOTE

The foregoing Decision and Order was adopted by a vote of 7-0, with all Board members voting in favor thereof.

Signed, entered into record, and filed with the City of Des Moines Community Development Department serving as the office of the Board, on March 6, 2019.

Mei Pns, Board Chair

Bert Drost, Board Secretary
ZONING BOARD OF ADJUSTMENT  
CITY OF DES MOINES, IOWA  
DECISION AND ORDER

This Decision and Order of the Board of Adjustment does not constitute approval of any construction. All necessary permits must be obtained before any construction is commenced upon the Property. A Certificate of Occupancy must be obtained before any structure is occupied or re-occupied after a change of use.

Any use allowed by this Decision and Order shall not be commenced or resumed until all the requirements imposed on such use by the Zoning Ordinance and this Order have been satisfied. The use allowed by this Order must be commenced within two years or this Order will be void and of no further force and effect.

IN THE MATTER OF THE APPEAL FROM  
TODD McBRIDE & MATTHEW TALLMAN  
ON PROPERTY LOCATED AT  
3807 & 3817 LANEWOOD DRIVE  

DOCKET: ZON 2019-00006  
PUBLIC HEARING: FEBRUARY 27, 2019

SUBJECT OF THE APPEAL

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)

FINDING:

Granting the requested Exceptions would be consistent with the intended spirit and purpose of the Zoning Ordinance and in harmony with the essential character of the neighborhood, as the requested relief relates entirely to a permitted single-family dwelling use allowed in the "R1-60" District. The appellant of 3817 Lanewood Drive faces a practical difficulty in effectively utilizing their property with the current front and side yards setbacks. This is due to the location of the existing dwelling in proximity to the shared side property line, which does not allow for an adequate area to provide permanent landscaping. There would not be a change in the number of single-family dwellings that could be built on the property with the requested relief. By granting the requested relief, the configuration would be more in character with the surrounding neighborhood.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeals for an Exception of up to 300 feet less than the minimum 7,500 square feet of lot area required for a single-family residential use, an Exception of up to 10 feet less than the minimum 60 feet of lot width required for a single-family residential use, an Exception of up to 3.5 feet less than the minimum required 7 feet of side yard setback on any one side, and an Exception of up to 7.5 feet less than the minimum required 15 feet of total side yard setbacks, to allow 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, are granted, subject to the condition that any modified lot configuration shall be in accordance with a Plat of Survey approved by the City's Permit and Development Center and recorded with Polk County.

VOTE

The foregoing Decision and Order was adopted by a vote of 7-0, with all Board members voting in favor thereof.

Signed, entered into record, and filed with the City of Des Moines Community Development Department serving as the office of the Board, on March 6, 2019.

[Signature]
Mel Pinto, Board Chair

[Signature]
Bert Drost, Board Secretary
ZONING BOARD OF ADJUSTMENT
CITY OF DES MOINES, IOWA
DECISION AND ORDER

This Decision and Order of the Board of Adjustment does not constitute approval of any construction. All necessary permits must be obtained before any construction is commenced upon the Property. A Certificate of Occupancy must be obtained before any structure is occupied after a change of use.

Any use allowed by this Decision and Order shall not be commenced or resumed until all the requirements imposed on such use by the Zoning Ordinance and this Order have been satisfied.

The use allowed by this Order must be commenced within two years or this Order will be void and of no further force and effect.

IN THE MATTER OF THE APPEAL FROM CITY OF DES MOINES ON PROPERTY LOCATED AT VICINITY OF 5300 INDIANOLA AVENUE

DOCKET: ZON 2019-00007
PUBLIC HEARING: FEBRUARY 27, 2019

SUBJECT OF THE APPEAL

Proposal: Construction of a 235-foot tall public safety communications tower and related ground equipment, including but not limited to an 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)

FINDING

The appellant has demonstrated meeting the necessary criteria for a Special Permit so long as conditions of approval are met. There is a practical difficulty in placing the public safety communications tower in a location and with reduced height based on the need to provide a functional public safety radio system. The surrounding timber will sufficiently obscure the public safety communications tower and equipment area from the residences around the park property. The other landscaping measures should obscure the public safety communications tower and equipment from open views to the location.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for a Special Permit for any use of structures on land by any department of the city, township, county, state or federal government, to allow construction of a 235-foot tall public safety communications tower and related ground equipment, including but not limited to an 11.67-foot by 16.5-foot equipment building, a gas-fired generator, and a 1,000-gallon above-ground liquid propane tank, where the proposed tower and ground equipment would be surrounded by an 8-foot tall chain link fence topped with barbed wire, is granted, subject to the following conditions:

1. Any public safety communications tower and ground equipment constructed shall comply with all applicable Building and Fire Codes with issuance of all necessary permits and Site Plan approval by the Permit and Development Center.

2. Any ground equipment associated with the public safety communications tower shall be within a leased area that is screened with an 8-foot tall fence of a dark-coated chain-link material without slats. It shall have adequate tree and evergreen plantings of approved species surrounding the perimeter as approved by the Site Plan review in the City's Permit and Development Center.

VOTE
The foregoing Decision and Order was adopted by a vote of 7-0, with all Board members voting in favor thereof.

Signed, entered into record, and filed with the City of Des Moines Community Development Department serving as the office of the Board, on March 6, 2019.

Mel Pinn, Board Chair

Bert Drost, Board Secretary
This Decision and Order of the Board of Adjustment does not constitute approval of any construction. All necessary permits must be obtained before any construction is commenced upon the Property. A Certificate of Occupancy must be obtained before any structure is occupied or re-occupied after a change of use.

Any use allowed by this Decision and Order shall not be commenced or resumed until all the requirements imposed on such use by the Zoning Ordinance and this Order have been satisfied.

The use allowed by this Order must be commenced within two years or this Order will be void and of no further force and effect.

IN THE MATTER OF THE APPEAL FROM

ROD HAGAN

ON PROPERTY LOCATED AT

3343 MCKINLEY AVENUE

DOCKET: ZON 2019-00008

PUBLIC HEARING: FEBRUARY 27, 2019

SUBJECT OF THE APPEAL

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)

FINDING

Granting the Exception with conditions would be consistent with the intended spirit and purpose of the Zoning Ordinance and in harmony with the essential character of the neighborhood of the land in question. It is reasonable to allow the additional pavement to ensure safe access onto McKinley Avenue. The appellant faces a practical difficulty in providing such a driveway given the placement of the dwelling and the dimensions of the front yard area. The proposed driveway relates entirely to a use that is allowed in an "R1-80" District. The proposed driveway would fit the scale of the lot and would be compatible with the development pattern of the surrounding area.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for an Exception of 179 square feet of paving over the maximum allowed 908 square feet of paving within the front yard area, to allow 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, is granted, subject to the following conditions:

1. Issuance of any necessary drive approach permit by the City’s Permit and Development Center.

2. The driveway shall be constructed in substantial conformance with the submitted site sketch.

VOTE

The foregoing Decision and Order was adopted by a vote of 7-0, with all Board members voting in favor thereof.

Signed, entered into record, and filed with the City of Des Moines Community Development Department serving as the office of the Board, on March 6, 2019.

Mel Pine, Board Chair

Bert Drost, Board Secretary
ZONING BOARD OF ADJUSTMENT
CITY OF DES MOINES, IOWA
DECISION AND ORDER

This Decision and Order of the Board of Adjustment does not constitute approval of any construction. All necessary permits must be obtained before any construction is commenced upon the Property. A Certificate of Occupancy must be obtained before any structure is occupied or re-occupied after a change of use.

Any use allowed by this Decision and Order shall not be commenced or resumed until all the requirements imposed on such use by the Zoning Ordinance and this Order have been satisfied.

The use allowed by this Order must be commenced within two years or this Order will be void and of no further force and effect.

IN THE MATTER OF THE APPEAL FROM
INTERNATIONAL REFORMED HOLY SPIRIT
UNITY CHURCH OF AMERICA
ON PROPERTY LOCATED AT
4000 EAST 29TH STREET

DOCKET: ZON 2019-00009
PUBLIC HEARING: FEBRUARY 27, 2019

SUBJECT OF THE APPEAL

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)

FINDING

Granting the Special Permit would be consistent with the intended spirit and purpose of the Zoning Ordinance and in harmony with the essential character of the locality of the land in question. The impact of the proposed church and community service uses, such as a food pantry, would be minimal so long as any use operates in accordance with the conditions of approval. The proposed use would be located within the existing building and would adequately safeguard the health, safety and welfare of the occupants of adjoining and surrounding property; would not unduly increase congestion in the public streets; would not increase public danger of fire and safety; and would not diminish or impair established property values in surrounding areas, and would have no significant detrimental impact on the use and enjoyment of adjoining properties.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for a Special Permit for an institution of religious and philanthropic character, to allow 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, is granted, subject to the following conditions:

1. Any community services use on the property, such as a food pantry, shall only occur as accessory uses to primary church use of the property.

2. Any community services use on the property, such as a food pantry, shall only occur between the hours of 7:00 AM and 8:00 PM.

3. Any use of the site shall be in accordance with any required Site Plan as reviewed and approved by the City's Permit and Development Center.

4. Any use of the site by a church shall provide, at a minimum, one (1) off-street parking space per 80 square feet of principal auditorium.

5. Any off-street parking lot shall provide a paving setback of at least 5 feet from the front (south) property line along East Madison Avenue.

6. Any unused drive approach on the property shall be removed and the turf and the curb shall be restored.

7. Any construction shall be in compliance with all applicable Building Codes, with issuance of all necessary permits by the City’s Permit and Development Center.

8. Any sign constructed shall be installed by a licensed sign contractor in accordance with a sign permit issued by the City’s Permit and Development Center.

VOTE

The foregoing Decision and Order was adopted by a vote of 7-0, with all Board members voting in favor thereof.

Signed, entered into record, and filed with the City of Des Moines Community Development Department serving as the office of the Board, on March 6, 2019.

[Signature]
Mel Pims, Board Chair

[Signature]
Bert Drost, Board Secretary
ZONING BOARD OF ADJUSTMENT
CITY OF DES MOINES, IOWA
DECISION AND ORDER

This Decision and Order of the Board of Adjustment does not constitute approval of any construction. All necessary permits must be obtained before any construction is commenced upon the Property. A Certificate of Occupancy must be obtained before any structure is occupied or re-occupied after a change of use.

Any use allowed by this Decision and Order shall not be commenced or resumed until all the requirements imposed on such use by the Zoning Ordinance and this Order have been satisfied.

The use allowed by this Order must be commenced within two years or this Order will be void and of no further force and effect.

IN THE MATTER OF THE APPEAL FROM PDM PRECAST, INC.
ON PROPERTY LOCATED AT VICINITY OF 3500 VANDALIA ROAD

DOCKET: ZON 2019-00010
PUBLIC HEARING: FEBRUARY 27, 2019

SUBJECT OF THE APPEAL

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)

FINDING

The appellant has satisfied the criteria necessary for granting the Conditional Use Permit so long as the proposed use is in compliance with the conditions of approval. Any future use of the site for the proposed industrial use with outside storage and production must be in accordance with a Site Plan reviewed and approved by the City's Permit and Development Center that satisfies all conditions of approval. The impact of the business would be minimized by an 8-foot tall screen from the street side of the outside storage and production areas. The zoning conditions require the future installation of landscaping along Vandalia Road when it would become necessary.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for a 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, to allow use of the property for the outdoor production of products and for the outdoor storage of recycled materials, is granted, subject to the following conditions:

1. Any use of the site for outside storage and production for an industrial use be in accordance with a Site Plan as reviewed and approved by the City's Permit and Development Center.

2. Any outside storage and productions areas shall be screened from public streets by an 8-foot opaque fence of uniform metal or composite material that is setback at least 25 feet from any public street Right-Of-Way line.

3. All site Landscaping shall be provided in accordance with the Landscape Standards applicable to the "C-2" District and in accordance with the conditions of the rezoning in Ordinance No. 15,747.

4. Any buildings constructed along the public street sides of the Property should meet the following requirements:
   a. On any public street facing façade, the exterior material above grade to four feet above the finished floor level shall be constructed of durable materials, such as pre-cast or cast in place concrete, brick, or stone masonry.
   b. Any use of metal exterior material on any façade shall have minimum 22-gauge thickness with no exposed fasteners.
   c. Any overhead doors shall not be oriented toward a public street.

5. All driveways, parking lots and maneuvering aisles shall be surfaced with Portland Cement Concrete or Hot Mix Asphalt pavement. All storage areas shall be surface with pavement or Recycled Asphalt Product.

6. The best practical control technology shall be employed regularly to minimize any obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance generated by the proposed use, and the best practical means known shall be employed for the disposal of refuse matter.

VOTE

The foregoing Decision and Order was adopted by a vote of 7-0, with all Board members voting in favor thereof.

Signed, entered into record, and filed with the City of Des Moines Community Development Department serving as the office of the Board, on March 6, 2019.

Mei Pino, Board Chair

Bert Drost, Board Secretary
ZONING BOARD OF ADJUSTMENT  
CITY OF DES MOINES, IOWA  
DECISION AND ORDER

This Decision and Order of the Board of Adjustment does not constitute approval of any construction. All necessary permits must be obtained before any construction is commenced upon the Property. A Certificate of Occupancy must be obtained before any structure is occupied or re-occupied after a change of use.

Any use allowed by this Decision and Order shall not be commenced or resumed until all requirements imposed on such use by the Zoning Ordinance and this Order have been satisfied. The use allowed by this Order must be commenced within two years or this Order will be void and of no further force and effect.

IN THE MATTER OF THE APPEAL FROM

GEN HOMES, LLC

ON PROPERTY LOCATED AT

903 & 907 EAST BELL AVENUE

DOCKET: ZON 2019-00012

PUBLIC HEARING: FEBRUARY 27, 2019

SUBJECT OF THE APPEAL

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)

FINDING

Granting the Exception with conditions would be consistent with the intended spirit and purpose of the Zoning Ordinance and in harmony with the essential character of the neighborhood so long as the dwellings are constructed in conformance with the conditions of approval to ensure they are compatible with the primary character of the surrounding neighborhood, are of a level of quality that will support the long term stability of the neighborhood, and provide adequate shelter during storm events. The appellant faces a practical difficulty in complying with the side yard setback requirement for the proposed dwellings given the need to provide separated driveways for each dwelling. Providing separated driveways requires additional space to be used on the driveway side of the dwelling, thereby, limiting the space available to provide a setback on the opposite side of the dwelling. The impact of two dwellings on the surrounding neighborhood would be minimal, as the proposed setbacks are compatible with the development pattern of the neighborhood, and the exception relates entirely to a principal permitted use in the applicable zoning district.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for an Exception of 2 feet less than the minimum 7-foot side yard setback required for a single-family residential use, to allow 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, is granted, subject to the following conditions:

1. Construction of any dwelling shall be in general compliance with building design and elevations as reviewed and approved by the Planning Administrator.

2. The architectural details of each dwelling shall vary from the other dwelling to provide an individualized appearance.

3. Provision of a full basement under each dwelling

4. Provision of one of the following in the rear yard of each lot:
   a. A detached garage that at a minimum is large enough to provide 1 parking space and 80 square feet of storage space, where a paved driveway shall be provided for vehicular access to the garage; or
   b. A storage shed measuring at least 10 feet by 10 feet (100 square feet) that is constructed with a foundation and with siding and shingles that match the single-family dwelling, where a paved driveway shall be provided to the required paved parking space located outside of the front yard setback.

5. Exterior material for any home constructed shall be masonry (brick or stone), vinyl of no less than 0.042 thickness, cedar, cement fiber board or other composite materials generally equal in quality to cement fiber board as approved by the Planning Administrator.

6. Any dwelling shall be constructed with a front porch of not less than 60 square feet or at least 1/3 of the front façade shall be clad with stone or brick masonry.

7. Any dwelling constructed shall have window and door trim on all facades that is a minimum of 4-inches wide.

8. The roof on any house constructed shall be of architectural profile asphalt type shingles or cedar shakes. Standard 3-tab shingles are prohibited.

9. Any dwelling or accessory structure shall be constructed in compliance with all applicable building codes with issuance of all necessary permits by the Permit and Development Center.

VOTE

The foregoing Decision and Order was adopted by a vote of 7-0, with all Board members voting in favor thereof.

Signed, entered into record, and filed with the City of Des Moines Community Development Department serving as the office of the Board, on March 6, 2019.

Mel Pina, Board Chair

Bert Drost, Board Secretary
ZONING BOARD OF ADJUSTMENT
CITY OF DES MOINES, IOWA
DECISION AND ORDER

This Decision and Order of the Board of Adjustment does not constitute approval of any construction. All necessary permits must be obtained before any construction is commenced upon the Property. A Certificate of Occupancy must be obtained before any structure is occupied or re-occupied after a change of use.

Any use allowed by this Decision and Order shall not be commenced or resumed until all the requirements imposed on such use by the Zoning Ordinance and this Order have been satisfied.

The use allowed by this Order must be commenced within two years or this Order will be void and of no further force and effect.

IN THE MATTER OF THE APPEAL FROM
GERARDO PEREZ
ON PROPERTY LOCATED AT
4120 SOUTHEAST 14TH STREET

DOCKET: ZON 2019-00013
PUBLIC HEARING: FEBRUARY 27, 2019

SUBJECT OF THE APPEAL

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)

FINDING

Granting an Exception of 12 feet less than the minimum required 25-foot front yard setback would be consistent with the intended spirit and purpose of the Zoning Ordinance, so long as it is constructed in compliance with the conditions of approval. The property is irregularly shaped presenting a practical difficulty to placing the building within permitted setbacks while still providing appropriate site circulation. The proposed setback with the relief would allow the building to be placed further east on the property, consistent with the pattern found in the surrounding area along Southeast 14th Street. Furthermore, the proposed development must be constructed in compliance with a Site Plan and building elevations as approved by the City's Planning Administrator, that would ensure that the building would be architecturally compatible and in harmony with the essential character of the neighborhood of the land in question.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for an Exception of 12 feet less than the minimum required 25-foot front yard setback, to allow for 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, is granted, subject to the following conditions:

1. Removal of the existing retail building prior to any development of any new building on the site.

2. Any new building developed on the site shall be constructed in accordance with architectural elevations identifying appropriate building materials and a commercial window pattern, as approved by the City's Planning Administrator.

3. Prior to construction of any off-street parking lot removing such access, the existing ingress/egress easement across the subject property shall be abandoned. At that time access and off-street parking shall then be accommodated and developed from East 13th Street for the single-family dwelling at 4115 Southeast 13th Street.

4. Any commercial development on the site shall be constructed in accordance with a Site Plan including landscape requirements applicable to "C-2" Districts as approved by the Permit and Development Center.

5. Any construction of a commercial building shall comply with all applicable Building and Fire Codes with issuance of all necessary permits by the Permit and Development Center.

VOTE

The foregoing Decision and Order was adopted by a vote of 7-0, with all Board members voting in favor thereof.

Signed, entered into record, and filed with the City of Des Moines Community Development Department serving as the office of the Board, on March 6, 2019.

Mel Pins, Board Chair

Bert Drost, Board Secretary
This Decision and Order of the Board of Adjustment does not constitute approval of any construction. All necessary permits must be obtained before any construction is commenced upon the Property. A Certificate of Occupancy must be obtained before any structure is occupied or re-occupied after a change of use.

Any use allowed by this Decision and Order shall not be commenced or resumed until all the requirements imposed on such use by the Zoning Ordinance and this Order have been satisfied. The use allowed by this Order must be commenced within two years or this Order will be void and of no further force and effect.

IN THE MATTER OF THE APPEAL FROM

322 E COURT, LLC
ON PROPERTY LOCATED AT
322 EAST COURT AVENUE

DOCKET: ZON 2018-00256
PUBLIC HEARING: FEBRUARY 27, 2019

SUBJECT OF THE APPEAL

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

FINDING

The appellant has satisfied the criteria necessary for granting the Conditional Use Permit. The proposed location, design, construction and operation of the particular use would adequately safeguard the health, safety and general welfare of persons residing in the adjoining or surrounding residential area so long as the business operates in conformance with the conditions of approval. If the Zoning Enforcement Officer determines at any time that the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions set forth in the Conditional Use Permit, the Zoning Enforcement Officer may apply to the Zoning Board of Adjustment to reconsider the issuance of the Conditional Use Permit for such business.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for a Conditional Use Permit for a tavern selling alcoholic liquor, wine, and beer, to allow 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, is granted, subject to the following conditions:

1. Any business selling alcoholic liquor, wine, and/or beer shall operate in accordance with the necessary permits obtained through the Office of the City Clerk as approved by the City Council.

2. Any business shall comply with Article IV of Chapter 42 of the City Code pertaining to noise control.

3. The business shall not have a patio for outdoor service unless the Zoning Board of Adjustment amends the Conditional Use Permit to allow for such.

4. The business shall conspicuously post 24-hour contact information for a manager or owner of the business near the main public entrance.

5. The business shall institute a strict no loitering policy, conspicuously post one or more "No Loitering" signs, and cooperate with police in addressing any loitering on the premises.

6. Litter and trash receptacles shall be located at convenient locations inside and outside the premises, and operators of the business shall remove all trash and debris from the premises and adjoining public areas on a daily basis.

7. Any renovation on the site shall be in compliance with all applicable building and fire codes, with issuance of all necessary permits by the Permit and Development Center.

8. If the Zoning Enforcement Officer determines at any time that the operation of such a business becomes a nuisance, exhibits a pattern of violating the conditions set forth in the Conditional Use Permit, or violates the requirements of City Code Section 134-954(c), the Zoning Enforcement Officer may apply to the Board to reconsider the issuance of the Conditional Use Permit.

VOTE

The foregoing Decision and Order was adopted by a vote of 7-0, with all Board members voting in favor thereof.

Signed, entered into record, and filed with the City of Des Moines Community Development Department serving as the office of the Board, on March 6, 2019.

Mel Pinis, Board Chair

Bert Drost, Board Secretary
ZONING BOARD OF ADJUSTMENT
CITY OF DES MOINES, IOWA
DECISION AND ORDER

This Decision and Order of the Board of Adjustment does not constitute approval of any construction. All necessary permits must be obtained before any construction is commenced upon the Property. A Certificate of Occupancy must be obtained before any structure is occupied or re-occupied after a change of use.

Any use allowed by this Decision and Order shall not be commenced or resumed until all the requirements imposed on such use by the Zoning Ordinance and this Order have been satisfied.

The use allowed by this Order must be commenced within two years or this Order will be void and of no further force and effect.

IN THE MATTER OF THE APPEAL FROM
CAPITOL HILL CHRISTIAN CHURCH
ON PROPERTY LOCATED AT
VICINITY OF 3322 EAST 25TH STREET

DOCKET: ZON 2019-00011
PUBLIC HEARING: FEBRUARY 27, 2019

SUBJECT OF THE APPEAL

Proposal: The appellant is proposing to subdivide the westernmost 254 feet of the property as four (4) lots for single-family 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)

FINDING

Granting the appellant's request for continuance would allow them to revise their proposal.

DECISION AND ORDER

WHEREFORE, IT IS ORDERED that an appeal for an Exception of 40 feet less than the minimum 60 feet of lot width required for a single-family dwelling, to allow subdivision of the westernmost 254 feet of the property into four (4) lots for single-family 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, is continued to the March 27, 2019 Zoning Board of Adjustment meeting.

VOTE

The foregoing Decision and Order was adopted by a vote of 7-0, with all Board members voting in favor thereof.

Signed, entered into record, and filed with the City of Des Moines Community Development Department serving as the office of the Board, on March 6, 2019.

Mel Pins, Board Chair
Bert Drost, Board Secretary
ZONING BOARD OF ADJUSTMENT
CITY OF DES MOINES, IOWA
DECISION AND ORDER

This Decision and Order of the Board of Adjustment does not constitute approval of any construction. All necessary permits must be obtained before any construction is commenced upon the Property. A Certificate of Occupancy must be obtained before any structure is occupied or re-occupied after a change of use.

Any use allowed by this Decision and Order shall not be commenced or resumed until all the requirements imposed on such use by the Zoning Ordinance and this Order have been satisfied.

The use allowed by this Order must be commenced within two years or this Order will be void and of no further force and effect.

IN THE MATTER OF THE APPEAL FROM: STATFORD HOLDING, LLC / SHOP N SAVE NUMBER 2, LLC
ON PROPERTY LOCATED AT 1372 EAST 14TH STREET

DOCKET: ZON 2016-00077
PUBLIC HEARING: FEBRUARY 27, 2019

SUBJECT OF THE APPEAL

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

FINDING

Based on the court-ordered direction in Polk County District Court case number CVCV056228 and based on the negotiated settlement, the Board finds it would be appropriate to overturn the Zoning Enforcement Officer's determination that the applicant may not continue sales of alcoholic liquor with a class "E" liquor license; to grant a Use Variance of the permitted uses in a "C-1" District; and to amend the Conditional Use Permit granted on May 27, 2015 for a Limited Food/Retail Sales Establishment to allow sales of alcoholic liquor in addition to wine and beer, subject to the conditions of approval. If the Zoning Enforcement Officer determines at any time that the operation of such a business becomes a nuisance, exhibits a pattern of violating the conditions set forth in the Conditional Use Permit, or violates the requirements of City Code Section 134-954(c), the Zoning Enforcement Officer may apply to the Board to reconsider the issuance of the Conditional Use Permit.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal of the Zoning Enforcement Officer's determination that the applicant may not continue sales of alcoholic liquor with a class "E" liquor license is hereby overruled, and WHEREFORE IT IS ORDERED that the appeal for a Use Variance of the permitted uses in a "C-1" District (Limited Food/Retail Sales Establishment selling alcoholic liquor, wine, and beer) and the amendment to the Conditional Use Permit granted on May 27, 2015, to allow for sales of alcoholic liquor in addition to wine and beer, are granted subject to the following conditions:

1. The sale of alcoholic liquor, wine, and beer shall only be ancillary to a limited food/retail sales establishment, where no more than 40% of gross receipts from sales on the premises may be derived from the sale of alcoholic liquor, wine, beer, and tobacco products.

2. Any business selling alcoholic liquor, wine and beer shall operate in accordance with the necessary permits obtained through the Office of the City Clerk as approved by the City Council.

3. Prior to July 15, 2020, the business shall furnish a statement prepared and verified by a certified public accountant identifying the total dollar volume of all sales, and separately identifying the total dollar volume of sales derived from the sale of alcoholic beverages, from the sale of tobacco products, and from the sale of all other merchandise and food exclusive of alcoholic beverages and tobacco products, from the business premises during the twelve (12) month period July 1, 2019 and ending June 30, 2020.

4. The business shall only operate between the hours of 9:00 AM and 12:00 AM on Mondays through Saturdays and between the hours of 10:00 AM and 10:00 PM on Sundays.

5. There shall be no signage or advertisement for, or references to, liquor, wine or beer visible from outside of the enclosed building, exclusive of one (1) sign no larger than 2 feet by 3 feet in store window.

6. Prior to May 31, 2020, the existing freestanding pole sign shall be removed. Any replacement sign shall comply with the "FSO" Freestanding Signs Overlay District, which limits the sign to 8 feet in height and requires a minimum 2-foot tall masonry base.

7. Prior to May 31, 2020, the appellant shall establish a 5-foot paving setback, including green space and landscaping if determined necessary by City staff, along the north and east front property lines.

8. The business shall conspicuously post 24-hour contact information for a manager or owner of the business near the main public entrance.

9. The business shall institute a strict no loitering policy, conspicuously post one or more "No Loitering" signs, and cooperate with police in addressing loitering on the premises.

10. The business shall not dispense alcoholic beverages from a drive-through window.

11. Litter and trash receptacles shall be located at convenient locations inside and outside the premises, and operators of the business shall remove all trash and debris from the premises and adjoining public areas on a daily basis.

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DECISION AND ORDER (continued from page 2)

12. Any parking area provided for the use of customers of the business shall be illuminated at an intensity of at least one footcandle of light on the parking surface at all times. The entire site shall be landscaped and illuminated so as to minimize hiding places for possible criminal activity.

13. There shall be no transient merchant sales located on the subject property.

14. If the Zoning Enforcement Officer determines at any time that the operation of such a business becomes a nuisance, exhibits a pattern of violating the conditions set forth in the Conditional Use Permit, or violates the requirements of City Code Section 134-954(c), the Zoning Enforcement Officer may apply to the Board to reconsider the issuance of the Conditional Use Permit.

15. The Decision and Order shall be recorded at the Polk County Recorder's Office at the appellant's expense to ensure that future property owners are aware of these conditions.

VOTE

The foregoing Decision and Order was adopted by a vote of 7-0, with all Board members voting in favor thereof.

Signed, entered into record, and filed with the City of Des Moines Community Development Department serving as the office of the Board, on March 6, 2019.

Mel Pins, Board Chair

Bert Drost, Board Secretary