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

SAVANNAH HOMES, INC.

ON PROPERTY LOCATED AT

4320 EAST 46TH STREET

DOCKET: ZON 2019-00060

PUBLIC HEARING: JUNE 26, 2019

SUBJECT OF THE APPEAL

Proposal:
Division of the existing parcel into two (2) parcels, as follows:

- Parcel A would measure 130 feet by 220 feet (28,600 square feet or 0.66-acres) and have 130 feet of frontage along East 46th Street. It would contain an existing single-family residential dwelling that is within 20 feet of the existing south (side) property line and at least 50 feet from the proposed west (rear) property line. It would also contain an existing detached garage that would be within 25 feet of the proposed north (side) property line and at least 50 feet of the proposed west (rear) property line.
- Parcel B would measure 4.20 acres in area and would have 190 feet of frontage along East 46th Street. It would be developed for future single-family residential use.

Appeal(s):
Parcel A)
- Variance of 9.34 acres less than the minimum 10 acres of area required for a single-family residential use in an "A-1" District.
- Variance of 470 feet less than the minimum 600 feet of lot width required for a single-family residential use in an "A-1" District.
- Variance of 35 feet less than the minimum required 55-foot side yard setback from the south (side) property line.
- Variance of 30 feet less than the minimum required 55-foot side yard setback from the north (side) property line.

Parcel B)
- Variance of 5.80 acres less than the minimum 10 acres of area required for a single-family residential use in an "A-1" District.
- Variance of 410 feet less than the minimum 600 feet of lot width required for a single-family residential use in an "A-1" District.

Required by City Code Sections 134-310(1)(a), 134-310(2)(a), 134-310(4), & 134-310(5)
FINDING

Granting the Variances with conditions would be consistent with the intended spirit and purpose of the Zoning Ordinance and will not alter the essential character of the locality of the land in question, so long as the 4.20-acre parcel identified as Parcel B for the purposes of this zoning appeal is only used for agricultural purposes until such time that it is rezoned to a zoning district that allows for single-family residential development, and Parcel B is subdivided to include installation of a public street and public utilities serving Parcel B, and extension of the public street and public utilities to the north lot line of an adjoining 2.8-acre parcel identified by the Polk County Assessor as parcel 060/03748-511-000. The applicant notes a unique circumstance relating specifically to the land in question that is not of their own making, as the property in question contains a single-family residential use on a 4.87-acre parcel but is zoned "A-1" Agricultural District. The land in question cannot yield a reasonable return as the size of the parcel significantly exceeds the average size of single-family lots in the district in which the land is located. It is reasonable to allow the Variances accommodating the proposed plat of survey so that the existing residential dwelling and agricultural uses are located on separate parcels.

DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeals for Parcel A of a Variance of 9.34 acres less than the minimum 10 acres of area required for a single-family residential use in an "A-1" District, a Variance of 470 feet less than the minimum 600 feet of lot width required for a single-family residential use in an "A-1" District, a Variance of 35 feet less than the minimum required 55-foot side yard setback from the south (side) property line, a Variance of 30 feet less than the minimum required 55-foot side yard setback from the north (side) property line, and the appeals for Parcel B of a Variance of 5.80 acres less than the minimum 10 acres of area required for a single-family residential use in an "A-1" District, and a Variance of 410 feet less than the minimum 600 feet of lot width required for a single-family residential use in an "A-1" District, to allow division of the existing parcel into two (2) parcels with Parcel A measuring 130 feet by 220 feet (28,600 square feet or 0.66-acre) and with 130 feet of frontage along East 46th Street and Parcel B measuring 4.20 acres in area and with 190 feet of frontage along East 46th Street, are granted, subject to the following conditions:

1. Any division of the property is subject to approval of a subdivision plat in accordance with Chapter 106 of the City Code.

2. The 4.20-acre parcel identified as Parcel B for the purposes of this zoning appeal shall only be used for agricultural purposes until such time that it is rezoned to a zoning district that allows for single-family residential development, and that Parcel B is subdivided to include installation of a public street and public utilities serving Parcel B, and that extension of the public street and public utilities to the north lot line of an adjoining 2.8-acre parcel identified by the Polk County Assessor at parcel 060/03748-511-000 has been completed.

VOTE

The foregoing Decision and Order was adopted by a vote of 5-0, with all Board members present 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 June 28, 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

STEVE & VICKY CROSS

ON PROPERTY LOCATED AT

412 EAST JACKSON STREET

DOCKET: ZON 2019-00076

PUBLIC HEARING: JUNE 26, 2019

SUBJECT OF THE APPEAL

Proposal: Construction of a 30-foot by 32-foot (960 square feet) accessory structure.

Appeal(s): Exception of 240 square feet over the calculated maximum allowed 720 square feet of aggregate area for accessory structures (20% of 3,600-square foot rear yard area).

Required by City Code Section 134-1276(c)(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 accessory structure relates entirely to a permitted accessory use allowed by the "R1-60" District. The appellant faces a practical difficulty in providing an adequately-sized accessory structure for storage. The proposed accessory structure would be in character with the surrounding neighborhood so long as it is constructed of materials compatible with the principal single-family dwelling and existing detached garage, such as horizontal lap siding and asphalt shingles.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for an Exception of 240 square feet over the calculated maximum allowed 720 square feet of aggregate area for accessory structures (20% of 3,600-square foot rear yard area), to allow construction of a 30-foot by 32-foot (960 square feet) accessory structure, is granted, subject to the following conditions:

1. Any accessory structure shall be in compliance with all applicable Building Codes, with issuance of all necessary permits by the Permit and Development Center.

2. Any accessory structure built shall be constructed of materials compatible with the principal single-family dwelling, such as horizontal lap siding and asphalt shingles.

3. No portion of any accessory structure shall be used as a dwelling unit.

4. No portion of any accessory structure shall be used in association with a commercial business or a home-based business.

VOTE

The foregoing Decision and Order was adopted by a vote of 6-0, with all Board members present 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 June 28, 2019.

Mel Pines, 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  
GARLAND DELL HOFFMAN, SR. &  
JOYCE L. HOFFMAN  
ON PROPERTY LOCATED AT  
4510 FLEUR DRIVE  
DOCKET: ZON 2019-00082  
PUBLIC HEARING: JUNE 26, 2019

SUBJECT OF THE APPEAL

Proposal:  Construction of a 30-foot by 48-foot (1,440 square feet) accessory structure.

Appeal(s): Exception of 440 square feet over the maximum allowed 1,000 square feet of aggregate area for accessory structures.

Required by City Code Section 134-1276(c)(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 accessory structure relates entirely to a permitted use allowed by the “C-2” District. The appellant faces a practical difficulty in providing an adequately-sized accessory structure for storage. The proposed accessory structure would be in character with the surrounding neighborhood, would not be visible from any surrounding street right-of-way, and is located in a commercial area and zoning district.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for an Exception of 440 square feet over the maximum allowed 1,000 square feet of aggregate area for accessory structures, to allow construction of a 30-foot by 48-foot (1,440 square feet) accessory structure, is granted, subject to the following conditions:

1. Any accessory structure shall be in compliance with all applicable Building Codes, with issuance of all necessary permits by the Permit and Development Center.

2. Any accessory structure built shall be constructed to include a minimum of two (2) windows on the back façade of the structure and a minimum one (1) window on each side façade of the structure, which windows shall be a minimum of 2 feet by 3 feet and have trim that is a minimum of 4-inches (nominal) wide.

3. No portion of any accessory structure shall be used as a dwelling unit.

4. No portion of any accessory structure shall be used in association with a commercial business or a home-based business.

VOTE

The foregoing Decision and Order was adopted by a vote of 5-1, with Board members Blake, Pins, Carlson, Gaer and Chiodo voting in favor thereof, and Board member Jones voting in opposition thereto.

Signed, entered into record, and filed with the City of Des Moines Community Development Department serving as the office of the Board, on June 28, 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 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  
JOPPA, LLC  
ON PROPERTY LOCATED AT  
1010 13TH STREET  

DOCKET: ZON 2019-00088  
PUBLIC HEARING: JUNE 26, 2019  

SUBJECT OF THE APPEAL

Proposal: Construction of a two-family (duplex) residential structure, which would be within 20 feet of the east (front) property line along 13th Street. The minimum required two (2) off-street parking spaces would be located within the south side yard area and accessed by a driveway from 13th Street.

Appeal(s): Exception of 10 feet less than the minimum required 30-foot front yard setback.  

Required by City Code Section 134-554(4)

FINDING

Granting the requested 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. The appellant faces a practical difficulty in constructing a building that complies with the 30-foot front yard setback requirement of the "R-3" District since most of the property is encumbered by a sanitary sewer easement. This greatly reduces the area available that a building can be constructed on the lot. The impact of the proposed development on the surrounding neighborhood would be minimal so long as an accessory storage building is constructed to provide adequate storage for each unit. The proposed two-family dwelling relates entirely to a permitted use allowed by the "R-3" District.
DEcision and order

Wherefore, it is ordered that the appeal for an Exception of 10 feet less than the minimum required 30-foot front yard setback, to allow construction of a two-family (duplex) residential structure, which would be within 20 feet of the east (front) property line along 13th Street, is granted subject to the following conditions:

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

2. Provision of one of the following in the rear yard:
   a) A detached garage that at a minimum is large enough to provide 1 parking space and 80 square feet of storage space for each dwelling unit, where a paved driveway shall be provided for vehicular access to the garage; or
   b) A storage shed(s) that provide at least 100 square feet of storage for each dwelling unit that is constructed with a foundation or concrete slab and with siding and shingles that match the dwelling.

3. Any dwelling unit or accessory structure constructed shall have exterior materials of 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 City's Planning Administrator.

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

5. Any dwelling unit constructed shall have window and door trim on all facades that is a minimum of 4 inches (nominal) wide.

6. Any dwelling unit or accessory structure constructed shall include a roof covered with architectural profile asphalt type shingles or cedar shakes. Standard 3-tab shingles are prohibited.

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

vote

The foregoing Decision and Order was adopted by a vote of 6-0, with all Board members present 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 June 28, 2019.

Mel Prins, 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

TERESA RIGHI-RYNER

ON PROPERTY LOCATED AT

5611 SOUTHWEST 2ND STREET

DOCKET: ZON 2019-00093

PUBLIC HEARING: JUNE 26, 2019

SUBJECT OF THE APPEAL

Proposal: Division of the existing 21,700-square foot parcel into two (2) parcels, including a 55-foot by 140-foot (7,700 square feet) parcel fronting Southwest 2nd Street that would contain the existing single-family dwelling and a 100-foot by 140-foot (14,000 square feet) parcel fronting South Union Street that could be used for a future single-family residential use.

Appeal(s): Exception of 5 feet less than the minimum 60 feet of lot width required for a single-family dwelling.

Required by City Code Section 134-414(2)(a)

FINDING

Granting the requested relief 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 any future dwelling is constructed in conformance with the conditions of approval to ensure it is compatible with the primary character of the surrounding neighborhood and is of a level of quality that will support the long-term stability of the neighborhood. A practical difficulty exists in that acquiring additional land to combine with the property so that it complies with the lot width requirement is not probable. The impact of the proposal on the surrounding neighborhood would be minimal, so long as a covered front porch of no less than 60 square feet and 4-inch (nominal) trim on windows and doors on all facades are provided.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for an Exception of 5 feet less than the minimum 60 feet of lot width required for a single-family dwelling, to allow division of the existing 21,700-square foot parcel into two (2) parcels, including a 55-foot by 140-foot (7,700 square feet) parcel fronting Southwest 2nd Street that would contain the existing single-family dwelling and a 100-foot by 140-foot (14,000 square feet) parcel fronting South Union Street that could be used for a future single-family residential use, is granted subject to the following conditions:

1. Any modified lot configuration shall be in accordance with subdivision requirements of the Permit and Development Center and recorded with Polk County.

2. If and when a dwelling is constructed on the eastern subdivided lot fronting South Union Street, then the following conditions apply:
   a. Construction of any new dwelling shall be in general compliance with building design and elevations as reviewed and approved by the Planning Administrator.
   b. Provision of a full basement for any single-family dwelling.
   c. Provision of a 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.
   d. 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.
   e. Any dwelling shall be constructed with either a covered front porch that is no less than 60 square feet in size or at least 1/3 of the front façade shall be clad with stone or brick masonry.
   f. Any dwelling constructed shall have window and door trim on all facades that is a minimum of 4-inches (nominal) wide.
   g. The roof on any house constructed shall be of architectural profile asphalt type shingles or cedar shakes. Standard 3-tab shingles are prohibited.
   h. 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 0-0, with all Board members present 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 June 28, 2019.

Mel Pigs, 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

AMY & MARK DAGITZ

ON PROPERTY LOCATED AT

511 58TH STREET

DOCKET: ZON 2019-00095

PUBLIC HEARING: JUNE 26, 2019

SUBJECT OF THE APPEAL

Proposal: Construction of a front porch addition, measuring 8 feet by 30 feet, which would be within 27 feet of the west (front) property line along 58th Street.

Appeal(s): Exception of 11 feet less than the calculated minimum required 38-foot front yard setback.

Required by City Code Section 134-1276(e)

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 so long as the front porch is constructed with building materials that are complementary in appearance to the existing primary dwelling. The proposed porch relates entirely to a permitted use allowed by the "R1-60" District. The appellant faces a practical difficulty in complying with the front yard setback requirement given the irregular shape of the property and the placement of the existing dwelling. The proposed porch would fit the scale of the lot, the existing dwelling, and the development pattern of the area.
AMY & MARK DAGITZ
511 58TH STREET
ZON 2019-00095          JUNE 26, 2019

DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for an Exception of 11 feet less than the calculated minimum required 38-foot front yard setback, to allow construction of a front porch addition, measuring 8 feet by 30 feet, which would be within 27 feet of the west (front) property line along 58th Street, is granted, subject to the following conditions:

1. Any porch constructed shall not be enclosed.

2. Any porch shall be constructed with building materials that are complementary in appearance to the primary dwelling as generally shown and presented to the Board by the applicant.

3. Any porch 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 6-0, with all Board members present 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 June 28, 2019.

[Signature]
Mel Pins, 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
R M MADDEN CONSTRUCTION, INC.
ON PROPERTY LOCATED AT
VICINITY OF 2406 ELIZABETH AVENUE

DOCKET: ZON 2019-00096
PUBLIC HEARING: JUNE 26, 2019

SUBJECT OF THE APPEAL

Proposal: Construction of a single-family dwelling on an existing 50-foot by 140-foot (7,000 square feet) lot.

Appeal(s): Exception of 10 feet less than the minimum 60 feet of lot width required for a single-family dwelling.

Exception of 500 square feet less than the minimum 7,500 square feet of lot area required for a single-family dwelling.

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

FINDING

Granting the requested relief 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 any future dwelling is constructed in conformance with the conditions of approval to ensure it is compatible with the primary character of the surrounding neighborhood and is of a level of quality that will support the long-term stability of the neighborhood. A practical difficulty exists in that acquiring additional land to combine with the property so that it complies with the lot width requirement is not probable. The impact of the proposal on the surrounding neighborhood would be minimal, so long as a covered front porch of no less than 60 square feet and 4-inch (nominal) trim on windows and doors on all facades are provided.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeals for an Exception of 10 feet less than the minimum 60 feet of lot width required for a single-family dwelling and an Exception of 500 square feet less than the minimum 7,500 square feet of lot area required for a single-family dwelling, to allow construction of a single-family dwelling on an existing 50-foot by 140-foot (7,000 square feet) lot, are granted, subject to the following conditions:

1. Any modified lot configuration shall be in accordance with subdivision requirements of the Permit and Development Center and recorded with Polk County.

2. Construction of any dwelling shall be in general compliance with the submitted bungalow design.


4. Provision of one of the following in the rear yard of each lot:
   a) Retention of the existing accessory structure so long as it is sided to match the proposed dwelling.
   b) 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
   c) A storage shed measuring at least 10 feet by 10 feet (100 square feet) that is constructed with a foundation or concrete slab 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 materials 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 either a covered front porch that is no less than 60 square feet in size or at least 1/3 of the front façade shall be clad with stone or brick masonry.

7. Any dwelling constructed shall have trim around all windows on all facades that is a minimum of 4 inches (nominal) wide and shall have pre-hung exterior doors with trim.

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 6-0, with all Board members present 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 June 28, 2019.

[Signature]
Mel Pitts, 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  
MACERICH SOUTHRIDGE MALL, LLC  
ON PROPERTY LOCATED AT  
VICINITY OF 1111 EAST ARMY POST ROAD  

DOCKET: ZON 2019-00097  
PUBLIC HEARING: JUNE 26, 2019

SUBJECT OF THE APPEAL

Proposal: The requested amendment to the Special Permit granted on May 27, 2015 (ZON2015-00083) would extend its expiration date from May 31, 2020 to June 30, 2024, and would allow for the following uses on the Southridge campus:

- A circus held during a 7-day period during the month of May each year.
- A carnival held during a 7-day period during the month of June each year.
- An amusement event, featuring inflatables, during a 7-day period during the month of June each year.
- A mobile dental and/or medical clinic held during the month of June each year.
- A farmer’s market held on each Monday during the months of May through October each year.
- Classic car shows during a 2-day period held once per month during the months of May through September.
- Parking as accessory to seasonal events held off-site throughout the year, such as for golf tournaments and concerts.

Appeal(s): Amend Special Permit (ZON2015-00083) for seasonal special events.

Required by City Code Section 134-1326(18) & Docket ZON2015-00083
FINDING

The proposed amendment to the Special Permit satisfies the criteria necessary for granting a Special Permit so long as all events operate in accordance with the conditions of approval. Allowing and controlling the proposed uses by a Special Permit 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.

The appellant has adequately demonstrated that the proposed operations are adequately separated from any residential use and would not cause or produce unreasonable traffic, noise, dust, odor, or litter, and shall not in any other way be detrimental to the neighborhood. The proposed events and activities at the mall location would be an asset to the neighborhood and is in keeping with the PlanDSM Plan future land use designation of "Regional Mixed Use".

DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal to amend Special Permit (ZON2015-00083) for seasonal special events, to extend its expiration date from May 31, 2020 to June 30, 2024 and allow for the following uses on the Southridge campus: A circus held during a 7-day period during the month of May each year, a carnival held during a 7-day period during the month of June each year, an amusement event, featuring inflatables, during a 7-day period during the month of June each year, a mobile dental and/or medical clinic held during the month of June each year, a farmer’s market held on each Monday during the months of May through October each year, a classic car shows during a 2-day period held once per month during the months of May through September, and parking as accessory to seasonal events held off-site throughout the year, such as for golf tournaments and concerts, is granted, subject to the following conditions:

1. The Special Permit shall expire on June 24, 2024, unless the Zoning Board of Adjustment grants a future amendment that extends its expiration date.

2. The “C-4” Development Plan document shall be modified to identify the designated areas assigned for the activities.

3. All “set up” for events shall occur no more than two (2) days prior to any event held on the premise.

4. All “take down” and clean up shall occur within two (2) days of the conclusion of any event held on the premise.

5. The appellant and or approved vendors shall obtain all necessary temporary liquor sales, tent, vendor sales, sound, or peddlers licenses through the office of the City Clerk and/or the City’s Permit and Development Center.

6. Any circus shall operate no more than 7 days during the month of May. Hours for the event shall be limited to from 8:00 AM to 8:30 PM. These events shall be restricted to the paved parking lot area north of the currently vacant Sears store.

7. Any carnival shall operate no more than 7 days during the month of June. Hours for the event shall be limited to from 8:00 AM to 12:00 AM (midnight). These events shall be restricted to the paved parking lot area north of the currently vacant Sears store.

8. Any amusement event in addition to the carnival shall operate no more than 7 days during the month of June. Hours for the event shall be limited to from 8:00 AM to 12:00 AM (midnight). These events shall be restricted to the paved parking lot area north of the currently vacant Sears store.

(Continued on page 3)
DECISION AND ORDER (Continued from page 2)

9. Any mobile dental and/or medical clinic event shall operate during the month of June. Hours for the event shall be limited to from 8:00 AM to 8:30 PM. These events shall be restricted to the paved parking lot areas east and/or north of the currently vacant Sears store.

10. Any farmers market event shall be held limited to Mondays during the months of May to October. These events shall be restricted to the paved parking lot area north of the currently vacant Sears store.

11. Any classic car show events shall be limited to monthly events between May and September with the parking lot area east of Sears. These events shall be restricted to the paved parking lot areas east and/or north of the currently vacant Sears store.

12. Any parking as accessory to seasonal events held off-site throughout the year, such as for golf tournaments and concerts, shall be restricted to the paved parking lot areas east and/or north of the currently vacant Sears store.

13. This Special Permit is subject to reconsideration by the Zoning Board of Adjustment at any time the Zoning Enforcement Officer determines that the conduct of any of the events has become detrimental to the neighborhood or that the events demonstrate a pattern of violating the conditions of approval.

VOTE

The foregoing Decision and Order was adopted by a vote of 6-0, with all Board members present 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 June 28, 2019.

[Signature]
Mel Pius, 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 DOCKET: ZON 2019-00104
DMPS (STOWE ELEMENTARY SCHOOL) PUBLIC HEARING: JUNE 26, 2019
ON PROPERTY LOCATED AT
1411 EAST 33RD STREET

SUBJECT OF THE APPEAL

Proposal: Construction of a recreational ropes course use within the wooded area to the east of the school. The proposed facility would also include a storage shed, temporary restrooms, and a parking lot with five (5) spaces accessed from Dubuque Street. It would be operated by a non-profit entity (Community Youth Concepts) partnering with the school district.

Appeal(s): Special Permit for an institution of educational and/or philanthropic 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. The proposed use demonstrates compliance with the provisions for issuance of a Special Permit. Given that it is located within a residential neighborhood, any use of the area should be limited to hours between 6:00 A.M. and 10:00 P.M. This is similar to that of City Parks within neighborhoods.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for a Special Permit for an institution of educational and/or philanthropic character, to allow construction of a recreational ropes course use within the wooded area to the east of the school, is granted, subject to the following conditions:

1. Use of the area shall be restricted to Des Moines Public Schools or any non-profit entity under agreement with them only, and shall not be used for any for-profit commercial venture.

2. Use of the property is limited to the hours between 6:00 A.M. and 10:00 P.M.

3. Any site improvements shall conform with all applicable Site Plan requirements as approved by the Permit and Development Center.

4. Any building constructed shall conform with all applicable Building Codes with issuance of all necessary permits by the Permit and Development Center.

5. Any construction shall be in substantial conformance with the submitted site sketch.

VOTE

The foregoing Decision and Order was adopted by a vote of 6-0, with all Board members present 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 June 28, 2019.

Mei Pinto, 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

IGLESIAS APOSTOLICA DE LA FE EN CRISTO
JESUS IN THE UNITED STATES

ON PROPERTY LOCATED AT

2920 30TH STREET

DOCKET: ZON 2019-00105

PUBLIC HEARING: JUNE 26, 2019

SUBJECT OF THE APPEAL

Proposal: Conversion of the existing structure to a religious assembly use, where the structure is within 21 feet of the north (side) property line and within 11.5 feet of the west (side) property line. The use also includes approximately 60 existing off-street parking spaces within a parking lot that is within 0 feet of the south (side) property line and within 0 feet of the west (side) property line.

Appeal(s): Special Permit for an institution of a 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. The impact of the proposed use would be minimal so long as any religious assembly use operates in accordance with the recommended 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.
IGLESIA APOSTOLICA DE LA FE EN CRISTO JESUS IN THE UNITED STATES
2920 30th STREET
ZON 2019-00105 -2- JUNE 26, 2019

DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for a Special Permit for an institution of a religious character, to allow conversion of the existing structure to a religious assembly use, where the structure is within 21 feet of the north (side) property line and within 11.5 feet of the west (side) property line and approximately 60 existing off-street parking spaces within a parking lot that is within 0 feet of the south (side) property line and within 0 feet of the west (side) property line, is granted subject to the following conditions:

1. Any site improvement shall be in compliance with all applicable Site Plan requirements to the satisfaction of the City’s Permit and Development Center.

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

VOTE

The foregoing Decision and Order was adopted by a vote of 6-0, with all Board members present 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 June 28, 2019.

[Signatures]

Mel Pitts, 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

JAMES & STAVROULA KARTHAN

ON PROPERTY LOCATED AT

VICINITY OF 2956 EAST GRAND AVENUE

DOCKET: ZON 2019-00062

PUBLIC HEARING: JUNE 26, 2019

SUBJECT OF THE APPEAL

Proposal: Conditional Use Permit for existing tavern within a 2,236-square foot building, which Permit would include expansion of the tavern to include a patio along the west side of the building that measures 16 feet by 60 feet (960 square feet).

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

Required by City Code Section 134-954

FINDING

The appellant has satisfied the criteria necessary for granting the Conditional Use Permit with conditions to allow a tavern use. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing in the adjoining or surrounding residential area so long as it complies with the conditions of approval. The business will not unduly increase congestion on the streets in the adjoining residential area. 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 an appeal for Conditional Use Permit for a tavern selling alcoholic liquor, wine, and/or beer, to allow an existing tavern within a 2,236-square foot building, which Permit would include expansion of the tavern to include a patio along the west side of the building that measures 16 feet by 60 feet (960 square feet), is granted, subject to the following conditions:

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

2. If the patio is located on a separate parcel than the tavern, an easement for the patio shall be recorded with Polk County.

3. All parking associated with the tavern that is not located on the same parcel as the tavern structure, shall be in accordance with a lease agreement and/or easement that is recorded with Polk County, and provided to the Zoning Enforcement Officer, to ensure that the parking shall remain tied to the tavern use in the event that the three (3) parcels comprising the subject property are no longer held in common ownership.

4. The business shall comply with Article IV of Chapter 42 of the City Code pertaining to noise control. However, there shall not be any outdoor speakers or amplified sound on the premise at any time.

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

6. 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.

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

8. 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.

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

10. 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 Board to reconsider the issuance of the Conditional Use Permit.

VOTE

The foregoing Decision and Order was adopted by a vote of 6-0, with all Board members present 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 June 28, 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

K-H PARTNERS

ON PROPERTY LOCATED AT

911 31ST STREET

DOCKET: ZON 2019-00079

PUBLIC HEARING: JUNE 26, 2019

SUBJECT OF THE APPEAL

Proposal: Construction of an addition generally measuring 20 feet by 24 feet (480 square feet) to the west (front) façade of the dwelling that would be within 30 feet of the front property line along 31st Street. The addition would contain a garage, where vehicles would have 20 feet of maneuvering space to the north of the garage.

Appeal(s): Exception of 16.5 feet less than that calculated minimum required 46.5-foot front yard setback

Exception of 4 feet less than the minimum 24 feet of maneuvering space required for a garage structure.

Required by City Code Sections 134-1276(e) & 134-1377(g)(1)

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 so long as the west façade of the garage includes a set of windows and the space between the garage and the front property line consists of landscaping. The proposed garage addition relates entirely to a permitted use allowed by the "R1-60" District. The appellant faces a practical difficulty in complying with the front yard setback requirement given the size of the lot in relationship to the size and placement of the existing dwelling. It is not practical to construct a driveway to the rear yard of the property where a garage could be constructed outside of a required setback.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeals for an Exception of 16.5 feet less than the calculated minimum required 46.5-foot front yard setback and an Exception of 4 feet less than the minimum 24 feet of maneuvering space required for a garage structure, to allow construction of an addition generally measuring 20 feet by 24 feet (480 square feet) to the west (front) façade of the dwelling that would be within 30 feet of the front property line along 31st Street and containing a garage, where vehicles would have 20 feet of maneuvering space to the north of the garage, are granted subject to the following conditions:

1. No more than 25% of the front yard area shall be paved.

2. The space between any garage addition and the front property line shall consist of a permeable landscaped area. A four- (4) foot wide paved walk may traverse this area.

3. Foundation plantings shall be provided along the south and west facades of any garage addition.

4. Any garage addition shall include a minimum of two (2) full size windows or three (3) half-sized windows on the west (front) facade as approved by the Planning Administrator.

5. Any garage addition shall be constructed in substantial conformance with the submitted design to the satisfaction of the Planning Administrator.

6. Any garage addition shall be constructed with building materials that are compatible with the existing dwelling to the satisfaction of the Planning Administrator.

7. Any garage addition shall be constructed in conformance with all applicable Building Codes with issuance of all necessary permits by the City’s Permit and Development Center.

VOTE

The foregoing Decision and Order was adopted by a vote of 6-0, with all Board members present 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 June 28, 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  
K-H PARTNERS  
ON PROPERTY LOCATED AT  
1804 27TH STREET  

DOCKET: ZON 2019-00080  
PUBLIC HEARING: JUNE 26, 2019  

SUBJECT OF THE APPEAL  

Proposal: Construction of an addition generally measuring 26 feet by 24 feet (624 square feet) to the north (front) façade of the dwelling that would be within 8 feet of the front property line along Witmer Street. The addition would contain a garage, where vehicles would maneuver onto Witmer Street right-of-way.

Appeal(s): Variance of 28.25 feet less than that calculated minimum required 36.25-foot front yard setback.

Variance of 16 feet less than the minimum 24 feet of maneuvering space required for a garage structure.

Required by City Code Sections 134-1276(e) & 134-1377(g)(1)

FINDING  

During the hearing, the City staff recommendation described that granting the requested Variance would not be consistent with the intended spirit and purpose of the Zoning Ordinance. Staff recommendation and statements by a Board member indicated that the appellant has not demonstrated that the land in question cannot yield a reasonable return from any use permitted by the regulations of the district in which the land is located. Failure to yield a reasonable return may only be shown by proof that the owner has been deprived of all beneficial or productive use of the land in question. It is not sufficient merely to show that the value of the land has been depreciated by the regulations or that a variance would permit the owner to maintain a more profitable use. City staff demonstrated that there appears to be adequate space to the south of the dwelling where a detached or attached garage could be built and served from a driveway from 27th Street without relief from the Board.
DECISION AND ORDER: VOTE

A motion to approve the proposed Variance of 28.25 feet less than the calculated minimum required 36.25-foot front yard setback and a Variance of 16 feet less than the minimum 24 feet of maneuvering space required for a garage structure with certain conditions, to allow construction of an addition generally measuring 26 feet by 24 feet (624 square feet) to the north (front) façade of the dwelling that would be within 8 feet of the front property line along Witmer Street, failed by a vote of 3-3, with Board members Childo, Gaer and Carlson voting in favor thereof and Board members Pine, Jones and Bake voting in opposition thereto.

Therefore, the appeals for a Variance of 28.25 feet less than the calculated minimum required 36.25-foot front yard setback and a Variance of 16 feet less than the minimum 24 feet of maneuvering space required for a garage structure, to allow construction of an addition generally measuring 26 feet by 24 feet (624 square feet) to the north (front) façade of the dwelling that would be within 8 feet of the front property line along Witmer Street, are denied due to failure to obtain the concurring vote of four (4) members of the Board in favor of the appeals.

Signed, entered into record, and filed with the City of Des Moines Community Development Department serving as the office of the Board, on June 28, 2019.

Mel Piff, 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

GIT-N-GO CONVENIENCE STORES, INC.

ON PROPERTY LOCATED AT

VICINITY OF 100 WATROUS AVENUE

DOCKET: ZON 2019-00085
PUBLIC HEARING: JUNE 26, 2019

SUBJECT OF THE APPEAL

Proposal: Continued sales of wine and beer by a gas station convenience store on the premises, within a new building to replace the existing building. As a gas station convenience store, no more than 40% of gross receipts from sales on the premises may be derived from the sale of wine, beer, and tobacco products.

Appeal(s): Amend Conditional Use Permit (ZON2014-00082), as granted June 25, 2014, for a Gas Station Convenience Store selling wine and beer.

Required by City Code Section 134-954 & Docket ZON2014-00082

FINDING

Granting the requested amendment to the Conditional Use Permit would be consistent with the intended spirit and purpose of the Zoning Ordinance. The appellant has satisfied the criteria necessary for granting the Conditional Use Permit. The business conforms with the separation distance requirements contained in City Code subsection 134-954(a). The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing in the adjoining or surrounding residential area. The business is sufficiently separated from the adjoining residential area by distance, landscaping, walls or structures to prevent any noise, vibration or light generated by the business from having a significant detrimental impact upon the adjoining residential uses. The business will not unduly increase congestion on the streets in the adjoining residential area. 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 an appeal to amend a Conditional Use Permit (ZON2014-00082), as granted June 25, 2014, for a Gas Station Convenience Store selling wine and beer, to allow continued sales of wine and beer by a gas station convenience store on the premises, within a new building to replace the existing building, is granted, subject to the following conditions:

1. The sale of alcoholic liquor shall be prohibited.

2. The sale of wine and beer shall only be ancillary to a gas station/convenience store use within a 3,080-square foot building, where no more than 40% of gross receipts from sales on the premises may be derived from the sale of wine, beer, and tobacco products.

3. The business selling wine and beer shall operate in accordance with the necessary permit or license obtained through the Office of the City Clerk as approved by the City Council.

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 loitering on the premises.

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

7. 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.

8. Parking areas 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.

9. 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.

10. The Conditional Use Permit is subject to amendment or revocation if the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions set forth in the Conditional Use Permit.

11. If the Zoning Enforcement Officer determines at any time that the operation of such a business exhibits a pattern of violating the conditions set forth in the Conditional Use Permit, the Zoning Enforcement Officer may apply to the board to reconsider the issuance of the Conditional Use Permit for such business.

VOTE

The foregoing Decision and Order was adopted by a vote of 6-0, with all Board members present 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 June 28, 2019.

[Signatures]

Mel Pitts, 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

WAN-NAM & HAE-SOOK YUN
ON PROPERTY LOCATED AT
4121 SOUTHEAST 14TH STREET

DOCKET: ZON 2019-00086
PUBLIC HEARING: JUNE 26, 2019

SUBJECT OF THE APPEAL

Proposal: Conversion of a business operating within a 30-foot by 60-foot (1,800 square feet) tenant bay from a restaurant to a tavern use.

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

Required by City Code Section 134-954

FINDING

The appellant has satisfied the criteria necessary for granting the Conditional Use Permit with conditions to allow a tavern use. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing in the adjoining or surrounding residential area so long as it complies with the conditions of approval. The business will not unduly increase congestion on the streets in the adjoining area. 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/or beer, to allow conversion of a business operating within a 30-foot by 60-foot (1,800 square feet) tenant bay from a restaurant to a tavern use, is granted, subject to the following conditions:

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

2. There shall be no outdoor patio unless the Zoning Board of Adjustment grants future amendment to the Conditional Use Permit to allow for such.

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

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 loitering on the premises.

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

7. 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.

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

9. 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 Board to reconsider the issuance of the Conditional Use Permit.

VOTE

The foregoing Decision and Order was adopted by a vote of 6-0, with all Board members present 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 June 28, 2019.

[Signatures]

Mel Pinn, Board Chair
Bert Drost, Board Secretary
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 FRANK & MELBA SCAGLIONE
ON PROPERTY LOCATED AT 3000 MERLE HAY ROAD

DOCKET: ZON 2019-00087 PUBLIC HEARING: JUNE 26, 2019

SUBJECT OF THE APPEAL

Proposal: Installation of a 20-foot tall pole sign with a signage area measuring 6 feet by 12 feet (72 square feet). The previously existing sign was destroyed to an extent of 60 percent or more of its replacement cost at the time of the destruction.

Appeal(s): Variance of the provision that requires any freestanding sign to be a monument sign with a solid opaque base (constructed of brick, stone, concrete block or other durable material matching the exterior of the primary building), where the base extends from grade to the bottom of the sign face across the entire width of the sign face.

Variance of the provision that requires any freestanding sign within 25 feet of a front lot line to be no more than 8 feet in height.

Variance of the provision that states any sign in a “C-1” District that is within 20 feet of a street line shall not be less than 12 feet above grade.

Required by City Code Sections 134-847(5), 134-1276(p)(4), & 134-3 definition of “freestanding sign, monument”

FINDING

The appellant has not satisfied the criteria necessary for granting the appeals, as the land in question can yield a reasonable return from any use, and from any allowed sign, permitted by the regulations of the district in which the land is located. Failure to yield a reasonable return may only be shown by proof that the owner has been deprived of all beneficial or productive use of the land in question. It is not sufficient merely to show that the value of the land has been depreciated by the regulations or that a variance would permit the owner to maintain a more profitable use. Furthermore, while unintentional, the plight is of the owner’s own making. The intent of the Zoning Ordinance is to replace existing pole signs with monument signs to comply with the City Code when they become in disrepair or obsolete. The Merle Hay Neighborhood Association requested enactment of the freestanding sign ordinance in order to address pole signs on the corridor on which the subject property is located. There is sufficient opportunity to provide a freestanding sign in compliance with the Zoning Ordinance on the property without any adverse impact to the operation on the site.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeals for a Variance of the provision that requires any freestanding sign to be a monument sign with a solid opaque base (constructed of brick, stone, concrete block or other durable material matching the exterior of the primary building), where the base extends from grade to the bottom of the sign face across the entire width of the sign face, a Variance of the provision that requires any freestanding sign within 25 feet of a front lot line to be no more than 8 feet in height, and a Variance of the provision that states any sign in a “C-1” District that is within 20 feet of a street line shall not be less than 12 feet above grade, to allow installation of a 20-foot tall pole sign with a signage area measuring 6 feet by 12 feet (72 square feet), are denied.

VOTE

The foregoing Decision and Order was adopted by a vote of 6-0, with all Board members present 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 June 28, 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

EAST RIVER, LLC

ON PROPERTY LOCATED AT

2275 HUBBELL AVENUE

DOCKET: ZON 2019-00090

PUBLIC HEARING: JUNE 26, 2019

SUBJECT OF THE APPEAL

Proposal: Conditional Use Permit for a tavern occupying approximately 2,243 square feet within an existing 5,508-square foot building, which Permit would include expansion of the tavern to include a patio along the east side of the building that would measure approximately 22 feet by 54 feet (approximately 1,188 square feet).

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

Required by City Code Section 134-954

FINDING

The appellant has satisfied the criteria necessary for granting the Conditional Use Permit with conditions to allow a tavern use with a patio. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing in the adjoining or surrounding residential area. The business will not unduly increase congestion on the streets in the adjoining residential area so long as it complies 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/or beer, to allow a tavern occupying approximately 2,243 square feet within an existing 5,508-square foot building, which Permit would include expansion of the tavern to include a patio along the east side of the building that would measure approximately 22 feet by 54 feet (approximately 1,188 square feet), is granted subject to the following conditions:

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

2. Any excess paving on the property other than for reasonable space necessary for maneuvering and parking, and any excess paving within the adjoining Right-of-Way, shall be removed and restored with sod in accordance with a site sketch approved by the City’s Planning Administrator.

3. Any patio shall be entirely located on the subject property and not within the public Right-of-Way.

4. The business shall comply with Article IV of Chapter 42 of the City Code pertaining to noise control. However, there shall not be any outdoor speakers or amplified sound on the premises at any time.

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

6. 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.

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

8. 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.

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

10. 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 Board to reconsider the issuance of the Conditional Use Permit.

VOTE

The foregoing Decision and Order was adopted by a vote of 6-0, with all Board members present 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 June 28, 2019.

Mel Plus, 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 2019-00094**

**KENNETH MCDANIEL**

**PUBLIC HEARING: JUNE 26, 2019**

**ON PROPERTY LOCATED AT**

**1517 EAST PARK AVENUE**

**SUBJECT OF THE APPEAL**

Proposal: Use of the property for a home-based business involving the repair and sale of firearms. The majority of the business would occur within the basement of the single-family dwelling. However, any welding would occur within the detached garage.

Appeal(s): Special Permit for a home occupation.

*Required by City Code Section 134-1326(10)*

**FINDING**

The proposed business satisfies the criteria necessary for granting the Special Permit. Any impacts of the proposed business would be minimal so long as the business operates in accordance with the conditions of approval. The Special Permit for a home occupation shall be subject to reconsideration by the Board if at any time the Zoning Enforcement Officer determines that the conduct of the occupation has become detrimental to the neighborhood.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for a Special Permit for a home occupation, to allow use of the property for a home-based business involving the repair and sale of firearms, is granted, subject to the following conditions:

1. The occupation shall be clearly incidental to or secondary to the residential use of the premises.
2. No non-resident individuals shall be engaged or employed in the business upon the premises.
3. No sign advertising the business is allowed.
4. The occupation shall not cause or produce noise, vibration, smoke, dust, odor, or heat or any other impact of a type or quantity not in keeping with the residential character of the neighborhood.
5. There shall be no outside operation, storage or display of materials or products.
6. No more than one-half of the area of one floor level of the dwelling shall be used for the business, including the storage of materials or products.
7. No alteration of the residential appearance of the premises shall occur.
8. Hours of operation must not infringe on the residential atmosphere of the neighborhood. All outside activity related to the business, including customers coming to the premise, must occur between the hours of 7:00 AM and 8:00 PM.
9. The home occupation, including any business storage, shall not displace or impede use of parking spaces required by the Des Moines Municipal Code. The property shall provide at least one (1) off-street parking space dedicated to the business.
10. The home occupation shall not cause the congregation of business employees at the site or congestion in the availability of on-street parking or off-street parking.
11. This Special Permit for a home occupation shall be in effect only for so long as the premises are owned and occupied by the applicant.
12. This Special Permit for a home occupation shall be subject to reconsideration by the board if at any time the Zoning Enforcement Officer determines that the conduct of the occupation has become detrimental to the neighborhood.
13. Storage of any refinishing products, solvents, or explosive components such as gun powders or primers shall be kept below thresholds as determined by the Fire Code.
14. The business operator shall be in possession of a valid Federal Firearms License (FFL) kept in good standing, with evidence of such, along with subsequent renewals, to be filed with the City’s Zoning Enforcement Officer.
15. Any firearms awaiting delivery or any personal firearms not being carried shall be stored in the dwelling in a locked safe designed for firearms so long as the storage meets the Federal Firearms License (FFL) requirements.

VOTE

The foregoing Decision and Order was adopted by a vote of 5-1, with Board members Blake, Jones, Pins, Carlson and Gaer voting in favor thereof, and Board member Chidoto voting in opposition thereto.

Signed, entered into record, and filed with the City of Des Moines Community Development Department serving as the office of the Board, on June 28, 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

ARCHLAND PROPERTY I, LLC

ON PROPERTY LOCATED AT

1400 DES MOINES STREET

DOCKET: ZON 2019-00099

PUBLIC HEARING: JUNE 26, 2019

SUBJECT OF THE APPEAL

Proposal: Installation of four (4) freestanding signs along the Des Moines Street frontage, with a cumulative 61.58 square feet of signage area, including two (2) 4.20-foot tall by 4.83-foot wide (20.29 square feet) electronic display signs each atop a 1-foot tall metal base and two (2) 4.2-foot tall by 2.5-foot wide (10.5 square feet) electronic display signs each atop a 1-foot tall metal base. These signs would serve as menu boards for the restaurant's drive-thru but would be visible from Des Moines Street.

Appeal(s): Variance of three (3) freestanding signs over the maximum allowed one (1) freestanding sign.

Variance to the definition of "sign, freestanding monument", which requires any freestanding sign to have a minimum 2-foot tall solid opaque base, constructed of brick, stone, concrete block or other durable material matching the exterior of the primary building and extending from grade to the bottom of the sign face across the entire width of the sign face.

Required by City Code Sections 134-951(3), 134-3(definition of sign, freestanding monument), & 134-1276(p)(4)

FINDING

Granting the Variance to the definition of "sign, freestanding monument" and the Variance for the number of freestanding signs meets the intent and spirit of the Zoning Ordinance and the criteria for unnecessary hardship. The necessary location of the four menu boards would be limited based on the existing building site configuration for the drive-thru. The proximity to the street would cause them to be considered signs, which need to meet the "FSO" Freestanding Signs Overlay District and the regulations for signs with electronic display. Limiting the premises to one freestanding sign in this case would present an unnecessary hardship given the reasonable and expected customary functions of a drive-thru restaurant. The proposed signs are in harmony with the essential character of the locality of the land in question.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for a Variance to the definition of "sign, freestanding monument", which requires any freestanding sign to have a minimum 2-foot tall solid opaque base, constructed of brick, stone, concrete block or other durable material matching the exterior of the primary building and extending from grade to the bottom of the sign face across the entire width of the sign face, and the appeal for a Variance of three (3) freestanding signs over the maximum allowed one (1) freestanding sign, to allow installation of four (4) freestanding signs along the Des Moines Street frontage, with a cumulative 61.58 square feet of signage area, including two (2) 4.20-foot tall by 4.83-foot wide (20.29 square feet) electronic display signs each atop a minimum 1-foot tall metal base and two (2) 4.2-foot tall by 2.5-foot wide (10.5 square feet) electronic display signs each atop a minimum 1-foot tall metal base, are granted, subject to the following conditions:

1. Any sign installed shall be constructed in accordance with the pictures presented to the Board.

2. Any signs shall be installed by a licensed sign contractor in accordance with the decision and order and with issuance of all necessary sign permits for these signs by the Permit and Development Center.

3. Any electronic display signs installed shall meet all requirements by the Zoning Ordinance for operation and size.

VOTE

The foregoing Decision and Order was adopted by a vote of 6-0 with all Board members present 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 June 26, 2019.

[Signature]
Mel Potts, 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 :

DOCKET: ZON 2019-00100

MCDONALD’S CORP, LLC

PUBLIC HEARING: JUNE 26, 2019

ON PROPERTY LOCATED AT

710 ARMY POST ROAD

SUBJECT OF THE APPEAL

Proposal: Installation of four (4) freestanding signs along the Dickman Road frontage, with a cumulative 61.58 square feet of signage area, including two (2) 4.20-foot tall by 4.83-foot wide (20.29 square feet) electronic display signs each atop a 1-foot tall metal base and two (2) 4.2-foot tall by 2.5-foot wide (10.5 square feet) electronic display signs each atop a 1-foot tall metal base. These signs would serve as menu boards for the restaurant’s drive-thru but would be visible from Dickman Road.

Appeal(s): Variance of three (3) freestanding signs over the maximum allowed one (1) freestanding sign.

Variance to the definition of “sign, freestanding monument”, which requires any freestanding sign to have a minimum 2-foot tall solid opaque base, constructed of brick, stone, concrete block or other durable material matching the exterior of the primary building and extending from grade to the bottom of the sign face across the entire width of the sign face.

Required by City Code Sections 134-951(3), 134-3(definition of sign, freestanding monument), & 134-1276(p)(4)

FINDING

Granting the Variance to the definition of “sign, freestanding monument” and the Variance for the number of freestanding signs meets the intent and spirit of the Zoning Ordinance and the criteria for unnecessary hardship. The necessary location of the four menu boards would be limited based on the existing building site configuration for the drive-thru. The proximity to the street would cause them to be considered signs, which need to meet the “FSO” Freestanding Signs Overlay District and the regulations for signs with electronic display. Limiting the premises to one freestanding sign in this case would present an unnecessary hardship given the reasonable and expected customary functions of a drive-thru restaurant. The proposed signs are in harmony with the essential character of the locality of the land in question.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for a Variance to the definition of "sign, freestanding monument", which requires any freestanding sign to have a minimum 2-foot tall solid opaque base, constructed of brick, stone, concrete block or other durable material matching the exterior of the primary building and extending from grade to the bottom of the sign face across the entire width of the sign face, and the appeal for a Variance of three (3) freestanding signs over the maximum allowed one (1) freestanding sign, to allow installation of four (4) freestanding signs along the Dickman Road frontage, with a cumulative 61.58 square feet of signage area, including two (2) 4.20-foot tall by 4.83-foot wide (20.29 square feet) electronic display signs each atop a minimum 1-foot tall metal base, and two (2) 4.2-foot tall by 2.5-foot wide (10.5 square feet) electronic display signs each atop a 1-foot tall metal base, are granted, subject to the following conditions:

1. Any sign installed shall be constructed in accordance with the pictures presented to the Board.

2. Any signs shall be installed by a licensed sign contractor in accordance with the decision and order and with issuance of all necessary sign permits for these signs by the Permit and Development Center.

3. Any electronic display signs installed shall meet all requirements by the Zoning Ordinance for operation and size.

VOTE

The foregoing Decision and Order was adopted by a vote of 6-0, with all Board members present 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 June 28, 2019.

Mel Rins, Board Chair

Bert Drost, Board Secretary
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 2019-00101

mcdonald's corp  
public hearing: june 26, 2019

on property located at

3002 forest avenue

subject of the appeal

proposal:
installation of four (4) freestanding signs along the 30th street frontage, with a cumulative 61.58 square feet of signage area, including two (2) 4.20-foot tall by 4.83-foot wide (20.28 square feet) electronic display signs each atop a 1-foot tall metal base and two (2) 4.2-foot tall by 2.5-foot wide (10.5 square feet) electronic display signs each atop a 1-foot tall metal base. these signs would serve as menu boards for the restaurant's drive-thru but would be visible from 30th street and/or 31st street.

appeal(s):
variance of three (3) freestanding signs over the maximum allowed one (1) freestanding sign.

variance to the definition of "sign, freestanding monument", which requires any freestanding sign to have a minimum 2-foot tall solid opaque base, constructed of brick, stone, concrete block or other durable material matching the exterior of the primary building and extending from grade to the bottom of the sign face.

required by city code sections 134-847(5), 134-3(definition of sign, freestanding monument), & 134-1276(p)(4)

finding

granting the variance to the definition of "sign, freestanding monument" and the variance for the number of freestanding signs meets the intent and spirit of the zoning ordinance and the criteria for unnecessary hardship. the necessary location of the four menu boards would be limited based on the existing building site configuration for the drive-thru. the proximity to the street would cause them to be considered signs, which need to meet the "lbs" freestanding signs overlay district and the regulations for signs with electronic display. limiting the premises to one freestanding sign in this case would present an unnecessary hardship given the reasonable and expected customary functions of a drive-thru restaurant. the proposed signs are in harmony with the essential character of the locality of the land in question.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for a Variance to the definition of "sign, freestanding monument", which requires any freestanding sign to have a minimum 2-foot tall solid opaque base, constructed of brick, stone, concrete block or other durable material matching the exterior of the primary building and extending from grade to the bottom of the sign face across the entire width of the sign face, and the appeal for a Variance of three (3) freestanding signs over the maximum allowed one (1) freestanding sign, to allow installation of four (4) freestanding signs along the 30th Street frontage, with a cumulative 61.58 square feet of signage area, including two (2) 4.20-foot tall by 4.83-foot wide (20.29 square feet) electronic display signs each atop have a minimum 1-foot tall metal base and two (2) 4.2-foot tall by 2.5-foot wide (10.5 square feet) electronic display signs each atop have a minimum 1-foot tall metal base, is granted, subject to the following conditions:

1. Any sign installed shall have been constructed in accordance with the pictures presented to the Board.

2. Any signs shall be installed by a licensed sign contractor in accordance with the decision and order and with issuance of all necessary sign permits for these signs by the Permit and Development Center.

3. Any electronic display signs installed shall meet all requirements by the Zoning Ordinance for operation and size.

VOTE

The foregoing Decision and Order was adopted by a vote of 6-0, 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 June 28, 2019.

Mel Behs, 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

DES MOINES WATER WORKS

ON PROPERTY LOCATED AT

VICINITY OF 2201 GEORGE FLAGG PARKWAY

DOCKET: ZON 2019-00102

PUBLIC HEARING: JUNE 26, 2019

SUBJECT OF THE APPEAL

Proposal: The Conditional Use Permit would allow for the sale of alcohol by a concert venue located within Water Works Park.

 Appeal(s): Conditional Use Permit for a business selling alcoholic liquor, wine, and/or beer. Variance of the provision that requires at least 150 feet of separation from any public park. 

 Required by City Code Sections 134-954 & 134-954(a)

FINDING

The appellant has satisfied the criteria necessary for granting the requested Conditional Use Permit and the Variance of the provision that requires at least 150 feet of separation from any public park. Board members noted that a flood zone is being reutilized to benefit the community, and that the sale of alcoholic liquor, wine and/or beer is sufficiently separated by geography, landscaping, and neighborhood uses to not be a detriment to the surrounding area.
DEcision AND ORDER

WHEREFORE, IT IS ORDERED that the appeals for a Conditional Use Permit for a business selling alcoholic liquor, wine, and/or beer and a Variance of the provision that requires at least 150 feet of separation from any public park, to allow for the sale of alcohol by a concert venue located within Water Works Park, are granted, subject to the following conditions:

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

2. Any sale or consumption of alcohol shall be limited to the amphitheater area within Des Moines Water Works Park.

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

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 loitering on the premises.

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

7. 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.

8. Any construction shall be in compliance with all applicable building and fire codes, with issuance of all necessary permits by the Permit and Development Center.

9. 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 Board to reconsider the issuance of the Conditional Use Permit.

VOTE

The foregoing Decision and Order was adopted by a vote of 6-0, with all Board members present 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 June 28, 2019.

Mel Dins, Board Chair

Bert Drost, Board Secretary