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 2019-00107

FIRST CHURCH OF THE OPEN BIBLE  
PUBLIC HEARING: JULY 24, 2019

ON PROPERTY LOCATED AT

2200 BEAVER AVENUE

SUBJECT OF THE APPEAL

Proposal: Installation of awnings with signs over 4 western entrances to the existing church building. The awnings would include a 13.88-square foot sign for "Office", a 13.88-square foot sign for "Students", a 21.66-square foot sign for fellowship hall, and a 11.11-square foot sign for "Gym".

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

Required by City Code Sections 134-416(2) and 134-1326(4).

FINDING

Granting the Special Permit would be consistent with the intended spirit and purpose of the Zoning Ordinance and in harmony with the essential character of the locality of the land in question so long as the signs are installed by a licensed sign contractor in accordance with a sign permit issued by the City’s Permit and Development Center. The proposed signs comply with the standards for issuance of a Special Permit, as the size and location of the signs relates entirely to the permitted religious use of the property. The proposed signages 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.
FIRST CHURCH OF THE OPEN BIBLE
2200 BEAVER AVENUE
ZON 2019-00107

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JULY 24, 2019

DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for a Special Permit for an institution of a religious character, to allow installation of awnings with signs over 4 western entrances to the existing church building including two 13.88 square foot signs, one 21.66 square foot sign and one 11.11 square foot sign, is granted, subject to the condition that any sign constructed shall be installed by a licensed sign contractor in accordance with a sign permit issued by the City’s Permit and Development Center.

VOTE

The foregoing Decision and Order was adopted by a vote of 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 July 26, 2019.

Mel Pies, 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

TYLER AND ELIZABETH BUCKLES

ON PROPERTY LOCATED AT

4511 WAVELAND COURT

DOCKET: ZON 2019-00109

PUBLIC HEARING: JULY 24, 2019

SUBJECT OF THE APPEAL

Proposal: Construction of a 2-story addition to the south front of the existing single-family dwelling that would include a wrap-around front porch addition that would be within 30 feet of the south front property line.

Appeal(s): Exception of 3.5 feet less than the minimum required 33.5-foot calculated average front yard setback.

Required by City Code Sections 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 addition is constructed with building materials that are compatible with 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 as the dwelling is an existing building. The proposed addition would fit the scale of the lot, the existing dwelling, and the development pattern of the area.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for an Exception of 3.5 feet less than the minimum required 33.5-foot calculated average front yard setback, to allow construction of a 2-story addition to the south front of the existing single-family dwelling that would include a wrap-around front porch addition that would be within 30 feet of the south front property line, is granted, subject to the following conditions:

1. Any porch constructed shall not be enclosed.

2. Any addition shall be constructed with building materials that are compatible with the primary dwelling including the use of lap siding and asphalt shingles.

3. Any addition 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 July 26, 2019.

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
MACERICH SOUTHRIDGE MALL, LLC
ON PROPERTY LOCATED AT
1113 EAST ARMY POST ROAD

DOCKET: ZON 2019-00112
PUBLIC HEARING: JULY 24, 2019

SUBJECT OF THE APPEAL

Proposal: Allow the existing gas station/convenience store to have sales of alcoholic liquor in addition to the previously permitted sales of wine and beer. As a gas station/convenience store, the business would be allowed to derive no more than 40% of its gross sales from alcoholic liquor, wine, beer, and/or tobacco products.

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

Required by City Code Section 134-954

FINDING:

Granting the requested 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 surrounding residential area. The business is sufficiently separated from any 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 surrounding residential uses. The business will not unduly increase congestion on the streets in the surrounding 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 the appeal for a Conditional Use Permit for a business selling liquor, wine and beer, to allow the existing gas station/convenience store to have sales of alcoholic liquor in addition to the previously permitted sales of wine and beer, is granted, subject to the following conditions:

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

2. The business selling liquor, 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 including keeping liquor within locked display cases or behind the cashier counter without public access.

3. Display of any alcoholic liquor shall only be within a locked case or behind a counter accessible only to employees.

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 shall be 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 July 26, 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 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

RACCOON VALLEY INVESTMENT LC

ON PROPERTY LOCATED AT

4701 FLEUR DRIVE

DOCKET: ZON 2019-00121

PUBLIC HEARING: JULY 24, 2019

SUBJECT OF THE APPEAL

Proposal: Allow the existing gas station/convenience store to have sales of alcoholic liquor in addition to the previously permitted sales of wine and beer. As a gas station/convenience store, the business would be allowed to derive no more than 40% of its gross sales from alcoholic liquor, wine, beer, and/or tobacco products.

Appeal(s): Conditional Use Permit for business selling liquor, wine, and beer. Required by City Code Section 134-954

FINDING

Granting the requested 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 surrounding residential area. The business is sufficiently separated from any 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 surrounding residential uses. The business will not unduly increase congestion on the streets in the surrounding 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 the appeal for a Conditional Use Permit for business selling liquor, wine, and beer, to allow the existing gas station/convenience store to have sales of alcoholic liquor in addition to the previously permitted sales of wine and beer, is granted subject to the following conditions:

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

2. The business selling liquor, 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 including keeping liquor within locked display cases or behind the cashier counter without public access.

3. Display of any alcoholic liquor shall only be within a locked case or behind a counter accessible only to employees.

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 shall be 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 July 26, 2019.

Mel Pine, 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

HYVEE, INC.

ON PROPERTY LOCATED AT

VICINITY OF 5801 HICKMAN ROAD

DOCKET: ZON 2019-00122

PUBLIC HEARING: JULY 24, 2019

SUBJECT OF THE APPEAL

Proposal: Allow the existing gas station/convenience store to have sales of alcoholic liquor in addition to the previously permitted sales of wine and beer. As a gas station/convenience store, the business would be allowed to derive no more than 40% of its gross sales from alcoholic liquor, wine, beer, and/or tobacco products.

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

Required by City Code Section 134-954

FINDING

Granting the requested 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 and surrounding residential area. The business is sufficiently separated from any 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 the appeal for a Conditional Use Permit for business selling liquor, wine, and beer, to allow the existing gas station/convenience store to have sales of alcoholic liquor in addition to the previously permitted sales of wine and beer, is granted subject to the following conditions:

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

2. The business selling liquor, 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 including keeping liquor within locked display cases or behind the cashier counter without public access.

3. Display of any alcoholic liquor shall only be within a locked case or behind a counter accessible only to employees.

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 shall be 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 July 26, 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

HOLY TRINITY CHURCH DES MOINES IOWA

ON PROPERTY LOCATED AT

2926 BEAVER AVENUE

DOCKET: ZON 2019-00117

PUBLIC HEARING: JULY 24, 2019

SUBJECT OF THE APPEAL

Proposal: Installation of a 5.67-foot wide by 6.17-foot tall (34.94 square feet) freestanding monument sign to include 23.8-square foot electronic display portion south of the entrance driveway along Beaver Avenue.

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

Required by City Code Sections 134-1326(4).

FINDING

Granting the Special Permit would be consistent with the intended spirit and purpose of the Zoning Ordinance and in harmony with the essential character of the locality of the land in question so long as the sign is a monument sign with a durable base that complements the primary building. The impact of the proposed signage would be minimal so long as any electronic display component of the sign operates in accordance with the recommended conditions of approval. The proposed sign complies with the standards for issuance of a Special Permit, as the sign relates entirely to the permitted religious use of the property. The proposed signage would adequately safeguard the health, safety and welfare of the occupants of adjoining and surrounding property; would not unduly increase congestion in the public streets; would not increase public danger of fire and safety; and would not diminish or impair established property values in surrounding areas, and would have no significant detrimental impact on the use and enjoyment of adjoining properties.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for a Special Permit for an institution of religious character, to allow installation of a 5.67-foot wide by 6.17-foot tall (34.94 square feet) freestanding monument sign to include 23.8-square foot electronic display portion south of the entrance driveway along Beaver Avenue, is granted subject to the following conditions:

1. Any sign constructed shall be a monument sign with a durable base that complements the primary building.

2. Any sign constructed shall have two parallel sign faces not to exceed 5.67 feet by 6.17 feet (34.94 square feet).

3. The electronic display area of any sign constructed shall be no larger than 14.6 square feet.

4. The electronic display component of any sign shall not operate between the hours of 8:00 PM and 6:00 AM.

5. The electronic display component of any sign shall not display multiple pictures or graphics in a series of frames which give the illusion of motion or video, including but not limited to television screens, plasma screens, LED screens and holographic displays used to display video images.

6. The electronic display component of any sign and each portion thereof shall be static for at least 8 seconds between any change in the display and any change between static displays shall be instantaneous.

7. The electronic display component of any sign shall have an automatic dimmer control to automatically reduce the illumination at night and during times of reduced ambient light.

8. No lighting shall be used in any way in connection with any sign unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of any street, or is of such low intensity or brilliance as to not cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.

9. Any sign constructed shall not be located within any required vision clearance triangle.

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

VOTE

The foregoing Decision and Order was adopted by a vote of 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 July 26, 2019.

Mel Pines, 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

MATT AND MELISSA SHIELDS

ON PROPERTY LOCATED AT

4319 KINGMAN BOULEVARD

DOCKET: ZON 2019-00119
PUBLIC HEARING: JULY 24, 2019

SUBJECT OF THE APPEAL

Proposal: Construction of a 20-foot by 30-foot, 2-story addition to the north facade of the existing single-family dwelling, where the addition would be within 1 foot of the north (side) property line. The proposed addition would replace an existing attached garage. The Board previously granted Variance relief on April 24, 2019 by Docket No. ZON2019-00051 for an addition that would have been within 2 feet of the north property line.

Appeal(s): Variance of 6 feet less than the minimum required 7-foot side yard setback.

Required by City Code Section 134-414(4)(a)

FINDING

Granting the requested Variance with conditions would be consistent with the intended spirit and purpose of the Zoning Ordinance and would not alter the essential character of the locality of the land in question. The subject property is a corner lot with street frontage along the south and west. The existing dwelling is generally located in the northeast corner of the lot. As a result, the balance of the site is located between the house and the streets. This greatly diminishes the options for where an addition could be located. The existing dwelling contains a brick chimney that runs up the west facade of the building. Therefore, it is not practical to construct an addition to the west of the dwelling. Providing a seven-foot setback from the north property line would require the addition to be 15 feet wide. This is not wide enough to provide adequate garage space. The proposed 20-foot width for the garage is the narrowest dimension typically used in constructing a functional two-car garage. The proposed design would blend in with the historic architecture of the existing dwelling.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for a Variance of 6 feet less than the minimum required 7-foot side yard setback, to allow construction of a 20-foot by 30-foot, 2-story addition to the north facade of the existing single-family dwelling, where the addition would be within 1 foot of the north (side) property line, is granted subject to the following conditions:

1. Obtainment of an access easement from the property to the north to allow access to the north side of the addition for maintenance. The easement shall be recorded before a building permit may be issued.

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

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

4. Any addition shall be constructed in conformance with all applicable Building Codes, including the provision limiting roof overhangs when in close proximity to a property line, 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 July 26, 2019.

Mei 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
HELENA INDUSTRIES
ON PROPERTY LOCATED AT
VICINITY OF 3525 VANDALIA ROAD

DOCKET: ZON 2019-00126
PUBLIC HEARING: JULY 24, 2019

SUBJECT OF THE APPEAL

Proposal: Construction of a new 90,000-square foot chemical manufacturing facility on the existing Helena Industries campus with the intended use involving processing of hazardous material.

Appeal(s): Amendment to Conditional Use Permit for a use not permitted in the “M-1” Light Industrial District.

Required by City Code Section 134-1122(5)

FINDING

The appellant has demonstrated the criteria necessary for granting an amendment to the Conditional Use Permit. The impact of the new facility would be minimal since it is located to the rear of the site away from Vandalia Road. The proposed enhanced entrance from Vandalia Road will minimize any potential impacts. Furthermore, the proposed site expansion represents an anticipated increase in the intensity of the overall use of the property within an area with a future land use designation of “Industrial” in accordance with PlanDSM.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for an amendment to Conditional Use Permit for a use not permitted in the "M-1" Light Industrial District, to allow construction of a new 90,000-square foot chemical manufacturing facility on the existing Helena Industries campus with the intended use involving processing of hazardous material, is granted subject to the following conditions:

1. Construction of any facility for hazardous occupancy use is in conformance with a Site Plan as approved by the City's Permit and Development Center.

2. Construction of any building for a hazardous occupancy use shall be in compliance with all applicable Building and Fire Codes with issuance of all necessary permits by the City's Permit and Development Center.

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

VOTE

The foregoing Decision and Order was adopted by a vote of 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 July 26, 2019.

Mel Pins, Board Chair

B. 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 2019-00125
SONJA MORGAN PUBLIC HEARING: JULY 24, 2019
ON PROPERTY LOCATED AT
836 DOUGLAS AVENUE

SUBJECT OF THE APPEAL

Proposal: Construction of a 20-foot by 20-foot (400 square feet) detached garage within the south rear yard of the existing single-family dwelling. This would be in addition to an existing 13-foot by 20-foot (360 square feet) detached garage.

Appeal(s): Exception of 102 square feet over the maximum allowed 658 square feet for accessory buildings.

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 "R1-60" District. The appellant faces a practical difficulty in providing an adequate space 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, such as horizontal lap siding and asphalt shingles. However, it would be reasonable to require access to the proposed garage to be entirely paved and to require any gravel within the front yard area to be removed.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for an Exception of 102 square feet over the maximum allowed 658 square feet for accessory buildings, to allow construction of a 20-foot by 20-foot (400 square feet) detached garage within the south rear yard of the existing single-family dwelling, in addition to an existing 18-foot by 20-foot (360 square feet) detached garage, 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.
5. Any driveway to the proposed accessory structure shall be paved with a durable surface in compliance with issuance of all necessary permits by the Permit and Development Center.
6. All existing gravel used for vehicular parking and maneuvering shall be removed. Any area not paved per condition #5 shall be restored to turf.

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 July 26, 2019.

[Signature]
Mel Pinn, 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  
TERI WITT COSPER  
ON PROPERTY LOCATED AT  
VICINITY OF 925 SOUTHEAST 9TH STREET  

DOCKET: ZON 2019-00103  
PUBLIC HEARING: JULY 24, 2019

SUBJECT OF THE APPEAL

Proposal: Subdivision of the land into three (3) parcels oriented toward Southeast 9th Street, including a 63-foot by 100-foot (6,800 square feet) parcel to contain the existing single-family dwelling, where the dwelling would be within 5 feet of the proposed north (side) property line and within 25 feet of the east (rear) property line, and two (2) 45-foot by 100-foot (4,500 square feet) parcels that would each contain a future single-family dwelling, where each dwelling would be setback at least 3.75 feet from its north (side) property line and its south (side) property line. All three (3) parcels would be required to provide at least one (1) off-street parking space located outside of a front yard area.

Appeal(s): Exceptions of 15 feet less than the minimum 60 feet of lot width required for a single-family dwelling.

Exceptions of up 3,000 feet less than the minimum 7,500 square feet of lot area required for a single-family dwelling.

Exceptions of up to 3.5 feet less than the minimum 7-foot side yard setback required on one side of a dwelling.

Exceptions of up to 7.5 feet less than the minimum required 15 feet of combined side yard setbacks.

Exception of 5 feet less than the minimum required 30-foot rear yard setback.

Required by City Code Sections 134-414(1)(a) & 134-414(2)(a), 134-414(4)(a), & 134-414(5)
FINDING

Granting the requested Exceptions with conditions would be consistent with the intended spirit and purpose of the Zoning Ordinance and in harmony with the essential character of the neighborhood so long as the dwellings are constructed with a revised design as approved by the City’s Planning Administrator that is in conformance with the recommended conditions of approval. A practical difficulty exists in that the existing parcel has an area of 15,800 square feet, which exceeds the lot area necessary for one single-family dwelling, but is unable to acquire additional land to provide the area and lot width required for two additional dwellings and meet side yard setback requirements. The impact of three lots on the surrounding neighborhood would be minimal, so long as full basements and garages are constructed to provide adequate storage for each lot and that the dwellings have first floor living space that engages the street in a manner that is consistent with other dwellings in the neighborhood. The requested relief relates entirely to an allowed principal permitted use in the "R1-60" District.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeals for an Exception of 15 feet less than the minimum 60 feet of lot width required for a single-family dwelling, an Exception for each parcel of up 3,000 feet less than the minimum 7,500 square feet of lot area required for a single-family dwelling, an Exception for each parcel of up to 3.5 feet less than the minimum 7-foot side yard setback required on one side of a dwelling, an Exception for each parcel of up to 7.5 feet less than the minimum required 15 feet of combined side yard setbacks, and an Exception of 5 feet less than the minimum required 30-foot rear yard setback, to allow subdivision of the land into three (3) parcels oriented toward Southeast 9th Street, including a 68-foot by 100-foot (6,800 square feet) parcel to contain the existing single-family dwelling, where the dwelling would be within 5 feet of the proposed north (side) property line and within 25 feet of the east (rear) property line, and two (2) 45-foot by 100-foot (4,500 square feet) parcels that would each contain a future single-family dwelling, where each dwelling would be setback at least 3.75 feet from its north (side) property line and 3.75 feet from its south (side) property line, are Granted subject to the following conditions:

1. Any dwelling constructed shall consist of a design and building materials that are compatible with the architecture of existing dwellings in the area to the satisfaction of the City's Planning Administrator. Contemporary and/or traditional architecture can be found compatible.

2. Any dwelling constructed shall have ground floor entry feature with a front door facing the street to the satisfaction of the City's Planning Administrator.

3. Any dwelling constructed shall have ground floor living space with windows to the satisfaction of the City's Planning Administrator.

4. Provision of a garage that, at a minimum, is large enough to provide 1 parking space and 80 square feet of storage space

5. Any attached garage shall be located at the rear of the dwelling.

6. Provision of a full basement under each dwelling, exclusive of the garage, unless the appellant demonstrates that there is topography, soil, groundwater, sewer connection, or drainage issues with the property constrains the ability to provide a basement to the satisfaction of the City Engineer.

7. All construction shall be in compliance with all applicable building codes with issuance of all necessary permits by the Permit and Development Center.

8. Any modified lot configuration shall be in accordance with a Plat approved by the Permit and Development Center and recorded with Polk County.

VOTE

The foregoing Decision and Order was adopted by a vote of 5-1, with Board members Blake, Smith, Jones, Carlson and Gaer voting in favor thereof, and Board member Pins 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 July 26, 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  DOCKET: ZON 2019-00106
JUAN PEREZ RAMIREZ  PUBLIC HEARING: JULY 24, 2019
ON PROPERTY LOCATED AT
2016 MARTIN LUTHER KING JR. PARKWAY

SUBJECT OF THE APPEAL

Proposal: Retention of a 20-foot by 28-foot (560 square feet) detached 3-car garage in the west rear yard that is 2 stories and 17 feet, 11 inches in height.

Appeal(s): Variance of 1-story over the maximum 1-story for a detached accessory building.

Exception of 11 inches over the maximum permitted 17 feet in height for a detached accessory building.

Required by City Code Sections 134-414(6)(b) and 134-414(7)(b).

FINDING

Granting the Variance with conditions 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. Requiring the appellant to reconstruct the roof of an already constructed garage would cause an unnecessary hardship. The garage is located to the rear of the subject property and the additional 11 inches of height would not be visible from the street.

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 garage is constructed with building materials that are compatible with the existing dwelling. The appellant faces a practical difficulty in providing enough storage to meet their needs. The impact of the garage would be minimal as the subject property is adequately sized for both a small dwelling and a garage. Additionally, the garage is located to the rear of the subject property and not visible from the street. The additional 1-story at a supplementary 11 inches of height would have minimal impact on the character of the neighborhood as the garage would be located in the rear yard and would fit the scale of the lot and the development pattern of the area. The proposed accessory building relates entirely to a permitted use allowed by the "R1-60" district.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeals for a Variance of 1-story over the maximum 1-story for a detached accessory building and an Exception of 11 inches over the maximum permitted 17 feet in height for a detached accessory building, to allow retention of a 20-foot by 28-foot (560 square feet) detached 3-car garage in the west rear yard that would be 2-stories and 17 feet 11 inches in height, are 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.

5. Removal of 48.7 square feet of pavement from the front yard area and restoration to turf.

6. Restoration of the area within the public right-of-way between the sidewalk and the street to turf.

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 July 26, 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

MIDWEST RADIO, INC.

ON PROPERTY LOCATED AT

3839 MERLE HAY ROAD

DOCKET: ZON 2019-00108

PUBLIC HEARING: JULY 24, 2019

SUBJECT OF THE APPEAL

Proposal: Installation of a 2.84-foot by 16.63-foot (47.25 square feet) sign above the 2nd floor for an occupant of the 2nd floor that does not have occupant frontage on the first floor of the building.

Appeal(s): Variance of 1 building mounted sign over the 0 signs earned for an occupant of the building without occupant frontage.

Variance of 47.25 square feet of sign area over the 0 square feet of sign area earned for an occupant of the building without occupant frontage.

Required by City Code Sections 134-951(2).

FINDING

Granting the Variances with conditions would be consistent with the intended spirit and purpose of the Zoning Ordinance and in harmony with the essential character of the locality of the land in question so long as any sign shall be installed by a licensed sign contractor in accordance with a sign permit issued by the Permit and Development Center and only installed on the west façade of the building. The tenant is limited from earning signage based on the existing configuration of the building and the orientation of the primary entrance. It would be an unreasonable use of the land for a commercial occupant to be denied any signage identifying the location of the business. The proposed 47.25-square foot sign is of an appropriate size and scale for the 2-story multi-tenant building on a 2.055-acre site and would be compatible with the essential character of the surrounding neighborhood.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeals for a Variance of 1 building mounted sign over the 0 signs earned for an occupant of the building without occupant frontage and a Variance of 47.25 square feet of sign area over the 0 square feet of sign area earned for an occupant of the building without occupant frontage, to allow installation of a 2.84-foot by 16.63-foot (47.25 square feet) sign above the 2nd floor for an occupant of the 2nd floor that does not have occupant frontage on the first floor of the building, are granted subject to the following conditions:

1. Installation by a licensed sign contractor in accordance with a sign permit issued by the Permit and Development Center.

2. Any sign installed shall substantially comply with the design and materials information submitted with the application.

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 July 26, 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  DOCKET: ZON 2019-00110
THIKRA NOORI AL MAHDawi & SALAH ABDURAZZAK ABOULWAHAB
ON PROPERTY LOCATED AT  PUBLIC HEARING: JULY 24, 2019
1013 SCOTT AVENUE

SUBJECT OF THE APPEAL

Proposal:  Paving of a 20-foot wide driveway within the front yard area, in addition to an existing 9.5-foot wide driveway, resulting in 442.5 square feet of paving within the 15-foot deep front yard area; and

Construction of a front porch addition, generally measuring 9 feet by 9 feet, which would be setback at least 7.5 feet from the north (front) property line along Scott Avenue.

Appeal(s):  Variance of 195 square feet of paving over the maximum allowed 247.5 square feet of paving within the front yard area [25% of the 66-foot wide by 15-foot deep (990 square feet) front yard area].

Exception of 7.5 feet less than the calculated minimum required 15-foot front yard setback.

Required by City Code Sections 134-1276(e) & 134-1377(m)(3)
FINDING
The appellant has not satisfied the criteria necessary for granting a Variance, as the land in question can 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.

However, the appellant has satisfied the criteria necessary for granting an amended appeal for an Exception of up to 123.75 square feet over the maximum permitted 247.5 square feet. This would allow for a total 371.25 square feet within the front yard area, which is 71.25 square feet less than the proposed 442.5 square feet of paving. Such an appeal relates entirely to a use classified by applicable district regulations as either a principal permitted use, is reasonably necessary due to practical difficulties related to the land in question where such practical difficulties cannot be overcome by any feasible alternative means other than an Exception, and is in harmony with the essential character of the neighborhood of the land in question.

Granting the Exception to the minimum required front yard setback to allow construction of a porch addition within 7.5 feet of the front property line would be consistent with the intended spirit and purpose of the Zoning Ordinance and in harmony with the essential character of the neighborhood of the land in question. The appellant faces a practical difficulty in constructing an addition to the existing front porch that is of an adequate size necessary to provide a covered entrance to the home.

DECISION AND ORDER
WHEREFORE, IT IS ORDERED that the appeal for a Variance of 195 square feet of paving over the maximum allowed 247.5 square feet of paving within the front yard area (25% of the 66-foot wide by 15-foot deep (980 square feet) front yard area), is denied.

AND, WHEREFORE, IT IS ORDERED that an amended appeal for an Exception of no more than 123.75 square feet over the maximum permitted 247.5 square feet (total 371.25 square feet within the front yard area), and the appeal for an Exception of 7.5 feet less than the calculated minimum required 15-foot front yard setback, to allow up to 371.25 square feet of paving within the 15-foot deep front yard area for a driveway and construction of a front porch addition, generally measuring 9 feet by 9 feet, which would be setback at least 7.5 feet from the north (front) property line along Scott Avenue, are granted subject to the following conditions:

1. The issuance of a necessary drive approach permit by the City’s Permit and Development Center.
2. Construction of any porch addition must be of an open design compatible with the design and materials of the existing dwelling to the satisfaction of the City’s Planning Administrator.
3. Construction of any porch addition shall comply 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 5-1, with Board members Blake, Smith, Jones, Pines and Gaer voting in favor thereof, and Board member Carlson 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 July 26, 2019.

Mel Pins, 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
KIRK DAWSON
ON PROPERTY LOCATED AT
550 24TH STREET

DOCKET: ZON 2019-00113
PUBLIC HEARING: JULY 24, 2019

SUBJECT OF THE APPEAL

Proposal: Retention of a 9.3-foot by 12.1-foot (112.53 square feet) shed structure accessory to an existing 4-unit multiple-family dwelling and existing 16-foot by 20-foot (320 square feet) detached garage.

Appeal(s): Variance of the provision prohibiting expansion of a legal non-conforming use to occupy a greater area of land than previously occupied when the use became non-conforming.

Required by City Code Sections 134-1352(a)(1).

FINDING

The appellant has not satisfied the criteria necessary for granting the requested Variance to allow the expansion of a non-conforming use. The land in question can yield a reasonable return without the proposed shed. The appellant could seek a rezoning of the subject property to the “R-3” District, which would allow a four-unit dwelling by right.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for a Variance of the provision prohibiting expansion of a legal non-conforming use to occupy a greater area of land than previously occupied when the use became non-conforming, to allow retention of a 9.3-foot by 12.1-foot (112.53 square feet) shed structure accessory to an existing 4-unit multiple-family dwelling and existing 16-foot by 20-foot (320 square feet) detached garage, is denied.

VOTE

The foregoing Decision and Order was adopted by a vote of 4-2, with Board members Blake, Smith, Jones, and Carlson voting in favor thereof, and Board members Pins and Gaer 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 July 26, 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  
CASEY'S MARKETING CO.  
ON PROPERTY LOCATED AT  
5150 EAST 14TH STREET  

DOCKET: ZON 2019-00118  
PUBLIC HEARING: JULY 24, 2019

SUBJECT OF THE APPEAL

Proposal: Relocation of an existing 26.67-foot tall freestanding pole sign with a 16.17-foot by 11.34 (183.37 square feet) rectangle for calculated sign area. The sign would maintain an existing 22.84-square foot electronic display portion for changeable pricing. The sign would be moved from the southeast corner of the site to north of the east driveway entrance from East 14th Street (U.S. Highway 69) as part of an Iowa DOT project on the adjoining highway.

Appeal(s): Variance of the provision prohibiting new freestanding sign locations from being pole signs.

Variance of the provision that states any on-premises advertising sign utilizing an electronic display or multi-vision display shall be a monument sign.

Required by City Code Sections 134-951(3), 134-1276(p)(4)(a).

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 a 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. The City of Des Moines has replaced existing pole signs with monument signs to comply with the City Code when right-of-way is acquired for City purposes and the existing signage is impacted. The Iowa Department of Transportation should do the same.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeals for a Variance of the provision prohibiting new freestanding sign locations from being pole signs and a Variance of the provision that states any on-premises advertising sign utilizing an electronic display or multi-vision display shall be a monument sign, to allow relocation of an existing 26.67-foot tall freestanding pole sign with a 16.17-foot by 11.34 (183.37 square feet) rectangle for calculated sign area, 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 July 26, 2019.

Mei Pius, 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 DOCKET: ZON 2019-00123

DAVID FAUTSCH AND ELIZABETH TALBERT PUBLIC HEARING: JULY 24, 2019

ON PROPERTY LOCATED AT

517 43RD STREET

SUBJECT OF THE APPEAL

Proposal: Construct a 25-foot by 25-foot garage addition to the northeast corner of the existing single-family that would be within 5.08 feet of both the east rear property line and the north side property line.

Appeal(s): Variance of 23.32 feet less than the minimum required 28.4-foot rear yard setback calculated for a Lot of Record (20% of the lot depth of 142 feet).

Exception of 1.42 feet less than the minimum required 6.5-foot side yard calculated for a Lot of Record (10% of the lot width minimum on one side).

Required by City Code Section 134-1296(b)(2) & (3)

FINDING

Granting the requested Variance with conditions would be consistent with the intended spirit and purpose of the Zoning Ordinance and would not alter the essential character of the locality of the land in question. The existing dwelling is located towards the rear of the lot. As a result, most of the balance of the site is located in the front yard. This greatly diminishes the options for where an addition could be located. The appellant faces an unnecessary hardship as providing a rear yard setback of 28.4 feet would not leave enough space to construct a function garage addition.

Granting the requested Exception with 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 proposed garage addition relates entirely to a permitted use allowed by the “R1-80” District. The appellant faces a practical difficulty as providing a side yard setback of 6.5 feet given the location of the existing driveway and need to connect to the northeast corner of the dwelling.
WHEREFORE, IT IS ORDERED that the appeals for a Variance of 23.32 feet less than the
minimum required 28.4-foot rear yard setback calculated for a Lot of Record (20% of the lot depth
of 142 feet) and an Exception of 1.42 feet less than the minimum required 6.5-foot side yard
calculated for a Lot of Record (10% of the lot width minimum on one side), to construct a 25-foot
by 25-foot garage addition to the northeast corner of the existing single-family that would be
within 5.08 feet of both the east rear property line and the north side property line, are granted
subject to the following conditions:

1. Any addition shall be constructed with building materials that are compatible with the
primary dwelling including the use of lap siding and asphalt shingles.

2. Any addition 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 July 26, 2019.

Mel Pinn, 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

JOHN AND ANITA FLEMING

ON PROPERTY LOCATED AT

4913 38TH PLACE

DOCKET: ZON 2019-00124

PUBLIC HEARING: JULY 24, 2019

SUBJECT OF THE APPEAL

Proposal: Construction of a 6-foot tall opaque wooden fence to the northeast of the existing home within 17 feet of the north front yard property line. The calculated average front yard setback is 25 feet.

Appeal(s): Variance of 3 feet over the maximum 3-foot fence height permitted within the minimum required calculated average front yard setback.

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

FINDING

Granting the requested Variances would not be consistent with the intended spirit and purpose of the Zoning Ordinance. The appellant has not demonstrated the criteria necessary for the issuance of a Variance. The land in question can yield a reasonable return from any use permitted by the regulations of the district in which the land is located.

Granting an amended appeal for an Exception of 1.5 feet over the maximum 3-foot fence height within the minimum required calculated average front yard setback would be consistent with the intended spirit and purpose of the Zoning Ordinance. The appellant faces a practical difficulty given the location of the existing dwelling on a corner lot with two front yards. The proposed fence relates entirely to a permitted use allowed by the "R1-60" District.
DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for a Variance of 3 feet over the maximum 3-foot fence height permitted within the minimum required calculated average front yard setback, to allow construction of a 6-foot tall opaque wooden fence to the northeast of the existing home within 17 feet of the north front yard property line, is denied.

AND, WHEREFORE, IT IS ORDERED that an amended appeal for an Exception of 1.5 feet over the maximum 3-foot fence height permitted within the minimum required calculated average front yard setback, to allow construction of an up to 4.5-foot tall opaque wooden fence to the northeast of the existing home within 17 feet of the north front yard property line, is granted subject to the condition that any fence constructed shall be in compliance with issuance of all necessary permits by the Permit and Development Center.

VOTE

The foregoing Decision and Order was adopted by a vote of 5-1, with Board members Gaer, Carlson, Jones, Smith and Blake voting in favor thereof, and Board member Pins 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 July 26, 2019.

Mel Pins, Board Chair

Bert Drost, Board Secretary