

ZONING BOARD OF ADJUSTMENT MEETING

CITY OF DAVENPORT, IOWA

THURSDAY, JULY 11, 2019; 4:00 PM

CITY COUNCIL CHAMBERS CITY HALL 226 W 4TH STREET

I. Call to Order

II. Secretary's Report

A. Consideration of the minutes from the 6/27/19 public hearing.

III. Old Business

IV. New Business

A. Request HV19-09 of Dan Gunsteen at W.K. First Addition lot 1 (3902 N Elsie Ave; corner of Elsie and W Kimberly Rd) for a hardship variance to encroach into the required buffer yard along the north property line to accommodate a car wash development. The property is zoned "C-2" Corridor Commercial.

Section 17.11.080.A.3. and C.1. require a 15 foot buffer yard where a nonresidential district is adjacent to a residential district. The property to the north is zoned "R-4" Residential.

[2nd Ward]

V. Other Business

VI. Adjourn

City of Davenport
Zoning Board of Adjustment

Department: CPED
Contact Info: Scott Koops, Planner II, AICP

Date
7/11/2019

Subject:
Consideration of the minutes from the 6/27/19 public hearing.

ATTACHMENTS:

Type	Description
▣ Exhibit	ZBA Minutes 6-27-19

REVIEWERS:

Department	Reviewer	Action	Date
City Clerk	Koops, Scott	Approved	7/3/2019 - 11:36 AM



MINUTES
City of Davenport
Zoning Board of Adjustment
June 27, 2019



By this reference all reports, documents, presentations, videos and the hearing's video recording are incorporated into the minutes.

Call to Order

Chairman Hart called the Zoning Board of Adjustment meeting in the first floor Council Chambers at City Hall, 226 W. 4th Street, Davenport, Iowa to order at 4:00 p.m.

Board Members present: Reistroffer, Strayhall, and Hart

Board Member excused: Lee, Cochran

Staff present: Koops, Hoyt

I. Secretary's Report:

The minutes of the 6-13-2019 were approved by voice vote.

II. Old Business:

Request HV19-07 of Tom Thomas on behalf of Place of Refuge at 518 Brown Street for a hardship variance to refrain from providing required off-street parking spaces. Proposed plans provide no off-street parking spaces for the 84-seat place of worship. The property is zoned "R-4C" Central Residential District.

Section 17.10.040, Table 17.10-2 of the Davenport Municipal Code requires 9 parking spaces for an 84-seat place of worship (1 space for every 10 seats). [3rd Ward; Ald. Meginnis]

III. New Business:

None.

Request

Koops presented the staff report.

No comments were received.

Recommendation and Findings of Fact

Findings: (Per the analysis above)

- Item #1 application of the ordinance creating hardship may have been established;
- Item #2 physical surroundings do create difficulty in developing the site;
- Item #3 there are some unique circumstance for this use;
- Item #4 protection of essential character should not be an issue as proposed;

Recommendation:

While the site is not ideal for the proposed use, staff concedes that the impacts to the neighborhood should be minimal if at least 2-hour City designated on-street parking is provided.

Motion:

A motion to approve the request was made by Strayhall and seconded by Reistroffer. Motion to approve carried unanimously. (3-0):

Reistroffer, yes; Strayhall, yes; and Hart, yes.

IV. Other Business

None.

V. Adjourn

The meeting adjourned unanimously by voice vote at approximately 4:22 pm.

City of Davenport
Zoning Board of Adjustment

Department: CPED
Contact Info: Scott Koops, Planner II, AICP

Date
7/11/2019

Subject:

Request HV19-09 of Dan Gunsteen at W.K. First Addition lot 1 (3902 N Elsie Ave; corner of Elsie and W Kimberly Rd) for a hardship variance to encroach into the required buffer yard along the north property line to accommodate a car wash development. The property is zoned "C-2" Corridor Commercial.

Section 17.11.080.A.3. and C.1. require a 15 foot buffer yard where a nonresidential district is adjacent to a residential district. The property to the north is zoned "R-4" Residential.

[2nd Ward]

ATTACHMENTS:

Type	Description
▣ Executive Summary	Staff Report
▣ Exhibit	Site Plan
▣ Exhibit	Variance Exhibit
▣ Exhibit	Application
▣ Exhibit	Notice Letter
▣ Exhibit	Notice Map
▣ Exhibit	Notice List

REVIEWERS:

Department	Reviewer	Action	Date
City Clerk	Koops, Scott	Approved	7/3/2019 - 11:43 AM



City of Davenport
Community Planning & Economic Development Department
STAFF REPORT

ZONING BOARD OF ADJUSTMENT

Description

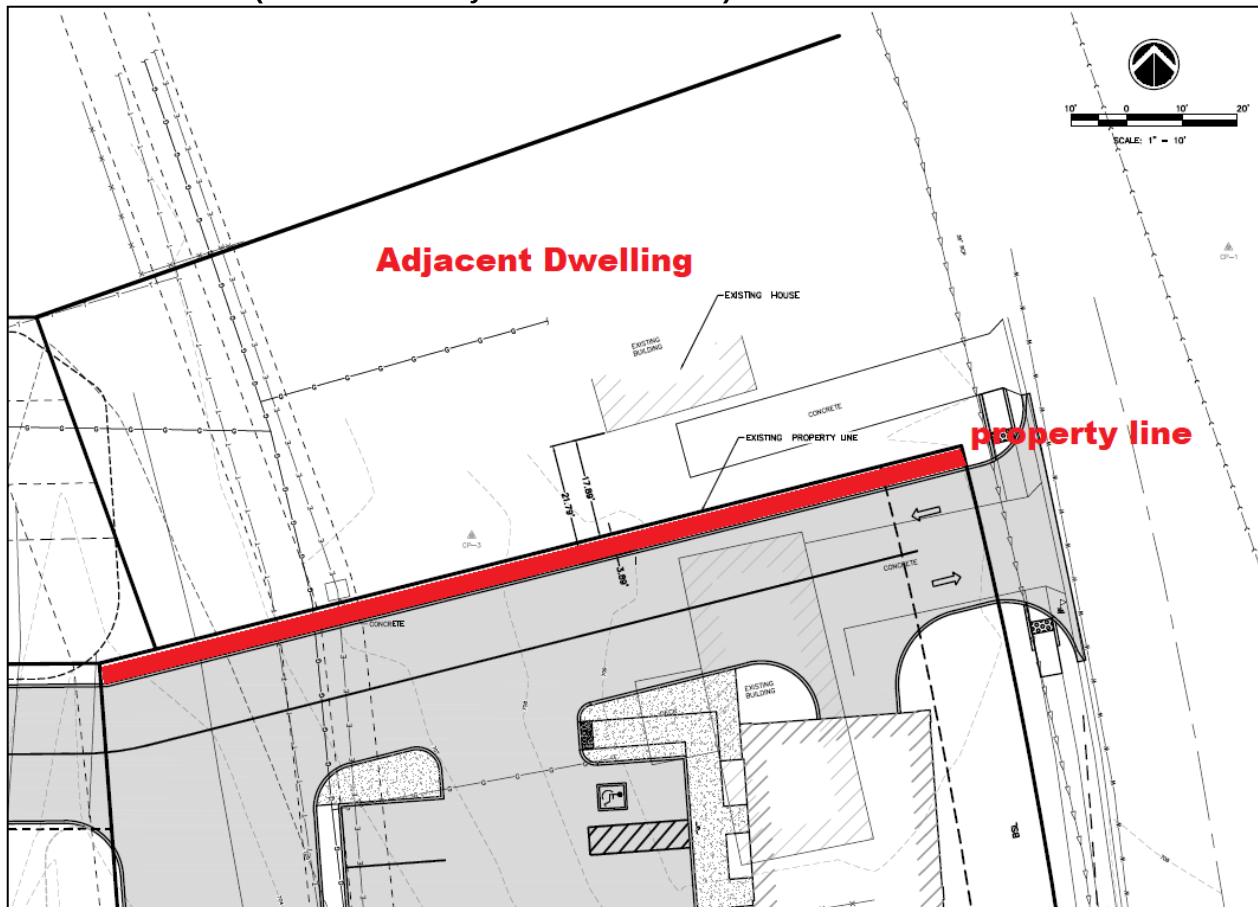
Request HV19-09 of Dan Gunsteen at W.K. First Addition lot 1 (3902 N Elsie Ave; corner of Elsie and W Kimberly Rd) for a hardship variance to encroach into the required buffer yard along the north property line to accommodate a car wash development. The property is zoned "C-2" Corridor Commercial.

Section 17.11.080.A.3. and C.1. require a 15 foot buffer yard where a nonresidential district is adjacent to a residential district. The property to the north is zoned "R-4" Residential.
[2nd Ward]

Background & Discussion

The petitioner has submitted a site plan showing a reduced buffer yard to the north of the property. The adjacent property is a residential property (it is zoned R-4 and it is a single-family dwelling). The landscape section of the Zoning Ordinance requires a 15 foot buffer yard. The petitioner is proposing a 3.9 foot buffer yard, which is 11.1 feet less than required.

Buffer Yard Site (reduced buffer yard shown in **RED):**



[illegible]

Purpose of a Hardship Variance

In the Davenport Municipal Code, Section 17.14.060 states: *The purpose of the hardship variance process is to provide a narrowly circumscribed means by which relief may be granted from unforeseen applications of this Ordinance that create practical difficulties or particular hardships.*

Approval Standards

The Zoning Board of Adjustment decision must make findings to support each of the following: (code requirement/applicant's response/staff comments)

1. Strict application of this Ordinance will result in hardship unless the specific relief requested is granted.

Applicant Response:

As part of the subdividing, I am giving the southern 12' of the property for Kimberly Road right of way. But with a combined 15' buffer along the north with the residential property, it makes it impossible to get the needed car wash building length required. I have already shortened the building by 10' and I cannot make it shorter and still have it function properly.

Staff Comments:

The petitioner was required as a condition to the rezoning to dedicate the 12 foot strip of land for right-of-way needs which are triggered by this development. The petitioner knew of these requirements on January 15, 2019, at the onset of the project. The petition purchased over 240 feet of land fronting North Elsie Avenue. The petitioner should have purchased 11 more feet at that time to meet the buffer yard requirement. This is a self-created hardship.

2. The particular physical surroundings, shape, or topographical conditions of the specific property impose a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.

Applicant Response:

There is a natural swale through the middle of the property that routes over 6 acres of offsite stormwater through the property. Because of this, the building needs to run in a north-south direction.

Staff:

The topography of the lot is flat and does not limit the use of the property. No physical characteristics of the property pose a hardship. The building would need to be oriented north-south regardless of the natural drainage of this property in order to fit the building on the lot. The request is a convenience to the petitioner.

To meet the criteria for a hardship due to topographic conditions, the petitioner must demonstrate the following where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or by reason of exceptional topographical conditions or other extraordinary or exceptional situations of a specific piece of property, the strict application of any provision of this title would result in peculiar and practical difficulties and clearly demonstrable hardship upon the owner of such property, amounting to practical confiscation thereof and not a mere inconvenience to the owner. The petitioner has not demonstrated such.

3. The plight of the owner is due to unique circumstances that do not apply to a majority of adjoining or nearby property, and is not a self-created hardship.

Applicant Response:

12' of the property is being given to the city as Kimberly Road right of way creating the hardship.

Staff:

The dedication of right-of-way was known near the onset of this project. Additional land (11 feet) could have been purchased at that time. The zoning code in and of itself does not create a hardship.

4. The hardship variance, if granted, will not alter the essential character of the locality.

Applicant Response:

Although there will be several homes purchased and demolished as part of this project, the area is residential adjoining commercial properties.

Staff:

The character of the area may be impacted by the 2/3rd reduction of the buffer yard. The adjacent land owner may be denied the residential character of their property. Formerly the land south of that dwelling was another dwelling; now the land to the south will be a commercial use – a car wash.

Findings & Staff Recommendation:

Findings: (Per the analysis above)

- Item #1 application of the ordinance creating hardship has not been established;
- Item #2 physical and topographical conditions of the site does not limit the use;
- Item #3 unique circumstance has not been established;
- Item #4 protection of essential character may not have been established;

Recommendation:

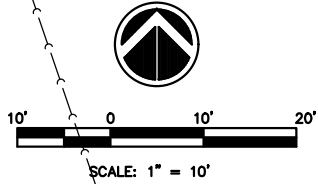
Staff recommends denial of the request as the application does not meet approval standards for a hardship variance.

Prepared by:



Scott Koops, AICP, Planner II

Attachments: ZBA application/plans, notice documents



EXTREME CLEAN EXPRESS CAR WASH
DAVENPORT, IOWA
SITE PLAN FOR VARIANCE

IMEG
623 26TH AVENUE
PO BOX 620
DAVENPORT, IA 52001
www.imegcorp.com

mission inc.
FORMERLY
McClure
Engineering Associates, Inc.

REVISIONS			
No.	DESCRIPTION	DATE	

IMEG Project No:
18004131.00
File Name:
Variance Exhibit.dwg
© COPYRIGHT 2019
ALL RIGHTS RESERVED
Field Book No:####
Drawn By: TCH
Checked By: TCH
Date: 5/2/2019



Complete application can be emailed to planning@ci.davenport.ia.us

Property Address*

*If no property address, please submit a legal description of the property.

Applicant (Primary Contact) **

Name:
Company:
Address:
City/State/Zip:
Phone:
Email:

Application Form Type:

Plan and Zoning Commission

Zoning Map Amendment (Rezoning)
Planned Unit Development
Zoning Ordinance Text Amendment
Right-of-way or Easement Vacation
Voluntary Annexation

Owner (if different from Applicant)

Name:
Company:
Address:
City/State/Zip
Phone:
Email:

Zoning Board of Adjustment

Zoning Appeal
Special Use
Hardship Variance

Engineer (if applicable)

Name:
Company:
Address:
City/State/Zip
Phone:
Email:

Design Review Board

Design Approval
Demolition Request in the Downtown
Demolition Request in the Village of
East Davenport

Architect (if applicable)

Name:
Company:
Address:
City/State/Zip:
Phone:
Email:

Historic Preservation Commission

Certificate of Appropriateness
Landmark Nomination
Demolition Request

Administrative

Administrative Exception
Health Services and Congregate
Living Permit

Attorney (if applicable)

Name:
Company:
Address:
City/State/Zip:
Phone:
Email:

**** If the applicant is different from the property owner, please submit an authorization form or an accepted contract for purchase.**

Request:

Please describe the variance(s) requested:

Existing Zoning:

Submittal Requirements:

- The completed application form.
- A PDF that shows the location and dimensions of existing and proposed structures affected by the hardship variance. If a paper copy is provided, the maximum size is 11" x 17".
- Description and evidence that demonstrates consistency with the criteria listed in Section 17.14.060 of the Davenport Municipal Code.
- Recorded warranty deed or accepted contract for purchase.
- Authorization form, if applicable. If the property is owned by a business entity, please provide Articles of Incorporation.
- Required fee - \$200.

The Applicant hereby acknowledges and agrees to the following procedure and requirements:

(1) Application:

- Prior to submission of the application for the hardship variance, the applicant shall correspond with Planning staff to discuss the request, potential alternatives and the hardship variance process.
- The submission of the application does not constitute official acceptance by the City of Davenport. Planning staff will review the application for completeness and notify the applicant that the application has been accepted or additional information is required. Inaccurate or incomplete applications may result in delay of required public hearings.

(2) Public Notice for the Zoning Board of Adjustment public hearing:

- Planning staff will send a public hearing notice to surrounding property owners.

(3) Zoning Board of Adjustment's consideration of the hardship variance:

- Planning staff will perform a technical review of the request and present its findings and recommendation to the Zoning Board of Adjustment.
- The Zoning Board of Adjustment will hold a public hearing and vote on the request.

Provide description and evidence that demonstrates consistency with the following criteria listed in Section 17.14.060 of the Davenport Municipal Code:

The strict application of the terms of this Ordinance will result in hardship unless the specific relief requested is granted.

Provide description and evidence that demonstrates consistency with the following criteria listed in Section 17.14.060 of the Davenport Municipal Code:

The particular physical surroundings, shape, or topographical conditions of the specific property impose a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.

Provide description and evidence that demonstrates consistency with the following criteria listed in Section 17.14.060 of the Davenport Municipal Code:

The plight of the owner is due to unique circumstances that do not apply to a majority of adjoining or nearby property, and is not a self-created hardship.

Provide description and evidence that demonstrates consistency with the following criteria listed in Section 17.14.060 of the Davenport Municipal Code:

The hardship variance, if granted, will not alter the essential character of the locality.

Applicant:

Date:

By typing your name, you acknowledge and agree to the aforementioned submittal requirements and formal procedure and that you must be present at scheduled meetings.

Received by:

Planning staff

Date:

Date of the Public Hearing:

Meetings are held in City Hall Council Chambers located at 226 West 4th Street, Davenport, Iowa.

Authorization to Act as Applicant

I,
authorize
to act as applicant, representing me/us before the Zoning Board of Adjustment for the property located
at .

Signature(s)*

*Please note: original signature(s) required.



**PUBLIC HEARING NOTICE
ZONING BOARD OF ADJUSTMENT
CITY OF DAVENPORT**



Public Hearing Details:

Date: 7/11/2019

Ward: **2nd Ward**

Time: 4:00 PM

Location: Council Chambers at City Hall, 226 West 4th Street Davenport, Iowa

Subject: Public hearing for a Hardship Variance before the Zoning Board of Adjustment

Case #: HV19-09

To: All property owners within 200 feet of the subject property located at **3902 N Elsie Ave.**

What is this All About?

This notice is being sent to inform you that a public hearing will be held for a Hardship Variance. The purpose of the Hardship Variance is to grant permission to waive or alter a size or dimension requirement of the zoning ordinance.

Request Description

Request HV19-09 of Dan Gunsteen at W.K. First Addition lot 1 (3902 N Elsie Ave; corner of Elsie and W Kimberly Rd) for a hardship variance to encroach into the required buffer yard along the north property line to accommodate a car wash development. The property is zoned "C-2" Corridor Commercial.

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What are the Next Steps after the Public Hearing?

For approved ZBA requests, the ruling is effective immediately. For projects requiring a Building Permit the applicant may contact the Permit office (563-326-7765) the next Business day.

Rulings of the Zoning Board of adjustment are final. The applicant may request reconsideration at the next public hearing, and aggrieved parties may file a writ of certiorari with the district court.

Would You Like to Submit an Official Comment?

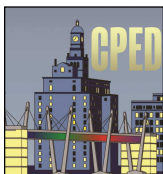
As a neighboring property owner, you may have an interest in commenting on the proposed request either in writing/email or in person at the public hearing. If you intend to send in written comments, it is appreciated if those comments could be received by Community Planning no later than 12:00 PM *one day before* the public hearing. Send comments to planning@ci.davenport.ia.us or CPED, 226 W 4th St, Davenport IA 52801.

Do You Have Any Questions?

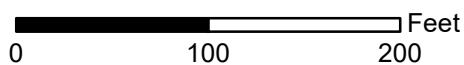
If you have any questions on this request, or if you need accommodations for any reason, please contact Scott Koops, AICP, the case planner assigned to this project at sek@ci.davenport.ia.us or 563-328-6701. Interpretive services are available at no charge. Servicios interpretativos libres estan disponibles. TTY: (563) 326-6145

Please note that items may be removed from the agenda or tabled to a future hearing date at the request of the Petitioner or Commission/Board. If you are interested in the current schedule and outcome of this case, please contact the Community Planning Office at 563-326-7765 or planning@ci.davenport.ia.us for updates.

Zoning Board of Adjustment: Adjacent Property Owner Notice Area



1 inch = 100 feet



Private parties utilizing City GIS data do so at their own risk. The City of Davenport will not be responsible for any costs or liabilities incurred due to any differences between information provided and actual physical conditions.

Legend

- Subject Property
- 200' Adjacent Owner Notice Boundary line



3902 N Elsie - Adjacent Owner Notice List

Parcel	Property Address	Owner Name	Owner Street	Owner CityStateZip
Petitioner:		W K DEVELOPMENT		
Ward/Notices	2nd Ward			10 Notices Sent
O1619D20	3950 N ELSIE AV	ROBERT H KUEHL	3950 N ELSIE AV	DAVENPORT IA 52804
O1635-01C	3101 W KIMBERLY RD	WAL-MART REAL ESTATE	PO BOX 8042	BENTONVILLE AR 72716
O1619D19	3940 N ELSIE AVE	JAMES C SCOTT	3940 N ELSIE AVE	DAVENPORT IA 52806
O1619D15C		DAVENPORT GARDEN HOMES INC	3211 E 35TH ST CT	DAVENPORT IA 52807
O1619D18	3932 N ELSIE AV	EJH PROPERTIES LLC	555 W KINZIE APT 3104	CHICAGO IL 60654
O1635-05	3325 W KIMBERLY RD	THE NATIONAL BANK	852 MIDDLE RD	BETTENDORF IA 52722
O1617D05D	3324 W KIMBERLY RD	HALLE PROPERTIES LLC	20225 N SCOTTSDALE RD	SCOTTSDALE AZ 85255
O1619D02C	3919 N ELSIE AV	CROSS POINT BAPTIST CHURCH	3919 N ELSIE AV	DAVENPORT IA 52806
O1635-02C	3315 W KIMBERLY RD	MURPHY OIL USA	PO BOX 7300	EL DORADO AR 71731
O1619E01	3200 W KIMBERLY RD	GENESIS HEALTH SYSTEM	1227 E RUSHOLME	DAVENPORT IA 52803