

ZONING BOARD OF ADJUSTMENT MEETING

CITY OF DAVENPORT, IOWA

THURSDAY, JUNE 8, 2023; 4:00 PM

CITY HALL | 226 WEST 4TH STREET | COUNCIL CHAMBERS

THE ZONING BOARD OF ADJUSTMENT HOLDS PUBLIC HEARINGS TO CONSIDER
HARDSHIP VARIANCES, SPECIAL USES, AND INTERPRETATION APPEALS.

I. Call to Order

II. Secretary's Report

A. Consideration of the April 23, 2023 Board Minutes.

III. Old Business

IV. New Business

A. Request HV23-10 of Silverstar Car Wash at 1922 N Division St for a hardship variance to locate the properly screened dumpster north of the proposed building in the Pleasant Street corner side yard, approximately where the former alley was located in the northwest corner of the new parcel. Section 17.09.030.Q. prohibits dumpsters within the front or corner side yard. [Ward 4]

V. Other Business

VI. Adjourn

City of Davenport
Zoning Board of Adjustment

Department: DNS
Contact Info: ScottKoops@davenportiowa.com

Date
6/8/2023

Subject:
Consideration of the April 23, 2023 Board Minutes.

ATTACHMENTS:

Type	Description
▣ Exhibit	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Community Planning & Economic Development	Koops, Scott	Approved	6/2/2023 - 10:59 AM



MINUTES

Zoning Board of Adjustment

April 13, 2023



By this reference all reports, documents, presentations, videos and the hearing's video recording are incorporated into the minutes.
See the following link: <https://www.youtube.com/user/DavenportToday/videos>

I. Call to Order:

Chairman Darland called the Zoning Board of Adjustment (ZBA) meeting to order in City Hall Council Chambers, Davenport, Iowa at approximately 4:01 p.m.

Board Members present: Gallart, Boyd-Carlson, Loebach, Bloemker (HV23-08), & Darland.
Excused: Bloemker (HV23-09); Absent: none.
Staff present: Koops, Berkley, staff Attorney Bagby

II. Secretary's Report:

Minutes were approved unanimously for the 2023-03-23 ZBA Hearing by voice-vote (5-0).

III. Old Business:

None.

IV. New Business:

A. Request HV23-08 of Jon Rocha at 1214 Christie ST. for a Hardship Variance to access an alley-served residential property via the street. The new construction single-family dwelling with lower-level attached garage would be accessed directly from Christie ST. Section 17.09.030.K.4. requires access to this property to be from the alley. [Ward 6]

Koops presented the staff report.

Findings: (supported by the staff report analysis)

1. arguably the ordinance has created a certain type of hardship;
2. physical and topographical conditions on site do limit practical development;
3. unique circumstance has been established;
4. protection of essential character has been established;

Recommendation:

It appears that approval standards for hardship approval have been met. Staff recommends the Board adopt staff's findings and approve request HV23-08 as proposed.

Motion

Gallart moved to adopt staff's findings and approve request HV23-08 as proposed; Loebach seconded the motion and the motion carried unanimously. (5-0)

Boyd-Carlson, yes; Loebach, yes; Bloemker, yes; Gallart, yes; and Darland, yes.

B. Request HV23-09 of David Bell on behalf of Ryan Kopf at 2646 Dubuque ST. for a Hardship Variance to construct a 24' x 36' (864sf) pole barn garage on a residential property which will exceed the allowed area for a detached garage. Property is zoned R-4C Residential. Section 17.09.30.K allows a detached garage 720sf or less. [Ward 7]

Koops presented the staff report.

Findings: (supported by the staff report analysis)

1. the case for ordinance has created hardship has not been demonstrated as presented with the submitted application;
2. physical and topographical conditions do not limit development for an allowed detached garage appropriately sized;
3. no demonstrable evidence exists establishing unique circumstance;
4. protection of essential character may or may not have been established;

Recommendation:

The standards for hardship have not been met. Necessary supporting evidence of a hardship has not been submitted or illustrated.

Staff recommends the Board adopt staff's findings and move for consideration the application with a no vote as staff's findings do not support approval of request HV23-09.

Galliart stated that he is concerned about the architecture; a garage should have the same characteristics as the neighborhood in which it is located. He also stated concern over the height of the garage and the potential for storage of commercial vehicles and items.

Motion

Galliart moved to adopt staff's findings and moved to approve request HV23-08 as proposed; Loebach seconded the motion and the motion failed (0-4).

Galliart, no; Boyd-Carlson no; Loebach, no; and Darland, no. The motion failed (0-4).

V. Other Business

None.

VI. Adjourn

The meeting adjourned unanimously by voice vote at approximately 4:57 p.m.

City of Davenport
Zoning Board of Adjustment

Department: DNS
Contact Info: ScottKoops@davenportiowa.com

Date
6/8/2023

Subject:

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ATTACHMENTS:

Type	Description
▣ Executive Summary	Staff Report
▣ Exhibit	Application
▣ Exhibit	Public Hearing Notice
▣ Exhibit	Notice List
▣ Exhibit	Comment from Terry Wadkins
▣ Exhibit	Comment from John J Corelis

REVIEWERS:

Department	Reviewer	Action	Date
Community Planning & Economic Development	Koops, Scott	Approved	6/2/2023 - 10:57 AM



Staff Report | Zoning Board of Adjustment
Refuse Enclosure in Corner Side Yard
1922 N Division St
June 8, 2023

Description

Request HV23-10 of Silverstar Car Wash at 1922 N Division St for a hardship variance to locate the properly screened dumpster north of the proposed building in the Pleasant Street corner side yard, approximately where the former alley was located in the northwest corner of the new parcel. Section 17.09.030.Q. prohibits dumpsters within the front or corner side yard. [Ward 4]

Code Requirements:

[Section 17.09.030.Q.](#)

"Refuse and recycling container regulations apply to"...non-residential uses. 1. Refuse and recycling containers are prohibited in the front or corner side yard."

Background & Discussion

This site has recently been rezoned to allow for a car wash. Previously the three lots in the northern portion of the development were zoned for single- and two-family residential development.

Rezoned Lots:



The proposed development is being built on a site which has frontage on three streets (Division St, Pleasant St, and Hickory Grove Rd). This unique situation allows for only one location of the dumpster, being the area directly west of the proposed car wash building. Given the width of the development, there is no location which would allow the car wash entrance lanes, the building, the parking area, and the stormwater treatment area while also allowing the dumpster to be located to the west of the building. (See the *Site Plan* on the next page)

Meeting the setback requirements (which disallow dumpsters in the front or corner side yard) *for a lot which has frontage on three abutting streets*, is nearly insurmountable under normal circumstances because the yard along each façade facing the street is considered a front or corner side yard. The yellow rectangle in the site plan diagram shows the only legal location a dumpster could be located on this lot given how the proposed building is situated.

The screened dumpster will be located behind a solid 6-foot fence along the north property line.

Purpose of a Hardship Variance

[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."*

Applicant's Request Statement

"The intent of this application is to respectfully ask for a hardship variance regarding the location of the proposed dumpster. According to the zoning code, dumpsters are prohibited within the front and corner yards. This site has three street frontages, which would make the placement of a dumpster that meets code impractical. The proposed dumpster will be contained in 6' tall brick wall on 3 sides."

Approval Standards

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

1. Strict ordinance application will result in hardship unless specific relief requested is granted.

Applicant Response:

"According to the zoning code, dumpsters are prohibited within the front and corner yards. This site has three street frontages, which would make the placement of a dumpster that meets code impractical."

Staff Comments:

The proposed developer is not able to meet code requirements given the parameters of the site and the code requirements. Code requirements in this case do place an undue burden on the use of the property. Criteria for this item have been met for hardship variance determination.

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:

"According to the zoning code, dumpsters are prohibited within the front and corner yards. This site has three street frontages, which would make the placement of a dumpster that meets code impractical."

Staff Comments:

Staff concurs. The physical site constraints of the property do limit development beyond mere inconvenience. Due to current circumstances this criterion has been met.

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:

"According to the zoning code, dumpsters are prohibited within the front and corner yards. This site has three street frontages, which would make the placement of a dumpster that meets code impractical."

Staff Comments:

This site does have certain circumstances relating to eligible locations for a refuse enclosure. This lot has frontages all three side of the proposed building with no rear yard due to code definition. The proposed enclosure location places the refuse enclosure in a manner, and in similar fashion,

to code requirements for interior lots. Given the aforementioned constraints, this site does pose a unique circumstance for a refuse enclosure based on limiting characteristics of the site.

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

Applicant Response:

"The proposed dumpster will be contained in 6' tall brick wall on 3 sides."

Staff Comments:

The character of the area should not be impacted by the by the proposed structure given that this lot is an irregular shape and the site plan would place the enclosure an acceptable distance (approx. 150') from Division Street, and be screened by the fence which is required through the approved ***Rezoning Ordinance #2023-209***. Protection of essential character will not be negatively impacted should this hardship be granted. This criterion has been met.

Findings & Staff Recommendation:

Findings:

- Item #1 zoning code does result in hardship as applied for the proposed use;
- Item #2 physical and topographical conditions of the site do limit the use;
- Item #3 unique circumstance has been established;
- Item #4 protection of essential character has been established;

Recommendation:

Staff recommends that Board adopt staff's findings and approve request HV23-10 subject to the following condition:

The refuse enclosure area shall meet all City standards for screening (as the petitioner has proposed).

Prepared by:



Scott Koops, AICP,
Planner II

Attachments: ZBA application/plans, notice documents



CITY OF DAVENPORT
Development & Neighborhood
Services – Planning
1200 W. 46th St
Davenport, IA 52807

Office 563.326.6198
planning@davenportiowa.com

APPLICATION FOR
HARDSHIP VARIANCE
ZONING BOARD OF ADJUSTMENT

APPLICANT INFORMATION		
Applicant Name	REASON FOR HARDSHIP REQUEST	
Address		
City State Zip		
Phone		
Secondary Phone		
E-Mail Address	COMPLETE SUBMITTALS SHALL INCLUDE: SUBMITTED Concept/Development Plan to Scale* *shall show setbacks, height and size dimensions, etc. Consent to request hardship/legal interest Affidavit* *shall include owner contact information Application Fee* \$200 *required for a complete application	
Acceptance of Applicant I, the undersigned, certify that the information on this application to the best of my knowledge is true and correct. I further certify that I have a legal interest in the property in question, and/or that I am legally able to represent all other persons or entities with interest in this property, and acknowledge formal procedure and submittal requirements. In addition to the application fee, I understand I am responsible for attendance at the meeting as shown on the public hearing zoning board calendar. The City reserves the right to require further site studies as necessary. Type Applicant's Name _____ Applicant's Signature _____ Date _____		
DEVELOPMENT TEAM		
Property Owner		
Address _____		
Phone _____	Secondary Phone _____	
E-Mail Address _____		
Project Manager/Other		
Address _____		
Phone _____	Secondary Phone _____	
E-Mail Address _____		

DATES: PRE-APP **SUBMITTAL** **PUBLIC HEARING**

SITE ADDRESS & PARCEL OR LOCATION DESCRIPTION

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

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.

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.

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

Contact Development & Neighborhood Services (DNS) Planning Division at planning@davenportiowa.com with any questions, for additional information, and to submit this form.



Public Hearing Notice | Zoning Board of Adjustment

Date: 6/8/2023 **Location:** City Hall | 226 W 4th ST | Council Chambers
Time: 4:00:00 PM **Subject:** Hearing for Hardship Variance | Zoning Board of Adjustment

EXAMPLE NOTICE
WARD 4
SENT: 18

To: All property owners within 200' of the subject property **1922 N Division St:**

What is this 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 dimensional code requirement.

Request/Case Description

Request HV23-10 of Silverstar Car Wash at 1922 N Division St for a hardship variance to locate the properly screened dumpster north of the proposed building in the Pleasant Street corner side yard, approximately where the former alley was located in the northwest corner of the new parcel. Section 17.09.030.Q. prohibits dumpsters within the front or corner side yard.

What are the Next Steps after the Public Hearing?

For approved ZBA requests, the ruling is effective immediately. 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?

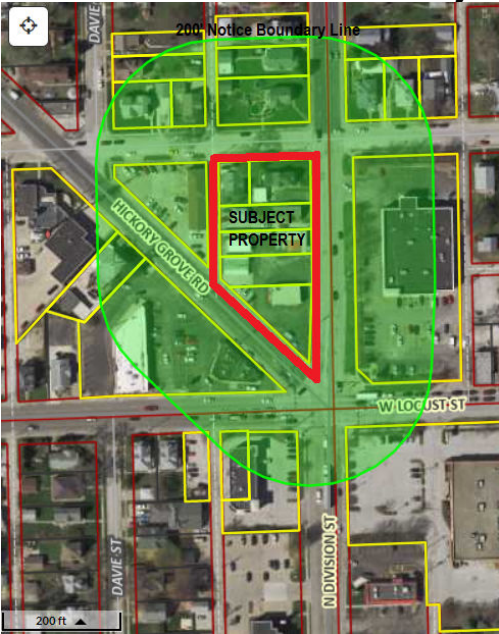
As a property owner/occupant you may have an interest in commenting on the proposed request via email or in person at the public hearing. Official comments must have written signatures sent to planning@davenportiowa.com (no later than 12:00 PM *one day before* the public hearing) or to: Planning, 1200 E 46th St, Davenport IA 52807.

Do You Have Any Questions?

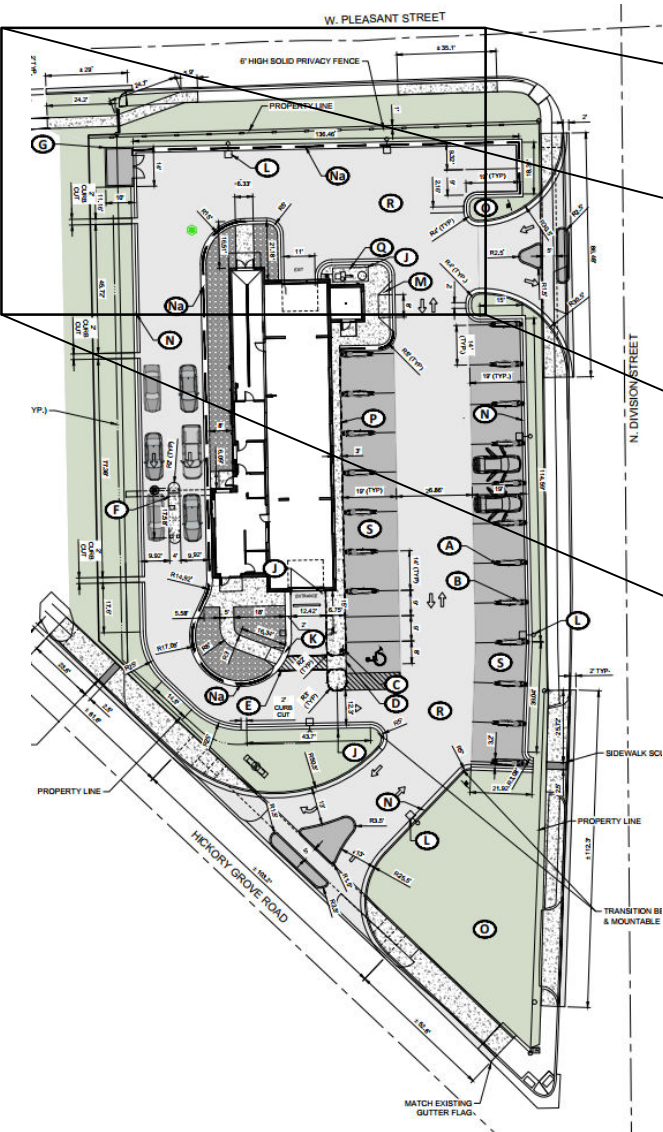
If you have any questions or if accommodations are needed for any reason, please contact the planner assigned to this project (Scott Koops, AICP) at scott.koops@davenportiowa.com or 563-328-6701. Interpretive services are available at no charge. Servicios interpretativos libres estan disponibles. TTY: (563) 326-6145

Please note items may be removed or tabled to a future hearing date at the request of the Applicant or Commission/Board. Those interested in verifying case actions and/or tablings, please contact Planning at 563-326-6198 or planning@davenportiowa.com for updates.

Adjacent Owner Notice Area:
Owners within 200' of the Subject Property

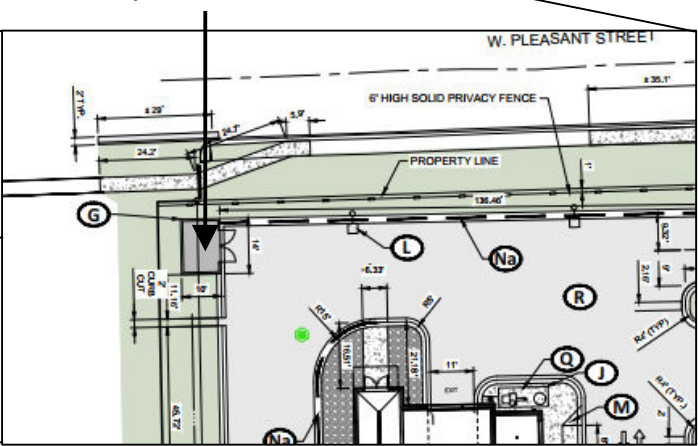


SITE PLAN:



Inset Map

Dumpster Location



HV23-10 - 1922 N Division ST - Adjacent Owner Notice Listing

Parcel	Property Address	Owner Name	Owner Street	Owner CityStateZip
Subject Property: 1922 N DIVISION ST		SILVERSTAR MAGGIE MOTTO		
Ward/Aldreman: 4TH WARD		ALD ORTIZ		NOTICES SENT: 18
A0060-02	2013 N DIVISION ST	ARDEANIA M CALE	15012 100TH AV	DAVENPORT IA 52804
A0060-03	1660 W PLEASANT ST	MELISSA A FARREN	1660 W PLEASANT ST	DAVENPORT IA 52804
A0060-04		GIOVANNI RIOS	712 CUNNINGHAM DR	WHITTIER CA 90601
A0060-36A		LJL HOLDINGS DAVENPORT LLC	3203 KIRK ST	MIAMI FL 33133
A0061-02	1933 HICKORY GROVE RD	WALICKS AUTO SERVICE LLC	1933 HICKORY GROVE RD	DAVENPORT IA 52804
A0061-22A	1711 W PLEASANT ST	1724 BUILDING LC	5111 UTICA RIDGE	DAVENPORT IA 52807
A0061-23	1724 W LOCUST ST	VEASEY FREDERICK O	1938 HICKORY GROVE RD	DAVENPORT IA 52804
A0061-32A	1735 W PLEASANT ST	SIRNA PROPERTIES & MAINT LLC	2134 MYRTLE ST	DAVENPORT IA 52804
A0061-33	2011 DAVIE ST	DEBORAH S THORMAN	2009 DAVIE ST	DAVENPORT IA 52804
A0061-34	2009 DAVIE ST	CHRIS MORGAN	1730 W PLEASANT ST	DAVENPORT IA 52804
A0061-35	1730 W PLEASANT ST	THOMAS B PILCHER	1720 W PLEASANT ST	DAVENPORT IA 52804
A0061-36		TERRY D WADKINS	2004 N DIVISION ST	DAVENPORT IA 52804
A0061-37		ALICE M COLFLESH	2012 N DIVISION ST	DAVENPORT IA 52804
A0061-38	2012 N DIVISION ST	EVERYTHING NICE LLC	3325 CANDLEWICK DR	BETTENDORF IA 52722
H0004-40A	2016 N DIVISION ST	JJO LLC	3885 ELMORE AVE STE 100	DAVENPORT IA 52807
H0004-41	1800 N DIVISION ST	JJO LLC	3885 ELMORE AVE STE 100	DAVENPORT IA 52807
H0004-42	1800 N DIVISION ST	JJO LLC	3885 ELMORE AVE STE 100	DAVENPORT IA 52807
H0005-45A	1717 W LOCUST ST	THREE HARBOR DAVENPORT 8659 LLC	PO BOX 1610	COCKEYSVILLE MD 21030

Terry Wadkins

From: Terry Wadkins <twad298129@aol.com>
Sent: Sunday, May 28, 2023 12:57 PM
To: Planning
Subject: Hearing for Hardship Variance /Zoning Board of Adjustment

I have enough trash coming in my yard from the auto shop on the corner that I am always picking up. I dont need more trash in my yard coming from the car wash too. There is a fence around the dumpster at the auto shop but still have trash from that business always in my yard.

2004 N. Division St.



DAVENPORT

DEVELOPMENT &
NEIGHBORHOOD SERVICES

RECEIVED MAY 30 2023

Public Hearing Notice | Zoning Board of Adjustment

Date: 6/8/2023 **Location:** City Hall | 226 W 4th ST | Council Chambers
Time: 4:00:00 PM **Subject:** Hearing for Hardship Variance | Zoning Board of Adjustment

1724 BUILDING LC
5111 UTICA RIDGE
DAVENPORT IA 52807

On behalf of 1724 Building, LC. I request approval of HV23-10 hardship variance.

1724 Building LC

By

To: All property owners within 200' of the subject property 1922 N Division St:
Its Managing Member. 6.7.23

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