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## ZONING BOARD OF ADJUSTMENT

Monday, September 14, 2015 @ 3:00 PM  
Third Floor Council Chamber  
101 1<sup>st</sup> Street SE, Cedar Rapids IA 52401

### DECISION AND ORDER

**Members Present:** Vice-Chair **Bill Vernon, Sue Lowder, Nancy Ziese and Jim Vancura**

**Member Absent:** Chair **Todd Barker**

**Staff Present:** **Joe Mailander, Vern Zakostelecky, Dave Houg, Johnny Alcivar, Justin Shields, Ruth Fuessley and Patricia A Pfiffner**

**Others Present:** **Brian Vogel Hall & Hall Engineers re Baker Greenhouses, Dan Schmidt Brain Engineering, Inc., re Virgil Henley, Brent Jackman Hall & Hall Engineers, Inc., re Century Communications, Teri Petrzalek MorningStar Studio re LosCompadres, Daniel Schmidt Brain Engineering, Inc. re JABAM LLC, Karl and Lindsey Unga, Donna Garland Nesper Sign Advertising, Dale Erickson, Christi Takes**

### NEW BUSINESS

Vice Chair Bill Vernon called the September 14, 2015 Regular Board of Adjustment meeting to order at 3:00 PM. Attendance taken and a quorum declared. The Board of Adjustment is a Quasi-Judicial Board created by the City of Cedar Rapids. The Board is empowered to vary the regulations of the Zoning Ordinance in harmony with its general purpose and intent where the Board makes Finding of Fact that there are practical difficulties or unnecessary hardships in the way of carrying out the literal provisions of the Ordinance.

This Board reviews Conditional Use requests. When considering a Conditional Use, the Board will keep in mind the following: Is the requested use consistent with the intent and purpose of the Ordinance and with the Future Land Use policy plan; will the use have a substantial adverse effect upon adjacent property and the character of the neighborhood; and will the proposed use be compatible with the immediate neighborhood. This Board also reviews Variance requests. A Variance request should only be granted if the Petitioner establishes that an unnecessary hardship will result if the Zoning regulations are enforced. There are seven criteria for actions on a Variance which were to be addressed in your application. To review they are: Unique

Circumstances, Not exclusively for financial gain, Hardship not self-created, Substantial rights denied, not special privilege, not detrimental and No other remedy. A general rule of thumb is that a Variance should prevent a hardship, not grant a special privilege not available to other landowners in similar situation.

Typically “Unnecessary Hardship” means: The land in question cannot yield a reasonable return if used only for the purpose allowed in that zone; the issue in question is due to unique circumstances and not to the central conditions of the neighborhood; the hardship must not be self-created; and the use authorized by the Variance will not alter the essential character of the locality.

We are an independent volunteer Board of citizens appointed by the Mayor and approved by the City Council. We are not part of the City Administration. We are governed by both City and State Codes and Ordinances. The Board is made up of five Board members. The Chair cannot make a motion but has a vote. There must be three (3) affirmative votes to pass. No motion made by the Board will be the same as a denial. Today we have 4 members present.

As a Board of the City, we welcome all testimony. We make our decisions based on the facts and evidence allowed under City Code, presented at this open meeting. While your case is being read by our Secretary we ask that the Petitioner comes forward so your testimony can be heard and recorded. Please give your name and address for the record. You will then be able to present your case. If the proceedings become lengthy, we may ask that testimony be focused on the new facts or evidence not already presented. We will then ask for any objectors. At that time objectors will come forward, state name and address for the record, and then state your objections. The Board will then give the City Staff an opportunity to present information for the case. I will then call for any Board questions or any Board discussion. Final summaries and additional comments may then take place. Based on a motion and a second the Chair will then call for a vote. If your Variance is approved, please understand that you may still have to comply with other regulations and codes, such as applicable Building Codes, to work within. Please visit with the Building Services Department Official for any clarifications. Today there are 4 Board Members present. We do have a quorum. Sue Lowder moved to approve the August 10, 2015 Board of Adjustment minutes, seconded by Nancy Lee Ziese, motion carried.

**COND-019777-2015:** A Public Hearing regarding an application submitted by (*Petitioner*) Hall & Hall Engineers, for TSS Holdings, LLC, Baker Greenhouses, LLC, (*Titleholder*), whose address is 4615 Blarney Drive, Cedar Rapids IA for property located at 3215 Johnson Avenue NW, hereby petitioning the Board of Adjustment to authorize the issuance of a Certificate of Occupancy for a Conditional Use which is listed and described as a “Self-Service Storage Facility” in an O-S Zone District, under the authority granted to the Board of Adjustment by Section 32.02.030D of said Municipal Code.

**Findings of Fact:** The Board finds that this is a request to allow for the development of a Self-Service Storage Facility on 2.6 acres of currently vacant land. A rezoning request to the O-S, Office/Service Zone District accompanies this request for Conditional Use approval. The applicant held a neighborhood meeting and no issues or concerns were identified. The project consists of the following:

\*Total site area is 173,874 sq. ft. (3.99 acres). \* 11 storage buildings are proposed for the O-S portion (2.6 acres) \* A mixed-use retail building is proposed for the northerly C-2 portion (1.39 acres) \*Total proposed hard surfaced area including buildings is 157,700 sq. ft. (90.7%)\* Access will be from Johnson Avenue NW.

Dave Houg stated between the intersection and residential neighborhood it should act as a buffer. The site of the former Baker Greenhouses has been vacant for quite some time. The proposal is for mixed use at the north end and eleven self-storage garages for the southerly part of the site. Appellant is asking for 15 foot bufferyards, have a solid fence and screen planting. At its meeting held on August 13, 2015 the City Planning Commission recommended approval of this request, subject to nine conditions. The Board finds no objectors present.

**Disposition:** By a vote of 4-0 the Board of Adjustment approved COND-019777-2015 an application submitted by (*Petitioner*) Hall & Hall Engineers, for TSS Holdings, LLC, Baker Greenhouses, LLC, (*Titleholder*), for property located at 3215 Johnson Avenue NW, hereby petitioning the Board of Adjustment to authorize the issuance of a Certificate of Occupancy for a Conditional Use which is listed and described as a “Self-Service Storage Facility” in

an O-S Office Service Zone District. Petitioner has no objections to the recommended conditions. Following discussion Nancy Lee Ziese moved for approval subject to conditions. Sue Lowder seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that CONDO19777-2015 is hereby approved subject to 9 stated conditions:

1. The City's Commercial Design guidelines and standards as specified in Subsection 32.05.030.C. of the City's Zoning Ordinance shall be met or a variance must be obtained for commercial retail portion of the development on the north end of the property.
2. The "Self-Service Storage Facility" Development Standards as specified in Subsection 32.04.030.A.39. of the City's Zoning Ordinance shall be met or a variance must be obtained for the area proposed for the O-S Zoning and development of storage garages.
3. Landscaping and buffering/screening shall be provided per the Zoning Ordinance, Subsection 32.05.030.A. and 32.04.030.A.39. or a variance must be obtained.
4. Roof top mechanicals shall be screened so as not to be visible from the street. Screening is not required for the top of the roof-top mechanicals. Acceptable exterior wall materials are brick, stone, and split face block masonry, cementitious siding, EIFS, glass, metal (flat, perforated, composite, or ribbed less than 8" OC), architectural paneling, or other similar high quality materials.
5. Enclosures and/or screening shall be provided for all HVAC, trash, recycling, cardboard, mechanical equipment, and grease and similar service or support containers as per Subsection 32.05.030.A.7. of the Zoning Ordinance. The location and design of each enclosure shall be shown on the Administrative Site Plan and shall be approved prior to issuance of structural building permits. Preliminary building permits for site preparation, installation of utilities, and foundations may be issued prior to approval of the enclosure. Please note that chain link with privacy slats does not satisfy this requirement.
6. All parking, drives, and storage areas be surfaced per provisions of the Zoning Ordinance. Surfacing to include asphalt, concrete, brick or asphaltic macadam.
7. All storage of goods and materials shall be within a completely enclosed structure. Outdoor storage is expressly prohibited.
8. Interior setbacks adjoining residential districts must be a minimum 25 feet or a variance must be obtained.
9. All lighting shall be of a type, design and placement, and also be shielded in a manner to minimize impact on residential properties or uses adjacent to or immediately across the street.

**V54-021708-2015:** A Public Hearing regarding an application submitted by (*Petitioner*) Hall & Hall Engineers, for TSS Holdings, LLC, Baker Greenhouses, LLC, (*Titleholder*), hereby requesting the reduction of required bufferyard depth where adjacent to residential properties. The development will provide 15' setbacks with landscape plantings in lieu of required 25' landscaped bufferyards. Appellant also requests a waiver of the 4-sided building design standards for property located at 3215 Johnson Avenue NW, O/S Office Zone District.

**Findings of Fact:** The Board finds that ● Subsection 32.04.030.A.40.b.iii. requires interior setbacks adjoining residential, office, or public districts to be a minimum 25 feet. Said interior setbacks shall be screened and landscaped. The Board finds that ● Subsection 32.04.030.A.40.c.ii. requires structures to have traditional building materials generally found in residential and office construction such as wood, masonry, or stucco on all elevations. The roof shall include a pitch (dimensions to reflect the size and design of the structure) and covered with material generally used for residential or office construction. Building elevation plans shall include specific materials and colors. Roll up doors shall be painted to be color coordinated with the building elevation. Appellant notes steep terrain and unusual lot configuration as unique circumstances for this site. A solid fence and landscaping will adequately screen the structures from the view of adjacent properties, so enhanced building materials will not be necessary. The Development Services Division has reviewed this request and has no objection to the reduced bufferyard depth, but recommends that the building design standards be met. Brian Vogel stated regarding the site terrain there is a 10 or 12 foot difference on the west and east side. There is going to be a solid privacy fence around the storage garage units so you would not see the side of the building like you would from the front. The street front sides will have the brick and stone. We are just requesting that the sides along the privacy fence that have that elevation difference be the same materials as the inner buildings. The Board finds no objectors present.

**Disposition:** By a vote of 4-0 the Board of Adjustment approved V54-021708-2015 an application submitted by (*Petitioner*) Hall & Hall Engineers, for TSS Holdings, LLC, Baker Greenhouses, LLC, (*Titleholder*), hereby requesting the reduction of required bufferyard depth where adjacent to residential properties. The development will provide 15' setbacks with landscape plantings in lieu of required 25' landscaped bufferyards. Appellant also requests a waiver of the 4-sided building design standards for property located at 3215 Johnson Avenue NW, O/S Office Service Zone District. Following discussion Sue Lowder stated 1) you met with the neighbors 2) you produced what your renderings are and 3) you are putting up a privacy fence. The different materials will not be seen. I would make a motion to approve V54-021708-2015 citing Not Detrimental. Jim Vancura seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V54-021708-2015 is hereby approved as written.

**COND-020223-2015:** A Public Hearing regarding an application submitted by Petitioner Brain Engineering, Inc., for Virgil and Janice Henley, (*Titleholder*), whose address is 448 Amberjack Drive, Hiawatha, IA re Jonathan Bond (*Applicant*), for property located at 1718 Center Point Road NE, hereby petitioning the Board of Adjustment to authorize the issuance of a Certificate of Occupancy for a Conditional Use which is listed and described as a "Self-Service Storage Facility" in an O-S Zone District, under the authority granted to the Board of Adjustment by Section 32.02.030D of said Municipal Code.

**Findings of Fact:** The Board finds that Petitioner proposes construction of 4 storage buildings. The development has the following characteristics:

- Total site area: 1.39 acres
- Proposed area of buildings: 17, 800 s.f.
- Parking required and provided: 7 spaces
- Proposed total open area: 20,577 (34.1%)

At its meeting held on July 23, 2015 the City Planning Commission examined the petition of Jonathan Bond requesting Conditional Use approval of a self-service storage facility for property owned by Virgil A. and Janice E. Henley at 1718 Center Point Road NE and proposed to be zoned O-S, Office/Service Zone District. Dave Houg presented stating this is 1.5 acre site with approximately 34% open area, the development is providing the required parking. All existing buildings would come down for the proposed facility. Houg explained the design materials and showed renderings provided by Petitioner. At its meeting held on July 23, 2015 the City Planning Commission recommended approval of the request subject to 6 recommended conditions. The Board finds no objectors present.

**Disposition:** By a vote of 4-0 the Board of Adjustment approved COND-020223-2015 an application submitted by (*Petitioner*) Brain Engineering, Inc., for Virgil and Janice Henley, (*Titleholder*), re Jonathan Bond (*Applicant*) petitioning the Board of Adjustment to authorize the issuance of a Certificate of Occupancy for a Conditional Use listed and described as a "Self-Service Storage Facility" in an O-S Zone District, under the authority granted to the Board of Adjustment by Section 32.02.030D of said Municipal Code for property located at 1718 Center Point Rd NE, O/S Office Service Zone District. Following discussion Nancy Lee Ziese moved for approval subject to six recommended conditions. Sue Lowder seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that COND-020223-2015 is hereby approved subject to 6 stated conditions:

1. Design guidelines and standards as specified in Subsection 32.04.030.A.39. shall be met or a variance must be obtained.
2. All storage of goods and materials shall be within a completely enclosed structure. Outdoor storage is expressly prohibited.
3. All parking, drives, and storage areas be surfaced per provisions of the Zoning Ordinance. Surfacing to include asphalt, concrete, brick or asphaltic macadam.
4. Roof top mechanicals shall be screened so as not to be visible from the street. Screening is not required for the top of the roof-top mechanicals. Acceptable exterior wall materials are brick, stone, and split face block masonry, cementitious siding, EIFS, glass, metal (flat, perforated, composite, or ribbed less than 8" OC), architectural paneling, or other similar high quality materials.
5. Prior to the issuance of a Certificate of Occupancy, effective screening shall be provided and maintained where the property is adjacent to an "R" District per applicable provisions of the Zoning

Ordinance or a variance be obtained.

6. All lighting shall be of a type, design and placement, and also be shielded in a manner to minimize impact on residential properties or uses adjacent to or immediately across the street.

**V59-021834-2015:** A Public Hearing regarding an application submitted by (*Petitioner*) Brain Engineering, Inc., for Virgil and Janice Henley, (*Titleholder*), whose address is 448 Amberjack Drive, Hiawatha, IA re Jonathan Bond (Applicant), hereby requesting the reduction of required bufferyard depth where adjacent to residential properties. The development will provide 15' setbacks with landscape plantings in lieu of required 25' landscape bufferyards. The requirement of solid screening fence is also asked to be waived on the property at 1718 Center Point Rd NE, O/S Office Service Zone District.

**Findings of Fact:** The Board finds that ● Subsection 32.04.030.A.40.b.iii. requires interior setbacks adjoining residential, office, or public districts to be a minimum 25 feet. Said interior setbacks shall be screened and landscaped. The Board finds that ● Subsection 32.04.030.A.40.d.iii. requires screening and landscaping of interior setbacks adjoining residential, office, or public to include solid wood or masonry fencing and bufferyard landscaping, including a minimum of four over story trees per 100 feet of linear distance. The Board acknowledges that project proposes 15' side yards in lieu of 25' landscaped bufferyards. A solid screening fence will not be provided. The Board acknowledges that Appellant notes the narrowness of this lot as unique circumstances. The reduced side yards will allow for enhanced site access for the Fire Department. The Board finds no objectors present.

**Disposition:** By a vote of 4-0 the Board of Adjustment approved V59-21834-2015 an application submitted by (*Petitioner*) Brain Engineering, Inc., for Virgil and Janice Henley, (*Titleholder*), re Jonathan Bond (*Applicant*) hereby requesting the reduction of required bufferyard depth where adjacent to residential properties. The development will provide 15' setbacks with landscape plantings in lieu of required 25' landscape bufferyards. The requirement of solid screening fence is also asked to be waived on the property at 1718 Center Point Rd NE, O/S Office Service Zone District. Following discussion Sue Lowder moved for approval of V59-021834-2015 citing Not Detrimental subject to Rezoning approval to O/S Office Service District. Nancy Lee Ziese seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V59-21834-2015 is hereby approved as written.

**COND-019907-2015:** A Public Hearing regarding an application submitted by (*Petitioner*) Hall & Hall Engineers, Inc., for Century Communications, LC, (*Titleholder*), whose address is 295 30th Street SE hereby petitioning the Board of Adjustment to authorize the issuance of a Certificate of Occupancy for a Conditional Use listed and described as a "Storage Facility" under the authority granted to the Board of Adjustment by Section 32.02.030D of said Municipal Code for property located at 605 Boyson Road NE, O-S Zone District.

**Findings of Fact:** The Board finds that this project was approved for development in 2006, but construction never occurred - the Preliminary Site Development plan expired. The proposed project includes additional property so the Conditional Use and Preliminary Site Development Plan need to be re-approved. A condition of the Rezoning to the O-S, Office/Service Zone District in 1996 restricted development to only 15% of the total site area. Staff has found no reason for this restriction other than a letter from the Applicant at that time stating only 15% of the total site area would be developed. Staff is working with the current Applicant to get this restriction removed.

The project consists of the following:

- Total site area is 549,510 sq. ft. (12.62 acres).
- 2 storage buildings and an office are proposed.
- Total proposed hard surfaced area including buildings is 70,075 sq. ft. (12.8%).
- Access will be from Boyson Road NE.
- 12 off-street parking spaces are required / 13 stalls are proposed.

Brent Jackman appeared to testify and answer questions. He stated they are working on the 15% build out and that the property to the west has a communication tower on it. Dave Houg explained Petitioner is trying to amend the Ordinance (No. 23-95) through City Council and will provide an alternate site plan depicting a full build-out of the lot to remove the 15% clause (Condition No. 12). At its meeting held on August 13, 2015 the

City Planning Commission has examined the petition of Century Communications, LC and recommended approval of this request subject to conditions. The Board finds no objectors present.

**Disposition:** By a vote of 4-0 the Board of Adjustment approved COND-019907-2015 an application submitted by (*Petitioner*) Hall & Hall Engineers, Inc., for Century Communications, LC, (*Titleholder*), whose address is 295 - 30<sup>th</sup> Street SE hereby petitioning the Board of Adjustment to authorize the issuance of a Certificate of Occupancy for a Conditional Use listed and described as a "Storage Facility" under the authority granted to the Board of Adjustment by Section 32.02.030D of said Municipal Code for property located at 605 Boyson Road NE, O-S Office Service Zone District. Following discussion Sue Lowder moved for approval citing Unique Circumstances and Not Detrimental subject to the 7 recommended conditions and subject to Ordinance 23-95 amendment to remove the 15% clause, item No. 12. Nancy Lee Ziese seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that COND-019907-2015, [15% build-out], is approved subject to stated conditions:

1. The "Self-Service Storage Facility" Development Standards as specified in Subsection 32.04.030.A.39. of the City's Zoning Ordinance shall be met or a variance must be obtained for the area proposed for the O-S Zoning and development of storage garages.
2. Landscaping and buffering/screening shall be provided per the Zoning Ordinance, Subsection 32.05.030.A. and 32.04.030.A.39. or a variance must be obtained.
3. Roof top mechanicals shall be screened so as not to be visible from the street. Screening is not required for the top of the roof-top mechanicals. Acceptable exterior wall materials are brick, stone, and split face block masonry, cementitious siding, EIFS, glass, metal (flat, perforated, composite, or ribbed less than 8" OC), architectural paneling, or other similar high quality materials.
4. That all parking, drives, and storage areas be surfaced per provisions of the Zoning Ordinance. Surfacing to include asphalt, concrete, brick or asphaltic macadam.
5. All storage of goods and materials shall be within a completely enclosed structure. Outdoor storage is expressly prohibited.
6. All lighting shall be of a type, design and placement, and also be shielded in a manner to minimize impact on residential properties or uses adjacent to or immediately across the street.
7. The dumpster enclosure will need to be a full screen enclosure including the gates and preferably designed using the same building material as the principal buildings as per Subsection 32.05.030.A.7. of the Zoning Ordinance.
  - Alternative #2 is also approved subject to the conditions above and subject to successfully Amending Ordinance No. 23-95.

**V48-020733-2015:** A Public Hearing regarding an application submitted by (*Petitioner*) Brent Jackman, P.E. for Century Communications, L.C. (*Titleholder*) hereby requesting reduced landscaping/screening to the south and west. The development will provide evergreen plantings along the westerly lot line and no screening to the south in lieu of a solid fence and landscaped bufferyards. The requirement for façade offsets is also asked to be waived for the interior faces of the structures on the property at 605 Boyson Road NE, O/S Office Zone District.

**Findings of Fact:** The Board finds that ●Subsection 32.04.030.A.40.b.iii. requires interior setbacks adjoining residential, office, or public districts to be a minimum 25 feet. Said interior setbacks shall be screened and landscaped. The Board finds that ●Subsection 32.04.030.A.40.d.iii. requires screening and landscaping of interior setbacks adjoining residential, office, or public to include solid wood or masonry fencing and bufferyard landscaping, including a minimum of four over story trees per 100 feet of linear distance. The Board finds that ●Subsection 32.04.030.A.40.c.iii. requires structures to include building facade offsets, not less than 24 inches in depth, at a maximum of 50 foot intervals. Building facades at corners and at the point of offset shall include a vertical element with coordinated materials to provide visual breaks in the building facade. Appellant notes the adjacent lot to the west has limited development potential due to the presence of an existing communication tower and extensive sewer, access and drainage easements. Property to the south also has limited development potential due to the Dry Creek

floodplain. The building façade offsets create a maintenance issue for snow plowing. They will be provided along the exterior (visible) faces of the structures.

The Board acknowledges that Appellant said the lot to the west has limited development due to the presence of an existing communication tower and extensive sewer, access and drainage easements. Property to the south has limited development due to the Dry Creek floodplain. The building façade offsets create a maintenance issue for snow plowing. The Board finds no objectors present.

Disposition: By a vote of 4-0 the Board of Adjustment approved V48-020733-2015 an application submitted by (*Petitioner*) Brent Jackman, P.E. for Century Communications, L.C( *Titleholder*) hereby requesting reduced landscaping/screening to the south and west. The development will provide evergreen plantings along the westerly lot line and no screening to the south in lieu of a solid fence and landscaped bufferyards. The requirement for façade offsets is also asked to be waived for the interior faces of the structures on the property at 605 Boyson Rd NE, O/S Office Zone District. Following discussion, Sue Lowder moved for approval citing Unique Circumstances, Not Detrimental. NancyLee Ziese seconded, motion carried. Therefore, be it resolved By the Board of Adjustment of the City of Cedar Rapids, Iowa that V48-020733-2015 is hereby approved as written.

**MINOR REVISION COND-021317-2015 (CU08-2003)**: A Public Hearing regarding an application submitted by (*Petitioner*) Morning Star Studio re Francisco Jasso Los Compadres II, Inc., (*Titleholder*), whose address is 2825 6<sup>th</sup> Street SW hereby petitioning the Board of Adjustment for approval of a Revised Site Development Plan for A Conditional Use which is listed and described as an “Outdoor Service Area” in Subsection 32.04.020 of the Municipal Code, for property located at 2730 Edgewood Road SW, Cedar Rapids, IA in a C-2 Zone District, under the authority granted to the Board of Adjustment by Section 32.02.030.D.

Findings of Fact: The Board finds this is a minor revision to a previously approved Conditional Use. Request for outdoor service area in conjunction with a previous Volleyball Facility. Today’s request is to discontinue the use of the existing patio (Cabo’s) and move the location to the north side of the building on a newly constructed patio which is slightly over 1,000 square feet; the existing 1,500 square foot patio will be removed. The Board acknowledges the location is in the corner of Westdale Mall and the patio to be surrounded with a decorative wall and to act as a sunscreen. The Board acknowledges that Petitioner stated a letter pertaining to acknowledge of an easement will be provided to the adjacent property neighbor. The request was approved by the City Fire Department. Petitioner stated no objections to the conditions. The Board finds no objectors present.

Disposition: By a vote of 4-0 the Board of Adjustment approved Minor Revision CU- 021317-2015 an Application submitted by (*Petitioner*) Morning Star Studio re Francisco Jasso Los Compadres II, Inc., (*Titleholder*), whose address is 2825 6<sup>th</sup> Street SW hereby petitioning the Board of Adjustment for approval of a Revised Site Development Plan for a Minor Revision Conditional Use listed and described as an “Outdoor Service Area” in Subsection 32.04.020 of the Municipal Code, for property located at 2730 Edgewood Road SW, in a C-2 Community Commercial Zone District. Following discussion NancyLee Ziese moved for approval citing Not Detrimental subject to stated conditions. Sue Lowder seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that Minor Revision COND-021317-2015 is approved subject to stated conditions:

1. That the current project is not complete and fencing and a gate must still be installed. The gate must meet all Fire Department regulations related to entry/egress points. The gate shall be used only as an emergency entry/egress route unless the beer garden is staffed continually during normal business hours.
2. That the outdoor service area must have fencing. The fencing requirements, for an outdoor service area with limited staffing, must be of sufficient height to deter the passing of alcoholic beverages over the top of the fence. The fence must also be designed in such a manner as to prohibit the passing of alcoholic beverages through it. The fencing requirements, for an outdoor service area

that is staffed full time during normal business hours, can vary some from the above requirements. For those outdoor service areas a specific fence design must be submitted and it will be evaluated on a case-by-case basis.

3. That the Police Department shall re-inspect the outdoor service area prior to the issuance of a Certificate of Occupancy.

**V52-021534-2015:** A Public Hearing regarding an application submitted by (*Petitioner*) Daniel Schmidt for JABAM LLC hereby requesting that the Board of Adjustment authorize the issuance of Building Permits to construct a 17,500 s.f. 2-story multi-use building and a 2,400 s.f. retail building. Street front landscaping is not provided for the front yard in lieu of the minimum 15' street front landscape setback. The project proposes a privacy fence and a 5' side bufferyard and 14' rear bufferyard along the westerly and southerly property line in lieu of a required 15' side bufferyard and 25' rear bufferyard where adjacent to residentially-zoned property. The required screening for the parking area is also omitted. The property is located at 1005 3<sup>rd</sup> Avenue SW in an I-1 Zone District.

Findings of Fact: The Board finds ●Subsection 32.05.030.5.c. which requires street front landscaping of an average depth of 15' in a front yard. The Board finds that ●Subsection 32.05.030.A.4.d. which requires a lot located adjacent to a Residential zone district to provide a bufferyard. The required yard depth shall be either that required for the district in which the property is located, or that required for the adjoining district, whichever is greater, and shall be provided along the adjoining residential lot line. The Board finds that ●Subsection 32.05.030.A.6.d.ii. requires all open vehicular parking areas containing 4 or more spaces to be effectively screened on each side adjoining a public or private street, by a wall or by the use of continuous plantings that effectively screen headlights of cars. The Board acknowledges that the Petitioner notes the irregular shape of this lot, which creates difficulties to properly fit a building with a parking lot. The Board finds the existing building currently has no bufferyard as the building sits on the property line. This project proposes a building that sits next to the street away from the residential uses with a privacy fence along the westerly and southerly property lines. The Board acknowledges that Development Services Staff requests that applicant uses low-maintenance higher-quality material for the proposed privacy fence. The lot has an irregular shape that limits usable area and is adjacent to residential uses. The Rezoning for this project will be reviewed by the City Planning Commission at their September 24<sup>th</sup> meeting. Dan Schmidt appeared to testify and answer questions. He stated they did have a neighbor meeting on August 25, 2015. A primary concern of an adjacent neighbor was she'd be looking out a window at a proposed privacy fence; she didn't know if she wanted to see the fence or the cars in the parking lot. The existing building to be torn down with 2 proposed buildings. They propose to bring the buildings to the front of the lot with parking to the rear. Quality of materials was discussed. The Board finds no objectors present.

A Public Hearing regarding an application submitted by (*Petitioner*) Daniel Schmidt for JABAM LLC hereby requesting that the Board of Adjustment authorize issuance of Building Permits to construct a 17,500 s.f. 2-story multi-use building and a 2,400 s.f. retail building. Street front landscaping is not provided for the front yard in lieu of the minimum 15' street front landscape setback. The project proposes a privacy fence and a 5' side bufferyard and 14' rear bufferyard along the westerly and southerly property line in lieu of a required 15' side bufferyard and 25' rear bufferyard where adjacent to residentially-zoned property. The required screening for the parking area is also omitted. The property is located at 1005 3<sup>rd</sup> Avenue SW in an I-1 Zone District. Following discussion Sue Lowder moved for approval of V52-021534-2015 citing Unique Circumstances and subject to stated conditions. NancyLee Ziese seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V52-021534-2015 is approved subject to stated conditions:

1. A successful Rezoning to the C-2 Community Commercial Zone District.
2. Petitioner to work with Building Services regarding the quality of materials applied for the fencing

3. Approval of the setback with exception that Landscape Buffering be required on 3<sup>rd</sup> Avenue

**V53-021651-2015:** A Public Hearing regarding an application submitted by (*Petitioners*) Karl E & Lindsey E Unga hereby requesting the Board of Adjustment authorize the issuance of a Building Permit to construct/install a visual barrier (up to 7 feet high solid fence and dense shrubs/plantings) that would be located within the required corner side yard that is adjacent to the principal permitted structure at zero setback as measured from the property line in lieu of the minimum required 15 feet corner side yard setback on the property at 105 Stoney Point Road NW, R-3 Single Family Residence Zone District.

**Findings of Fact:** The Board finds that ●Subsection 32.05.010.B.1. (Table 32.05-1) Dimensional Standards for Residential Districts requires a minimum 15 feet corner side yard setback, as measured from the property line. The Board finds that ●Subsection 32.05.010.D.2.b.iv. (Ord. No. 048-06) states in all districts, a visual barrier such as an opaque fence, wall, dense shrubs, or combination thereof shall not be located within any required corner side yard that is adjacent to the principal permitted structure on a corner lot in a residential district. The Board acknowledges the Petitioners submitted the required criteria sheet indicating unique circumstances as the property has extraordinary peculiar conditions that include a walking trail next to the corner side lot line that is used by many persons which can impede on the privacy of the residence. The current limitation (deep into the property line) would create an awkward narrowness to the corner yard due to the shape of the residence with the existing unique setbacks and existing landscaping which would significantly reduce the potential for any reasonable use. The request is not for financial gain rather for safety and security concerns due to being located next to park and walking trail. The Board acknowledges the intent is to build a privacy fence as well as plant shrubbery to tone down the road noise from the traffic due to the four-way stop. Privacy is another concern given how close the trail is to the home which contains many windows. Hardship not self-created as the existing home was constructed in 1987. Substantial rights denied as without a Variance to construct a privacy fence and shrubbery to cut down the road noise, believe would be denied the ability to completely enjoy the back and corner yard areas and the structures/screening would allow for children to safely play outside without potential dangers. Granting the Variance would not be a special privilege rather an intent to utilize the back/corner yard area for standard residential use (yard games, snow forts, etc.) and nothing out of the ordinary. Granting the Variance would not be detrimental or have any effect on the public welfare or diminish future property development. It will not impair any adjacent properties. Similar fencing is present on the other side of the street the same distance or closer to the street compared to the intentions for this property and feel the fence/shrubbery location would improve upon the aesthetics of the neighborhood. Find no other remedy in order to attain sufficient security and safety and reasonable use and enjoyment of the property. The Board finds no objectors present.

**Disposition:** By a vote of 4-0 the Board of Adjustment approved an application submitted by (*Petitioners*) Karl E & Lindsey E Unga hereby requesting the Board of Adjustment authorize the issuance of a Building Permit to construct/install a visual barrier (up to 7 feet high solid fence and dense shrubs/plantings) that would be located within the required corner side yard that is adjacent to the principal permitted structure at zero setback as measured from the property line in lieu of the minimum required 15 feet corner side yard setback on the property at 105 Stoney Point Road NW, R-3 Single Family Residence Zone District. Following discussion Sue Lowder moved for approval citing Unique Circumstances and Not Detrimental. Jim Vancura seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V53-021651-2015 is approved as written.

**No Petitioner Present**

**V55-021725-2015:** A Public Hearing regarding an application submitted by (*Petitioner*) Foth Engineering for Rockwell Collins hereby requesting that the Board of Adjustment authorize the issuance of Building Permits for parking lot expansions that will not provide raised parking islands on the property at 400 Collins Road NE, I-1 Light Industrial Zone District.

**Findings of Fact:** The Board finds that ●Subsection 32.05.030.A.6.c requires parking lot areas with 40 or more spaces to provide a continuous planter, including trees, for every 4<sup>th</sup> parking bay. Said continuous planter shall include large shade trees planted no closer than 20 foot centers. The Board acknowledges the Petitioner

states the parking improvements are necessitated by the C Avenue project. The existing lots do not have planters and Rockwell is requesting the new areas be allowed to omit the planters for maintenance purposes. Rockwell offers to enhance the perimeter landscaping to make up for green space requirements. The Board finds no objectors present.

**Disposition:** By a vote of 4-0 the Board of Adjustment approved an application submitted by (*Petitioner*) Foth Engineering for Rockwell Collins hereby requesting that the Board of Adjustment authorize the issuance of Building Permits for parking lot expansions that will not provide raised parking islands on the property at 400 Collins Road NE, I-1 Light Industrial Zone District. Following discussion Sue Lowder moved for approval subject to stated condition. Jim Vancura seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V55-021725-2015 is approved subject to condition:

1. Enhanced plantings along the perimeter be included.

**V56-021816-2015:** A Public Hearing regarding an application submitted by (*Petitioner*) Nesper Sign Advertising representing St. Pius X Elementary School hereby requesting that the Board of Adjustment authorize the issuance of a Sign Permit to install a new wall sign that would be 37.21 square feet in lieu of the maximum 24 square feet permitted on the property at 4949 Council Street NE, R-3 Single Family Residence Zone District.

**Findings of Fact:** The Board finds that ●Subsection 32.06.030.C. (Table 32.06-1) On-Premise Signs Table – Permanent Signs (All Residential Districts) states the maximum size information wall sign (flat against the building) for all other non-residential use is 24 square feet and limited to 1 per lot frontage establishment. Illumination is not permitted. The Petitioner submitted the criteria sheet indicating the new lettering will replace the existing lettering that has been in place since the inception of the school and will allow for better visibility of the school as well as ease of entering on to the school premise. The current code only allows for 24 square feet. The square footage of these letters is 37.2 square feet. The building currently has no other signage on the building and has 354 feet of building frontage. In addition, an Early Learning Center was added to the back of the building two years ago, so this will also help keep any confusion down as to the location of the school versus the Early Learning Center. The Board acknowledges Petitioner states the new sign to be non-detrimental and, in fact, an asset to the community. It will improve the visibility and awareness to the parents and students attending. The Board finds the parcel is a very large double-frontage and corner lot that has frontage along Highway 100, Council Street and Ozark Street NE. Parcel offers a campus type setting with multiple uses including Early Learning Center, Elementary School and Church. The Board acknowledges the sign is not illuminated and shall be placed on the north face of the elementary building wall and will not be visible from any residential structures. The sign will be mostly visible for south bound traffic on Council Street incoming persons or persons on-site. The Board acknowledges the sign will act more as a building identification sign. The Board finds no objectors present.

**Disposition:** By a vote of 4-0 the Board of Adjustment approved an application submitted by (*Petitioner*) Nesper Sign Advertising representing St. Pius X Elementary School requesting that the Board of Adjustment authorize the issuance of a Sign Permit to install a new wall sign that would be 37.21 square feet in lieu of the maximum 24 square feet permitted on the property at 4949 Council Street NE, R-3 Single Family Residence Zone District. Following discussion Nancy Lee Ziese moved for approval citing Not Detrimental. Jim Vancura seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V56-021816-2015 is approved as written.

**V57-021823-2015:** A Public Hearing regarding an application submitted by (*Petitioners*) Dale W Erickson Jr and Kimberly J Erickson hereby requesting that the Board of Adjustment authorize the issuance of a Building Permit to construct a new 12 feet by 20 feet addition (open deck) that would be located within the corner visual clearance area 10 feet from the corner side property line in lieu of the minimum required 15 feet corner side yard setback and would be 10 feet from the front property line in lieu of the minimum required 12 feet contextual front yard setback on the property at 1400 K Street SW, R-3 Single Family Residence Zone District.

**Findings of Fact:** The Board finds that ●Subsection 32.05.010.B.1. (Table 32.05-1) Dimensional Standards for Residential Districts requires a minimum 15 feet corner side yard setback and a 25 feet minimum front yard setback, as measured from the property line(s). The Board finds that ●Subsection 32.05.010.D.2 (Table 32.05-3) Permitted Encroachments in Required Yards states that open decks, including steps, but not including a permanently roofed-over or enclosed deck may extend no more than 10 feet into the required front yard or the required rear yard and shall maintain a minimum 10 foot distance from a street right-of-way and rear lot line, except in the Core Area, where it may extend to within 7.5 feet of the street right-of-way. The floor of an open deck in a required yard shall not exceed 3 feet in height above the average ground level. The Board finds that ●Subsection 32.05.010.D.3. (Ord. No. 15-12) *Corner Visual Clearance Area* states notwithstanding the provisions of Table 32.05-2, in areas except portions of the C-3, C-4, I-1, and I-2 districts located within the Core Area, as defined in this Ordinance, nothing shall be erected, placed, planted, or allowed to grow on a corner lot in such a manner as to significantly impede vision between a height of two and one-half (2.5) feet and ten (10) feet above the center line street grades of the area described as follows: That triangular shaped area bounded by the street or road right-of-way lines of a corner lot or tract and a straight line joining points on said right-of-way lines that are thirty (30) feet from the point of intersection of said right-of-way lines. No more than two poles or post supports of no more than ten (10) inches shall be permitted within such unobscured area. (033-06, 028-08). The Board finds that ●Subsection 32.05.010.B.3.a. Contextual Development for Residential Primary Structures states regardless of the minimum front setback requirements imposed in Table 32.05-1, applicants for residential development in the Residential zone districts shall be allowed to use a "contextual" front setback. A contextual front setback may fall at any point between the required front setback and the front setback that exists on a lot that is oriented to the same street as the subject lot. This provision shall not be interpreted as requiring a greater front setback than that imposed in Table 32.05-1. The Board acknowledges Traffic Engineering has review the site and has no objections to the request. The Board finds no objectors present.

**Disposition:** By a vote of 4-0 the Board of Adjustment approved an application submitted by (*Petitioner*) Dale Erickson hereby requesting that the Board of Adjustment authorize the issuance of a Building Permit to construct a new 12 feet by 20 feet addition (open deck) that would be located within the corner visual clearance area 10 feet from the corner side property line in lieu of the minimum required 15 feet corner side yard setback and would be 10 feet from the front property line in lieu of the minimum required 12 feet contextual front yard setback on the property at 1400 K Street SW, R-3 Single Family Residence Zone District. Following discussion Nancy Lee Ziese moved for approval citing Unique Circumstances subject to stated condition. Sue Lowder seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V57-021823-2015 is approved as written.

1. Deck to remain open – not covered or enclosed.

**V62-021872-2015:** A Public Hearing regarding an application submitted by (*Titleholder*) Kenneth Reasor regarding (*Petitioner*) Christi Takes hereby requesting that the Board of Adjustment authorize the issuance of a Building Permit to construct a new solid/privacy fence up to 7 feet in height that would be located in the required front yard at 18 feet setback in lieu of the minimum required 25 feet front yard setback on the property at 116 35<sup>th</sup> Street SE, RMF-1 Residential Multi-Family Residence Zone District.

**Findings of Fact:** The Board finds that ●Subsection 32.05.010.B.1 – Dimensional Standards for Residential District Table requires a minimum 25 feet front yard setback. The Board finds that ●Subsection 32.05.010.D.2.b.ii – Height in Front Yard states no fence, wall or combination of such items exceeding a height of three (3) feet above ground level shall be erected within the required front yard in any district unless higher screening is required by Sec. 32.050.030.A. The Board finds that the Petitioner submitted the criteria sheet indicating unique circumstances, not for financial gain, hardship not self-created due to the existing small lot with the house closer to the lot line that what is allowed today and is located in very close proximity to commercial buildings/activity. Petitioner states substantial rights denied, not a special privilege and finds no other remedy to provide a safe and private area for small children using the existing open yard areas similar to what other residential homes enjoy. Petitioner states allowing the Variance/fence is not detrimental as it replaces an existing picket style fence – just a bit taller that would have no negative impact to neighbors or

traffic. The subject lot is a very small - 60 feet wide by 61.48 feet long that is located adjacent to an alley right-of-way and in very close proximity to commercial property. The existing dwelling on the lot does not meet the minimum setbacks by today's code and is considered legal nonconforming. The Traffic Engineer Department has reviewed the request for safety and sight distance issues and has no objections to the request as written. The Board finds no objectors present.

Disposition: By a vote of 4-0 the Board of Adjustment approved an application submitted by (*Petitioner*), Christi Takes, hereby requesting that the Board of Adjustment authorize the issuance of a Building Permit to construct a new solid/privacy fence up to 7 feet in height that would be located in the required front yard at 18 feet setback in lieu of the minimum required 25 feet front yard setback on the property at 116 35<sup>th</sup> Street SE, RMF-1 Residential Multi-Family Residence Zone District. Following discussion Sue Lowder moved for approval citing Not Detrimental and Unique Circumstances due to the small lot size. Nancy Lee Ziese seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V62-021872-2015 is approved as written.

Motion to adjourn at 4:25 PM, motion carried.

Prepared by Patricia A Pfiffner  
Recording Secretary Board of Adjustment