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ZONING BOARD OF ADJUSTMENT

Monday, August 10, 2015 @ 3:00 PM

Third Floor Council Chamber

101 1st Street SE, Cedar Rapids IA 52401

DECISION AND ORDER

Members Present: Chair Todd Barker, Vice-Chair Bill Vernon, NancyLee Ziese and Jim Vancura

Member Absent: Sue Lowder

Staff Present: Vern Zakostelecky, Dave Houg, Johnny Alcivar, Kevin Ciabatti, Sandy Pumphrey, Justin Shields, Seth Gunnerson and Patricia A Pfiffner

Others Present: Kent Backen Integrity Custom Homes, Lois A Wilhelm, Jeremy Boleyn re Denise Werner, Aaron Vosmek CR Signs and Drew Bietau, Dennis Hasenbank Skogman, Susan Fornisah Hall & Hall Engineering, Inc., Chad Brakhahn and Stephanie Erbe, Steve Kazimour, Juanita Nepomnick (Hurricane) Dan (Alliant), S&J Homes – Jason Johannes, Ralph Taylor

NEW BUSINESS

Chair, Todd Barker called the August 10, 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. Nancy Lee Ziese moved to approve the July 13, 2015 Board of Adjustment minutes, seconded by Bill Vernon, motion carried.

V39-020124-2015: A Public Hearing regarding an application submitted by (*Petitioner*) Kent Backen, Integrity Custom Homes, whose address is 3634 Barnsley Circle, Marion, IA (*Titleholder*) hereby, petitioning the Board of Adjustment to authorize the issuance of a Building Permit for a 4,226 s.f. addition to an existing retail building. The Petitioner proposed 6 parking spaces in lieu of 19 spaces required and which is to be located in the C-3 Regional Commercial Zone District on the property at 1010 3rd Street SE.

Findings of Fact: The Board finds that ● Subsection 32.05.020 requires: ●4 off-street parking spaces per 1000 sf GFA for office use ● 10 off-street parking spaces per 1000 sf GFA for a delicatessen. The Board acknowledges the Petitioner is in the process of adding to and remodeling an existing building; 1125 s.f. of delicatessen/restaurant and 3101 s.f. of office space are planned. Petitioner states this is a small site and that there is a lot of foot traffic. Nancy Lee Ziese noted that parking is inadequate on Third Street SE even with no planned events. Petitioner notes that the development is approximately 600' from public parking (Lot 44) and qualifies for the following reductions as allowed by Code:

- 2 adjacent on-street parking spaces
- 2 bicycle racks (1 space reduction for each rack)
- close to a bus line (5% reduction)

Considering these reductions, the required parking is reduced from 22 to 19 spaces. The Board acknowledges Development Services has reviewed the parking reduction and has concerns regarding the limited parking available in this area. The Board finds no objectors present.

Disposition: By a vote of 4-0 the Board of Adjustment approved **V39-020124-2015** an application submitted by (*Petitioner*) Kent Backen (*Titleholder*), Integrity Custom Homes, whose address is 3634 Bsrbsley Circle, Marion, IA hereby, petitioning the Board of Adjustment to authorize the issuance of a Building Permit for a 4,226 s.f.

addition to an existing retail building. The Petitioner proposed 6 parking spaces in lieu of 19 spaces required and be located in the C-3 Regional Commercial Zone District on the property at 1010 3rd Street SE. Following discussion, Vice-Chair Bill Vernon moved for approval citing Unique Circumstances, Hardship not Self- Created and Not Detrimental. Nancy Lee Ziese seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V39-020124-2015 is hereby approved as written.

V41-020455-2015: A Public Hearing regarding an application submitted by Petitioner Lois A Wilhelm (*Titleholder*) hereby requests that the Board of Adjustment authorize the issuance of a Certificate of Occupancy for an existing 10 feet by 18 feet open deck that is greater than 3 feet in height (approximately 9 feet above grade) and is located in the required rear yard 15 feet from the rear property line in lieu of the minimum 25 feet required rear yard setback in an R-2 Single Family Residence Zone District on the property at 92 26th Avenue SW.

Findings of Fact: The Board finds that ●Subsection 32.05.010.B.1. Table 32.05-1 requires a minimum 25 feet rear yard setback. That ●Subsection 32.05.010.D.2.a. Table 32.05-3 Permitted Encroachments in Required Yards states an open deck 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. The floor of an open deck in a required yard shall not exceed 3 feet in height above the average ground level. The Board acknowledges that the Petitioner submitted the required criteria sheet indicating unique circumstances due to a shallow corner lot and the house having a walk-out basement thereby requiring a deck more than 3 feet in height. Granting the variance is not for financial gain and not a hardship self-created due to a walk-out basement needing the heightened deck to reach the first floor and believes substantial rights denied as similar projects have been approved in the past. States deck improvement is not a special privilege and finds no other remedy to provide the use of the deck and first floor access – and no room in the back yard to move the deck to provide use/access. Staff indicated the subject lot is a shallow (102 feet deep) reversed corner lot in an established neighborhood. The deck location and height were brought to our attention by the applicant/owner and/or her representative/builder during her quest to build a new single family on the vacant adjacent lot to the east. The Petitioner will be selling the property and desires to bring the property into compliance and seeks a Variance to maintain the deck at its current location and height. The height of the deck is approximately 9 feet above grade. Staff indicated the deck location does not appear in close proximity to the dwelling to the north, rather closest to the adjacent lot on the east – which is where the Petitioner will be constructing a new single family dwelling for personal residence. The Board acknowledges that a Building Permit (BLDG-000374CR) was obtained July 13, 2000 for the deck, and site plan was approved at a 15 feet rear yard setback consistent with Code and approval for a deck less than 3 feet above grade. The Board acknowledges the Development Services Department has received no inquiries or objections to the request. The Board finds no objectors present.

Disposition: By a vote of 4-0 the Board of Adjustment approved **V41-020455-2015** an application submitted by Lois A Wilhelm (*Titleholder*) hereby requesting that the Board of Adjustment authorize the issuance of a Certificate of Occupancy for an existing 10 feet by 18 feet open deck that is greater than 3 feet in height (approximately 9 feet above grade) and is located in the required rear yard 15 feet from the rear property line in lieu of the minimum 25 feet required rear yard setback in an R-2 Single Family Residence Zone District on the property at 92 26th Avenue SW. Following discussion Nancy Lee Ziese moved for approval citing Unique Circumstances subject to condition. Bill Vernon seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V41-020455-2015 is hereby approved subject to condition.

1. The deck to remain open, not covered or enclosed.

V42-020497-2015: A Public Hearing regarding an application submitted by (Applicant) Jeremy Boleyn for Denise Werner (*Titleholder*) hereby requesting that the Board of Adjustment authorize the issuance of a Building Permit for a new free-standing L-shaped deck partially enclosed by 6 foot tall panels around the perimeter, 10 by 45 feet and 7 by 25 feet in size which will be 3 feet away from the rear lot line in lieu of the 25 foot rear yard setback required in an R-3 Single Family Residence Zone District on the property at

Findings of Fact: The Board finds that ●Subsection 32.05.01 O.B.1 - Dimensional Standards for Residential District Table states the minimum rear yard setback for the R-3 District is 25 feet.

● Subsection 32.05.010.D.2.a (Table 32.05-3)–Permitted Encroachments in Required Yards states: open deck 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 the Petitioner submitted the criteria sheet indicating the proposed free-standing deck is not for financial gain and that this yard has steep slope along the rear lot line and along the portion of the North lot line. The Board acknowledges that this lot is 65 by 76 feet in size (4,940 square feet). The single family dwelling was built in 1949. It covers 768 square feet of the lot. A detached accessory structure was built in 1963. It is 308 square feet in size. Topographical map enclosed with this report shows sloped area from the main portion of the back yard to the rear lot line. The Board acknowledges the property owner currently has a privacy fence installed around the usable portion of the back yard to ensure safety and security of their kids and pets. Fenced in area is about 25 by 40 feet in size (1,000 square feet). By constructing a new free-standing deck, the usable portion of the back yard would be expanded with additional 625 square feet, which is 62.5% additional usable space. The Board acknowledges that by relocating an existing 6 feet tall privacy fence to the outside perimeter of the proposed deck they would meet the Building Code safety requirements. Another way to address an issue with the sloped back yard is to build retaining walls and bring in the fill to level the back yard. The Board acknowledges that the Development Services Department has not received any inquiries or concerns regarding this request. The Board finds no objectors present.

Disposition: By a vote of 4-0 the Board of Adjustment approved V42-020497-2015 an application submitted by (Petitioner) Jeremy Boleyn for Denise Werner (Titleholder) hereby requesting that the Board of Adjustment authorize the issuance of a Building Permit for a new free-standing L-shaped deck partially enclosed by 6 foot tall panels around the perimeter, 10 by 45 feet and 7 by 25 feet in size which will be 3 feet away from the rear lot line in lieu of the 25 foot rear yard setback required in an R-3 Single Family Residence Zone District on the property at 1511 9th Street SW. Following discussion Bill Vernon moved for approval citing not detrimental. Nancy Lee Ziese seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V42-020497-2015 is hereby approved as written.

V43-020497-2015: A Public Hearing regarding an application submitted by (Petitioner) CR Signs re MH Real Estate / Kenworth (Titleholder) hereby requesting that the Board of Adjustment authorize the issuance of a Sign Permit for a new 251 square feet two-pole type free-standing sign that would be 60 feet in height (to the top of the sign structure) in lieu of maximum 45 feet in height permitted on the property at 360 French Court SW, C-3 Regional Commercial Zone District.

Findings of Fact: The Board finds that ●Subsection 32.06.030.C. — On-Premise Sign Table 32.06-1 states free-standing accessory signs shall be permitted up to 45 feet to top of sign structure. The Board acknowledges the Petitioner submitted the criteria sheet indicating special circumstances or conditions due to the surrounding tree growth, the 45 feet height limit substantially limits the visibility of the signage in the area. The greater sign height is necessary to overcome this limitation. In addition, much of the surrounding area is zoned as Industrial which allows the 60 feet limit. Further stating the variance will not weaken the general purpose of Chapter 32.06 Signs nor any other regulations applicable to the zone district in which the sign is located as another business in the same area, Casey's General Store, currently enjoys a similar variance which suggests that this Variance is not at odds with the general purpose of the Sign Code or other applicable regulations in the zoned district. The Board acknowledges the Variance will not alter the essential character of

the district in which the sign is located as evidenced by the existing Casey's General Store sign in the same area. The Variance will not substantially or permanently impair the appropriate use of adjacent conforming property as stated and evidenced by a variance enjoyed by Casey's General Store in the same area and the industrial/commercial nature of the district, thereby no reason to believe that granting this variance will substantially or permanently impair the appropriate use of the adjacent conforming properties.

The Board finds the property is currently under construction/development for a permitted use within a C-3 zoning district (Kenworth Truck Sales and Service). The property is adjacent to an Industrial zoned parcel to the south and in very close proximity (approximately 80 feet) Industrial zoned property to the north. The FAA Determination and Cedar Rapids Airport review has not been completed for any sign at this location exceeding 40 feet in height. Currently, an Assistant Property Manager is seeking said approval. Both property management and the applicant are aware the sign permit may not be released without said approvals.

The IDOT has commented and had no concerns with the site/sign specific request. The Board acknowledges Casey's Store is Zoned C-3 and was granted Variance (Docket V18-20012) for an 80 feet high free-standing sign in lieu of the 45 feet maximum allowed height and 787.5 square feet total in lieu of the maximum allowed 200 square feet. The Board finds that the proposed sign (height) would be permitted within an Industrial District. The Development Services Division has received an inquiry as to the specific nature of the Variance request. Staff has visited the site and does not find any current topography, elevation or landscape issues that would appear to hinder visibility. The Board finds no objectors present.

Disposition: By a vote of 4-0 the Board of Adjustment approved V43-020497-2015 an application submitted by (*Petitioner*) CR Signs re MH Real Estate / Kenworth (*Titleholder*) hereby requesting that the Board of Adjustment authorize the issuance of a Sign Permit for a new 251 square feet two-pole type free-standing sign that would be 60 feet in height (to the top of the sign structure) in lieu of maximum 45 feet in height permitted on the property at 360 French Court SW, C-3 Regional Commercial Zone District. Vern Zakostelecky explained the request, stating there is no Certificate of Occupancy. He stated the FAA approved the 45 foot sign and that the building is near completion. Jim Vancura stated this could be precedent setting, Bill Vernon agreed. Todd Barker stated this is a tough issue with the businesses up and down 380, the terrain and trees. Following discussion Nancy Lee Ziese moved for approval citing unique circumstances. Motion died for lack of a second. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V4431-020497-2015 is hereby denied.

V44-020619-2015: A Public Hearing regarding an application submitted by (*Petitioner*) Dennis Hasenbank of Skogman for Kids Inc. Daycare re Mc Neal Real Estate (*Titleholder*) hereby requesting a Building Permit to place a chain-link fence 4' in height within the required front yard setback for a new daycare facility at 6340 Muirfield Drive SW, O/S Office Service Zone District.

Findings of Fact: The Board finds that ● Subsection 32.05.010.D.2.b. requires that no fence, wall, or combinations of such items exceeding a height of 3 feet above ground level shall be erected within the required front yard in any district. The Board acknowledges that Petitioner notes that the fenced play area is required by the Department of Human Services as part of the daycare establishment. Minimum areas per child calculations dictate the size and location of the proposed fencing. The Board acknowledges that Development Services has reviewed this request and has no objection. The Board finds no objectors present.

Disposition: By a vote of 4-0 the Board of Adjustment approved V44-020619-2015 an application submitted by (*Petitioner*) Skogman for Kids Inc. Daycare re Mc Neal Real Estate (*Titleholder*) hereby requesting a Building Permit to place a chain-link fence 4' in height within the required front yard setback for a new daycare facility at 6340 Muirfield Drive SW. Following discussion Nancy Lee Ziese moved for approval citing unique circumstances. Bill Vernon seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V44-020619-2015 is hereby approved as written.

V45-020620-2015: A Public Hearing regarding an application submitted by (*Petitioner*) Hall & Hall Engineering, Inc. Fiesta Del Sol, for JLDS, L.L.C. (*Titleholder*) hereby requesting a Building Permit for a new

6300 s.f. retail building that provides a 10 foot street front landscaping area in lieu of the required 15 foot street front landscape setback on the property at 4801 1st Avenue SE, C-2 Community Shopping Zone District.

Findings of Fact: The Board finds that ●Subsection 32.05.030.5.c. requires street front landscaping of an average depth of 15 feet in a front yard. The Board finds that Petitioner notes that the site is currently paved up to the property lines along First Avenue and Collins Road, and there is no storm water management on site. Due to the existing size of the lot, in order to include enough parking for the business to be sustainable it is necessary to encroach 5 feet into the required 15 foot front yard landscape depth. The project will provide storm water quality and vegetation between the parking area. Most of the adjacent development in this area is paved to the property line. This is a very busy intersection and some additional landscaping will improve the aesthetics of this area. The Board finds no objectors present.

Disposition: By a vote of 4-0 the Board of Adjustment approved **V45-020620-2015** an application submitted by (Petitioner) Hall & Hall Engineering, Inc. Fiesta Del Sol, for JLDS, L.L.C. (Titleholder) hereby requesting a Building Permit for a new 6300 s.f. retail building that provides a 10 foot street front landscaping area in lieu of the required 15 foot street front landscape setback on the property at 4801 1st Avenue SE, C-2 Community Shopping Zone District. Following discussion Bill Vernon moved for approval citing unique circumstances and consistent with the area. Jim Vancura seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V45-020620-2015 is hereby approved as written.

V46-020707-2015: A Public Hearing regarding an application submitted by (*Petitioner*) Chad Brakhahn and Stephanie Erbe (Titleholders) hereby requesting that the Board authorize the issuance of a Building Permit for a new privacy fence 6 feet in height at zero setback in lieu of 15 feet corner side yard required and therefore will not comply with the following provisions of the Municipal Code of the City of Cedar Rapids, IA on the property at 6805 Amhurst Drive SW, R-3 Single Family Residence Zone District.

Findings of Fact: The Board finds that ●Subsection 32.05.010.B.1 - Dimensional Standards for Residential District Table states the minimum corner side yard setback for the R-2 District is 15 feet. The Board finds that ●Subsection 32.05.010.D.2.b.iv - Height in Corner Side Yard 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. If such visual barrier is located within the rear twenty-five (25) feet of a lot that abuts the front yard of an adjacent lot, a Visual Clearance Area, as described in Sec. 32.05.010.D.3, shall be provided. In this case, the intersection from which the clearance area is calculated shall be the intersection of the rear lot line of the reverse corner lot with the front line of the adjacent standard residential lot. The Visual Clearance Area shall not be required if: (1) an existing driveway on the adjacent property is located at least twenty (20) feet from the nearest edge of the proposed fence, wall, or dense shrubs, or (2) it is not possible to locate a future driveway on an adjacent property within twenty (20) feet of the nearest edge of the proposed fence, wall, or dense shrubs. The Board acknowledges that the Petitioner submitted the required criteria sheet indicating the fence improvement is not for financial gain and not a hardship self-created. A new fence will provide a more usable back yard. They further state that it will not be detrimental to the public. By installing a new fence, they would like to create privacy a buffer between the street and their back yard. The property owner believes that due to the irregular shape of the lot and the way the house is positioned on the lot, there is no other way to create desired privacy and a buffer between the vehicle and pedestrian traffic and the back yard.

The Board acknowledges that the single family dwelling was built in 1995 and it is located on the corner lot. While positioning the house at a 45 degree angle creates a great curb appeal, it also creates an unconventional back yard and reduces usable back yard. A public sidewalk is located along the West and North side of this property. A new fence will provide an instant buffer from the traffic and desired privacy for this family. The Board acknowledges the property owner requested a new building permit for a privacy fence to be installed from the west side of the house, running perpendicular from the side of the house toward the West lot line and then, along this lot line, until it meets the corner of the fence of the property at the southwest corner. They obtained a notarized Easement Agreement for the portion of the fence that will be installed over easements. The current Zoning Ordinance allows no less than 65% open fence, as defined by the

Building Code to be installed at zero setback. An existing driveway serving adjacent property to the South is facing High Point Dr SW. It is located on the opposite side of the house. A proposed fence will not impact their visual clearance area. A back yard at 836 High Point Dr SW is fenced in with 4 feet high chain link fence. The Traffic Engineering Department has no objections to the request. The Board finds no objectors present.

Disposition: By a vote of 4-0 the Board of Adjustment approved V46-020707-2015 an application submitted by Chad Brakhahn and Stephanie Erbe (Titleholders) hereby requesting that the Board of Adjustment authorize the issuance of a Building Permit for a new privacy fence 6 feet in height at zero setback in lieu of 15 feet corner side yard required and therefore will not comply with the following provisions of the Municipal Code of the City of Cedar Rapids, IA on the property at 6805 Amhurst Drive SW, R-3 Single Family Residence Zone District. Following discussion Nancy Lee Ziese moved for approval citing Unique Circumstances. Jim Vancura seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V46-020707-2015 is hereby approved as written.

V47-020724-2015: A Public Hearing regarding an application submitted by (*Petitioner*) Steve & Sue Kazimour (Titleholders) hereby requesting that the Board of Adjustment authorize the issuance of a Building Permit to construct a new 14 feet 5 inches by 20 feet single story addition to an existing detached accessory structure (residential garage with up to 1 foot overhang including the gutters). A new detached accessory addition would be 2 feet-4 inches from the interior side property line (South elevation) in lieu of the minimum 3 feet interior side setback required, and the overhang, including the gutters will be as close as 1 foot 4 inches in lieu of 2 feet setback required on the property at 1919 Cach Lane SW, R-3 Single Family Residence Zone District.

Findings of Fact: The Board finds that ● Subsection 32.05.010.A.4.a.iv. (ORD. 027-14) - Detached Accessory Structures and Buildings shall not be located closer than three (3) feet to any interior side or rear lot line. The roof overhang of any accessory structure shall not be located closer than two (2) feet to any interior or rear lot line. The Board finds that ● Subsection 32.05.010.D.2.a. Table 32.05-3 states architectural features (i.e., sills, eaves, and cornices), gutters and downspouts shall encroach no more than 2 feet into the yard, as measured from the building; except when the yard is 9 feet or more in depth they may encroach no more than 3 feet. The Petitioner submitted the criteria sheet indicating the new addition is not for a financial gain. The Board acknowledges this corner lot is approximately 7,647 square feet in size. The existing detached accessory structure was built in 1959. The proposed addition will provide the property owner needed storage space and ability to secure their vehicles, belongings, tools and equipment required to maintain the property. There are several other properties within this block that have their detached accessory structures built with the reduced interior side yard setback. The Board acknowledges the single family dwelling with the detached accessory structure was built in 1959. An existing detached accessory structure is 308 square feet in size. By constructing a new addition this space would be increased for 91%. They would be able to store tools and equipment utilized for the property maintenance.

The proposed 14 feet 5 inches by 20 feet addition to the existing detached garage with 12 inch overhang (including the gutters) would be 2 feet 4 inches away from the side lot line. The Board acknowledges that an existing driveway and detached accessory structure allows for two off-street parking spaces with or without the proposed addition. The Board acknowledges that an existing one-story detached accessory structure 309 square feet in size was built in 1959. A reduced setback for detached accessory structures (garages) is found among several properties within this block. The total size of the detached accessory structure, including the proposed addition will be about 590 square feet. The Board acknowledges a letter of support from adjacent neighbors with no objections to the request. The Board finds no objectors present.

Disposition: By a vote of 4-0 the Board of Adjustment approved V47-020724-2015 an application submitted

by (*Petitioner*) Steve & Sue Kazimour (Titeholders) hereby requesting that the Board of Adjustment authorize the issuance of a Building Permit to construct a new 14 feet 5 inches by 20 feet single story addition to an existing detached accessory structure (residential garage with up to 1 foot overhang including the gutters). A new detached accessory addition would be 2 feet- 4 inches from the interior side property line (South elevation) in lieu of the minimum 3 feet interior side setback required, and the overhang, including the gutters will be as close as 1 foot 4 inches in lieu of 2 feet setback required on the property at 1919 Cach Lane SW, R-3 Single Family Residence Zone District. Following discussion Bill Vernon moved for approval citing unique circumstances subject to conditions. NancyLee Ziese seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V47-020724-2015 is hereby approved subject to conditions:

1. Building permit is subject to Historic Review and related codes..
2. Residential use only, not commercial.

OLD BUSINESS

Bill Vernon made motion to remove COND-14051-2015 from the table. Motion carried.

COND-14051-2015: A Public Hearing regarding an application submitted by Petitioner Hurricane Grill & Wings representing SDG Macherich Properties whose address is 4444 1st Avenue NE, Suite 602, Cedar Rapids, IA *Owner(s)/Titleholder(s)* hereby petitioning the Board of Adjustment to authorize the issuance of a Certificate of Occupancy which is listed and described as an Outdoor Service Area in Subsection 32.04.020. of the Municipal Code, and which is to be located in the C-2 Zone District, under the authority granted to the Board of Adjustment by Section 32.02.030.D of said Municipal Code.

Findings of Fact: The Board finds that the Development Services staff has examined the petition of Barmuda Companies dba Hurricane Grill & Wings requesting Conditional Use approval for an "Outdoor Service Area" for property at Lindale Mall - 4444 First Avenue NE, Suite 602 and zoned C-2, Community Commercial Zone District. The Board finds that Hurricane Grill & Wings wishes to receive approval for an outdoor service area where alcohol can be served. The plan submitted shows the following characteristics: Total area of mall: 250,315 sq. ft. total area of restaurant: 5,090 sq. ft., total size of proposed outdoor service area: 64 sq. ft. (2 tables). At its meeting held on July 2, 2015 the City Planning Commission recommended approval of this request subject to conditions. Dave Houg stated the request is for 64 square feet for alcohol service on the north side of Lindale Mall in a fenced area. The City Planning Commission approved the request unanimously. The Board finds no objectors present.

Disposition: By a vote of 4-0 the Board of Adjustment Approved COND-14051-2015 an application submitted by Petitioner Hurricane Grill & Wings representing SDG Macherich Properties whose address is 4444 1st Avenue NE, Suite 602, Cedar Rapids, IA *Owner(s)/Titleholder(s)* hereby petitions the Board of Adjustment to authorize the issuance of a Certificate of Occupancy which is listed and described as an Outdoor Service Area in Subsection 32.04.020. of the Municipal Code, and which is to be located the C-2 Zone District. Following discussion Bill Vernon moved for approval citing not detrimental subject to conditions. NancyLee Ziese seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V45-014051-2015 is hereby approved subject to stated conditions:

1. 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 outdoor service area is staffed continually during normal business hours.
2. The outdoor service area must have fencing. The fencing requirements, for an 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. The Police Department shall re-inspect the outdoor service area prior to issuance of a Certificate of Occupancy.

4. No amplified outdoor music such as bands, karaoke, and public address systems, etc. shall be allowed in the outdoor service area.

COND-018013-2015: A Public Hearing regarding an application submitted by Petitioner Robert & Jitka Schaffer representing same whose address is 100 16th Avenue SE, Cedar Rapids, IA , Titleholders, hereby petitioning the Board of Adjustment to authorize the issuance of a Certificate of Occupancy which is listed and described as ground floor dwelling unit in Subsection 32.04.020 of the Municipal Code, and which is to be located upon the premises at 100 16th Avenue SW, Cedar Rapids, IA located in the C-3 Zone District, under the authority granted to the Board of Adjustment by Section 32.02.030.D of said Municipal Code.

Findings of Fact: The Board finds that the Development Services staff has examined the petition to allow for a dwelling unit located on the ground floor in a C-3, Regional Commercial Zone District as part of a proposal to construct a 2-story mixed-use building at 102 16th Avenue SW near the Czech Village. The project will add 7 residential units to the site and will provide 4,981 s.f. of commercial space on the ground floor. Residential units above the ground floor are allowed in all commercial districts per the Municipal Code. The Planning Commission is being asked to weigh in on whether a residential unit on the ground floor is appropriate for this site. Site Area – 22,000 s. f. , Proposed Building Area – 5,765 s. f., Proposed Building Size – 11,530 s. f. on 2 floors, Building Use – 4.981 s. f. commercial spaces, 6,549 s. f. residential (7 units), Parking – Required: 15 – Proposed: 15. Dave Houg noted this is the New Bo Over Lay District and was approved by the Design Review Committee. The Board finds no objectors present.

Disposition: By a vote of 4-0 the Board of Adjustment approved COND-018013-2015 an application submitted by Petitioner Robert & Jitka Schaffer representing same whose address is 100 16th Avenue SE Cedar Rapids, IA *Owner(s) /Titleholder(s)* hereby petitioning the Board of Adjustment to authorize the issuance of a Certificate of Occupancy which is listed and described as “Ground Floor Dwelling Unit” in Subsection 32.04.020 of the Municipal Code, and which is to be located upon the premises at 100 16th Avenue SW, Cedar Rapids, IA located in the C-3 Zone District, under the authority granted to the Board of Adjustment by Section 32.02.030.D of said Municipal Code. Following discussion Bill Vernon moved for approval. Nancy Ziese seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that COND-018013-2015 is hereby approved subject to stated conditions:

1. Said lots are to be combined so as to constitute a single zoning lot and tax parcel.
2. Subject property shall be platted per State and City platting regulations.
3. Design guidelines and standards as specified in Subsection 32.05.030.C. shall be met or a variance must be obtained.
4. A bufferyard and screening shall be provided and maintained where adjacent to a single-family residential zoning district or a variance must be obtained. .
5. Review of this proposal is required by the Czech Bohemia Overlay District Design Review Technical Advisory Committee.
6. Lighting fixtures shall be shielded in a manner that shall not direct illumination on adjacent residential properties, or on any public right-of-way as per Subsection 32.05.030.B. of the Zoning Ordinance.
7. The enclosure for the dumpster will need be a full screen enclosure including the gates and preferably designed using the same building material as the principal building as per Subsection 32.05.030.A.7. of the Zoning Ordinance. Please note that chain link with privacy slats do not satisfy this requirement.
8. 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.

9. Signage is not being reviewed at this time. Sign permit applications must be submitted and approved and permits obtained prior to erection of signage (Subsection 32.06.020 & 32.06.030 is the sign regulation in the Zoning Ordinance).

10. That all parking, drives, and storage areas be surfaced per provisions of the Zoning Ordinance. Surfacing to include asphalt, concrete, brick or asphaltic macadam.

11. 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, cementations siding, EIFS, glass, metal (flat, perforated, composite, or ribbed less than 8" OC), architectural paneling, or other similar high quality materials.

COND-04948-2013: A Public Hearing regarding an application submitted by Petitioner Interstate Power & Light /Alliant representing same whose address is 200 1st Street SE, Cedar Rapids, IA (*Titleholder(s)*) hereby petitioning the Board of Adjustment to authorize an "Extension for the Conditional Use Permit" listed and as 69 KV Electrical Substation on the property at 2123,2133, and 2135 Mt. Vernon Road SE, R-3 Single Family Residence Zone District.

Findings of Fact: The Board finds that Petitioner is requesting an extension for the Conditional Use Permit granted on 05-12-2014. Work began last fall to remove two homes. Currently Alliant is working on final construction drawings and plan to begin grading the site in the summer of 2016. Construction will be done in several stages with the final state occurring in 2019. The Board finds no objectors present

Disposition: By a vote of 4-0 the Board of Adjustment approved COND-04948-2013 an application submitted by Petitioner Interstate Power & Light/Alliant representing same whose address is 200 1st Street SE, Cedar Rapids, IA *Owner(s) /Titleholder(s)* hereby petitioning the Board of Adjustment to authorize the issuance of a Certificate of Occupancy which is listed and as 69 KV Electrical Substation on the property at 2123,2133, and 2135 Mt. Vernon Road SE, R-3 Single Family Residence Zone District. Petitioner noted for the record the rate freeze delay and on-going negotiations with neighboring properties. Following discussion Bill Vernon moved for approval of a one year extension citing not detrimental, unique circumstance. Jim Vancura seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that COND-04948-2013 is hereby approved subject to stated conditions:

1. Time Extension for One Year. (08-10-2016)

V35-19719-2015: A Public Hearing regarding an application submitted by Petitioner S & J Homes hereby requesting that the Board of Adjustment authorize the issuance of a Building Permit to construct a new 3.5 feet by 8 feet open deck/landing with possible steps to grade that would be as close as 2.5 feet from the interior side property line in lieu of the minimum 3 feet required setback on the property at 804 G Avenue NW, RTN-Core, Residence Transitional Neighborhood.

Findings of Fact: The Board finds that ●Subsection 32.05.010.B.1. Table 32.05-1 requires a minimum 3 feet single interior side yard setback. The Board acknowledges the Petitioner submitted the required criteria sheet indicating unique circumstances and a hardship that is not self-created as the property is a very narrow corner lot that has been used as infill/redevelopment for a Root Program house. The deck is not for financial gain and is not detrimental as it is not highly visible from the public and will provide a second code compliant access/exit which is not a special privilege. States no other remedy as the door opening is existing. The Board acknowledges the subject lot is a small/narrow corner lot located in a well-established residential

neighborhood within the Core Area of the City. This subject site is the former location of a Church that was built in 1918 and demolished post 2008 flood. The former church site (formerly two lots) was then acquired by the City, rezoned to R-TN which afforded reduced setbacks for infill/redevelopment and offered as part of the Root Program. Two new single family dwellings have been constructed on this site as part of the Root Program. (800 & 804 G Avenue NW). The Board finds no objectors present.

Disposition: By a vote of 4-0 the Board of Adjustment approved V35-019719-2015 an application submitted by Petitioner S & J Homes hereby requesting that the Board of Adjustment authorize the issuance of a Building Permit to construct a new 3.5 feet by 8 feet open deck/landing with possible steps to grade that would be as close as 2.5 feet from the interior side property line in lieu of the minimum 3 feet required setback on the property at 804 G Avenue NW, RTN-Core, Residence Transitional Neighborhood. Following discussion Nancy Lee Ziese moved for approval. Bill Vernon seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V35-019719-2015 is hereby approved subject to stated conditions:

1. A Building Permit shall be obtained for an open deck (not covered or enclosed).

V12-2012: A Public Hearing regarding an application submitted by Petitioner Ralph Taylor hereby requesting that the Board of Adjustment “amend a condition” of a previous variance request – Docket 12-2012 whereas the Board granted a variance to maintain an existing 720 square feet detached accessory structure (residential garage) more than one hundred twenty (120) days prior to the time of the completion of the construction or establishment of the principal structure or use to which it is accessory. The appellant requested that the time of the completion be extended to 5 calendar years from the date of demolition of the primary structure. (Fire damaged dwelling demolished 8-25-2011). The Board acknowledges that the Board granted the variance request subject to stated conditions: 1) Time extension is 2 years from today’s date (decision/meeting date 2-13-2012) allowing for financing and building site plans (2-13-2014). 2) The Variance is subject to current deed holder. The appellant now requests condition number 1 be amended to allow an extension/deadline to provide time to establish a new single family dwelling on the property at 1123 21st Street SE, R-3 Single Family Residence Zone District.

Findings of Fact: The Board finds that ● Subsection 32.04.030.C.1. states no accessory structure or use shall be constructed or established more than one hundred and twenty (120) days prior to the time of completion of the construction or establishment of the principal structure or use to which it is accessory. The Petitioner submitted the required criteria sheet indicating unique circumstances as it is a deep two-plus acre lot that is remnant of the original apple orchard. States not exclusively for financial gain as this is a family dwelling. The demo of a good building will force over budget expenses to rebuild and may delay current plans and timeline to rebuild. States substantial rights denied as has not saved or budgeted to demo and rebuild a garage. States not a special privilege - unlike other home owners, have been paying taxes for a dwelling that no longer exists and would like the opportunity to execute plan and rebuild home. States the time extension is not detrimental as it is a good usable building on a good usable lot and due to financial constraints the previous deadline was exceeded. An extension would grant the opportunity to reach the planned goal within budget and finds no other remedy and without a variance it will create further hardship meeting the specific goal since losing the home. The Board acknowledges the lot is a very large irregular shaped lot (approximately 2.15 acres) in a well-established neighborhood. Subject lot has many mature trees and significant elevation/terrain changes. The original single family dwelling was fire damaged and demolished with the back-fill inspection completed 8-25-2011. The Board finds that Staff has received concerns regarding the request and one written letter of objection to the extension based on the existing garage and car being a nuisance to the neighborhood. As the result of the complaint a Building Official was sent to the property to review the structure conditions. No immediate nuisance or property maintenance conditions were detected. The Board acknowledges Staff has no objection to the request, but has concerns with what appears to have been no progress, voiced complaints/concerns that the property is not being maintained and actual objections to the time extension.

Disposition: By a vote of 4-0 the Board of Adjustment approved V12-2012 an application submitted by Petitioner Ralph Taylor hereby requesting that the Board of Adjustment “amend a condition” of a previous Variance request – Docket 12-2012 whereas the Board granted a Variance to maintain an existing 720 square feet detached accessory structure (residential garage) more than one hundred twenty (120) days prior to the time of the completion of the construction or establishment of the principal structure or use to which it is accessory. The appellant requested that the time of the completion be extended to 5 calendar years from the date of demolition of the primary structure. (Fire damaged dwelling demolished 8-25-2011). The Board acknowledges that the Board granted the Variance request subject to stated conditions: 1) Time extension is 2 years from today’s date (decision/meeting date 2-13-2012) allowing for financing and building site plans (2-13-2014). 2) The Variance is subject to current deed holder. The Petitioner requests that condition number 1 be amended to allow an extension/deadline to provide time to establish a new single family dwelling on the property at 1123 21st Street SE, R-3 Single Family Residence Zone District. Following discussion Bill Vernon moved for approval of an additional time extension subject to conditions. Nancy Lee Ziese seconded, motion carried. Therefore, be it resolved by the Board of Adjustment of the City of Cedar Rapids, Iowa that V12-2012 is hereby approved subject to stated conditions:

1. Within 30 days of the Boards decision, Petitioners must provide documentation in accordance to obtaining a Building Permit and/or proof of purchase for the modular home with a signed contract for construction (foundation) acceptable to the Zoning Administrator. If such proof/deadline is not met, the Petitioners would agree to bring the property into compliance within 30 calendar days or be subject to enforcement/legal action.
2. A final definitive extension date required for established occupancy (Final Certificate of Occupancy) of the principal permitted structure/dwelling would be on/before November 1, 2016.
3. The property must remain in compliance with all building, property maintenance and nuisance codes.

Motion to adjourn at 4:20 PM, motion carried.

Prepared by Patricia A Pfiffner
Recording Secretary Board of Adjustment

