



CITY OF DES MOINES' ZONING BOARD OF ADJUSTMENT AGENDA

FOR THE MEETING SCHEDULED FOR
AUGUST 26, 2020
1:00 PM

Iowa Code Section 21.4 requires that each Council meeting shall be held at a place reasonably accessible to the public and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impracticable. Given Mayor Cownie's March 17, 2020 Proclamation Amendment prohibiting gatherings of ten or more persons on public property during the COVID19 outbreak, the City Manager has determined that to encourage and maintain social distancing to curb the spread of COVID19 in the community, the meeting will be conducted electronically with no public access to the meeting location. To participate in the electronic meeting, access is available via the internet or telephonically (details below).

If you intend to participate in the virtual Zoom meeting via internet or by telephone, the City's Community Development Department requests that you please send an email to Planning@dmgov.org or call (515) 689-9485 at least 24 hours prior to the start of the scheduled meeting, to alert the meeting's moderator that you intend to address the Board. When sending an email or leaving a voice-mail message, please include your name, address, telephone number and the item number that you wish to speak on, state whether you wish to speak in support or in opposition, and attach or identify any evidence (photos, documents, etc.) that you would like the Board members to review. Participants will be allowed to join the virtual Zoom meeting via internet or by telephone at the scheduled time of the meeting, whether or not such prior notice is given to the Community Development Department.

To join the Zoom meeting using internet access, go to the following link:

<https://zoom.us/j/97674736399?pwd=TXZhb0tmUXlEMEZoM1psRTlucFJ6Zz09>
Passcode: 345545

To join the meeting by telephone access please dial the following number and then enter the webinar ID:

1 (312) 626-6799 or 1 (877) 853-5257 (Toll Free)

Webinar ID: 976 7473 6399

You will be muted upon arrival in the meeting. To request to speak during the hearing you please use the "raise hand" function on Zoom via internet or dial *9 on your telephone.

Hearing date is subject to change. Please see <https://www.DSM.city/covid19> and scroll down to the "Public Meetings" link under the heading "City of Des Moines Services impact" or call (515) 689-9485 for the most current information public hearings and public meetings.

PURPOSE OF BOARD OF ADJUSTMENT:

The Zoning Board of Adjustment has the power under Iowa law and the Zoning Ordinance of the City of Des Moines (City Code Chapter 134) to hear requests and make decisions on matters such as Variances and Exceptions from the regulations in the Zoning Ordinance, Conditional Use Permits, Special Permits, and appeals of the decisions of City staff in the administration of the Zoning Ordinance.

MEETING PROCEDURE:

The Board members receive copies of the agenda and staff recommendations before the meeting. Copies of the agenda and staff recommendations are available to the general public.

The Board is required to base its decision on each case upon the criteria established by law for the type of relief sought by the applicant. The law applicable to each case is identified in the written staff report. If the facts, as determined by the Board, demonstrate that the criteria established by law for granting the request have been satisfied, then the Board must grant the request. Otherwise, the Board must deny the request. All speakers are requested to focus their comments upon those facts that demonstrate whether or not the criteria established by law have been satisfied. *All material used as part of any presentation must be submitted as a part of the permanent record and will not be returned.*

Items listed on the Consent Public Hearing Items portion of the agenda will not be individually discussed and will be considered for approval in accordance with the recommendation in the staff report, unless an individual or member of the Board requests that the Item be removed from the Consent Public Hearing Items portion agenda and separately considered under the Non-Consent Public Hearing Items portion of the agenda. Each appeal will be announced in the order it appears on the agenda and then City staff will present a brief explanation of the appeal. Any written comments received by staff prior to the hearing will be distributed to the Board for review.

All speakers are requested to start their presentation by giving their name and address. After staff introduces a request, the appellant or a representative of the appellant is allowed to speak first, and will be allowed ten minutes to present the appeal. Anyone else speaking in support of the appeal will then each be allowed five minutes to present their comments. Anyone speaking in opposition to the appeal will then be allowed five minutes each to present their comments. The appellant/representative will then be allowed three minutes for rebuttal or other closing comments. The hearing will then be closed to public comment and the Board will make a decision. The decision and the reason will be announced.

The Board has 7 members. It takes the affirmative vote of at least 4 members to grant any appeal, regardless of the number of members actually present at any meeting. If 5 or fewer members of the Board are present when the Chair calls an Item, the applicant may request that the Item be continued until the next monthly meeting to have the opportunity to present the matter to a full Board. The request should be made as soon as the Chair calls the Item and before the staff report is given. The Board has discretion to grant or deny any such request. If a continuance is granted, there is no guarantee that more members of the Board will be present at the next meeting.

Following the meeting, any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment under the provisions of this chapter, or any taxpayer, or any officer, department, board, or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

If you have questions, please contact City staff at 515-283-4257 or visit the Zoning Board of Adjustment's website at <http://www.dmgov.org/government/boards/ZoningBoardofAdjustment>.

***** **BEGIN CONSENT PUBLIC HEARING ITEMS** *****
***** **ITEMS 1 through 2** *****

Item 1 ZON 2020-00091 Casey’s Marketing Company, 2106 Echo Valley Drive
Conditional Use Approval

Appellant: Casey’s Marketing Company, represented by Julia L. Jackowski, PO Box 3001, Ankeny, IA 50021.
Premises Affected: 2106 Echo Valley Drive.
Legal Description: On file with the Community Development Department.
Current Zoning: “MX3” Mixed-Use District.
Applicable Neighborhood Association: NA.

Proposal: The Conditional Use Approval would allow sales of alcoholic liquor, in addition to the currently allowed sales wine and beer, by a fuel station use. As a fuel station use, no more than 40% of the gross receipts from sales on the premise could be derived from the sale of alcoholic liquor, wine, beer, or tobacco products.

Appeal(s): Conditional Use Approval (per City Code Section 134-6.4) for alcoholic liquor sales by a fuel station use in an “MX3” District.

Required by City Code Section 134-3.8 & Table 134-3.1-2

Item 2 ZON 2020-00096 Hindu Cultural and Educational Center
1940 & 1960 East Army Post Road Conditional Use Approval

Appellant: Hindu Cultural and Educational Center, represented by Tanka Dhital, 2513 East Porter Avenue, Des Moines, IA 50320.
Premises Affected: 1940 & 1960 East Army Post Road.
Legal Description: On file with Community Development Department.
Current Zoning: “NX2” Neighborhood Mix District.
Applicable Neighborhood Association: Easter Lake Area Neighborhood Association.

Proposal: Construction of a 5,000-square foot building for use as a “Place of Assembly”.

Appeal(s): Conditional Use Approval (per City Code Section 134-6.4) for a “Place of Assembly” use in an “NX2” District.

Required by City Code Table 134-3.1-1& Section 134-3.4.2

***** **END CONSENT PUBLIC HEARING ITEMS** *****

**Item 5 ZON 2020-00089 Casey’s Marketing Company, 2849 East Euclid Avenue
Conditional Use Approval & Zoning Variance**

Appellant: Casey’s Marketing Company, represented by Julia L. Jackowski, PO Box 3001, Ankeny, IA 50021.
Premises Affected: 2849 East Euclid Avenue.
Legal Description: On file with the Community Development Department.
Current Zoning: “MX3” Mixed-Use District.
Applicable Neighborhood Association: Fairmont Park & Douglas Acres Neighborhood Associations.

Proposal: The Conditional Use Approval would allow sales of alcoholic liquor, in addition to the currently allowed sales wine and beer, by a fuel station use. The licensed premise is within 423 feet of a school at 3300 East 29th Street, within 410 feet of a church at 2940 East Ovid Avenue, and within 285 of a church at 3720 East 29th Street. As a fuel station use, no more than 40% of the gross receipts from sales on the premise could be derived from the sale of alcoholic liquor, wine, beer, or tobacco products.

Appeal(s): Conditional Use Approval (per City Code Section 134-6.4) for alcoholic liquor sales by a fuel station use in an “MX3” District.
 Zoning Variance (per City Code Section 134-6.7) of the provision that requires any fuel station use in an “MX3” District selling alcoholic liquor to provide at least 500 feet of separation distance from any church, school, public park, or licensed child care facility.

Required by City Code Section 134-3.8 & Table 134-3.1-2

**Item 6 ZON 2020-00090 Casey’s Marketing Company, 3501 East 14th Street
Conditional Use Approval & Zoning Variance**

Appellant: Casey’s Marketing Company, represented by Julia L. Jackowski, PO Box 3001, Ankeny, IA 50021.
Premises Affected: 3501 East 14th Street.
Legal Description: On file with the Community Development Department.
Current Zoning: “MX3-V” Mixed-Use District.
Applicable Neighborhood Association: Highland Park Neighborhood Association.

Proposal: The Conditional Use Approval would allow sales of alcoholic liquor, in addition to the currently allowed sales wine and beer, by a fuel station use. The licensed premise is within 323 feet of the licensed premise of a controlled use engaged in the sale of alcoholic liquor at 1414 East Euclid Avenue. As a fuel station use, no more than 40% of the gross receipts from sales on the premise could be derived from the sale of alcoholic liquor, wine, beer, or tobacco products.

Appeal(s): Conditional Use Approval (per City Code Section 134-6.4) for alcoholic liquor sales by a fuel station use in an “MX3-V” District.
 Zoning Variance (per City Code Section 134-6.7) of the provision that requires any fuel station use in an “MX3-V” District selling alcoholic liquor to provide at least 1,320 feet of separation distance from the licensed premise any other controlled use engaging in the sale of alcoholic liquor.

Required by City Code Section 134-3.8 & Table 134-3.1-2

Item 9 ZON 2020-00095 Dover Holding, LLC, 2121 Martin Luther King, Jr. Parkway Conditional Use Approval
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Appellant: Dover Holding, LLC, represented by Mark Langfan, 2100 S Ocean Boulevard, Suite 501N, Palm Beach, FL 33480. The business would be operated by In & Out Market Two, LLC, represented by Eric Estes, PO Box 71219, Clive, IA 50325.
Premises Affected: 2121 Martin Luther King, Jr. Parkway. (The business is also addressed as 2127 Martin Luther King, Jr. Parkway.)
Legal Description: On file with the Community Development Department.
Current Zoning: “MX3” Mixed-Use District.
Applicable Neighborhood Association: Mondamin Presidential Neighborhood Association.

Proposal: The Conditional Use Approval would allow sales of alcoholic liquor, wine, and/or beer by a “Retail Sales, Limited” use. As a “Retail Sales, Limited” use, no more than 40% of the gross receipts from sales on the premise could be derived from the sale of alcoholic liquor, wine, beer, or tobacco products.

Appeal(s): Conditional Use Approval (per City Code Section 134-6.4) for sales of alcoholic liquor, wine, and beer by a “Retail Sales, Limited” use in an “MX3” District.

Required by City Code Section 134-3.8 & Table 134-3.1-2

Item 10 ZON 2020-00098 Moore, 4507 Grand Avenue Zoning Variances
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Appellant: Sheryl & Jeremiah Moore, 5 Greenwood Terrace, Des Moines, IA 50312.
Premises Affected: 4507 Grand Avenue.
Legal Description: On file with Community Development Department.
Current Zoning: “NX2” Neighborhood Mix District.
Applicable Neighborhood Association: Ingersoll Park Neighborhood Association.

Proposal: Installation of 7.67-foot wide by 3.85-foot tall (29.56 square feet) freestanding sign that would be supported by two (2) posts and have a maximum height of 8 feet. The sign would be setback less than 25 feet from the property line along Grand Avenue.

Appeal(s): Zoning Variance (per City Code Section 134-6.7) of the provision that requires any freestanding sign to be a monument sign.

Zoning Variance (per City Code Section 134-6.7) of one (1) freestanding sign over the maximum zero (0) freestanding sign allowed for a “Bed & Breakfast” use in an “NX2” District.

Zoning Variance (per City Code Section 134-6.7) of 29.56 square feet of signage area over the maximum zero (0) square feet of signage area allowed for a “Bed & Breakfast” use in an “NX2” District.

Required by City Code Section 134-5 & Table 134-5.5-1

****Approval of Minutes for the July 22, 2020 Zoning Board of Adjustment meeting.**