



CITY OF DES MOINES' ZONING BOARD OF ADJUSTMENT AGENDA

FOR THE MEETING SCHEDULED FOR
NOVEMBER 18, 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 Development Services 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 Development Services Department.

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join. <https://dmgov-org.zoom.us/j/85483281732>
Passcode: 276229

Or join by phone:

Dial (for higher quality, dial a number based on your current location):
US: +1 312 626 6799 or +1 720 928 9299 or 833 548 0276 (Toll Free) or 877 853 5257 (Toll Free)
Webinar ID: 854 8328 1732
International numbers available: <https://dmgov-org.zoom.us/j/85483281732>

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 *******

******* ITEM 1 *******

Each item listed on this portion of the agenda will be reviewed in turn by the Board, at which time the Item will either be approved or forwarded to the Non-Consent Public Hearing portion of the agenda for further discussion and action.

**Item 1 ZON 2020-00136 Neighborhood Development Corporation, 3121 Forest Avenue
Conditional Use Approval**

Appellant: Neighborhood Development Corporation, represented by Abbey Gilroy, 2331 University Avenue, Suite 202, Des Moines, IA 50311.
Premises Affected: 3121 Forest Avenue.
Legal Description: On file with Community Development Department.
Current Zoning: "MX3" Mixed-Use District.
Applicable Neighborhood Association: Drake Neighborhood Association.

Proposal: Use of a new 3,600-square foot building for a "Retail Sales, Limited" use with sales of alcoholic liquor, wine, and/or beer. As a "Retail Sales, Limited" use, no more than 40% of gross receipts from sales could be derived from the sale of alcoholic liquor, wine, beer, and/or tobacco products.
Appeal(s): Conditional Use Approval (per City Code Section 134-6.4) for a "Retail Sales, Limited" use selling alcoholic liquor, wine, and/or beer for off-premise consumption.

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

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

******* BEGIN DISCUSSION PUBLIC HEARING ITEMS *******

The following item has been removed from the agenda:

~~**Item 2 ZON 2020-00127 All Pro Properties, LLC, 225 Watrous Avenue
Appeal of Administrative Decision**~~

~~*This item was continued from the October 28, 2020 Board of Adjustment meeting*~~

~~**Appellant:** All Pro Properties, LLC, represented by Brad Neff, 5431 Gear Street, Prolo, IA 50229.
Premises Affected: 225 Watrous Avenue.
Legal Description: On file with Community Development Department.
Zoning at Time of Application: "N3a" Neighborhood District.
Applicable Neighborhood Association: Watrous Heights Neighborhood Association.~~

~~**Proposal:** Appeal of a notice of violation dated September 22, 2020, which states that "upon inspection there was found to be a prohibited business use (Correctional Placement Residence and / or Group Living not otherwise classified), which is not a principal or accessory allowed use(s) in the N3a zoning district."
Appeal(s): Appeal of an administrative decision (per City Code Section 134-6.9).~~

~~*Required by City Code Section 134-2.2.5 (N3a District); Table 134-3.1-1 (Principal Use Table), & Section 134-3.9 (Accessory Uses)*~~

Item 3	ZON 2020-00103	400 SE 6th Street, LLC, 400 Southeast 6th Street Zoning Variance
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Appellant: 400 SE 6th Street, LLC, represented by Jake Christensen, 215 East 3rd Street, Suite 300, Des Moines, IA 50310. The business is operated as Rita’s Cantina, represented by Andy Massoth, 401 Southeast 5th Street, Des Moines, IA 50309.
Premises Affected: 400 Southeast 6th Street. (The sign is on a building addressed as 401 Southeast 5th Street.
Legal Description: On file with Community Development Department.
Current Zoning: “DX2” Downtown Mixed-Use District.
Applicable Neighborhood Association: Historic East Village Neighborhood Association.

Proposal: Retention of a 2.33-foot by 28-foot (65.33 square feet) sign that has been painted on the west façade of the structure known as 401 Southeast 5th Street.

Appeal(s): Zoning Variance (per City Code Section 134-6.7) of the provision that prohibits painted signs, other than for historic signs, murals, and signs in or on windows.

Required by City Code Section 134-5.2.18

Item 4	ZON 2020-00132	Teachout Properties, LLC, 432 East Locust Street Zoning Variance
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Appellant: Teachout Properties, LLC, represented by Doreen Blunck, 5223 Waterbury Road, Des Moines, IA 50312.
Premises Affected: 432 East Locust Street.
Legal Description: On file with Community Development Department.
Current Zoning: “DX2” Downtown Mixed-Use District.
Applicable Neighborhood Association: Historic East Village Neighborhood Association.

Proposal: Installation of a 2.88-foot by 2.5-foot (7.18 square feet on each side) wall sign that would project up to 3.5 feet from the building and that would be within 10 feet of an existing projecting wall sign on the building in immediately to the west at 430 East Locust Street. The sign would be at least 9 feet above the sidewalk.

Appeal(s): Zoning Variance (per City Code Section 134-6.7) of 20 feet less than the minimum 30 feet of distance required from any other projecting sign.

Required by City Code Section 134-5.3.1.B

Item 5 ZON 2020-00134 SW7 Flats, LLC, 400 Southwest 7th Street Zoning Variance

Appellant: SW7 Flats, LLC, represented by Kris Saddoris, 6900 Westown Parkway, West Des Moines, IA 50266.
Premises Affected: 400 Southwest 7th Street.
Legal Description: On file with Community Development Department.
Current Zoning: “DX2” Downtown Mixed-Use District.
Applicable Neighborhood Association: Downtown Des Moines Neighborhood Association.

Proposal: Retention of a 3.5-foot by 14-foot (49 square feet) sign that has been painted on the north façade of the structure known as 400 Southwest 7th Street and retention of a 3.5-foot by 14-foot (49 square feet) sign that has been painted on the south façade of the structure known as 450 Southwest 7th Street.

Appeal(s): Zoning Variance (per City Code Section 134-6.7) of the provision that prohibits painted signs, other than historic signs, murals, and signs in or on windows.

Required by City Code Section 134-5.2.18

Item 6 ZON 2020-00137 Kirkwood Commons, LLC, 400 Walnut Street Conditional Use Approval

Appellant: Kirkwood Commons, LLC, represented by John Chudy, 10921 North 108th Street, Omaha, NE 68142. The business would be operated by Format Hospitality, dba Platform, represented by Brad Goldman & Jeana Goldman, 3315 Waco Court, Des Moines, IA 50321.
Premises Affected: Vicinity of 400 Walnut Street.
Legal Description: On file with Community Development Department.
Current Zoning: “DX1” Downtown Mixed-Use District.
Applicable Neighborhood Association: Downtown Des Moines Neighborhood Association.

Proposal: Use of 5,273 square feet of area within the ground level of the building (tenant space R-1-4), 750 square feet of area within the mezzanine level of the building (tenant space M-1-1), and 355 square feet of area within patios along the north side of the building, for a “Bar” use or for an “Assembly or Entertainment” use with sales of alcoholic liquor, wine, and/or beer for on-premise consumption”.

Appeal(s): Conditional Use Approval (per City Code Section 134-6.4) for a “Bar” use or “Other” use selling alcoholic liquor, wine, and/or beer for on-premise consumption.

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

****Approval of Minutes for the October 28, 2020 Zoning Board of Adjustment meeting.**