



# CITY OF DES MOINES' ZONING BOARD OF ADJUSTMENT AGENDA

**August 25, 2021**

MEETING TO BEGIN AT 1:00 PM IN THE 2<sup>ND</sup> FLOOR BOARD ROOM  
WITHIN THE CITY'S MUNICIPAL SERVICE CENTER AT  
1551 EAST MARTIN LUTHER KING, JR. PARKWAY, DES MOINES, IA 50317.

***Due to the increased community transmission of COVID-19 in Polk County, we have implemented a face covering requirement in City buildings. The requirement applies to both staff and the visiting public. If you do not have a face covering, one will be provided for you.***

## **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 515-283-4743 or visit the Zoning Board of Adjustment's website at <http://www.dmgov.org/government/boards/ZoningBoardofAdjustment>.

**\*\*\*\*\* BEGIN CONSENT PUBLIC HEARING ITEM \*\*\*\*\***

**\*\*\*\*\* 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.*

<b>Item 1</b>	<b>ZBOA 2021-000002</b>	<b>KG Store 543, LLC</b>	<b>Vicinity of 555 17<sup>th</sup> Street Conditional Uses</b>
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<p><b>Appellant:</b> KG Store 543, LLC, represented by Gerard E. Haberman, 1459 Grand Avenue, Des Moines, IA 50309. The business would be operated by Big Grove Brewery represented by Stephanie Merdan, 508 East Locust Street, Des Moines, IA 50309.</p> <p><b>Premises Affected:</b> Vicinity of 555 17<sup>th</sup> Street.</p> <p><b>Legal Description:</b> On file with Development Services Department.</p> <p><b>Current Zoning:</b> "MX2" Mixed-Use District.</p> <p><b>Applicable Neighborhood Association:</b> Sherman Hill Neighborhood Association</p>
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**Proposal:** Use of a 12,725-square foot tenant bay within the existing building for operation of a microbrewery and bar within the eastern portion of the building, accompanied by a 9,600-square foot patio for outdoor service. The microbrewery component of the restaurant would be considered a "Fabrication and Production, Limited" use.

**Appeal(s):** Conditional Use Approval (per City Code Section 134-6.4) for a "Fabrication and Production, Limited" use in an "MX2" District.

Conditional Use Approval (per City Code Section 134-6.4) for a "Bar" use in an "MX2" District.

*Required by City Code Table 134-3.1-1, 134-3.6.1, & Table 134-3.9-1*

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

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

<b>Item 2</b>	<b>ZBOA 2021-000015</b>	<b>Randolph Apartments Limited Partnership</b>	<b>Type 2 Zoning Exception</b>
		<b>405 Court Avenue</b>	

**Appellant:** Randolph Apartments Limited Partnership & NKA Randolph Apartment, LLC, represented by Joseph Coppola, 300 Walnut Street, Unit 24, Des Moines, IA 50309. The business would be operated by Insomnia Cookies, represented by John McCall, 1601 SE Gateway Drive, Unit 100, Grimes, IA 50111.  
**Premises Affected:** 405 Court Avenue. The tenant space is located on a parcel known as 202 4<sup>th</sup> Street.  
**Legal Description:** On file with Development Services Department.  
**Zoning:** "DX2" Downtown Mixed-Use District.  
**Applicable Neighborhood Association:** Downtown Des Moines Neighborhood Association.

**Proposal:** Installation of the following window signs:  
• A 4.33-foot by 5.17-foot (22.39 square feet) window sign within a 7.25-foot by 5.17-foot (37.48 square feet) storefront window, where the sign covers 59.71% of the window.  
• A 4.33-foot by 1.83-foot (7.93 square feet) window sign within a 5.33-foot by 1.83-foot (9.75 square feet) door window, where the sign covers 81.33% of the window.

**Appeal(s):** Type 2 Zoning Exception (per City Code Sections 134-3.5.3 & 134-6.6) of the provision that only allows window signage, whether by decal or paint, to cover a maximum of 25% of any window.

*Required by City Code Section 134-5.4.4*

**\*\*Approval of Minutes for the July 28, 2021 Zoning Board of Adjustment meeting.**