

★ **Roll Call Number**

Agenda Item Number

60

Date July 27, 2009

WHEREAS, on June 13, 2009, by Roll Call No. 09-1220, it was duly resolved by the City Council that the proposal to amend Section 134-1296 of the Zoning Ordinance, to allow a legal non-conforming single-family dwelling to be rebuilt upon a lot of record existing of record as of July 16, 1965, upon the original building footprint without an increase in gross floor area, as more fully described in Exhibit "A" attached hereto, be set down for hearing on July 27, 2009, at 5:00 p.m., in the Council Chambers at City Hall; and

WHEREAS, due notice of the hearing was published in the Des Moines Register as provided by law on July 16, 2009; and

WHEREAS, in accordance with the notice, those interested in the proposed amendments, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa:

That upon consideration of the facts, statements of interested persons and arguments of counsel, the objections to said proposed amendments to the Zoning Ordinance be and the same are hereby overruled, and the hearing closed.

(Council Communication No. **09-517**)

MOVED by _____ to adopt and approve, subject to final passage of the enacting ordinance.

FORM APPROVED:

Roger K. Brown

Roger K. Brown

Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

MOTION CARRIED

APPROVED

.....
Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

"Exhibit A"
Proposed Amendment to Sec. 134-1296(b) :
Addition to Lot of Record Provision

Sec. 134-1296. Permitted.

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- (b) Use of existing lots of record. In any district where dwellings are permitted, a single-family detached dwelling may be located on any lot platted or of record as of July 16, 1965, regardless of its area or width; provided, however, that the following shall apply:
- (1) The front yard setback requirements for the district in which such lot is located shall apply, except where such lot is a corner lot, in which case the front yard setback requirement shall apply only to the shorter street side of the lot.
 - (2) The sum of the side yard widths of any such lot shall not be less than 30 percent of the width of the lot, but in no case less than ten percent of the width of the lot for any one side yard. Additionally, where such lot is a corner lot, the width of the side yard on the longer street side of the corner lot shall not be less than (i) 50 percent of the front yard required on the lot to the rear if there is reverse frontage, or (ii) the side yard setback for the district in which the corner lot is located if there is no reverse frontage.
 - (3) The depth of the rear yard of any such lot shall not be less than 20 percent of the depth of the lot, but in no case less than ten feet.
 - (4) If the application of any of the requirements of subsections (b)(1), (2) and (3) of this section to a particular lot would impose a greater setback than required under the regulations of the district in which the lot is located, the lesser setback requirements of the district regulations shall control.
 - (5) Notwithstanding the setback requirements set forth above, the minimum single-family dwelling design requirements set forth in section 134-342(1)(a) and (b), and the restrictions on nonconforming lots and structures set forth in section 134-1352, a legal non-conforming single-family dwelling on such a lot within the R1 one-family residential districts, the R-2 one- and two-family residential districts, the R-3 multiple-family residential district, and the R-4 multiple-family residential district can be repaired or replaced provided the dwelling remains within the original building footprint without an increase in the gross floor area, and further provided the construction of such replacement is commenced within six months of the destruction of the original dwelling and diligently pursued to completion.

If two or more such lots with continuous frontage are combined under single ownership, such combined lots shall be treated as a single lot for purposes of applying the requirements of subsections (b)(1), (2), (3) and (4) of this section. Where a portion of any such lot platted or of record as of July 16, 1965 is conveyed to a governmental body for public right-of-way purposes, the regulations of this subsection shall continue to apply to the remainder of such lot.

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Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held July 16, 2009, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus	X			
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Dann Flaherty	X			
Ted Irvine	X			
Jeffrey Johannsen	X			
Greg Jones	X			
Frances Koontz				X
Jim Martin	X			
Brian Millard	X			
Mike Simonson	X			
Kent Sovern	X			

APPROVAL of the proposed amendments to the City Code to revise standards for residential Lot of Record allowing a single-family dwelling to be rebuilt on the original building footprint without an increase in gross floor area. (10-2009-5.03)

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Staff recommends approval of the proposed amendments to the City Code.

STAFF REPORT

I. BACKGROUND INFORMATION

Attached are proposed revisions to City Code Section 134-1296(b), as recommended by the Regulations and Ordinances (R&O) Subcommittee. The revisions would allow a legal non-conforming single-family dwelling to be rebuilt within the original building footprint without an increase in gross floor area if it becomes more than 60% destroyed. The work would be required to be commenced under authority of a building permit within 6-months of when the damage occurs. This subsection would only apply to single-family dwellings in "R1" One-Family Residential Districts, "R-2" One- and Two-Family Residential Districts, "R-3" Multiple-Family Residential Districts, and "R-4" Multiple-Family Residential Districts.



CITY PLAN AND ZONING COMMISSION
ARMORY BUILDING
602 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309 -1881
(515) 283-4182

ALL-AMERICA CITY
1949, 1976, 1981
2003

Currently single-family dwellings destroyed more than 60% can only be repaired or rebuilt if the dwelling can satisfy all bulk regulations (i.e. setbacks and lot area requirements) and single-family design standards (i.e. dwelling width and minimum roof pitch). If all bulk regulations and design standards would not be met, the Zoning Board of Adjustment must grant the necessary appeals before the structure can be repaired or rebuilt. The purpose of this amendment is to create an exception to the rule to allow non-conforming single-family dwellings to be repaired or replaced within the original footprint so long as the work is commenced within 6 months of when the damage occurs.

This proposed amendment is a response to citizen concerns as banking institutions have tightened their lending requirements in recent months. Before financing can be provided, banks need assurance that a legal non-conforming single-family can be repaired or rebuilt if 60% destroyed.

SUMMARY OF DISCUSSION

Greg Jones asked if anyone needed clarification on this item.

There was no one in the audience to speak in opposition.

COMMISSION ACTION

Leisha Barcus moved staff recommendation to approve the proposed amendments to the City Code to revise standards for residential Lot of Record allowing a single-family dwelling to be rebuilt on the original building footprint without an increase in gross floor area.

Motion passed 12-0.

Respectfully submitted,



Bert Drost, AICP
Senior City Planner

BAD:clw

cc: File