



Roll Call Number

Agenda Item Number

58

Date April 11, 2016

REVIEW OF ZONING BOARD OF ADJUSTMENT DECISION GRANTING A USE VARIANCE TO ALLOW SALVAGE YARD USE LOCATED AT 712 AND 718 SOUTHEAST ASTOR STREET

WHEREAS, on March 23, 2016, the Zoning Board of Adjustment voted 7-0 to approve an application from Dale Jones (owner) for a use variance to allow use of 28,000 square feet (0.64 acre) upon the real property located at 712 and 718 Southeast Astor Street for salvage yard to be operated in common with the existing salvage yard use at 1520 Maury Street, subject to certain conditions set forth in the Decision and Order of the Board as attached hereto; and

WHEREAS, Iowa Code §414.7 and Section 134-65(d) of the Zoning Ordinance require that any use variance granted by the Board be forwarded to the City Council for its review, and the City Council may remand the use variance back to the Zoning Board of Adjustment for further study if the Council believes the variance was improperly granted.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, as follows:

ALTERNATIVE RESOLUTIONS

- A The City Council remands the Decision and Order to the Zoning Board of Adjustment for further study. The effective date of the Board's decision will be deferred for 30 days from the date of this remand.
B The City Council takes no action to review the Decision and Order. The decision of the Board will become final on April 29, 2016.
C The City Council declines to remand the decision to the Zoning Board of Adjustment. The decision of the Board becomes final on this date.

(Council Communication No. 16-174)

MOVED by _____ to receive and file the staff report and comments received, and to adopt alternative _____, above.

APPROVED AS TO FORM:

Glenna K. Frank, Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MOORE, WESTERGAARD, TOTAL, MOTION CARRIED, APPROVED.

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.

Mayor

City Clerk



**ZONING BOARD OF ADJUSTMENT
CITY OF DES MOINES, IOWA
DECISION AND ORDER**

This Decision and Order of the Board of Adjustment does not constitute approval of any construction. All necessary permits must be obtained before any construction is commenced upon the Property. A Certificate of Occupancy must be obtained before any structure is occupied or re-occupied after a change of use.

Any use allowed by this Decision and Order shall not be commenced or resumed until all the requirements imposed on such use by the Zoning Ordinance and this Order have been satisfied.

The use allowed by this Order must be commenced within **two years** or this Order will be void and of no further force and effect.

IN THE MATTER OF THE APPEAL FROM	:	DOCKET: ZON 2016-00037
DALE JONES	:	
ON PROPERTY LOCATED AT	:	PUBLIC HEARING: MARCH 23, 2016
712 & 718 SOUTHEAST ASTOR STREET	:	

SUBJECT OF THE APPEAL

Proposal: Use of an area measuring 100 feet by 280 feet (28,000 square feet or 0.64 acre) for a salvage yard use that would operate in common with an existing salvage yard use at 1520 Maury Street. This proposed salvage storage area would be within 0 feet of the north front property line along Shaw Street, within 0 feet of the east front property line adjoining Southeast Astor Street, within 0 feet of the south property line, and within 0 feet of the west property line adjoining a north/south alley right-of-way. The proposed storage area would be surrounded by an 8-foot tall solid fence.

Appeal(s): Use Variance of the permitted uses in an "M-1" Light Industrial District (salvage yard use).
Variance of the minimum 25-foot front yard setback required for a salvage storage area.

Required by City Code Sections 134-1087, 134-1090(1), & 134-1296(i)(2)(a)

FINDING

Granting the Use Variance would be consistent with the intended spirit and purpose of the Zoning Ordinance and in harmony with the essential character of the locality of the land in question so long as a minimum 12.5-foot wide setback back is provided along both the Southeast Astor Street and Shaw Street frontages. The appellant faces a hardship in utilizing the property given its location in close proximity to other existing salvage yards. Furthermore, the 100-foot depth (east to west) of the property also creates a practical difficulty in utilizes the site, which necessitates the Exception to allow a 12.5-foot front yard setback. The visual impact of the proposed salvage yard use would be minimized by the required solid screen around the perimeter and by the required landscaping materials. Any other negatives impacts of a salvage yard use would be minimized by full compliance with the conditions of the approval.

DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for a Use Variance of the permitted uses in an "M-1" Light Industrial District and an amended appeal for an Exception of 12.5 feet less than the minimum required 25-foot front yard setbacks, to allow use of an area measuring 87.5 feet by 267.5 feet (23,406.25 square feet) for a salvage yard use that would operate in common with an existing salvage yard use at 1520 Maury Street, where the proposed salvage storage area would be within 12.5 feet of the north front property line along Shaw Street and within 12.5 feet of the east front property line adjoining Southeast Astor Street, are **granted** subject to the following conditions:

1. The salvage yard shall be surrounded by a solid screen up to 12 feet in height that is setback at least 12.5 feet from the front property lines along Southeast Astor Street and Shaw Street.
2. The 12.5-foot wide setback shall be landscaped in accordance with the Landscape Standards for Parking Lot Perimeter Plantings as applicable in the "M-1" Light Industrial District. The existing trees can be counted toward the required plantings.
3. The proposed location, design, construction and operation of the particular use shall adequately safeguard the health, safety and general welfare of persons residing or working in adjoining or surrounding property.
4. The use shall not impair an adequate supply of light and air to surrounding property.
5. The use shall not unduly increase congestion in the streets, or public danger of fire and safety.
6. Such use shall not diminish or impair established property values in adjoining or surrounding property.
7. Such use shall be in accord with the intent, purpose and spirit of the Zoning Ordinance and the comprehensive plan.
8. All driveways, parking lots and areas used for temporary storage of vehicles shall be surfaced with an asphaltic or Portland cement binder pavement or such other surfaces as shall be approved by the city engineer so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area.
9. All areas outside a completely enclosed building used for the storage of inoperable or unsafe vehicles, junk or salvage materials shall be enclosed on all sides by a solid opaque fence and gates at least eight feet in height and of uniform design and color, and should be effectively screened from public view. If such area abuts an area upon the adjoining property which is also used for the storage of inoperable or unsafe vehicles, junk or salvage materials, no fence or setback is required along the common property line while such adjoining use continues. All fences shall be maintained in good repair.
10. Junk and salvage materials shall not be stacked higher than the perimeter fence within 75 feet of the fence and shall not be stacked higher than 25 feet.
11. The dismantling or repair of vehicles shall occur only upon an impermeable surface with adequate provision for the collection and disposal of fluids and wastes.

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DALE JONES
712 & 718 SOUTHEAST ASTOR STREET
ZON 2016-00037

MARCH 23, 2016

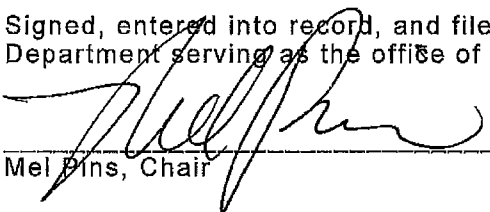
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- 12. Any junk or salvage yard shall provide a paved area for the receipt and temporary storage of material which is screened from the adjoining public right-of-way.
- 13. The best practical control technology shall be employed to minimize any obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance generated by the proposed use, and the best practical means known shall be employed for the disposal of refuse matter.

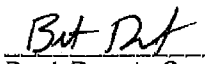
VOTE

The foregoing Decision and Order was adopted by a vote of 7-0, with all Board members voting in favor thereof.

Signed, entered into record, and filed with the City of Des Moines Community Development Department serving as the office of the Board, on March 30, 2016.



 Mel Pins, Chair



 Bert Drost, Secretary