



Date January 8, 2018

**REVIEW OF ZONING BOARD OF ADJUSTMENT DECISION
GRANTING AN USE VARIANCE TO ALLOW TWO RESIDENTIAL
DWELLING UNITS AT 1517 23RD STREET**

WHEREAS, GNY Investments, LLC, as property owner, has requested an Use Variance to resume use of the existing structure located at 1517 23rd Street as a multi-family residential structure containing up to four (4) dwelling units rather than as a single-family dwelling as required by the applicable zoning district; and

WHEREAS, on December 20, 2017, the Zoning Board of Adjustment voted 5-2 to approve an application from GNY Investments, LLC for variance of the permitted principal uses (Use Variance) in the “R1-60” One-Family Low-Density Residential District, in order for the structure to be used for two (2) residential dwelling units, and the Board found that the use of the structure for two dwelling units would be consistent with the PlanDSM: Creating Our Tomorrow Future Land Use Plan property designation of Low Density Residential including “areas developed with primarily single-family and two-family residential units”; 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 January 27, 2018.
- 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.

★ Roll Call Number

Agenda Item Number

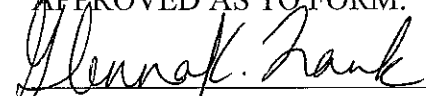
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Date January 8, 2018

(Council Communication No. 18- D11)

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

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
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

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**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 2017-00205
	:	
GNV INVESTMENTS, LLC	:	
	:	PUBLIC HEARING: DECEMBER 20, 2017
ON PROPERTY LOCATED AT	:	
	:	
1517 23RD STREET	:	

SUBJECT OF THE APPEAL

Proposal: Use of the existing structure for a multiple-family residential use with four (4) dwelling units.

Appeal(s): Variance of the permitted principal uses (Use Variance) in the "R1-60" One-Family Low-Density Residential District.

Required by City Code Sections 134-65 & 134-412

FINDING

The Board finds that it would not be appropriate to grant the Use Variance as requested, as allowing the structure to resume use as multiple-family residential structure containing four (4) dwelling units after being vacant for an extended period of time would not be in harmony with the essential character of the area surrounding the land in question. However, the Board finds that the appellant has satisfied the criteria necessary for granting a revised appeal for a Use Variance that would allow the premise to contain two (2) dwelling units only. An unnecessary hardship has been demonstrated, as the 3,132-square foot structure is too large to be readily marketable as a single-family dwelling given the significant investment that would be necessary in order to renovate the structure that is currently configured as four (4) separate dwelling units. Since the structure would only contain two (2) dwelling units, it would not be considered a multiple-family residential use. Furthermore, use of the structure for two (2) dwelling units would be in conformance with the PlanDSM Creating Our Tomorrow Future Land Use Plan that designates this area as Low Density Residential, which is described as "areas developed with primarily single-family and two-family residential units".

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GNY INVESTMENTS, LLC
1517 23RD STREET
ZON 2017-00205

DECEMBER 20, 2017

DECISION AND ORDER

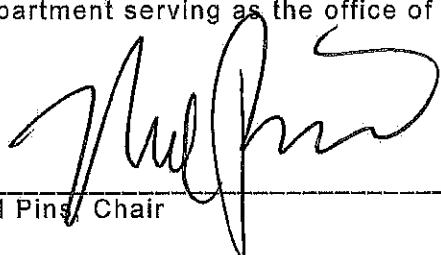
WHEREFORE, IT IS ORDERED that an appeal for a Variance of the permitted principal uses (Use Variance) in the "R1-60" One-Family Low-Density Residential District, is **granted** subject to the following conditions:

1. The structure shall contain no more than two (2) dwelling units.
2. Prior to residential occupancy of the building, one (1) of the three (3) currently existing storage sheds shall be removed from the premise and the remaining two (2) storage sheds shall be relocated to the rear yard of the property.
3. Any renovation of the structure or construction on the site shall comply with all applicable Building Codes with issuance of all necessary permits by the City's Permit and Development Center.

VOTE

The foregoing Decision and Order was adopted by a vote of 5-2, with Board members Blake, Gaer, Mortice, Pins, and Smith voting in favor thereof and Board members Carlson and Chiodo voting in opposition thereto.

Signed, entered into record, and filed with the City of Des Moines Community Development Department serving as the office of the Board, on December 27, 2017.



Mel Pins, Chair



Bert Drost, Secretary