

Date June 11, 2018

REVIEW OF ZONING BOARD OF ADJUSTMENT DECISION GRANTING USE VARIANCE TO ALLOW TIRE REPAIR SHOP ON PROPERTY LOCATED AT 2200 EASTON BOULEVARD

WHEREAS, on May 23, 2018, the Zoning Board of Adjustment voted 5-0 to approve an application from Angel Groff (owner) for an use variance to allow use of the property locally known as 2200 Easton Boulevard for a tire repair shop, 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 June 22, 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.

(Council Communication No. 18-285)

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

APPROVED AS TO FORM:

Glenna K. Frank

 Glenna K. Frank, Assistant City Attorney

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



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

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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 2018-00073
	:	
ANGEL GROFF	:	
	:	PUBLIC HEARING: MAY 23, 2018
ON PROPERTY LOCATED AT	:	
	:	
2200 EASTON BOULEVARD	:	

SUBJECT OF THE APPEAL

Proposal: Use of the property for tire repair shop and retention of an off-street parking lot that is within 2.5 feet of the front property lines along Easton Boulevard and East 22nd Street.

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

Variance of 27.5 feet less than the minimum 30 feet of setback required for off-street parking and loading from a front property line in a Residential District.

Required by City Code Sections 134-412, 134-1377(f)(2)(a)(8), 134-1377(m)(1), & 134-414(3)

FINDING:

The Board finds that the requested Use Variance and Variance are within the intended spirit and intent of the Zoning Ordinance. The land in question cannot yield a reasonable return from any use permitted by the regulations of the district in which the land is located ("R1-60" One-Family Low-Density Residential District). The plight of the owner is due to unique circumstances not of the owner's own making and relating specifically to the land in question, as the site is constrained by its size, shape and placement of the existing building. It is historically configured for an auto-oriented business with a parking lot that has minimal setbacks. The Board finds that it would be within the essential character of the surrounding neighborhood if the business were to conform to multiple conditions of approval that would adequately protect the surrounding neighborhood area.

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ANGEL GROFF
2200 EASTON BOULEVARD
ZON 2018-00073

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MAY 23, 2018

DECISION AND ORDER

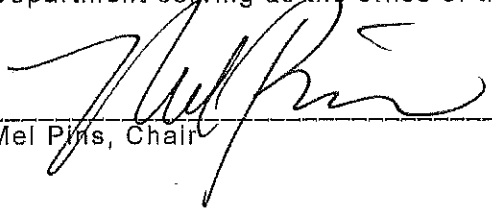
WHEREFORE, IT IS ORDERED that the appeals for a Variance of the permitted uses in an "R1-60" One-Family Low-Density Residential District and a Variance of 27.5 feet less than the minimum 30 feet of setback required for off-street parking and loading from a front property line in a Residential District, to allow use of the property for tire repair shop and allow retention of an off-street parking lot that is within 2.5 feet of the front property lines along Easton Boulevard and East 22nd Street, are **granted** subject to the following conditions:

1. Any commercial use of the property shall be limited to a tire repair shop business and shall not occur until a Certificate of Occupancy has been issued for such.
2. Any use of the property for a tire repair shop business shall be in accordance with a Site Plan as approved by the Permit and Development Center.
3. Any use of the existing buildings shall be in accordance with all Building Codes and Fire Codes, with issuance of all necessary permits by the City's Permit and Development Center.
4. There shall be no outdoor storage of any equipment or materials, including but not limited to new or used tires, barrels, or tools.
5. No vehicle shall be kept on the premise for more than 48 consecutive hours.
6. Display of vehicles for sale is prohibited.
7. Outdoor repair and servicing of vehicles is prohibited.
8. Outdoor display of automobile accessories or tires is prohibited.
9. All refuse and trash disposal containers are contained within an enclosure that complies with all Zoning and Site Plan regulations.
10. Automobiles shall only be parked in marked parking spaces in accordance with the approved Site Plan.
11. All landscaping required on the approved Site Plan shall be continuously maintained for the life of the Certificate of Occupancy.
12. Any signage for the business shall be limited to a wall-mounted sign that complies with the sign regulations applicable in a "C-1" District.
13. A copy of the Board's Decision and Order shall be recorded at the appellant's expense to ensure that any future property owners are aware of these conditions.
14. The Zoning Enforcement Officer shall bring the Use Variance back to the Zoning Board of Adjustment for reconsideration at any time that the use becomes a nuisance to surrounding properties or violates the conditions of approval.

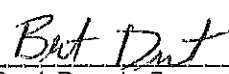
VOTE

The foregoing Decision and Order was adopted by a vote of 5-0, with all Board members present 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 May 30, 2018.



 Mel Pines, Chair



 Bert Drost, Secretary