

Date July 9, 2018

**REVIEW OF ZONING BOARD OF ADJUSTMENT DECISION GRANTING USE VARIANCE
TO ALLOW MULTI-FAMILY RESIDENTIAL USE ON PROPERTY
LOCATED AT 1120 26TH STREET**

WHEREAS, on June 27, 2018, the Zoning Board of Adjustment voted 5-0 to approve an application from Lockstep, LLC (owner) for an use variance to allow use of the property locally known as 1120 26th Street for a two-family residential dwelling, 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 July 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.

(Council Communication No. 18- 345)

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**

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 2018-00092
	:	
LOCKSTEP, LLC	:	
	:	
ON PROPERTY LOCATED AT	:	PUBLIC HEARING: JUNE 27, 2018
	:	
	:	
1120 26TH STREET	:	

SUBJECT OF THE APPEAL

- Proposal:** Use of the existing structure for a multiple-family residential use with three (3) dwelling units. The property would provide at least five (5) off-street parking spaces in the rear yard of the property.
- 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

Given the overall size of the structure, the appellant has demonstrated the criteria necessary for granting a Use Variance. An unnecessary hardship has been demonstrated, as the land in question would not be able to yield a reasonable return from the uses permitted on the property, such as any use as allowed in the "R1-60" One-Family Low-Density Residential District. The market rent for a single-family dwelling would not generate enough income to cover the rehabilitation cost and yield a reasonable return to maintain the property over time. Furthermore, the proposed use to be authorized by a Variance would not alter the essential character of the locality of the land in question so long as it is converted to only a two-family dwelling. A multiple-family residential use would be less in keeping with the intended essential character and would generate higher costs for rehabilitation of the structure under the building and fire codes, such as possible fire sprinklers, and would generate more parking demand.

The Drake Neighborhood Association representatives stated during the rezoning process that one (1) to three (3) residential units would be acceptable given the context of the surrounding neighborhood having several multiple-family conversions.

The subject property is within an area designated on the PlanDSM Future Land Use Plan Map as Low-Medium Density Residential, which is described as "areas developed with a mix of single family, duplex and small multi-family units up to 12 units per net acre." The proposed three (3) dwelling units on a 0.132-acre parcel represents a net density of 22.73 units per acre. Two (2) units would be closer to that density with 15.15 units per acre. Therefore, the proposed three (3) dwelling units would not be as compatible with the City's future land use plan as allowing only two (2) dwelling units.

DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal of a Variance of the permitted principal uses (Use Variance) in the "R1-60" One-Family Low-Density Residential District, to allow use of the existing structure for a multiple-family residential use with three (3) dwelling units, is **denied**.


AND, WHEREFORE, IT IS ORDERED that the appeal of a Variance of the permitted principal uses (Use Variance) in the "R1-60" One-Family Low-Density Residential District, to allow use of the existing structure for a multiple-family residential use with only two (2) dwelling units, is **granted** subject to the following conditions:

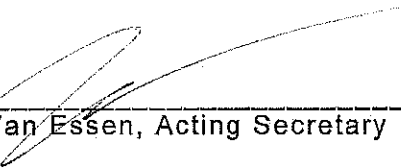
1. Compliance with applicable Building and Fire Codes with issuance of any necessary permits by the City's Permit and Development Center.
2. Issuance of all necessary rental certificates by the Neighborhood Inspection Division of the City for any rental of the property.

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 July 3, 2018.


Mel Pits, Chair


Jason Van Essen, Acting Secretary