



**Date** April 7, 2025

**REVIEW OF ZONING BOARD OF ADJUSTMENT DECISION CONDITIONALLY GRANTING A VARIANCE TO A SEPARATION DISTANCE REQUIRED TO ALLOW USE OF THE PROPERTY AT 601 ARMY POST ROAD FOR AN “ANIMAL SERVICE” USE WITHIN 20 FEET OF AN “N3A” NEIGHBORHOOD DISTRICT**

**WHEREAS**, the real property locally known as 601 Army Post Road (“Property”), owned by February 30<sup>th</sup> Properties (“Owner”) measures approximately 1.751 acres is located along the north side of Army Post Road which contains a mix of commercial and residential uses; and

**WHEREAS**, the Property is zoned Limited “MX3” Mixed-Use District; and

**WHEREAS**, the Property’s zoning conditions limit the Property’s use to those allowed by the “Animal Service” Use Category; and

**WHEREAS**, Des Moines Municipal Code section 134-3.5.2 requires any “Animal Service” use to be separated from any “N” Neighborhood District by at least 75 feet; and

**WHEREAS**, no portion of the Property is more than 75 feet from any “N” Neighborhood District so a variance is required in order to use the Property for any “Animal Service” use; and

**WHEREAS**, the Owner previously made application for a zoning variance to the separation distance requirement and on March 24, 2021, the Zoning Board of Adjustment, by Docket No. ZON2021-00027 granted a variance of the separation distance requirement; and

**WHEREAS**, on April 5, 2021, the City Council declined to remand the decision of the Zoning Board of Adjustment in Docket No. ZON2021-00027; and

**WHEREAS**, the March 24, 2021 variance expired because no construction under the variance was commenced within the two-year period following the Board’s decision; and

**WHEREAS**, the owners are now ready to begin construction and have filed an application for a new variance which was granted by the Zoning Board of Adjustment at its meeting on March 26, 2025 by a vote of 6-0 with one member absent subject to the following conditions to which the Owner has agreed:

1. The outdoor exercise runway measuring generally 50 feet by 100 feet will be surrounded by a solid wooden fence at least 8 feet in height

; and



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**WHEREAS**, Iowa Code § 414.7 and Section 134-6.7.8(C) 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 variance of the separation requirement 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**

**(Choose One)**

- 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 30, 2025.
- 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. 25-141)

Moved by \_\_\_\_\_ to adopt    Second by \_\_\_\_\_  
Alternative \_\_\_\_\_.

**APPROVED AS TO FORM:**

/s/ Gary D. Goudelock Jr.  
Gary D. Goudelock Jr.  
Assistant City Attorney



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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN				
SIMONSON				
VOSS				
COLEMAN				
WESTERGAARD				
MANDELBAUM				
GATTO				
TOTAL				

MOTION CARRIED

APPROVED

\_\_\_\_\_  
Mayor

**CERTIFICATE**

I, LAURA BAUMGARTNER, 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.

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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.

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IN THE MATTER OF THE APPEAL FROM	:	DOCKET: <b>ZBOA-2025-000006</b>
	:	
<b>FEBRUARY 30<sup>TH</sup> PROPERTIES, LLC</b>	:	
	:	PUBLIC HEARING: <b>MARCH 26, 2025</b>
ON PROPERTY LOCATED AT	:	
	:	
<b>VICINITY OF 601 ARMY POST ROAD</b>	:	

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**SUBJECT OF THE APPEAL**

**Proposal:** Use of the property for an “Animal Service” use, that would include an outdoor exercise runway, generally measuring 50 feet by 100 feet, which would be within 20 feet of the northerly property line adjoining an “N3a” Neighborhood District. The outdoor exercise runway would be surrounded by an 8-foot tall solid wood fence. The Board of Adjustment previously granted this request by Docket ZON2021-00027, on March 24, 2021, which expired on March 29, 2023.

**Appeal(s):** Zoning Variance of the provision that requires outdoor boarding or outdoor exercise runways for an “Animal Service” use to provide at least 75 feet of separation distance from any “N” Neighborhood District within a Limited “MX3” Mixed-Use District.

*Required by City Code Table 134-3.1-1, and Sections 134-3.5.2 & 134-6.7.*

**FINDING**

The Board finds granting the requested Variance would be consistent with the intended spirit and purpose of the Zoning Ordinance, as the criteria required for granting a Variance, as contained in City Code Section 134-6.7.7.A, have been satisfied. The appellant has demonstrated that they face an unnecessary hardship, as the land in question cannot yield a reasonable return from the uses permitted on the property. The conditional zoning imposed by Ordinance 15,971 generally limits use of the property to uses as defined by the Animal Service Use Category. However, all portions of the subject property are within 75 feet of an “N” District as measured to the property lines of the nearest residential lot. Although the homes on the adjacent lots are not near their lot lines, the point from which measurement is made leaves no opportunity for

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outdoor boarding of animals or an outdoor exercise runway for animals, without this Variance. The result, without this Variance, is that no part of the property can be used for the specific use which is permitted by the conditional zoning of this property. Any impacts of outdoor boarding or an outdoor exercise runway would be minimal given the site's location along the heavily travelled Army Post Road and given the fact that it would be surrounded by a minimum 8-foot tall solid wood fence as well as further insulated from noise by overstory trees that the developer is planting. The outdoor exercise runway will be in use during daytime hours and any animals within the exercise runway will be supervised, which is also likely to minimize disturbance to nearby residents.

DECISION AND ORDER

*WHEREFORE, IT IS ORDERED* that the appeal for the requested Zoning Variance of the provision that requires outdoor boarding or outdoor exercise runways for an "Animal Service" use to provide at least 75 feet of separation distance from any "N" Neighborhood District, to allow an "Animal Service" use, that would include an outdoor exercise runway, generally measuring 50 feet by 100 feet, which would be within 20 feet of the northerly property line adjoining an "N3a" Neighborhood District and be surrounded by an 8-foot tall solid wood fence **is granted**. The decision must be reviewed by City Council (likely on April 7, 2025).

VOTE

The foregoing Decision and Order was adopted by a vote of 6-0 with all Board Members voting in favor thereof.

Signed, entered into record, and filed with the City of Des Moines Development Services Department serving as the office of the Board, on March 31, 2025.



Mel Pins, Board Chair



Frank Dunn-Young, Board Secretary