



Date October 20, 2025

REVIEW OF ZONING BOARD OF ADJUSTMENT DECISION CONDITIONALLY GRANTING A USE VARIANCE FOR A “COMMERCIAL SERVICE STUDIO OR INSTRUCTIONAL SERVICE” USE IN A “F” FLOOD DISTRICT, ON PROPERTY AT 414 61ST STREET OWNED BY 414 61ST STREET, LLC

WHEREAS, the real property locally known as 414 61st Street (“Property”), owned by 414 61st Street, LLC (“Owner”) measures approximately 1.16 acres and contains a vacant 4,868 square foot building, and is located along the west side of 61st Street to the north side of Grand Avenue, adjacent to Walnut Creek; and

WHEREAS, the Property is located within the FEMA-designated 100-year Floodplain and is, therefore, zoned “F” Flood District; and

WHEREAS, Des Moines Municipal Code sections 134-6.7 requires the Owner to obtain a variance from the Zoning Board of Adjustment in order to build or use the property for certain uses, including, but not limited, to “Office: Business or Professional” use; and

WHEREAS, the Owner made such application and on January 22, 2025, the Zoning Board of Adjustment voted 7-0 to approve an application from 414 61st Street for a use variance to allow the Owner/Occupant to use the property for “Office: Business or Professional” use; and

WHEREAS, on February 10, 2025, the City Council declined to remand the decision of the Zoning Board of Adjustment granting the use variance and the decision of the Board was finalized on that date; and

WHEREAS, the property owner has attempted to use the property within the previously-granted use variance’s parameters but has not found a suitable tenant fitting those parameters; and

WHEREAS, the property owner has found a suitable tenant who proposes to use the property for personal and group fitness classes; and

WHEREAS, such use would require an amended use variance; and

WHEREAS, the property owner applied for, and on September 24, 2025, the Zoning Board of Adjustment, conditionally granted such variance for use as a “Commercial Service, Studio or Instructional Service, subject to the following conditions to which the Owner has agreed:

1. Any site improvements shall be in accordance with applicable standards of Chapter 50 of the Municipal Code.



Date October 20, 2025

2. Any use of the premises shall be for a “Commercial Service Studio or Instructional Service” use and/or any compatible use as determined by the Zoning Enforcement Officer.
3. Any design and use of the existing building shall not impede emergency access to the subject property or surrounding neighborhood.
4. 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.
5. 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.
6. 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 approval.

; and

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 November 19, 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.



Roll Call Number

Agenda Item Number

53

Date October 20, 2025

(Council Communication No. 25-381)

Moved by _____ to adopt, Alternative _____.

Second by _____

APPROVED AS TO FORM:

/s/ Gary D. Goudelock Jr.

Gary D. Goudelock Jr.

Assistant City Attorney

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

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.

Mayor

City Clerk



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

Date October 20, 2025
Agenda Item 53
Roll Call # _____

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: ZBOA-2025-000071
	:	
414 61ST STREET, LLC	:	
	:	
ON PROPERTY LOCATED AT	:	PUBLIC HEARING: SEPTEMBER 24, 2025
	:	
414 61ST STREET	:	

SUBJECT OF THE APPEAL

Proposal: Re-use of a 4,868-square foot building for a “Commercial Service, Studio or Instructional Service” use (fitness center) within an “F” Flood District.

Appeal(s): Use Variance for a “Commercial Service, Studio or Instructional Service” use within an “F” Flood District.

Required by City Code Table 134-3.1-1 and Sections 134-3.5.14 & 134-6.7.

FINDING

The Board finds that granting the Zoning Variance would be consistent with the intended spirit and purpose of the Zoning Ordinance, as the appellant has satisfied the criteria required for granting a Variance, as contained in City Code Section 134-6.7.7.A. The appellant has demonstrated that they face an unnecessary hardship, as the land in question cannot yield a reasonable return from the uses permitted by the subject “F” District zoning regulations. The plight of the owner is due to unique circumstances not of the owner’s own making, which unique circumstances relate specifically to the subject property and not to general conditions in the neighborhood. Also, the use or construction to be authorized by the Zoning Variance would not alter the essential character of the area in which the subject property is located. Additionally, the proposed reuse and modifications of the building do not constitute a substantial improvement requiring the applicant to satisfy the requirements of Chapter 50 of the City Municipal Code. The appellant has met all of the Floodplain Variance regulations including good and sufficient cause, that the relief requested is the minimum necessary from the flood hazard, that the Iowa Department of Natural Resources and the City Engineer have no objections, and that it will not constitute an impediment to emergency access.

September 24, 2025

DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for the requested Use Variance for a "Commercial Service, Studio or Instructional Service" use within an "F" Flood District **is granted**, subject to the following conditions:

1. Any site improvements shall be in accordance with applicable standards of Chapter 50 of the Municipal Code.
2. Any use of the premises shall be for a "Commercial Service Studio or Instructional Service" use and/or any other compatible use as determined by the Zoning Enforcement Officer.
3. Any design and use of the existing building shall not impede emergency access to the subject property or surrounding neighborhood.
4. 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.
5. 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.
6. 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 approval.

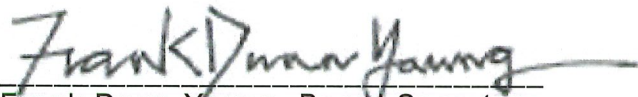
VOTE

The foregoing Decision and Order was adopted by a vote of 6-0 with all Board Members present 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 October 2, 2025.



Mel Pins, Board Chair



Frank Dunn-Young, Board Secretary

APPLICABLE REQUIREMENTS

TABLE 134-3.1-1. PRINCIPAL USE TABLE																						
USE CATEGORY	DISTRICTS																					Reference
Use Subcategory	A	DX1	DX2	DXR	MX1	MX2	MX3	RX1	RX2	CX	EX	I1	I2	N1, N2, N3, N4, N5	NX1	NX2a	NX3	NM	P1	P2	F	
Specific Use Type																						
Commercial Service																						
Consumer Maintenance and Repair	-	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-	-	-	134-3.5.6
Personal Service	-	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-	-	-	-	134-3.5.6
Studio or Instructional Service	-	●	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	-	-	134-3.5.6
Office																						
Business or Professional	-	●	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	●	-	134-3.5.14
Medical	-	●	●	●	●	●	●	●	●	●	●	●	●	-	-	-	-	-	-	●	-	134-3.5.14

Section 134-3.5.6 COMMERCIAL SERVICES

Uses that provide low-impact repair, maintenance and improvement services to individual consumers and small businesses.

- A. *Consumer Maintenance and Repair Service. Uses that provide maintenance, cleaning and repair services for consumer goods on a site other than that of the customer, including uses such as customers bring goods to the site of the repair/ maintenance business. Typical uses include laundry and dry cleaning pick-up shops, tailors, taxidermists, dressmakers, shoe repair, small engine repair, picture framing shops, copy shops, locksmiths, vacuum repair shops, electronics repair shops and similar establishments, but not including vehicle maintenance and repair. Business that offer repair and maintenance service for large equipment or technicians who visit customers' homes or places of business are classified as an "industrial service."*
- B. *Personal Service. Uses that provide personal support and improvement services. Typical uses include barbers, hair and nail salons, tanning salons, travel agencies, and day spas. Also includes uses involved in providing tattoos, piercing and similar forms of body art.*
- C. *Studio or Instructional Service. Uses that focus on providing individual or small group instruction or training in fine arts, music, dance, drama, fitness, language or similar activities. Also includes dance studios, ballet academies, yoga studios, martial arts instruction, tutoring, photography studios and other studios for artists that do not involve the use of power tools or power machinery.*

Sec. 134-6.7.7B. Floodplain Variances.

No zoning variance from the F zoning district regulations may be approved unless the board of adjustment determines that the general zoning variance standards and review criteria of

paragraph A of this section have been met and that all of the following additional following facts have been established by the owner of the subject property:

1. *Zoning variances from the F zoning district regulations may only be granted upon:*
 - a. *A showing of good and sufficient cause;*
 - b. *A determination that the zoning variance is the minimum necessary, considering the flood hazard, to afford relief;*
 - c. *A showing that the Iowa Department of Natural Resources and the city engineer has been notified of the requested zoning variance and offers no objection; and*
 - d. *A showing that the proposed variance does not impede emergency access to the subject property or surrounding neighborhood.*

STAFF REPORT

Proposal: Re-use of a 4,868-square foot building for a “Commercial Service, Studio or Instructional Service” use (fitness center) within an “F” Flood District.

Appeal(s): Use Variance for a “Commercial Service, Studio or Instructional Service” use within an “F” Flood District.

Site Description: The subject property measures approximately 50,422.9 square feet (1.16 acres) and is located along the west side of 61st Street to the north side of Grand Avenue, and within the Walnut Creek floodplain. There are restaurants to the south and west of the property, an event center and parking to the east, and vacant land and residential to the north. The subject property, as well as most of the adjoining properties, are within the FEMA-designated 100-Year Floodplain and therefore, is zoned “F” Flood District. Located on the property is an existing 4,868-square foot vacant building that was last used as a “Financial Service” use.

Neighborhood Notification Information: The subject property is located within the Waterbury Neighborhood and within 250 feet of the Westwood Neighborhood. All neighborhood associations were notified of the Board meeting by email of the Preliminary Agenda on September 9, 2025. Additionally, an official public notice of the hearing for this specific item was mailed on September 9, 2025, to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. All Neighborhood Association mailings are sent to the primary contact designated by the recognized Neighborhood Association on file with the City of Des Moines’ Neighborhood Services Department.

Additional Information: In November 2024, the applicant applied for a rezoning to allow interior renovations in order to convert the existing building from a “Financial Service” use to an “Office - Business or Professional” use (real estate firm). On November 21, 2024, the Plan and Zoning Commission recommended denial of the rezoning request from “F” Flood District to “RX1” Mixed Use District as the subject property currently in the floodplain cannot be raised above the Base Flood Elevation (floodplain). On December 23, 2024 by Roll Call 24-1747, the City Council denied the request to rezone the property from “F” Flood District to “RX1” Mixed Use District, to

allow use of the existing building as an Office Use. Therefore, the applicant is eligible to seek a Use Variance.

On January 22, 2025, the Zoning Board of Adjustment granted a Use Variance (Docket: ZBOA-2024-000078) for a "Business, Office" use within an "F" Flood District, to allow re-use of a vacant 4,868-square foot building for a "Business, Office" use subject to the following conditions:

1. Any site improvements shall be in accordance with applicable standards of Chapter 50 of the Municipal Code.
2. Any design and use of the existing building shall not impede emergency access to the subject property or surrounding neighborhood.
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. 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.
5. 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 approval.

Criteria for the Board to Consider: Taking into consideration the criteria set forth in Chapter 134 of the City Code and Chapter 18B of the Iowa Code, the Board shall ensure that granting of a Variance will not be contrary to the public interest, where owing to special conditions a literal enforcement of the regulations will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done. To establish unnecessary hardship a property owner must show all of the following elements:

1. The subject property cannot yield a reasonable return from any use permitted by the subject zoning regulations. Failure to yield a reasonable return may only be shown by proof that the owner has been deprived of all beneficial or productive use of the subject property. It is not sufficient to merely show that the value of the land has been depreciated by the regulations or that a zoning variance would permit the owner to maintain a more profitable use;
2. The plight of the owner is due to unique circumstances not of the owner's own making, which unique circumstances must relate specifically to the subject property and not to general conditions in the neighborhood; and
3. The use or construction to be authorized by the zoning variance will not alter the essential character of the area in which the subject property is located.

Per City Code Section 134-6.7.7.B, no zoning variance from the F zoning district regulations may be approved unless the board of adjustment determines that the general zoning variance standards and review criteria have been met and that all of the following additional following facts have been established by the owner of the subject property:

1. Zoning variances from the F zoning district regulations may only be granted upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that the zoning variance is the minimum necessary, considering the flood hazard, to afford relief;
 - c. A showing that the Iowa Department of Natural Resources and the city engineer has been notified of the requested zoning variance and offers no objection; and
 - d. A showing that the proposed variance does not impede emergency access to the subject property or surrounding neighborhood.

Per City Code Section 134-6.7.8, each decision of the board of adjustment to grant a zoning use variance or variance from any separation distance requirement must be referred to the city council for review. The City Council must then review the Board of Adjustment's decision within 30 days after the decision is signed and filed. Following the City Council's review, the council may remand the decision to the Board of Adjustment for further study. If the City Council does not act to review the decision within 30 days after it is signed and filed, the board of adjustment's decision becomes effective on the 31st day. If the City Council declines to remand a decision, the Board of Adjustment's decision becomes final and effective on the date of the council's action to decline remand. If the City Council remands a decision to the Board of Adjustment, the effective date of the board's decision is delayed for 30 days from the date of City Council remand.

Upon remand of a decision from the City Council, the Board of Adjustment must conduct a rehearing on the matter for further study and action at a regularly scheduled or special-called board meeting held during the 30-day delay period. Following the close of the rehearing, the Board of Adjustment must act to either affirm its initial decision on the zoning use variance or variance from any separation distance requirement or withdraw its initial decision and issue a new decision on the applicable variance. Upon completion of the rehearing process, the Board of Adjustment's decision is not subject to review by the City Council and becomes final and effective upon filing.

Permit and Development Center Comments: Any reuse on the site must be in accordance with all applicable Site Plan regulations and Building and Fire Codes, with issuance of any necessary permits by the City's Permit and Development Center.

Floodplain Regulations: The subject property is zoned “F” Flood District since it is within the FEMA-designated floodplain. The BFE (Base Flood Elevation) at this property is approximately 820.6 feet and the adjacent ground elevation is approximately at 820 feet. According to City Engineering Staff, the change of use or vacancy does not trigger the “substantial improvement” threshold that would require them to elevate or floodproof the existing building. Additionally, the reuse of the building and interior modifications would not involve the Iowa Department of Natural Resources.

Staff Rationale: Granting the requested Zoning Variance would be consistent with the intended spirit and purpose of the Zoning Ordinance, as the appellant has satisfied the criteria required for granting a Variance, as contained in City Code Section 134-6.7.7.A. The appellant has demonstrated that they face an unnecessary hardship, as the land in question cannot yield a reasonable return from the uses permitted by the subject “F” District zoning regulations. The plight of the owner is due to unique circumstances not of the owner’s own making, which unique circumstances relate specifically to the subject property and not to general conditions in the neighborhood. Also, the use or construction to be authorized by the Zoning Variance would not alter the essential character of the area in which the subject property is located. Additionally, the proposed reuse and modifications of the building do not constitute a substantial improvement requiring the applicant to satisfy the requirements of Chapter 50 of the City Municipal Code. The appellant has met all of the Floodplain Variance regulations including good and sufficient cause, that the relief requested is the minimum necessary from the flood hazard, that the Iowa Department of Natural Resources and the City Engineer have no objections, and that it will not constitute an impediment to emergency access.

STAFF RECOMMENDATION

Staff recommends approval of the requested Use Variance for a “Commercial Service, Studio or Instructional Service” use within an “F” Flood District, subject to the following conditions:

1. Any site improvements shall be in accordance with applicable standards of Chapter 50 of the Municipal Code.
2. Any use of the premises shall be for a “Commercial Service Studio or Instructional Service” use and/or any other compatible use as determined by the Zoning Enforcement Officer.
3. Any design and use of the existing building shall not impede emergency access to the subject property or surrounding neighborhood.
4. 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.

5. 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.
6. 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 approval.

BOARD ACTION

APPELLANT OR REPRESENTATIVE: Barb Mendoza, 4715 Grand Avenue, Des Moines, IA 50312.

SUPPORT: Nicole Wandrey, 3263 Highway 92, Prole, IA 50229.
Emilio Mendoza, 517 SW Kenny Brook Drive, Grimes, IA 50111.

OPPOSITION: None.

FINDING: The Board finds that granting the Zoning Variance would be consistent with the intended spirit and purpose of the Zoning Ordinance, as the appellant has satisfied the criteria required for granting a Variance, as contained in City Code Section 134-6.7.7.A. The appellant has demonstrated that they face an unnecessary hardship, as the land in question cannot yield a reasonable return from the uses permitted by the subject "F" District zoning regulations. The plight of the owner is due to unique circumstances not of the owner's own making, which unique circumstances relate specifically to the subject property and not to general conditions in the neighborhood. Also, the use or construction to be authorized by the Zoning Variance would not alter the essential character of the area in which the subject property is located. Additionally, the proposed reuse and modifications of the building do not constitute a substantial improvement requiring the applicant to satisfy the requirements of Chapter 50 of the City Municipal Code. The appellant has met all of the Floodplain Variance regulations including good and sufficient cause, that the relief requested is the minimum necessary from the flood hazard, that the Iowa Department of Natural Resources and the City Engineer have no objections, and that it will not constitute an impediment to emergency access.

ACTION OF THE BOARD: Motioned to grant approval of the requested Use Variance for a "Commercial Service, Studio or Instructional Service" use within an "F" Flood District, subject to the following conditions:

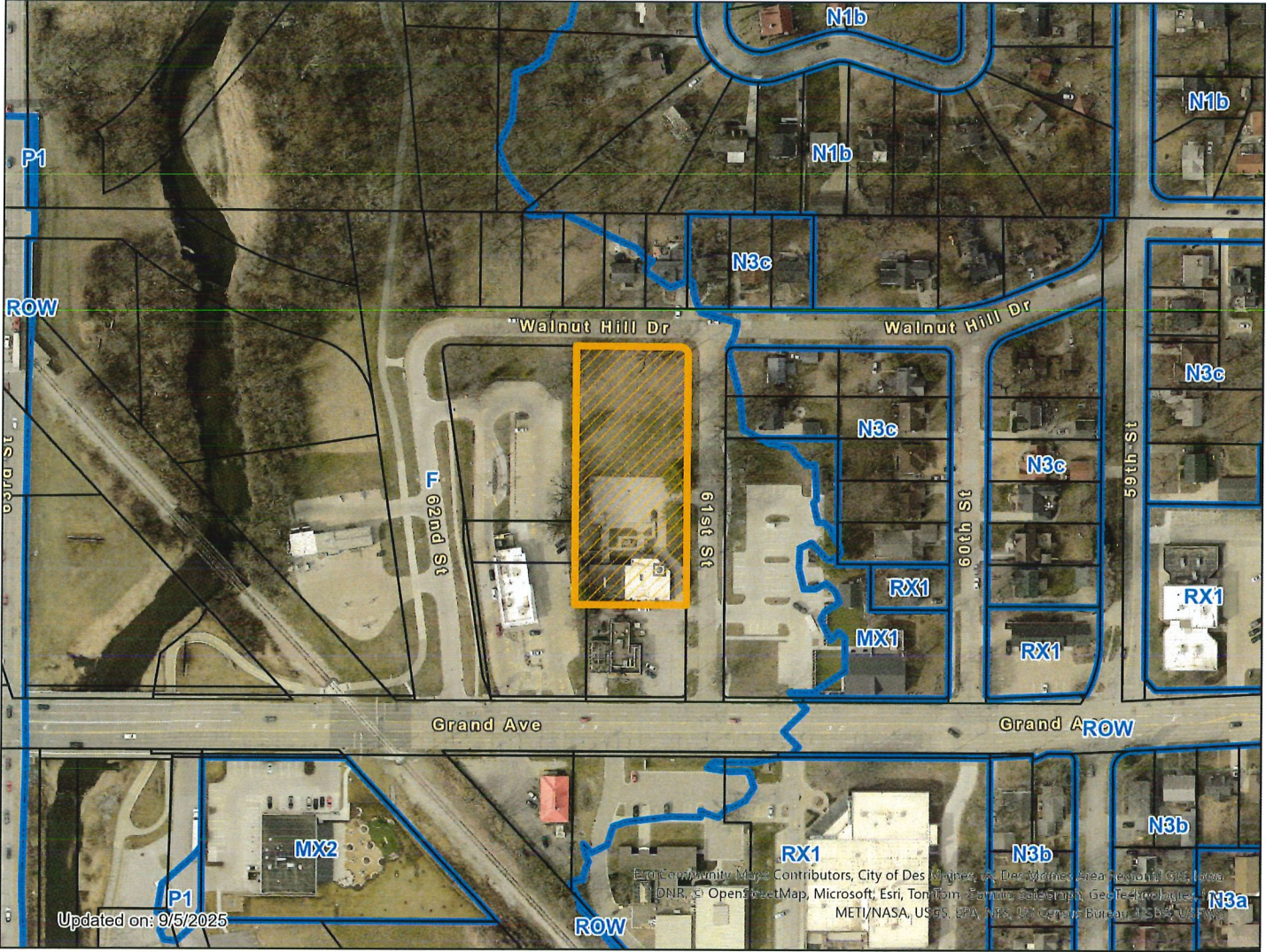
1. Any site improvements shall be in accordance with applicable standards of Chapter 50 of the Municipal Code.
2. Any use of the premises shall be for a "Commercial Service Studio or Instructional Service" use and/or any other compatible use as determined by the Zoning Enforcement Officer.

3. Any design and use of the existing building shall not impede emergency access to the subject property or surrounding neighborhood.
4. 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.
5. 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.
6. 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 approval.

MOTION: Roe. Second, by Jones.

VOTE: A vote of 6-0-0-1 was registered as follows:

	Aye	Nay	Abstain	Absent
Cedillo	X			
DeSio	X			
Gaer	X			
Jones	X			
Neely				X
Pins	X			
Roe	X			



Dear Board of Adjustment,

My name is Barb Mendoza, and I am the President of FITNESS By Design located at 4715 Grand Ave in Des Moines. I am seeking approval for leasing the building at 414 61st Street for my private fitness studio.

FITNESS By Design was founded in 1990 so we are in our 36th year of business as a private fitness studio in Des Moines. We've been in the same location all those years over on Grand Avenue right across from the DM Art Center. Once my landlord informed me that he would need my space to expand his own business, I had no choice but to start looking, and I soon learned how few properties are available that would fit my needs.

I'd like to share a bit about my studio and who we are. We are in the business of helping our clients reach optimal health by guiding them on their fitness journey. We focus on private sessions and small group training. I'm keeping the same four studios I have at my current location and will not need to change any interior or exterior structures at the property.

I have a team of personal trainers and Pilates instructors, and we work privately with our clients or in small groups. Most of my clientele come from within a 1-mile radius of my current location so this property on 61st St. is a perfect fit. I am not choosing to move; I must move because my landlord is expanding his business and needs my space.

I'm very happy in my current location, but I don't have a choice except to move, if I want to keep serving our clientele and the community in the same way we have done for a very long time.

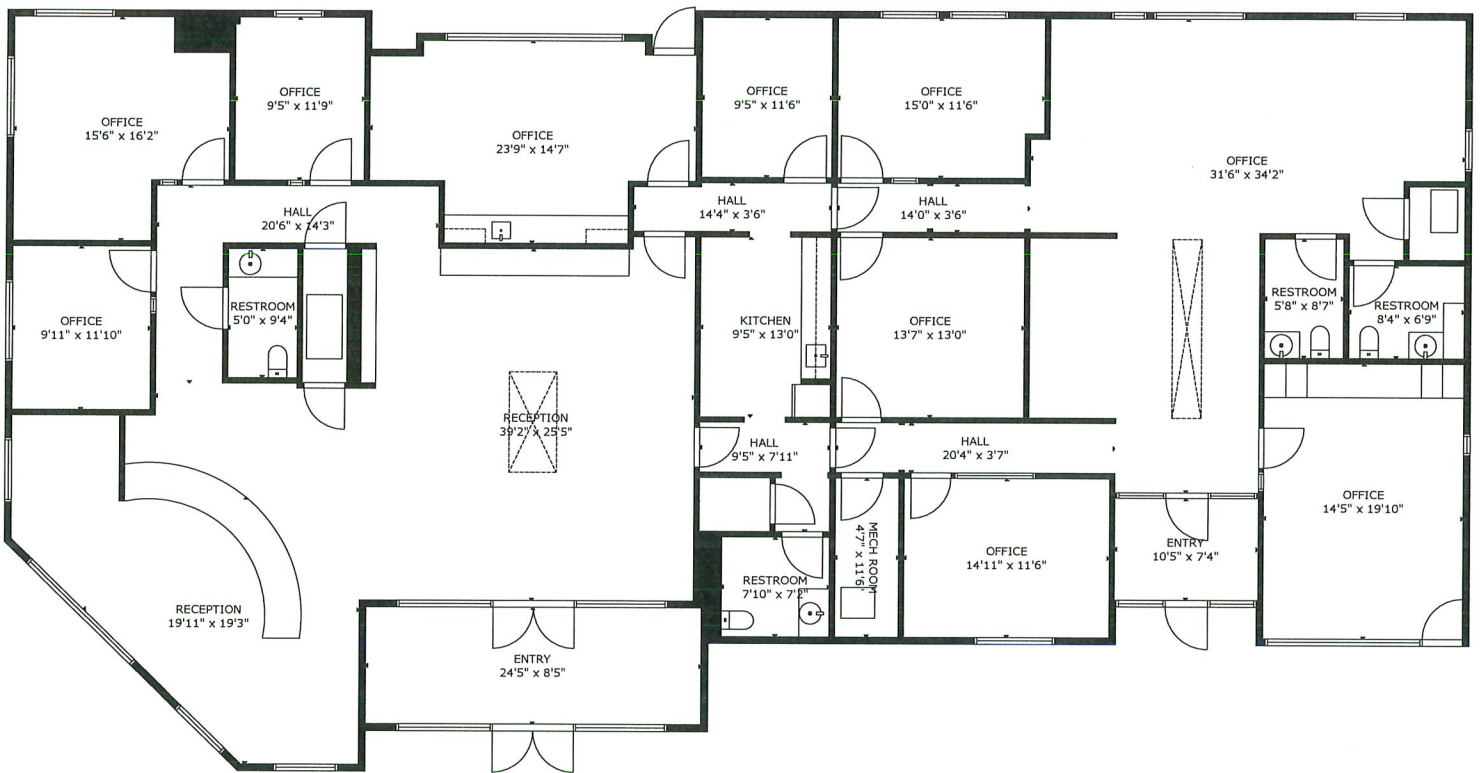
Sincerely,

Barb Mendoza, President

FITNESS By Design

4715 Grand Ave

Des Moines, IA 50312



MAIN FLOOR

GROSS INTERNAL AREA
TOTAL: 4,875 sq ft
MAIN FLOOR: 4,875 sq ft
SIZE AND DIMENSIONS ARE APPROXIMATE, ACTUAL MAY VARY







414 61st Street LLC, 414 61st Street

ZBOA-2025-000071

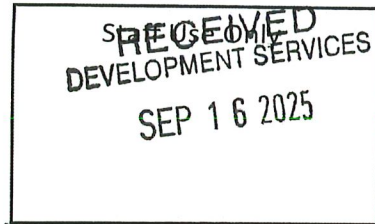


Item: ZBOA-2025-000071

Date: 9/11/25

Please mark one of the following:

- ☒ I support the request
☐ I am undecided
☐ I oppose the request



Titleholder Signature: William McDougall

Name/Business: _____

Impacted Address: 6805 Walnut Hill Dr.

Comments: _____

Item: ZBOA-2025-000071 Date: _____

Please mark one of the following:

☐ I support the request

☐ I am undecided

☒ I oppose the request



Titleholder Signature: _____

Name/Business: _____

Impacted Address: _____

Comments: _____

Item: ZBOA-2025-000071 Date: 9/11/25

Please mark one of the following:

- ☐ I support the request
☒ I am undecided
☐ I oppose the request

Staff Use Only
RECEIVED
DEVELOPMENT SERVICES
SEP 16 2025

Titleholder Signature: Edward A. Detchen Johnson

Name/Business: _____

Impacted Address: 6018 Waterbury Circle DM 50312

Comments: _____

