

★ Roll Call Number
12-1976

Agenda Item Number
54

Date December 17, 2012

WHEREAS, at its November 28, 2012 hearing, with a subsequent Decision and Order entered into the record on December 4, 2012, the City of Des Moines Zoning Board of Adjustment ("Board") approved an application from Greg Robinson for a Use Variance for use of property located at 4540 Lower Beaver Road (Property) for continued use as a garage for general motor vehicle repair. (A use variance was previously granted for a five-year period on November 28, 2007; and

WHEREAS, pursuant to Municipal Code Section 134-587, the relief granted by the Board required a use variance because the Property is in a district zoned R-4 Multiple-Family Residential and a garage for general motor vehicle repair is not a principal permitted use in an R-4 district; and

WHEREAS, in accordance with Municipal Code Section 134-65(d), if the Board grants a variance to a use requirement, the Decision and Order shall be referred to the City Council for its review pursuant to Iowa Code Section 414.7. The City Council may review such decision within 30 days after the decision is filed. After such review, the City Council may remand the decision to the Board for further study. If the City Council does not act to review the decision within 30 days after it is filed, the decision shall become effective on the 31st day. If the City Council declines to remand the decision, the decision shall become final on the date of the council's action, i.e. December 17, 2012. If the City Council remands a decision to the Board, the effective date of the decision is delayed for 30 days from the date of remand.

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NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

_____ The City Council remands the Decision and Order to the Zoning Board of Adjustment for further study. The effective date of the Zoning Board of Adjustment's decision will be deferred for 30 days from the date of remand.

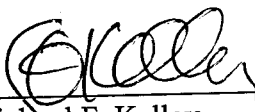
_____ The City Council takes no action to review the Decision and Order. The decision of the Zoning Board of Adjustment will become final on January 4, 2013.

X The City Council declines to remand the decision to the Zoning Board of Adjustment. The decision will become final on the date of the Council's action.

Moved by Giess to adopt.

APPROVED AS TO FORM:

(Council Communication No. 12-619)



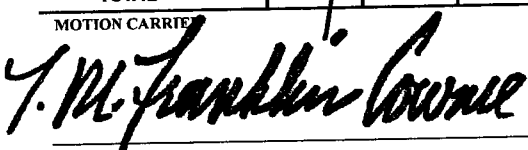
Michael F. Kelley
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

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.



T. M. Franklin
Mayor



Diane Rauh
City Clerk