

★ Roll Call Number

13-1938

Agenda Item Number

49

Date December 9, 2013

REVIEW OF ZONING BOARD OF ADJUSTMENT DECISION TO GRANT A VARIANCE TO A SEPARATION DISTANCE REQUIREMENT AND A CONDITIONAL USE PERMIT TO ALLOW USE OF PROPERTY AT 727 SE 14th STREET AS A GAS STATION/CONVENIENCE STORE WITH ALCOHOLIC LIQUOR SALES.

WHEREAS, on November 20, 2013, the Zoning Board of Adjustment voted 4-2 to approve an application from USA Petroleum, LLC, for a variance from the zoning provision that requires any gas station/convenience store which sells alcoholic liquor to have a 500 foot separation from any church, school, public park or licensed child care center, and for a Conditional Use Permit, to allow the gas station/convenience store at 727 SE 14th Street to sell alcoholic liquor within 190 feet of a church; and,

WHEREAS, Iowa Code §414.7 and Section 134-65(d) of the Zoning Ordinance require that any variance from a separation requirement granted by the Board be forwarded to the City Council for its review, and the City Council may remand the variance back to the Zoning Board of Adjustment for further study if the Council believes the use 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 December 26, 2013.
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. 13- 582)

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

Previous motion by Voss to adopt Alternative C failed. Hensley and Voss--YEA Cownie, Coleman, Moore, Mahaffey and Griess--NAY

(continued)



Roll Call Number

13-1938

Agenda Item Number

49

Date December 9, 2013

-2-

FORM APPROVED:

Roger K. Brown

Roger K. Brown

Assistant City Attorney

G:\USERS\RKBrown\Rog Docs\Zoning\Bd of Adj\Use Variance\727 SE 14th - RC.doc

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

MOTION CARRIED

APPROVED

T. M. Franklin Council 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.

Diane Rauh

City Clerk