



Roll Call Number

16-0412

Agenda Item Number

46

Date March 7, 2016

**REVIEW OF ZONING BOARD OF ADJUSTMENT DECISION
GRANTING A VARIANCE FROM SEPARATION REQUIREMENT TO ALLOW A
GAS STATION/CONVENIENCE STORE ON THE PROPERTY AT
2930 HICKMAN ROAD TO SELL WINE AND BEER**

WHEREAS, on February 24, 2016, the Zoning Board of Adjustment voted 5-1 to approve an application from Git-N-Go Convenience Stores, Inc. (applicant) for a variance of the separation requirement that any Gas Station/Convenience Store selling wine and beer in a "C-1" Neighborhood Retail Commercial District be separated by at least 150 feet from any school, to allow for continued use of an existing 2,752 square foot building with a future 292 square foot building addition as a Gas Station/Convenience Store selling wine and beer on the real property locally known as 2930 Hickman Road; and

WHEREAS, the proposed Gas Station/Convenience Store use is within approximately 70 feet of Monroe Elementary School; and

WHEREAS, the Board found that the appellant faces an unnecessary hardship in utilizing the property in any manner other than the gas station/convenience store usage, as it has been designed and constructed for such use and has underground fuel storage tanks, that beer and wine sales accessory to the gas station use are necessary for the applicant to have a successful business, that the impact to the school use would be minimal due to the separation and buffering of the school entrance and site security, and that the previously operated gas station at this location caused no known negative impact to the surrounding neighborhood; 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 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

- 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 March 26, 2016.



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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. 16- 111)

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

APPROVED AS TO FORM:

Glenna K. Frank, Assistant City Attorney

Table with columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATO, GRAY, HENSLEY, MOORE, WESTERGAARD, and TOTAL (5 YEAS, 2 NAYS).

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 Council Mayor

Diane Rauh City Clerk