



Roll Call Number

19-0741

Agenda Item Number

39

Date May 6, 2019

REVIEW OF ZONING BOARD OF ADJUSTMENT DECISION
GRANTING A VARIANCE FROM SEPARATION REQUIREMENT TO ALLOW A
HOTEL LOUNGE AND OUTDOOR PATIO TO SELL LIQUOR, WINE AND BEER

WHEREAS, on April 24, 2019, the Zoning Board of Adjustment voted 6-0 to approve an application from 207 Crocker, LLC (applicant), represented by Kalpesh Patel (officer), for a variance of the separation requirement that any business, other than a restaurant, in the "C-2" General Retail and Highway-Oriented Commercial District selling alcoholic liquor, wine and beer be separated by at least 150 feet from any public park, to allow for use of an 1,800 square foot hotel lounge area and an 1,700 square foot outdoor patio accessory to the hotel use at 207 Crocker Street to sell alcoholic liquor, wine, and beer; and

WHEREAS, the property upon which the proposed hotel lounge and outdoor patio use will occur is within approximately 100 feet of the public park located directly across 2nd Avenue to the east; and

WHEREAS, the Board found that the proposed location, design, construction and operation of the proposed use adequately safeguards the health, safety and general welfare of persons residing in the adjoining or surrounding area, which contains primarily commercial uses, and that the proposed use is not contrary to the public interest and is in conformance with the essential character of the locality of the land in question; 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 May 26, 2019.
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.



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(Council Communication No. 19-187)

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

APPROVED AS TO FORM:

Glenna K. Frank

Glenna K. Frank, Assistant City Attorney

(ZON2019-0038)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

J. M. Frankin Cownie 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