

Date April 5, 2021

REVIEW OF ZONING BOARD OF ADJUSTMENT DECISION GRANTING A VARIANCE FROM SEPARATION REQUIREMENTS TO ALLOW ANIMAL SERVICE USE WITH AN OUTDOOR EXERCISE RUN AT 601 ARMY POST ROAD

WHEREAS, on March 24, 2021, the Zoning Board of Adjustment voted 5-1 to approve an application from February 30th Properties, LLC, requesting zoning code relief to allow redevelopment of this site, specifically, a variance from the requirement that outdoor boarding or outdoor exercise runways in an “Animal Service” use provide at least 200 feet of separation distance from any “N” Neighborhood District, as set forth in Municipal Code Section 134-3.5.2, to allow for redevelopment of the site with a veterinary clinic having a fenced outdoor exercise runway on the real property locally known as 601 Army Post Road (“Property”); and

WHEREAS, all portions of the Property are located within 200’ of a row of residentially zoned properties that occupy the south side of the block of Lally Street that lies between Southwest 6th Street and Southwest 7th Street, and which are developed with single family homes; and

WHEREAS, the Board found that the proposed new veterinary clinic with outdoor exercise runway would not alter the essential character of the locality of the land in question, as this site fronts Army Post Road and is consistent with the commercial development in the vicinity along that major arterial street; that owner’s plight is due to the ‘L’ shape of the site, which is a unique circumstance not of this owner’s making; and that the owner has demonstrated an unnecessary hardship, in that this Property has zoning which is limited to Boarding uses defined by the Animal Service use category, but there is no location on the site where compliance with the separation distance is possible, effectively rendering the site unusable; and that the intention of the separation requirement is met by fencing, landscape buffering and limited hours of use of the runway; and

WHEREAS, Iowa Code §414.7 and Section 134-6.7.8(C) of the Zoning Ordinance require that any variance from a separation requirements 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 April 29, 2021.
- 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

21-0565

Agenda Item Number

28

Date April 5, 2021

(Council Communication No. 21- 153)

MOVED by Gatto to adopt alternative C, above.

APPROVED AS TO FORM:

Judy K. Parks-Kruse
Judy K. Parks-Kruse
Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, GRAY, MANDELBAUM, VOSS, WESTERGAARD, and TOTAL (YEAS: 7).

CERTIFICATE

I, P. Kay Cmelik, 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.

J. M. Franklin Cownie Mayor

P. Kay Cmelik City Clerk