



Roll Call Number

22-0956

Agenda Item Number

75

Date June 13, 2022

REVIEW OF ZONING BOARD OF ADJUSTMENT DECISION GRANTING USE VARIANCE TO ALLOW USE OF THE PROPERTY AT 1022 ARMY POST ROAD FOR A LIMITED “VEHICLE MAINTENANCE/REPAIR, MINOR” USE IN A “RX1” MIXED USE DISTRICT

WHEREAS, on April 18, 2022, by Roll Call No. 22-0628, the City Council held a public hearing and denied the request from John Getsy III (owner) to rezone the property locally known as 1022 Army Post Road (“Property”) from “RX1” Mixed Used District to Limited “MX3” Mixed Use District, to allow the conversion of the existing building to a “Vehicle Maintenance/Repair, Minor use; and

WHEREAS, on May 25, 2022, the Zoning Board of Adjustment voted 7-0 to approve an application from Allan Kennedy for a use variance to allow use of the property locally known as 1022 Army Post Road for a “vehicle maintenance/repair, minor” use, subject to certain conditions set forth in the Decision and Order of the Board as attached hereto; and

WHEREAS, in the Decisions and Order of the Board, the Board found that granting said variance would be consistent with the intended purpose of the zoning ordinance and the applicant had satisfied the criteria required for approval so long as the business operates in accordance with the conditions set forth therein; and

WHEREAS, Iowa Code §414.7 and Section 134-65(d) of the Zoning Ordinance require that any use variance granted by the Board be forwarded to the City Council for its review, and the City Council may remand the use variance 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 July 1, 2022.
- 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

22-0956

Agenda Item Number

75

Date June 13, 2022

(Council Communication No. 22-278)

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

Second by Gatto. FORM APPROVED:

/s/ Lisa A. Wieland Lisa A. Wieland Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, MANDELBAUM, SHEUMAKER, VOSS, WESTERGAARD, and TOTAL. Includes MOTION CARRIED and APPROVED indicators.

CERTIFICATE

I, LAURA BAUMGARTNER, Acting 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

Laura Baumgartner Acting City Clerk