



Roll Call Number

22-1473

Agenda Item Number

71

Date September 12, 2022

REVIEW OF ZONING BOARD OF ADJUSTMENT DECISION CONDITIONALLY GRANTING A USE VARIANCE FOR AN “OFFICE: BUSINESS OR PROFESSIONAL” USE IN A “F” FLOOD DISTRICT, ON PROPERTY AT 3732 EASTON BOULEVARD OWNED BY JAIME VILLAFANA

WHEREAS, the real property locally known as 3732 Easton Boulevard (“Property”), owned by Jaime Villavana (“Owner”) measures approximately 21,338 square feet (.5 acres), contains a vacant 2,800 square foot building, and is located along the north side of Easton Boulevard, adjacent to the Fourmile Creek Greenway; and

WHEREAS, most of the Property, as well as the properties to the west and north, are within the FEMA-designated 100-year Floodplain and is, therefore, zoned “F” Flood District is located within 75 feet of Columbus Park which is less than the separation distance required by Des Moines Municipal Code Tables 134-3.1-1 & 134-3.9-1; and

WHEREAS, Des Moines Municipal Code section 134-6.7 requires the Owner to obtain a variance from the Zoning Board of Adjustment in order to build or use the property for certain uses, including, but not limited, to “Office: Business or Professional” use; and

WHEREAS, the Owner made such application and on August 24, 2022, the Zoning Board of Adjustment voted 5-0 to approve an application from Jaime Villafana for a use variance to allow the Owner/Occupant to use the property for “Office: Business or Professional” use subject to the following conditions to which the Owner has agreed:

1. Any design and use of the existing building shall comply with the final floodproofing design pursuant to the requirements of Chapter 50 of the Municipal Code.
2. Any design and use of the existing building shall not impede emergency access to the subject property or surrounding neighborhood.
3. No construction or improvements within the property shall commence prior to obtaining a Flood Permit and Building Permit.
4. So long as the property is zoned “F” Flood District, no outdoor storage shall be allowed on premises of the subject property.
5. Any use of the existing buildings shall be in accordance with all Building Codes and Fire Codes, with issuance of all necessary permits by the City’s Permit and Development Center.
6. A copy of the Board’s Decision and Order shall be recorded at the appellant’s expense to ensure that any future property owners are aware of these conditions.



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7. The Zoning Enforcement Officer shall bring the Use Variance back to the Zoning Board of Adjustment for reconsideration at any time that the use becomes a nuisance to surrounding properties or violates the conditions approval.

; and

WHEREAS, Iowa Code § 414.7 and Section 134-6.7.8(C) 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 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

(Choose One)

- 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 October 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.



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(Council Communication No. 22-399)

Moved by Westergaard to adopt alternative A.

Second by Gatto. APPROVED AS TO FORM:

/s/ Gary D. Goudelock Jr. Gary D. Goudelock Jr. Assistant City Attorney

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

CERTIFICATE

I, LAURA BAUMGARTNER, 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 City Clerk