



**ZONING BOARD OF ADJUSTMENTS  
AGENDA**

**Tuesday, August 20, 2019 - 4:00 PM  
Council Chambers, 2nd Floor, City Hall  
209 Pearl Street**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PLEDGE OF ALLEGIANCE**
- 4. ADOPTION OF AGENDA**
- 5. APPROVAL OF MINUTES**
- 6. PROOF OF PUBLICATION/POSTING**
- 7. REVIEW OF MEETING PROCEDURES**
- 8. PUBLIC HEARINGS**

**A. Case #BA-19-005**

Public hearing on the request of Auto Finance Super Store, represented by Todd Archer, for a four-foot variance from Section 15.15.050, Site development regulations, of the Municipal Code (Zoning Ordinance) to allow a principal structure to be constructed with a one foot interior side yard setback, as opposed to the required five feet, in a C-2/Commercial District at 3444 West Broadway, legally described as Lot 1, except City right-of-way in the southwest corner, along with Lots 2, 29, and 30, all in Block 15, Ferry Addition, and the vacated alley adjacent, City of Council Bluffs, Pottawattamie County, Iowa.

**B. Case #BA-19-005**

Public hearing on the request of Auto Finance Super Store, represented by Todd Archer, for a four-foot variance from Section 15.15.050, Site development regulations, of the Municipal Code (Zoning Ordinance) to allow a principal structure to be constructed with a one foot interior side yard setback, as opposed to the required five feet, in a C-2/Commercial District at 3444 West Broadway, legally described as Lot 1, except City right-of-way in the southwest corner, along with Lots 2, 29, and 30, all in Block 15, Ferry Addition, and the vacated alley adjacent, City of Council Bluffs, Pottawattamie County, Iowa.

**C. Case #BA-19-006**

Public hearing on the request of Brandon Ramsey, represented by Mark Taylor, for a 10 <sup>3</sup>/<sub>4</sub> -inch height variance from Section

15.08B.050, Site Development Regulations, of the Municipal Code (Zoning Ordinance) to allow the construction of an accessory structure that exceeds the maximum allowable height of 18 feet in an R-1/Single-Family Residential District at 504 Forest Drive, legally described as Lot 38, Forest Park Addition, City of Council Bluffs, Pottawattamie County, Iowa.

**9. OTHER BUSINESS**

**10. ADJOURNMENT**

Any questions or concerns regarding this agenda and/or requests for special accommodations at this meeting should be directed to the Community Development Department at (712) 328-4629 or email at [cgibbons@councilbluffs-ia.gov](mailto:cgibbons@councilbluffs-ia.gov).

## **Zoning Board of Adjustment Communication**

Department: Community  
Development

Case/Project No.: BA-19-005

Case #BA-19-005

Council Action: 8/20/2019

Submitted by: Chris Meeks,  
Planner

### **Description**

Public hearing on the request of Auto Finance Super Store, represented by Todd Archer, for a four-foot variance from Section 15.15.050, Site development regulations, of the Municipal Code (Zoning Ordinance) to allow a principal structure to be constructed with a one foot interior side yard setback, as opposed to the required five feet, in a C-2/Commercial District at 3444 West Broadway, legally described as Lot 1, except City right-of-way in the southwest corner, along with Lots 2, 29, and 30, all in Block 15, Ferry Addition, and the vacated alley adjacent, City of Council Bluffs, Pottawattamie County, Iowa.

### **Background/Discussion**

See attachments.

### **Recommendation**

## Zoning Board of Adjustment Communication

Department: Community

Development

Case/Project No.: BA-19-005

Case #BA-19-005

Council Action: 8/20/2019

Submitted by: Chris Meeks,

Planner

### Description

Public hearing on the request of Auto Finance Super Store, represented by Todd Archer, for a four-foot variance from Section 15.15.050, Site development regulations, of the Municipal Code (Zoning Ordinance) to allow a principal structure to be constructed with a one foot interior side yard setback, as opposed to the required five feet, in a C-2/Commercial District at 3444 West Broadway, legally described as Lot 1, except City right-of-way in the southwest corner, along with Lots 2, 29, and 30, all in Block 15, Ferry Addition, and the vacated alley adjacent, City of Council Bluffs, Pottawattamie County, Iowa.

### Background/Discussion

See attachments.

### Recommendation

### ATTACHMENTS:

Description

Type

Upload Date

Case #BA-19-005 Staff Report & Attachments

Other

8/14/2019

**TO:** Zoning Board of Adjustment  
**FROM:** Community Development Department

**DATE:** August 20, 2019

**RE:** **CASE #BA-19-005**  
**REQUEST:** Variance from Section 15.15.050, Site development regulations, of the Municipal Code (Zoning Ordinance) to allow a principal structure to be constructed with a one foot interior side yard setback, as opposed to the required five feet, in a C-2/Commercial District.

**APPLICABLE CODE SECTION:** **Section 15.15.050 Site Development Regulations for the C-2/Commercial District**

**RELIEF SOUGHT:** A 4 foot variance to the East property line between a principal building and a property line, as outlined in Section 15.15.050, *Site Development Regulations* for the C-2/Commercial District of the Municipal Code (Zoning Ordinance).

**LEGAL DESCRIPTION:** Lot 1, except City right-of-way in the southwest corner, along with Lots 2, 29, and 30, all in Block 15, Ferry Addition, and the vacated alley adjacent, City of Council Bluffs, Pottawattamie County, Iowa.

**LOCATION:** 3444 West Broadway

**APPLICANT:** Auto Finance Super Store, 3444 West Broadway, Council Bluffs, IA 51503

**PROPERTY OWNER:** T-K O'Neill Family PTSP, 1010 34<sup>th</sup> Avenue, Council Bluffs, IA 51501

**REPRESENTATIVES:** Todd Archer, 18088 Bent Tree Ridge, Council Bluffs, IA 51503

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**BACKGROUND INFORMATION** – Auto Finance Super Store, represented by Todd Archer, has applied for a variance from Section 15.15.050, Site Development Regulations for the C-2/Commercial District of the Municipal Code (Zoning Ordinance) in order to construct a second principal structure on the property which would have an interior side yard setback of one foot, as opposed to the required five feet. Currently on the property there is an office building which is the primary office for the auto dealership, and a billboard. The applicant is seeking a variance for an 18' by 24' building that would be used as a garage for auto detailing and light mechanical work, and wishes for this building to be constructed in line with the existing building, which is also constructed one foot from the east property line. A letter of intent, site plan, zoning map, and a letter from the property owner, and site photos have all been included with this case report as attachments A through E.

The following attachments have been included for your reference:

Attachment A: General Location Map  
Attachment B: Applicant's Letter of Intent  
Attachment C: Applicant's Submitted Site Plan  
Attachment D: Approval Letter from Property Owner  
Attachment E: Site Photos

**CURRENT ZONING AND LAND USE** – The subject property is zoned C-2/Commercial District and contains a 1,800 square foot building that is located in the Southeastern portion of the property that was

constructed in 1963 (per the Pottawattamie County Assessor) and a billboard that was constructed in 1970. Surrounding properties to the East, West, and South are also zoned C-2/Commercial District and are primarily commercial businesses with the exception of a row of residential properties northwest of the subject property. Properties located North of the subject property are zoned R-2/Two-Family Residential District, and are residential structures. The property is also located within the West Broadway Corridor Design Overlay District, and the new building will be required to adhere to the architectural standards of that overlay district.

**CITY DEPARTMENTS AND UTILITIES** – All City departments and local utility providers were notified of the requested variance. The following comments were received:

- The Council Bluffs Community Development Department has the following comments:
  - The subject parcel contains 22,128 square feet with exceeds the lot area regulations for the C-2 District. The subject property does not meet the required 25,000 minimum square footage requirement for an automotive sales lot; therefore the auto dealership is considered a legally nonconforming use as it was operating as an automotive sales lot prior to the enactment of that regulation, and has not been vacated for a period of 6 months or greater.
  - The subject property is relatively uniform in shape and size, though a portion of the southwest corner has been removed from the property and is now a portion of the right-of-way of West Broadway and North 35<sup>th</sup> Street. The property is also mostly flat with no topographical concerns.
  - The proposed new building is considered a “Principal Structure” by the zoning ordinance as the Iowa Department of Transportation requires “a repair facility with a minimum space to repair and recondition one or more motor vehicles with adequate access, equipment and tools for repairing and reconditioning motor vehicles sold by the dealer.” Because the repair facility is required along with the office, both buildings would be considered integral to the operation of the car dealership.
  - The proposed building is 18 feet deep by 24 feet wide. With a lot width of 88 feet, the applicant would have 65 feet of parking lot width if they were to construct the building 5 feet away from the eastern property line (as the ordinance requires). The 65 foot available area would be more than adequate area for drive aisles, parking spaces, and a 5 foot parking lot to property line buffer (which does not currently exist, but may be required with an addition or significant improvements to the principal structure in the future).
- The Council Bluffs Fire Marshall had no comments regarding the proposed variances.
- Black Hills Energy stated they have no concerns.
- Council Bluffs Water Works had no comments regarding the proposed variance.
- MidAmerican Energy stated they have an overhead electric distribution feeder line located in the vacated east/west alley which would be approximately 12 feet north of the proposed building. MidAmerican Energy stated the North side of the proposed garage cannot be located closer than 10 feet to the existing power lines. MidAmerican Energy also stated that an overhead electric service cable which runs from the vacated alley to the billboard does not appear to have sufficient clearance over the proposed roof, and would need to be moved at the applicant’s expense.

**NEIGHBORHOOD RESPONSE** – All property owners within 200 feet of the subject property were notified of the requested variance. No comments were received at the time of this report.

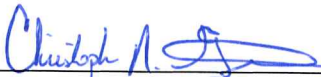
**COMMENTS** - Evidence must be presented to demonstrate that a literal enforcement of the Ordinance will create a hardship for which relief is necessary. The Board of Adjustment shall approve a variance to grant relief when ‘unforeseen applications of this Ordinance...create particular hardships’. No variance shall be granted unless the Board of Adjustment makes findings of fact based on the standards and conditions that follow. A variance less than requested may be granted by the Board when the record supports the applicant’s right to some relief, but not to the entire relief requested. (§15.02.080 – Variances)

### Findings of Fact

1. *The particular property, because of size, shape, topography or other physical conditions suffers singular disadvantage through the application of this ordinance, which does not apply to other properties in the vicinity. The property exceeds the minimum width, depth, and square footage for a property located in the C-2/Commercial District. The property is mostly square and does not feature any significant topographical disadvantages. The property is similar to many properties located along the West Broadway Corridor.*
2. *Because of such disadvantage, the owner is unable to make reasonable use of the affected property. Without the granting of the proposed variance, the applicant would still be able to reasonably construct the second building on the property in a location that would meet all building setbacks, and would allow adequate parking space widths, depths, and drive aisle widths. Furthermore, the property could be used for other commercial properties that comply with the C-2/Commercial District without a variance.*
3. *The disadvantage does not exist because of conditions created by the owner or previous owners of the property. The applicant has requested the variance to allow the new building to be constructed in line with the existing building on the property, which is currently situated with a one foot side yard setback. The existing building was constructed in 1963, and is considered a legally nonconforming structure as it does not comply with the required front yard or interior side yard setbacks of the current C-2/Commercial District.*
4. *Granting the variance will not confer on the applicant any special privileges that are denied by this ordinance to other properties or structures in the same district. Granting the variance will confer a special privilege on the subject property not allowed by other properties in the C-2 District by allowing the applicant to construct the building with a one foot side yard setback as opposed to the required five foot setback. The variance would be considered a design preference, as constructing the building with the required five foot side yard setback would not impede into required parking space area or drive aisle widths.*
5. *Granting the variance will not be contrary to the public interest, will not adversely affect other property in the vicinity, and will be in harmony with the purpose and intent of this ordinance. The location of the proposed variance will have little effect on neighboring property owners, as the new building will be adjacent to the drive-thru lane for the property addressed as 3440 West Broadway.*

### RECOMMENDATION

The Community Development Department recommends **Denial** of the variances from Section 15.15.050, Site development regulations, of the Municipal Code (Zoning Ordinance) to allow a principal structure to be constructed with a one foot interior side yard setback, as opposed to the required five feet, in a C-2/Commercial District, based on the reasons stated above.



Christopher Gibbons, AICP  
Planning Coordinator



Chris Meeks  
Planner



# CITY OF COUNCIL BLUFFS - ZONING BOARD OF ADJUSTMENT CASES #BA-19-005 LOCATION/ZONING MAP

## Legend

 Subject Property

0 30 60  
1 Inch = 65 Feet

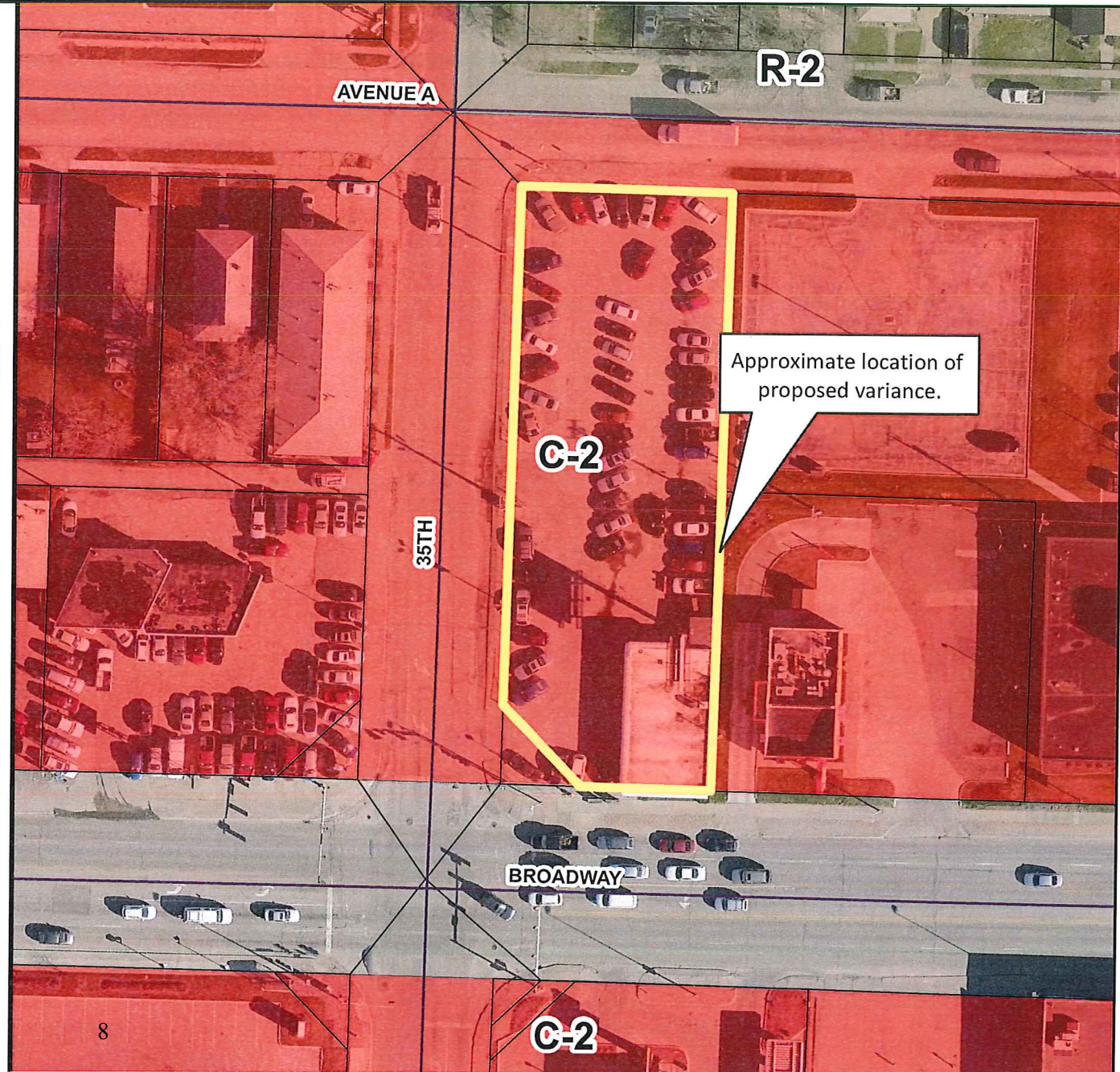


Last Amended: 7/31/19



Council Bluffs Community  
Development Department  
209 Pearl Street  
Council Bluffs, IA 51503  
Telephone: (712) 328.4629

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ATTACHMENT B

July 22, 2019

RE: 3444 West Broadway - Garage

To: Board of Adjustment

We are requesting a variance to have the new garage built with the East wall even with the existing building. We are willing to comply with the front of the garage being stucco or stone on the West side.

We are requesting that the new garage, required by the Iowa DOT, is placed one foot off the East property line even with the existing building. We will be using the new garage for detailing vehicles and light mechanical work. All of our vehicles will be going through our shop at Todd Archer Hyundai for additional repairs. We will need the height approved also so we can safely operate a car lift in the garage.

We feel it would be in the city & our best interest to move the garage back so when you look North from Broadway it would be out of sight. We also need it moved back so we can see out of the North windows of the existing building to see customers.

Thank you for your consideration.

Sincerely,



Todd Archer

35th STREET

EXISTING ASPHALT PARKING

EXISTING ASPHALT PARKING

PROPOSED 18,24 BUILDING

SIGN

EXISTING BUILDING

88.0'

214.0'

252.0'

20'-0"

1'-0"

CANOPY

48.9'

57.0'

ATTACHMENT D

July 22, 2019

RE: 3444 West Broadway

To whom it may concern:

I, Tim O'Neill, authorize Todd Archer to represent me at the Board of Adjustment for the property I own listed above in Council Bluffs.

I have been in communication with Todd and agree 100% with what he is trying to accomplish.

Sincerely,

A handwritten signature in blue ink that reads "Tim O'Neill". The signature is written in a cursive style and is positioned above a horizontal line.

Tim O'Neill



## Attachment E:

### Site Photos



#### Key:

- 1- Aerial Photo of subject property (facing East)
- 2- Approximate location of new building (facing East)
- 3- View of East property line (facing South)
- 4- View of power lines in vacated alleyway (facing East)



## Zoning Board of Adjustment Communication

Department: Community  
Development

Case/Project No.: BA-19-006

Case #BA-19-006

Council Action: 8/20/2019

Submitted by: Moises Monrroy,  
Planner

### Description

Public hearing on the request of Brandon Ramsey, represented by Mark Taylor, for a 10 ¾ -inch height variance from Section 15.08B.050, Site Development Regulations, of the Municipal Code (Zoning Ordinance) to allow the construction of an accessory structure that exceeds the maximum allowable height of 18 feet in an R-1/Single-Family Residential District at 504 Forest Drive, legally described as Lot 38, Forest Park Addition, City of Council Bluffs, Pottawattamie County, Iowa.

### Background/Discussion

See attachments.

### Recommendation

### ATTACHMENTS:

Description	Type	Upload Date
Case #BA-19-006 Staff Report & Attachments	Other	8/14/2019

**TO:** Zoning Board of Adjustment  
**FROM:** Community Development Department

**DATE:** June 20, 2019

**RE:** **CASE #BA-19-006**  
**REQUEST:** Public hearing on the request of Brandon Ramsey for a variance from Section 15.08B.050, Site Development Regulations, of the Municipal Code (Zoning Ordinance) to allow an accessory structure to exceed the maximum height allowed in the R-1/Single-Family Residential District, on property addressed as 504 Forest Drive and legally described as Lot 38, Forest Park Addition, City of Council Bluffs, Pottawattamie County, Iowa. Location: 504 Forest Drive.

**APPLICABLE  
CODE SECTION:**

**Section 15.08B.050 Site Development Regulations for the R-1/Single Family Residential Zoning District:**

<u>Maximum Height</u>	<u>Principal Structure</u>	<u>Accessory Structures</u>
	<i>35 feet</i>	<i>18 feet</i>

**RELIEF SOUGHT:** A 10 ¾-inch height variance to allow an accessory structure (detached garage) to measure 18 feet 10 ¾ inches in height, as opposed to the maximum 18 feet allowed in an R-1 District.

**LEGAL**

**DESCRIPTION:** Lot 38, Forest Park Addition, City of Council Bluffs, Pottawattamie County, Iowa.

**LOCATION:** 504 Forest Drive, Council Bluffs, IA 51503

**APPLICANT/OWNER:** Brandon Ramsey, 504 Forest Drive, Council Bluffs, IA 51501

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**BACKGROUND INFORMATION** – Brandon Ramsey, represented by Mark Taylor, has applied for a variance from Section 15.08B.050, Site Development Regulations, of the Municipal Code (Zoning Ordinance) to allow an accessory structure exceed the maximum height allowed in the R-1/Single-Family Residential District.

The applicant is proposing to construct a 24' x 24' detached garage on his residential property at 504 Forest Drive. The applicant intends to use the foundation of the existing 24' x 22' garage for the construction of the proposed garage. The proposed garage will be two (2) feet deeper than the existing garage in order to provide additional space for parking. The applicant is also proposing to construct a second story for storage purposes. The applicant has cited the topography of the site as the reason for this request. The applicant has submitted a letter of intent and a front view elevation plan for the proposed accessory structure.

The following attachments have been included for your reference:

Attachment A: Location/Zoning Map

Attachment B: Letter of Intent

Attachment D: Front View Elevation Plan

Attachment C: Site Photos

**CURRENT ZONING AND LAND USE** – The subject property is zoned R-1/Single-Family Residential District. Surrounding properties are also zoned R-1 and primarily consist of single-family dwellings.

**CITY DEPARTMENTS AND UTILITIES** – All City departments and local utility providers were notified of the requested variance. The following comments were received:

- The Permits and Inspections Division stated they had no objections to this request.
- The Council Bluffs Public Works Department stated they had no comments on the requested variance.
- The Council Bluffs Police Department stated they had no objections to this request.
- Mid-American Energy stated they had no objections to the proposed variance provided that all applicable codes and OSHA construction and structure clearances are maintained from adjacent electric distribution facilities. They also stated that any costs associated with relocating MidAmerican Energy facilities will be the responsibility of the applicant.
- The Community Development Department had the following comments:
  - The existing detached garage, which is built along the hillside, is conformance with the City's Zoning Ordinance, measuring 12 feet in height, which is below the maximum height allowed for accessory structures in an R-1 District.
  - Property owner could construct a second story with 6-foot walls or reduce the slope of the roof to 2:12 to reduce the overall height of the detached garage.

**NEIGHBORHOOD RESPONSE** – All property owners within 200 feet of the subject property were notified of the requested variance. The property owner at 321 Perrin Place had a general inquiry about the request and stated he had no concerns with the proposed variance as long as the garage is not used for commercial purposes.

**COMMENTS** - Evidence must be presented to demonstrate that a literal enforcement of the Ordinance will create a hardship for which relief is necessary. The Board of Adjustment shall approve a variance to grant relief when 'unforeseen applications of this Ordinance...create particular hardships'. No variance shall be granted unless the Board of Adjustment makes findings of fact based on the standards and conditions that follow. A variance less than requested may be granted by the Board when the record supports the applicant's right to some relief, but not to the entire relief requested. (§15.02.080 – Variances)

1. *The particular property, because of size, shape, topography or other physical conditions suffers singular disadvantage through the application of this ordinance, which does not apply to other properties in the vicinity. The size, shape and topography of the property are typical of those in the general vicinity and surrounding area. The lot exceeds the width, depth, and area requirements for a lot in the R-1/Single-Family Residential District.*
2. *Because of such disadvantage, the owner is unable to make reasonable use of the affected property. The existing single-family dwelling is compliant with the zoning district and appears to meet all setback and lot coverage requirements. The existing garage is in conformance with the City's Zoning Ordinance. The owner can continue to use the property for residential purposes if the variance request is not granted.*
3. *The disadvantage does not exist because of conditions created by the owner or previous owners of the property. The need for the variance exists due to a design preference created by the current property owners. Property owner can make modifications to the design of the detached garage to reduce the overall height of the structure.*
4. *Granting the variance will not confer on the applicant any special privileges that are denied by this ordinance to other properties or structures in the same district. Granting the variance will allow the applicant to construct an accessory structure that exceeds the maximum height allowed in an R-1 District, thus conferring the subject property a privilege denied to other properties in said district.*
5. *Granting the variance will not be contrary to the public interest, will not adversely affect other property in the vicinity, and will be in harmony with the purpose and intent of this ordinance. Granting the variance will not be contrary to the public interest and will not adversely affect other properties in the vicinity. The variance process is to provide a narrowly circumscribed means by which relief may be granted from*

variance process is to provide a narrowly circumscribed means by which relief may be granted from unforeseen applications of this ordinance that create particular hardships. The request for the aforementioned variance is the result of a design preference, not an unnecessary hardship with the subject property.

### RECOMMENDATION

The Community Development Department recommends denial of the requested variance from Section 15.08B.050—R-1/Single Family Residential District—Site Development Regulations, for property legally described as Lot 38, Forest Park Addition, City of Council Bluffs, Pottawattamie County, Iowa, based on the reasons stated above.



Christopher Gibbons, AICP  
Planning Coordinator



Moises Monrroy  
Planner



# CITY OF COUNCIL BLUFFS - CITY PLANNING COMMISSION CASES #BA-19-006 LOCATION/ZONING MAP

## Legend

 Subject Property (504 Forest Drive)

0 20 40  
1 Inch = 42 Feet

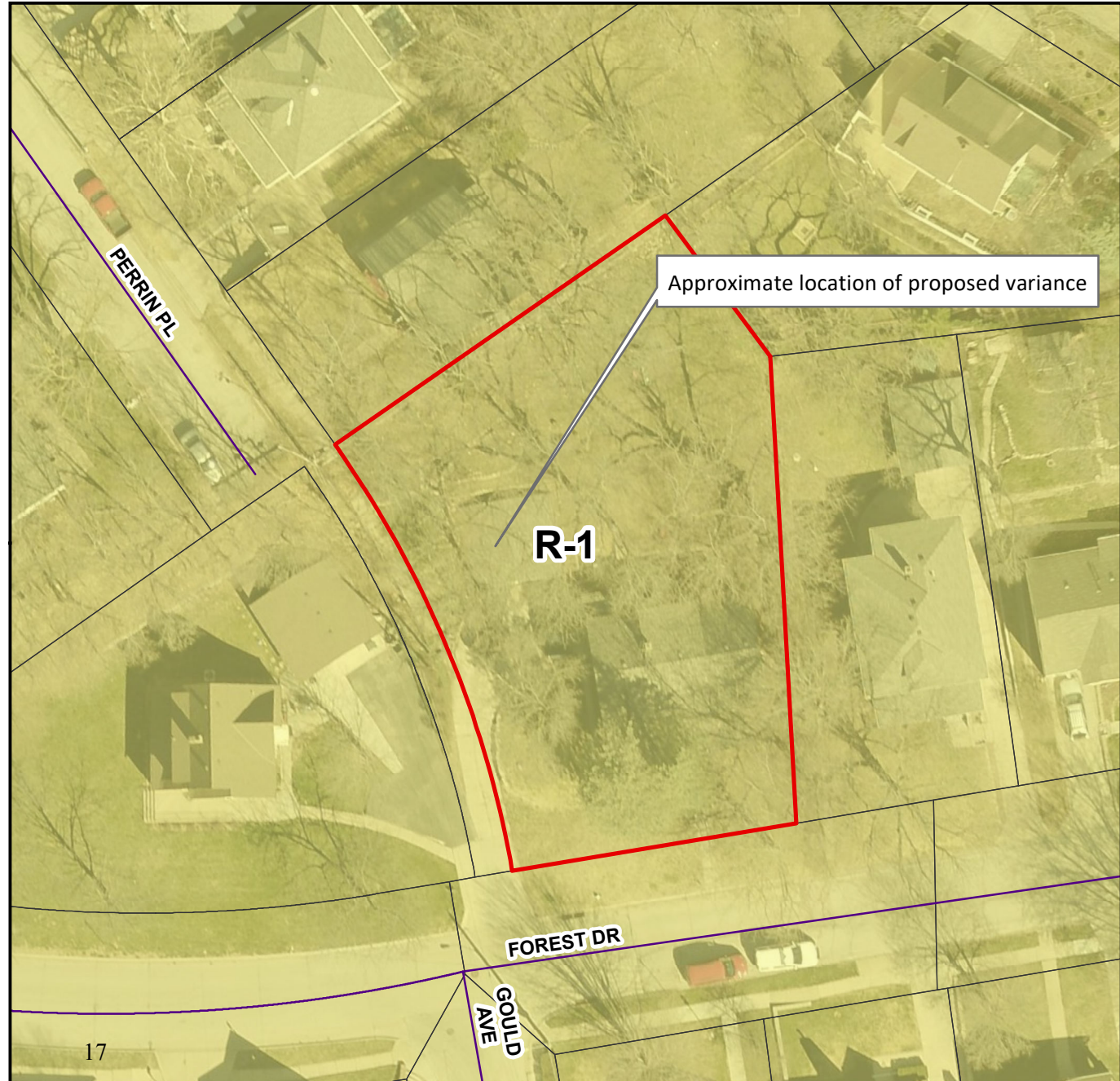


Last Amended: 7/25/19



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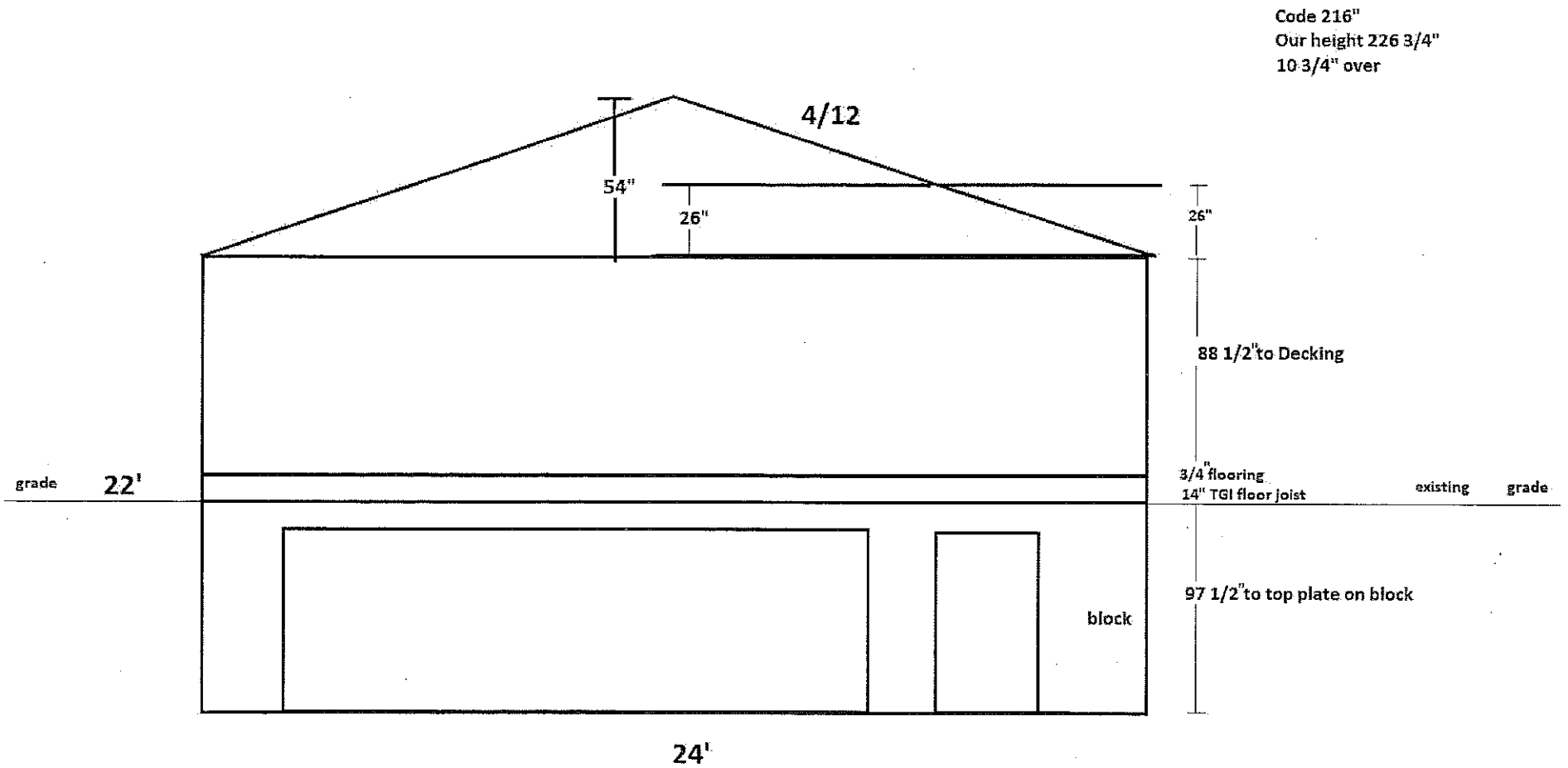
7-22-19

Zoning Board of Adjustment, The Garage Company is the contractor for Brandon Ramsey at 504 Forest Drive, Council Bluffs IA. We would like to ask for an adjustment on the current building code of 18' maximum height to the center of the gable end on accessory structures. We are asking the board for a 12" encroachment making it 19' foot to the center of the gable end. The hardship is the elevations we are dealing with, such as the existing bluff, this house and existing garage are built into. We would like to use the existing foundation of the garage that is there now, size is 24' wide 22' deep. We want to extend the front of the garage out two more feet making it a 24'x24'. This will allow the homeowner to be able to park his vehicle in. The current one is not deep enough. We would like to put a second story on the existing 8' block wall (non-habitable) for storage only, owner has four small children and is desperate for storage. The second story would consist of 7' side walls and a 4/12 pitch roof, which will put us over the code by 10 3/4". We are asking for 12" just to be safe. We understand why we need this code in place, but under this particular circumstance this structure is surrounded by two story houses and will not be blocking anyone's view or line of sight and disappear into the bluff, again this is a non-habitable structure.

Thank you,

Mark Taylor, The Garage Company

ATTACHMENT C





ATTACHMENT D

