ZONING BOARD OF ADJUSTMENTS
AGENDA
Tuesday, April 16, 2024 - 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-24-001

Public hearing on the request of Manuel Contreras Martinez for a 9.7 foot variance from Section 15.05.050, Site Development Regulations, A-2/Parks, Estates and Agricultural District, of the Council Bluffs Zoning Ordinance to allow a residential building addition to have a 5-foot interior side yard setback, as opposed to the required 14.7 feet, on property legally described as Lot 11, Government Lot Subdivision, located in the SW ¼ of Section 14-74-44, City of Council Bluffs, Pottawattamie County, Iowa. Location: 5019 Gifford Road.

B. CASE #BA-24-002

Public hearing on the request of Bailey and Erika LaBreck for variances from Section 15.09.050, Site Development Regulations, R-2/Two-Family Residential District, of the Council Bluffs Zoning Ordinance to allow an accessory structure to be located closer to the front property line than the principal structure and from Section 15.23.030, Design Standards, Off-Street Parking, Loading, and Unloading, to allow off-street parking to be located within a required front yard on property legally described as Lot 4 and the northerly 3 feet of Lot 5, Block 10, Mid City Addition, City of Council Bluffs, Pottawattamie County, Iowa. Location: 610 N. 39th Street.

C. CASE #CU-24-002

Public hearing on the request of Shala Tolle, d/b/a Shine with Shala's Kiddos, for a conditional use permit to allow a 'day care services' in an R-1/Single-Family Residential District on property legally described as being a part of Lot 1, Auditor's Subdivision of the NW1/4 NW1/4

and part of Lot 3, Auditor's Subdivision of the NE1/4 NW1/4, all in Section 32-75-43, City of Council Bluffs, Pottawattamie County, Iowa. Location: 24 Bennett Avenue.

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) 890-5350 or email at cgibbons@councilbluffs-ia.gov.

Zoning Board of Adjustment Communication

Department: Community Development
Case/Project No.: BA-24-001
Submitted by: Christopher N. Gibbons, AICP, Planning & Code Compliance Manager and Moises Monrroy, Planner

CASE #BA-24-001

Council Action: 4/16/2024

Description

Public hearing on the request of Manuel Contreras Martinez for a 9.7 foot variance from Section 15.05.050, Site Development Regulations, A-2/Parks, Estates and Agricultural District, of the Council Bluffs Zoning Ordinance to allow a residential building addition to have a 5-foot interior side yard setback, as opposed to the required 14.7 feet, on property legally described as Lot 11, Government Lot Subdivision, located in the SW ¼ of Section 14-74-44, City of Council Bluffs, Pottawattamie County, Iowa. Location: 5019 Gifford Road.

Background/Discussion

See attached staff report.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
Staff Report & Attachments	Other	4/10/2024

TO:	Zoning Board of Adjustment
FROM:	Community Development Department
DATE:	April 16, 2024
RE:	**CASE #BA-24-001**
REQUEST:	Public hearing on the request of Manuel Contreras Martinez for a 9.7 foot variance from Section 15.05.050, Site Development Regulations, A-2/Parks, Estates and Agricultural District, of the Council Bluffs Zoning Ordinance to allow a residential building addition to have a 5-foot interior side yard setback, as opposed to the required 14.7 feet, on property legally described as Lot 11, Government Lot Subdivision, located in the SW ¼ of Section 14-74-44, City of Council Bluffs, Pottawattamie County, Iowa
APPLICABLE CODE SECTION:	**Section 15.05.050, Site Development Regulations, A-2/Parks, Estates, and Agricultural District**
RELIEF SOUGHT:	A 9.7 foot variance from Section 15.05.050, Site Development Regulations, A-2/Parks, Estates and Agricultural District, of the Council Bluffs Zoning Ordinance to allow a residential building addition to have a 5-foot interior side yard setback, as opposed to the required 14.7 feet
LEGAL DESCRIPTION:	Lot 11, Government Lot Subdivision, located in the SW ¼ of Section 14-74-44, City of Council Bluffs, Pottawattamie County, Iowa
LOCATION:	5019 Gifford Road, Council Bluffs, IA 51501
OWNER/APPLICANT:	Manuel Contreras Martinez, 5019 Gifford Road, Council Bluffs, IA 51501

BACKGROUND INFORMATION – The Community Development Department has received a request from Manuel Contreras Martinez for a 9.7 foot variance from Section 15.05.050, Site Development Regulations, A-2/Parks, Estates and Agricultural District, of the Council Bluffs Zoning Ordinance to allow a residential building addition to have a 5-foot interior side yard setback, as opposed to the required 14.7 feet, on property addressed at 5019 Gifford Road. The purpose of this request is to allow the applicant to construct a 30' × 37' addition to the rear of the existing home on the subject property. As per the applicant's statement intent, the proposed addition must be set as close to the southerly property line as possible in order to avoid any conflicts with the private septic system that services the existing home.

The following attachments have been included for your reference:

Attachment A: Location/Zoning Map
Attachment B: Site Plan
Attachment C: Floor Plan
Attachment D: Plat of Survey

CURRENT ZONING AND LAND USE – The subject property is zoned A-2/Parks, Estates, and Agricultural District. Surrounding properties to the north, south, and west are also zoned A-2 District and primarily consist

of single-family homes and undeveloped/agricultural land. Land to the east is undeveloped and zoned I-2/General Industrial District.

The following photographs show the existing conditions of the subject property:

Exhibit A: Looking east toward the existing home and septic tank

Exhibit B: Looking south toward rear of the existing home

Exhibit C: Looking southwest toward septic system manholes and cleanouts

Exhibit D: Looking east toward rear of the existing home

Exhibit E: Looking south toward the southwest corner of the existing home

Exhibit F: Looking northeast toward rear of the existing home

Exhibit G: Looking north toward the rear of the existing home

Exhibit H: Looking northeast toward sewer cleanout located beneath rear deck

The following variance has been issued by the Zoning Board of Adjustment in the general vicinity of the subject property:

A. Case #BA-14-012: A variance to allow the use of a gravel driveway for a new detached garage at 5111 Gifford Road.

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

A. The Community Development Department had the following comments:

1. The subject property is zoned A-2/Parks, Estates, and Agricultural District. Since the subject property is 147.38 feet in width, as opposed to the required 150 feet, and contains 1.14 acres in area, as opposed to the required 3 acres, it is deemed a nonconforming lot of record.

2. The minimum required side yard setback for principal structures in the A-2 District is calculated as 10% of the lot width at the building setback line. Since the subject property is approximately 147 feet in width, the minimum required side yard setback is 14.7 feet.

3. Based on the as-built land survey submitted by the applicant (Attachment 'D'), the existing home has a 4.3-foot setback to the southerly property line. Since the existing home does not meet the minimum required side yard setback of 14.7 feet, it is considered a nonconforming structure.

4. The applicant is proposing to construct a 30' × 37' addition to the rear of the existing home with a 5-foot to the southerly property line. The proposed addition would not meet the minimum required side yard setback.

5. As per Section 15.26.040(A), <u>Enlargement of Nonconforming Structure</u>, of the Council Bluffs Municipal Code (Zoning Ordinance), no nonconforming structure may be enlarged or altered in any way that increases its nonconformity. The construction of the addition to the home as proposed would exacerbate the existing nonconformity at this site as it would increase the footprint of the residential structure within the required side yard setback.

6. The applicant has indicated that the requested variance is needed as the addition must be constructed as close to the southerly property line as possible to avoid any conflicts with the private septic system that services the existing home. However, the site plan submitted by the applicant (Attachment 'B') shows the proposed addition will be located on one of the sewer cleanouts. Since the sewer cleanout

must be relocated regardless if the proposed variance is issued by the Zoning Board of Adjustment, the Community Development Department has determined that the location of the private septic system on the subject property does not constitute a hardship.

7. The floor plan submitted by the applicant (Attachment 'C') shows the proposed addition with a 15-foot setback to the southerly property line, which would comply with the minimum setback requirements in the A-2 District. Although the subject property is a nonconforming lot of record, there is still a sufficient amount of space to accommodate an addition to the existing home that complies with the minimum required side yard setback of 14.7 feet, as shown on Attachment 'C.'

B. The Council Bluffs Public Works Department stated they had no comments on the request.

C. The Council Bluffs Fire Department stated they had no comments on the request.

D. The Council Bluffs Police Department stated they had no comments or objections to the request.

E. Council Bluffs Water Works stated they had no comments on the request.

NEIGHBORHOOD RESPONSE – All property owners within 200 feet of the subject property were notified of the variance request. No comments have been received as of the date 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)*

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 and shape of the subject property is generally typical for the area and its topography is relatively flat. The subject property is deemed a nonconforming lot of record as it does not the minimum lot size requirements in the A-2/Parks, Estates, and Agricultural District. However, there is still a sufficient amount of space on the subject property to accommodate an addition to the existing home that complies with the minimum required side yard setback of 14.7 feet, as shown in Attachment 'C.'

   The applicant has indicated that the requested variance is needed as the addition must be constructed as close to the southerly property line as possible to avoid any conflicts with the private septic system that services the existing home. However, the site plan submitted by the applicant (Attachment 'B') shows the proposed addition will be located on one of the sewer cleanouts. Since the sewer cleanout must be relocated regardless if the proposed variance is issued by the Zoning Board of Adjustment, the Community Development Department has determined that the subject property does not suffer a singular disadvantage that would create a hardship through the implementation of minimum setback requirements.

2. *Because of such disadvantage, the owner is unable to make reasonable use of the affected property*. The subject property is developed with a single-family residential dwelling. 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 disadvantage exists due to a design preference from the property owner. There is a sufficient amount of space on the subject property to accommodate an addition to the existing home that complies with the minimum required side yard setback of 14.7 feet, as shown in Attachment 'C.'

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 requested variance would constitute a special privilege, as it would allow the applicant to increase the footprint of the residential structure within the required side yard setback and thus exacerbate an existing nonconformity, which is explicitly denied as per Section 15.26.040(A), Enlargement of Nonconforming Structure, of the Council Bluffs Municipal Code (Zoning Ordinance).

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 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. Granting a variance to allow the applicant to build the proposed home addition would not be contrary to the public interest, but would not be in harmony with the purpose and intent of this ordinance as the subject property does not suffer from a particular hardship.

RECOMMENDATION

The Community Development Department recommends denial of a 9.7 foot variance from Section 15.05.050, Site Development Regulations, A-2/Parks, Estates and Agricultural District, of the Council Bluffs Zoning Ordinance to allow a residential building addition to have a 5-foot interior side yard setback, as opposed to the required 14.7 feet, on property legally described as Lot 11, Government Lot Subdivision, located in the SW ¼ of Section 14-74-44, City of Council Bluffs, Pottawattamie County, Iowa, based on the reasons stated above.

Christopher Gibbons, AICP
Planning Manager

Moises Monroy
Planner

Attachment 'A'

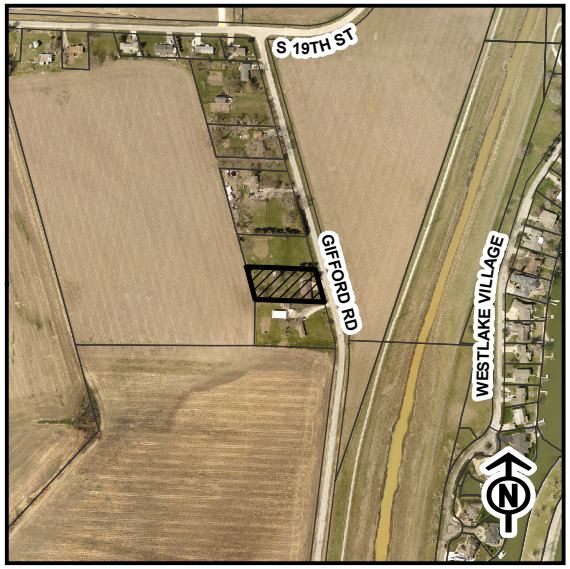
CITY OF COUNCIL BLUFFS - ZONING BOARD OF ADJUSTMENT
CASE #BA-24-001 LOCATION/ZONING MAP

Legend

Subject Property

0 40 80

1 Inch = 83 Feet



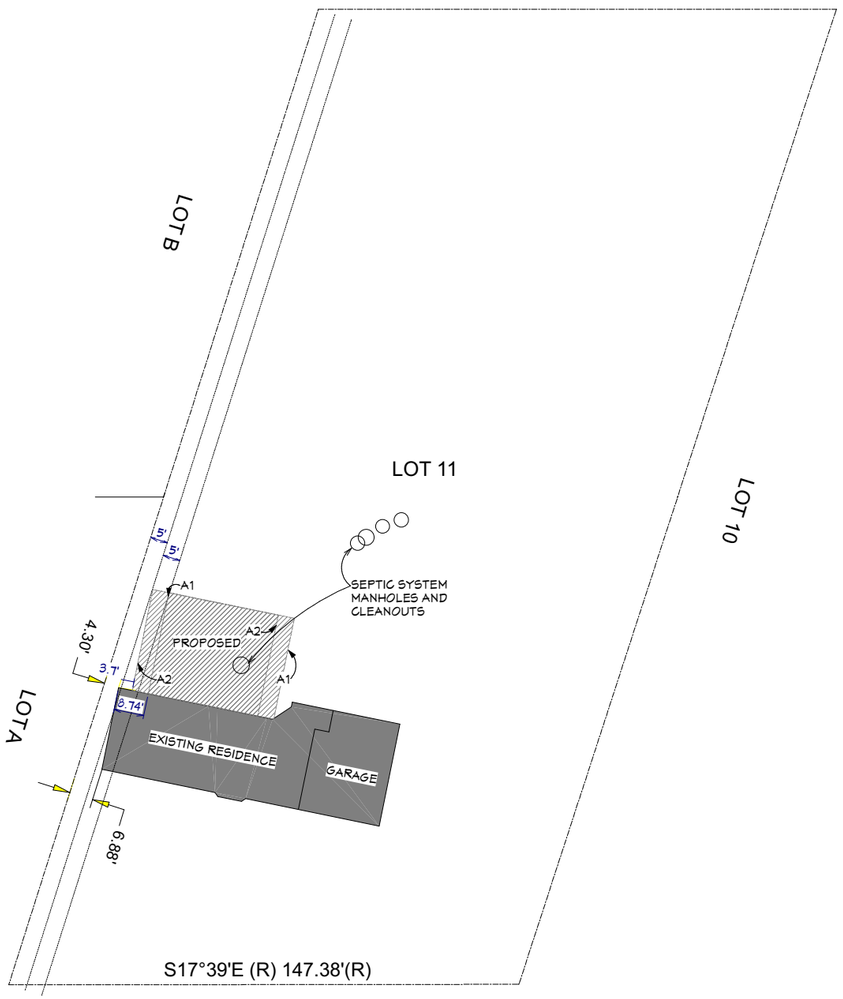
Last Amended: 3/18/2024

Council Bluffs Community Development Department
209 Pearl Street
Council Bluffs, IA 51503
Telephone: (712) 890-5350

DISCLAIMER

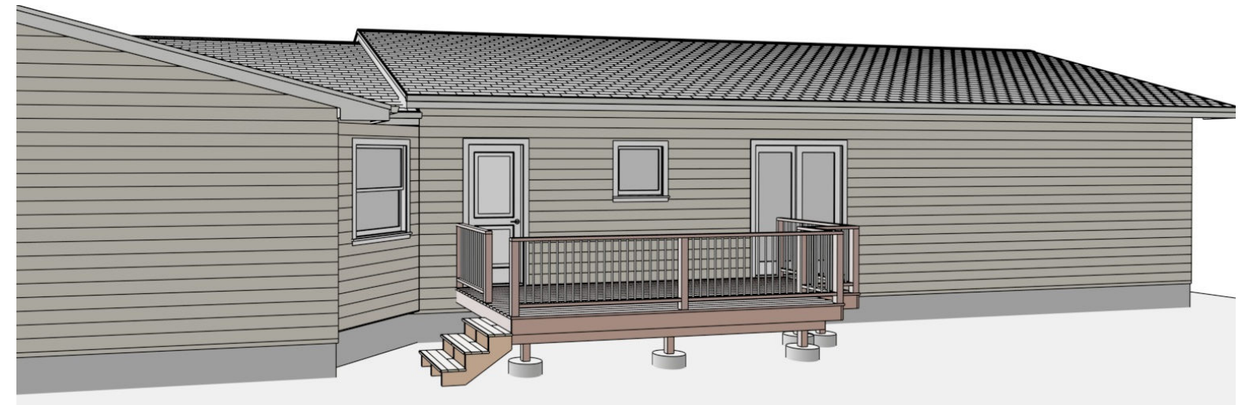
This map is prepared and compiled from City documents, plans and other public records data. Users of this map are hereby notified that the City expressely denies any and all responsibilities for errors, if any, in the information contained on this mapof the misuse of the same by the user or anyone else. The user should verify the accuracy of information/data contained on this map before using it. The City assumes no legal responsibility for the information contained on this map.

Attachment 'B'

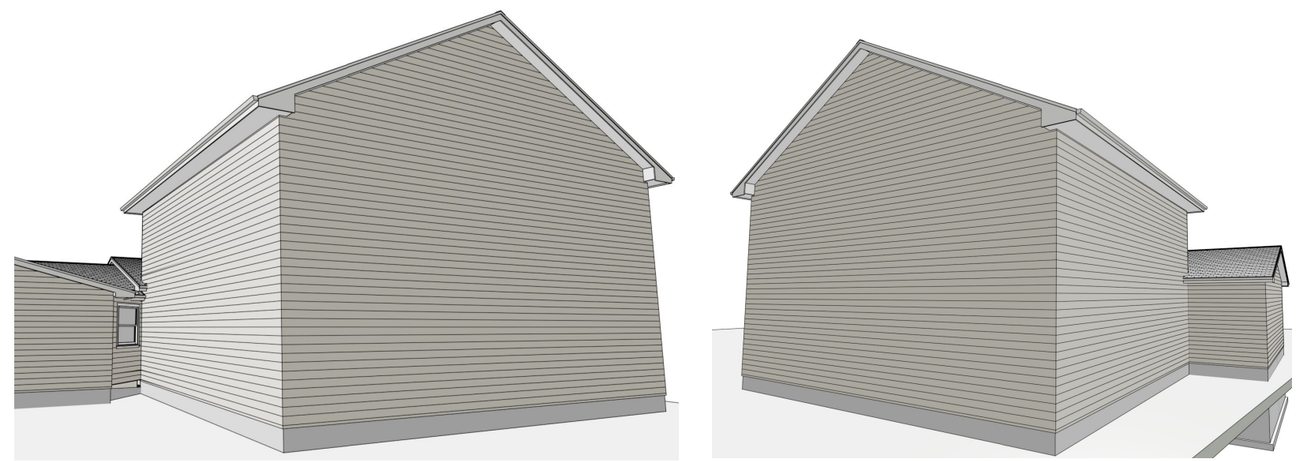


PLOT PLAN

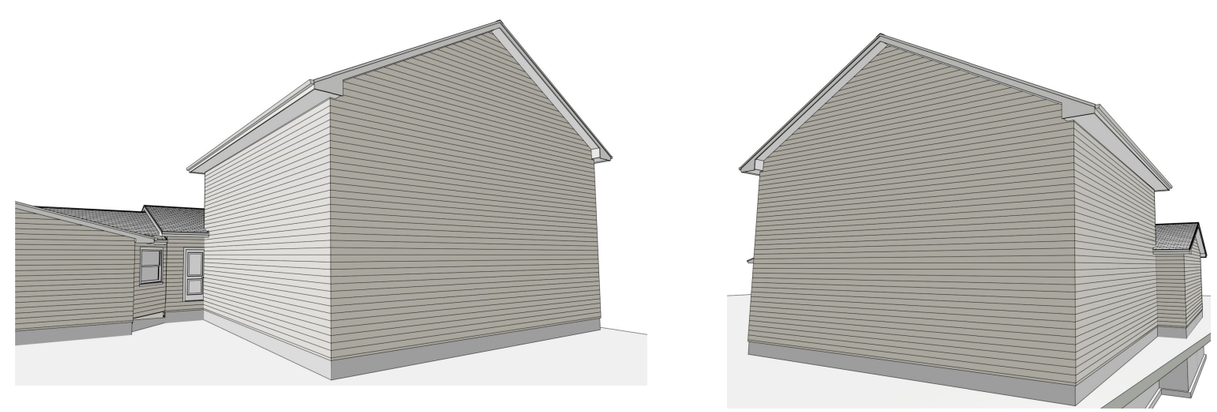
SCALE: 0'-1" = 20'-0"



EXISTING RESIDENCE W/ 2 LEVEL ROOF (TRYING TO AVOID)



A1-37'X30' ADDITION ADDED @ 10' SETBACK



A2-37'X30' ADDITION ADDED @ 5' SETBACK

ELEVATION DRAFTING COMPANY

ELEVATION DRAFTING COMPANY IS A PROFESSIONAL RESIDENTIAL DESIGN/DRAFTING FIRM LOCATED IN GLENWOOD, IA. CONSTRUCTION FROM THESE PLANS SHOULD NOT BE UNDERTAKEN WITHOUT THE ASSISTANCE OF A CONSTRUCTION PROFESSIONAL. HOMEOWNER/ CONTRACTOR MUST THOROUGHLY REVIEW AND VERIFY ALL DIMENSIONS, MATERIALS, STRUCTURAL, CODE AND SITE REQUIREMENTS PRIOR TO CONSTRUCTION. THEY RELEASE ELEVATION DRAFTING COMPANY FROM ANY LAWSUITS THAT MAY OCCUR DURING OR AFTER THE BUILDING PROCESS.

CONTRERAS MARTINEZ RESIDENCE
5019 GIFFORD RD
COUNCIL BLUFFS, IA

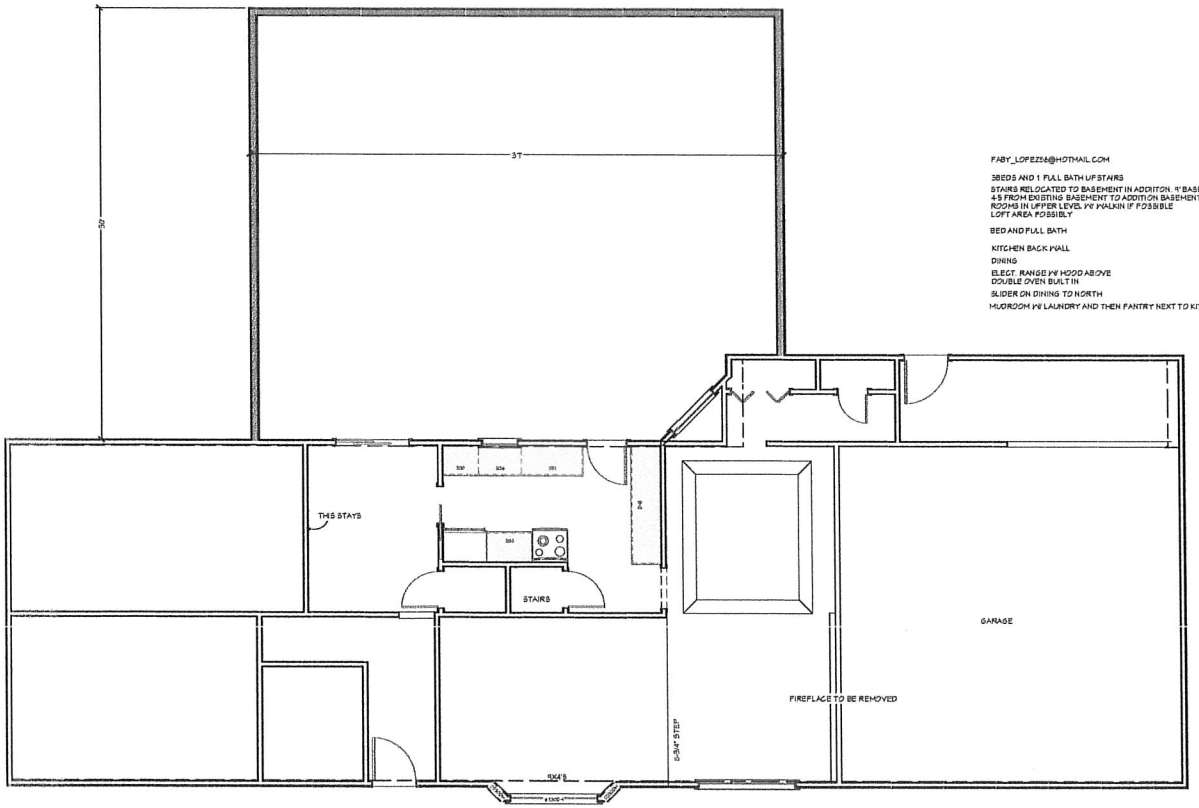
General Plot Plan

DATE: 3/14/2024

SHEET:

A2

Attachment 'C'



FABY_LOPEZ26@HOTMAail.COM

3BEDS AND 1 FULL BATH UPSTAIRS
STAIRS RELOCATED TO BASEMENT IN ADDITON. 9' BASEMENT
4.5 FROM EXISTING BASEMENT TO ADDITION BASEMENT
ROOMS IN UPPER LEVEL W/ WALKIN IF POSSIBLE
LOFT AREA POSSIBLY

BED AND FULL BATH

KITCHEN BACK WALL

DINING

ELECT. RANGE W/ HOOD ABOVE
DOUBLE OVEN BUILT IN

SLIDER ON DINING TO NORTH

MUDROOM W/ LAUNDRY AND THEN PANTRY NEXT TO KITCHEN

MAIN LEVEL FLOOR PLAN

SCALE: 1/4" = 1'-0"

ELEVATION DRAFTING COMPANY

ELEVATION DRAFTING COMPANY IS A PROFESSIONAL DESIGN FIRM LOCATED IN GLENWOOD, IA. CONSTRUCTION FROM THESE PLANS SHOULD NOT BE UNDERTAKEN WITHOUT THE ASSISTANCE OF A CONSTRUCTION PROFESSIONAL. HOMEOWNER/ CONTRACTOR MUST THOROUGHLY REVIEW AND VERIFY ALL DIMENSIONS, MATERIALS, STRUCTURAL CODES AND SITE REQUIREMENTS PRIOR TO CONSTRUCTION. THEY RELEASE ELEVATION DRAFTING COMPANY FROM ANY LAWSUITS THAT MAY OCCUR DURING OR AFTER THE BUILDING PROCESS.

CONTRERAS MARTINEZ RESIDENCE

5019 GIFFORD RD
COUNCIL BLUFFS, IA

Main Floor Plans

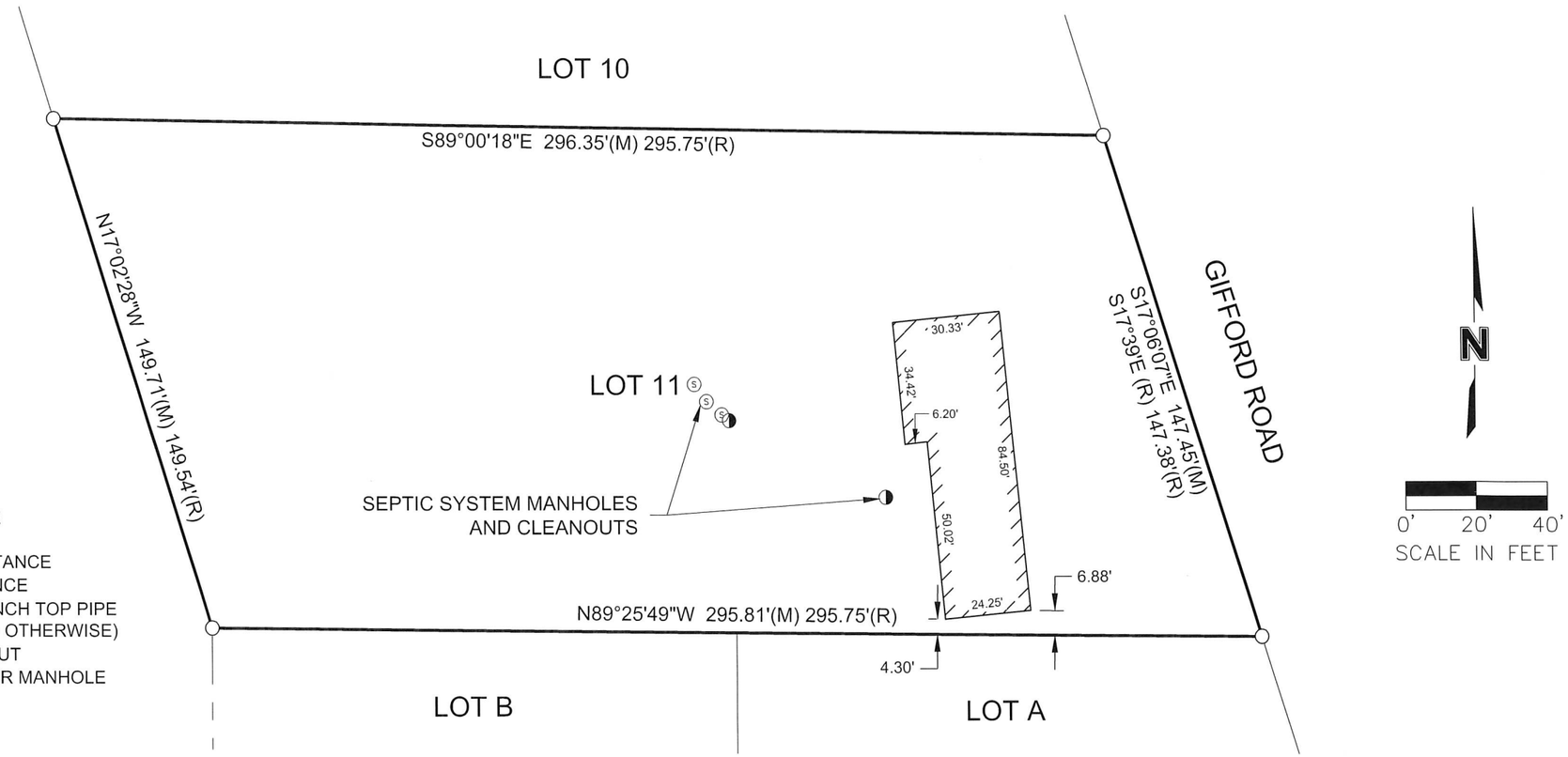
DATE: 1/18/2024

SHEET:

A4

RETRACEMENT PLAT OF SURVEY

LOT 11, GOVERNMENT LOT SUBDIVISION,
LOCATED IN SW1/4 OF SECTION 14, TOWNSHIP 74 NORTH, RANGE 44 WEST OF, THE 5TH P.M.,
CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA



INDEX LEGEND

PROPERTY LOCATION:	PART OF SW1/4 SEC 14-74-44W OF 5TH P.M. COUNCIL BLUFFS, IA
SURVEYOR:	TERRY L. ROTHANZL P.L.S #17413 TROTHANZL@OLSSON.COM
RETURN DOCUMENT TO:	OLSSON 2111 S. 67TH ST. SUITE #200 OMAHA, NE 68106 (402)-341-1116
SURVEY REQUESTED BY:	SHAWN BABE
PROPRIETOR:	MANUEL CONTRERAS-MARTINEZ 5019 GIFFORD ROAD, COUNCIL BLUFFS, IA 51501

LEGEND

———	BOUNDARY LINE
— — —	PROPERTY LINE
(M)	MEASURED DISTANCE
(R)	RECORD DISTANCE
○	FOUND 1-1/4" PINCH TOP PIPE (UNLESS NOTED OTHERWISE)
◑	SEWER CLEANOUT
Ⓢ	SANITARY SEWER MANHOLE
▨	BUILDING

SURVEYOR'S CERTIFICATION:

I, TERRY L. ROTHANZL, A PROFESSIONAL REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA, CERTIFY THAT THE SURVEY REPRESENTED WAS PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION AND COMPLETED ON FEBRUARY, 21ST 2024. THE MONUMENTS AND DISTANCES SHOWN ARE CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. PERMANENT MONUMENTS WERE FOUND OR ESTABLISHED AS DESCRIBED ON THIS PLAT. ALL DISTANCES SHOWN ARE REPRESENTED IN U.S. SURVEY FEET AND DECIMALS OF A FOOT.

TERRY L. ROTHANZL

LICENSED LAND SURVEYOR
02-21-24
TERRY ROTHANZL 17413
IOWA

GENERAL NOTES

1. BASIS OF ASSUMED BEARING IA RTK /IARCS/ ZONE 6 COUNCIL BLUFFS AND ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES.
2. SUBJECT PROPERTY CONTAINS AN AREA OF 41,872.79 SQUARE FEET OR 0.96 ACRES, MORE OR LESS.
3. RECORD BEARING IS S17°39'E AS SHOWN ON PLAT. RECORDED IN BOOK 1398 PAGE 46 OF THE POTTAWATTAMIE COUNTY RECORDER'S OFFICE.

WARRANTY DEED DESCRIPTION (DOC. #2022-06410)

PARCEL II, A PART OF THE SW1/4, SECTION 14, TOWNSHIP 74 NORTH, RANGE 44 WEST, POTTAWATTAMIE COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE SW1/4, SECTION 14, TOWNSHIP 74 NORTH, RANGE 44 WEST, THEN ALONG A COUNTY ROAD AND THE NORTH LINE OF SAID SW1/4 SECTION 14, S89°36"E, 1,393.00 FEET; THEN S17°39'E, 1,075.72 FEET TO THE POINT OF BEGINNING; THENCE S17°39'E 147.38 FEET; THENCE WEST 34.71 FEET TO AN IRON PIPE; THENCE WEST 295.75 FET TO AN IRON PIPE; THE N17°39'W, 149.54 FEET TO AN IRON PIPE: THENCE S89°36'E, 295.75 FEET TO AN IRON PIPE; THENCE S89°36'E, 34.71 FEET TO THE POINT OF BEGINNING. (NOW KNOWN AS LOT 11)

DWG: C:\Users\dpeterson\OneDrive – Olsson\Desktop\5019 Gifford Road Survey CB-021624\V_XBNDY LOT PLAN.dwg USER: dpeterson
DATE: Feb 21, 2024 3:28pm XREFS: V_XTOPO TERRY_ROTHANZL_LS_IA

PROJECT NO: 000-00002	PROPERTY ADDRESS: 5019 GIFFORD ROAD	olsson 2111 South 67th Street, Suite 200 Omaha, NE 68106 TEL 402.341.1116	EXHIBIT
DRAWN BY: DSP			1
DATE: 2/21/22			

Zoning Board of Adjustment Communication

Department: Community Development
Case/Project No.: BA-24-002
Submitted by: Christopher N. Gibbons, AICP, Planning & Code Compliance Manager and Haley Weber, Planner

CASE #BA-24-002

Council Action: 4/16/2024

Description

Public hearing on the request of Bailey and Erika LaBreck for variances from Section 15.09.050, Site Development Regulations, R-2/Two-Family Residential District, of the Council Bluffs Zoning Ordinance to allow an accessory structure to be located closer to the front property line than the principal structure and from Section 15.23.030, Design Standards, Off-Street Parking, Loading, and Unloading, to allow off-street parking to be located within a required front yard on property legally described as Lot 4 and the northerly 3 feet of Lot 5, Block 10, Mid City Addition, City of Council Bluffs, Pottawattamie County, Iowa. Location: 610 N. 39th Street.

Background/Discussion

See attached staff report.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
Staff Report & Attachments	Other	4/10/2024

TO: Zoning Board of Adjustment
FROM: Community Development Department

DATE: April 16, 2024

RE: **CASE #BA-24-002**
REQUEST: Public hearing on the request of Bailey and Erika LaBreck for variances from Section 15.09.050, *Site Development Regulations, R-2/Two-Family Residential District*, of the Council Bluffs Zoning Ordinance for a 17-foot (more/less) front yard setback variance to allow an accessory structure to be located closer to the front property line than the principal structure and from Section 15.23.030, *Design Standards, Off-Street Parking, Loading, and Unloading*, to allow off-street parking to be located within a required front yard on property legally described as Lot 4 and the northerly 3 feet of Lot 5, Block 10, Mid City Addition, City of Council Bluffs, Pottawattamie County, Iowa.

APPLICABLE CODE SECTION(S):

Section 15.10.050 <u>Site Development Regulations for the R-2/Low Density Multifamily Residential Zoning District:</u>

Minimum Setback	Principal Structure	Accessory Structures
Front Yard	*25 feet*	*Greater of 25 feet or existing front setback line of principal structure*

Section 15.23.030, <u>Design Standards, Off-Street Parking, Loading and Unloading</u>

A. Parking Provisions for Personal Vehicles. All parking in one and two family residential uses shall be parked or stored in the following manner:
   5. Parking is permitted outside in the side yard or in the rear yard, behind the required front yard setback and must be contiguous with the primary surfaced driveway;

RELIEF SOUGHT: A 17-foot, more or less, front yard setback variance to allow an accessory structure to be located closer to the front property line than the principal structure and a variance to allow off-street parking to be located within the required front yard setback

LEGAL DESCRIPTION: Lot 4 and the northerly 3 feet of Lot 5, Block 10, Mid City Addition, City of Council Bluffs, Pottawattamie County, Iowa

LOCATION: 610 N. 39th Street, Council Bluffs, IA 51501

APPLICANT/OWNER: Bailey and Erika LaBreck, 610 N. 39th Street, Council Bluffs, IA 51501

BACKGROUND INFORMATION – The Community Development Department has received a request from Bailey and Erika LaBreck for variances from Section 15.09.050, *Site Development Regulations, R-2/Two-Family Residential District*, of the Council Bluffs Zoning Ordinance to allow an accessory structure to be located closer to the front property line than the principal structure and from Section 15.23.030, *Design Standards, Off-Street Parking, Loading, and Unloading*, to allow off-street parking to be located within a

required front yard on the subject property. The applicant has constructed an approximately 20' x 20' car port in front of the principal structure at the subject property. As the car port is located in the front yard setback and closer to the front lot line than the principal structure, a variance is required to allow the car port to be located in its current location. The applicant has also expanded the paved driveway in the required front yard and is requesting an additional variance to allow off-street parking in the front yard setback. Both the carport and pavement were installed without proper City approvals.

The following attachments have been included for your reference:
Attachment A: Location/Zoning Map
Attachment B: Site Photos
Attachment C: Letter of Intent

CURRENT ZONING AND LAND USE – The subject property is zoned R-2/Two-Family Residential District and is surrounded by single-family residential development also zoned R-2 District. Properties to the northeast are zoned R-3/Low Density Multifamily Residential District.

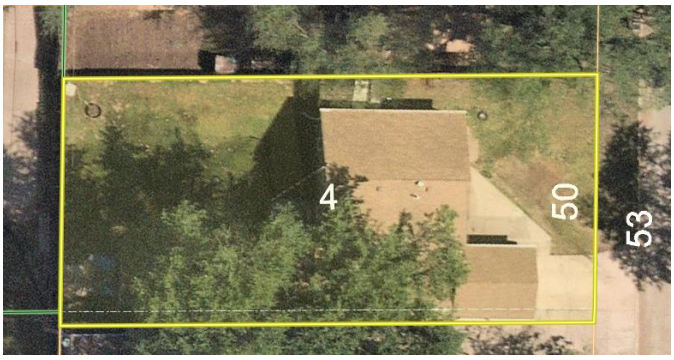
CITY DEPARTMENTS AND UTILITIES – All City departments and local utility providers were notified of the requested variance. The following comments were received:

A. The Community Development Department had the following comments:
   1. The subject property is zoned R-2/Two-Family Residential District. The subject carport is not attached to the dwelling and is therefore considered an accessory structure. Per Section 15.08B.050, *Site Development Regulations*, of the CBMC (Zoning Ordinance), accessory structures shall have a front yard setback that is the *"greater of 25 feet or existing front setback line of principal structure*." Based on the most recent Pottawattamie County GIS aerial photography, it appears the existing principal structure is located 12.5 feet, more or less, from the front property line; therefore, the detached carport is required to comply with a 25-foot front yard setback requirement.

      If the carport were to be attached to the dwelling, it would be considered part of the principal structure and would therefore be required to meet a 25-foot front yard setback, as per R-2 District standards. As the carport sites approximately eight (8) from the front property line, attaching it to the dwelling would still require a 17-foot front yard setback variance.
   2. The subject property is a conforming lot of record that exceeds the minimum lot size requirements for the R-2/Two-Family Residential District.
   3. The applicant installed a 20' x 20' carport, widened their driveway approach and paved additional parking area in their front yard without contacting the City. The permit for the carport would have included a review by a Planning and Zoning staff member for compliance with the City's zoning ordinance. At that time, the applicant would have been informed that neither the carport nor additional parking area could be located in the front yard setback.
   4. Per Section 15.23.030(C), *Parking Provisions for Personal Vehicles*, "*parking is permitted outside in the side yard or in the rear yard, behind the required front yard setback and must be contiguous with the primary surfaced driveway*." Additional pavement could only be added in the front yard setback if it was connected to a paved parking pad in the side or rear yards. Due to the placement of the single-family dwelling on the subject property, there is not sufficient room for a driveway to access parking in the side or rear yards.

5. The below images show aerial imagery of before and after driveway and approach expansion:

   Before Pavement Expansion:



   After Pavement Expansion:

   As a part of the parking area expansion, the applicant expanded the width of the driveway approach. Per the Council Bluffs Public Works Department, the applicant is required to restore the curb and driveway approach in the City's right-of-way to its original condition. Staff recognizes that a portion of the pavement could be utilized for other non-parking, residential uses (i.e. patio, space for planters, etc.) In the event that the variance request is denied, the applicant shall coordinate with the Community Development Department on identifying the portions of the pavement that shall be removed to adequately ensure that the area cannot be utilized for off-street parking.
6. The dwelling on the subject property was constructed in 1900 and the single-car attached garage was added in 1940, prior to the adoption of current parking requirements. Per Section 15.23.060, *Parking Spaces Required,* single-family attached and detached dwellings existing prior to the effective date of the ordinance are only required one (1) off-street parking space per dwelling unit. Therefore, while the subject property does not meet the minimum two (2) spaces required for a new single-family dwelling, it meets the minimum requirements for older dwellings as per the City's parking ordinance.
7. The carport meets all other R-2 District site development standards, as established in Section 15.08B, *R-1/Single-Family Residential District,* of the CBMC (Zoning Ordinance). Therefore, the carport structure could be relocated to the rear yard to be utilized as a covered patio structure. If the applicant intends to utilize the carport on the property outside of the front yard setback, a permit shall be obtained from the Permits and Inspections Division prior to installation and shall be subject to the setback requirements of the R-2 District.

B. The <u>Council Bluffs Permits and Inspections Division</u> stated that plans and permits shall be submitted for the structure.

   Note: The applicant has submitted a permit for the carport and expanded driveway and approach. The permit is currently on hold by the Community Development Department, pending the outcome of the current request.

C. The Council Bluffs Public Works Department stated that the concrete in the City's right-of-way shall be removed and the curb line shall be restored as the pavement and curb were added without any permits or inspections and do not meet City standards and specifications.
D. The Council Bluffs Parks and Recreation Department stated they have no comment on the request.
E. The Council Bluffs Police Department stated they have no comments or objections to the request.
F. Council Bluffs Water Works stated they have no comment on the request.

NEIGHBORHOOD RESPONSE – All property owners within 200 feet of the subject property were notified of the requested variance. The following comment was received as of the date of this report:

- Mary Davis, 601 N. 39th Street, emailed the Community Development Department on March 31, 2024 and stated that she in unable to attend the public hearing but that she has no issues with the subject request.

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 subject property exceeds the minimum lot size requirements for the R-2/Two-Family Residential District and is generally flat and has an attached, one-car garage which complies with the parking standards identified in Section 15.23, *Off Street Parking, Loading and Unloading*, of the Council Bluffs Municipal Code. Based on the fact that the subject property contains a single-family dwelling with adequate parking areas and the subject car port and associated pavement being additions that would otherwise not be required, there is no singular disadvantage on the subject property.

2. *Because of such disadvantage, the owner is unable to make reasonable use of the affected property*. If the requested variances are denied, the applicant can continue to make reasonable use of the property with the existing single-family residential dwelling.

3. *The disadvantage does not exist because of conditions created by the owner or previous owners of the property*. The proposed variances have been requested because the homeowner constructed a car port and installed hard-surface pavement on the property without proper approvals from the City. If the homeowner had contacted the City and applied for all applicable permits, staff would have advised the applicant that the car port and pavement could not be administratively approved as proposed.

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 requested variances will confer special privileges on the property as other residential properties in the city are required to comply with the minimum front yard setback standards for accessory structures and are not allowed to expand paved parking area in the front yard setback. The applicant has not demonstrated a hardship caused by the Ordinance specific to their property, only a practical difficulty and design preference. Alternative uses of the carport and pavement area are available to the property owner.

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 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 above discussed variances are the result of the construction of a car port and installation of hard surface pavement without

proper City approvals and represents only a practical difficulty and design preference and not an unnecessary hardship placed on the subject property by the application of the Zoning Ordinance.

RECOMMENDATION

The Community Development Department recommends **denial** of the requested variances from Section 15.09.050, *Site Development Regulations*, *R-2/Two-Family Residential District*, of the Council Bluffs Zoning Ordinance for a 17-foot (more/less) front yard setback variance to allow an accessory structure to be located closer to the front property line than the principal structure and from Section 15.23.030, *Design Standards, Off-Street Parking, Loading, and Unloading*, to allow off-street parking to be located within a required front yard on property legally described as Lot 4 and the northerly 3 feet of Lot 5, Block 10, Mid City Addition, City of Council Bluffs, Pottawattamie County, Iowa, based on the reasons stated above.

Christopher Gibbons, AICP
Planning Manager

Haley Weber
Planner

ATTACHMENT A

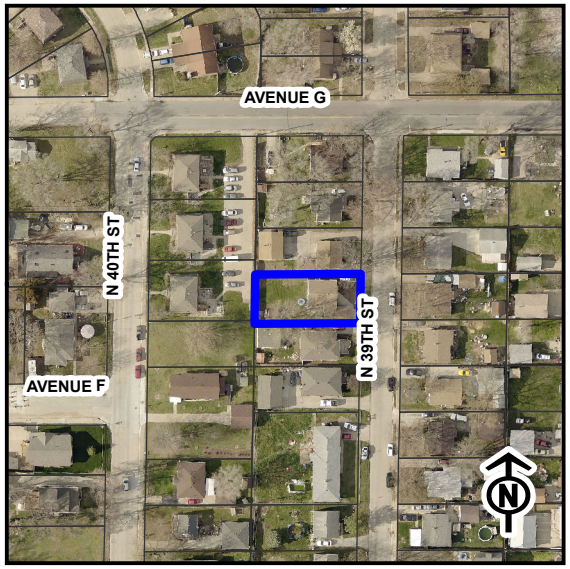
CITY OF COUNCIL BLUFFS - ZONING BOARD OF ADJUSTMENT
CASE #BA-24-002 LOCATION/ZONING MAP

Legend

Subject Property Case #BA-24-002

0 10 20

1 Inch = 23 Feet

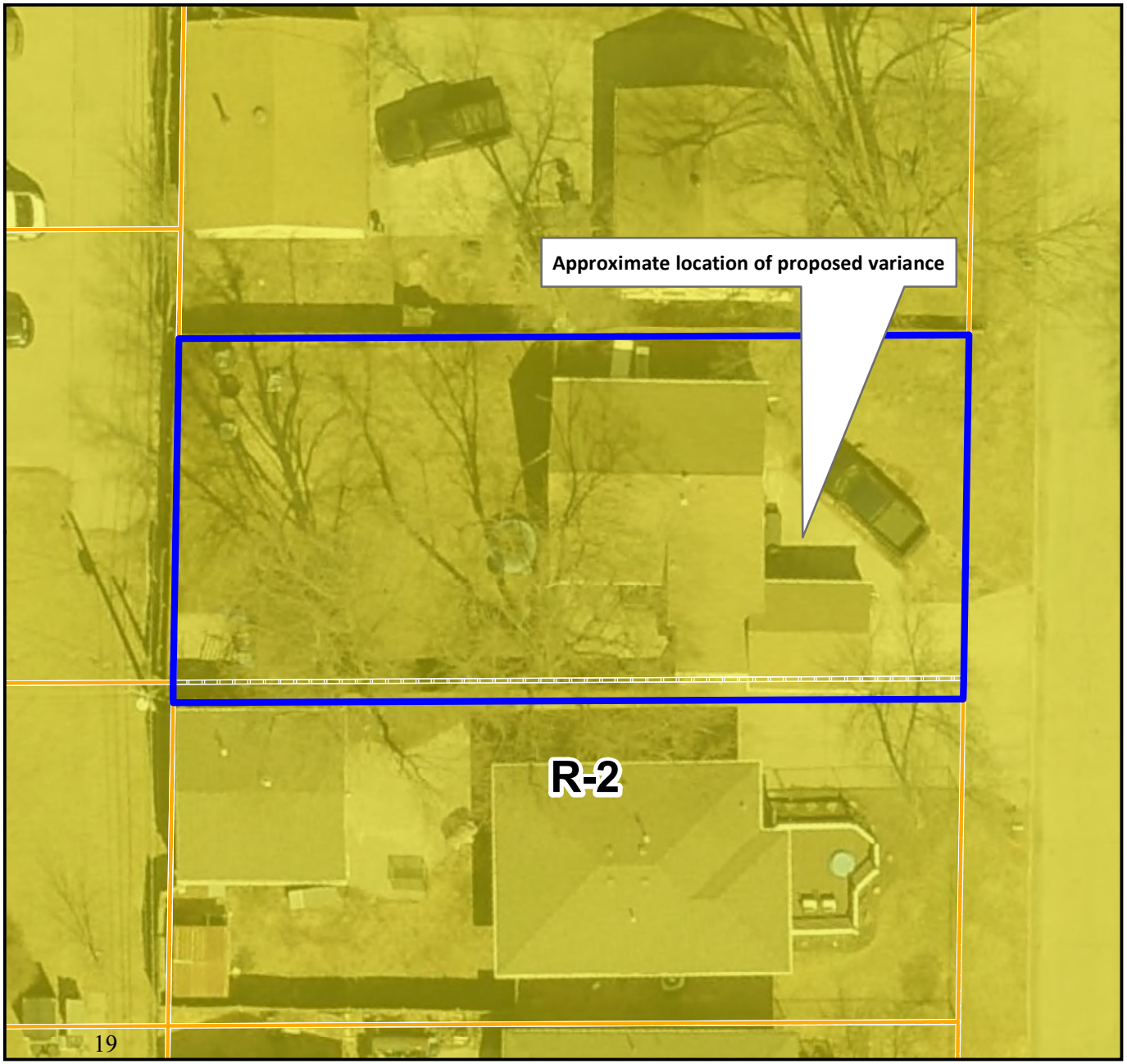


Last Amended: 3/20/2024

Council Bluffs Community Development Department
209 Pearl Street
Council Bluffs, IA 51503
Telephone: (712) 890-5350

DISCLAIMER

This map is prepared and compiled from City documents, plans and other public records data. Users of this map are hereby notified that the City expressely denies any and all responsibilities for errors, if any, in the information contained on this mapof the misuse of the same by the user or anyone else. The user should verify the accuracy of information/data contained on this map before using it. The City assumes no legal responsibility for the information contained on this map.



ATTACHMENT B

610 N 39th St

610 N 39th St

610
610
RAM
11 Ft From Property line

ATTACHMENT C

This structure and concrete in total cost us about $13,000 to have built. Therefore we do not have the money to take down and tear out said structure and or patio. This would cost to much to do. This structure allows for our vehicle to be covered and parked out of the elements. As well as it provides us parking to keep cars off the street. Which only allows parking on one side. This structure also provides us with a covered patio. When Superior Concrete services came in to do the work they stated that there would be no issue widening it and that they would handle all the necessary paperwork and or permits needed to allow the widening of the driveway and the curb to be taken out.

Zoning Board of Adjustment Communication

Department: Community Development
Case/Project No.: CU-24-002
Submitted by: Christopher N. Gibbons, AICP, Planning & Code Compliance Manager

CASE #CU-24-002

Council Action: 4/16/2024

Description

Public hearing on the request of Shala Tolle, d/b/a Shine with Shala's Kiddos, for a conditional use permit to allow a 'day care services' in an R-1/Single-Family Residential District on property legally described as being a part of Lot 1, Auditor's Subdivision of the NW1/4 NW1/4 and part of Lot 3, Auditor's Subdivision of the NE1/4 NW1/4, all in Section 32-75-43, City of Council Bluffs, Pottawattamie County, Iowa. Location: 24 Bennett Avenue.

Background/Discussion

See attached staff report.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
Staff Report & Attachments	Other	4/10/2024

TO:	Zoning Board of Adjustment
FROM:	Community Development Department
DATE:	April 16, 2024
RE:	**CASE #CU-24-002**
REQUEST:	Public hearing on the request of Shala Tolle, d/b/a Rising Stars Learning Center LLC, for a conditional use permit to allow a 'day care services' establishment, as defined in Section 15.03.180 of the Council Bluffs Municipal Code (Zoning Ordinance), in an R-1/Single-Family Residential District.
APPLICABLE CODE SECTIONS:	**Section 15.02.020 <u>Zoning Board of Adjustment</u>** The Zoning Board of Adjustment shall have the following powers, pursuant to this ordinance: B. To make final decisions on applications for conditional uses. **Section 15.08B.030 <u>Conditional Uses in the R-1/Single-Family Residential District</u>** B. Day care services.
LEGAL DESCRIPTION:	Part of Lot 1, Auditor's Subdivision of the NW1/4 NW1/4 and part of Lot 3, Auditor's Subdivision of the NE1/4 NW1/4, all in Section 32-75-43, City of Council Bluffs, Pottawattamie County, Iowa.
LOCATION:	24 Bennett Avenue, Council Bluffs, IA 51503
APPLICANT:	Shala Tolle, 24 Bennett Avenue, Council Bluffs, IA 51503
OWNERS:	Peter M. and Caitlin L. Mathews, 24 Bennett Avenue, Council Bluffs, IA 51503

BACKGROUND INFORMATION – The Community Development Department has received a request from Shala Tolle, d/b/a Rising Stars Learning Center LLC, for a conditional use permit to allow a 'day care services' establishment in an R-1/Single-Family Residential District on property legally described as being a part of Lot 1, Auditor's Subdivision of the NW ¼ NW ¼ and a part of Lot 3, Auditor's Subdivision of the NE ¼ NW ¼, all in Section 32-75-43, City of Council Bluffs, Pottawattamie County, Iowa (see Attachment A). The subject property is located at 24 Bennett Avenue and was formerly used by St. Mark's United Methodist Church.

The applicant currently operates a state licensed childcare center, Shine with Shala's Kiddos, at 162 Linden Avenue, which was granted a conditional use permit (Case #CU-23-005) by the Council Bluffs Zoning Board of Adjustment on November 21, 2023. The purpose of this request is to allow the applicant to relocate their existing day care service from 162 Linden Avenue to the subject property, as the proposed new location has more classroom space, outdoor play areas, and customer/employee parking areas. As per the applicant's letter of intent, their new day care will be renamed to Rising Stars Learning Center, LLC. The hours of operation will be Monday through Friday from 6:30 a.m. to 5:30 p.m. Parent drop off will take place between 6:30 am and 8:30 am. Employees include the applicant (childcare center director) and an assistant director, as well as several teachers and assistant teachers. The child care license issued by the State of Iowa for this operation allows the applicant to provide care for up to 45 children ages 0-12 years. A floor plan, site plan, and photographs showing existing conditions of the site are included with this report as Attachments B-D.

The following attachments have been included for your reference:

Attachment A: Letter of intent
Attachment B: Floor plan
Attachment C: Site plan
Attachment D: Photographs showing existing site conditions
Attachment E: Location/zoning map

CURRENT ZONING AND LAND USE – The subject property is zoned R-1/Single-Family Residential District and is surrounded by like zoning to the north, south, east, and west (see Attachment E). The majority of the land uses surrounding the subject property are single-family residential; except for the commercial node at the intersection of Bennett Avenue and McPherson Avenue, which is comprised of a mixture of multi-tenant commercial buildings, residential dwellings, and professional offices. The future land use map of the Bluffs Tomorrow: 2030 Comprehensive Plan designates the subject property as 'Rural Residential/Agriculture' and 'Loess Hills Preservation Area'.

NEIGHBORHOOD RESPONSE – All property owners within 200 feet were notified of the conditional use permit request. No public comments were received as of the date of this report.

CITY DEPARTMENTS AND UTILITIES – All City departments and local utility providers were notified of the proposed conditional use permit request. The following comments were received:

A. The Community Development Department has the following comments:

1. The subject property is currently comprised of three buildings that were used in association with the former St. Mark's Church. In March 2024, the current owners recorded a parcel split (CASE #PS-24-001, Book 2024 Page 02044) which created two separate lots. The first lot contains an existing single-family residential dwelling and is comprised of 0.47 acres of land. The second lot contains the former St. Mark's Church and a 3,600 square foot accessory building and is comprised of 2.06 acres of land. The parcel split was approved by the City but has not been mapped with the Pottawattamie County GIS Department as of the date of this report. The proposed daycare will operate out of the accessory building, which was historically used as a daycare/Sunday school. For the purpose of this conditional use permit, all approvals are based on the newly created 2.06 acre parcel that contains the former St. Mark's Church and accessory structure.

2. 'Day care services' is defined in Section 15.03.180 of the Council Bluffs Municipal Code (Zoning Ordinance) as a "facility which receives for temporary care, six or more individuals during part of the twenty-four-hour day. The term includes nursery schools, preschools, day care centers for children or adults, and similar uses". The applicant's proposal is to operate a day care service that provides care for up to 45 children ages 0-12 years. This description meets the definition of a 'day care service' and requires the applicant to obtain a conditional use permit to operate in an R-1/Single-Family Residential District.

3. The minimum lot size requirement for a property zoned R-1/Single-Family Residential District is 5,000 square feet. The subject property contains 2.06 acres of land, which exceeds the minimum R-1 District lot size requirement.

4. The Bluffs Tomorrow: 2030 Comprehensive Plan designates the subject property as 'Rural Residential/Agriculture' and 'Loess Hills Preservation Area'. This designation was applied to the subject property and area immediately adjacent, between Gleason Avenue and Bennett Avenue, due

to the existing development pattern, which consists of large residential lots with changing topography due to the Loess Hills. This area of the city is developed with a mixture of single-family residential, multi-family residential, a public high school (Abraham Lincoln), and commercial uses. A 'day care service' is generally compatible with the 'Rural Residential/Agriculture' designation as this type of business provides an essential service (childcare) that supports residential development.

5. The applicant's proposal is to operate a licensed 'daycare service' in an existing accessory structure on the subject property. No new building additions or structural changes are proposed at this time, as the building was formerly used as a daycare/Sunday school for St. Mark's United Methodist Church. Any new buildings or building additions proposed to be constructed in association with 'day care service' shall comply with R-1 District site development standards and shall be reviewed and approved by the Zoning Board of Adjustment prior to the commencement of any construction.

6. All off-street parking areas, drive aisles, and circulation routes shall be constructed of hard surface pavement and shall be designed to comply with the standards stated in Section 15.23, Off-Street Parking, Loading and Unloading, of the Council Bluffs Municipal Code (Zoning Ordinance).

   a. The minimum number of required parking spaces for 'day care services' is based on a calculation of one space per six children, as per Section 15.23.060, Parking Spaces Required, of the Council Bluffs Municipal Code (Zoning Ordinance). Since the existing childcare center provides care for up to 45 children, a minimum of eight off-street parking spaces are required on the subject property. The subject property has two existing parking lots, so space is available for the applicant to stripe eight new parking stalls (including ADA parking) on-site. The applicant shall provide the City with a dimensioned parking lot striping plan and all required parking spaces shall be striped and ADA signage installed prior to the 'day care service' operating.

7. The submitted site plan shows a six foot-tall privacy fence around the outdoor playground area. An additional six foot-tall fence shall also be constructed along the westerly property line, between the daycare building and the north property line, to screen and buffer the commercial business from the adjacent residential district/uses to the west. Said fencing shall be designed to comply with all standards stated in Section 15.24.040, Fence Regulations, of the Council Bluffs Municipal Code (Zoning Ordinance) and shall be installed no later than six months after the 'day care service' operating. The image below clarifies where the additional six foot-tall fence shall be constructed on-site:

Exhibit A: Aerial view of the subject property. The red line along the westerly property boundary shows where an additional six foot-tall privacy fence must be installed.

8. The subject property has an existing on-site monument sign, near the entrance of the 'day care service', which will be used to advertise the applicant's business. No other signage is proposed at this time. Any future signage shall comply with all applicable standards stated in Chapter 15.33, Signs, of the Council Bluffs Municipal Code (Zoning Ordinance).

9. No new outdoor lighting is proposed. Any future outdoor lighting shall comply with the standards in Section 15.24.050, Lighting Controls, of the Council Bluffs Municipal Code (Zoning Ordinance).

B. The Council Bluffs Permits and Inspections Division stated they toured the building with the applicant and have no comments/concerns regarding the daycare operating at this location.

C. The Council Bluffs Parks and Recreation Department stated that they have no comments for the request.

D. The Council Bluffs Police Department stated they have no comments or objections for the request.

E. Council Bluffs Water Works stated that they have no comments for the request.

F. Lumen Technologies stated that they have no objections for the request and noted they have an easement along the frontage of the property.

COMMENTS – The development and execution of the Ordinance (Title 15) is based upon the division of the City into districts. Within each district the use of land and buildings, and the bulk and location of buildings and structures in relation to the land, are substantially uniform. It is recognized, however, that there are specific uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location. Such uses may be either public or private, and are of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities. (*§15.02.090(A) – Conditional Uses*)

The Zoning Board of Adjustment shall make findings of fact, based upon the evidence presented at the public hearing, with respect to each of the applicable standards in Section 15.02.090(E), *Findings of Fact*.

The Zoning Board of Adjustment may impose such conditions and restrictions upon the location, construction, design and use of the property benefitted by a conditional use as may be necessary or appropriate to protect the public interest, adjacent property and property values. Failure to maintain such conditions or restrictions as may be imposed shall constitute grounds for revocation of the conditional use. The terms of relief granted, including any conditions or restrictions, shall be specifically set forth in the concluding statement separate from the findings of fact. No conditional use shall be approved unless the Zoning Board of Adjustment makes findings of fact based directly on the standards and conditions imposed by this section. The findings of fact are presented below in *italics*:

A. *The proposed conditional use will comply with all applicable regulations of this Ordinance, including lot requirements, bulk regulations, use limitations, and all other standards or conditions contained in the provisions authorizing such use.* The subject property contains 2.06 acres of land and has historically been utilized as a 'place of religious assembly' for St. Mark's United Methodist Church. The size of the subject property exceeds the minimum R-1 District lot size requirements (5,000 square feet) and is adequate for the operation of a 'day care service'.

B. *Adequate utility, drainage, and other necessary facilities or improvements have been or will be provided.* The subject property is a developed parcel of land that has access to utilities (i.e., electricity, gas, and

sanitary/storm sewers) in Bennett Avenue. No new utility service extensions and/or infrastructure improvements are necessary for the 'day care service' to operate on the subject property.

C. *Adequate access roads or entrance and exit drives will be designed and built to prevent traffic hazards and to minimize traffic conflicts and congestion in public streets and alleys.* The subject property has direct access to Bennett Avenue, which is a public roadway. The minimum number of required parking spaces for a 'day care service' is based on a calculation of one space per six children, as per Section 15.23.030, *Parking Spaces Required*, of the Council Bluffs Municipal Code (Zoning Ordinance). The applicant's letter of intent states they will be licensed by the State of Iowa to provide care for up to 45 children; therefore, a minimum of eight off-street parking spaces are required to be provided on-site for their business. There are two existing parking lots on the property that can be utilized to satisfy all off-street parking requirements for the proposed daycare. The applicant shall provide the City with a dimensioned parking lot striping plan and all required parking spaces shall be striped and ADA signage installed prior to the 'day care service' operating.

D. *All necessary permits and licenses required for the operation of the conditional use have been obtained, or it clearly states that such permits are obtainable for the proposed conditional use on the subject property.* The proposed 'day care service' is required to be licensed by the Iowa Department of Human Services, prior to operating. Additionally, the applicant has met with the Council Bluffs Fire Department and Community Development Department (Planning and Permits & Inspections) and discussed all applicable zoning, building, and fire codes for operating a day care service on the subject property. The applicant shall obtain all required permits for the proposed 'day care service' prior to the business operating.

E. *All exterior lighting shall be shaded as necessary to direct the light away from neighboring residential properties.* All outdoor lighting shall comply with the standards in Section 15.24.050, *Lighting Controls*, of the Council Bluffs Municipal Code (Zoning Ordinance).

F. *The location and size of the conditional use, the nature and intensity of the activities, to be conducted in connection with it, the size of the site, and the relationship of the site to adjacent roadways shall be considered to assure the use is in harmony with the appropriate and orderly development of the district and the neighborhood in which it is located.* The proposed 'day care service' will operate within an existing 3,600 square foot accessory structure, which historically was used as a day care/Sunday School in association with the former St. Mark's United Methodist Church. The property has access to Bennett Avenue, which has adequate capacity to handle the traffic generated by the proposed 'day care service'. The subject property is surrounded by a variety of residential, commercial, and public land uses. The proposed 'day care service' is compatible with the surrounding area and will provide an essential service that supports economic and workforce development in the City. If operated in accordance with the comments and conditions outline in the staff report, the proposed 'day care service' will have no adverse impacts on properties in the surrounding area.

G. *The location, nature and height of buildings, structures, walls, and fences on the site, and the nature and extent of landscaping and screening on the site shall be designed so that the use will not reasonably hinder or discourage the appropriate development, use, and enjoyment of the adjacent land, buildings and structures.* The proposed 'day care' service will operate out of an existing 3,600 square foot accessory structure on the subject property. No building additions or structural modifications are proposed at this time. Any new habitable buildings or building additions constructed on the subject property, in association with the 'day care service', shall comply with the R-1 District site development standards and shall be reviewed and approved by the Zoning Board of Adjustment, prior to commencement of any construction activity.

The outdoor playground area will be enclosed with a six-foot tall privacy fence and additional fencing will be required along the westerly property boundary to screen the day care from adjacent residential properties, as shown in Exhibit A above. Said additional screen fencing shall be installed within six months of the 'day care service' operating on the subject property. The applicant is responsible for the continued maintenance of all fencing associated with the business, in accordance with Section 15.24.040(F) of the Council Bluffs Municipal Code (Zoning Ordinance). Additionally, the fence shall remain in place while the 'daycare center' is in operation. Any new fences proposed to be installed on the subject property shall comply be permitted and must comply with the standards in Section 15.24.040, Fence Regulations, of the Council Bluffs Municipal Code (Zoning Ordinance).

H. *The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is located and will contribute to and promote the convenience and welfare of the public.* If operated in accordance with the comments and conditions outlined in this report, the proposed 'day care service' will have no adverse impact on the property values of existing properties in the surrounding area.

RECOMMENDATION – The Community Development Department recommends approval of the request from Shala Tolle, d/b/a Rising Stars Learning Center, LLC, for a conditional use permit to allow a 'day care services', as defined in Section 15.03.180 of the Council Bluffs Municipal Code (Zoning Ordinance), in an R-1/Single-Family Residential District on property legally described as part of Lot 1, Auditor's Subdivision of the NW1/4 NW1/4 and part of Lot 3, Auditor's Subdivision of the NE1/4 NW1/4, all in Section 32-75-43, City of Council Bluffs, Pottawattamie County, Iowa., City of Council Bluffs, Pottawattamie County, Iowa, subject to the comments stated above and the following conditions:

1. The applicant shall secure all necessary permits and licenses for the operation of the conditional use and shall comply with all applicable Federal, State and local codes. The applicant shall maintain a valid license from the Iowa Department of Human Services for the proposed 'day care service' at all times.

2. The hours of operation shall be Monday through Friday 6:30 A.M. to 5:30 P.M., as indicated in the applicant's letter of intent.

3. Any new buildings or building additions constructed on the subject property shall comply with R-1 District site development standards. Any new habitable buildings or building additions constructed on the subject property, in association with the 'day care service', shall comply with the R-1 District site development standards and shall be reviewed and approved by the Zoning Board of Adjustment, prior to commencement of any construction activity.

4. The applicant shall provide the City with a dimensioned parking lot striping plan and all required parking spaces shall be striped and ADA signage installed, in accordance with Section 15.23, Off-Street Parking, Loading, and Unloading, of the Council Bluffs Zoning Ordinance prior to the 'day care service' operating.

5. A minimum six foot-tall privacy fence shall be provided around all outdoor play areas and along the westerly property boundary, as shown in Exhibit A of the case staff report, within six months of the 'day care service' operating. All fencing shall be permitted by the City and shall comply with the standards stated in Section 15.24.040, Fence Regulations, of the Council Bluffs Zoning Ordinance.

6. All signage shall be permitted separately prior to installation and shall comply with the standards in Chapter 15.33, Signs, of the Council Bluffs Municipal Code (Zoning Ordinance).

7. All outdoor lighting shall comply with the standards in Section 15.24.050, Lighting Controls, of the Council Bluffs Municipal Code (Zoning Ordinance).

8. Any modifications to the approved conditional use permit which substantially alters the design, layout, configuration, and/or appearance of the project shall be reviewed and approved by the Zoning Board of Adjustment prior to such changes being made. Minor modifications to the approved conditional use permit that result in a design that is considered compatible with the overall development may be administratively approved by the Community Development Director or their designee.

Christopher N. Gibbons, AICP
Planning Manager
Community Development Department

Attachment A

Rising Stars Learning Center LLC

24 Bennett Avenue ~ Council Bluffs Ia 51503 ~712-406-6388

March 18, 2024

I am writing to express my intent to apply for a conditional use permit to operate a State Licensed Daycare Center in Council Bluffs Iowa.

I would like to take this opportunity to introduce my company; we are Rising Stars Learning Center LLC a State Licensed Daycare Center. We will operate at 24 Bennett Avenue Council Bluffs IA 51503; our hours are Monday – Friday 6:30 am 5:30 pm. Our purpose for being in business and running a State Licensed Daycare Center is to provide a safe nurturing learning environment for children. I have been in the childcare business since 2019, caring for newborns up to age 12. During this time, I have consistently provided a safe, nurturing, and educational environment for children in my care. My team, consisting of myself, Owner Director, Assistant Director, Teachers, and assistant teachers, is dedicated to offering high quality childcare services. By running the Licensed Daycare Center, we are opening opportunities for parents to be able to work and put money back into our community. As you may be aware, the demand for childcare in Council Bluffs has been steadily increasing, and the recent closure of several childcare locations has exacerbated the issue. The data indicates that there is a significant shortage of childcare spots in the state of Iowa with Pottawattamie County; There are only 138 total childcare programs listed with the Childcare Resource & Referral service for the entire Pottawattamie County population of 93,304. There are 4988 total Space. There are 7,043 children under 5. This is a 70% vacancy rate. There are 2,000+ children that might be looking for spots. This data is from the Iowa Childcare Resource & Referral Data Sheet for Pottawattamie County – July 2022

By seeking a conditional use permit I hope to formalize a continuous contribution to the economic well-being of our community by allowing parents to work confidently, knowing that their children are in a secure and enriching environment. At the new location there should be no concerns related to traffic congestion during parent drop off and pick up times.

Our drop off times start at 6:30 am and usually are done around 8:15 am to rare occasions of 8:30am. I have attached pictures showing the parking lot and the drive leading up to the building.

Currently My team, consisting of myself Owner Director, Assistant Director, Teachers, and assistant teachers. Our license will be for 45 children at one time.

I kindly request the city council's consideration of my application for a conditional use permit to operate Rising Stars Learning Center LLC, a State Licensed Daycare Center at 24 Bennett Avenue Council Bluffs IA 51503. We are also asking to be able to add a monument sign as well as fencing to be done. We will be adding two handicap accessible parking stalls.

Thank you for your attention to this matter, and I look forward to the opportunity to discuss this proposal in more detail.

Thank you,

Shala Tolle
Owner
Rising Stars Learning Center LLC
Council Bluffs IA 51503
712-406-6388

Attachment B

Attachment C

Find Property Res Sales Com DOVs

Zoom Out Move North Zoom In

W

E

600ft x 600ft S 600ft x 600ft

Press spacebar to reset feet.
N 57°E 342'

Spring 2022 aerial

Find Property Res Sales Com DOVs

Zoom Out Move North Zoom In

W

E

300ft x 300ft S 300ft x 300ft

Press spacebar to reset feet.

S 74°E 702'

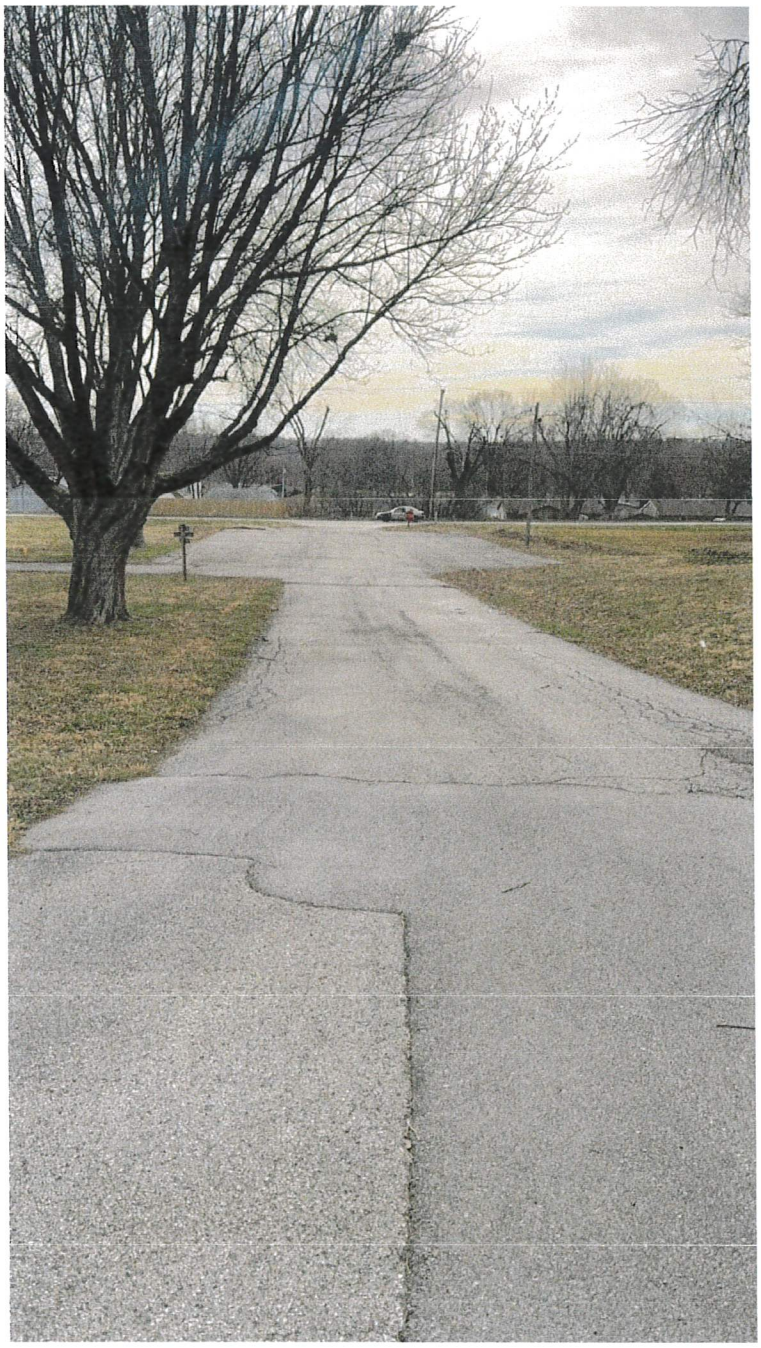
Spring 2022 aerial

Find Property Res Sales Com DOVs

Attachment D

The above picture is looking up to the daycare building. There is a lot of parking spaces where nobody will have to worry about being in the way or causing congestion.

The above picture is showing where the handicap parking sign and painted lines will go for the parking lot.



The picture to the left shows the drive coming up to the daycare building and into the parking lot as you will see in the first picture.

CITY OF COUNCIL BLUFFS - ZONING BOARD OF ADJUSTMENT
CASE #CU-24-002 LOCATION/ZONING MAP

Attachment E

Legend

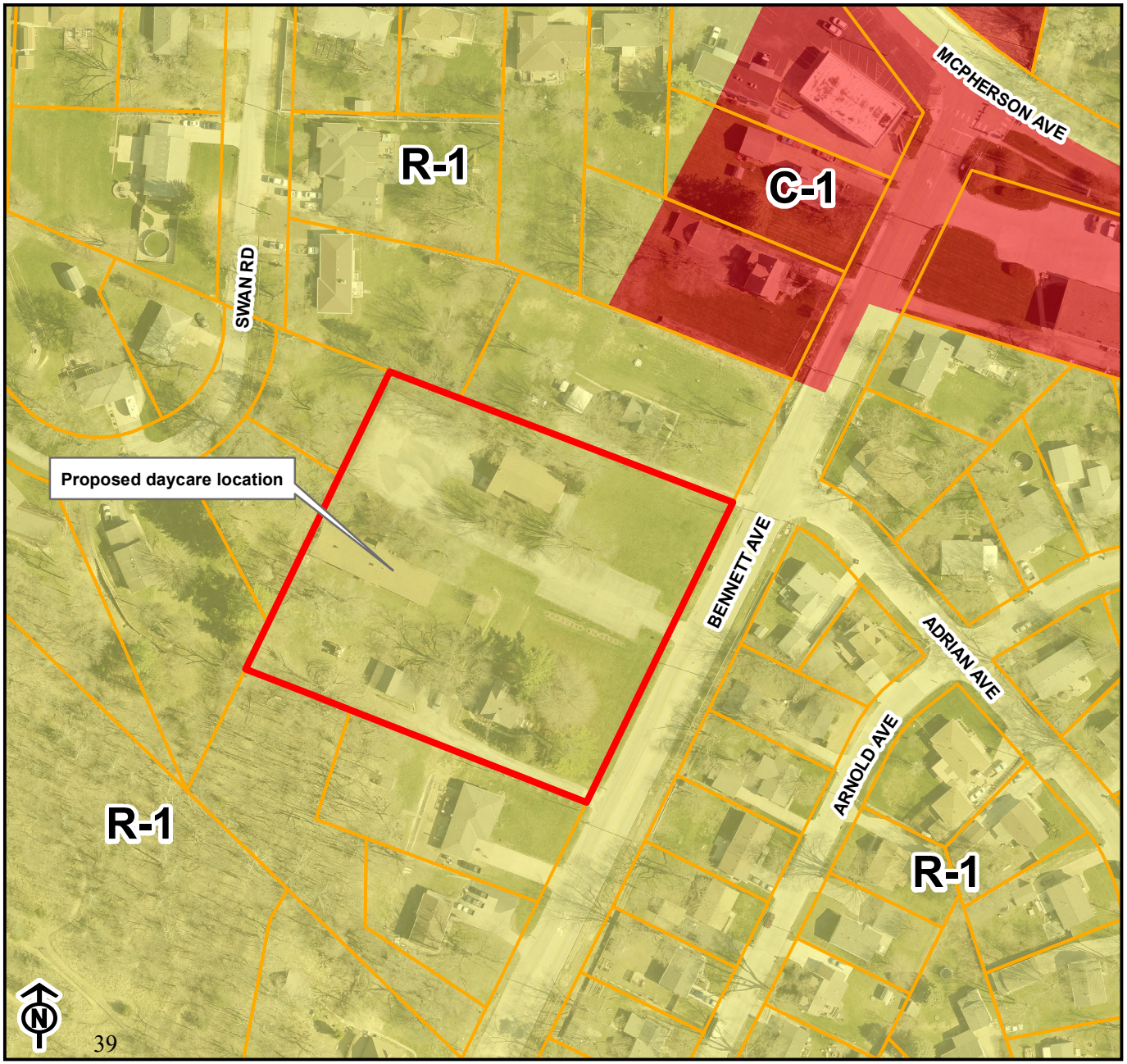
- CU-24-002 Subject Property
- Parcels

0 75 150

1 Inch = 150 Feet

Last Amended: 3/19/2024

Council Bluffs Community
Development Department
209 Pearl Street
Council Bluffs, IA 51503
Telephone: (712) 890-5350

DISCLAIMER

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