

**MINUTES**  
**ZONING BOARD OF ADJUSTMENT**  
**August 20, 2019**

1. **CALL TO ORDER** – Vargas called the meeting to order at 4:00 p.m.

2. **ROLL CALL**

Members Present: Behrens, Mescher, and Vargas  
Members Absent: Olson, and Tritsch  
Staff: Gibbons, Jura, Meeks and Monrroy

3. **PLEDGE OF ALLEGIANCE**

4. **ADOPTION OF AGENDA**

Motion by Behrens, second by Mescher, to adopt the agenda as presented. Motion carried by unanimous voice vote.

5. **APPROVAL – MINUTES OF JUNE 18, 2019 MEETING**

Mescher stated the vote for Case #BA-19-004 shows Mescher and Olson as being “Nay” votes, when they should be “Aye” for a unanimous 5-0 vote to approve the variance. Mescher also clarified that she made the motion and it was seconded by Olson.

Motion by Mescher, second by Behrens, to amend and approve the minutes. Motion carried by unanimous voice vote.

6. **PROOF OF PUBLICATION** – Gibbons

7. **REVIEW OF MEETING PROCEDURES** – Vargas

Jura clarified for the audience and the board that a 3-0 vote is required to approve any case at the meeting due to board attendance. Jura then stated that applicants can postpone their request to the next meeting to allow additional board members to hear the request, or continue forward.

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.

Meeks provided an overview of the request.

Upon opening the public hearing, the applicant requested to continue the public hearing to the September 17, 2019 Zoning Board of Adjustment Meeting.

Motion by Mescher, seconded by Behrens, to postpone the public hearing to the public hearing to the September 17, 2019 meeting.

Gibbons clarified that because the variance case is ongoing, the applicant’s 6-month deadline to re-open the auto dealership as a legally nonconforming use will not expire until after the public hearing.

VOTE: AYE – Behrens, Mescher, and Vargas. NAY – None. ABSTAIN – None. ABSENT – Olson, and Tritsch. Motion carried.

- B. CASE #BA-19-006: 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.

Monrroy provided an overview of the request.

The following members of the public spoke in favor of the request:

Mark Taylor, The Garage Company, 8301 Q Street, Omaha, NE 66127, spoke as a representative of the company hired to construct the garage. Taylor presented two documents to the Board for their review, to be known as Exhibit 1 and Exhibit 2.

Motion by Behrens, seconded by Mescher to accept the exhibits into the record. Motion approved by unanimous voice vote.

Taylor stated that the garage would exceed the height requirements by 10 ¾ inches, though the garage would match the house on the property, and would not be out of character with other garages in the neighborhood. Taylor stated the homeowner is asking for a height variance to allow additional storage on the property, and constructing the second floor of the garage with six-foot side walls would be a hardship on the applicant, as it would not be tall enough for him to stand up in the second floor.

Brandon Ramsey, 504 Forest Drive, Council Bluffs, IA 51501, spoke as the owner of the property. Ramsey stated that the garage is currently built into a hill, so three sides of the garage do not rise above the grade of the land. Ramsey stated that the rear yard of his house has topographic issues that would make constructing a garage difficult.

No one spoke in opposition of the request. Vargas closed the public hearing.

Behrens asked Taylor if he had any information on when the garages he cited in Exhibit 1 were constructed. Taylor stated he did not have the specific date of construction.

Behrens asked if there would be a rear-door to access the proposed second story storage area of the garage that would face the property to the North. Taylor stated that there would be a door at the rear of the garage that would essentially be at the current grade. Ramsey clarified that the property to the North sits 12-15 feet above the current grade, therefore views from the property would not be affected if the variance were granted.

Mescher asked staff if they had any information on when the cited garages were constructed, or when the 18 foot height requirement for accessory structures took effect. Gibbons stated that the height requirement was adopted when the R-1 District was enacted, and is therefore not a new development standard. Gibbons also stated that he had no information on the cited garages without additional research.

Vargas stated that he understands why the applicant would like the additional storage, but sees the proposal as a design preference and is leaning towards a recommendation of denial.

Ramsey asked if the Board would prefer a flatter roof. Vargas stated he had no comments on the architectural design, but could not support a height variance. Taylor stated that a flat roof would hurt the curb appeal of the property and the Forest Drive neighborhood as a whole. Behrens asked if there was a second option the

applicants had considered. Taylor stated that there are options, but none with the visual appeal as what is currently proposed.

Motion by Vargas, seconded by Mescher, to deny the request for a variance 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, as per Staff's recommendation.

VOTE: AYE – Behrens, Mescher, and Vargas. NAY – None. ABSTAIN – None. ABSENT – Olson, and Tritsch. Motion carried.

The Findings of Fact are as follows:

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 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.**

## 9. OTHER BUSINESS

- A. Items of Interest: Gibbons stated he had no additional information to discuss.

## 10. ADJOURNMENT – Vargas adjourned the meeting at 4:30 p.m.

*The recording of this proceeding, though not transcribed, is part of the record of each respective action of the Zoning Board of Adjustment. The recording of this proceeding is incorporated into these official minutes of this Board meeting as if they were transcribed herein.*