

**ZONING BOARD OF ADJUSTMENT  
AGENDA  
TUESDAY, DECEMBER 19, 2017  
9:00 A.M. – STUDY SESSION FOR BOARD MEMBERS-SITE VISITS  
403 WILLOW AVENUE  
4:00 P.M. – REGULAR MEETING  
CITY COUNCIL CHAMBERS – 2ND FLOOR, CITY HALL  
209 PEARL STREET, COUNCIL BLUFFS, IA 51503**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PLEDGE OF ALLEGIANCE**
- 4. ADOPTION OF AGENDA**
- 5. APPROVAL OF THE NOVEMBER 21, 2017 MEETING MINUTES**
- 6. PROOF OF PUBLICATION/POSTING**
- 7. REVIEW OF MEETING PROCEDURES**
- 8. PUBLIC HEARINGS**

A. CASE #BA-17-007: Continued public hearing on the request of Walter and Wendy Ziegler for a variance from Section 15.09.050 Site Development Regulations relative to maximum lot coverage allowed, in the R-2/Two Family Residential District, of the Council Bluffs Municipal Code on property legally described as Lot 3, Block 6, Sackett's Addition. Location: 2709 Avenue B.

**9. OTHER BUSINESS**

A. Items of interest

**10. ADJOURNMENT**

NOTE: If you have any comments or questions regarding this agenda, or if you are unable to attend this meeting, please contact the Community Development Department at 328-4629.

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

**DATE:** December 19, 2017

**RE:** **CASE #BA-17-007**  
**REQUEST:** A variance from Section 15.09.050 *Site Development Regulations for the R-2/Two Family Residential District* of the Council Bluffs Zoning Ordinance to increase the Lot Coverage Maximum from 35% structure coverage to 38% structure coverage.

**APPLICABLE CODE SECTION:** Section 15.09.050 Site development regulations

**RELIEF SOUGHT:** A 3% variance to the Lot Coverage, maximum to allow for 38% structure coverage, as opposed to the 35% Lot Coverage, maximum.

**LEGAL DESCRIPTION:** Lot 3, Block 6, Sacketts Addition

**LOCATION:** 2709 Avenue B.

**APPLICANT:** Walter and Wendy Ziegler, 2709 Avenue B, Council Bluffs, IA 51501

**OWNER:** Walter and Wendy Ziegler, 2709 Avenue B, Council Bluffs, IA 51501

---

**Continued from the November 21, 2017 Zoning Board of Adjustment Meeting. No additional information has been received.**

**BACKGROUND INFORMATION** – Walter and Wendy Ziegler own and reside in a house located at 2709 Avenue B. The applicants wish to demolish an existing garage on this property in order to construct a new, larger garage on the property that will shield more of their backyard from a multifamily apartment building that is located south of their house. This variance is being requested because the garage that the applicants wish to construct is wider than what the structure coverage standards of the parcel would allow. The applicants are requesting a variance to increase the Lot Coverage, maximum standards of their parcel from the permitted 35% to the requested 38%, a variance of approximately 144 square feet.

Attachment A: General Location Map  
Attachment B: Applicant's Statement of Intent  
Attachment C: Applicant's Site Plan  
Attachment D: Site Photos

**CURRENT ZONING AND LAND USE** – The subject property is zoned R-2/Two Family Residential District, as is surrounding properties to the north, east, and west. Immediately south of the subject property is area zoned R-3/Low Density Multifamily Residential, and approximately 250 feet south of the subject property is area zoned C-2/Commercial District, that is part of the West Broadway Corridor Overlay District. Surrounding land uses are predominately single family dwellings to the north, east, and west, with single family dwellings, multifamily dwellings, churches, and commercial areas to the south.

The following exhibits in Attachment D show the subject property and surrounding area.

**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 Fire Marshall’s Office stated they have no comments regarding the proposed variance.
- The Council Bluffs Public Works Department stated the approach to the garage (pending approval) must be hard surfaced, and any infrastructure within the alley that may be in conflict with the construction must be relocated at the homeowner’s expense.
- Council Bluffs Water Works stated they have no comments regarding the proposed variance.
- MidAmerican Energy stated they have no comments regarding the proposed variance.

**NEIGHBORHOOD RESPONSE** – All property owners within 200 feet of the subject property were notified of the requested variance. 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, shape and topography of the property are typical of those in the general vicinity and surrounding area. The lot is substandard in size by today’s regulations, as it would not meet the minimum lot width standards for the R-2/Two Family Residential District, but the lot is allowed to exist as a legal nonconformity.*
2. *Because of such disadvantage, the owner is unable to make reasonable use of the affected property. The applicant would still be able to construct a new garage on the property that would be larger than the existing garage without the granting of a variance. A garage of 586 square feet or smaller would fit within the lot coverage parameters of the R-2/Two-Family Residential District.*
3. *The disadvantage does not exist because of conditions created by the owner or previous owners of the property. The property was platted and the home was constructed prior to the enactment of the lot size standards and setback standards for the R-2/Two Family Residential District. While the current structures are allowed to exist, any new structures or additions are required to meet all site development regulations.*
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 would be likely to fit on the parcel if it met the required width standards of today’s ordinance. Neighboring property owners would still be subject to the site development regulations of their zoning 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. Personal garages are a permitted accessory use in the R-2/Two Family Residential District, and many neighboring property owners have garages. The granting of this variance is unlikely to have a significant impact on the interest of the public.*

**RECOMMENDATION**

The Community Development Department recommends denial of the requested variance for property legally described as Lot 3, Block 6, Sacketts Addition, based on reasons stated above.

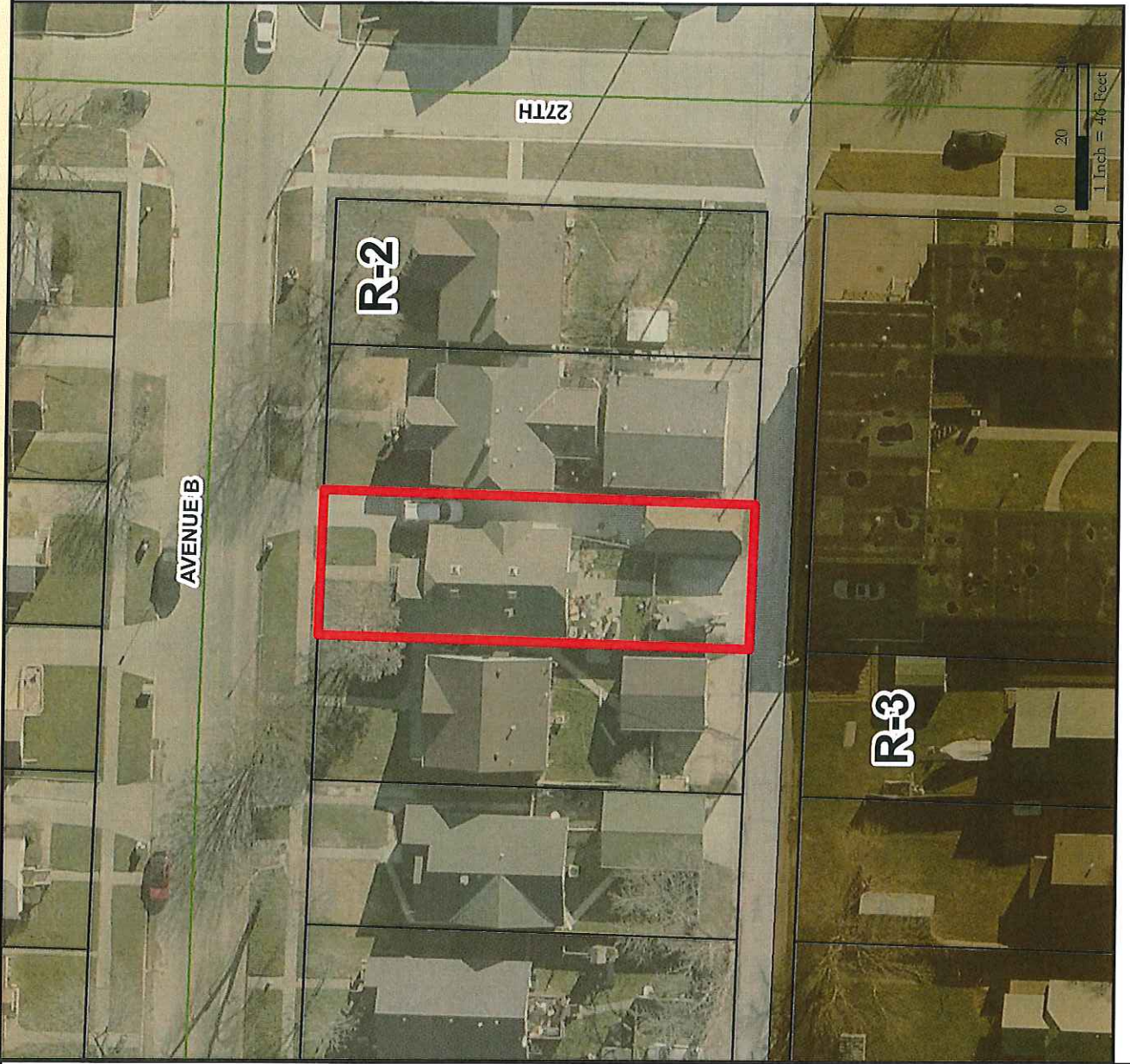


Rose E. Brown, AICP  
Planning Coordinator





Chris Meeks  
Planner

# CITY OF COUNCIL BLUFFS ZONING BOARD OF ADJUSTMENT LOCATION/ZONING MAP - CASE # BA-17-007



**Map Legend**

-  Location of Proposed Variance
-  Parcels



Last Amended: 10/26/17

**DISCLAIMER**  
 This map is prepared and compiled from public data. Users of this map are advised that the City of Council Bluffs does not warrant the accuracy, reliability, or completeness of the information contained on this map or any other map. There is no liability for any errors or omissions. The City assumes no legal responsibility for the information contained on this map.

**Council Bluffs Community  
 Development Department**  
 209 Pearl Street  
 Council Bluffs, IA 51503  
 Telephone: (712) 328-4629



Attachment B

Walter and Wendy Ziegler  
Letter of Intent  
October 9th, 2017

Our intent is to build a garage on our property at 2709 Ave. B.

Our need to build a garage 24 x 30 is as follows:

Our home is across the alley of the apartment complex that faces 27th and Ave. A. backing to same alley. Our complaints are:

They have a dumpster that is overflowing with trash, mattresses infested with bed bugs and furniture clothing etc. from transient renters. This overflow of trash blows into our back yard and alley from over flow and careless dumping.

Our intent to build this garage as (both neighbors on east and west sides of our property have done) is to block the eyesore of the dumpster and its contents to block the trash onto our property and not have the visibility of transients going through the dumpster on a regular basis and throwing trash on ground which blows onto our property.

An important issue to have this garage between our backyard is to allow us privacy of our home. Our bedroom windows face the alley and we cannot open our windows in fair weather from the trash odors, also our patio is located in full view of the dumpster.

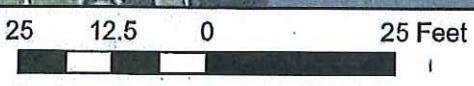
We thank you for consideration of our intent and desire to build a 24 x 30 garage at our residence.

Wendy and Walter Ziegler  
712-314-1118

Attachment C



- Garage will be centered on lot,



**MINUTES  
ZONING BOARD OF ADJUSTMENT  
DECEMBER 19, 2017**

1. **CALL TO ORDER** – Mescher called the meeting to order at 4:00 p.m.
2. **ROLL CALL**  
Members Present: Behrens, Mescher, Olson, and Vargas  
Members Absent: Juon  
Staff: Brown and Wade
3. **PLEDGE OF ALLEGIANCE**
4. **ADOPTION OF AGENDA**  
Motion by Olson, second by Behrens, to adopt the agenda as printed. Motion carried by unanimous voice vote.
5. **APPROVAL – MINUTES OF November 21, 2017 MEETING**  
Motion by Olson, second by Vargas, to approve the minutes as written. Motion carried by unanimous voice vote.
6. **PROOF OF PUBLICATION** – Brown
7. **REVIEW OF MEETING PROCEDURES** – Mescher
8. **PUBLIC HEARINGS**
  - A. CASE #BA-17-007: Continued public hearing (from the November 21, 2017 Zoning Board of Adjustment Meeting) on the request of Walter and Wendy Ziegler for a variance from Section 15.09.050 Site Development Regulations relative to maximum lot coverage allowed, in the R-2/Two Family Residential District, of the Council Bluffs Municipal Code on property legally described as Lot 3, Block 6, Sackett's Addition. Location: 2709 Avenue B.

No members of the public spoke in favor or in opposition of the request:

Brown acknowledged that there was no one in the audience. Brown also stated that Community Development Staff has tried to make contact with the applicants, but has not received any new information.

Olson noted that the board appeared to be favoring a denial of the request at the November 21<sup>st</sup> meeting due to the request being a preference of the site use rather than a unique characteristic of the land. Olson made a motion to deny the variance request based on the following 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 size, shape and topography of the property are typical of those in the general vicinity and surrounding area. The lot is substandard in size by today's regulations, as it would not meet the minimum lot width standards for the R-2/Two Family Residential District, but the lot is allowed to exist as a legal nonconformity.**

2. Because of such disadvantage, the owner is unable to make reasonable use of the affected property.

**The applicant would still be able to construct a new garage on the property that would be larger than the existing garage without the granting of a variance. A garage of 586 square feet or smaller would fit within the lot coverage parameters of the R-2/Two-Family Residential District.**

3. The disadvantage does not exist because of conditions created by the owner or previous owners of the property.

**The property was platted and the home was constructed prior to the enactment of the lot size standards and setback standards for the R-2/Two Family Residential District. While the current structures are allowed to exist, any new structures or additions are required to meet all site development regulations.**

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 would exceed permitting standards for only a design preference. Neighboring property owners would still be subject to the site development regulations of their zoning 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.

**Personal garages are a permitted accessory use in the R-2/Two Family Residential District, and many neighboring property owners have garages. The granting of this variance is unlikely to have a significant impact on the interest of the public.**

Vargas seconded the motion. Mescher noted that the applicant would still be able to build a smaller garage that would fit within the lot coverage standards.

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

## 9. OTHER BUSINESS

- A. Items of Interest- None.

## 10. ADJOURNMENT – Mescher adjourned the meeting at 4:04 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.