



**ZONING BOARD OF ADJUSTMENTS  
AGENDA**

**Tuesday, November 21, 2023 - 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 #CU-23-005**

Public hearing on the request of Shala Tolle for a conditional use permit to allow 'day care services' establishment in an R-1/Single-Family Residential District on property legally described as the North 35 feet of the West 50 feet of the South 135 feet of Lot 1, Block 2, Lincoln Acres Annex AND that part of said Lot 1 described as follows, to-wit: beginning at a point which is 238 feet South of and 50 feet East of the Northwest corner of said Lot 1, thence due South parallel to the Westerly line of said Lot 1 to the North side of North Linden Avenue right-of-way, same being the South side of said Lot 1, thence Easterly and Northerly along the Southerly and Easterly side of said Lot 1, same being the Westerly side of Raymond Avenue right-of-way, to a point directly East of the place of beginning, thence West to the place of beginning, City of Council Bluffs, Pottawattamie County, Iowa. Location: 162 North Linden Avenue

**B. CASE #BA-23-003**

Public hearing on the request of Harley E. Sanwick Sr. for a 3.5 foot side yard setback variance from Section 15.09.050, Site Development Regulations, R-2/Two-Family Residential District of the Council Bluffs Municipal Code (Zoning Ordinance) to allow a home addition to have a 1.5-foot interior side yard setback, as opposed to the required 5 feet, on property legally described as the West 1/2 of Lot 9, Block 14, Hall's Addition, City of Council Bluffs, Pottawattamie County, Iowa. Location: 914 Avenue F

**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](mailto:cgibbons@councilbluffs-ia.gov).

## Zoning Board of Adjustment Communication

Department: Community  
Development

Case/Project No.: CU-23-005

Submitted by: Christopher N.  
Gibbons, AICP, Planning & Code  
Compliance Manager and Moises  
Monroy, Planner

CASE #CU-23-005

Council Action: 11/21/2023

### **Description**

Public hearing on the request of Shala Tolle for a conditional use permit to allow 'day care services' establishment in an R-1/Single-Family Residential District on property legally described as the North 35 feet of the West 50 feet of the South 135 feet of Lot 1, Block 2, Lincoln Acres Annex AND that part of said Lot 1 described as follows, to-wit: beginning at a point which is 238 feet South of and 50 feet East of the Northwest corner of said Lot 1, thence due South parallel to the Westerly line of said Lot 1 to the North side of North Linden Avenue right-of-way, same being the South side of said Lot 1, thence Easterly and Northerly along the Southerly and Easterly side of said Lot 1, same being the Westerly side of Raymond Avenue right-of-way, to a point directly East of the place of beginning, thence West to the place of beginning, City of Council Bluffs, Pottawattamie County, Iowa. Location: 162 North Linden Avenue

### **Background/Discussion**

See attached staff report.

### **Recommendation**

### **ATTACHMENTS:**

Description	Type	Upload Date
Staff Report & Attachments	Other	11/16/2023

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

**DATE:** November 21, 2023

**RE:** **CASE #CU-23-005**

**REQUEST:** Public hearing on the request of Shala Tolle 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 on property legally described as the North 35 feet of the West 50 feet of the South 135 feet of Lot 1, Block 2, Lincoln Acres Annex AND that part of said Lot 1 described as follows, to-wit: beginning at a point which is 238 feet South of and 50 feet East of the Northwest corner of said Lot 1, thence due South parallel to the Westerly line of said Lot 1 to the North side of North Linden Avenue right-of-way, same being the South side of said Lot 1, thence Easterly and Northerly along the Southerly and Easterly side of said Lot 1, same being the Westerly side of Raymond Avenue right-of-way, to a point directly East of the place of beginning, thence West to the place of beginning, City of Council Bluffs, Pottawattamie County, Iowa.

**APPLICABLE  
CODE SECTIONS:**

**Section 15.02.020 Zoning Board of Adjustment**

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 Conditional Uses in the R-1/Single-Family Residential District**

- B. Day care services.

**LEGAL  
DESCRIPTION:**

The North 35 feet of the West 50 feet of the South 135 feet of Lot 1, Block 2, Lincoln Acres Annex AND that part of said Lot 1 described as follows, to-wit: beginning at a point which is 238 feet South of and 50 feet East of the Northwest corner of said Lot 1, thence due South parallel to the Westerly line of said Lot 1 to the North side of North Linden Avenue right-of-way, same being the South side of said Lot 1, thence Easterly and Northerly along the Southerly and Easterly side of said Lot 1, same being the Westerly side of Raymond Avenue right-of-way, to a point directly East of the place of beginning, thence West to the place of beginning, City of Council Bluffs, Pottawattamie County, Iowa.

**LOCATION:** 162 North Linden Avenue, Council Bluffs, IA 51503

**APPLICANT:** Shala Tolle, 162 North Linden Avenue, Council Bluffs, IA 51503

**OWNER:** Brianna Oberhelman, 54 East Ridge Drive, Council Bluffs, IA 51503

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**BACKGROUND INFORMATION** – The Community Development Department has received a request from Shala Tolle 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 on property addressed at 162 North Linden Avenue. The purpose of this request is to bring an existing childcare center (Shine with Shala's Kiddos) into conformance with the City's Zoning Ordinance

The existing childcare center on the subject property began operating in January of 2022. The applicant registered her business with the State of Iowa, but was unaware of the requirement to obtain a conditional use permit to operate the childcare center legally in a residential district in the City of Council Bluffs. The existence of the childcare center came to the attention of the Community Development Department after receiving a complaint from a nearby property owner regarding traffic congestion when parents drop off and pick up their children from the subject property. In accordance with Section 15.02.130, Violation and Penalty, of the Council Bluffs Municipal Code (Zoning Ordinance), the Community Development Department proceeded with zoning enforcement efforts and sent a letter to the property owner and to the applicant on September 13, 2023 informing them that a conditional use permit was required to continue the operation of the existing childcare center. After receiving the letter, the applicant and representatives with the State of Iowa meet with the City staff on September 20, 2023 to discuss the nature of the existing childcare center and the conditional use permit requirements to continue its operation. The Council Bluffs Permits and Inspections Division and the Council Bluffs Fire Department subsequently conducted a site inspection to determine existing conditions and identify any potential Building Code and Fire Code violations.

Although the childcare center is conducted out of a single-family home, it is not considered an in-home daycare as the home is not used for residential purposes. As per the applicant's letter of intent, the hours of operation are Monday through Friday from 6:30 A.M. to 5:30 P.M. The operation consists of three employees who provide care for 12 to 15 children, from ages 0-12. An existing privacy fence encloses an outdoor playground area located on the northwest side of the subject property. The applicant is in negotiations with the current property owner, Brianna Oberhelman, to purchase the subject property. The letter of intent also outlines the following scenarios proposed by the applicant to address traffic congestion concerns relative to the operation of the childcare center (see Attachments 'B' and 'F'):

**Parking Alternative #1:** Widen the existing driveway an additional 12 feet (total driveway width: 30 feet) to allow for additional off-street parking on the subject property.

**Parking Alternative #2:** Install a gravel driveway that measures 11 feet in width by 73 feet in depth along the southwest corner of the subject property.

**Parking Alternative #3:** Widen the existing driveway an additional 12 feet (total driveway width: 30 feet), and install a six-foot wide drive aisle that runs parallel with Raymond Avenue and extends from the existing driveway onto North Linden Avenue.

The following attachments have been included for your reference:

- Attachment A: Location/Zoning Map
- Attachment B: Letter of Intent
- Attachment C: Floor Plan
- Attachment D: Existing Conditions
- Attachment E: Drop-off/Pick-up Exhibit
- Attachment F: Parking Alternatives Exhibit

**CURRENT ZONING AND LAND USE** – The subject property is zoned R-1/Single-Family Residential District. Surrounding properties to the north, south, east and west are also zoned R-1 District and primarily consist of single-family homes. The future land use map of the Bluffs Tomorrow: 2030 Comprehensive Plan designates the subject property as 'Low-Density Residential.'

The following photographs show the existing conditions of the subject property and surrounding area:



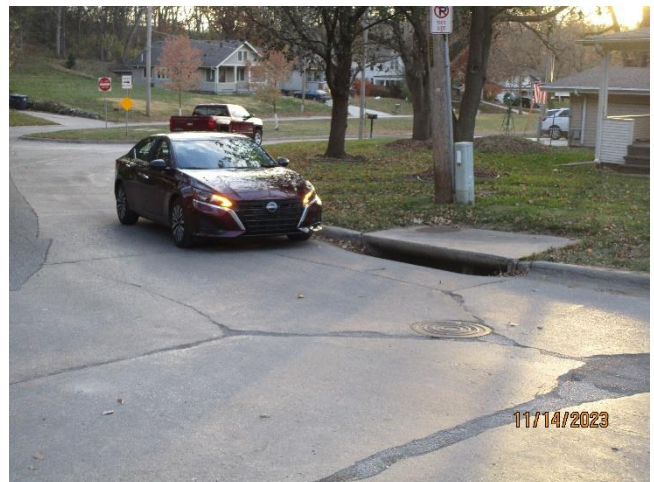
**Exhibit A:** Looking west at the existing driveway (10/31/23)



**Exhibit B:** Looking west at the existing driveway (11/14/23)



**Exhibit C:** Looking west at the existing driveway as a client arrives to pick up their children (11/14/23)



**Exhibit D:** Looking south at a second client parking on the street as they arrive to pick up their children (11/14/23)



**Exhibit E:** Looking southwest at the second client parking on the street as they arrive to pick up their children (11/14/23)

**NEIGHBORHOOD RESPONSE** – All property owners within 200 feet were notified of the conditional use permit request. The following comments were received:

- A. Rob Boes, owner of 267 Linden Avenue, stated he is opposed to the request. Mr. Boes stated Linden Avenue is a narrow road and that traffic generated as parents drop off and pick up their children from the childcare center has increased congestion in the area. Mr. Boes also stated parents occasionally park the wrong way and turn on the hazard lights on their vehicles when dropping off/picking up their children, which create additional nuisances for other motorists. Mr. Boes also noted several ornamental shrubs had been removed from the subject property, the windows of the house had been tinted, employees parked on the lawn, and several signs had been installed indicating the presence of surveillance cameras around the premises. Mr. Boes argued these actions had deteriorated the appearance of the subject property and were detrimental to the residential character of the surrounding area. Mr. Boes also expressed concern the childcare center would depreciate house values in the surrounding area.
- B. Chris Brosnihan, owner of 2212 Raymond Avenue, stated the childcare center has significantly increased traffic in the neighborhood. Mr. Brosnihan also noted that roads in this neighborhood are narrow and navigating them becomes more difficult when parents park on the street for extended periods of time. Mr. Brosnihan stated this operation should be located on commercial property.
- C. Blake Rose, resident of 2206 Raymond Avenue, stated he is opposed to the request. Mr. Rose stated the childcare center has attracted unnecessary traffic to the neighborhood, and noted that parents use the driveway at 2206 Raymond Avenue to turn their vehicles around when dropping off their children in the morning and picking them up in the evening. Mr. Rose also stated an employee at the childcare center disposes of their cigarettes on his yard, on the street, or in the City's sewer drain.

**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. '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 existing childcare center would fall under this definition.
2. The minimum lot size requirement for a property zoned R-1/Single-Family Residential District is 5,000 square feet. The subject property contains 10,275 square feet in area, which exceeds the minimum lot size requirement in the R-1 District.
3. The Bluffs Tomorrow: 2030 Comprehensive Plan designates the subject property as 'Low-Density Residential.' 'Day care services' are generally compatible with the 'Low-Density Residential' designation as this type of business provides an essential service (childcare) that supports residential development.
4. The applicant has not proposed to construct any new buildings or building additions as part of the operation of the childcare center. Any new buildings or building additions constructed on the subject property shall comply with R-1 District site development standards.
  - a. Any new buildings or building additions proposed to be constructed on the subject property in association with the operation of the childcare center shall be considered substantial modifications to the conditional use permit and thus shall be reviewed and approved by the Zoning Board of Adjustment prior to the commencement of any construction.
5. 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 15 children, a minimum of three off-street parking spaces are required on the subject property.
  - b. The Community Development Department finds the applicant's proposal to widen the existing driveway (Parking Alternative #1) is acceptable as it would allow her to address traffic concerns relative to the childcare center by providing a sufficient amount of off-street parking on the subject property to meet minimum requirements. The portion of the existing driveway contained within the private property shall be widened in accordance with Parking Alternative #1. However, the driveway approach located in the public right-of-way may only be widened in accordance with Public Works standards. The applicant shall submit a fully-dimensioned parking plan and complete the proposed driveway expansion within 60 days of the Board's decision.
  - c. The Community Development Department finds the other options proposed by the applicant (Parking Alternatives #2 and #3) are not acceptable as the Public Works Department will not allow a secondary access point on a single-family residential lot (see below for additional comments from the Public Works Department).

6. In addition to the proposed expansion of the driveway, the Community Development Department recommends that the applicant implement a drop off/pick up schedule that ensures all parking associated with the childcare center is contained on site and does not spill over onto Linden Avenue.
  7. The existing privacy fence is acceptable to enclose the outdoor playground area. The applicant shall be responsible for the continued maintenance of the fence, 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 childcare center is in operation. If the fence has to be removed, the applicant shall be required to replace it within 30 days of removal. Any new fences proposed to be installed on the subject property shall comply with the standards in Section 15.24.040, Fence Regulations, of the Council Bluffs Municipal Code (Zoning Ordinance).
  8. 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).
  9. All 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 the applicant will be required to submit plans prepared and sealed by an architect for the change of use of the building from a residential single-family home to a childcare center within 60 days of the Board's decision.
- C. The Council Bluffs Parks and Recreation Department stated that they have no comments on the request.
- D. The Council Bluffs Public Works Department has the following comments:
1. The existing driveway can be widened outside of the public right-of-way. The driveway approach can be widened if it is not currently at the maximum width allowed as per City standards. For a one-stall garage, the maximum width allowed for a driveway approach is 12 feet.
  2. The location of the second driveway shown in Parking Alternative #2 falls along the radius and intersection of two public roads and potentially creates a worse traffic hazard than parking along the curb on Raymond Avenue. Additionally, the Public Works Department does not allow two driveways on a single-family lot.
  3. Parking Alternative #3 would not be acceptable as the Public Works Department typically does not allow two driveways on a single-family lot. They also noted that the location of the proposed approach would not be allowed due to the geometry of the existing roadway intersection.
- E. The Council Bluffs Police Department stated that they checked for any calls for service in the area relative to traffic and parking complaints associated with the subject property, and found that at least one neighbor on Raymond Avenue has an issue with parents parking in front of the childcare center. They noted that "No Parking" signs were located on both sides of Linden Avenue. They also expressed doubt that the parking alternatives proposed by the applicant would address the concerns raised by surrounding property owners.
- F. Council Bluffs Water Works stated that they have no comments on the request.
- G. Lumen Technologies stated that they have no objections to the request.

**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 10,275 square feet in area, which exceeds the minimum lot size requirement in the R-1 District. The size of the subject property is adequate for the operation of a neighborhood-scale childcare center facility.*
- B. *Adequate utility, drainage, and other necessary facilities or improvements have been or will be provided. The subject property is an existing lot of record with adequate facilities. No other utility service extensions and/or infrastructure improvements are necessary for the childcare center to continue operations at this location.*
- 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 onto Linden Avenue and Raymond Avenue, which are public roadways. The applicant presented three alternatives to address traffic congestion concerns relative to the operation of the childcare center. The Community Development and Public Works Departments find that the applicant’s proposal to widen the existing driveway (Parking Alternative #1) is acceptable as it would allow her to address traffic concerns relative to the childcare center by providing a sufficient amount of off-street parking on the subject property to meet minimum requirements. The portion of the existing driveway contained within the private property shall be widened in accordance with Parking Alternative #1. However, the driveway approach located in the public right-of-way may only be widened in accordance with Public Works standards. The applicant shall submit a fully-dimensioned parking plan and complete the proposed driveway expansion within 60 days of the Board’s decision.*

In addition to the proposed expansion of the driveway, the Community Development Department recommends that the applicant implement a drop off/pick up schedule that ensures all parking associated with the childcare center is contained on site and does not spill over onto Linden Avenue.

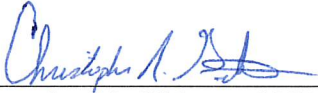
- D. *All necessary permits and licenses required for the operation of the conditional use have been obtained, or it clearly states that such permits are obtainable for the proposed conditional use on the subject property. The existing childcare center is already registered with the State of Iowa. The applicant shall also comply with all other federal, state and local laws and requirements for the use. This shall include submitting a set of plans prepared and sealed by an architect/design professional to the Council Bluffs Permits and Inspections Division for the change of use of the building from a residential single-family home to a childcare center within 60 days of the Board’s decision.*
- 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 existing childcare center is compatible with the surrounding neighborhood as this type of business provides an essential service that supports residential development. If operated in accordance with the comments and conditions outlined in this report, the existing childcare center will have no adverse impact on the surrounding neighborhood.*
- 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 applicant has not proposed to construct any new buildings or building additions as part of the operation of the childcare center. Any new buildings or building additions constructed on the subject property shall comply with R-1 District site development standards. Any new buildings or building additions proposed to be constructed on the subject property in association with the operation of the childcare center shall be considered substantial modifications to the conditional use permit and thus shall be reviewed and approved by the Zoning Board of Adjustment prior to the commencement of any construction.*
- The existing privacy fence is considered acceptable to enclose the outdoor playground area. The applicant is responsible for the continued maintenance of the fence, 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 childcare center is in operation. If the fence has to be removed, the applicant shall be required to replace it within 30 days of removal. Any new fences proposed to be installed on the subject property shall 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 existing childcare center will have no adverse impact on the property values of existing residential uses in the surrounding area.*

**RECOMMENDATION** – The Community Development Department recommends approval of the request 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 on property legally described as the North 35 feet of the West 50 feet of the South 135 feet of Lot 1, Block 2, Lincoln Acres Annex AND that part of said Lot 1 described as follows, to-wit: beginning at a point which is

238 feet South of and 50 feet East of the Northwest corner of said Lot 1, thence due South parallel to the Westerly line of said Lot 1 to the North side of North Linden Avenue right-of-way, same being the South side of said Lot 1, thence Easterly and Northerly along the Southerly and Easterly side of said Lot 1, same being the Westerly side of Raymond Avenue right-of-way, to a point directly East of the place of beginning, thence West to the place of beginning, City of Council Bluffs, Pottawattamie County, Iowa, subject to the comments stated above and the following conditions:

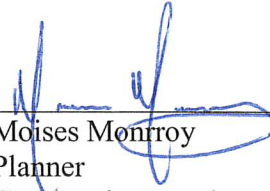
- A. The applicant shall secure all necessary permits and licenses for the operation of the conditional use and shall comply with all applicable Federal, State and local codes. This shall include retaining the childcare center's registration with the State of Iowa and submitting a set of plans prepared and sealed by an architect/design professional to the Council Bluffs Permits and Inspections Division for the change of use of the building from a residential single-family home to a childcare center within 60 days of the Board's decision.
- B. 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.
- C. Any new buildings or building additions constructed on the subject property shall comply with R-1 District site development standards.
  - 1. Any new buildings or building additions proposed to be constructed on the subject property in association with the operation of the childcare center shall be considered substantial modifications to the conditional use permit and thus shall be reviewed and approved by the Zoning Board of Adjustment prior to the commencement of any construction.
- D. All off-street parking areas, drive aisles, circulation routes and exterior storage areas 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).
  - 1. The portion of the existing driveway contained within the private property shall be widened in accordance with Parking Alternative #1. The driveway approach located in the public right-of-way may only be widened in accordance with Public Works standards.
  - 2. The applicant shall submit a fully-dimensioned parking plan and complete the proposed driveway expansion within 60 days of the Board's decision.
- E. The applicant shall implement a drop off/pick up schedule that ensures all parking associated with the childcare center is contained on site and does not spill over onto Linden Avenue.
- F. The existing privacy fence is considered acceptable to enclose the outdoor playground area. The applicant is responsible for the continued maintenance of the fence, 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 childcare center is in operation. If the fence has to be removed, the applicant shall be required to replace it within 30 days of removal. Any new fences proposed to be installed on the subject property shall comply with the standards in Section 15.24.040, Fence Regulations, of the Council Bluffs Municipal Code (Zoning Ordinance).
- G. 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).

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



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Christopher N. Gibbons, AICP  
Planning Manager  
Community Development Department



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Moises Monroy  
Planner  
Community Development Department

# CITY OF COUNCIL BLUFFS - ZONING BOARD OF ADJUSTMENT CASE #CU-23-005 LOCATION/ZONING MAP

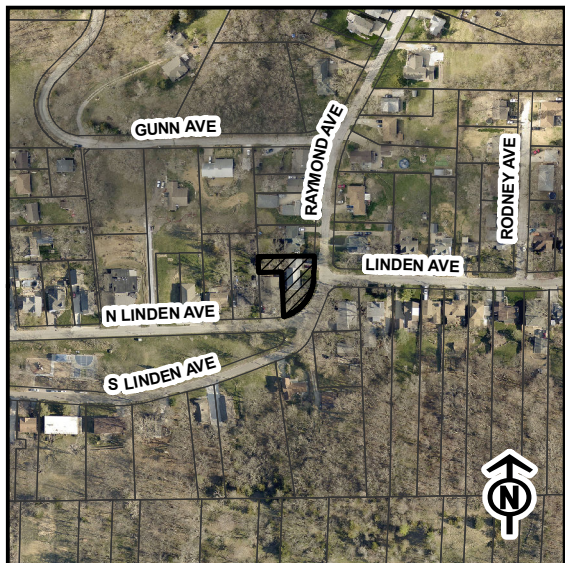
### Legend

 Subject Property

0 15 30



1 Inch = 29 Feet



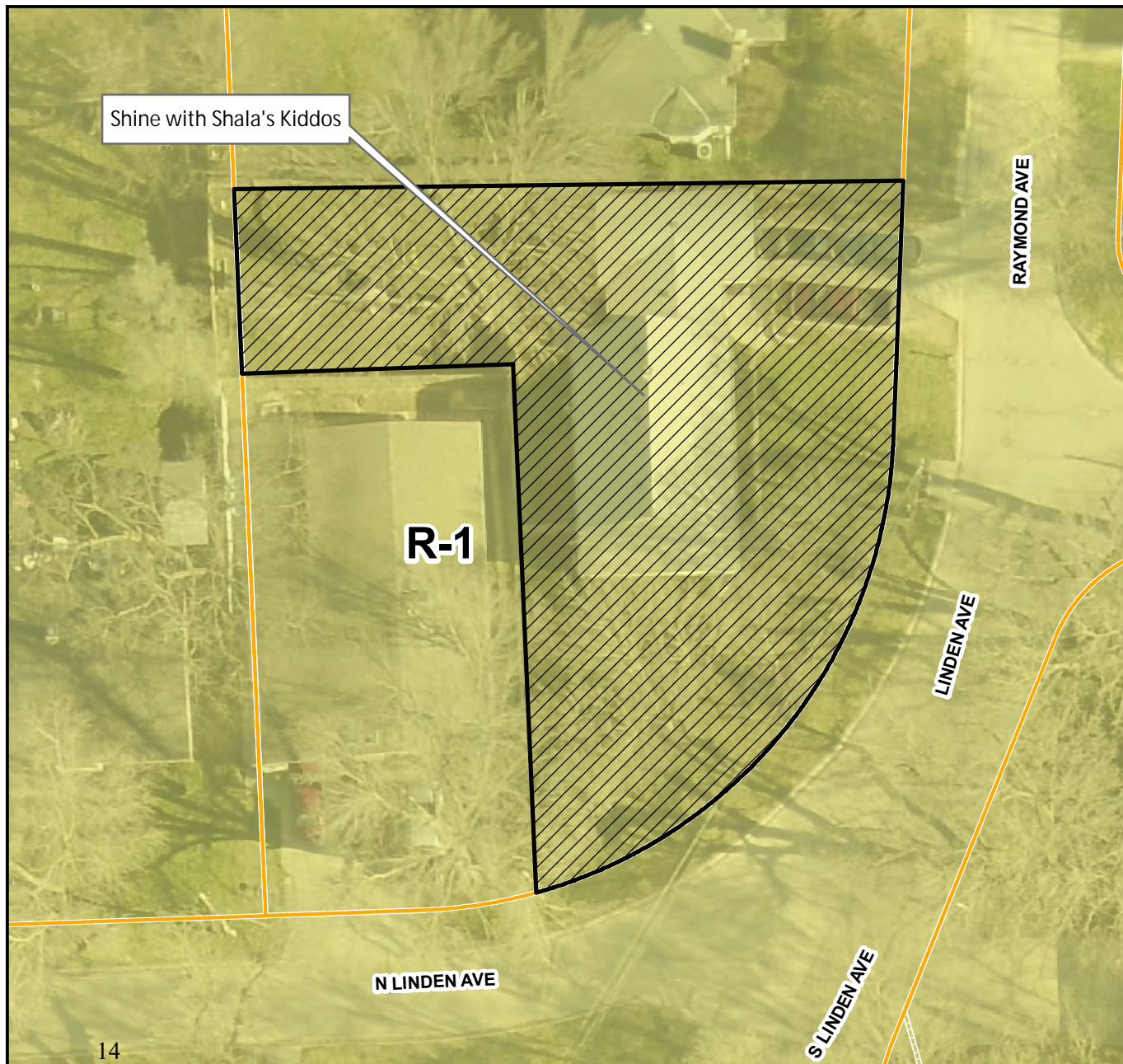
Last Amended: 10/30/2023



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 expressly denies any and all responsibilities for errors, if any, in the information contained on this map; 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.



# Shine With Shala's Kiddos

162 N Linden Ave ~ Council Bluffs Ia 51503 ~712-406-6388

October 2, 2023

I am writing to express my intent to apply for a conditional use permit to operate a State Registered Child Development home childcare in Council Bluffs Iowa.

I would like to take this opportunity to introduce my company; we are Shine with Shala's Kiddos a State Registered Child Development home childcare. We operate at 162 N Linden Avenue Council Bluffs IA 51503; our hours are Monday – Friday 6:30 am to 5:30 pm. Our purpose for being in business and running a State Registered Child Development home childcare is to provide a safe nurturing learning environment for children. I have been operating my in-home childcare at 162 N Linden Avenue since January 2022, and 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 Provider, Co Provider, and assistant, is dedicated to offering high quality childcare services. By running the State Registered Child Development home childcare, 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 Child Care 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. To address concerns related to traffic congestion during parent drop off and pick up times, I am exploring various solutions, including extending our existing driveway and creating more spaces for designated parking areas. These measures are intended to ensure the safety of children and parents in our care while minimizing disruptions in our neighborhood. Extending the driveway is just one option that I have thought about.

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 areas with an explanation of what you're seeing in the photographs. Pickups start around 4:15 pm – 4:30 pm; we close at 5:30 pm around 4:45 pm -5:00 pm most of the parents have already picked up their child/children.

Currently my team consists of myself Owner Provider, Co Provider, and Assistant. The state of Iowa allows us to care for a total of 16 children at one time.

Currently to date we have 12 children full days and my team gives us 15 in the childcare (given nobody is out ill).

I understand that the city of Council Bluffs has established regulations to maintain the integrity and safety of residential neighborhoods. I am committed to complying with all applicable regulations and standards, including those related to property use and safety. I have been able to brainstorm and develop 3 different options to help rectify any traffic congestion in the neighborhood.

Option #1

See the attached overhead view of the property, extending the existing driveway. The left of the driveway extends its width an additional 6 feet and does the same thing to the right of the driveway. This would give us 30 feet wide driveway creating more spaces for parents to pull into the driveway and not be in the street.

Option #2

See the attached overhead view of the property, adding a gravel driveway to the front of the house for my team and myself to park which would open the existing driveway for parents to use for dropping off and pickup.

Option #3

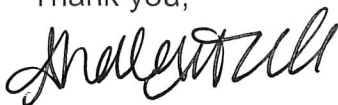
See the attached overhead view of the property, extending the existing driveway as described in option #1 but add a drivable roundabout. Parents would pull into the driveway and continue to the roundabout and exit towards the street at the front of the house.

I am open to any other ideas to help be able to ensure the safety of children and parents in our care and minimizing disruptions in our neighborhood.

I kindly request the city council's consideration of my application for a conditional use permit to operate Shine with Shala's Kiddos, a State Registered Child Development home childcare at 162 N Linden Avenue Council Bluffs IA 51503. I am eager to partner with the city, address concerns, and contribute positively to the well-being of our community.

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  
Shine with Shala's Kiddos  
162 N Linden Ave  
Council Bluffs IA 51503  
712-406-6388

Attachment 'C'

Front Door  
NOT USED

Napping  
Changing  
" Room

Living room

Bath  
Room

Play  
Rooms

Kitchen

Back yard  
Door

Back Door  
only used  
main  
entrance

door  
not used  
enters garage

[Find Property](#) [Res Sales](#) [Com DOVs](#)

[Zoom Out](#) [Move North](#) [Zoom In](#)



**— privacy Fence**  
 Backyard Complete  
 Privacy Fence

150ft x 150ft [S](#) 150ft x 150ft

Press spacebar to reset feet.

S 57°E 145'

Spring 2022 aerial

[Find Property](#) [Res Sales](#) [Com DOVs](#)

# Shine With Shala's Kiddos

162 N Linden Ave ~ Council Bluffs Ia 51503 ~712-406-6388



This picture shows the side of the house on Raymond where our driveway is. This shows Myself, co-provider, and assistant's vehicles this is where we park.

If I was able to add the 6 feet to both right and left side of the driveway this would move the three of us over and open spots for the parents to pull in and not be on the street.

There are normally 1 to 2 parents dropping off at one time. More times than not there is not more than 2 parents.

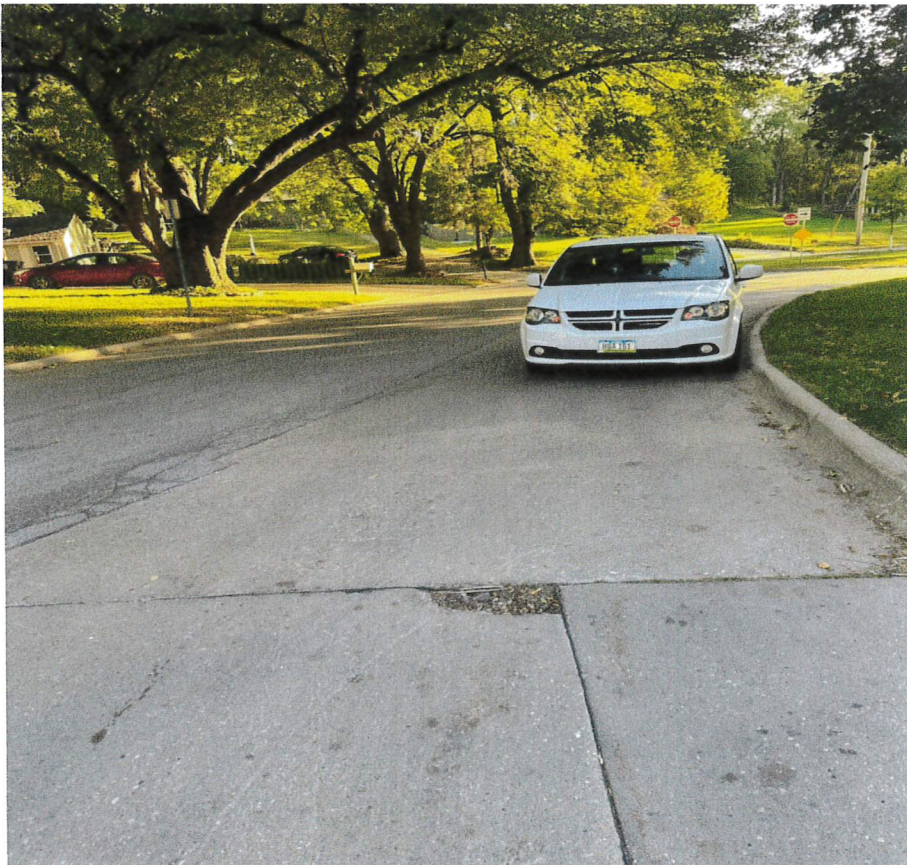


This picture shows where the red arrow is pointing, where my parents are stopping turning hazards on and running in to drop off or pick up their child or children. This only takes roughly about 5 minutes and then they are getting their child or children in the car and leaving.

Having them by the power pole is where the street is the widest to help prevent congestion on the street.



This picture shows looking from the street across from the house where parents have parked facing my property and walk across to drop children off or pick them up. Which again is no more than 5 minutes.

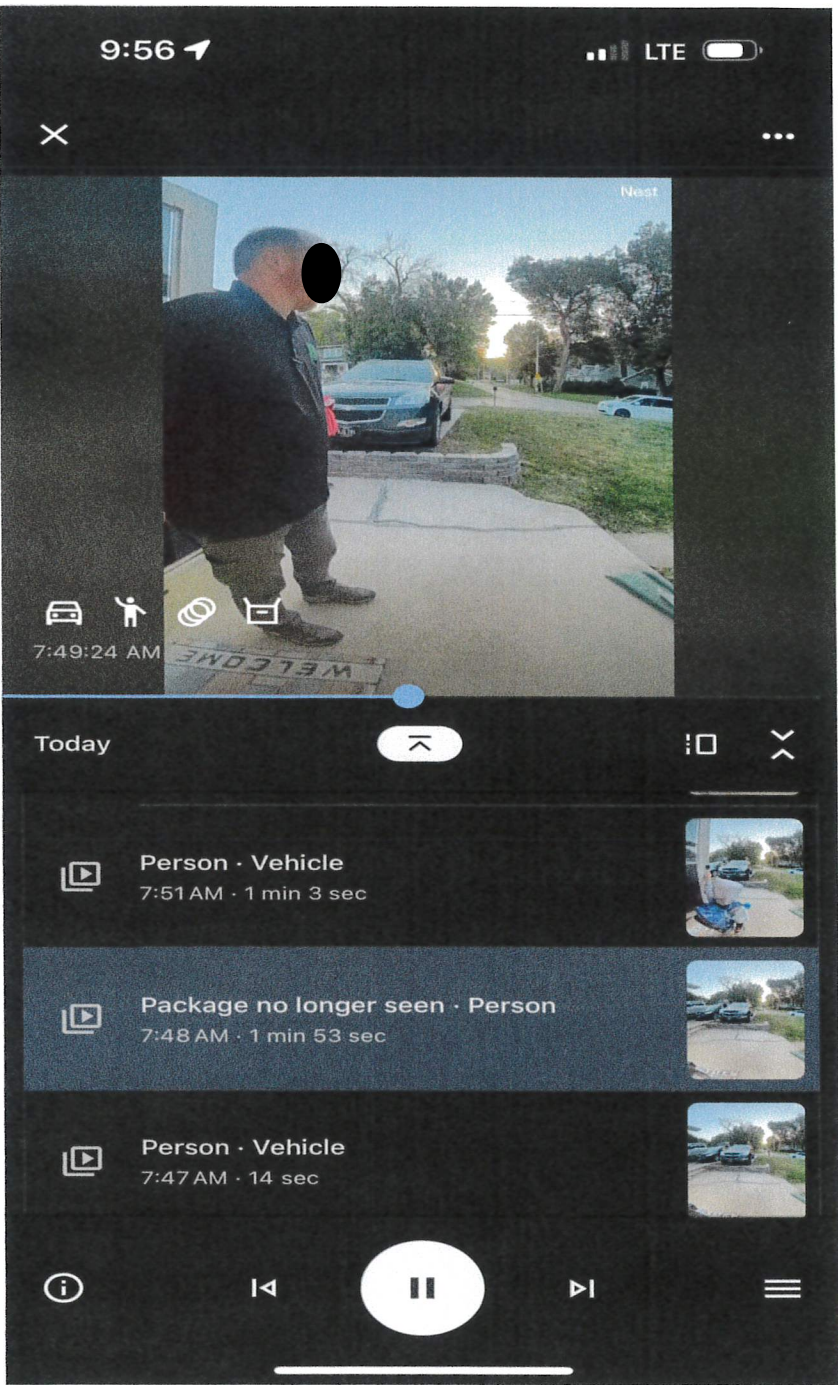


This picture shows looking down from Raymond Avenue just before my mailbox showing where the parents (when they park on the road) park with their hazards on



This picture shows looking down from Raymond Avenue just before my mailbox showing where the parents (when they park on the road) park with their hazards on and another vehicle driving past them.

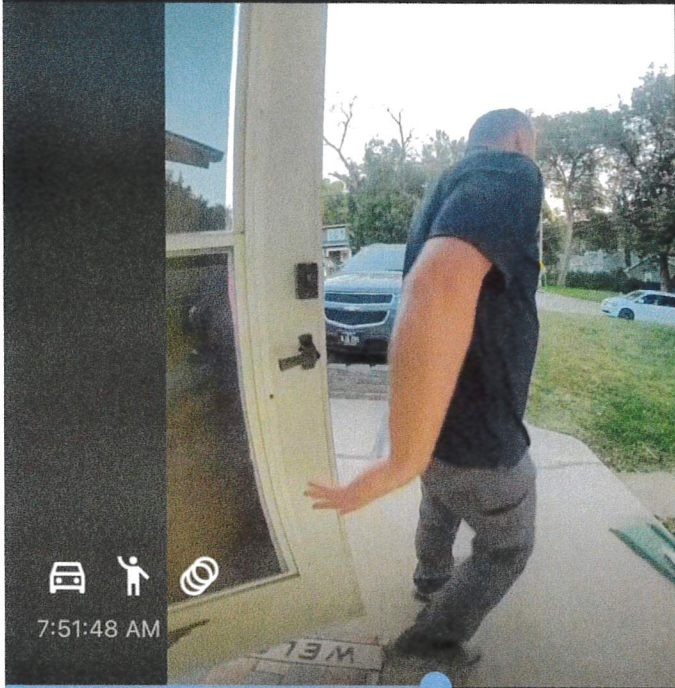
There is no blocking of the road.



This picture shows a parent entering the daycare at 7:48 am – this is during drop off; pick up is just the same the parents are in and out.

9:56

LTE



This picture shows the parent leaving and that he was only in the house from 7:48 am to 7:51 am

Today



Person · Vehicle  
7:51 AM · 1 min 3 sec



Package no longer seen · Person  
7:48 AM · 1 min 53 sec



# Extending existing driveway

## \* Option #1

- Current Driveway  
 - Areas to be added to existing Driveway

9/22/23, 1:45 PM

[Find Property](#)   [Res Sales](#)   [Com DOVs](#)

[Zoom Out](#)   [Move North](#)   [Zoom In](#)



**- privacy Fence**  
 Backyard complete  
 Privacy Fence

150ft x 150ft   S   150ft x 150ft

Press spacebar to reset feet.

S 57°E 145'

Spring 2022 aerial

[Find Property](#)   [Res Sales](#)   [Com DOVs](#)

\* **Current Driveway**

15 | 8ft 10in wide  
 38ft 10in long

\* **Areas to add**

**Left of existing**  
 left wide + 38ft 10in long

**Right of existing**  
 left wide + 38ft 10in long

# Placing a gravel Driveway Front of house

Gravel driveway

**\* option #2**

[Find Property](#) [Res Sales](#) [Com DOVs](#)

[Zoom Out](#) [Move North](#) [Zoom In](#)



**— privacy fence**  
Backyard complete  
privacy fence

150ft x 150ft [S](#) 150ft x 150ft

Press spacebar to reset feet.

[S 57°E 145'](#)

Spring 2022 aerial

[Find Property](#) [Res Sales](#) [Com DOVs](#)

**Adding Driveway  
to front of house**

11ft wide x 73ft long

Extending Current Driveway - drive through to the front of House \* Option #3

9/22/23, 1:45 PM

[Find Property](#) [Res Sales](#) [Com DOVs](#)

[Zoom Out](#) [Move North](#) [Zoom In](#)

- Current driveway
- Areas to be added to existing
- Path-to-exit



Traffic Parents to enter to front of house  
 Drive way to exit  
 Path to exit

**— privacy Fence**  
 Backyard Complete Privacy Fence

150ft x 150ft [S](#) 150ft x 150ft

Press spacebar to reset feet.  
 S 57°E 145'

Spring 2022 aerial

[Find Property](#) [Res Sales](#) [Com DOVs](#)

- **Current Driveway** 18ft 10in wide x 38ft 10in wide
- **Left area to add** left wide x 38ft 10in wide
- **Right Area** left wide x 38ft 10in wide
- **Path** 6 foot wide x 150ft Rough estimate

## Zoning Board of Adjustment Communication

Department: Community  
Development

Case/Project No.: BA-23-003

Submitted by: Christopher N.

CASE #BA-23-003

Council Action: 11/21/2023

Gibbons, AICP, Planning & Code

Compliance Manager and Brandon

Siracuse, Planner

### **Description**

Public hearing on the request of Harley E. Sanwick Sr. for a 3.5 foot side yard setback variance from Section 15.09.050, Site Development Regulations, R-2/Two-Family Residential District of the Council Bluffs Municipal Code (Zoning Ordinance) to allow a home addition to have a 1.5-foot interior side yard setback, as opposed to the required 5 feet, on property legally described as the West 1/2 of Lot 9, Block 14, Hall's Addition, City of Council Bluffs, Pottawattamie County, Iowa. Location: 914 Avenue F

### **Background/Discussion**

See attached staff report.

### **Recommendation**

### **ATTACHMENTS:**

Description	Type	Upload Date
Staff Report & Attachments	Other	11/16/2023

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

**DATE:** November 21, 2023

**RE:** **CASE #BA-23-003**

**REQUEST:** Public hearing on the request of Harley E. Sanwick for a 3.5-foot interior side yard setback variance from Section 15.09.050, Site Development Regulations, R-2/Two-Family Residential District, of the Council Bluffs Municipal Code (Zoning Ordinance) to allow a home addition to have a 1.5-foot interior side yard setback, as opposed to the required 5 feet, on property legally described as the west ½ of Lot 9, Block 14, Hall’s Addition, City of Council Bluffs, Pottawattamie County, Iowa.

**APPLICABLE**

**CODE SECTION:** **Section 15.09.050, Site Development Regulations, R-2/Two-Family Residential District**

**RELIEF SOUGHT:** A 3.5-foot interior side yard setback variance from Section 15.09.050, Site Development Regulations, R-2/Two-Family Residential District, of the Council Bluffs Municipal Code (Zoning Ordinance) to allow a 1.5-foot easterly interior side yard setback, as opposed to the required 5 feet allowed in an R-2 District.

**LEGAL**

**DESCRIPTION:** West ½ of Lot 9, Block 14, Hall’s Addition, City of Council Bluffs, Pottawattamie County, Iowa

**LOCATION:** 914 Avenue ‘F,’ Council Bluffs, IA 51501

**OWNER/APPLICANT:** Harley E. Sanwick, Sr., 914 Avenue ‘F,’ Council Bluffs, IA 51501

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**BACKGROUND INFORMATION** – The Community Development Department has received a request from Harley E. Sanwick, Sr., for a 3.5-foot interior side yard setback variance from Section 15.090.050, Site Development Regulations, R-2/Two-Family Residential District, of the Council Bluffs Municipal Code (Zoning Ordinance) to allow a residential addition to have a 1.5-foot interior side yard setback, as opposed to the required 5 feet, on property addressed as 914 Avenue ‘F.’ The purpose of this request is to remedy a home addition that was built with a nonconforming easterly side yard setback.

The following attachments have been included for your reference:

Attachment A: Location/Zoning Map

Attachment B: Plot Plan – As Built

Attachment C: Applicant’s Original Plot Plan Building Addition Elevations

**CURRENT ZONING AND LAND USE** – The subject property is zoned R-2/Two-Family Residential District. Surrounding land uses on all sides of the subject property primarily consist of one-, two-, and three-family homes zoned R-2. The block to the east contains an early learning center, also zoned R-2.

4. In October 2023, the owner of the subject property applied for a permit to build a new deck. When reviewing this permit application, the Community Development Department discovered via Pottawattamie County GIS aerial imagery that the home addition had been built with its easterly side facade in line with the easterly wall of the preexisting house. The Community Development Department contacted the contractor and learned that the addition had been constructed with the foundation setback at 5 feet and the rest of the addition cantilevered over the foundation at the originally proposed setback. This was the result of a miscommunication between the contractor and the City regarding what would constitute a conforming setback. Specifically, the contractor believed that only the foundation (rather than the entire facade) needed to be setback at 5 feet from the easterly side property line, and the City interpreted the contractor's amended plot plan to indicate that the entirety of the facade would be setback at 5 feet along with the foundation.
  5. As a result of the events described above, the home addition currently has a nonconforming easterly side yard setback of approximately 1.5 feet, including the eave. This setback was determined by meeting with the contractor on-site and using the previously found property pins to determine the distance between the addition and easterly property line.
  6. Because the property consists of two platted lots that have not been replatted into one, the owner has the ability to sell one lot separately from the other in the future. This makes the construction of a home addition difficult. For a home addition of the size and shape built, achieving a conforming easterly side yard setback would require the entire addition to be shifted to the west. Shifting the building addition to the west would result in the new structure crossing over an established boundary between the two lots of record and thus would not be allowed by zoning. The owner would need to replat the two lots into one to avoid the addition crossing over an established lot boundary.
  7. The lot where the existing dwelling is located measures 27.5 feet in width, which is less than the required 50 feet for an interior lot zoned R-2/Two-Family Residential District. The house appears to be centered in the middle of this lot, which creates a hardship for building a new addition that complies with R-2 District zoning standards.
  8. While it is not ideal to issue a variance after a nonconforming structure has already been built, the Community Development Department believes a variance is warranted in this case to legalize the subject home addition. However, if a variance is granted, it should only apply to the subject home addition and not any other future construction on the subject property, including new decks. Any variance granted should also only apply to the portion of the property legally described as the west ½ of Lot 9, Block 14, Hall's Addition.
  9. Granting a variance in this case would not grant the property owner any special privileges, as many other lots in the area are smaller than current standards would allow and contain structures with nonconforming setbacks, and there is precedent in the vicinity of variances granted to allow nonconforming setbacks for residential additions (see cases # BA-79-038 and #BA-02-009 above).
- B. The Council Bluffs Public Works Department stated they have no comments on the request.
- C. The Council Bluffs Fire Department stated they have no comments on the request.
- D. The Council Bluffs Police Department stated they have no concerns or comments on the request.

- E. Council Bluffs Water Works stated they have no comments on the request.
- F. Lumen stated they have 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 subject property contains two platted lots of record (Lot 10 and the west ½ of Lot 9, Block 14, Hall’s Addition). The home and its addition are located on the portion of the property legally described as the west ½ of Lot 9, Block 14, Hall’s Addition, which is only 27.5 feet wide as opposed to the required 50 feet in the R-2 District. The home on the subject property was originally built on this narrow parcel before the parcel was combined with Lot 10.*
2. *Because of such disadvantage, the owner is unable to make reasonable use of the affected property. Because the property consists of two platted lots that have not been replatted into one, the owner has the ability to sell one lot separately from the other in the future. This makes the construction of a home addition difficult, as an addition of the size built would need to be shifted west to comply with easterly side yard setback requirements. Shifting the addition west would place it over the established boundary between the two platted lots, creating a nonconforming situation if one lot were to be sold separately at any point.*
3. *The disadvantage does not exist because of conditions created by the owner or previous owners of the property. The home on the subject property was built in 1920 on the westerly ½ of Lot 9, Hall’s Addition. At the time, the City had not adopted a zoning ordinance. When zoning was first adopted in Council Bluffs in 1927, the lot and the side yard setback became legal nonconforming.*
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 not grant a special privilege, as many other lots in the area are smaller than current zoning would allow and contain structures with nonconforming setbacks. There is also precedent in the vicinity of variances granted to allow nonconforming setbacks for residential additions (Cases #BA-79-038 and #BA-02-009).*
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 home addition to have a nonconforming side yard setback would not be contrary to the public interest, and would be in harmony with the purpose and intent of the zoning ordinance, as it would resolve a hardship preventing a home addition of reasonable width from being permitted on the property.*

## RECOMMENDATION

The Community Development Department recommends approval of a 3.5-foot interior side yard setback variance from Section 15.09.050, Site Development Standards, R-2/Two-Family Residential District, of the Council Bluffs Municipal Code (Zoning Ordinance) to allow a home addition to have a 1.5-foot interior side yard setback, as opposed to the required 5 feet, on property legally described as the west ½ of Lot 9, Block 14, Hall's Addition, City of Council Bluffs, Pottawattamie County, Iowa, based on the reasons stated above and subject to the following condition:

1. The variance shall apply only to the home addition and not to any future construction on the subject property.



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Christopher Gibbons, AICP  
Planning Manager





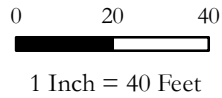
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Brandon Siracuse  
Planner

# CITY OF COUNCIL BLUFFS - ZONING BOARD OF ADJUSTMENT CASE #BA-23-003 LOCATION/ZONING MAP

### Legend

-  Case #BA-23-003 Subject Property
-  914 Avenue F

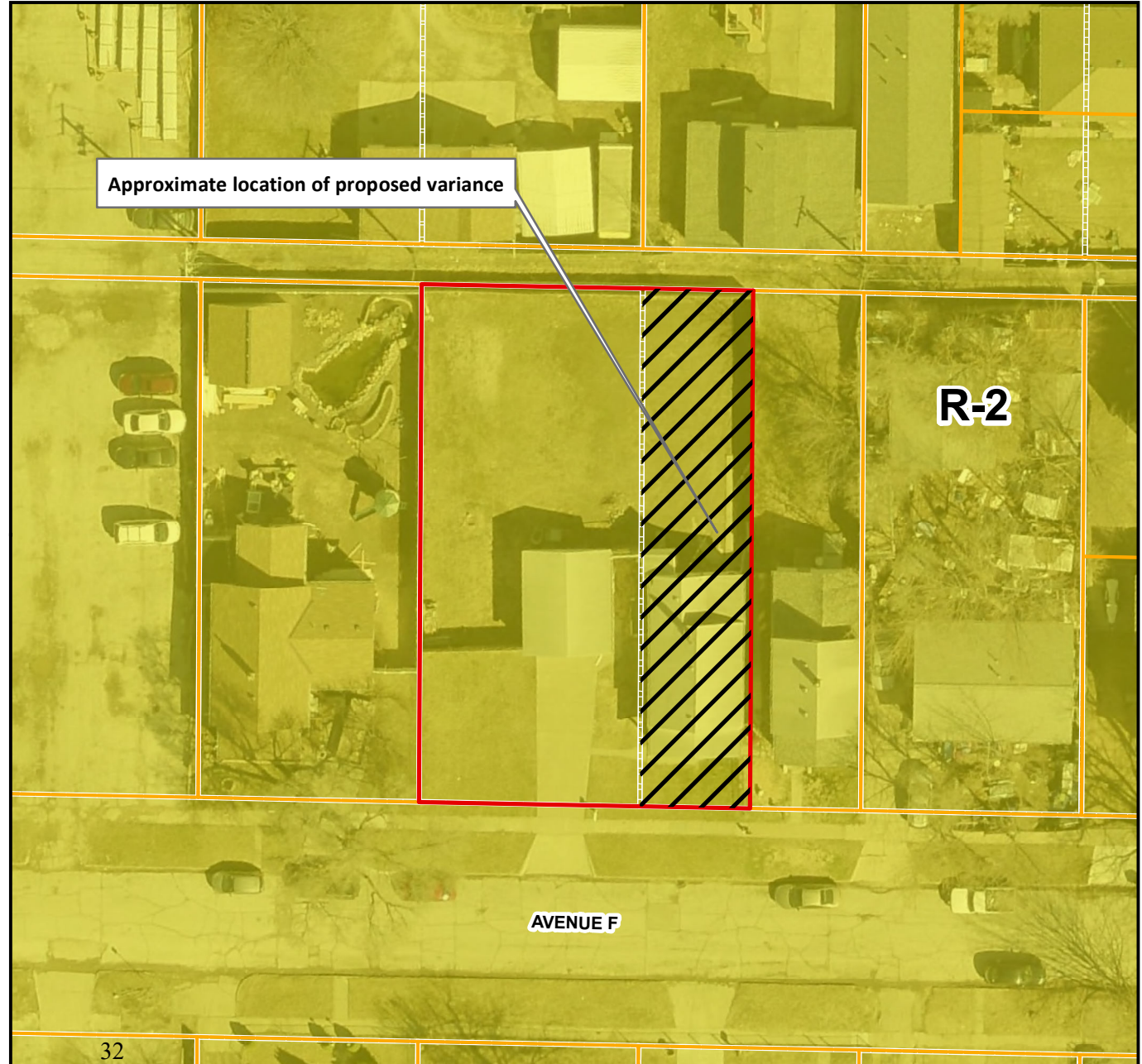


Last Amended: 10/27/2023





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

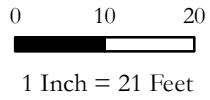
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# CITY OF COUNCIL BLUFFS - ZONING BOARD OF ADJUSTMENT PLOT PLAN

### Legend

-  914 Avenue F
-  Case #BA-23-003 Subject Property



Last Amended: 10/27/2023

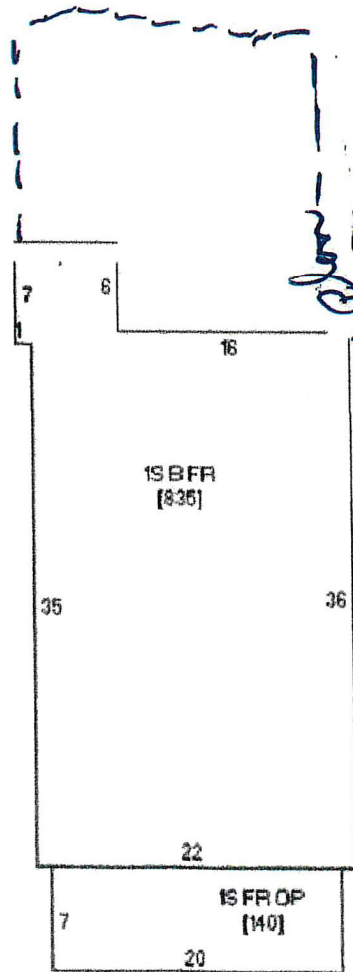


Council Bluffs Community  
Development Department  
209 Pearl Street  
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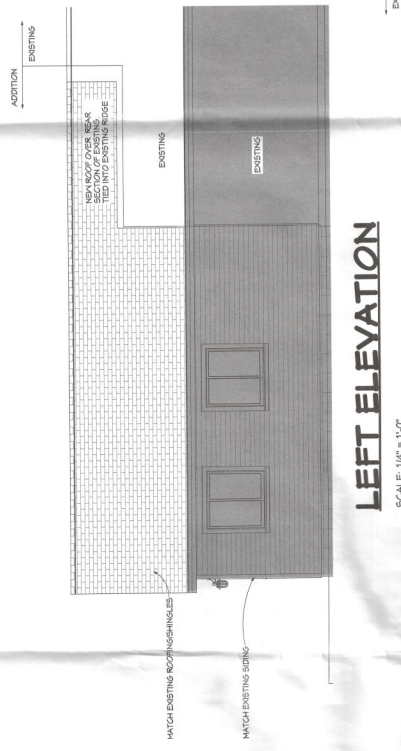
8-8-22  
Boggs Construction  
914 Ave F  
Revised Plat



Please check this plat with the Surveyor's Office

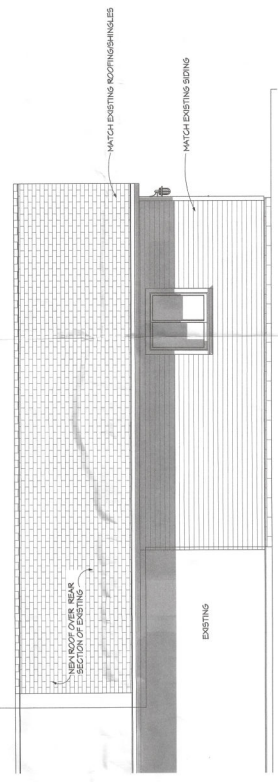
914 AVE F, SANWICK, HARLEY E SR

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



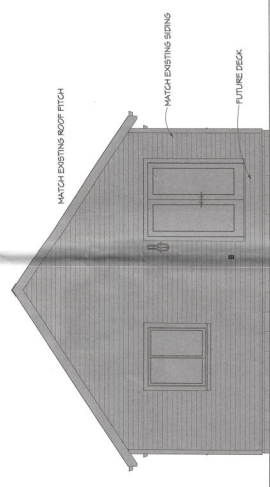
**LEFT ELEVATION**

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



**RIGHT ELEVATION**

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



**REAR ELEVATION**

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