

**BOARD OF ADJUSTMENT MEETING MINUTES**

BOA\_AF\_03-18-2020

Chairperson Pfannkuch called to order the March 18, 2020, regularly scheduled meeting of the Board of Adjustment at 5:30 p.m. in the Large Conference Room, West Des Moines Law Enforcement Center, located at 250 Mills Civic Parkway, in West Des Moines, Iowa.

Roll Call: Blaser, Christiansen, Pfannkuch.....Present  
Cunningham, Stevens.....Absent

**Item 1 – Consent Agenda**

**Item 1a – Minutes of March 4, 2020**

Chairperson Pfannkuch asked for any questions or modifications to the meeting minutes of March 4, 2020. Board Member Blaser noted that the minutes reflected that Chair Pfannkuch had both approved and abstained from voting on the January 15, 2020 Meeting minutes, clarifying that she had abstained but had not voted to approve. He moved to approve the minutes as amended. Board Member Erickson seconded the motion. The March 4, 2020 meeting minutes were approved as amended.

Vote: Blaser, Christiansen, Pfannkuch.....Yes  
Cunningham, Stevens.....Absent

Motion carried.

**Item 2 – Old Business**

There were no Old Business items.

**Item 3 – Public Hearings**

There were three (3) public hearing items.

**Item 3a – VAR-004601-2020 Todd Culver 308 Hillside Ave Setback Variance**

There was a memo on the dais stating that this item has been withdrawn. It will be renoticed and brought before the Board of Adjustment at a later date.

No action was necessary.

**Item 3b – Setback Variance, 1226 18<sup>th</sup> Street – Variance of the front and side yard setbacks to accommodate building additions - VAR-004643-2020**

Chairperson Pfannkuch opened the public hearing and asked the Recording Secretary to state when the public hearing notice was published. The Recording Secretary stated that the notice was published on March 6, 2020, in the Des Moines Register.

Moved by Board Member Blaser, seconded by Board Member Christiansen, the Board of Adjustment accepted and made a part of the record all testimony and documents received at this public hearing.

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Vote: Blaser, Christiansen, Pfannkuch.....Yes  
Cunningham, Stevens.....Absent

Motion carried.

Steven Flood, 1226 18<sup>th</sup> Street, presented his application for three variances to reduce the front and side yard setbacks on his lot to allow construction of a 2 car garage addition on the front of his home and a bedroom addition on the rear of the house. He informed the Board that he would work with approval of any or all three of his requests, referencing the hardship findings he had provided to them.

Board Member Christiansen informed Mr. Flood that he could choose at any time in the discussion to defer a decision to a later meeting when more Board members were present.

Chairperson Pfannkuch asked for any other questions or comments from the audience and upon hearing none, declared the public hearing item closed.

Linda Schemmel, Development Services Coordinator, presented staff comments on behalf of Planner Brian Portz. She summarized the three variance requests and current code standards. Ms. Schemmel explained the criteria being used to determine approval, whether the construction could be accomplished in a different manner, whether the circumstances were beyond the owner’s control, and whether the request fit the general expectation of the neighborhood. She noted that the majority of the surrounding neighbors have a 2-car garage, therefore this is a reasonable expectation. Also, adding a garage on the front yard could be the only viable option with a quick overview of the impentments to adding a garage to the rear. She informed the Board that they had the option to approve or disapprove all three of the variance requests individually.

Board Member Christiansen asked if it was fair to say that the properties in this neighborhood were kind of unique with regard to their setbacks and lots. Ms. Schemmel provided an aerial view, pointing out how the curving street affected property lines in the neighborhood.

Chair Pfannkuch commented that there was quite a grade change between this property and the adjacent lot. Ms. Schemmel responded that there is a significant grade change which raises the question of access if the garage were to be placed in the back. Chair Pfannkuch noted that in the past, the Board has recommended that owners try to get an easement or buy land from a neighbor, which doesn’t look like an option here without significant work needing to be done. Ms. Schemmel agreed that anything can be done, but what is reasonable has to be determined. She concluded that the intent was to give the Board that stage, and then the Board could examine each of the variance parts separately.

Board Member Blaser asked if the lot was tight. Ms. Schemmel agreed, stating that there is only 7’ to the lot lines, realistically he cannot get a driveway through for access.

Chair Pfannkuch clarified that the lot lines and setbacks weren’t right to start with. Ms. Schemmel stated that staff looked at the zoning code in place before and after the home was constructed, and the setbacks increased after the home was built, making the

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restrictions even more stringent. Assuming that he built to the code that was in place at the time of construction, he's still not in compliance.

Board Member Blaser asked if the neighbors had been notified, and if there had been any comment. Ms. Schemmel responded that the City notified all neighbors within 370 feet and there was no response.

Board Member Christiansen commented that the addition might block the view to the street, but he's not blocking a park or anything. Ms. Schemmel responded that this is one of the reasons there is an average front yard setback, is the concern that if somebody is way in front of the other homes, they would be blocking the view to the street. Board Member Christiansen asked if the concern was view or a safety issue with backing out to the street. Ms. Schemmel replied it was not a safety issue due to the 35' setback that would meet any view angle requirements.

Board Member Blaser stated that there is a request for a slight variance in the back. Ms. Schemmel confirmed that the side yard is currently 7' as constructed, and the owner would like to continue that front and back. Typically, if the home had been constructed to the standards at the time, we wouldn't have an issue with continuing it. What we would want to point out is that it wasn't constructed to the standards of the time, so it's up to the Board to determine if it's reasonable to continue that line of the house as a non-conforming setback. It's easier to comply with that requirement as far as a side yard setback, it would be more burdensome and require more work to the house to make it fit but it's easier to accommodate the side yard and make it compliant, than the garage projection to the front.

Board Member Christiansen inserted that he thinks it wouldn't look as rigged up, if allowed to be constructed the way it is proposed, than trying to make it fit some other way. Whether that's the right way to do it or not is up for discussion.

Ms. Schemmel asked if the Board would like to hear from the applicant first or if they had questions on the findings.

Chair Pfannkuch asked Mr. Flood if he had spoken with any of his neighbors. Mr. Flood replied that he had talked with two neighbors across the street, those on either side of his home and a neighbor three doors down; all were supportive. He also responded to an earlier comment, stating that he had tried to buy part of a lot to the North which is vacant due to a death, however the property is going through a tax sale, and therefore was not available for purchase.

Chairperson Pfannkuch asked for continued discussion or a motion and a second for this item. She commented that Mr. Flood had found no concern among his closest neighbors. Board Member Blaser referenced a previous variance which changed the direction of variance decisions. He expressed that he had no problem with approving the request, especially if it helps an applicant build a bedroom for a child. Board Member Christiansen agreed and affirmed that this just makes common sense. Chair Pfannkuch also agreed and noted that all of these neighborhoods will be redeveloped and the Board would have to consider future applications; she concluded that improving home values makes sense.

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Ms. Schemmel questioned whether the Board felt the findings for the request noting the tests of totally unreasonable or caused by the project being cost prohibitive were helpful. Board Member Blaser responded that the report was good; noting that there are some issues with this request but there is a balance, with a lot of positives; and that the positives outweighed the issues.

Board Member Christiansen moved to approve all three variances in one motion, seconded by Board Member Blaser; the Board of Adjustment adopted a resolution to approve the three variances based on applicant and staff findings.

Vote: Blaser, Christiansen, Pfannkuch.....Yes  
Cunningham, Stevens.....Absent  
Motion carried.

**Item 3c – Majestic Limo and Coach, 1816 Fuller Road – Allow sale of mini-buses and motor coaches (SIC 559) on property at 1816 Fuller Road – Majestic Limousine Service LLC PC-004653-2020**

Chairperson Pfannkuch opened the public hearing and asked the Recording Secretary to state when the public hearing notice was published. The Recording Secretary stated that the notice was published on March 6, 2020, in the Des Moines Register.

Moved by Board Member Christiansen, seconded by Board Member Blaser, the Board of Adjustment accepted and made a part of the record all testimony and documents received at this public hearing.

Vote: Blaser, Christiansen, Pfannkuch.....Yes  
Cunningham, Stevens.....Absent  
Motion carried.

Kara Tragesser, Development Services Planner, presented this item on behalf of Scott Woodruff, Coach 28, 1816 Fuller Road, who had provided written comments in lieu of being physically present to the Covid-19 recommendations to avoid public assembly. The applicant is applying for an auto dealer permit with the State of Iowa; which requires proof that he’s allowed by the zoning code to do this. In our zoning code, the refurbishment and resale of coaches, limousines and mini-buses is classified as a used auto dealer which is included in SIC 559. The Board can approve it as a conditional use. Ms. Tragesser informed the Board that this conditional use permit was granted to the applicant in 2016 however no action had taken place during the 12 months following approval, and therefore the former conditional use permit expired. The applicant is resubmitting their request for approval at this time. There are three conditions of approval which were attached in 2016 and are still applicable today. The email communication from the applicant indicates they are in agreement with these conditions, and clarified that the ownership of the company is Coach 28, which will be amended in the resolution. The communication would be entered into the record. Planner Tragesser concluded that Staff recommended approval of the request.

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Chairperson Pfannkuch asked for any questions or comments from the audience and upon hearing none, declared the public hearing item closed.

Chairperson Pfannkuch asked for continued discussion or a motion and a second for this item.

Moved by Board Member Blaser, seconded by Board Member Christiansen, the Board of Adjustment adopted a resolution to approve the conditional use permit, with the following conditions:

1. The vehicles to be sold at this location and part of this permit shall be restricted to only those types of vehicles customarily used within the limousine trade.
2. Outdoor storage and display shall not occur in any required yard setback, open space, or required parking area, unless approved by a future site plan.
3. Any vehicle conspicuously parked adjacent to a public street for more than three hours primarily for advertisement shall be prohibited, in accordance with Title 9, Zoning, Chapter 18, Signs.

Vote: Blaser, Christiansen, Pfannkuch.....Yes  
 Cunningham, Stevens.....Absent

Motion carried.

**Item 4 – New Business**

There were no New Business items.

**Item 5 – Staff Reports**

The Board of Adjustment is scheduled to meet next on April 1, 2020 at the Law Enforcement Center.

**Item 6 – Adjournment**

Chairperson Pfannkuch asked for a motion to adjourn the meeting.

Moved by Board Member Blaser, seconded by Board Member Christiansen, the Board of Adjustment meeting adjourned at 5:59 PM.

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Angie Pfannkuch, Chairperson

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Jennifer Canaday, Recording Secretary