



CITY OF DES MOINES' ZONING BOARD OF ADJUSTMENT FINAL AGENDA JANUARY 24, 2024

**MEETING TO BEGIN AT 1:00 PM IN THE 2ND FLOOR BOARD ROOM
WITHIN THE CITY'S MUNICIPAL SERVICE CENTER AT
1551 EAST MARTIN LUTHER KING, JR. PARKWAY, DES MOINES, IA 50317.**

PURPOSE OF BOARD OF ADJUSTMENT:

The Zoning Board of Adjustment has the power under Iowa law and the Zoning Ordinance of the City of Des Moines (City Code Chapter 134) to hear requests and make decisions on matters such as Variances and Exceptions from the regulations in the Zoning Ordinance, Conditional Use Permits, Special Permits, and appeals of the decisions of City staff in the administration of the Zoning Ordinance.

MEETING PROCEDURE:

The Board members receive copies of the agenda and staff recommendations before the meeting. Copies of the agenda and staff recommendations are available to the general public.

The Board is required to base its decision on each case upon the criteria established by law for the type of relief sought by the applicant. The law applicable to each case is identified in the written staff report. If the facts, as determined by the Board, demonstrate that the criteria established by law for granting the request have been satisfied, then the Board must grant the request. Otherwise, the Board must deny the request. All speakers are requested to focus their comments upon those facts that demonstrate whether or not the criteria established by law have been satisfied. *All material used as part of any presentation must be submitted as a part of the permanent record and will not be returned.*

Items listed on the Consent Public Hearing Items portion of the agenda will not be individually discussed and will be considered for approval in accordance with the recommendation in the staff report, unless an individual or member of the Board requests that the Item be removed from the Consent Public Hearing Items portion agenda and separately considered under the Non-Consent Public Hearing Items portion of the agenda. Each appeal will be announced in the order it appears on the agenda and then City staff will present a brief explanation of the appeal. Any written comments received by staff prior to the hearing will be distributed to the Board for review.

All speakers are requested to start their presentation by giving their name and address. After staff introduces a request, the appellant or a representative of the appellant is allowed to speak first, and will be allowed ten minutes to present the appeal. Anyone else speaking in support of the appeal will then each be allowed five minutes to present their comments. Anyone speaking in opposition to the appeal will then be allowed five minutes each to present their comments. The appellant/representative will then be allowed three minutes for rebuttal or other closing comments. The hearing will then be closed to public comment and the Board will make a decision. The decision and the reason will be announced.

The Board has 7 members. It takes the affirmative vote of at least 4 members to grant any appeal, regardless of the number of members actually present at any meeting. If 5 or fewer members of the Board are present when the Chair calls an Item, the applicant may request that the Item be continued until the next monthly meeting to have the opportunity to present the matter to a full Board. The request should be made as soon as the Chair calls the Item and before the staff report is given. The Board has discretion to grant or deny any such request. If a continuance is granted, there is no guarantee that more members of the Board will be present at the next meeting.

Following the meeting, any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment under the provisions of this chapter, or any taxpayer, or any officer, department, board, or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

If you have questions, please contact City staff at 515-283-4743 or visit the Zoning Board of Adjustment's website at <http://www.dmgov.org/government/boards/ZoningBoardofAdjustment>.

******* BEGIN CONSENT PUBLIC HEARING ITEM *******

******* ITEMS 1 - 3 *******

Each item listed on this portion of the agenda will be reviewed in turn by the Board, at which time the Item will either be approved or forwarded to the Non-Consent Public Hearing portion of the agenda for further discussion and action.

Item 1	ZBOA-2023-000095 215 Watson Powell Junior Way	615 Third Street LLC Conditional Use
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Appellant: 615 Third Street LLC, represented by David Siegel, 500 Westown Parkway, Suite 400, West Des Moines, Iowa 50266. The business is operated by Buzzard Billy's, represented by Kelly Christensen, 615 3rd Street, Des Moines, IA 50309.

Premises Affected: 215 Watson Powell Junior Way.

Legal Description: On file with Development Services Department.

Current Zoning: "DX2" Downtown Mixed-Use District.

Applicable Neighborhood Association: Downtown Des Moines Neighborhood Association.

Proposal: Use of the premises for special events held indoors and outdoors up to eight (8) times per calendar year. Special events would occur within the parking lot area immediately to the south of the building and to extend within 6,020 square feet of area within the existing building that would involve the sale of food and beverages, including alcohol. The events would include signage displayed on the day of any event. The proposed use was originally allowed by Special Permit (Docket ZON2017-00093), granted on June 26th, 2017, for a 5-year period that expired on June 28, 2022.

Appeal(s): Conditional Use for special events in a "DX2" District.

Required by City Code Table 134-3.9.1, Sections 134-10.2.D, 134-6.4.

Item 2	ZBOA-2023-000096 5960 SE 14th Street	Charles I Colby & Ruth Colby Trust No 2 Type 2 Zoning Exception
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Appellant: Charles I Colby & Ruth Colby Trust No 2, represented by Brian Sheriff, 6581 University Avenue, Windsor Heights, Iowa 50324. The business is operated by Napa Auto Parts, represented by Miranda Cassens (Chestnut Signs), 971 Northeast Broadway Avenue, Des Moines, IA 50313.

Premises Affected: 5960 SE 14th Street.

Legal Description: On file with Development Services Department.

Current Zoning: "MX3-V" Mixed-Use District.

Applicable Neighborhood Association: South Central DSM Neighborhood Association.

Proposal: Installation of the following two signs with a cumulative 105.81 square feet in area, on a building within an "MX3" Mixed-Use District:

- One (1) approximately 4.5-foot by 18.42-foot (82.89 square feet) illuminated wall sign to be installed on the east frontage wall.
- One (1) approximately 4.5-foot by 5.094-foot (22.92 square feet) illuminated wall sign to be installed on the south non-frontage wall.

Appeal(s): Type 2 Zoning Exception of 27.06 square feet of signage area over the maximum 78.75 square feet of signage area earned in the "MX3-V" Mixed-Use District.

Required by City Code Table 134-5.6-1, Sections 134-5.3.5 and 134-6.6.

Item 3	ZBOA-2024-000001 Vicinity of 2101 Fleur Drive	City of Des Moines – Parks & Recreation Conditional Use
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Appellant: City of Des Moines-Parks and Recreation, represented by Ben Page, 1551 East Martin Luther King, Jr. Parkway, Des Moines, Iowa 50317.

Premises Affected: Vicinity of 2101 Fleur Drive.

Legal Description: On file with Development Services Department.

Current Zoning: "F" Flood District and "P1" Public, Civic, and Institutional District.

Applicable Neighborhood Association: Grays Lake Neighborhood Association.

Proposal: Construction of public recreational areas and other site improvements related to Gray's Lake within an "F" Flood District to include pavement repairs to the park's southwest entry drive and parking area, trail improvements, demolition of existing paddling docks, and redevelopment of new paddling dockage with an associated open-air accessory structure for floodable storage.

Appeal(s): Conditional Use for a "Public Recreation Area" use in an "F" District.

Required by City Code Table 134-3.1-1, & Sections 134-3.4.9 & 134-6.7.

******* END CONSENT PUBLIC HEARING ITEMS *******

******* BEGIN DISCUSSION PUBLIC HEARING ITEMS *******

Item 4	ZBOA-2023-000097 5100 Hubbell Avenue	Ryan Resorts LLC Variance
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Appellant: Ryan Resorts LLC, represented by Ryan Smithson, 5632 W 148th Street N, Mingo, IA 50168.

Premises Affected: 5100 Hubbell Avenue.

Legal Description: On file with Development Services Department.

Current Zoning: "P1" Public, Civic, and Institutional District.

Applicable Neighborhood Association: None.

Proposal: Installation of a freestanding pole sign type with a six-foot by 18-foot (108 square feet) sign face and maximum height of 32 feet.

Appeal(s): Variance of the provision that prohibits a pole sign.

Required by City Code Table 134-5.6-1, Section 134-5.2.Q, Section 134-5.3.5, & Section 134-6.4.

Item 5	ZBOA-2023-000098	Mulvihill Farms Inc
	1139 24th Street	Conditional Use

Appellant: Mulvihill Farms Inc, represented by Robert and Renee Mulvihill, 3114 Cumming Road, Cumming, IA 50061.

Premises Affected: 1139 24th Street.

Legal Description: On file with Development Services Department.

Current Zoning: "RX1" Mixed-Use District.

Applicable Neighborhood Association: Drake Neighborhood Association.

Proposal: Sales of alcoholic liquor, wine, and beer for on premises consumption by an existing commercial kitchen, hosting popup events within a 3,600-square foot building of which 605 square feet would be dedicated to the use, and would be accessory to the primary commercial kitchen use. The events are intended to be held multiple days of the week with hours varying between weekday and weekend operations.

Appeal(s): Conditional Use for an "Other" use selling alcoholic liquor, wine, and beer for on-premises consumption in a "RX1" District.

Required by City Code Tables 134-3.1.1, 134.3.9-1, and Section 134-6.4.

****Approval of Minutes for the December 20, 2023, Zoning Board of Adjustment meeting.**