



CITY OF DES MOINES' ZONING BOARD OF ADJUSTMENT AGENDA

FOR THE MEETING SCHEDULED FOR
JANUARY 27, 2021
1:00 PM

Iowa Code Section 21.4 requires that each Council meeting shall be held at a place reasonably accessible to the public and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impracticable. Given Mayor Cownie's March 17, 2020 Proclamation Amendment prohibiting gatherings of ten or more persons on public property during the COVID19 outbreak, the City Manager has determined that to encourage and maintain social distancing to curb the spread of COVID19 in the community, the meeting will be conducted electronically with no public access to the meeting location. To participate in the electronic meeting, access is available via the internet or telephonically (details below).

If you intend to participate in the virtual Zoom meeting via internet or by telephone, the City's Development Services Department requests that you please send an email to Planning@dmgov.org or call (515) 689-9485 at least 24 hours prior to the start of the scheduled meeting, to alert the meeting's moderator that you intend to address the Board. When sending an email or leaving a voice-mail message, please include your name, address, telephone number and the item number that you wish to speak on, state whether you wish to speak in support or in opposition, and attach or identify any evidence (photos, documents, etc.) that you would like the Board members to review. Participants will be allowed to join the virtual Zoom meeting via internet or by telephone at the scheduled time of the meeting, whether or not such prior notice is given to the Development Services Department.

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join. <https://dmgov-org.zoom.us/j/83211816783>
Passcode: 917893

Or join by phone:

Dial (for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 720 928 9299 or 877 853 5257 (Toll Free) or 833 548 0276 (Toll Free)

Webinar ID: 832 1181 6783

International numbers available: <https://dmgov-org.zoom.us/j/83211816783>

You will be muted upon arrival in the meeting. To request to speak during the hearing you please use the "raise hand" function on Zoom via internet or dial *9 on your telephone.

Hearing date is subject to change. Please see <https://www.DSM.city/covid19> and scroll down to the "Public Meetings" link under the heading "City of Des Moines Services impact" or call (515) 689-9485 for the most current information public hearings and public meetings.

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 515-283-4257 or visit the Zoning Board of Adjustment's website at <http://www.dmgov.org/government/boards/ZoningBoardofAdjustment>.

******* BEGIN CONSENT PUBLIC HEARING ITEMS *******

******* ITEMS 1 through 7 *******

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	ZON 2020-00157	Sullivan Holdings, LLC
	6208 Douglas Avenue	Conditional Use Approval

Appellant: Sullivan Holdings, LLC, represented by Scott Sullivan, 33645 Berns Shore Drive, Adel, IA 50003.
Premises Affected: 6208 Douglas Avenue.
Legal Description: On file with Development Services Department.
Current Zoning: "P2" Public, Civic, & Institutional District.
Applicable Neighborhood Association: Merle Hay Neighborhood Association.

Proposal: Use of a portion of the existing building for a warehouse use ("Storage, Distribution, and Wholesaling, Warehouse").

Appeal(s): Conditional Use Approval (per City Code Section 134-6.4) for a "Storage, Distribution, and Wholesaling, Warehouse" use in a "P2" District.

Required by City Code Table 134-3.1-1 & Section 134-3.6.3

Item 2	ZON 2020-00167	Kemin Holdings, LLC, 1900 Scott Street
		Conditional Use Approval

Appellant: Kemin Holdings, LC, represented by Elizabeth Nelson, PO Box 70, Des Moines, IA 50306.
Premises Affected: 1900 Scott Street.
Legal Description: On file with Development Services Department.
Current Zoning: "I2" Industrial District.
Applicable Neighborhood Association: None.

Proposal: Expansion of the existing "Industrial: Fabrication & Production, Intensive" use to include operations within a new building that would generally measure 100 feet by 135 feet.

Appeal(s): Conditional Use Approval (per City Code Section 134-6.4) for an "Industrial: Fabrication & Production, Intensive" use in an "I2" District.

Required by City Code Table 134-3.1-1 & Section 134-3.6.1

**Item 3 ZON 2020-00168 Fareway Stores, Inc., 2716 Beaver Avenue
Amend Conditional Use Approval**

Appellant: Fareway Stores, Inc., represented by Koby Pritchard, PO Box 70, Boone, IA 50036.
Premises Affected: 2716 Beaver Avenue.
Legal Description: On file with Development Services Department.
Current Zoning: “MX3” Mixed-Use District.
Applicable Neighborhood Association: Beaverdale Neighborhood Association.

Proposal: Amend Conditional Use Approval (Docket ZON2020-00144, as granted by the Board of Adjustment on December 16, 2020) to allow a “Retail Sales, Limited” use within a new 7,759-square foot building to sell alcoholic liquor in addition to wine and beer. The licensed premise would be at least 500 feet from the church/school use at 2928 Beaver Avenue. As a “Retail Sales, Limited” use, no more than 40% of gross receipts from sales could be derived from the sale of alcoholic liquor, wine, beer, and/or tobacco products.

Appeal(s): Amend Conditional Use Approval (per City Code Section 134-6.4) for a “Retail Sales, Limited” use selling wine, and/or beer, to also include alcoholic liquor, for off-premise consumption in an “MX3” District.

Required by City Code Section 134-3.8, Table 134-3.1-2, & Docket ZON2020-00144

**Item 4 ZON 2021-00001 City of Des Moines/State of Iowa
Vicinity of 2100 Saylor Road Conditional Use Approval**

Appellant: City of Des Moines, represented by Pamela Cooksey, 400 Robert D. Ray Drive, Des Moines, IA 50309, & State of Iowa, represented by Seth Moore, 502 East 9th Street, Des Moines, IA 50319. The proposed facility would be operated by Central Iowa Water Trails, PO Box 8071, Des Moines, IA 50301.
Premises Affected: Vicinity of 2100 Saylor Road.
Legal Description: On file with Development Services Department.
Current Zoning: “F” Flood District.
Applicable Neighborhood Association: Union Park Neighborhood Association.

Proposal: Construction of a whitewater in-river course with upland access along the river banks.

Appeal(s): Conditional Use Approval (per City Code Section 134-6.4) for a “Public Recreation Area” use in an “F” Flood District.

Required by City Code Table 134-3.1-1 & Section 134-3.4.9

Item 5	ZON 2021-00002	City of Des Moines/State of Iowa	Conditional Use Approval
	Vicinity of 1501 Harriet Street		

Appellant: City of Des Moines, represented by Pamela Cooksey, 400 Robert D. Ray Drive, Des Moines, IA 50309, & State of Iowa, represented by Seth Moore, 502 East 9th Street, Des Moines, IA 50319. The proposed facility would be operated by Central Iowa Water Trails, PO Box 8071, Des Moines, IA 50301.

Premises Affected: Vicinity of 1501 Harriet Street.

Legal Description: On file with Development Services Department.

Current Zoning: “F” Flood District.

Applicable Neighborhood Association: None.

Proposal: Construction of a whitewater in-river course with upland access along the river banks.

Appeal(s): Conditional Use Approval (per City Code Section 134-6.4) for a “Public Recreation Area” use in an “F” Flood District.

Required by City Code Table 134-3.1-1 & Section 134-3.4.9

Item 6	ZON 2021-00003	City of Des Moines/State of Iowa	Conditional Use Approval
	Vicinity of 1301 Prospect Road		

Appellant: City of Des Moines, represented by Pamela Cooksey, 400 Robert D. Ray Drive, Des Moines, IA 50309, & State of Iowa, represented by Seth Moore, 502 East 9th Street, Des Moines, IA 50319. The proposed facility would be operated by Central Iowa Water Trails, PO Box 8071, Des Moines, IA 50301.

Premises Affected: Vicinity of 1301 Prospect Road.

Legal Description: On file with Development Services Department.

Current Zoning: “F” Flood District.

Applicable Neighborhood Association: Prospect Park Neighborhood Association.

Proposal: Construction of a whitewater in-river course with upland access along the river banks.

Appeal(s): Conditional Use Approval (per City Code Section 134-6.4) for a “Public Recreation Area” use in an “F” Flood District.

Required by City Code Table 134-3.1-1 & Section 134-3.4.9

Item 7	ZON 2021-00004	Centro GA Haymarket Square, LLC, 4347 Merle Hay Road Type 2 Zoning Exceptions
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Appellant:	Centro GA Haymarket Square, LLC, represented by Fred Spille, 8700 Bryn Mawr Avenue, Suite 1000, Chicago, IL 60613.
Premises Affected:	4347 Merle Hay Road.
Legal Description:	On file with Development Services Department.
Current Zoning:	“CX” Mixed Use District.
Applicable Neighborhood Association:	Merle Hay Neighborhood Association.

Proposal: Installation of a 6.75-foot by 10.64-foot (71.74 square feet) wall-mounted sign on the west frontage wall and a 6.75-foot by 10.64-foot (71.74 square feet) wall-mounted sign on the south non-frontage wall, for a combined 143.48 square feet of signage area.

Appeal(s): Type 2 Zoning Exception (per City Code Section 134-6.6.1) of 40.98 square feet over the maximum 102.5 square feet of signage allowed for a building with 82 linear feet of building frontage (1.25 square feet of signage area per linear foot of building frontage).

Type 2 Zoning Exception (per City Code Section 134-6.6.1) of 20.49 square feet over the maximum 51.25 square feet of signage allowed for a wall-mounted sign on a non-frontage wall (up to 50% of earned signage area).

Required by City Code Table 134-5.6-1 & Section 134-5.3.4

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

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

This item was continued from the September 23, 2020 Board of Adjustment meeting agenda.

Item 8	ZON 2020-00108 525 East Grand Avenue	Zoning Enforcement Officer / Wilson Reconsideration of Conditional Use
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Appellant:	City of Des Moines Zoning Enforcement Officer, 602 Robert D. Ray Drive, Des Moines, IA 50309. The property is owned by Joel & Nancy Wilson, 901 Walker Street, Des Moines, IA 50316. The business is operated by Ghost Loungz, LLC, represented by Larry Mason, 525 East Grand Avenue, Des Moines, IA 50309.
Premises Affected:	525 East Grand Avenue.
Legal Description:	On file with Development Services Department.
Current Zoning:	“DX2” Downtown Mixed-Use District.
Applicable Neighborhood Association:	Historic East Village Neighborhood Association.

Proposal: The Zoning Enforcement Officer is requesting that the Conditional Use (Docket ZON2010-00137), as granted on August 25, 2010, be reconsidered since the operation of the bar/tavern has determined that the operation of the business has become a nuisance and exhibited a pattern of violating the conditions set forth in the Conditional Use.

Appeal(s): Reconsideration of a Conditional Use for a bar/tavern selling liquor, wine and/or beer.

Required by City Code Section 134-6.4.14.B & Docket ZON2010-00137

Item 9 was withdrawn by the appellant prior to the public hearing.

Item 9 ZON 2020-00142 AREC 34, LLC, 2535 Hubbell Avenue Zoning Variances

~~**Appellant:** AREC 34, LLC, represented by Randy Dickson, 2727 North Central Avenue, Phoenix, AZ 85004.
Premises Affected: 2535 Hubbell Avenue.
Legal Description: On file with Development Services Department.
Current Zoning: "F" Flood District.
Applicable Neighborhood Association: ACCENT Neighborhood Association.~~

~~**Proposal:** Installation of four (4) wall-mounted signs, with a combined 584 square feet of signage area, including a 258-square foot sign on the west wall of the building, a 45-square foot sign on the west wall of the building, a 72-square foot sign on the west wall of the building, and a 209-square foot sign on the east wall of the building.~~

~~**Appeal(s):** Zoning Variance (per City Code Section 134-6.7) of four (4) wall mounted signs over the maximum zero (0) wall-mounted signs allowed for a building in an "F" Flood District.~~

~~Zoning Variance (per City Code Section 134-6.7) of 584 square feet of signage area over the maximum zero (0) square feet of wall-mounted signage allowed for a building in an "F" Flood District.~~

~~*Required by City Code Section 134-5*~~

Item 10 ZON 2020-00161 BP River Plaza, LC, 2324 Euclid Avenue Zoning Variances

Appellant: BP River Plaza, represented by Jack Sullivan, 5601 Hickman Road, Suite 3, Des Moines, IA 50310.
Premises Affected: 2350 Euclid Avenue.
Legal Description: On file with Development Services Department.
Current Zoning: "F" Flood District.
Applicable Neighborhood Association: Prospect Park Neighborhood Association.

Proposal: Installation of four (4) wall-mounted signs on the north wall of the building, with a combined 185.04 square feet of signage area, including a 44.53-square foot sign, a 48.60-square foot sign, a 54.45-square foot sign, and 37.46-square foot sign.

Appeal(s): Zoning Variance (per City Code Section 134-6.7) of four (4) wall mounted signs over the maximum zero (0) wall-mounted signs allowed for a building in an "F" Flood District.

Zoning Variance (per City Code Section 134-6.7) of 185.04 square feet of signage area over the maximum zero (0) square feet of wall-mounted signage allowed for a building in an "F" Flood District.

Required by City Code Section 134-5

Item 11 ZON 2020-00162 EJF, LTD, 2525 Easton Boulevard Zoning Exception

Appellant: EJF, LTD, represented by Blake Johnson, 5565 S Madison Way, Greenwood Village, CO 80121.
Premises Affected: 2525 Easton Boulevard.
Legal Description: On file with Development Services Department.
Current Zoning: "MX3" Mixed-Use District.
Applicable Neighborhood Association: ACCENT Neighborhood Association.

Proposal: Resume use of a freestanding pole sign after its use has been discontinued for a period longer than six (6) months. The sign is approximately 20 feet tall and has a sign face that measures approximately 8 feet by 8 feet.

Appeal(s): Type 2 Zoning Exception (per City Code Section 134-6.6) to the time period within which a use may be resumed after temporary discontinuance of that use, where discontinuance of the use was due to unique circumstances not of the property owner's own making and where resumption of the use will not have a significant adverse impact on the essential character of the surrounding area.

Required by City Code Sections 134-7.3.7.B & 134-6.6.2.2

****Approval of Minutes for the December 16, 2020 Zoning Board of Adjustment meeting.**