

ZONING BOARD OF ADJUSTMENT MEETING

CITY OF DAVENPORT, IOWA

THURSDAY, JULY 8, 2021; 4:00 PM

CITY HALL | 226 WEST 4TH STREET | COUNCIL CHAMBERS

THE ZONING BOARD OF ADJUSTMENT HOLDS PUBLIC HEARINGS TO CONSIDER
HARDSHIP VARIANCES, SPECIAL USES, AND INTERPRETATION APPEALS.

I. Call to Order

II. Secretary's Report

A. Consideration of the June 24th, 2021 minutes.

III. Old Business

IV. New Business

A. Request HV21-04 of Nick Roman dba K9 Resorts QC on behalf of CLC Realty LLC at 1409 E. Kimberly RD for a Hardship Variance to construct an 8-foot fence in the rear yard for an animal care facility exercise area. Section 17.09.030.B.1. of the Davenport Municipal Code restricts this fence to a maximum of 7 feet in height. [Ward 7]

V. Other Business

A. Board Officers Discussion

VI. Adjourn

City of Davenport
Zoning Board of Adjustment

Department: DNS
Contact Info: Scott Koops, Planner II, AICP
Scott.Koops@davenportiowa.com

Date
7/8/2021

Subject:
Consideration of the June 24th, 2021 minutes.

ATTACHMENTS:

Type	Description
▣ Exhibit	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Community Planning & Economic Development	Koops, Scott	Approved	7/2/2021 - 10:30 AM



MINUTES
Zoning Board of Adjustment
June 24, 2021



By this reference all reports, documents, presentations, videos and the hearing's video recording are incorporated into the minutes.

I. Call to Order:

Board member Loebach called the Zoning Board of Adjustment meeting to order in City Hall Council Chambers, Davenport, Iowa at approximately 4:04 p.m.

Board Members present: Darland, Boyd-Carlson and Loebach.

Excused: Quinn & Reistroffer.

Staff present: Koops, Berkley and Attorney Hoyt.

II. Secretary's Report:

Minutes were approved for the 6-10-21 Hearing by voice-vote.

III. Old Business:

None

IV. New Business:

Request HV21-03 of Jim and Amy Holt at 4710 W. 60th Street for a Hardship Variance to construct an approximate 40' x 64' (2,560sq.ft.) detached garage in the rear yard. Section 17.09.030.K. of the Davenport Municipal Code allows a detached garage of 1,681 sq. ft. (existing dwelling is 3,363 sq. ft.). The proposed garage exceeds the allowed garage area by 879 sq. ft. [Ward 2]

The petitioner requested the item be tabled to July 22, 20221 due to a lack of a quorum. Darland moved to table the request, seconded by Boyd-Carlson, and the motion carried unanimously. Darland, yes; Boyd-Carlson, yes; and Loebach, yes

Request SU21-03 of Bret Flory/Melissa Hernandez on behalf of Jerry Jones at 4073 Northwest Boulevard for a Special Use for a major vehicle repair collision center in the existing structure. Property is zoned C-3 General Commercial. Section 17.08.020. of the Davenport Municipal Code allows for major vehicle repair/service in the C-3 District subject to the granting of a Special Use in compliance with Section 17.08.030.CC. [Ward 7]

Koops presented the staff report. No comments were received in favor or against the request.

Findings & Staff Recommendation:

Findings:

The location, design, and construction of the proposed use meets the requirements of a Special Use as properly conditioned and as per items #1 to #3 of the staff analysis.

Recommendation:

Staff recommends approval of the request subject to the use meeting the following conditions:

1. The special use shall be in conformance with Section 17.08.030.CC. for the duration of the operation of the use;
2. To more closely match the design and materials of existing mall structures and to protect adjacent residential property, the proposed fencing (excluding the gates) shown on the site plan shall be replaced with a wall composed of CMU block (concrete masonry unit block) or other similar product. The gates shall remain as proposed (a solid vinyl privacy fence or other solid material). Chain link and privacy slats for chain link fences shall be prohibited.
3. Should complaints arise due to noncompliance of these conditions, and/or if staff is aware of infractions to these conditions and/or any other code violations, a rehearing of the special use shall be scheduled per Davenport Municipal Code specifications for Zoning Board of Adjustment Special Use public hearings; at which the Special Use may be modified, approved or revoked.
4. The Special Use shall be limited to this owner only; should the business be sold wholly or by more than 50%, a new Special Use shall be required and shall have a public hearing per Davenport Municipal Code requirements for Zoning Board of Adjustment Special Use public hearings.

Motion

Quinn moved to approve, seconded by Darland, the request as proposed with the following staff conditions:

1. The special use shall be in conformance with Section 17.08.030.CC. for the duration of the operation of the use;
2. To more closely match the design and materials of existing mall structures and to protect adjacent residential property, the proposed fencing (excluding the gates) shown on the site plan shall be replaced with a wall composed of CMU block (concrete masonry unit block) or other similar product. The gates shall remain as proposed (a solid vinyl privacy fence or other solid material). Chain link and privacy slats for chain link fences shall be prohibited.
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4. The Special Use shall be limited to this owner only; should the business be sold wholly or by more than 50%, a new Special Use shall be required and shall have a public hearing per Davenport Municipal Code requirements for Zoning Board of Adjustment Special Use public hearings.

The motion carried and was approved unanimously (4-0).

Darland, yes; Quinn, yes; Loebach, yes; Reistroffer, yes.

V. Other Business

None.

VI. Adjourn

The meeting adjourned unanimously by voice vote at approximately 4:30 p.m.

City of Davenport
Zoning Board of Adjustment

Department: DNS
Contact Info: Scott Koops, Planner II, AICP
Scott.Koops@davenportiowa.com

Date
7/8/2021

Subject:

Request HV21-04 of Nick Roman dba K9 Resorts QC on behalf of CLC Realty LLC at 1409 E. Kimberly RD for a Hardship Variance to construct an 8-foot fence in the rear yard for an animal care facility exercise area. Section 17.09.030.B.1. of the Davenport Municipal Code restricts this fence to a maximum of 7 feet in height. [Ward 7]

ATTACHMENTS:

Type	Description
▣ Executive Summary	Staff Report
▣ Exhibit	Application
▣ Exhibit	Site Plan
▣ Exhibit	Additional Applicant Documents
▣ Exhibit	Owners Notice & Map
▣ Exhibit	Notice List

REVIEWERS:

Department	Reviewer	Action	Date
Community Planning & Economic Development	Koops, Scott	Approved	7/2/2021 - 10:32 AM



Zoning Board of Adjustment Staff Report
1409 E. Kimberly RD | Exceed Animal Care Fence Height
July 8, 2021

Description

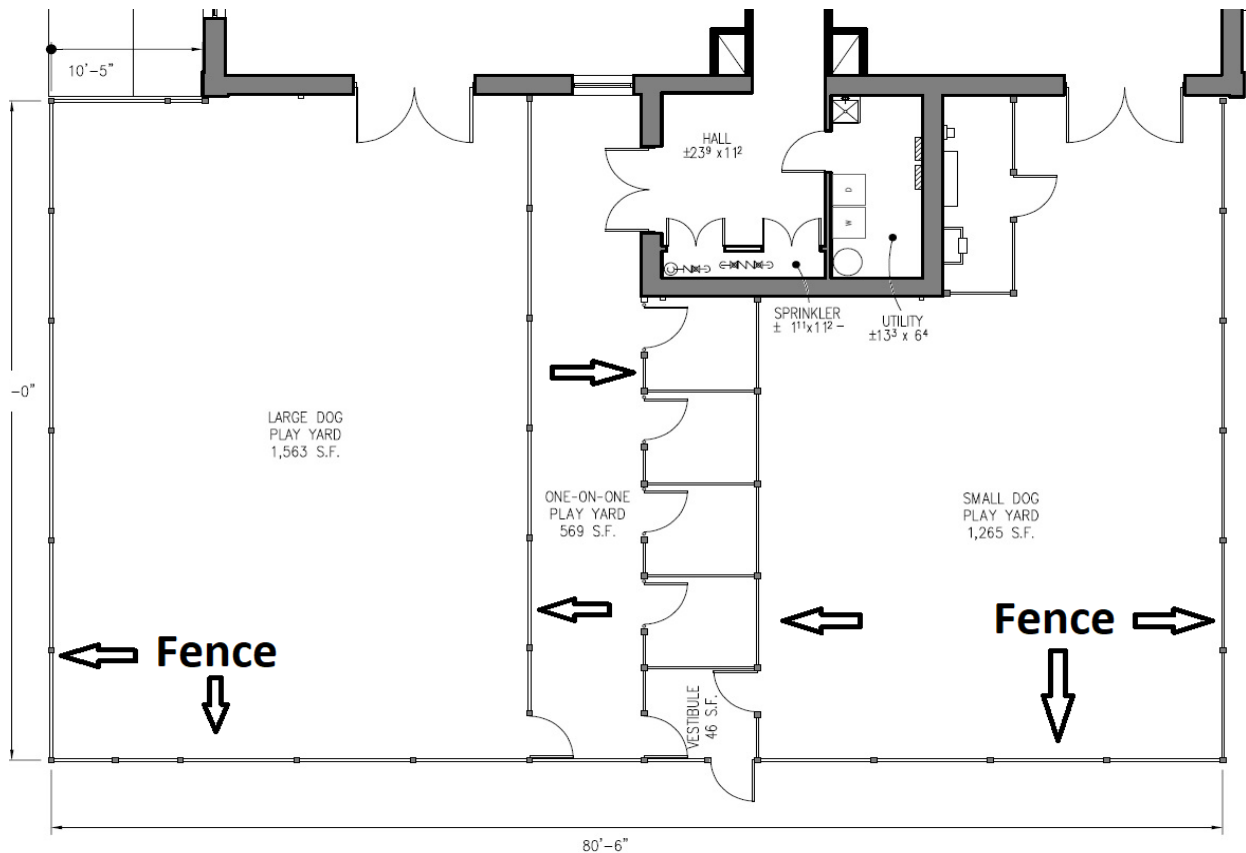
Request HV21-04 of Nick Roman dba K9 Resorts QC on behalf of CLC Realty LLC at 1409 E. Kimberly RD for a Hardship Variance to construct an 8-foot fence in the rear yard for an animal care facility exercise area. Section 17.09.030.B.1. of the Davenport Municipal Code restricts this fence to a maximum of 7 feet in height. [Ward 7]

Background & Discussion

The petitioner is required by the K9 Resorts franchise to construct an eight (8) foot tall fence enclosing the exercise area of this animal care facility. Section 17.08.030.B.1 limits the height of an animal care facility fence to seven (7) feet.

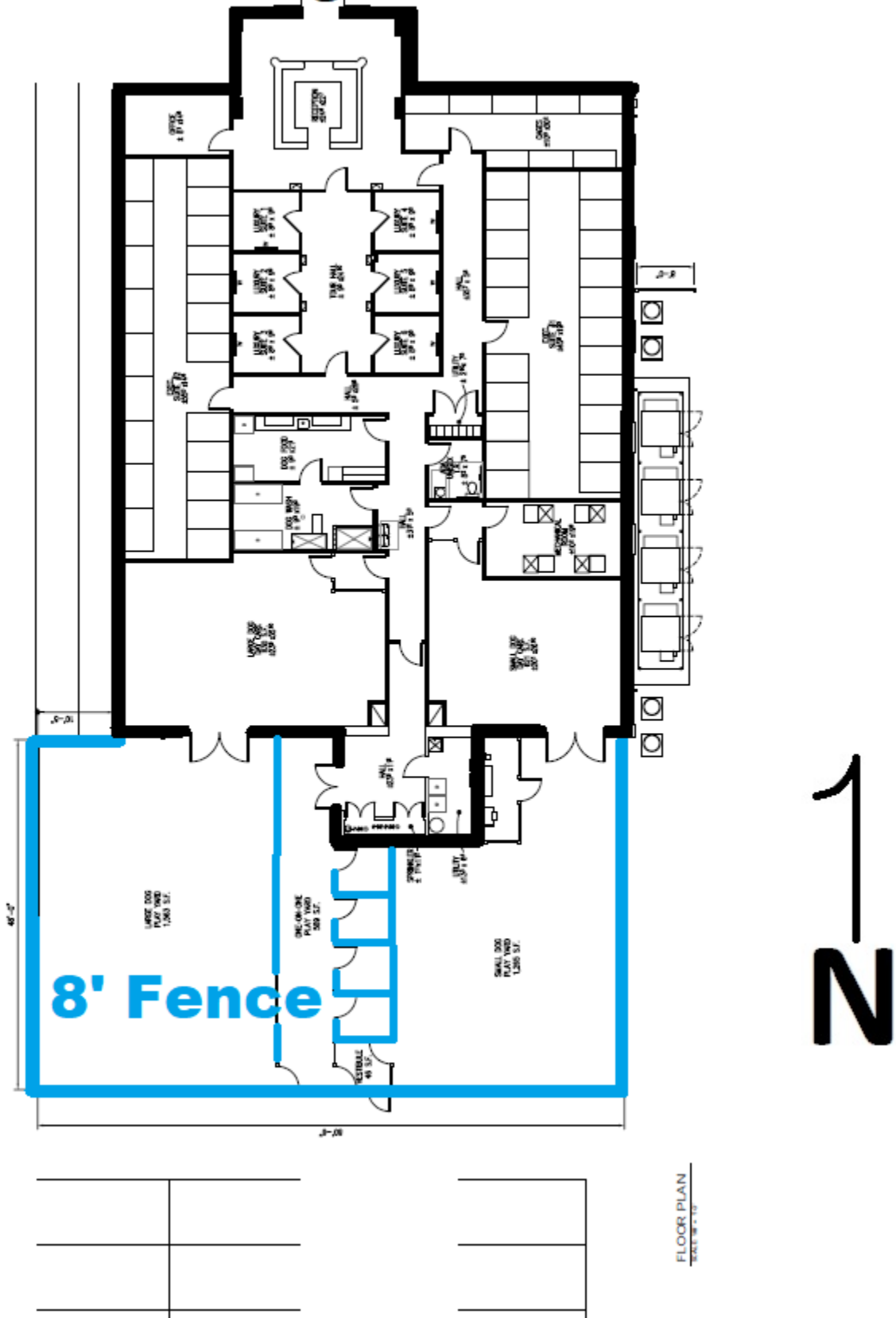
It should be noted that the C-2 District in which this use is located allows fences up to eight (8) feet in height by right under normal circumstances. Because animal care facility regulations have a more restrictive height requirement, the more restrictive code applies. Staff is not aware of any rationale that would explain why an 8-foot fence is allowed by right, but that a fence for dogs is only allowed to be seven (7) feet tall. Staff’s supposition is that the seven-foot limitation was a carry-over from another municipality’s code that code consultant’s used as a basis for Davenport’s draft 2019 zoning code. There does not appear to be any logical reasoning behind the discrepancy.

Site Plan (48' x 80')



Site Plan

Frontage Rd/Font Yard



Fence Type



Background & Discussion (continued)

K9 Resorts require the 8-foot fence for the following reasons:

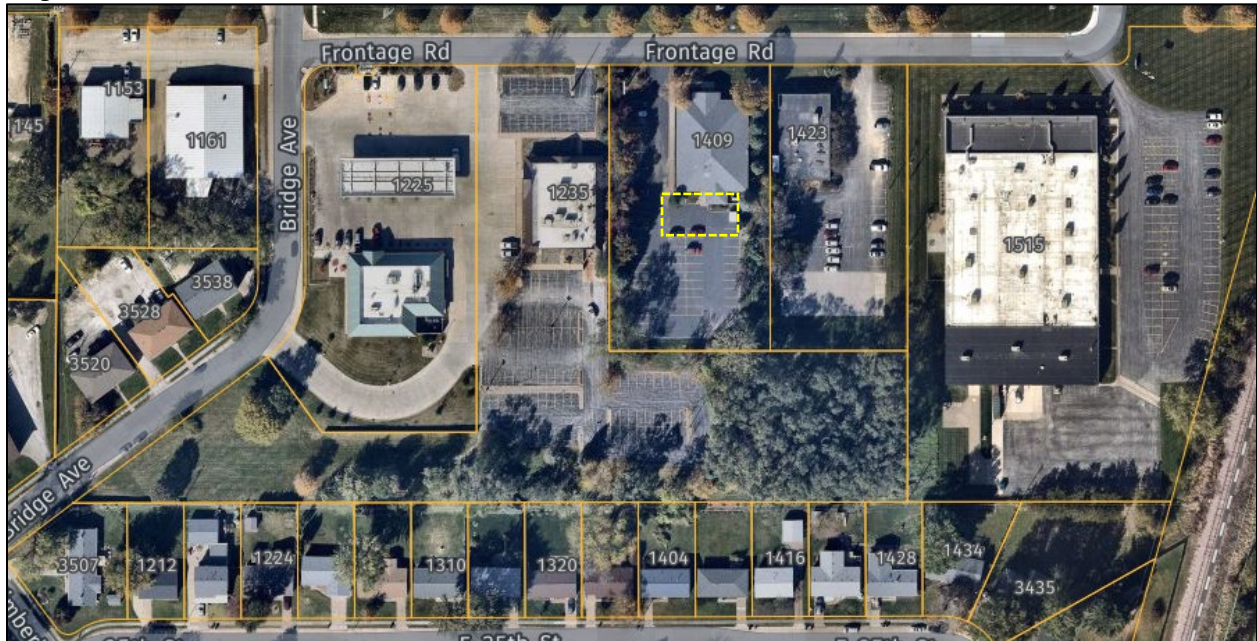
- Safety and security (some breeds can jump/climb over a 6 or 7 foot fence)
- Comfort and calming of the dogs (less distraction, more focus on exercise/play time)
- Sound retention (sound deadening fence is extended an additional foot for containment)

Staff views the additional foot of fencing as an extra measure for improving safety and security which also has the benefit of helping to reduce any potential sound to adjacent property. The additional height further reduces noise and will lessen any potential impact to adjacent lots.

Site



Adjacent Area Aerial



Purpose of a Hardship Variance

In the Davenport Municipal Code, Section 17.14.060 states: *The purpose of the hardship variance process is to provide a narrowly circumscribed means by which relief may be granted from unforeseen applications of this Ordinance that create practical difficulties or particular hardships.*

Approval Standards

The Zoning Board of Adjustment decision must make findings to support **each** of the following: (code requirement/*applicant's response*/staff comments)

1. Strict ordinance application will result in hardship unless specific relief requested is granted.

Applicant Response:

This is a mandatory fence height per my Franchise requirements. If I cannot meet this 8' requirement I will have to find a new location for this business. This variance is for the safety and well-being of the animals located at this facility.

Staff Comments:

The proposed additional foot of fencing is allowed for all other uses permitted in this district except for this use. Certain dog breeds can scale a seven (7) foot fence. Code requirements in this case do place an undue burden on the use of the property for an animal facility. This criteria has been met for hardship variance determination.

2. The particular physical surroundings, shape, or topographical conditions of the specific property impose a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.

Applicant Response:

See attachment of the layout of the dog runs in the back and where the fence will be placed.

Staff Comments:

The nearest adjacent dwelling is located over 350 feet to the south across the site's rear parking lot and cross another parking lot with significant trees which act as a buffer. There will be no impact on adjacent property as the fence will not be readily visible from adjacent property. Additionally, the extra height of the fence will further reduce any potential noise. This criteria has been met.

3. The plight of the owner is due to unique circumstances that do not apply to a majority of adjoining or nearby property, and is not a self-created hardship.

Applicant Response:

The neighbors will not be able to see this fence or obstruct any view. This is set back and in a non-obstructed view.

Staff Comments:

This is the only use in the C-2 District for which an eight (8) foot tall fence is disallowed. There does not appear to be any sound reasoning for this further restriction, and the code does in fact create a burden that results in decreased safety, while disallowing an eight foot fence that is allowed by right in any other circumstance. This criteria has been met.

4. The hardship variance, if granted, will not alter the essential character of the locality.

Applicant Response:

I will provide a sample of the fence material during the zoning board meeting. I will also provide a more complete layout of the area where the dog run is going.

Staff Comments:

The character of the area should not be impacted by the by the proposed structure given the fact that eight foot fences are allowed by right with all other permitted uses of this district. Protection of essential character will not be negatively impacted should this hardship be granted. This criteria has been met.

Findings & Staff Recommendation:

Findings:

- Item #1 zoning code does result in hardship as applied for the proposed use;
- Item #2 physical and topographical conditions ensure no impact to adjacent property;
- Item #3 unique circumstance has been established;
- Item #4 protection of essential character has been established;

Recommendation:

Staff recommends approval of the request as proposed.

Prepared by:



Scott Koops, AICP, Planner II

Attachments: ZBA application/plans, notice documents



Complete application can be emailed to planning@ci.davenport.ia.us

*Submitted: 6-15-21
Hearing Date: 7-8-21
Paid ✓*

Property Address*

***If no property address, please submit a legal description of the property.**

Applicant (Primary Contact)**

Name:	Nick Roman
Company:	K9 Resorts of the Quad Cities
Address:	1409 E Kimberly Road
City/State/Zip:	Davenport, Iowa, 52807
Phone:	563-499-1244
Email:	nickroman@k9resorts.com

Application Form Type:

Plan and Zoning Commission

- Zoning Map Amendment (Rezoning)
- Planned Unit Development
- Zoning Ordinance Text Amendment
- Right-of-way or Easement Vacation
- Voluntary Annexation

Owner (if different from Applicant)

Name:	
Company:	
Address:	
City/State/Zip:	
Phone:	
Email:	

Zoning Board of Adjustment

- Zoning Appeal
- Special Use
- Hardship Variance

Engineer (if applicable)

Name:	Mike Richmond
Company:	Townsend Engineering
Address:	2224 East 12th St
City/State/Zip:	Davenport, IA 52803
Phone:	563-386-4236
Email:	mrichmond@townsendengineering.net

Design Review Board

- Design Approval
- Demolition Request in the Downtown
- Demolition Request in the Village of East Davenport

Architect (if applicable)

Name:	Robert Trego
Company:	RHJ Associates P.C.
Address:	123 South Broad Street, Suite 1140
City/State/Zip:	Philadelphia, PA 19109
Phone:	215-279-5845
Email:	rtrego@rhjassoc.com

Historic Preservation Commission

- Certificate of Appropriateness
- Landmark Nomination
- Demolition Request

Administrative

- Administrative Exception
- Health Services and Congregate Living Permit

Attorney (if applicable)

Name:	
Company:	
Address:	
City/State/Zip:	
Phone:	
Email:	

****If the applicant is different from the property owner, please submit an authorization form or an accepted contract for purchase.**

Request:

Please describe the variance(s) requested:

I am putting in a high end dog resort in Davenport. The mandatory height requirement for outdoor area fences for the outdoor dog play area is 8'. I would like to get a variance from 7' to 8' tall. This is the recommendation for dog care facilities in the United States and is for the safety and security of the dogs. This area is behind the building and would not obstruct view from either neighbors and be hidden from view on Kimberly Road.

Existing Zoning: Existing is 7' tall.

Submittal Requirements:

- The completed application form.
- A PDF that shows the location and dimensions of existing and proposed structures affected by the hardship variance. If a paper copy is provided, the maximum size is 11" x 17".
- Description and evidence that demonstrates consistency with the criteria listed in Section 17.14.060 of the Davenport Municipal Code.
- Recorded warranty deed or accepted contract for purchase.
- Authorization form, if applicable. If the property is owned by a business entity, please provide Articles of Incorporation.
- Required fee - \$200.

The Applicant hereby acknowledges and agrees to the following procedure and requirements:

(1) Application:

- Prior to submission of the application for the hardship variance, the applicant shall correspond with Planning staff to discuss the request, potential alternatives and the hardship variance process.
- The submission of the application does not constitute official acceptance by the City of Davenport. Planning staff will review the application for completeness and notify the applicant that the application has been accepted or additional information is required. Inaccurate or incomplete applications may result in delay of required public hearings.

(2) Public Notice for the Zoning Board of Adjustment public hearing:

- Planning staff will send a public hearing notice to surrounding property owners.

(3) Zoning Board of Adjustment's consideration of the hardship variance:

- Planning staff will perform a technical review of the request and present its findings and recommendation to the Zoning Board of Adjustment.
- The Zoning Board of Adjustment will hold a public hearing and vote on the request.

Provide description and evidence that demonstrates consistency with the following criteria listed in Section 17.14.060 of the Davenport Municipal Code:

The strict application of the terms of this Ordinance will result in hardship unless the specific relief requested is granted.

This is a mandatory fence height per my Franchise requirements. If I cannot meet this 8' requirement I will have to find a new location for this business. This variance is for the safety and well being of the animals located at this facility.

Provide description and evidence that demonstrates consistency with the following criteria listed in Section 17.14.060 of the Davenport Municipal Code:

The particular physical surroundings, shape, or topographical conditions of the specific property impose a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.

See attachment of the layout of the dog runs in the back and where the fence will be placed.

Provide description and evidence that demonstrates consistency with the following criteria listed in Section 17.14.060 of the Davenport Municipal Code:

The plight of the owner is due to unique circumstances that do not apply to a majority of adjoining or nearby property, and is not a self-created hardship.

The neighbors will not be able to see this fence or obstruct any view. This is set back and in a non-obstructed view.

Provide description and evidence that demonstrates consistency with the following criteria listed in Section 17.14.060 of the Davenport Municipal Code:

The hardship variance, if granted, will not alter the essential character of the locality.

I will provide a sample of the fence material during the zoning board meeting. I will also provide a more complete layout of the area where the dog run is going.

Applicant:

Date:

By typing your name, you acknowledge and agree to the aforementioned submittal requirements and formal procedure and that you must be present at scheduled meetings.

Received by:

Date:

Planning staff

Date of the Public Hearing:

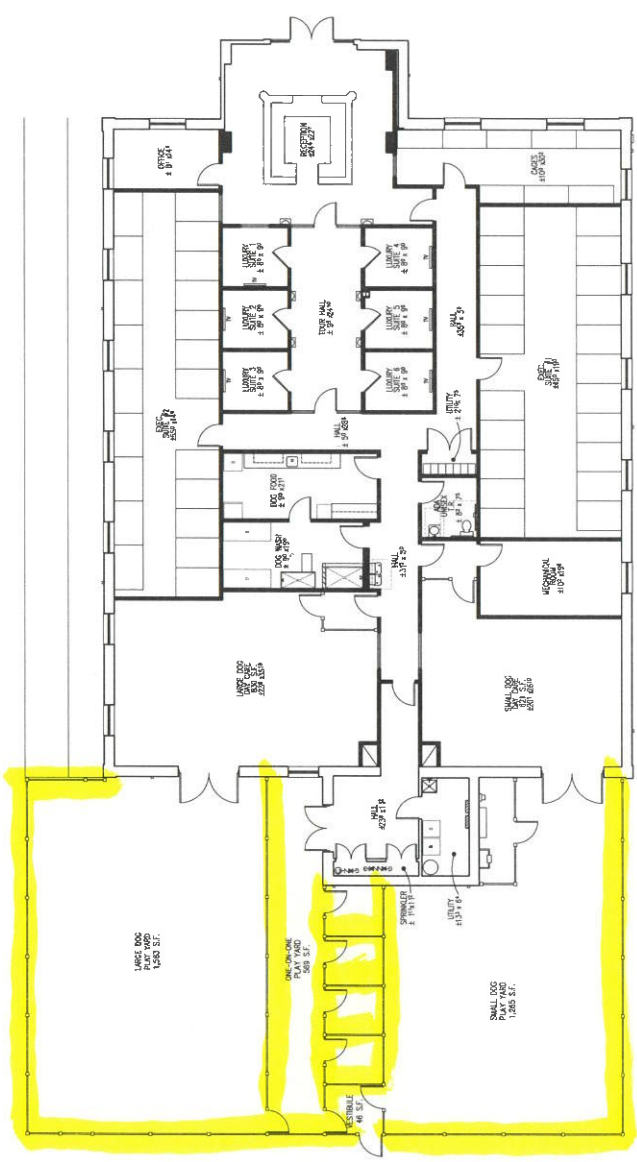
Meetings are held in City Hall Council Chambers located at 226 West 4th Street, Davenport, Iowa.

Authorization to Act as Applicant

I,
authorize
to act as applicant, representing me/us before the Zoning Board of Adjustment for the property located
at

Signature(s)*

*Please note: original signature(s) required.

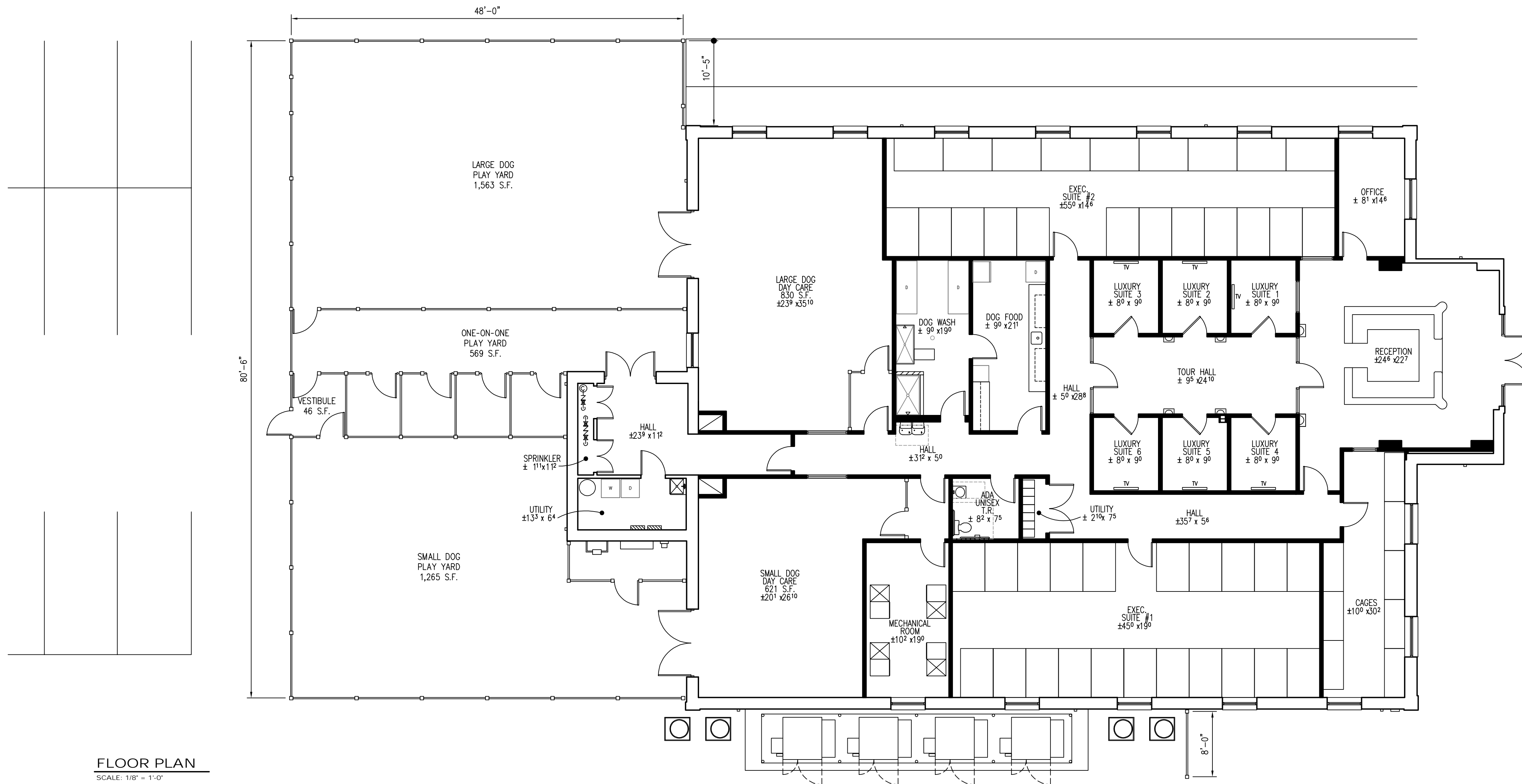


FLOOR PLAN
05/11/2021

PROPOSED RENOVATION FOR:
K9 RESORTS
 1405 EMMERLY ROAD
 DAVENPORT, IA 52807

RHJ ASSOCIATES, PC
 ARCHITECTS • PLANNERS • DESIGNERS
 PHILADELPHIA, PA 19103
 KING OF PRUSSIA, PA 19396
 WASHINGTON, DC 20004
 484.662.2146
 www.rhjassoc.com

REVISION: 05.12.2021
 DATE: 05.07.2021
 PROJECT NO.: 2021-0178



FLOOR PLAN
SCALE: 1/8" = 1'-0"

PROPOSED RENOVATION FOR:
K9 RESORTS
1409 E KIMBERLY ROAD
DAVENPORT, IA 52807

RHJ ASSOCIATES, PC
ARCHITECTS · PLANNERS · DESIGNERS
PHILADELPHIA, PA 215.279.5845
KING OF PRUSSIA, PA 610.337.4555
WILMINGTON, DE 302.482.2269
www.rhjassoc.com

REVISION: 06.15.2021
REVISION: 05.12.2021
DATE: 05.07.2021
PROJECT NO.: 2021-0178



K9 RESORTS

LUXURY PET HOTEL

June 25, 2021

Mr. Nick Roman
Nicholas Roman Enterprises, LLC
16714 River Rd. N
Cordova, IL 61242

Nick,

In regard to your inquiry about the fence height required by K9 Resorts, an 8' high fence is a requirement for all K9 Resorts locations. Over the years, K9 Resorts management has consulted with various experts within the pet care industry which all have made the recommendation for the 8' height requirement.

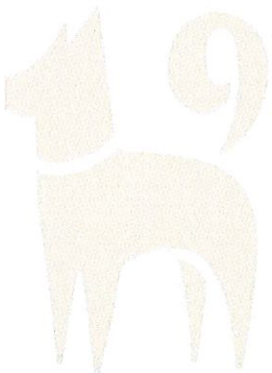
Below the reasons for their recommendations:

- Safety and security of the outdoor play yard. Some dog breeds can jump over 6-7'. The fence height keeps dogs in and people out.
- Comfort and enjoyment for the dogs. The solid, high fence avoids external distractions from entering the exterior play yard allowing for the dogs to stay focused and enjoying their play time.
- Sound retention. Our required Bufftech fencing is a solid, molded fencing material and absorbs 98% of direct sound waves. A standard dog stands at 18-14" tall. The additional height helps keep the sound contained to the play yard.

Please feel free to contact me with any further questions you may have.

Sincerely,

Kevin Tennant
Senior Director of Operations
K9 Franchising, LLC



"Award Winning Pet Care!"



Public Hearing Notice | Zoning Board of Adjustment

Date: 7/8/2021 **Location:** Council Chambers | City Hall | 226 W. 4th ST.
Time: 4:00 PM **Subject:** Public Hearing for Hardship Variance before the Zoning Board of Adjustment

Example Notice
Ald Miller, 7th
16 Notices Sent

To: All property owners within 200 feet of the subject property located at **1409 E. Kimberly Road.**

What is this About?

This notice is being sent to inform you that a public hearing will be held for a Hardship Variance. The purpose of the Hardship Variance is to grant permission to waive or alter a size or dimensional code requirement.

Request/Case Description

Request HV21-04 of Nick Roman dba K9 Resorts QC on behalf of CLC Realty LLC at 1409 E. Kimberly RD for a Hardship Variance to construct an 8 foot fence in the rear yard for a Small Animal exercise area. Section 17.09.030.B.1. of the Davenport Municipal Code restricts fence height to a maximum of 7 feet for this use. [Ward 7]

What are the Next Steps after the Public Hearing?

For approved ZBA requests, the ruling is effective immediately. Rulings of the Zoning Board of adjustment are final. The applicant may request reconsideration at the next public hearing, and aggrieved parties may file a writ of certiorari with the district court.

Would You Like to Submit an Official Comment?

As a neighboring property owner/occupant you may have an interest in commenting on the proposed request via email or in person at the public hearing. Official comments must have written signatures sent to planning@davenportiowa.com (no later than 12:00 PM *one day before* the public hearing) or to: Planning, 1200 E 46th St, Davenport IA 52807.

Do You Have Any Questions?

If you have any questions or if accommodations are needed for any reason, please contact the planner assigned to this project (Scott Koops, AICP) at scott.koops@davenportiowa.com or 563-328-6701. Interpretive services are available at no charge. Servicios interpretativos libres estan disponibles. TTY: (563) 326-6145

Please note items may be removed or tabled to a future hearing date at the request of the Applicant or Commission/Board. Those interested verifying case actions and/or tablings, please contact Planning at 563-326-6198 or planning@davenportiowa.com for updates.

Zoning Board of Adjustment Adjacent Property Owner Notice Area



Parcel	Property Address	Owner Name	Owner Street	Owner CityStateZip
Petitioner: 1409 E KIMBERLY RD NICHOLAS ROMAN 1409 E KIMBERLY RD DAVENPORT IA 52807				
Neighborhood: None 3 Alderman Notified				
Ward/Ald: 7 Miller Notices Sent: 16				
P1313-01A	1225 E KIMBERLY RD	KWIK TRIP INC	1626 OAK ST	LA CROSSE WI 54603
	1225 E KIMBERLY RD	KWIK TRIP	1225 E KIMBERLY RD	DAVENPORT IA 52807
P1313-02	1235 E KIMBERLY RD	GEORGENE WALL SLEPIN TRUST	2200 OLD GREENSBORO RD	CHAPEL HILL NC 27516
	1235 E KIMBERLY RD	OCCUPANT	1235 E KIMBERLY RD	DAVENPORT IA 52807
P1313A01	1320 E 35TH ST	JAMES J FUGATE	1320 E 35TH ST	DAVENPORT IA 52807
P1313A02	1326 E 35TH ST	JOSEPH A DECOOK	1326 E 35TH ST	DAVENPORT IA 52807
P1313A03	1404 E 35TH ST	COLEEN COONTS	1404 E 35TH ST	DAVENPORT IA 52807
P1313A04	1410 E 35TH ST	JESUS RAMOS	1410 E 35TH ST	DAVENPORT IA 52807
P1313A05	1416 E 35TH ST	DAVID R SWIFT	1416 E 35TH ST	DAVENPORT IA 52807
P1313A06	1422 E 35TH ST	ALEXIS SHERADEN	1422 E 35TH ST	DAVENPORT IA 52807
P1313A07	1428 E 35TH ST	VERONICA N MENSAH VERONICA N	1428 E 35TH ST	DAVENPORT IA 52807
P1313A11A	1423 E KIMBERLY RD	BLACKWELL PROPERTIES INC	1423 E KIMBERLY RD	DAVENPORT IA 52807
P1313A11B	1409 E KIMBERLY RD	CLC REALTY LLC	21450 GREAT RIVER RD	LE CLAIRE IA 52753
P1313A12	1515 E KIMBERLY RD	SHALOM PROPERTIES LLC	6845 EAGLE RIDGE RD	BETTENDORF IA 52722
	1515 E KIMBERLY RD	GRACE ENGINEERED PROCDUCTS	1515 E KIMBERLY RD	DAVENPORT IA 52807
P1314B30	1314 E 35TH ST	RAYMON F MUELLER	1314 E 35TH ST	DAVENPORT IA 52807

City of Davenport
Zoning Board of Adjustment

Department: DNS
Contact Info: Scott Koops, Planner II, AICP
Scott.Koops@davenportiowa.com

Date
7/8/2021

Subject:
Board Officers Discussion

REVIEWERS:

Department	Reviewer	Action	Date
Community Planning & Economic Development	Koops, Scott	Approved	7/2/2021 - 10:35 AM