

ZONING BOARD OF ADJUSTMENT MEETING

CITY OF DAVENPORT, IOWA

THURSDAY, SEPTEMBER 23, 2021; 4:00 PM

CITY HALL COUNCIL CHAMBERS 226 W 4TH ST

ZONING BOARD OF ADJUSTMENT ,A FIVE MEMBER QUASI-JUDICIAL DECISION
MAKING BODY, HOLDS PUBLIC HEARINGS TO CONSIDER HARDSHIP VARIANCES,
SPECIAL USES, AND INTERPRETATIONS

I. Call to Order

II. Secretary's Report

A. Consider the minutes form the 8-26-21 hearing.

III. Old Business

IV. New Business

A. Request HV21-05 of Kelly Mullins/Van Rycke at 3335 W. Hayes St for a Hardship
Variance allow an above ground pool in the corner side yard. Section 17.09.030.A. of
the Davenport Municipal Code restricts accessory structures to the rear or interior
side yard having a four (4) foot setback. [Ward 2]

V. Other Business

VI. Adjourn

City of Davenport
Zoning Board of Adjustment

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

Date
9/23/2021

Subject:
Consider the minutes form the 8-26-21 hearing.

ATTACHMENTS:

Type	Description
▣ Exhibit	Minutes 8-26-21

REVIEWERS:

Department	Reviewer	Action	Date
Community Planning & Economic Development	Koops, Scott	Approved	9/17/2021 - 11:02 AM



MINUTES
Zoning Board of Adjustment
August 26, 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 Vice Chair Loebach called the Zoning Board of Adjustment meeting to order in City Hall Council Chambers, Davenport, Iowa at approximately 4:02 p.m.

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

Excused: Reistroffer.

Staff present: Koops, and Zoning Administrator Berkley.

II. Secretary's Report:

Minutes were approved for the 8-12-21 Hearing by voice-vote.

III. Old Business:

None.

IV. New Business:

Request SU21-07 of Chris Townsend/Jeremy Drish on behalf of JBNN Holdings, LLC at 4311 East 56th Street for a special use to consider a standalone parking lot. Municipal Code, Table 17.08-1 allows for a parking lot with the granting of a Special Use in the C-OP Office Park District. The parking lot shall be for the use of the offices adjacent to the east. [Ward 6]

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

Findings/Approval Standards

1. The establishment, maintenance, and operation of the proposed special use will not endanger the public health, safety, or welfare.

The plans meet code requirements for this use. The site is properly designed to have minimal, if any, impact on adjacent property and public facilities if constructed per required zoning code as has been proposed by the developer

2. The proposed special use is compatible with the general land use of adjacent properties and other property within the immediate vicinity.

The plans meet code requirements and the site is properly designed to have minimal, if any, impact on adjacent property. Neighboring properties have or are zoned for commercial use and businesses; the proposed use is a commercial use. The lot will be designed so as to not inhibit future develop needs of the property for commercial use.

3. The special use in the specific location proposed is consistent with the spirit and intent of this Ordinance and adopted land use policies.

All adjacent property abutting the use is commercial property. Land use policy has been met along with all code requirements.

Findings & Recommendation

Findings:

The location/design/construction of the proposed use meets the requirements of a Special Use as conditioned.

Recommendation:

Staff recommends approval of the request with the following conditions:

1. The proposed parking lot which will be constructed on Lot 2 of Crow Valley Plaza 5th Add (4311 E. 56th St/Y0917-02C) shall only be for businesses located on parcel Y0917-12M (4427 & 4451 E. 56th Street).
2. Upon future development of 4311 E 56th Street with an additional principal use, the parking lot shall be integrated with the new development and the special use for the parking area shall be null and void;
3. The City of Davenport reserves the right to schedule a rehearing before the Zoning Board of Adjustment should concerns arise regarding this special use.

The petitioner addressed the Board and explained the request.

No one spoke for or against the request from the audience.

Motion

1. Quinn moved to approve, seconded by Darland, the request as proposed with the following staff conditions follows: The proposed parking lot which will be constructed on Lot 2 of Crow Valley Plaza 5th Add (4311 E. 56th St/Y0917-02C) shall only be for businesses located on parcel Y0917-12M (4427 & 4451 E. 56th Street).
2. Upon future development of 4311 E 56th Street with an additional principal use, the parking lot shall be integrated with the new development and the special use for the parking area shall be null and void;
3. The City of Davenport reserves the right to schedule a rehearing before the Zoning Board of Adjustment should concerns arise regarding this special use.

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

Darland, yes; Quinn, yes; Boyd-Carlson, yes; Loebach, yes.

V. Other Business

None.

VI. Adjourn

The meeting adjourned unanimously by voice vote at approximately 4:35 p.m.

City of Davenport
Zoning Board of Adjustment

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

Date
9/23/2021

Subject:

Request HV21-05 of Kelly Mullins/Van Rycke at 3335 W. Hayes St for a Hardship Variance allow an above ground pool in the corner side yard. Section 17.09.030.A. of the Davenport Municipal Code restricts accessory structures to the rear or interior side yard having a four (4) foot setback. [Ward 2]

ATTACHMENTS:

Type	Description
▣ Cover Memo	Staff Report
▣ Exhibit	Application
▣ Exhibit	Owners Notice & Map
▣ Exhibit	Notice List

REVIEWERS:

Department	Reviewer	Action	Date
Community Planning & Economic Development	Koops, Scott	Approved	9/17/2021 - 11:41 AM



**Zoning Board of Adjustment
Planning Staff Report
Accessory Structure in Corner Side Yard | 3335 W. Hayes St
September 23, 2021**

Description

Request HV21-05 of Kelly Mullins/Van Rycke at 3335 W. Hayes St for a Hardship Variance allow an above ground pool in the corner side yard. Section 17.09.030.A. of the Davenport Municipal Code restricts accessory structures to the rear or interior side yard having a four (4) foot setback. [Ward 2]

Site Plan – Pool in Corner Side Yard (secondary front yard) is along Elsie Ave



Site Photos (taken 9-16-21)



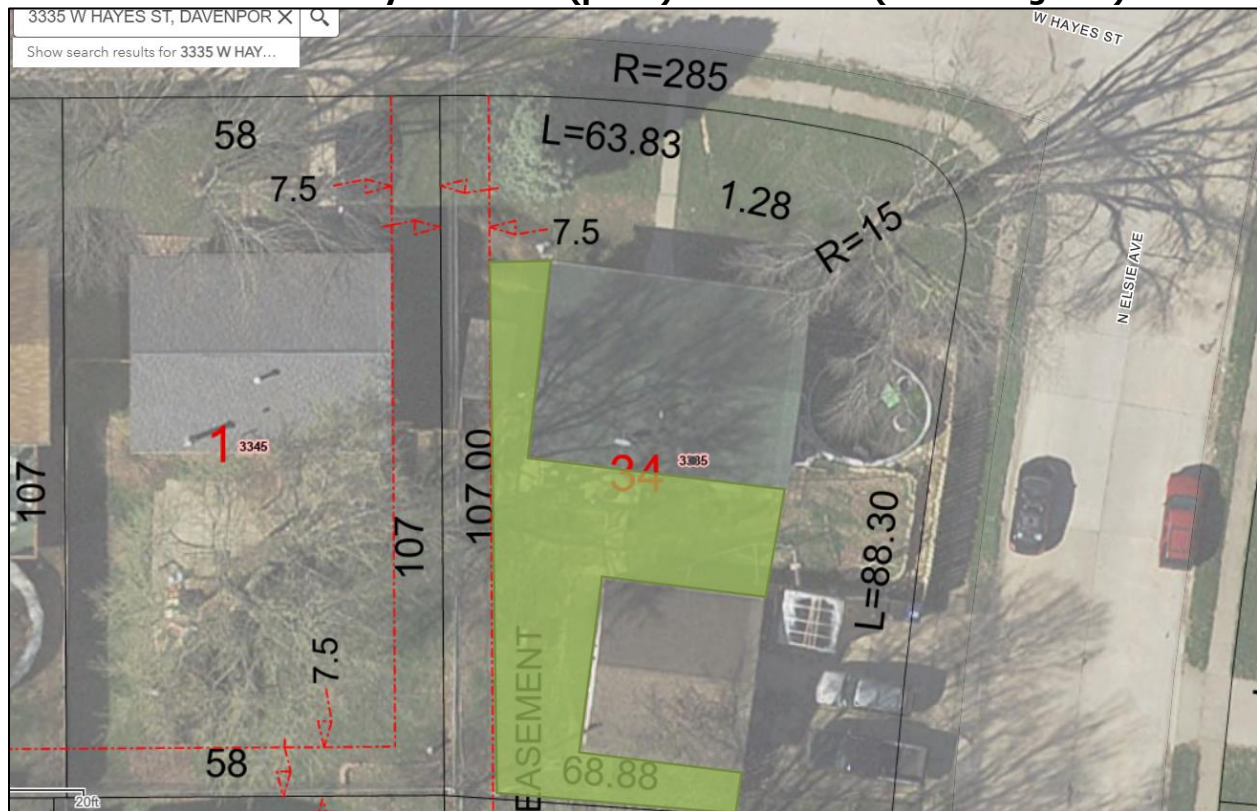
Site Photos (taken 9-16-21)



Background

This Hardship Variance is before the Board at the request of the petitioner to allow an accessory structure in the corner side yard or the "secondary front yard". The Zoning Ordinance allows accessory structures for dwellings provided they meet the setback requirements. Accessory structures are allowed in the side and rear yards.

Locations where accessory structures (pools) are allowed: (shown in green)



Purpose of a Hardship Variance

Section 17.14.060 of the DMC 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.

The Zoning Board of Adjustment is authorized to approve a hardship variance whereby reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or by reason of exceptional topographical conditions or other extraordinary or exceptional situations of a specific piece of property, whereas the strict application of any provision of this title would result in atypical and practical difficulties and whereby clearly demonstrable hardship upon the owner of such property, amounting to practical confiscation thereof and not a mere inconvenience to the owner, and only after all approval criteria have been met, shall a hardship variance be considered by the Board.

Discussion

The applicant would like to install an 18-foot diameter accessory pool in the Elsie Avenue front yard (corner side yard). The rear and side yards do not provide enough land area for the size of the accessory structure (pool) owned by the petitioner. The accessory structure, being an 18-foot diameter pool, is excessively large for this property given the size of the side and rear yards. Above ground pools are available in a variety of sizes. It is incumbent on the petitioner to select appropriately sized accessory structures for the property.

Staff would suggest that the petitioner consider a smaller pool and or an oblong shaped pool that would better fit the subject property. A hardship variance runs with the land in perpetuity. Granting a hardship variance for a movable structure is not the intended purpose for hardship variances. Hardship has not been demonstrated by the petitioner. From the information provided by the petitioner, it is clear that the granting of the hardship would be a convenience to the petitioner, but not a hardship.

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 of will result in hardship unless specific relief requested is granted.

Applicant Response:

Back yard area too small for pool. Power lines are also a factor. Safety. Safer to install pool in area next to Elsie Ave.

Staff Comments:

Items owned by the petitioner are not grounds for a hardship variance. The petitioner must work with the available land area when selecting and choosing a location for an accessory structure on the property.

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:

nothing

Staff Comments:

The need for the variance must be unique to the physical traits of the subject property. The subject property is not impaired by any particular gradient or other physical circumstance on the property. There is nothing with regards to the physical composition of the lot that would warrant the granting of a hardship variance.

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:

nothing

Staff Comments:

No evidence of a unique circumstance has been provided.

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

Applicant Response:

The property is surrounded by privacy fencing.

Staff Comments:

While the fence screens the pool to some extent, visibility of the pool is still possible through the alternating board on board fencing. Additionally, there does not appear to be any other grievous situation in the neighborhood where an accessory structure is located in the secondary front yard.

Findings & Staff Recommendation:

Findings: (supported by the previous analysis)

- The petitioner has not demonstrated by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or by reason of exceptional topographical conditions or other extraordinary or exceptional situations, that this property subject to the strict application of this title results in peculiar and practical difficulties;
- Item #1 application of the ordinance creating hardship has not been demonstrated;
- Item #2 physical and topographical conditions do not limit use of the site;
- Item #3 unique circumstance has not been established;
- Item #4 essential character of the area will not be protected;

Recommendation:

Staff recommends denial of the request as it does meet any of the approval criteria necessary for a hardship determination.

Item #1 Zoning Code Created Hardship, #2 Physical/topographical Hardship #3 Unique Circumstance Hardship and item #4 Protection of Essential Character have not been met per the approval criteria established in Section 17.14.060 of the Davenport Municipal Code.

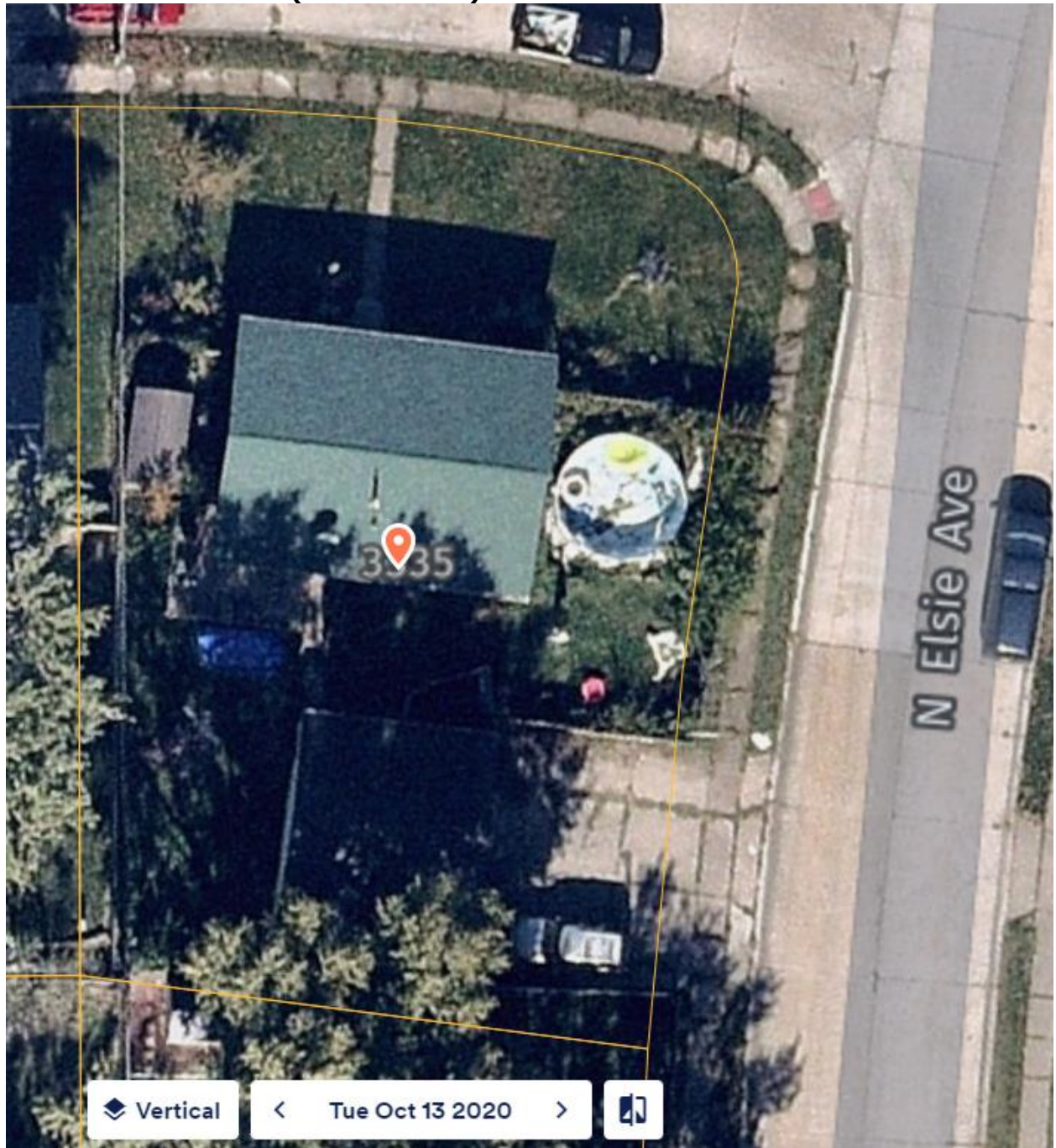
Prepared by:



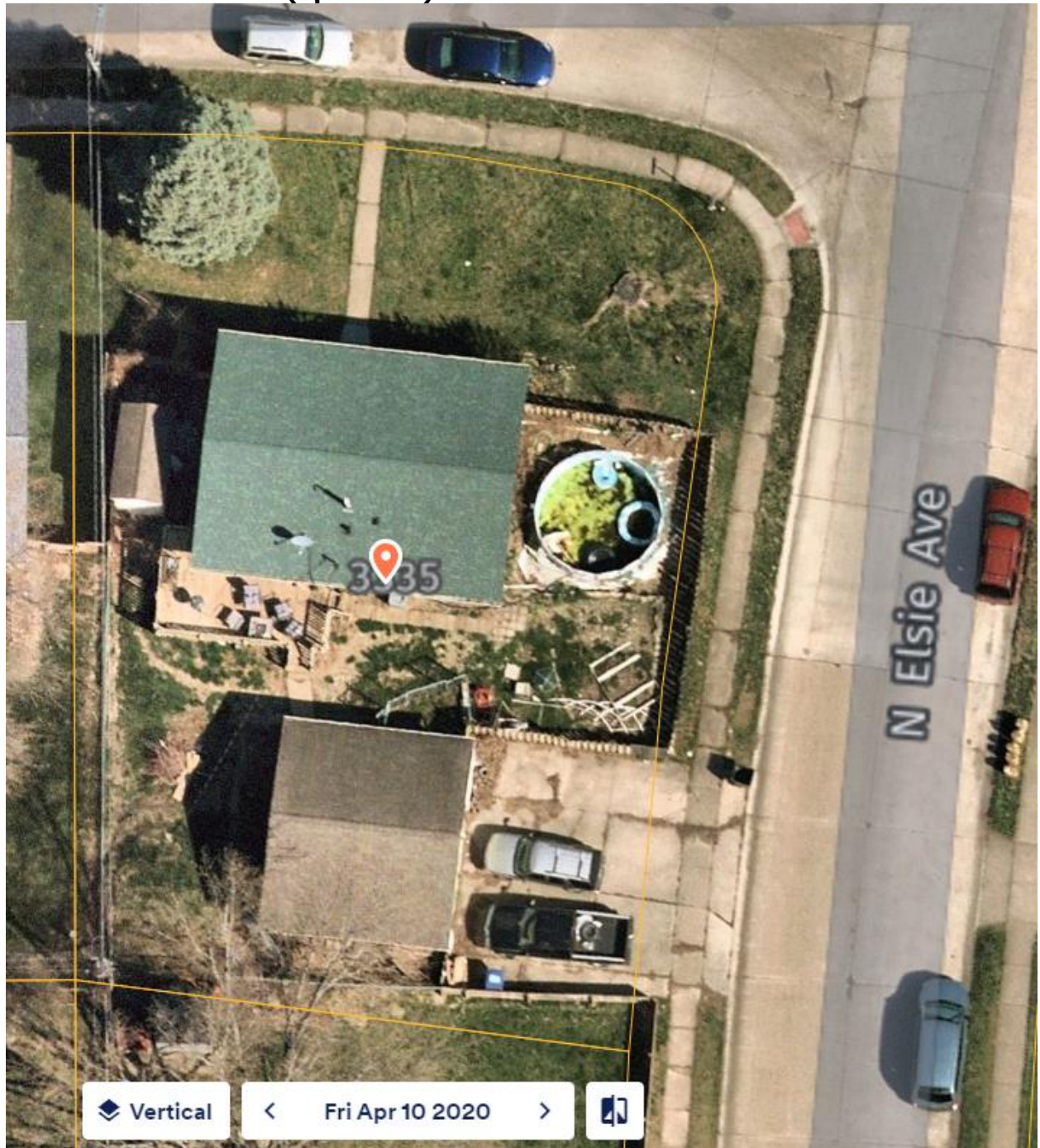
Scott Koops, AICP, Planner II

Attachments: ZBA application/plans, notice documents

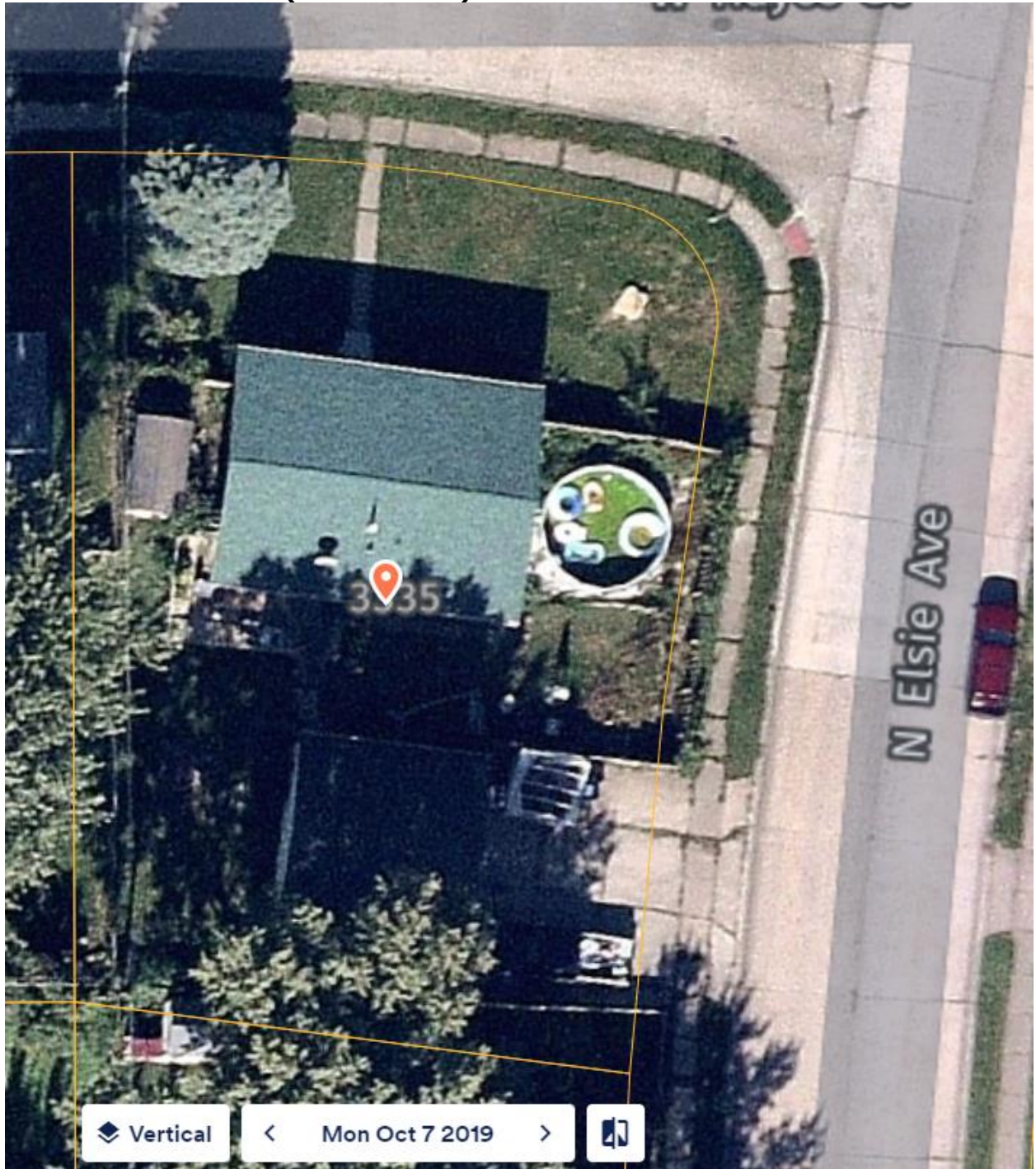
Aerial Photos Timeline (October 2020)



Aerial Photos Timeline (April 2020)



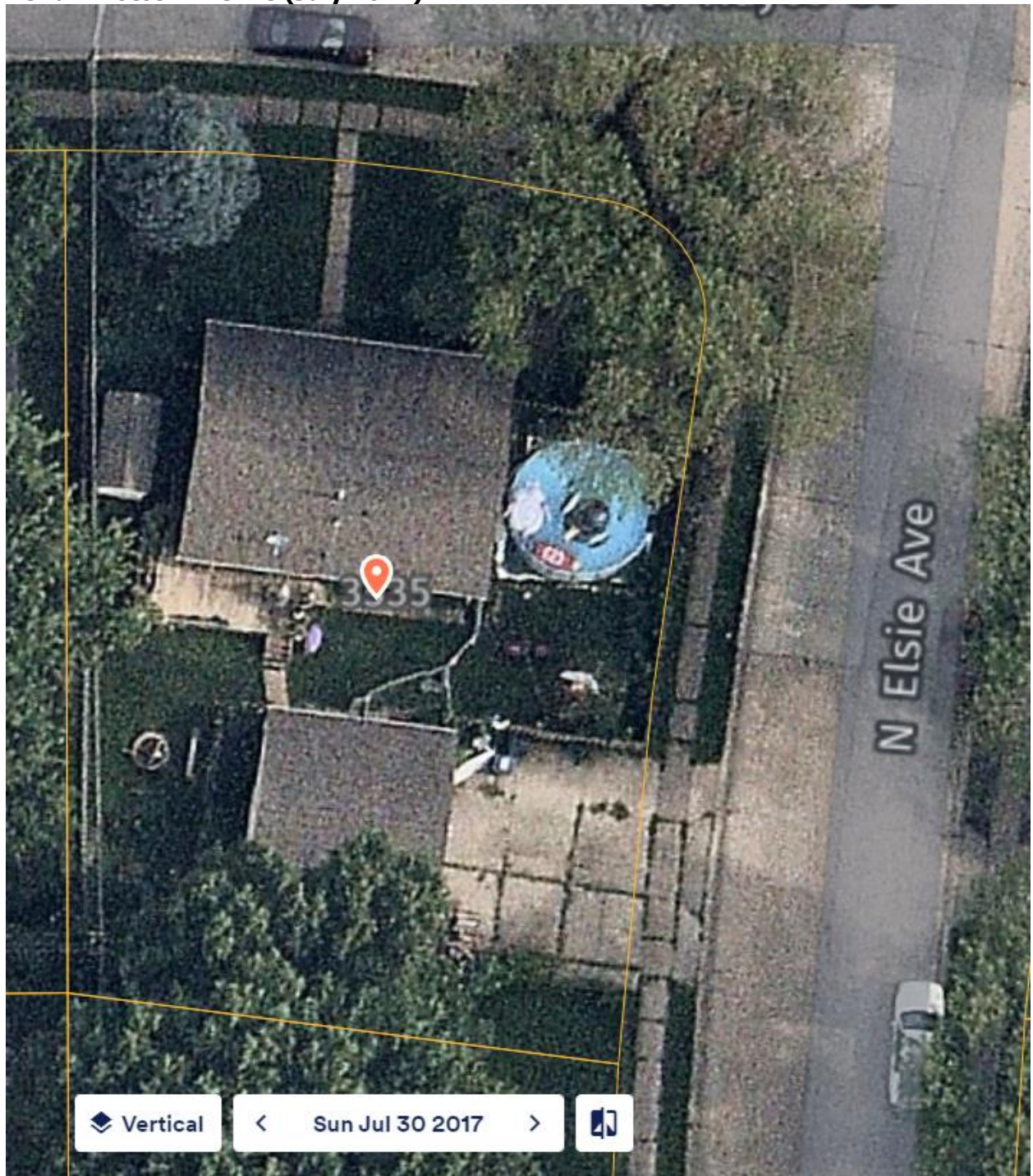
Aerial Photos Timeline (October 2019)



Aerial Photos Timeline (April 2019)



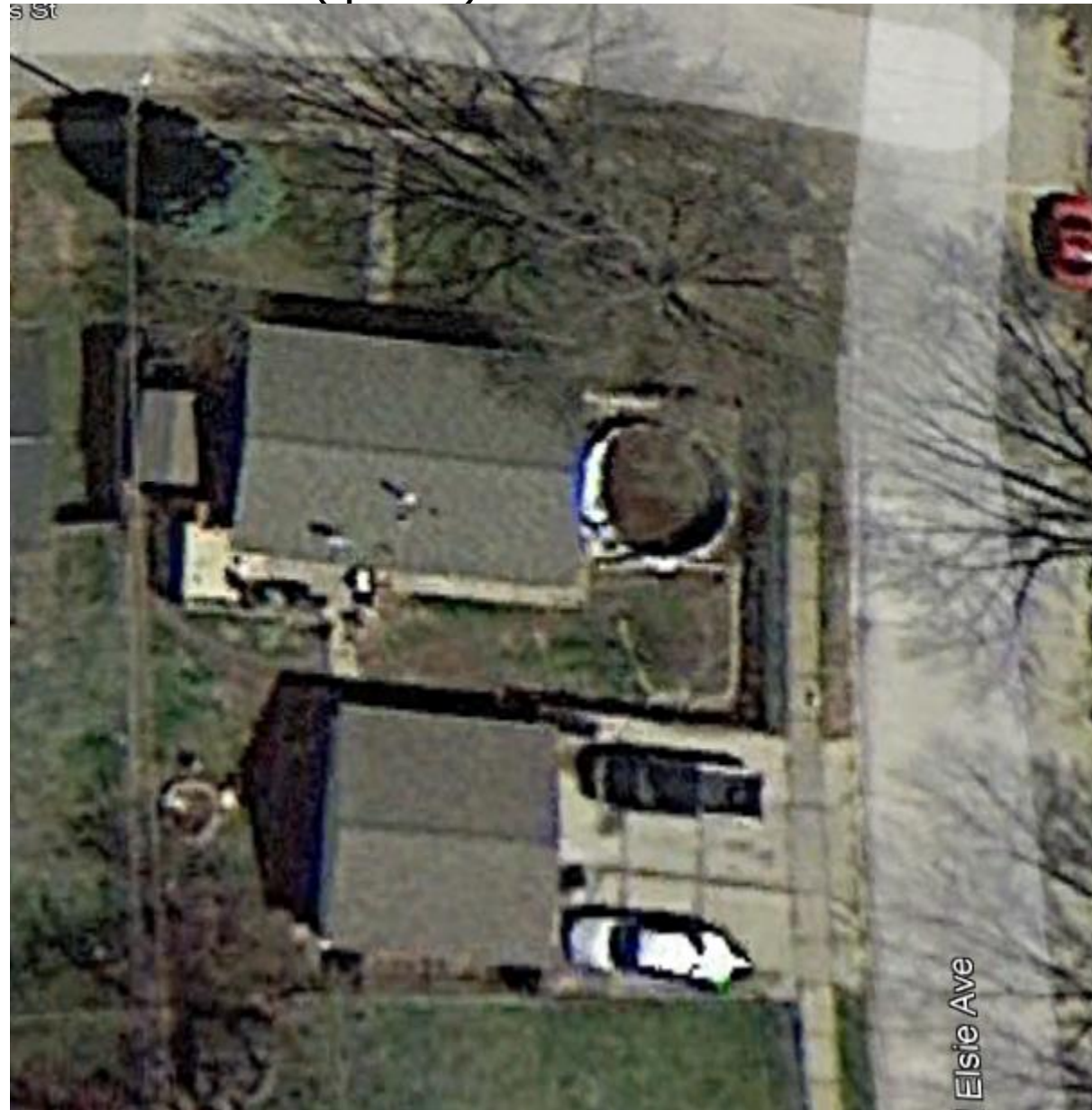
Aerial Photos Timeline (July 2017)



Aerial Photos Timeline (October 2016)



Aerial Photos Timeline (April 2014)



Elsie Ave

Aerial Photos Timeline (May 2012)

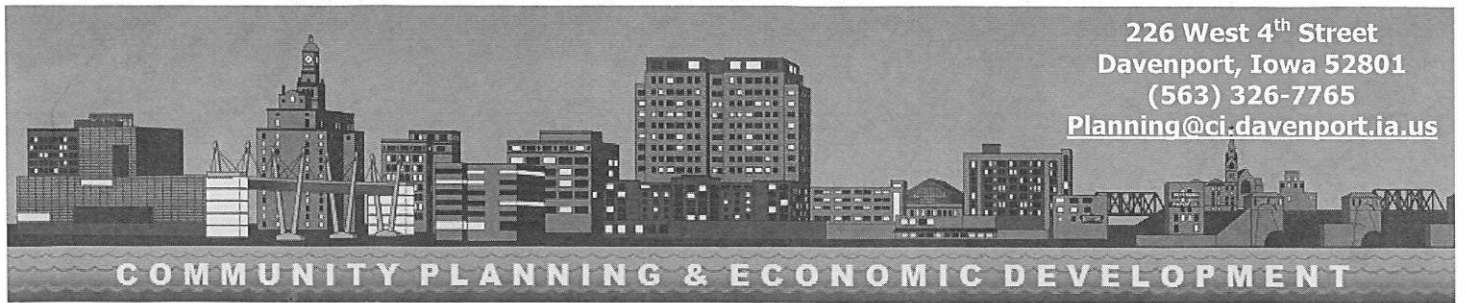


Aerial Photos Timeline (September 2011)



Aerial Photos Timeline (April 2009; before the October 2009 purchase date)





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

Property Address* 3335 W Hayes Street Davenport IA 52804
*If no property address, please submit a legal description of the property.

Applicant (Primary Contact)**

Name: Kelly Mullins (Vandyke)
Company:
Address: 3335 W Hayes Street
City/State/Zip: Davenport IA 52804
Phone: 309 3689390
Email: Mullins.Kelly2775@gmail.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:
Company:
Address:
City/State/Zip:
Phone:
Email:

Design Review Board

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

Architect (if applicable)

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

Historic Preservation Commission

- Certificate of Appropriateness ☐
Landmark Nomination ☐
Demolition Request ☐

Attorney (if applicable)

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

Administrative

- Administrative Exception ☐
Health Services and Congregate Living Permit ☐

**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, Kelly Mullins, owner of the property at 3335 W Hayes Street in Davenport is asking the city of Davenport to allow her to install an aboveground pool. The in ground pool is 18 ft by 52" pool. The area is now surrounded by Privacy Fencing 5 ft tall. There is no room in back yard for pool due

Existing Zoning:

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.



W HAYES ST

3345

3305

Too Small Area for Pool

Power Lines

where we want pool

Privacy Fence

N. Elsie Ave

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.

Back yard area ^{too} small for pool.
Power Lines are also a factor.
Safety.. Safer to install pool
In area next to N Elsie Ave

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.

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.

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.

The property is surrounded by Privacy Fencing.

Applicant: Kelly Mullins (VanRycke)

Date: 8/24/21

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: _____

Planning staff

Date: _____

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 _____

Kelly D Mullins (VanRycke)
Signature(s)*

*Please note: original signature(s) required.



Public Hearing Notice | Zoning Board of Adjustment

Date: 9/23/2021 **Location:** Council Chambers | City Hall | 226 W. 4th ST.
Time: 4:00:00 PM **Subject:** Public Hearing for Hardship Variance before Zoning Board of Adjustment

[Address block;
38 Notices sent]

To: All property owners within 200 feet of the subject property located at **3335 W Hayes St.**

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 HV21-05 of Kelly Mullins/Van Rycke at 3335 W. Hayes St for a Hardship Variance allow an above ground pool in the corner side yard. Section 17.09.030.A. of the Davenport Municipal Code restricts accessory structures to the rear or interior side yard having a four (4) foot setback. [Ward 2]

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 Map

Subject property is outlined in red.

Properties within the 200 Notice area are outlined in yellow.



ParcelId	OwnerName	OwnerAddress1	OwnerCityStZip
O2107D46	CHISHOLM CASSANDRA J	2638 ELSIE AV	DAVENPORT IA 52804
O2107D47	PENCIL MITCHELL F JR	2654 N ELSIE AV	DAVENPORT IA 52804
O2108C08	MINER ERIC W JR	3360 W COLUMBIA AV	DAVENPORT IA 52804
O2108C09	CABAGE DANIEL A	3356 W COLUMBIA AV	DAVENPORT IA 52804
O2108C10	NGUYEN JESSIE Y	3350 W COLUMBIA AV	DAVENPORT IA 52804
O2108C11	CUTKOMP MARK A	3345 W COLUMBIA AV	DAVENPORT IA 52804
O2108C12	FLATMAN PENELOPE A	3353 W COLUMBIA AV	DAVENPORT IA 52804
O2108C22	LACOURSE JOSEPH A	3351 W HAYES ST	DAVENPORT IA 52804
O2108C23	WALLNER VICTORIA J	3357 W HAYES ST	DAVENPORT IA 52804
O2108C24	TANAMOR RUDY B	3363 W HAYES	DAVENPORT IA 52804
O2108B21	PHILLIPS JEVON D	3353 W GARFIELD ST	DAVENPORT IA 52804
O2108B22	CZICHAS WAYNE A	3359 W GARFIELD ST	DAVENPORT IA 52804
O2108B38	NEWMAN DREW	3362 W HAYES ST	DAVENPORT IA 52804
O2108B39	ROBERTS ANDREW	3358 W HAYES ST	DAVENPORT IA 52804
O2108B40	BALES RODNEY A	3350 W HAYES ST	DAVENPORT IA 52804
O2107A20	MEDLEY DOROTHY M	3425 N WILLOW CT	BETTENDORF IA 52722
O2107A21	STANGER RICHARD W	2710 N ELSIE	DAVENPORT IA 52804
O2107A22	CONRAD GARRETT T	2718 N ELSIE AV	DAVENPORT IA 52804
O2107D50	FULLER SCOTT	3345 W HAYES ST	DAVENPORT IA 52804
O2107D49	BERMES PROPERTIES INC	1227 33RD AVENUE CIR	SILVIS IL 61282
O2107A34	BOYSEL GARY A	3345 W GARFIELD ST	DAVENPORT IA 52804
O2107A35	HAMMOND DEREK S	3344 W HAYES ST	DAVENPORT IA 52804
O2107A05	THANH PHAN C	2710 WOODDALE AV	DAVENPORT IA 52804
O2107A06	LORENTZEN DANNY	4846 FAIRHAVEN CT	DAVENPORT IA 52803
O2107D17	CANTU EDWARD	2644 WOOD DALE AVE	DAVENPORT IA 52804
O2107D18	BROWN CRYSTAL	2650 WOOD DALE AVE	DAVENPORT IA 52804
O2107D39	KING LESLIE	2704 WOOD DALE AVE	DAVENPORT IA 52804
O2107D40	LE HAI	2656 WOODDALE AVE	DAVENPORT IA 52804
O2107D41	MORRIS DIANE L	2661 N ELSIE AV	DAVENPORT IA 52804
O2107D42	CONE SUE	2653 N ELSIE AV	DAVENPORT IA 52804
O2107D43	MASSIE JOSHUA	2647 N ELSIE AV	DAVENPORT IA 52804
O2107D44	MARTIN THEODORE J	2641 N ELSIE AV	DAVENPORT IA 52804
O2107D45	VU TRAM NGUYEN	3006 W 66TH ST	DAVENPORT IA 52806
O2107A16	SAUL WILLIAM G SR	2717 N ELSIE AV	DAVENPORT IA 52804
O2107A17	CHRISTIANSSEN BRIE	2709 N ELSIE AVE	DAVENPORT IA 52804
O2107A18	WARD STEVE P	2703 N ELSIE AV	DAVENPORT IA 52804
O2107A19	LOUGHEAD CATHY S	2667 N ELSIE AV	DAVENPORT IA 52804