

ZONING BOARD OF ADJUSTMENT MEETING

CITY OF DAVENPORT, IOWA

THURSDAY, JANUARY 12, 2023; 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 Oct. 12, 2022 minutes.

III. Old Business

IV. New Business

- A. Request HV23-01 of Mister Car Wash at 707 E. Kimberly RD for a hardship variance to locate the screened dumpster south of the proposed building along East 38th Street, approximately 15 feet from the south property line. Section 17.09.030.Q. prohibits dumpsters within the front or corner side yard. [Ward 7]
- B. Request HV23-03 of Aldi Inc. at 3643 W. Kimberly RD for a hardship variance to reduce the required transparency of the proposed grocery store building on the west elevation from 594 sq. ft. to 0 sq.ft. of transparency, while providing 716 sq. ft. of spandrel glass/glazing for the west elevation. The north elevation will exceed the required transparency by 15%. Section 17.05.040 and Table 17.05-2 of the Davenport Municipal Code require 35% transparent windows for both the west and north building elevations, as measured between 2 and 10 feet on the façade. This property is zoned C-3 General Commercial. [Ward 2]

V. Other Business

VI. Adjourn

City of Davenport
Zoning Board of Adjustment

Department: DNS
Contact Info: ScottKoops@davenportiowa.com

Date
1/12/2023

Subject:
Consideration of the Oct. 12, 2022 minutes.

ATTACHMENTS:

Type	Description
▣ Exhibit	ZBA Minutes 10-13-22

REVIEWERS:

Department	Reviewer	Action	Date
Community Planning & Economic Development	Koops, Scott	Approved	12/21/2022 - 8:22 AM



MINUTES
Zoning Board of Adjustment
October 13, 2022



By this reference all reports, documents, presentations, videos and the hearing's video recording are incorporated into the minutes.
See the following link: <https://www.youtube.com/user/DavenportToday/videos>

I. Call to Order:

Chairman Darland called the Zoning Board of Adjustment (ZBA) meeting to order in City Hall Council Chambers, Davenport, Iowa at approximately 4:01 p.m.

Board Members present (4): Galliart, Boyd-Carlson, Loebach, and Darland

Excused: Quinn

Staff present: Berkley, staff Attorney Bagby

II. Secretary's Report:

Minutes were approved for the 2022-09-22 ZBA Hearing by voice-vote (4-0).

III. Old Business:

Request SU22-01 of Kunes Development Properties LLC to operate a Vehicle Dealership with Outdoor Storage/Display at 3812 Harrison Street. Table 17.08-1 requires a Special Use for a Vehicle Dealership with Outdoor Storage/Display on property zoned C-3 General Commercial District. [Ward 7]

Berkley presented the staff report.

Findings: (supported by the staff report analysis)

1. The petitioner's proposed location/design meets Special Use requirements
2. This use is compatible with adjacent land uses and type of development
3. The proposed Special Use is in accordance with the criteria for Special Use approval.

Recommendation:

Staff recommends that Board adapt staff's findings and approve request SU22-01 subject to the following conditions:

1. The submitted Site Plan from the Oct. 13 2022 Public Hearing packet shall be binding;
2. Prior to occupancy the stairway pedestrian connection shall be completed;
3. Prior to occupancy the gravel areas shall be removed completely from the site and new asphalt or concrete paving installed as per the site plan with a 20' wide driveway;
4. Prior to occupancy all parking spaces to be utilized shall be repainted and one-way arrows painted as appropriate at each ends of each drive aisle;
5. Use of the principal structure (former bowling alley) shall be prohibited without a modification to the Special Use;
6. The use of flags, pennants, tinsel, balloons or other similar attention-getting devices shall be prohibited at 3812 Harrison Street.
7. 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, or if

ownership or management companies change, 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, re-approved or revoked.

The petitioner addressed the Board and presented their request.

Motion

Gallart moved to approve request SU22-01, Boyd-Carlson seconded the motion subject to the staff's conditions as stated in the staff report; the motion carried unanimously. (4-0)

Motion Subject to the following conditions:

1. The submitted Site Plan from the Oct. 13 2022 Public Hearing packet shall be binding;
2. Prior to occupancy the stairway pedestrian connection shall be completed;
3. Prior to occupancy the gravel areas shall be removed completely from the site and new asphalt or concrete paving installed as per the site plan with a 20' wide driveway;
4. Prior to occupancy all parking spaces to be utilized shall be repainted and one-way arrows painted as appropriate at each ends of each drive aisle;
5. Use of the principal structure (former bowling alley) shall be prohibited without a modification to the Special Use;
6. The use of flags, pennants, tinsel, balloons or other similar attention-getting devices shall be prohibited at 3812 Harrison Street.
7. 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, or if ownership or management companies change, 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, re-approved or revoked.

Loebach, yes; Boyd-Carlson, yes; Gallart, yes; and Darland, yes. The motion was approved.

IV. New Business:

Request SU22-02 of Caliber Collision Centers to operate a Major Vehicle Repair (body shop) business at 3210 (3212) E. Kimberly RD. Table 17.08-1 requires a Special Use for Major Vehicle Repair on property zoned C-3 General Commercial District. [Ward 6]

Berkley presented the staff report.

Findings: (supported by the staff report analysis)

1. The petitioner's proposed location/design meets Special Use requirements
2. This use is compatible with adjacent land uses and type of development
3. The proposed Special Use is in accordance with the criteria for Special Use approval.

Recommendation:

Staff recommends that Board adapt staff's findings and approve request SU22-02 subject to the following conditions:

1. The submitted Site Plan from the Oct. 13, 2022 Public Hearing packet shall be binding;
2. Completed/Repaired vehicles cannot be stored outdoors more than 15 days;
3. Outdoor repairs and outdoor storage of merchandise, auto parts, and supplies is prohibited;

4. Storage of discarded, junked, or partially dismantled/parted out vehicles shall not be permissible (vehicles under repair are not considered 'stored' vehicles);
5. 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, or if ownership or management companies change, a rehearing of the Special Use shall be scheduled per Municipal Code specifications for Zoning Board of Adjustment Special Use public hearings; at which the Special Use may be modified, re-approved or revoked.

The petitioner addressed the Board and presented their request.

Motion

Loebach moved to approve request SU22-02, Boyd-Carlson seconded the motion subject to the staff's conditions as stated in the staff report; the motion carried unanimously. (4-0)

Motion Subject to the following conditions:

1. The submitted Site Plan from the Oct. 13, 2022 Public Hearing packet shall be binding;
2. Completed/Repaired vehicles cannot be stored outdoors more than 15 days;
3. Outdoor repairs and outdoor storage of merchandise, auto parts, and supplies is prohibited;
4. Storage of discarded, junked, or partially dismantled/parted out vehicles shall not be permissible (vehicles under repair are not considered 'stored' vehicles);
5. 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, or if ownership or management companies change, a rehearing of the Special Use shall be scheduled per Municipal Code specifications for Zoning Board of Adjustment Special Use public hearings; at which the Special Use may be modified, re-approved or revoked.

Loebach yes; Boyd-Carlson yes; Galliart yes; and Darland yes. The motion was approved.

V. Other Business

None.

VI. Adjourn

The meeting adjourned unanimously by voice vote at approximately 4:23 p.m.

City of Davenport
Zoning Board of Adjustment

Department: DNS
Contact Info: ScottKoops@davenportiowa.com

Date
1/12/2023

Subject:

Request HV23-01 of Mister Car Wash at 707 E. Kimberly RD for a hardship variance to locate the screened dumpster south of the proposed building along East 38th Street, approximately 15 feet from the south property line. Section 17.09.030.Q. prohibits dumpsters within the front or corner side yard. [Ward 7]

ATTACHMENTS:

Type	Description
▣ Executive Summary	Staff Report
▣ Exhibit	Application
▣ Exhibit	Notice List
▣ Exhibit	Public Hearing Notice

REVIEWERS:

Department	Reviewer	Action	Date
Community Planning & Economic Development	Koops, Scott	Approved	12/21/2022 - 11:03 AM



Staff Report | Zoning Board of Adjustment Refuse Enclosure in Front Yard 707 W. Kimberly Rd January 12, 2023

Description

Request HV23-01 of Mister Car Wash at 707 E. Kimberly RD for a hardship variance to locate the screened dumpster south of the proposed building along East 38th Street, approximately 15 feet from the south property line. Section 17.09.030.Q. prohibits dumpsters within the front or corner side yard. [Ward 7]

Code Requirements:

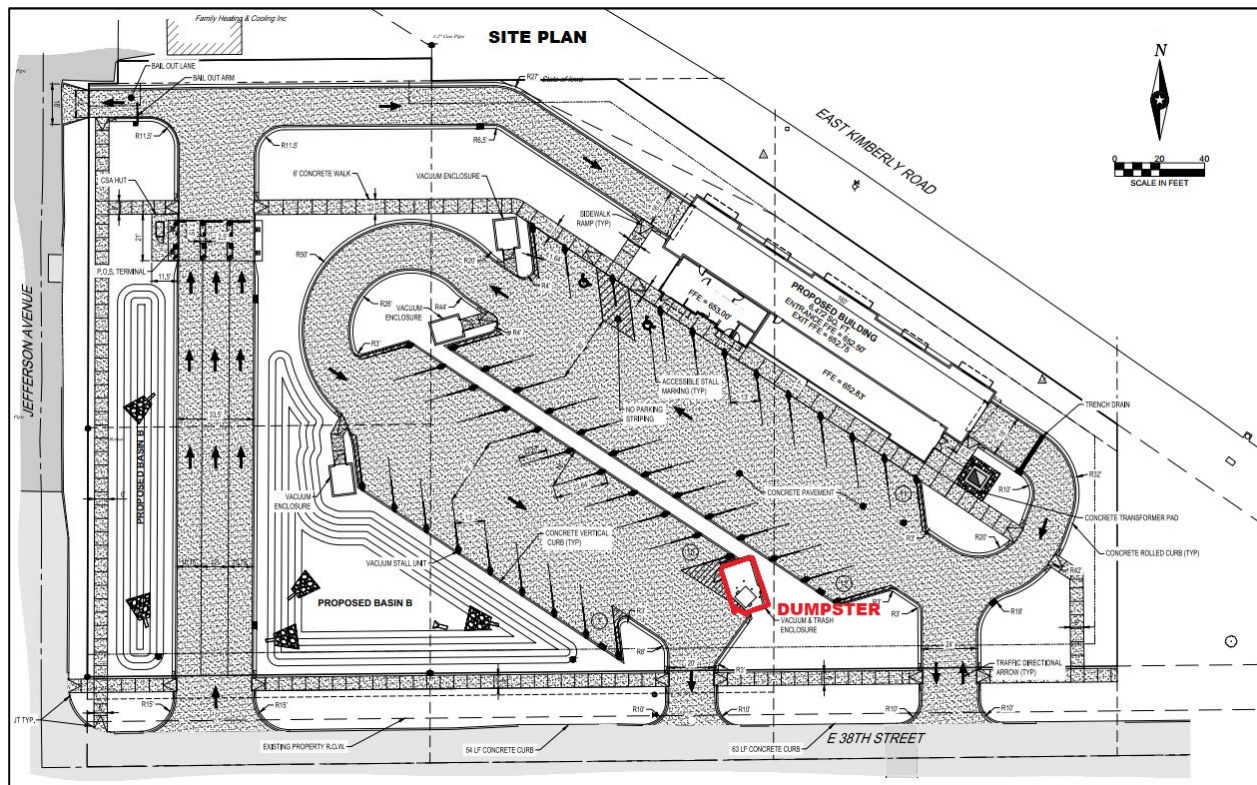
[Section 17.09.030.Q.](#)

"Refuse and recycling container regulations apply to..." "non-residential uses. 1. Refuse and recycling containers are prohibited in the front or corner side yard."

Background & Discussion

The proposed development is being built on the site of three (3) lots which have been combined via a plat of survey into one lot, making the site one lot which fronts four streets (Jefferson Ave to the west, E. 38th Street to the south, Davenport Ave to the east, and E. Kimberly Rd to the northeast).

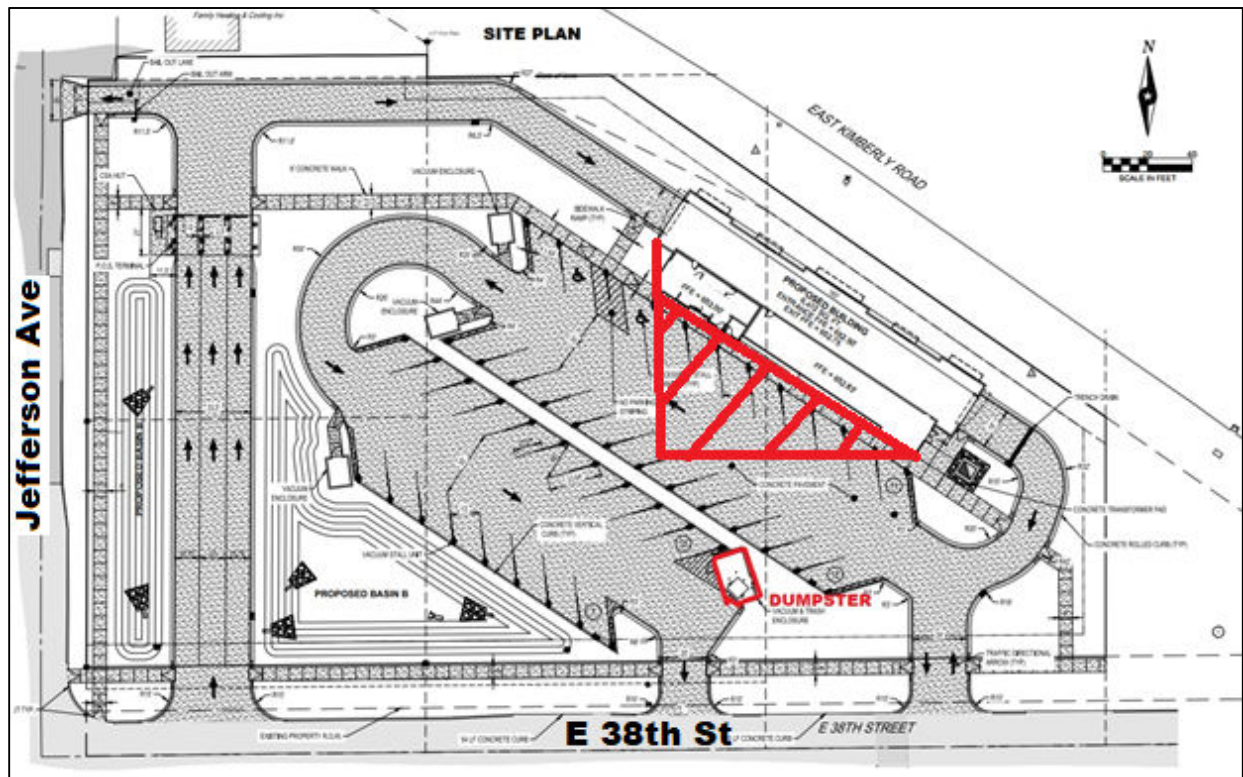
Figure 1 – Site Plan/ Refuse Enclosure Location



Background & Discussion (continued)

Meeting the setback requirements (which disallow dumpsters in the front or corner side yard) *for a lot which has frontage on four abutting streets*, is nearly insurmountable under normal circumstances because the yard along each façade facing the street is considered a front or corner side yard. The triangle in the diagram below shows the only legal location a dumpster could be located on this lot given how the proposed building is situated.

Figure 2 – Allowed Dumpster/ Refuse Enclosure Location



Purpose of a Hardship Variance

[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."

Applicant's Request Statement

"The current site has four (4) frontage roads [abuts 4 streets]. City code does not allow for dumpster enclosures on frontage roads, [where a lot abuts 4 streets] which is currently incorporated in our plans. We are requesting a variance due to the inability to relocate the dumpster enclosure outside of existing frontage areas [to an allowed location]."

Approval Standards

The Zoning Board of Adjustment decision must make findings to support the following:
(code requirement/applicants response/staff comments)

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

Applicant Response:

We are requesting a variance due to the inability to relocate the dumpster enclosure outside of the frontage areas [required setbacks].

Staff Comments:

The proposed developer is not able to meet code requirements given the parameters of the site and the code requirements. Code requirements in this case do place an undue burden on the use of the property. Criteria for this item have 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:

The current site has 3 [4] frontage roads [faces four streets]. City code does not allow for dumpster enclosures on frontage roads [within required setbacks], which is currently incorporated in our plans.

Staff Comments:

Staff concurs. The physical site constraints of the property do limit development beyond mere inconvenience. Due to current circumstances 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 current site is a unique triangular shape that has 3 [4] frontages roads [frontage on four streets]. This does not allow for alternative options on dumpster enclosure placement.

Staff Comments:

This site does have certain circumstances relating to eligible locations for a refuse enclosure. This lot has frontages all three side of the proposed building with no rear yard due to code definition. The proposed enclosure location places the refuse enclosure in a manner, and in similar fashion, to code requirements for interior lots. Given the aforementioned constraints, this site does pose a unique circumstance for a refuse enclosure based on limiting characteristics of the site.

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

Applicant Response:

This property is located within a commercial district. The dumpster enclosure will match the aesthetic of the [proposed] building.

Staff Comments:

The character of the area should not be impacted by the by the proposed structure given that this lot is an irregular shape and the site plan would place the enclosure an acceptable distance from East 38th St, which is a secondary street. 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 of the site do limit the use;
- Item #3 unique circumstance has been established;
- Item #4 protection of essential character has been established;

Recommendation:

Staff recommends that Board adopt staff's findings and approve request HV23-01 subject to the following condition:

The refuse enclosure area shall met all City standards for screening (solid fence six feet in height) and additionally, a robust landscape plan for the screening of the refuse enclosure shall be reviewed and approved by planning staff prior to occupancy of the commercial building.

Prepared by:



Scott Koops, AICP,
Planner II

Attachments: ZBA application/plans, notice documents



CITY OF DAVENPORT
Development & Neighborhood
Services – Planning
1200 W. 46th St
Davenport, IA 52807

Office 563.326.6198
planning@davenportiowa.com

APPLICATION FOR

HARDSHIP VARIANCE

ZONING BOARD OF ADJUSTMENT

APPLICANT INFORMATION	
APPLICANT NAME TFC Kimberly Rd, LLC (Elliot Smith - contact)	DATES: PRE-APP SUBMITTAL PUBLIC HEARING
ADDRESS 6770 South 900 East, Suite 300	SITE ADDRESS & PARCEL OR LOCATION DESCRIPTION 707 E. Kimberly Rd, Davenport IA 52807
CITY, STATE, ZIP Midvale, UT 84047	REASON FOR HARDSHIP REQUEST The current site has 3 frontage roads. City code does not allow for dumpster enclosures on frontage roads, which is currently incorporated in our plans. We are requesting a variance due to the inability to relocate the dumpster enclosure outside of existing frontage areas.
PHONE (801) 278-4689	COMPLETE SUBMITTALS SHALL INCLUDE: SUBMITTED Concept/Development Plan to Scale* <input checked="" type="checkbox"/> *shall show setbacks, height and size dimensions, etc. Consent to request hardship/legal interest Affidavit* <input checked="" type="checkbox"/> *shall include owner contact information Application Fee* \$200 <input checked="" type="checkbox"/> *required for a complete application
SECONDARY PHONE (801) 573-0444	
E-MAIL ADDRESS ebsmith@terraformco.com	
Acceptance of Applicant I, the undersigned, certify that the information on this application to the best of my knowledge is true and correct. I further certify that I have a legal interest in the property in question, and/or that I am legally able to represent all other persons or entities with interest in this property. In addition to the application fee, I understand I am responsible for attendance at the meeting as shown on the public hearing zoning board calendar. The City reserves the right to require further site studies as necessary, such as a traffic study. Elliot Smith Type Applicant's Name Elliott B. Smith 12/16/2022 Applicant's Signature Date DEVELOPMENT TEAM Property Owner TFC Kimberly Rd, LLC (Elliot Smith - contact) Address 6770 South 900 East, Suite 300 Phone (801) 278-4689 Secondary Phone (801) 573-0444 E-Mail Address ebsmith@terraformco.com Project Manager/Other Jeana Kedrowski - Project Coordinator, ISG Inc. Address 7900 International Drive, Ste 550 Phone (952) 426-0699 Secondary Phone E-Mail Address jeana.kedrowski@isginc.com	
DEMONSTRATE WITH EVIDENCE THE FOLLOWING (4) ITEMS: 1. The strict application of the terms of this ordinance will result in hardship unless the specific relief requested is granted. We are requesting a variance due to the inability to relocate the dumpster enclosure outside of existing frontage areas. 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. The current site has 3 frontage roads. City code does not allow for dumpster enclosures on frontage roads, which is currently incorporated in our plans. 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. The current site is a unique triangular shape that has 3 frontage roads. This does not allow for alternative options on dumpster enclosure placement. 4. The hardship variance, if granted, will not alter the essential character of the locality. This property is located within a commercial district. The dumpster enclosure will match the aesthetic of the building. Contact Development & Neighborhood Services (DNS) Planning Division at planning@davenportiowa.com with any questions, for additional information, and to submit this form.	

Development and Neighborhood Services
1200 East 46th St. Davenport, Iowa 52807

T | 563.326.6198
E | planning@davenportiowa.com

davenportiowa.com/DNS



707 E Kimberly RD Adjacent Owner Notice List.xlsx

Parcel	Property Address	Owner Name	Owner Street	Owner CityStateZip
Subject Property:	707 E Kimberly RD	APPLICANT - MISTER CAR WASH		
Ward/Alderman:	7th Ward	Cornette	All Alderman Notified	Notices Sent: 7
P1310A09	707 E KIMBERLY RD	SUBJECT PROPERTY		
P1310A08	E 38TH ST	SUBJECT PROPERTY		
P1310A07A	E 38TH ST	NORWEST BANK IOWA NA QUAD CITIES	PO BOX 2609	CARLSBAD CA 92018
P1310A06A	3831 JEFFERSON AV	FAMILY HEATING & COOLING INC	3831 JEFFERSON AVE	DAVENPORT IA 52807
P1309A11	3828 JEFFERSON AVE	MARK STEFFEN	1495 ANTLER CT	BETTENDORF IA 52722
P1309A13A	621 E KIMBERLY RD	MARK STEFFEN	1495 ANTLER CT	BETTENDORF IA 52722
P1309A12B	3842 JEFFERSON AVE	LORENZEN-STEFFEN INSURANCE AGC	1495 ANTLER CT	BETTENDORF IA 52722
P1310B01	3640 DAVENPORT AV	DAVENPORT COMMUNITY SCHOOL DI	1702 MAIN ST	DAVENPORT IA 52803
P1309A10	622 E 38TH ST	SENN ANDREA	622 E 38TH ST	DAVENPORT IA 52807
P1310A04	710 E KIMBERLY RD	E & W PROPERTIES SERIES ONE LLC	710 E KIMBERLY RD	DAVENPORT IA 52807



Public Hearing Notice | Zoning Board of Adjustment

Date: 1/12/2023 **Location:** City Hall | 226 W 4th ST | Council Chambers
Time: 4:00:00 PM **Subject:** Hearing for Hardship Variance | Zoning Board of Adjustment

EXAMPLE NOTICE
7 NOTICES SENT

To: All property owners within 200' of the subject property **707 E. Kimberly RD:**

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 HV23-01 of Mister Car Wash at 707 E. Kimberly RD for a hardship variance to locate the screened dumpster south of the proposed building along East 38th Street, approximately 15 feet from the south property line. Section 17.09.030.Q. prohibits dumpsters within the front or corner side yard. [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?

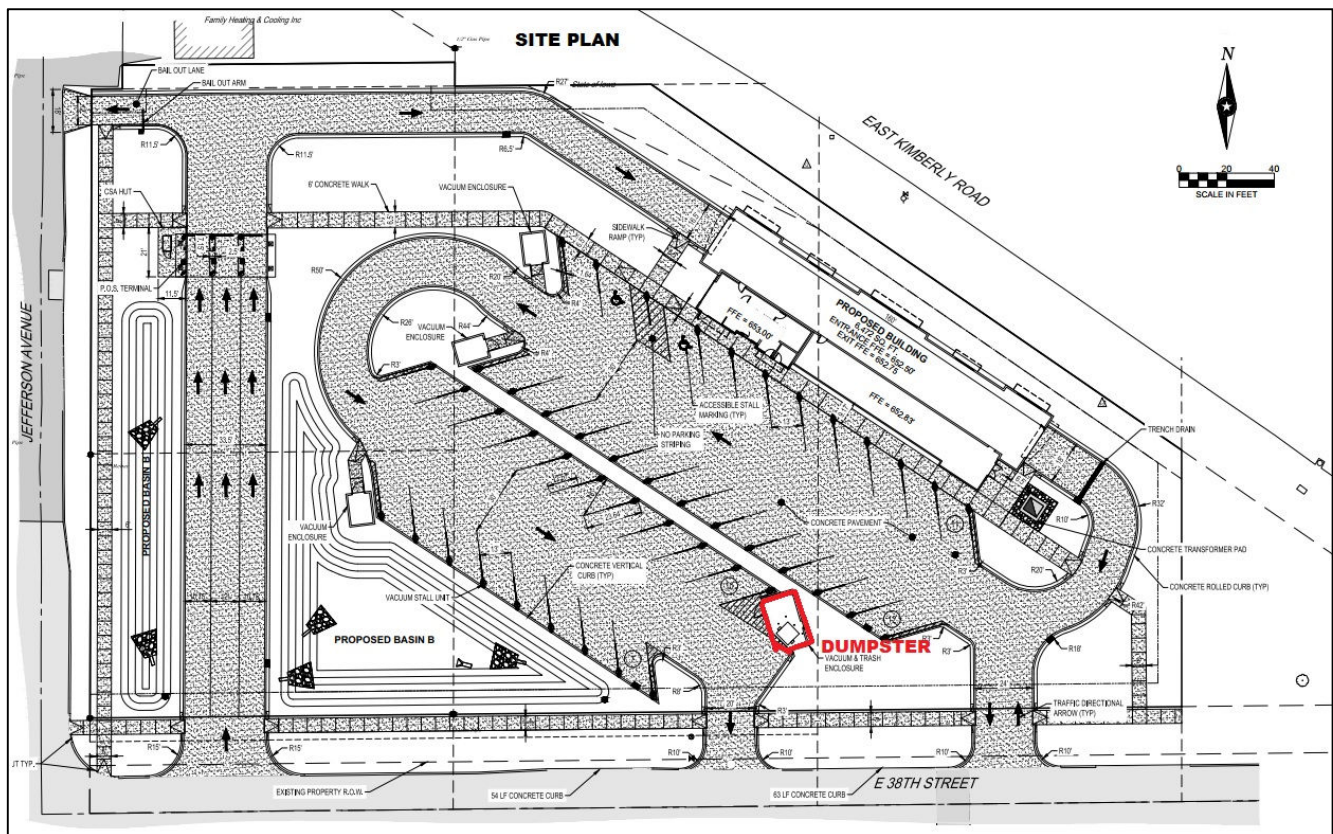
As a property owner/occupant you may have an interest in commenting on the proposed request via email or in person at the public hearing. Official comments must have written signatures sent to planning@davenportiowa.com (no later than 12:00 PM *one day before* the public hearing) or to: Planning, 1200 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 in verifying case actions and/or tablings, please contact Planning at 563-326-6198 or planning@davenportiowa.com for updates.

An aerial photograph of a residential and commercial area. A green-shaded area is outlined in red and labeled "SUBJECT PROPERTY". This area is bounded by E Kimberly Rd to the north and east, and E 38th St to the south. A yellow-shaded area is outlined in yellow and labeled "E. Kimberly RD". The map shows various buildings, parking lots, and streets. A scale bar at the bottom left indicates 200 feet. A north arrow is located in the top left corner. The map also shows a highway labeled "61" and "6" and a street labeled "DAVENPORT AVE".



City of Davenport
Zoning Board of Adjustment

Department: DNS
Contact Info: ScottKoops@davenportiowa.com

Date
1/12/2023

Subject:

Request HV23-03 of Aldi Inc. at 3643 W. Kimberly RD for a hardship variance to reduce the required transparency of the proposed grocery store building on the west elevation from 594 sq. ft. to 0 sq.ft. of transparency, while providing 716 sq. ft. of spandrel glass/glazing for the west elevation. The north elevation will exceed the required transparency by 15%. Section 17.05.040 and Table 17.05-2 of the Davenport Municipal Code require 35% transparent windows for both the west and north building elevations, as measured between 2 and 10 feet on the façade. This property is zoned C-3 General Commercial. [Ward 2]

ATTACHMENTS:

Type	Description
▣ Executive Summary	Staff Report
▣ Exhibit	Application
▣ Exhibit	Transparency Comparison Table
▣ Exhibit	Floor Plan
▣ Exhibit	Notice List
▣ Exhibit	Public Hearing Notice

REVIEWERS:

Department	Reviewer	Action	Date
Community Planning & Economic Development	Koops, Scott	Approved	12/21/2022 - 9:03 AM



**Planning Staff Report | Zoning Board of Adjustment
Reduction of Window Transparency Design Standards
3643 W. Kimberly Rd
January 12, 2023**

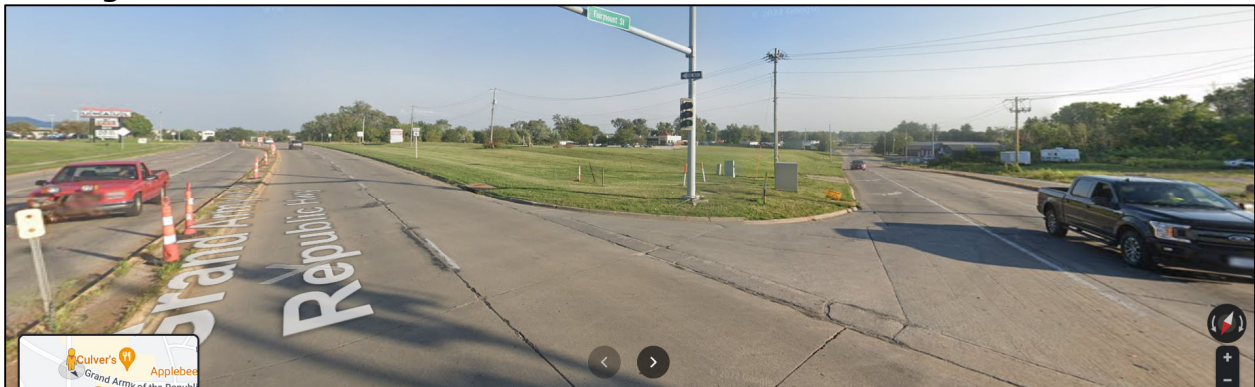
Description

Request HV23-03 of Aldi Inc. at 3643 W. Kimberly RD for a hardship variance to reduce the required transparency of the proposed grocery store building on the west elevation from 594 sq. ft. to 0 sq.ft. of transparency, while providing 716 sq. ft. of spandrel glass/glazing for the west elevation. The north elevation will exceed the required transparency by 15%. Section 17.05.040 and Table 17.05-2 of the Davenport Municipal Code require 35% transparent windows for both the west and north building elevations, as measured between 2 and 10 feet on the façade. This property is zoned C-3 General Commercial. [Ward 2]

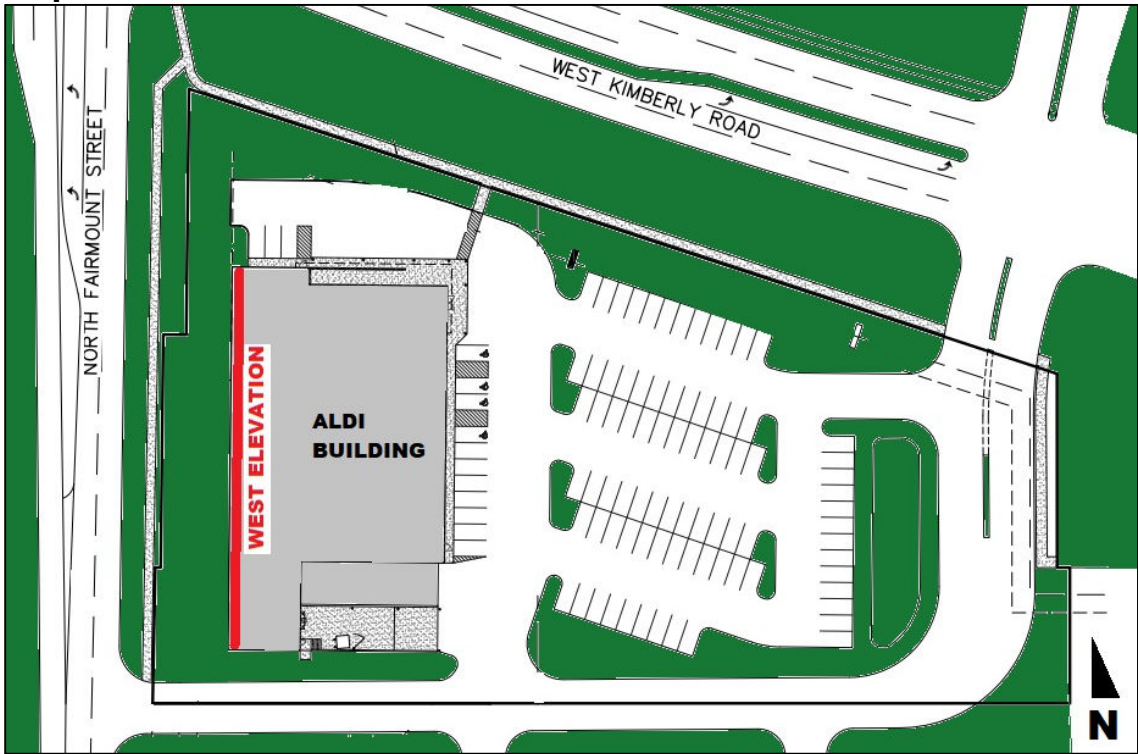
Background & Discussion

The petitioner is proposing to develop the proposed site with an Aldi, Inc. grocery store at the southeast corner of the intersection of W. Kimberly RD. and Fairmount St. The west elevation would have 0% transparency in the required 2' to 10' range, however there will be 260 sq.ft. of windows above the 10' line and an additionally 716 sq.ft. of spandrel glass (opaque reflective glass used in this case to mimic actual windows).

Existing Site:

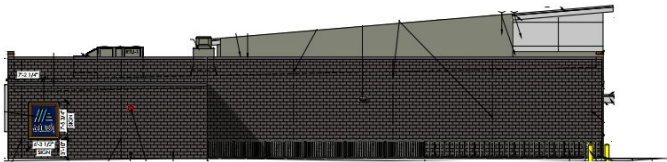


Proposed Site Plan:



Building Elevations:

**BUILDING
ELEVATIONS/FACADES**



South Elevation **SOUTH**



North Elevation (W Kimberly Rd) **NORTH (KIMBERLY RD)**



East Elevation **EAST**



West Elevation (N Fairmount St) **WEST (FAIRMOUNT ST)**

TRANSPARENT WINDOW
SPANDREL GLASS

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 application of this Ordinance will result in hardship without the specific relief requested.

Applicant Response:

Providing full transparency along the North Fairmount Street frontage building wall will create additional liability for the store and be unsightly to the public.

Staff Comments:

Staff understands that due to the floor plan of the site, windows along the west elevation are not realistic below 10 feet as required. The proposed design presents a pleasing amount of transparency to the primary street frontage along W. Kimberly Road. The transparency for the west is supplemented with 760 square feet of spandrel glass to compensate for the loss of traditional transparency.

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:

Due to the size, shape, topography and restrictions on the property (setbacks, easements, etc), the site could not be configured in a feasible manner to position the rear building wall from facing a public right-of-way.

Staff:

The proposed building has direct pedestrian access from W. Kimberly Rd. Additionally the building elevation that addresses Kimberly Road exceeds the required transparency of 35% by 15%, giving that façade 474 square feet of transparency in the required range. The elevation also has 96 square feet of transparency above the 10 foot line. So, while the west elevation has less transparency than required, the north elevation (which faces the primary road of the proposed development) has significantly more transparency than required.

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 unique circumstances are directly related to the characteristics of the site and the property fronting multiple public right-of-ways.

Staff:

Given the location of the proposed building on a lot with two street frontages and one private street frontage), and the internal layout of the use, a case can be made for unique circumstances supporting a hardship determination for this development.

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

Applicant Response:

The proposed development will enhance the essential character of the locality and promote value and opportunity within the community. Having the building backroom storage and utility area visible from North Fairmount Street would detract from the essential character of the locality.

Staff:

The character of the area will not be impacted by the by the proposed building and the elevation visible from Fairmount Street will provide sufficient visual interest; the north (Kimberly RD) elevation provides a significant amount of transparency as required and above the 10' line. Protection of essential character has been established.

Findings & Staff Recommendation:

Findings: (supported by the previous analysis)

- Item #1 application of the ordinance creating hardship has been established;
- Item #2 physical and topographical conditions of the site do impact visibility;
- Item #3 unique circumstance has been established;
- Item #4 protection of essential character has been established;

Recommendation:

Staff recommends approval of the request as the approval standards for a hardship variance have been met as proposed.

Prepared by:



Scott Koops, AICP, Planner II

Attachments: ZBA application/plans, notice documents



CITY OF DAVENPORT
Development & Neighborhood
Services – Planning
1200 W. 46th St
Davenport, IA 52807

Office 563.326.6198
planning@davenportiowa.com

APPLICATION FOR

HARDSHIP VARIANCE

ZONING BOARD OF ADJUSTMENT

APPLICANT INFORMATION		DATES: PRE-APP 11/30/2022	SUBMITTAL 12/19/2022	PUBLIC HEARING 01/12/2023												
APPLICANT NAME ALDI Inc.		SITE ADDRESS & PARCEL OR LOCATION DESCRIPTION SE CORNER OF W. KIMBERLY RD. & N. FAIRMOUNT ST.														
ADDRESS 1200 North Kirk Road		REASON FOR HARDSHIP REQUEST See Attachment.														
CITY, STATE, ZIP Batavia, IL 60510		COMPLETE SUBMITTALS SHALL INCLUDE: <table border="0"> <tr> <td>Concept/Development Plan to Scale*</td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td colspan="2">*shall show setbacks, height and size dimensions, etc.</td> </tr> <tr> <td>Consent to request hardship/legal interest Affidavit*</td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td colspan="2">*shall include owner contact information</td> </tr> <tr> <td>Application Fee* \$200</td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td colspan="2">*required for a complete application</td> </tr> </table>			Concept/Development Plan to Scale*	<input checked="" type="checkbox"/>	*shall show setbacks, height and size dimensions, etc.		Consent to request hardship/legal interest Affidavit*	<input checked="" type="checkbox"/>	*shall include owner contact information		Application Fee* \$200	<input checked="" type="checkbox"/>	*required for a complete application	
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*shall include owner contact information																
Application Fee* \$200	<input checked="" type="checkbox"/>															
*required for a complete application																
PHONE (630) 425-7253		DEMONSTRATE WITH EVIDENCE THE FOLLOWING (4) ITEMS:														
SECONDARY PHONE		1. The strict application of the terms of this ordinance will result in hardship unless the specific relief requested is granted. Providing full transparency along the North Fairmount Street frontage building wall will create additional liability for the store and be unsightly to the public.														
E-MAIL ADDRESS Paul.Cornejo@aldi.us		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. Due to the size, shape, topography and restrictions on the property (setbacks, easements, etc), the site could not be configured in a feasible manner to position the rear building wall from facing a public right-of-way.														
Acceptance of Applicant I, the undersigned, certify that the information on this application to the best of my knowledge is true and correct. I further certify that I have a legal interest in the property in question, and/or that I am legally able to represent all other persons or entities with interest in this property. In addition to the application fee, I understand I am responsible for attendance at the meeting as shown on the public hearing zoning board calendar. The City reserves the right to require further site studies as necessary, such as a traffic study. Paul Cornejo _____ Type Applicant's Name <i>Paul Cornejo</i> _____ 12/16/2022 Applicant's Signature Date		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. The unique circumstances are directly related to the characteristics of the site and the property fronting multiple public right-of-ways.														
DEVELOPMENT TEAM Property Owner VMI West Kimberly LLC Address 3588 Cobblestone Dr, Bettendorf, IA 52722 Phone _____ Secondary Phone _____ E-Mail Address raag1352@gmail.com		4. The hardship variance, if granted, will not alter the essential character of the locality. The proposed development will enhance the essential character of the locality and promote value and opportunity within the community. Having the building backroom storage and utility area visible from North Fairmount Street would detract from the essential character of the locality.														
Project Manager/Other Ryan Vliek - IngenAE, LLC Address 301 N. Main St, South Bend, IN 46601 Phone _____ Secondary Phone _____ E-Mail Address Rvliek@ingenae.com		Contact Development & Neighborhood Services (DNS) Planning Division at planning@davenportiowa.com with any questions, for additional information, and to submit this form.														

Development and Neighborhood Services
1200 East 46th St. Davenport, Iowa 52807

T | 563.326.6198
E | planning@davenportiowa.com

davenportiowa.com/DNS

ATTACHMENT

APPLICATION FOR HARDSHIP VARIANCE
ZONING BOARD OF ADJUSTMENT

ALDI Inc. – Davenport, IA
SE Corner of West Kimberly Road &
North Fairmount Street

Reason for Hardship:

Fully transparent architectural features meeting the City Ordinance are not practicable along the North Fairmount Street frontage building wall due to the interior building configuration (backroom storage and utility area) *[The ground floor of a façade facing a public right-of-way (excluding alley) must maintain a minimum transparency of 35%, measured between 2 and 10 feet in height]*. A spandrel glass material has been proposed to meet the intent of the City's building transparency requirements. The proposed west building wall façade is comprised of 42.3% glazing material (between 2 and 10 feet in height), plus an additional 260 square feet of clerestory windows with full transparency (above 10 ft).

ALDI Inc. - Davenport, IA
 SE Corner of W. Kimberly Rd & N. Fairmount St
 Application for Hardship Variance

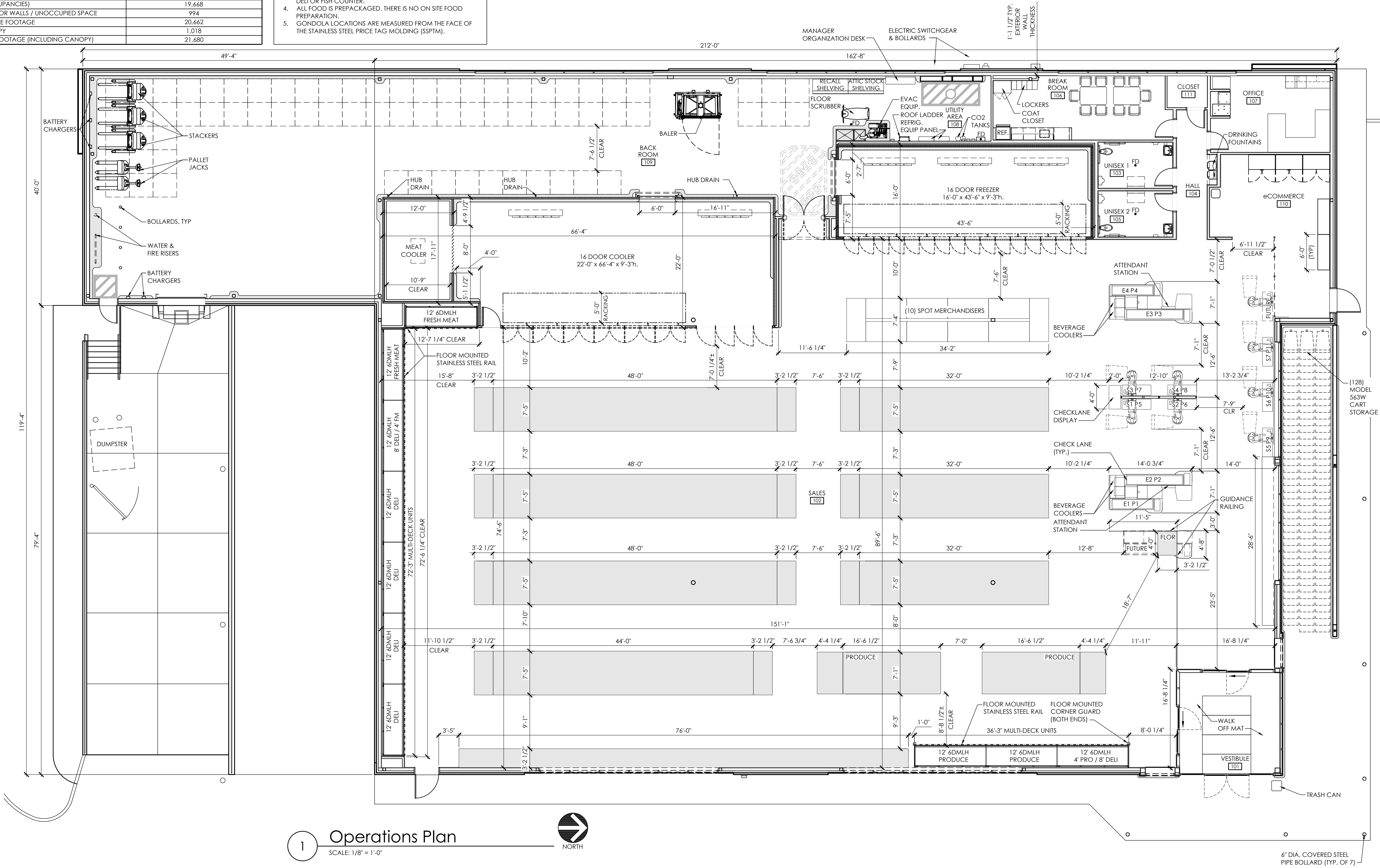
BUILDING TRANSPARENCY COMPARISON TABLE

ALDI Building	Total Area of Façade	Area of Façade (Height 2 - 10 ft)	Area & Percentage of Full Transparency (Height 2 - 10 ft)	Area of Full Transparency (Beyond Height 2 - 10 ft)	Area & Percentage Spandrel (Height 2 - 10 ft)
North Elevation	2,963 SF	943 SF	474 SF - 50.3%	96 SF	0 SF - 0%
South Elevation	2,422 SF	943 SF	0 SF - 0% (Not Required per Ordinance)	0 SF	0 SF - 0%
East Elevation	4,369 SF	1,696 SF	178 SF - 10.5% (Not Required per Ordinance)	224 SF	0 SF - 0%
West Elevation	4,153 SF	1,696 SF	0 SF - 0% (Seeking Variance)	260 SF	716 SF - 42.3% (Seeking Variance)

SIDE DOCK AREA SUMMARY		
OCCUPANCY USE	ROOM NAME	SQUARE FOOTAGE
MERCANTILE (M)	SALES / VESTIBULE	12,589
	UNISEX 2	96
	UNISEX 1	96
	HALL	120
SUBTOTAL (MERCANTILE)		12,901
BUSINESS (B)	OFFICE	258
	BREAK ROOM	315
	ECOMMERCE	407
	CLOSET	36
SUBTOTAL (BUSINESS)		1016
STORAGE / STOCK (S-2)	BACKROOM	3,762
	COOLER	1,342
	FREEZER	647
SUBTOTAL (STORAGE / STOCK)		5,751
SUBTOTAL (OCCUPANCIES)		19,668
EXTERIOR / INTERIOR WALLS / UNOCCUPIED SPACE		994
BUILDING SQUARE FOOTAGE		20,662
EXTERIOR CANOPY		1,018
TOTAL SQUARE FOOTAGE (INCLUDING CANOPY)		21,680

OPERATIONS DATA	
ITEM	DAVENPORT, IA
LINEAR FOOTAGE OF BASE (PRODUCE INCLUDED)	807'-2"
ASSUMED PALLET STORAGE	71
BUILDING DIMENSIONS	119'-4" x 153'-4"
SALES FLOOR DIMENSIONS	74'-6" x 151'-1"
LENGTH OF MULTIDECK	120'
COOLER MILK DOORS	4
COOLER GENERAL DOORS	12
FREEZER GENERAL DOORS	16
SPOT MERCHANDISERS	10
CART STORAGE	128

- NOTES:
- THIS DRAWING IS FOR GENERAL FIXTURING LAYOUT AND REFERENCE TO EQUIPMENT ONLY. ALL INFORMATION IS FOR ALDI OPERATIONAL USE ONLY AND SHALL NOT BE USED FOR CONSTRUCTION OR BIDDING PURPOSES.
 - ALL DIMENSIONS TO WALLS ARE TO FACE OF STUD UNLESS NOTED OTHERWISE.
 - THIS FACILITY DOES NOT CONTAIN A BAKERY, A BUTCHER, A DELI OR FISH COUNTER.
 - ALL FOOD IS PREPACKAGED. THERE IS NO ON SITE FOOD PREPARATION.
 - GONDOLA LOCATIONS ARE MEASURED FROM THE FACE OF THE STAINLESS STEEL PRICE TAG MOLDING (SSPTM).



1 Operations Plan
SCALE: 1/8" = 1'-0"



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APD Engineering & Architecture
615 Fishers Run
Victor, NY 14564
(585) 742-2222

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Issued: Date:

A	Issued for Client Review	09/21/22
B		
C		
D		
E		

Revisions: Date:

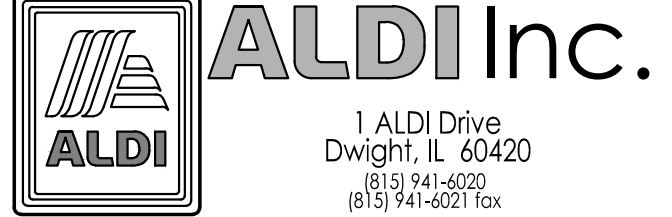
1	Prototype Updates	11/17/22
2	Updated per Town Comments	12/09/22
3		
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11		
12		

PROJECT ARCHITECT/ENGINEER DATE

PROJECT LEAD DATE

THESE DRAWINGS ARE PROTOTYPICAL AND SHALL NOT BE USED FOR ANY CONSTRUCTION OR RENOVATION ACTIVITIES. They are only for use by ALDI and their designated design professionals on ALDI projects. When applying the required professional standard of care and permitted by law, the design professional may integrate these drawings into his/her own technical submission. The design professional is responsible for preparing a submittal in accordance with all applicable laws, building codes and local site conditions. Deviations from this prototypical design are to be coordinated with the ALDI Director of Real Estate. To save cost, non-aesthetic revisions to the shell design should be made after approval from the ALDI Director of Real Estate.

Seal Seal



ALDI Inc. Store #: XX
Davenport IA
W Kimberly Rd & N Fairmount St
Davenport, IA 52806
Scott County
Project Name & Location:

Operations Plan

Drawing Name:

Date: 09/21/22

Type: RHSDV7ER

Drawn By: SRS

Scale: As Noted

Project No.

22-0462a

CFP-1

Drawing No.

3643 W Kimberly RD Adjacent Owner Notice List.xlsx

Parcel	Property Address	Owner Name	Owner Street	Owner CityStateZip
Subject Property:	3643 W Kimberly RD	APPLICANT - Aldi Inc. (Grocery)		
Ward/Alderman:	2nd Ward	Dickmann	All Alderman Notified	Notices Sent:
O1633-03A	3559 W KIMBERLY RD	LEVERAGED HOLDINGS LLC	5167 UTICA RIDGE RD	DAVENPORT IA 52807
O1633-01A		THF WEST KIMBERLY DEVELOPMENT	211 N STADIUM BLVD STE 201	COLUMBIA MO 65203
T1739-07A		VERIZON WIRELESS (VAW) LLC	PO BOX 2549	ADDISON TX 75001
O1633-01B		THF WEST KIMBERLY DEVELOPMENT	211 N STADIUM BLVD STE 201	COLUMBIA MO 65203
O1617D03B	3646 W KIMBERLY RD	I H MISSISSIPPI VALLEY CRED UN	2500 RIVER DR	MOLINE IL 61265
T1739-08	3824 N FAIRMOUNT ST	MTB INVESTMENTS LLC	3824 N FAIRMOUNT ST	DAVENPORT IA 52806
O1617D02A1	3616 W KIMBERLY RD	AREC 32 LLC	PO BOX 29046	PHOENIX AZ 85038
U1723-27	3828 N FAIRMOUNT ST	JEFF R HEUER	552 BELMONT RD	RIVERDALE IA 52722
O1617D05B	3502 W KIMBERLY RD	3502 W KIMBERLY LLC	5111 UTICA RIDGE RD	DAVENPORT IA 52807
T1739-09	3814 N FAIRMOUNT ST	KURT J MOORE	3311 N ELMWOOD AVE	DAVENPORT IA 52806
U1723-26		JEAN L MCFEDRIES	4675 KYNNELWORTH DR #301	BETTENDORF IA 52722



Public Hearing Notice | Zoning Board of Adjustment

Date: 1/12/2023 **Location:** City Hall | 226 W 4th ST | Council Chambers
Time: 4:00:00 PM **Subject:** Hearing for Hardship Variance | Zoning Board of Adjustment

EXAMPLE NOTICE LETTER
11 NOTICES SENT

To: All property owners within 200' of the subject property **3643 W. Kimberly RD.:**

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 HV23-03 of Aldi Inc. at 3643 W. Kimberly RD for a hardship variance to reduce the required transparency of the proposed grocery store building on the west elevation from 594 sq. ft. to 0 sq.ft. of transparency, while providing 716 sq. ft. of spandrel glass/glazing for the west elevation. The north elevation will exceed the required transparency by 15%. Section 17.05.040 and Table 17.05-2 of the Davenport Municipal Code require 35% transparent windows for both the west and north building elevations, as measured between 2 and 10 feet on the façade. This property is zoned C-3 General Commercial. [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?

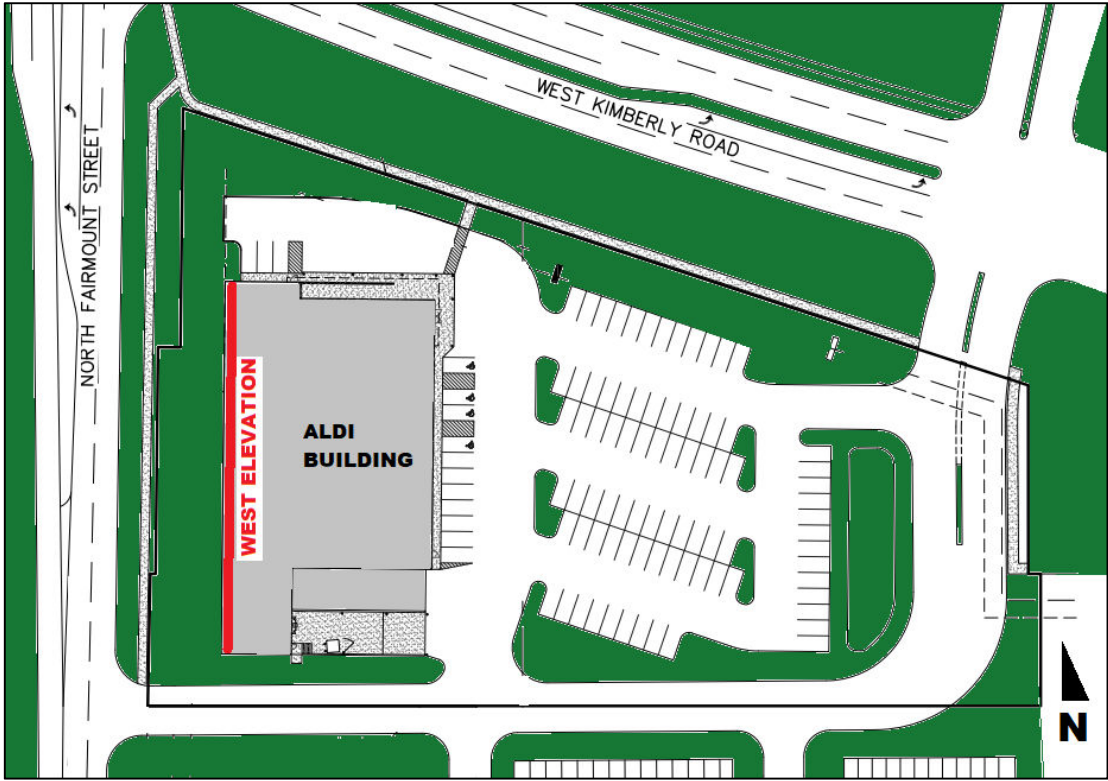
As a property owner/occupant you may have an interest in commenting on the proposed request via email or in person at the public hearing. Official comments must have written signatures sent to planning@davenportiowa.com (no later than 12:00 PM *one day before* the public hearing) or to: Planning, 1200 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 in verifying case actions and/or tablings, please contact Planning at 563-326-6198 or planning@davenportiowa.com for updates.

Adjacent Owner Notice Area:
Owners within 200' of the Subject Property



TRANSPARENT WINDOW
SPANDREL GLASS

1 West Elevation (N Fairmount St)
SCALE: 1/8" = 1'-0"