

ZONING BOARD OF ADJUSTMENT MEETING

CITY OF DAVENPORT, IOWA

THURSDAY, OCTOBER 26, 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 September 28, 2023 Minutes.

III. Old Business

IV. New Business

A. Request HV23-15 of Ben Beydler at the building address of 451 W 67th Street (PIN X0221-04) for a Hardship Variance to construct an unpaved rock/gravel driveway. Section 17.10.030.I.4 requires all driveways/parking pads to be paved.
[Ward 8]

V. Other Business

VI. Adjourn

City of Davenport
Zoning Board of Adjustment

Department: DNS

Contact Info: ScottKoops@davenportiowa.com

Date
10/26/2023

Subject:

Consideration of the September 28, 2023 Minutes.

ATTACHMENTS:

Type	Description
▣ Exhibit	Minutes



MINUTES

Zoning Board of Adjustment

September 28, 2023



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.

Members present: Gallart, Boyd-Carlson, Bloemker, Darland
Excused: none (one seat is vacant)
Staff present: Koops, Berkley, staff Attorney Bagby

II. Secretary's Report:

Minutes were approved for the 2023-08-10 ZBA Hearing by voice-vote (4-0).

III. Old Business:

None.

IV. New Business:

A.

Request HV23-13 of Ann Schwickerath on behalf of Project Renewal at 513 Warren Street for a Hardship Variance to reduce the required number of off-street parking spaces for a community center from seven (7) to five (5). Table 17.10-2 requires seven (7) off-street parking spaces for a community center. [Ward 3]

Koops presented the staff report.

Findings: (supported by the staff report analysis)

- Item #1 ordinance hardship has been established;
- Item #2 physical and topographical conditions on site do limit reasonable site usage;
- Item #3 unique circumstance has been established;
- Item #4 protection of essential character has been established;

Recommendation:

Staff recommends approval of the request as approval standards will be met as proposed.

Discussion by the Board: The Board briefly discussed the issues of the case. The Board generally voiced support for the findings of the staff report

Motion

Gallart moved to approve request HV23-13 as proposed; Boyd-Carlson seconded the motion and the motion carried unanimously. (4-0)

Bloemker, yes; Boyd-Carlson, yes, Gallart, yes; and Darland, yes.

B.

Request HV23-14 of Ben Kantner on behalf of Habitat for Humanity QC at 329 Oak Street for a 6-foot principle use encroachment into a corner side yard setback with a proposed single-family dwelling which would be 19 feet from the W. 4th Street property line. The Davenport Municipal Zoning Code requires a 25-foot setback in the R-MF District from W. 4th Street. [Ward 3]

Koops presented the staff report.

Findings: (supported by the staff report analysis)

Item #1 ordinance hardship has been established;

Item #2 physical and topographical conditions on site do limit reasonable site usage;

Item #3 unique circumstance has been established;

Item #4 protection of essential character has been established;

Recommendation:

Staff recommends approval HV23-14 as approval standards for a hardship variance are met.

Discussion by the Board: The Board briefly discussed the issues of the case.

The Board generally voiced support for the findings of the staff report

Motion

Gallart moved to approve request HV23-14 as proposed; Boyd-Carlson seconded the motion and the motion carried unanimously. (4-0)

Boyd-Carlson, yes, Gallart, yes; Bloemker, yes; and Darland, yes.

V. Other Business

None.

VI. Adjourn

The meeting adjourned unanimously by voice vote at approximately 4:34 p.m.

City of Davenport
Zoning Board of Adjustment

Department: DNS
Contact Info: ScottKoops@davenportiowa.com

Date
10/26/2023

Subject:

Request HV23-15 of Ben Beydler at the building address of 451 W 67th Street (PIN X0221-04) for a Hardship Variance to construct an unpaved rock/gravel driveway. Section 17.10.030.I.4 requires all driveways/parking pads to be paved. [Ward 8]

ATTACHMENTS:

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



**Zoning Board of Adjustment
Planning Staff Report
Install Gravel Driveway | 451 W. 67th
October 26, 2023**

Description

Request HV23-15 of Ben Beydler at the building address of 451 W 67th Street (PIN X0221-04) for a Hardship Variance to construct an unpaved rock/gravel driveway. Section 17.10.030.I.4 requires all driveways/parking pads to be paved. [Ward 8]

ePlan Review: Approved Site Plan (for paving)



Background

A modular home is under site development at 451 W 67th Street south of a portion of the street which will be developed in the future, as it is presently beyond the terminus of the existing West 67th Street. The subject property is located on a parcel which does not have access to public Right-of-Way, however an access easement has been procured per City of Davenport instructions and legal requirements. A potable water well has been developed on the property by the petitioner as well as septic fields.

At the time of plan review Planning Staff informed the petitioner that the access driveway would be required to be paved. Staff wanted to clearly communicate this requirement, as the cost to pave would be something that the petitioner would want to calculate in the costs needed to develop the property.

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."

City Council and City Staff are and have been aware of the paving regulations since 1986; paving for single-family driveways is not an "unforeseen" requirement of the Zoning Code.

Discussion

The applicant has requested the Board to disregard paving requirements for vehicular facilities. Single-family dwellings require access driveways from the street to the dwelling to be paved.

Additionally, if the hardship is approved, there will exist an example that would erroneously imply that gravel is allowed as a vehicular surface. Frequently staff is informed by applicants that so called "other properties" have been allowed without this or that specific code section. If this driveway is allowed to be unpaved it will be a beacon for all those that want to bring the code back to 1986, when paving was not required. Paving serves to increase the water quality of stormwater discharge, while also upholding property values by reducing the negative impacts of mud and dust on the streets and in air.

Analysis

Description of the Request (as stated by the applicant)

Davenport code requires driveways to be paved. The specific circumstances of this property require an unusually long driveway (~500ft). The paving requirement in this case creates an extreme financial burden. Relief from paving requirement is needed for existing gravel road.

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:

Paving the existing gravel road would cost between \$35,000 and \$50,000. Such a sum is unlikely to be the intended effect of the City's paving requirement and would create significant hardship for the applicant.

Staff Comments:

Paving is not an unforeseen requirement to the petitioner. Staff has informed the petitioner that development of the site would require a paved driveway and the petitioner submitted a paved driveway on the reviewed/approved Site Plan.

Only after most of the on-site development was completed did the petitioner come forward with the application. The request is a convenience to the petitioner.

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 property boundaries, topography, presence of electrical utility infrastructure, and considerations for future extensions of 67th Street and/or Harrison Street effectively limit the buildable area of the property to the southwest side. Building has been located as close to 67th Street as possible given these factors. The cost of paving constitutes a hardship rather than an inconvenience.

Staff Comments:

The petitioner chose to place the well and dwelling in the existing location after staff impressed upon the petitioner that the location would create a long driveway which would need to be paved. The petitioner at that time in no way indicated that this cost would be a barrier to development of the parcel. The need for the variance must be unique to the physical traits of the subject property, and not just economically beneficial to the developer/property owner.

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 unusual property boundaries were created during subdivision in the early 1980s and are unique. Nearby properties largely have normal street access, being either large fields or standard residential lots.

Staff Comments:

The site and situation of this property in no way restricts the pavement of the access drive. There is no unique situation which create any unforeseen difficulties to the paving of the driveway, other than those that are a convenience to the petitioner.

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

Applicant Response:

The hardship variance would result only in an existing private drive remaining gravel and would not at all alter the character of the locality.

Staff Comments:

The gravel on the property has never been approved as a driveway. The temporary construction path cannot "remain" as gravel as it has never been approved for permanent use. The driveway that is constructed now is only a temporary facility constructed solely for the purpose to allow for the building or constructing of the dwelling, and is in no way shape or form intended to be a permanent driveway. The variance, if granted, would create a different character in that pavement requirements have been in place since 1986.

Starting out this new area of the neighborhood with gravel very well may impact the character of the neighborhood as any new or future owners could look for ways to install gravel driveways, which are illegal uses since 1986.

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 impact this property and result 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.

Prepared by:

A handwritten signature in black ink, appearing to read "Scott Koops".

Scott Koops, AICP, Planner II

Attachments: ZBA application/plans, notice documents

Site Plan






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

Office 563.326.6198
planning@davenportiowa.com

APPLICATION FOR
HARDSHIP VARIANCE
ZONING BOARD OF ADJUSTMENT

APPLICANT INFORMATION	
Applicant Name	Ben Beydler
Address	100 Hillcrest Avenue
City State Zip	Davenport, IA 52803
Phone	(563) 570-2339
Secondary Phone	
E-Mail Address	ben.beydler@gmail.com
Acceptance of Applicant <p>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, and acknowledge formal procedure and submittal requirements.</p> <p>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.</p> <p>Ben Beydler Type Applicant's Name</p> <p> Applicant's Signature</p> <p>10/5/23 Date</p>	
DEVELOPMENT TEAM	
Property Owner Ben Beydler	
Address 100 Hillcrest Avenue	
Phone	Secondary Phone
(563) 570-2339	
E-Mail Address ben.beydler@gmail.com	
Project Manager/Other	
Address	
Phone	Secondary Phone
E-Mail Address	

DATES: PRE-APP	SUBMITTAL	PUBLIC HEARING
	10/02/23	10/26/23
SITE ADDRESS & PARCEL OR LOCATION DESCRIPTION 451 West 67th Street / Parcel X0221-04		
SPECIFICALLY DESCRIBE THE REQUEST & RELIEF NEEDED Davenport code requires driveways to be paved. The specific circumstances of this property require an unusually long driveway (~500ft). The paving requirement in this case creates an extreme financial burden. Relief from paving requirement is needed for existing gravel road.		
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		<input type="checkbox"/>
*shall include owner contact information		
Application Fee* \$200		<input checked="" type="checkbox"/>
*required for a complete application		
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. Paving the existing gravel road would cost between \$35,000 and \$50,000. Such a sum is unlikely to be the intended effect of the City's paving requirement and would create significant hardship for the applicant.		
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 property boundaries, topography, presence of electrical utility infrastructure, and considerations for future extensions of 67th Street and/or Harrison Street effectively limit the buildable area of the property to the southwest side. Building has been located as close to 67th Street as possible given these factors. The cost of paving constitutes a hardship rather than an inconvenience.		
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 unusual property boundaries were created during subdivision in the early 1980s and are unique. Nearby properties largely have normal street access, being either large fields or standard residential lots.		
4. The hardship variance, if granted, will not alter the essential character of the locality. The hardship variance would result only in an existing private drive remaining gravel and would not at all alter the character of the locality.		
Contact Development & Neighborhood Services (DNS) Planning Division at planning@davenportiowa.com with any questions, for additional information, and to submit this form.		



Public Hearing Notice | Zoning Board of Adjustment

Date: 10/26/2023 **Location:** City Hall | 226 W 4th ST | Council Chambers
Time: 4:00:00 PM **Subject:** Hearing for Hardship Variance | Zoning Board of Adjustment

EXAMPLE LETTER

To: All property owners within 200' of the subject property: **451 W 67th 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 HV23-15 of Ben Beydler at 451 W 67th Street for a Hardship Variance to construct an unpaved rock/gravel driveway. Section 17.10.030.I.4 requires all driveways/parking pads to be paved. [Ward 8]

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

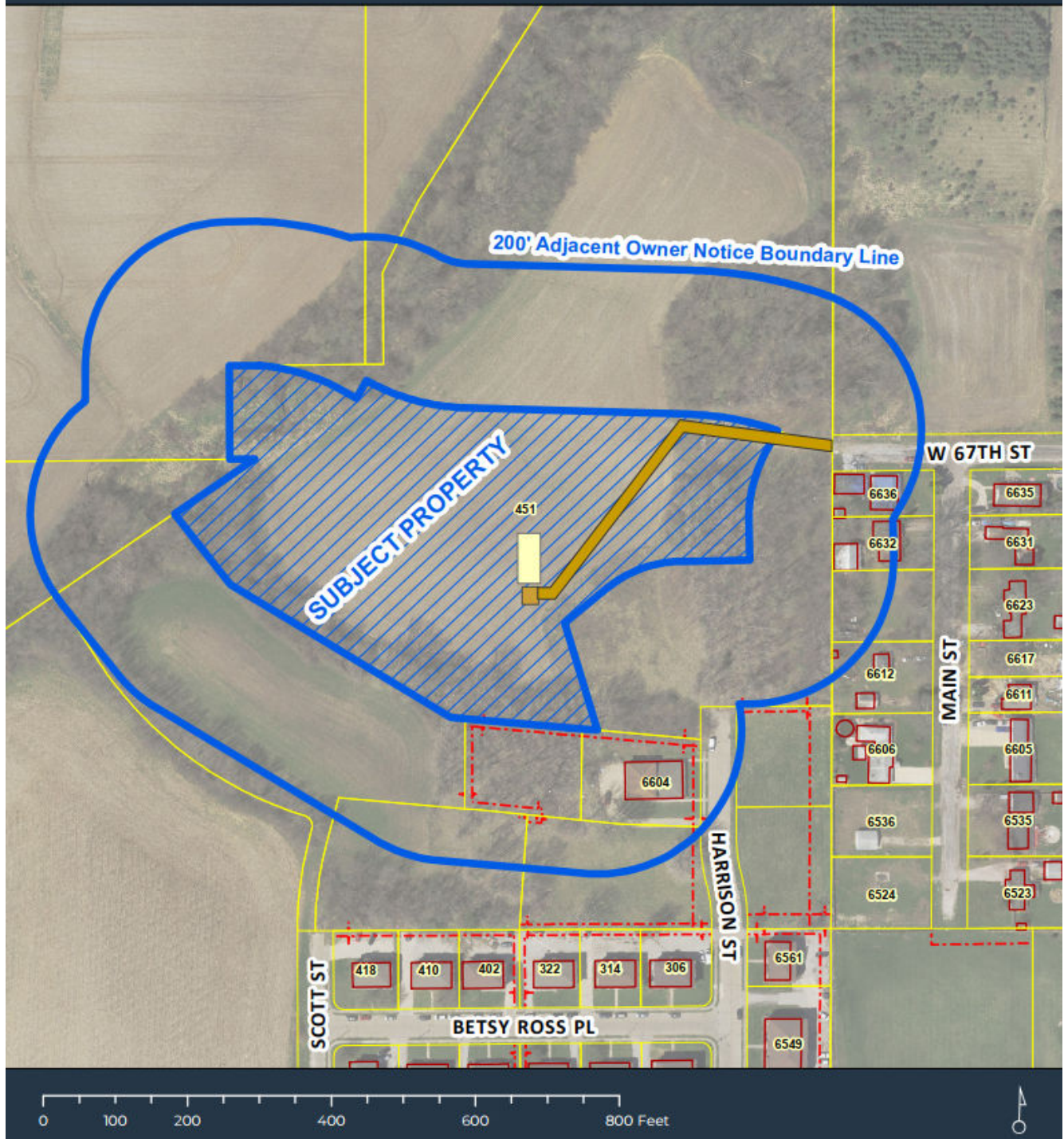
Please note items may be removed or tabled to a future hearing date at the request of the Applicant or Commission/Board. Those interested in verifying case actions and/or tablings, please contact Planning at 563-326-6198 or planning@davenportiowa.com for updates.



THE CITY OF
DAVENPORT
IOWA | USA

Adjacent Property Owner
200' Notice Area

HV23-15



HV23-15 - 451 W 67th St - Adjacent Owner Notice List

Parcel	Property Address	Owner Name	Owner Street	Owner CityStateZip
Subject Property:	451 W 67th	BEN BEYDLER	100 HILLCREST AV	DAVENPORT IA 52803
Ward/Aldreman:	8th WARD	LEE		NOTICES SENT: 10
X0237D01		BI-STATE REAL ESTATE DEVELOPERS LLC	3099 ACACIA BAY AVE	WESLEY CHAPEL FL 33543
X0239-22	622 MAIN ST	BRADLEY J DUBIL	19498 258TH AV	BETTENDORF IA 52722
X0239-23	6632 MAIN ST	BRADLEY J DUBIL		
X0239-24	6636 MAIN ST	CONNIE S HORSTMAN	6636 MAIN ST	DAVENPORT IA 52806
X0237-03		DMG LLC	3551 7TH ST STE 100	MOLINE IL 61265
X0237B05		DMG LLC		
X0237B02		DMG LLC		
X0237B01B	6604 HARRISON ST	IOWA ACIG LLC	9139 EAST 37TH NORTH	WICHITA KS 67226
X0221-05E		JACK D SMIT	2726 E RIVER DR	DAVENPORT IA 52803
X0221-06		LESLIE M DUPREE TRUST	100 HILLCREST AV	DAVENPORT IA 52803
X0237-04		LESLIE M DUPREE TRUST		
X0237B04		LESLIE M DUPREE TRUST		
X0239-21	6612 N MAIN ST	LYNCH TRAVIS	6612 N MAIN ST	DAVENPORT IA 52806
X0223-33		MENARD INC	5101 MENARD DR	EAU CLAIRE WI 54703
X0221-03B		TRANSITION PARTNERS	3211 E 35TH CT	DAVENPORT IA 52807
X0221-02B		TRANSITION PARTNERS		
X0237-04B		TRANSITION PARTNERS		

To: Zoning Board of Adjustment

Re: Case HV23-15

I am the owner of three parcels adjacent to Ben Beydler's property.

I support granting a variance in this case, to allow him to construct an unpaved road to his new house.

Thank you for your consideration.

A handwritten signature in cursive script, reading "Leslie DuPree". The signature is written in dark ink and is positioned below the "Thank you" line.

Leslie DuPree

100 Hillcrest Ave., 52803

563-570-2312

lesliemdupree@gmail.com