

ZONING BOARD OF ADJUSTMENT MEETING

CITY OF DAVENPORT, IOWA

THURSDAY, AUGUST 22, 2019; 4:00 PM

CITY COUNCIL CHAMBERS CITY HALL 226 W 4TH STREET

I. Call to Order

II. Secretary's Report

A. Consideration of the minutes from the 8/8/19 public hearing

III. Old Business

IV. New Business

A. Request HV19-11 of Ben Ziegler at 1316 Pershing Avenue for a hardship variance to encroach 1' into the side yard and 3' into the rear yard with two separate stair landings. Each stair landing would be 3' from the nearest property line. The property is zoned "R-MF" Multiple Family.

Section 17.09.040.F. and Table 17.09-1 require a 4' side yard and a 6' rear yard setback for stair landings in the "R-MF" District. [Ward 3]

V. Other Business

VI. Adjourn

City of Davenport
Zoning Board of Adjustment

Department: CPED
Contact Info: Scott Koops, Planner II, AICP
sek@ci.davenport.ia.us

Date
8/22/2019

Subject:
Consideration of the minutes from the 8/8/19 public hearing

ATTACHMENTS:

Type	Description
▣ Backup Material	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
City Clerk	Koops, Scott	Approved	8/12/2019 - 11:18 AM



MINUTES
City of Davenport
Zoning Board of Adjustment
August 8, 2019



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

Call to Order

Chairman Hart called the Zoning Board of Adjustment meeting in the first floor Council Chambers at City Hall, 226 W. 4th Street, Davenport, Iowa to order at 4:00 p.m.

Board Members present: Lee, Strayhall, Cochran, Quinn and Reistroffer.

Board Member excused: none.

Staff present: Rusnak, Hoyt

I. Secretary's Report:

The corrected minutes of the 7-11-2019 were approved by voice vote.

II. Old Business:

None

III. New Business:

Request HV19-09 of Robert and Pamela Danielson at 2804 Farnam Street for a hardship variance to encroach 7 feet into the required 20 foot setback from the corner side lot line for a detached garage. The property is zoned "R-4C" Single-Family and Two-Family Central Residential Zoning District.

Section 17.09.030.K.3.b of the Davenport Municipal Code reads: Where there is no alley access, and the garage or carport is located in the corner side yard and takes access from the abutting street, the garage or carport must be setback 20 feet from the corner side lot line. [Ward 5]

Request

Rusnak presented the staff report.

No comments were received.

Findings & Staff Recommendation:

Findings: (Per the analysis in the staff report)

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

Recommendation:

It is staff's opinion that the requested achieves consistency with Section 17.14.969 of the Davenport Municipal Code. Staff recommends approval of HV19-10 in accordance with submitted rendering.

Motion:

A motion to approve the request was made by Strayhall and seconded by Cochran. Motion to approve was unanimous. (5-0):

Lee, yes; Strayhall, yes; Cochran, yes; Quinn, yes; and Reistroffer, yes.

IV. Other Business

Election of Officers

Reistroffer was unanimously elected Chair and Strayhall was unanimously elected Vice Chair.

V. Adjourn

The meeting adjourned unanimously by voice vote at approximately 4:25 pm.

City of Davenport
Zoning Board of Adjustment

Department: CPED
Contact Info: Scott Koops, Planner II, AICP
sek@ci.davenport.ia.us

Date
8/22/2019

Subject:

Request HV19-11 of Ben Ziegler at 1316 Pershing Avenue for a hardship variance to encroach 1' into the side yard and 3' into the rear yard with two separate stair landings. Each stair landing would be 3' from the nearest property line. The property is zoned "R-MF" Multiple Family.

Section 17.09.040.F. and Table 17.09-1 require a 4' side yard and a 6' rear yard setback for stair landings in the "R-MF" District. [Ward 3]

Recommendation:

Approve the Request

ATTACHMENTS:

Type	Description
▣ Cover Memo	Staff Report
▣ Backup Material	Application
▣ Backup Material	Notice Letter
▣ Backup Material	Notice List
▣ Backup Material	Notice Map

REVIEWERS:

Department	Reviewer	Action	Date
City Clerk	Koops, Scott	Approved	8/12/2019 - 11:14 AM



City of Davenport
Community Planning & Economic Development Department
STAFF REPORT

ZONING BOARD OF ADJUSTMENT

Description

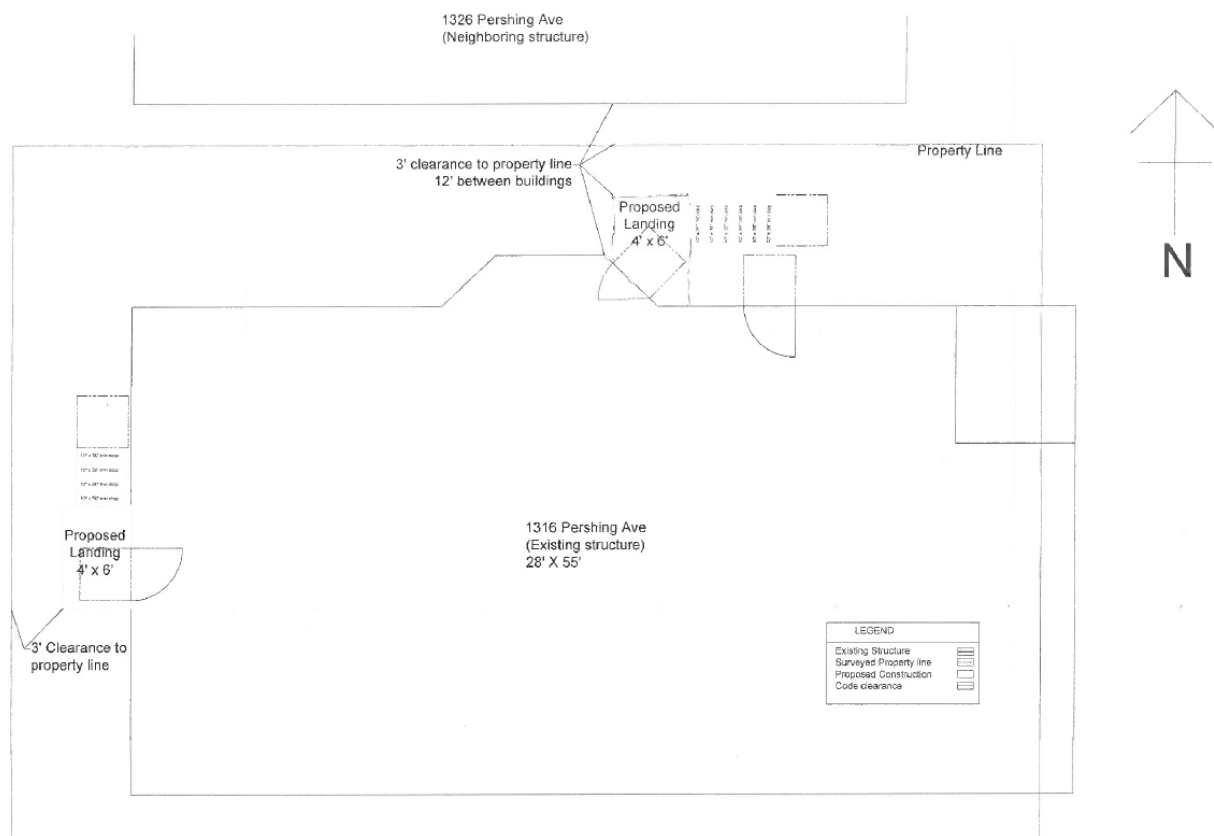
Request HV19-11 of Ben Ziegler at 1316 Pershing Avenue for a hardship variance to encroach 1' into the side yard and 3' into the rear yard with two separate stair landings. Each stair landing would be 3' from the nearest property line. The property is zoned "R-MF" Multiple Family.

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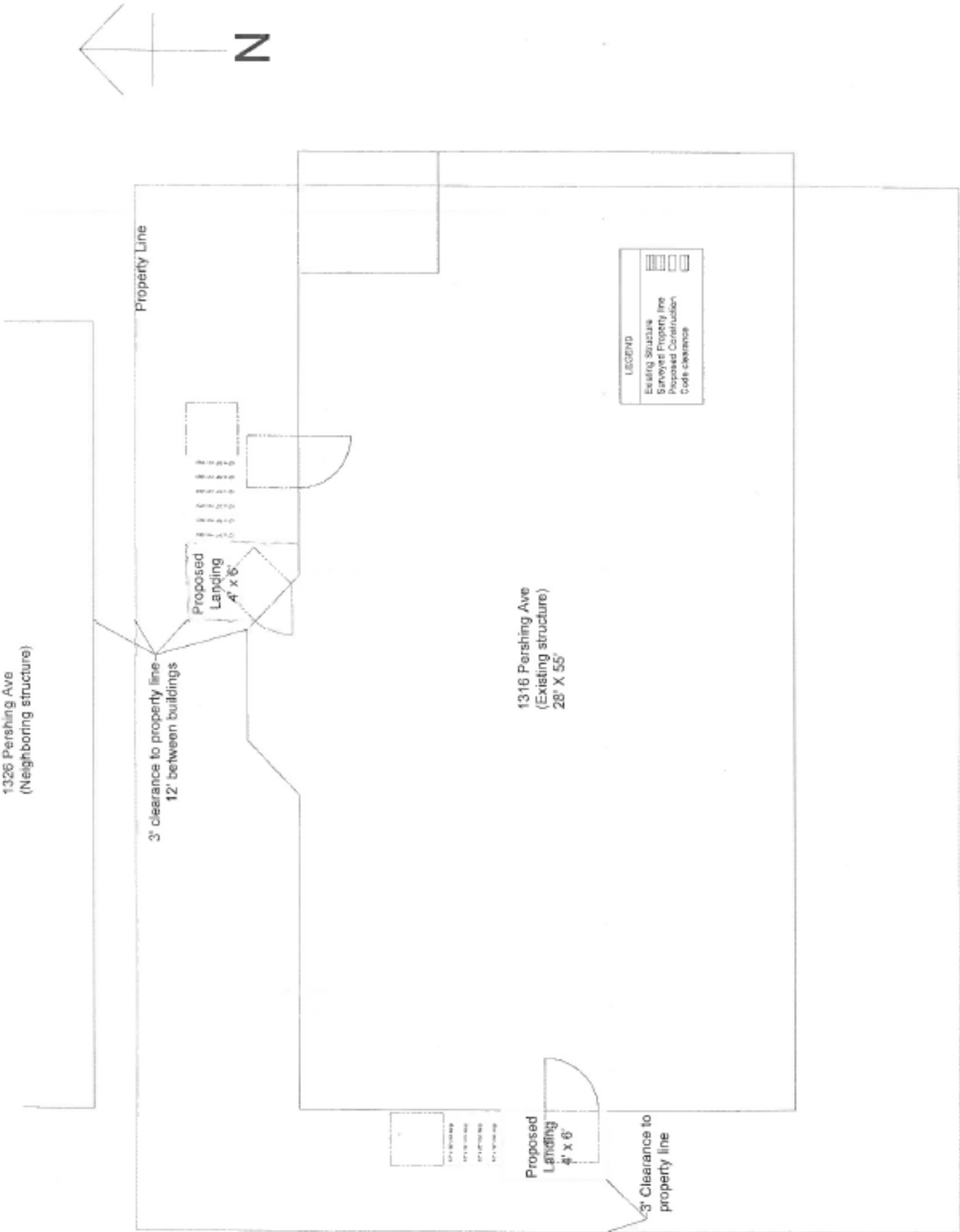
Background & Discussion

The petitioner needs to make improvements to existing access points to the subject property. New building codes which did not exist when the property was built require stair and access landings to encroach into the rear and side yard setbacks. Additionally, the setbacks for Multiple Family zoning have changed since this property was built. Without the variance, the petitioner will lose half of the dwelling units in this building.

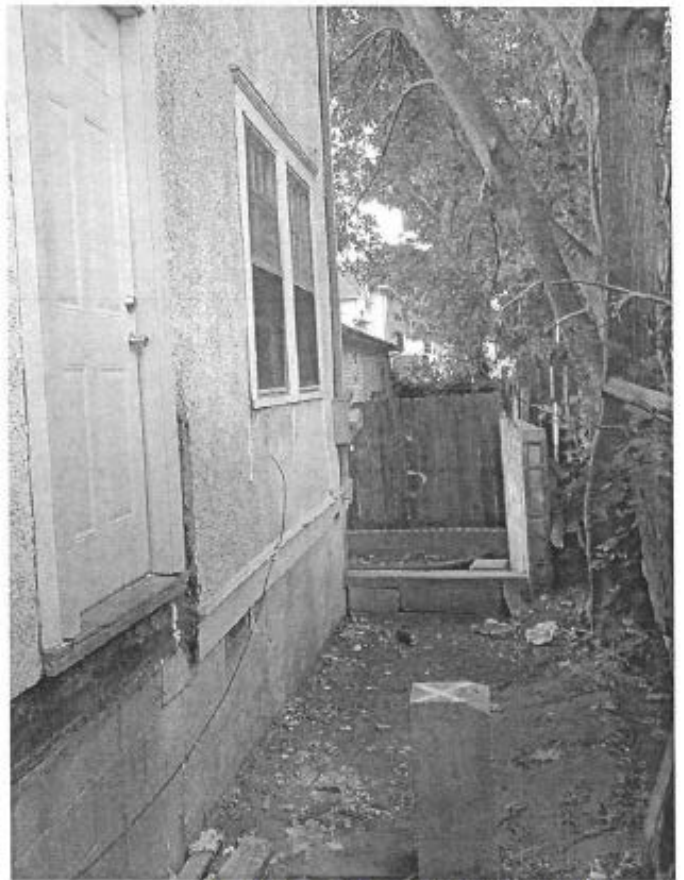
Site:



Site Plan:



Photos



West side looking south



North Side looking West

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/applicants response/staff comments)

1. Strict application of this Ordinance will result in hardship unless the specific relief requested is granted.

Applicant Response:

The building at 1316 Pershing contains four apartments, accessible from four (4) exterior doors, three (3) exterior stairs and two (2) interior stair wells.

Zoning setbacks will not allow any construction at two exterior doors, rendering them, as well as one interior stairwell and two apartments inaccessible.

International Residential Code R311.3 mandates a 36 inch platform in direction of travel for exterior exit doors.

Staff Comments:

The petitioner would like to meet the building code requirements and make the all four units livable. Without this variance the petitioner would lose the use of half of this dwelling. The petitioner has met this requirement as losing two units (out of four) would be considered a hardship.

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:

Structures at 1316 and 1326 Pershing are separated by 12 feet at the narrowest point. Setback requirements for this zone (R-MF) are not met by the lot size, and fall within the existing building. This renders a substantial portion of the building in conflict between zoning requirements and building code safety minimums. At least 50% of the building will be unusable for its current purpose.

Staff:

To meet the criteria for a hardship due to topographic conditions, the petitioner must demonstrate the following where, 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 of a specific piece of property, the strict application of any provision of this title would result in peculiar and practical difficulties and clearly demonstrable hardship upon the owner of such property, amounting to practical confiscation thereof and not a mere inconvenience to the owner. The petitioner has demonstrated such. This lot is exceptionally narrow and shallow.

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 combination of lot size, exit requirements does not exist elsewhere on this block: four other addresses along 1300 Pershing are single family residences with exits at grade. 1316 Pershing lot and apartment conversion predate our ownership of the property. Existing stairs are noncompliant, built prior to our acquisition of the property.

Staff:

Planning staff concurs that this is a unique situation due to the lot size and code changes (both building and zoning) over time.

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

Applicant Response:

The proposed construction will be of good workmanship, constructed to current building code, and will resemble in form and footprint the replaced stairs.

Staff:

The character of the area will not be changed as these landings were in place before this request. The changes will not be significant and in no case will any of the landings be closer than 3 feet from any property line.

Findings & Staff Recommendation:

Findings: (Per the analysis above)

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

Recommendation:

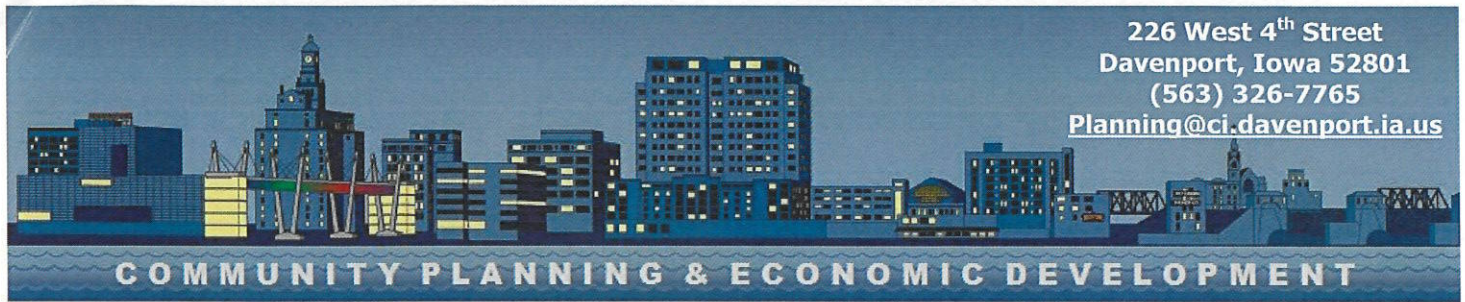
Staff recommends approval of the request as proposed.

Prepared by:



Scott Koops, AICP, Planner II

Attachments: ZBA application/plans, notice documents



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

Property Address* 1316 Pershing Ave

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

Applicant (Primary Contact)**

Name: Ben Ziegler
Company: Bag of Holding Company LLC
Address: 2945 Brady St
City/State/Zip: Davenport, IA 52803
Phone: (563) - 484 - 4358
Email: crossguy@hotmail.com

Owner (if different from Applicant)

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

Engineer (if applicable)

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

Architect (if applicable)

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

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.

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 ☐

Zoning Board of Adjustment

- Zoning Appeal ☐
Special Use ☐
Hardship Variance ☒

Design Review Board

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

Historic Preservation Commission

- Certificate of Appropriateness ☐
Landmark Nomination ☐
Demolition Request ☐

Administrative

- Administrative Exception ☐
Health Services and Congregate Living Permit ☐

Request:

Please describe the variance(s) requested:

Existing exterior stairs at north and west of building need to be repaired, but are entirely within the minimum setback for this zone.
Allow three (3') feet setback from property line for proposed structures, similar to existing stairs

Existing Zoning: R-MF

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.

The building at 1316 Pershing Avenue contains four apartments, accessible from four (4) exterior doors, (3) exterior stairs, and two (2) interior stairwells.

Zone setbacks will not allow any construction at two exterior doors, rendering them, as well as one interior stairwell and two apartments inaccessible.

International Residential Code R311.3 mandates 36" platform in direction of travel for exterior exit doors.

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.

Structures at 1316 and 1326 Pershing are separated by 12 feet at the narrowest point.

Setback requirements for this Zone (R-MF) are not met by the lot size, and fall within the existing building.

This renders a substantial portion of the building in conflict between Zoning requirements and building code safety minimums. At least 50% of the building will be unusable for its current purpose.

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

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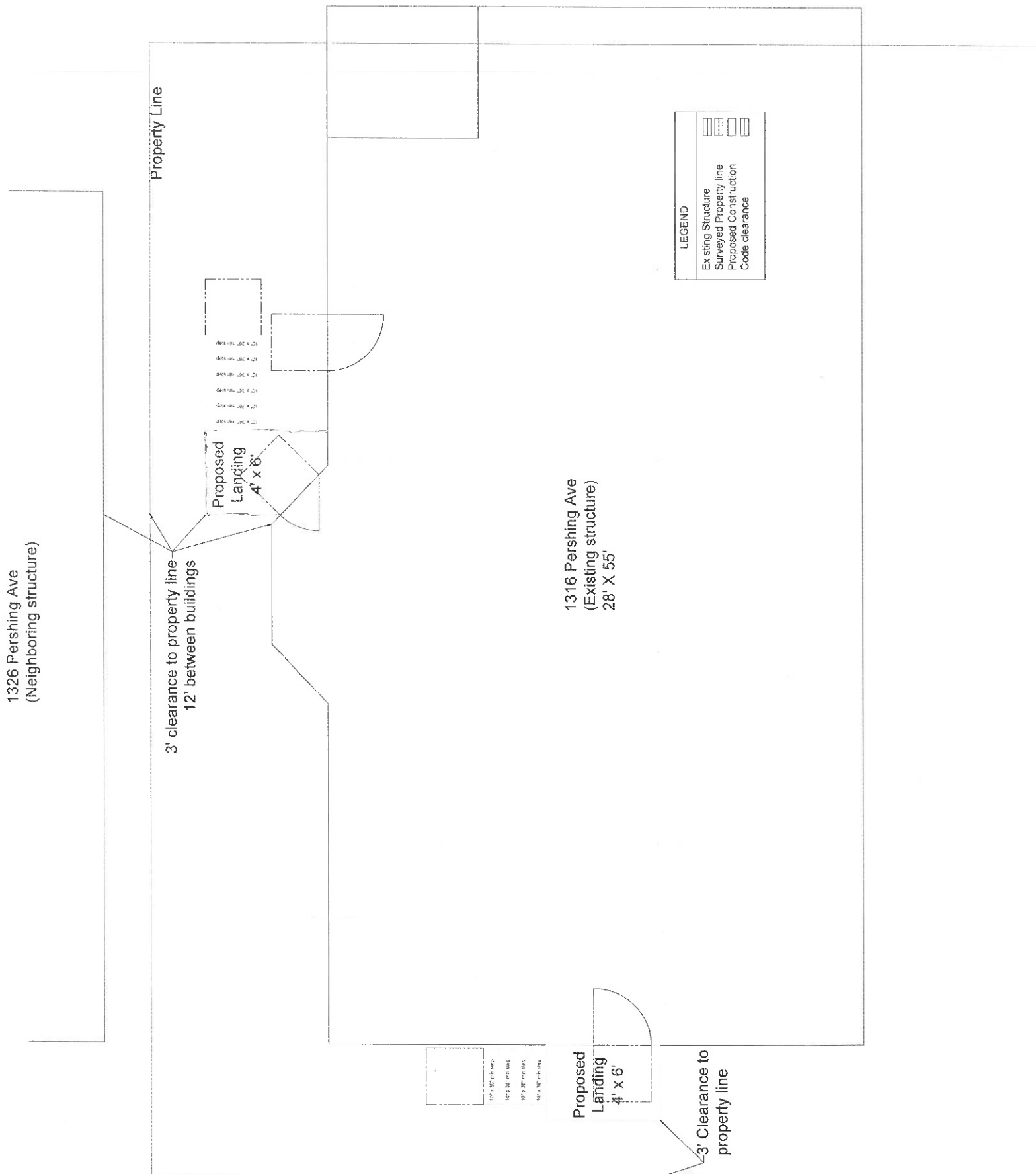
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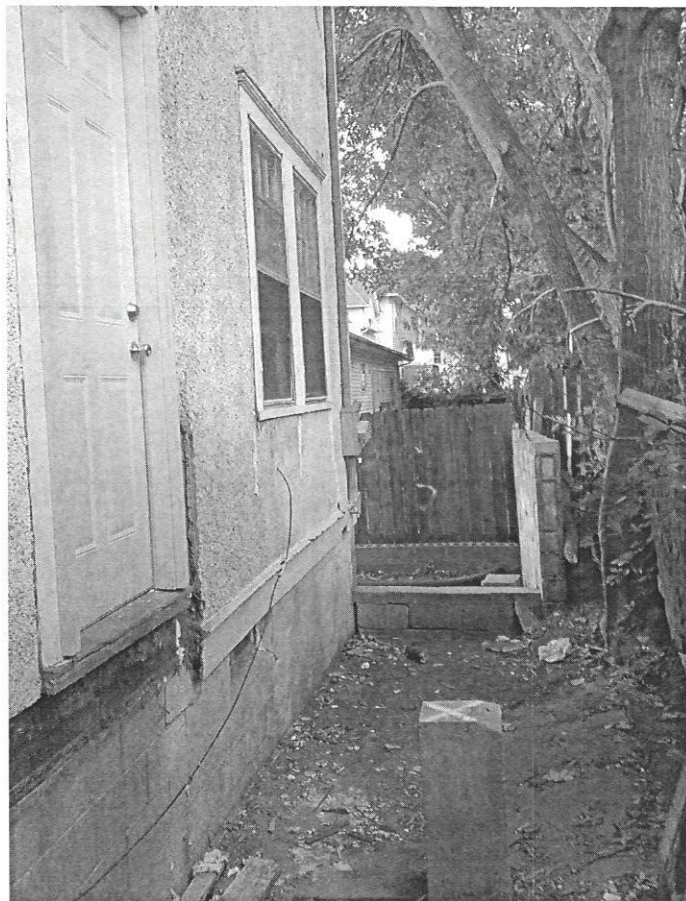
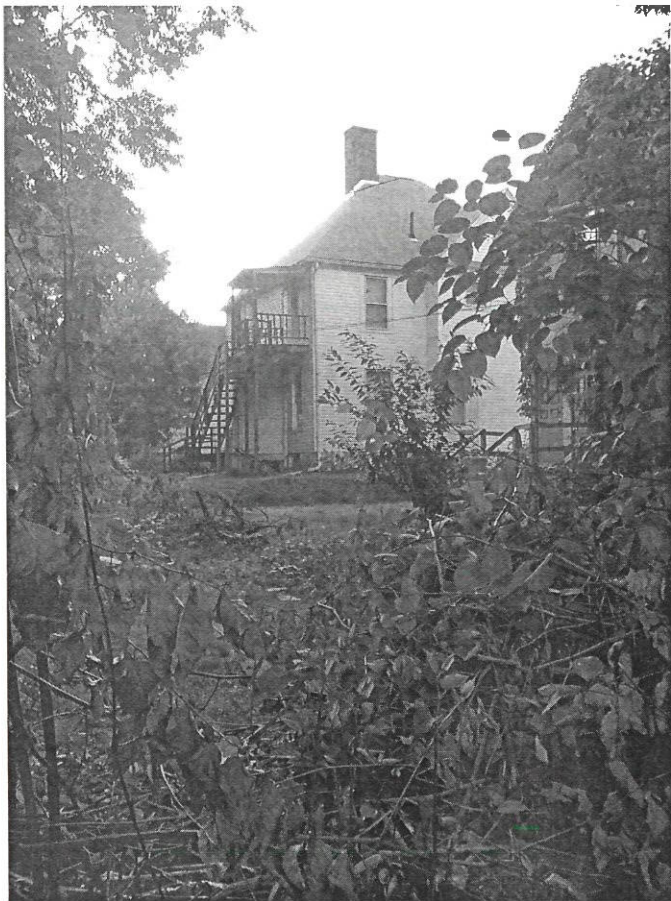
1316 Pershing Lot and apartment conversion predate our ownership of the property. Existing stairs are noncompliant, built prior to our acquisition of the property.

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The proposed construction will be of good workmanship, constructed to current building code, and will resemble in form and footprint the replaced stairs.





West side looking south



North Side looking West



**PUBLIC HEARING NOTICE
ZONING BOARD OF ADJUSTMENT
CITY OF DAVENPORT**



Public Hearing Details:

Date: 8/22/2019

Ward: **3rd Ward**

Time: 4:00 PM

Location: Council Chambers at City Hall, 226 West 4th Street Davenport, Iowa

Subject: Public hearing for a Hardship Variance before the Zoning Board of Adjustment

Case #: HV19-11

To: All property owners within 200 feet of the subject property located at **1316 Pershing Avenue**.

What is this All 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 dimension requirement of the zoning ordinance.

Request Description

Request HV19-11 of Ben Ziegler at 1316 Pershing Avenue for a hardship variance to encroach 1' into the side yard and 3' into the rear yard with two separate stair landings. Each stair landing would be 3' from the nearest property line. The property is zoned "R-MF" Multiple Family.

Section 17.09.040.F. and Table 17.09-1 require a 4' side yard and a 6' rear yard setback for stair landings in the "R-MF" District. [Ward 3]

What are the Next Steps after the Public Hearing?

For approved ZBA requests, the ruling is effective immediately. For projects requiring a Building Permit the applicant may contact the Permit office (563-326-7765) the next Business day.

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, you may have an interest in commenting on the proposed request either in writing/email or in person at the public hearing. If you intend to send in written comments, it is appreciated if those comments could be received by Community Planning no later than 12:00 PM *one day before* the public hearing. Send comments to planning@ci.davenport.ia.us or CPED, 226 W 4th St, Davenport IA 52801.

Do You Have Any Questions?

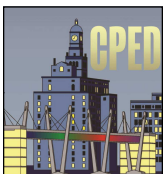
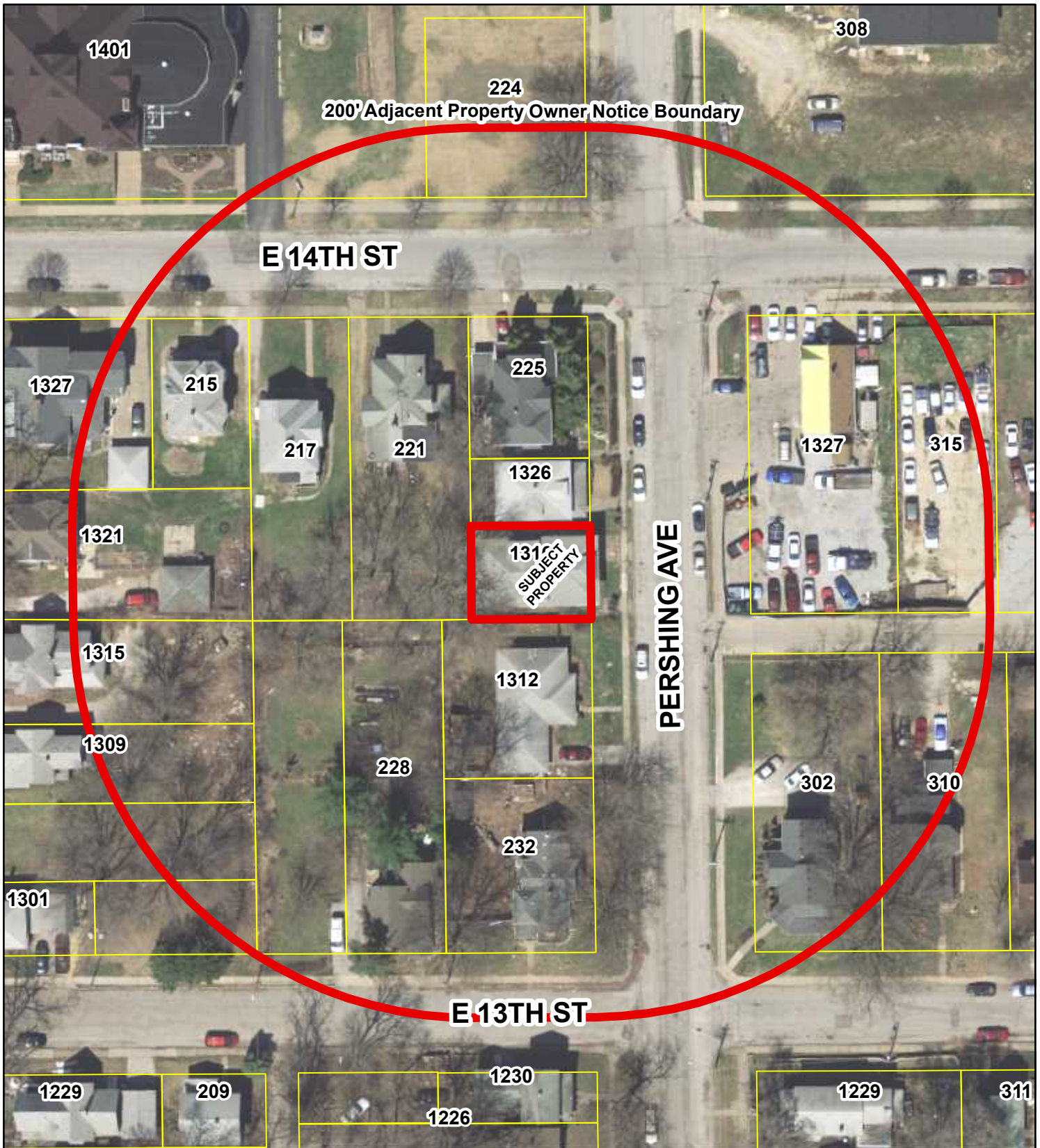
If you have any questions on this request, or if you need accommodations for any reason, please contact Scott Koops, AICP, the case planner assigned to this project at sek@ci.davenport.ia.us or 563-328-6701. Interpretive services are available at no charge. Servicios interpretativos libres estan disponibles. TTY: (563) 326-6145

Please note that items may be removed from the agenda or tabled to a future hearing date at the request of the Petitioner or Commission/Board. If you are interested in the current schedule and outcome of this case, please contact the Community Planning Office at 563-326-7765 or planning@ci.davenport.ia.us for updates.

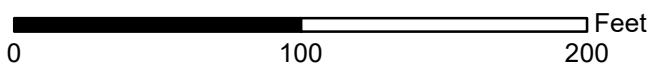
1316 Pershing - Adjacent Owner Notice List

Parcel	Property Address	Owner Name	Owner Street	Owner CityStateZip
Petitioner:	1316 PERSHING AV	BAG OF HOLDING COMPANY LLC	2945 BRADY ST	DAVENPORT IA 52803
Ward/Notices	Ward 3			20 Notices Sent
F0016-30B	1401 PERRY ST	FIRST BAPTIST CHURCH OF	1401 PERRY ST	DAVENPORT IA 52803
F0017-10		DEBBRA J BROWN		
F0017-11	228 E 13TH ST	DEBBRA J BROWN	228 E 13TH ST	DAVENPORT IA 52803
F0017-12	232 E 13TH ST	ROBERT CLAYTON	232 E 13TH ST	DAVENPORT IA 52803
F0017-21	310 E 13TH ST	OHP 1 LC	2920 HARRISON ST	DAVENPORT IA 52803
F0017-22	302 E 13TH ST	JOEL R LIMBURG	821 E 10TH ST	DAVENPORT IA 52803
F0017-23	1312 PERSHING AV	BAG OF HOLDING COMPANY LLC	2945 BRADY ST	DAVENPORT IA 52803
F0017-25	1326 PERSHING AV	DONALD K SMITH	1326 PERSHING AV	DAVENPORT IA 52803
F0017-26	225 E 14TH ST	ALVIN H PRANSCHKE	225 E 14TH ST	DAVENPORT IA 52803
F0017-27	221 E 14TH ST	D & R PROPERTY INVESTMENTS LLC	942 MARQUETTE ST	DAVENPORT IA 52803
F0017-28	217 E 14TH ST	ERNESTO RODRIGUEZ	517 VINE ST	DAVENPORT IA 52802
F0017-30A	224 E 14TH ST	FIRST BAPTIST CHURCH	1401 PERRY ST	DAVENPORT IA 52803
F0017-33A	308 E 14TH ST	MESSIAS TEMPLE	308 E 14TH ST	DAVENPORT IA 52803
F0017-43	315 E 14TH ST	TODD HUEBBE	1327 PERSHING AV	DAVENPORT IA 52803
F0017-44	1327 PERSHING AV	TODD HUEBBE		
G0024-35	215 E 14TH ST	AL-KEN LLC	PO BOX 3953	DAVENPORT IA 52808
G0024-36	1327 PERRY ST	DUDLEY INVESTMENTS LLC	2625 CRESTVIEW DR	BETTENDORF IA 52722
G0024-37	1321 PERRY ST	PRESTON W JOHNSON	1321 PERRY ST	DAVENPORT IA 52803
G0024-38	1315 PERRY ST	WONIO DEVELOPMENT LLC	308 CHESTNUT ST	ATLANTIC IA 50022
G0024-39	1309 PERRY ST	B & V PARTNERS LLC 122	2490 HEATHER GLEN AV	BETTENDORF IA 52722
G0024-40		JAGER FAMILY TRUST	3441 JERSEY RIDGE RD	DAVENPORT IA 52807
G0024-42		FUTURE CAPITAL LLC	608 W 3RD AV	MILAN IL 61264

Zoning Board of Adjustment: Adjacent Property Owner Notice Area



1 inch = 67 feet



Private parties utilizing City GIS data do so at their own risk. The City of Davenport will not be responsible for any costs or liabilities incurred due to any differences between information provided and actual physical conditions.

