

ZONING BOARD OF ADJUSTMENT MEETING

CITY OF DAVENPORT, IOWA

THURSDAY, OCTOBER 10, 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 9/26/19 public hearing.

III. Old Business

IV. New Business

A. Request HV19-16 of Thomas Lynch at 526 S Clark Street for a hardship variance to construct six foot privacy fencing along the south, east, and north property lines and to the immediate west of the dwelling.

Section 17.09.030H.2. of the Davenport Municipal Code requires a four (4) foot fence in the front yard and an open fence in the corner side yard for fences over four (4) feet. [Ward 1]

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
10/10/2019

Subject:
Consideration of the minutes from the 9/26/19 public hearing.

Recommendation:
Adopt the Minutes.

Background:

ATTACHMENTS:

Type	Description
▣ Exhibit	ZBA Minutes 9-26-19

REVIEWERS:

Department	Reviewer	Action	Date
City Clerk	Koops, Scott	Approved	10/4/2019 - 11:35 AM



MINUTES
City of Davenport
Zoning Board of Adjustment
September 26, 2019



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

Call to Order

Chairman Reistroffer 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, Cochran, Quinn and Reistroffer.

Board Member excused: Strayhall.

Staff present: Koops

I. Secretary's Report:

The minutes of the 9-12-2019 were approved by voice vote.

II. Old Business:

None

III. New Business:

Request HV19-14 of American Freight Furniture/Signs Now at 1010 E Kimberly Rd for a hardship variance to exceed the size allowance for front façade signage by 139 sq. ft. with a 269 sq. ft. front façade sign. Code allows for 130 sq. ft. of size area on the front façade as the unit has 130 linear feet of building frontage.

Section 17.12.060.I.4. states: For a structure that contains multiple tenants, each tenant with exterior business façade area is permitted a total wall sign area of one square foot per linear foot of unit frontage or 40 square feet, whichever is greater, along their individual frontages. [Ward 7]

Request

Koops presented the staff report. No comments were submitted by adjacent owners.

The petitioner provided comments supporting his application.

Findings & Staff Recommendation:

Findings: (Per the staff report analysis)

- Item #1 application of the ordinance creating hardship has not been established;
- Item #2 physical and topographical conditions of the site does not limit the use;
- Item #3 unique circumstance has not been established; and
- Item #4 protection of essential character has not have been established;

Recommendation:

Staff recommends denial of the request as the application does not meet approval standards for a hardship variance.

Motion:

A motion to approve the request was made by Quinn and seconded by Lee. Motion to approve was unanimous. (4-0):

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

IV. Other Business

None.

V. Adjourn

The meeting adjourned unanimously by voice vote at approximately 4:20 pm.

City of Davenport
Zoning Board of Adjustment

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

Date
10/10/2019

Subject:

Request HV19-16 of Thomas Lynch at 526 S Clark Street for a hardship variance to construct six foot privacy fencing along the south, east, and north property lines and to the immediate west of the dwelling.

Section 17.09.030H.2. of the Davenport Municipal Code requires a four (4) foot fence in the front yard and an open fence in the corner side yard for fences over four (4) feet. [Ward 1]

Recommendation:

Findings: (Per the analysis above)

- Item #1 application of the ordinance creating hardship has not been established;
- Item #2 physical and topographical conditions of the site does not limit the use;
- Item #3 unique circumstance has not been established;
- Item #4 protection of essential character may not have been established;

Recommendation:

Staff recommends denial of the request as the application does not meet approval standards for a hardship variance.

Background:

The petitioner has submitted a site plan showing a proposed solid privacy fence at the property

line in this R-4C single-family area. A six foot tall privacy fence at the property line would create a fortress-like effect which would impact the character of the neighborhood.

Considerations in Granting a Hardship Variance

When a subject property, 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 the zoning code 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 board may authorize, after public hearing, a variance in the strict application of the terms of the zoning code. In its consideration of standards of practical difficulties or particular hardship, the board shall require evidence as stipulated in Section 17.14.060 below.

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 only location available for a fence would be the front of the yard on the East side. If we followed the ordinance of only a four foot fence, it would only cover part of the structure.

Staff Comments:

The petitioner can build a fence in the front and corner side yard, however the petitioner wishes to build at a height and style not allowed by the zoning code. Proof that the granting of hardship variance would provide relief from unforeseen applications of zone code, which has created practical difficulties or particular hardships, has not been demonstrated or submitted with this application. This is a self-created hardship. The desire to have a fence other than that allowed by code is not evidence of 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:

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 ordinance prevents us from having a six foot privacy fence in our only useable yard space.

Staff:

The topography of the lot is flat and does not limit the use of the property. No physical characteristics of the property pose a hardship. A fence can be located in the area requested, but not at the height and style desired. The request is a convenience to the petitioner.

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 structure was built in 1926 and lies on the West side of the property, whereas all other structures in the area lie on the East side of their property.

Staff:

The dwelling is located closer to the alley than other homes on this street, as it was when the property was purchased by the petitioner. The zoning code in and of itself does not create a hardship.

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

Applicant Response:

A six foot fence would not fall within the visibility triangle at the intersection. The fence would be appealing and raise property value.

Staff:

The character of the area will be altered by the fortress-like effect a solid six (6) foot tall privacy fence would have at the property line.

ATTACHMENTS:

Type	Description
▢ Executive Summary	Staff Report
▢ Exhibit	Application
▢ Exhibit	Notice List

▣ Exhibit

Notice Letter & Map

REVIEWERS:

Department	Reviewer	Action	Date
City Clerk	Koops, Scott	Approved	10/4/2019 - 11:43 AM



ZONING BOARD OF ADJUSTMENT

Description

Request HV19-16 of Thomas Lynch at 526 S Clark Street for a hardship variance to construct six foot privacy fencing along the south, east, and north property lines and to the immediate west of the dwelling.

Section 17.09.030H.2. of the Davenport Municipal Code requires a four (4) foot fence in the front yard and an open fence in the corner side yard for fences over four (4) feet. [Ward 1]

Background & Discussion

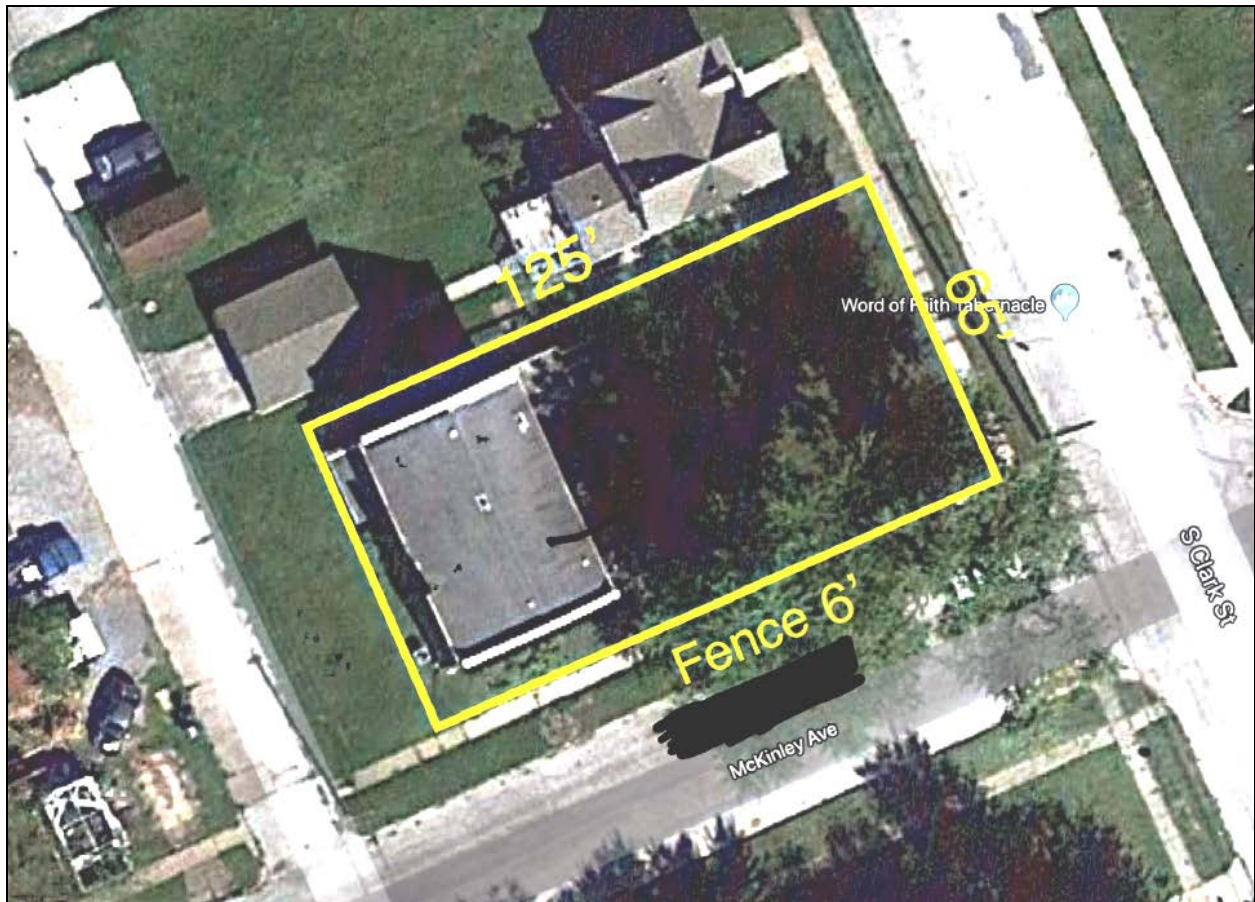
The petitioner has submitted a site plan showing a proposed solid privacy fence at the property line in this R-4C single-family area. A six foot tall privacy fence at the property line would create a fortress-like effect which would impact the character of the neighborhood.

Corrected Fence Plan (fence in BROWN, vision triangle in RED):



Petitioner Site Plan:

NOTE: THE PETITIONER'S APPLICATION STATES THAT THE FENCE WILL BE BUILT TO THE FRONT PROPERTY LINES. THIS PLAN SHOWS THE FENCE ON PUBLIC ROW. The above plan showing the fence completely on private property is where the fence will be located. Staff has confirmed this with the petitioner.



Considerations in Granting a Hardship Variance

When a subject property, 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 the zoning code 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 board may authorize, after public hearing, a variance in the strict application of the terms of the zoning code. In its consideration of standards of practical difficulties or particular hardship, the board shall require evidence as stipulated in Section 17.14.060 below.

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- Item #3 unique circumstance has not been established;
- Item #4 protection of essential character may not have been established;

Recommendation:

Staff recommends denial of the request as the application does not meet approval standards for a hardship variance.

Prepared by:



Scott Koops, AICP, Planner II

Attachments: ZBA application/plans, notice documents

Staff Submittal: Conceptual Images of what the fence might look like (approximately to scale).

East Elevation



South Elevation





226 West 4th Street
Davenport, Iowa 52801
(563) 326-7765
Planning@ci.davenport.ia.us

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

Property Address* **526 S Clark St**

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

Applicant (Primary Contact)**

Application Form Type:

Name: Thomas Lynch
Company:
Address: 118 Colony Dr.
City/State/Zip: Davenport, IA 52806
Phone:
Email: 563-320-7711

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

Thomas@lynchheatingandplumbing.com

Owner (if different from Applicant)

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

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

Engineer (if applicable)

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

Historic Preservation Commission
Certificate of Appropriateness
Landmark Nomination
Demolition Request

Architect (if applicable)

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

Administrative
Administrative Exception
Health Services and Congregate
Living Permit

Attorney (if applicable)

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

Request:

Please describe the variance(s) requested:

The relief we are looking for is being able to build a six foot fence from the front building line to the front property line.

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 only location available for a fence would be the front of the yard on the East side.

If we followed the ordinance of only a four foot fence, it would only cover part of the structure.

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.

The ordinance prevents us from having a six foot privacy fence in our only usable yard space.

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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 structure was built in 1926 and lies on the West side of the property, whereas all other structures in the area lie on the East side of their property.

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.

A six foot fence would not fall within the visibility triangle at the intersection. The fence would be appealing and raise property value.

Applicant: Thomas Lynch

Date: 9/16/2019

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

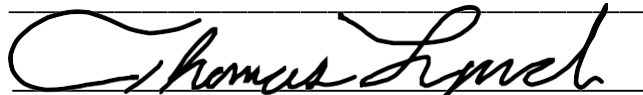
Date:

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

A handwritten signature in black ink, reading "Thomas Lynch", is written over a horizontal line.

Signature(s)*

*Please note: original signature(s) required.

ZBA Calendar 2019

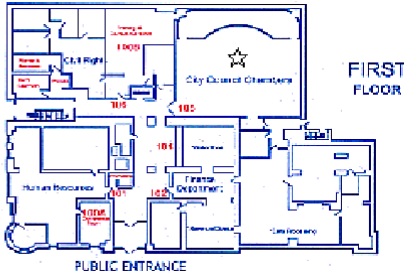
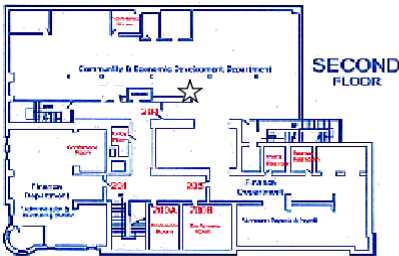
ZONING BOARD OF ADJUSTMENT

*** The Applicant or their representative MUST be at the Meeting/Public Hearing ***

Day:	Monday (5pm)	Thursday (4pm)
Activity:	Submittal	Meeting
Date:	12/17/18	01/10/19
	12/31/18	01/24/19
	01/22/19*	02/14/19
	02/04/19	02/28/19
	02/19/19*	03/14/19
	03/04/19	03/28/19
	03/18/19	04/11/19
	04/01/19	04/25/19
	04/15/19	05/09/19
	04/29/19	05/23/19
	05/20/19	06/13/19
	06/03/19	06/27/19
	06/17/19	07/11/19
	07/01/19	07/25/19
	07/15/19	08/08/19
	07/29/19	08/22/19
	08/19/19	09/12/19
	09/03/19*	09/26/19
	09/16/19	10/10/19
	09/30/19	10/24/19
	10/21/19	11/14/19
	No Meeting	No Meeting (Thanksgiving)
	11/18/19	12/12/19
	No Meeting	No Meeting (Christmas)
	12/16/19	01/09/20
	12/30/19	01/23/20

*Date changed due to Holiday Location/Time subject to change
 Contact planning@ci.davenport.ia.us to confirm meeting date/time/location

Application Due:	Meeting Appearance (Required):
Time: 5:00 PM	4:00 PM
Location: Community Planning Second Floor, City Hall (see below)	City Council Chambers First Floor, City Hall (see below)



City Hall is located at 226 W 4th St, Davenport IA 52801

2019

January							February								
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March							April								
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November							December								
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24	25	26	27	28	29	30	29	30	31						

526 S Clark St - Adjacent Owner Notice List

Parcel	Property Address	Owner Name	Owner Street	Owner CityStateZip
Petitioner:	118 COLONY DR	LYNCH THOMAS	118 COLONY DR	DAVENPORT IA 52806
Ward/Notices	Ward 1	Notices Sent: 27	3245 E 35TH ST CT	
J0037-09	511 S CLARK ST	GORDON DENNIS	511 S CLARK ST	DAVENPORT IA 52802
J0037-10	517 S CLARK ST	OSBORN TERESA M	517 S CLARK ST	DAVENPORT IA 52802
J0037-11	523 S CLARK ST	FULLER PHILLIP A	523 S CLARK ST	DAVENPORT IA 52802
J0037-12		JOE CETANYAN LIVING TRUST	5567 JOSHUA ST	BETTENDORF IA 52722
J0036-27		DONCO RENTAL LLC	1153 OAK DR	COLONA IL 61241
J0036-28		HIYO HOLDINGS LLC	191 UNIVERSITY BLVD #124	DENVER CO 80206-4613
J0036-29	502 S CLARK ST	ROSILES LUIS M	502 S CLARK ST	DAVENPORT IA 52802
J0044-03	2929 MCKINLEY AV	LEMBURG RANDOLPH S	2929 MCKINLEY AV	DAVENPORT IA 52802
J0044-03	2929 MCKINLEY AV	LEMBURG CARMEN	2929 MCKINLEY AV	DAVENPORT IA 52802
J0044-04	613 S DITTMER ST	MAYNARD JESSICA	613 S DITTMER ST	DAVENPORT IA 52802
J0045-32	520 S CLARK ST	MURILLO MARCO	520 S CLARK ST	DAVENPORT IA 52802
J0045-33		NORSE SERIES LLC SERIES B	2310 JERSEY RIDGE RD	DAVENPORT IA 52803
J0044-01		FIRST FINANCIAL GROUP LC	1987 SPRUCE HILLS DR	BETTENDORF IA 52722
J0044-02		WILLIAM G SCHAEFFER REV TRUST	15763 106TH AV	DAVENPORT IA 52804
J0044-11		JOHNSON MONTE	2020 GRAND AV	DAVENPORT IA 52803
J0044-12	608 S CLARK ST	ANDERSON SUSAN J	608 S CLARK ST	DAVENPORT IA 52802
J0044-13	602 S CLARK ST	SPEETZEN RAQUEL S	602 S CLARK ST	DAVENPORT IA 52802
J0045-27	511 S DITTMER ST	HERNANDEZ STEVEN A JR	511 S DITTMER ST	DAVENPORT IA 52802
J0045-28	517 S DITTMER ST	KARR DENNIS E	517 S DITTMER ST	DAVENPORT IA 52803
J0045-28	2920 HARRISON ST	TRITON INVESTMENTS LTD	2920 HARRISON ST	DAVENPORT IA 52803
J0045-29	521 S DITTMER ST	ERICKSON DAVID C	521 S DITTMER ST	DAVENPORT IA 52802
J0045-30	527 S DITTMER ST	MARBURY KELLY	527 S DITTMER ST	DAVENPORT IA 52802
J0045-31A		COOK FUNDS SEVENTY-FIVE LLC	P O BOX 869	BETTENDORF IA 52722
J0044-14	603 S CLARK ST	STICKEL VICKIE J	603 S CLARK ST	DAVENPORT IA 52802
J0044-15	605 S CLARK ST	BLUMER JERRY D	605 S CLARK ST	DAVENPORT IA 52802
J0044-16	611 S CLARK ST	SOLIS ANGELICA M	611 S CLARK ST	DAVENPORT IA 52802
J0037-08		POTTER INVESTMENTS LLC	801 IOWA DR	LE CLAIRE IA 52753



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



Public Hearing Details:

Date: 10/10/2019
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 #: HV19-16

Ward: **1st Ward**

To: All property owners within 200 feet of the subject property located at **526 S Clark Street**.

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 HV19-16 of Thomas Lynch at 526 S Clark Street for a hardship variance to construct six foot privacy fencing along the south, east, and north property lines and to the immediate west of the dwelling.

Section 17.09.030H.2. of the Davenport Municipal Code requires a four (4) foot fence in the front yard and an open fence in the corner side yard for fences over four (4) feet. [Ward 1]

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?

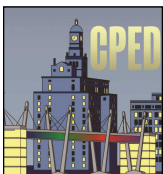
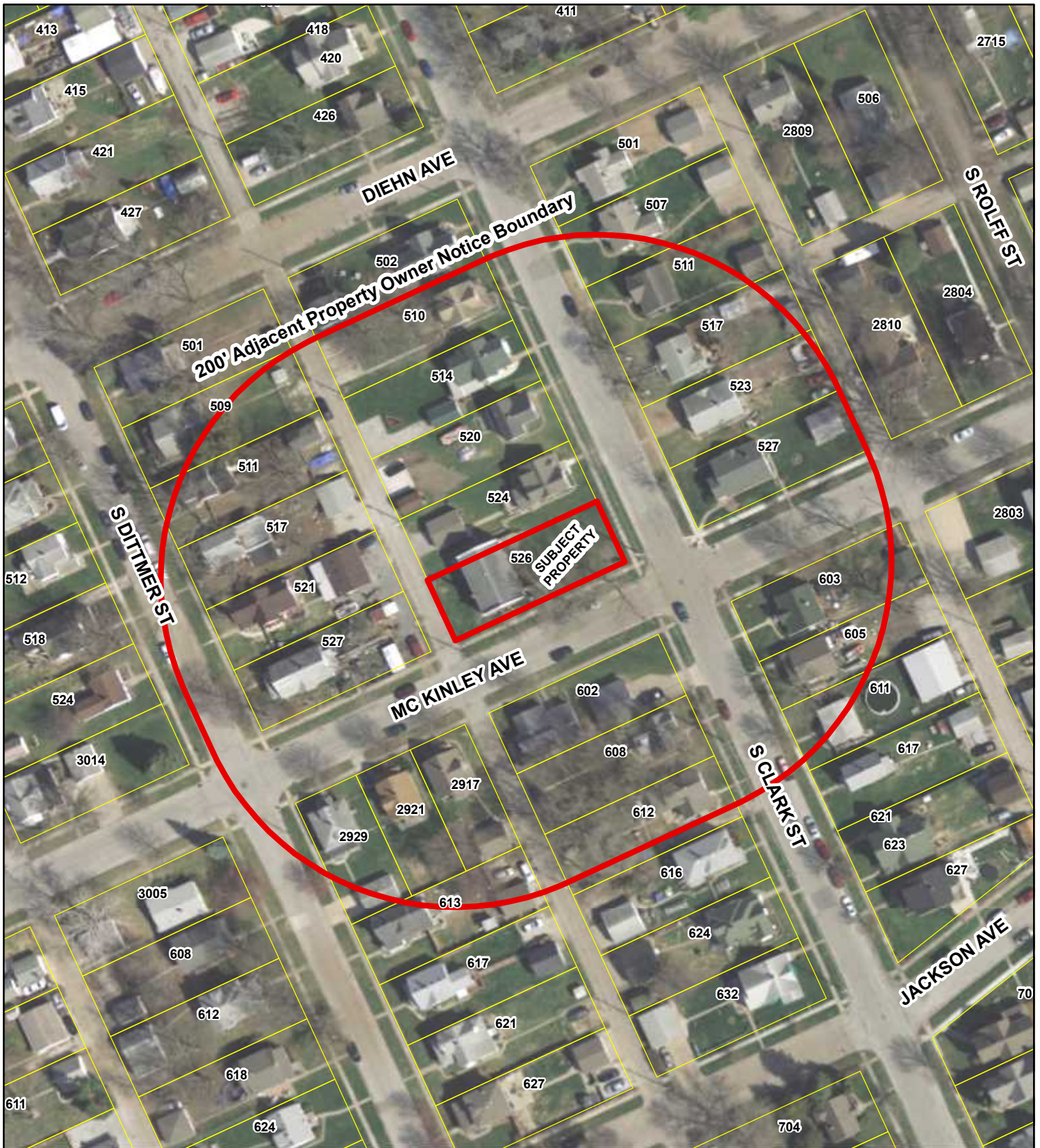
As a neighboring property owner, you may have an interest in commenting on the proposed request either in writing/email or in person at the public hearing. If you intend to send in written comments, it is appreciated if those comments could be received by Community Planning no later than 12:00 PM *one 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?

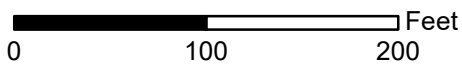
If you have any questions on this request, or if you need accommodations for any reason, please contact Scott Koops, AICP, the case planner assigned to this project at sek@ci.davenport.ia.us or 563-328-6701. Interpretive services are available at no charge. Servicios interpretativos libres estan disponibles.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

Zoning Board of Adjustment: Adjacent Property Owner Notice Area



1 inch = 100 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.

