

ZONING BOARD OF ADJUSTMENT MEETING

CITY OF DAVENPORT, IOWA

THURSDAY, OCTOBER 12, 2017; 4:00 PM

COUNCIL CHAMBERS 226 WEST 4TH STREET DAVENPORT, IOWA 52801

I. Secretary's Report

A. Zoning Board of Adjustment Meeting Minutes

II. Old Business

III. New Business

- A. Request HV17-11 of Tyler Edwards on behalf of Menard Self Storage Inc at 110 West 53rd Street for a Hardship Variance to exceed the allowed fence height of 8 feet (by 6 feet) with a 14-foot tall fence to be located within the front yard setback. The property is zoned "PDD" Planned Development District.

Section 17.42.090.B.1 of the Davenport Municipal Code requires fences constructed within front, side, or rear yard setbacks to be 8 feet in height or less. Within the buildable portion of a lot, fences may be constructed to a height exceeding 8 feet.

IV. Other Business

V. Adjourn

City of Davenport
Zoning Board of Adjustment

Department: Community Planning & Economic Development
Contact Info: Matt Flynn 326-2286

Date
10/12/2017

Subject:
Zoning Board of Adjustment Meeting Minutes

Recommendation:
ZBA Minutes 9-28-17 attached for Approval.

ATTACHMENTS:

Type	Description
 Exhibit	ZBA Minutes 9-28-17

REVIEWERS:

Department	Reviewer	Action	Date
City Clerk	Koops, Scott	Approved	10/4/2017 - 9:02 AM



MINUTES
City of Davenport
Zoning Board of Adjustment
August 24, 2017



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, Woodard, and Reistroffer

Board Member excused: Strayhall and Hart

Staff present: Scott Koops

I. Secretary's Report:

Consideration of the minutes from the September 14, 2017 meeting.

Motion:

Motion by Lee, seconded by Woodard, to approve the minutes as presented carried unanimously.

II. Old Business:

Request HOP17-02 of Azra Vallejo at 1312 West 41st Street for a Home Occupation Permit for a hair salon. The property is zoned "R-3" Moderate Density Dwelling District.

Section 17.48.010(S)(11)(e) of the Davenport Municipal Code authorizes the Zoning Board of Adjustment to grant by special permit (Home Occupation Permit) the establishment of certain uses including but not limited to the shop of a beautician or barber.

Koops presented the staff report.

Recommendation and Findings of Fact

The requirements for a home occupation permit have been met as conditioned. Staff recommends the permit be granted subject to the following conditions:

1. the permit be valid for a period of one year from the date of issuance;
2. renewal be based in part upon complaints and/or comments from area property owners;
3. petitioner operate on an appointment only basis;
4. off-street parking (i.e. the driveway) shall be used for client parking, and;
5. hours and days of operation shall be by appointments only every other weekend 9:00am to 6:00pm; and Tuesdays 10:00 AM to 6:00 PM.

The petitioner spoke before the Board and reiterated her request for a one chair hair salon to operate with only one appointment/client at a time.

No one spoke in favor or in opposition to the request.

Motion:

Motion by Woodard, second by Lee to approve HOP17-02 per the following conditions:

1. the permit be valid for a period of one year from the date of issuance;
2. renewal be based in part upon complaints and/or comments from area property owners;
3. petitioner operate on an appointment only basis;
4. off-street parking (i.e. the driveway) shall be used for client parking, and;
5. hours and days of operation shall be by appointments only every other weekend 9:00am to 6:00pm; and Tuesdays 10:00 AM to 6:00 PM.

Motion was carried unanimously by a vote of 3-0.

Lee, yea; Woodard, yes; and Reistroffer yes.

III. New Business:

None.

IV. Adjourn

Lee moved to adjourn the meeting. Woodard seconded the motion and it carried unanimously by voice vote.

City of Davenport
Zoning Board of Adjustment

Department: Community Planning & Economic Development
Contact Info: Matt Flynn 326-2286

Date
10/12/2017

Subject:

Request HV17-11 of Tyler Edwards on behalf of Menard Self Storage Inc at 110 West 53rd Street for a Hardship Variance to exceed the allowed fence height of 8 feet (by 6 feet) with a 14-foot tall fence to be located within the front yard setback. The property is zoned "PDD" Planned Development District.

Section 17.42.090.B.1 of the Davenport Municipal Code requires fences constructed within front, side, or rear yard setbacks to be 8 feet in height or less. Within the buildable portion of a lot, fences may be constructed to a height exceeding 8 feet.

ATTACHMENTS:

Type	Description
▣ Executive Summary	HV17-11 Menard STAFF REPORT
▣ Backup Material	Background HV17-11 Menard

REVIEWERS:

Department	Reviewer	Action	Date
City Clerk	Koops, Scott	Approved	10/4/2017 - 8:56 AM



City of Davenport
Community Planning & Economic Development Department
STAFF REPORT

ZONING BOARD OF ADJUSTMENT

Meeting Date: October 12, 2017
Applicant: Tyler Edwards on behalf of Menard Self Storage Inc
Address: 110 West 53rd Street

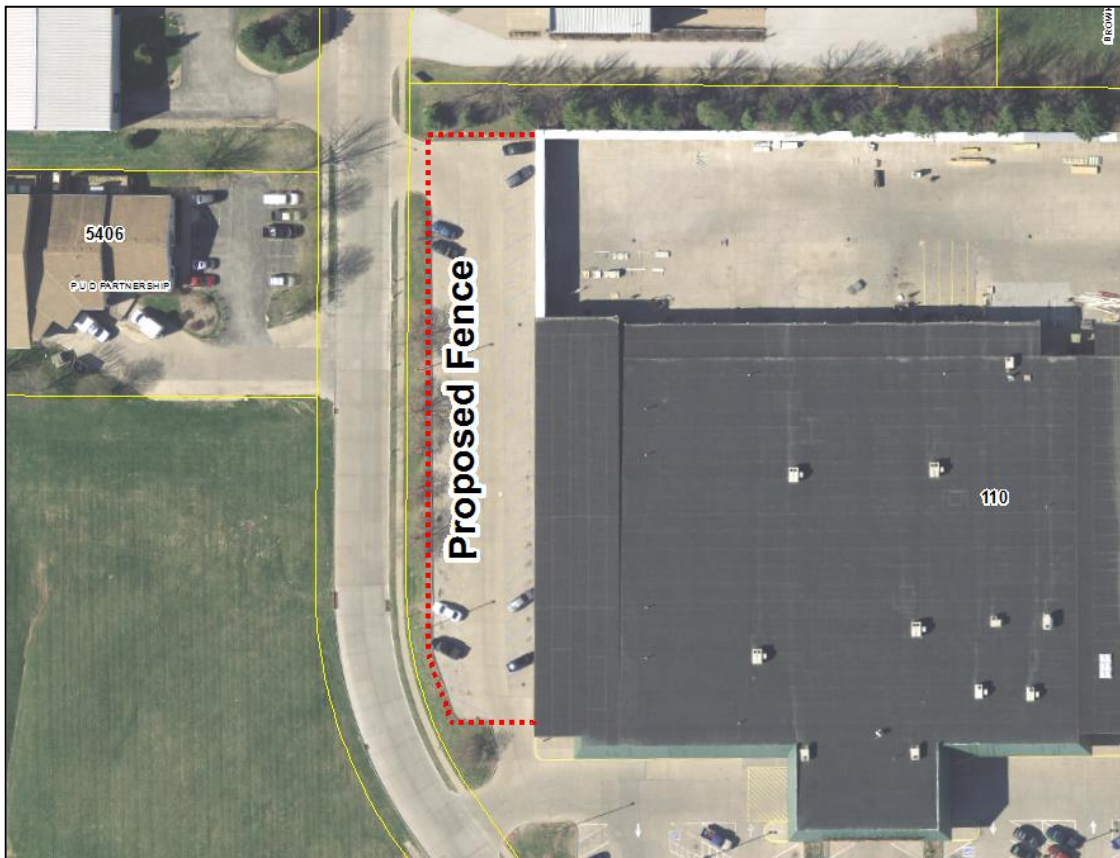
Description

Request HV17-11 of Tyler Edwards on behalf of Menard Self Storage Inc at 110 West 53rd Street for a Hardship Variance to exceed the allowed fence height of 8 feet (by 6 feet) with a 14-foot tall fence to be located within the front yard setback. The property is zoned "PDD" Planned Development District.

Section 17.42.090.B.1 of the Davenport Municipal Code requires fences constructed within front, side, or rear yard setbacks to be 8 feet in height or less. Within the buildable portion of a lot, fences may be constructed to a height exceeding 8 feet.

Background

Menard Inc., in this area zoned for industrial/commercial uses, has an existing 14' fence that they are proposing to extend into the secondary front yard and be located as shown below:



Discussion

The subject property is zoned "PDD" which allows for a 14' fence if setback 25 feet from the front property line. As this lot is a corner lot, it has two front yard setbacks. If the petitioner were to build the fence per code, the fence would cut through the middle of the west side parking area. To preserve the whole paved area the petitioner has proposed to place the fence along the curb of the existing parking area.

Analysis (code requirement/staff comments)

1. The property cannot yield a reasonable return under conditions allowed by the regulations:

While the property could be used as it is today, the code does result in the split in half the useable area of this existing paved lot. However, a reasonable return should not be denied if this request were to fail.

2. The plight of the owner is due to unique circumstances not applied to adjoining property:

It is staff's opinion that the plight of the owner is due to unique circumstances due to the reuse of this property as a self-storage business.

3. The variation, if granted, will not alter the essential character of the locality:

This area is an industrial area and an existing 14' fence already exists on site. Staff believes that the proposed fence would not alter the essential character of the locality.

4. The variation will not impair an adequate supply of light & air to adjacent property:

Due to the location of the proposed fence availability of light and air to adjacent property would not be affected.

5. The variation will not unduly increase congestion in public streets:

Installation of the proposed fence would not increase congestion in the public streets.

6. The variation will not increase the danger of fire or endanger the public safety:

If built to Building Code requirements the installation of the proposed fence would not increase the danger of fire or endanger the public safety.

7. The variation will not unreasonably impair established property values within the surrounding area:

Installation of a 14-foot high fence would not unreasonably impair established property values within the surrounding area.

8. The variation will not impair public health, safety, comfort, morals or welfare of the inhabitants of the City:

The installation of the proposed fence would not impair public health, safety, comfort, morals or welfare of the inhabitants of the City.

Public Input

Notices were sent to property owners within 200 feet of the subject property. To date, staff has not received any calls or letters regarding the request.

Staff Recommendation:

Staff cannot recommend approval of the request. Item #1 reasonable return has not been met.

Prepared by:

Scott Koops, AICP
Planner II



Attachments: Application, Hearing Notice, Map and Notification List



September 8, 2017

Dear Mr. Flynn,

Menard, Inc. is requesting a setback variance to allow a new fence on the west side of the Menard Self Storage facility on W 53rd Street. Since we first opened the facility it has been successful and even expanded once not too long ago. This request would allow Menards to incorporate all of the empty parking area left on the west side of the building into the fenced in area. The change won't have a dramatic effect on the property but it will remove an area that serves no purpose and tends to be ignored. The request is based more on common sense and practicality than anything else.

The setback requirement along a public right of way is 25 feet from the right of way. That makes good sense on most roads that have high public use or pedestrian activity. In this case the road to our west is not really the front yard and only serves a handful of industrial users and there is no pedestrian activity along the sidewalk next to the proposed fence. The variance is being requested because meeting the 25 foot setback would mean the fence would go through the paved parking area. It would be unattractive to have 15 feet of parking area exposed while the rest of it is enclosed in the fence. On the attached exhibit I marked where the fence would need to go if it met the 25 foot setback with a red line. It also does not make sense to remove that pavement because the hope is this building does eventually sell and a future user may need that area for parking. Anything less than the 60 foot wide parking area that is there today would not be a usable parking area to a future user. The most logical solution is to add all of that parking lot area into the fence enclosure to keep things looking nice and neat.

The proposed fence would match the existing 14 foot tall treated wood fence and be placed at the back of the existing curb line. That puts the fence 30 feet from the road and 12 feet from the sidewalk. That is not so close that it would be overbearing or unattractive to anyone using that street or sidewalk. The existing mature landscaping would remain in place as part of the natural buffer between the road and the Menards lot. I understand the big question is always "why can't the ordinance be met without a variance" in this case it makes sense to grant the variance because it looks better as proposed to enclose all of the paved surface area.

We appreciate your consideration of this request and if there are any questions please let me know.

Sincerely,
Menard, Inc.

A handwritten signature in black ink, appearing to read "Tyler Edwards".

Tyler Edwards

Real Estate Representative

Menard, Inc. 5101 Menard Drive Eau Claire, WI 54703
O: 715.876.2143 C: 715.579.6699 tedwards@menard-inc.com



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

Property Address* 110 W 53rd Street

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

Applicant (Primary Contact)**

Name: Menard, Inc. - Tyler Edwards
Company: Menard, Inc.
Address: 5101 Menard Drive
City/State/Zip: Eau Claire, WI 54703
Phone: 715-876-2143
Email: tedwards@menard-inc.com

Application Form Type:

Plan and Zoning Commission

- Rezoning (Zoning Map Amendment) ☐
Zoning Ordinance Text Amendment ☐
Right-of-way or Easement Vacation ☐
Final Development Plan ☐
Voluntary Annexation ☐
Subdivision ☐

Owner (if different from Applicant)

Name: Same As Above
Company:
Address:
City/State/Zip:
Phone:
Email:

Zoning Board of Adjustment

- Appeal from an Administrative Decision ☐
Special Use Permit - New Cell Tower ☐
Home Occupation Permit ☐
Special Exception ☐
Special Use Permit ☐
Hardship Variance ☒

Engineer (if applicable)

Name: N/A
Company:
Address:
City/State/Zip:
Phone:
Email: tedwards@menard-inc.com

Design Review Board

- Certificate of Design Approval ☐
Demolition Request in the Downtown ☐

Architect (if applicable)

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

Historic Preservation Commission

- Certificate of Appropriateness ☐
Landmark Nomination ☐
Demolition Request ☐

Administrative

- Floodplain Development ☐
Cell Tower Co-Location ☐
Identification Signs ☐
Site Plan ☐

Attorney (if applicable)

Name: N/A
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.**

Request:

Please describe the variance(s) requested:

Menard, Inc. runs the self storage facility at the former Menards store at E 53rd St and Brady St. The facility has seen success in the storage business and was recently expanded to accommodate the increased demand. The ideal situation would be for this building to be sold to someone else .but no reasonable offers have been submitted. With the last expansion what was formally the team member parking on the west side of the building was left untouched. Menards would like to enclose that parking area with the same 14 ft tall wooden fence that surrounds the rest of the yard. The ordinance requires a 25 ft setback from the right of way and Menards is requesting that is reduced to 12 ft so the fence can be placed on the back of the existing curb line. This will allow the landscaping to stay in place and the parking lot could be reused when the building is sold. Without the variance a fence would leave some pavement and curb outside the fence and that does not make much sense nor is it visually appealing.

Existing Zoning: PDD

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 Sections 17.52.060 and 17.52.070 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 of the request.

Description and evidence that demonstrates consistency with the following criteria listed in Sections 17.52.070 of the Davenport Municipal Code:

The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the zone.

This paved parking area would not be much use if the setback was met and there was a fence running down the middle of it. Additionally if the fence met the setback requirement there would only be 45 feet of space inside the new fence which is not a lot of usable space, it would also mean that 15 feet of pavement would be left outside of the fence which would look strange from the outside. If the variance was granted 60 feet of space would be within the fence which is more usable.

As the property sits today the property is a vacant parking field that has zero beneficial use and the condition of the pavement continues to deteriorate. But if it could be included to the rest of the enclosed storage area and used as the rest of the pace it used it could be occupied and maintained like the rest of the property.

Description and evidence that demonstrates consistency with the following criteria listed in Sections 17.52.070 of the Davenport Municipal Code:

The plight of the owner is due to unique circumstances, which circumstances do not apply to other adjoining or nearby property.

It could be assumed that no other properties in the neighborhood or even the city have a situation like this where a small paved area is not used by the principle use and is completely isolated from the entrance parking and well as the enclosed area of the building. The nearby owners would likely prefer the entire parking area be enclosed rather than the alternatives of leaving half the pavement exposed or leaving all of the pavement exposed and unused.

Description and evidence that demonstrates consistency with the following criteria listed in Sections 17.52.070 of the Davenport Municipal Code:

The variation, if granted, will not alter the essential character of the locality.

Enclosing the pavement with a fence that matches the existing fence that surrounds hundreds of feet of the property will not be a change this is even noticed and it certainly will not change the character because the addition represents only a small percentage of the existing conditions. Enclosing the parking will remove it from public view so the view of the site is the nice wood fence and the landscaping.

Description and evidence that demonstrates consistency with the following criteria listed in Sections 17.52.060 of the Davenport Municipal Code:

The variation will not unreasonably diminish or impair established property values within the surrounding area.

Almost all of the remaining Menards property at this location is surrounded by a 14 ft tall wooden fence and the additional fence will not change the look of the property from the outside very much at all. Because the road is bordered by the right of way to the west the reduced setback would not impact any developed property and would not change any property values.

Description and evidence that demonstrates consistency with the following criteria listed in Sections 17.52.060 of the Davenport Municipal Code:

The variation will not impair an adequate supply of light and air to adjacent property.

The property in question is bordered to the west and south by the public right of way and Menard, Inc. owns the property to the east. The border to the north will match the setback of the existing fence line. The distance from the proposed fence to the Sheridan Street curb is 30 feet. 30 feet is a large distance and the fence will not be so close that it blocks the light or air of the road to the west. The existing grass, landscaping, and sidewalk will all remain in place.

Description and evidence that demonstrates consistency with the following criteria listed in Sections 17.52.060 of the Davenport Municipal Code:

The variation will not unreasonably increase congestion in public streets.

The new fence enclosure will not have an impact on traffic one way or the other. The existing parking area is not used and the additional enclosed space will not increase the amount of traffic that uses the self storage facility.

Description and evidence that demonstrates consistency with the following criteria listed in Sections 17.52.060 of the Davenport Municipal Code:

The variation will not increase the danger of fire or endanger the public safety.

There will be no change to public safety by granting the variance. The new fence line will keep paved parking area inside the enclosed storage area rather than outside of it.

Description and evidence that demonstrates consistency with the following criteria listed in Sections 17.52.060 of the Davenport Municipal Code:

The variation will not impair the public health, safety, comfort, morals, or welfare of the inhabitants of the city.

The reduced setback will not have any impact on the public. There is still 30 feet from the proposed fence to the roadway and there is 12 feet from the fence to the sidewalk. Both of those distances leave plenty of room for anyone using the road or sidewalk to feel comfortable. All of the existing mature landscaping between the sidewalk and proposed fence will remain in place as part of this project to add to the buffer.

Applicant: McNard, Inc. - Tyler Edwards

Date: 9/8/17

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.

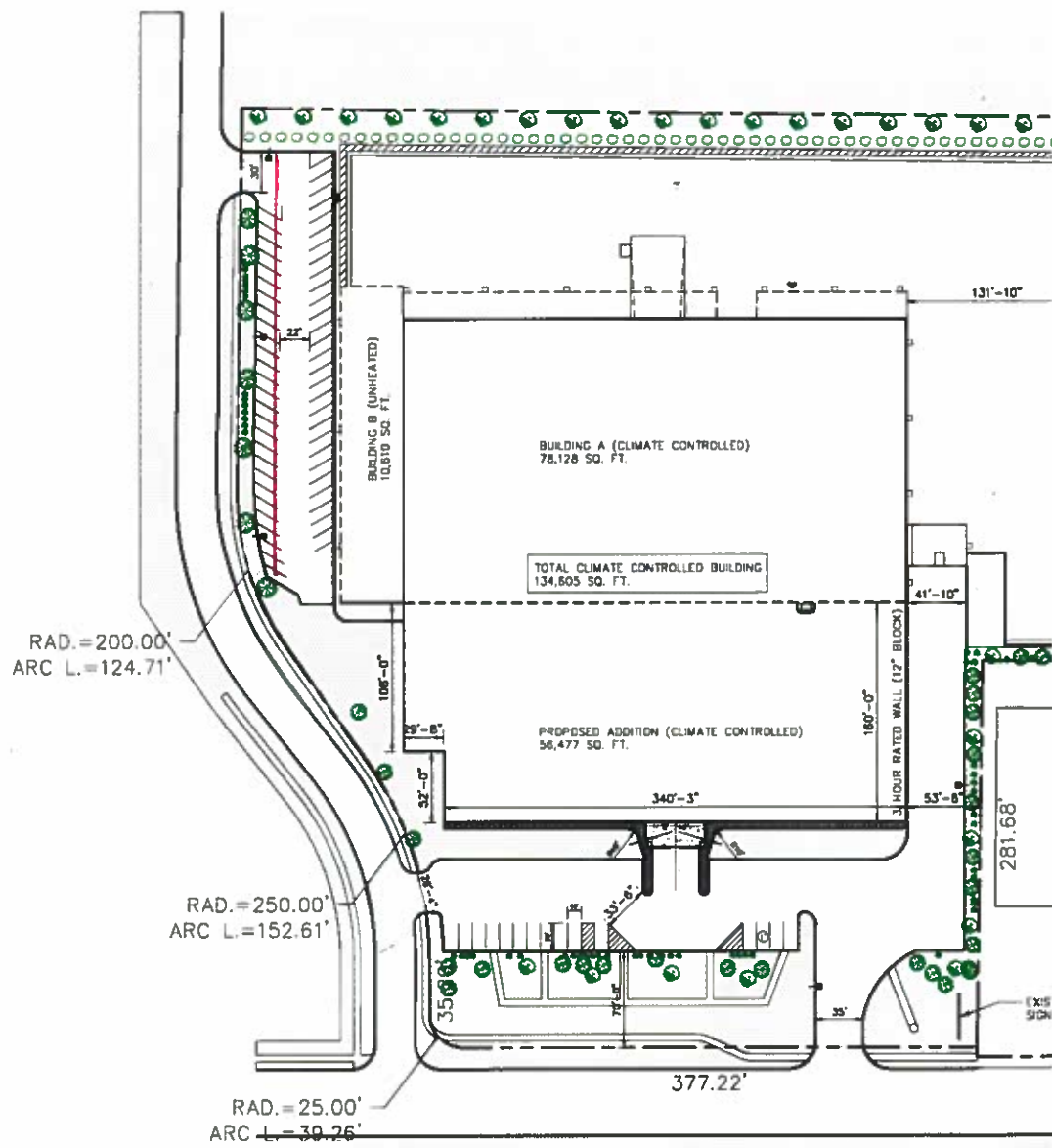
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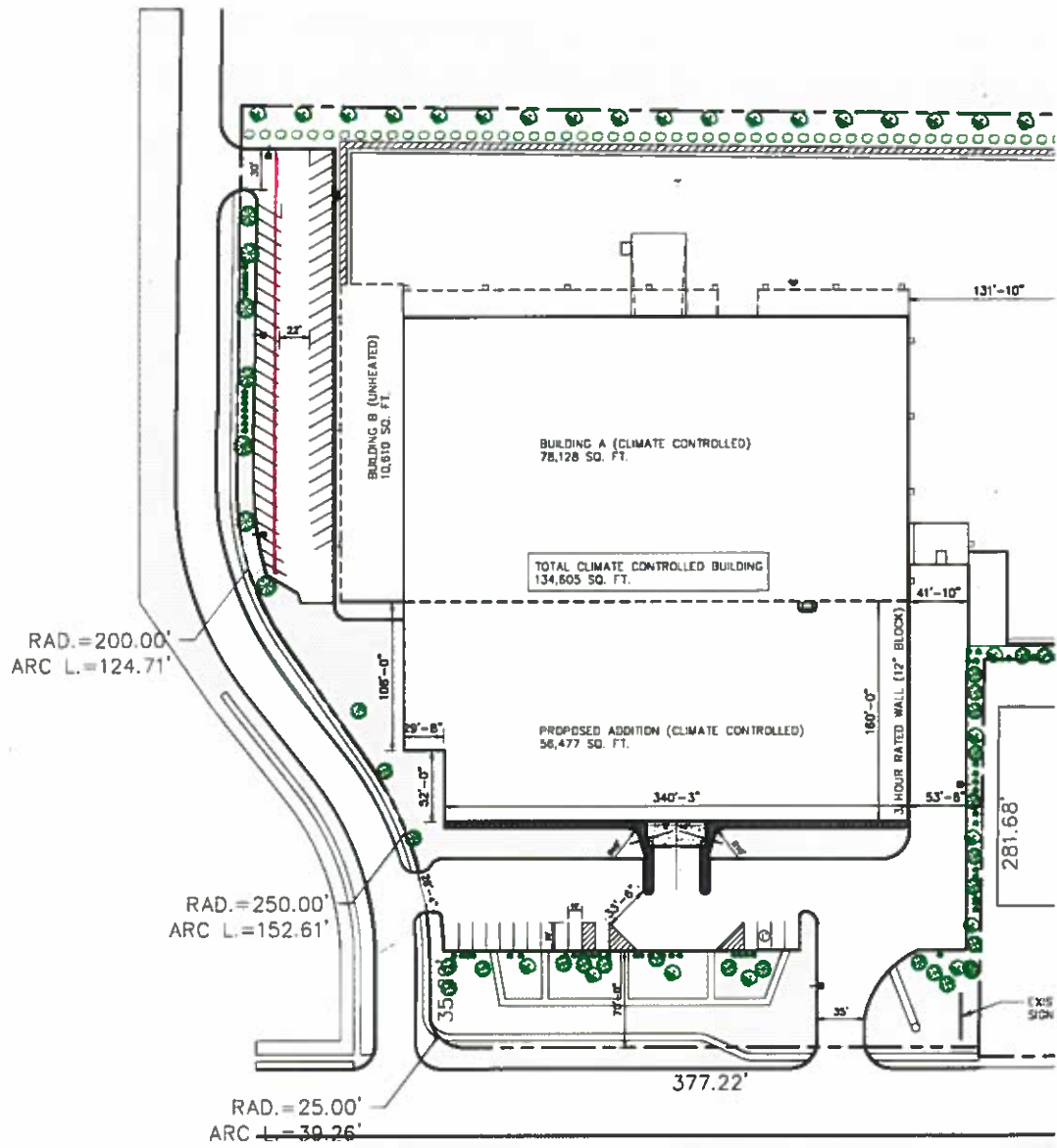
Planning staff

Date:

Date of the Public Hearing:

Meetings are held in City Hall Council Chambers located at 226 West 4th Street, Davenport, Iowa.





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



Public Hearing Details:

Date: October 12, 2017
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 #: HV17-11

To: All property owners within 200 feet of the subject property located at: **110 West 53rd 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 HV17-11 of Tyler Edwards on behalf of Menard Self Storage Inc at 110 West 53rd Street for a Hardship Variance to exceed the allowed fence height of 8 feet by 6 feet with a 14-foot tall fence to be located within the front yard setback. The property is zoned "PDD" Planned Development District.

Section 17.42.090.B.1 of the Davenport Municipal Code requires fences constructed within front, side, or rear yard setbacks to be 8 feet in height or less. Within the buildable portion of a lot, fences may be constructed to a height exceeding 8 feet.

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 ADA/special accommodations are needed, please contact Scott Koops, AICP, the case planner assigned to this project at sek@ci.davenport.ia.us or 563-328-6701.

Please note that items may be removed from the agenda or tabled to a future hearing date at the request of the applicant. If you choose to attend the hearing, you may wish to contact Community Planning prior to your departure to learn of any changes to the agenda.

110 W 53RD ST - Adjacent Owner Notice List

Parcel	Property Address	Owner Name	Owner Street	Owner CityStateZip
Petitioner:	110 W 53RD ST	MENARD INC - TYLER EDWARDS	5101 MENARD DR	EAU CLAIRE WI 54703
Ward/Ald:	8th Ward	Alderman Tompkins		11 Notices Sent
P1112-01B	105 E 53RD ST	AUTOZONE INC	105 E 53RD ST	DAVENPORT IA 52806
X1123-01C	109 W 55TH ST	BROWN TRAFFIC PRODUCTS HOLDINGS LLC	5545 CAREY AV	DAVENPORT IA 52807
X1123-02C		BROWN TRAFFIC PRODUCTS HOLDINGS LLC		
X1123-03B		BROWN TRAFFIC PRODUCTS HOLDINGS LLC		
X1123-03F	120 E 53RD ST	CARNEY PROPERTY MANAGEMENT LLC	19262 252ND AVE	BETTENDORF IA 52722
P1112-02E	107 W 53RD ST	DANIEL J WOLFF	3234 ARROWWOOD LN	DUBUQUE IA 52001
P1112-01E		DILLON REAL ESTATE CO INC	1014 VINE STREET	CINCINNATI OH 45202
P1112A09	201 W 53RD ST	DILLON REAL ESTATE CO INC		
X1123-27	120 E 55TH ST	FARGO HOTELS (POOL C) RE	PO BOX 06019	CHICAGO IL 60606
X1123-04B	210 W 53RD ST	GENESIS HEALTH SYSTEM	210 W 53RD ST	DAVENPORT IA 52806
X1123-01D	110 W 53RD ST	MENARD INC - TYLER EDWARDS	5101 MENARD DR	EAU CLAIRE WI 54703
X1123-03G	5324 BRADY ST	MOLO PETROLEUM LLC	5324 BRADY ST	DAVENPORT IA 52806
X1123-07A	5430 SHERIDAN ST	MOSAIC INVESTMENTS L.L.C.	1805 STATE ST STE 101	BETTENDORF IA 52722
X1123-05	5406 SHERIDAN ST	P U D PARTNERSHIP	5406 SHERIDAN ST	DAVENPORT IA 52806
X1123-03E	130 E 53RD ST	WELCOME WAY PLACE LLC	3417 HARRISON ST	DAVENPORT IA 52806

Zoning Board of Adjustment: Adjacent Property Owner Notice Area



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.

