

1. CALL TO ORDER.

The meeting of the Zoning Board of Adjustment was called to order by Chairperson Kent at 7:00 p.m.

2. ROLL CALL.

Members Present: Golden, Jordan, Kent, Sunderman and Potter

Members Absent: N/A

Staff Present: Behrens and Hockett

3. MINUTES.

- a. Motion to approve the minutes as submitted from the November 20, 2018 meeting.

Motion by Sunderman, seconded by Potter to approve the minutes as submitted from the November 20, 2018 meeting.

All "ayes", motion carried.

4. CONSENT CALENDAR.

- a. Motion to receive and file all correspondence from applicants and staff.

Motion by Potter, seconded by Golden to receive and file all correspondence.

All "ayes" motion carried.

5. CONDITIONAL USE – LINN-MAR COMMUNITY SCHOOL DISTRICT.

- a. Public hearing regarding a conditional use requested by Linn-Mar Community School District pursuant to Section 176.08-3A of the Marion Code of Ordinances to allow for construction of an intermediate school in the A-1, Rural Restricted zoning district located directly east of Echo Hill Elementary School.

ZBA Resolution No. 19-01 approving the conditional use request.

ZBA Resolution No. 19-01 denying the conditional use request.

Behrens handed out to the Board a letter from Linn-Mar Community School District request to table the item. Kent stated that the applicant would like the item tabled the item until the next meeting. Staff requested that the public hearing be opened and to continue the public hearing until the next meeting.

Public hearing was opened.

Motion by Sunderman, seconded by Jordan to continue the public hearing until the next meeting.

Roll Call:

Kent	Aye
Sunderman	Aye
Potter	Aye
Jordan	Aye
Golden	Aye

Motion carried to continue the public hearing until the next meeting (5-0)

6. VARIANCE – DALE R. AND KELLY J. KRETSHMAR.

- a. Public hearing regarding a variance requested by Dale R. and Kelly J. Kretschmar pursuant to Section 176.35-12 of the Marion Code of Ordinances to permit a fence to exceed the maximum six (6) foot height limit for property located at 455 Woodbine Drive, Marion, Iowa.

ZBA Resolution No. 18-06 approving the variance request.

ZBA Resolution No. 18-06 denying the variance request.

Hockett reminded the Board that the applicant's request was from November 2018 but wished to have the item tabled until there was a full Board. Hockett gave a presentation regarding the request for a 7' fence due to the elevation change as indicated by the applicant.

Kent asked why a 6' fence would not work. Hockett responded that he would let the applicant answer the question, but its due to the slope of the property.

Dale Kretschmar, 455 Woodbine Drive, responded that his backyard is tight, and the lot depth is narrow. He is requesting the variance around a small portion of his backyard. Kretschmar stated that due to the slope of the yard a 7' fence seems like a 6' fence height.

Kent stated that there needs to be a hardship.

Sunderman stated that the hardship is the size of the lot, the close proximity to the neighbors, and the drop-off in the yard. Sunderman asked where the 7' fence would be placed.

Kretschmar responded that it would be a small area within the backyard. Sunderman asked if there were any other non-conforming fences in the area.

Hockett stated that he did not find any.

Kent asked if they approve the request would they be setting a precedence.

Hockett stated that it depends on what the Board feels the hardship is in this case.

Kent asked about the one the Board turned down recently on McGowan Boulevard.

Behrens stated that fence was to be in front of the house and was a different case.

Jordan asked if there had been any feedback from neighbors.

Kretschmar responded that the request had been posted twice and he thinks they are fine with it as they have not objected it yet.

Motion by Potter, seconded by Sunderman to approve Resolution No. 18-06 approving a variance from Section 176.35-12 of the Marion Code of Ordinances to permit a fence to exceed the maximum six (6) foot height limit.

Roll Call:

Potter	Aye
Sunderman	Aye
Jordan	Aye
Golden	Aye
Kent	Aye

Motion carried (5-0)

7. VARIANCE – DYNAMIC INTERESTS LLC.

- a. Public hearing regarding a variance requested by Dynamic Interests LLC pursuant to Section 176.31-9E(5) of the Marion Code of Ordinances to exceed the maximum height of twelve (12) feet for a monument sign for property located at 1190 Twixt Town Road, Marion, Iowa.

ZBA Resolution No. 19-02 approving the variance request.

ZBA Resolution No. 19-02 denying the variance request.

Behrens presented the request for a monument sign to exceed 12' in height. She mentioned the height of the existing monument sign on the property compared to what the request is asking. Behrens mentioned the exhibits that the applicant provided as well as the Cedar Rapids sign standards as some of the exhibit locations are in Cedar Rapids. She also mentioned that the signs within Marion

that were provided as an exhibit and are over 12' in height were approved prior to the current sign code.

Kent asked if the sign code was to keep signs lower. Behrens stated that commercial lots under 5 acres have a 12' height limit, but any lot over 5 acres would be allowed a taller sign.

Hockett stated that Taco Bell's sign did receive approval for a conditional use for their taller sign as there use to be a two-story house that sat on the corner and they wanted sign visibility coming from Marion. The conditional use was approved about 15 years ago. Kent asked what the code was then. Hockett stated that the max sign height was 35', but with a conditional use the max was 45'.

Kent asked if any of the signs in the exhibits were put up in violation. Hockett stated they were all existing, but he could not speak for the Cedar Rapids signs. Behrens stated that faceplate changes are allowed on the existing signs per code.

Jordan asked if the Ethan Allen property had sold. Hockett stated that it is still for sale. Jordan asked if the new owner would be held to the new signs. Behrens stated that they could keep the sign and do a faceplate change. Kent stated that the sign is in violation of the current code. Behrens stated that it is legal non-conforming. Kent commented that they could change the face and leave it as it is. Hockett responded forever.

Hockett stated that the applicant's sign request does include a full brick base as per code.

Kent asked if there had been any correspondence on the request. Behrens stated that staff had not received any.

Kent mentioned that there aren't many signs in the area that meet our current code.

John Schultz, stated that they are excited to be in Marion. He mentioned that during the winter they noticed the snow piles hide the current sign. Schultz also mentioned that they are trying to get more visibility. He stated that he looked at adjacent signs in the area and could not find one that meets the current code as most are 25'-30' tall. Schultz also stated that they are on the border between the two cities and having a 12' sign puts them at a disadvantage.

Potter asked if anyone knew how tall the Ethan Allen sign is currently.

Schultz stated it is probably about 24' tall.

Jordan asked about the power lines above the Ethan Allen sign.

Schultz stated the would bring the sign a bit and there would be clearance from the power lines.

Kent mentioned that all the signs in the area are grandfathered.

Jordan asked how the zoning changes in the area. Behrens stated that everything south of Ridge Drive/Ridge Court is zoned commercial and Ridge Drive is zoned multi-family residential with single-family residential further north. She also mentioned the Cedar Rapids zoning in the area is Suburban Mixed-Use Regional.

Kent asked if the sign ordinance applies to all of Marion. Behrens stated that the only sign code variation is within the Central Corridor where we do not allow digital message centers. Behrens mentioned that the neighborhood commercial zoning district limits the size more due to the proximity to the residences. Hockett stated that when he wrote the sign code there were two commercial areas in town, 7th Avenue corridor and the bypass. He mentioned the focus was on 7th Avenue and the need for a 35' tall sign is not needed.

Potter asked what the hardship is, piles of snow.

Sunderman stated that he looks at it as a specialized store and customers going there will be using their phone if it's their first time. He stated the sign will not be buried and he does not see a hardship due to snow piles and understands that everything else in the area is non-conforming.

Jordan stated that she thinks the hardship is not snow piles, but the opportunity to advertise like as others in the area are able. She also stated that it's to also advertise to those that may be looking for a particular kind of business. Schultz stated that the current sign is hard to see over commercial traffic.

Motion by Jordan, seconded by Golden to approve Resolution No. 19-02 approving a variance from Section 176.31-9E(5) of the Marion Code of Ordinances to exceed the maximum height of twelve (12) feet for a monument sign.

Roll Call:

Sunderman	Nay
Potter	Nay
Jordan	Aye
Golden	Aye
Kent	Aye

Motion carried (3-2)

8. VARIANCE(DRIVE-THRU) – GLD PROPERTIES LLC.

- a. Public hearing regarding a variance requested by GLD Properties LLC pursuant to Section 176.52-2E(3) the Marion Code of Ordinances to exceed the maximum length of 120 feet for a drive-thru stacking lane without having an escape opening for property located at 2791 7th Avenue, Marion, Iowa.

ZBA Resolution No. 19-03 approving the variance request.

ZBA Resolution No. 19-03 denying the variance request.

Kent stated that the applicant has withdrawn their request, but since the public hearings were published, the public hearing would be opened and closed.

9. VARIANCE(SIGN) – GLD PROPERTIES LLC.

- a. Public hearing regarding a variance requested by GLD Properties LLC pursuant to Section 176.52-2E(4) of the Marion Code of Ordinances to exceed the maximum number of one (1) menu board per stacking lane for property located at 2791 7th Avenue, Marion, Iowa.

ZBA Resolution No. 19-04 approving the variance request.

ZBA Resolution No. 19-04 denying the variance request.

Kent stated that the applicant has withdrawn their request, but since the public hearings were published, the public hearing would be opened and closed.

10. VARIANCE – DANIEL NELSON.

- a. Public hearing regarding a variance requested by Daniel Nelson pursuant to Section 176.32-12 of the Marion Code of Ordinances to allow a garage door to be a distance less than the required 25-foot setback from the property line it faces for property located at 420 22nd Street, Marion, Iowa.

ZBA Resolution No. 19-05 approving the variance request.

ZBA Resolution No. 19-05 denying the variance request.

Hockett presented the request to build a garage closer to the property line than the current code allows. He stated that the current setback of 25' for a garage door is so a vehicle does not block a sidewalk or extend into the street. Hockett mentioned that the addition could be pushed back, but a variance would still be required and with the yard slope and drainage there are concerns with that option. He did mention that a detached garage would not require the variance, but the garage would still need to be pushed back which creates other concerns.

Kent asked if the current garage meets the setback.

Hockett stated that the current garage does not meet the current setback and is closer than the proposed garage.

Daniel Nelson, mentioned that the way his property was designed that the only option is to have a garage off of 4th Avenue. The variance would allow him to have a minimum depth of 22' garage. He mentioned that this is best location option for a garage and there would be enough room for a vehicle to be against the garage, even if a sidewalk were installed. He said that his request he believes meets the intent of the code.

Kent mentioned that the location is in the old part of town.

Potter mentioned that there aren't sidewalks in the area.

Sunderman asked if there was any negative correspondence.

Hockett responded none.

Motion by Potter, seconded by Sunderman to approve Resolution No. 19-05 approving a variance from Section 176.32-12 of the Marion Code of Ordinances to allow a garage door to be a distance less than the required 25-foot setback from the property line it faces.

Roll Call:

Potter	Aye
Jordan	Aye
Golden	Aye
Sunderman	Aye
Kent	Aye

Motion carried (5-0)

11. ELECTION of OFFICER.

Jordan asked what the responsibility of the Secretary includes. Hockett stated that the Secretary signs resolutions.

Motion by Sunderman, seconded by Potter to elect Jordan as the Secretary and to retain the Chairperson as Kent and Vice Chairperson as Sunderman.

All "ayes", motion approved.

12. ADJOURNMENT.

There being no further business the meeting was adjourned at 7:47 p.m.

Respectfully Submitted,

Angela Jordan, Secretary