



# MINUTES

## Zoning Board of Adjustment

7:00 PM - Tuesday, July 20, 2021

City Hall, 1225 6th Avenue

---

*\*Minutes are in draft format until approved at the next meeting\**

The Zoning Board of Adjustment of the City of Marion, Linn County, Iowa met on Tuesday, July 20, 2021, at 7:00 PM, at City Hall, 1225 6th Avenue, with the following members present:

PRESENT: Carol Golden, Charlie Potter, and Charles Kent

ABSENT: Angela Jordan and Ryan Sunderman

STAFF PRESENT: Ama Bartlett, Dave Hockett, and Nicole Behrens

### CALL TO ORDER

### ROLL CALL

### CONSENT AGENDA

Motion to approve the consent agenda as follows:

Minutes from the June 15, 2021 meeting.

Receive and file all correspondence from applicants and staff.

Moved by Golden, seconded by Potter, to approve the consent agenda.

Approved unanimously

### REGULAR AGENDA

Variance - fence over 6ft - Nessel

Public hearing regarding a variance from Section 176.35-12A to permit a fence higher than six (6) feet for property located at 1375 8th Avenue (Larry and Joan Nessel)

Hockett presented the staff report. There were no questions from the Board.

Chairperson Kent opened the public hearing.

The applicants, Larry and Joan Nessel (1375 8th Avenue) spoke in favor. They mentioned that theirs is the only non-commercial lot on the block and there used to be trees that buffered their property prior to the derecho. Being no more comments for or against the request, the public hearing was closed. Kent gave the applicants the option to table the item until there is a full board present to

vote and the applicants requested to go ahead with the vote.

ZBA Resolution No. 21-14 approving a variance from Section 176.35-12A to permit a fence higher than six (6) feet for property located at 1375 8th Avenue. (Larry and Joan Nessel)

Moved by Potter, seconded by Golden, to approve ZBA Resolution No. 21-14 approving a variance from Section 176.35-12A to permit a fence higher than six (6) feet for property located at 1375 8th Avenue.

Kent asked staff if there is a difference between commercial and residential fencing. Hockett explained that a fence could be any height if within setbacks. Kent felt the commercial property surrounding the applicant would provide a hardship. No further discussion.

Approved by the following votes:

Ayes: Golden, Potter, and Kent

#### Variance - fence over 6ft - Brendengen

Public hearing regarding a variance from Section 176.35-12A to permit a fence higher than six (6) feet for property located at 5035 Silver Oak Court. (Sheryl M Brendengen Revocable Trust)

Hockett shared the staff report. He explained if the fence was moved in 7 feet they would not require the variance. Neighbor to the north provided a letter of support. There were no questions from the Board.

Chairperson Kent opened the public hearing. The applicants, Ron and Sheryl Brendengen (5035 Silver Oak Court) stated they planned a screening of evergreens but the derecho destroyed the trees. Ron stated the golf balls coming in makes it dangerous to be in their driveway. Sheryl shared the standard size of pre-cast fence is 12 ft, minimum. There being no other comments for or against the request, the public hearing was closed. Kent gave the applicants the option to table the item until there is a full board present to vote and the applicants requested to go ahead with the vote.

ZBA Resolution No. 21-15 approving a variance from Section 176.35-12A to permit a fence higher than six (6) feet for property located at 5035 Silver Oak Court. (Sheryl M Brendengen Revocable Trust)

Moved by Potter, seconded by Golden, to approve ZBA Resolution No. 21-15 approving a variance from Section 176.35-12A to permit a fence higher than six (6) feet for property located at 5035 Silver Oak Court. Kent stated he felt the derecho caused the hardship. Potter was concerned about the height. No further discussion.

Approved by the following votes:

Ayes: Golden, Potter, and Kent

#### Variance - Garage door setback - Luensman

Public hearing regarding a variance from Section 176.32-12 for a detached

accessory structure (Garage) to have the garage doors setback less than the required 25' from the property line which they face for property located at 985 11th Street. (Luensman)

Hockett gave the staff report. He stated the property is in the Terrace Park Historic District so the request will also need to go to the Historic Preservation Commission. Kent stated he was unsure that any garage would meet current code in this neighborhood. No other questions of staff.

Chairperson Kent opened the public hearing. The applicant, Jeff Luesnman (985 11th Street) spoke about his concern of the safety of current structure. Brent Jackman (5090 Northridge Roint SE) spoke of his support. Being no further comments for or against the request, the public hearing was closed. Kent gave the applicant the option to table the item until there is a full board present to vote and the applicant requested to go ahead with the vote.

ZBA Resolution No. 21-16 approving a variance from Section 176.32-12 for a detached accessory structure (Garage) to have the garage doors setback less than the required 25' from the property line which they face for property located at 985 11th Street. (Luensman)

Moved by Potter, seconded by Golden, to approve ZBA Resolution No. 21-16 approving a variance from Section 176.32-12 for a detached accessory structure (Garage) to have the garage doors setback less than the required 25' from the property line which they face for property located at 985 11th Street.

The Board discussed it made sense to replace in the same location.

Approved by the following votes:

Ayes: Golden, Potter, and Kent

#### Exception - Reduction in parking - Dunkin Donuts

Public hearing regarding an exception requested by Dunkin Donuts to reduce the number of required parking stalls for a restaurant pursuant to Section 176.29-2.J for property located at 584 7th Avenue.

Behrens shared the staff report. She stated that most of the applicants business has become drive-thru and traffic backs up onto 6th Street and blocks traffic. The City requested that Dunkin Donuts find a resolution to the problem. Behrens showed how the new stacking wraps traffic around the building causing a loss of 6 parking stalls. There were no questions from the Board.

Chairperson Kent opened the public hearing. Brent Jackman of Hall & Hall Engineers, Inc. represented Dunkin Donuts and spoke of the issues, including potentially blocking the fire station. He stated the applicant would like to make their temporary solution permanent, but it causes the reduction of parking. The board did not have any questions.

Being no further comments for or against the request, the public hearing was closed. Kent asked staff if the engineer had the authority to choose if voted on tonight. Behrens said the engineering firm was making the request on behalf of

the owner, so it was allowed. Kent gave the applicant the option to table the item until there is a full board present to vote and the applicant requested to proceed with the vote.

ZBA Resolution No. 21-17 approving an exception to reduce the number of required parking stalls for a restaurant pursuant to Section 176.29-2.J for property located at 584 7th Avenue. (Hall & Hall Engineers, Inc. on behalf of Dunkin Donuts)

Moved by Potter, seconded by Golden, to approve ZBA Resolution No. 21-17 approving an exception to reduce the number of required parking stalls for a restaurant pursuant to Section 176.29-2.J for property located at 584 7th Avenue. Potter stated he has seen the backup into the street many times. He felt the wrapping seems to help. Potter asked the applicant if there will be 2 order boards. No other discussion.

Approved by the following votes:

Ayes: Golden, Potter, and Kent

#### **OTHER BUSINESS**

None.

#### **ADJOURN**

---

Angela Jordan, Secretary