

Docket Number: 19/8624

Appellant: McRoberts Properties, LLC represented by Adam McRoberts, 402 10th Avenue NW, Altoona, IA 50009 (Property Owner), represented by Seth Sunderman with Bishop Engineering, Inc., 3501 104th Street, Urbandale, IA 50322 (Consultant)

Appeal: The appellant requests a setback variance for a proposed commercial accessory building to be located at a front yard setback of approximately 32.79 feet, in lieu of the minimum required front yard setback of 50 feet.

Background

The subject property is located at 5571 NW 2nd Street, Des Moines, and is legally described as Lot 47 of Northacre, being an Official Plat of the West ½ of the SW ¼ of Section 11, Township 79 North, Range 24 West of the 5th P.M. (Saylor Township) in Polk County, Iowa. The subject property is approximately 39,120 square feet (0.90 acres) in size and is zoned “GC” General Commercial District. The property contains an existing commercial auto body repair business, known as Ted’s Body Shop. This use and business has occupied the property since initial development of the site in 1977.

The site is a double frontage lot having frontage onto NW 2nd Street (Hwy 415) to the west and frontage onto NW 1st Street to the east. This portion of the NW 2nd Street corridor lies east of NW 2nd Street between NW 54th Avenue to the south and NW 57th Place to the north. It is primarily zoned “GC” General Commercial District and developed with established commercial and light industrial businesses. The existing businesses are primarily heavy retail service uses, including vehicle sales/service and equipment sales, service and rental. East of NW 1st Street the land use pattern transitions to single-family residential uses. A number of existing single-family residences are located directly along and east of NW 1st Street, and are zoned commercially. Moving further east, single-family residences are zoned “LDR” Low Density Residential District. See *Attachment A* at the end of this report for a vicinity map of the subject property and surrounding area, including zoning.

The property contains an existing approximately 4,941 square feet (81’ x 61’) building serving as shop and office space. The site also has a paved parking lot south and west of the building along NW 2nd Street, as well as a fenced paved parking area east of the main building utilized for the storage of vehicles awaiting repair. The appellant and his engineer have been working with staff on an updated site plan for the property. Among other improvements, the site plan proposes a new 200 square feet (20’ x 10’) cold storage accessory building. The accessory building is proposed east of the existing building along NW 1st Street. The proposed location meets the minimum side yard setback of 15 feet from the north property line, but is proposed at a front yard setback of approximately 32.79 feet from the eastern, front property line along NW 1st Street, in lieu of the minimum required front setback of 50 feet.

Staff mailed out 12 notices regarding this request, including the date and time of the public hearing, to surrounding property owners within the 250-foot notification boundary. To-date staff has received one (1) response in support and zero (0) in opposition of the appeal. The response in support came from the ownership representing three (3) of the 12 total notices mailed out.

Summary of Request

The Polk County Zoning Ordinance, *Article 6: Bulk and Use Standards, Division 5: Non-Residential Bulk Standards, Table 6.9* stipulates that non-residential buildings shall be a minimum of 50 feet setback from locally classified roadways. The owner is proposing to construct a new 200 square feet (20' x 10') cold storage commercial accessory building within the eastern portion of the subject property. The building is proposed at a front yard setback of approximately 32.79 feet from the eastern front property line parallel to NW 1st Street, in lieu of the minimum required front yard setback of 50 feet. See *Attachment B* at the end of this report for a copy of the site plan submitted with the variance appeal.

Natural Resources

The subject property contains no areas of mapped floodplain, wetlands or other environmental hazards or features. The site topography slopes considerably from east to west across the property, from a high elevation of approximately 880 feet along NW 1st Street to a low elevation of approximately 860 feet along NW 2nd Street. The property contains areas of grass open space but no mature trees or significant landscaping or vegetation.

Roads & Utilities

The property is a double frontage lot having approximately 163 feet of frontage both to the west onto NW 2nd Street and to the east onto NW 1st Street. NW 2nd Street (Hwy 415) is a four-lane divided State highway maintained by the Iowa DOT. NW 1st Street is a hard surfaced two-lane roadway maintained by Polk County. NW 2nd Street is classified as a major arterial roadway carrying significant amounts of daily traffic (29,500 annual average daily traffic per 2016 IDOT data), while NW 1st Street is classified as a local roadway carrying minimal traffic to and from adjacent properties (600 annual average daily traffic per 2016 IDOT data).

The subject property has an existing entrance onto NW 2nd Street and, as part of their future improvements, a secondary entrance will be constructed to the east onto NW 1st Street. The subject property is currently served by an onsite wastewater treatment system. However, as part of their site plan improvements the property will abandon this system and connect to Polk County sanitary sewer. There is an eight-inch (8") sanitary sewer main located within an easement along the eastern frontage of the property near NW 1st Street. Water service is provided by Des Moines Water Works. The latest data available from Des Moines Water Works indicates there is an existing four-inch (4") cast iron water main located within NW 1st Street, to which the existing building is already connected.

Recommendation

The Board of Adjustment may grant a variance if items 1 through 5 are affirmed.

- 1.) Are there exceptional or extraordinary circumstances or special conditions applying only to the property in question and which do not exist generally on other properties in the same zoning district which makes it impossible to place a use permitted in the district on the property?
Yes. The subject property is a double frontage lot with minimal lot depth. The building envelope is restricted due to the minimum setback of 75 feet from the west property line adjacent to NW 2nd Street and the minimum setback of 50 feet from

the east property line adjacent to NW 1st Street. Furthermore, the property was platted and developed prior to the current commercial setbacks and site requirements. Together, these factors severely limit the buildable area of the property. There are other properties similarly situated between NW 2nd and NW 1st Streets, however many have been granted similar setback variances. In addition, the primary business and titleholder in this portion of the corridor, Capital City Equipment/Mark Kruse, has purchased both properties directly north and south of the subject property for future expansion of Capital City Equipment. This effectively prevents the appellant from potentially acquiring additional ground for expansion without needing a variance.

- 2.) Is the variance necessary for the preservation and enjoyment of property rights possessed by other properties in the same zoning district in the same vicinity? (No variance can permit uses that are prohibited in a district)
Yes. The property is zoned “GC” General Commercial District and commercial accessory buildings are a permitted use. But for the granting of a variance, the proposed building could not be located in a functionally beneficial location for the property.
- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?
Yes. Similar variances have been granted for double frontage commercial lots within this corridor due to their restrictive setbacks and lack of lot depth. The subject property sits at a substantially lower elevation (between 12 to 15 feet lower) than adjacent residential properties located on the east side of NW 1st Street, thereby limiting the impact of the proposed structure upon nearby residences.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?
Yes. The prior platting and development of the property were completed by a previous property owner under different commercial setbacks and regulations.
- 5.) Does the variance support the intent of Article 7 Natural Resource Protection and Article 8 Stormwater and Erosion Control Management of the Polk County Zoning Ordinance?
Yes. The appellant is required to meet the environmental provisions of the Polk County Zoning Ordinance. No environmentally sensitive areas of the property are impacted by this proposal.

The Board of Adjustment may grant a variance if items 1 through 5 are affirmed. Since items 1-5 were answered in the affirmative, staff recommends approval of the requested variance.

Attachment A

Subject Property
5571 NW 2nd St

gc

NW 4th Ct

NW 57th Pl

NE 57th Pl

NW 3rd Ct

ldr

li

NW 2nd St



NW 1st St

NE 1st St

ldr

NE 56th Ave

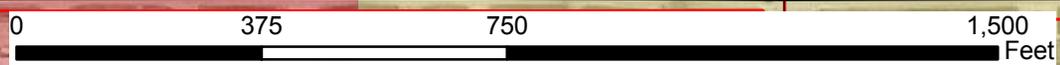
NE 55th Ave

NE 3rd St

NW 54th Ave

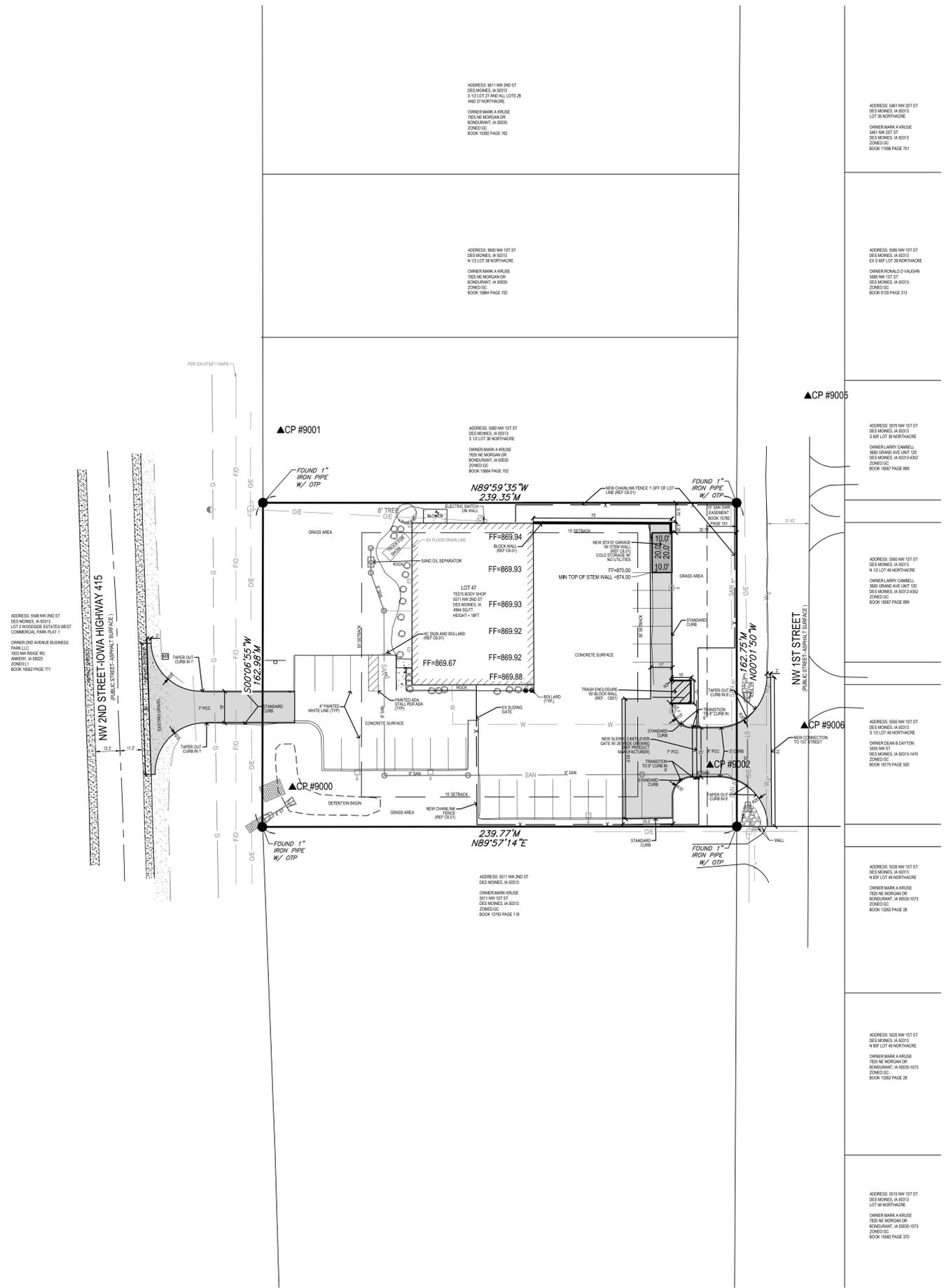
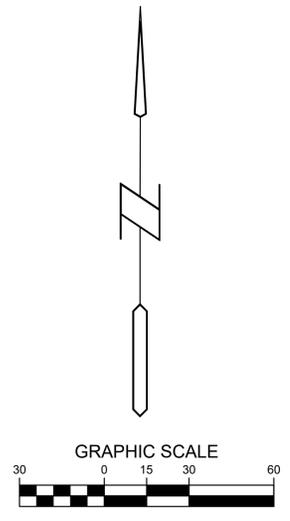
NE 54th Ave

hdr



Attachment B

11/18/2019 4:28:03 PM M:\LAND PROJECTS 2018\180306 TEDS BODY SHOP\DWG\VARANCE EXHIBIT.DWG



TED'S BODY SHOP
 5571 NW 2ND STREET DES MOINES, IOWA

VARIANCE EXHIBIT

REFERENCE NUMBER:	
DRAWN BY:	MJE
CHECKED BY:	SVS
REVISION DATE:	
PROJECT NUMBER:	180306
SHEET NUMBER:	

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