Appeal: The Appellants requests a Variance to allow a commercial accessory to be accessed by a gravel driveway in lieu of the required curbed and paved access drive.

Appeal Given: “The existing surface currently exists as asphalt millings, a dust-free semi hard surface. The location of a required hard surfaced drive would cross a currently established semi-truck route of loading and unloading of materials and equipment, creating a hardship, encumbering the route. The delivery route is not able to be relocated due to the configuration of the site.”

Background
The subject property is located at 2045 NE 46th Street, Des Moines, and is legally described as Lots 2-4 and Lot A excluding the North 100 Feet, Polk Industrial Park, which is located in Section 24, Saylor Township. The subject property is 10.56 acres in area and contains two (2) commercial buildings. The applicant is proposing to construct a third cold storage building for storing construction materials approximately 200-feet south of the terminus of the existing concrete access path. The new storage building will be located within an existing outdoor storage yard.

The subject property is zoned “HI” Heavy Industrial District, as are the surrounding properties. The area is commercial and industrial in nature, with many surrounding properties featuring outdoor storage yards. See Attachment A at the end of this report for an aerial vicinity map of the subject property and surrounding area.

The subject property is located south of NE 46th Avenue (NE Broadway Avenue) and abutting the eastern property line is a Union Pacific railroad line. Access is gained from a stub of NE 20th Court at the northwestern corner of the property. Access to the public roadway will not change as a result of this proposal.

The site was originally platted as the Polk Industrial Park in 1998, but remained undeveloped until a Commercial Site Plan was approved in 2014. Final Certificates of Occupancy were granted for the site in 2017. The location of the new building is within the designated Fence and Related Materials Storage Yard, which was approved to be a gravel surface in the approved 2014 Site Plan.
Summary of Request
The Polk County Zoning Ordinance, Article 15: Construction Standard states: “All developments, except conventional single-family and uses which have an average daily traffic count fewer than forty-nine (49) vehicles in the AG, AT, and OS Districts are required to pave their drives, parking, loading and display areas. Curbs and/or wheel stops are required in parking areas and curbs are required in paved drive areas.”

The drive aisle and parking areas for the original site improvements are paved and feature full curbing, as is required by the ordinance. The current paved and curbed access drive stretches nearly 600 feet from the edge of NE 46th Avenue. The applicant is requesting that the newly proposed building be accessed by the gravel drive aisle which extends south of the paved and curbed roadway surface. See Attachment B at the end of this report for a copy of the site plan submitted with the variance application.

Staff mailed out thirteen (13) 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 no responses in support or in opposition of the request.

Natural Resources
The subject property is not located within a mapped floodplain. The property is mostly flat, with no significant change in grade. The location of the proposed building and drive aisle was previously graded and is currently a gravel/asphalt milling material.

Roads & Utilities
The subject property has approximately 125 feet of frontage along NE 20th Court, and 278.68 feet of frontage along NE 46th Avenue, with both roadways are located north of the proposed building. The site is accessed from an extension of NE 20th Court, which was originally platted as a cul-de-sac but later vacated, with the exception of the North 100 feet.

The site is connected to a Polk County Sanitary Sewer line, and water service comes from a Des Moines Water Works water main, which is located on the North side of NE 46th Avenue. There are no easements or utilities in the vicinity of the newly proposed building or drive aisle.

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 new building is proposed to be located within an existing outdoor material storage yard, which was previously approved as a gravel/asphalt milling material. Material storage yards are allowed to be of a gravel material in the “HI” Heavy Industrial District, and would be allowed to exist if no building was proposed. The proposed storage building will be consistent with the existing storage yard and will not significantly increase traffic to the storage area.
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. Material storage in association with the fencing contractor is an allowable use in the “HI” Heavy Industrial District.

3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?
Yes. The location of the proposed storage building is within an existing material storage yard and is adjacent to an existing railway line. The proposed building will meet all setback and site development requirements. The proposed building will be minimal impact on surrounding properties and will most likely not be visible from the public roadways surrounding the property.

4.) Is there a special condition or circumstance that did not result from the actions of the applicant?
Yes. The proposed building and driveway will be located within an existing material storage area, which was approved to be of a gravel/asphalt millings material. The applicant installed the gravel/asphalt millings as required by the site plan, and the storage yard has functioned as designed. The proposed storage building would be consistent with the existing storage area.

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. It does not appear that any environmentally sensitive areas will be impacted by this proposal. The home addition is required to be a minimum of ten (10) feet away from the on-site septic system.

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 'B'

Variance Appeal Application

Board of Adjustment Authority
The Polk County Board of Adjustment is empowered by Iowa law and by the Zoning Ordinance of Polk County to hear requests and to make decisions on variance appeals to the Zoning Ordinance for individual properties where provisions of the Ordinance impose a unique and unnecessary hardship on the property owner and where the granting of a variance is not contrary to the intent of the Zoning Ordinance or to the public interest.

Each variance appeal is only a request to have a hearing before the Board of Adjustment. Notice of the hearing will be provided to all property owners located within 250 feet from the subject property. The Board of Adjustment will make a determination at a public hearing whether or not to approve or deny the request based on a staff report, applicant presentation, as well as public input. All appeals that are denied shall not come back to the Board of Adjustment for one year. Refunds will not be made once notice has been sent out to adjacent property owners.

Please complete the entire application and review the Variance Regulations on page 3.

1. The undersigned applicant requests that the Board of Adjustment consider this application for a variance appeal for the following general purpose. (Describe briefly the request)
   Allowance of existing asphalt millings surface to access a proposed cold storage building.

2. Subject Property Address: 2045 NE 46th Street

3. Subject Property Zoning District: Heavy Industrial District

4. District and Parcel Number: 27002382-502-001

5. Subject Property Legal Description (attach if necessary):
   LOTS 2, 3 & 4 & EX N 100F-LT A POLK INDUSTRIAL

6. Filing Fee: $319 per variance (each provision requested for a variance is considered a separate variance request)

7. Applicant(s) Information:
   
   Jeff Donels
   Applicant (Print Name)  
   Signature

   Manager - Des Moines Steel Fence Co., Inc.
   Interest in Property (owner, renter, prospective buyer, etc.)

   2045 NE 46th Street  515 270-6227
   Address, City, State and Zip  Phone

   Jeff@dsmfence.com  
   Email

8. Applicant(s) Representative:

   If the appeal is going to be represented by someone other than the applicant please provide that information below

   Bart Turk
   Applicant Representative (Print Name)  
   turk@ceclac.com
   Email

   2400 86th Street #12, Des Moines, IA 50322
   Address, City, State and Zip

   CEC  
   Firm or Business Name

   515-276-4854
   Phone
9. Property Owner Consent

The application must be signed by all the Titleholders, Contract Purchasers, or Option Purchasers of the subject property. The application may also be signed by the Registered Agent for a corporation or other person with similar legal authority to sign for a property owner. (if additional signatures are needed please attach)

(Print Name) ___________________________ Signature _________________ date ____________

(Print Name) ___________________________ Signature _________________ date ____________

(Print Name) ___________________________ Signature _________________ date ____________

(Print Name) ___________________________ Signature _________________ date ____________

10. State the reason(s) the variance is necessary and why you cannot comply with the regulations of the Zoning Ordinance. Specifically explain the nature of the appeal.

The existing surface currently exists as asphalt millings, a dust-free semi hard surface. The location of a required hard surfaced drive would cross a currently established semi truck route of loading and unloading of materials and equipment, creating a hardship, encumbering the route. The delivery route is not able to be relocated due to the configuration of the site.

A completed application with site drawing and filing fee are required for a submittal. Incomplete submittals will not be processed and returned to the Applicant.

Return completed forms to: Polk County Public Works, Planning Division 5885 NE 14th Street, Des Moines, IA 50313
Phone (515) 286-3705 • Fax (515) 286-3437 Email: PublicWorks@polkcountyiowa.gov
Forms available online http://www.polkcountyiowa.gov/PublicWorks/ BOA Calendar CALENDAR

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VAR 2001- 10397
Required Information: (must be included prior to making submittal)

1. Complete Application including the description of requested variance(s) with specific information for the request and state the reason(s) the variance is necessary and why you cannot comply with the regulations of the Zoning Ordinance.

2. Submit site drawing as required see details below.

Site Drawing
All variance appeals must submit three (3) 11×17 copies of a site drawing with the application. The site drawing must be fully dimensioned and legible. All required information must be drawn to a scale. The Zoning Administrator may require a petitioner to submit a site plan drawn by an engineer or architect. The site plan shall include the following:

1. Boundary drawing of the lot or area involved.
2. Location, dimensions, height and setbacks of all existing and proposed buildings and structures and the uses of each.
3. Use of the proposed addition to building or structure.
4. Approximate location of the vehicle entrance to the site.
5. Show the approximate location of water and sewer (septic system) facilities, if applicable.
6. Location of parking area and number of stalls required, if applicable.
7. General location of landscaping, buffer areas and screening, if applicable.
8. If the appeal is for a sign, the appeal must be accompanied by both a fully dimensioned, to scale elevation and site plan drawing of the sign, showing the exact location and size of the sign.

Variance Regulations
No variance from the provisions or requirements of this ordinance shall be authorized by the Board of Adjustment unless the Board finds beyond reasonable doubt that all the following conditions and circumstances exist. These regulations are found in the Zoning Ordinance, Article 17. Variance. The conditions and circumstances will be addressed by the Polk County Planning Division staff in reviewing the variance(s) request.

1. There must be exceptional or extraordinary circumstances or special conditions applying to the property in question, and do not exist generally on other properties in the same zoning district. By virtue of the unique or special conditions, it is, therefore, exceptionally difficult to place a use permitted in said district on the property.

2. The variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity and such variances will not permit uses that are prohibited in that district.

3. The authorization of such variance will not be of substantial detriment to adjacent property and will not be contrary to the purpose of this Ordinance and the public interest.

4. That the special conditions or circumstances did not result from the actions of the applicant.

5. The variance will not entirely void the natural resource protection requirements of this Ordinance.

The condition and/or situation of a property for which a variance is sought must be of an unusual nature. A variance shall not be authorized if the condition or situation is of a general or recurrent nature such that adopting a general regulation as an amendment to this Ordinance is a reasonably practicable solution.

The variance granted shall be the minimum necessary to permit a use of the property. A variance shall neither increase the number of permitted dwelling units by more than one (1), nor allow the minimum lot area required for a use to be decreased by more than ten (10) percent. If natural resources are involved, then mitigation for any damage to the environment shall be a condition of the variance.