TO:	Zoning Board of Adjustment
FROM:	Community Development Department
DATE:	August 15, 2017
RE:	**CASE #BA-17-005**
REQUEST:	A variance from Section 15.23.020 *Off-Street Parking, Loading and Unloading General provisions* of the Council Bluffs Zoning Ordinance to allow for a parking lot to exist without the required setback of five feet from any property line.
APPLICABLE CODE SECTION:	**Section 15.23.010 <u>General provision</u>**
RELIEF SOUGHT:	A 5 foot variance to allow for a parking lot to exist with a zero (0) foot setback to a property line, as opposed to the required five (5) feet.
LEGAL DESCRIPTION:	Lot 15, Block 26, Brown's Subdivision
LOCATION:	3464 5th Avenue
APPLICANT:	Norman L. Springer, Jr., 20 North 16th Street, Council Bluffs, IA 51501
OWNER:	1782 Irish Land LLC, 1281 Oakridge Court, Council Bluffs, IA 51503

BACKGROUND INFORMATION – The Community Development Department has received an application from 1782 Irish Land LLC, represented by Norman L. Springer, Jr., for a variance to reduce the required setback from a commercial parking lot to a property line to zero feet, as opposed to the required five (5) feet. The parking lot and configuration will remain as it has for a many years, but if the variance is approved the applicant will construct an addition on to the building, and will be resurfacing the parking lot.

Attachment A: General Location Map
Attachment B: Applicant's Site Plan and Project Overview
Attachment C: Site Photos

CURRENT ZONING AND LAND USE – The subject property is zoned C-1/Commercial District. Surrounding zoning includes C-1/Commercial District immediately surrounding on all sides. There is also area zoned R-2/Two Family Residential District, R-3/Low Density Multi-Family Residential District, and C-2/Commercial District within close vicinity. Surrounding land uses include businesses to the immediate west and north, but predominately residential dwellings. On-street parking is not permitted on South 35th Street, or 5th Avenue in the area around this building, but on-street parking is allowed on 4th Avenue to the north.

The following exhibits show the property and the surrounding area:

Exhibit A: Aerial view of the subject property and surrounding area (Facing North)

Exhibit B: View of the parking lot from South 35th Street (Facing North)

CITY DEPARTMENTS AND UTILITIES – All City departments and local utility providers were notified of the requested variance. The following comments were received:

- Public Works Department stated they have no comments regarding the variance request.
- Mid-American Energy stated they have no objections to this request.

NEIGHBORHOOD RESPONSE – All property owners within 200 feet of the subject property were notified of the requested variance. No comments have been received as of the date of this report.

COMMENTS - Evidence must be presented to demonstrate that a literal enforcement of the Ordinance will create a hardship for which relief is necessary. The Board of Adjustment shall approve a variance to grant relief when 'unforeseen applications of this Ordinance…create particular hardships'. No variance shall be granted unless the Board of Adjustment makes findings of fact based on the standards and conditions that follow. A variance less than requested may be granted by the Board when the record supports the applicant's right to some relief, but not to the entire relief requested. *(§15.02.080 – Variances)*

1. *The particular property, because of size, shape, topography or other physical conditions suffers singular disadvantage through the application of this ordinance, which does not apply to other properties in the vicinity.* While size, shape and topography of the property are typical of those in the general vicinity and surrounding area, it this property is the smallest of the commercial lots in the immediate vicinity. Pottawattamie County Assessors Records show that the building was constructed in 1930, which would have been before the current parking regulations and zoning regulations were enacted.

2. *Because of such disadvantage, the owner is unable to make reasonable use of the affected property.* Current parking regulations for this property would require four parking spaces. The applicant is requesting the additional spaces to accommodate clients that would be visiting this office. The limited parking options around this building could cause the occupants of this building difficulties that would be resolved by the granting of this variance.

3. *The disadvantage does not exist because of conditions created by the owner or previous owners of the property.* The disadvantage is created by the progression of parking standards and the evolving needs of client based businesses. The need for the variance is also heightened by the lack of on-street parking in this area.
4. *Granting the variance will not confer on the applicant any special privileges that are denied by this ordinance to other properties or structures in the same district.* Granting the variance will not grant any privilege to the applicant that surrounding businesses do not already have. As was stated, this is the smallest lot of the immediate businesses, and the need for tenant parking, and client parking is required for the operation of most businesses.

5. *Granting the variance will not be contrary to the public interest, will not adversely affect other property in the vicinity, and will be in harmony with the purpose and intent of this ordinance.* Granting the variance will allow a business to continue as it has for many years, and will be consisted with those related uses in the immediate vicinity. The granting of this variance will have little impact on neighboring properties, and having enough parking to suit the needs of clients is consistent with commercial district parking needs.

RECOMMENDATION

The Community Development Department recommends approval of the requested variance for property legally described Lot 15, Block 26, Brown's Subdivision, based on reasons stated above.

Rose E. Brown, AICP
Planning Coordinator

Chris Meeks
Planner

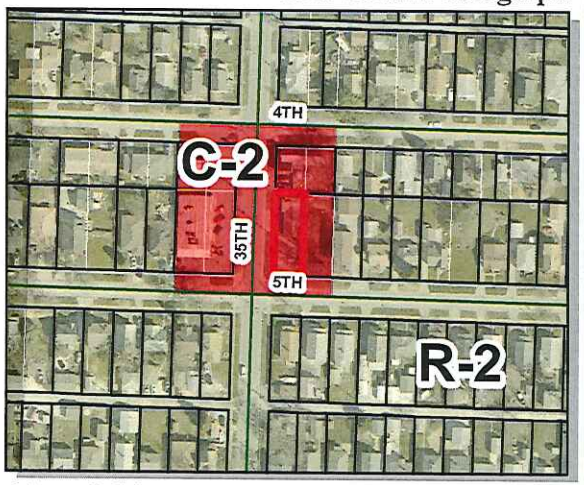
Attachment A

CITY OF COUNCIL BLUFFS -ZONING BOARD OF ADJUSTMENT LOCATION/ZONING MAP CASE # BA-17-005

Map Legend

- Subject Property
- Parcels
- Lots

2016 Aerial Photograph



Note: Subject property is outlined in red.

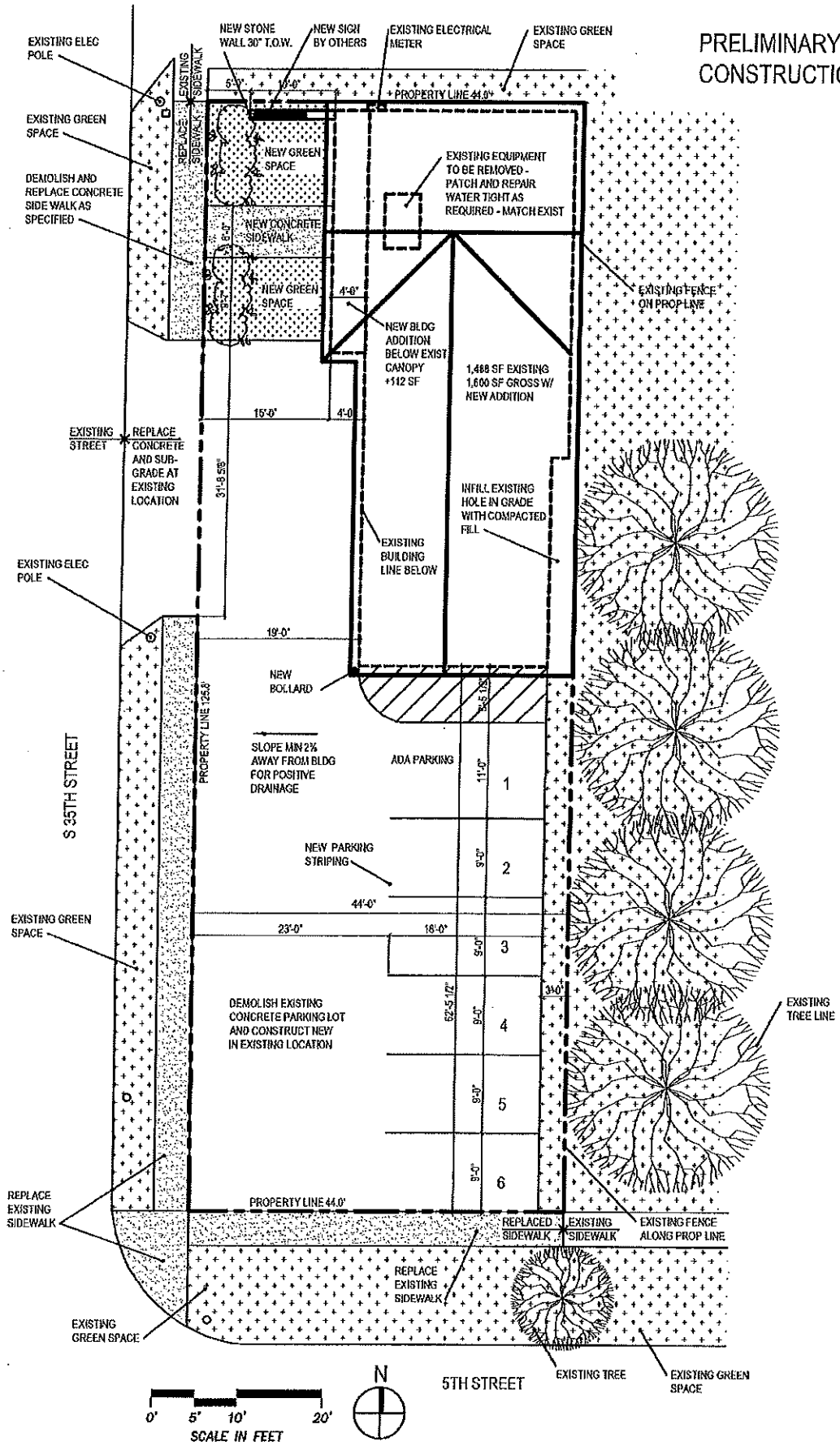
Last Amended: 7/19/17

Council Bluffs Community Development Department
209 Pearl Street
Council Bluffs, IA 51503
Telephone: (712) 328.4629

DISCLAIMER

This map is prepared and compiled from City documents, plats and other public records data. Users of this map are hereby notified that the City expressly denies any and all responsibilities for errors, if any, in the information contained on this map and the misuse of the same by the user or anyone else. The user should verify the accuracy of information/data contained on this map before using it. The City assumes no legal responsibility for the information contained on this map.

Attachment B



JULY 17 2017

Joseph P. Vodicka RA, NCARB

McGinn Law Firm Remodel

3464 5th Ave, Council Bluffs IA 51501

Attachment C: Site Photos

Photo 1

Photo 2

Photo 3

Photo 1: View of subject property (looking north)

Photo 2: View of subject property (looking south)

Photo 3: View of subject property (looking west)

Photo 4: View of neighboring commercial property (looking northwest)

Photo 4