



CITY OF IOWA CITY

IOWA CITY BOARD OF ADJUSTMENT

August 12, 2015

5:15 p.m.

Emma Harvat Hall

STAFF REPORT

CITY OF IOWA CITY

Department of Neighborhood & Development Services

IOWA CITY BOARD OF ADJUSTMENT MEETING

Wednesday, August 12, 2015 – 5:15 PM

City Hall – Emma Harvat Hall

AGENDA

A. Call to Order

B. Roll Call

C. Consider the June 10, 2015 Minutes

D. Special Exception Item

A special exception request by MidWestOne Bank to allow an increase in the maximum allowed building area in the Neighborhood Commercial (CN-1) zone at 2233 Rochester Avenue.

E. Other

F. Board of Adjustment Information

G. Adjourn

NEXT BOARD OF ADJUSTMENT MEETING: September 9, 2015

STAFF REPORT

To: Board of Adjustment
Item: EXC15-00012
2233 Rochester Avenue

Prepared by: Sarah Walz
Date: August 12, 2015

GENERAL INFORMATION:

Applicant:	MidWest One Bank P.O. Box 1700 Iowa City, IA 52244-1700 319/356-5800
Contact:	James Phelps, AIA Rohrbach 325 E. Washington Street Suite 400 Iowa City, IA 52240
Requested Action:	Special exception to allow an increase in the maximum allowed building area in the CN-1 zone.
Purpose:	To allow expansion of an existing bank facility in the Neighborhood Commercial (CN-1) zone.
Location:	Southwest corner of Rochester and First Avenues
Size:	24,912 square feet (0.572 acres)
Existing Land Use and Zoning:	Commercial, CN-1
Surrounding Land Use and Zoning:	North: Residential, RS-5 South: Commercial, CN-1 East: Commercial, CN-1 West: Commercial, CN-1
Applicable code sections:	14-4B-3A, (General Criteria), 14-4B-4B-15a (3) Specific criteria for expanding maximum building floor area in the CN-1 zone.
File Date:	July 15, 2015

BACKGROUND: The subject property is located in the Neighborhood Commercial (CN-1) zone at the intersection of Rochester and First Avenues. It is part of a corner commercial area that serves the surrounding neighborhoods in north east Iowa City and includes a grocery store, gas station/convenience store, medical offices, and a number of other small businesses.

As stated in the zoning code, the purpose of the Neighborhood Commercial zone is to promote a unified grouping of small-scale retail sales and personal service uses in a neighborhood shopping area; encourage neighborhood shopping areas that are conveniently located and that

primarily serve nearby residential neighborhoods; promote pedestrian-oriented development at an intensity that is compatible with surrounding residential areas; and promote principles of site design building articulation, scale and proportion that are typical of traditional main street design. Allowed uses are restricted in size to promote smaller, neighborhood serving businesses and to limit adverse impacts on nearby residential areas.

The bank was established prior to the current CN-1 development standards. Those standards call for buildings to be set up close to the public sidewalk with parking located to the rear. The CN-1 zone also has building design standards to ensure appropriate window coverage and entrances, quality façade materials, etc. The zoning code allows exceptions to some of the standards and requirements for sites that were developed prior to current standard where, due to topography or existing structures it is not practical to come into full compliance with the current requirements. In these instances, the code states that development must meet the development standards to the extent possible.

The applicant proposes to renovate and expand the existing bank building from its current 2,117 square feet to 3,687 square feet. A branch bank is classified as "Personal Service Oriented Retail," which in the CN-1 zone, is limited to 2,400 square feet of gross floor area but may be increased to up to 5,000 square feet.

ANALYSIS:

The purpose of the Zoning Ordinance is to promote the public health, safety and general welfare, to conserve and protect the value of property throughout the city, and to encourage the most appropriate use of land. It is the intent of the Ordinance to permit the full use and enjoyment of property in a manner that does not intrude upon adjacent property. The Board may grant the requested special exception if the requested action is found to be in accordance with **Section 14-4B-4B-15a (3)** the specific criteria pertaining to maximum floor area for Personal Service Retail uses in the CN-1 zone in addition to the general approval criteria for special exceptions as set forth in **Section 14-4B-3A**.

The applicant's comments regarding each of the specific and general standards are included on the attached application form. Staff comments related to the specific and general approval criteria are set forth below.

Specific Standards

For expanding beyond the maximum floor area in the CN-1 zone 14-4B-4B-15.

(A) The increased floor area will be supportable primarily by residents of the surrounding area.

FINDINGS:

- The proposed expansion is for a small, branch bank that principally serves residents in the surrounding residential neighborhoods—portions of the Northeast and Central Planning Districts.
- The expansion to the building is modest, just over 1,500 square feet.

(B) The proposed exception will be consistent with the stated intent of the CN-1 zone.

FINDINGS:

- The commercial area provides a number of essential uses that principally serve surrounding neighborhoods—banking, groceries, pharmacy, medical and other services, and a gas station.
- The proposed expansion improves the pedestrian character of the site by bringing the building closer to the sidewalk; providing marked pedestrian access from the sidewalk on Rochester to the front entrance; and eliminating 5 parking spaces at the northeast corner of the site in order to provide a required setback and separation between the parking area and the sidewalk and intersection.
- Given the size of the site and the location of the existing building, the applicant is somewhat limited in the improvements that can be made to the site. The Commercial Development Standards require a 10-foot landscaped setback between parking areas and the streetside lot line. While this cannot be accommodated in the area north of the entrance drive from First Avenue without compromising safe and efficient vehicle circulation. South of the First Avenue driveway curb cut the required setback is achieved by removing a parking space and relocating it to the southwest corner of the lot.

General Standards (14-4B-3)

1. The specific proposed exception will not be detrimental to or endanger the public health, safety, comfort or general welfare.

FINDING:

- By providing marked pedestrian access from Rochester Avenue and increasing setbacks and screening between the parking area and the public sidewalk in the manner recommended under the specific criteria above, the expansion should create a safer environment for pedestrians without compromising vehicle circulation or access to the parking spaces or drive-through.

2. The specific proposed exception will not be injurious to the use and enjoyment of other property in the immediate vicinity and will not substantially diminish or impair property values in the neighborhood.

FINDINGS:

- The expansion of the building and the improvements to the streetside setbacks and landscaping should create for a more attractive corner commercial property, bringing it closer to compliance with the commercial site development standards and CN-1 zone requirements.
- The property will otherwise continue to function as it has for many years as part of a successful neighborhood commercial area serving this portion of northeast Iowa City.

3. Establishment of the specific proposed exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zone in which such property is located.

See above findings.

4. Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.

All utilities, access roads, drainage, and other facilities are in place to serve this commercial area.

5. Adequate measures have been or will be taken to provide ingress or egress designed so as to minimize traffic congestion on public streets.

FINDING:

- Ingress and egress will not change.
- The bank use has operated successfully at this corner for approximately 30 years.

6. Except for the specific regulations and standards applicable to the exception being considered, the specific proposed exception, in all other respects, conforms to the applicable regulations or standards of the zone in which it is to be located.

FINDINGS:

- The proposed development along with the required changes to provide pedestrian access from Rochester and required screening at setback along a portion of both frontages bring the property closer to conformance with Neighborhood Commercial requirements.
- As noted above, given the size of the property and the location of the existing structure, it is not practical for the expansion to bring the property into conformance with the setback requirement along the full length of the east property line. North of the driveway parking is oriented away from the sidewalk rather than abutting the sidewalk. South of the driveway a parking space is removed to provide the required setback.
- The applicant will need a minor modification to allow the expansion to be made without adding a pedestrian access from First Avenue (in addition to the Rochester access). Staff believes that such a modification is warranted— this access cannot be created without eliminating more parking and interrupting the vehicle circulation on the lot. Staff does not believe there is a significant safety issue here due to the small size of the lot and limited parking on the site.
- The final site plan and building design must be submitted to design review to assure compliance with the standard for CN-1 zone (e.g. minimum storefront window requirements, etc.).

7. The proposed use will be consistent with the Comprehensive Plan, as amended.


FINDING:

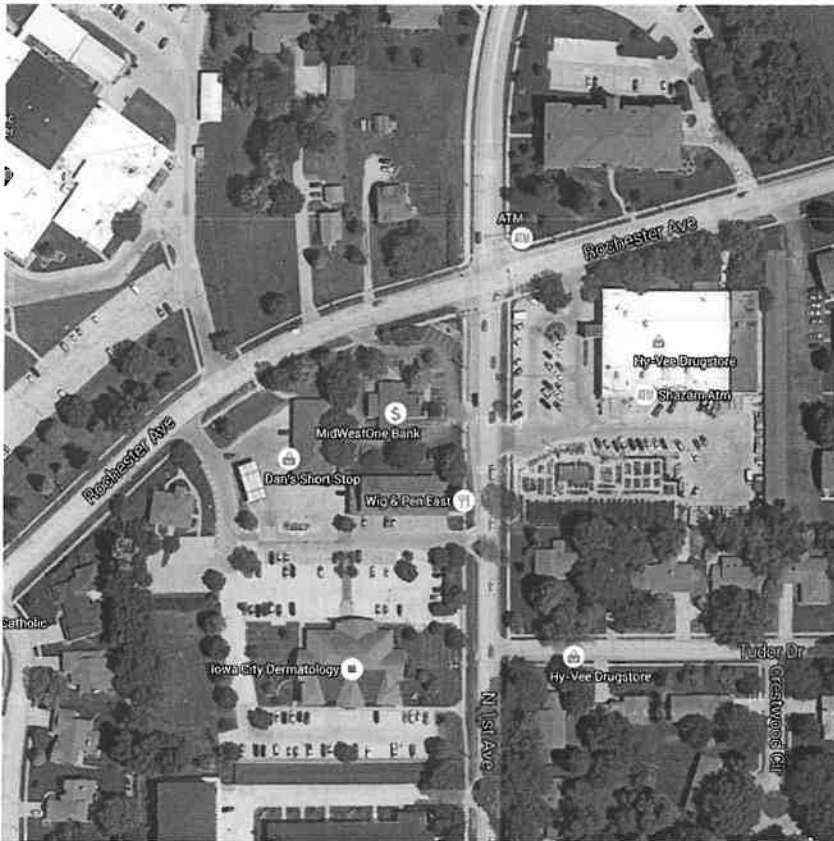
- The Comprehensive Plan shows this area as a Neighborhood Commercial.

STAFF RECOMMENDATION: Staff recommends approval of EXC15-00012 subject to substantial compliance with the submitted site plan with all S2 screening along the lot streetside lot lines and Design Review approval of proposed elevations.

ATTACHMENTS:

1. Aerial views and photos
2. Proposed site plan
3. Proposed elevations
4. Location map
5. Application materials

Approved by: 
John Yapp, Coordinator,
Department of Neighborhood and Development Services



Aerial view of the commercial area at the corner of Rochester Avenue and First Avenue.



View of the bank site.



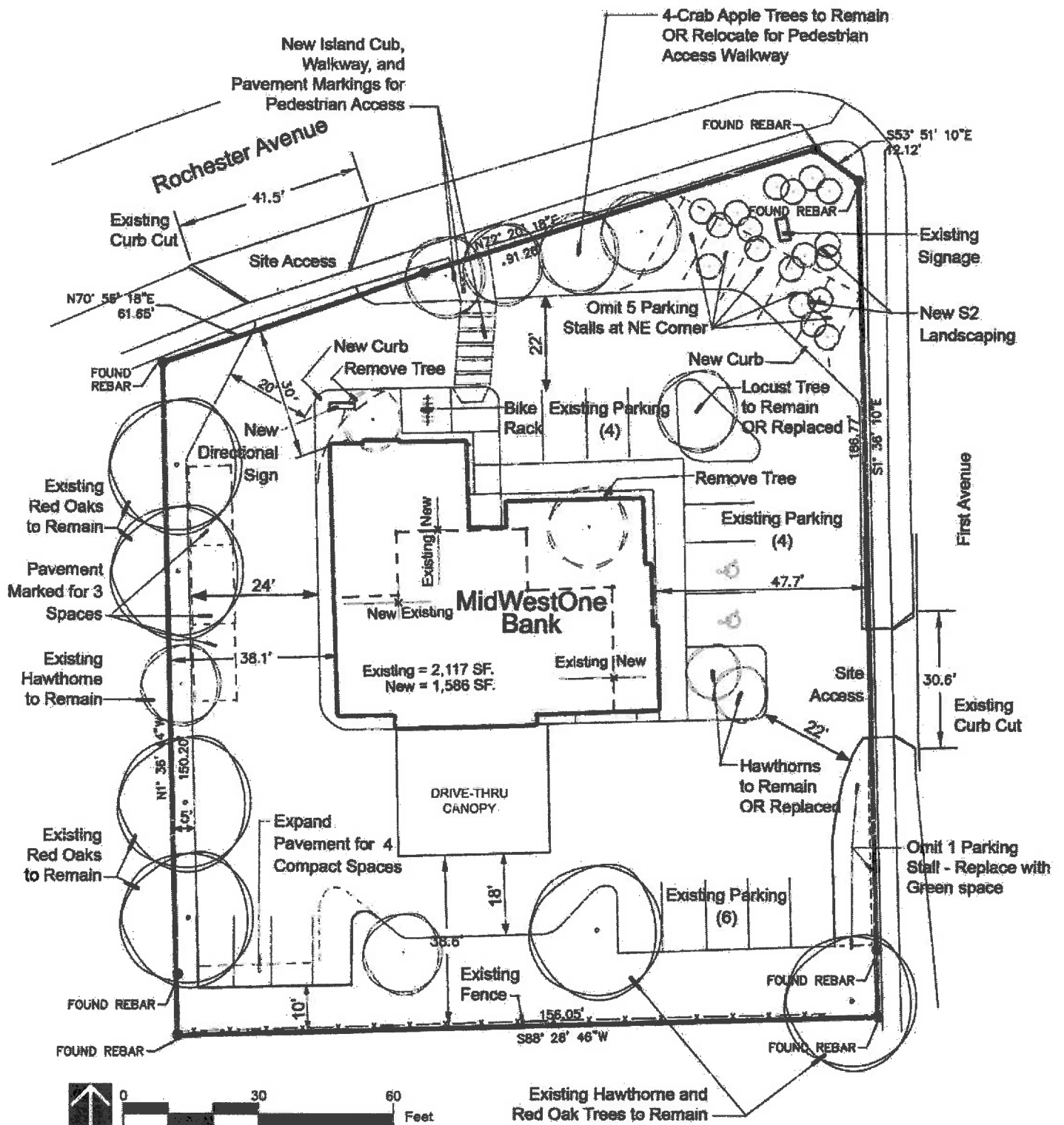
View from Rochester Ave, north property line at drive entrance.



View from along Rochester Avenue, north property line. Five parking spaces to be removed.



View along First Avenue, east property line. Staff recommends remove one parking space to create a 10-foot setback between the sidewalk and parking area.

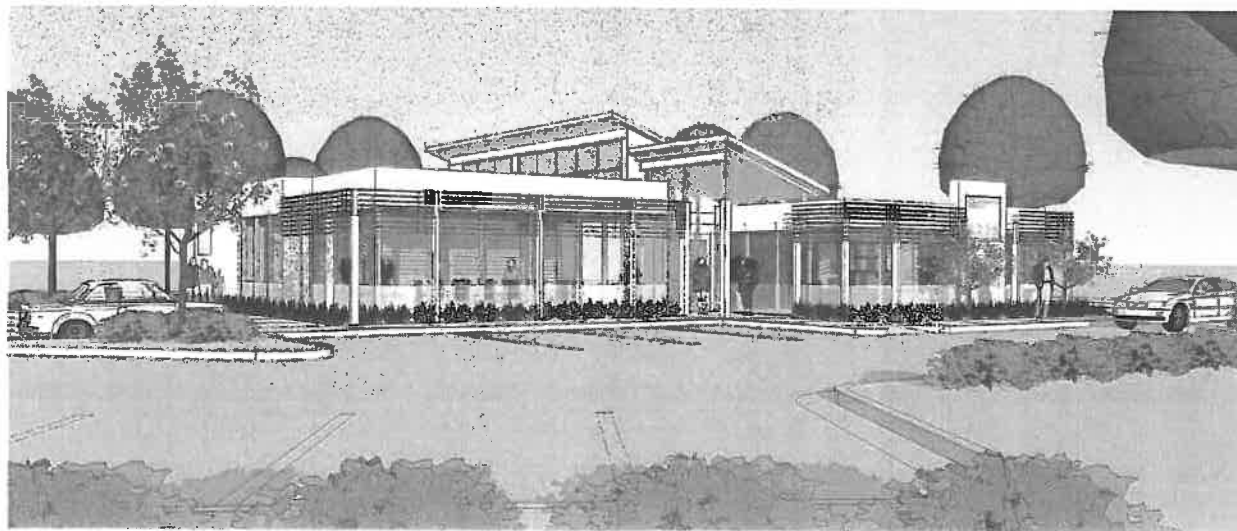
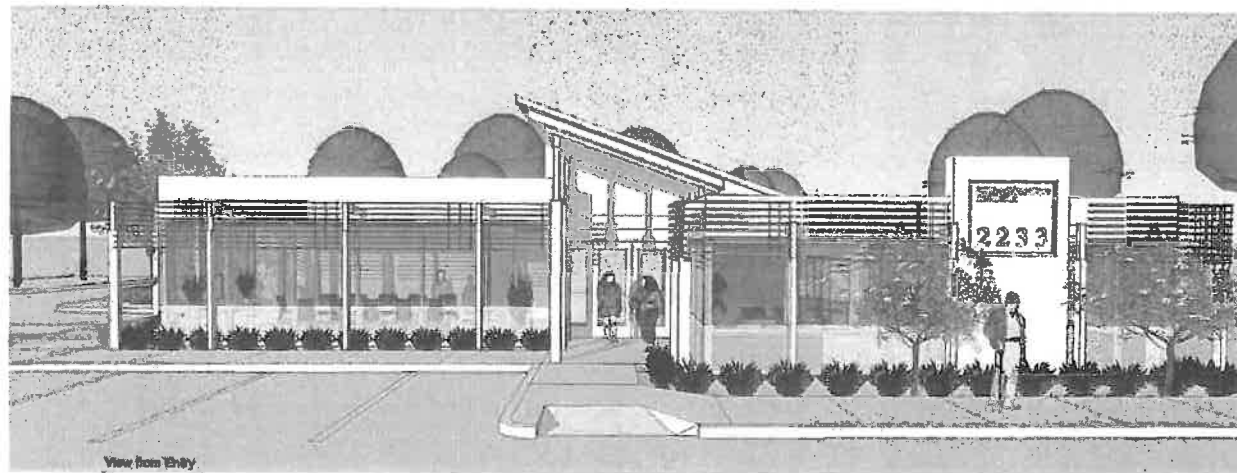




Kohn Pedersen Fox Associates
200 West Street, New York, NY 10038

Kohn Pedersen Fox Associates PC Architects
Kohn Pedersen Fox Associates PC Interiors

May 2015



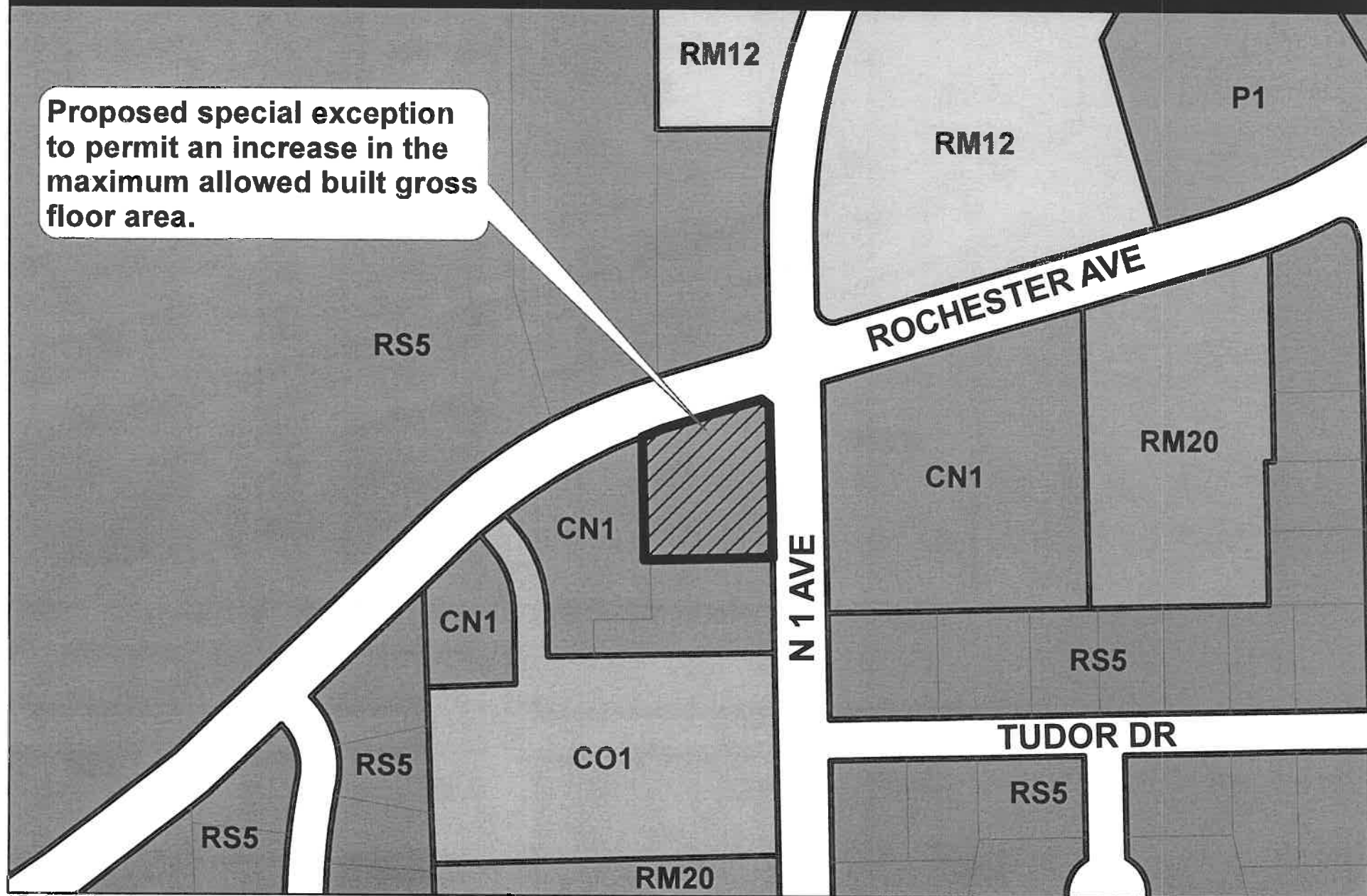


EXC15-00012
2233 Rochester Ave.

Prepared by: Katie Gandhi
Date Prepared: July 2015

0 200 400 Feet

**Proposed special exception
to permit an increase in the
maximum allowed built gross
floor area.**



APPLICATION TO THE BOARD OF ADJUSTMENT SPECIAL EXCEPTION

2015 JUL 15 PM 9:45
FILED
CITY CLERK
IOWA CITY, IOWA

DATE: July 15, 2015

PROPERTY PARCEL NO. 1011186002

PROPERTY ADDRESS: 2233 Rochester Ave.

24,912 SF

PROPERTY ZONE: CN-1

PROPERTY LOT SIZE: (0.572 Acres)

APPLICANT:	Name: <u>MidWestOne Bank</u> Address: <u>PO BOX 1700 IOWA CITY, IA 52244-1700</u> Phone: <u>(319) 358-5800</u>
CONTACT PERSON: (if other than applicant)	Name: <u>James A. Phelps, AIA</u> <u>325 E. Washington St. Ste. 400</u> Address: <u>Iowa City, IA 52240</u> Phone: <u>(319) 338-9311</u>
PROPERTY OWNER: (if other than applicant)	Name: <u>(see Above Applicant)</u> Address: _____ Phone: _____

Specific Requested Special Exception; please list the description and section number in the zoning code that addresses the specific special exception you are seeking. If you cannot find this information or do not know which section of the code to look in, please contact Sarah Walz at 356-5239 or e-mail sarah-walz@iowa-city.org.

Purpose for special exception: Maximum Parking Allowed 14-5A-3 B. CN-1 Zone

Maximum Allowed Building gross floor area 14-4B-4B 15 a. (3)

Date of previous application or appeal filed, if any: (n/a)

FILED

CITY OF CHICAGO
CLERK OF THE BOARD OF LANDS
RECEIVED

2015 MAR 15 AM 9:15

FOUND REBAR

N70° 55' 18"E
51.65'

FOUND REBAR

N72° 20' 18"E
91.26'

FOUND REBAR

S53° 51' 10"E
12.12'

FOUND REBAR

186.77'

S1° 36' 10"E
51.36'

FOUND REBAR

S88° 28' 45"W
156.05'

FOUND REBAR

N1° 36' 44"W
150.20'

FOUND REBAR

38.1'

BANK BUILDING

53.7'

63.5'

24.3'

30.6'

72.2'

53.9'

41.5'

24.3'

DRIVE-THRU CANOPY

38.6'

Responses to Item C.

This project is the remodel and expansion of an existing early 1980's bank branch office.

The project is requesting TWO items for consideration for SPECIAL EXCEPTION:

Exception No. 1 - Increase in allowable parking within the CN-1 zone.

Exception No. 2 - Increase in allowable square foot of a building in the CN-1 zone.

For Exception No. 1:

14-5A-3 B CN-1 Zone: In the CN-1 zone, the number of parking spaces provided may not exceed one hundred ten percent (110%) of the number of parking spaces required, except if granted a special exception to exceed this limit by the board of adjustment. (Ord. 05-4186, 12-15-2005)

The 1982 drawings for the original bank remodel at this site included 22 parking spaces. These spaces are still on site and used today. (please see attached site plan for configuration and location)
The project request of this special exception is based on the projected future staffing and usage of the space after the remodel and addition project is complete.

The project's expansion of the current building, calculated by current zoning, allows for a maximum of 13 parking stalls. $(3,687 \text{ SF}/300 = 12 \times 110\%) = 13$ This branch office, when fully staffed, has the potential of having 11 employees. This would only leave two spaces for bank customers.

The northeast 5 stalls are less used so it is possible to eliminate them. This would leave a maximum parking count of 17. Special exception is being requested to allow the remaining parking to remain.

For Exception No. 2:

14-4B-4B 15a(3):

Except for the uses listed in subsections B15a(1) and B15a(2) of this section, the limit on floor area for any one use may be increased from two thousand four hundred (2,400) square feet up to five thousand (5,000) square feet by special exception; provided, that the following criteria are met:

(A) The increased floor area will be supportable primarily by residents of the surrounding area.

(B) The proposed exception will be consistent with the stated intent of the CN-1 zone.

A - This branch location of MidWestOne Bank is located and functions as a Neighborhood bank. The increased floor area will be utilized as expansion of bank offices for this local branch and a conference room for bank and customer use. This solution for expansion is in response to the bank experiencing an increasing volume of local customers.

B - The expansion relocates the bank facade closer to the street sides of the site with a large proportion of glass. This promotes ease of use, convenient access, higher visibility and a more inviting feel to the building. The expansion is still very appropriate in the overall scale of building to site, and makes it very compatible with its neighbors in all directions.

The design articulates a new building entrance with a step back in the facade, breaking the building's longer side, and accents it by the canted entry canopy. A new pedestrian access will be installed giving a direct path from the public sidewalk to the building's entrance, away from site parking areas.

FILED
2015 JUL 15 AM 9:44
CITY CLERK
IOWA CITY, IOWA

- D. **General Approval Criteria:** In addition to the specific approval criteria addressed in "C", the Board must also find that the requested special exception meets the following general approval criteria or that the following criteria do not apply. In the space provided below, or on an attached sheet, provide specific information, not just opinions, that demonstrate that the specific requested special exception meets the general approval criteria listed below or that the approval criteria are not relevant in your particular case.

1. The specific proposed exception will not be detrimental to or endanger the public health, safety, comfort, or general welfare.

Please see the attached following pages for response.

2. The specific proposed exception will not be injurious to the use and enjoyment of other property in the immediate vicinity and will not substantially diminish and impair property values in the neighborhood.

Please see the attached following pages for response.

3. Establishment of the specific proposed exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district in which such property is located.

Please see the attached following pages for response.

4. Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.

Please see the attached following pages for response.

FILED
2015 JUL 15 AM 9:46
CITY CLERK
IOWA CITY, IOWA

Responses to Page 3

1. **The specific proposed exception will not be detrimental to or endanger the public health, safety, comfort, or general welfare.**

Parking Count - The existing site currently includes 22 parking spaces. The project's expansion of the current building, calculated by current zoning, allows for a maximum of 13 parking stalls. $(3,687 \text{ SF}/300 = 12 \text{ (x110\%)} = 13)$ This branch office, when fully staffed, has the potential of having 11 employees. The northeast 5 stalls are rarely used so it is possible to eliminate them. This would leave a maximum parking count of 17. Special exception is being requested to allow the remaining parking to remain. This special exception is not detrimental and does not endanger the public health, safety, comfort, or general welfare.

Maximum Allowable Floor Area - The existing building is 2,117 SF. The proposed project expands the building towards the two street sides approximately 1,585 SF. The total proposed building is 3,687 SF. CN-1 zoning allows up to 2,400 SF and up to 5,000 SF with approved BOA Special Exception. Special exception is requested to allow for this additional 1,287 SF. $(3,687 - 2,400 \text{ SF} = 1,287 \text{ SF}$ and is still below the 5,000 SF maximum)

This special exception is not detrimental and does not endanger the public health, safety, comfort, or general welfare.

FILED
20 JUL 15 AM 9:46
CITY CLERK
BOA CITY OF WA

2. **The specific proposed exception will not be injurious to the use and enjoyment of other property in the immediate vicinity and will not substantially diminish and impair property values in the neighborhood.**

Parking Count - The special exception of Increased parking will not be injurious to the use and enjoyment of other property in the immediate vicinity. The proposed parking is still a reduction of the current count and eliminates paving in the NE corner of the site. This request will help enhance the appearance of the property and thus help improve the neighborhood.

Maximum Allowable Floor Area - The special exception of Increased floor area will not be injurious to the use and enjoyment of other property in the immediate vicinity. The new expanded floor area will help make the property closer to complying with CN-1 zone guidelines. Increase in floor area includes new spaces that will enhance the building and help it comply with current design guidelines, thus improving the neighborhood.

Responses to Page 3 (continued)

3. **Establishment of the specific proposed exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district in which such property is located.**
-

Parking Count - The increased allowable parking count special exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

Maximum Allowable Floor Area - The increased allowable floor area special exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

4. **Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.**
-

Parking Count - The increased allowable parking count special exception does not effect the current access roads, drainage, and utilities.

Maximum Allowable Floor Area - The increased allowable floor area special exception does not effect the current access roads and drainage. The utilities to the building will be adjusted to provide for and accommodate the expansion.

FILED
2015 JUL 15 AM 9:46
CITY CLERK
IOWA CITY, IOWA

5. **Adequate measures have been or will be taken to provide ingress or egress designed to minimize traffic congestion on public streets.**
-

Parking Count - The increased allowable parking count special exception will not effect the ingress or egress to public streets from the site. Adequate measures, including the site design, will be taken to assure that the ingress/egress to the site is maintained.

Maximum Allowable Floor Area - The increased allowable floor area special exception will not effect the ingress or egress to public streets from the site. Adequate measures, will be taken to assure that the ingress/egress to the site is maintained.

6. **Except for the specific regulations and standards applicable to the special exception being considered, the specific proposed exception in all other respects conforms to the applicable regulations or standards of the zone in which it is to be located. [Depending on the type of special exception requested, certain specific conditions may need to be met. The applicant will demonstrate compliance with the specific conditions required for a particular use as provided in the City Code section 14-4B as well as requirements listed in the base zone or applicable overlay zone and applicable site development standards (14-5A through K).]**
-

Parking Count - With the exception of the increased allowable parking count special exception, the parking count will conform to the applicable regulations or standards of the zone in which it is to be located.

Maximum Allowable Floor Area - With the exception of the increased allowable floor area special exception, the area will conform to the applicable regulations or standards of the zone in which it is to be located.

7. **The proposed use will be consistent with the Comprehensive Plan of the City.**
-

Parking Count - The increased allowable parking count special exception will not effect the intent or use of this property as it pertains to the Comprehensive Plan.

Maximum Allowable Floor Area - The increased allowable floor area special exception will not effect the intent or use of this property as it pertains to the Comprehensive Plan.

FILED
JUL 15 AM 9:46
CITY CLERK
IDAHO CITY, IDAHO

NOTE: Conditions. In permitting a special exception, the Board may impose appropriate conditions and safeguards, including but not limited to planting screens, fencing, construction commencement and completion deadlines, lighting, operational controls, improved traffic circulation requirements, highway access restrictions, increased minimum yard requirements, parking requirements, limitations on the duration of a use or ownership or any other requirement which the Board deems appropriate under the circumstances upon a finding that the conditions are necessary to fulfill the purpose and intent of the Zoning Chapter. (Section 14-8C-2C-4, City Code).

Orders. Unless otherwise determined by the Board, all orders of the Board shall expire six (6) months from the date the written decision is filed with the City Clerk, unless the applicant shall have taken action within the six (6) month period to establish the use or construct the building permitted under the terms of the Board's decision, such as by obtaining a building permit and proceeding to completion in accordance with the terms of the permit. Upon written request, and for good cause shown, the Board may extend the expiration date of any order without further public hearing on the merits of the original appeal or application. (Section 14-8C-1E, City Code).

Petition for writ of certiorari. Any person or persons, jointly or severally, aggrieved by any decision of the Board under the provisions of the Zoning Chapter, or any taxpayer or any officer, department or board of the City may present to a court of record a petition for writ of certiorari duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality. (Section 14-8C-1F, City Code). Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the City Clerk.

Date: July 14, 20 15

Matthew FettKether

[Signature]

Signature(s) of Applicant(s)

Date: N/A, 20

N/A

N/A

Signature(s) of Property Owner(s)
if Different than Applicant(s)

FILED
2015 JUL 15 AM 9:46
CITY CLERK
IOWA CITY, IOWA

**MINUTES
BOARD OF ADJUSTMENT
JUNE 10, 2015 – 5:15 PM
EMMA J. HARVAT HALL, CITY HALL**

PRELIMINARY

MEMBERS PRESENT: Larry Baker, Gene Chrischilles, Connie Goeb, Becky Soglin

MEMBERS ABSENT: Brock Grenis

STAFF PRESENT: Susan Dulek, Sarah Walz,

OTHERS PRESENT: Mitch King, Gary Klinefelter, Chad Crigger, Janet Crigger

CALL TO ORDER:

The meeting was called to order at 5:15 PM.

ROLL CALL:

A brief opening statement was read by Baker outlining the role and purpose of the Board and the procedures that would be followed the meeting.

CONSIDERATION OF THE MAY 13, 2015 MEETING MINUTES:

Goeb moved to approve the minutes.

Chrischilles seconded the motion.

A vote was taken and the motion carried 4-0

SPECIAL EXCEPTION ITEM EXC15-00009:

An application submitted by Mitch King to allow a non-conforming rooming house to be converted to another non-conforming use of less intensity for property located in the Neighborhood Stabilization Residential (RNS-20) zone at 332 Ellis Avenue.

Walz presented the staff report, beginning by stating that this application is converting a non-conforming use to another non-conforming use of equal or less intensity. She showed the location of the property, it fronts on Ellis Avenue and on the back side of the property is Ridgeland Avenue, with an alley that runs along the side of the property line. She showed the zoning map which showed the surrounding zoning is RNS-20 zoning in the immediate area with RS-5 single family zoning a block or so away. The RNS-20 zone includes a number of apartments as well as some fraternities and fraternities that have been redeveloped into apartments or condos. Walz explained that rooming houses are not a permitted use in the RNS-20 zone, which is why this use is considered non-conforming. A rooming house with 25 rooms is required to provide 19 parking spaces. The parking areas for this property are non-conforming as well due to a number of design elements, and have never met the parking standards. The applicant, Mitch King, is requesting a special exception to convert this building (which is in some state of disrepair) to a multi-family use with 11 units and a total of 15

bedrooms. The proposal results in 1 efficiency apartment, 7 one-bedroom units, 2 two-bedroom units, and 1 three-bedroom unit. Two of the one-bedroom units are in the basement, or garden level. The RNS-20 zone does allow multi-family units and if this building were removed from this lot, based on the lot size, a new structure with 8 two-bedroom apartments could be built. The applicant is requesting less bedrooms, but more units due to financial reasons for the existing building, but the end result is comparable in terms of the number of residents that will be in the finished space. Walz noted that Ridgeland Avenue is a city street but does function more like an alley and it is used more in that fashion. It is narrow and without sidewalks.

Walz stated that the special exception is to allow the reuse of existing property structures in a way to get the property closer to conformance for the area. The specific standards ask the proposed use will be located in a structure that was designed for a use that is not currently allowed in the zone. Walz noted it is unlikely this building would ever be used as a single family house, it's just too large. Fraternities are allowed in this zone, but this property has not been used as a fraternity in the past few decades.

The next standard is the proposed use is of the same or lesser level of intensity and impact than the existing use. Walz explained they look at the potential number of residents that will be on the site, the traffic, etc., and with 11 units and 15 bedrooms it is unlikely there would be more than 25 people living on this site. It is more likely to have significantly less than that. Also mentioned in the staff report is ensuring that the proposed result be fewer than the current number of occupants. The staff member that oversees rental properties did not feel it would be enforceable to restrict the property tenant numbers on the basis of the number of bedrooms, so staff looked at other ways to ensure there would not be more than 25 tenants on this property. Staff is therefore recommending imposing a condition that the occupancy not exceed the total number of bedrooms provided. The units would be limited to two unrelated people or a family in the 1 and 2 bedroom units. In the 3 bedroom unit maximum occupancy would be family or no more than three unrelated persons. Walz did note that the front doorway on the building is blocked off which is not within code, which does require for a multi-family structure to have an entrance at the front of the building for aesthetics, ADA compliance, and safety reasons. The applicant was able to submit a building plan that changed a 1 bedroom unit into an efficiency unit to allow space for the front door entrance.

Walz explained that the parking allocation will come closer into compliance with this application. Given how deeply the house is set back on the property it is difficult to come into full compliance and create a setback between the house, the back parking lot, and Ridgeland Avenue.

Staff recommends approval of EXC15-00009, an application to allow conversion of a non-conforming Independent Group Living Use to a non-conforming Multi-Family Use located at 232 Ellis Avenue in the RNS-20 zone subject to the following conditions:

1. The occupancy of the building will be regulated as follows: the efficiency unit is limited to an occupancy of one; 1 bedroom and 2 bedroom units are limited to a maximum occupancy of two unrelated persons or a family as defined in the zoning code; and the 3 bedroom unit is restricted to a maximum occupancy for a household as defined in the zoning code.
2. The converted use shall consist of 11 dwelling units: 1 efficiency, 7 one-bedroom units, 2 two-bedroom units, and 1 three-bedroom unit.
3. Substantial compliance with the floorplan submitted, with the adjustments to the first

floor units to be approved by the Building Official.

4. Waterproofing and tile of the basement level to ensure a healthy living environment.
5. Substantial compliance with the site plan submitted with modifications to the parking areas as indicated by staff.
6. In order to establish the conversion, the applicant must apply for a rental permit.
7. Upon steps being taken to establish the conversion-issuance of a building permit and commencing of renovations-any right to re-establish a rooming house on the property shall be extinguished.

Chrischilles asked when this area was zoned RNS-20. Walz believed it was about a decade ago, perhaps 2005, so this property would have been grandfathered into the new zone. It could continue at its current state of non-conforming use as long as it does not expand and meets all rental codes.

Soglin asked if any input had been received from neighbors. Walz said there were a few inquiries but no objections.

Baker asked if the parking area on the south side of the building will be paved and Walz confirmed that yes it must be paved. He questioned if there is still a City right-of-way beyond that paving connecting the two streets. Walz again confirmed that was correct. And noted that the building to the south also uses that area for parking, as parking on private property and onto the alley is allowed.

Chrischilles asked what the requirement for the number of parking spaces should be if the property was conforming. Walz said it is based on the number of bedrooms, so it would be 15 spaces. This property will have 15 with the modification of the setback along the alley.

Baker asked the applicant to come forward and address the Board.

Mitch King (1545 McKinley Place) noted that the building in question is pretty dilapidated and feels the project will better the building and the neighborhood.

Goeb asked about the front door that is currently blocked off and when the building is redesigned on the remodel, will that front door open to a common hallway area. King confirmed it would be a hallway that would intersect with another hallway with in the building. Walz noted that any apartment in the building would be accessible from that front door entrance.

Goeb asked if the building was currently occupied. King confirmed it does have current occupants who are on month-to-month leases and would be given 30 days' notice that their lease would not be renewed as the building was being renovated.

Soglin asked if there were current tenants in the basement of the rooming house and King said the basement rooms are currently occupied. Walz said the question about drainage is a normal question the inspector always looks at when there will be basement issues in a building, it does not mean there is currently any concern.

King noted that the plan with the parking and landscaping is to grade it away from the building and they are also planning on waterproofing the basement so there should not be any water issues.

Baker asked if King had any concerns or objections to the conditions that the Staff is recommending with approval of this application. King said that at first the front door issue

caught him off guard because he was not aware there was even a front door on the building, as it is fully sealed off from the inside. But there are not any issues or concerns he has with the conditions suggested.

Chrischilles asked if there currently is a rear entrance into this building. King said there are currently multiple entrances, one on the south side, one down into the garden level, and then they will add the addition of the front entrance.

Goeb asked if the rooming house was fully occupied right now. King believes there are currently two vacancies. Goeb asked if he was aware how many of those current tenants had vehicles, or how many vehicles are currently parked on the lot. King said he does not know for sure but there are never that many when he is at the property. Goeb questions that the reduction of bedrooms will actually be a reduction in cars parking on the property as the remodel will likely be more upscale and tenants more likely to have vehicles rather the rooming house month-to-month tenants.

Baker opened the public hearing.

Gary Klinefelter (1131E. Washington Street) and owns the two buildings across Ridgeland Avenue (330 and 360 Ridgeland Avenue) and stated this property on Ellis Avenue has been a long term eyesore, he has put over a million dollars in each of his buildings hopes Mr. King can clean up this building and resurrect it to something respectful he is totally in favor. Klinefelter noted that he had the opportunity to purchase the Ellis Avenue building in 2002 but because of the zoning ordinance at that time which would have allowed only six units in the building it would not have been cost effective. He feels the City is being very generous with this application and the level of occupancy that is being allowed, but if all feel that is reasonable he will respect that decision. He is very eager to see this property renovated and no longer be the eyesore of the neighborhood.

King responded noting that in terms of occupancy level the only number that is more is number of doors, 11. The occupancy will actually be less with only 14 bedrooms (+ one efficiency apartment) rather than the 16 bedrooms if they were to put 8-2 bedroom apartments in the building. He also noted that is fullest intention is to upgrade this property and make it more upscale.

Baker closed the public hearing.

Goeb agreed that the plans appear to be an upgrade to the property and a significant improvement.

Baker said he walked through the property earlier today and there is a lot of room for improvement and thinks this project will be a good thing for the neighborhood.

Goeb moved to approve EXC15-00009, an application submitted by Mitch King to allow a non-conforming rooming house to be converted to another non-conforming use of less intensity for property located in the Neighborhood Stabilization Residential (RNS-20) zone at 332 Ellis Avenue subject to the following conditions:

- 1. The occupancy of the building will be regulated as follows: the efficiency unit is limited to an occupancy of one; 1 bedroom and 2 bedroom units are limited to a maximum occupancy of two unrelated persons or a family as defined in the**

zoning code; and the 3 bedroom unit is restricted to a maximum occupancy for a household as defined in the zoning code.

- 2. The converted use shall consist of 11 dwelling units: 1 efficiency, 7 one-bedroom units, 2 two-bedroom units, and 1 three-bedroom unit.**
- 3. Substantial compliance with the floorplan submitted, with the adjustments to the first floor units to be approved by the Building Official.**
- 4. Waterproofing and tile of the basement level to ensure a healthy living environment.**
- 5. Substantial compliance with the site plan submitted with modifications to the parking areas as indicated by staff.**
- 6. In order to establish the conversion, the applicant must apply for a rental permit.**
- 7. Upon steps being taken to establish the conversion-issuance of a building permit and commencing of renovations-any right to re-establish a rooming house on the property shall be extinguished.**

Chrischilles seconded the motion.

Chrischilles noted it sounds like a good idea to try and renovate property that is in definite need of improvement.

Goeb agreed and said the updated condition #1 is a good one and mindful.

Chrischilles stated that regarding EXC15-00009 he concurs with the findings set forth in the Staff report of June 10, 2015 and conclude that the general and specific criteria are satisfied unless amended or opposed by another Board member he recommends that the Board adopt the findings in the staff report for the approval of this application.

Baker added that one of the compelling findings was the probable reduction in occupancy would be a benefit to the neighborhood.

A vote was taken and the motion approved 4-0.

Baker declared the motion for the special exception approved, noting that anyone wishing to appeal the decision to a court of record may do so within 30 days after the decision is filed with the City Clerk's Office.

SPECIAL EXCEPTION ITEM EXC15-00010:

An application submitted by Chad Crigger to allow a reduction in the principal building setback for the installation of a 6 foot privacy fence in the Low Density Single-Family Residential (RS-5) zone at 2525 Princeton Road.

Walz began the staff report showing the location of the house which is entirely surrounded by RS-5 zone. The current allowable setback in RS-5 zones for fencing is 15 feet and on corner lots, as this one is, the setback is on both frontages to create uniformity. Due to setback averaging the front principal building setback along Mt. Vernon Drive is determined to be approximately 26 feet. This corner lot also has a swimming pool in the backyard which has been on the property since the 1970's and City code requires a fence of 4 feet in height around pools. The applicant has stated their insurance company is requiring a 6 foot fence and they could put that 6 foot fence along the required setback along Mt. Vernon Road and around the pool, but they would like to have an additional fence for a play area and would need like to

come into the principle setback area along Mt. Vernon Road to allow for more usable yard space within the fenced in area.

Walz noted that fences can be issues and the City tries to strike a balance with resident's privacy and aesthetics of the neighborhood. City Staff look at the characteristics of particular neighborhoods in these situations.

In terms of the specific criteria the first questions if the situation is peculiar to the property in question. The fact that this is a corner lot is not peculiar but the front principle setback is deeper than a standard lot, so that might be viewed as peculiar. The property does have a swimming pool which does set it apart from other properties in the immediate neighborhood. Staff looked at other properties in Iowa City on corner lots with swimming pools and found examples that provide the required front yard setback fencing of swimming pools. Overall a 26 foot setback is a peculiar situation. In terms of the practical difficulty in complying with the setback requirements, if the owners want to provide fencing of the backyard for safety of the pool area they are allowed a 4 foot fence but are asking for a 6 foot one. Granting the special exception will not be contrary to the purpose of the setback regulations. Because this is for a fence and not a building, some of the privacy issues and opportunity for firefighting do not apply. Overall they are trying to balance the character of the neighborhood as it currently exists with what is the requirement is where Staff came with the 15 foot requirement as it seems reasonable and will preserve space along the frontage in keeping with the intent of the fence regulations.

Finally Walz discussed the potential negative effects resulting from the setback exception are mitigated to the extent possible, Staff is recommending to either keep an open pattern fence or if a solid fence is used to provide some landscaping to minimize the appearance of the fence.

Staff recommends approval of a reduction in the front principal building setback requirement to 15 feet along the Mt. Vernon Drive Street right-of-way line, subject to the conditions listed below:

- The shed currently located in the front setback must be relocated behind the front facade of the house.
- The 6-foot fence must either be an open pattern fence or, if the board believes a solid fence is appropriate, that the applicant be required to plant a mix of small trees and shrubs along the length of the fence.

Goeb asked if this new fence would completely enclose the yard and Walz confirmed it would, leaving only the front yard facing Princeton Road open.

Soglin asked about the 15 foot setback means 15feet from the sidewalk. Walz said that is what Staff is proposing, the applicant originally asked for 10 feet from the sidewalk, and the Board can consider that proposal.

Chrischilles asked if the sidewalk then is the property line and Walz said typically the property line is about a foot into the sidewalk.

Soglin stated the line of sight while driving along the street, from multiple directions, would not likely be a concern but it would matter with the type of fence or landscaping. Some landscaping might not be appropriate in that space and be a concern for the line of sight for backing out of the driveway.

Goeb asked about the City requirements and if there needed to be a separate fence around the pool even if there is a big privacy fence around the yard. Walz said the City just requires a 4 foot fence and that could be around the whole yard or just the pool itself.

Baker questioned the need for the exception when the applicant could currently build a 6 foot fence from the corner of the house around the pool at this time. Walz confirmed they could do that, however they wish to extend the useable yard space within the fence for play area for the children.

Chrischilles stated that the City requires fencing around the pool, as does the insurance company and Walz confirmed that was true, but the City requires by code a 4 foot fence and the insurance company is requiring a 6 foot fence.

Baker asked the applicant to come forward and address the Board.

Janet & Chad Crigger (2525 Princeton Road) would be happy to answer any questions the Board may have.

Chrischilles asked if their intention was to take out the chain-link fence and keep the wooden fence that is currently around the yard and extend the wooden fence to attach to the house and isolate the backyard with the fencing. But that the chain-link fence and the shed would be removed. Chad Crigger confirmed that was their intention although he would need a shed and is currently building a new one elsewhere on the property. Chrischilles asked if on the Mt. Vernon Street fencing their preference is a 6 foot fence, 15 feet in that they would have to put shrubbery in front of or move the fence back. Janet Crigger said they initially were asking for the setback to be 5 feet with a 4 foot fence which is allowable, but it was suggest to her to ask for 10 feet to show a level of compromise. She feels like she lost her compromise because she was asking for 5 feet and agreed to ask for 10 feet and now it's being proposed at 15 feet. They just want to maximize their yard space. Janet Crigger has talked to neighbors over a several block radius and all are agreeable to this fence and not concerned. In fact in good conscious a 6 foot fence is safer than a 4 foot fence which everyone agrees.

Chrischilles asked for clarification from Walz stating here appears to be multiple options of what the Board can or cannot approve. Walz confirmed the Board just has to be able to provide the findings for whatever they choose to do. Chrischilles asked if the Board was able to ask the applicant what their preference would be. Dulek replied that the Board is able to ask the applicant their preferences. Walz clarified that as long as the Board can produce the findings of fact to meet the standards, they do not have to take the Staff recommendation, and they can take the applicant's preference or come up with a completely new recommendation. Chrischilles then asked the applicants if they would prefer a 15 foot setback as noted in the staff recommendation with a 6 foot fence that can be seen through on the Mt. Vernon Road frontage or would they prefer to have the 15 foot setback with a solid fence and screening of shrubbery in front of it. Janet Crigger questioned if the only options are a solid fence plus the expense of shrubbery or an open fence where everyone can see their children in their backyard pool. Chad Crigger said his preference would be the closed fence with the added shrubbery due to the traffic on Mt. Vernon Road with it being a bus route and lots of pedestrians, they need the privacy. He asked if they could have a 6 foot fence without shrubbery, or is the shrubbery required. Walz said the shrubbery is not required. Chad Crigger said that would be his preference, a fence without the shrubbery would be a cleaner look.

Goeb asked if the applicant's insurance company requires them to separately fence the pool area. Chad Crigger said their only requirement was for a 6 foot fence around the property.

Baker noted that the applicants were contacted today by Staff regarding documentation showing the insurance company requirement. Chad Crigger said he confirmed with the insurance company and they stated that the underwriter asked if there was a 6 foot fence around the pool even though City code only requires a 4 foot fence. The underwriter did not say a 6 foot fence was required, but that is what they asked for. The Crigger's would like a 6 foot fence for safety and privacy reasons. Baker said that is not then a hardship for which this application is based on, if the 6 foot fence is not required by the insurance company. Baker asked what the loss of square footage of the yard space if the 6 foot fence was constructed abutting the house line, without the setback requirement exception. Janet Crigger said it was a loss of 700 feet of usable yard space if they were not able to fence in the yard at the 5 foot setback they originally wanted. Chad Crigger agreed that their yard space was large, but if they had to construct the fence abutting the house and basically cut the yard in half, because they would never use the space outside the fenced area, it is then just wasted space. Baker noted his concern would be the line of vision from the street and safety of pedestrians and drivers. Janet Crigger said that there should be no concern of line of vision at 10 feet because that is where the existing shed was built, and even if the fence was at 5 feet, the shrubbery that was removed was 2 feet from the sidewalk and wasn't an issue.

The Criggers presented the Board with a petition from the neighbors in support of the fence.

Walz noted that the homes are allowed to be built up to the 15 feet setback so that is not a vision sightline issue.

Baker said his concern is from the Staff report on page 3 where it is noted "this particular neighborhood has developed with deeper than the standard setbacks, and few properties (even corner properties) have any fence. This proposal may be interpreted as counter to purpose "c" above which is "reflect the general building scale and placement of structures in the City's neighborhoods". Walz said that in the Staff's view, that is the standard they were trying to achieve with the 15 foot setback, to say it is reasonable to reduce the setback to the standard.

Janet Crigger asked Walz to pull up the photos she sent earlier today to show the Board examples of fulfilling this with a 4 foot fence. There was an example on Mt. Vernon Road of a 4 foot fence but then the bushes around the fence were well over 6 feet tall, but fulfilled City code. So having just a 6 foot fence would actually be shorter and less likely to obstruct views but needs exception to City code. Another example on Princeton Drive where there is a 4 foot fence only 3 feet from the sidewalk again with bushes completely walling off the yard. So in terms of the general feel of the neighborhood, those are examples of what the City allows but yet are larger than the structure the Criggers are requesting.

Goeb pointed out the greenery, even if it's overgrown, is different than just having a stark fence. Janet Crigger agreed but also wants to live in an attractive neighborhood and would like to plant flowers and ornamental grasses along the fence, but not necessarily shrubs.

Baker opened the public hearing.

Hearing none, Baker closed the public hearing.

Baker noted he would be voting against this application, he appreciates all the applicants concerns but he thought the application was based on a requirement set by an insurance company but it is not. Additionally the applicants can install a 6 foot fence, just on a smaller portion of the lot, without affecting the setback. Or finally the applicants could install a 4 foot fence without worrying about the setback requirements. Therefore Baker does not see a compelling reason why this application should be granted when the counterintuitive argument is setback requirement, line of visibility, and it is not a requirement of insurance. He noted he understands the reasons why the Criggers wish to do this, but it is for personal reasons and not required. Baker just wanted to state his opinion up front because the other three members of the Board will have to be unanimous for this vote to pass.

Chrischilles stated he would like the Board to look at the application in terms of what they would like to have if it were their personal property. If it was his property and he had a requirement to have some fencing around the pool and felt 6 feet is safer than the 4 feet required, and wanted to maximize the usable space in the yard this application makes complete sense and he understands why the Criggers are requesting this exception. The applicants are willing to comply and build a fence based on City recommendations, but the City should be considerate and allow them to maximize the use of the property.

Dulek reminded the Board that a decision has to be based on the standards. So Baker will have to state what standard he feels is not being met to vote against this application. Chrischilles would have to state all the standards are met and then it would be just a question of what conditions the Board may set.

Soglin said she feels she needs to read through the application again, especially now that the Board has been told the insurance requirement is not 6 feet. Soglin noted the applicant cites three reasons for the exception and one of them was the requirement for insurance to have a 6 foot fence, and now the Board is hearing that is more of a strong recommendation but not a requirement. However that could affect the applicant's insurance rates which could then translate into a hardship. They also cite privacy and safety of their children from the street and finally to maximize space for their children to play outside. She noted that it will be several hundred square feet of difference of usable space if the Board is to find support of this application. She also noted that yes there are other properties with foliage taller than the fence lines and close to the property lines, but that is not what is at question here, only this property and this exception is at question here. Soglin just feels more time to review this application is needed.

Walz said the only place the insurance requirement was cited in the application was under item 2 and the standard discussing the practical difficulty.

Chrischilles noted that it is a fact a 4 foot fence is required, that the applicant wants to go above and beyond that for safety reasons should be seen as a positive.

Soglin stated she is also concerned about 70 feet of fence along Mt. Vernon Road and the aesthetic to the neighborhood.

Baker said that brings him back to standard 3 and "reflect the general building scale and placement of structures in the City's neighborhoods". For this length of property and that far away from the house is a substantial deviation.

Soglin said that is why she was wondering if they had the setback at 20 feet instead of 15 feet

maybe that would be better. She also isn't interested in making a requirement about landscaping with the fence, the application is about the fence.

Chrischilles asked how "see-through" the fence needs to be according to code. Walz said the code defines it as being 65% "see-through". The applicants would prefer a solid fence to match the rest of their fencing. Having a pool is an attraction and can see why they would not want passerby's to be able to see a pool in the backyard. Chrischilles does not understand if the only requirement is a 4 foot fence, and the applicants want to do more and put up a 6 foot fence, why the Board would deny that.

Soglin said the issue is in the findings and the scale of the fence and that perhaps a 15 foot setback is not enough in this case and it should be more. The finding that states "scale and placement" not having a 70 foot fence closer to the sidewalk and street is the issue. In terms of safety she does agree a solid fence is understandable.

Baker asked the applicants to come back up to address the Board to further clarify and answer some of the comments and questions of the Board.

Chad Crigger noted that yes they can put the fence up at 25 feet (or abutting the house) and whether it is then built at 20 feet or 15 feet or whatever it is not going to change the view of property.

Janet Crigger stated that Baker said the cornerstone of their application was that their insurance requirement was not met. That was her understanding when first speaking to the insurance company, she in no way meant to mislead anyone. When asking for further clarification that is was understood to be a strong recommendation. She just wanted to stress her concern is her children's safety.

Baker stated his initial thought when reading the application was there were two issues. One was the going into the setback and the other was the height of the fence. Going into the setback with a 4 foot fence versus with a 6 foot fence. If the homeowner was required to do a 6 foot fence, then the height issue is eliminated, because 6 foot is the only option. But since 6 foot is not required, it is no longer a hardship requirement the homeowner must meet, it is just a preference, and understandable preference, but just a preference. So then the issue becomes 70 feet of fencing along that side of the street, so his question is if they can already do a 6 foot fence along the house there is no longer a finding for an intrusion into the setback. It is just a preference.

Chad Crigger agreed, it is a preference. Their preference is to not build a fence in the middle of their yard that would essentially separate the yard.

Chrischilles noted that the issue of the overall neighborhood is also satisfied with the petition from the neighbors showing support of the application. An email received by the Board earlier today by Curt Graf noted his support of the application.

Janet Crigger wanted to address that they can have a fence now without an exception but the hardship they then face is the amount of useless space that is not able to be used by the family. They would not want their children playing on the outside of the fenced area, it is on a bus line and a fairly busy street.

Soglin asked though how the Board can base a hardship on a preference.

Walz stated that if the Board's question is the practical difficulty of the additional setback required for this property that the standard requirement is 15 feet but along this frontage 26 feet is required due to existing development.

Baker said the question is having the 6 foot fence and changing the setback calls into question all the standards when this is really a preference question, not a finding.

For Baker the criteria in question is "reflect the general building scale and placement of structures in the City's neighborhoods" maintaining that what the applicant can do with the property now is a substantial fenced in area but if they move that fence into the setback area they are violating the general building scale and placement of structures. What the applicant wants to do versus what they have to do are two different things. And what they have to do does not require an exception.

Chrischilles noted that Baker is stating that a 6 foot fence in the setback is out of scale and will look bad. He also noted Soglin is saying the same thing, but if the fence was set back 20 feet maybe it would be okay. Soglin agreed with that statement and feels it will balance the scale compromise.

Baker said his issue is there is no practical difficulty here in creating a fenced in area for the applicant. Their preference is a larger fenced in area, but that is a preference and not a practical difficulty.

Soglin noted that on page 3, item 2 the practical difficulty could be for utmost privacy they want a 6 foot fence, for safety they want a 6 foot fence solid fence, and if they want that then the difficulty is they would have to put it along the house which is not a practical difficulty for any other lots along that street. Therefore the applicant may satisfy the criteria of practical difficulty.

Dulek noted that Soglin and Chrischilles feel specific criteria 2 has been met.

Goeb believes that if the City says a 4 foot fence is safe, and the insurance company states a 4 foot fence is safe, then why is it a safety issue that they need a 6 foot fence.

Walz noted that the applicant is claiming that on a corner lot passersby's can see the pool area and is more visible than an interior lot with a pool would be.

Goeb feels the applicant is more concerned that the people in the yard and pool are more visible than the actual pool. She also feels that because the applicants can put a 4 foot fence around the yard without coming before the Board renders the application moot. She understands the applicant's view regarding their personal preference for a 6-foot fence for safety of their family and others, but it is not required by the insurance company or by the City.

Chrischilles noted that at last month's meeting the Board did reduce a setback for a garage to be built on the side of a house and not in the rear yard because there was very little rear yard that was private from the street and putting the garage closer to the house would result in losing the private yard space closer to the house. So basically the Board allowed that applicant to maximize the size of the yard and have a garage by allowing the setback exception for the garage.

Goeb noted that is not precedent setting; each application is distinct.

Baker said health, safety, and welfare are not the issues in this application. The health, safety and welfare can be accomplished with the 6 foot fence at the setback line of 26 feet. This application is a question of maximizing the use of the property, and is uncomfortable with that as a precedent.

Chrischilles noted that if the application is not based on safety, can it be based on it does not harm.

Soglin stated then they are back discussing if there is a practical difficulty.

Baker stated it is a question of how much land does the City want to allow the homeowner to use to maximize the use of their property, there is no safety hazard. He understands the applicant's point of view, but cannot see a compelling reason to grant this exception on the basis of any of the findings.

Soglin said to her there is a safety issue, that if children are playing in the fenced in yard area, they should have space that is far enough from the pool to not be a safety concern.

Baker felt the conversation needs to move forward and Dulek stated that procedurally a motion should be made. Soglin asked if a motion were to be made, what would the distance of the setback be in the motion. Dulek said to make the motion and second for the approval and then discuss and see if the findings are met.

Soglin moved to approve EXC15-00010 a reduction in the front principal building setback requirement to 15 feet along the Mt. Vernon Drive Street right-of-way line, subject to the conditions listed below:

- **The shed currently located in the front setback must be relocated behind the front facade of the house.**
- **The 6-foot fence must either be a solid fence.**

Chrischilles seconded the motion.

Dulek reminded the Board to focus if the standards have been met. The two standards that have been discussed in debate are the practical difficulties (standard 2) and reflect the general building scale and placement of structures in the City's neighborhoods (part of standard 3). So if a member of the Board is going to vote against this exception they need to state the finding for which they feel is not satisfied.

Baker stated that the argument of a practical hardship has not been met because the yard can still be used, fenced in safely, the pool can be protected, there is not a requirement for a 6 foot fence and given again the general building scale and placement of structures is inconsistent and there is not a compelling argument beyond that.

Chrischilles questioned the inconsistency of general building scale and placement of structures stating there are examples in Iowa City where structures are within 15 feet of the setback.

Dulek noted that is not the legal standard, the applicant has the burden to show that is the case, and Baker is saying that the applicant has not carried its burden to show it reflects the general building scale and placement. The legal issue is whether the applicant has met the standard.

Chrischilles asked what the applicant would need to do in order to satisfy that burden and meet the standard.

Baker said the height of the fence and the length of the fence are inconsistent and the location of where the fence should be placed.

Chrischilles states he feels the exception would satisfy the standard because the general setback in RS-5 zones is 15 feet and the motion is for the setback to be at 15 feet.

Soglin noted that this is a corner lot, which is not the same as general lots.

Walz said a typical corner lot built today would have a 15 foot setback on both street frontages.

Soglin then said that could be seen as a practical difficulty then because this lot was built on in a time where the setbacks were different than today.

Baker said there is no practical difficulty in building a fence but the applicant is saying there is a practical difficulty for them in the amount of usable yard space they would lose if fence was built at the current setback. He noted that would be true everywhere, if one wanted to maximize the use of their property whether it was 15 feet or 26 feet.

Chrischilles again stated that a setback was reduced as last month's meeting to maximize the yard space for the applicant. And also Walz said that if this lot was built in today's standards, the setbacks would be 15 feet.

Baker says in the Staff report it states this application may be interpreted as counter to purpose C "reflect the general building scale and placement of structures in the City's neighborhoods" which he believes means the Staff recognizes that there is no clear guideline here.

Goeb stated she agrees that she does not believe there is a practical difficulty.

Soglin also noted she is concerned about standard 3(c) reflect the general building scale and placement of structures in the City's neighborhoods, and that it has not been met.

Baker noted before a vote he wanted to thank the applicants for their time and patience as the Board reviewed and discussed the application.

Chrischilles stated that regarding EXC15-00010 he concurs with the findings set forth in the Staff report of June 10, 2015 and conclude that the general and specific criteria are satisfied unless amended or opposed by another Board member he recommends that the Board adopt the findings in the staff report for the approval of this application.

Baker stated that regarding EXC15-00010 he does not find the findings have been satisfied specifically reflect the general building scale and placement of structures in the City's neighborhoods has not been met and therefore opposed this application.

Soglin also opposed EXC15-00010 based on concern about placement and scale.

A vote was taken and the motion was denied 1-3 (Baker, Goeb and Soglin dissenting).

Baker declared the motion for the special exception denied, noting that anyone wishing to appeal the decision to a court of record may do so within 30 days after the decision is filed with the City Clerk's Office.

OTHER:

A request by Noah Kemp to extend the term of a special exception to allow a drive-through facility to be located in the Riverfront Crossings-West Riverfront Subdistrict (RFC-WR) zone at 708 South Riverside Drive. (Exception was approved in January, 2015.)

Walz stated the letter from Mr. Kemp was in the Board's packet. They are still negotiating with Brueggers Bagels and therefore asking for an extension of the exception until April 2016. Staff recommends just a six month extension, all they need to do is get a site plan or building permit process to begin and then they have up to two years to complete the project before the exception expires. Therefore Staff feels six months is sufficient. The initial terms of the exception was six months during which time the applicant has to start the process of establishing the project for which the exception was granted.

Soglin moved approval of a request by Noah Kemp to extend the term of a special exception to allow a drive-through facility to be located in the Riverfront Crossings-West Riverfront Subdistrict (RFC-WR) zone at 708 South Riverside Drive and extend that term by six months from the expiration of the original exception approval.

Goeb seconded the motion.

A vote was taken and the motion passed 4-0.

ADJOURNMENT:

Goeb moved to adjourn.

The meeting was adjourned on a 4-0 vote.

**BOARD OF ADJUSTMENT
ATTENDANCE RECORD
2014 - 2015**

NAME	TERM EXP.	9/10	10/8	11/12	1/14	2/11	4/8	5/13	6/10
BAKER, LARRY	1/1/2017	X	X	X	X	X	X	X	X
GOEB, CONNIE	1/1/2020	X	X	X	X	X	X	X	X
GRENIS, BROCK	1/1/2016	X	O/E	X	X	X	O/E	X	O/E
CHRISCHILLES, T. GENE	1/1/2019	X	O/E	X	O/E	X	X	X	X
SOGLIN, BECKY	1/1/2018	X	X	X	X	X	X	X	X

KEY: X = Present
 O = Absent
 O/E = Absent/Excused
 --- = Not a Member