



North Liberty Board of Adjustment Information Packet

November 19, 2014

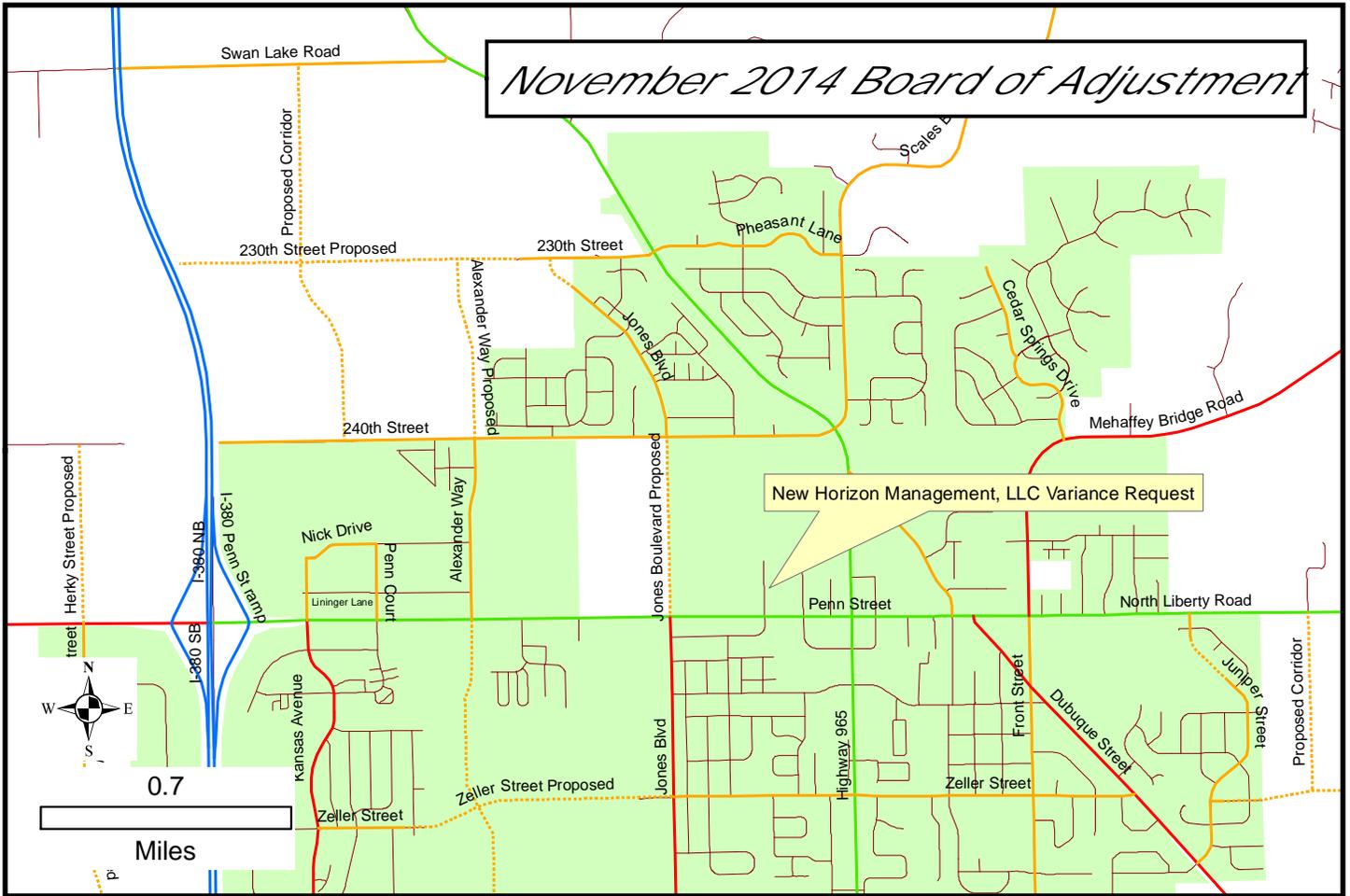
6:30 PM

If you would like additional information, larger-scale maps, or other information before the meeting, please contact Dean Wheatley at 626-5747 or at dwheatley@ci.north-liberty.ia.us



**NORTH LIBERTY BOARD OF ADJUSTMENT
MEETING NOTICE AND AGENDA
November 19, 2014, 6:30 PM**

1. Roll call.
 2. Public comment on any item not on the agenda.
 3. **VARIANCE:** Request of New Horizon Management, LLC for a variance to setback requirements to allow an industrial building addition closer to a side lot line than the minimum requirement of the Zoning Ordinance.
(Legal: Lot 11, Inter-City Industrial Park)
 - a. Staff Presentation
 - b. Applicant's Presentation
 - c. Public Hearing
 - d. Questions and Comments
 - e. Formal Action
 4. Minutes of previous meeting (August 2014)
 5. Old business
 6. New business
- Adjournment





November 13, 2014

Memo

To: North Liberty Board of Adjustment
From: Dean Wheatley, Planning Director
Subject: Variance Request: Side Yard Setback Requirement at Lot 11, Inter-City Industrial Park

This request is to approve a variance from the Zoning Ordinance so that an addition to an existing building can be constructed to match the existing building on the lot. The current side yard requirement for the I-1 zoning district is 20 feet; the request is to vary that requirement to approximately 2.5 feet.

The existing building and parking on this lot was originally constructed in 1990, when side yard setback requirements were less than setback requirements in existence since approximately 1995 when a comprehensive new ordinance was adopted. Unfortunately, some previous City site plan approvals included liberal variances including that for the adjacent lot in 2001, which has only a 5 foot setback from the side lot line and contributes to this situation. An attachment to this report shows setbacks on this lot and other pertinent information such as the location of the adjacent building.

The Board of Adjustment is required by City Code to verify that a variance request satisfies seven specific criteria in granting a variance, and applicants are required to respond to those criteria in their applications. A copy of the application is attached for your reference. Unfortunately several of the criteria are not met, and one has not been addressed by the applicant. Staff comments regarding this case and those 7 criteria are:

Unique Circumstances: This is not a unique circumstance, as there are substantial numbers of existing buildings constructed to previous setback standards.

Not Exclusively for Financial Gain: The request does not appear to be based on financial considerations, so this criterion is met.

Hardship Not Self-Created: The owner does have other options to build on the site without the variance, as shown on the aerial view attachment, so the hardship must be considered self-created.

Substantial Rights Denied: The owner is not denied any rights in enforcement of the setbacks, and in fact is able to file this variance application for consideration.

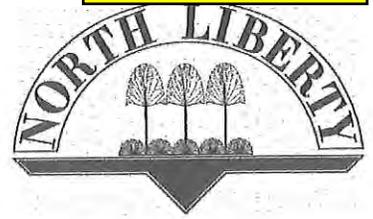
Not Special Privilege: If the variance was to be granted, it would be special privilege not enjoyed by other property owners because others are required to meet the setback requirement.

Not Detrimental: Public welfare is unlikely to be affected if this variance is approved. There is a consideration for how close the owner's existing building is currently to the adjacent building, and this variance would increase the length of that closeness, but that situation is partly due to the adjacent property being granted relief from their side yard requirement years ago.

No Other Remedy: There are other remedies. A same-sized addition could be situated as shown on the staff sketch, offset from the existing building.

All 7 criteria are not met as required by City Code, so this application does not meet the criteria for granting a variance. Varying "bulk requirements" (lot size, area, width, frontage, setbacks) is discouraged by cities as it leads to overcrowding and undermines Zoning Ordinance regulations.

APPLICATION FOR NORTH LIBERTY ZONING ORDINANCE VARIANCE



Please print or type the following information. Use additional sheets, if necessary. Owner/agent must submit an accurate scaled plot plan indicating the request.

Property owner's name: New Horizon Management, LLC

Property owner's address & phone: 720 Liberty Way 319-665-8325

Owner's agent name & phone (if applicable): Mary Jo A. LeBlanc 319-321-3341 (mobile)

Property legal description (lot, block, subdivision): Lot 11, Inter-City Industrial Park, North Liberty, Iowa, according to the plat thereof recorded in Book 15, Page 88, Plat Records of Johnson County, Iowa

Property current zoning and current use: I-1 Industrial

Variance request: Exception to 20' building setback on north property line for proposed 39.63'x50' addition to east side of building. See attached site plan.

Please thoroughly read and complete the second page of this form, and be sure to include it in your submission. It outlines the criteria the City of North Liberty uses in reviewing and acting on variance requests.

Signature of owner: Mary Jo A. LeBlanc

This section for staff use only.

Application received by: _____ Date: _____

Date and time of Board of Adjustment meeting: _____

Board of Adjustment action: _____

Request granted. Conditions of approval: _____

Request denied. Reasons for denial: _____

Chairperson, Board of Adjustment

Attest: _____

203.7.4 Decisions. The Zoning Ordinance is a document that lays out very specific requirements deemed to be in the best interest of the city by the Planning and Zoning Commission and the City Council. In most cases, those requirements must be met by property owners and developers; however, in some rare cases the enforcement of those requirements may be found to cause extreme hardship for an individual, and a variance may be granted. Variances shall not be granted by the Board of Adjustment simply because no one objects, or because it seems harmless in an isolated circumstance. Any variance granted shall reflect the spirit and intent of the code and shall not constitute the granting of a special privilege. The following variance criteria is utilized by the Board of Adjustment in hearing variance requests. No variance shall be granted by the Board unless affirmative findings can be made for each of the applicable following criteria:

1. Unique Circumstances. The subject property is unique or exceptional as compared to other properties subject to the same provisions by reason of irregularity, narrowness, shallowness, substandard or marginal size; exceptional topographical features; or other extraordinary conditions peculiar to and inherent in the subject property and that relate to or arise out of the property rather than the personal situation of the current owner of the property; and that amount to more than a mere inconvenience to the owner.

Your comments: The neighboring building north (740 Liberty Way) was built in 2006 and is approx. 7.25' feet from our building. This variance will 1) maintain the current spacing between the two buildings for the distance (or length) to the east end; and 2) not introduce any dissimilar conditions to what exists today between the two buildings.

2. Not Exclusively for Financial Gain. The purpose of the variance is not based exclusively upon a desire to increase financial gain from the property. Proof that the property cannot be used for its highest or best use under the regulations applicable to it, or that it could be used more profitably if not subject to such regulations, should not in itself justify granting a variance.

Your comments: By building the proposed addition, in line with the north side of existing structure, will retain the 48.18' frontage on the south side of building for loading and unloading of sheet metal materials delivered by semi trucks. A 20' setback on north side would eliminate 28' of existing frontage making material deliveries difficult.

3. Hardship Not Self-Created. The unique or special condition referenced in subsection 1 above a. existed at the time of the enactment of the provisions of this Ordinance that affect it, or b. was the result of government action, other than adoption of this Ordinance, for which no compensation was paid, and has not been created by any persons presently having an interest in the property.

Your comments: A 20' setback from north property line will result in a 20'x39.63' open area that could be accessed only through an overhead door, adding an estimated \$9500 more in building costs, e.g. door, concrete pad.

4. Substantial Rights Denied. Carrying out the strict letter of the provisions of the Zoning Ordinance would deprive the property owner of substantial rights commonly enjoyed by other property owners subject to the same provisions.

Your comments: The neighboring property (on north side) at 740 Liberty Way was built in 2006 and the south side of building is approx. 5' from the property line. Like this neighboring property, requesting to build addition without a 20' setback (on the north side). A 20' setback will be maintained on the east side.

5. Not Special Privilege. The hardship affecting the property is not merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other property subject to the same provisions.

Your comments: The building at 720 Liberty Way was built prior to current setback requirements and was built 2.18' from the north property line. Building an addition with a 20' setback on north side will result in an irregularly looking structure compared to other buildings in the industrial park.

6. Not Detrimental. Granting the variance will not be detrimental to the public welfare or materially injurious to the enjoyment, use, or development of property in the vicinity; would not materially impair an adequate supply of light and air to adjacent properties; would not substantially increase congestion in the public streets, nor increase the danger of flood or fire, or endanger the public safety, nor substantially diminish or impair property values in the vicinity.

Your comments: Constructing a 39.63' addition directly on the east side of the existing building will maintain a consistent appearance similar to other commercial buildings in the complex.

7. No Other Remedy. There are no means other than the requested variance by which the hardship can be avoided or remedied to a degree sufficient to permit a reasonable use of the property.

Your comments:

Staff Sketch

760

740 740 740 740

Green Lines: Parking Setbacks

Orange Lines: Building Setbacks

720

Approx 35'x50'

9x19
Parking
Each Stall

24' minimum width drive

660

1 inch = 40 feet



640



**NORTH LIBERTY BOARD OF ADJUSTMENT
MEETING MINUTES
August 13, 2014, 6:30 PM**

Roll Call: The meeting was called to order by Chairperson Werner-Smith at 6:30 p.m. Board of Adjustment members present were: Chipman, Grell, Reed, Werner-Smith. Absent: new member Christopher Kouri.

Others present: Li Chiou, applicant.

Public comment on items not on the agenda: None.

- 1. Conditional Use:** Request of Tali LLC for a conditional use to approve outside eating and drinking within an existing patio area at Liberty Centre commercial development north of the Liberty Centre pond.

(Legal: Lot 13, Liberty Centre)

Wheatley briefed the Board on the history of the case, the Planning Commission's recommendations for approval, and Code requirements for outside eating which included the following:

- *All businesses shall be subject to the approval of a conditional use permit and approval by the Council of a site plan meeting requirements of this code. Any City action against the outdoor eating accessory use shall also be enforceable against the associated restaurant operation, and may include withdrawal of certifications or permits for both the accessory use and for the principal restaurant use on the property. The City shall have the discretion to require a formal agreement, specifying conditions for operations, to be approved in any case.*
- *All Zoning Ordinance requirements shall be observed, including parking, yards, and signage. No additional signage is allowed in conjunction with the outside eating area.*
- *The area used for the establishment shall be clearly delineated by fencing, plant materials or other landscaping or other aesthetically pleasing means, to be specified and approved through the site plan process.*
- *The area used for the establishment shall be hard-surfaced with concrete, asphalt, or other suitable permanent materials.*
- *The principal use on the site must meet all Zoning Ordinance and site plan requirements.*
- *Temporary structures or other facilities may be approved through the site plan review.*
- *Businesses must provide evidence that appropriate State and local licensing has been obtained.*
- *All applicable local, county, and State regulations must be met.*
- *Businesses may not serve alcoholic beverages unless specifically approved by formal agreement.*
- *Businesses may not provide lighting unless specifically approved by formal agreement.*
- *Businesses may not provide any amplified music or public address system unless specifically approved by formal agreement.*

The conditional use is recommended for approval by staff and by the Planning Commission with alcoholic beverage sales allowed, no music louder than speaking level, and no more seats than allowed by the Building and Fire Codes for this location.

Applicant Li Chiou was present addressed the Board, summarizing her plans for the business.

The Chair opened the public hearing, no one spoke in favor or against the application, and the hearing was closed. Only one email has been received in response to the notice mailed to property owners within 200 feet of the site, and that was in support of the application.

Board Action: Art Chipman moved to approve the conditional uses subject to conditions noted. Wayne Grell seconded the motion, which passed unanimously.

Minutes: Art Chipman moved to approve the minutes of September 2013. Wayne Grell seconded the motion, which passed unanimously.

Old Business: Members asked staff if any complaints had been taken regarding the dog boarding businesses approved in 2013. No complaints have been registered with the City.

New Business: Staff discussed the lengthy processing time for the outside eating application, and the Board generally agreed that alternative approval processing should be explored.

Adjournment: The Chair declared the meeting adjourned at 6:45 PM.

Dean Wheatley, Planning Director