



North Liberty Board of Adjustment
Wednesday, July 15, 2020, 6:30 PM

Notice: Due to the COVID-19 pandemic, public health and safety concerns require City of North Liberty public meetings to be held electronically, so as to limit the spread of the virus. The public is invited to submit questions and comments in advance of the meeting for consideration submitting them to the City Clerk Tracey Mulcahey via email at tmulcahey@northlibertyiowa.org.

This meeting may be accessed live by the public as follows:

By internet video:

- northlibertyiowa.org/live.
- Facebook at facebook.com/northliberty.
- YouTube at www.youtube.com/channel/UCrCw6ipAPjJnd-olpRgPJcg.

By phone:

Call 1 (312) 626 6799 with a touch-tone phone and to enter the meeting ID 845 3859 5635 and seven-digit meeting password 2404537.

Meetings are rebroadcast on cable and available on-demand on northlibertyiowa.org.

Call to Order

1. Roll Call

2. Election of Chairperson

3. Election of Vice-Chairperson

4. Public Comment on any topic not on the agenda

5. Variance Request: Request of Arthur and Colleen Chipman at 1490 West Forevergreen Road for a variance of 420 square feet over the maximum 850 square foot limitation for a detached garage.

Legal Description: Lot 2 of Chimpan's Third Addition

Section 169.06(2)(B) of the Code of Ordinances of the City of North Liberty limits private garages to a maximum square feet gross building area not to exceed 30% of the rear yard area with a maximum size of 850 square feet.

- a. Staff Presentation
- b. Applicants Presentation
- c. Public Hearing & Public Comments
- d. Board Discussion
- e. Formal Action

- 6. Appeal Request:** Request of John Yapp on behalf of High Octane Investments, LLC at 1 Hawkeye Drive to appeal an administrative decision that painting the exterior of the building in the color white is not visually harmonious and compatible with the neighborhood character and the color scheme is not based on earth tones or other compatible colors.

Legal Description: Lot 1 of Golf View Commercial Subdivision - Part One.

Section 169.12(1)(A) and 169.12(1)(D) of the Code of Ordinances of the City of North Liberty, Iowa reads respectively, as follows:

- A. Building design shall be visually harmonious and compatible with the neighborhood character.
- D. Except for the RS districts, color schemes shall be based on earth tones or other compatible colors.

Section 166.01(6) of the Code of Ordinances of the City of North Liberty provides for an appeal of an interpretation by the Code Official to be submitted to the Board of Adjustment and such interpretation shall be considered final.

- a. Staff Presentation
- b. Applicants Presentation
- c. Public Hearing & Public Comments
- d. Board Discussion
- e. Formal Action

7. Approval of Previous Minutes

8. Old Business

9. New Business

10. Adjournment

Property Locations





To City of North Liberty Board of Adjustment
From Ryan Rusnak, AICP
Date July 15, 2020
Re Request of Arthur and Colleen Chipman at 1490 West Forevergreen Road for a variance of up to 420 square feet over the maximum 850 square foot limitation for a detached garage.

Section 169.06(2)(B) of the Code of Ordinances of the City of North Liberty limits private garages to a maximum square feet gross building area not to exceed 30% of the rear yard area with a maximum size of 850 square feet.

North Liberty City staff has reviewed the subject submission, and offers comments presented in this memo. The staff review team includes the following personnel:
Ryan Rusnak, Planning Director

Request Summary:

The applicants are seeking a variance to expand their existing 850 square foot garage by up to 420 square feet.



Arial Map

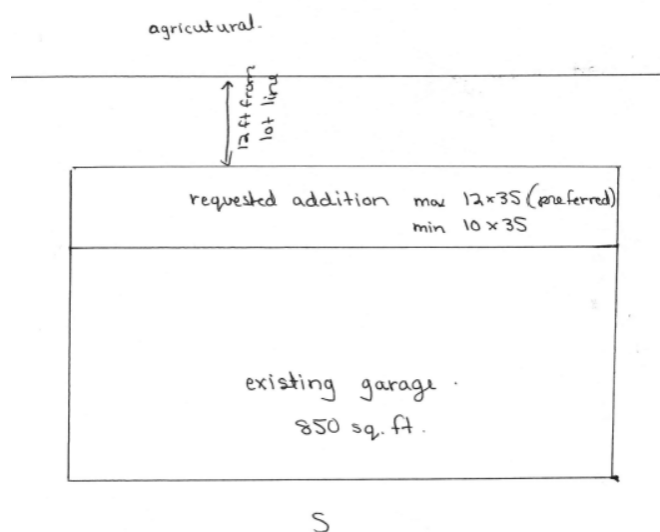


Exhibit Provided by Petitioners

Current Zoning:

The property is currently zoned RS-4 – Single-Unit Residence District.

Approval Standards:

In order for a variance to be granted the Board of Adjustment must make affirmatively findings for criteria 1 through 7 listed below.

Section 166(6)(D) of the Code of Ordinances of the City of North Liberty, Iowa reads:

D. 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 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 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 shall be utilized by the Board 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:
 - (a) Irregularity,*
 - (b) Narrowness,*
 - (c) Shallowness,*
 - (d) Substandard or marginal size;*
 - (e) Exceptional topographical features; or*
 - (f) 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.**
- (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.*
- (3) Hardship Not Self-Created. The unique or special condition referenced in subsection (1) above existed at the time of the enactment of the provisions of this code that affect it, or was the result of government action (other than adoption of the Zoning Ordinance) for which no compensation was paid, and has not been created by any persons presently having an interest in the property.*
- (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.*
- (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.*

- (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, or increase the danger of flood or fire, or endanger the public safety, or substantially diminish or impair property values in the vicinity.*
- (7) No Other Remedy. There is 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.*

Written findings citing each of these criteria shall be made for each case to document the process and decision of the Board.

Public Input:

Notices were sent to properties within 200 feet of the subject property. To date, staff has not received any inquiries or letters pertaining to the request.

Attachment:
Application

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: Arthur and Coleen Chipman

Property owner's address & phone: 1490 W Forevergreen Rd North Liberty, IA 52317
319-330-7174

Owner's agent name & phone (if applicable): na

Property legal description (lot, block, subdivision): Chipman's 3rd subdivision Lot 2

Property current zoning and current use: residential, residential

Variance request: allow addition to existing garage, which is 850 sq ft
Addition max of 12x35 or minimum of 10x35.

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:

This section for staff use only.

Application received by: Ryan Rusanak

Date: 6/29/2020

Date and time of Board of Adjustment meeting: 7/15/2020 at 6:30 pm

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: see attached

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: see attached

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: see attached

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: see attached

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: see attached

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: see attached

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.

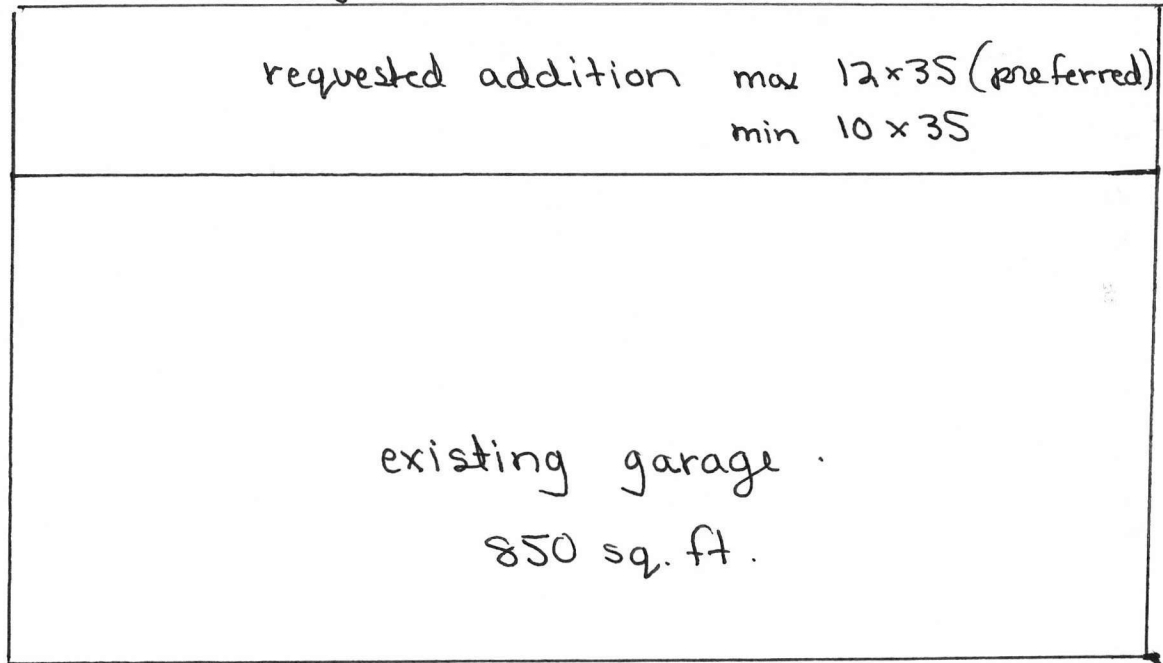
Your comments: see attached .

1. (Unique circumstances)--this property is an acre adjoining another acre with over 50 trees, bushes, flower gardens, and a vegetable garden. We also maintain our daughter's 1.5 acre lot and we have another acre lot to the east of her lot. Subsequently, a lot of equipment is needed to maintain our properties. After the recent reconstruction of W Forevergreen Road, we have to do snow removal of over 400 feet of sidewalks in the winter. This equipment needs to be kept in a heated area. We used to store our boat and lawnmowers in the shop but are unable to do so now. The boat and lawnmowers are exposed to the elements and we have a problem with mice and rodents getting into the equipment and destroying the wiring and making nests
2. (Financial gain)—there is no direct financial gain for the request but there is a financial loss if our request is not approved. We have to spend a lot of time and money to repair to the equipment that had to be left out in the weather due to lack of storage space in our current garage. To rent storage space would be very expensive in the long run and it would be inconvenient.
3. (Hardship)—is not self created but created by the improvements to Forevergreen Rd. We maintain over 4 acres of property and are required to remove snow from a total of over 400 feet of sidewalk which forced us to buy equipment for snow removal. And now we have to leave equipment out in the winter weather that used to be stored in our heated shop.
4. (Substantial rights denied)---Not allowing this request would deny us storing our equipment inside. Thus making our properties look more like a junk yard. We have spent countless hours keeping our 3 (1 acres lots) properties along with our daughters 1.5 acre looking good. This request would allow us to store our mowers, wood chipper, lawn mowers, and trailers inside and out of sight. Most properties zoned residential within North Liberty city limits are not a total of three acres (plus our daughters 1.5 acres) so the maintenance is more complicated and requires more equipment than traditional smaller lots.
5. (There are no special privileges from this request)--- This request will allow us to maintain our properties with many developed trees, shrubs, a creek, and large lawn areas without added expense due to weather and having to keep equipment out in the weather. This increases the need for repairs and maintenance.
6. (Not detrimental)---granting us this variance would not be detrimental to other property owners or the public nor would this increase the chances of fire or flood possibilities, nor decrease property values. There is more than enough room to follow city set back regulations.
7. (No other remedy)---we have investigated other options which financially make no sense and actually cause more hardships. There are no other remedies to our request.

N

agricultural.

12 ft from
lot line



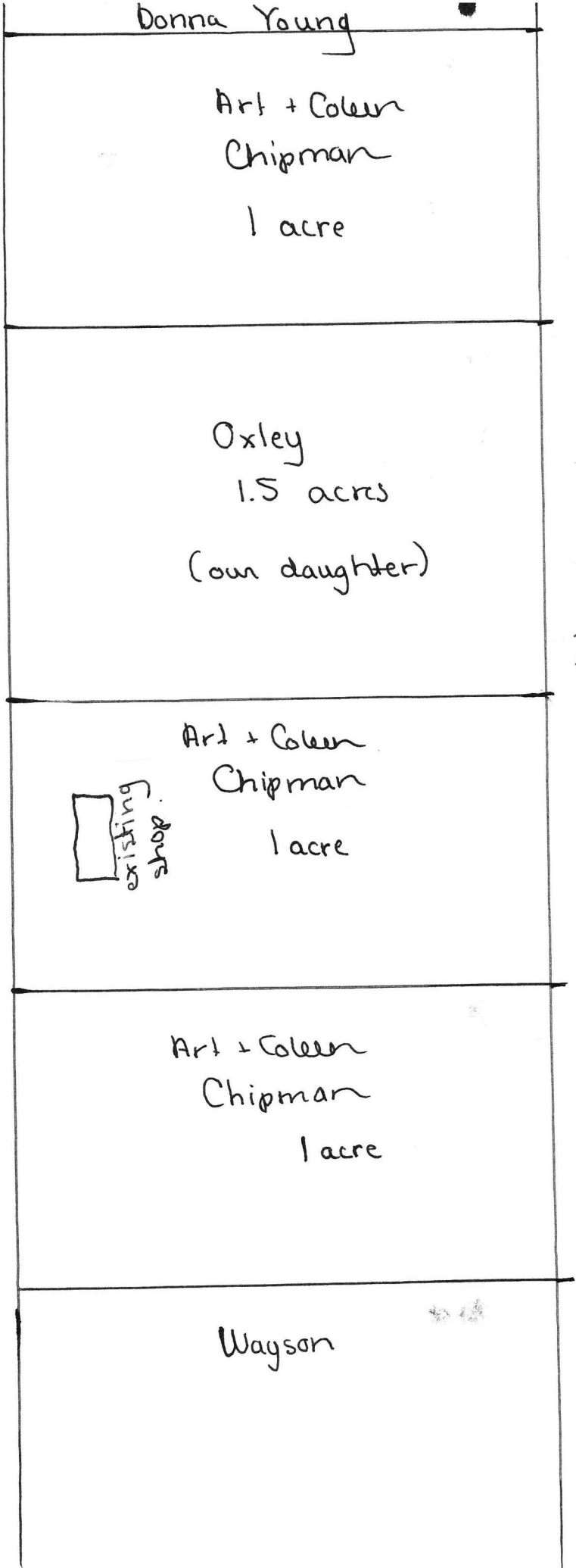
S

not drawn to scale

not scale

N.

Ag land-



Donna Young

Art + Coleen
Chipman
1 acre

Oxley
1.5 acres
(own daughter)



Art + Coleen
Chipman
1 acre

Art + Coleen
Chipman
1 acre

Wayson

Forevergreen Rd

S.



To **City of North Liberty Board of Adjustment**
From **Ryan Rusnak, AICP**
Date **July 15, 2020**
Re **Request of John Yapp on behalf of High Octane Investments, LLC at 1 Hawkeye Drive to appeal an administrative decision that painting the exterior of the building in the color white is not visually harmonious and compatible with the neighborhood character and the color scheme is not based on earth tones or other compatible colors.**

Section 169.12(1)(A) and 169.12(1)(D) of the Code of Ordinances of the City of North Liberty reads respectively, as follows:

- A. Building design shall be visually harmonious and compatible with the neighborhood character.
- D. Except for the RS districts, color schemes shall be based on earth tones or other compatible colors.

Section 166.01(6) of the Code of Ordinances of the City of North Liberty provides for an appeal of an interpretation by the Code Official to be submitted to the Board of Adjustment and such interpretation shall be considered final.

North Liberty City staff has reviewed the subject submission, and offers comments presented in this memo. The staff review team includes the following personnel:
Ryan Rusnak, Planning Director

Request Summary:

The exterior of the building was painted white in 2020. On June 9, 2020 the property owner was notified of Zoning Ordinance code violations pertaining to the exterior color of the building and that the rooftop mechanical equipment was not screened. See Exhibit A. On June 30, 2020 a revised letter was written, in part, withdrawing the violation pertaining to the rooftop screening as it was discovered that it was installed prior to the code requirement. See Exhibit B.

On July 1, 2020, the applicant submitted an application appealing the interpretation of the Code Official. See Exhibit C.

Section 166.01(6) of the Code of Ordinances of the City of North Liberty provides for an appeal of an interpretation by the Code Official to be submitted to the Board of Adjustment and such interpretation shall be considered final.

Current Zoning:

The property is currently zoned C-2-A – Highway Commercial District.



Picture taken 6/2020 Source: City of North Liberty



Picture taken 11/2019 Source: Google Maps

Approval Standards:

The Board of Adjustment shall grant the appeal if it finds that the Code Official erred in its interpretation or deny the appeal if it finds that the Code Official was correct in its interpretation.

Any decision shall be based on fact and evidence provided.

RATIONAL FOR CODE OFFICIAL'S INTERPREATION NO.1

Rational for interpretation the that the color of the development is required to be visually harmonious and compatible with the neighborhood and the building is required to be earth tone or other compatible color:

The following ordinance language was adopted by City Council on March 5, 2008 (Ordinance 08-03):

- Building design shall be visually harmonious and compatible with the neighborhood character.
- Except for the RS districts, color schemes shall be based on earth tones or other compatible colors.

See Exhibit D.

This is the same language in Section 169.12(1)(A) and 169.12(1)(D), respectively, of the Code of Ordinances of the City of North Liberty.

See Exhibit E.

Notable is the use of the word "shall" contained in both sections.

Section 1.02 Code of Ordinances of the City of North Liberty, Iowa reads:

1.02 DEFINITIONS.

Where words and phrases used in this Code of Ordinances are defined in the Code of Iowa, such definitions apply to their use in this Code of Ordinances unless such construction would be inconsistent with the manifest intent of the Council or repugnant to the context of the provision. Other words and phrases used herein have the following meanings, unless specifically defined otherwise in another portion of this Code of Ordinances or unless such construction would be inconsistent with the manifest intent of the Council or repugnant to the context of the provision:

- 1. "Alley" means a public right-of-way, other than a street, affording secondary means of access to abutting property.*
- 2. "City" means the City of North Liberty, Iowa.*
- 3. "Clerk" means the city clerk of North Liberty, Iowa.*
- 4. "Code" means the specific chapter of this Code of Ordinances in which a specific subject is covered and bears a descriptive title word (such as the Building Code and/or a standard code adopted by reference).*
- 5. "Code of Ordinances" means the Code of Ordinances of the City of North Liberty, Iowa.*
- 6. "Council" means the city council of North Liberty, Iowa.*
- 7. "County" means Johnson County, Iowa.*
- 8. "May" confers a power.*
- 9. "Measure" means an ordinance, amendment, resolution or motion.*
- 10. "Must" states a requirement.*
- 11. "Occupant" or "tenant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.*

12. "Ordinances" means the ordinances of the City of North Liberty, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

13. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.

14. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.

15. "Shall " imposes a duty.

16. "Sidewalk" means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.

17. "State" means the State of Iowa.

18. "Statutes" or "laws" means the latest edition of the Code of Iowa, as amended

19. "Street" or "highway" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

Words that are not defined in this Code of Ordinances or by the Code of Iowa have their ordinary meaning unless such construction would be inconsistent with the manifest intent of the Council, or repugnant to the context of the provision.

See end of the report for findings of fact.

RATIONAL FOR CODE OFFICIAL'S INTERPREATION NO.2

Rational for interpretation that the development is not visually harmonious and compatible with the neighborhood character and the white color is not based on earth toned or other compatible colors:

The applicant correctly points out that "visually harmonious", "compatible" and "neighborhood" are not defined in the Zoning Ordinance.

Pursuant to Section 1.02 of the Code of Ordinances of the City of North Liberty, Iowa, which reads in part:

Words that are not defined in this Code of Ordinances or by the Code of Iowa have their ordinary meaning unless such construction would be inconsistent with the manifest intent of the Council, or repugnant to the context of the provision.

Mariam-Webster Definitions (relevant definitions provided):

"Harmonious" - having the parts agreeably related.

"Compatible"

- 1. having or marked by agreement in feeling or action;*
- 2. not having or showing any apparent conflict.*

"Neighborhood"

- 1. an area (as of a city) set apart for some purpose or having some special feature;*
- 2. the people living in a particular area;*
- 3. an adjoining region or space.*

It is staff opinion that the commercial development along east side of Ranshaw Way acts as an edge to the neighborhood and is incorporated into “an adjoining region or space”.

It appears that the applicant is not arguing that white is not an earth tone but that “compatible” and “other compatible colors” is not defined.

It is important to analyze the entire Zoning Ordinance code language to understand the Code Official’s rational for interpretation.

Except for the RS districts, color schemes shall be based on earth tones or other compatible colors.

Mariam-Webster Definition

“Basis” – an immaterial thing upon which something else rests.

“Compatible”

- 1. having or marked by agreement in feeling or action;*
- 2. not having or showing any apparent conflict.*

“Earth tones” is not defined in the Zoning Ordinance. However, it is Code Official’s interpretation that earth tones come from natural things in the environment and come from the palette of browns, tans, greys, greens, and red and are flat or muted in color. Further, an alternative color may be considered if it is not in conflict with the earth tones color pallet.

Staff asserts that the aforementioned earth tones color scheme is reflective throughout the community and is particularly present along the Ranshaw Way/Hwy 965 corridor. This has been the result of years of applying this color scheme in city building. The City has even incorporated the earth tones color pallet into the Ranshaw Way/Hwy 965 streetscape to compliment the buildings along this corridor.



Streetscape at the southeast corner of Ranshaw Way/Hwy 965 and Hawkeye Drive
Picture taken 11/2019 Source: Google Maps

The petitioner has provide a few examples of building in the city that are white or off-white. However, without specific addresses, staff cannot analyze if they were building were constructed prior to March 5, 2008, which is when the “shall” language was introduced (previously, it was “preferred), or if the buildings are located in a RS district, which is exempt from the earth tones requirement.

If any of these buildings were built after March 5, 2008 and were subject to the earth tone color scheme requirement, staff would assert that it was an error and would not invalidate the ordinance requirement.

Specific examples of Moxie Solar and Holiday Court were provided. Johnson County Assessor records indicate that the Moxie Solar building was constructed in 1981.

Section 414.28 of the Iowa State Code read in part:

A city shall not adopt or enforce construction, building, or design ordinances, regulations, requirements, or restrictions which would mandate width standards greater than twenty-four feet, roof pitch, or other design standards for manufactured housing if the housing otherwise complies with 42 U.S.C. § 5403. However, this paragraph shall not prohibit a city from adopting and enforcing zoning regulations related to transportation, water, sewerage, or other land development.

Therefore, state law prohibits the City of North Liberty from requiring colors based on earth tones.

At most, a white color may be considered as an accent color when the earth tones color scheme is applicable.

An example is the Christine Grant Elementary School at 1000 Centro Way. The color scheme is based on grey with accent colors of tan and white.

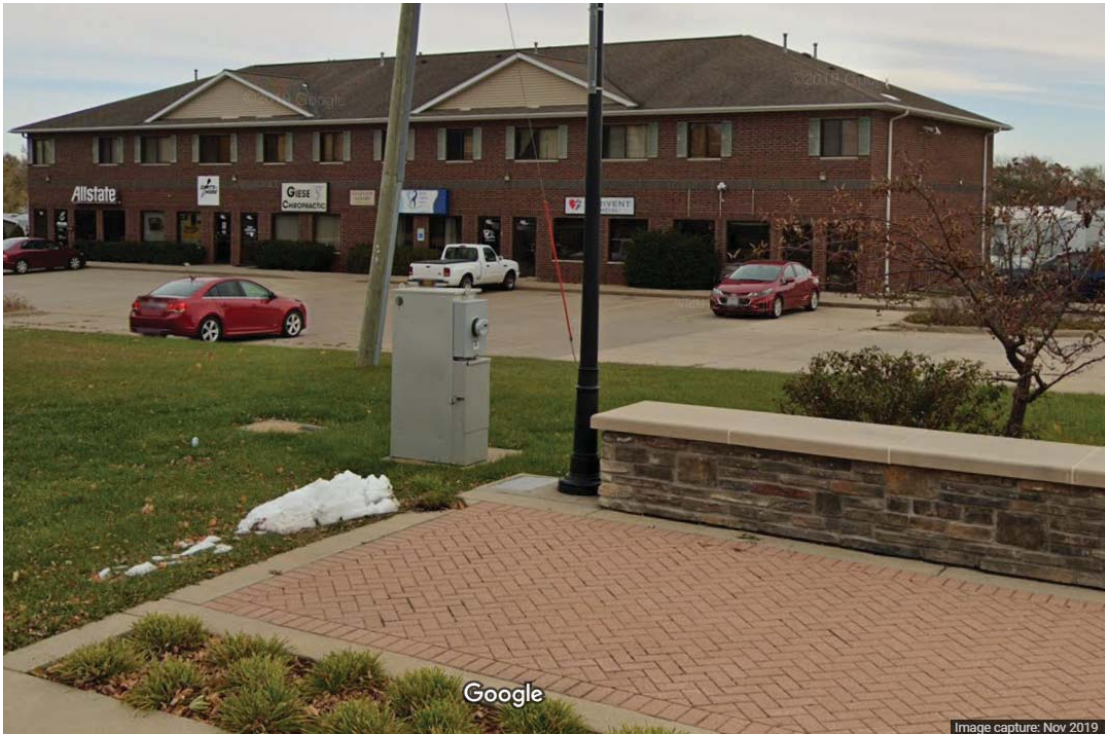


Christine Grant Elementary at 1000 Centro Way

Picture taken 7/7/2020

Source: City of North Liberty

With respect to the development is not being visually harmonious and compatible with the neighborhood character, staff notes that the subject and adjacent properties previously had a similar color scheme, which was a brick veneer and a tan secondary color.



2 Hawkeye Drive, which is located north of the subject property.
Picture taken 11/2019 Source: Google Maps



1 Hawkeye Drive (subject property)
Picture taken 11/2019 Source: Google Maps



4, 6 and 7 Hawkeye Drive.

Picture taken 11/2019

Source: Google Maps

What is striking is how the building with its current white paint scheme is visually unharmonious and incompatible with the adjacent buildings.



Picture taken 7/6/2020

Source: City of North Liberty

Findings of Fact:

1. The Zoning Ordinance code language imposes a duty that the development be visually harmonious and compatible with the neighborhood character and that color schemes be based on earth tones or other compatible colors, which existed in the Code of Ordinances of the City of North Liberty, Iowa prior to the painting of the building located at 1 Hawkeye Drive to white.
2. The building located at 1 Hawkeye Drive with a white color scheme is visually unharmonious and incompatible with the adjacent buildings. This is due to the fact that subject and adjacent properties previously had a similar color scheme, which was a brick veneer and a tan secondary color.
3. Earth tones come from natural things in the environment and come from the palette of browns, tans, greys, greens, and red and are flat or muted in color. An alternative color may be considered if it is not in conflict with the earth tones color pallet. This earth tones color scheme is reflective throughout the community and is particularly present along the Ranshaw Way/Hwy 965 corridor. This has been the result of years of applying this color scheme in city building.

Staff recommends the Board of Adjustment deny the appeal and uphold the Code Official's interpretation.

Attachments:

Exhibit A – Notice of Violation Dated 6/9/2020

Exhibit B – Notice of Violation Dated 6/20/2020

Exhibit C – Application

Exhibit D – City of North Liberty Ordinance No. 08-03

Exhibit E – City of North Section 169.12(1)(A-H)



6/9/2020

High Octane Investments LLC
PO Box 3474
Iowa City IA 52244

Re: Notice of Violation
Property Address: 1 Hawkeye Dr. North Liberty IA 52317

Dear property owner,

A site inspection revealed that the following North Liberty Code of Ordinances violation exist at the property listed above:

Section 169.12.A, 169.12.B and G.

- A. Building design shall be visually harmonious and compatible with the neighborhood character.
- D. Except for the RS districts, color schemes shall be based on earth tones or other compatible colors.
- G. Roof top equipment shall be screened.

It has been determined that the recent painting to the exterior of this building does not achieve consistency with the aforementioned code sections. Additionally, the rooftop equipment is not screened.

The City is requiring that these violations be resolved within 45 days receipt of this letter. Please note that a building permit is required for the rooftop equipment screening.

Failure to comply with the aforementioned regulations will result in the issuance of a citation and payment of a fine.

If you have any questions please contact me directly at the contact information below.

Ryan Rusnak
Planning Director
319-626-5747
rrusnak@northlibertyiowa.org

Attachments: site photographs



Photograph taken 6/9/2020



Photograph taken 3/17/2017



6/30/2020

High Octane Investments LLC
PO Box 3474
Iowa City IA 52244

Re: Revised Notice of Violation
Property Address: 1 Hawkeye Dr. North Liberty IA 52317

Dear property owner,

A site inspection revealed that the following North Liberty Code of Ordinances violation exist at the property listed above:

Section 169.12.A and 169.12.D.

- A. Building design shall be visually harmonious and compatible with the neighborhood character.
- D. Except for the RS districts, color schemes shall be based on earth tones or other compatible colors.

It has been determined that the recent painting to the exterior of this building does not achieve consistency with the aforementioned code sections.

The City is requiring that this violation be resolved by July 27, 2020.

Failure to comply with the aforementioned regulations will result in the issuance of a citation and payment of a fine.

If you have any questions please contact me directly at the contact information below.

Ryan Rusnak
Planning Director
319-626-5747
rrusnak@northlibertyiowa.org

Attachments: site photographs



Photograph taken 6/9/2020



Photograph taken 3/17/2017

Appeal of Interpretation Application



Project Name: Urban Fuel convenience store
Site Location (address or legal description): 1 Hawkeye Drive, North Liberty
Existing Zoning District: C2-A
Project Description: Urban Fuel / BP station

Property Owner: High Octane Investments, LLC	
Owner Mailing Address: PO Box 3474, Iowa City, IA 52244	
Phone: 319-325-1228	Email: Johnnyapp.allenhomes@gmail.com

Applicant: Same	
Applicant Mailing Address: Same	
Applicant Contact Person: John Yapp	
Phone: 319-325-1228	Email: Johnnyapp.allenhomes@gmail.com

Pursuant to Section 166.01(6) of the City of North Liberty Code of Ordinance:
 Interpretations. The interpretation and application of the provisions of this code shall be by the
 Code Official. An appeal of an interpretation by the Code Official shall be submitted to the Board of
 Adjustment and such interpretation shall be considered final.

What interpretation is being appealed?

Interpretation of Section 169.12A (building design shall be visually harmonious and compatible with the neighborhood character) and Section 169.12D (Except for the RS Districts, color schemes shall be based on earth tones or other compatible colors).

See attached letter.

Please attach additional pages if necessary and provide evidence to support the appeal.

OFFICE USE ONLY
 Date Submitted:

7/1/2020

Ryan Rusnik, Planning Director
City of North Liberty
3 Quail Creek Circle
North Liberty, IA 52317



Re: Notice of Violation
1 Hawkeye Drive, North Liberty, IA

Dear Mr Rusnak:

We are in receipt of your June 9, 2020 Notice of Violation regarding 1 Hawkeye Drive. We would like to formally appeal this notice:

- **Building design shall be visually harmonious and compatible with the neighborhood character.** *'Visually harmonious' and 'compatible' are not defined in the North Liberty Code. 'Neighborhood' is not defined.*

There are many white and off-white mobile homes in the neighborhood, which are a part of our neighborhood. There are also other white and off-white commercial buildings in the Highway 965 corridor. There are other white new construction buildings in North Liberty. We are in the process of rebranding the store, and wanted to present a clean, fresh appearance.

- **Except for the RS districts, color schemes shall be based on earth tones or other compatible colors.** *'Compatible' is not defined.*

According to Wikipedia, "Black and white have long been known to combine well with almost any other color."

We have been giving a facelift to the store as part of a rebranding process, and believe it is much improved. Please do not hesitate to call me with any questions or to discuss this issue.

John Yapp, Urban Fuel
319-325-1228

Cc: Jesse Allen, Owner



White Duplex – new construction



White Duplex – new construction

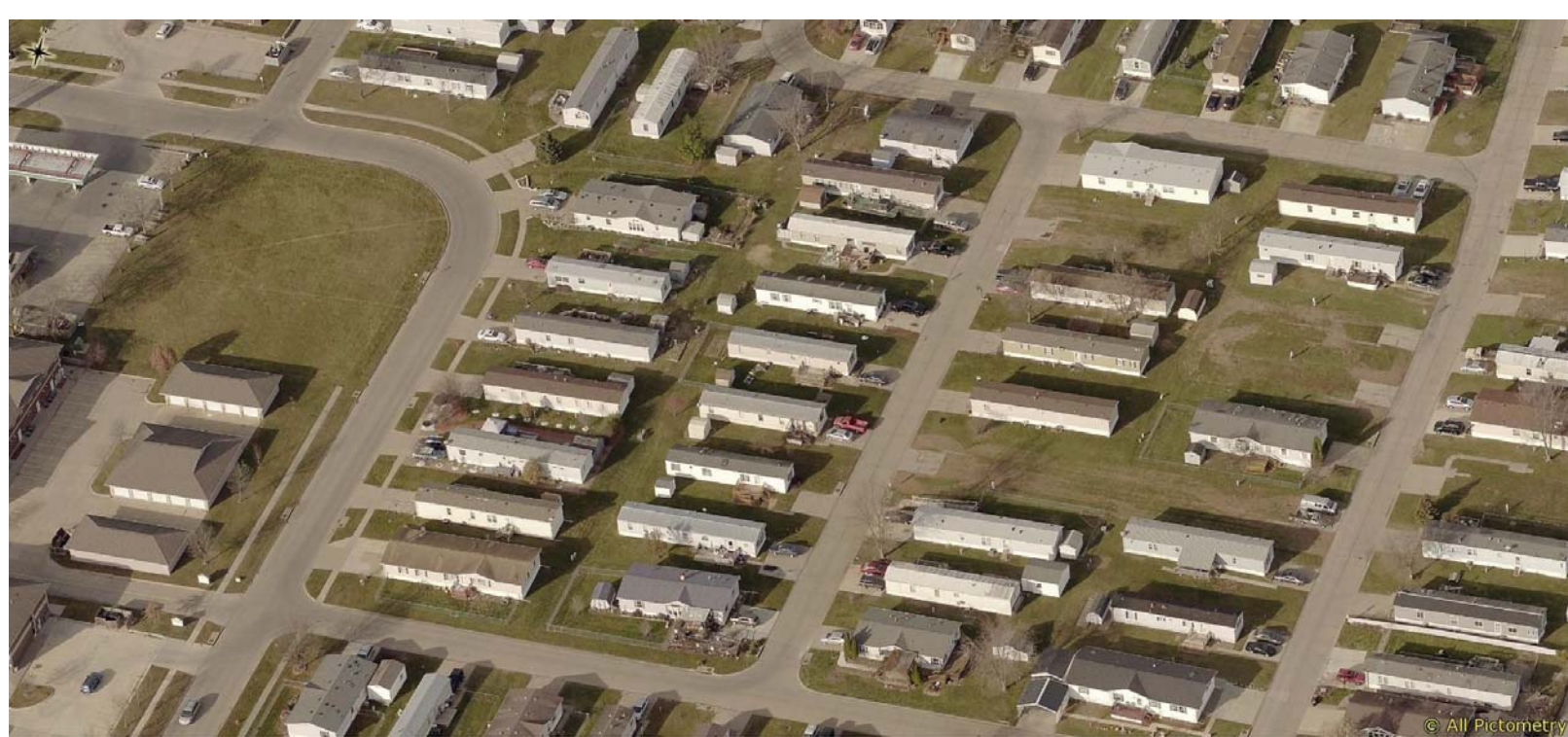


White Multi Family near Highway 965 corridor



White Multi Family near Highway 965 corridor

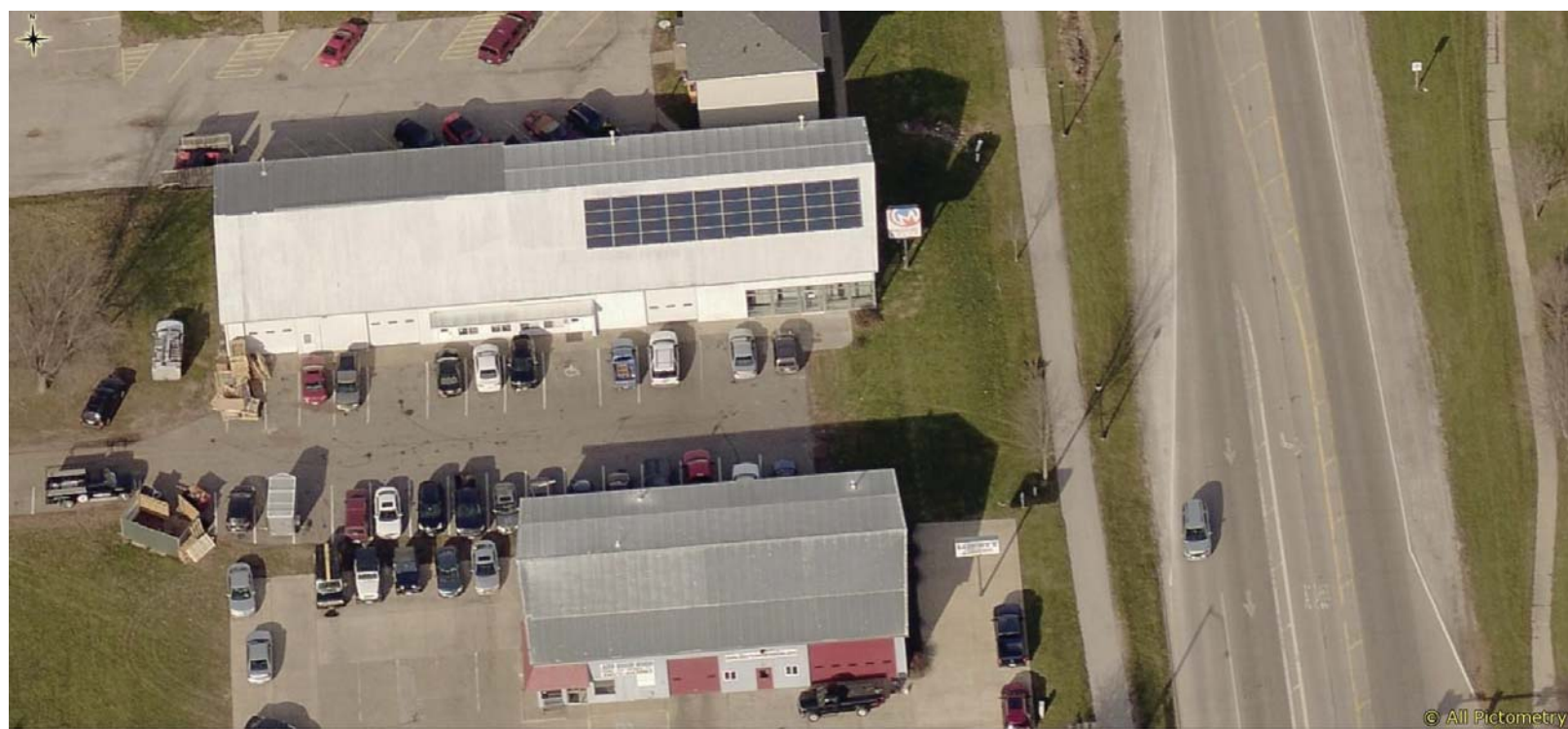
Hawkeye Drive Court



© All Pictometry

11/28/2017

Moxie Solar



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11/22/2017

ORDINANCE NO. 08-03

AN ORDINANCE AMENDING TITLE 17, ZONING CODE, OF THE NORTH LIBERTY MUNICIPAL CODE REGARDING DESIGN STANDARDS FOR DEVELOPMENT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH LIBERTY, IOWA:

SECTION 1. That Title 17, "Zoning Ordinance," of the North Liberty Municipal Code be and the same is hereby amended by deleting Section 1612 in its entirety and replacing it with the following:

SECTION 1612 – DESIGN STANDARDS

1612.1 Building Design and Materials. This section is intended to provide consistent high quality general design standards for the community.

1612.1.1 Requirements for all districts. The following requirements shall be observed for all development in all districts:

1. Building design shall be visually harmonious and compatible with the neighborhood character.
2. Buildings located on property with double frontages shall have similar wall design facing both streets.
3. Buildings shall have a consistent architectural style throughout the development on each lot, as defined by repetition of exterior building material and colors, and architectural elements.
4. Except for the RS districts, color schemes shall be based on earth tones or other compatible colors.
5. Special attention shall be taken to incorporate external mechanical equipment into the design such that it does not detract from the aesthetics of the site and building.
6. Pitched roofs with a minimum slope 5/12 are preferred. The color of the roof should be earth-toned.
7. Roof top equipment shall be screened.
8. Reflective surfaces that may cause glare or traffic hazards are not acceptable.
9. Front elevations and corner side yard elevations of principal structures below the bottom edge of roof shall be composed of not less than 25% masonry products, with the following exceptions:
 - a. No masonry is required in the RS-7 and RS-8 districts, and
 - b. Commercial and overlay districts require more than 25%, as noted in those sections.

Masonry is construction achieved through the bonding of units of various natural or artificial materials used by masons, such as stone, brick, split-faced concrete, or other materials of similar appearance approved by the Building Official, but not including stucco.

The required masonry area shall be based on a net wall surface, defined as the total area between ground level and the soffit line, from farthest outside wall left to farthest outside wall right, with window and door areas subtracted out.

1612.1.2 Requirements for development in single- and two-family residential zoning districts. In addition to requirements of 1612.1.1, the following requirements shall be observed for development in single-family and two-family zoning districts:

1. The main roof shall have a pitch with no less than four inches of rise for each one foot of horizontal run.
2. The main roof shall overhang the walls a minimum of 12 inches at the eaves.

3. The main roof shall not be covered with flat or corrugated sheet metal.
4. For exterior walls not composed of masonry products, wall coverings shall be wood and/or vertical or horizontal grooved siding or lapped siding, or materials of similar appearance.
5. No two single-family and no two two-family front elevations may be identical within any group of four contiguous lots.

1612.1.3 Requirements for development in multi-family residential zoning districts. In addition to requirements of 1612.1.1, the following requirements shall be observed for development in multi-family zoning districts:

1. The main roof shall have a pitch with no less than four inches of rise for each one foot of horizontal run.
2. The main roof shall overhang the walls a minimum of 12 inches at the eaves.
3. The main roof shall not be covered with flat or corrugated sheet metal.
4. For exterior walls not composed of masonry products, wall coverings shall be wood and/or vertical or horizontal grooved siding or lapped siding, or materials of similar appearance.
5. Building elevations shall include the use of windows, wall breaks, siding changes, extra wall corners, dormers, and other architectural features to create visually attractive buildings that compliment single family development in the city.

1612.1.4 Requirements for development in office and commercial zoning districts.

Commercial zoning districts are intended to enhance public welfare by providing for safe, convenient, high quality pedestrian-oriented commercial centers that contribute to community identity as energetic and attractive focus points. Through development and redevelopment within these districts, the city recognizes the importance of creating high quality development areas to the quality of life for residents of City of North Liberty, the impact quality development has on the image of the community, and the need to provide restrictions and guidelines to enhance visual appearance and functionality. The objectives addressed through these regulations include the following:

1. Design. To achieve appealing aesthetic design through high quality architecture and construction, with attention to placement, relationship, and orientation of structures and amenities to provide both internal cohesiveness and compatibility with surrounding uses.
2. Walkability. To achieve overall development patterns that encourage walking and reduce dependence on the automobile to travel from one business to another, and so reduces the dominance of the automobile within the development.
3. Human-scale Activity. To achieve a sense of place by emphasizing pedestrian interaction with commercial uses rather than sprawling automobile-dominated designs, both in building architecture and public or private outdoor areas.
4. Compatible Uses. To achieve the right blend of uses, compact and well-designed, that complement each other and provide cohesive overall developments.

In addition to requirements of 1612.1.1, the following requirements shall be observed for development in the office and commercial zoning districts:

1. Site Layout Requirements.
 - a. Pedestrian Areas. Each development shall provide a complete network of paths, plazas, and open spaces that interconnect building entrances, parking, sidewalks, other properties, and other pedestrian amenities. These pedestrian areas are expected to constitute a significant portion of development area, and may include plazas, special paving areas between parking and entrances, and outdoor eating patios. Additionally, portions of pedestrian areas should be at least partly covered so that users are protected

from rain and intense sun. New developments will be required to connect to paths and sidewalks established by previously-approved developments.

- b. Outdoor Infrastructure Design. Each development shall provide outdoor lighting fixtures, integrated street pavers or patterns, and landscaping that reinforces quality building design and blends with previously-approved developments, when appropriate. Design elements may include decorative lighting, seating with benches, low walls, planters, enhanced paving techniques, and other features complimentary to the development.
 - c. Parking Areas. Parking areas shall consist of areas that are aesthetically pleasing, landscaped to screen public views, and located so as not to be the dominant feature along any street or within any development. The use of alternate materials to designate pedestrian areas within or adjacent to parking lots is encouraged, and pedestrian areas shall be separated from vehicular traffic with landscaping, decorative posts, special paving, or other measures to clearly define the pedestrian spaces. Property owners are encouraged to establish shared parking zones among uses on one or more lots.
2. Building Materials and Design Requirements.

- a. Materials. Each exterior vertical building elevation shall be composed of at least 60% brick or other masonry product. For exterior walls not composed of masonry products, coverings shall be stucco, wood siding, premium-grade vinyl siding if installed horizontally, or other similar materials approved by the Building Official. Ribbed metal siding is prohibited.

The required masonry area shall be based on a net wall surface, defined as the total area between ground level and the soffit or roof line, from farthest outside wall left to farthest outside wall right, with window and door areas subtracted out.

- b. Design. Buildings and building features shall be sized and detailed appropriately for pedestrian use. Projected or recessed doorways and windows, awnings, and other architectural features may be used to achieve this design. Traditional strip-retail type frontages featuring long flat frontages with regularly spaced doors and unbroken expanses of concrete approaching the storefronts are specifically disallowed. Side and rear elevations shall be comprised of the same materials and reasonably similar in character and quality as the front elevation unless screened from view from all public streets and residential areas by topography differences, landscaping materials, or other screening devices, in which case building material may be concrete block or tilt-up concrete panels.

1612.1.4 Requirements for development in industrial zoning districts. In addition to requirements of 1612.1.1, the following requirements shall be observed for development in the industrial zoning districts:

1. For exterior walls not composed of masonry products, stucco, wood siding, premium-grade vinyl siding if installed horizontally, or other materials similar in appearance are preferred.

1612.1.5 Requirements for Manufactured Homes. In addition to requirements of 1612.1.1, the following requirements shall be observed for manufactured home development:

1. Manufactured homes shall have a minimum width of fourteen feet (14") and a minimum roof pitch of four inch rise to every twelve inch horizontal run.
2. Manufactured homes shall have asphalt roof covering.
3. Manufactured homes shall have vinyl or aluminum horizontal lap siding or wood vertical siding.

1612.2 Signs. Monument signs are preferred, and pole signs are permitted only upon specific approval by City Council after review and recommendation by the Planning Commission.

1612.3 Parking Lot Screening. All parking lots shall be screened from public streets utilizing plantings and berming to help maintain visually attractive corridors.

1612.4 Parking Lot Internal Landscaping.

1. Parking lots with less than 20 spaces are not required to have interior landscaping islands.
2. Parking lots less than 49,000 square feet shall retain 3% of their interior for landscaping islands.
3. Parking lots up to 149,000 square feet shall retain 5% of their interior for landscaping islands.
4. Parking lots 150,000 square feet and over shall retain 7% of their interior for landscaped islands.
5. Parking lots shall be required to have one tree placed within 40 feet of each parking space for multi-family, commercial, office park and industrial districts.

1612.5 Yards Groundcover and Landscaping. Established grass, either sod or seed, is required for all yards for all new buildings and additions over 500 square feet in area, in addition to trees and screening that may also be required by other code sections, prior to occupancy.

1612.5.1 Tree Requirements for Multi-Family Development. For each Multi-Family development, one (1) tree will be provided for each 750 square feet of building foot print.

1612.5.2 Tree Requirements for Commercial, Office Park or Industrial Development. For each Commercial, Office Park or Industrial development, one tree will be shown for every 2,000 square feet of building foot print.

1612.6 Screening of Commercial Uses and Storage. A green belt planting strip consisting of evergreen shrubs and trees shall be used to screen any commercial use, or the permitted open storage of any materials or equipment, from adjoining residential districts or residential uses. Such planting strip shall be of sufficient width and density to provide an effective and aesthetically pleasing screen with shrubs and trees not less than five feet in height when planted. In lieu of planting strips, a six-foot tall solid vertical fence of masonry or heavy wood construction, or other material approved by the Building Official, may be used as a screen, provided that decorative plantings are established on the residential side of the fence. Both a green belt planting strip and a six-foot tall fence may be required at the discretion of the City Council.

1612.7 Enforcement

The City Planning Commission shall have the following authority related to this section:

1. To recommend denial of any site plan that does not conform to all regulations of this section, including elevation detail.
2. To recommend modifications to building materials, architectural features, or orientation on the site, beyond those explicitly enumerated in this section, considered to be consistent with the goals and objectives of the City of North Liberty Comprehensive Plan.

The City Council shall have the following authority related to this section:

- a. To deny any site plan that does not conform to all regulations of this section, including elevation detail.
- b. To require modifications to building materials, architectural features, or orientation on the site beyond those requirements explicitly enumerated in this section, considered to be consistent with the goals and objectives of the City of North Liberty Comprehensive Plan; or to deny any site plan if such modifications are not made by the petitioner.

SECTION 2. REPEALER. All Ordinances and parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 3. SEVERABILITY. If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be in effect after its final passage, approval and publication as required by law.

First reading on the 8th day of January, 2008.

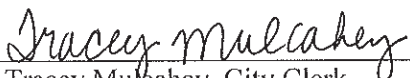
Second reading on the 22nd day of January, 2008.

Third and final passage on the 26th day of February, 2008..

CITY OF NORTH LIBERTY

By: 

Thomas Salm, Mayor

Attest: 
Tracey Mulcahey, City Clerk

Approved as to form by City Attorney


City Attorney

I certify that the forgoing was published as Ordinance No. 08-03 in the *North Liberty Leader* on the 5th day of March, 2008.


Tracey Mulcahey, City Clerk

169.12 DESIGN STANDARDS.

This section is intended to provide consistent high-quality general design standards for the community.

1. Requirements for All Districts. The following requirements shall be observed for all development in all districts:

- A. Building design shall be visually harmonious and compatible with the neighborhood character.
- B. Buildings located on property with double frontages shall have similar wall design facing both streets.
- C. Buildings shall have a consistent architectural style throughout the development on each lot, as defined by repetition of exterior building material and colors, and architectural elements.
- D. Except for the RS districts, color schemes shall be based on earth tones or other compatible colors.
- E. Special attention shall be taken to incorporate external mechanical equipment into the design such that it does not detract from the aesthetics of the site and building.
- F. Pitched roofs with a minimum slope 5:12 are preferred. The color of the roof should be earth-toned.
- G. Roof top equipment shall be screened.
- H. Reflective surfaces that may cause glare or traffic hazards are not acceptable.



Board of Adjustment
August 21, 2019
City Council Chambers, 1 Quail Creek Circle

Members: Eric Ruttum, Vice-Chair
Krystin Erenberger
Lance Murphy

Roll Call: The meeting was called to order by Vice-Chairperson Ruttum at 6:30 p.m. Members present were: Ruttum, Erenberger, Murphy (two positions are unfilled at this time)

Others present: Applicant Chad Ketelsen and two neighbors.

Public comment on items not on the agenda: None.

VARIANCE REQUEST: Application from Chad Ketelsen for a variance to the house-to-outbuilding separation requirement from 10' (required) to 8' (requested) to allow continuation of a shed erected in error, at 240 Brookfield Avenue. Legal: Liberty Centre, Part 2 Lot 46
Staff reported on the case details. The petitioner was in attendance and explained events leading to the variance request. Chair Ruttum opened the public hearing, and two separate neighbors spoke in support of the variance. The public hearing was closed. Board members discussed the request at length, and considered it with respect to the criteria laid out in the Zoning Ordinance for variances. Members agreed that the request did meet the criteria for granting a variance. Ruttum moved to approve the request, and Erenberger seconded the motion. The roll call vote was Murphy, Erenberger, Ruttum ayes, no nays.

Minutes from Previous Meeting. Murphy moved to approve the minutes of the April 2019 meeting as presented. Ruttum seconded the motion, which passed unanimously.

Old Business: None.

New Business: Staff reported that a new member is expected to be appointed at the next City Council meeting.

Adjournment: The Chair declared the meeting adjourned at 6:50 PM.
Dean Wheatley, Planning Director