



City of Muscatine

ZONING BOARD OF ADJUSTMENTS

5:30 p.m. - City Hall Council Chambers 215 Sycamore St Muscatine, IA

AGENDA

1. CALL TO ORDER/ROLL CALL

2. MISSION STATEMENT

3. APPROVAL OF MINUTES

A. January 3, 2023

4. VARIANCE APPEALS

- A. ZBAV0006-2022 filed by Mike Harapat purchased parcel number 0836230011 located on Spillway Lane to build a raised cabin on the property. The property is located in the new FEMA based rule for flood events at or over the base flood level for the area in which a conditional use permit is needed for all new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood per City Code Section 10-4-5 (D)(h) and Federal FEMA regulations, and requires the approval of the Zoning Board of Adjustments.
- B. ZBAV0001-2023 filed by MSCA requested several variances for the following properties: 601 E 6th St, 609 Orange St, and the West Half of Lot Two (2) of Block One Hundred Sixteen (116). A new 21-unit permanent housing development instead of 15 units is being proposed on the three lots. The new building will have three floors with accessible dwelling units and facility support spaces. The applicant would like to change the building height limitation from 35' to 47.5'.

Per City Code 10-8-3 (A) the maximum structure height is 35 feet, except for as provided for in Title 10, Chapter 26. Per City Code 10-26-1(A) also requires qualifying structures built above the zoning district height limit (35'), to be set back at least 1' from every foot that zoning district height limit is exceeded by. The building setback would need to be at least 12.5' from all property lines.

The three combined parcels will be approximately 12,740 sq ft which is short of the required 21,000 sq ft for multifamily residence per City Code 10-8-3(G). This will allow for the 21 units to be placed on the smaller parcel to allow for the home at 605 6th St to remain.

They are requesting a 62% reduction in the amount of required parking spots. The current zoning requires twenty-one onsite parking spaces. Given the proximity to downtown Muscatine and the community amenities, a request has been made to reduce the parking spots from twenty-one to eight due to access to bike, bus, and walking opportunities. The ZBA per Section 10-31-2 (C) (3B) can reduce the onsite requirements. Parking would be for a maximum of 4-6 employees on site at any given time.

5. ADJOURNMENT

MINUTES
January 3, 2023 – 5:30 p.m.
Zoning Board of Adjustment
Muscatine City Hall – City Council Chambers

Present: Jodi Hansen, Nancy Jensen, Larry Murray and Julie Wolf

Excused: Robert McFadden

Staff: April Limburg, Planner, Community Development
Christa Bailey, Office Coordinator, Community Development

Chairperson Jodi Hansen opened the meeting at 5:30 p.m. and read the mission statement.

Minutes:

Larry Murray motioned to approve the November 1, 2022 minutes; seconded by Nancy Jensen. All ayes, motion carried.

Conditional Use Cases:

Conditional Use Case ZBACU0002-2022 filed by Kirk Butcher to allow a storefront retail business selling tobacco, cigars, and vape products located at 839 Park Ave allowed by Section 10-17-2 of City Code.

Jose Elzofri, 4325 Avenue of the Cities Moline, IL, was present to discuss the conditional use request on Kirk Butcher's behalf as Mr. Elzofri is the building tenant and is responsible for operating the business. Mr. Elzofri stated that he operates two smoke/vape shops in the Quad Cities and is hoping to expand. Mr. Elzofri shared that Kirk Butcher originally listed the building for sale but after it sat on the market for a long period of time he was able to persuade Mr. Butcher into renting the building space to him but he may still buy the building if the smoke/vape shop is approved and does well.

Julie Wolf questioned if April Limburg had been contacted by any of the neighboring properties with concerns or comments, to which Ms. Limburg responded no.

Nancy Jensen requested verification on the type of products that would be sold, if the products would be limited to only the products listed in the request or if he would include alternative products. Mr. Elzofri reassured that his business would only sell tobacco, cigar and vape products.

Larry Murray motioned to approve the conditional use request; seconded by Nancy Jensen. All ayes, motion carried.

Conditional Use Case ZBACU0003-2022 filed by the City of Muscatine for a flood plain development permit seeking permission to install, as part of Phase 6A and 6B of the West Hill Area Sanitary and Storm Sewer Separation Project, a new sanitary sewer line behind the 100 block of East Fulliam Avenue, the proposed work would not result in any change to existing ground elevations. Such work in a designated flood plain constitutes a conditional use per City Code 10-4-5(B) and Federal FEMA regulations, and requires the approval of the Zoning Board of Adjustment.

Andrew Fangman, Assistant Community Development Director, was present to discuss the conditional use request on behalf of the City of Muscatine. Mr. Fangman explained that as part of Phase 6A and 6B of the West Hill Area Sanitary and Storm Sewer Separation Project it is necessary to install a new sanitary sewer line in the Flood Plain District located behind Papoose Creek and the 100 block of East Fulliam Ave and as City Code constitutes any work done in a Flood Plain District a conditional use which the Zoning Board of Adjustment is required to approve for the flood plain development permit. Mr. Fangman stated the proposed work would not result in any changes to the existing ground elevations as the final grade will be returned to the exact grade measured prior to commencement of the work.

Terry Romine, 1616 1st Ave, shared that he owns two properties, 117 and 121 East Fulliam Ave, that will be impacted by this project as he understands that it will require the parking lot at 121 East Fulliam Ave to be torn up but will be replaced by the City after the work is done. Mr. Romine also stated the fence and garage on his 117 East Fulliam Ave property are

located in the flood plain so he wanted to find out how long the project plans to work in that specific area for. Mr. Fangman explained that he is not knowledgeable on the timeline or specifics of the project plans and directed Mr. Romine to contact Pat Lynch the City Engineer as he designed it.

Julie Wolf queried whether the Board is tasked with approving the project design itself. Mr. Fangman clarified that the Board is only responsible for approving the conditional use which allows the excavation and work to be completed in the location that falls within the Flood Plain District. Mr. Fangman added that the City of Muscatine is federally mandated to complete this project.

Larry Murray motioned to approve the conditional use request; seconded by Julie Wolf. All ayes, motion carried.

Meeting adjourned at 5:52 p.m.

ATTEST:

Respectfully Submitted,

Jodi Hansen, Chairperson
Zoning Board of Adjustment

April Limburg, Secretary
Planner I

COMMUNITY DEVELOPMENT

Planning,
Zoning,
Building Safety,
Construction Inspection Services,
Public Health,
Housing Inspections,
Code Enforcement

MEMORANDUM

To: Zoning Board of Adjustments
From: April Limburg, Planner
Date: February 24, 2023
Re: Variance Appeal No. ZBAV0006-2022

INTRODUCTION: Variance Appeal No. ZBAV0006-2022 to allow wheel access for parcel number 0836230011 located on Spillway Lane

BACKGROUND: An appeal was filed by Mike Harapat purchased parcel number 0836230011 located on Spillway Lane to build a raised cabin on the property. The property is located in the new FEMA based rule for flood events at or over the base flood level for the area in which a conditional use permit is needed for all new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood per City Code Section 10-4-5 (D)(h) and Federal FEMA regulations, and requires the approval of the Zoning Board of Adjustments.



Both parcels 0835130036 and 08351330039 are owned by the applicant

COMMUNITY DEVELOPMENT

Planning,
Zoning,
Building Safety,
Construction Inspection Services,
Public Health,
Housing Inspections,
Code Enforcement

MEMORANDUM

To: Zoning Board of Adjustments
From: April Limburg, Planner
Date: January 26, 2023
Re: Variance Appeal ZBAV0001-2023

INTRODUCTION: Variance Appeal ZBAV0001-2023, filed by MCSA (Muscatine Housing Solutions) requested several variances for the following properties: 601 E 6th St, 609 Orange St, and the West Half of Lot Two (2) of Block One Hundred Sixteen (116). A 21-unit permanent housing development instead of 15 units is being proposed on the three lots. The new building will have three floors with accessible dwelling units and facility support spaces. Entry will be from the alley to the east of Orange St.

BACKGROUND: MCSA requested several variances for the following properties: 601 E 6th St, 609 Orange St, and the West Half of Lot Two (2) of Block One Hundred Sixteen (116). A new 21-unit permanent housing development instead of 15 units is being proposed on the three lots. The new building will have three floors with accessible dwelling units and facility support spaces.

The applicant would like to change the building height limitation from 35' to 47.5'. Per City Code 10-8-3 (A) the maximum structure height is 35 feet, except for as provided for in Title 10, Chapter 26. Per City Code 10-26-1(A) also requires qualifying structures built above the zoning district height limit (35'), to be set back at least 1' from every foot that zoning district height limit is exceeded by. The building setback would need to be at least 12.5' from all property lines.

The three combined parcels will be approximately 12,740 sq ft which is short of the required 21,000 sq ft for multifamily residence per City Code 10-8-3(G). This will allow for the 21 units to be placed on the smaller parcel to allow for the home at 605 6th St to remain.

They are requesting a 62% reduction in the amount of required parking spots. The current zoning requires twenty-one onsite parking spaces. Given the proximity to downtown Muscatine and the community amenities, a request has been made to reduce the parking spots from twenty-one to eight due to access to bike, bus, and walking opportunities. The ZBA per Section 10-31-2 (C) (3B) can reduce the onsite requirements. Parking would be for a maximum of 4-6 employees on site at any given time.

Attached is the application, site plan, and aerial of the property.



APPEAL TO THE BOARD OF ADJUSTMENT FOR A VARIANCE:

This notice of a Variance appeal to the Muscatine County Board of Adjustment is from the decision of the determination made by the Muscatine County Zoning Administrator for Muscatine County.

Facts in this case are as follows:

The premises affected is zoned: R-5 MULTI-FAMILY RESIDENTIAL

Containing approximately: 12,740 S.F.

Located in parts of the: MUSCATINE COUNTY, IOWA

Parcel #/District: PARCEL ID #0835426019

Address of Property affected: 601 E 6TH ST. MUSCATINE, IA, 52761

That said Zoning Administrator denied or refused to issue a Variance request for the reason that it was a matter, which in their opinion, should properly come before the Muscatine County Board of Adjustment. (I) (We), therefore, request that a Variance be granted as follows:

1. We are requesting a 62% reduction in the amount of required parking - 21 parking spaces reduced to 8 spaces.
2. We are requesting a change to city code 10-26-1(A) - 35' zoning district height limit increased to 47.5'.

and that the Muscatine County Zoning Administrator be authorized and instructed to issue a Variance for this use, and (I) (We) contend you have such authority as set out in Article XVIII, Section 3, after your Board has held a public hearing and approved the Variance.

That attached, hereto, is our non-refundable fee in the amount of \$150.00 per request made payable to the Muscatine County Treasurer, Zoning Office Receipt # _____.

Respectfully submitted on this date: _____ and signed by: _____

The undersigned is/are the owner(s) of the described property on this application, located in the unincorporated area of Muscatine County, Iowa, assuring the information provided herein is true and correct. By signing below, I hereby give my consent for the Muscatine County Zoning Office to conduct a site visit and photograph the subject property.

Applicant's Signature
(if different than Record Owner)

☒ 
Record Owner Signature

Print Applicant's Name
(if different than Record Owner)

Scott Dahlke
Print Record Owner's Name

Print Applicant's Address
(if different than Record Owner)

312 Iowa Ave, Muscatine IA 52761
Print Record Owner's Address

Print Applicant's Telephone #
(if different than Record Owner)

563 - 264 - 3278
Print Record Owner's Telephone #

Print Applicant's Email Address
(if different than Record Owner)

sdahlke@mcsc Iowa.org
Print Record Owner's Email Address

LEGAL STANDARDS FOR VARIANCES

As a potential applicant for a variance, you need to be aware of the legal standards under which variance applications are to be evaluated by the Board of Adjustment. A variance is not to be granted as a convenience to a property owner. Iowa courts have stated that variances are not to be granted routinely. To do so would defeat the purpose of having a zoning ordinance. Zoning ordinances are created for purpose of promoting health, safety, morals, or general welfare of the community. The courts have also stated that it is the burden of the application that meets the required standards.

In order to justify the granting of a variance, the applicant must show that an unnecessary hardship exists, that there is a unique property limitation, and that the variance would not be contrary to the public interest.

The following points are all drawn from Iowa case law, and are the standards under which a variance action would be reviewed by the courts:

Unnecessary Hardship

What constitutes a hardship is to be determined from the facts and circumstances of each individual case. An applicant for a variance has the burden of showing all of the following:

1. The land in question cannot yield a reasonable return if used only for a purpose allowed in that zone. Lack of a reasonable return may be shown by proof that the owner has been deprived of all beneficial use of his land. All beneficial use is said to have been lost where the land is not suitable for any use permitted by the zoning ordinance.
2. The plight of the owner is due to unique circumstances and not to the general conditions in the neighborhood, which may reflect the unreasonableness of the zoning ordinance itself.
3. The use to be authorized by the variance will not alter the essential character of the locality. (Iowa Code Section 414.12(3))

Unique Property Limitation

Unique physical characteristics of the property, not the desires of, or conditions personal to the applicant, must prevent the applicant from developing in compliance with the zoning ordinance. Such limitations may arise due to steep slopes, wetlands, or parcel shape that limits the reasonable use of property.

Protection of the Public Interest

Granting a variance must neither harm the public interest nor undermine the purposes of the ordinance. In granting a variance, the Board may attach special conditions to ensure that the public welfare will not be damaged. Such conditions must relate reasonably to the purpose and intent of the ordinance. Also, any variance granted should include only the minimum relief necessary to allow reasonable use of property.

The Board of Adjustment shall determine:

- That it will not impair an adequate supply of light and air to adjacent property.
- That it will not unreasonably increase congestion and traffic hazards on public roads.
- That it will not unreasonably diminish or impair established property values within the surrounding areas.
- That it will not in any other respect impair the public health, comfort, safety, morals or welfare of the inhabitants of the county.
- That it will not impair the general purpose and intent of the regulations and provisions contained in the Muscatine County Zoning Ordinance and Comprehensive Plan.

Items Not Grounds for Hardship

- Loss of profit or financial hardship is not in and of itself grounds for a variance.
- Self-imposed hardship is not grounds for a variance. When conditions giving rise to the need for a variance were created by the property owner or a former owner, the hardship is self-imposed.

The Board of Adjustment has authority to determine whether exceptions to an ordinance are to be allowed. It cannot amend or change an ordinance or declare an ordinance unconstitutional. The zoning commission and the Board of Supervisors have the power to change the zoning restrictions.

SECTION 7. BOARD OF SUPERVISORS REVIEW

The Board of Supervisors reviews variances granted by the Board of Adjustment, usually within two weeks of the Board of Adjustment's decision. The Board of Supervisors may remand a decision to grant a variance to the Board of Adjustment for further study. If remanded, the effective date of the variance is delayed for thirty days from the date of the remand.

VARIANCE QUESTIONNAIRE

(Some questions may not apply – just mark n/a if that is the case)

1. What do you feel is the unnecessary hardship?

N/A

2. Will the granting of this Variance impair an adequate supply of light and air to adjacent property?

Light and air supply to adjacent properties will not change from the previous height of the building prior to the granting of this Variance.

3. What is the unique property limitation?

The existing limitation we face is city code 10-26-1(A) zoning district building height limit of 35'.

4. Will the proposed use alter the character of this property in any way?

the proposed use will not alter the character of this property as the finish grade will reflect the existing grade.

5. Will the proposed use unreasonably increase congestion and traffic hazards on public roads?

The proposed use will not increase congestion and traffic hazards on public roads.

6. Will the proposed use unreasonably diminish or impair established property values within the surrounding areas?

The proposed use will not impair property values within the surrounding areas.

7. Will the proposed use impair the public health, comfort, safety, morals or welfare of the inhabitants of the county?

Inhabitants of the county will not be impaired.

8. Will the proposed use impair the general purpose and intent of the regulations and provisions contained in the Muscatine County Zoning Ordinance and Comprehensive Plan?

The proposed use will not impair the regulation and provisions in the Comprehensive Plan.

9. What are the proposed days and hours of operation?

Proposed days and hours of operation will be a 24hr on site staff member, 7 days of the week.

10. What type of county, state and/or federal permits will be needed to conduct the business?
-

11. How many employees will be coming to the site?

There will be a maximum of 4-6 employees on site at any given time within a 24hr day.

12. What type of traffic will be generated by the proposed use?

The type of traffic generated by the proposed use will most commonly be foot traffic.

13. Estimate the water and sewage demands created by the proposed use.

N/A

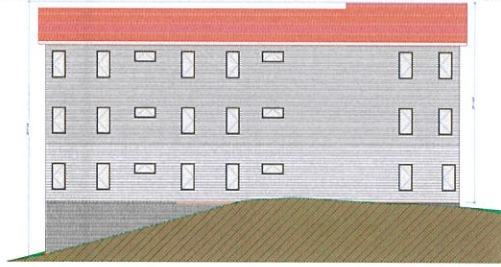
14. Describe the amount and types of equipment and/or materials to be stored on site.

General construct equipment and vehicles will be stored on site during construction.

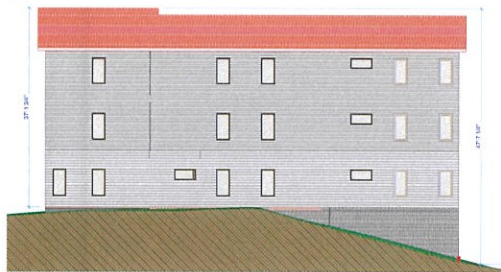
15. Will there be any offensive odors, noise or fumes created by the proposed use?

N/A

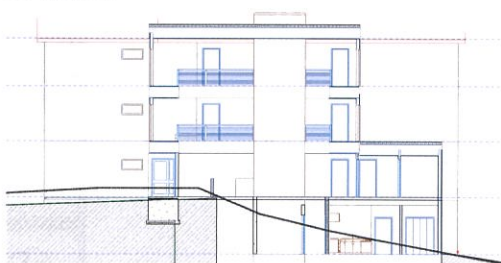
C:\Users\luna.Mitchell\Documents\Architecture\Michael Nolan - Projects\General Projects\022-006 MCSA New Build\1 - Model and Design\PCSA Supportive Housing.dgn



1 NORTH ELEVATION
SCALE: 1/8" = 1'-0"



2 SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



3 BUILDING AND SITE SECTION
SCALE: 1/8" = 1'-0"



4 EAST ELEVATION
SCALE: 1/8" = 1'-0"



5 WEST ELEVATION
SCALE: 1/8" = 1'-0"

SCHEMATIC DESIGN - NOT FOR CONSTRUCTION



NEW PERMANENT SUPPORTIVE
HOUSING FOR MCSA

601 EAST 4TH STREET
MUSCATINE, IA 52751

PROJECT NO: 2023-006
DATE: 1/24/2023
DRAWN BY: MSN
COPYRIGHT

SHEET TITLE
ELEVATIONS

SD-2

