



**MARSHALLTOWN
MORE THAN EVER**

**CITY OF MARSHALLTOWN
BOARD OF ADJUSTMENT
NOTICE OF PUBLIC MEETING
CITY HALL COUNCIL CHAMBERS
10 WEST STATE STREET
APRIL 15, 2025, 5:00 PM**

AGENDA

CALL TO ORDER

ROLL CALL

BUSINESS

1. APPROVE MEETING MINUTES FROM FEBRUARY 18, 2025 MEETING
2. VARIANCE APPLICATION FOR 4 W BOONE STREET
3. VARIANCE APPLICATION FOR 212 KOEPER DRIVE

ADJOURNMENT

Board of Adjustment

Meeting Minutes – February 18th, 2025

Meeting was called to order at 5:03 PM in the City Council Chambers at 10 W. State Street

1. Roll Call:

Present: Eaton, Thurston, Schulze, and Sanchez

Absent: Engle

2. APPROVAL OF MEETING MINUTES FROM DECEMBER 16TH, 2024

Motion to approve the December 16th, 2024 meeting minutes made by Schulze, seconded by Eaton.

All ayes upon roll call. Motion Carried.

3. ELECTION OF OFFICERS

Motion by Schulze to elect Kellie Thurston as chairperson of the Board of Adjustment for 2025,
Seconded by Sanchez

Motion by Thurston to elect Mark Eaton as vice-chairperson of the Board of Adjustment for 2025,
Seconded by Schulze

All ayes upon roll call. Both motions carry.

4. VARIANCE APPLICATION FOR 402 WOODBURY STREET

Motion by Thurston to remove the variance application for 402 Woodbury Street from the table
and to continue deliberation of the application, seconded by Eaton.

All ayes upon roll call. Motion Carried.

Clayton Ender, Assistant Director of Housing and Community Development, provided an update on modifications to the application since the initial deliberation on December 16th, 2024. Modifications to the application consisted of submittal of a plan to provide off-street parking in compliance with the requirements of the zoning ordinance.

Thurston asked staff what the timeframe for construction of the parking would be. Clayton Ender responded that parking must be installed prior to issuance of any rental certificate or occupancy certificates as applicable.

Thurston asked for clarification on the number of bedrooms per dwelling unit. The applicant, Jose Socorro Carrera Cervantes of 217 N 2nd Avenue, Marshalltown, IA, 50158, responded that the first floor unit will include three bedrooms and the second floor unit will include one bedroom.

Schulze requested confirmation of the variance being sought. Clayton Ender responded that the variance is a variance to the minimum lot area since the property presently does not exhibit sufficient land area to meet the minimum lot area requirements for two dwelling units.

Thurston asked for clarification of the on-street parking regulations adjacent to the subject property. Clayton Ender responded that both N 4th Avenue and Woodbury Street permit on-street parking. Parking is required to alternate sides based on the posted day of the week, but is otherwise permitted.

Eaton asked Planning Commission Member Jon Boston of 1710 Rainbow Drive, Marshalltown, IA, 50158, whom was in the audience, to elaborate on the intent of the zoning ordinance and how this property applies to the regulations. Boston responded that the variance process is supposed to be used to address unique circumstances. In his opinion due to fact that the structure proposed to be used for this duplex having been constructed in 1920, prior to adoption of zoning regulations in Marshalltown, that the need for the variance didn't appear to have been self-inflicted.

Motion by Schulze to approve the variance application for 402 Woodbury Street, seconded by Thurston.

Roll Call:

Eaton - Nay

Sanchez – Aye

Schulze – Aye

Thurston – Aye

Motion Carries with three aye votes and one nay vote.

5. PUBLIC HEARING: SPECIAL USE PERMIT FOR 421 EAST MERLE HIBBS BOULEVARD

Clayton Ender, Assistant Director of Housing and Community Development, provided a summary of the special use permit application.

Thurston asked staff what the maximum height for an in-ground solar arrays (accessory use) was prior to the zoning text amendment pertaining to maximum height of in-ground solar arrays (accessory use) which had been approved by the City Council on February 10th, 2025. Clayton Ender responded that the previous maximum height regulation was six feet.

Schulze asked city staff to confirm that the proposed solar array complies with setback requirements. Clayton Ender confirmed that the array will meet all applicable setbacks of an accessory structure as required by the zoning ordinance.

Eaton requested that Planning Commission Member Jon Boston of 1710 Rainbow Drive, Marshalltown, IA, 50158, whom was in the audience, to provide commentary on the zoning district of this property as well as surrounding properties. Boston responded that the PI, Public Institutional Zoning District of which the subject property is zoned was intended to be applied to most schools, medical facilities, and government facilities.

Thurston opened the public hearing and sought any public comments.

City Council member Mike Ladehoff of 407 N 15th Avenue, Marshalltown, IA, 50158 spoke in favor of the proposed special use permit. Mike provided commentary regarding recent City Council actions pertaining to zoning text amendments specific for in-ground solar arrays.

Dave Grieve of 128 ½ E Main Street, Marshalltown, IA, 50158 asked if there had been consideration to place the solar arrays over the parking lot rather than over green space. Dave raised concerns regarding whom would be responsible for decommissioning of the system upon it no longer being in use.

Ron Frantzen representing the applicant provided commentary on the reason for pursuing this project. This system is estimated to lower the utility bill of McFarland Clinic by \$200,000 per year.

Motion by Schulze to approve the special use permit application, seconded by Eaton. All ayes upon roll call. Motion carries.

Meeting Adjourned at 5:55 PM

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HOUSING & COMMUNITY DEVELOPMENT

Deb Millizer, Director
Clayton Ender, Assistant Director
24 North Center Street
Marshalltown, IA 50158-4911
Tel - (641) 754-5756
Fax - (641) 754-5717

TO: Board of Adjustment
FROM: Clayton Ender, Assistant Housing & Community Development Director
DATE: April 15th, 2025
RE: Variance Application for 4 W Boone Street

City Staff Contact:	Clayton Ender, AICP Assistant Director of Housing and Community Development Phone: 641-754-5756 Email: cender@marshalltown-ia.gov
Property Owner & Applicant:	George, Ruth Faye, and Ionnis S Coutsougeras 4 W Boone Street Marshalltown IA 50158
Recommendation:	Staff recommends approval of the variance application.
Comprehensive Plan Future Land Use Designation:	Downtown Mixed Use
Zoning District:	UC, Urban Core Zoning District
Review Criteria:	In determining whether to approve, approve with conditions, or deny a variance, the Board of Adjustment shall consider the following review criteria: 1. The administrative body has considered the recommendation of staff. Staff recommends approval of the variance application. 2. The request is consistent with applicable policies of the Comprehensive Plan and applicable utility plans and capital improvements plans; or, if it addresses a topic that is not contained or not fully developed in the Comprehensive Plan,

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the request does not impair the implementation of the Comprehensive Plan.

Comprehensive Plan Economic Development Goal #1 “Expand and diversify the City’s tax base by supporting existing businesses and the redevelopment of existing commercial properties and encouraging new commercial development to enable Marshalltown to fulfill its role as a regional trade and service center.”

Comprehensive Plan Economic Development Goal #3 “Improve and enhance Downtown Marshalltown in its role as the hub of the City”

3. The request promotes the purposes of this Zoning Ordinance as established in § 156.A.002, Purposes, and in other applicable purpose statements in this chapter.

§ 156.A.002(C)(2) “Enable and encourage entrepreneurship and local business growth”

§ 156.A.002(C)(3) “Enable retention and sensitive expansion of local businesses.

§ 156.A.002(E)(1) “Promote contextually compatible redevelopment and infill development of vacant or underutilized properties”

4. Adequate facilities, including public or private utilities, solid waste service, roads, drainage, and other improvements are present or are planned to be provided.

The subject property has adequate access to existing public streets, water, sanitary sewer, storm sewer and other utilities.

5. The request demonstrates compatibility with surrounding conforming and permitted land uses and structures and with the general character of the area.

Adjacent uses are predominately open space or parking lots to the south, west, and north west. To the north and northeast is Emerson-Fisher Controls with buildings which are predominately greater than one-story height. The public library is in the vicinity and is a one-story building, however the library is zoned PI, Public

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and Institutional Zoning District which is not the same as the subject property.

6. The granting of the variance is not based on a hardship which is self-imposed;

The applicant did not construct the original building, which occurred in 1977, and the prohibition on one-story buildings was adopted in 2022 so at the time of initial construction it was not foreseeable that additions would be limited.

7. The hardship is not based solely on the cost of complying with the regulation, but is based on the particular physical surroundings, shape, or topographical conditions of the subject property;

While the lot itself is not unique the fact that the property contains an existing one-story building in the UC Zoning District is unique. The construction method used for the existing building restricts the ability to retrofit into a two-story building without significant hardship.

8. The hardship is based on circumstances that are unique to the property for which the variance is sought and not circumstances common to other properties;

While the subject property is not the only one-story building within the UC zoning district it is within the minority of structures. Less than 1/3 of all buildings in the downtown neighborhood are of one-story construction.

9. The variance requested is the minimum necessary that will make possible a permitted use of the land, building, or structure;

The applicant is seeking a relief to §156.D.007(D)(2)(a) which would be applicable only to the proposed 22 foot X 34 foot building addition. Any further expansion on the subject property would be subject to additional variance applications or to be in compliance with applicable zoning regulations.

10. A literal interpretation of the provisions of this Zoning Ordinance would deprive the applicant of rights commonly

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enjoyed by other residents of the district in which the property is located; and

While a literal interpretation of the ordinance wouldn't prevent the continued use of the property as a restaurant it would result in an unnecessary hardship, in the opinion of staff.

11. Granting the variance will not confer on the applicant any special privilege that is denied to other lands or structures in the same district.

In the opinion of staff, the prohibition on one-story buildings appears that it was intended to apply primarily to new construction on vacant lots rather than expansion to existing buildings. This seems to be supported by the fact that many of the existing one-story buildings in the downtown neighborhood are constructed such that they cover nearly their full lot areas which would result in limited to no ability to expand. For those that cannot expand outward the zoning regulation is of limited impact. This regulation has a disproportionate impact on building expansion for the limited existing one-story buildings within the downtown neighborhood.

Attachments:

Aerial Vicinity Map
Variance Application

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Board of Adjustment Finding of Fact Report

Meeting Date: April 15, 2025	Application Type: VARIANCE
Zoning District: UC, Urban Core Zoning District	Comp. plan designation: Downtown Mixed Use
Property Address: 4 W Boone St	
Property Owner: George, Ruth Faye, and Ionnis S Coutsougeras	
Applicant (if different than owner):	

Request Description: Applicant is seeking a variance to § 156.D.007(D)(2)(a) of the City of Marshalltown Zoning ordinance. The cited section establishes that one-story buildings within the UC, Urban Core Zoning District are prohibited. The request is to allow for a one-story building addition to an existing legal non-conforming one-story building. The variance would only apply to the building addition and would not apply to any future additions or to resolve the legal non-conforming status of the existing building.

Hardship as stated in the application

The original building was constructed in 1977, when one-story building at this location was permitted, and was constructed to the building code in place in 1977. A two-story addition to the existing building would result in an unnecessary hardship to retrofit a building which was not originally designed to be a two-story building.

New Information introduced for consideration

Findings of Fact (Answer yes or no to each item and provide reasoning if necessary)

YES	NO	Finding Description
		Not Self Imposed. The granting of the Variance is not based on a hardship which is self-imposed? <i>Reasoning:</i> Vote result if applicable: ____ Yes ____ No
		Based on Cost. The hardship is not based solely on the cost of complying with the regulation, but is based on the particular physical surroundings, shape, or topographical conditions of the subject property? <i>Reasoning:</i> Vote result if applicable: ____ Yes ____ No
		Unique Circumstances. The hardship is based on circumstances that are unique to the property for which the Variance is sought and not circumstances common to other properties? <i>Reasoning:</i> Vote result if applicable: ____ Yes ____ No

		Commonly Enjoyed Rights. A literal interpretation of the provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located; and <i>Reasoning:</i> Vote result if applicable: ____ Yes ____ No
		Not A Special Privilege. Granting the variance will not confer on the applicant any special privilege that is denied to other lands or structures in the same district. <i>Reasoning:</i> Vote result if applicable: ____ Yes ____ No

Based on the Findings of Fact the following action occurred:

- ☐ Motion by _____ to APPROVE the request as submitted with the following conditions:

Second by _____

Vote results:

Name:	YES	NO	Abstain	Comment
<i>Engle</i>				
<i>Eaton</i>				
<i>Sanchez</i>				
<i>Schulze</i>				
<i>Thurston</i>				

Aerial Vicinity Map

4 W Boone Street



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HOUSING & COMMUNITY DEVELOPMENT DEPARTMENT

36 North Center Street, Marshalltown, IA 50158

Ph: 641-754-5756 Fax: 641-754-5742

www.marshalltown-ia.gov

Variance Application Packet

Purpose: Zoning regulations include specific development standards. There are occasions, however, when the strict application of such standards may be inappropriate because of unique characteristics of the property. The variance procedure is designed to permit minor adjustment to the zoning regulations where there are unique or extraordinary circumstances applying to a parcel of land or building that prevent the property from being used to the extent intended by the zoning. Unique circumstances may include factors such as the size, shape, topography, vegetation, wetlands, or other unique characteristics of the land.

Pre-Application Meeting: The applicant is required to meet with the Zoning Administrator prior to submitting an application to discuss the feasibility of the request as well as any possible alternatives that may eliminate the need for a variance or improve the chance of the variance being granted. A preliminary site plan should be brought to this meeting to review the project design as it relates to the zoning requirements.

Application Packet: Applications will not be accepted unless complete. All required items must be submitted with the application. Failure to complete and submit all the required materials as a part of this application will result in a delay in accepting your application until it is complete.

Submission Deadline: The complete application with fee must be submitted by 4:30 p.m. three weeks prior to the scheduled meeting date to the Housing & Community Development Department Office, located at 36 N. Center Street.

Board Meetings: The Board of Adjustment considers the facts presented by the applicant in the application and testimony given at the public hearing, and makes the final decision, based on the standards in the Ordinance. The Board meetings are tentatively scheduled for 5:00 p.m. on the third Tuesday of each month in the City Council Chambers, second floor of City Hall, 10 W. State Street. Attendance at the meeting is required.

It is the burden of the property owner to provide sufficient facts with this application and at the Board of Adjustment meeting to support a finding that all the standards for approval have been met. The concurring vote of three (3) members of the Board is necessary to decide any issue before the board regardless of the number of members present at the meeting. The Board is a five (5)-member board. Appeals to the decision of the Board of Adjustment can be made in District Court.

Notifications: The City will place a sign on the property to notify the public that a variance request has been submitted. The sign includes the city's phone number so that concerned individuals will have an opportunity to learn about the proposal and can present information on this matter to the board at the public hearing. A notice of public hearing is also published in the newspaper.

Date Submitted & Fee Paid: _____

Hearing Date: _____

Variance Application Form

36 N. Center Street, Marshalltown, IA 50158 Ph: 641-754-5756 Fax: 641-754-5742
www.marshalltown-ia.gov

All items listed must be submitted with this application:

Failure to complete and submit all the required materials as a part of this application will result in a delay in accepting your application until it is complete.

_____ **A site plan, drawn in ink and to scale, which clearly shows the variance being sought. This site plan shall not be larger than 11" X 17." And must include:**

- Dimensioned property lines indicating any easements;
- Location & identification of adjacent streets and alleys;
- Location and size of all existing and proposed buildings and structures (include distances to all property lines and distances between buildings and structures.);
- Dimensioned driveways and parking areas; and
- Any other pertinent information necessary to fully understand the need for a variance.

_____ **Site photographs** showing all views of the property, including any special features such as topography and existing and adjacent structures. **Please note:** Materials submitted with the application or presented as evidence during the public hearing will not be returned and must be kept as a part of the public record.

_____ **Completion of all of the following questions included in this application.**

_____ **Legal description of the property.** The property owner should have a copy of the legal description. If not, owners may obtain a copy of the recorded deed, which contains the legal description, from the Marshall County Recorder's Office for a fee.

_____ **Application fee.** A fee of \$150 for owner-occupied residential properties and a fee of \$200 for any other property is required payable to "City of Marshalltown." The fee must be paid when the application is submitted to the Housing Department.

Please type or print legibly in ink.

Property Address: 4 West Boone St	
Owner: Ioannis Coutsouras	
Mailing Address: opagrill22@gmail.com / 4 West Boone St	
Phone: 1 (612) 345-2481	Fax:
Email Address:	
Owner's Agent (if applicable): Cino DiIorio Masonry & Landscap LLC	
Agent Phone: 641-328-0518	Agent Fax: Cino@DiIorioMasonry.com

All of the following questions must be answered. The board will use this information to review your request. Additional information may be attached if necessary. Contact the Housing & Community Development Director at 641-754-5756 with any questions.

The applicant makes the following request:

Adding Variants to allow a single story
Addition

Please state your hardship.

Property was constructed in 1977 code was changed
in 2022 Just want to add more rooms for customers

In order to grant a variance, the Board of Adjustment must make a finding of unnecessary hardship. The hardship must be related to the physical aspects of the property and not a personal hardship. The granting of a variance should not merely serve as a convenience to the applicant. **To support a finding of unnecessary hardship, the board must find, based upon your evidence, that all of the following are met:**

1. **The land in question cannot yield a reasonable return if used only for a purpose allowed in the district.** State how you will lose all beneficial use and/or enjoyment of the property if the variance is not granted. You may include supporting evidence from a professional appraiser, real estate professional, or other professional. The Board may require documentation of loss of value in order to grant this variance.

Construction method its not going to support
second floor. of 1977

2. **This variance is required because of the unique circumstances of this property and not the general conditions of the neighborhood.** The applicant must show that physical circumstances (such as an odd-shaped lot or difficult topography) on the property are unique to this property and unlike other properties in the vicinity. Also, the hardship should not be self-inflicted.

11

16

3. **The proposal will not alter the present character of the area or seriously affect any adjoining property.** The applicant must show that the proposal is compatible with the character of the surrounding area.

Its Tieing is to existing facade and Height
with parapit walls
and you Library is single story

4. **The variance will not be in contrary to the public interest.** The applicant must present information to indicate the variance will not impair an adequate supply of light and air to adjacent property, will not unreasonably increase the congestion in public streets or endanger public safety, nor will it devalue nearby property.

None

5. **The general intent and purpose of the Zoning Ordinance is protected.** A variance must be consistent with the intent of the Zoning Ordinance and the Comprehensive Plan. Is there another option which you could pursue that would not require a variance? If alternatives exist which do not require a variance, the proposal would not be consistent with the intent of the Zoning Ordinance and Comprehensive Plan.

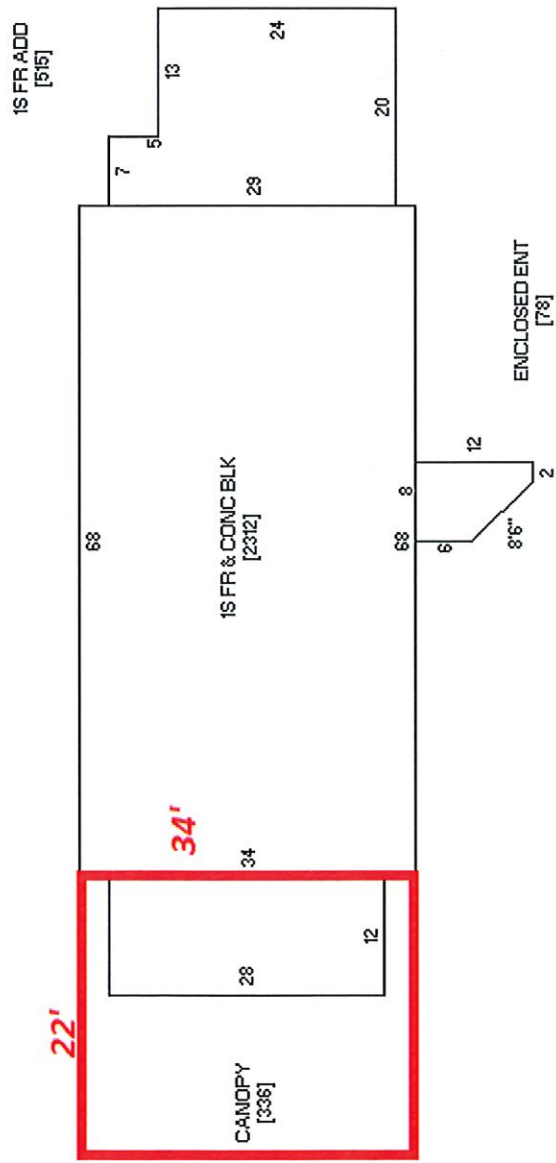
Construction method will not support the 1977
construction of building

Additional Comments and Information:

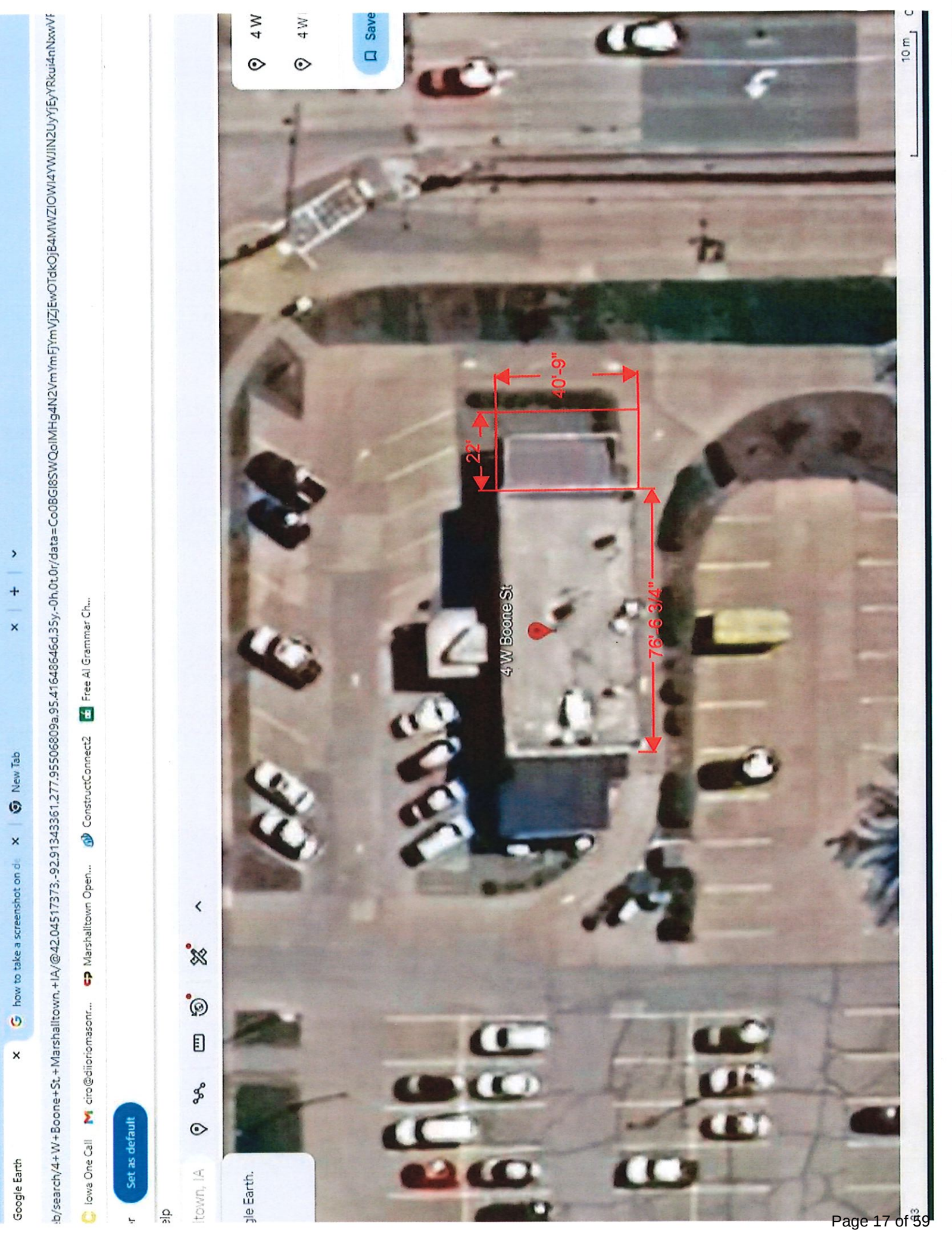
Attach additional information as necessary.

As evidenced by the signature(s) below, I (we) certify that I (we) have been denied a building/zoning permit, that I (we) have submitted all the required information to appeal for a variance, and that said information is factual.

Owner Signature:	Date:
-OR- Agent Signature: 	Date: MARCH 27 2025



Sketch by www.camavision.com



Set as default



§ 156.D.007 URBAN CORE AND MIXED-USE.

156.D.007 (D>L2) (a)

(A) *Generally.* These standards apply to any exterior wall of a nonresidential or mixed-use building in the UC, Urban Core or MU, Mixed Use zoning districts visible from a public or private street, a residential property, or public open space.

(B) *Building form.*

(1) *Scale and orientation.* Commercial and mixed-use buildings shall provide for pedestrians in both scale and structure orientation.

(2) *Build-to line.* Structures shall be built to within five feet of the property line to provide for an urban edge and maintain continuity in the improved street frontages.

(3) *Public entrance.* Each structure shall have a prominent identifiable public entrance from the primary street.

(4) *Secondary entrances.*

(a) Secondary and service entrances are allowable from secondary streets and off-street parking areas.

(b) Secondary entrances located on public alleyways shall be at-grade to prevent tripping hazards and prevent encroachments into the pedestrian traveled way.

(5) *Height.* See § 156.B.005, Nonresidential and Mixed-Use District Development Standards, for building height requirements in the UC and MU zoning districts.

(6) *Building proportions.* In the UC District buildings shall be proportioned to be prominent at the primary street facade.

(C) *Placement.*

(1) *Principal structures.* Principal structures shall be placed within the minimum and maximum setbacks established in § 156.B.005, Nonresidential and Mixed-Use District Development Standards, to create an urban edge and to define the pedestrian realm.

(2) *Parking.* Parking should be provided on the street as much as possible with parking lots or garages placed on the interior of the block with access from the side or the rear of the buildings or alleyways.

(3) *Garages.* All attached or detached garages shall be placed towards the rear of a building except on a corner, where a side entrance may also be allowed. These may be accessed via privately controlled lanes and alleyways.

(4) *Accessory structures.* Accessory structures shall not be placed in such a manner that they extend in front of the rear building line of the primary structure.

(D) *Massing and scale.*

(1) *Facades.* Building facades shall be architecturally differentiated with at least three of the following elements:

(a) Buildings shall utilize elements such as massing, windows, canopies, and articulated roof forms to create a visually distinct building base, middle, and top (see Figure 156.D.007-1, Horizontal Articulation);

(b) Variations in building heights;

(c) Building insets or projections of at least two feet that extend the full height of the building;

(d) Material changes for different building planes or elements;

(e) Accents through the use of moldings, sills, cornices, canopies, or spandrels; or

(f) Other facade features, such as an arcade, balcony, gallery, oriel or bay windows, pavilion, pergola, porches, porticos, terrace, tower, or vestibules.

(2) *One-story buildings.*

(a) *UC district.* One-story buildings shall be prohibited in the UC district.

(b) *MU district.* In the MU district, one-story commercial buildings shall be constructed to appear of greater height in relation to the street. This can be achieved through the use of pitched roofs with dormers or gables facing the street, a higher parapet, and/or the use of an intermediate cornice line to separate the ground floor and the upper level.



(E) *Building design.*

(1) *Awnings and canopies.*

(a) Awnings and canopies shall not extend more than five feet from the facade of the building.

(b) Awnings and canopies shall be attached to the building facade and shall not extend vertical support structures into the ground plane.

(c) Awnings and canopies shall maintain a minimum of eight feet of vertical clearance from the ground plane.

(2) *Entryways.*

(a) Each building shall have a clearly visible entrance with either an overhang, canopy or portico, recess or projection, arcade, raised corniced parapet over the door, peaked roof form, arch, patio, display windows, architectural detailing, or another design element approved by the Plan and Zoning Commission.

(b) Doorways adjacent to a public right-of-way shall be set back so that doors do not swing into a right-of-way.

(3) *Required offsets.*

(a) *Fenestration and articulation.* Buildings shall be vertically articulated with a width equal to 20% of the building height. Vertical articulation may include projections, recesses, arcades, porticos, or other features that provide for different wall planes.

(b) *Transparency.*

1. The front facade and side street facade of any new nonresidential building shall be comprised of at least 50% windows and doors at the ground level. Highly reflective glass, dark-tinted glass, or other types of glass that are intended to obscure the transparency shall be prohibited.

2. Accessory structures shall be comprised of at least 25% windows and doors at the ground level. Accessory structures that are not open for business to the public are exempt from the transparency requirements of division (E)(3)(b)1., above, provided they are placed between the rear of the primary building and rear yard setback and are not visible from the public street.

(4) *Materials.* The allowable types and proportions of building materials on public-facing and non-public-facing elevations are set out in § 156.D.002, General Requirements, in addition to the following standards:

(a) The visible sides of buildings, from the street, shall be consistent in design and use of materials.

(b) All sides of buildings visible from the public right-of-way shall be architecturally treated to produce an aesthetically pleasing facade that is compatible with surrounding buildings and cohesive as a development block. Building design shall include at least two materials as identified in § 156.D.002.

(c) The front facade, or any facade that directly abuts a public right-of-way including a street-side yard of any building shall be at least 50% brick or masonry stone.

(d) Accessory structures shall be constructed of similar and/or complementary materials as the primary structure.

(e) No wood, masonite, visible asphaltic exterior wall or roofing material, metal siding, non-architectural sheet metal, concrete block or other similar materials shall constitute a portion of any building, except as trim material, unless the Zoning Administrator determines that the said material, when used as a primary element, enhances the physical appearance or provides continuity to unite all structures within the property together into one project concept.

(f) All material fasteners shall be concealed.

(g) All structures shall be constructed on permanent foundations and may not be placed in a temporary manner.

(5) *Nonresidential and mixed-use buildings.* Residential units in a mixed-use building shall not be on the ground/first level of any building also containing a commercial use listed in § 156.C.003, Use Table, except that a maximum of 40% of the ground floor area may be residential provided it is not adjacent to a front or street side yard.

(6) *Rooftop mechanicals.* All rooftop mechanical equipment shall be screened from view using materials consistent and compatible with the primary building materials.

(F) *Pedestrian amenities.*

(1) *Street furniture.* Public seating, trash receptacles, and directional kiosks shall be of uniform design and provided throughout district, approved by the Plan and Zoning Commission. Street trees, landscaping, weather protection, public art, street furniture, and other pedestrian amenities in public rights-of-way and plazas shall provide a minimum passable sidewalk width of five feet.

(2) *Sidewalks.* Sidewalks shall connect to existing perimeter sidewalks and to all building entrances; parking courts, garages, or structures; civic spaces; and any other pedestrian destinations.

(G) *Open space.*

(1) *Amount required.* See § 156.B.005, Nonresidential and Mixed-Use District Development Standards for the minimum required open space by building type and zoning district.

(2) *Types of open space.* See Table 156.B.007-1, Public Civic and Open Space Standards, for minimum standards for open space types within the UC and MU zoning districts.

(H) *Signage.*

(1) The location and size of signs shall be integrated into the design of the overall development and shall meet regulations outlined in Article G, Signs.

(2) Signage is considered as part of the architectural theme of the building and district and shall be reviewed in the site plan.

(3) Roof signs shall be prohibited.

(4) Directional signs limited to two per premise shall be permitted and shall be limited to six square feet each with a maximum height of four feet.

(5) Freestanding signs shall be limited to monument signs only with a permitted size that shall be no more than 48 square feet in area and ten feet in height.

(I) *Service areas.*

(1) *Lighting.*

(a) Lighting of outdoor service, loading, and storage areas shall be the minimum necessary for security purposes and shall be designed and directed so as not to create glare or lighting impacts at the street or on surrounding properties.

(b) Lighting of entryways is encouraged and to the extent practical should be attached to the building.

(c) Lighting shall be provided at secondary entryways located in pedestrian alleyways.

(2) *Service area screening.* Service areas, garbage receptacles, utility meters, and mechanical and electrical equipment shall be screened from public view and located for convenient access by service vehicles. Screening of these areas shall be integrated into the overall building and landscape design.

(3) *Loading and unloading.* On-site space for stacking vehicles that are waiting to load or unload may be provided as necessary. Otherwise, accommodation shall be provided on-street.

(J) *Utilities.* All utilities shall be placed underground, where feasible.

(K) *Stormwater.* All stormwater collected from the roofs of the buildings shall be diverted underground, where feasible.

(1) Whenever structures are erected or structurally altered, parking spaces shall be provided on the same zoning lot as the building in accordance with the requirements of Article E, Parking, Loading, and Stacking. Uses that predominately occur during different times may share parking if it can be demonstrated that collectively the minimum number of parking spaces is provided at all times.

(2) Parking lots shall be located in the rear of all commercial uses or on the side. Parking located on the side is allowable in accordance with the following:

(a) The parking shall not extend into the required front yard setback.

(b) Landscaping shall be placed between the parking spaces and the front property line in accordance with § 156.F.003, Development Landscaping.

(c) A single parking aisle with parking on one side, which is adjacent to the building, and meets the minimum dimension established in § 156.E.003, Parking Design, shall be permitted where appropriate.

(3) Parking areas shall be designed to minimize headlights shining into residential properties.

(4) Parking areas shall be set back five feet from the property line and shall be landscaped with vegetation and or turf. This requirement can be waived where parking lots adjoin and have cross-access agreements/easements.

(5) Off-street parking requirements shall be contained entirely outside of the public right-of-way.

(6) The maximum amount of surface parking shall not exceed the specified minimum by more than 25%. If additional parking is desired, it shall be placed underground, within an enclosed building, or in a tuck-under

garage. The exception is shared parking when a zoning lot is developed/redeveloped with shared uses in mind.

(L) *Vehicular access.*

- (1) Driveway locations shall be spaced such that they are at least five feet from any adjacent driveway.
- (2) Shared driveways are allowed.
- (3) Driveway location shall comply with the requirements of the visibility triangle as set forth in Subsection 156.B.008.a, Measurements.
- (4) Two driveway approaches may be permitted on each street frontage, of each premise, excluding single-family attached, single-family detached and duplex properties. At locations where driveways are not shared with an adjoining property, each driveway shall be placed in such a way as to not impede the visual clearance to access the public street.
- (5) Access to attached and detached garages shall be from the rear of a building only, except if the property is located on a corner lot and the side street may be used for access.

(Ord. 15039, passed 4-11-2022)

Aerial Vicinity Map

4 W Boone Street



Board of Adjustment Finding of Fact Report

Meeting Date: April 15, 2025	Application Type: VARIANCE
Zoning District: UC, Urban Core Zoning District	Comp. plan designation: Downtown Mixed Use
Property Address: 4 W Boone St	
Property Owner: George, Ruth Faye, and Ionnis S Coutsougeras	
Applicant (if different than owner):	

Request Description: Applicant is seeking a variance to § 156.D.007(D)(2)(a) of the City of Marshalltown Zoning ordinance. The cited section establishes that one-story buildings within the UC, Urban Core Zoning District are prohibited. The request is to allow for a one-story building addition to an existing legal non-conforming one-story building. The variance would only apply to the building addition and would not apply to any future additions or to resolve the legal non-conforming status of the existing building.

Hardship as stated in the application

The original building was constructed in 1977, when one-story building at this location was permitted, and was constructed to the building code in place in 1977. A two-story addition to the existing building would result in an unnecessary hardship to retrofit a building which was not originally designed to be a two-story building.

New Information introduced for consideration

Findings of Fact (Answer yes or no to each item and provide reasoning if necessary)

YES	NO	Finding Description
		Not Self Imposed. The granting of the Variance is not based on a hardship which is self-imposed? <i>Reasoning:</i> Vote result if applicable: ____ Yes ____ No
		Based on Cost. The hardship is not based solely on the cost of complying with the regulation, but is based on the particular physical surroundings, shape, or topographical conditions of the subject property? <i>Reasoning:</i> Vote result if applicable: ____ Yes ____ No
		Unique Circumstances. The hardship is based on circumstances that are unique to the property for which the Variance is sought and not circumstances common to other properties? <i>Reasoning:</i> Vote result if applicable: ____ Yes ____ No

		Commonly Enjoyed Rights. A literal interpretation of the provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located; and <i>Reasoning:</i> Vote result if applicable: ____ Yes ____ No
		Not A Special Privilege. Granting the variance will not confer on the applicant any special privilege that is denied to other lands or structures in the same district. <i>Reasoning:</i> Vote result if applicable: ____ Yes ____ No

Based on the Findings of Fact the following action occurred:

- ☐ Motion by _____ to APPROVE the request as submitted with the following conditions:

Second by _____

Vote results:

Name:	YES	NO	Abstain	Comment
<i>Engle</i>				
<i>Eaton</i>				
<i>Sanchez</i>				
<i>Schulze</i>				
<i>Thurston</i>				

MARSHALLTOWN

— I O W A —

HOUSING & COMMUNITY DEVELOPMENT DEPARTMENT

36 North Center Street, Marshalltown, IA 50158

Ph: 641-754-5756 Fax: 641-754-5742

www.marshalltown-ia.gov

Variance Application Packet

Purpose: Zoning regulations include specific development standards. There are occasions, however, when the strict application of such standards may be inappropriate because of unique characteristics of the property. The variance procedure is designed to permit minor adjustment to the zoning regulations where there are unique or extraordinary circumstances applying to a parcel of land or building that prevent the property from being used to the extent intended by the zoning. Unique circumstances may include factors such as the size, shape, topography, vegetation, wetlands, or other unique characteristics of the land.

Pre-Application Meeting: The applicant is required to meet with the Zoning Administrator prior to submitting an application to discuss the feasibility of the request as well as any possible alternatives that may eliminate the need for a variance or improve the chance of the variance being granted. A preliminary site plan should be brought to this meeting to review the project design as it relates to the zoning requirements.

Application Packet: Applications will not be accepted unless complete. All required items must be submitted with the application. Failure to complete and submit all the required materials as a part of this application will result in a delay in accepting your application until it is complete.

Submission Deadline: The complete application with fee must be submitted by 4:30 p.m. three weeks prior to the scheduled meeting date to the Housing & Community Development Department Office, located at 36 N. Center Street.

Board Meetings: The Board of Adjustment considers the facts presented by the applicant in the application and testimony given at the public hearing, and makes the final decision, based on the standards in the Ordinance. The Board meetings are tentatively scheduled for 5:00 p.m. on the third Tuesday of each month in the City Council Chambers, second floor of City Hall, 10 W. State Street. Attendance at the meeting is required.

It is the burden of the property owner to provide sufficient facts with this application and at the Board of Adjustment meeting to support a finding that all the standards for approval have been met. The concurring vote of three (3) members of the Board is necessary to decide any issue before the board regardless of the number of members present at the meeting. The Board is a five (5)-member board. Appeals to the decision of the Board of Adjustment can be made in District Court.

Notifications: The City will place a sign on the property to notify the public that a variance request has been submitted. The sign includes the city's phone number so that concerned individuals will have an opportunity to learn about the proposal and can present information on this matter to the board at the public hearing. A notice of public hearing is also published in the newspaper.

Date Submitted & Fee Paid: _____

Hearing Date: _____

Variance Application Form

36 N. Center Street, Marshalltown, IA 50158 Ph: 641-754-5756 Fax: 641-754-5742
www.marshalltown-ia.gov

All items listed must be submitted with this application:

Failure to complete and submit all the required materials as a part of this application will result in a delay in accepting your application until it is complete.

_____ **A site plan, drawn in ink and to scale, which clearly shows the variance being sought. This site plan shall not be larger than 11" X 17." And must include:**

- Dimensioned property lines indicating any easements;
- Location & identification of adjacent streets and alleys;
- Location and size of all existing and proposed buildings and structures (include distances to all property lines and distances between buildings and structures.);
- Dimensioned driveways and parking areas; and
- Any other pertinent information necessary to fully understand the need for a variance.

_____ **Site photographs** showing all views of the property, including any special features such as topography and existing and adjacent structures. **Please note:** Materials submitted with the application or presented as evidence during the public hearing will not be returned and must be kept as a part of the public record.

_____ **Completion of all of the following questions included in this application.**

_____ **Legal description of the property.** The property owner should have a copy of the legal description. If not, owners may obtain a copy of the recorded deed, which contains the legal description, from the Marshall County Recorder's Office for a fee.

_____ **Application fee.** A fee of \$150 for owner-occupied residential properties and a fee of \$200 for any other property is required payable to "City of Marshalltown." The fee must be paid when the application is submitted to the Housing Department.

Please type or print legibly in ink.

Property Address: 4 West Boone St	
Owner: Ioannis Coutsongeras	
Mailing Address: opagrill22@gmail.com / 4 West Boone St	
Phone: 1 (612) 345-2481	Fax:
Email Address:	
Owner's Agent (if applicable): Cino DiIorio Masonry & Landscap LLC	
Agent Phone: 641-328-0518	Agent Fax: Cino@DiIorioMasonry.com

All of the following questions must be answered. The board will use this information to review your request. Additional information may be attached if necessary. Contact the Housing & Community Development Director at 641-754-5756 with any questions.

The applicant makes the following request:

Adding Variants to allow a single story
Addition

Please state your hardship.

Property was constructed in 1977 code was changed
in 2022 Just want to add more rooms for customers

In order to grant a variance, the Board of Adjustment must make a finding of unnecessary hardship. The hardship must be related to the physical aspects of the property and not a personal hardship. The granting of a variance should not merely serve as a convenience to the applicant. **To support a finding of unnecessary hardship, the board must find, based upon your evidence, that all of the following are met:**

1. **The land in question cannot yield a reasonable return if used only for a purpose allowed in the district.** State how you will lose all beneficial use and/or enjoyment of the property if the variance is not granted. You may include supporting evidence from a professional appraiser, real estate professional, or other professional. The Board may require documentation of loss of value in order to grant this variance.

Construction method its not going to support
second floor. of 1977

2. **This variance is required because of the unique circumstances of this property and not the general conditions of the neighborhood.** The applicant must show that physical circumstances (such as an odd-shaped lot or difficult topography) on the property are unique to this property and unlike other properties in the vicinity. Also, the hardship should not be self-inflicted.

11

16

3. **The proposal will not alter the present character of the area or seriously affect any adjoining property.** The applicant must show that the proposal is compatible with the character of the surrounding area.

Its Tieing is to existing facade and Height
with parapit walls
and you Library is single story

4. **The variance will not be in contrary to the public interest.** The applicant must present information to indicate the variance will not impair an adequate supply of light and air to adjacent property, will not unreasonably increase the congestion in public streets or endanger public safety, nor will it devalue nearby property.

None

5. **The general intent and purpose of the Zoning Ordinance is protected.** A variance must be consistent with the intent of the Zoning Ordinance and the Comprehensive Plan. Is there another option which you could pursue that would not require a variance? If alternatives exist which do not require a variance, the proposal would not be consistent with the intent of the Zoning Ordinance and Comprehensive Plan.

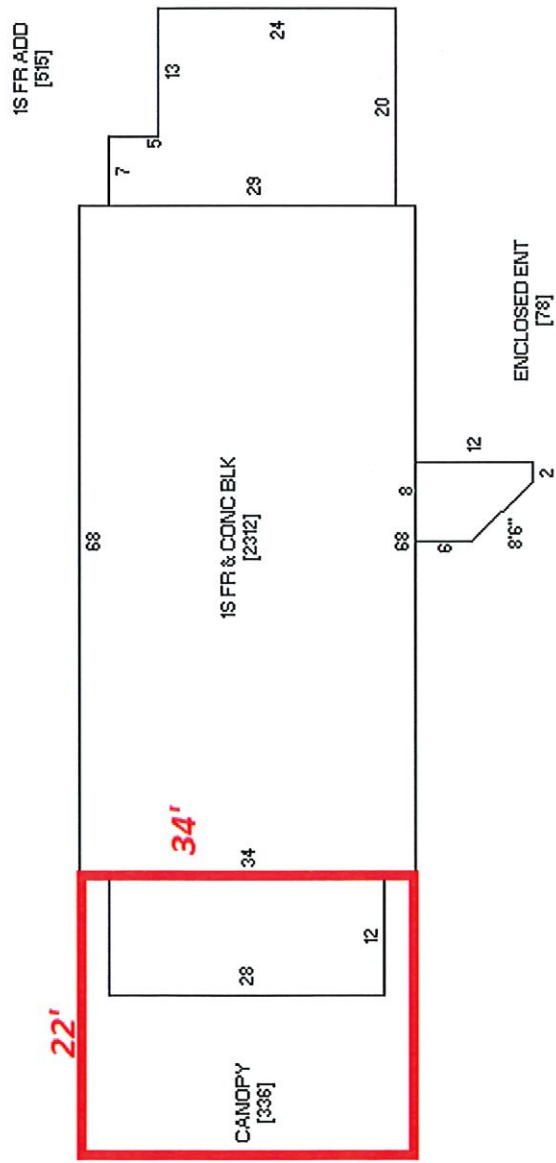
Construction method will not support the 1977
construction of building

Additional Comments and Information:

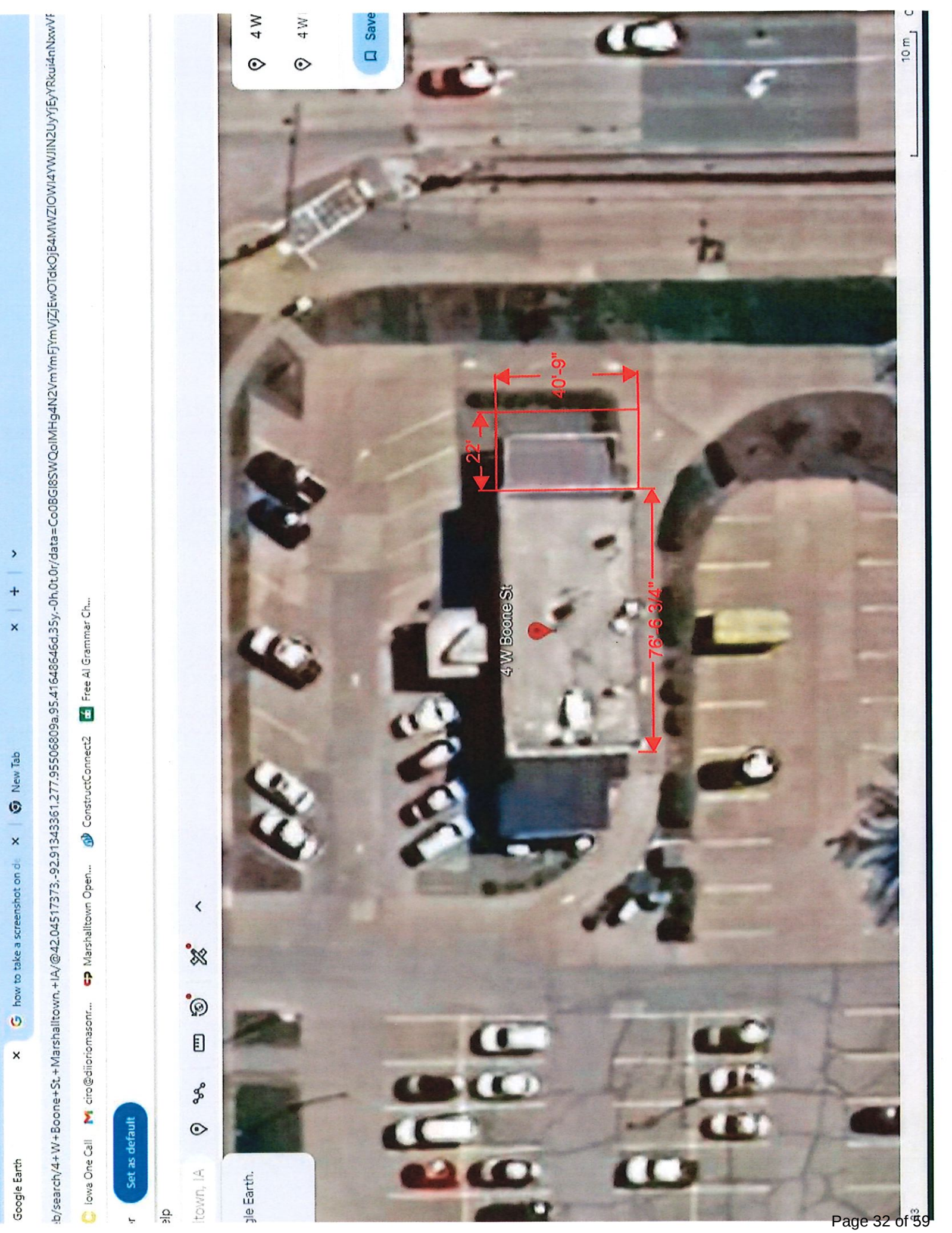
Attach additional information as necessary.

As evidenced by the signature(s) below, I (we) certify that I (we) have been denied a building/zoning permit, that I (we) have submitted all the required information to appeal for a variance, and that said information is factual.

Owner Signature:	Date:
-OR- Agent Signature: 	Date: MARCH 27 2025



Sketch by www.camavision.com





§ 156.D.007 URBAN CORE AND MIXED-USE.

156.D.007 (D>L2) (a)

(A) *Generally.* These standards apply to any exterior wall of a nonresidential or mixed-use building in the UC, Urban Core or MU, Mixed Use zoning districts visible from a public or private street, a residential property, or public open space.

(B) *Building form.*

(1) *Scale and orientation.* Commercial and mixed-use buildings shall provide for pedestrians in both scale and structure orientation.

(2) *Build-to line.* Structures shall be built to within five feet of the property line to provide for an urban edge and maintain continuity in the improved street frontages.

(3) *Public entrance.* Each structure shall have a prominent identifiable public entrance from the primary street.

(4) *Secondary entrances.*

(a) Secondary and service entrances are allowable from secondary streets and off-street parking areas.

(b) Secondary entrances located on public alleyways shall be at-grade to prevent tripping hazards and prevent encroachments into the pedestrian traveled way.

(5) *Height.* See § 156.B.005, Nonresidential and Mixed-Use District Development Standards, for building height requirements in the UC and MU zoning districts.

(6) *Building proportions.* In the UC District buildings shall be proportioned to be prominent at the primary street facade.

(C) *Placement.*

(1) *Principal structures.* Principal structures shall be placed within the minimum and maximum setbacks established in § 156.B.005, Nonresidential and Mixed-Use District Development Standards, to create an urban edge and to define the pedestrian realm.

(2) *Parking.* Parking should be provided on the street as much as possible with parking lots or garages placed on the interior of the block with access from the side or the rear of the buildings or alleyways.

(3) *Garages.* All attached or detached garages shall be placed towards the rear of a building except on a corner, where a side entrance may also be allowed. These may be accessed via privately controlled lanes and alleyways.

(4) *Accessory structures.* Accessory structures shall not be placed in such a manner that they extend in front of the rear building line of the primary structure.

(D) *Massing and scale.*

(1) *Facades.* Building facades shall be architecturally differentiated with at least three of the following elements:

(a) Buildings shall utilize elements such as massing, windows, canopies, and articulated roof forms to create a visually distinct building base, middle, and top (see Figure 156.D.007-1, Horizontal Articulation);

(b) Variations in building heights;

(c) Building insets or projections of at least two feet that extend the full height of the building;

(d) Material changes for different building planes or elements;

(e) Accents through the use of moldings, sills, cornices, canopies, or spandrels; or

(f) Other facade features, such as an arcade, balcony, gallery, oriel or bay windows, pavilion, pergola, porches, porticos, terrace, tower, or vestibules.

(2) *One-story buildings.*

(a) *UC district.* One-story buildings shall be prohibited in the UC district.

(b) *MU district.* In the MU district, one-story commercial buildings shall be constructed to appear of greater height in relation to the street. This can be achieved through the use of pitched roofs with dormers or gables facing the street, a higher parapet, and/or the use of an intermediate cornice line to separate the ground floor and the upper level.



(E) *Building design.*

(1) *Awnings and canopies.*

(a) Awnings and canopies shall not extend more than five feet from the facade of the building.

(b) Awnings and canopies shall be attached to the building facade and shall not extend vertical support structures into the ground plane.

(c) Awnings and canopies shall maintain a minimum of eight feet of vertical clearance from the ground plane.

(2) *Entryways.*

(a) Each building shall have a clearly visible entrance with either an overhang, canopy or portico, recess or projection, arcade, raised corniced parapet over the door, peaked roof form, arch, patio, display windows, architectural detailing, or another design element approved by the Plan and Zoning Commission.

(b) Doorways adjacent to a public right-of-way shall be set back so that doors do not swing into a right-of-way.

(3) *Required offsets.*

(a) *Fenestration and articulation.* Buildings shall be vertically articulated with a width equal to 20% of the building height. Vertical articulation may include projections, recesses, arcades, porticos, or other features that provide for different wall planes.

(b) *Transparency.*

1. The front facade and side street facade of any new nonresidential building shall be comprised of at least 50% windows and doors at the ground level. Highly reflective glass, dark-tinted glass, or other types of glass that are intended to obscure the transparency shall be prohibited.

2. Accessory structures shall be comprised of at least 25% windows and doors at the ground level. Accessory structures that are not open for business to the public are exempt from the transparency requirements of division (E)(3)(b)1., above, provided they are placed between the rear of the primary building and rear yard setback and are not visible from the public street.

(4) *Materials.* The allowable types and proportions of building materials on public-facing and non-public-facing elevations are set out in § 156.D.002, General Requirements, in addition to the following standards:

(a) The visible sides of buildings, from the street, shall be consistent in design and use of materials.

(b) All sides of buildings visible from the public right-of-way shall be architecturally treated to produce an aesthetically pleasing facade that is compatible with surrounding buildings and cohesive as a development block. Building design shall include at least two materials as identified in § 156.D.002.

(c) The front facade, or any facade that directly abuts a public right-of-way including a street-side yard of any building shall be at least 50% brick or masonry stone.

(d) Accessory structures shall be constructed of similar and/or complementary materials as the primary structure.

(e) No wood, masonite, visible asphaltic exterior wall or roofing material, metal siding, non-architectural sheet metal, concrete block or other similar materials shall constitute a portion of any building, except as trim material, unless the Zoning Administrator determines that the said material, when used as a primary element, enhances the physical appearance or provides continuity to unite all structures within the property together into one project concept.

(f) All material fasteners shall be concealed.

(g) All structures shall be constructed on permanent foundations and may not be placed in a temporary manner.

(5) *Nonresidential and mixed-use buildings.* Residential units in a mixed-use building shall not be on the ground/first level of any building also containing a commercial use listed in § 156.C.003, Use Table, except that a maximum of 40% of the ground floor area may be residential provided it is not adjacent to a front or street side yard.

(6) *Rooftop mechanicals.* All rooftop mechanical equipment shall be screened from view using materials consistent and compatible with the primary building materials.

(F) *Pedestrian amenities.*

(1) *Street furniture.* Public seating, trash receptacles, and directional kiosks shall be of uniform design and provided throughout district, approved by the Plan and Zoning Commission. Street trees, landscaping, weather protection, public art, street furniture, and other pedestrian amenities in public rights-of-way and plazas shall provide a minimum passable sidewalk width of five feet.

(2) *Sidewalks.* Sidewalks shall connect to existing perimeter sidewalks and to all building entrances; parking courts, garages, or structures; civic spaces; and any other pedestrian destinations.

(G) *Open space.*

(1) *Amount required.* See § 156.B.005, Nonresidential and Mixed-Use District Development Standards for the minimum required open space by building type and zoning district.

(2) *Types of open space.* See Table 156.B.007-1, Public Civic and Open Space Standards, for minimum standards for open space types within the UC and MU zoning districts.

(H) *Signage.*

(1) The location and size of signs shall be integrated into the design of the overall development and shall meet regulations outlined in Article G, Signs.

(2) Signage is considered as part of the architectural theme of the building and district and shall be reviewed in the site plan.

(3) Roof signs shall be prohibited.

(4) Directional signs limited to two per premise shall be permitted and shall be limited to six square feet each with a maximum height of four feet.

(5) Freestanding signs shall be limited to monument signs only with a permitted size that shall be no more than 48 square feet in area and ten feet in height.

(I) *Service areas.*

(1) *Lighting.*

(a) Lighting of outdoor service, loading, and storage areas shall be the minimum necessary for security purposes and shall be designed and directed so as not to create glare or lighting impacts at the street or on surrounding properties.

(b) Lighting of entryways is encouraged and to the extent practical should be attached to the building.

(c) Lighting shall be provided at secondary entryways located in pedestrian alleyways.

(2) *Service area screening.* Service areas, garbage receptacles, utility meters, and mechanical and electrical equipment shall be screened from public view and located for convenient access by service vehicles. Screening of these areas shall be integrated into the overall building and landscape design.

(3) *Loading and unloading.* On-site space for stacking vehicles that are waiting to load or unload may be provided as necessary. Otherwise, accommodation shall be provided on-street.

(J) *Utilities.* All utilities shall be placed underground, where feasible.

(K) *Stormwater.* All stormwater collected from the roofs of the buildings shall be diverted underground, where feasible.

(1) Whenever structures are erected or structurally altered, parking spaces shall be provided on the same zoning lot as the building in accordance with the requirements of Article E, Parking, Loading, and Stacking. Uses that predominately occur during different times may share parking if it can be demonstrated that collectively the minimum number of parking spaces is provided at all times.

(2) Parking lots shall be located in the rear of all commercial uses or on the side. Parking located on the side is allowable in accordance with the following:

(a) The parking shall not extend into the required front yard setback.

(b) Landscaping shall be placed between the parking spaces and the front property line in accordance with § 156.F.003, Development Landscaping.

(c) A single parking aisle with parking on one side, which is adjacent to the building, and meets the minimum dimension established in § 156.E.003, Parking Design, shall be permitted where appropriate.

(3) Parking areas shall be designed to minimize headlights shining into residential properties.

(4) Parking areas shall be set back five feet from the property line and shall be landscaped with vegetation and or turf. This requirement can be waived where parking lots adjoin and have cross-access agreements/easements.

(5) Off-street parking requirements shall be contained entirely outside of the public right-of-way.

(6) The maximum amount of surface parking shall not exceed the specified minimum by more than 25%. If additional parking is desired, it shall be placed underground, within an enclosed building, or in a tuck-under

garage. The exception is shared parking when a zoning lot is developed/redeveloped with shared uses in mind.

(L) *Vehicular access.*

- (1) Driveway locations shall be spaced such that they are at least five feet from any adjacent driveway.
- (2) Shared driveways are allowed.
- (3) Driveway location shall comply with the requirements of the visibility triangle as set forth in Subsection 156.B.008.a, Measurements.
- (4) Two driveway approaches may be permitted on each street frontage, of each premise, excluding single-family attached, single-family detached and duplex properties. At locations where driveways are not shared with an adjoining property, each driveway shall be placed in such a way as to not impede the visual clearance to access the public street.
- (5) Access to attached and detached garages shall be from the rear of a building only, except if the property is located on a corner lot and the side street may be used for access.

(Ord. 15039, passed 4-11-2022)

MARSHALLTOWN

— I O W A —

HOUSING & COMMUNITY DEVELOPMENT

Deb Millizer, Director
Clayton Ender, Assistant Director
24 North Center Street
Marshalltown, IA 50158-4911
Tel - (641) 754-5756
Fax - (641) 754-5717

TO: Board of Adjustment
FROM: Clayton Ender, Assistant Housing & Community Development Director
DATE: April 15th, 2025
RE: Variance Application for 212 Koeper Drive

City Staff Contact:	Clayton Ender, AICP Assistant Director of Housing and Community Development Phone: 641-754-5756 Email: cender@marshalltown-ia.gov
Property Owner & Applicant:	Matthew and Morgan Vogeler 212 Koeper Drive Marshalltown IA 50158
Recommendation:	Staff recommends denial of the variance application. See #1 in review criteria for additional context.
Comprehensive Plan Future Land Use Designation:	Low Density Residential
Zoning District:	RL, Low Density Residential Zoning District
Review Criteria:	In determining whether to approve, approve with conditions, or deny a variance, the Board of Adjustment shall consider the following review criteria: 1. The administrative body has considered the recommendation of staff. The current standard of review for a variance application is if the regulation will result in unnecessary hardship, but the Iowa legislature is presently considering amending this threshold to be that of practical difficulties. While the threshold that still needs to be met at present is unnecessary hardship in the opinion of staff it is reasonable to consider if this would result in practical

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difficulties considering that it appears the state legislature is on path to make this change to state law yet this year (passed House with 89 yeas and 6 nays).

Staff recommends denial of the variance application based on the current review standard of unnecessary hardship. If we were to review based on practical difficulties it may be more reasonable to grant this variance.

- 2. The request is consistent with applicable policies of the Comprehensive Plan and applicable utility plans and capital improvements plans; or, if it addresses a topic that is not contained or not fully developed in the Comprehensive Plan, the request does not impair the implementation of the Comprehensive Plan.**

The comprehensive plan does not address fencing standards. Granting of this variance would not impair the implementation of the comprehensive plan.

- 3. The request promotes the purposes of this Zoning Ordinance as established in § 156.A.002, Purposes, and in other applicable purpose statements in this chapter.**

§ 156.A.002(A)(3) “Establishing reasonable screening and buffering of residential, nonresidential, and mixed-use areas from incompatible uses”

§ 156.A.002(B)(1) “Protecting and enhancing the character and property values of all parts of the city”

§ 156.A.002(B)(3) “Improving the city’s appearance through the regulation of design, where such regulations are appropriate”

- 4. Adequate facilities, including public or private utilities, solid waste service, roads, drainage, and other improvements are present or are planned to be provided.**

The subject property has adequate access to existing public streets, water, sanitary sewer, storm sewer and other utilities.

- 5. The request demonstrates compatibility with surrounding conforming and permitted land uses and structures and with the general character of the area.**

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Adjacent uses are single-unit dwellings. Fencing within residential neighborhoods is common.

6. The granting of the variance is not based on a hardship which is self-imposed;

While the applicant did not plat the property or construct the house. They did purchase the house in December 2023 which is after the code requirement pertaining to fence height was adopted.

7. The hardship is not based solely on the cost of complying with the regulation, but is based on the particular physical surroundings, shape, or topographical conditions of the subject property;

The property is rectangular in shape and is a corner lot. There are not any unique site conditions to the lot.

8. The hardship is based on circumstances that are unique to the property for which the variance is sought and not circumstances common to other properties;

The majority of homes in the neighborhood are not corner lots. Within the 250 foot notification range there are 9 corner lots (29%) out of a total of 31 total homes. While not the majority in this neighborhood and certainly not the majority in the city, corner lots are not uncommon.

9. The variance requested is the minimum necessary that will make possible a permitted use of the land, building, or structure;

The applicant is seeking a relief to §156.F.005(E)(2)(e) which establishes that within a required front or corner side yard setback the maximum fence height shall be four feet. The variance would be applicable only to fencing within the corner side yard setback adjacent to S 3rd Avenue (approximately the north 56 feet of the property). Fencing within the front yard adjacent to Koeper Drive would still need to comply with applicable zoning regulations or would otherwise be subject to a separate variance application.

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10. A literal interpretation of the provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located; and

While a literal interpretation of the ordinance wouldn't prevent the continued use of the property for residential usage it does reduce the area of the lawn which would be able to be fenced with fencing up to six feet height which interior lots would not have this restriction. This can result in practical difficulties to utilize the lawn in a similar manner to those of interior lots in the neighborhood.

11. Granting the variance will not confer on the applicant any special privilege that is denied to other lands or structures in the same district.

In the opinion of staff, the property does not possess unique conditions warranting granting a variance. Other properties of similar conditions would need to seek a variance as well based on now adopted fencing regulations.

The applicant has also noted in their application that there are other homes in the neighborhood with fencing within the corner side setback. In review of neighboring properties, it does appear there is one property (1711 Olson Way) which has fencing similar in nature to that requested by the applicant. The main difference between the two properties is simply timing of construction. The fence at 1711 Olson Way was constructed prior to 2022 and is now a legal non-conforming fence.

Attachments:

Aerial Vicinity Map
Variance Application

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Board of Adjustment Finding of Fact Report

Meeting Date: April 15, 2025	Application Type: VARIANCE
Zoning District: RL, Low Density Residential Zoning District	Comp. plan designation: Low Density Residential
Property Address: 4 W Boone St	
Property Owner: Matthew and Morgan Vogeler	
Applicant (if different than owner):	

Request Description: The applicant is seeking a relief to §156.F.005(E)(2)(e) which establishes that within a required front or corner side yard setback the maximum fence height shall be four feet. The variance would be applicable only to fencing within the corner side yard setback adjacent to S 3rd Avenue (approximately the north 56 feet of the property). Fencing within the front yard adjacent to Koeper Drive would still need to comply with applicable zoning regulations or would otherwise be subject to a separate variance application.

Hardship as stated in the application

If the variance is not granted the applicant could only extend the privacy fencing directly back (north) off their house running parallel with S 3rd Avenue. This would result in over 900 square feet of backyard space being unable to be within a privacy fence area.

New Information introduced for consideration

Findings of Fact (Answer yes or no to each item and provide reasoning if necessary)

YES	NO	Finding Description
		Not Self Imposed. The granting of the Variance is not based on a hardship which is self-imposed? <i>Reasoning:</i> Vote result if applicable: ____ Yes ____ No
		Based on Cost. The hardship is not based solely on the cost of complying with the regulation, but is based on the particular physical surroundings, shape, or topographical conditions of the subject property? <i>Reasoning:</i> Vote result if applicable: ____ Yes ____ No
		Unique Circumstances. The hardship is based on circumstances that are unique to the property for which the Variance is sought and not circumstances common to other properties? <i>Reasoning:</i> Vote result if applicable: ____ Yes ____ No

		Commonly Enjoyed Rights. A literal interpretation of the provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located; and <i>Reasoning:</i> Vote result if applicable: ____ Yes ____ No
		Not A Special Privilege. Granting the variance will not confer on the applicant any special privilege that is denied to other lands or structures in the same district. <i>Reasoning:</i> Vote result if applicable: ____ Yes ____ No

Based on the Findings of Fact the following action occurred:

- ☐ Motion by _____ to APPROVE the request as submitted with the following conditions:

Second by _____

Vote results:

Name:	YES	NO	Abstain	Comment
<i>Engle</i>				
<i>Eaton</i>				
<i>Sanchez</i>				
<i>Schulze</i>				
<i>Thurston</i>				

Aerial Vicinity Map

212 Koeper Drive



MARSHALLTOWN

— I O W A —

HOUSING & COMMUNITY DEVELOPMENT DEPARTMENT

36 North Center Street, Marshalltown, IA 50158

Ph: 641-754-5756 Fax: 641-754-5742

www.marshalltown-ia.gov

Variance Application Packet

Purpose: Zoning regulations include specific development standards. There are occasions, however, when the strict application of such standards may be inappropriate because of unique characteristics of the property. The variance procedure is designed to permit minor adjustment to the zoning regulations where there are unique or extraordinary circumstances applying to a parcel of land or building that prevent the property from being used to the extent intended by the zoning. Unique circumstances may include factors such as the size, shape, topography, vegetation, wetlands, or other unique characteristics of the land.

Pre-Application Meeting: The applicant is required to meet with the Zoning Administrator prior to submitting an application to discuss the feasibility of the request as well as any possible alternatives that may eliminate the need for a variance or improve the chance of the variance being granted. A preliminary site plan should be brought to this meeting to review the project design as it relates to the zoning requirements.

Application Packet: Applications will not be accepted unless complete. All required items must be submitted with the application. Failure to complete and submit all the required materials as a part of this application will result in a delay in accepting your application until it is complete.

Submission Deadline: The complete application with fee must be submitted by 4:30 p.m. three weeks prior to the scheduled meeting date to the Housing & Community Development Department Office, located at 36 N. Center Street.

Board Meetings: The Board of Adjustment considers the facts presented by the applicant in the application and testimony given at the public hearing, and makes the final decision, based on the standards in the Ordinance. The Board meetings are tentatively scheduled for 5:00 p.m. on the third Tuesday of each month in the City Council Chambers, second floor of City Hall, 10 W. State Street. Attendance at the meeting is required.

It is the burden of the property owner to provide sufficient facts with this application and at the Board of Adjustment meeting to support a finding that all the standards for approval have been met. The concurring vote of three (3) members of the Board is necessary to decide any issue before the board regardless of the number of members present at the meeting. The Board is a five (5)-member board. Appeals to the decision of the Board of Adjustment can be made in District Court.

Notifications: The City will place a sign on the property to notify the public that a variance request has been submitted. The sign includes the city's phone number so that concerned individuals will have an opportunity to learn about the proposal and can present information on this matter to the board at the public hearing. A notice of public hearing is also published in the newspaper.

Date Submitted & Fee Paid: _____

Hearing Date: _____

Variance Application Form

36 N. Center Street, Marshalltown, IA 50158 Ph: 641-754-5756 Fax: 641-754-5742
www.marshalltown-ia.gov

All items listed must be submitted with this application:

Failure to complete and submit all the required materials as a part of this application will result in a delay in accepting your application until it is complete.

_____ **A site plan, drawn in ink and to scale, which clearly shows the variance being sought. This site plan shall not be larger than 11" X 17." And must include:**

- Dimensioned property lines indicating any easements;
- Location & identification of adjacent streets and alleys;
- Location and size of all existing and proposed buildings and structures (include distances to all property lines and distances between buildings and structures.);
- Dimensioned driveways and parking areas; and
- Any other pertinent information necessary to fully understand the need for a variance.

_____ **Site photographs** showing all views of the property, including any special features such as topography and existing and adjacent structures. **Please note:** Materials submitted with the application or presented as evidence during the public hearing will not be returned and must be kept as a part of the public record.

_____ **Completion of all of the following questions included in this application.**

_____ **Legal description of the property.** The property owner should have a copy of the legal description. If not, owners may obtain a copy of the recorded deed, which contains the legal description, from the Marshall County Recorder's Office for a fee.

_____ **Application fee.** A fee of **\$150 for owner-occupied residential properties** and a fee of **\$200 for any other property** is required payable to "City of Marshalltown." The fee must be paid when the application is submitted to the Housing Department.

Please type or print legibly in ink.

Property Address: 212 Koeper Drive, Marshalltown, IA 50158	
Owner: Matthew & Morgan Vogeler	
Mailing Address: 212 Koeper Drive, Marshalltown, IA 50158	
Phone: (319)404-9685	Fax: _____
Email Address: mattvogeler22@gmail.com	
Owner's Agent (if applicable): _____	
Agent Phone: _____	Agent Fax: _____

Matthew and Morgan Vogeler
212 Koeper Drive, Marshalltown, IA 50158
Variance Application

The applicant makes the following request: We are requesting to place a 6-foot privacy fence extending from the back of our house to our property line along S 3rd Ave (running east approximately 16 feet)

Please state your hardship: If this is not granted and we could only extend the privacy fencing directly back off our house (running parallel with S 3rd Ave), we would lose over 900 square feet of usable backyard space.

1. As stated above, we would lose beneficial use/enjoyment of our property if the variance is not granted by losing over 900 square feet of usable backyard space.
2. Being a corner lot makes our property unique. Other homes that are not corner lots can use 6-foot privacy panels to fence in and utilize their entire backyard without question. As such, we would also like to use 6-foot privacy fencing to utilize our whole backyard.
3. A 6-foot privacy fence is compatible with the surrounding area's character. For example, other homes in the area are on a corner lot and have a 6-foot privacy fence extending from the side of their home towards S 3rd Ave.
4. The fencing would remain at least 17.5 feet from the curb along S 3rd Ave and approximately 85 feet from the intersection with Koeper Drive, ensuring that it does not endanger public safety.
5. There is no other option that would not require a variance. We are getting a dog and need a fence taller than 4 feet.

All of the following questions must be answered. The board will use this information to review your request. Additional information may be attached if necessary. Contact the Housing & Community Development Director at 641-754-5756 with any questions.

The applicant makes the following request:

Please state your hardship.

In order to grant a variance, the Board of Adjustment must make a finding of unnecessary hardship. The hardship must be related to the physical aspects of the property and not a personal hardship. The granting of a variance should not merely serve as a convenience to the applicant. **To support a finding of unnecessary hardship, the board must find, based upon your evidence, that all of the following are met:**

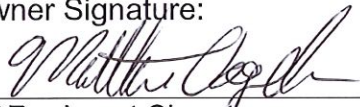
- 1. The land in question cannot yield a reasonable return if used only for a purpose allowed in the district.** State how you will lose all beneficial use and/or enjoyment of the property if the variance is not granted. You may include supporting evidence from a professional appraiser, real estate professional, or other professional. The Board may require documentation of loss of value in order to grant this variance.
- 2. This variance is required because of the unique circumstances of this property and not the general conditions of the neighborhood.** The applicant must show that physical circumstances (such as an odd-shaped lot or difficult topography) on the property are unique to this property and unlike other properties in the vicinity. Also, the hardship should not be self-inflicted.

3. **The proposal will not alter the present character of the area or seriously affect any adjoining property.** The applicant must show that the proposal is compatible with the character of the surrounding area.
4. **The variance will not be in contrary to the public interest.** The applicant must present information to indicate the variance will not impair an adequate supply of light and air to adjacent property, will not unreasonably increase the congestion in public streets or endanger public safety, nor will it devalue nearby property.
5. **The general intent and purpose of the Zoning Ordinance is protected.** A variance must be consistent with the intent of the Zoning Ordinance and the Comprehensive Plan. Is there another option which you could pursue that would not require a variance? If alternatives exist which do not require a variance, the proposal would not be consistent with the intent of the Zoning Ordinance and Comprehensive Plan.

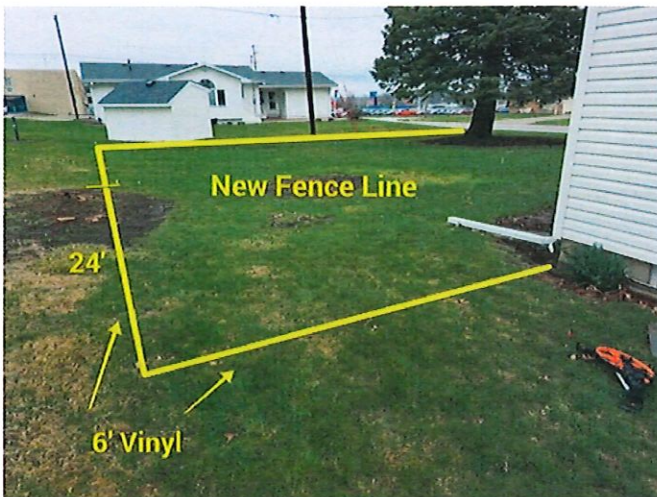
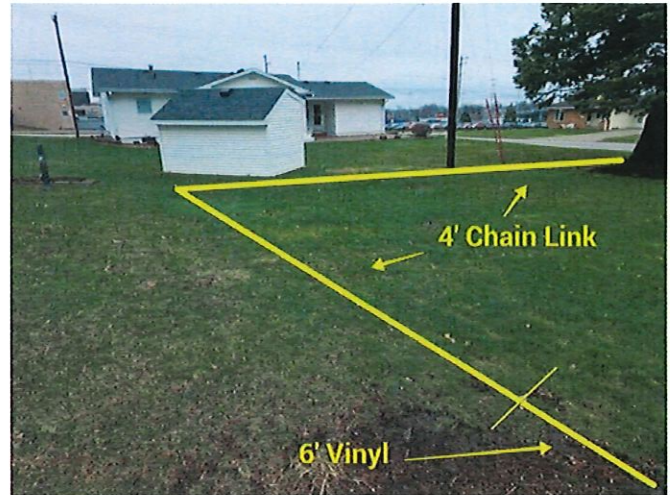
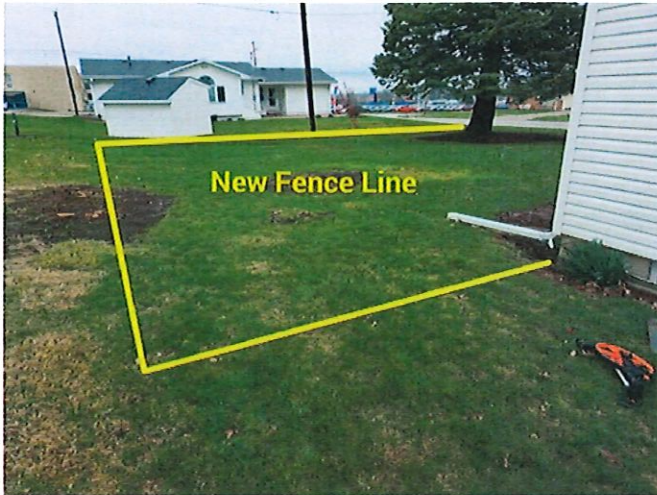
Additional Comments and Information:

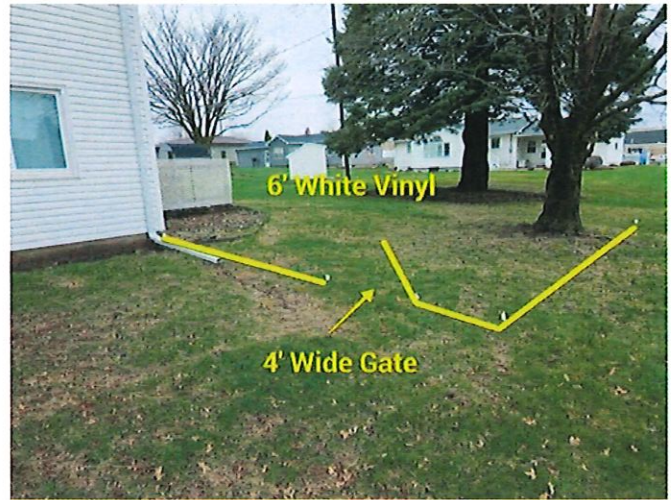
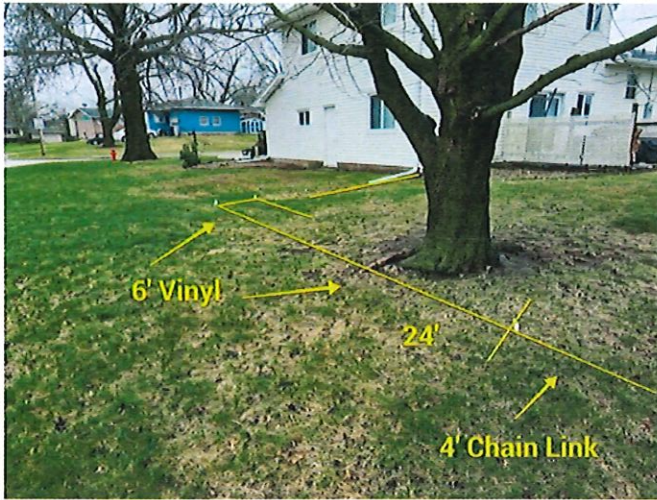
Attach additional information as necessary.

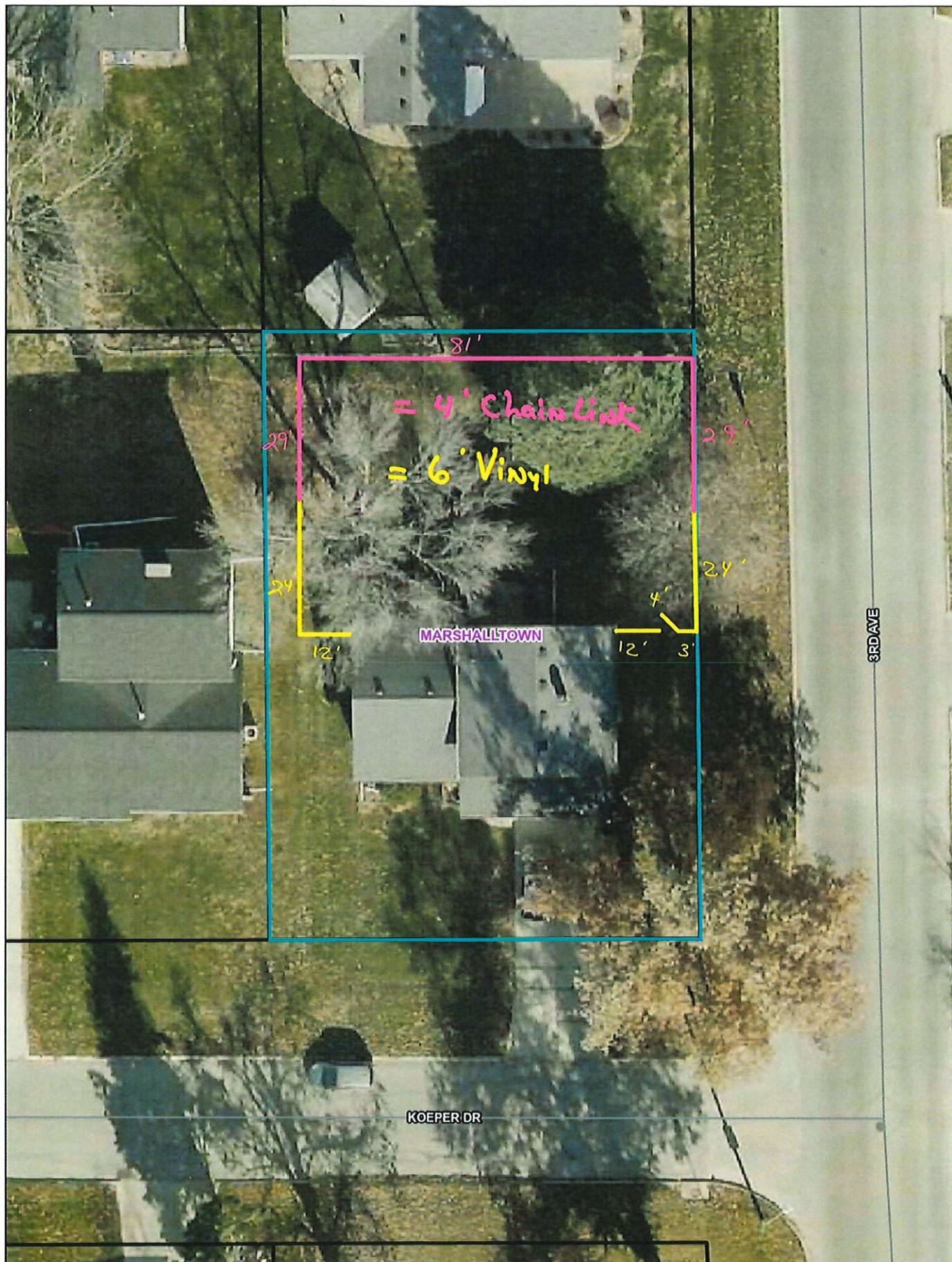
As evidenced by the signature(s) below, I (we) certify that I (we) have been denied a building/zoning permit, that I (we) have submitted all the required information to appeal for a variance, and that said information is factual.

Owner Signature: 	Date: 4/4/25
-OR- Agent Signature:	Date:

INSPECTION



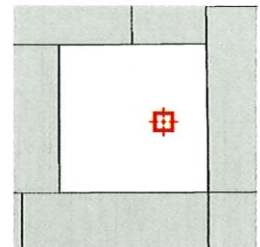




I acknowledge that I have read and understand this page. Initials: _____



Overview



Legend

-  Parcels
-  Corporate Limits
-  Roads
- Major Highways**
 -  U.S. Hwy 30
 -  Hwy 330
 -  State Paved

Parcel ID	8318-02-402-012	Alternate	n/a	Owner	VOGELER, MATTHEW	Last 2 Sales		
Sec/Twp/Rng	--	ID		Address	JOHN LEONARD	Date	Price	Reason
Property	212 KOEPER DR	Class	RESIDENTIAL		212 KOEPER DR.	12/21/2023	\$154900	Normal
Address	MARSHALLTOWN	Acreage	n/a		MARSHALLTOWN, IA	11/22/2023	\$90000	Fulfillment
					50158			of prior year contract
								Qual
								Q
								U

District 640228-Mtown City/Mtown/Mtown

Brief LOT 1 BLK 1

Tax Description

(Note: Not to be used on legal documents)

Date created: 4/3/2025

Last Data Uploaded: 4/3/2025 5:09:13 AM

Developed by  **SCHNEIDER**
GEOSPATIAL



Recorded 01/08/2024 at 02:57:35 PM

Amt: \$17.00

Page 1 of 2

Revenue Tax: \$247.20

Marshall County Iowa

Nan Benson County Recorder

File **2024-00000126**

E *

Return to:

Title Services Corporation

603 Commercial St

Waterloo, IA 50701

\$247.20

\$17

Preparer: Joseph W. Coppola III, 4201 Westown Pkwy - Ste 250, W. Des Moines, IA 50266 (515) 283-1801 (8996ESP)

Return To: Matthew John Leonard Vogeler and Morgan Elizabeth Vogeler, 212 Koeper Dr., Marshalltown, IA 50158

Taxpayer Information: Matthew John Leonard Vogeler and Morgan Elizabeth Vogeler, 212 Koeper Dr., Marshalltown, IA 50158

WARRANTY DEED

For the consideration of One (\$1.00) Dollar and other valuable consideration, **Chad Weir and Jada Aimee Weir, a married couple**, do hereby Convey to **Matthew John Leonard Vogeler and Morgan Elizabeth Vogeler, a married couple**, as joint tenants with full rights of survivorship and not as tenants in common, in the following described real estate:

Lot 1 in Block 1 in Southgate Fourth Addition to Marshall, Marshall County, Iowa;

Subject to all covenants, restrictions and easements of record.

There is no known private burial site, well, solid waste disposal site, underground storage tank, hazardous waste, or private sewage disposal system on the property as described in Iowa Code section 558.69, and therefore the transaction is exempt from the requirement to submit a groundwater hazard statement.

Grantors do Hereby Covenant with grantees, and successors in interest, that grantors hold the real estate by title in fee simple; that they have good and lawful authority to sell and convey the real estate; that the real estate is free and clear of all liens and encumbrances except as may be above stated; and grantors covenant to warrant and defend the real estate against the lawful claims of all persons except as may be above stated. Each of the undersigned hereby relinquishes all rights of dower,

homestead and distributive share in and to the real estate.

Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

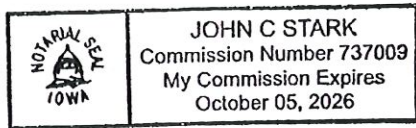
Dated: 12/21/23

[Signature]
Chad Weir

[Signature]
Jada Aimee Weir

STATE OF Iowa)
COUNTY OF Story) ss:

This record was acknowledged before me on 12/21/23, by
Chad Weir and Jada Aimee Weir, a married couple.



[Signature]
Notary Public in and for said State

Aerial Vicinity Map

212 Koeper Drive



Board of Adjustment Finding of Fact Report

Meeting Date: April 15, 2025	Application Type: VARIANCE
Zoning District: RL, Low Density Residential Zoning District	Comp. plan designation: Low Density Residential
Property Address: 4 W Boone St	
Property Owner: Matthew and Morgan Vogeler	
Applicant (if different than owner):	

Request Description: The applicant is seeking a relief to §156.F.005(E)(2)(e) which establishes that within a required front or corner side yard setback the maximum fence height shall be four feet. The variance would be applicable only to fencing within the corner side yard setback adjacent to S 3rd Avenue (approximately the north 56 feet of the property). Fencing within the front yard adjacent to Koeper Drive would still need to comply with applicable zoning regulations or would otherwise be subject to a separate variance application.

Hardship as stated in the application

If the variance is not granted the applicant could only extend the privacy fencing directly back (north) off their house running parallel with S 3rd Avenue. This would result in over 900 square feet of backyard space being unable to be within a privacy fence area.

New Information introduced for consideration

Findings of Fact (Answer yes or no to each item and provide reasoning if necessary)

YES	NO	Finding Description
		Not Self Imposed. The granting of the Variance is not based on a hardship which is self-imposed? <i>Reasoning:</i> Vote result if applicable: ____ Yes ____ No
		Based on Cost. The hardship is not based solely on the cost of complying with the regulation, but is based on the particular physical surroundings, shape, or topographical conditions of the subject property? <i>Reasoning:</i> Vote result if applicable: ____ Yes ____ No
		Unique Circumstances. The hardship is based on circumstances that are unique to the property for which the Variance is sought and not circumstances common to other properties? <i>Reasoning:</i> Vote result if applicable: ____ Yes ____ No

		Commonly Enjoyed Rights. A literal interpretation of the provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located; and <i>Reasoning:</i> Vote result if applicable: ____ Yes ____ No
		Not A Special Privilege. Granting the variance will not confer on the applicant any special privilege that is denied to other lands or structures in the same district. <i>Reasoning:</i> Vote result if applicable: ____ Yes ____ No

Based on the Findings of Fact the following action occurred:

- ☐ Motion by _____ to APPROVE the request as submitted with the following conditions:

Second by _____

Vote results:

Name:	YES	NO	Abstain	Comment
<i>Engle</i>				
<i>Eaton</i>				
<i>Sanchez</i>				
<i>Schulze</i>				
<i>Thurston</i>				