1. Board Of Adjustment Packet

    Documents:

        MARCH 15, 2016 - VARIANCE 7 SOUTH 9TH STREET - ITEM 4.PDF
        MARCH 15, 2016 - AGENDA - ITEM 1.PDF
        MARCH 15, 2016 - HOUSING AND COMMUNITY DEVELOPMENT MEMO - ITEM 2.PDF
        MARCH 15, 2016 - VARIANCE APPLICATION FORM - ITEM 3.PDF

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.ci.marshalltown.ia.us

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: 7 S. 9th ST	
Owner: William Schendel	
Mailing Address: 902 W main	
Phone: 641-752-0986	Fax: 641 752 8645
Email Address: SPC@mailmis.com	
Owner's Agent (if applicable):	
Agent Phone:	Agent Fax:

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 Zoning at 641-752-3454 with any questions.

The applicant makes the following request: To allow continued use of property as a duplex.

Please state your hardship. It would be an unnecessary hardship to return a currently divided property and seperated meters back to single family dwelling; just for the sole purpose of not meeting new code lot size.

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. The properties rental return would be cut in Half, and the cost of removing existing dividing walls and doors as well as meters would be unnecessary costs. Purchasing ajoining lots would not be feasible or possible to provide more square footage to meet the new code requirement.
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.

The variance is required to continue to list the property as a two family Conversion like it was when it was purchased in 2009.

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.

The variance will not alter the area. There is a four plex located next door to the South, as well as two rentals behind to the west. Also a rental across the street to the East. we have had Rentals for years, and always keep the properties in compliance with City Code.

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.

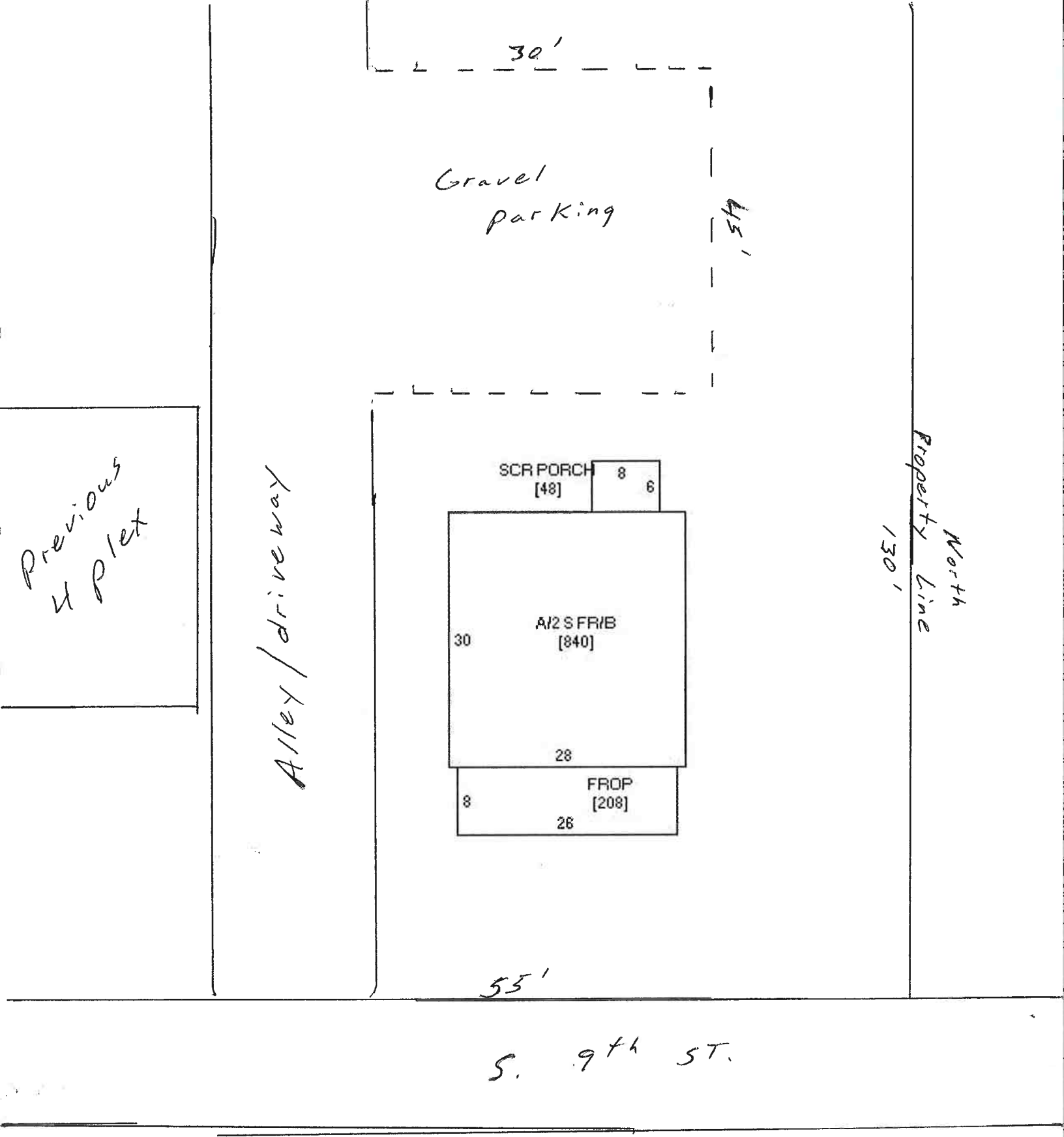
Keeping the duplex listing will not alter or affect anything in the neighborhood. A new porch was installed in 2015 that keeps up the appearance with those of the neighborhood.

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. There is no alternative to the ordinance for the house as purchased in 2009, without a variance. The intent of the zoning is not compromised with all other aspects of the city code Being met.

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: William Schenckel	Date: 2/18/16
-OR- Agent Signature:	Date:


30'
Gravel
parking
54'
Previous
4 plex
Alley / driveway
SCR PORCH
[48]
8
6
A/2 S FR/B
[840]
30
28
FROP
[208]
8
26
North
Property Line
130'
55'
S. 9th ST.

SPECIAL WARRANTY DEED

For the consideration of **One and no/100---------- Dollar(s)** and other valuable consideration, **HSBC Bank, USA, NA, as Trustee, for the Registered Holders of Nomura Home Equity Home Loan, Inc., Asset-Backed Certificates, Series 2007-2** does hereby Convey to **William C. Schendel and William H. Schendel [redacted], as joint tenants with full rights of survivorship and not as tenants in common** the following described real estate in **Marshall County**, Iowa:

The East 130 feet of the North 55 feet of Lot 8 in Block 1, Delano Park an Addition to the Town of Marshall, Marshall County, Iowa.

Subject to easements, restrictions, covenants, ordinances and limited access provisions of record.

Grantor does Hereby Covenant with Grantees and successors in interest to Warrant and Defend the real estate against the lawful claims of all persons claiming by, through or under it, except as may be above stated.

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: 3/4/09

By: _____

Keith Chapman as REO Closing Manager of Ocwen Loan Servicing, LLC, as attorney in fact for HSBC Bank, USA, NA, as Trustee, for the Registered Holders of Nomura Home Equity Home Loan, Inc., Asset-Backed Certificates, Series 2007-2

OCWEN LOAN SERVICING, LLC CORPORATE SEAL

STATE OF Florida, COUNTY OF Orange, ss:

This instrument was acknowledged before me on this 4 day of March, 2009, by Keith Chapman as REO Closing Manager of Ocwen Loan Servicing, LLC, as attorney in fact for HSBC Bank, USA, NA, as Trustee, for the Registered Holders of Nomura Home Equity Home Loan, Inc., Asset-Backed Certificates, Series 2007-2

_____, Notary Public

THEO SMITH
Comm# DD0791781
Expires 5/26/2012
Florida Notary Assn., Inc

Current meters set up for duplex

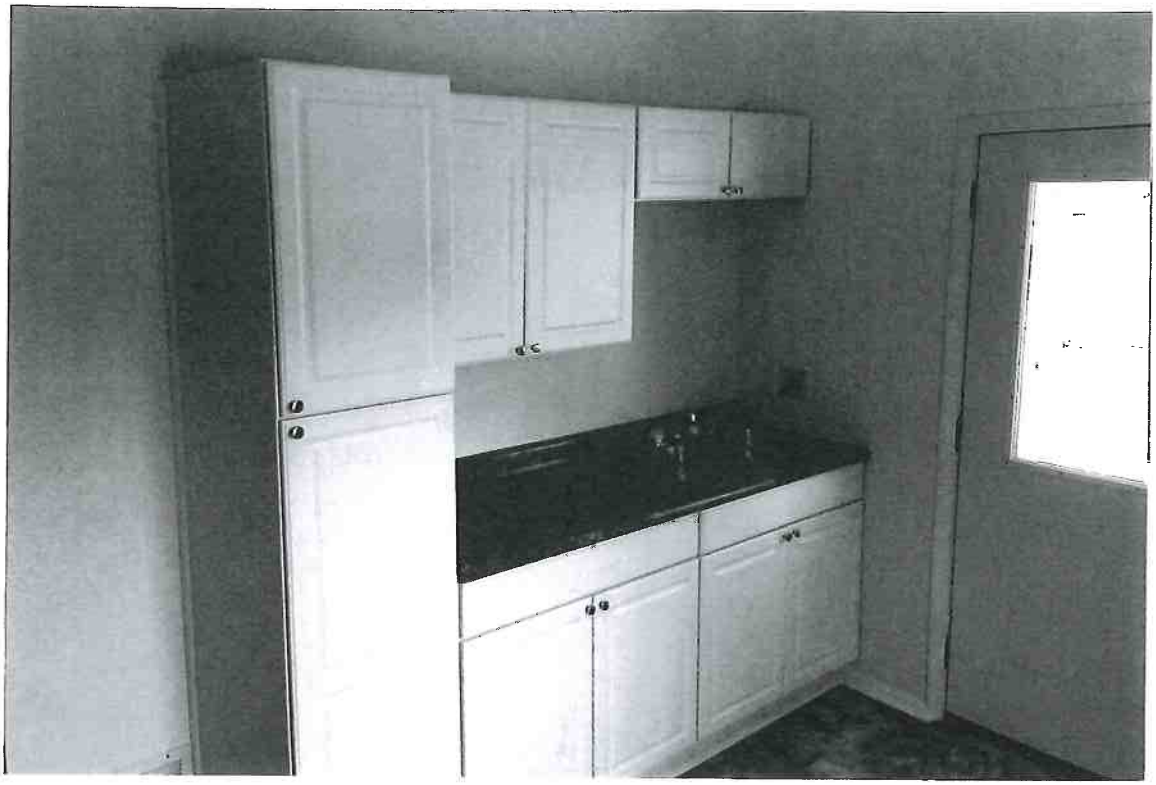
Replaced Front porch in 2015

Rear View

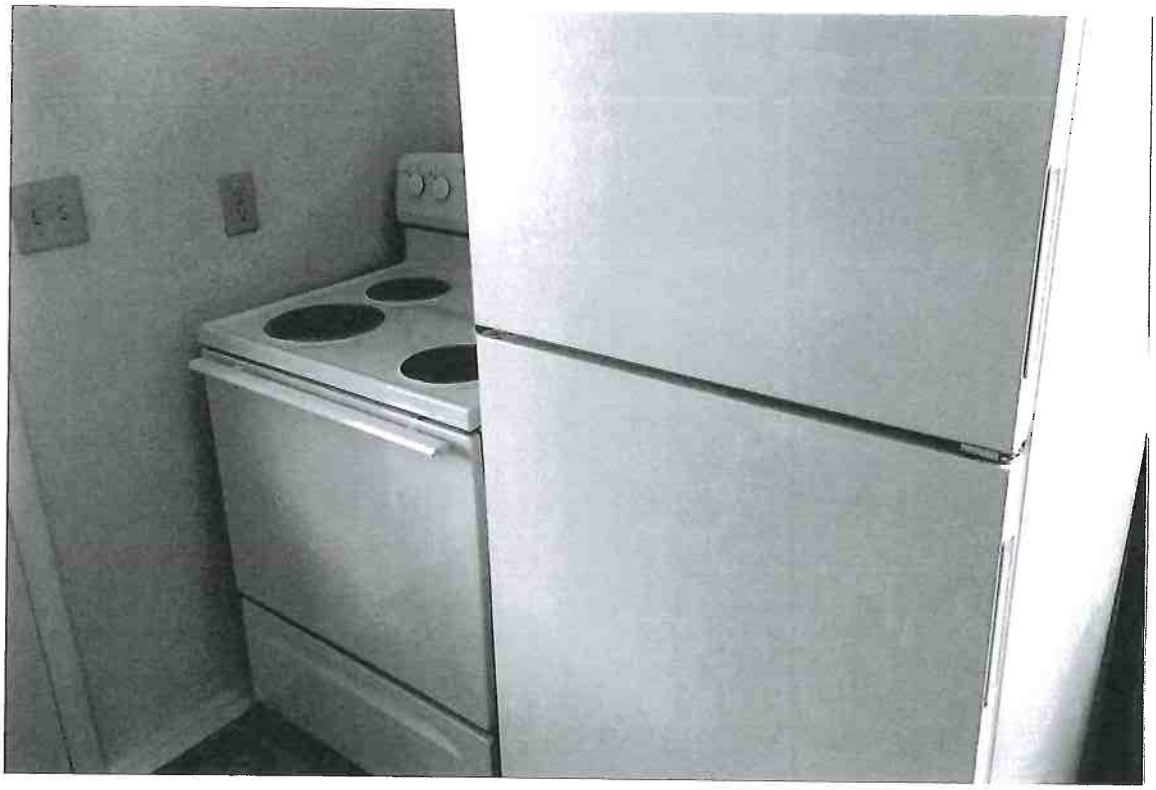
Fourplex to South

Second New Bathroom

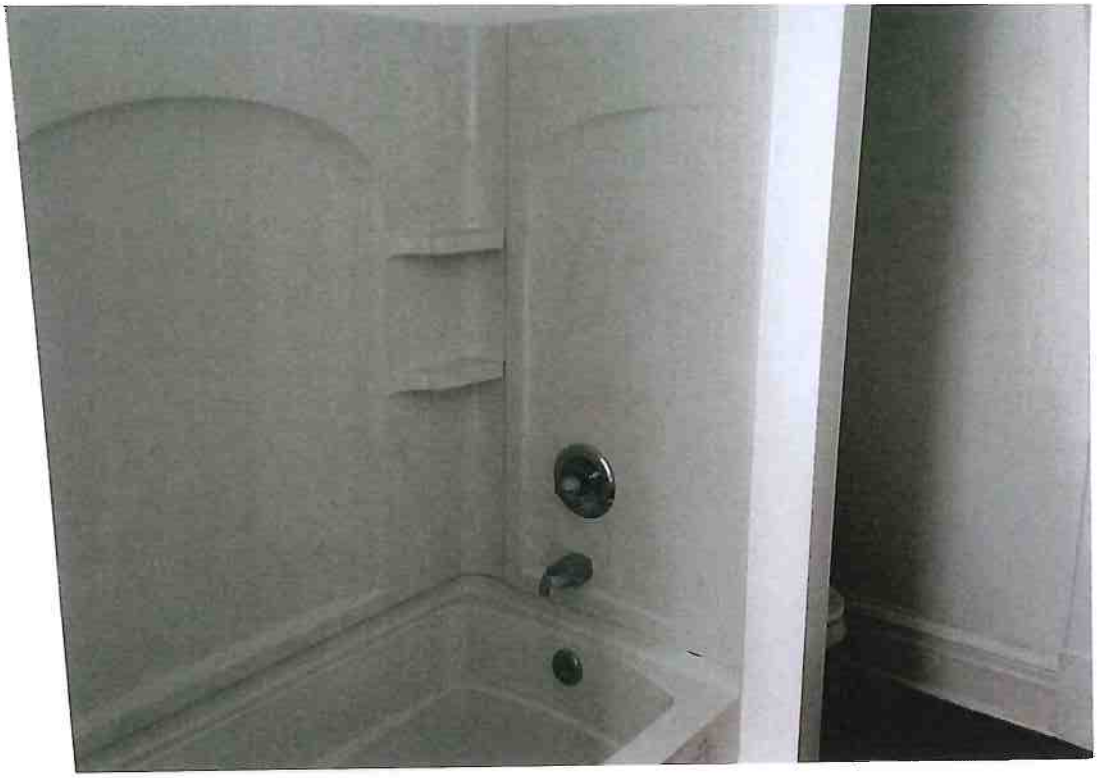
Old woodwork Charm!



New Kitchen



New appliances



New bathrooms in both duplexs

New Flooring throughout

New windows in 2015 Throughout.

Notice of Public Meeting
BOARD OF ADJUSTMENT

Agenda for Tuesday, March 15, 2016 – 5:00 p.m.
City Council Chambers, City Hall
10 West State Street, Marshalltown IA

Committee Members:

Kelli Thurston
Kevin Hitchins, Chair
G Ward Miller
David Schulze
Bob Wenner

Call to Order:

Roll Call:

1. Approve Agenda
2. Review and approval of the Minutes from 12/15/15

Old Business:

None

New Business:

3. **PUBLIC HEARING:**
   Variance request for Ramon & Luisa Ortega for 2023 Catalina Pl.
4. **PUBLIC HEARING:**
   Variance request William Schendel for 7 S. 9th Street.

Date Agenda Posted: 03/11/16

James L. Lowrance, Mayor
Randy A Wetmore, City Administrator
36 North Center Street
Marshalltown, IA 50158-4911
Tel - (641) 754-5756
Fax - (641) 754-5742

Housing & Community Development

TO: Board of Adjustment

FROM: Michelle Spohnheimer, Housing & Community Development Director

DATE: December 15, 2015 Meeting

PUBLIC HEARING: Variance request for Ramon & Luisa Ortega for 2023 Catalina Pl.

Ramon & Luisa Ortega are requesting a variance to the setback requirements for the R-3 district. Their home sits on an irregular lot where the front yard is Catalina Place. The requirements for setbacks to the rear property line (west line) are 25'. The owner is proposing to put on an attached garage which is 24' x 28' this would leave only 3' between the addition and the west property line.

This is an irregular lot and the front is determined by the narrowest side of the lot. If the west was considered the side yard the minimum setback would be 4' from the property line.

City Council
Leon Lamer, Mike Gowdy, Al Hoop, Joel Greer
Robert Schubert, Bill Martin, Bethany Wirin

Marshalltown All-America City 2012

Variations: *To grant a variation in the following instances:*
a) In the yard requirements of any district where there are unusual or practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, topographical or other conditions provided such variations will not seriously affect any adjoining property or the general welfare.
b) In the determination that a strict application of the terms of this Ordinance relating to the construction, or alterations of building or other structures, or use of land will impose upon the property owner unusual and practical difficulties or particular hardship.
c) The following are variance review guidelines:
i. A variance is not the appropriate remedy for a general condition.
ii. Self-inflicted hardships are not grounds for a variance.
iii. Personal hardships are not grounds for a variance. The hardship must relate to the physical character of the property.
iv. Economic conditions are not grounds for a variance (solely).
v. Hardships must be severe. A variation from the strict application of the terms of this Ordinance shall be in harmony with its general purpose and intent, and the Board shall be satisfied that a granting of such variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship.
vi. If granted, variance must not adversely affect the neighborhood.
vii. All applicants must be treated fairly.
viii. Substantial justice will be done with the grant of the variance.
d) In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance.

PUBLIC HEARING: Variance request William Schendel for 7 S. 9th Street.

William Schendel has requested a variance to the lot area requirements for the property at 7 S. 9th Street. This property has previously been occupied as a duplex (two-family) rental unit. 2006 was the last time the units were inspected and in 2008 the property went to Sherriff sale and was vacant for several years.

The property is zoned R-3, Medium Density Residential which requires 5,000 s.f. of lot area per unit. This property has 7,150 s.f of lot area so it is short 2,850 s.f. If granted the unit will have to comply with current rental housing code requirements since it has lost the grandfathering status.

The variance criteria is listed above in this memo.

Date Submitted & Fee Paid: _____ *Hearing Date:* _____

Variance Application Form

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www.ci.marshalltown.ia.us

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✓ **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 <u>all</u> 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: 2023 Catalina Pl.	
Owner: Ramon & Luisa Ortega	
Mailing Address: 2023 Catalina Pl.	
Phone: 641-751-0067	Fax: NONE
Email Address: llcortega@live.com	
Owner's Agent (if applicable): N/A	
Agent Phone: —	Agent Fax: —

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 Zoning at 641-752-3454 with any questions.

The applicant makes the following request:

We would like to have the board consider approving a variance allowing us to construct an addition attached to our home. Allowing the furthest corner tip of the structure to be 3 ft. from back property line.

Please state your hardship.

House does not sit square to property lines. Address is opposite of physical front of home.

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.

   Should the variance not be approved and a gravel pad be added it would be unsightly and add more patches of concrete or gravel instead of green space. Should the variance be granted the parking area will be covered and all other concrete pads around the home and sheds will be removed and turned into greenspace. Resulting in a cleaner area.

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.

   Our property is odd shaped cornerlot with home facing opposite side of legal address. Unknown to us is the reason our home faces the opposite way. Our backyard is actually to the side of the home. All the other homes face forward and have regular shaped lots. Their homes are squared with the property allowing variance codes to apply freely.

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.
Considering the home faces the opposite direction of its address, we have checked fom every angle possible. Should the variance be approved from Catalina St. nothing would change. From the Pleasantview side, the attached addition of the proposed garage would continue in line with our home. On the contrary it would enhance esthetically from our neighbors view, since we currently park on a pad.
No visual impairments or blocking of any existing drives, signs, or other structures.

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.
Enough space will remain between yards and property lines to maintain adequate light and air flow to circulate around adjacent properties. Structure we are soliciting the variance for would not congest any streets or endanger public safety, nor devalue nearby properties. The structure we seek the variance for is an adjacent structure extending from our home to include cement pad already in use and existence.

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.
No

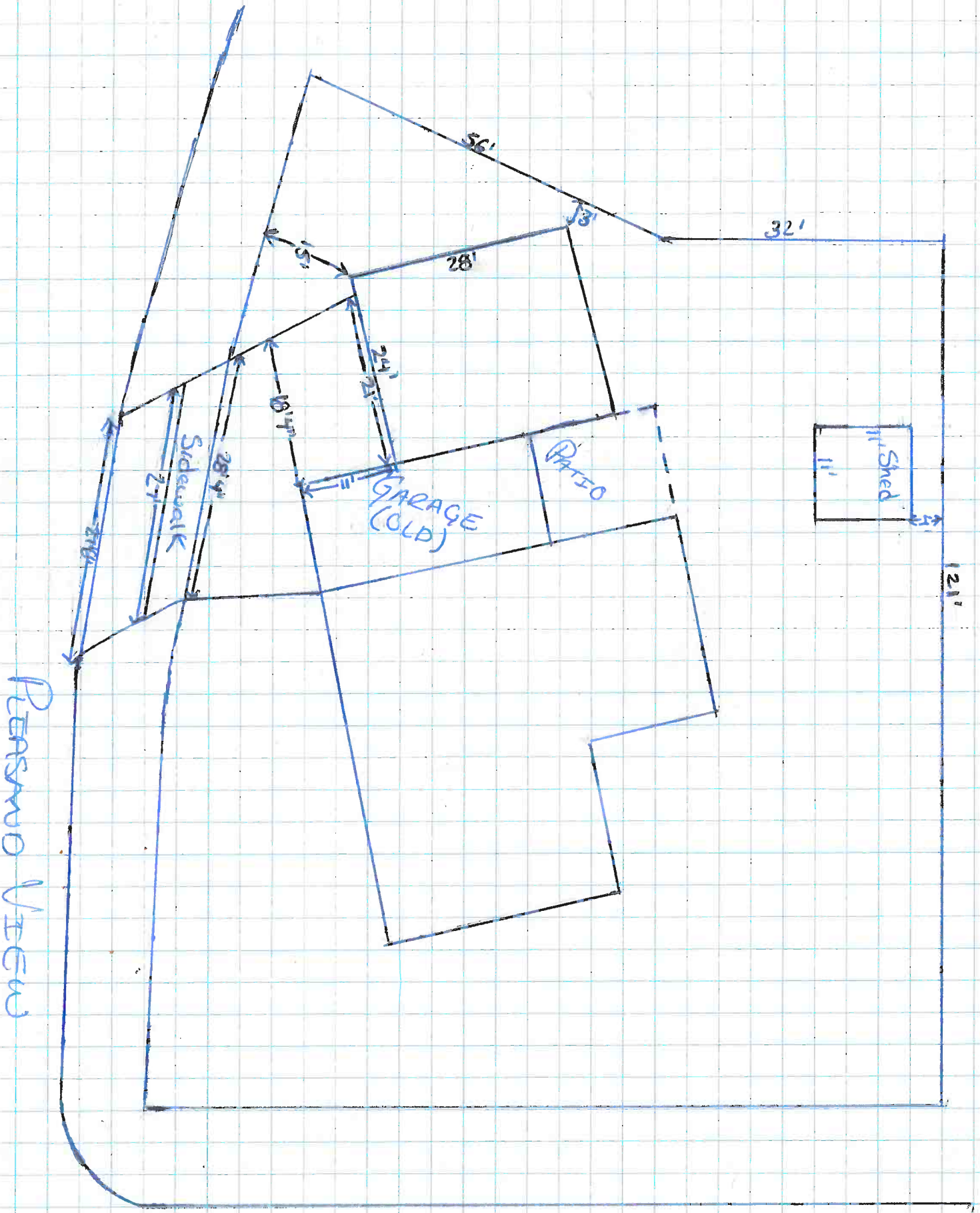
Additional Comments and Information:
Attach additional information as necessary.

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: Ramon Ortega	Date: 2-9-2016
-OR- Agent Signature:	Date:

2023

DODGE
RAM


56'
3'
32'
5'
28'
24'
24'
5'1"
28'4"
Sidewalk
2'
2'
11'
GARAGE
(OLD)
PATIO
11'
Shed
11'
121'
PLEASANTO VIEW
CATALINA PL.