

1. Board Of Adjustment Packet

Documents:

[BOARD OF ADJUSTMENT AGENDA JUNE 16, 2015 - ITEM 1.PDF](#)
[602 IOWA AVENUE WEST SIDEWALK DEFERMENT - ITEM 2.PDF](#)
[1011WEST CHURCH VARIANCE - ITEM 3.PDF](#)
[2001 SOUTH 18TH AVENUE SIDEWALK DEFERMENT - ITEM 4.PDF](#)
[HOUSING AND COMMUNITY DEVELOPMENT MEMO - ITEM 5.PDF](#)



Notice of Public Meeting
BOARD OF ADJUSTMENT

Agenda for Tuesday, June 16, 2015 – 5:00 p.m.
City Council Chambers, City Hall
10 West State Street, Marshalltown IA

Committee Members:

Darrell Eaton
Kevin Hitchins
G Ward Miller

David Schulze
Bob Wenner

Call to Order:

Roll Call:

1. Approve Agenda
2. Review and approval of the Minutes from 5/19/15

Old Business:

3. PUBLIC HEARING TABLED from 5/19/2015: Variance – 1011 W. Church Street – Setbacks

New Business:

4. Menard, Inc. – 2001 S. 18th Avenue – Sidewalk Deferment
5. Theisen Development Co. LLC – 602 Iowa Avenue West – Sidewalk Deferment

Date Posted: 06/12/15

<http://ci.marshalltown.ia.us/meetings/view/MeetingID/1209>

City Of Marshalltown

Sidewalk Deferment Application Packet

36 N. Center Street, Marshalltown, IA 50158

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

www.ci.marshalltown.ia.us

Purpose: The Marshalltown Code of Ordinances include specific development standards for sidewalks. There are occasions, however, when the strict application of such standards may be inappropriate because of unique characteristics of the property. The deferment procedure is designed to permit adjustments to this requirement when there are unique or extraordinary circumstances applying to a parcel of land that prevent the practical installation of a sidewalk. The circumstances under which a deferment may be granted can be found in Section 26-45 of the Marshalltown Code of Ordinances.

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 Plan & Zoning Commission shall first review the proposal and make a recommendation to the Board of Adjustment. **Please refer to the attached deadline and meeting schedule. Attendance at all meetings is required.** The complete application with fee must be submitted by 5:00 p.m. on the deadline date to the Housing & Community Development Department Office, located at 36 N. Center St.

Board Meetings: The Plan & Zoning Commission will meet at 5:30 PM on a Thursday following a Council meeting and make a recommendation to the Board of Adjustment. 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 of Adjustment meetings are held at 5:00 p.m. on the first and third Tuesday of each month in the City Council Chambers, second floor at 10 W. State Street. Attendance at the meetings 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.

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.

X **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 deferment.

X **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.

X **Application fee.** A \$250 fee is required payable to "City of Marshalltown." The fee must be paid when the application is submitted to the Housing Department.

Date Submitted & Fee Paid: _____

Hearing Date: _____

Sidewalk Deferment Application Form

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

Please type or print legibly in ink.

Property Address: 602 IOWA AVE. WEST (FRONTAGE ROAD) 1/2 (S. 6TH ST) 2/2	
Owner or Agent: THEISEN DEVELOPMENT CO. LLC AGENT: CGA CONSULTANTS	
Mailing Address (owner or agent): 16 W. MAIN ST.	
Phone (owner or agent): 641-752-6701	Fax (owner or agent): 641-752-2849

A deferment may only be granted if the following conditions are met:

1. Is the location of the proposed sidewalk adjacent to a street which has or will have curb and gutter;
☒ yes ☒ no
S. 6TH ST FRONTAGE RD/IOWA AVE. W.
2. Does the location of the proposed sidewalk have grade and drainage problems which would significantly interfere with the construction of the sidewalk at that location (if yes, describe below or on additional paper). ☒ yes ☐ no
3. If the location of the proposed sidewalk is on non-residential or non-retail property, and neither 1 nor 2 above apply, answer the following:
 - a. Do pedestrian generators exist in this location (ex: School, park, church, retail center, etc.)? ☒ yes ☐ no
 - b. Do sidewalks or bike paths near the location allow for alternate pedestrian routes (if the proposed sidewalk is needed to connect area residential property to other sidewalks in the area the property is not eligible for a deferment)? ☐ yes ☒ no
4. Is the property in a residential area where there is no sidewalk within one block or 360 feet and there are additional hardships involved with constructing a sidewalk (i.e. extensive landscaping, structure placement or grading.) ☐ yes ☒ no

Additional Comments and Information (attach additional as necessary):

SEE ATTACHED

Owner or Agent Signature: Stephen Trukey	Date: 5-20-15
---	------------------

Theisen's is constructing a 37,500 square foot retail and storage addition to their property at 602 Iowa Ave. West. The size of this project necessitates construction of sidewalks along all public roads adjoining the property.

There is currently a frontage road between Theisen's and Iowa Ave West and a recent extension of South 6th Street to the east of the property. Theisen's is asking for a deferment for the frontage road/ Iowa Ave West and the southern portion south of South 6th Street.

There has been some discussion with the City to deed the frontage road to Theisen's which would make it a private driveway instead of a public road. If this were the case today the sidewalk would be required along Iowa Ave. West and not the frontage road.

In 2011 a sidewalk deferment was granted to 504 Iowa Ave West which was in a similar situation. We would ask that the Board of Adjustment consider granting Theisen's the same deferment with the understanding that should Iowa Avenue be improved the property owner would then be responsible for construction.



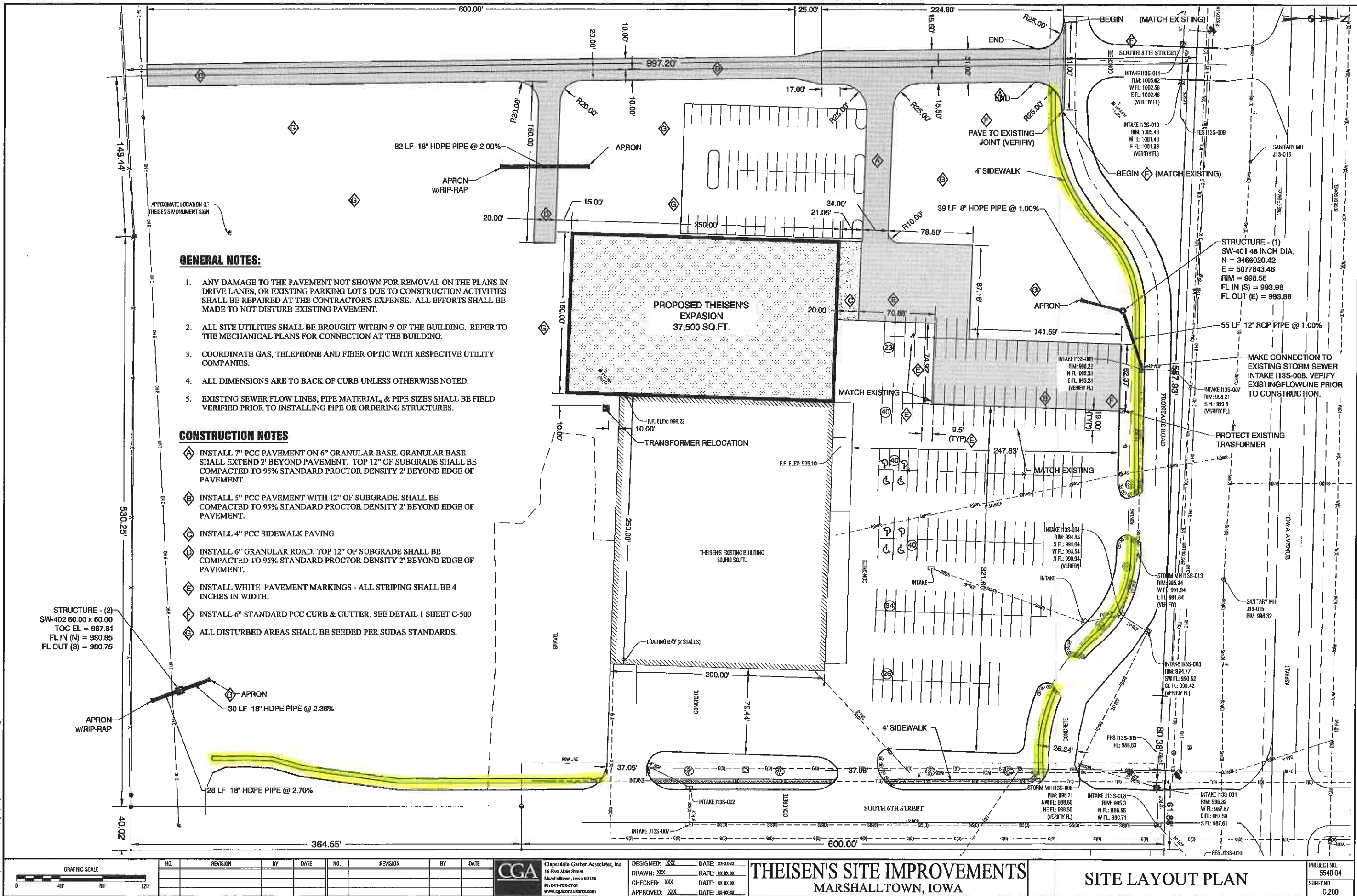
GENERAL NOTES:

1. ANY DAMAGE TO THE PAVEMENT NOT SHOWN FOR REMOVAL ON THE PLANS IN DRIVE LANES, OR EXISTING PARKING LOTS DUE TO CONSTRUCTION ACTIVITIES SHALL BE REPAIRED AT THE CONTRACTOR'S EXPENSE. ALL EFFORTS SHALL BE MADE TO NOT DISTURB EXISTING PAVEMENT.
2. ALL SITE UTILITIES SHALL BE BROUGHT WITHIN 5' OF THE BUILDING. REFER TO THE MECHANICAL PLANS FOR CONNECTION AT THE BUILDING.
3. COORDINATE GAS, TELEPHONE AND FIBER OPTIC WITH RESPECTIVE UTILITY COMPANIES.
4. ALL DIMENSIONS ARE TO BACK OF CURB UNLESS OTHERWISE NOTED.
5. EXISTING SEWER FLOW LINES, PIPE MATERIAL, & PIPE SIZES SHALL BE FIELD VERIFIED PRIOR TO INSTALLING PIPE OR ORDERING STRUCTURES.

CONSTRUCTION NOTES

- A INSTALL 7" PCC PAVEMENT ON 6" GRANULAR BASE. GRANULAR BASE SHALL EXTEND 2' BEYOND PAVEMENT. TOP 12" OF SUBGRADE SHALL BE COMPACTED TO 95% STANDARD PROCTOR DENSITY 2' BEYOND EDGE OF PAVEMENT.
- B INSTALL 5" PCC PAVEMENT WITH 12" OF SUBGRADE. SHALL BE COMPACTED TO 95% STANDARD PROCTOR DENSITY 2' BEYOND EDGE OF PAVEMENT.
- C INSTALL 4" PCC SIDEWALK PAVING
- D INSTALL 6" GRANULAR ROAD. TOP 12" OF SUBGRADE SHALL BE COMPACTED TO 95% STANDARD PROCTOR DENSITY 2' BEYOND EDGE OF PAVEMENT.
- E INSTALL WHITE PAVEMENT MARKINGS - ALL STRIPING SHALL BE 4 INCHES IN WIDTH.
- F INSTALL 6" STANDARD PCC CURB & GUTTER. SEE DETAIL 1 SHEET C-500
- G ALL DISTURBED AREAS SHALL BE SEEDED PER SUDAS STANDARDS.

STRUCTURE - (2)
SW-402 60.00 x 60.00
TOC EL = 987.81
FL IN (N) = 980.85
FL OUT (S) = 980.75



THEISEN'S SITE IMPROVEMENTS
MARSHALLTOWN, IOWA

SITE LAYOUT PLAN

PROJECT NO.
5540.04
SHEET NO.
C.200

Date Submitted & Fee Paid: 5/4/15

Hearing Date: 5/19/15

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 ~~\$100~~ 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: 1011 W Church St.	
Owner: Joe & Cindy Munner	
Mailing Address: 1011 W Church St.	
Phone: 515.210.2113	Fax:
Email Address: cj99@centurylink.net	
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 build an attached garage on top of the existing driveway whose west side will be less than 3 feet from the property line.

Please state your hardship.

City has damaged fence multiple times during snow removal. Back yard is needed for a large dog to run in.

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.

Would continue to lose all the benefits of having a garage, including protecting newer vehicles, storing yard implements, tools, and other items customarily kept in a garage.

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.

Driveway Slab already exists. City has damaged fence multiple times for snow removal. Current damage that needs to be addressed this spring that the parks & rec dept. would have to fix would be negated if the variance is approved to build a garage.

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 finished garage will have the same appearance as the rest of the house, including color of siding & color & type of roof.

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.

Existing Street light illuminates the walking path at night. This garage will not impair this illumination.

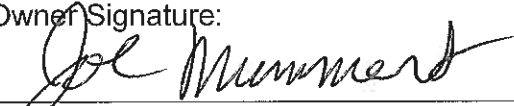
5. **The general intent and purpose of the Zoning Ordinance is protected.** A variance must be consistent with the intent of the Zoning Ordinance and the Comprehensive Plan. Is there another option which you could pursue that would not require a variance? If alternatives exist which do not require a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

No. As stated above the back yard is needed for a large dog to run. Without it, owning a large dog is not suggested, in my opinion.

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: 2015-05-01
-OR- Agent Signature:	Date:

1011 W. C. W. C. W.

ABSTRACT OF TITLE

TO

THE SOUTH ONE-HUNDRED EIGHTY-EIGHT FEET THREE INCHES (188 ft 3 in)
OF THE NORTH FOUR HUNDRED SIXTEEN AND ONE-HALF FEET (416 1/2 ft.) OF
THE WEST HALF OF LOT NO FOUR (4) SUB. DIVISION OF THE NORTHWEST 1/4
OF THE NORTHEAST 1/4 OF SECTION NO THIRTY-FOUR (34) TOWNSHIP NO EIGHTY-
FOUR (84) NORTH, RANGE NO. EIGHTEEN (18) WEST 5" P.M. MARSHALL COUNTY,
IOWA.

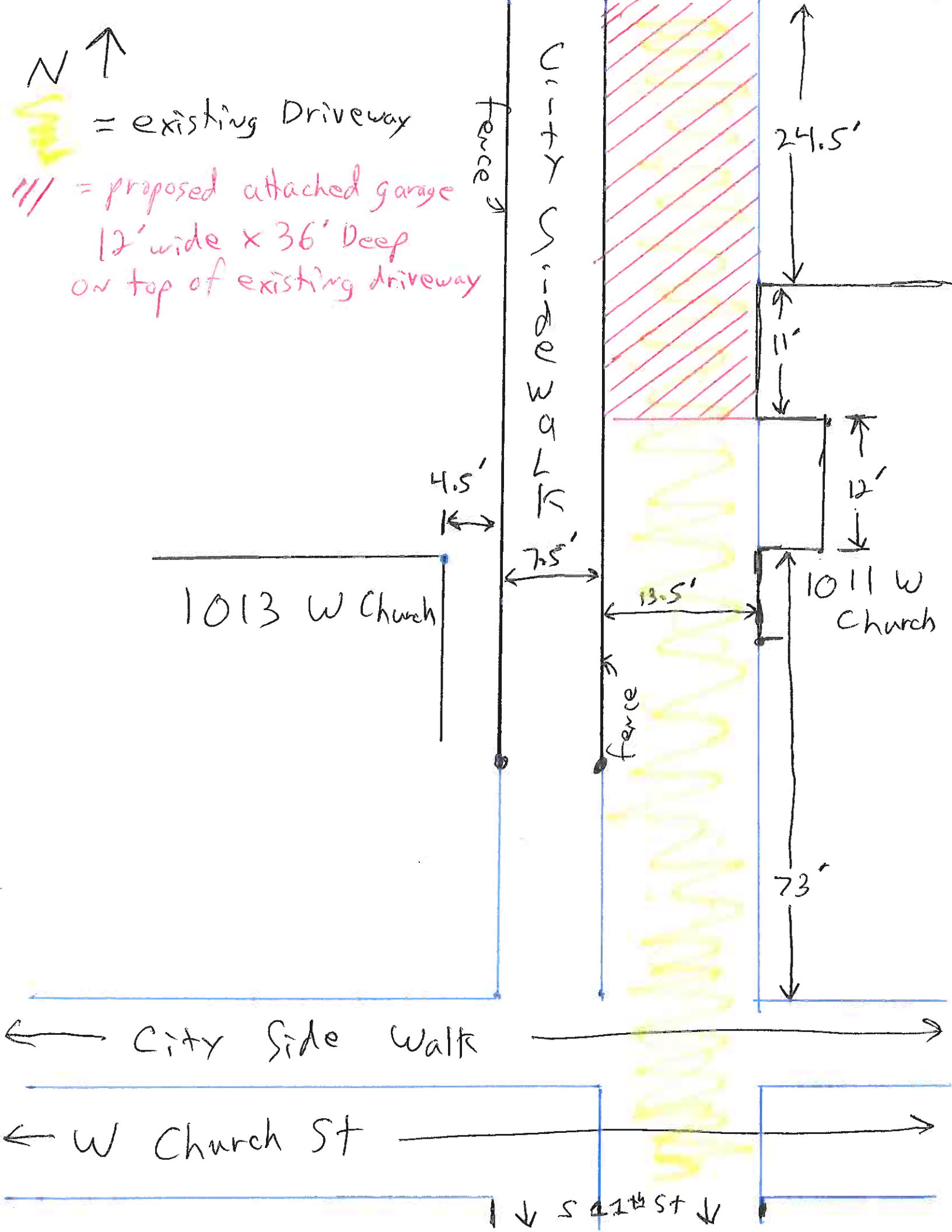
For



N ↑

 = existing Driveway

/// = proposed attached garage
12' wide x 36' Deep
on top of existing driveway



Marshall County Assessor -- Marshall County Courthouse, Marshalltown, IA 50158

PARCEL	TOWN/TOWNSHIP	ZONING
07-34-201-026	M'TOWN CITY MC	R-3
SCHOOL DISTRICT	MARSHALLTOWN SCH DIS	
PROPERTY ADDRESS	1011 W CHURCH ST MARSHALLTOWN IA 50158	
MAILING ADDRESS	1011 W CHURCH ST MARSHALLTOWN IA 50158	
MOST RECENT INSTRUMENT	200500005549	TYPE WD DATE 2005/08/02 TRANSFERRED 2005/08/04



(C) 2015 Marshall County - Representation only, not a survey



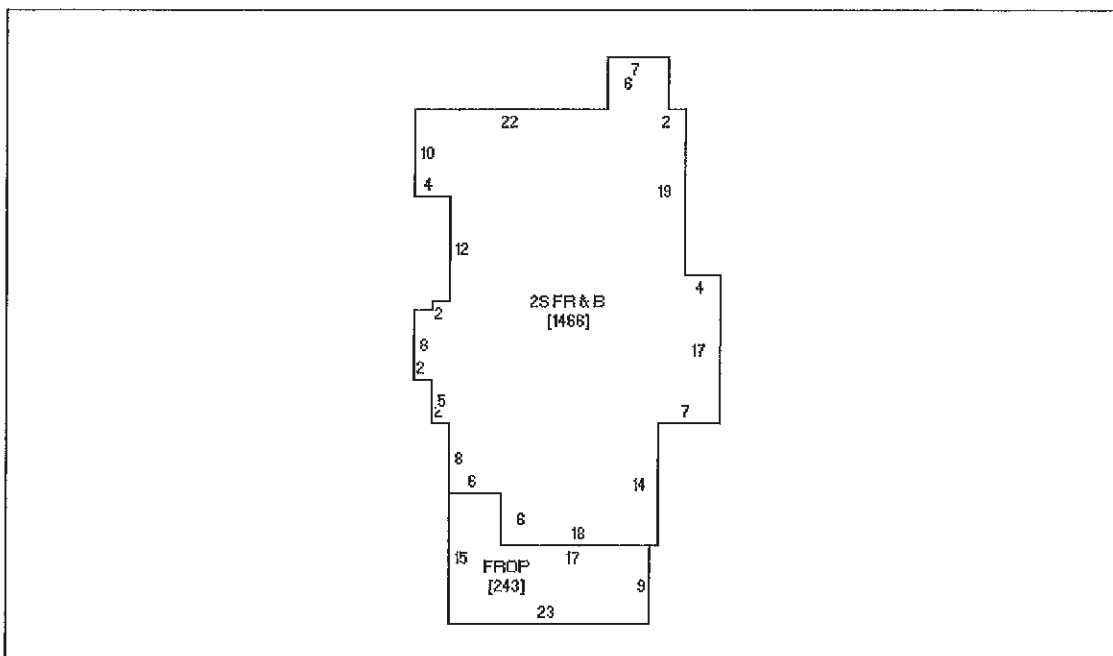
Photo: 2002/02/21

For current ownership information, see Sales History below. 2015 Values may not be current. Contact Assessor's office for valid data. Website Under Construction: Tax History current, all other current thru 2/18/15. For most current information, contact Auditor/Recorder.

OWNER		TAX DESCRIPTION
Title	MUMMERT, CYNTHIA	34-84-18 LOT 5/4 NW NE
LAND		APPLICATIONS FILED
	Total	
Acres	0.25	HOMESTEAD MILITARY
LOT SIZE: 57.5 X 188		

2015 ASSESSMENT	Class	Land	Improvements	Total
Gross	RESIDENTIAL	14,660	112,890	127,550
Exemption		0	0	0
Net		14,660	112,890	127,550

DWELLING					
Occupancy	Single Family	Style	1 1/2 Story Frame	Built	1915
Bsmt	Full	Foundation	Tile Blk	Exterior	Siding on Sheathing
Roof	Asph/Gable	Heat	FHA - Gas	Air Cond	Yes
Bedrooms	3	Floor Covering	Carp/Hdwd	Interior Finish	Plas
TSF-BA	2492	Full Baths	2		

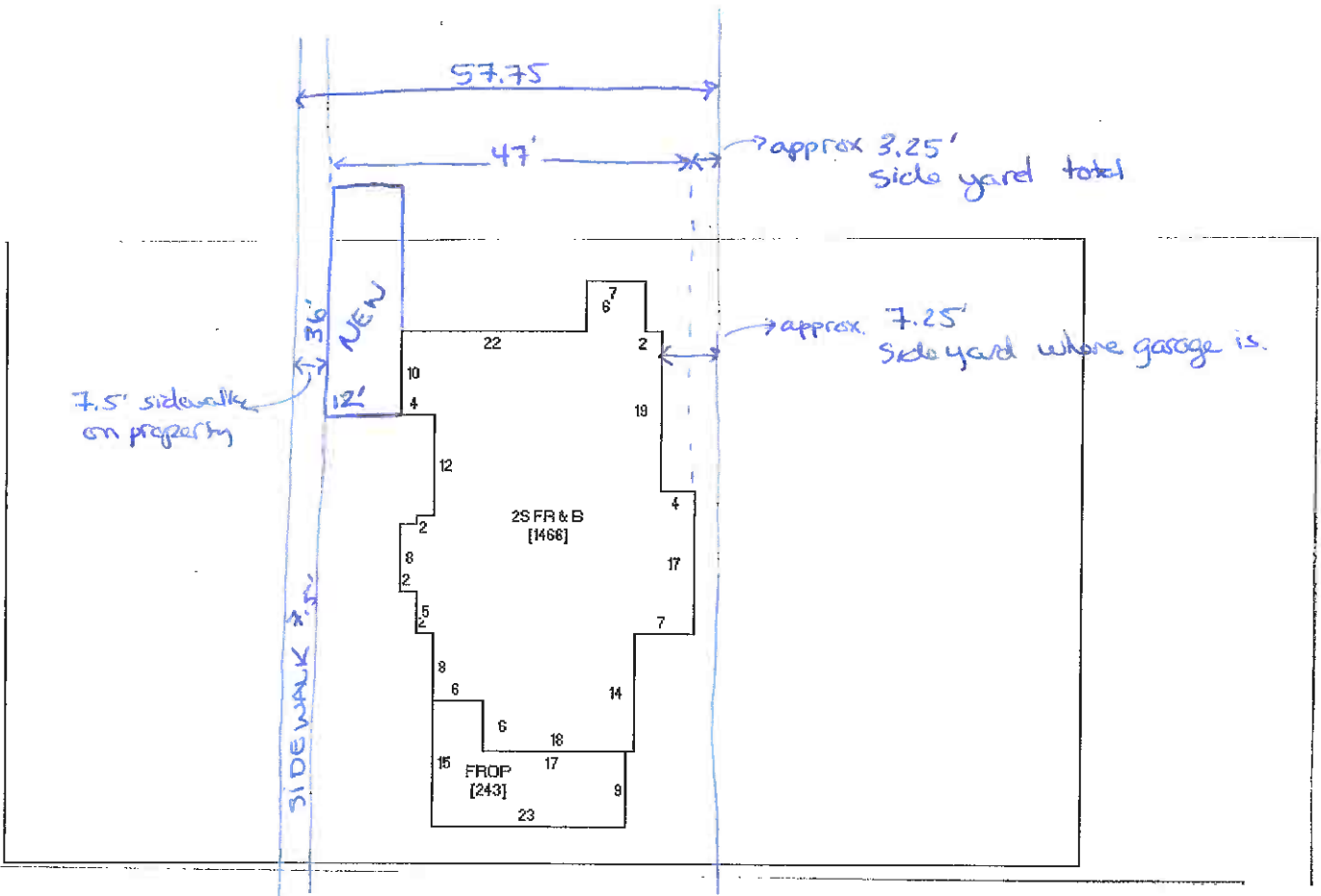


SALE	Total Amount Paid	Inst. Type	Instrument #	Seller	Buyer
08/02/2005	126,805	Deed	200500005549	FRANCIS, DAVID A & TERESA J	MUMMERT, CYNTHIA
02/07/2002	110,000	Deed	0201157	LYNCH, CYNTHIA L & DAVID A	FRANCIS, DAVID A & FRANCIS, TERESA J
03/01/2001	15,000	Deed	9917384	BOBCO, INC.	LYNCH, CYNTHIA L
01/29/2001	0	Deed	9616491	BOBCO, INC	BUTTERFIELD, CORTLAND
11/06/1995	20,000	Contract	9603062		
09/21/1993	30,000	Contract	2169/93-4		

ASSESSMENT HISTORY	(Assessment Roll)	Type	Class	Land	Improvements	Total
	2014	GROSS	RESIDENTIAL	14,660	112,890	127,550
	2014	EXEMPT			0	
	2014	NET		14,660	112,890	127,550
TAX HISTORY			PAY TAXES ONLINE			



Photo: 2002/02/21



5.24

80

PARCEL 5

5.10 84.25 203.5

1104 W MAIN ST

1102 W MAIN ST

1008 W MAIN ST

1004 W MAIN ST

1105 W CHURCH ST

1103 W CHURCH ST

1101 W CHURCH ST

1013 W CHURCH ST

1011 W CHURCH ST

1009 W CHURCH ST

1007 W CHURCH ST

1005 1/2 W CHURCH ST

W CHURCH ST

W MAIN ST

N 11th ST

1 inch = 50 feet

201-044

201-045

201-043

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201

1 inch = 50 feet

W MAIN N.

N. 11 ST
W. MAIN ST

54

30

PARCEL 5

1004 W MAIN ST

2012-5

1008 W MAIN ST



1005 1/2 W CHURCH ST

18



10

14

W. CHURCH ST.

W CHURCH ST.

J-11

W.

MAIN

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1012

1008

1006

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11

City Of Marshalltown

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Date Submitted & Fee Paid: \$215 pol.

Hearing Date: _____

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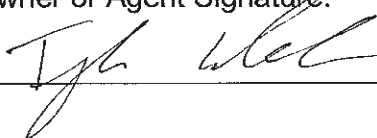
Please type or print legibly in ink.

Property Address: <u>2001 South 18th Ave Marshalltown, IA 50158</u>	
Owner or Agent: <u>Tyler Edwards Real Estate Rep Menard, Inc</u>	
Mailing Address (owner or agent): <u>5101 Menard Dr Eau Claire WI 54703</u>	
Phone (owner or agent): <u>715-876-2143</u>	Fax (owner or agent): <u>715-876-5998</u>

A deferment may only be granted if the following conditions are met:

1. Is the location of the proposed sidewalk adjacent to a street which has or will have curb and gutter; ☐ yes ☒ no
2. Does the location of the proposed sidewalk have grade and drainage problems which would significantly interfere with the construction of the sidewalk at that location (if yes, describe below or on additional paper). ☐ yes ☒ no
3. If the location of the proposed sidewalk is on non-residential or non-retail property, and neither 1 nor 2 above apply, answer the following:
 - a. Do pedestrian generators exist in this location (ex: School, park, church, retail center, etc.)? ☐ yes ☒ no
 - b. Do sidewalks or bike paths near the location allow for alternate pedestrian routes (if the proposed sidewalk is needed to connect area residential property to other sidewalks in the area the property is not eligible for a deferment)? ☐ yes ☒ no
4. Is the property in a residential area where there is no sidewalk within one block or 360 feet and there are additional hardships involved with constructing a sidewalk (i.e. extensive landscaping, structure placement or grading.) ☒ yes ☐ no

Additional Comments and Information (attach additional as necessary):

Owner or Agent Signature: 	Date: <u>4/21/15</u>
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April 21, 2015

RE: Marshalltown Sidewalk Deferment Application

Dear Members of the Planning Commission,

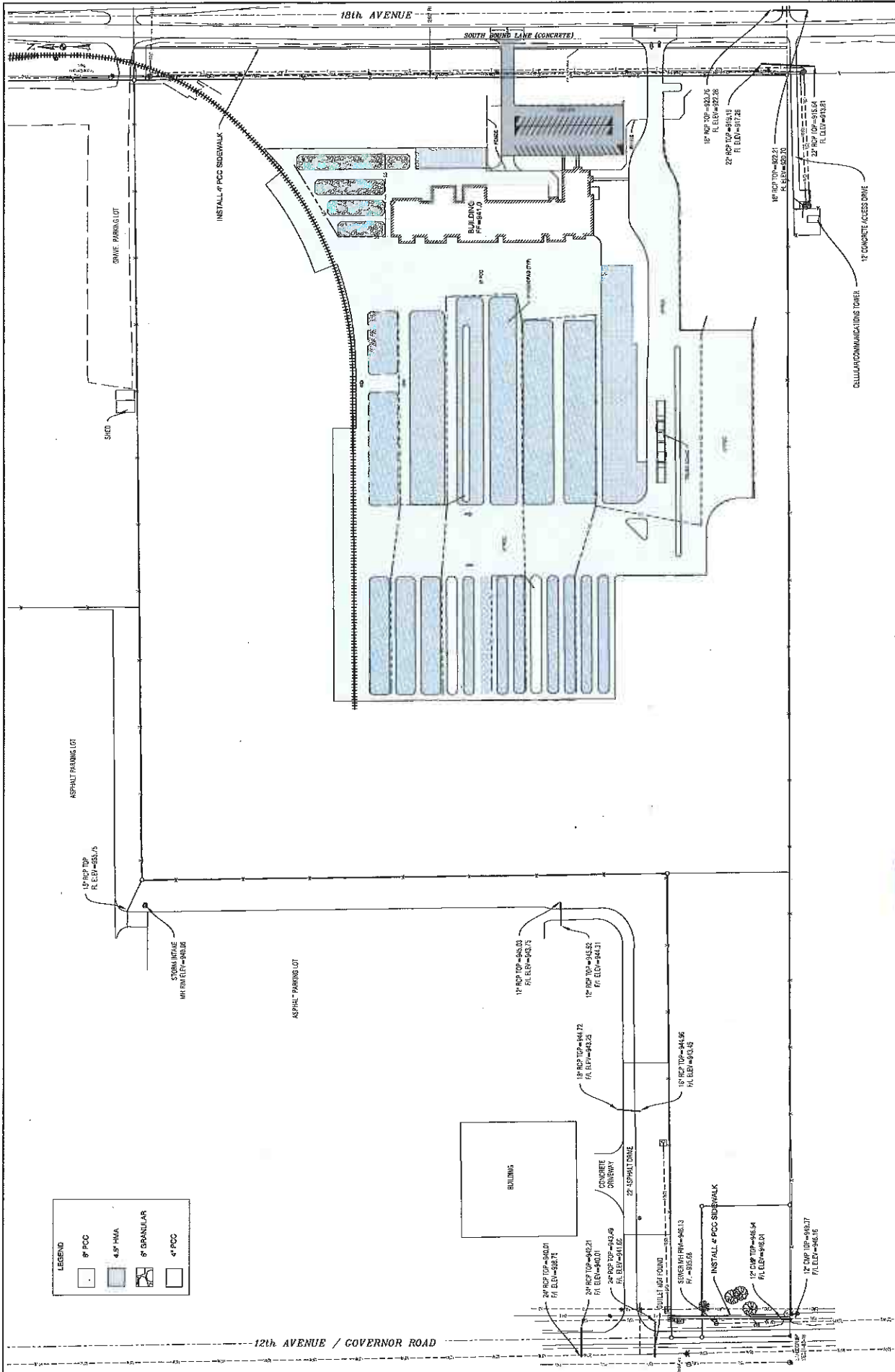
Menard, Inc. is requesting a deferment of a sidewalk adjacent to our industrial facility at 2001 South 18th Ave. We are requesting the deferment because the property is in a rural area and there are no other nearby sidewalks or pedestrian activity and is not on a school route. Without those items there is no reason to install a sidewalk that will never be used. Because this is an industrial center surrounded by farm fields there will be no pedestrian activity generated like a commercial or residential use would generate.

Installing a sidewalk along the entire length of road frontage would be a substantial financial burden because the sidewalk will not be used. We appreciate your consideration of the matter and if there are any questions please contact me directly. Thank you.

Sincerely,
Menard, Inc.

A handwritten signature in black ink, appearing to read "Tyler Edwards", is written over a horizontal line.

Tyler Edwards
Real Estate Representative
Menard, Inc. – Properties
5101 Menard Drive
Eau Claire, WI 54703
P: 715-876-2143
C: 715-579-6699
F: 715-876-5998
tedwards@menard-inc.com



MIDWEST MANUFACTURING
MARSHALLTOWN, IOWA

OVERALL LAYOUT PLAN

DESIGNED: _____ DATE: _____
 DRAWN: _____ DATE: _____
 CHECKED: _____ DATE: _____
 APPROVED: _____ DATE: _____

PROJECT NO. 2017-01
 SHEET NO. 001

18th Avenue

12th Avenue / Governor Road



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

A handwritten signature in black ink, appearing to be "MS", located to the right of the "FROM:" line.

DATE: June 12, 2015

Variance – 1011 W. Church Street – Setbacks – TABLED from 5/19/15

Joe and Cindy Mummert are requesting a variance to the side yard setbacks in order to allow an 12' x 36' addition to the home for an attached garage. The property is in an R-3 district which requires 4' minimum side yard with a combined 15' total. The initial application refers to the addition going up to the property line on the West. It appears it is actually an easement for a sidewalk. Upon further review a Variance is still needed due to an overall shortage in side yard setbacks. The overall width of the house and addition total 47' leaving a combined 10.75' total setback.

At the meeting on the 19th concerns were expressed for public safety due limited visibility with the addition of a 36' wall directly adjacent to the sidewalk used by kids traveling to school. There was also concern regarding the ability to clear snow from the walk in light of the existing problems hitting a fence potential damage to the building would be more costly. There was discussion regarding the lack of information properly documenting the property lines and easement based on research completed by the Parks & Rec. Director.

With only three members present on the 19th the applicant requested the item to be tabled until a full board could be present on the 16th of June.

Sidewalk Deferment – 2001 S. 18th Avenue - Menards

Menard, Inc. is building a production site at 2001 S. 18th Avenue. They have requested a sidewalk deferment for the frontage along S. 18th Avenue and Governor Road. The Plan & Zoning Commission recommended approval at their meeting on June 11, 2015.

Sidewalk Deferment – 602 Iowa Avenue West - Theisens

Theisen's is expanding their building at 602 Iowa Avenue West. They have requested a sidewalk deferment for the frontage along Iowa Avenue West and a portion of S. 6th Street. The sidewalk requirement comes into play due to the percentage increase in the building. There has been discussion about the vacation of the frontage road returning it to Theisen's which impacts if the lot frontage is on an improved street with curb and gutter. The Plan & Zoning Commission recommended approval at their meeting on June 11, 2015 pending transfer of the frontage road.

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

