

BOARD OF ADJUSTMENT

Notice of Public Meeting
City Council Chambers, City Hall
10 West State Street, Marshalltown IA
Tuesday, January 16, 2018 at 5:00 PM

1. Roll Call

Tammie Frederick Kevin Hitchins, Chair
David Schulze Kelli Thurston
Bob Wenner

2. Minutes - 11/14/17

Documents:

[111417.PDF](#)

3. Staff Report For 01/16/18 Meeting

Documents:

[011618_MEMO.PDF](#)

4. VARIANCE - 203 N. 18th St. - All American Properties Coop #12

Request to exceed lot area per unit in R-3 district allowing for 14 new housing units instead of 12 housing units.

Documents:

[203_N_18TH_ST.PDF](#)

[WRITTEN COMMENT_BAUDER.PDF](#)

MINUTES
MARSHALLTOWN BOARD OF ADJUSTMENT
NOVEMBER 14, 2017

Call to order: 5:00 PM

Members Present: Kevin Hitchins, Chair, David Schulze, Kelli Thurston and Tammie Frederick

Members Absent: Bob Wenner

1. Approval of Agenda -

Motion to approve agenda removal of the July 18, 2017 Minutes by Thurston, second by Schulze. Motion Carried 4-0.

2. PUBLIC HEARING: Home Occupation Special Use Permit – 405 W. Madison St. – Kurt Hilleman

Kurt Hilleman, business owner and occupant of 405 W. Madison St. was available via telephone during the meeting. Aundray Jones the property owner was present at the meeting to address any property questions.

Hilleman presented his request to relocate his gunsmith service to Marshalltown to the proposed location which will be his primary residence. He has been in operation since 1998 and had no problems. He is licensed with the ATF. The majority of business is online or referral. He will not have a sign or showroom. He does highly specialized work averaging 8-10 projects a month.

Police and Fire Departments were present and had no objections to the proposal.

The Board identified the following conditions based on the discussion.

- There shall be no live fire on site.
- A security system must be installed by January 1, 2018.
- There shall be no commercial reloading or black powder storage.
- There will not be a showroom with stocked inventory on site.
- When service is not taking place guns should be secured and stored.

Motion by Thurston to approve the Home Occupation Special Use Permit requested as presented with the above state conditions. Second by Frederick. Motion Carried 4-0.

With no further business the Board adjourned.

Respectfully submitted,
Michelle Spohnheimer, Housing & Community Development Director



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: January 16, 2018 – Meeting Date

PUBLIC HEARING for VARIANCE request for 203 N. 18th Street, All American Properties Coop #12

All American Properties Coop #12 (Tony Reed) has submitted a Variance application request for the property at 203 N. 18th Street. This property is a former school site. Mr. Reed purchased the property with the intention of converting the building into residential rental units. He also purchased the adjoining property at 1705 Fremont Street, which contains a single family home, which he converted into a rental unit.

The property is zoned R-3, Medium Density Residential which requires 5,000 s.f. of lot area per unit. The school lot originally had a lot area of 1.10 ac. (47,916 s.f.) which would have allowed for 9 residential units.

Mr. Reed discussed the following options with staff prior to purchase:

- 1) Renovate the building on the original lot to include 9 residential units.
- 2) Acquire and remove the house at 1705 Fremont Street completely and combine the parcels, which would total 1.62 ac. (70,576 s.f.) and then renovate the building to include 14 residential units.
- 3) Split a portion of the 1705 Fremont Street parcel off to combine with 203 N. 18th Street allowing somewhere between 9 and 14 units depending on the final lot area and keeping both lots compliant with zoning.

Ultimately, Mr. Reed pursued the third option. CGA prepared a plat and submitted it to the County for recording. City staff reviewed the plat and with some adjustments, 12 units are allowed. The County Assessors page is not yet reflecting this lot adjustment but the new lot area totaled 60,113 s.f. Renovation work began on the roof and an application 12 units was submitted.

Mr. Reed later requested a Variance to allow for 14 units on the new combined lot.

Staff did discuss with Mr. Reed previously that a self-inflicted or solely financial benefit would not be grounds for a hardship as described in the zoning ordinance.

In response to the application the parcel in question is not land-locked as described by Mr. Reed. It is a corner property with public street access.

One written comment has been submitted to the City and is attached. Several calls have been received requesting information. The primary comment received has been related to parking requirements. The following section is from the parking chapter of the zoning ordinance.

Multi-Family Dwelling	R	• Efficiency Apartment - 1.5 spaces per unit • 1-2 Bedroom Units - 2.0 spaces per unit • 3+ Bedroom Units - 2.25 spaces per unit • 1 space per 300 s.f. of gross floor area for offices
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The following section is from the zoning ordinance and should be used to evaluate the request.

Zoning Ordinance - Chapter 34

3. 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.



VARIANCE APPLICATION PACKET

36 N. Center Street, Marshalltown, IA 50158

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

www.ci.marshalltown.ia.us

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.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:	
Owner:	
Mailing Address:	
Phone:	Fax:
Email Address:	
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:

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.

This former school building was once a building all in the neighborhood were proud of. Since the late 70's, it has become a consistent NUISANCE with animals, rodents and homeless living in it with temporary dangerous heat sources. No one has spent any money improving this property since the late 1970's. With approval of this variance I am planning to spend a great deal of money to completely rehab the property into something all neighbors can once again be proud of. The approval of this variance will NOT create any additional space built to the property, therefore not infringing on any neighbors space.

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.

Approval of this variance will not make any negative changes to supply of light or air to adjacent properties. This approval will not increase congestion nor will it endanger public safety. By improving this VACANT property it will IMPROVE PUBLIC SAFETY and INCREASE NEARBY PROPERTY VALUES. It will provide the ability to rehab it, removing unsightly garbage, dead animals, and other awful nuisances. The approval of this variance will turn an awful building into a great place that working class people can afford to live in.

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.

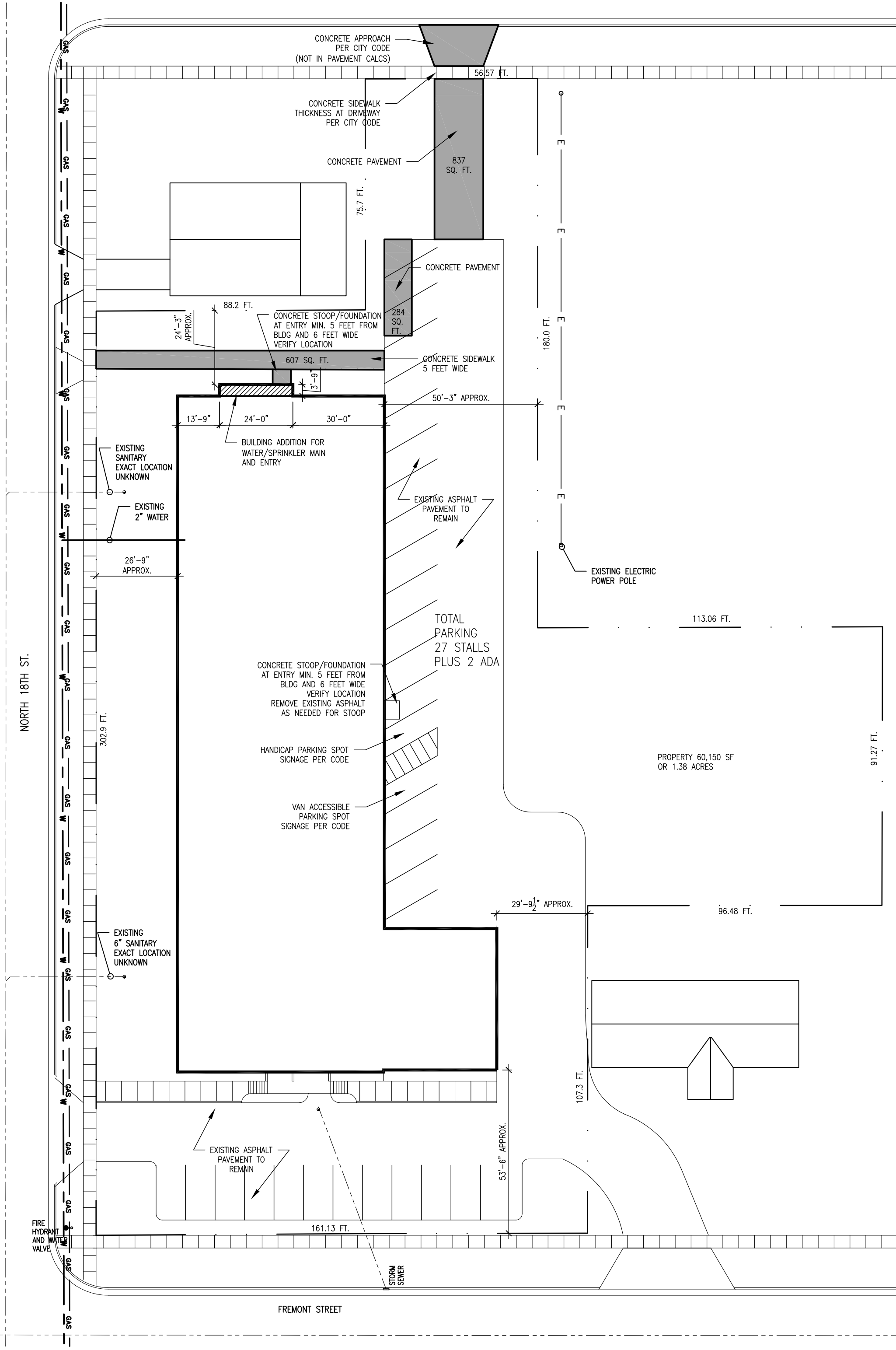
All other option have been explored thoroughly by myself and my architect. This is the only logical approach to rehabbing this UNSIGHTLY PROPERTY. We feel approval of this variance is congruent with the intent of the Ordinance and Comprehensive Plan.

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: 12-19-17
-OR- Agent Signature:	Date:















LEGAL DESCRIPTION

Lots 2,3,4 and 5 in Summit Park Addition to the Town of Marshall, Marshall County, Iowa; and Lot 6 of Lot 1 lying North of the North line of Fremont Street in the City of Marshalltown, Iowa, all in the Southeast Quarter of the Southeast Quarter of Section 28, Township 84 North, Range 18 West of the 5th P.M. Marshall County, Iowa and Parcel "A" from The West Half of Lot 4 of Lot 1 and Lot 5 of Lot 1 of the Southeast Quarter of the Southeast Quarter of Section 28, Township 84, Range 18 West of the 5th P.M., Marshall County Iowa, all lying North of Fremont Street in the City of Marshalltown Iowa except the North 213 feet thereof, subject to easements and restrictions of record. Parcel "A" is defined in Plat of Survey Recorded 11-17-17 @11:21 am in the Marshall County Recorder's Office as File 2017-00006427

Former Robert Hanson school @ 18th & Fremont - Tony Reed

From : Roger Bauder <randmbaud@gmail.com>

Wed, Jan 10, 2018 06:02 PM

Subject : Former Robert Hanson school @ 18th & Fremont - Tony Reed**To :** mspohnheimer@marshalltown-ia.gov

Housing & Zoning,

As I am unable to attend the hearing for the variance to the property located on the corner of 18th St and Fremont, I want to register my concerns toward the request for this variance to the property.

I have been informed the city requires one (1) parking space for every bedroom under this type of circumstance based on the current zoning regulations. Because there is ample on property parking space, or it appears to be ample space, for the eleven (11) proposed units the builder is intending to put into the existing building, any additional construction to this building adding units with bedrooms are going to create additional parking problems for the immediate area of the proposed variance. Street parking in the area immediately adjacent to this building is already an issue do to home owners having more vehicles than driveways will accommodate. On, 18th St., the West side of the property, among several properties, is a day care center and parking is always an issue now. Properties on, Fremont, the South side of the building, residents are usually parking a ways from their homes because of the number of vehicles unable to be parked on their property. Adding additional units to this project will not make the already difficult problem any better, and my cause many drivers to have to walk an additional distance to and from their vehicles.

Any additional vehicles in this already congested area will only create more difficulty for the residents of the area. Please consider the long term ramifications for parking if this variance is granted. Nothing has been addressed re: vehicles visiting and residents in the area when there is no place to park but on the street. An already difficult parking problem would only become worse.

I respectfully request the board deny the request for this variance.

Roger Bauder
111 N 18th St
Marshalltown Ia 50158

Please reply when you have received this email.
Thank you.
