

**AGENDA
BOARD OF ADJUSTMENT
REGULAR SCHEDULED MEETING
January 8, 2018**

**HIAWATHA CITY HALL
5:30 P.M.**

1. Call to order - Roll Call
2. Consider Approval of:
 - a. Agenda
 - b. Election of Chair.
 - c. Election of Vice Chair.
 - d. Minutes from October 9, 2017
3. Business
 - a. Consider Resolution to approve the 2018 Board of Adjustment Calendar.
 - b. PUBLIC HEARING - to consider a Variance request to the City of Hiawatha, Unified Development Code, Chapter 166.6:B3, to allow a setback reduction from 10ft. to 0ft. Pat McAllister with Nesper Sign is requesting the variance for Blairsferry Properties, LLC located at 2203 Blairs Ferry Crossing., Hiawatha, IA.

Adjourn

**HIAWATHA BOARD OF ADJUSTMENT MINUTES
REGULAR SCHEDULED MEETING
October 9, 2017**

The Hiawatha Board of Adjustment met in regular session on October 9, 2017. Chair, Dick Whitmore called the meeting to order at 6:00 p.m. Members present: Steve Dodson and David Mathews. Members Absent: Christina Goodman. Staff present: Community Development Director, Pat Parsley, Assistant Building Official, Jim Fisher, City Attorney, Mark Parmenter. Guests in Attendance: City Administrator, Kim Downs, Mayor, Bill Bennett, Attorney, Robert Hatala, Kenny Jones, Aime Wichtendahl, Brent and Kristine Sorenson.

Board Member David Mathews moved to approve the agenda, second by Steve Dodson. Motion carried.

Board Member Steve Dodson moved to approve the August 14, 2017 minutes, second by David Mathews. Motion carried.

PUBLIC HEARING- Consideration of an appeal from Brent Sorenson regarding the interpretation of Chapter 55.05, 165.96 (12) and 165.16 (3) as it applies to keeping ducks in an R-3 Zone.

Public Hearing Opened At 6:02 p.m.

Dick Whitmore asked if the applicant of the appeal would like to speak.

Brent Sorenson addressed the Board. He explained that he has anxiety the ducks bring him comfort. He also wanted to talk about rezoning his home to allow the ducks.

Pat Parsley explained to the Board that they were only there to decide the interpretation of the code. He went on to say that the Sorenson's have an opportunity to explore other options, but not at this meeting.

Kristine Sorenson addressed the Board. She explained that the ducks are pets. They are water fowl, not poultry and they are not used for food or reproduction. She added that they have had them for five years and they have never been an issue.

Steve Dodson asked what kind of ducks they were. Kristine Sorenson explained they were domestic ducks.

Steve then asked if they were brought in the house in the winter. Kristine Sorenson explained they stayed outside in a modified shed and a dog run covered in tarps.

Dick Whitmore asked if Pat Parsley would like to comment on his side of the interpretation.

Pat Parsley explained that ducks are considered water fowl when they are wild and poultry when kept in captivity. He went on to explain that the code is very specific as to where poultry/livestock animals are permitted within City limits. In this case, because the code states that a minimum of 3

acres of land is needed to house poultry/livestock and the Sorenson's lot is .21acres, poultry/livestock would not be allowed.

Pat Parsley added that in the past, urban farming was addressed and was not allowed within the city.

Robert Hatala asked Kristine Sorenson if they owned or rented the property. Kristine Sorenson stated that she owned. He then asked what the property was zoned. Pat Parsley replied it is R-3. Robert Hatala then asked how big the property would have to be. Pat Parsley stated that it would require 3 acres. He had no further questions.

Dick Whitmore asked if there was anything anyone would like to add. There were no further comments.

Public Hearing Closed At 6:12 p.m.

Dick Whitmore asked if there was anything the Board would like to add. There were no comments.

Board Member, Dave Matthews moved to approve the Appeal request from Brent Sorenson regarding the interpretation of Chapter 55.05, 165.96 (12) and 165.16 (3) as it applies to keeping ducks in an R-3 Zone. Second by Dick Whitmore.

Roll call vote:

AYES: DAVID MATTHEWS

NAYS: STEVE DODSON AND DICK WHITMORE

ABSENT: CHRISTINA GOODMAN

DENIED

Bret Sorenson addressed the Board. There was a short discussion and he asked that they reconsider. Chair, Dave Matthews explained that they are there to decide if the code interpretation is correct.

There being no other business Chair, Dick Whitmore adjourned the meeting at 6:14p.m.

Dick Whitmore, Chair

Date Signed

ATTEST:

Jennifer Goerg, Community Development Clerk

Board of Adjustment 2018**Meetings at 5:30PM**

Submittal Deadline 12:00PM four weeks before meeting	Meeting Date
Monday, December 11, 2017	Monday, January 8, 2018
Monday, January 15, 2017	Monday, February 12, 2018
Monday, February 12, 2018	Monday, March 12, 2018
Monday, March 12, 2018	Monday, April 9, 2018
Monday, April 16, 2018	Monday, May 14, 2018
Monday, May 14, 2018	Monday, June 11, 2018
Monday, June 11, 2018	Monday, July 9, 2018
Monday, July 16, 2018	Monday, August 13, 2018
Monday, August 13, 2018	Monday, September 10, 2018
Monday, September 10, 2018	Monday, October 8, 2018
Monday, October 15, 2018	Monday, November 12, 2018
Monday, November 12, 2018	Monday, December 10, 2018

3B

City of Hiawatha
Community Development Department
Building, Zoning, Code Enforcement & Development
101 Emmons St., Hiawatha Iowa, 52233-1697
PHONE (319) 294-2929 FAX (319) 393-1516

Purpose: Sign Setback Variance Request **Date:** 10/12/2015
To: Board of Adjustments
Name of Plan: Nesper Signs for Waterstone Mortgage
Address: 2203 Blairsferry Xing **Zone:** C-4
Number of Lots: 1
Reviewed by: Patrick Parsley, Community Development Director

Description:

The petitioner is asking for a variance to the sign code. The request is for a sign to be placed at a 0' setback instead of the required 10' setback from the front property line.

Report:

City staff has reviewed the variance request as it relates to items A-G of section 165.82 (5) *Standards for Variances* in the Hiawatha UDC. We do not agree there is a hardship; however there is a unique circumstance supporting the need for a variance. Code Section 165.82 #6 does allow for setback variances.

The Miller Road right of way (ROW) was originally designed at 66' wide. When this area was being developed it was platted with a 7' wide strip of land to be dedicated to the City for "future right of way" making Miller Road 80' wide. However all of the sign setbacks in the area were measured from the original 66' ROW.

One of the signs was recently removed losing its "existing nonconforming" status. Since that time we have had two requests to replace the sign with the previous allowable setback in a slightly different location.

We have discussed the future of the Miller Road ROW and have noted it may not be necessary for the City to retain the 80' width for Miller Road because it is not planned as an arterial street. The new Edgewood Road location will take much of the traffic and will allow Miller Road to be a local street.

The City recognizes the need for exposure for this business and for other organizations. Since the street is still built as a local street, signage can be better viewed from the old setback locations. Additionally this will match the location of the existing signs along this street.

Recommendation:

Community Development supports a sign setback variance. It will not create precedence except for other businesses along this street. However the setback should be 10' from the previous right of way. The recommendation would therefore be for a 7' variance: a setback of 3' in place of a setback of 10'.

December 4, 2017

TO: City of Hiawatha Board of Adjustment

RE: Zoning Variance Request – WATERSTONE MORTGAGE
2203 Blairsferry Crossing

CRITERIA FOR ACTION ON SIGN VARIANCES

1. **Economic Hardship** - Due to orientation of building relative to Miller Rd. and all other business properties along this stretch of roadway, front of building cannot be seen by motoring public. All other businesses along adjoining roadway that have similar free-standing signage, the signage is set at zero setback (i.e. signage is placed on property line).
2. **Unique Circumstances** - Again, due to building orientation and front side parking of businesses immediately to the north and south, view of business and any legally conforming signage is obscured by parked vehicles.
3. **Not Detrimental to the Character of the Area** - Request is in line with all other free-standing signage along this stretch of roadway and size is smaller than virtually all other adjoining signage. None of existing signage has been deemed detrimental nor the cause of any complaints to the city.

Best regards,

Pat McAllister
Sales Manager
NESPER SIGN ADVERTISING, INC.
pmcallister@nespersign.com

ZONING ORDINANCE VARIANCE REQUEST APPLICATION

CITY OF HIAWATHA, IOWA

The Board of Adjustment may grant a Variance, provided Board members can make a finding the Variance will not be contrary to public interest, you will observe the spirit and purpose of the Sign Ordinance, Zoning Ordinance, and Land Use Plan. No variance can be permitted that would cause to be established a use not otherwise permitted by the Zoning Ordinance or to extend a non-conforming use of land or to change district boundaries except as outlined in the Zoning Ordinance.

In the State of Iowa, case law has established criteria and a process to decide variance requests. All applicants for a variance must establish that the zoning ordinance, as it is applied to their property, amounts to an "unnecessary hardship". To receive consideration for a variance, please complete the following sections:

- 1. Economic Hardship - To prove this element you must explain that loss of beneficial use of your property has been caused by the city's zoning ordinance and was not self-created. It is not sufficient to explain that the value of your property has been depreciated by the zoning regulation, or that a variance would permit a more profitable use or financial gain.

Please explain below why your property cannot be used in the manner permitted by the zoning ordinance unless your variance request is granted. Explain how the ordinance deprives you of substantial rights commonly enjoyed by other property owners subject to the same ordinance.

Please note: Your variance request cannot result in you enjoying some special privilege or additional right not available to other property owners subject to the same ordinance.

DUE TO ORIENTATION OF BUILDING RELATIVE TO MILLER RD.
& ALL OTHER BUSINESS PROPERTIES ALONG THIS STREET OR ROADWAY
FRONT OF BUILDING CANNOT BE SEEN BY MOTORING PUBLIC.
ALL OTHER BUSINESS ALONG ADJOINING ROADWAY THAT HAVE SIMILAR
FREESTANDING SIGNAGE, THE SIGNAGE IS SET AT ZERO SETBACK
(I.E. SIGNAGE IS PLACED ON PROPERTY LINE).

- 2. Unique Circumstances - Explain why special characteristics of your property, unlike comparable properties in the same vicinity and zone, entirely unavoidable by you, make your property unusable when regulated by the city's zoning ordinance. Please explain below the unique physical circumstances or conditions such as irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions that are peculiar to your property.

AGAIN DUE TO BUILDING ORIENTATION & FRONT-SIDE PARKING
OF BUSINESSES IMMEDIATELY TO THE NORTH & SOUTH VIEW
OF BUSINESS AND ANY LEGALY CONFORMING SIGNAGE IS
OBSCURED BY PARKED VEHICLES.

3. Not Detrimental To The Character Of The Area – Explain below why granting the variance will not negatively alter the character of neighborhood or area. Please understand your variance request cannot adversely affect the health or safety of persons, be materially detrimental to the public welfare, nor injurious to nearby property or property improvements.

REQUEST IS IN LINE WITH ALL OTHER FREE-STANDING
SIGNAGE ALONG THIS STRETCH OF ROADWAY & SIZE IS
SMALLER THAN VIRTUALLY ALL OTHER ADJOINING SIGNAGE. NONE
OF EXISTING SIGNAGE HAS BEEN DEEMED DETRIMENTAL NOR
THE CAUSE OF ANY COMPLAINTS TO THE CITY.

PLEASE NOTE: FAILING TO PROVE ALL OF THE ABOVE THREE
ELEMENTS REQUIRES BOARD OF ADJUSTMENT TO DENY VARIANCE
APPLICATION.

4. Site Plan – You are required to submit a site plan, drawn to scale, clearly showing the variance requested. The site plan must be a reproducible black line drawing on paper no larger than 11" x 17" in size. Checklist:

- Dimensioned property lines;
- Abutting Streets;
- Location and size of all existing and proposed buildings and structures; (Includes distances to all property lines and distances between buildings and structures.)
- Required setbacks;
- Driveways and parking areas, fully-dimensioned; and,
- Other pertinent information necessary to fully understand the need for a Variance. (Show significant change to topography, location and size of mature trees, etc.)

Fee: \$200.00 This fee shall be paid at the time of variance request to the City Clerk's office. This fee is not refundable unless the appeal is withdrawn before the staff has started its review.

Surrounding Property Owners Applicant needs to provide two lists of all property owners, one within 0-200 Feet and one within 200-500 Feet of the variance request for notification letters.



JOB DESCRIPTION:

FABRICATE AND INSTALL (1) D/F NON LIT POST-N-PANEL SIGN.
FACE: .080 ALUMINUM
POST/FRAME: 3" ALUM SQ TUBE
TOPPER/POLE COVER: .080 OVER ANGLE IRON
PAINT: SATIN WHITE & SATIN SAPPHIRE BLUE
GRAPHICS: DIGITALLY PRINTED

DIGITAL PRINT ON WHITE (IMAGES)

	SAPPHIRE BLUE (7725 37)
	SANDSTONE (7725 99)

ENGINEERING:
 PIPE: 3" SQ ALUM TUBES
 DEPTH: 4'-0" WITH 18" DRILL
 CONCRETE: 0.07 x2 = 14 YDS
 LENGTH: 10'-4"

DESIGN #: PH1 867 VER #: 1
 DATE: 10.18.17 DRAWN BY: AM
 SALES: PAT McALLISTER
 JOB: WATERSTONE MORTGAGE
 LOCATION: 2203 BLAIRFERRY CROSSING STE B
 HIWAHAHAUA 52333
 DESIGN APPROVED BY: _____

DATE: _____

Since 1925

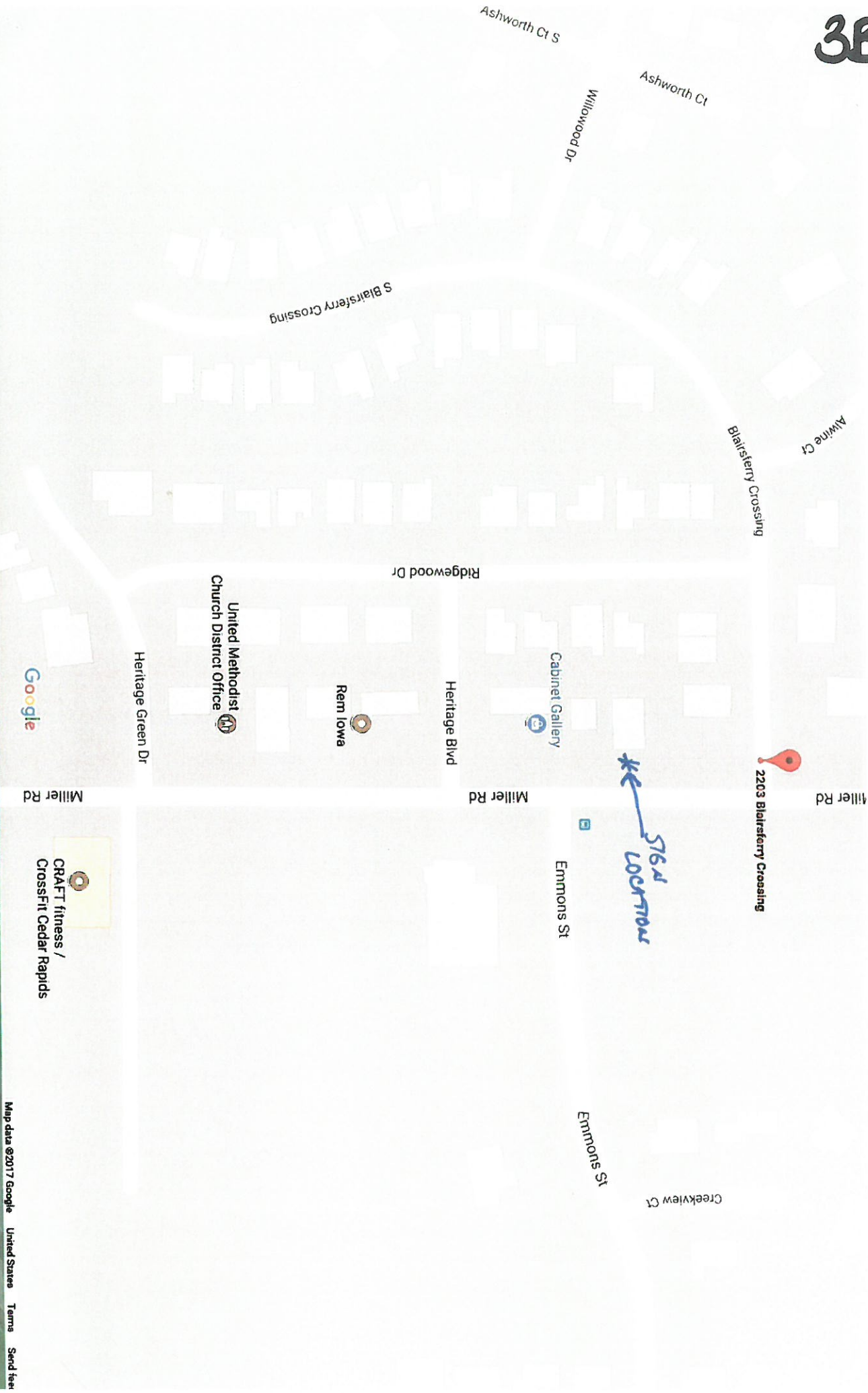
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