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**Date** May 5, 2014.....

**REVIEW OF ZONING BOARD OF ADJUSTMENT DECISION GRANTING  
A USE VARIANCE TO ALLOW PROPERTY AT 1617 OAKLAND AVENUE  
TO BE USED AS A BOARDINGHOUSE**

WHEREAS, on April 23, 2014, the Zoning Board of Adjustment voted 6-0 to approve an application from Kelli Wulfekuhle for a use variance to allow property at 1617 Oakland Avenue, to be used as a boardinghouse, subject to the following conditions:

1. Any boardinghouse use of the existing dwelling shall not have any more than eight (8) boarders and one (1) resident manager at any given time.
2. Any conversion of the existing dwelling to a boardinghouse shall comply with all applicable Building Codes with issuance of all necessary permits by the Permit and Development Center.
3. Any boardinghouse use of the existing dwelling shall comply with the Neighborhood Inspection Rental Code set forth in Chapter 60, Article I, of the City Code.
4. Any Boardinghouse shall be in accordance with a Site Plan approved by the Plan and Zoning Commission under Section 134-552(3) and Section 82-214.05 of the City Code.
5. Should any boardinghouse use of the property under this Decision and Order display a pattern of use which is contrary to the general health, safety and welfare of the surrounding neighborhood, the Zoning Enforcement Officer shall have the ability to bring the Use Variance back to the Board for reconsideration.

WHEREAS, Iowa Code §414.7 and Section 134-65(d) of the Zoning Ordinance require that any use variance granted by the Board be forwarded to the City Council for its review, and the City Council may remand the use variance back to the Zoning Board of Adjustment for further study if the Council believes the use variance was improperly granted.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, as follows:

Date May 5, 2014

**ALTERNATIVE RESOLUTIONS**

- A The City Council remands the Decision and Order to the Zoning Board of Adjustment for further study. The effective date of the Board's decision will be deferred for 30 days from the date of this remand.
- B The City Council takes no action to review the Decision and Order. The decision of the Board will become final on May 28, 2014.
- C The City Council declines to remand the decision to the Zoning Board of Adjustment. The decision of the Board becomes final on this date.

( Council Communication No. 14- 204 )

MOVED by \_\_\_\_\_ to receive and file the staff report and comments received, and to adopt alternative \_\_\_\_\_, above.

FORM APPROVED:

*Roger K. Brown*

Roger K. Brown

Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
VOSS				
TOTAL				

MOTION CARRIED

APPROVED

\_\_\_\_\_  
Mayor

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
City Clerk



**ZONING BOARD OF ADJUSTMENT  
CITY OF DES MOINES, IOWA  
DECISION AND ORDER**

This Decision and Order of the Board of Adjustment does not constitute approval of any construction. All necessary permits must be obtained before any construction is commenced upon the Property. A Certificate of Occupancy must be obtained before any structure is occupied or re-occupied after a change of use.

Any use allowed by this Decision and Order shall not be commenced or resumed until all the requirements imposed on such use by the Zoning Ordinance and this Order have been satisfied.

The use allowed by this Order must be commenced within **two years** or this Order will be void and of no further force and effect.

IN THE MATTER OF THE APPEAL FROM	:	DOCKET: <b>ZON 2014-00043</b>
	:	
<b>KELLI WULFEKUHLE</b>	:	
	:	PUBLIC HEARING: <b>APRIL 23, 2014</b>
ON PROPERTY LOCATED AT	:	
	:	
<b>1617 OAKLAND AVENUE</b>	:	

SUBJECT OF THE APPEAL

**Proposal:** Use of the premises for a Boardinghouse use with nine (9) bedrooms, which would provide lodging and meals for up to 27 individuals. The site provides four (4) off-street parking spaces.

**Appeal(s):** Use Variance of the permitted uses in an "R1-60" District.  
  
Exception of one (1) parking space less than the minimum five (5) parking spaces required for a lodging house-type use with nine (9) bedrooms (1 space per two bedrooms).

*Required by City Code Sections 134-412, 134-552(3), & 134-1377(a)(17)*

FINDING

The appellant has satisfied the criteria necessary for granting the Use Variance to allow a boardinghouse use so long as it does not have any more than eight (8) boarders and one (1) resident manager at any given time. The appellant faces an unnecessary hardship in utilizing the nearly 6,000-square foot structure for a use that is permitted in the "R1-60" One-Family Low-Density Residential District. In looking at the existing structure, there are challenges to converting the home strictly for single-family use or another permitted use along with the ability to market it as such. Furthermore, one of the permitted uses in the "R1-60" District would be a family home, which conceivably could have up to eight (8) residents. Therefore, it would be similar level of impact on the essential character of the surrounding area to have a boardinghouse that would have up to eight (8) boarders.

The criteria for granting an Exception of off-street parking spaces was not demonstrated, as there is opportunity within the property to provide the required five (5) parking spaces for nine (9) bedrooms.

47

KELLI WULFEKUHLE  
1617 OAKLAND AVENUE  
ZON 2014-00043

APRIL 23, 2014

DECISION AND ORDER

WHEREFORE, IT IS ORDERED that the appeal for a Use Variance of the permitted uses in an "R1-60" District, to allow use of the premises for a Boardinghouse use, is **granted** subject to the following conditions:

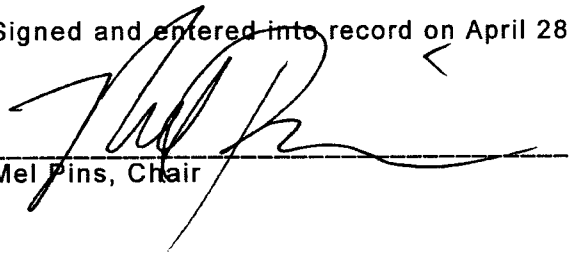
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2. Any conversion of the existing dwelling to a boardinghouse shall comply with all applicable Building Codes with issuance of all necessary permits by the Permit and Development Center.
3. Any boardinghouse use of the existing dwelling shall comply with the Neighborhood Inspection Rental Code set forth in Chapter 60, Article I, of the City Code.
4. Any boardinghouse shall be in accordance with a Site Plan approved by the Plan and Zoning Commission under Section 134-552(3) and Section 82-214.05 of the City Code.
5. Should any boardinghouse use of the property under this Decision and Order display a pattern of use which is contrary to the to the general health, safety and welfare of the surrounding neighborhood, the Zoning Enforcement Officer shall have the ability to bring the Use Variance back to the Board for reconsideration.

AND, WHEREFORE, IT IS ORDERED that the appeal for an Exception of one (1) parking space less than the minimum five (5) parking spaces required for a lodging house-type use with nine (9) bedrooms (1 space per two bedrooms), is **denied**

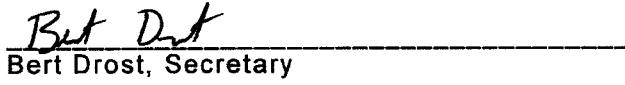
VOTE

The foregoing Decision and Order was adopted by a vote of 6-0, with all Board members present voting in favor thereof.

Signed and entered into record on April 28, 2014.



\_\_\_\_\_  
Mel Pins, Chair



\_\_\_\_\_  
Bert Drost, Secretary