



Roll Call Number

13-1851

Agenda Item Number

58

Date November 18, 2013

REVIEW OF ZONING BOARD OF ADJUSTMENT DECISION GRANTING A VARIANCE TO THE REQUIRED 75 FOOT SEPARATION FROM ANY CHURCH, SCHOOL, PUBLIC PARK OR LICENSED CHILD CARE CENTER, TO ALLOW USE OF PROPERTY AT 1000 THOMAS BECK ROAD AS A RESTAURANT WITH LIQUOR, WINE AND BEER SALES

WHEREAS, on October 23, 2013, the Zoning Board of Adjustment voted 4-0 to approve an application from Benskin Bros., Inc., for a variance of the zoning provision that requires any new restaurant selling liquor, wine or beer to have a 75 foot separation from any church, school, public park or licensed child care center, to allow the property at 1000 Thomas Beck Road to be used as a restaurant that sells liquor, wine and beer; and,

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

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

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 November 28, 2013.
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. 13- 556)

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



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FORM APPROVED:

Roger K Brown

Roger K. Brown

Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE		✓		
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE		✓		
TOTAL	4	2		

MOTION CARRIED

APPROVED

T. M. Franklin

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.

Diane Rauh

City Clerk