



**BOARD OF ADJUSTMENT AGENDA
NORWALK CITY HALL
Tuesday, July 21, 2015
6:00 P.M.**

- I. Call meeting to order at 6:00 P.M.
- II. Approval of Agenda
- III. Approval of Minutes – May 13, 2015
- IV. Chairperson – Welcome of Guests
- V. Public Comment – 3 Minute Limit (No Action Taken)
- VI. NEW BUSINESS
 1. Public Hearing on variance request from Corner/Advance Investments LLC to reduce setback for Norwalk Business Center Plat 5 Lot 2 from 50' to 10'
 2. Vote on variance request from Corner/Advance Investments LLC to reduce setback for Norwalk Business Center Plat 5 Lot 2 from 50' to 10'
- VIII. Adjournment

REGULAR BOARD OF ADJUSTMENT MEETING 05-13-2015

Call to order

The Regular Meeting of the Norwalk Board of Adjustment was held Wednesday, May 13, 2015 at Norwalk City Hall, 705 North Avenue, Norwalk, Iowa. Chairperson Christin Grant called the meeting to order at 6:00 pm. Members present at roll call were: Brent Hinders, Dennis Cassady, Rachel Parker and Christin Grant. Absent: Chad Stevens.

City Staff present were Luke Parris, City Planner and Shelley Stravers, Development Services Assistant.

Approval of Agenda – 15-01

Motion by Cassady and seconded by Hinders to approve the agenda. Approved 4-0.

Approval of Minutes – 15-02

Motion by Parker and seconded by Hinders to approve the minutes from the October 21, 2014 meeting. Approved 4-0.

Welcome of Guests

Chairperson Grant welcomed the guests present and asked for public comment on any topic not related to the agenda. With no one wishing to speak, the business portion of the meeting was opened.

Public Hearing for Appeal of Zoning Administrator Decision – 8384 South Orilla Road – 15-03

On April 30, 2015, the City of Norwalk's Zoning Administrator determined that a mobile food truck parked in the yard of Outskirtz, located at 8384 South Orilla Road, was in violation of Zoning Ordinance Section 17.10.080.3 regarding the permitted accessory uses in a Commercial zoning district. The Zoning Administrator submitted a cease and desist letter to the property owners of Outskirtz related to the use of the food truck on the property.

On April 30, 2015, the owner of Outskirtz, Mr. Anthony Webb, submitted an appeal and requested a hearing at the Board of Adjustment regarding the Zoning Administrator's interpretation of the Zoning Ordinance. The Board of Adjustment will hold the hearing and make final determination on the correct interpretation of the Zoning Ordinance.

Mr. Parris explained that language regulating food trucks was not specifically found upon review of the Zoning Ordinance. The operation of a food truck on private property was deemed to be a use of the land. The use then needed to be classified as a principal or accessory use. Section 17.04.260 regulates the number of principal structures allowed per lot. Section 17.04.260 reads:

17.04.260 Number of Principal Structures Allowed Per Lot. Not more than one (1) principal structure on any lot of record or legally described tract of land shall be allowed as of January 1, 1998, or for any lot which has been created by platting or replatting since such date in any district zoned RE-1, R-1, and R-2. Multiple occupancy of a lot by more than one (1) principal building in all other districts shall be permitted, only if approved as a complex, or as part of an approved site plan or planned unit development.

Outskirtz did not have an approved site plan to allow for two principal uses on the lot at 8384 South Orilla Road. Given the lack of an approved site plan, coupled with the temporary nature of the use, the Zoning Administrator determined that the food truck use would be considered an accessory use. The Zoning Ordinance defines an accessory use as "A use or structure on the

same lot with the principal use or structure, and serving a purpose customarily incidental and subordinate to the principal use or structure. An accessory use shall not encompass more floor area or use a greater part of the lot than the principal permitted use(s)."

The C-2 district is allowed following accessory uses, according to Section 17.10.080.3:

Permitted Accessory Uses. The following uses may exist as part of, or in accessory to the principal permitted uses:

A. Retail establishments and refreshment stands accessory to principal buildings; provided, however, there shall be no access to such place of retail use except from the inside of the principal building, complex, or internal courtyard, nor shall any identification signage, display of stock, goods or advertising for such be so arranged that it can be viewed from outside the principal building.

The Zoning Administrator decided that the food truck use would be considered a retail establishment and/or a refreshment stand. The Zoning Ordinance does not define retail establishment or refreshment stand. A common definition for retail is, "the sale of goods to the public in relatively small quantities for use or consumption, rather than for resale."

After determining the use type of the food truck, the Zoning Administrator determined that the food truck was accessible from outside of the principal building for Outskirtz, and that the identification signage on the food truck would have been viewable from outside the principal building. Therefore, the Zoning Administrator determined that the use of the food truck at Outskirtz on April 30, 2015, was in violation of the Zoning Ordinance and issued a letter to cease and desist the use of the food truck.

The Public Hearing was opened at 6:13 p.m.

Joyce Webb, 809 West North Ave., Norwalk and Tom Ferin, School Street in St. Marys, both appeared and spoke to the Board. Mr. Ferin is the owner of Ferinheit Wood Oven Pizza. It is a fully licensed mobile unit through the State of Iowa. Mr. Ferin carries his own insurance and licensing and works in many communities in the metro area. Mr. Ferin does not understand the no advertising on his food truck, due to the fact that he has advertising on every side of his truck and does not know how to get around that regulation of signage. Mr. Ferin submitted photos to the Board of his food truck.

The Board expressed concern with our current Zoning Ordinance and that it really does not define or address food trucks. With food trucks being a popular topic right now, the Planning and Zoning Commission should be made aware of this and address this subject as soon as possible, as they fear we will have more situations like this.

Ms. Parker raised the question as to how does this differ from produce vendors in the Dollar General parking lot or the Girl Scouts selling cookies in the grocery store parking lots.

The Public Hearing was closed at 6:28 p.m.

The Board discussed Mr. Parris' ruling and whether or not they thought it fit into the principal or accessory use portion of the Zoning Ordinance. The Board agreed they felt it was more of an unclassified use which would allow for a Special Use Permit to be applied for and come back before the Board.

Motion by Hinders and seconded by Cassady to overrule the Zoning Administrator's interpretation of the Zoning Ordinance in relation to the food truck at 8384 South Orilla Road and to find that the food truck is considered an unclassified use, and subject to the Special Use permitting process, per the Zoning Ordinance. Approved 4-0.

Adjournment – 15-04

Motion by Cassady and seconded by Hinders to adjourn meeting at 6:45 p.m. Approved 4-0.

Christin Grant, Chairperson

Luke Parris, City Planner

CITY OF NORWALK
REPORT TO THE ZONING BOARD OF ADJUSTMENT

DATE: July 21, 2015

REQUEST: Request for variance of setback requirement.

LOCATION: Norwalk Business Center Plat 5 Lot 2

APPLICANT: Herb Eckhouse
Corner/Advance Investments LLC
5320 Robertson Drive
Des Moines, Iowa 50312

ZONING: M-1, General Industrial District

ITEMS OF DISCUSSION:
Staff Review and Comments

ATTACHMENTS:
Attachment "A" – Staff Report
Attachment "B" -- Application for Setback Variance and Maps

BOARD OF ADJUSTMENT STAFF REPORT
NORWALK BUSINESS CENTER PLAT 5 LOT 2

ATTACHMENT "A"

INTRODUCTION

Staff received a setback variance application on June 15, 2015 regarding property located Norwalk Business Center Plat 5 Lot 2 located on Hakes Drive (see the attached map). The request was submitted by the owner of the property, Herb Eckhouse with Corner/Advance LLC Investments. Mr. Eckhouse and Corner/Advance LLC Investments also own the lot immediately to the east, 400 Hakes Drive, the current location of La Quercia LLC.

Mr. Eckhouse is requesting the a variance to reduce the front setbacks from 50' to 10' to allow for expansion of the La Quercia facility onto Norwalk Business Center Plat 5 Lot 2.

The property is currently zoned M-1, General Industrial District.

The adjoining landowner of the identified property has been notified of the requests and a notice of the public hearing was published in the Des Moines Register.

The Board of Adjustment makes the final determination on approval/denial of the variance.

APPLICABLE CODE:

Zoning Ordinance 17.04.190 (D): Powers and Duties. The Board shall have the following powers and duties:

2. To grant a variation from the terms of this ordinance when a property owner can show that their property by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or where by reason of exceptional topographical conditions or other extraordinary or exceptional site conditions, the strict application of the terms of this ordinance actually prohibits the use of their property in a manner reasonably similar to that of other property in the same district, and where the Board is satisfied under the evidence before it that a literal enforcement of the provisions of this ordinance would result in unnecessary hardship; provided, however, that all variations granted under this section shall be in harmony with the general purpose and intent of this ordinance.

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.

Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

Zoning Ordinance 17.10.160.7: Bulk Regulations. The following minimum bulk requirements shall be observed in the M-1 General Industrial District:

Principal Use	Lot Area (sq ft)	Lot Width (Ft)	Front Setback (Ft)	Side Setback – Least width on any side	Sum of both Side Setbacks	Rear Setback
All Uses	20,000	100'	50'	10'	20'	50'

REQUEST

The request is to vary from the required front setbacks to allow for expansion of the facilities onto an irregular shaped lot. The request is specifically for:

- A variance of the rule mandating a 50' setback from the road on the north side, requesting a reduction to 10' to accommodate the corner of a building of reasonable size. Since the northern boundary of this parcel is a curved road the 50' setback from this road greatly limits its potential development.

FACTS

Staff has reviewed the requests, the dimensions of the lot, and the proposed site plan. Staff found the following facts important.

From the zoning ordinance:

- The zoning ordinance requires a 50' front setback from all public right-of-way.

For the case:

- The property at Norwalk Business Center Plat 5 Lot 2 is located along Hakes Drive.
- Hakes Drive curves from an east/west road to a north/south road.
- The property at Norwalk Business Center Plat 5 Lot 2 sits on the inside curve of Hakes Drive.
- The curve of Hakes Drive essentially creates public right-of-way on two sides of Norwalk Business Center Plat 5 Lot 2.

STAFF RECOMMENDATION

Staff has identified three points of emphasis important to the review of the variance request:

1. Does the curve of Hakes Drive impact the buildable area of Norwalk Business Center Plat 5 Lot 2?
2. Does the enforcement of front yard setback requirements create an unnecessary hardship?
3. Does the approval of a front yard setback variance have any negative impacts on the neighboring property owners?

After reviewing the request and facts, the Staff opinion on the points of emphasis is:

1. Mr. Eckhouse has stated that his expansion requires a rectangular shaped building on Norwalk Business Center Plat 5 Lot 2. The curved 50' greatly reduced the buildable area for a rectangular shaped building on the lot.
2. It is staff's opinion that the front setback on the curved street does create an unnecessary hardship. As seen in the first map, the 50' front setback essentially forces any rectangular shaped building to have its front facades up to approximately 100' from the public right-of-way. The second attached map shows how the reduction to a 10' front setback allows for a much larger building but still maintains a decent setback between the majority of the front facades and the public right-of-way.

3. The staff has received no negative comments from the adjacent property owners at the time of preparing this report. Any negative comments presented at the hearing should be fully considered by the Board.

Staff does not feel that there will be negative impacts to surrounding property owners. The property owner directly to the west is located off of the Hakes Drive cul-de-sac. With a rectangular shaped building configuration, only the corner of a structure would be within 10' of the public right-of-way and that corner would be 25' from the curb.

The initial plan for the Norwalk Business Center was for Hakes Drive to continue south and a second access would be provided back out to Iowa Highway 28. The City currently owns the property to the south and no longer plans for those road extensions. The City is currently in discussion with the applicant to sell the City owned land for further future expansion.



Application for Action by the Norwalk Board of Adjustment

Contact Information
City of Norwalk
705 North Avenue
Norwalk, Iowa 50211
Phone: (515) 981-9530

Type of Request (fees)

- | | |
|--------------------------|----------------------------------------------|
| <input type="checkbox"/> | Variance (\$75) |
| <input type="checkbox"/> | Special Use Permit (\$100) |
| <input type="checkbox"/> | Appeal Ruling of Zoning Administrator (\$75) |

Date of Request: 0T

Applicant Information

Name: Herb Eckhouse

Company: corner/ADVANCE Llc

Current address: 5320 Robertson Drive

City: Des Moines

State: Iowa

ZIP Code: 50312

Phone: 515-981-1625

Email: herb@laquercia.us

Recorded Title Holder

Title Holder Name: corner/ADVANCE Llc

Current address: 5320 Robertson Drive

City: Des Moines

State: Iowa

ZIP Code: 50312

Authorization to File

Authorization to file an application for Board action is given to: Herb Eckhouse

for Board action on my/our property at: Hakes Drive

Title Holder Name: corner/ADVANCE

Signature of Title Holder: *H.S. Eckhouse*

Location of Property

Address: Hakes Drive

City: Norwalk

State: Iowa

ZIP Code: 50211

Legal Description: Lot 2, Norwalk Business Center Plat 5, an official plat, now included in and forming a part of the City of Norwalk, Warren County, Iowa

Description and Need

Describe the Request and the Need for Board Action: We are asking for a variance of the rule mandating a 50' setback from the road on the north side, requesting a reduction to 10' to accommodate the corner of a building of reasonable size. Since the northern boundary of this parcel is a curved road the 50' setback from this road greatly limits its potential development.

Additional Comments

Provide any additional comments: Drawings indicating the consequences of current restrictions and the impact of the variance requested are attached. I have discussed this request with adjacent property owners, Steve Rowe and K & R Wholesale (Jeff Johnson) and both support this request.

Applicant Signature

I hereby submit and consent to the application for Board of Adjustment Action in the City of Norwalk. I certify that I am familiar with applicable state and local codes and ordinances, the procedural requirements of the City of Norwalk, and have submitted all required information.

Signature of Applicant: *H.S. Eckhouse*

Date: June 15, 2015

Name of Applicant: corner/ADVANCE, Llc

Attachments to the Application (if required)

- | | |
|--------------------------|----------------------|
| <input type="checkbox"/> | Site Plan |
| <input type="checkbox"/> | Specifications |
| <input type="checkbox"/> | Photograph(s) |



22077
sq. ft.



**38644
sq. ft.**