CITY OF WEST DES MOINES
STAFF REPORT COMMUNICATION

Meeting Date: May 3, 2021

ITEM: Ordinance Amendment, Amend Title 2 (Boards and Commissions), Chapter 2 (Board of Adjustment) to modify regulations pertaining to zoning exceptions for accessory structures in the front yard - City Initiated – AO-005136-2021

ORDINANCE: Approval of First Reading of Ordinance Amendment

Background: Development Services Staff is initiating an amendment to Title 2: Boards and Commissions, Chapter 2: Board Of Adjustment, Section 4: Jurisdictions; Powers, Subsection A.3.a(4) to correct an error pertaining to zoning exceptions for accessory structures in the front yard as currently stated within City Code.

Staff Review & Comment:

- *Ordinance Amendment Intent*: The intent of this ordinance amendment is to remove contradicting language due to existing provisions in Title 9 that prohibit accessory structures from being placed in the front yard. Specifically, this amendment will remove 'front yard' from the listed allowed reductions in setbacks for accessory structures. Staff is requesting the change simply to avoid confusion when a property owner is evaluating whether the Zoning Exception allowance is a viable option for their project.
- *History:* On October 19, 2020, the City Council adopted the zoning exception process. The Zoning Exception Ordinance provides an alternative to the variance process that is easier for the Board of Adjustment to grant. A zoning exception is similar to a variance in that it is a relaxation of the applicable zoning requirement. However, while a variance requires the applicant show there is an "unnecessary hardship", an applicant must only show there is a "practical difficulty" for a zoning exception request. Since adoption, staff has processed two of this project type with two additional under consideration. The discrepancy was realized while answering questions of a property owner.

Outstanding Issues: There are no outstanding issues.

City Council First Reading:
Date: May 3, 2021
Vote:

Recommendation: Approve the Ordinance Amendment to City Code.

Lead Staff Member: **Bryce C. Johnson**

Approval Meeting Dates:

Plan and Zoning Commission	May 3, 2021
City Council: First Reading	
City Council: Second Reading	
City Council: Third Reading	

Staff Report Reviews:

Plan & Zoning Commission	Not Applicable	
City Council	☒ Director	☒ Legal Department
	☐ Appropriations/Finance	☐ Agenda Acceptance

Publications (if applicable)

Published In:	Des Moines Register Community Section
Date(s) Published	n/a

Council Subcommittee Review (if applicable)

Subcommittee	Development & Planning		
Date Reviewed	4/19/21		
Recommendation	☐ Yes	☐ No	☐ Split

Prepared by: B. Johnson, City of West Des Moines, Development Services Dept., P.O. Box 65320, West Des Moines, IA 50265-3620, 515-222-3620
When Recorded Return to: City Clerk, City of West Des Moines, P.O. Box 65320, West Des Moines, IA 50265-0320

ORDINANCE NO.

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2019, TITLE 2 (BOARDS AND COMMISSIONS), CHAPTER 2 (BOARD OF ADJUSTMENT), PERTAINING TO ZONING EXCEPTIONS FOR ACCESSORY STRUCTURES IN THE FRONT YARD

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

Section 1. Amendment. Title 2: Boards and Commissions, Chapter 2: Board of Adjustment, Section 4: Jurisdiction; Powers, Subsection A.3.a(4) is hereby amended by deleting the highlighted strike-through text. All other sections of this code not included here within shall remain as is.

A. Powers: The Board of Adjustment shall have the following powers:

3a. A "zoning exception" is an exception to one of the following specifically listed numerical regulations established by title 9 of this Code. The Board of Adjustment is authorized to hear the following exceptions from the requirements of the zoning ordinance as related to existing single-family detached dwellings, but not in cases of new construction:

(1) Reduction by no more than fifty percent (50%) of City Code required side and rear yard setback(s) of twenty feet (20') or less for principal structures.

(2) Reduction by no more than twenty-five percent (25%) of City Code required side and rear yard setback(s) greater than twenty feet (20') for principal structures.

(3) Reduction by no more than twenty-five percent (25%) of City Code required front yard setback for principal structures.

(4) Reduction by no more than fifty percent (50%) of City Code required ~~front,~~ side, and rear yard setback(s) for accessory structures.

(5) Increase the maximum allowable gross square footage of a detached accessory structure by no more than three hundred (300) square feet.

(6) Increase the maximum allowable percentage of front yard paving of vehicle use areas by no more than ten percent (10%) above the maximum allowed per the zoning district.

(7) Decrease the minimum square footage of an enclosed parking space as required by no more than one hundred (100) square feet.

(8) Increase the height of a detached accessory structure by no more than ten percent (10%) above the maximum allowed per the zoning district.

Section 2. Repealer. All ordinances of parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. Savings Clause. If any section, provision, sentence, clause, phrase or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

Section 4. Violations and Penalties. Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in Title 1, Chapter 4, Section 1 of the City Code of the City of West Des Moines, Iowa.

Section 5. Other Remedies. In addition to the provisions set out in Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

Section 6. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed by the City Council on the _____ day of _____, 2021
and approved this _____ day of _____, 2021.

_____
Steven K. Gaer, Mayor

Attest:

_____
Ryan Jacobson, City Clerk

The foregoing Ordinance No. _____ was adopted by the Council for the City of West Des Moines, Iowa, on _____, 2021, and published in the Des Moines Register on _____, 2021.