

**CITY OF WEST DES MOINES  
BOARD OF ADJUSTMENT COMMUNICATION**

**Meeting Date:** July 7, 2021

**Item:** Lisa Irey – 917 17<sup>th</sup> Street – Zoning exception from the rear yard setbacks to accommodate installation of a building mounted solar energy system – VAR-005186-2021

**Requested Action:** Approval of a Zoning Exception to Rear Yard Setback

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

**Applicant's Request:** Amberly Woods with Pure Light Power, on behalf of the property owner, Lisa Irey, is requesting a zoning exception to reduce the rear yard setback to install a roof-mounted solar energy system. The property is in the Residential Single-Family (RS-10) zoning district, which requires a 35' rear yard setback. The home, constructed in 1932, is considered a legal nonconforming structure and currently does not comply with the required 35' rear yard setback, located significantly farther back from the street than the other homes facing 17<sup>th</sup> Street. The applicant is seeking approval of the zoning exception that allows a reduction by no more than 25% of the City Code required rear setback for principal structures (total of 8.75 feet). If approved, the exception would allow for the panels to be placed on the entire length of the roof, allowing full utilization of the south roof face.

**History:** The subject property is Lot 2 of the Mountain Place subdivision. As mentioned above, the home was constructed in 1932, before the property was incorporated into the City.

**City Council Subcommittee:** This item was not presented to the Development and Planning City Council Subcommittee as they do not have authority over zoning exceptions.

**Staff Review and Comment:** Staff would summarize the following key points of interest:

- **Solar Energy System Permit Required:** It is important to note that this zoning exception does not specifically grant approval of the solar energy systems (SES) itself. The applicant must obtain a SES permit, showing compliance with the SES requirements set in city code, prior to the installation of this system. The applicant has submitted this permit, which has been reviewed by the city, but it is on hold pending the Board's decision regarding this zoning exception.
- **Setbacks for Solar Energy Systems:** Per code, a building mounted solar energy system must meet the setbacks of the receiving structure. When that structure is non-conforming in setbacks, the solar energy system is required to meet current setback requirements.

**Zoning Exception Findings:** The applicant's findings to grant a Zoning Exception, and staff's findings, are included herein as Attachment C and D, respectively.

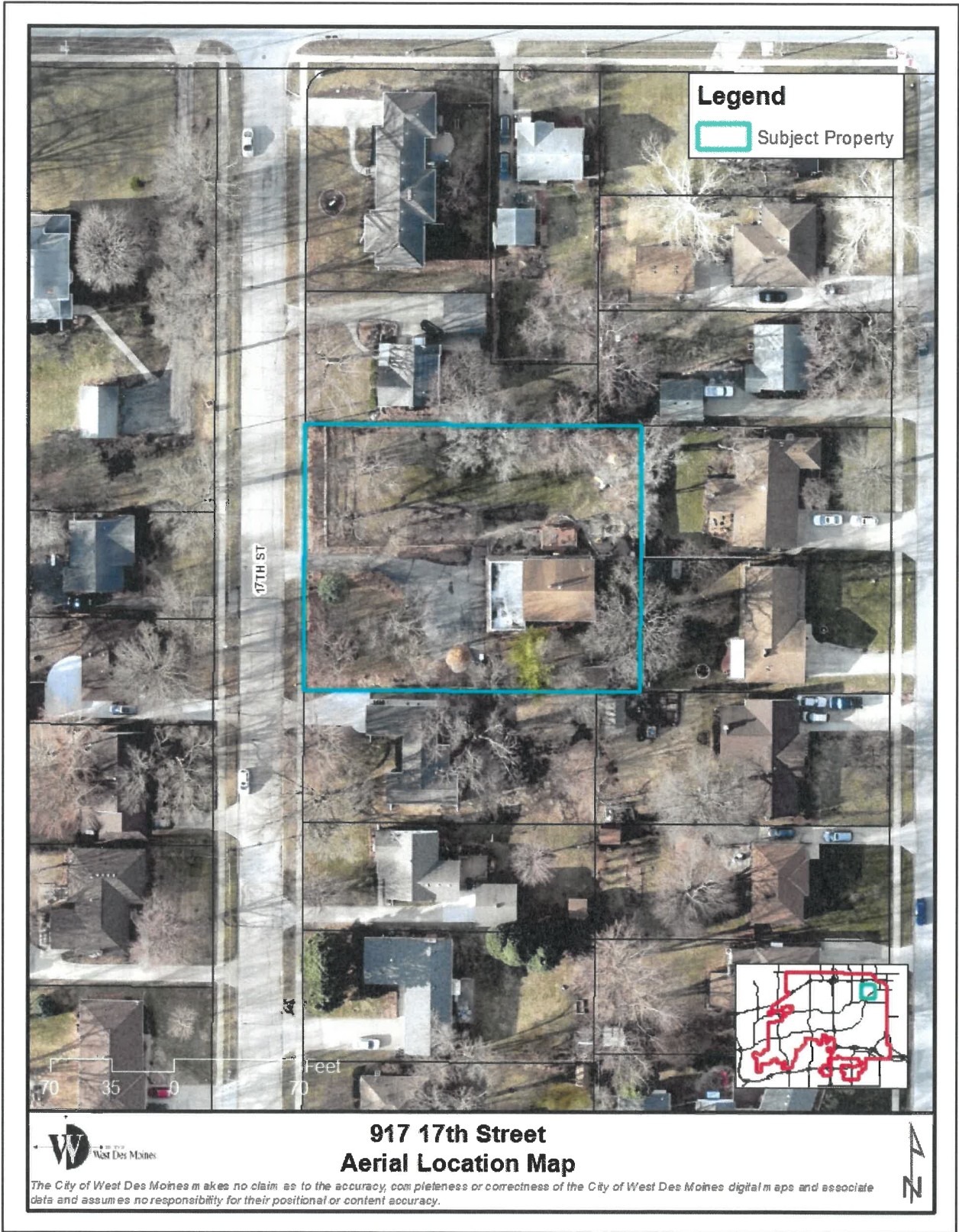
**Noticing Information:** On June 18, 2021, notice of the July 7, 2021, Board of Adjustment Public Hearing on this project was published in the Des Moines Register and also mailed to all surrounding property owners within 370 feet of the subject property.

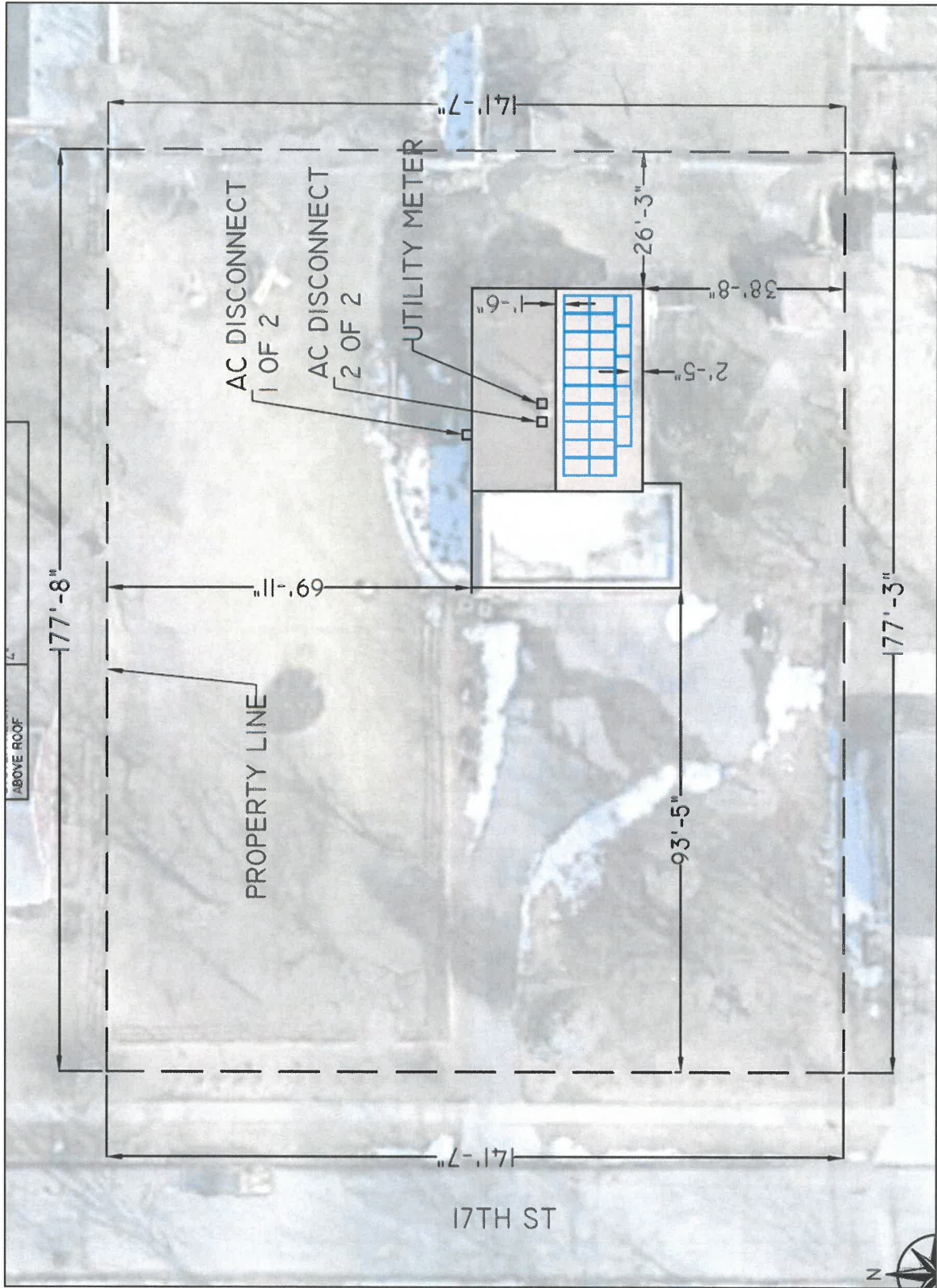
**Property Owner:** Lisa Irey  
917 17<sup>th</sup> Street  
West Des Moines, IA 50265  
ireylisa@gmail.com

**Applicant's Representative:**  
Amberly Woods  
Pure Light Power  
541 Parsons Drive  
Medford, OR 97501  
medfordbranch@purelightpower.com

**ATTACHMENTS:**

- Attachment A - Location Map
- Attachment B - Site Sketch
- Attachment C - Applicant's Findings
- Attachment D - Staff's Findings
- Attachment E - Board of Adjustment Resolution
  - Exhibit A - Conditions of Approval
  - Exhibit B - Board Findings





## Attachment C - Applicant's Findings

A zoning exception may be approved only when the Board of Adjustment determines that all the following standards and criteria have been met. There may be zoning exception requests that are not granted. **It shall be the responsibility of the applicant to prove to the satisfaction of the Board that the following findings can be made:**

- 1. Without the requested exception, strict compliance with the ordinance prevents improvement of the property in a manner which is reasonable, customary, and consistent with other properties in the area:**

*APPLICANT RESPONSE: Proposed addition is on a building already violating property setbacks. Proposed addition would not violate setbacks any further. Without the exception, a significant portion of the customer's roof would be unusable and not allow the customer to offset their energy needs with solar.*

- 2. Without the requested exception, strict compliance with the ordinance results in a practical difficulty. A "practical difficulty" may be shown by:**

- a. Significant or unjustified expense in light of the scope of the project; or
- b. Destruction or demolition of significant or attractive features of the property, or similar reasons; or
- c. Unique physical attributes of the subject property such as exceptional narrowness, shallowness, size, shape, mature & desirable vegetation, natural water features such as streams, creeks, and ponds, or topographical conditions of the subject property that restrict the placement of the intended improvement; or
- d. Orientation or interior configuration of the existing structure which impacts the logical function of the intended improvement unless additional modifications are made to the existing layout or use of the existing structure.

*APPLICANT RESPONSE: The existing structure was constructed in 1932 before the zoning code was adopted.*

- 3. The requested exception is the minimum necessary to achieve the purpose of the request.**

*APPLICANT RESPONSE: Only the rear setback exception is necessary to achieve our purpose.*

- 4. The requested exception will not have a substantial negative impact on the character and context of the neighborhood.**

*APPLICANT RESPONSE: The majority of the roof does not violate the property line setbacks. Having solar panels on the entirety of the south-facing roof will not have substantial negative impact on the neighborhood.*

- 5. The requested exception will not be detrimental to the public health, safety, or general welfare.**

*APPLICANT RESPONSE: There are no public health, safety, or general welfare concerns with the proposed exception.*

6. **The requested exception does not authorize or expand a use or activity not otherwise expressly authorized by the regulations within the zoning district in which the property is located.**

*APPLICANT RESPONSE: The exception does not propose any additional zoning infractions or allow for activity not authorized on the property.*

## Attachment D - Staff's Findings

A zoning exception may be approved only when the Board of Adjustment determines that all of the following standards and criteria have been met. There may be zoning exception requests that are not granted. **It shall be the responsibility of the applicant to prove to the satisfaction of the Board that the following findings can be made:**

- 1. Without the requested exception, strict compliance with the ordinance prevents improvement of the property in a manner which is reasonable, customary, and consistent with other properties in the area:**

*STAFF RESPONSE: Residential solar energy systems are becoming more popular given their environmental benefits and new technologies making them more affordable. Staff believes strict compliance with the zoning ordinance is not reasonable for the proposed improvement given the home is located significantly farther back from the street than the other homes facing 17th Street. The home was constructed and the lot platted while the property was still located in the county and was not subject to zoning regulations adopted by the City.*

- 2. Without the requested exception, strict compliance with the ordinance results in a practical difficulty. A “practical difficulty” may be shown by:**

- a. Significant or unjustified expense in light of the scope of the project; or
- b. Destruction or demolition of significant or attractive features of the property, or similar reasons; or
- c. Unique physical attributes of the subject property such as exceptional narrowness, shallowness, size, shape, mature & desirable vegetation, natural water features such as streams, creeks, and ponds, or topographical conditions of the subject property that restrict the placement of the intended improvement; or
- d. Orientation or interior configuration of the existing structure which impacts the logical function of the intended improvement unless additional modifications are made to the existing layout or use of the existing structure.

*STAFF RESPONSE: Staff believes a practical difficulty exists because the existing structure is non-conforming, located within the required 35' rear yard setback. Other roof areas of the home do not have the solar orientation needed or are shaded by the existing trees on site. The other options available would be to add on to the home to provide additional roof area with the proper solar exposure or install a ground mounted system, both of which would result in a significant or unjustified expense in light of the scope of the project.*

- 3. The requested exception is the minimum necessary to achieve the purpose of the request.**

*STAFF RESPONSE: The size of the solar energy system in the applicant's request is not large, falling in the average for residential solar applications the City has seen the last five years. The system as drawn illustrates the necessary footprint needed for the array, the code required fire access paths and roof edge setbacks to comply with the city's zoning code with no room available to reconfigure the layout to reduce the encroachment. Staff believes this criterion is met.*

- 4. The requested exception will not have a substantial negative impact on the character and context of the neighborhood.**

STAFF RESPONSE: *The applicant's drawings show the proposed improvement measures just 4" off the face of the roof, minimizing the visibility of the array. Staff believes this criterion is met given the alternative (i.e. placing the SES on the ground) which would result in a substantial visual impact to the property and neighborhood.*

- 5. The requested exception will not be detrimental to the public health, safety, or general welfare.**

STAFF RESPONSE: *The requested exception will not be detrimental to the public health, safety, or general welfare.*

- 6. The requested exception does not authorize or expand a use or activity not otherwise expressly authorized by the regulations within the zoning district in which the property is located.**

STAFF RESPONSE: *The requested exception does not authorize or expand a use or activity not otherwise expressly authorized by the regulations within the Residential Single-Family (RS-10) zoning district as the site is developed with a single family dwelling, which is an allowed use in the designated zoning district.*



**RESOLUTION BOA-2021-08**

**A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES,  
(APPROVING / DENYING) THE ZONING EXCEPTION REQUEST (VAR-005186-2021)  
ALLOWING A REDUCTION BY NO MORE THAN TWENTY-FIVE PERCENT (25%) OF CITY  
CODE REQUIRED REAR YARD SETBACK FOR INSTALLATION OF A SOLAR ENERGY  
SYSTEM FOR THAT PROPERTY LOCATED AT 917 17<sup>th</sup> STREET**

**WHEREAS**, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, Pure Light Power, and property owner, Lisa Irey, have requested approval of a Zoning Exception from Title 9, Zoning, Chapter 14 (*Accessory Structures*), Section 14 (*Solar Energy Systems*), Subsection D (*Bulk Regulations*), of eight and three quarter feet (8.75') of the required thirty-five-foot (35') rear yard setback resulting in a twenty six and one quarter foot (26.25') rear yard setback for the installation of a roof-mounted solar energy system that will be located on the property located at 917 17<sup>th</sup> Street and legally described as:

**N 150F W 188.8F LOT 2 MOUNTAIN PLACE, AN OFFICIAL PLAT WITHIN  
THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA**

**WHEREAS**, studies and investigations were made, and staff reports, and recommendations were submitted which is made a part of this record and herein incorporated by reference; and

**WHEREAS**, on July 7, 2021, the Board of Adjustment held a duly noticed public hearing to consider the application for a Zoning Exception (VAR-005186-2021).

**WHEREAS**, based upon a review of the submitted zoning exception request, the Board of Adjustment finds **(In Favor of Applicant's Findings, In Favor of Staff Findings, or in Favor of the Board's Findings)** \_\_\_\_\_ as attached at Exhibit B;

**NOW, THEREFORE, THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:**

**SECTION 1.** A Zoning Exception Request (VAR-005186-2021), to allow a zoning exception of eight and three quarters foot (8.75') of the required thirty-five-foot (35') rear yard setback to install a roof-mounted solar energy system on property located at 917 17<sup>th</sup> Street is **(approved / denied)**.

**PASSED AND ADOPTED** on July 7, 2021

\_\_\_\_\_  
Michele Stevens, Chair

ATTEST:

Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Board of Adjustment for the City of West Des Moines, Iowa, at a regular meeting held on July 7, 2021, by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

ATTEST:

\_\_\_\_\_  
Recording Secretary

**Exhibit A**  
Conditions of Approval

1. None.

**Exhibit B**  
Board of Adjustment Findings