

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

Meeting Date: August 4, 2021

Item: Jennifer Hampton – 541 16th Street – Zoning exception from the rear yard setbacks to accommodate installation of a building mounted solar energy system – VAR-005248-2021

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

Lead Staff Member: Karen Marren

Applicant's Request: Ryanne Prochnow with Pure Light Power, on behalf of the property owner, Jennifer Hampton, is requesting a zoning exception to reduce the rear yard setback from 35' to 30'-6" to install a roof-mounted solar energy system. The property is in the Single-Family Valley Junction (SF-VJ) zoning district, which requires a 35' rear yard setback. The home, constructed in 1979, is considered a nonconforming structure and currently does not comply with the required 35' rear yard setback. The applicant is seeking approval of a 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 west roof face.

History: The subject property is a portion of original Lot 1 of the Crestline subdivision which was platted in 1939. The property was originally zoned R-1 and later rezoned to Single Family Valley Junction (SF-VJ). As mentioned above, the home was constructed in 1979. Staff does not have record to verify permit on the structure however, it is assumed that the house was constructed legally but never met the intended rear yard setback for the R-1 zoning district which also required a 35' setback dimension.

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 July 27, 2021, notice of the August 4, 2021, Board of Adjustment Public Hearing on this project was published in the Des Moines Register and mailed to all surrounding property owners within 370 feet of the subject property.

Property Owner: Jennifer Hampton
541 16th Street
West Des Moines, IA 50265

Applicant's Representative:
Ryanne Prochnow
Pure Light Power
4673 121st Street
Urbandale, IA 50323
iowa@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

Location Map



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: Yes, homeowner wants to install photovoltaic system on roof of house but home is placed close to rear property line. A photovoltaic system is a clean and private form of energy production that will not affect surrounding properties.

- 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: Without exception, the solar system would have half the number of the panels removed from plan and placed on the edge of the front half of the homeowner's roof. This would decrease the energy offset and panel number by 50% from the original plans that was contracted to homeowner.

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

APPLICANT RESPONSE: Yes, an approximately 5 foot exception from the original rear setback of 35' would let Purelight Power install the highest quantity of solar panels on resident's roof to maintain the highest amount of potential energy created.

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

APPLICANT RESPONSE: No, there is not HOA in this neighborhood and Jennifer Brown has signed off on this exception to upgrade her home to create her own power. We have had more than 15 homes install solar panels to their homes in West Des Moines through Purelight Power in the 9 months. The panels will all be placed on the front side of the house as they cannot be placed on the rear as it would only be about 10 feet from the rear property line.

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

APPLICANT RESPONSE: *No, the placement of the panel array will not cause any harm to public health, safety or general welfare. The system will be equipped with a system off-switch for emergencies. Solar power is a green alternative to buying electricity made from natural gas from the grid and allows homeowners to sell their excess power to the grid, so no generated power goes to waste.*

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: *No, this home is located in a single-family residential district. We are only wanting to request the setback for our panels and no additional work at this location.*

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 considering the home is already in violation of the existing required rear setback for the lot and the proposed improvement would not increase the nonconformity. 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.

STAFF RESPONSE: Staff believes a practical difficulty exists because the existing structure is non-conforming, located within the required 35' rear yard setback. The shallow depth (80 feet) of the lot does not afford for other areas of the lot to accommodate a roof or ground mounted solar energy system.

- 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 drawing show the proposed improvement meets the minimum requirements for location on the existing roof include spacing from the edge of the roof, thereby 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 Single Family Valley Junction (SF-VJ) zoning district as the site is developed with a single family dwelling, which is an allowed use in the designated zoning district.

RESOLUTION BOA-2021-10

**A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES,
(APPROVING / DENYING) THE ZONING EXCEPTION REQUEST (VAR-005248-2021)
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 541 16th 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, Jennifer Hampton, 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 four and a half feet (4.5') of the required thirty-five-foot (35') rear yard setback resulting in a thirty and one half foot (30.5') rear yard setback for the installation of a roof-mounted solar energy system that will be located on the property located at 541 16th Street and legally described as:

**S 80F N 180F W 75F LT 1 CRESTLINE SUBDIVISION, 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 August 4, 2021, the Board of Adjustment held a duly noticed public hearing to consider the application for a Zoning Exception (VAR-005248-2021).

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-005248-2021), to allow a zoning exception of four and one half feet (4.5') of the required thirty-five-foot (35') rear yard setback to install a roof-mounted solar energy system on property located at 541 16th Street is (**approved / denied**).

PASSED AND ADOPTED on August 4, 2021

, Acting 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 August 4, 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