

# IOWA CITY BOARD OF ADJUSTMENT

Wednesday, May 27, 2020

**Electronic Informal Meeting – 5:15 PM**

**Zoom Meeting Platform**

## **Electronic Meeting**

*(Pursuant to Iowa Code section 21.8)*

An electronic meeting is being held because a meeting in person is impossible or impractical due to concerns for the health and safety of Commission members, staff and the public presented by COVID-19.

You can participate in the meeting and can comment on an agenda item by joining the Zoom meeting via the internet by going to <https://zoom.us/j/97183103891?pwd=QU5KbmRvbVZQOWhGV1dCeXF1K25jUT09>. If you have no computer or smartphone, or a computer without a microphone, you can call in by phone by dialing (312) 626-6799 and entering the meeting ID 971-8310-3891 when prompted. Providing comment in person is not an option.

## **Agenda:**

- 1. Call to Order**
- 2. Roll Call**
- 3. Board of Adjustment Training**

Training for members of the Board of Adjustment on their role and procedures.

- 4. Consideration of Meeting Minutes:** May 13, 2020
- 5. Adjournment**

If you will need disability-related accommodations in order to participate in this meeting, please contact Kirk Lehmann, Urban Planning at 319-356-5230 or at [kirk-lehmann@iowa-city.org](mailto:kirk-lehmann@iowa-city.org). Early requests are strongly encouraged to allow sufficient time to meet your access needs.

## **Upcoming Board of Adjustment Meetings**

Formal: June 10 / July 8 / August 12


Informal: Scheduled as needed.





# CITY OF IOWA CITY MEMORANDUM

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DATE: 2/5/2020  
TO: BOARD OF ADJUSTMNET  
FROM: SUSAN DULEK, ASSISTANT CITY ATTORNEY   
RE: PUBLIC HEARING PROCESS FOR SPECIAL EXCEPTION

## INTRODUCTION

This memo provides guidance to the Chair and members on the public hearing process for applications for special exceptions.

## STANDARDS AND FINDINGS OF FACT

Many applications for a special exception are fairly routine and limited in terms of the evidence and witnesses, but some are complicated and/or contentious.

The applicant has the burden to prove each and every standard. If you find yourself wanting or needing more information or evidence on a particular issue during your deliberation, then you must ask yourself—Has the applicant proven the standard? The burden, meaning the responsibility, to put forth evidence sufficient to prove each and every standard by a preponderance of evidence (more likely than not), is on the applicant.

Although you receive a packet in advance of the hearing, there is at times a tremendous amount of information that is provided at the hearing. Undoubtedly, you may wish for additional time to read it, study it, and consider it.

The Board is under no legal requirement to vote on an application at the time of the hearing. The Board can vote by motion to close the public hearing but defer the Board discussion until another meeting. Also the Board can vote by motion to continue the public hearing to another meeting at which time more evidence can be taken. Although the applicant may be in a "time crunch," that legally is of no concern to the Board. If the Board needs more time, a motion should be passed to allow more time to consider the application.

If you conclude that the applicant has not proven a particular standard, you should state why you conclude that the standard has not been met. If three members agree that a standard has not been met, then the special exception will not be approved.

If you conclude that the applicant has proven a particular standard but for reasons either different from or in addition to those in the staff report, you should state what fact or facts support your conclusion. If you agree with a colleague's factual finding, you should state that you do. At least three members need to agree on the facts that support each of the findings.

When a decision approving a special exception is appealed to the district court, the Judge will review the transcript of the hearing and will look for the facts given by Board members to support their decision. The Judge reviews the hearing transcript and any written documents submitted at the hearing to determine if there was substantial evidence to support the decision, not whether the Judge would

have made that same decision. When a decision denying a special exception is appealed to the district court, the Judge will similarly look for the reasons given by the Board members for why they concluded that a standard was not met. Again, the Judge does not substitute his or her decision for the Board's but rather determines if there was substantial evidence to support the Board's decision. (I should add that there are other bases to appeal but generally the issue is whether there is substantial evidence.)

Up until the public hearing is closed, the process outlined below for "routine" applications is the same as for "non-routine" applications. What is different is the "findings of fact" portion of the meeting.

### **"ROUTINE" APPLICATION FOR SPECIAL EXCEPTION**

**CHAIR:** This is an application submitted by XYZ for a special exception to allow.....

**CHAIR:** Will someone make a motion to approve the special exception? *(The Chair may not make or second any motion. This motion gets the matter on the floor for discussion.)*

**BOA:** I move for the approval of EXC20->>.....

**CHAIR:** Is there a second?

**BOA:** Second.

**CHAIR:** The public hearing is open.

*(The Board should not discuss the merits or offer their opinions until the close of the public hearing. The purpose of the public hearing is for the Board to gather all the information and then make a decision.)*

**CHAIR:** We will now hear from staff.

**STAFF:** This is a request for a special exception to allow ... at 123 Main Street....

**CHAIR:** Does the Board have any questions for staff?

**CHAIR:** We will now hear from the applicant.

**APPLICANT:** My name is .....

*(Speakers should come to the podium, sign in, introduce themselves with full name and address, and speak into the microphone.)*

**CHAIR:** Is there any member of the public who wishes to speak against the application?

CHAIR: Does the applicant wish to respond to any comments from the public?

CHAIR: Does staff have any additional comments?

CHAIR: Are there any issues on which the Board wishes to have more clarity—any final questions for staff or the applicant before the public hearing is closed?

CHAIR: The public hearing is closed.

CHAIR: Any discussion from the Board?

CHAIR: Will someone make the findings of fact?

BOA: Regarding item EXC20->>, I concur with the findings set forth in the staff report dated \_\_\_ and conclude.....

CHAIR: Any other comments from the Board before we vote?

CHAIR: Roll call (*City staff will call the roll*)

CHAIR: The Motion is declared approved. Any person desiring to appeal this decision to a court of record may do so within 30 days after this decision is filed with the City Clerk's Office.

#### **"NON-ROUTINE" APPLICATION FOR SPECIAL EXCEPTION**

*(As stated earlier, do not close the public hearing if Board members want more information. A Board member will need to move to keep the public hearing open and defer consideration of the application to the next meeting, another member will need to second the motion, and there needs to be 3 votes in favor of keeping the public hearing open and deferring the application to the next meeting.)*

CHAIR: The public hearing is closed.

CHAIR: Discussion from the Board.

BOA: *(This is the time that the Board discusses the problematic standard(s). Again, it's usually one standard that poses issues. In order for the application to be approved, at least 3 members will need to set forth the facts that support all the standards, including the problematic one. I advise Board members to state one or two facts that you found to demonstrate why the particular standard at issue was met. In contrast, if three members conclude a standard is not met, even for different reasons, those 3 members will vote no on the application. All 3 should state what standard was not met. For example, a member could state: "I concur with the findings set forth in the staff report dated \_\_\_ except for the specific standard 'X.' I conclude that specific*

*standard 'X' was not met." If two other members agree that standard 'X' was not met, the application will be denied.*

**CHAIR:** Any other comments from the Board before we vote?

**CHAIR:** Roll call (*City staff will call the roll*)

**CHAIR:** The Motion is declared denied (if one standard is not met) or approved (if all standards are met). Any person desiring to appeal this decision to a court of record may do so within 30 days after this decision is filed with the City Clerk's Office.

**Copy to:**  
**Anne Russett, Senior Planner**

**Electronic Meeting**

*(Pursuant to Iowa Code section 21.8)*

An electronic meeting was held because a meeting in person is impossible or impractical due to concerns for the health and safety of Commission members, staff and the public presented by COVID-19.

MEMBERS PRESENT: Gene Chrischilles, Ernie Cox, Zephan Hazell, Bryce Parker, Amy Pretorius

MEMBERS ABSENT:

STAFF PRESENT: Susan Dulek, Kirk Lehmann, Anne Russett

OTHERS PRESENT: Tom Maxwell, Kate Maxwell, Mark Kennedy, Thomas McInerney

**CALL TO ORDER:**

The meeting was called to order at 5:15 PM.

**ROLL CALL:**

A brief opening statement was read by Pretorius outlining the role and purpose of the Board and the procedures that would be followed in the meeting.

**SPECIAL EXCEPTION ITEM EXC20-04:**

An application submitted by Tom Maxwell requesting a waiver from the minimum 15-foot building setback in the Low Density Single-Family Residential (RS-5) zone to construct an addition at 6 Melrose Circle.

Pretorius opened the public hearing.

Lehmann stated this is an application by Tom Maxwell regarding a waiver setback to construct an addition on their property at 6 Melrose Circle. The exception is specifically to reduce the setbacks from 15 feet to 12 feet.

Lehmann showed an aerial of the subject property which is located on the west side of the river, south of Melrose Avenue and close to Kinnick stadium. The surrounding parcels are primarily low-density single family residential, but the property to the north also has a historic overlay.

In terms of background, Lehmann stated this is a single-family home located on a private cul-de-sac and the property was built in 1926. Both the house and garage are key contributing structures in the Melrose Historic District. The district is only located on the National Register of Historic Places, which is an honorary designation, so it is not part of a local historic district, which means that there is no local review that would happen for improvements. If it were, the project would be reviewed by the Historic Preservation Commission or historic preservation planner depending on the nature of the improvement.

The property was developed prior to its current zoning designation and the principal building is located within the front setback. The minimum front setback for a principal building in the RS-5 zone is 15 feet from the front lot line. The applicant is seeking to construct an addition on the northeast face of the principal building and this addition would require a special exception to reduce the front setback to 12 feet instead of 15 feet.

Lehmann showed the site plan with the full cul-de-sac and noted that the addition is approximately 24 ½ by 22 to 23 feet, and the house itself is approximately 9 feet from the street lot line.

Lehmann stated the role of the Board of Adjustment is to approve the application, approve with conditions or deny the application based on the facts presented. To approve the special exception the Board must find that it meets all applicable approval criteria which includes both specific standards pertaining to the waiver requested, in this case the front setback, and also the general standards for all special exceptions.

Regarding the specific standards for the principal setbacks, this first criterion is that the situation has to be particular to the property in question. Findings as laid out in the staff report note the property was established before current zoning standards; the southeast building face fronts the street and the principal building is around 9 feet from the front lot line; the northeast building face where the proposed addition is contains a sunroom, and wooden deck and gazebo are on the northwest building face, and the southwest face fronts the driveway; street setbacks vary between properties in the area, the adjacent lot to the north, 629 Melrose Avenue, extends to the middle of Melrose Circle, the primary building on the property to the east, 3 Melrose Circle, is approximately 12 feet from the front lot line.

Criterion two is there is a practical difficulty in complying with the setback requirements. Findings for this criterion are that the house sits within the front setback; and the rationale for the size and location of the proposed addition on the northeast face is based on accommodating an aging-in-place strategy and the centered and northeastern placement of the proposed addition allows connection to the primary building.

Third, the exception will not be contrary to the purpose of the setback regulations which are to maintain light, air separation for fire protection and access for firefighting; provide opportunities for privacy between dwellings; reflect the general building scale and placement of structures in



Iowa City's neighborhoods; promote a reasonable physical relationship between buildings and between residences; and provide flexibility to the site so that it is compatible with buildings in the vicinity. Staff finds that the building addition won't be any closer than approximately 30 feet to any adjacent property which meets most of those requirements; also the reduction would be in line with the general scale and placement structures in the neighborhood.

Fourth criterion states any potential negative effects resulting from a setback exception are mitigated to the extent practicable. Due to the layout of the current structures in the area, staff doesn't believe there are going to be any negative side effects.

Criterion five, the subject building will be located no closer than three feet to a side or rear property line unless that property line abuts a public right-of-way or permanent open space. Staff finds the proposal will be 12 feet from the nearest lot line.

Lehmann next moved onto the general standards that every special exception must meet. First is this specific proposed exception will not be detrimental to or endanger the public health, safety or comfort or general welfare. Lehmann noted the use and intensity of the property will not change due to the addition, nor will access to the property and surrounding properties be affected; finally the proposed addition will not interfere with visibility on Melrose Circle.

The second general standard is the exception will not be injurious to the use and enjoyment of other property in the immediate vicinity and will not substantially diminished or impair property values in the neighborhood. Staff doesn't believe that proposed addition will impact the ability of neighbors to utilize or enjoy the property nor will it negatively impact property values. Lehmann added staff has included some correspondence in the agenda packet from a neighbor that speaks to this point as well.

Criterion three states that the establishment of the specific proposed exception will not impede the normal and orderly development and improvement of the surrounding property for use as permitted in the district in which such property is located. Lehmann noted the surrounding neighborhood is already developed with a mix of residential and institutional uses; the proposed building addition won't be too close to any adjacent property under private ownership.

Criterion four states adequate utilities, access roads, drainage and or unnecessary facilities have been or are being provided. Staff finds the subject property is already developed and all utilities, access roads, and drainage is established already. He noted there's pedestrian access provided to the east of the proposed location and the addition doesn't have any underground utilities, so that won't be impacted. Finally, there is green space surrounding the proposed addition that should allow for stormwater to be addressed.

Criterion five states adequate measures have been or will be taken to provide ingress or egress designed to minimize traffic congestion on public streets. Lehmann noted no changes from this addition are being proposed the driveway, sidewalk or streets and the property is at the end of the cul-de-sac so traffic is mostly limited to residents and parking won't be impacted by the addition either which is on the west end of the house.

Criterion six requires that except for specific regulations and standards applicable to the exception being considered, the specific proposed exception in all other respects conforms to the applicable regulations or standards of the zone which is located. Staff finds the proposed addition won't cause it to violate any other standards such as lot coverage, maximum height, rear and side setback requirements, it's only the front setback that is being impacted.

Criterion seven is the final one and states the proposed exception will be consistent with the Comprehensive Plan of the City as amended and the property is consistent with the Future Land Use Map. Lehmann noted the Future Land Use Map of the Comprehensive and Southwest District Plans designate this area for Single Family/Duplex Residential. The current land use of this property is consistent with the Comprehensive and Southwest District Plans and will not change because of the proposed special exception. The Comprehensive Plan also has a vision statement which includes the following "to preserve historic resources in established neighborhoods" and that is carried out through a variety of methods, one of which is supporting the Historical Preservation Commission and reinvestment in housing in existing neighborhoods. Lehmann noted that the Comprehensive Plan guides decisions for planning and development within the City and it includes vision statements and goals and strategies to help reach decisions. Another vision statement from the Comprehensive Plan is to protect the community's assets which is carried out by continuing to support the Iowa City Historic Preservation Plan. The Historic Preservation Plan includes the goals "Continue municipal policy of protection of historic resources and implement this policy through...regulatory measures" and "...integrate preservation objectives in related planning work undertaken by the City of Iowa City". Lehmann reiterated the building is a contributing structure to the National Register of Historic Places on the Melrose Historic District, but again is not a local landmark. The proposed addition would require the demolition of the sun porch, which is original to the property. Staff doesn't want to jeopardize the historic nature of the building so recommends a condition that any changes to the exterior of the structure should undergo historic review. Again, that would mean either review by the historical preservation planner or the Historic Preservation Commission depending on the work to be done. Lehmann added that if the applicant decides to proceed but doesn't want to work within the front setback they could still build an addition, it would just have to abide by the setback requirements.

Staff recommends approval of EXC20-04, to reduce the required front setback requirement along Melrose Circle from 15 feet to 12 feet for the property located at 6 Melrose Circle subject to the following condition:

1. All changes to the exterior of the structure that encroach within the setback must receive a Certificate of Appropriateness or a Certificate of No Material Effect following a Historic Preservation Review in accordance with the Iowa City Historic Preservation Handbook.

The condition is added to try to incorporate those Historic Preservation objectives that are tied into the Comprehensive Plan and prevent the historic nature of the property from being jeopardized.

Hazell asked for some background on how it is that this area is on the national registry, but it doesn't have the local historic preservation zoning. Russett replied that is one of the only districts within the City that has multiple University properties and the City doesn't regulate University properties and it is her understanding that it wasn't designated as a local district because of that.

Tom Maxwell (6 Melrose Circle) first thanked the members of the Board for their service in their time on the Board as volunteers. This is his first time presenting before a board like this, but he tried to organize some thoughts regarding his application. Maxwell stated his family has been in this house for 11 years this June and when they moved in, they were the newest to the neighborhood, and the only ones with kids in the neighborhood. They didn't even know this neighborhood existed until they were looking for a home as it's kind of tucked back away but is a gem of a location really. Fast forward 11 years and they are now the second oldest in the neighborhood and there's been a lot of change, an upside has been a lot of new kids in the neighborhood. Maxwell noted the folks that wrote in, the letter that is part of the packet (at 3 Melrose Circle), they would be the longest tenured folks in the neighborhood, and Maxwell believes their brief email was in support of the application. Maxwell stated they have seen a lot of change in the neighborhood and to those homes in the 11 years. His family loves the house and loves the neighborhood and the neighbors, and they want to continue raising their family there. Maxwell noted when they bought the house, they had one young child at the time and one on the way and the footprint of the house is not terribly big. It's an older home so storage and restrooms are all challenges especially now with a 13-year-old and a 10-year-old. The upstairs is three bedrooms and theirs has a butler door to the one of the other rooms which doesn't make it the most private sometimes and the only full bathroom is upstairs. So they debated even though they truly love the house do they stay, or do they move. If they stay they wanted to try and make some changes that would fit their family better. They debated for like five years about whether they save up the money and try and make some changes or whether they move away. Finally they decided to stay and try to make these changes and add on space. On the first floor they want to add a master suite and so from their perspective the logical spot to do that was to remove the sun porch. Their goal was to make that space look like it fit and was natural to the respect of an older home. They looked around for contractors and architects and they came across Mr. Kennedy because he's received some awards for historical preservation and working with older homes. They worked together and came up with these plans, a few different iterations, with the idea to be able to age in place and add space, so that kids would be upstairs and parents would be downstairs. The plan also includes having laundry moved to the first level and in the master suite, currently it's in the basement. The other part was to have entrance off the back deck and have a ramp there so they could live here as long as possible, as their health allows. So that was their vision.

Maxwell next discussed the City's recommendation is to approve this application with this condition that it go through some form of a historical preservation committee or review. Maxwell is asking the Board approve the application without that condition. As show by the pictures seen earlier of the neighborhood, it's an old neighborhood, and with these more recent zoning ordinances on top of it, it creates some pretty quirky scenarios. For example, he didn't know this until going through this application process, but their neighbors to the north, it sounds like they own half of Melrose Circle, and that doesn't make them solely responsible to build or repair the street, but it's just interesting, for example, then that their entire house is within the setback and their neighbors are within the setback. His point is it's hard for him to reconcile because what they are asking for is not that much into the setback and shouldn't have to go through the historical preservation process. The fact that there is this National Historic Registry, that existed or was obtained prior to their moving there. Neighbors know they are part of the National

Historic registry but also they clearly knew that they were not a local Historic District and at one time had the opportunity to ask the City to go through that process and didn't want to do that as they didn't want to have to deal with going through the process when they wanted to make changes to their properties. Maxwell added since when they moved in 11 years ago, a lot has changed in the entire area. Probably the biggest thing is the University has bought more and more properties on Melrose Avenue and Melrose Court, it's got to be over half are now rental properties. However back in their little circle they are all still single family residential. The neighbors of Melrose Circle all got together in the circle, all seven homes on Melrose Circle, and entered into voluntarily covenants about how they would handle repair to the street, gameday parking, etc. His point is if the circle wanted to get the protection and responsibilities that come along with being a historic district they would have done that and they didn't. Maxwell stated it's important along those lines to note that none of their neighbors have objected, a few may have had some questions, but no one resisted this application.

Maxwell wants to emphasize again it is the neighborhood on the National Historic Registry not this particular home and not necessarily Melrose Circle. Additionally it is not a local historic district, and doesn't bring all those responsibilities and issues to bear. In the 11 years they have lived in the neighborhood, it has transformed and adapted with the times. As new families have moved in, they have made changes to update and modernize a little bit of their homes to make them more 20th century and a little bit more enjoyable. The biggest examples would be at 1 Melrose Circle and also the neighbor right next to them at 5 Melrose Circle. They've done some significant updates so it is a little bit of a challenge for him to understand the reason that this condition is being requested by the City just because they are asking for this special exception to come into the setback area slightly. He noted the sunroom is to be removed and replaced but is minimal compared to the neighbors at 5 Melrose Circle, who have done a tremendous amount of work to a beautiful house and pretty much transformed it into an almost whole new house. That property also had a sun porch, on the south side of its property, that was completely removed. Granted that remodel and sunroom was not in any setback or they weren't asking to do anything in addition to it, but his point is it was part of the original structure and it's no longer there. Part of their renovation also included completely taking down their garage, and in the City report there was some mention about the garages of this area also being contributing factors to the historic nature. The garages of Melrose Circle were called out by the City as historical and the neighbors removed their entire garage and built a new garage, probably about one and a half times the size, maybe twice, and added a mother-in-law apartment that wasn't there before. Maxwell understands they weren't asking to build within any setback that would have required an exception but his point is these properties have been transformed quite a bit and they're different even from what they were whenever the historic registry designation was obtained. He is just asking to not be inconsistent with what's been going on within the neighborhood itself. He doesn't think it would be inconsistent with the Comprehensive Plan of preserving historic properties by approving this application without that extra condition.

Maxwell also noted the sunroom that they're asking to essentially take down may have been part of the original home, but according to the blueprints it was supposed to be just a porch, it wasn't really meant to be a sunporch. That room has been a challenge for them in how to use it in the winter it's freezing, there's no insulation above and there's no basement below, and in

summer it's incredibly hot in there. They have used it as a guest space and try and make it as comfortable as they can but it's really not all that functional. They have looked into insulating but there's no real practical way to make it any more usable condition. The overall condition is deteriorating and there's not a whole lot of functionality. He is not an historic expert, but it's hard to see that the sunporch adds some huge value to the home itself.

Maxwell noted they love the workmanship and craftsmanship of this home and the plan with this addition is to try and repurpose and reuse as much as they could have from material from the sunroom, the trim that's in there, the original flooring, the French doors, those will all be part of this new addition. He stated they are concerned if it goes through a historic review process there going to be some suggestion that it be in a different location, for example off the back of the house, which just simply wouldn't be practical for their budget. He understands the need for consistency and ordinances and zoning and review processes like this but it's more of a personal issue that has just added on and more compounded by the fact that they've been looking to do this for quite a while and they've put so much thought into how they want it to be and they want it to be in line with the homes that are around them.

In closing Maxwell reiterated they love their home, they love their yard, they love the neighborhood, they love the location, it's a great place for raising kids. One of the big things that they love about this area is each of the lots are about a half-acre so there's plenty of room between everybody and he doesn't think adding into the setback is going to impact things really at all. Maxwell noted he works downtown as a lawyer at a law firm, his wife is the board secretary at MidWest One so it's easy for them both to commute to work. The location is great and they could bike or bus if they didn't have kids to taxi around. They love the Hawks and like going across the street to games, who knows what this fall will look like. As mentioned, they considered whether or not to do this addition, they didn't think about these things even 11 years ago when they moved in, but now decided if they could stay here as long as they can, this is a wonderful location. It's close to everything, there's obviously a wonderful hospital across the street, walking distance to a lot of things and that really drives why they want to stay here and doing this addition will allow them all that plus in the meantime, while the kids are home, more room for them. They don't want a huge home to take care of or a huge amount of square footage to take care of. Again, in closing they are simply asking that the application be approved, but without the condition of the historic review process.

Mark Kennedy started working with these folks on this project about a year ago. For the record his company has received a half a dozen or plus awards from the Historical Society so they're well aware of making the addition look like it's part of the original home. He also supports the Maxwell's request to remove the condition of the extra Historical Society review.

Thomas McInerney (architect) shared an animation to show a little more about what they're proposing to do. He began with the front elevation of the street and that shows the covered deck and it is decorative and part of the original style, which in this particular case is the Dutch colonial gambrel cottage style. They are not entirely sure when the existing sunroom was enclosed and that's something that provides some context in the framework. It doesn't really contribute to the primary building, it is a different style of roof and it's his opinion it doesn't

actually contribute to the building's historic fabric. McInerney noted what's not mentioned in the staff notes in the findings on item seven, is that in the City's Historic Preservation plan, it states that there is an objective to encourage the designation of the Melrose Historic District as a local historic district. However on the City's website it has that information about not being a local historic district so it seems like there's some form of an inconsistency, maybe a double standard of sorts that the interpretation of it may be a little stringent to the case. The concern he has is trying to explain it to people that just saw the house next door tear down their garage and build something that looks like the house. McInerney stated they feel that there is a certain amount of perspective they need to put into the situation and that there should be a priority of understanding the real nature of this is not to determine if this is historic or not but instead if this can be a livable community where people can age in place. The concern is the less of those places there are, the more likely the University will actually buy the area up. Therefore the improvements that they are proposing here, will actually facilitate a better buffer between land being acquired by the University to make it a use as a parking lot which is like next door.

Pretorius closed the public hearing.

Chrischilles stated it appears to him that the applicants intend to add on to their home in a manner consistent with the existing structure and doesn't think that the three feet really makes a difference. He would support the applicant's position that historical review is not necessarily needed if they intend to make it look like the rest of the house, which they have said they do.

Hazell has similar thoughts that based on the current layout and look, and especially based on the lack of local designation for the property. He doesn't think the applicant is going to change the plan of what it looks like but they could add a condition that what is built is a version that looks similar to what is currently presented and then it would be okay to remove that historic review.

Pretorius stated she echoes the other's sentiments and personally feels a lot of setbacks are excessive. Additionally the Historical Preservation Committee can make it often impossible or incredibly expensive to meet their expectations even when half the time very good ideas are being presented or smart ideas from installing things that are efficient and that makes sense for once again people who are living in their homes to stay in their homes. She agrees she doesn't see the need for the certification in accordance with the Historic Preservation.

Chrischilles asked if he is interpreting this correctly, that they are not in a local Historic District so that any recommendations of the Historic Preservation Committee would not be binding anyway and therefore, redundant.

Dulek stated if the BOA makes it a condition the HPC review would be binding but absent the BOA making a condition HPC has no role or jurisdiction over the property.

Cox stated he is feeling about the same way as most of the rest of the Board and feels like adding this as a condition is an attempt to find a way to engage the historic preservation process, because there's no other way to do it in a binding way, and that just does not feel like a

good use of the Board's ability to put conditions on application. From everything he has heard and seen it seems like the Maxwell's want to stay in this home. They've been in it over a decade and have continued to maintain it. He drove through the neighborhood today, it's a beautiful property and a nice neighborhood and don't see anything in the future plans that would drastically change the look of that home. He feels that's the best they're going to do because it is completely surrounded by University properties that they have absolutely no historic preservation capability over and here they have an owner that's willing to keep doing that.

**Hazell moved approval of EXC20-04, to reduce the required front setback requirement along Melrose Circle from 15 feet to 12 feet for the property located at 6 Melrose Circle.**

**Chrischilles seconded the motion.**

Hazell stated regarding agenda item EXC20-04 he concurs with the findings set forth in the staff report of this meeting date, May 13, 2020, with the exception of the need for historical review, and concludes that the general and specific criteria are satisfied unless amended or opposed by another board member. He recommends that the Board adopt the findings in the staff report for the approval of this proposal. Chrischilles seconded the findings.

**A vote was taken and the motion carried 4-0.** (Parker arrived late and was not present to hear all the public testimony so recused himself from this vote).

Pretorius stated the motion declared approved, any person who wishes to appeal this decision to a court of record may do so within 30 days after this decision is filed with the City Clerk's Office.

**CONSIDER THE APRIL 8, 2020 MINUTES:**

Chrischilles moved to approve the minutes of April 8, 2020. Parker seconded the motion.

A vote was taken and the motion carried 5-0.

**ADJOURNMENT:**

Hazell moved to adjourn this meeting, Chrischilles seconded, a vote was taken and all approved.

**BOARD OF ADJUSTMENT  
 ATTENDANCE RECORD  
 2020**

NAME	TERM EXP.	1/8	2/12	4/8	5/13									
CHRISCHILLES, GENE	12/31/2022	X	X	X	X									
COX, ERNIE	12/31/2020	X	O/E	X	X									
HAZELL, ZEPHAN	12/31/2021	X	O/E	X	X									
PARKER, BRYCE	12/31/2024	O/E	X	X	X									
PRETORIUS, AMY	12/31/2023	X	X	X	X									

Key: X = Present  
 O = Absent  
 O/E = Absent/Excused  
 -- -- = Not a Member