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TO: ZONING BOARD OF ADJUSTMENT

FROM: Kelly Diekmann, Planning and Housing Director

DATE: July 17, 2025

SUBJECT: New “Practical Difficulties” Variance as defined by State Law

This is an informational memo concerning a new type of Variance. Staff wanted to alert the Board to this new process before an application is filed and reviewed by the Board.

The Iowa Legislature recently passed House File 652 (see attached), which was subsequently signed by the Governor, amending Iowa Code 414.12 to create a new type of Variance to certain zoning standards. **The new Variance option is limited in applicability to area, dimension, and other numeric zoning requirements.** The current Variance process includes all types of zoning standards, including uses of property.

The current Variance process is based upon a legal threshold of an “unnecessary hardship” for the use of property. The hardship threshold is a very high bar to meet for an approval as it is rare that an allowed use of property cannot occur in a manner consistent with zoning and a true hardship exists as defined by state law and case law.

The new variance process is based upon a new legal standard of “practical difficulties” related to a beneficial use of land as defined within the law. A showing of a financial hardship is not a component of the practical difficulties standard. The applicant must still meet certain thresholds related to unique property conditions, the issue is not self-created, and that it does not impact the essential character of the neighborhood; while the spirit of the ordinance is observed and substantial justice is done.

The new variances will apply to zoning standards of Ames Municipal Code Chapter 29 and sign standards of Chapter 21.

Sec. 2. Section 414.12, Code 2025, is amended by adding the following new subsection:

NEW SUBSECTION. 4. To authorize on appeal, in specific cases, such variance from the terms of the ordinance with respect to the area, dimensional, or other numerical limitations as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in practical difficulties to the property owner in making a beneficial use of the property allowed by the zoning ordinance, and so that the spirit of the ordinance shall be observed and substantial justice done. Area, dimensional, or other numerical limitations subject to variances include but are not limited to requirements for minimum lot size, setbacks, yard widths, height, bulk, sidewalks, fencing, signage, and off-street parking. To receive the requested area, dimensional, or other numerical variance, the property owner must prove that the practical difficulties faced are unique to the property at issue and not self-created and must also demonstrate that granting the variance will not significantly alter the essential character of the surrounding neighborhood.