

NOTICE TO THE AUDIENCE. PLEASE REMEMBER THAT IF YOU ARE INTERESTED IN MATTERS ON THE AGENDA THAT WILL HAVE SUBSEQUENT MEETINGS, IT IS YOUR RESPONSIBILITY TO NOTE THE DATES, TIMES, AND PLACES. NO FURTHER LETTERS OR REMINDERS WILL BE SENT. OF COURSE, IF YOU HAVE ANY QUESTIONS ABOUT ANY GIVEN MATTER, DO NOT HESITATE TO CONTACT THE PLANNING DEPARTMENT IN THE CITY HALL ANNEX, 4403 DEVILS GLEN ROAD, BETTENDORF, IOWA (344-4079).

MEETING NOTICE
BOARD OF ADJUSTMENT
MAY 12, 2022
5:00 P.M.

PLACE: Bettendorf City Hall Council Chambers, Second Floor, 1609 State Street

1. Roll Call: Gallagher ___, Spranger ___, Tansey ___, Tombergs ___, Vermillion ___
2. Review of Board Procedures.
3. The Board to review and approve the minutes of the meeting of April 14, 2022.
4. The Board to hold a public hearing on the following item:
 - a. Case 22-024; 2727 Elk Drive (A-2) - Variance to reduce the required rear yard setback from 40 feet to 28 feet to allow for construction of a 12-foot by 12-foot deck addition, submitted by Kristopher Tieso.



The materials for the Board of Adjustment meeting can be accessed by scanning the QR Code.

The following are minutes of the Bettendorf Board of Adjustment and are a synopsis of the discussion that took place at this meeting and as such may not include the entirety of each statement made. The minutes of each meeting do not become official until approved at the next Board meeting.

MINUTES
BETTENDORF BOARD OF ADJUSTMENT
APRIL 14, 2022
5:00 P.M.

Gallagher called the meeting to order at 5:00 p.m.

Item 1. Roll Call

PRESENT: Gallagher, Spranger, Tansey, Tombergs, Vermillion

ABSENT: None

STAFF: Beck, Fuhrman, Hunt

Item 2. Review of Board procedures.

Item 3. The Board to review and approve the minutes of the meeting of March 10, 2022.

On motion by Tombergs, seconded by Spranger, that the minutes of the meeting of March 10, 2022 be approved as submitted.

ALL AYES

Motion carried.

Item 4. The Board to hold a public hearing on the following items:

- a. **Case 22-014; 7054 St. Ann Drive (R-1)** - Variance to allow a 5-foot high fence in a required front yard, submitted by Jeremy Salsberry.

Gallagher asked if there was an affidavit of publication. Beck stated that notice of public hearing had been received. Notice and affidavit of publication are Annex #2 to these minutes.

Beck reviewed the staff report. Staff report is Annex #3 to these minutes.

Tansey asked if a 4-foot high fence would be allowed on the property line. Beck confirmed this.

Vermillion asked if a 5-foot high barrier is required for a pool. Beck confirmed this.

Gallagher asked if there was anyone present wishing to speak in favor of the request.

Lance Burton, 7066 St. Ann Drive, expressed his support for the request.

Jeremy Salsberry, the applicant, stated that he believes that an ordinance amendment has been proposed that would allow the fence as built. He added that while Spring Creek Drive is not considered to be a collector street, it is very busy because of its proximity to Forest Grove Park.

Jered Poposwki, 7037 St. Ann Drive, stated that there are multiple 4-foot high fences in the neighborhood that are located on the property line.

Tansey asked if the proposed ordinance change would obviate the need for a variance. Hunt explained that the ordinance revision will only apply to through lots located along collector and arterial streets. He stated that at this time Spring Creek Drive is not classified as a collector or arterial street.

Tombergs stated that it seems as though the applicant's concern about high traffic near the park is valid. Hunt explained that currently the park area near the applicant's home is unprogrammed greenspace, adding that it may change in the future. Spranger asked if the parking lot for the park is to the south on Forest Grove Drive. Hunt stated that there is a small amount of parking near the applicant's house but that the majority is on Forest Grove Drive.

Salsberry explained that the developed portion of the park is south of his home but that when the northern section of the park is developed there may be parking there. He commented that there is a graveled road across the street from his home which people use for parking now. Hunt stated that while there is some use of the park there, it is not at the level that would establish a hardship that would justify granting the variance request at this time.

Tansey asked if the applicant had been under the impression that the existing 5-foot high fence is in compliance with the ordinance. Salsberry confirmed this, adding that there may have been some miscommunication with the contractor.

Tombergs asked if the applicant has already contracted for pool installation. Salsberry stated that he is getting bids but is unsure of when it might be installed.

Tansey asked how installation of a pool would affect the fence requirements. Hunt explained that a 5-foot high fence would be required but would not be allowed in the required front yard and would need to be set back 30 feet. He commented that while the fencing requirements would affect where a pool could be located, it would not preclude the installation of one.

Hunt stated that staff feels that the applicant has not established a hardship to justify granting a variance in accordance with the requirements listed in City Code Section 11-15-12D(3).

There being no one else wishing to speak in favor of or in opposition to the request, Gallagher closed the public hearing.

On motion by Spranger, seconded by Tombergs, that a variance to allow a 5-foot high fence in a required front yard be denied in accordance with the Decision and Order.

Tansey commented that while he is sympathetic to the applicant's situation, the Board is in a difficult position because of the lack of an established hardship.

ROLL CALL ON MOTION

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

- b. **Case 22-015; 7037 St. Ann Drive (R-1)** - Variance to allow a 5-foot high fence in a required front yard, submitted by Jered Poposwki.

Gallagher asked if there was an affidavit of publication. Beck stated that notice of public hearing had been received. Notice and affidavit of publication are Annex #2 to these minutes.

Beck reviewed the staff report. Staff report is Annex #5 to these minutes.

Tansey asked if a 4-foot high fence would be allowed. Beck confirmed this.

Gallagher asked if there was anyone present wishing to speak in favor of the request.

Jered Poposwki, the applicant, stated that he is under contract for the pool installation and commented that it is unreasonable that so much of his yard is lost because a 5-foot high fence is required for a pool.

Spranger stated that the situation is the same as the previous applicant's. She added that if the Board makes an exception in these cases, a precedent would be set for this

type of request. She stated that subdivisions are platted in a manner that allows for continuity and flow.

There being no one else wishing to speak in favor of or in opposition to the request, Gallagher closed the public hearing.

On motion by Spranger, seconded by Tansey, that a variance to allow a 5-foot high fence in a required front yard be denied in accordance with the Decision and Order.

Tombergs commented that the Board's job is to follow the City Code. Poposwki stated that he does not believe that his neighbor's having a 4-foot high fence closer to the property line will be consistent with his 5-foot high fence set back 15 feet. Spranger explained that it is not in the Board's purview to change the ordinance. She added that there are ramifications that go along with an inground pool and that the Board cannot change the way the Code applies to the configuration of the applicant's lot as platted.

ROLL CALL ON MOTION

ALL AYES

Motion carried.

Decision and Order is Annex #6 to these minutes.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 5:30 p.m.

These minutes and annexes approved _____

Greg Beck
City Planner



COMMUNITY DEVELOPMENT

City Hall Annex • 4403 Devils Glen Road, Bettendorf, Iowa 52722 • (563) 344-4079

May 12, 2022 Board of Adjustment Meeting

Staff Report

Case No. 22-024

Request: Variance to reduce the required rear yard setback from 40 feet to 28 feet for the construction of a 12-foot by 12-foot deck expansion.

Location: 2727 Elk Drive

Legal Description: Pleasant Ridge, Lot 4 (Parcel #: [842307304](#))

Applicant: Kristopher Tieso

Zoning Designation: A-2, Rural Residence District

Background Information and Facts

The double frontage lot is located at the northeast corner of the intersection of Belmont Road and Elk Drive in Pleasant Ridge Addition (see Attachment A – Aerial Map). The property is located in the A-2, Rural Residence District (see Attachment B – Zoning Map). The applicant would like to reduce the required 40-foot front yard setback on Belmont Road to 32 feet so that they can build a 12-foot by 12-foot deck expansion (see Attachment C – Proposed Deck Location).

A variance to reduce the required rear yard setback from 40 feet to 32 feet for the construction of a 10-foot by 8-foot deck was approved by the Board of Adjustment in 2015 (see Attachment D – Case No. 15-031 Decision and Order). The applicant notes their family has outgrown the original deck and the sight lines from neighboring properties are concealed by trees.

Staff Analysis

As noted in the Case No. 15-031 Decision and Order, a majority of the property is located in the regulated flood zone (see Attachment E – Floodplain Map). Due to the floodplain and topography, the house was required to be sited as far north on the lot as possible. This removed all of the building envelope for principal structures in that area.

The property is likely zoned A-2, Rural Residence Zoning District due to the fact that the lot was serviced by well and/or septic when originally incorporated into the City of Bettendorf. The house now has a City sanitary sewer connection and Iowa-American Water. Front yard and rear yard setbacks in the R-1, Single-Family Residence Zoning District are 30 feet.

Staff contends multiple hardships exist on the applicant's property due the current zoning classification's no longer reflecting the current use, the floodplain, and the general topography (see Attachment F – Site Photo of Rear Yard). The applicant is requesting permission to construct a 12-foot by 12-foot deck which would require a variance for a rear yard setback of 28 feet. Staff recommends a variance in the A-2 district for the deck expansion that would conform in a R-1 Zoning District. This would limit the deck depth to 10 feet from the house which would not hinder or delay the applicant's use of the property. Staff agrees with the applicant's statement that the proposed deck is sufficiently concealed from neighboring properties by the rear yard topography and vegetation.

Staff Recommendation

Staff recommends amending the request and approving a 30-foot rear yard setback in lieu of the required 40-foot rear yard setback as prescribed for in the A-2 Zoning District. The hardships acknowledged for approval are the current zoning classification's no longer reflecting the characteristics or use of the property, the ramifications of the floodplain on the property, and the topography of the property. Staff would require the applicant submit a Bettendorf Floodplain Development Permit application and a Building Permit application prior to construction of the deck.

Respectfully submitted,

Taylor Beswick
City Planner



Case 22-024: 2727 Elk Drive Variance - Reduce Rear Yard Setback from 40' to 28' for Deck Aerial Map

1 Inch = 46 Feet

15 0 30 60 90 Feet

N



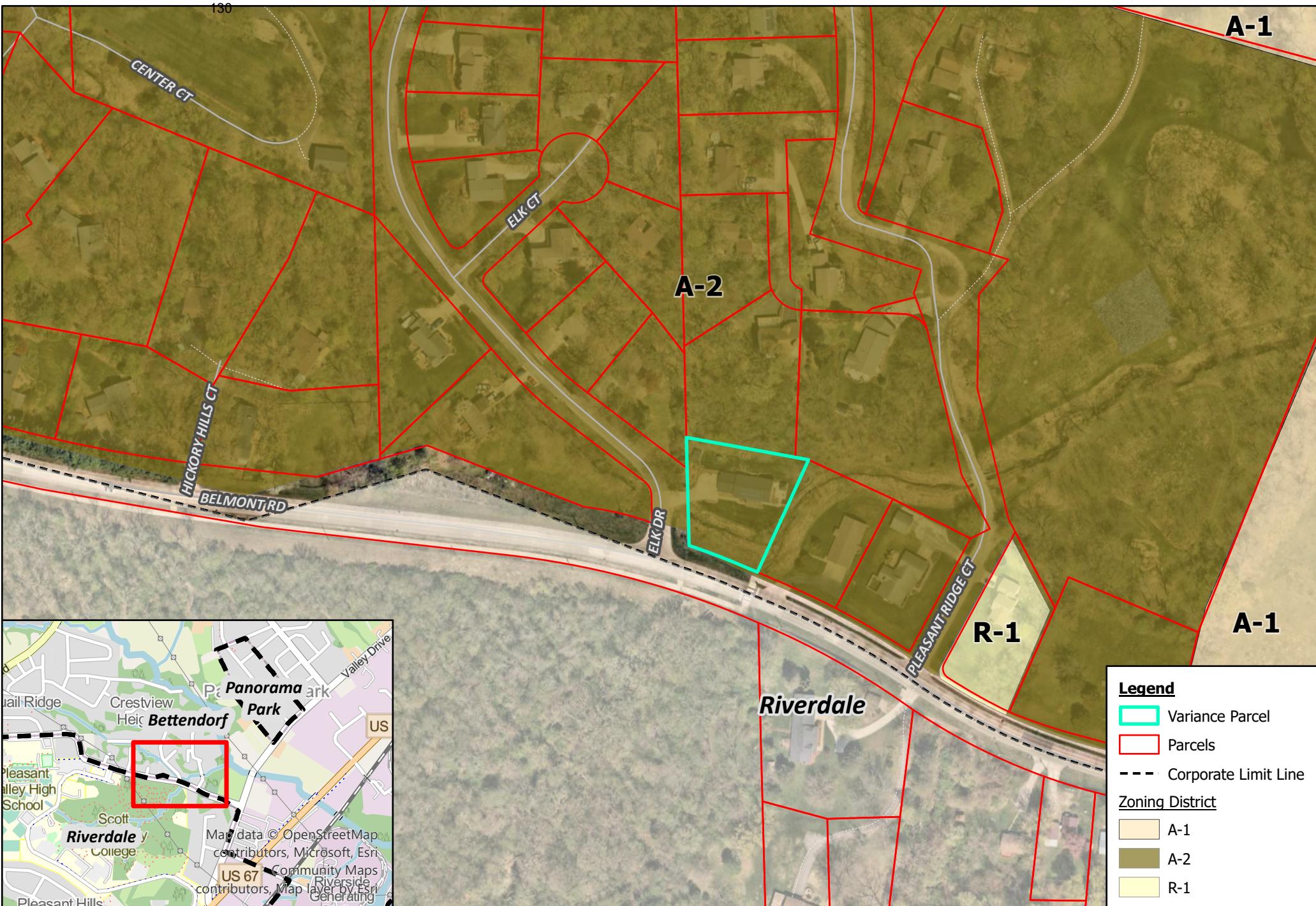


Case 22-024: 2727 Elk Drive Variance - Reduce Rear Yard Setback from 40' to 28' for Deck Zoning Map

1 Inch = 175 Feet

0 65 260 390 Feet

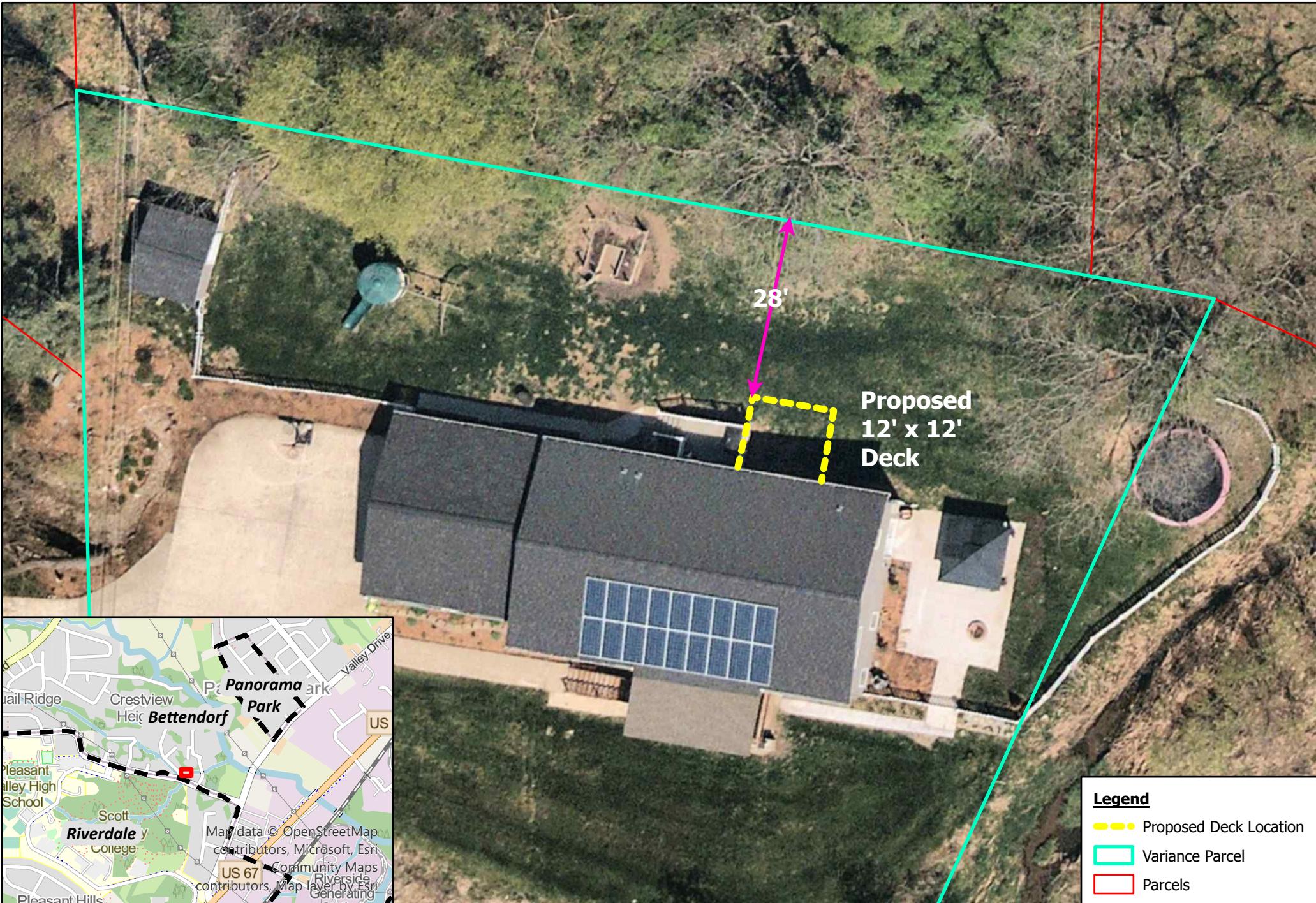
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Case 22-024: 2727 Elk Drive
Variance - Reduce Rear Yard Setback from 40' to 28' for Deck
Proposed Deck Location

1 Inch = 19 Feet

0 5 10 20 30
Feet





Doc ID: 020447850001 Type: LAN
 Recorded: 08/20/2015 at 10:33:16 AM
 Fee Amt: \$7.00 Page 1 of 1
 Scott County Iowa
 Rita A. Vargas Recorder

File # 2015-00021762

Return to: Lisa Fuhrman, City of Bettendorf, 4403 Devils Glen Road, Bettendorf, IA 52722, 563-344-4061

CITY OF BETTENDORF - ZONING BOARD OF ADJUSTMENT DECISION AND ORDER

Project Location	2727 Elk Drive
Legal Description	Lot 4, Pleasant Ridge Addition
Project Number	15-031
Project Type	Variance to reduce the required rear yard setback from 40 feet to 32 feet to allow for construction of a 8-foot by 10-foot deck.

Facts

The site is located along Belmont Road in the area of Scott Community College on the northeast corner of Elk Drive and Belmont Road. The applicant would like to build a 10-foot by 8-foot deck which would encroach into the required rear yard setback.

City staff has worked with many citizens over the years who have attempted to develop this lot. The property has proven to be extremely problematic with regard to several issues such as drainageways, topography, access, and the flood zone designation. The access issue has been worked out with the city and the homeowners association. The most difficult issue facing the applicant is the impact caused by the flood zone designation for this lot. Nearly the entire buildable area is within the regulated 100-year flood zone. The applicant has obtained the required Flood Zone Development Permit for this project.

The topography of the lot is such that the lowest elevation of the property is on the south side toward Belmont Road, and the highest elevation is on the north side. The elevation changes 14 feet from south to north. In an effort to cause the least impact on the area in the flood zone, it is advisable to place the house as far north in the buildable area as possible. As a result, the rear of the house is on the north side of the buildable area, and any deck built to the rear of the house would be outside of the buildable area.

An 8-foot by 10-foot deck is modest-sized, and it appears that the applicant has chosen a size and configuration that will minimize the intrusion into the required rear setback.

Approximately two-thirds of this lot and nearly all of the buildable area are in the regulated flood zone. This fact, coupled with the lot's topography, necessitates that the house be built as far north in the buildable area as possible to accommodate all of the requirements of the Flood Zone Development Permit.

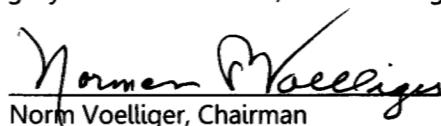
These issues are beyond the control of the applicant and represent a significant hardship for development of this lot and have in fact caused others to abandon efforts to develop this property in the past.

BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE CITY OF BETTENDORF, IOWA; that the following Findings of Fact are made:

1. That the granting of the exception will not permit any use in any district which would be in conflict with the permitted uses of such district under the terms of this ordinance.
2. That it will not impair an adequate supply of light and air to adjacent property.
3. That it will not unreasonably increase the congestion in public streets.
4. That it will not increase the danger of fire or of the public safety.
5. That it will not unreasonably diminish or impair established property values within the surrounding area.
6. That it will not in any other respect impair the public health, comfort, safety, morals, or welfare of the inhabitants of the city.
7. Approval is conditioned upon the council's approval of any regulatory matters within the sphere of authority of the council in its normal regulatory duty.

THEREFORE, BE IT RESOLVED BY THE ZONING BOARD OF ADJUSTMENT OF THE CITY OF BETTENDORF, IOWA; that a request for a variance to reduce the required rear yard setback from 40 feet to 32 feet to allow construction of a 8-foot by 10-foot deck at 2727 Elk Drive which is legally described as Lot 4, Pleasant Ridge Addition, be granted.

Done this 14th day of May, 2015.



 Norman Voelliger
 North Voelliger, Chairman
 Board of Adjustment

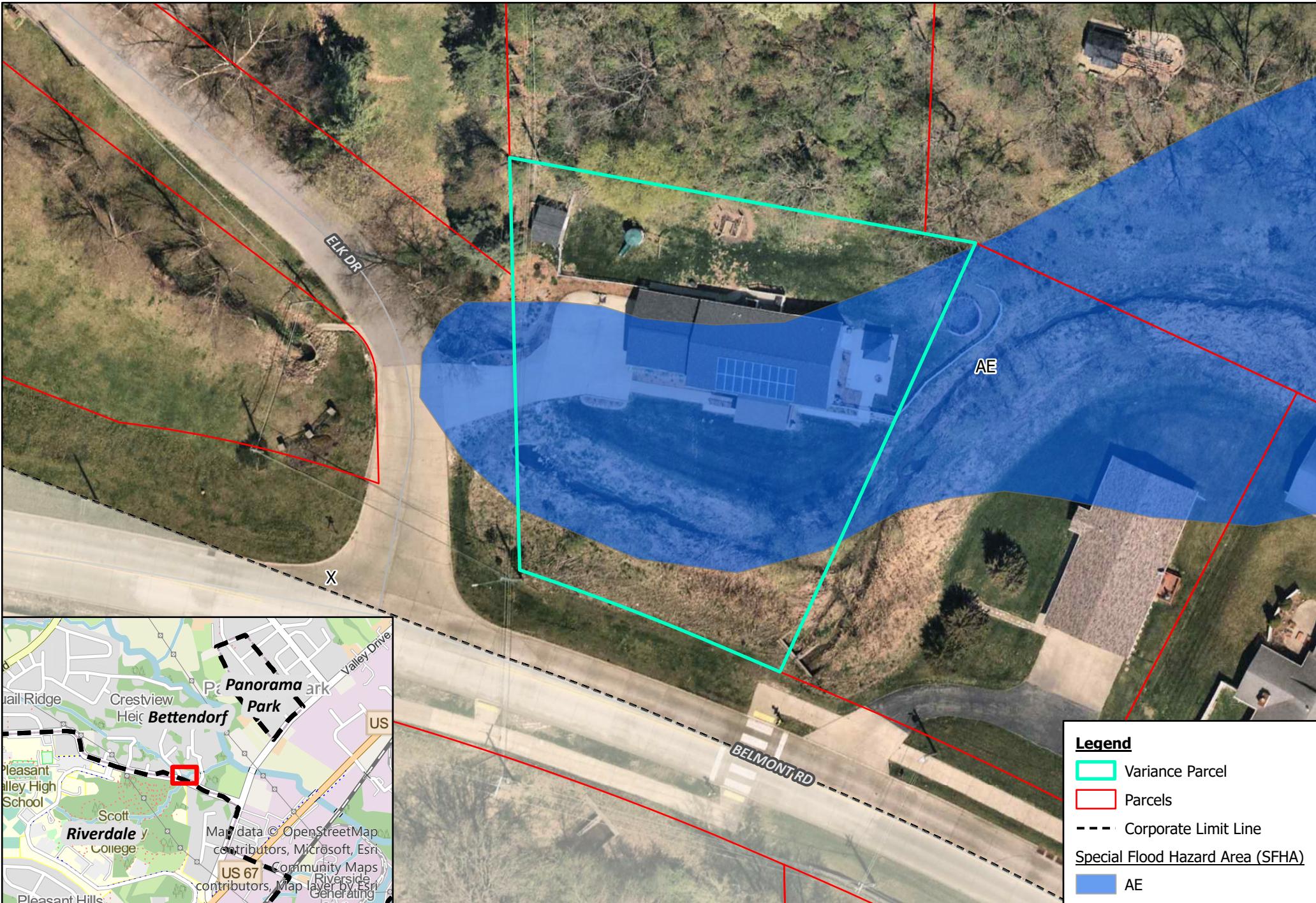


Case 22-024: 2727 Elk Drive

Variance - Reduce Rear Yard Setback from 40' to 28' for Deck Floodplain

1 Inch = 46 Feet

0 15 30 60 90 Feet





Attachment F – Site Photo of Rear Yard



Case No. 22-024

APPEAL AND APPLICATION TO THE ZONING BOARD OF ADJUSTMENT OF BETTENDORF, IOWA

Part 1. Property Involved.

Street Address 2727 Elk Drive

Legal Description of the property. Lot 4 in auditor's plat of Pleasant Ridge addition, being a part of the northeast quarter of section 23, township 78 North, range 4 east of the 5th P.M., now situated in the city of Bettendorf, Scott County, Iowa.

Part 2. Contact Information.

Applicant/Contact Name Kristopher Tieso Phone 563-219-0378

Address 2727 Elk Drive

E-mail Address: ktieso@gmail.com

Owner Name Kristopher Tieso Phone 563-219-0378

Address 2727 Elk Drive

E-mail Address: ktieso@gmail.com

Part 3. Type of Application. (check at least one)

1. Variance/Exception. Before the Board of Adjustment grants approval of a variance to the City of Bettendorf Zoning Ordinance, all of the following conditions **MUST** be met:
- (a) That the granting of the exception will not permit any use in any district which would be in conflict with the permitted uses of such district under the terms of this ordinance.
 - (b) That it will not impair an adequate supply of light and air to adjacent property.
 - (c) That it will not unreasonably increase the congestion in public streets.
 - (d) That it will not increase the danger of fire or of the public safety.
 - (e) That it will not unreasonably diminish or impair established property values within the surrounding areas.
 - (f) That it will not in any other respect impair the public health, comfort, safety, morals, or welfare of the inhabitants of the city.
- 2. Special Use Permit. Before the Board of Adjustment grants approval of a special use permit, all of the following conditions **MUST** be met:
- (a) The proposed use is designated by this ordinance as a special use in the district in which the use is to be located.
 - (b) The proposed use will comply with all applicable regulations in the district in which the use is to be located.
 - (c) The location and size of the proposed use, the nature and intensity of the operation involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.
 - (d) The location, nature, and height of buildings, walls, and fences and the nature and extent of the landscaping on the site are such that the use will not unreasonably hinder or discourage the appropriate development and use of adjacent land and buildings.
 - (e) Parking areas will be of adequate size for the particular use, properly located, and suitably screened from adjoining uses and the entrance and exit drives will be laid out so as to prevent traffic hazards and nuisances.
 - (f) The proposed use will not cause substantial injury to the value of other property in the neighborhood.
 - (g) Conditions in the area have substantially changed and at least one year has elapsed since any denial by the Board of Adjustment of any prior application for a special use permit that would have authorized substantially the same use of all or part of the site.
 - (h) The Board of Adjustment shall impose such conditions and restrictions upon the premises benefited by a special use permit as may be necessary to assure compliance with the above standards, to reduce or minimize the effect of such permit upon other properties in the neighborhood, and to better carry out the intent of this ordinance. Failure to comply with such conditions or restrictions shall constitute a violation of this ordinance.
- 3. Other. _____

Part 4. General Information.Section(s) of Zoning Ordinance Involved Rear setback

Existing Zoning _____

Part 5. Reasons for Application. In the space below, give a general description of the activity desired and principal reasons why this application should be granted by the Board. If this application is for a variance, please state the hardship which the zoning ordinance imposes on the property. Use the following criteria as justification for the requested variance. Use additional sheets if necessary.

- (a) It shall be the property owner's responsibility to show that the terms of this ordinance will impose unusual and practical difficulties or particular hardships. The hardship established by the property owner must not be SELF-IMPOSED. A self-imposed hardship is NOT justification for the approval of a variance request.
- (b) If the variance granted is in harmony with the general purpose, intent, and spirit of this ordinance.
- (c) If the Board determines that the granting of the requested variance will not serve merely as a convenience to the applicant, but will alleviate a demonstrable hardship as to warrant a variance from the official city plan as established by Ordinance No. 381 of the city, and at the same time the surrounding property will be reasonably protected.
- (d) That by granting the request for a variance substantial justice shall be done.

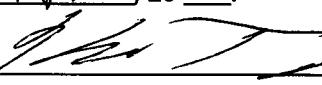
The deck in our backyard is small at only 10'x8' and our family has grown since we installed it. We would like to add a 12'x12' addition to the east side of the existing rear deck. Our home sits directly on the line of a 40' setback. Our neighbors are far from us and hidden by trees in all directions. I am confident that this new deck installation will not impact them.

Part 6. Attachments. The following items are attached and are a part of this application. Required materials should be submitted electronically via e-mail: planning@bettendorf.org.

- () 1. Scale accurate site plan, at a scale of 1" = 20' or other suitable scale, showing adjacent street(s), property line, building location of existing and proposed buildings, and other important features of the property. Required with all applications.
- () 2. Legal Description. (If not shown on page 1.)
- () 3. Floor plan if internal design of building is part of application.
- () 4. List additional attachments.

Part 7. Signature.

I (we) depose and say that all the information contained in this application and the statements contained in the papers submitted herewith are true. Witness our Hands and Seals this 12th day of April, 20 22.

Signature of Applicant Signature of Owner 

(The owner **MUST** indicate his consent to this application by signing above. Application without the signature of the owner will not be processed)

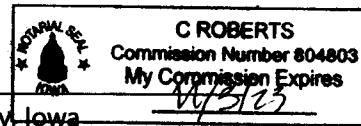
State of Iowa) ss

County of Scott)

Before me the undersigned Notary Public, in and for the County and State, personally appeared applicant(s) and separately and severally acknowledge the execution of the foregoing application is his/her voluntary act and deed, for the purposes therein expressed.

Witness my Hand and Notarial Seal this 12th day of April, 20 22.

Notary Public in and for Scott County, Iowa

**Part 10. Filing Fee.**

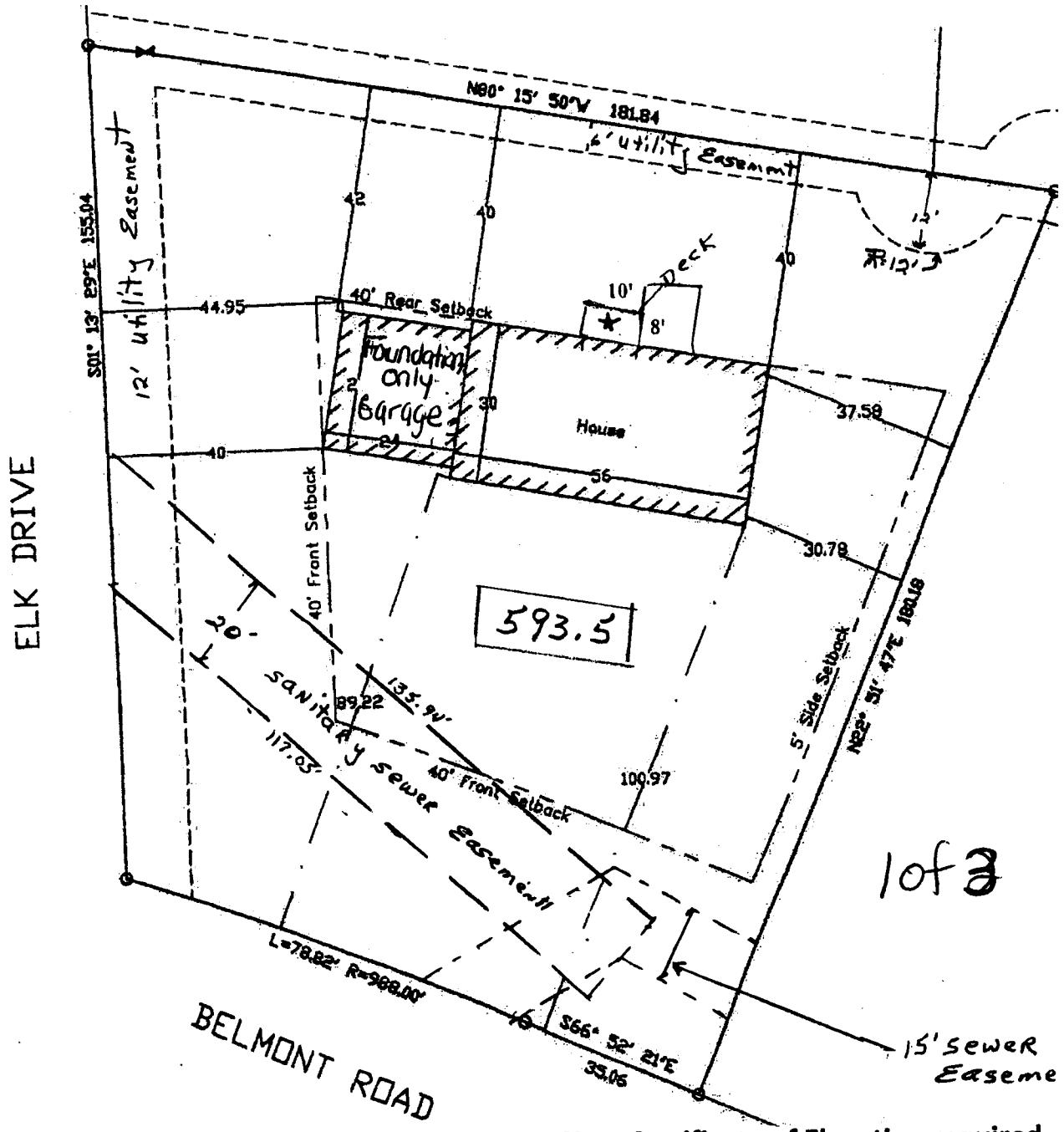
\$ 50.00 Single Family/Two-family Residential Variance

\$100.00 All Other Applications

Received by Jeff JohnsonAmount \$ 50. Date 4/13/22

PLOT PLAN

$\frac{1}{4}'' = 8'$



New Certificate of Elevation required
for finished building's lowest floor.
**Low water entry must be equal
to or greater than 593.5**

ALL DRAINAGE EASEMENTS SHALL BE KEPT CLEAR OF
TREES, SHRUBS, STRUCTURES, FENCES, AND ANY
OBSTRUCTIONS BLOCKING OR IMPEDING WATER.

* Variance for deck 15-031

10'

Rear Setback

40

