

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 (344-4100).

**MEETING NOTICE  
BOARD OF ADJUSTMENT  
DECEMBER 8, 2011  
5:00 P.M.**

PLACE: Bettendorf City Hall Council Chambers, 2<sup>nd</sup> Floor, 1609 State Street

1. Roll Call: Falk \_\_\_\_\_, Howe \_\_\_\_\_, Johnson \_\_\_\_\_, Stelk \_\_\_\_\_, Voelliger \_\_\_\_\_
2. Review of Board Procedures.
3. The Board to review and approve the minutes of the meeting of November 10, 2011.
4. The Board to hold a public hearing on the following items:
  - a. Case 11-073; 6023 Whispering Hill Drive (R-1) - A request for a variance to allow a 6-foot high fence in a required front yard, submitted John Klein.
  - b. Case 11-074; 2975 Elk Drive (A-2) - A request for a variance to reduce the required side yard setback from 5 feet to 2 ½ feet to allow for construction of a shed, submitted by Melinda Koehler.
  - c. Case 11-075; 3220 Zimmerman Drive (I-3) - A request for a variance to reduce the required sign setback from 25 feet to 3 feet, submitted by Dan Santry.

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND OTHER APPLICABLE FEDERAL AND STATE LAWS, ALL PUBLIC HEARINGS AND MEETINGS HELD OR SPONSORED BY THE CITY OF BETTENDORF, IOWA, WILL BE ACCESSIBLE TO INDIVIDUALS WITH DISABILITIES. PERSONS REQUIRING AUXILIARY AIDS AND SERVICES SHOULD CONTACT BETTENDORF CITY HALL AT (563) 344-4000 FIVE (5) DAYS PRIOR TO THE HEARING OR MEETING TO INFORM OF THEIR ANTICIPATED ATTENDANCE. TEXT TELEPHONE (TTY) IS AVAILABLE AT (563) 344-4175. IN ADDITION, PERSONS USING TEXT TELEPHONE HAVE THE OPTION OF CALLING VIA THE IOWA COMPASS VOICE/TTY BY DIALING (800) 735-2942.

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  
NOVEMBER 10, 2011  
5:00 P.M.**

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

Item 1. Roll Call

PRESENT: Falk, Howe, Johnson, Stelk, Voelliger  
ABSENT: None  
STAFF: Connors, Fuhrman, Soenksen

Item 2. Review of Board Procedures.

Item 3. The Board to review and approve the minutes of the meeting of October 13, 2011.

On motion by Voelliger, seconded by Howe, that the minutes of the meeting of October 13, 2011 be approved as submitted.

ALL AYES

Motion carried.

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

- a. Case 11-070; 2561 - 53<sup>rd</sup> Avenue (C-2) - A request for a variance to allow outdoor operations, submitted by 53<sup>rd</sup> Avenue Pizzeria, LLC.
- b. Case 11-071; 2561 - 53<sup>rd</sup> Avenue (C-2) - A request for a special use permit to allow a bar, cocktail lounge, and tavern, submitted by 53<sup>rd</sup> Avenue Pizzeria, LLC.

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

Soenksen reviewed the staff reports. Staff reports are Annex #3 and Annex #4 to these minutes. He stated that he had received three letters expressing opposition to the request from Kevin Chanez of 2614 Heather Glen Circle, Lien Moore of 2406 Lindenwood Drive, and Kurt and Pamela Trissel of 2761 Heather Glen Circle.

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

Mark Roemer, the applicant, stated that he believes that the proposed restaurant would be a good fit for the development. He indicated that he has been involved in several similar businesses with outdoor service areas that have been very successful. Roemer explained that he has no plans to expand the proposed outdoor use area, adding that the outdoor seating area will have 6-8 small tables that seat 4. He indicated that while he is unable to determine at this time what the percentage of food versus alcohol sales will be, the business will primarily be a restaurant, not a bar. Roemer explained that he plans to import a pizza oven from Italy and will be hiring a chef. He indicated that he plans to make every effort to fit into the neighborhood without being obtrusive.

Stelk asked for clarification regarding the hours of operation. Roemer explained that the restaurant will tentatively be open Monday-Thursday from 3:00 p.m. to 10:00 p.m., Friday-Saturday from 3:00 p.m. to 12:00 a.m., and Sunday from 12:00 p.m. to 8:00 p.m. Roemer indicated that food service would stop approximately 1 hour before closing. He indicated that employees would not be allowed to park on the public streets and that the noise generated by the patrons who choose to eat outside would be no louder than the traffic noise on 53<sup>rd</sup> Avenue.

Voelliger asked if there would be a drive-up window. Roemer stated that there would be no drive-through service, adding that the existing window was used by the previous business owners. He explained that because of the uniqueness of the pizza, he does not plan to allow customers to carry it out for the first few months. He indicated that the type of pizza the restaurant will serve tastes better when it is served fresh from the oven.

Voelliger asked if the restaurant would be operated in a similar manner as Harris Pizza or Happy Joe's which also serve alcohol. Roemer confirmed this, adding that the menu has not been completely set.

Voelliger asked if the proposed use would occupy the entire building. Roemer explained that the restaurant would use approximately 2100 square feet of the nearly 4,500 square foot structure.

Stelk asked if there was anyone present wishing to speak in opposition to the request.

Jane Follas, 2607 Heather Glen Circle, expressed concern about the outdoor operation and the noise from any outdoor speakers. She stated that if the applicant sells the business in the future, a new owner may not be as conscientious about fitting into the neighborhood as the applicant appears to be. She stated that she feels that allowing outdoor service with background music would set a negative precedent for the neighborhood.

Connors clarified that the outdoor service of food is already allowed and that the applicant's request is for permission to serve alcohol in addition to serving alcohol on the patio. Voelliger added that the city has a noise ordinance and that the applicant will be required to abide by those regulations. Follas stated that while she understands that the city has noise regulations, she can hear outdoor band music when it takes place at a bar on Belmont Road.

Tom Follas, 2607 Heather Glen Circle, expressed concern about expanding the service of alcohol in a greater capacity than already exists in the area by allowing it to be served outside. He stated that there are already noise problems caused by patrons of The Clubhouse, a business located in the same development. He stated that he does not believe that alcohol should be allowed to be served in a residential area.

Tyler Driever, 2536 Lindenwood Drive, commented that he does not believe that the proposed use is similar in any way to the businesses referenced in the staff report as they are not located near residential neighborhoods. He added that allowing outdoor service of alcohol would set a precedent for other business owners who may wish to make the same request at some point in the future.

Mike Porter, 2558 Lindenwood Drive, concurred with Driever, adding that he is under the impression that there is an ordinance prohibiting the sale of alcohol adjacent to residences. He expressed concern about the noise that would be generated by outdoor service of alcohol and the additional traffic.

Roemer stated that while he appreciates the concerns that have been expressed, he does not operate his businesses in the same manner as the one that has been the cause of most of the noise problems. He indicated that the property involved is located in a commercial district, not a residential one. Roemer stated that in his opinion, the volume of sales would be similar whether or not alcohol is served. He reiterated that his business will be primarily a restaurant, not a bar. He stated that the proposed pizzeria and a bar with outdoor service are not comparable as the business model is so dissimilar.

Roemer commented that when Beaver's East and Northwoods Steak House had been in operation he thought that they had had outdoor alcohol service. Connors confirmed this, adding that the outdoor service area is indicated on the original site development plan on the north side of the building. Roemer stated that he does not believe that his request is any different than what has already been allowed in the development.

Howe commented that while he is not opposed to allowing the service of alcohol inside, he is reluctant to allow the outdoor service of alcohol at the restaurant because of the noise that may be generated and the possibility that the business may be sold in the future. He stated that the request for outdoor alcohol service at The Clubhouse had been denied.

Roemer stated that he does not believe that the possibility that he may sell the restaurant in the future should have any bearing on the Board's decision. Howe commented that whatever decision the Board makes will be applicable to the next owner. Roemer stated that while he understands this, any future owner will be required to abide by the same rules as he.

Roemer stated he is not opposed to limiting the hours of outdoor alcohol service and that he is more than willing to compromise.

Tom Follas stated that he objects to another business that serves alcohol in his neighborhood.

Voelliger asked if it would be possible to restrict the use contingent on the applicant's continued ownership of the business and the specific use. Soenksen confirmed this, adding that several times in the past the Board has temporarily allowed a use with the caveat that the operation be reviewed at some point in the future before allowing it permanently.

On motion by Howe, seconded by Falk, that the special use permit to allow a bar, cocktail lounge, or tavern be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #5 to these minutes.

Voelliger stated that he would not be opposed to allowing outdoor service of alcohol if the applicant maintains ownership. Howe asked if Voelliger would be agree to restricting the hours of outdoor alcohol service. Voelliger confirmed this.

A discussion was held regarding what the hours of outdoor alcohol service should be. Falk suggested discontinuing alcohol service outside two hours before the close of the restaurant. Johnson commented that outdoor service of food would still be allowed. She questioned the practicality of discontinuing alcohol service so early during the summer as customers may arrive at the restaurant shortly before 8:00 p.m. on a weeknight and wish to have an alcoholic beverage. Johnson stated that customers would have to be forewarned about the regulations before being seated outside. Falk commented that he is merely attempting to make a compromise between the neighbors and the applicant's wishes.

Howe commented that he is not necessarily in favor of expanding the outdoor service of alcohol in the area even though the Beach House already has the same privilege as he feels that future business owners will make the same request. Johnson asked for clarification regarding the Beach House's outdoor service area. Connors explained that when the original site development plan for the building was approved, an outdoor service area on the north side of the building was a part of it. He indicated that he is unaware of whether or not it has ever been used. Johnson asked if the owner of the Beach House would be allowed to serve alcohol in that area. Connors confirmed this, adding that the allowed use runs with the property, not the owner.

Johnson commented her impression is that if the owner of the Beach House chooses to build a patio, he would be allowed to serve food and alcohol outdoors with no restrictions. Howe confirmed this.

Porter suggested that staff confirm whether or not outdoor service of alcohol is allowed at the Beach House before a decision on the current request is made. Connors explained that an outdoor service privilege for alcohol is granted by the Alcoholic Beverages Division of the state of Iowa as a part of the liquor licensing process.

Johnson stated that without definitive confirmation of whether the Beach House is allowed to serve alcohol outside without any restrictions, she is not comfortable placing different limitations on the current applicant. Stelk commented that it would seem to be inconsistent to allow outdoor service of alcohol with no restrictions for one business but not another, especially since they are located in the same development. Johnson commented that the fact that staff is not aware of whether the other business in the development has ever utilized the allowable outdoor service area does not necessarily mean that it won't be used in the future. She reiterated that she is not comfortable treating two businesses in the same development differently. Soenksen stated that each decision is made individually based on different factors such as proximity to residences, adding that the proposed outdoor service area for The Clubhouse was much nearer to homes than that for the original Beaver's East restaurant. Johnson stated that the outdoor service area for the proposed pizzeria is much further away from residences than the one that was approved for the Beach House building. She suggested that the case be deferred until such time as a definitive answer with regard to the outdoor service area for the Beach House is available. Howe asked Johnson if her decision would be based on whether the Beach House is allowed to serve alcohol outside. Johnson explained that she feels that the two businesses are very similar, adding that another option would be for the applicant to accept the restrictions that the Board has mentioned. She indicated that if it later becomes known that there are no restrictions on outdoor service of alcohol at the Beach House, perhaps the applicant could return to the Board to request that any hours of operation restrictions be waived. Roemer stated that he would prefer that the Board make a final decision at the meeting and review the request in one year after more information is available about the Beach House. He explained that he would like to be allowed to serve alcohol outside each night until 10:00 p.m. as it would be very difficult to move customers who may be drinking an alcoholic beverage inside the restaurant at a certain time when there may be no indoor tables available. Roemer stated that moving those customers would be especially difficult during the summer months when it stays light until a much later hour. He stated that he would be willing to abide by the 10:00 p.m. restriction even if it turns out that the Beach House is allowed to serve alcohol much later, adding that a review of his operation could take place after one year. He indicated that it is unlikely that the restaurant would be open until April 2012 because of the remodeling that must be completed first. He requested that a final decision be made so that he may proceed with demolition on the interior of the building and so that the lease date does not have to be revised.

Connors stated that he would check the details of the liquor license details of the other business that were located in the building that currently houses the Beach House. Voelliger stated that he would like to give the applicant a chance to start his business now. He added that he is amenable to approving the request with the caveats that no alcohol may be consumed outside after 10:00 p.m. and that the business remain under the current applicant's ownership. He stated that if the business is sold, the new owner must return to the Board for permission to continue the use.

Driever expressed concern about the precedent that may be set by allowing alcohol service outside.

Tom Follas stated that he believes that his property is closer to the proposed outdoor service area than the closest house to the outdoor area at the Beach House. He expressed concern about the noise that will affect his neighborhood, adding that he does not believe that this use is appropriate for the area. Stelk explained that the special use permit has already been approved. Johnson added that food service is allowed without any additional approval required by the Board. She indicated that the only issue at hand is whether alcohol is allowed to be served outside.

Johnson suggested that alcohol be allowed to be served until 9:00 p.m. outside on weeknights as most outdoor service will occur during the summer when it stays light until at least that time. She indicated that it will likely be very commonplace for customers to arrive at the restaurant later in the evening who wish to eat outside and have an alcoholic beverage.

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

On motion by Voelliger, seconded by Falk, that the variance to allow outdoor operations be approved in accordance with the Decision and Order and subject to the applicant's continued ownership of the business and the restriction of consumption of alcohol in the outdoor service area to no later than 9:00 p.m. on weeknights and 10:00 p.m. on weekend nights.

#### ROLL CALL ON MOTION

AYE: Falk, Johnson, Stelk, Voelliger

NAY: Howe

Motion carried.

Decision and Order is Annex #6 to these minutes.

Stelk commented that in one year the case would be reviewed.

Soenksen announced that Stelk has officially resigned from the Board and expressed staff's appreciation of his decades of service to the city.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 6:10 p.m.

These minutes and annexes approved

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John Soenksen  
City Planner



COMMUNITY DEVELOPMENT  
City Hall Annex • 4403 Devils Glen Road, Bettendorf, Iowa 52722 • (563) 344-4100

December 8, 2011

Staff Report

**Case No. 11-073**

**Location:** 6023 Whispering Hill Drive

**Applicant:** John Klein

**Zoning Designation:** R-1, Single-family Residence District

**Request:** Variance to allow a 6-foot high fence in a required front yard.

**Background Information and Facts**

The site is located at the intersection of Whispering Hill Drive and Hopewell Avenue (see Attachment A – Location Map). On corner lots there are two setback requirements with regard to fence placement along the frontages. The applicant would like to place a 6-foot high fence along the rear and side of the house which would partially encroach into the required front yard adjacent to Hopewell Avenue.

**Staff Analysis**

Staff has considered three or fewer disconnected fence panels to be “lawn ornaments” or landscaping augmentation rather than a fence. Three or more connected fence panels are considered to be “fences” by staff and as such applicants are required to obtain building permits for installation and must abide by setback requirements.

The applicant plans to place two disconnected fence panels between landscaping features on the south side of the house along Hopewell Avenue and five or six interconnected fence panels (a fence) diagonally along the south side of the house and along the rear property line (see Attachment B – Plot Plan).

If allowed, the fence would be set back approximately 30 feet from the paved portion of Hopewell Avenue. It should also be noted that the applicant’s property line adjacent to Hopewell Avenue is set back 7 feet farther north than is the next door neighbor’s property line to the east (both of these features are shown on Attachment B). The proposed fence will also be set back approximately 40 feet from Whispering Hill Drive and staff has no concerns about line-of-sight at the intersection.

If allowed, the fence will be incorporated into or hidden by the extensive landscaping (see Attachment C – Landscaping Illustration). The applicant also notes that the proposed fence would provide additional buffering and privacy from the newly-installed multi-use recreation trail.

In March of 2009, the Board approved a 6-foot high fence at 6021 Emery Court for privacy reasons for that homeowner who also lives adjacent to the recreation trail (see Attachment D – Previously Approved Fence Plot Plan). The fence currently under consideration will be considerably less conspicuous than the previously approved fence due to the surrounding landscaping.

**Staff Recommendation**

The Board previously identified the intrusion of the multi-use recreation trail as a hardship for the few corner lots that have side yards (which are required front yard setbacks) adjacent to the trail.

Respectfully submitted,

John Soenksen  
City Planner

# Attachment - A



**SITE**

HOPEWELL AVE

53RD AVE BIKE PATH  
53RD AVE

FOREST GROVE DR

SAPPHIRE LN

INTERNATIONAL DR

OCEAN BLVD

DOROTHY'S DR

FRIENDSHIP PATH

PALM DR

REDBUD CT

GATTAIL LN

EMERY CT

ST. WYNEE DR

BUCKSKIN TRL

PEMBERTON DR

ALLENBROOK DR

CASTLEWOOD DR

LILIENTHAL ST

LOUISIANA ST

LILLY CT

STAR VIEW DR

THUNDER RIDGE RD

COLORADO DR

CALIFORNIA DR

TEXAS DR

NEVADA DR

ARIZONA DR

IDAHO DR

MISSOURI DR

CHARLES CT

NORTH RIDGE DR

ALAMEDA BLVD

53RD AVE BIKE PATH  
53RD AVE

MIDDLE RD

MIDDLE RD

**Attachment - B**



WHISPERING HILL DR

HOPEWELL AVE

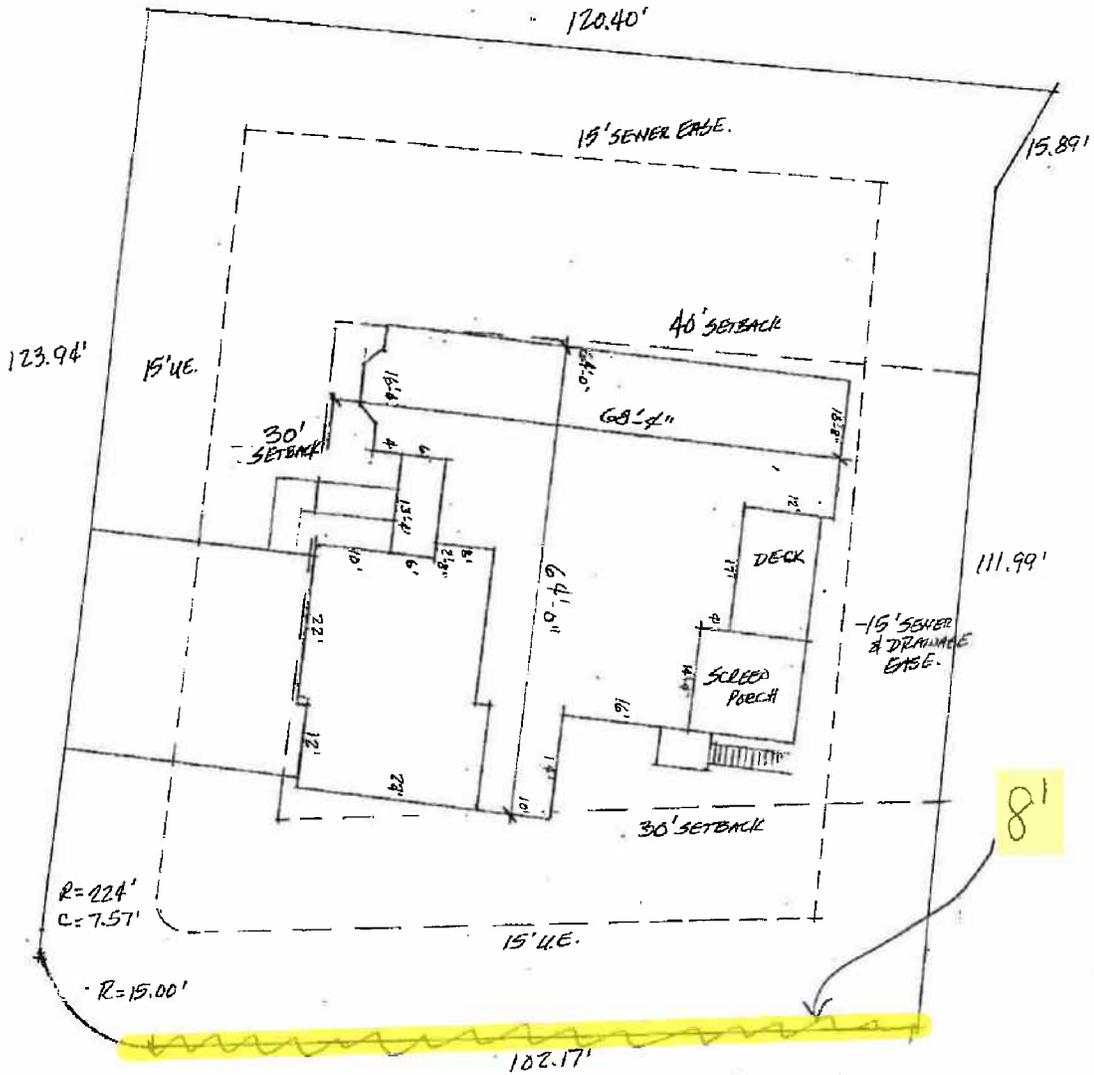
OREGON DR

# Attachment - C



PLOT PLAN

**Attachment - D**



R=22.4'  
C=7.57'  
R=15.00'

SITE PLAN  
LOT # 11  
LEGENDS OF HOPEWELL CREEK  
1" = 20.00'



COY CUSTOM HOMES

S.P.  
5/26/06



Indicate North  
Scale 1" = 20'

Zoning District R1  
Board of Adjustment Variance:  
no \_\_\_ yes \_\_\_ Dec/Order# \_\_\_\_\_

Front setback 30  
Side setback min 5 total 20  
Rear setback 40

Permit Record:  
D 6/2/06 06-1167

Legal Description 6021 Emery Ct  
Lot 11 Legends of Hopewell Creek  
Building Address 6021 EMERY COURT  
Contractor Coy Custom Homes

Case No. 11-073

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

Part 1. Property Involved.

Street Address 6023 WHISPERING HILL DRIVE

Legal Description of the property. ~~RESIDENCE~~

LOT 1 The Legends of Hopewell Creek Second Add

Part 2. Contact Information.

Applicant Name JOHN L. KLEIN Phone 563-355-7821

Address 6023 WHISPERING HILL DR FAX \_\_\_\_\_

E-mail Address: JKLEIN3RD@GMAIL.COM

Owner Name SAME AS ABOVE Phone \_\_\_\_\_

Address \_\_\_\_\_ FAX \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Agent \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_ FAX \_\_\_\_\_

E-mail Address: \_\_\_\_\_

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. \_\_\_\_\_  
(Attach a separate sheet and explain in detail.)





COMMUNITY DEVELOPMENT  
City Hall Annex • 4403 Devils Glen Road, Bettendorf, Iowa 52722 • (563) 344-4100

December 8, 2011

Staff Report

**Case No. 11-074**

**Location:** 2975 Elk Drive

**Applicant:** Melinda Koehler

**Zoning Designation:** A-2, Rural Residence District

**Request:** Variance to reduce the required side yard setback from 5 feet to 2½ feet to allow construction of a shed.

**Background Information and Facts**

The site is located toward the north end of Elk Drive which is east of the entrance to Scott Community College on Belmont Road (see Attachment A – Location Map). The applicant inadvertently placed a shed on the east side of the house within 2½ feet of the required side yard property line (see Attachment B – Plot Plan).

**Staff Analysis**

The small shed (9 feet x 6 feet) is illustrated as the yellow square on Attachment B. The neighbor's fence which is adjacent to the shed is illustrated by the thin yellow line on Attachment B. The applicant placed the shed 5 feet from the fence believing that it is located on the property line. Because the fence is not located on the property line (illustrated by the black bold line on Attachment B), the northeast corner of the shed is 2½ feet from the property line and the southeast corner is 5 feet from the property line.

The property involved is over 1 acre in size and there are no issues related to the configuration or topography of the lot that would constitute a hardship. There is ample space on the lot to move the shed to the required setback. Because of the small size of the shed, a building permit was not required. Staff became aware of the error because a neighbor questioned whether the shed is properly placed.

**Staff Recommendation**

While staff cannot cite a hardship and it is apparent that there is ample room to place the shed elsewhere on the lot to observe the proper setback, staff acknowledges that the applicant attempted to place the fence at the correct setback. The error in placement was simply due to the fact that the applicant mistakenly assumed that the fence is located on the property line.

Respectfully submitted,

John Soenksen  
City Planner

# Attachment - A

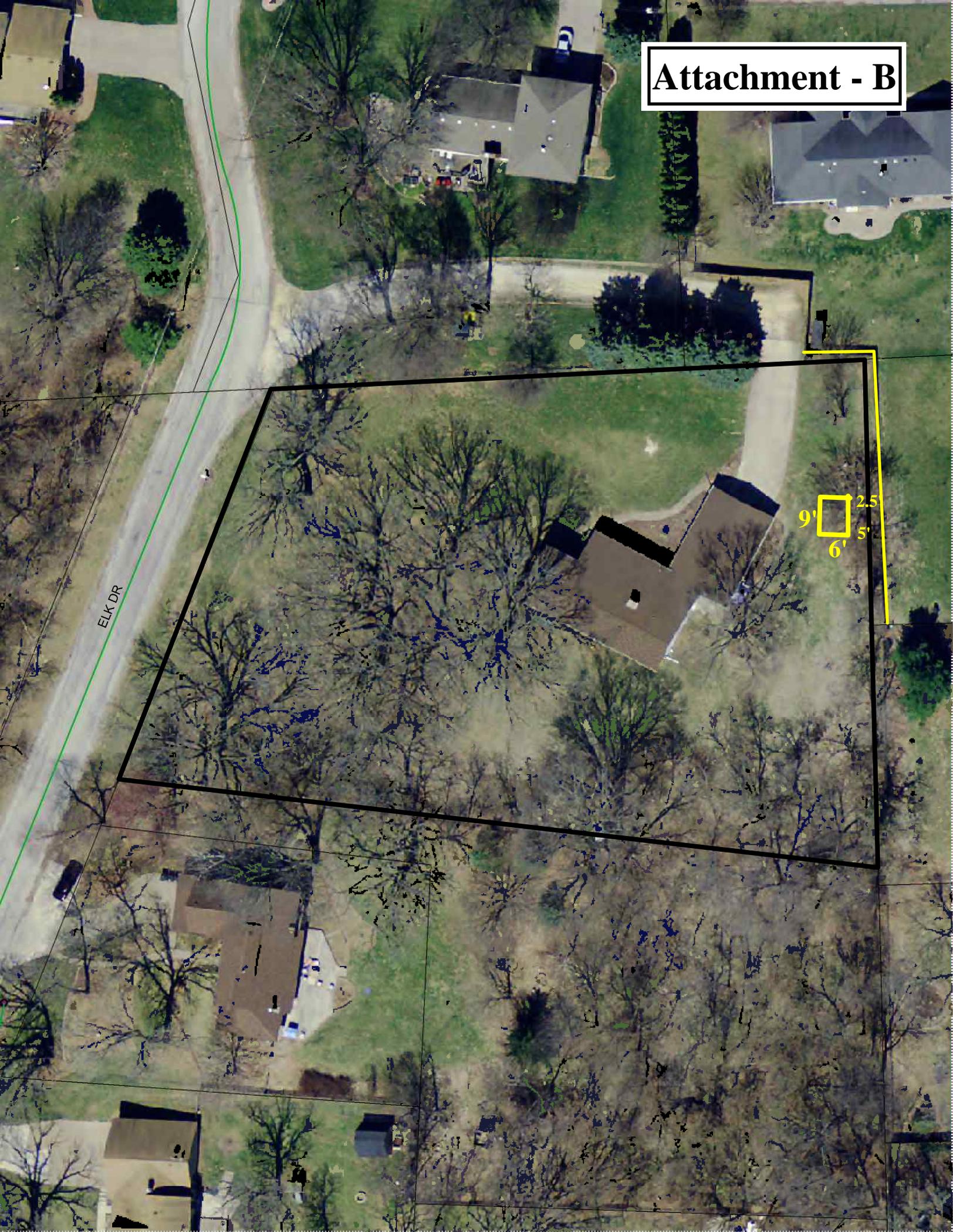


Pleasant  
Valley  
High  
School

**SITE**

Scott  
Community  
College

# Attachment - B



ELK DR

9'  
6'  
2.5'

Case No. 11-074

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

Part 1. Property Involved.

Street Address 2975 Elk Drive Bettendorf, IA

Legal Description of the property. LOT 2, Crestview Heights 5th Add

Part 2. Contact Information.

Applicant Name Melinda Koehler Phone 563-271-2905

Address 2975 Elk Drive FAX \_\_\_\_\_

E-mail Address: mindykoeh@aol.com

Owner Name Melinda Koehler Phone \_\_\_\_\_

Address \_\_\_\_\_ FAX \_\_\_\_\_

E-mail Address: same as above

Agent \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_ FAX \_\_\_\_\_

E-mail Address: \_\_\_\_\_

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. \_\_\_\_\_

(Attach a separate sheet and explain in detail.)

Part 4. General Information.

Section(s) of Zoning Ordinance Involved \_\_\_\_\_ Existing Zoning A-2

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.  
Built shed a poured concrete, one corner is too close to neighbors property line. I thought the fence was the property line. I talked to the neighbor, he said he will have no problem with me getting a variance.

Reduction of Side yard from 8 feet to 2 1/2 feet

Part 6. Attachments. The following items are attached and are a part of this application.

- 1. Scale accurate site plan, at a scale of 1" = 20' or other suitable scale, showing adjacent street, 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 \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Signature of Applicant Melinda Koehler 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 17 day of Nov., 20 11.

John Seaman  
 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 John Seaman  
 Amount 50.00 Date 11-17-11



COMMUNITY DEVELOPMENT

City Hall Annex • 4403 Devils Glen Road, Bettendorf, Iowa 52722 • (563) 344-4100

December 8, 2011

Staff Report

**Case No. 11-075**

**Location:** 3220 Zimmerman Drive

**Applicant:** Dan Santry

**Zoning Designation:** I-3, Heavy Industrial District

**Request:** Variance to reduce the required sign setback from 25 feet to 3 feet.

**Background Information and Facts**

The site is located at the southwest corner of Zimmerman Drive and State Street (see Attachment A – Location Map). The site is the location of a large trucking firm and the owner would like to place a business sign within 3 feet of the front property line.

**Staff Analysis**

The Code state that an on-premises identification sign may be placed a minimum of 15 feet from the property line or half the distance of the required yard, **whichever is greater**. Since the Heavy Industrial District mandates a 50-foot front yard setback, the applicant is required to place a sign at least 25 feet back from the front property line.

This industrial site has some unique features that complicate the applicant's ability to place a business sign with acceptable visibility to customers (see Attachment B – Plot Plan):

1. Most industrial properties place their security fences on the property lines to maximize the usable area within the fence. The front fence at this business is set back at a diagonal, 15 feet on the north and 40 feet on the south from the front property line. The applicant would like to place the sign in front of the fence to allow for greater visibility.
2. The applicant is also dealing with the fact that the Iowa D.O.T. has additional unused right-of-way property in front of the business (State Street side). If the Board allows this request, the sign will be set back 50 feet from the right-of-way line adjacent to State Street and would be set back 75 feet from the paved portion of the roadway. This would constitute an excessive setback for the sign when compared with most of the other business signs throughout the City of Bettendorf.
3. The trees and berm west of this site would hide the sign from visibility if set back further than the proposed location. The applicant does not have control of the berm or most of the trees because they are not on his property.

Attachment B illustrates the proposed sign placement in relation to the applicant's front property line, the fence, the State's additional unused right-of-way, the property line adjacent to the roadway, and the trees and berm.

Attachment C is an illustration of the proposed sign. The 96 square foot sign appears to be an appropriate size given the sign's 75-foot minimum setback from the nearest portion of roadway.

**Staff Recommendation**

Based on the above analysis, staff feels that the applicant has demonstrated a hardship and further feels that the proposed sign placement will not caused any adverse impact on the surrounding area.

Respectfully submitted,

John Soenksen  
City Planner

**Attachment - A**



**SITE**

VALLEY DR

STATE ST

ZIMMERMAN DR

BEAR TOOTH CT

SHORELINE DR

SAND STREET CT

**Attachment - B**



**FENCE**

**SIGN**

**PROPERTY LINE**

**EXTRA STATE RIGHT-OF-WAY LINE**

ZIMMERMAN DR

STATE ST

12'

# ***OWNER OPERATORS NEEDED!***

**Stepdeck & Lowboy Freight**



**BEST FUEL SURCHARGE \$**

**800-669-6414**

**WWW.DAILYRECRUITING.COM**

8'

4'

4'

Case No. 11-075

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

**Part 1. Property Involved.**

Street Address 3220 ZIMMERMAN DR. BETTENDORF, IA 52722  
Legal Description of the property. Lot #1 Leclaire Manufacturing 1st addition.

**Part 2.**

Applicant Name DAN SANTRY Phone 800-877-7250 ext. 1  
Address 3220 ZIMMERMAN DR. BETTENDORF, IA 52722 FAX 563-332-9492

Owner Name \_\_\_\_\_ Phone \_\_\_\_\_  
Address \_\_\_\_\_ FAX \_\_\_\_\_

Agent \_\_\_\_\_ Phone \_\_\_\_\_  
Address \_\_\_\_\_ FAX \_\_\_\_\_

**Part 3. This application is for the following: (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. \_\_\_\_\_  
(Attach a separate sheet and explain in detail.)

