

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 12, 2012
5:00 P.M.**

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

Item 1. Roll Call

PRESENT: Falk, Gallagher, Johnson, 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 March 8, 2012.

On motion by Johnson, seconded by Gallagher, that the minutes of the meeting of March 8, 2012 be approved as submitted.

ALL AYES

Motion carried.

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

- a. Case 12-025; 6400 Crow Creek Road (R-1) - A request for a variance to reduce the required setback for an on-premises identification sign to 1 foot, submitted by Acme Sign Company.

Voelliger 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 report. Staff report is Annex #3 to these minutes.

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

Craig Jarvis, representing the applicant, explained that the applicant would like to have their sign closer to the street because of the existing trees that will block visibility. He added that the proposed sign would be located approximately 25-30 feet from the curb. He indicated that the applicant had considered relocating the sign closer to the driveway but that the estimate for the expense of extending electrical power to it was \$2000.

Voelliger asked if the applicant had considered removing the trees that would decrease the visibility of the sign. Jarvis stated that the church leaders do not want to remove the trees, adding that he had made that suggestion as well.

Falk stated that in his opinion, any hardship related to the proposed sign is self-imposed by the applicant. He commented that it appears as though the church leadership feels that the sign is more important than the trees. He indicated that moving the sign nearer the driveway seems like a good solution and that it would then be code-compliant. Jarvis commented that to meet code requirements, the sign would likely encroach into the parking lot.

Soenksen explained that the original sign was indicated on the site development plan. He indicated that the Board has three options with regard to the proposed sign which include denying the request, allowing the new sign to be placed in the same location as the existing one, or allowing the new sign to be placed at a location closer to the sidewalk.

Gallagher asked if the proposed is compliant with ordinance requirements with regard to size. Soenksen confirmed this.

Voelliger reiterated that the trees closest to the proposed sign location could be removed as the sign will likely be there longer than the trees. He expressed concern about placing the sign so close to the sidewalk.

Johnson reiterated that any hardship is self-imposed as there are no topographical issues related to the property. She expressed concern about setting a precedent for future applicants who make similar requests because of existing landscaping. Falk concurred, adding that he does not feel that the circumstances are dire enough to justify granting a variance. He stated that while the applicant's other options may be less palatable, they are still reasonable.

Gallagher stated that while the applicant has not established a legitimate hardship to justify granting their request, he is not in favor of imposing a greater hardship on the applicant by requiring that the sign be moved to a location that is code-compliant. He indicated that he would support allowing the new sign to be placed in the same location as the existing one. Falk concurred.

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

On motion by Gallagher, seconded by Falk, that a variance to reduce the required setback for an on-premises identification sign to 10 feet be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

Item 5. The Board to hold a public hearing on the following item:

- a. Case 838; 1460 Steamboat Drive (C-7) - Special use permit to allow public auctions, submitted by U.S. Auctioneers.

Soenksen reviewed the staff report. He asked the Board for direction regarding any action staff should take related to the complaint.

Voelliger suggested that the complaint be received and filed and that a letter be sent to the auction company along with a copy of the original decision and order. He requested that city staff monitor the site for several months in order to determine whether there is an actual violation before any official action is taken.

Falk asked if there have been complaints in the past. Connors commented that this is the first complaint that he is aware of during his 16 years with the city. Falk suggested that a letter may serve as enough corrective action to solve the problem.

Falk asked if the new I-74 bridge construction would affect the use because of its proximity to it. Soenksen explained that a portion of the property on which the auctions are held would be part of the Department of Transportation's acquisition. Falk asked when the bridge is scheduled to be built. Connors stated that construction is slated to begin in 2016. Voelliger commented that once the property is purchased by the DOT it is possible that the auctions will not be allowed to continue.

Gallagher stated that he believes that the city has the obligation to investigate the complaint and enforce the conditions of the original special use permit approval. He suggested that the owner of the property be notified of those conditions as well.

Johnson asked for clarification regarding the ownership of the property and whether or not the owner is conducting the auctions. Soenksen explained that Green Bridge Company, the parent company of the Isle of Capri, owns the property. He added that US Auctioneers had requested permission to conduct auctions on the property in 1993.

Johnson asked if it would be possible for the original applicant to request that the Board reconsider the original conditions once they are reminded of them by staff. Soenksen explained that the special use permit process would have to be started over, adding that the applicant is bound by the original conditions until such time as they reapply if they choose to do so.

Soenksen asked for clarification regarding the Board's expectations with regard to the monitoring of the site. Connors offered to have the Code Enforcement Department staff drive by every weekday to monitor the activity. Voelliger asked if staff has a calendar of future auctions. Connors stated that staff is not made aware of those dates. Voelliger suggested that staff include a request to be made of aware of future auctions in the letter that is sent, adding that it seems impractical for city staff to check every day to make sure equipment is not on the site. Johnson commented that US Auctioneers has a website that may indicate the dates of future sales. Falk stated that if the dates of future auctions are known, staff could visit the site shortly before the date that

equipment is allowed to be placed on the site and whether the auction company is in violation of the decision and order. Johnson reiterated that a daily visit by city staff does not seem worthwhile.

Johnson asked if this is the first complaint since 1993. Connors stated that there have been multiple complaints from the same complainant. Gallagher stated that it is impractical to monitor all of the properties for which variances and special use permits have been approved, adding that when staff receives a complaint staff must address it and make a reasonable effort to resolve it. He

There being no further business, it was unanimously approved to adjourn the meeting at approximately 5:40 p.m.

These minutes and annexes approved

John Soenksen
City Planner