

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  
JUNE 14, 2012  
5:00 P.M.**

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

1. Roll Call: Falk \_\_\_\_\_, Gallagher \_\_\_\_\_, Johnson \_\_\_\_\_, Voelliger \_\_\_\_\_
2. Review of Board Procedures.
3. The Board to review and approve the minutes of the meeting of May 10, 2012.
4. The Board to hold a public hearing on the following items:
  - a. Case 12-037; 4021 Greenbrier Drive (R-2) - A request for a variance to reduce the required front yard setback from 25 feet to 17 feet to allow construction of a deck, submitted by Douglas Larson.

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  
MAY 10, 2012  
5:00 P.M.**

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

Item 1. Roll Call

PRESENT: Falk, Gallagher, Johnson, Voelliger  
ABSENT: None  
STAFF: Connors, Fuhrman

Item 2. Review of Board Procedures.

Item 3. The Board to review and approve the minutes of the meeting of April 12, 2012.

On motion by Falk, seconded by Gallagher, that the minutes of the meeting of April 12, 2012 be approved as submitted.

ALL AYES

Motion carried.

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

- a. Case 12-031; 2339 - 53<sup>rd</sup> Avenue (C-2) - A request for a special use permit to allow a drive-in banking facility, submitted by Joe Minorik.

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

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

Johnson stated that she would abstain from discussion and voting on this case.

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

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

Gallagher asked for clarification regarding the proposed access to Falcon Avenue, adding that his understanding from the staff report is that it is one way. Connors explained that there is full access from both driveways on Falcon Avenue but that the internal driveways on the west and south would be one way.

On motion by Gallagher, seconded by Falk, that a special use permit to allow a drive-in baking facility be approved in accordance with the Decision and Order.

ROLL CALL ON MOTION

AYE: Falk, Gallagher, Voelliger  
NAY: None  
ABSTAIN: Johnson

Motion carried.

Decision and Order is Annex #4 to these minutes.

- b. Case 12-032; 3462 Maple Glen Drive (R-4) - A request for a variance to reduce the required rear yard setback from 25 feet to 16 feet to allow construction of a deck, submitted by Tom Stopulos.

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

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

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

Vivian Norton, representing the homeowner's association, stated that their Board had approved a request from Stopulos for a 16-foot x 18-foot deck, not a 18-foot x 20-foot deck. She indicated that the association's opinion is that the proposed deck would not intrude any further into the rear yard than others in the neighborhood. She added that they did not feel the request could be denied, especially because of the medical reasons for the request. Norton stated that the association's approval letter did not stipulate a size, reiterating that she does not believe that the deck would intrude any further than others in the subdivision.

Voelliger asked if there are other residents in the subdivision with similar-sized decks. Norton confirmed this, adding that most of them are located nearer Maplecrest Road, not in the neighbor's immediate vicinity. She stated that in the past the association board has limited the size of deck construction because of the proximity to neighbors.

Johnson asked for clarification of the association's position on the increased size of the proposed deck. Norton explained that while the board members had been surprised at the increase, there has not been a meeting subsequent to the last one and therefore there is no official position regarding the change. She commented that the developer had not given a lot of consideration to future construction of decks in this particular area of the subdivision.

Voelliger asked if the decks that currently exist are of a similar size or if they are much smaller. Norton explained that she does not believe that there are any larger ones, but

that she is aware of one deck that is approximately the same size but which is on a lot with a great deal more space in the rear yard.

Falk asked if Norton is aware of any reason why the applicant could not achieve the same goal by constructing a ramp and patio. Norton stated that a deck would be much more serviceable for their situation. She reiterated that the association is not opposed to their having a deck.

Falk commented that regardless of whether the association approves of the proposed deck, the Board must consider only the proposed intrusion into the required setback and whether or not a hardship has been established. He added that he would have a difficult time supporting the request given how narrow the rear yards are in the area. Norton asked if Falk feels as though the smaller deck would be more appropriate. Falk explained that he would not be supportive of any deck that encroaches into the required rear yard.

Norton asked for clarification regarding the size of deck that would be allowed without a variance. Connors explained that the ordinance requires a 25-foot rear yard setback, adding that a deck approximately 11 feet deep would be allowed. Norton stated that she does not believe that a deck of that size would be acceptable to the applicant. She asked if the Board could grant a variance for a smaller deck than requested. Falk stated that the Board must consider the request that was submitted, adding that it would not be appropriate to change the request without the applicant's permission.

Johnson asked if the other decks in the subdivision encroach into required yards. Norton confirmed this. Gallagher asked if the homeowners received variances for the decks that encroach into the setback. Connors stated that he is unaware of any permits having been issued for any of the decks in the Maple Glen area.

Sam Foley, the applicant's contractor, explained that one of the homeowners has difficulty navigating stairs, adding that this is the reason a deck has been proposed rather than a patio.

Voelliger asked if the applicant would consider a smaller deck. Foley explained that Stopulos may be willing to consider a deck that is 16 feet by 18 feet. He indicated that the applicant had a prior commitment out of town but had wished to attend the meeting.

Foley asked if the proposed deck could be made 2 feet wider to make up for the proposed reduction in the depth. Johnson explained that if the extra width does not cause a setback encroachment, it would be acceptable. Foley commented that the steps to the yard would be placed at the side, not the rear of the deck.

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

Johnson commented that the fact that the homeowner's association must approve deck construction might mitigate the concern about approval establishing a negative precedent.

Connors stated that the original developer and builder had left very little space for any homeowner who wishes to construct a deck. Johnson commented that homebuyers are aware of the limitations of any property prior to purchase.

Voelliger stated that he believes homeowners should be allowed to utilize their property to its highest and best use, but expressed concern about the possibility of the proposed deck hindering the ability of neighbors to enjoy their properties.

Foley stated that most of the neighbors have concrete patios, reiterating that this is not a possibility because of the special needs of one of the residents.

Falk asked how far from the ground the deck would be. Foley explained that the deck floor would be 36 inches from the ground and that the railing would add another 36 inches in height.

Falk asked for clarification regarding the height at which the city has purview over such structures. Connors explained that if a deck such as is proposed has footings and is attached to the principal structure, the construction must meet ordinance requirements.

Falk expressed concern about the deck's being so far from the ground and so close to the neighbors, adding that there could easily be privacy and exposure issues.

Gallagher commented that it does not appear as though the applicant has established a legitimate hardship. Voelliger concurred, adding that the proposed deck seems to serve as more of a convenience to the applicant. Falk expressed concern about the precedent that would be set if the variance request is approved.

On motion by Falk, seconded by Gallagher, that a variance to reduce the required rear yard setback from 25 feet to 18 feet to allow construction of a deck be denied in accordance with the Decision and Order.

#### ROLL CALL ON MOTION

AYE: Johnson, Voelliger  
NAY: Falk, Gallagher

Motion failed.

Voelliger suggested that perhaps the Board may be more supportive of an even smaller deck. A brief discussion was held regarding what size deck the Board may find acceptable. Falk commented that the deck should be relative to the amount of space available in the rear yards of the neighborhood if a variance is approved.

Connors stated that it is within the Board's purview to approve a variance to allow a certain amount of encroachment into the rear yard setback but leave the configuration of the deck to the applicant if he finds such a solution acceptable.

Johnson suggested that perhaps some landscaping elements could be used to soften the obtrusiveness of the deck if a modified request is granted.

On motion by Johnson, seconded by Gallagher, that a variance to reduce the required rear yard setback from 25 feet to 20 feet to allow construction of a deck be approved in accordance with the Decision and Order.

ROLL CALL ON MOTION

AYE: Gallagher, Johnson, Voelliger  
NAY: Falk

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 5:40 p.m.

These minutes and annexes approved

\_\_\_\_\_

\_\_\_\_\_  
Bill Connors  
Director of Community Development



COMMUNITY DEVELOPMENT  
City Hall Annex • 4403 Devils Glen Road, Bettendorf, Iowa 52722 • (563) 344-4083

June 14, 2012

Staff Report

**Case No. 12-037**

**Location:** 4021 Greenbrier Drive

**Applicant:** Douglas Larson

**Zoning Designation:** R-2, Single-family Residence District

**Request:** Variance to reduce the required front yard setback from 25 feet to 17 feet to allow construction of an 8-foot by 6-foot deck.

**Background Information and Facts**

The site is located north of Tanglefoot Lane on Greenbrier Drive at the southeast corner of Greenbrier Drive and Kings Drive (see Attachment A – Location Map). The applicant would like to build an 8-foot by 6-foot deck at the front entrance to the house which would encroach into the required front yard setback (see Attachment B – Plot Plan).

**Staff Analysis**

The City's stance concerning decks in front yards has evolved over time. In 1994, an 8-foot by 18-foot deck at the front entrance to the house at 3939 Greenbrier Drive was approved. The current Code (Section 18.30) does not list decks as an allowable intrusion into a front yard; therefore, staff will not approve a deck in the required front yard unless a variance is granted by the Board. In October 2005 the Board denied a request for an 8-foot by 17-foot deck in the front yard at 4001 Greenbrier (directly next door to the applicant).

Staff makes a distinction between a "deck" and a front door "landing". In most cases, a request for a front entry landing involves placing a 5-foot by 5-foot wooden structure over an existing concrete stoop. This allows the minimum platform configuration necessary to cover the stoop and allow adequate area to negotiate the front door and allow reasonable access for entry. Because of this interpretation, staff does not consider a landing 5 feet by 5 feet (25 square feet) or smaller in size at a front entry to be a deck, but any structure larger than 5 feet by 5 feet would be.

The proposed request is for a slightly larger than allowed landing (48 square feet.) The deck at 3939 Greenbrier Drive approved in 1994 is 144 square feet. The request for a deck at 4001 Greenbrier Drive and denied in 2005 would have been 136 square feet. Staff concedes that the current request would give the visual appearance of an entry landing rather than an expanded front deck (see Attachment C – Request Illustration.)

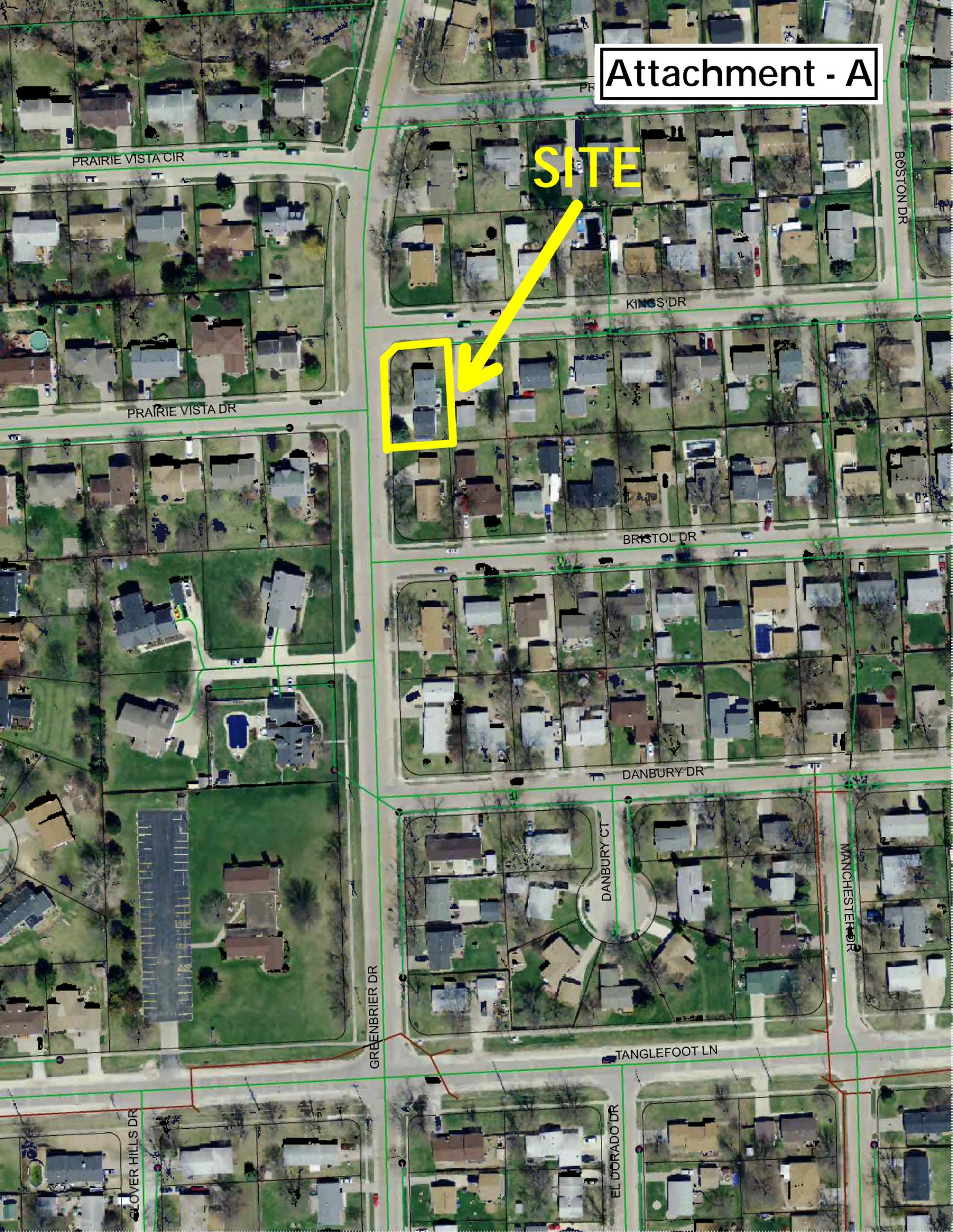
Due to the width and configuration of the lot, almost any request for a deck in both the front and rear yards beyond the current footprint of the house would require a variance; the applicant believes that this constitutes a hardship and further contends that the request represents a minimal intrusion into the front yard and would not adversely impact the surrounding neighbors.

Respectfully submitted,

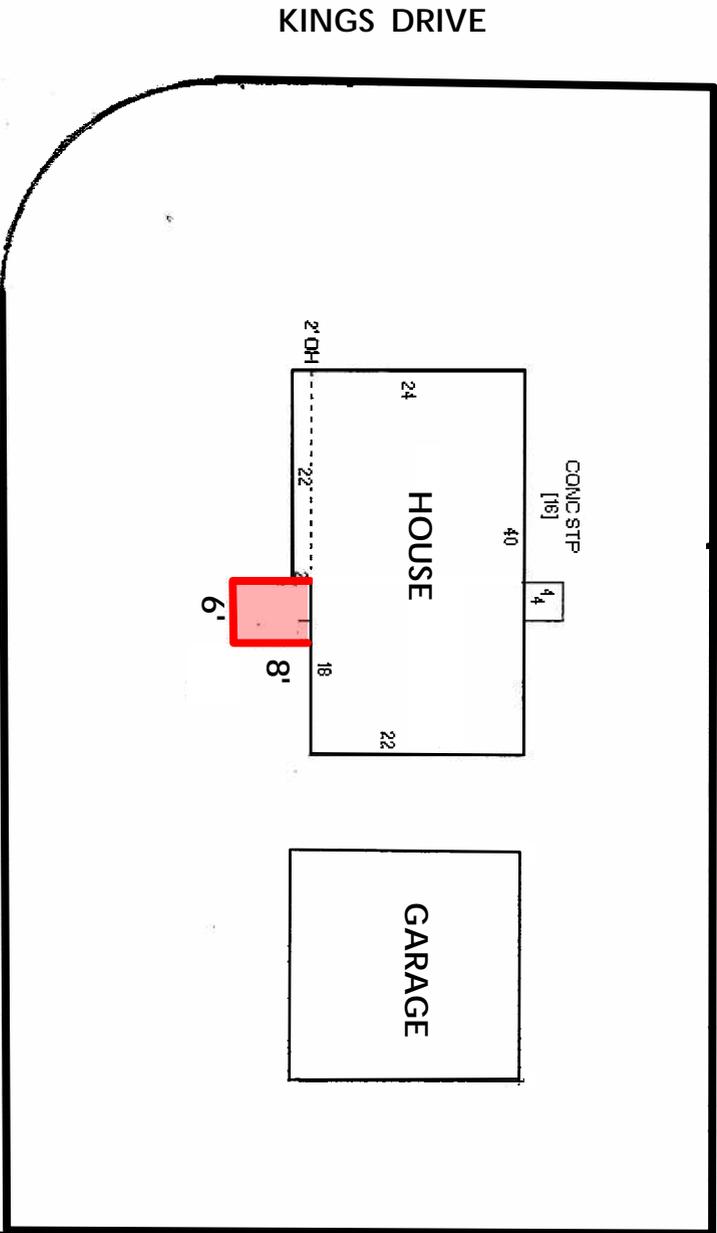
John Soenksen  
City Planner

Attachment - A

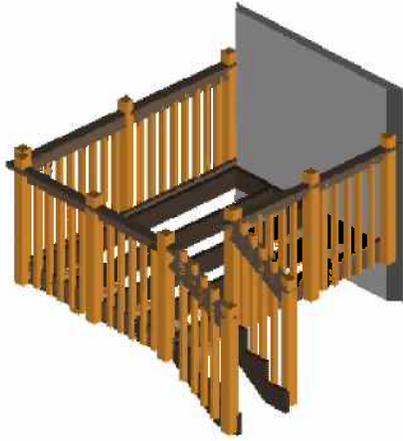
SITE



# Attachment - B



# Attachment - C



Top view without planks



Bottom view with planks





Case No. 12-037

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

Part 1. Property Involved.

Street Address 4021 GREENBRIER DRIVE BETTENDORF, IA 52722

Legal Description of the property. ~~Single Family Dwelling~~

Lot 1 Candlelight Park 2nd Addition

Part 2. Contact Information.

Applicant Name Douglas Larson Phone 563-940-9636

Address 4021 GREENBRIER DR BETTENDORF, IA FAX \_\_\_\_\_

E-mail Address: RLA5419601@AOL.COM Cell. 563-344-9420

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.)

**Part 4. General Information.**

Section(s) of Zoning Ordinance Involved \_\_\_\_\_ 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.

entry steps - overlay - will increase size of steps and add hand rails  
for easier entrance to residence - will not obstruct any view - there are  
currently no handrails for entrance and will enhance the property.

**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 29 day of May, 20 12.

Signature of Applicant [Signature] 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 29<sup>th</sup> day of May, 20 12.

[Signature]  
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 [Signature]

Amount \$50.00 Date May 29, '12 [Signature]