

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 13, 2013  
5:00 P.M.**

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

1. Roll Call: Falk \_\_\_\_\_, Gallagher \_\_\_\_\_, Johnson \_\_\_\_\_, Spranger \_\_\_\_\_, Voelliger \_\_\_\_\_
2. Review of Board Procedures.
3. The Board to review and approve the minutes of the meeting of May 9, 2013.
4. The Board to hold a public hearing on the following items:
  - a. Case 13-029; 3495 ValleyWynds Drive (R-2) - A request for a variance to allow a 6-foot high fence in a required front yard, submitted by Ben Moseley.

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 9, 2013  
5:00 P.M.**

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

Item 1. Roll Call

PRESENT: Falk, Johnson, Spranger, Voelliger  
ABSENT: Gallagher  
STAFF: Fuhrman, Soenksen, Connors

Item 2. Review of Board Procedures.

Item 3. The Board to review and approve the minutes of the meeting of April 11, 2013.

On motion by Johnson, seconded by Falk, that the minutes of the meeting of April 11, 2013 be approved as submitted.

ALL AYES

Motion carried.

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

- a. Case 13-018; 1235 - 16 ½ Street (R-2) - A request for a variance to reduce the required front yard setback from 25 feet to 19 feet to allow for construction of a porch, submitted by Roy Shaft.

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.

Roy Shaft, the applicant, explained that he would like to remove the existing awnings and construct the porch which will help to reduce the effects of sun and heat on the house.

Voelliger asked if the porch would be constructed of wood or concrete. Shaft explained that at this time he plans to construct the porch roof and at a later date will likely pour a concrete pad. Voelliger asked if the porch would be enclosed and if it would have a roof. Shaft indicated that the porch would not be enclosed but that it would have a roof.

Falk asked what type of material would be used to roof the structure. Shaft stated that the roof would be steel to match the existing roof on the house.

Johnson asked what the pitch of the proposed roof would be. Shaft explained that the porch would have a minimum pitch of 3:12, but that it would be most likely be 4:12. He added that the roof of the house has a pitch of 6:12.

Johnson asked if the posts would be metal or wood. Shaft explained that they would be treated lumber.

Voelliger asked if staff is aware of any similar examples where a porch wraps around the house. Connors stated he does not believe that there are any examples of existing construction, but that designs for new construction often include a wraparound porch on the front of the house.

Johnson commented that the proposed porch would not create any line of sight issues, adding that the configuration of the lot is difficult.

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

On motion by Johnson, seconded by Falk, that a variance to reduce the required front yard setback from 25 feet to 19 feet to allow for construction of a porch be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

- b. Case 13-019; 1866 Bristol Drive (R-2) - A request for a variance to reduce the required side yard setback from 5 feet to 3 feet to allow for construction of a garage, submitted by Nancy Rigby.

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 #5 to these minutes.

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

Nancy Rigby, the applicant, stated that she does not believe that she has a self-imposed hardship as indicated in the staff report as the previous owner converted the original garage to living space and she does not believe that she is responsible for it. She added that she cannot speak to the fact that there are no records showing that building permits were issued for the project.

Falk commented that he does not feel that he can support the request because the proposed addition would preclude the adjacent neighbor from obtaining a similar variance. He indicated that because of the additional structures that already exist on the lot, it appears as though the property is quite crowded. He stated that the proposed construction would change the character and appearance of the neighborhood, adding that it would not be in keeping with the original structure.

Rigby stated that her neighbor already has a freestanding garage further back on the lot and indicated that there is no reason for that neighbor to make a similar request which would interfere with the required fire separation. She indicated that the construction would not negatively impact the aesthetics of the home as the roof line would simply be extended straight out from the existing roof. She stated that she must think more about her health and convenience as she ages which a garage would provide.

Voelliger asked if the applicant believes that the proposed garage would increase the value of the home and be of a benefit to the neighbors because of an enhanced appearance. Rigby confirmed this.

Johnson concurred with Falk's comments, adding that a precedent would be set by allowing the proposed garage in a neighborhood where the houses are so close together. She indicated that while the current neighbor may not wish to add to his or her home, the proposed construction might restrict future owners from adding on. She stated that while she sympathizes with the homeowner, she knew that the house did not have a garage when she purchased it. Johnson reiterated that the site is already very full.

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

On motion by Johnson, seconded by Spranger, that a variance to reduce the required side yard setback from 5 feet to 3 feet to allow for construction of a garage be denied in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #6 to these minutes.

- c. Case 13-020; 4038 Utica Ridge Road (C-6) - A request for a variance to reduce the required front yard setback from 50 feet to 10 feet to allow an on-premises identification sign, submitted by Quad City Construction Services.

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 #7 to these minutes.

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

Charles Deborn, representing the applicant, explained that the base of the sign will be constructed of a brick similar to that on the building. He indicated that the sign would be 72 square feet in size and that the electronic portion of the sign would be 2 feet by 6 feet. He added that the sign would be operated in accordance with the city's regulations regarding electronic signage.

Voelliger asked how tall the proposed sign would be. Deborn explained that it would be between 7 ½ and 8 feet tall at the crown of the sign.

Johnson asked if the measurement of 72 square feet includes the pillars. Deborn indicated that the pillars are not included in that measurement.

Voelliger asked if the proposed sign lines up with the on-premises identification sign at the adjacent business. Soenksen stated that it appears as though the Uticor sign is set back slightly further.

Johnson asked for clarification regarding the required sign setback. Soenksen explained that the required setback for a sign 60 square feet in size or less is half of the required front yard setback or 15 feet, whichever is greater.

Falk asked if the old sign had been set back 10 feet. Soenksen confirmed this.

Johnson commented that if the sign were placed at the required setback it would be difficult to see from Utica Ridge Road, adding that a variance would still be required to place the sign nearer the building and at the edge of the parking area.

Deborn explained that the applicant would like to have a digital sign because the business has changed in recent years such that retail sales are becoming more prevalent at that location. He indicated that it is more cost-effective to utilize a digital sign rather than use print advertising as special package pricing changes frequently.

Voelliger asked if staff feels that a digital sign would have a negative impact on the neighbors. Soenksen explained that the ordinance states that copy on a digital sign cannot change any more quickly than every 6 seconds, that flashing, animation, and video are not allowed, and that brightness is limited.

Voelliger asked if staff feels that the proposed sign is compatible with the neighborhood as there are residences across the street. Connors asked if there is a limitation on hours of operation of a digital sign when it is adjacent to a residential area. Soenksen stated that digital signs must be turned off during the night hours when they are located in a residential district, but is unaware of a limitation on signs adjacent to residential districts. He added that the applicant is aware of all of the ordinance requirements and has agreed to abide by them. Soenksen indicated that if any of the requirements are not met, staff has the authority to require that the sign be turned off. Deborn explained that the timing of the sign is completely controllable, adding that the default change time is every 6.5 seconds. He reiterated that he is very well aware of the city's requirements and that the employees of the business are also aware.

Voelliger asked if the proposed sign would lit 24 hours per day. Deborn explained that the sign can be programmed to be on at certain times of the day if necessary, adding that the brightness can also be controlled.

A brief discussion was held regarding the sign at Cities Insurance Group on 18<sup>th</sup> Street for which a variance was required. Soenksen commented that one of the conditions of approval of that variance is that the sign be turned off between the hours of 10:00 p.m. and 7:00 a.m. as it is located adjacent to a multi-family residence district. Deborn indicated that the Cities Insurance Group sign is approximately 25 times larger than the electronic portion of the proposed sign which is not capable of emitting nearly the same amount of brightness.

Soenksen asked if the programmable portion of the sign can be operated independently of the backlit section. Deborn confirmed this.

Voelliger asked if the Board could review at a later date whether the sign poses a problem for the neighbors and limit the hours it could be lit then. Soenksen explained that the Board could impose a condition limiting the time the sign could be lit, adding that he is unsure whether or not a variance can be modified after it is approved even though the Board has reviewed special use permit requests after a period of time.

Johnson asked for clarification of where a 60 square foot sign could be placed without a variance. Soenksen explained that it would have to be set back 25 feet from the property line which is half of the required front yard setback.

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

Johnson commented that she supports the request and is flexible with regard to whether a limit on hours of operation of the sign is imposed. Falk concurred, adding that there is a substantial distance between the proposed sign and the homes across the street.

Falk asked if the Board could approve the request but reserve the right to limit the hours the sign can be lit if the city receives complaints about the sign. Voelliger commented that he does not believe that would be possible after the variance is approved. Soenksen concurred with Voelliger and suggested asking the city attorney for her opinion on the matter.

Johnson asked if the courtesy letter sent to residents informed them that a portion of the sign would be electronic. Soenksen stated that the courtesy letter describes the request in general terms and defines it as an on-premises identification sign only. Falk stated that in his opinion the traffic on Utica Ridge Road would be more disturbing to neighbors than the proposed sign which will be oriented away from the homes. Soenksen reiterated that the applicant would be required to abide by the city's regulations regarding operation of electronic signs.

On motion by Falk, seconded by Spranger, that a variance to reduce the required front yard setback from 50 feet to 10 feet to allow an on-premises identification sign be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #8 to these minutes.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 5:45 p.m.

These minutes and annexes approved \_\_\_\_\_

\_\_\_\_\_  
John Soenksen  
City Planner



COMMUNITY DEVELOPMENT

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

June 13, 2013

Staff Report

**Case No. 13-029**

**Location:** 3495 Valleywynds Drive

**Applicant:** Ben Moseley

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

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

**Background Information and Facts**

The property is located on the southwest corner of Valleywynds Drive and Devils Glen Road (see Attachment A – Location Map). The applicant is asking to be allowed to place a 6-foot high fence within 9 feet of the property line adjacent to Devils Glen Road (see Attachment B – Plot Plan).

**Staff Analysis**

Requests for 6-foot high fences along Devils Glen Road in the subdivision north of 53<sup>rd</sup> Avenue have been common, and the Board has reviewed similar cases for properties located at the intersections of Field Sike Drive, Adele Lane, St. James Avenue, Marynoel Avenue. The most recent case was for a fence located at 3489 Field Sike Drive; the Board approved a 6-foot high fence to be placed within 9 feet of Devils Glen Road in April of 2011. If approved, the proposed fence would be a continuation of the fence at 3489 Field Sike Drive (see Attachment C – Combined Fence Illustration).

Within the abovementioned area, there are 5 separate fences placed in the front yard setback adjacent to Devils Glen Road; the setback for these fences vary from 14 feet to 6 feet (see Attachment D – Existing Fences). Attachment D illustrates how the proposed fence would relate to the existing fences along Devils Glen Road.

The justification applicants have given for these fences include the increased traffic on Devils Glen Road, the construction and subsequent expansion of Hopewell Elementary School, the future widening of Devils Glen Road, and the addition of a recreational trail along Devils Glen Road. In the past the Board has accepted that these circumstances demonstrate a hardship to justify allowing a 6-foot high fence instead of the allowable 4-foot high fence.

**Staff Recommendation**

City officials and staff have been disappointed in the lack of maintenance of the continuous fences along some of the major thoroughfares in Bettendorf. In the cases mentioned above, individual fences have been approved rather than a block long continuous fence spanning multiple lots. Hopefully this will instill a greater sense of ownership in the fence maintenance by these individual property owners than has been exhibited with the continuous fences.

The request is consistent with the previous request that was most recently approved.

Respectfully submitted,

John Soenksen  
City Planner

# Attachment - A



**SITE**

**The  
Fountains**

MARYNOEL AVE

ST JAMES AVE

HOPEWELL AVE

ADELE LN

ARCHER DR

PEMBERTON DR

VALLEYWYND S DR

ALTEMBROOK DR

FIELD SIKE DR

DEVILS GLEN RD

THUNDER RIDGE RD

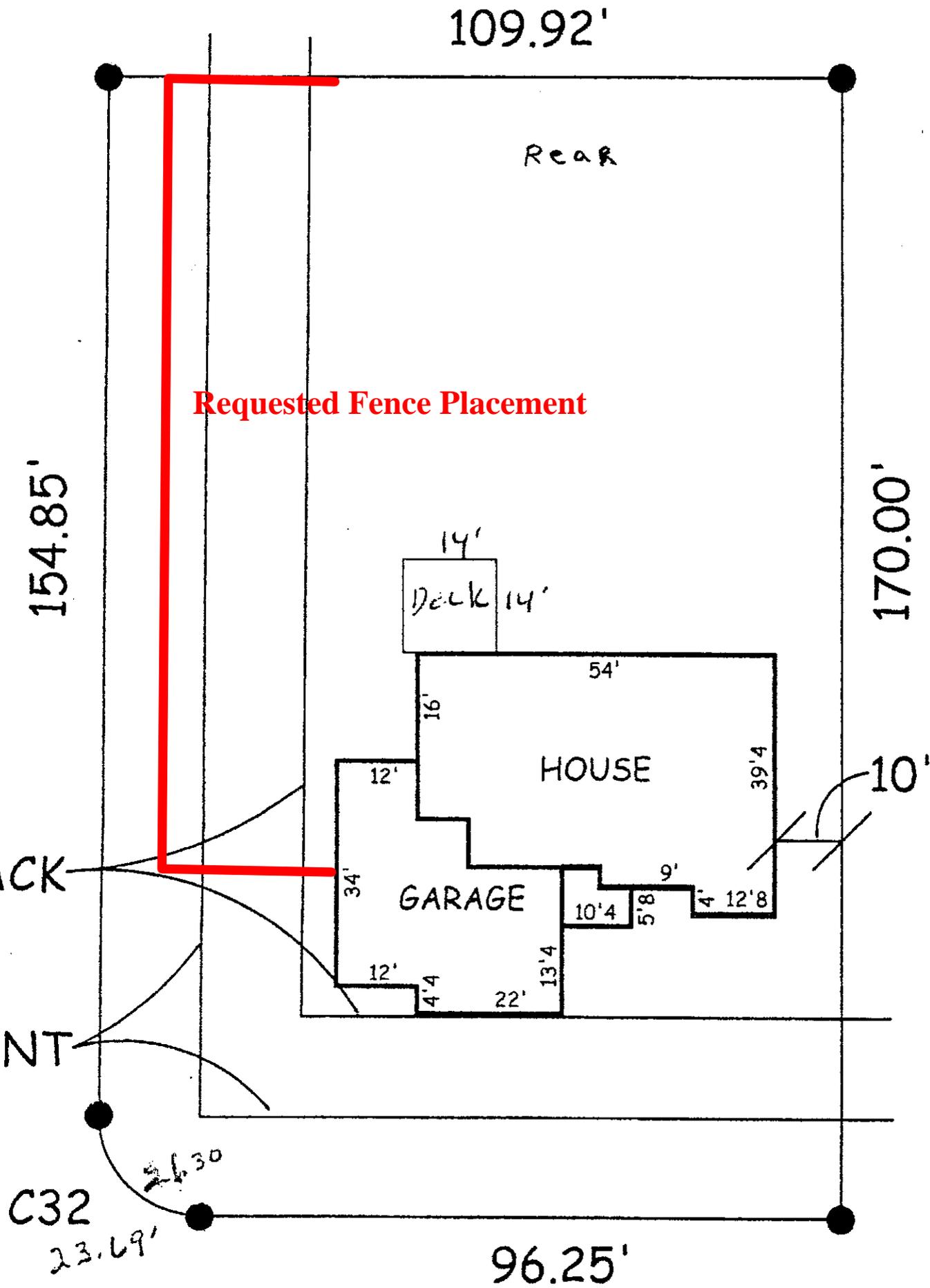
CORONADO CT

BLACK LION CIR

PLOT PLAN

TERRY KNUTSEN BUILDER  
VALLEYWYNDS 3RD LOT 13  
3495 VALLEYWYNDS DRIVE  
BETTENDORF, IOWA  
PLAN ID# 3511-11-12

DEVILS GLEN ROAD



SETBACK

EASEMENT

C32

23.69'

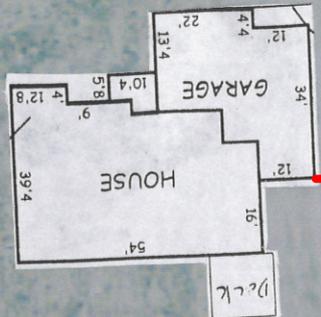
26.30

96.25'

VALLEYWYNDS DRIVE

# Attachment - C

VALLEYWYNDS DR



**Current Request** →

**Approved 2011** →

FIELD SIKE DR

DEVILS GLEN RD



WESTMINSTER RD

MARYNOEL AVE

ST JAMES AVE

ADELE LN

VALLEYWYNDS DR

FIELD SIKE DR

HOPEWELL AVE

DEVILS GLEN RD

THUNDER RIDGE RD

ALLENBROOK DR

CORONADO CT

11'

10'

6'

14'

9'

Current Request



Case No. 13-029

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

Part 1. Property Involved.

Street Address 3495 Valleywynnds Dr.

Legal Description of the property. Lot B in Valleywynnds 3rd Addition to the City of Bettendorf, Scott County, Iowa.

Part 2. Contact Information.

Applicant Name Ben Moseley Phone 563-529-1877

Address 3495 Valleywynnds Dr. FAX (904) 302-7884

E-mail Address: benjamin.c.moseley@ehi.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.)

