

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  
AUGUST 8, 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 July 11, 2013.
4. The Board to hold a public hearing on the following item:
  - a. Case 13-040; 1742 Susan Court (R-2) - A request for a variance to allow a 6-foot high fence in a required front yard, submitted by Philip Harms.

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  
JULY 11, 2013  
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: Spranger  
STAFF: Connors, Fuhrman, Soenksen

Item 2. Review of Board Procedures.

Item 3. The Board to review and approve the minutes of the meeting of June 13, 2013.

On motion by Falk, seconded by Gallagher, that the minutes of the meeting of June 13, 2013 be approved as submitted.

ALL AYES

Motion carried.

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

- a. Case 13-036; 2114 Bellevue Avenue (R-2) - A request for a variance to increase the allowable square footage of a garage from 720 square feet to 932 square feet, submitted by Terry Calhoun.

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.

Terry Calhoun, the applicant, stated that he believes that the proposed garage would complement the neighborhood.

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

Gallagher commented that it appears as though there are a number of similarly sized garages in the neighborhood.

Falk asked if the access to the proposed garage would be directly from the alley. Calhoun confirmed this.

Falk asked if the property is a rental property. Calhoun confirmed this, adding that the existing garage would remain in use by the renter. He indicated that he wishes to construct the garage so that he can have additional storage space.

On motion by Gallagher, seconded by Johnson, that a variance to increase the allowable square footage of a garage from 720 square feet to 932 square feet be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

- b. Case 13-037; 909 Middle Road (C-2) - A request for a special use permit to allow a drive-up window, submitted by Geifman Food Stores, Inc.

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.

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

Falk asked if the drive-up window separation lanes are painted on the pavement or raised. Soenksen explained that there will be a raised median separating the drive-up lane from the remainder of the lot.

Voelliger asked if approving the special use permit would preclude the owner of the other retail lot from operating a business with a drive-up window. Soenksen explained that the owner would be required to apply for a special use permit at which time the design of any additional drive-up window would be analyzed to ensure no traffic conflicts arise.

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

ALL AYES

Motion carried.

Decision and Order is Annex #6 to these minutes.

- c. Case 13-038; 14 Oakbrook Place (R-1) - A request for a variance to increase the allowable square footage of a garage from 1088 square feet to 1141 square feet and to reduce the

required combined side yard setback from 20 feet to 13 ½ feet, submitted by Kent Houzenga.

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.

Kent Houzenga, the applicant, explained that the foundation of his home is settling to a degree that a new footing is required. He added that he would like to enlarge the garage concurrently with the foundation work.

Voelliger asked if the proposed construction would create any storm water runoff problems. Houzenga explained that the berm along the property line would prevent any runoff from affecting the adjacent lot.

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

Johnson asked for clarification of the required combined side yard setback. Soenksen explained that the combined side yard setback is required to be 20 feet in an R-1 zoning district. He indicated that while a portion of the proposed garage would be only 6 ½ feet from the property line, the actual distance to the nearest structure on the adjacent lot is a minimum of 23 feet. Soenksen added that because of the irregular shape of the lot, other portions of the structure would be 13 feet from the property line. Johnson commented that on average the proposed garage would actually meet the combined side yard setback requirement.

Gallagher commented that because of the configuration of the lot to the west, it does not appear as though the proposed garage expansion would affect the ability of that homeowner to expand the garage. Houzenga commented that the proposed addition to his garage would actually be set back 2 ½ feet from the front of the house which would further lessen the impact on the lot to the west.

Johnson commented that the proposed construction would not appear to change the character of the neighborhood.

On motion by Johnson, seconded by Gallagher, that a variance to increase the allowable square footage of a garage from 1088 square feet to 1141 square feet and to reduce the required combined side yard setback from 20 feet to 13 ½ feet be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #8 to these minutes.

Soenksen stated that the complaints about the brightness of the new electronic message board sign at 4038 Utica Ridge Road for which the Board approved a variance have been resolved. He indicated that a programming problem prevented the sign from being dimmed at night so the owner had decided to lessen the brightness 24 hours per day.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 5:20 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

August 8, 2013

Staff Report

**Case No. 13-040**

**Location:** 1742 Susan Court

**Applicant:** Philip Harms

**Zoning Designation:** R-2, 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 on the northwest corner of the intersection of Greenbrier Drive and Susan Court across from Paul Norton Elementary School (see Attachment A – Location Map). The applicant would like to place a 6-foot high fence starting from the northeast rear corner of the house to the property line adjacent to Greenbrier Drive and surrounding the rear yard (see Attachment B – Plot Plan).

**Staff Analysis**

The fence would not interfere with the required 35-foot vision triangle at the intersection. The proposed fence would be set back 69 feet from the paved portion of Susan Court and 23 feet from the paved portion of Greenbrier Drive. There are only 8 homes located on Susan Court, so the amount of traffic approaching the intersection from the west is minimal.

The Board has reviewed similar requests in this area in the past. In 1991 the Board approved variances at 1747 and 1750 Prairie Vista Drive to allow 4-foot high fences within 2 feet of the property line adjacent to Greenbrier Drive (see Attachment C – Previous Cases Map). Because of a contractor error during the construction of Greenbrier Drive, the street was built 8 feet off-center to the east. Because of that error, the Board decided that a hardship had been established because it resulted in the property line's being located 10 feet back of sidewalk. The property line at 1742 Susan Court is only in one foot back of sidewalk which is typical throughout the City. In 2010 a request for a variance for a fence in the required front yard setback at 1410 Prairie Vista Drive was denied. In that case, which also involved a corner lot, the front property line was one foot back of sidewalk and therefore the Board ruled that there was no hardship as in the previous cases at 1747 and 1750 Prairie Vista Drive cases.

More recently, the Board has granted several fences in front yards along Devils Glen Road north of Field Sike Drive. In all of those cases, the Board noted that Devils Glen Road is a major thoroughfare with an adjacent recreational trail. The City has just adopted the 2013 Transportation Plan. That plan identifies five types of roadways

within the City in decreasing orders of traffic volume and intensity with #1 being the most intense and #5 being the least intense:

1. Interstate highway
2. Principal Arterial roadway (highway)
3. Minor Arterial roadway
4. Collector roadway
5. Local roadway

Devils Glen Road, where approval has been given for front yard fence variances is identified as a Minor Arterial roadway while Greenbrier Drive is identified as only a Local roadway.

Based on the above analysis, staff cannot cite a hardship for the request. Staff does acknowledge that because the only entrance to Paul Norton School is in this area on Greenbrier Drive, this "local roadway" may have more traffic than is typical for many other local roadways throughout the city.

Respectfully submitted,

John Soenksen  
City Planner

# Attachment - A

HAMILTON DR

WILLOW WOOD CT

CROW CREEK RD

CROW CREEK RD

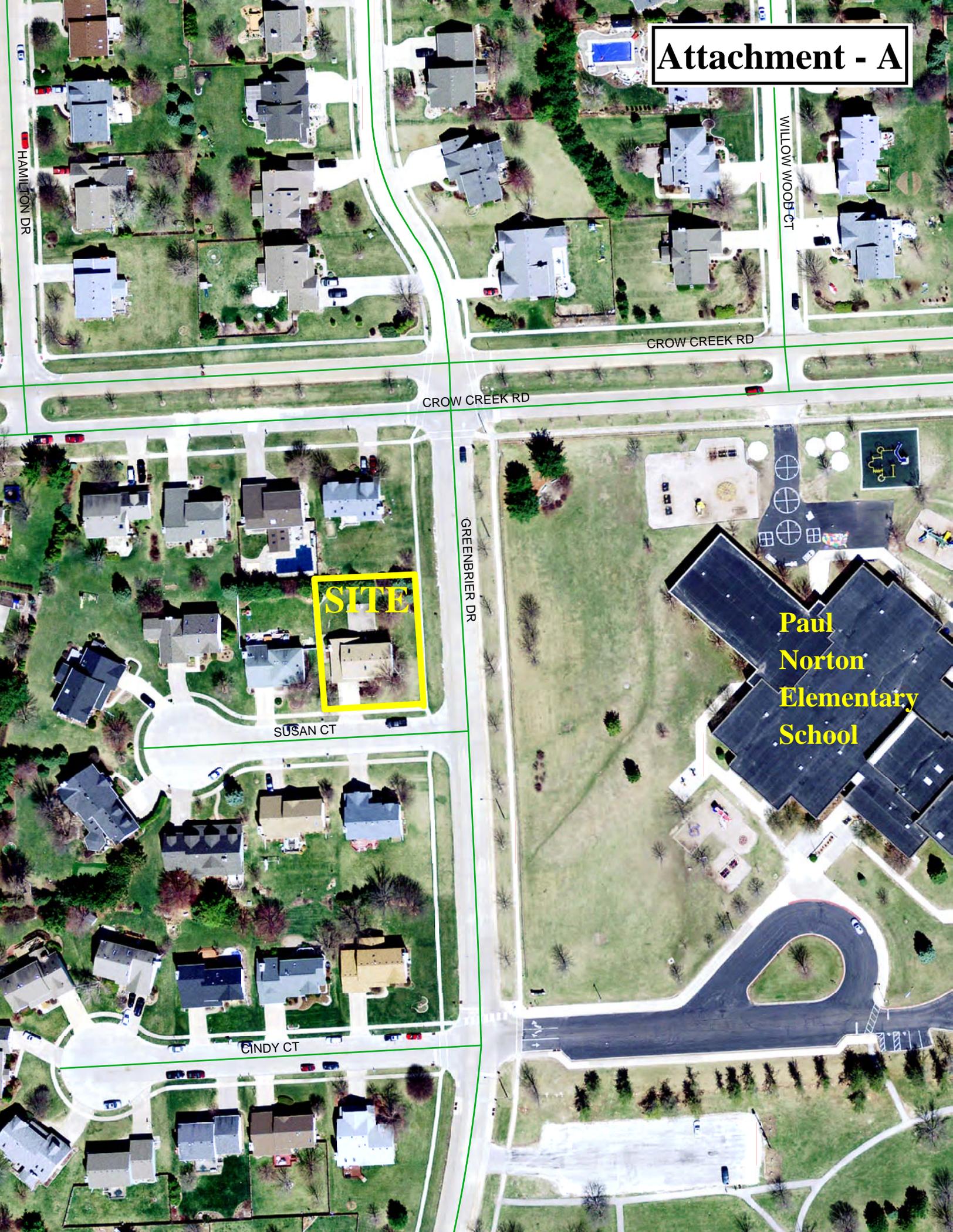
GREENBRIER DR

**SITE**

SUSAN CT

CINDY CT

**Paul  
Norton  
Elementary  
School**



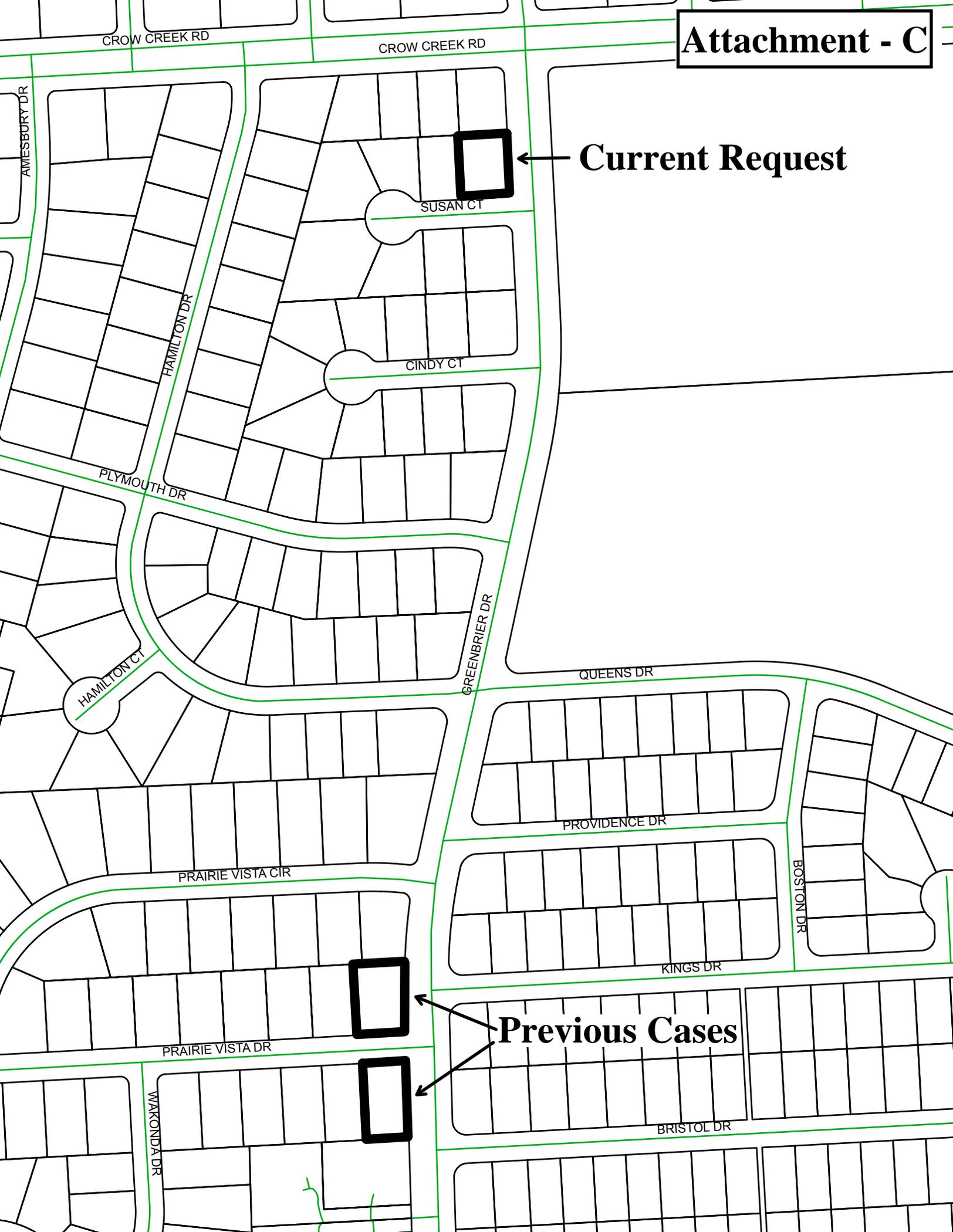
**Attachment - B**

6 foot fence

GREENBRIER DR

SUSAN CT





**Current Request**

**Previous Cases**



Case No. 13-040

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

Part 1. Property Involved.

Street Address 1742 Susan Ct

Legal Description of the property.

LOT 5, Terrace Park Sixth Addition

Part 2. Contact Information.

Applicant Name Philip Harms

Phone 630-877-5242

Address 1742 Susan Ct

FAX \_\_\_\_\_

E-mail Address: Philip.Harms@kohler.com

Owner Name Same

Phone \_\_\_\_\_

Address \_\_\_\_\_

FAX \_\_\_\_\_

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

Agent Same

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.  
6ft high fence on front setback due to greyhound  
pet dogs

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**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 [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 11<sup>th</sup> day of July, 2013.



[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 7-11-2013  
 Credit Card



Case No. 13-040

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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)

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 ) 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.

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[Signature]  
 Notary Public in and for Scott County, Iowa

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