

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
OCTOBER 10, 2013
5:00 P.M.**

PLACE: Bettendorf City Hall Council Chambers, 2nd 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 September 12, 2013.
4. The Board to hold a public hearing on the following items:
 - a. Case 13-053; 2501 - 53rd Avenue (C-2) - A request for a special use permit for an outdoor service area to be similar and compatible to the uses existing within the premises, submitted by The Clubhouse. (Deferred to meeting of November 14, 2013)
 - b. Case 13-063; 3204 Bear Tooth Court (I-2) - A request for a variance to reduce the required side yard setback from 10 feet to 6 feet to allow for a building addition, submitted by David Deuth.

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
SEPTEMBER 12, 2013
5:00 P.M.**

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

Item 1. Roll Call

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

Item 2. Review of Board Procedures.

Item 3. The Board to review and approve the minutes of the meeting of August 8, 2013.

On motion by Falk, seconded by Johnson, that the minutes of the meeting of August 8, 2013 be approved as submitted.

ALL AYES

Motion carried.

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

- a. Case 13-052; 6150 Buckskin Trail (R-1) - A request for a variance to reduce the required setback for a swimming pool from 10 feet to 6 feet, submitted by David and Kelly Elg.

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.

David Elg, the applicant, explained that when he purchased his home he had not been made aware of the setback requirements regarding swimming pools. He indicated that he would like to locate the pool such that there is room to walk completely around it.

Johnson asked if a variance had ever been granted for a swimming pool for a similar reason. Soenksen explained that a variance was granted to allow a swimming pool on Tenplus Street which encroached into the setback but that the property in question had a much steeper grade change. Soenksen added that the 10-foot setback requirement for swimming pools is only for the R-1 district. Johnson commented that the additional requirement is in place for a reason.

Voelliger asked how far the pool deck would be from the existing deck. Elg explained that it would be 6 feet from the deck and would be equidistant from the deck and property line. He

indicated that there is a landscaped berm on his neighbor's property line and added that he plans to install additional plantings in his yard. Elg indicated that because of the layout of the two properties any perceived intrusion caused by the proposed pool would be very minimal.

Voelliger asked if the pool could possibly be located a few feet to the north. Elg explained that the pool contractor had indicated that because of the contour of the lot, it would be preferable to place the pool as far south as possible.

A brief discussion was held regarding the width and location of the proposed concrete apron. Johnson commented that the concrete deck could be poured to the property line.

Johnson stated that in her opinion even though the proposed pool would have no impact on the neighbor, approving the request would set a negative precedent.

Voelliger asked if the applicant's neighbor is aware of the proposed variance request. Elg confirmed this, indicating that no objection had been expressed.

Johnson stated that she does not believe that the applicant has established a hardship which would justify granting the request. She added that there is sufficient room to place the pool nearer the patio to the north. Elg explained that a previous owner had installed the patio and that he had considered placing the pool on the flatter portion of the lot to the north but had been told that because the lot is on a corner the setback requirements would preclude it. Johnson explained that the setback requirements would not apply to an accessory structure, adding that the applicant could place the pool further to the north.

Falk stated that the additional expense of excavation does not constitute a hardship and concurred with Johnson that granting the request would set a negative precedent.

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 setback for a swimming pool from 10 feet to 6 feet be denied in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

- b. Case 13-053; 2501 - 53rd Avenue (C-2) - A request for a special use permit for an outdoor service area to be similar and compatible to the uses existing within the premises, submitted by The Clubhouse. (Deferred)

There being no further business, it was unanimously approved to adjourn the meeting at approximately 5:15 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

October 10, 2013

Staff Report

Case No. 13-063

Location: 3204 Bear Tooth Court

Applicant: David Deuth

Zoning Designation: I-2, General Industrial District

Request: Variance to reduce the required side yard setback from 10 feet to 6 feet to allow for a building addition.

Background Information and Facts

The request involves the first building on the west side of Bear Tooth Court when entering the industrial park from State Street (see Attachment A – Location Map). The applicant is requesting permission to place a 14-foot by 40-foot addition on the northeast corner of the existing building (see Attachment B – Plot Plan).

Staff Analysis

This facility was converted into a crematory approximately two years ago. The facility incorporates many high technology features that ensure a very clean operation as a modern crematory. As a result, the entirety of the existing floor space is being utilized. The owner has an urgent need for a “secure cool storage area” to be added to the existing structure. Because the existing building has an in-floor heating system which precludes the installation of a cool storage area, a new addition must be built to accomplish the project.

Because of the current internal layout of the building, the northeast corner is the only practical location for the addition.

The applicant is in the process of acquiring an additional 10-foot wide strip of land on the north side of the lot to provide additional room for the proposed addition (see Attachment C – Property Line Illustration). Recently the neighbor received approval for a site development plan for the adjacent lot. The applicant has been working closely with the adjacent owner/developer to ensure that, if approved, the addition will in no way interfere with that newly-approved site development plan (see Attachment D – Adjoining Site Development Plan).

If approved, the new addition will not extend any further north than does the existing electrical transformer pad on the north side of the building. If allowed, the new addition will be 30 feet from the new building to be built on the adjacent property and approximately 13 feet away from the parking lot.

The variance request is for a 4-foot encroachment into the required setback. The applicant is asking the Board to consider all of the above facts and analysis as a hardship to allow the requested variance.

Staff Recommendation

If approved, staff recommends that any approval be conditioned upon the successful acquisition of the 10-foot strip of land to be added on the north side of the applicant's lot.

Respectfully submitted,

John Soenksen
City Planner

Attachment - A



SITE

CENTENNIAL CT

STATE ST

BEAR TOOTH CT

STATE ST

Bear Tooth Ct



Attachment - C



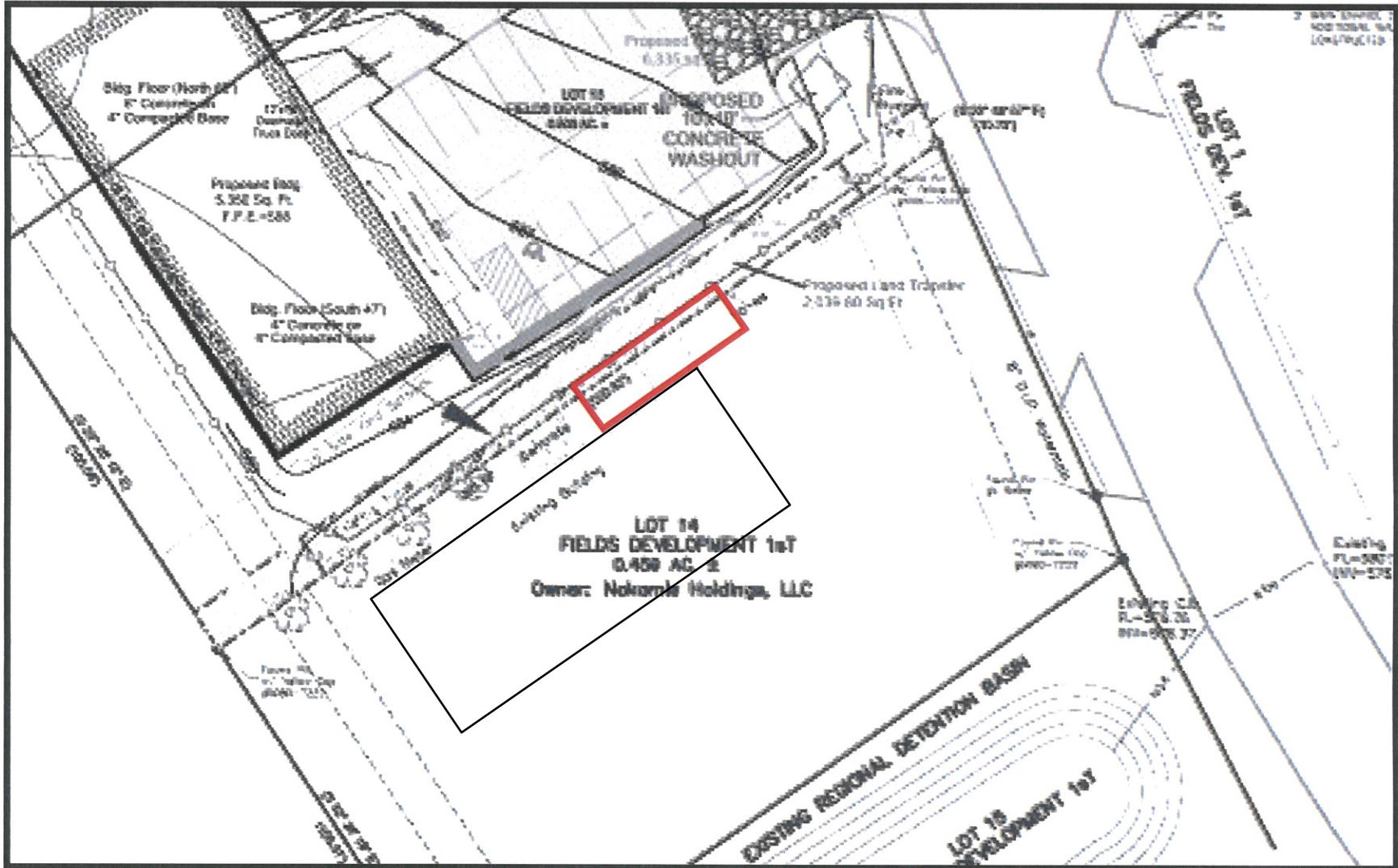
BEAR TOOTH CT

14' x 40'
addition

6'

10'

NOKOMIS HOLDINGS, LLC | 3204 Bear Tooth Court | David Deuth [Phone 563508.4437]
Variance Application Site Plan of Proposed 14 x 40 addition to Existing Building





Case No. 13-063

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

Part 1. Property Involved.

Street Address: 3204 Bear Tooth Court

Legal Description of the property: 0238-014 FIELDS DEVELOPMENT 1ST ADD LOT 14

Part 2. Contact Information.

Applicant Name David Deuth Phone 563.424.7055 or 563.508.4437
Address 3122 Lindsey Court, Bettendorf, IA 52722 FAX 563.424.7061
E-mail Address: Dave@WeertsFH.com

Owner Name Nokomis Holdings, LLC Phone 563.424.7055 or 563.508.4437
Address 3625 Jersey Ridge Road, Davenport, IA 52807 FAX 563.424.7061
E-mail Address: Dave@WeertsFH.com

Agent _____ Phone _____
Address _____ FAX _____
E-mail Address: _____

Part 3. Type of Application. (check at least one)

XX 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.
Would like to add an appropriate and secure cooler facility. Existing building space is already occupied and also utilizes in-floor heat. Proposed addition would not extend beyond existing HVAC equipment. Am in the process of acquiring an additional 10 running feet of linear lot line from adjoining property owner and will assume associated reasonable re-plat costs attendant to the same.

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

- (X) 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.)
- (X) 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 18th day of SEPTEMBER, 2013.

Signature of Applicant David W. Need Signature of Owner David W. Need
(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 18th day of September, 2013.
Charles D. Selken
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 USA Proforma
Amount \$100. Date 9/20/13