

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
OCTOBER 9, 2014
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: Connors, Fuhrman, Soenksen

Item 2. Review of Board Procedures.

Item 3. The Board to review and approve the minutes of the meeting of September 18, 2014.

On motion by Falk, seconded by Johnson, that the minutes of the meeting of September 18, 2014 be approved as submitted.

ALL AYES

Motion carried.

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

- a. Case 14-079; 3256 Ridge Pointe (C-2) - A request for a variance to allow an additional on-premises identification sign on a non-street frontage, submitted by Gary Buettner.

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.

Gary Buettner, the applicant, explained that his business is a math-only learning center which is designed to provide instruction that enhances knowledge in math. He stated that during lease negotiations with the building's owner he was given permission to place the third sign on the west end of the structure which was a condition of his acceptance of leasing the center unit. Buettner stated that the third sign is 12 feet long and 3 feet high and was placed by his sign contractor on the west structural wall which is 65 feet long. He added that the sign has no characteristics which would cause problems for neighbors and would no cause any confusion as to the occupancy of each unit.

Buettner stated that based on legal advice he has obtained he is entitled to use the exterior walls as they are for common use of all the tenants and that the sign should not be considered an off-premises identification sign as indicated in the staff report. He indicated that he had remitted payment for the permit fee to the sign company as indicated on the invoice and was unaware that a permit had not been issued. Buettner explained that neither the sign company representative nor the leasing agent had informed him that a variance would be necessary for the third sign. He stated that the Board should consider the unique circumstances and react based on all the facts, adding that a change should not be summarily rejected merely because it is different. He indicated that status quo is not always appropriate as change can sometimes be beneficial to all. He reiterated that the leasing documents for the unit indicate that the third sign is allowed.

Jeremy Collins, the applicant's sign contractor, apologized for not having obtained a building permit for the signs. He explained that the order for the signs came during his busy time, adding that he thought a co-worker had obtained the required permit. Collins requested that the Board consider the need for the service provided by the applicant for students who require additional help with mathematics.

Soenksen commented that as soon as staff had informed the sign company that a permit was never obtained for the signs a representative rectified the situation.

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

Nathan Sels, 6530 Spring Creek Drive, stated that Athletico is opposed to the sign because of the potential confusion it will cause. He explained that Athletico has over 100 locations and that none of them share signage space with another company on the building. He indicated that having a sign advertising another business between the proposed signage for Athletico on the north and south sides of the building will confuse customers. Sels indicated that he plans to request a variance to place signage on the west side of the building in addition to the signs allowed by code.

Voelliger commented that if a variance is granted for Athletico, there would be signage for two different businesses on the west side of the building. Johnson stated that Athletico is physically located on that west side of the retail structure.

Buettner stated that having two signs on the west wall would not cause any confusion because the entrances to the units will also have identification signs and that parking is only available on the front of the building.

Johnson asked if all three businesses have signage on the Middle Road side. Soenksen confirmed this, adding that signs are allowed on the Middle Road and Ridge Pointe sides of the building.

Buettner commented that the sign on the west side of the building is the most important sign to the business because of its orientation which allows visibility from Belmont Road.

Johnson stated that she is not in favor of setting the precedent of allowing building signs on a section of a structure where the business is not actually located. She commented that the third

tenant in the building could then request a variance to place a sign on that same wall. Johnson suggested that perhaps the tenants of the building could advertise using a monument sign rather than building signs. Soenksen stated that when three or more tenants have retail space on a single lot they would be allowed to have a shopping center sign. Voelliger asked if that type of sign would be allowed along the Middle Road frontage. Soenksen confirmed this, adding that setback requirements would determine the location of such a sign. Spranger commented that approving the variance would likely encourage the tenants to request permission to place signage on the east wall as well. She indicated that a monument sign would be more aesthetically appealing than building signs and would provide adequate exposure.

Falk commented that he believes that the sign ordinance is adequate to address this situation and is in complete agreement with the staff report.

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 Falk, seconded by Johnson, that a variance to allow an additional on-premises identification sign on a non-street frontage be denied in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

- c. Case 14-081; Outlot 1, Mastland Subdivision (A-1) - A request for a variance to reduce both required side yard setbacks from 50 feet to 10 feet and to increase the allowable height of an accessory building (pole barn) from 15 feet to 20 feet, submitted by Dave Steil.

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.

Dave Steil, the applicant, stated that there are two existing buildings on the property, one of which will be demolished. He explained that when he had submitted the application he had been unsure of exactly where the building would be placed on the lot and therefore had requested a larger setback reduction than would ultimately be necessary. Steil indicated that after discussions with his neighbor to the east he would be comfortable with requesting that the side yard setbacks be reduced to 23 feet rather than 10. He added that there is already a building on the site that is far in excess of the allowable height of 15 feet.

Soenksen explained that the notice of public hearing is required to be published 6 days before the Board of Adjustment meeting. He indicated that the Board is allowed to grant a variance

allowing a larger side yard setback than what was published but not smaller. He added that by publishing a request for a side yard setback reduction to 10 feet, the applicant would be able to more precisely indicate how much of a setback reduction would be required at the public hearing. Soenksen indicated that it is in the Board's purview to grant a modified request. Steil indicated that he would like to begin construction before winter.

Jim Roberts, 3131 Mount Joy Avenue, stated that he would be in favor of a side yard setback reduction to 23 feet, adding that he has never been opposed to the proposed height of the structure.

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 both required side yard setbacks from 50 feet to 23 feet and to increase the allowable height of an accessory building (pole barn) from 15 feet to 20 feet be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #6 to these minutes.

- b. Case 14-080; 2241 and 2283 - 53rd Avenue (CR-2) - A request for a special use permit to allow gas pumps associated with a convenience store, submitted by Kwik Trip, 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 #7 to these minutes.

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

Wade Dumond, representing the applicant, displayed a colored rendering of the proposed store. He stated that the proposed store would be of the same design as their new store near Menard's in Davenport but that there would not be a diesel canopy at the 53rd Avenue location. He explained that Kwik Star would like to further expand in this area, adding that many of their locations generate more revenue from inside sales of groceries than from fuel. Dumond commented that there are 410 stores in Wisconsin, Minnesota, and Iowa and that his company makes an effort to be a good community partner.

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

Pete Moldt, 5137 Dove Court, asked what the hours of operation would be. Dumond stated that the store would be in operation 24 hours per day.

Voelliger asked if the site lighting would negatively impact the neighbors in any way. Soenksen explained that when McDonald's first opened staff had received an inquiry about the site lighting from a resident on Dove Court. He indicated that a lighting engineer measured the light output from the site and determined that one of the fixtures needed to be readjusted. He stated that McDonald's complied immediately. Dumond explained that all lighting on the site will be recessed such that the LED bulbs are not visible unless you stand underneath the fixture. He added that if needed, any adjustments deemed by staff to be necessary will be made.

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 Spranger, seconded by Falk, that a special use permit to allow gas pumps associated with a convenience store be granted 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