

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
FEBRUARY 13, 2014
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: Fuhrman, Soenksen

Item 2. Review of Board Procedures.

Item 3. The Board to review and approve the minutes of the meeting of December 12, 2013.

On motion by Gallagher, seconded by Johnson, that the minutes of the meeting of December 12, 2013 be approved as submitted.

ALL AYES

Motion carried.

Item 4. The Board to review and approve the 2013 Annual Report.

On motion by Gallagher, seconded by Falk, that the 2013 Annual Report be approved as submitted.

ALL AYES

Motion carried.

Item 5. Election of officers.

On motion by Gallagher, seconded by Johnson, that Voelliger and Falk retain their positions of chairman and chairman pro tem, respectively.

ALL AYES

Motion carried.

Item 6. The Board to hold a public hearing on the following items:

- a. Case 14-006; Lot 25, Villas at Glengevlin 2nd Addition and the entirety of Highlands Pointe 1st Addition (PR-3 proposed) - A request for a variance to reduce the required combined side yard setback from 15 feet to 10 feet, submitted by Towne & Country Bettendorf, LLC.

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.

Falk stated that he would abstain from discussion and voting regarding Case 14-006.

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 or in opposition to the request.

Roger Pigg, 4037 Charles Court, stated that he believes that the proposed homes on Cavan Crossing would be spaced too close to one another and would visually detract from the perceived value of the new units as well as the existing ones in the adjacent subdivision.

Susan Lohf, 4004 Charles Court, expressed opposition to the request and stated that there were no signs posted regarding the current request. She stated that the fact that there are so few planned residential overlay districts in the city speaks to the reason why this request should be denied. She stated that she had driven through the most recently approved overlay district at The Legends and reported that the houses are on top of one another. Lohf stated that staff had not made a recommendation regarding the rezoning to PR-3 because there has never been a request for an overlay district with an underlying R-3 zoning district. She added that she does not feel that the developer's hardship as detailed at the Planning and Zoning Commission meeting is legitimate. She stated that she chose to live in Bettendorf because of the strict requirements regarding zoning and setbacks.

Voelliger asked Lohf for clarification of the measurement of her side yard setback. Lohf stated that there is a combined side yard setback requirement of 15 feet but that the reality is that it is much larger. Voelliger commented that this is because her home is located on a cul-de-sac, adding that this is not likely the case for the duplexes located on lots that are not on a court. Lohf claimed that those lots have setbacks that are similar to hers.

Voelliger asked if the street that will serve the subdivision will be built to city specifications as to width. Soenksen confirmed this, adding that there is a 65-foot right-of-way for the street. Voelliger commented that The Legends subdivision has only a 27-foot wide street which does not meet city standards.

Tom Pastrnak, representing the applicant, explained that if the developer chose to withdraw his rezoning request he would be allowed to build duplex units on the lots. He stated that this type of configuration would actually be more dense than the proposed development which would decrease the density. He explained that the overlay district would allow this reduction in density. Pastrnak stated that while some of the neighbors have stated that the proposal would increase density, the reverse is true.

Mike Janecek, engineer representing the applicant, explained that the developer has requested the overlay district because it offers more flexibility and would allow both duplex units and detached single-family units to be built in the subdivision as the market dictates.

Voelliger commented that he lives in a similarly-configured subdivision and does not believe that the density of the development has had a negative impact. He indicated that at the end of the cul-de-sac there sometimes is not enough space for snow storage because the street frontage is not necessarily as wide. He questioned whether the developer has considered this issue.

Janecek stated that he has not had any discussion with the developer regarding this specific issue, but that he believes that there is sufficient space between driveways to store the snow. He stated that the issue was considered at the Planning and Zoning Commission meeting where the case was unanimously approved.

Gallagher stated that from the context of the discussion, the rezoning was already recommended for approval at the Planning and Zoning Commission level and asked for clarification of the process involved in approval of overlay districts. Soenksen confirmed that the Commission had unanimously recommended the rezoning for approval and explained that before every project is presented to Planning and Zoning Commission, a development review committee meeting is held. He stated that staff from the Public Works, Fire, Police, Parks, and Community Development Departments participate in this meeting to discuss such issues.

Gallagher commented that the variance request appears to be one step toward an overall development goal. Connors confirmed this, adding that the developer would have the option to replat the lots or reduce the width of the structures to 35 feet if the variance is not granted.

A brief discussion was held regarding the comparative density of the adjacent subdivision which has duplex units and the proposed development.

Soenksen suggested that any recommendation for approval of a variance be made contingent on adherence to the submitted plan.

Teresa Barker, 4017 Charles Court, expressed opposition to the request, adding that she does not believe that the applicant has established a legitimate hardship. She stated that the time of the Board of Adjustment meetings is very poor because most people work. She stated that she believes that a lot more of her neighbors would have attended if it was at a different time and if notification signs were put up. Barker indicated that in her opinion it as if the Board is trying to push something through without providing proper notification to the neighbors. Voelliger explained that Board of Adjustment meetings are held on the second Thursday of each month at 5:00 p.m. and have been for many years. Barker reiterated that there was no signage in her neighborhood to notify residents of the meeting time. Soenksen explained that the required notification for Board of Adjustment meetings is published in the Quad-City Times, adding that affidavits of publication are received prior to the meeting. He indicated that even though the required notification is the publication in the newspaper, staff takes the extra step of mailing courtesy letters to residents within 200 feet of the property involved. Barker asked where the signage for the meeting was posted. Soenksen reiterated that no notification signage is required or even available for Board of Adjustment requests, explaining again that the required notice is published in the newspaper at least 6 days before the public hearing. Connors commented that notification signs for requests for rezoning are posted on the property involved.

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

Connors explained that because one member has abstained from discussion and voting regarding this case, the remaining three members must vote unanimously in favor of the request for it to be approved.

Gallagher commented that the density of the proposed development is actually less than what would be allowed in the R-3 district if he chose to build duplex units. He added that the

Planning and Zoning Commission has already recommended approval of the overlay district and that the Board's only decision is whether the required combined side yard setback is reduced. He asked for clarification of the ordinance standards with regard to the findings required for approval of variance requests. Soenksen explained that the following conditions must be met before a variance is granted:

- (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.

Gallagher stated that he does not believe that the request is in contravention to those standards.

A motion by Gallagher that a variance to reduce the required combined side yard setback from 15 feet to 10 feet be approved subject to the rezoning of the property to PR-3 and in accordance with the submitted plan failed for lack of a second.

Pastrnak requested that the case be deferred until such time as the full board is available to consider it.

On motion by Johnson, seconded by Gallagher, that Case 14-006 be deferred until such time as full membership of the Board is available.

ROLL CALL ON MOTION

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

Motion carried.

- b. Case 14-007; 2435 Spruce Hills Drive (C-1) - A request for a variance to reduce the required front yard setback from 25 feet to 15 feet to allow construction of a restaurant and to allow parking within the required front yard, submitted by Parco, LTD.

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.

Johnson stated that she would abstain from discussion and voting regarding Case 14-007. *At this time Johnson left.

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 or in opposition to the request.

Jason Holdorf, engineer representing the applicant, commented that the new entrance will be in alignment with the access to the Azteca restaurant located across the street.

A brief discussion was held regarding the required number of parking spaces and the number provided. Connors commented that he has not done the calculation, but indicated that he believes that all of the spaces indicated are necessary. Soenksen stated that oftentimes additional parking is needed at fast food restaurants during peak hours.

Voelliger asked if there is parking located adjacent to the right-of-way at the Cumberland Square shopping center. Soenksen confirmed this.

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

On motion by Falk, seconded by Gallagher, that a variance to reduce the required front yard setback from 25 feet to 15 feet to allow construction of a restaurant and to allow parking within the required front yard be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #6 to these minutes.

Voelliger stated that he had been a member of a committee to select a consultant who will be responsible for updating the city's comprehensive plan. He commented that meetings will be held in the future which will include city staff and other volunteers to facilitate the process.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 5:40 p.m.

These minutes and annexes approved _____

John Soenksen, City Planner