

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 14, 2015
5:00 P.M.**

Voelliger called the meeting to order at 5:05 p.m.

Item 1. Roll Call

PRESENT: Falk, Johnson, Voelliger
ABSENT: Gallagher, 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 April 9, 2015.

On motion by Falk, seconded by Johnson, that the minutes of the meeting of April 9, 2015 be approved as submitted.

ALL AYES

Motion carried.

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

- a. Case 15-026; 314 Holmes Street (R-2) - A request for a variance to reduce the required front yard setback from 25 feet to 3 feet to allow for construction of a garage and to increase the allowable garage area from 720 square feet to 1,010 square feet, submitted by Lawrence Vens. **(Withdrawn)**
- b. Case 15-029; 2406 Lindenwood Drive (R-2) - A request for a variance to reduce the required front yard setback from 25 feet to 17 feet for a 6-foot high fence, submitted by Lien Moore.

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.

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

Voelliger asked if the proposed fence would be any closer to the street than the existing 4-foot high fence. Soenksen stated that the 6-foot high fence would be placed in the same location as the existing fence.

On motion by Falk, seconded by Johnson, that a variance to reduce the required front yard setback from 25 feet to 17 feet for a 6-foot foot high fence be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

- c. Case 15-026; 314 Holmes Street (R-2) - A request for a variance to reduce the required front yard setback from 25 feet to 3 feet to allow for construction of a garage and to increase the allowable garage area from 864 square feet to 1,058 square feet, submitted by Lawrence Vens.

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 or in opposition to the request.

Joan McGee, 315 Holmes Street, expressed support for the request, adding that the proposed garage would have no negative impact on the neighborhood and would not even be visible from the street.

Lawrence Vens, the applicant, displayed photos of his property which show that Pheasant Run has never been improved and is overgrown with vegetation. He indicated that there is a fire hydrant which should have Fire Department access. He stated that because of the topography of the area and the location of the curb on Pheasant Run, he would like to build the garage as close as possible to the property line. He explained that the slab of the garage will need to be at the same or a slightly higher level than the curb to prevent water runoff from entering the garage. Vens stated that building the garage close to the property line will lessen the amount of required fill. He stated that if the variance is granted, the garage would still be 7 feet from the curb. He explained that he believes that his wish to keep the foundation closer to the ground is a hardship.

Johnson asked if Pheasant Run extends to the west end of the applicant's lot. Soenksen explained that staff found conflicting documentation indicating that the right-of-way for Pheasant Run ends where the improved surface ends and also that it extends along the rear property lines of the homes on Holmes Street. He stated that the end point of the right-of-way is unclear. Voelliger commented that the large property north of the applicant's lot could be subdivided at some point in the future. Soenksen commented that the owner of that property,

which has a Davenport address, was given a complete packet to ensure that the residents are aware of the proposed construction. Johnson asked if those residents had commented at all about the project. Soenksen stated that he had received no comments from them.

Voelliger asked if the fire hydrant is located on the north side of the Pheasant Run right-of-way. Soenksen confirmed this.

Voelliger asked if it would be possible to use the dirt from the excavation of the required footings as fill. Vens stated that no footings would be required for the size of garage he plans to build, adding that it can be placed on a floating slab. Connors stated that because the largest size garage that can be placed on a floating slab is 720 square feet, the applicant would be required to dig trench footings around the perimeter.

Falk commented that his recollection of the previous meeting is that the Board had felt comfortable with the size of the proposed garage but did not feel it would be appropriate to build the garage within 3 feet of the property line because it could establish a negative precedent.

Connors stated that he had made an error with regard to the required construction methods of the proposed garage. He explained that he mistakenly interpreted the applicant's request, adding that he had thought that the proposed detached garage would be over 1,000 square feet. He indicated that the new structure would be only 24 feet by 26 feet and can be placed on a floating slab. Soenksen explained that when calculating the total garage area allowed, he must take into consideration the existing garage space and add it to the proposed garage space to arrive at the total of 1,058 square feet.

Vens stated that his intent is to place the garage on a floating slab, adding that his hardship is the amount of fill necessary to place the slab at the appropriate grade.

There being no one else 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 increase the allowable garage area from 864 square feet to 1,058 square feet be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Johnson stated that because it is unlikely that Pheasant Run will ever be extended and the adjacent neighbor has indicated no opposition to the request, she would be supportive of a variance to allow the proposed garage to be built 5 feet from the property line. She stated that she does not believe that the amount of fill that will be required establishes a hardship that would justify the applicant's request to reduce the required setback to 3 feet. Falk concurred, adding that any hardship is self-imposed because the applicant is choosing to build a new garage. He added that the applicant's stated hardship is economic and is not based on any ordinance requirement.

Johnson commented that the Board must decide whether allowing the request as submitted would establish a precedent. Falk explained that at the previous meeting the Board had determined that reducing the required setback to 3 feet would set a negative precedent.

Vens stated that he does not believe that it would be as aesthetically-pleasing if he is required to build the garage 5 feet from the property line because of the amount of fill that would be in place.

Falk asked if an engineer has calculated the difference between the required amount of fill for the two different garage locations. Vens stated that while he has not spoken to an engineer, the photograph showing the rear yard demonstrates the grade difference.

Johnson explained that if the slope of the yard is 1:4, the additional amount of fill that would be required if the garage were placed 5 feet from the property line rather than 3 feet would be only 6 inches. She added that in her opinion the cost difference would be minimal.

Johnson stated that she is not opposed to the size or location of the proposed garage, but she believes that a precedent would be set by allowing it to be built 3 feet from the property line. Falk concurred, adding that he would support reducing the required rear yard setback from 25 feet to 5 feet which would be in conformance with the typical setback requirements of other properties in the city.

On motion by Falk, seconded by Johnson, that a modified variance request to reduce the required front yard setback from 25 feet to 5 feet to allow for construction of a garage to be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #6 to these minutes.

- d. Case 15-031; 2727 Elk Drive (A-2) - A request for a variance to reduce the required rear yard setback from 40 feet to 32 feet to allow for construction of a 8-foot by 10-foot deck, submitted by Stephanie Tieso.

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.

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 Johnson, seconded by Falk, that a variance to reduce the required rear yard setback from 40 feet to 32 feet to allow for construction of a 8-foot by 10-foot deck be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #8 to these minutes.

- e. Case 15-032; 3880 Tam-O-Shanter Drive (R-2) - A request for a variance to increase the allowable square footage of a garage from 720 square feet to 944 square feet, submitted by Keith and Gloria Hanne.

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 #9 to these minutes.

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

Keith Hanne, the applicant, explained that the existing garage is very shallow and allows very limited space for lawn equipment. He indicated that he would also like to store his boat inside because he does not want to park it on the street.

Gloria Hanne, the applicant, explained that the garage is very shallow because there is a shared wall with the living room and there is a fireplace and closet which actually extend into the garage. She added that when her husband parks his truck in the garage it nearly touches the garage wall and barely allows the door to be closed.

Connors commented that the city's ordinance does not allow recreational vehicles to be parked on the street.

Voelliger asked if the adjacent neighbor had indicated any opposition to the request. Soenksen indicated that those residents were sent a courtesy letter and that he had received no communication from them.

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 the Board has been receiving more and more of this type of request, adding that if the applicant had chosen to build a room addition he would be allowed to do so without requesting a variance because there are no setback issues. She indicated that it is only because the addition is for garage space that a variance is required. Falk commented that the zoning ordinance has been amended in the past to reflect changing residential trends.

Falk stated that the house located at 3960 Tam-O-Shanter Drive appears to have the same footprint and configuration as the proposed one. He added that there is a garage door on the addition but that there is no driveway leading to it. He commented that the proposed request is more palatable to him than the addition at 3960 Tam-O-Shanter Drive.

On motion by Johnson, seconded by Falk, that a variance to increase the allowable garage area from 720 square feet to 944 square feet be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #10 to these minutes.

- f. Case 15-033; 37 Tower Lane (R-5) - A request for a variance to increase the allowable garage area from 1,074 square feet to 2,291 square feet, submitted by Adam Hehlke.

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 #11 to these minutes.

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

Adam Hehlke, the applicant, explained that the proposed structure would be used to store lawn equipment, a snow plow for the 800-foot long private driveway, and a vehicle suitable for transporting garbage out to the Devils Glen Road frontage for municipal pickup. He stated that the building will have the appearance of a carriage house and will be constructed of the same building materials as will the house. He indicated that he has spoken to his future neighbors who had indicated no opposition to the request.

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 increase the allowable garage area from 1,074 square feet to 2,291 square feet be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #12 to these minutes.

- g. Case 15-034; 3612 Lake View Court (R-1) - A request for a variance to increase the allowable garage area from 936 square feet to 1,502 square feet, submitted by Ryan Windmiller.

Voelliger stated that Case 15-034 has been deferred because one of the members present has a conflict of interest.

Connors stated that he had spoken with the applicant who had indicated that he would like to schedule a special meeting. He indicated that staff would facilitate that meeting.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 5:50 p.m.

These minutes and annexes approved _____

John Soenksen, City Planner