

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
JULY 9, 2015
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 June 11, 2015.
4. The Board to hold a public hearing on the following items:
 - a. **Case 15-048; 2870 Pleasant Ridge Court (A-2)** - A request for a variance to reduced the required rear yard setback from 40 feet to 25 feet to bring the existing structure (including existing deck) into Code compliance, submitted by Chase Pielak.
 - b. **Case 15-049; 3475 Woodholm Lane (R-1)** - A request for a variance to increase the allowable garage area from 720 square feet to 1,144 square feet to allow construction of a 26-foot x 44-foot garage, submitted by Sandy and Richard Tillman.

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
JUNE 11, 2015
5:00 P.M.**

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

Item 1. Roll Call

PRESENT: Falk, Gallagher, Johnson, Spranger, Voelliger
ABSENT: None
STAFF: Connors, Fuhrman, Soenksen, Stone

Item 2. Review of Board procedures.

Item 3. The Board to review and approve the minutes of the meeting of May 14, 2015.

On motion by Falk, seconded by Johnson, that the minutes of the meeting of May 14, 2015 be approved as submitted.

ALL AYES

Motion carried.

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

- a. Case 15-034; 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 Windmilller. (Deferred from meeting of May 14, 2015)

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 proposal.

Ryan Windmilller, the applicant, explained that there will be only 3 single-car garage doors even though the home will have a 4-car garage, adding that the side of the garage facing Forest Glen Court will have only a single-car door with the remaining portion being hidden.

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 this type of request has become very common, adding that if the house had been a 2-story, the garage size might be in conformance with the ordinance.

Gallagher commented that while he is not opposed to the request, he questioned whether there is some sort of action the Board might take to reduce the number of this particular type of request. Soenksen stated that the upcoming revision of the zoning regulations might address the issue, adding that one solution may be to codify a differentiation between the older and new sections of the city with regard to allowable garage area. Gallagher concurred, stating that there is clearly no hardship. He added that the Board has often been put in the position of rendering a decision based on aesthetics which is not an appropriate practice. Johnson commented that without changing the exterior appearance of the house, a barrier between the vehicle storage area and the remainder of the garage could be installed to make it code-compliant. Gallagher acknowledged this and expressed support for the request, adding that the Board is often placed in an awkward position because of this type of case.

On motion by Gallagher, seconded by Johnson, that a variance to increase the allowable garage area from 936 square feet to 1,502 square feet be granted in accordance with the Decision and Order.

ROLL CALL ON MOTION

AYE:	Gallagher, Johnson, Spranger, Voelliger
NAY:	None
PRESENT:	Falk

Motion carried.

Decision and Order is Annex #4 to these minutes.

Soenksen reiterated that staff realizes the difficulties this type of case causes for the Board and will address it during the revision of the zoning regulations.

- b. Case 15-040; 2420 - 18th Street (C-5) - A request for a special use permit to allow a seasonal snow cone trailer, submitted by Chris Ploessl.

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.

Chris Ploessl, the applicant, explained that he has a monthly agreement with the owner of the building for the season to place the trailer on the lot. He indicated that the agreement stipulates that if the owner leases or sells the building, he would be required to vacate the premises.

Rich Roller, 2414 - 18th Street, indicated that he is not opposed to the proposed use but expressed concern about the possibility that customers may use his parking lot, that littering may occur, and that the special use permit does not appear to have an expiration date. He suggested that the continuation of the use be reviewed after one year.

Voelliger asked if it would be appropriate for the Board to review the case next year. Soenksen explained that in the past there have been some special use permits approved for seasonal projects that have been reviewed for compliance by the Board after one year. Voelliger commented that it might be more appropriate to review the use before the summer season begins. Soenksen stated that he would make a report to the Board in March 2016.

Spranger asked if the snow cone trailer would be removed from the Spruce Hills Drive location. Ploessl confirmed this, adding that some of the tenants at the Cumberland Square had expressed concern to the owner that the snow cone trailer blocks visibility of the new shopping center sign.

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 special use permit to allow a seasonal snow cone trailer be granted in accordance with the Decision and Order and the condition that the Board review the viability of the continuation of the proposed use in March 2016.

ALL AYES

Motion carried.

Decision and Order is Annex #6 to these minutes.

- c. Case 15-041; 6478 Spring Creek Drive (R-2) - A request for a variance to reduce the required front yard setback from 25 feet to 23 feet to allow for construction of a deck and to increase the allowable garage area from 765 square feet to 890 square feet, submitted by Ryan Windmiller.

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. Soenksen explained that because there is an outlot adjacent to the property in question the actual distance between the proposed deck and any future construction is at least 125 feet.

Gallagher asked if the outlot would become buildable when the adjacent property is developed. Soenksen stated that it would not as it is designated as a storm water detention area and for location of utilities. Windmiller added that there are actually two outlots to the rear of the property in question. He explained that Lot G is a drainage area attached to the property and that there is another outlot past it that is designated as the storm water detention area for the

subdivision. He indicated that there would be an approximately 500 foot distance between the proposed deck and any future buildable lot.

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 Spranger, seconded by Johnson, that a variance to reduce the required front yard setback from 25 feet to 23 feet to allow for construction of a deck be granted in accordance with the Decision and Order.

ROLL CALL ON MOTION

AYE: Gallagher, Johnson, Spranger, Voelliger
NAY: None
PRESENT: Falk

Motion carried.

On motion by Spranger, seconded by Johnson, that a variance to increase the allowable garage area from 765 square feet to 890 square feet be granted in accordance with the Decision and Order.

ROLL CALL ON MOTION

AYE: Gallagher, Johnson, Spranger, Voelliger
NAY: None
PRESENT: Falk

Motion carried.

Decision and Order is Annex #8 to these minutes.

5. The Board to discuss the following item:

- a. **Case 15-046:** Establishment of a rule defining "reasonable time" related to Section 11-2B-3:A Appeals; Hearings; Fees: Right to Appeal.

Soenksen reviewed the staff report. Staff report is Annex #9 to these minutes.

Voelliger asked if staff feels that 30 days is an adequate amount of time for an attorney to prepare an appeal. Gallagher stated that 30 days seems to be the standard time period for this type of appeal in other cities.

Falk asked if staff is asking for a consensus of the Board members and if a vote would be required at a future meeting. Kristine Stone, City Attorney, explained that staff is requesting that

the Board vote to establish the 30-day time period and that the rule would then be incorporated into the appeals process.

Gallagher suggested that staff inform any aggrieved persons of the new rule establishing the 30-day deadline for submitting an appeal.

Voelliger asked if there have been cases to which this would have applied. Stone confirmed this, adding that the city was recently involved in litigation of an appeal that was never submitted to the Board with regard to a setback issue. She indicated that the appellant's attorney had argued that there was no time limit specified and therefore the appeal was valid.

Johnson asked if 30 days is a sufficient amount of time given that the Board meets only one time per month. Stone explained that the 30 day time period would apply only to an appellant's notifying the Board of their intention to appeal a decision.

Voelliger asked if there have been decisions in the past that have been appealed. Connors confirmed this.

On motion by Gallagher, seconded by Falk, that the Board establish 30 days as the definition of "reasonable time" for an appeal according to Section 11-2B-3:A.

ALL AYES

Motion carried.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 5:25p.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

July 9, 2015

Staff Report

Case No. 15-048

Location: 2870 Pleasant Ridge Court

Applicant: Chase Pielak

Zoning Designation: A-2, Rural Residence District

Request: Variance to reduce the required rear yard setback from 40 feet to 25 feet to bring the existing structure (including existing deck) into Code compliance.

Background Information and Facts

The site is located east of Scott Community College and can be reached by turning onto Pleasant Ridge Court from Belmont Road, traveling past the roundabout, taking the first left around a sharp switchback, and turning right into the first driveway (see Attachment A – Location Map and Attachment B – Direction Map).

Staff Analysis

The property is zoned A-2, Rural Residence District which requires a 40-foot rear yard setback. The southwest corner of the house is set back 35 feet from the rear property line, and the northwest corner of the house is set back 45 feet from the rear property line (see Attachment C – Plot Plan). The zoning of this property occurred in 1976, and the certificate of occupancy for the home was issued in March of 1977. While staff has no way to confirm this, it is possible that the home was under construction before the zoning occurred. It is also feasible that at the time this house was built, the setback average (from 35-45, averaging 40 feet) was used. Under today's standard, the closest portion of a structure establishes the setback.

The applicant's home also has an attached deck that is within 25 feet of the required rear property line. Under today's standard, a deck is considered part of the principal structure and taken into consideration when measuring the required setback.

The applicant has found it difficult to refinance the home because the structure setback does not meet current code. The home has existed since 1977, and the setback has not been an issue for any neighboring property owners. It is obvious that the deck has existed for several years also without issues.

Given today's Code, this home would be considered an existing non-conforming use and would not be allowed to be rebuilt without Board approval if it is damaged beyond

50% of its value. By granting the variance, the lending institution will allow the house to be refinanced, and the non-conforming status of the property would be removed.

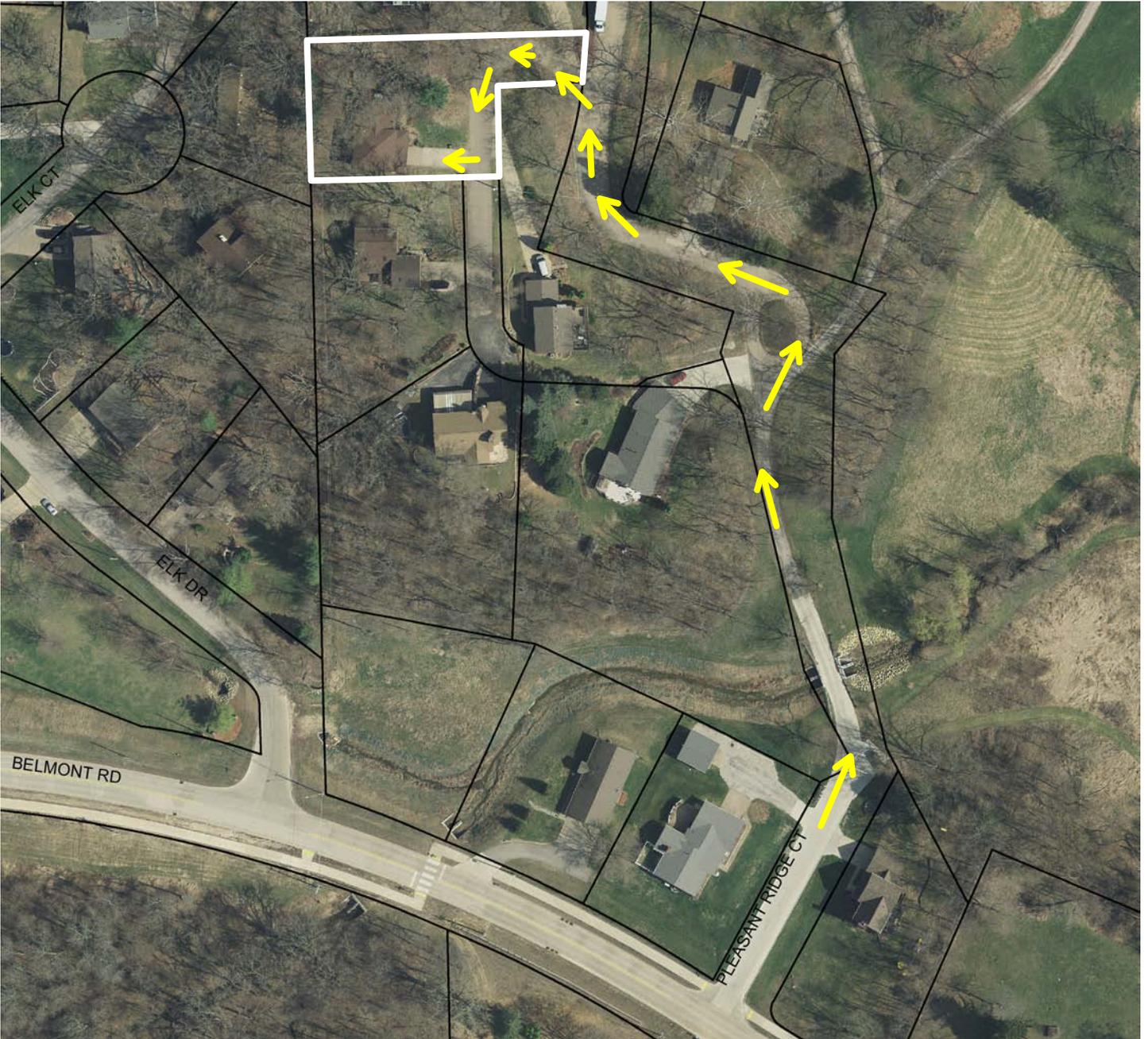
Staff Recommendation

The current owner purchased this home in 2011 and obviously had nothing to do with the current non-conforming status of the structures. Given the above analysis, staff feels that the applicant has demonstrated a hardship that is not self-imposed. The granting of the variance will not change any existing circumstances and therefore should have no adverse impact on surrounding property owners.

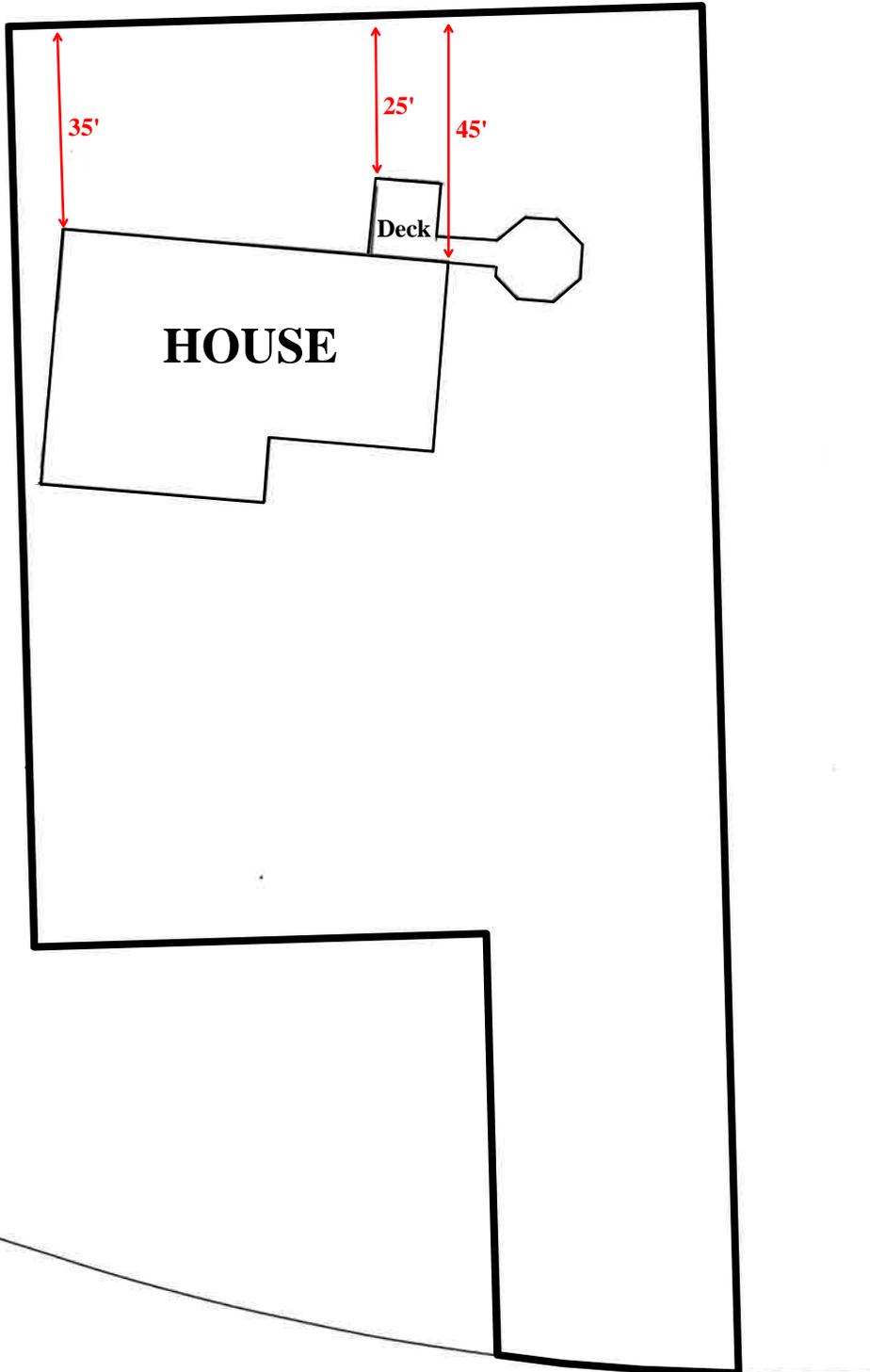
Respectfully submitted,

John Soenksen
City Planner





Attachment - C



PLEASANT RIDGE CT



Case No. 15-048

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

Part 1. Property Involved.

Street Address 2870 Pleasant Ridge ct.

Legal Description of the property. ~~Residence~~
LOT 1 Pleasant Ridge 2nd Add

Part 2. Contact Information.

Applicant Name Chase Pielak Phone 626 497 7582

Address 2870 Pleasant Ridge ct. FAX _____

E-mail Address: Chase.sdg@hotmail.com

Owner Name _____ Phone _____

Address _____ FAX _____

E-mail Address: _____

Agent _____ 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 A-2

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.

The property cannot be refinanced because the lender has required a letter that indicates that the property can be rebuilt according to the current footprint which is only available if this variance is granted as the current deck is too close to the property line by a few feet.
variance to bring existing structure into compliance with zoning regulations.

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.

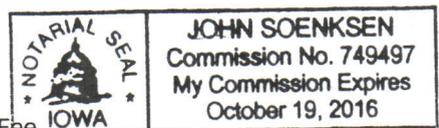
I (we) depose and say that all the information contained in this application and the statements contained in the papers submitted herewith are true. Witness our Hands and Seals this 9th day of June, 20 15.

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 9th day of June, 20 15.



[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 Deb Mildt - Credit Card
Amount \$ 50.00 Date 6-9-2015



COMMUNITY DEVELOPMENT

City Hall Annex • 4403 Devils Glen Road, Bettendorf, Iowa 52722 • (563) 344-4083

July 9, 2015

Staff Report

Case No. 15-049

Location: 3475 Woodholm Lane

Applicant: Sandy and Richard Tillman

Zoning Designation: R-1, Single-family Residence District

Request: Variance to increase the allowable garage area from 720 square feet to 1,144 square feet to allow construction of a 26-foot by 44-foot garage.

Background Information and Facts

The site is accessible from either Crow Creek Road or Valley Drive, turning onto Moencks Road and then onto Woodholm Lane. The site is near the southern end of Woodholm Lane (see Attachment A – Location Map). The applicant would like to build a 26-foot by 44-foot, 1,144 square foot garage to be located in the southeast corner of the lot with proper setbacks (see Attachment B – Plot Plan).

Staff Analysis

The lot is 13,775 square feet in size which is considered to be a typical by today's standard. The R-1 District requires a minimum 10,000 square foot lot; therefore, this lot meets the minimum lot size requirement. The R-1 District also requires a minimum 1,200 square foot dwelling size. The applicant's house is 729 square feet in size.

Therefore, if allowed, the proposed garage will be located on a moderately-sized lot with a house that does not meet the minimum size standard, and will have a garage that is 60% larger than is allowed.

The Board routinely evaluates the appropriateness of these types of requests given the existing conditions of the surrounding neighborhood. The following is a listing of the existing garage square footages at specific addresses on Woodholm Lane:

- 3440 = none
- 3450 = 416 square feet
- 3485 = 288 square feet
- 3505 = none
- 3520 = 816 square feet (attached)
- 3535 = 616 square feet
- 3547 = 672 square feet
- 3565 = 576 square feet

Based on the above analysis, the request is for an oversized garage in a neighborhood that is not characterized by large garages. Staff does, however, acknowledge that the proposed garage would be in a secluded location not be routinely accessed or visible by many people on a routine basis.

Staff Recommendation

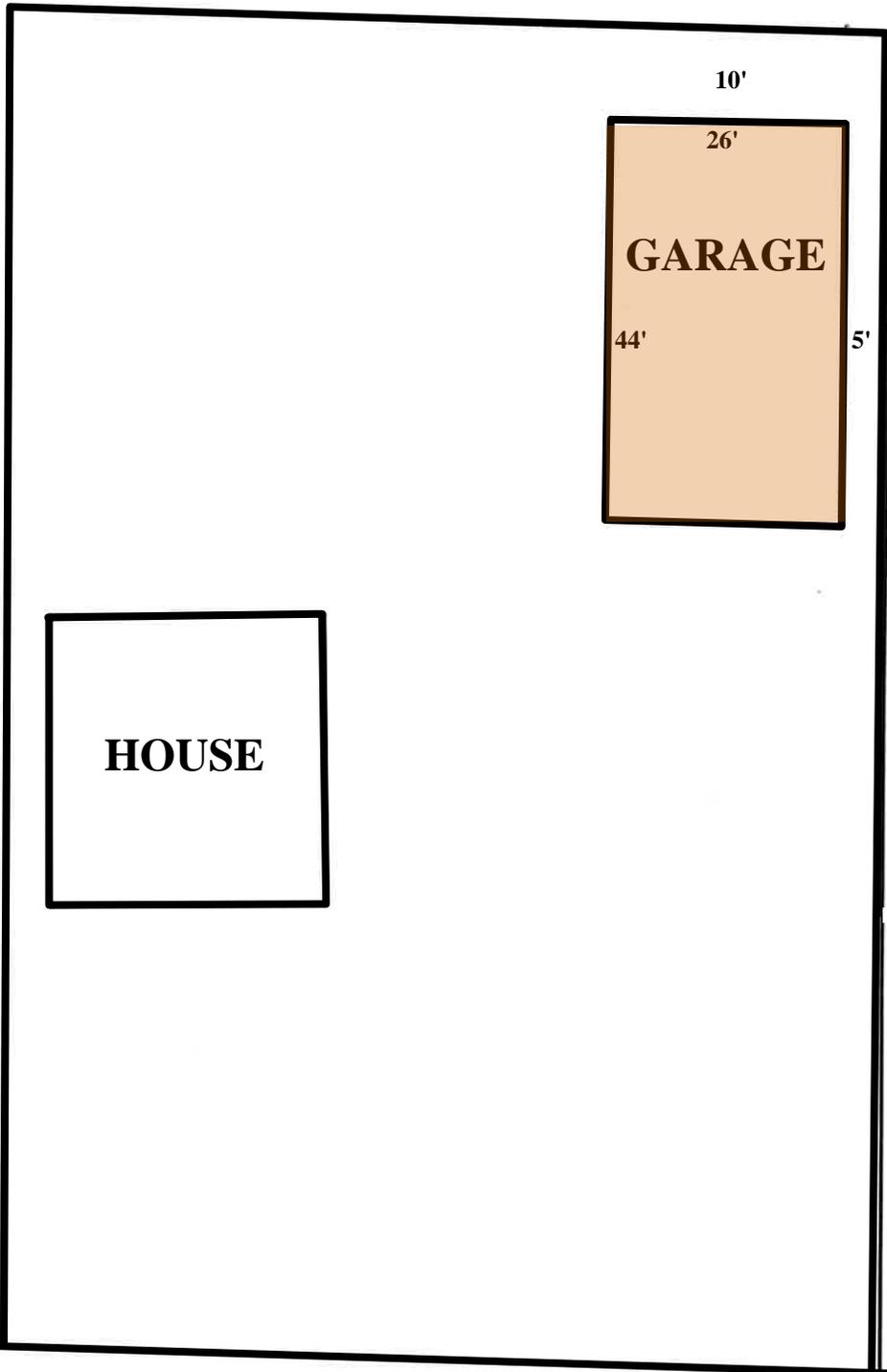
Staff cannot identify a hardship related to this request.

Respectfully submitted,

John Soenksen
City Planner



Attachment - B



WOODHOLM LN



Case No. 15-049

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

Part 1. Property Involved.

Street Address 3425 Woodholm

Legal Description of the property. 2695--015 J.J. Kress' Pleasant View

Subd. Lots 14 + 15

Part 2. Contact Information.

Applicant Name Sandy or Richard Tillman Phone _____

Address 5080 45th Ave Bettendorf FAX _____

E-mail Address: _____

Owner Name Richard & Sandra Tillman Phone 563 332 3461

Address 5080 45th Ave Bettendorf FAX 563

E-mail Address: _____

Agent _____ 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.)

