

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
NOVEMBER 12, 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 September 10, 2015.
4. The Board to hold a public hearing on the following items:
 - a. **Case 15-073; 2736 Eagle Heights Court (R-1)** – Appeal of the building inspector and zoning administrator’s interpretation and enforcement of the rear yard setback requirements set forth in Section 14.17(5) of the Zoning Ordinance (now found at Section 11-6A-7(E)), submitted by James D. Bruhn for John M. Hoffman and Kimberly D. Hoffman.
 - b. **Case 15-078; 3486 Spencer Drive (A-2)** – A request for a variance to increase the allowable area of a garage from 773 square feet to 1,234 square feet to allow for construction of a 26-foot by 28-foot garage, submitted by Scott Pfitzenmaier.

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND OTHER APPLICABLE FEDERAL AND STATE LAWS, ALL PUBLIC HEARINGS AND MEETINGS HELD OR SPONSORED BY THE CITY OF BETTENDORF, IOWA, WILL BE ACCESSIBLE TO INDIVIDUALS WITH DISABILITIES. PERSONS REQUIRING AUXILIARY AIDS AND SERVICES SHOULD CONTACT BETTENDORF CITY HALL AT (563) 344-4000 FIVE (5) DAYS PRIOR TO THE HEARING OR MEETING TO INFORM OF THEIR ANTICIPATED ATTENDANCE.

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 10, 2015
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, Connors

Item 2. Review of Board procedures.

Item 3. The Board to review and approve the minutes of the meeting of August 13, 2015.

On motion by Gallagher, seconded by Falk, that the minutes of the meeting of August 13, 2015 be approved as submitted.

ALL AYES

Motion carried.

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

- a. **Case 15-067; 5680 Short Street (A-2)** - A request for a variance to allow a 5-foot high fence in a required front yard, submitted by John Ahlers.

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.

On motion by Falk, seconded by Gallagher, that a variance to allow a 5-foot high fence in a required front yard be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

Soenksen stated that at the Board's request, he has been doing some research with regard to allowable garage size in other communities in Iowa. He indicated that his next step will be to contact several home builders who have made variance requests in the past related to garage size and get their input and suggestions about how to resolve the issue. Soenksen stated that he would ask the Board for a recommendation at the next Board of Adjustment meeting. Gallagher asked if staff would be making a recommendation for the Board to consider. Soenksen stated that the first meeting of the committee tasked with revision of the zoning ordinance has met and that the issue would be brought up to the members of that committee which includes Bryce Johnson.

Voelliger asked what the typical square footage of a two-car garage would be. Soenksen explained that the bare minimum size for a two-car garage would be 20 feet by 24 feet. Johnson commented that recently the Board has reviewed cases for builders who wish to construct a three-car garage plus have additional storage space. She indicated that she would be supportive of a revision based on the ordinance for the City of Ames which does not limit the size of a garage but rather the linear width of the garage/entry doors. Johnson commented that in Bettendorf any size garage would be allowed if the interior were altered such that a portion is rendered unusable for vehicle storage.

Falk commented that the City of Ames limits the linear width of garage doors to 27 feet and only includes doors that are 8 feet or higher in the calculation. He indicated that it is possible that a home builder could include several 7-foot high doors in a row which would not trigger the restriction. Soenksen concurred, adding that Bettendorf does not include the space behind 6-foot high doors when calculating allowable garage area. He indicated that typically a 6-foot high door would be used for access for a riding lawn mower or golf cart. Soenksen stated that Bettendorf's ordinance regarding allowable garage area would not necessarily have to be modeled exactly after the Ames regulations. Falk commented that many sports cars would fit through a 7-foot high door, adding that he feels that the Ames ordinance could be modified to make it a better fit for the Bettendorf market. Soenksen suggested that the ordinance could limit the linear width of all garage doors except for man doors.

Voelliger asked if a variance would be required in Ames if a larger than 900 square foot garage is proposed. Soenksen explained that the greater concern in Ames is the total width of the garage doors, adding that staff is still attempting to determine what an appropriate size limitation would be for detached garages. Johnson commented that it seems as though the door width limitation imposed by the Ames ordinance would allow oversized garages as long as the garage area is mostly indistinguishable from the remainder of the house.

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

November 12, 2015

Staff Report

Case No. 15-073

Location: 2736 Eagle Heights Court

Applicant: James Bruhn (for John and Kimberly Hoffman)

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

Request: Appeal of the building inspector and zoning administrator's interpretation and enforcement of the rear yard setback requirements set forth in Section 14.17(5) of the Zoning Ordinance (now found at Section 11-6A-7(E)).

UNTIMELY FILING

On June 11, 2015 the Board adopted a rule establishing 30 days as the appeal deadline under City Code Section 11-2B-3 (appeals to ZBA). The decision that is being challenged in this appeal relates to the approval of the installation of a raised "terrace" at 2736 Eagle Heights Court. The "terrace" was constructed some time in 2011 (see Attachment A and B – Permit Application and Building Permit). The appeal notice is dated September 30, 2015.

Under Iowa law, the "time to file an appeal with a zoning board of adjustment commences when the appealing party is chargeable with notice or knowledge of the decision complained of." *Arkae Dev., Inc. v. Zoning Bd. Of Adjustment*, 312 N.W.2d 574, 577 (Iowa 1981). It does not necessarily always relate back to the actual administrative decision itself, but can begin when the applicant has actual or constructive knowledge that the decision occurred. *Shors v. Johnson*, 581 N.W.2d 648, 652 (Iowa 1998).

In this case, the applicants would have become aware of the installation of the terraced area during the actual construction of the residence and associated landscaping. That occurred in 2011. This appeal was not filed until 2015. Staff recommends a denial of the appeal based on the fact that it is untimely filed. There is no need to hold a formal hearing on the merits of the appeal.

Respectfully submitted,

John Soenksen
City Planner

BUILDING INSPECTION SERVICES

**Application for Building Permit and Certificate of Occupancy
CITY OF BETTENDORF**

Building Address 2736 EAGLE HEIGHT COURT	TYPE OF WORK New RESIDENTIAL	Basement Finished () Unfinished () Family Room () Bath () R. I. Only () Bedroom () Other ()
Legal Description	Remodel	
Flood Plain (Elevation)	Addition	
	Attached or Detached	

Property Owner

Name **RODNEY BLACKWELL**

Address **220 NORTH MAIN ST. #517**

City, State, Zip **BETTENDORF, IA 52722**

Phone **DAVENPORT, IA 52801**

PERMIT USE:

Size of Building _____ x _____ Sq. Ft. _____
Height _____

No. of Rooms _____

No. of Bedrooms _____

No. of Bathrooms _____

No. of Floors _____

No. of Bldgs. Now on Lot _____

Porch, Deck if any - Check _____ Size _____

Garage, If any - check _____
Size _____
Attached _____
Unattached _____

Engineer/Architect

Name **GERE DISMER ARCHITECTS**

Address **124 ARTS ALLEY**

City, State, Zip **ROCK ISLAND, IL 61201**

Phone **(309) 786-9910**

SPECIFICATIONS

Foundation	Piers
Block _____ Poured _____	
Wall Width _____	
Footing Size _____ x _____	
Depth in ground _____	

Contractor

Name **BUILD TO SUIT, INC.**

Address **1805 STATE ST. STA. 101**

City, State, Zip **BETTENDORF, IA 52722**

Phone **(563) 355-2022**

State Registration No. _____

STRUCTURAL	SIZE	SPACING	SPAN
Beams			
Joist — 1st Fl.			
Joist — 2nd Fl.			
Joist — Ceiling			
Exterior Studs			
Interior Studs			
Roof Rafters			
Bearing Walls			

all as per plans received

Applicant to Complete

DESCRIPTION OF WORK
NEW STONE/CONCRETE RETAINING WALL IN BACKYARD

COST BREAKDOWN

BLDG. **\$ 39,000**

ELEC. _____

HVAC. _____

PLBG. _____

TOTAL \$ **39,000**

SIGN

TYPE _____

HEIGHT _____

SETBACK _____

COVERING

Exterior Walls	Roof
Interior Walls	Reroofing

OFFICE USE

- Appropriate Bond
- Survey Certificate
- Bldg. Plans Dated
- Zoning
- Subdivision Plat Check
- Plot Plan Requirements
- Sewer Septic
- Handicapped Requirements
- Plan Reviewed
- Utilities Approval: Method
- Special Notations

MECHANICAL

Fireplace Type _____

Water Heater Type _____

Furnace Type _____

OFFICE USE

PERMIT # **11-013603**

DATE **8/15/11**

VALUE \$ **378⁰⁰**

FEE \$ _____

SIGNATURES

I hereby acknowledge that I have read this application and state that the above is correct and agree to comply with all City Ordinances and State Laws regulating Building Construction.

Property Owner Signature _____ Date **7/27/11**

Contractor Signature **Paul Boffa** Date **7/27/11**

By _____ Date _____



**Community Development Department
Building Inspection Division
4403 Devils Glen Road, Bettendorf, Iowa 52722
Phone: (563) 344-4074**

Permit/Application Number:
BP-11-01363

Property Address:
2736 EAGLE HEIGHTS CT

Legal Description:
LOT 7 HIGHLAND GREEN THIRD ADDITION AT
CROW VALLEY

Permit Type: ACCESSORY BUILDING

Date Applied: 08/15/2011
Date Issued: 08/25/2011

Description of Work:
RETAINING WALL PER PLANS SUBMITTED

Owner/Name Address:
RODNEY BLACKWELL
200 NORTH MAIN ST., #517
DAVENPORT IA 52722

Contractor/Name Address:
BUILD TO SUIT
1805 STATE ST, STE 101
BETTENDORF IA 52722

Reviewed for issuance by: RONALD WINCKLER

Valuation: \$39,000.00
Permit Fee: \$378.00
Date Received: 08/15/2011

***NOTE* 24HR NOTICE REQUIRED FOR ALL INSPECTIONS. PHONE: (563) 344-4074
ALL SUBJECT TO FIELD APPROVAL**



Case No. 15-073

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

Part 1. Property Involved.

Street Address 2736 Eagle Heights Court, Bettendorf Iowa

Legal Description of the property. Lot 7 Highland Green Third Addition

Part 2. Contact Information. John M. Hoffman and Kimberly D. Hoffman

Applicant Name by Attorney James D. Bruhn, PLC Phone 563.242.6162

Address 343 Fifth Avenue South, Clinton Iowa 52732 FAX 563.242.6165

E-mail Address: jbruhn@farwellbruhn.com

Owner Name Jodi B. Blackwell and Rodney A. Blackwell Phone _____

Address 2736 Eagle Heights Court, Bettendorf Iowa 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.

OCT 01 2015

X 3. Other. See attached claim.

Part 4. General Information.

Section(s) of Zoning Ordinance Involved 5, 14, 17, 18, 28, 18, 30, and 25 Existing Zoning _____

203
21

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.
See attached claim.

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.
- (X) 4. List additional attachments. See attached list of attachments.

Part 7. Signature.

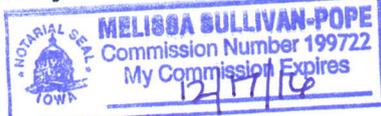
I (we) depose and say that all the information contained in this application and the statements contained in the papers submitted herewith are true. Witness our Hands and Seals this 30 day of September, 2015.

Attorneys for James B. Pe Signature of Owner _____
~~Signature of Applicant~~
(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)
 CLINTON
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 30th day of September, 2015.



Melissa Pope
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 _____
Amount NC Date 19/11/15

OCT 01 2015

**APPEAL TO THE ZONING BOARD OF ADJUSTMENT OF BETTENDORF, IOWA
BY JOHN M. HOFFMAN and KIMBERLY D. HOFFMAN
CONCERNING CONSTRUCTION OF SINGLE FAMILY RESIDENCE
AT 2736 EAGLE HEIGHTS COURT, BETTENDORF IOWA**

Applicants (“Hoffmans”) contend the building inspector and zoning administrator have failed to properly interpret and enforce applicable zoning ordinances with respect to the construction of a single family residence by Rodney A. Blackwell and Jodi B. Blackwell (“Blackwells”) at 2736 Eagle Heights Court, Bettendorf, Iowa.

Specifically, Applicants contend Blackwells have constructed a rear yard “structure” which violates rear yard setback requirements set forth in Section 14.17(5) of the Zoning Ordinance.

BACKGROUND FACTS

Hoffmans own a home adjacent to the home constructed by Rodney A. Blackwell and Jodi B. Blackwell. Hoffman’s live at 2758 Eagle Heights Court, Bettendorf, Iowa. Blackwell’s constructed a residence on the lot at 2736 Eagle Heights Court, Bettendorf, Iowa. Both properties are platted in Highland Green Third Addition at Crow Valley, an Addition to the City of Bettendorf, Iowa pursuant to a Plat filed of record on November 7, 2002 and recorded as Document No. 45409-2002.

The Blackwells constructed a residence which is in excess of 7,600 square feet and which includes a tiered patio and patio stone wall, part of which is attached to an exterior wall of the residence. The patio and stone wall are built into the ground with footings.

A survey of the Blackwell property shows the stone wall to exceed the forty foot setback by 37.4 feet. It runs to within 2.6 feet of the rear property line.

The Plot Plans submitted to the City of Bettendorf in support of its building permit did not show the construction of any exterior improvements or structures beyond the forty foot rear zoning setback line. Hoffmans are not aware of any drawings, plans, or exhibits showing construction of improvements beyond the forty foot setback line having been given to the City.

The natural contour of the Blackwell lot was significantly altered, and the elevation of the lot was significantly raised during the construction process.

A backyard plan was prepared by Gear/Dismer Architects, LLC. The plan showed the layout of the proposed patio and the stone retaining wall. However, the plan did not show location of the patio and stone retaining wall with respect to the property lines. The backyard plan was not included in documents received from the City of Bettendorf, and it is believed these documents were not submitted to the City.

As mentioned above the survey shows the stone wall to extend beyond the forty foot rear zoning setback line by over thirty-seven feet at its furthest point. The survey also shows the rear concrete patio to extend beyond the forty foot setback line.

**THE CITY'S ZONING ORDINANCE, ISSUED BUILDING PERMITS AND
CONSTRUCTION**

1. The rear yard stone wall is a "structure" under the *Zoning Ordinance*:

A "structure" is defined in section 5 of the Zoning Ordinance as follows:

Structure: Anything constructed or erected which requires location on the ground or attachment to something having a location on the ground.

The introductory paragraph under Section 5 provides,

For the purpose of this ordinance, certain terms and words used herein shall be interpreted and defined as follows: words in the present tense include the future and vice-versa; the words in the singular number include the plural number and vice-versa; **the word "building" includes the word "structure" and vice-versa; the word "shall" is mandatory and not directory.** (Emphasis added)

Further, a retaining wall is defined to be an “accessory **building**”, (See Section 5, second paragraph). Accessory buildings include retaining walls, walls, and structures of like nature.

Section 14.17, paragraph 5 provides:

5. Rear Yard. All **structures shall** be set a distance of not less than forty (40) feet from the rear lot line. (Emphasis added).

The setback requirements are mandatory and not directory as stated in the introductory paragraph to Section 5.

Section 21 of the Zoning Ordinance requires plot plans to be submitted which show the location and size of all structures, drawn to scale. All such site plans are to become a permanent record. Hoffmans have not been furnished copies of any plot plans submitted to the City by or on behalf of Blackwells which showed construction of any structure (patio or stone wall) beyond the forty foot setback line. The only plot plan provided is the foundation plan, a copy of which is attached to this filing as Attachment 1. Hoffmans have not been provided any plot plan submitted in connection with the building permit for the stone wall. (See Attachment 7 – Backyard Plan which does not comply with requirements of Section 21)

The tiered stone walls in the rear yard are clearly structures as defined under the foregoing zoning ordinance provisions. The Bettendorf zoning administrator has referred to the stone wall as a retaining wall. Regardless of the type or purpose of the wall, the wall is constructed into the ground with footings, as well as the patio. It is an “accessory building” as defined in Section 5 of the Zoning Ordinance. The stone wall is an extension of the residence. The total width of the wall is approximately one hundred thirty feet, and on the southwest side it extends back approximately sixty feet. The zoning administrator

has claimed that even if the improvements are treated as “structures” they are exempted from the setback requirements by Section 18.30(1)(a) of the Zoning Ordinance.

There is no language in Section 18.30 setting forth exceptions for setback requirements. Exceptions for established setbacks are set forth in Section 18.28, none of which apply to this situation. Section 18.30 authorizes certain permitted obstructions within the yards of a residence, but nowhere in the Section does it state the obstructions may exceed the required yard setbacks.

Bettendorf has photographs purporting to show that no portion of the retaining wall comprising any part of the terraces is over four feet in height. That fact in and of itself may be accurate as shown by the photographs. However, even if Section 18.30(1) was construed as an exception to the setback restrictions, these measurements do not show the stone walls are less than four feet, “above the average level of the adjoining ground,” i.e. the Hoffman Property.

It appears measurements were taken from the cement patio on the Blackwell property to the top of the stone wall in various places. Some measurements show the top of the stone wall to be as high as forty-one inches and thirty-eight inches. The correct measurement to comply with Section 18.30(1) would be to measure the various points at the top of the stone wall from the average level of the Hoffman property. These photographs do not make such measurements. Furthermore, in constructing the retaining wall, Blackwells elevated the rear yard, and the retaining wall height as shown in Bettendorf’s photographs, significantly higher than the natural contour level before construction.

To the extent the zoning administrator may have allowed other structures or walls to exceed setback restrictions under Section 18.30(1)(a) is irrelevant and immaterial. Likewise, to the extent he has consistently interpreted the statute in a manner contrary to the express language, does not make his interpretation legal or within the confines of the zoning ordinance.

Hoffmans' peaceful and quiet enjoyment of their property and view of the Crow Valley golf course have been materially affected by the construction of the rear wall and patio. Substantial elevation changes were made to their rear yard, raising the level of the ground. These changes coupled with the in-ground construction of a wall with footings which extends to within 2.6 feet of the rear property line create a nuisance. These structures are not in conformity and harmony with neighboring structures, and they are a material breach of the zoning setback requirements.

Hoffmans contend the rear yard improvements violate the zoning permits as issued and the zoning ordinances for the reasons specified above. Section 25 of the Zoning Ordinance provides in pertinent part:

In the event any building or structure is erected, constructed, reconstructed ...; or any building, structure or land is used in violation of this ordinance, the council), in addition to any other remedies, may institute an action for injunctive relief or any other proper action or proceedings in the name of the city to prevent such unlawful erection, construction, reconstruction, ... to restrain, correct or abate such violation. ... Any building erected, raised or converted, or land or premises used in violation of any provisions of this ordinance or the requirements thereof, is hereby declared to be a public nuisance and as such may be abated in such manner as nuisances are now or may hereafter be abated under the statutes.

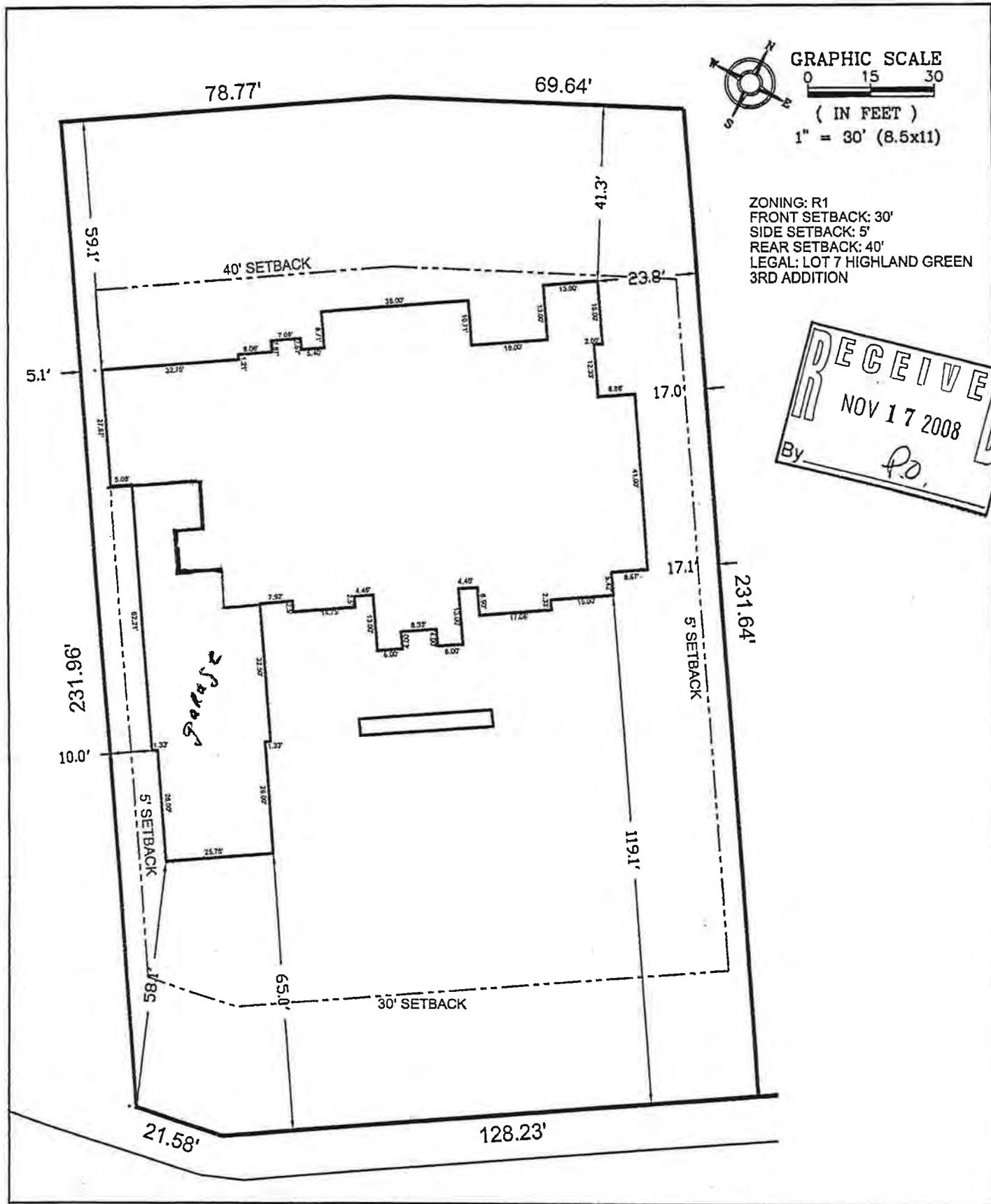
Hoffmans request that the Board of Adjustment find and determine that the rear yard construction violates the aforementioned zoning ordinance provisions; that no permit was issued authorizing construction of a "structure" which would exceed set back requirements; and, that Blackwells be required to abate the violation by removing the structure to the extent it exceeds the setback restrictions.

LIST OF ATTACHMENTS

The following items are attached:

1. Plot Plan Submitted to City of Bettendorf
2. Survey of Blackwell property showing patio and wall.
3. Photograph of side backyard wall between Hoffman's and Blackwell properties
4. Photograph of backyard walls showing tiered nature of wall
5. Photograph of side backyard wall between Hoffman and Blackwell properties
6. View of backside of backyard wall
7. Gere/Dismer Backyard Plan

PLOT PLAN



RECEIVED
 NOV 17 2008
 By P.O.

Zoning District R1
 Board of Adjustment Variance:
 no ___ yes ___ Dec/Order# _____

Front setback 30' 54'adv.
 Side setback min 5' total 20'
 Rear setback 40'

Indicate North
 Scale 1" = 30'

Permit Record:
(1) House 08-2102 11/17/08

Legal Description Lot 7 Highland Green Third Addition
 Building Address 2736 Eagle Heights Court
 Contractor Build to Suit Inc.

PLAT OF SURVEY

LOT 7

HIGHLAND GREEN THIRD ADDITION
AT CROW VALLEY
BETTENDORF, IOWA

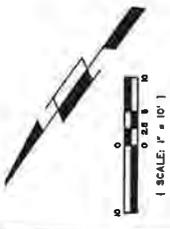
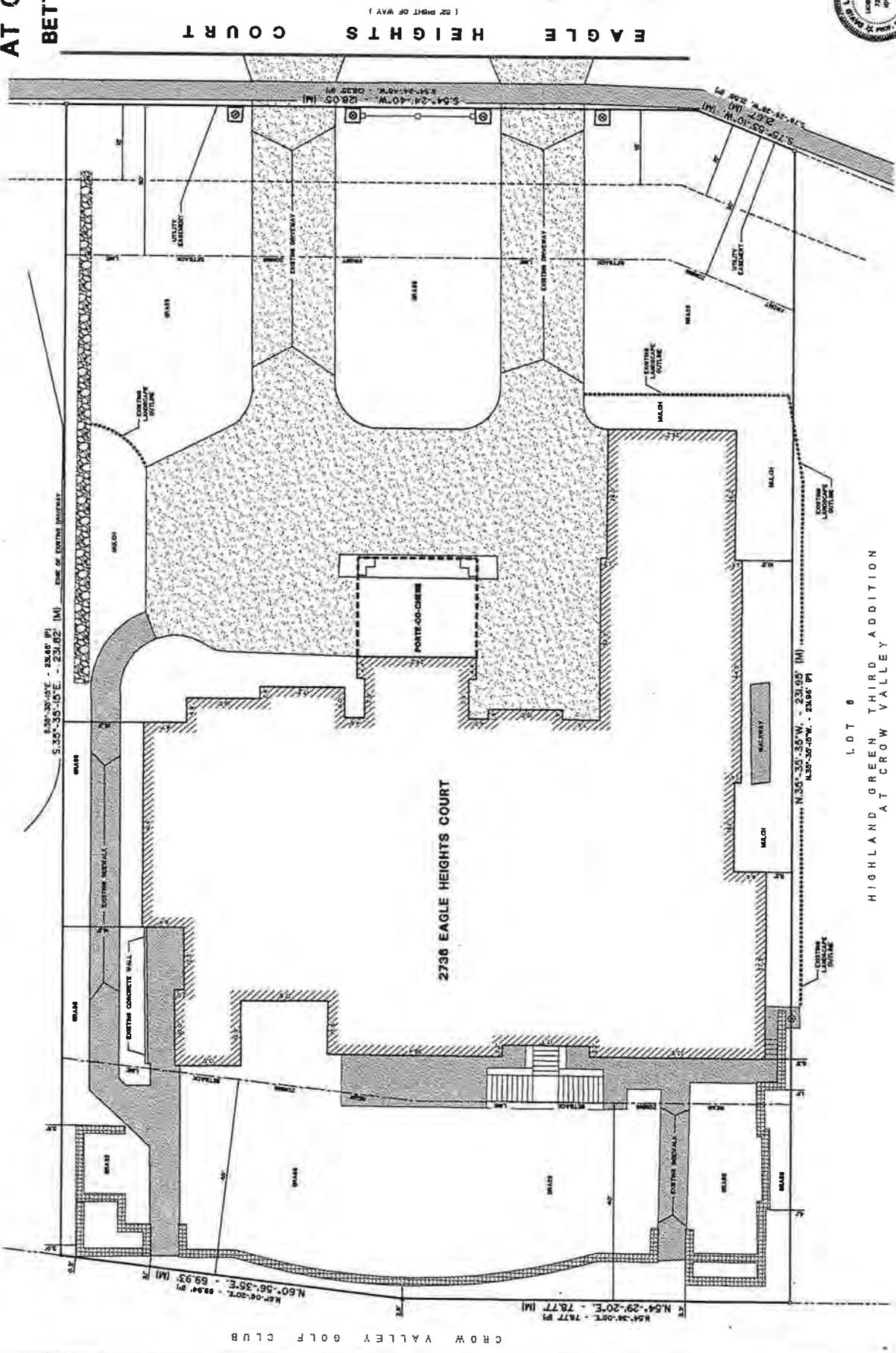
FARWELL & BRUHN
345 FIFTH AVENUE SOUTH
CLINTON, IOWA 52732
ATTN: JAMES D. BRUHN

LEGEND

- FOUND 1/2" IRON PIN (M)
- FOUND 3/4" IRON PIN (M)
- FOUND IRON PIN W/ CAP NO. 9635
- FOUND 1/2" IRON PIN W/ CAP NO. 1035
- METAL FENCE
- BRICK COLUMN W/ LIGHT
- CONCRETE DRIVEWAY
- CONCRETE SIDEWALK
- ROCK WALL
- STONE WALL
- STORM DRAIN INLET
- MEASURED DIMENSIONS (M)
- PLATTED DIMENSIONS (P)

LOT 7 IS CURRENTLY ZONED R-1 SINGLE FAMILY RESIDENCE DISTRICT WHICH REQUIRES ALL STRUCTURES SHALL BE SET IN FROM THE SIDE LOT LINE A DISTANCE OF NOT LESS THAN FIVE (5) FEET ON THE LEAST SIDE, WITH THE SUM OF THE TWO (2) SIDES NOT LESS THAN TWENTY (20) FEET.

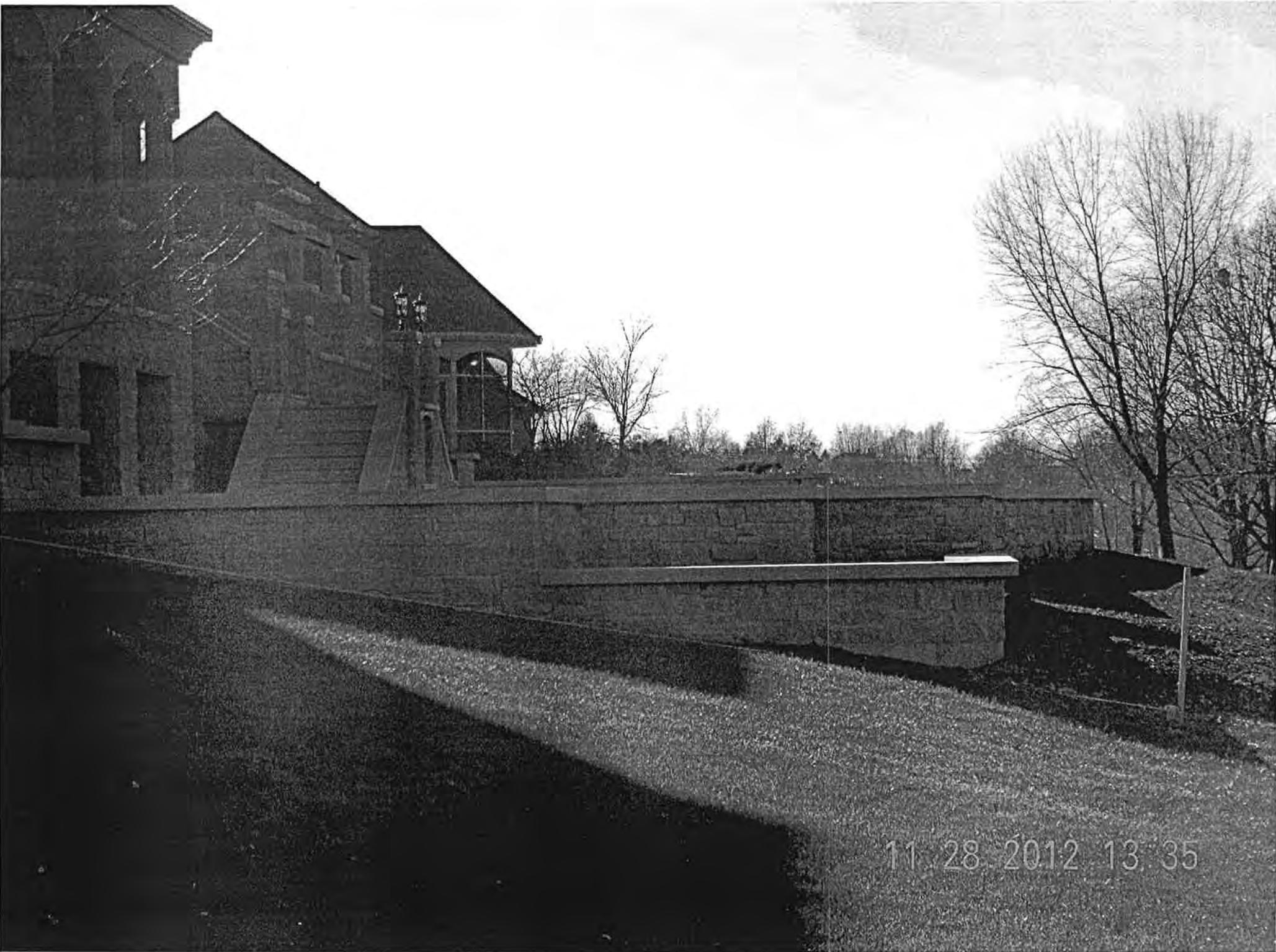
DATE OF FIELD WORK: DECEMBER 27, 2012
PREPARED BY
VERBEKE - MEYER
CONSULTING ENGINEERS, P.C.
4111 EAST 608 STREET
DAVENPORT, IOWA 52807
PHONE NUMBER: (563) 459-1148
VMECE 12300



LOT 6
HIGHLAND GREEN THIRD ADDITION
AT CROW VALLEY

CROW VALLEY GOLF CLUB

EAGLE HEIGHTS COURT (OR RIGHT OF WAY)



11 28 2012 13 35

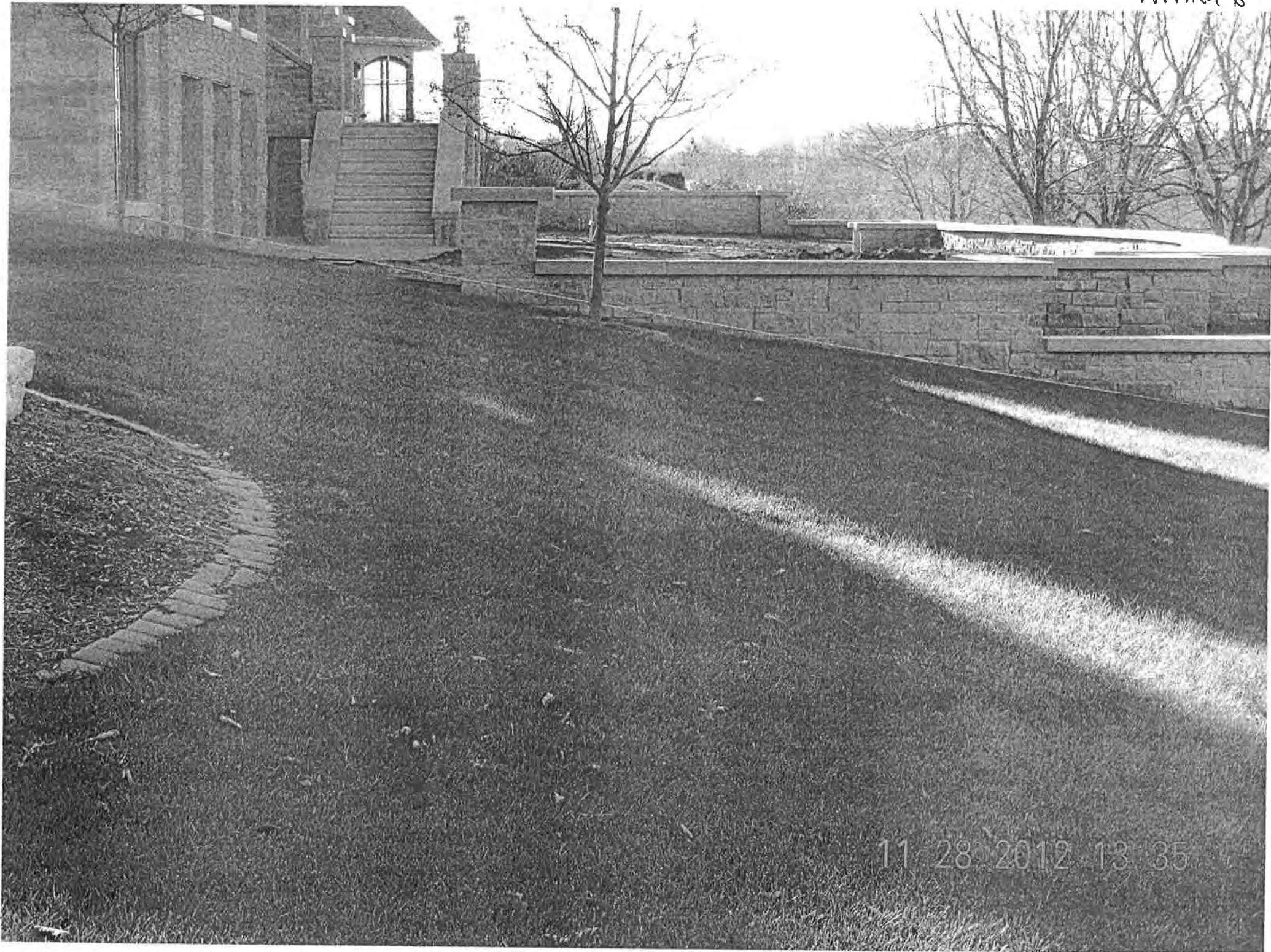


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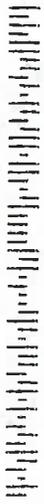


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ATTACH 6



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FARWELL & BRUHN

Attorneys At Law

343 5th Avenue South
Clinton, Iowa 52732-4510

John Soenksen
City Planner
4403 Devils Glenn Road
Bettendorf Iowa 52722



COMMUNITY DEVELOPMENT

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

November 12, 2015

Staff Report

Case No. 15-078

Location: 3486 Spencer Drive

Applicant: Scott Pfitzenmaier

Zoning Designation: A-2, Rural Residence District

Request: Variance to increase the allowable area of a garage from 773 square feet to 1,234 square feet to allow for construction of a 26-foot by 28-foot garage.

Background Information and Facts

The site is located southeast of the Tanglewood Hills Pavilion complex on Tanglefoot Lane and is accessible by turning off of Middle Road onto Norwood Drive and then onto Spencer Drive (see Attachment A – Location Map). The applicant would like to build a 26-foot by 28-foot detached garage on the site. The applicant is allowed up to 773 square feet of garage space based on the living area ratio established in the ordinance; therefore, a variance is required for this structure which will bring the total garage space to 1,234 square feet.

Staff Analysis

The site is located in a Rural Residence District (A-2). The zoning ordinance characterizes the A-2 District as:

“This district is intended to provide for single-family residential development on lot sizes adequate to allow individual wells and sewage disposal systems and to create an environment of rural type homes on larger lots than required in the urban type residential areas...”

The lot is 130 feet wide and 303 feet deep and contains almost one acre of land (39,390 square feet) which is nearly four times the minimum lot size in the R-1 District. The total proposed garage space is approximately 60% above the amount allowed without a variance; therefore, the request does not seem inappropriate given the size of the lot and the code intent detailed in the above district description.

The Board has made distinctions regarding the appropriateness of this type of request in the agricultural and rural residence districts (A-1 and A-2) as compared to the more densely populated residential districts (R-1 through R-5).

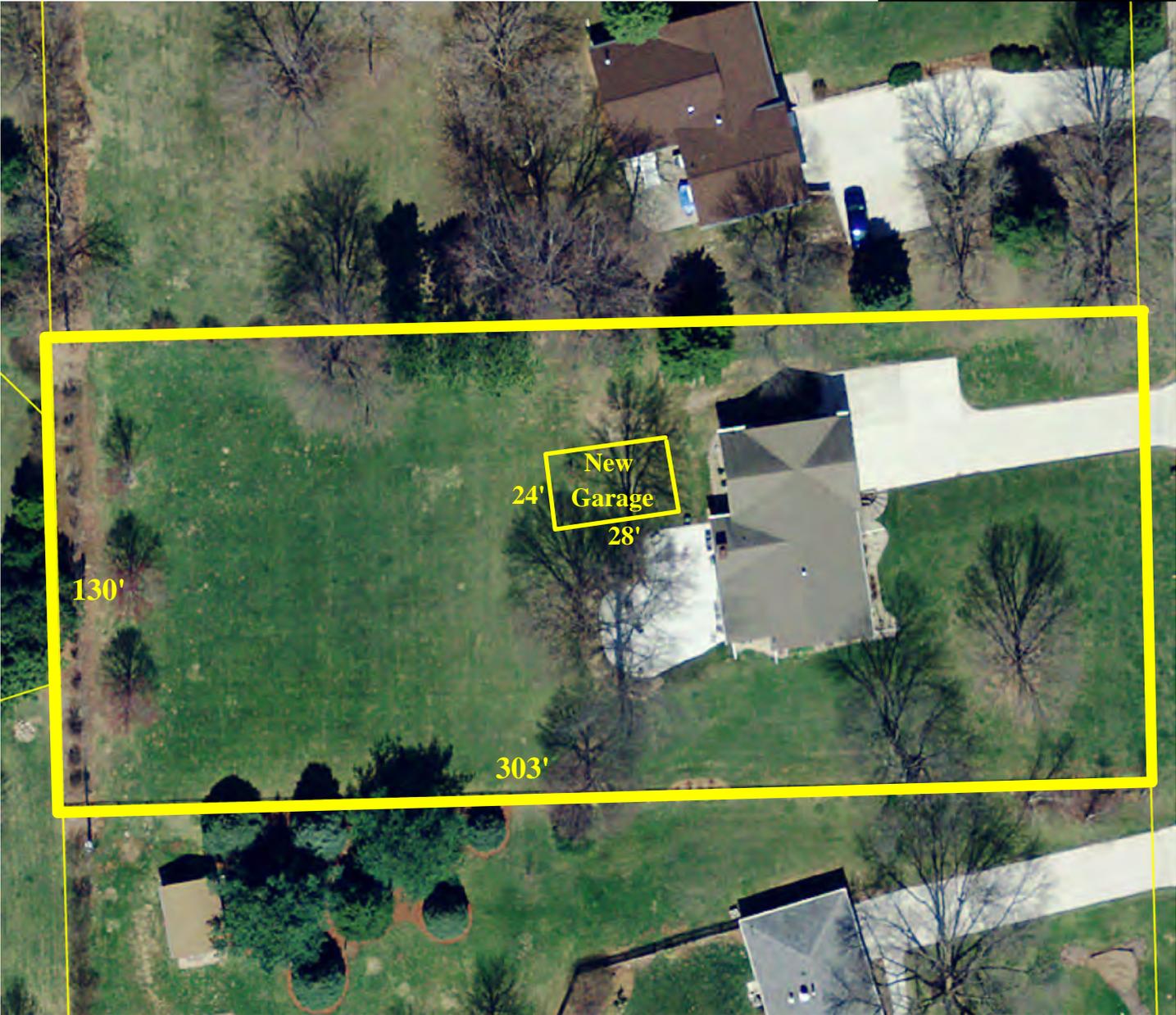
Staff Recommendation

Given the above analysis and previous similar rulings by the Board, the request appears to be consistent with past approval of variances.

Respectfully submitted,

John Soenksen
City Planner







Case No. 15-078

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

Part 1. Property Involved. 3486 Spence Dr Bett
Street Address _____

Legal Description of the property. residence
North 130feet of Lot 17, NORWOOD PARK

Part 2. Contact Information.
Applicant Name Scott Pfitzmaier Phone 370 5843
Address 3486 Spence Dr Bett FAX _____
E-mail Address: Scott Pfitz 50 @ gmail . com

Owner Name Same 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:
 - 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.
 - That it will not impair an adequate supply of light and air to adjacent property.
 - That it will not unreasonably increase the congestion in public streets.
 - That it will not increase the danger of fire or of the public safety.
 - That it will not unreasonably diminish or impair established property values within the surrounding areas.
 - 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.
my current 2 car garage is too small & have put up with no room for 8 years need more storage for motor patio furniture grill etc. I also know it will up my value of the home. I will build a garage that matches house & looks good & would like a 22x25 garage with double garage doors so be open on both ends. we have 3 personal vehicles & a work vehicle. we keep 1 vehicle away from home inside we have to pay for. we have a almost 1 acre lot & believe we have enough room without looking cramped.

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. *when we are older we can walk in house with no steps with this garage. wife has bad knees*
- () 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.

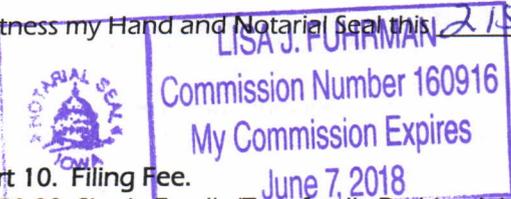
I (we) depose and say that all the information contained in this application and the statements contained in the papers submitted herewith are true. Witness our Hands and Seals this 21st day of Oct, 20 15.

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 21st day of October, 20 15.
Lisa J. Fuhrman
[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 [Signature]
Amount \$50. Date 10/21/15