

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 24, 2016
4:00 P.M.

Voelliger called the meeting to order at 4:00 p.m.

Item 1. Roll Call

PRESENT: Falk, Gallagher, Johnson, Spranger, Voelliger

ABSENT: None

STAFF: Fuhrman, Beck, Stone, *Connors

Voelliger apologized to anyone who was inconvenienced by the delay of the public hearings scheduled for April and May.

Item 2. Review of Board procedures.

Item 3. The Board to review and approve the minutes of the meeting of March 10, 2016.

On motion by Falk, seconded by Gallagher, that the minutes of the meeting of March 10, 2016 be approved as submitted.

ALL AYES

Motion carried.

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

- a. **Case 16-018; 1008 – 18th Street (R-2)** – A request for a variance to reduce the required front yard setback from 25 feet to 7 feet to allow a 6-foot high fence (along 18th Street) and to allow an 8-foot high fence (along the western property line), submitted by Daniel Dimmig.

Voelliger asked if there was an affidavit of publication. Beck stated that notice of public hearing had been received. Notice and affidavit of publication are Annex #2 to these minutes.

Beck reviewed the staff report. Staff report is Annex #3 to these minutes.

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

Daniel Dimmig, the applicant, commented that the previous fence was already 6 feet high along the western property line and just south of the garage. He indicated that the fence in the front yard had been 4 feet tall. He stated that there are a lot of unsavory people who ride the bus which stops near his home, some of whom visit the food pantry adjacent to his home. Dimmig stated that he has small children who play in his yard and that at times pedestrians speak to them. He indicated that the proposed fence along 18th Street would be 20 feet from the street. He stated that recently a deer had run through his yard which almost tackled him. He stated that both a deer and his dog could jump over a 4-foot high fence, adding that he has concerns about safety given the traffic along 18th Street.

Dimmig explained that there would be no way that the proposed 6-foot high fence would impede the vision of motorists at the intersection. He stated that because of the topography of the lot, he could install a 1,000-foot high fence without blocking visibility.

Johnson asked for clarification of the applicant's statement regarding visibility. Dimmig demonstrated on a photo that the 4-foot high fence section that blew over in a tornado would be installed at a lower point on the lot than the area near the house. Beck added that there is a downward slope at the intersection allowing greater visibility there.

Voelliger asked if placing the fence at the proposed setback would pose any problems with visibility as vehicles are backed out of the garage. Dimmig stated that there would be no problems as there is 20 feet of space in the driveway before entering the street.

Johnson commented that the topography of the southern portion of the lot is not necessarily relevant given the proposed placement of the fence on the northern section.

Johnson stated that owning a dog and the fact that deer may enter the applicant's yard are not legitimate hardships. She indicated that residents all over the city experience the same events at their homes. She stated that owning a dog that can jump over a fence is a self-imposed hardship. Dimmig stated that the intersection of 18th Street and Central Avenue is a busy, noisy one and is not unlike a dragstrip. He commented that replacing the fence this year was not in his budget, but that he is being forced to do so because of the tornado damage.

Johnson commented that the Board has made allowances for fences in the past and questioned whether or not that has been a common practice along 18th Street. Spranger commented that there have been previous cases for similar fences at houses located on the northern section of 18th Street. She asked if the fence that was built at the corner of 18th Street and Lindenwood Drive is 6 feet tall. Falk confirmed this.

Voelliger asked how far back from the property line the fences along 18th Street were required to be installed. Johnson stated that many of the fences in question are on properties that are through lots which have two street frontages. She added that she believes that those fences

were set back a distance from the property line, perhaps 7 or 10 feet. Spranger commented that the current request is for a fence to be located quite a few feet back from 18th Street. Beck stated that the proposed fence would be approximately 8 feet from the property line.

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

On motion by Spranger, seconded by Falk, that a variance to reduce the required front yard setback from 25 feet to 7 feet to allow a 6-foot high fence along 18th Street be granted in accordance with the Decision and Order.

ROLL CALL ON MOTION

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

Motion carried.

On motion by Spranger, seconded by Johnson, that a variance to allow an 8-foot high fence along the western property line be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

- b. **Case 16-019; 6048 Shawnee Court (R-1)** – A request for a variance to reduce the required combined side yard setback from 20 feet to 16 feet to allow for construction of a room addition and garage, submitted by Scott Pearson.

Voelliger asked if there was an affidavit of publication. Beck stated that notice of public hearing had been received. Notice and affidavit of publication are Annex #2 to these minutes.

Beck reviewed the staff report. Staff report is Annex #5 to these minutes. He suggested that any Decision and Order approving the request specify the dimensions of the proposed structures.

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

Scott Pearson, the applicant, stated that given the fact that to the rear of the home is a designated flood plain, the proposed location of the room addition and garage is the only option. He indicated that behind the existing garage is a 9-10 foot high concrete wall with a fence on it that poses a safety concern for the homeowners. He added that he plans to add fill such that there is a more gentle slope to the back yard from the driveway. Pearson stated that an additional benefit to the proposed addition is that more parking space would become available.

Voelliger asked if the additions would be placed on a full foundation. Pearson confirmed this.

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 given the awkward angle of the home, the proposed construction would not constrain any plans the neighbors may have for future building additions.

On motion by Gallagher, seconded by Johnson, that a variance to reduce the required combined side yard setback from 20 feet to 16 feet to allow for construction of a room addition (13 feet 8 inches by 22 feet) and garage addition (12 feet by 22 feet) be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #6 to these minutes.

- c. **Case 16-020; 2550 Middle Road (C-2)** – A request for a variance to reduce the required front yard setback from 80 feet to 20 feet to allow for a 120 square foot monument sign, submitted by Mike Byington.

Voelliger asked if there was an affidavit of publication. Beck stated that notice of public hearing had been received. Notice and affidavit of publication are Annex #2 to these minutes.

Beck reviewed the staff report. Staff report is Annex #7 to these minutes.

Voelliger asked if the proposed sign would be double-sided. Beck confirmed this, adding that it would be visible to traffic from both directions along Middle Road.

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

Mike Byington, the applicant, stated that he would be available to answer any questions the Board may have.

Gallagher asked if the existing sign would be removed. Byington explained that the existing sign must be removed as a result of the city's upcoming turn lane installation project.

On motion by Falk, seconded by Spranger, that a variance to reduce the required front yard setback from 80 feet to 20 feet to allow for a 120 square foot monument sign be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #8 to these minutes.

- d. **Case 16-021; 5572 Integrity Way (R-1)** – A request for a variance to increase the allowable garage area from 734 square feet to 1,040 square feet, submitted by Beaver Builders.

Voelliger asked if there was an affidavit of publication. Beck stated that notice of public hearing had been received. Notice and affidavit of publication are Annex #2 to these minutes.

Beck reviewed the staff report. Staff report is Annex #9 to these minutes. He commented that the issue of allowable garage area would likely be addressed during the upcoming revision of the zoning ordinance.

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

Gallagher asked if the proposed garage and house are in compliance with setback requirements. Beck confirmed this.

Johnson commented that several similar requests have been approved within this general neighborhood.

On motion by Johnson, seconded by Gallagher, that a variance to increase the allowable garage area from 720 square feet to 1,040 square feet be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #10 to these minutes.

- e. **Case 16-022; 5594 Integrity Way (R-1)** – A request for a variance to increase the allowable garage area from 720 square feet to 1,140 square feet, submitted by Bob Buker.

Voelliger asked if there was an affidavit of publication. Beck stated that notice of public hearing had been received. Notice and affidavit of publication are Annex #2 to these minutes.

Beck reviewed the staff report. Staff report is Annex #11 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.

Gallagher asked if the proposed garage and house are in compliance with setback requirements. Beck confirmed this.

On motion by Gallagher, seconded by Spranger, that a variance to increase the allowable garage area from 720 square feet to 1,140 square feet be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #12 to these minutes.

- f. **Case 16-024; 3911 Sparrow Court (R-3)** – A request for a variance to reduce the required rear yard setback from 25 feet to 10 feet to allow for construction of a 24-foot by 10-foot deck, submitted by Sampson Construction, Inc.

Voelliger asked if there was an affidavit of publication. Beck stated that notice of public hearing had been received. Notice and affidavit of publication are Annex #2 to these minutes.

Beck reviewed the staff report. Staff report is Annex #13 to these minutes.

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

Joe Sampson, the applicant, explained that the permit for the proposed deck was approved in error and that the mistake was not caught until the final inspection rather than at the footing stage. He stated that city staff had suggested that he apply for a variance in order to prevent the presence of a non-conforming use on the property for future owners. He indicated that the deck is only one step above ground level and is more like a patio than a deck.

Falk commented that approving the variance would not establish any precedent because the Board would merely be reconciling an error. Stone commented given that the fact that the deck is already constructed, the Board recognizes that as a legitimate hardship.

On motion by Johnson, seconded by Gallagher, that a variance to reduce the required rear yard setback from 25 feet to 10 feet to allow for a 24-foot by 10-foot deck be granted in accordance with the Decision and Order and recognizing the fact that it is being granted to rectify an error of city staff.

ALL AYES

Motion carried.

Decision and Order is Annex #14 to these minutes.

- g. **Case 16-025; 3128 Marynoel Avenue (R-12)** – A request for a variance to reduce the required rear yard setback from 40 feet to 26 feet to allow for construction of a 14-foot by 16-foot room addition, submitted by Sampson Construction.

Voelliger asked if there was an affidavit of publication. Beck stated that notice of public hearing had been received. Notice and affidavit of publication are Annex #2 to these minutes.

Beck reviewed the staff report. Staff report is Annex #15 to these minutes.

Falk stated that he would abstain from discussion and voting regarding Case 16-025.

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

Joe Sampson, the applicant, stated that the proposed room addition would encroach only 11 feet into the required rear yard setback. He indicated that the homeowners had originally proposed locating the room addition where the existing deck on the northern corner of the is located. Sampson explained that because of the difficulty of creating a new roof line given the hip style and peaks and valleys of the existing roof.

Voelliger asked if the room addition would be elevated above ground. Sampson explained that the addition would be 10 feet from grade level.

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

Johnson stated that the houses in the neighborhood were built specifically to take advantage of the maximum amount of buildable area available. She indicated that no hardship has been established to justify granting the variance request. Gallagher commented that the homes on the adjacent lots appear to occupy a large percentage of the lot, adding that one mitigating factor might be that there is an outlot adjacent.

Johnson asked if the Board feels that if the proposed variance request were for a house on the other side of the street, a hardship would be established. Gallagher commented that he would not support approving a similar request for a house on the other side of the street.

Voelliger commented that nothing would ever be built on the outlot and that he would like to see a homeowner be able to make the highest and best use of their property.

Voelliger asked how far the proposed addition would be from the rear property line. Beck explained that a 40-foot rear yard setback is required and that the proposed room addition would encroach 11 feet into that required setback.

Voelliger stated that the other homeowners in the neighborhood would likely make similar requests if the current one is granted.

Johnson stated that she believes that granting the variance request would establish a negative precedent which would likely cascade to other homes. She reiterated that the houses in the neighborhood were built to occupy the maximum allowable buildable area. She indicated that a proposed room addition of those dimensions would not have been allowed during the initial building stage even though there is an outlot adjacent.

Gallagher commented that while these types of cases are difficult, there is clearly no hardship in this case. He added that because no hardship has been established, the existing rules must be followed.

On motion by Gallagher, seconded by Johnson, that a variance to reduce the required rear yard setback from 40 feet to 26 feet to allow for a 14-foot by 16-foot room addition be denied in accordance with the Decision and Order.

ROLL CALL ON MOTION

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| AYE: | Gallagher, Johnson, Spranger |
| NAY: | Voelliger |
| ABSTAIN: | Falk |

Motion carried.

Decision and Order is Annex #16 to these minutes.

- h. **Case 16-026; 5780 Jenny Lane (R-1)** – A request for a variance to increase the allowable garage area from 720 square feet to 880 square feet, submitted by Bryan Daxon and Ember Arnholz.

Voelliger asked if there was an affidavit of publication. Beck stated that notice of public hearing had been received. Notice and affidavit of publication are Annex #2 to these minutes.

Beck reviewed the staff report. Staff report is Annex #17 to these minutes.

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

Bryan Daxon, the applicant, stated that the garage that is shown in the aerial photo has been demolished.

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

Waldo Arnholz, 5839 Little Lane, expressed support for the request. He indicated that most of the homes in the area have 3- to 4-car garages so that the proposed home would blend well with the neighborhood.

On motion by Spranger, seconded by Johnson, that a variance to increase the allowable area of a garage from 720 square feet to 880 square feet be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #18 to these minutes.

- i. **Case 16-027; 4555 Utica Ridge Road (C-2)** – A request for a variance to reduce the required front yard setback for parking from 20 feet to 0 feet and to reduce the required sign setback from 20 feet to 5 feet, submitted by Katie Sommers.

Voelliger asked if there was an affidavit of publication. Beck stated that notice of public hearing had been received. Notice and affidavit of publication are Annex #2 to these minutes.

Beck reviewed the staff report. Staff report is Annex #19 to these minutes.

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

Jay Sommers, the applicant's husband, explained that the reason for the request is that there is no off-street parking available to serve the site. He indicated that he does not anticipate that Utica Ridge Road or Crow Creek Road would be widened at any point in the near future, adding that a site plan showing two rows of parking along the Utica Ridge Road side had already been approved many years ago.

Beck indicated that he had received an email expressing opposition to the request from a homeowner much further down Utica Ridge Road.

Voelliger asked how far the parking spaces would be from the sidewalk area. Sommers stated that there would be a 7-foot wide greenspace buffer between the sidewalk and the parking spaces. Voelliger asked if the sign is proposed to be located in that greenspace. Sommers stated that the sign would be placed where one of the parking spaces would be located.

Voelliger asked if the proposed sign would impede the vision of any motorists. Gallagher stated that the sign would not obstruct anyone's vision as it would be located in one of the parking spaces. Beck added that the proposed sign would not interfere with the required vision triangle. Gallagher commented that there are several locations where the sign could be located without encroaching into the vision triangle. Sommers stated that the proposed sign location would likely be the same as the existing sign's location.

Johnson stated that the originally approved site plan indicated that there would be 80 parking spaces on the site. She questioned why those 80 spaces are not currently on the site. Johnson explained that while she understands that the original site plan with two rows of parking along the Utica Ridge Road side was approved, the plan also shows a 20-foot setback between the property line and those parking spaces. She stated that the request is to reduce that setback to 0 feet and asked for some clarification as to the dimensions of the proposed greenspace and the parking stalls. Falk commented that the staff report indicated that the building was not placed on the site according to the originally approved site plan which would account for some of the discrepancy between the original 20-foot setback and the proposed 0-foot setback. Johnson asked why the building was allowed to be built in contravention to the approved site plan. Beck indicated that he is unaware of what had transpired when the building was built as it was so many years ago.

Johnson asked for an exact dimension of the distance that would be between the parking spaces and the sidewalk. She indicated that the Sommers had indicated that there would be a 7-foot space while the agenda indicates a request for a 0-foot setback.

Spranger asked how many feet the building was built further west than as indicated on the approved site plan.

Voelliger asked how far the property line is from the sidewalk. Beck stated that it is approximately 1-foot back from the sidewalk. Voelliger stated that he would not be in favor of allowing the parking spaces to be installed only 1 foot from the sidewalk.

Johnson stated that it appears as though the front yard parking for the church located to the north is approximately 10 feet from the sidewalk. She added that the parking lot to the south appears to meet the required 20-foot setback. She questioned why the required amount of parking was not installed originally.

Spranger suggested that the Board request more information from the applicant including specific dimensions of the parking spaces and the area between the sidewalk and the spaces. Sommers stated that the parking arrangement would be similar to that of the church to the north. Johnson asked if the Board could approve the request conditioned on the fact that there is a 7-foot greenspace between the sidewalk and the edge of the pavement. Voelliger questioned whether there would be enough room for parking stalls and a 7-foot greenspace area. Beck indicated that typically the city requires a 25-foot driving aisle. Johnson commented that a parking space would have to be 19 feet deep in order to prevent a vehicle from overhanging the sidewalk.

Falk commented that it appears as though the building was built in a different place than originally planned and that the street has been widened since then. He commented that the original site plan is mostly irrelevant. Johnson asked if there was any right-of-way acquisition associated with the Utica Ridge Road widening. Beck stated that a turn lane was installed but that he is unsure if any additional right-of-way was taken.

Katie Sommers, the applicant, submitted photos of examples of the proposed sign.

Voelliger asked if there would be 7 feet of greenspace between the sidewalk and the parking spaces. Sommers confirmed this.

Falk asked why the applicant had requested a reduction in the required setback to 0 feet if there is going to be 7 feet of greenspace between the spaces and the sidewalk. He asked if a reduction in the required setback to 7 feet would accommodate the applicant's proposed plans for increasing the amount of parking on the site. He commented that this might be more palatable to the Board members. Johnson added that a 0-foot setback is not in keeping with the character of the corridor. Falk concurred.

Gallagher asked if a 7-foot setback would work for the applicant. Sommers indicated that she would have to re-work the dimensions to determine if the parking spaces and greenspace would fit. She commented that she had placed the sign in one of the parking spaces so that it would not be so close to the sidewalk. Gallagher commented that the sign could be relocated closer to the building. Johnson stated that the sign is proposed to be set back 5 feet similar to the one at Miller Meier. She commented that it is reasonable to apply the same standard as the previous case. She expressed concern about the request for a 0-foot parking setback. Beck commented that the area between the sidewalk and the existing parking spaces tapers as you move further north. He indicated that it is likely that the parking spaces on the south side would allow for a 7-foot greenspace, adding that it becomes more difficult to maintain that distance the further north you travel. Gallagher stated that it is likely that the parking spaces on the northern end would be close to a 0-foot setback.

Stone stated that the request is for a 0-foot setback which would allow the spaces to be located 1 foot from the sidewalk. She indicated that if the Board feels that more information is necessary, the case could be deferred to the next regular meeting so that the applicant can provide a more detailed parking plan.

Voelliger stated that he would be in favor of deferring the case until more information is available. Spranger concurred, adding that a more detailed site plan is required to make a decision. Johnson requested that the applicant submit a parking plan showing precise dimensions. Gallagher commented that several of the parking spaces on the north side would likely not be allowed to be installed because there is not enough room. Johnson suggested that one of those spaces could be used for a sign location. Sommers stated that she would submit a more detailed drawing so that the Board can make a decision at the next meeting.

On motion by Johnson, seconded by Falk, that a variance to reduce the required front yard setback for parking from 20 feet to 0 feet and to reduce the required sign setback from 20 feet to 5 feet be deferred until such time as a detailed site plan showing dimensions is available.

ALL AYES

Motion carried.

- j. **Case 16-028; 4287 Happiness Lane (R-12)** – A request for a variance to allow a 6-foot high fence in a required front yard, submitted by Bob Buker.

Voelliger asked if there was an affidavit of publication. Beck stated that notice of public hearing had been received. Notice and affidavit of publication are Annex #2 to these minutes.

Beck reviewed the staff report. Staff report is Annex #20 to these minutes.

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

*At this time Connors arrived.

Bob Buker, the applicant, stated that he had had the fence built according to what he thought was the required setback. He indicated that his contractor didn't measure at the back corner, adding that the fence encroaches 4-5 feet into the required setback for a 20-foot distance. He stated that rather than measuring, the contractor sited the location of the fence. He stated that the fence does not impede anyone's visibility.

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

Johnson stated that the Board does not typically approve requests for 6-foot high fences in required front yards on residential streets. She indicated that approval of those requests are usually only made for high-traffic areas.

Voelliger asked if there are any other 6-foot high fences in similar neighborhoods. Beck stated that typically 6-foot high fences are only allowed on collector and arterial streets or on through lots. Connors stated that construction on the fence was undertaken without benefit of a permit. He indicated that the fence encroaches into the required setback and that the contractor was told to stop work at that time. He reiterated that 6-foot high fences are usually only allowed on through lots and in high-traffic areas. He stated that normal course of action is not to approve fences in these locations. Voelliger commented that if the fence is allowed, a precedent would be set.

On motion by Johnson, seconded by Gallagher, that a variance to allow a 6-foot high fence in a required front yard be denied in accordance with the Decision and Order.

ROLL CALL ON MOTION

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

Motion carried.

Decision and Order is Annex #21 to these minutes.

- j. **Case 16-029; 17 Grove Park Circle (R-5)** – A request for a variance to reduce the required rear yard setback from 25 feet to 22 feet to allow for construction of an 8-foot by 14-foot deck, submitted by Shenea Brockman.

Voelliger asked if there was an affidavit of publication. Beck stated that notice of public hearing had been received. Notice and affidavit of publication are Annex #2 to these minutes.

Beck reviewed the staff report. Staff report is Annex #22 to these minutes.

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

Ken Brockman, the applicant, stated that the proposed deck would be used mostly as a landing area to the patio. He added that is not in the sight line of any of the neighbors.

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

Gallagher commented that the request is different from the earlier request for a room addition as a deck is not considered to be a part of the house. Johnson stated that the deck is a much less substantial structure.

Brockman indicated that the homeowner's association will also be required to approve the request.

On motion by Gallagher, seconded by Spranger, that a variance to reduce the required rear yard setback from 25 feet to 22 feet to allow for construction of an 8-foot by 14-foot deck be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #23 to these minutes.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 5:45 p.m.

These minutes and annexes approved _____

Greg Beck, City Planner