

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
JULY 14, 2016
5:00 P.M.

Voelliger called the meeting to order at 5:00 p.m. He welcome Kris Clements as the newest Board of Adjustment member.

Item 1. Roll Call

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

Item 2. Review of Board procedures.

Item 3. The Board to review and approve the minutes of the meeting of June 9, 2016.

On motion by Falk, seconded by Spranger, that the minutes of the meeting of June 9, 2016 be approved as submitted.

ALL AYES

Motion carried.

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

- b. **Case 16-047; 5645 Barcelona Street (R-1)** – A request for a variance to reduce the required rear yard setback from 40 feet to 18 feet to allow for construction of a 14-foot by 25-foot deck, submitted by Wesley Hand.

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 request.

Greg Schmidt, contractor representing the applicant, explained that more than half of the lot is unbuildable which limits the homeowner's options for adding a deck.

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 Clements, seconded by Spranger, that a variance to reduce the required rear yard setback from 40 feet to 18 feet to allow for construction of a 14-foot by 25-foot deck be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

- c. **Case 16-048; 5422 Cavan Crossing (R-3)** – A request for a variance to reduce the required rear yard setback from 25 feet to 20 feet to allow for construction of a 6-foot by 12-foot deck, submitted by Towne & Country Bettendorf.

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.

Dan Dolan, the applicant, explained that the homeowners have moved back to Bettendorf to retire. He indicated that an open deck was originally built which would allow a grill to be placed there. He stated that when the wind comes up the hill, it picks up and carries the patio furniture and bangs it against the house and windows. Dolan explained that in order to solve that problem, the homeowners asked him to cover the deck and build a wind wall which precludes them from using a grill on the deck. He stated that he does not believe that the proposed deck would create any issues given the significant elevation change from the rear of the home to the adjacent commercial area. He indicated that allowing the proposed deck makes the house much more livable for his clients.

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

*Gallagher arrived.

Falk commented that the home in question is located on a cul-de-sac and asked if it is likely that similar requests will be made for other homes in the area. Soenksen stated that the lot in question has one of the shallowest buildable areas in the subdivision and indicated that the other lots on cul-de-sacs have a different configuration. Falk stated that the illustration

demonstrates that the lot in question is one of the shallowest, adding that he does not anticipate that similar requests will be likely.

Clements asked if an egress from the deck is required. Connors explained that only one means of egress is required in a single-family residence district.

On motion by Falk, seconded by Spranger, that a variance to reduce the required rear yard setback from 25 feet to 20 feet to allow for construction of a 6-foot by 12-foot deck be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #6 to these minutes.

- d. **Case 16-049; 5572 Integrity Way (R-1)** – A request for a variance to increase the allowable garage area from 734 square feet to 1,264 square feet, submitted by Bob Buker.

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

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

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

Connors stated that at the request of the Board, staff has been working on a revision to the zoning ordinance which will hopefully reduce the number of variance requests related to allowable garage area. He explained that the proposed ordinance would allow every homeowner to have 1000 square feet of garage area or up to 75% of the livable area of the house.

Voelliger asked how the proposed ordinance amendment would apply to this case. Connors explained that the current request is for a 67% ratio of living area to garage space, adding that no variance would be required if the ordinance is passed.

Falk commented that the home would look no different from the street than it would have if the garage were the smaller size (1,040 square feet) as was approved by variance at the previous meeting. He stated that the Board has tried to remain consistent with this type of case if the oversized garage does not appear overwhelming from the street. Soenksen added that the Board has emphasized the value of the appearance of an oversized garage from the street over

the use of a strict living area ratio or maximum allowed size when considering this type of case in the past.

Clements asked if there were any restrictive covenants in place that would govern the storage of recreational vehicles, trailers, and boats. Soenksen explained that developers don't necessarily submit restrictive covenants to the city, adding that staff is not involved with their enforcement. He indicated that the developer is the applicant in this case.

On motion by Spranger, seconded by Clements, that a variance to increase the allowable garage area from 734 square feet to 1,264 square feet be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #8 to these minutes.

- e. **Case 16-050; 931 State Street (C-2)** – A request for a variance to reduce the required setback for an on-premises identification sign from 20 feet to 0 feet, submitted by Dev Bastola.

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

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

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

A representative of the marketing company for Shell Oil explained that the reason for the proposed sign location is so that it would be more visible for motorists traveling along State Street. He added that he believes that the curvature of the street and the presence of the large billboard on the adjacent property affects visibility. He indicated that if the sign is placed further forward on the site, motorists will have time to identify the site and change lanes if necessary.

Valerie Search, 843 State Street, asked if the proposed sign would be placed at ground level. Soenksen confirmed this, adding that the downtown design standards require that all signage be of a monument style. Search requested that the street parking in that block be prohibited as it restricts visibility of motorists exiting her and other businesses. Voelliger explained that parking restrictions are in the purview of the city council.

Michael Johnson, 905 State Street, concurred with Search with regard to the street parking, adding that when cars are parked in front of the businesses it can be very difficult to safely exit

because the vision of motorists is obstructed. He stated that he does not believe that enough information is available to make an informed decision with regard to the proposed sign. Johnson asked if there are any time limits with regard to how long the billboard is allowed to be at its current location. Connors explained that it would depend upon the length of the lease the property owner has negotiated with the billboard owner. Johnson stated that the term of the lease is 10 years which automatically renews for another 10 years. Connors commented that its unlikely that the owner will want to terminate that lease as the new downtown design standards make it very difficult for a sign company to locate a billboard there.

Johnson asked how tall the proposed sign would be and if it reaches to ground level. Soenksen explained that the sign would be 20 feet tall, reiterating that it is required that it be of a monument style. Johnson asked how far the sign is proposed to be placed from the street. Soenksen stated that the location of the sign is the issue that the Board will determine. Connors stated that the sign would be a minimum of 5 feet from the curb. Johnson stated that he is not opposed to the location of a gas station on the site, but reiterated that he does not believe that it is safe to have street parking in the area. He added that he is sympathetic to the fact that the owner of the gas station needs a sign that is visible from some distance away to allow time for motorists to decelerate and change lanes if necessary. He indicated that he is not opposed to the sign as long as it is placed in a safe manner that will not negatively impact the safety of motorists.

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

Voelliger stated that the State took 5 feet from the property and questioned how far the property line is from the street. Soenksen explained that the property line is approximately 5 ½ feet from the inside of the sidewalk. Voelliger commented that if the sign is placed too close to the street, motorists may have difficulty seeing traffic coming from the west. Soenksen stated that after visiting the site, he had determined that there should not be a line of sight issue given the curvature of the road.

Spranger asked if the I-74 bridge project construction will cause any changes to the existing traffic pattern. Soenksen stated that State Street will remain one-way eastbound, adding that street parking elimination is not part of the corridor project. He added that at the request of the neighbors, staff will submit a request to prohibit parking on State Street in that block. Spranger asked if there is street parking on the north side. Soenksen confirmed this.

Voelliger asked if placing the sign 5 feet from the property line would impair visibility of the sign. Soenksen stated that in his opinion the sign would be visible if set back at that distance and would still provide a separation from the billboard.

Falk asked how far the south side of the sidewalk is from the existing billboard sign. Soenksen stated that it is approximately 20 feet from the sidewalk, adding that if the sign were placed 10

feet from the new property line, it would barely be separated from the billboard. He added that if the sign were placed 10 feet from the sidewalk, it would allow visibility and separation from the billboard. Clements commented that if the sign were placed 5 feet from the new property line it would also provide a separation from pedestrian traffic on the sidewalk. Soenksen stated that he is unsure whether the corridor project anticipates a widening of the sidewalk along State Street.

Falk commented that he believes it is impractical for the sign to be allowed to be placed at the 0-foot setback line. Voelliger concurred. Soenksen explained that the Board has the authority to approve a setback variance for the sign to be placed at whatever distance from the setback they deem appropriate given that the original application is for a 0-foot setback.

Clements expressed concern that not enough information is available regarding the final development of the corridor and whether the sidewalk will be widened. Search explained that the sidewalk will not be widened on the west end of the applicant's property. She stated that the roadway project terminates at approximately the midway point of the property in question. She added that the sidewalk in front of her property will be removed but will be replaced in the same location and at the same width.

Stone suggested that the Board could defer the request until such time as the applicant submits a revised drawing that details the sign location and the right-of-way.

On motion by Spranger, seconded by Falk, that the request for a variance to reduce the required setback for an on-premises identification sign from 20 feet to 0 feet be deferred until such time as a more detailed drawing showing setback measurements, sidewalks, and exact sign location is available.

ALL AYES

Motion carried.

- f. **Case 16-051; 702 Eighth Street (R-2)** – A request for a variance to reduce the established front yard setback (along Jones Street) from 7 feet to 3 feet 9 inches, submitted by Adam Smith.

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 #10 to these minutes. He stated that a letter in support of the request had been received from Terry and Kathryn Edens of 726 Eighth Street.

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

Adam Smith, the applicant, explained that he would like to have a larger deck so that it can be utilized for grilling and still leave room for patio furniture. He indicated that if the deck were built within the setback, the deck would not be usable for this purpose. He added that there is a fence that is approximately 10 feet from the proposed location of the deck.

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

Falk asked if the Board could stipulate that only an uncovered deck would be allowed to be constructed if the variance is approved given that the applicant plans to construct a room addition in the future. He indicated that he would find a room addition that encroaches into the area of the yard involved more objectionable. Soenksen explained that the room addition that the applicant anticipates building is not to be placed in the same location as the proposed deck. Connors stated that the stipulation could be made.

Smith explained that the proposed room addition would extend from the existing addition on the northwest side of the house to the south and would more or less square off the house. He indicated that he plans to enlarge the kitchen and dining room which would be one story. Falk asked if the proposed room addition would occupy any of the same yard area as the proposed deck. Smith stated that it would not. Falk asked if the applicant would have any objection to the stipulation proposed that would restrict the variance to construction of an uncovered deck only. Smith indicated that he would have no objection.

Spranger asked if the pool could be moved. Smith explained that there are code requirements that require that aboveground pools be located a certain distance from structures, adding that if the room addition is built that requirement would no longer be met.

Clements asked if there is the possibility that a taller fence would be requested given the additional social component of the deck in combination with a pool. Soenksen explained that the city code mandates that fences in the front yard are allowed to be only 4 feet tall. He added that a 6-foot high fence would have to be placed in the buildable area or behind the front of the house.

On motion by Falk, seconded by Clements, that the request for a variance to reduce the established front yard setback (along Jones Street) from 7 feet to 3 feet 9 inches be amended to stipulate that the setback variance be limited to construction of an uncovered deck.

ROLL CALL ON MOTION

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

Motion carried.

On motion by Falk, seconded by Clements, that the request for a variance to reduce the established front yard setback (along Jones Street) from 7 feet to 3 feet 9 inches be approved in accordance with the Decision and Order and the stipulation that the setback variance be limited to construction of an uncovered deck.

ROLL CALL ON MOTION

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

Motion carried.

Decision and Order is Annex #11 to these minutes.

- g. **Case 16-052; 4823 Mason Run (R-1)** – A request for a variance to reduce the required rear yard setback from 40 feet to 27 feet to allow for construction of a 12-foot by 20-foot deck, submitted by Premier Custom Homes.

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 #12 to these minutes.

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

Scott Webster, the applicant, explained that house plan the homeowner has chosen is one of the narrowest models his company builds. He stated that while the home could be constructed without a deck and that city code requires only one egress, the second egress would be helpful for safety reasons. He added that adding a deck would match the aesthetics of the houses in the remainder of the neighborhood. Webster explained that the curve of the cul-de-sac necessarily reduces the front yard setback while the rear yard setback remains the same.

Gallagher commented that any hardship related to the required setbacks is a self-imposed one. He indicated that while he is not necessarily opposed to giving the applicant relief for this

particular lot, a better effort needs to be made to resolve the problem of allowing subdivisions which contain virtually unbuildable lots. Connors explained that if a new subdivision meets the requirements of the subdivision ordinance it must be approved. He indicated that the lot in question meets the minimum square footage requirement and that a home could be designed to fit on the lot. He added that a house similar to the others in the neighborhood would not be allowed to be built without a variance. Connors stated that there have been discussions about limiting the number of cul-de-sacs in new subdivisions to attempt to prevent this type of issue. Gallagher commented that the applicant has not established a hardship.

Falk commented that the house that was built at 4796 Mason Run would fit on the lot in question, adding that unfortunately the homeowner has chosen a house plan that requires a variance. He indicated that it appears as though a part of the house actually encroaches into the required setback.

Clements asked if there would be any encroachment on the utility easement at the rear of the lot. Soenksen explained that it would not, adding that the utility easement does not affect placement of the house.

Webster stated that the house plan could be reconfigured by removing the window seat bumpout and removing the deck, but reiterated that the home would then only have one egress. He added that the lot in question is zoned R-1 and has a 40-foot rear yard setback requirement while some of the neighboring lots to the south are zoned R-3 with a 25-foot required rear yard. Soenksen confirmed this.

Spranger asked if the lot in question is adjacent to an R-3 district. Webster confirmed this, adding that other lots in the same subdivision are also zoned R-3.

On motion by Spranger, seconded by Clements, that a variance to reduce the required rear yard setback from 40 feet to 27 feet to allow for construction of a 12-foot by 20-foot deck be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #13 to these minutes.

- a. **Case 16-038; 5768 New Castle Lane (R-1)** – A request for a variance to increase the allowable height of an accessory structure from 15 feet to 17 ½ feet, submitted by John O'Brien. (Deferred from meeting of June 9, 2016)

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 #14 to these minutes.

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

John O'Brien, the applicant, explained that he and the homeowner had been under the impression that the construction was code-compliant because a building permit was issued. He indicated that if he had been made aware of the issue with the height of the detached garage, he could have resolved it early in the construction process by lowering the pitch of the roof or reducing the size of the bonus room. He stated that he has reviewed the minutes of the last meeting during which a neighbor stated that the originally-designed 12-foot high walls were reduced at the request of the city after he had been made aware of the code issue. O'Brien explained that her statement was inaccurate, adding that the reason the height of the garage wall was reduced is because of the cost involved. He explained that because there is a significant cost difference between 9-foot and 10-foot doors and 10-foot high and 12-foot high walls, the homeowners chose the 9-foot door and 10-foot high wall as the lower height would still accommodate their needs at a lower price. He commented that the detached garage ties in well with the house aesthetically.

O'Brien stated that Connors had explained that the structure could be made code-compliant by attaching the house and detached garage by building a breezeway. He explained that unfortunately this would incur a substantial cost to the homeowner for what he perceives as a small difference in height given the distance from the garage to the opposing neighbor's home. O'Brien stated that he does not believe it is fair for the homeowner to be responsible for the cost of between \$8,000-\$10,000 to construct a breezeway.

Spranger asked if there are plans to attach the house to the detached garage as per Connor's suggestion. O'Brien explained that while that is an option if it becomes necessary, the homeowners would prefer not to build the breezeway as it will detract from the aesthetics of their home. Connors stated that if the variance is not approved, the breezeway is the only option. Gallagher commented that regardless of whether the breezeway is constructed, the height of the detached garage will remain the same and the view of the opposing neighbor would not change. Voelliger stated that it appears as though the height of both structures is similar. O'Brien stated that this is the case, adding that the house may be slightly taller.

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 Gallagher, seconded by Spranger, that a variance to increase the allowable height of an accessory structure from 15 feet to 17 ½ feet be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #15 to these minutes.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 6:15 p.m.

These minutes and annexes approved _____

John Soenksen, City Planner