

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
SEPTEMBER 13, 2018
5:00 P.M.**

PLACE: Bettendorf City Hall Council Chambers, 2nd Floor, 1609 State Street

1. Roll Call: Clements ___, Falk ___, Gallagher ___, Spranger ___, Voelliger ___
2. Review of Board Procedures.
3. The Board to review and approve the minutes of the meeting of August 9, 2018.
4. The Board to hold a public hearing on the following item:
 - a. Case 18-071; 5128 Pandit Drive (R-5) - Variance to reduce the required rear yard setback from 25 feet to 12 feet, submitted by Everest Homes, LLC.

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
AUGUST 9, 2018
5:00 P.M.

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

Item 1. Roll Call

PRESENT: Falk, Gallagher, Spranger, Voelliger
ABSENT: Clements
STAFF: Fuhrman, Soenksen

Item 2. Review of Board procedures.

Item 3. The Board to review and approve the minutes of the meeting of July 12, 2018.

On motion by Falk, seconded by Spranger, that the minutes of the meeting of July 12, 2018 be approved as submitted.

ALL AYES

Motion carried.

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

- a. **Case 18-067; 4348 - 31st Street (PUD)** - A request for a variance to allow a 6-foot high fence in a required front yard, submitted by David Babka.

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.

Dave Babka, the applicant, stated that the proposed fence would not be a security fence but would be more of a picket style. He explained that he is mirroring the fence line of the neighbor to the west.

Voelliger commented that the Board has been reluctant to allow 6-foot high fences in required front yards in residential areas other than on high traffic streets.

Babka stated that his house is 31 feet from the property line and that placing the fence at the required setback would limit the usage of his yard. He indicated that he has tried to make the fence aesthetically-pleasing to mitigate the fact that it is in the front yard. He explained that he needs a 6-foot high fence because has a puppy which will grow to be very large and that a 4-foot high fence would not contain him. He commented that the yard in question is really a side yard.

Voelliger asked if there was anyone present wishing to speak in opposition to the request. Soenksen stated that he had received a letter of objection from the residents of 4374 Winston Place. Falk commented that the concern expressed in the letter does not really apply as it was based upon encroachment into the visibility triangle at the corner. Soenksen concurred, adding that because of the verbiage of the request the neighbors may have thought that the fence is proposed to be placed in the yard adjacent to 31st Street.

Falk stated that he does not believe that it is appropriate to allow 6-foot high fences in front yards that are not located in high traffic areas. He commented that many similar variance requests by residents who do not live along heavily-trafficked streets have been denied. He expressed concern about the negative precedent that would be set by granting the variance.

Spranger asked if a 4-foot high fence would be acceptable to the applicant. Babka stated that a 4-foot high fence would not be adequate to contain his dog when it is full-grown and that he would have to move the posts that he has already installed. He reiterated that he has to have a 6-foot high fence.

Voelliger concurred with Falk regarding the negative precedent that would be set by granting the variance.

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

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

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

- b. Case 18-068; 2530 Countryside Lane (R-2) - A request for a variance to reduce the required side yard setback from 5 feet to 2 feet 3 inches to allow for construction of a garage addition, submitted by Brad Fetters.

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.

Brad Fetters, the applicant, stated that there would be adequate room for fire apparatus to reach the rear yard if necessary. He indicated that his neighbor to the east has no objection to the proposed addition and has no plans to add on to his home. He explained that there are two sons who live in the house who will be driving soon and that additional space would be required for their cars. Fetters added that his neighbor already parks cars on the street which interfered with mail delivery. He indicated that he moved his mailbox at the Post Office's request. He stated that his truck was broken into when it was parked on the street and he would prefer to have it on his property instead.

Voelliger asked if the applicant has considered purchasing 3 feet of property from his neighbor to the east so that a variance would not be required. Fetters stated that he was unaware that that would be an option.

Spranger asked how large the proposed garage addition is proposed to be. Fetters explained that the addition would be 12 feet wide which would accommodate a 9-foot wide door. He added that there is enough space now for a narrower addition with an 8-foot wide door but that it would be difficult to park a vehicle in a space that small.

Voelliger asked for clarification of the proposed roof style. Fetters stated that it would be of the same style as the house with the gable facing the opposite way. Falk asked if the gable would be on the end of the house. Fetters confirmed this. Falk asked if the proposed addition would be flush with the existing garage. Fetters stated that it would be set back approximately 1 foot.

Falk asked what would happen if a future owner of the home to the east chose to build an addition closer to the side yard setback. Soenksen explained that such a circumstance is why the regulations are based on property lines, not on the distance from structure to structure. He added that the fireproofing during construction would satisfy fire suppression concerns and would not preclude the neighbor from building up to the 5-foot required side yard setback. Falk commented that if the variance is granted, the possibility exists that the applicant's neighbor may request a similar variance to build an addition 2 feet 3 inches from his property line with the expectation that it would also be granted. He asked if the fireproofing during garage construction would be adequate if both homeowners built 2 feet 3 inches from the property line. Soenksen confirmed this.

Voelliger asked if the inside of the garage is sheetrocked now. Fetters confirmed this.

Voelliger commented that he is reluctant to reduce the setback to less than 5 feet and questioned whether the Board should defer the request until such time as the applicant has spoken to his neighbor regarding a possible land purchase. Falk commented that if there are restrictive covenants for the subdivision they may prohibit further subdivision of the lots. Soenksen stated that even if the variance is granted, the homeowner's association could prohibit the applicant from constructing the addition.

Voelliger asked if there is a homeowner's association for the subdivision. Fetters stated that there is no homeowner's association, adding that he has a copy of the original restrictive covenants which would not preclude the construction. He indicated that the covenants would not allow subdivision of any lots if the resultant size would be less than 7,000 square feet.

Spranger commented that most of the other homes in the neighborhood have only two-car garages.

Voelliger asked if any similar variance requests have been approved in the past. Soenksen explained that there have been some variance requests for homes located in the original section of the city where the lots were only 50 feet wide that were approved. Falk stated that it is his recollection that most of those requests were for setback reductions of the required rear yard, not the side yard.

Spranger stated that she does not recall any variances being granted which allowed construction to occur so close to the property line. Spranger asked if expansion of the driveway would be allowed. Soenksen confirmed this, adding that vehicle storage would be allowed behind the required front yard setback on the side of the house. Spranger asked if the driveway could be 2 feet from the property line. Soenksen confirmed this. Gallagher commented that the car would then be stored outside. Spranger stated that it would solve the applicant's problem regarding street parking.

Falk commented that the proposed addition of another parking pad next to a house seems to be the most common solution to the street parking issue. Soenksen concurred, adding that he has seen similar driveway configurations throughout the city where oftentimes recreational vehicles are stored.

Voelliger asked if a 10-foot wide garage addition would solve most of the setback issues. Soenksen commented that a narrower addition might cause difficulties when connecting the trusses. Falk reiterated that an 8-foot wide door would be difficult to navigate when parking. He commented that because an additional driveway would be allowed to extend to the property line, it could be 14 feet wide. He added that if the applicant chose to do so, he could pave further back to allow for storage of two cars which would be more secure than street parking and would also cost far less.

Fetters stated that there are no driveways like that in the neighborhood. Falk commented that there are no other configurations like what the applicant is proposing either. Fetters stated that there are some homes in the neighborhood with 3-car garages.

Gallagher stated that approving the request would set a negative precedent, adding that required setbacks are platted for a reason. Spranger concurred, adding that she believes that the additional driveway would be a better solution.

On motion by Spranger, seconded by Gallagher, that a variance to reduce the required side yard setback from 5 feet to 2 feet 3 inches to allow for construction of a garage addition be denied in accordance with the Decision and Order.

Voelliger asked if the applicant had any further comments.

Fetters stated that it could work if the proposed garage addition is 11 feet wide and so only a 9 inch variance would be required. Soenksen asked for clarification of the applicant's math calculations. Fetters explained that if the addition is 11 feet wide instead of 12 feet wide, it would work. Soenksen stated that if the addition were 11 feet wide it would be only 3 feet 3 inches from the property line. Fetters confirmed this. Spranger stated that a 5-foot side yard setback is required, not 3 feet. Soenksen stated that he would be willing to discuss different configurations with the applicant in his office.

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

ROLL CALL ON MOTION

ALL AYES

Motion carried.

Decision and Order is Annex #6 to these minutes.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 5:30 p.m.

These minutes and annexes approved _____

John Soenksen
Community Development Director



COMMUNITY DEVELOPMENT

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

September 13, 2018

Staff Report

Case No. 18-071

Location: 5128 Pandit Drive (Lot 7, Everest Summit 3rd Addition)

Applicant: Everest Homes, LLC

Zoning Designation: R-5, High-density Multi-family Residence District

Request: Variance to reduce the required rear yard setback from 25 feet to 12 feet.

Background Information and Facts

The site is located east of The Springs at Bettendorf apartment complex (see Attachment A – Location Map, highlighted in yellow). On July 12, 2018 the Board approved like variances for 22 other lots in this same subdivision (highlighted in red on Attachment A). Lot 7 was inadvertently excluded from the previous request. Originally, the plan for this entire subdivision was to place multiple 6-plexes on all of the lots on Pandit Drive. As the project progressed, it became apparent that the 6-plex product was not marketable and the developer has abandoned the plan to build those types of units. He has instead chosen to construct single-family homes in this development. As such, the developer intends to re-plat the subdivision, combining the existing lots into larger (wider) lots that will accommodate single-family homes.

The developer has a plot plan for such single-family homes that will fit on the anticipated new lots (see Attachment B – Plot Plan). The only problem with the design is the fact that no decks could be allowed on any of the homes due to the required setbacks for single-family units. Therefore, the developer is requesting the variances to allow the home layout shown on Attachment B with an attached deck to be built. If allowed, the home will resemble the illustration shown on Attachment C.

Staff Analysis

The Hopewell Creek drainage basin is located to the rear of the lot involved ensuring a separation of at least 300 feet to the west; therefore, the intent of the rear separation requirement will be observed if the variance is granted.

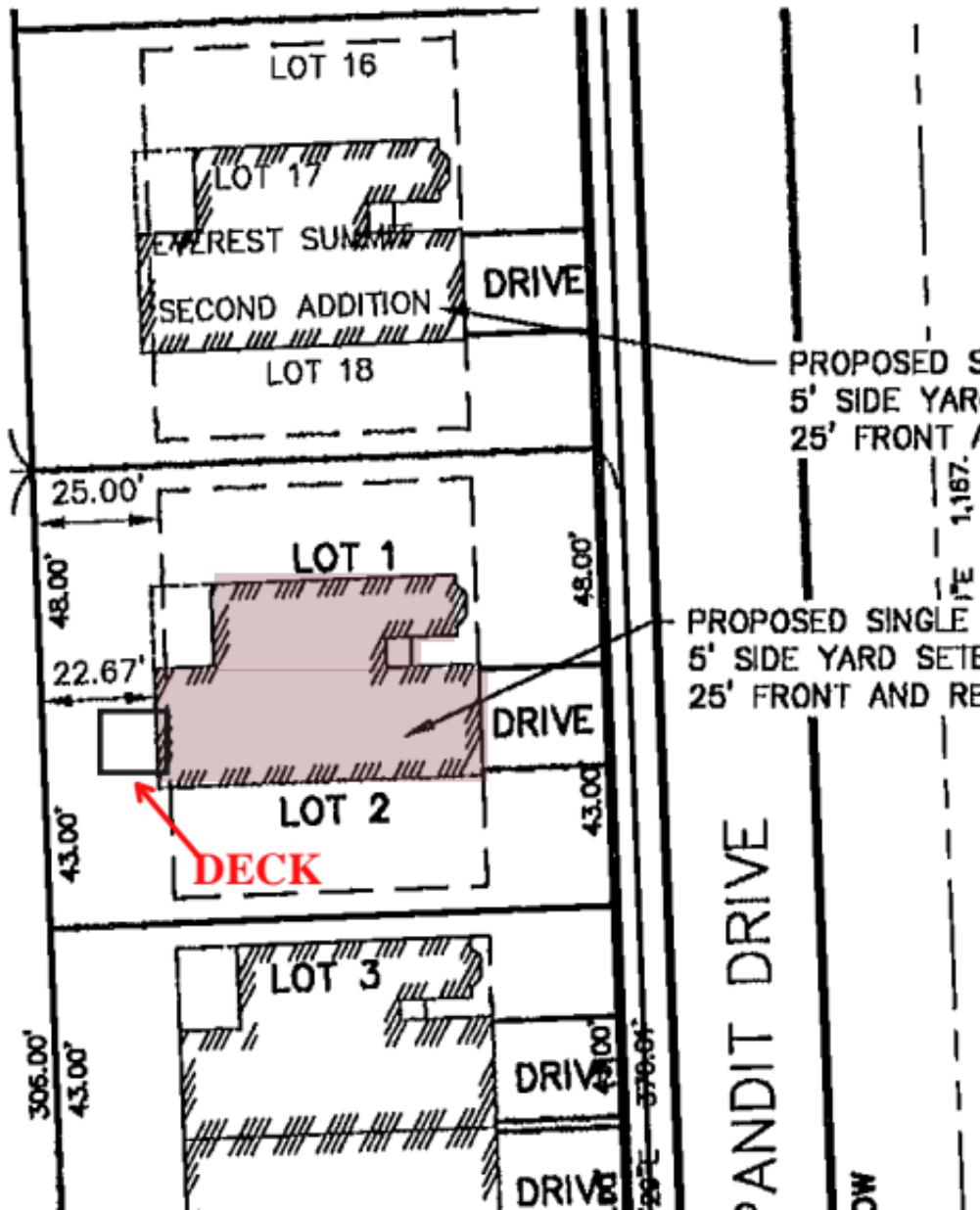
If allowed, the development will be built out in a much less dense fashion than was originally approved, and the rear yard separation intent will still be served.

Respectfully submitted,

John Soenksen
Community Development Director

Attachment - A





Attachment - C





Case No. 18-071

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

Part 1. Property Involved.

Street Address 5128 Pandit Drive
Everest summit 1st, 2nd, 3rd Addition
Legal Description of the property. Lot 7 Everest summit . 3rd Addition

Part 2. Contact Information.

Applicant Name Everest Homes LLC Phone 563-676-0993

Address 5172 New Castle Ln Bettendorf FAX _____

E-mail Address: Raj Pandit@gmail.com

Owner Name Raj Pandit Phone 563-676-0993

Address 5172 New Castle Ln FAX _____

E-mail Address: _____

Agent _____ Phone _____

Address _____ FAX _____

E-mail Address: _____

Part 3. Type of Application. (check at least one)

1. Variance/Exception. Before the Board of Adjustment grants approval of a variance to the City of Bettendorf Zoning Ordinance, all of the following conditions **MUST** be met:

- (a) That the granting of the exception will not permit any use in any district which would be in conflict with the permitted uses of such district under the terms of this ordinance.
- (b) That it will not impair an adequate supply of light and air to adjacent property.
- (c) That it will not unreasonably increase the congestion in public streets.
- (d) That it will not increase the danger of fire or of the public safety.
- (e) That it will not unreasonably diminish or impair established property values within the surrounding areas.
- (f) That it will not in any other respect impair the public health, comfort, safety, morals, or welfare of the inhabitants of the city.

2. Special Use Permit. Before the Board of Adjustment grants approval of a special use permit, all of the following conditions **MUST** be met:

- (a) The proposed use is designated by this ordinance as a special use in the district in which the use is to be located.
- (b) The proposed use will comply with all applicable regulations in the district in which the use is to be located.
- (c) The location and size of the proposed use, the nature and intensity of the operation involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.
- (d) The location, nature, and height of buildings, walls, and fences and the nature and extent of the landscaping on the site are such that the use will not unreasonably hinder or discourage the appropriate development and use of adjacent land and buildings.
- (e) Parking areas will be of adequate size for the particular use, properly located, and suitably screened from adjoining uses and the entrance and exit drives will be laid out so as to prevent traffic hazards and nuisances.
- (f) The proposed use will not cause substantial injury to the value of other property in the neighborhood.
- (g) Conditions in the area have substantially changed and at least one year has elapsed since any denial by the Board of Adjustment of any prior application for a special use permit that would have authorized substantially the same use of all or part of the site.
- (h) The Board of Adjustment shall impose such conditions and restrictions upon the premises benefited by a special use permit as may be necessary to assure compliance with the above standards, to reduce or minimize the effect of such permit upon other properties in the neighborhood, and to better carry out the intent of this ordinance. Failure to comply with such conditions or restrictions shall constitute a violation of this ordinance.

3. Other. _____
(Attach a separate sheet and explain in detail.)

Part 4. General Information.

Section(s) of Zoning Ordinance Involved _____ Existing Zoning _____

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.

*would like a variance to allow reduce the required rear setback from 25 feet to 10 feet
Lot 7 was missed in my last request
by mistake.*

Part 6. Attachments. The following items are attached and are a part of this application.

- () 1. Scale accurate site plan, at a scale of 1" = 20' or other suitable scale, showing adjacent street, property line, building location of existing and proposed buildings and other important features of the property. Required with all applications.
- () 2. Legal Description. (If not shown on page 1.)
- () 3. Floor plan if internal design of building is part of application.
- () 4. List additional attachments.

Part 7. Signature.

I (we) depose and say that all the information contained in this application and the statements contained in the papers submitted herewith are true. Witness our Hands and Seals this 27M day of July, 20 18

Signature of Applicant RJH Signature of Owner RJH
(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 27M day of July, 20 18.

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 Lugayphoma
Amount NC Date _____