

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
OCTOBER 10, 2019
5:00 P.M.**

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

1. Roll Call: Clements _____, Gallagher _____, Spranger _____, Tombergs _____
2. Review of Board Procedures.
3. The Board to review and approve the minutes of the meetings of August 22, 2019 and September 12, 2019.
4. The Board to hold a public hearing on the following items:
 - a. Case 19-056; 2285 St. Andrews Circle (R-1) - Variance from the requirement that a religious assembly be located such that it fronts on a collector or arterial thoroughfare so designated in the comprehensive plan, submitted by Chabad Lubavitch of the Quad Cities/Rabbi Shneur Cadaner. (Withdrawn)
 - b. Case 19-072; 2226 Lundy Lane (R-1) - Variance from the requirement to enclose a swimming pool with a fence, submitted by Russell Kurtz.
 - c. Case 19-083; 3557 Middle Road (C-2) - Special use permit to allow a bar, submitted by The Quarry QC, LLC.
 - d. Case 19-084; 5123 Middle Road (C-1) - Variance to reduce the required front yard setback from 20 feet to 11 feet to allow enlargement of an existing 4.5-foot by 17-foot deck, submitted by Townsend Engineering.

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 12, 2019
5:00 P.M.**

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

Item 1. Roll Call

PRESENT: Falk, Gallagher, Spranger, Tombergs
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 August 22, 2019.

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

- a. Case 19-056; 2285 St. Andrews Circle (R-1) - Variance from the requirement that a religious assembly be located such that it fronts on a collector or arterial thoroughfare so designated in the comprehensive plan, submitted by Chabad Lubavitch of the Quad Cities/Rabbi Shneur Cadaner. (Deferred to meeting of October 10, 2019)
- b. Case 19-071; 2400 Spruce Hills Drive (C-2) - A request for a special use permit to allow a food service trailer, submitted by Petra Ramirez.

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

Gallagher 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.

Falk asked if the current location of the food service trailer is where it will be permanently placed. Soenksen confirmed this. He added that any issues related to the structure and licensing requirements would be addressed by the Building Department and the Scott County Health Department.

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

On motion by Spranger, seconded by Falk, that a special use permit to allow a food service trailer be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

- c. **Case 19-077; Block 7, Town of Bettendorf (C-2 and C-3)** - A request for a variance to allow parking in the required front yards adjacent to 15th Street, 16th Street, and Grant Street, submitted by DT Bettendorf, LC.

Soenksen reviewed the staff report. Staff report is Annex #5 to these minutes.

Gallagher 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.

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

On motion by Spranger, seconded by Tombergs, that a variance to allow parking in the required front yards adjacent to 15th Street, 16th Street, and Grant Street be approved in accordance with the Decision and Order.

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 5:15 p.m.

These minutes and annexes approved _____

John Soenksen
Community Development Director

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 22, 2019
5:00 P.M.**

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

Item 1. Roll Call

PRESENT: Clements, Falk, Gallagher, Spranger, Tombergs
ABSENT: None
STAFF: Curran, Okland, Soenksen

Item 2. Review of Board procedures.

Item 3. The Board to review and approve the minutes of the meeting of July 11, 2019.

On motion by Falk, seconded by Spranger, that the minutes of the meeting of July 11, 2019 be approved as submitted.

ALL AYES

Motion carried.

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

- d. Case 19-056; 2285 St. Andrews Circle (R-1) - Variance from the requirement that a religious assembly be located such that it fronts on a collector or arterial thoroughfare so designated in the comprehensive plan, submitted by Chabad Lubavitch of the Quad Cities/Rabbi Shneur Cadaner.

Gallagher commented that the staff report had indicated that a contractor would be conducting a traffic study. He asked if any information from that study is available. Soenksen stated that while the report has not yet been completed, the city engineer has contracted to complete the work in an expedited manner. He indicated that the information would be available for the next regularly-scheduled Board meeting. Gallagher asked if there was an affidavit of publication. Soenksen stated that notice of public hearing had been received and indicated that while it was not required, the notice of public hearing had been republished with the rescheduled meeting date. Notice and affidavit of publication are Annex #2 to these minutes. He indicated that courtesy letters were again

sent out to property owners within 200 feet of the property involved. Gallagher stated that he believes it is important that the Board has the traffic study information in order to make an informed decision on the case and recommended that it be deferred until such time as it is available. Soenksen explained that because part of the determination of a street's classification is based on average daily traffic counts, the information from the traffic study would be needed to be evaluated to make a decision. Gallagher stated that it is his impression that further notice is not required to be published if the case is deferred. Soenksen explained that since there is no way of knowing when the traffic study information would be available, his recommendation would be to defer to the next regular meeting. He added that the notice of public hearing would again be published and courtesy letters sent.

Gallagher commented that it seems foolish to proceed with the matter when information about one of the major elements required to make a determination is not available. He recommended that the case be deferred.

On motion by Tombergs, seconded by Spranger, that the variance from the requirement that a religious assembly be located such that it fronts on a collector or arterial thoroughfare so designated in the comprehensive plan be deferred until such time as traffic study information is available.

ALL AYES

Motion carried.

Gallagher asked when the next scheduled meeting would be. Soenksen stated that the next Board meeting is scheduled for September 12 at 5:00 p.m.

- a. Case 19-050; 5762 Danielle Drive (PR-3) - A request for a variance to allow a 6-foot fence in the required front yard, submitted by Damian Brunt. (Deferred from meeting of July 11, 2019)
- b. Case 19-051; 5738 Danielle Drive (PR-3) - A request for a variance to allow a 6-foot fence in the required front yard, submitted by June Schindler Revocable Trust. (Deferred from meeting of July 11, 2019)

Soenksen reviewed the staff reports. Staff reports are Annex #3 and Annex #4 to these minutes.

Tombergs commented that the fence on Coronado Court that was installed within the required setback is very difficult to see because of the dense landscaping and asked if there is a process the city uses to correct such violations. Soenksen explained that because a fence is not an occupied structure, a footing inspection is not done to verify proper

placement. He added that remediating the situation after so many years is a discussion that would have to be held at the staff level.

Falk stated that whether placement of the fence on Coronado Court was an error or a deliberate act does not establish a precedent for the cases currently before the Board. Soenksen stated that the precedent is the fact that the plot plan submitted with the permit issued for the fence on Coronado Court indicates the proper placement at the required setback. Falk added that the existing non-conforming fence does not establish a precedent.

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

Dan Dolan, the developer of the subdivision, expressed support for the requests and added that he would be willing to install the same fence on the remainder of the vacant lots to the north. He commented that the continuity would contribute to the aesthetics and security of the area.

Tombergs asked if Dolan owns the remainder of the vacant lots. Dolan confirmed this.

Falk stated that there is already an existing fence along Devils Glen Road to the north and asked if Dolan plans to remove it. Dolan explained that the lots where he would place the new fence are the remainder of the vacant lots in The Fountains 8th Addition, adding that the lots with existing fences are actually in a different subdivision.

Tombergs asked why Dolan feels that a 6-foot high fence would be a good idea given that the existing fences to the north are only 4 feet high. Dolan stated that because there is a substantial change in elevation on Devils Glen Road he believes that a 6-foot high fence would be appropriate, adding that the additional security that it would provide would be beneficial. He reiterated that he would be willing to install fencing on all of the remaining vacant lots.

Tombergs asked if Dolan was the developer for the subdivision to the north with the 4-foot high fences along Devils Glen Road. Dolan confirmed this. Tombergs asked why Dolan feels that it was appropriate to install 4-foot high fence there but not for the lots to the south. Kevin Dolan explained that there is a significant elevation change there, adding that there is a berm on the lots to the north that does not exist for the lots to the south.

Clements asked how far the fence is set back on the lots to the north. Dan Dolan stated that it is set back 1 foot from the bike path. Soenksen commented that the existing 4-foot high fence extends around the corner to the rear lots on Hopewell Avenue. He added that none of the existing fences required a variance.

Spranger asked if there would be a vision problem if a 6-foot high fence were installed at the corner of Devils Glen Road and Hopewell Avenue. Soenksen confirmed this, adding

that the developer had angled the 4-foot high fence at the corner to improve visibility at the intersection.

Spranger commented that other variances have been granted for 6-foot high fences on highly-trafficked streets.

Tina Schindler, representing June Schindler, stated that while she would prefer to use landscaping to provide privacy for her mother's patio it is not feasible. She explained that there is not sufficient room for landscaping on the property.

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

Falk commented that one of his concerns regarding the proposed fence was the possible lack of continuity for the lots to the north. He added that Dolan has alleviated that concern, adding that he believes that knowing about the elevation change between the lots does explain why a 4-foot high fence is adequate for the lots to the north.

Gallagher asked if the 6-foot high fence proposed by Dolan would look like the existing 4-foot fences. Dan Dolan explained that the existing fence is picket but that the new fence would be a privacy fence of the same color.

Damian Brunt, the applicant, stated that he had received permission from The Fountains homeowner's association to install a fence as long as it was a white privacy fence along the rear property line.

Clements commented that it would be difficult to maintain the 1 foot of yard outside of the proposed privacy fence and asked whose responsibility it would be as there does not appear to be a gate. Brunt stated that the contractor who is hired by the association would take care of the maintenance.

Brunt asked if maintenance of the property between the bike path and Devils Glen Road is his responsibility. Soenksen stated that there are areas of the city adjacent to the bike path for which the city takes responsibility but that he is unsure if this is one of them. He added that he would give Brunt the proper contact information to verify whether it is his responsibility.

Clements stated that the applicants have received permission from The Fountains association to install privacy fences but questioned whether that approval would extend to the lots to the north. Dan Dolan stated that it seems irrational to him that they would deny the request, adding that he plans to install the fence now and ask for forgiveness later.

On motion by Clements, seconded by Tombergs, that variance to allow a 6-foot high fence in the required front yard at 5762 Danielle Drive be approved in accordance with the Decision and Order.

Soenksen commented that the fence must be placed on the property line which is usually located 1 foot back from the sidewalk.

ROLL CALL ON MOTION

ALL AYES

Motion carried.

On motion by Clements, seconded by Tombergs, that variance to allow a 6-foot high fence in the required front yard at 5738 Danielle Drive be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Orders are Annex #5 and Annex #6 to these minutes.

- c. Case 19-055; 6776 Championship Drive (C-3) - A request for a special use permit to allow a bar with an outdoor service area, submitted by Middle & 80, LLC.

Gallagher 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.

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

Falk asked if any restrictions on hours of operation for outdoor service had been imposed on any of the business owners who made similar requests previously. Soenksen explained that no restrictions had been placed on hours of outdoor service, adding that one of the other businesses is also a bar. He commented that the majority of the overall site is zoned C-7 which is characterized by high levels of activity.

Gallagher asked if there is anything unusual about this particular request as compared to the other requests that were approved. Soenksen explained that all of the other requests had been for properties located just to the east of the proposed bar, adding that there is nothing unusual about the current request.

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

On motion by Spranger, seconded by Tombergs, that a special use permit to allow a bar with an outdoor service area be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #8 to these minutes.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 5:35 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

October 10, 2019

Staff Report

Case No. 19-72

Location: 2226 Lundy Lane

Applicant: Russell Kurtz

Zoning Designation: R-1, Single Family Residence District

Request: Variance from the requirement to enclose a swimming pool with a fence.

Background Information and Facts

The site is located in the 2200 block of Lundy Lane. Lundy Lane is accessible from Devils Glen Road west of Riverdale Heights Elementary School (see Attachment A – Location Map). The applicant has constructed a 648 square foot in-ground pool in the rear yard (see Attachment B – Plot Plan). The pool is equipped with an automatic pool cover that, according to the applicant, secures the pool when unattended.

Staff Analysis

The Supplemental Use Regulations portion of the Code state that pools “shall be enclosed by a fence”. Staff has had discussions with the City Attorney regarding this portion of the Code. It appears obvious to staff that the requirement is intended to provide a safety barrier to ensure that the pool is not accessible when unattended by children or others who may inadvertently fall into the pool.

The applicant provided a specification sheet for the pool cover indicating that the cover meets the ASTM (American Society for Testing and Materials) Standard 1346-91 (see Attachment C – Pool Cover Specifications, 2 pages). This standard is considered the accepted standard for pool safety covers.

The U.S. Consumer Product Safety Commission has issued safety barrier guidelines for residential pools. According to those guidelines, acceptable safety barriers “include a fence or wall, alarms, and a *“power safety cover over the pool”*. The guideline also highlights pool safety steps that include “maintain pool and spa covers in good working order” (see Attachment D – Safety Barrier Guideline, 2 pages).

Last month this item was scheduled for the September Board of Adjustment meeting. Due to an error by staff in the publication of that agenda, the items could not be considered by the Board in

September. This error was of no fault of the applicant. The pool installation was finished shortly after the September meeting. Staff informed the applicant that they could use the pool during the interim time between the September and October meetings if they ensured that the pool would be properly covered when not attended. Staff made an unannounced visit to the site on October 1, 2019 and found that the pool was protected with the cover as promised (see Attachment E – Pool Cover Photo).

The applicant submits that the pool cover meets the ASTM Standard 1346-91 providing the safety barrier protection and meets the intent of our Code and therefore the city requirement for a fence related to a pool safety barrier is now redundant.

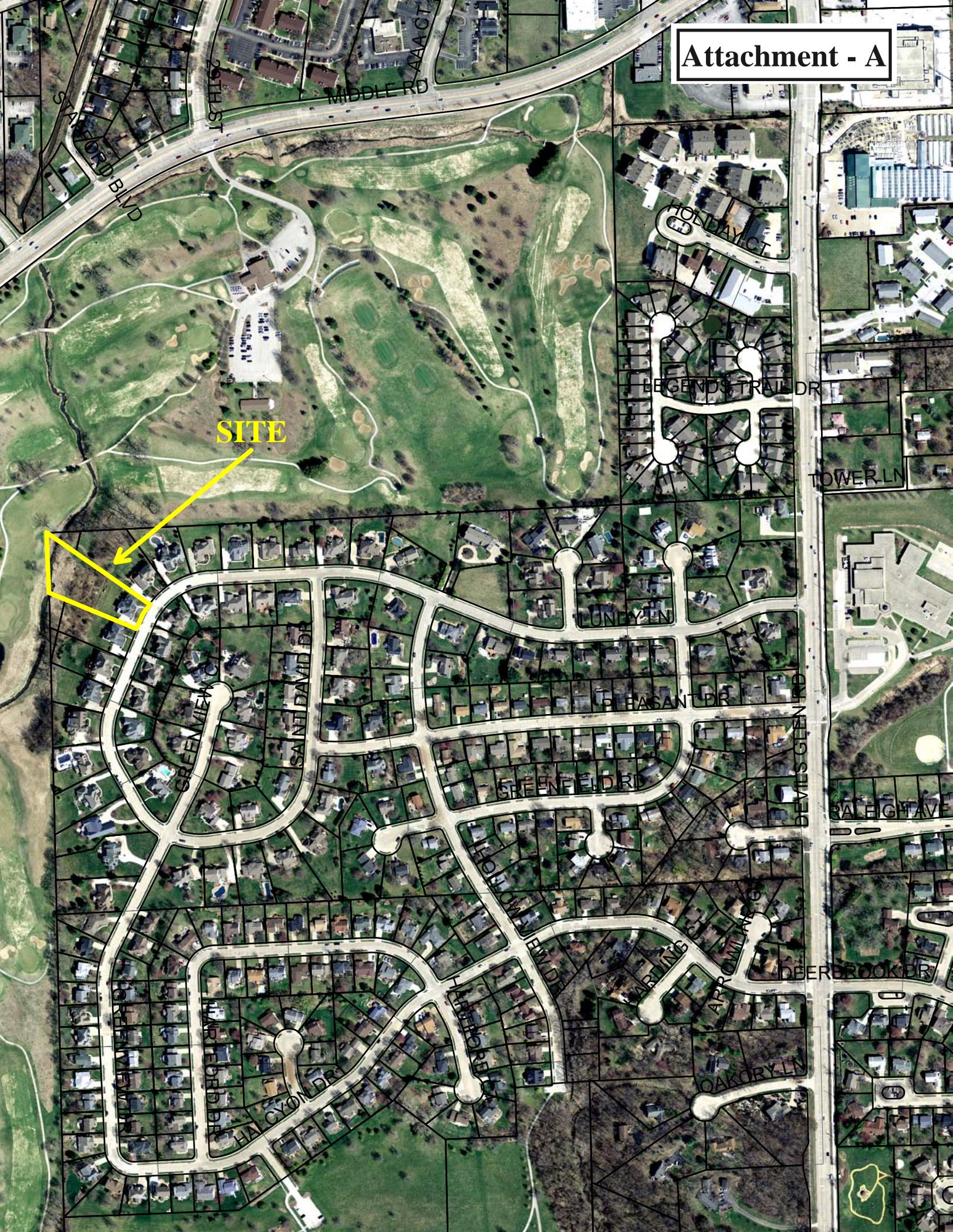
Staff cannot identify a hardship preventing the installation of a fence on this property. The Board, however, has the “authority to grant a variance in the regulations of this chapter that will not be contrary to the public interest, where owing to special conditions a literal enforcement of the regulations will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done”.

The applicant is requesting that the Board determine whether a pool cover should be considered an “added” layer of protection in addition to a fence or protection that is “equal to” (in lieu of) the protection provided by a fence.

Respectfully submitted,

John Soenksen
City Planner

Attachment - A



SITE





17397 Oak Ridge Rd. Westfield, IN 46074
800-878-5789 317-579-2000 Fax: 317-579-2006

Automatic Pool Covers UL file information

Automatic Pool Covers systems are listed by UL file E236584. The systems are listed by UL in the United States and Canada. The products covered, as listed below, meet all UL listing requirements for file E236584 and ASTM Standard F1346-91 when properly installed and maintained in accordance with Automatic Pool Covers installation, and homeowner instructions.

Automatic Pool Covers products covered:

Models:

AutoGuard- system provided with keyswitch controller

PowerTouch- system provided with keypad controller

UL testing considerations:

This Pool Cover has been evaluated in accordance with the American Society for Testing and Materials (ASTM) Standard F1346-91, the Standard Performance Specification for Safety Covers and Labeling Requirements for All Cover for Swimming Pools, Spas, and Hot Tubs.

The Pool Cover Operator has been evaluated in accordance with Subject 2452, "Outline of Investigation for Electric Swimming Pool and Spa Cover Operators."

The Pool Cover Operator has been evaluated in accordance with the Canadian Standard for Spas, Hot tubs, and Associated Equipment, CSA-C22.2 No. 218.1-M89 and Safety Function Incorporating Electronic Technology, CSA C22.2 No. 0.8-12, Third Edition, dated May 2012.

Additional information:

To obtain further verification of the Automatic Pool Cover UL listing please follow the steps below:

- Proceed to www.ul.com
- Go to bottom of page on lower right hand side and locate RESOURCES
- Click Online Certifications Directory
- In Begin A Basic Search, click on UL File Number
- Enter E236584 and hit enter
- This will show Automatic Pool Cover's UL file.
- If you encounter any problems using UL File Number, you can perform a company search by Company Name (Automatic Pool Covers) or search by Keyword (automatic pool covers) to access Automatic Pool Covers UL file

To obtain further information on the ASTM Standard F1346-91 please follow the steps below:

- Proceed to www.astm.org
- Click Search ASTM
- Enter F1346-91 and hit enter
- This will show ASTM Standard F1346-91, the Standard Performance Specification for Safety Covers and Labeling Requirements for All Cover for Swimming Pools, Spas, and Hot Tubs.



WBAH.E236584
Covers for Swimming Pools and Spas

[Page Bottom](#)

Covers for Swimming Pools and Spas

[See General Information for Covers for Swimming Pools and Spas](#)

AUTOMATIC POOL COVERS INC

E236584

17397 Oak Ridge Rd
Westfield, IN 46074 USA

Power safety cover, Models AutoGuard, PowerTouch and Spa, Classified in Accordance with ASTM F 1346-91.

[Last Updated](#) on 2013-12-11

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Barriers

Barriers are not child proof, but they provide layers of protection for a child when there is a lapse in adult supervision. Barriers give parents additional time to find a child before the unexpected can occur.

Barriers include a fence or wall, door alarms for the house, and a power safety cover over the pool. Use the following recommendations as a guide.

Barrier Locations

Barriers should be located so as to prohibit permanent structures, equipment or similar objects from being used to climb the barriers.

Fences

A fence completely surrounding the pool is better than one with the house serving as the fourth side. Fences should be a minimum of 4 feet high, although fences 5 feet or higher are preferable.

If the home serves as one side of the barrier install **door alarms** on all doors leading to the pool area. Make sure the doors have self-closing and self-latching devices or locks beyond the reach of children to prevent them from opening the door and gaining access to the pool.

Pool covers add another layer of protection and there are a wide variety of styles on the market. Keep pool covers well-maintained and make sure the control devices are kept out of the reach of children.



CPSC's **Pool Safely: Simple Steps Save Lives** campaign provides advice and tips on drowning and entrapment prevention. Installing barriers is just one of the *Pool Safely* Simple Steps for keeping children safe around all pools and spas. Here are others:

Rule # 1: Never leave a child unattended around a pool, spa, bath tub, or any body of water.

At pools, spas, and other recreational waters:

- Teach children basic water safety skills.
- Learn how to swim and ensure your children know how to swim as well.
- Avoid entrapment by keeping children away from pool drains, pipes, and other openings.
- Have a phone close by at all times when visiting a pool or spa.
- If a child is missing, look for them in the pool or spa first, including neighbors' pools or spas.
- Share safety instructions with family, friends, babysitters, and neighbors.

If you have a pool:

- Install a 4-foot fence around the perimeter of the pool and spa, including portable pools.
- Use self-closing and self-latching gates; ask neighbors to do the same if they have pools or spas.
- If your house serves as the fourth side of a fence around a pool, install and use a door or pool alarm and/or a pool or spa cover.
- Maintain pool and spa covers in good working order.
- Ensure any pool or spa you use has anti-entrapment safety drain covers; ask your pool service representative if you do not know.*
- Have life saving equipment such as life rings, floats or a reaching pole available and easily accessible.

**The Virginia Graeme Baker Pool & Spa Safety Act, a federal law, requires all public pools and spas to have anti-entrapment drain covers and other devices, where needed. Residential pools are not required to install these but it is recommended that they do so.*

Visit **www.PoolSafely.gov** for more information. See CPSC's latest submersion reports: *Submersions Related to Non-pool and Non-spa Products, 2012* and *Pool and Spa Submersion Report, 2012*.



Attachment - E



Case No. 19-072

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

Part 1. Property Involved.

Street Address 2226 LUNDY LANE, BETTENDORF, IOWA, 52722

Legal Description of the property. LINTON HILLS 9TH ADD LOT 009 LINTON HILLS 9TH ADD AND OUTLOT C

Part 2. Contact Information.

Applicant Name RUSSELL KURTZ Phone 563-340-0404

Address 2226 LUNDY LANE, BETTENDORF, IA FAX _____

E-mail Address: BIRDSONA.BAT78@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:

- (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 10-9-1 (ATTACHED) Existing Zoning R-RESIDENTIAL

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.

WE ARE INSTALLING AN "AUTO COVER" THEREFORE
WE BELIEVE IT PROVIDES SAFETY BETTER THAN A
FENCE

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 _____ day of _____, 20 ____.

Signature of Applicant _____ Signature of Owner *Russell A. King*
 (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 _____ day of _____, 20 ____.

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 _____ Date _____



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

October 10, 2019

Staff Report

Case No. 19-083

Location: 3557 Middle Road

Applicant: The Quarry QC, LLC

Zoning Designation: C-3, General Business District

Request: Special use permit to allow a bar.

Background Information and Facts

The site is located just east of the Glenroads Veterinary Clinic (see Attachment A – Location map). The request involves the unit east of Salons & Studios at Spartan Square Retail Center (see Attachment B – Unit Photo).

Staff Analysis

The C-3 General Business District description states that the district “is intended to provide mixed-use areas to be used for all types of retailing and service uses, certain wholesale and warehousing uses, and some limited industrial activities that are normally associated with commercial uses. The uses allowed are often large space uses and cater to customers who do not make frequent purchases. The market area for the permitted use extends to an area much larger than the local community. Automotive service type uses and automobile associated uses are normally located in this district to serve passerby traffic. Well-designed larger scale apartment complexes may also be included in this district. The district is normally located along major thoroughfares, where adequately sized parcels of land allow for large setbacks, clear vision, and safe ingress and egress.”

Based on the above description, it appears that a bar would be anticipated to be located in this zoning district. Given the total buildout of this bar, staff anticipates that 25 parking spaces will be needed to accommodate this use given the square footage of the proposed bar. A cursory count of onsite parking spaces by staff revealed approximately 107 parking spaces are available. It would be reasonable to assume that the peak use hours for a bar may be later than the peak use hours for other potential uses in this facility. A bar has the highest parking requirement (one space for every 50 square feet). Most of the other permitted uses in the C-3 District require considerably less parking. Therefore, staff feels there will be sufficient parking available to accommodate this special use given the overall size of the size of Spartan Square and potential total number of units.

A bar is listed as a special use in all commercial districts, so this request is in keeping with our ordinance. The business owner will be required to obtain all applicable licensing and have all required inspections.

This request has not been denied over the last year; therefore, the request is allowed under the Code.

Staff Recommendation

If approved, staff does not have any recommendations for specific restrictions associated with this use except that if the applicant plans to have a patio in the future, he must return to the Board for a special use permit for an outdoor service area.

Respectfully submitted,

John Soenksen
City Planner

Attachment - A



SPARTAN
SQUARE



SALONS & STUDIOS



Case No. 19-083

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

Part 1. Property Involved. ³⁵⁵⁷
Street Address ~~W 8th~~ middle Rd. Bettendorf, Iowa 52722

Legal Description of the property. Unit in Spartan Square on middle Rd.
Lot 1 Tunberg's Third Add

Part 2. Contact Information.
Applicant Name The Quarry DC LLC Phone 563.940.5093
Address 5505 Victoria Ave ST. 100 Davenport FAX _____
E-mail Address: Drewg@icent@gmail.com

Owner Name _____ Phone _____
Address _____ FAX _____
E-mail Address: _____

Agent _____ Phone _____
Address _____ FAX _____
E-mail Address: _____

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

- 1. Variance/Exception. Before the Board of Adjustment grants approval of a variance to the City of Bettendorf Zoning Ordinance, all of the following conditions **MUST** be met:
 - (a) That the granting of the exception will not permit any use in any district which would be in conflict with the permitted uses of such district under the terms of this ordinance.
 - (b) That it will not impair an adequate supply of light and air to adjacent property.
 - (c) That it will not unreasonably increase the congestion in public streets.
 - (d) That it will not increase the danger of fire or of the public safety.
 - (e) That it will not unreasonably diminish or impair established property values within the surrounding areas.
 - (f) That it will not in any other respect impair the public health, comfort, safety, morals, or welfare of the inhabitants of the city.
- 2. Special Use Permit. Before the Board of Adjustment grants approval of a special use permit, all of the following conditions **MUST** be met:
 - (a) The proposed use is designated by this ordinance as a special use in the district in which the use is to be located.
 - (b) The proposed use will comply with all applicable regulations in the district in which the use is to be located.
 - (c) The location and size of the proposed use, the nature and intensity of the operation involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it, are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.
 - (d) The location, nature, and height of buildings, walls, and fences and the nature and extent of the landscaping on the site are such that the use will not unreasonably hinder or discourage the appropriate development and use of adjacent land and buildings.
 - (e) Parking areas will be of adequate size for the particular use, properly located, and suitably screened from adjoining uses and the entrance and exit drives will be laid out so as to prevent traffic hazards and nuisances.
 - (f) The proposed use will not cause substantial injury to the value of other property in the neighborhood.
 - (g) Conditions in the area have substantially changed and at least one year has elapsed since any denial by the Board of Adjustment of any prior application for a special use permit that would have authorized substantially the same use of all or part of the site.
 - (h) The Board of Adjustment shall impose such conditions and restrictions upon the premises benefited by a special use permit as may be necessary to assure compliance with the above standards, to reduce or minimize the effect of such permit upon other properties in the neighborhood, and to better carry out the intent of this ordinance. Failure to comply with such conditions or restrictions shall constitute a violation of this ordinance.

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

Part 4. General Information.

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

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.

Looking for a special use permit to allow a bar.
serve drinks and snacks as well as catered in food, in a bar
and patio environments

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 19 day of Sept, 2019.

Signature of Applicant [Signature] Signature of Owner [Signature]
(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)

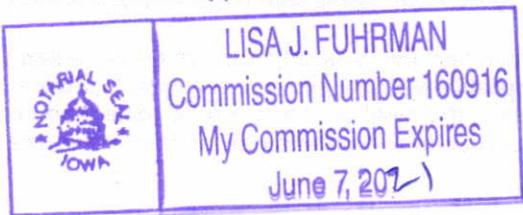
Before me the undersigned Notary Public, in and for the County and State, personally appeared applicant(s) and separately and severally acknowledge the execution of the foregoing application is his/her voluntary act and deed, for the purposes therein expressed.

Witness my Hand and Notarial Seal this 20th day of September, 2019.
[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 \$100 Date 9/20/19
CASH





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

October 10, 2019

Staff Report

Case No. 19-084

Location: 5123 Middle Road

Applicant: Townsend Engineering

Zoning Designation: C-1, Neighborhood Commercial District

Request: Variance to reduce the required front yard setback from 20 feet to 11 feet to allow enlargement of an existing deck.

Background Information and Facts

For the purpose of this report, the terms deck, stoop, and entryway will be used interchangeably. By Code, however, the involved structure is considered a deck.

The site is located south of the roundabout and at the southeast corner of Red Fox Road and Middle Road (see Attachment A – Location Map). The applicant is requesting permission to expand a deck/landing at an entryway on the north side of the building (see Attachments B and C - Plot Plan and Structure Photo).

Staff Analysis

The existing structure is 4 ½ feet by 10 ½ feet and appears to be reasonably sized given the double door entry involved. The applicant states (as a justification for the variance request):

The current tenant is unique in that they deal with large items of furniture that must be taken up stairs and then sat down, rotated as needed, and taken through the double doors...Without this means of ingress/egress capable of facilitating the movement of large items of furniture, the tenant could not successfully operate their business."

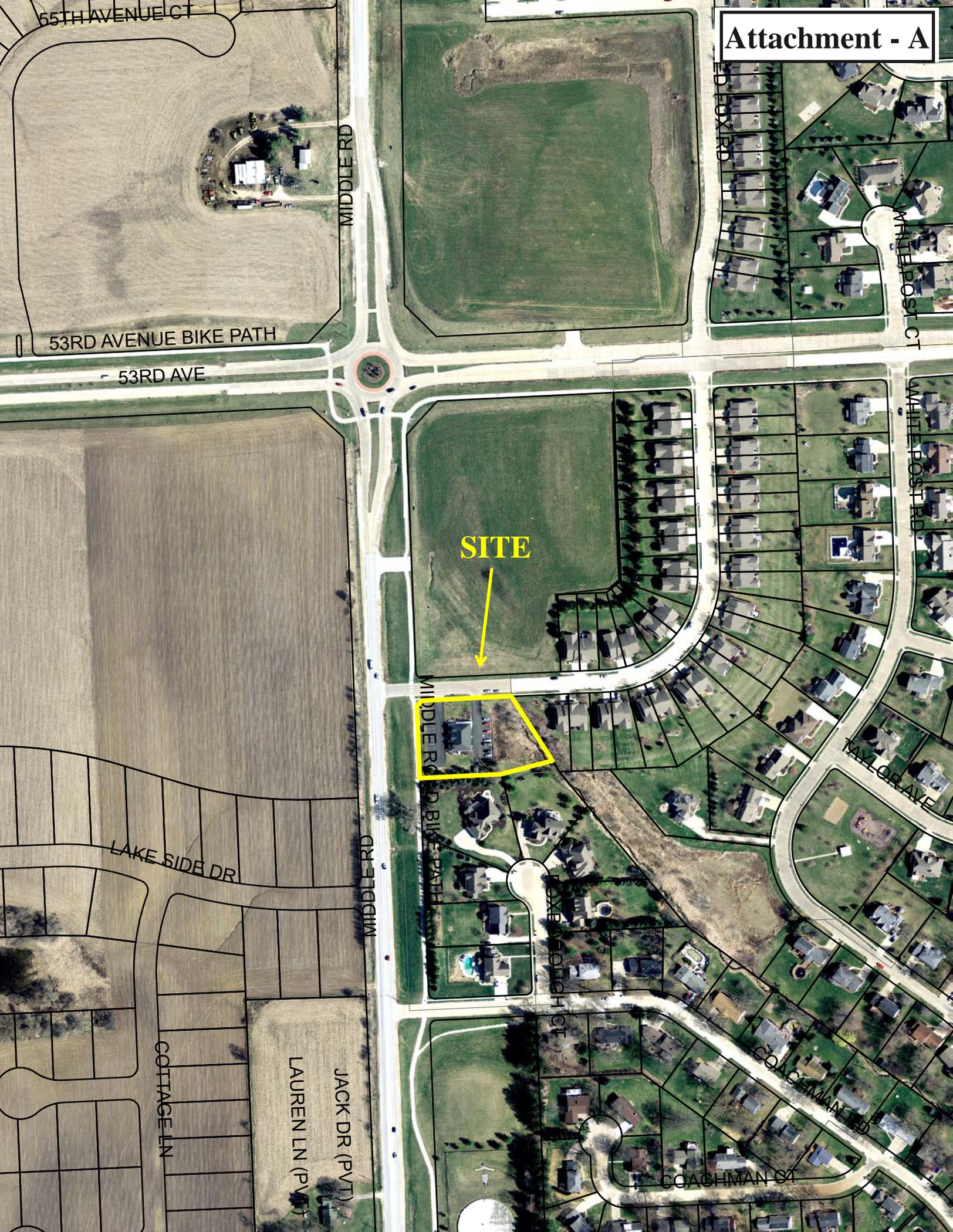
The enlargement of the deck would increase the encroachment of the deck into the required front yard setback from 4 ½ feet to 9 feet. The size of the new deck structure would be 9 feet by 18 feet. There is a tree on the east side of the proposed deck area (Attachment C) that would obscure the view of the deck from the next-door residence to the east and on the south side of Red Fox Road.

This building has a walkout lower level to the rear that does not allow an entry into the involved business from the rear (see Attachment D – Rear View). The only other entry into this business is through the main front entrance (located in the middle of the front of the building), turning down an approximate 30-foot long hallway, and then through a 30-inch door.

Given the above, the applicant asserts that they do not have reasonable access to the business.

Respectfully submitted,

John Soenksen
City Planner



SITE



55TH AVENUE CT

53RD AVENUE BIKE PATH

53RD AVE

MIDDLE RD

FOX RD

WHITE POST CT

WHITE POST RD

TAYLOR AVE

MIDDLE RD

MIDDLE RD BIKE PATH

FOX PATCH CT

COACHMAN ST

LAKE SIDE DR

COTTAGE LN

JACK DR (PVT)
LAUREN LN (PVT)



10.5'

4.5'

Attachment - C

Attachment - D





Case No. 19-084

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

Part 1. Property Involved.

Street Address 5123 Middle Road

Legal Description of the property. Lot 1 of Century Heights 7th Addition except the southerly triangular tract recorded by Plat of Survey as document #2016-35435

Part 2. Contact Information.

Applicant Name Townsend Engineering Phone 563-386-4236
Address 2224 East 12th Street, Davenport, Iowa 52803 FAX 563-386-4231
E-mail Address: chris@townsendengineering.net

Owner Name S+B Powell, LLC Phone 563-370-4251
Address 4210 East 58th Street, Davenport, IA 52807 FAX 563-449-9183
E-mail Address: steve@powellfinancialgroup.net bonnie@powellfinancialgroup.net

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.
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- 2. Special Use Permit. Before the Board of Adjustment grants approval of a special use permit, all of the following conditions **MUST** be met:
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 - (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 Front Setback 11-5-10 B Existing Zoning C1: Neighborhood Commercial

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.

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- (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

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 5. B above

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 24 day of Sept., 20 19.

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 24th day of September 20 19.



[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 \$100. Date 9/24/19
CK# 6193

Part 5. Reasons for Application (Attachment)

(d) There is an existing deck on the north side of the building which encroaches into the 20' front setback by 9 feet total. This deck was not part of the original building which was constructed as a "spec" building with no prospective tenant at the time of construction. The current tenant is unique in that they deal with large items of furniture that must be taken safely in and out of the structure. The deck facilitates a staging location for the furniture to be taken up the steps and then set down rotated as needed and taken through the double doors. The double doors and deck were added specifically for the current tenant. Without this means of ingress/egress capable of facilitating the movement of large items of furniture the tenant could not successfully or safely operate their business. The adjacent grades and finished floor elevation of the existing building do not allow for a typical concrete stoop. We are asking that a variance be granted to allow the deck to encroach into the front setback by a total of 9 feet. The city had previously allowed an encroachment of 53 inches so the additional encroachment is 4.5 feet. The deck is well made, adds to the aesthetic quality of the exterior and facilitates a use for the space that adds to the tax base.