

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
NOVEMBER 13, 2014
5:00 P.M.**

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

Item 1. Roll Call

PRESENT: Falk, Johnson, Spranger, Voelliger
ABSENT: Gallagher
STAFF: Connors, Fuhrman, Soenksen

Item 2. Review of Board Procedures.

Item 3. The Board to review and approve the minutes of the meeting of October 9, 2014.

On motion by Falk, seconded by Spranger, that the minutes of the meeting of October 9, 2014 be approved as submitted.

ALL AYES

Motion carried.

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

- b. Case 14-084; 931 State Street (C-3) - A request for a variance to reduce the required front yard setback from 20 feet to 15 feet, submitted by Italo Milani.

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. He indicated that the owner of State Street Interiors, 905 State Street, had expressed support of the project after learning of the property acquisition by the Iowa Department of Transportation (IDOT.)

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

Italo Milani, the applicant, stated that the developer currently owns a similar establishment at West River Drive and Myrtle Street in Davenport. He added that the only reason a variance is required is because the IDOT plans to acquire 5 feet of right-of-way along State Street. Milani indicated that if the facility were to be built now, a variance would not be required.

Voelliger asked if there is adequate space for a public sidewalk along State Street if the variance is granted. Soenksen confirmed this.

Johnson asked if the IDOT plans to acquire right-of-way from other properties in the area. Connors stated that there are several other businesses in the vicinity that are affected. Voelliger asked if those businesses are located west of 10th Street. Connors confirmed this, adding that he has received several inquiries as to whether business signs will now be too close to the street.

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 Falk, seconded by Johnson, that a variance to reduce the required front yard setback from 20 feet to 15 feet be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

- a. Case 14-083; 5770 Little Lane (R-1) - A request for a variance to reduce the required front yard setback from 30 feet to 15 feet to allow construction of a house, submitted by Gary Schumacher.

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. Soenksen stated that he had received two letters of opposition to the request from Betty Burggraaf of 3515 Moencks Road and Kathrina Olson of 3565 Woodholm Lane.

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

Gary Schumacher, the applicant and developer, explained that to site a house of the size and width he desires he needs the variance to reduce the front yard setback.

Voelliger asked how close the proposed house would be to the retaining wall adjacent to the sidewalk along Moencks Road. Schumacher explained that the house would be approximately 20 feet from the retaining wall and approximately 45 feet from the curb at the closest point.

Johnson asked if the retaining wall is located on city property. Schumacher confirmed this. Voelliger asked how far behind the retaining wall the property line is located. Connors stated that the property line is located a short distance behind the retaining wall. Johnson asked if the city had built the retaining wall. Connors confirmed this, adding that it had been built as a part of the Moencks Road paving project.

Voelliger asked for clarification of the depth of the proposed garage stalls. Schumacher stated that they would be 21 feet deep, adding that the total depth of the home is 50 feet 8 inches.

Voelliger asked if the home would be owner-occupied. Schumacher explained that he is building the house as a spec home that would eventually be owner-occupied.

Falk asked if the proposed construction would have any negative effect on the adjacent lot. Soenksen stated he does not believe that the construction would have any impact on that lot, adding that regardless of whether the variance is approved, a home will likely be built on the lot eventually anyway. Johnson commented that when the applicant's engineer designed the subdivision the detention basin would have been sized to accommodate all of the storm water runoff from each buildable lot taking into account the additional impervious area. Soenksen added that the city's engineering department would have approved the final plat design as well.

Voelliger asked if the garage would have two or three stalls. Schumacher stated that it would be a three-car garage.

Voelliger commented that eventually homes would be built on all of the lots except for the lot that serves as the detention basin. Schumacher stated that that is his hope, adding that the proposed house would be built east of the detention basin.

Voelliger asked how wide the lot is to the east of the detention basin. Schumacher explained that it is 110 feet wide.

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

Johnson asked if the applicant had considered rotating the garage so that the doors face Little Lane so it would fit in the buildable area. Schumacher stated that there is only 40 feet of buildable width. Johnson indicated that she believes that while the topography of the lot is difficult, there are other configurations that would work without requiring a variance. Schumacher explained that the restrictive covenants for the subdivision require that the homes have side-load entry garages. Johnson commented that the restriction would preclude the applicant from rotating the garage as she had suggested. Schumacher stated that the L-shaped configuration as shown accommodates the driveway

Johnson commented that there do not appear to be any other similar encroachments into the setback along Moencks Road. Falk stated that the garage of the proposed house would be a very prominent feature as drivers pass by on Moencks Road. Johnson asked if the applicant could request an exemption from the homeowner's association covenant requiring side-load entry garages. Schumacher stated that a formal homeowner's association has not yet been established. Johnson commented that there are several vacant lots in the subdivision. Schumacher stated that houses that are compliant with the restrictive covenants and the zoning ordinance could be built on the other four vacant lots, adding that it is only the corner lot that is very difficult. He explained that only a portion of the house would encroach into the required setback along Moencks Road.

Johnson asked if the applicant could request a variance from the side-load entry requirement from the adjacent neighbors since there is no formal homeowner's association. She added that the driveway would not have to be so long with such a steep curve if the garage had a front-load entry. Schumacher stated that the buildable width of the lot is only 40 feet at that point and

would not allow a front-load entry garage. Falk asked how wide the garage portion of the house would be. Schumacher explained that it is approximately 35 feet wide, reiterating that the lot would not be wide enough for that type of configuration. Johnson commented that she would prefer that the applicant choose a different configuration for the house so that the required setbacks can be maintained.

Johnson asked if the applicant would be allowed to return to the Board with a different configuration if the current request is denied. Soenksen confirmed this, adding that the time limit restriction regarding Board action on particular lots only applies to special use permits.

Voelliger asked if it would be feasible to move the proposed house further to the east and still maintain the required setback. Soenksen explained that while it could be moved slightly further east, it would make the entrance into the garage much more difficult.

Johnson commented that the side-load entry requirement seems to be the reason it is proving so difficult to find a workable configuration.

Voelliger asked if the house would be 2 stories and how many bedrooms it would have. Schumacher explained that the house would be a ranch style with 3 bedrooms.

Schumacher commented that if the garage has a front-load entry, almost the entire front of the house would be blocked by the garage.

Falk asked why the house could not be moved further back on the lot and slightly rotated so that it would fit in the buildable area. Schumacher stated that if the house were moved further back the driveway would necessarily be more difficult to navigate because of the topography. Falk commented that regardless of where the house is located, it is likely that retaining walls would have to be built along the driveway on the east side. Schumacher stated that while that is a possibility, there would be much less excavation required the closer the house is to Little Lane.

Johnson reiterated that she would prefer not to set a precedent of encroachment into required front yards and would like to maintain the setbacks.

Voelliger asked if there are any examples of cases when the Board approved a similar request. Connors stated that while on occasion the Board has allowed decks to encroach into a required front yard, he is unaware of any cases when the Board approved a request to allow a principal structure to encroach into a required front yard.

On motion by Johnson, seconded by Falk, that a variance to reduce the required front yard setback from 30 feet to 15 feet to allow construction of a house be denied in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #6 to these minutes.

- c. Case 14-085; 3790 East Harbor Drive (A-2) - A request for a variance to increase the allowable garage area from 720 square feet to 1,126 square feet and to reduce the required side yard setback from 5 feet to 3 feet, submitted by Rockne Brosman.

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.

Falk stated that he would abstain from discussion and voting regarding Case 14-085.

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

Rockne Brosman, the applicant, stated that in 1993 the house was raised to 1 foot above the base flood evaluation in accordance with FEMA's requirements at that time. He indicated that he is not all concerned about the possibility of flooding as the level of flood water does not reach the garage elevation even at the 17-foot level. He showed photos of various flood events and how they affected his home. He stated that he is aware that a flood plain development permit and elevation certificate are required. Brosman questioned whether the proposed garage would be one of the largest in the neighborhood as indicated in the staff report. Soenksen explained that the calculations of garage size are based on the records shown on the Scott County Assessor's web page. Brosman stated that those records are inaccurate as they do not designate some of the spaces used as garages in the area as such. He added that the garage to living area ratio that he is proposing is much less than some of his neighbors. He indicated that it is very difficult for him to fit two cars, a golf cart, a lawn mower, two kayaks, paddleboat, and bicycles in the space he has now.

Brosman stated that he does not believe that the Board should set a precedent with regard to required setbacks. He indicated that he does not believe that there is any difference between a 3-4 foot high concrete flood wall that is commonly located on side property lines in the neighborhood and a 10-foot high garage wall that would be 3 feet from the property line. Soenksen stated that the flood walls to which the applicant is referring are classified in the same manner as fences which can be located on the property line. Brosman stated the concrete walls serve the purpose of keeping water back but are just as much of an impediment as a garage would be.

Brosman explained that his neighbor's house is 87 feet wide, leaving only 13 feet of total side yard setback. He indicated that after the proposed construction is complete, the combined side yard setback would be 25 feet. He added that the proposed addition would not hinder access by emergency vehicles. Brosman stated that the lot to the north is vacant and that the owners have a lot of flexibility with regard to the layout and placement of a house in the future. He stated that he does not believe that either of his requests are unreasonable and that no precedent would be set by granting them.

Voelliger asked if the neighbor to the north is in favor of the proposed addition which will be located only 3 feet from the shared property line. Brosman stated that he has not been in contact with the owners of that lot but indicated that his other neighbors are not opposed.

Soenksen asked how deep the existing garage is. Brosman indicated that it is 28 feet deep. Soenksen asked if the proposed addition to the rear of the home would have been flooded during the event when the flood water was 17 feet above river level. Brosman confirmed this but indicated that the new addition would be raised.

Voelliger asked if the home has a basement. Brosman explained that there is a crawl space underneath the house but that there is not a traditional usable basement.

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

Johnson suggested that the motions for the two variance requests be split. She indicated that while she understands the applicant's wish for a larger garage, she is not necessarily supportive of the request for the setback reduction.

On motion by Johnson, seconded by Spranger, that a variance to increase the allowable garage area from 720 square feet to 1,126 square feet be granted in accordance with the Decision and Order.

ROLL CALL ON MOTION

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

Motion carried.

Johnson asked for clarification of the requirement for a motion to be approved if only three members are voting. Soenksen explained that for a variance to approved there must be three concurring votes.

Voelliger commented that he is not opposed to the setback reduction to 3 feet since the adjacent lot is vacant. He added that the Board has allowed garages on alleys to be built 3 feet from the lot line in the past. Johnson stated that those requests had been for detached structures built adjacent to an alley. Spranger commented that the currently vacant lot will not necessarily remain so. Johnson stated that the proposed construction may constrain the owner of that lot with regard to placement of a house in the future because there is a required separation.

Spranger asked if there are any other houses on East or West Harbor Drive that have only an 8-foot separation as would be the case if the owner of the vacant lot chose to build a house at the minimum setback on the south side. Soenksen stated that he could not definitively say one way or the other. He indicated that it is likely that the vast majority of the homes are set back the required distance from one another adding that the rear property line of most of the homes is actually in the harbor.

Holly Secker, 3790 East Harbor Drive, stated that the homeowner's association has already approved the plan for the proposed addition.

Voelliger reiterated that he is not opposed to the proposed addition since the adjacent lot is vacant. Connors explained that regardless of what construction takes place, it does not affect the buildable area of the adjacent lot. He indicated that the ordinance does not require that there be 10 feet between structures, adding that issuance of building permits is based on the lot lines of a particular lot. Johnson asked if there is a required separation related to the fire code. Connors stated that the code requires that any structure closer than 3 feet to a property line be fire protected, adding that the proposed addition is just short of that requirement.

Johnson asked how many vacant lots are left in the area. Secker stated that there are only two lots left that are vacant. Johnson commented that she is not necessarily opposed to the request given the uniqueness of the neighborhood, but that it is possible that another homeowner may want to build a similar addition 3 feet from their side property line. She stated that approving this request may set a precedent. Secker stated that the proposed addition would affect only the adjacent lot which is vacant. Spranger explained that while that is the case for the current request, other homeowners may wish to build a similar addition which would reduce the separation between houses.

Secker asked if the purpose of the minimum side yard setback is to provide access for emergency vehicles. Connors stated that that is one of the reasons but that it is also to provide adequate light and ventilation around properties.

Johnson stated that while she would prefer to maintain the required setbacks, she understands that this is a unique neighborhood. She indicated that it is also difficult because the vote must be unanimous.

On motion by Voelliger, seconded by Johnson, that a variance to reduce the required side yard setback from 5 feet to 3 feet be granted in accordance with the Decision and Order.

ROLL CALL ON MOTION

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

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 6:00 p.m.

These minutes and annexes approved _____

John Soenksen, City Planner