

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 (344-4055).

**MEETING NOTICE
BOARD OF ADJUSTMENT
JULY 10, 2008
5:00 P.M.**

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

1. Roll Call: Eikenberry _____, Howe _____, McElhiney _____, Stelk _____, Voelliger _____
2. Review of Board Procedures.
3. The Board to review and approve the minutes of the meeting of June 12, 2008.
4. The Board to hold a public hearing on the following items:
 - a. Case 08-060; 4650 Davis Street (PUD) - A request for a variance to allow a 6-foot high fence in a front yard, submitted by Greg Smart.
 - b. Case 08-061; 4580 Tanglewood Road (R-4) - A request for a variance to increase the allowable height of four condominium buildings from 2 ½ stories to 3 stories, submitted by River Cities Realtors, Inc.
 - c. Case 08-062; 2720 Devils Glen Road (C-3) - A request for an appeal of the Zoning Administrator's decision to prohibit the opening of a car care facility as a Car-X franchise, submitted by Robert Bettendorf. It is the Zoning Administrator's opinion that this represents a material change to the information presented to the Planning and Zoning Commission and City Council for their consideration during the land use amendment, rezoning, and site development plan approval process.

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. TEXT TELEPHONE (TTY) IS AVAILABLE AT (563) 344-4175. IN ADDITION, PERSONS USING TEXT TELEPHONE HAVE THE OPTION OF CALLING VIA THE IOWA COMPASS VOICE/TTY BY DIALING (800) 735-2942.

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
JUNE 12, 2008
5:00 P.M.**

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

Item 1. Roll Call

PRESENT: Howe, McElhiney, Stelk, Voelliger
ABSENT: Eikenberry
STAFF: Connors, Fuhrman

Item 2. Review of Board Procedures.

Item 3. The Board to review and approve the minutes of the meeting of May 8, 2008.

On motion by Voelliger, seconded by McElhiney, that the minutes of the meeting of May 8, 2008 be approved as submitted.

ALL AYES

Motion carried.

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

- a. Case 08-044; 1930 State Street (C-2 and C-4) - A request for a variance from the requirements of the Downtown-Riverfront Corridor Overlay District to allow an additional on-premises identification sign, submitted by Hardee's.

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

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

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

Jeff Reddig, the applicant, explained that a second sign is necessary to provide visibility of the store to motorists on Grant Street. He indicated that a second sign would increase business at the restaurant and in turn generate sales tax revenue.

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

On motion by McElhiney, seconded by Voelliger, that the request for a variance from the requirements of the Downtown-Riverfront Corridor Overlay District to allow an additional on-premises identification sign be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

- b. Case 08-045; 2550 Middle Road (C-2) - A request for a variance to reduce the required setback for an on-premises identification sign from 40 feet to 15 feet, submitted by Northwest Bank & Trust.

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

Connors reviewed the staff report. Staff report is Annex #5 to these minutes. He explained that after further research of the original plat, it was discovered that the actual required setback for the property in question is 80 feet. He clarified that the request is for a setback reduction from 40 feet to 15 feet.

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

Howe asked if the original intent had been to place signage on the stone wall. Steve Geifman, representing the applicant, explained that the purpose of the stone wall with the proposed signage is to draw attention as minimally as possible to the corner.

Howe asked if the sign would be lighted. Geifman stated that he plans to place low-voltage lighting at the sign location.

Stelk asked if the lettering would be raised. Geifman stated that the letters will stand out approximately 3 inches. Stelk commented that damage might occur to the letters during the 4th of July weekend because of the number of people who will be in the area.

Howe stated that he feels that the stone wall is very attractive and does not believe that signage will detract from that. He expressed concern about the possibility of setting a precedent for other buildings. He added that the proposed signage is much more favorable than a sign listing all of the tenants in the building which would be an allowable alternative.

McElhiney asked if the landscaping wall alone would have required a building permit. Connors stated that no permit would have been necessary, adding that the proposed lettering prompts the need for a variance.

McElhiney stated that she does not believe that the applicant has established a hardship to justify granting the variance request in light of the fact that the building is already very visible.

Voelliger stated that he believes that the proposed sign would enhance the area.

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

On motion by Voelliger, seconded by Howe, that the request for a variance to reduce the required setback for an on-premises identification sign from 40 feet to 15 feet be approved in accordance with the Decision and Order.

Howe stated that he does not believe that the proposed signage is intended for building identification, adding that it is a much more aesthetically-pleasing sign than the tenant sign that the applicant had already considered. McElhiney concurred, adding that she would prefer that developers approach the city prior to construction to ensure that all codes are being followed rather than request a variance after a structure or sign has already been erected.

ROLL CALL ON MOTION

ALL AYES

Motion carried.

Decision and Order is Annex #6 to these minutes.

- c. Case 08-046; 2804 Middle Road (R-2) - A request for a variance to reduce the required front yard setback from 30 feet to 28 feet, submitted by Covenant Homes.

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

Connors reviewed the staff report. Staff report is Annex #7 to these minutes. He indicated that staff had received one letter in opposition to the request.

Howe asked if the proposed house would encroach into the 100-year flood plain. Connors explained that the applicant's engineer would be required to provide verification that the house is elevated to a point 1 foot above that flood plain level.

Howe asked for clarification regarding the amount of separation between the existing adjacent house and the proposed one. Connors explained that it is possible that the two structures could be as little as 10 feet apart as the two yards in question are side yards.

Stelk asked for clarification regarding the variance the applicant had requested for encroachment into a utility easement. Connors explained that no variance is necessary, but that the applicant was required to provide letters from the involved utility companies granting permission for construction to take place in the easement.

Voelliger asked if the front door can only be accessed from the deck. Terry Blitsch, the applicant, confirmed this. Voelliger asked if there would be a sidewalk leading to the front door. Blitsch explained that there would be a stepping stone walk.

McElhiney asked if the house would have a deck on the front of it. Blitsch confirmed this. Voelliger asked if it would be made of concrete or if it would be an elevated wood deck. Blitsch stated that it would be wooden.

Howe expressed concern about the appearance the two homes so close together would create, the short distance between the two homes, and the fact that there would be a deck on the front of the home. He added that he feels as though the property is not large enough to accommodate the proposed home even though the variance request is relatively minor.

McElhiney commented that she does not believe the lot is buildable. Connors agreed, but explained that it meets the minimum square footage requirements established by the City Code.

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

Blitsch stated that the proposed house would be at least 15 feet from the adjacent home.

Voelliger stated that he is not necessarily concerned about the house itself, but questioned whether or not there is adequate room for vehicles to maneuver so that they are not backing onto Middle Road. Blitsch confirmed this, adding that the driveway would be extended to the west to more easily facilitate maneuverability.

McElhiney asked if staff has any concerns with regard to the number of access points between Happy Joe Drive and Stafford Boulevard. Connors explained that there are always concerns when access points are added to a major arterial, but that if a lot is considered buildable, the city cannot deny access to it.

Howe asked additional requirements should be added as the Board is now aware of the plan for a deck to be in the front yard. Connors stated that irrespective of which way the house faces, the front yard is the one that faces Middle Road.

Ted Wilkinson, 2615 Stafford Boulevard, expressed concern about how two homes so close together would appear from Middle Road. He asked if the property would be a rental. Blitsch stated that it would be an owner-occupied home. Wilkinson stated that since the home on the adjacent lot was built, there has been an increase in traffic traveling the wrong way down Stafford Boulevard.

Kym Maginn, realtor for the applicant, stated that the plans are for a small, single-story home that she does not believe will be unsightly. She added that there have been many inquiries about the property in question and feels that it is positive that there is a builder willing to deal with the challenges that the property poses. McElhiney stated that she does not necessarily believe that just because a property exists, it is appropriate to build on.

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

On motion by Voelliger, seconded by Howe, that the request for a variance to reduce the required front yard setback from 30 feet to 28 feet be approved in accordance with the Decision and Order.

Howe stated that while he does not believe that the proposed construction is ideal because of the small amount of separation between the two houses, the lot is buildable, the applicant has addressed the safety issues involved with ingress/egress, the proposed deck is in a side yard, and the variance request is relatively minor given the topography of the area.

McElhiney stated that she does not believe that the applicant has established a hardship. She indicated that similar construction might have been allowed in the older section of the city, but added that this is a new development. Howe concurred, but indicated that he believes that the topography of the lot constitutes a hardship. Stelk agreed.

ROLL CALL ON MOTION

AYE: Howe, Stelk, Voelliger
NAY: McElhiney
ABSTAIN: None

Motion carried.

Decision and Order is Annex #8 to these minutes.

- d. Case 08-047; 3245 Utica Ridge Road (C-4) - A request for a variance to reduce the required sign setback from 20 feet to 17 feet, submitted by Acme Sign Co.

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

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

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

Tim Lofgren, owner of Total Detailing Auto Spa, stated that the proposed sign location would prevent the median from extending so far into the parking lot. He added that the proposed location is ideal for visibility from Utica Ridge Road.

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

On motion by Voelliger, seconded by Howe, that the request for a variance to reduce the required sign setback from 20 feet to 17 feet be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #10 to these minutes.

- e. Case 08-048; 4357 Palm Drive (R-2) - A request for a variance to increase the allowable garage area from 720 square feet to 916 square feet, submitted by Beaver Builders, Inc.

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

Connors reviewed the staff report. Staff report is Annex #11 to these minutes.

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

Bob Buker, the applicant, stated that the future owner of the home has a very large boat that he would like to store inside a garage. He added that the alternative to the extended garage would be to pour a slab alongside the garage. Buker stated that it is difficult to tell that the proposed garage is not part of the house, adding that he feels that it would blend nicely with the other homes in the neighborhood.

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

Howe asked if staff feels that a precedent would be set if the Board chooses to approve the request. Connors stated that in the past the Board has approved the majority of similar cases.

McElhiney asked if staff feels that the ordinance requirements should be changed so that a variance for similar requests would be unnecessary. She indicated that she had voted to deny several of the variance requests given as examples in the staff report for the specific reason that she believed that a negative precedent would be set. She added that some of the requests that had been granted were for extremely large lots.

Connors stated that approximately 10 years ago discussion had taken place regarding garages that were being built that were actually larger than the square footage of the home. He indicated that at that time it had been determined that every homeowner would be entitled to a 720 square foot garage, irrespective of the size of their home. Connors explained that larger garages would be allowed only if it was less than 40 percent of the total living area.

McElhiney stated that she believes it is the Board's obligation to regulate construction according to the city's standards. Voelliger concurred, but indicated that he believes that the lot is more than adequate to handle the size of the proposed garage and house.

On motion by Voelliger, seconded by Howe, that the request for a variance to increase the allowable garage area from 720 square feet to 916 square feet be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #12 to these minutes.

- f. Case 08-049; 1039 Hall Street (R-2) - A request for a variance to reduce the required side yard setback from 5 feet to 3 feet to allow for construction of a garage, submitted by Tim Grothus.

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

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

A discussion was held regarding the past practice with regard to construction of garages so close to property lines. Connors explained that when detached accessory structures are rebuilt, typically residents want to place them in the same location as the previous building.

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

Tim Grothus, the applicant, stated that it would be difficult to access the garage if it were set back at the required distance from the property line. He indicated that if the adjacent property owner were to construct a fence, it would be almost impossible to make the turn into the garage from the alley.

Howe asked if the garage would be used only for storage of vehicles. Grothus confirmed this. Howe asked if it would be possible to construct the garage so that the entry is directly from the alley. Grothus explained that the majority of the rear yard would be lost if the entry angle was changed and it was set back to allow for vehicle parking. He requested permission to construct the new garage on the existing

foundation, adding that he would keep a 6-foot separation between the two garages. He indicated that he would remove the dog house that is currently attached to the garage.

Howe asked how staff has handled similar situations that involve structures that were built prior to the current ordinance requirements. Connors explained that typically staff and the Board have been more lenient with regard to detached accessory structures as opposed to principal structures, especially in the original sections of the city.

McElhiney commented that the majority of cases that the Board has considered have been for garages with entry directly from the alley. She stated that the applicant could build the proposed structure without need for a variance if it was rotated. Voelliger stated that if the garage is turned and space for a driveway is allowed, most of the rear yard would be occupied. She reiterated that in the past the variances that the Board has been considered have been for garages with direct entry from the alley.

Catherine McCluskey, 1048 Jones Street, stated that there is a great variation of distances of garages to property lines in the neighborhood. She indicated that the small amount of space between the property line and the garage is very difficult to maintain. She stated that residents with garages that face the alley have difficulties accessing them from the alley, adding that she is not opposed to the request.

Janet McDonald, 1033 Hall Street, stated that she is not opposed to the request. She stated that she believes that there are only three garages in the area with entries facing the alley.

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

On motion by Howe, seconded by McElhiney, that the request for a variance to reduce the required side yard setback from 5 feet to 3 feet to allow construction of a garage be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #14 to these minutes.

- g. Case 08-050; 2215 Echodale Drive (R-2) - A request for a variance to reduce the required front yard setback from 25 feet to 17 feet to allow construction of a 10-foot by 20-foot deck, submitted by Joseph Miller.

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

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

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

Joseph Miller, the applicant, stated that he had asked one of the staff members in the Building Department whether or not a permit would be required for the proposed construction. He claimed that he had been told that because there were to be no walls, the structure would be considered a patio which does not require a permit. He indicated that he has been making improvements to his property for several years. Miller claimed that if he had received accurate information with regard to permitting, he would have applied for a building permit for the deck. He indicated that he had built the deck to allow easier access for his wheelchair-bound grandmother. He stated that he had been unaware that what he was constructing is a deck, adding that none of his neighbors are opposed to the construction.

McElhiney stated that whether or not the applicant had received accurate information, the Board has never approved a variance for a deck in the front yard. Miller stated that there are several similar structures in the city. McElhiney explained that variances have been granted only for temporary structures used for handicapped accessibility, adding that when that need no longer exists the structures are required to be removed. She added that the Board has in the past required that homeowners remove illegal decks.

Miller stated that one of his neighbors had sent an e-mail expressing support for the request. McElhiney stated that the opinion of the neighbors has no bearing on her decision. Howe concurred, adding that the Board has been very consistent with regard to this type of request. He indicated that he does not wish to send the message that variances will be approved if construction has already been completed. McElhiney commented that the largest deck that has ever been allowed by the Board is approximately the amount of space required to accommodate the swing of a door and some steps leading to it. She added that there are decks in the city that are illegally-placed. Voelliger commented that he believes that all homeowners require access to their homes, but stated that the deck in question is excessive in size. He indicated that he would not be opposed to a much smaller deck which would allow access to the home.

Miller stated that his misunderstanding with city staff and the fact that construction is complete constitutes a hardship. McElhiney stated that those issues do not establish a legitimate hardship. Stelk explained that the applicant should have presented his plans to the Building Department for approval prior to the beginning of construction. McElhiney commented that it is possible that the applicant did not ask the correct question of city staff during his telephone conversation, adding that she does not believe that the staff would have given permission for a deck to be constructed in a front yard.

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

Voelliger commented that if the Board granted the requested variance, a negative precedent would be set and that this type of construction would occur all over the city. He stated that he would not be opposed to the applicant's working with the city staff to

arrive at a compromise by making the deck much smaller. He added that he could support a deck that was sized to accommodate adequate access to the house if approved by city staff. McElhiney concurred.

On motion by McElhiney, seconded by Howe, that the request for a variance to reduce the required front yard setback from 25 feet to 17 feet to allow construction of a 10-foot by 20-foot deck be denied in accordance with the Decision and Order and the deck be removed and/or modified by July 15, 2008.

ALL AYES

Motion carried.

Decision and Order is Annex #16 to these minutes.

- h. Case 08-051; 221 - 15th Street (C-2) - A request for a special use permit to allow an outdoor alcohol service area, submitted by Anthony Buckley.

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

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

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

Anthony Buckley, the applicant, stated that he would like to add an outdoor area in order to be more competitive with other similar businesses and to accommodate smokers. He indicated that the construction would cover approximately 6 parking spaces, adding that he plans to widen the entrance by 10 feet. Stelk asked if there would be an entrance and exit from the patio. Buckley stated that he would like to add a door through to the building itself. He explained that he plans to restripe the parking lot adjacent to the proposed outdoor service area and also to stripe the lot located along State Street.

McElhiney asked if a site development plan would be required to address issues such as beautification of the proposed structure. Connors stated that the applicant would not be required to submit a site development plan because it is a minor change. McElhiney asked if staff would be working with the applicant to ensure that the outdoor area is adequately marked to prevent motorists from turning into it by mistake. Connors confirmed this, adding that likely an exit from the deck to the parking lot would be required. He indicated that steps would have to be taken to ensure that patrons remain on the deck.

Voelliger asked if the pool is still functional or if it had been removed. Buckley stated that it had been filled in. Voelliger asked if that area could be used for parking. Buckley stated that that would be an option, but that there is no access from it.

Howe expressed concern about the proximity of the canopy over the check-in area to the proposed outdoor area and the possibility of a motorist accelerating into that area by mistake. Connors stated that because there will likely be one-way traffic through the parking lot, traffic should move away from the outdoor area.

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

On motion by McElhiney, seconded by Voelliger, that the request for a special use permit to allow an outdoor alcohol service area be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #18 to these minutes.

Howe commented that the stacked stone wall installed by Veit's Vettes has been completed and is very attractive.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 6:45 p.m.

These minutes and annexes approved

Bill Connors
Director of Community Development



COMMUNITY DEVELOPMENT
City Hall Annex • 4403 Devils Glen Road, Bettendorf, Iowa 52722 • (563) 344-4055

July 10, 2008

Staff Report

Case No. 08-060

Location: 4650 Davis Street

Applicant: Greg Smart

Zoning Designation: PUD (Residential)

Request: Variance to allow a 6-foot high fence in a front yard.

Background Information and Facts

The site is located on the west side of the intersection of Davis Street and Crow Creek Road which is four blocks west of the intersection of Crow Creek Road and Devils Glen Road (see Attachment A – Location Map). The applicant is requesting a variance to allow a 6-foot fence within one foot of the property line adjacent to Crow Creek Road (see Attachment B – Plot Plan).

Staff Analysis

Normally, a 6-foot high fence is allowed behind the front line of the house out to and along the side and rear property lines. If this request involved an interior lot, the proposed fence would be in full compliance with the City Code and a variance would be unnecessary. Due to the fact that a “corner” lot is involved, the property line adjacent to Crow Creek Road is considered a front yard rather than a side yard. The yellow line shown on Attachment B illustrates the required setback for a 6-foot fence on this lot. The applicant estimates that placing the fence at the required setback would reduce the usable area within the fence by 1,450 square feet.

The applicant has two Rottweilers. The applicant states that the requested placement of the fence will accomplish two goals:

1. To provide sufficient space within the fenced area for the exercise needs of two large dogs.
2. To allow a high enough fence to provide the maximum safety for the public using the busy sidewalks adjacent to Crow Creek Road.

The closest portion of the requested fence will be approximately 75 feet from the intersection of Davis Street and Crow Creek Road. Therefore, staff is not concerned with the effect of the proposed fence on the 35-foot vision triangle at the intersection.

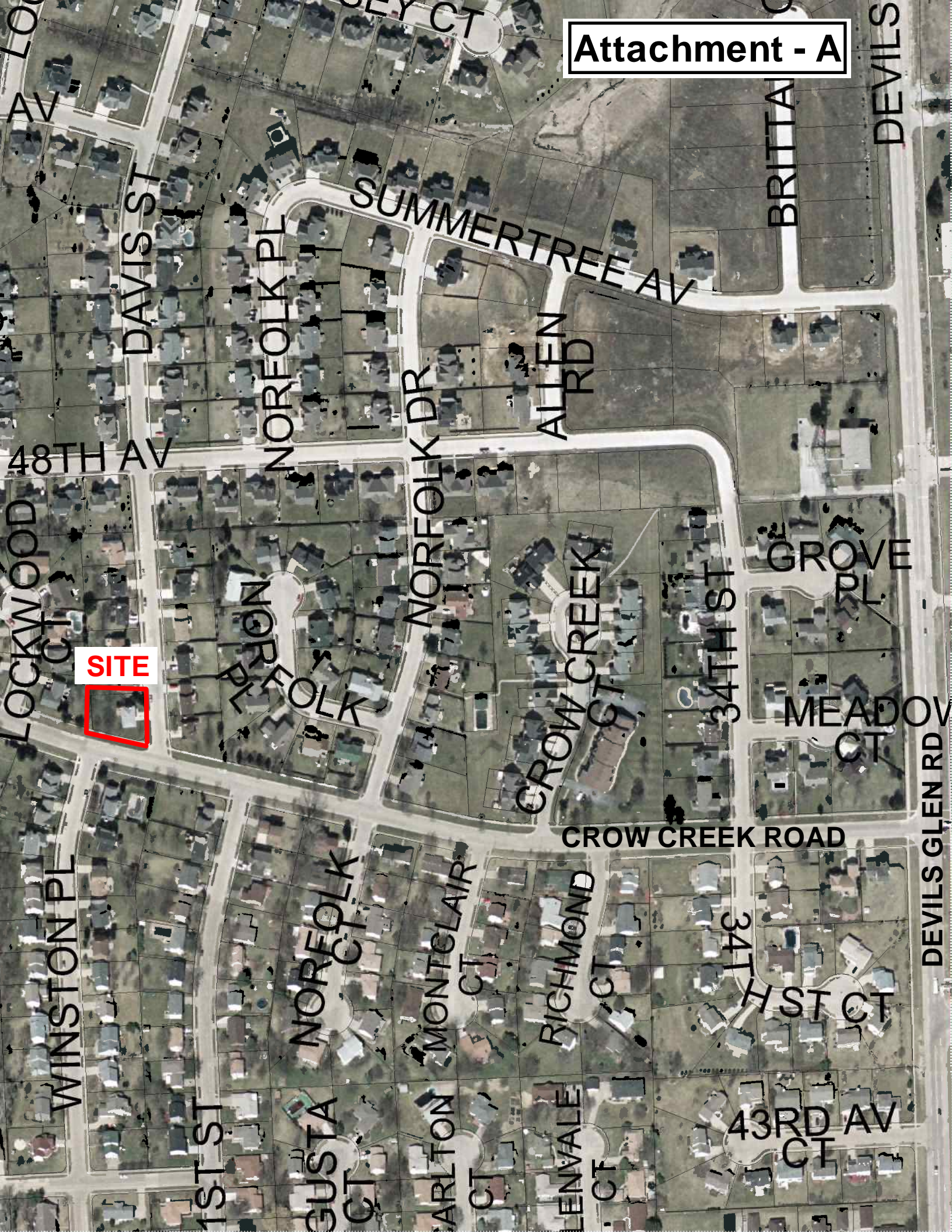
At the May 2008 meeting, the Board approved a similar request for a 6-foot fence at 3323 Magnolia Court citing safety reasons associated with a swimming pool located in the rear yard. In the Magnolia Court case, the Board also noted topography issues associated with the lot.

The applicant is asking the Board to consider and accept the above issues as a hardship

Respectfully submitted,

John Soenksen
City Planner

Attachment - A



SITE





required setback

6' fence

Case No. 08-060

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

Part 1. Property Involved.

Street Address 4650 DAVIS St.
Legal Description of the property. 2555-022 Highland Hills - 3rd Add. Lot 22

Part 2.

Applicant Name Greg Smart Phone 309-269-7329
Address 4650 DAVIS St. - Bettendorf, IA FAX _____

Owner Name Greg Smart Phone 309-269-7329
Address 4650 DAVIS St. - Bettendorf, IA FAX _____

Agent _____ Phone _____
Address _____ FAX _____

Part 3. This application is for the following: (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.

With its current zoning and normal setback we are currently losing approximately 1,450 sq. ft. of usable yard. Safety is another concern. We have 2 rottweilers and would like to ensure their safety as well as the safety of the public.

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

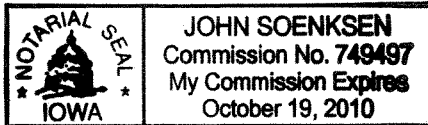
- () 1. Scale accurate site plan, at a scale of 1" = 20' or other suitable scale, showing adjacent street, property line, building location of existing and proposed buildings and other important features of the property. Required with all applications.
- () 2. Legal Description. (If not shown on page 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 Monica Wagner 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 24 day of June, 2008.

John Soenkse
 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 John Soenkse
 Amount \$50 Date June 24, 2008



COMMUNITY DEVELOPMENT
City Hall Annex • 4403 Devils Glen Road, Bettendorf, Iowa 52722 • (563) 344-4055

July 10, 2008

Staff Report

Case No. 08-061

Location: 4580 Tanglewood Road

Applicant: River Cities Realtors Inc.

Zoning Designation: R-4, Multi-Family Residential

Request: Variance to increase the allowable height of four condominium buildings from 2½ stories to 3 stories.

Background Information and Facts

The site is located at the northwest corner of Tanglewood Road and old Middle Road, prior to Middle Road's moving east during a recent roadway improvement project (see Attachment A - Location Map). The applicant would like to place four condominium buildings on this site (see Attachment B – Plot Plan). The Planning and Zoning Commission recently indicated support for the project concept; however, they voiced concern about the 4-story units (see Attachment C – Original Elevations). The developer has responded to that concern and is submitting a new concept plan involving four 3-story buildings (see Attachment D – New Elevations). The applicant is requesting permission to increase the building height from 2½ stories to 3 stories.

Staff Analysis

There are only two multi-family zoning designations within the City of Bettendorf. The R-4, Multi-family Residence District allows up to 2½ story buildings, and the R-5, Multi-family Residence District allows up to 10-story buildings; therefore, the only zoning designation that would allow a 3-story multi-family structure(s) without a variance is R-5. Although the new concept (three story buildings) appears to be a reasonable request given the size and location of this property, staff would be reluctant to recommend an R-5 zoning designation which could someday allow 10-story buildings. Staff feels that taller buildings with high-density concentrations should be located in the area of intersecting major thoroughfares in the city such as the Holiday Court condominium complex in the area where Middle Road intersects Devils Glen Road. Therefore, staff prefers to support the R-4 Multi-family Residence District with a variance that specifies that the buildings may never be increased any higher than three stories. This would ensure a greater integrity for the surrounding properties than would supporting three story buildings with an R-5 zoning designation which would allow the door to be opened for larger and denser developments in the future.

The following comparison of the current request and the Holiday Court condominium project (an R-5 development) illustrates staff's approach to this project:

	Holiday Court	Current Request
Number of acres	4.6	6.19 (to be increased)
Number of buildings	10	4
Number of units	156	48
Building per acre	2.17/acre	1.5/acre (to be decreased)
Units per acre	34/acre	7.75/acre (to be decreased)

The City recently moved Middle Road to the east of this location as part of the Middle Road Corridor Improvement Project. The land between old Middle Road and new Middle Road is anticipated to be vacated to the adjacent property owners. When this occurs, additional land will be added to this project site increasing the number of acres and decreasing the density (number of building and units per acre) of this development.

The developer has indicated that reducing this project to less than four 3-story buildings will not be financially feasible.

Staff Recommendation

Staff feels that allowing 3-story condominiums and not allowing an R-5 zoning designation is appropriate for this site while ensuring that the surrounding properties are not adversely impacted by potential future larger or denser developments.

Respectfully submitted,

John Soenksen
City Planner

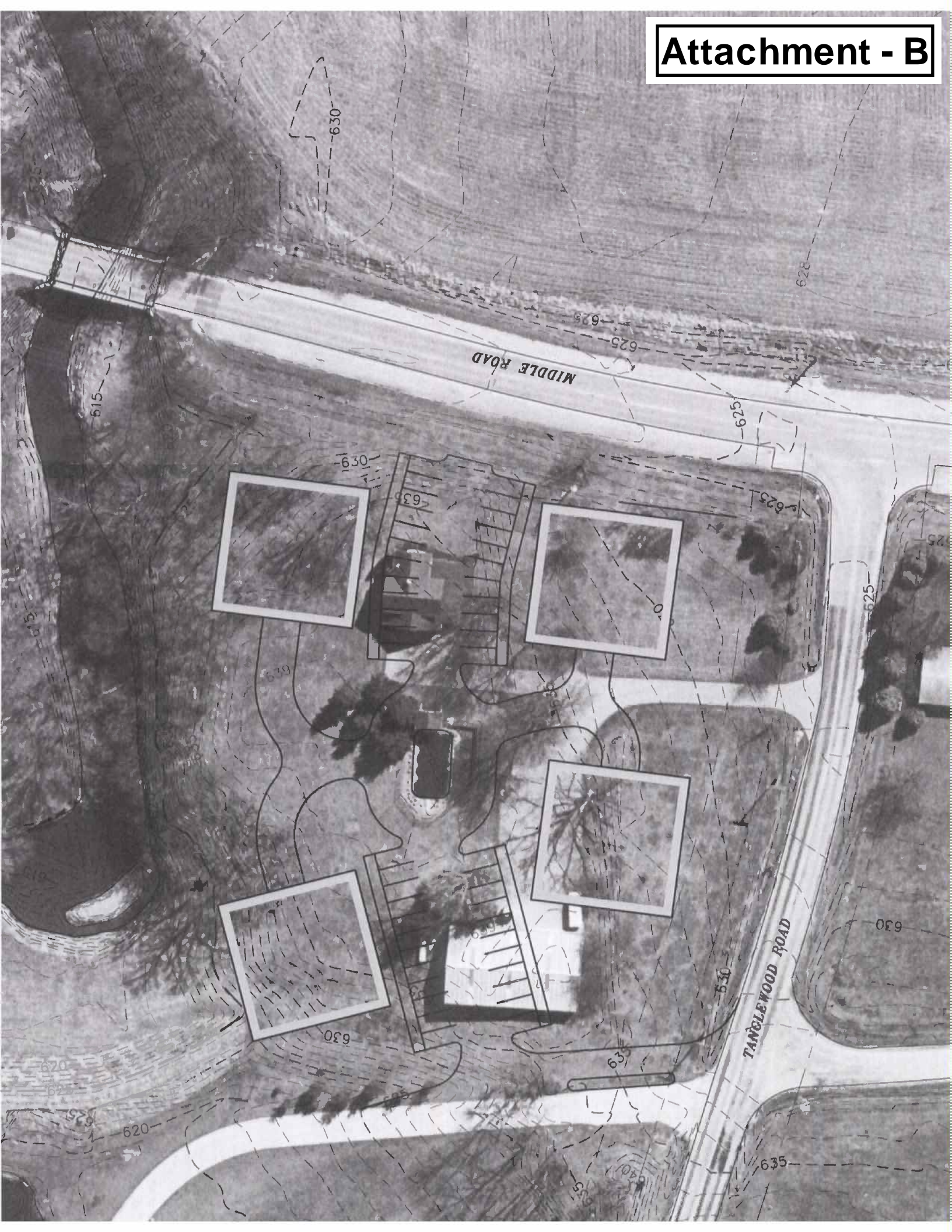


TANGLEWOOD RD

MIDDLE ROAD

TANGI

Attachment - B



NOTE:
SEE ROOF PLAN SHT. 2 FOR GUTTER & D.S. LOC.
NOT SHOWN ON ELEVATIONS.

- 4' H. X 5' W. VINYL SLIDING WINDOWS
W/ 1" X 4" VINYL TRIM BOARD
- 6'-8" H. X 6' W. VINYL SLIDING DOORS
W/ 1" X 4" VINYL TRIM BOARD
- PROVIDE STEP FLASHING WHERE
SHINGLES ABUTT VERT. WALL
- 24" ϕ SIMULATED VENT
- 3'-0" H. X 6'-0" W. VINYL
FIXED WINDOWS
- SIMULATED SHAKE SHINGLES
- SIMULATED SHAKE SIDING
- DOUBLE 4 VINYL SIDING
- 1/4" X 4" X 5/16" W/ 8"
BRG. EA. END - FLASH
- ϕ KEEP JOINT ABOVE
- TYP. ϕ WINDOWS &
DOORS IN BRICK WALL

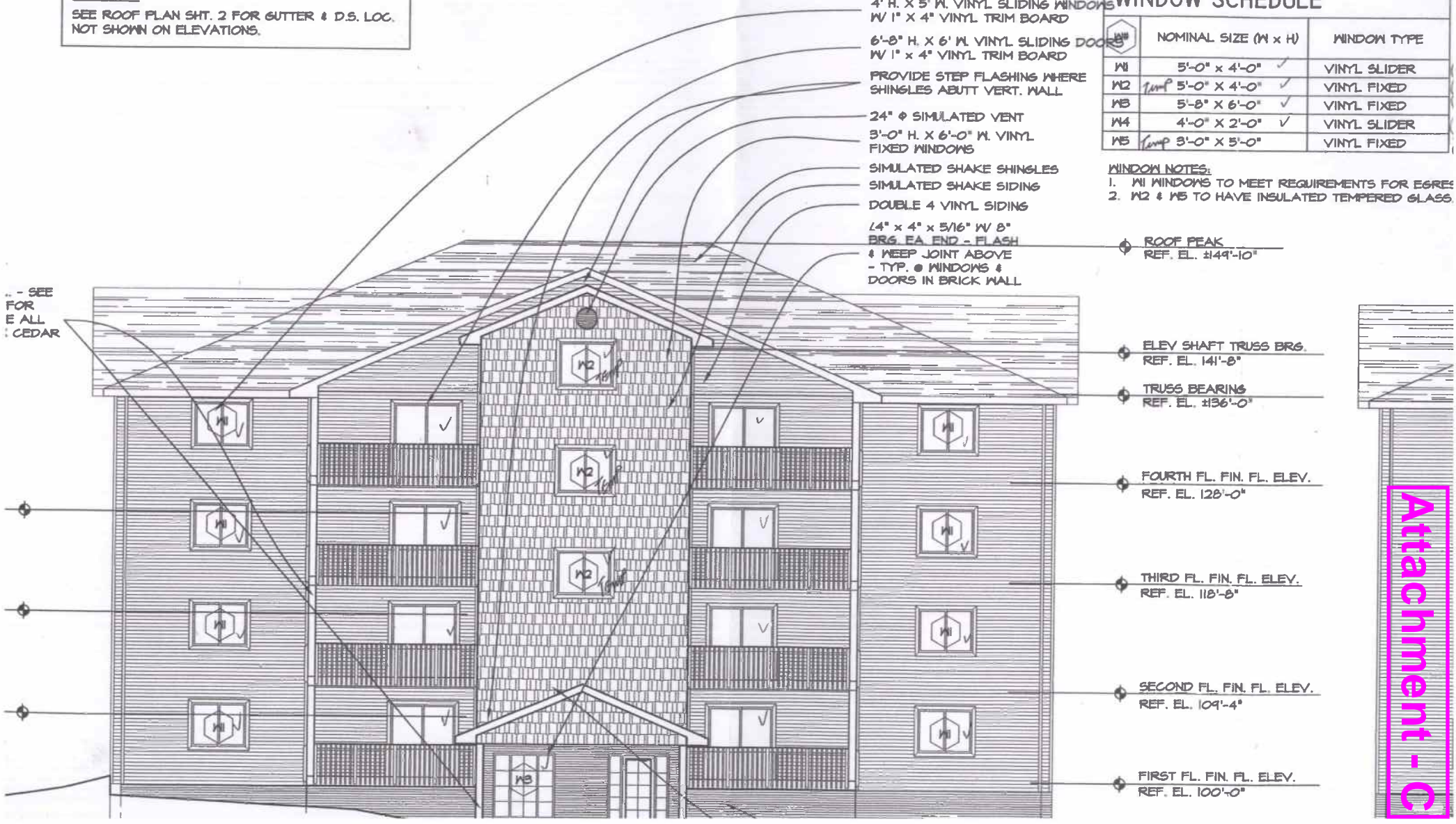
WINDOW SCHEDULE		
SYM	NOMINAL SIZE (W x H)	WINDOW TYPE
W1	5'-0" x 4'-0" ✓	VINYL SLIDER
W2 <i>Temp</i>	5'-0" x 4'-0" ✓	VINYL FIXED
W3	5'-8" x 6'-0" ✓	VINYL FIXED
W4	4'-0" x 2'-0" ✓	VINYL SLIDER
W5 <i>Temp</i>	3'-0" x 5'-0"	VINYL FIXED

WINDOW NOTES:
1. W1 WINDOWS TO MEET REQUIREMENTS FOR EGRESS
2. W2 & W3 TO HAVE INSULATED TEMPERED GLASS

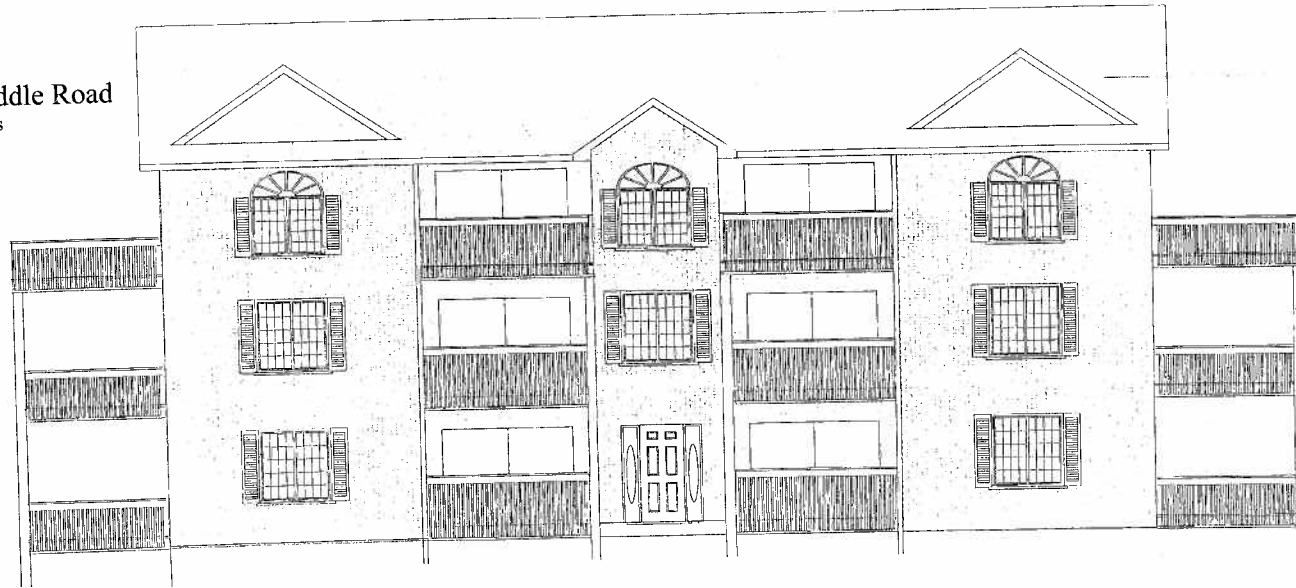
SEE
FOR
ALL
CEDAR

- \diamond ROOF PEAK
REF. EL. $\pm 144'-10"$
- \diamond ELEV SHAFT TRUSS BRG.
REF. EL. $141'-8"$
- \diamond TRUSS BEARINGS
REF. EL. $\pm 136'-0"$
- \diamond FOURTH FL. FIN. FL. ELEV.
REF. EL. $128'-0"$
- \diamond THIRD FL. FIN. FL. ELEV.
REF. EL. $118'-8"$
- \diamond SECOND FL. FIN. FL. ELEV.
REF. EL. $109'-4"$
- \diamond FIRST FL. FIN. FL. ELEV.
REF. EL. $100'-0"$

Attachment - C



Tanglewood & Middle Road
Four 12 plex Condominiums



RE/MAX River Cities
Tom Swanwick
332-9900

Case No. 08-061

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

Part 1. Property Involved.

Street Address 4580 TANGLEWOOD RD

Legal Description of the property. 45A-002 TANGLEWOOD TRAILAGE LOT 2

Part 2. Contact Information.

Applicant Name RIVERCITIES REALTORS INC - TOM SWANICK Phone 332-9906

Address 4555 UTICA RIDGE - BETTENDORF FAX 332-6631

E-mail Address: TSWANICK@AOL.COM

Owner Name DARCI BANKS Phone 332-4952

Address 4580 TANGLEWOOD RD - BETT 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.)



COMMUNITY DEVELOPMENT

City Hall Annex • 4403 Devils Glen Road, Bettendorf, Iowa 52722 • (563) 344-4055

July 10, 2008

Staff Report

Case No. 08-062

Location: 2720 Devils Glen Road

Applicant: Robert Bettendorf

Zoning Designation: C-3, General Business

Request: Appeal of the Zoning Administrator's decision to prohibit the opening of a car care facility as a Car-X franchise. It is the Zoning Administrator's opinion that this represents a material change to the information presented to the Planning and Zoning Commission and City Council for their consideration during the land use amendment, rezoning, and site development plan approval process.

Background Information and Facts

The site is located just south of the intersection of Devils Glen Road and Middle Road (see Attachment A – Location Map).

Normally the report to the Board represent staff's attempt to present an independent and objective review and analysis of a request for the Board. In appeal cases, however, the Board should regard this report as one side of the issue only. The Board should reserve their judgment until after the public hearing and give equal consideration to the applicant's side of the issue before reaching any decision regarding this matter.

Staff's Position

In early 2007 the applicant went through the city process for the rezoning and site plan approval for the property located at 2720 Devils Glen Road. During the public hearing process, opposition to the project was voiced regarding several matters. One of the objectors involved a competing local business owner who believed that, if approved, the car care facility would open as a Car-X franchise. The objector felt that opening a Car-X facility would be a direct retaliation because of his decision to drop the franchise from his business.

Attorney Jeff Paul represented the developer at the public hearings. In response to the objections and concerns raised, Mr. Paul and the developer made some concessions and gave some assurances regarding the business if the requests were approved. One of the assurances made at the public hearing was the fact that this facility would NOT open as a Car-X and further assurance that it would open only as a Tuffy's car care

facility. During the public hearing for the rezoning on February 6, 2007, the developer's attorney told the city council:

I want to point out that this is going to be a Tuffy's store. I think what's in your packets may show a Car-X store. That was an earlier plan – it is going to be a Tuffy's. So what we are looking at now on the picture (*showing a Tuffy's Store*) is in fact an accurate representation...

Zoning Administrator Connors is concerned that the above information was considered by the City Council at the public hearing and influenced the affirmative decision on the case.

Since that meeting the business has been represented as a "Tuff's" automotive center (see Attachment B – Current Site Photo). Only when an application for a sign permit was received by the city in mid-June 2008 did staff inadvertently learn that the business was in fact going to open as a Car-X facility.

Decision of the Zoning Administrator

The change of the business from Tuffy's to Car-X represents a material change from the information provided to the City staff, Planning and Zoning Commission, and City Council when approval of the project was granted in 2007.

Respectfully submitted,

John Soenksen
City Planner



PALMER HILLS
CT

MIDDLE RD

DEVILS GLEN RD

MIDDLE DR

SITE

HOLIDAY
CT

ROMAN
CT

**COMING
SOON**

Tuffy
Assist Service
Center

**THIS
FRANCHISE
AVAILABLE!**

FOR MORE INFO:
1 800-228-8339
www.tuffy.com

Attachment - B

Case No. 08-062

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

Part 1. Property Involved.

Street Address 2720 Devils Glen Road, Bettendorf, IA 52722
Legal Description of the property, Lot 2 in Kelinson-Comess 2nd Addition to the City of Bettendorf,
Scott County, Iowa

Part 2.

Applicant Name Robert Bettendorf Phone 515-273-1025
Address 1444 NW 124th Court, Des Moines, IA 52325 FAX _____

Owner Name Sioux City Investors, LC Phone 515-273-1025
Address 1444 NW 124th Court, Des Moines, IA 52325 FAX _____

Agent _____ Phone _____
Address _____ FAX _____

Part 3. This application is for the following: (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, Appeal of the Interpretation of Council Action by Community Development Director.
(Attach a separate sheet and explain in detail.) **See attached.**

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.

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 Robert Bettendorf by J. H. Paul Signature of Owner Sioux City Investors, LC
 (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 Lesah Johnson
 Amount NC Date 10/24/08

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

This is an appeal of the interpretation of the action taken by the Bettendorf City Council, as stated in a letter to Mr. Robert Bettendorf from William Connors, dated June 18, 2008.

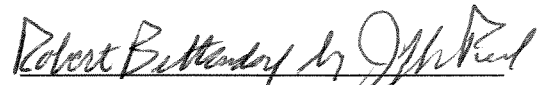
In 2007, the Bettendorf City Council approved rezoning of property located at 2720 Devils Glen Road, Bettendorf, to provide for a car care facility. The Site Plan was also approved in the ordinary course of development. Neither the Use nor the Site Plan are proposed to be changed. However, at the time of the original applications, it was intended that the business would operate as a "Tuffy" facility. Application was recently made to open the car care facility as a "CarX" facility, which resulted in Mr. Connors' interpretation.

The change in the name of the operation is not retaliatory, and may actually benefit the residents of Bettendorf. The reason for the change is that the original plan was for an individual to purchase a Tuffy Tire and Auto Service franchise, and begin operation of the facility. For unrelated reasons, the intended franchisee elected not to go forward, and Tuffy Associates Corp., which owns the rights to both the "Tuffy" and "CarX" names, elected to operate the facility as a corporate-owned Car-X operation. The company believes there is more Car-X name recognition, there are Car-X warranties that can be serviced at the location, and the company has Car-X supervisory personnel better-positioned to supervise and enhance the operation as a company-owned Car-X. There will be absolutely no material differences in the operation of a CarX facility, as compared to a Tuffy Automotive facility.

Additionally, the operation of a CarX facility will allow the facility to perform warranty work that may be necessary relating work done by other, or prior CarX facilities. Since there is currently no CarX facility in the Iowa Quad Cities, the new facility will allow individuals with warranty claims to have the work performed in Bettendorf.

For the reasons stated above, we respectfully request that the Board of Adjustment overrule the council interpretation as set forth in Mr. Connors' letter of June 18, 2008, and allow the operation of the car care facility at 2720 Devils Glen Road as a CarX facility, and further authorize the issuance of an immediate Certificate of Occupancy therefore.

Dated this 24th day of June, 2008.


ROBERT BETTENDORF, by
Jeffrey W. Paul, his attorney
Lane & Waterman LLP
220 N. Main Street, Suite 600
Davenport, IA 52801