

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  
FEBRUARY 12, 2009  
5:00 P.M.**

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

Item 1. Roll Call

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

Item 2. Review of Board Procedures.

Item 3. The Board to review and approve the minutes of the meeting of January 8, 2009.

On motion by Voelliger, seconded by McElhiney, that the minutes of the meeting of January 8, 2009 be approved as submitted.

ALL AYES

Motion carried.

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

- a. Case 09-006; 6036 Shawnee Court (R-1) - A request for a variance to reduce the required rear yard setback from 40 feet to 30 feet and to reduce the required front yard setback from 35 feet to 30 feet, submitted by Steven Zelle.

Stelk 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.

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

Steve Zelle, the applicant, stated that when the subdivision was designed, an R-1 zoning designation had been chosen to allow for higher-priced homes and larger lots. He indicated that he had overlooked the loss of ground resulting from the regional storm water detention area dedicated to the city. Zelle explained that the restrictive covenants for the subdivision require a minimum house size square footage. He indicated that the

depth of the proposed house has been reduced to 45 feet which does not allow enough room for a deck.

Voelliger asked if the proposed house would intrude further into the front yard than the existing home to the north. Connors explained that it would extend further but that it might not appear so because of the configuration of the cul-de-sac.

Voelliger asked for clarification regarding the details of the ordinance that was recently passed with regard to irregular front yard setbacks in R-1 districts. Connors explained that there was an amendment to the ordinance with regard to the R-1 district which allows a developer to either use staggered setbacks or use the required setback if a certain percentage of the house is offset.

Stelk asked if this type of request would be necessary for all of the lots in the subdivision. Zelle indicated that this would be the only lot which would require this type of variance. Voelliger commented that the lots on the other side of the street are also very shallow.

A brief discussion was held regarding the utility easements and setback requirements for the lots in the subdivision. Voelliger commented that he feels that the applicant has established a hardship. McElhiney disagreed, explaining that when a subdivision is platted developers are made aware of the city's requirements. She added that the Board has been very consistent with regard to its denial of variance requests for undeveloped lots. McElhiney stated that the lot involved is much larger than other lots in the area for which variance requests were denied. Stelk stated that Voelliger may feel as though the restrictive covenants governing minimum square footage in the subdivision may pose a hardship. Zelle stated that he feels that the fact that the lot is a walkout and that no deck would be allowed is a hardship.

Voelliger expressed support for the request. Stelk explained that because only three Board members were in attendance, a unanimous vote would be necessary for approval.

Soenksen commented that the depth of the lot from front to back has posed a problem for the applicant.

McElhiney reiterated that when a subdivision is platted, the developer should be aware of the lot depths and setback requirements. She indicated that she cannot support this type of request for an undeveloped lot. McElhiney stated that the developer should have been aware at the time of platting of the size of home that could be placed on any particular lot in the subdivision. She indicated that these issues should be considered prior to the final plat's being recorded. Voelliger commented that the lot in question is nearly 28,000 square feet.

McElhiney commented that it is not in the Board's purview to consider restrictive covenants when determining whether or not a hardship has been established.

Zelle requested that the case be deferred to the next regularly scheduled meeting.

On motion by McElhiney, seconded by Howe, that the request for a variance to reduce the required rear yard setback from 40 feet to 30 feet and to reduce the required front yard setback from 35 feet to 30 feet be deferred.

ALL AYES

Motion carried.

- b. Case 09-007; 7186 State Street (I-2) - A request for a special use permit to allow a concrete mixing facility, submitted by Pleasant Valley Redi-Mix.

Stelk 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 #4 to these minutes. Soenksen distributed materials that were submitted by the applicant prior to the meeting concerning the anticipated decibel level generated by the proposed use and dust control measures that will be taken.

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

Ethan Mahler, co-applicant, explained that the proposed operation will use only electric motors which will lessen the amount of noise generated. He indicated that there will be new dust control measures which will be 99.9% effective, adding that any fugitive dust will be controlled by a street sweeper to prevent its escaping the lot.

McElhiney commented that she is supportive of reviewing the operation after one year to determine whether or not it is appropriate for the site. Voelliger concurred. He asked Connors if the temporary site would remain in existence until the permanent site, if approved, is operational. Connors stated that such a determination would be made by the applicant. Todd Friemel, co-applicant, explained that a certain length of time would be required to install sewer, water, streets, etc.

McElhiney asked if the applicants would proceed with the permanent improvements prior to Board approval after the one year review period. Friemel stated that it is their intention to request final approval of the permanent site improvements prior to the end of the one year review period in order to make the best use of their time. Mahler added that the temporary site would be removed once the weather prohibited its use, indicating that at that time they would approach the city for final approval. He explained that once final approval from the Board is received, the permanent plant should be operational by spring. He stated that at that time the site development plan would be submitted for approval.

Voelliger asked Connors if there is adequate access to the site from US 67. Connors confirmed this.

Friemel stated that the entire site would be developed, not only the lot on which the proposed use would be located.

Voelliger asked for clarification regarding the size of the site. Friemel explained that the entire site is approximately 10 acres. He added that the proposed building would be approximately 125 feet from the centerline of US 67; he indicated that the permanent building would be located approximately 300 feet from the centerline.

Voelliger asked if the materials used would be stored outside. Friemel confirmed this.

McElhiney commented that she believes that the use is appropriate for the site, adding that she is aware that the residents in the area may have concerns. Stelk reiterated that the Board would have the opportunity after one year to determine whether or not a permanent use would be appropriate.

On motion by Voelliger, seconded by McElhiney, that the request for a special use permit to allow a concrete mixing facility be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #5 to these minutes.

- c. Case 09-008; 3210 State Street (C-3) – An appeal of the zoning administrator's decision to prohibit a log splitting operation, submitted by Angela Solis.

Stelk 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 #6 to these minutes. He indicated that he had received a letter in opposition to the request from Harlan and Pat Sundholm, 4250 Middle Road.

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

Jaime Solis, the applicant, indicated that the Planning and Zoning Commission had not necessarily objected to the use when considering his rezoning request, merely the possibility that another more objectionable use might be located on the property in the future.

Solis presented a video demonstrating the noise level generated by the proposed use in relation to the traffic noise that already exists.

Solis stated that if the log splitter is allowed to be operated, he could lower his prices because there would be no transportation costs included.

Voelliger expressed sympathy for the applicant, but indicated that he would be unable to support the request because of the effect the operation would have on the residents in the area. McElhiney concurred, adding that she does not believe that the site is appropriate for the proposed use.

On motion by McElhiney, seconded by Voelliger, that the request for an appeal of the zoning administrator's decision to prohibit a log splitting operation be denied in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #7 to these minutes.

- d. Case 09-009; Part of Lot 1, Crowne Pointe Eighth Addition (C-2) – A request for a special use permit to allow a car wash, submitted by Specialty Auto, Inc.

Stelk 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 #8 to these minutes.

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

Dan Wolff, the applicant, stated that he has worked closely with his engineer to ensure that traffic flows well. He indicated that there would be three automatic bays and four self-service bays. Wolff explained that there is a more than adequate amount of stacking space, adding that typically motorists will not wait if more than a few cars are in line. He indicated that he cannot anticipate a time when traffic will ever be forced to back out onto Devils Glen Road. Wolff stated that his buildings are constructed of maintenance-free materials to ensure that they will look the same in ten years as when they are built. He explained that he plans to install landscaping in accordance with the city's requirements. He indicated that the perimeter parking lot lights will be turned out by 10:00 p.m., adding that the bay lights will remain on. He stated that there will be no curb cut on Devils Glen Road.

Voelliger asked if the car wash would be open 7 days per week. Wolff confirmed this, adding that the car wash would be open 24 hours per day. He indicated that most of the business will take place between 8:00 a.m. and 7:00 p.m.

Stelk asked if there would be an attendant on duty. Wolff explained that weather-permitting, an attendant would be on site. He indicated that the car wash is capable of running unattended and that the dryers are located inside the bays.

McElhiney stated that the issue before the Board is whether or not the use is allowable, adding that she believes that it is.

On motion by McElhiney, seconded by Voelliger, that the request for a special use permit to allow a car wash be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #9 to these minutes.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 5:55 p.m.

These minutes and annexes approved

\_\_\_\_\_

\_\_\_\_\_  
John Soenksen  
City Planner