

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
MAY 14, 2009
5:00 P.M.**

Chairman Pro Tem McElhiney called the meeting to order at 5:00 p.m.

Item 1. Roll Call

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

Item 2. Review of Board Procedures.

Item 3. The Board to review and approve the minutes of the meeting of April 16, 2009.

On motion by Voelliger, seconded by Howe, that the minutes of the meeting of April 16, 2009 be approved as corrected.

ALL AYES

Motion carried.

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

- a. Case 09-030; 340 – 10th Street (R-2) - A request for a variance to reduce the required rear yard setback from 25 feet to 13 feet to allow for a 12-foot by 16-foot deck, submitted by Gerry Proulx.

McElhiney 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.

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

Joe Camarena, the applicant's contractor, stated that there is an existing 8-foot by 10-foot deck which had been built by a previous owner who had not applied for a building permit. He indicated that the proposed deck would improve the value of the home. He commented that the existing garage is actually closer to the property line than the deck would be.

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

Voelliger commented that the two homes to the north of the applicant's have decks, adding that he believes it would be a nice addition to the property.

On motion by Eikenberry, seconded by Howe, that the request for a variance to allow reduce the required rear yard setback from 25 feet to 13 feet to allow for a 12-foot by 16-foot deck be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

- b. Case 09-031; 5252 Schoolhouse Road (R-1) - A request for a variance to allow a 6-foot high fence in the required front yard, submitted by Nathan Durick.

McElhiney 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.

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

Nathan Durick, the applicant, stated that the proposed fence would merely be a continuation of an existing, adjacent fence and would add to the safety and aesthetics of the neighborhood.

Don Vandewoestyne, 5245 Schoolhouse Road, stated that the proposed fence design and location has been approved by the developer of the subdivision and would be the same as the one that encompasses two lots located on Blackhawk Trail Court.

Howe asked if there are current plans for the extension of 53rd Avenue near the applicant's home. Soenksen explained that there is no funding for the extension project for at least 5 years, adding that it will likely never extend to Valley Drive.

Howe expressed support for the request.

McElhiney asked if there would be a recreational trail or sidewalk in the area. Soenksen explained that the 10-foot wide recreational trail along 53rd Avenue between Middle Road and Devils Glen is located along the roadway right-of-way, adding that the proposed fence will be installed 18 feet from that point. He indicated that there are no plans for a recreational trail in the area, reiterating that the proposed fence would not interfere with it.

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

On motion by Howe, seconded by Voelliger, that the request for a variance to allow a 6-foot high fence in the required front yard be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #6 to these minutes.

- c. Case 09-032; 2420 – 18th Street (C-1) – A request for a variance to allow an on-premises identification sign 9 feet from the front property line, submitted by Cities Insurance Group.

McElhiney 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. Soenksen stated that he had received a letter in opposition to the request from Tim Downing, 2415 – 18th Street.

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

John Clark, the applicant, stated that the proposed sign would allow the use of .jpg files on the sign and could be programmed to turn off at certain hours of the day. He indicated that the sign's brightness could also be controlled. Clark explained that because he must hire a programmer to change those types of things on the current sign, it is cost-prohibitive.

Howe asked what the applicant's intent is with regard to brightness and hours that the sign would be on. Clark explained that after he had received complaints regarding the brightness of the sign, it had been reduced by the programmer by 50 percent. He reiterated that he would have the ability to automatically turn the sign off between the hours of 10:00 p.m. and 7:00 a.m.

McElhiney asked if the sign would be larger in area. Clark confirmed this, adding that the proposed sign will be code-compliant with regard to size.

Howe asked if it would be appropriate to set some sort of standard for operator hours of this type of sign or to decide on a case by case basis. Soenksen stated that staff had not supported the inclusion of electronic signs in the ordinance. He explained that when the ordinance was changed to allow this type of sign, City Council decided against regulation of animation, colors, flashing, etc. with regard to LED signs. He added that

because the applicant is requesting a variance for the placement of the sign, it would be appropriate for the Board to impose additional conditions on approval. Connors commented that school and church bulletin signs which are allowed in residential districts are required to be dark from 10:00 p.m. to 7:00 a.m.

Eikenberry asked if the decision with regard to hours of operation and brightness should be left to city staff to negotiate. McElhiney commented that she does not believe that the ordinance adequately addresses new technology with regard to signage, adding that she feels that lumen output should be controlled in some manner. She added that while she realizes that is not in the Board's purview, perhaps this type of issue should be considered by the City Council.

Connors stated that when the LED sign ordinance was approved, staff had been reluctant to allow the signage with so few restrictions. He commented that the reality of the signs has been very educational to the City Council, adding that this would be a good opportunity to consider an ordinance adjustment. Voelliger commented that if several of this type of sign were to be installed along a corridor, it could be very distracting to motorists.

McElhiney stated that she believes that issues such as timing need to be considered. She added that she believes that the proposed sign is similar to a rapidly-changing billboard. Soenksen stated that the ordinance specifically prohibits this type of sign to be a billboard, adding that the court has upheld the city's ordinance.

Connors stated that in his opinion, it is not in the Board's purview to regulate these issues. He added that if the variance is not approved, the owner would be forced to move the proposed sign closer to the residential area. He stated that there is no regulation in the current ordinance restricting the hours of operation for this type of sign. Connors explained that the applicant's request is an opportunity for the Board to require the applicant to turn the sign off at 10:00 p.m. and have it located further from the residential neighbors.

Connors stated that the Decision and Order must be specific with regard to hours of operation. Soenksen commented that unless the time limit is specified, it would not be enforceable.

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

On motion by Eikenberry, seconded by Voelliger, that the request for a variance to allow an on-premises identification sign 9 feet from the front property line be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #8 to these minutes.

- d. Case 09-033; 2757 Cody Street (R-2) – A request for a variance to reduce the required combined side yard setback from 15 feet to 10 feet to allow for construction of a garage, submitted by Vincent and Margaret Barrett.

McElhiney 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 #9 to these minutes.

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

Vince Barrett, the applicant, explained that he would like to build a 3-car garage in the same location as the existing 2-car garage which would enable him to park his cars off-street. He stated that the proposed garage would be no closer to the structure on the west than it is now and that there are no structures on the lot to the east.

Howe asked why a 15-foot combined side yard setback is required. Soenksen explained that in order to preserve as much open space as possible, a 15-foot minimum combined side yard was established for the R-2 district. Howe commented that he believes that the proposed garage is in character with the neighborhood. Voelliger concurred.

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

On motion by Howe, seconded by Voelliger, that the request for a variance to reduce the required combined side yard setback from 15 feet to 10 feet to allow for construction of a garage be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #10 to these minutes.

- e. Case 09-034; 2828 – 18th Street (C-1) – A request for an appeal of the Zoning Administrator's decision to prohibit an internet café in a C-1 zoning district, submitted by Giovonnte Tate. **(Withdrawn)**
- f. Case 09-038; 940 Holmes Street (R-2) – A request for a variance to allow a 6-foot high fence in the required front yard, submitted by Chris and Dawn Baldus.

McElhiney 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 #11 to these minutes.

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

Jan Shetler, 1004 Holmes Street, expressed support for the request.

Erin Bauswell, 932 Holmes Street, asked for clarification regarding the location of the proposed fence and who would be responsible for maintenance. Soenksen explained that the proposed fence would be located on the opposite side of the house from Bauswell. She asked if the fence would be enclosed. Eikenberry stated that it is his impression that the fence is more for screening than anything else. McElhiney commented that only the portion of the fence that is not allowed by ordinance had been included in the variance request, adding that a permit would be required. Howe explained that the owner of the fence is responsible for maintenance.

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

On motion by Howe, seconded by Voelliger, that the request for a variance to allow a 6-foot high fence in the required front yard be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #12 to these minutes.

- g. Case 09-039; 1818 Grant Street (C-2) – A request for a variance to allow an on-premises identification sign within 11 feet of the front property line and for a variance to the Downtown/Riverfront Corridor Overlay District (DRCOD) regulations to allow 30 square feet of the sign to be an LED message center, submitted by K & K Hardware/Casey Keller.

McElhiney 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 #13 to these minutes.

Howe asked for clarification regarding the difference in height between the existing and proposed signs. Soenksen stated that the heights are very similar.

Howe asked if sign height is regulated by the DRCOD. Soenksen stated that this is not the case, adding that the underlying district zoning regulations must be adhered to. He explained that a 60 square foot, 20-foot tall sign would be allowed 15 feet from the property line. He added that a 300 square foot sign could be placed at the building setback line of 20 feet at a 30-foot height. Soenksen reiterated that staff would prefer

that the sign not be placed at the building setback line as it would place it in the travel portion of the parking lot.

McElhiney stated that while she believes the proposed sign is more aesthetically-pleasing than a pole sign, it would decrease visibility along the road. Soenksen explained that the proposed sign is of a monument type as the DRCOD does not allow pole signs. McElhiney commented that the sign is very tall for a monument sign.

Eikenberry stated that the signs at River's Edge are of a similar height as the proposed sign.

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

Don Keller, the applicant, reiterated that a monument style sign was chosen at the suggestion of city staff. He indicated that the proposed height is necessary for the sign to be visible at truck height. Keller stated that he would be willing to turn the sign off between 10:00 p.m. and 7:00 a.m.

Howe commented that the proposed sign seems obtrusive and not in character with the intent for the downtown. He asked why the applicant wishes to invest the additional cost for such a tall sign when almost everyone already knows where his business is located. Keller stated that the height is necessary so that the message center is visible.

Voelliger asked if the sign would be visible from both sides. Keller confirmed that the sign would be double-sided.

Voelliger asked if there would be some sort of ground-level protection to prevent the sign from being hit. Keller explained that there are plans to install some type of poles for this purpose, adding that he does not believe that a monument style sign is as likely to be hit.

Howe commented that it might be a good idea to get in the habit of restricting sign operation from 10:00 p.m. to 7:00 a.m.

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

On motion by Eikenberry, seconded by Voelliger, that the request for a variance to allow an on-premises identification sign within 11 feet of the front property line and for a variance to the Downtown/Riverfront Corridor Overlay District regulations to allow 30 square feet of the sign to be an LED message center be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #14 to these minutes.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 5:05 p.m.

These minutes and annexes approved

John Soenksen
City Planner