

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
OCTOBER 8, 2009
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, Soenksen

Item 2. Review of Board Procedures.

Item 3. The Board to review and approve the minutes of the meeting of September 10, 2009.

On motion by Voelliger, seconded by Howe, that the minutes of the meeting of September 10, 2009 be approved as submitted.

ALL AYES

Motion carried.

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

- a. Case 09-068; Lot 2, Shoppes at Duck Creek First Addition (C-2) - A request for approval of a special use permit for an additional drive-up window, submitted by McDonald Properties East, L.L.C. (Deferred to meeting of November 12, 2009)

- b. Case 09-070; 4505 Utica Ridge Road (C-2) – A request for a variance to reduce the required setback for an on-premises identification sign from 15 feet to 5 feet, submitted by Kenneth G. Meier.

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. He indicated that he had received a letter in opposition to the request.

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

Ken Meier, the applicant, explained that the previous sign which was located in the northwest corner of the property had been blown down in a storm. He indicated that the sign was blocked by foliage on the property to the north and was not visible to traffic traveling south on Utica Ridge Road. He indicated that this caused confusion and traffic congestion, especially since the construction of the hospital. Meier added that the proposed location is the most logical because of the difference in grade between the building and the road.

Howe asked how many trees would have to be removed in order to install a new sign. Meier explained that if the variance request is denied, three trees would be removed. He added that if the request is approved, only one tree would be taken out.

Howe asked if the applicant would be averse to placing the new sign in the previous location and removing the three cherry trees. Meier stated that he would prefer not to, adding that he is not in favor of increasing the sign height to gain the required visibility.

Voelliger asked if the vision triangle would be affected. Soenksen stated that it would not be affected.

Howe asked how far off the sidewalk the sign identifying the business to the north is located. Soenksen stated that it is 11 feet from the sidewalk.

Howe stated that the cherry trees on the applicant's site are not very healthy, adding that he would prefer to see them replaced elsewhere on the property and the new sign located in a similar position as the sign at ReMax. He indicated that he would prefer that the applicant place the new sign in the same location as the old sign and replace the cherry trees.

McElhiney commented that visibility is important to a business, adding that she believes that the closer the new sign is to the entrance the better it would be. She indicated that she does not believe that the existence of a tree is enough to establish a hardship as they are not permanent. McElhiney stated that issues such as traffic and visibility should be considered.

Tim Miller submitted a rendering of how the new sign would look if it were allowed to be placed 5 feet from the sidewalk and the cherry trees were removed.

Howe stated that he believes that there must be a balance between assisting a business with its identification needs and respecting the intent of the ordinance. McElhiney reiterated that she does not believe that the presence of trees on a site should be considered as it may send the message that a variance would be granted if those trees are removed.

Howe stated that the sign should be located as close to the entrance on Utica Ridge Road as possible. He indicated that he believes that a lesser variance could be granted allowing the sign to be placed in a similar location as the ReMax sign and the applicant could make the decision about whether the cherry trees are removed. McElhiney concurred.

Meier stated that because of the radius of Utica Ridge Road, his building is not visible to motorists until they have passed the property to the north. He added that the ReMax building has substantial landscaping that further blocks that visibility. Howe commented that many businesses are in that same situation.

Meier stated that not all businesses have customers who are elderly and have limited sight ability. He indicated that he is concerned with the safety of those customers.

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

Motion by Voelliger that the request for a variance to reduce the required setback for an on-premises identification sign from 15 feet to 5 feet failed for lack of a second.

On motion by Howe, seconded by McElhiney, that a variance to reduce the required setback for an on-premises identification sign from 15 feet to 11 feet be approved in accordance with the Decision and Order.

ROLL CALL ON MOTION

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

Motion carried.

Decision and order is Annex #4 to these minutes.

- c. Case 09-071; 2104 State Street (C-3) – A request for a variance to allow an exposed lighting source (LED programmable) sign in the Downtown Riverfront Corridor Overlay District (DRCOD), submitted by Trish Norris.

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 #5 to these minutes.

McElhiney asked if the sign would be mounted flat against the building. Soenksen confirmed this.

Howe asked what would eventually be located on the property directly to the west of the applicant's. Soenksen explained that it will be a park-like area and is part of the first phase of the downtown streetscape project.

Howe asked if any discussions had been held at the staff level with regard to the impact the proposed sign would have on that park-like area, especially at night and in the winter months. Connors stated that he has no concerns in that regard, adding the applicant would be allowed to place up to a 300 square foot sign on the side of the building with no variance required. Connors stated that staff plans to review the design standards for the DRCOD, adding that it is likely that LED signs will eventually be allowed.

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

Trish Norris, the applicant, stated that with all of the construction going on in downtown Bettendorf and the state of the economy, the proposed sign would greatly help to identify her business and special events taking place.

Howe asked if the applicant plans to utilize the sign 24 hours per day. Norris confirmed this.

Voelliger asked if restrictions could be placed on hours of operation as were imposed on an LED sign on 18th Street. Soenksen explained that those conditions were required for the business on 18th Street because of the proximity to a residential area. He added that the proposed sign is located in a commercial district.

McElhiney asked if there are any restrictions on hours of operations for this type of sign. Soenksen explained that unless the sign is located in a residential area, it is allowed to be operational 24 hours per day.

Howe stated that while he is not necessarily opposed to the current request because of the nature of the location, he believes that the Board should be aware of the issue of hours of operation during deliberations for future requests.

Voelliger expressed concern about the intensity of the light that will be produced by the sign which may distract drivers. McElhiney concurred, adding that she believes that a discussion must be held with regard to lumen output from electronic signage. Soenksen explained that at the time of the passage of the LED sign ordinance, staff had recommended restrictions on operation but that the City Council had decided to allow the signage with no conditions.

McElhiney stated that there are signs in the city which are actually so bright at night that they hurt her eyes and pose a traffic hazard. Voelliger concurred, adding that he has heard complaints regarding the LED sign on 18th Street being so bright it is actually blinding. He asked if any ordinance the city may pass regulating the brightness of signs would affect existing signs. Connors explained that he does not believe that an ordinance could be retroactive.

McElhiney stated that she believes that the brightness of a sign is a factor that the Board should consider when granting variances in the future. Stelk concurred, adding that he does not believe that the Board is prepared to address the issue with regard to the current case. Voelliger stated that the issue should be resolved by the City Council. McElhiney suggested that the city have an expert meet with city officials and board members to educate them with regard to lumen output, intensity, and visibility. Soenksen stated that the LED sign ordinance would have to be amended as the City Council determined at the time of the original passage that they did not wish to impose restrictions on electronic signs as staff had suggested. McElhiney reiterated that the Board should be educated with regard to the attributes of this type of sign in order to make better decisions.

Howe commented that because the proposed sign is in compliance with the City Council's intent, he would be supportive of the requested variance.

Voelliger asked if any restrictions could be placed on the sign with regard to hours of operation or brightness. Connors confirmed this.

Norris commented that the proposed sign is very small and indicated that her business is located in a commercial 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 Howe, seconded by McElhiney, that a variance to allow an exposed lighting source (LED programmable) sign in the Downtown Riverfront Corridor Overlay District (DRCOD) be approved in accordance with the Decision and Order.

Voelliger commented that he does not believe that the Board could deny approval of the variance, adding that he is concerned about the brightness of this type of sign.

ROLL CALL ON MOTION

ALL AYES

Motion carried.

Decision and Order is Annex #6 to these minutes.

- d. Case 09-072; 3260 Halcyon Drive (R-1) – A request for a variance to reduce the required rear yard setback from 40 feet to 25 feet to allow for construction of a deck and 4-season room, submitted by Sampson Construction.

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 stated she had received two letters of

objection to the request from Jeff Middleton of 1925 Hollowview Drive and Rachelle Wallace of 1976 Greenfield Court.

Soenksen reviewed the staff report. Staff report is Annex #7 to these minutes.

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

Joe Sampson, the applicant, stated that the original deck was mistakenly permitted in 1994, adding that the proposed deck would be no larger. He indicated that the grade of the property aggressively slopes upward from the rear of the home. He explained that the lower portion of the proposed deck would be more like a patio as it would be below grade. Sampson stated that he had discussed the issue with the homeowners who had objected to the request, adding that he had assured them that there would be no excavation of the hillside or retaining wall. He indicated that the construction would create no additional storm water runoff.

McElhiney asked for clarification regarding the location of the 4-season room. Sampson explained that it would be located where the upper portion of the current deck is.

McElhiney asked if the footprint of the proposed construction would be any larger than it is currently. Sampson stated that because of the existence of the hillside and the fact that it cannot be disturbed, the footprint will be the same size as the current one.

Tom Mappin, the homeowner, stated that he wishes to enlarge the living space of his home as he and his wife plan to remain in the house long-term. He explained that nothing has grown underneath the lower portion of the deck for 15 years, adding that if it were removed it could create problems with the retaining wall.

Jim Crowder, 1978 Greenfield Court, stated that he had been under the impression that the hillside was going to be cut away to accommodate the

proposed construction. He indicated that he is not opposed to the request if this is not the case.

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 Voelliger, that a variance to reduce the required rear yard setback from 40 feet to 25 feet to allow for construction of a deck and 4-season room be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #8 to these minutes.

- e. Case 09-073; SE corner of 53rd Avenue and Devils Glen Road (R-4) – A request for a variance to allow two on-premises identification signs in an R-4 Multi-family Residence District, submitted by Continental 203 Fund, LLC.

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 #9 to these minutes.

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

Ian Martin, representative of the applicant, explained that the site is approximately 30 acres in size. He indicated that a large portion of the western edge of the property will remain as greenspace because it is located in the flood plain. He stated that there are older, mature trees along Crow Creek. Martin

explained that because of these topographical features, the entrance to the development will be approximately 1100 feet from the intersection of Devils Glen Road and 53rd Avenue. He indicated that the proposed entrance sign is intended to attract potential renters from Middle Road as they travel west along 53rd Avenue. Martin stated that the apartment buildings will be located a substantial distance from 53rd Avenue, adding that the proposed entrance sign will help identify the development. He indicated the intersection sign would not affect the vision triangle, adding that the entrance sign will be placed outside of the required setback along 53rd Avenue.

Howe asked how many entrances would be located along 53rd Avenue. Martin explained that there would be one main gated entrance on 53rd Avenue in addition to a second, smaller access that will mostly be used for emergency vehicle access. Howe asked if the applicant would ever ask for an additional identification sign for the second entrance. Martin stated that this would never be the case.

McElhiney asked if the apartment units would be multi-level. Martin explained that the buildings appear to be town homes as they are multi-stored, but that the individual units would be one level. He indicated that there would be no exterior stairwells or spaces between units.

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 McElhiney, that a variance to allow two on-premises identification signs in an R-4 Multi-family Residence District be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #10 to these minutes.

- f. Case 09-074; 2820 Villa Court (C-5) – A request for a variance to reduce the required rear yard setback from 20 feet to 14 feet to allow for a 14-foot by 16-foot deck, submitted by Teresa Stori. (Deferred to meeting of November 12, 2009)
- g. Case 09-075; 2834 Villa Court (C-5) – A request for a variance to reduce the required rear yard setback from 20 feet to 12 feet to allow for a 16-foot by 16-foot deck, submitted by Tarikere Kumar. (Deferred to meeting of November 12, 2009)
- h. Case 09-076; 930 – 14th Street (R-5) – A request for a variance to reduce the required front yard setback from 25 feet to 15 feet to allow for construction of a 22-foot by 32-foot pavilion, submitted by Keith and Vicki Hall.

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 #11 to these minutes.

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

Keith Hall, the applicant, stated that the proposed structure would match the aesthetics of his home. He indicated that the property is approximately 3.5 acres in size and has been improved with extensive landscaping. He explained that the existing canopy is in poor repair, adding that he would like to replace it with a more permanent structure that will improve the property.

Howe expressed support for the request. He asked if the applicant has any future plans to enclose the canopy. Hall stated that he would not be enclosing the pavilion at any time in the future as it would detract from the aesthetics of the property.

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 a variance to reduce the required front yard setback from 25 feet to 15 feet to allow for construction of a 22-foot by 32-foot pavilion be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #12 to these minutes.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 6:15 p.m.

These minutes and annexes approved

John Soenksen
City Planner