

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
JUNE 10, 2010
5:00 P.M.**

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

1. Roll Call: Falk _____, Howe _____, McElhiney _____, Stelk _____, Voelliger _____
2. Review of Board Procedures.
3. The Board to review and approve the minutes of the meeting of May 13, 2010.
4. The Board to hold a public hearing on the following items:
 - a. Case 10-023; 1410 Prairie Vista Drive (R-1) - A request for a variance to allow a 4-foot high fence in a required front yard setback, submitted by Thomas and Heidi Kellenberger.

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
MAY 13, 2010
5:00 P.M.**

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

Item 1. Roll Call

PRESENT: Falk, Howe, McElhiney, Stelk, Voelliger
ABSENT: None
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 8, 2010.

On motion by Voelliger, seconded by Howe, that the minutes of the meeting of April 8, 2010 be approved as submitted.

ALL AYES

Motion carried.

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

- a. Case 10-011; 4024 Spartina Court (R-3) - A request for a variance to allow a 4-foot high fence in a required front yard, submitted by Gary Williams.

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 support of the request from Don and Teresa Reed of 4053 Spartina Court after Board packets had been mailed.

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

Gary Williams, the applicant, stated that there is a lot of foot traffic in his neighborhood generated by Pleasant Valley High School. He indicated that a 3-foot high fence could be stepped over and that he has a young child and two valuable English bulldogs. He

stated that he has often been the target of theft. He stated that because of his misunderstanding, the posts have already been installed for a 4-foot high fence.

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 Falk, that the variance to allow a 4-foot high fence in a required front yard be approved in accordance with the Decision and Order.

Howe commented that it is unfortunate that this situation occurred as the two adjacent property owners have already installed similar fences according to code requirements. He stated that he believes this situation will create a negative precedent, but is supportive of the request because of the applicant's misunderstanding.

ROLL CALL ON MOTION

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

- d. Case 10-014; SW corner of 53rd Avenue and 18th Street (C-2) - A request for a special use permit to allow a drive-in banking facility, submitted by Ascentra Credit Union.

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.

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

McElhiney asked if there would be any access from the west when traveling on 53rd Avenue. Soenksen explained that the access on 53rd Avenue would be right-in/right-out only.

On motion by Howe, seconded by McElhiney, that a special use permit to allow a drive-in banking facility be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #6 to these minutes.

- g. Case 10-018: 4265 Moencks Road (R-12) - A request for a variance to allow a sanitary septic system within the R-1 Single-family Residence District, submitted by WWW Development, 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 #7 to these minutes.

Howe asked for clarification of the purpose of an outlot. Soenksen explained that while outlots may be used for many different purposes such as easement areas or public parks, typically they are use as sites for storm water detention areas. He stated that the plat does not indicate a specific purpose for the outlots, but indicated that they are not buildable. Soenksen stated that it is likely that the outlots would be conveyed to the adjacent property owners in the future.

Howe asked why there are three separate outlots rather than one if there is no specific intent for them. Connors explained that the original plat had been completed several years ago, adding that if the variance is granted the configuration would change as a result of a proposed replat.

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

Tim Wilkinson, 5692 Lewis Court, explained that after the platting process is complete, the three outlots will be attached to the residences on Lewis Court and would be an extension of the rear yard. He indicated that he would own Outlot A and B and that his partner will own Outlot C. He explained that formerly there was an Outlot D, but that it had already been conveyed to an adjacent property owner.

Falk asked if deed restrictions would be enforced to prohibit construction on the outlots. Wilkinson stated that the lots are not buildable as there will be no access to them after the first home is built. Falk asked if there is a possibility for a flag lot. Wilkinson stated that the purpose for purchasing the lot is to prevent development.

Voelliger asked how close the nearest available sewer connection is located and how sewage is disposed of on nearby lots. Connors explained that the sewer in Old Ivy Court is 300 feet away and that the sewer in Moencks Road is 800 feet away. He added that the sewer in Lewis Court is closer, but indicated that there is not enough depth to serve the lots, nor is there an access easement.

Voelliger asked if there are other homes in the area that are served by septic systems. Connors stated that two lots north of the applicant's property use septic systems.

McElhiney asked what type of disposal system the homes on Old Ivy Court use. Connors explained that they are served by sanitary sewer. He indicated that when the property to the west is developed, the city will likely extend the interceptor sewer from the north.

Voelliger asked if those other property owners would be required to connect to sanitary sewer when it becomes available. Connors indicated that the city allows Scott County Health Department to make that determination. He indicated that typically a connection is required when a sanitary sewer system becomes available.

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 a sanitary septic system within the R-1 Single-family Residence District be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #8 to these minutes.

- b. Case 10-012; 1870 Hartford Court (R-1) - A request for a variance to allow a 4-foot encroachment into the established front yard and to increase the allowable garage area from 886 square feet to 1,108 square feet, submitted by Chris Baltzer.

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.

Chris Baltzer, the applicant, explained that currently he uses approximately half of the garage as a work area, adding that the proposed addition would allow him to increase that workspace. He indicated that because of the curvature of the road, the vehicles parked on the driveway can cause a visual obstruction. Baltzer stated that the additional driveway width would allow him to park those vehicles closer to the house, thereby reducing that obstruction. He added that the proposed garage addition would provide additional security.

McElhiney asked if the driveway would extend to the street or if there would be a driveway apron. Baltzer explained that he is allowed to have a 30-foot wide curb cut, adding that he intends to add an 8-10 foot wide driveway apron.

Howe commented that he has no concerns about the 4-foot encroachment, adding that he does not believe that the proposed garage expansion will negatively affect the neighborhood given the size of the house.

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 allow a 4-foot encroachment into the established front yard and to increase the allowable garage area from 886 square feet to 1,108 square feet be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #10 to these minutes.

- c. Case 10-013; 2532 Roberts Street (R-2) - A request for a variance to reduce the required building separation from 8 feet to 6 feet, submitted by Carey and Richard Jorgensen.

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.

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

Falk commended the applicants on the work that has already been accomplished on the home. He indicated that he believes that the proposed garage addition will improve the safety of the property.

On motion by Falk, seconded by McElhiney, that a variance to reduce the required building separation from 8 feet to 6 feet be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #12 to these minutes.

- e. Case 10-016; 6627 Spring Creek Drive (R-2) - A request for a variance to increase the allowable square footage for a garage from 720 square feet to 991 square feet, submitted by Richard and Lisa Harris.

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 #13 to these minutes.

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

On motion by Voelliger, seconded by Falk, that a variance to increase the allowable square footage for a garage from 720 square feet to 991 square feet be approved in accordance with the Decision and Order.

McElhiney asked if the other homes in the subdivision would have 2- or 3-car garages. Ryan Windmiller, developer of the subdivision, explained that all of the homes that have been constructed so far have 3-car garages.

McElhiney asked if the developer anticipates that other property owners will make similar requests. Windmiller stated that this is not likely as it is a unique situation as no setback variance is required.

Howe commented that typically this type of request involves a variance related to setbacks. He indicated that this request is related only to square footage, adding that it is becoming more common for homeowners to use a portion of their garage as a workspace. Howe stated that he does not believe that the proposed increase in garage square footage will detract from the neighborhood.

ROLL CALL ON MOTION

ALL AYES

Motion carried.

Decision and Order is Annex #14 to these minutes.

- f. Case 10-017; 2119 Kimberly Road (CR-2) - A request for a variance to increase the allowable height for an on-premises identification sign from 30 feet to 60 feet, submitted by A-1 Signs.

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 #15 to these minutes.

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

Kareem Odukale, campus president of Brown Mackie College, stated that the proposed location was chosen because of its visibility. He indicated that the sign contractor had taken photographs demonstrating potential sign visibility at different heights. He stated that if the proposed identification sign were placed at a 30- to 40-foot height, it would not be visible because of the existing landscaping. Odukale explained that placing the sign 50 feet high would be better, but that a 60-foot height is optimal. He stated that Brown Mackie College plans to offer programs that will attract students from the surrounding area and that aren't currently available locally. He indicated that 87% of the students attending the Moline location are from Illinois. Odukale explained that he anticipates that there will be a large draw from Illinois, adding that the sign will aid those students in locating the campus.

Voelliger asked if there would also be a sign on Kimberly Road. Odukale stated that he anticipates that this will be the case. Soenksen added that the applicant is allowed 300 square feet of signage per street frontage.

Falk asked how the relative sign height compares to other interstate signs in the area. Connors explained that the proposed sign is at a much lower grade than other buildings in the area. Soenksen stated that the majority of the signs in the area are between 60 and 90 feet. Falk commented that because of the topography of the lot, it will appear to be much shorter than the other interstate signs. McElhiney concurred. Connors commented that if the proposed sign were placed at the required setback at a height of 30 feet, it would not even be as high the grade of the interstate.

Howe stated that it appears as though a 60-foot height would be necessary for visibility. He added that he is concerned about the possibility of setting a precedent as he does not classify this business as interstate commerce.

Voelliger commented that he believes that the variance is justified because of the topography of the lot.

There being no one 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 increase the allowable height for an on-premises identification sign from 30 feet to 60 feet be approved in accordance with the Decision and Order.

McElhiney commented that it is not necessarily clear whether or not this type of business could be classified as interstate commerce, but because of the ambiguity she is willing to support the request.

ROLL CALL ON MOTION

AYE: Falk, McElhiney, Stelk, Voelliger
NAY: Howe

Motion carried.

Decision and Order is Annex #16 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



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

June 10, 2010

Staff Report

Case No. 10-023

Location: 1410 Prairie Vista Drive

Applicant: Thomas and Heidi Kellenberger

Zoning Designation: R-1, Single-family Residence District

Request: Variance to allow a 4-foot high fence in a required front yard setback.

Background Information and Facts

The site is located at the intersection of Amesbury Drive and Prairie Vista Drive and just west of Paul Norton Elementary School (see Attachment A – Location Map). The applicants would like to enclose the north, west, and south sides of the property with a 4-foot fence (see Attachment B – Plot Plan).

Staff Analysis

The proposed fence would be allowed by Code on an interior lot. Because this lot is located on a corner, the north section of the property is considered a front yard. The Code only permits a 3-foot fence in front yard setbacks. Therefore, only the section of the fence north of the house footprint requires a variance. The remainder of the proposed fence is allowed by Code.

The applicant states that the corner lot issue, coupled with the shallow rear yard, drastically reduces the usable space if the fence is placed as required by Code. The westernmost portion of the home is within 14 feet of the rear property line. A 40-foot rear yard setback is required in the R-1, Single-family Residence District; therefore, this type of situation should be avoided in current and future developments.

The Code allows a 4-foot high fence to be placed 10 feet from the front property line (see Attachment C – Allowed Fence Illustration). A 3-foot high fence may be placed around the entire circumference of the lot. Placing a 4-foot fence 10 feet behind the front property line may appear aesthetically unpleasing; however, staff cannot identify this aesthetic feature as a hardship.

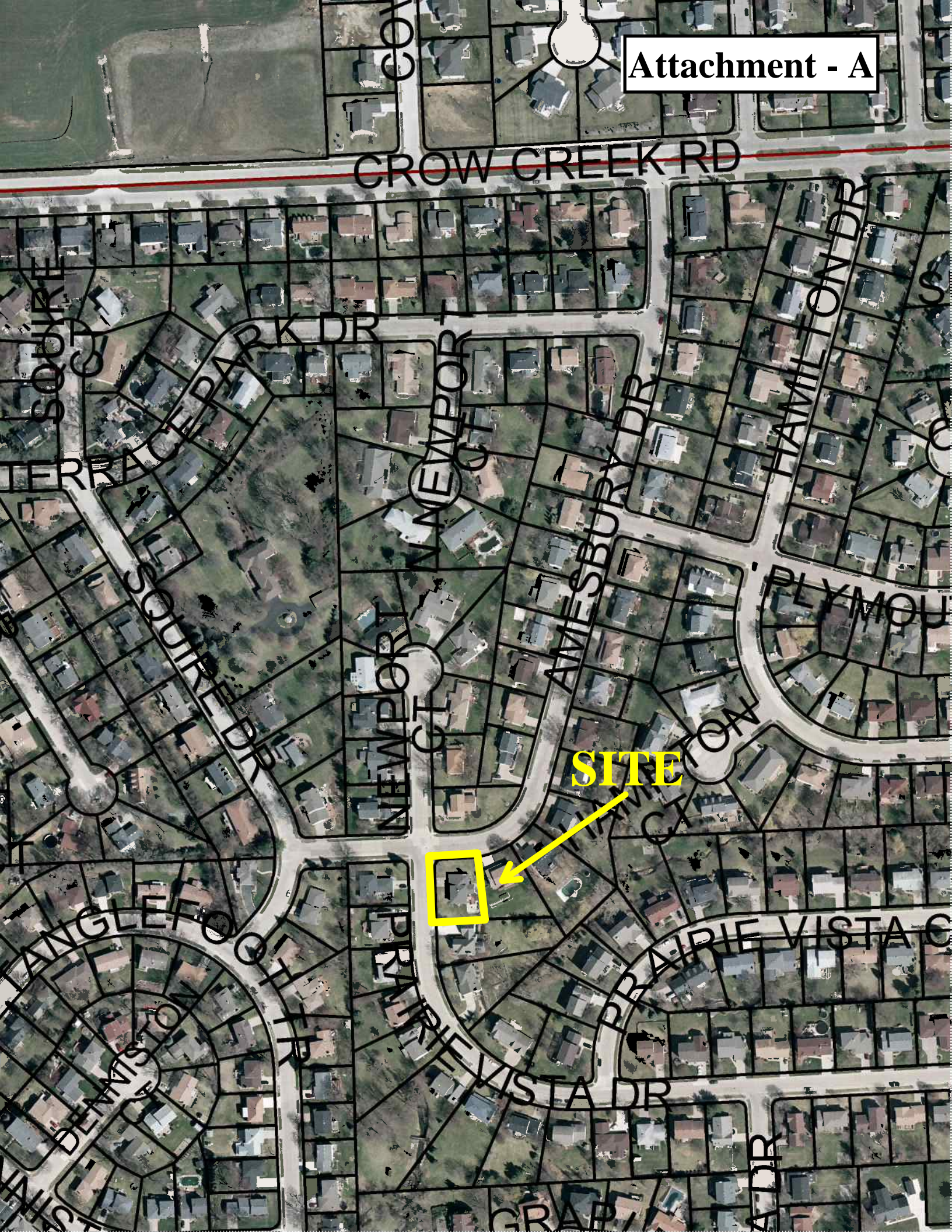
Staff Recommendation

Although the applicant may have identified unique features associated with this request, staff does not feel that they rise to the level of a hardship.

Respectfully submitted,

John Soenksen
City Planner

Attachment - A



CROW CREEK RD

SITE



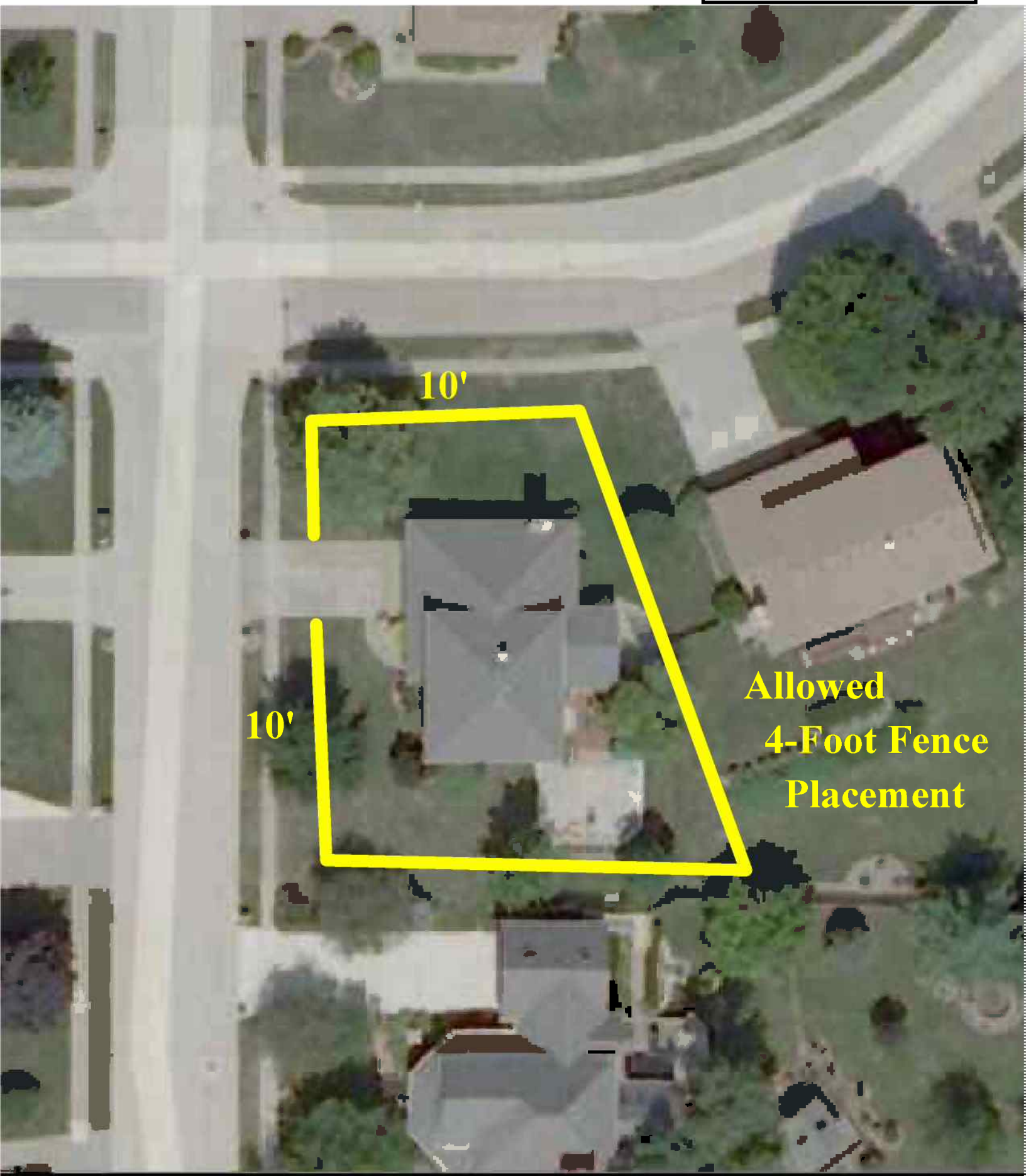
Attachment - B

Arreabur



4-foot fence

Prairie Vista L



10'

10'

**Allowed
4-Foot Fence
Placement**

Case No. 10-023

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

Part 1. Property Involved.

Street Address 1410 Prairie Vista Dr. Bettendorf, IA 52722
Legal Description of the property. Lot #53 Meadowview Estate

Part 2.

Applicant Name Thomas & Heidi Kellenberger Phone 563-359-1811
Address 1410 Prairie Vista Dr. FAX 563-386-3293

Owner Name Thomas & Heidi Kellenberger Phone 563-359-1811
Address 1410 Prairie Vista Dr. 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.)

