

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
AUGUST 12, 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 July 8, 2010.
4. The Board to hold a public hearing on the following items:
 - a. Case 10-037; 2317 Oak Lane (R-2) - A request for a variance to reduce the required front yard setback from 25 feet to 11 feet to allow for construction of a 24-foot x 24-foot garage, submitted by Cathy and Jeff Recker.

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
JULY 8, 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 June 10, 2010.

On motion by Voelliger, seconded by Howe, that the minutes of the meeting of June 10, 2010 be approved as submitted.

ALL AYES

Motion carried.

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

- a. Case 10-028; 3493 Adele Lane (R-1) - A request for a variance to allow a 6-foot high fence in a required front yard setback, submitted by Steve Saunders.

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.

McElhiney asked what type of fence the applicant has proposed. Steve Saunders, the applicant, explained that the fence would be a painted white panel, would have 8-inch by 8-inch posts, and would be finished on both sides. He indicated that it would run parallel to the ground.

Howe commented that the proposed variance request appears to be consistent with previously granted requests along major thoroughfares, adding that there is a large landscape buffer.

An unidentified neighbor asked how the fence would tie in with his existing 5-foot high fence. Saunders explained that only the post corners of the two fences would touch.

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 variance to allow a 6-foot high fence in a required front yard be approved in accordance with the Decision and Order.

Motion carried.

Decision and Order is Annex #3 to these minutes.

- b. Case 10-029; 4125 Squire Drive (R-2) - A request for a variance to allow a 4-foot high fence in a required front yard setback, submitted by Charles and Barb Puchta.

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.

Howe asked for clarification of the distance the proposed fence would be from the sidewalk. Soenksen explained that it would be approximately 15 feet from the sidewalk, adding that the area between the sidewalk and the applicant's property line is city right-of-way.

Voelliger asked if the fence would be completely on the applicant's property. Soenksen confirmed this.

Howe commented that he does not have any concerns with regard to the proposed variance because the proposed fence would not be adjacent to the sidewalk. Soenksen commented that the Board does not have the right to grant a variance to place a fence on property owned by someone other than the applicant.

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 Howe, 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.

Motion carried.

Decision and Order is Annex #5 to these minutes.

- c. Case 10-030; 5323 Julie Ann Court (R-1) - A request for a variance to allow a 6-foot high fence in a required front yard setback, submitted by Christopher and Barbara Wills.

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.

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 Howe, that the variance to allow a 6-foot high fence in a required front yard be approved in accordance with the Decision and Order.

Motion carried.

Decision and Order is Annex #7 to these minutes.

Connors asked for the Board's opinion with regard to a possible zoning ordinance amendment regarding fences in front yards and on through lots. He commented that most of the requests for variances are for 4-foot high fences.

Voelliger stated that he is not opposed to an ordinance amendment as long as the fences do not impede traffic or interfere with the vision triangle. Howe concurred, adding that he would not be supportive of allowing 4-foot high solid fences in front yards as they appear to close in a neighborhood and can be aesthetically detracting. He recommended that if 4-foot high fences are to be allowed in front yards, they should be required to be somewhat open.

McElhiney concurred. She expressed concern about allowing carte blanche with regard to fence materials. She stated that oftentimes wooden fences fall into disrepair, that chain link fences are unattractive, and that panel fences tend to wall off a neighborhood. She suggested possibly imposing conditions on what type of fence material is allowed. Howe concurred.

Howe expressed concern about the visual impact of panel fences on the city for motorists and pedestrians. Voelliger stated that he does not necessarily believe that 6-foot high solid fences should be allowed along the right-of-way as it could cause a vision obstruction.

Howe suggested that the ordinance be worded to recognize the fact that corner lots have two front yards and allow some latitude for them. He added that perhaps the second front yard could be considered to be a side yard and a taller fence could be allowed if it is placed behind the building line of the house and is not located on the sidewalk.

Falk stated that there are restrictive covenants in place for many of the newer subdivisions. He suggested that any changes be communicated in some way to subdivision developers.

Voelliger asked if restrictive covenants would override city ordinances. Connors explained that it is possible that the covenants are more restrictive than city code. He indicated that the city's standard rule is that whichever requirement is more restrictive governs.

Falk commented that typically architectural control does not revert to a homeowner's association until such time as a subdivision is fully developed. Howe stated that oftentimes a homeowner's association allows an exception that establishes a new precedent.

Soenksen stated that he would be presenting a proposed sign ordinance revision to the Planning and Zoning Commission meeting. He indicated that such items as brightness, motion, and size would be addressed.

McElhiney asked if there would be consideration of number of lumens allowed and new technologies that may be available in the future. Soenksen confirmed this, adding that the proposed ordinance is very generic.

Voelliger asked when the meeting would be held. Connors stated that it would be July 21.

Howe asked if the Board would have any role during the approval process. Soenksen explained that the ordinance would be presented first to the Planning and Zoning Commission and that final approval would come from the City Council. Howe requested that the proposed ordinance be e-mailed to the Board members for their review and possible comment.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 5:25 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

August 12, 2010

Staff Report

Case No. 10-037

Location: 2317 Oak Lane

Applicant: William Ewan

Zoning Designation: R-2, Single-Family Residence District

Request: Variance to reduce the required front yard setback from 25 feet to 11 feet to allow for construction of a 24-foot x 24-foot garage.

Background Information and Facts

The site is located at the east end of Oak Lane (see Attachment A – Location Map). The applicant is requesting permission to place a 24-foot by 24-foot garage in the front of the house (see Attachment B – Plot Plan). If allowed, the structure would be within 11 feet of the front property line.

Staff Analysis

If this request is approved, the project would involve converting the existing single car into living space. Only the new structure would be used in calculating the “garage to living area ratio”. The new structure would be 576 square feet and under the 720 square feet allowed by Code.

The applicant points out the fact that due to the tear-drop design of the cul-de-sac, his home is positioned the farthest south of all of the homes on the south side of Oak Lane (see Attachment C – Neighborhood Photo). Attachment C also illustrates that if allowed, the garage would still be set further south than the home adjacent to the west of this site. Therefore, the applicant feels that the request is in keeping with aesthetics of the neighborhood and would not infringe upon the visibility of the neighboring properties.

The configuration of the roadway right-of-way and the cul-de-sac design was cited in a previous case for the property west of property involved (2311 Oak Lane). In November 2007 a similar request was made for a room extension into the front yard. At that time, there was unused city right-of-way on Oak Lane which the owner cited as a hardship (see Attachment D – Previous Right-of-way Illustration). The Board denied that request and suggested that the owner contact the city to request acquisition of the additional right-of-way which would eliminate the need for a variance. The owners did follow the Board’s suggestion and acquired the right-of-way. The addition has since been built in accordance with code requirements.

In the present case, there is no additional right-of-way available for acquisition, and the only recourse is to seek a variance. The applicant’s home is currently set back 35 feet from the front property line. While the requested structure would protrude 24 feet in front of the house, only 14 feet of the structure would protrude into the “required” front yard.

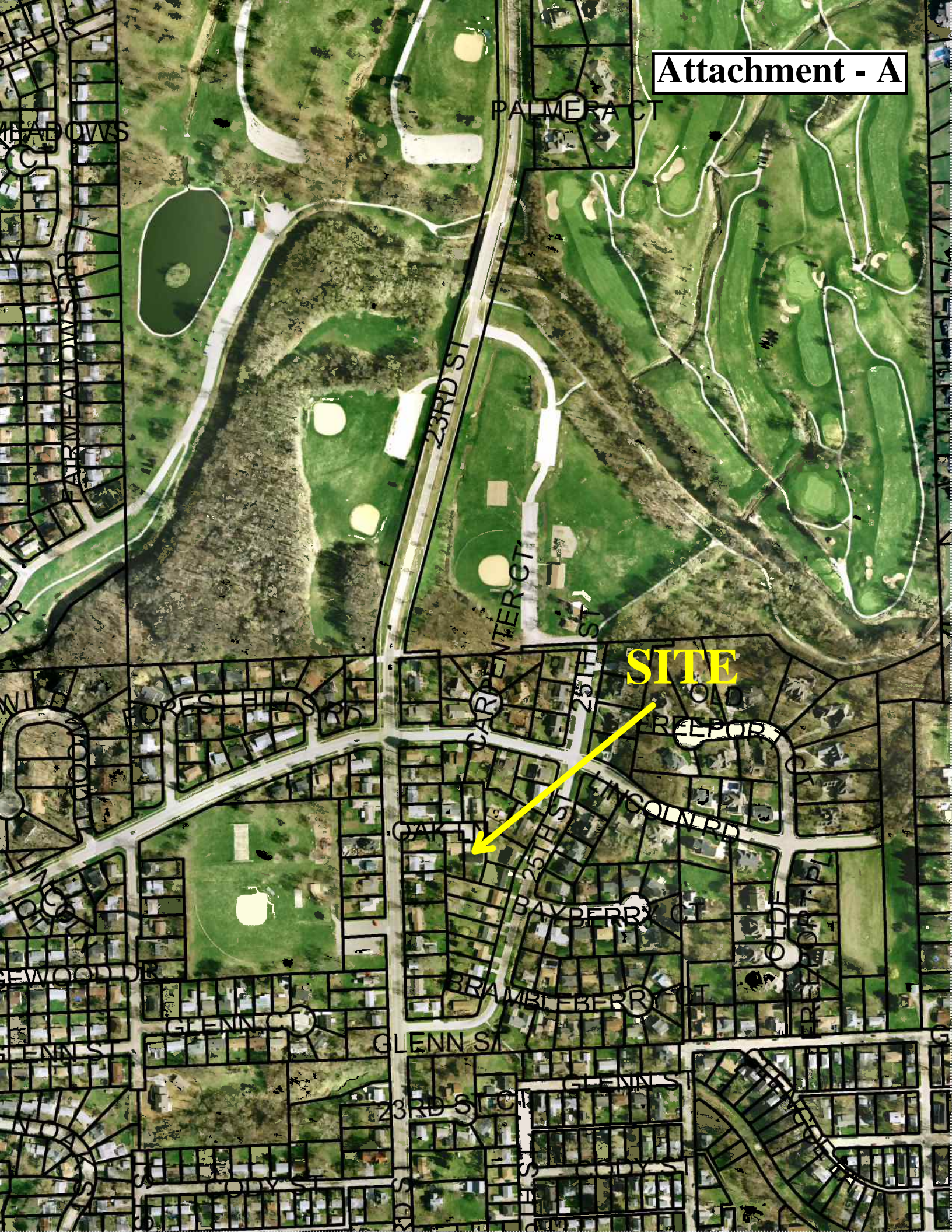
Staff Recommendation

Staff acknowledges that the roadway design in this small area has posed problems for homeowners in the past and currently for property owners on the south side of Oak Lane. Staff cannot cite any other hardship for this request.

Respectfully submitted,

John Soenksen
City Planner

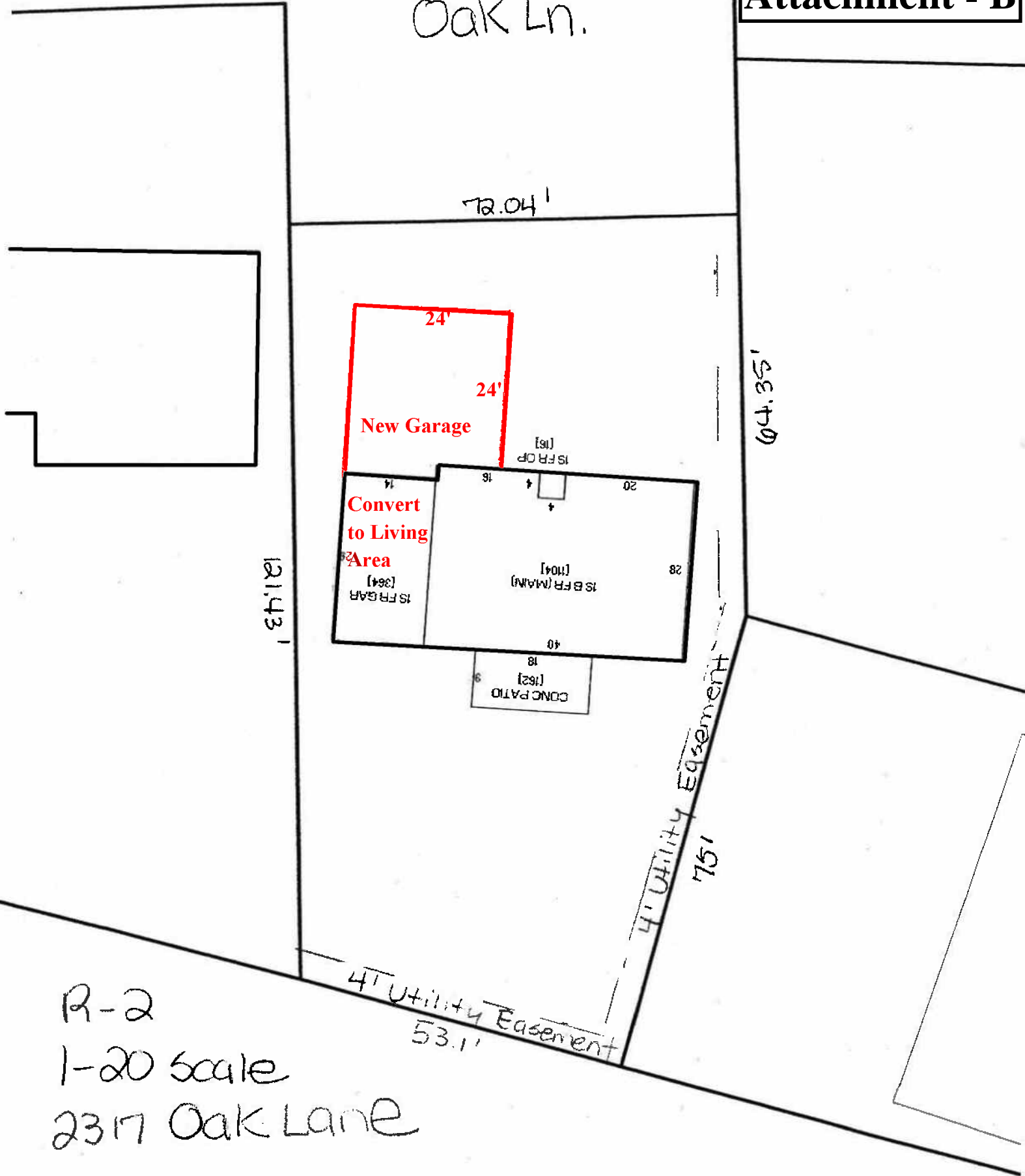
Attachment - A



SITE



Oak Ln.



R-2
1-20 scale
2317 Oak Lane

Attachment - C



Previous Right-Of-Way



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

Part 1. Property Involved.

Street Address 2317 Oak Lane Bettendorf, IA
Legal Description of the property LOT 10, OAK RIDGE 3RD ADDITION

Part 2.

Applicant Name William Ewan Phone 563-271-3649
Address 2317 Oak Lane Bettendorf, IA FAX _____

Owner Name William Ewan Phone 563-271-3649
Address 2317 Oak Lane 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.

Would request reduce front yard setback by 8/1000
FEET for a garage addition. Project will eliminate
current garage into living space and add 2-car
garage in front. New garage 24' x 24'.

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.

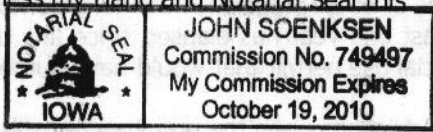
I (we) depose and say that all the information contained in this application and the statements contained in the papers submitted herewith are true. Witness our Hands and Seals this 30 day of July, 20 10.

Signature of Applicant William Ewan 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 30th day of July, 20 10.



John SoenkSEN
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 Building Insp. - Credit Card
Amount \$50.00 Date 7/30/10