

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  
DECEMBER 9, 2010  
5:00 P.M.**

PLACE: Bettendorf City Hall Council Chambers, 2<sup>nd</sup> 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 November 18, 2010.
4. The Board to hold a public hearing on the following item:
  - a. Case 10-068; 431 Fourth Street (R-2) - A request for a variance to allow a 4-foot high fence in a required front yard, submitted by Gary Boche.

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  
NOVEMBER 18, 2010  
5:00 P.M.**

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

Item 1. Roll Call

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

Item 2. Review of Board Procedures.

Item 3. The Board to review and approve the minutes of the meetings of October 14, 2010 and November 9, 2010.

On motion by Voelliger, seconded by Howe, that the minutes of the meetings of October 14, 2010 and November 9, 2010 be approved as submitted.

ALL AYES

Motion carried.

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

- a. Case 10-043; 15 Oak Park Drive (R-1) - A request for a variance to reduce the required front yard setback from 35 feet to 12 feet and to increase the allowable garage area by 875 square feet to allow construction of an additional 992 square foot garage, submitted by Lane Buck. (Deferred from meeting of November 9, 2010)

Stelk stated that this item had been deferred from the field visit meeting. Soenksen explained that he is unsure whether the applicant would like to proceed with the case or defer the item until such time as more Board members are present.

Mike Stopulos, 16 Oak Park Drive, stated that while he had previously expressed concern regarding the design and proposed location of the garage, he is now completely satisfied with the proposed plan. He added that after having talked with the applicant, he believes that the proposed garage would be in keeping with the neighborhood and requested that the Board approve the request.

Janet Brown-Lowe, 3 Oak Park Drive, asked if a decision would be rendered at the public hearing or if the case would be deferred. Stelk explained that it would be up to the applicant to decide whether or not to proceed. Lane Buck, the applicant, stated that he would like to proceed with the public hearing.

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

Brown-Lowe displayed photos of her previous residence which she indicated are not germane to this case, but indicate the lack of privacy caused by the development of the Lincoln Pines condominiums. She stated that as a result of that development, she had moved to gain more privacy.

Brown-Lowe stated that the topography of the area is challenging, adding that she is able to use only the front yard. She indicated that part of the reason that she had chosen her current home is that she would not have rear yard neighbors. Brown-Lowe stated that every room in her house has 8-foot windows to open it up to the view. She indicated that she has spend considerable time and labor on water abatement issues. She expressed concern that her view would be spoiled by the proposed garage construction, adding that the very small break in the mature trees between her lot and the applicant's provides the only light to her lot. Brown-Lowe stated that the façade that would face her home is much less attractive than the one that would be seen by Stopulos. She stated that no one else in the neighborhood would be forced to look at a similar view. She indicated that according to the City Code the Board's job is to provide a reasonable interpretation of what seems fair when citizens request a variance and surrounding property owners have objections.

Brown-Lowe reviewed the definition of a garage according to the City Code. She stated that typically a variance is requested for a garage in order for citizens to be able to store vehicles. She indicated that she believes that the existing two-car garage is eminently usable for two cars. She added that the fact that the applicant chooses not to park vehicles there does not render it unusable. Brown-Lowe stated that she also believes that the separation of the two concrete slabs in the detached garage is certainly no worse than the cracks she drives over on city streets. She stated that the proposed construction would cause her discomfort and that the Board is required to take that into consideration. She asked for clarification of the hardship that would allow the Board to grant the variance. Stelk stated that the applicant plans to no longer use the detached garage for vehicle storage. He added that the plan is to install smaller doors on the detached garage which would remove that square footage from the living area to garage space calculation.

Brown-Lowe stated that the view that she would be forced to see is not acceptable. She indicated that she does not believe that a hardship has been established that would allow the size and location of the proposed garage. She requested more details with regard to the appearance of the proposed garage and its height. Soenksen explained that those details would be a part of his presentation.

Brown-Lowe stated that she believes that the concrete bumpout in the two-car garage enhances the usability of the space. She indicated that a variance cannot be granted merely as a convenience to the applicant.

Soenksen reviewed the staff report update. Staff report is Annex #2 to these minutes.

Soenksen added that he had consulted with the Director of Public Works who had indicated that approximately \$250,000 has been spent on drainage improvements for this specific area to address the issues of ponding and standing water.

Howe asked if the runoff from the eaves of the garage would be directed toward the neighbor's home and if it could be mitigated. Soenksen explained that the applicant plans to use conduit to direct that water toward the ravine. Howe indicated if that is the case, it is likely that the runoff to the neighbor's house would be lessened. Soenksen added that the Director of Public Works had confirmed this as well.

Howe asked if the applicant had considered a different design and size in order to eliminate the need for a variance as was discussed at the field visit meeting. Soenksen stated that reducing the size by 532 square feet and moving the garage toward the rear yard would allow the applicant to build the garage according to zoning ordinance requirements. Howe asked what would be allowed with regard to size according to the ordinance. Connors stated that approximately a small one-car garage would be allowable.

Brown-Lowe stated that the family who had previously owned the applicant's home had managed to park two vehicles in the attached garage with no problems.

Brown-Lowe reiterated that she has no usable rear yard and would be forced to look at the garage if it is allowed. She asked how much foundation would be visible from ground level to the floor of the garage. Connors stated that it would be approximately 3 - 3 ½ feet. Brown-Lowe expressed doubt as to the accuracy of that determination. Stelk asked if the foundation wall is required to be poured to the level of the floor. Connors explained that there are several methods which could be used. He indicated that typically the foundation wall is poured to at least the top of the floor and is often extended 6 inches above the floor.

Brown-Lowe asked how high much higher the roof line would be above the gable. Soenksen added that it appears as though the roof would be approximately 6 feet higher than the mid-point of the gable which is required to be at 15 feet. Brown-Lowe stated that she feels that it is unacceptable to ask that a neighbor be forced to look at a structure of that height. She added that she would have the view of the rear of the structure. Voelliger stated that because Brown-Lowe does not own the applicant's property, she has no control over it. Brown-Lowe reiterated that the Board is required to take into account her discomfort level. Stelk commented that the applicant is allowed to build a smaller garage of the same height in the proposed location.

Howe asked how far the proposed structure would be from the neighbor's property line. Soenksen stated that it would be approximately 70 feet from the neighboring

house. Howe explained that typically the Board considers variance requests for properties on which the homes are located only 10 feet from one another. He added that another factor to consider is that there is a large distance between the two homes. Soenksen clarified that the distance from the rear of the proposed garage to the property line is approximately 35 feet.

A brief discussion was held regarding the size of the garages in the neighborhood in relation to the size of the proposed garage.

Howe asked if the applicant would be amenable to reducing the size of the proposed garage to two cars and relocating it further toward the rear yard. Buck explained that converting the existing garage such that it could be entered from the front is not feasible as the load-bearing wall would have to be reconstructed, the driveway surface removed, and a new concrete surface installed along a curved and sloped area. He added that the expense of this type of design is prohibitive. Buck stated that it is likely that the increased concrete surfacing would direct more water toward his neighbor's home and the street than would be created by the garage construction as proposed. He explained that even if the garage is reduced in size, the height would be the same as a three-car garage. Buck stated that he is not able to speak to the neighbor's reduction of the view as he has only been to their home one time. He indicated that he believes that there is a slight swale near his property line that heads to the ravine in addition to other mitigating elements such as plantings on his property and his neighbor's. Buck stated that he believes that the distance between the rear of the proposed garage and the property line is approximately 60-70 feet, adding that there are many trees and plantings that obstruct the view from his home to the neighbor's.

Howe asked for clarification of the established hardship that would justify granting the variance. Buck explained that he needs the additional garage space to house the numerous vehicles he owns. Howe indicated that typically the Board does not approve variances based on the buying habits of citizens and the number of vehicles they own. Buck stated that he feels that garaging the vehicles is more advantageous for the neighborhood than storing them outside either on the driveway or in the street.

Brown-Lowe commented that she has been faced twice in five years with the negative impact of new construction, reiterating that she does not believe that she should have to face the view of the proposed garage.

Stelk stated that he believes that the issue has been discussed as thoroughly as possible. Howe commented that while he appreciates the neighbor's concerns, there is ample distance between the two properties and the drainage impact will be negligible. He added that he does not believe that the value of the neighbor's home would be reduced. He indicated that he does not necessarily believe that the applicant has established a legitimate hardship as defined by the ordinance. Howe stated that he believes that granting the variance would establish a negative precedent, adding that he is unable to support the request.

Voelliger stated that he believes that the applicant's request is reasonable especially in light of the size of the lot. He added that he does not believe that the proposed

construction would in any way negatively impact the adjacent property owner. He expressed support for the request. Howe concurred with Voelliger's statements, reiterating that the applicant has not established a hardship which is required to grant the variance.

On motion by Voelliger that the variance to reduce the required front yard setback from 35 feet to 12 feet and to increase the allowable garage area by 875 square feet to allow construction of an additional 992 square foot garage be granted in accordance with the Decision and Order.

Motion failed for lack of a second.

Stelk explained that because of the lack of a second to the motion, the request is automatically denied.

Howe encouraged the applicant to consider a different design which would accomplish the applicant's goal without the need for a variance.

Soenksen requested that Case 10-051 be heard next because the next item on the agenda was submitted by the City of Bettendorf and the applicant for the last case on the agenda has been waiting for such a long time. Stelk agreed.

- c. Case 10-051; 4038 Spartina Court (R-3) - A request for a variance to allow a 4-foot high fence in a required front yard, submitted by Eric Kulick.

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 #3 to these minutes.

Soenksen reviewed the staff report. Staff report is Annex #4 to these minutes.

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

Eric Kulick, the applicant, stated that he believes that the staff report covered all of the pertinent issues and that he would be happy to answer any questions the Board may have.

Howe asked if the proposed fence would be connected at the corner posts to the neighbor's fence. Kulick stated that he had not planned to use the same post, but would place his corner post next to his neighbor's. He added that he would share the side fence with his neighbor and that the fence along the Belmont Road side would line up with the neighbor's. He indicated that the fence would be located approximately 2 feet from the sidewalk.

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 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 10-050; 3900 Hopewell Avenue (R-2) - A request for a variance to allow a 6-foot high fence in a required front yard, submitted by the City of Bettendorf.

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 #3 to these minutes.

Soenksen reviewed the staff report. Staff report is Annex #6 to these minutes.

Howe asked if there are any plans to remove the remainder of the electrified fence on the south side of the adjacent property along Hopewell Avenue. Soenksen explained that because of the topography of the lot, the electrified portion is actually a substantial distance from the elevated recreational trail. Connors added that the plan is to install a 4-foot high chain link fence along the recreational trail separating the electrified fence from users of the trail.

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 Voelliger, 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.

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

These minutes and annexes approved

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John Soenksen  
City Planner



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

December 9, 2010

Staff Report

**Case No. 10-068**

**Location:** 431 Fourth Street

**Applicant:** Gary Boche

**Zoning Designation:** R-2, Single-family Residence District

**Request:** Variance to allow a 4-foot fence in a front yard.

**Background Information and Facts**

The site is located at the southeast corner of Brown Street and Fourth Street (see Attachment A – Location Map). The applicant would like to place a 4-foot high fence along the Brown Street side of the house (see Attachment B – Plot Plan). Due to the fact that this is a corner lot, the requested fence would be considered to be in a front yard.

**Staff Analysis**

The proposed fence will be constructed of black aluminum and would have the appearance of a wrought iron ornamental fence (see Attachment C – Fence Drawing/Specifications). The proposed fence placement would be set back 18 feet from the Fourth Street property line and 3 feet from the Brown Street property line (see Attachments D and E, Fence Placement Illustrations). Staff is not concerned about line of sight issues at this intersection because of the fence placement, fence height, and fence material transparency.

Staff will be submitting an ordinance amendment to Section 18.30 Permitted Obstructions In Required Yards to allow 4-foot high fences in front yards.

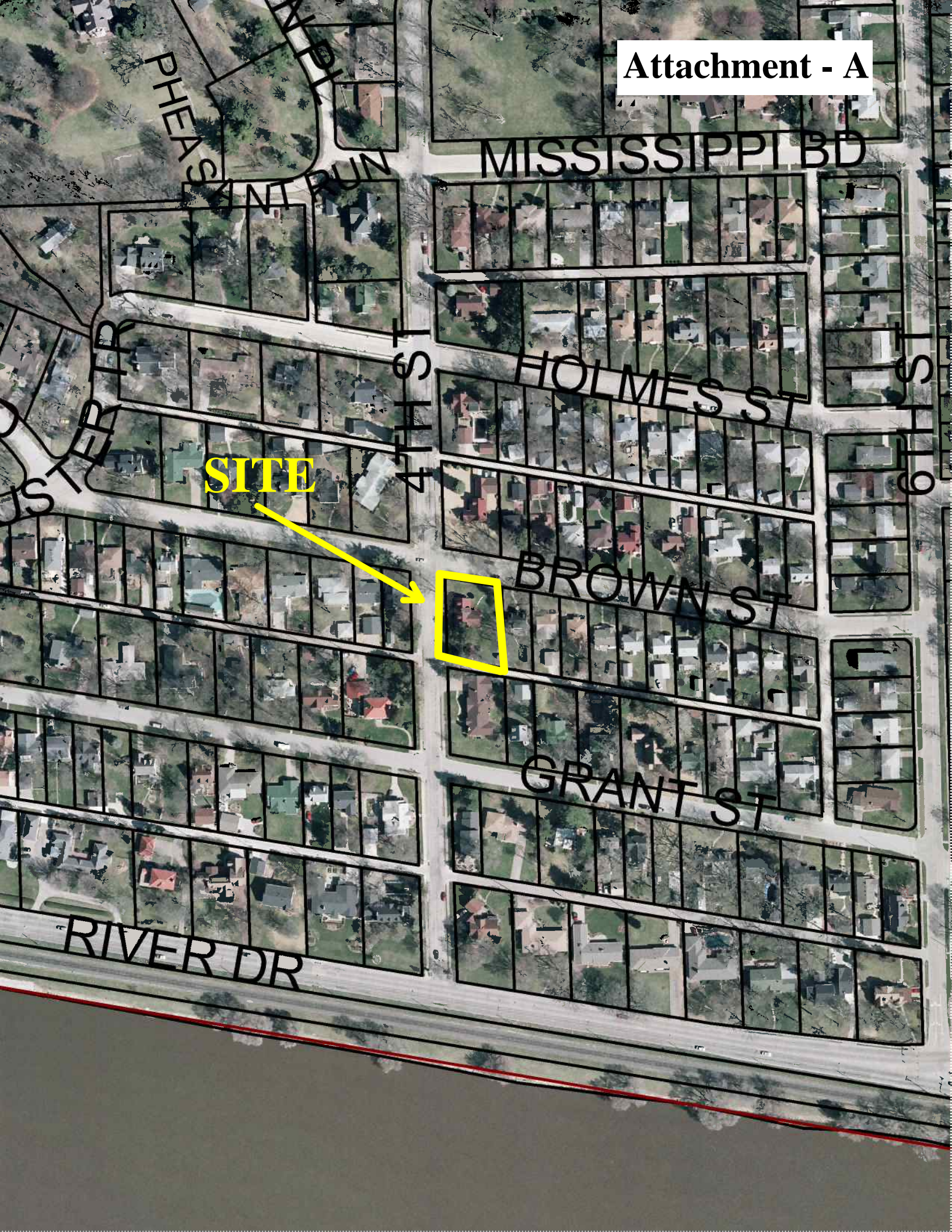
**Staff Recommendation**

The request is consistent with the ordinance amendment about to be submitted to the Bettendorf City Council. If the ordinance amendment is passed by the Council, the Board will not have to approve these types of requested in the future.

Respectfully submitted,

John Soenksen  
City Planner

Attachment - A

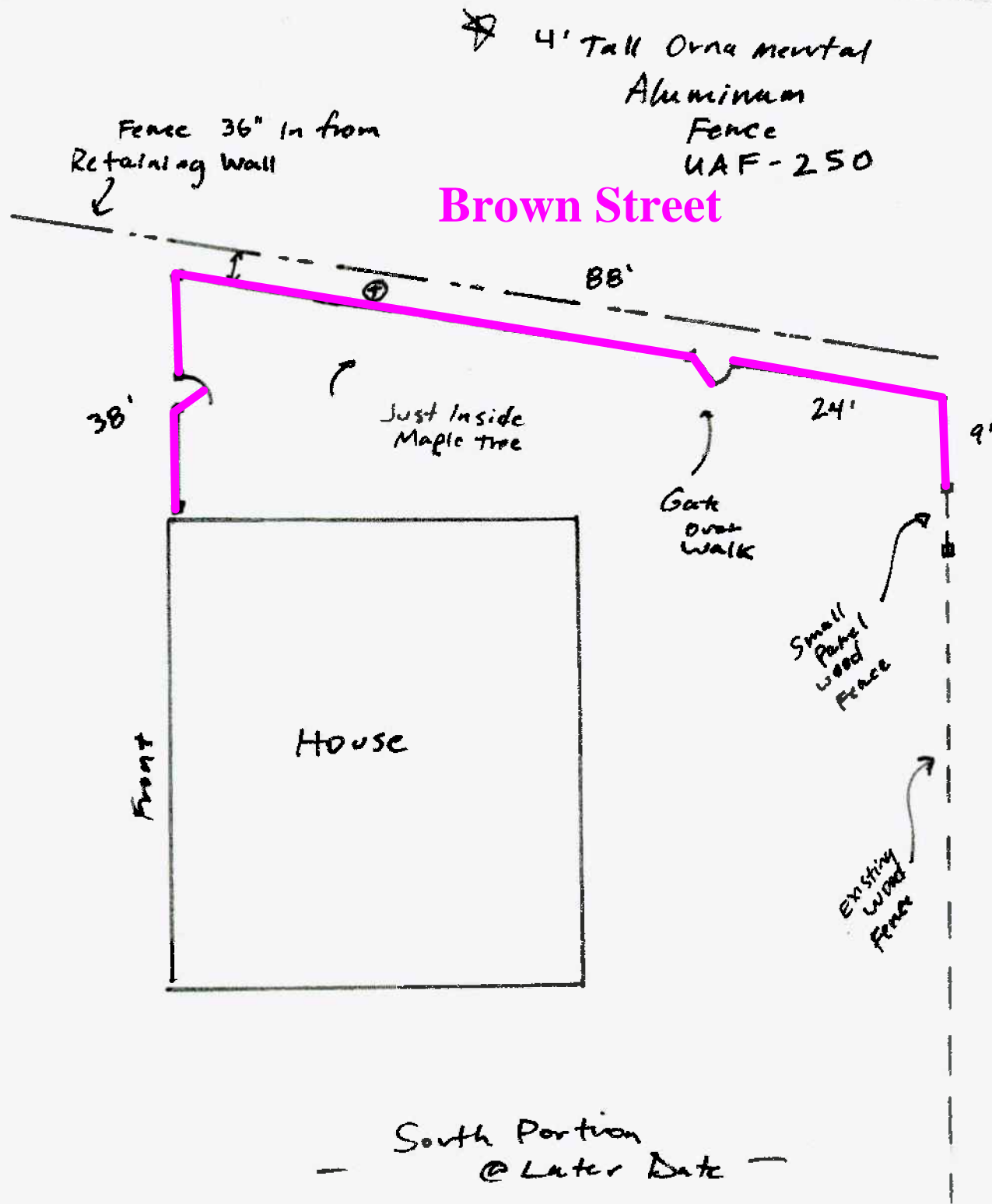


SITE



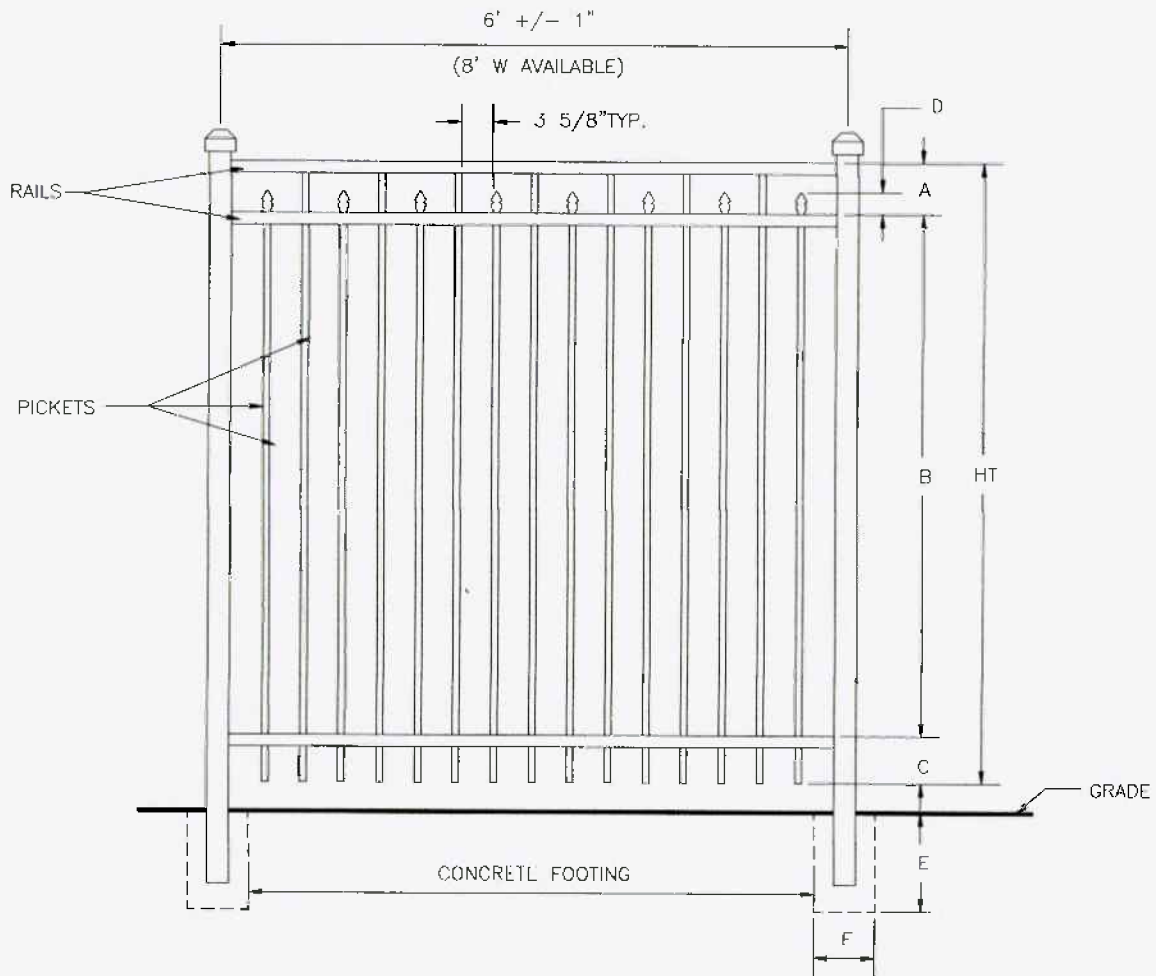
4th Street

Brown Street



<p>LOVEWELL FENCING, INC. Davenport, IA</p>	<p>Scale N/A</p>	<p>Drawing #2</p>	<p>Boche Home</p>
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# Attachment - C



UAF 250  
FLAT TOP WITH SPEAR

SPECIFICATIONS COMMERCIAL	
POSTS	2"x2"x.080 WALL 2"x2"x.125 WALL 2 1/2"x2 1/2"x.100 WALL 3"x3"x.125 WALL
HORIZONTAL RAILS SIDE WALLS TOP WALLS	1 3/8" x 1 1/4" .088" .065"
PICKETS PICKET SPACING	3/4"x3/4"x.055 WALL 3 5/8"
AVAILABLE HEIGHTS	3, 3 1/2, 4, 5 & 6 FT.
AVAILABLE WIDTHS	6 & 8 FT.

DIMENSIONS						
HT	A	B	C	D	E	F
3'	6"	24 1/2"	5 1/2"	2 1/2"	PER LOCAL CODE	
3 1/2'	6"	30 1/2"	5 1/2"	2 1/2"	PER LOCAL CODE	
4'	6"	36 1/2"	5 1/2"	2 1/2"	PER LOCAL CODE	
5'	6"	48 1/2"	5 1/2"	2 1/2"	PER LOCAL CODE	
6'	6"	60 1/2"	5 1/2"	2 1/2"	PER LOCAL CODE	



3'

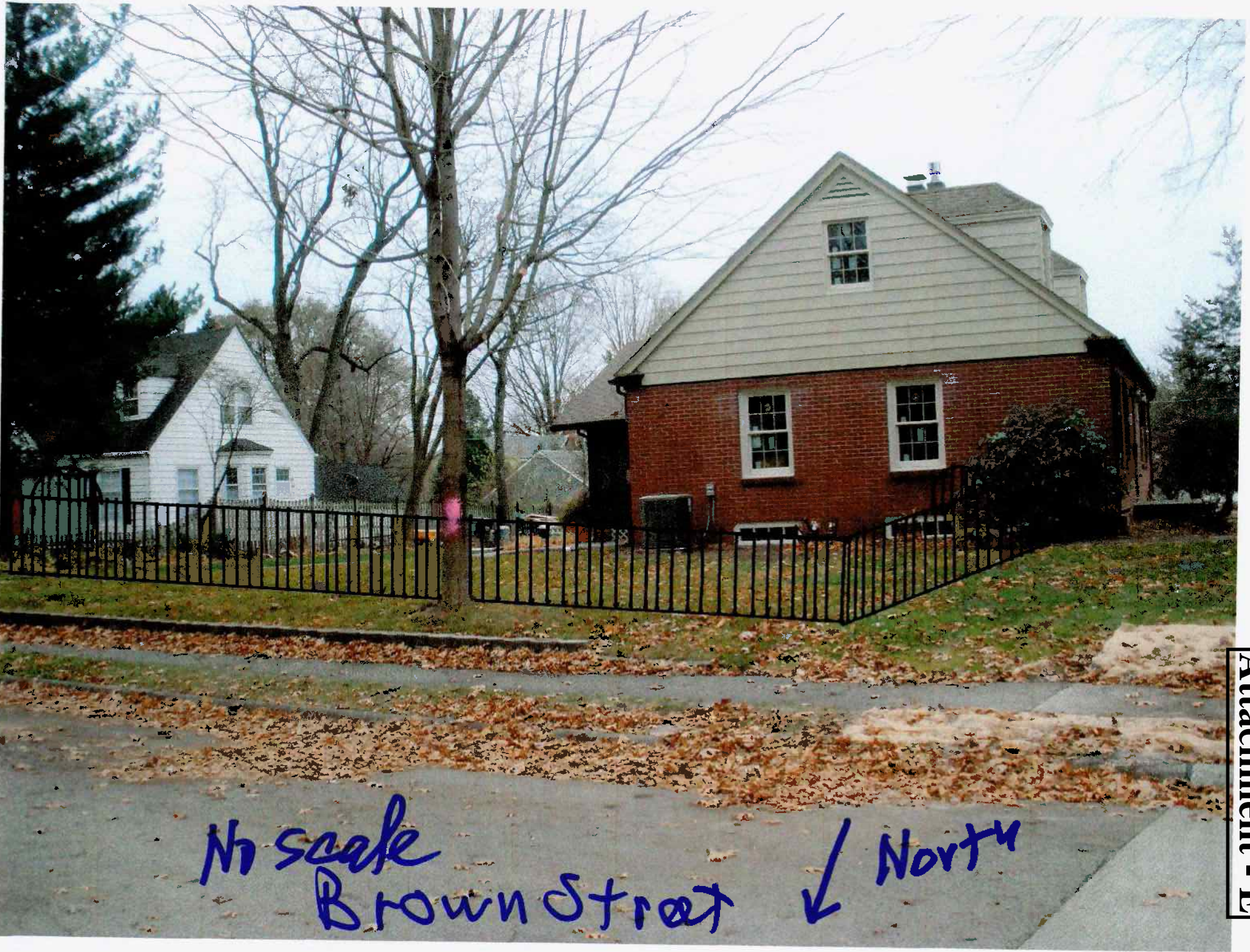
18'

no scale

4th Street

North

Attachment - D



No scale  
Brown Street      ↓ North

Attachment - E

Case No. \_\_\_\_\_

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

### Part 1. Property Involved.

Street Address 431 4th Street  
Legal Description of the property. Block 9, Lots 12 & 13 of Riverside Addition

### Part 2.

Applicant Name Gary Boche Phone 563-264-8934  
Address 431 4th Street, Bettendorf IA FAX 563-264-3944

Owner Name Gary Boche Phone 563-264-8934  
Address 431 4th St., Bettendorf, Iowa FAX 563-264-3944

Agent Lovewell Fencing, Inc. Phone 563-391-7025  
Address 21060 Holden Drive, Davenport, IA FAX 563-345-6730

### 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.)

