

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 (344-4100).

**MEETING NOTICE  
BOARD OF ADJUSTMENT  
JANUARY 12, 2012  
5:00 P.M.**

PLACE: Bettendorf City Hall Council Chambers, 2<sup>nd</sup> Floor, 1609 State Street

1. Roll Call: Falk \_\_\_\_\_, Howe \_\_\_\_\_, Johnson \_\_\_\_\_, Voelliger \_\_\_\_\_
2. Review of Board Procedures.
3. The Board to review and approve the minutes of the meeting of December 8, 2011.
4. The Board to hold a public hearing on the following items:
  - a. Case 12-001; 1227 Broadlawn Avenue (R-1) - A request for a variance to allow construction of a 18-foot x 16-foot deck within the established front yard setback, submitted Amy Beausoleil.
  - b. Case 12-002; 5092 - 45<sup>th</sup> Avenue (R-1) - A request for a variance to allow a 6-foot high fence in a required front yard, submitted by Robert Ferns.

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  
DECEMBER 8, 2011  
5:00 P.M.**

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

Item 1. Roll Call

PRESENT: Falk, Howe, Johnson, 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 November 10, 2011.

On motion by Voelliger, seconded by Falk, that the minutes of the meeting of November 10, 2011 be approved as submitted.

ALL AYES

Motion carried.

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

- a. Case 11-073; 6023 Whispering Hill Drive (R-1) - A request for a variance to allow a 6-foot high fence in a required front yard, submitted by John Klein.

Howe 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.

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

Voelliger asked how far the fence would be from the cornfield bordering the lot to the east. Soenksen explained that the fence would be located very near the lot line, adding that the reason the proposed fence does not extend further north is that the existing vegetation on the lot to the east provides adequate screening.

Falk expressed support for the request. He added that in addition to the pedestrian traffic that will be generated by the recreational trail, the property to the south of the

applicant's home has been sold and is to be used for residential housing. He indicated that the proposed fence will provide additional screening and privacy from the increased traffic caused by the new subdivision.

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

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

- b. Case 11-074; 2975 Elk Drive (A-2) - A request for a variance to reduce the required side yard setback from 5 feet to 2 ½ feet to allow for construction of a shed, submitted by Melinda Koehler.

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

Melinda Koehler, the applicant, explained that she had placed the shed in its current location because she had been under the impression that her neighbor's fence is on the property line. She indicated that the shed is 5 feet from the fence line. She added that after the concrete slab for the shed was poured, she had discovered that one corner of the shed is only 2 ½ feet from the property line, not the required 5 feet. Koehler stated that it would be prohibitively expensive to move the slab and shed.

Voelliger asked if the applicant's neighbor had expressed opposition to the request. Koehler explained that once she had explained that the property line would remain in its current location and would not be affected by a variance, her neighbor had withdrawn his objection. Soenksen added that he had given the neighbor the same information regarding the property line.

Voelliger expressed concern about a future homeowner's placing a shed in the same location if the existing one is removed. Soenksen stated that a condition limiting the variance to the existing shed could be imposed if the Board wishes. Johnson asked if such a condition would apply to expansion of the existing shed. Soenksen explained that if the applicant chooses to add on to the shed and encroach further into the setback, another variance would be required.

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

On motion by Johnson, seconded by Voelliger, that a variance to reduce the required side yard setback from 5 feet to 2 ½ feet to allow for construction of a shed be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #6 to these minutes.

- c. Case 11-075; 3220 Zimmerman Drive (I-3) - A request for a variance to reduce the required sign setback from 25 feet to 3 feet, submitted by Dan Santry.

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

Dan Santry, the applicant, explained that the fence is not parallel to the property because there is a power pole at the westerly corner of the lot. He added that there is a gate in the fence that allows MidAmerican Energy access to the pole.

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

On motion by Johnson, seconded by Voelliger, that a variance to reduce the required sign setback from 25 feet to 3 feet be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #8 to these minutes.

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) 344-4100

January 12, 2012

Staff Report

### **Case No. 12-001**

**Location:** 1227 Broadlawn Avenue

**Applicant:** Amy Beausoleil

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

**Request:** Variance to allow construction of an 18-foot x 16-foot deck within the established front yard setback.

### **Background Information and Facts**

The site is located at the intersection of Eastmere Drive and Broadlawn Avenue (see Attachment A – Location Map). The applicant would like to construct a deck on the northeast side of the house within the established front yard setback along Eastmere Drive (see Attachment B – Plot Plan).

### **Staff Analysis**

The proposed deck is 16 feet by 18 feet, and the eastern portion would encroach into the required front setback adjacent to Eastmere Drive. One fourth of the 288 square foot deck would be located in the required front yard.

In June of 2009, the Board denied a request made by a previous owner (Case 09-045) for an in-ground pool and fence enclosure within the front yard setback on the north side of the house (see Attachment C – Previous Plot Plan). In the previous case, the entire proposed construction was located entirely within the required front setback and involved a much larger footprint.

The site has the unique characteristic of having three required front yard setbacks and one side yard setback. There are required front yard setbacks on the west, north, and east sides of the house rendering approximately 13,830 square feet of the 17,859 square feet of the lot unbuildable. Approximately 4,000 square feet of the lot is buildable and is triangular-shaped.

### **Staff Recommendation**

A lot having three of the four sides with front yard setback requirements and leaving only 28% of the entire lot as buildable area shaped in a triangle is unique and may constitute a legitimate hardship. While the proposed size and shape of the deck does not appear to be excessively large, it does seem as though the deck could be reconfigured into an “L” shape wrapping around the northeast side of the house and lessening the impact and protrusion into the yard adjacent to Eastmere Drive (see Attachment D – Revised Deck Plan).

Respectfully submitted,

John Soenksen  
City Planner

**Attachment - A**



**SITE**



Broadlawn Av

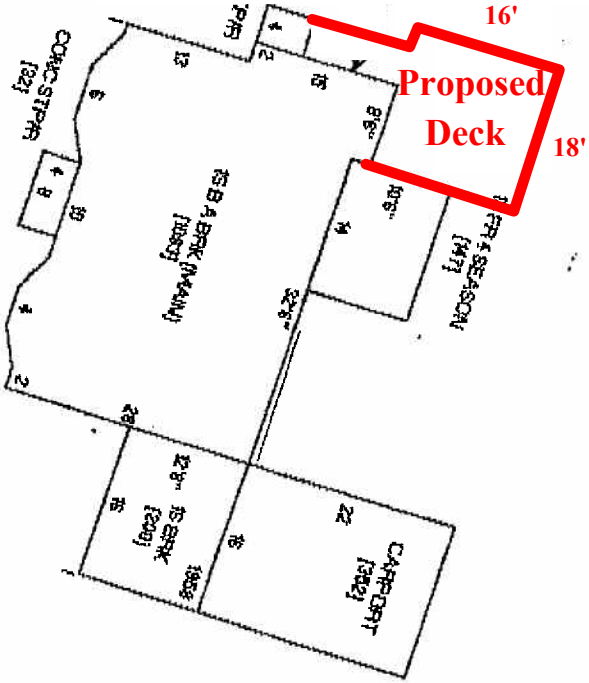
R-84.8  
57.74'

R-20  
36.47'

THIS AREA IS AT  
LEAST 10' HIGHER  
THAN STREETS  
NO VIEWS WOULD  
BE BLOCKED

136'

142'  
Eastmere Dr



Proposed Deck

16'

18'

163'



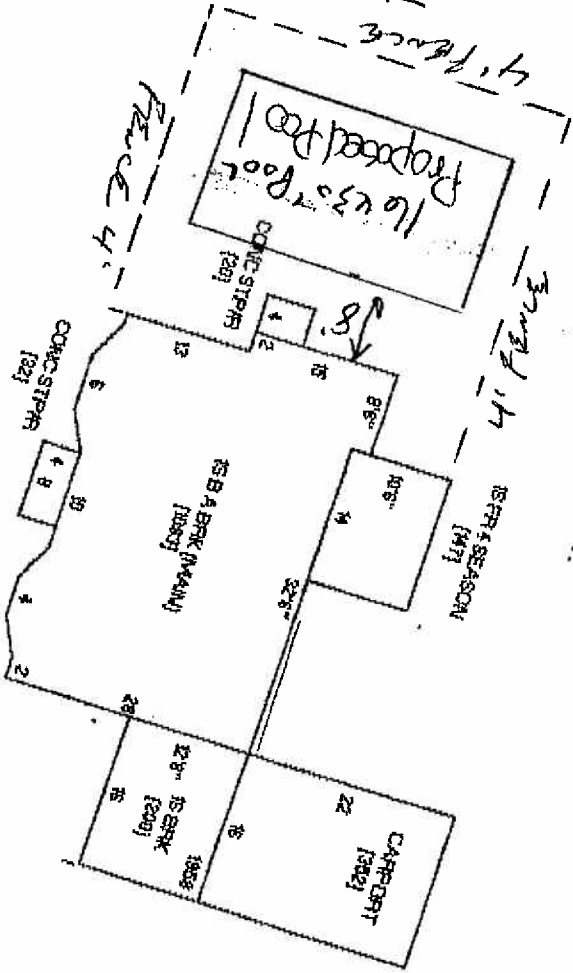
Broadlawn Av

R-84.8  
57.74'

R-20  
36.47'

THIS AREA IS AT  
LEAST 10' HIGHER  
THAN STREETS  
NO VIEWS WOULD  
BE BLOCKED

136'



Eastmere Dr  
142'

163'



Broadlawn Av

R-84.8  
57.74'

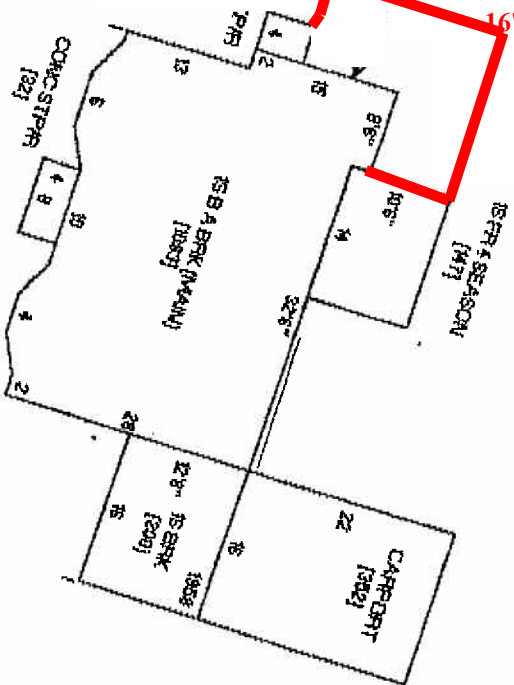
R-20  
36.47'

THIS AREA IS AT  
LEAST 10' HIGHER  
THAN STREETS  
NO VIEWS WOULD  
BE BLOCKED

Revised  
Deck

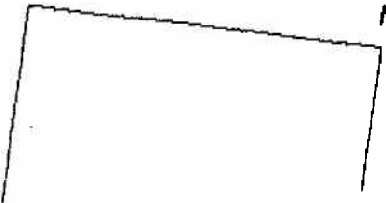
142'  
Eastmere Dr

136'



18'

163'





Case No. 12-001

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

Part 1. Property Involved.

Street Address 1227 Broadlawn Ave., Bettendorf IA 52722

Legal Description of the property. Mississippi Heights lots 128 and 129 and N 1/2 of lot 127

Part 2. Contact Information.

Applicant Name Amy Beausoleil Phone 406-546-6869  
Address 1227 Broadlawn Ave. Bettendorf, IA 52722 FAX \_\_\_\_\_  
E-mail Address: aebeausoleil@gmail.com

Owner Name Amy Beausoleil Phone \_\_\_\_\_  
Address same as above FAX \_\_\_\_\_  
E-mail Address: \_\_\_\_\_

Agent \_\_\_\_\_ Phone \_\_\_\_\_  
Address \_\_\_\_\_ FAX \_\_\_\_\_  
E-mail Address: \_\_\_\_\_

Part 3. Type of Application. (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.

The activities desired by the owners of above mentioned property is a dining/entertaining area accessible from their kitchen. Our existing outdoor eating area is in the driveway with a trek through two indoor spaces and 14 exterior steps to arrive at the eating location or grille. The proposed deck does encroach into the prescribed setbacks that have been established by the existing homes adjacent to the property. Because 6<sup>th</sup> Street does not run parallel to any of these homes our house happens to be the closest to 6<sup>th</sup> Street. The adjacent home to the south is 90 ft from the street and the home two houses down is 130 ft from the street. The convenience of a deck from our kitchen would add value to our home and the neighborhood.

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 6<sup>th</sup> day of December, 2011.

Signature of Applicant [Signature] Signature of Owner [Signature]  
 (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 6<sup>th</sup> day of December, 2011.

[Signature]  
 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 [Signature]  
 Amount \$50. Date 12/6/11



## COMMUNITY DEVELOPMENT

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January 12, 2012

Staff Report

### **Case No. 12-002**

**Location:** 5092 – 45<sup>th</sup> Avenue

**Applicant:** Robert Ferns

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

**Request:** Variance to allow a 6-foot high fence in a required front yard.

### **Background Information and Facts**

The site is located just east of the intersection of Middle Road and Crow Creek Road near the Surrey Heights Fire Station (see Attachment A – Location Map). The applicant would like to place a 6-foot high fence along the property line adjacent to Crow Creek Road.

### **Staff Analysis**

The lot is a “through lot” which by definition has frontages along both 45<sup>th</sup> Avenue and Crow Creek Road. Usually a 6-foot high fence would be allowed along the rear property line but because the area behind the house adjacent to Crow Creek Road is considered a front yard, only a 4-foot high fence is permitted. If allowed, the fence would be in a similar location as an existing fence on the corner of Crow Creek Road and Millwood Lane which is near the applicant's home (see Attachment B – Plot Plan).

Crow Creek Road is a Minor Arterial Roadway, and Middle Road is a Principal Arterial Roadway. The vacant lot located at the southeast corner of the intersection of Middle Road and Crow Creek Road is zoned C-1, Local Shopping District and is expected to be commercially developed in the future. At such time as any commercial development occurs, a traffic signal is anticipated to be installed at the intersection. These issues have prompted the applicant's request for a variance.

The applicant removed an existing berm and landscaping buffer along Crow Creek Road in order to enlarge the usable area of the rear yard not knowing that a 6-foot fence is not allowed by Code.

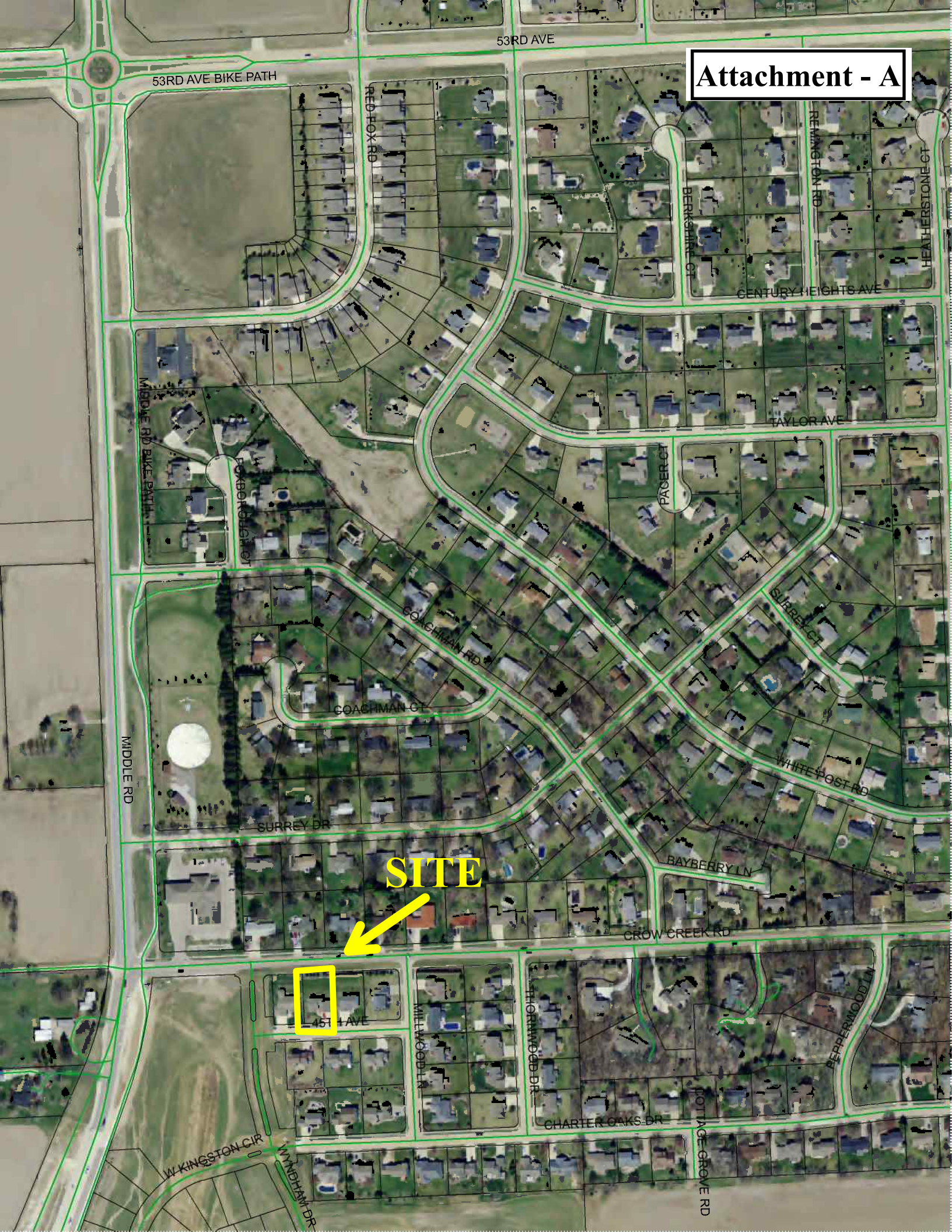
### **Staff Recommendation**

The applicant requests that the Board consider the involved primary roadways, nearby commercial lot, anticipated traffic increase, and the neighbor's existing fence as a legitimate hardship justifying the variance.

Respectfully submitted,

John Soenksen  
City Planner

**Attachment - A**



53RD AVE BIKE PATH

53RD AVE

RED FOX RD

BERKSHAM CT

REMINGTON RD

HEATHERSTONE CT

CENTURY HEIGHTS AVE

TAYLOR AVE

MIDDLE RD BIKE PATH

POKORNIK CT

PACER CT

SURREY CT

COACHMAN RD

COACHMAN CT

WHITE POST RD

MIDDLE RD

SURREY DR

**SITE**

RAYBERRY LN

CROW CREEK RD

451ST AVE

MILLWOOD LN

HORNWOOD DR

CHARTER OAKS DR

COTTAGE GROVE RD

PEPPERWOOD LN

W. KINGSTON CIR

W. INDIAN DR



WILLOW CREEK RD

Requested Fence

Existing Fence

WYNDHAM DR

45TH AVE

MILLWOOD LN

CHARTER OAKS DR

Case No. 12-002

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

Part 1. Property Involved.

Street Address 5092 45th Ave

Legal Description of the property. LOT 16 Brookview Heights 1st Add

Part 2. Contact Information.

Applicant Name Robert Ferns Phone 563-332-4512

Address 5092 45th Ave FAX \_\_\_\_\_

E-mail Address: rwferns@gmail.com

Owner Name \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_ FAX \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Agent \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_ FAX \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Part 3. Type of Application. (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.)

