

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
JUNE 11, 2015
5:00 P.M.

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

1. Roll Call: Falk ____, Gallagher ____, Johnson ____, Spranger ____, Voelliger ____
2. Review of Board Procedures.
3. The Board to review and approve the minutes of the meeting of May 14, 2015.
4. The Board to hold a public hearing on the following items:
 - a. **Case 15-034; 3612 Lake View Court (R-1)** - A request for a variance to increase the allowable garage area from 936 square feet to 1,502 feet, submitted by Ryan Windmiller. (Deferred from meeting of May 14, 2015)
 - b. **Case 15-040; 2420 - 18th Street (C-5)** - A request for a special use permit to allow a seasonal snow cone trailer, submitted by Chris Ploessl.
 - c. **Case 15-041; 6478 Spring Creek Drive (R-2)** - A request for a variance to reduce the required rear yard setback from 25 feet to 23 feet to allow for construction of a deck and to increase the allowable size of a garage from 765 square feet to 890 square feet, submitted by Ryan Windmiller.
5. The Board to discuss the following item:
 - a. **Case 15-046;** - Establishment of a rule defining "reasonable time" related to Section 11-2B-3:A Appeals; Hearings; Fees: Right to Appeal .

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 14, 2015
5:00 P.M.**

Voelliger called the meeting to order at 5:05 p.m.

Item 1. Roll Call

PRESENT: Falk, Johnson, Voelliger
ABSENT: Gallagher, Spranger
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 9, 2015.

On motion by Falk, seconded by Johnson, that the minutes of the meeting of April 9, 2015 be approved as submitted.

ALL AYES

Motion carried.

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

- a. Case 15-026; 314 Holmes Street (R-2) - A request for a variance to reduce the required front yard setback from 25 feet to 3 feet to allow for construction of a garage and to increase the allowable garage area from 720 square feet to 1,010 square feet, submitted by Lawrence Vens. (Withdrawn)
- b. Case 15-029; 2406 Lindenwood Drive (R-2) - A request for a variance to reduce the required front yard setback from 25 feet to 17 feet for a 6-foot high fence, submitted by Lien Moore.

Voelliger 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, Voelliger closed the public hearing.

Voelliger asked if the proposed fence would be any closer to the street than the existing 4-foot high fence. Soenksen stated that the 6-foot high fence would be placed in the same location as the existing fence.

On motion by Falk, seconded by Johnson, that a variance to reduce the required front yard setback from 25 feet to 17 feet for a 6-foot foot high fence be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

- c. Case 15-026; 314 Holmes Street (R-2) - A request for a variance to reduce the required front yard setback from 25 feet to 3 feet to allow for construction of a garage and to increase the allowable garage area from 864 square feet to 1,058 square feet, submitted by Lawrence Vens.

Voelliger 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.

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

Joan McGee, 315 Holmes Street, expressed support for the request, adding that the proposed garage would have no negative impact on the neighborhood and would not even be visible from the street.

Lawrence Vens, the applicant, displayed photos of his property which show that Pheasant Run has never been improved and is overgrown with vegetation. He indicated that there is a fire hydrant which should have Fire Department access. He stated that because of the topography of the area and the location of the curb on Pheasant Run, he would like to build the garage as close as possible to the property line. He explained that the slab of the garage will need to be at the same or a slightly higher level than the curb to prevent water runoff from entering the garage. Vens stated that building the garage close to the property line will lessen the amount of required fill. He stated that if the variance is granted, the garage would still be 7 feet from the curb. He explained that he believes that his wish to keep the foundation closer to the ground is a hardship.

Johnson asked if Pheasant Run extends to the west end of the applicant's lot. Soenksen explained that staff found conflicting documentation indicating that the right-of-way for Pheasant Run ends where the improved surface ends and also that it extends along the rear property lines of the homes on Holmes Street. He stated that the end point of the right-of-way is unclear. Voelliger commented that the large property north of the applicant's lot could be subdivided at some point in the future. Soenksen commented that the owner of that property,

which has a Davenport address, was given a complete packet to ensure that the residents are aware of the proposed construction. Johnson asked if those residents had commented at all about the project. Soenksen stated that he had received no comments from them.

Voelliger asked if the fire hydrant is located on the north side of the Pheasant Run right-of-way. Soenksen confirmed this.

Voelliger asked if it would be possible to use the dirt from the excavation of the required footings as fill. Vens stated that no footings would be required for the size of garage he plans to build, adding that it can be placed on a floating slab. Connors stated that because the largest size garage that can be placed on a floating slab is 720 square feet, the applicant would be required to dig trench footings around the perimeter.

Falk commented that his recollection of the previous meeting is that the Board had felt comfortable with the size of the proposed garage but did not feel it would be appropriate to build the garage within 3 feet of the property line because it could establish a negative precedent.

Connors stated that he had made an error with regard to the required construction methods of the proposed garage. He explained that he mistakenly interpreted the applicant's request, adding that he had thought that the proposed detached garage would be over 1,000 square feet. He indicated that the new structure would be only 24 feet by 26 feet and can be placed on a floating slab. Soenksen explained that when calculating the total garage area allowed, he must take into consideration the existing garage space and add it to the proposed garage space to arrive at the total of 1,058 square feet.

Vens stated that his intent is to place the garage on a floating slab, adding that his hardship is the amount of fill necessary to place the slab at the appropriate grade.

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

On motion by Johnson, seconded by Falk, that a variance to increase the allowable garage area from 864 square feet to 1,058 square feet be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Johnson stated that because it is unlikely that Pheasant Run will ever be extended and the adjacent neighbor has indicated no opposition to the request, she would be supportive of a variance to allow the proposed garage to be built 5 feet from the property line. She stated that she does not believe that the amount of fill that will be required establishes a hardship that would justify the applicant's request to reduce the required setback to 3 feet. Falk concurred, adding that any hardship is self-imposed because the applicant is choosing to build a new garage. He added that the applicant's stated hardship is economic and is not based on any ordinance requirement.

Johnson commented that the Board must decide whether allowing the request as submitted would establish a precedent. Falk explained that at the previous meeting the Board had determined that reducing the required setback to 3 feet would set a negative precedent.

Vens stated that he does not believe that it would be as aesthetically-pleasing if he is required to build the garage 5 feet from the property line because of the amount of fill that would be in place.

Falk asked if an engineer has calculated the difference between the required amount of fill for the two different garage locations. Vens stated that while he has not spoken to an engineer, the photograph showing the rear yard demonstrates the grade difference.

Johnson explained that if the slope of the yard is 1:4, the additional amount of fill that would be required if the garage were placed 5 feet from the property line rather than 3 feet would be only 6 inches. She added that in her opinion the cost difference would be minimal.

Johnson stated that she is not opposed to the size or location of the proposed garage, but she believes that a precedent would be set by allowing it to be built 3 feet from the property line. Falk concurred, adding that he would support reducing the required rear yard setback from 25 feet to 5 feet which would be in conformance with the typical setback requirements of other properties in the city.

On motion by Falk, seconded by Johnson, that a modified variance request to reduce the required front yard setback from 25 feet to 5 feet to allow for construction of a garage to be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #6 to these minutes.

- d. Case 15-031; 2727 Elk Drive (A-2) - A request for a variance to reduce the required rear yard setback from 40 feet to 32 feet to allow for construction of a 8-foot by 10-foot deck, submitted by Stephanie Tieso.

Voelliger 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.

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

On motion by Johnson, seconded by Falk, that a variance to reduce the required rear yard setback from 40 feet to 32 feet to allow for construction of a 8-foot by 10-foot deck be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #8 to these minutes.

- e. Case 15-032; 3880 Tam-O-Shanter Drive (R-2) - A request for a variance to increase the allowable square footage of a garage from 720 square feet to 944 square feet, submitted by Keith and Gloria Hanne.

Voelliger 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.

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

Keith Hanne, the applicant, explained that the existing garage is very shallow and allows very limited space for lawn equipment. He indicated that he would also like to store his boat inside because he does not want to park it on the street.

Gloria Hanne, the applicant, explained that the garage is very shallow because there is a shared wall with the living room and there is a fireplace and closet which actually extend into the garage. She added that when her husband parks his truck in the garage it nearly touches the garage wall and barely allows the door to be closed.

Connors commented that the city's ordinance does not allow recreational vehicles to be parked on the street.

Voelliger asked if the adjacent neighbor had indicated any opposition to the request. Soenksen indicated that those residents were sent a courtesy letter and that he had received no communication from them.

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

Johnson commented that the Board has been receiving more and more of this type of request, adding that if the applicant had chosen to build a room addition he would be allowed to do so without requesting a variance because there are no setback issues. She indicated that it is only because the addition is for garage space that a variance is required. Falk commented that the zoning ordinance has been amended in the past to reflect changing residential trends.

Falk stated that the house located at 3960 Tam-O-Shanter Drive appears to have the same footprint and configuration as the proposed one. He added that there is a garage door on the addition but that there is no driveway leading to it. He commented that the proposed request is more palatable to him than the addition at 3960 Tam-O-Shanter Drive.

On motion by Johnson, seconded by Falk, that a variance to increase the allowable garage area from 720 square feet to 944 square feet be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #10 to these minutes.

- f. Case 15-033; 37 Tower Lane (R-5) - A request for a variance to increase the allowable garage area from 1,074 square feet to 2,291 square feet, submitted by Adam Hehlke.

Voelliger 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.

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

Adam Hehlke, the applicant, explained that the proposed structure would be used to store lawn equipment, a snow plow for the 800-foot long private driveway, and a vehicle suitable for transporting garbage out to the Devils Glen Road frontage for municipal pickup. He stated that the building will have the appearance of a carriage house and will be constructed of the same building materials as will the house. He indicated that he has spoken to his future neighbors who had indicated no opposition to the request.

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

On motion by Falk, seconded by Johnson, that a variance to increase the allowable garage area from 1,074 square feet to 2,291 square feet be granted in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #12 to these minutes.

- g. Case 15-034; 3612 Lake View Court (R-1) - A request for a variance to increase the allowable garage area from 936 square feet to 1,502 square feet, submitted by Ryan Windmiller.

Voelliger stated that Case 15-034 has been deferred because one of the members present has a conflict of interest.

Connors stated that he had spoken with the applicant who had indicated that he would like to schedule a special meeting. He indicated that staff would facilitate that meeting.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 5:50 p.m.

These minutes and annexes approved _____

John Soenksen, City Planner



COMMUNITY DEVELOPMENT

City Hall Annex • 4403 Devils Glen Road, Bettendorf, Iowa 52722 • (563) 344-4083

June 11, 2015

Staff Report

Case No. 15-034

Location: 3612 Lake View Court

Applicant: Ryan Windmiller

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

Request: Variance to increase the allowable garage area from 936 square feet to 1,502 feet.

Background Information and Facts

The site is located on the southwest corner of Forest Glen Court and Lake View Court (see Attachment A – Location Map). The applicant would like to build a new house that incorporates an L-shaped 4-car garage that would exceed the allowable garage space by 566 square feet (see Attachment B – Plot Plan).

Staff Analysis

The builder met with staff regarding this request, and as a result of that meeting the builder/applicant chose a house design that minimizes the oversized garage's impact on the neighborhood. Viewed from the front (Lake View Court side) there will be no visible evidence of the large garage (see Attachment C – House Front Illustration). Viewed from the side (Forest Glen Court side) the house will appear to have a standard two-car garage entrance (see Attachment D – House Side Illustration). The builder/applicant states on the variance application "we have gone through an effort to disguise the additional garage space as livable area when viewed from the street". After reviewing the building plans, staff agrees with the applicant's statement. Therefore, if allowed, the house and garage will appear to be similar to other residences in the area and will not detract aesthetically from the surrounding neighborhood. The proposed square footage of the garage is 60% above the ratio allowed by Code.

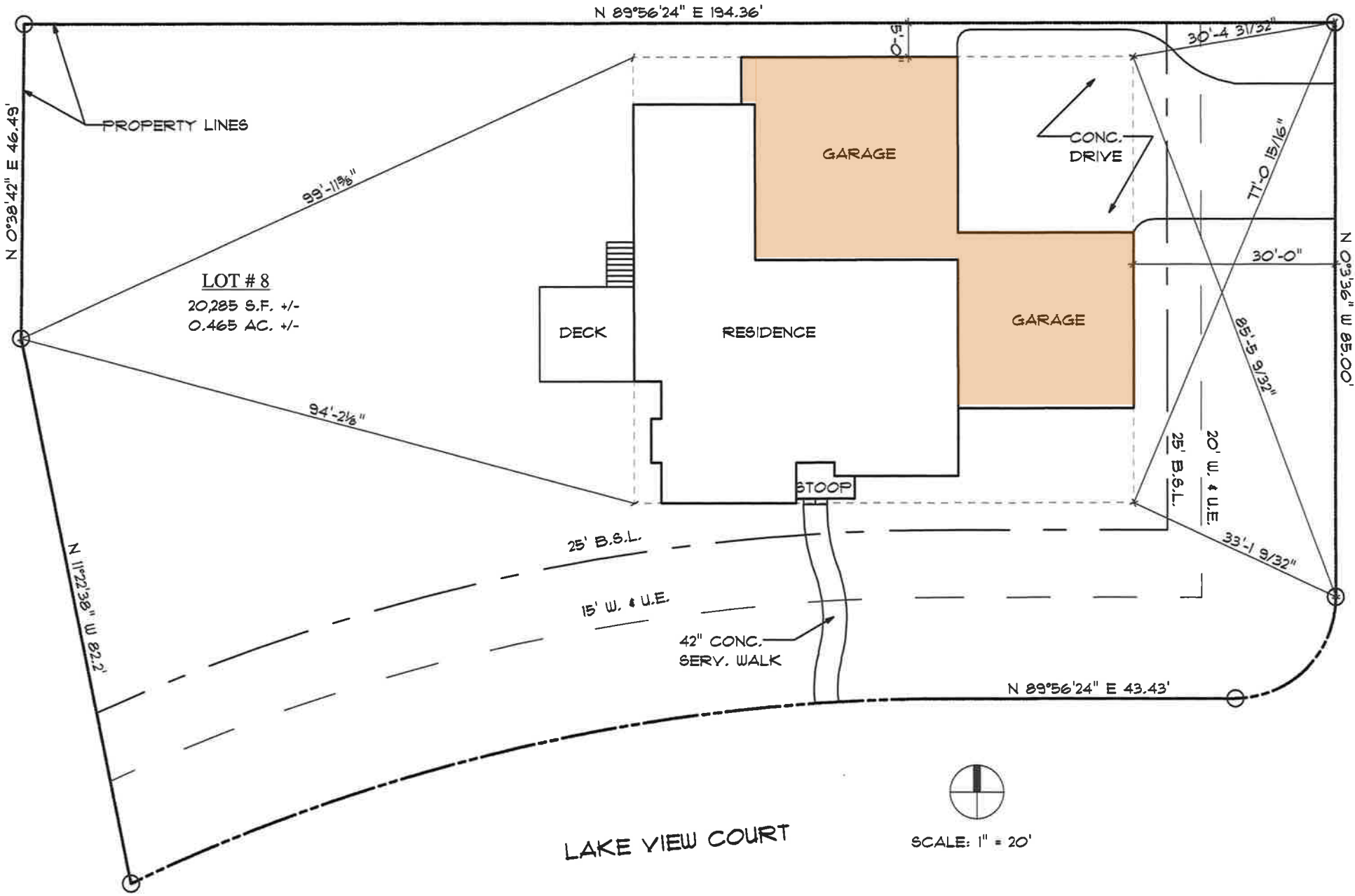
Staff Recommendation

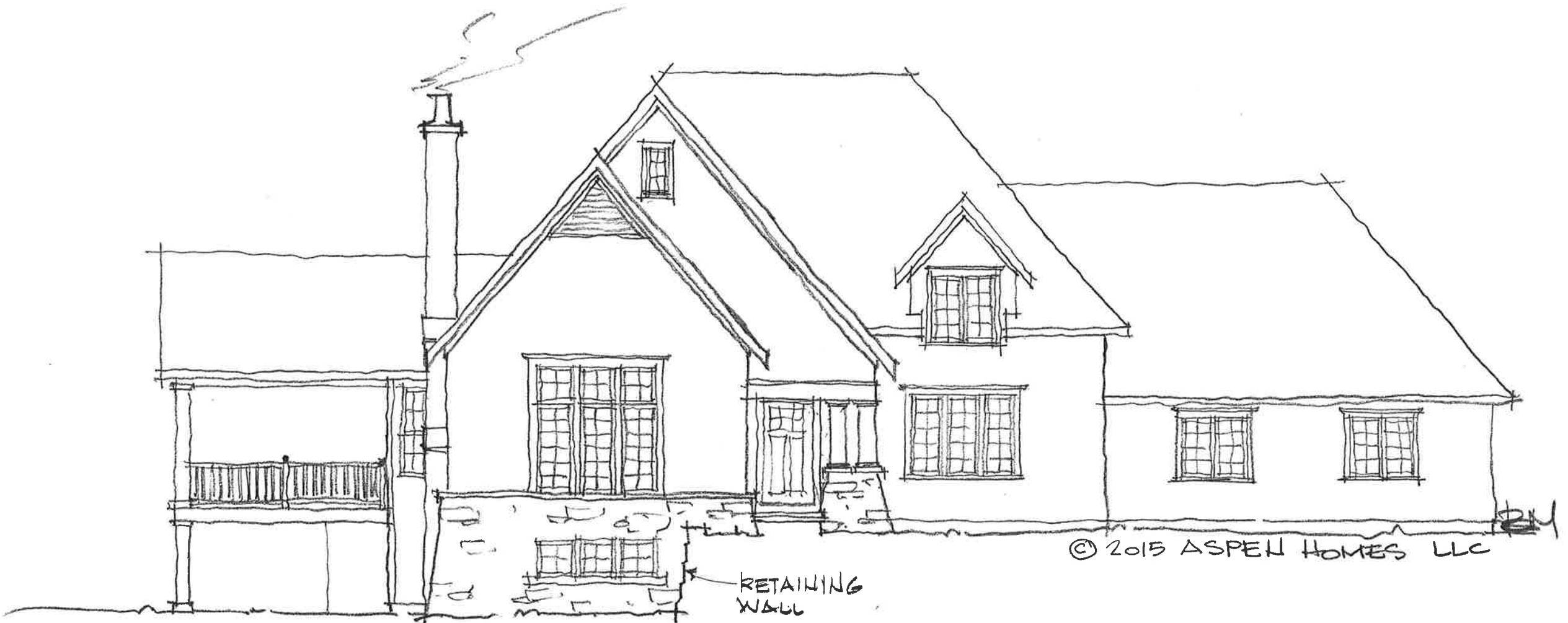
Staff cannot cite a hardship in this request as defined by the Code. Based on the above analysis and the Board's review of this case, the request may, at the Board's discretion, be compatible with the surrounding neighborhood.

Respectfully submitted,

John Soenksen
City Planner







HOLST RESIDENCE
"AS VIEWED FROM LAKE VIEW CT."

DRAWN BY: B. MIXDORF 4-27-15



HOLST RESIDENCE

"AS VIEWED FROM FOREST GLEN CT."

DRAWN BY: B. MIXDORF 4-27-15



Case No. 15-034

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

Part 1. Property Involved.

Street Address 3612 Lake View Court Bettendorf, IA 52722

Legal Description of the property. 05344 -- 008 Copper Ridge 3rd Add Lot 8

Part 2. Contact Information.

Applicant Name Ryan Windmiller Phone (563) 823-0146

Address PO Box 809 Bettendorf, IA 52722 FAX _____

E-mail Address: ryan@aspenswindmiller.com

Owner Name Ryan Windmiller Phone (563) 823-0146

Address PO Box 809 Bettendorf, IA 52722 FAX _____

E-mail Address: ryan@aspenswindmiller.com

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.

Our clients work and personal interests necessitate additional garage space. We have gone through an effort to disguise the additional garage space as livable area when viewed from the street. Additionally, we have built a house down the street with a four car garage in the past so we feel it will fit in well with the neighborhood aesthetics.

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.
Elevations

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 28th day of April, 20 15.

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)

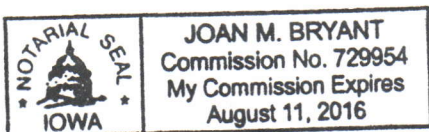
Before me the undersigned Notary Public, in and for the County and State, personally appeared applicant(s) and separately and severally acknowledge the execution of the foregoing application is his/her voluntary act and deed, for the purposes therein expressed.

Witness my Hand and Notarial Seal this 28 day of April, 20 15.
Joan M. Bryant 4.28.15
 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 cc





COMMUNITY DEVELOPMENT

City Hall Annex • 4403 Devils Glen Road, Bettendorf, Iowa 52722 • (563) 344-4083

June 11, 2015

Staff Report

Case No. 15-040

Location: 2420 – 18th Street

Applicant: Chris Ploessl

Zoning Designation: C-5, Office/transitional District

Request: Special use permit to allow a seasonal snow cone trailer.

Background Information and Facts

The site is located west of Bettendorf Middle School at the southwest corner of Sutton Place and 18th Street (see Attachment A – Location Map). The site formerly housed Cities Insurance Group and has been vacant for several months. The applicant would like to place a seasonable snow cone business trailer in the northeast corner of the parking lot at this site (see Attachment B – Plot Plan).

Staff Analysis

The plot plan shows that the trailer will occupy approximately 4 parking spaces. Assuming the 4 spaces will actually be occupied, the site will have 14 remaining parking spaces. During the time Cities Insurance Group occupied the building, staff does not recall any time that a majority of the parking spaces were occupied by parked vehicles. Staff believes that 14 parking spaces will be sufficient for most of the uses listed in the C-5 district.

The snow cone business operated for years on a seasonal basis with the Board's approval at the southeast corner of Cumberland Square Shopping Center (see Attachment C – Previous Location). At that location, the trailer actually occupied only 2 parking spaces (see Attachment D – Trailer Illustration). Therefore, the plot plan showing 4 parking spaces being occupied represents the worst case scenario.

The C-5 zoning district specifies a "drive-up window" and a "restaurant" as allowed special uses. The Code also states that "similar and compatible uses" may be considered. Of all the C-5 uses listed, either permitted uses or special uses, staff believes that a seasonal snow cone trailer is similar and compatible to a restaurant and drive-up and therefore, at the Board's discretion, may be allowed as a special use.

Staff Recommendation

This seasonal snow cone business (trailer) operated for several years at its previous location with no problems or complaints being received by staff.

Staff applied the nine standards listed in Code Section 11-2A-1:E.5 required for recommendation for approval of a special use permit, and staff feels that the standards are met and recommends approval of the request.

Respectfully submitted,

John Soenksen
City Planner





Area to be occupied







Case No. 15-040

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

Part 1. Property Involved.

Street Address 2420 18th ST.

Legal Description of the property. _____

Part 2. Contact Information.

Applicant Name Chris Ploessl Phone 563-210-1846

Address 219 N 1st St Eldridge, IA 52748 FAX 563-285-2607

E-mail Address: _____

Owner Name John T Clark Phone 563-529-3783

Address 2420 18th St Bettendorf IA 52722 FAX 563-538-7284

E-mail Address: JClark@royalmetalsgroup.com

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.)



COMMUNITY DEVELOPMENT

City Hall Annex • 4403 Devils Glen Road, Bettendorf, Iowa 52722 • (563) 344-4083

June 11, 2015

Staff Report

Case No. 15-041

Location: 6478 Spring Creek Drive

Applicant: Ryan Windmiller

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

Request: Variance to reduce the rear yard setback from 25 feet to 23 feet and to increase the allowable garage area from 765 square feet to 890 square feet.

Background Information and Facts

The site is located on the south side of Forest Grove Drive near the east city limits (Criswell Street) toward the south end of Spring Creek Drive on the west side (see Attachment A – Location Map). The applicant is asking permission to exceed the allowable garage area and have a small portion of a rear deck encroach into the rear yard setback.

Staff Analysis

If allowed, the house will be similar to other homes in the neighborhood and will have a 3-plus car garage (see Attachment B – Front Illustration). The garage will resemble similar 3-car garages throughout the newer portions of the city. The design of the homes incorporates a rear walk-out basement with an attached deck that is level with the first floor of the house (see Attachment C – Side View Illustration).

Based on the square footage indicated on the house plan, up to 765 square feet of dedicated garage space is allowed. The request to increase that to 890 square feet represents a 16% increase over what is allowed. Given the house design illustrated on Attachment B, the garage does not appear to be disproportionate to the house and does not appear to detract from the aesthetics of the neighborhood.

A small triangular-shaped portion of the rear deck would protrude into the 25-foot rear yard setback. Of the 224 square feet of proposed deck area, only approximately 8 square feet would encroach into the required setback (see Attachment D – Plot Plan). It should be noted that Lot G, an outlot 4,804 square feet in size, is located to the rear of this lot; because of this configuration, the proposed setback reduction would not have any adverse impact upon any property to the rear of this site.

The plot plan shows that the house design/layout is at the 15-foot minimum combined side yard setback (10 feet to the south and 5 feet to the north). Because of the lot's pie-

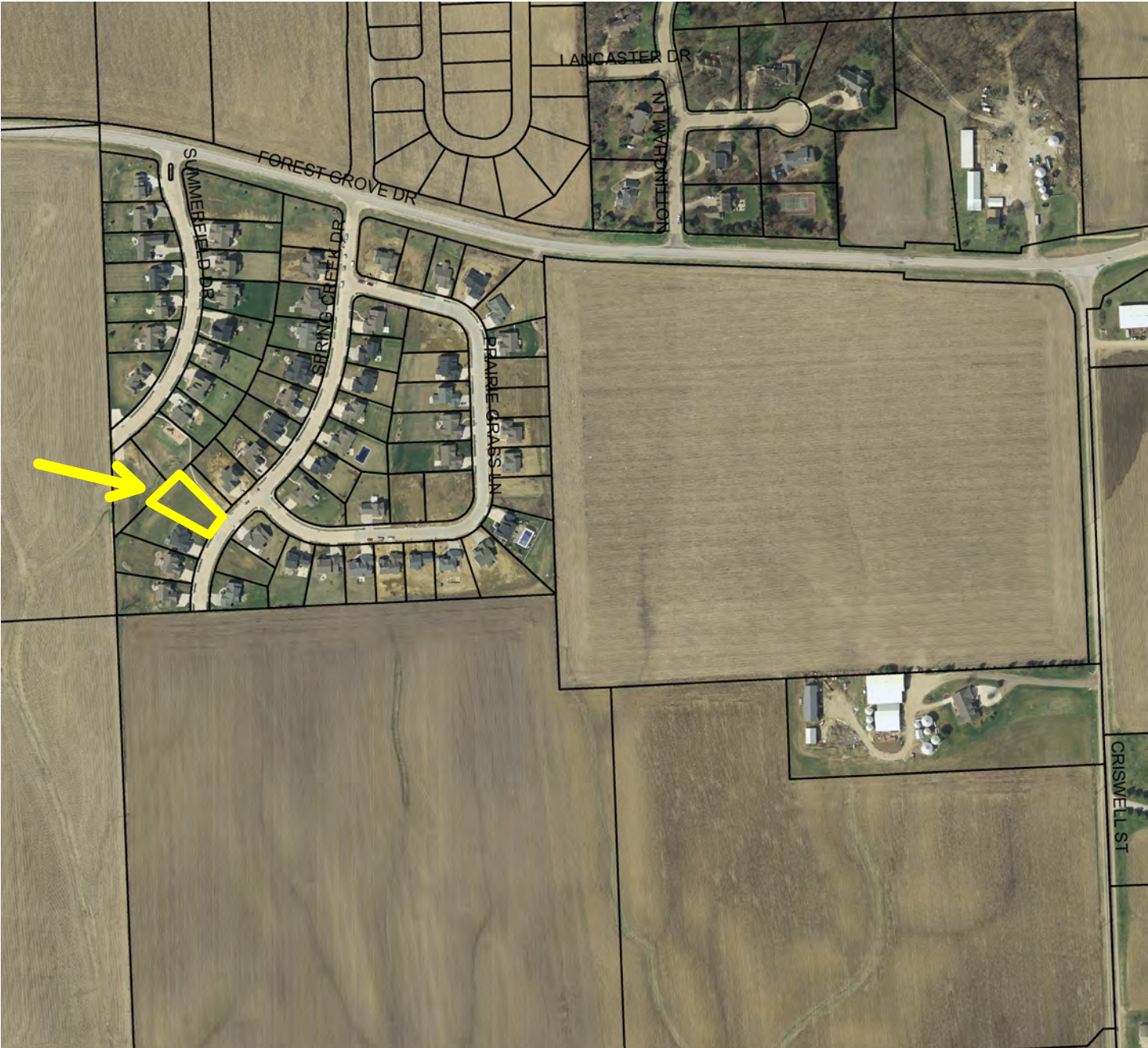
shaped configuration, moving the house forward to bring the small portion of the deck into code compliance would reduce the combined side yard setbacks and necessitate a variance. The proposed layout of the lot appears to be the most logical choice.

Staff Recommendation

While the lot's pie-shaped configuration may be a contributing factor to the deck setback issue, staff cannot cite a hardship to justify granting the variance request.

Respectfully submitted,

John Soenksen
City Planner





6333 BLACKBERRY LANE
BETTENDORF, IA 52722

PHONE: 563.823.0146

FAX: 563.823.0110

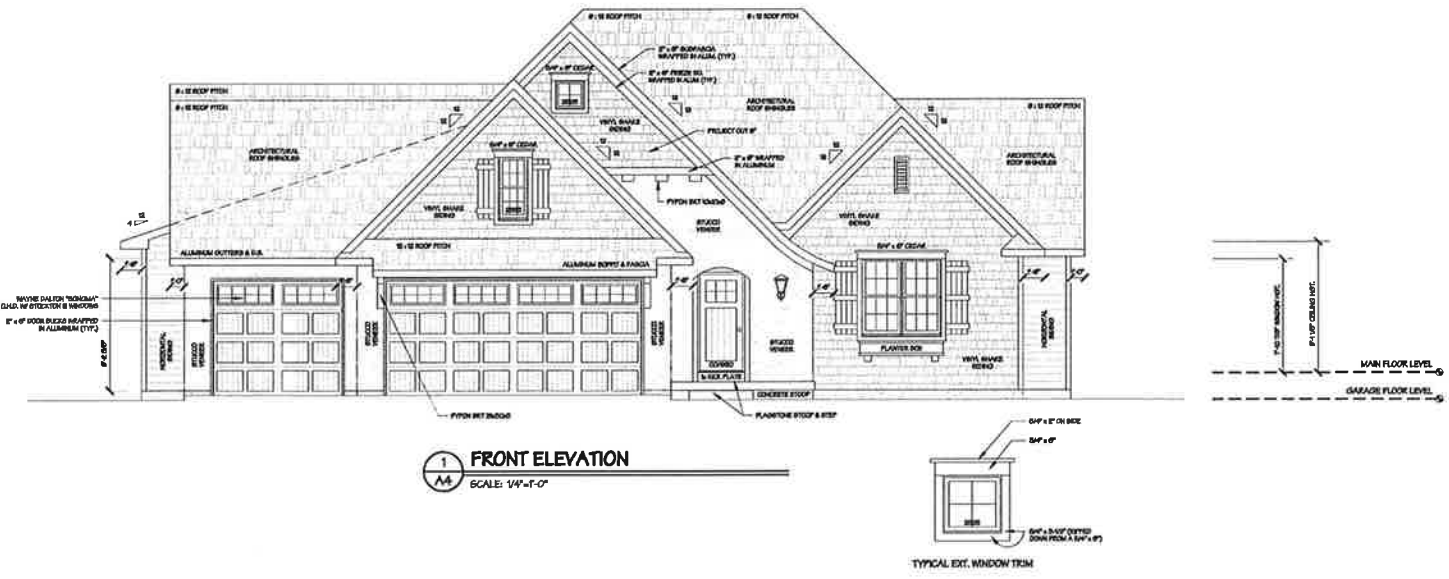
BLACKBURN / SCHWARTZ RESIDENCE
LOT #26 HUNTINGTON MEADOWS
6478 SPRING CREEK DRIVE
BETTENDORF, IOWA

ELEVATIONS

DATE: 4-14-15
REV.: 4-22-15
REV.: 5-19-15
REV.:

JOB:
DRAWN BY: D. ANDERSON

SHT. A-4



1 FRONT ELEVATION
SCALE: 1/4"=1'-0"

2 REAR ELEVATION
SCALE: 1/4"=1'-0"





6533 BLACKBERRY LANE
BETTENDORF, IA 52722

PHONE: 563.823.0146

FAX: 563.823.0110

BLACKBURN / SCHWARTZ RESIDENCE

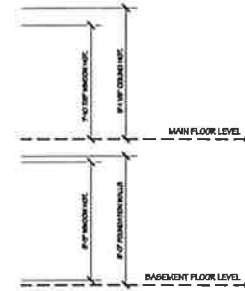
LOT #26 HUNTINGTON MEADOWS
6478 SPRING CREEK DRIVE
BETTENDORF, IOWA

ELEVATIONS

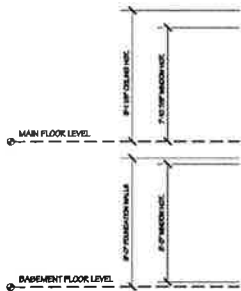
DATE: 4-14-15
REV: 4-22-15
REV: 5-19-15
REV:

JOB:
DRAWN BY: D. ANDERSON

SHT. A-5



1 RIGHT SIDE ELEVATION
SCALE: 1/4\"/>



2 LEFT SIDE ELEVATION
SCALE: 1/4\"/>



Attachment - C



Case No. 15-041

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

Part 1. Property Involved.

Street Address 6478 SPRING CREEK DRIVE, BETTENDORF, IA 52722

Legal Description of the property. 0449-026 HUNTINGTON MEADOWS 1ST ADD.
LOT 26

Part 2. Contact Information.

Applicant Name RYAN WINDMILLER Phone (563) 823-0146
Address PO Box 809 BETTENDORF, IA 52722 FAX _____
E-mail Address: _____

Owner Name RYAN WINDMILLER Phone (563) 823-0146
Address PO Box 809 BETTENDORF, IA 52722 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 REAR DECK IS SLIGHTLY UNDER MINIMUM SETBACK. HOWEVER WITH AN OUT LOT DIRECTLY BEHIND THE PROPERTY, THE YARD APPEARS MUCH LARGER AND WILL HAVE NO NEGATIVE IMPACT VISUALLY.

Part 6. Attachments. The following items are attached and are a part of this application.

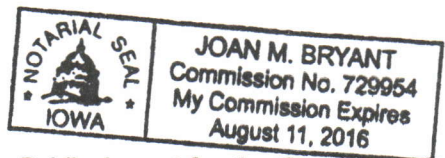
- 1. Scale accurate site plan, at a scale of 1" = 20' or other suitable scale, showing adjacent street, property line, building location of existing and proposed buildings and other important features of the property. Required with all applications.
 - 2. Legal Description. (If not shown on page 1.)
 - 3. Floor plan if internal design of building is part of application.
 - 4. List additional attachments.
- FULL SET OF CONSTRUCTION PLANS**

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 15 day of May, 20 15.

Signature of Applicant [Signature] 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 21 day of May, 20 15.
[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 Credit Card
Amount \$ 50 Date 5-22-2015





COMMUNITY DEVELOPMENT

City Hall Annex • 4403 Devils Glen Road, Bettendorf, Iowa 52722 • (563) 344-4083

June 11, 2015

Staff Report

Case No. 15-046

Request: Establishment of a rule defining "reasonable time" related to Section 11-2B-3:A Appeals; Hearings; Fees: Right to Appeal.

Background Information and Facts

Section 11-2B-2:A states: "The board shall adopt its own rules of procedure not in conflict with this title nor with the Iowa statutes in such case made and provided." Staff is requesting that the Board consider establishing a rule regarding the "Right To Appeal" a staff decision regarding the implementation of Zoning Regulations.

Section 11-2B-3:A states: "An appeal may be taken to the board by any person, firm or corporation aggrieved, or by an officer, department, board or bureau of the city affected by any decision of the building inspector. Such appeal shall be taken within a reasonable time as shall be prescribed by the board of adjustment by general rule, by filing with the building inspector and with the board a notice of appeal, specifying the grounds thereof. The building inspector shall forthwith transmit to the board all of the papers constituting the record upon which the action appealed from was taken."

Nothing in the Code defines a "reasonable time," and therefore the concept is open to interpretation. Without a clear definition or a rule establishing what would be considered reasonable, the City may be at a disadvantage to defend the action of staff.

There seems to be a common thread in other sections of the Code that list 30 days as a reasonable time to take actions of this type. Section 11-2B-8: Recourse of Aggrieved Persons and Iowa CODE Section 414.15 set 30 days as the timeframe to appeal decisions by the Board. Staff would suggest using the 30 day standard throughout the Code in the interest of consistency.

Staff Recommendation

Staff recommends the Board establish a rule regarding Section 11-2B-2:A that establishes a 30 day deadline for all appeals to be taken to the Board of Review.

Respectfully submitted,

John Soenksen
City Planner