

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
SEPTEMBER 10, 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 August 13, 2015.
4. The Board to hold a public hearing on the following item:
 - a. **Case 15-067; 5680 Short Street (A-2)** - A request for a variance to allow a 5-foot high fence in a required front yard, submitted by John Ahlers.

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
AUGUST 13, 2015
5:00 P.M.**

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

Item 1. Roll Call

PRESENT: Falk, Gallagher, Johnson, Spranger, Voelliger
ABSENT: None
STAFF: Fuhrman, Soenksen, Connors

Item 2. Review of Board procedures.

Item 3. The Board to review and approve the minutes of the meeting of July 9, 2015.

On motion by Falk, seconded by Gallagher, that the minutes of the meeting of July 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 15-049; 3475 Woodholm Lane (R-1) - A request for a variance to increase the allowable garage area from 720 square feet to 1,144 square feet to allow construction of a 26-foot by 24-foot garage, submitted by Sandy and Richard Tillman. (Deferred from meeting of July 9, 2015)

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 updates to the staff report. Staff report is Annex #3 to these minutes. Soenksen displayed a photo submitted at the meeting of a garage that is very similar to the proposed one and a drawing of the relationship of the proposed garage to the existing house.

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

Sandy Tillman, the applicant, stated that she and her husband own antique cars which are often a unique size. She indicated that the proposed garage would be only the width of a typical 2-car garage so that it would blend into the neighborhood. Tillman stated that the average length of the antique cars is 16 feet, adding that there would be room for only two cars unless a variance is granted.

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

Soenksen commented that because the applicant did not submit the garage photo until just before the meeting, he had been unable to include the information in the staff report. He indicated that it does appear as though the proposed structure would be similar in appearance to a 2-car garage.

Voelliger stated that he believes that residents should be able to use their property to the highest and best use as long as no one objects. He indicated that there is a similarly-sized garage across the street and a large concrete block garage within 300 feet of the proposed structure.

Falk asked if the lots with the garages to which Voelliger referred have the same zoning classification as the applicant's. Connors confirmed this.

Spranger asked if the 5-foot side yard setback shown on the drawing is permitted. Soenksen confirmed this.

On motion by Spranger, seconded by Gallagher, that a variance to increase the allowable garage area from 720 square feet to 1,144 square feet to allow construction of a 26-foot by 44-foot garage be granted in accordance with the Decision and Order.

Johnson commented that she does not believe that approving the variance would be precedent-setting because of the character of the neighborhood.

Falk expressed his appreciation to the applicant for submitted the photograph which more clearly demonstrates the proposed construction.

ROLL CALL ON MOTION

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

- b. Case 15-053; 131 - 12th Street (I-3) - A request for a special use permit to allow a fitness center, submitted by Seth Ross and Jan Butler.

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.

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 businesses that are currently located in the building would remain. An unidentified audience member explained that QCA Pools and Spas has moved to DeWitt and that Counter Top Central is moving to another part of the building as the owner needs more space.

Johnson asked if the applicant anticipates much use of the parking lot located to the west of the building. Seth Ross, the applicant, stated that it is highly unlikely that even at peak business hours it would necessary for patrons to use that parking lot. He added that it might become necessary if there is a special event scheduled.

On motion by Johnson, seconded by Spranger, that a special use permit to allow a fitness center be approved in accordance with the Decision and Order.

Motion carried.

Decision and Order is Annex #6 to these minutes.

- c. Case 15-054; 5094 - 19th Street (R-23) - A request for a variance to reduce the required front yard setback from 25 feet to 10 feet for a 6-foot high fence, submitted by Jennifer Buntmeyer.

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.

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

Jennifer Buntmeyer, the applicant, stated that she would be available for any questions the Board members might have.

Falk asked if the applicant is opposed to installing the landscaping proposed by staff. Buntmeyer asked if the landscaping is required to be trees. Soenksen stated that there are other options besides trees such as shrubs, adding that one planting would be required every 25 lineal feet. Falk asked for clarification of the length of the fence that would be located adjacent to Lindenwood Drive. Soenksen stated that he is unsure, but guessed that approximately 4 to 5 plantings would be required. He commented that many of the houses along Devils Glen Road near the City Hall Annex building have a similar landscaping buffer.

Johnson asked if a 4-foot high fence along Lindenwood Drive would be allowed to be located on the property line. Soenksen confirmed this. Johnson asked if typically a 6-foot high fence would be required to be set back 25 feet from the property line along Lindenwood Drive. Soenksen confirmed this. Johnson commented that the cases referenced in the staff report regarding similar requests for 6-foot high fences were for homes with 18th Street frontages and are therefore not necessarily relevant. She indicated that 18th Street is an arterial street while Lindenwood Drive is not. Johnson stated that approximately a year ago a request for a variance for a fence along Summertree Avenue was denied. Soenksen explained that that request had been for a 6-foot high fence to be located on the property line along Summertree Avenue and

would also have been located in a utility easement, adding that the current request is for a 6-foot high fence that would be set back 10 feet.

Johnson stated that it is her recollection that the Board typically does not allow 6-foot high fences located on the property line of residential streets. She commented that the Board denied the request of an applicant whose house is located near Paul Norton Elementary School for a 6-foot high fence to be placed on the property line. Soenksen stated that he recalls that there were line of sight issues involved in that case as well.

Johnson commented that she does not believe that the applicant has established a hardship which would justify allowing a 6-foot high fence along Lindenwood Drive within the required setback and cannot support the request.

Spranger asked if there are any line of sight issues involved in the current request. Soenksen stated that there are not. Falk commented that it is his recollection that there is currently a 6-foot high fence on the property line along 18th Street and that there is a section of the fence along Lindenwood Drive that tapers down to the point at which the fence is 4 feet high. Soenksen commented that he believes that there are at least one or two panels of fencing that are at or near 6 feet tall.

Falk commented that he recalls a case involving a similar request for a homeowner who lives on Moencks Road. Johnson stated that the case to which Falk referred involved the continuation of a 6-foot high fence line along several rear property lines, adding that the applicant's house faced a side street. Falk commented that he feels that this case is similar. Johnson stated that the current request is not for a continuation of a 6-foot high fence line. Soenksen stated that he recalls that a 6-foot high fence was allowed to be set back from the property line of a house located at Moencks Road and Charter Oaks Drive. Johnson expressed concern about setting a precedent. Soenksen stated that staff feels that a hardship is established by the fact that the lot in question has 3 street frontages which is very unusual.

On motion by Spranger, seconded by Falk, that a variance to reduce the required front yard setback from 25 feet to 10 feet for a 6-foot high fence be approved in accordance with the Decision and Order and with the condition that a landscape planting be installed every 25 lineal feet along the fence line adjacent to Lindenwood Drive.

ROLL CALL ON MOTION

AYE: Falk, Gallagher, Spranger, Voelliger

NAY: Johnson

Motion carried.

Decision and Order is Annex #8 to these minutes.

- d. Case 15-055; 3224 ValleyWynds Drive (R-1) - A request for a variance to reduce the required front yard setback from 35 feet to 30 feet to allow for construction of a house, submitted by Dave Prochaska.

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.

Falk stated that he would abstain from discussion and voting regarding Case 15-055.

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.

Dave Prochaska, the applicant, stated that the city's records regarding the lot in question show two different setback requirements. He indicated that one plat shows a 30-foot required setback but that another shows a 35-foot required front yard setback. He stated that he designed the house to fit a lot with a 30-foot required front yard setback, adding that the lot is difficult anyway because there are two front yards.

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 Gallagher, seconded by Spranger, that a variance to reduce the required front yard setback from 35 feet to 30 feet to allow for construction of a house be approved in accordance with the Decision and Order.

ROLL CALL ON MOTION

AYE:	Gallagher, Johnson, Spranger, Voelliger
NAY:	None
ABSTAIN:	Falk

Motion carried.

Decision and Order is Annex #10 to these minutes.

- e. Case 15-056; 3885 Middle Road (C-5) - A request for a special use permit to allow a drive-in banking facility, submitted by Blackhawk Bank & Trust.

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.

Mike Richmond, representing the applicant, stated that he would be available to answer any questions the Board may have.

Gallagher stated that he is not opposed to the special use permit for a drive-in banking facility. He asked if the Planning and Zoning Commission has reviewed and approved the site

development plan especially as it relates to ingress and egress. Connors explained that the Commission had previously rejected a site development plan with a different ingress/egress plan that had indicated access points on Old Belmont Road. He indicated that the residents had expressed concerns about the amount of traffic that would impact the Belmont Meadows neighborhood. He stated that neighbors also objected to the the original plan that showed that the smaller Lot 2 of the proposed subdivision would be developed as a commercial lot. Connors stated that the applicant had worked with staff to designate access points on Belmont Road and Middle Road and to dedicate the remainder of the property to the city for use as a park.

Gallagher asked if the access plan shown is the final one. Connors confirmed this, adding that it would be presented to the Commission for their recommendation to the City Council on August 19. Gallagher suggested that the access to Lot 2 be reconfigured to include a median to encourage ingress that will flow to the north and egress flows to the south so that motorists do not attempt turn left rather than right when entering the site. He also questioned the need for a double ingress and egress from Belmont Road. Gallagher stated that the Old Belmont Road access point is shared by the church adjacent to the future bank site. He commented that especially since Lot 2 is not to be used for commercial purposes, a much better access plan could be developed. Connors stated that the only full access point is on Old Belmont Road, adding that the other two access points on Belmont Road and Middle Road are right-in/right-out only. Johnson stated that the landscape plan shows that the entryways on Belmont Road and Middle Road are full access which is apparently not correct. Connors stated that this issue should be addressed to the engineer. Richmond stated that his firm had not drawn the landscape plan but assured the Board that the error would be corrected.

Voelliger asked if there would be a barrier between the two lanes that are dedicated to left turns. Johnson explained that the configuration of the entrance is such that it would be very difficult to turn left when exiting. Connors added that there have been discussions of possibly extending the raised median in Middle Road to a point past the location of the right-in/right-out access. Johnson commented that the access plan is not ideal as it is very similar to the one at the development at the corner of 53rd Avenue and Devils Glen Road. She stated that the very limited access makes entering and exiting the site difficult.

Gallagher reiterated that he is in favor of granting the special use permit for the drive-in banking facility, adding that he feels that the Commission should consider requesting that the access plan be reconfigured. Johnson stated since that the Board's purview includes only the special use permit for the drive-in banking facility, she is comfortable supporting the request as long as the Commission takes into consideration and addresses the concerns the Board has expressed with regard to the access plan.

Voelliger asked if adequate parking has been provided for the park facility. Connors stated that the proposed park area will likely not be a traditional park but more of a resting area for users of the recreational trail. He indicated that those issues would be addressed by the Park Board at a later date.

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

Motion carried.

Decision and Order is Annex #12 to these minutes.

Soenksen stated that the City Attorney has requested that he do some research with regard to the number of variance requests submitted to the Board in recent years related to garage size. He indicated that there has been some staff consideration given to using a different method to calculate livable area which may reduce the volume of such requests. He stated that he has also been tasked with researching what method other cities in Iowa use to calculate the allowable garage area, adding that he would present his findings and a proposed ordinance amendment to the Board at the next meeting.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 5:30 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

September 10, 2015

Staff Report

Case No. 15-067

Location: 5680 Short Street

Applicant: John Ahlers

Zoning Designation: A-2, Rural Residence District

Request: Variance to allow a 5-foot high fence in a required front yard setback.

Background Information and Facts

The site is located on the north side of Short Street which is accessible from Moencks Road either from Crow Creek Road or Valley Drive (see Attachment A – Location Map). The applicant would like to place a 5-foot high fence surrounding the rear yard (see Attachment B – Plot Plan). Because the rear property line is adjacent to North Street, the proposed fence placement is not allowed by Code because it would be located in a required front yard setback and thus the applicant must obtain a variance.

Staff Analysis

The lot in question and the surrounding area are part of Kerr's First Addition platted in 1965. Both Short Street (to the south of the property) and North Street (to the north of the property) are private roadways and not maintained by the City.

In the area near this property, North Street is in poor condition (see Attachment C – North Street Photos). The unpaved surface of North Street makes the private street unsuitable for many types of vehicles due to its condition and lack of maintenance. In fact, the bottom picture on Attachment C shows a small pond of water on top of the street that has been in place for so long that the area has developed into a frog pond filled with dozens of frogs. On the date of the staff visit to this site the street could not even be walked on due to its condition.

The entire right-of-way for North Street in this area is 30 feet wide, and to the west of this site the roadway width is only 20 feet wide. Current residential street standards require a 52-foot wide right-of-way and a 31-foot minimum pavement width. Therefore, North Street cannot be developed into a standard city street in the future without the acquisition of additional right-of-way.

In some original residential neighborhoods in the city there are alleys adjacent to rear yards that are in far better condition than this portion of North Street. In those areas, this request would be allowed without a variance because those rights-of-way are

considered alleys and not streets. Staff feels that this portion of North Street far more resembles an alley rather than a usable street.

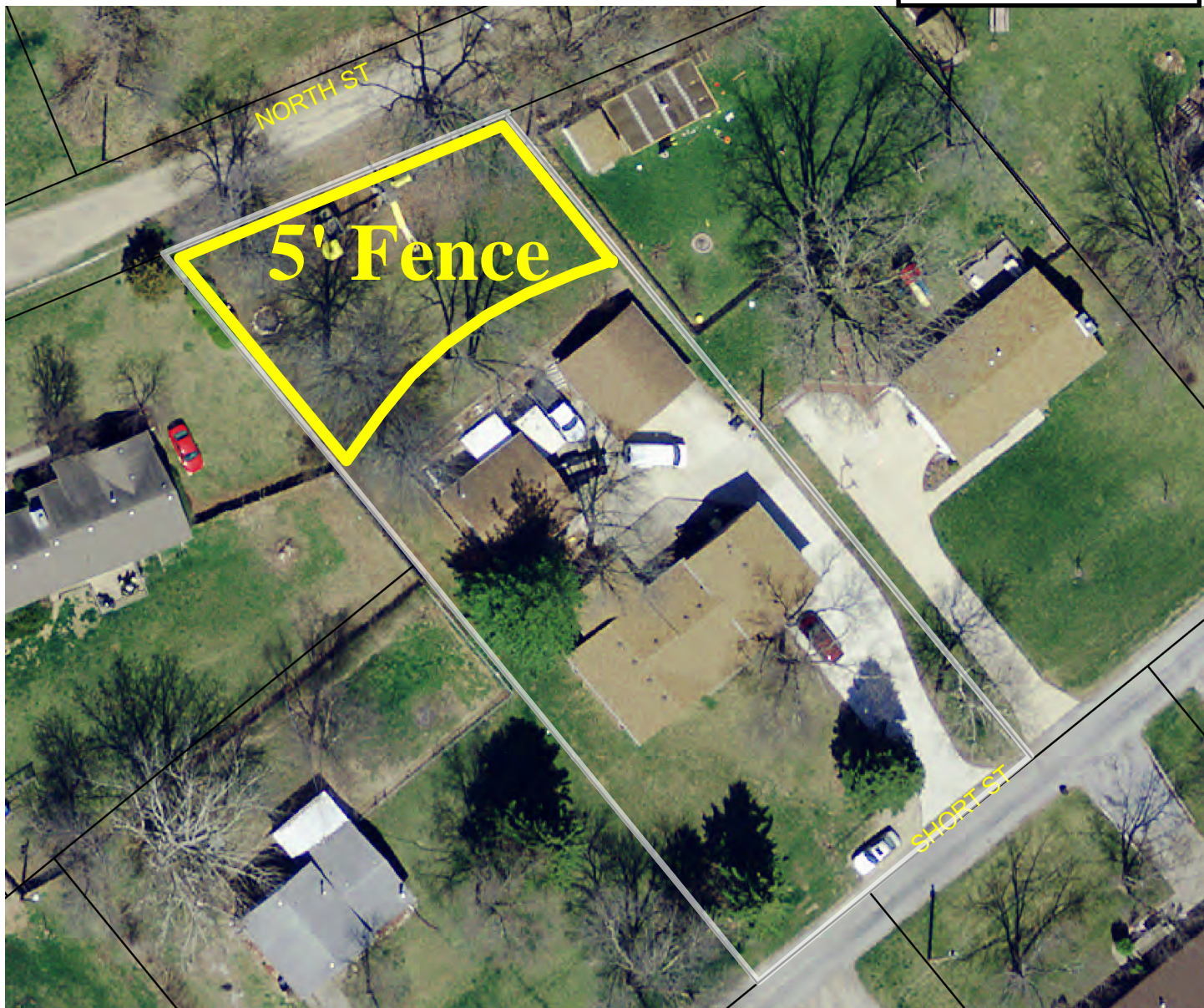
Staff Recommendation

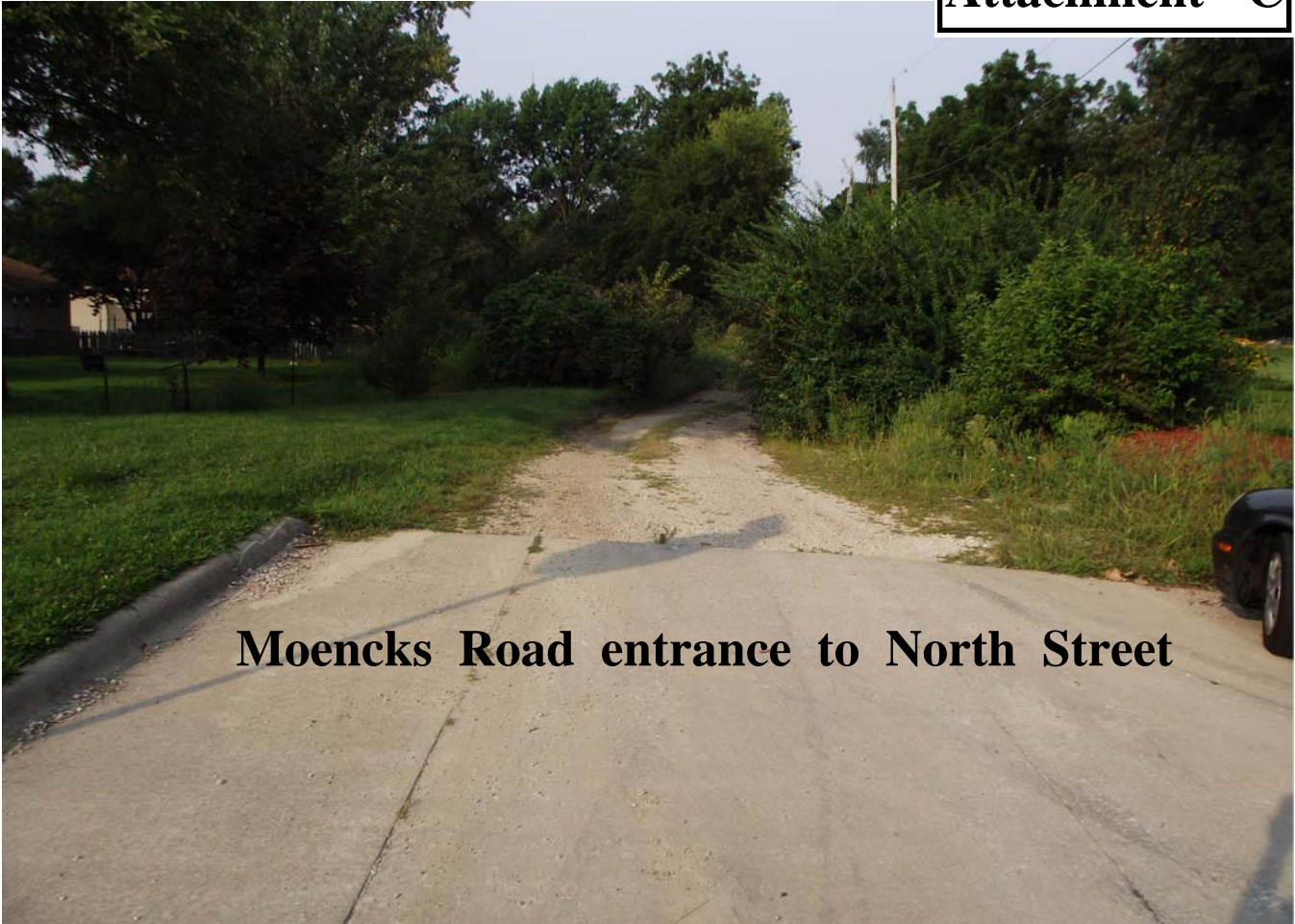
Based on the above analysis, staff feels that there is a legitimate hardship for this request when applying a front setback standard to this variance application.

Respectfully submitted,

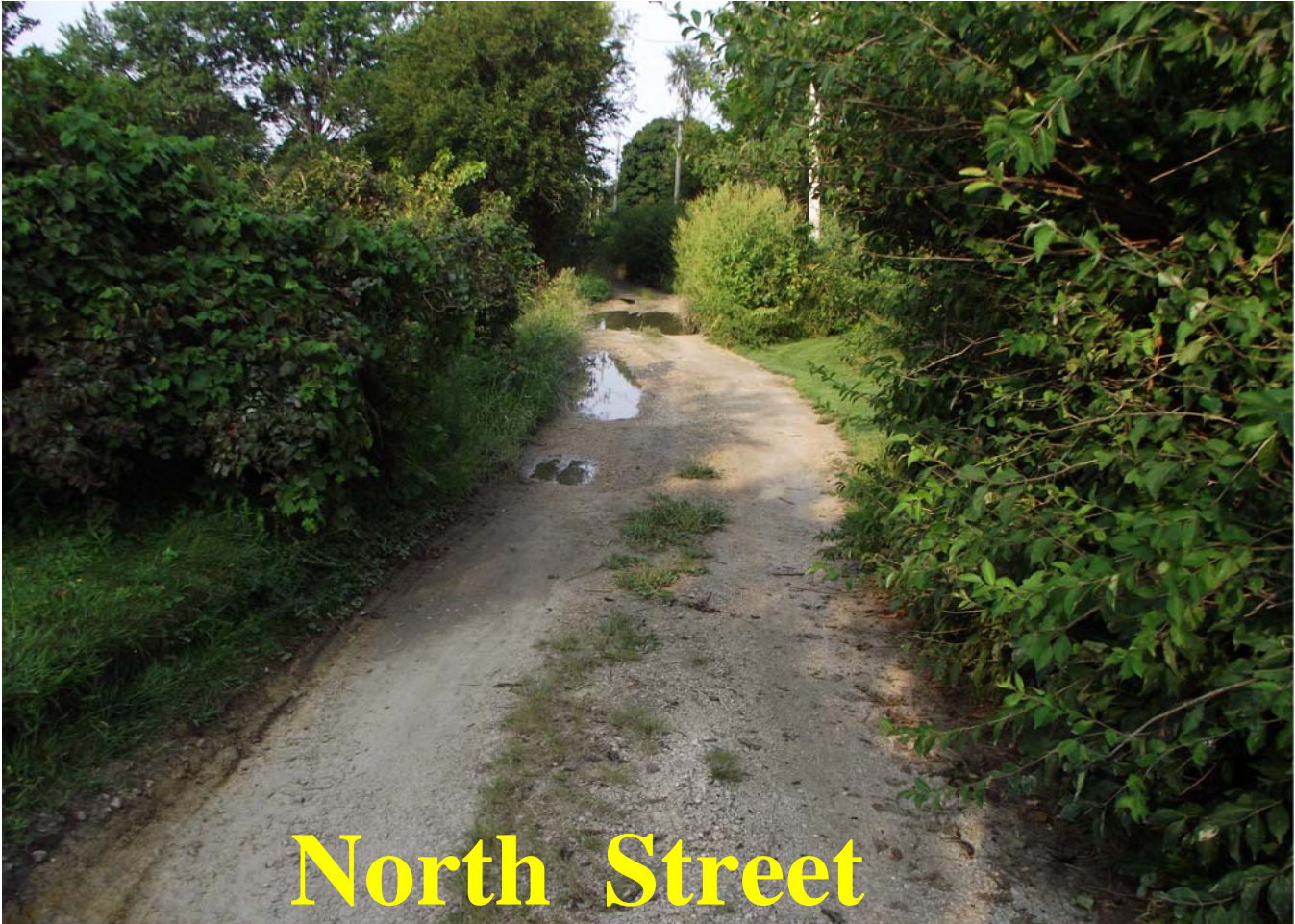
John Soenksen
City Planner







Moencks Road entrance to North Street



North Street

Case No. 15-067

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

Part 1. Property Involved.

Street Address 5680 Short St. Bettendorf, IA.

Legal Description of the property. Lot #3 of Kerris 1st Addition

Part 2. Contact Information.

Applicant Name John Ahlers Phone 349-9827 cell
563-332-2677 Home
 Address 5680 Short St. FAX _____
 E-mail Address: ahlersfam5@gmail.com

Owner Name Same 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.)

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.

*5' high fence on property line. Road along property line is not maintained.
 Would like 5' high for dogwood make sense.*

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.

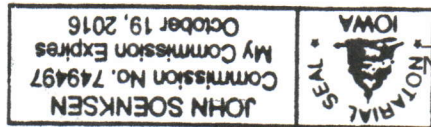
I (we) depose and say that all the information contained in this application and the statements contained in the papers submitted herewith are true. Witness our Hands and Seals this 24 day of August, 20 15.

Signature of Applicant _____ 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 24 day of Aug, 20 15.



John Soenkssen
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 50.00 Date 8-24-15

Here is a Reader's Digest summary of what I found out about what other communities are doing regarding garages/accessory buildings:

West Des Moines

All garage space may be up to 1,000 square feet. Detached garages may be up to 10% of the total lot area.

Iowa City

Detached no greater than 15% of the total lot area.

Attached must be less than 50% of total living area square footage (regardless of finished or not finished).

Ames

Detached 900 square foot maximum.

Attached has no size restriction but all garage entry door widths may not add up to be wider than 27 linear feet (garage doors less than 8 feet are not counted in this formula).

Dubuque

Detached 1,000 square foot maximum (this includes the sum of all accessory structures).

Attached to be less than 50% of the ground level footprint of the house living area.

Cedar Falls

Detached must be less than 45% required rear yard or less than 1,024 square feet (whichever is less).

Attached may not be larger than the first floor living area footprint.

All garage/accessories combined must not exceed the formula: "**Lot Width (X) Required Rear Yard Depth (X) .45**".

Ankeny

Detached not larger than 720 square feet (this may be in addition to attached garage)

Attached maximum of 1,010 square feet.

Urbandale

Detached must be less than 30% of the rear yard.

Attached simply must meet setback requirements.

Johnston

Detached cannot exceed 10% of total lot area.

Attached has no size restrictions.

Based on the above information and my understanding of what the Board was instructing staff to consider, I believe that the Ames approach for attached garages most closely matches those instructions. I do not have as clear of an understanding of what is desired for detached garages. I hope this helps.

Your Thoughts? THANKS! John