

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
MAY 10, 2018
5:00 P.M.**

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

1. Roll Call: Clements ____, Falk ____, Gallagher ____, Spranger ____, Voelliger ____
2. Review of Board Procedures.
3. The Board to review and approve the minutes of the meeting of April 12, 2018.
4. The Board to hold a public hearing on the following item:
 - a. Case 18-038; 2775 - 53rd Avenue (R-2) - A request for a variance to allow a 6-foot high fence in a required front yard along 53rd Avenue, submitted by Greg McCoy. (Withdrawn)
 - b. Case 18-039; 6111 Hess Court (R-1) - Variance to reduce the required rear yard setback from 30 feet to 12 feet to allow for construction of a house, submitted by Applestone Homes, Inc.

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.

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
APRIL 12, 2018
5:00 P.M.**

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

Item 1. Roll Call

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

Item 2. Review of Board procedures.

Item 3. The Board to review and approve the minutes of the meeting of February 8, 2018.

On motion by Falk, seconded by Spranger, that the minutes of the meeting of February 8, 2018 be approved as submitted.

ALL AYES

Motion carried.

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

- a. **Case 18-027; 5700 Crow Creek Road (PUD)** - A request for a variance to allow a 7-foot high fence and a 6-foot high fence in a required front yard, submitted by Frank and Lynn Painter.

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.

Voelliger asked for clarification of the location of the sections of fence that will have differing heights. Soenksen explained that the fence will on the east side of the property will be 5 feet high and will gradually increase to 7 feet high as the topography changes. Voelliger asked if it would appear to have a uniform appearance. Soenksen confirmed this.

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

Gallagher asked if any of the neighbors had expressed opposition to the request. Soenksen stated that he had not received any communication from the neighbors.

Gallagher commented that the proposed fence is the same height as the existing one. Soenksen stated that the fence has been in place for over 20 years.

On motion by Gallagher, seconded by Clements, that a variance to allow a 7-foot high fence and a 5-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 18-028; 3592 Middle Road (C-2) - A request for a variance to reduce the required landscape buffer from 25 feet to 0 feet, submitted by ECA Architects and Planners.

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 the request.

Falk asked if it would have been possible to site the building on the east side of the lot with the driveway on the west. Connors explained that that would not be allowed as the required buffer yard must be completely undeveloped. Falk asked if the building could be constructed on the east side of the lot if a buffer were not required. Connors stated that the right-in/right-out access to Middle Road is located on the east side of the lot so that when the adjacent lot is developed it can be shared. He indicated that the city's goal is to limit the number of access points to Middle Road. He explained that there will be an easement for access from Middle Drive across the adjacent lot. Connors stated that there will be a shared detention pond for both properties.

Voelliger asked if any of the neighbors had contacted the city. Soenksen stated that two people had contacted him but had only requested information regarding the project.

Falk asked if there were any pending rezoning requests for the two properties which are still zoned Agricultural. Soenksen indicated that no rezoning requests have been made.

Clements commented that there currently is a chain link fence on the property line. She asked if there is a fence proposed as a part of the project. Eric Carlson, the applicant, stated that a solid wood fence would be installed on the property line.

Voelliger asked if the size of the lot is adequate for the proposed building. Carlson explained that the building is slightly smaller than the standard store because of the narrowness of the lot.

Clements asked if staff feels that a precedent would be set by approving the variance request. Connors stated that he believes that the Board of Adjustment exists in order to make decisions regarding requests that result from the fact that the ordinance is one size fits all. He added that he does not believe that the ordinance could have anticipated that an agricultural lot would be located in the middle of commercially-zoned lot. He stated that he does not believe that this would set a precedent. Curran concurred.

Voelliger asked if the buffer yard would remain at the rear of the property. Soenksen stated that the applicant meets the ordinance requirements with regard to buffering on the north side of the lot. Carlson commented that the storm water detention area is on the north side of the lot. Falk commented that the solid wood fence would in effect be used as the required buffer yard replacement in order to provide some sort of privacy for the residential neighbor on the adjacent lot. Carlson stated that he has made several attempts to contact that neighbor but has been unsuccessful.

Clements asked for clarification of the hours of operation. Carlson explained that it is anticipated that the store would be open from 5am to 10pm. Clements asked if the solid wood fence is being installed in order to lessen the impact of headlights on the adjacent property. Carlson confirmed this, adding that it would not be a board on board fence but a solid wood fence with no spaces.

Greg Jager, representing the owner of the lot to the west, expressed support for the request. He stated that the city had commissioned a study regarding the entire Golden Triangle area and had determined that it was likely that the properties would develop commercially. He added that to that end, a portion of Middle Drive had been designated as a public street rather than a private drive with the anticipation of an east-west connection to Devils Glen Road. He explained that many years ago the city had asked that the owners of the homes along Middle Road rezone their lots to Commercial in the furtherance of that goal. Jager explained that while the city would have been allowed to rezone the properties on its own, the decision was made to allow the residents to make that decision. He commented that the applicant has changed the full access to Middle Road to right-in/right-out only to reduce the impact of the development on traffic. He added that the access easement on the north side of the property allowing access to Middle Road will further the goal of orderly development of commercial uses on this and the adjacent lot to the east.

On motion by Spranger, seconded by Falk, that a variance to reduce the required landscape buffer yard from 25 feet to 0 feet be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #6 to these minutes.

Voelliger announced that Bill Connors will be retiring and expressed his appreciation for his service to the city. Other Board members concurred.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 5:20 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

May 10, 2018

Staff Report

Case No. 18-039

Location: 6111 Hess Court

Applicant: Applestone Homes, Inc.

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

Request: Variance to reduce a rear yard setback from 30 feet to 12 feet to allow for construction of a house.

Background Information and Facts

The site is located on the south side of Hess Court. The site is accessible by driving to the east end of 53rd Avenue, turning north on Allison Drive, turning east on Willmeyer Drive, and turning south on Pigeon Creek Road (see Attachment A – Location Map). The request is for Lot 28 of Century Heights Twentieth Addition. The property includes a very large area that is designated as an outlot (see Attachment B – Plat).

Staff Analysis

Although the parcel appears to be normal-sized with a large buildable area on Attachment A, the fact that much of that parcel is unbuildable due to required setbacks and the outlot portion. Adding to that situation, there is also a 10-foot wide sewer easement that extends north of the outlot.

The builder has submitted a house plan for Lot 28 (see Attachment C – Plot Plan). Given the items stated above and coupled with the 30-foot front yard setback requirement, a significant (up to 18 feet) portion of the house would encroach into the required rear yard setback. The plot plan shows that the builder is proposing to place the house as close as possible (with 5 feet) to the east side yard to access the deepest buildable area.

The house plan chosen resembles many of the other homes in this area (see Attachment D – Similar Houses). Attachment D clearly shows the drainage issue associated with the outlot affecting this request.

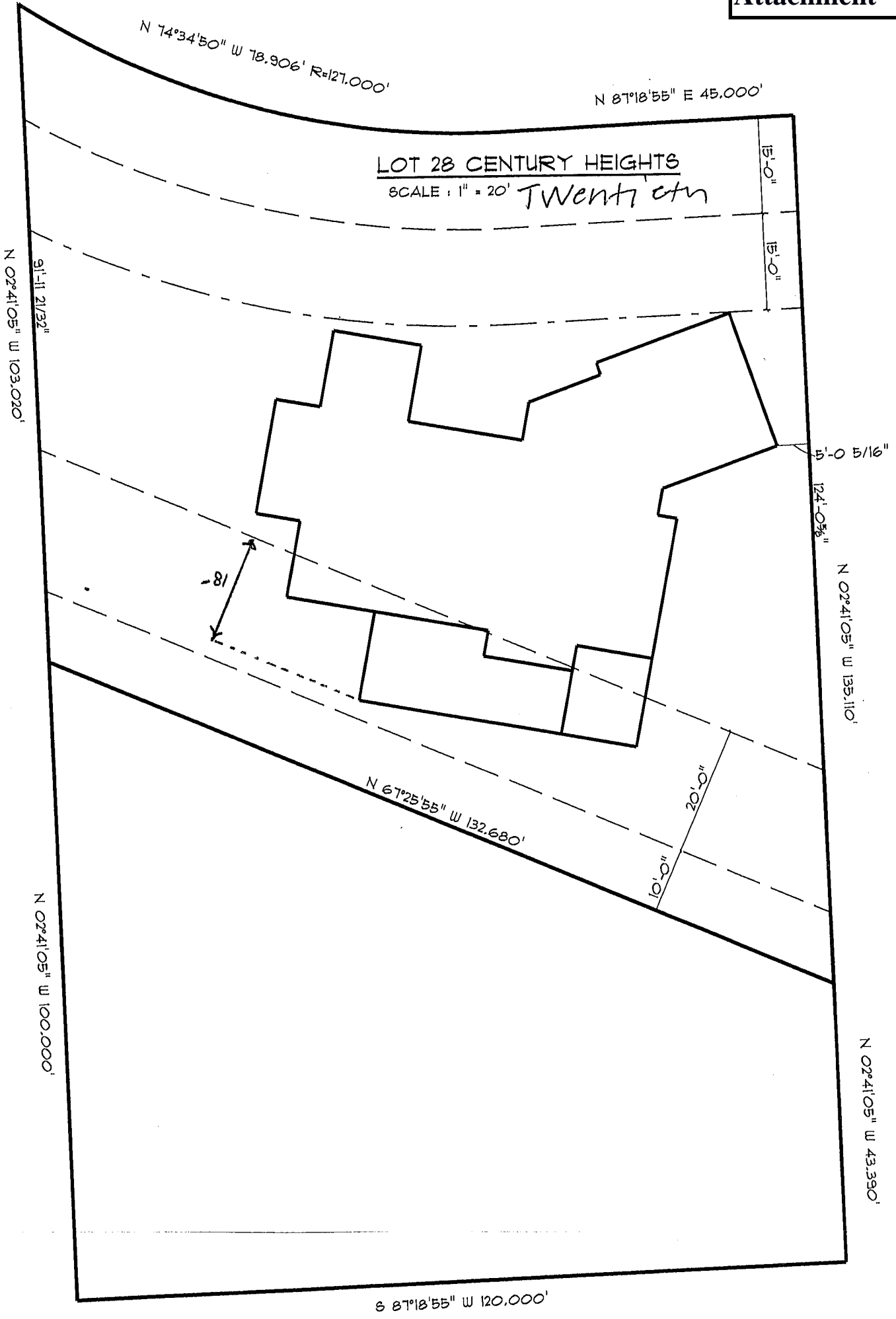
Staff Recommendation

Given all of the above facts, staff feels that the applicant has demonstrated a legitimate hardship beyond their control regarding this request.

Respectfully submitted,

John Soenksen
City Planner









Case No. 18-039

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

Part 1. Property Involved.

Street Address 6111 Hess Ct

Legal Description of the property. Lot 28 century Heights 20th Add e out
Lot D

Part 2. Contact Information.

Applicant Name Appelstone Homes Inc. Phone 563-210-5543

Address 1225 E River Dr Ste 240 FAX _____

E-mail Address: office @ appelstone homes . 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.)

N 74°34'50" W 78.906' R=127,000'

N 87°18'55" E 45.000'

LOT 28 CENTURY HEIGHTS

SCALE : 1" = 20' *JWentz ctn*

N 02°41'05" W 103.020'

91'-11 21/32"

15'-0"

15'-0"

5'-0 5/16"

124'-0 3/8"

N 02°41'05" W 135.110'

81

N 67°25'55" W 132.680'

20'-0"

11'-0.91"

N 02°41'05" W 100.000'

N 02°41'05" W 43.390'

S 87°18'55" W 120.000'