

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 14, 2022
5:00 P.M.

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

Item 1. Roll Call

PRESENT: Gallagher, Spranger, Tansey, Tombergs, Vermillion

ABSENT: None

STAFF: Beck, Fuhrman, Hunt

Item 2. Review of Board procedures.

Item 3. The Board to review and approve the minutes of the meeting of March 10, 2022.

On motion by Tombergs, seconded by Spranger, that the minutes of the meeting of March 10, 2022 be approved as submitted.

ALL AYES

Motion carried.

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

- a. **Case 22-014; 7054 St. Ann Drive (R-1)** - Variance to allow a 5-foot high fence in a required front yard, submitted by Jeremy Salsberry.

Gallagher asked if there was an affidavit of publication. Beck stated that notice of public hearing had been received. Notice and affidavit of publication are Annex #2 to these minutes.

Beck reviewed the staff report. Staff report is Annex #3 to these minutes.

Tansey asked if a 4-foot high fence would be allowed on the property line. Beck confirmed this.

Vermillion asked if a 5-foot high barrier is required for a pool. Beck confirmed this.

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

Lance Burton, 7066 St. Ann Drive, expressed his support for the request.

Jeremy Salsberry, the applicant, stated that he believes that an ordinance amendment has been proposed that would allow the fence as built. He added that while Spring Creek Drive is not considered to be a collector street, it is very busy because of its proximity to Forest Grove Park.

Jered Poposwki, 7037 St. Ann Drive, stated that there are multiple 4-foot high fences in the neighborhood that are located on the property line.

Tansey asked if the proposed ordinance change would obviate the need for a variance. Hunt explained that the ordinance revision will only apply to through lots located along collector and arterial streets. He stated that at this time Spring Creek Drive is not classified as a collector or arterial street.

Tombergs stated that it seems as though the applicant's concern about high traffic near the park is valid. Hunt explained that currently the park area near the applicant's home is unprogrammed greenspace, adding that it may change in the future. Spranger asked if the parking lot for the park is to the south on Forest Grove Drive. Hunt stated that there is a small amount of parking near the applicant's house but that the majority is on Forest Grove Drive.

Salsberry explained that the developed portion of the park is south of his home but that when the northern section of the park is developed there may be parking there. He commented that there is a graveled road across the street from his home which people use for parking now. Hunt stated that while there is some use of the park there, it is not at the level that would establish a hardship that would justify granting the variance request at this time.

Tansey asked if the applicant had been under the impression that the existing 5-foot high fence is in compliance with the ordinance. Salsberry confirmed this, adding that there may have been some miscommunication with the contractor.

Tombergs asked if the applicant has already contracted for pool installation. Salsberry stated that he is getting bids but is unsure of when it might be installed.

Tansey asked how installation of a pool would affect the fence requirements. Hunt explained that a 5-foot high fence would be required but would not be allowed in the required front yard and would need to be set back 30 feet. He commented that while the fencing requirements would affect where a pool could be located, it would not preclude the installation of one.

Hunt stated that staff feels that the applicant has not established a hardship to justify granting a variance in accordance with the requirements listed in City Code Section 11-15-12D(3).

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

On motion by Spranger, seconded by Tombergs, that a variance to allow a 5-foot high fence in a required front yard be denied in accordance with the Decision and Order.

Tansey commented that while he is sympathetic to the applicant's situation, the Board is in a difficult position because of the lack of an established hardship.

ROLL CALL ON MOTION

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

- b. **Case 22-015; 7037 St. Ann Drive (R-1)** - Variance to allow a 5-foot high fence in a required front yard, submitted by Jered Poposwki.

Gallagher asked if there was an affidavit of publication. Beck stated that notice of public hearing had been received. Notice and affidavit of publication are Annex #2 to these minutes.

Beck reviewed the staff report. Staff report is Annex #5 to these minutes.

Tansey asked if a 4-foot high fence would be allowed. Beck confirmed this.

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

Jered Poposwki, the applicant, stated that he is under contract for the pool installation and commented that it is unreasonable that so much of his yard is lost because a 5-foot high fence is required for a pool.

Spranger stated that the situation is the same as the previous applicant's. She added that if the Board makes an exception in these cases, a precedent would be set for this

type of request. She stated that subdivisions are platted in a manner that allows for continuity and flow.

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

On motion by Spranger, seconded by Tansey, that a variance to allow a 5-foot high fence in a required front yard be denied in accordance with the Decision and Order.

Tombergs commented that the Board's job is to follow the City Code. Poposwki stated that he does not believe that his neighbor's having a 4-foot high fence closer to the property line will be consistent with his 5-foot high fence set back 15 feet. Spranger explained that it is not in the Board's purview to change the ordinance. She added that there are ramifications that go along with an inground pool and that the Board cannot change the way the Code applies to the configuration of the applicant's lot as platted.

ROLL CALL ON MOTION

ALL AYES

Motion carried.

Decision and Order is Annex #6 to these minutes.

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

These minutes and annexes approved _____

Greg Beck
City Planner