

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 15, 2024**  
**5:00 P.M.**

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

Item 1. Roll Call

PRESENT: Gallagher, Spranger, Tombergs, Vermillion

ABSENT: Tansey

STAFF: Beck, Fuhrman, Hunt, Knepp

Item 2. Review of Board procedures.

Item 3. The Board to review and approve the minutes of the meeting of July 11, 2024.

On motion by Tombergs, seconded by Vermillion, that the minutes of the meeting of July 11, 2024 be approved as submitted.

ALL AYES

Motion carried.

Hunt introduced the Community Development Department intern Jacob Knepp.

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

- a. **Case 24-053; 2460 State Street (C-3)** – Special Use Permit to allow an outdoor service area with alcohol, submitted by Judith Mariscal. (Staff: Beck) (Deferred to meeting of September 12, 2024.)
- b. **Case 24-054; 3077 – 48<sup>th</sup> Avenue (R-2)** – Variance/exception to allow a 5-foot high fence in a required front yard along Davis Street, submitted by Kyle Pfitzenmaier. (Staff: Beck)

Beck reviewed the staff report.

Gallagher stated that an e-mail was received from Paul Grask, 4814 Davis Street, expressing support for the request.

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

Kyle Pfitzenmaier, the applicant, explained that he installed the fence in the same location as the previous one, adding that there is landscaping in the yard that would preclude moving the fence to the required setback. He stated that the homeowner has dogs and that people walk on the sidewalk in front of the house. Spranger asked why Pfitzenmaier did not obtain a building permit. Pfitzenmaier stated that he applied for a building permit and was waiting to hear back from city staff and decided to install the fence anyway. Tombergs asked if Pfitzenmaier was aware of the ordinance prohibiting 5-foot high fences in a required front yard. Pfitzenmaier confirmed that he did, adding that he figured it was far enough off the sidewalk that it wouldn't hurt anything. He indicated that the fence is 19 feet from the sidewalk and 28 feet from the street. Beck explained that the distance between the property line and the fence is approximately 12 feet. He added that when he discovered that the applicant had shown a 5-foot high fence in the required front yard, he informed him that the plot plan would have to be modified to meet code requirements. He stated that the applicant did not return the corrected plot plan that was required in order to get the permit and install the fence.

Tombergs asked if the applicant had discussed the suggested options to the homeowner. Pfitzenmaier confirmed this. Tombergs commented that it is meant for people to comply with the ordinance. Pfitzenmaier stated that there are many people who do not apply for permits but just haven't been caught. Gallagher acknowledged that this is likely the case.

Mike Laughbaum, 3077 – 48<sup>th</sup> Avenue, reiterated that the new fence is in the same location as the old one and that the only difference is the height. He stated that he has made many improvements to his home since he purchased it and requested that the Board members drive by to see them.

Tombergs asked if only the portion of the fence in the front yard would have to be reduced in height or moved. Hunt confirmed this.

Spranger questioned why there is such a discrepancy between the measurements by the applicant and city staff. Beck stated that regardless of the measurements, the fence is in violation of code.

There being no one else present wishing to speak In favor of or In objection to the request, Gallagher closed the public hearing.

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

ALL AYES

Motion carried.

Decision and Order is Annex #2 to these minutes.

- d. **Case 24-060; 2834 Villa Court (R-5)** – Variance to reduce the required rear yard setback from 25 feet to 16 feet to allow for construction of a deck, submitted by Tarikere Kumar. (Staff: Beck)

Beck reviewed the staff report.

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

Tarikere Kumar, the applicant, explained that the reason for the variance request is that the existing deck is old and in disrepair.

There being no one else present wishing to speak In favor of or In objection to the request, Gallagher closed the public hearing.

On motion by Vermillion, seconded by Spranger, that a variance to reduce the required rear yard setback from 25 feet to 16 feet to allow for construction of a deck be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #3 to these minutes.

- c. **Case 24-059; Lots 2 and 3, Hopewell Farm Second Addition (R-3)** – Exception to reduce the required minimum lot size to allow for construction of townhomes, submitted by CT Creek. (Staff: Hunt)

Hunt reviewed the staff report.

Vermillion asked who would be responsible for maintenance of the lawns or any common areas. Hunt explained that the developer intends to have an HOA to take care of the maintenance.

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

Nick Bettis, engineer for the developer, stated that the reason the developer had chosen to subdivide the property into lots is that it is easier to get financing if there is land associated with it.

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

Tim Cernin, 5213 Hopewell Court, stated that he has been opposed to the project since it was presented to the Planning and Zoning Commission. He added that it seems as though the project keeps changing and that if the developer does not have enough space to plat lots that are compliant with the minimum size, he should reduce the number of units. He stated that he believes the developer should follow the rules. He expressed concern that property values would be reduced in his neighborhood as a result of the development.

Spranger asked if there are other developments in the city that have been approved where the lots are under the 2400 square foot requirement. Hunt stated that it is possible that it has occurred and that the deviation from the requirements was not caught by staff.

Vermillion asked if a site development plan has been approved by City Council for the project. Hunt confirmed this, adding that approval of a final plat is pending the action of the Board on the request.

Spranger commented that there are similar developments all over the city and stated that she would like to know whether or not this has been done before. Hunt explained that he does not know with certainty that it has not happened before but that no similar case has been brought to the Board of Adjustment. Spranger commented that if the

Board approves the request tacit approval is being given for the next developer to do the same. Hunt explained that he believes that the issue of the ambiguities in the Code will be resolved by staff during the upcoming zoning ordinance update which should prevent another occurrence. Gallagher commented that the configuration of the development would not be a problem under a condo regime, adding that the only change is the individual ownership of the lots.

Todd Swift, CT Creek, reiterated that the proposed development has fewer units than were shown on the approved site development plan and that he believes that he is creating a better project for the neighborhood than was originally presented.

Gallagher asked who would maintain the non-buildable areas of the subdivision and if there would be restrictions on the individual homeowner related to landscaping and care of the property. He suggested that if the Board were to approve the request there should be a provision that the non-buildable areas would be subject to an HOA with certain restrictions. Hunt explained that one of the conditions of approval of the final plat was that a homeowner's association be formed with covenants restricting allowable uses in the non-buildable areas of the yards.

Gallagher asked if the covenants are to include items such as fencing and other structures. Hunt confirmed that restrictions on decks and fencing are to be included in the covenants.

There being no one else present wishing to speak In favor of or In objection to the request, Gallagher closed the public hearing.

On motion by Spranger, seconded by Vermillion, that an exception to reduce the required minimum lot size to allow for construction of townhomes on Lots 31, 32, 35, 36, 43, 44, 47, 50, 53, 54, and 57 of Hopewell Farm Third Addition be approved in accordance with the Decision and Order.

ALL AYES

Motion carried.

Decision and Order is Annex #4 to these minutes.

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