

BOARD OF ADJUSTMENT

The Board of Adjustment meeting was called to order at 5:30 p.m. by Chairman Cullinan.

Roll Call: Present: Sissel, Verdoorn, Muth, Cullinan, Robinson (by telephone)
Absent:

Motion by Sissel, second by Verdoorn, to approve the agenda. All ayes.

Motion by Sissel, second by Muth, to approve the minutes of the 10/28/08 meeting. All ayes.

Cullinan read the following appeals:

Jill Zeiger, 113 S 10th Street, Clear Lake, IA, requests permission for an in-home occupation (massage therapy). PERMISSION DENIED: The Clear Lake Code of Ordinances Chapter 165.11 Medium-Density, Single Family Residential Zone. Proposed request would require a Conditional Use Permit granted by the Board of Adjustment under 3-E: Other such uses when there is clear evidence that such uses will not seriously affect the value and character of the surrounding neighborhood.

There were no written or oral objections.

Verdoorn questioned whether there were any State, County, or Health Department certification requirements, such as a separate bathroom, needed for the residence itself. Ms. Zeiger had contacted the State and had been told only that she needed a separate entrance into the room used for her business, and that clients could not go into the living area of the home. She is fully certified and licensed by the State to perform massage therapy, and has insurance coverage for both her personal household and business.

Ms. Zeiger was also questioned by Verdoorn regarding the number of client cars parked in her driveway at any given time. She responded that her clients will be from referrals and repeat business and that she would only be seeing one client every few hours, ending by 8:00 p.m. Therefore, she did not anticipate appointments getting stacked up. The neighbor with whom she shares the driveway has no problems with clients parking there. Sissel noted that a similar business had operated on North Shore Drive with less parking, and there had been no problems.

Motion by Sissel, second by Muth, to grant the Conditional Use Permit as requested with the stipulation that the Zoning Official review the permit in one (1) year, and if any problems or concerns exist, they be brought back to this Board. All ayes.

Nicholas Ryan, 2209 N Shore Drive, Clear Lake, IA, requests permission to add a second story to his existing dwelling. PERMISSION DENIED: This is an existing nonconforming building by not having the required side yard. The Clear Lake Code of Ordinances Chapter 165.44 Nonconformities 5. D: A nonconforming structure may be structurally altered, provided it is structurally altered in a way which will not increase or extend its nonconformity or in a way which will reduce its nonconformity. Proposed construction will not meet this requirement.

Mr. Ryan stated he had recently purchased a lakeshore home with the intent of making improvements that would not only add to the value of his property, but also to the City's tax base. He admitted, however, that he had not researched City Building Codes prior to purchasing the property. Drawings and photographs of the existing property footprint and the proposed second story addition above the garage were presented. The front of the garage now lies only 3' from the west property line, and Mr. Ryan felt that any attempt to move the garage would result in substantial costs as well as creating an irregular shape to his house.

Verdoorn expressed concerns that the existing house is already too close to the adjoining property on the west. The remodel would bring the eaves of the two houses within 21/2'-3' of each other, making it difficult to get to the roof to perform maintenance. In his opinion, the 2nd story addition would create a tri-level house that does not fit with the neighborhood. He did not feel that moving the garage over to conform to Code created a hardship to Mr. Ryan.

Robinson felt that variances granted in the past, which created the current non-conformities, should not have been allowed, and to add more mass to a structure that is already too close to a neighboring dwelling would only be compounding the error.

City Zoning Officer Marino said he had not required Mr. Ryan to have the property surveyed since he was only requesting to build on top of what already existed. He had also met with Mr. Ryan's contractor to explain the building codes and the need for a variance. Marino then presented a letter from Jean Knutson, neighboring property owner to the east, who objected to the proposed addition for reasons of esthetics, even though the construction would have no direct bearing on her property.

Mr. Dave Curtis, whose property adjoins the Ryan property to the west, appeared before the Board. He also objected to the proposed construction for esthetic reasons.

Sissel said she usually bases her decision to grant or deny a variance on whether or not neighboring property owners have concerns or objections, if the request is reasonable, or if the property owner requesting the variance is willing to compromise. She felt the existing house fit the neighborhood and the proposed addition would change the character of the structure as well as create fire safety issues.

Muth questioned whether or not Mr. Ryan could alter the remodeling plans to fit his needs so that it would not be necessary to construct a 2nd story addition. Mr. Ryan responded that his plans called for reducing the number of bedrooms in the existing structure to make them larger, and that he needed the additional bedroom and office space over the garage.

Motion by Verdoorn, second by Muth, that the variance requested be denied. All ayes.

Motion by Muth, second by Sissel, that the meeting be adjourned at 6:00 p.m. All ayes.

Tina Cullinan, Chairman

ATTEST:

Sharon Springer, Secretary