

BOARD OF ADJUSTMENT

The Board of Adjustment meeting was called to order at 5:32 p.m. by Chairman Cullinan.

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

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

Motion by Robinson, second by Verdoorn, to approve the minutes of the 2/17/09 meeting. All ayes.

Cullinan read the following appeal:

**Jim Finstad, 1104 1<sup>st</sup> Avenue N, Clear Lake, IA**, requests permission to add a 3-stall attached garage with rooms above. PERMISSION DENIED: The Clear Lake Code of Ordinances 165.11 Medium Density, Single Family Residential Zone (RS-8). Dimensional Requirements. Minimum Yards: Front - 25' or building line. Side – 5 feet for the first story, plus 3 feet for each additional story or fraction thereof, that a building exceeds one story in height. Proposed construction does not meet these requirements.

Mr. Finstad presented Board members with additional drawings, photographs, and signed consent from adjoining property owners, and outlined the reasons for the variance requests. His current single stall garage is in need of major repairs, and the driveway is shared with the neighbor to the east. The proposed 32' 3-stall garage addition to the west side of his dwelling will provide parking for 3 cars, with additional parking in the driveway. This will enable Mr. Finstad to get all of his family's vehicles off of the street, which is already heavily used for parking in his neighborhood, and the second story addition will give the family additional living space. The existing single stall garage will then be torn down and the driveway removed to give the property more green space.

Robinson asked Mr. Finstad if he had considered constructing a 2-stall garage. He responded that it was critical to have the additional stall and the parking it would provide for a family with 3 children, all of who would soon be driving.

Verdoorn noted that Mr. Finstad would only need a 1' variance on the west property line in order to construct the garage as planned, and suggested that plans for the 2<sup>nd</sup> story addition be cut back 4', making the variance request for it unnecessary.

Discussion continued regarding whether denial of Mr. Finstad's request for the 2<sup>nd</sup> story variance would create a hardship, or just an inconvenience, for the family. Verdoorn felt that City Ordinances had been created for a reason. Robinson said she felt there needed to be a very real hardship shown in order for this Board to grant any variance.

Verdoorn then questioned whether the Board's authority in granting or denying variances could be overridden, and by whom. Scott Flory, City Administrator, stated that Board of Adjustment decisions are not presented to the City Council for approval, however, a court of law can reverse a decision. The City's Errors and Omissions insurance policy would cover Board of Adjustment members in the event of litigation. Councilman Terry Unsworth said Board members are appointed from a broad spectrum of the community in order to ensure diverse opinions and concerns, and he and Building Official John Marino stated members must just do what they feel is right for the community as a whole when making decisions.

Verdoorn asked if Mr. Finstad would be receptive to changing plans for the 2<sup>nd</sup> story addition by setting it back 4' on the west, making a variance unnecessary, in exchange for the granting of a 1' variance to construct the 32' garage as requested. Mr. Finstad felt his plans could be reworked and agreed to the compromise.

Motion by Verdoorn, second by Robinson, to deny the request for a 4' variance to construct the 2<sup>nd</sup> story addition as presented, and to approve a 1' variance to construct an attached 3-stall garage. All ayes.

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

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Tina Cullinan, Chairman

ATTEST:

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Sharon Springer, Secretary