

BOARD OF ADJUSTMENT

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

Roll Call: Present: Muth, Verdoorn, Robinson, Sissel
Absent: Cullinan

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

Motion by Sissel, second by Robinson, to approve the minutes of the 9/8/09 meeting. All ayes.

John Marino, Building/Zoning Official, stated he had two items for discussion that were not on the agenda. He was asking for direction to determine if Board members felt the issues should be brought before them at a subsequent official meeting, since no formal action could be taken at this meeting.

Jim Hilgendorf is proposing to develop four single-family town-homes on property at 1513 South Shore Drive. He had presented a rezoning request to Planning & Zoning, who forwarded a recommendation to the City Council that the request be granted. Mr. Hilgendorf explained that the average front-yard setback/building line along that area of South Shore Drive is 5'-10', and he had chosen a 7' setback for his development. Plans call for a minimum of 10' between the individual units at the side lot lines. In lieu of a defined rear yard for each parcel, a homeowners association would be created with each of the four town-homes owning an undivided ¼ interest in the remaining green space on the property. Marino noted that very small back yards are the norm in this area. Muth asked if the 35% rear-yard occupancy rule would apply, and was told by Marino that in the case of a condominium development scheme, the ruling was not applicable. The consensus of Board members was that there was no need for Mr. Hilgendorf to make a formal request for any variances pertaining to his proposed development.

Verdoorn read the following appeal: **Kevin & Jan Helgeson, 314 12th Avenue S, Clear Lake, IA**, request permission to erect an accessory building. PERMISSION DENIED: The Clear Lake Code of Ordinances Chapter 165.32 – Accessory Use and Building Regulations. Maximum Rear Yard Coverage. In all RS zones accessory buildings shall not exceed the aggregate of 750 sq. ft. in area and shall not occupy more than thirty-five percent (35%) of rear yard area. Proposed construction will not meet these requirements.

Mr. & Mrs. Helgeson addressed the Board with their request for a variance to construct a 24' x 40' (960 sq. ft.) detached garage in their rear yard. They stated that their property encompassed 1½ lots. The extra storage would allow them to park cars and personal items off the street and out of their yard. The structure would be stick-built, have 9' sidewalls, and be sided with residential type siding.

Verdoorn questioned the intent of the Planning & Zoning Commission to recommend a change in the maximum square footage allowed for accessory buildings to 1,000 sq. ft. Marino said that he hoped the Commission could present the City Council with a list of recommended Zoning Ordinance changes by February, 2010. Muth noted that this Board had set a precedent of granting variances up to 960 sq. ft. on accessory buildings.

Motion by Muth, second by Robinson, to grant the Helgesens a variance to construct a stick-built, 960 sq. ft. garage. All ayes.

Gregg Bacon presented the Board with information on a wind generator system he is currently marketing. He indicated he has a client interested in erecting one of the wind generator towers within the City limits. Height of the towers vary, but would generally be 40'+ depending on the physical structures surrounding each site. Marino stated there is no Ordinance that applies to this type of

structure. The closest ordinance would be that part of the Code that regulates the construction of communication towers, and he asked for input on whether or not a conditional use variance request for a wind generator tower should be brought before this Board under that Ordinance. Verdoorn was of the opinion that, since no Ordinance specifically governing this issue exists, the Board of Adjustment would have no authority to consider such a request. He stated it is only this Board's duty to grant variances from what is written in the Code of Ordinances, not to create Ordinances. Board members present all agreed with Verdoorn.

Marino said he would present Planning & Zoning with a recommendation that an ordinance governing the construction of wind generator towers be developed. Bacon suggested that when drafting the ordinance, wording should be included regulating the height of the tower, and requiring engineered drawings for the tower and the tower foundation.

Moved by Muth, second by Sissel, that the meeting be adjourned at 6:15 p.m. All ayes.

Mike Verdoorn, Vice-Chairman

ATTEST:

Sharon Springer, Secretary