BOARD OF ADJUSTMENT MEETING MINUTES
City Council Chambers
501 4th Street
September 16, 2024 at 5:30 PM

Meeting called to order by Clark at 5:30 PM

IN ATTENDANCE WERE:
Present: Clark, Jensen, Johnson
Absent: Lamb

Others present:
Aaron Johnson, Building Inspector
Sarah Kleber, City Attorney
Danny Christoffers, Secretary
Jim & Donna Carlin, Applicants

Approval of the minutes of the August 7, 2024 Meeting
A motion was made by Lamb, seconded by Johnson to approve the minutes August 7, 2024.
All votes were ayes, and the motion carried.

Public Hearing
The public hearing is being held to consider a variance request for 602 Jace Road (Parcel# 884732332010, SERENITY POINT FIRST LOT 55).
The request is for a variance from Zoning Code 165D.04 (F) (3) which states: "On corner lots, a fence built in accordance with the required fifteen-foot setback of the street side yard (See Chapter 165B Zoned District Requirements) may have a maximum height of six feet unless other requirements are stated." The applicant is requesting to have a 6-foot fence built within the required 15-foot setback for a corner lot.

A motion was made by Lamb, seconded by Johnson to open the public hearing at 5:33pm.
All votes were ayes, and the motion carried.

Donna Carlin explained that they previously moved a retaining wall, she described how she intends to put it behind the wall and how it would hook into a neighbors fence. There would be two gates.

Anthony Lamb asked for verification that the variance retaining wall was in the drainage easement?
Danny Christoffers confirmed that it was.
Anthony asked if the fence request would implicate drainage needs.
Aaron Johnson said this would only encroach upon the 15-foot requirement on the corner lot. There is no affect on the drainage easement.

There was extended discussion regarding the exact placement of the fence and whether the fence would be within the drainage easement.
Aaron Johnson explained that the retaining wall needed the variance because it met the requirements of a structure going in the drainage easement but a fence only needs an approved permit to go in the drainage easement. The variance would just be to encroach upon the 15 foot setback.

Anthony asked if anyone in the north wanted a fence, they would just need to lift the bottom up 6 inches?
Aaron said that is the case if they're building a privacy fence, a chain link would not have that requirement.
Sarah Kleber said that she believes that the only variance they're looking for is along the diagonal portion.
Aaron confirmed it also did not violate any sight triangle.

Danny Christoffers said that the notice was published in the Sergeant Bluff Advocate, posted in three locations (Fareway, City Hall, Post Office), and mailed to the property owners within approximately 200 feet. He received no comments or questions.

Garry Clark asked for confirmation that we're only looking at a variance for a 15-foot setback on the diagonal portion, the portion of the fence that would be on the east side does not need a variance as long as it is elevated 6 inches.
Sarah Kleber said that is correct, but there is some clarification needed on the precise location of the fence.

Carl Johnson asked if Jamie Lane will have a sidewalk?
There was discussion about the sidewalk, it was the consensus that the sidewalk would be placed.

A motion was made by Jensen seconded by Lamb to close the public hearing at 5:51pm.
All votes were ayes, and the motion carried.

<u>Board Discussion & Decision</u>
A motion was made by Anthony Lamb, seconded by Brent Jensen to approve the variance request for 602 Jace Road (Parcel# 884732332010, SERENITY POINT FIRST LOT 55) to have a 6-foot fence built within the required 15-foot setback for a corner lot with a stipulation that all other fencing ordinances including the area within the drainage easement should be complied with in granting the permit.

In granting this variance, the Board of Adjustment reviewed 165E.03 subsection 2 which provides the standards for granting a variance. The Board of Adjustment found that the variance is in harmony with the intent of the City's Zoning Code and applicable state law. The Board made the following findings of fact that the variance request has met the conditions:

1. The granting of the variance is not contrary to the public interest.
2. Without granting the variance, an unnecessary hardship would exist because the land in question could not yield a reasonable turn if used only for the purpose allowed.
3. With the retaining wall in place, there is not another location to place a fence to make the space useable.
4. The unique circumstances and general conditions of the neighborhood are relevant. The lot is uniquely shaped and warrants the granting of a variance.
5. It will not alter the essential character of the neighborhood.
6. The variance is consistent with the spirit of the Zoning Code.
7. Substantial justice is done by granting the variance.

Votes for non-vacant seats with members present: Clark- yes, Johnson- yes, Jensen- yes, Lamb- yes.
All ayes, motion carried (4-0)

Adjournment

A motion was made by Jensen, seconded by Lamb to adjourn at 5:54pm.
All votes were ayes.

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Danny Christoffers, Secretary Garry Clark, Chairman