

**MINUTES OF THE REGULAR MEETING OF THE
AMES ZONING BOARD OF ADJUSTMENT**

AMES, IOWA

JANUARY 10, 2024

The Ames Zoning Board of Adjustment met, pursuant to law, in Regular Session at 6:00 p.m. on January 10, 2024, in the Council Chambers of City Hall. The following members were present: Chad Schneider, Caleb Whitehouse, Leah Patton. Also present were Assistant City Attorney Jane Chang, and City Planner Justin Moore and Kelly Diekmann Planning Director. Leila Ammar Michael Zenor and were absent. Started 6:09 PM

Approval of Minutes; December 13, 2023:

Moved by Whitehouse seconded by Patton to approve the minutes of the December 13, 2023, Zoning Board of Adjustment meeting.

Vote on Motion: 4-0. Motion declared carried unanimously.

CASE NO. 24-01

Public Hearing on a request for an Exception for a Minor Area Modification to allow a reduction of the required minimum five-foot side yard setback by two feet for an addition to the principal structure at 2623 Somerset Drive. (Parcel Number 05-34-102-040)

Planning Director Kelly Diekmann stated originally this property had applied for Variance for a detached accessory structure. That Variance was denied. They will be filing a building permit application to treat this as an addition to the garage thus must be constructed differently. If you are doing an addition to a principal structure, you can file a request for a Minor Area Modification to allow for a partial encroachment in the side yard setback. The Findings are different than for a Variance. A Variance is determining if there is a hardship, and a Minor Area Modification is determining compatibility. In general, this encroachment review is for safety, compatibility of the surroundings and whether it meets the zoning objectives. Side yard setbacks are there for two reasons: general safety elements, and space between structures. The building codes will determine the details of the structural safety. It is possible to encroach closer than five feet and still meet building code requirements. There is a minimum three-foot requirement to allow for encroachment toward a property line. The applicants are purposing 3.5 feet as the separation distance. Staff thinks this setback meets the building code requirements for safety and would be compatible for the area and recommend approval, with three conditions. Originally this started as a Code enforcement issue. The applicant would need to follow through with the building permit process and adjust the structure to meet the building codes. They must record the Minor Area Modification with the County; this allows future buyers to understand this was permitted but doesn't meet standard zoning code. The third requirement that the finish materials be compatible with the house.

Mr. Schneider asked if there would be building code requirements. Mr. Diekmann said that if this is approved, they would proceed to Inspections for the permitting process. This is the first step in the compliance process.

Applicant: Beth Foreman, 2623 Somerset was sworn in. Applicant wasn't aware of this option at the beginning of this process. She stated that this makes more sense for their project. They are aware that they need the building permits and must meet all the codes. Her neighbor is present and is a civil engineer and will be helpful in figuring out the building code process. The applicant already has the matching windows, siding and shingles to the house.

Mr. Schneider asked if the neighbor was ok with the addition. Ms. Foreman said yes. Mr. Diekmann noted that for the record the neighbor acknowledges support. Mr. Schneider stated that his only question was if the neighbor was agreeable. Mr. Diekmann said this speaks to the compatibility portion on how it impacts the neighbor adjoining the proposal.

Public Comment: None

Discussion: None

Moved by Whitehouse to accept Alternative 1, seconded by Schneider.

The Zoning Board of Adjustment, makes specific findings for consistency of the request with all Minor Area Modification criteria, and approves the request for an Exception for a Minor Area Modification to allow a reduction of the required minimum five-foot side yard setback by two feet for an addition to the principal structure at 2623 Somerset Drive by adopting the findings of fact and conclusions stated herein and with the following conditions applied:

- a. The applicant must record the approval of this Minor Area Modification in the office of the County Recorder, in order to make effective the approval.
- b. That the applicant meets all City of Ames Building Code and Zoning Ordinance standards within 9 months of the Decision and Order authorizing an addition to the north side of the existing principal structure.
- c. The structure shall include materials and finishes that are consistent with the principal structure for siding, roofing, and colors.

Roll Call: Schneider, aye; Patton, aye; Whitehouse, aye.

Vote on Motion: 3-0. Motion declared carried unanimously.

Mr. Schneider stated that this decision can be appealed through the District Court within 30 days after the filing of the Decision and Order.

CASE NO. 24-02

Public Hearing on a request for a Flood Plain Variance at 1006 S Dayton Place for the placement of factory-built homes at a required Base Flood Elevation that is two feet lower than the required Base Flood Elevation Protection Level in Chapter 9. (Parcel Number 10-07-300-020)

Planner Justin Moore stated this is a request for a Variance to allow the placement of Factory Built Homes at 1006 Dayton Place, with the lowest floor of elevation at Base Flood Elevation (BFE) plus one foot, otherwise BFE+3 is required. Chapter 9 addresses the flood plain development standards. Flummerfelt is requesting this Variance in the Shady Grove mobile home park off Dayton Rd. It is NE of the hotels along Hwy 30. It is a mobile home park that has been there since the 1970's. There has been flood plain in this area for most of the existence of the park. The base flood elevation is what will be in a 100-year flood, every foot above that gives more protections. The City of Ames has a base flood elevation standard of BFE plus three feet. This means the lowest floor must be elevated to three feet above BFE. This standard has been on the books for approximately 15 years. All new developments in the floodway fringe must meet this requirement including utilities and mechanical structures. The State of Iowa has their own standards which is BFE+1. They delegate authority to the City to have our own additional standards that they approve. A consultation meeting was held with the DNR as required. They have consulted with the DNR and if there was nothing in the area under the State of Iowa standards which is BFE+1, they would most likely approve the request.

Mr. Moore went highlighted the standards for the Board.

1st Standard: No variance shall be granted for any development within the Floodway Overlay District which would result in any increase in the base flood elevation. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands. This property is not in the floodway but in the floodway fringe area. There is no impact on the floodway, this criterion was met.

2nd Standard: A determination that failure to grant the variance would result in an unnecessary hardship to the applicant. This standard related directly to the applicant's request. To meet BFE+3

as they replace mobile homes would cause an unnecessary hardship to the applicant. Due to the nature of the mobile home park staff finds that this criterion is met. This isn't a new park but has been in existence for some time. This is an RLP zone and has its own standard for mobile home parks.

3rd Standard: A determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, or cause fraud on or victimization of the public. Granting this would not cause any issues with the area. Since the 1970's there have been many phases of development and ages of the homes and ordinances. The staff did not find that approving this would increase flooding, a threat to the public, nuisance or fraud.

4th Standard: Variance shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. The State of Iowa standard is what the applicant is requesting BFE+1 down from the City's standard of BFE+3. The staff believes that would be the minimum necessary to allow relief.

5th Standard: In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this ordinance, the applicant shall be notified in writing over the signature of the Administrator that:

The issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and

Such construction increases risks to life and property.

The applicant must be notified by formal letter that flood insurance is not governed by the City.

6th Standard: All variances granted shall have the concurrence or approval of the Department of Natural Resources. Any affirmative decision by the Board would need formal approval by the DNR. And this was met.

There are 12 other considerations in the report. Staff recommends Alternative #2, for a 15-year Variance that would authorize new mobile homes to be placed at BFE+1, which would take that to the year 2039. At that time the owner of the park would have to comply with the standards at that time or come back to this Board for another request.

Board Discussion: Caleb Whitehouse asked for explanation of RLP. Mr. Moore stated that in Chapter 29, the RLP zone is designed specifically for manufactured homes. Mr. Whitehouse questioned if there was an alternative use under that zoning. Mr. Moore said it is just for factory-built homes. Mr. Schneider asked if the flood fringe has changed. Mr. Moore said it has not changed materially at this site. It hasn't expanded, this site has been in the flood fringe since the 1980's. Mr. Schneider questioned if the criteria have changed. Mr. Moore stated that the city has had flood-plain criteria since the 1980's. In the early 2000's the criteria were BFE+1. Mr. Schneider asked when this was plated. Mr. Moore said it was plated in the 70's.

Mr. Schneider stated that the hardship occurs once a replacement is needed then there is nothing else that can be put in its place. Mr. Moore agreed that there would be an open space. Mr. Schneider stated the only way to remedy would be to empty the land and replat it.

Applicant:

Mike Flummerfelt, 6717 GW Carver, Ames IA was sworn in. Thanked the Staff and Board. Thanked Justin for coming out to the site and looking over the project. Mr. Flummerfelt has been in the industry of manufactured housing for 40+ years. Staff noted that all the criteria has been met. Applicant requested Alternative 1 and not have the 15-year limit. Most of the homes are owner occupied and is concerned this must be done again in 15 years. The same concerns would be as they are today if a home would have to be elevated another two feet from the BFE+1. The flood of 1993 there is a large culvert on the south and that backed up water into this property. In 2008 and 2010 there were other floods. The city added a floodgate to remedy the problem and there have been no issues since then. Schneider asked about the definition of manufactured homes. Mr. Flummerfelt said these were called mobile homes prior to 1976. Since 1976 HUD sets the standards for construction of manufactured homes and the homes have third-party inspection prior

to shipping. Mr. Schneider questioned whether the frame and trailer were removed. Mr. Flummerfelt stated that no they are not removed. Mr. Schneider asked if they are set on a pad. Mr. Flummerfelt stated that he and his staff are certified installers with the State of Iowa. All installations must be inspected. They auger 24" round by 42-48 pier footings, an engineered drawing comes with each manufactured home. They calculate the loads and the footings are put in the ground and filled with concrete. Then the installers add 8x8x16 open cell blocks double stacked below all the load bearing points. Mr Schneider questioned that it is set on a pier and not a pad. Mr. Flummerfelt stated that a pier footing is recognized by the State as a permanent footing. It is frost protected and anchored to the concrete footings to meet State code. Mr. Schneider asked why they can't be three feet and not one foot. Mr. Flummerfelt said that would require another level of insulation. Setting the home that high would require a crane to lift it up over neighboring homes and possibly removing mature trees. The piers can only be built so high before the State code is no longer met. They would have to use Sonotube construction and use a crane to lift it on top. Currently they build a temporary dirt pad, and the home is backed up on this pad. Once the home is placed, it is blocked and secured to code and the dirt pad is removed and a landscape wall is built around it. An additional two feet adds additional expense. Mr. Schneider asked what the allowed maximum height of the pier. Mr. Flummerfelt thought it was just over sixty inches. The 24" round cylinder that is poured goes into the ground and is below the frost line. Mr. Schneider confirmed that the pier is below ground, and the double block is above. Mr. Flummerfelt confirmed.

Leah Patton asked if during the 1993 floods homes were damaged. Mr. Flummerfelt stated yes in 1993 there were several homes that were damaged. Ms. Patton asked if in 2008 and 2010 if any homes were damaged. Mr. Flummerfelt testified that no and there were homes that were there in 1993. The repairs were made, and they remained in the park. Mr. Flummerfelt stated they like to keep the parks well maintained and affordable for people. As homes continue to age this will allow him to upgrade the neighborhood and allow for a clean place for people to live.

Mr. Whitehouse asked about the BFE standard was in 1993. Mr. Flummerfelt wasn't sure there was a standard. He stated that he purchased this property from the Whatoff family and thought they were built for the standard at the time. Mr. Whitehouse asked about the one-foot grading around the home. Mr. Flummerfelt stated that there would have to be a diminished number of lots in the park if the BFE+3 is required because of the slope of the lots.

Questions for Staff:

Mr. Schneider questioned where the BFE+1 is measured. Mr. Moore stated that it is the top of the floor. Mr. Whitehouse asked about the 1993 flood plain requirements. Mr. Moore doesn't have that information available. There are historic records but isn't available. Ms. Patton asked about the 15-year limit. Mr. Moore said it keeps a sunset date for the BFE+3. It has a positive effect on insurance rate and protects against the chance of damage. The goal in the future would be to raise the standard for the park back to BFE+3. Flooding will continue and staff felt this was a better alternative versus a permanent Variance. Mr. Schneider asked if this would be for new installations and all other properties would be grandfathered. Mr. Moore explained that when that time comes that if the Board chooses to do that anything that was permitted as BFE+1 under a hypothetical variance of BFE+1 would still be allowed to stand at that time and any new homes would be required to meet the BFE+3.

Mr. Schneider asked the applicant what the is the typical lifespan of a manufactured home. Mr. Flummerfelt stated depends on the care of the home. There are some homes that are built in the 70's. Mr. Schneider asked what the current vacancy is at this property. Currently there 14 because of this requirement. The criteria are virtually impossible to meet. This would allow to upgrade the neighborhood once the home has met its useful life. An insurance agent stated it didn't matter about the height off the home for the insurance. The lender would require the insurance because they are in the flood plain. The lender would also require the insurance. There are people interested in those lots.

Mr. Moore stated the significance of the 15 years. Periodically FEMA updates the map, and this would be in the next cycle of the next update. Mr. Schneider asked if all previous homes can be grandfathered in. Mr. Diekmann said that any existing home could remain as a non-conforming status. If it becomes damaged and needs replaced it would have to conform. At that time, he could apply for another Variance. This is unique to have a condition in the flood plain because it is an

element of DNR language not normal zoning standards. Mr. Schneider asked if any other parks are in the floodway fringe. Mr. Moore said there may be a portion of the parks on S 16th but the entirety of this property is in the floodway fringe. Mr. Diekmann stated that Staff is supportive of the Variance with the condition if a 15-year limit.

Moved by Whitehouse seconded by Patton to approve Alternative 2.

The Zoning Board of Adjustment can approve a limited Variance with the conditions listed in Alternative #1 and with the condition that the variance authorizes placement of homes at BFE plus 1-foot until January 1, 2039. After this date, no new home may be placed on the site without complying with all Flood Plain development standards of the City (including BFE +3 feet, or what standard is in effect at the time) or seek approval of a new variance. All existing homes as of that date may continue to be occupied. This condition would not limit the property owner from applying for a new variance.

Schneider aye, Patton aye, Whitehouse aye

Vote on Motion: 3-0. Motion declared carried unanimously.

ADJOURNMENT: Moved by Schneider seconded by Whitehouse to adjourn the meeting at 7:00 PM.

Vote on Motion: 3-0. Motion declared carried unanimously.


Natalie Rekemeyer, Recording Secretary


Chad Schneider, Chair