



BOARD OF ADJUSTMENT MEETING MINUTES

THURSDAY AUGUST 8, 2024

5:30 P.M. – BOONE COUNTY COURTHOUSE, 4TH FLOOR CONFERENCE ROOM
201 STATE ST, BOONE, IA 50036

I. OPEN MEETING AND ROLL CALL

Dennis Lynch
Steve Kieffer
Ruth Berglund
Sam Fisher
Holly Kilstrom

ATTENDANCE: Ruth Berglund, Holly Kilstrom, and Sam Fisher

ABSENT: Dennis Lynch and Steve Kieffer

ALSO, IN ATTENDANCE: Sheri Parks, Mark Dodge, Pam Dodge, Jan Jome, Kim Long, Steve Long, Ted Garwood, Patty Mack, Chad Schneider, Ron Holte Tony Mack and Emile McCoy

II. APPROVAL OF MINUTES:

A. Approval of July 11, 2024

Ruth Berglund moved to approve the minutes

Seconded by Holly Kilstrom

Holly Kilstrom—yes
Sam Fisher—yes
Ruth Berglund—yes

Motion Carried

III. APPROVAL OF AGENDA

Ruth Berglund moved to approve the agenda

Seconded by Holly Kilstrom

Holly Kilstrom—yes
Sam Fisher—yes
Ruth Berglund—yes

Motion Carried

IV. DISCLOSE CONFLICT OF INTEREST AND EX-PARTE COMMUNICATION

A. None

V. CITIZENS COMMENTS ON ITEMS NOT ON THE AGENDA (ADDITIONS TO AGENDA)

A. None

VI. OPEN PUBLIC HEARING(S) AND CONSIDERATION OF APPLICATION(S)

Public Hearing opened at 5:32 p.m. by Chairman Sam Fisher

- A. Petition for Variance Petition for Variance #2024-006 submitted by Steve & Kim Long. The Longs were granted a variance in 2020 allowing them to build a detached garage 22.5 ft from their west property line however the building was placed 19.45 ft from the property line. The Longs are asking for a variance to allow for the existing structure to remain 19.45 ft from the west property line.

Chairman Sam Fisher first asked for any public comments.

Ted Garwood was first to speak. He stated he was against the request to start out with and was still against it now. He stated it was against the covenants and that the request should have not gone to the county but should have been handled through the association and it was not. He again stated the board should have never let it go to the county.

Garwood next asked how the measurement was done. He questioned if the measurement was taken from the structure of the building?

Chairman Sam Fisher noted the measurement was taken from the survey pins.

Garwood asked if the eaves were part of the structure. Garwood noted if the eaves were counted as part of the structure this would push him out another foot. Garwood stated he was pushing out too far and that the building should be moved.

Chairman Sam Fisher next asked for any further comments.

Tony Mack, a Valley View Board Member in 2020, was next to speak. He stated they had read through the description and the variance and had voted unanimously to allow the variance because it was within the legal description, the variance was because of the lot being a different shape, noting the lot was narrow and long.

He stated that was why the variance was written in the legal description to allow for these situations. He stated we as a board voted unanimously. He noted that when the request went to the Board of Adjustment in 2020 the variance was also unanimously approved.

He stated the people that live around there all thought that the Longs' were great neighbors. Noting they got along with people. He stated there was not a safety issue.

He stated the Longs' followed all of the Valley View Association recommendations or laws. He stated the Longs had been in compliance, provided them with good records and had been great to work with.

Ted Garwood stated the Valley View Covenants do not allow for odd shaped lots. Garwood said "there is nothing in there about odd shaped lots" or anything else.

Chairman Sam Fisher noted they were not there to go over the covenants, he stated the board had no control over the covenants.

Garwood stated the county had control and had over ruled the subdivisions covenants.

Chairman Sam Fisher stated that was not the case.

Sheri Parks was next to speak she stated she did not have any problem with the variance. She stated the Longs had made the neighborhood a more beautiful place. She noted she appreciated Chairman Sam Fisher for keeping the order in the meeting.

Chad Schneider representing Ron Holte was next to speak. He passed a handout to the board members stating he believed some of the information the board had was incorrect.

He discussed the original plat from 1973. He noted the print on the bottom of the plat showed the road easement was 20' from the center line stating that would be 40' on either side, 40' wide.

Schneider next noted on page 3 was a survey the home owners had done showing lot 5 and what is known as Jade Pl, originally Oak Dr. He stated on the plat there was a 40' easement for Oak Dr which meant that their property line did not start until the edge of the road which is not the edge of the road but actually the edge of the road easement which was 40' or 20' from the centerline.

Schneider next directed the members to turn to page 4 which was a view of the property from Beacon. He stated you can see that the setback of the property line is from the edge of the road. The edge of the road is not the property line it's where the property line is because there is a 40' easement for the road.

On the next page you will see a blown- up view from Beacon, noting you can actually measure distances in feet on Beacon. He noted these were not exact but pretty close.

He then stated the garage or accessory building was only 9.3 or maybe even 10' from the property line right now.

Chairman Sam Fisher noted Schneider was relying on Beacon stating Beacon was not accurate at all. Fisher noted the property had been surveyed.

Schneider asked if he could finish his comments, he stated if you look at the original plat and their plot you can overlay them on top of each other and it was very close. He stated it wasn't exact because they would have to get a survey to know the exact measurements but that there was a large difference between 9' and 19.45'. Large difference. He stated even if Beacon was not exact it wouldn't be 10' off.

Chairman Sam Fisher stated Beacon was many times more than 10' off.

Schneider stated if you went from the edge of the road or at least where the pad was for the driveway it was 20' but that was not the edge of the road.

He next directed members to the last page of the packet stating this is where the variances would be. You have 50' which would be the variance under the code setback from the front yard is 50' for Residential. Then you have the original variance which was 22.65' which is about the middle of the garage than you have the current request which was 19.5' which was still not even close. He stated the distances which were being measured from the edge of the property are not correct and not even close.

Holly Kilstrom, board member asked if Schneider had gone out and taken actual measurements.

Schneider stated he had not and he would have to get an actual survey.

Sam Fisher noted a survey had been done.

It was noted more than one survey had been done.

Schneider asked where the survey was and that he did not see it in the record.

Chairman Sam Fisher noted it was in the application and he again noted Beacon was very irregular in respect to accuracy.

Schneider stated the application had not been provided to anybody. He stated he would like to have a copy of it.

Chairman Sam Fisher stated that would be up to the Administrator to provide him with a copy.

Schneider next stated in order to have a variance there were 6 criteria which needed to be met and that there needed to be a finding of facts to show a reason why those are not being followed.

Chairman Sam Fisher stated that was done for the original request in 2020.

Schneider stated they needed to be findings of fact for the current variance. He asked where the report was.

Chairman Sam Fisher noted they had a full application which had been followed by the County Engineer and the County Attorney.

Schneider stated that had not been provided to the public.

Chairman Sam Fisher stated he did not know what the access was for the public.

Schneider stated it was a public document which was an open record and should be made available. He stated there was nothing on the website, nothing posted.

Director Mike Salati stated the application was indeed an open record and was available by request like any open record. He stated if a copy was requested it would be provided.

Salati also shared a map with measurements which the County Engineer surveyed. Salati also noted the eaves do not count in setbacks for measurement purposes, and that measurements should be taken from the face of the wall of the structure.

Salati noted the County Engineer, at the request of the Planning & Development office went out and located the property corners which you can see, the center of the road and the building corners which all show here. He stated the 19.45' is the surveyed measurement from the road right of way to the building corner which is the proper setback measurement.

Schneider stated that was not correct and that the measurement needed to be from the property line and not from the middle of the road.

Salati stated the measurement was not from the middle of the road but from the edge of the road right of way which was shown on the map, which is the property line.

Schneider stated that was not what you just said, you said it was from the middle of the road.

Director Salati stated that was not what he had said. He again stated it was from the edge of the road right of way which is the property line.

Schneider stated the picture does not overlay with the lines.

Salati noted the picture was skewed.

Schneider stated the front edge of the building was about 10-12' further to the west.

Salati noted that was not where the survey points where. He again stated the picture was just over laid taken from an aircraft and was not survey grade which is what Beacon tells you. The measurements on the map are surveyed by the County Engineer's office the photo had just been overlaid for placement.

Schneider asked what the findings of fact that granted that the variance should be granted.

Director Mike Salati noted the board members would determine the findings of facts.

Schneider asked Salati if he had supplied proposed findings of facts.

Salati stated he had not.

Ron Holte questioned whether the property lines had changed to the edge of the road now.

Chairman Sam Fisher stated nothing had changed, it was the same as it had always been. Same measurements same map same survey pins.

Holte noted he had been out there since 1970 and had seen several surveys done and that it had never been at the edge of the road. He stated that everything was plated in 1972 and in 1973 the road was turned over to the county for a public road.

Holte stated the road sits in with the common grounds he stated where the road sits between the road and the property line they have property for utility work or anything like that. He stated we have always gone by the property line of the home owners property, not the edge of the road.

Chairman Sam Fisher noted the edge of the road is a moving target especially on an inside curve where this property sits.

Ron Holte stated they had always gone 20' from the middle of the road.

Chairman Sam Fisher stated that was a moving target and not accurate.

Holte stated the county engineer stated the middle of the road does not change.

Fisher stated the middle of the road does not change on paper but certainly does physically.

Public Hearing closed by chairman Sam Fisher.

Chairman Sam Fisher next asked for comments from the Board of Adjustment.

Sam Fisher noted many of us have lived on a gravel road. He stated this property was about half the size of any of the other lots in the subdivision. He stated it was unique in that it follows the road rather than going back away from the road so the opportunity to build deep into the property is not afforded on this particular piece. He stated the property was on the inside of a curve and shares with a cul-de-sac further limiting the options to add a garage. He also noted the septic tank limited options etc. He noted the property sloped off on the back side quite steeply and limited the ability to move the garage back. He noted these were all things taken into consideration in 2020.

Fisher noted the difference of 3' was not nefarious by any means the stakes were followed there was a 3' error made he believed by the county when they surveyed this. This was not someone trying to push a garage further forward.

Director Mike Salati commented the property had not been surveyed when it was reviewed. He stated an inspection measurement had been taken but was not survey grade.

Chairman Sam Fisher noted when a car was parked in front of the garage the rear of the car was not by anyway close to the road. He stated the road appeared to have moved approximately 4' over the last 15 to 20 years which was common with an inside curve which gave the building the appearance of being a little bit closer.

Fisher also noted in the legal world moving the garage would be economic malfeasance. He did not believe there was anything to gain by moving the garage. Fisher again noted that the garage couldn't be moved due to the septic system location. Fisher noted it was a very nice looking garage.

Chairman Sam Fisher next asked for a motion.

Ruth Berglund moved to approve Petition for Variance #2024-006 submitted by Steve & Kim Long. The Long's were granted a variance in 2020 allowing them to build a detached garage 22.5 ft from their west property line however the building was placed 19.45 ft from the property line. The Long's are asking for a variance to allow for the existing structure to remain 19.45 ft from the west property line

Seconded by Holly Kilstrom

Holly—yes
Ruth Berglund—yes
Sam Fisher—yes

Motion carried

Chad Schneider requested a copy of the application.

Director Mike Salati noted if he sent an e-mail he would return the application first thing in the morning.

- B. Petition for Variance #2024-007 submitted by Emilie McCoy on behalf of Boone County Conservation. Boone County is requesting a variance to allow for the construction of a 225' public safety radio communications tower to be located 100' from the north property line located at 610 H Ave, Ogden, Ia 50212.

Public hearing opened by Chairman Sam Fisher

Emilie McCoy was present to speak in regards to the request. She stated the towers were engineered to accordion down on itself not fall over. She stated she had included a zero fall radius letter in the application.

Chairman Sam Fisher next asked for any further comments of which there were none.

Ruth Berglund moved to approve Petition for Variance #2024-007 submitted by Emilie McCoy on behalf of Boone County Conservation to allow for the construction of a 225' public safety radio communications tower to be located 100' from the north property line located at 610 H Ave, Ogden, Ia 50212

Seconded by Holly Kilstrom

Ruth Berglund—yes
Holly Kilstrom—yes
Sam Fisher—yes

Motion Carried

VII. UNFINISHED BUSINESS

A. None

VIII. NEW BUSINESS

A. None

VIII. DIRECTOR'S REPORT (PLANNING AND DEVELOPMENT DEPARTMENT)

A. None

IX. ADJOURNMENT

Holly Kilstrom moved to adjourn

Seconded by Sam Fisher

Holly Kilstrom—yes

Ruth Berglund—yes

Sam Fisher—yes

Respectfully submitted

Wanda Cox

5:30 P.M. –VIA ELECTRONIC TELEPHONE CONFERENCE

[HTTPS://US02WEB.ZOOM.US/J/89340521480?PWD=MLK0dEdMAWZFL2VCbVRpM2xKYzNLUt09](https://us02web.zoom.us/j/89340521480?pwd=MLk0dEdMAWZFL2VCbVRpM2xKYzNLUt09)

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PASSWORD: 325945

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+13126266799,,89340521480#,,1#,325945# US (CHICAGO)

+19292056099,,89340521480#,,1#,325945# US (NEW YORK)

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+1 312 626 6799 US (CHICAGO)

+1 929 205 6099 US (NEW YORK)