

Board of Adjustment  
Minutes  
October 19, 2017

Meeting was called to order at 5:00 p.m. by Chairperson Moe Richardson. Those in attendance: Board members Moe Richardson, Lori Boren, Gary Ulch, Wade Squiers and Roch Player. Also in attendance: Zoning Administrator, Matt Siders and applicant John Reinken.

1. Approval of Agenda. Motion made by Player, seconded by Ulch to approve the agenda. Carried all.
2. Approval of minutes from May 16, 2017. Motion made by Ulch, seconded by Player to approve the minutes. Carried all.
3. Public Hearing and discussion and possible action on request for a variance for an in-ground pool at 320 Hillview Drive SE. City Administrator Matt Siders explained that Cassidy Reinken had contacted him quite some time ago inquiring about pools and they talked through the necessary issues at hand in regards to safety. He instructed her to contact Linn County to find out what was required. She followed up again with Matt this summer and talked about the design and layout. As Matt Siders reviewed the code it was found that the placement of the pool did not meet the required setbacks for Suburban Residential. In this zoning district the rear setback is 35 feet from the lot line for residential uses. The location of the proposed pool is approximately 25 feet from the lot line. Siders said due to his interpretation of the code he is not able to allow the pool.

Richardson said he has never been told whether the board needs to satisfy all of the criteria for granting a variance or if there can be an exception. He knows from experience that variances have been granted when all of the criteria have not been met. Player read the language from page 13-10 of the Zoning Ordinance that explains the power and duties of Board of Adjustment. One level of appeal would be whether the board felt the Zoning Administrator had made a mistake. The second level would be a Conditional Use permit. The third would be the interpretation of the zoning map and fourth is variances to relieve hardships relating to property. Player went on to read the requirements for granting of a variance as noted on pages 13-10 and 13-11 of the Zoning Ordinance. It was the the consensus of the board that all requirements listed under section 13-10(d)(1) sub sections "a" through "f" would need to be met in order to grant a variance.

John Reinken said as far as hardships go it is hard to stand on that reasoning but it is his belief that the one leg they really have is miszoning of the development. If you compare any other lots or any other zoning developments around Mount Vernon you should more than likely be looking at a 25 foot setback. With it being zoned the way it is it implies that the houses are on acreages or something else as far as larger properties. Reinken said they do have an unusual lot and their house sits on the lot slightly crooked to the property line due to the setbacks to the front.

Moe Richardson asked to make a statement. He remembered several months ago when the board granted a variance for a setback of four feet and the City Manager didn't like it and told the City Council not to like it. Richardson went to the City Council meeting when they rejected that variance and sent it back to Board of Adjustment and rethink it or get sued. He felt that was pretty dramatic. Richardson went on to say that the board reconsidered the variance and denied it because they were told by the City Council that they were immature and negative to grant a variance almost any time because all they (the board) were trying to do was be popular and well-liked by their neighbors. Richardson said he took that very seriously. He asked if they should just deny everything. He said the City Manager of Marion told him that their Board of Adjustment is really the "board of approval" and they don't say no too much. On the other hand, he thinks the board should still have compassion in their hearts and even though it appears to some that the board is being weak and immature and always saying yes, it is always in the best interest of the town. Now they are saying that every criteria for a variance needs to be met and he feels that having a hardship is tough a tough one. Richardson personally would like to have compassion but be smart and do the right thing. Boren said that the case that Richardson is talking about is very different from this one. Player said you have to look at each individual case on its own merits.

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Player made a motion that the finding that the proposed improvements at 320 Hillview Drive SE, Mount Vernon, Iowa 52314, as outlined in their application for a building permit dated September 21, 2017 did not violate the minimum setback requirement as stated by the letter from the Zoning Administrator. Ulch seconded the motion. All in favor. Motion carries.

Meeting adjourned at 5:32 p.m. with the unanimous consent of the board on October 19, 2017.

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Meeting adjourned at 5:32 p.m. with the unanimous consent of the board on October 19, 2017.

Respectfully submitted,  
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Deputy Clerk

Board of Adjustment  
Minutes  
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Respectfully submitted,  
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