

Dubuque County Zoning Board of Adjustment Minutes of the September 5, 2023 meeting

Chairperson Ben Schroeder called the meeting to order at 7 p.m.

A. ROLL CALL: Members present at the Dubuque County West Campus, 1225 Seippel Road: Ben Schroeder, Michelle Switzer, Dave Klein, Loras Link and Penny Wulfekuhle. Staff Present at the Dubuque County West Campus, 1225 Seippel Road: Tammy Henry and Lindsey Schreiber.

B. APPROVAL OF MINUTES: A motion was made by Mr. Link, **seconded by Ms. Switzer and passed unanimously to approve the Minutes of the August 1, 2023 meeting. Vote: 5-0.**

C. PUBLIC HEARINGS:

BA#09-35-23

RICHARD HILLARD

VARIANCES

The applicant is requesting to build a 48' x 30' pole building in a R-1, Rural Residential zoning district. He is requesting to build 30' from the front lot line, he will need a 50' variance to the 80' required and he is requesting to build 1'6" taller than the 13' required, he will need a 1'6" height variance. The property, located along Swiss Valley Road approximately 1.93 miles west of the City of Dubuque, is legally described as Lots 2-1-1-1-1 & 2-1-1-1-1-1 NW NW Section 21, (T88N-R2E), Table Mound Township, Dubuque County, Iowa.

The property is 1.03 acres with a single-family home and detached garage. The applicant would like to use the pole building for personal storage and he will place the pole building over the adjacent lot line. Nine (9) letters were sent, (6) were delivered and the City of Dubuque was notified. Dale & Jamie Viner, Constantino & Christine Loffa, and Kevin & Rhonda Johnson did not pick up their letters. There were no comments regarding this case.

Ms. Henry explained to the board that Mr. Hillard owns two residential lots. She said he was not allowed to place an accessory building on the vacant residential lot without having a home first; however, he can build over the lot line and the assessor would then consider it one lot instead of two.

Speaking to the board was Richard Hillard, 12920 Swiss Valley Rd., Peosta. Mr. Schroeder administered the following Oath asking the participant to raise his hand. "Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?" He said yes.

Mr. Hillard said he was just following the ordinance by building over the lot line to make two lots into one and he said he was using the building for personal storage.

Speaking to the board was Dale Viner, 12972 Swiss Valley Rd., Peosta. Mr. Schroeder administered the following Oath asking the participant to raise his hand. "Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?" He said yes.

Mr. Viner said he owns the property adjacent to Mr. Hillard and he said he supports the variance request.

Mr. Schroeder asked if anyone had additional questions, no one spoke.

A motion was made by Ms. Switzer, **seconded by Mr. Link to approve the variance request with the condition that there must be gutters and down spouts that direct the water onto the owner's property. The motion passed unanimously.**

Vote: 5-0.

BA#09-36-23

VICKI GARTNER

VARIANCES-WITHDRAWN

BA#09-37-23

BENJAMIN ELLIOT

VARIANCE

The applicant is requesting to build a 30' x 25' home addition in a R-3, Single Family Residential zoning district and A-1, Agricultural zoning district. He is requesting to build 4' from the front lot line, he will need a 26' variance to the 30' required. The property, located along Balltown Road approximately .34 miles East of the City of Balltown, is legally described as Lot 1 Dunham Farm Sub Section 04, (T90N-R1E), Jefferson Township, Dubuque County, Iowa.

The property is 3.93 acres with a single-family home and two storage buildings. The applicant is requesting the variance because the existing home was built in the public right of way. The applicant is requesting the home addition to be able to add 4 bedrooms, master bathroom, and closet. The requested variance would put the new overhang in the right of way. Thirteen (13) letters were sent, (10) were delivered and the City of Balltown was notified. James & Irma Hefel, Albert & Irene Klein, and Leon Klein did not pick up their letters. John Riniker, 23202 Waupeton Rd, Sherrill, IA 52073 said he was in favor of the variance request.

Ms. Henry explained to the board that the applicant is requesting to build 2 feet from the public right of way which would cause the overhang/eaves to be in the public right of way. She said the home was an older home and the front of the home was already in the public right of way. She said she explained to Mr. Elliot to come in with a backup plan if the Board would not approve the 2-foot variance. She explained to Mr. Elliot a 4-5-foot variance request would keep the addition out of the public right of way.

Speaking to the board was Benjamin Elliot, 18975 Balltown Rd, Sherrill. Mr. Schroeder administered the following Oath asking the participant to raise his hand. "Do you solemnly swear you will tell the truth, the whole truth and nothing but the truth?" He said yes.

Mr. Elliot said he had been working with an architect and he hoped to have a design to present to the board however he was unable to obtain it before the meeting.

Mr. Klein asked the length of the overhang would be and Ms. Henry said it would be 1-2-feet.

Ms. Henry said the board does not have the authority to grant permission to build in the public right of way nor could she issue a building permit to build within the public right of way.

Ms. Henry said the existing home was built in 1880 prior to the placement of the public right of way so the existing structure is grandfathered in however, a new structure cannot be built in the public right of way.

Ms. Henry said if he requested a 4' variance then the board could approve it knowing he will not be over the property line. Mr. Elliot asked if anyone would even inspect the addition to make sure it didn't go over the property line. Ms. Henry said because the addition is so close to the right of way line, she would do the sight inspection.

Ms. Henry explained to the board if they gave permission to build in the public right of way and an accident occurred it is very possible that the Board of Adjustment could be liable as well as the county.

After a lengthy discussion amongst board members, the applicant, and the zoning administrator the board gave the applicant 3 options to choose from. 1:13

1. Build 4' from the front lot line, which would give him a 26' variance to the 30' required.
2. Provide a survey that proves where the right of way line is and an architectural design that shows the addition will be in the right of way line.
3. Table the Board of Adjustment case until October to provide more information.

Mr. Elliot asked to excuse himself to consult with his girlfriend with the option. Mr. Elliot stated after talking with his girlfriend that they did not want to wait. They will work with the architect and design the addition to meet the 4' front variance option.

A motion was made by Mr. Link, **seconded by Mr. Klein to grant a 4' variance request to build up to a 30' x 25' home addition with the condition that there must be gutters and down spouts that direct the water onto the owner's property and they must not be within the public right of way. The motion passed unanimously.**

Vote: 5-0.

D. PUBLIC COMMENTS:

E. OLD BUSINESS:

F. NEW BUSINESS:

G. ADJOURNMENT: A motion was made by Mr. Schroeder, seconded by Ms. Switzer and passed unanimously to adjourn. Vote: 5-0. The meeting adjourned at 8:24 p.m.