

**STORY COUNTY
PLANNING AND DEVELOPMENT
STORY COUNTY ADMINISTRATION
900 6TH STREET
NEVADA, IOWA 50201-2087**



"Commitment, Vision, Balance"

515-382-7245

**MINUTES
STORY COUNTY
BOARD OF ADJUSTMENT**

AN AUDIO RECORDING OF THE FULL MEETING MAY BE FOUND IN THE PLANNING AND DEVELOPMENT DEPARTMENT, OR BY VISITING WWW.STORYCOUNTYIOWA.GOV

DATE: September 19, 2018	Steve McGill	2022
	Lynn Scarlett	2018
CALL TO ORDER: 4:00 PM	*Karen Youngberg	2019
PLACE: Public Meeting Room	Randy Brekke	2019
Administration Building	Matthew Neubauer	2021
*Absent		

PUBLIC PRESENT: Dale Jarboe, Charlene Jarboe, John Jackson, Dwight Corbin, Dennis Corbin, Kay and Mike Williams, Rock Williams, Rick and Claudia Atkinson

STAFF PRESENT: Jerry Moore, Director; Amelia Schoeneman, Planner; Stephanie Jones, Recording Secretary; Deb Schildroth, Director of External Operations and County Services

ROLL CALL: McGill, Scarlett, Brekke, Youngberg, Neubauer

ABSENT: Youngberg

APPROVAL OF AGENDA (MCU)

APPROVAL OF June 20, 2018 MINUTES (MCU)
APPROVAL OF August 15, 2018 MINUTES (MCU)

PUBLIC COMMENTS: None

HEARINGS:

VAR03-18—Williams Variance Request

Amelia Schoeneman gave a summary of background information of the property, and stated that the request is for three variances and presented a summary of each of the following requests:

1. A thirty-nine-foot and ten-and-four-fifths-inch variance to Table 86-5 of the Story County Land Development Regulations, which requires a front yard setback for dwellings in the R-1 Transitional Residential District of 40 feet, for a 22-foot-by-22-foot canopy on the east side of the dwelling.

2. A five-foot and one-inch variance to Table 86-5 of the Story County Land Development Regulations, which requires a side yard setback for dwellings in the R-1 Transitional Residential District of 10 feet, for a 12 foot-by-24-foot canopy on the south side of the dwelling.

3. An eleven-inch variance to Table 86-5 of the Story County Land Development Regulations, which requires a side yard setback for dwellings in the R-1 Transitional Residential District of 10 feet, for a fifteen-foot-by-seventeen-foot addition on the south side of the dwelling. The addition provides additional living space.

Schoeneman stated that the variance request for the addition meets all legal principles and is recommended for approval. The variance requests for the canopies meet all legal principles except that of reasonable return and are recommended for denial. If the Board makes a finding all legal principles are met by the variance request for the canopies, staff recommends additional conditions to include that the canopies are removed or relocated when the detached garage that encroaches on the right-of-way is removed and/or when the property is sold.

Mike and Kay Williams were present and spoke about the requests. Mr. Williams stated that he is confused about the process and has felt like he has gotten the run around. Mr. Williams stated that in July of 2000, the garage was built and nothing was brought up at that time about the existing garage being an issue. Mrs. Williams summarized the letter that she sent to the board and spoke about the canopies being an important part of what they consider outdoor living space and it was her understanding from her land surveyor that they didn't need a variance and when they learned they did that Planning and Development staff would support the east canopy variance. Mrs. Williams stated that she is frustrated with the process and thanked the board for listening.

Rick Atkinson spoke and stated that his complaint is not with the proposed variances for the property, but rather with the 40' set back requirement. Mr. Atkinson stated that there are many properties in the area that need improvements and that the applicant has put a lot of money into improving their property.

Claudia Atkinson spoke and stated that she is very happy that the applicant is making improvements to their property. Mrs. Atkinson stated that she feels the staff is doing their job, but that the requirements are hurting Fernald. Mrs. Atkinson stated that she would like to see the county work with the town to make it easier for property owners to make improvements and would like to see the 40' set back requirement changed.

Schoeneman clarified that the Land Development Regulations on nonconforming uses permits additions or expansions of legal, nonconforming structures so long as they do no further encroach on the required setback.

John Jackson spoke and stated that he lives to the south of the applicant and feels that there is plenty of space between the properties, and that the canopies do not bother him and feels that the variances should be granted.

Charlene Jarboe spoke and stated that the applicant has vastly improved the property. Mrs. Jarboe spoke about the railroad being so close and feels that if properties were made to meet the 40' set back requirement they would then be too close to the railroad tracks.

McGill stated that the goal of the board is not to write the law, but rather to make adjustments to meet the law and specific circumstances.

Jerry Moore stated that any improvement larger than 100 square feet requires a zoning permit. Moore stated that what prompted this variance process was the zoning permit submittal. The zoning permit review process is very thorough and Planning and Development staff's review of the property and records generated the additional findings. Moore also stated his communication with the applicant's land surveyor was for the east canopy to be moved out of the road right-of-way and for the land surveyor to prepare a drawing showing setbacks that could be submitted with the variance request to show the precise location of the canopy. Moore spoke about the right of way being larger than standard. Dale Jarboe stated that he would like to see the variances be approved.

Brekke asked for clarification about what the variance requests are for and Schoeneman summarized the three variances again. Neubauer asked what the canopies are constructed of. Mrs. Williams stated that they are 6x6 posts with rafters. Neubauer asked if the applicant remembers the approximate cost of the canopies and Mr. Williams stated that they were approximately \$1,300.00. Much discussion took place about where the front property line is located.

MOTION: The Story County Board of Adjustment approves the Williams variance request, as requested by the applicant and put forth in case VAR03-18, for the eleven-inch variance to Table 86-5 of the Story County Land Development Regulations for a fifteen-foot-by-seventeen-foot addition on the south side of the dwelling.

Motion: Neubauer

Second: Brekke

Ayes: Scarlett, Brekke, McGill, Neubauer

Nays: None

Not Voting: None

Absent: Youngberg

Vote: (4-0)

Schoeneman stated that the second request is for the canopy on the front of the house closest to the right of way and went through the alternatives. McGill spoke about reasonable return and that the property would appraise higher with the canopy than without it. McGill feels that if the garage was ever removed then adjustments could be made at that time to the canopies. Neubauer asked if conditions were imposed to remove the garage and if the present zoning rules could be changed to make it easier to meet setbacks. Moore stated that if the requirements were changed then the new rules would apply and the conditions would be irrelevant if the rules were met. Brekke asked about if the canopies are attached and the applicant stated the canopies are free standing and bolted down to the concrete.

Scarlett started to make a motion that if the garage is removed and/or if the property is sold the applicant shall remove the two canopies and McGill suggested not having to rely on the current property owner to remove the garage and canopies if the property is sold and suggested the

motion should be that the two canopies should be removed when the garage that is encroaching the road right-of-way is removed.

MOTION: The Story County Board of Adjustment approves the Williams variance request VAR03-18, for the thirty-nine-foot and ten-and-four-fifths-inch variance to Table 86-5 of the Story County Land Development Regulations for a 22-foot-by-22-foot canopy on the east side of the dwelling with the following condition:

1. **When the existing fourteen-foot-by-twenty-foot garage that encroaches on the Winchester Avenue right-of-way and is setback approximately three feet from the south property line is removed, the canopy shall be removed.**

Motion: Scarlett

Second: Neubauer

Ayes: Brekke, McGill, Neubauer, Scarlett

Nays: None

Not Voting: None

Absent: Youngberg

Vote: (4-0)

MOTION: The Story County Board of Adjustment approves the Williams variance request VAR03-18, for a five-foot and one-inch variance to Table 86-5 of the Story County Land Development Regulations, which requires a side yard setback for dwellings in the R-1 Transitional Residential District of 10 feet, for a 12-foot-by-24-foot canopy on the south side of the dwelling, conditions as follow:

1. **When the existing fourteen-foot-by-twenty-foot garage that encroaches on the Winchester Avenue right-of-way and is setback approximately three feet from the south property line is removed, the canopy shall be removed.**

Motion: Neubauer

Second: Scarlett

Ayes: Neubauer, Scarlett, Brekke, McGill

Nays: None

Not Voting: None

Absent: Youngberg

Vote: (4-0)

BOARD/STAFF COMMENTS:

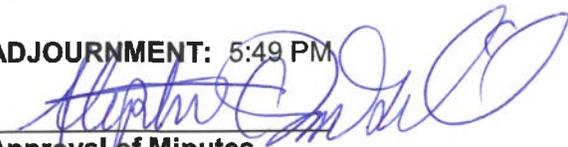
Staff: Moore gave an update on cases that may be on the October agenda and provided an update on work program items.

Board: None

ADJOURNMENT: 5:49 PM

Approval of Minutes

Title and Date


Chairman 10-17-2018