

BOARD OF ADJUSTMENT

The Board of Adjustment meeting was called to order at 5:28 p.m. by Vice-Chairman Verdoorn.

Roll Call: Present: Muth, Robinson, Sissel, Verdoorn  
Absent: Cullinan

Verdoorn read the following appeal:

**Pat Carney, 1213 S Lakeview Drive, Clear Lake, IA**, requests permission to add to an existing dwelling. PERMISSION DENIED: The Clear Lake Code of Ordinances Chapter 165.17 Lake Residential. 4. Dimensional requirements. Side yard. Any one side yard shall be 5' or 10% of lot width. Proposed construction will not meet this requirement.

Mr. Carney explained that he had purchased his property in 2004, at which time he added a chain link fenced run for his hunting dogs over an existing concrete slab on the north side of his residence. The run allows his dogs access to their kennels which are located in the garage. Later, in an effort to make the run more aesthetically pleasing for his neighbors, he enclosed it with an 8' wood fence, which sits on his lot line. At that time, he did not foresee the tremendous amount of snow that would accumulate in the run in the winter, making it physically unable for him to remove that much snow, and making the run unhealthy for the dogs. He displayed winter photos to the Board to assist in their understanding of the problem. To alleviate the problem, Mr. Carney hired a contractor to construct a roof over the wood fence, unaware that it would be considered an extension of his residence or that it would be offensive to anyone. Board members had reviewed a copy of a letter from the abutting property owners to the north stating they had no issue with the resulting structure. John Marino, City Building/Zoning Official, presented a letter from City Legal Counsel Charlie Biebesheimer, in which he stated that since this variance request is after-the-fact, Board members should not base their decision on the fact that the project has been completed, but consider it exactly the way they would any other project that is submitted in a timely manner (letter attached and made a part of these minutes).

Robinson asked if the contractor had informed Mr. Carney that he needed to apply for a building permit or that there were side yard set-back ordinances, to which he replied that he had not been told about either. Robinson felt that there were actually two violations to consider—no building permit and a non-conforming structure. She indicated that she was afraid if this Board allowed the structure to remain it would be setting a precedent and residents would feel they can build whatever they want and the Board of Adjustment will have to approve it.

Verdoorn noted that it appeared the roof overhang was over the property line and questioned if water drained onto the abutting property. Mr. Carney responded that water from the roof actually drained back toward the street due to the slope of the concrete on which the run was constructed, and assured Board members that if roof drainage did become an issue with the neighboring property owner, he would have gutters installed.

Sissel stated that, per Mr. Biebesheimer's letter, this Board needed to look at this project as if it had not already been constructed, but as if Mr. Carney was applying for a variance and a building permit. Marino indicated that if Board members did not grant the variance, only the roof would be removed, leaving the sidewalls in tact since they would revert to a legal fence. Verdoorn noted that if the walls remained, then Mr. Carney could cover the run with an unsightly tarp and still have a legal structure.

Muth asked Marino if much building occurs without City knowledge, and wondered if approving this variance after-the-fact would encourage others to build without first securing building permits. Marino replied that although he cannot monitor the entire town, most residents do make application for the proper

permits in a timely manner, and will probably continue to do so. Muth also speculated on what would happen if the neighboring property owner to the north should sell his residence and the new owners would object to the structure encroaching on their property. Mr. Carney was of the opinion that anyone looking at the property should be aware of the existence of the structure before making the purchase.

Motion by Muth, second by Sissel, to grant Pat Carney a variance for the non-conforming roof structure, provided he obtain a building permit after-the-fact. Ayes: Sissel, Muth, Verdoorn. Naves: Robinson.

Moved by Muth, seconded by Sissel, that the meeting be adjourned at 5:49 p.m. All ayes.

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Tina Cullinan, Chairman

ATTEST:

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Sharon Springer, Secretary