

BOARD OF ADJUSTMENT MINUTES
November 11, 2019
7:00 p.m.

A. Roll Call:

Members Present: Lampe, Chair; Brandt, Vice-Chair; Charlson; Nelson; Juhl

Staff Members Present: Tim Kangas, City Council Liaison
Isaac Pezley, Zoning Administrator

B. Approval of Agenda:

Motion By: Juhl

Seconded By: Brandt

Move that the agenda be approved as printed.

Yes: 5

No: 0

Absent: 0

C. Approval of Minutes:

Motion By: Nelson

Seconded By: Charlson

Move that the minutes of the October 14, 2019, Board of Adjustment meeting be approved, as presented.

Yes: 5

No: 0

Absent: 0

D. Public Hearing:

1) Variance request for 1210-1212 1st Street SE

Pezley states the applicant, Eric Johnson, on behalf of Omni Dev, LLC, is requesting a lot width variance for the properties located at 1210-1212 1st Street SE. Omni Dev, LLC would like a lot width variance in order to make the property into a twin home. The property is currently operating as a condominium. Omni Dev, LLC requested a lot width variance in 2017 but the request was denied. Lot 25, the northern half of the property, would be approximately 41.62 feet while Lot 24, the southern half of the property, would be approximately 50.92 feet.

Eric Johnson states he has filed a variance request of behalf of Omni Dev, LLC as well as the owners of the properties. Johnson says that developers shifted the structure to the north because of an utility easement along the southern property line of the property. Because of this, the lot size for Lot 25 would be approximately 41.62 feet in width. Johnson tells the Board that a twin-home would be simpler and easier to understand than a condominium regime. The proposed variance does not negatively affect the neighborhood in his opinion.

Charlson asks if Omni owns either property. Johnson says no, the owners of both 1210 and 1212 1st Street SE are present tonight. Both property owners are agreeance with the proposed variance request.

Lampe states this variance was brought before the Board in 2017. At that hearing he asked the developer if they had laid out the lots, if they knew there was an easement on this property and if they knew they needed a variance. They responded yes. At the time of the variance request they had already laid the foundation and the flooring for the structure. Johnson says that they knew that if the variance request was not approved, they could still operate the structure as a condominium.

Charlson asks why the owners of the property are not making this variance request. Omni Dev, LLC developed the property and are filing the request on behalf of the property owners.

Lampe states that the owners of 1212 1st Street SE had contacted City Staff and said they were not in favor of the variance request at the October 14, 2019 Board of Adjustment meeting. Lampe asks the property owners why they changed their mind. Merle Whitcher addresses the Board and states that their original objections stemmed from not being informed about the variance request. Since becoming more informed they are now in favor of the variance request.

Charlson asks if the Board approves this variance request, is the Board setting a precedence for condominiums asking for variances to become twin-homes. Pezley says that would be difficult to answer because every case is different.

Juhl asks what the hardship is. Brett Schломann, the owner of 1210 1st Street SE, addresses the Board. Schломann says that a Home Owners Association of two people can be very difficult because any disagreement would lead to arbitration. In Home Owners Association with multiple homeowners you can take votes and have majorities. However, in Home Owners Association of two that is not a reality.

Motion By: Charlson

Seconded By: Nelson

Move that the Board of Adjustment approve the variance request to allow an approximately 41.62 foot lot on the northern proposed lot at the property located at 1210-1212 1st Street SE, Waverly, IA.

Yes: 2
(Nelson, Charlson)

No: 3
(Juhl, Lampe, Brandt)

Absent: 0

Decision: The motion to approve the requested variance for 1210-1212 1st Street SE failed 2-3. That Board stated that the developers of the property knew in advance that they would not have enough room to construct a twin home and they chose to develop the property anyways and operate the property as a condominium. Both of the current property owners knew they were purchasing a condominium and agreed to the current terms of the condominium regime.

E. New Business:

Staff informs the Board at the November 7, 2019 Planning and Zoning Commission Meeting the Planning and Zoning Commission passed a recommendation to approve changes to the Zoning Code to City Council. The proposed Zoning Code changes would require Special Provisional Use Permits be approved by the Board of Adjustment instead of City Council. The changes would bring Waverly in to compliance with Iowa Code.

F. **Old Business:**
None.

G. **Adjournment:**

Motion By: Brandt

Seconded By: Juhl

Move that the Board of Adjustment adjourn

Yes: 5

No: 0

Absent: 0

The Board of Adjustment meeting adjourned at 7:48 pm.


Pete Lampe, Chairperson

Attest


Isaac J. Pezley, Zoning Administrator