

NOTICE TO THE AUDIENCE. PLEASE REMEMBER THAT IF YOU ARE INTERESTED IN MATTERS ON THE AGENDA THAT WILL HAVE SUBSEQUENT MEETINGS, IT IS YOUR RESPONSIBILITY TO NOTE THE DATES, TIMES, AND PLACES. NO FURTHER LETTERS OR REMINDERS WILL BE SENT. OF COURSE, IF YOU HAVE ANY QUESTIONS ABOUT ANY GIVEN MATTER, DO NOT HESITATE TO CONTACT THE PLANNING DEPARTMENT IN THE CITY HALL ANNEX, 4403 DEVILS GLEN ROAD, BETTENDORF, IOWA (344-4100).

**MEETING NOTICE
BOARD OF ADJUSTMENT
MARCH 10, 2011
5:00 P.M.**

PLACE: Bettendorf City Hall Council Chambers, 2nd Floor, 1609 State Street

1. Roll Call: Falk _____, Howe _____, McElhiney _____, Stelk _____, Voelliger _____
2. Review of Board Procedures.
3. The Board to review and approve the minutes of the meeting of December 9, 2010.
4. The Board to review and approve the 2010 Board of Adjustment Annual Report.
5. Election of Officers.
6. The Board to hold a public hearing on the following item:
 - a. Case 11-009; Lot 1, Hunter Meadows Commercial Park Second Addition (Southwest corner of 53rd Avenue and Falcon Avenue)(C-2) - A request for a special use permit to allow a drive-up window, submitted by McDonald's.
 - b. Case 11-010; 4513 Stone Haven Drive (R-2) - A request for a variance from the required established setback from 39 feet to 25 feet to allow for construction of a garage, submitted by George and Toni Hallas.

The following are minutes of the Bettendorf Board of Adjustment and are a synopsis of the discussion that took place at this meeting and as such may not include the entirety of each statement made. The minutes of each meeting do not become official until approved at the next board meeting.

**MINUTES
BETTENDORF BOARD OF ADJUSTMENT
DECEMBER 9, 2010
5:00 P.M.**

Chairman Pro Tem McElhiney called the meeting to order at 5:05 p.m.

Item 1. Roll Call

PRESENT: Falk, Howe, McElhiney, Voelliger
ABSENT: Stelk
STAFF: Connors, Fuhrman, Soenksen

Item 2. Review of Board Procedures.

Item 3. The Board to review and approve the minutes of the meeting of November 18, 2010.

On motion by Voelliger, seconded by Howe, that the minutes of the meeting of November 18, 2010 be approved as submitted.

ALL AYES

Motion carried.

Item 4. The Board to hold a public hearing on the following item:

- a. Case 10-068; 431 Fourth Street (R-2) - A request for a variance to allow a 4-foot high fence in a required front yard, submitted by Gary Boche.

McElhiney asked if there was an affidavit of publication. Soenksen stated that notice of public hearing had been received. Notice and affidavit of publication are Annex #2 to these minutes.

Soenksen reviewed the staff report. Staff report is Annex #3 to these minutes. Soenksen stated that he had received three phone calls regarding the case. He indicated that after he had explained the request, all were in support.

McElhiney asked if there was anyone present wishing to speak in favor of the request.

Gary Boche, the applicant, stated that staff had presented all of the pertinent facts and that he would be available to answer any questions the Board may have. He explained that the proposed fence poses no visual obstruction, adding that the variance is

necessary only for the portion to be placed along Brown Street. He indicated that because there are no stop signs at the intersection, the proposed fence would have no impact on traffic.

Howe commended the applicant for choosing such a visually appealing fence. Voelliger concurred.

Soenksen questioned whether the applicant plans to fence along the alley. Boche explained that no fence would be placed there as the new garage he plans to build will serve as a barrier for the southeast corner of the lot. He added that there would be a short wooden fence between the corner of the house and the garage so that the entire rear yard is enclosed.

There being no one else present wishing to speak in favor of or in opposition to the request, McElhiney closed the public hearing.

On motion by Howe, seconded by Voelliger, that the variance to allow a 4-foot high fence in a required front yard be approved in accordance with the Decision and Order.

Motion carried.

Decision and Order is Annex #4 to these minutes.

There being no further business, it was unanimously approved to adjourn the meeting at approximately 5:15 p.m.

These minutes and annexes approved

John Soenksen
City Planner



BOARD OF ADJUSTMENT
ANNUAL REPORT
2010

Special Use Permits

Variances

Special Location Plans

Appeals

Miscellaneous Items



Board of Adjustment City of Bettendorf 2010 Annual Report

Summary of Activities

The City of Bettendorf's Board of Adjustment is a five-member board appointed by the Mayor. It is the responsibility of the Board to interpret the City's Zoning Ordinance as it applies to variances and special uses. Each month a visit to the site in question is made individually by the Board Members followed by a public hearing.

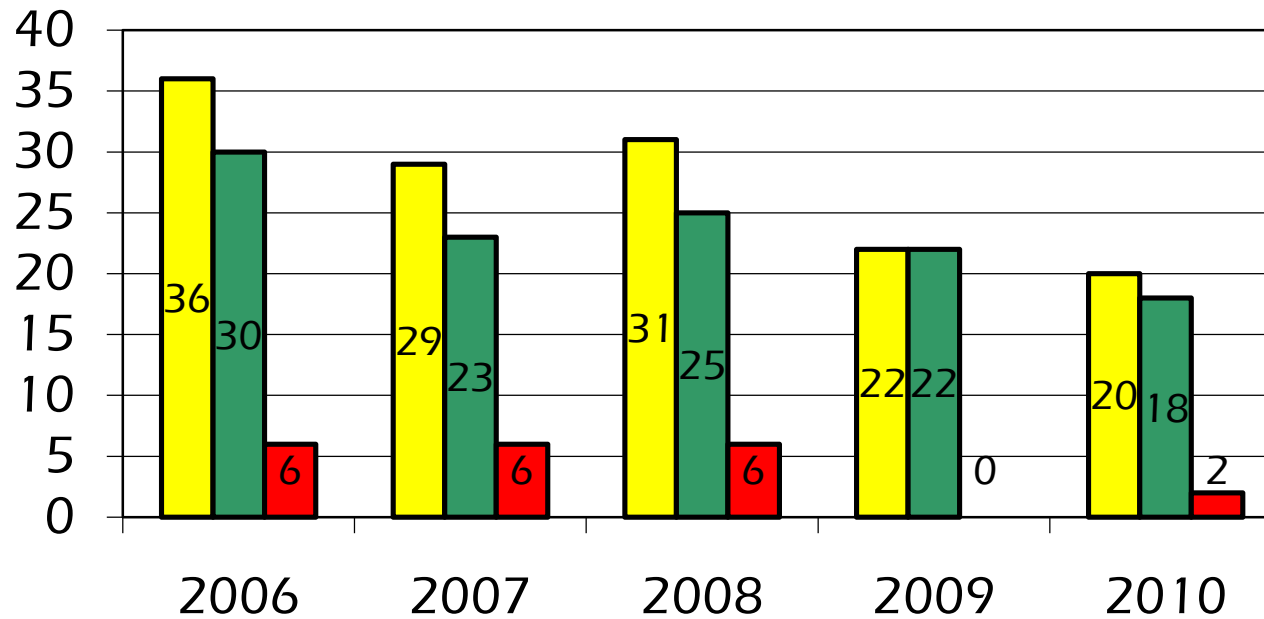
The following is a summary of the activities of the City of Bettendorf's Board of Adjustment. The cases were heard beginning January 2010 and ending December 2010. These cases are those actually brought before the Board and do not include those that were withdrawn or are pending.

The Board of Adjustment made decisions regarding 23 cases during the year ending December 2010. Of those cases 20 were variance requests, and 3 were special use requests. The Board granted 21 requests.

Board Member Listing

Tom Stelk, Chairman (Appointed pre-1979)
Kathleen McElhiney, Chairman Pro Tem (Appointed 11/98)
Robert Howe (Appointed 11/04)
Norm Voelliger (Appointed 4/08)
David Falk (Appointed 4/10)

BOARD OF ADJUSTMENT ACTIVITY VARIANCES 2006 - 2010

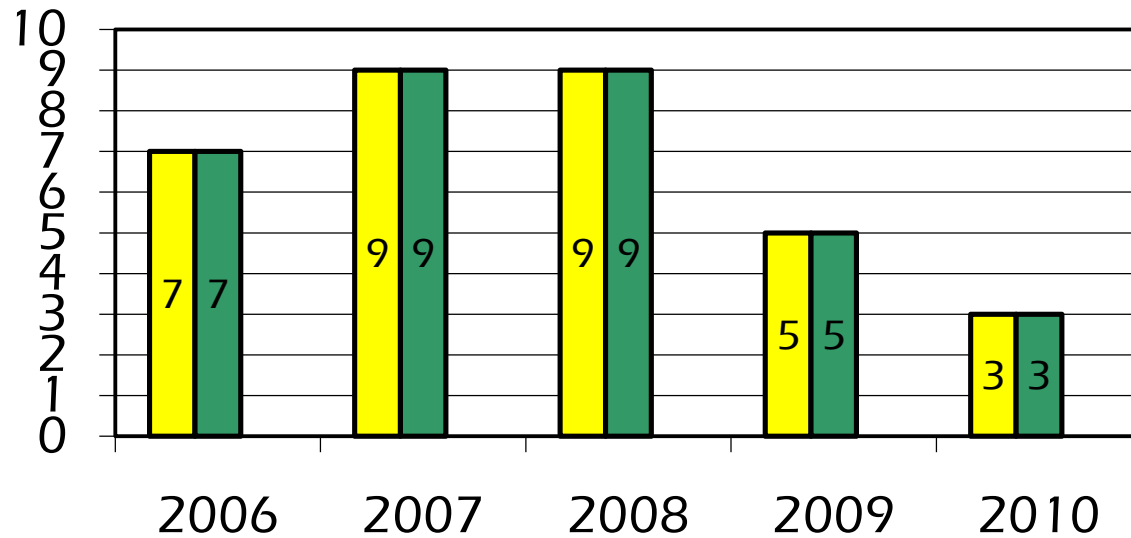


■ CASES HEARD

■ CASES APPROVED

■ CASES DENIED

BOARD OF ADJUSTMENT ACTIVITY SPECIAL USES 2006 - 2010



■ CASES HEARD

■ CASES APPROVED

■ CASES DENIED

2010 Board of Adjustment Annual Report

Case Number	Location	Request/Applicant	Decision/Date
09-074	2820 Villa Court	Variance to reduce the required rear yard setback from 20 feet to 14 feet to allow for a 14-foot by 16-foot deck, submitted by Teresa Stori.	Granted 1/14/10
09-075	2834 Villa Court	Variance to reduce the required rear yard setback from 20 feet to 12 feet to allow for a 16-foot by 16-foot deck, submitted by Tarikere Kumar.	Withdrawn
09-082	7186 State Street	Special use to allow a permanent concrete mixing facility, submitted by Pleasant Valley Redi-Mix.	Granted 1/14/10
10-007	2021 State Street	Variance to reduce the required setback for an on-premises identification sign from 15 feet to 3 feet and to allow an exposed lighting source sign (LED programmable sign) in the Downtown Riverfront Corridor Overlay District (DRCOD), submitted by the City of Bettendorf.	Granted 4/8/10
10-008	1424 - 18 th Street	Variance to increase the allowable square footage of a garage from 720 square feet to 855 square feet, submitted by David Mossage.	Granted 4/8/10
10-011	4024 Spartina Court	Variance to allow a 4-foot high fence in a required front yard setback, submitted by Gary Williams.	Granted 5/13/10
10-012	1870 Hartford Court	Variance to allow a 4-foot encroachment into the established front yard and to increase the allowable garage area from 886 square feet to 1,108 square feet, submitted by Chris Baltzer.	Granted 5/13/10
10-013	2532 Roberts Street	Variance to reduce the required building separation from 8 feet to 6 feet, submitted by Carey and Richard Torgensen.	Granted 5/13/10
10-014	2339 - 53 rd Avenue	Special use to allow a drive-in banking facility, submitted by Ascentra Credit Union.	Granted 5/13/10
10-016	6627 Spring Creek Drive	Variance to increase the allowable square footage for a garage from 720 square feet to 991 square feet, submitted by Richard and Lisa Harris.	Granted 5/13/10
10-017	2119 Kimberly Road	Variance to increase the allowable height for an on-premises identification sign from 30 feet to 60 feet, submitted by Brown Mackie College.	Granted 5/13/10
10-018	4289 Moencks Road	Variance to allow a sanitary septic system in an R-1 Single-family Residence District, submitted by WWW Development, LLC.	Granted 5/13/10

2010 Board of Adjustment Annual Report

Case Number	Location	Request/Applicant	Decision/Date
10-023	1410 Prairie Vista Drive	Variance to allow a 4-foot high fence in the front yard, submitted by Thomas and Heidi Kellenberger.	Denied 6/10/10
10-028	3493 Adele Lane	Variance to allow a 6-foot high fence in a required front yard, submitted by Steve Saunders.	Granted 7/8/10
10-029	4125 Squire Drive	Variance to allow a 4-foot high fence in a required front yard, submitted by Charles and Barb Puchta.	Granted 7/8/10
10-030	5323 Julie Ann Court	Variance to allow a 6-foot high fence in a required front yard, submitted by Christopher and Barbara Willis.	Granted 7/8/10
10-037	2317 Oak Lane	Variance to reduce the required front yard setback from 25 feet to 11 feet to allow for construction of a 24-foot by 24-foot garage, submitted by William Ewan.	Granted 8/12/10
10-039	787 - 799 Middle Road	Special use to allow a drive-up window.	Granted 9/9/10
10-040	1737 Grant Street	Variance to reduce the required sign setback from 15 feet to 12 feet and to allow an electronic programmable sign in the Downtown Riverfront Corridor Overlay District, submitted by Classical Graphics.	Granted 10/14/10
10-042	431 Fourth Street	Variance to increase the allowable garage area by 464 square feet to allow construction of a 1,200 square foot garage, submitted by Gary Boche.	Granted 10/14/10
10-043	15 Oak Park Drive	Variance to reduce the required front yard setback from 35 feet to 12 feet and to increase the allowable garage area by 875 square feet to allow construction of an additional 992 square foot garage, submitted by Lane Buck.	Denied 11/18/10
10-050	3900 Hopewell Avenue	Variance to allow a 6-foot high fence in a required front yard, submitted by the City of Bettendorf.	Granted 11/18/10
10-051	4038 Spartina Court	Variance to allow a 4-foot high fence in a required front yard, submitted by Eric Kulick.	Granted 11/18/10
10-068	431 Fourth Street	Variance to allow a 4-foot high fence in a required front yard, submitted by Gary Boche.	Granted 12/9/10



COMMUNITY DEVELOPMENT
City Hall Annex • 4403 Devils Glen Road, Bettendorf, Iowa 52722 • (563) 344-4100

March 10, 2011

Staff Report

Case No. 11-009

Location: 2185 – 53rd Avenue

Applicant: McDonald's

Zoning Designation: C-2, Community Shopping District

Request: Special use permit to allow a drive-up window.

Background Information and Facts

The site in question is located at the southwest corner of 53rd Avenue and Falcon Avenue (see Attachment A – Location Map.) The applicant would like to build a McDonald's restaurant at this location which would include a drive-up window (see Attachment B – Site Plan). A drive-up window in the C-2 District requires the Board's review and approval.

Staff Analysis

Section 21.10.e of the Code states that no special use permit may be granted unless nine standards have been evaluated. Those standards are listed below with staff's evaluation.

- (1) The proposed use is designated by this ordinance as a special use in the district in which the use is to be located.*

Section 15.2 specifically relates to the C-2 Community Shopping District. A subsection of that chapter is 15.23. Special Uses Permitted and designates "drive-up window" as a permitted special use. Therefore, the drive-up window is a designated special use for the lot in question.

- (2) The proposed use will comply with all applicable regulations in the district in which the use is to be located.*

Section 15.22.1.(ee) lists "Restaurants, eat in or carryout" as an allowable permitted use in this zoning district. Therefore the proposed use complies with the applicable regulations of the C-2 Zoning District.

- (3) The location and size of the proposed use, the nature and intensity of the operation involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.*

The location and size of the proposed use must comply with "Site and Structure Requirements" as enumerated in Section 16.27 of the Zoning Ordinance. Other commercial uses in the adjacent C-2 area include Frank's Pizzeria, Burke Cleaners, Blue Crush Tanning, Tarpein's Martial Arts Center, Salon Halo, Charm Boutique, Olive Tree Café, Sensasian Restaurant, Seeds Earth Food, Red Crow Grille restaurant, and B.P. gas station. These uses are of similar intensity as the proposed use. Thus, the use is in harmony with the businesses already established in this area. Access to this site is from Falcon Avenue only to reduce congestion on 53rd Avenue.

- (4) The location, nature and height of buildings, walls and fences, and the nature and extent of the landscaping on the site are such that the use will not unreasonably hinder or discourage the appropriate development and use of adjacent land and buildings.*
- (5) Parking areas will be of adequate size for the particular use, properly located and suitably screened from adjoining uses, and the entrance and exit drives will be laid out so as to prevent traffic hazards and nuisances.*

The City of Bettendorf has established an elaborate review process in Section 18.92 of the Zoning Ordinance which allows the public to have input at two public hearings: one at the Planning and Zoning Commission and one at the City Council Meeting. That section states:

"The planning and zoning commission shall review the site plan proposal at said meeting and receive a report from the city engineer, fire chief, the zoning administrator, the planning coordinator, and receive comments from the public. The commission shall make its determination of conditions for approval of the site plan within thirty-five (35) days of the first meeting. If no action is forthcoming within the thirty-five (35) days, the site plan shall be forwarded on to the city council for action. The city council shall not act upon the site plan proposal until it has received a recommendation from the planning and zoning commission unless such recommendation is not received within sixty (60) days from the filing date.

The city council shall, after considering the planning and zoning commission recommendations, approve, approve with modifications, or deny any proposal by resolution. The city council may include such conditions in its resolution of approval as it deems necessary in order to accomplish the stated purpose of this section. If the site plan proposal is not acted upon finally by the city council within sixty (60) days of the date the council receives the planning and zoning commission recommendation, and such time is not extended by mutual consent of the council and petitioner, it shall be deemed denied."

The applicant will be required to comply with said review process prior to issuance of any building permit to ensure adherence with standards 4 and 5.

- (6) The proposed use will not cause substantial injury to the value of other property in the neighborhood.**

The Future Land Use designation for this lot and the surrounding area is defined as commercial and has been in place for several years. The commercial zoning for the lot has been in place since 1985 (Case #32-85). The residential zoning for the adjacent area to the south and west of the site has been in place only since 1992

(Case 17-92). Therefore, there was and has been every expectation that the lot would be developed as commercial well before any adjacent residential development occurred. From a future use and zoning perspective, there should have been every expectation that this lot would develop with a use consistent with the uses allowed in the C-2 Zoning District. The proposed restaurant is an allowed use in the C-2 district.

The proposed drive-up window area is separated from the parking area of the site and allows enough stacking area for 13 vehicles (see Attachment C – Stacking Illustration). Staff feels that any customer, seeing that 13 vehicles are waiting at the drive-up window, would not use the drive-up window because of the anticipated wait time. Nine vehicles can stack in the drive-up lane with the headlights directed either east or north, away from adjacent residential areas. Based on actual observations at other McDonald's restaurants, staff has found that the "rush hours" for these restaurants occur during the morning and over the noon hours when it is daylight. Staff believes that the design of the drive-up lane maximizes separation of vehicles and the impact of headlights from the residential area.

The applicant has chosen a new upscale design for the restaurant which is more aesthetically pleasing and blends better into this area than did earlier designs for McDonald's restaurants (see Attachment D – Building Illustration).

The applicant held a neighborhood meeting to hear the concerns of the surrounding neighbors. As a result of that meeting, the applicant has acquiesced to provide the 25-foot by 68-foot green area on the southwest corner in addition to the berm already in place and to install a privacy fence on the west and south side of the property to provide further buffering. These concessions are above and beyond the City's requirements.

The Board has approved special use permits for several businesses in this area including a special use permit for a drive-up at the southwest corner of 53rd Avenue and 18th Street (Ascentra Credit Union); a special use for a drive-up window at the southeast corner of 53rd Avenue and 18th Street (bank); a special use for a drive-up window at the southwest corner of 53rd Avenue and Brentwood Drive (formerly Country Style Ice Cream, now Seeds); and an interpretation allowing Frank's Pizzeria (see Attachment E – Special Approvals Illustration). All of these approvals are in the same contiguous commercial area and adjacent to residential areas.

The following is an analysis of the separation issue between the proposed restaurant and the surrounding residential area. Attachments B and C show that a 25-foot deep by 68-foot long greenspace area will be provided in the southwest corner of the site closest to the residential area. This greenspace area is in addition to the buffer provided by an existing berm. The nearest portion of the proposed restaurant will be approximately 200 feet from the nearest residence (5177 Dove Court). Frank's Pizzeria is approximately 110 feet from the nearest resident. Burke Cleaners is within 100 feet of a residential structure. Northwood Steakhouse is 150 feet from a residential structure. Crow Ridge Plaza is 130 feet from a residence. Seeds is 180 feet from a residence. The multi-tenant retail structure where the B. P. Gas Station is located is 85 feet from a residence.

The proposed restaurant would have the largest separation between the nearest residential structure of all of the businesses listed above.

- (7) *Conditions in the area have substantially changed, and at least one year has elapsed since any denial by the board of adjustment of any prior application for a special use permit that would have authorized substantially the same use of all or part of the site.*

No special use permit has been denied for a request involving this property.

- (8) *The board of adjustment shall impose such conditions and restrictions upon the premises benefited by a special use permit as may be necessary to assure compliance with the above standards, to reduce or minimize the effect of such permit upon other properties in the neighborhood, and to better carry out the general intent of this ordinance. Failure to comply with such conditions or restrictions shall constitute a violation of this ordinance.*

Staff has no further recommendation for conditions.

- (9) *The proposed use is consistent with the Bettendorf Comprehensive Plan and serves to further the goals of the plan.*

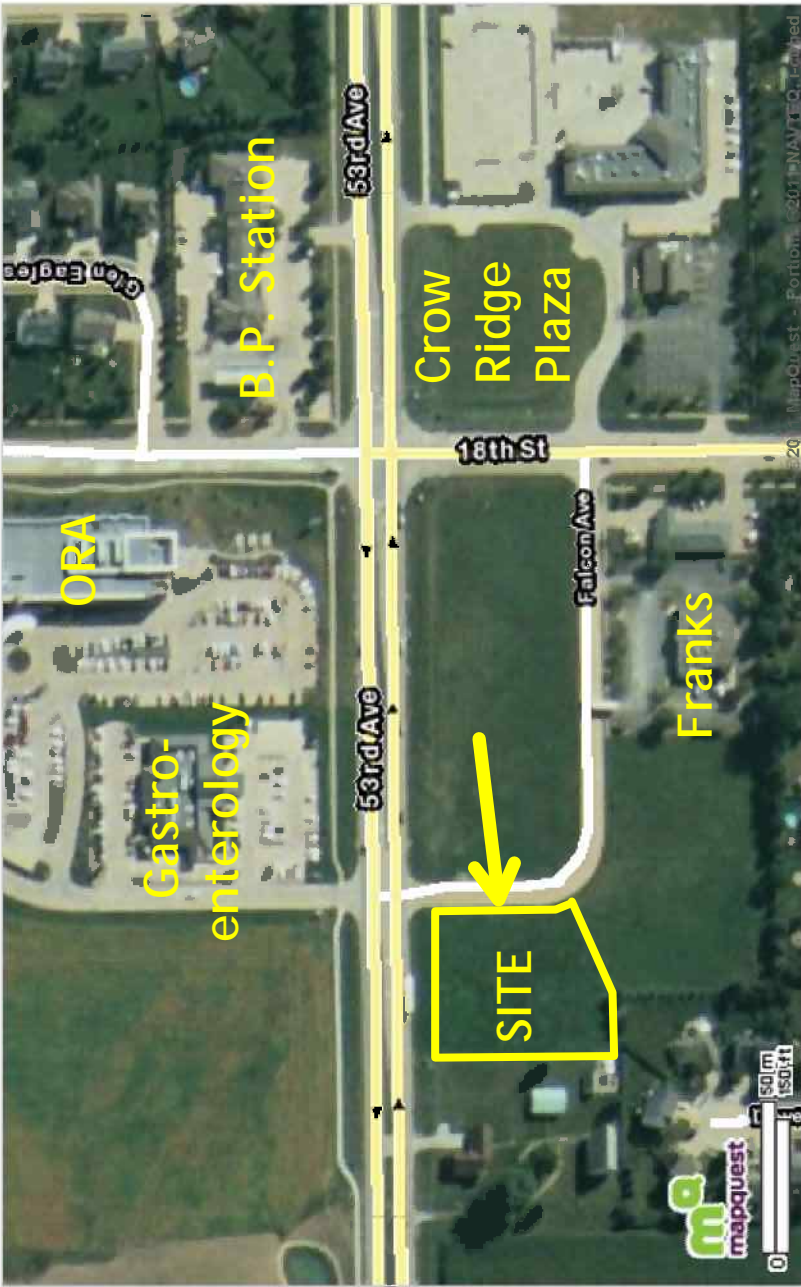
As previously stated, the Future Land Use designation for the lot and the surrounding commercial area is defined as “commercial” and has been in place for several years. The commercial zoning classification for the lot has been in place since 1985 (case #32-85). The residential zoning for the adjacent area to the south and west of the site has been in place only since 1992 (case 17-92). Therefore, the request is consistent with the Bettendorf Comprehensive Plan that anticipated the property’s future use.

Staff Recommendation

Based on the above analysis, staff recommends approval of the request.

Respectfully submitted,

John Soenksen
City Planner



ORA

Gastro-enterology

B.P. Station

Crow Ridge Plaza

Franks

53rd Ave

53rd Ave

18th St

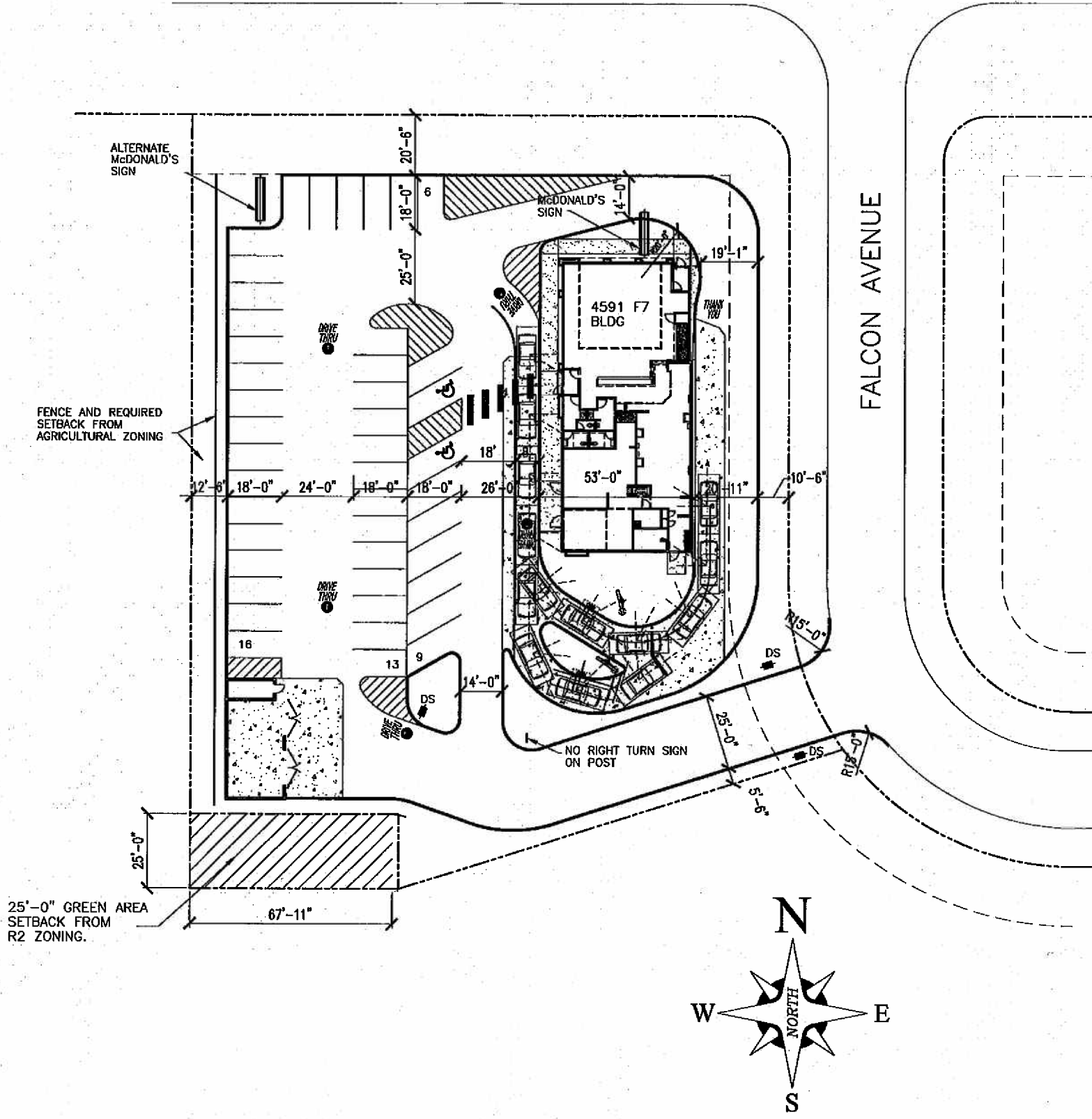
Falcon Ave

SITE

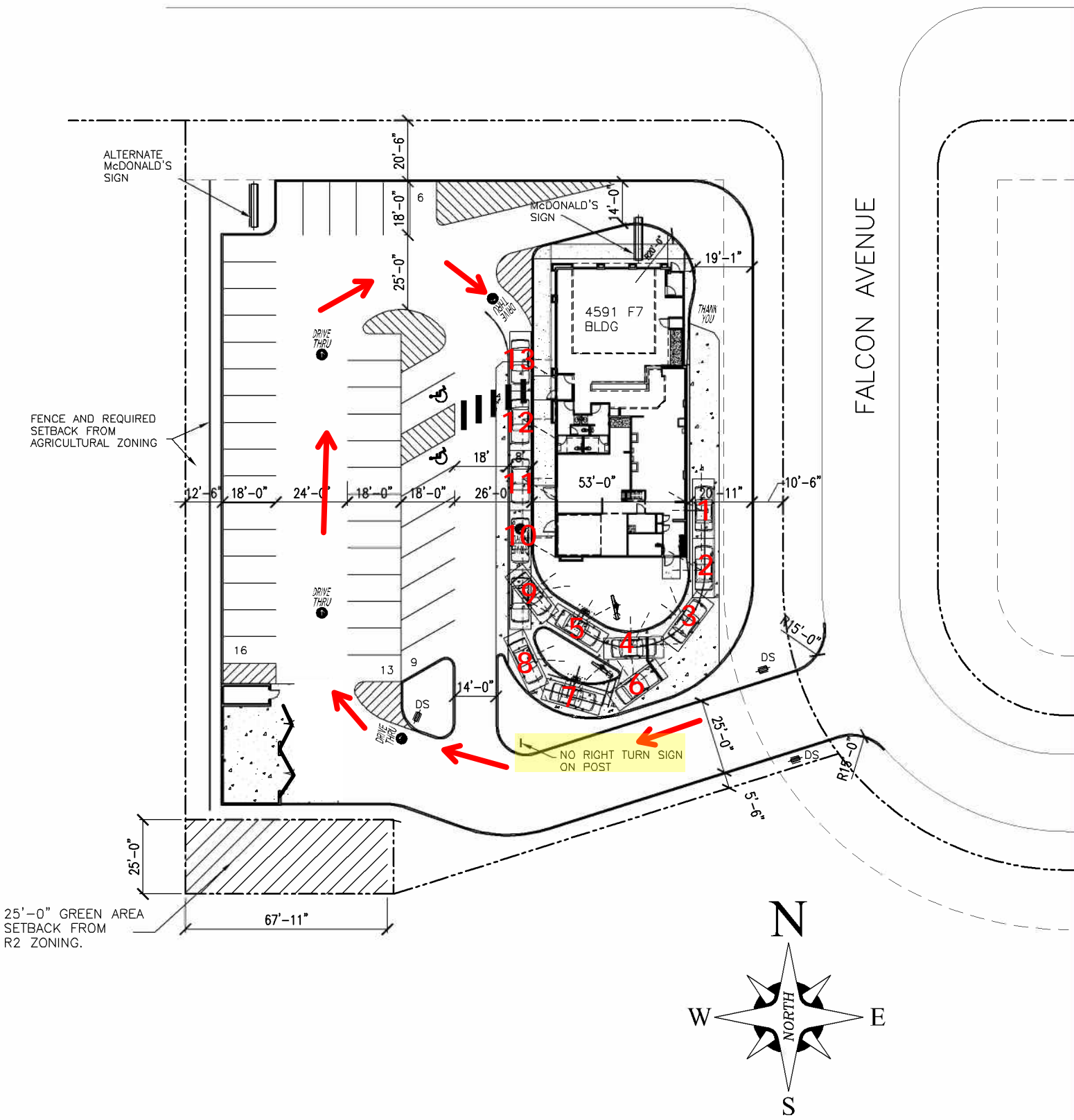


Attachment - B

53 RD AVENUE



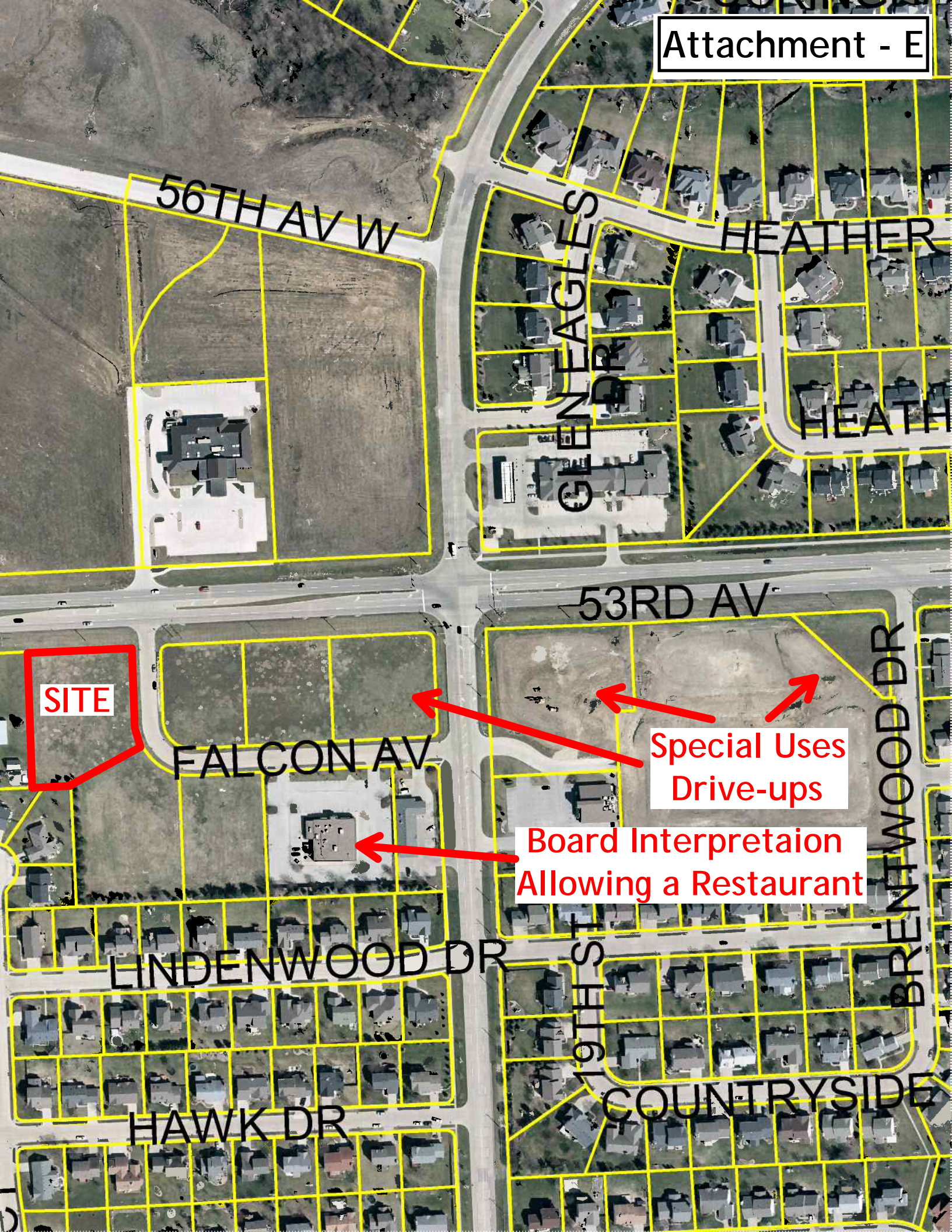
53 RD AVENUE





Attachment - D

 RESTAURANT



SITE

**Special Uses
Drive-ups**

**Board Interpretation
Allowing a Restaurant**

56TH AV W

GLEND EAGLES DR

HEATHER

HEATH

53RD AV

FALCON AV

LINDENWOOD DR

HAWK DR

19TH ST

COUNTRYSIDE

BRENTWOOD DR

Case No. 11-009

APPEAL AND APPLICATION TO THE ZONING BOARD OF ADJUSTMENT OF BETTENDORF, IOWA

Part 1. Property Involved.

Street Address 53RD AVE & FALCON AVE

Legal Description of the property. SEE ATTACHED

Part 2. Contact Information.

Applicant Name McDONALD'S Phone 414 324 1462
Address 1650 W. 82ND ST MINN MN 55420 FAX 414 918 8278
E-mail Address: Mike.Mead@US.Mcd.COM

Owner Name SRI Ganesh Real Estate Phone 309.721.3264
Address 290917 51st, Moline IL 61265 FAX 309.764.2588
E-mail Address: Sdehal@meffosterco.com

Agent RICHARD PAWEL Phone _____
Address _____ FAX _____
E-mail Address: _____

Part 3. Type of Application. (check at least one)

1. Variance/Exception. Before the Board of Adjustment grants approval of a variance to the City of Bettendorf Zoning Ordinance, all of the following conditions **MUST** be met:

- (a) That the granting of the exception will not permit any use in any district which would be in conflict with the permitted uses of such district under the terms of this ordinance.
- (b) That it will not impair an adequate supply of light and air to adjacent property.
- (c) That it will not unreasonably increase the congestion in public streets.
- (d) That it will not increase the danger of fire or of the public safety.
- (e) That it will not unreasonably diminish or impair established property values within the surrounding areas.
- (f) That it will not in any other respect impair the public health, comfort, safety, morals, or welfare of the inhabitants of the city.

2. Special Use Permit. Before the Board of Adjustment grants approval of a special use permit, all of the following conditions **MUST** be met:

- (a) The proposed use is designated by this ordinance as a special use in the district in which the use is to be located.
- (b) The proposed use will comply with all applicable regulations in the district in which the use is to be located.
- (c) The location and size of the proposed use, the nature and intensity of the operation involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.
- (d) The location, nature, and height of buildings, walls, and fences and the nature and extent of the landscaping on the site are such that the use will not unreasonably hinder or discourage the appropriate development and use of adjacent land and buildings.
- (e) Parking areas will be of adequate size for the particular use, properly located, and suitably screened from adjoining uses and the entrance and exit drives will be laid out so as to prevent traffic hazards and nuisances.
- (f) The proposed use will not cause substantial injury to the value of other property in the neighborhood.
- (g) Conditions in the area have substantially changed and at least one year has elapsed since any denial by the Board of Adjustment of any prior application for a special use permit that would have authorized substantially the same use of all or part of the site.
- (h) The Board of Adjustment shall impose such conditions and restrictions upon the premises benefited by a special use permit as may be necessary to assure compliance with the above standards, to reduce or minimize the effect of such permit upon other properties in the neighborhood, and to better carry out the intent of this ordinance. Failure to comply with such conditions or restrictions shall constitute a violation of this ordinance.

3. Other. _____
(Attach a separate sheet and explain in detail.)

Part 4. General Information.

Section(s) of Zoning Ordinance Involved 15.23 Existing Zoning C2

Part 5. Reasons for Application. In the space below, give a general description of the activity desired and principal reasons why this application should be granted by the Board. If this application is for a variance, please state the hardship which the zoning ordinance imposes on the property. Use the following criteria as justification for the requested variance. Use additional sheets if necessary.

- (a) It shall be the property owner's responsibility to show that the terms of this ordinance will impose unusual and practical difficulties or particular hardships. The hardship established by the property owner must not be SELF-IMPOSED. A self-imposed hardship is NOT justification for the approval of a variance request.
- (b) If the variance granted is in harmony with the general purpose, intent, and spirit of this ordinance.
- (c) If the board determines that the granting of the requested variance will not serve merely as a convenience to the applicant, but will alleviate a demonstrable hardship as to warrant a variance from the official city plan as established by Ordinance No. 381 of the city, and at the same time the surrounding property will be reasonably protected.
- (d) That by granting the request for a variance substantial justice shall be done.

Part 6. Attachments. The following items are attached and are a part of this application.

- 1. Scale accurate site plan, at a scale of 1" = 20' or other suitable scale, showing adjacent street, property line, building location of existing and proposed buildings and other important features of the property. Required with all applications.
- 2. Legal Description. (If not shown on page 1.)
- 3. Floor plan if internal design of building is part of application.
- 4. List additional attachments.

Part 7. Signature.

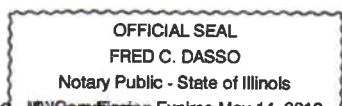
I (we) depose and say that all the information contained in this application and the statements contained in the papers submitted herewith are true. Witness our Hands and Seals this 25 day of Feb, 2011.

Signature of Applicant [Signature] Signature of Owner Sam Steddy
(The owner MUST indicate his consent to this application by signing above. Application without the signature of the owner will not be processed)

State of Iowa)
) SS
County of Scott)

Before me the undersigned Notary Public, in and for the County and State, personally appeared applicant(s) and separately and severally acknowledge the execution of the foregoing application is his/her voluntary act and deed, for the purposes therein expressed.

Witness my Hand and Notarial Seal this 25th day of Feb, 2011



[Signature]
Notary Public in and for Scott County, Iowa
Rock Island, IL

Part 10. Filing Fee Expires May 14, 2012
\$ 50.00 Single Family/Two-Family Residential Variance
\$ 100.00 All Other Applications

Received by [Signature]
Amount \$ 100 Date _____



COMMUNITY DEVELOPMENT

City Hall Annex • 4403 Devils Glen Road, Bettendorf, Iowa 52722 • (563) 344-4100

March 10, 2011

Staff Report

Case No. 11-010

Location: 4513 Stone Haven Drive

Applicant: George and Toni Hallas

Zoning Designation: R-2, Single-family Residence District

Request: Variance to reduce the established front yard setback from 39 feet to 26 feet to allow for construction of a garage.

Background Information and Facts

The site is located at the intersection of Crow Creek Road, Stone Haven Drive, and Wendy Court (see Attachment A – Location Map). The applicant would like to add a two-car garage addition on the south side of the current structure (see Attachment B – Plot Plan).

Staff Analysis

Attachment B shows that the garage addition will be set back 26 feet from Wendy Court. Normally in an R-2 District, only a 25-foot setback is required for front yards. However, there is a section of the Code that states whenever a neighborhood has been developed with setbacks different than the prescribed setback, then new structures must be set back at least an average of those combined “established” setbacks. The established setback supersedes the prescribed setback. Since this request involves a frontage on Wendy Court, the average must be that derived from all of the setbacks on Wendy Court (see Attachment C – Established Setbacks). Any new structure to be located in a front yard on Wendy Court must now observe at least a 39-foot setback.

The home located directly adjacent to this site on Wendy Court is currently set back 26 feet. If approved, the proposed garage addition would not protrude any further into the front yard than the house next door.

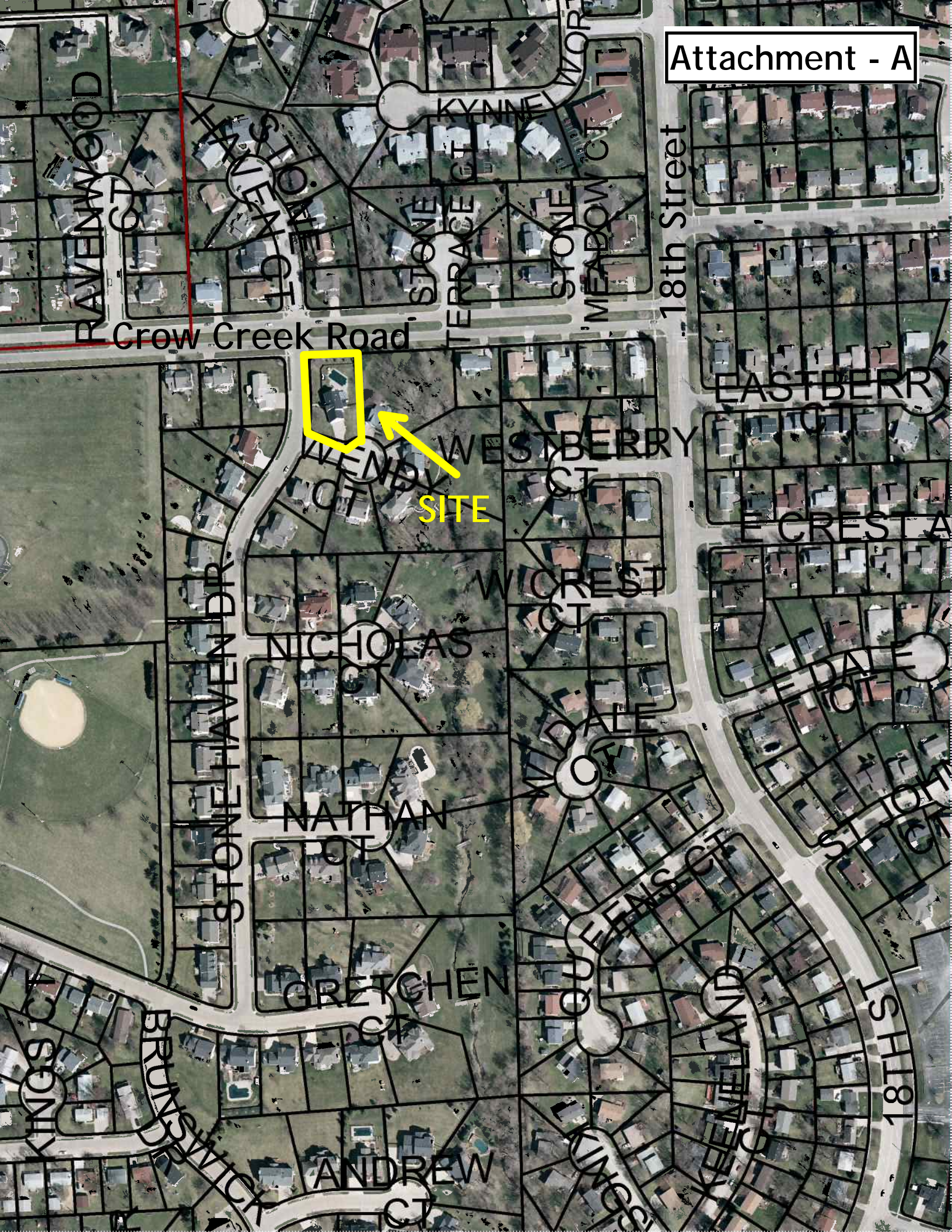
In May of 1997, the Board approved a variance for this lot to allow a 6-foot high fence in the front yard along Crow Creek Road. At that time the Board felt the variance was justified due to the fact that the lot had three front yards and further due to the fact that the Board desired to have a fence of sufficient height to secure an in-ground pool.

Staff Recommendation

It is unusual for a single lot to have three required front yard setbacks. The minimum lot area for the R-2 District is 8,400 square feet. This minimum square footage includes all of the setbacks: front (25 feet), rear (25 feet), and sides (15 feet combined). Even after subtracting the three front yard setbacks from the applicant’s lot, there still remains approximately 9,000 square feet of buildable area. Staff cannot identify a hardship to justify a second variance for this site.

Respectfully submitted,

John Soenksen
City Planner



Crow Creek Road

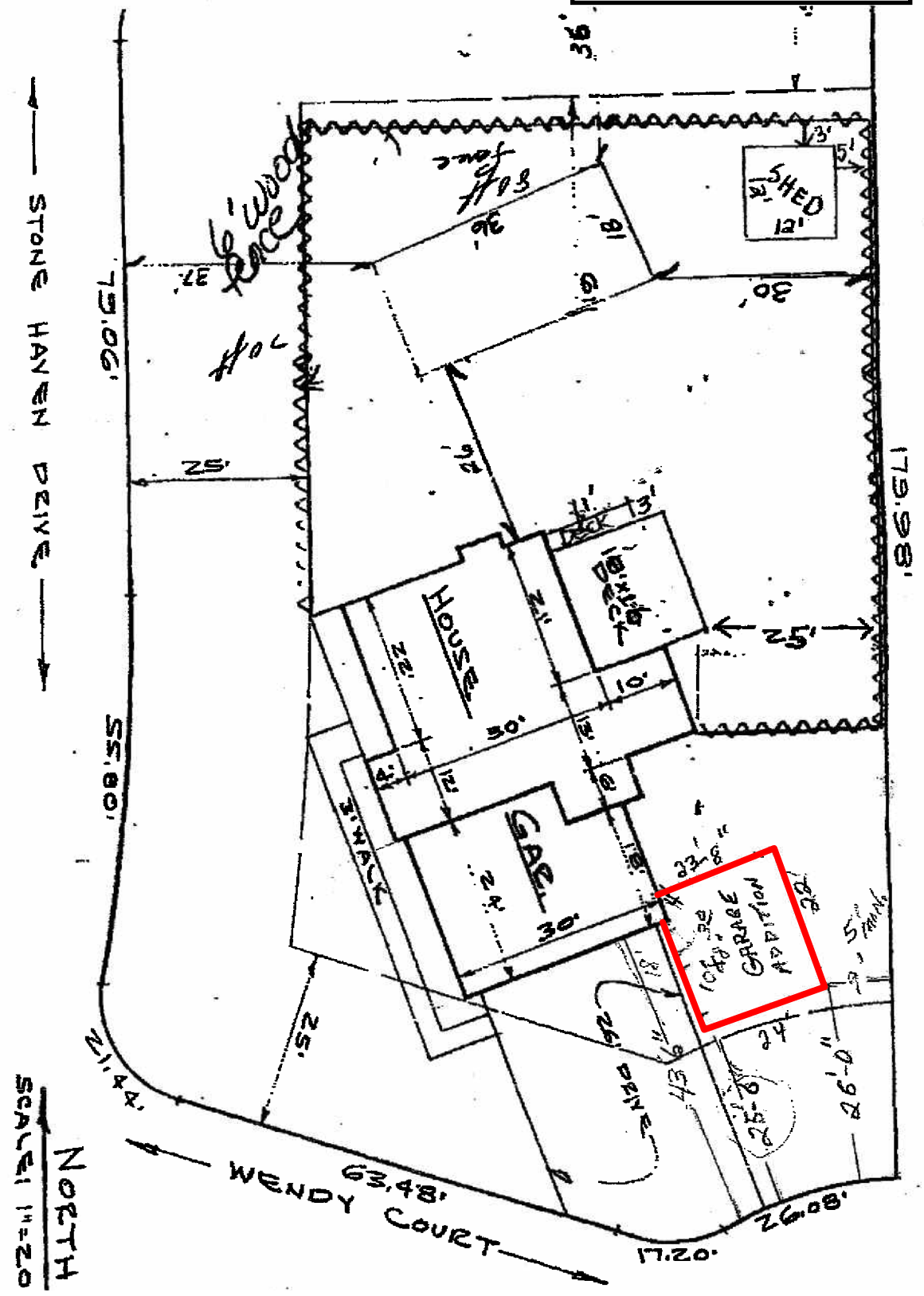
18th Street



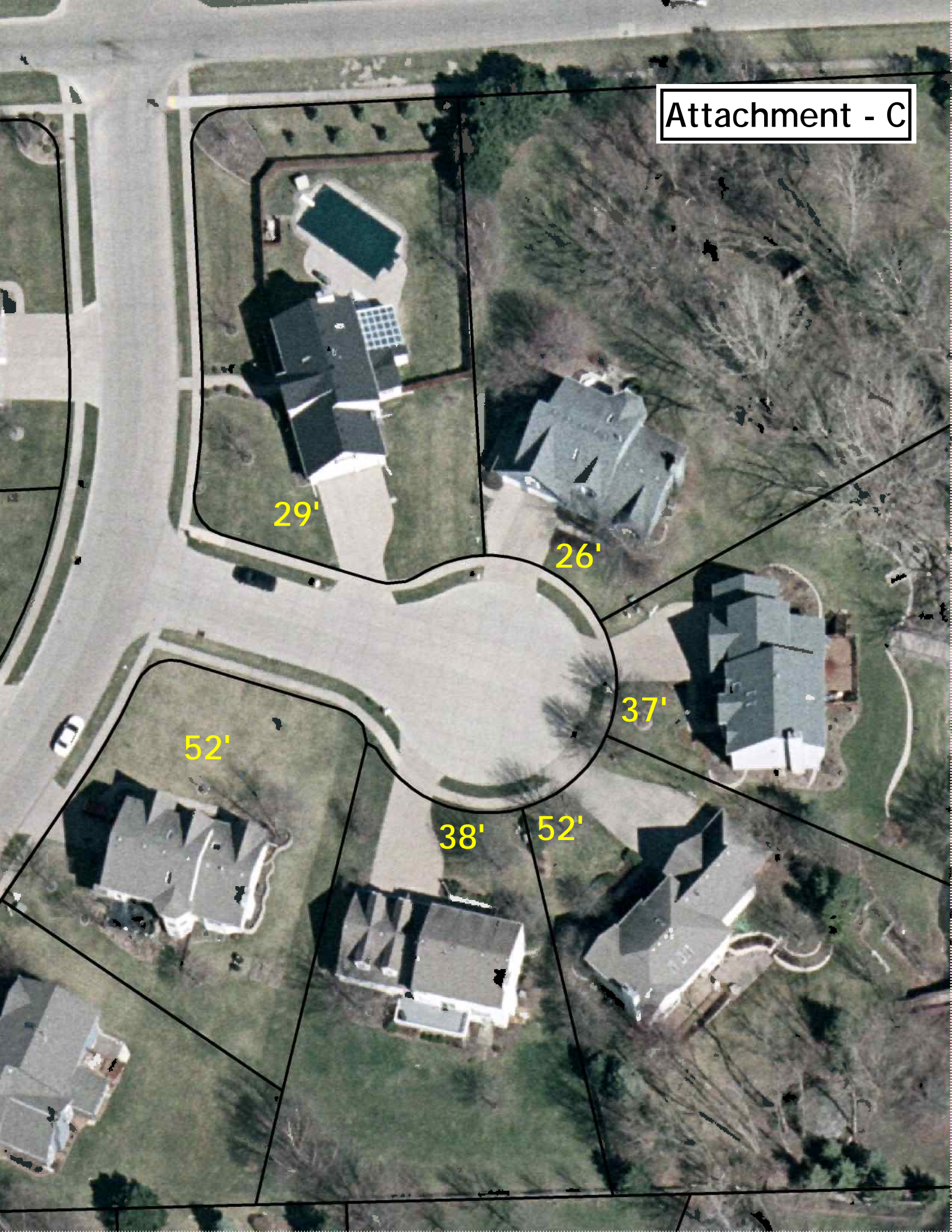
SITE

18TH ST

Attachment - B



Attachment - C



29'

26'

37'

52'

38'

52'



Case No. 11-010

APPEAL AND APPLICATION TO THE ZONING BOARD OF ADJUSTMENT OF BETTENDORF, IOWA

Part 1. Property Involved.

Street Address 4513 STONEHAVEN DR.

Legal Description of the property. LOT #8 IN TERRACE PARK 7TH ADDITION

BETTENDORF

Part 2. Contact Information.

Applicant Name GEORGE & TONI HALLES Phone 563-332-5650

Address 4513 STONEHAVEN DR. FAX NONE

E-mail Address: HALLESTONI@Q.COM

Owner Name SAME Phone _____

Address _____ FAX _____

E-mail Address: HALLESTONI@Q.COM

Agent CUSTOM BUILT HOMES (JIM WOFFE) Phone 563-940-1271

Address 3115 WEST CANAL SHORE DR. LECLAIRE, IOWA FAX 563-332-4739

E-mail Address: SAL197981@YAHOO.COM

Part 3. Type of Application. (check at least one)

1. Variance/Exception. Before the Board of Adjustment grants approval of a variance to the City of Bettendorf Zoning Ordinance, all of the following conditions MUST be met:

- (a) That the granting of the exception will not permit any use in any district which would be in conflict with the permitted uses of such district under the terms of this ordinance.
- (b) That it will not impair an adequate supply of light and air to adjacent property.
- (c) That it will not unreasonably increase the congestion in public streets.
- (d) That it will not increase the danger of fire or of the public safety.
- (e) That it will not unreasonably diminish or impair established property values within the surrounding areas.
- (f) That it will not in any other respect impair the public health, comfort, safety, morals, or welfare of the inhabitants of the city.

2. Special Use Permit. Before the Board of Adjustment grants approval of a special use permit, all of the following conditions MUST be met:

- (a) The proposed use is designated by this ordinance as a special use in the district in which the use is to be located.
- (b) The proposed use will comply with all applicable regulations in the district in which the use is to be located.
- (c) The location and size of the proposed use, the nature and intensity of the operation involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.
- (d) The location, nature, and height of buildings, walls, and fences and the nature and extent of the landscaping on the site are such that the use will not unreasonably hinder or discourage the appropriate development and use of adjacent land and buildings.
- (e) Parking areas will be of adequate size for the particular use, properly located, and suitably screened from adjoining uses and the entrance and exit drives will be laid out so as to prevent traffic hazards and nuisances.
- (f) The proposed use will not cause substantial injury to the value of other property in the neighborhood.
- (g) Conditions in the area have substantially changed and at least one year has elapsed since any denial by the Board of Adjustment of any prior application for a special use permit that would have authorized substantially the same use of all or part of the site.
- (h) The Board of Adjustment shall impose such conditions and restrictions upon the premises benefited by a special use permit as may be necessary to assure compliance with the above standards, to reduce or minimize the effect of such permit upon other properties in the neighborhood, and to better carry out the intent of this ordinance. Failure to comply with such conditions or restrictions shall constitute a violation of this ordinance.

3. Other. _____

(Attach a separate sheet and explain in detail.)

Part 4. General Information.

Section(s) of Zoning Ordinance Involved _____ Existing Zoning _____

Part 5. Reasons for Application. In the space below, give a general description of the activity desired and principal reasons why this application should be granted by the Board. If this application is for a variance, please state the hardship which the zoning ordinance imposes on the property. Use the following criteria as justification for the requested variance. Use additional sheets if necessary.

- (a) It shall be the property owner's responsibility to show that the terms of this ordinance will impose unusual and practical difficulties or particular hardships. The hardship established by the property owner must not be SELF-IMPOSED. A self-imposed hardship is NOT justification for the approval of a variance request.
- (b) If the variance granted is in harmony with the general purpose, intent, and spirit of this ordinance.
- (c) If the board determines that the granting of the requested variance will not serve merely as a convenience to the applicant, but will alleviate a demonstrable hardship as to warrant a variance from the official city plan as established by Ordinance No. 381 of the city, and at the same time the surrounding property will be reasonably protected.
- (d) That by granting the request for a variance substantial justice shall be done.

WE ARE ASKING FOR A VARIANCE FOR OUR 25' SETBACK LINE ON WENDY CT. OUR PROPOSED GARAGE ADDITION WOULD BE 25'-6" BACK FROM OUR PROPERTY LINE. I DIDN'T THINK A VARIANCE WAS NEEDED. BUT ALL LOTS ON WENDY CT. ARE BUILT ON NOW. OUR SETBACK LINE IS NO LONGER 25' IT IS NOW AN AVERAGE OF ALL HOMES ON WENDY CT. IT HAS CHANGE FROM 25' TO 39'. IF THERE WERE NO OTHER HOMES ON WENDY CT. THIS VARIANCE WOULD NOT BE NEEDED.

Part 6. Attachments. The following items are attached and are a part of this application.

- () 1. Scale accurate site plan, at a scale of 1" = 20' or other suitable scale, showing adjacent street, property line, building location of existing and proposed buildings and other important features of the property. Required with all applications.
- () 2. Legal Description. (If not shown on page 1.)
- () 3. Floor plan if internal design of building is part of application.
- () 4. List additional attachments.

Part 7. Signature.

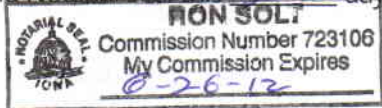
I (we) depose and say that all the information contained in this application and the statements contained in the papers submitted herewith are true. Witness our Hands and Seals this 24th day of FEBRUARY 20 11.

Signature of Applicant Eric L. Hallas Signature of Owner Eric L. Hallas
(The owner MUST indicate his consent to this application by signing above. Application without the signature of the owner will not be processed)

State of Iowa)
 SS
County of Scott)

Before me the undersigned Notary Public, in and for the County and State, personally appeared applicant(s) and separately and severally acknowledge the execution of the foregoing application is his/her voluntary act and deed, for the purposes therein expressed.

Witness my Hand and Notarial Seal this 24 day of FEBRUARY 20 11.



Ron Solt
Notary Public in and for Scott County, Iowa

Part 10. Filing Fee.

\$ 50.00 Single Family/Two-Family Residential Variance
\$100.00 All Other Applications

Received by John Scarborough
Amount \$50 Date 2-25-11