

**DES MOINES COUNTY, IOWA
BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
TUESDAY, SEPTEMBER 18, 2023**

The Des Moines County Board of Adjustment met in regular session on September 18, 2023 at 5:00 P.M. at the offices of the Southeast Iowa Regional Planning Commission, 211 N. Gear Avenue, West Burlington, Iowa 52655. In addition, an option for attending the meeting remotely was offered through Zoom.

1. Call to Order

Chairman Sam Warner called the meeting to order at approximately 5:01 P.M.

2. Roll Call

Board members present:	Randy Burgus, Mitch Taeger, Sam Warner, John Wiberg, Sherry Zeller
Board members absent:	None
Staff present:	Jarred Lassiter
Staff absent:	Zach James
Public present:	Brad Weiss, Variance applicant (ZVP-23-24)

All attendees were present in person at the meeting.

3. Tentative Agenda Approval / Amendment

Motion #1: To approve the agenda as presented.
Motion by: Zeller
Seconded by: Wiberg
Vote: Unanimous vote. Motion carried.

4. Meeting Minutes

No comments or corrections were provided regarding the minutes prepared for the previous meeting.

Motion #2: To approve the Minutes of April 4, 2023, meeting as presented.
Motion by: Wiberg
Seconded by: Zeller
Vote: Unanimous vote. Motion carried.

5. New Business

A. Request for Variance from Brad and Juli Weiss for front, rear and side yard setback at 229 Edgewater Beach Road

Motion #3: To open the public hearing.
Motion by: Zeller
Seconded by: Wiberg
Vote: Unanimous vote. Motion carried.

Chairman Warner opened the public hearing at 5:05 P.M.

Mr. Lassiter read the staff report, noting that the variance request involves an existing single-family residence (river cabin) in the R-1A Riverfront Residential District, owned by Brad and Juli Weiss since early 2019. He noted that in 2020, staff approved a Floodplain Development Permit for raising the cabin several feet, and replacing 33

wooden piers with 20 concrete piers. Then in 2023, Mr. Weiss applied for a permit from the Two Rivers Levee & Drainage District for structural additions to the home. The District Administrator then advised him to contact the County Land Use Department about permits, and in doing so, it was discovered that a new deck had been installed around the perimeter of the home shortly after the it was raised in late 2020. Furthermore, some framing work had already been started for the 2 of the proposed additions in 2023. This was determined to be a zoning violation, as no permit had been filed beforehand, and the application for the Floodplain Development Permit made no reference to the deck or other additions. When a Zoning Permit application was submitted in early September, it was determined that the deck addition did not comply with the required minimum front, rear, and side setbacks for dwellings in the R-1A District, and one of the other additions would not comply with the minimum side setback. The applicant was then advised to submit a variance request to address the setback.

Mr. Taeger asked if they used the County GIS website to determine where the lot lines were located, for the purpose of determining the setbacks. Mr. Weiss said he estimated the setbacks by using his own best judgment on where the lot lines are. However, he was unable to locate any survey markers, after many years of exposure to floodwaters and siltation. Lassiter said it's possible that the deck is as much as 10 feet from the lot line, but the figure of 3 feet was used in the variance request as a precaution, due to the difficulty of locating the exact property line. Ms. Zeller noted that she and her husband also reside in a river cabin in this part of the county, and they had encountered similar issues when working to have their property surveyed a number of years ago.

Mr. Warner asked if Weiss and his wife intend to use the cabin as a year-round residence, as opposed to a seasonal/recreational home. Weiss confirmed that this is their long-term goal, but it will likely involve a gradual transition.

In concluding the staff report, Lassiter mentioned how this property is unique in several aspects, such as its depth greatly exceeding its width, which makes front and rear setback compliance difficult. In addition, there are no cabins present on the adjoining properties on either side, with one being a County-owned flood buyout property. The other lot is owned by Bob and Teresa Prall, who also own the cabin on the next lot to the south. This results in a substantial buffer between the nearest cabins in either direction (over 100 feet).

Weiss noted that Mr. Prall had contacted him the previous week, to inquire about the variance request after receiving the public hearing notice by mail. He said that after learning of the specifics of his development proposal, Mr. Prall said he had no issues with it. Mr. Wiberg asked if it would be possible to build another cabin on that lot in between the two existing cabins. Lassiter said that this would be very difficult, since the floodplain regulations would require the developer to obtain a 'no-rise' certificate beforehand.

Mr. Burgus said he was relieved to hear that the adjoining owner had no concerns. He then asked if Edgewater Beach Road was privately maintained by the adjoining owners. Weiss confirmed that it was, and also noted that the road had recently been rerouted slightly to the west, to better navigate around 3 large trees in front of his property. Lassiter said that this effectively placed the road on private property, outside the road right-of-way that had originally been platted for the Edgewater Beach subdivision. He noted that the front setback of 25 feet had been measured using the right-of-way line rather than the edge of the road surface. The platted right-of-way adds another 30 feet of distance between the front deck and the road surface.

Lassiter noted that when the variance request was sent to other County departments and utility providers to solicit comments, a representative of Eastern Iowa REC submitted a comment, stating that an electrical code violation had been observed on the property. During a follow-up phone call, the REC representative specified that there was insufficient overhead clearance for an electrical line on the property. This involves a section of the new wraparound deck where the electric line connects to the roof of the house from a nearby utility pole. It was noted that this could be resolved by having the pole replaced by a taller one, but that would need to be done at the owner's expense.

Weiss said that an electrical contractor had removed the line while the cabin was being raised, with the intention of replacing the existing power pole with a taller one afterward. However, due to an oversight, this never occurred, and the line was rewired using the existing pole. Weiss stated that he plans to contact REC right away to get this

resolved, now that he is aware of the violation.

Weiss then shared a series of polaroid photographs of the property with members of the Board, while Lassiter displayed several photos of what the building looked like before being raised in 2020.

Motion #4: To close the public hearing.
Motion by: Zeller
Seconded by: Wiberg
Vote: Unanimous vote. Motion carried.

Chairman Warner closed the public hearing at 5:30 P.M.

Lassiter suggested that if the Board chooses to approve the variance request, they should attach a condition to address the as-yet unresolved matter with the electrical wire.

Motion #5: To approve the request for variance, with the condition that prior to the approval of a Zoning Permit for this proposed development, the property owner shall coordinate with Eastern Iowa REC to resolve the observed electrical code violation, and shall submit formal documentation of their approval to the Land Use Administrator.

Motion By: Burgus
Seconded by: Zeller
Vote: Unanimous vote. Motion carried.

6. Old Business

None presented.

7. Communications

None presented.

8. Future Agenda Items

None presented.

9. Adjournment

Motion #6: To adjourn
Motion by: Taeger
Seconded by: Wiberg
Vote: Unanimous vote. Motion carried.

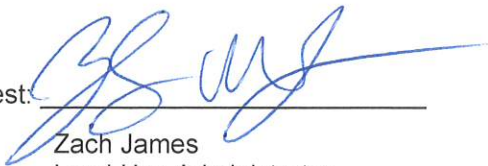
The meeting adjourned at approximately 5:36 P.M.

APPROVED:



Sam Warner
Board of Adjustment, Chair

Attest:



Zach James
Land Use Administrator