

**CITY OF OKOBOJI – BOARD OF ADJUSTMENT
MINUTES FROM THE MARCH 29, 2022 MEETING HELD AT 6:00PM
OKOBOJI CITY HALL, 1322 HIGHWAY 71 N., OKOBOJI, IOWA 51355**

The Board of Adjustment for the City of Okoboji met on the above date at 6:00PM at the Okoboji City Hall (1322 Highway 71 N., Okoboji, Iowa 51355). Board Members present were Steve Dulin and Kae Hoppe. Barbara Liesveld and Erin Reed were present via Zoom. Owen Primavera was excused. Others present were City Administrator Michael Meyers, Craig Johnson, Mike Hoiem, Duane Mueske, Willia Mueske, and Joe Fitzgibbons.

Board Member Dulin chaired the meeting in Chairman Primavera's absence.

Motion made by Board Member Liesveld and a second by Board Member Reed to approve the minutes of the previous meeting held on January 5, 2022. The following Board Members voted "AYE": Dulin, Reed, Liesveld. Board Member Hoppe abstained. Motion passed 3-0.

Chairman Dulin read aloud relevant documentation pertaining to a variance request from South View Properties, LLC pertaining to 6015 Lake Shore Drive and the construction of a new single family home. Dulin outlined the front yard encroachment as proposed in the new construction and identified it to be in violation of Section 7.5 of the City of Okoboji Zoning Code.

Dulin reminded the Board and those in attendance that it has been long decided and litigated that property owners have no legal right to their side views.

Dulin opened a public hearing to consider the variance request.

Duane Mueske provided the members of the Board with an additional document showing the site plan and explained that the hardship they are experiencing occurs primarily on the east side of the property where the setback comes further inward. Mueske felt the angle of the setback line was challenging to build around. Mueske advised that the plan was also to clean up the fact that the existing house is located on three lots and not just one.

Board Member Liesveld asked how deep the lot is in total and the total length of the house. Hoiem advised on both numbers.

Board Member Dulin advised that no formal comments were received by the City either in favor of or in opposition to the project.

Joe Fitzgibbons advised that he has lived in Okoboji for many years and has argued in court pertaining to the zoning ordinance. Fitzgibbons felt this was the most egregious expansion of a lakeshore building that he knew of. Fitzgibbons advised that moving the lakeside setback has been one of the most protected portion of the zoning ordinance in the town even since zoning was there. Fitzgibbons recounted that when he built his house he was held to that standard. Fitzgibbons felt that the property owners should be able to build on the property within conformance of the zoning ordinance.

Fitzgibbons felt this would completely damage the zoning ordinance in this town and set precedence. Fitzgibbons challenge the Board to provide one time the Board has allowed anyone to go even three feet in front of the front yard setback.

Duane Mueske advised again that the construction would largely be in the same location as the existing structure.

Board Member Dulin inquired as to if the deck is part of the structure. City Administrator Meyers advised that the City considers the deck to be part of the principal structure and should conform under those setbacks.

Joe Fitzgibbons felt concerned about the timing of the request pertaining to whether or not the neighborhood truly knew as to what was going on. Fitzgibbons commented on the number of properties held in LLCs and advised he felt that relevant individuals were not getting the mailings from the City.

Mike Hoiem did not believe the front yard setback took into account the neighboring sight line or decks. Hoiem felt that if he takes a line of sight from each neighboring deck that the line is set far behind the properties.

Craig Johnson advised on a project they did in 2014 where the Board of Adjustment was involved. Johnson discussed another project where a property overextended their construction project and was required to move it back. Johnson was neither in favor or opposition of the proposed plan but advised he was very strict to conform within the limits when he built.

Chairperson Dulin closed the public hearing.

City Administrator Meyers provided clarification and addressed the board on the current setback ordinance. Meyers advised that while policy may be changing pertaining to the front yard setback for R-3 properties that policy has not yet changed nor has it been formally considered. Meyers advised that the Board must act under the confines of the law today and not a theoretical consideration of what it may be in the future. Meyers advised that the City has done this process the same way for decades and will continue to do so until the ordinance is changed.

Board Member Liesveld again reiterated that the perceived line of sight on either side of the property is not a hardship.

Chairperson Dulin asked if decks were included in consideration when establishing the setback. City Administrator Meyers confirmed that decks are included in the process to establish a setback.

Board Member Reed asked about properties to the east that were taken into consideration. Meyers advised that the City goes 200' in each direction.

Board Member Liesveld felt that the applicant made substantial findings on any hardship, Liesveld felt the home can be built on the depth of the property, and did not support any further movement towards the shoreline particular based upon the rules of the City of Okoboji.

Board Member Reed inquired about the neighboring properties as to whether or not they were presently conforming. City Administrator Meyers explained that they were likely non-conforming but each lot is treated individually and each lot would require its own establishment of the front yard setback as determined by the City. Meyers advised on how that line falls would be determined by the properties in 200' in each direction. Meyers advised that he felt in similar situations along this beach properties would need to be pushed back which was ultimately the intent of the ordinance.

Chairperson Dulin felt that the ask was just too much and advised that the Board has previously denied several inches.

Motion made by Board Member Liesveld and a second by Board Member Dulin to deny the application and variance requested as presented by South View Properties LLC. The following Board Members voted "AYE": Dulin, Hoppe, Liesveld, Reed. Motion passed to deny 4-0.

Motion made by Board Member Reed and a second by Board Member Liesveld to adjourn the meeting. The following Board Members voted "AYE": Dulin, Hoppe, Liesveld, Reed. Motion passed 4-0.

ADJOURNMENT.

Michael Meyers, City Administrator