

**CITY OF OKOBOJI**  
**MINUTES OF THE CITY OF OKOBOJI BOARD OF ADJUSTMENT MEETING**  
**WEDNESDAY, NOVEMBER 17, 2021 – 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 Owen Primavera, Steve Dulin, Dan Sanders, Barbara Liesveld, and Erin Reed. Others present were City Administrator Michael Meyers, City Attorney David Stein, Chris Bjornstad, Steve Avery, Craig Brownlee, Dan DeKoter, Adam Wiersma, and Steve Moore.

Board Member Owen Primavera chaired the meeting.

Motion made by Board Member Liesveld and a second by Board Member Reed to approve the minutes of the previous meeting minutes from September 28, 2021. The following Board Members voted “AYE”: Primavera, Dulin, Sanders, Liesveld, and Reed. Motion passed 5-0.

Primavera asked City Administrator Meyers to provide a high level overview of the issue at hand pertaining to the issued zoning permit at 3511 Fairfield Street. Meyers explained that the City issued a zoning permit for a new single family home on October 5, 2021. Meyers detailed that the plans were to demolish the existing home and replace it with the permitted structure. Meyers explained that City Staff believes that the structure meets all current zoning regulations. Meyers discussed that on October 14, 2021 an appeal to the zoning permit was submitted by David/Elizabeth Mulcahy (3507 Fairfield Street) and Steven/Anna Moore (3513 Fairfield Street). Meyers detailed the appeal process and explained the grounds on which the permit was being appealed, specifically pertaining to the front yard setback on the property and the perceived inconsistent application of the rule compared to a 2017 zoning permit issued for 3507 Fairfield. Meyers defended the City’s process pertaining to the current zoning permit and detailed the circumstances around the 2017 zoning permit. Meyers stated again that he believed the permit was issued within the confines of the zoning ordinance, that there is precedent to represent this, that if the City felt the process was incorrect then that needs to be handled legislatively, and that the idea of a protected view has been ruled on within the Iowa Supreme Court.

Chairperson Primavera remarked on a previous Iowa Supreme Court ruling pertaining to ‘side views’ and defended the City of Okoboji’s process for setting the front yard line-of-sight due to the fact that it’s been used for many years. Primavera expressed that the City hires professional staff to interpret the Zoning Ordinance and that this was the first time he was aware of where an appeal was escalated to the Board of Adjustment. Primavera provided support to the decision making process of the current and former City Administrators. Primavera stated that the Brownlee’s were issued a permit and had nothing to defend. Primavera advised that in 2017 there was no appeal to the decision made. Primavera felt that the main argument is between those who appealed and the City of Okoboji.

Chairperson Primavera read through portions of the provided material that he felt were pertinent and important.

Chairperson Primavera opened a public hearing to consider the appeal. Primavera read aloud a letter submitted by Judith Luebering and Marilyn Reigert (1303 Holliday Way, Okbooji, Iowa) in support of the appeal.

Dan DeKoter introduced Adam Wiersma of DGR Engineering out of Rock Rapids, Iowa. Weirsma, a licensed surveyor, was hired by DeKoter to detail existing structures within 200' of 3511 Fairfield. Weirsma displayed and described his findings.

DeKoter asked several questions to City Administrator Meyers pertaining to Meyers' process in setting the front yard setback on the Brownlee property.

Steve Moore had taken several photographs, displayed, and explained them to the Board members present.

Meyers explained that the process that has been used for this property, and all other properties, is the same process that has been used by the City of Okoboji and City Staff for decades.

Board Member Sanders explained that he felt the City should be using legally defined and locatable locations to set the setback. Meyers explained that the process the City is using, and has used, is the process that has been used for every lake shore property that he had been a part of and to the best of Meyers' knowledge for decades.

DeKoter advised that he felt the properties to the east of 3507 Fairfield should have been included in the calculation in setting the setback for 3511 Fairfield because they are within the 200' distance as described in the Zoning Ordinance.

Board Member Sanders felt that the line-of-sight would be substantially in the lake and that City Staff excluded those properties for a specific reason. Sanders again expressed concern about not utilizing some sort of legally defined point, pins, or other verifiable locations. DeKoter stated that the language in the ordinance does not give flexibility to exclude properties regardless of rationale.

Steve Avery explained that he felt the Brownlee structure could go even further out than what the City allowed it to. Avery explained that he met with a land surveyor who advised that based on their calculations the structure could go out much further than what the City permitted. Avery felt that if the individuals who appealed the permit has issue with the ordinance then there were alternative avenues to pursue that.

Meyers explained that the property at 3507 Fairfield would have the same application of the ordinance as 3511 Fairfield would.

Board Member Reed agreed with Avery that it would seem the inclusion of the additional properties to the east would only benefit the property at 3511 Fairfield more so.

Board Member Liesveld asked where does this go in the future. She acknowledged that this would not be fixed today, but expressed concern about creeping closer and closer to the shoreline. Meyers advised that he felt the way our ordinance is presently written encourages incremental creep towards the lake shore and believed it could be changed.

Meyers explained that the intent is always to align properties as best as possible. Meyers commented that it is always done the same way and sometimes it works great, other times its not perfect due to nonconformity along the lake shore.

Chairperson Primavera closed the public hearing.

Chairperson Primavera explained the perceived issue in that the City of Okoboji did not set the front yard setback appropriately. Primavera opined that he would like to dismiss the claim as the City did it the same way they have always done it.

Motion made by Board Member Sanders and a second by Board Member Reed to deny the appeal based on the following:

1. City Ordinance 11.11 was used to establish the setback on the Brownlee permit.
2. City Staff used established procedures pertaining to City Ordinance 11.11.
3. City Staff did not include the structures to the southeast of the Mulachy property due to the fact that none of these structures fell into established line to determine the setbacks.
4. The Board of Adjustment received and considered Exhibits 1 through 18 as presented by Attorney Dan DeKoter on November 17, 2021.
5. The Board of Adjustment determined that the City Zoning Administrator acted in compliance with and with best intentions in approving the Brownlee permit.

The following board members voted "AYE": Primavera, Dulin, Sanders, Reed, Liesveld. Motion passed 5-0.

Board Member Liesveld emphasized her concern for the current policy pertaining to the front yard setback.

ADJOURNMENT.

MICHAEL MEYERS