



CITY OF INDIANOLA BOARD OF ADJUSTMENT MEETING

December 1, 2021

6:00 PM

City Council Chambers

Agenda

- 1. Call to Order**
- 2. Roll Call**
- 3. Agenda Approval**
- 4. Minutes Approval**
 - A. Approval of Minutes from November 10, 2021
- 5. New Business**
 - A. Consider request from Rick and Patricia Miller for a variance under the terms of Section 165.02 (3)(B) of the Code of Ordinances of Indianola, Iowa, to permit an existing six-foot fence constructed in the front yard to remain in place at 812 North W Street, which is not in conformity to the height/location requirements found in Section 165.04(4)(A)(1) of the Code of Ordinances of Indianola, Iowa.
 - B. Approval of 2022 Calendar
- 6. Comments**
- 7. Adjourn**



CITY OF INDIANOLA BOARD OF ADJUSTMENT MEETING

November 10, 2021

6:00 PM

City Council Chambers

Minutes

1. Call to Order

This meeting was called to order at 6:00pm

2. Roll Call

Present: Lee Bash, Amy Mitchell, Bill Mettee

Absent: Renee Soldwish, Wes Sharp

Staff Present: Charlie Dissell, Cortney Marmon

Public Present: Stan and Eileen Thompson 1205 W Iowa, Bob and Ann Harmon 4113 Lynne Dr Des Moines, IA, Pamauk Kha, La Paw, Nyoh Thnim, De Noe

3. Agenda Approval

Board Member Lee Bash moved to approve the agenda for the 11/10/2021 Board of Adjustment meeting and Amy Mitchell seconded the motion. On roll call the votes were AYES: Mitchell, Mettee, Bash Opposed: None. Whereupon the Chairperson declared the motion carried unanimously.

4. Minutes Approval

A. Approval of the minutes from the 10/06/2021 meeting.

Board Member Amy Mitchell moved to approve the minutes of the 10/06/2021 Board of Adjustment meeting and Lee Bash seconded the motion. On roll call the vote was AYES: Bash, Mitchell, Mettee Opposed: None. Whereupon, the Chairperson declared the motion passed unanimously.

5. Old Business

A. Consider request from Bob Harmon, on behalf of the Karen Buddhist Association of Iowa for a special use permit, under the terms of Section 165.02 (3)(B)(3)(c) of the Code of Ordinances of Indianola, Iowa, that would permit the use of religious organization at 1200 West Iowa Avenue.

Mr. Dissell provided an overview.

Mr. Bash asked who makes sure the deadlines are met.

Mr. Dissell said that would be Community Development's responsibility.

Mr. Mettee asked if the applications were agreeable to the conditions set forth.

Mr. Dissell said yes.

Bob Harmon of Des Moines introduced the Karen family and talked about the positive impact the project would have. He discussed how the land and buildings would be used and asked the city to be patient with the project. He stated Simpson will maintain the Prairie Restoration area and that they will still allow sledding on the hill.

Mr. Harmon inquired about traffic control at the intersection of Ann Parkway and Iowa.

Mr. Mettee asked if the family would relocate to Indianola or only come for services.

Mr. Harmon said they would come intermittently seven to 8 times a year.

Stan Thompson discussed being welcoming neighbors but wanting the prairie grass cleaned up.

Mrs. Harmon said a professor does research there with students but they have agreed to clean it up and remove any trash.

Mr. Dissell said there is something in the code allowing an exemption for mowing if it's a prairie, but he would look into it.

Mr. Thompson said he has never seen anyone doing research there and also asked why Simpson hadn't been maintaining the parking lot.

Mr. Dissell said it is a private parking lot grandfathered in but because it was changing to a different use, the new owners would be responsible for maintaining it.

Board Member Lee Bash moved to approve the request from Bob Harmon on behalf of the Karen Buddhist Association of Iowa for a special use permit, under the terms of Section 165.02 (3)(B)(3)(c) of the Code of Ordinances of Indianola, Iowa, the would permit the use of religious organization at 1200 West Iowa Avenue with alternative two. Board Member Amy Mitchell seconded the motion. On roll call the vote was AYES: Mitchell, Bash, Mettee Opposed: None. Whereupon the motion carried unanimously.

6. New Business

7. Comments

Mr. Dissell mentioned the departing of the current Office Assistant Mrs. Marmon.

8. Adjourn

The meeting was adjourned at 6:37pm



MEMORANDUM

To: Board of Adjustment

From: Charlie Dissell, Community and Economic Development Director

Date: December 1, 2021

Subject: Consider request from Rick and Patricia Miller for a variance under the terms of Section 165.02 (3)(B) of the Code of Ordinances of Indianola, Iowa, to permit an existing six-foot fence constructed in the front yard to remain in place at 812 North W Street, which is not in conformity to the height/location requirements found in Section 165.04(4)(A)(1) of the Code of Ordinances of Indianola, Iowa.

Recommendation:

Attachments:

1. Staff Report 812 N. W
2. App
3. Letter
4. Site Plan
5. Picture1
6. Picture2
7. Picture3
8. Picture4
9. EMail



Community Development

110 N. First St., Indianola, IA 50125-0299 • www.indianolaiowa.gov
515-961-9430 • comdev@indianolaiowa.gov

Staff Report

Board of Adjustment

Date of Meeting: 12/1/2021

Agenda Item: 5.A. Consider request from Rick and Patricia Miller for a variance under the terms of Section 165.02 (3)(B) of the Code of Ordinances of Indianola, Iowa, to permit an existing six-foot fence constructed in the front yeard to remain in place at 812 North W Street. Such a fence is not in conformity to the height/location requirements found in Section 165.04(4)(A)(1) of the Code of Ordinances of Indianola, Iowa. A variance is requested to allow an existing fence to be more than a forty-eight (48) inch fence located in the front yard, designed with a minimum open space of forty percent (40%).

Application Type: Variance

Applicant: Rick and Patricia Miller

Property Address: 812 N. W Street

Zoning: R-1 Single-Family Residential

Application Summary: A variance is requested to allow an existing fence to remain in the front yard.

AERIAL MAP



APPLICABLE CODE SECTIONS

The following sections of the Code of Ordinances of Indianola, Iowa apply to this request:

Section 165.02 (3)(B)(3) Power and Duties: The Board shall have the following powers and duties:

b. Variances - To grant a variance from the terms of the Zoning Ordinance when a property owner can show that the owner's property was acquired in good faith and where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or where by reason of exceptional topographical conditions or other extraordinary or exceptional situation, the strict application of the terms of the Zoning Ordinance actually prohibits the use of such property in a manner reasonably similar to that of other property in the same district, and where the Board is satisfied under the evidence before it that a literal enforcement of the provisions of the Zoning Ordinance would result in unnecessary hardship; provided, however, all variations granted under this clause shall be in harmony with the general purpose and intent of the Zoning Ordinance. Furthermore, the following findings shall be made in order to grant a variance:

- i. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
- ii. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
- iii. That the special conditions and circumstances do not result from the actions of the applicant;
- iv. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of any such conditions and safeguards shall be deemed a violation of this Ordinance. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of the Zoning Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of the Zoning Ordinance in said district. If relevant and applicable, the Board may prescribe a time limit within which the action for which the variance is required shall begin or be completed, or both. Failure to begin or complete, or both, such action within the time limit shall void the variance. If no time limit is set by the Board and if relevant to the variance, then the granted variances shall become void eighteen months after the date of the Board approval unless a building permit has been issued for the construction provided for by the variance. In the event the building permit for the construction provided for by the variance expires or is canceled, then the variance approval shall become void.

SECTION 165.04 (4) FENCES AND WALLS

A. Residential Districts.

- 1) In all residential zoning district, fences and walls not exceeding six (6) feet in height are permitted within the limits of side and rear yards. Fences and walls are permitted in the front yard with a maximum height of forty-eight (48) inches. All fences and retaining walls within a front yard shall be a minimum of two (2) feet from any property line abutting frontage to a public street and shall be subject to the restrictions and standards herein this section. All fences located between the front property line and the front yard building setback, shall be designed with a minimum open space of forty percent (40%). Retaining walls shall be the only type of wall allowed within a residential front yard.
- 2) Any yard abutting a public street shall be considered a front yard. Residential corner lots contain two (2) front yards, and any fence extending into either front yard shall be a maximum of forty-eight (48) inches in height and shall be subject to all other requirements for front yard fences.

ANALYSIS

Rick and Patricia Miller are requesting a variance to allow their privacy fence to remain extended approximately 12' into the front yard. The primary structure sits on a corner lot and has 2 front yards. According to the applicant, the purpose/intent of this fence was more of a trash enclosure than a privacy fence and serves to prevent the neighbor's trash from blowing over into their yard. The fence does not extend far enough into the front yard to block any lines of sight as far as vehicular and pedestrian traffic is concerned. It also matches the existing privacy fence which wraps around the rear yard. There is adequate room in the side yard to hold the trash containers for the property and does not believe it is necessary to extend the fence this far into the front yard to enclose their trash containers. However, the limits to which this fence is extended into the front yard should not negatively impact the health, safety and welfare of any person.

ALTERNATIVES

The City of Indianola Board of Adjustment may consider the following alternatives:

- 1) The City of Indianola Board of Adjustment approves the variance request, as submitted.
- 2) The City of Indianola Board of Adjustment approves request, with conditions.
- 3) The City of Indianola Board of Adjustment denies the variance request.
- 4) The City of Indianola Board of Adjustment remands the variance request back to the applicant and/or staff for further review and/or modifications and directs staff to place this item on a future Board of Adjustment agenda.

RECOMMENDATION

Staff recommends that the City of Indianola Board of Adjustment adopt alternative one, approving the variance as submitted.

BOARD OF ADJUSTMENT APPLICATION

Community Development
110 North 1st Street, Indianola, Iowa 50125-0299
(515) 961-9430 • comdev@indianolaiaowa.gov



PROPERTY OWNER

(Last Name) MILLER
(First Name) RICKY/PATRICIA
(Address) 812 NORTH W. STREET
(City) INDIANOLA (State) IA (Zip) 50125
(Phone) 490-7326 (Email) rickcmiller1958@gmail.com

APPLICANT (if not Property Owner)

(Last Name) _____
(First Name) _____
(Address) _____
(City) _____ (State) _____ (Zip) _____
(Phone) _____ (Email) _____

☐ APPEAL

Submittal Requirements:

All submittal requirements must be completed.
Incomplete applications will not be considered.

- ☐ Completed Application
- ☐ Filing Fee: \$150 per request
- ☐ Written narrative indicating where it is alleged there is error in any order, requirement, decision, or determination made by the Administrative Officer in the enforcement of this Code of Ordinances of Indianola, Iowa.
- ☐ Other Information as required by Director

☐ SPECIAL EXCEPTION

Submittal Requirements:

All submittal requirements must be completed.
Incomplete applications will not be considered.

- ☐ Property Address: _____
- ☐ Completed Application
- ☐ Filing Fee: \$150 per request
- ☐ Site Plan and Elevations
- ☐ Written narrative indicating the Section of Chapter 165 of the Code of Ordinances of Indianola, Iowa under which the special exception is sought and stating the grounds on which it is requested.
- ☐ Other Information as required by Director

☒ VARIANCE

Submittal Requirements:

All submittal requirements must be completed.
Incomplete applications will not be considered.

- ☐ Property Address: 812 North W. St. Indianola
- ☐ Completed Application
- ☐ Filing Fee: \$150 per request
- ☐ Site Plan and Elevations
- ☐ Written narrative indicating justification for proposed variance and response to the criteria outlined in Section 165.35(3)(A) of the Code of Ordinances of Indianola, Iowa
- ☐ Other Information as required by Director

I certify that the information and exhibits submitted are true and correct to the best of my knowledge and that in filing this application I am acting with the knowledge, consent and authority of the owner(s) of the property. Pursuant to said authority, I hereby permit City officials to enter upon the property for the purpose of inspection related to this application.

Signature

Patricia Miller

Name (printed)

Patricia Miller

Date 10-29-2021

FOR OFFICE USE ONLY:

Code to 45180

Date Received: _____

Receipt No: _____

Receipt Amount: _____

BOA Agenda Date: _____

Initially, we came up with extending our privacy fence as the neighbors continually let their garbage pile up, fall over and blow in to our yard. It was disgusting going out and seeing litter in our yard, much less cleaning it up. We thought extending our fence would solve that issue so we could enjoy that part of our yard, and keep peace with the neighbor. We want to be friendly and get along with everyone in our area. It also serves as a buffer for the trailer and farm equipment they park in their driveway. Since we live on the curve, the other side of our front yard doesn't allow any privacy. Our backyard has a large waterway and drain for all the neighbors on our block. It has a steep slant and is usually too wet to use that area.

The cost to us was \$2,000. We have checked with our fence company and it does not come in 4 foot height. There would not be anything that would look nice and match.

We have had many compliments from our neighbors. It does not block any traffic views. It is also a place for our trash containers.

We did not question that it would be a problem as we had discussed fencing options with 2 people regarding codes and permits. Unfortunately we did not write down their names.

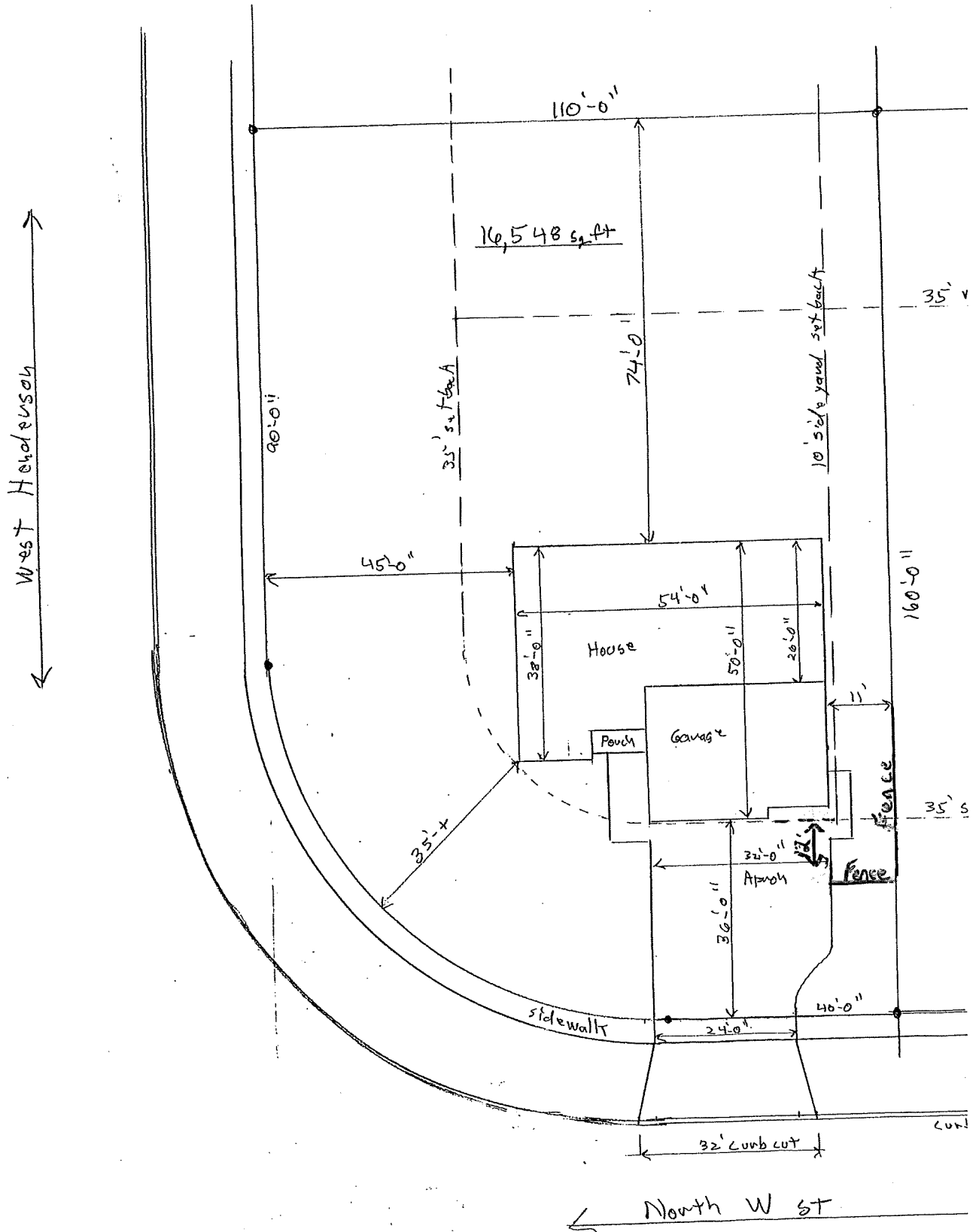
They were helpful, seemed knowledgeable and gave us the diagram of our property.

Please allow us to keep our extension. We take a lot of pride in our yard, and feel it looks very nice. It has taken care of the issue, even if it was a large expense for us. It would be a tremendous burden and expense to us to remove it.

We are requesting a variance from
(165.04.4 (A.) (2))

Thank you for your consideration.

Rick & Patricia Miller











Charlie Dissell

From: lselby@mchsi.com
Sent: Friday, November 26, 2021 10:50 AM
To: Community Development
Subject: fence at 812 N. W St.

Hello,

We live at 807 N. W Street, near Ricky and Patricia Miller. We received a letter about them requesting a variance for their fence. We have no problem with them having a fence there. It looks nice and matches the rest of their fence. We would like you to give them this variance and let them keep things as they are now. Thank you.

Sincerely,
Gerald and Lois Selby, 807 N. W St.

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.



MEMORANDUM

To: Board of Adjustment
From:
Date: December 1, 2021
Subject: Approval of 2022 Calendar

Recommendation:

Attachments: 1. 2022 BOA Calendar

2022 Board of Adjustment Calendar					
Meeting DATE 6:00 PM	APPLICATION DEADLINE	NOTICES Mailed	AGENDA PACKET to Board	Draft MINUTES Complete	Appeal Period Ends
1/5/2022	12/17/2021	12/22/2021	12/30/2021	1/7/2022	2/4/2022
2/2/2022	1/14/2022	1/21/2022	1/27/2022	2/4/2022	3/4/2022
3/2/2022	2/11/2022	2/18/2022	2/24/2022	3/4/2022	4/1/2022
4/6/2022	3/18/2022	3/25/2022	3/31/2022	4/8/2022	5/6/2022
5/4/2022	4/15/2022	4/22/2022	4/28/2022	5/6/2022	6/3/2022
6/1/2022	5/13/2022	5/20/2022	5/26/2022	6/3/2022	7/1/2022
7/6/2022	6/17/2022	6/24/2022	6/30/2022	7/8/2022	8/5/2022
8/3/2022	7/15/2022	7/22/2022	7/28/2022	8/5/2022	9/2/2022
9/7/2022	8/19/2022	8/26/2022	9/1/2022	9/9/2022	10/7/2022
10/5/2022	9/16/2022	9/23/2022	9/29/2022	10/7/2022	11/4/2022
11/2/2022	10/14/2022	10/21/2022	10/27/2022	11/4/2022	12/2/2022
12/7/2022	11/18/2022	11/23/2022	12/1/2022	12/9/2022	1/6/2023