

Agenda Packet

BOARD OF ADJUSTMENT

Wednesday, May 18, 2022
6:00 p.m.

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**NOTICE OF MEETING
CITY OF NORFOLK, NEBRASKA**

NOTICE IS HEREBY GIVEN that a meeting of the Board of Adjustment of the City of Norfolk, Nebraska, will be held at 6:00 p.m. on Wednesday, May 18, 2022, in the Council Chambers, 309 N. 5th Street, which meeting will be open to the public.

An agenda for such meeting, kept continually current, is available at the City of Norfolk Administration Building, located at 309 N 5th Street, Norfolk, Nebraska during normal business hours.

AGENDA
BOARD OF ADJUSTMENT
May 18, 2022

CALL TO ORDER

1. 6:00 p.m. Call meeting to order.
2. Inform the public about the location of the Open Meetings Act posted in the Council Chambers and accessible to members of the public
3. Roll call.

CURRENT BUSINESS

- | | |
|---|---------------|
| 4. Approval of full agenda. | Motion |
| 5. Consideration of approval of the minutes of the August 24, 2021 Board of Adjustment meeting. | Motion |

PUBLIC HEARINGS

- | | |
|---|---------------|
| 6. Public hearing at the request of Big J's Rental, LLC, for a variance from Section 27-292 (f) of the Norfolk City Code, to allow the use of a septic tank on a lot that is less than three acres in size, on property addressed as 2614 Old Hadar Road. | |
| 7. Consideration of approval of a variance from Section 27-292 (f) of the Norfolk City Code, to allow the use of a septic tank on a lot that is less than three acres in size, on property addressed as 2614 Old Hadar Road. | Motion |

BOARD OF ADJUSTMENT MEETING
August 24, 2021

The Norfolk Board of Adjustment of the City of Norfolk conducted a public meeting in the City Council Chambers, 309 N. 5th Street, on the 24th day of August, 2021, beginning at 6:02 p.m.

The Chairman, Jason Lampli, called the meeting to order and informed the public about the location of the current copy of the Open Meetings Act posted in the meeting room and accessible to members of the public.

Roll call found the following Board Members present: Dirk Waite, Brad Love, Sue Haase, Jason Lampli, Tom Skaff (alternate), and Randy Wilcox. Absent: None.

It was noted that a quorum was present.

Staff members present were: Val Grimes, City Planner; Steve Nordhues, City Building Official; Katelyn Palmer and Stacey Hansen.

Chairman Lampli presided and Executive Secretary Elizabeth Lienemann digitally recorded the audio of the proceedings. The meeting was also recorded by Christal McDonald, Court Reporter, Norfolk, Nebraska.

Current Business

Chairman Lampli introduced the current business of electing Chairperson, Vice-Chairperson and appointment of Executive Secretary. Chairman Lampli called for discussion and nominations.

ELECTION OF CHAIRPERSON: Board Member Love nominated Jason Lampli as Chairperson; with no other nominations or discussion, all members present voted in favor of Jason Lampli as Chairperson.

ELECTION OF VICE-CHAIRPERSON: Board Member Wilcox nominated Brad Love as Vice-Chairperson; with no other nominations or discussion, all members present voted in favor of Brad Love as Vice-Chairperson.

Chairman Lampli appointed Elizabeth Lienemann as Executive Secretary.

Board Member Love moved, seconded by Waite to approve the full agenda.

Roll Call: Board Members: Ayes: Waite, Love, Haase, Lampli, and Wilcox. Nays: None.
Motion carried (5-0).

Board Member Wilcox moved, seconded by Love to approve the December 10, 2018 meeting minutes.

Roll Call: Board Members: Ayes: Waite, Love, Haase, Lampli, and Wilcox. Nays: None.
Motion carried (5-0).

PUBLIC HEARING

(Request to consider a variance from the requirements in Section 27-331 (6)b;
On property zoned R-3 Multiple Family Residential District)
(Applicant: Heritage at Fountain Point, LLC; Location: 3725 W Madison Avenue)

Chairman Lammler noted that Board of Adjustment member Brad Love was not participating in the meeting as he expressed a conflict of interest or a perception of a conflict of interest regarding the appeal scheduled to be heard. The Board of Adjustment alternate, Tom Skaff, filled in for member Love.

Chairman Lammler called roll ensuring a quorum and found the following Board Members present: Dirk Waite, Sue Haase, Jason Lammler, Tom Skaff (alternate), and Randy Wilcox. Absent: None.

Chairman Lammler opened the public hearing at 6:05 p.m. and introduced the request by Heritage at Fountain Point, LLC, to seek a variance from the requirements that monument signage in R-3 zoning district shall not exceed 60 SF per lot and shall not exceed 10' in height or have a setback of less than 15', set forth in Section 27-331(6)b. of the Norfolk City Code.

Chairman Lammler gave instruction regarding the hearing procedures and testimony.

Valerie Grimes, Norfolk City Planner, 309 N 5th Street, introduced Exhibits 1-11:

EXHIBITS:	DESCRIPTION:
1	City of Norfolk Code – Section 27: Zoning
2	Nebraska State Statute Sections 19-907 thru 19-910 & 19-912 relating to the Board of Adjustment
3	Heritage at Fountain Point, LLC's Application, including any supporting documents as part of the application
4	Information Sheet describing the code requirements and what is currently built
5	Legal Description & 300 ft Map – Approved by Engineering Division
6	Public Hearing Notices for 6/23/2021 & 8/24/2021 & the map
7	Proofs of Publication – Public Hearing Notices – 6/11/2021 & 8/13/2021
8	Proofs of Publication – Public Meeting Notices – 6/21/2021 & 8/18/2021
9	List of Owners within 300'
10	Memo & Photo Regarding the attendance at the 6/23/2021 Cancelled Meeting
11	Board of Adjustment Agenda Packets for the June 23, 2021 & August 24, 2021 meetings
	Any other materials or testimony provided to the Board during this hearing

Exhibits were accepted into record by Chairman Lammler.

Valerie Grimes reviewed City Code Section 27-331(6)b as well as the definitions of "sign area" and "sign setback" found in City Code Section 27-2.

Chairman Lammler asked for clarification whether the setback was measured from the property line or from the street. Planner Grimes stated the setback is measured from the property line.

Steve Nordhues, City Building Official, explained that he noticed the errors with the monument sign when he was at the property for an inspection. A sign permit had not yet been pulled as of the start of the Board of Adjustment meeting on August 24, 2021.

Chairman Lammler asked if the setback was measured from the brick base of the sign or from the sign itself and whether the sign was measured from the base of the sign or from the ground to the top of the wooden beam. Steve Nordhues stated the setback was measured from the brick base and the height was measured from the ground to the top of the wooden beam. He also explained that the whole structure was measured for square footage. The sign requirements are set by zoning, and different districts have different requirements.

Farhan Kahn, Owner & CEO of Heritage Communities, and Cody Meyer, Director of Construction & Facilities for Heritage Communities, spoke to the request. Farhan explained that there was misunderstanding of the sign requirements and thought that it was approved with the building plans that had been submitted and the error was discovered after the footings were poured. He also noted that the intention was to design and build a large sign for seniors to easily see.

Chairman Lammler noted that the applicant stated the purpose of the large sign was for better visibility for residents of the building. He then inquired if many of the residents are able to drive. Mr. Kahn stated that around 50% of the residents are able to drive their own vehicle.

Member Wilcox stated the applicant mentioned working with other communities and constructing similar signs at those locations, which would also have had setback requirements that needed to be followed. He noted that the sign in Norfolk had never been checked or had any inspections called in. Steve Nordhues confirmed that no inspection had been called in for the sign footings.

No one else appeared in support or opposition of the variance request.

Chairman Lammler reviewed the findings of fact before entertaining a motion.

The Board Members discussed the following answers to the four conditions required to grant a variance:

1. True; The strict application of the zoning regulation would produce undue hardship because the senior residents generally require larger signs and text on those signs for safety while driving.
2. True; Such hardship is not shared generally by other properties in the same zoning district and the same vicinity because there are larger commercial signs in the vicinity.
3. True; The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance because there are larger commercial signs in the same general vicinity and the residential structure is surrounded by considerable sized open land area and the structure on the property is sized to leave a lot of green space on the property.
4. True; The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice because the as-built sign allows residents and their guests to easily find the property and for safety of them driving.



progress. right at home.

309 N 5th St
Norfolk, NE 68701
P402-844-2280 F402-844-2028
www.norfolkne.gov

Chairman Lammler closed the public hearing at 6:49 p.m.

Board Member Haase moved, seconded by Board Member Waite to grant the variance seeking relief from the requirements set forth in Section 27-331 (6)b.

Roll Call: Members: Ayes: Waite, Haase, Wilcox, Lammler, and Skaff. Nays: None. Motion carried (5-0).

Chairman Lammler declared the meeting adjourned at 7:06 p.m.

A handwritten signature in black ink that reads "Elizabeth Lienemann".

Elizabeth Lienemann

Board of Adjustment Executive Secretary

Board of Adjustment

Variance Case No. _____

Date Filed _____

BOARD OF ADJUSTMENT

APPLICATION

NAME OF APPLICANT: Big J's Rental, LLC

MAILING ADDRESS: 2703 N 25th St.

E-MAIL ADDRESS: mark@johnsonelectric.biz PHONE: 402-371-0556

NAME OF AUTHORIZED AGENT: Mark Johnson

MAILING ADDRESS: _____

E-MAIL ADDRESS: same PHONE: _____

Relationship of applicant to property: ☒ Owner ☐ Tenant ☐ Lessee
☐ Other _____

The Board of Adjustment operates in accordance with Statutes of the State of Nebraska 19-907 through 19-910 and 19-912.

The Board of Adjustment shall, subject to such conditions and safeguards as may be established by the legislative body, have only the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;
2. To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map, or for decisions upon other special questions upon which the board is authorized by any such regulation to pass; and
3. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or conditions of such piece of property, the strict application of any enacted regulation under this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties of hardship, if such relief may be granted without substantial detriment to the public good and without impairing the intent and purpose of any ordinance or resolution.

SECTION I.

Item 1 and 2 are appeals based on an alleged administrative or agency error, or interpretation of a map.

If your application involved either #1 or #2, check the number: ☐ 1 ☐ 2

Attach in written detail the exact problem as you see it. Please skip to **SECTION III**, signatures required.

Rev. 09-2016

SECTION II.

If you request authorization from the Board under #3, they can hear the matter if it falls under the outlined criteria in #3 of the State Statutes. No such variance shall be authorized by the board unless it finds that:

- a. The strict application of the zoning regulation would produce undue hardship;
- b. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
- c. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and (d) the granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice. No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

The variance is requested from the requirements set out in Section 27-292 of the Zoning Regulations of Norfolk City Code for property addressed as _____

and legally described as

2614 Old Hadas Rd. Lot 2 Mark Johnson addition

and which is presently zoned as

I-1

(Give metes and bounds description below or on attached sheet)

Provide a brief statement explaining the variance request.

Use of a septic system

OUTLINE HARDSHIP AS EXPLAINED ABOVE IN ANSWERING THE FOLLOWING QUESTIONS

- A. Is the lot exceptionally narrow, shallow or shaped?

B. Does the property have exceptional topographic conditions or other extraordinary and exceptional conditions wherein the strict application of the regulations would:

a. Result in peculiar and exceptional practical difficulties:

New building plumbing is too far from existing septic on other Lot 4 to allow for adequate flow

b. Result in exceptional and undue hardship:

High cost of pumping out holding tank every month.
Potential cost of \$4,300.00 per year.

C. Would the variance be a substantial detriment to the public good? NO

D. Would the variance substantially impair the intent and purpose of the zoning ordinance? NO

E. Is the hardship not shared generally by other properties in the same zoning district and the same vicinity?

a. Explain No since others already have septic systems in place.

F. Would authorization of variance be a substantial detriment to adjacent property and the character of the district?

a. Explain NO, Septic systems are in use.

G. Explain how the request is based upon reason of demonstrable and exceptional hardship as distinguished for purposes of convenience, profit or caprice.

Crossing property lines, length of line and flow.

Provide a sketch or graphic and include the property lines of the application area, existing and proposed structures, appropriate dimensions, and any other information that would be helpful to the Board in evaluating the request.

Note: - Aerial photo of property
- Subdivision plat

SECTION III.

The applicant/agent hereby declares that all information submitted is true to the best of his knowledge and that all information required for this request has been included.

Mark Johnson

APPLICANT

AUTHORIZED AGENT

Board of Zoning Adjustment
Public Hearing Notice

The Board of Adjustment of the City of Norfolk, Nebraska will hold a public hearing on Wednesday, May 18, 2022 at 6:00 p.m. in the City Council Chambers, 309 N. 5th Street, Norfolk, Nebraska at the request of Big J's Rental, LLC, for a variance from Section 27-292 (f) of the Norfolk City Code, to allow the use of a septic tank on a lot that is less than three acres in size, on property addressed as 2614 Old Hadar Road, legally described as follows:

Lot 2, Mark Johnson's Addition, Madison County, Nebraska

Publish (May 6, 2022)

1 P.O.P.