



**TO:** Edgerton Board of Appeals

**FROM:** Staff

**MEETING DATE:** July 15, 2020

**GENERAL DESCRIPTION**

**Description of Request:** Variances to Chapter 22.420(3)(a)1, 22.420(3)(b), and 22.420(3)(c)1 to allow the construction of a fence 6 feet tall (maximum height allowed is 4 feet); to allow the construction of a fence that has 0 foot setback from a street yard property line (minimum setback is 1 foot); and to allow the construction of a fence that is 100% opaque or solid (maximum opaqueness allowed is 50%).

**Address:** 204 E Hubert St and is described as Lot 4 of CSM #794978 Vol 3 Page 34-35. (parcel 6-26-955.7)

**Applicant:** Veronica and Chase Ellingworth

**Current Zoning/Land Use:** R-1 Residential District One/ single family home

**STAFF REVIEW COMMENTS**

The planning staff has reviewed the petition in accordance with the Edgerton Zoning Ordinance and has the following comments:

1. The petitioners seek variances to allow the construction of a fence that is closer to the front (street yard) lot line; less see through, and taller than is allowed by the ordinance. The lot is a corner lot with two “front yards” meaning the fence must comply with the front yard standards on two sides.
2. The ordinance allows for the height of a fence to be exceeded with the granting of a conditional use by the Plan Commission under the following conditions:
  - a. The increase in height shall in no way further obstruct vision for intersecting streets, driveways, sidewalks or other traffic areas;
  - b. The fence shall be screened on its external side with adequate plants so as to maintain an attractive appearance to said side.
  - c. The fence shall be set back from the property line beyond the requirement of [ordinance above, such distance as appropriate to contain adequate landscaping per (3)(c)4.b., above, and so as to maintain an attractive relationship to fence’s external side.

If a variance were to be granted, these conditions could be applied to this fence.

3. The petitioner sites the need to include the existing play structure in the fenced area as justification for the setback variance. Based on aerial photography, not a survey, the play structure is approximately 12-14 feet from the lot line. The fence could therefore be set back from the lot line which would allow for: the installation of landscaping (as suggested through a conditional use provisions above); and the installation of a sidewalk along Dean St if one were to be installed at some point in the future.

Date Draft Submitted \_\_\_\_\_  
Date Application Submitted \_\_\_\_\_  
Fee Paid \_\_\_\_\_

### Application for Variance

Owner (must be the applicant) Veronica & Chase Ellingworth  
Parcel Address 204 E. Hubert St. Parcel Number 6-26-955.7  
Owner Address 204 E. Hubert St. Daytime Phone 608-695-0960  
Present Use of the Property Residential - single family home.  
Zoning Classification R1

The following items must be submitted with each application. Additional site plan information as described in Section 22.213(3) may be required by the Zoning Administrator (Ordinance section referenced in this application are available upon request):

(1) **Map of the property showing the following:**

- Entire property
- All lot dimensions
- Existing structures with dimensions to property lines (buildings, fences, walls etc)
- Proposed structures with written dimensions to property lines
- Existing paved surfaces (driveways, walks, decks, etc)
- Proposed paved surfaces with dimensions to property lines
- Written dimensions to buildings on adjoining properties if setback variance is requested
- Zoning of adjacent parcels
- Street(s) which are adjacent to the parcel
- Graphic scale and north arrow
- Changes in land use intensity due to the variance (additional dwelling units, more customers, more parking, outside lighting, outside storage, etc)

(2) **Written description of proposed variance** answering the following questions:

City of Edgerton Ordinance Section # 22.240 cannot be entirely satisfied because:

The appropriate fence needed for safety to prevent climbing needs to be 6' tall and solid (vinyl) fencing. We need to build it on or w/in one foot of a streetside lot line to have the playset included. Vinyl fencing is recommended by Rock Co. DHS/CLT program for safety which is not listed on the approved materials list.

In lieu of complying with the ordinance, the following alternative is proposed (please describe the proposal in detail):

22.420(3)(a)(i)

- Almond in color  
with wood grain pattern

6 ft vinyl fencing, along side street property line (Dean St.)

\* See attached images.

- (3) **Written justification of the requested variance** with reasons why the Applicant believes the proposed variance is appropriate. Before the Zoning Board of Appeals can grant a variance, they must find that the following criteria have been satisfied. Describe how your request meets the following criteria: (section 22.211(4)(c))

What exceptional or extraordinary circumstances or special factors are present which apply only to the subject property? The response to this question shall clearly indicate how the subject property contains factors that are not present on other properties in the same zoning district.

We have a 5 year old who is dually diagnosed with ADHD and ASD (Autism), he has a documented history of elopement. In order to ensure his safety, we need a 6 foot fence. The current ordinance would not allow the fence to be built at this height and also surround his play set.

- The hardship or difficulty shall be peculiar to the subject property and different from that of other properties and not one that affects all properties similarly. Such a hardship or difficulty shall have arisen because of the unusual shape of the original acreage parcel; unusual topography or elevation; or because the property was created before the passage of the current, applicable zoning regulations, or will not accommodate a structure of reasonable design for a permitted use if all area, yard, green space, and setback requirements are observed;
- Loss of profit or pecuniary hardship shall not, in and of itself, be grounds for a variance;
- Self-imposed hardship shall not be grounds for a variance. Reductions resulting from the sale of portions of a property reducing the remainder of said property below buildable size or cutting-off existing access to a public right-of-way or deed restrictions imposed by the owner's predecessor in title are considered to be such self-imposed hardships;
- Violations by, or variances granted to, neighboring properties shall not justify a variance;
- The alleged hardship shall not be one that would have existed in the absence of a zoning ordinance. (For example, if a lot were unbuildable because of topography in the absence of any or all setback requirements.)

In what manner do the factors identified in 1., above, prohibit the development of the subject property in a manner similar to that of other properties under the same zoning district? The

response to this question shall clearly indicate how the requested variance is essential to make the subject property developable so that property rights enjoyed by the owners of similar properties can be enjoyed by the owners of the subject property.

We want to fence in our back yard so our children can be safe & we want them to have access to their play equipment. Other property owners not on a corner lot would be able to do this without the same restrictions we have due to the side lot line being present in our back yard.

Would the granting of the proposed variance be of substantial detriment to adjacent properties? The response to this question shall clearly indicate how the proposed variance will have no substantial impact on adjacent properties.

No. The proposed fence should in no way prohibit sight lines of the near by traffic intersection. There is already a line of bushes separating our property from that of our neighbors on Dean St. & therefore would not change the implied boundary between our properties. There is no sidewalk to impede.

Would the granting of the proposed variance as depicted on the required site plan, result in a substantial or undue adverse impact on the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the intent, provisions, and policies of this Chapter, the Master Plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide growth and development? The response to this question shall clearly indicate how the proposed variance will have no substantial impact on such long-range planning matters.

As a large pine tree already lies in front of the proposed fence as it lies in relation to the intersection, the fence would not result in any visual impairment for drivers. Parking on the street would not be changed. No future developments would be made on this part of the property.

Have the factors causing the variance request been created by the act of the applicant or previous property owner or their agent (for example: previous development decisions such as building placement, floor plan, or orientation, lotting pattern, or grading) after the effective date of this Chapter. The response to this question shall clearly indicate that such factors existed prior to the effective date of this Chapter and were not created by action of the

as it is on our property. It will be built on the side of where a sidewalk could potentially be put.

Applicant, a previous property owner, or their agent.

No factors resulting in the request existed prior to our ownership. We want to keep our son safe and prevent our children from being hit by passing cars.

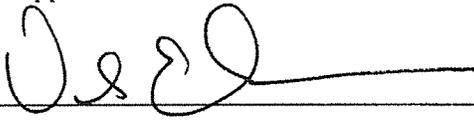
Does the proposed variance involve the regulations of Subsection 22.304 or the district use regulations in each zoning district of Section 22.700? The response to this question shall clearly indicate that the requested variance does not involve the provisions of this Subsection.

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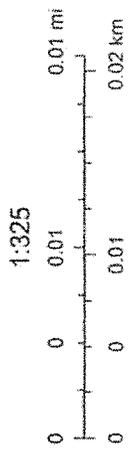
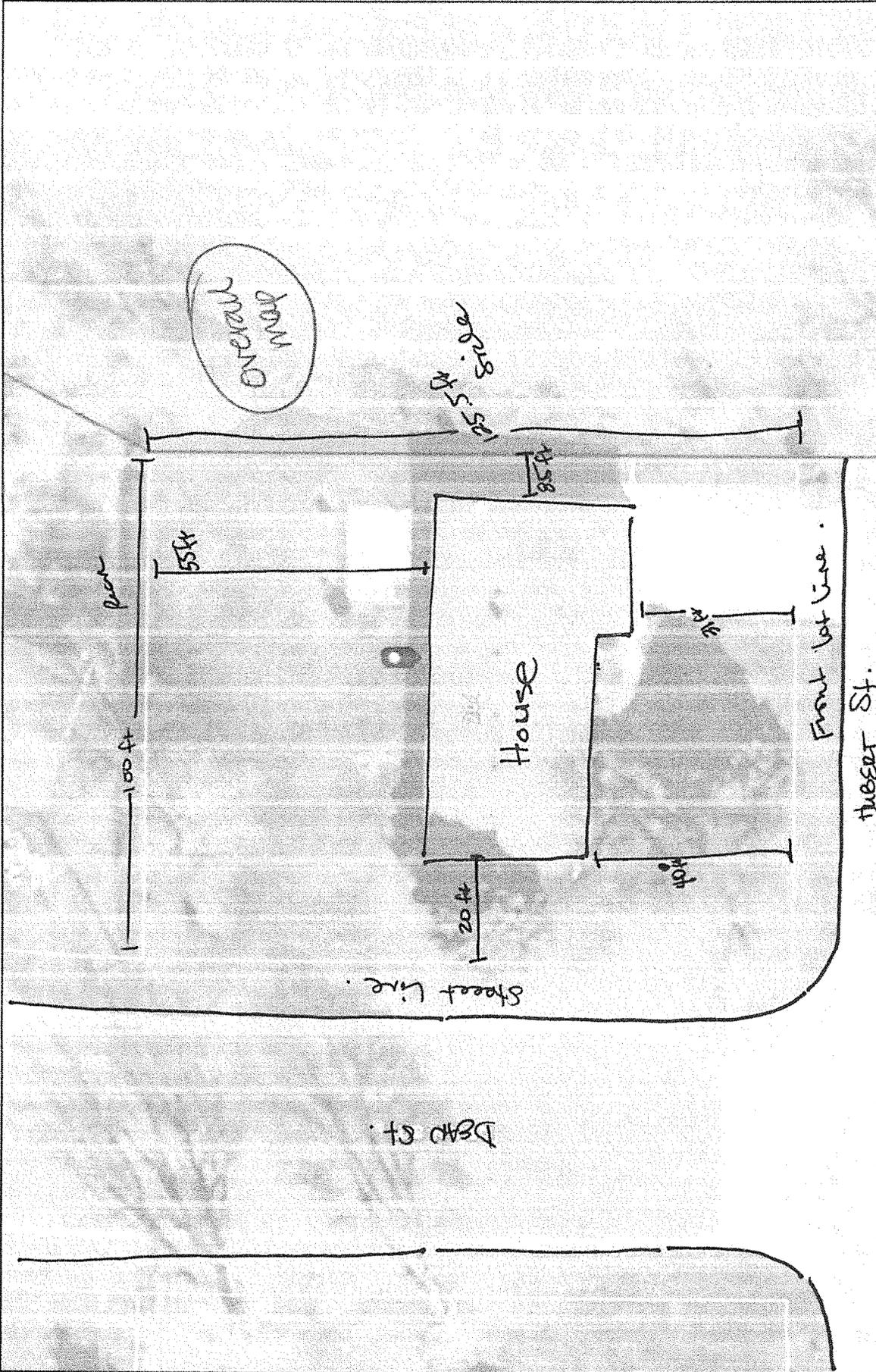
Verification by applicant: I, Veronica Ellingworth, owner for which relief is sought, certify that the application and the above information is truthful and accurate to the best of my ability.

Applicant Signature  Date 6/22/20  
Applicant Signature \_\_\_\_\_ Date \_\_\_\_\_

Consideration for Approval: Granted _____ Denied _____
_____ Date _____
Chairman, City of Edgerton Zoning Board of Appeals

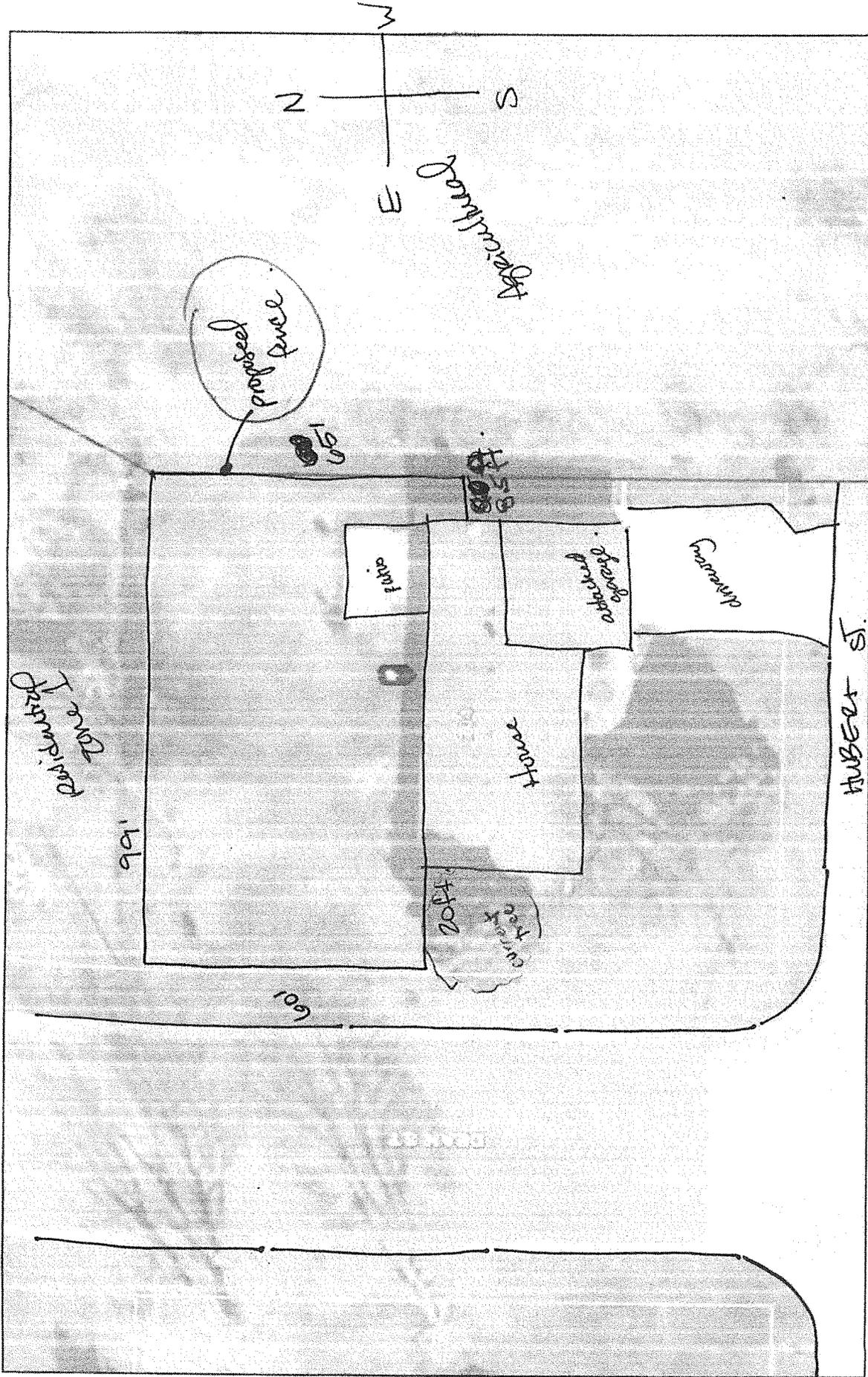
Revised date 6-23-1998

# ArcGIS Web Map



- 6/22/2020, 11:56:40 PM
- Zoning Districts
    - Exclusive Agriculture
    - General Agriculture
    - Agricultural Residential
    - Rural District 3
  - Zoning Districts
    - Agricultural District 1
    - Agricultural District 2
    - Agricultural District 3
    - Rural District 2
    - Rural District 4
    - Ag Transition Area
    - A1 Farmland Preservation

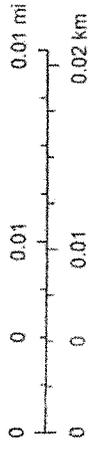
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**CITY OF EDGERTON  
ZONING BOARD OF APPEALS MINUTES**

June 19, 2019

A regular meeting of the Zoning Board of Appeals (“ZBA”) was called to order at 7:02 p.m. at the Edgerton City Hall, 12 Albion Street, Edgerton, Rock County, Wisconsin on June 19, 2019.

Present and responding to the roll call were Chairperson David Maynard, James Kapellen, Russel Jorstad, Steve Burwell and alternate Paul Davis.

Absent – Jim Long.

Also present were City Administrator Ramona Flanigan and City Attorney William E. Morgan.

Chairperson Maynard opened the meeting at 7:02. The first order of business was confirmation of appropriate meeting notice. City Administrator Ramona Flanigan confirmed that the meeting notice was posted in the appropriate places as required under the Wisconsin Statutes.

The ZBA went into public hearing at 7:07 on the application of Theran and Erin Springstead for variances to sections 22.750(5)(b) 4 and 5, to reduce the front and side yard setbacks at 645 Park Ave., to allow for the construction of a single family home. The applicants Theran and Erin Springstead appeared and presented that the applicants needed a variance from the setbacks due to the fact that the property was zoned as AG-1 which had greater setbacks than the residential lots which are adjacent to the property and due to the fact that the property has a significant elevation change, dropping quickly from the area of the road access to the rear of the property. The applicants noted that without the variances, the property would be largely undevelopable. The applicants further noted that the adjacent property owners did not object and that the proposed setbacks would be similar to those of the adjacent properties. Ramona Flanigan presented the staff report recommending approval of the request because hardship was not self-created and that the access to utilities was limited due to the shape and topography of the lot. There were no other appearances.

At 7:15 ZBA Member Jorstad moved to close the public hearing, seconded by ZBA Member Burwell. Motion passed on unanimous voice vote.

After further discussion, ZBA Member Kapellan moved to grant each of the variances application based on the findings of the staff report. Alternate ZBA Member Burwell seconded the motion. Upon a roll call vote, the motion was approved.

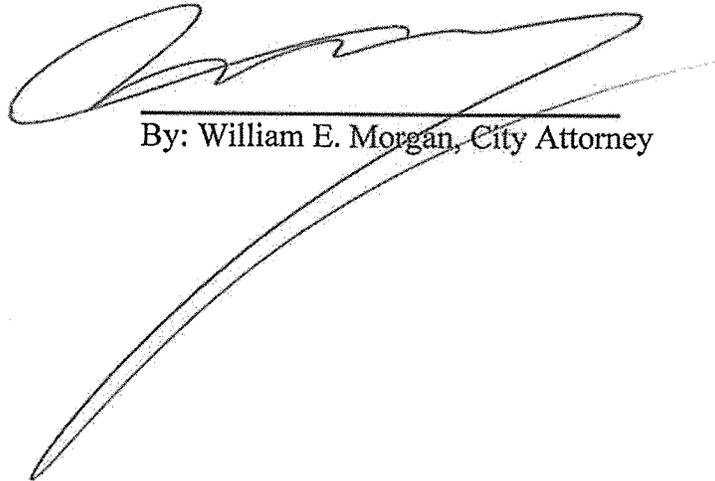
The next order of business was to consider approval of the minutes of the April 24, 2019 Zoning Board meeting. A motion from ZBA Member Jorstad, seconded by ZBA Member Kapellan, to approve the minutes was approved by unanimous voice vote.

There being no further business of the Board, a motion was made by ZBA Member Kapellen, seconded by ZBA Chairperson Maynard, to adjourn. Motion carried by unanimous voice vote. The meeting was adjourned at 7:17 p.m.

Dated this 21<sup>st</sup> day of June, 2019

Respectfully submitted,

CITY OF EDGERTON



By: William E. Morgan, City Attorney