



CITY OF SCOTTSBLUFF
Scottsbluff City Hall Council Chambers
2525 Circle Drive, Scottsbluff, NE 69361
BOARD OF ADJUSTMENT AGENDA

Regular Meeting
May 5, 2025
2:00 PM

1. **Roll Call**
2. **For public information, a copy of the Nebraska Open Meetings Act is posted in the back of the room on the south wall.**
3. **Notice of changes in the agenda.** (Additions may not be made to this agenda less than 24 hours before the beginning of the meeting unless added under item 3 of this agenda.)
4. **Citizens with business not scheduled on the agenda** (As required by state law, no matter may be considered under this item unless council determines that the matter requires emergency action.)
5. **Minutes**
 - a) Minutes Approval
6. **Public Hearing**
 - a) Board of Adjustment to conduct a Public Hearing to consider a variance request from Ben Nagel for a building setback reduction for Lot 6, Block 3, Sunrise Hills Addition, commonly identified as 3717 Spruce Street
7. **Adjournment**

Board of Adjustment MINUTES
REGULAR SCHEDULED MEETING
December 11, 2023
SCOTTSBLUFF, NEBRASKA

The Board of Adjustment for the City of Scottsbluff met for a regular scheduled meeting on Monday, December 11, 2023 at 5:00 PM in the Scottsbluff City Council Chambers at 2525 Circle Drive, Scottsbluff, Nebraska. A notice of the meeting was published in the Star-Herald, a newspaper of general circulation in the city, on November 30, 2023. The notice stated the date, time, and location of the meeting, that the meeting was open to the public, and that anyone with a disability desiring reasonable accommodation to attend should contact the Development Services office. An agenda was kept current and available for public inspection at the Development Services office, provided the Board of Adjustment can modify the agenda at the meeting if it is determined that an emergency so required. A copy of the agenda packet was delivered to each Board of Adjustment member.

- 1 Chair Raul Aguallo called the meeting to order at 5:00 PM. Roll call consisted of the following members being present; Raul Aguallo, Henry Huber, Michael Mawhinney, Troy Herman, Rick Wyman, "Absent": Sabrina Esparza. City Officials present were Zachary Glaubius, Development Services Director, and Gary Batt, Code Administrator II.
- 2 Aguallo informed those present of the Nebraska Open Meetings Act and that a copy was located on the south wall of the Council Chambers.
- 3 Acknowledgement of any changes in the agenda: None.
- 4 Business not on the agenda: None.
- 5 The minutes from the October 10, 2022 meeting were reviewed. Conclusion: a motion was made by Wayman and seconded by Herman to approve the minutes from October 10, 2022 meeting. "Yeas": Aguallo, Huber, Mawhinney, Herman, Wayman "Absent": Esparza. The motion carried.
- 6 Aguallo introduced item 6A Public Hearing to consider a variance request from Ben Nagel for a building setback reduction for Lot 6, Block 3, Sunrise Hills Addition, commonly identified as 3717 Spruce Street. Testimony was given and discussion proceeded. Conclusion: a motion was made by Wayman and seconded by Mawhinney to approve the proposed variance. "Yeas": Aguallo, Huber, Mawhinney, Herman, Wayman "Absent": Esparza
- 7 Aguallo introduced item 6B Public Hearing to consider a variance request from Patrick Powers for a fence height exception in a building setback area for property defined as the Accr. Land adjacent to Tax Lot 14 in 27-22-55 unplatted lands, commonly identified as 2420 South Beltline Highway West. Testimony was given by Mr. Powers and discussion proceeded. Conclusion: a motion was made by Herman and seconded by Huber to approve the proposed variance. "Yeas": Aguallo, Huber, Mawhinney, Herman, Wayman "Absent": Esparza
- 8 Aguallo introduced Item 7A New Business regarding Officer Elections. Aguallo motioned to keep the current officer elections with himself as Chair, Herman as Vice-Chair, and Esparza as alternate. Conclusion: Aguallo elected Chair, Herman Vice-Chair, and Esparza Alternate "Yeas": Aguallo, Huber, Mawhinney, Herman, Wayman "Absent": Esparza
- 9 Adjournment: Motion by Aguallo at 5:13 PM. "Yeas": Aguallo, Huber, Mawhinney, Herman, Wayman "Absent": Esparza. Motion Carried

Chairman Raul Aguallo

Zachary Glaubius, Secretary

Ben Nagel
3717 Spruce Street
Case No. 23-01
Date of Decision:
Monday December 11, 2023

DECISION OF THE BOARD OF ADJUSTMENT
City of Scottsbluff
Scottsbluff, Nebraska

The Scottsbluff Board of Adjustment met on Monday, December 11, 2023 at 5:00 p.m., in the Council Chambers at City Hall, 2525 Circle Drive, Scottsbluff, Nebraska. A notice of the meeting had been published on November 30, 2023 in the Star-Herald, a newspaper published and of general circulation in the City. The notice stated the date, hour and place of the meeting, that the meeting would be open to the public, that anyone with a disability desiring reasonable accommodation to attend the Board of Adjustment meeting should contact the Development Services Department, and that an agenda of the meeting kept continually current was available for public inspection at the Development Services Department office; provided, the Board of Adjustment could modify the agenda at the meeting if it determined that an emergency so required. A similar notice, together with a copy of the agenda, also had been delivered to each Board of Adjustment member. An agenda kept continuously current was available for public inspection at the office of the Development Services Department at all times from publication to the time of the meeting.

The property at 3717 Spruce St. (Lot 6, Block 3, Sunrise Hills Addition) is owned by Ben Nagel. The property owner(s) are seeking a variance to allow a building addition to be built past setback minimum. The property is zoned R-1 which require a single-family dwelling to be setback a minimum of 15 feet from a side-street property line.

FINDINGS OF FACT

Upon review of testimony presented by the property owner. City staff present Zachary Glaubius, Development Services Director, Gary Batt, Code Administrator II, Board of Adjustment makes following findings of fact:

- 1) The property is in R-1 zoning district. Where City code performance requirements under section 25-3-23(R) states if setbacks greater than required are shown in a recorded plat of an addition or subdivision which has been approved by the City Council, compliance shall be had with the setbacks shown in the plat. Lot 6, Blk. 3, Sunrise Hills Subdivision can be found in Deed Book 127 on page 623. The recorded plat shows a 30' building setback line along the 38th St. property line. The proposed addition extends approximately 6'9" into this setback area.
- 2) As observed in the plat Lot 6 has an unusual shape. This shape could qualify for a variance under Nebraska Revised statute 19-910(1). The shape and platted setbacks, which the City is required to enforce under 25-3-23 (R), result in peculiar and exception practical difficulties or exceptional and undue hardships upon the owner of the property.

- 3) The variance request is for a reduction of the 30ft platted building setback line along 38th Street to a 22ft setback. Due to the extensive landscaping along 38th St on the property, the 8ft reduction will likely not be noticeable and cause detriment to the adjacent property.
- 4) Notification letters were sent to surrounding property owner's, notifying them of the Board of Adjustments meeting. 3 phone calls and one office visit were received in regards to the variance. No other property owners attended the meeting.
- 5) There were no protests entered into the granting of the variance.

Conclusion of Law

The Board of Adjustment after reviewing the applicant's request and testimony from the property owners, unanimously approved the request for a variance to allow for a building setback reduction for Lot 6, Block 3, Sunrise Hills Addition.

Board Members to Wit: Raul Aguallo, Henry Huber, Michael Mawhinney, Troy Herman, Rick Wyman, "Absent": Sabrina Esparza

ORDER OF THE BOARD

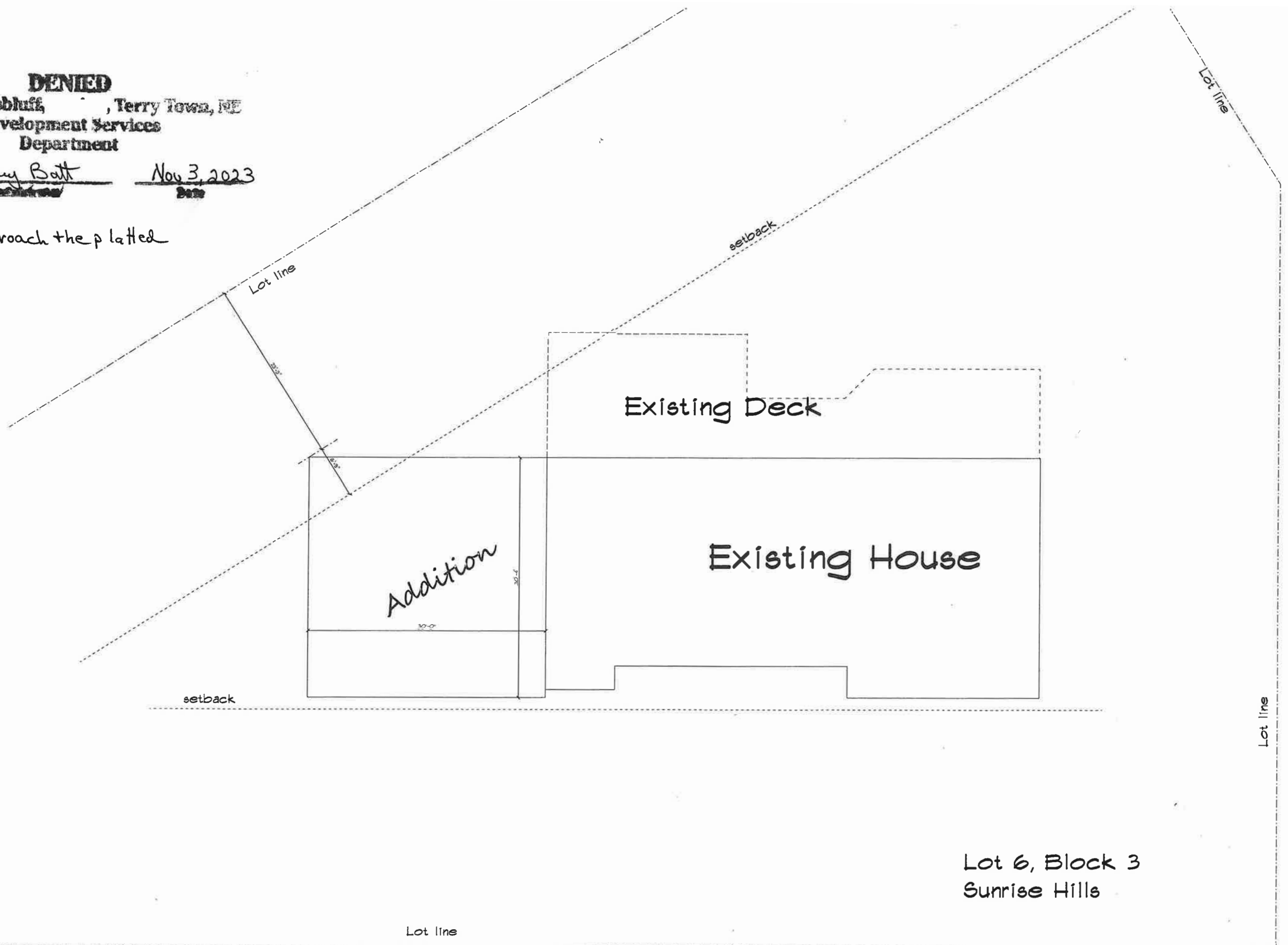
The City of Scottsbluff Board of Adjustment hereby directs the Development Services Department to approve the variance to allow for a building setback reduction for Lot 6, Block 3, Sunrise Hills Addition in accordance with the decision of the Board. Anyone aggrieved by the decision of the Board may appeal to the Scotts Bluff County Court within a period of fifteen (15) days after the date of the Board's written decision.

	<u>12/11/2023</u>
Raul Aguallo, Chairman	Date

DENIED
City of Scottsbluff, Terry Town, NE
Development Services
Department

By: May Batt Nov 3, 2023
~~City Administrator~~ ~~Date~~

Addition will encroach the platted
setback.



Lot 6, Block 3
Sunrise Hills

3717 SPRUCE DR



Street Centerline

- Highway
- Main Road
- Residential
- Address
- ▭ Parcels
- Building Setbacks/
Easements

Taylor Stephens
City of Scottsbluff GIS
Created on 12/4/2023
Coordinate System: NAD 1983 (2011)
StatePlane Nebraska FIPS 2600 Feet
Lambert Conformal Conic

The City makes no representation or warranty as to the accuracy, timeliness, or completeness, and in particular, its accuracy in labeling or displaying dimensions, contours, property boundaries, or placement or location of any map features thereon.

CITY OF SCOTTSBLUFF
BOARD OF ADJUSTMENT

TO: BOARD OF ADJUSTMENT

FROM: DEVELOPMENT SERVICES

DATE: ~~November 29, 2023~~ April 8, 2025

SUBJECT: Variance request to reduce 30' platted building setback line to a 22' setback line along 38th Street

PUBLIC NOTICE: This item was noticed in the paper and mailed notification to surrounding property owners.

Photos Attached.

The applicant Ben Nagel of 3717 Spruce Drive has applied for a variance with the Board of Adjustment. The request is to allow a building addition to be built on Lot 6, Block 3, Sunrise Hills Subdivision, which is located in the R-1 Single-Family Residential zoning district. The performance guidelines for R-1 require a single-family dwelling to be setback a minimum of 15 feet from a side-street property line, which the proposed addition does meet.

However, per §25-3-23 (R), if setbacks greater than require by this chapter are shown in a recorded plat of an addition or subdivision which has been approved by the City Council, compliance shall be had with the setbacks shown in the plat. Lot 6, Block 3, Sunrise Hills Subdivision was recorded on August 1, 1968 and can be found in Deed Book 127 on page 623. The recorded plat shows a 30' building setback line along the 38th Street property line. The proposed addition extends in this setback area approximately 6' 9".

As can be observed from the plat, Lot 6 has an unusual shape. In the opinion of the Development Services Department, the unusual shape could qualify it for a variance under Nebraska Revised Statute §19-910(1). The shape and platted setbacks, which the City is required to enforce under §25-3-23 (R), result in peculiar and exception practical difficulties or exceptional and undue hardships upon the owner of the property.

The variance request is for a reduction of the 30-foot platted building setback line along 38th Street to a 22-foot setback. Due to the extensive landscaping along 38th Street on the property, the 8' reduction will likely not be noticeable and cause detriment to the adjacent property.

Should Mr. Nagel receive the variance, he will have one year in which to complete the building or they will have to return to the Board of Adjustment for a new variance. The variance is non-transferable. Work cannot begin for a period one week after the decision of the Board to allow other parties to file a complaint in Court should they decide.

Recommendation:

Approve: Make a motion to give approval to the Variance reducing the platted setback of 30 foot along 38th Street to a 22 foot setback due to the shape of the property, subject to the following condition(s):

Denial: Make a motion to deny approval to the Variance reducing the platted setback of 30 foot along 38th Street to a 22 foot setback due to the shape of the property, subject to the following condition(s):

Table: Make a motion to table the Variance reducing the platted setback of 30 foot along 38th Street to a 22-foot setback due to the shape of the property, subject to the following condition(s):