



BOARD OF ADJUSTMENT MEETING AGENDA
Wednesday, September 17, 2026 - 5:00 PM
Eldridge City Hall - 305 N 3rd Street

1. Call to Order, Roll Call
2. Consideration of approval of minutes from June 18, 2026
3. Public Hearing on the application for a Use on Review to operate a home daycare at 221 S. 27th Avenue for up to four children
4. Consideration of Approval of Use on Review request
5. Adjournment



**Eldridge Board of Adjustment
June 18, 2026, 5:00 p.m., Eldridge City Hall**

Minutes

The Eldridge Board of Adjustment meeting was called to order by Karl Donaubaauer at 5:00 p.m. at Eldridge City Hall on June 18, 2026. Board members present were Karl Donaubaauer, Dean Ferguson, Paul Hayungs and Eric Gruenhagen. Bob Kuehl was absent. Also present were Jeff Martens, Brian Dockery, Allison Wright, Ashley Atkins, Rich Thiede, Kyle Thiede, Jason Foust, Bob Zalloway, Bill Raap, Cindy Raap, Joy Bush, Brian Bush, Michael Bristly and Ron Iossi.

Ron Iossi presented Karl Donaubaauer with a petition in opposition to Atkins request signed by 15 residents on Muhs Circle (attached).

The minutes from the meeting on April 2, 2025, were presented for approval. A motion was made by Hayungs to approve the minutes, seconded by Gruenhagen. Motion carried 4-0 by voice vote.

Donaubaauer reviewed the ground rules for Public Hearings with those present. Hayungs motion to open the public hearing and Ferguson seconded it. Motion carried 4-0. Donaubaauer called the Public Hearing to order at 5:01 p.m. and asked Martens to present an overview of the request.

Martens stated that Ms. Atkins has submitted a variance application to vary the concrete approach and all-weather surface driveway requirement for her newly constructed home at 880 S. 1st Street and the application states that this is due to pending litigation against the deed holder of 850 S. 1st Street. There was also a screen shot submitted of the property.

Donaubaauer asked Atkins if she had anything to add and she stated she wasn't really sure why she was here and that it was an administrative requirement. She handed out a packet of information that she requested to be added to the record of the meeting (attached) and then read that information to the board. She then asked Donaubaauer to let her know what to do to get a certificate of occupancy. Martens stated that the reason we are here tonight was because Atkins requested a variance to the requirements for all-weather surface driveway and concrete approach and Atkins said that she was not requesting that variance at all. Martens stated that was what her application stated and that was what was posted on the agenda. He said that was the only thing that the board could make a ruling on because that was what was noticed to the public because that was what Atkins put on her application. Atkins stated she was not here to get a variance she was here to get a certificate of occupancy. Atkins wanted to know what the administration wanted her to do to get a certificate of occupancy that was currently being withheld. Martens stated that he had sent Atkins and her contractor an email prior to the application being submitted to the BOA letting them know that the only remaining requirements were a concrete approach, an all-weather surface driveway and vegetation. Atkins replied exactly, would you put in writing where you would like us to put that all-weather surface.

Eric Gruenhagen

Karl Donaubaauer
Dean Ferguson

Paul Hayungs
Bob Kuehl

Martens referred to the approved plan in the agenda packet and stated that this is where the approved plan shows it would go. Atkins then referred to a plan she brought with her from 2021 that showed the ag building connecting to the access easement. Martens stated he wasn't here in 2021. Atkins stated that was the approved site plan for the ag building. Donaubauber asked about the site plan for the house and said Atkins had a site plan connecting directly from her house to S. 1st Street. Foust stated they were forced to do that because [Martens] would not issue a permit based upon the previous plan that they had turned in in 2021. He said [Martens] stated that plan was never approved but the building was permitted and closed without an approved site plan. He said [Martens] wouldn't approve a permit based on that plot plan and made them change it to get a permit and that was fine because he was willing to do whatever was required. Foust stated what wasn't fair was that since the access easement is in litigation the City is going to force [Atkins] to pay \$20,000 to put in a hard-surface driveway when after litigation she could win the right to use that access easement. And then she would have a \$20,000 driveway that is no longer necessary. Foust said he would put in a driveway from 1st Street to wherever his problem is doing it if they have the right to use the access easement. Wright stated that for the purposes of tonight there is an application for a variance and that is the only issue that was properly noticed up that can be decided so litigating private property dispute, she gets what Foust is saying, but there is no outcome where [the board] is going to give them a ruling on something that is currently in litigation and a judge will give them a ruling. Atkins stated that the City can't withhold occupancy based on a civil issue either. Foust stated [Martens] told them they had to submit a variance request for temporary occupancy so that's why they are here. Martens stated that yes, he did say to request temporary occupancy from this board and that is not what the application said. Atkins stated she reached out to Martens and told him this doesn't make sense because it doesn't meet the requirements for a variance. Atkins stated that the City has her in an administrative headlock and that two years ago she was in front of this board and Donaubauber instructed Martens not to get involved because this was a civil issue. Atkins stated she has had building permits denied for two years because of this access easement. She stated Martens would only approve a site plan that connected to 1st Street. She stated her driveway and the Muhs Circle driveway don't meet city or state requirements. She said this is five years that she has been dealing with this. She stated Donaubauber told her at the last meeting that it wasn't for this administration to hold up previous plot plans and he signed that plot plan. She said that Donaubauber knows there is a due process to take away or change plot plans. Atkins referenced state code she showed Martens two years ago, 354.19 she believed, and Martens still denied a building permit. Atkins stated they issued the plot plan just showing S. 1st Street and that was the plot plan Martens was referencing now. Foust stated he was just here because he wants occupancy was told to request a variance on a hard-weather surface driveway. He said they want to get Ashley into the house and this has been delayed and the house has been done for 36 days. Foust said he has been building houses for 25 years and has seen people move into houses with far more needing to be done than [Atkins] house. He said if this board can grant her temporary occupancy but won't because that wasn't on the sheet that seems ticky-tacky to him. He said he wants to get [Atkins] into her house and they will do whatever needs to be done after litigation is done. Aktins said or tell me to put in a driveway from the house to the access easement based on all the legal documents she has presented that night. Unknown person from audience asked if there any notice provided to Atkins that she might not get an occupancy certificate when she got her building permit? Martens stated that Atkins was told that a concrete approach and all-weather surface were required prior to building the house. Wright stated that it is also in the approved plans. Person in audience asked if it was stated where that driveway was supposed to go to. Martens said no that is what the site plan is for. Atkins then referred to the previous 2021 site plan again. Martens stated he wasn't working here then and doesn't know if that site plan was approved or

not. Atkins stated that it permits were issued so it was approved. Donaubauer stated they can take comments from proponents of the request. Atkins stated to her neighbors that she is not trying to forgo hard-weather surface requirements she was trying to put one per plot plan and legal documents. That was why she located the shop where it was to cut down on costs. She said it would be a financial burden to put a hard-weather surface all the way to first street. She said if that requirement had been identified prior to the shop going up it might be a different story. She said it is clear by the legal documents that lot 1 and 2 were to share the access easement. Atkins stated she needs to know what needs to happen to move forward and Foust stated she just wants to be able to move into the home she built. Wright asked if the pending litigation was specifically for if Atkins has a legal right to use the access easement. Both Atkins and Foust said that was correct. A member of the audience said he questions if there is even an access easement there. Wright said that was for the court to decide. Wright said this board will not litigate that and the City will not make a decision on that. She said it is well disputed and in litigation. To the point that you are saying you were forced to submit a new site plan that was approved that was not the only alternative you could have engaged in litigation at that time and established your legal rights and presented that to the City. Wright said that did not happen. There has been no judge that has made that decision, and the City is not going to stand has the judge and the jury in private property interests or rights. She stated there are requirements for site plans and [Atkins] met them, her plan has been approved more recently, even if the previous plan had been approved the most recently approved site plan will govern. That is the governing document so when you submitted those again that is just the law. Atkins stated that she has many documents from Martens over the last two years and no less than six building permit denials and Martens strongarmed her into taking the easement off. She said Martens has seen all of the documents she presented tonight and said no. People talked over each other. Atkins stated that Iowa state code and city code states that you are not to be involved in private deeds and covenants. Martens stated that the code that Atkins is referencing also states that the City will not enforce private deeds and covenants. Wright stated that this is not a question-and-answer format this meeting is for Atkins to establish that she has met the requirements of 15.06 and we need to stick to the requirements of the hearing. Atkins stated that she doesn't meet those requirements. Wright said that sounds like a very easy decision then and that if Atkins has nothing further to state then the board has no other option than to deny her variance. People spoke over each other. Donaubauer said they will finish up with proponents of the request and then they will get to opponents of the request. Foust stated the old farmhouse on Muhs Circle submitted a plot plan to the access easement that was approved. He said he doesn't know what changed between Atkins 2021 plot plan and the 2018 plot plan for that house. He said there was a gravel approach from 1st Street to this house for many years. The City just sent them a letter and made them update it. Martens stated that it is his understanding the certificate of occupancy was issued for that house the same way Atkins was able to build her pole building and after that happened the dispute about the access easement came up. He said that Bristley had hired a lawyer and that lawyer came to the City and pointed out that something had not been recorded properly to identify the access easement. Martens said that he was advised that until there was court ruling on it not to proceed and that's where he is as a staff member. Gruenhagen called for a point of order. He said the proceedings were for a variance and there were a lot of clouds being cast they didn't have the power to rule on it. He said much of this issue was being litigated and the application was for a variance. What the Jones did or anyone else did is neither here nor there. He said his point of order was to stick to the topic at hand. Donaubauer said he was correct. Donaubauer called for opponents to speak and Bristley said he would not speak to the litigation but there was a plot plan submitted and a variance and he thinks that is what the board is here to consider. He said the next trial date was February 28, 2027, regarding this issue. Atkins quoted state code she said applied to the

litigation and said she sent this code to Martens and said there are illegally recorded documents. Rich Thiede said he formerly lived in Eldridge and spoke on behalf of Atkins. He asked the board to honor the predecessors of Eldridge, and he questioned is there even an easement. He said people should be good neighbors and work together. Joy Bush said they live in 151 Muhs Circle and thought they had an easement and when they found out that easement was not in effect they talked to Colin the builder and got a verbal commitment but didn't get anything in writing. When they found that out as homeowners were required to put in a driveway so they could have access off first three years ago and the approach to first they just put in. They thought in needed to be blacktop so didn't put it in when they put in the driveway, but when they got the letter from the City they put it in right away. She said she feels everyone in the City should be held to the same standards and there shouldn't be exceptions made for one property owner over another. Brian Bush said the gravel easement he understood was grandfathered in due to the age of the property but wanted to know if you connect to it if it would require a hard surface. He said it should be required back to where Atkins wants to attach to it. J. Bush addressed Atkins and said she had five years to figure this out. Donaubauer said it is in court and outside the scope of the City of Eldridge. Iossi it seemed if this went any farther this would just create more friction in the neighborhood. He said the board has already decided that as a board they can't approve the request, at least that is what the legal counsel has said. He said that he felt the developer and realtor were responsible for the issues with Atkins and Bush's properties. He feels they are responsible for this entire thing. He said the developer had an agreement with a prior owner that was never put into law. He said he thinks they should be paying for everything the city is now requiring. He said Atkins submitted a plan in 2025 and was ready willing and able to build a driveway and now she is going to renege and try to use the lane to save some money. He said he understands that but goes back to the deception of the developer. Atkins asked what she is supposed to do now and Wright said she doesn't think the Board of Adjustments will be giving that direction. Donaubauer agreed he said they need to deal with the item on the agenda.

Gruenhagen made a motion to close the public hearing and Hayungs seconded. Motion carried 4-0. Donaubauer closed the Public Hearing at 5:40 p.m.

Gruenhagen commented that the law said there has to be an all-weather surface and the courts need to figure out rest. Donaubauer said that requirements for Standards for Variances in 15.06 were pretty clear that it has to be a hardship opposed in an inconvenience and that it can't have been created by the wording in the ordinance. If we were to approve the variance, we have no idea how this is going to play out in court. Atkins asked if the board had the authority to forego a hard-weather surface in the interim of litigation. Donabauer said that was outside the scope of the board. Wright said the board had the authority to provide a variance from the all-weather surface requirement if all the requirements for a variance are established. Hayungs commented that the board is only able to grant a variance if a hardship has been determined to be had and a court date is not a hardship and there is not a limited use to this property. Having to put in a hard surface driveway on her own property does not limit the use of the property. It is just a cost and a cost is not a hardship.

Hayungs made a motion to deny the variance. Ferguson seconded. All ayes by roll call vote.

Motion to adjourn by Hayungs at 5:46 p.m. Second by Gruenhagen. Motion carried.

Respectfully submitted,

Eric Gruenhagen

Karl Donaubauer
Dean Ferguson

Paul Hayungs
Bob Kuehl

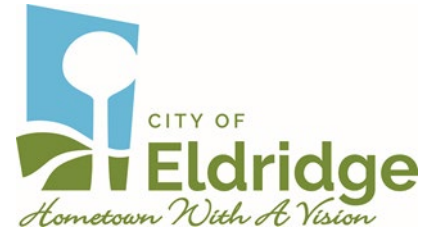
Jeff Martens
Assistant City Administrator

Eric Gruenhagen

Karl Donaubauer
Dean Ferguson

Paul Hayungs
Bob Kuehl

City of Eldridge MEMORANDIUM



To: Board of Adjustment
From: Jeff Martens, Assistant City Administrator
Re: 221 S 27th Avenue Use on Review Request
Date: 09/17/2026

Renee Ward has submitted a Use on Review application to operate a home daycare out of her residence located at 221 S. 27th Avenue for up to four children.

This property is in an R-1 Single Family Residential zoning district. Both home occupation businesses and childcare centers are listed as permitted Use on Reviews in this district.

Below is a screenshot of the property location. There appears to be more than adequate parking available off the street to accommodate this use.





BOARD OF ADJUSTMENT APPLICATION USE ON REVIEW

Property Address 221 S. 27th Avenue, Eldridge, IA 52748

Use On Review Requested In home daycare including my own grandchildren

For a Use on Review to be granted, a non-self-imposed hardship must be shown. Explain your hardship:

max children 4

Applicant Name Benee Ward
Address 221 S 27th Ave, Eldridge IA 52748
Phone Number [REDACTED]
Email Address [REDACTED]

Title Holder's (If different than applicant)

Name _____
Address _____
Phone Number _____

Signature of Applicants (s) Benee Ward

Signature of Title Holder(s)
(if different than applicant) _____

On 8 1/2" x 11" paper, please provide the following:

- A scale accurate drawing showing the property location and boundary lines
- A scale accurate site plan showing developed features on the site and location of any requested variances

For office use only

Amount Due \$ 150
Filing Fee Paid \$ 8/10/2020
Payment Method Check

Date Filed 8/10/2020
Publication Date 9/9/2020
Hearing Date 9/17/2020

PUBLIC HEARING NOTICE
CITY OF ELDRIDGE

The City of Eldridge Board of Adjustment will conduct a public hearing at 5:00 p.m., September 17, 2026, at the Eldridge City Hall, 305 N 3rd Street, on the following matter:

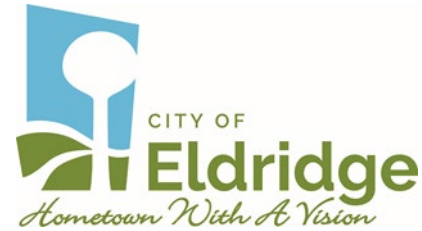
Renee Ward has submitted a Use on Review application to operate a home daycare out of her residence located at 221 S. 27th Avenue for up to four children.

Additional information regarding this matter may be obtained from city hall during regular business hours. Interested individuals may make comments regarding this matter at the meeting. Written comments will be accepted until 4:00 p.m. September 17, 2026.

Jeff Martens
Assistant City Administrator

Please publish on Wednesday September 9, 2026

City of Eldridge MEMORANDIUM



To: Property Owner
From: City of Eldridge
Re: 221 S. 27th Avenue
Date: 09/9/2026

Renee Ward has submitted a Use on Review application to operate a home daycare out of her residence located at 221 S. 27th Avenue for up to four children.

You are receiving this letter because you own property within 200' of this property.

A public hearing has been set for September 17, 2026, at 5:00 p.m. at City Hall, 305 N. 3rd Street, on this matter. Additional information regarding this matter may be obtained from city hall during regular business hours. Interested individuals may make comments regarding this matter at the meeting and written comments will be accepted until 4:00 p.m. on September 17, 2026.

