

**Due to the COVID-19 concerns and social distancing recommendations, a virtual meeting is being offered. Participants wishing to speak on a topic should message the meeting moderator. All participants are asked to mute their individual computers at times when they are not speaking to minimize background noise. Join: <https://us02web.zoom.us/j/88235687776>*

**NOTICE OF A REGULAR MEETING
BONDURANT BOARD OF ADJUSTMENT
APRIL 9, 2024**

NOTICE IS HEREBY GIVEN that a Regular Meeting of the City Council will be held at 5:00 PM on April 9, 2024, in the Bondurant City Center, 200 Second Street, Northeast, Bondurant, Polk County, Iowa. Said meeting is open and the public is encouraged to attend.

AGENDA

1. Call to Order
2. Roll Call
3. Perfecting and Approval of the Agenda
4. Approval of Minutes
 - a. March 12, 2024 Minutes
5. **Action Items**
 - a. Public Hearing - Consideration of a variance request to Section 178.02.1. of the Zoning Code to allow for an increase in maximum allowable fence height in a street-side yard to construct a 6'-tall fence.
 - b. Resolution - Consideration of a variance request to Section 178.02.1. of the Zoning Code to allow for an increase in maximum allowable fence height in a street-side yard to construct a 6'-tall fence.
6. Adjournment

City of Bondurant

Board of Adjustment
200 2nd St NE, PO Box 37
Bondurant, IA 50035



Meeting Minutes

DATE: March 12, 2024

1. Call to Order 5:02 p.m.

Board Members and City Staff gave brief introductions.

Place Bondurant City Hall (200 2nd St NE, PO Box 37)

Special Note: Due to concerns of the COVID-19 virus and social distancing recommendations, access to the meeting was also provided through a virtual meeting

2. Roll Call

Members Present: Greg Hanson, Diane VanWyk, Jolita Uthee, Matt Farver

Members Absent: Jon Klein,

City Officials Present: City Planner, Isaac Pezley
Planning and Community Development Director, Maggie Murray

3. Perfecting and Approval of the Agenda

Motion by Member VanWyk, seconded by Member Farver to approve of the March 12, 2024, meeting agenda. Vote on Motion 4-0-0. Motion carried.

4. Approval of Minutes

Motion by Member VanWyk, seconded by Member Hanson to approve of the November 14, 2023 meeting minutes. Vote on Motion 4-0-0. Motion carried.

5. Action Items

- a. **PUBLIC HEARING:** for consideration of a variance request to Section 178.03.4.H. of the Zoning Code to allow for an increase in maximum allowable accessory building height for a structure in a Medium Density Residential (R-2) District to construct a 13'2"-tall accessory structure.

Public Hearing opened at 5:01 p.m.

Pezley described the variance request to the Board. Pezley stated the applicant is able to meet accessory structure requirements however, staff does not believe it would take away from the existing character of the neighborhood.

Pezley stated staff mailed public hearing notices and staff received one letter from a neighbor. This letter is attached to the minutes.

Erik Nikkel, applicant, addressed the Board. Nikkel stated he can construct a building meeting code, however it would not fit architecturally with the primary structure. Nikkel stated the main

issue is the roof pitch, the roof pitch Nikkel would like to use results in the accessory structure to exceed the 12' maximum accessory structure height requirement. Nikkel stated with the proposed 8' side walls the roof would need to be very flat to meet the 12' maximum height requirement.

Farver asked what the pitch of the primary structure is. Nikkel stated he does not have an exact measurement but it is in the 6/12 to 7/12 range. Farver asked how Nikkel plans to access the proposed accessory structure. Nikkel stated it will be accessed from the rear yard and the garage door will face north.

VanWyk asked if any other accessory structure in this neighborhood exceeded 12' or had variances. Pezley stated there are no variances in this area, but he is not sure if all accessory structures meet the 12' maximum height requirement. Pezley stated the maximum height requirement was 14' and was amended about five years ago, meaning there may be accessory structures built to the 14' maximum height requirement. If that is the case, those accessory structures are considered legal non-conforming. VanWyk asked why the maximum height was lowered, Pezley stated he is not sure as the minutes from the Planning and Zoning Commission and City Council meetings do not go into great detail.

VanWyk asked if there are any structures that were granted a variance since the maximum height requirement was lowered. Pezley stated yes, one variance was granted for a 15' detached garage and the applicant requested an 18' maximum height. Board members had additional conversations about the previously approved variance and history of approving like variances. Pezley provided additional history regarding the adoption and amendments of the accessory structure code.

Public Hearing was closed at 5:22 p.m.

- b. RESOLUTION NO. BA-240312-01: Motion granting a variance request to Section 178.03.4.H. of the Zoning Code to allow for an increase in maximum allowable accessory building height for a structure in a Medium Density Residential (R-2) District to construct a 13'2"-tall accessory structure..

Utsee stated if code allows for that size of accessory structure the required pitch to meet the maximum height requirement would look very odd. Farver agreed, stating the proposed pitch makes sense and fits the character of the property and neighborhood. VanWyk stated there is precedence for allowing this type of variance.

Motion by Member VanWyk, seconded by Member Farver, for approval of Resolution No. BA-240312-01.

Roll Call – Ayes: Member Utsee, Member VanWyk, Member Hanson, Member Farver Nays: None. Absent: Member Klein, Vote on Motion 4-0-0. Motion carried.

- c. Election of Officers.

Motion by Member VanWyk, seconded by Member Pitt, to elect Member Hanson as Chairperson and Member Klein as Vice-Chairperson.

8. Adjournment

Motion by Member Farver, seconded by Member Hanson to adjourn the March 12, 2024, meeting. Vote on Motion 4-0-0. Motion carried.

Meeting adjourned.

To whom it may concern,

My name is Kevin Gaulke and I live at 805 13th St SE. I live immediately to the east of the property owner requesting the variance. I am in support of the approval of this request. I know the person planning to building the structure and believe what they intend to build will fit in with the character of the neighborhood.

Thanks,

Kevin Gaulke

Sent from my iPhone

Kevin Gaulke, sent 3/10/2024 at 6:02 PM



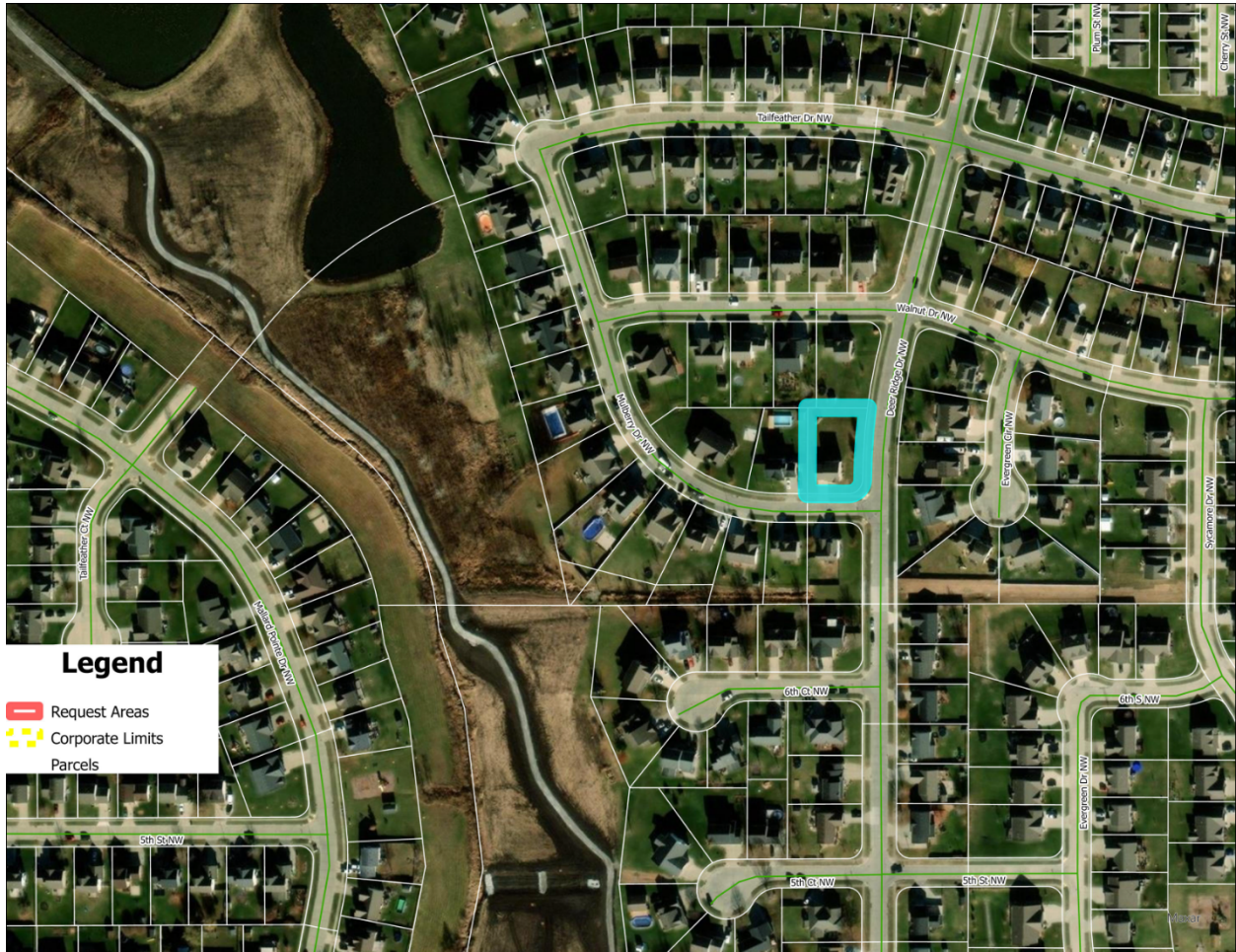
**BUSINESS OF THE BOARD OF ADJUSTMENT
BONDURANT, IOWA
AGENDA STATEMENT**

Item No. 5.a.
For Meeting of 4/9/2024
Public Hearing

TITLE: Public Hearing - Consideration of a variance request to Section 178.02.1. of the Zoning Code to allow for an increase in maximum allowable fence height in a street-side yard to construct a 6'-tall fence.

CONTACT PERSON:

BRIEF HISTORY & ANALYSIS: The City has received a variance request for property located at 300 Mulberry Drive NW and described as Lot 2 in Arbor Ridge Plat 2. The submitted variance request is to allow for a variance to Section 178.02.1. of the Zoning Code to allow for an increase of the maximum fence height requirement in a street-side yard. The variance request is for the construction of a fence with a maximum height of 6' located in the rear and street-side yard of 300 Mulberry Drive NW. Section 178.02.1. states a fence maximum height of 6' in street-side yards.



Cameron Hainer, 300 Mulberry Drive NW, is requesting a variance to allow for the construction of a 6' fence that will be located in his rear and street-side yard. Section 178.02.01. states the maximum height of fences in a street-side yard is 4'.

The proposed fence would be located in both the rear yard and street side yard of 300 Mulberry Drive NW. Hainer is proposing to install 17 feet of fence connecting to the northwest corner of his house and his neighbor's existing fence. The other portion of the fence would extend 38 feet from the northeast corner of Hainer's house to 1' behind the sidewalk. The fence would then turn north 82' and follow the curve of the existing sidewalk. Then the fence will extend 106' to the west to connect into his neighbor's existing fence. Hainer has submitted a fence permit showing these dimension, the permit application is included in the packet.



Above is an aerial map showing each yard type at 300 Mulberry Drive NW. The red shaded area is the front yard of the property. Green shaded represents the side yard, blue represents the rear yard and the yellow shaded area represents the street-side yard. Per Section 178.02.01., no fence located in the red- or yellow-shaded areas can be greater than 4' in height. Fences located in the green- and blue-shaded areas may be a maximum of 6' in height.

Analysis:

Chapter 27.02 of the City Code provides the required review criteria by the Board of Adjustment for variance requests. The City Code notes that a variance cannot be granted unless the Board finds that all of the following five questions can be answered

favorably for this request. These review criteria are referred to as Findings of Fact. If a board member cannot answer all of these findings favorably for the request, then the board member must vote for denial of the variance. Below is a summary of staff's comments on the required findings of fact relative to this request. Uploaded as an attachment is the applicant's statements on these findings relative to this request.

1. Can the land in question still yield a reasonable return if the variance was not granted?

The land in question would still yield a reasonable return if the variance was not granted. A fence would be able to be installed in all yards.

2. Do special conditions and circumstances exist which are peculiar to the land, structure, or building involved?

Staff feels that special conditions and circumstances do not exist which are peculiar to the property involved. Corner lots are not unique, and still provide property owners with the ability to construct fences in all yards.

3. Do the special conditions and circumstances of Question 2 result from the actions of the applicant, or are they beyond the applicant's control?

Staff does not feel there are special conditions and/or circumstances that exist which are peculiar to the building involved.

4. Will granting the variance confer on the applicant any special privilege that is denied to other lands, structures, or buildings?

Staff does feel that granting a variance will confer on the applicant a special privilege due to the answers listed in Questions 2 and 3. Staff has enforced Section 178.02.01. on other properties in town and fences have been installed and met all fence related requirements.

5. Will granting the variance alter the essential character of the land in question?

Staff does not feel that granting this variance will alter the essential character of the land in question.

FUNDING SOURCE:

STAFF RECOMMENDATION: The following options exist for the Board of Adjustment:

1. Approval of BA-240409-02 regarding approval of the variance request to Section 178.02.1. of the Zoning Code to allow for an increase in maximum allowable fence height for a fence in a street-side yard to construct a 6'-tall fence.
2. Approval of BA-240409-02 regarding approval of the variance request to Section 178.02.1. of the Zoning Code to allow for an increase in maximum allowable fence height for a fence in a street-side yard to construct a 6'-tall fence, subject to appropriate conditions and safeguards as allowed by Chapter 27 of the City Code.
3. Denial BA-240409-02 regarding approval of the variance request to Section 178.02.1. of the Zoning Code to allow for an increase in maximum allowable fence height for a fence in a street-side yard to construct a 6'-tall fence.

4. Table BA-240409-02 pending additional input.

Staff makes no recommendation for this variance request.

APPROVED FOR SUBMITTAL:

ATTACHMENTS:

1. Variance Application - Case 95 - Hainer
2. Variance Case 95 - Hainer - Applicant Statement
3. Hainer Fence Permit



City of Bondurant

Planning and Community Development
200 2nd St NE, Bondurant, Iowa 50035
(515) 967-2418 • planning@cityofbondurant.com

BOARD OF ADJUSTMENT APPLICATION

Property Owner

Full Name

Address

City State Zip

Phone Email

Applicant (if not Property Owner)

Full Name

Address

City State Zip

Phone Email

CONDITIONAL USE PERMIT

Submittal Requirements:

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

Property Address or Parcel ID Number:

- Completed Application
- Filing Fee: \$350
- Written narrative indicating the conditional use sought and response to criteria outlined for said conditional use.
- Legal Description of Subject Parcel(s)
- Other information as required

VARIANCE

Submittal Requirements:

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

Property Address or Parcel ID Number:

- Completed Application
- Filing Fee: \$350
- Site plan and Elevations (when applicable)
- Written narrative indicating justification for the proposed variance in relation to findings of fact outlined in the City of Bondurant's Code of Ordinances in Section 27.02.2. (see page 2)
- Legal Description of Subject Parcel(s)
- Other information as required

The undersigned hereby certifies that all information provided is complete and accurate to the best of the undersigned's knowledge, and that all information required by this application or by the Board's staff on its behalf has been provided.

Signature

Date

FOR OFFICE USE ONLY

BOA Agenda Date

Case No.

Received Date



City of Bondurant

Planning and Community Development
200 2nd St NE, Bondurant, Iowa 50035
(515) 967-2418 • planning@cityofbondurant.com

BOARD OF ADJUSTMENT APPLICATION

CONDITIONAL USE PERMITS

Conditional uses require closer scrutiny and analysis to the subject property and its surroundings due to the special impacts or uniqueness of these types of developments. Each conditional use may have specific requirements for the type of use proposed. Please review your zoning districts permitted conditional use section within the city of Bondurant’s Code of Ordinances under Chapter 178 ‘District Regulations’.

Notifications

Notice of a public hearing is provided to the owner of the property via mail or email and to the public through a publication in a local newspaper. Properties within two-hundred (200) feet will receive a mailing from the city.

BOARD OF ADJUSTMENT MEETINGS

The Board of Adjustment meets the 2nd Tuesday of each month at 5:00pm at the City Hall. Agenda packets are posted to the City of Bondurant’s website for each meeting. Please visit the following link for all agendas and meeting minutes:

CityofBondurant.com/Minutes-and-Agendas

PAYMENT OF APPLICATION FEES

Permit application fees can be paid by a check made payable to the City of Bondurant or through our online payment portal:

MunicipalOnlinePayments.com/Bondurantia

VARIANCES

A variance is not a zoning change, but instead a project –specific change in requirements allowed on a specific property. Variances do not involve the establishment of new codes, regulations, or policies. Instead, a variance allows a deviation from certain provisions of the zoning code and its standards due to specific circumstances.

Notifications

Notice of a public hearing is provided to the owner of the property via mail or email and to the public through a publication in a local newspaper. Properties within two-hundred (200) feet will receive a mailing from the city.

Findings of Fact

The following questions must be answered and submitted by the applicant as part of a submittal for a variance. A variance cannot be granted unless all findings of fact can be answered favorably for the request.

1. Can the land in question still yield a reasonable return if the variance was not granted?

This asks whether the property owner could establish any beneficial use on their property without a variance.

2. Do special conditions and circumstances exist which are peculiar to the land, structure, or building involved?

Special conditions or platting features peculiar to the lot itself must be precluding the applicant from complying with the zoning code. This may include physical features such as steep slopes or floodplains. These conditions and circumstances must be unique to the parcel in question.

3. Do the special conditions and circumstances of Question 2 result from the actions of the applicant, or are they beyond the applicant’s control?

Provide evidence that the hardship is not self-imposed.

4. Will granting the variance confer on the applicant any special privilege that is denied to other lands, structures, or buildings relative to the property?

Explain how the variance is not advocating for rights superior to neighboring properties or those in the same zoning district.

5. Will granting the variance alter the essential character of the land in question?

Though granting the variance allows deviation from the zoning code, the variance must not change the intent of the Code or change the character of neighbors who are in the same zoning district.

Variance Written Narrative for 300 Mulberry Dr. NW, Bondurant, IA 50035

To whom it may concern,

I am writing this narrative to address my case for the variance for my property. I am wanting to build a 6 foot privacy fence that extends towards the sidewalk from the back of my house, then goes straight back to the back of my property, and ending by connecting to my neighbor's fence to the west. Also given to the board should be a site plan for the desired outcome of the fence with the fence permit application. There are a few reasons that I am wanting to have a 6 foot fence instead of a 4 foot that is currently permitted by the city. To begin I just want the privacy that a 6 foot fence provides for my family. I have 2 young boys and plan to continue to grow my family and we want the privacy and protection that a 6 foot fence provides. We live on the corner of a busy street. When work is being done on Grant, Deer Ridge is the street that is used as the main trafficked path. I understand most people don't want to think this way, but knowing that I don't want to have to worry if my children are out playing that a stranger could walk by and reach over a 4 foot fence. We live in very different times then when I grew up where you played out until the street lights came on and then you went home, and as a parent, the safety of my children are the most important thing for me.

With that being said I want to highlight some question that are asked on the variance application. If I were to have to comply with the current code I would need to take a 6 foot fence directly from the back of my house to the back of my property. Doing this would cut my yard in half with a 6 foot fence in the middle. I understand that would grant me the privacy in a limited way but if I were to every want to sell the house, a fence in the middle of the yard would not help nor do I think it would have a very good curb appeal for the city. Also to that point if I were to comply with the current code I would be building the entire east side of the fence on a hill. There is a downward slope moving east to west that is in direct line from the back of my house where the fence would have to go. This would make building the fence much more difficult with having to account for the slant. In line with question 3 I obviously didn't create the hill, it is just the natural scope of the land. I don't believe that granting me this will show any superior rights because if you drive through our town you find many houses that have 6 foot privacy fences that stretch to the sidewalk. I think that the fence that I can put up would add value to my property and also not add sightline issues to the corner stop sign that is on Mulberry. I say that because I was told that could be a reason that my application was originally denied. I don't think this would change anything for the zoning code. I believe that if you want something like this you have the right to fight for it and the worst the board can tell me is "no".

I just want to end by saying thank you to the board for taking the time to hear my variance application. I do hope that I am granted this so that I can get right to work to provide the privacy and safety for my family. Thank you again and I hope you have a wonderful day.

Thank you,
Cameron Hainer
Owner of property



City of Bondurant

FENCE PERMIT

\$65.00

200 Second St NE, PO Box 37 Bondurant, IA 50035 | Ph: 515-967-2418

Bondurant

TYPE OF FENCE: Wooden Chain Link Metal PVC-Plastic DATE: _____

FENCE HEIGHT: 4' 6' Other: _____

See Page 2 for information on the Zoning Code's allowable fence height requirements.

LOCATION

CONTRACTOR

ADDRESS: _____

NAME: _____

PHONE: _____

EMAIL: _____

RESIDENTIAL NON-RESIDENTIAL

COMPANY: _____

ADDRESS: _____

PHONE: _____

EMAIL: _____

CONTACT NAME: _____

Drainage Easement

Yes No

If yes then a 3" gap is required between the ground and the bottom of solid wood, PVC, and metal fencing to allow for water flowage (in the easement area). Questions? Email planning@cityofbondurant.com

City Code Requirement Notes (Chapter 177.02):

A site plan must be included as part of your fence permit application. You may use Page 2 for this requirement.

Confirming property lines, easements, and private restrictive covenants are strictly the responsibility of the property owner and/or contractor.

The finished surfaces of the fence shall face out toward adjacent properties and street frontages; meaning the supporting posts, rails, and other such supporting elements must face the property on which the fence is located.

If there is a transformer or utility pedestal proposed for enclosure within the fencing area, a gate or removable panel shall be incorporated into the design of the fence to ensure continued access back to such utility.

The following minimum fence setbacks shall be required for any existing electrical transformers or utility pedestals either on the property or within close proximity: at least 10' away from the front panels of such utilities and at least 3' away from the remaining sides. Alternatively a removable panel may be installed to meet these setback requirements.

Easements - fences constructed within utility easement areas are at risk; meaning the City is not responsible for repair/replacement should access ever be needed to the utilities within the easement area. See Drainage Easement section above for requirements specific to this type of easement.

Per State law, a property owner and/or contractor shall notify Iowa One Call by calling "811" or 1-800-292-8989 prior to digging.

Upon completion of project, a property owner and/or contractor shall contact Veenstra & Kimm to at (515) 225-8000 or at Jvan@v-k.net to schedule the required inspection.

Acknowledgment: I, the undersigned, declare that to the best of my knowledge all of the information given in this application is true and correct, and further agree that all work done under this permit will be done in compliance with all applicable City Code fence requirements.



Signature of Owner/Contractor

X

Building Official Approval

Date



White line is proposed 6ft privacy fence.
Fence would measure 1.5ft from the sidewalk and leave 8.5ft separation between north fence and neighbor for access to city boxes.

106ft

82ft

38ft

17ft

302

300

Deer Ridg

Deer Ridge Dr NW

Deer Ridge Dr NW

r NW

**BOARD OF ADJUSTMENT PERMIT
VARIANCE**

Date: April 9, 2024 **Case Number:** BA-240409-02 (#95)

Name: City of Bondurant

Address: 300 Mulberry Drive NW

Legal Description: LOT 2 IN ARBOR RIDGE PLAT 2, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF BONDURANT, POLK COUNTY, IOWA.

IS HEREBY GRANTED A VARIANCE to Section 178.02.1. of the Zoning Code to allow for a 6'-tall fence to be constructed in the street-side yard in excess of maximum fence height requirements in street-side yards.

All construction activities covered by this Variance Permit shall be done in strict accordance with the written application.

Greg Hanson, Chairperson