

*\*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/81659172780>*

**NOTICE OF A REGULAR MEETING  
BONDURANT BOARD OF ADJUSTMENT  
MARCH 14, 2023**

**NOTICE IS HEREBY GIVEN** that a Regular Meeting of the City Council will be held at 12:00 AM on March 14, 2023, 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. November 8, 2022 Board of Adjustment Minutes
5. **Action Items**
  - a. Public Hearing - Consideration of a variance request to Section 178.13.5 of the Zoning Code to allow for an increase in maximum allowable building height for a structure in a Limited Industrial (M-1) District to 185'.
  - b. RESOLUTION NO. BA-230314-01: a motion granting/denying a variance for the request described in Public Hearing Agenda Item #5.a.
6. Adjournment

# City of Bondurant

Board of Adjustment  
200 2<sup>nd</sup> St NE, PO Box 37  
Bondurant, IA 50035



## Meeting Minutes

**DATE:** November 8, 2022

### 1. Call to Order 5:00pm

**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, Jason Vore, Jolita Uthee

**Members Absent:** Jon Klein

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

### 3. Perfecting and Approval of the Agenda

Motion by Member Vore, seconded by Member Uthee to approve of the November 8, 2022, meeting agenda. Vote on Motion 4-0-0. Motion carried.

### 4. Approval of Minutes

Motion by Member VanWyk, seconded by Member Vore to approve of the April 19, 2022 meeting minutes. Vote on Motion 4-0-0. Motion carried.

### 5. Action Items

a. Election of Officers.

Murray stated the previous Board of Adjustment Chairperson has moved outside City of Bondurant City limits a new Chairperson needs to be appointed. Murray asked if Hanson would be interested in serving as Board Chairperson. Vore stated he would be willing to serve as Vice-Chairperson

Motion by Member VanWyk, seconded by Uthee, to appoint Greg Hanson as Board Chairperson and Jason Vore as Board Vice-Chairperson. All-in favor; Vote on Motion 4-0-0. Motion carried.

b. **PUBLIC HEARING:** for consideration of a variance request to Section 179.01.2.I.6 of the Zoning Code to allow for a reduction in the amount of primary building materials required by the Overlay District for street-facing building elevation at 2340 Hubbell Avenue SW.

Public Hearing opened at 5:04 p.m. Murray provided the Board with an explanation of the variance request and where the applicant is located. Murray stated the applicants recently had a site plan approved for a parking lot and an additional office building. The property is located in

an overlay district requiring additional building materials requirements. The applicants are proposing to have fasteners located on the outside of the proposed office building will be exposed but painted to match the existing industrial building located on the site. The overlay district requires all fasteners to be covered. Murray stated staff recommends approval of the variance request. The request would allow them to match the proposed office building to the existing industrial building.

John Finarty with Lake View Construction Services, representing MidStates Precast Solutions, addressed the Board. Finarty stated Lake View Construction Services built the original building and will be the general contractor for the proposed office building. Finarty stated the proposed building will be located behind an existing berm which will hide most of the building. Finarty stated requiring the fasteners to be covered would increase the cost of the project.

Murray added there was significant berming and landscaping required on the original site plan. Vore stated when a vehicle is passing the building they are unlikely to notice the fasteners. Finarty stated they want to keep all of their buildings uniform and looking the same as one another.

The Board asked if the variance request is for the screws and fasteners only or for other materials as well. Murray stated the agenda statement is general, but the variance would address the fasteners, having only one building material requirement. The Board asked if the overlay district was adopted at the time the original building was built. Murray stated the original site plan was approved prior to her working for the City but it is her understanding the Overlay District had been adopted into code but was not enforced. The Board asked if the variance would be for this building only or for the entire property, Murray stated the Board could approve the variance for either.

Vore asked staff if the Board will see more variance requests regarding meeting overlay district requirements. Murray stated staff will be reviewing the overlay district architectural requirements as part of a larger update to the Zoning code.

Public Hearing was closed

- b. RESOLUTION NO. BA-221108-02: Motion granting/denying a variance for the request described in Public Hearing Agenda Item #5.b.

Motion by Member VanWyke, seconded by Member Vore, for recommended approval of Resolution No. PZ-221108-02 *“For consideration of a variance request to Section 179.01.2.1.6 of the Zoning Code to allow for a reduction in the amount of primary building materials required by the Overlay District for street building elevations at 2340 Hubbell Avenue SW”*

Roll Call – Ayes: Member Hanson. Member VanWyk. Member Vore. Member Uthe. Absent: Member Klein  
Vote on Motion 4-0-0. Motion carried.

## **8. Adjournment**

Motion by Member Vore, seconded by Member Uthe to adjourn the November 8, 2022, meeting.  
Vote on Motion 4-0-0. Motion carried.

Meeting adjourned at 5:18 PM



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

Item No. 5.a.  
For Meeting of 3/14/2023  
**Public Hearing**

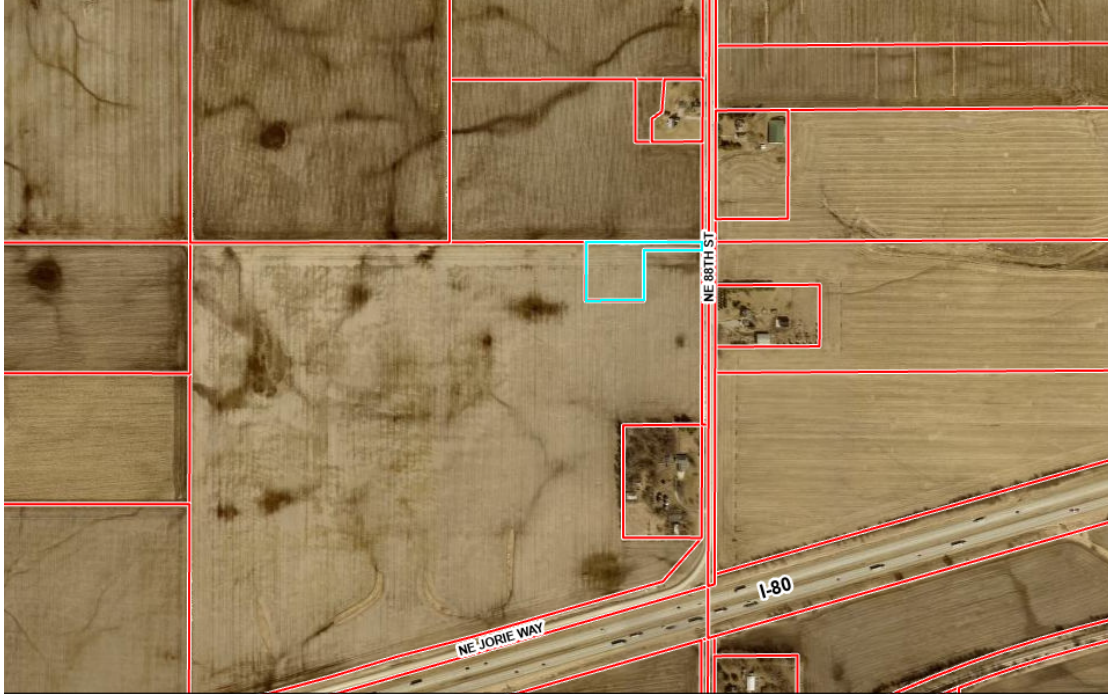
**TITLE:**

**PUBLIC HEARING:** for consideration of a variance request to Section 178.13.5. of the Zoning Code to allow for an increase in maximum allowable building height for a structure in a Limited Industrial (M-1) District to construct a 185'-tall water tower.

**CONTACT PERSON:**

Maggie Murray, Planning & Community Development Director

**BRIEF HISTORY & ANALYSIS:** The City of Bondurant is requesting a variance for property described as Lot 1 of Timmins Acres. The submitted variance request is to allow for a variance to Section 178.13.5. of the Zoning Code to allow for an increase of the Limited Industrial (M-1) District's maximum building height requirement. The variance request is for the construction of a 185'-tall water tower structure. The water tower will be located on Lot 1 of Timmins Acres, accessible from NE 88<sup>th</sup> Street and is a part of the SE Water Tower Annexation Project.



The City of Bondurant, driven by continued growth, has identified the need for an additional water tower to address increased water demands. Currently, the City is dependent upon the feed from the Des Moines Water Works to meet peak water demands within the community. The construction of a water tower would allow for additional water storage that would lessen the dependence on the Des Moines Water Works. Multiple locations were identified and reviewed to determine their suitability for a water tower. The property currently referred to as Lot 1 of Timmins Acres, was identified as an ideal location for the placement of a future water tower.

The City of Bondurant purchased Lot 1 of Timmins Acres, highlighted in blue above, with the intention of constructing a new water tower. This property was part of the SE Water Study Annexation Area and was rezoned from the Agricultural (A-1) District to the Limited Industrial (M-1) District contingent upon completion of the annexation process.

Lot 1 of Timmins Acres is 2.27 acres and is accessible from NE 88<sup>th</sup> Street. The Lot has a 40' frontage that will serve as access to the entire site. The interior of the lot is approximately 295.16' by 295.16'. The proposed water tower will be approximately 170' in height, however, the City may consider allowing communication systems to be placed on the tower. Factoring in the height of the communication systems, the total height of the water tower would be approximately 185'. Section 178.13.5. height requirements are as follows:

*80 ft., with an additional 12 feet (1 story) of heights permitted for every 10 feet of additional building setback for an overall maximum of no more than an average of 104 feet building height from finished floor*

The water tower will meet all required building setbacks as described in Section 178.13.

**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?**

Staff feels that a variance denial could impact potential future building projects at this location at Lot 1 of Timmins Acres. The City has located this property as an ideal location for the construction of a new water tower. Lot 1's unique shape was specifically created for the purposes of siting a water tower. The recorded Timmins Acres Final Plat also notes the intent of Lot 1 is for the siting and construction of a municipal water tower. Denial of a variance would limit the property's ability to be developed, as well as force the City to locate another ideal property for a water tower.

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

Staff feels that special conditions and circumstances exist which are peculiar to the buildings involved.

The water tower the City needs to adequately supply the community and future development in the community with water is about 170 feet. This water tower will exceed the height requirement as defined in Section 178.13.5. regardless of the where it is located in the community. Currently, the construction of a 185' tall structure is not allowed on any property within the community. The Industrial Districts as defined by the Bondurant Zoning Code allow for the construction of the tallest buildings/structures in the community, this led staff to pursue a rezoning of this property to Light Industrial (M-1).

**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 feels that the special conditions and circumstances of Question 2 are beyond the applicant's control, as the average height of a water tower exceeds the maximum allowable height in a Limited Industrial (M-1) District.

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

Staff does not feel that granting a variance will confer on the applicant any special privilege due to the answers listed in Questions 2 and 3. All other lands, structures,

or buildings within Limited Industrial (M-1) Districts must meet bulk standards as required by the Zoning Code unless granted a variance by the Board of Adjustment if it is determined that all five findings of fact can be answered favorably for a request.

This project is also a municipal project that will benefit the community as a whole, addressing concerns regarding water demands.

**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. The Iowa Department of Natural Resources (DNR) also issued their Finding of No Significant impact letter for this water tower project. Below is a snippet from their letter:

The project will not significantly affect the pattern and type of land use (industrial, commercial, agricultural, recreational, residential) or growth and distribution of population. The project will not conflict with local, regional or State land use plans or policies. The project will not impact wetlands. The project will not affect threatened and endangered species or their habitats. If any State- or Federally-listed threatened or endangered species or communities are found during the planning or construction phases, additional studies and/or mitigation may be required. The project will not displace population, alter the character of existing residential areas, or convert significant farmlands to non-agricultural purposes. The project will not affect the 100-year flood plain. The project will not have effect on parklands, preserves, other public lands or areas of recognized scenic or recreational value.

**FUNDING SOURCE:** N/A

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

1. Approval of BA-230314-01 regarding approval of the variance request to Section 178.13.5. of the Zoning Code to allow for an increase in maximum allowable building height for a structure in an Limited Industrial (M-1) District to construct a 185'-tall water tower.
2. Approval of BA-230314-01 regarding approval of the variance request to Section 178.13.5. of the Zoning Code to allow for an increase in maximum allowable building height for a structure in an Limited Industrial (M-1) District to construct a 185'-tall water tower, subject to appropriate conditions and safeguards as allowed by Chapter 27 of the City Code.
3. Denial BA-230314-01 regarding approval of the variance request to Section 178.13.5. of the Zoning Code to allow for an increase in maximum allowable building height for a structure in an Limited Industrial (M-1) District to construct a 185'-tall water tower.
4. Table BA-230314-01 pending additional input.

Staff makes no recommendation for this variance request, as the City of Bondurant is the applicant.

**APPROVED FOR SUBMITTAL:**

**ATTACHMENTS:**

1. Board of Adjustment Letter



February 21, 2023

Re: Notice of Zoning Code Variance Request Near Property You Own

Dear Property Owner(s):

The City of Bondurant's Board of Adjustment will hold a meeting at 5:00 p.m. on Tuesday, March 14, 2023 at the Bondurant Community Center at 200 2nd Street NE, Bondurant, Iowa to consider a variance request near property you own. As required by Chapter 27.02 of the City Code, you have received this Board of Adjustment meeting announcement because you own property within 200 feet of the property requesting the variance. A variance is a request made by a property owner to vary from the City's Zoning Code regulations. A virtual meeting through Zoom will be offered and can be accessed here: <https://us02web.zoom.us/j/87123148070>.

The variance request being reviewed is a request to allow for a 185'-tall water tower structure to be constructed in the Limited Industrial (M-1) District in excess of maximum building height requirements of the M-1 District as regulated by Section 178.13.5 of the Zoning Code. The variance request is for property described as Lot 1 of Timmins Acres, shown on the attached aerial map.

All interested parties are welcome to attend.

For comments or questions, I can be reached at (515) 985-2813 or via email at [ipezley@cityofbondurant.com](mailto:ipezley@cityofbondurant.com).

Sincerely,

Isaac J. Pezley  
City Planner



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

Item No. 5.b.  
For Meeting of 3/14/2023  
**Resolution**

**TITLE:** RESOLUTION NO. BA-230314-01: a motion granting/denying a variance for the request described in Public Hearing Agenda Item #5.a.

**CONTACT PERSON:**

Maggie Murray, Planning & Community Development Director

**BRIEF HISTORY & ANALYSIS:** For Brief History & Analysis, see corresponding public hearing agenda statement.

**FUNDING SOURCE:** N/A

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

1. Approval of BA-230314-01 regarding approval of the variance request to Section 178.13.5. of the Zoning Code to allow for an increase in maximum allowable building height for a structure in an Limited Industrial (M-1) District to construct a 185'-tall water tower.
2. Approval of BA-230314-01 regarding approval of the variance request to Section 178.13.5. of the Zoning Code to allow for an increase in maximum allowable building height for a structure in an Limited Industrial (M-1) District to construct a 185'-tall water tower, subject to appropriate conditions and safeguards as allowed by Chapter 27 of the City Code.
3. Denial BA-230314-01 regarding approval of the variance request to Section 178.13.5. of the Zoning Code to allow for an increase in maximum allowable building height for a structure in an Limited Industrial (M-1) District to construct a 185'-tall water tower.
4. Table BA-230314-01 pending additional input.

Staff makes no recommendation for this variance request, as the City of Bondurant is the applicant.

**APPROVED FOR SUBMITTAL:**

**ATTACHMENTS:**

1. BOA Permit - Case #98

**BOARD OF ADJUSTMENT PERMIT  
VARIANCE**

**Date:** March 14, 2023    **Case Number:** BA-221213-03 (#98)

**Name:** City of Bondurant

**Address:** Not Yet Assigned

**Legal Description:** LOT 1, TIMMINS ACRES, POLK COUNTY, IOWA

**IS HEREBY GRANTED A VARIANCE** to o Section 178.13.5 of the Zoning Code to allow for a 185'-tall water tower structure to be constructed in the Limited Industrial (M-1) District in excess of maximum building height requirements of the M-1 District on Lot 1 of Timmins Acres.

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

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Greg Hanson, Chairperson