



**PLANNING AND ZONING**  
**Cerro Gordo County Courthouse**

220 N Washington Ave      Mason City, IA 50401-3254  
Tom Meyer, Zoning Administrator  
Michelle Rush, Assistant Zoning Administrator

(641) 421-3075  
FAX (641) 421-3088  
plz@cerrogordo.gov

**Staff Report**  
**Board of Adjustment**  
**Rehearing of the Variance Request**  
**May 26, 2026**

**Case No.:** 25-21

**Hearing Date:** May 26, 2026

**Request:** A variance request for the construction of a new house and attached garage related to both side yards and the front of the lot.

**Applicant:**

Gabriel Beal  
Bristol Construction  
4025 Evergreen Ave  
Joice, IA 50446

**Owner:**

Joseph & Janelle Carter  
610 Elmwood Dr  
Marshalltown, IA 50158

**Property Address:** 15458 Dodge Ave, Clear Lake, IA 50428

**Brief Legal Description:** Lot 10, Block 6, Dodges Point Park, Clear Lake Township

**Zoning:** R-3 Single Family Residential District

**Background**

This Board granted variances for this property on September 30, 2025. The original dwelling had sustained roof damage from a windstorm. The original roof slanted significantly toward the south side lot line. Side yard variances of 2 feet on the south side and 4 feet 6 inches on the north side were approved for the second story in order to raise the roofline to more closely align with the northerly roofline and allow additional headroom and living space upstairs. At that time, the first floor of the structure and footings were remaining in place.

The Cerro Gordo County Zoning Office was notified by the Clear Lake Sanitary District on January 27, 2026, that the entire dwelling had been removed down to the foundation with some new footings. Staff contacted the contractor, who explained that when demolition and remodeling work began in fall 2025, conditions were discovered that included rot and mold in the wall framing, sill plates, floor joists, and some areas with missing or inadequate footings

and support. According to the contractor, footings on the west, south, and east sides were replaced to structurally secure the dwelling area. The rebuilding of the first floor and new footings were not part of the site plan when the original permit was issued.

The plans submitted for this variance request show construction of a dwelling in substantially the same footprint as the previous dwelling. The prior variance request for the second story was granted on September 30, 2025. On March 12, 2026, the contractor located the lot pins on the property. Previous setback measurements shown on the 2025 site plan had been taken from the website Beacon, which is not an accurate platform to determine exact setbacks.

The updated site plan submitted with the present variance application, based on located lot pins, requests a 2-foot side yard setback (6-feet is required) on the south side, which is consistent with the previous application. The amended application now shows the garage at 32 inches from the north side lot line at its closest point (6-foot setback is required), which is significantly closer than reflected on the original variance application based on the contractor's corrected measurements. The north side of the house is shown at 8 feet from the north side lot line at its closest point and therefore meets the 6-foot side yard requirement on that side.

Because the dwelling was demolished down to the foundation, the owners have also applied to extend the garage 15 feet toward Dodge Avenue and 4 feet toward the south to allow additional storage and living space above. Staff visited the site on March 12, 2026, and the garage was no longer standing. The contractor stated that winds had knocked the walls down. The previous garage was approximately 24 feet by 20 feet. The proposed garage will be 24 feet by 39 feet and will be 15 feet from the front lot line (30-foot setback is required). The previous garage was approximately 32 inches from the north side lot line at its closest point (6-foot setback is required). The garage was not parallel with the north side lot line, and the distance between the garage and north side lot line increased as the garage extended east toward Dodge Avenue. The applicants also propose a new deck on the lakeside, or rear, of the dwelling that meets required setbacks.

The variance case was heard by the Board of Adjustment on March 31, 2026. The Board had three members present for a quorum and voted 2-1 to approve. **Iowa code section 335.17 states: The concurring vote of three members of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, or to decide in favor of the applicant on any matter upon which the board is required to pass under an ordinance or to effect any variation in an ordinance.** Therefore, the variance was not approved.

The applicant applied for a rehearing under section 4.13(b) of the Rules of Procedure adopted November 30, 2021, and the Board of Adjustment heard the request on April 28, 2026. The required criteria for a rehearing includes as follows under 4.13(b): **New evidence is submitted which could not have been reasonably presented at the regular meeting.** The Board voted 3-2 to set the matter for rehearing.

The matter was set for a rehearing on May 26, 2026.

## Variance Request

Structure	Request(s)	Requirement(s)
Two-story dwelling	2-foot south side yard setback	6-foot side yard setback required in the R-3 District – Article 11.6
Two-story garage	32 inches from north side lot line	6-foot side yard setback required – Article 11.6
Two-story garage	15-foot front yard setback	30-foot front yard setback required – Article 11.6

## Findings of Fact

1. Gabriel Beal with Bristol Construction is the applicant for the proposed project.
2. Joseph and Janelle Carter are the owners of the property.
3. The property is zoned R-3 Single Family Residential.
4. The demolished dwelling was approximately 2 feet from the south side lot line; a 6-foot side yard setback is required.
5. The proposed two-story attached garage will be 32 inches from the north side lot line; a 6-foot side yard setback is required.
6. The proposed dwelling would be reconstructed in substantially the same footprint.
7. The proposed two-story attached garage will be 15 feet from the front lot line; a 30-foot front yard setback is required. This is beyond the previous footprint of the demolished garage.
8. The contractor states that new footings were installed on the south side of the dwelling area and on portions of the east and west sides. This work was completed without a permit.
9. The application was filed on February 15, 2026. The amended site plan was submitted on March 13, 2026.
10. The living area in the proposed plans is the following: 1<sup>st</sup> story of dwelling - 38 feet by 40 feet (1520 square feet); 2<sup>nd</sup> story above the dwelling - 38 feet by 40 feet (1520 square feet); 2<sup>nd</sup> story above the garage – 24 feet by 39 feet (936 square feet). Total living area is 3976 square feet.
11. The request for a variance was heard on March 31, 2026.
12. The variance received 2 ayes and 1 nay vote at the March 31, 2026, meeting and therefore under Iowa Code section 335.17, did not receive the concurring 3 votes to decide in favor of the applicant.
13. The applicant requested a rehearing of the case and as provided for under Rules of Procedure section 4.13(b), the Board heard the matter on April 28, 2026.
14. The Board approved the rehearing with a vote of 3 ayes and 2 nays to schedule the variance request for rehearing on May 26, 2026.

## **Analysis**

### **1. Public interest: Granting the variance will not be contrary to the public interest. Iowa Code Section 335.15(4).**

A single-family dwelling with an attached garage has existed on this property for many years, and the proposed use remains residential in nature. The prior dwelling was located approximately 2 feet from the south side lot line at its closest point, and the prior attached garage was located approximately 32 inches from the north side lot line at its closest point.

Reducing the required side yard setback from 6 feet to 2 feet on the south side and 32 inches on the north side could substantially weaken the dimensional standards established by the zoning ordinance. Work was performed outside the approved variance and building permit issued in 2025. If the Board determines the structure could have been located, reconstructed, or modified to meet the required setback, the requested variance may be considered a design or construction preference rather than a unique, non-self-created practical difficulty. The Board therefore could question whether granting the variance would observe the spirit of the ordinance or constitute a reasonable application of the zoning regulations.

### **2. Special conditions – practical difficulties: Owing to special conditions a literal enforcement of the provisions of the ordinance will result in practical difficulties to the property owner in making a beneficial use of the property allowed by the zoning ordinance. Iowa Code Section 335.15(4)**

Dwelling (house). The application indicates the contractor demolished the dwelling and poured new footings on the south side of the lot (figure 2) in which the variance for the 2-foot setback has been requested. The new footings were constructed without a permit and are located where the previous structure was located. The application of the side yard setback requirement (6-foot) would require a redesign or relocation of the proposed new dwelling. The Board may consider whether the prior location of the original dwelling and footings creates a practical difficulty in building the new dwelling in compliance with the required 6-foot side yard setback in Article 11.6 of the Cerro Gordo County Zoning Code.

Attached garage. The evidence shows the proposed new garage is larger than the prior garage, extending 4 feet further to the south and 15 feet closer to Dodge Avenue. The applicant is requesting a variance for a 15-foot front yard setback towards the road (30-foot is required) and a 32-inch side yard setback to the north (6-foot is required). The cement slab from the previous garage is still on the property. The Board may consider whether the prior location of the original garage and slab creates a practical difficulty in building the new attached garage in compliance with the required 6-foot side yard setback in Article 11.6 of the Cerro Gordo County Zoning Code.

**3. Spirit observed – substantial justice done: The spirit of the Ordinance is observed, and substantial justice is done by granting relief. Iowa Code Section 335.15(4).**

The prior dwelling had a 2-foot south side yard setback, and the attached garage had a 32-inch north side yard setback while the previously demolished garage met the 30-foot front yard setback. The proposed new dwelling generally follows the location of the demolished dwelling. The Board may find that allowing reconstruction in substantially the same footprint is consistent with the established development pattern on the lot.

**4. Unique and not self-created: The owner must prove under Iowa Code Section 335.15(4) the practical difficulties are unique to the property and not self-created.**

The previous dwelling and garage were set closer to the side yard setbacks than allowed in the zoning code. The dwelling and garage have been demolished, and no structures currently exist at the site.

The applicant constructed new footings on the south side of the lot in the previous existing footprint along with part of the east and west sides of the lot. The applicant did not have an approved variance or building permit to construct new footings or construct a completely new dwelling and attached garage. The previously approved variance and building permit only allowed the remodel of the 2<sup>nd</sup> story of the previous dwelling.

Self-created. A difficulty could be considered self-created when the claimed practical difficulty was caused or materially contributed to by the owner's own conduct, project design, construction choices, lot configuration, demolition, expansion, or failure to comply with or investigate applicable zoning requirements.

Not self-created. A difficulty could be considered not self-created when it arises from special conditions of the property itself, such as lot shape, topography, lawful preexisting structure placement, easements, right-of-way constraints, or similar property-based conditions not caused by the owner.

**5. Neighborhood character protected: The applicant must demonstrate under Iowa Code Section 335.15(4) that granting the variance will not significantly alter the essential character of the surrounding neighborhood.**

A dwelling and attached garage previously existed on this property, and there are multiple two-story dwellings in the area. The attached garage with living space above on the lot to the north at 15470 Dodge Avenue is approximately 15 feet 8 inches from the front lot line. The detached garage on the lot to the south at 15450 Dodge Avenue is approximately 12 feet from the front lot line. The proposed garage would be generally in line with those neighboring structures along Dodge Avenue. The Board will need to determine whether the request would not significantly alter the essential character of the neighborhood.

**Staff Conclusions**

The record contains facts that could support different conclusions depending on how the Board weighs the history of the property, the extent of demolition and reconstruction, the installation

of new footings, and the degree to which the proposed garage expansion differs from the prior structure.

The dwelling request is more closely tied to the former footprint, and the Board could view that aspect of the application as presenting a stronger basis for relief. The garage requests involve a larger structure that extends farther toward the front lot line and maintains a reduced north side setback, which makes those requests less directly tied to the prior configuration of the site.

Although the application does not appear contrary to the public interest and does not appear likely to significantly alter neighborhood character, the present record provides more limited support on the questions of practical difficulties and whether the claimed difficulty is unique to the property and not self-created, particularly with respect to the garage and the new footings.

Accordingly, the Board may evaluate each requested variance on its own merits. In the review of all criteria, staff believes the basis for granting a variance has not clearly been met.

### **BOARD DECISION**

The Board of Adjustment may consider the following alternatives:

#### Alternatives

1. Grant the requested variance subject to any conditions as deemed necessary by the Board.
2. Grant relief less or different from the requested variance by modifying the requested variance.
3. Deny the variance.

The following motions are provided for the Board's consideration:

#### Provided motion of approval:

- I move to adopt the staff report as the Board's findings and to approve the variance as requested by the applicant, based on the Board's findings that all criteria in Iowa Code Section 335.15(4) have been met, subject to the following conditions:
  1. All construction shall comply with the Site Plan 1 submitted on February 15, 2026.
  2. Any material change in the submitted plans including a change in project size, location, height, use, or setback encroachment shall require review by the Zoning Office and may require further Board approval.
  3. No construction shall begin until a Zoning Permit has been issued by the Planning and Zoning Office.

#### Provided Alternate Action:

- I move to adopt the staff report as the Board's findings and to approve a variance with the following changes (list changes).
  1. No construction shall begin until a Zoning Permit has been issued by the Planning and Zoning Office.

#### Provided motion of denial:

- I move to adopt the staff report as the Board’s findings and to deny the variance as requested by Bristol Construction on behalf of Joseph & Janelle Carter for the following reasons:

The request does not meet the criteria in Iowa Code Chapter 335.15.

[STATE ANY OTHER REASONS FOR DENIAL]

#### EXHIBITS

- Exhibit 1: Figures 1- 10 photos
- Exhibit 2: Variance Application
- Exhibit 3: Site Plan
- Exhibit 4: House Plans
- Exhibit 5: Parcel Highlight

Figure 1  
Previous house & attached garage



Figure 2  
Photos from Clear Lake Sanitary District 1-27-26



Figure 3  
Photo of lot from Dodge Ave with garage walls lying on ground



Figure 4  
2' south side yard setback for dwelling



Figure 5  
looking west to east along north lot line at corner of garage 32" from side lot line



Figure 6  
looking east to west at north side lot pins – setback increases closer to Dodge Ave



Figure 7  
looking north to south at proposed location of garage 15' from front lot line



Figure 8  
looking north to south along rear of dwelling



Figure 9  
Looking from the lake to Dodge Avenue along south side lot line at dwelling



Figure 10  
Looking from Dodge Avenue to lake along south side lot line at dwelling



# VARIANCE APPEAL

## APPLICATION

Date Filed 2-15-26

Date Set for Hearing 3-31-26

Case Number: 25-21

Applicant Name: Gabriel Beal Phone: 641-420-4007 E-Mail: bristolconstruction@icloud.com

Mailing Address: 4025 Evergreen Ave Joice, IA 50446

Property Owner JANELLE A CARTER & JOSEPH T CARTER Phone: 641-751-8577 E-Mail: joec@marshalltown.com

Property Owner Address: 610 ELMWOOD DR., MARSHALLTOWN IA 50158

Property Description (Not to be used on legal documents): Parcel # 052232600700 Township Clear Lake

Property Address: 15458 Dodge Ave Clear Lake, IA 50428 Zoning: Residential

Brief Legal Description: L 10 BLK 6 DODGES PT PARK

### Project Description

Decision Date: \_\_\_\_\_

The project description has not changed from the variance and zoning permit that were issued on October 14, 2025. As we stated in that application, we are going to raise the roof on the left side as looking from the street to match the height of the right side second-story roof. We will not be working outside the existing footprint. This will allow for headroom in one existing master bedroom upstairs and create extra space for more bedrooms and bathrooms. We will be residing the house and replacing all the windows. This will also take care of the damage from the July 28th windstorm. We will be reframing the house due to discovered rot and decay and inadequate footings as discussed further in this application.

### Variance(s) Requested (As cited on results from denied Zoning Permit Application)

Side lot setbacks

### Criteria Justifying Variance under Standards for Review (You may add more details in the Additional Information)

As we stated in our previous variance application for the variance and zoning permit that was issued on October 14, 2025, the foundation for this property already exists and we will not be adjusting or modifying the existing footprint. We will only be adding wall height and roof line to match the existing height that is already established on the property. This roof line will modernize the look of the property to match the existing neighborhood and other houses that have been recently built nearby. This will allow for more living space within the already existing footprint of the house.

The reason we are back for another Variance Appeal is due to what we found when we began the remodeling of this project in this past fall/winter.

During demolition and remodeling performed pursuant to the previously approved variance, concealed conditions were discovered that required repair to safely proceed, including rot and mold in the wall framing, sill plates, and floor joists, as well as localized areas with missing or inadequate footings/support. These repairs and replacements were completed to correct deficiencies caused by rot and decay and to stabilize the structure, without expanding or modifying the building footprint, lot coverage, or use. Once we repaired those localized foundational issues, we put on the new first-floor joists and subfloor to protect the basement below. We now are waiting for approval to begin wall framing on the first floor and then construct the house as outlined previously.

If allowed to complete this project, the house will look the same as what was approved in the variance and zoning permit on October 14, 2025.

The requested variance is limited to adding wall height and adjusting the roof line to match the established height on the property and to allow the previously approved design to be constructed safely on the existing foundation. The proposed roof line and exterior form will be compatible with the character of the surrounding neighborhood and consistent with nearby homes, while providing additional living space entirely within the existing footprint. This request represents the minimum relief necessary to complete the project as intended, with no material adverse impact to adjacent properties.

I am the  Owner  Contract Purchaser  Other (Explain) Contractor building and representing the owners  
\_\_\_\_\_ of the property affected.

*I, the applicant, being duly sworn, depose and say that I am the owner, or that I am authorized and empowered to make affidavit for the owner, who makes the accompanying application; that the application and plan are true and contain a correct description of the proposed building, lot, work, and use to which the structure is to be placed if a variance is granted. The Planning & Zoning staff is also given permission to enter the above property in reviewing this Application.*

Applicant Signature Gabriel Beal

Date 02/15/26 \_\_\_\_\_

## VARIANCE APPEAL

### ADDITIONAL INFORMATION

Please provide any additional details below needed to fully address the standards for review and any potential impacts to the immediate vicinity that may directly result from the variance requested.

- **Public interest / minimum relief.**

Not granting the variance would be contrary to the public interest because the requested approval allows the project to be completed safely while keeping the structure entirely on its existing footprint. The side walls and foundation are already established and do not meet current side-yard setback standards; however, the project does **not** expand the building footprint or move any exterior side wall closer to the property line. The requested variance is the minimum relief necessary to continue using the existing lawful/nonconforming footprint without increasing the degree of encroachment.

- **Practical difficulties / unique conditions / not self-created.**

The practical difficulty is unique to this property because the existing structure and foundation were built/remodeled in a manner that created the current side-yard setback condition decades ago. These conditions were not created by the current owner/applicant. Strict enforcement of current side-yard setbacks would effectively require relocating or removing the existing foundation/side walls, which is not practical given the established footprint and the work already completed under prior approvals. The project does not make the setback condition worse; it maintains the same side-yard location and footprint.

- **Neighborhood character / impacts to immediate vicinity.**

Granting the variance will not significantly alter the essential character of the neighborhood because the home will remain within the same footprint and maintain the same relationship to adjacent properties as it has for many years. There is no increase in building width or side-yard encroachment, and no change in use or creation of additional dwelling units.

- **Safety and structural integrity / no adverse site impacts.**

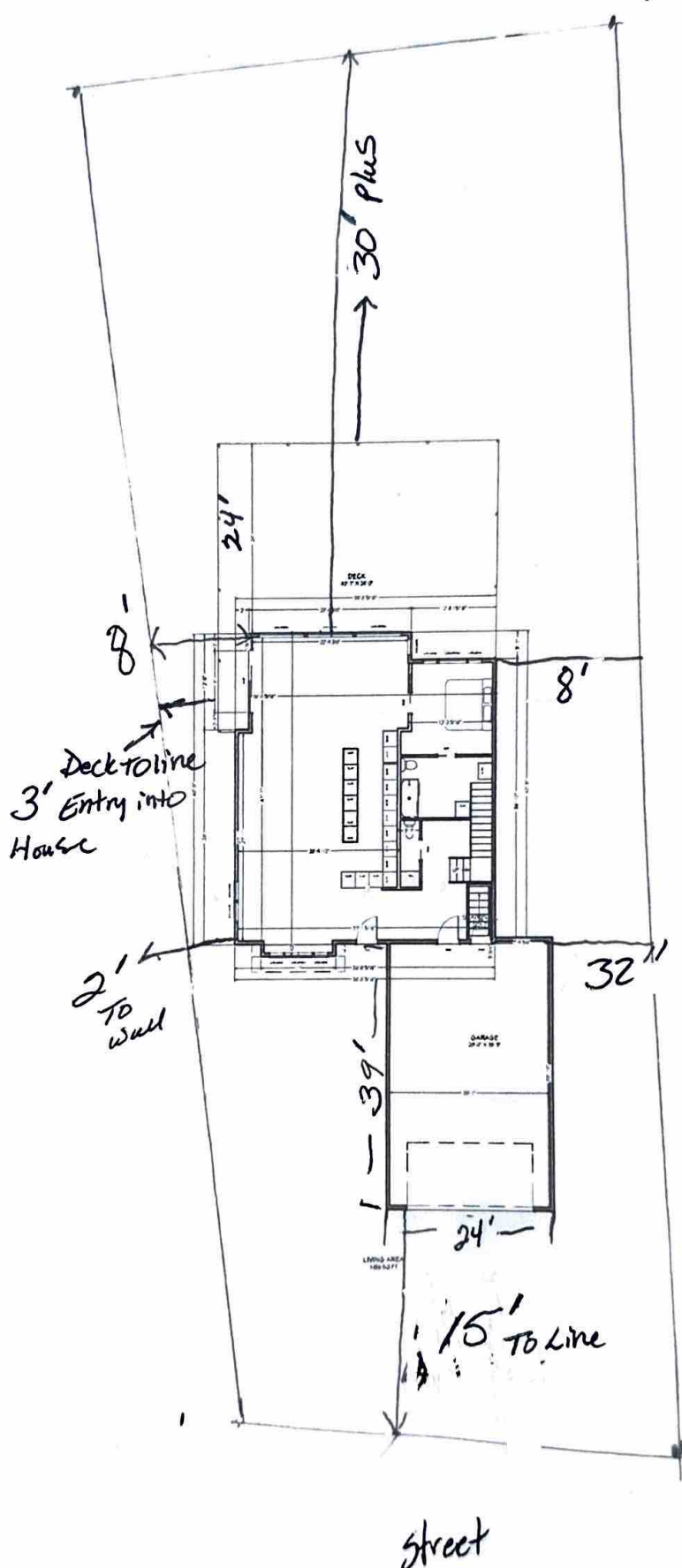
The variance supports safety and property protection by allowing repairs to address concealed rot/decay and localized foundation/support issues discovered during demolition/remodeling. These repairs improve structural integrity without expanding the footprint or changing the side-yard encroachment.

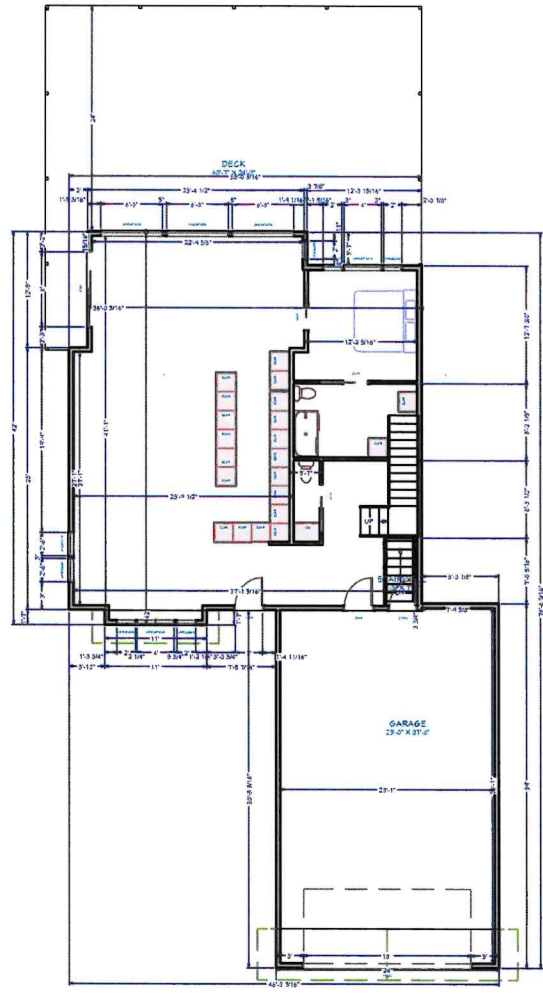
- **Spirit of the Ordinance.**

By granting the variance, the spirit of the Ordinance will be observed, and substantial justice done.

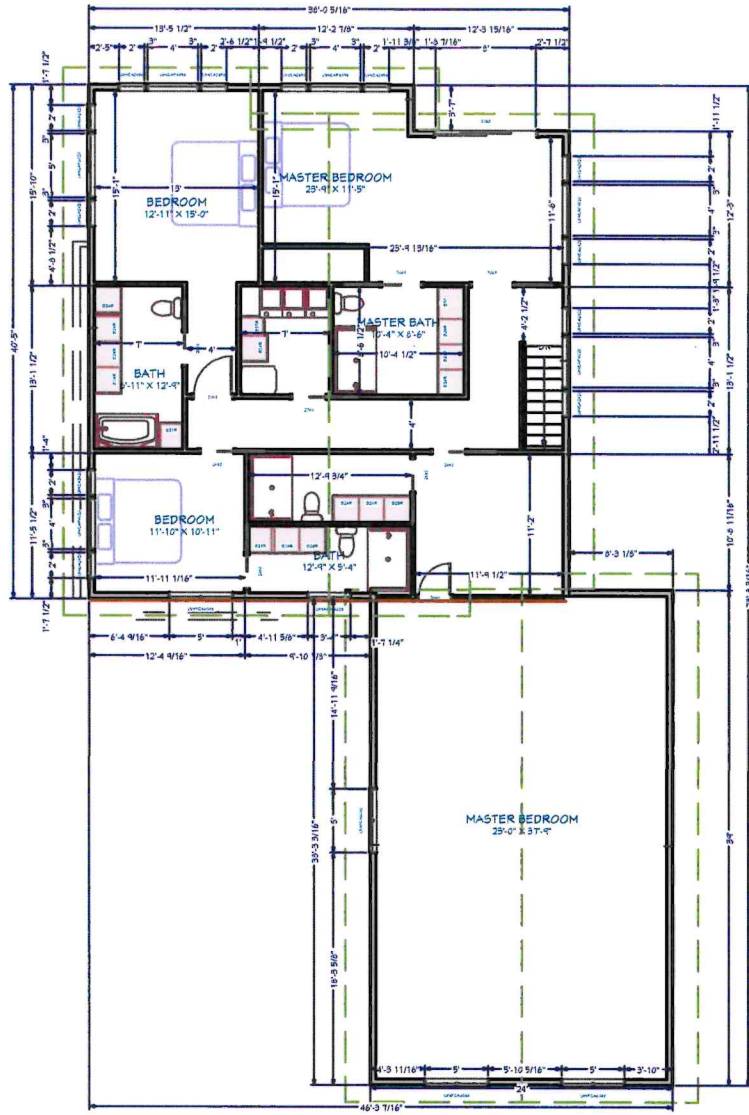
Lake

updated  
Lot Lines TO WALLS  
Found pins on  
MARCH 12<sup>TH</sup>, 2026  
USED Beacon  
MEASUREMENTS Before





LIVING AREA  
146 SQ. FT.



LIVING AREA  
2301 SQ FT







052232700500

337.44

50

50

DODGE AVE

50

50

052232606200

052232600800

052232600700

11

10

9

052232600600

8

052232600500

Clear Lake