



PLANNING AND ZONING Cerro Gordo County Courthouse

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CERRO GORDO COUNTY BOARD OF ADJUSTMENT VARIANCE STAFF REPORT

Summary of Request

Public Hearing Date: December 30, 2025

Applicant:

Don & Alice Child
15127 Elm St
Clear Lake, IA 50428

Owner:

Same

Property Address: 15127 Elm St, Clear Lake, IA 50428

Brief Legal Description: Lot 8 & ½ of Lot 7, Blk 8, Oakwood Park, Clear Lake Township

Zoning: R-3 Single Family Residential District

Background

The applicants constructed a 12'x12' pergola on the easterly side of their dwelling. A violation notice was mailed on August 29, 2025. The pergola is 5' from the easterly side lot line. A 7.5' side yard setback is required (10% of the lot width). The pergola is 2'-7" from the dwelling. A 10' separation distance is required.

Variance Request

1. Request a 5' east side yard setback for the pergola – 7.5' is required.
2. Request a 2'-7" separation distance between the pergola and the house – 10' is required.

Findings of Fact

1. Don & Alice Child are the owners of the subject property.
2. The property is zoned R-3 Single Family Residential.
3. The applicant constructed the pergola without a zoning permit.
4. The pergola is 5' from the east side lot line. A 7.5' side yard setback is required.
5. The pergola is 2'-7" from the dwelling. A 10' separation distance is required.
6. The application was filed on October 22, 2025.

ANALYSIS

The requested variance involves an area, dimensional, or other numerical limit (e.g., setbacks, height, lot size, parking, signage) and must meet the following five criteria as allowed under Iowa Code Chapter 335.15 (4). The Board of Adjustment is provided the power to grant a variance under Section 24.4(A)(3) of the Zoning Ordinance. In its review, the Board may attach certain conditions to any variance granted in order to observe the spirit of the Zoning Ordinance and Comprehensive Plan and mitigate any potential impacts that may directly result from the requested variance.

Discussion of Standards of Review per Iowa Code Section 335.15(4)

1. Public interest: Granting the variance is not contrary to the public interest.

While the pergola was constructed without a permit, it is not easily visible from Elm Street, and it does not block any neighboring views. **The standard appears to be met.**

2. Special conditions – practical difficulties: Owing to special conditions of the property, a literal enforcement would cause “practical difficulties” for the property owner trying to make a beneficial use of the property allowed by the Zoning Ordinance.

The desire for a property owner to place an accessory structure on a residential lot does not appear to be a practical difficulty. It appears there are not any practical difficulties unique to the property itself. A literal enforcement would not cause a “practical difficulty” for the owner. **The standard does not appear to be met.**

3. Spirit observed – substantial justice done: The spirit of the Ordinance is observed, and substantial justice is done by granting the variance.

The pergola is not visible from Southshore Drive and sits back from the front of the dwelling along Elm Street. The pergola does not obstruct the view of any neighbors. The pergola conveys the spirit of the ordinance and maintains the integrity of the neighborhood. **The standard appears to be met.**

4. Unique and not self-created: The difficulties are unique to the property and not self-created (e.g., lot shape, topography, prior lawful platting).

While the property has no trees and the pergola provides shade for the owners, the pergola was constructed without a permit and was self-created. **The standard does not appear to be met.**

5. Neighborhood character protected: The variance will not significantly alter the essential character of the surrounding neighborhood.

The granting of a variance would not appear to significantly alter the essential character of the neighborhood based on the surrounding area. **The standard appears to be met.**

Staff Conclusions and Recommendation

The criteria for granting a variance is evaluated above. Multiple definitions of “practical difficulty” appear to have in common some unique aspect of the land in question. Staff recommends the Board of Adjustment review the findings as related to the criteria set out above from the Code.

BOARD DECISION

The Board of Adjustment may consider the following alternatives:

Alternatives

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

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 variances as requested by Don & Alice Child, subject to the following conditions:
 1. All construction shall comply with the Site Plan submitted on October 2, 2025.
 2. 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 the variances 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 variances as requested by Don & Alice Child 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 1-2 photos
- Exhibit 2: Variance Application dated October 22, 2025
- Exhibit 3: Site plan
- Exhibit 4: Parcel Highlight

Figure 1
Looking at front of pergola from Elm Street



Figure 2
Looking at side of pergola and distance to neighbors dwelling



VARIANCE APPEAL

APPLICATION

Date Filed 10-24-25

Date Set for Hearing 12-30-25

Case Number: 25-14

Applicant Name: Don & Alice Child Phone: 641-201-0276 E-Mail: alice.marie.13@gmail.com

Mailing Address: 15127 Elm St Clear Lake CA 94542

Property Owner Name: Donald R & Alice M Child Phone: same E-Mail: same

Property Owner Address: same

Property Description (Not to be used on legal documents): Parcel # _____ Township _____

Property Address: 15127 Elm St Clear Lake CA 94542 Zoning: _____

Brief Legal Description:

WLY 25' L 7' ALL L 8 B/K 8 Oakwood Park

Project Description

Decision Date: _____

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

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

I am the ☒ Owner ☐ Contract Purchaser ☐ Other (Explain) _____
_____ 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 Donald Child

Date 10-22-27

VARIANCE APPEAL

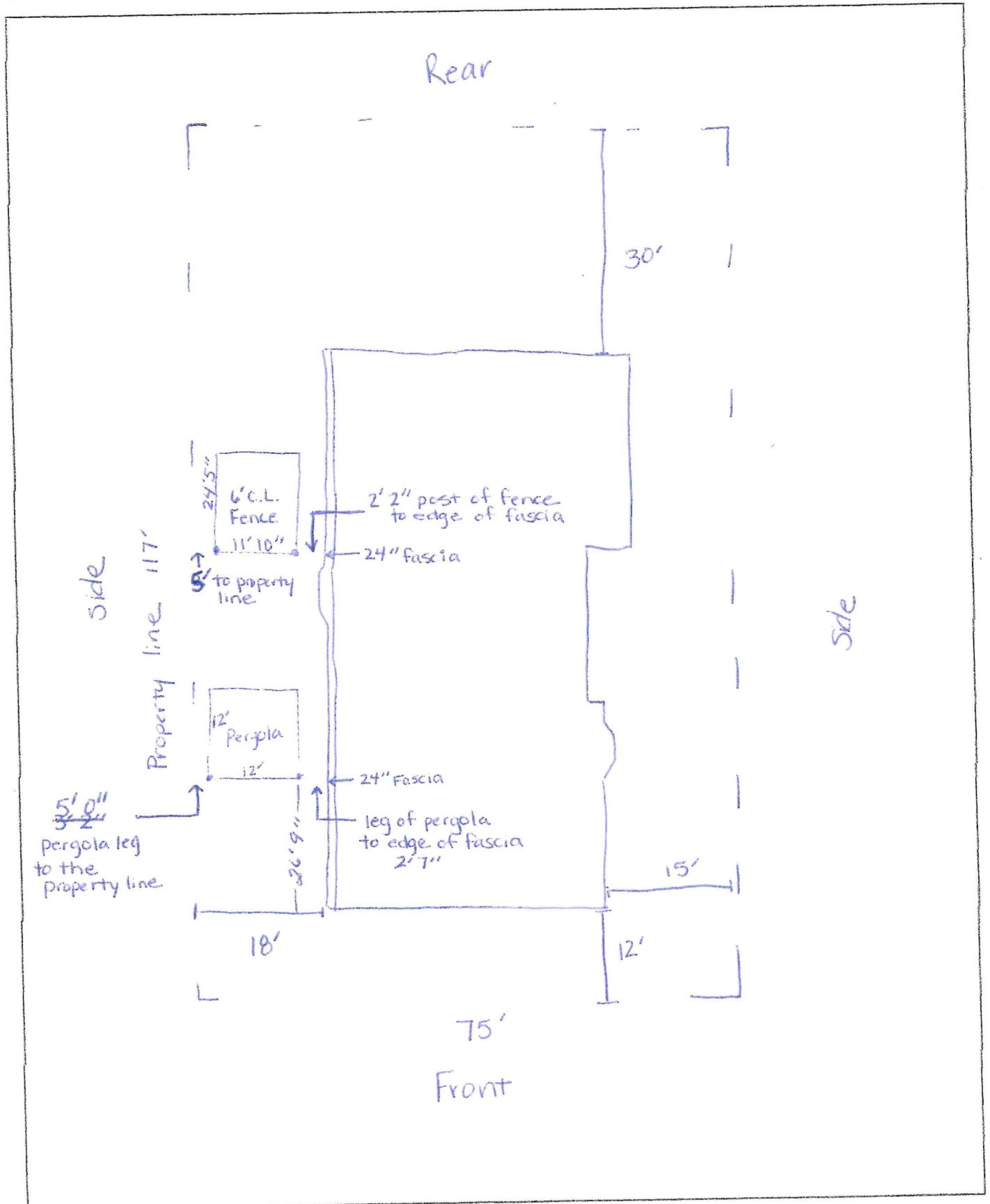
ADDITIONAL INFORMATION

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.

1. It is in the best interest of our neighborhood that our outdoor space allows us all to enjoy ourselves, and neighbors. The pergola is aesthetically pleasing and is shared with those in the community.
2. Not granting the variance would cause practical difficulties for owners, as the focus of our city is to attract and encourage a vibrant community. Removing this would create excessive cost, and destroy the aesthetics and welcoming appearance of this structure that opens its neighborly arms.
(Note: The legs are in cement, making it very sturdy and safe).
- 3.. If the spirit of the ordinance is to ensure harmonious and safe community growth, not granting the variance takes away from the property owners feeling of harmony and would deter other homeowners from creating safe outdoor spaces on their property.
4. The location of the pergola is positioned in a way that is most aesthetically pleasing to this particular property with consideration of the topography and best use of the community creating an enjoyable sitting space for the peace and enjoyment of the homeowners, their guests and neighbors. This property has no trees, so this structure provides the sole shade for outdoor enjoyment. The pergola was positioned at the back of the patio, so as to not obstruct the view of the road for any neighbor.
5. The attractive pergola enhances the character of the neighborhood. The open air environment, by its very nature opens its friendly arms to owners and visitors alike. Removing it would distort the special ambiance this pergola brings.

There are no encroachments to neighbors, nor any other negative potential impacts that may be caused as a direct result from the requested variance being granted for this pergola. Removal of it would cause hardship to the owners and remove a welcoming structure from this friendly community.

Site Plan:



052337901500

052337901300

052337901400

052337900600

052338001800

052338001700

052338000100

052338000700

052338002100

052337603700

ELM ST

SOUTHSHORE DR

PARG

100

9

55.10

69.90

75

50

6

116.87

7

8

116.87

117

16

98.03

75

68.03