



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

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**Variance Staff Report**  
**Board of Adjustment**  
**April 28, 2026**

**Case No.:** 25-23

**Hearing Date:** April 28, 2026

**Request:** A variance request to attach a 14'x7' storage shed to the south side of the existing deck related to the rear (south) lot line.

**Public Hearing Date:** April 28, 2026

**Case No.:** 25-23

**Applicant:**  
Victor Garry  
1305 W Valley View Dr  
Algona, IA 50511

**Owner:**  
Same

**Property Address:** 4629 Asbury Dr, Clear Lake, IA 50428

**Brief Legal Description:** Easterly 18' of Lot 93 & all of Lot 94, CLMC, Clear Lake Township

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

**Background**

The applicant would like to attach a 14'x7' shed to the south side of the existing deck for storage purposes and also for privacy between his deck and the deck on the north side of the VRBO rental property behind him at 4622 Wesley Drive. This is an addition to the dwelling and not a detached structure. The lot contains a 28'x30' dwelling with an attached 18'x20' deck on the west side of the dwelling. The property does not contain a garage. The applicant did have two smaller Rubbermaid type containers on the south side of the deck that will be removed if the proposed shed is approved. At the time of our site visit, one of the smaller containers was sitting in front of the deck on the parking pad. The other container was sitting in the grass behind the dwelling.

**Variance Request**

1. Request a 7' rear yard setback – 30' is required.

**Findings of Fact**

1. Victor & Tricia Garry are the owners of the property.
2. The property is zoned R-3 Single Family Residential.
3. The proposed shed will be 7' from the rear lot line; 30' is required.
4. The application was filed on March 23, 2026.

## **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.***

The applicant has indicated that approval has been received from the Bell Harbor Homeowners Association and from the owner of the rental property to the rear, which is the neighboring property most directly affected by the proposed shed. The applicant has also stated that adjacent property owners have been contacted. Based on the information submitted, staff is not aware of any specific public health or safety concern created by the request. This factor appears capable of being met, subject to any comments received at the public hearing.

#### ***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 lot is approximately 58 feet wide by 60 feet deep and contains an older dwelling built in 1930, an existing deck 18' by 20' built in 2018, an air-conditioning unit, and window wells. The property does not contain a garage.

If the owner wanted to pursue the attached shed instead as a detached structure, it could not be placed in the front of the house under Article 6.9(A) stating accessory structures may not be placed between the dwelling and the front lot line. The proposed shed could be placed 3' from the rear (south) lot line; but it would not meet the 10' separation distance between the detached shed and the deck. The applicant's proposed location appears to be influenced by the limited size and configuration of the lot and the placement of existing improvements.

Staff notes, however, that the current constraints are also affected in part by the existing deck layout. The Board may determine whether these circumstances rise to the level of practical difficulties sufficient to justify the requested relief.

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

Approval of the request would allow the applicant to add enclosed storage on a lot that currently lacks a garage and may address the privacy concern identified in the application. At the same time, the request would permit an addition to the main structure significantly closer to the rear property line than normally allowed in the district. The Board must weigh whether the lot conditions and the proposed use justify the amount of relief requested while still preserving the overall intent of the setback requirements. This factor is ultimately one for Board judgment based on the record as a whole.

***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).***

The dwelling existed on the lot when the applicants purchased the property in 2017. The lot size, existing dwelling placement, and other site features are conditions not created by the current owners. The record also reflects that the deck was added in 2018, and that improvement contributes to the present layout of the site. As a result, this factor may reasonably be viewed as mixed, with some constraints arising from the original character of the lot and some resulting from later site improvements. The Board should determine the weight to be given to each of those circumstances.

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

The proposed structure is a relatively small storage shed addition associated with a residential use. Based on the information available, the request does not appear to introduce a use that is inconsistent with the general residential character of the area. The granting of the variance does not appear to materially alter the essential character of the neighborhood. The adjacent property to the west at 4615 Asbury Drive also has a 10'x12' vinyl shed in the southeast corner of their property.

**Staff Conclusions and Recommendation**

The criterion for granting a variance is evaluated above. A practical difficulty is a property-based problem, arising from special conditions of the land, that makes strict compliance with a dimensional zoning requirement unreasonably difficult in making a permitted beneficial use of the property. It must be unique to the property, not self-created, and the requested relief must not significantly alter neighborhood character.

The Board of Adjustment must determine whether the request satisfies the variance criteria under Iowa law and the Zoning Ordinance. The property presents some limitations related to lot size, existing improvements, and available placement options for attached or detached additional storage. At the same time, the Board may consider the extent to which the current circumstances are influenced by improvements made after purchase and whether the amount of relief requested is justified. Staff offers the above analysis for the Board's consideration.

<b>BOARD DECISION</b>
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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 Victor Garry, subject to the following conditions:
  1. All construction shall comply with the Site Plan submitted on March 23, 2026.
  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 Victor Garry for the following reasons:  
The request does not meet the criteria in Iowa Code Chapter 335.15.  
[STATE ANY OTHER REASONS FOR DENIAL]

<b>EXHIBITS</b>
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- Exhibit 1: Figures 1-4 photos
- Exhibit 2: Variance Application dated March 23, 2026
- Exhibit 3: Site Plan
- Exhibit 4: Shed Details
- Exhibit 5: Parcel Highlight

Figure 1  
Garry Property from Asbury Drive



Figure 2  
Proposed location of shed on rear (south) side of deck



Figure 3

Looking west to east at distance between proposed shed and rear lot line/neighbor's deck



Figure 4

Looking east to west at proposed location of shed & neighbors shed to the west





VARIANCE APPEAL

APPLICATION

Date Filed 3-23-26 Date Set for Hearing 4-28-26 Case Number: 25-23

Applicant Name: Victor GARRY Phone: 515-320-1187 E-Mail: vgarry1187

Mailing Address: 1305 W. Valley View Drive, Algona, IA 50511 @gmail.com

Property Owner Name: Victor; Tricia GARRY Phone: Same E-Mail: Same

Property Owner Address: Same

Property Description (Not to be used on legal documents): Parcel # 05224130210 Township 96

Property Address: 4629 Asbuey Drive, Clear Lake Zoning: R-3

Brief Legal Description:

ELY 18" L 93 ; All L 94 Methodist camp

Project Description

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

Storage Shed adjacent to south side of deck  
7' x 14'

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 Victor Garry

Date 03/23/26

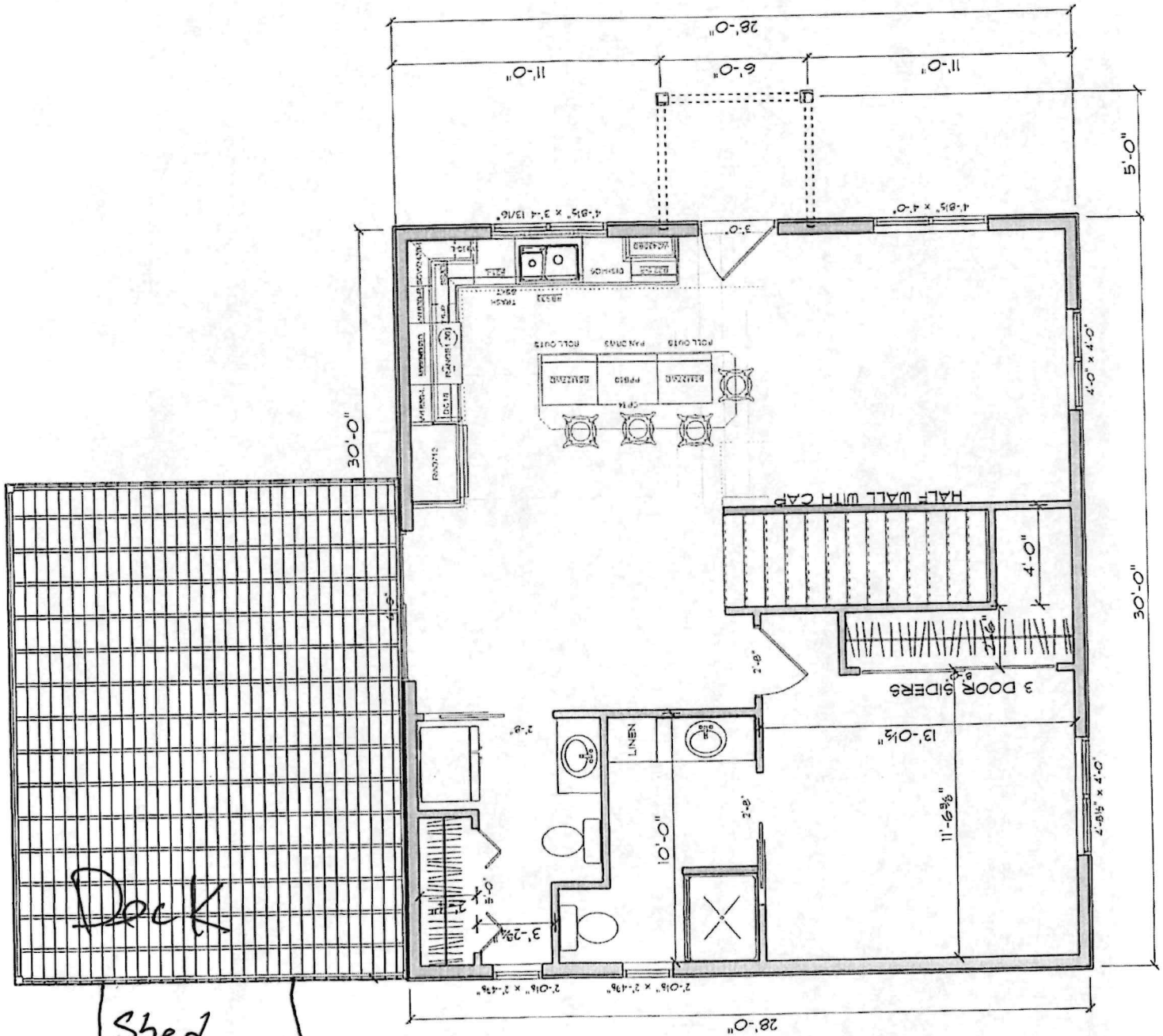
## **VARIANCE APPEAL**

### **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.

I am requesting to build a 7' x 14' storage shed on my property located at 4629 Asbury Drive, Clear Lake, in the Bell Harbor Association. It is proposed to be adjacent just to the south of the deck which is on the west end of the home. When completed the shed will be no more than 7' from the south (rear) property line. The shed will have matching vinyl siding along with same asphalt shingles as the residence. The purpose of the shed is to give us extra secured storage space to reduce clutter of the property. Being adjacent to the deck, the storage space will also create a secluded, private area for both us when we are outside, and the neighbor to the south of us, as their deck is built right against our shared property line.

I am attaching the shed drawings along with mapping of the property to show the location of the shed on the property. Also, you will see, the Bell Harbor Association has approved our request for the shed in the proposed area and I also am providing written permission from Dan Novotny which is the property owner directly to the south as he is the closet property owner that would be affected by the building of the shed. I have had conversations also with all adjacent property owners, so I do not anticipate any issues with them.

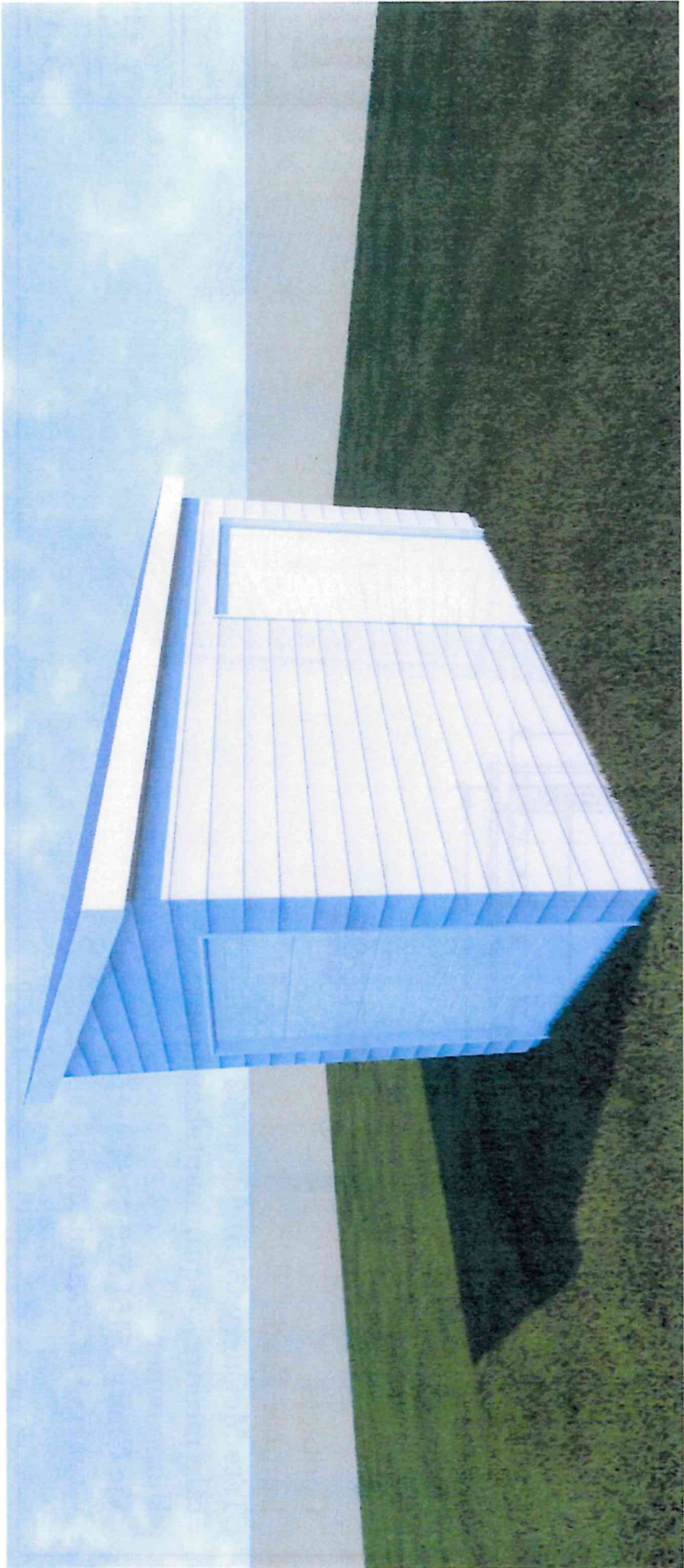


Deck

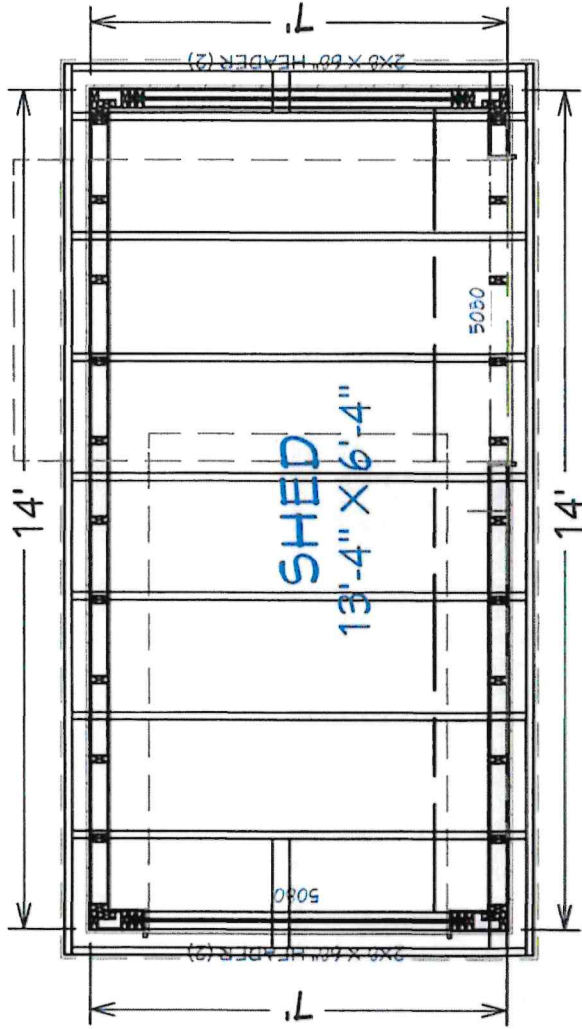
Shed

7'-00" OR MORE FROM PROPERTY LINE

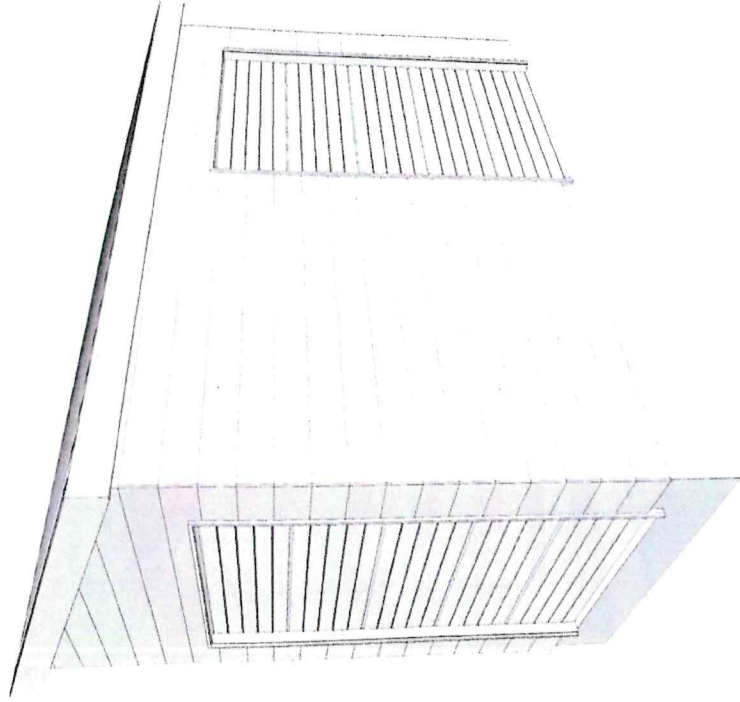
South  
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2" x 4" 12' Back Wall; 16" O.C.



Rafters 24" O.C. - 4/12  
Fastened w/ Hurricane  
Ties



1ST FLOOR  
1/2" IN = 1' FT

Contacts:  
 Lumber Yard  
 Tate McCurry (515) 890-3653  
 tate.mccurry@equipmentshare.com  
 Homeowner  
 Vic Garry (515) 320-1187  
 vicgarry1187@gmail.com

Tabloid

Garry Shed  
Plan & Elevation

CLIENT INFO

FORGE & BUILD

DRAWINGS PROVIDED BY

Algonia, IA

DATE

Spring 26'

SCALE

1/2" = 1'

SHEET

P-1

05224170000

052240304700

ASBURY DR

VAC. ASBURY DR.

R-450.1

40

58 40

052241300400

95

052241302100

94

47

052241300100

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37

052241301200

28

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116

60.10

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