

## **PLANNING AND ZONING**

## Cerro Gordo County Courthouse

220 N Washington Ave Mason City, IA 50401-3254 cgcounty.org/planning (641) 421-3075 (641) 421-3110 plz@cgcounty.org

#### SPECIAL EXCEPTION STAFF REPORT

**SUMMARY OF REQUEST** 

Case No.: 22-24 Hearing Date: October 25,2022

**Staff Contact:** John Robbins, Planning and Zoning Administrator

ApplicantOwnerJerry FlahertySame

1009 Fair Meadow Drive Mason City, IA 50401

**Property Address:** 1009 Fair Meadow Drive

**<u>Brief Legal Description</u>**: Lot 35, Fair Meadows 2<sup>nd</sup> Addition

**Zoning:** R-1 Single Family Residential

#### **Background**

The applicant proposes to construct a 20'x34' addition to the existing utility shed (See Figure 1). No complaints have been received as result of the existing utility building. The Board previously approved a variance for a 5' side yard setback for the construction of the existing utility shed on October 27, 2020. At the time, there was no special exception from bulk standards or legally non-conforming buildings, which was implemented in November 2021 as a means to modernize and clean up the Board of Adjustment processes within the Zoning Ordinance. Certain standards have been implemented for this type of request as a result.

SPECIAL EXCEPTION REQUEST*					
Structure	Request(s)	Requirement(s)			
Utility shed addition	5' east side yard setback	25' side yard setback (9.6-B)			

<sup>\*</sup>See Figure 2

#### **FINDINGS OF FACT**

- 1. Jerry Flaherty is the owner of the subject property.
- 2. The property is zoned R-1 Single Family Residential.
- 3. The proposed utility shed is 5' from the east side lot line.
- 4. A 25' side yard setback is required in the R-1 District.
- 5. The application was filed on September 27, 2022 with the Planning and Zoning Office.

#### **ANALYSIS**

The Board of Adjustment is provided the power to grant special exception under Article 6.2 of the Zoning Ordinance. The Board may grant special exception to an existing non-conforming building setback under the ordinance if, in its judgement, the standards established in Article 6.2 and the remaining standards under Section 24.4(A)(2)(a) are met. In its review, the Board may attach certain conditions to any special exception 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 special exception.

#### **Discussion of Standards of Review**

Article 6.2 (Existing non-conforming building setback): The particular setback requirement in question is not reduced beyond the existing yard dimension if closer than 50 percent of the applicable setback requirement and all other standards established under Section 24.4(A)(2)(a) of this ordinance are satisfied.

The existing machine shed has a legally non-conforming setback. The proposed addition will be the same setback (5') as the existing machine shed and will be no closer to the east side lot line (See Figure 2). The standard appears to be met.

The exception relates entirely to a permitted use (principal, special, or accessory) classified by applicable district regulations, or to a permitted sign or off-street parking or loading areas accessory to such a permitted use.

The proposed addition to the machine shed is a permitted accessory use in the R-1 District. The standard appears to be met.

The practical difficulty is due to circumstances specific to the property and prohibits the use of the subject property in a manner reasonably similar to that of other property in the same district.

The property has a limited area where a detached accessory building could be located, which creates a practical difficulty location-wise. The Zoning Ordinance prohibits a detached accessory building from being located in front of the house. There are electrical lines, the septic lines, and trees located west of the house (See Figure 3). The leech field is located within most of the rear yard (See Figure 4). Additionally, while not a mapped floodplain, the rear 30' or so of the backside of the property has a drainage way and regular water build-up through the summer months (See Figure 5). As a result, a detached accessory is limited to the general vicinity roughly around the existing machine shed. Detached accessory buildings are common in the Fair Meadows neighborhood. The standard appears to be met.

A grant of the special exception applied for, or a lesser relaxation of the restriction than applied for, is reasonably necessary due to practical difficulties related to the land in question and would do substantial justice to an applicant as well as to other property owners in the locality.

As described in the analysis of the previous standard, any additional detached accessory buildings would be limited to the general area around where the proposed addition is located. The request does not exceed and otherwise meets all other zoning requirements. This general type of structure is common in the neighborhood. There are no foreseeable negative impacts if this request would be approved. The standard appears to be met.

# Such practical difficulties cannot be overcome by any feasible alternative means other than an exception.

Due to the location of septic lines and leech field, trees, and flood areas, there is no feasible location for a detached accessory building except the generally proposed area. The standard appears to be met.

## Relief can be granted in a manner that will not alter the essential character of the locality.

Sheds, storage buildings, and workshops are common in the neighborhood. The addition will be similar to other detached accessory buildings on nearby properties. The standard appears to be met.

## <u>Discussion of Potential Impacts to Immediate Area</u>

Typically, the biggest concern with this type of request is the encroachment of buildings to neighboring properties. With the large lot sizes in the neighborhood, encroachment is less of a concern. As a result, there are no foreseeable negative impacts due to the proposed addition. There have been no complaints received regarding the existing shed.

#### **Staff Conclusions and Recommendation**

All six of the standards appear to be met. Staff recommends approval of the request.

#### **BOARD DECISION**

The Board of Adjustment may consider the following alternatives:

#### Alternatives

- 1. Grant the requested special exception subject to any condition as deemed necessary by the Board.
- 2. Grant relief less or different from the requested special exception.
- 3. Deny the requested special exception.

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 special exception as requested by Jerry Flaherty subject to the following conditions:
  - 1. All construction shall comply with the site plan submitted with the application.
  - 2. 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 special exception as requested by Jerry Flaherty for the following reasons: [STATE REASONS FOR DENIAL]

#### **EXHIBITS**

• Exhibit 1: Figures

• Exhibit 2: Special Exception Application

• Exhibit 3: Site plan

• Exhibit 4: Aerial photo of site

Figure 1

Looking at the proposed location for the utility shed addition



September 29, 2022, J. Robbins

**Figure 2**Looking northerly along the east side line



September 29, 2022, J. Robbins

**Figure 3**Looking west of the house



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Figure 4
Looking at the rear yard and leech field location



September 29, 2022, J. Robbins

Figure 5

Looking toward the rear property line and area that floods during the summer season

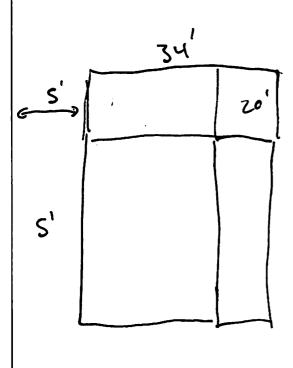


September 29, 2022, J. Robbins

# **SPECIAL EXCEPTION APPEAL**

## **APPLICATION**

Property Owner Name:	Applicant Name: Sirvy Huberty Phone: 641-430-1422 E-Mail: Wint-romoto 20  Mailing Address: 1009 Fair Mudaw Drive Property Owner Name: Sirvy Flaberty Property Owner Address: Sams  Property Owner Address: Sams  Property Description (Not to be used on legal documents): Parcel # Township Zoning:  Brief Legal Description:  Project Description:  Project Description:  Project Description:  Project Description:  Project Description:  Decision Date: 9/2 2/2:  Add. 20 Ft to Existing building  Special Exception(s) Requested (As cited on results from denied Zoning Permit Application)  Criteria Justifyling Special Exception under Standards for Review (You may add more details in the Additional Information)  The 20 ft adduct to duilding does not interfue with Existing line and lines of with property; 444 ft from buch of property to crick their runs throw it!  Subday to instruct of building on other Sidk of Lot makes property mare uniform. It is instructed to building on other Sidk of Lot makes property mare uniform. It is instructed to the Septic truth to dual with and trass on West Side of property in the Septic truth of the dual with and trass on West Side of property in income of the property affected.  The opplicant being duly swam, depose and say that I am the owner, or that I am authorized and empowered to make affidavit for the owner, on the time purposes being study adong any another members the accompanying application; and that the information provided is mue and correct and actual construction will proceed in accordance the experience in the accordance of the property affected.	APPLICA		7	2-24
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