



PLANNING AND ZONING Cerro Gordo County Courthouse

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Staff Report Board of Adjustment Variance Request July 28, 2026

Case No.: 26-01

Hearing Date: July 28, 2026

Request: A variance request to construct a fence closer to the front lot line than is allowed by the zoning ordinance and a variance request to exceed the maximum height limit allowed for a fence in the zoning ordinance.

Applicants

Jordan Clapp
15338 Bayside Ave
Clear Lake, IA 50428

Owners

Same

Property Address: 15338 Bayside Ave, Clear Lake, IA 50428

Brief Legal Description: Lots 21-23, Blk 2 Bayside & Lot 2, Blk A, Crane & Hills, Clear Lake Township

Zoning: R-3 Single Family Residential District

Background

The owner requested a variance from the Board of Adjustment to construct a new dwelling and detached garage on this property in July of 2025. The owner would now like to construct a new fence along the west side lot line that would encroach into the required 30' front yard setback.

The fence would be used for privacy and allow a fenced area for their dog. Our office did approve a 6' fence to be constructed along the west side lot line, rear lot line (north) and between the house and the detached garage. The part of the fence that has been currently permitted stands 8' tall and is not in compliance with the zoning code. The owners have communicated they are intending to cut the fence off at the top to meet the maximum 6' requirement. No time frame has been provided to the zoning department.

The approval was for the fence to begin 30 feet from the front lot line (Lee Street). The neighboring house to the west at 5110 Lee Street has an old fence that runs along their rear (east) lot line that borders the Clapp property. The fence appears to be approximately 1-2' from their south *side* lot line along Lee Street. The fence is dilapidated with missing and broken

boards. Mr. Clapp is requesting a variance of 2-feet from the front lot line (Lee Street) where 30' is required. In the alternative, if the 2- front yard setback is not approved he would like to construct the fence 18-feet from the front lot line (Lee Street) where 30' is required, which is in line with the front of his dwelling. He is also requesting a fence 8 feet in height where a maximum of 6' is allowed.

VARIANCE REQUEST

Structure	Request(s)	Requirement(s)
Privacy Fence	8' in height	6' maximum height – Article 6.31B1
Privacy Fence	2-foot front yard setback (Lee St)	30-foot front yard setback – Article 6.31B1
Privacy Fence Alternative	If 2-foot front yard setback is not granted an 18-foot front yard setback is requested (Lee St)	30-foot front yard setback – Article 6.31B1

Findings of Fact

1. Jordan Clapp is the owner of the property
2. The property is zoned R-3 Single Family Residential District.
3. The owner would like to construct a fence 2-feet from the front lot line (Lee Street) if allowed, or in the alternative, the owner would like to construct the fence 18-feet from the front lot line (Lee Street). A 30-foot front yard setback is required.
4. The applicant would like to construct an 8-foot-high fence. A maximum 6-foot-high fence is allowed on any lot used for residential purposes.
5. The application was filed on May 5, 2026, and the file was completed on June 29, 2026.

ANALYSIS

The requested variance involves area, dimensional, and numerical limitations, including fence setback and fence height. Iowa Code § 335.15(4) authorizes a county board of adjustment to grant a variance from area, dimensional, or other numerical limitations, including setbacks, height, and fencing, only when the required statutory criteria are met.

The Board of Adjustment has authority to grant variances under Section 24.4(A)(3) of the Zoning Ordinance. In reviewing the request, the Board may attach conditions to any variance granted in order to observe the spirit of the Zoning Ordinance, protect the public interest, and mitigate impacts that may result from the requested variance.

The applicant is requesting approval to construct an 8-foot-high fence either 2 feet from the front lot line along Lee Street or, in the alternative, 18 feet from the front lot line along Lee

Street. The Zoning Ordinance requires a 30-foot front yard setback for the fence and allows a maximum fence height of 6 feet on residential lots.

Staff previously approved a 6-foot-high fence along the west side lot line, the rear lot line, and between the house and detached garage, provided the fence begins 30 feet from the front lot line along Lee Street. Therefore, the issue before the Board is not whether the applicant may have a fence. The issue is whether the applicant has proven the legal basis for allowing a taller fence and a reduced front yard setback.

The requested variance involves an area, dimensional, or other numerical limit (e.g., setbacks, height, lot size, parking, signage) and must meet all of the following five criteria as allowed under Iowa Code Chapter 335.15 (4).

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

1. *Not granting variance would be contrary to the public interest.*

Not granting the variance does not appear to be contrary to the public interest. The front yard setback and fence height limitations serve legitimate zoning purposes, including preserving open front yard areas, maintaining neighborhood character, limiting visual obstruction near streets, and preventing tall privacy fencing from being placed close to the public street.

The applicant's stated reasons for the fence are privacy and creating a fenced area for a dog. Those are understandable private interests. However, the record shows that a compliant 6-foot fence has already been approved beginning 30 feet from the front lot line. The applicant can still construct a lawful fence and obtain some degree of privacy and enclosure without the requested variance.

The existence of an older, dilapidated fence on the neighboring property near Lee Street does not, by itself, establish that denial of this variance would be contrary to the public interest. A nonconforming or deteriorated fence on a neighboring property should not be used as the primary basis for expanding a new setback or height variance on this property.

Staff assessment: This criterion does **not appear to be met** based on the record submitted.

2. *Not granting the variance would cause "practical difficulties" for the property owner trying to make a beneficial use of the property allowed by the Zoning Ordinance.*

The applicant does not appear to have demonstrated practical difficulties sufficient to justify the requested variance. The property is zoned R-3 Single Family Residential District and is being used for a single-family dwelling and detached garage. That beneficial residential use exists without the requested fence variance.

A fence is allowed on the property. Staff has already approved a compliant 6-foot fence along the west side lot line, the rear lot line, and between the house and detached garage, provided the fence begins 30 feet from the front lot line. This indicates that literal enforcement of the Ordinance does not prevent the applicant from using the property for residential purposes or from having a fenced area.

The requested 2-foot setback from Lee Street would be a substantial reduction from the required 30-foot setback. The alternative 18-foot setback would be less severe but would still encroach 12 feet into the required front yard. The applicant has not shown why a compliant fence, or a lesser-relief design, would be infeasible. The desire for more privacy or a larger dog enclosure is not enough, by itself, to establish practical difficulties under the variance standard.

The request for an 8-foot-high fence also appears to be based on preference rather than necessity. The Ordinance allows a 6-foot fence on residential lots, and the record does not appear to show why a 6-foot fence would be inadequate due to special conditions of this property.

Staff assessment: This criterion does **not appear to be met** based on the record submitted.

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

The spirit of the Ordinance is to allow residential fencing while limiting the height and placement of fences in required front yard areas. A 6-foot fence beginning 30 feet from the front lot line is consistent with that balance. The requested variance would allow an 8-foot fence and either a 2-foot or 18-foot front yard setback, which would materially reduce the front yard protection required by the Ordinance.

Granting the 2-foot setback request would allow a tall privacy fence to be placed very close to Lee Street. That would substantially depart from the Ordinance's front yard setback requirement. Granting the 18-foot alternative would be less impactful, particularly if it aligns with the front of the dwelling, but the applicant would still need to prove why that reduced setback is necessary and why the fence must exceed the 6-foot height limit.

Substantial justice requires similar treatment of similarly situated properties. Approving a tall fence within the required front yard based primarily on privacy, dog enclosure, or the presence of a nearby deteriorated fence may create a precedent for similar requests where property owners prefer larger or taller fences in front yard areas.

Staff assessment: This criterion does **not appear to be met** for the 2-foot setback and 8-foot height request. The 18-foot setback alternative may be more supportable only if the Board finds, based on evidence presented at the hearing, that the reduced setback

is necessary because of the layout of the dwelling, garage, lot, or other property-specific condition. The 8-foot height request appears unsupported on the current record.

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

The record does not identify a unique property condition that creates the need for the requested variance. There is no identified unusual lot shape, topography, prior lawful platting issue, existing structure placement problem, or other physical condition that prevents compliance with the 30-foot front yard setback or the 6-foot fence height limit.

The applicant's desire for privacy and a fenced area for a dog is common to many residential properties and is not unique to this parcel. The location and condition of the neighboring fence also do not create a unique practical difficulty on the applicant's property.

The need for the variance appears to result from the applicant's preferred fence location, desired enclosed area, and desired fence height rather than from a unique limitation of the land. A self-created design preference does not satisfy this criterion.

Staff assessment: This criterion does **not appear to be met** based on the record submitted.

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

The Board should consider the visual and neighborhood impact of allowing an 8-foot-high fence within the required front yard along Lee Street and the rest of the parcel. A fence located only 2 feet from the front lot line would be highly visible from the street and would significantly reduce the open front yard character intended by the setback requirement. An 8-foot fence is also taller than what is ordinarily allowed for residential fencing and may create a more substantial visual barrier than the Ordinance permits.

The alternative 18-foot setback would reduce the degree of encroachment and may be less disruptive if it aligns with the front of the dwelling. However, the request would still place the fence within the required front yard and would still exceed the allowed fence height. The neighboring property's old, dilapidated fence should not be treated as establishing the essential character of the neighborhood unless the Board receives evidence that similar fences are common and lawful in the surrounding area.

The Board should also consider whether conditions could reduce neighborhood impact, such as limiting the fence to 6 feet in height, requiring the fence to begin no closer than the front building line of the dwelling, requiring finished materials facing outward, requiring sight-triangle compliance, and requiring removal or modification if visibility or safety issues occur.

Staff assessment: This criterion does **not appear to be met** for the 2-foot setback and 8-foot height request. The 18-foot setback alternative may be more supportable under this criteria if limited to the front building line of the dwelling and if the fence height is limited to 6 feet, but the current request for an 8-foot fence remains unsupported.

Staff Conclusions and Recommendation

Staff concludes that the applicant has not met the required criteria for approval of the requested variance as submitted. The record shows that a compliant 6-foot fence has already been approved beginning 30 feet from the front lot line along Lee Street. The applicant has not demonstrated that literal enforcement of the Ordinance would create practical difficulties in making beneficial residential use of the property, nor has the applicant shown that the difficulties are unique to the property and not self-created.

Staff recommends that with the criteria not being met the Board should deny the requested variance to allow an 8-foot-high fence.

Staff recommends that with the criteria not being met the Board should deny the requested variance to allow the fence to be 2 feet from the front lot line along Lee Street.

Staff also recommends that with the criteria not being met the Board should deny the alternative request to allow a fence 18 feet from the front lot line unless the Board receives additional evidence showing that the reduced setback is necessary due to property-specific conditions and that a compliant or lesser-relief fence design would not reasonably allow beneficial use of the property.

If the Board is inclined to approve any relief, staff recommends that the Board consider a narrower approval with conditions, such as:

1. The fence shall not exceed 6 feet in height.
2. The fence shall not be located closer to the front lot line than the front building line of the dwelling, unless a greater setback is required for visibility or safety.
3. The fence shall comply with all sight-triangle, driveway visibility, and right-of-way requirements.
4. The finished side of the fence shall face outward toward neighboring properties and the street.
5. The fence shall be maintained in good repair.
6. The variance shall apply only to the specific fence location approved by the Board and shall not authorize any additional front yard fencing or height increase.

Under Iowa law if the Board cannot make affirmative findings on all five statutory criteria, the variance should be denied.

Recommended Conditions if Approved:

1. The variance shall apply only to the construction of the fence as shown in the application materials reviewed by the Board.

2. The new fence shall be no closer than 18-feet from the front lot line, unless a greater setback is achieved during construction.
3. Stormwater, roof drainage, grading, and construction activity shall be managed on the property and shall not be directed onto adjoining properties in a manner that creates a nuisance or drainage impact.
4. Any material change in size, location, height, use, or setback encroachment shall require review by the Zoning Office and may require further Board approval.
5. All other applicable zoning, building, sanitation, floodplain, and permitting requirements shall be satisfied before construction.

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 variances by modifying the requested variances.
3. Deny the requested variance requests.

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 the applicant – **1) 8' high fence; 2) 2' front yard setback; or 3) 18' front yard setback**), 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 submitted on April 27, 2026.
 2. Any material changes 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.
 4. The owner complies with all recommended conditions in the staff report.

Provided Alternate Action with additions or changes:

- 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 requests as requested by the applicant for the following reasons:

The applicant does not meet the criteria for a variance listed in Iowa Code Chapter 335.15(4).

(Mention any additional reasons)

EXHIBITS

- Exhibit 1: Figures 1-3 photos
- Exhibit 2: Variance Application filed May 5, 2026
- Exhibit 3: Fence Site Plan
- Exhibit 4: Parcel Highlight

Figure 1
Property from intersection of Lee Street and Bayside Avenue



Figure 2
Proposed 2' marking and 18' marking from front lot line (Lee Street)
New constructed fence approved at 30' from front lot line



Figure 3
Proposed location of fence along west lot line



SPECIAL EXCEPTION APPEAL

APPLICATION

Date Filed 5-5-26

Date Set for Hearing 6-30-26

Case Number: 25-28

Applicant Name: Jordan Clepp Phone: 319-269-6449 E-Mail: jordan.c211@gmail.com

Mailing Address: 15338 Bayside Ave Clear Lake IA 50428

Property Owner Name: Jordan Clepp Phone: _____ E-Mail: _____

Property Owner Address: 15338 Bayside Ave

Property Description (Not to be used on legal documents): Parcel # 052332103500 Township Clear Lake

Property Address: 15338 Bayside Ave Zoning: Residential

Brief Legal Description:

L'S 21-22-23 B/LK 2 Bayside @ L 2 B/LK Clear Lake Mills 1st All

Project Description

Fence

Decision Date: _____

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

Proposed fence is 8' tall to match neighbors, Set back requested is to also match neighbors but would like at least same as the house.

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

Looking to add a privacy fence for privacy and also able to fence in our yard for our dog. I was hoping to match the neighbors fence to help cover it up and make our yard look aesthetically pleasing. Please see attached pictures.

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 special exception is granted. The Planning & Zoning staff is also given permission to enter the above property in reviewing this Application.

Applicant Signature [Signature]

Date 5-5-26

Strict compliance with the standards governing setback, frontage, height, or other bulk provisions of this ordinance would result in a practical difficulty upon the owner of such property and only where such exception does not exceed 50 percent of the particular limitation or number in question:

The practical difficulty is not being able to use a major portion of our yard to fence it in for our dog to be able to run and play. A 30ft setback also has a fence tying directly into a window on our house for when the fence is attached to the house. The window would not be usable or able to be escaped from in a fire.

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: This fence does not obtain a permitted use scenario.

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. Such circumstance may include: Topographical conditions; O O Surroundings; O Size and shape of the property; O O O Other extraordinary or exceptional situations. Location of public utilities or improvements on or adjacent to the subject property; Shoreline and bank conditions (lake lots): The fence would be matching the neighboring properties fence which is currently at a 2' setback.

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 substantial justice to an applicant as well as to other property owners in the locality: This is substantial justice to match the neighbors fence, which is not very well maintained and is a little bit of an eye sore to us as neighbors and also the neighborhood as well. We'd like to match their fence with a new fence to make it more aesthetically appealing to everyone, and also be able to tie directly into the side of the house to provide more fenced space for our dog. We also have two, 2 story homes directly behind our back patio looking down on it and would like to be able to put in a 8' tall fence to be able to have some more privacy.

Such practical difficulties cannot be overcome by any feasible alternative means other than an exception: There is no other way of being able to obtain a better look and more feasible area for our dog then to have the setbacks we are requesting for this fence.

Relief can be granted in a manner that will not alter the essential character of the locality: We are more than willing to look at other options if there is any but we feel the neighborhood and us would appreciate being able to cover up the current fence that is there and in return also give us better use of our yard to be able to use that extra space.









