



PLANNING AND ZONING Cerro Gordo County Courthouse

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SPECIAL EXCEPTION STAFF REPORT

SUMMARY OF REQUEST

Case No.: 24-14	Hearing Date: September 24, 2024
Staff Contact: Michelle Rush, Assistant Zoning Administrator	
Applicant: Kevin Harberts 1715 Whispering Pines Cr Cedar Falls, IA 50613	Owner: Lorna G. Harberts 1715 Whispering Pines Cr Cedar Falls, IA 50613

Property Address: 15288 6th St, Clear Lake, IA 50428
Brief Legal Description: Lt 206 and ½ of Lot 207, CLMC, Clear Lake Township
Zoning: R-3 Single Family Residential District

Background

The applicant proposes to replace the existing 10x13 steel shed with a 10x14 wooden shed. The proposed new shed will not meet the 6.6' side yard setback or the 10' separation distance between structures in the R-3 District. The existing rusted steel shed is 5' from the rear lot line and is on and over the west side lot line at the rear (SW corner) of the property. The applicant originally requested the new shed remain in this location. A second request was made for the shed to be 2' from the west side lot line which is reflected in his Special Exception Appeal Application filed on July 30, 2024. An updated site plan was submitted on September 2, 2024 reflecting the new requests below.

SPECIAL EXCEPTION REQUEST		
Structure	Request(s)	Requirement(s)
10'x14' Shed	3.3' west side yard setback 5' separation distance	6.6' side yard setback (10% of the lot width), 10' separation distance between shed and existing deck

FINDINGS OF FACT

1. Kevin and Lorna are the owners of the subject property.
2. The property is zoned R-3 Single Family Residential District.
3. The proposed shed will be 3.3' from the west side lot line and 5' from the existing deck.
4. A 6.6' side yard setback is required (10% of the lot width) and a 10' separation distance between structures is required.
5. The application was filed on July 30, 2024 with the Planning & Zoning Office.

ANALYSIS

The Board of Adjustment is provided the power to grant special exceptions under Section 24.4(A)(2) of the Zoning Ordinance. The Board may grant special exceptions to bulk standards of the ordinance if, in its judgement, the standards established in 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

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 proposed shed will be 3.3' from the west side lot line, which is 50 percent of the required 6.6' side yard setback. The proposed shed will be 5' from the deck, which is 50 percent of the required 10' separation distance between structures. All other setbacks in the R-3 Single Family Residential District are met. 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 shed will be used for personal storage, which is a permitted accessory use in the R-3 District. Additionally, there is no garage on the lot that can be used for storage. 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 proposed shed will be located west of the house in the SW corner of the lot and 3' from the rear lot line. The Zoning Ordinance prohibits accessory structures from being placed between the dwelling and the front lot line. There is little to no suitable alternative location for the shed due to the placement of the house and deck on the lot. As a result, 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.

Granting the 3.3' side yard setback allows the shed to be off of the west side lot line. Granting the 5' setback between the deck and proposed shed still allows the property owner access to his backyard. As stated above, there is little to no suitable alternative location for placement of the shed. 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 the house and deck on the lot, and the restrictions of where an accessory structure can be placed on a lot, there is no feasible location for a detached accessory structure without an exception. The standard appears to be met.

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

Sheds are common in the neighborhood. The character of the neighborhood will not be changed as a result of this request. The standard appears to be met.

Discussion of Potential Impacts to Immediate Area

Typically, the biggest concern with this type of request is the encroachment of buildings from neighboring properties. The existing shed sits on the west side lot line (See Figure 1) and encroaches over the west side lot line along the rear (SW corner) of the lot (See Figure 2). The proposed location of the new shed will improve the encroachment. The existing shed is 5' from the rear lot line (See Figure 3); the new proposed shed will be 3' from the rear lot line. While the new shed will be 2' closer to the rear lot line, a 3' rear yard setback is allowed under Article 6.9 of the Zoning Ordinance.

Staff Conclusions and Recommendation

Staff recommends approval of the request. All standards of review appear to have been met, and there are no foreseeable negative impacts as a direct result of the proposed new shed.

BOARD DECISION

The Board of Adjustment may consider the following alternatives:

Alternatives

1. Grant the requested special exception subject to any conditions 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 Kevin & Lorna Harberts, 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 Kevin & Lorna Harberts for the following reasons:

[STATE REASONS FOR DENIAL]

EXHIBITS

- Exhibit 1: Figures 1-5 photos
- Exhibit 2: Special Exception Application and Site Plan
- Exhibit 3: Parcel Highlight

Figure 1 – Existing shed along the west side lot line



Figure 2 – Looking at encroachment along west lot line from the rear of the property



Figure 3 – Looking west along the rear lot line/rear of existing shed



Figure 4 – View of distance between deck and existing shed



Figure 5 – View of property from 6th Street



SPECIAL EXCEPTION APPEAL

APPLICATION

Date Filed 7-30-24 Date Set for Hearing 9-24 Case Number: 24-14

Applicant Name: Kevin R Harberts Phone: 319-240-3693 E-Mail: Kevin@pin70@gmail.com
 Mailing Address: 1715 Whispering Pines Circle Cedar Falls, IA 50613
 Property Owner Name: Lorna G Harberts Phone: 319-240-4402 E-Mail: Lharberts@pin70.com
 Property Owner Address: 15288 6th St. Clear Lake
 Property Description (Not to be used on legal documents): Parcel # 05224140040 Township _____
 Property Address: 15288 6th St. Clear Lake, IA Zoning: R-3
 Brief Legal Description: L206 + SELY 1/2 L207 Methodist Camp

Project Description

Decision Date: _____

Replace Metal 10x13 Storage shed with wooden 10x14 Storage Shed

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

A 6.6' sideyard setback is required in the R-3 District
I requested a 2' setback from west side lot line

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

- 1) The required 6.6' side yard set back would put shed within 6" of current deck
2. yes
3. As stated in #1, I would not be able to get to the backyard as shed would be on top of current Deck.

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 Kevin R Harberts

Date 7-30-24

SPECIAL EXCEPTION APPEAL

ADDITIONAL INFORMATION

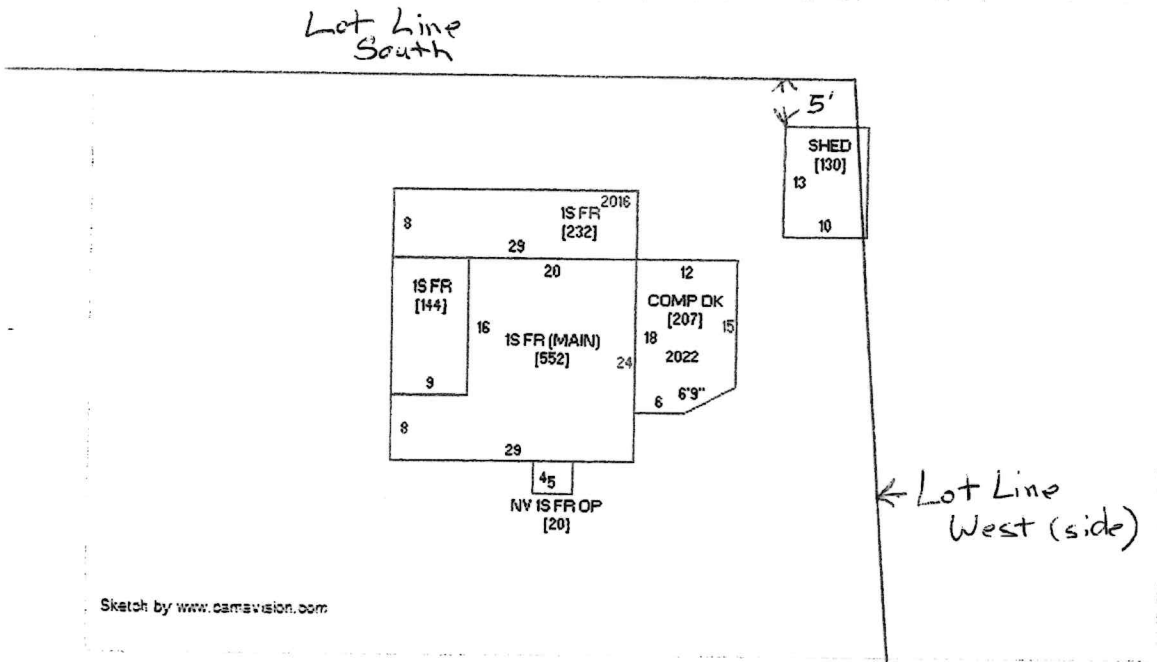
Please provide any additional details below needed to fully address the standards for review and any potential impacts to the immediate vicinity that may directly result from the special exception requested.

4. My original request in my opinion is a reasonable request, otherwise I can hardly get to my backyard. My neighbors are fine with my request. I counted 32 sheds in Bell Harbor that sit on lot lines or tight up against a cabin. My request puts my shed 19 feet away from Westside cabin.

5. I have tried laying out different, it just does not work.

6. This would not alter the character of the neighborhood.

The request change would greatly enhance the area. It takes away an eyesore of a rusted steel shed. It gets the shed back off of neighbors property. Placement of 2' instead of 6' gives my neighbor in the back some view of lake. The 6.6' blocks him totally. We would have a very nice painted shed to match the cabin.



No data available for the following modules: DBA (Doing Business As), Commercial Buildings, Agricultural Buildings, Ag Soils.

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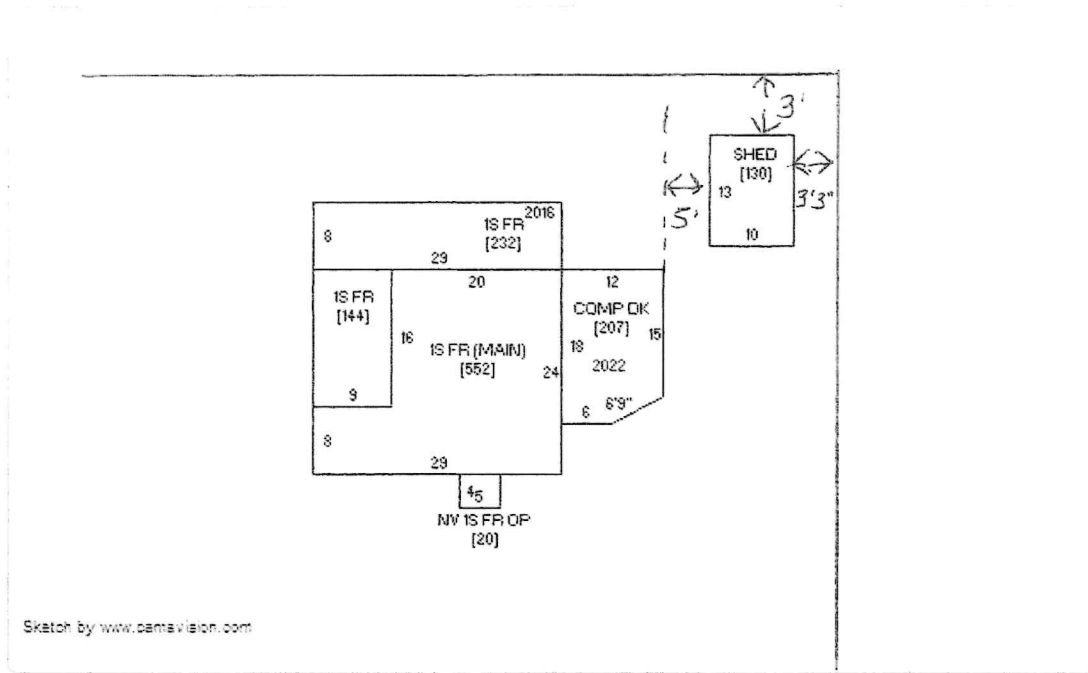
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★ **Current**

From what I understand from neighbors the shed has been approx. 1' over the lot line in the back for 25+ years.



Assessment Notices

- 2023 Assessment Notice (PDF)
- 2022 Assessment Notice (PDF)
- 2021 Assessment Notice (PDF)
- 2020 Assessment Notice (PDF)
- 2019 Assessment Notice (PDF)

Proposed
side 3' 3"
back 3'
deck to Shed 5'
shed 10' x 14'

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