



PLANNING AND ZONING Cerro Gordo County Courthouse

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Staff Report Board of Adjustment Variance Request August 25, 2026

Case No.: 26-07

Hearing Date: August 25, 2026

Request: A variance request to construct an upper-level deck over the existing lower-level deck on the rear (lakeside) of the dwelling with an east side yard setback of 1.4'. A 3' side yard setback is required.

A second variance request to enclose the lower-level deck with screening, in which the current uncovered deck has a current setback of 1.4 feet (a 6 foot side yard setback is required for a covered or enclosed deck).

Applicant:

Michael Smith
55449 160th St
Story City, IA 50248

Owner:

Same

Property Address: 2424 242nd St, Ventura, IA 50482

Brief Legal Description: Lot 1, Block 18, Ventura Heights, Clear Lake Township

Zoning: R-3 Single Family Residential District

Background

VARIANCE REQUEST

The property contains an existing lower-level deck on the rear (lakeside) of the dwelling. The deck is flush with the east and west sides of the dwelling and measures approximately 26 feet by 12 feet.

On June 26, 2026, the owner applied for a zoning permit to construct an open upper-level deck with the same footprint as the existing lower-level deck. The upper-level deck would include 36-inch handrails but would not have a roof or canopy. The owner also proposes to enclose the existing lower-level deck with screening.

The property is zoned R-3 Single-Family Residential, which requires a minimum side yard setback of 6 feet. Article 6.28(B) permits an open deck without a roof or canopy on a lake lot to encroach into a required side yard, provided the deck does not encroach closer than 50 percent of the required district setback. Accordingly, the upper-level deck must maintain a minimum side yard setback of 3 feet.

The proposed upper-level deck would be approximately 1.4 feet from the east side lot line and therefore would not comply with the 3-foot minimum setback required by Article 6.28(B).

Because the existing lower-level deck would be enclosed with screening, it would be treated as an enclosed deck or porch and would be subject to the full 6-foot side yard setback. The proposed screened enclosure would also be approximately 1.4 feet from the east side lot line. The zoning permit application was denied on July 6, 2026. The owner submitted a variance application on July 14, 2026.

VARIANCE REQUESTS:

Structure	Requested Setback	Required Setback
Open upper-level deck with the same footprint as the existing lower-level deck	1.4-foot east side yard setback	3 feet side yard setback under Article 6.28(B)
Enclosing lower-level deck	1.4-foot east side yard setback	6 feet side yard setback for an enclosed deck or porch

Findings of Fact

1. Michael Smith owns the subject property.
2. The property is zoned R-3 Single-Family Residential.
3. The property contains an existing lower-level deck on the lakeside of the dwelling that is not covered.
4. The existing lower-level deck measures approximately 26 feet by 12 feet and is flush with the east and west sides of the dwelling.
5. The owner proposes to construct an open upper-level deck with the same footprint as the existing lower-level deck.
6. The proposed upper-level deck would include 36-inch handrails but would not include a roof or canopy.
7. The proposed upper-level deck would be approximately 1.4 feet from the east side lot line.

8. Article 6.28(B) provides that an open deck without a roof or canopy may not encroach closer than 50 percent of the required side yard setback, resulting in a minimum allowable setback of 3 feet in the R-3 District.
9. The owner also proposes to enclose the existing lower-level deck with screening.
10. An enclosed deck or porch is subject to the full 6-foot side yard setback required in the R-3 District.
11. The proposed screened lower-level deck would be approximately 1.4 feet from the east side lot line (6 feet is required).
12. The zoning permit application was filed on June 26, 2026, and denied on July 6, 2026.
13. The variance application was filed on July 14, 2026.

ANALYSIS – VARIANCE REQUESTS

The requested variances involve 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.

Legal Standard for a dimensional variance under Iowa Code Section 335.15(4):

1. Granting the variance will not be contrary to the public interest.
2. Owing to special conditions a literal enforcement of the provisions of the ordinance will result in practical difficulties to the property owner in making a beneficial use of the property allowed by the Zoning Ordinance.
3. The spirit of the Zoning Ordinance will be observed and substantial justice done.
4. The practical difficulties faced are unique to the property at issue and not self-created; and
5. Granting the variance will not significantly alter the essential character of the surrounding neighborhood.

The applicant bears the burden of proving each required criterion. The Board should make separate findings regarding the sign-area variance and the side-yard setback variance.

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

1. Granting the variance will not be contrary to the public interest.

The proposed upper-level deck and screened lower-level enclosure would remain within the footprint of the existing lower-level deck and would not extend closer to the east lot line than the existing deck. This reduces the possibility of a new ground-level encroachment or additional disturbance within the side yard.

However, the proposal would intensify the use of the required side yard by adding an upper-level outdoor-use area and converting the lower-level deck into an enclosed or screened structure that could impact the lakeside view of the neighbors. The upper-level deck could create additional privacy, visibility, noise, and use-related impacts due to its height and proximity to the adjoining property. The screened enclosure would also make the lower level more permanent and usable under a broader range of conditions.

The Board should consider the separation between structures, access for maintenance and emergency response, drainage, lighting, neighboring windows and outdoor-use areas, and testimony from the adjoining property owner.

Conclusion: The present record does not establish that the variances would be contrary to the public interest, but additional evidence concerning impacts on the adjoining property is appropriate. This criterion may be satisfied if the Board determines that the improvements will not create material adverse effects.

2. Owing to special conditions a literal enforcement of the provisions of the ordinance will result in practical difficulties to the property owner in making a beneficial use of the property allowed by the Zoning Ordinance.

A deck and screened porch are customary accessory improvements to a permitted residential use. Strict enforcement would prevent the owner from constructing the proposed improvements with the same footprint as the existing lower-level deck.

Nevertheless, the property already contains a dwelling and an existing lower-level deck and can continue to be beneficially used for residential purposes. The present record does not establish that the owner is unable to make a reasonable residential use of the property without an upper-level deck or screened enclosure. It also does not establish that the deck could not be reduced in width, shifted away from the east lot line, partially constructed, or otherwise redesigned to comply with or more closely approach the applicable setbacks.

The practical difficulties standard does not require a complete loss of all beneficial use. However, the record should contain evidence showing more than the owner's preference to maximize the improvements or to construct them with the same footprint as the existing deck.

Conclusion: Based on the present record, this criterion does not appear to be satisfied. Additional evidence would be needed to demonstrate that the property's physical conditions create a meaningful practical difficulty and that reasonable compliant or less intrusive alternatives are not available.

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

The proposal would use the footprint of an existing deck rather than create a new ground-level encroachment closer to the east lot line.

However, Article 6.28(B) specifically permits open decks on lake lots to encroach into a required side yard only to a defined limit. The proposed upper-level deck would be 1.4 feet from the east lot line, where 3 feet is required. It would therefore extend 1.6 feet beyond the encroachment already permitted by the lesser Ordinance standard.

The screened lower-level enclosure presents a greater deviation. It would be 1.4 feet from the lot line, where 6 feet is required, resulting in a 4.6-foot deviation. Granting that request would allow an enclosed or screened structure to occupy most of the required side yard.

The Board should consider whether approval would preserve the purposes of the side yard standards, including separation between structures, access, privacy, light, air, drainage, and protection of neighboring properties. The upper-level deck and lower-level enclosure may be evaluated separately because the Ordinance treats open and enclosed structures differently.

Conclusion: The record provides some support for the upper-level deck because it would remain within an existing footprint. Nevertheless, it is not clear that allowing a 1.4-foot setback would preserve the specific limitation imposed by Article 6.28(B). The screened lower-level enclosure presents a substantially larger departure from the applicable setback and is more difficult to reconcile with the spirit of the Ordinance and adjoining lakeside property. This criterion does not appear to be met based on the present record.

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

The location of the existing dwelling and lower-level deck is approximately 1.4 feet from the east lot line. This limits the ability to construct improvements within the existing deck footprint while complying with current setbacks. This could support a finding of uniqueness if the location of the structures results from the lot's width, configuration, topography, prior lawful platting, or other physical conditions specific to the property.

The present record does not establish the width or configuration of the lot, the location of the dwelling relative to the other lot lines, the property's topography, or when and under what authority the existing deck was constructed. The record also does not demonstrate that these conditions prevent a smaller, shifted, or otherwise redesigned deck.

Although the existing location of the dwelling and deck may not have been created by the current owner, the decision to construct an upper-level deck with the same footprint and to screen the lower level is part of the present project design. A difficulty created primarily by the size, placement, or configuration chosen for a proposed improvement generally weighs against granting a variance.

Conclusion: Based on the present record, this criterion does not appear to be satisfied. Additional evidence is necessary to establish that the difficulty arises from physical conditions unique to the property and not primarily from the owner's preferred design.

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

Decks and screened porches are generally customary features of residential and lakeside properties. Both improvements would remain within the footprint of the existing lower-level deck, and screening the lower level may result in a limited visual change when viewed from a distance.

The upper-level deck could have a greater effect because it would create an elevated outdoor-use area approximately 1.4 feet from the east lot line. Potential effects include increased visibility into the adjoining property, noise, lighting, and activity near the side lot line. The screened lower-level enclosure would increase the permanence and potential frequency of use of that space but may produce fewer privacy impacts than the upper-level deck.

The essential character of the neighborhood should be viewed in consideration of the expectations of property owners on lots abutting the lake.

Conclusion: This criterion may be satisfied if the Board finds that similar improvements are customary in the neighborhood and that the proposal will not materially affect neighboring properties. The current record, however, does not independently establish that conclusion.

Staff Conclusions

Unless additional evidence is presented establishing each requirement of Iowa Code section 335.15(4), staff cannot recommend approval of the requested variance. Based on the information presently available, the applicant has not established all five requirements of Iowa Code section 335.15(4). In particular:

- The record does not demonstrate a practical difficulty affecting the beneficial residential use of the property.
- The record does not establish that the claimed difficulty results from conditions unique to the property rather than the proposed design.
- Reasonable compliant or less-intrusive alternatives have not been addressed.
- The screened lower-level enclosure represents a substantially greater deviation from the required setback than the open upper-level deck.

The Board may consider the two requests separately. The upper-level deck is expressly permitted to encroach into a side yard 3 feet with the request being 1.4 feet and the proposal would remain within an existing footprint. The upper deck is a significant addition to the structure.

The screened lower-level enclosure is subject to the full 6-foot setback and presents the more substantial deviation and potential impact on the neighbors.

Unless additional evidence is presented supporting affirmative findings on every applicable criterion, it does not appear the legal requirements are met.

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 upper-level deck as shown in the application materials reviewed by the Board if approved.
2. The new upper-level deck shall not exceed 26 feet by 12 feet (312 square feet in size), unless a smaller area is achieved during construction. The upper deck shall not extend beyond the dwelling.
3. The lower level deck shall not extend beyond the dwelling if the enclosure is approved.
4. 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.
5. Any material change in size, location, height, use, or setback encroachment shall require review by the Zoning Office and may require further Board approval.
6. 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 variance 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 variance as requested by the applicant, 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 updated site plan submitted on June 26, 2026.
 2. Any material change 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. Adopt all recommended conditions in the staff report as part of the approval.

Provided Alternate Action:

- 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 as requested by the applicant 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 1-3 photos
- Exhibit 2: Variance application dated 7/14/26
- Exhibit 3: Site plan
- Exhibit 4: Parcel Highlight

Figure 1
View of lower level and proposed upper-level deck



Figure 2

View of deck from ground level



Figure 3
View of lower level deck to be screened in



Michelle Rush

From: Teresa Smith <iowa3909@yahoo.com>
Sent: Tuesday, July 14, 2026 1:23 PM
To: Michelle Rush
Subject: Upper Level Deck Addition
Attachments: Proposed Deck Drawing 6.26.2026.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

External Email WARNING: DO NOT open attachments or click links from unknown senders or unexpected emails. Questions? Call 3-HELP.

Hello Michelle,
Please see the information below for a new variance application for the addition of an upper level deck to our home.
Thank you,
Teresa & Mike Smith

Upper Level Deck Addition

VARIANCE APPEAL APPLICATION

Date Filed - July 14, 2026
Date Set for Hearing:
Case Number:

Applicant Name: Michael Smith
Phone: 515-290-1225
E-Mail: iowa3909@yahoo.com
Mailing Address: 55449 160th Street, Story City, Iowa 50248

Property Owner Name: Michael Smith
Phone: 515-290-1225
E-Mail: iowa3909@yahoo.com

Property Owner Address: 55449 160th Street, Story City, Iowa 50248
Property Description (Not to be used on legal documents):
Parcel #: "05203310010 Township: Ventura Heights
Property Address: **2424 242nd Street**

Zoning: R-3

Brief Legal Description: L1 BLK 18 VENTURA HTS

Project Description: Addition of upper (2nd story) deck over main floor deck (same footprint) on rear of house to screen existing main floor deck.

Decision Date: 07/06/2026

Variance(s) Requested (As cited on results from denied Zoning Permit Application): Seeking a special exception from the bulk regulations or a variance from the Board of Adjustment in accordance with Section 24.3(B) of the Zoning Ordinance.

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

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

Granting the variance would increase the value of our home positively impacting neighbors property values.

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 addition of screened enclosure to the existing main level deck will allow our family to utilize the outdoor space of our home more throughout the summer months when mosquitoes and other insects cause extreme nuisance. In order to screen the main floor deck, this proposal is to add an upper deck over the existing footprint of the main level deck, then screen only the main level deck. The upper deck will have 36 inch hand rails for safety compliance, but no roof or other structure will be built above the upper deck flooring.

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

This request does not unduly violate the basic objectives of the zoning ordinance, in that when the house was purchased, the existing main floor deck was 3 ft from the lot line on the West and approximately 1.4 ft from the lot line on the East. The proposed structure would not encroach any further than the existing main floor deck footprint and current set backs. It would be constructed to mirror the existing current footprint. Therefore, there would be no changes to the remaining set back of 3 ft from the West and 1.4 ft from the East lot lines, respectively.

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

The property was purchased under lawful platting with the existing 2 story home already built 3 ft from West lot line and 1.4 ft from the East lot line. This request is to add an upper level deck on the existing footprint with no change to the existing lot set backs on the West and East sides.

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

Granting the variance will not alter the essential character of the surrounding neighborhood as this is a residential area. The intent is to continue to use the home as a single family dwelling. This variance will allow us to utilize the current outdoor space more during the summer months, while keeping it aligned with the neighborhood aesthetics.

In addition to the hardship standards above, the applicant must address any potential impacts to neighbors and the general area around the property, as the Board of Adjustment reserves the right to establish certain conditions upon any variance granted to mitigate potential impacts. The applicant should address such potential impacts as encroachment to neighbors, dust, drainage, glare, traffic, odors, noise, safety, or other potential impacts that may be caused as a direct result from the requested variance being granted.

As already mentioned, no encroachment to existing setbacks is being requested with this variance. Construction will be limited to standard working hours to minimize disruption. We will also use standard construction practices to control dust. We do not expect changes to property drainage, glare, odors, noise or safety. This project is a residential deck addition and will not create additional traffic beyond that of our existing family use, and as a result, the number of vehicles entering and exiting the property will remain unchanged.

I am the:
Owner **X**
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:

Date: July 14, 2026

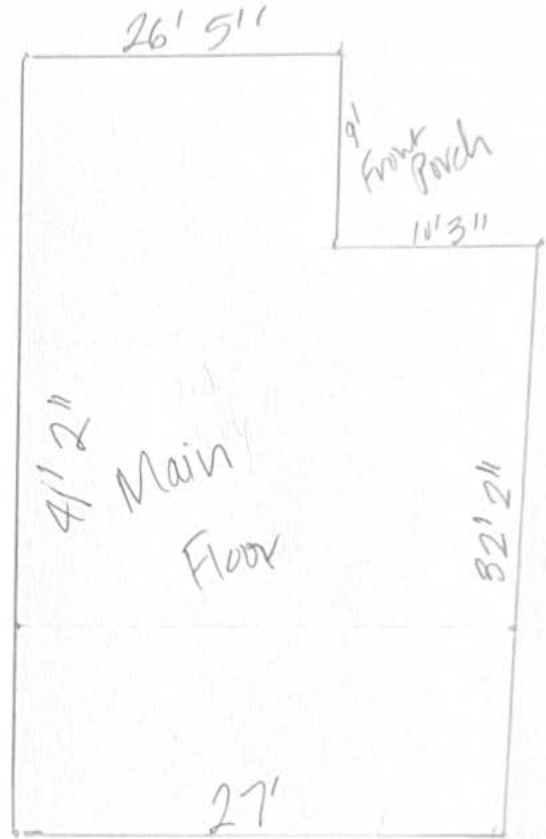
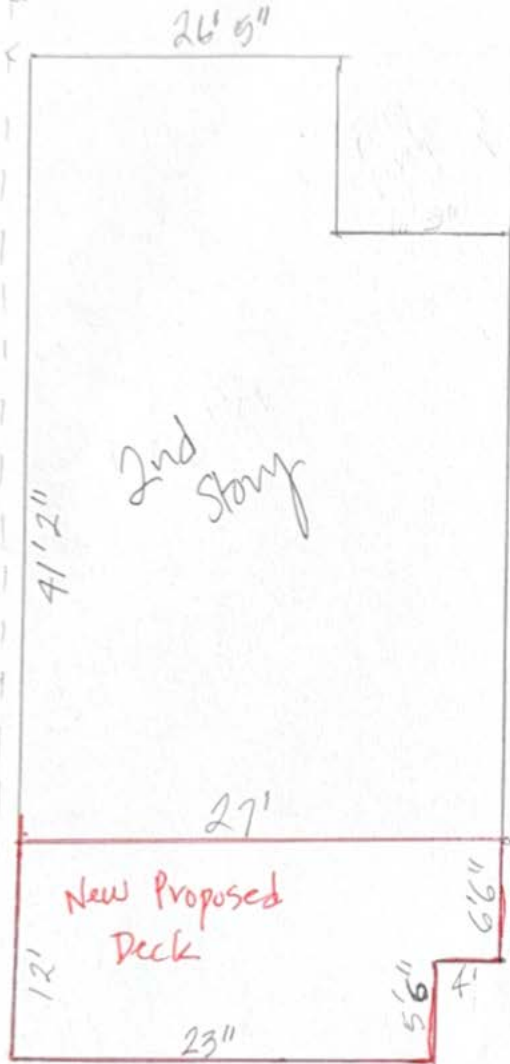
Site Drawing:

242nd Street

1" = 10'

East lot
line

West lot
line



05-20-328-020

O.L.H
R-160

05-20-328-021

05-20-328-022

93.91

05-20-328-023

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136

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