



PLANNING AND ZONING
Cerro Gordo County Courthouse

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SPECIAL EXCEPTION STAFF REPORT

SUMMARY OF REQUEST

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

Staff Contact: John Robbins, Planning and Zoning Administrator

Applicant **Owner**

Jerry Flaherty Same
 1009 Fair Meadow Drive
 Mason City, IA 50401

Property Address: 1009 Fair Meadow Drive

Brief Legal Description: Lot 35, Fair Meadows 2nd 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)

*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.

Discussion of Potential Impacts to Immediate Area

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



September 29, 2022, J. Robbins

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

Date Filed 9/27/22 Date Set for Hearing 10/25/22 Case Number: 22-24
22-24

Applicant Name: Jerry Fluharty Phone: 641-430-1422 E-Mail: Wheelmanauto@gmail.com

Mailing Address: 1009 Fair Meadow Drive bb-707

Property Owner Name: Jerry Fluharty Phone: _____ E-Mail: _____

Property Owner Address: Same

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

Property Address: 1009 Fair Meadow Drive Zoning: _____

Brief Legal Description:

Project Description

Decision Date: 9/27/22

Add 20 ft to existing building

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

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

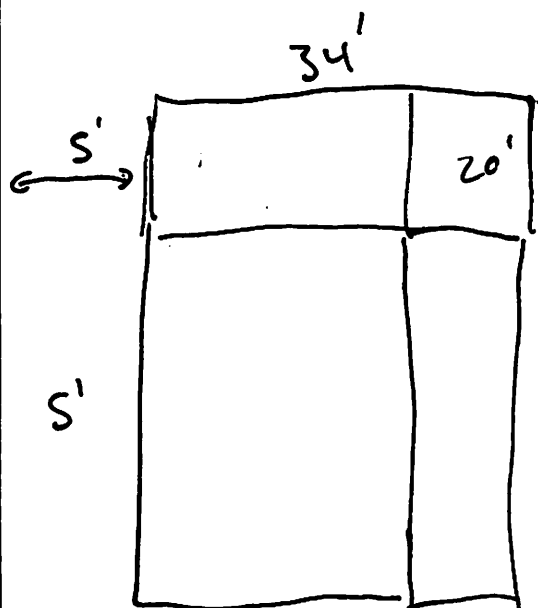
The 20 ft addl to building does not interfere with existing line and lines up with property; 44 ft from back of property + creek that runs thru it! Adding to instead of building on other side of lot makes property more uniform! Other side has septic tank to deal with and trees on west side of property. Does not interfere with adjacent or water lines. Also does not encroach with existing property line of new building!

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; and that the information provided is true and correct and actual construction will proceed in accordance with the purposes herein stated and any conditions and/or requirements the Board of Adjustment may stipulate. The Planning & Zoning staff and Board of Adjustment members are also given permission to enter the above property in reviewing this Application.

Applicant Signature Jerry Fluharty Date 9-26-22

Site Plan:





FAIR MEADOW DR

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