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**ZONING BOARD OF ADJUSTMENT MEETING**  
**Monday, March 28, 2022 • 5:30 p.m.**  
**West Branch City Council Chambers, 110 N. Poplar St.**  
*Council Quorum May Be Present*

1. Call to Order
2. Roll Call
3. Introduce possible new board members.
  - a. Paula Verlo and Greg Humrichouse
4. Approve \_\_\_\_\_ as Chairperson of the Zoning Board of Adjustment. / Move to action.
5. Approve \_\_\_\_\_ as Vice Chairperson of the Zoning Board of Adjustment. / Move to action.
6. Approve \_\_\_\_\_ as secretary of the Zoning Board of Adjustment. / Move to action.
7. Discussion:
  - a. How the board has previously viewed variances, zoning administrator challenges, and special/conditional uses.
  - b. Iowa State's four-pronged unnecessary hardship test for variances.
8. Iowa State Training Reminder
9. Future Meeting: Tuesday, April 26 at 7:00pm joint with Planning and Zoning Commission
10. Board Comments
11. Adjourn

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**Board of Adjustment Members:** Jennie Embree, Wayne Frauenholtz, Frank Frostestad, Neil Korsmo, Vacant  
**Zoning Administrator:** Terry Goerd • **City Clerk:** Leslie Brick • **Mayor:** Roger Laughlin  
**Council Members:** Colton Miller, Nick Goodweiler, Jodee Stoolman, Jerry Sexton, Tom Dean  
**City Administrator:** Adam Kofoed • **Fire Chief:** Kevin Stoolman • **Library Director:** Nick Shimmin • **Parks & Rec Director:** Melissa Russell • **Police Chief:** John Hanna • **Public Works Director:** Matt Goodale

# Zoning Board of Adjustment

Iowa Code §§ [335.15 \(counties\)](#) and [414.12 \(cities\)](#) provide identical mandates for zoning boards of adjustment. These statutes are very specific in limiting the functions of the board of adjustment to (1) hearing appeals of decisions made by the zoning administrator, (2) granting or denying special exceptions (also referred to as “special uses” or “conditional uses”), and (3) granting or denying variances.

## Appeals

Zoning administrators are given the authority to make many decisions relating to the interpretation and implementation of the zoning ordinance. If a landowner is dissatisfied with a zoning administrator’s decision, the landowner has a right to appeal the decision to the board of adjustment. The board’s role is to review the zoning administrator’s interpretation of the ordinance and the given fact. Then, based on the purpose and intent of the regulations, the board will render a decision affirming or overturning the administrator’s determination. If the zoning administrator’s decision is reasonably debatable, it should be upheld.

## Special Exceptions, aka Special Uses or Conditional Uses

In each zoning district two broad classes of land uses are explicitly identified: (1) permitted uses, which are those listed by the ordinance as being allowed by right in any location, and (2) special exceptions, which are listed by the ordinance as being permissible only at the discretion of the zoning board of adjustment. Special exceptions are generally unique uses that are slightly out of character with permitted uses. To be granted a special exception by the board of adjustment, the applicant must be able to show that the requested use can be made to fit into its surroundings.

## Variances

A variance is a minor exception to the existing zoning rules to allow a landowner to do what is generally forbidden by the ordinance. To be granted a variance, the applicant carries the burden of proving to the board that strict enforcement of the terms of the ordinance will inflict an unnecessary hardship on the landowner.

Administratively, the board of adjustment is a forum of last resort. The only appeal from the decision of the board of adjustment is to the court system. In too many communities, however, this arrangement has led to the mistaken assumption that the board of adjustment is the final authority on almost all zoning matters. Individuals will go to the board any time they feel the ordinance is “too strict,” and some boards will grant almost any relief requested by landowners. In these communities boards of adjustment are treating their zoning regulations as suggestions, not as law. In reality, the board of

adjustment is bound by relatively strict criteria found in the zoning ordinance that define the limits of its discretion to grant variances or special exceptions and to overturn decisions of the zoning administrator.

[Download a printable copy of this page here.](#)

Source: <https://www.extension.iastate.edu/communities/zoning-board-adjustment>



City of Garner  
135 West Fifth Street  
Garner, Iowa 50438  
(641) 923-2588  
(641) 923-4012 (fax)

## MEETING DATE

October 8, 2019

## AGENDA ITEM

**#9**

## PREPARED BY

Adam Kofoed, City Administrator

## REQUEST

a. Request to affirm the Board of Adjustment's decision allowing a storage shed variance located at 785 W. 6th Street with conditions that the shed maintains its current dimensions.

## ANALYSIS

### Background:

The property owners of 785 W. 6<sup>th</sup> street are wanting to demolish their accessory building, or shed in the back of their house. Currently, the shed is within the 6-foot property line requirement. The owners are asking for a variance so that they can keep their shed near their property line.

### The Hardship

The property owners argue they have a hardship because the back of their yard often floods during the freeze and thaw cycle. They state the water is deeper near the 6-foot line than the existing property line.

### BOA Decision

The board of adjustment felt it warranted a hardship due to the flooding. They approved the variance on the condition that they keep the shed dimensions the same width and length dimensions.

## RECOMMENDATION

Staff recommends to remand based on Iowa State's unnecessary hardship definition.

A variance must meet all categories.

1. Does the land in question not yield a reasonable return if used only for the purpose allowed in that zone? No.
2. Is the plight of the owner due to unique circumstances and not to general conditions in the neighborhood? No.
3. Is the hardship not self-created? Yes.
4. Will the use of the hardship not alter the essential character of the locality? Yes

Other Comments:

Regardless of where the shed is placed they will need to raise the shed to prevent flooding water. It may need to be raised more at the 6-foot line, but regardless the shed will need to be raised. Therefore, it's not an unnecessary hardship.

Something the Council may want to consider is to allow for an exception in the zoning ordinance. Similar to the 30% front yard setback rule, if other surrounding properties have a shed on the property line, the owner would be allowed to keep their shed on the property line.

## ATTACHMENTS

1. Decision of the Board of Adjustment
2. Board of Adjustment Packet

Iowa State University Extension and Outreach - Community and Economic Development is pleased to announce the return of in-person **Introduction to Planning and Zoning Workshops**.

As land use issues and the techniques used to address them become more complex, it is critical that local officials and community leaders understand the basics of local planning and zoning processes.

Introduction to Planning and Zoning for Local Officials is a three-hour workshop designed to introduce the basic principles of land use planning and development management to elected officials, planning and zoning officials, and board of adjustment members without formal training in the subjects. Using case scenarios in a highly-interactive format, the workshop highlights issues frequently faced in the land use process.

Iowa State University Extension and Outreach Community and Economic Development offers the workshop annually in several locations across the state. Locations change from year-to-year so that city and county officials are able to attend a location near them at least once every two years. The Spring 2022 dates and locations are:

- March 24: Okoboji
- April 5th: Decorah
- April 7th: Waterloo
- April 19th: Fort Dodge
- May 3rd: Davenport
- May 10th: Creston
- May 31st : Johnston

The workshop is offered annually in multiple locations across the state. Locations change from year-to-year so that city and county officials are able to attend a location near them at least once every two years. All workshops begin with registration and a light supper at 5:30 p.m. The program begins at 6:00 p.m. and concludes by 8:45 p.m. The registration fee is \$65 per individual.

This fee is reduced to \$55 per individual if a city or county registers five or more officials to attend. The fee covers the workshop instruction, workshop materials, and supper. See here for registration links and additional information: <https://www.extension.iastate.edu/communities/intro-planning-and-zoning-workshops>