Appeal: The appellants request a variance to allow an existing residential privacy fence to remain located within a front yard setback at six (6) feet in height, in lieu of the maximum allowable height of four and one-half (4 ½) feet.

Background
The subject property is located at 10170 NW 106th Avenue, Granger, and is legally described as Lot 2 of Lakeview Estates Plat 2, being located within Section 9, Township 80 North, Range 25 West of the 5th P.M. (Jefferson Township). The property is approximately 3.25 acres in size and is zoned “RR” Rural Residential District. The subject property is located southwest of the intersection of NW Saylorville Drive and NW Beaver Drive. The property is a double frontage lot with primary access and frontage to the north onto NW 106th Avenue, as well as access to the east where the lot has frontage onto NW Saylorville Drive. The City of Johnston corporate limits are located several hundred feet to the west where they extend north to NW 106th Avenue, and Polk City’s corporate limits are located approximately one and one-half (1 ½) miles northeast on the opposite (east) side of Saylorville Reservoir.

Surrounding properties to the north, south and west are also located within unincorporated Polk County, zoned “RR” Rural Residential District, and developed with existing single-family residences. The property located east of the subject property, lying east of NW Saylorville Drive, is zoned “ER” Estate Residential District and presently utilized as agricultural ground. This property is owned by the State of Iowa and is future holdings for the nearby Camp Dodge military base. See Attachment A for a vicinity map of the subject property and surrounding area. The subject property contains an existing single-family dwelling as well as an accessory pole building and accessory swimming pool, all constructed in 2016. According to County records, the appellants purchased the subject property in May of 2016 from the homebuilder, Genesis Homes of Iowa, LLC, upon completion of the new residence.

In review of this Variance Appeal, staff noted the presence of a contracting business operating from the subject property. The appellants admitted to operating their fence contracting business from the site, Affordable Fencing, Inc. Currently, the business is not in compliance with the Polk County Zoning Ordinance requirements for Home Occupations, due to the presence of outdoor material storage and multiple business vehicles. However, the appellants have submitted a Home Occupation Permit Application with a plan to bring the site into compliance with the Ordinance. This includes the removal of all outdoor material storage, removal of all but one (1) work vehicle, and demonstrating that no more than 20% of the dwelling floor area is being utilized for business operations within the residence and/or accessory building. Staff has worked out a timeline with the appellants to ensure the property is in compliance within the next month.

Summary of Request
The Polk County Zoning Ordinance, Article 4: Use Regulations, Division 6: Accessory Regulations, Section 5.A(1) stipulates that residential fences may not exceed four and one-half (4 ½) feet in height within the front yard setback. The appellants constructed a six (6) foot tall privacy fence enclosing the eastern portion of the subject property between 2017 and 2020. The fence is
located along the north, south and easterly property lines, with a portion being located within the 50-foot front yard setback along NW Saylorville Drive. A Variance is requested in order to allow this portion of the privacy fence to remain within the front yard setback at six (6) feet in height, in lieu of the maximum permitted height of four and one-half (4 ½) feet established by the Ordinance. The submitted application and site plan for this appeal can be found as Attachment B.

Staff mailed out 16 notices regarding this request, including the date and time of the public hearing, to surrounding property owners within the 250-foot notification boundary. To-date staff has received four (4) responses in support, and zero (0) responses in opposition, of this Appeal.

Natural Resources
The subject property is very flat with little change in elevation/topography across the entirety of the site. There are few to no mature trees or significant areas of woodlands. There are no areas of mapped floodplain or other environmental hazards or features on the property.

Roads & Utilities
The subject property takes access to the north from NW 106th Avenue, which is a two-lane paved major collector roadway. NW 106th Avenue becomes NW Beaver Avenue to the east, and provides connectivity west to NW 121st Street. The property also has frontage to the east onto NW Saylorville Drive (Hwy 415), which is a two-lane minor arterial roadway. From review of the application, it does appear as though the portion of the fence segment adjacent to NW Saylorville Drive encroaches into the established road right-of-way. The County Engineer has commented that the fence may remain in its currently location, however if there is ever any replacement of the fence or any work required within this portion of the right-of-way the fence will need to be relocated outside of the right-of-way. The subject property does not take access from NW Saylorville Drive. Public water is provided by Xenia Rural Water District. Wastewater treatment is provided by a private onsite septic system, which County records indicate is located south and east of the residence.

Recommendation
The Board of Adjustment may grant a variance if items 1 through 5 are affirmed.

1.) Are there exceptional or extraordinary circumstances or special conditions applying only to the property in question and which do not exist generally on other properties in the same zoning district which makes it impossible to place a use permitted in the district on the property?
Yes. The subject property is uniquely configured as a double frontage lot with primary frontage and access to the north onto NW 106th Avenue, and secondary frontage to the east onto NW Saylorville Drive. Access to NW Saylorville Drive is not permitted for the subject property. While the easterly property line along NW Saylorville Drive is considered a front yard for setback purposes, it is effectively a rear yard due to the lot’s configuration, access restrictions and the orientation of the residence.
2.) Is the variance necessary for the preservation and enjoyment of property rights possessed by other properties in the same zoning district in the same vicinity? (No variance can permit uses that are prohibited in a district)

Yes. Residential privacy fences are a permitted use within the “RR” Rural Residential District.

3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?

Yes. There is limited visual impact upon adjacent properties and the public roadway. There are only two (2) adjacent properties directly affected, being the properties adjacent to the north and the south. The property to the south at 10420 NW Saylorville Drive has a similar six (6) foot tall privacy fence also within the front yard setback along NW Saylorville Drive.

4.) Is there a special condition or circumstance that did not result from the actions of the applicant?

Yes. The configuration and platting of the property was not a result of the actions of the appellants.

5.) Does the variance support the intent of Article 7 Natural Resource Protection and Article 8 Stormwater and Erosion Control Management of the Polk County Zoning Ordinance?

Yes. The appellant is required to meet the environmental provisions of the Polk County Zoning Ordinance, and no impact upon environmental features is anticipated.

The Board of Adjustment may grant a variance if items 1 through 5 are affirmed. Since items 1-5 were answered in the affirmative, staff recommends approval of the requested variance.
Variance Appeal Application

Board of Adjustment Authority
The Polk County Board of Adjustment is empowered by Iowa law and by the Zoning Ordinance of Polk County to hear requests and to make decisions on variance appeals to the Zoning Ordinance for individual properties where provisions of the Ordinance impose a unique and unnecessary hardship on the property owner and where the granting of a variance is not contrary to the intent of the Zoning Ordinance or to the public interest.

Each variance appeal is only a request to have a hearing before the Board of Adjustment. Notice of the hearing will be provided to all property owners located within 250 feet from the subject property. The Board of Adjustment will make a determination at a public hearing whether or not to approve or deny the request based on a staff report, applicant presentation, as well as public input. All appeals that are denied shall not come back to the Board of Adjustment for one year. Refunds will not be made once notice has been sent out to adjacent property owners.

Please complete the entire application and review the Variance Regulations on page 3.

1. The undersigned applicant requests that the Board of Adjustment consider this application for a variance appeal for the following general purpose. (Describe briefly the request) 
   Keep fence in place.

2. Subject Property Address: 10170 NW 10th Ave

3. Subject Property Zoning District: "RR" Rural Residential District

4. District and Parcel Number: 240/00745-098-102

5. Subject Property Legal Description (attach if necessary):
   Lot 2 Lakeview Estates Plat 2

6. Filing Fee: $319 per variance (each provision requested for a variance is considered a separate variance request)

7. Applicant(s) Information:
   Cecelia Jones
   Cecelia Jones
   Signature
   Date: 9/22/21
   Email: clv666bob@hotmail.com
   Address, City, State and Zip: 10170 NW 10th Ave Granger IA 50119
   Phone: 515-240-7109
   Fax: NA

8. Applicant(s) Representative:
   If the appeal is going to be represented by someone other than the applicant please provide that information below

   Applicant Representative (Print Name)
   Firm or Business Name

   Address, City, State and Zip
   Email
   Phone
   Fax

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9. Property Owner Consent

The application must be signed by all the Titleholders, Contract Purchasers, or Option Purchasers of the subject property. The application may also be signed by the Registered Agent for a corporation or other person with similar legal authority to sign for a property owner. (If additional signatures are needed please attach)

*Print Name*

*Signature*

*Date*

*Print Name*

*Signature*

*Date*

*Print Name*

*Signature*

*Date*

*Print Name*

*Signature*

*Date*

10. State the reason(s) the variance is necessary and why you cannot comply with the regulations of the Zoning Ordinance. Specifically explain the nature of the appeal.

We asked Polk County if we needed a permit for our 6’ fence. We were told no, so we installed our fence. We wanted security, privacy & a visibly appealing area. We would like to keep our fence in place where it is now, as we spent thousands of dollars on it, & we were trying to improve the property. As well, we assumed that we were doing the right thing by asking if we needed a permit before starting the project. We had no idea that the area would be considered front yard, based on our property layout.

A completed application with site drawing and filing fee are required for a submittal. Incomplete submittals will not be processed and returned to the Applicant.

Return completed forms to: Polk County Public Works, Planning Division 5885 NE 14th Street, Des Moines, IA 50313
Phone (515) 286-3705 • Fax (515) 286-3437 Email: PublicWorks@polkcountyiowa.gov
Forms available online http://www.polkcountyiowa.gov/PublicWorks/ BOA Calendar CALENDAR

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