Appeal: The appellant requests a variance to allow a residential privacy fence at eight (8) feet in height within the front yard setback, in lieu of the maximum allowable height of four and one-half (4 ½) feet.

Background
The subject property is located at 5205 W. 1st Street, Ankeny, and is legally described as Parcel ‘J’ as recorded in Book 13055, Page 990 of the Polk County Recorder’s Office, being located within Section 20, Township 80 North, Range 24 West of the 5th P.M. (Crocker Township). The property is approximately 4.08 acres in size and is zoned “RR” Rural Residential District. The subject property is located at the southeast corner of NW Polk City Drive (Hwy 415) and W. 1st Street (NW 94th Avenue). The City of Ankeny corporate limits are located directly adjacent to the north located north of W. 1st Street. Surrounding properties to the south, east and west are also located within unincorporated Polk County, zoned “RR” Rural Residential District, and developed with existing single-family residences. Vacant undeveloped ground is located directly to the north within the City of Ankeny at the northeast corner of NW Polk City Drive and W. 1st Street. See Attachment A for a vicinity map of the subject property and surrounding area. The subject property contains an existing single-family dwelling and detached accessory building located in the eastern half of the property, constructed in 2017. According to County records, the appellant purchased the subject property in 2019.

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 appellant is proposing to construct an eight (8) foot tall privacy fence along an approximately 370-foot stretch of the subject property’s northern, front property line adjacent to W. 1st Street. The area of the proposed fence is located directly north of the existing residence and accessory building, generally located in the eastern half of the front property line adjacent to W. 1st Street. A Variance is required to allow the proposed privacy fence at eight (8) 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’.

In conversations with the appellant part of the rational for the request, in addition to the traffic, noise and wildlife concerns outlined in Attachment ‘B’, is the concern regarding future commercial development of the property directly across the street to the north. This property is located within the City of Ankeny. Staff notified the City of this appeal and requested additional information regarding the zoning and future development potential of this adjacent property, located at 9421 NW Polk City Drive being at the northeast corner of W. 1st Street and NW Polk City Drive. The City responded that the property is currently zoned R-1, One-Family Residence District. The Ankeny Comprehensive Plan identifies the property as Medium Density Residential. The City also commented that it is very unlikely that the City Council would approve a request to rezone the property to commercial.
Staff mailed out 17 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 contains sloping topography located along a drainageway, which cuts through the middle and southern half of the property. There is a high elevation of approximately 974 feet in the northeast corner of the property surrounding the dwelling and accessory structure, and a low elevation of approximately 948 feet in the southwest corner of the property. The property contains a substantial area of woodlands located along the drainageway and throughout the southern half and middle of the property, and also extending along the eastern property line east of the dwelling. There are no areas of mapped floodplain or other environmental hazards or features on the site.

**Roads & Utilities**
The subject property takes access to the north from W. 1st Street, which is a four-lane paved and divided minor arterial roadway within the City of Ankeny. The roadway provides connectivity west to NW Polk City Drive (Hwy 415) and east through the City of Ankeny. The property also has frontage to the west onto NW Polk City Drive (Hwy 415), which is a two-lane arterial State highway. The driveway entrance to the subject property aligns with an existing crossover along W. 1st Street and existing entrance to the undeveloped property to the north. Public water is provided by Des Moines Water Works. Wastewater treatment for the subject property is provided by a private onsite septic system, which County records indicate is located northwest of the existing dwelling and accessory structure.

**Recommendation**
Staff does not support the request to increase the fence height within the front yard setback to eight (8) feet. Historically, staff has not supported requests to allow fencing taller than six (6) feet within a front yard setback. The requested eight (8) foot tall fence is excessive and would have a negative visual impact along a busy arterial street such as W. 1st Street. Furthermore, in staff’s review of the application the requested eight (8) foot tall fence would have little impact on the concerns relative to noise and wildlife cited by the appellant. Staff’s recommendation for approval below is for a modified request to permit the fence up to a maximum of six (6) feet in height within the front yard setback.

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 property is uniquely situated having approximately 650 feet of frontage along W. 1st Street, which is an arterial roadway with significant traffic and related impacts on the subject property.
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. While there will be some visual impact from the fence, it will largely affect the subject property. The substantial road right-of-way width along W. 1st Street will limit impacts upon the public roadway. Additionally, there are several properties along this stretch of W. 1st Street which have existing six (6) foot tall fences adjacent to this roadway.

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

Yes. The improvements to W. 1st Street and its establishment as an arterial roadway, which is the source of the traffic and noise concerns stated by the appellant, were present well before the construction of the existing residence in 2017 and purchase by the appellant in 2019. However, in staff’s opinion these circumstances still warrant the approval of a one and one-half (1 ½) foot height variance to permit a section of six (6) foot tall fencing within the front yard setback.

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 a modified variance to permit a six (6) foot tall fence within the front yard setback of the subject property, subject to the following condition:

1. Approval is for a maximum six (6) foot tall fence within the frontage areas of the property as identified on the site plan drawing submitted with the application and found as Attachment ‘B’ to this report.
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)

I respectfully request a four (4) foot height increase Variance from the current four (4) foot maximum height to eight (8) foot fencing for approximately 700 feet along W. 1st Street Ankeny, IA.

2. Subject Property Address: 5205 W. 1st Street Ankeny, IA 50023

3. Subject Property Zoning District: RR Rural Residential District

4. District and Parcel Number: 180/00289-002-001

5. Subject Property Legal Description (attach if necessary):

PARCEL J BK 13055 PG 990 REG 22.96F E & 23.87F S OF NW COR THN S 106.03F SE 139.88F SW 84.81F E 571.78F N 276.88F E 347.6F S LN W 1ST ST W 196.1F NWLY 70.37F NW 219.4F NWLY 85.78F W 96.87F TO POB W 5A N 10A NW 1/4 NE 1/4 SEC 20-80-24

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

7. Applicant(s) Information:

MAYNARD OXENREIDER
Applicant (Print Name)

Signature

MAYNARD & SHERYL OXENREIDER
(owner R)

Interest in Property (owner, renter, prospective buyer, etc.)

7-31-21
date

maynardox@hotmail.com

Email

5202 W. 1st STREET ANKENY, IA 50023 (515) 729-2991

Address, City, State and Zip Phone Fax

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
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)

MAYNARD OXENREIDER
(Print Name)  Maynard Oxenreider  7-31-21
Signature  date

SHERYL OXENREIDER
(Print Name)  Sheryl Oxenreider  7-31-21
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.

Please see attached letter.

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
Forms and calendar available online http://www.polkcountyiowa.gov/PublicWorks/

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Variance Request

I respectfully request a four (4) foot height increase Variance from the four (4) foot maximum height fence to eight (8) foot for approximately three hundred seventy (370) feet along W. 1st Street Ankeny, IA 50023.

Our home is the only home that faces 1st Street on either side street from the intersection of W. 1st Street & Irvinedale Dr. all the way west to NW Polk City Drive. There are many high fences along 1st Street however they are considered in the owners’ back yards. Some of these fences are six (6) ft high with some built on berms. I would estimate the height of those fences on berms to be approximately twelve (12) feet higher than street level.

The traffic noise makes it difficult to fully enjoy our property. We find ourselves shouting above the traffic noise just trying to have a normal conversation. We have constant traffic noise from semis, cement trucks, utility trucks, loud motorcycles, RV vans & vehicles pulling boats/trailers. Because of the stop light at W. 1st Street & NW Polk City Drive the drivers of these vehicles tend to shift gears up or down right in front of our home causing them to rev their engines and even some to backfire. The additional problem of excessive speeding amplifies this noise.

If you have ever stayed in a motel close to a busy intersection, I think you would know what kind of noise we experience. We sleep with a box fan running beside our bed year around just to drown out the traffic noise so that we can sleep.

Research indicates that the noise reduction is increased if a fence is as close to the road and as high as possible. We realize that we cannot place the fence closer to the street but believe the eight (8) foot height of a fence along our lot line would really help.

There is also a very busy bicycle path across the street which causes our dogs to become excited and bark. The fence would obstruct that view from our dogs and reduce how vocal they are.
As you can see on the enclosed photo our house sits approximately fourteen (14) feet in front of a very steep ravine. This fourteen (14) feet of lawn area is what you would consider our ‘back yard’. There is no other useable land south of our house on our property. Our patio and most enjoyable yard space is on the East and West side of our house.

Because of the timbered area behind us, we have deer roaming through our yard year around. We love sharing our property with the wildlife, but deer can jump a six (6) ft fence with ease. I believe an eight (8) foot fence would stop a deer from attempting to jump into the traffic on W. 1st Street.

The area of our proposed fence is many yards away from the busy intersection at 1st Street and NW Polk City Dr. so there would be no traffic obstructions or other issues of traffic safety.

There is currently a barbed wire fence along our property line on W. 1st Street. We believe that by replacing that barbed wire fence with an eight (8) foot, more aesthetically pleasing vinyl or composite fence would not cause any safety concerns and would certainly help with noise reduction.

Our address is currently posted on our mailbox on the street. We would be willing to put our address on the fence at our driveway so it would be easily visible to emergency equipment etc.

We respectfully ask for your approval to install an eight (8) foot fence along the areas designated on the enclosed map.

Thank you for your consideration.

Maynard Oxenreider
(515 729-2991)