

Docket Number: 19/8424

Appellant: Randy Childs, 5555 NE 88th Street
Altoona, IA 50009

Appeal: Requesting a 11 foot setback Variance (from 15 feet to four (4) feet) from the eastern property line to retain existing outdoor exercise areas utilized for Animal Services, at the subject property of 5555 NE 88th Street, Altoona, Iowa 50009.

Appeal Given: The following is an excerpt from the Variance Appeal application submittal also included as *Attachment A*:

"I constructed this fence to enclose an area for puppy or dog exercise. Although there is one fence line we are discussing two areas. This fence is located along our eastern property line and is adjacent to a large crop field. There are no neighbors within sight of this area to the east. This fence runs the length of our property from north to south. Area 1 is located behind our barn. This area is used for approx. 6 weeks per year. The fence was original with the fencing of a pasture. We built the barn at a later date to whelp a couple litters of puppies a year. The whelping rooms are heated and A/C. When the puppies are 5 weeks old they are allowed access to fenced area for exercise before going to their new home. Without the variance, the puppies could not get proper exercise. The area is approx.. 170' x 16' and is divided into two areas allowing for two litters at the same time. Area 2 was constructed to allow exercise of the dogs in the Kennel. This area is used year round, 4 times daily. It is 100' x 30'. The variance would allow for proper room need for exercise. If not each dog would have to be led by leash to another location. This fence is attached to the Kennel. A new lateral field was just installed to the west last month. There is no dog training done in either of these areas. To move either fence would have our fence line zig zag along our property line and be very detrimental to the efficiency of the Kennel."

A site plan with setbacks and exercise area fence locations is included as *Attachment B*.

Background

The subject property is zoned "AT" Agricultural Transition District and is approximately 6.5-acres in size. A vicinity map is included as *Attachment B*. The property is described as Parcel 'H' within the SW ¼ SW ¼ of Section 9 of Township 79 North, Range 22 West of the 5th P.M. (Beaver Township). The subject property was created by a Plat of Survey recorded in Book 11491, Page 706 on January 20, 2006. A vicinity map is included as *Attachment C*.

The existing house was constructed in 2006. An existing septic system for the home is located to the northeast of house with the lateral fields located south and east of the house. A 54' x 24' foot pole building and a two (2) lean-to (24' x 12') buildings were constructed with approved permits in 2010 and a horse barn (50' x 36') and arena (60' x 120') were constructed in 2011 with approved permits. A septic system for the northern pole barn is located to the north of the building location. A retroactive permit was recently approved for an additional approximately 1,937 square foot addition to the existing 54' x 24' pole building. A Variance was approved on September 23rd to the 10 foot setback standard to retain the accessory building in the current location, at an approximately four (4) foot setback from the eastern property line. The Appellant also received approval of a Conditional Use Permit at the same meeting for an Animal Services use on the subject property.

Summary of Request

The Appellant utilized fencing located along the eastern property line to create two separate exercise areas for their Animal Services use. The fencing of both Area 1 and Area 2 as identified on the site plan, are located approximately four (4) feet from the eastern rear property line to the closest point of the fencing.

The Polk County Zoning Ordinance, *Article 4: Use Regulations, Division 4. Use Categories and Standards, Section 4. Commercial Uses (V) Animal Services (2): Accessory Regulations, Section 1*, states the following:

(2) No fence for an outside exercise area shall be closer than fifteen (15) feet to a property line.

A variance is needed due to the fencing of the exercise areas being located at a distance that is less than 15 feet, approximately 4 feet. The exercise area identified as Area 1 is utilized six (6) to eight (8) weeks during the year and is otherwise unused. The exercise area identified as Area 2 is utilized year round to allow for exercise of the dogs within the kennel four (4) times a day.

Natural Resources

The requested Variance does not affect natural resources on this property.

Roads/Utilities

The subject property has frontage and access onto NE 88th Street a two-lane, paved, County maintained roadway. Wastewater is treated via an onsite septic system for the house and a separate onsite septic system for the horse barn. Water service is provided by Des Moines Water Works.

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 has specific constraints due to the layout of the structures and improvements on site. The septic system for the house is located south and east of the house limiting the space for an outdoor exercise area. This constraint along with the existing locations of the accessory buildings limited the space to be utilized for the outdoor exercise areas.

- 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. The Animal Services use is allowed through an approved Conditional Use Permit. The outdoor exercise areas are placed in locations that limit their impact on other properties in the same zoning district and in the same vicinity. They have discussed the use and placement of the outdoor exercise areas with the adjacent property owner to the east and are in agreement regarding the location.

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

Yes. The adjacent property to the east is an agricultural field and is unbuildable under the current zoning of the property. Complaints regarding the outdoor exercise areas have not been received throughout their duration on the property. Retaining the existing fenced in exercise areas in their current locations will have minimal impact on adjacent property owners.

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

No. The locations of the outdoor exercise areas were placed strategically to allow for the best use of the accessory buildings according to their business operations. Although practical in location for the business operations there are other locations on the property that can be utilized for outdoor exercise areas and therefore this is a self-created circumstance.

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 granting of the requested variance supports the intent of these provisions.

The Board of Adjustment may grant a Variance if items 1 through 5 are affirmed. Since items 1-5 were not answered in the affirmative, staff recommends denial of the Variance request.

Attachment A:

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.

(time stamp) Official Use Only

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)

Requesting an 11' rear yard setback variance (from 15' to 4' from Eastern property line to retain an existing fence at the subject property at 5555 NE 88th St, Altoona Iowa 50009

2. Subject Property Address: 5555 NE 88th St Altoona IA 50009

3. Subject Property Zoning District: _____

4. District and Parcel Number: _____

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

6. Filing Fee: \$310 per variance (each provision requested for a variance is considered a separate variance request)

7. Applicant(s) Information:

Bandy Childs Applicant (Print Name)

[Signature] Signature

_____ date

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

rchildscitysupplycorp.com Email

5555 NE 88th St Altoona IA 50009 Address, City, State and Zip

314-0513 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)

Randy Childs
(Print Name)

[Signature]
Signature

_____ date

Anna Childs
(Print Name)

Anna Childs
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.

I constructed this fence to enclose an area for puppy or dog exercise. Although there is one fence line we are discussing two areas. This fence is located along our eastern property line and is adjacent to a large crop field. There are no neighbors within sight of this area to the east. This fence runs the length of our property from north to south.
Area 1 is located behind our barn. The fence was original with the fencing of a pasture. We built the barn at a later date to help a couple litters of puppies a year. The whelping rooms are heated and A/C. When the puppies are 5 weeks old they are allowed access to fenced area for exercise before going to their new home. Without the variance the puppies could not get proper exercise. The area is approx. 170' x 16' and is divided into two areas allowing for two litters at the same time.
Area 2 was constructed to allow exercise of the dogs in the kennel 4 times daily. It is 100' x 30'. The variance would allow for proper room need for exercise. If not each dog would have to be led by leash to another location. This fence is attached to the kennel. A new lateral field was just installed to the west last month.
There is no dog training done in either of these areas. To move either fence would have our fence line zigzag along our property line and be very detrimental to the efficiency of the kennel.

This area is used for approx 6 weeks per year

This area is used year round

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/>

OFFICIAL USE ONLY			
Received by		Docket Number	
Date Received		Reviewed by	
BOA meeting date		BOA Approved	Y / N

Attachment B:

5555 NE 88th St

Base Map, Polk County, Iowa



A = Kennel + laundry
B = whelping
C = outdoor exercise



NE 88th St

**Subject Property:
5555 NE 88th Street**

NE 54th Ave

0 650 1,300 2,600 Feet