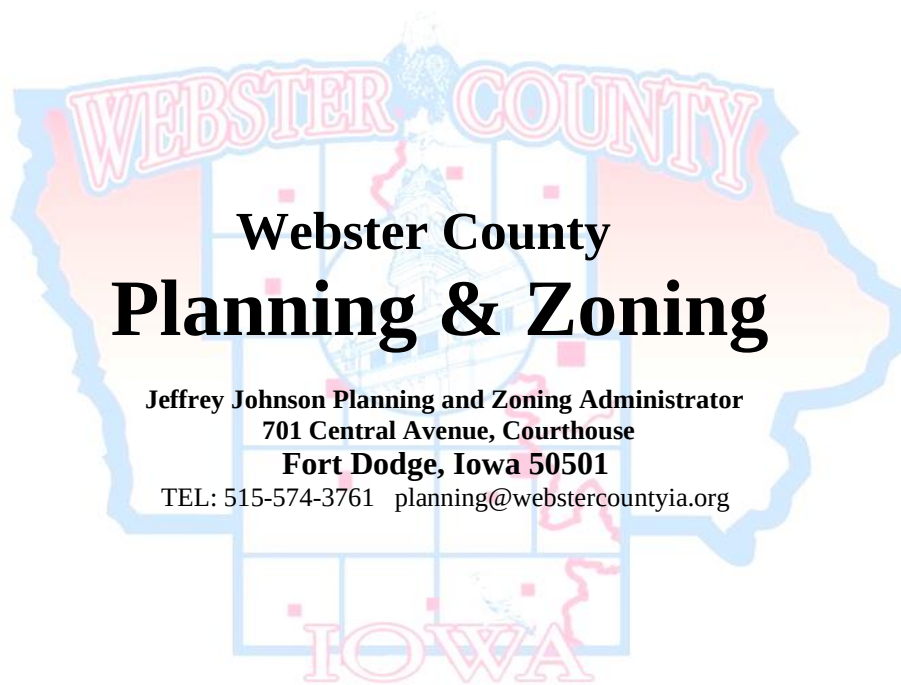




Webster County Planning & Zoning

Jeffrey Johnson Planning and Zoning Administrator
701 Central Avenue, Courthouse
Fort Dodge, Iowa 50501
TEL: 515-574-3761 planning@webstercountya.org

AGENDA

WEBSTER COUNTY PLANNING AND ZONING COMMISSION

Tuesday, February 13, 2024 - 6:00 p.m.
County Office Building, 723 1st Avenue South, Fort Dodge, Iowa
2nd Floor Conference Room

I. Roll Call.

Margo Knippel __, Tyler Lane __, Laura Kelley __, Gary Nelson __,
Tommy Coleman, Tommy Smith __, & Arlyn Gorackowski __.

II. Review and Approval of Minutes from January 23, 2024 meeting.

Motion: __, 2nd: __, Vote: __, Time: __

III. New Business.

- a. Public Hearing: Text Amendment to the Official Zoning Ordinance of Webster County, Section 6-1-9 – Administrative Variances. Said Section would provide Administrative Variances and outlines limitations, eligibility, and process.

IV. Adjournment.

Motion: __, 2nd: __, Vote: __, Time: __

ARTICLE 10: PLANNING AND ZONING COMMISSION

Section 10.01 Organization and Meetings

10.01.01 The Webster County Planning and Zoning Commission hereafter referred to by the word "Planning and Zoning Commission."

10.01.02 The Planning and Zoning Commission shall adopt its own rules of procedure not in conflict with this ordinance or with the Code of Iowa, including the following information:

1. The time and date of the regularly scheduled meeting and place

10.01.03 The Planning and Zoning Commission shall elect yearly one of the members of the Planning and Zoning Commission as Chairperson, and one as a vice chairperson in case of vacancy shall name another Chairperson.

10.01.04 The Planning and Zoning Commission shall keep minutes of its proceedings, showing the vote of each member, upon every question or if absent, or abstaining to vote indicating such fact and reason and shall keep complete records of its examinations and other official actions. Every rule, regulation, recommendation every amendment or repeal thereof and every requirement, decision, or determination of the Planning and Zoning Commission shall immediately be filed in the office of the Planning and Development Department and shall be a public record.

Section 10.02 Powers and Duties

10.02.01 The County Planning and Zoning Commission's duty is to recommend the boundaries of the various original districts and appropriate regulations and restrictions to be enforced therein.

10.02.02 The Planning and Zoning Commission shall:

1. Prepare preliminary reports and hold public hearings thereon, before submitting a final report. The Board of Supervisors shall not hold its public hearings or take action until it has received the final report of such Planning and Zoning Commission.

2. After the adoption of such regulations, restrictions, and boundaries of districts, the Planning and Zoning Commission may recommend to the Board of Supervisors amendments, supplements, changes, or modifications.

3. Reviewed petitions, changed after a Planning and Zoning Commission recommendation, which has been submitted to the Board of Supervisors, shall be returned to the Planning and Zoning Commission for a recommendation.

10.02.03 The Planning and Zoning Commission, with the approval of the Board of Supervisors, may contract with professional consultants, regional planning commissions, the Iowa Development Commission, or the federal government for local planning assistance.

Planning and Zoning Commission
Regular Meeting
January 23, 2024

The Webster County Planning and Zoning Commission (PZC) met in session on the above date with the following members present: Margo Knippel, Tyler Lane, Gary Nelson, Tommy Coleman (via Zoom), and Tommy Smith.

Absent: Laura Roach and Arlyn Gorackowski

Also present: Jeffrey Johnson, Webster County Planning and Zoning Administrator, and Allison Roderick, Environmental Health Officer/ Planning and Zoning Assistant. The meeting agenda was advertised in the *Fort Dodge Messenger*, the *Gowrie News*, and the *Dayton Leader* prior to the meeting date and time.

Motioned by Nelson, seconded by Coleman to approve the December 12, 2023, meeting minutes. Motion carried unanimously.

New Business:

- a. Appoint Chairperson and Vice-Chairperson for 2024.

Motioned by Smith, seconded by Coleman to appoint Knippel as Chairperson and Nelson as Vice Chairperson. Roll Call: Knippel; Aye, Lane; Aye, Coleman; Aye, Smith; Aye, Nelson; Aye, Roach; Absent, Gorackowski; Absent. Motion carried unanimously.

- b. Staff Presentation: Planning/Zoning and Environmental Health Permitting Activities 2023.

Roderick gave a presentation on building permits, private sewage disposal system permits, private well permits, well closure/plugging, well renovation, and well testing activities for the 2023 calendar year.

- c. Discussion: Administrative Variances

Johnson approached the Commission with the proposal of implementing Administrative Variances in Webster County.

As our current ordinance reads, all variances go before the Webster County Board of Adjustment, while implementing an Administrative Variance in Webster County would allow for staff to determine if a variance could be granted on more small-scale requests, more so minimal dimensional relief not to exceed 10 percent or five feet, whichever is less.

Knippel asked if the county attorney had been consulted.

Johnson has provided the county attorney with proposed verbiage/ language for the ordinance.

Smith asked if a fee would be required.

Johnson said that as of now a variance request is \$400, but a lesser fee would be required for an administrative variance. Johnson also mentioned the Planning and Zoning Department would be reviewing the entire department fee schedule.

Knippel stated that for a minimal request, less is more, however, if it is a major request then the Commission or Board of Adjustments should be consulted.

Johnson agreed and reiterated that the proposed administrative variance would only be for minimal dimensional requests.

Motioned by Coleman, seconded by Smith to adjourn. Motion carried unanimously.

A full recording of this meeting can be found at www.webstercountyia.gov.

Margo Knippel, Chair

Date

Jeff Johnson, Planning & Zoning Administrator

Date



Webster County Planning and Zoning

701 Central Ave., 1st Floor
Fort Dodge, Iowa 50501

Phone # (515) 574-3761

Fax # (515) 574-3768

MEMORANDUM

To: Planning and Zoning Commission
From: Jeff Johnson, Planning and Zoning Administrator
Date: February 13, 2024
Subject: Public Hearing: Text Amendment to the Official Zoning Ordinance of Webster County, Section 6-1-9 – Administrative Variances. Said Section would provide Administrative Variances and outlines limitations, eligibility, and process.

Background

The Webster County Zoning Ordinance currently provides the framework to process variance requests, with the Board of Adjustment holding a public hearing and making a final decision. See attached excerpt from the Zoning Ordinance that summarizes the variance process, which includes criteria for review.

There are occasions where minimal dimensional relief is requested and needed to cure a situation. The adoption of an Administrative Variance process that provides similar criteria for review and no public hearing, would assist in streamlining the time to process a request.

Administrative Variances would be reviewed with final action taken by the Planning and Zoning Administrator. What is an Administrative Variance? An Administrative Variance is a process for an applicant to apply for a limited exception (dimensional relief) to certain specific zoning standards. These standards would be specific to include, building setbacks, lot width and depth, and building height. All other dimensional relief requests such as lot area, lot coverage, etc. would require a review and final decision by the Board of Adjustment.

Staff has researched a number of cities and counties regarding the maximum amount of relief that would be reviewed for an Administrative Variance which a majority varies from 5 to 25 percent. Staff recommends that the amount be limited to no more than 10 percent of the qualified dimension or 5 feet, whichever is less.

Staff Recommendation

Staff recommends approval of the Amendment as proposed and drafted by the County Attorney's Office.

Attachments

Draft Text Amendment to Zoning Ordinance (Section 6-1-9) – Administrative Variances
Zoning Ordinance Section 6-1-9 (Variances)

Prepared by Webster County Attorney's Office, 723 1st Ave. S., Ste. 150, Fort Dodge, IA
Return to Webster County Auditor, Courthouse, 701 Central Ave., Fort Dodge, IA

AMENDMENT TO ORDINANCE NUMBER ____
ZONING ORDINANCE REGARDING ADMINISTRATIVE VARIANCES 6-1-9

6-1-9 Administrative Variances.

Limitations of Administrative Variances.

An administrative variance allows the Planning and Zoning Administrator to authorize a modification to limited portions of the Zoning Ordinance without a need for a review and public hearing before the Board of Adjustment.

Eligibility.

The following dimensional standards eligible for relief include variances to building setback, lot width and depth, and building height. The maximum amount of dimensional relief requested shall not exceed 10 percent of the qualified dimensional standard or 5 feet, whichever is less.

Process.

The applicant is required to submit application to the Planning and Zoning Department. Said application shall be reviewed with findings of fact that the same conditions above as noted in this Section apply to the application.

Under no circumstances shall the Planning and Zoning Administrator grant an administrative variance to allow a use not permissible under the terms of this Ordinance in the District involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said District.

First Reading: Approved _____

Date

Second Reading: Approved/Waived _____

Date

Third Reading: Approved/Waived _____

Date

Publication: _____
Date

WEBSTER COUNTY BOARD OF SUPERVISORS

Niki Conrad, Chairperson

Nick Carlson, Supervisor

Mark Campbell, Supervisor

Bob Thode, Supervisor

Austin Hayek, Supervisor

ATTEST:

Doreen Pliner, Auditor

I, Doreen Pliner, being duly sworn under oath, hereby state that I am the Auditor for Webster County, Iowa and that this is a true and accurate copy of the amendment to Ordinance No. ____ passed by the Webster County Board of Supervisors on this _____ day of _____, 2024.

LEGAL PUBLICATION

WEBSTER COUNTY PLANNING AND ZONING COMMISSION

The Webster County Planning and Zoning Commission will hold a meeting on Tuesday, February 13, 2024 at 6:00 p.m. on the second floor of the Webster County Office Building located at 723 1st Avenue South, Fort Dodge, Iowa 50501 to discuss the following agenda item:

- a. Public Hearing: Text Amendment to the Official Zoning Ordinance of Webster County, Section 6-1-9 – Administrative Variances. Said Section would provide Administrative Variances and outlines limitations, eligibility, and process.

For additional information contact (515) 574-3761 or planning@webstercountyaia.org.

Publication Dates

Fort Dodge Messenger	February 7, 2024 (Wednesday)
Dayton Leader	February 8, 2024 (Thursday)
Gowrie Times	February 7, 2024 (Wednesday)

equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.

- b. Conduct a pre-construction survey, in coordination with the appropriate jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public road.
- c. Be responsible for restoring the road(s) and bridges to preconstruction conditions.

14) Drainage System: The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the WECS.

15) Abandonment: If any tower shall cease to be used for a period of one year, the Zoning Office shall notify the tower owner and property owner that the site will be subject to determination by the Zoning Administrator that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have 30 days to show preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower had been in use or under repair during the relevant period, the Zoning Administrator shall issue a final determination of abandonment of the site and the property owner shall have 75 days thereafter to coordinate with the tower owner for the dismantling and relocation of the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his/her designee. The public nuisance will be removed by the County with all associated costs charged to the Owner of said real estate.

6-1-9 BOARD OF ADJUSTMENT

1. Organization and Meetings

- A. The Board of Adjustment hereafter referred to by the words "Board of Adjustment," is hereby continued. Such Board of Adjustment shall consist of five members appointed by the Board of Supervisors. Terms shall be as provided by State statute. The Board of Supervisors shall have power to remove any member of the Board of Adjustment for cause upon written charges and after public hearing.
- B. The meetings of the Board of Adjustment shall be held at the call of the chairman and at such other times as the Board of Adjustment may determine.

Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Adjustment and shall be a public record. The presence of three members shall be necessary to constitute a quorum.

2. Appeals

- A. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of Webster County affected by any decision of the Zoning Administrator, as provided in Iowa Code 335. Such appeal shall be taken within 20 days of the decision by filing with the Zoning Administrator and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed is taken from.
- B. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Adjustment, after notice of appeal shall have been filed with him, that by reason of the facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may not be granted by the Board of Adjustment, or by a court of record on application, on notice to the Zoning Administrator and on due cause shown.
- C. The Board of Adjustment shall fix a reasonable time for the hearing on the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person or by agent, or by attorney. Before an appeal is filed with the Board of Adjustment, the appellant shall pay a fee according to the Schedule of Fees: Webster County Zoning Ordinance, which is on file in the Office of the Zoning Administrator.

3. Powers. The Board of Adjustment shall have the following powers:

- A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Administrator in the enforcement of this ordinance.
- B. To grant a variation from the terms of this Ordinance; provided, however, that all variations granted under this clause shall be in harmony with the intent of this Ordinance and the applicable State Statute Iowa Code Section 335.5.

In granting approval or conditional approval of a variance, the Board of Adjustment shall prepare written findings of fact that all of the conditions below apply to the application:

- 1) Special Circumstances: Special circumstances exist relating to the physical character of the property that are peculiar to the property and that do not apply generally to other properties in the same zoning district. And these circumstances are not of so general or recurrent a nature as to make it practical to provide, in the form of an amendment to this Ordinance, a general rule to cover them.
- 2) Hardship or Practical Difficulties: Because of these special circumstances, the literal application of the provisions of this Ordinance would, without a variance, result in unnecessary and undue hardship or practical difficulties for the applicant, as distinguished from mere inconvenience.
- 3) Not Resulting from Applicant Action: The special circumstances and either practical difficulties or hardship that are the basis for the variance have not resulted from any act, undertaken subsequent to the adoption of this Ordinance or any applicable amendment thereto, of any party with a present interest in the property.
- 4) Reasonable Use and Return: Without the requested variance, the property cannot yield a reasonable return, or cannot be reasonably used consistent with the intent of the zoning district and the use of other properties therein, but the purpose of the variance is not otherwise to increase the return from the property or to confer special privileges not ordinarily enjoyed by other properties in the same district.
- 5) Not Alter Local Character: The variance will not alter the essential character of the locality or substantially impair public safety or welfare or property values in the area.
- 6) Minimum Variance Needed: The variance approved is the minimum required to allow reasonable use and enjoyment of the property.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance.

Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the

District involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said District.

- C. To permit the following exceptions to the District regulations set forth in the Ordinance, provided all exceptions shall be their design, construction and operation adequately safeguard the health, safety and welfare of the occupants of adjoining and surrounding property, shall not impair an adequate supply of light and air to adjacent property, shall not increase congestion in the public streets, shall not increase public danger of fire and safety, and shall not diminish or impair established property values in surrounding areas:
 - 1) To permit erection and use of a building or the use of premises or vary the height, yard or area regulations in any location for a public service corporation for public utility purposes, or for purposes of public communication, which the Board of Adjustment determines is reasonably necessary for the public convenience or welfare.
 - D. To issue special permits and decide such matters as may be required by other sections of this Ordinance.
4. Decisions of the Board of Adjustment. In exercising the above mentioned powers, the Board of Adjustment may, in conformity with the provisions of law, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determinations as it believes proper, and to that end shall have all the powers of the Zoning Administrator. The concurring vote of three of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance; provided, however, that the action of the Board of Adjustment shall not become effective until after the resolution of the Board of Adjustment, setting forth the full reason for its decision and the vote of each member participating therein, has been filed. Such resolution, immediately following the Board of Adjustment's final decision, shall be filed in the office of the Board of Adjustment, and shall be open to public inspection.

Every variation and exception granted or denied by the Board of Adjustment shall be supported by a written testimony or evidence submitted in connection therewith.

Any taxpayer, or any officer, department, board or bureau of Webster County, or any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board of Adjustment, as provided in Iowa Code 335.

6-1-10 PLANNING AND ZONING COMMISSION

1. Organization and Meetings

- A. The Webster County Planning and Zoning Commission hereafter referred to by the word "Planning and Zoning Commission."
- B. The Planning and Zoning Commission shall adopt its own rules of procedure not in conflict with this ordinance or with the Code of Iowa, including the following information:
 - 1) The time and date of the regularly scheduled meeting and place
- C. The Planning and Zoning Commission shall elect yearly one of the members of the Planning and Zoning Commission as Chairperson, and one as a vice chairperson in case of vacancy shall name another Chairperson.
- D. The Planning and Zoning Commission shall keep minutes of its proceedings, showing the vote of each member, upon every question or if absent, or abstaining to vote indicating such fact and reason and shall keep complete records of its examinations and other official actions. Every rule, regulation, recommendation every amendment or repeal thereof and every requirement, decision, or determination of the Planning and Zoning Commission shall immediately be filed in the office of the Planning and Development Department and shall be a public record.

2. Powers and Duties

- A. The County Planning and Zoning Commission's duty is to recommend the boundaries of the various original districts and appropriate regulations and restrictions to be enforced therein.
- B. The Planning and Zoning Commission shall:
 - 1) Prepare preliminary reports and hold public hearings thereon, before submitting a final report. The Board of Supervisors shall not hold its public hearings or take action until it has received the final report of such Planning and Zoning Commission.
 - 2) After the adoption of such regulations, restrictions, and boundaries of districts, the Planning and Zoning Commission may recommend to the Board of Supervisors amendments, supplements, changes, or modifications.
 - 3) Reviewed petitions, changed after a Planning and Zoning Commission recommendation, which has been submitted to the Board of Supervisors,