

# East Central Intergovernmental Association

a regional response to local needs



June 17, 2025

Lori Roling, Zoning Administrator  
Jackson County Zoning Department  
201 West Platt Street  
Maquoketa, IA 52060

**RE: Zoning Ordinance Update – Revised Draft of Chapter 4. Board of Adjustment (06-03-25)**

Dear Lori,

Attached is information regarding the Revised draft of Chapter 4. Board of Adjustment (06-03-25) approved by the Board of Adjustment at their May 27, 2025 meeting for review and approval by the Zoning Commission at their July 21, 2025 meeting.

## Discussion

The Board of Adjustment is given a separate Chapter 4 with its current regulations in black text. The attached REDLINE version outlines the proposed changes in red text with commentary. Green text is existing language that has been moved. The CLEAN version shows the resulting restructure. Major updates are as follows:

- *UPDATED: Section 4.3* includes a new power for dimensional variances under Iowa Code.
- *UPDATED: Section 4.4 Appeals* has several sections moved to here and expanded procedures.
- *NEW: Section 4.5 Conditional Use Permits.* Special Exception Uses and Structures are renamed to Conditional Use Permit to reflect that they are allowed only after meeting required conditions in the Ordinance and any additional conditions set by the BOA. This new terminology is found in many updated city and county zoning ordinances in Iowa.
- *NEW: Section 4.6 Dimensional Variances.* Iowa Code establishes new powers for the Board related to dimensional variances from the area, dimensional, and other numerical limitations based on a test of "practical difficulty."
- *UPDATED: Section 4-7 Variances* is intended to cover any variances which are not covered by the new Dimensional Variances, and therefore is subject to the test for "unnecessary hardship."
- References to Iowa Code Sections and Zoning Ordinance sections are highlighted in yellow as future hyperlinks for the online version.

## Recommendation

The Commission is asked to review and approve the Revised draft of Chapter 4. Board of Adjustment (06-03-25), and then to provide direction to staff for moving forward with the proposal. Please let me know if you have any questions. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Laura Carstens".

Laura Carstens, Senior Planner

## Attachments

**CHAPTER 4. BOARD OF ADJUSTMENT**

**2-114.1 Board of Adjustment Created.** In accordance with Iowa Code Section 335.10, a Board of Adjustment is hereby established by the Jackson County Board of Supervisors. The Board shall consist of five (5) members to be appointed by the Board of Supervisors for a term of five (5) years, except that when the Board of Adjustment shall first be created one (1) member shall be appointed for a term of five (5) years, one for a term of four (4) years, one for a term of three ~~93~~(3) years, one for a term of two (2) years and one for a term of one (1) year. Members of the Board of Adjustment may be removed from office by the Board of Supervisors for cause upon written charges and after public hearing. Vacancies shall be filled by the Board of Supervisors for the unexpired term of the member.

**Commented [LC1]:** Text in black is current ordinance.  
Text in red is proposed language.

**2-124.2 Proceedings of the Board of Adjustment.** The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the chairperson and at such other times as the Board may determine. The chairperson, or in the absence of the chairperson, the acting chairperson, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon 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 a public record and be immediately filed in the office of the Board.

~~**2-13 Hearings: Appeals: Notice.** Appeals to the Board of Adjustment concerning interpretation or administration of this ordinance may be taken by any person aggrieved or by any officer or bureau of the governing body of the County affected by any decision of the Administrator. Such appeals shall be taken within a reasonable time, not to exceed sixty (60) days or such lesser period as may be provided by the rules of the Board, by filing with the Administrator and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Administrator shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.~~

**Commented [LC2]:** Text in green is current language that has been moved.

~~The Board of Adjustment shall fix a reasonable time for the hearing of 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 attorney.~~

~~A fee as established by rule of the Jackson County Board of Supervisors shall be paid to the Administrator at the time the notice of appeal is filed which the Administrator shall forthwith pay over to the credit of the general fund of the County.~~

~~**2-14 Stay Of Proceedings.** An appeal stays all proceedings in furtherance of the action appealed from, unless the Administrator from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with the Administrator, that by reason of facts stated in the certificate, a stay would, in the Administrator's opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application and notice to the Administrator from whom the appeal is taken and on due cause shown.~~

**2-154.3 The Board of Adjustment: Powers and Duties:** The Board of Adjustment shall have the following powers and duties:

**A. In accordance with Iowa Code Section 335.15:**

1. **Administrative Review Appeals.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator or an administrative official in the enforcement of this Ordinance or of any ordinance adopted pursuant thereto.
2. **~~Special Exception Conditional Use Permits: Conditions Governing Applications: Procedures.~~** To hear and decide ~~only such special exceptions to the terms of the Ordinance upon which the Board of Adjustment is required to pass under this Ordinance by granting conditional use permits, as set~~ The Board of Adjustment is specifically authorized to pass on by the terms of this Ordinance; to decide such questions as are involved in determining whether conditional use permits special exceptions should be granted; and to grant conditional use permits special exceptions with such conditions and safeguards as are appropriate under this Ordinance and to deny conditional use permits special exceptions when not in harmony with the purpose and intent of this Ordinance.
3. **Dimensional Variances.** To authorize on appeal, in specific cases, such variance from the terms of the Ordinance with respect to the quantitative requirements for area, dimensional, or other numerical limitations as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Ordinance will result in practical difficulties to the property owner in making a beneficial use of the property allowed by the Zoning Ordinance, and so that the spirit of the Ordinance shall be observed and substantial justice done. Such variance from quantitative requirements of this Ordinance shall require a dimensional variance to be granted by the Board of Adjustment. Additionally, the Board of Adjustment shall have the power to modify by special exception any quantitative requirements under the same conditions and using the same procedures as set out in this section for listed special exception uses, providing the modification is less than fifty percent of the requirement, or, providing in situations involving setbacks from public roads, the County Engineer has determined that the interests of government entities in safety, engineering, and potential cost factors are negligible.
4. **~~3. Variances: Conditions Governing Applications: Procedures.~~** To authorize upon appeal in specific cases such variance from non-quantitative requirements under the terms of this Ordinance as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship.

**Commented [LC3]:** Additional language is from Iowa Code 335.15 Powers of Board.

**Commented [LC4]:** Proposed to be renamed to Conditional Use Permit to reflect that these uses are allowed only after meeting required conditions in the Zoning Ordinance and any additional conditions set by the BOA. This new terminology is found in many updated city and county zoning ordinances in Iowa.

**Commented [LC5]:** Additional language is from Iowa Code 335.15 Powers of Board.

**Commented [LC6]:** These new regulations are intended to comply with House File 652 adopted on 4-25-25 that establish new powers for the Board of Adjustment for Dimensional Variances.

**Commented [LC7]:** This language is proposed to be moved to Chapter 3. Administration and Enforcement to create a new process for Administrative Waivers to be granted by the Zoning Administrator with reduced property owner notification for up to 50% of the quantitative requirements. The intent is to reduce the number of requests that now come to the BOA.

**B. In accordance with the Jackson County Code of Ordinances:**

1. Title III Business and Occupations, Chapter 3. Alcohol Licenses Regulations, Section 3-3-2 Restrictions.
2. Title IV Property and Land Use, Chapter 2. Flood Plain Management, Section 6-2-9 Appointment and Duties of Board of Adjustment.
3. Title IV Property and Land Use, Chapter 3. Airport Tall Structure Zoning Ordinance, Section 6-3-5 Variances.

~~2.12~~4.4 ~~Hearings, Appeals, Notice.~~ Appeals to the Board of Adjustment of Adjustment concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer or bureau of the governing body of the County affected by any decision of the Administrator.

~~2.14~~—A. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with the Zoning Administrator, that by reason of facts stated in the certificate, a stay would, in the Zoning Administrator's opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application and notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.

B. Procedures. Such appeals shall be taken within a reasonable time, not to exceed sixty (60) sixty (60) days ~~or such lesser period as may be provided by the rules of the Board~~, 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 from was taken.

The Board of Adjustment shall fix a reasonable time for the hearing of 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 appear virtually, or represented by agent or attorney.~~ In accordance with Iowa Code Section 335.6, notice of the time and place of the hearing shall be published as provided in Iowa Code Section 331.305.

1. ~~A written application indicating the administrative decision or the section of this Ordinance being appealed.~~

2. ~~A fee as(established by rule of the Jackson County Board of Supervisors) shall be paid to the Zoning Administrator at the time the notice of appeal is filed which the Zoning Administrator shall forthwith pay over to the credit of the general fund of the County.~~

4.3. ~~The public hearing shall be held. Any party may appear in person or appear virtually, or by agent or attorney. A complete record of the hearing shall contain the following:~~

- a. The original application.
- b. The records of any action on the appeal by an administrative official.
- c. Proof of notice sent prior to the hearing date to the applicant by mail for the purpose of due notice of the hearing.
- d. All relevant information, including but not limited to, maps, drawings, and/or photographs.
- e. Minutes of the public hearing.

C. Final Decision. The final decision shall include the findings of fact and the conclusions reached by the Board of Adjustment. The decision must be in writing and include all conditions that may be associated with the decision. The decision should not be a mere conclusion or statement. Each decision shall be accompanied by specific findings of fact related to the specific appeal.

**4.5 Conditional Use Permits.** Any person may submit to the Board of Adjustment an application requesting a conditional use permit in accordance with the regulations of this Ordinance.

~~a. In granting any special exception, 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 special exception is granted, shall be deemed a violation of this ordinance and punishable under Section 2.4 of this ordinance. The Board of Adjustment shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.~~

**A. Procedures.** ~~b. A conditional use permit special exception~~ shall not be granted by the Board of Adjustment unless and until:

1. A written application for a conditional use permit special exception is submitted indicating the section of this Ordinance under which the conditional use permit special exception is sought and stating the grounds on which it is requested.

~~1-2.~~ A fee (established by the Board of Supervisors), shall be paid to the Zoning Administrator at the time the application is filed, which the Zoning Administrator shall forthwith pay over to the credit of the general fund of the County.

3. In accordance with Iowa Code Section 335.6, notice of the time and place of the hearing shall be published as provided in Iowa Code Section 331.305. Notice shall be given at least ten (10) but no more than twenty (20) days in advance of the public hearing by publication in a newspaper of general circulation in the county and by contacting by mail, for the purpose of a courtesy notice of the public hearing, all property owners within five hundred (500) feet of the exterior boundaries of the property for which the conditional use permit is requested. The notice shall state the location of the district affected by naming the township and section, and the boundaries of the district shall be expressed in terms of streets or roads if possible.

~~2-4.~~ The public hearing shall be held. Any party may appear in person or appear virtually, or by agent or attorney.

**B. ~~c. Standards for Review.~~** In reviewing an application for a conditional use permit ~~a special exception~~, the Board of Adjustment shall consider the following:

1. The Jackson County Land Use Policy Statement and the Comprehensive Plan;
2. Other policy statements adopted by the Board of Supervisors including Resolution #184-12-07-99 addressing the preservation of ancient burial mounds;
3. The purpose and intent of the Ordinance and of its specific districts;
4. The most appropriate use of the land;
5. The conservation and stabilization of property values;

6. Adequate open spaces for light and air.;
7. Concentration of population.;
8. Congestion of public streets.;
9. The promotion of the public safety, health, convenience and comfort.;
10. The general welfare of the persons residing or working in the general area.

C. ~~d. Findings.~~ Before any ~~conditional use permit special exception~~ is granted, the Board of Adjustment shall make the following written findings regarding the case in question:

1. The Board of Adjustment is empowered under ~~the section of this Ordinance described in the application to grant the conditional use permit special exception.~~
2. It complies with any specific regulations governing individual ~~conditional use permit special exceptions.~~
3. Satisfactory provision has been made concerning the following, where applicable:
  - a. Vehicular access to property with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.;
  - b. Off-street parking, loading and service areas where required.;
  - c. Economic, noise, dust, heat, glare or odor effects of the ~~conditional use permit special exception~~ on surrounding properties.;
  - d. Utilities, with reference to locations, availability, adequacy and compatibility.;
  - e. Screens and buffers with reference to type, dimensions, character and adequacy.;
  - f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with surrounding properties.;
  - g. Required ~~yards setbacks~~ and other open spaces.;
  - h. General compatibility with surrounding properties.
4. It is in harmony with the Land Use Policy Statement and the Comprehensive Plan.
5. It will not adversely affect the public interest.

D. ~~a. Conditions.~~

1. In granting any conditional use permit special exception, the Board of Adjustment of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance.
2. Violation of such conditions and safeguards, when made a part of the terms under which the conditional use permit special exception is granted, shall be deemed a violation of this Ordinance and punishable under Section 2.43.4 of this Ordinance.

3. The Board of Adjustment shall ~~may~~ prescribe a time limit within which the action for which the conditional use permit ~~special exception~~ is required shall ~~to~~ be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the conditional use permit ~~special exception~~.

~~3. **Variances: Conditions Governing Applications: Procedures.** To authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship.~~

**4.6 Dimensional Variances.** Any person may submit to the Board of Adjustment an application requesting a dimensional variance in accordance with the regulations of this Ordinance.

**A. Procedures.** A dimensional variance shall not be granted by the Board of Adjustment unless and until:

1. A written application for a dimensional variance is submitted indicating the quantitative requirements of this Ordinance for which the dimensional variance is sought and stating the grounds on which it is requested.
2. A fee (established by the Board of Supervisors), shall be paid to the Zoning Administrator at the time the application is filed, which the Zoning Administrator shall forthwith pay over to the credit of the general fund of the County.
3. In accordance with Iowa Code Section 335.6, notice of the time and place of the hearing shall be published as provided in Iowa Code Section 331.305 and by contacting by mail, for the purpose of a courtesy notice of the public hearing, all property owners within five hundred (500) feet of the exterior boundaries of the property for which the dimensional variance is requested. The notice shall state the location of the district affected by naming the township and section, and the boundaries of the district shall be expressed in terms of streets or roads if possible.
4. The public hearing shall be held. Any party may appear in person or appear virtually, or by agent or attorney.

**B. Burden of Proof for Property Owner.** To receive the requested dimensional variance, the property owner must meet the "burden of proof" for "practical difficulties" in accordance with Iowa Code Section 335.15.4.

**C. Standards for Review.** In reviewing an application for a dimensional variance, the Board of Adjustment shall consider the following standards for review.

1. The property owner has met the "burden of proof" in accordance with Iowa Code Section 335.15.4.
2. The Jackson County Land Use Policy Statement and the Comprehensive Plan.

**Commented [LC8]:** Notification of property owners within 500 feet is not in the current ordinance but is current practice

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**Commented [LC9]:** Iowa Code Section 335.15. 4. To authorize on appeal, in specific cases, such variance from the terms of the ordinance with respect to the area, dimensional, or other numerical limitations as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in practical difficulties to the property owner in making a beneficial use of the property allowed by the zoning ordinance, and so that the spirit of the ordinance shall be observed and substantial justice done. Area, dimensional, or other numerical limitations subject to variances include but are not limited to requirements for minimum lot size, setbacks, yard widths, height, bulk, sidewalks, fencing, signage, and off-street parking. **To receive the requested area, dimensional, or other numerical variance, the property owner must prove that the practical difficulties faced are unique to the property at issue and not self-created and must also demonstrate that granting the variance will not significantly alter the essential character of the surrounding neighborhood.**

3. Other policy statements adopted by the Board of Supervisors including Resolution #184-12-07-99 addressing the preservation of ancient burial mounds.
4. The purpose and intent of the Ordinance and of its specific districts.
5. The most appropriate use of the land.
6. The conservation and stabilization of property values.
7. Adequate open spaces for light and air.
8. Concentration of population.
9. Congestion of public streets.
10. The promotion of the public safety, health, convenience and comfort.
11. The general welfare of the persons residing or working in the general area.
12. In situations involving setbacks from public roads, the County Engineer has determined that the interests of government entities in safety, engineering, and potential cost factors are negligible.

**D. Findings.** Before any dimensional variance is granted, the Board of Adjustment shall make the following written findings regarding the case in question:

1. The property owner has met the "burden of proof" in accordance with Iowa Code Section 335.15.4.
2. The Board of Adjustment is empowered under this Ordinance to grant the dimensional variance.
3. It complies with any specific regulations governing an individual dimensional variance .
4. Satisfactory provision has been made concerning the following, where applicable:
  - a. Vehicular access to property with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
  - b. Off-street parking, loading and service areas where required.
  - c. Economic, noise, dust, heat, glare or odor effects of the dimensional variance on surrounding properties.
  - d. Utilities, with reference to locations, availability, adequacy and compatibility.
  - e. Screens and buffers with reference to type, dimensions, character and adequacy.
  - f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with surrounding properties.
  - g. Required setbacks and other open spaces.
  - h. General compatibility with surrounding properties.



5. It is in harmony with the Land Use Policy Statement and the Comprehensive Plan.

6. It will not adversely affect the public interest.

**E. Conditions.**

1. In granting any dimensional variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance.

2. Violation of such conditions and safeguards, when made a part of the terms under which the dimensional variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 3.4 of this Ordinance.

3. Under no circumstances shall the Board of Adjustment grant a dimensional variance to allow a use or structure not allowed in the district involved or any use or structure expressly or by implication prohibited by the terms of this Ordinance in said district.

4. The effective date that a dimensional variance is granted shall be twenty-one (21) days from the date of granting, except that when a dimensional variance has been reaffirmed, with or without modification, after being remanded by the Board of Supervisors under the provisions of this Ordinance, the dimensional variance shall be effective immediately or as specified in the motion to reaffirm.

**4.7 Variances.** Any person may submit to the Board of Adjustment an application requesting a variance from non-quantitative requirements in accordance with the regulations of this Ordinance.

**A. Procedures.** A variance the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until:

1. A written application for a variance is submitted demonstrating:
  - a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.
  - b. That literal interpretation of the provisions of this Ordinance would deprive the applicant property owner of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
  - c. That the special conditions and circumstances do not result from the actions of the applicant property owner.
  - d. That granting the variance requested will not confer on the applicant property owner any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same district. No nonconforming use of neighboring lands, structure or buildings in other districts shall be considered grounds for the issuance of a variance.

**Commented [LC10]:** The new Iowa Code refers to this BOA action as a variance, which by Iowa Code may be remanded to the Board of Supervisors.

**Commented [LC11]:** This revised variance section is intended to cover any variance from non-quantitative requirements, which are not covered by the new Iowa Code. Staff is not sure what these may be, but we want to have everything covered in this update.

2. A fee (established by the Board of Supervisors), shall be paid to the Zoning Administrator at the time the application is filed, which the Zoning Administrator shall forthwith pay over to the credit of the general fund of the County.

3. In accordance with Iowa Code Section 335.6, notice of the time and place of the hearing shall be published as provided in Iowa Code Section 331.305 and by contacting by mail, for the purpose of a courtesy notice of the public hearing, all property owners within five hundred (500) feet of the exterior boundaries of the property for which the variance is requested. The notice shall state the location of the district affected by naming the township and section, and the boundaries of the district shall be expressed in terms of streets or roads if possible.

~~2. Notice of public hearing shall be given as in Section 2.15.2(b) above.~~

~~3-4.~~ The public hearing shall be held. Any party may appear in person or appear virtually, or by agent or by attorney.

**B. Burden of Proof for Property Owner.** To receive the requested variance from the terms of the Ordinance, the property owner must prove to the Board of Adjustment that the strict enforcement of the terms of this Ordinance will inflict an “unnecessary hardship” on the property owner and are not self-created and must also demonstrate that granting the variance will not significantly alter the essential character of the surrounding neighborhood.

**C. Standards for Review.** In reviewing an application for a variance, the Board of Adjustment shall consider the following standards for review. No variance shall be granted unless the property owner shall show and the Board of Adjustment shall find the following:

1. The Iowa courts have set out specific criteria that must be satisfied before the Board of Adjustment may find that an “unnecessary hardship” exists, sufficient to grant a property owner a variance. The property owner must satisfy all three (3) criteria listed below to be granted a variance:

- a. The land in question cannot yield reasonable return if used only for a purpose allowed in that zoning district.
- b. The plight of the property owner is due to unique circumstances and not to general conditions in neighborhood, and
- ~~a-c.~~ The use or structure to be authorized by a variance will not alter essential character of the locality.

~~1-2.~~ The Iowa courts have established the following guidelines for assessing whether the above-listed criteria have been met:

- a. Failure to yield a “reasonable return” may be shown by proof that the property owner has been deprived of all beneficial use of the land. All beneficial use is said to have been lost where the land is not suitable for any use allowed by this Ordinance. It is not sufficient to show that the value of land merely has been depreciated by the zoning regulations, or that a variance would permit a property owner to maintain a more profitable use. It is not sufficient to show mere inconvenience to the applicant.

**Commented [LC12]:** Notification of property owners within 500 feet is not in the current ordinance but is current practice

**Commented [LC13]:** This new subsection is comparable to new subsection 4.6.B above for dimensional variance s.

b. Problems common to several properties do not constitute “unique circumstances.” The condition or situation is not of so general or recurring a nature as to make reasonably practical a general regulation to be adopted as an amendment of this Ordinance.

c. This disadvantage of “unique circumstances” does not exist as a result of conditions created by the current owner or previous owners of the property.

~~a-d.~~ A variance that alters the “essential character of the area” is beyond the authority of the Board of Adjustment to grant. The Board of Adjustment cannot grant a variance for a change in use that, in effect, constitutes a rezoning or Ordinance amendment. Factors to consider in determining whether a variance will alter the “essential character of the neighborhood” include the degree of variation from district regulations, the size of the parcel, and the parcel’s size and character in relation to the size of the district.

3. In granting a variance, the Board of Adjustment shall not consider prospective financial loss or gain to the applicant.

4. Under no circumstances shall the Board of Adjustment grant a variance to allow a use or structure not allowed under the terms of the Ordinance regulations in the district involved, or any use or structure expressly or by implication prohibited by the terms of the regulations in said district.

4. No non-conforming use of neighboring lands, structures, or buildings in the same district and no allowed or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the granting of a variance.

**D. Findings.** Before any variance is granted, the Board of Adjustment shall make the following written findings regarding the case in question:

1. The property owner has met the “burden of proof” in accordance with the Iowa courts.

2. The Board of Adjustment is empowered under the section of this Ordinance described in the application to grant the variance.

~~1-3.~~ The Board shall make findings that the requirements of Section 2-15.3(a) this Ordinance have been met by the applicant-property owner for a variance.

~~2-4.~~ The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

~~3-5.~~ The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

**E. Conditions.**

1. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance.

2. Violations 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 **Section 2.43.4** of this Ordinance.

3. Under no circumstances shall the Board of Adjustment grant a variance to allow a use or structure not ~~permitted-allowed~~ in the district involved or any use or structure expressly or by implication prohibited by the terms of this Ordinance in said district.

~~1-4.~~ The effective date ~~of that a~~ variances granted shall be twenty-one (21) days from the date of granting, except that when a variance has been reaffirmed, with or without modification, after being remanded by the Board of Supervisors under the provisions of ~~Section 2.17 below this Ordinance~~, the variance shall be effective immediately or as specified in the motion to reaffirm.

**2.164.8 Decisions of the Board of Adjustment.** In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made and to that end shall have powers of the Zoning Administrator from whom the appeal is taken. The concurring vote of a quorum of three (3) 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 or to effect any variation in application of this Ordinance.

**2.174.9 Remanding of Variances by the Board of Supervisors.** Under the authority of Iowa Code Section 335.10, the Board of Supervisors shall have the power to remand any dimensional variance or variance granted by the Board of Adjustment. Accordingly, the following provisions shall apply:

- A. ~~1.~~—A written report of all actions taken by the Board of Adjustment shall be provided promptly by its secretary to the applicant, the property owner, and to the Board of Supervisors, to include also the effective date of any variances granted.
- B. ~~2.~~—Upon considering the report of actions and any other information available, the Board of Supervisors may choose to remand any decision to grant a variance, so long as it acts by official motion and before the effective date of the variance. The remanding of a variance will automatically delay its effective date for thirty (30) days from the date of the remand, or until the Board of Adjustment has taken an official action on the remand, as required by ~~subsection four (4) below this Ordinance~~, whichever comes first.
- C. ~~3.~~—Upon notice of such remand, the Board of Adjustment shall schedule a special public hearing, to occur before the new effective date of the variance, to hear any new testimony available on the matter. Notice of this hearing shall be provided in the customary manner and to the applicant, the property owner, and to all persons who commented on the request, either at the original hearing or in writing to the Board of Adjustment.
- D. ~~4.~~—Upon holding such special hearing, the Board of Adjustment shall make findings and take action to affirm its original decision, or to modify it by the placement of conditions on the variance, or by denying the variance.

E. ~~5.~~ If the Board of Adjustment fails to act before the effective date of a variance, the variance stands and any further redress of grievances shall come from a court of record as noted below.

**2-184.10** **Appeals from the Board of Adjustment:** Any person or persons or any board, taxpayer, department, board or bureau of the county aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision in the manner provided by the laws of the State and particularly by Iowa Code Chapter 358A, ~~Code of Iowa~~.

## CHAPTER 4. BOARD OF ADJUSTMENT

**4.1 Board of Adjustment Created.** In accordance with Iowa Code Section 335.10, a Board of Adjustment is hereby established by the Jackson County Board of Supervisors. The Board shall consist of five (5) members to be appointed by the Board of Supervisors for a term of five (5) years, except that when the Board of Adjustment shall first be created one (1) member shall be appointed for a term of five (5) years, one for a term of four (4) years, one for a term of three (3) years, one for a term of two (2) years and one for a term of one (1) year. Members of the Board of Adjustment may be removed from office by the Board of Supervisors for cause upon written charges and after public hearing. Vacancies shall be filled by the Board of Supervisors for the unexpired term of the member.

**4.2 Proceedings of the Board of Adjustment.** The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the chair and at such other times as the Board may determine. The chair, or in the absence of the chair, the acting chair, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon 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 a public record and be immediately filed in the office of the Board.

**4.3 The Board of Adjustment: Powers and Duties:** The Board of Adjustment shall have the following powers and duties:

A. In accordance with Iowa Code Section 335.15:

1. **Appeals.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator or an administrative official in the enforcement of this Ordinance or of any ordinance adopted pursuant thereto.
2. **Conditional Use Permits.** To hear and decide special exceptions to the terms of the Ordinance upon which the Board of Adjustment is required to pass under this Ordinance by granting conditional use permits. The Board of Adjustment is specifically authorized to pass on by the terms of this Ordinance; to decide such questions as are involved in determining whether conditional use permits should be granted; and to grant conditional use permits with such conditions and safeguards as are appropriate under this Ordinance and to deny conditional use permits when not in harmony with the purpose and intent of this Ordinance.
3. **Dimensional Variances.** To authorize on appeal, in specific cases, such variance from the terms of the Ordinance with respect to the quantitative requirements for area, dimensional, or other numerical limitations as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Ordinance will result in practical difficulties to the property owner in making a beneficial use of the property allowed by the Zoning Ordinance, and so that the spirit of the Ordinance shall be observed and substantial justice done. Such variance from quantitative requirements of this Ordinance shall require a dimensional variance to be granted by the Board of Adjustment, providing in situations involving setbacks from public roads, the County Engineer has determined that the interests of government entities in safety, engineering, and potential cost factors are negligible.

4. **Variances.** To authorize upon appeal in specific cases such variance from non-quantitative requirements under the terms of this Ordinance as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship.

**B.** In accordance with the Jackson County Code of Ordinances:

1. Title III Business and Occupations, Chapter 3. Alcohol Licenses Regulations, Section 3-3-2 Restrictions.
2. Title IV Property and Land Use, Chapter 2. Flood Plain Management, Section 6-2-9 Appointment and Duties of Board of Adjustment.
3. Title IV Property and Land Use, Chapter 3. Airport Tall Structure Zoning Ordinance, Section 6-3-5 Variances.

**4.4 Appeals.** Appeals to the Board of Adjustment concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer or bureau of the governing body of the County affected by any decision of the Administrator.

**A. Stay of Proceedings.** An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with the Zoning Administrator, that by reason of facts stated in the certificate, a stay would, in the Zoning Administrator's opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application and notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.

**B. Procedures.** Such appeals shall be taken within a reasonable time, not to exceed sixty (60) days as provided by the rules of the Board, 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 from was taken.

The Board of Adjustment shall fix a reasonable time for the hearing of 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 appear virtually, or represented by agent or attorney. In accordance with Iowa Code Section 335.6, notice of the time and place of the hearing shall be published as provided in Iowa Code Section 331.305.

1. A written application indicating the administrative decision or the section of this Ordinance being appealed.
2. A fee (established by rule of the Board of Supervisors) shall be paid to the Zoning Administrator at the time the notice of appeal is filed which the Zoning Administrator shall forthwith pay over to the credit of the general fund of the County.

3. The public hearing shall be held. Any party may appear in person or appear virtually, or by agent or attorney. A complete record of the hearing shall contain the following:
  - a. The original application.
  - b. The records of any action on the appeal by an administrative official.
  - c. Proof of notice sent prior to the hearing date to the applicant by mail for the purpose of due notice of the hearing.
  - d. All relevant information, including but not limited to, maps, drawings, and/or photographs.
  - e. Minutes of the public hearing.

**C. Final Decision.** The final decision shall include the findings of fact and the conclusions reached by the Board of Adjustment. The decision must be in writing and include all conditions that may be associated with the decision. The decision should not be a mere conclusion or statement. Each decision shall be accompanied by specific findings of fact related to the specific appeal.

**4.5 Conditional Use Permits.** Any person may submit to the Board of Adjustment an application requesting a conditional use permit in accordance with the regulations of this Ordinance.

**A. Procedures.** A conditional use permit shall not be granted by the Board of Adjustment unless and until:

1. A written application for a conditional use permit is submitted indicating the section of this Ordinance under which the conditional use permit is sought and stating the grounds on which it is requested.
2. A fee (established by the Board of Supervisors), shall be paid to the Zoning Administrator at the time the application is filed, which the Zoning Administrator shall forthwith pay over to the credit of the general fund of the County.
3. In accordance with Iowa Code Section 335.6, notice of the time and place of the hearing shall be published as provided in Iowa Code Section 331.305 and by contacting by mail, for the purpose of a courtesy notice of the public hearing, all property owners within five hundred (500) feet of the exterior boundaries of the property for which the conditional use permit is requested. The notice shall state the location of the district affected by naming the township and section, and the boundaries of the district shall be expressed in terms of streets or roads if possible.
4. The public hearing shall be held. Any party may appear in person or appear virtually, or by agent or attorney.

**B. Standards for Review.** In reviewing an application for a conditional use permit, the Board of Adjustment shall consider the following:

1. The Jackson County Land Use Policy Statement and the Comprehensive Plan.
2. Other policy statements adopted by the Board of Supervisors including Resolution #184-12-07-99 addressing the preservation of ancient burial mounds.
3. The purpose and intent of the Ordinance and of its specific districts.



4. The most appropriate use of the land.
5. The conservation and stabilization of property values.
6. Adequate open spaces for light and air.
7. Concentration of population.
8. Congestion of public streets.
9. The promotion of the public safety, health, convenience and comfort.
10. The general welfare of the persons residing or working in the general area.

**C. Findings.** Before any conditional use permit is granted, the Board of Adjustment shall make the following written findings regarding the case in question:

1. The Board of Adjustment is empowered under this Ordinance to grant the conditional use permit.
2. It complies with any specific regulations governing individual conditional use permit .
3. Satisfactory provision has been made concerning the following, where applicable:
  - a. Vehicular access to property with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
  - b. Off-street parking, loading and service areas where required.
  - c. Economic, noise, dust, heat, glare or odor effects of the conditional use permit on surrounding properties.
  - d. Utilities, with reference to locations, availability, adequacy and compatibility.
  - e. Screens and buffers with reference to type, dimensions, character and adequacy.
  - f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with surrounding properties.
  - g. Required setbacks and other open spaces.
  - h. General compatibility with surrounding properties.
4. It is in harmony with the Land Use Policy Statement and the Comprehensive Plan.
5. It will not adversely affect the public interest.

**D. Conditions.**

1. In granting any conditional use permit, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance.

2. Violation of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this Ordinance and punishable under Section 3.4 of this Ordinance.
3. The Board of Adjustment may prescribe a time limit within which the action for which the conditional use permit is required to be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the conditional use permit.

**4.6 Dimensional Variances.** Any person may submit to the Board of Adjustment an application requesting a dimensional variance in accordance with the regulations of this Ordinance.

**A. Procedures.** A dimensional variance shall not be granted by the Board of Adjustment unless and until:

1. A written application for a dimensional variance is submitted indicating the quantitative requirements of this Ordinance for which the dimensional variance is sought and stating the grounds on which it is requested.
2. A fee (established by the Board of Supervisors), shall be paid to the Zoning Administrator at the time the application is filed, which the Zoning Administrator shall forthwith pay over to the credit of the general fund of the County.
3. In accordance with Iowa Code Section 335.6, notice of the time and place of the hearing shall be published as provided in Iowa Code Section 331.305 and by contacting by mail, for the purpose of a courtesy notice of the public hearing, all property owners within five hundred (500) feet of the exterior boundaries of the property for which the dimensional variance is requested. The notice shall state the location of the district affected by naming the township and section, and the boundaries of the district shall be expressed in terms of streets or roads if possible.
4. The public hearing shall be held. Any party may appear in person or appear virtually, or by agent or attorney.

**B. Burden of Proof for Property Owner.** To receive the requested dimensional variance. the property owner must meet the “burden of proof” for “practical difficulties” in accordance with Iowa Code Section 335.15.4.

**C. Standards for Review.** In reviewing an application for a dimensional variance, the Board of Adjustment shall consider the following standards for review.

1. The property owner has met the “burden of proof” in accordance with Iowa Code Section 335.15.4.
2. The Jackson County Land Use Policy Statement and the Comprehensive Plan.
3. Other policy statements adopted by the Board of Supervisors including Resolution #184-12-07-99 addressing the preservation of ancient burial mounds.
4. The purpose and intent of the Ordinance and of its specific districts.

5. The most appropriate use of the land.
6. The conservation and stabilization of property values.
7. Adequate open spaces for light and air.
8. Concentration of population.
9. Congestion of public streets.
10. The promotion of the public safety, health, convenience and comfort.
11. The general welfare of the persons residing or working in the general area.
12. In situations involving setbacks from public roads, the County Engineer has determined that the interests of government entities in safety, engineering, and potential cost factors are negligible.

**D. Findings.** Before any dimensional variance is granted, the Board of Adjustment shall make the following written findings regarding the case in question:

1. The property owner has met the “burden of proof” in accordance with Iowa Code Section 335.15.4.
2. The Board of Adjustment is empowered under this Ordinance to grant the dimensional variance.
3. It complies with any specific regulations governing an individual dimensional variance .
4. Satisfactory provision has been made concerning the following, where applicable:
  - a. Vehicular access to property with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
  - b. Off-street parking, loading and service areas where required.
  - c. Economic, noise, dust, heat, glare or odor effects of the dimensional variance on surrounding properties.
  - d. Utilities, with reference to locations, availability, adequacy and compatibility.
  - e. Screens and buffers with reference to type, dimensions, character and adequacy.
  - f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with surrounding properties.
  - g. Required setbacks and other open spaces.
  - h. General compatibility with surrounding properties.
5. It is in harmony with the Land Use Policy Statement and the Comprehensive Plan.
6. It will not adversely affect the public interest.

**E. Conditions.**

1. In granting any dimensional variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance.
2. Violation of such conditions and safeguards, when made a part of the terms under which the dimensional variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 3.4 of this Ordinance.
3. Under no circumstances shall the Board of Adjustment grant a dimensional variance to allow a use or structure not allowed in the district involved or any use or structure expressly or by implication prohibited by the terms of this Ordinance in said district.
4. The effective date that a dimensional variance is granted shall be twenty-one (21) days from the date of granting, except that when a dimensional variance has been reaffirmed, with or without modification, after being remanded by the Board of Supervisors under the provisions of this Ordinance, the dimensional variance shall be effective immediately or as specified in the motion to reaffirm.

**4.7 Variances.** Any person may submit to the Board of Adjustment an application requesting a variance from non-quantitative requirements in accordance with the regulations of this Ordinance.

**A. Procedures.** A variance the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until:

1. A written application for a variance is submitted demonstrating:
  - a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.
  - b. That literal interpretation of the provisions of this Ordinance would deprive the property owner of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
  - c. That the special conditions and circumstances do not result from the actions of the property owner.
  - d. That granting the variance requested will not confer on the property owner any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same district. No nonconforming use of neighboring lands, structure or buildings in other districts shall be considered grounds for the issuance of a variance.
2. A fee (established by the Board of Supervisors), shall be paid to the Zoning Administrator at the time the application is filed, which the Zoning Administrator shall forthwith pay over to the credit of the general fund of the County.
3. In accordance with Iowa Code Section 335.6, notice of the time and place of the hearing shall be published as provided in Iowa Code Section 331.305 and by contacting by mail, for the purpose of a courtesy notice of the public hearing, all property owners within five hundred (500) feet of the exterior boundaries of the property for which the variance is requested. The notice shall state the location of the district affected by naming the township and section, and the boundaries of the district shall be expressed in terms of streets or roads if possible.

4. The public hearing shall be held. Any party may appear in person or appear virtually, or by agent or by attorney.

**B. Burden of Proof for Property Owner.** To receive the requested variance from the terms of the Ordinance, the property owner must prove to the Board of Adjustment that the strict enforcement of the terms of this Ordinance will inflict an “unnecessary hardship” on the property owner and are not self-created and must also demonstrate that granting the variance will not significantly alter the essential character of the surrounding neighborhood.

**C. Standards for Review.** In reviewing an application for a variance, the Board of Adjustment shall consider the following standards for review. No variance shall be granted unless the property owner shall show and the Board of Adjustment shall find the following:

1. The Iowa courts have set out specific criteria that must be satisfied before the Board of Adjustment may find that an “unnecessary hardship” exists, sufficient to grant a property owner a variance. The property owner must satisfy all three (3) criteria listed below to be granted a variance:
  - a. The land in question cannot yield reasonable return if used only for a purpose allowed in that zoning district,
  - b. The plight of the property owner is due to unique circumstances and not to general conditions in neighborhood, and
  - c. The use or structure to be authorized by a variance will not alter essential character of the locality.
2. The Iowa courts have established the following guidelines for assessing whether the above-listed criteria have been met:
  - a. Failure to yield a “reasonable return” may be shown by proof that the property owner has been deprived of all beneficial use of the land. All beneficial use is said to have been lost where the land is not suitable for any use allowed by this Ordinance. It is not sufficient to show that the value of land merely has been depreciated by the zoning regulations, or that a variance would permit a property owner to maintain a more profitable use. It is not sufficient to show mere inconvenience to the applicant.
  - b. Problems common to several properties do not constitute “unique circumstances.” The condition or situation is not of so general or recurring a nature as to make reasonably practical a general regulation to be adopted as an amendment of this Ordinance.
  - c. This disadvantage of “unique circumstances” does not exist as a result of conditions created by the current owner or previous owners of the property.
  - d. A variance that alters the “essential character of the area” is beyond the authority of the Board of Adjustment to grant. The Board of Adjustment cannot grant a variance for a change in use that, in effect, constitutes a rezoning or Ordinance amendment. Factors to consider in determining whether a variance will alter the “essential character of the

neighborhood” include the degree of variation from district regulations, the size of the parcel, and the parcel’s size and character in relation to the size of the district.

3. In granting a variance, the Board of Adjustment shall not consider prospective financial loss or gain to the applicant. Under no circumstances shall the Board of Adjustment grant a variance to allow a use or structure not allowed under the terms of the Ordinance regulations in the district involved, or any use or structure expressly or by implication prohibited by the terms of the regulations in said district.
4. No non-conforming use of neighboring lands, structures, or buildings in the same district and no allowed or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the granting of a variance.

**D. Findings.** Before any variance is granted, the Board of Adjustment shall make the following written findings regarding the case in question:

1. The property owner has met the “burden of proof” in accordance with the Iowa courts.
2. The Board of Adjustment is empowered under the section of this Ordinance described in the application to grant the variance.
3. The requirements of this Ordinance have been met by the property owner for a variance.
4. The reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
5. The granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

**E. Conditions.**

1. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance.
2. Violations 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 Section 3.4 of this Ordinance.
3. Under no circumstances shall the Board of Adjustment grant a variance to allow a use or structure not allowed in the district involved or any use or structure expressly or by implication prohibited by the terms of this Ordinance in said district.
4. The effective date that a variance granted shall be twenty-one (21) days from the date of granting, except that when a variance has been reaffirmed, with or without modification, after being remanded by the Board of Supervisors under the provisions of this Ordinance, the variance shall be effective immediately or as specified in the motion to reaffirm.

**4.8 Decisions of the Board of Adjustment.** In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made and to that end shall have powers of the Zoning Administrator from whom the appeal is taken. The concurring vote of a quorum of three (3) 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 or to effect any variation in application of this Ordinance.

**4.9 Remanding of Variances by the Board of Supervisors.** Under the authority of Iowa Code Section 335.10, the Board of Supervisors shall have the power to remand any dimensional variance or variance granted by the Board of Adjustment. Accordingly, the following provisions shall apply:

- A. A written report of all actions taken by the Board of Adjustment shall be provided promptly by its secretary to the applicant, the property owner, and to the Board of Supervisors, to include also the effective date of any variances granted.
- B. Upon considering the report of actions and any other information available, the Board of Supervisors may choose to remand any decision to grant a variance, so long as it acts by official motion and before the effective date of the variance. The remanding of a variance will automatically delay its effective date for thirty (30) days from the date of the remand, or until the Board of Adjustment has taken an official action on the remand, as required by this Ordinance, whichever comes first.
- C. Upon notice of such remand, the Board of Adjustment shall schedule a special public hearing, to occur before the new effective date of the variance, to hear any new testimony available on the matter. Notice of this hearing shall be provided in the customary manner and to the applicant, the property owner, and to all persons who commented on the request, either at the original hearing or in writing to the Board of Adjustment.
- D. Upon holding such special hearing, the Board of Adjustment shall make findings and take action to affirm its original decision, or to modify it by the placement of conditions on the variance, or by denying the variance.
- E. If the Board of Adjustment fails to act before the effective date of a variance, the variance stands and any further redress of grievances shall come from a court of record as noted below.

**4.10 Appeals from the Board of Adjustment:** Any person or persons or any board, taxpayer, department, board or bureau of the county aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision in the manner provided by the laws of the State and particularly by Iowa Code Chapter 358A.