



**BUSINESS OF THE CITY COUNCIL  
BONDURANT, IOWA  
AGENDA STATEMENT**

Item No. 11  
For Meeting of 06/01/2020

**ITEM TITLE:** Discussion and possible consideration of Ordinance amending Chapter 27, Board of Adjustment, regarding the 200’ notification requirement.


**CONTACT PERSON:** Maggie Murray, Planning & Community Development Director

**SUMMARY EXPLANATION:**

Chapter 27 of the City Code regulates the procedures of the City’s Board of Adjustment. Section 27.02, titled Powers and Duties, notes that the City of Bondurant will notify each property owner within 200’ of a variance or special exception request by a mailing. This practice of notifying property owners within 200’ has been a local practice but is not required by the City Zoning chapter of the Iowa Code (Chapter 414).

Staff is proposing to eliminate the verbiage that requires 200’ property owner notification for variance and special exception requests. This will help reduce the amount of staff time it takes to process Board of Adjustment requests. It also reduces mailing costs.

The City will continue to publish the required Board of Adjustment public hearing notices in the newspaper in advance of Board of Adjustment meetings. Language remains that the City may choose to post a sign/require a sign be posted on the property for which the Board of Adjustment request is being sought.

<p><input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Contract <input type="checkbox"/> Other (Specify) _____</p> <p>Funding Source _____</p> <p>APPROVED FOR SUBMITTAL _____</p> <p style="text-align: center;"> City Administrator</p>
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**RECOMMENDATION:** Discuss, modify, and approve readings as appropriate.

CITY OF BONDURANT  
ORDINANCE NO. 200601-217

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF BONDURANT, IOWA, 2002, BY AMENDING  
CHAPTER 27, BOARD OF ADJUSTMENT

**BE IT ENACTED** by the City Council of the City of Bondurant, Polk County, Iowa:

Section 1. **SECTION AMENDED.** Chapter 27, Section 02, of the City's Code is hereby amended to eliminate the language shown with ~~strikethrough~~ font:

**27.02 POWERS AND DUTIES.** The Board shall have the following powers and duties:

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator in enforcement of this Ordinance.
2. To grant a variation from the terms of this Ordinance when a property owner can show that his property was acquired in good faith and where by reason of exceptional narrowness shallowness, or shape of a specific piece of property, or where by reason of exceptional topographical conditions or other extraordinary or exceptional situation, the strict application of the terms of this Ordinance actually prohibits the use of his property in a manner reasonably similar to that of other property in the same district, and where the Board is satisfied under the evidence before it that:
  - A. The land in question cannot yield a reasonable return if used only for a purpose allowed in the district in which it is located; and
  - B. 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;
  - C. The plight of the owner of the land in question is due to the unique circumstances shown to the Board and is not of his own making;
  - D. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same district;
  - E. The use to be authorized by the variation will not alter the essential character of the locality of the land in question.

Provided, however, that all variations granted under this clause shall be in harmony with the intended spirit and purpose of this Ordinance and shall not be injurious to the surrounding property or otherwise detrimental to the public welfare.

A variance shall not be granted by the Board, unless and until a public hearing is held. Notice of said public hearing shall be given in advance by publishing in a newspaper of general circulation in the city at least 15 days prior to such hearing. ~~The owner of the property for which the variance is sought or his agent and owners of any other affected property within 200 feet of said property shall be notified by mail; names and addresses of such adjacent land owners shall be furnished to the Administrator by the applicant.~~ Further provided that no variance shall be granted unless the Board shall make

findings that the requirements of this Section have been met by the applicant for the variance and that the reasons set forth in the application justify the granting of the variance.

In granting any variance, the Board 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 Chapter 32 of this Ordinance.

Under no circumstances shall the Board 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.

To permit the following exceptions to the district regulations set forth in this Ordinance, provided all exceptions shall be by 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 or flood, and shall not diminish or impair established property values in surrounding areas.

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 purpose of public communication, which the Board determines is reasonably necessary for the public convenience or welfare.

To permit the extension of a zoning district where the boundary line of a district divides a lot in single ownership as shown of record or by existing contract or purchase at the time of the passage of this Ordinance, but in no case shall such extension of the district boundary line exceed forty (40) feet in any direction.

To hear and decide only such other special exceptions as the Board is specifically authorized to pass on by the terms of this Ordinance; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this Ordinance, or to deny special exceptions when not in harmony with the purpose and intent of this Ordinance. A special exception shall not be granted by the Board unless and until:

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

(2) Notice of public hearing shall be given in advance of public hearing by publication of such notice in a newspaper of general circulation in the city 15 days prior to such hearing. ~~The owner of the property for which special exception is sought or his agent and owners of any other affected property within 200 feet of said property shall be notified by mail; names and addresses of such landowners shall be furnished to the Administrator by the applicant.~~ Notice of hearing may also be posted on the property for which special exception is sought.

(3) The public hearing shall be held. Any party may appear in person, or by agent or attorney.

(4) The Board shall make a finding that it is empowered under the Section of this Ordinance described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

In granting any special exception, the Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations 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. The board may 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.

Section 2. **REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. **SEVERABILITY.** If any section, provisions, sentence, clause, phrase or part of this ordinance shall be adjudicated, invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any provision, section, subsection, sentence clause, phrase or part thereof not adjudged invalid or unconstitutional.

Section 4. **EFFECTIVE DATE.** This ordinance shall be in full force and effect following its passage, adoption and publication as required by law.

CITY OF BONDURANT, POLK COUNTY, IOWA

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CURT SULLIVAN, MAYOR

ATTEST:

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SHELBY HAGAN, CITY CLERK

(SEAL)

FIRST CONSIDERATION:

SECOND CONSIDERATION:

THIRD CONSIDERATION: