



Agenda

City Council Work Session Meeting
Oelwein City Hall, 20 Second Avenue SW, Oelwein, Iowa
6:30 PM

February 27, 2023
Oelwein, Iowa

Mayor: Brett DeVore

Mayor Pro Tem: Lynda Payne

Council Members: Karen Seeders, Tom Stewart, Matt Weber, Dave Garrigus, Dave Lenz

Pledge of Allegiance

Discussions

- [1.](#) Discussion on residential setbacks.
- [2.](#) Discussion on fencing setbacks.
- [3.](#) Discussion on garages on vacant lots.

Adjournment

In compliance with the Americans with Disabilities Act, those requiring accommodation for Council meetings should notify the City Clerk's Office at least 24 hours prior to the meeting at 319-283-5440



February 21st, 2023

City Council,

Per discussions by the Planning and Zoning Commission I, David Kral, am recommending a change of “60 feet” to “25 feet” in the following zoning code: 202.2-4 and 203.2-4 Highlighted below. These codes apply to R-1 and R-2 zoned areas.

202.2 Permitted Accessory uses and structures

4.A detached building shall be located a minimum of four feet from the principal structure, and 60 feet from the front property line.

203.2 Permitted Accessory uses and structures

4.A detached building shall be located a minimum of four feet from the principal structure, and 60 feet from the front property line.

This code is outdated and was discovered to be based on a setback footage measured from the center line of the road. We now measure and base setbacks by the lot lines themselves, typically via Beacon’s website.

Our current primary setbacks are as follows:

203.4. Minimum Lot Area and Width Height	Minimum Yard Requirements	Maximum
Single-family dwellings	Front: 25 feet	45 feet
Area: 7,000 square feet	Rear: 25 feet	Accessory buildings shall not exceed 15 feet in height to peak.
Width: 60 feet	Side: 8 feet	



We also have code that prohibits accessory structures in front yards based on the definition of accessory use:

Accessory use. A use or building naturally and normally incidental to, subordinate to, and devoted exclusively to the main use of the land or buildings. Accessory buildings shall not be larger than the main or principal building, and shall not intrude into the minimum front yard requirement. Earth satellite dishes shall be considered an accessory structure.

Having the detached setback match the primary setback is very similar to many surrounding towns. Some towns also have averaging setbacks based on existing construction less than the required minimum. We decided keeping it simple at 25' was the best solution.

Example where meeting a 60' setback creates a very difficult situation.

8th st SW

This citizen recently approached us about building a new detached garage on an adjoining plot purchased to his home. The plot slopes severely downhill and into a flood plain zone. While according to current flood lines building something in the space is feasible it is not desirable. A 25' setback creates a much more manageable situation.





Some other cities detached structure setback code for reference. I could not find a town with a specific minimum requirement similar to how ours is written.

Ames code:

(7) Requirements for Private Garages and Other Accessory Buildings.

(a) The following requirements apply to private garages and accessory buildings in Agricultural, Residential and Hospital/Medical districts:

(i) Location Within Setbacks.

(a) No detached garage or accessory building is allowed in the front yard, or within the side yard setback adjacent to public right-of-way in the case of corner lots.

(b) Side Yards.

(i) Interior Lot. A detached garage or accessory building wholly or partially within the side yard shall meet all the same side setbacks as required for the principal building.

(ii) Corner Lot. A garage or accessory building may be placed within 3 feet of the side lot lines, provided the garage is set back a minimum of 25 feet from the abutting streets.

Boone code:

4. Accessory Structures. No accessory structure shall be erected in any required court, or in a front yard except as provided hereinafter. Accessory structures shall be a distance of at least 2 feet to roof overhang, from alley lot lines, and from lot lines of adjoining lots which are in an "R" district. On a corner lot they shall conform to the setback regulations of a main building from the side street. Accessory structures may be erected as a part of the principal buildings, or may be connected thereto by a breezeway or similar structure; provided all yard requirements for a principal building are complied with. An accessory structure which is not a part of the main building shall not exceed 16 feet in height; however, this regulation shall not be interpreted to prohibit the construction of a 440-square-foot garage on a minimum rear yard. It is the intent of this chapter that no accessory structure shall be constructed upon a lot until the main building has been actually commenced and no accessory structure should be used unless the main building on the lot is also being used or occupied, in the case of a residential structure, except in cases where the vacant lot is adjacent to and abuts the lot where the main building exists. An accessory structure shall not exceed 15 percent of the gross lot area. Unattached earth satellite dishes, unattached solar panels, and WECS shall be considered accessory structures.

Waterloo:

E. Accessory Structures. No accessory structure shall be erected until after the Principal Permitted Use is erected and shall not be erected in any front yard, except for temporary or seasonal use accessory structures to a commercial use. Accessory structures shall be a distance of at least five (5) feet from alley lines; at least five (5) feet from lot lines of adjoining lots; and at least three (3) feet from the Principal Permitted Use on said lot, except that accessory structures in the rear sixty (60) percent of the lot may be erected three (3) feet from any interior lot line, and on corner lots they shall conform to the setback regulations for corner lots as provided in 10-5-1(F).





The following Decorah code references an averaging setback concept.

Decorah:

17.16.050 - Front yard.

In all residential districts, there shall be a minimum front yard required as stated in the bulk regulations for that particular district; provided, however, that where lots comprising thirty percent or more of the frontage within two hundred feet of either side lot line are developed with buildings at a greater or lesser setback, the front yard requirement shall be the average of these building setbacks and the minimum front yard required for the undeveloped lots. In computing the average setback, buildings located on reverse corner lots or entirely on the rear half of lots shall not be counted. The required front yard as computed herein need not exceed fifty feet in any case.

- **17.16.020 - Street frontage required.**

Except as permitted in [Chapter 17.40](#) of this title, no lot shall contain any building used in whole or in part for residence purposes unless such lot abuts for at least twenty-five feet on at least one public street.

(Ord. 952 (part), 1993)

- **17.16.030 - Accessory building.**

A.

No accessory building shall be erected in any required yard other than a rear yard, except as provided hereinafter. Accessory buildings in rear yards shall be at least five feet from alley lines and at least five feet from lot lines of adjoining lots which are in any "R" district, and on a corner lot they shall conform to the setback regulations on the side street. Accessory buildings may be erected as a part of the principal building, or may be connected thereto by a breezeway or similar structure, provided all yard requirements for a principal building are complied with. An accessory building which is not a part of the main building shall not occupy more than thirty percent of the rear yard and shall not exceed fourteen feet in height; however, this regulation shall not be interpreted to prohibit the construction of a five hundred fifty-square-foot garage on a minimum rear yard.

B.

No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used unless the main building on the lot is also being used.

-David Kral
Building Official/Zoning Administrator





February 21, 2023

Council,

Based on discussion from the Planning and Zoning commission it was recently voted in favor to recommend altering our fencing code section 401.1 A, B, & C to remove restriction of solid privacy fences over 4' height within a 2' gap on side lot lines and combine it with the language of rear lot lines which does allow for 6' privacy fence.

Note these codes also apply to shrubbery. Fencing and shrubbery restrictions are a combined section in city code

Current code:

Section 401 – Fencing and shrubbery requirements

401.1.

No solid construction fence or any form of shrubbery on a lot line or within two feet of said lot line shall exceed the following specific requirements:

- (a) Front lot line: Maximum height shall not exceed three feet above the ground level.
- (b) Side lot line: Maximum height shall not exceed four feet above the ground level Unless the portion which exceeds four feet is 65 percent or more open.
- (c) Rear lot line: Maximum height shall not exceed six feet above the ground level.

The way we have interpreted this code is that if you want to build a six foot tall solid privacy fence you have to be at least two feet off of your side lot line. It is very difficult to establish what 2' off a lot line truly is without a professional survey done which makes this code difficult to enforce as well as frustrating and potentially costly for citizens.

Another potential issue we see with this is a 6' height chain-link fence put directly on the lot line next to a 6' solid privacy fence set 2' off of the lot line would create a nearly unmanageable two foot lawn gap between the chain-link and the privacy fence.





We discussed the potential reasoning for the setback and it was determined that 2' would allow for maintenance on both sides of a fence without requiring any easement onto a neighbors property.

Recommendation:

401.1.

No solid construction fence or any form of shrubbery on a lot line or within two feet of said lot line shall exceed the following specific requirements:

- (a) Front lot line: Maximum height shall not exceed three feet above the ground level.
- ~~(b) Side and rear lot line: Maximum height shall not exceed four feet above the ground level. Unless the portion which exceeds four feet is 65 percent or more open.~~
- (b) Side and Rear lot line: Maximum height shall not exceed six feet above the ground level.

For reference these are the additional fencing and shrubbery code:

401.2. Within the buildable area of a rear yard, a solid construction fence or shrubbery shall not exceed a height of more than ten feet.

401.3. On any corner lot, or corner lot abutting on an alley, no fence or other structure shall be erected and no foliage or shrubbery shall be planted or maintained to a height of more than three feet above the ground within the triangular area formed by connecting the right-of-way lines at points, which are 15 feet distance from the intersection of the right-of-way lines, and measured along the right-of-way lines. No foliage or shrubbery shall be planted or maintained, and no fence shall be constructed in such a manner which will materially obstruct the view of the drivers of vehicles approaching a street intersection or two streets or an alley and a street shall be trimmed up at least eight feet from the ground.

401.4. It shall be unlawful to erect or maintain anywhere in the city a fence equipped with or having barbed wire, spikes or any similar device within eight feet of the ground level. The use of barbed wire, spikes or any similar device shall be permitted where there use is in excess of eight feet above ground level and where the use is solely for security purposes.



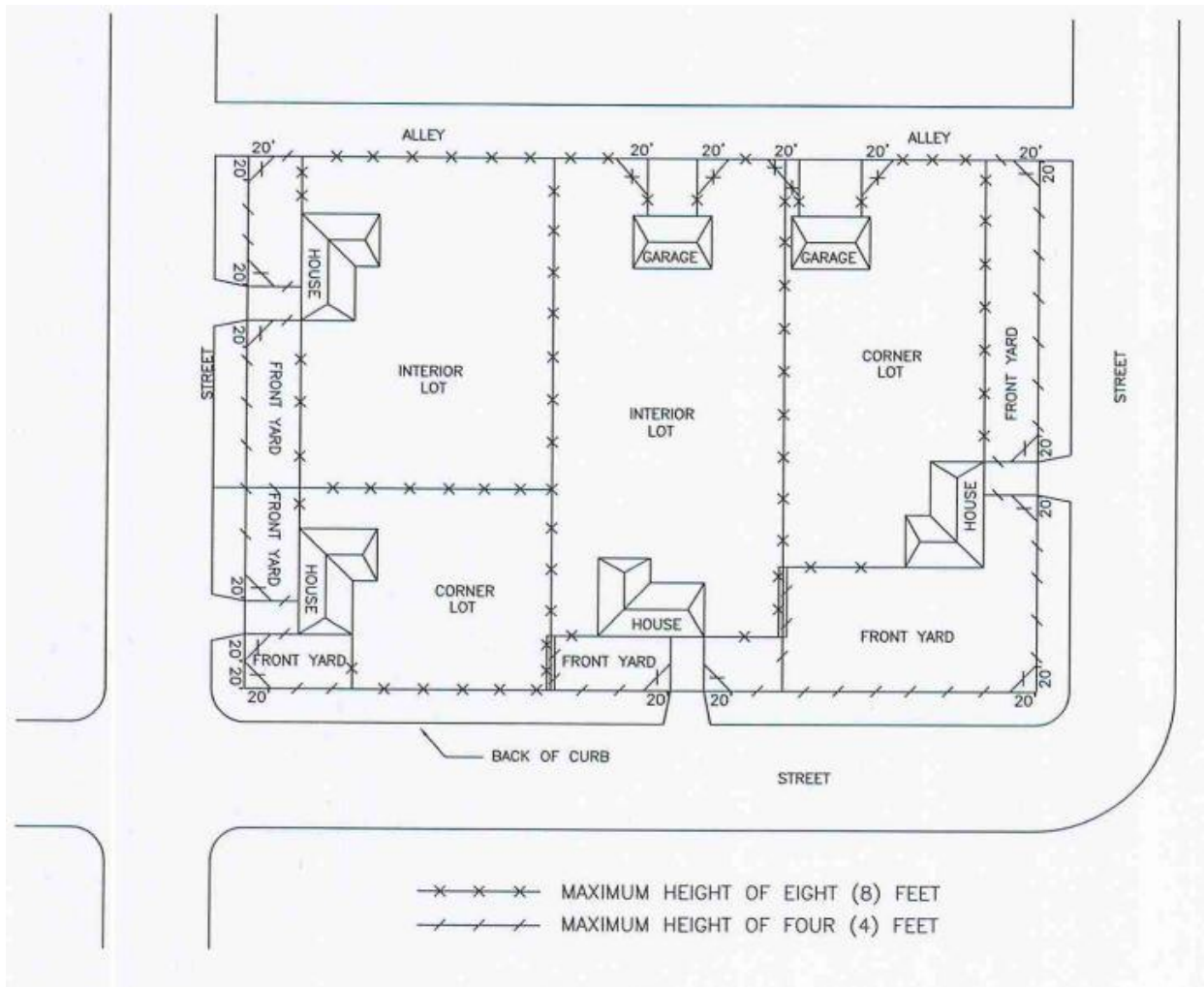


It shall be unlawful to erect or maintain anywhere in the city a fence equipped with any electric charge sufficient to cause shock.

401.5. It shall be unlawful to utility tarps in the construction of a fence.

Reference of other towns fencing code:

Waterloo:



Waverly:

no taller than three (3) feet in the front yard and no taller than six (6) feet in the side and rear yards.



Decorah:

No restriction on height other than in intersections

“No fence located at a street intersection may exceed four feet in height within a clear vision triangle formed by measuring twenty-five feet along each property line from the corner of the right-of-way.”

Boone:

Fences can be constructed at the property line but are limited to four (4') feet in height in front yards and up to ten (10) feet in height in all other yards.

-David Kral
Building Official and Zoning Administrator





February 21, 2022

Council,

Based on discussion of the Planning and Zoning Commission and your request of a follow up conversation the following main issues are the problems we see with allowing a plot to have an accessory structure built with no primary structure:

1. Nuisances: A garage without a primary structure could attract nuisances such as rodents, insects, or vermin. This could be particularly problematic if the garage is used for storage, as it may provide a place for pests to nest.
2. Vandalism: A garage without a primary structure may be more vulnerable to vandalism, particularly if it is left unoccupied or unused for long periods. This could be a particular concern in areas with high rates of property crime.
3. Squatters: An unoccupied garage may attract squatters, particularly if it is located in an area with a high demand for housing. Squatters could potentially use the space for illegal activities or cause damage to the property.
4. Zoning violations: Allowing a garage to be built without a primary structure may also create zoning violations if the garage is later converted into a living space or used for purposes that are not allowed under local regulations.
5. Increased traffic: A new garage may attract more traffic to the area, particularly if it is intended to be used as a workspace or storage facility. This may cause congestion on nearby roads, particularly if the area is already heavily populated.
6. Decreased property values: Depending on the area, a garage without a primary structure may negatively impact property values. This could be particularly true in residential areas where garages without homes might be perceived as less desirable.
7. Aesthetic concerns: A garage without a primary structure may not fit with the overall aesthetic of the neighborhood or community. This could be an issue particularly in areas where there are strict zoning regulations or architectural guidelines.
8. Environmental impact: The construction of a garage without a primary structure may have environmental impacts, such as the loss of green space and natural habitats. Additionally, it may increase runoff, leading to erosion and water pollution.





9. Appraisal challenges: A garage without a primary structure may be difficult to appraise and could potentially lower the value of the property. This could be particularly true if the garage is not in compliance with local building codes or zoning regulations.
10. Marketability concerns: A property with a garage but no primary structure may be less marketable than other properties in the area. This could be a concern for homeowners who plan to sell their property in the future.
11. Financing challenges: Financing may be more difficult to obtain for a property with a garage but no primary structure, particularly if the garage is not in compliance with local building codes or zoning regulations.
12. Resale value: The resale value of a property with a garage but no primary structure may be lower than other properties in the area. This could be particularly true if the garage is not in compliance with local building codes or zoning regulations.

Based on these issues and discussion points it continues to be our recommendation to uphold our current zoning standards of not allowing building of an accessory building on a plot without first having a listed principal structure or use.

David Kral
-Building Official/Zoning Administrator

