

Appeal: The appellants request a front yard setback variance of approximately 20 feet to allow a proposed accessory building to be located in the secondary front yard at a front setback of approximately 30 feet, in lieu of the minimum required 50 feet.

Background

The subject property is located at 10141 NW 158th Avenue, Madrid, and is legally described as Parcel 'G' as recorded in Book 10430, Page 836 in the Office of the Polk County Recorder, being within the SE ¼ of the SE ¼, Section 4 of Township 81 North, Range 25 West of the 5th P.M. (Union Township). The subject property is approximately 3.75 acres in size and is zoned "AG" Agricultural District. The property is located at the northwest corner of the intersection of NW 158th Avenue and NW 100th Street. The surrounding area is entirely zoned "AG" Agricultural District, and is primarily utilized in row crop production. There are a few residences in the larger surrounding area at low densities, as the Polk County Zoning Ordinance only permits single-family homes at a density of one (1) unit per 35 acres in the agriculturally zoned areas of the County. There are no other residences in close proximity to the subject property. See *Attachment A* for a vicinity map of the subject property and surrounding area.

The subject property is rectangular shaped, having approximately 607 feet of width measured east to west and fronting NW 158th Avenue to the south. It has approximately 275 feet of depth measured north to south and fronting NW 100th Street to the east. The subject property was created by Rural survey in 2004, whereby the property was split off from the adjoining farm ground to the north and west. The rural survey designated the western half of the property as buildable area, and the eastern half as open space in order to meet the minimum open space requirements for a division within the Ag District. The proposed accessory building under this request would be located within the currently designated open space area of the survey. However, through a future building permit and site plan process, the open space removed by this structure can be offset by designating an equal amount of area in the western half of the property. The subject property contains an existing single-family residence and detached garage, constructed in 2004, and located in the western portion of the parcel.

Summary of Request

The Polk County Zoning Ordinance, *Article 4: Use Regulations, Division 6. Accessory Regulations, Section 1 (K)*, stipulates that residential accessory buildings may be placed in front of the principal building on corner lots or lots with multiple front yards, so long as the accessory building is located in the secondary front yard, or yard which does not contain primary access, and meets the minimum principal building front yard setback for the underlying zoning district. The subject property is a corner lot with primary frontage and access to the south adjacent to NW 158th Avenue, and secondary frontage to the east adjacent to NW 100th Street. The appellants propose to construct an approximately 70' x 40' (2,800 SF) accessory structure, with attached porch, in the eastern portion of the property. It is the intent of the appellants to construct the building for use as an accessory dwelling unit (ADU), under the rules and regulations for ADUs contained within the Polk County Zoning Ordinance. The proposed accessory building would observe the same primary front setback as the existing residence of approximately 80 feet, as measured from

the front property line along NW 158th Avenue. A front yard setback variance of approximately 20 feet is requested to allow the building at a 30-foot front setback from the eastern secondary front yard along NW 100th Street, in lieu of the required 50-foot front setback. The submitted application and site plan for this appeal can be found as *Attachment B*.

Staff mailed out four (4) notices regarding this request, including the date and time of the public hearing, to surrounding property owners within the 250-foot notification boundary. To-date staff has received one (1) response in support, and zero (0) responses in opposition, of this Appeal.

Natural Resources

The subject property contains varying topography. There is a high point of approximately 974 feet along the western boundary, and a low elevation of approximately 946 feet at the bottom of a drainageway and tributary that runs through the eastern portion of the site. The elevation of the property east of the drainageway/tributary ranges from 948 feet along the waterway up to 960 feet along the eastern property line adjacent to NW 100th Street. The drainageway/tributary contains mapped Zone 'A' floodplain, which is 100-year or 1-percent annual chance floodplain. The Iowa DNR has interpolated the Base Flood Elevation to be 952.40 feet. Any new structure must be elevated to at least one (1) foot above this Base Flood Elevation. The existing home and detached garage located in the western portion of the site are both well above this elevation at approximately 860 feet in elevation or greater. The proposed accessory building location in the eastern portion of the site is would be located outside the floodplain. There may be some minimal grading work needed to ensure the building is at least one (1) foot above the Base Flood Elevation of 952.40 feet. The proposed site plan, including building location, setbacks, Base Flood Elevation, and existing site contours can be found within *Attachment B*.

The property contains a few mature trees located north of the existing residence within the northwestern portion of the property, as well as within the northeastern portion of the property. None of these trees would be impacted by the proposal. Apart from the mapped floodplain discussed above, there are no other known environmental hazards or features. Staff has reviewed the site for wetlands. The National Wetlands Inventory (NWI) indicates wetlands may be present in the eastern portion of the property in the area of the proposed building. However, other wetland mapping resources do not indicate the presence of wetlands. The NWI uses remote sensing data to create wetland polygons. It does not use any property-specific information or onsite analysis, nor are they a jurisdictional determination. However, staff uses them as a starting point to determine if any wetlands existing in reviewing development applications. After onsite review of the property staff has determined that wetlands are not present in the proposed building area, and is not requiring further wetland delineation or analysis. Furthermore, any wetlands that may be present would be within the mapped floodplain, and the proposed structure will be outside the floodplain limits.

Roads & Utilities

The subject property has frontage and primary access to the south onto NW 158th Avenue, which is a two-lane paved minor collector roadway maintained by Polk County. The property also has frontage and secondary access to the east onto NW 100th Street, which is an existing two-lane gravel local roadway maintained by Polk County. The existing residence on the site currently takes access to the south from NW 158th Avenue. The proposed accessory structure would take

access from the east onto NW 100th Street. Public water service is available through Xenia Rural Water District. Water service for the proposed accessory building, and any accessory dwelling unit within that building, is required to connect to the public water supply. Potable water is not permitted via a private well. Wastewater treatment needs shall be met with a private onsite wastewater system. The septic system for the existing residence on the property is located north and east of the residence in the western half of the property. A new private wastewater system would need to be designed and installed at time of permitting and construction of the proposed accessory building and accessory dwelling unit.

Recommendation

The Board of Adjustment may grant a variance if items 1 through 5 are affirmed.

- 1.) Are there exceptional or extraordinary circumstances or special conditions applying only to the property in question and which do not exist generally on other properties in the same zoning district which makes it impossible to place a use permitted in the district on the property?

Yes. The subject property is bisected by a natural waterway, including adjacent mapped floodplain. This severely limits the buildable area of the property, and the ability to place an accessory structure in a conforming location on the site.
- 2.) Is the variance necessary for the preservation and enjoyment of property rights possessed by other properties in the same zoning district in the same vicinity? (No variance can permit uses that are prohibited in a district)

Yes. A residential accessory structure, including accessory dwelling unit, is a permitted use on the subject property.
- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?

Yes. The surrounding area is primarily agricultural nature, including land use in row crop production. There are no existing residences in close proximity. The reduced front setback requested would have minimal impact on NW 100th Street, which is a gravel surfaced local roadway with minimal traffic. Additionally, the Polk Zoning Ordinance was recently updated, based in part on recommendations from the County's 2050 Comprehensive Plan, to allow accessory dwelling units or ADUs. ADUs provide an affordable housing alternative to County residents. Approval of this request helps facilitate this option for the property owners, who have communicated they intend to construct the proposed accessory building as an ADU for a family member. They would be required to follow all regulations for an ADU as enumerated in the Zoning Ordinance.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?

Yes. The natural waterway and floodplain are natural conditions of the property.

5.) Does the variance support the intent of Article 7 Natural Resource Protection and Article 8 Stormwater and Erosion Control Management of the Polk County Zoning Ordinance?

Yes. The appellants are required to meet the environmental provisions of the Polk County Zoning Ordinance. No impact on these provisions is anticipated. Approval of the variance ensures limited to no impact on the adjacent floodplain. But for the granting of the variance, significant grading work within the floodplain would be required in order to comply with the standard front setback of 50 feet.

The Board of Adjustment may grant a variance if items 1 through 5 are affirmed. Since items 1-5 were answered in the affirmative, staff recommends approval of the requested variance, subject to the following conditions.

1. In addition to a Building Permit, the appellants shall obtain a Floodplain Development Permit from Polk County. A licensed surveyor or engineer shall provide an elevation certificate for the accessory structure to substantiate it is constructed at least one-foot above the Base Flood Elevation.

Attachment A Vicinity Map

0 0.5 1 2 Miles



Subject
Property

Hwy
17

NW 142nd ST

NW 128th ST

NW MADRID DR

NW 114th ST

NW 100th ST

NW 158th AVE

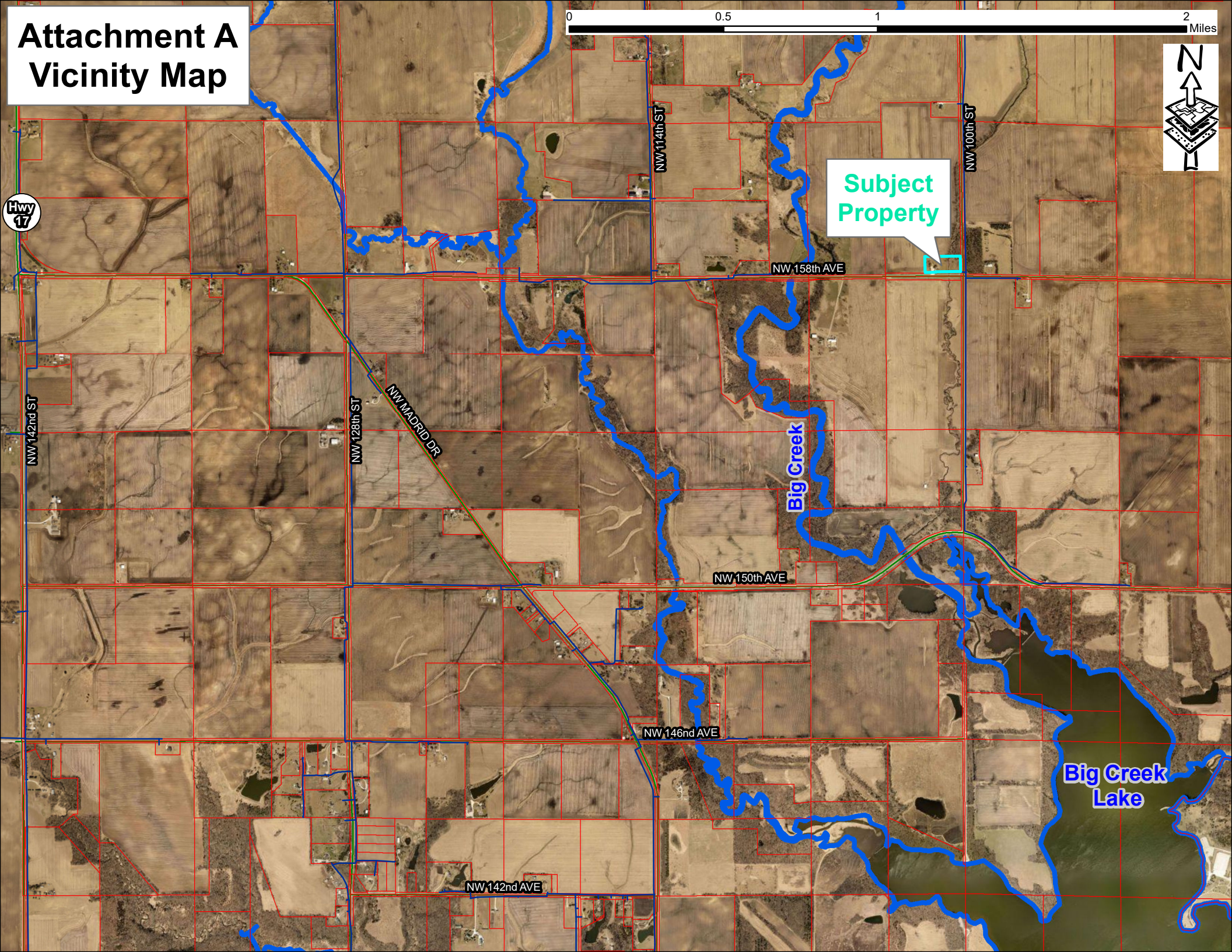
NW 150th AVE

NW 146th AVE

NW 142nd AVE

Big
Creek

Big
Creek
Lake



Variance Appeal Application

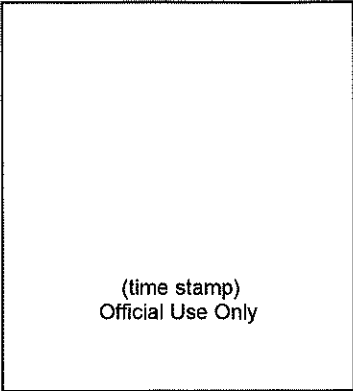


Board of Adjustment Authority

The Polk County Board of Adjustment is empowered by Iowa law and by the Zoning Ordinance of Polk County to hear requests and to make decisions on variance appeals to the Zoning Ordinance for individual properties where provisions of the Ordinance impose a unique and unnecessary hardship on the property owner and where the granting of a variance is not contrary to the intent of the Zoning Ordinance or to the public interest.

Each variance appeal is only a request to have a hearing before the Board of Adjustment. Notice of the hearing will be provided to all property owners located within 250 feet from the subject property. The Board of Adjustment will make a determination at a public hearing whether or not to approve or deny the request based on a staff report, applicant presentation, as well as public input. All appeals that are denied shall not come back to the Board of Adjustment for one year. Refunds will not be made once notice has been sent out to adjacent property owners.

Please complete the entire application and review the Variance Regulations on page 3.



1. The undersigned applicant requests that the Board of Adjustment consider this application for a variance appeal for the following general purpose. (Describe briefly the request)

Move building or build Plan 20 feet East From Flood Plain Area

2. Subject Property Address: 10141 NW 158th Avenue, Madrid, IA 50156

3. Subject Property Zoning District: 8125-04-408-004 (AG)

4. District and Parcel Number: 280/00043-005-000

5. Subject Property Legal Description (attach if necessary):
G BK 10430 PG 836 BEG SE COR THN N 335.87F
W 640.01F S 275.87F E 178.07F N 10F E 428.94F S
70F E 33F TO POB SE 1/4 SE 1/4 LESS .25 A RD SEL 4-81-25

6. Filing Fee: \$353.00 per variance (each provision requested for a variance is considered a separate variance request)

7. Applicant(s) Information:

Todd Hammer
Applicant (Print Name)

Todd
Signature

12-26-23
date

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

t.hammer@yanoo.com
Email

10141 NW 158th AVE
Address, City, State and Zip

202-572-515-XXXX
Phone

Fax

8. Applicant(s) Representative:

If the appeal is going to be represented by someone other than the applicant please provide that information below

Applicant Representative (Print Name)

Firm or Business Name

Address, City, State and Zip

Email

Phone

Fax

9. Property Owner Consent

The application must be signed by all the Titleholders, Contract Purchasers, or Option Purchasers of the subject property. The application may also be signed by the Registered Agent for a corporation or other person with similar legal authority to sign for a property owner. (if additional signatures are needed please attach)

<u>Todd Harmeyer</u> (Print Name)	<u>Todd Harmeyer</u> Signature	<u>12-26-23</u> date
<u>Connie Harmeyer</u> (Print Name)	<u>Connie Harmeyer</u> Signature	<u>12-26-23</u> date
_____ (Print Name)	_____ Signature	_____ date
_____ (Print Name)	_____ Signature	_____ date

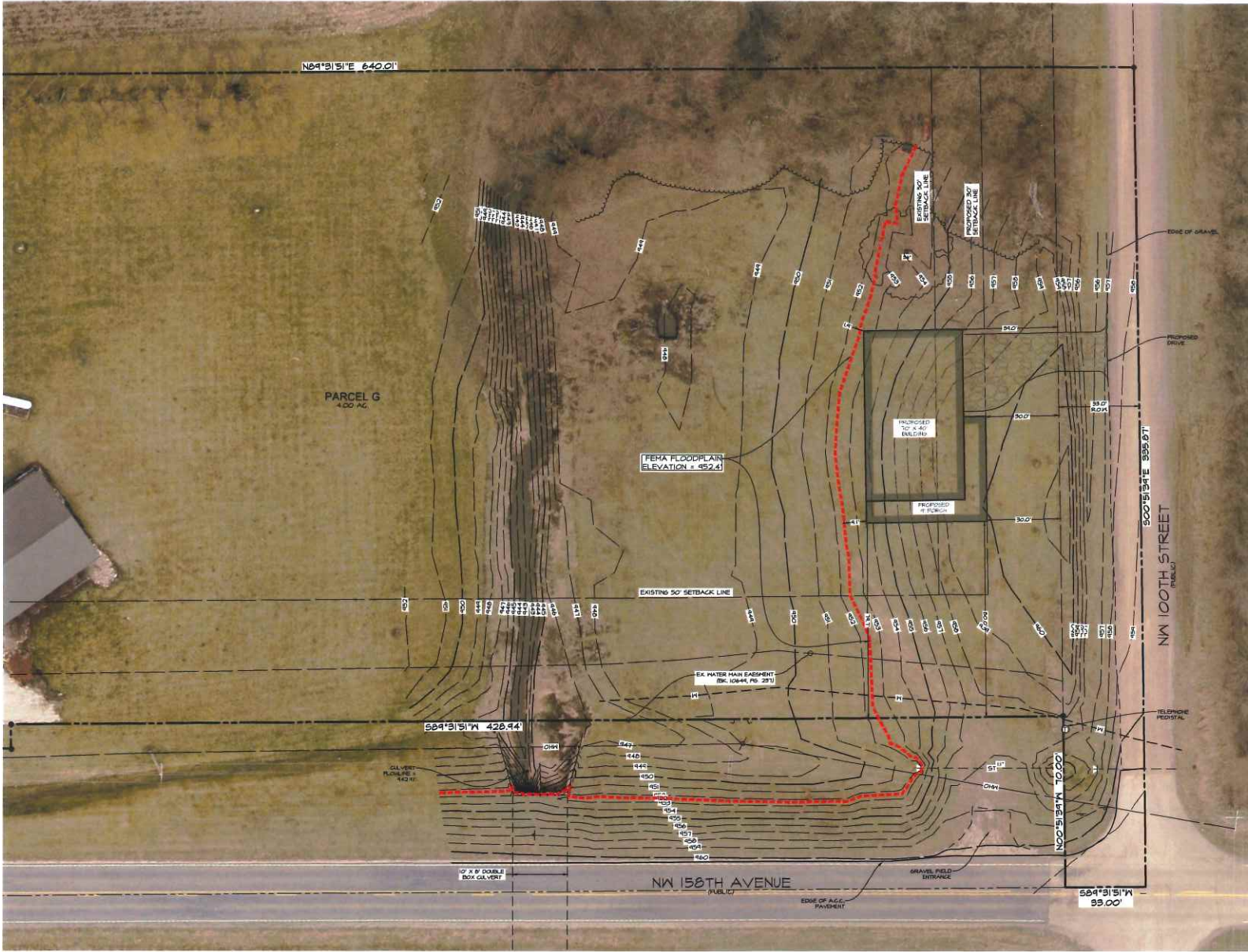
10. State the reason(s) the variance is necessary and why you cannot comply with the regulations of the Zoning Ordinance. Specifically explain the nature of the appeal.

Currently where the building plan is proposed from Polk County stipulations has it sitting right on flood plain area? If we were to move off the flood plain area this would help possibly in any flooding situation. We don't feel it reflects on any issue of building site appearance. It would be moving closer to the gravel road so would not interfere with stop sign crossing. Has no detriment to any of our neighbors to the north or south. Helps that we would not have to disturb any more movement of dirt or soil. Prevents us to build a retaining wall up against the building. Looks & appearance of property would look more appealing & proportioned

A completed application with site drawing and filing fee are required for a submittal. Incomplete submittals will not be processed and returned to the Applicant.

Return completed forms to: Polk County Public Works, Planning Division 5885 NE 14th Street, Des Moines, IA 50313
 Phone (515) 286-3705 • Fax (515) 286-3437 Email: PublicWorks@polkcountyiowa.gov
 Forms available online <http://www.polkcountyiowa.gov/PublicWorks/> BOA Calendar CALENDAR

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



SCALE: 1"=40' (11.3117)
 SCALE: 1"=20' (22.6431)
 0 5 10 15 20 40



PRELIMINARY

PROPOSED BUILDING
 10'41' NW 158TH AVENUE, MADRID, IA
TOPOGRAPHIC SURVEY

SHEET
 OF 1
 E-4135

DATE	DEC. 5, 2023
DESIGNED BY	TRAVAN TR
DATE OF SURVEY	OCT. 03, 2023
DATE	DEC. 5, 2023
P.L.S.	1, 14



Civil Engineering Consultants, Inc.
 2400 16th Street, Unit 12, Urbandale, Iowa 50322
 515.276.4884 · mail@cecinc.com