

Final Agenda

Polk County Board of Adjustment

Monday, June 17, 2019 - 7:00 P.M.

Polk County Public Works Department, Planning & Development Division

5885 NE 14th Street, Des Moines, IA.

- A) Roll Call - Bonnie Thorn, Michael McCoy, Ron Fisher, Paul Kruse and David Kinsley
- B) Acceptance of the Minutes from the Monday, May 20, 2019 meeting
- C) Opening Statement
- D) Unfinished Business - None
- E) Consent Public Hearing Items – New Business - None
- F) Discussion Public Hearing Items - New Business

Item 1 19/7967 Variance Appeal Application

Request by Jeff Johnson (Property Owner) for a Variance to allow an accessory building to be located in front of the principal dwelling at a front yard setback of approximately 32 feet, in lieu of the required 100 feet. The subject property is located at 3450 NE 44th Avenue, Des Moines, Section 20 of Delaware Township.

Item 2 19/7982 Variance Appeal Application

Request by Roger Parsons (Property Owner) for a Variance to allow an accessory building to be located in front of the principal dwelling at a front yard setback of approximately 70 feet, in lieu of the required 100 feet. The subject property is located at 2735 NE Norwood Lane, Des Moines, Section 19 of Delaware Township.

- G) Communications/Discussion Items
- H) Zoning Administrator Report
- I) Adjournment.

The information identified on this agenda may be obtained in accessible formats by qualified persons with a disability. To receive more information or to request an accommodation to participate in a meeting, hearing, service, program, or activity conducted by this department, please contact the Polk County Public Works Department, Planning and Development Division, 5885 N.E. 14th Street, Des Moines, Iowa 50313, 515-286-3705.

POLK COUNTY BOARD OF ADJUSTMENT

The Zoning Board of Adjustment has the power under Iowa law and the Polk County Zoning Ordinance to hear requests and make decisions on matters such as Variances from the regulations in the Zoning Ordinance, Conditional Use Permits and Appeals of the decisions of County staff in the administration of the Zoning Ordinance.

MEETING PROCEDURE:

The Board members receive copies of the agenda and staff recommendations before the meeting. Copies of the agenda and staff recommendations are available to the public.

The Board is required to base its decision on each case upon the criteria established by law for the type of relief sought by the applicant. The criteria is identified in the written staff report. All speakers at the public hearing are requested to focus their comments upon those facts that demonstrate whether or not the criteria has been satisfied.

Items listed on the Consent Public Hearing Items portion of the agenda will not be individually discussed and will be considered for approval in accordance with the recommendation in the staff report unless an individual present or member of the Board requests that the Item be removed from the Consent Public Hearing Items portion agenda and separately considered under the Discussion Public Hearing Items portion of the agenda.

All speakers are requested to speak from the podium and to start their presentation by giving their name and address. After a County staff representative introduces the item, the applicant or a representative is allowed to speak first to present their request. Anyone else present in support of the appeal will then each be allowed to present their comments, followed by anyone in opposition to the appeal who will then be allowed to present their comments. The applicant/representative will then be allowed time for rebuttal or other closing comments. The hearing will then be closed to public comment and the Board will make a verbal decision.

The Board has 5 members. It takes the affirmative vote of at least 3 members to grant any appeal or request, regardless of the number of members actually present at any meeting. If 3 or fewer members of the Board are present when the Chair calls an Item, the applicant may request that the Item be continued until the next monthly meeting to have the opportunity to present the matter to a full Board. The request should be made as soon as the Chair calls the Item and before the staff report is given. The Board has discretion to grant or deny any such request. If a continuance is granted, there is no guarantee that more members of the Board will be present at the next meeting.

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

Appeal: The appellant requests a variance to allow a proposed accessory building to be located in front of the principal dwelling and setback less than the required 100 feet from the front property line.

Background

The subject property is located at 3450 NE 44th Avenue, Des Moines, and is legally described as the E ½ of Lot 427, except the N 14 feet, of Douglas Acres Plat 5, being located in the NE¼ of Section 20, Township 79 North, Range 23 West of the 5th P.M. (Delaware Township). The subject property is approximately 17,480 square feet (0.40 acres) in size, and is zoned “LDR” Low Density Residential District. The property is approximately 152 feet wide by 115 feet deep, having 152 feet of frontage to the south onto NE 44th Avenue. Surrounding properties are all zoned “LDR” Low Density Residential District and developed with single-family homes. The subject property is located within the unincorporated neighborhood of Norwoodville, which is roughly formed by Intestate 235 to the west, E. 38th Street/Four Mile Creek to the east, Interstate 80 to the north, and NE Aurora Avenue to the south. The subject property is located just east of NE 34th Street, lying approximately equal distance or ~1,300 feet between NE 46th (Broadway) Avenue to the north and NE Aurora Avenue to the south.

The subject property contains an existing single-family dwelling and attached garage constructed in 1949. A large room addition (24’ x 28’) was constructed onto the west side of the original dwelling in 1961. The room addition added a living room and two (2) additional bedrooms. The appellant recently purchased the property and is proposing to construct a new accessory building for personal storage. The existing dwelling and attached garage are setback a considerable distance from the front property line, therefore a majority of the remaining area of the property is within the front yard, or the area lying between the front façade of the home and NE 44th Avenue to the south. The appellant is requesting a variance to construct a proposed 840 square foot (28’ x 30’) accessory building in front of the dwelling and setback approximately 32 feet from the front lot line, in lieu of the required 100-foot front setback.

Staff mailed out 20 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 three (3) responses in support and zero (0) responses in opposition to this Appeal.

Summary of Request

Under the provisions of the Polk County Zoning Ordinance, *Article 4: Use Regulations, Division 6: Accessory Regulations, Section 1(J)*, an accessory building may not be placed in front of the principal building unless it is setback a minimum of 100 feet from front property lines, and has a maximum separation distance between the principal structure and accessory building of 150 feet. The owner is proposing to construct an 840 square foot (28’ x 30’) accessory building in front of the principal dwelling on the property. The proposed location meets the second criteria, being located within 150 feet of the principal dwelling, and also meets the minimum ten (10) feet of separation from the dwelling. However, the proposed front yard setback for the building is approximately 32 feet from the front property line, in lieu of the required 100 feet. The appellant’s original site plan is included at the end of this report as *Attachment A*. The original proposal indicated the building would meet the minimum principal building front yard setback for the zoning district of 35 feet.

However, staff conducted a site visit to the property and determined the proposed location was actually closer to a 30 foot front setback. Staff contacted the appellant and requested an amended site plan accurately showing the proposed building and setbacks relative to the actual property lines. The amended site plan submitted by the appellant can be found at the end of this report as *Attachment B*. The amended site plan shows the building slightly further north on the lot with a front yard setback of approximately 32 feet instead of 35 feet, while still maintaining the minimum separation from the house and septic system of ten (10) feet. Staff originally communicated that the building should at least meet the front yard setback for the zoning district of 35 feet. However, given the incorrect information originally provided by the appellant a reduction of the proposed building size would be required in order to meet that requirement. The appellant has instead decided to amended the request to allow the proposed building at a front yard setback of 32 feet.

Natural Resources

The subject property contains no areas of mapped floodplain, wetlands or other environmental hazards or features. Four Mile Creek is located approximately 1,000 feet to the east, but no areas of mapped floodplain encroach onto the property, which sits at a significantly higher elevation than the creek and its floodway and floodplain delineations. The subject property is relatively flat containing an elevation of approximately 858 feet. The property contains a couple of mature trees located within the front yard located directly south of the house and west of the driveway. These trees will not be impacted by the proposed building.

Roads & Utilities

The property has 152 feet of frontage to the south onto NE 44th Avenue. NE 44th Avenue is a paved, two-lane local roadway maintained by Polk County. Water service is provided by Des Moines Water Works via a two-inch (2”) water main located along NE 44th Avenue adjacent to the subject property. Wastewater treatment is provided by an onsite septic system. The previous owners were required to abandon the original system and install a new one prior to sale of the property in 2018. County records indicate the new septic tank and pump tank are located directly east of the dwelling, while the distribution box and lateral field is located west of the dwelling. The proposed accessory building will be located to the south of the septic tank and pump tank. The appellant has indicated that the closest portion of the new building will meet the minimum required separation distance of ten (10) feet from all portions of the septic system.

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 substantial front yard setback of the existing dwelling and attached garage leaves the majority of the lot within the front yard. Also, the property’s septic system is located within the remaining side yard areas to the east and west of the dwelling. These unique circumstances create a situation where the only area of the property left to construct accessory structures is within the property’s front yard. The short depth of the lot does not allow placement of an accessory structure at the minimum front yard setback requirement for accessory structures in front of a

principal building of 100 feet, therefore a variance is the only option.

- 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. Residential accessory structures are permitted within the zoning district.

- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?

Yes. The proposed accessory building will be setback just three (3) feet short of the zoning district minimum setback for principal structures of 35 feet, thereby observing approximately the minimum front building line and matching similar front yard setbacks for existing dwellings in the area.

- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?

Yes. The layout of the property, including the substantial front yard setback for the existing dwelling and the septic system location, are existing conditions of the property not resulting from the actions of the appellant.

- 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?

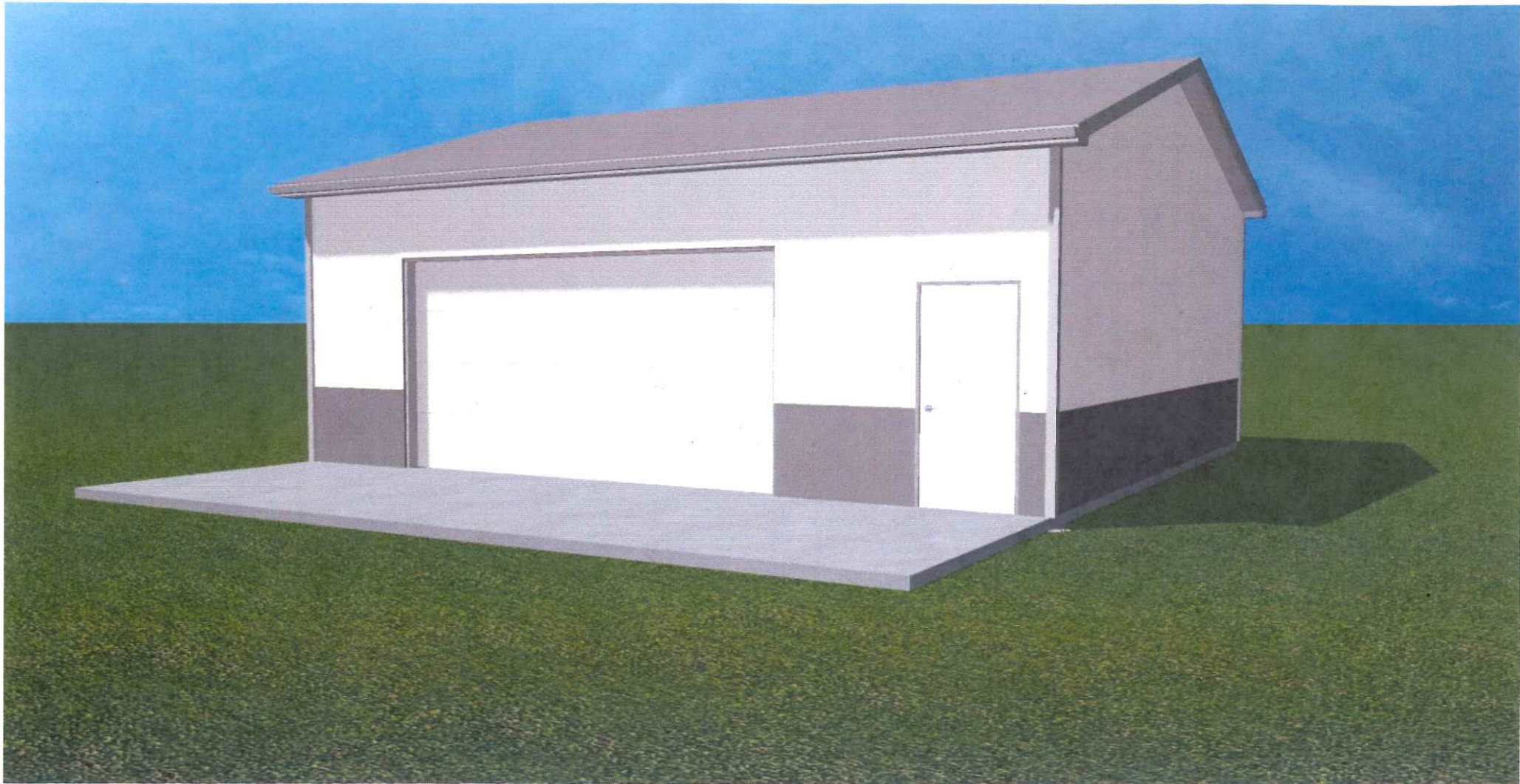
Yes. The appellant is required to meet the environmental provisions of the Polk County Zoning Ordinance. No environmentally sensitive areas of the property are anticipated to be impacted by this proposal.

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.

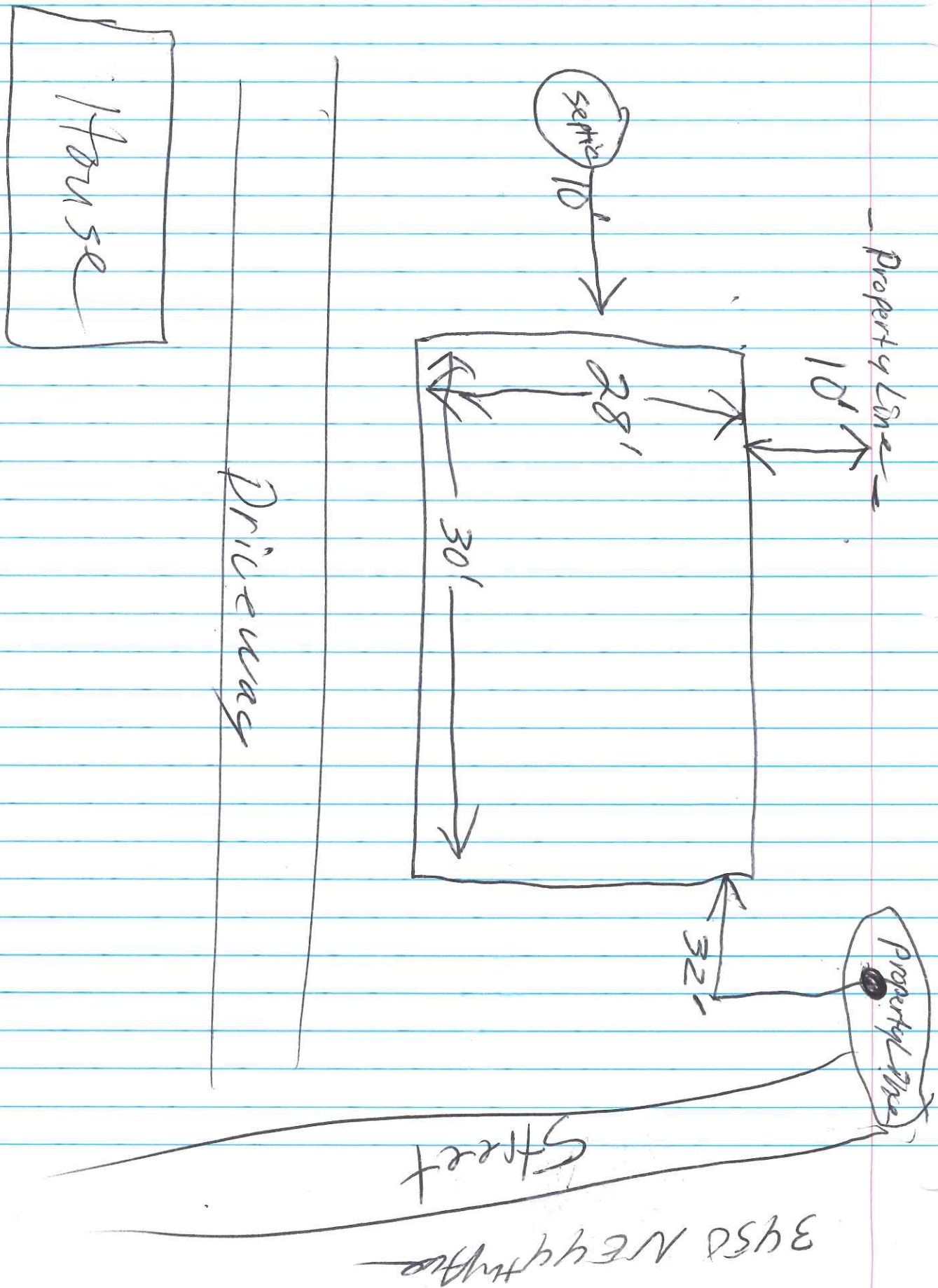
Attachment A



Jeff Johnson 5-22-2019



Attachment B



Docket Number: 19/7982

Appellant: Roger Parsons, 2735 NE Norwood Lane,
Des Moines, IA 50317

Appeal: Requesting a front yard setback Variance to allow an accessory building to be located in front of a principal structure, having a setback from the front property line of less than 100 feet, thus reducing the front yard setback from the required 100 feet to approximately 70 feet, at the subject property of 2735 NE Norwood Lane, Des Moines, Iowa 50317.

Appeal Given: “Request to put a pole barn on lot in front of house line with less than 100’ to lot line. With the shape of the Lot there is no room to put building up behind the house. The pole barn is for storage. It will be 30 x 40 with 10’ side walls.” *Please see Attachment ‘A’ to view the references from the appeal, above.*

Background

The subject property is located at 2735 NE Norwood Lane, Des Moines, and is located within part of the NE ¼ NE ¼ of Section 19 in Delaware Township. The property is zoned “LDR” Low Density Residential District and is approximately 38,444 square feet in size. The frontage of the property is approximately 340 feet along NE Norwood Lane. The City of Des Moines corporate limits are approximately ¼ mile south of the southeast corner of the property. A vicinity map is attached as Attachment ‘B’. This property contains a single family house that was constructed in 1938, a 24-foot by 24-foot attached garage constructed in 1965, and two (2) small portable sheds. The portable sheds appear to be added to the property over the last couple of years based on aerial review with one of them appearing to be 120 square feet or less in size and the other shed measuring greater than 120 square feet. One three sided storage addition was added to the west side of the attached garage between 2010 and 2013 without permits. County staff alerted the Appellant through their proposed accessory building inquiry of the noncompliance with the required setback. The proposed location of the accessory building was in front of the primary structure, the house, but not setback a minimum of 100 feet. The property has a unique triangular shape and the house is setback towards the rear property line therefore limiting buildable area on the lot for an accessory building. The house is set back approximately 100 feet from the front property line. The front setback in the LDR Zoning District is 35 feet.

Summary of Request

The Appellant has requested a Variance to be allowed to construct an accessory building on his property that is located approximately 70 feet from the front property line. The Polk County Zoning Ordinance, *Article 4: Use Regulations, Division 6: Accessory Regulations, Section 1: Residential Accessory Buildings (J)*, stipulates that an accessory building may not be located in front of the principal building unless all of the following criteria are met: (1) Is setback a minimum of 100 feet from front property lines; and (2) Has a maximum separation distance between the principal structure and accessory building of 150 feet. In this case, the Appellant’s proposal meets all of the criteria except criterion #1, which requires a minimum setback from the front property line of 100 feet. The accessory building’s proposed location would be, at its closest point, approximately 70 feet from the front property line.

Natural Resources

The subject property contains mature and understory trees located along the western property line. The site topography is relatively flat with an elevation of 890 feet. There are no designated floodplain areas or wetland features on the property.

Roads/Utilities

The subject property has frontage onto NE Norwood Lane, a two-lane, paved, County maintained Local roadway. NE Norwood Lane terminates to the northeast of the subject property. No new accesses are proposed for the new accessory building. Des Moines Water Works provide water service. Wastewater is treated via an onsite septic system. Our office does not have record of the septic system and the system location shall be confirmed by the Appellant. A retroactive permit will be required for the addition to the garage and the separation distance from the septic system will be reviewed at that time.

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 a triangular shaped lot with approximately 38,444 square feet in size and is fully improved with a house, attached garage and sheds. The property is further constrained with a septic system. The location of the existing structures and septic system in addition to the triangular shape of the platted lot constrains the available buildable area.

- 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. An accessory building utilized for personal storage is a typical improvement on other properties and is an allowed use within the LDR Zoning District.

- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?

Yes. The existing home is setback 100-feet from the front property line and the proposed accessory building will be setback approximately 70-feet from the front property line. The impact on adjacent properties will be minimal. The property is located at the end of a dead end street.

- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?

Yes. The house was constructed in 1938, when the location from the front property line would not have been reviewed. If the home was constructed at the minimum front setback, 35 feet, the proposed location of the accessory building would be in compliance and the Variance not needed. The construction of the original home approximately 100 feet from the front property line was not a result from the actions of the Appellant. Further, the constraints on the rest of the property resulting in a limited buildable area are also not a result of the actions of the Appellant.

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 granting of the requested Variance supports the intent of these provisions.

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 with the following conditions.

1. The Appellant shall confirm the location of the septic system and accurately represent the location of the septic system on the Building Permit site plan for the new accessory building. Any adjustments needed to the existing septic system or the existing or future structures, as determined by Polk County Environmental Health, will need to be resolved prior to issuance of a Building Permit.
2. Building Permits shall be submitted for the addition to the west side of the attached garage and for all existing accessory structures that are greater than 120 square feet in size. These Building Permits shall be submitted prior to, or at the same time as, the Building Permit for the new accessory structure. Or, demolition permits shall be submitted for these structures and the structures shall be removed.

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.

(time stamp)
Official Use Only

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)

To put Pole Barn on lot IN front of
House line with less than 100' to lot line

2. Subject Property Address: 2735 NE Norwood Lane

3. Subject Property Zoning District: LDR

4. District and Parcel Number: 7923/19/227/001

5. Subject Property Legal Description (attach if necessary):
Lot 25 Douglas Acres Plat 8

6. Filing Fee: \$310 per variance (each provision requested for a variance is considered a separate variance request)

7. Applicant(s) Information:

Roger Parsons
Applicant (Print Name)

Roger Parsons
Signature

5/20/19
date

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

roger.doger-1957@yahoo.com
Email

2735 NE Norwood Ln, Des Moines, Ia
Address, City, State and Zip

515 664-0999
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

N/A
Applicant Representative (Print Name)

Firm or Business Name

Address, City, State and Zip

Email

Phone

Fax



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