

Final Agenda

Polk County Board of Adjustment

Monday, April 15, 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 Tuesday, February 19, 2019 meeting
- C) Opening Statement
- D) Unfinished Business – None
- E) Consent Public Hearing Items – New Business

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.

Item 1 19/7734 Variance Appeal Application

Request by Allen Huff (Property Owner) for two (2) variances related to a proposed residential accessory building. The request is for a variance to increase the maximum allowable height from 24 feet to approximately 28 feet, and for a variance to allow the accessory building placement in front of the principal dwelling with greater than 150 feet of separation between the structures. The subject property is located at 10530 NE Rieck Drive, Bondurant, Section 9 of Franklin Township.

- F) Discussion Public Hearing Items - New Business

Item 1 19/7746 Variance Appeal Application

Request by Larry and Kathleen Stacy (Property Owners), represented by TJ Werner with Authentic Construction LLC, for a side yard setback Variance to reduce the western side setback from 10 feet to 5 feet to allow the construction of an addition onto the existing single-family dwelling and detached garage. The subject property is located at 1621 NW 70th Place, Section 34 of Crocker 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.

Docket Number: 19/7734

Appellant: Allen Huff, 10530 NE Rieck Drive,
Bondurant, IA 50035 (property owner)

Appeal: The appellant requests two (2) variances related to a proposed residential accessory building. The appeal includes a variance to increase the maximum allowable height from 24 feet to approximately 28 feet, and a variance to allow the accessory building placement in front of the principal dwelling with greater than 150 feet of separation between the structures. The full written appeal can be found as *Attachment A* at the end of this report.

Background

The subject property is located at 10530 NE Rieck Drive, Bondurant, and is legally described as Parcel 'B' as recorded in Bk. 11445, Pg. 142, except Parcel 'E' as recorded in Bk. 15296, Pg. 622, both within the office of the Polk County Recorder, and lying within the NW¹/₄ of the SW¹/₄ of Section 9, Township 80 North, Range 22 West of the 5th P.M. (Franklin Township). The subject property is approximately 14 acres in size and is zoned "ER" Estate Residential District. The property has approximately 900 feet of width and frontage onto NE Rieck Drive to the east, and approximately 650 feet of lot depth. Surrounding properties to the north, south and west are zoned "ER" Estate Residential District. Properties to the south as well as to the north and northwest consist of existing residential homes and accessory structures. The property directly adjacent to the west is open space and farmland. Properties adjacent to the east, on the east side of NE Rieck Drive, are zoned "AG" Agricultural District and in row crop production.

The property contains an existing single-family dwelling and accessory pole building, both constructed in 2015. The existing accessory building is located approximately 146 feet south of the dwelling. Both existing structures are setback well over 400 feet from the front property line parallel to NE Rieck Drive. The current accessory structure is considered even with or slightly behind the front building line of the house as measured parallel to the roadway/front property line.

Staff mailed out six (6) 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 zero (0) responses regarding this Appeal.

Summary of Request

Under the provisions of the Polk County Zoning Ordinance, *Article 4: Use Regulations, Division 6: Accessory Regulations, Section 1(F)*, the height of an accessory building shall not exceed the height of the principal building or twenty-four (24) feet, whichever is greater. The appellant is proposing a 5,760 square foot (60' x 96') accessory pole building for private use. The height of the proposed pole building is approximately 28 feet, in lieu of the maximum allowable height of 24 feet. The existing dwelling on the property averages approximately 24 feet in height.

The Polk County Zoning Ordinance, *Article 4: Use Regulations, Division 6: Accessory Regulations, Section 1(J)*, stipulates that 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 proposed accessory building location is within the front yard, being between the front building line of the existing dwelling and the front property line parallel to NE Rieck Drive. It meets the first criteria with a proposed front setback of approximately 340 feet. However, it does not meet the second criteria with a proposed separation from the existing dwelling of approximately 224 feet. The appellant's site plan is included at the end of this report as *Attachment B*.

Natural Resources

The subject property contains a small area of mapped floodplain and a mapped forested/shrub wetland located in the far northwestern corner of the property along drainage way. This small area of floodplain and wetlands is located at a significantly lower elevation (~830 feet) than the remainder of the property. The site contains a high elevation of approximately 870 feet in the area of the existing house and existing and proposed accessory buildings. The site topography gradually slopes downward to an elevation of approximately 850 feet along NE Rieck Drive to the east. There are no other environmental hazards or features on the property. The majority of the site lying between the house and street is in hay production. There is a small cluster of woodlands located in the northwest corner of the property near the drainage way and floodplain/wetlands area.

Roads & Utilities

The property has approximately 900 feet of frontage to the east onto NE Rieck Drive. NE Rieck Drive is a paved, two-lane minor collector roadway maintained by Polk County. Water service is provided by Des Moines Water Works. Wastewater treatment is provided by an onsite septic system located directly north of the dwelling.

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 exceptionally large size of the property for residential use, site topography, and the curvature of the adjacent roadway and front property line constitute exceptional circumstances that severely limit the placement of accessory structures on the property, but for the granting of a variance.
- 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 location is approximately 340 feet setback from the front property line and over 150 feet from adjacent side and rear lot lines. The nearest dwelling unit is approximately 500 feet south of the proposed building. Surrounding woodlands and mature tree cover further screen the subject property and proposed building site from adjacent properties.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?
Yes. The size, topography, and front lot line curvature of the subject property are existing conditions of the site that did not result from any action(s) 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

Variance Request:

I am requesting a variance for overall building peak height to be taller than current ordinance of 24' or highest peak of home. Also in this variance request I am asking for building to be in front of current house plane. These are variance from the Estate residential zoning. Our current home is a ranch house with highest peak on entry side of home to be 20' and walk outside of home to be 29'. The home sits 488' from road. The new proposed building is to be 60' wide and 96' long with a 4/12 pitch roof. The overall peak height of building would be 28' tall, exceeding current ordinance by 4'. The building would match my current building aesthetically from exterior. My new proposed pole building would be constructed on my 14-acre property perpendicular to my current pole building utilizing same driveway access. Also as part of variance the new building would be in front of current house line in relationship to right away. The new building would sit approximately 350' from road and 230' south of current home. The new proposed building will be used for personal storage of hobby items. These items include RV/camper, antique farm equipment, large equipment trailers. The hobby items require a 14' door opening which drives my side wall height to 16' to allow for proper overhead door installation. I have looked at shorting my side wall height and looked at lowering pitch of roof. However, to maintain my 14' door opening I am unable to achieve a wall/roof pitch combination to meet current ordinance. With this application I am asking for a variance of 4' height increase for new proposed building and building to sit approximately 350' from road and 230' south of current home. Thank you for time and consideration.

Allen Huff – Property Owner

10530 NE 88th ST Bondurant, Iowa 50035

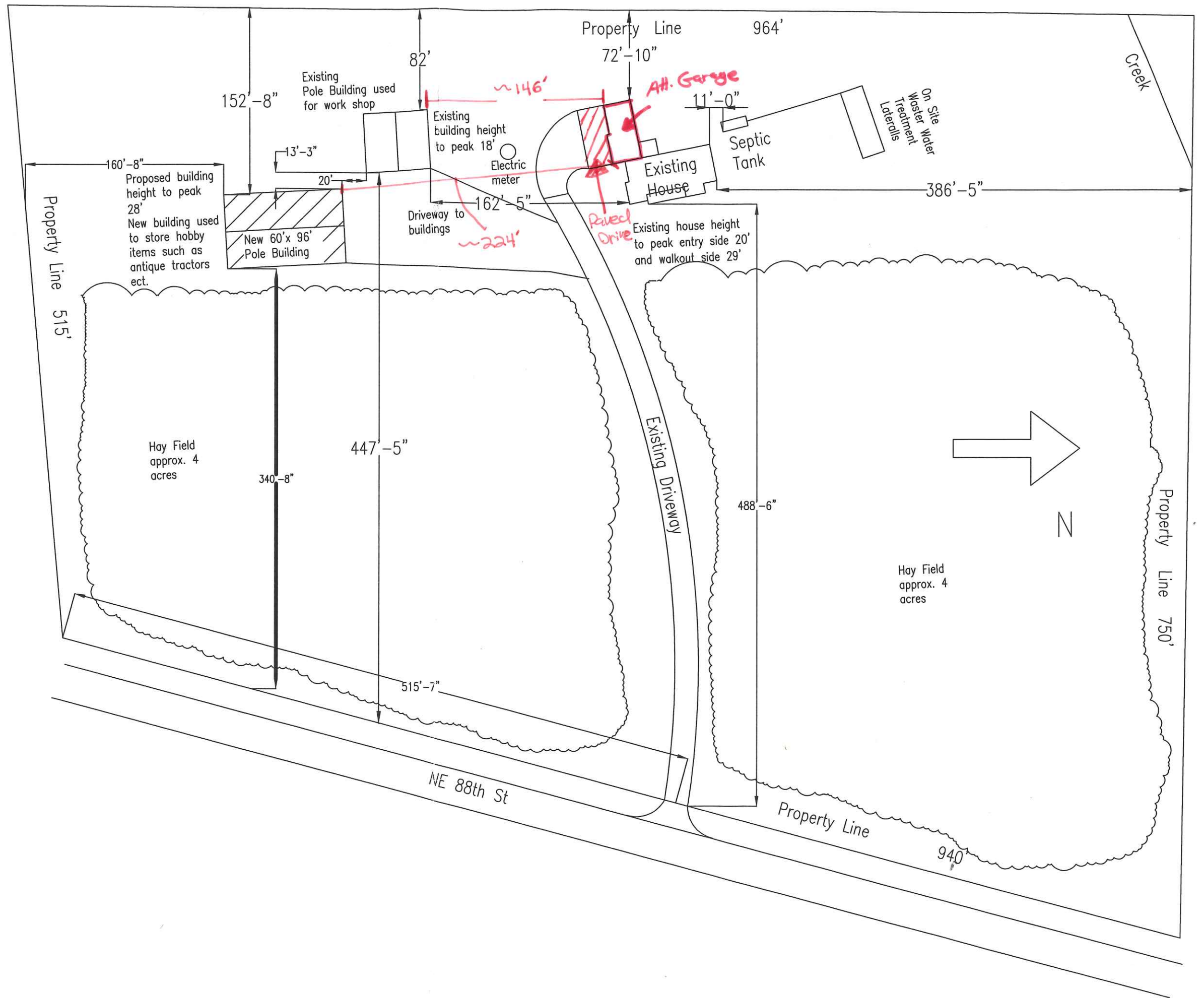
515-971-5398

Site Address: 10530 NE 88th St.
Bondurant, Iowa 50035

Owner: Allen & Mary Huff

Applicant: Allen Huff 515-971-5398

Scale 1" = 80'



Docket Number: 19/7746

Appellants: Larry and Kathleen Stacy (Property Owners), 1621 NW 70th Place, Ankeny, Iowa 50023

Representative: Authentic Construction , LLC, 311 Mulberry Drive NW, Bondurant, Iowa 50035

Appeal: Requesting a Variance to the side yard setback, specifically to reduce the minimum required side yard setback from ten (10) feet to five (5) feet, a five (5) foot reduction, to allow a future house addition to retain the same side yard setback as the existing detached garage.

Appeal Given:

Our request for variance comes for this purpose. We are simply wanting to add a 42 x 47 addition on the rear of our current home. This will be a new area for a master suite, home office for Larry and a sun room with therapy hot tub. The variance is needed because the current garage on our property is detached from the home and meets the setbacks of 5' from the side yard but because we are wanting to attach the new addition to the garage it automatically becomes an attached garage and must meet the setback of a side yard at 10'. Property lines and setbacks on all sides of this new addition will not be infringed upon in any way to the way they currently sit. We understand that all property owners within 250 feet will be notified of this variance and we are ok with that. We understand that we have to abide by the 2019 code for Polk County and be fully responsible for that too. Thank you for your time and consideration in this matter for us. We really appreciate it.

Background

The subject property is zoned “LDR” Low Density Residential District and is legally described as Lot 1 in the Albirtie Manor Plat 2 subdivision, Section 34 of Crocker Township. The property is addressed as 1621 NW 70th Place, Ankeny, IA 50023. The property is a corner lot with street frontage to the south, NW 70th Place, and to the east, NW 16th Street. The property includes one owner-occupied home with a detached garage. The property owners are interested in adding onto the existing home and incorporating the detached garage as part of the addition. The detached garage is currently located approximately five (5) feet from the western property line, which is a compliant location for a detached accessory structure, however when it becomes part of the primary structure (house) it must comply with the side setback for the house which is ten (10) feet.

The property also utilizes an existing septic system that will need to be evaluated to determine if it is sized appropriately to provide adequate service for the existing house and the proposed addition. A map showing the location of the subject property is attached as Exhibit ‘A’ and the proposed building addition plans submitted by the Appellant are attached as Exhibit ‘B’.

Summary of Request

The Appellants propose to construct an addition onto the north side of the existing house. The addition will connect the existing detached garage to the house. The proposal is to retain the existing detached garage setback which is five (5) feet from the western property line

The Polk County Zoning Ordinance, *Article 6: Bulk and Use Standards, Division 2: Single-Family Residential Bulk Standards, Table 6.1: Single-Family Bulk Standards*, stipulates that the Minimum Side Setback is ten (10) feet in the Low Density Residential (LDR) District.

Natural Resources

The site does not have significant natural resources and is fully developed with a single family home and a detached garage. There are no environmental hazards and the site does not contain designated floodplain.

Roads/Utilities

The property has an existing access onto NW 70th Place, which is a County maintained Local street. The existing septic system will need to be evaluated to determine if it is sized appropriately for the proposed addition. No new access points or utility connections are proposed.

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 property is a corner lot configuration, which requires a 35-foot front yard setback from the south and east property lines. The house was constructed in 1962 and the detached garage was constructed in 1968, both constructed by previous property owners. The existing location of the house and detached garage and the corner lot setback requirements, significantly limit the buildable area of this property and create special conditions which apply to this property.

- 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 additions are allowed within the “LDR” Low Density Residential District zone and the proposal complies with the remaining “LDR” District development standards.

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

Yes. The proposed encroachment into the side yard will be the same distance that exists today, five (5) feet. The construction will be single story and residential in use and character, therefore the proposal will not negatively impact the public interest.

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

applicant?

Yes. The location of the existing house and detached garage and the corner lot configuration were established prior to the Appellant's ownership of this 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 granting of the requested variance supports the intent of these provisions and would not affect natural resources.

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.

EXHIBIT 'A'



**Subject Property
1621 NW 70th Place**



7110

7101

1681

1661

1641

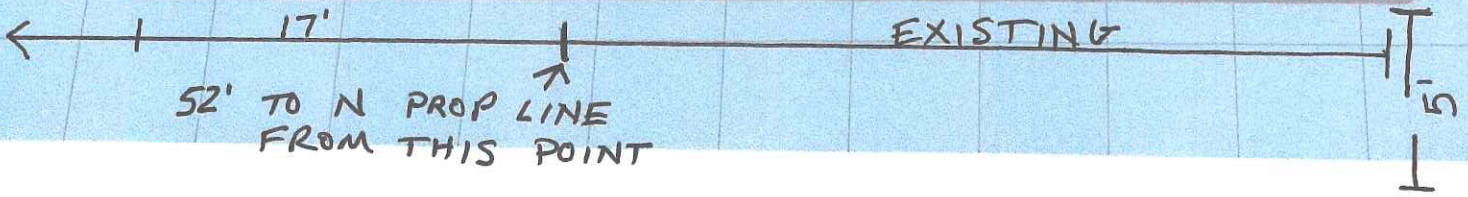
1621

1565

1535

NW 70th Pl

NW 16th St



1621 NW 70th Pl
STACY RES.



52'

Highlighted
is current
home and
detached garage

5'

EXISTING
GARAGE

EXISTING
HOME

