

Docket Number: 19/8170

Appellant: Randy Childs, 5555 NE 88th Street
Altoona, IA 50009

Appeal: Requesting a six (6) foot rear yard setback Variance (from 10 feet to approximately four (4) feet) from the eastern property line to retain an existing accessory building, at the subject property of 5555 NE 88th Street, Altoona, Iowa 50009.

Appeal Given: The following is an excerpt from the Variance Appeal application submittal:

“Asking for a 6’ Variance from 10 foot to 4 foot. Had installed a septic system and needed to extend sloped concrete to facilitate a drain system to go into septic system, and needed to go closer to lot line.”

A site plan with setbacks and accessory building location is included as Attachment ‘A’.

Background

The subject property is zoned “AT” Agricultural Transition District and is approximately 6.5-acres in size. A vicinity map is included as Attachment ‘B’. The property is described as Parcel ‘H’ within the SW ¼ SW ¼ of Section 9 of Township 79 North, Range 22 West of the 5th P.M. (Beaver Township). The subject property was created by a Plat of Survey recorded in Book 11491, Page 706 on January 20, 2006.

The existing house was constructed in 2006. An existing septic system for the home is located to the northeast of house with the lateral fields located south and east of the house. A 54’ x 24’ foot pole building and a two (2) lean-to (24’ x 12’) buildings were constructed with approved permits in 2010 and a horse barn (50’ x 36’) and arena (60’ x 120’) were constructed in 2011 with approved permits. A septic system for the northern pole barn is located to the north of the building location. Since the construction of the northern pole building, the property owners have added an approximately 1,937 square foot addition to the existing 54’ x 24’ pole building without the benefit of building permits. This construction created an accessory structure that is located too close to the rear, eastern property line which has a minimum setback requirement of 10-feet from the property line. The location of the accessory structure necessitated this Variance request. A Variance to the setback standard and a retroactive Building Permit are required to retain the accessory building in the current location. The Appellant has also requested a Conditional Use Permit for the existing use of the accessory building for dog boarding, which is an Animal Services use, allowed only through approval of a Conditional Use Permit.

Summary of Request

The Appellant constructed an addition to the eastern side of an existing accessory building. The accessory building is located approximately four (4) feet from the eastern rear property line to the closest point of the building.

The Polk County Zoning Ordinance, *Article 4: Use Regulations, Division 6: Accessory Regulations, Section 1: Residential Accessory Buildings*, states the following:

(G) If the gross floor area of an accessory building is:

- (1) Seven hundred twenty square feet or less, it shall be located at least five (5) feet from the side or rear property line; and*
- (2) More than seven hundred twenty square feet; it shall be located at least ten (10) feet from the side or rear property line.*

A variance is needed due to the accessory building being located at a distance that is less than 10 feet, approximately four (4) feet. Staff mailed out 5 notices regarding the request and to-date have received (3) responses in support of the appeal.

Natural Resources

The requested Variance does not affect natural resources on this property.

Roads/Utilities

The subject property has frontage and access onto NE 88th Street a two-lane, paved, County maintained roadway. Wastewater is treated via an onsite septic system for the house and a separate onsite septic system for the horse barn. Water service is provided by Des Moines Water Works. Wastewater is treated via two (2) onsite septic systems.

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 has specific constraints due to the layout of the structures and improvements on site. Any proposed addition to the south of the existing pole building would take away from the circulation area provided for vehicle access for operations as well as the outdoor exercise and training area. The septic system for the accessory building is located along to north and northeast of the existing building location limiting space for any proposed additions. The owner's business plan called for an accessory building addition meeting certain size and standards for inclusion of dog runs.

- 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. Other property owners with similar circumstances would likely request a Variance. An accessory building is allowed within this zoning district.

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

Yes. The adjacent property to the east is an agricultural field and is unbuildable under the current zoning of the property. Complaints regarding the accessory structure have not been received during construction or since the construction was completed. Retaining the existing accessory building in its current location will have minimal impact on adjacent property owners.

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

Yes. The owner has indicated that the septic system required an extension of sloped concrete to facilitate proper drainage for the system to function properly and required that the building be located closer to the property line.

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 Variance request for an approximately 1,937 square foot existing addition to a (24' x 54') accessory building to reduce the 10-foot setback from the eastern property line from 10 feet to approximately four (4) feet, a 6-foot reduction, subject to the following condition of approval:

1. A Building Permit shall be submitted for the accessory building by Friday, September 27, 2019.



36445 sq

14x14
2013

X

0245

24x24 painted
2010

Added on
to shanty
2012-2013
1937
sq ft



NE 88th St

**Subject Property:
5555 NE 88th Street**

NE 54th Ave

0 650 1,300 2,600 Feet