

**Docket Number:** 19/8311

**Appellant:** Brian Main, 8455 NW Chevalia Drive, Grimes, Iowa 50111

**Appellant's Representative:** Ryan Gordon, Gordon Contracting Services, LLC, 1909 NW Calista Street, Grimes, Iowa 50111

**Appeal:** Requesting a 56-foot front yard setback Variance (from 100 feet to 44 feet) from the southern property line to construct a 13-foot by 24-foot addition onto an existing detached garage which, as proposed, will be in front of the principal structure, at the subject property of 8455 NW Chevalia Drive, Grimes, Iowa 50111.

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

*A variance to the front yard setback of property 8455 NW Chevalia Drive, Grimes, Iowa is being...requested in order to allow an addition to be built to the existing detached garage. Said addition will require a 6'-0" variance into the 50'-0" setback. The garage addition will be a total of 13'-0" x 24'-0" (15'-0" total which includes a 2'-0" overhang) and attached to the front of the already built detached garage.*

*The front yard setback of 50'-0" creates a unique circumstance to building an addition to the existing detached garage due to the grading of the property. The residential property sits on a generally sloped hill and therefore the grading of the property is in such a manner that the grading flows from the North/East and East side of the property towards the South/West and West side of the property. The addition cannot reasonably be built anywhere else on the detached garage due to the grading already sitting 4'-6" on the East side of the garage and 6'-0" on the North side of the garage and the need for major excavation to be performed to the property. Additionally, the grading of the property has created a water issue, allowing water to seep into the structure, to the South side of the detached garage in which would be corrected when building the proposed addition.*

*Additionally, as written in the Polk County, Iowa Zoning Ordinance, any accessory building built within the Estate Residential (ER) zoning district must be built either even with or behind the plane that runs across the front of the residential dwelling. The current detached garage, which was built when the residential dwelling was originally constructed, already does not meet this zoning requirement and sits in front of the residential dwelling by approx. 4'-0". Within this zoning ordinance, an exception is listed in which states that structures may be built in front of the residential dwelling so that the dwelling sits at a minimum of 100'-0" back from the property line, in which the residence in this case does not.*

*Another unique circumstance for the property in question is Polk County approved a building permit in the fall of 2017 for a neighboring property to have a detached garage built in front of the residential dwelling. Although this detached garage sits within the 50'-0" original setback, it clearly sits beyond the front plane of the residential dwelling. At the time of permit submittal, Polk County approved the building permit without enforcing the additional 100'-0" setback when attempting to build beyond the front plane of the residential dwelling.\**

Staff has reviewed the adjacent structure referenced in the appeal above, located at 8473 NW Chevalia Drive. The site plan submitted with the Building Permit for the accessory structure was shown as 52 feet and

three (3) inches from the front property line. The existing house on that property was shown as 48 feet and two (2) inches from the front property line, thereby locating the accessory structure beyond the minimum front setback of 50 feet and further back from the street than the house. Upon review of 2018 aerials, these measurements appear to be accurate. It should be noted that the house and the accessory structure are both at an angle to NW Chevalia Drive which may cause a perception that the accessory structure is located in front of the house.

The full submittal from the Appellant, including a survey of the property, is attached as Exhibit 'A'.

### **Background**

The subject property is zoned "ER" Estate Residential District and is approximately 1.419 acres in size. A vicinity map is attached as Exhibit 'B'. The property is located within Section 29 of Jefferson Township and is described as Lot 30 in the Chevalia Run Plat 1 subdivision. NW Chevalia Drive curves along the subject property's frontage. The front yard setback is the horizontal distance between the structure and the front property line. The existing house is approximately 56 feet and six (6) inches from the front property line to the closest point of the house. The existing detached garage is approximately 59 feet at its closest point to the front property line.

The proposal is to resolve the grading issues with the existing detached garage by removing the southern wall of the structure and extending it to the south, while at the same time correcting the grading. The existing garage is partially built into the adjacent hillside and has been experiencing water infiltration issues since the Appellant purchased the property in 2018. The house and detached garage were constructed in 2004 by previous property owners.

### **Summary of Request**

The Appellant is requesting a Variance to accommodate a future building addition onto the existing detached garage. The addition is proposed to be approximately 13 feet by 24 feet in size which is a total of 312 square feet. The addition is proposed to be located closer to the front property line than the existing house at a distance of approximately 44 feet, rather than 100 feet.

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

- (J) An accessory building may not be placed in front of the principal building unless said accessory building:*
- (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.*

A Variance is needed due to the proposed detached garage addition being located in front of the house and at a distance that is less than 100 feet, approximately 44 feet.

### **Natural Resources**

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

### **Roads/Utilities**

The subject property has an existing access onto NW Chevalia Drive and no new accesses are proposed. NW

Chevalia Drive is a local two-lane paved County road that connects NW 85<sup>th</sup> Avenue to the west and with NW 121<sup>st</sup> Street to the south. Water service is provided by Xenia Rural Water. Wastewater is treated via an onsite 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. NW Chevalia Drive curves significantly to the south along the frontage of this property. The distance between the front property line to the house and to the garage are not measured along the same plane due to the curvature of NW Chevalia Drive. The house and detached garage are not parallel with the adjacent street or with the front property line, rather they are at different angles which makes the visible distance to the front property line and to each other more challenging. Further, the construction of the detached garage, partially within the hillside, and the reoccurring flooding concerns with this structure need to be remedied. The curvature of the street and the associated southern property line as well as the non-parallel construction of the house and garage and the atypical construction of the detached garage and the ongoing water issues are unusual circumstances that apply to this property and not generally to other properties in the same zoning district.

- 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. The Appellant's wish to construct an addition onto the existing detached garage while they need to change the grade and remove a portion of the building to fix the ongoing water issues would not be an unusual request by other property owners within this zoning district.

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

Yes. The proposed addition does not widen the driveway entrance to the property and will add an additional overhead door that faces the home, rather than the street. Although the garage addition will be closer to the street, the appearance will be similar to the appearance of the detached garage today. The proposed setback and garage addition 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 appellant?

Yes. The single family home and detached garage were constructed in 2004. The Appellant purchased the property in 2018, therefore the construction occurred prior to current ownership. Further, the curvature of NW Chevalia Drive and the associated curvature of the

southern property line is 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 Variance request to reduce the 100-foot setback from the southern property line from 100 feet to approximately 44 feet, a 56-foot reduction, to allow the construction of a 13-foot by 24-foot addition onto the existing detached garage as shown on the submitted Variance Appeal site plan.

### 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)

(time stamp)  
Official Use Only

Allow a variance to the 50'-0" front yard setback to allow a 15'-0" addition to be built 6'-0" into the 50'-0" setback and attached to the currently built detached garage.

- 2. Subject Property Address: 8455 NW Chevalia Drive, Grimes, Iowa 50111
- 3. Subject Property Zoning District: ER - Estate Residential
- 4. District and Parcel Number: 240/00714-047-080
- 5. Subject Property Legal Description (attach if necessary):  
LT 30 Chevalia Run Plat 1

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

7. Applicant(s) Information:

Brian Main  
Applicant (Print Name)

Brian Main  
Signature

8/10/19  
date

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

bmain3506@msn.com  
Email

8455 NW Chevalia Drive, Grimes, Iowa 50111  
Address, City, State and Zip

515-639-4438  
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

Ryan Gordon  
Applicant Representative (Print Name)

Gordon Contracting Services, LLC  
Firm or Business Name

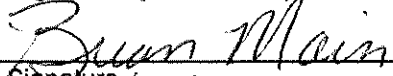

1909 NW Calista Street, Grimes, Iowa 50111  
Address, City, State and Zip

gordoncontractingservices@gmail.com  
Email

515-202-2405  
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)

Brian Main		8/10/19
(Print Name)	Signature	date
Stephanie Main		8/10/19
(Print Name)	Signature	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.

A variance to the front yard setback of property 8455 NW Chevalia Drive, Grimes, Iowa is being requested in order to allow an addition to be built to the existing detached garage. Said addition will require a 6'-0" variance into the 50'-0" setback. The garage addition will be a total of 13'-0" x 24'-0" (15'-0" total which includes a 2'-0" overhang) and attached to the front of the already built detached garage.

The front yard setback of 50'-0" creates a unique circumstance to building an addition to the existing detached garage due to the grading of the property. The residential property sits on a generally sloped hill and therefore the grading of the property is in such a manner that the grading flows from the North/East and East side of the property towards the South/West and West side of the property. The addition cannot reasonably be built anywhere else on the detached garage due to the grading already sitting 4'-6" on the East side of the garage and 6'-0" on the North side of the garage and the need for major excavation to be performed to the property. Additionally, the grading of the property has created a water issue, allowing water to seep into the structure, to the South side of the detached garage in which would be corrected when building the proposed addition.

Additionally, as written in the Polk County, Iowa Zoning Ordinance, any accessory building built within the Estate Residential (ER) zoning district must be built either even with or behind the plane that runs across the front of the residential dwelling. The current detached garage, which was built when the residential dwelling was originally constructed, already does not meet this zoning requirement and sits in front of the residential dwelling by approx. 4'-0". Within this zoning ordinance, an exception is listed in which states that structures may be built in front of the residential dwelling so that the dwelling sits at a minimum of 100'-0" back from the property line, in which the residence in this case does not.

Another unique circumstance for the property in question is Polk County approved a building permit in the fall of 2017 for a neighboring property to have a detached garage built in front of the residential dwelling. Although this detached garage sits within the 50'-0" original setback, it clearly sits beyond the front plane of the residential dwelling. At the time of permit submittal, Polk County approved the building permit without enforcing the additional 100'-0" setback when attempting to build beyond the front plane of the residential dwelling.

**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 14<sup>th</sup> Street, Des Moines, IA 50313  
Phone (515) 286-3705 • Fax (515) 286-3437  
Forms and calendar available online <http://www.polkcountyiowa.gov/PublicWorks/>

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

Scale:  
1" = 27'-0"



Homeowner:  
Brian Main  
8455 NW Chevalia Drive  
Grimes, Iowa 50111

Applicant:  
Ryan Gordon  
Gordon Contracting Services  
515-202-2405

