

Appeal: The appellants request a Variance to allow a proposed accessory building to be located in front of the principal residence with a separation from the principal residence of greater than 150 feet.

Background

The subject property is located at 8097 NW 37th Street, Ankeny, and is legally described as Lot 5 of Windbrook Estates Plat 2, being within Section 29 of Township 80 North, Range 24 West of the 5th P.M. (Crocker Township). The subject property is approximately 3.37-acres in size and is zoned "RR" Rural Residential District. The City of Ankeny corporate limits are located approximately one (1) mile east where they extend along SW Oralabor Road (Hwy 415). The Saylorville Reservoir and City of Johnston corporate limits are located approximately one-half (½) mile to the west. Surrounding properties in this area of unincorporated Polk County are also zoned "RR" Rural Residential District and primarily contain existing single-family residences. See *Attachment A* for a vicinity map of the subject property and surrounding area.

The subject property is a flag-shaped lot with a 55-foot wide access stem extending west and providing frontage and access onto NW 37th Street. The flag stem is approximately 280 feet in depth, after which the lot widens out to over 300 feet. Windbrook Estates Plat 2 was approved and recorded in November of 1996, and created five (5) single-family lots along the east side of NW 37th Street. The subject property, Lot 5, is the furthest lot south in the development. The other four (4) lots were also created with a flag-shaped configuration. The subject property contains an existing single-family residence and attached garage, constructed in 1999 according to County records. The home is located in the far southeast corner of the lot and accessed via a long private driveway from NW 37th Street. The site also contains a small existing accessory shed along the southern lot line. The appellants are proposing to construct a new detached accessory structure in the southwest corner of the lot. Due to the flag lot configuration of the property, any accessory structure located west of the house is considered in front of the principal residence and would require a variance if the accessory in front of regulations cannot be met.

Summary of Request

The Polk County Zoning Ordinance, *Article 4: Use Regulations, Division 6: Accessory Use Regulations: Section 1. Residential Accessory Buildings: (J)* states: "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." The appellants propose to construct a new 30' x 45' (1,350 square feet) accessory pole building to be located in the western half of the subject property and in front of the principal residence. The pole building would be setback well over 100 feet from the western, front property line adjacent to NW 37th Street, however a variance is requested to allow the accessory building at a separation distance from the principal residence of approximately 240 feet, in lieu of the maximum allowable separation of 150 feet. The submitted application and site plan for this appeal can be found as *Attachment B*.

Staff mailed out 14 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 some elevation change across the site, ranging from a high point of approximately 920 feet along its western frontage at NW 37th Street, and a low point of approximately 864 feet in the southwest corner of the lot. The property contains two (2) 50-foot wide drainage easements which cut through the middle portion of the property and converge near the southern lot line. The property also contains an existing private pond that appears to have been initially constructed in approximately 2005-2006 according to aerial photography. The pond is located in the middle of the property. The appellants have also completed a significant amount of grading work over the last approximately ten (10) years to expand the size of the pond, embankment and outlet. All of this grading work has occurred without required permits from Polk County Public Works.

The property contains mature trees throughout, with the largest concentration located around the pond and between the pond and south lot line. The property is not located within a mapped floodplain. The property does contain a small area of mapped Riverine habitat wetlands located near the easternmost drainage easement and pond. The proposed accessory building would be located along the western property line, being west of the existing pond and residence. The proposed location is outside of the drainage easements in a relatively flat portion of the site, and would have minimal impact on existing environmental features.

Roads & Utilities

The subject property has direct frontage/access, including an existing driveway entrance, onto NW 37th Street. NW 37th Street is an existing two-lane paved collector roadway maintained by Polk County. It extends north turning into NW 84th Avenue and providing connectivity to Highway 415, and also extends south turning into NW Fisher Lane / NW 70th Avenue and providing connectivity to NW 26th Street. Water service is provided by Des Moines Water Works via an existing six-inch (6") water main located along the east side of NW 37th Street. The property is served by a private onsite wastewater treatment system, which was originally permitted and installed in 1999 with the residence. The system is located directly north and east of the residence. The system will not be impacted by the proposed accessory building location and easily would maintain the minimum separation from the new building of ten (10) feet.

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's configuration as a flag lot and its overall topography constitute an exceptional circumstance that effectively prevents the location of the accessory building in a conforming location.

- 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. Accessory structures are 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. There will be limited impact on adjacent properties. While in front of the principal residence, the proposed accessory building location would be behind adjacent residences and have no impact on the front building line along NW 37th Street. Additionally, the building exceeds the required side yard setback of ten (10) feet from the closest adjacent lot line to the west, and is also shielded by existing trees in this area.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?
- Yes. The property's configuration and site topography are existing conditions, and not a result of the actions of the appellants. These constraints leave a relatively small buildable area on the site.
- 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. Past and ongoing grading work completed by the appellants without a permit is required to be rectified prior to the issuance of any further permits for the property, including for the proposed accessory structure.

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 condition:

1. Prior to the issuance of a Building Permit for the proposed accessory structure, the appellants shall obtain an approved Grading Permit from Polk County Public Works, including a grading plan prepared by a licensed professional engineer, to address the past and ongoing grading work on the pond.

Attachment A Vicinity Map

Subject
Property

Saylorville
Reservoir

Johnston

Ankeny



0 0.25 0.5 1 Miles



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.

(time stamp)
Official Use Only

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)

Out building construction beyond
150ft. of home in "front" yard.

2. Subject Property Address: 8097 NW 37th St. Ankeny

3. Subject Property Zoning District: Crocker Township

4. District and Parcel Number: 180/00970-005-000

5. Subject Property Legal Description (attach if necessary):
LT 5 Windbrook Estates Plat 2

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

7. Applicant(s) Information:

Timothy Begg
Applicant (Print Name) Timothy S Begg
Signature 5/18/23
date

Owner
Interest in Property (owner, renter, prospective buyer, etc.) beggtim@gmail.com
Email

8097 NW 37th St. Ankeny, IO
Address, City, State and Zip 515-490-1131 _____
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)

Timothy Begg
(Print Name)

[Signature]
Signature

5/18/23
date

LYNNE A. BEGG
(Print Name)

[Signature]
Signature

5/18/23
date

(Print Name)

Signature

date

(Print Name)

Signature

date

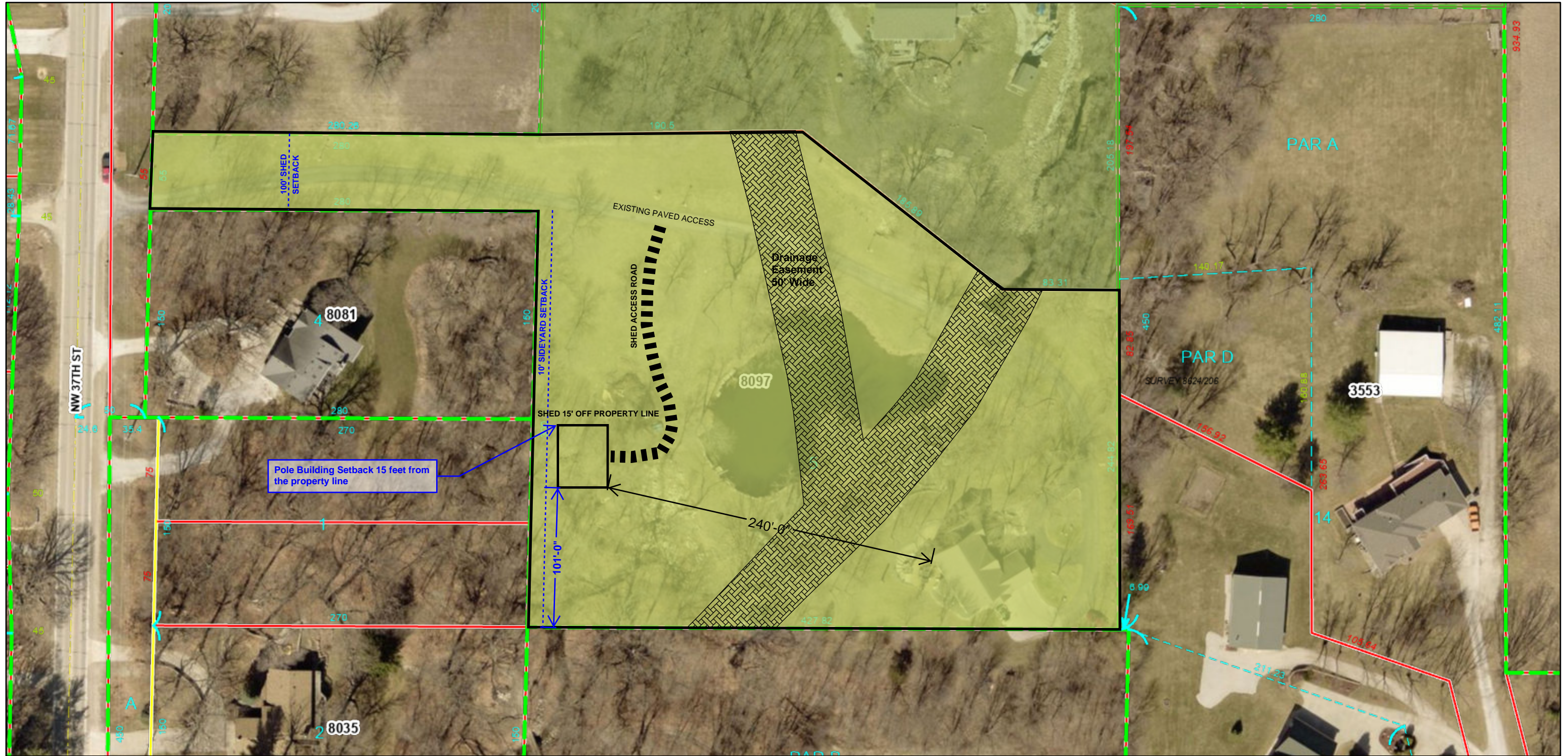
10. State the reason(s) the variance is necessary and why you cannot comply with the regulations of the Zoning Ordinance. Specifically explain the nature of the appeal.

land contour, water way easements
prohibit construction within 150
feet of home in "front" yard.
Flag lot with water way easements
and contours.

**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.**

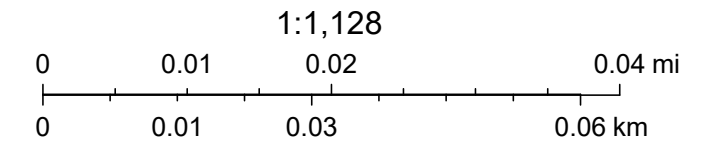
Return completed forms to: Polk County Public Works, Planning Division 5885 NE 14th Street, Des Moines, IA 50313
Phone (515) 286-3705 • Fax (515) 286-3437 Email: PublicWorks@polkcountyiowa.gov
Forms available online <http://www.polkcountyiowa.gov/PublicWorks/> BOA Calendar CALENDAR

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



4/19/2023, 10:52:40 AM

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|---------------------------------|-------------|-----------------|-------------------|
| Subdivision Search_Query result | Polk County | Road Centerline | Survey Line |
| Street Labels | Lot Lines | Road ROW | Cartography |
| Road | Lot Line | Sub Line | Lot Dim Carto 100 |
| Parcels | Parcel Line | | Address Number |
- POLE SHED ADDITION**
 36' x 45'



Auditor's Office, Polk County, Iowa, Sources: Esri, TomTom, U.S. Department of Commerce, U.S. Census Bureau, Esri Community Maps Contributors, Des Moines Area Regional GIS, Iowa DNR, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census