

## Final Agenda

Polk County Board of Adjustment  
Monday, August 19, 2019 - 7:00 P.M.  
Polk County Public Works Department, Planning & Development Division  
5885 NE 14<sup>th</sup> 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, June 17, 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            19/8147 Variance Appeal Application**

Request by Josh Knight (Property Owner) for a height increase Variance of 4-feet (from 24-feet to 28-feet) for a proposed 60' x 104' (6,240 square feet) accessory building. The subject property is located at 9195 E Baseline Avenue, Runnells, Section 5 of Camp Township.

- F) Discussion Public Hearing Items - New Business

### **Item 1            19/8058 Variance Appeal Application**

Request by Chad Hinze (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 36 feet, in lieu of the required 100 feet. The subject property is located at 10975 SE Runnells Drive, Runnells, Section 15 of Camp Township.

### **Item 2            19/8162 Variance Appeal Application**

Request by OMG Midwest, Inc. dba Hallett Materials for a setback Variance of 150 feet to reduce the mining setback limits from 200 feet to 50 feet adjacent to a residential / open space use. The subject property is located at 1022 NW 54<sup>th</sup> Avenue, Des Moines, Section 15 of Saylor Township.

### **Item 3            19/8161 Conditional Use Permit Application**

Request by OMG Midwest, Inc. dba Hallett Materials, with consent of property owners M.F. White Residuary Trust and Benskin, Inc., to amend an existing Conditional Use Permit to extend the current expiration date for a sand and gravel extraction operation. The subject property is

located at 5309 NW 26<sup>th</sup> Street, Des Moines, Section 16 of Saylor 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:** 19/8147

**Appellant:** Josh Knight (Property Owner)  
9195 E Baseline Ave  
Runnells, IA 50237

**Appeal:** Requesting a 4-foot height increase Variance (from 24-feet to 28-feet) for a proposed 60' x 104' (6,240 square feet) accessory building to be constructed on the subject property.

**Appeal Given:** Please see *Attachment 'A'* to view the full appeal provided with the application submittal. The Appellant has verbally changed the original request of a 27-foot height to a 28-foot height after review of the construction documents for the proposed accessory building.

### **Background**

The subject property is zoned "RR" Rural Residential District and is legally described as Lots 5 & 6 Layton Garrett Estate and Lot 1 Layton Garrett Estate Plat 2, Section 5 of Camp Township. The property is addressed as 9195 E Baseline Avenue, Runnells, IA 50237-2097. The subject property comprises two rectangular shaped parcels with approximately 516-feet of frontage along E Baseline Avenue.

The subject property was created by Layton Garrett Estate, recorded in 1971 and Layton Garrett Estate Plat 2, recorded in 1973. The property comprises one owner-occupied home with a driveway that extends approximately 740-feet from north to southeast. The existing home (1,995 square feet) with attached garage (500 square feet) was permitted in 1996 and a Certificate of Occupancy was issued in 1998. An existing approximately 14 x 28 (392 square feet) accessory building is located approximately 85-feet southwest of the house. A retroactive permit is currently under review for this accessory building and is required because it is greater than 120 square feet in size. The Appellant acquired both parcels of land comprising the subject property in February of 2013. A Lot Tie Agreement has been signed by the Appellant and recorded with the intent of legally combining/joining said parcels into one single tax parcel with no portion being sold separately. This prevents alteration of the boundaries of the combined tax parcels without approval of Polk County.

The Appellant submitted a building permit for the proposed accessory building and was alerted by Planning Division staff of the height requirements. During this review, it was determined that a Variance would be required in order for the accessory building to comply with the Polk County Zoning Ordinance. This Variance request is for a proposed 60' x 104' (6,240 square feet) accessory building to be constructed on the subject property at a maximum height of approximately 28-feet. The proposed accessory building will meet all other ordinance requirements. As noted in the appeal provided by the Appellant, the accessory building is for personal use and will be utilized for storage of hay bales, farm equipment and a future Winnebago. The accessory building will be located approximately 74-feet from the closest point of the existing house.



A site review of the subject property was conducted on Tuesday, August 13, 2019. The review of the site and the surrounding residential properties revealed a variety of detached accessory buildings that have been constructed. The significant setback and rolling topography of the subject property along with the mature trees that line the long curved driveway will limit the view and impact of the accessory building on adjacent properties. The site visit also revealed that the site had been prepared for the location of the building with some grading completed. A Building Permit will be required for the proposed accessory building. All grading associated with preparing the site for the building construction will be evaluated through the Building Permit and associated inspection process. A map showing the location of the subject property is included as *Attachment 'B'* and a site plan and sketch of the building submitted by the Appellant is included as *Attachment 'C'*.

Staff mailed out 6 notices regarding the 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 two (2) responses in support of the appeal.

### **Summary of Request**

The Appellant is requesting a 4-foot height increase Variance (from 24-feet to 28-feet) for a proposed 60' x 104' (6,240 square feet) accessory building to be constructed on the subject property of 9195 E Baseline Avenue.

The Polk County Zoning Ordinance, *Article 4. Use Regulations, Division 6. Accessory Regulations, Section 1. Accessory Buildings (F)*, states that the height of an accessory building shall not exceed the height of the principal building or twenty-four (24) feet whichever is greater.

### **Natural Resources**

The site has 30+ grown trees that line the long driveway leading to the house. The proposed accessory building will be primarily shielded from view of the right-of-way and the closest neighboring dwelling by the existing trees. The property has a gently rolling terrain with elevations that vary between 900 and 920 feet across the site. Most of the land on the property appears to be utilized for agricultural purposes. There are no environmental hazards and the site does not contain designated floodplain.

### **Roads/Utilities**

The property has an existing access onto E Baseline Avenue, which is a two lane minor collector street maintained by Polk County. The road right-of-way width of E Baseline Avenue is approximately 100-feet adjacent to the subject property along the northern parcel boundary. No new access points are proposed.

The subject property is served by MidAmerican and Des Moines Water Works for electric and water. MidAmerican Energy Company has an existing Underground Electric Line Easement recorded in Book 7500, Page 415. The property owner confirmed that the proposed pole building is located south of this easement and the easement does not appear to affect the proposed accessory building location. A 10-foot wide Public Utility Easement was platted along the south and western property lines of Lots 5 & 6 of Layton Garrett Estate and the south and eastern property line of Lot 1 Layton Garrett Estate Plat 2. The P.U.E. within the west 10-feet of Lot 6, Layton Garrett Estate and the east 10-feet of Lot 1, Layton Garrett Estate Plat 2 were vacated on April 18, 1995 with recorded easement documents located in Book 7182, Page 248.

According to the Polk County Environmental Health records, the septic system and laterals are located northeast of the home. There are three (3), 136-foot long laterals that extend to the north and east of the septic system. The location of the septic system and laterals does not conflict with the location of the proposed accessory building.

### **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 residence along with accessory buildings are permitted uses in the "RR" Rural Residential Zoning District. The subject property is significantly larger than most rural acreages within the Rural Residential District yet smaller than a traditional farming operation and surrounding agricultural ground. Therefore, the property has an exceptional circumstance relative to its size, in which it is large enough to permit sizable accessory structures, yet it is subject to the residential accessory building height restriction of 24-feet or the height of the house; a standard which more appropriately applies to smaller rural acreages at greater densities.
  
- 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. There are a variety of detached accessory buildings located on adjacent surrounding properties. Accessory structures are allowed within the "RR" Rural Residential District and are commonly found on other residential properties.
  
- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance

and the public interest?

Yes. The proposed project should have a minimal impact to the adjacent properties. The proposed accessory building will be located a significant distance from the adjacent roadway and existing residential properties/structures.

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

Yes. The Appellant's proposed use and size of the building, sidewall height, type of roof truss materials, truss size and roof pitch all contribute to the height of the proposed accessory building. The large size of the property relative to its residential use, and its location in a rural and largely agricultural area of the County are existing conditions 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.

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 to increase the maximum height allowed for the proposed accessory building from 24-feet to 28-feet, for an approximate 4-foot increase.

Attachment A:

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)

To store round hay bales, farm equipment and winnabago

2. Subject Property Address: 9195 E Baseline Ave Runnells IA 50237

3. Subject Property Zoning District:

4. District and Parcel Number: 160/00765-006-010

5. Subject Property Legal Description (attach if necessary):

LOT 1 Layton Garrett EST PLT 2  
LTS 5+6 Layton Garrett Estate

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

7. Applicant(s) Information:

Josh Knight  
Applicant (Print Name)

[Signature]  
Signature

7-17-19  
date

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

JKnight@gotaci.com  
Email

9195 E Baseline Ave Runnells IA 50237  
Address, City, State and Zip

515.710.4354  
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

SAME  
Applicant Representative (Print Name)

Firm or Business Name

Address, City, State and Zip

Email

Phone

Fax





Required Information: (must be included prior to making submittal)

1. Complete Application including the description of requested variance(s) with specific information for the request and state the reason(s) the variance is necessary and why you cannot comply with the regulations of the Zoning Ordinance.
2. Submit site drawing as required see details below.

### Site Drawing

All variance appeals must submit three (3) 11x17 copies of a site drawing with the application. The site drawing must be fully dimensioned and legible. All required information must be drawn to a scale. The Zoning Administrator may require a petitioner to submit a site plan drawn by an engineer or architect. The site plan shall include the following:

1. Boundary drawing of the lot or area involved.
2. Location, dimensions, height and setbacks of all existing and proposed buildings and structures and the uses of each.
3. Use of the proposed addition to building or structure.
4. Approximate location of the vehicle entrance to the site.
5. Show the approximate location of water and sewer (septic system) facilities, if applicable.
6. Location of parking area and number of stalls required, if applicable.
7. General location of landscaping, buffer areas and screening, if applicable.
8. If the appeal is for a **sign**, the appeal must be accompanied by both a fully dimensioned, to scale elevation and site plan drawing of the sign, showing the exact location and size of the sign.

### Variance Regulations

No variance from the provisions or requirements of this ordinance shall be authorized by the Board of Adjustment unless the Board finds beyond reasonable doubt that all the following conditions and circumstances exist. These regulations are found in the Zoning Ordinance, Article 17. Variance. The conditions and circumstances will be addressed by the Polk County Planning Division staff in reviewing the variance(s) request.

1. There must be exceptional or extraordinary circumstances or special conditions applying to the property in question, and do not exist generally on other properties in the same zoning district. By virtue of the unique or special conditions, it is, therefore, exceptionally difficult to place a use permitted in said district on the property.
2. The variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity and such variances will not permit uses that are prohibited in that district.
3. The authorization of such variance will not be of substantial detriment to adjacent property and will not be contrary to the purpose of this Ordinance and the public interest.
4. That the special conditions or circumstances did not result from the actions of the applicant.
5. The variance will not entirely void the natural resource protection requirements of this Ordinance.

The condition and/or situation of a property for which a variance is sought must be of an unusual nature. A variance shall not be authorized if the condition or situation is of a general or recurrent nature such that adopting a general regulation as an amendment to this Ordinance is a reasonably practicable solution.

The variance granted shall be the minimum necessary to permit a use of the property. A variance shall neither increase the number of permitted dwelling units by more than one (1), nor allow the minimum lot area required for a use to be decreased by more than ten (10) percent. If natural resources are involved, then mitigation for any damage to the environment shall be a condition of the variation.

Board of Adjustment Authority,

I would like to request a height variance for a pole barn I would like to build. I am requesting to build an approximately 27-foot high building to store round hay bales, farm equipment and in the future a Winnebago. Below is a barn I currently use that has 18 foot of clearance to the truss. As you can see, there is about 1 foot of clearance from the hay to the top. To minimize the height of my building I have lowered my side walls and used a vaulted truss but am still over the 24' maximum height. I am trying to build an aesthetically pleasing building and to accomplish that I would like to use a 4/12 truss but that puts the building height around 27 foot. The barn will sit approx. 700' off the road and behind a row of trees. I have contacted all my neighbors and their neighbors and as you can see by the signature everyone is has agreed to the height. I have been planning this project for several year and hope that you would kindly accept my request.


Thanks

Josh Knight



Matt Bergman

9221 E Baseline Ave Runnells IA 50237

 7/17/19

---

Justin Thomas

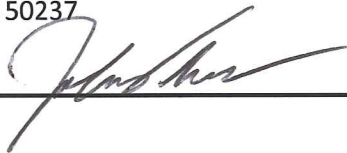
9261 E Baseline Ave Runnells Ia 50237

 7-17-19

---

John Thomas

9111 E Baseline Ave Runnells IA 50237

 7-17-19

---

William Fischer

9085 E Baseline Ave Runnells IA 50237

 7/18/19

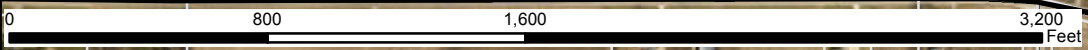
---



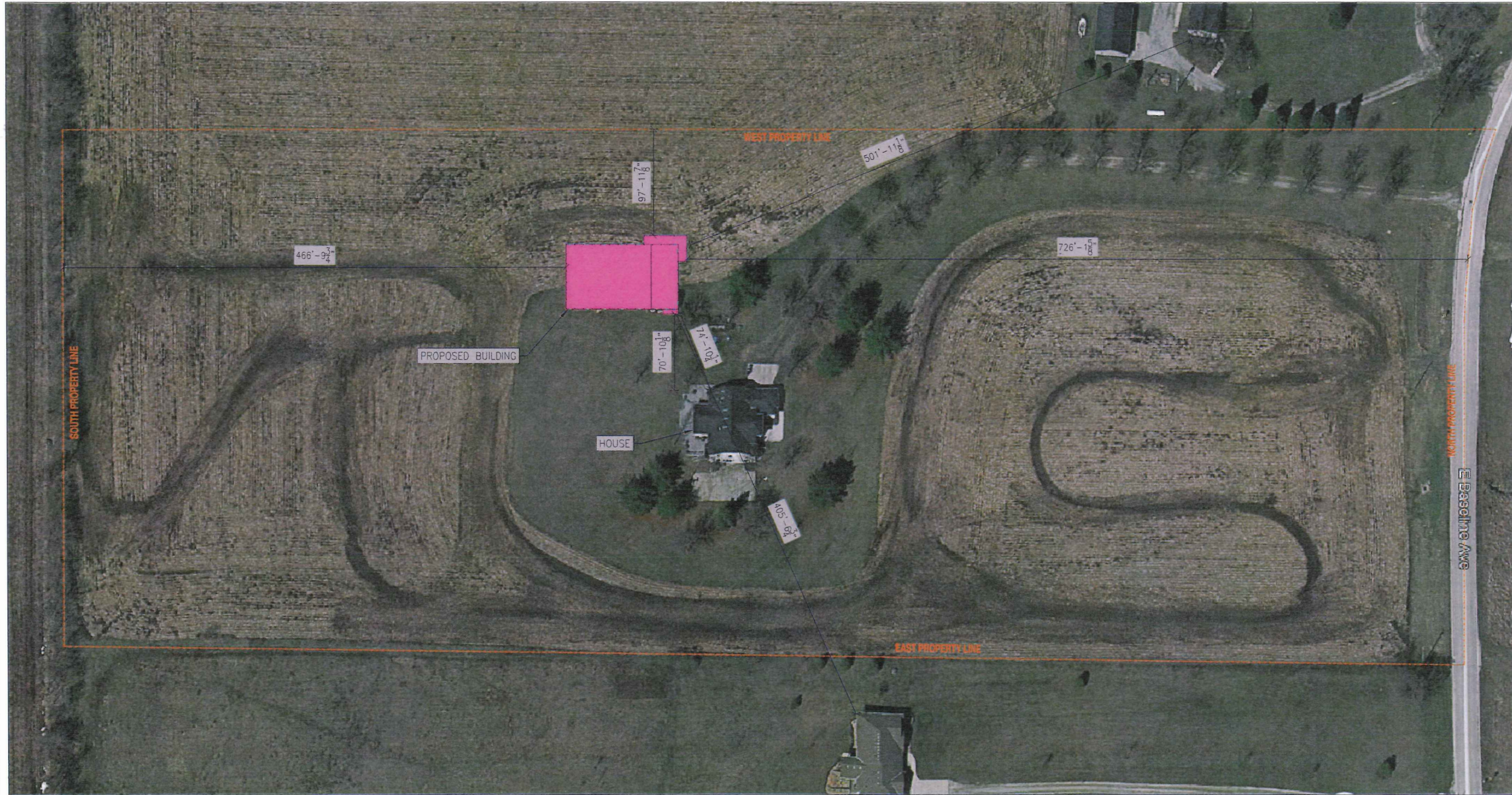
Attachment B:



Subject Property  
9195 E Baseline Ave



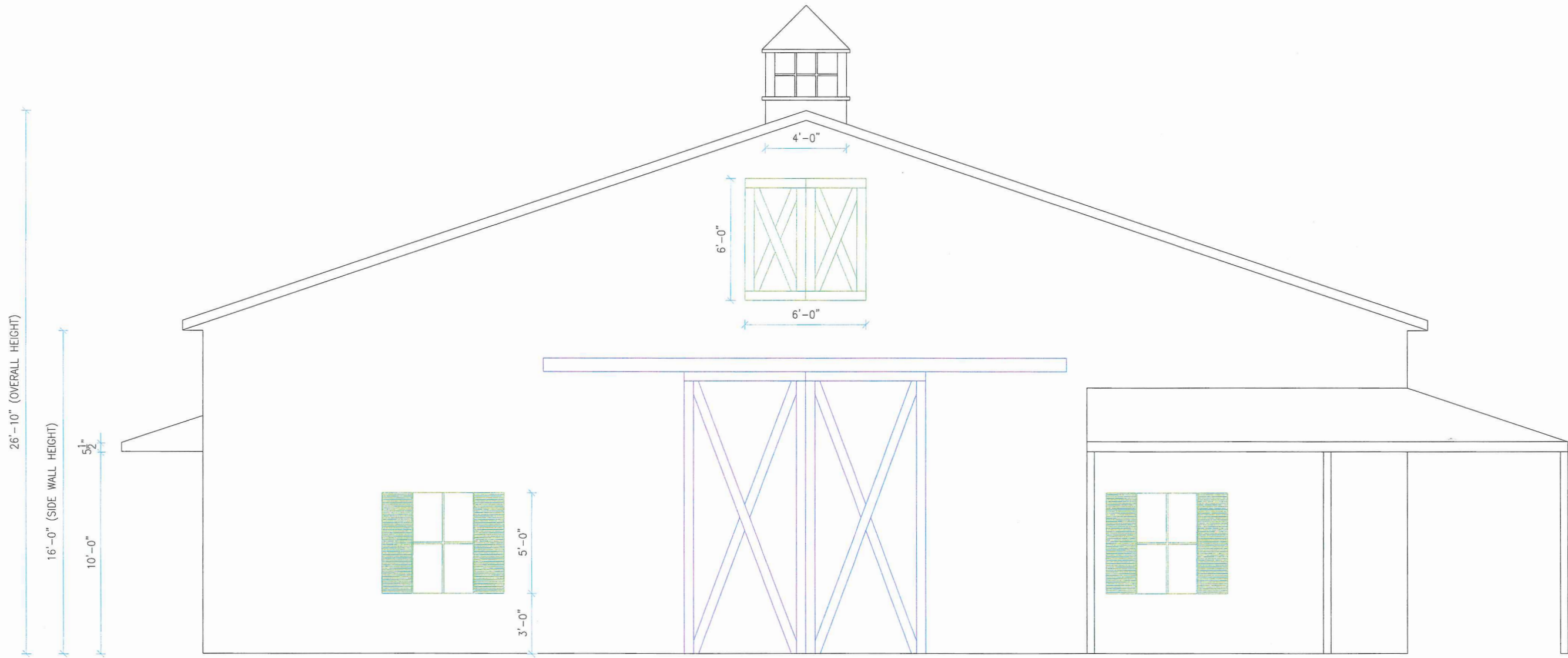




1 OVERALL SITE PLAN  
Scale: NONE

PROJECT: KNIGHT POLE BUILDING		PM:	TITLE: OVERALL SITE PLAN	REVISIONS	DATE
LOCATION: RUNNELS, IA		EN:	CONT:	△	
		PC:	ARCH:	△	
		CH:	ENG:	△	
				COMMUNICATION INNOVATORS Phone: 515-262-7686	





12' X 14' SLIDING DOOR IN FRONT OF 12' X 14' OVERHEAD DOOR

FRONT (NORTH) ELEVATION

REVISIONS	DATE
△	
△	
△	

TITLE:	FRONT (NORTH) ELEVATION
PM:	
EN:	
PC:	
CH:	

PROJECT: KNIGHT POLE BUILDING  
LOCATION: RUNNELLS, IA

PROJ. NO.

SHEET  
FRONT

**Docket Number:** 19/8058

**Appellant:** Chad Hinze, 10975 SE Runnells Drive, Runnells, IA 50237

**Appeal:** Requesting a 64-foot front yard setback Variance (from 100 feet to 36 feet) from the northern property line to retain an existing detached garage that is located in front of the principal structure, at the subject property of 10975 SE Runnells Drive, Runnells, Iowa 50237.

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

*Please find accompanying information with the request for a variance in the 50' building setback. Our home was originally built in 1997 and is locally known as 10975 SE Runnells Drive, Runnells, Iowa 50237. This property was included in a subdivision plan named Veik Subdivision Final Plat. This subdivision plat was recorded on November 19, 1996 in book 7525, page 8-19.*

*It has been recently brought to our recent attention that a garage located on this property, is encroaching on the existing 50' building setback. We have owned the property since March 15<sup>th</sup> 2001. The Garage was built in the summer of 2006.*

*We are respectfully requesting to variance to the 50' setback to allow the existing garage to stay in the same location...*

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

### **Background**

The subject property is zoned "RR" Rural Residential District and is approximately 4.613 acres in size. A vicinity map is attached as Exhibit 'B'. The property is located within Section 15 of Camp Township and is described as Lot 4 in Veik Subdivision. Veik Subdivision created 6 single family residential lots, one of which is the subject property. The subdivision identifies a 32-foot wide Water Easement and an additional 8-foot Public Utility Easement, totaling 40 feet of easement across the frontage of the subject property. The detached garage is located in front of the principal structure, the house, and approximately 36 feet from the front property line at its closest point.

The existing house was originally constructed in 1997 and is setback from the northern property line approximately 50 feet. Since the original house construction, the property owners have added a detached garage without the benefit of building permits. This construction created an accessory structure that is located in front of the principal structure and does not comply with the exception to allow the accessory structure in front of the principal structure which is a minimum 100-foot setback from the front property line. The location of the accessory structure necessitated this Variance request.

The Appellant has also requested the vacation of a portion of the Public Utility Easement that also conflicted with the location of the detached garage. The easement vacation was approved by the Polk County Board of Supervisors on June 25, 2019. Approval of the partial easement vacation was the first step to obtain compliance. A Variance to the setback standard and a retroactive Building Permit are also required to retain the detached garage in the current location.

### **Summary of Request**

The Appellant constructed a detached garage to the east of the existing principal structure. The garage is located closer to the front property line than the house, approximately 36 feet from the front property line.

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 detached garage being located in front of the house and at a distance that is less than 100 feet, approximately 36 feet.

### **Natural Resources**

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

### **Roads/Utilities**

The subject property has an existing access onto SE Runnells Drive and no new accesses are proposed. SE Runnells Drive is a local two-lane paved County road that connects SE 108<sup>th</sup> Street to the west with SE 32<sup>nd</sup> Place to the south. Water service is provided by Des Moines Water Works. 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. SE Runnells Drive starts to curve to the south along the frontage of this property and the front property line is also at a slight diagonal to start to accommodate the curve of the street. The distance between the front property line to the house and to the garage are not the same due to the curvature of SE Runnells Drive. The driveway, house and detached garage are also 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. Although this situation could have been remedied if a Building Permit had been obtained, the curvature of the street and the associated northern property line as well as the non-parallel construction of the house, garage and driveway 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 retain the existing detached garage is not unusual on other single-family homes within this zoning district.

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

Yes. The single family home was constructed in 1997 and the Appellant has stated that the detached garage was constructed in 2006. Complaints regarding the garage have not been received during the garage construction or since the construction was completed. Retaining the existing detached garage 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 curvature of SE Runnells Drive and the associated diagonal northern property line increases the nonconformity of the garage location related to the house and is not a result of the actions of the Appellant. A Building Permit for the detached garage will be required for this construction.

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 northern property line from 100 feet to approximately 36 feet, a 64-foot reduction, subject to the following condition of approval:

1. A Building Permit shall be submitted for the detached garage by Friday, August 30, 2019.









To whom it may concern:

Please find accompanying information with the request for a variance in the 50' building setback. Our home was originally built in 1997 and is locally known as 10975 SE Runnells Drive, Runnells, Iowa 50237. This property was included in a subdivision plat named Veik Subdivision Final Plat. This subdivision plat was recorded on November 19, 1996 in book 7525, page 8-19.

It has been recently brought to our recent attention that a garage located on this property, is encroaching on the existing 50' building setback. We have owned the property since March 15<sup>th</sup> 2001. The Garage was built in the summer of 2006.

We are respectfully requesting to variance to the 50' setback to allow the existing garage to stay in the same location. I have attached copies of release letters of the known companies that may or may not have utilities located in the said public utility easement. Please review the attached information and give me a call if you have any questions or require further information. Thank you.

Submittal Materials are as in exhibit as follows.

- A.1 A copy of Veik Subdivision Final Plat.
- A.2 Aerial photography of site location.
- A.3 11x17 Site Drawing.

Sincerely,

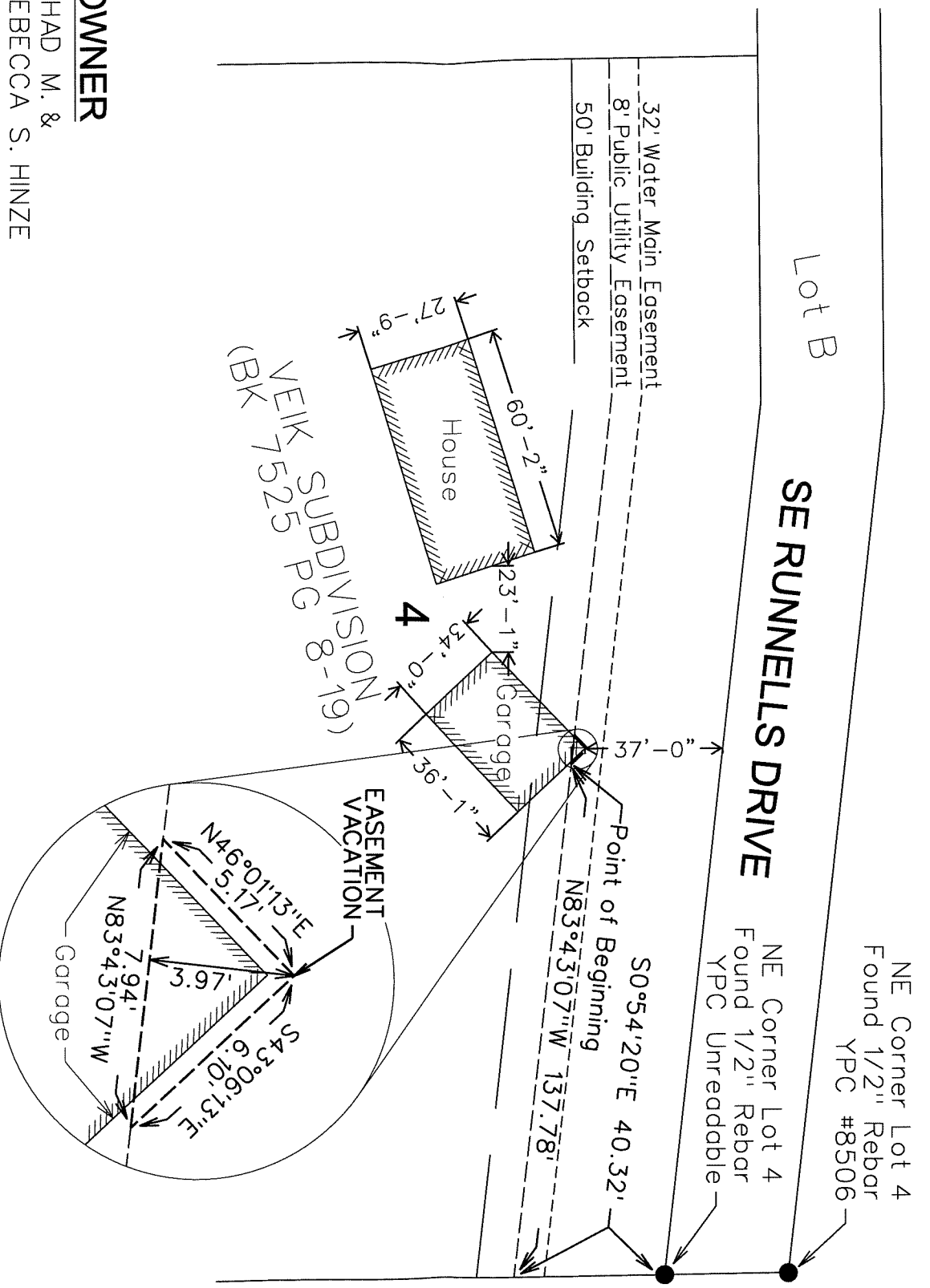
Chad & Rebecca Hinze  
10975 SE Runnells Drive  
Runnells, Iowa 50237

E-mail: [hinzecmh@gmail.com](mailto:hinzecmh@gmail.com)  
Phone: 515 343 7391

# VACATION EASEMENT EXHIBIT

A PART OF LOT 4, VEIK SUBDIVISION, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

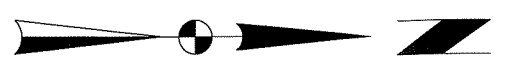
COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 4; THENCE SOUTH 00°54'20" EAST ALONG THE EAST LINE OF SAID LOT 4, A DISTANCE OF 40.32 FEET TO SOUTHERLY LINE OF 8' PUBLIC UTILITY EASEMENT AS RECORDED IN BOOK 7525 PAGE 8-19 IN THE POLK COUNTY RECORDERS OFFICE; THENCE NORTH 83°43'07" WEST ALONG SAID SOUTHERLY LINE, 137.78 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 83°43'07" WEST ALONG SAID SOUTHERLY LINE, 7.94 FEET; THENCE NORTH 46°01'13" EAST, 5.17 FEET; THENCE SOUTH 43°06'13" EAST, 6.10 FEET TO THE POINT OF BEGINNING AND CONTAINING 16 S.F.



**OWNER**  
 CHAD M. &  
 REBECCA S. HINZE  
 10975 SE RUNNELLS DR.  
 RUNNELLS, IA 50237

**LEGEND**

Survey	Found	Set
Section Corner	▲	△
1/2" Rebar, Yellow Plastic Cap #18643 (Unless Otherwise Noted)	●	○
ROW Roll	<b>±</b>	
Yellow Plastic Cap	YPC	
Platted Distance	P	
Measured Bearing & Distance	M	
Recorded As	R	
Deed Distance	D	
Calculated Distance	C	
Centerline	— — — — —	
Section Line	— — — — —	
1/4 Section Line	— — — — —	
Easement Line	— — — — —	



## LOT 4, VEIK SUBDIVISION VACATION EASEMENT EXHIBIT



2727 S.W. SNYDER BLVD.  
 ANKENY, IA 50023 (515) 964-2020

SHEET	1 OF 1
PN:	1199999
FLD BK:	PG:
DATE:	05/02/19
PM/TECH:	TLC

I:\Survey\1 Survey Technician Folders\vsuson Poole\CHAD HINZE\hinze\_VAC.dwg 5/3/2019 11:00AM  
 V:\BIB\Hil\Weight\pjt\g\19\190519\190519.dwg  
 V:\NetLibrary\CAD\Standards\WorkSpace\Standards\Printing\Pen...\_T.dwg  
 v.190519  
 Snyder

Doc ID: 6332550312 Three Plat  
Recorded: 11/19/1996 at 12:00:00 AM  
Page 1 of 12  
POLK COUNTY IOWA  
TIMOTHY J. BRIEN RECORDER  
EX 7525 PG 8-19

FILED FOR RECORD  
POLK COUNTY, IOWA  
96 NOV 19 A 8:52 AM  
TIMOTHY J. BRIEN  
RECORDER

INST # 035386  
RECORDING FEE 9600  
AUDITOR FEE

# VEIK SUBDIVISION FINAL PLAT

**LEGAL DESCRIPTION**  
Beginning at the center of section 15, Township 78 North, Range 22 West of the 5th P.M., Polk County, Iowa said point also being the centerline of S.E. 108th Street and S.E. 26th Ave.:

Thence N-00°00'00"-W, along the West line of the S.W. 1/4 of the N.E. 1/4 of said Section 15-78-22 and also along the Centerline of S.E. 108th Street, 666.79 ft. to the Centerline of S.E. Runnells drive:

Thence N-89°45'01"-E, along the Centerline of S.E. Runnells Drive, 1108.23 ft.

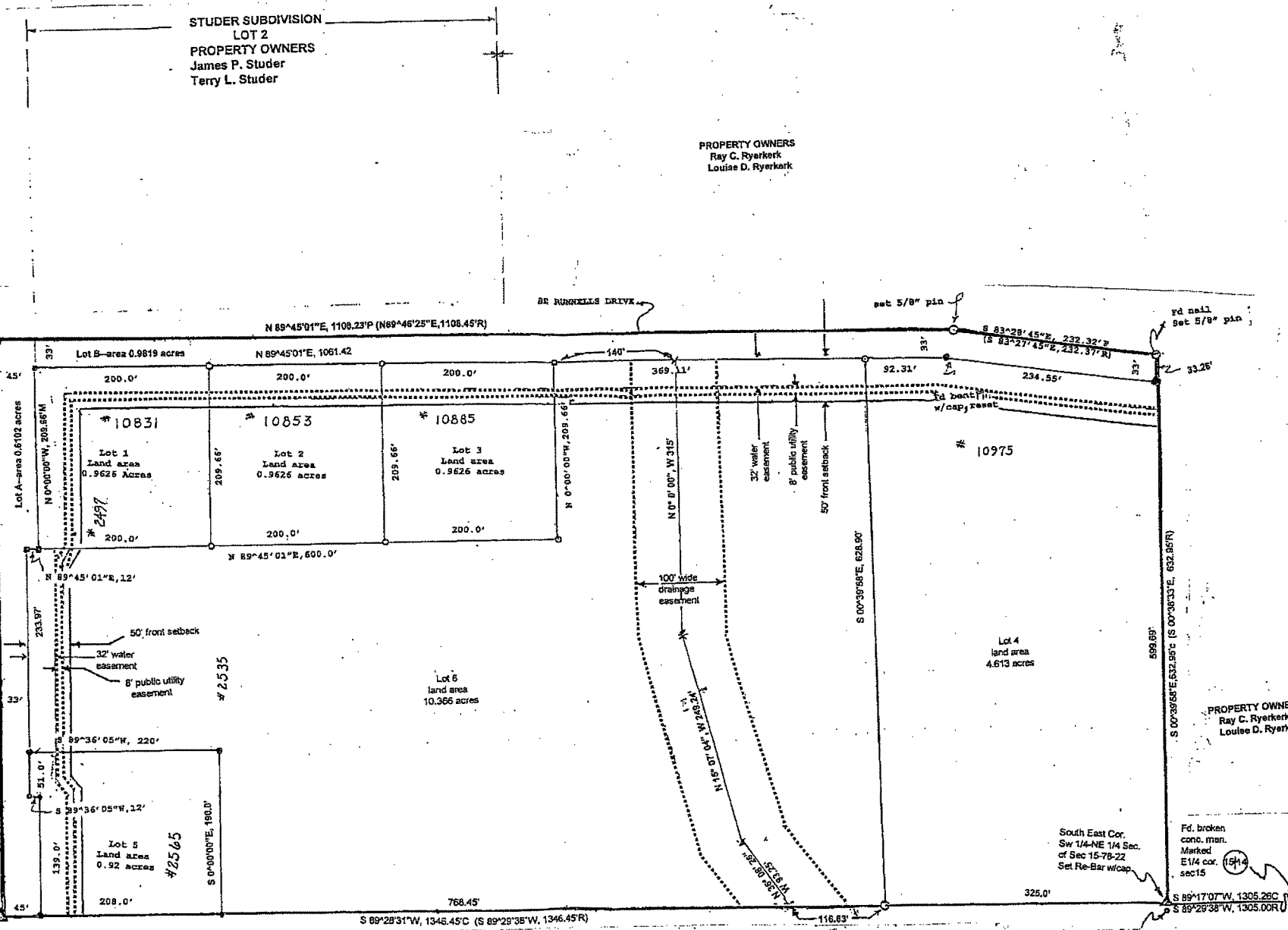
Thence S-83°28'45"-E, along the Centerline of S.E. Runnells Drive, 232.32 ft. to a point of the East line of S.W. 1/4 of the N.E. 1/4 of said Section 15-78-22:

Thence S-00°39'58"-E, along the East line of the S.W. 1/4 of the N.E. 1/4 of said section 15-78-22, 632.95 ft. to the southeast corner of the S.W. 1/4 of the N.E. 1/4 of said Section 15-78-22:

Thence S-89°28'31"-W, along the south line of the S.W. 1/4 of the N.E. 1/4 of said section 15-78-22, 1346.45 ft. to the point of beginning:

The Parcel contains approximately 20.38 Acres.

PROPERTY DESCRIBED SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.



STUDER SUBDIVISION  
LOT 2  
PROPERTY OWNERS  
James P. Studer  
Terry L. Studer

PROPERTY OWNERS  
Ray C. Ryerkerk  
Louise D. Ryerkerk

PROPERTY OWNER  
Ray C. Ryerkerk  
Louise D. Ryerkerk

PROPERTY OWNER  
Leia Murrow

**APPROVED**

subject to warranty deeds for streets.  
by  
POLK COUNTY ZONING COMMISSION  
This 5th day of Nov 1996  
[Signature]  
Planning  
This day of 19  
[Signature]  
R. E. VAN GUNDY, County Engineer  
By  
POLK COUNTY BOARD OF SUPERVISORS  
This 12th day of Nov 1996  
[Signature]  
Chairman

**Owner & Developer**  
Deimer & Marilyn Veik  
2535 SE 108th Street  
Runnells, Iowa 50237  
Ph. 1-515-966-2297

**Land Surveyor**  
David Rutherford  
6371 SW 75th St.  
West Des Moines, IA 50265  
Ph. 1-515-256-1297

**Engineer**  
John Conis, P.E.  
1524 Curtis Ave.  
Ames, Iowa - 50010  
Ph. 1-515-232-3192



**CERTIFICATION**  
I hereby certify that this plat was prepared under my direction and that I am a duly Registered Land Surveyor under the Laws of the State of Iowa.

[Signature]  
David Rutherford  
Reg. # L.S. 8506  
Expires 12/31/1996

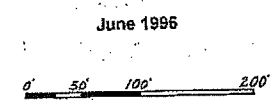
**CERTIFICATION**  
I hereby certify that this plat was prepared under my direction and that I am a Registered Professional Engineer under the Laws of the state of Iowa.

[Signature]  
John Conis  
Reg. # P.E. #3417  
expires 12/31/1996

- General Notes**
- The existing road easement along SE 108th street shall be called Lot A and deeded to Polk County. Also the existing road easements along SE Runnells Drive will be called Lot B and Will also be deeded to Polk County.
  - The Post-development runoff will not adversely affect the downstream drainage facilities or property owners. It shall be the developer's responsibility to apply for and obtain any storm water discharge permits from the Iowa Department of Natural Resources if said permits are required on this project.
  - All mailboxes located within Polk County right-of-way must be of breakaway design.
  - No driveways shall have a slope greater than 10% and some individual lot owners may be required to perform grading operations on the front portion of the lots to achieve the proper slope. Additional requirements will be reviewed at the time of entrance permit application.
  - Lot 1 shall be restricted to having its access located in the eastern or southern 50.0 feet of the Lot
  - The relocation of entrance to conform to requirements of this plat will be at the developer's expense.
  - It appears the septic tank limitations range from moderate to severe which may require alternative systems in some areas. All waterways must be observed when placing septic systems.
  - It is the responsibility of the individual property owners to maintain the drainage ways and drainage easements on their own property

- Utilities**
- Southeast Polk Rural Water  
6340 NE 12 Ave, Clay Twp.  
Altoona, Iowa  
Ph 1-515-262-8581  
Rural water service has a 32 ft. easement on east side of SE 108th Street with a 4 inch water line located approximately in the middle of easement.
  - US West Bell Telephone Co.  
The telephone company has a buried telephone line near the east ROW line on SE 108th Street on county property.
  - No sanitary sewer service in this area. The homes must provide adequate septic tank system.
  - No natural gas service in this area.
  - Mid America Electricity  
500 East Court  
Des Moines, Iowa  
ph. 1-800-822-1003

- LEGEND**
- section corner found
  - iron pin w/surveyor cap found
  - iron pin w/surveyor cap set
  - existing fence
  - existing power poles
  - 5' foot contour intervals
  - grove of trees
  - R — recorded length
  - C — computed length
  - P — proportioned length
  - TBR — top Rt. bank
  - TBL — top LL bank



June 1996  
Zoning Suburban Estate

REVISED — JULY 11, 1996  
Revised Aug. 21, 1996  
Revised Sept. 12, 1996

State of Iowa, Polk County as  
Locality that the attached plat has been entered  
of record in the offices of the Polk County  
Auditor and Recorder  
This 12th day of Nov 1996  
TIMOTHY J. BRIEN, County Auditor  
By [Signature]





**EXHIBIT 'B'**

SE 20th Ave

SE Miller Dr

SE 108th St

SE Runnels Dr

SE 26th Ave

SE 112th St



**Subject Property:  
10975 SE Runnels Drive**

10439

10445

2211

2387

2350

2360

2458

2843

2493

11070

10438

10482

10550

10622

10630

10668

10698

10770

10736

2497

10885

10975

10853

2535

2561

10455

10623

10623

2687

2795

2935

2973

3021

3111

10882

2962

3026

11080

3068

11062

3110

11230

11428

1850

11510

11433

11471

11471

2198

2240

**Docket Number:** 19/8162

**Appellant:** OMG Midwest, Inc. dba Hallett Materials, Inc., PO Box 55038, Lexington, KY 40555 (property owner)

**Appeal:** The appellant requests a setback variance of 150 feet to reduce the mining setback limits from 200 feet to 50 feet along the eastern boundary of the subject property adjacent to a residential / open space use.

### **Background**

The subject property is located at 1022 NW 54<sup>th</sup> Avenue, Des Moines, and is legally described as Part of the E½ of the NW¼, and Part of the N½ of the NE¼ of the SW¼, all within Section 15 of Township 79 North, Range 24 West of the 5<sup>th</sup> P.M. (Saylor Township). The subject property is approximately 87.35 acres in size, and is zoned "AG" Agricultural District. The property is bordered by NW 54<sup>th</sup> Avenue to the north, by Interstate 80/35 to the south, by Saylor Creek and NW 6<sup>th</sup> Drive to the east, and to the west by Polk County Drainage District Ditch No. 1 and Hallett's existing mining operation and plant site. Surrounding properties to the north, south and west are zoned "AG" Agricultural District, including existing sand and gravel extraction operations operated by Hallett Materials as well as Martin Marietta Materials. There are established single-family uses zoned "LDR" Low Density Residential District located east of NW 6<sup>th</sup> Drive.

In 2002, Hallett Materials was granted approval of a Conditional Use Permit to perform sand and gravel extraction on the subject property as well as the adjacent parcel to the west. This approval covered a period of 30 years, or until 2032. At present, extraction operations have not yet reached the subject property, but are occurring on the property adjacent to the west. When approving the Conditional Use Permit for the subject property in 2002, the Board of Adjustment also approved a number of variances related to the extraction use. These included a 75-foot setback variance (from 125 feet to 50 feet) from extraction activities to NW 54<sup>th</sup> Avenue, a 100-foot setback variance (from 150 feet to 50 feet) from extraction activities to an adjacent agricultural use, a setback variance for the scale house on the adjacent property, height variances for fill in a floodplain and temporary stockpiles, bank slope variances for the final end use plan, and a paving and curbing variance for drives, parking and loading areas. No variance was requested to the required 200-foot setback from residential and/or open space uses, which applies to the eastern property line of the subject property.

The eastern boundary of the subject property is adjacent to the NW 6<sup>th</sup> Drive road right-of-way and Saylor Creek, an area which is zoned "LDR" Low Density Residential District and utilized as open space. At the time of original approval in 2002, the east property line of the subject property was located closer to NW 6<sup>th</sup> Drive on the east of Saylor Creek. In late 2002 and early 2003, Polk County purchased approximately 17.90 acres of the eastern portion of the subject property, establishing the current property and right-of-way line on the west side of Saylor Creek. The County acquired this property in order to perform work within and along Saylor Creek, including dredging, berm construction and bridge replacement. As a result of this property acquisition, the subject property was reduced in size and the appellant lost approximately 12 acres of previously approved minable property. *Exhibit A* at the end of this report shows the right-of-way acquisition area (Parcel 22) and the previous and current property lines and setback limits. The subject property is represented by Parcel 'B' on the exhibit. As the exhibit shows, even with approval of

this variance, the mining setback limit would be greater than was previously approved in 2002 due to the right-of-way acquisition by Polk County.

Staff created a combined public notice covering both requests made by Hallett Materials on the August 19, 2019 Board of Adjustment meeting agenda. The requests cover different properties within Hallett's contiguous mining area, and include this variance appeal and the requested Conditional Use Permit. The notices were mailed out to 72 property owners within 500 feet of the subject properties. To-date staff has received one (1) response in support and five (5) responses in opposition.

### **Summary of Request**

Under the provisions of the Polk County Zoning Ordinance, *Article 4 Use Regulations, Division 4, Section 6.E(3) Performance Standards* an extraction use is required to be setback a minimum of 200 feet from residential and/or open space uses on adjacent properties. The eastern property line of the subject property is shared with the current NW 6<sup>th</sup> Drive road right-of-way where it extends west of Saylor Creek. This adjacent right-of-way is zoned "LDR" Low Density Residential District, and serves as open space for Saylor Creek and its floodplain. The request is for a variance of 150 feet to reduce the existing setback between extraction activities on the subject property and the adjacent right-of-way / eastern property line from 200 feet to 50 feet.

### **Natural Resources**

The subject property is located entirely within the Regulatory Floodway of Saylor Creek, which is located adjacent to the east of the subject property. The appellant understands they are required to provide a Certificate of No-Rise, proving that extraction activities will not result in a substantial increase in the base flood elevation, prior to any future extraction on the subject property. In addition, Polk County's Stream Protection Ordinance requires a minimum stream setback of 75 feet for any development. This setback is easily met by the proposed mining setback of 50 feet from the eastern property line. The subject property is relatively flat, and is currently in row crop production. As the appellant's extraction operation continues to expand, it will eventually include extraction activities on the subject property.

### **Roads & Utilities**

The property has approximately 1,136 feet of frontage to the north onto NW 54<sup>th</sup> Avenue. NW 54<sup>th</sup> Avenue is a paved, two-lane minor arterial roadway maintained by Polk County. No water or sewer service is utilized by the subject property. Des Moines Water Works provides water service for the plant site and scale house on the property adjacent to the west, while its sanitary sewer needs are addressed by 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. Polk County's acquisition of approximately 17.90 acres from the eastern portion of the subject property in 2002-2003 resulted in a substantially diminished minable area. The property acquisition effectively eliminated 12 acres of previously approved mineable 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. Through previous action by the Board of Adjustment, Polk County has already approved extraction activities on the subject property through 2032.
- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?
- Yes. The proposed 50-foot setback from the current eastern property line will still result in a greater setback distance between future extraction activities and NW 6<sup>th</sup> Drive, Saylor Creek, and adjacent residences than the 200-foot setback distance established from the original property line as it existed in 2002.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?
- Yes. The acquisition of approximately 17.90 acres from the subject property by Polk County resulted in a net loss of mineable area of approximately 12 acres. It also extended the adjacent residential zoning district boundary and open space use from which the 200-foot setback is required.
- 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 property meets the required stream buffer separation of 75 feet with the variance, and the appellant is aware of the requirement for a No-Rise Certificate prior to any extraction activities on the subject property.

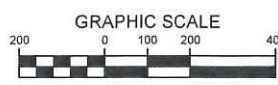
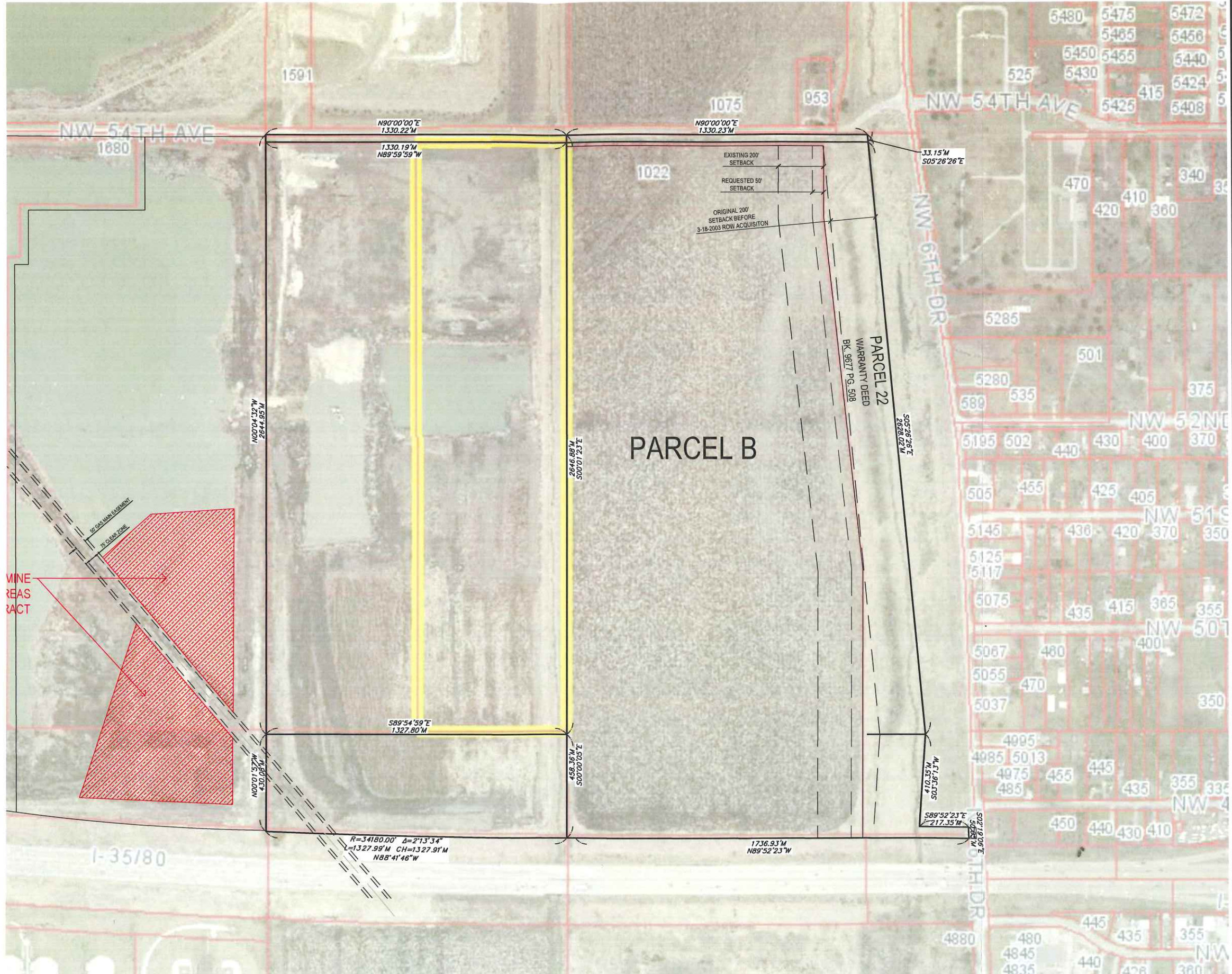
The Board of Adjustment may grant a variance if items 1 through 5 are affirmed. Since items 1-5 were answered in the affirmative, staff recommends approval of the requested variance, subject to the following condition:

1. If approved, the appellant shall update their existing site plan to identify the new setback limits as approved by this variance.



# Exhibit A

REQUESTED BY:  
 OMC MIDWEST  
 208 HALLETT MATERIALS  
 JOE PILLE  
 2401 SE TONES DRIVE  
 SUITE 13  
 ANKENY, IOWA 50021



7/16/2019 9:51:38 AM I:\LAND PROJECTS 2017\170317\DWG\SETBACK LAYOUT VARIANCE.DWG

**Bishop Engineering**  
 "Planning Your Successful Development"  
 3501 104th Street  
 Des Moines, Iowa 50322-3825  
 Phone: (515)276-0467 Fax: (515)276-0317  
 Civil Engineering & Land Surveying Established 1959

**PARCEL B**  
 1022 NW 54TH AVENUE  
**SETBACK VARIANCE EXHIBIT**

REFERENCE NUMBER:	
DRAWN BY:	MJW
CHECKED BY:	
REVISION DATE:	7-12-2019
PROJECT NUMBER:	170317
SHEET NUMBER:	1 OF 1



**Docket Number:** #19/8161

**Applicant:** OMG Midwest, Inc. dba Hallett Materials, Inc., PO Box 55038, Lexington, KY 40555 (property owner)

**Request:** Amendment to an existing Conditional Use Permit for sand and gravel extraction to extend the current expiration date by an additional approximately nine (9) years, through December 31, 2028.

**Subject Property / Surrounding Land Uses:**

The subject property is located at 5309 NW 26<sup>th</sup> Street, Des Moines, and totals approximately 150.70 acres located in Part of the E½ of the NW¼, and Part of the E½ of the NE¼, and including the approximately North 12 acres of the E½ of the SE¼, all within Section 16 of Township 79 North, Range 24 West of the 5<sup>th</sup> P.M. (Saylor Township). This above legal description covers the areas proposed for additional mining of reserves under this request. The complete area of the White-Benskin site subject property covers approximately 261.17 total acres and is listed immediately below. If approved, this Conditional Use Permit would cover the entire White-Benskin subject property to allow continued mining of the select areas legally described above and as identified on *Attachment B* at the end of this report, and to allow required site improvements, reclamation and end use activities on other areas of the site.

**White-Benskin Site – Complete Legal Description (~261.17 Acres)**

*Parcel W – owner MF White Residuary Trust, P.O. Box 13318, Des Moines, IA 50310*

*The West one-half (W½) of the Northeast one-quarter (NE¼), the East one-half (E½) of the Northwest one-quarter (NW¼), the North one-half (N½) of the Northeast one-quarter (NE¼) of the Southwest one-quarter (SW¼), and the North one-half (N½) of the Southeast one-quarter (SE¼) all lying north of Interstate 80/35 road right-of-way and east of NW 26<sup>th</sup> Street/NW Morningstar Drive road right-of-way and south of NW 54<sup>th</sup> Avenue, all located in Section 16, Township 79 North, Range 24 West of the 5<sup>th</sup> P.M. Polk County, Iowa, and containing 151.582 acres, more or less. Warranty Deed Recorded at Book 6325 Page 762.*

*Parcel B – owner Benskin, Inc., 339 SW 6<sup>th</sup> Street, Des Moines, IA 50309*

*The East one-half (E½) of the Northeast one-quarter (NE¼) of Section 16, Township 79 North, Range 24 West of the 5<sup>th</sup> P.M., and all that part of the Northeast one-quarter of the Southeast one-quarter of Section 16, Township 79 North, Range 24 West of the 5<sup>th</sup> P.M. lying north of the right-of-way of Interstate Route No. 35 as more fully described in that instrument recorded in Book 3682 Page 139 in the office of the Polk County, Iowa Recorder.*

*2020 NW 54<sup>th</sup> Avenue – owner Morningstar Properties, LLC, 339 SW 6<sup>th</sup> Street, Des Moines, IA 50309*

*Beginning at the Northeast corner of the West Half (W½) of the Northeast Quarter (NE¼) of Section 16, Township 79 North, Range 24 West of the 5<sup>th</sup> P.M. Polk County, Iowa thence N 90°00'W 320 feet along the North line of said West Half; thence S 1°18' 31"W 250.03 feet; thence N 90°00' E 330 feet to the East line of said West Half; thence N 0°59'W 250.00 feet to the point of beginning, containing 1.86 acres more or less and subject to existing road right-of-way.*

The subject property is bordered by NW 26<sup>th</sup> Street to the west, NW 54<sup>th</sup> Avenue to the north, Interstate 80/35 to the south, and to the east by additional properties owned by Hallett Materials, including their current plant site. The property is zoned "AG" Agricultural District. See *Attachment A* at the end of this report for a vicinity map of the subject property. Surrounding land is primarily in row crop production or utilized for sand and gravel extraction as a part of either Hallett Materials or Martin Marietta Materials ongoing operations. The closest residence is located just north of the subject property near the intersection of NW 26<sup>th</sup> Street and NW 54<sup>th</sup> Avenue at 5437 NW 26<sup>th</sup> Street, and was established prior to this extraction operation. There are roughly 15 single-family homes and a number of vacant lots and abandoned properties located well over 1,000 to over 2,000 feet north of the subject property. These lots were established by the subdivision plats of Lee Acres and Mancuso Acres, platted in 1927 and 1945 respectively. There are also established residential homes located over one-half (½) mile to the east, lying east of NW 6<sup>th</sup> Drive, as well as a few residences located south of Interstate 80/35 along NW Morningstar Drive.

### **Application Details / Discussion:**

Previously approved Conditional Use Permits by the Polk County Board of Adjustment dating from 1996, 2009, 2012 and 2014 have permitted and amended sand and gravel extraction activities on the subject property. The most recent Conditional Use Permit approved in 2014 added the property at 2020 NW 54<sup>th</sup> Avenue and consolidated all previous approvals under one (1) Conditional Use Permit which expires on November 16, 2019. This is the date by which all extraction activities, reclamation and implementation of the property's end use plan shall be completed. At this time, the applicant requests to extend this current expiration date by approximately nine (9) years, or through December 31, 2028. The proposed extension would allow for the mining of remaining reserves. See *Attachment B* at the end of this report for an exhibit showing the areas of the property that will continue to be mined under this proposal. As the exhibit shows, extraction has been completed on a majority of the subject property. The two (2) areas of remaining reserves include the original plant site along NW 26<sup>th</sup> Street, and portions of the Benskin property in the southeast corner of the site. The plant site was recently relocated to the parcels adjacent to the east of the subject property for Hallett's continued operations moving eastward. The applicant summarized their request as follows:

*OMG Midwest dba Hallett Materials requests an extension to the current CUP expiration date (Docket #1014) from November 16, 2019 to December 31, 2028 for the area referred to as the North Des Moines Plant. This extension will allow for the remaining reserves to be mined on the property owned by M.F. White Residuary Trust. This extension will allow excavation, sales and reclamation activity. Remaining reserves are limited in size, material previously encumbered by the fixed wash plant. As the current wash plant has been decommissioned and will be removed as part of the mine progression, a portable plant will be brought onto the site for 1-2 months per year to process the excavated material. Sales activity will run throughout the year, but will be operated on an as needed basis. End use/reclamation will be to state standards unless otherwise described in the current CUP.*

*In addition to maximizing the remaining reserves on the M.F. White Residuary Trust, a minor portion of reserves currently remain in the SE corner of the Benskin, Inc. property. During the proposed extension period, this material may be excavated and transferred to Hallett's Hoveland*

site on 54<sup>th</sup> Avenue for processing and sales. Excavation and reclamation activity would be completed prior to Dec 31, 2028. In addition, depending on time allowances and the success of ongoing negotiations with the property owner, an area previously backfilled on the Benskin Property may also be excavated.

In conclusion, the requested extension would serve to maximize the remaining reserves on the property. The area(s) impacted during the extension period will be generally limited to areas previously disturbed by mining activity, including a former plant site on the M.F. White Residuary Trust property, an area of exposed sand and gravel on the Benskin Property, and an area previously backfilled on the Benskin Property.

### **Public Testimony**

Staff created a combined public notice covering both requests made by Hallett Materials on the August 19, 2019 Board of Adjustment meeting agenda. The requests cover different properties within Hallett's contiguous mining area, and include this Conditional Use Permit and the requested variance appeal. The notices were mailed out to 72 property owners within 500 feet of the subject properties. To-date staff has received one (1) response in support and five (5) responses in opposition.

### **Natural Resources / Environmental**

The property is located within the 1% annual chance floodplain, Zone AE, on the current FEMA Flood Insurance Rate Map for Polk County. However, no development exists on the property except for extraction activities, including a mobile plant site, temporary stockpiles and a scale and scale house. The majority of the subject property consists of already mined areas left as an open pond. The site topography is flat. The current end use plan for the site dates from original approval in 1996, and consists of a passive recreation area around the ponds, including berms and landscaping.

### **Roads / Utilities**

The property has accessible frontage onto NW 54<sup>th</sup> Avenue and NW 26<sup>th</sup> Street, which are both paved, two-lane minor arterial roadways maintained by Polk County. The existing scale house at 5309 NW 26<sup>th</sup> Street is served by an onsite septic system.

### **Analysis**

The Board of Adjustment in reviewing an application for a Conditional Use permit shall consider the proposal in terms of:

**1. Existing zoning and land use in the vicinity of the uses.**

The subject property and surrounding area are zoned "AG" Agricultural District and utilized for ongoing sand and gravel extraction operations. There is one (1) residence located in close proximity to the site, which predates the establishment of this use.

**2. Planned and proposed public and private development, which may be adversely affected by the proposed use.**

There are no major public or private developments planned in the area.

3. **Whether and to what extent the proposed use, at the particular location for which it is suggested, is necessary or desirable to provide a development which is in the interest of the public convenience or which will contribute to the general welfare of the area or Polk County.**

Sand and gravel extraction is already permitted on the subject property and is also occurring and/or permitted on hundreds of acres of surrounding land. Sand and gravel is critical to road construction, concrete production, and construction activities generally throughout the region. The extension of this existing Conditional Use Permit for an additional nine (9) years allows for maximum recovery of remaining reserves on the property.

4. **Whether and to what extent all steps possible have been taken by the developer to minimize any adverse effects of the proposed use on the immediate vicinity and on the public health, safety and welfare in general.**

The required updated site plan and implementation of the end use plan will involve backfilling, berms and significant amounts of landscaping. See staff's recommended conditions of approval at the end of the report. Staff is recommending that implementation of the end use plan shall begin immediately in all areas not proposed for continued extraction.

### **Findings**

The application shall be denied if the Board of Adjustment finds any of the following:

- a. **The application and record fail to establish compliance with the standard made applicable to the proposed development by the provision of this Ordinance.**

Extraction uses are permitted within the "AG" Agricultural District upon the granting of a Conditional Use Permit by the Polk County Board of Adjustment.

- b. **The proposed use, developed in the proposed manner, and at the proposed location, would be inconsistent with the standards pursuant to the provisions of this Ordinance.**

If this timeline extension is granted, Hallett Materials is required to comply with all conditions of approval and submit an updated site plan for the property.

- c. **The adverse impacts on the overall public health, safety and welfare are not balanced by the public or private benefits of the proposal. The Board of Adjustment shall include in this balance, any proposals of the applicant and any conditions that it might impose on the development, pursuant to the provisions of this Ordinance, to ameliorate problems associated with the development.**

See recommended conditions of approval at the end of this report.

**In addition, no application for a Conditional Use Permit shall be approved unless the Board of Adjustment specifically finds the proposed conditional use appropriate in the location for which it is proposed. This finding shall be based on the following criteria:**

- A. **The proposed use is not in harmony with the general purpose, goals, objectives, and**

**standards of the following:**

1. **Polk County Comprehensive Plan:** The proposal is consistent with the goals and policies of the 2030 Polk County Comprehensive Plan.
2. **Polk County Zoning Ordinance:** The Ordinance allows the continuation of the use, pending approval of this Conditional Use Permit.
3. **Other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the County:** None.

**B. The proposed location of the use is not consistent with policies or provisions of the following:**

1. **Comprehensive Plan:** The proposed use is consistent with the goals and policies of the 2030 Polk County Comprehensive Plan.
2. **Polk County Zoning Ordinance:** The use is permitted in the zoning district subject to Conditional Use Permit approval and a site plan update.
3. **Other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the County:** None.

**C. The proposed use at the proposed location results in a substantial or undue adverse effect on any of the following either as they now exist or as they may in the future be developed as a result of the implementation of provisions and policies of the Comprehensive Plan, this Ordinance, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the County or other governmental agency having jurisdiction to guide growth and development:**

1. **Adjacent property:** Adjacent properties are utilized in a similar manner. Only one (1) residential use is in close proximity. No new residential development has occurred on adjacent properties since the subject property was originally permitted for sand and gravel extraction in 1996.
2. **Character of the neighborhood:** There will be no undue adverse effects. Existing land uses consist primarily of other sand and gravel extraction operations, with few to no residences in close proximity. The presence of agricultural zoning, floodplain and open space areas will effectively prevent any future development from occurring nearby.
3. **Traffic conditions:** Existing and future truck traffic to and from the site is permitted along approved haul routes.
4. **Parking:** There is adequate parking and circulation onsite for customers and employees.

5. **Public improvements:** No impact upon future public improvements is anticipated.
  6. **Public sites or rights-of-way:** No additional impact upon public sites or adjacent rights-of-way is anticipated.
  7. **Other matters affecting the public health, safety, and general welfare:** None.
- D. **The proposed use in the proposed area is not adequately served by or imposes an undue burden on any of the following.**
1. **Public improvements:** Adequate for proposed use.
  2. **Public facilities:** Adequate for proposed use.
  3. **Public utilities:** Adequate for proposed use.
  4. **Public services:** Adequate for proposed use.

### **Recommendation**

Staff recommends approval of the amended Conditional Use Permit for sand and gravel extraction to extend the current expiration date through December 31, 2028 for the White-Benskin subject property at 5309 NW 26<sup>th</sup> Street, as fully described at the beginning of this report and including approximately 261.17 total acres. Approval is subject to the following conditions:

1. All previous Conditional Use Permits issued for the subject property are void and shall be replaced by the approval and subsequent conditions of this Permit. All previous variances granted to the subject property shall continue to run with the land.
2. All reclamation and end use plan implementation shall be completed in its entirety prior to the December 31, 2028 expiration date, including removal of all equipment and the scale and scale house. The scale house may only remain if converted to a permitted use within the zoning district, as reviewed and approved by Polk County.
3. The operator shall submit an updated site plan prepared by a licensed engineer within six (6) months of the approval of this Conditional Use Permit. The site plan shall cover the entire subject property, including an update to the operational/phasing plan, landscaping and end use plans, and shall demonstrate compliance with the Ordinance for a commercial extraction operation. The operation will be required to comply with the landscaping requirements for street buffer yard landscaping along all frontages of the property while in operation.
4. The operation shall comply with all Polk County Lighting and Noise Ordinance requirements.
5. Reclamation and end use plan implementation, including backfilling, installation of berms and end use landscaping shall begin immediately upon approval of the updated site plan on all portions of the subject property for which mining activity is completed. The areas

identified for mining of additional reserves shall have reclamation and end use implemented immediately following completion of their extraction activities, and no later than December 31, 2028.

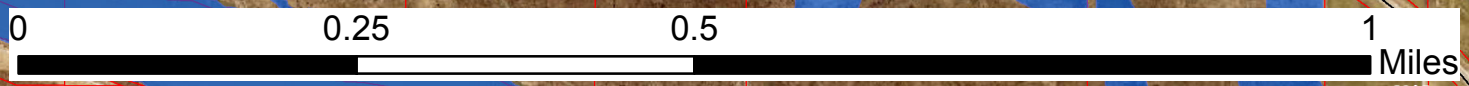
6. The following pertain to the previous plant site located at 5309 NW 26<sup>th</sup> Street.
  - a. The site shall be completely decommissioned immediately, including removal of all equipment. The scale and scale house may remain, and Polk County understands that a temporary plant and equipment will occasionally be brought in to extract, process and sell the additional reserves through the remainder of this Conditional Use Permit, including stockpiles for the newly mined and processed materials.
  - b. All existing material stockpiles shall be sold and removed from the property as quickly as possible.
  - c. The site may not be used for the storage of equipment, excluding the temporary equipment needed for extraction and processing the additional reserves. The site may also not be used to store crushed concrete or operate concrete/asphalt batch plants.
7. The operation shall comply with all Polk County Air Quality Division requirements to maintain dust free surfaces on drives, reduce errant dust generated from the subject property, and clean all dirt and mud generated by the site from adjacent roadways.
8. The following approved truck routes shall be utilized: NW 54<sup>th</sup> Avenue east to NW 2<sup>nd</sup> Street (Hwy 415), NW 54<sup>th</sup> Avenue west to NW 26<sup>th</sup> Street north to Oralabor Road (Hwy 415), and NW 54<sup>th</sup> Avenue west to NW 26<sup>th</sup> Street north to NW 66<sup>th</sup> Avenue west to NW Beaver Drive.





**Subject Property**  
**White-Benskin Site**

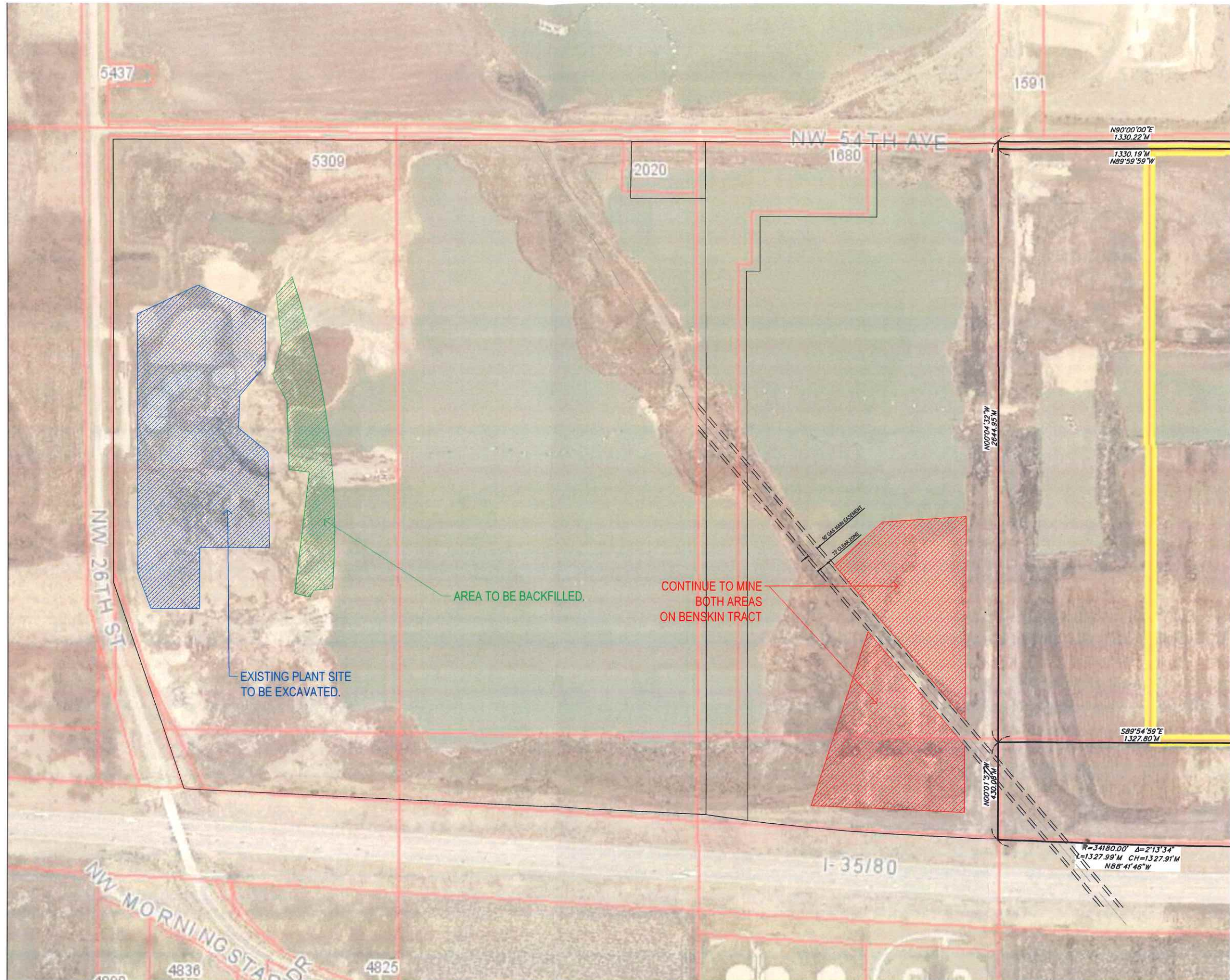
**Attachment A**





# Attachment B

GENERAL NOTES:  
 1. NO SURVEY CONDUCTED FOR THIS EXHIBIT. ALL EASEMENT AND CLEAR ZONES WILL BE OFF LIMITS TO MINING.



**Bishop Engineering**  
 "Planning Your Successful Development"  
 3501 104th Street  
 Des Moines, Iowa 50322-3825  
 Phone: (515)276-0467 Fax: (515)276-0217  
 Civil Engineering & Land Surveying  
 Established 1959

**WHITE & BENSKIN TRACTS**  
**5309 NW 26TH STREET**  
**MINING CONTINUATION EXHIBIT**

REFERENCE NUMBER:
DRAWN BY: MJW
CHECKED BY:
REVISION DATE: 7-12-2019
PROJECT NUMBER: 170317
SHEET NUMBER: 1 OF 1

7/12/2019 8:52:54 AM I:\LAND PROJECTS\2617\170317\DWG\LAYOUT VARIANCE.DWG

