

Docket Number: 23/13246

Appellants: Rodney and Sarah Carsten, 12077 NE 64th Street, Elkhart, IA 50073 (Property Owners)

Appeal: The appellants request a front yard setback Variance to allow a proposed accessory building to be located in front of the principal residence at a front yard setback of approximately 41-feet in lieu of the 68-foot front yard setback established by the existing primary residence.

Background

The subject property is located at 12077 NE 64th Street, Elkhart, being legally described as Lots 6 & 7, excluding Right-Of-Way, Official Plat of the SW $\frac{1}{4}$ of Section 36, being located within the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 36, Township 81 North, Range 23 West of the 5th P.M. (Elkhart Township). The property is approximately 10.3 acres in size and is zoned "ER" Estate Residential District. The subject property is located approximately 1.5-miles southeast of the City of Elkhart corporate limits, and approximately one-quarter ($\frac{1}{4}$) of a mile north of the intersection of NE 118th Avenue and NE 64th Street. The surrounding area consists of primarily existing single-family residences, with properties located north, east and south of the subject property being similarly zoned "ER" Estate Residential District, and adjacent properties to the west being zoned "AG" Agricultural District. See *Attachment A* for a vicinity map of the subject property and surrounding area.

The subject property takes access onto NE 64th Street from a single driveway located in the northern-half of the property. The home on the subject property was constructed in 1970, and was issued a building permit from the Polk County Public Works Department. At the time of construction, the property was zoned A-1 Agricultural, and a variance was granted on September 16, 1970 to allow the home to be constructed with a 68-foot front yard setback in lieu of the 75-foot setback required by the zoning ordinance at the time. The subject property also features six (6) outbuildings, all of which exceed required setbacks to property lines.

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 26-foot by 34-foot (884 square feet) detached garage to be located in the central portion of the lot, south/southwest of the existing principal dwelling. A variance is requested to allow the accessory building in front of the principal residence at a front yard setback of approximately 41-feet. The proposed accessory structure will be located approximately 11-feet from the principal dwelling. The submitted application is included as *Attachment B* and the site plan for this appeal can be found as *Attachment C*.

Staff mailed out 13 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 three (3) responses in support of the appeal, and no responses in opposition.

Natural Resources

The property contains natural drainageways, creeks, and mature woodlands near the southwestern and northwestern corners of the property. There are ravines and significant grade changes surrounding the creeks and waterways, however, the central portion of the property is mostly flat, and contains building areas that are not impacted by natural resources. There is a total grade change of 34-feet from the low point in a creek bed near the southern property line, and the high point of the property is near the building footprint of the proposed accessory garage. The proposed location of the accessory garage would require minimal grading, and would not impact the woodlands on the property or natural features. The property is located outside any floodplain areas and contains no other environmental hazards or features.

Roads & Utilities

The property features 924-feet of frontage along NE 64th Street, a paved two-lane local roadway maintained by Polk County. The property takes access onto NE 64th Street approximately 1,950-feet north of the intersection of NE 64th Street and NE 118th Avenue. No additional access points are proposed with this accessory building. Water service is provided by Des Moines Water Works via a 2.5-inch water main that is located in a water main easement within the front yard setback. The water line that provides service to the house from the water main is located south and loops to the east of the proposed accessory garage, and should be preserved during the construct on site. The property is served by a private onsite septic system, which Polk County records indicate is located north/northeast of the dwelling on the property. Polk County Environmental Health regulations require that all structures maintain a minimum separation of ten (10) feet from all components of the wastewater treatment 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. The location of the home on the subject property, the layout of the home, and point where the water line accesses the property creates difficulties in siting an accessory garage. The accessory building will be most functionally utilized in close proximity to exterior doorways for the home, and while there are areas on the subject property where an accessory building could be constructed without the need for a variance it would create functionality concerns for the property.
- 2.) Is the variance necessary for the preservation and enjoyment of property rights possessed by other properties in the same zoning district in the same vicinity? (No variance can permit uses that are prohibited in a district)
 - Yes. 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. Due to a grove of mature evergreen trees planted along the property line in front

of the home, the construction of the garage will have no impact on adjacent properties.

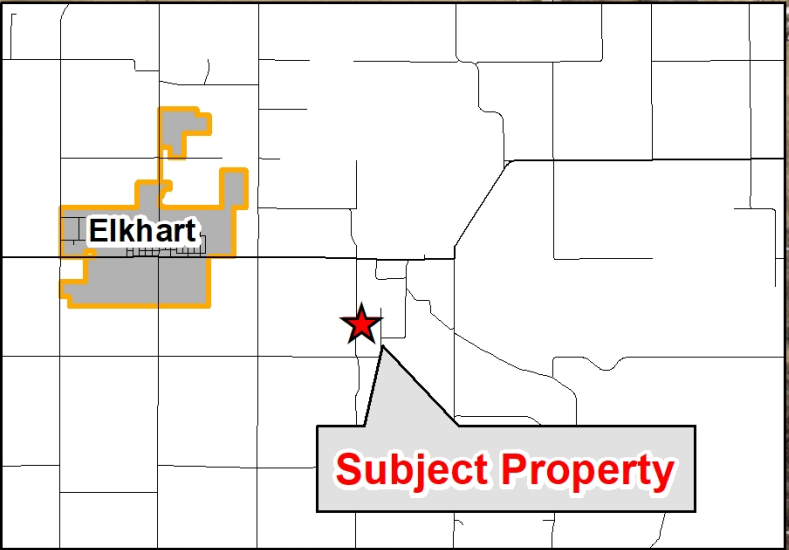
4.) Is there a special condition or circumstance that did not result from the actions of the applicant?

Yes. The home was constructed by a previous property owner. The appellants chose the proposed location for the accessory garage based on functionality and attempting to avoid impacting the water line and septic system on the subject property.

5.) Does the variance support the intent of Article 7 Natural Resource Protection and Article 8 Stormwater and Erosion Control Management of the Polk County Zoning Ordinance?

Yes. The appellant is required to meet the environmental provisions of the Polk County Zoning Ordinance. The proposed building location minimizes the amount of grading disturbance and tree removals necessary for construction compared to other locations on the 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.



NE 64th St

NE 66th St

Subject Property

0 125 250 500 Feet



Attachment 'B'

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)

Construct a detached two car garage off the southwest corner of the existing dwelling.

2. Subject Property Address: 12077 NE 64th St, Elkhart, IA 50073

3. Subject Property Zoning District: ER - Estate Residential

4. District and Parcel Number: 210/00547-002-000

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

Lots 6 & 7 less .70A RD OP SW1/4 36-81-23

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

7. Applicant(s) Information:

Rodney Carsten
Applicant (Print Name)

Rodney Carsten
Signature

9/19/23
date

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

rdcars10@gmail.com
Email

12077 NE 64th St, Elkhart, IA 50073
Address, City, State and Zip

515-314-9399
Phone

NA
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

Carsten Variance Appeal Application, Section 10

We would like to construct a detached two car garage located off the southwest corner of our house. The house is approximately 67' back from the property line, so not in compliance with the current 75' offset code. The house was built in 1970. The proposed 34' X 26' garage would be located 11' from the corner of the house and 41' feet from the front property line. We are asking for a variance from the required 75' front offset.

We have examined other location options but all either have issues due to current water or gas lines or impact functionality and aesthetics affecting our property value. Other options ruled out are:

1. North end of house. There is a buried propane line from the tank to the NE corner of the house. Also, the sewer line comes out of the north end of the house. This location would not be functional since the main entrances to the house are on the south and west where the kitchen and main living areas are located.
2. Behind the house, even more to the south end, has limitations due to the sloping terrain and the buried water line from a well. This would require completely rerouting our driveway with several negative impacts (cost, functionality, and blocking views to the rest of the property).
3. Directly south of the house is limited by the buried rural water line. Also, this would require extending our driveway and extra footing concrete, further driving up the cost.

Due to these factors, locating the garage at an angle off the southwest corner of the house seems to be the best option. This allows preserving the most view from the house to the south and east. This location would provide the most logical access to the garage from the house and fit best with the existing patio and back porch. The garage would be the same design and construction as the house. Same siding and paint color. This location would also allow us to avoid encroaching on the rural water service line from the meter into our house. The closest corner of the garage to the front property line would be approximately 4 feet inside the 16 foot required easement area for the rural water main which runs across part of the front of our property. The house is mostly shielded from NE 64th street due to being at the top of the hill and a row of mature, 30 plus foot spruce trees running all along the property line in front of the house. Our property has areas of timber on both the north and south ends so for most of the year the house is not visible to the neighbors. The closest neighbor to the house is directly across NE 64th Street and substantially shielded by the spruce trees along the front property line.

1" = 60'

Lot 6

Lot 7

Grass/Timber

Grass/Timber

Old hog finishing partially dismantled 16x40x5'

Grass/Timber

Septic Distribution Basin

12x12x12 splitter shelter open sided
woodshed
Shop 12x16x8'
Old Farrowing Shop 24x61x12

Open sided shed 24x110x10 1/2'
Storage

Gravel Drive

180' well

Water line

Pole Barn 36x60x18'

Timber

Septic tanks

Sewer line

Dwelling 42x58x15'

Propane line

Water service line

Water meter

Rural Water Main

Proposed Garage 24x36x16

41' 16" easement

Driveway

mature Spruce Trees - 30' tall

Entrance

Timber