

Docket Number: 23/13061

Appellants: Kelly and Suzanne O’Riley, 8227 NW 26th Street, Ankeny, IA 50023(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 45 feet in lieu of the 73-foot front yard setback established by the existing primary residence.

Background

The subject property is located at 8227 NW 26th Street, Ankeny, and is legally described as Lot 19, Oakwood Park, being located within Section 28, Township 80 North, Range 24 West of the 5th P.M. (Crocker Township). The property is approximately 1.305 acres in size and is zoned “RR” Rural Residential District. The subject property is located approximately one-third of a mile west of the City of Ankeny corporate limits. The surrounding unincorporated area consists of primarily existing single-family residences and developments. Properties located north, east and south of the subject property are similarly zoned “RR” Rural Residential District, and adjacent properties to the west are zoned “LDR” Low Density Residential District. See *Attachment A* for a vicinity map of the subject property and surrounding area.

The subject property is a trapezoidal shaped corner lot that takes access onto NW 26th Street, but also has frontage along NW Oakwood Drive. The home on the subject property was constructed in 1979, and was issued a building permit and Certificate of Occupancy from the Polk County Public Works Department. On August 20, 2018, a variance was granted by the Board of Adjustment for the subject property with Docket #18/7148 to allow a covered deck to be located between 22 and 28 feet from the rear property line, in lieu of the required 50-foot rear yard setback; and an additional variance was issued to allow an accessory structure of approximately 120-square feet in area to remain located in front of the principal structure with a front-yard setback of approximately 52-feet.

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-foot by 36-foot (1,080 square feet) detached garage to be located in the central portion of the lot, northeast 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 45 feet. The proposed accessory structure will be located approximately 15-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 22 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 and zero (0) in opposition of this Appeal.

Natural Resources

The property contains significant elevation change sloping from a high point of approximately 952 feet in the northern portion of the property to a low point of approximately 908 feet at the southern portion of the property. The most level portion of the property, and effectively the only buildable area, is the location the house was constructed and the front yard portion of the property. The house was constructed as a walkout design due to the natural grade of the property. The rear yard of the property features the most extreme grade change with a significant drop-off to a ravine. The property also contains a large area of existing woodlands that cover a majority of the rear yard of the property and eastern side of the property. The proposed location of the accessory garage would require minimal grading, and would preserve a majority of the woodlands on the property. The property is located outside any floodplain areas and contains no other environmental hazards or features.

Roads & Utilities

The property has frontage to the north along NW 26th Street and NW Oakwood Drive. Both roadways are paved two-lane local roadways maintained by Polk County. The property takes access onto NW 26th Street approximately 150-feet southwest of the intersection of NW 26th Street and NW Oakwood Drive. No additional access points are proposed with this accessory building, and Polk County Engineering has commented that no additional entrances/access points would be permitted. Water service is provided by centralized private well utilized by homeowners in the Oakwood Park Subdivision. Polk County does not maintain mapping of that private water main. The property is served by a private onsite septic system, which Polk County records indicate is located north/northwest of the dwelling within the front yard of 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?

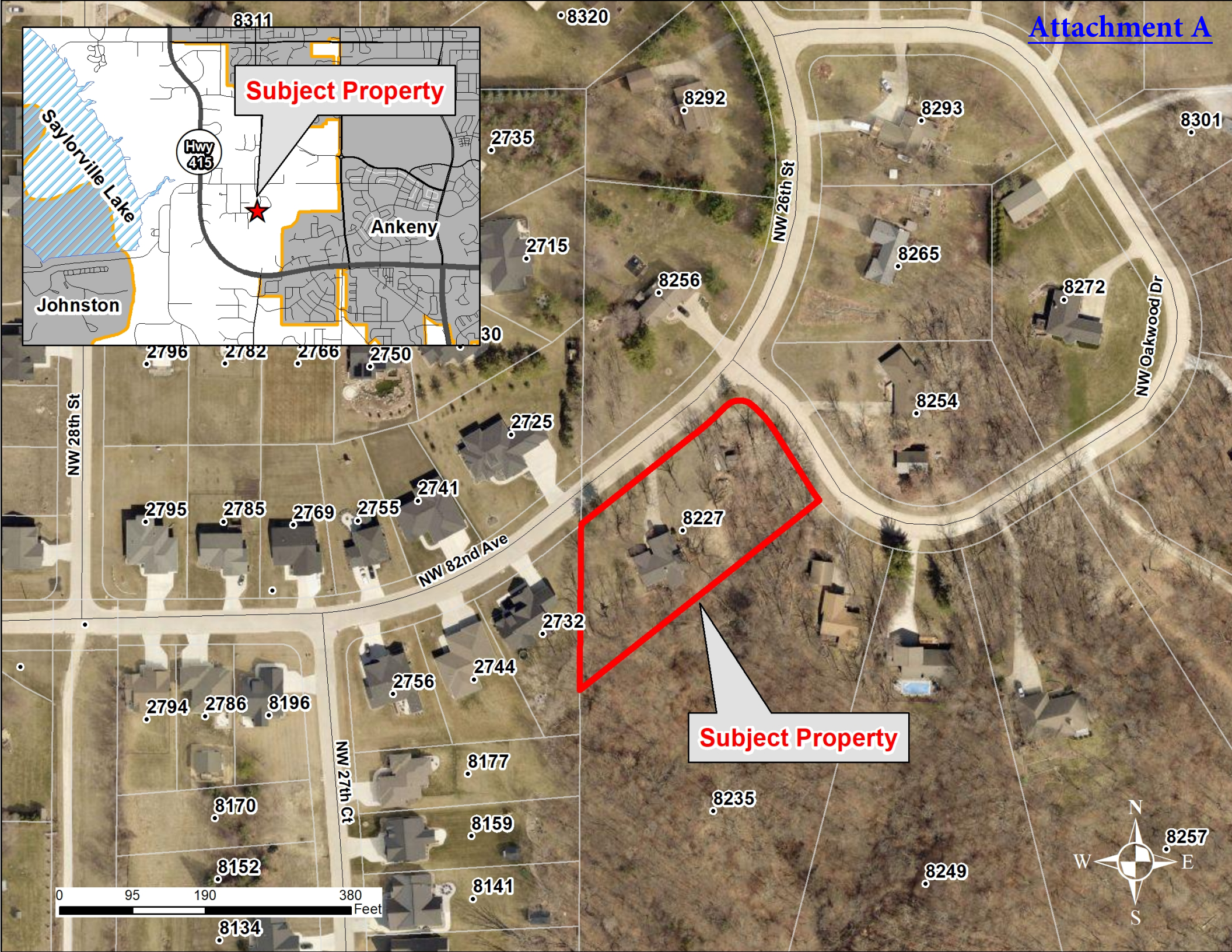
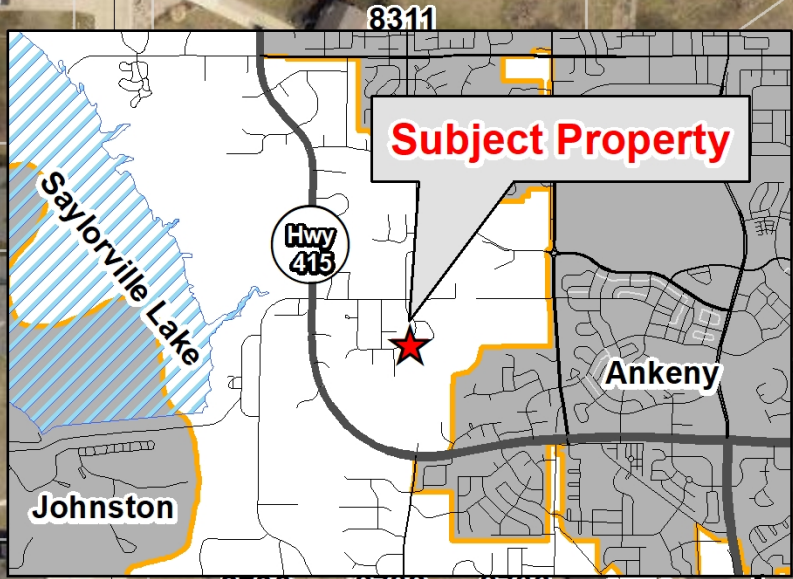
Yes. The general topography of the property, in particular the steep slopes located directly behind the existing residence, is an exceptional circumstance that effectively prevents the location of an accessory building in a conforming location on the lot. Other lots in the vicinity have similar topographical challenges and would have similar difficulties in siting an accessory structure. The location of the septic system on the subject property further complicates where an accessory structure could be located.

- 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.

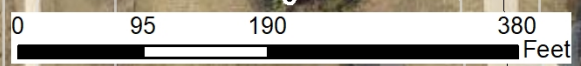
- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?
- Yes. The accessory garage will be constructed with a similar front-yard setback to homes located west of the subject property within the Pines of Rock Creek Plat 1 Subdivision, so there will be minimal aesthetic intrusion as a result of the construction of the garage. Due to existing mature woodlands the accessory structure will be mostly screened from the intersection of NW 26th Street and NW Oakwood Drive.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?
- Yes. The site topography and constraints are natural conditions, and not a result of the actions of the appellants. The location of the dwelling on the property and resulting lack of buildable area except within the front setback were established by a previous property owner.
- 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.



Subject Property

Subject Property



Variance Appeal Application



Board of Adjustment Authority

The Polk County Board of Adjustment is empowered by Iowa law and by the Zoning Ordinance of Polk County to hear requests and to make decisions on variance appeals to the Zoning Ordinance for individual properties where provisions of the Ordinance impose a unique and unnecessary hardship on the property owner and where the granting of a variance is not contrary to the intent of the Zoning Ordinance or to the public interest.

Each variance appeal is only a request to have a hearing before the Board of Adjustment. Notice of the hearing will be provided to all property owners located within 250 feet from the subject property. The Board of Adjustment will make a determination at a public hearing whether or not to approve or deny the request based on a staff report, applicant presentation, as well as public input. All appeals that are denied shall not come back to the Board of Adjustment for one year. Refunds will not be made once notice has been sent out to adjacent property owners.

Please complete the entire application and review the Variance Regulations on page 3.

1. The undersigned applicant requests that the Board of Adjustment consider this application for a variance appeal for the following general purpose. (Describe briefly the request)

(time stamp)
Official Use Only

2. Subject Property Address: _____

3. Subject Property Zoning District: _____

4. District and Parcel Number: _____

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

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

7. Applicant(s) Information:

Applicant (Print Name) _____ Signature _____ date _____

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

Address, City, State and Zip _____ 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 _____

