

Docket Number: 23/12788

Appellants: Mark & Debbie Platt, 8473 NW Chevalia Drive, Grimes, IA 50111 (Property Owners)

Appeal: The appellants request a rear yard setback Variance to allow an existing 30' x 18 (540 SF) attached pergola addition to remain located approximately 57 feet from the rear property line, in lieu of the required 75 feet.

Background

The subject property is located at 8473 NW Chevalia Drive, Grimes, and is legally described as Lot 31 of Chevalia Run Plat 1, being located within Section 29, Township 80 North, Range 25 West of the 5th P.M. (Jefferson Township). The property is approximately one (1) acre in size and is zoned "ER" Estate Residential District. The subject property is located approximately 400 feet north of the City of Grimes corporate limits and approximately 1900 feet southwest of the City of Johnston corporate limits. The surrounding unincorporated area consists of primarily existing single-family residences and developments zoned "ER" Estate Residential District with some "AG" Agricultural District mixed in further to the north. Land further east on the east side of NW 121st Street contains single family residences zoned "RR" Rural Residential District. Additionally, the land located further to west and south is located within the City of Grimes. See *Attachment A* for a vicinity map of the subject property and surrounding area.

The subject property is rectangular shaped having approximately 272 feet of width east to west, and 237 feet of depth north to south. The property has frontage to the south onto NW Chevalia Drive, and is adjacent to three (3) residential lots to the north, east and south with one (1) outlot owned by the Chevalia Run homeowners association to the west. The property contains an existing single-family residence and attached garage that was constructed in 2005 by a previous property owner according to County records. The residence also contains a detached garage that was permitted and constructed in 2017. In 2020 an existing deck was removed and a patio installed in its place with a smaller deck constructed closer to the house. In 2022 the attached pergola addition was constructed over the existing patio without the required permit. Attached covered patios are considered additions to the principal structure and therefore must meet the zoning district setback requirements for single-family dwellings.

Summary of Request

The Polk County Zoning Ordinance, *Article 6: Bulk and Use Standards, Division 2: Single-Family Residential, Table 6.1*, stipulates that the required minimum front and rear yard setback for "ER" Estate Residential District is 75 feet. A variance of 18 feet is requested to allow an existing 30' x 18' (540 SF) attached pergola to remain approximately 57 feet from the rear property line, in lieu of the required 75 feet. The submitted application and site plan for this appeal can be found as *Attachment B*.

Staff mailed out nine (9) 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 is relatively flat with an elevation change from 920 on the west side of the property

to 928 on the east side. The property contains mature trees spread throughout the property with the largest grouping located in the northeast corner of the property. The existing pergola location did not require any tree removal at the time of construction. The property is located outside any floodplain areas and contains no other environmental hazards or features.

Roads & Utilities

The property has frontage to the south along NW Chevalia Drive, which is a paved two-lane local roadway maintained by Polk County. Water service is provided by Xenia. Polk County mapping indicates there is an existing eight-inch (8") water main located along the south side of NW Chevalia Drive. The property is served by a private onsite septic system, which Polk County records indicate is located north of the dwelling within the rear 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. The location of the existing pergola meets this requirement.

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 subject property was platted under a previous version of the Zoning Ordinance which allowed an equestrian development option within the Estate District at that time. This previous development option required a 50-foot minimum rear setback, which the existing pergola would meet at approximately 57 feet. Furthermore, the current zoning of "ER" Estate Residential District requires a three (3) acre minimum lot size, with the subject property at just over one (1) acre it is undersized and therefore more restricted by the 75-foot rear yard setback.

- 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. Covered patios 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. Visual impact to surrounding properties is mitigated by the home and large mature trees to the north and east. Adjacent property owners to the west, north, and east have all responded in support for the variance to approve the location of the pergola.

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

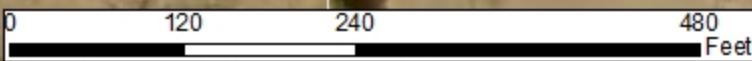
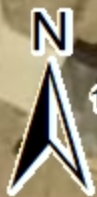
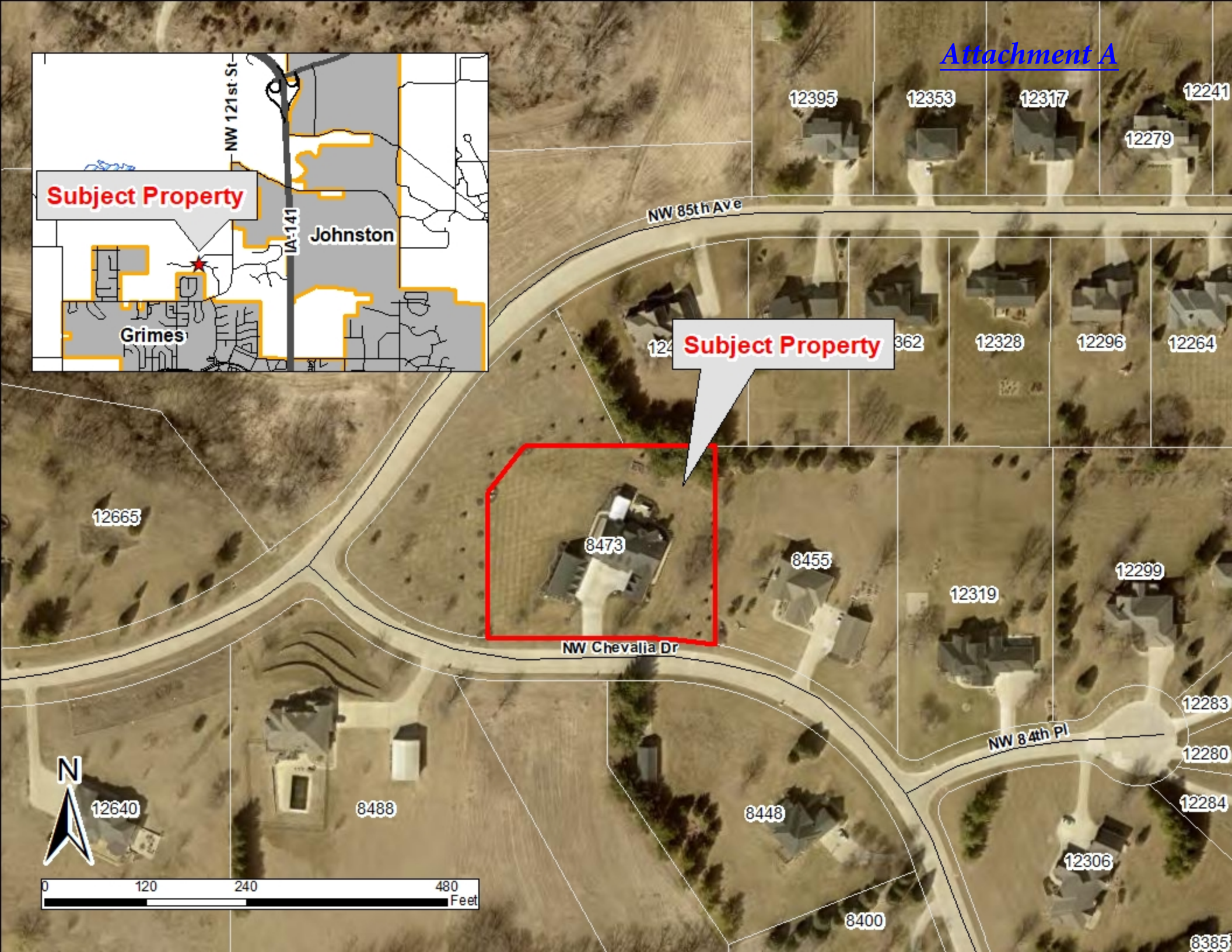
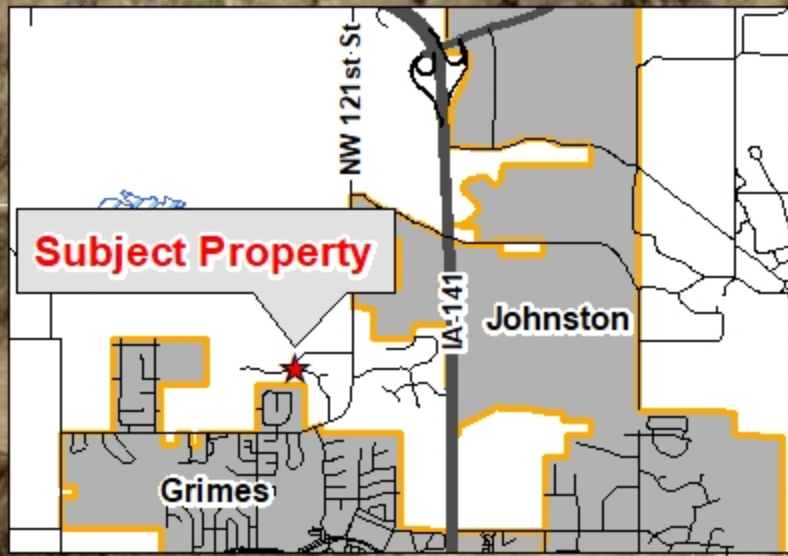
Yes. The location and orientation of the existing dwelling combined with the undersized nature of the subject property within the current “ER” Estate Residential District did not result from actions taken by the applicants.

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 subject to the following conditions:

1. The appellants shall obtain a retro-active Building Permit for the covered patio.



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: 8473 NW Chevalia Drive Grimes, IA 50111
3. Subject Property Zoning District: Jefferson Township
4. District and Parcel Number: 240700714-047-081
5. Subject Property Legal Description (attach if necessary):

Attached

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

7. Applicant(s) Information:

Mark Platt Mark W Platt 5/8/2023
Applicant (Print Name) Signature date

Owner markanddebbie.platt@hotmail.com
Interest in Property (owner, renter, prospective buyer, etc.) Email

8473 NW Chevalia Drive, Grimes, IA 515-490-9516
Address, City, State and Zip 50111 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

May 7, 2023

Re: Request for a Variance Appeal

To Whom It May Concern:

We would first like to thank you for letting us do a Request for Variance Appeal. When we bought our property in 2017, there was a large hot tub on the back multi level deck. Upon closing on our property, we were informed that the hot tub didn't work. After trying to have repairs, we were left with the decision to get rid of it. At that time we began to realize that the back deck was very hot, with no shade making it unusable in later day. We decided to put up a pergola to cover the area and make it so we could be out and enjoy. We contacted Paramount Pergola's out of Bondurant, who we felt was a very reputable company and had good reviews, and asked them to do our project. We checked with our association and were told it was fine for us to do the pergola. We assumed that Paramount, being in that business, got the building permit and that everything was okay. Recently, we were in the process of getting a permit to put in a pool this summer, and that was the first we were informed that the pergola was put in without a permit. We also were told that the pergola was installed to close to the property line. Thus, this is why we are doing this variance appeal. This pergola has definitely made it possible to use our back deck. We also have a large row of white pines in our association between our property and our neighbor to the north and they make it so neither of us can see each other's back decks. Our neighbor also has been fine with our pergola addition and not complained at all. Our neighbor to the east also is not affected by our pergola, as she can barely see it. We must also mention that we invested a large amount of money to have the pergola put in. We would not be able to modify it and if this is not approved, it would be a financial hardship as not only would we lose on our investment of the pergola and incur the cost of removal.

We would appreciate your considering and approving this appeal. Thank you so much for your time and understanding on this matter.

Sincerely,

Handwritten signatures of Mark and Debbie Platt. The signature for Mark is on the left and for Debbie is on the right, both in cursive.

Mark and Debbie Platt



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