

**Docket Number:** 24/14358

**Appellants:** Jason Boozell, 6420 NE Rising Sun Dr.  
Pleasant Hill, IA 50327 (Property Owner)

**Appeal:** The appellant requests a Variance to allow an existing accessory building to be located within the secondary front yard setback on a corner lot.

### **Background**

The subject property is located at 6420 NE Rising Sun Drive, Pleasant Hill, and is part of the SW ¼ of the NW ¼ of Section 2, Township 78 North, Range 23 West of the 5<sup>th</sup> P.M. (Fourmile Township). The subject property is approximately 0.4 acres in size and is zoned “RR” Rural Residential District. The City of Pleasant Hill corporate limits extend along NE 64<sup>th</sup> Street (S14) at this location with the Rising Sun Church of Christ across the street to the west within Pleasant Hill city limits. Immediately adjacent properties to the north, south and east are all within unincorporated Polk County and are single family residences zoned “RR” Rural Residential. NE University Avenue is approximately one-quarter (¼) mile to the north. See *Attachment A* for a vicinity map of the subject property and surrounding area.

The subject property is a rectangular shaped lot at the northeast corner of NE 64<sup>th</sup> Street and NE Rising Sun Drive with approximately 132 feet of frontage along NE 64<sup>th</sup> Street and 123 feet of frontage along NE Rising Sun Drive. The subject property contains an existing single-family residence that was constructed in 1977, according to county records. The home is centrally located along the southern half of the property with driveway access from NE Rising Sun Drive. In October of 2023 the owners submitted a building permit application to construct a detached garage on the property. Upon review of those plans, it was discovered an existing shed on the property was not in compliance with the front yard setback requirement from NE 64<sup>th</sup> Street. The appellants are requesting a variance to relocate the shed to align the existing west elevation of the house and set back 34.5 feet from NE 64<sup>th</sup> Street where a minimum setback of 50 feet is required.

### **Summary of Request**

The Polk County Zoning Ordinance, *Article 4: Use Regulations, Division 6: Accessory Use Regulations: Section 1. Residential Accessory Buildings: (K)* states: “An accessory building may be placed in front of the principal building on corner lots or lots with multiple front yards. Said accessory buildings are permitted in front of the principal structure in the yard, which does not contain primary access. The accessory building shall meet the minimum principal building front yard setback for the underlying zoning district.” In the “RR” Rural Residential District a 50 foot setback is required. The applicant is proposed to set the shed structure back 34.5 feet from the west property which results in a variance request in the amount of 15.5 feet. The applicant is proposing the align the shed’s west elevation with the west elevation of the house to the shed structure will be in alignment with the existing house. The applicant has stated there are unable to move the structure further to the east (increasing the setback) as to avoid septic laterals on the property. The proposed shed location will be within 10 feet from the existing septic laterals. They have submitted for and received a waiver to be within the 10 foot setback. The submitted application and site plan for this appeal can be found as *Attachment B*.

Staff mailed out 19 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 no responses concerning this application.

### **Natural Resources**

The subject property is flat with little elevation change across the site ranging from 966 to 964. Existing mature trees extend the west property line along NE 64<sup>th</sup> Street. The property is not located within a mapped floodplain. The location of the accessory structure is anticipated to have little to no impact on the surrounding environment.

### **Roads & Utilities**

The subject property is situated at the NE corner of NE 64<sup>th</sup> Street (S14) and NE Rising Sun Drive, both of which are two lane paved roadways. NE University Avenue is approximately ¼ mile to the north. Water service is provided by Des Moines Water Works. There is a 4" water main which extends along the south side of NE Rising Sun Drive. There is also a 10" water main extending along the west side of NE 64<sup>th</sup> Street. The property is served by a private onsite 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 existing septic system laterals extend out from the rear of the house and encompass a large portion of the back yard, which would limit the placement of a shed structure while still meeting all setback requirements.
- 2.) Is the variance necessary for the preservation and enjoyment of property rights possessed by other properties in the same zoning district in the same vicinity? (No variance can permit uses that are prohibited in a district)  

Yes. Accessory structures are a permitted use on the subject property.
- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?  

Yes. There will be limited impact on adjacent properties. The shed is currently existing, however will be shifted eastward in an effort to increase the setback distance from NE 64<sup>th</sup> Street while still trying to avoid septic laterals in the rear yard.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?  

Yes. The property's configuration as a corner lot combined with the 0.4 acre lot size limit the area for where a shed could be placed.
- 5.) Does the variance support the intent of Article 7 Natural Resource Protection and Article

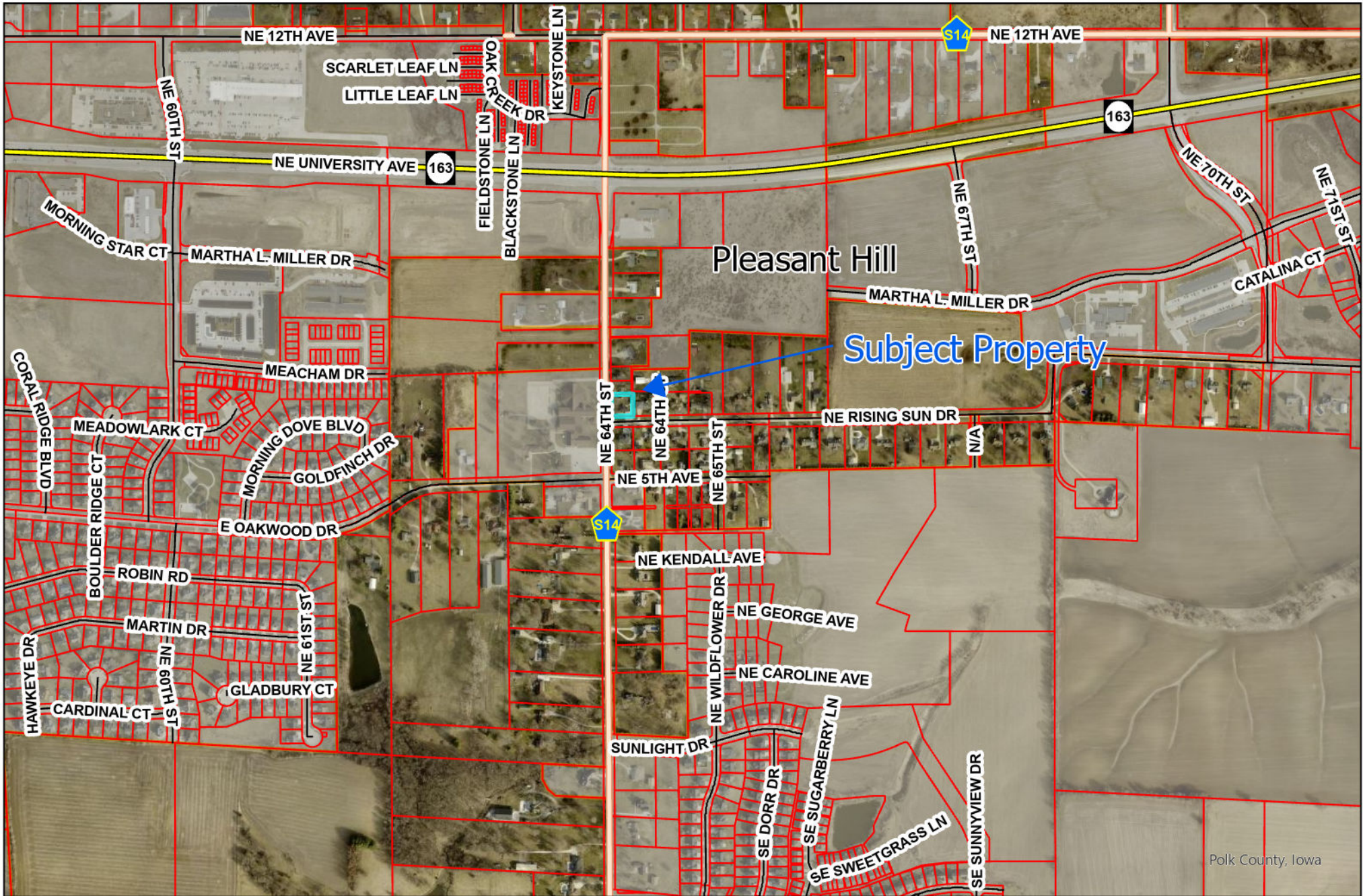
8 Stormwater and Erosion Control Management of the Polk County Zoning Ordinance?

Yes. The appellants are required to meet the environmental provisions of the Polk County Zoning Ordinance.

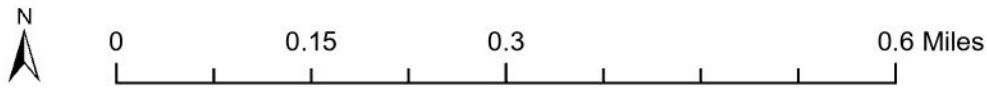
The Board of Adjustment may grant a variance if items 1 through 5 are affirmed. Since items 1-5 were answered in the affirmative, staff recommends approval of the requested variance.



# Attachment A: Vicinity Map



Polk County, Iowa



# 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)

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(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):


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6. Filing Fee: \$366.00 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 \_\_\_\_\_





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.

Recorded: 12/13/2023 at 8:34:15.0 AM  
 County Recording Fee: \$7.00  
 Iowa E-Filing Fee: \$3.13  
 Combined Fee: \$10.13  
 Revenue Tax:  
 Polk County, Iowa  
 Julie M. Haggerty RECORDER  
 Number: 202300065640  
 BK: 19675 PG: 372

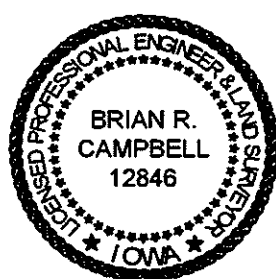
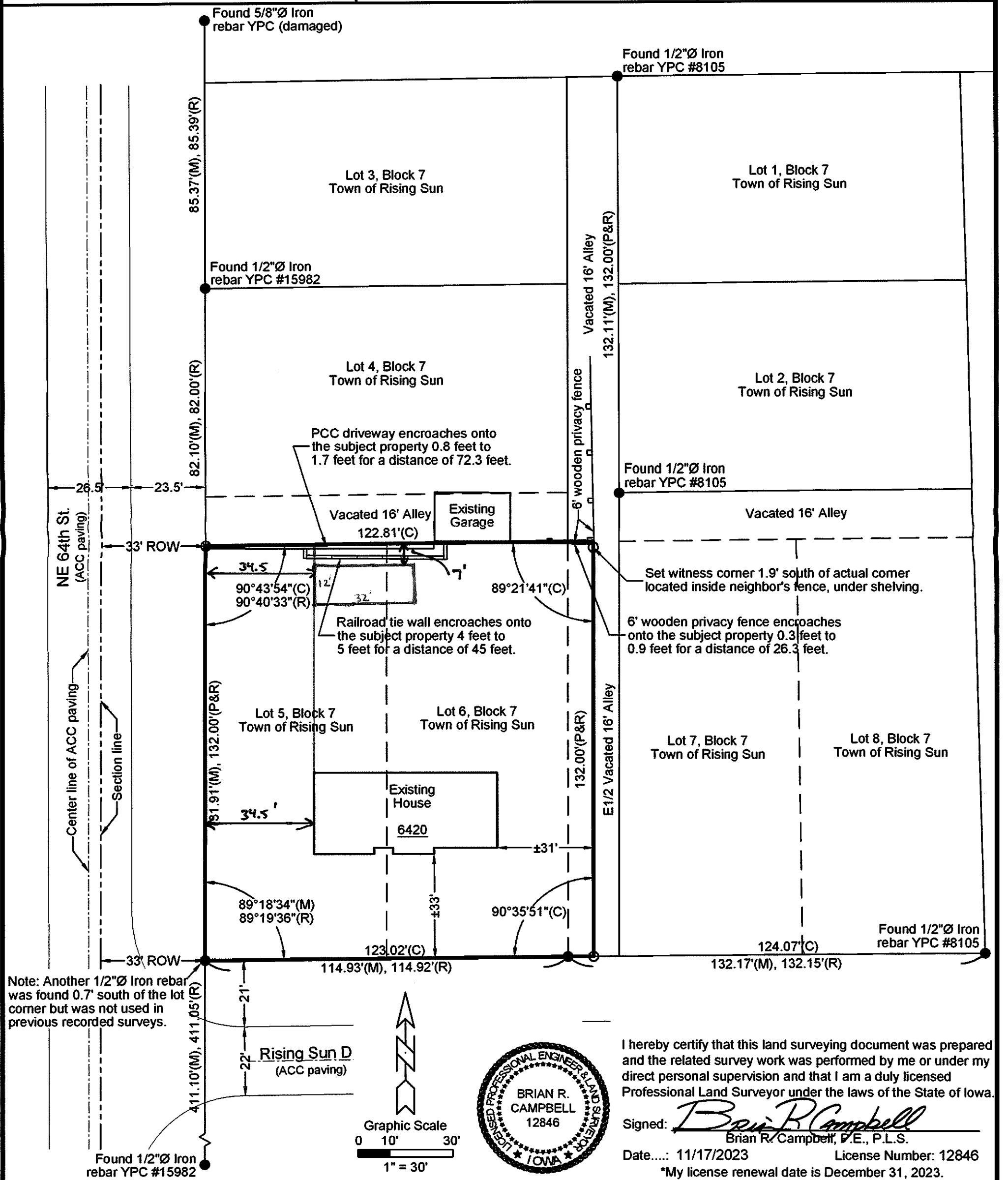
**Index Legend**

Type...: Boundary Retracement Survey  
 Description...: Lots 5 & 6 in Block 7, Town of Rising Sun  
 Address...: 6420 NE Rising Sun Dr., Pleasant Hill  
 Owner...: Jason P. Bozell & Sarah M. Rowe  
 Requestor...: Ryan Koster (Platinum Design Build, LLC)  
 Surveyor...: Brian R. Campbell, PE, PLS  
 Return to...: Campbell Engineering & Surveying, Inc.  
 925 E 1st St. - Suite I  
 Ankeny, IA 50021  
 515-963-4385  
 info@cesiowa.com

**Legend**

∅ Diameter  
 ACC Asphalt Cement Concrete  
 (C) Calculated Distance  
 (M) Measured Distance  
 (P) Platted Distance  
 (R) Recorded Distance  
 PCC Portland Cement Concrete  
 ROW Right-of-way  
 YPC Yellow Plastic Cap  
 ○ Set 1/2"∅ Iron rebar YPC #12846  
 ● Found 1/2"∅ Iron rebar, unless noted  
 ⊗ Found Cut "+" in PCC drive

Recorder Use Only



I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Professional Land Surveyor under the laws of the State of Iowa.

Signed: *Brian R. Campbell*  
 Brian R. Campbell, P.E., P.L.S.  
 Date....: 11/17/2023 License Number: 12846  
 \*My license renewal date is December 31, 2023.

CES Campbell Engineering & Surveying  
 925 E 1st St., Suite I  
 Ankeny, Iowa 50021  
 Phone...: (515) 963-4385  
 E-mail...: info@cesiowa.com

FIELD WORK:BC/CC	11/7/2023	PROJECT #.: JPB2301
DRAWN BY....: CGC	11/8/2023	FILE #.....: LS2311
CHECKED BY: BRC	11/9/2023	SCALE
REVISIED BY...: BRC	11/17/2023	VERT...: 1
REVISIED BY...:		HORIZ:1"=30'
REVISIED BY...:		1 Of 1

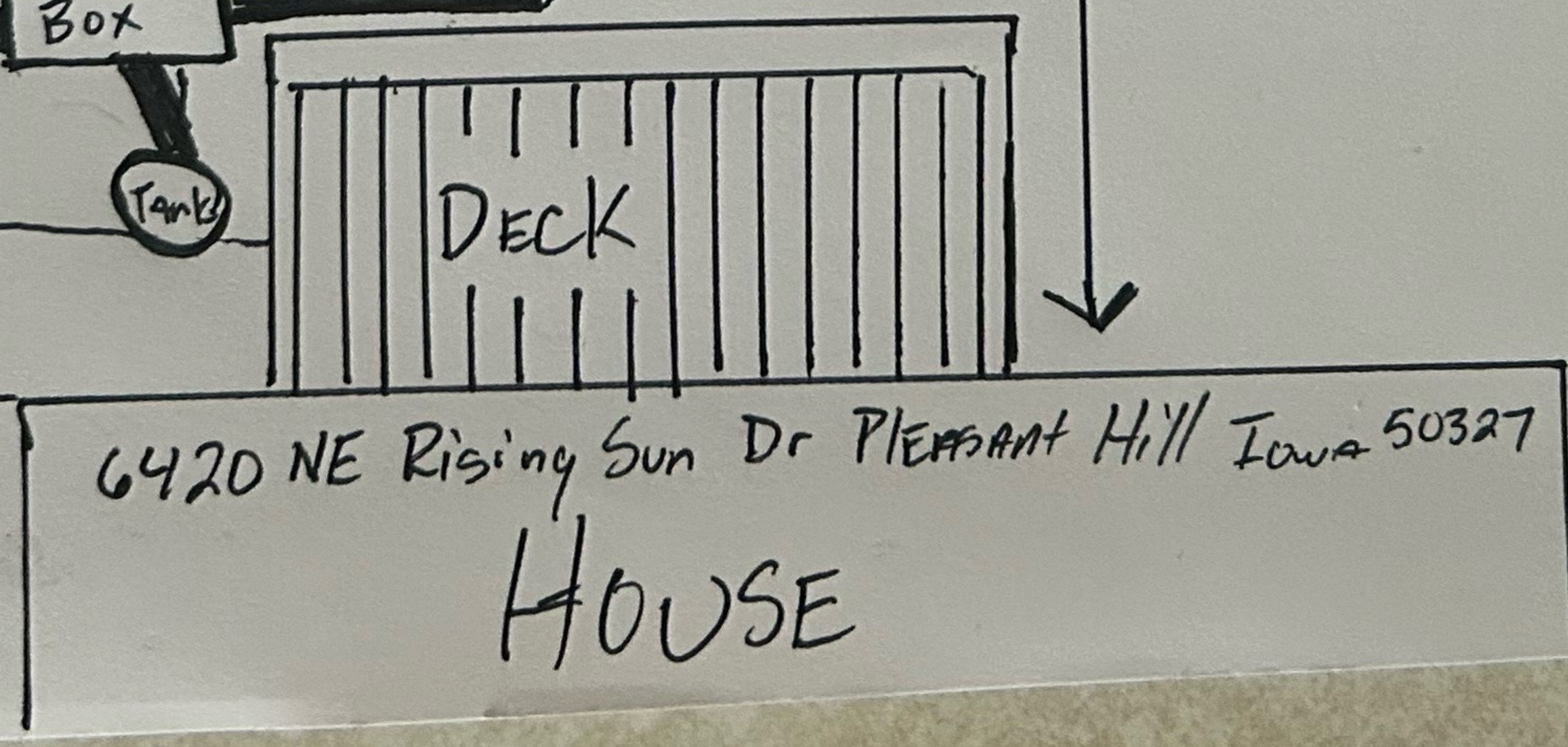
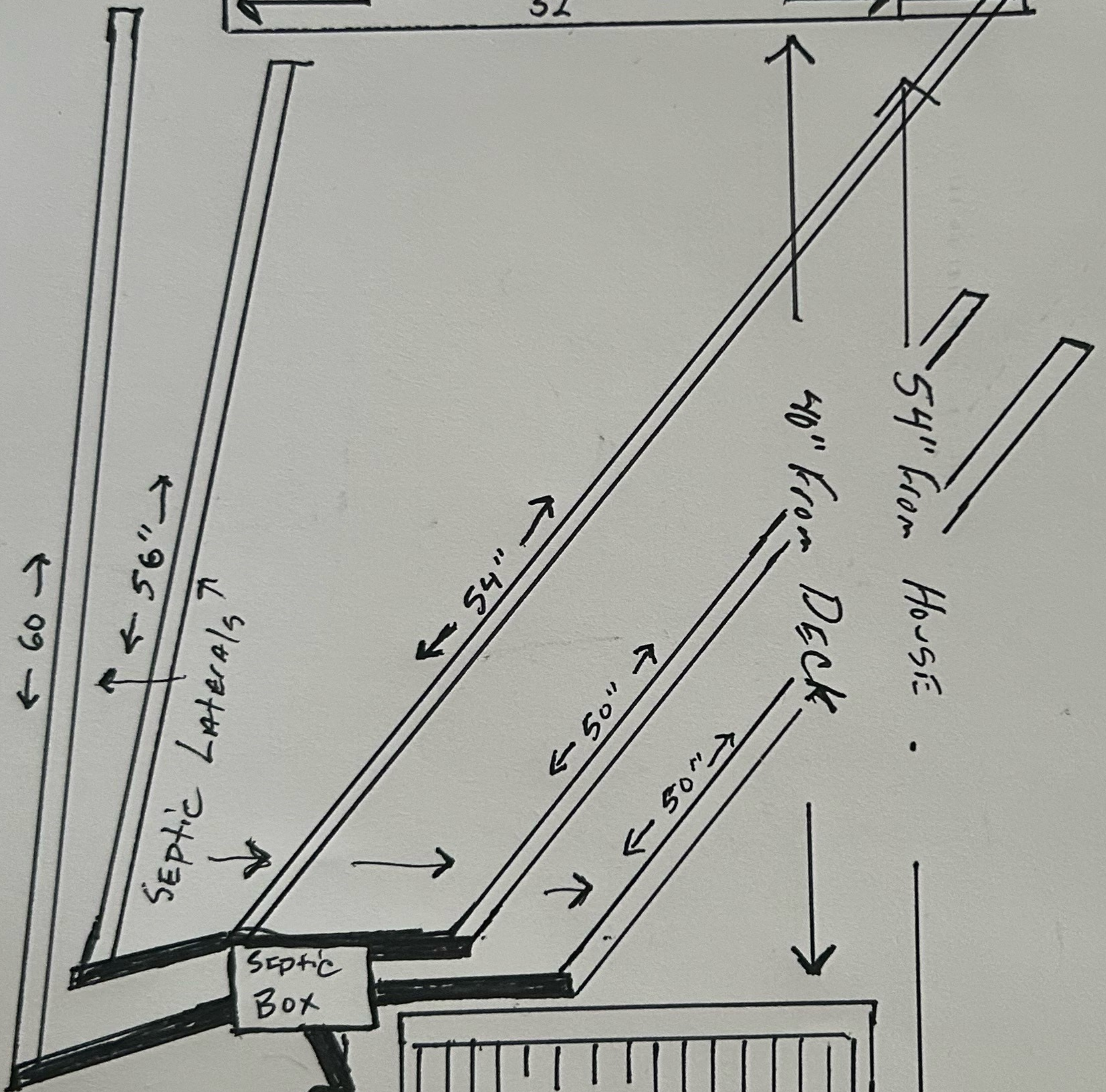
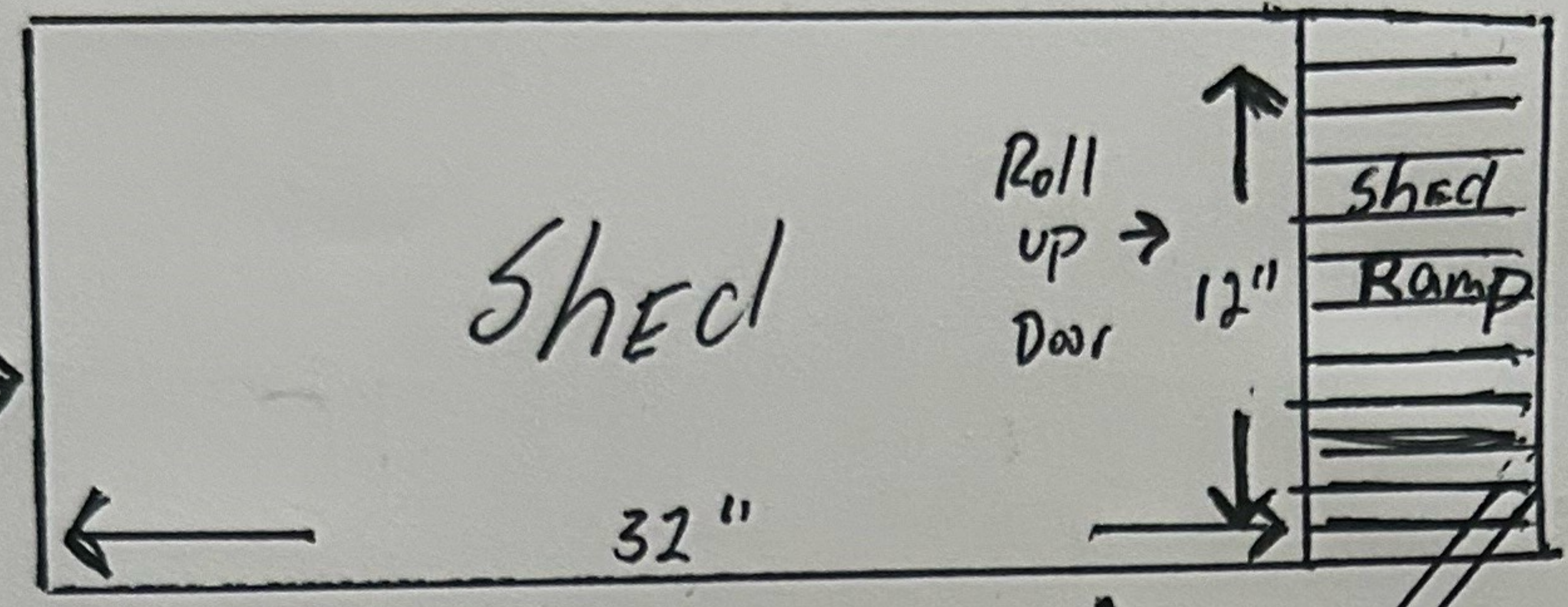


Neighbors Garage

Neighbors Driveway

North lot line  
West lot line

North



NE 64TH St

South