

**Appeal:** The appellant requests a variance to allow a new residential accessory building to be located in front of the principal dwelling at a front yard setback of less than 100 feet.

### **Background**

The subject property is located at 6171 NW 78<sup>th</sup> Avenue, Johnston, and is legally described as Lot 3 of Hughes Acres within Section 25 of Township 80 North, Range 25 West of the 5<sup>th</sup> P.M. (Jefferson Township). The property is approximately 3.16 acres in size and is zoned "ER" Estate Residential District. The subject property is located approximately one-fifth ( $\frac{1}{5}$ ) of a mile east of the intersection of NW Beaver Drive and NW 78<sup>th</sup> Avenue, lying between the Camp Dodge Military Base to the west and the Saylorville Reservoir and Dam to the east. The property is located on the north side of NW 78<sup>th</sup> Avenue, being directly across from the Iowa National Guard Joint Forces Headquarters located to the south. The City of Johnston corporate limits are directly adjacent to the south and west of the subject property. The surrounding area to the north and east is publicly owned land held for preservation and recreational purposes in conjunction with the nearby Saylorville Reservoir. Adjacent to the west are a number of new single-family lots recently platted within the City of Johnston, known as The Enclave.

According to County records, the single-family dwelling and attached garage on the property was constructed in 1973. The dwelling is setback approximately 120 to 130 feet from the south, front lot line. There are no existing accessory structures on the lot. The property is largely covered by mature woodlands, particularly north and west of the dwelling. The property is accessed via a paved private driveway along the eastern property line. The appellant is proposing a new 576 square feet (24' x 24') accessory garage to be located just southeast of the existing dwelling, being within the property's front yard between the dwelling and the front lot line along NW 78<sup>th</sup> Avenue. The new accessory building would have a front yard setback of approximately 95 feet, a side yard setback of approximately 12 feet, and ten (10) feet of separation from the dwelling.

### **Summary of Request**

The Polk County Zoning Ordinance, *Article 4: Use Regulations, Division 6 Accessory Regulations, Section 1(J)* stipulates that an accessory building may not be placed in front of the principal building unless the accessory building is setback a minimum of 100 feet from front property lines; and has a maximum separation distance between the principal structure and accessory building of 150 feet. The property owner is proposing to construct a new 576 square feet (24' x 24') accessory garage in front of the principal dwelling at a front yard setback of approximately 95 feet from the southern, front property line. The first provision is not satisfied as the accessory building is proposed at a front yard setback of approximately 95 feet, in lieu of the minimum required 100 feet of front setback. The proposed accessory building will be located approximately ten (10) feet south and east of the existing dwelling at their closest point, which satisfies the second provision requiring no more than 150 feet of separation. Ten (10) feet is also the minimum required separation distance between an accessory building and the principal structure. See *Attachment A* at the end of this report for a copy of the site plan showing the proposed location of the new accessory garage.

Staff mailed out seven (7) 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 zero (0) responses in regard to this Appeal. Given the proximity of their corporate limits, staff also directly notified the City of Johnston. They have not commented to-date.

### **Natural Resources**

The subject property is not located within a mapped floodplain, nor does it contain mapped wetlands or other environmental hazards or features. The property does contain a significant area of mature woodlands. The woodlands are spread out across the property, but are most dense in the northern half of the site as well as the area generally west of the dwelling. The site has varying topography, ranging from a high elevation of approximately 960 feet in the southwest corner of the property, to a low elevation of approximately 920 feet in the northeast portion of the site along a drainage way which drains east of the property into the overflow spillway for the Saylorville Reservoir. The topography is relatively flat around the dwelling and proposed accessory building location, ranging from approximately 942 to 948 feet. The proposed accessory building location will have minimal to no impact upon existing mature tree cover and steep slopes on the property. Some additional grading and filling may be required to create a level building pad for the new structure.

### **Roads & Utilities**

The property has 300 feet of frontage to the south onto NW 78<sup>th</sup> Avenue, including an existing driveway entrance along the eastern boundary of the property. NW 78<sup>th</sup> Avenue terminates approximately one-fifth ( $\frac{1}{5}$ ) of a mile to the west where it forms a T-intersection at NW Beaver Drive. NW 78<sup>th</sup> Avenue extends eastward across the Saylorville Reservoir Dam and connects to NW 37<sup>th</sup> Street. The subject property is served by a private onsite septic system, which County records indicate was installed in 2009. The septic tank is located approximately 40 feet north of dwelling, with a 100' x 12' rock bed mound located further west of the dwelling and septic tank. Water service is provided by an onsite private well located southeast of the dwelling and directly south of the proposed accessory building along the eastern lot line. A minimum of ten (10) feet of separation is required between the proposed accessory building and the septic system and well. These separation distances appear to be easily met by the proposed building's location.

### **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 existence of mature woodlands and steep slopes on the property, in addition to the location of the dwelling and septic system effectively prevents the accessory building from being located within the side or rear yards of the property, or within the front yard at a conforming setback distance.
- 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. Residential accessory structures are permitted within the “ER” Estate Residential District.

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

Yes. Surrounding properties are primarily government owned preservation land, as well as a government operations command center. There are newly platted residential lots adjacent to the west within the City of Johnston. However, the closest lot and future residence is over 200 feet away from the dwelling and proposed accessory building on the subject property. Adjacent properties are also well screened by existing mature woodlands on the subject property.

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

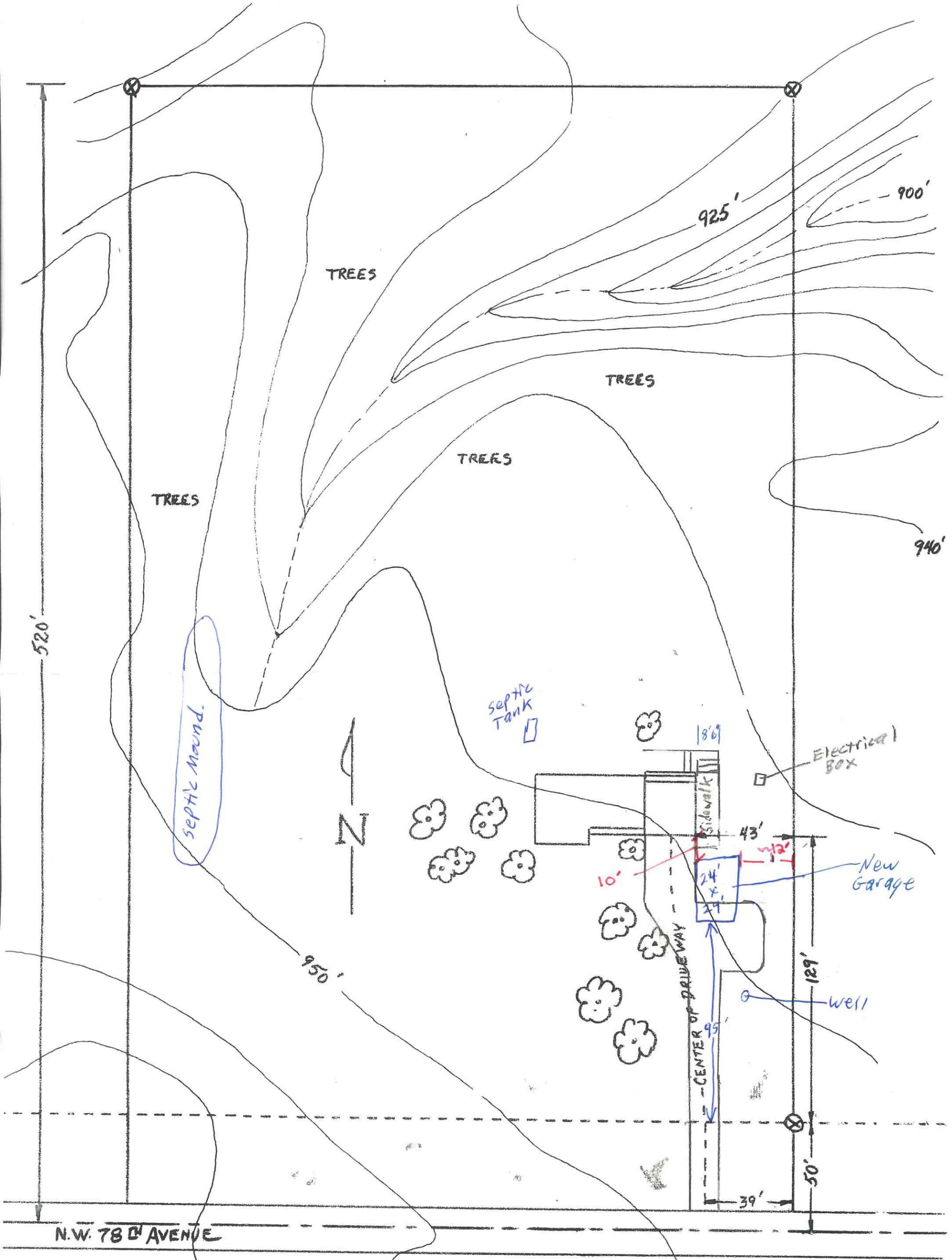
Yes. The mature woodlands, steep slopes, as well as the existing dwelling location are not a result of actions by the appellant. Rather, they are existing constraints which effectively prevent the proposed accessory building in a conforming location on the property.

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. There will be a limited impact on environmentally sensitive areas of the property due to this proposal. It is not anticipated that any mature trees will be impacted. In discussions with the appellant, there will be some extra fill dirt required to level the building pad along a sloping part of the terrain. The appellant will be required to meet all Building and Zoning Code requirements for this work.

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



MR. + MRS. KENNETH HUGHES, JR.  
 E. 300' EXCEPT N. 800' THERE OF, OF S.W. 1/4 - S.E. 1/4  
 OF SECT. 25, TOWNSHIP 80, RANGE 25, SUBJECT TO  
 EASEMENT FOR ROAD PURPOSES TO THE U.S. GOV'T.  
 OVER THE S. 50' THEREOF DALLAS CO. TEXAS

SCALE: 1/4" = 10'  
 ⊗ = GOV'T. MARKER