

Appeal: The appellant requests a front yard setback variance to allow a new residential accessory building to be located in front of the principal dwelling at a front yard setback of approximately three (3) feet.

Background

The subject property is located at 10621 NW 107th Street, Granger, and is legally described as Lot 10 of Knapp Gardens Plat 1, within Section 9 of 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 “RR” Rural Residential District. The subject property is located directly north of the City of Johnston corporate limits where they extend north to NW 106th Avenue, as well as approximately two (2) miles east of the City of Granger and two (2) miles southwest of Polk City located on the opposite, east side of Saylorville Lake. The surrounding area to the north, west and east is zoned “RR” Rural Residential District and primarily developed with existing single-family residences. The area south of the subject property, located south of NW 106th Avenue, is partially zoned “ER” Estate Residential District within unincorporated Polk County and partially located within the corporate limits of Johnston. This area largely remains in agricultural production.

The subject property is a corner lot located at the northeast corner of NW 106th Avenue and NW 107th Street. The subdivision of Knapp Gardens was platted in three (3) phases from 1972 thru 1977, and created approximately 75 single-family lots located directly north and east of NW 106th Avenue and NW 107th Street. The subject property contains an existing dwelling constructed in 1974 as well as an existing detached garage constructed in 1983, according to County records. The appellant recently purchased the property in 2018. The appellant proposes to remove the existing 720 square feet (24’ x 30’) detached garage, which is located in the front yard northwest of the residence, and replace it with a new, larger accessory structure located closer to the western, front lot line. The existing accessory garage has a front setback between 20 to 25 feet. The new accessory structure is proposed at a front yard setback of approximately three (3) feet.

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 said 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 1,600 square feet (40’ x 40’) accessory building, with an approximately 360 square feet (36’ x 10’) covered bay and approximately 64 square feet (8’ x 8’) porch, located in front of the principal dwelling at a front yard setback of approximately three (3) feet from the western, front property line. See *Attachment A* at the end of this report for a copy of the site plan showing the proposed building location. The existing dwelling is setback less than 100 feet from the western, front property line, and therefore any new accessory building located within the western front yard would require a variance. The Ordinance does permit accessory buildings in front of the principal structure in the front yard(s) not containing primary access, provided the underlying front setback for the zoning district is met. This provision applies to corner lots or lots with multiple front yards. As applied to

the subject property, this provision would permit accessory structures within the southern front yard between the dwelling and southern property line along NW 106th Avenue, provided they maintained a 50-foot minimum front yard setback.

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 zero (0) responses regarding this Appeal.

Natural Resources

The subject property is not located within a mapped floodplain nor does it contain other environmental hazards or features. There are a few mature trees throughout the property. The site is relatively flat with little change in elevation.

Roads & Utilities

The property has approximately 150 feet of frontage to the south onto NW 106th Avenue, and approximately 290 feet of frontage to the west onto NW 107th Street. NW 106th Avenue is major collector roadway, and NW 107th Street is a minor collector roadway. Both are paved, two-lane public roads maintained by Polk County. The right-of-way along NW 107th Street is wider than a typical County roadway likely due to the possibility of a future north-south road through this area. The previous property owner constructed a chain link fence that encroaches into the NW 107th Street right-of-way. Engineering staff commented that the fence does not appear to affect County operations at this time. However, it would be removed and not replaced if operations were impacted in the future. Engineering staff expressed concern regarding the proposed front setback of three (3) feet. They recommended a minimum of 20 feet of front setback, and stated that 15 feet would be the absolute minimum they would recommend approving. Anything less than 15 feet would not allow adequate room for future construction easements for maintenance and improvements along NW 107th Street, and could result in Polk County having to condemn the structure and potentially compensate the future property owner.

Wastewater treatment for subject property is provided by a private onsite septic system, which was recently replaced in 2018. The system includes a tank and filter located directly north of the residence, and a discharge line that runs west across the property and outlets along the western property line near the driveway. The discharge line is located in close proximity to the south of the existing detached garage and proposed new accessory building. Polk County Environmental Health staff has commented that the new building must maintain the required ten (10) feet of separation from any part of the septic system, including the discharge line. Prior to the issuance of any Building Permit, the appellant will be required to submit an updated site plan and coordinate with Environmental Health staff to demonstrate the new building will meet the required separation from the septic system.

Water service is provided by Xenia Rural Water District. The latest available data from Xenia indicates there is an existing six-inch (6") PVC water main located along the southern property line of the subject property. There is also an existing water main easement for this section of water main, as established and recorded in 1994 (Bk. 7023, Pg. 737). The easement is 30 feet wide and centered on the installed location of the water main. Approximately 15 feet of this easement area extends onto the far southern portion of the subject property. The easement has

no impact on the proposed building location under consideration by this variance appeal request.

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?
No. There are no such circumstances or special conditions preventing the construction of a replacement accessory building for the existing detached garage. While the existing accessory garage has a legal nonconforming setback, staff has indicated we would support a variance appeal to replace the existing structure at the same, or even a slightly reduced, front setback. The appellant has a reasonable alternative to reconfigure the size/design of the proposed structure and/or move the location further north and east to a more conforming location with a greater front setback that staff would support.
- 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)
No. While accessory buildings are a permitted use within the "RR" Residential District, the requested front yard setback of three (3) feet is not necessary to allow replacement of the existing accessory garage. Staff has communicated with the appellant that a request for a new structure to maintain the existing front setback, or even a slightly reduced setback, would be supported.
- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?
No. The proposed front yard setback of three (3) feet is unreasonably close to the County right-of-way along NW 107th Street. Planning and Engineering staff have legitimate concerns with a front yard setback less than 15 feet. Approval of the variance has the potential to negatively impact future maintenance and construction along this segment of NW 107th Street, and could require future condemnation of the building and compensation to the future property owner by Polk County.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?
No. While the existing accessory garage was constructed by a previous property owner in what is now a legal nonconforming location, staff would support a variance for a replacement accessory structure at the same, or slightly reduced, front setback.
- 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. No environmental areas are anticipated to be impacted by this proposal.

The Board of Adjustment may grant a variance if items 1 through 5 are affirmed. Since items 1-4 were not answered in the affirmative, staff recommends denial of the requested variance.

Attachment A



New 40x40 building w/ 36x12 open bay and 8x8 porch will replace current 24x30 garage. Variance needed due to the driveway entering from the side of our home + not the front.