Docket Number: 21/10385
21/10386

Appellant: Cory Schares, 10367 NW Beaver Drive, Johnston, IA 50035 (property owner)

Appeal: The Appellant requests two (2) variances related to a proposed residential accessory building. The appeal includes a variance for an approximate 0.8% increase to the maximum building coverage (from 15% to approximately 15.8%), and a variance to allow the accessory building placement to meet a setback of 28-feet in front of the principal dwelling at a front yard setback of less than 100-feet.

Appeal Given: The following are excerpts from the application submittal. The full written appeal can be reviewed within *Attachment 'A'* at the end of this report.

I am requesting 2 variances, my first request is for the front setback of 50' to be reduced to 28'. My second request is to have the 15% building coverage requirement changed to allow for a total of roughly 15.8%. I am requesting these changes to construct a 40'x80' pole barn with a 8'x80' forward facing porch to house my boat, trailers, future RV along with a hobby shop.

The primary reasons for requesting the variances listed is the size and irregular shape of our lot. The shape of our lot is triangular as it runs along NW Beaver Drive making it difficult to stay within the 50' setback. In relationship to the orientation of the house the shed will be almost entirely positioned behind the house but the most forward corner finds itself 28' from the setback where 50' is required. For a visual a 28' setback will remain roughly 65' from the edge of the road or 77' to the center of the road leaving lines of sight for both neighbors and traffic unobstructed.

The second request is for building coverage to be changed from 15% to 15.8%. Our lot size of 43,749 sq. ft. would allow us a building coverage of 6,562 sq. ft. at 15%. The lot size is very small in comparison to other houses zoned RR making it difficult to stay within the 15% requirement.

Background

The subject property is located at 10367 NW Beaver Drive, Johnston, and is legally described as Lot 1 Bridge Port Estates and located in part of the SE ¼ of the SW ¼ of Section 10, Township 80 North, Range 25 West of the 5th P.M. (Jefferson Township). The subject property is approximately one (1) acre (43,749 square feet) in size and is zoned "RR" Rural Residential District. The Bridge Port Estates development was recorded on August 10, 2005 with a designation of the "SE" Suburban Estate District. The maximum building coverage for the "SE" was 17%. The setbacks at that time remained as 50-feet front yard and rear yard and 15-feet each side yard. The property is triangular in shape and has approximately 439.73 feet of width and frontage onto NW Beaver Drive to the south with a significant reduction in lot depth as the lot narrows toward the northwest intersecting at a singular point. Surrounding properties to the south and east are zoned "RR" Rural Residential District with properties to the north and west zoned "ER" Estate Residential District. The surrounding properties consist of existing residential homes and accessory structures.

The property comprises one (1) owner occupied single-family dwelling with attached garage, deck and covered porch constructed in 2006. The existing building footprint / building coverage is 3,072 square feet at 7% of the total lot area. This information was reviewed from the Polk County Assessor's page, building permit documentation and through coordination with the property owner. The closest southwest corner of the dwelling meets a 53.82-foot setback from the front property line that is parallel to NW Beaver Drive. The proposed accessory structure is 80-feet by 40-feet (3,200 square feet) in size with an open porch along the front of the building that is 8-foot by 80-foot (640 square feet). The proposed accessory building location is considered slightly behind the front building line of the house as measured in a direct line east to west of the front facade. The angle of orientation of the NW Beaver Drive roadway with the front

property line being located parallel to the roadway creates a constraint to meeting the 50-foot setback. This is coupled with the irregular and triangular shape of the property boundaries that limits buildable areas of the property. *Attachment 'B'* is an aerial of the site and surrounding properties.

A site review was conducted on Friday, June 11th, 2021. The review of the site and the surrounding properties revealed a variety of detached accessory buildings that have been constructed. The alignment of the existing house and accessory building is appropriate in relationship to the road and surrounding properties. There are no sight distance concerns with the proposed location and a line of trees buffers the property to the north. The orientation does not appear to be perceived as meeting an abnormal setback with regard to the location of the proposed building and the house.

Summary of Request

Under the provisions of the Polk County Zoning Ordinance, *Article 6: Bulk and Use Standards, Division 2: Single-Family Residential Bulk Standards, Table 6.1: Table of Single-Family Bulk Standards*, states the maximum building coverage for a residential property within the "RR" Rural Residential District is 15%. The property owner is proposing to construct a new 3,840 square foot accessory building. The existing building footprint / building coverage is 3,072 square feet at 7% of the total lot area. The proposed total building coverage is 6,912 square feet or approximately 15.8% of the total lot area being 43,749 square feet.

Additionally, *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 it 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 proposed accessory building location is within the front yard, being between the front building line of the existing dwelling and the front property line parallel to NW Beaver Drive. It does not meet the first criteria with a proposed front setback of approximately 28 feet. It does however, meet the second criteria with a proposed separation from the existing dwelling of 35 feet. The proposal does show a second entrance to the property however, an entrance permit will need to be submitted for review and approval from the Polk County Engineering Department to confirm whether the entrance will be allowed. See Attachment 'C' at the end of this report for a copy of the site plan showing the proposed location of the accessory building. *Attachment 'D'* is also included with the proposed elevations of the accessory building.

Staff mailed out 11 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 of the Variance Appeals.

Natural Resources

The subject property does not have any significant natural resources, there are no environmental hazards and the property does not contain any designated floodplain. A row of woodlands exists along the northern property line. The topography of the site is relatively flat with a high elevation of 938 feet in the area of the existing house and a low point of 932 feet along the north and northwestern portions of the property.

Roads & Utilities

The property has 439.73 feet of frontage to the south onto NW Beaver Drive. NW Beaver Drive is a paved, two-lane major collector roadway maintained by Polk County. Water service is provided by Xenia Rural

Water. Wastewater treatment is provided by an onsite septic system located directly north of the dwelling. In 2020, the property owner took out the appropriate permits for the abandonment and relocation of the existing septic system to make room for a detached accessory building. The proposed location of the detached accessory structure complies with the required 10-foot separation from the septic system. A 20-foot Public Utility Easement is located along the northern and southern property lines of the subject property. Xenia Rural Water has a recorded water easement in Book 11351 on Pages 465-466 identifying a 30-foot wide easement from and adjacent to the existing road right-of-way.

Recommendation

Request: ***Variance to increase the maximum building coverage approximately 0.8% (from 15% to approximately 15.8%).***

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. Most of the properties zoned "RR" in this corridor are much larger in size than the subject property allowing for larger accessory buildings that comply with the 15% maximum building coverage allowed. It is possible to build a detached accessory structure for the intended personal storage use and meet the maximum building coverage requirement however, the 0.8% increase requested is very insignificant and the zoning established at the time the lot was created would have allowed for a 17% maximum building coverage.

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 zoning district.

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

Yes. The impact, if any, on surrounding properties will be minimal. The proposed detached accessory building will not create any sight distance issues and appears to be smaller in size than other existing detached accessory structures along NW Beaver Drive. A row of trees separates and buffers the property along the northern property line. Additionally, a boat that is owned by the appellant is currently parked in the driveway and placing the boat inside the building will also provide visual relief for adjacent properties.

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

Yes. The appellant is contributing to the need to request the variance due to the size of the requested building. The building coverage is exceeded by approximately 350 square feet. It seems that there may be options to slightly modify the attached porch or building to reduce the size and meet the maximum building coverage of 15% however, changes and reductions to the maximum permitted building coverage are also circumstances affecting

the building coverage and limitations 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. No environmentally sensitive areas of the property 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 1-5 were answered in the affirmative, staff recommends approval of the requested variance.

Recommendation

Request: ***Variance to allow the accessory building placement to meet a setback of 28-feet in front of the principal dwelling at a front yard setback of less than 100-feet***

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 irregular configuration of the lot, having a triangular boundary, is a special condition of the subject property which creates constraints that generally do not exist on other properties in the same zoning district. The angle of the property line adjacent to the right-of-way creates a special condition on the subject property in relationship to the lot configuration. Additionally, the 20-foot wide public utility easement along the northern property line and the 30-foot wide water easement along the southern property line further limit locations for constructing an accessory building in compliance with the 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. Residential accessory structures are permitted within the zoning district.

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

Yes. The impact, if any, on surrounding properties will be minimal. The proposed detached accessory building will not create any sight distance issues and appears to be smaller in size than other existing detached accessory structures along NW Beaver Drive. A row of trees buffers the property along the northern property line. Additionally, a boat owned by the appellant is currently parked in the driveway and placing the boat inside the building will also provide visual relief for adjacent properties.

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

Yes. The size, configuration, and location of easements on the subject property are existing conditions of the site that did not result from any action(s) of the appellant.

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 environmentally sensitive areas of the property 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 1-5 were answered in the affirmative, staff recommends approval of the requested variance with an adjustment to the requested setback from 28-feet to 30-feet for the proposed accessory building to remain outside of the existing water easement for the construction of the proposed accessory building and allow it to be located in front of the principal dwelling at a setback that is less than 100-feet. The water easement was reviewed and discussed with the property owner who has agreed to the amended request for a 30-foot setback in lieu of the previous request for a 28-foot setback.

Attachment 'A'

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.

POLK COUNTY
Leading the Way

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.

(time stamp)
Official Use Only

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)
I am requesting 2 variances, my first request is for the front setback of 50' to be reduced to 28'. My second request is to have the 15% building coverage requirement changed to allow for a total of roughly 15.8% I am requesting these changes to construct a 40'X80' pole barn with an 8'X80' forward facing porch to house my boat, trailers, future RV along with a hobby shop.

2. Subject Property Address: 10367 NW Beaver Dr. Johnston IA 50131

3. Subject Property Zoning District: Rural Residential

4. District and Parcel Number: 240/00714-030-701

5. Subject Property Legal Description (attach if necessary):
Lot 1 Bridge Port Estates

6. Filing Fee: $319 per variance (each provision requested for a variance is considered a separate variance request)

7. Applicant(s) Information:

Cory Schares		5/21/2021
Applicant (Print Name)	Signature	date

Owner	Corkscrew9999@Gmail.com
Interest in Property (owner, renter, prospective buyer, etc.)	Email

10367 NW Beaver Dr. Johnston IA 50131	319 415 6790	
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

9. Property Owner Consent

The application must be signed by all the Titleholders, Contract Purchasers, or Option Purchasers of the subject property. The application may also be signed by the Registered Agent for a corporation or other person with similar legal authority to sign for a property owner. (if additional signatures are needed please attach)

Cory Schares		5/21/2021
(Print Name)	Signature	date
Elizabeth Schares		5/21/2021
(Print Name)	Signature	date
(Print Name)	Signature	date
(Print Name)	Signature	date

10. State the reason(s) the variance is necessary and why you cannot comply with the regulations of the Zoning Ordinance. Specifically explain the nature of the appeal.

The primary reasons for requesting the variances listed is the size and irregular shape of our lot. The 20' front and rear yard electrical easement add another challenge to what we are trying to accomplish. We moved to this location over 5 yrs ago with hopes to build our dream shed. We have put lots of thought into this and even went as far as to relocate our septic system one year ago to make room to build. Aesthetically I would like for this to be a continuation of our current home as it will sit somewhat alongside it. The shape of our lot is triangular as it runs along NW Beaver Drive making it dificult to stay within the 50' setback. In relationship to the orientation of the house the shed will be almost entirely positioned behind the house but the most forward corner finds itself 28' from the setback where 50' is required. For a visual a 28' setback will remain roughly 65' from the edge of the road or 77' to the center of the road leaving lines of sight for both neighbors and traffic unobstructed.

The second request is for building coverage to be changed from 15% to 15.8% Our lot size of 43,749 sq ft. would allow us a building coverage of 6562 sq ft. at 15%. The lot size is very small in comparison to other houses zoned RR making it difficult to stay within the 15% requirement. For example our neighbor directly to the east occupies nearly 18% while having a similar sized lot. With existing and proposed buildings, porches, decks, and patios included I am requesting a slight increase to allow for 6936 sq ft. of total coverage equaling 15.8%

A completed application with site drawing and filing fee are required for a submittal.
Incomplete submittals will not be processed and returned to the Applicant.

Return completed forms to: Polk County Public Works, Planning Division 5885 NE 14th Street, Des Moines, IA 50313
Phone (515) 286-3705 ▪ Fax (515) 286-3437 Email: PublicWorks@polkcountyiowa.gov
Forms available online http://www.polkcountyiowa.gov/PublicWorks/ BOA Calendar CALENDAR

OFFICIAL USE ONLY			
Received by		Docket Number	
Date Received		Reviewed by	
BOA meeting date		BOA Approved	Y / N

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.

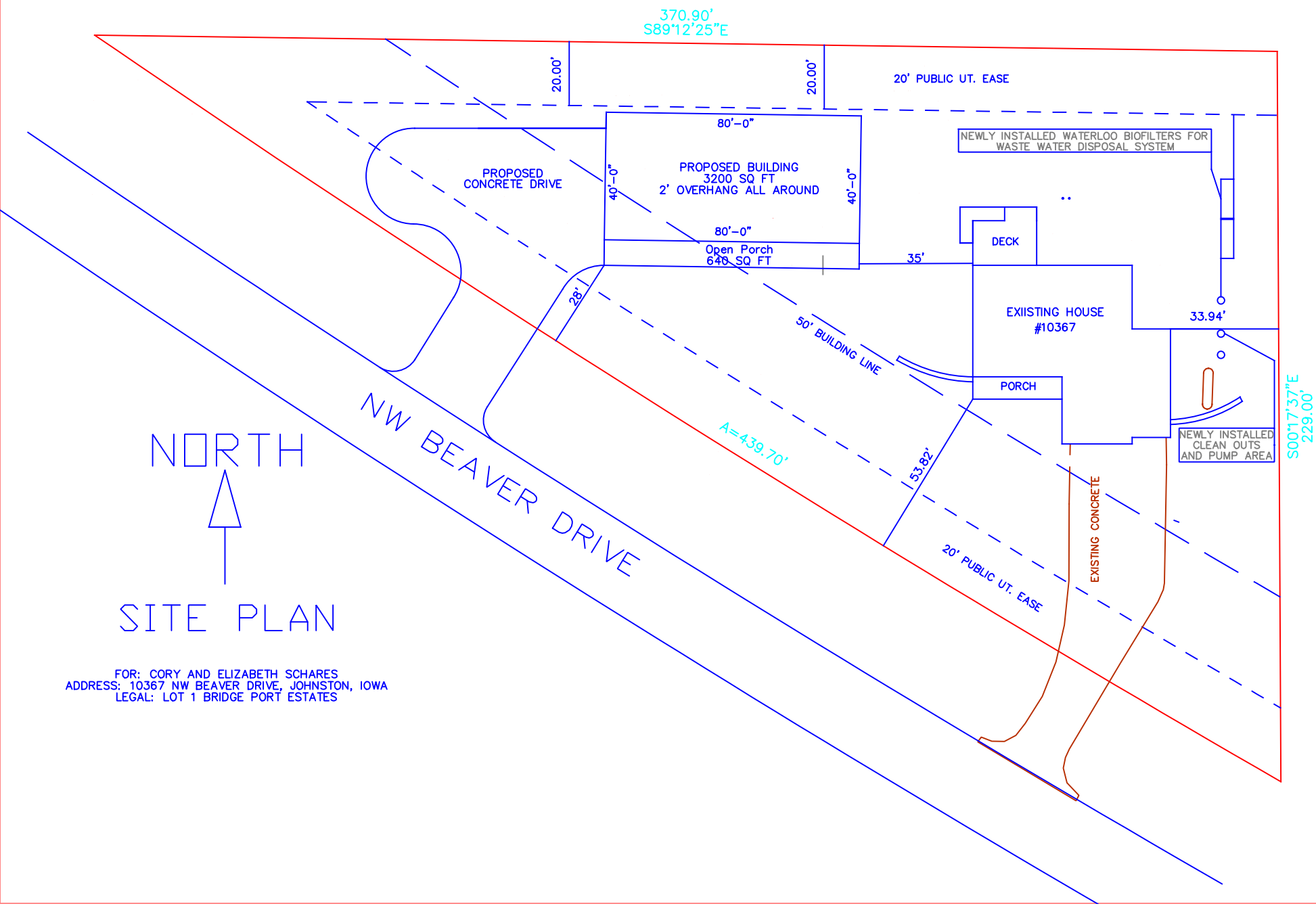
5. The variance will not entirely void the natural resource protection requirements of this Ordinance.

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.

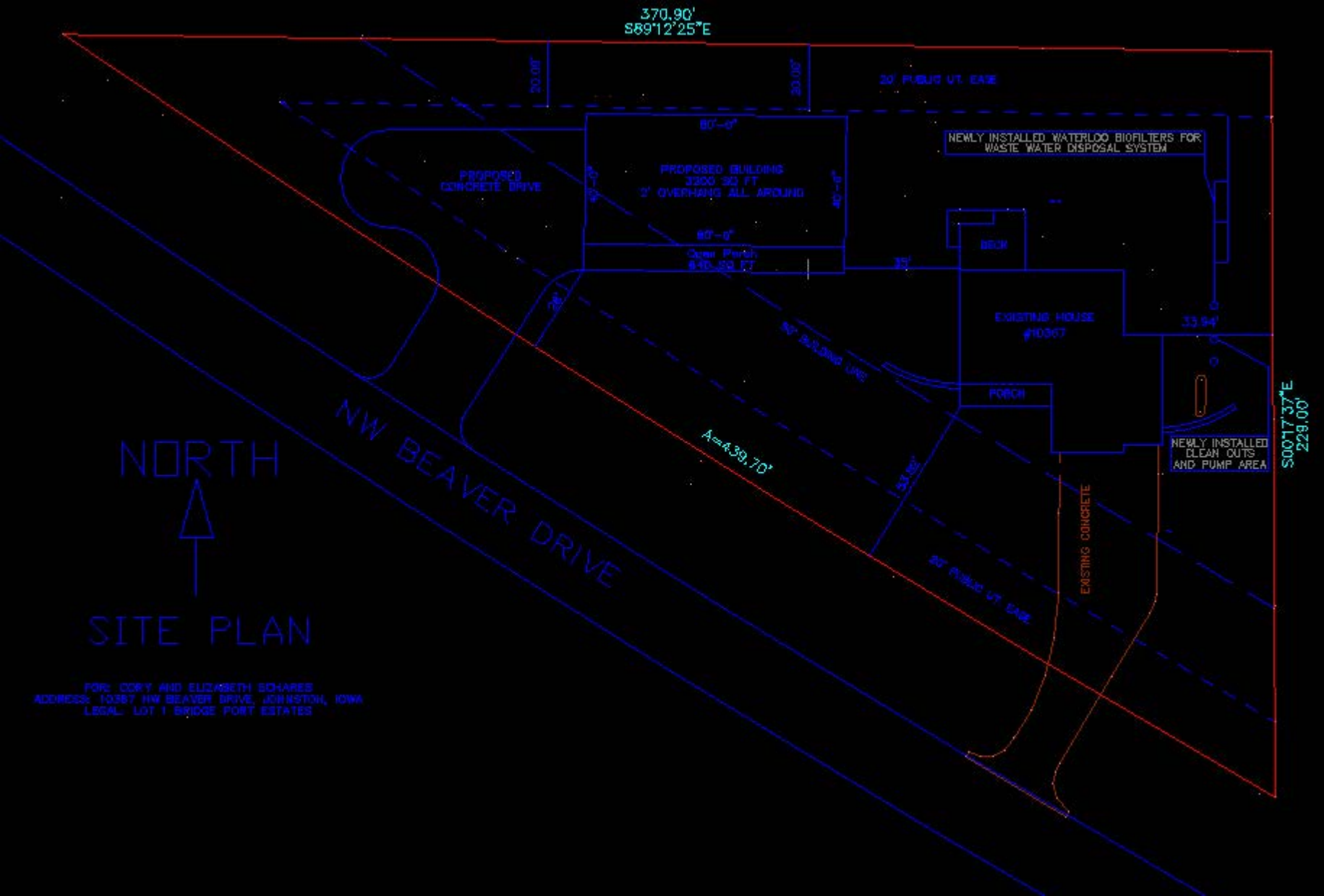
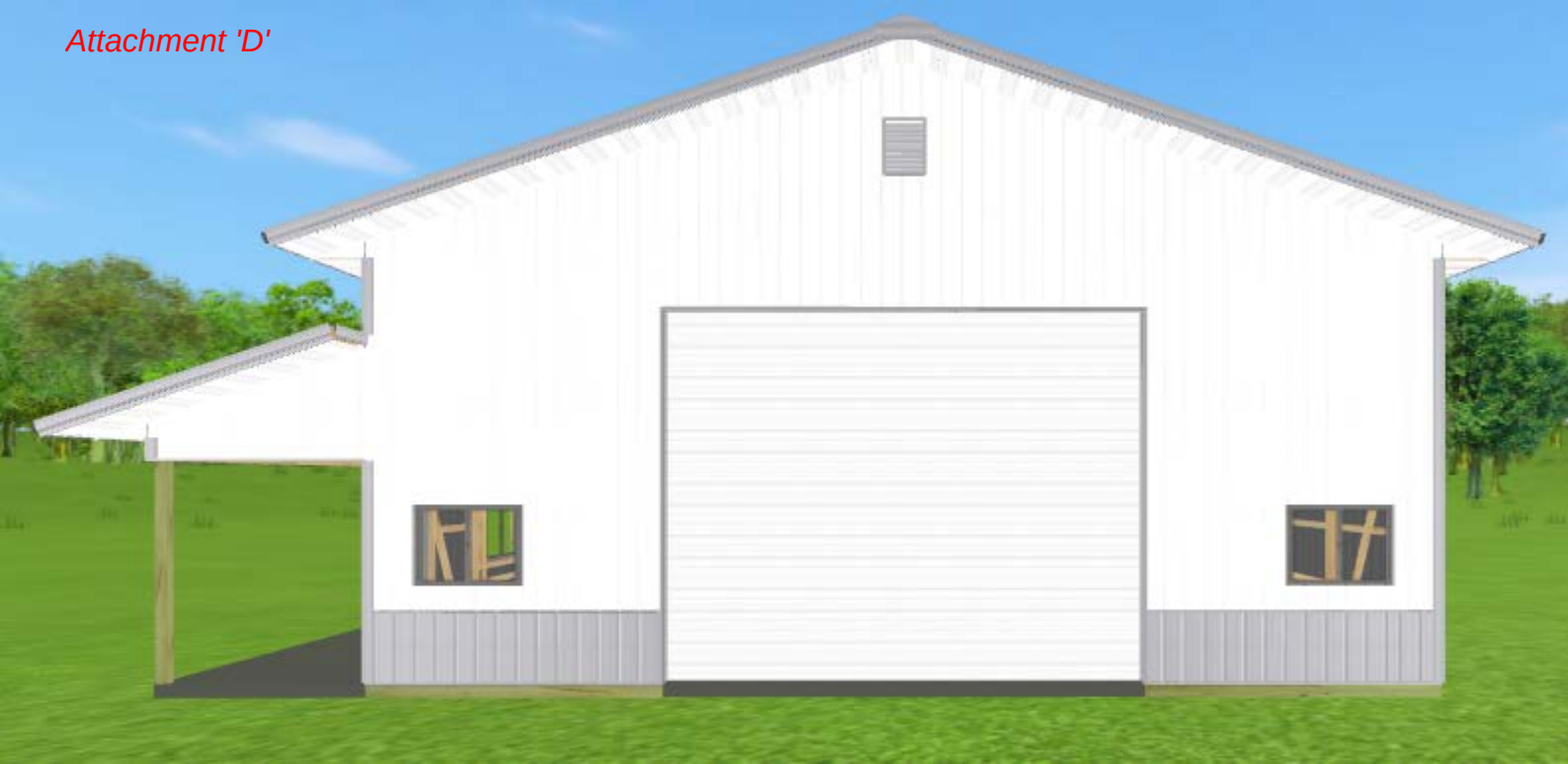
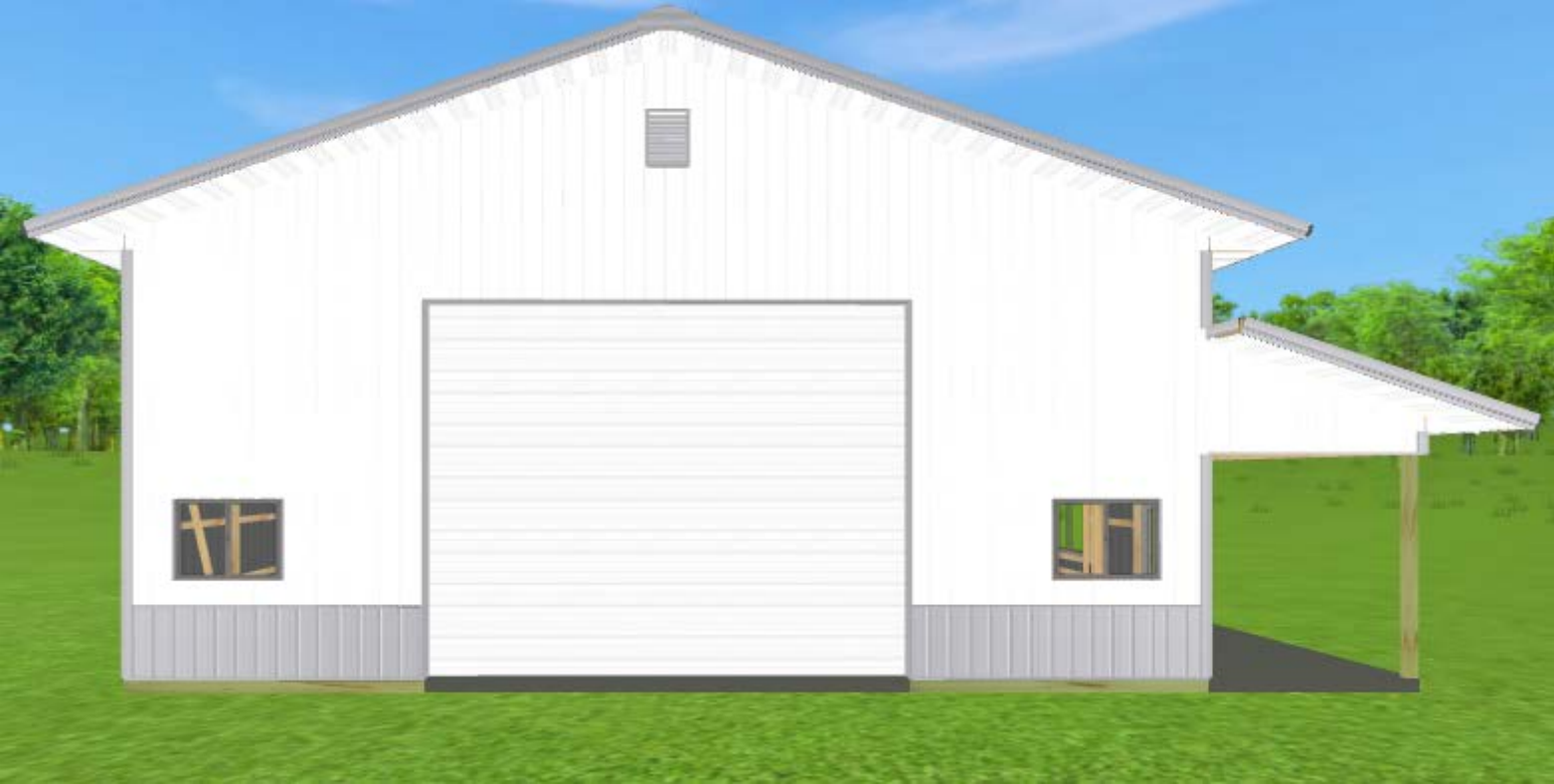
Attachment 'B'
10029
NW 100TH ST
NW 106TH AVE
NW SAYLORVILLE DR
10481
10455
10439
10415
10409
10405
10401
10367
10351
10335
10321
10392
10362
10291
10283
10263
10330
10302
10247
10350
NW BEAVER DR
Saylorville Lake
N
W
E
S
0
625
1,250
Feet
Public Works, Polk County, Iowa

Attachment 'C'



SITE PLAN

FOR: CORY AND ELIZABETH SCHARES
ADDRESS: 10367 NW BEAVER DRIVE, JOHNSTON, IOWA
LEGAL: LOT 1 BRIDGE PORT ESTATES


370.90'
S89°12'25"E
20.00'
20.00'
20' PUBLIC UT. EASE
80'-0"
PROPOSED CONCRETE DRIVE
PROPOSED BUILDING
3200 SQ FT
2' OVERHANG ALL AROUND
40'-0"
40'-0"
90'-0"
Open Porch
640 SQ FT
NEWLY INSTALLED WATERLOO BIOFILTERS FOR WASTE WATER DISPOSAL SYSTEM
DECK
35'
EXISTING HOUSE
#10367
33.94'
PORCH
NEWLY INSTALLED CLEAN OUTS AND PUMP AREA
S00°17'37"E
229.00'
A=439.70'
NW BEAVER DRIVE
NORTH
SITE PLAN
EXISTING CONCRETE
20' PUBLIC UT. EASE
FOR: CORY AND ELIZABETH SCHARES
ADDRESS: 10367 NW BEAVER DRIVE, JOHNSTON, IOWA
LEGAL: LOT 1 BRIDGE PORT ESTATES

Attachment 'D'