

**Docket Number:** 24/14280

**Appellants:** Lee Michael (Applicant), 1805 SE 60<sup>th</sup> Street, Pleasant Hill, Iowa 50327, with consent from the Melvin and Debra Thomas Trust (Property Owners), all being represented by Vic Piagentini of Associated Engineering Company of Iowa, 1520 NW Irvinedale Drive, Ankeny, Iowa 50023.

**Appeal:** The appellants request a Variance to allow an existing horse barn to remain located approximately 54.48 feet from a neighboring dwelling unit, in lieu of the required 150 feet.

### **Background**

The subject property is located at 1805 SE 60<sup>th</sup> Street, Pleasant Hill, and is legally described as Outlot X of Deer Ridge Run, an official plat, now included in and forming a part of Polk County, Iowa, being within the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 10, Township 79 North, Range 23 West of the 5<sup>th</sup> P.M. (Fourmile Township). The subject property is approximately 28.5 acres in size and is zoned "LDR" Low Density Residential District. The subject property is located approximately 1,920 north of the intersection of SE Vandalia Drive and SE 60<sup>th</sup> Street. The surrounding properties to the North and East are located within the City of Pleasant Hill. The surrounding properties to the west and south are all zoned "LDR" Low Density Residential District and contain single-family dwellings. See *Attachment A* for a vicinity map of the subject property and surrounding area.

The subject property is the unbuildable Outlot X located east of the lot addressed as 1805 SE 60<sup>th</sup> Street. Outlots are considered unbuildable until further subdivided. The subject property was created as part of the subdivision plat Deer Ridge Run recorded in 2002. Deer Ridge Run also created five buildable lots west of Outlot X with frontage along SE 60<sup>th</sup> Street. The subject property contains three (3) existing structures on permeant footings, including the accessory horse barn that is the subject of this appeal. Additionally, there are four (4) accessory structures on sled like foundations. The owners of 1845 SE 60<sup>th</sup> Street and 1805 SE 60<sup>th</sup> Street are related to the owners of the subject property and use the subject property for quick access to the accessory structures and horses they shelter. Every accessory structure was established or constructed without permits on the unbuildable subject property.

The appellants, in addition to this request, are required to replat two (2) lots in Deer Ridge Run to capture all structures currently located on the unbuildable subject property. Specifically, the buildable lots addressed as 1805 SE 60<sup>th</sup> Street and 1845 SE 60<sup>th</sup> Street will have their boundary expanded east to capture the structures. The owners of 1845 SE 60<sup>th</sup> Street and 1805 SE 60<sup>th</sup> Street are related to the owners of the subject property and use the subject property for quick access to the accessory structures and horses they shelter. The proposed plat is named Deer Ridge Run Plat 2 and is currently under review by Polk County. Deer Ridge Run Plat 2 will place two (2) of the accessory buildings with permanent footings on 1845 SE 60<sup>th</sup> Street while the other will be captured by the expansion of 1805 SE 60<sup>th</sup> Street. The existing approximately 1,416 square foot horse barn proposed to be located on the 1805 SE 60<sup>th</sup> Street lot is the subject of this request. This accessory horse barn structure is located less than the required 150 feet from the neighboring dwelling unit to the south at 1845 SE 60<sup>th</sup> Street. See *Attachment B* for the most recent submittal of Deer Ridge Run Plat 2.

### **Summary of Request**

The Polk County Zoning Ordinance, *Article 4: Use Regulations, Division 7: Animal Regulations, Section 1(C)* stipulates that structures enclosing 120 square feet or more of ground floor area which shelter animals, except dogs and cats, shall be located 150 feet or more from neighboring dwelling unit. The appellants request a Variance of approximately 95.52 feet to allow an existing horse barn to be located approximately 54.48 feet from a neighboring dwelling unit, in lieu of the required 150 feet. See *Attachment B* referenced above which also outlines the distances to each structure and see *Attachment C* for a copy of the Variance Appeal Application.

Staff mailed out 12 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 request, and no responses in opposition.

### **Natural Resources**

The subject property contains some very steep ravines in the wooded areas located on the north and south sides of the property. The central portion of the property is mostly flat at high elevation of 900 with the low elevation of 810 located along the northern property line at the bottom of a ravine. The subject property contains a pond with groups of mature trees located in the ravine areas on the north and south side of the property. 1805 SE 60<sup>th</sup> Street the lot the building is proposed to be captured by contains no mature trees and slopes down sharply from east to west towards SE 60<sup>th</sup> Street with a high elevation of 898 on the east property line to 880 along the west property line. The subject property contains a very small portion of mapped floodplain in the north central portion of the lot but it will not be affected. The subject property contains no other known environmental hazards or features.

### **Roads & Utilities**

The subject property has 50 feet of frontage along NE 60<sup>th</sup> Street located two (2) lots to the south of 1805 SE 60<sup>th</sup> Street, to provide access for further subdivision of Outlot X. 1805 SE 60<sup>th</sup> Street has 150 feet of frontage along SE 60<sup>th</sup> Street. SE 60<sup>th</sup> Street is a two-lane local roadway maintained by Polk County. The subject property does not contain a septic system but 1805 SE 60<sup>th</sup> Street is served by an onsite septic system. Des Moines Water Works provides water to the area via a 6-inch main located on the west side of SE 60<sup>th</sup> Street.

### **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 steep sloping topography and the pond on the subject property make it difficult to place a building that meets the required 150-foot minimum separation distance to neighboring dwelling units, while still providing access to the owners of both 1805 and 1845 SE 60<sup>th</sup> Street. Additionally, the subject property provides flat ground and direct access to a large area for horse grazing.

- 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. An accessory building for large livestock is allowed in “LDR” Low Density Residential Districts.
- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?
- Yes. The property owner of 1845 SE 60<sup>th</sup> Street is related to the owner of the subject property and the owner of 1805 SE 60<sup>th</sup> Street. Additionally, they have submitted a response showing they are in support of this variance request. The accessory horse barn meets the 150-foot minimum separation distance requirement from all other dwelling units.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?
- Yes. The steep topography of 1845 and 1805 SE 60<sup>th</sup> Street in addition to the topography located on the subject property are not a result from actions taken by the applicants. Although the owners did construct the horse barn and other accessory structures on the unbuildable subject property without permits, they are working with the County to rectify the situation by replating adjacent buildable lots to capture the structures. If all the structures were located on buildable lots the surrounding terrain would still make it difficult to place a building that does not require a similar request.
- 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. It does not appear that any environmentally sensitive areas will 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.







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)

<u>Jason Steele</u> (Print Name)	<u>Jason Steele</u> Signature	<u>3/7/24</u> date
<u>Lacey Steele</u> (Print Name)	<u>Lacey Steele</u> Signature	<u>3/7/24</u> date
<u>Melvin Thomas</u> (Print Name)	<u>Melvin Thomas</u> Signature	<u>3-7-24</u> 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 VARIANCE IS REQUIRED SO THAT THE OWNERS OF 1805 & 1845 SE 60<sup>TH</sup> STREET CAN PROCEED TO PLAT THE GROUND TO INCLUDE THE ACCESSORY STRUCTURES ON THEIR OWN LOT.~~

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**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 14<sup>th</sup> Street, Des Moines, IA 50313  
 Phone (515) 286-3705 • Fax (515) 286-3437 Email: PublicWorks@polkcountyowa.gov  
 Forms available online <http://www.polkcountyowa.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.