Appeal: The Appellants requests an eleven and one-half (11.5’) foot front yard setback Variance to reduce the northern front-yard setback to 23.5- feet from the required 35-feet to allow for the installation of an egress window well for a proposed basement bedroom for a principal residence in the “LDR” Low Density Residential District.

Background
The subject property is located at 6685 NW 10th Street, Des Moines, and is legally described as Lot 53, Saylorville Heights Plat 2, which is located in Section 3, Saylor Township. The subject property is 16,614 square feet in area (0.381 acres) and contains a single-family residential dwelling, and one (1) detached accessory structure.

The subject property is zoned “LDR” Low Density Residential District, as are the surrounding properties within the surrounding neighborhood. The subject property is located northwest of the unincorporated village of Saylorville. The area is residential in nature, with surrounding properties being of similar size and featuring single-family residential structures. See Attachment A at the end of this report for an aerial vicinity map of the subject property and surrounding area.

The subject property is located at the southeast corner of NW 10th Street and NW 67th Avenue. The residence on the subject property was constructed in 1965, and was permitted by the Polk County Public Works department. At the time of the construction of the residence the front property line was considered to be along NW 10th Street to the west, and northern property line along NW 67th Avenue the location of the proposed egress window well) was considered to be a side property line and would have required a ten (10) foot setback. Under the current Zoning Ordinance, all lot lines adjacent to public right-of-way are considered front property lines requiring front setbacks be met. Also, the current Ordinance establishes the rear property line for corner lots as opposite the lot line along which primary access is taken. Because the driveway is onto NW 67th Avenue, the northern lot line, the rear lot line would be the south lot line.

The residence on the subject property therefore currently has a legal nonconforming front setback to the north and a legal nonconforming rear setback from the south lot line, as the north side of the home is located approximately 26.5-feet from the northern front property line, in lieu of the required 35-feet; and the south side of the home is located approximately twelve (12) feet from the southern property line, in lieu of the required 35-feet. The current Ordinance would allow an addition to the residence so long as these nonconforming setbacks are not further decreased. However, the proposed egress window will encroach an additional three (3) feet into the nonconforming 26.5 – foot northern front setback, which requires a variance.

Summary of Request
The Polk County Zoning Ordinance, Article 6: Bulk and Use Standards, Table 6.1 Table of Single-Family Bulk Standards establishes a front yard setback of thirty-five (35) feet from a principal structure. The definition of “Lot Line, front” is established under Article 2: Definitions as "In the case of a double frontage lot, each property line or street right-of-way line separating such lot from a street shall be
considered to be the front lot line.” By definition, the northern property line is considered a front lot line, as it is adjacent to the public right-of-way.

The proposed construction of the egress window well will be located on the north side of the home west of the current driveway. The egress window well will intrude an additional three (3) feet into the front setback, and will be 50-inches wide and 60-inches deep. The setback from the edge of the window well to the front property line is proposed to be 23.5-feet (twenty-three and one-half feet), a variance of a total of 11.5-feet (eleven and one-half feet). See Attachment B at the end of this report for a copy of the site plan submitted with the variance application.

Staff mailed out twenty-seven (27) 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 two (2) responses in support of the request, and no responses in opposition.

Natural Resources
The subject property is not located within a mapped floodplain. The northern portion of the site is mostly flat, with a slight grade from the house to the road ditches to the north and west. The grade does slope to a low-point of the site at the center of the southern property line, where there is a walkout basement.

Roads & Utilities
The subject property has approximately 101 feet of frontage along NW 10th Street, and 164.5 feet of frontage along NW 67th Avenue. The driveway on the subject property accesses NW 67th Avenue to the north of the residence. Access will not change with this proposed variance.

The home is served by an on-site septic system, which is located at the northeast corner of the property, on the opposite side of the driveway of the proposed egress window well. The location of the proposed window well exceeds the minimum 10 feet of separation between the home and the septic system. Water service is provided by Des Moines Water Works, and there are 6-inch private water mains running on the north side of NW 67th Avenue and the west side of NW 10th 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 current home on the subject property was constructed prior to the enactment of the current site development regulations, and appears to have met all setback requirements at the time of approval. The change of definition of what is considered the front property line has created a hardship on the property, as the home is positioned in a location that would be considered nonconforming by today’s standards.

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. The residential use of the property is an allowable use in the “LDR” district, and the addition to the home would be allowed if it met all setback requirements. The proposed home addition is an egress window well, which is required to construct a code-conforming and safe bedroom in the basement of a home.

3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?
Yes. The proposed home addition will have minimal impact adjacent property owners or those passing by the home, as it will be primarily underground and only moderately visible from the public right-of-way.

4.) Is there a special condition or circumstance that did not result from the actions of the applicant?
Yes. When the home was constructed, the northern property line was considered to be a side-yard, and had a reduced setback as compared to a front yard. The current Zoning Ordinance now considers the northern property line to be a front-yard, and has a larger setback. The home was constructed prior to current version of the Ordinance.

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 home addition is required to be a minimum of ten (10) feet away from the on-site septic system.

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.
well dimensions 50"w x 36"p x 60"d

Distance Result: 36.6 Feet

Distance Result: 26.5 Feet