

**Appeal:** The Appellant requests a Variance to allow an addition to the principal dwelling to be located five (5) feet from an existing accessory building, in lieu of the required ten (10) feet of separation between a principal residence and a residential accessory building.

**Appeal Given:** “The proposed addition will be too close to the existing detached building. It doesn’t meet the 10 feet separation distance requirement and is closer to 5 feet from the addition. Hoping we can leave the building as is and still do the addition. We are appealing the 10 feet required distance of the existing building to the new addition.”

### **Background**

The subject property is located at 1750 NE 134<sup>th</sup> Avenue, Alleman, and is legally described as the south 216 feet of the west 171 feet, and the south 112 feet of the east 70 feet of the west 241 feet, less roadway, of Lot 3 of McGowen Acres, within Section 24, Lincoln Township. The subject property is approximately 37,026 square feet in area. The subject property currently contains a single-family residential dwelling, as well as two (2) detached accessory structures.

The subject property is zoned “AG” Agricultural General District, as are all of the surrounding properties. The corporate boundary of the City of Alleman is located 758 feet West of the subject property. The surrounding area features residential and agricultural properties, including six (6) parcels containing residential structures, and nine (9) parcels which are agricultural in nature. West of the subject property within the corporate limits of the City of Alleman is residential in nature, with multiple single family dwellings. Of the three properties which abut the subject parcel, one contains a residential dwelling and is approximately three (3) acres in size, with the remaining two (2) parcels being used as agricultural ground at approximately 12 and 59 acres in area respectively. The 12 acre agricultural parcel appears to be under family ownership, with the listed owner being Cory Agricultural Properties LLC. See *Attachment A* at the end of this report for an aerial vicinity map of the subject property and surrounding area.

The existing dwelling on the subject property was constructed in 1888, and the garage was constructed in 1945, according available County records. The existing dwelling has a legal nonconforming front setback of less than the currently required 50 feet within the “AG” District.

### **Summary of Request**

The Polk County Zoning Ordinance, *Article 4: Use Regulations, Division 6, Section 1 Residential Accessory Buildings (C)* stipulates that an accessory building must be located at least ten (10) feet from a principal structure. Currently, the rear (North side) of the home sits 31 feet from an existing 12’ x 20’ (240 square feet) garage. The Appellant is proposing to construct a 26’ x 44’ (1,144 square feet) addition to the rear of the home, which will reduce the separation between the dwelling and the garage to approximately five (5) feet. The proposed addition will feature a living room and master suite. See *Attachment B* at the end of this report for a copy of the site plan submitted with the variance application.

Staff mailed out four (4) 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 one (1) response in support of the request, and no responses in opposition.

### **Natural Resources**

The subject property is not located within a mapped floodplain. The site is fairly flat, with an elevation change of less than four (4) feet from the highpoint at the Southern property line, to the low-point at the Northern property line. The immediate vicinity is also fairly flat with minimal elevation change.

### **Roads & Utilities**

The subject property has approximately 241 feet of frontage onto NE 134<sup>th</sup> Avenue, and gains access from one driveway entrance on the Eastern side of the house. This driveway entrance is shared with the agricultural property to the North, owned by Cory Agricultural Properties LLC, and the quonset hut on that property is accessed from that entrance.

The home is served by an on-site septic system. An easement for the lateral field to extend Northeast of the home onto the neighboring property to the North was granted in 2009. The home addition must be constructed a minimum of 10 feet away from the septic system. There is a 4-inch Des Moines Water Works water main running adjacent to the subject property on the South side of the right-of-way of NE 134<sup>th</sup> Avenue.

### **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 site development regulations, and currently is situated within the current front-yard setback for a structure in the “AG” District. With the current position of the home, there are very limited expansion opportunities which would not further increase the degree of nonconformity.
- 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 “AG” district, and the addition to the home would be allowed without the need for the variance if the existing garage was not in its current location. Increasing the size of the home to the front (South) or either sides (East and West) will have greater impact on the public interest as it would be increasing the degree of nonconformity in regards to the front yard setback.

- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?
- Yes. The proposed home addition will be located in the rear of the existing house, and the location will impact neighboring properties or public areas minimally. If the addition was to be located on the front of the home or on either side of the home it would be increasing the nonconformity of the existing front yard setback. The greatest impact of the proposed addition and variance will be on the property owner, with the reduced separation distance between the two buildings on the property.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?
- Yes. The close proximity of the home to the front property line provides difficulties for the property owner to construct additions to the structure. The proposed addition to the rear would be limited based on the proximity of the garage to the home.
- 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, subject to the following conditions of approval:

1. The variance shall only allow a reduction in the accessory structure separation distance for the existing 12' by 20' (240 square feet) detached garage. Any new accessory structures, additions to the existing accessory structure, or future additions to the home shall meet all required separation distances and setback requirements.

**Attachment 'A'**

**Alleman**

NE 14th St

1480

1650

1700

1750

1920

1996

1990

2020

NE 134th Ave

1497 1517 1559 1583

1481

1485 1509 1547 1571

13333

13287

13277

13211

**1750 NE 134th Avenue**



**Attachment 'B'**

Polk County Public Works – Site Plan Worksheet

1" = 40'

SITE ADDRESS: \_\_\_\_\_

OWNER'S NAME: \_\_\_\_\_

APPLICANT'S NAME: \_\_\_\_\_

APPLICANT'S PHONE: \_\_\_\_\_

**INSTRUCTIONS TO APPLICANT**

Specify Site Address and Owner's Name.

Specify Name and Phone Number of person furnishing Site Plan information.

all streets must be identified.

Indicate lot dimensions.

All structures, existing and proposed, must be shown on the Site Plan. Dimensions of and distances to all lot lines from existing/proposed buildings must be indicated as well as distances between all proposed/and existing structures.

Indicate location of and distance to property entrance(s), existing and/or proposed. Dimensions from corner of property to center of drive should be indicated.

Indicate location of and distance to existing and proposed septic tank(s) and/or on site waste-water treatment system(s) and if applicable geothermal heat pumps.

Indicate location of ponds, streams, drainage ways, and/or ravines. All physical features must be shown.

Identify North Directional Arrow and indicate scale of Site Plan.

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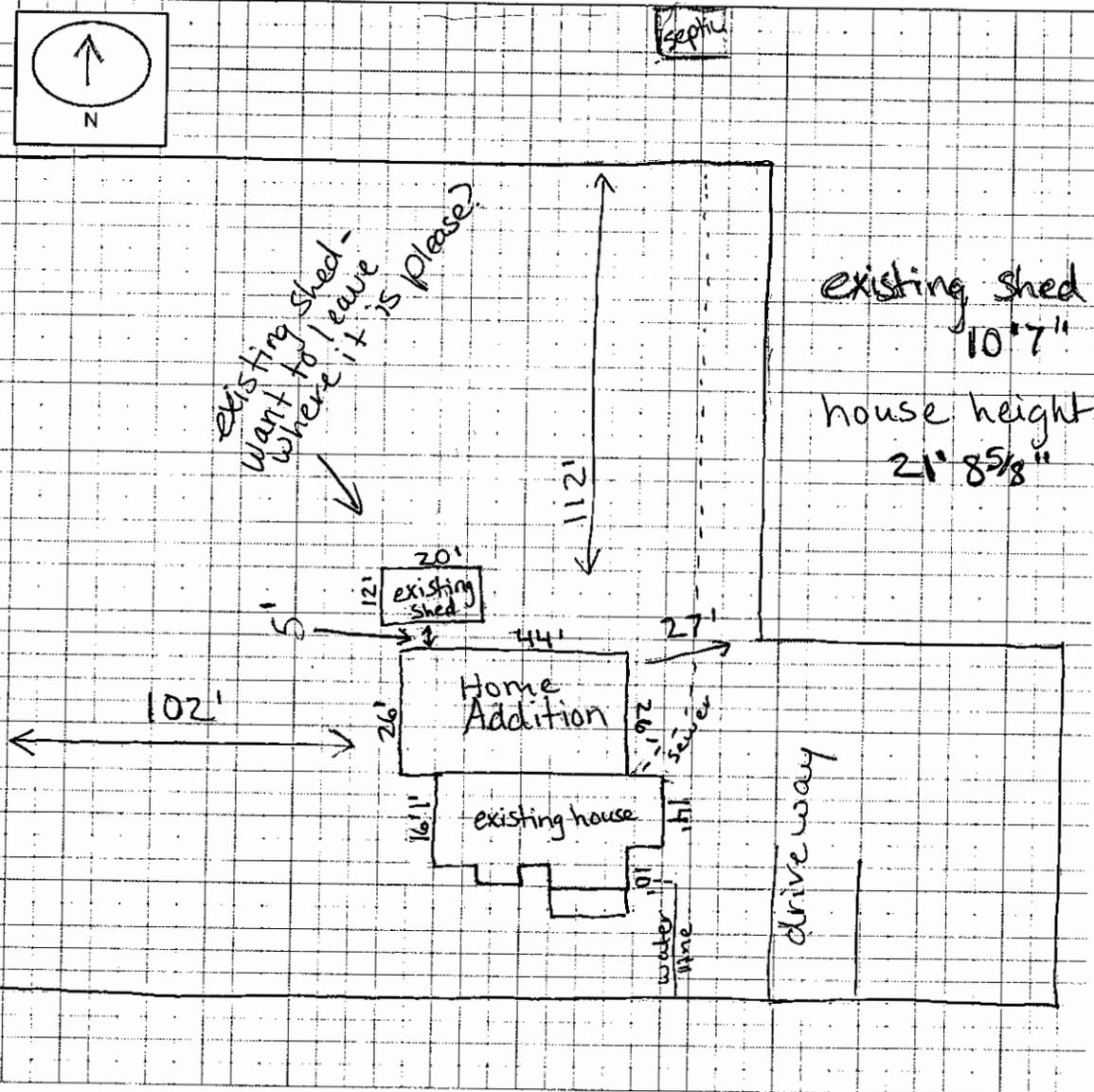
I, WE CERTIFY THAT THE PROPOSED CONSTRUCTION WILL CONFORM TO THE DIMENSIONS AND USES SHOWN ABOVE AND THAT NO CHANGES WILL BE MADE WITHOUT FIRST OBTAINING APPROVAL.

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APPLICANT'S SIGNATURE \_\_\_\_\_

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DATE \_\_\_\_\_



existing shed height  
10'7"

house height  
21' 8 5/8"