

**Docket Number:** 20/8694

**Appellant:** John Teig (Property Owner)  
14431 NE 46<sup>th</sup> Street  
Elkhart, IA 50073

**Appeal:** Requesting an approximately two (2) foot, six (6) inch height increase Variance (from 24-feet to 26-feet 6-inches) for a proposed 50-foot by 104-foot (5,200 square feet) accessory building to be constructed on the subject property. The Appellant is also requesting an approximate 160-foot Variance to allow the accessory building placement in front of the principal building with greater than 150-feet of separation between the structures.

**Appeal Given:** Please see *Attachment 'A'* to view the full appeal provided with the application submittal. The following is an excerpt from *Attachment 'A'*:

“The reason for 16’ sidewalls is to allow for 14’ overhead doors that are required for clearance of an RV/camper, which is one of the primary uses of this accessory building.”

“This proposed accessory building would have approximate dimensions of 50’ x 104’ and would be located on a clear surface located between the house and the front of the property line. The size of the building and the topography of the open land space require a specific placement of the building that is 310’ from the house and 428’ from the front of the property line, and the road. The proposed placement also prevents sight blockage of the road from the house, and prevents snow drifting of the driveway from the road to the house.”

### **Background**

The subject property is zoned “AG” Agricultural District and is legally described as a 25.6-acre parcel located within the N ½ SW ¼ of Section 15 in Elkhart Township. The property is addressed as 14431 NE 46<sup>th</sup> Street, Elkhart, IA 50073. The subject property is an irregular shaped flag lot with a 428-foot long flagpole and 50-feet of frontage along NE 46<sup>th</sup> Street. The property comprises one owner-occupied home with a driveway that extends approximately 830-feet from west to east. The existing home (1,940 square feet) with attached garage (1,360 square feet) was permitted and issued a Certificate of Occupancy in 1984. An existing approximately 30 x 56 (1,680 square feet) accessory building is located approximately 75-feet northwest of the house and was permitted in 1997. The Appellant acquired the subject property in 1990.

The Appellant met with Planning Division staff to discuss the proposed accessory building. During this review, it was determined that a Variance would be required in order for the accessory building to comply with the Polk County Zoning Ordinance. This Variance request is for a proposed 50’ x 104’ (5,200 square feet) accessory building to be constructed on the subject property at a maximum height of approximately 26-feet, 6-inches. The accessory building will be located approximately 310-feet from the closest point of the existing house. As noted in the appeal provided by the Appellant, the accessory building is for personal use and will include the storage

of an RV/camper.

A site review of the subject property was conducted on Tuesday, February 11, 2020. The review of the site and the surrounding residential properties revealed a variety of detached accessory buildings that have been constructed. The significant setback from the frontage of the subject property along with the existing trees that line the long driveway will limit the view and impact of the accessory building on adjacent properties. The site visit also revealed that the site had been prepared for the location of the building with some grading completed. A Building Permit will be required for the proposed accessory building. All grading associated with preparing the site for the building construction will be evaluated through the Building Permit and associated inspection process. A map showing the location of the subject property is included as *Attachment 'B'* and a site plan and sketch of the proposed building submitted by the Appellant is included as *Attachment 'C'*.

Staff mailed out 6 notices regarding the request, including the date and time of the public hearing, to surrounding property owners within the 250-foot notification boundary. To-date staff have received one (1) response in support and one (1) response in opposition of the appeal.

### **Summary of Request**

The Appellant is requesting an approximate two (2) foot, six (6) inch height increase Variance (from 24-feet to 26-feet 6-inches) for a proposed 60-foot by 104-foot accessory building to be constructed on the subject property. The Appellant is also requesting an approximate 160-foot Variance to allow the accessory building placement in front of the principal building with greater than 150-feet of separation between the structures.

The Polk County Zoning Ordinance, *Article 4. Use Regulations, Division 6. Accessory Regulations, Section 1. Residential Accessory Buildings (F)*, states that the height of an accessory building shall not exceed the height of the principal building or twenty-four (24) feet whichever is greater. The Appellant is proposing the construction of an accessory building at a height of approximately 26-feet 6-inches. A Variance of two (2) feet, six (6) inches is being requested to increase the maximum height allowance from 24 feet to 26 feet, six (6) inches. Additionally, under the provisions of 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 it is setback a minimum of 100-feet from the front property lines, and has a maximum separation distance between the principal structure and accessory building of 150-feet. The proposed accessory building meets the first criteria, but is approximately 310 feet from the closest point of the existing principal structure.

### **Natural Resources**

The site has 40+ grown trees that line the long driveway leading to the house. The proposed

accessory building will be primarily shielded from view of the right-of-way and the closest neighboring dwelling by the existing trees. Most of the property is covered with mature woodlands further shielding the property from adjacent properties. The property has a lot of variation between contours with a low elevation of 848 feet along portions of the drainageway on the property and a high point of 903 feet along the western frontage of the property. Most of the land on the property appears to be utilized for agricultural purposes. The site does not contain designated floodplain. The property owner had filed a 20-year Soil Erosion Control Agreement with Polk County Soil Conservation that expired in 2011 and is recorded in book 6707 on page 669. Property owners have historically followed conservation practices on the property with consideration of soil erosion control. See *Attachment 'D'* at the end of this report for the topography map.

### **Roads/Utilities**

The property has an existing access onto NE 46<sup>th</sup> Street that is a two-lane minor collector street maintained by Polk County. The road right-of-way width of NE 46<sup>th</sup> Street is approximately 100-feet adjacent to the subject property along the western parcel boundary. No new access points are proposed.

The subject property is served by MidAmerican and Des Moines Water Works for electric and water. According to the Polk County Environmental Health records, the septic system and laterals are located southwest of the home. There are three (3) long laterals located south of the septic tank that extend east and west. The location of the septic system and laterals does not conflict with the location of the proposed accessory building. An old well is located northwest of the existing home.

### **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 exceptionally large size of the property for residential use along with the long flagpole and significant setback of the house from the frontage of the property are special conditions applying to the subject property. Additionally, the location of the existing well and septic system, site topography, and the significance and location of mature woodlands on the property constitute exceptional circumstances that limit the placement of accessory structures on the property. The standards being appealed more appropriately apply to smaller rural acreages at greater densities.

- 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. A variety of detached accessory buildings are located on adjacent surrounding properties. Accessory structures are allowed within the "AG" Agricultural District and are commonly found on other residential properties.

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

Yes. The proposed accessory building will be located a significant distance from the adjacent roadway and existing residential properties with the closest dwelling at approximately 400-feet west of the identified location. Additionally, existing trees line the driveway and the property lines of the property creating a screen and buffer and will minimize the impact on adjacent properties.

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

Yes. The Appellant's proposed use and size of the building, sidewall height, and roof pitch all contribute to the height of the proposed accessory building. The large size of the property relative to its residential use, and its location in a rural and largely agricultural area of the County are existing conditions not resulting from the actions of the Appellant. The topography of the site limits buildable area on the property and is a special circumstance specific to the contours and natural formation of the parcel.

- 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.

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 to increase the maximum height allowed for the proposed accessory building from 24-feet to 26-feet, six (6) inches for an approximate two (2) foot, six (6) inch increase and to allow a separation of 310-feet from the primary building for an approximate increase of 160-feet.

## 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.

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.

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)

Requesting a variance to the accessory building ordinance that requires a maximum peak height of 24' and a maximum separation distance from the principle structure of 150'.

(time stamp)  
Official Use Only

2. Subject Property Address: 14431 NE 46th St, Elkhart, IA 50073

3. Subject Property Zoning District: AG

4. District and Parcel Number: 210/00184-006-000

5. Subject Property Legal Description (attach if necessary):

EX BEG SW COR THN E 1186F N 243.2F W 708F N302.6F W478F S TO

POB- ALL S OF LN BEG 732F S NW COR THN E 839F N 179.29F SELY

835.99F NELY 1183.22F SE 174.99F TO E LN N 1/2 SW 1/4 SEC 15-81-23

6. Filing Fee: \$315 per variance (each provision requested for a variance is considered a separate variance request)

7. Applicant(s) Information:

John Teig

Applicant (Print Name)

Owner

Signature

date

Johnlteig@gmail.com

Interest in Property (owner, renter, prospective buyer, etc.)

Email

14431 NE 46th St, Elkhart, IA 50073

515-210-6285

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

N/A

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)

Dawn Teig  
(Print Name)

Dawn Teig  
Signature

1-13-2020  
date

\_\_\_\_\_  
(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.

This variance request is regarding two zoning ordinances. The first is the ordinance that states an accessory building cannot have a peak greater than 24' or be taller than the highest peak of the principle structure on the property. The second is the ordinance for an accessory building located in a front yard to have a maximum separation distance of 150' from the principle structure.

According to the required measurement method when determining principle structure peak height, the accessory building's proposed height would exceed both the 24' ordinance and the principle structure peak height. The proposed accessory building would have 16' side walls and a 4/12 pitch roof creating a peak height of 26'6", exceeding the ordinance by 2'6". The reason for 16' sidewalls is to allow for 14' overhead doors that are required for clearance of an RV/camper, which is one of the primary uses of this accessory building.

This proposed accessory building would have approximate dimensions of 50'x104' and would be located on a clear surface located between the house and the front of the property line. The size of the building and the topography of the open land space require a specific placement of the building that is 310' from the house and 428' from the front of the property line, and the road. The proposed placement also prevents sight blockage of the road from the house, and prevents snow drifting of the driveway from the road to the house.

Because of the structural and placement requirements of this proposed building, with this application I am asking for an ordinance variance of 2'6" to the maximum peak height and 160' to the front yard maximum separation distance from the principle structure. Thank you for your time and consideration.

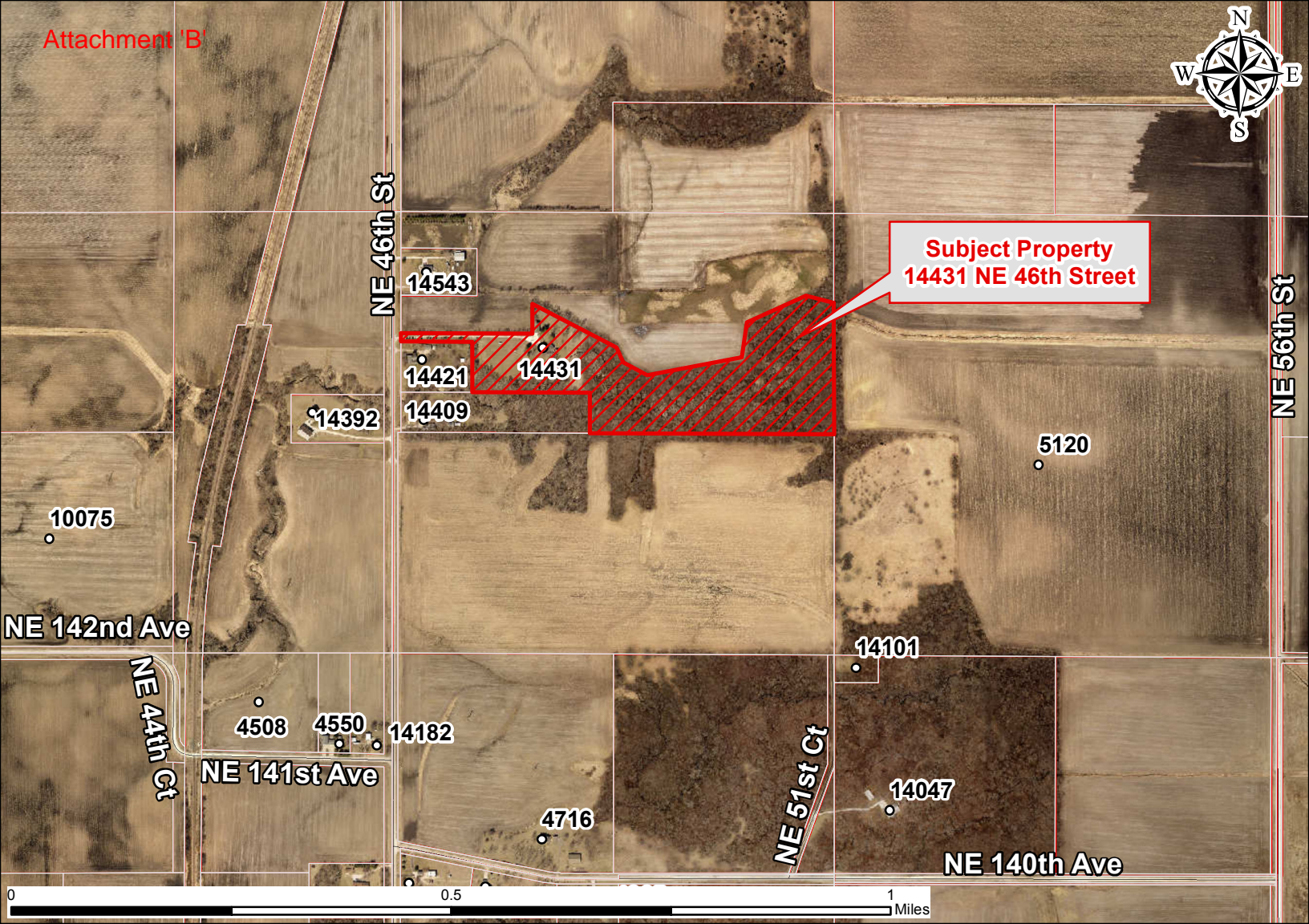
**A completed application with site drawing and filing fee are required for a submittal.  
Incomplete submittals will not be processed and returned to the Applicant.**

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

Forms and calendar available online <http://www.polkcountyia.gov/PublicWorks/>

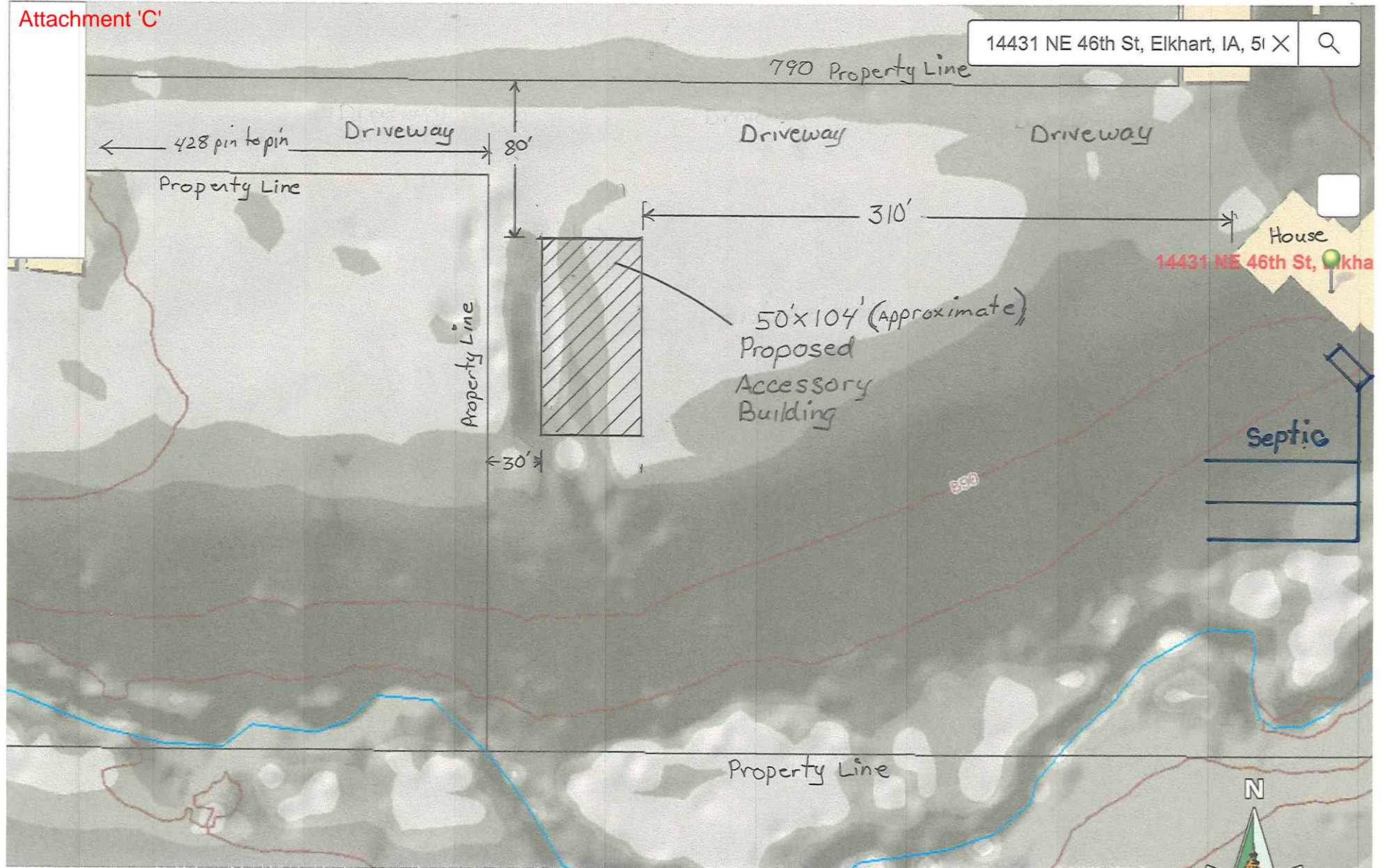
OFFICIAL USE ONLY			
Received by		Docket Number	
Date Received		Reviewed by	
BOA meeting date		BOA Approved	Y / N







## Attachment 'C'



41.825224, -93.519695



