

Appeal: The appellants request a front yard setback Variance to allow a proposed accessory building to be located in front of the principal dwelling and setback less than the required 100 feet from the front property line. The request also includes a side yard setback Variance to allow the proposed accessory building to be located less than the required ten (10) feet from a side property line.

Background

The subject property is located at 8073 NE 94th Avenue, Bondurant, and is legally described as Lot 3 of Sharon Acres plat 1, being located within Section 20, Township 80 North, Range 22 West of the 5th P.M. (Franklin Township). The property is approximately 1.12 acres in size and zoned "ER" Estate Residential District. The subject property is located southeast of the intersection of NE 94th Avenue and NE 80th Street. The City of Bondurant corporate limits are located approximately three-quarters ($\frac{3}{4}$) of a mile west of the property where they extend north to NE 94th Avenue. Surrounding properties directly east and west of the subject property are platted residential lots developed with existing single-family dwellings, and zoned "ER" Estate Residential District. Properties located north, south and further north and west of the subject property are utilized in agricultural production and primarily zoned agricultural. See *Attachment A* for a vicinity map of the subject property and surrounding area.

The subject property contains an existing single-family residence that was constructed in 1990, as well as 12' x 12' accessory shed built in 1991 and a larger 20' x 30' accessory structure built in 2001. The appellants recently purchased the property in April of 2020. The property is rectangular in shape having 150 feet of width and frontage to the north onto NE 94th Avenue, and 325 feet of depth. Sharon Acres Plat 1 was recorded in 1977 and created 16 single-family lots extending west from NE 80th Street on the south side of NE 94th Avenue. All lots have frontage and access onto NE 94th Avenue, and all have been developed with single-family residences. This area was zoned Agricultural District when it was originally platted in 1977, which at that time permitted the subdivision of minimum 40,000 SF single-family lots. The plat established a minimum front yard setback of 75 feet, which is also the minimum front yard setback under the current "ER" Estate Residential zoning of the area. All existing homes within this development observe the minimum 75-foot front setback, with a majority observing a larger front setback closer to 100 feet or greater.

Summary of Request

The Polk County Zoning Ordinance, *Article 4: Use Regulations, Division 6: Accessory Regulations, Section 1.J* stipulates that an accessory structure may not be located in front of the principal building unless the accessory structure: (1) Is setback a minimum of 100 feet from front property lines; and (2) There is a maximum separation distance between the principal building and accessory structure of 150 feet. Additionally, the Polk County Zoning Ordinance, *Article 4, Division 6, Section 1.G(2)* requires that accessory buildings with a gross floor area greater than 720 square feet shall be located at least ten (10) feet from side and rear property lines. The appellants are proposing to construct a 40' x 40' (1,600 SF) accessory garage in front of the principal dwelling at a front yard setback of approximately 55 feet. The location meets the second criteria being

located approximately 19 feet from the dwelling. The proposed building would be located approximately five (5) feet from the western, side property line, in lieu of the required side yard setback of ten (10) feet. The submitted application and site plan for this appeal can be found as *Attachment B*.

Staff mailed out five (5) 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 no responses have been received regarding this Appeal.

Natural Resources

The site topography is flat with little to no change in elevation. The site contains a few mature trees located in the southern portion of the lot as well along the west and east lot lines in the northern half of the property. A few of these mature trees may be impacted by the proposed location of the accessory building. The property is located outside any floodplain areas and contains no other environmental hazards or features.

Roads & Utilities

The property has frontage to the north along NE 94th Avenue, which is a paved two-lane minor arterial roadway maintained by Polk County. Water service is provided by an existing community well. Wastewater treatment for the subject property is provided by a private onsite septic system, which is located in the rear yard of the property. A minimum separation of ten (10) feet is required between structures and any portion of the septic system. The proposed accessory building location would be adequately separated from the existing system.

Recommendation

Staff does not support the request to allow an accessory building in front of the principal residence at a front yard setback of approximately 55 feet, as requested. Historically, staff has only supported variances to allow residential accessory structures in front of a principal residence at less than the required 100-foot setback if the structure meets the minimum front yard setback for the underlying zoning district, which in this case is 75 feet. Staff's recommendation for approval below is for a modified request to permit an accessory structure in front of the principal residence with a minimum front yard setback of 75 feet. Staff does support the requested side yard setback variance of five (5) feet to permit an accessory structure at a side yard setback of five (5) feet from the western side property line, in lieu of the required ten (10) feet, if the structure is greater than 720 square feet in size.

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 subject property is unique in that it has a relatively narrow lot width. The standard minimum lot width for the Estate Residential District is 225 feet, however the subject property was platted under a previous agricultural zoning designation. Its narrow lot width effectively limits conforming buildable areas in

which to locate an accessory building, but for the granting of a variance. Furthermore, the location of existing accessory structures and the property's septic system in the rear yard, also effectively prevent location of an additional accessory structure in a conforming location within the side or rear yards.

- 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 residential accessory structure is a permitted use on the property.
- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?
Yes. Staff does not support the proposal as requested by the appellant to allow an accessory structure in front of the principal residence at a front yard setback of 55 feet, but does support a modified request to permit an accessory structure in front of the principal residence at a front yard setback of 75 feet. 75 feet is the minimum principal building front yard setback allowed under the Estate Residential District zoning, which includes the subject property and adjacent properties within the same development. All principal and accessory structures on surrounding properties meet or exceed the minimum 75-foot front setback requirement. Approval to allow the proposed building to encroach into the 75-foot front setback would negatively impact the established building line, adjacent properties and the overall intent of the Ordinance and neighborhood character.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?
Yes. The configuration of the property, including its prior platting, current zoning, and current septic and accessory building locations were not a result of the actions of the appellants, who recently purchased the property in April of 2020.
- 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. Staff's modified request for approval requiring the accessory building meet a front yard setback of 75 feet may require removal of a few existing mature trees. However, all environmental regulations of the Polk County Zoning Ordinance would be still be met.

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 a modified variance to permit an accessory structure in front of the principal residence at a front yard setback of 75 feet or greater. Staff's recommendation for approval also includes the requested side yard setback variance of five (5) feet to permit a future accessory structure to be located at a side yard setback of five (5) feet, in lieu of the required ten (10) feet. The following conditions shall apply:

1. Due to uncertainty regarding the precise location of the subject property pins and boundaries, the appellants shall hire a licensed surveyor or engineer to prepare the site plan drawing required at time of building permit application. The site plan shall verify compliance with the setbacks approved under this request.

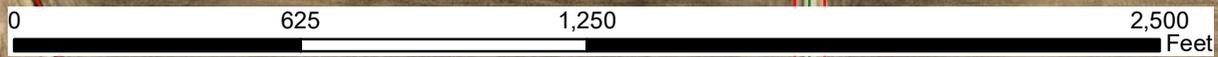
Attachment A Vicinity Map

Subject
Property

NE 94th Ave

NE 80th St

NE 83rd St



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.

(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'm requesting to build a pole barn garage just past the front of my house 5 feet from my property line.

2. Subject Property Address: 8073 NE 94th Ave Boardman, IA

3. Subject Property Zoning District: _____

4. District and Parcel Number: 23000593003000

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

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

7. Applicant(s) Information:

James D. Brittain
Applicant (Print Name)

[Signature]
Signature

9-21
date

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

jdbrittain30@gmail.com
Email

8073 NE 94th Ave Boardman IA
Address, City, State and Zip

641-757-2929
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)

James Brittain
(Print Name)

[Signature]
Signature

9-21
date

Melissa Brittain
(Print Name)

[Signature]
Signature

9/21/21
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.

Hi my name is JD Brittain. I moved from Urbandale 1 1/2 years ago to the country to have a little more space to accommodate my growing family. The garage attached to the house isn't very big and limits the size of vehicle in it due to the depth and the beam hanging down in the center. The way my property is layed out I have room for a garage at the proposed location on my site map. The factors that led me to that location was the 2 mature trees on the west side of my house, not enough room on the East side, and access to the proposed building from the driveway. The house in urbandale didn't have a shop out back, but I quickly found out the more space I have the more stuff I acquire. Also my wife only lets me keep my stuff anywhere but inside the house. Thanks for your time.

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

NE 94TH AVE

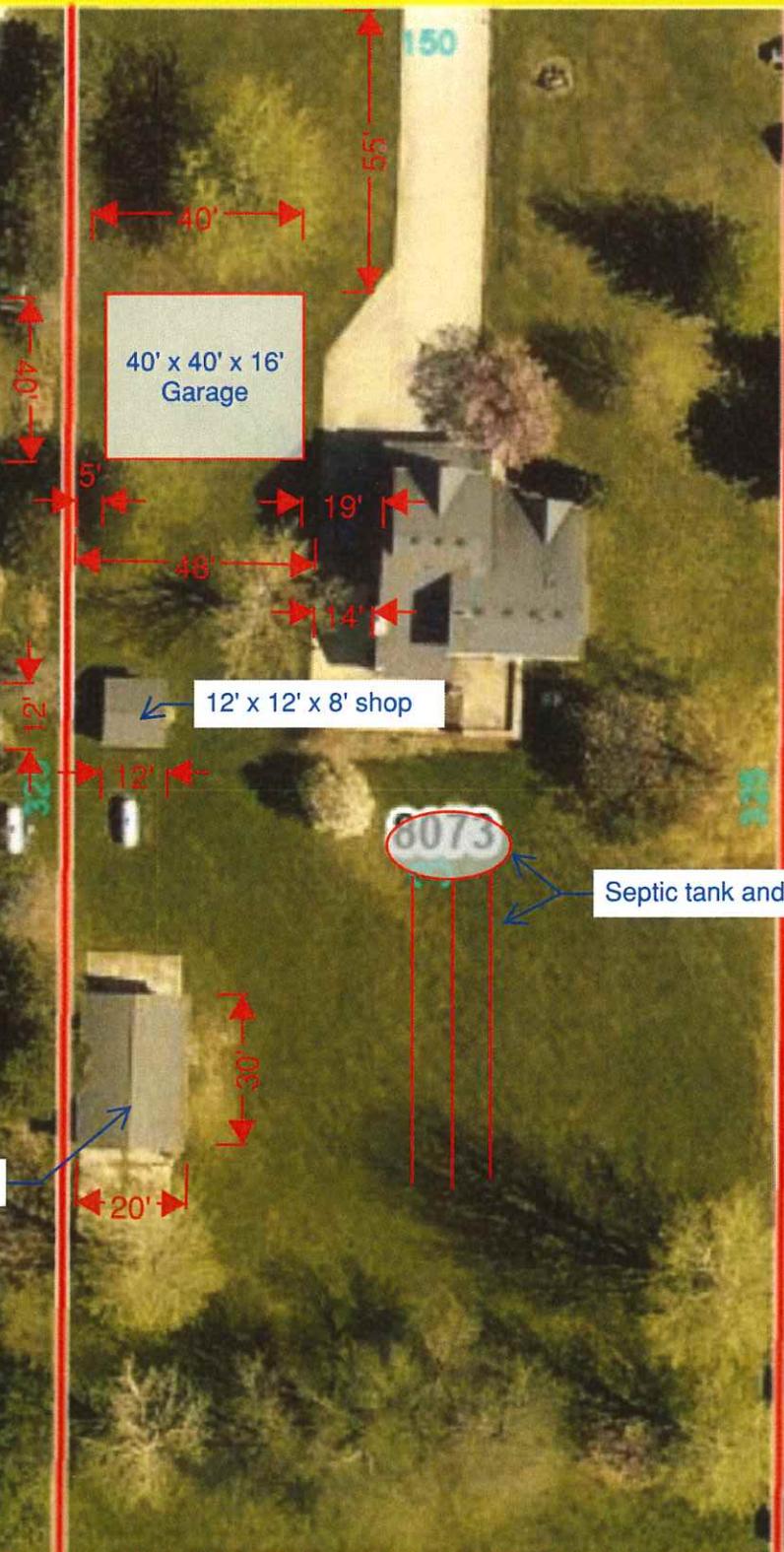


40' x 40' x 16'
Garage

12' x 12' x 8' shop

20' x 30' x 8' shop

Septic tank and laterals



150

049

8073

150