

Appeal: The appellant requests a front yard setback variance to allow a new residential accessory building to be located in front of the principal dwelling at a front yard setback of approximately 25 feet.

Background

The subject property is located at 8424 NE 56th Street, Bondurant, IA 50035, and is legally described as Lot 3 of Elson Acres, except the east 33 feet of road easement, within Section 27 of Township 80 North, Range 23 West of the 5th P.M. (Douglas Township). The property is approximately 3.41 acres in size and is zoned “AG” Agricultural District. The subject property is located just over one (1) mile northwest of the corporate limits of the City of Bondurant, and approximately two and one-half (2½) miles north of the corporate limits of the City of Altoona where they extend along the intersection of Interstate 80 and Highway 65. The surrounding area is zoned “AG” Agricultural District and primarily utilized agriculturally in row crop production. There are two (2) single-family residences located directly north of the subject property, and one (1) directly adjacent to the south. The subject property contains a single-family residence which was constructed in 2012. The property also contains two (2) older accessory structures located along the northern property line which predate the construction of the house and platting of this subdivision. There is also a small, approximately 20’ x 12’ accessory shed located in the southwest corner of the lot which appears to have been constructed by the previous property owner.

The subject property is located within the subdivision of Elson Acres, which was platted in 1992. Elson Acres established four (4) total lots, including Lots 1 and 2 directly north of the subject property each with single family dwellings addressed as 8500 and 8592 NE 56th Street. The subdivision also created a residual parcel platted as Lot 4, being approximately 67-acres of farm ground adjacent to the west of the subject property and Lots 1 and 2. The subdivision plat defined a large area of open space, per the County’s cluster development standards for agriculturally zoned property. The majority of that required open space is located on the adjacent residual Lot 4. However, additional open space areas are defined on Lot 1 and the subject property (Lot 3) in order to meet the minimum requirements. The northern 2.22 acres of the subject property is designated as unbuildable open space. This area includes a few older agricultural buildings that predate the subdivision plat. However, no additional structures are permitted within this northern 2.22 acres of designated open space.

Summary of Request

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 said accessory building is setback a minimum of 100 feet from front property lines; and has a maximum separation distance between the principal structure and accessory building of 150 feet. The property owner is proposing to construct a new 2,560 square feet (64’ x 40’) accessory building in front of the principal dwelling at a front yard setback of approximately 25 feet from the eastern front property line. The existing dwelling has a front yard setback of approximately 95 feet, and therefore any accessory structure in front of the dwelling requires a variance. The second provision of this section of the Ordinance is satisfied as the

proposed building location is approximately 30 feet from the existing dwelling. The building is proposed in the southeast corner of the property, approximately 20 feet from the southern, side lot line; the minimum required side setback is ten (10) feet. The building also meets the required minimum ten (10) feet of setback from the existing propane tank on the property. See *Attachment A* at the end of this report for a copy of the site plan showing the proposed building location.

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 staff has received one (1) response in support and zero (0) responses in opposition to this Appeal.

Natural Resources

The subject property is not located within a mapped floodplain nor does it contain other environmental hazards or features. There are some mature trees along the southern property line, as well as a small number of mature evergreens located along the eastern, front property line, particularly along and north of the driveway entrance. The subject property is flat with no significant changes in elevation.

Roads & Utilities

The property has approximately 535 feet of frontage to the east onto NE 56th Street, which is a paved two-lane major collector roadway maintained by Polk County. NE 56th Street provides access south to the cities of Altoona and Bondurant, as well as north to the City of Elkhart. Wastewater treatment for subject property is provided by a private onsite septic system located northwest of the dwelling. Water service is provided by Des Moines Water Works (DMWW). The latest available data from DMWW indicates there is an existing two and one-half inch (2½") PVC water main located along the eastern front property line of the subject property. Available mapping shows this water main is partially located within the NE 56th Street road right-of-way/easement and partially on the subject property, being directly adjacent to the eastern, front property line.

A water main easement was established and recorded in 1997 (Bk. 7573, Pg. 915) for this utility. As was typical at that time, the easement was established at 32 feet wide centered on the installed location of the water main. Prior to approval and issuance of a future building permit, the appellant must demonstrate that the building will be located outside this water main easement. From staff's review of records and the located water main in the field, it appears the main and easement will not be impacted. The subject property also contains a ten (10) foot wide gas easement (Bk. 17177, Pg. 906) located north of the residence and extending north to the property at 8500 NE 56th Street. There also appears to be a separate natural gas pipeline that runs east and west across the open space portion of the subject property north of the dwelling.

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 front setback of the existing dwelling, septic system and garden locations, and large area of the property restricted as permanent open space, together severely limit or make impossible the location of the proposed accessory structure in a conforming location, but for the granting of a variance.

- 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. Accessory buildings are a permitted use within the "AG" Agricultural District.

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

Yes. The new building will be partially shielded from the adjoining property to the south by an existing tree line along the shared property line. The building will also be partially screened from the public right-of-way along NE 56th Street by a line of mature evergreens located north of the building along the subject property's eastern, front property line.

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

Yes. The front setback of the existing dwelling and the location of the property's septic system were established by the previous property owner. The minimum front setback for the zoning district is 50 feet, but the home was constructed at a front setback of approximately 95 feet. This increased front setback greatly reduces the side and rear yard areas available to construct an accessory building in a conforming location. The septic system takes up the majority of the rear yard area which does exist to construct an accessory structure in a conforming location. Furthermore, over two (2) acres of the subject property's area is restricted as permanent open space from the subdivision plat of Elson Acres.

- 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. No environmental areas are anticipated to 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 with the following condition:

1. Prior to approval and issuance of a building permit, the appellant must update the site plan and field staking to clearly demonstrate that the proposed building will be located outside the water main easement on the property.

Attachment A Site Plan

N/A

N/A

8500

8424

0210

8360

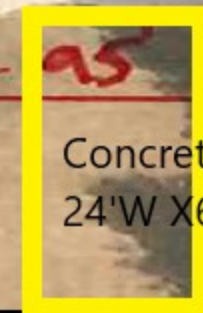
Natrual Gas Pipeline

Building setback line

Driveway



underground electric line



~25'

10'

25'

20'

NE 50TH ST

