

**Docket Number:** 21/10989

**Appellants:** Neil deWit, deWit Construction & Remodeling, 10500 Hickman Road, Suite C, Clive, IA 50325 (Contractor), representing Theodore & Claire Hotvet, 8965 SE 62<sup>nd</sup> Place, Runnells, IA 50237 (Property Owners)

**Appeal:** The appellants request a front yard setback Variance of approximately 17 feet for a proposed addition to the principal dwelling to be located at a front yard setback of approximately 33 feet, in lieu of the required 50 feet.

### **Background**

The subject property is located at 8965 SE 62<sup>nd</sup> Place, Runnells, and is legally described as Lot 1 of Midway Heights Plat 2, except beginning at the NW corner, thence SE 190.88F SE 165.3F W 159.01F N 317F to point of beginning, being located within Section 29 of Township 78 North, Range 22 West of the 5<sup>th</sup> P.M. (Camp Township). The property is approximately 2.06 acres in size and zoned "RR" Rural Residential District. The subject property is rectangular shaped with double frontage. It has primary frontage and access to the east onto SE 62<sup>nd</sup> Place, as well as frontage to the west onto SE Vandalia Drive. The property contains an existing single-family residence constructed in 1975, as well as a detached garage constructed in 1984 being located east of the residence along the eastern, front property line. The current owners purchased the property in 2016. The subject property is located approximately one-half (½) mile south of the intersection of SE Vandalia Drive and SE 56<sup>th</sup> Avenue, where SE Vandalia Drive turns south. The property is approximately three (3) miles northwest of Runnells and approximately three (3) miles east of the corporate limits of Carlisle. Surrounding properties to the north, south and east are also zoned "RR" Rural Residential District and contain similar sized acreages with existing single-family homes. Properties to the west, located west of SE Vandalia Drive, are zoned "AG" Agricultural District and "OS" Open Space District and are utilized as open space and floodplain along the Des Moines River valley. See *Attachment A* for a vicinity map of the subject property and surrounding area.

Upon review of this appeal staff has noted the presence of at least two (2) accessory sheds located in front of the residence, along the eastern property line. The sheds appear to have been constructed/placed in this location between 2016 and 2017 without building permits. Permits are required for any structure greater than 120 square feet. Regardless of their size and permitting requirements, the structures would require a variance in their present location. The Ordinance requires a minimum 100-foot setback for accessory structures located in front of the principal residence. This is clearly not met by their current location. These sheds were not included with the original Variance Appeal or notice for this request. Therefore, at this time staff will allow them to remain in their present location. However, if a complaint is received or additional accessory structures are proposed, they will be required to be relocated to a conforming location or a variance requested. The sheds appear to be used in conjunction with the keeping of animals on the property. Based on the size of the property, no more than 24 small domesticated animals (rabbits, poultry, etc.), and no more than two (2) large domesticated animals (livestock, pigs, cattle, sheep, goats, horses, etc.), may be kept on the property. Additionally, buildings housing large domesticated animals shall be a minimum of 150 feet from neighboring dwellings, and fenced areas for livestock shall be a minimum of 100 feet from

neighboring dwellings. If staff receives a complaint regarding any of these provisions, our office will inspect the property to determine if a violation exists, and begin enforcement action if necessary.

### **Summary of Request**

The Polk County Zoning Ordinance, *Article 6: Bulk and Use Standards, Division 2, Single-Family Residential Bulk Standards, Table 6.1* requires a minimum front yard setback of 50 feet for principal dwellings within the “RR” Rural Residential District. The appellant proposes an approximately 58’ x 30’ (1,740 square feet) addition onto the north side of the existing residence, to include additional living area, attached garage space and exterior covered porch. The proposed addition would encroach further east towards the eastern, front property line and establish a new front yard setback for the dwelling from the eastern, front property line of approximately 33 feet, in lieu of the required front setback of 50 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 staff has received no responses in regards to this Appeal.

### **Natural Resources**

The property contains very steep grades and extreme changes in elevation. The property slopes downward moving from east to west. There is a high elevation of approximately 830 feet along the eastern property line adjacent to SE 62<sup>nd</sup> Place, and a low elevation of approximately 780 feet along the western property line parallel to SE Vandalia Drive. The property contains several mature trees located primarily north of the existing dwelling in the northern half of the property. It appears few to no trees will be impacted by the proposed addition. The property is located outside any floodplain areas and contains no other environmental hazards or features.

### **Roads & Utilities**

The property has frontage to the east along SE 62<sup>nd</sup> Place, which is a paved, two-lane local roadway maintained by Polk County. SE 62<sup>nd</sup> Place terminates in a dead-end just east of the subject property. SE 62<sup>nd</sup> Place is approximately 700 feet in length and provides access to five (5) single-family properties on the east side of SE Vandalia Drive. The subject property also has frontage to the west directly onto SE Vandalia Drive, which is a paved, two-lane local roadway maintained by Polk County. SE Vandalia Drive provides access south and east to the City of Runnells as well as north and west to SE 56<sup>th</sup> Avenue, with connectivity further north and west to the Highway 65 bypass. Water service is provided by Des Moines Water works. Polk County mapping indicates there is an existing three-inch (3”) water main located east of the property along SE 62<sup>nd</sup> Place. The property is served by a private onsite septic system, which Polk County records indicate was replaced in 2016 and is located south and west of the dwelling. Polk County Environmental Health regulations require that a minimum separation of ten (10) feet be maintained between all structures and any portion of the septic system.

### **Recommendation**

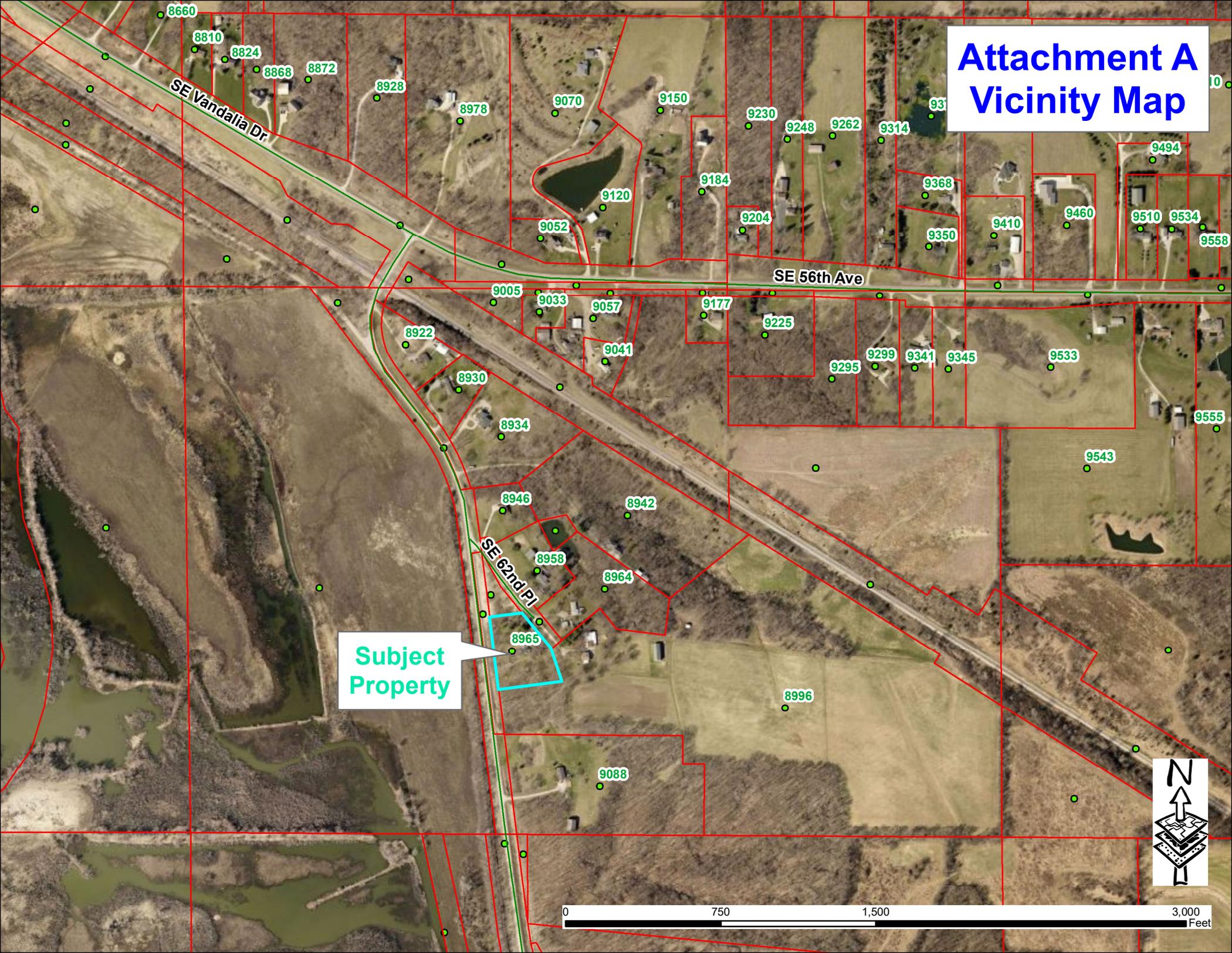
**The Board of Adjustment may grant a variance if items 1 through 5 are affirmed.**

- 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 subject property is a double frontage parcel having two (2) required front yard setbacks. Additionally, the property contains sloping topography, especially in the western half of the property, which effectively prevents a future addition or improvement in a conforming location. The subject property also has an angled front property line parallel to SE 62<sup>nd</sup> Place, which does not align with the orientation of the dwelling. This effectively limits the building envelope under the required setbacks.
- 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. An addition to the principal residence 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. The subject property sits at a substantially lower elevation than surrounding properties and residences to the north and east, and will therefore have a limited visual impact. Existing mature tree cover along the northern portion of the front property line will further limit any visual impact.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?  
Yes. The configuration of the property, existing topographical challenges, as well as the placement and orientation of the existing residence are not a result of the actions of the appellants.
- 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. Upon staff's review no environmental areas are anticipated to be impacted.

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 condition:

1. Due to uncertainty regarding the precise location of the subject property pins and boundaries, and staff's assistance in preparing the site plan and setback information for this appeal, 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**





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)

RELIEF FROM 50' SETBACK OF 15'

(time stamp) Official Use Only

2. Subject Property Address: 8965 SE 62ND PL

3. Subject Property Zoning District: "RR" Rural Residential District

4. District and Parcel Number: 160/00765-030-004

5. Subject Property Legal Description (attach if necessary): Lot 1 Midway Heights Plat 2 -> less exception.

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

7. Applicant(s) Information:

THEODORE HORVET Applicant (Print Name)

[Signature] Signature

10/20/21 date

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

THORVET@GMAIL.COM Email

8965 SE 62ND PLACE RUNNERS Address, City, State and Zip

612-558-6453 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

NEIL DOWD Applicant Representative (Print Name)

DEWIT CONST Firm or Business Name

10500 HILKMAN RD SAITEC CLIVE IA 50325 Address, City, State and Zip

NEIL@DEWITCONSTRUCTION.COM Email

515-493-6388 Phone Fax



1" = 60'



SE VANDALIA DR

SE 62ND PL

8958

8964

Proposed Living Storage Addition

Approx: 33'

Approx: 13'

8965

8996

