

Docket Number: 20/9155

Appellant: Jeff Meislahn
7775 NE 110th Avenue
Bondurant, IA 50035

Appeal: Requesting a variance to allow a 14-foot by 10-foot (140 sq. ft.) accessory building to be located in front of a principal structure, having a setback that is less than 100-feet from the front property line, at the subject property of 7775 NE 110th Avenue.

Appeal Given: The following are excerpts from the application submittal. The complete application can be reviewed within *Attachment 'A'*.

"We live on a lot with significant trees and a sloped back yard that prevent us from placing the shed in the back yard. The location of the shed in the front of the house is less than the 100ft setback from the roadway. Where we have chosen for the shed is somewhat "hidden" from the roadway by existing trees and is currently unusable space on our property as we can not get grass to grow there due to the trees. The laterals and septic tank, along with the slop and grade of the East edge of our property prevent us from putting the shed there. After discussion our plans with both of our neighbors (The Pattison and Gray families), they agree with the location that we have picked for the shed. The north side of the shed will be approximately 67' from the nearest point of the roadway, NE 110th Avenue. The southeast corner of the shed to our home will be approximately 70'. The area that is approximately 100' from our property line are rockbeds/drainage that direct heavy rains down to the lake so therefore are not an option for the shed site."

Background

The subject property is zoned "ER" Estate Residential District and is an approximately 33,802 square feet (0.77-acre) parcel legally described as Lot 5, Woodland Lake Estates Plat 4 in the SE ¼ of Section 6 and the NE ¼ of Section 7 in Franklin Township. Woodland Lake Estates Plat 4 was recorded in 1994. The property is addressed as 7775 NE 110th Avenue and is located the south west radius of the NE 110th Avenue cul-de-sac. The property has an irregular shaped frontage adjacent to NE 110th Avenue and is located approximately two (2) miles north of the City of Bondurant.

The principal structure was constructed in 1999. The Property Owner had applied for a Building Permit for the accessory structure and it was determined through the review process that the proposed accessory structure was located in front of the principal structure without meeting the required setbacks. In this case, the proposed location of the accessory structure could not comply with one of the two conditions that are required to be allowed to locate an accessory building within a front yard. The condition that is not met is that the accessory structure is proposed to be located less than 100-feet from the front property line. The proposed location of the accessory structure from the front property line appears to meet the 100-foot setback until the curvature of the road jogs to the southwest. This curvature of the road creates a shorter setback to the closest point of the proposed accessory building at 66-feet. The Appellants have indicated that they have discussed the location with their adjacent neighbors and are in agreement with the proposed

location as identified within *Attachment 'B'*. Additionally, they have received approval from the Woodland Lakes Homeowners Association Board.

Summary of Request

The Appellant is proposing to locate a 10-foot by 14-foot (140 sq. ft.) portable accessory building within the front yard of the subject property. The accessory structure is proposed to be located approximately 70 feet from the principal building at a setback of approximately 66-feet from the front property line. The Polk County Zoning Ordinance, *Article 4: Use Regulations, Division 6: Accessory Regulations, Section 1: Accessory Buildings (J)*, stipulates that an accessory building may not be located in front of the principal building unless all of the following criteria are met: (1) Is setback a minimum of 100 feet from front property lines; and (2) Has a maximum separation distance between the principal structure and accessory building of 150 feet. In this case, the appellant's proposal does not meet criteria (1) requiring a minimum setback of 100-feet from the front property lines. A variance is needed for criteria (1) as the location of the proposed accessory building is less than the 100-foot setback requirement by 34 feet. See *Attachment 'B'* of this report for a dimension layout of the proposed location of the accessory structure in vicinity to the front property line and the principal structure. See *Attachment 'C'* of this report for the exact lot dimensions as identified on Woodland Lake Estates Plat 4.

Natural Resources

The subject property is not located within the 100-year flood plain. Woodland Lake is adjacent to the southern boundary of this property. The property has a fairly level front yard with a high point of 929-feet in the northwest corner. The rear of the property slopes significantly towards Woodland Lake with an elevation of 925-feet at the southwest corner of the house and a low point of 914-feet along the southern property line adjacent to the lake. Woodlands are scattered across the rear yard of the lot with several trees surrounding the principal structure and located along both sides of the lot. The existing landscaping will limit the view of the proposed location of the accessory structure.

Roads & Utilities

The property has access onto NE 110th Avenue, a paved two-lane local street maintained by Polk County. The property is located on the southwest radius of the NE 110th Avenue cul-de-sac. The property is served by an onsite septic system that is located northeast of the principal structure and laterals located directly north of the principal structure. The proposed accessory building location will comply with the minimum 10-foot separation requirement from any component of the septic system. A 20-foot wide Public Utility Easement is located along the northern property line.

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 location of the principal structure and the septic system on the lot along with the topography and location of woodlands limits the placement of the accessory structure. The location of the septic system and existing woodlands are exceptional or extraordinary to the lot in addition the topographical challenges noted within the rear yard.

- 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 accessory building for personal use is permitted within the district.

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

Yes. The impact, if any, on surrounding properties will be minimal. Adjacent property owners have discussed the location of the accessory structure and have agreed with the proposed location. The existing trees within the side yard will provide a buffer for the accessory building limiting the view of the building from the public street and surrounding properties.

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

Yes. The topography, tree cover and septic system location limits buildable areas for detached accessory buildings on the site. The most feasible location to build the accessory structure is in front of the house .

- 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.

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)

We have purchased a 10x14' movable shed for our property. Our property has a lot of trees and the back yard has a steep slope down to Woodland Lake. It is a pre-built shed and they can not move it into the back yard. The spot we have chosen for the shed is less than the 100' setback from our front property line but is the best option for us due to where our trees, laterals, and septic systems are.

2. Subject Property Address: 7775 NE 110th Ave

3. Subject Property Zoning District: Estate Residential District

4. District and Parcel Number: 230/01190- 405-000

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

Lot 5 Woodland Lake Estates Plat 4

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

7. Applicant(s) Information:

Jeff Meislahn
Applicant (Print Name)

Jeff Meislahn
Signature

6-8-20
date

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

meislahn6@gmail.com
Email

7775 NE 110th Ave Bondurant, IA 50035
Address, City, State and Zip

515-771-8175
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)

Jeffrey Meislahn _____ (Print Name)	 _____ Signature	6-8-20 _____ date
Melinda Meislahn _____ (Print Name)	 _____ Signature	6-8-20 _____ 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.

We live on a lot with significant trees and a sloped back yard that prevent us from placing the shed in the back yard. The location of the shed in the front of the house is less than the 100ft setback from the roadway. Where we have chosen for the shed is somewhat "hidden" from the roadway by existing trees and is currently unusable space on our property as we can not get grass to grow there due to the trees. The laterals and septic tank, along with the slope and grade of the East edge of our property prevent us from putting the shed there.

After discussing our plans with both of our neighbors (the Pattison and Gray families), they agree with the location that we have picked for the shed. The north side of the shed will be approximately 67' from the nearest point of the roadway, NE 110th Avenue. The southeast corner of the shed to our home will be approximately 70'. The area that is approximately 100' from our property line are rockbeds/drainage that direct heavy rains down to the lake so therefore are not an option for the shed site.

We already have approval for the location from the Woodland Lakes Homeowners Association Board. We have spoken with our neighbors to the East & West of us and they both approve of our location. The shed will match the color of our home, will have flower boxes underneath the windows and will be landscaped with flowering bushes around the shed.

Our request for variance is to allow the placement of the shed at our desired location that is shorter than the 100' roadway setback.

Please note on site drawing: My apologies that the scale is not accurate. Circles indicate existing trees around shed site. There is approximately 66 - 67' from the Northwest corner of the shed to the nearest point of the roadway, there is 20' from the southwest corner of the shed to our west property line, and approximately 70' from the southeast corner of the shed to the northwest corner of our house.

**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

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

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

Required Information: (must be included prior to making submittal)

1. Complete Application including the description of requested variance(s) with specific information for the request and state the reason(s) the variance is necessary and why you cannot comply with the regulations of the Zoning Ordinance.
2. Submit site drawing as required see details below.

Site Drawing

All variance appeals must submit three (3) 11x17 copies of a site drawing with the application. The site drawing must be fully dimensioned and legible. All required information must be drawn to a scale. The Zoning Administrator may require a petitioner to submit a site plan drawn by an engineer or architect. The site plan shall include the following:

1. Boundary drawing of the lot or area involved.
2. Location, dimensions, height and setbacks of all existing and proposed buildings and structures and the uses of each.
3. Use of the proposed addition to building or structure.
4. Approximate location of the vehicle entrance to the site.
5. Show the approximate location of water and sewer (septic system) facilities, if applicable.
6. Location of parking area and number of stalls required, if applicable.
7. General location of landscaping, buffer areas and screening, if applicable.
8. If the appeal is for a **sign**, the appeal must be accompanied by both a fully dimensioned, to scale elevation and site plan drawing of the sign, showing the exact location and size of the sign.

Variance Regulations

No variance from the provisions or requirements of this ordinance shall be authorized by the Board of Adjustment unless the Board finds beyond reasonable doubt that all the following conditions and circumstances exist. These regulations are found in the Zoning Ordinance, Article 17. Variance. The conditions and circumstances will be addressed by the Polk County Planning Division staff in reviewing the variance(s) request.

1. There must be exceptional or extraordinary circumstances or special conditions applying to the property in question, and do not exist generally on other properties in the same zoning district. By virtue of the unique or special conditions, it is, therefore, exceptionally difficult to place a use permitted in said district on the property.
2. The variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity and such variances will not permit uses that are prohibited in that district.
3. The authorization of such variance will not be of substantial detriment to adjacent property and will not be contrary to the purpose of this Ordinance and the public interest.
4. That the special conditions or circumstances did not result from the actions of the applicant.
5. The variance will not entirely void the natural resource protection requirements of this Ordinance.

The condition and/or situation of a property for which a variance is sought must be of an unusual nature. A variance shall not be authorized if the condition or situation is of a general or recurrent nature such that adopting a general regulation as an amendment to this Ordinance is a reasonably practicable solution.

The variance granted shall be the minimum necessary to permit a use of the property. A variance shall neither increase the number of permitted dwelling units by more than one (1), nor allow the minimum lot area required for a use to be decreased by more than ten (10) percent. If natural resources are involved, then mitigation for any damage to the environment shall be a condition of the variation.

Polk County Public Works - Detailed Site Plan Drawing

Bondurant

SITE ADDRESS: 7775 NE 110th Ave
OWNER'S NAME: Jeff Merslahn
APPLICANT'S NAME: Jeff Merslahn
APPLICANT'S PHONE: 515-771-8175

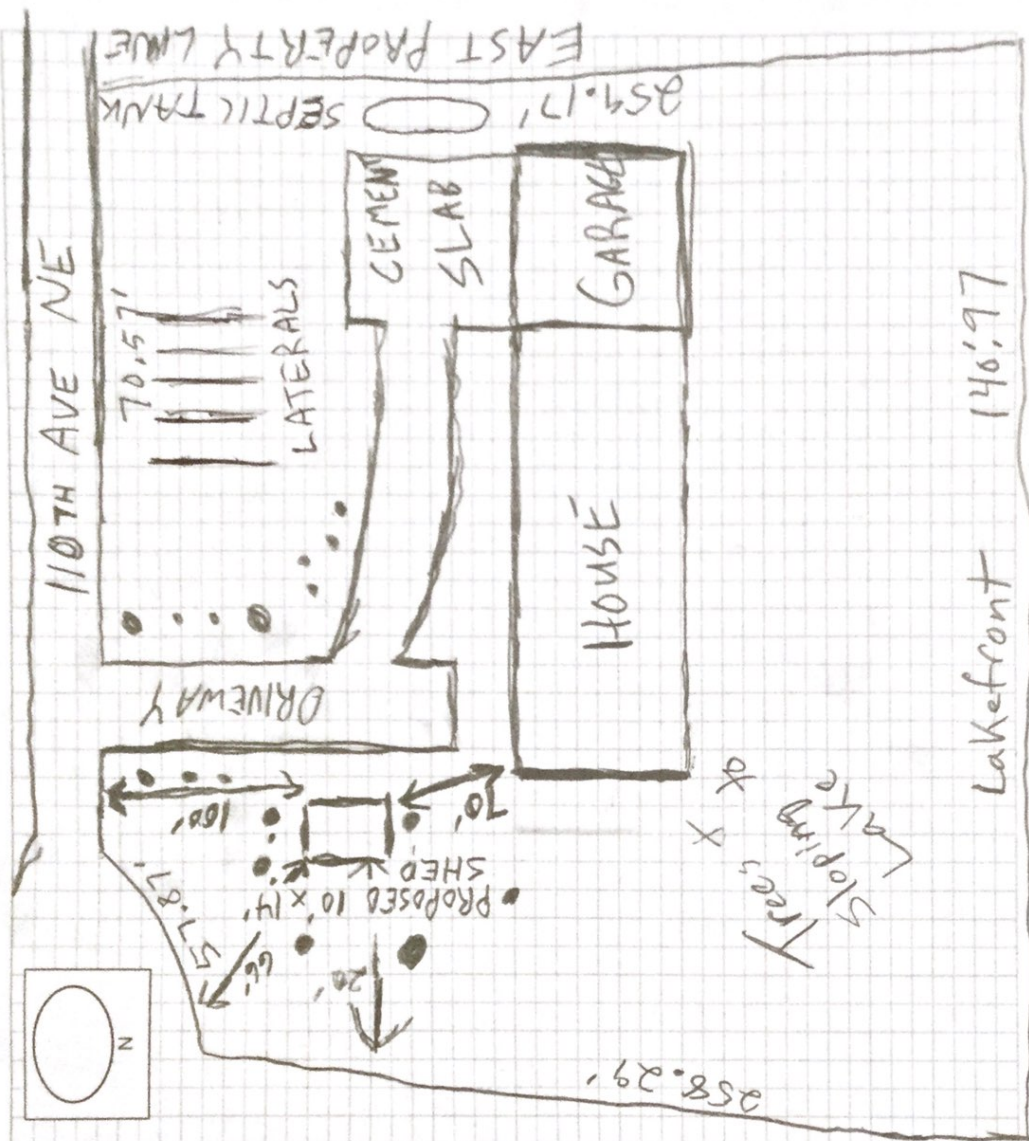
INSTRUCTIONS TO APPLICANT

- 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/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.

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

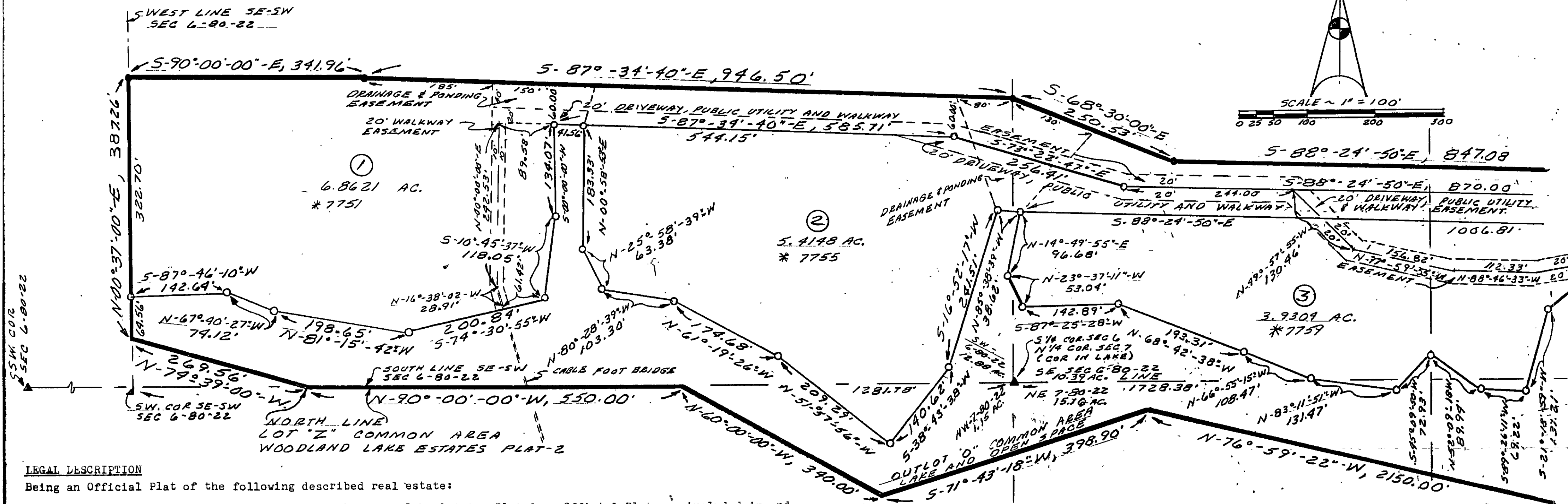
Jeff Merslahn
APPLICANT'S SIGNATURE

6-3-2020
DATE



WOODLAND LAKE ESTATES PLAT - 4

SHEET 2 OF 2



LEGAL DESCRIPTION

Being an Official Plat of the following described real estate:

Beginning at the Northeast Corner of Lot 1 of Woodland Lake Estates Plat 2 an Official Plat now included in and forming a part of Polk County, Iowa, said point being 50.01 Ft. N-89°-58'-51"-W of the Northeast Corner of Section 7, Township 80 North, Range 22 West of the 5th P.M., Polk County, Iowa, said point also being on the North line of the N.E. 1/4 of the N.E. 1/4 of said Section 7-80-22;

Thence S-01°-17'-00"-E, along the East line of said Lot 1 of Woodland Lake Estates Plat 2, 60.01 Ft.

Thence N-89°-58'-51"-W, 418.28 Ft. to a point on the Southwesterly line of said Lot 1 of Woodland Lake Estates Plat 2;

Thence S-69°-52'-00"-E, along the Southwesterly Line of said Lot 1 of Woodland Lake Estates Plat 2, 86.31 Ft.;

Thence Southeasterly, along the Southwesterly line of said Lot 1 and the Westerly line of Lot 2 of Woodland Lake Estates Plat 2 and also along a 233.00 Ft. radius curve concave Southwesterly a distance of 320.25 Ft. (Chord = S-30°-29'-30"-E, 295.63 Ft.);

Thence S-08°-53'-00"-W, along the Westerly line of said Lot 2 of Woodland Lake Estates Plat 2, 164.07 Ft. to the Southwest Corner of said Lot 2 of Woodland Lake Estates Plat 2;

Thence S-72°-50'-57"-W, along the Northerly Right-of-way line of Public Roadway (N.E. 108th Place), 73.45 Ft. to the Easterly Corner of Lot "Z" (Common Area) of Woodland Lake Estates Plat 2;

Thence N-76°-59'-22"-W, along the Northerly line of said Lot "Z" (Common Area), 2,150.00 Ft.;

Thence S-71°-43'-18"-W, along the Northerly line of said Lot "Z" (Common Area), 398.90 Ft.;

Thence N-60°-00'-00"-W, along the Northerly line of said Lot "Z" (Common Area), 340.00 Ft. to a point on the South line of the S.E. 1/4 of the S.W. 1/4 of Section 6, Township 80 North, Range 22 West of the 5th P.M., Polk County, Iowa;

Thence N-90°-00'-00"-W, along the Northerly line of said Lot "Z" (Common Area) and also along the South line of the S.E. 1/4 of the S.W. 1/4 of said Section 6-80-22, 550.00 Ft.;

Thence N-74°-39'-00"-W, along the Northerly line of said Lot "Z" (Common Area), 269.56 Ft. to a point on the West line of the S.E. 1/4 of the S.W. 1/4 of said Section 6-80-22;

Thence N-00°-37'-00"-E, along the West line of the S.E. 1/4 of the S.W. 1/4 of said Section 6-80-22, 387.26 Ft.;

Thence S-90°-00'-00"-E, 341.96 Ft.;

Thence S-87°-34'-40"-E, 946.50 Ft.;

Thence S-68°-30'-00"-E, 250.53 Ft.;

Thence S-88°-24'-50"-E, 847.08 Ft.;

Thence S-64°-31'-20"-E, 706.46 Ft. to a point on the North line of the N.E. 1/4 of the N.E. 1/4 of said Section 7-80-22;

Thence S-89°-58'-51"-E, along the North line of the N.E. 1/4 of the N.E. 1/4 of said Section 7-80-22, 849.99 Ft. to the point of beginning.

All of said parcel being located in the South Quarter of Section 6 and the North Quarter of Section 7, Township 80 North, Range 22 West of the 5th P.M., Polk County, Iowa.

Said parcel contains approximately 39.5814 Acres.

CERTIFICATION OF CLOSURE

I hereby certify that the error of closure of this plat (Plat Boundary & all Lots) is less than 1 in 10,000.

Henry S. Oakes 12-28-93 8-27-93 7-15-93

Henry S. Oakes Date
P.E. & L.S. No. 3321
My Registration expires Dec. 31, 1993

CERTIFICATION

I hereby certify that this plat was prepared by me or under my direct personal supervision and that I am a duly Registered Professional Engineer and Land Surveyor under the laws of the state of Iowa.

Henry S. Oakes 12-28-93 8-27-93 7-15-93 5-12-93
Henry S. Oakes P.E. & L.S. No. 3321 Date
My Registration expires Dec. 31, 1993 REV 12-28-93



FINAL PLAT - WOODLAND LAKE ESTATES PLAT - 4			
Part of Sections 6 & 7-80-22 - Polk County, Iowa			
SCALE: 1" = 100'	APPROVED BY REV 8-27-93 REV 8-16-93	REV 8-27-93 REV 6-2-93	DRAWN BY L.S. REV 5-24-93 REV 12-28-93
DATE: May 1992	OAKES ENGINEERING COMPANY		
949 - 65th Street - Des Moines, Iowa Tel. 515 - 255-1777	50312	DRAWING NUMBER 4084-EK-305	