

Docket Number: 21/10990

Appellant: Thomas Beebe, 5356 NW 72nd Street,
Johnston, IA 50131 (Property Owner)

Appeal: The appellant requests a Variance for a proposed accessory building to be located in front of the principal dwelling at less than the required front yard setback of 100 feet.

Background

The subject property is located at 5356 NW 72nd Street, Johnston, and is legally described as Lot 2 of Johns Grove Subdivision, being located within Section 14 of Township 79 North, Range 25 West of the 5th P.M. (Webster Township). The property is approximately 1.06 acres in size and zoned "LDR" Low Density Residential District. The subject property is rectangular shaped, having approximately 165 feet of width north to south, and approximately 280 feet of depth east to west. The property has frontage and access to the east onto NW 72nd Street. The property contains an existing single-family residence and attached garage constructed in 1990. There is also an attached deck/porch on the front of the dwelling as well as an attached deck to the rear. The current owner purchased the property in 2014.

Johns Grove Subdivision was platted in 1977 and created five (5) single-family lots located south of NW 54th Avenue along the west side of NW 72nd Street. These five (5) properties, including the subject property, remain located within unincorporated Polk County, while all surrounding land has been annexed into the City of Johnston and City of Urbandale. The corporate limits of Johnston are directly adjacent to the west, and the corporate limits of Urbandale are adjacent to the east on the opposite side of NW 72nd Street. Surrounding properties to the north and south are zoned "LDR" Low Density Residential District in Polk County and developed at similar densities with single-family residences. Properties adjacent to the east within the City of Urbandale are also zoned residential and developed with existing single-family homes. Directly adjacent to the west within the City of Johnston is the Timber Ridge Elementary School within the Johnston School District. See *Attachment A* for a vicinity map of the subject property and surrounding area.

Through staff's review of this request we've noted the subject property also contains a detached accessory building and additions as well as an adjacent deck located in the northwest corner of the property. The building, additions and deck were not permitted by our office. Furthermore, the accessory building is partially located within a platted utility easement and does not meet the required setback from the rear lot line. Aerial imagery shows these accessory structures were constructed prior to the appellant's purchase of the property in 2014. Therefore, the structures may remain. However, no future additions to these structures, or their reconstruction, will be permitted by our office unless the setback and easement encroachment issues are corrected, as well as retroactive building permits and inspections are obtained.

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. The appellant proposes to construct a 40' x 30' (1,200 SF)

accessory building in front of the principal dwelling, being located between the eastern façade of the dwelling and the eastern, front property line along NW 72nd Street, at a front yard setback of approximately 60 feet. The proposed location meets the second criteria being located approximately 12 feet from the dwelling at their closest point. However, the first criteria is not met and requires approval of a variance to allow the accessory structure to be located in front of the principal residence at less than 100 feet of setback from the front property line. The submitted application and site plan for this appeal can be found as *Attachment B*.

Staff mailed out 13 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. Staff also notified the Cities of Johnston and Urbandale, and neither jurisdiction provided response or comment.

Natural Resources

The property contains relatively flat topography, but there is a slight increase in elevation moving east to west across the lot. There is a low elevation of approximately 824 feet along the eastern, front lot line parallel to NW 72nd Street, and a high elevation of approximately 830 feet along the western, rear lot line. There is also a low point of approximately 824 feet located just northwest of the dwelling and extending to the northern, side lot line. This area appears to function as a small drainage swale conveying water north and west away from the residence, however there is no drainage easement established. The property contains several mature trees, primarily located along the northern property line, being directly north and northeast of the proposed accessory building location. It appears no trees will be impacted by this proposal. 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 NW 72nd Street, which is a paved, two-lane collector roadway. NW 72nd Street intersects with NW 54th Avenue a few hundred feet north of the subject property, which provides connectivity west to NW 86th Street, as well as further west throughout Johnston and eventually to Hwy 141 and the City of Grimes. NW 72nd Street provides connectivity south underneath Interstate 80/35 eventually intersecting with Meredith Drive within the City of Urbandale. According to available County records the property appears to be served by a private onsite well. Wastewater treatment is provided by a private onsite septic system, which Polk County records indicate is located north 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. The western edge of the proposed building location will be proximate to the septic tank and lift station located on the north side of the dwelling. The appellant is aware of the separation requirement, which will have to be confirmed by Polk County Environmental Health prior to issuance of a future Building Permit.

Recommendation

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

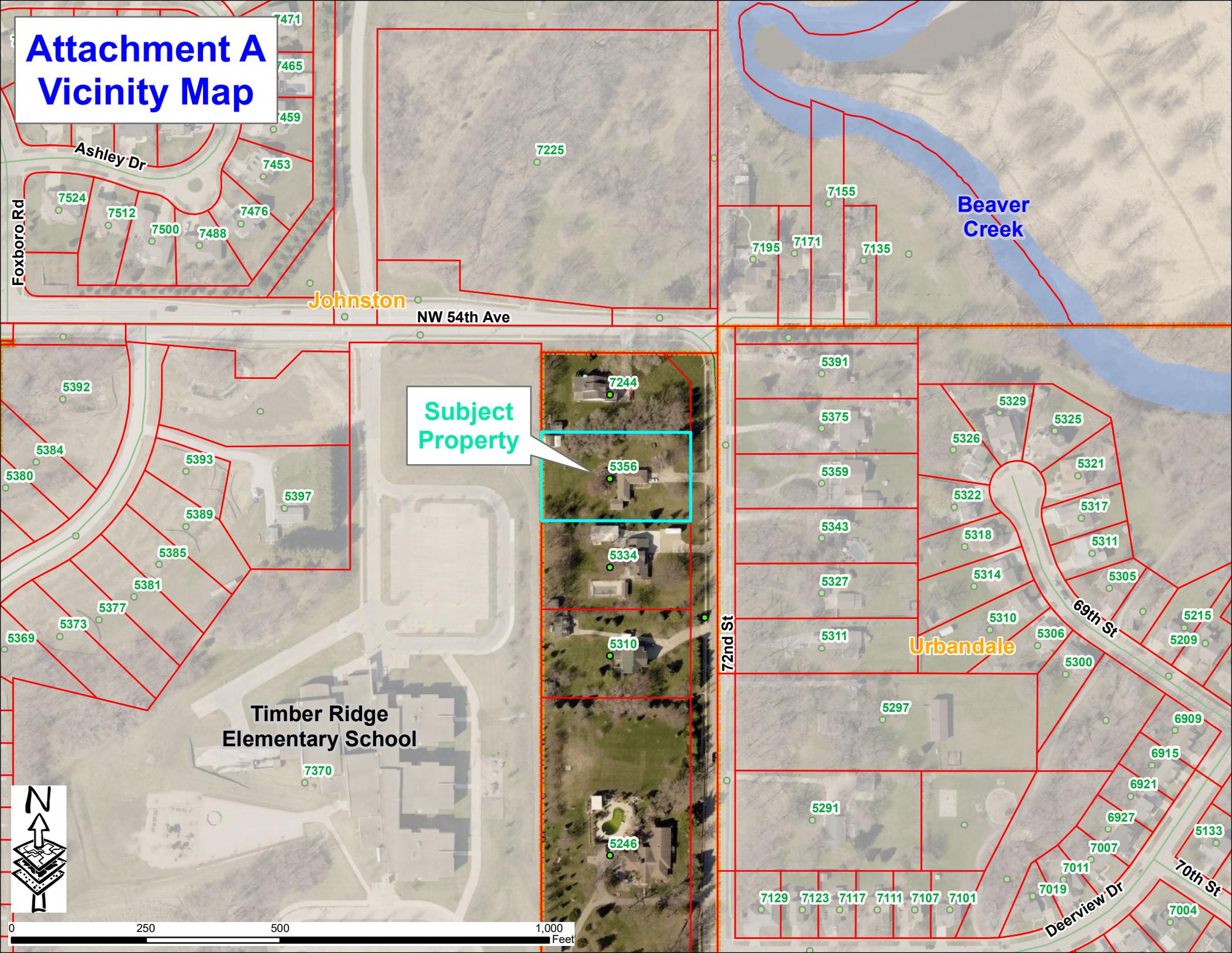
- 1.) Are there exceptional or extraordinary circumstances or special conditions applying only to the property in question and which do not exist generally on other properties in the same zoning district which makes it impossible to place a use permitted in the district on the property?

- Yes. The location of the subject property's septic system within the northern side yard and rear yard of the property, as well as the location of a drainage swale directly north of the residence are unique circumstances that effectively prevent the location of an accessory building in a conforming location.
- 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 and within the "LDR" Low Density Residential zoning district.
- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?
- Yes. The subject property and adjacent lots within unincorporated Polk County were platted under a previous zoning classification of Agricultural, which required a minimum front setback of 75 feet for a principal residence. Existing homes on these lots, including the subject property, therefore have an existing observed building setback line of 75 feet or greater. Under the properties current Low Density Residential zoning classification, the minimum principal front setback is 35 feet. The proposed accessory building would encroach approximately 15 feet into the established 75-foot building setback, however the building would still far exceed the existing required principal front setback of 35 feet. Additionally, there are a variety of factors which limit potential visual impacts from this encroachment. The property adjacent to the north at 7244 NW 54th Avenue is a corner lot and takes primary frontage and access to the north onto NW 54th Avenue. Therefore, any impact on this property is upon their rear yard to the south and effectively what serves as their architectural side yard east of the residence along NW 72nd Street. Additionally, large lot sizes and large setbacks for existing structures on surrounding properties, as well as existing tree cover, will limit any visual impacts created by the accessory structure upon exiting properties along NW 72nd Street.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?
- Yes. The placement of the existing home and septic system, as well as existing topographical features, are not a result of the actions of the appellant.
- 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.

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 appellant 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



0 250 500 1,000 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.

(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)

30x40 BUILDING TO BE PLACED TO THE NORTH SIDE OF HOUSE. WILL BE 15 FT CLOSER TO THE STREET THAN THE HOUSE. BUILDING WILL BE 100 FT FROM STREET.

- 2. Subject Property Address: 5356 NW 72ND ST, JOHNSTON IA 50131
- 3. Subject Property Zoning District: LDR
- 4. District and Parcel Number: 310/00424-022-000
- 5. Subject Property Legal Description (attach if necessary):
L+2 - Johns Grove Subd.

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

7. Applicant(s) Information:

THOMAS J. Beebe [Signature] 10/17/21
Applicant (Print Name) Signature date

OWNER Tom@5156817HOUSE.COM
Interest in Property (owner, renter, prospective buyer, etc.) Email

5356 NW 72ND ST, JOHNSTON, IA 515 490 1683
Address, City, State and Zip Phone Fax
50131

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)

Thomas J. Beebe
(Print Name)

[Signature]
Signature

10/17/21
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.

GOPTIC LATERAL IN BACK YARD.
10 FT FROM GOPTIC TANK MOVES THE BUILDING
BASE IN FRONT OF HOUSE.

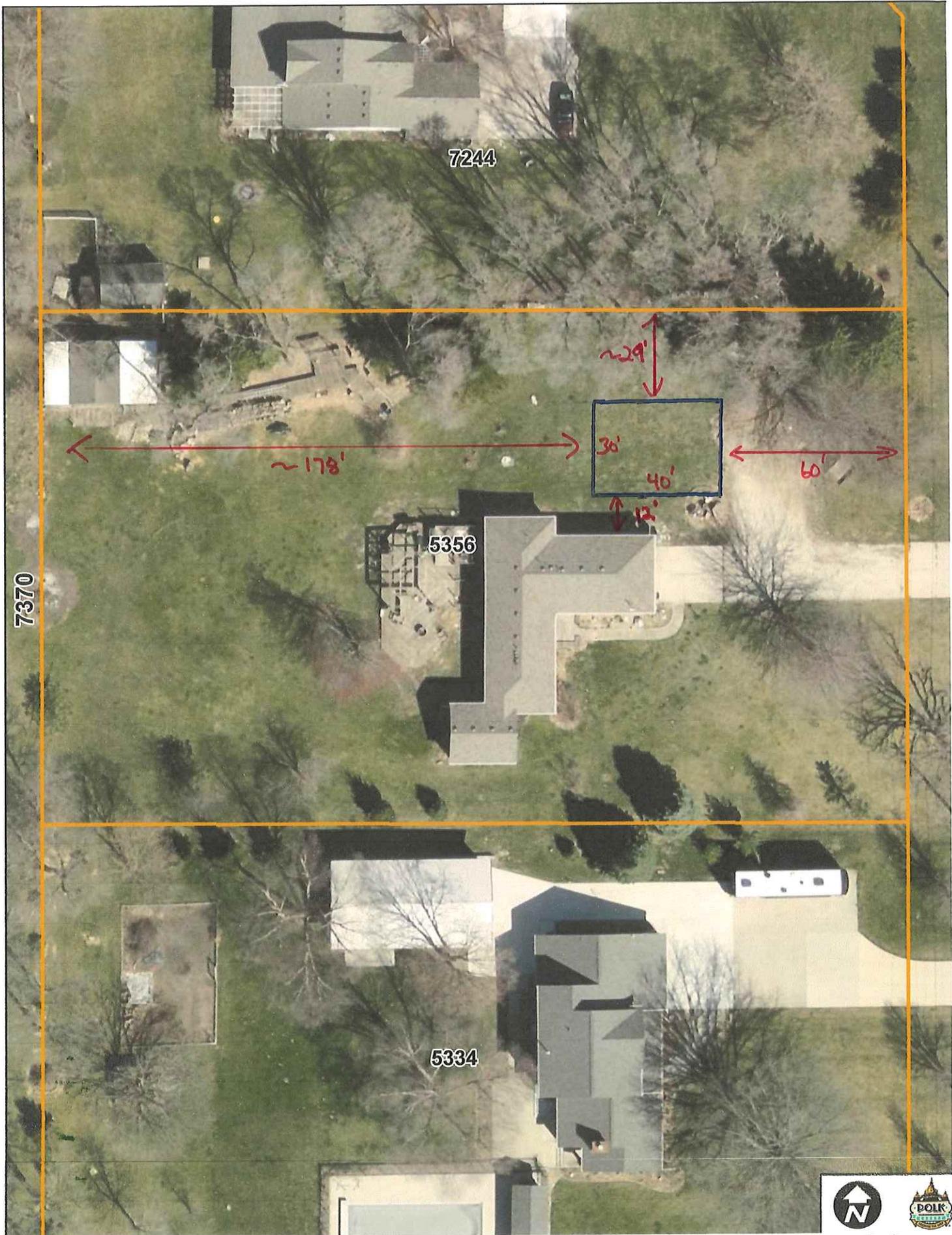
A completed application with site drawing and filing fee are required for a submittal. Incomplete submittals will not be processed and returned to the Applicant.

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 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

1" = 40'



7244

5356

5334

7370

~178'

~29'

30'

40'

12'

60'

