Docket Number: 21/10137

Appellant: James W. Murphy (Owner)
1871 NW 70th Place, Ankeny, IA 50023

Travis Smith, Handyman Home Projects (Contractor)
4109 Northwest Drive, Des Moines, IA 50310

Appeal: The Appellants requests a Variance to allow an addition to the principal residence to be located sixteen and one-half (16 ½) feet from the rear (northern) property line, in lieu of the required thirty-five (35) foot rear yard setback for a principal residence in the “LDR” Low Density Residential District.

Appeal Given: “The building expansion on the Northwest corner would allow for increased kitchen and dining room space. Two additional family members will be moving in this summer to attend DMACC. Expanding the kitchen wall to meet the dining area will open both rooms and allow easier flow through that area. Our problem is with that expansion moving closer to the property line.”

Background
The subject property is located at 1871 NW 70th Place, Ankeny, and is legally described as Lot 8, Albirtie Manor Plat 4, which is located in Section 33, Crocker Township. The subject property is 24,090 square feet in area (0.553 acres) and contains a single-family residential dwelling, and one (1) detached accessory structure.

The subject property is zoned “LDR” Low Density Residential District, as are the surrounding properties within 1,000 feet. The subject property is located approximately 1,950 feet south of the corporate boundary of the City of Ankeny. The area is residential in nature, with a majority of properties being of similar size and feature single-family residential structures. See Attachment A at the end of this report for an aerial vicinity map of the subject property and surrounding area.

The subject property is located at the northwest corner of NW 70th Place and NW Albirtie Drive. The residence on the subject property was constructed in 1976, and was permitted by the Polk County Public Works department. At the time of the construction of the residence, the front property line was considered to be NW Albirtie Drive, and therefore the northern side of the home (the location of the proposed home addition) was considered to be a side property line and would have required a twelve (12) foot setback. In the current Zoning Ordinance, the rear property line is considered to be the opposite lot line along which the lot takes access to a street. Because the driveway is onto NW 70th Place, the southern lot line, the rear lot line would be the north lot line.

The residence on the subject property is currently considered legally nonconforming, as the northwest corner of the home sits approximately eighteen (18) feet from the northern (rear) property line at its closest point. The home is situated at an angle compared to the northern property line, with the northeast corner of the home being located approximately 30 feet from the northern property line. The home previously featured a deck in the location of the subject room addition, which was located approximately 10 feet from the northern property line. Prior to the current owner purchasing the property, a portion of the deck was removed, leaving the deck in its current state.

Summary of Request
The Polk County Zoning Ordinance, Article 6: Bulk and Use Standards, Table 6.1 Table of Single-Family Bulk Standards establishes a rear yard setback of thirty-five (35) feet from a principal structure. The definition of “Lot Line, Rear” is established under Article 2: Definitions as “For rectangular or most
trapezoidal shaped lots, that lot line which is parallel to and most distant from the front lot line of the lot; in the case of an irregular, triangular, or gore-shaped lot, a line twenty (20) feet in length, entirely within the lot, parallel to and at the maximum possible distance from, the front line shall be considered to be the rear lot line. In the case of lots which have frontage on more than one road or street, the rear lot line shall be opposite the lot line along which the lot takes access to a street.” By definition, the northern property line is considered the rear lot line, as it is opposite of the lot line which takes access to the public right-of-way, which is the southern lot line.

The proposed home addition will be a continuation of the current northern wall of the home on the subject property, but due to the position of the home will further encroach into the rear yard setback. The application is proposing a 10-foot by 11-foot 5-inch (10'x11'5") home addition, which will require a variance of eighteen and one-half (18 ½) feet to reduce the rear yard setback to sixteen and one-half feet (16 ½) in lieu of the required thirty-five (35) feet. See Attachment B at the end of this report for a copy of the site plan submitted with the variance application. The applicant is also proposing a home addition adjacent to the southwestern corner of the residence, which is included on the site plan but does not require a variance.

Staff mailed out twenty-seven (27) 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 three (3) responses in support of the request, and no responses in opposition.

**Natural Resources**
The subject property is not located within a mapped floodplain. The site is does feature a fairly significant slope, with an elevation change of 30 feet from the low-point at the southeastern corner of the property to the high point at the northwestern corner of the property.

**Roads & Utilities**
The subject property has approximately 140 feet of frontage along NW 70th Place, and 100 feet of frontage along NW Albirtie Drive. The driveway on the subject property accesses NW 70th Place to the south of the residence. Access will not change with this proposed variance.

The home is served by an on-site septic system, which is located south of the existing residence. The home addition will be constructed on the opposite side of the home of the septic system, and will exceed the minimum 10 feet of separation. There is an 8-inch Des Moines Water Works water main running adjacent to the subject property along NW Albirtie Drive, and a 6-inch water main along NW 70th Place.

**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 current home on the subject property was constructed prior to the enactment of the current site development regulations, and appears to have met all setback requirements at the time of approval. The change of definition of what is considered the front property line, and subsequent difference on what is considered the rear lot
line has created a hardship on the property, as the home is positioned in a location that would be considered nonconforming by today’s standards.

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. The residential use of the property is an allowable use in the “LDR” district, and the addition to the home would be allowed if it met all setback requirements. The proposed home addition is to expand the kitchen and dining room area.

3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?
   Yes. The proposed home addition will be located in the rear of the existing house, and will have minimal impact adjacent property owners or those passing by the home. A permit for a deck was previously issued for the location of the proposed variance, and the construction of indoor living space will be a minimal increase in the degree of intrusion. The property owners most directly impacted by the home addition, the owners of 7096 NW Albirtie Drive, submitted a letter of support of the proposed variance.

4.) Is there a special condition or circumstance that did not result from the actions of the applicant?
   Yes. When the home was constructed, the northern property line was considered to be a side-yard, and had a reduced setback as compared to the rear-yard. An amendment to the lot-line classifications in the Zoning Ordinance now considers the northern property line to be a rear-yard, and has a larger setback. The home was constructed prior to this change in definition. The home also features a significant slope to the southern and eastern yards, which may have also prompted the home to be located in this area of the lot.

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. It does not appear that any environmentally sensitive areas will be impacted by this proposal. The home addition is required to be a minimum of ten (10) feet away from the on-site septic system.

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.
Dear Sir/Madam:

We have been neighbors with the Murphys for 12 years residing on the north side of their property. Mr. Murphy and I have discussed his plans for expansion and remodeling which involves construction of this project north towards our property line. We have no objection to this project and give whatever consent or permission that is necessary to this board.

We understand that Mr. and Mrs. Murphy are going to expand additional room space for their grandchildren who will be residing with them. The Murphys have shown us the displays, drawing, and dimensions of the project and, again, we express our complete satisfaction and agreement to their intentions.

Michael S. McMurry

Mary Ann McMurry

7096 NW Albintie Dr.
Ankeny