

Docket Number: 22/12071

Appellants: BJB Trust (Property Owner), represented by Richard Gosselink, 8455 SE 32nd Avenue, Runnells, IA 50237 & Deer Road, LLC (Property Owner), represented by Brent Gosselink, 11062 SE 32nd Avenue, Runnells, IA 50237

Appeal: The appellants request a Variance to allow four (4) residential properties to share a common driveway and access point.

Background

The subject property is comprised of (2) separate properties totaling approximately 113.54 acres. The eastern parcel is owned by BJB Trust and is approximately 75.20 acres, and the western parcel is owned by Deer Road, LLC and is approximately 38.34 acres. They are legally described as Part of the SW ¼ of Section 18, Township 78 North, Range 22 West of the 5th P.M. (Fourmile Township), and Part of the E ½ of the SE ¼ of Section 13, Township 78 North, Range 23 West of the 5th P.M. (Fourmile Township). The properties are generally located directly north of the intersection of SE 32nd Avenue and SE 82nd Street, and at the northeast corner of SE 32nd Avenue and SE 78th Street. Both properties are zoned “AT” Agricultural Transition District, and are located approximately two (2) miles southeast of Pleasant Hill. See *Attachment A* for a vicinity map of the subject property and surrounding area.

Surrounding properties are a mix of “AT” Agricultural Transition District and “RR” Rural Residential District zoning, and include a mix of open space, farmland and single-family residential uses. Directly adjacent to the south are ten (10) existing single-family residences on platted lots fronting SE 32nd Avenue. These lots were created by the subdivisions of Perkins Acres and Pleasant Oak Estates Re-plat Plat 1, recorded in 1980 and 1987. The two (2) parcels comprising of the subject property are the remnant portions of land left over from these previous developments. They are currently vacant, with areas of open space, woodlands, a segment of Spring Creek and farm ground. They are considered lots of record with each containing a building right for one (1) single-family dwelling.

Summary of Request

The Polk County Zoning Ordinance, *Article 14: Street/Road Standards and Access, Division 2 Access Management, Section 1(C)* stipulates that no more than two (2) residences are permitted onto a shared common driveway and access point. The appellants request a Variance to allow a total of four (4) residential properties to share a common driveway and access point. Two (2) existing residential properties at 8172 and 8232 SE 32nd Avenue (Lots 1 and 2 of Perkins Acres) currently share an access onto SE 32nd Avenue within an existing parcel located between these lots, which is owned by Polk County. This County-owned parcel was platted as a street lot by the previous subdivision of Perkins Acres, with the intent to provide available access and frontage for a future extension of SE 82nd Street to serve the adjacent property to the north for future development. The adjacent property to the north of this street lot is the eastern parcel of the subject property owned by BJB Trust. A public roadway extension of SE 82nd Street was never completed within this street lot. In lieu of constructing the public roadway extension to the boundary of the subject property to the north, the appellants request a Variance to allow the subject properties to share the existing private driveway within this street lot and access point

onto SE 32nd Avenue. This would bring the total number of residential properties sharing this access to four (4). See *Attachment B* for a copy of the Variance Appeal Application and aerial map showing the proposed shared driveway and access point onto SE 32nd Avenue.

Staff mailed 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 one (1) response in support and zero (0) responses in opposition of this Appeal.

Natural Resources

The subject property contains varying topography, with significant changes in elevation and steep slopes and ravines in some areas. There is a high elevation of approximately 910 feet in the northeast corner, and a low elevation of approximately 780 feet in the western portion of the property along Spring Creek. The property contains a significant amount of woodlands throughout, as well as an area in the northwest corner currently used in row crop production. The property contains a significant area of floodplain along Spring Creek in the western portion of the site.

Roads & Utilities

The eastern portion of the subject property has a small amount of frontage (80 feet) onto the unimproved street lot extending north from the intersection of SE 32nd Avenue and SE 82nd Street. This is the location where the appellants propose to extend and share private driveway access for two (2) additional homes via this Variance Appeal. The western portion of the subject property has significant frontage onto both SE 32nd Avenue and SE 78th Street. However, access to this parcel from either of these roadways is not feasible due to the significant floodplain along Spring Creek. Substantial engineering design and grading work would be required to create legal access, including a bridge crossing over Spring Creek. Access to the western part of the subject property is instead proposed via the shared private driveway north of the intersection of SE 32nd Avenue and SE 82nd Street. A private access easement would need to be granted by the owner of the eastern portion of the subject property to create legal access through that ground to the western parcel of the subject property.

Public water is available via Des Moines Water Works. Current available mapping shows there is a six-inch (6") rural water main located on the north side of SE 32nd Avenue, and a four-inch (4") rural water line on the east side of SE 78th Street. The appellants would be responsible for coordinating with Des Moines Water Works regarding future service line locations and cost/process to connect for the future residences proposed. Wastewater treatment needs for each future home would be via private onsite systems to be designed and installed by the owners at time of future home construction. The appellants would be responsible for all other applicable utility services/extensions, including electric, telecommunications, etc., to serve the planned future residences.

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. While both parcels that comprise the subject property each contain a development right for a single-family residence, access is limited due to significant floodplain and a lack of improved public right-of-way.
- 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 Variance is necessary to allow reasonable access to the properties that would otherwise be cost prohibitive. Absent the Variance, access is not feasible due to the significant engineering and construction costs necessary to cross Spring Creek and the adjacent floodplain, and similar costs to design and construct a public roadway extension of SE 82nd Street.
- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?
Yes. There are several adjacent residences along SE 32nd Avenue. Two (2) of these adjacent residences currently share a private driveway within the unimproved public right-of-way of SE 82nd Street with shared access onto SE 32nd Avenue. The subject property already contains two (2) building rights, and the additional residences would not adversely impact surrounding properties.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?
Yes. The access restrictions due to floodplain and unimproved public right-of-way were created by previous subdivision of the property and are not a result of the appellants' actions.
- 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 such provisions will be impacted by this variance request.

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 conditions:

1. The appellants are required to prepare and record a private driveway easement across the BJG Trust property (easternmost portion of subject property) for the future private driveway to serve the Deer Road, LLC property (westernmost portion of subject property). The easement shall be recorded prior to future permitting of a residence on the Deer Road, LLC parcel.
2. The appellants are responsible for extension of the existing private driveway/access, as well as any utility services, to serve the subject properties. The appellants and adjacent properties utilizing this shared access are also responsible for all maintenance, snow removal etc. to maintain the private shared driveway/access.
3. Any additional development on the subject properties beyond the two (2) residences proposed, will require a public street extension of SE 82nd Street and associated utility extensions.

Attachment B

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)

Applicants would like a variance to the Ordinance limiting the number of homes on a shared driveway from two to four. The County owns Lot B of Perkins Acres where parcels 220/00528-301-000 and 220/00528-302-000 have shared a driveway for over 40 years. Applicants own land directly to the north of Lot B and wish to obtain the variance so they can build on parcels 220/00023-002-006 and 220/00255-003-003.

(time stamp)
Official Use Only

2. Subject Property Address: Intersection of SE 32nd Ave. & SE 82nd St., Runnells, IA 50237

3. Subject Property Zoning District: AT - Agricultural Transition District

4. District and Parcel Number: 220/00528-305-002

5. Subject Property Legal Description (attach if necessary):
LOT B PERKINS ACRES

6. Filing Fee: \$336.00 per variance (each provision requested for a variance is considered a separate variance request)

7. Applicant(s) Information:

Richard Gosselink
Applicant (Print Name)

Richard Gosselink
Signature

9/12/2022
date

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

richard.gosselink@gmail.com
Email

8455 SE 32nd Ave., Runnells, IA 50237
Address, City, State and Zip

(515)201-1868
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)

Richard Gosselink

 (Print Name)

[Signature]

 Signature

9/12/2022

 date

Trevor Gosselink

 (Print Name)

[Signature]

 Signature

9/12/2022

 date

Tina Gosselink

 (Print Name)

[Signature]

 Signature

9/12/2022

 date

Beverly Gosselink

 (Print Name)

[Signature]

 Signature

9-12-2022

 date

Brenton Gosselink

[Signature]

9-28-2022

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.

These variances are being requested as access to the property was originally platted and approved for development in 1979 under the name Perkins Acres. Lot B of Perkins Acres was reserved for a future road into Pleasant Oak Estates and given to the County at that time. In 1980, during the development of Pleasant Oak Estates, the developer went bankrupt and was forced to abandon the development and sell the ground. In 1983, Dale and Beverly Gosselink purchased the ground and Pleasant Oak Estates was replatted in 1986 to remove the development. This action removed the road and left the only access to the property on the County owned Lot B. Since that time, no additional development has been done and it has been owned by the Gosselink family since 1983.

Variance for one driveway and single-family home would be for District/Parcel #220/00023-002-006, which is a 75 acre property that is owned by Richard Gosselink.

Variance for another driveway and single-family home would be for District/Parcel #220/00255-003-003, which is a 38 acre property that is owned by Trevor Gosselink.

These requests are due to the financial burden that would be required to develop the property to code without intention of selling any lots to offset the expense. The two referenced above have been in the family for almost forty years and it is the intention of the owners to have it be legacy property for future generations. Owners are willing to prepare and record deed restrictions stating that any future development will require public road improvements.

**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

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.

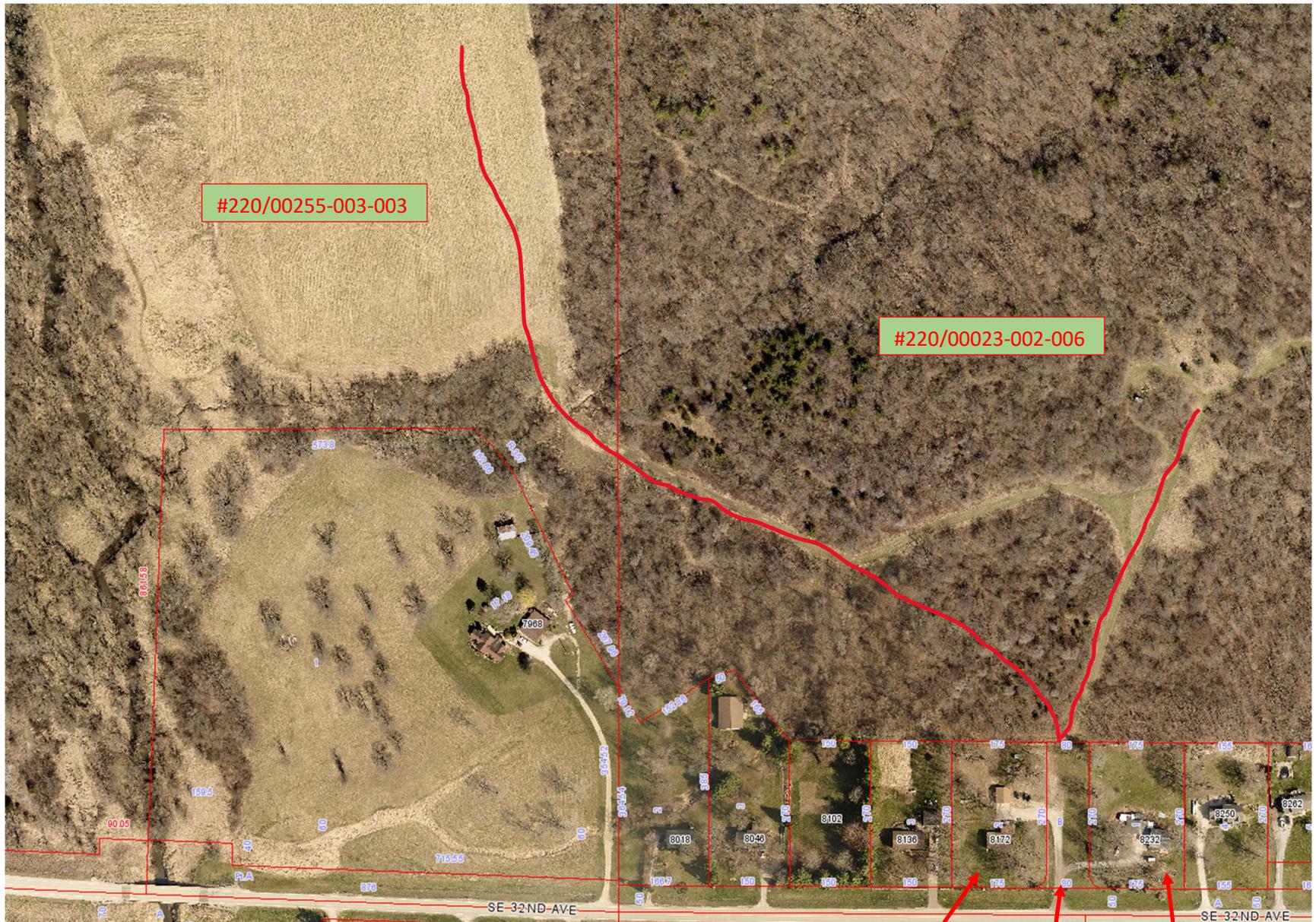
Variance Regulations

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.



#220/00255-003-003

#220/00023-002-006

#220/00528-302-000

#220/00528-301-000

Lot B Perkins Acres