

**Docket Number:** 22/11350

**Appellants:** Carl & Jenessa Amundson (Property Owners), 7702 NW 37<sup>th</sup> Street, Ankeny, IA 50023, represented by Mark McMurphy with Abaci Consulting, Inc., 3000 SE Grimes Blvd, Suite 800, Grimes, IA 50111,

**Appeal:** The appellants request a rear yard setback Variance of approximately 11 feet for an existing single-family dwelling.

### **Background**

The subject property is located at 7702 NW 37<sup>th</sup> Street, Ankeny. The property is approximately 18.77 acres in size, and is legally described as part of Government Lot 2 within Section 32 of Township 80 North, Range 24 West of the 5<sup>th</sup> P.M. (Crocker Township). The property is zoned "RR" Rural Residential District. The subject property is located approximately one (1) mile southwest of the intersection of NW 84<sup>th</sup> Avenue and NW 35<sup>th</sup> Street (Hwy 415). The City of Ankeny corporate limits are located approximately one (1) mile east where they extend west along Rock Creek near the intersection of SW Oralabor Road (Hwy 415) and NW 26<sup>th</sup> Street. The City of Johnston corporate limits are located a few hundred feet to the west of the subject property where they extend east to the Des Moines River and Saylorville Reservoir. Surrounding properties to the north, south and west are zoned "OS" Open Space District and held in public ownership as they lie adjacent to the Saylorville Reservoir, dam and Des Moines River outlet located just north and west of the subject. Also, partially adjacent to the north of the property is an existing residential parcel at 7846 NW 37<sup>th</sup> Street which is zoned "RR" Rural Residential District and contains a single-family residence. Adjacent to the east of the property is an additional single-family parcel and existing residence zoned "RR" Rural Residential District at 7700 NW 37<sup>th</sup> Street. A new single-family residential subdivision is currently being constructed directly east of the property on the east side of NW 37<sup>th</sup> Street known as Timber Valley Estates. See *Attachment A* for a vicinity map of the subject property and surrounding area.

The subject property is irregularly shaped, having approximately 387 feet of frontage along NW 37<sup>th</sup> Street in its northeastern corner. The property stretches to the west and southwest, bordered by the Des Moines River, Rock Creek and adjacent open space areas. The site contains an existing single-family dwelling and accessory structures located in the northwest corner of the property. According to County records, the dwelling was originally constructed in 1950. Access is taken from NW 37<sup>th</sup> Street to the southeast via a shared driveway entrance with the adjacent property at 7700 NW 37<sup>th</sup> Street. The appellants and current property owners purchased the property in 2020. They also own an adjacent approximately 6.93-acre parcel to the southwest, which is currently open space and contains additional frontage along NW 37<sup>th</sup> Street and borders Rock Creek to the south. The appellants are currently in the process of subdividing the subject property and this adjacent parcel into a single-family development to be known as Ironwood Heights. The development will include a new public roadway extension and division of the property into 16 new single-family lots. The existing residence at 7700 NW 37<sup>th</sup> Street would be re-platted onto the future Lot 9 of the new development. The remaining lots would be developed with new single-family homes.

### **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 rear yard setback of 50 feet for principal dwellings within the "RR" Rural Residential District. As mentioned above, through the re-platting of the property for a new residential development the existing residence will be located on the future Lot 9 of this subdivision. This re-platting will change the front, rear and side property line designations and required setbacks for the existing residence. The new lot for the residence will take access from the south onto a new public street extension serving the development. The current northern property line will change from a side lot line, with a minimum required setback of 15 feet, to a rear lot line, with a minimum required setback of 50 feet. The appellants are requesting a rear yard setback variance of approximately 11 feet for this new lot configuration to allow the existing residence to remain at what will be a future rear yard setback of 39 feet, in lieu of the required 50 feet.

Staff mailed out 12 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 zero (0) responses in support and one (1) response in opposition of this Appeal. The corporate limits of Ankeny and Johnston are in close proximity. Both entities were contacted last year at time of initial submittal of the preliminary plat to subdivide the property for future residential development. Both entities responded that the property was located outside of their respective planning boundaries, and they had no concerns with the request to further develop the property.

### **Natural Resources**

The site contains significant changes in topography, including a series of steep ravines in the northeast corner of the property. There is a high elevation of approximately 890 feet in the northern portion of the property near the existing dwelling and accessory structures, and a low elevation of approximately 812 feet along the southern boundary approaching Rock Creek. The site also contains large areas of woodlands, primarily concentrated in the northeast corner. Future development of the property is required to meet the woodland protection requirements for existing woodlands. The southern portion of the site is adjacent to the floodplain of Rock Creek located just south of the property. However, no mapped floodplain areas are located on the subject property. There are no other known environmental hazards or features.

### **Roads & Utilities**

The property has existing frontage to the east onto NW 37<sup>th</sup> Street. NW 37<sup>th</sup> Street is a paved, two-lane rural cross-section collector roadway maintained by Polk County. Current access to the subject property is via a shared driveway with the adjacent property at 7700 NW 37<sup>th</sup> Street. As part of the planned residential subdivision of the property, a new public cul-de-sac roadway will be extended into the property to provide access to the existing residence and future single-family lots. Water service is provided by Des Moines Water Works. Wastewater treatment is currently provided by an onsite septic system. Sanitary sewer will be extended to serve all lots within the planned new development. The existing residence will be required to connect to sanitary sewer and abandon the septic system at time of development and construction.

## **Recommendation**

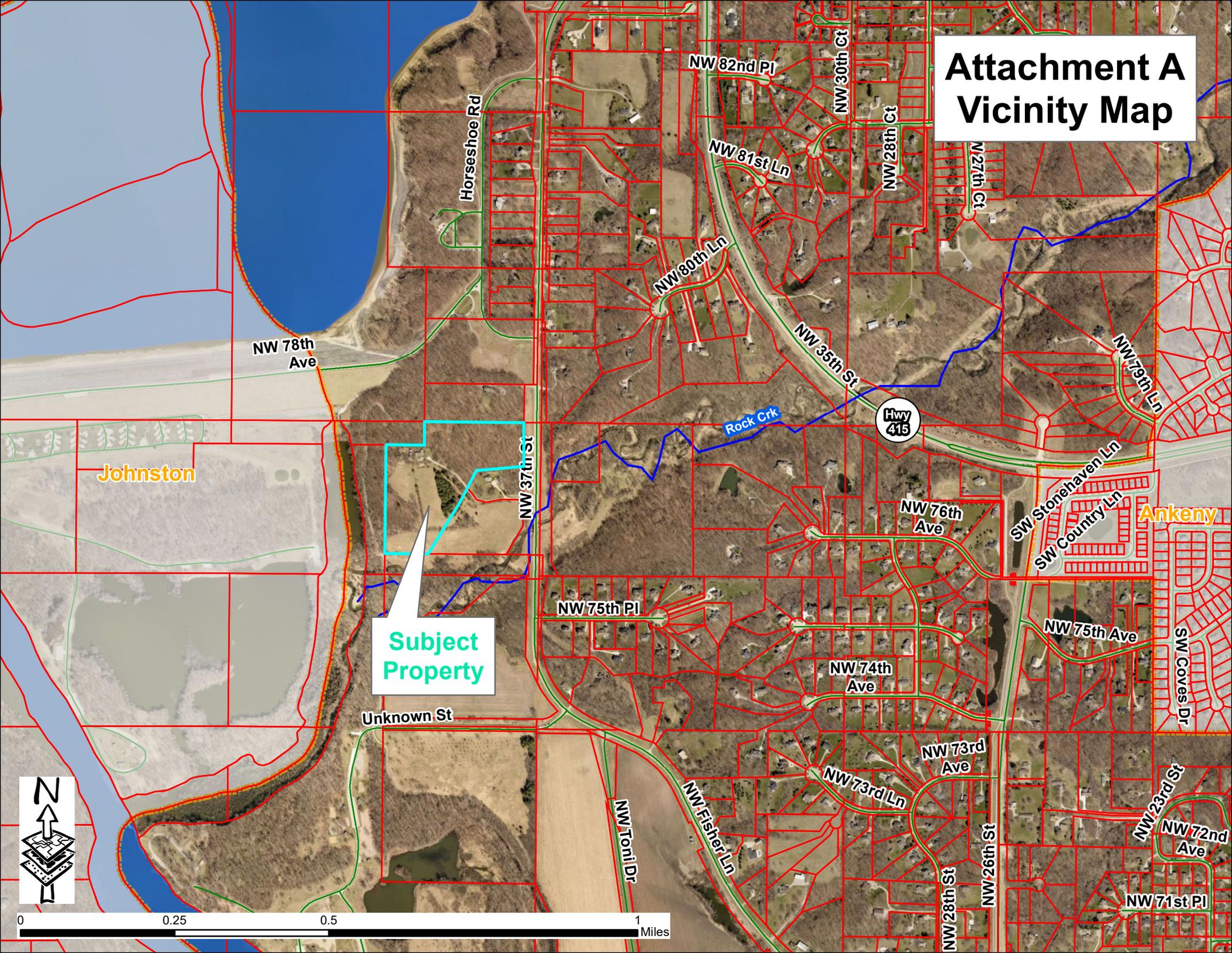
**The Board of Adjustment may grant a variance if items 1 through 5 are affirmed.**

- 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 residence at issue is existing, and there is no further encroachment into the northern setback area proposed. The request is a formality due to the proposed future reconfiguration of the property. This is a unique circumstance that, but for the granting of a variance, would require a significant cost and burden to the appellants to remove or relocate the existing single-family dwelling, which is in good condition.
- 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 property's residential zoning classification permits single-family residences.
- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?  
Yes. There will be no negative impact upon adjacent properties or the intent of the Ordinance. No addition to the residence or further encroachment from its current setback to the adjacent northern property line is proposed. Additionally, the property directly adjacent and most impacted is open space ground held in public ownership.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?  
Yes. While the proposed re-platting of the property has been initiated by the appellants, the existing location and configuration of the residence was established by a previous property owner.
- 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 condition:

1. This approval only applies to the proposed reconfiguration of the property as part of the future redevelopment known as Ironwood Heights, and as depicted on the site plan drawing submitted with the application and as found as *Attachment B* to this report.

# Attachment A Vicinity Map



NW 78th Ave

Johnston

Subject Property

Unknown St

NW 75th Pl

NW 74th Ave

NW 76th Ave

NW 75th Ave

NW 72nd Ave

NW 71st Pl

NW 82nd Pl

NW 81st Ln

NW 80th Ln

NW 35th St

NW 37th St

NW Fisher Ln

NW 73rd Ln

NW 73rd Ave

Hwy 415

SW Stonehaven Ln  
SW Country Ln

NW 79th Ln

SW Covens Dr

NW 23rd St

NW 28th Ct

NW 30th Ct

NW 27th Ct

Horseshoe Rd

NW Tonil Dr

NW 26th St

NW 28th St



**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)

REQUESTING A VARIANCE FOR THE REAR SETBACK REQUIREMENT FROM THE PRESCRIBED 50.0 FEET TO 39.0 FEET. A VARIANCE OF 11 FEET.

(time stamp)  
Official Use Only

2. Subject Property Address: 7702 NW 37th STREET, DES MOINES, IOWA 50023

3. Subject Property Zoning District: RURAL RESIDENTIAL ("RR")

4. District and Parcel Number: 180/00490-006-002 & 00490-007-002

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

NW: -EX S 175F & W 330F N 200F- & -EX E OF LN BEG150.04F W OF NE COR THN S 387F W 403.15F SWLY835.77F TO S LN- E 1320F GOV LT 2 SEC 32-80-24

SE: PARCEL A BOOK 14926 PAGE 730 BNG PRT OF GOV LT 2SEC 32-80-24

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

7. Applicant(s) Information:

JENESSA AMUNDSON & CARL AMUNDSON  
Applicant (Print Name)

*Jenessa Amundson Carl Amundson*  
Signature

3/11/22  
11/24/2023  
date

OWNERS

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

CARL@IRONWOODHEIGHTS.COM

Email

7702 NW 37TH STREET, ANKENY, IA 50023

Address, City, State and Zip

(712) 339-0436

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

MARK A. McMURPHY, PE

Applicant Representative (Print Name)

ABACI CONSULTING, INC.

Firm or Business Name

3000 SE GRIMES BLVD - SUITE 800, GRIMES, IOWA 50111

Address, City, State and Zip

MARK@ABACICONCONSULTING.COM

Email

(515) 986-5048

Phone

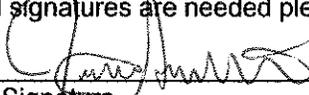
(515) 986-0588

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)

JENESSA AMUNDSON  
 \_\_\_\_\_  
 (Print Name)

  
 \_\_\_\_\_  
 Signature

3/11/22  
~~11/1/2021~~  
 \_\_\_\_\_  
 date

CARL AMUNDSON  
 \_\_\_\_\_  
 (Print Name)

  
 \_\_\_\_\_  
 Signature

3/11/22  
~~11/1/2021~~  
 \_\_\_\_\_  
 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.

THE PARCEL LOCATED AT "7702 NW 37th STREET, ANKENY, IOWA 50023" IS BEING SUBDIVIDED INTO 16 SMALLER LOTS. AN EXISTING SINGLE FAMILY HOME (ALONG WITH OTHER DETACHED STRUCTURES) LANDS SQUARELY ON PROPOSED "LOT 9". HOWEVER, SINCE THIS SINGLE FAMILY HOME WAS BUILT IN 1950, THE NORTH-MOST CORNER OF THE HOME BREACHES THE CURRENT 50 FOOT MINIMUM REAR SETBACK LINE REQUIREMENT AS THIS WAS NOT CONSIDERED A REAR YARD WHEN IT WAS BUILT. AS PER THE CURRENT DESIGN, THE CORNER IS 39.1 FEET FROM THE LOT LINE. A VARIANCE IS REQUESTED TO BRING THE 50 FOOT REAR SETBACK LINE REQUIREMENT DOWN TO 39.1 FEET SO THAT THIS PART OF THE HOME IS PRESERVED AND DOES NOT NEED TO BE TORN DOWN.

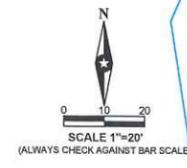
ATTACHMENTS SUPPORTING THIS APPLICATION:

- THIS APPLICATION FORM
- FULL-SIZE PLAN-SET OF MAJOR PRELIMINARY PLAT
- SHEET SHOWING HOME CORNER IN QUESTION
- LEGAL DESCRIPTION NW AND SE LOTS

**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 14<sup>th</sup> 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

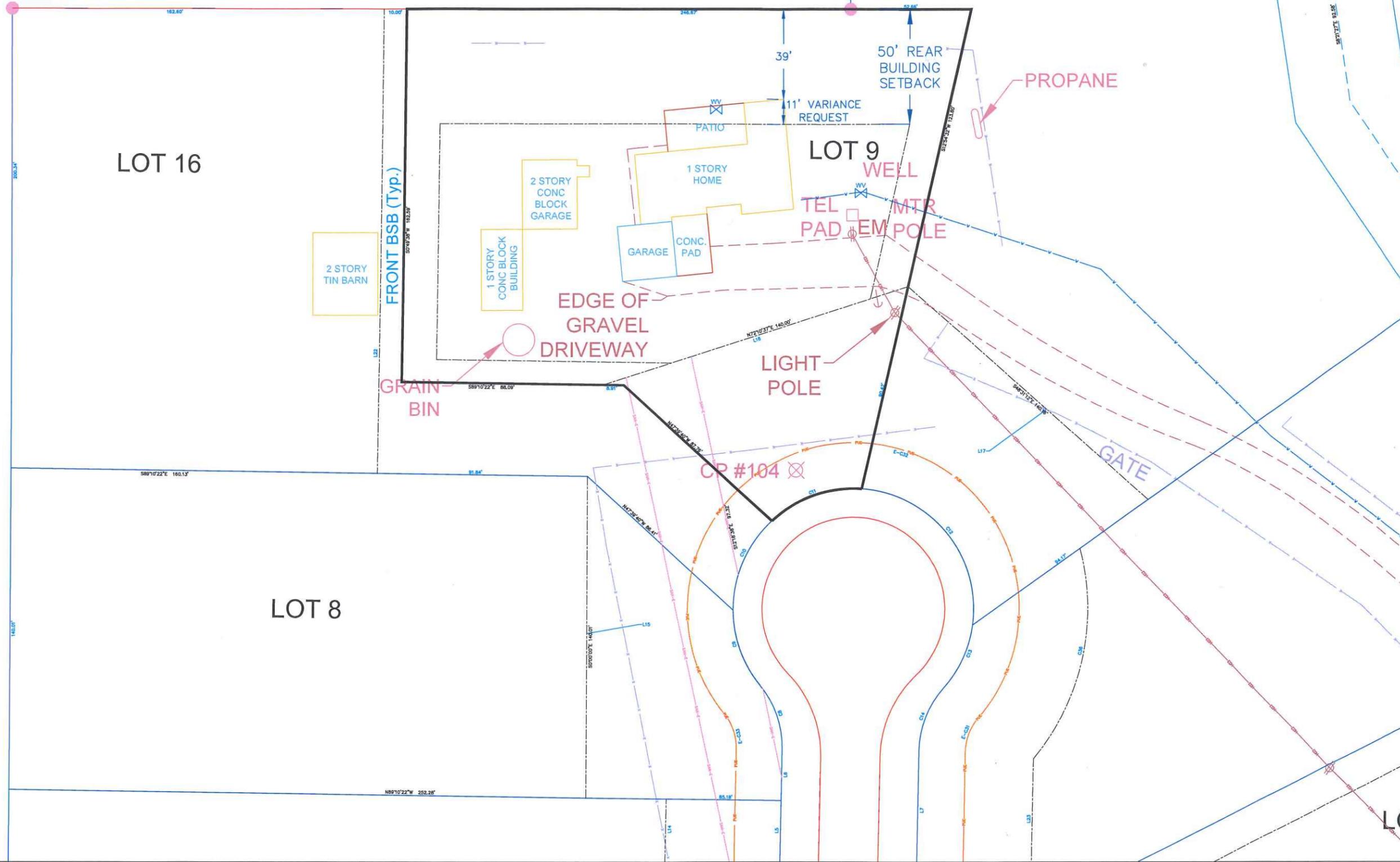


LOT 13

LOT 16

LOT 8

LOT 9



PROJECT NO:	20349
DRAWING FILE NO:	20349CD
DESIGNED/REVIEWED BY:	M.M.
DRAWN BY:	H.B.
DATE:	11/24/2021

NO.	REVISION DESCRIPTION:	DATE:
1		
2		
3		
4		

**ABACI CONSULTING, INC.**  
 CIVIL ENGINEERING - LAND SURVEYING  
3000 E. GARFIELD BLVD. SUITE 100  
 CHARLES, IOWA 52511  
 OFFICE: (515) 996-5048

IRONWOOD HEIGHTS  
 POLK COUNTY, IOWA

**VARIANCE AREA FOR LOT 9**

SHEET:  
**1 OF 1**