Appeal: The appellant requests a variance to construct a new accessory building located in front of the principal dwelling with a separation between the accessory building and principal structure of greater than 150 feet.

Background
The subject property is located at 8977 NE Hubbell Rd, Bondurant, and is legally described as Lot 2 of Nehring Estates Plat 1, within Section 21 of Township 80 North, Range 22 West of the 5th P.M. (Franklin Township). The property is approximately 60 acres in size and is zoned “ER” Estate Residential District. The subject property is located approximately one-half (½) mile north of the corporate limits of Bondurant, where they extend northeast along NE Hubbell Road (Hwy 65), and lies approximately one-half (½) mile southwest of the intersection of NE 94th Avenue/NE Santiago Drive and NE Hubbell Road (Hwy 65). Surrounding properties to the north and east are zoned “ER” Estate Residential District and primarily developed with single-family residences. Properties to the south are primarily agricultural in use and zoning within unincorporated Polk County as well as the City of Bondurant. There are three (3) existing residences located directly southwest of the subject property along NE Hubbell Road within unincorporated Polk County. Properties to the west, located on the west side of NE Hubbell Road, are zoned and utilized agriculturally within unincorporated Polk County, including a few residences. See Attachment A for a vicinity map of the subject property and surrounding area.

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 intent of this accessory regulation is to ensure that principal dwellings are the prominent feature of single-family lots along public road frontages. The regulation also ensures that in cases where accessory structures are permitted in front of principal dwellings, the structures are located proximate to one another.

The appellant proposes to construct a 60’ x 80’ (4,800 square feet) accessory pole building in the western portion of the property near its frontage with NE Hubbell Road. The proposed location meets the first criteria, as it is over 100 feet setback from the front property line. However, the second criteria is not met as the proposed building location is approximately 815 feet from the nearest portion of the principal residence on the property. The site plan submitted with the appeal can be found as Attachment B to this report. The appellant provided no additional justification for the request within the application.

The appellant is currently constructing a new approximately 7,800 square feet single-family dwelling, and is in the process of permitting a new approximately 13,800 square feet accessory barn, both located along the eastern property line in the southeastern portion of the subject property. The locations of the new residence and future barn are identified on the Attachment B site plan. The appellant recently subdivided the subject property and surrounding ground as part
of the development known as Nehring Estates Plat 1. The plat reconfigured two (2) existing dwellings located at 8991 and 9265 NE Hubbell Rd, and created two (2) additional development rights as Lots 2 and 4 at 8977 NE Hubbell Rd (subject property) and 9287 NE Hubbell Rd.

The subject property is the largest lot in the development at approximately 60 acres in size. The subject property contains an existing pond and drainageways, and is uniquely shaped. It has approximately 240 feet of frontage onto NE Hubbell Rd, and stretches to the north and east behind the other platted lots. The subject property contains an existing accessory structure along the driveway entrance and frontage onto NE Hubbell Rd near the location for the new accessory structure proposed by this request. The existing accessory structure was separated from the house at 8991 NE Hubbell Rd through the recent platting process. This building is nonconforming due to its front setback and separation from the new residence. If this structure were substantially damaged or removed it could not be rebuilt in the same location.

Staff mailed out 17 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, and zero (0) responses in opposition, of this Appeal.

**Natural Resources**
The subject property contains an existing pond, including a platted ponding easement. The property also contains several drainage easements. Engineered crossings of the drainage easements have been designed for access to the rear of the property for the new single-family dwelling and future barn. There is a small area of mapped 1% annual chance floodplain Zone ‘A’ immediately surrounding a drainageway in the northern portion of the property. This floodplain area will not be impacted by existing or proposed buildable areas of the property.

The site contains varying topography. There is a small area of flat, buildable ground along the property’s frontage with NE Hubbell Rd near the existing accessory structure at approximately 920 to 930 feet. It appears the appellant has performed grading and fill work just south of this area to prepare a level pad for construction of the proposed 60’ x 80’ accessory building. There is also a sizable area of relatively flat topography located in the southeastern portion of the lot in the location of the future dwelling and other accessory building at approximately 920 feet. The rest of the property contains sloping topography along existing drainageways and woodland areas. There is an area of woodlands located in the northern portion of the property along existing drainageways. This woodland area is not proposed for any buildings at this time, and contains a woodlands protection easement as noted on the final plat of Nehring Estates Plat 1.

**Roads & Utilities**
NE Hubbell Road (Hwy 65) is a four-lane major arterial State highway maintained by the Iowa Department of Transportation. Public water is provided by Des Moines Water Works. There is an existing two and one-half inch (2½”) water main located along the southeast side of NE Hubbell Road. Wastewater treatment for the new residence will be provided by a private onsite septic system.

**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?

No. While the property is unique in its shape and topographical features, there is adequate buildable area on the property to construct the proposed accessory building in a conforming location, or at least in a location that requires less of a setback variance and is more consistent with the intent of the accessory structure regulations.

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)

No. While residential accessory structures are a permitted use on the property, as stated above, there are other buildable locations on the site requiring no variance, or at least less of a variance more consistent with the regulations.

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

No. The proposed location is over 800 feet away from the new dwelling under construction on the subject property. The proposed location would be closer to adjacent residences at 8839 and 8991 NE Hubbell Rd than to the principal dwelling on the subject property. Therefore, any use of the proposed accessory building would be more impactful to these adjacent residences than to the residence on the subject property.

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

No. With staff and County support, the appellant recently subdivided the subject property and surrounding ground to create additional buildable lots. Therefore, any perceived hardship is self-created. As part of the recent subdivision process staff allowed the existing accessory building on the subject property to remain along NE Hubbell Rd as an existing nonconforming structure. Approval of this request would create an additional accessory building in this area of the property that is not consistent with the intent of the accessory building regulations of the Polk County Zoning Ordinance.

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 would be impacted by this proposal.

The Board of Adjustment may grant a variance if items 1 through 5 are affirmed. Since items 1-5 were not answered in the affirmative, staff recommends denial of the requested variance.