

**Docket Number:** 21/10491  
21/10492

**Appellants:** Nicholas and Susan Conner (Owners)  
6487 SE 124<sup>th</sup> Street, Runnells, IA 50237

**Appeal:** The Appellants requests two (2) Variances to allow a swimming pool to be located five (5) feet from the principal residence, and a second to allow existing accessory structures to remain located in front of the principal residence at a front yard setback of nineteen (19) feet.

**Appeals Given:** “The original proposed location of the 16’x32’ above-ground pool lies within 10 feet of the upper deck structure, at approximately 5-feet from the southwest corner. The top of the deck railing is 13-feet above the ground level of the pool’s proposed location. It is not feasible to relocate the pool further to the South, as the grade within 3-feet quickly drops down into the timber. There are no other reasonably level locations on our property to install a pool which would not violate other zoning requirements.”

“Our chicken coop (8’x10’) and our shed (12’x16’) have been in their current location for approximately four years. There has not been an issue with their current location until we submitted a building permit for a pool and we were made aware by the Polk County Public Works Department that these structures would need to be relocated as they are within the building setback (as well as a Public Utility Easement, which we are requesting to vacate). Our apologies as we were unaware of this when we built these structures. As soon as we became aware we have been working to remedy the issue (and obtain necessary permits for the shed). We chose the current location for these structures by considering where the public utilities on our property (water and electric), geothermal and septic are located; needing a relatively level location (which is limited on our property) as well as needing the structures within close proximity to the house and outside the water hookups. As the chicken coop and shed have not caused an issue in their current location and as a substantial portion of our property is within the building setback (as it is a corner lot), we hope that our appeal will be granted.”

### **Background**

The subject property is located at 6487 SE 124<sup>th</sup> Street, Runnells, and is legally described as Lot 1, Owens Estates, which is located in Section 36, Camp Township. The subject property is 2.83 acres in area and contains a single-family residential dwelling, two constructed accessory buildings, and one partially constructed swimming pool.

The subject property is zoned “RR” Rural Residential District, as are the surrounding properties. The area is agricultural and residential in nature, with a mixture 2-5 acre lots, and larger acreages. 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 southeast corner of SE 64<sup>th</sup> Avenue and SE 124<sup>th</sup> Street. SE 64<sup>th</sup> Avenue is paved through street, whereas SE 124<sup>th</sup> Street extends only one-quarter of a mile south of the subject property where it terminates as a dead-end that splits to two (2) residential driveways. Only four (4) properties gain access from SE 124<sup>th</sup> Street. The home on the subject property gains access from a driveway onto SE 124<sup>th</sup> Street to the west, though faces North towards SE 64<sup>th</sup> Avenue. The existing residence was constructed in 2013, and meets or exceeds all setback requirements of the current Zoning Ordinance.

### **Summary of Request**

The Polk County Zoning Ordinance, *Article 4: Use Regulations, Division 6: Accessory Regulations, Section 1: Residential Accessory Structures (C)* states: "An accessory building, in-ground pool or above-ground pool must be located at least ten (10) feet from a principal structure. Deck attached to the principal structure and/or surrounding a pool adjacent to the principal structure is considered part of principal structure."

*Article 4: Use Regulations, Division 6: Accessory Regulations, Section 1: Residential Accessory Structures (J)* states: "An accessory building may not be placed in front of the principal building unless said accessory building: (1) Is setback a minimum of 100 feet from front property lines; and (2) Has a maximum separation distance between the principal structure and accessory building of 150 feet."

Because primary access to the subject property is taken from the West onto SE 124<sup>th</sup> Street, by definition, an accessory structure cannot be located closer to that front property line than the principal residence unless it meets a 100 foot setback. The principal residence site closer than 100 feet to the western property line, therefore effectively no accessory structures are permitted within the western front yard without the approval of a variance. See *Attachment B* at the end of this report for a copy of the site plan submitted with the variance application.

Staff mailed out six (6) 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 two (2) responses in support of the request, and no responses in opposition.

### **Natural Resources**

The subject property is not located within a mapped floodplain. The northern half of the property contains a gradual slope of 16-feet from the high point at the northeast corner to the western property line. The southern half of the property features a steeper slope and timber area, with approximately 26 feet of elevation drop from a high-point at the east to a low-point at the southwest corner. The area where the sheds are currently located is mostly flat and is adjacent to the driveway which access SE 124<sup>th</sup> Street. The area the swimming pool is proposed has been graded to be a flat terrace that is approximately 22 feet wide, but then slopes down towards the timber area of the lot.

### **Roads & Utilities**

The subject property has approximately 256.07 feet of frontage along SE 64<sup>th</sup> Avenue, and 414.01 feet of frontage along SE 124<sup>th</sup> Street. The driveway on the subject property accesses SE 124<sup>th</sup> Street approximately 270 feet south of the intersection of SE 124<sup>th</sup> Street and SE 64<sup>th</sup> Avenue. Access will not change with this proposed variance, and the proposed accessory buildings are not proposed to have a separate access point.

The home is served by an on-site septic system, with the tank located near the southeast corner of the home, and the sand filter located southeast of the home near the eastern property line. The home features geothermal wells that are located east of the home. There is a buried electric line which stretches from near the northeast corner of the not to the northeast corner of the home, and the water line accesses SE 64<sup>th</sup> Avenue to the north. The proposed swimming pool and accessory buildings are required to maintain a minimum separation distance of 10 feet from the septic system. Water is gained from a 2-inch Des Moines Water Works water main along the north property line.

The subject property features an 11-foot Public Utility Easement along the northern property line, an additional 32-foot Water Main Easement directly adjacent to said 11-foot P.U.E., and a Clear Sight Easement at the intersection of SE 64<sup>th</sup> Avenue and SE 124<sup>th</sup> Street. Additionally, there is a 20-foot Public Utility Easement along the western property line. The applicants have submitted an application to vacate a 20-foot public utility easement that is located on the western side of the property, and the petition will be heard by the Board of Supervisors on July 20, 2021, and has been assigned Docket #10497. If said public utility easement is not vacated, the previously constructed accessory structures must be moved to a different point on the property.

**Recommendations:**

**Docket #10491:** Variance to allow a swimming pool to be located five (5) feet from the principal residence in lieu of the required ten (10) feet.

**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 position of the home on a corner lot, being located 151-feet from the northern front property line and 83-feet from the western front property line put a significant portion of the property within a front setback area. Furthermore, the rear yard is limited by a steep grade and wooded timber area. The presence of utilities on the property further limits the position the swimming pool could be located.
- 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 "RR" district. Private swimming pools are a permitted accessory use in the "RR" District.
- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?  
Yes. The location of the proposed swimming pool will have little effect on adjacent property owners. The property is surrounded by mature trees which buffers surrounding properties. The swimming pool will be most visible from passing the driveway entrance, which is approximately 30-feet wide, and the pool will be approximately 120 feet from the roadway surface.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?  
Yes. The rear yard area on the subject property is limited by the presence of a sloping terrain and associated timber area, which would require significant site work to be made suitable for a swimming pool. Positioning the pool 5-feet closer to the rear deck of the principal residence than would otherwise be allowed by ordinance would alleviate the potential of impact on on-site utilities.

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.

**Docket #10492:** Variance to allow existing accessory structures to remain located in the secondary front yard with setbacks 19-feet in lieu of the required 50-feet.

**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 home on the subject property, as well as water lines, buried electrical lines, geothermal wells, and the septic system provide a number of difficulties for locating accessory structures in an ordinance approved 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. Residential properties in the "RR" District are allowed to have accessory structures, and are allowed to keep chickens.

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

Yes. The home gains access from SE 124<sup>th</sup> Street, which is a street that is only one-quarter (1/4) of a mile long, and is currently only accessed by four (4) properties. The accessory structures are screened by a thick tree buffer, and the location of the accessory structures will have no impact on the adjacent roadway or adjacent properties.

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

Yes. The homeowners constructed the accessory structures without review and approval of Polk County Staff, though alternate locations may not have been possible as the presence of a wooded timber area as well as functional front yards greatly limits the permitted location of accessory structures on the subject property.

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, subject to the following conditions:

1. The approval shall only be valid if the 20-foot Public Utility Easement is vacated by the Board of Supervisors. (Docket #10497).
2. The approval shall only apply to the 8'x10' chicken coop and the 12'x16' shed. No new structures shall be located within the front yard setbacks without prior approval. The current accessory structures shall not increase in size.

Attachment 'A'

SE 64th Ave

SE 124th St

Subject Property

6487

12455

12517

12595

6750

6767



**Attachment 'B'**

SITE ADDRESS: **6487 SE 124th St.**  
 OWNER'S NAME: **Nicholas Conner**  
 APPLICANT'S NAME: **Nick Conner**  
 APPLICANT'S PHONE: **515-229-3298**

**INSTRUCTIONS TO APPLICANT**

- Specify Site Address and Owner's Name.
- Specify Name and Phone Number of person furnishing Site Plan information.
- all streets must be identified.
- Indicate lot dimensions.
- All structures, existing and proposed, must be shown on the Site Plan. Dimensions of and distances to all lot lines from existing/proposed buildings must be indicated as well as distances between all proposed/and existing structures.
- Indicate location of and distance to property entrance(s), existing and/or proposed. Dimensions from corner of property to center of drive should be indicated.
- Indicate location of and distance to existing and proposed septic tank(s) and/or on site waste-water treatment system(s) and if applicable geothermal heat pumps.
- Indicate location of ponds, streams, drainage ways, and/or ravines. All physical features must be shown.
- Identify North Directional Arrow and indicate scale of Site Plan.

1 square = 10 feet

I, WE CERTIFY THAT THE PROPOSED CONSTRUCTION WILL CONFORM TO THE DIMENSIONS AND USES SHOWN ABOVE AND THAT NO CHANGES WILL BE MADE WITHOUT FIRST OBTAINING APPROVAL.

APPLICANT'S SIGNATURE \_\_\_\_\_  
 DATE \_\_\_\_\_

