

Docket Number: 23/12480
23/12488

Appellants: Thomas and Linda Dake (Owners)
5824 Oak Street, Berwick, IA 50032

Appeal: The Appellants request a variance to allow a sunroom addition to the principal structure with a rear yard setback of 27-feet and another variance to allow an existing accessory structure to remain located seven (7) feet from the principal structure.

Background

The subject property is located at 5824 Oak Street, Berwick. The subject property is 0.18 acres in size, and is legally described as Lot 7, Bauer Heights Plat 2, which is located in Section 9, Delaware Township. The subject property is zoned "LDR" Low Density Residential District, as are the surrounding properties. The subject property was originally platted with over 100 additional lots, only four (4) other lots were provided with infrastructure to allow for their development. Except for the few developed single-family lots of similar size in the area, the subject property is surrounded by undeveloped land to the north and east with active farmland to the south. The next developed lot to the west contains a larger 6.91 acres single-family residential property. The subject property is located approximately one (1) mile east of Ankeny, one (1) mile west of Altoona, 0.65-miles north of Des Moines, and 90 feet north of the intersection of two private streets, NE Oak Street and NE 58th Avenue. 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 rectangular shaped, having approximately 85 feet of width and frontage on the west side of Oak Street, and approximately 92 feet of depth. The existing residence and 24' x 24' (576 SF) detached garage were constructed in 1988. Additionally, a 7' x 19' (133 SF) accessory structure was placed on the property in 2021 by the current property owners without the required permit. The proposed variances will allow a sunroom addition to the west side of principal structure with a rear yard setback of 27-feet in lieu of the required 35-feet and allow the existing accessory structure to remain seven (7) feet from the principal structure in lieu of the required ten (10) feet.

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 35-feet for principal dwellings within the "LDR" Low Density Residential District. The appellants propose a 12' X 16' (192 square foot) sunroom addition. The addition would setback approximately 27-feet from the western, rear property line at its closest point, in lieu of the required rear yard setback of 35-feet.

Per *Article 4: Use Regulations, Division 6: Accessory Regulations, Section 1(C)* an accessory structure must be located at least ten (10) feet from a principal structure. The appellants request a variance of three (3) feet to allow an existing shed to remain approximately seven (7) feet from the principal residence, in lieu of the required ten (10) feet. See *Attachment B* at the end of this report for a copy of the site plan and variance application for each request.

Staff mailed out seven (7) 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 of the request, and no responses in opposition.

Natural Resources

The subject property is flat with less than a foot of elevation change from east to west. The property

contains no mapped floodplain and three (3) mature trees that will not be affected.

Roads & Utilities

The subject property has approximately 85 feet of frontage along Oak Street a private road. The driveway on the subject property accesses Oak Street approximately 90-feet north of the intersection of NE 58th Avenue and Oak Street. Access will not change with this proposed variance.

The home is connected to a local sewer main on the east side of Oak Street operated by the Iowa Department of Natural Resources. Water is provided to the property by Des Moines Water Works and the Berwick Water Association. The subject property features a ten (10) foot public utility easement along the western property line that contains the electrical connection for the property.

Recommendations:

Docket #23/12480: Variance to allow an addition to the principal structure to be located 27 feet from the western rear property line in lieu of the required 35-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 current setbacks of “LDR” Low Density Residential zoning put a significant portion of the western half of the property within the rear yard setback. This lot which was established in 1983 is undersized for the current zoning.
- 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” Low Density Residential 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 addition will have little effect on adjacent property owners. The addition will be screened on the north, east, and west by existing accessory structures on the subject property and the property to the north, while to the west the next principal dwelling is approximately 405-feet away.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?
Yes. The location of the house and the undersized characteristics of the lot under the current zoning were not results from actions taken by the applicants.
- 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 appellants are 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 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 23/12488: Variance to allow an existing accessory structure to remain located seven (7) feet from the principal dwelling 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 location of the home on the subject property, location of a few mature trees, and the existence of a 10 foot public utility easement along the western rear property line limit the location an accessory structure 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. Residential properties in the “LDR” Low Density Residential District are allowed to have accessory structures.
- 3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?
Yes. The existing accessory structure location is screened by a neighbor’s detached garage to the north, the principal dwelling and detached garage to the east and south and is located approximately 400 feet away from the next principal dwelling to the west.
- 4.) Is there a special condition or circumstance that did not result from the actions of the applicant?
Yes. The homeowners constructed the accessory structure without review and approval of Polk County Staff, though alternate locations may not have been possible, due to the location of the house, presence of a few mature trees and a 10 foot public utility easement along the western property line.
- 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 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. The appellants acquire a retro-active building permit for the existing accessory structure.

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)

To allow sun room addition to encroach on rear setback by 8 feet.

(time stamp)
Official Use Only

2. Subject Property Address: 5824 Oak St. Berwick, IA 50032

3. Subject Property Zoning District: Low Density Residential

4. District and Parcel Number: 190/00490-607-000

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

Lot 7 Bauer Heights Plat 2

6. Filing Fee: \$353.00 per variance (each provision requested for a variance is considered a separate variance request)

7. Applicant(s) Information:

Andy Evans

Applicant (Print Name)

Andy Evans
Signature

1-16-23

date

Tom & Linda Dake

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

bearcubfan@yahoo.com

Email

5824 Oak St. Berwick, IA 50032

Address, City, State and Zip

515-867-3305

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

Troy Deaton

Applicant Representative (Print Name)

Midwest Construction

Firm or Business Name

1601 S. Taft Ave. Mason City, IA 50401

Address, City, State and Zip

deaton0216@msn.com / andy@mwcinc.com

Email

641-424-4717

Phone

641-424-5265

Fax

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.

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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)

Shed distance from house

(time stamp)
Official Use Only

2. Subject Property Address: 5824 OAK ST BERWICK IA 50032

3. Subject Property Zoning District: _____

4. District and Parcel Number: _____

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

6. Filing Fee: \$353.00 per variance (each provision requested for a variance is considered a separate variance request)

7. Applicant(s) Information:

Thomas Dake
Applicant (Print Name)

Thomas H Dake
Signature

1-26-23
date

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

Bear Cub Fan @ Yahoo. Com
Email

5824 OAK ST BERWICK IA 50032 515 868 1873
Address, City, State and Zip 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

