

Docket Number: 20/9112

Appellant: Nermin Jusufovic
4635 NW 51st Street
Des Moines, IA 50310

Appeal: The Appellant is requesting an approximately nine (9) foot side yard setback Variance (from 10 feet to approximately 1-foot) for the construction of a pool deck addition on the south side of the existing single-family home.

Appeal Given:

“Due to the septic laterals across the backyard of the property, the only location left for a pool is along the south property line of the rear yard. The pool would be an above ground pool with a main deck on one end (east) and a small walking deck around the remaining perimeter. The south edge of the walking deck would be 1 ft. from the south property line and east edge of the main deck would be 33 feet from the rear property line. The south property line has a variance for the neighboring property due to their farm stand operation. They have a greenhouse along the northern edge of their property. This Variance would not create a bothersome issue to their property.”*

*Please note that the submitted application, *Attachment ‘A’*, includes the appeal description as shown above. However, the Site Plan that was originally submitted has been revised, *Attachment ‘B’* to reflect a compliant rear yard setback of 65 feet.

Background

The subject property is zoned “LDR” Low Density Residential District and is an approximately 20,400 square foot parcel located in the Southeast ¼ of Section 18 in Webster Township. The property is addressed as 4635 NW 51st Street and is further described as the Western ½ of Lot 64 in the Lovington subdivision. The property is an interior lot with its only entrance onto NW 51st Street. The surrounding properties are also zoned “LDR” Low Density Residential. Properties to the north, east and partially to the west, across NW 51st Street, are developed with residential homes. A property to the southwest has been developed as a church parking lot and an active farm stand use is directly to the south.

Notices were sent out to the 25 surrounding properties within the 250-foot notification boundary and four (4) responses have been received to-date in support of the requested Variance with none received in opposition to the request.

Summary of Request

The Appellant is requesting an approximately nine (9) foot side yard setback variance (from 10 feet to approximately 1-foot) for a proposed pool deck addition on the southern side of the principal dwelling.

The Polk County Zoning Ordinance, *Article 6. Bulk and Use Standards, Division 2. Single Family Residential Bulk Standards, Table 6.1*, states that the minimum side setback in the “LDR” Low Density Residential district is 10 feet.

Natural Resources

The subject property does not have significant natural resources, there are no environmental hazards and the property does not contain a designated floodplain. The topography of the site is relatively flat with a high elevation at the northwest corner at 888 feet and 886 feet along the southern portion of the property.

Roads/Utilities

The property is located directly east of NW 51st Street. NW 51st Street is a paved 33-foot wide County right-of-way. As shown on *Attachment ‘C’* the existing septic system encumbers the majority of the rear yard, east of the existing house. The proposed pool deck addition will need to maintain a separation from the septic system, as approved by the Polk County Environmental Division.

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 existing septic system encumbers the entirety of the rear yard, significantly reducing the available options to locate the pool and associated pool deck.

- 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 proposed pool deck addition is a permitted use within the “LDR” Low Density Residential District zone subject to appropriate building permit approvals.

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

Yes. The impact, if any, on surrounding properties will be minimal. The proposed pool deck addition will be visible from NW 51st Street, however the pool deck is not a structure with a roof and will be approximately four feet above the grade at the southern property line. The adjacent property that is most affected by this proposal is the property directly south, and the closest structure is a greenhouse

for the associated Farm Stand use.

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

Yes. The necessity of a septic system to provide sewer service to the existing house is not regulated by the property owner. The size and location are designed by a septic engineer and would not be a decision by the property owner. This encumbrance of the entirety of the backyard has required the location of the pool and the associated pool deck to the side yard and the associated setback. The circumstances of the property are not the result of the actions of the Appellant.

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 granting of the requested variance supports the intent of these provisions.

The Board of Adjustment may grant a Variance if items 1 through 5 are affirmed. Since items 1 through 5 were answered in the affirmative, staff recommends approval of the requested Variance to allow a southern side setback of approximately 1-foot (from 10 feet to 1-foot), subject to the following condition of approval:

1. The Building Permit site plan must be revised, so that the pool deck is located and constructed one-inch or closer to the principal 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)

Pool and Pool Deck

(time stamp)
Official Use Only

2. Subject Property Address: 4635 NW 51st Street

3. Subject Property Zoning District: Webster Township

4. District and Parcel Number: 310/00476-000-000

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

W 1/2 Lot 64 Lovington

6. Filing Fee: \$315 per variance (each provision requested for a variance is considered a separate variance request)

7. Applicant(s) Information:

Nermin Jusufovic
Applicant (Print Name)

[Signature]
Signature

5/12/20
date

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

Nermin80@yahoo.com
Email

4635 NW 51st St. Des Moines, IA 50310
Address, City, State and Zip

515-208-3135
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)

Merim Jusufovic

(Print Name)

[Signature]
Signature

5/12/20

date

HARISA JUSUFOVIC

(Print Name)

[Signature]
Signature

5/22/20

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.

Due to the septic laterals across to back yard of the property the only location left for a pool is along the south property line of the back yard. The pool would be an above ground pool with a main deck on one end (east) and a small walking deck around the remaining perimeter. The south edge of the walking deck would be 1ft from the south property line and east edge of the main deck would be 33ft from the rear property line. The south property line has a driveway for the neighboring property due to their farm stand operation. They have a garage house along the north edge of their property. This variance would not create a bothersome issue to their property.

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
Forms and calendar available online <http://www.polkcountyiowa.gov/PublicWorks/>

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Received by		Docket Number	
Date Received		Reviewed by	
BOA meeting date		BOA Approved	Y / N



