



BOARD OF ADJUSTMENT

Regular Meeting

Thursday, January 21, 2016

Notice is hereby given that the **Board of Adjustment** will hold a **Regular Meeting at 6:30 p.m. on Thursday, January 21, 2016**, in the Council Chambers of Johnston City Hall, 6221 Merle Hay Road, Johnston, Iowa, to discuss the following business.

AGENDA:

- 1. Call to Order**
- 2. Roll Call**
- 3. Approval of Agenda**
- 4. Approval of Meeting Minutes:** Regular Meeting of December 17, 2015
- 5. BOA Case No. 15-15; Variance to side yard setback at 5131 NW 66th Avenue, Johnston IA.** The applicant is requesting a variance to allow a side yard setback of 4 feet instead of 8' as required by code for the R-1(75) district.
- 6. BOA Case No. 15-16; Variance to side yard setback at 7900 NW 100th Street.** The applicant is requesting a variance to allow a side yard setback of zero feet instead of the typical 10 foot side yard setback for an accessory structure in an R-1(100) district.
- 7. Other Business:**
- 8. Adjournment.**

Next Scheduled Regular Meeting: Thursday, February 18, 2016.

Posted on or before January 20, 2016 at: Johnston City Hall, Johnston Public Library, Johnston Post Office, Johnston Public Works, Crown Point Community Center, and Johnston Website (www.cityofjohnston.com)



BOARD OF ADJUSTMENT

City of Johnston
 6221 Merle Hay Road, Johnston, IA 50131

Minutes
 December 17, 2015

AGENDA:

1. Call to Order

Chairman Hupfer called the meeting to order at 6:30 p.m.

2. Roll Call

	Wanderscheid	Filer	Weggen	Peterson	Cleveland	Hupfer	Ostrander
Present	X		X		X	X	
Absent		X		X			X

City Staff Present: Aaron Wolfe

3. Approval of Agenda

Motion by Weggen seconded by Wanderscheid to approve the agenda.

Roll Call Vote:

	Wanderscheid	Filer	Weggen	Peterson	Cleveland	Hupfer	Ostrander
Aye	X		X		X	X	
Nay							
Abstain							

4. Approval of Meeting Minutes for November 19, 2015 meeting.

Motion by Cleveland second by Weggen to approve the minutes of the Regular Meeting of November 19, 2015.

Roll Call Vote:

	Wanderscheid	Filer	Weggen	Peterson	Cleveland	Hupfer	Ostrander
Aye	X		X		X	X	
Nay							
Abstain							

5. BOA Case No. 15-15; Variance to side yard setback at 5131 NW 66th Avenue, Johnston

IA. The applicant is requesting a variance to allow a side yard setback of 4 feet instead of 8’ as required by code for the R-1(75) district.

Wolfe delivered the staff report. The applicant was invited to approach the stand and offered to clarify any questions for the commission. Wanderscheid commented that she did not believe all of the factors had been met for the board to grant a variance. Specifically, the applicant had not proved that the property could not be used in a manner similar to that of other properties in the district. Weggen commented in similar fashion. It was noted that the applicant must have the concurring vote of all four members present in order for the item to pass, and that the applicant had the right to request the item be tabled until a full board could be present. The applicant was invited to approach the stand and offered to clarify any questions for the commission. Hupfer moved to table the item until the January meeting at the request of the applicant. Second by Wanderscheid. All members present voted to approve motion to table the item.

Roll Call Vote:

	Wanderscheid	Filer	Weggen	Peterson	Cleveland	Hupfer	Ostrander
Aye	X		X		X	X	
Nay							
Abstain							

6. BOA Case No. 15-17; Variance to front yard setback at 5720 NW 60th Avenue, Johnston IA.

The applicant is requesting a variance to allow a front yard setback of 31 feet instead of the required 35 foot front yard setback in a R-1(75) district.

Wolfe delivered the staff report and explained the request was on the same street as other similar requests considered at the BOA meeting in November. Wolfe reminded the board that the requests were necessary because of actions taken to acquire additional right-of-way for future widening of NW 60th Avenue. Motion from Wanderscheid to approve. Second by Cleveland. All members present voted in the affirmative.

Roll Call Vote:

	Wanderscheid	Filer	Weggen	Peterson	Cleveland	Hupfer	Ostrander
Aye	X		X		X	X	
Nay							
Abstain							

7. Other Business. None.

8. Adjournment.

Meeting Adjourned at 7:05 p.m.

Chairperson

Secretary



Board of Adjustment
COMMUNITY DEVELOPMENT DEPARTMENT

December 17, 2015 Meeting

BOA Case No. 15-15 Side Yard Setback Variance Request for 5131 NW 66th Avenue.

APPLICANT/OWNER:	Brian Murphy 5131 NW 66 th Avenue Johnston, IA, 50131
BOARD OF ADJUSTMENT AUTHORITY:	Section 166.16 B. (Powers and Duties) states: “The Board of Adjustment has the power to grant a variance upon making the following findings: B. Property owner demonstrates that their property has exceptional narrowness, shallowness, shape, or exceptional topographical conditions or other extraordinary or exceptional site conditions, and where the above conditions are not the result of actions of the property owner, the strict application of the terms of this ordinance actually prohibit the use of their property in a manner reasonably similar to that of other property in the same district, and where the Board is satisfied that a literal enforcement of the provisions of this ordinance would result in unnecessary hardship, provided that all variations granted under this clause shall be in harmony with the general purpose and intent of this ordinance.”
APPLICANTS REQUEST:	The applicant is requesting a variance to allow a side yard setback of 4’ instead of 8’ as required by code for the R-1(75) district.
APPLICABLE ORDINANCE PROVISION:	Chapter 167.04 sets the front yard setback in a R-1(75) district at 8 feet.
APPLICANTS RATIONALE:	West-adjacent property is 95’ in width and unbuildable due to gas line easement; therefore, the actual separation is far greater than the 8’ required by code.
ORDINANCE QUESTIONS:	The Board is required to make the following findings (in bold), discussion has been provided by staff following each finding:

Does the site have exceptional narrowness, shallowness, shape, exceptional topographical conditions or other extraordinary or exceptional site conditions?

The applicant asserts the west-adjacent lot presents the exceptional condition. Because said property is unbuildable, there is no need for the requisite 8' setback on the subject property.

Are the conditions requiring the variance, the result of actions of the property owner?

The owner has not created conditions requiring the variance.

Does the strict application of the terms of this ordinance actually prohibit the use of the property in a manner reasonably similar to that of other property in the same district?

In staff's opinion, ordinance 167.04 does not prohibit use of the property in a manner similar to other properties in the district.

ADJACENT OWNER
COMMENTS:

Notice was sent to all properties within 320 feet of this site. Staff has received no comments from neighbors as of the writing of this staff report.

RECOMMENDATION:

Staff recommends approval and provides suggested findings below.

FINDINGS FOR
APPROVAL:

The Board of Adjustment hereby approves a variance to the side yard setback requirements as it applies to chapter 167.04 of the City of Johnston Code of Ordinances to allow for a side yard setback of 4 feet subject to the findings:

1. Brian Murphy is the legal owner of property located at 5131 NW 66th Avenue, Johnston, IA.
2. The applicant submitted an application for a variance to chapter 167.04 of the City of Johnston Code of Ordinances to allow a 4' setback in lieu of the requisite 8' required in the R-1(75) district.
3. The property at 5708 NW 60th Avenue exhibits exceptional conditions.
4. The conditions requiring a variance are not self-inflicted.

Attachments:

- Application for Variance
- Vicinity Map
- Chapter 167.04 of the Zoning Ordinance
- Notice of Variance and Mailing List

3. The conditions requiring a variance are not self-inflicted.

DATE OF FILING (ON OR AFTER): February 21, 2016

BOARD OF ADJUSTMENT:

ATTEST:

Justin Hupfer
Chair

David Wilwerding
Zoning Administrator



For Office Use Only:

Application No.: _____

Date Received: 11/11/15

Fee Pd # 499198

Ch# 1908

CITY OF JOHNSTON

Date: 11/18/2015

APPLICATION FOR VARIANCE

IS HEREBY REQUESTED BY:

Brian Murphy
NAME/FIRM/CORPORATION

5131 NW 66th Ave Johnston IA 50131
STREET CITY STATE ZIP

515 250 6976
PHONE FAX

bmurphy616@yahoo.com
EMAIL

FOR PROPERTY LOCATED AT: 5131 NW 66th Ave Johnston IA 50131

LEGALLY DESCRIBED AS: W 14F LT 2 & - EX W 21F -
LT 3 HYPERION HEIGHTS

DESCRIBE THE VARIANCE SOUGHT: area - to extend past

~~setback~~
current 8' setback - 4' / leaving a 4' setback from line.

BASIS FOR VARIANCE SOUGHT: Garage addition of 12x24

Will the land in question yield a reasonable return without a variance being granted? yes

- Is the hardship unique to your property and not a general condition of the neighborhood? YES - because of placement of property on lot setback so far because of the gas line running through the yard
- Will granting the variance alter the character of the surrounding area? NO - garage will look just as it did before only longer

State why you feel the variance should be granted: The lot next to house is deemed "unbuildable" due to gas line Therefore not imposing on neighboring property

PRIMARY CONTACT, IF DIFFERENT FROM APPLICANT:

Same as Applicant
 NAME _____
 ADDRESS _____
 PHONE _____ FAX _____
 EMAIL _____

Signature of Appellant:  _____

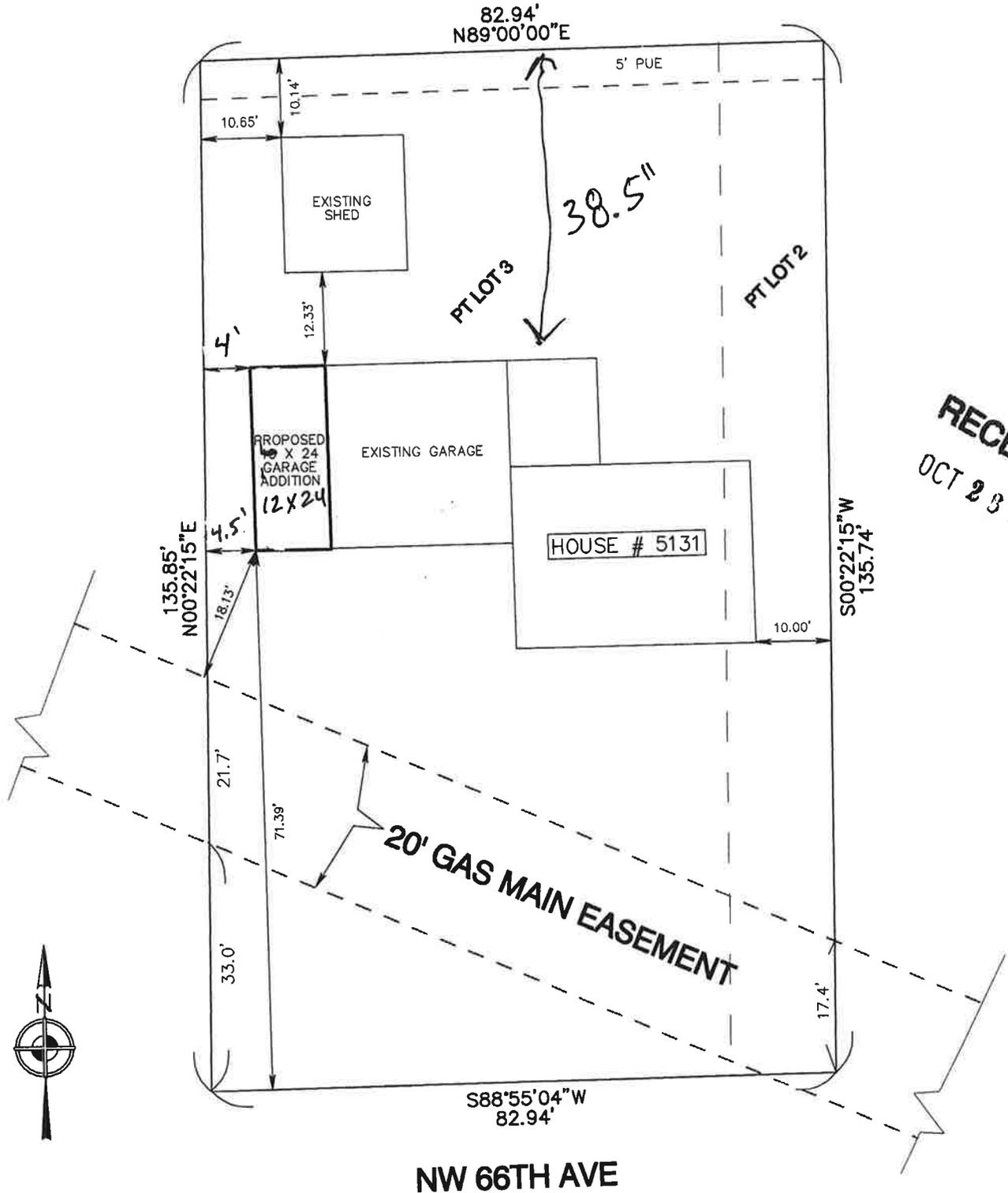
With application, please include filing fee:

In residential and agricultural zones..... \$ 60.00
 In all other zoning districts..... \$ 100.00

The application should also include all background information needed. If you have oversized sheets (larger than 11"x17"), please submit 10 copies of each.

SITE PLAN

FOR: BRIAN MURPHY
 ADDRESS: 5131 NW 66TH AVE, JOHNSTON, IOWA
 LEGAL: W 14F LT 2 & -EX W 21F- LT 3 HYPERION HEIGHTS
 PLAT 1.

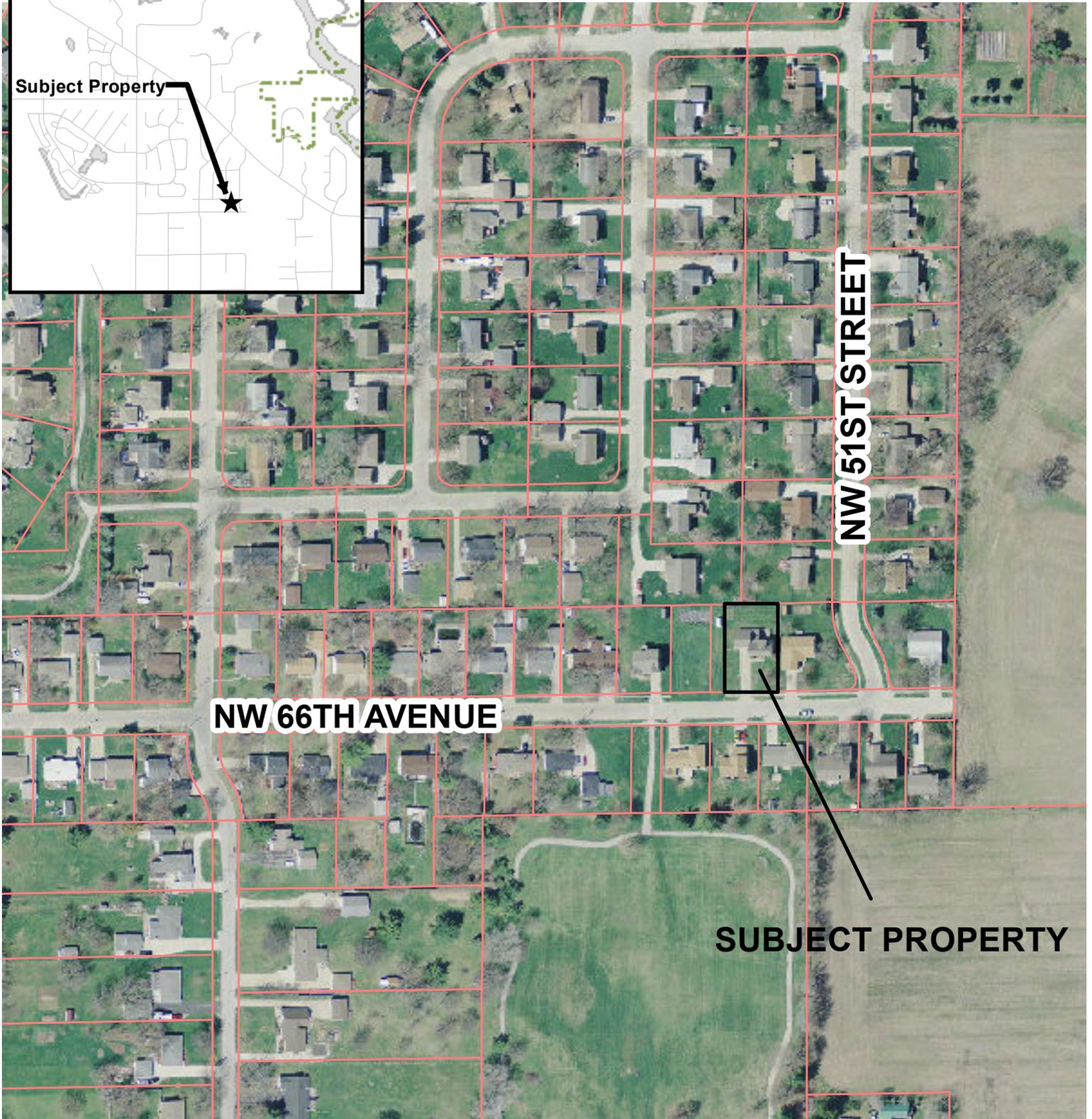
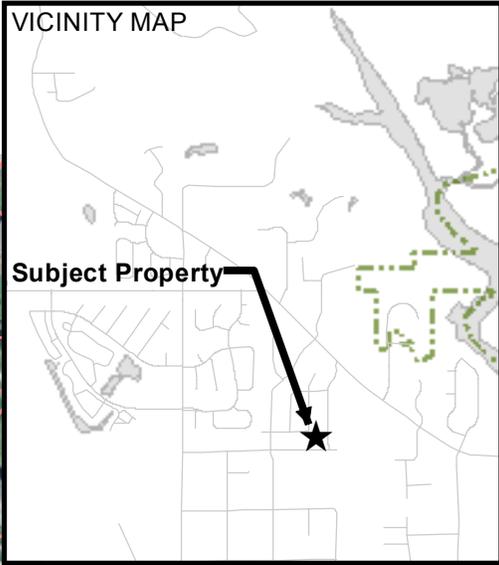


RECEIVED
 OCT 28 2015

DATE: OCT. 26, 2015
 SCALE: 1"=20'

JOB # 5096

**BOA CASE 15-15
Variance to Front Yard Setback**



1 inch = 208 feet

Created by City of Johnston Department of Community Development
6221 Merle Hay Road, P.O. Box 410, Johnston, IA, 50131-0410 (515)278-2344 Fax:(515)278-2033

Notice of Public Meeting

December 3, 2015

The Johnston Board of Adjustments will hold a Public Meeting at 6:30p.m. on Thursday, December 17, 2015. The meeting will be held in the Council Chambers of Johnston City Hall, 6221 Merle Hay Road to consider the following item:

BOA Case No. 15-15 Variance Request to the Side Yard Setback in a R-1(75) District; 5131 NW 66th Avenue, Johnston, IA.

Brian Murphy has requested a variance to chapter 167.04 of the City of Johnston Code of Ordinances regarding the side yard setback in an R-1(75) district. The nature of the variance request is to allow a 4' side yard setback in lieu of 8' as required by code.

If you have questions or comments on the above-described action, please contact the city staff person listed at the bottom of this card, or attend the meeting at the above-listed date and time. Additional information is also available on the City's Website: www.cityofjohnston.com. Look for the "Proposed Development Notices" link under the Community Development Department.

Aaron Wolfe, Senior Planner
Johnston City Hall; 6221 Merle Hay Road; Johnston, IA 50131
Phone: 727-7766; Email: awolfe@cityofjohnston.com

OWNER	ADDRESS	CITY, STATE, ZIP
ANTHONY DUNSKY	5120 NW 66TH AVE	JOHNSTON, IA 50131-1127
NANCY GORDEN	5280 NW 66TH AVE	JOHNSTON, IA 50131-1129
JASON BRADY	6632 NW 51ST ST	JOHNSTON, IA 50131-1151
DEBRA MC COMBS	5100 NW 66TH AVE	JOHNSTON, IA 50131-1127
BRIAN MURPHY	5131 NW 66TH AVE	JOHNSTON, IA 50131-1128
JERRY HUNT	5260 NW 66TH AVE	JOHNSTON, IA 50131-1129
KELLEY ORMAN	5150 NW 66TH AVE	JOHNSTON, IA 50131-1127
LEMOINE FERGESEN	5238 NW 66TH PL	JOHNSTON, IA 50131-1141
JASON MCNEELEY	6671 NW 51ST ST	JOHNSTON, IA 50131-1152
AMY GRIMES	5130 NW 66TH AVE	JOHNSTON, IA 50131-1127
DAVID BINNER	5110 NW 66TH AVE	JOHNSTON, IA 50131-1127
RANDY WALKER	6645 NW 52ND CT	JOHNSTON, IA 50131-1158
JOSHUA LOKENVITZ	6645 NW 51ST ST	JOHNSTON, IA 50131-1152
JASON DAVIS	6660 NW 51ST ST	JOHNSTON, IA 50131-1151
JASON PETERSEN	6659 NW 51ST ST	JOHNSTON, IA 50131-1152
JOHN SEDERWALL	5275 NW 66TH AVE	JOHNSTON, IA 50131-1130
RUTH BROM	6631 NW 51ST ST	JOHNSTON, IA 50131-1152
DANIEL MAY	5282 NW 66TH PL	JOHNSTON, IA 50131-1141
JOSEPH VOCELKA	6659 NW 52ND CT	JOHNSTON, IA 50131-1158
DONNA WENZL	6674 NW 51ST ST	JOHNSTON, IA 50131-1151
JEFFREY MC WHERTER	5140 NW 66TH AVE	JOHNSTON, IA 50131-1127
CATHLEEN PIERCE	5258 NW 66TH PL	JOHNSTON, IA 50131-1152
DANIEL HUDSON	5255 NW 66TH AVE	JOHNSTON, IA 50131-1130
AMY ROSS (TRUSTEE)	5151 NW 66TH ST	JOHNSTON, IA 50131
DAMON STAKER	6677 NW 52ND CT	JOHNSTON, IA 50131-1158
CRAIG DERBY	6646 NW 51ST ST	JOHNSTON, IA 50131-1151
LEMOINE FERGESEN	5238 NW 66TH PL	JOHNSTON, IA 50131
POLK COUNTY	5885 NW 14TH ST	DES MOINES, IA 50313
ELAINE R EVANS REVOCABLE TRUST	6750 NW BEAVER DR	JOHNSTON, IA 50131
KELCEY BROCKMEYER	6660 NW 52ND CT	JOHNSTON, IA 50131-1157
LYLE DANIELSON	5121 NW 66TH AVE	JOHNSTON, IA 50131-1128
MARILYN OLSASKY	5101 NW 66TH AVE	JOHNSTON, IA 50131-1128
ELAINE R EVANS REVOCABLE TRUST	6750 NW BEAVER DR	JOHNSTON, IA 50131-1311

Aaron Wolfe

From: wombat1973@aol.com
Sent: Wednesday, December 16, 2015 11:43 AM
To: Aaron Wolfe
Subject: Variance Request

Anthony Dunsky
5120 NW 66th Ave.
Johnston, IA50131

Aaron Wolfe, Senior Planner
City of Johnston

Aaron;

I am a neighbor of Brian Murphy, 5131 NW 66th Ave., who has requested a variance to add on to his garage at that location. I am in favor of the city granting his request. The empty lot to the west of his property, where he wishes to build, has always been and will always be vacant, due to a gas main which crosses it. Brians' expansion will be well away from that main and should cause no problems should the main need maintenance.

Before Brian and Heather bought that property it had been largely vacant, with tenants coming and going and none of them doing much in the way of upkeep. The Murphys' have turned the property into a showplace, inside and out, and brought the rest of the neighborhood up with it. An extension to the west would be neither an eyesore nor a problem for the city or the public utilities.

Please grant their request of variance to chapter 167.04 so that they may continue to improve their home and our neighborhood.

Sincerely and respectfully,

Tony Dunsky

Aaron Wolfe

From: wombat1973@aol.com
Sent: Monday, December 21, 2015 11:50 AM
To: Aaron Wolfe
Subject: BOA Letter

Anthony

Dunsky

5120 NW 66th Ave.
Johnston, IA. 50131

To the Members of the
Board Of Adjustment,
Johnston, IA.

Dear Members;

I am writing you in regards to variance request of chapter 167.04 for the home of Brian and Heather Murphy, 5131 NW 66th Ave., Johnston. I am in favor of the request and respectfully ask that you allow this variance. The empty lot to the west of their property cannot be developed due to the presence of a gas main, and as the requested extra footage would be well away from said main so there would be no problem should the main require maintenance.

The garage addition would not look out of place nor create an eyesore as it would be built to match the rest of the structure. It would simply look like a larger building.

Before Brian and Heather purchased the property it had been mostly vacant for several years, with none of the occupants doing much in the way of general maintenance, let alone improvements. The Murphy's have transformed the property into a show place both inside and out, and they maintain it very well. The work that they have done and the money they have invested has made the whole neighborhood a better place.

Please grant this variance and let Brian and Heather continue to improve their home and make our street a nicer place to live. Thank you.

Sincerely and with Respect,

Tony Dunsky

167.04 SETBACK, BULK AND DENSITY REGULATIONS. The requirements as set forth in Table 167.04 shall be observed in the Agriculture, Conservation and Residential Districts.

Table 167.04 – Setback, Bulk and Density Standards by District							
	Maximum DU/AC	Maximum Building Height (in feet)	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Minimum Setback (in feet)		
					Front	Side/Sum	Rear
Single family detached							
A-R Agriculture Reserve	0.033	none	30 ac.	660	75	50/100	75
CD Conservation District	0.046	none	80,000	200	50	50/100	50
R-E	0.33	35	3 ac.	225	50	15/35	50
R-1(150)	0.875	35	40,000	150	40	12/30	50
R-1(100)	1.97	35	15,000	100	40	10/21	40
R-1(90)	2.60	35	12,500	87	35	9/19	35
R-1(75)	3.44	35	9,500	75	35	8/17	35
R-1(60), R-2	4.35	35	7,500	60	30	7/15	35
Single-family bi-attached							
R-1(75) (with special use permit)	5.4	35	16,000	100	35	10/20	35
R-2	7.0	35	12,500	100	30	10/20	35
R-3, R-4	7.0	35	12,500	100	50	10/20	35
Townhouses, Condominiums, Multiple Unit Dwellings*							
R-3	8.0	35	80,000	200	50	35/70	50
R-4	16.0	50	80,000	200	50	35/70	50
R-5	16.0	50	200,000	200	50	35/70	50

Table continued on following page.

* The bulk requirements are applicable to the development site. For multiple structures on a site, refer to the requirements in Section 167.05

Table 167.04 – Setback, Bulk and Density Standards by District							
	Maximum DU/AC	Maximum Building Height (in feet)	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Minimum Setback (in feet)		
					Front	Side/Sum	Rear
Other Uses*							
Mobile Home Park	8.0	50	200,000	50	50	35/70	50
Day Care Center	NA	35	40,000	200	50	25/50	50
Other Special Uses	NA	35	80,000	175	50	25/50	50
Nursing, Convalescent or Assisted Living	16 DU or 32 beds	50	80,000	200	50	25/50	50

* The bulk requirements are applicable to the development site. For multiple structures on a site, refer to the requirements in Section 167.05.



Board of Adjustment
COMMUNITY DEVELOPMENT DEPARTMENT
January 21, 2016 Meeting

BOA Case No. 15-16 Side Yard Setback Variance Request for 7900 NW 100th Street.

APPLICANT/OWNER:	Lee Luloff 7900 NW 100 th Street Grimes, IA, 50111
BOARD OF ADJUSTMENT AUTHORITY:	Section 166.16.5 (Powers and Duties) states: “The Board of Adjustment has the power to grant a variance upon making the following findings: B. Property owner demonstrates that their property has exceptional narrowness, shallowness, shape, or exceptional topographical conditions or other extraordinary or exceptional site conditions, and where the above conditions are not the result of actions of the property owner, the strict application of the terms of this ordinance actually prohibit the use of their property in a manner reasonably similar to that of other property in the same district, and where the Board is satisfied that a literal enforcement of the provisions of this ordinance would result in unnecessary hardship, provided that all variations granted under this clause shall be in harmony with the general purpose and intent of this ordinance.”
APPLICANTS REQUEST:	The applicant is requesting a variance to allow a side yard setback of zero feet instead of the typical 10 foot side yard setback for an accessory structure in an R-1(100) district.
APPLICABLE ORDINANCE PROVISION:	Chapter 166.23.4 sets the side yard setback for an accessory structure in an R-1(100) district at 10 feet.
APPLICANTS RATIONALE:	The property located to the south of this lot and directly abutting the intended location of the garage is an unbuildable lot used as a driveway access to the properties to the west of this property. The applicant’s property also has two septic tank systems including laterals that prevent construction of the garage in another location on the property.
ORDINANCE QUESTIONS:	The Board is required to make the following findings (in bold), discussion has been provided by staff following each finding:

Does the site have exceptional narrowness, shallowness, shape, exceptional topographical conditions or other extraordinary or exceptional site conditions?

Yes, There are two septic systems with their corresponding laterals that prevent construction of the garage in another location on the property

Are the conditions requiring the variance, the result of actions of the property owner?

No, the septic was sighted and constructed prior to owner purchase of house.

Does the strict application of the terms of this ordinance actually prohibit the use of the property in a manner reasonably similar to that of other property in the same district?

Applicant argues the structure cannot be sighted elsewhere on the lot on account of septic tank and laterals; therefore, the ordinance prohibits a use otherwise allowed in the district.

ADJACENT OWNER
COMMENTS:

Notice was sent to all properties within 320 feet of this site. Comment received from neighbors is included as an attachment.

RECOMMENDATION:

Staff recommends approval of a variance to allow for a zero foot side yard setback for an accessory structure. Staff provides suggested findings in the subsequent section.

FINDINGS FOR
APPROVAL:

The Board of Adjustment hereby approves a variance to the accessory structure side yard setback requirements as it applies to chapter 166.23.4 of the City of Johnston Code of Ordinances to allow for a side yard setback of zero feet subject to the findings:

1. Lee Luloff is the legal owner of property located at 7900 NW 100th Street, Grimes, IA.
2. The applicant submitted an application for a variance to chapter 166.23.4 of the City of Johnston Code of Ordinances which mandates an accessory structure side yard setback of 10 feet in a R-1(100) district.
3. The property at 7900 NW 100th Street exhibits exceptional conditions on account of septic systems located on the property.
4. The conditions requiring a variance are not self-inflicted.
5. A strict application of the terms of the Zoning Ordinance would prohibit the use of the property in a manner reasonably similar to that of other properties in the same district.

Attachments:

Application for Variance
Vicinity Map
Chapter 166.23.4 of the City of Johnston Zoning Ordinance
Notice of Variance Request and Mailing List

Prepared by and return to: Clayton Ender, City of Johnston, P.O. Box 410, Johnston, IA 50131
727-7763

**CITY OF JOHNSTON, IOWA;
BOARD OF ADJUSTMENT RESOLUTION**

IN THE MATTER OF (**City of Johnston**
)
BOA Case # 15-16; 7900 NW 100th (**6221 Merle Hay Road**
Street, Grimes, IA

DATE OF ACTION: 12-17-2015

BOARD MEMBERS PRESENT:

APPELLANTS REPRESENTATIVE:

CITY REPRESENTED BY:

Now on the date cited, the Board of Adjustment convened in open public session at 6:30 P.M. The appellant, board and city were represented as noted. Under the provisions of Chapter 166.32 of the Johnston Municipal Code and of Chapter 414 of the Code of Iowa, the Board reaches the following conclusions:

MOTION BY: SECONDED:

MOTION: The Board of Adjustment hereby approves a variance to the side yard setback requirements as it applies to chapter 166.23.4 of the City of Johnston Code of Ordinances subject to the findings:

BOARD MEMBERS IN FAVOR:

BOARD MEMBERS OPPOSED:

FINDINGS:

1. Lee Luloff is the legal owner of property located at 7900 NW 100th Street, Grimes, IA.
2. The applicant submitted an application for a variance to chapter 166.23.4 of the City of Johnston Code of Ordinances which mandates an accessory structure side yard setback of 10 feet in a R-1(100) district.

3. The property at 7900 NW 100th Street exhibits exceptional conditions on account of septic systems located on the property.
4. The conditions requiring a variance are not self-inflicted.
5. A strict application of the terms of the Zoning Ordinance would prohibit the use of their property in a manner reasonably similar to that of other properties in the same district.

DATE OF FILING (ON OR AFTER):

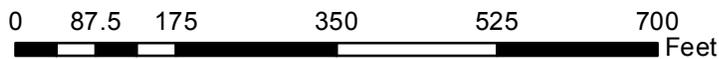
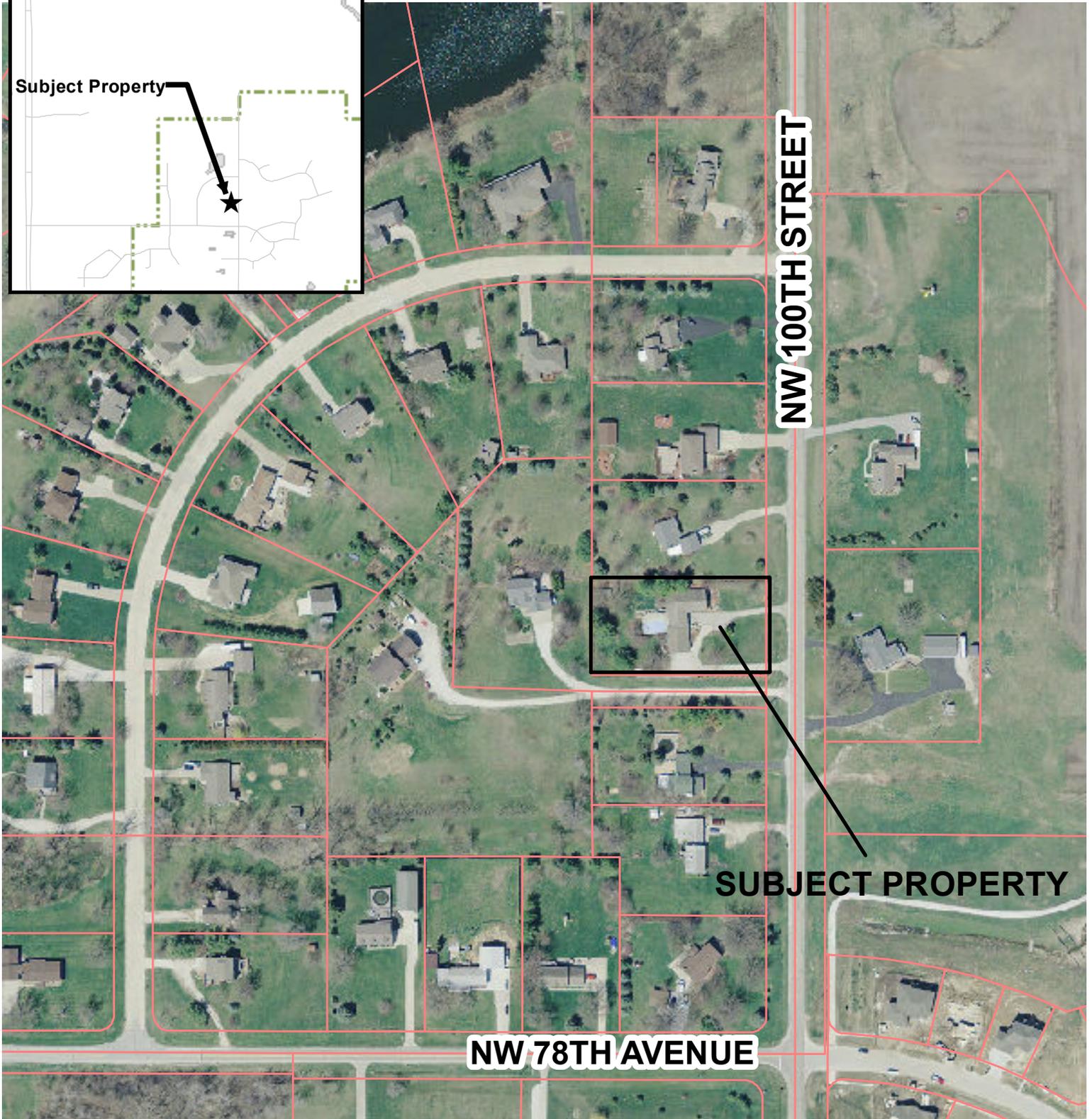
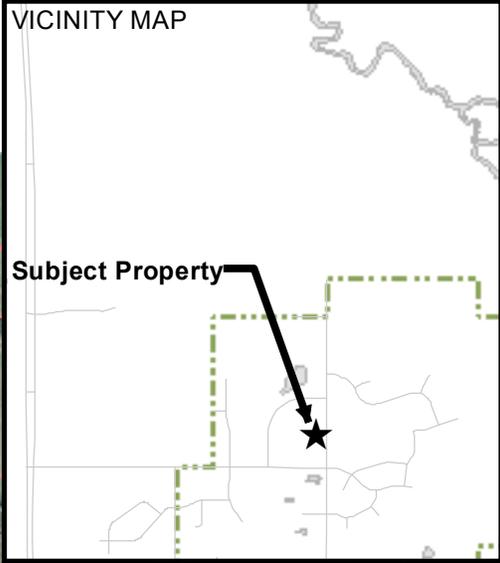
BOARD OF ADJUSTMENT:

ATTEST:

Justin Hupfer
Chair

David Wilwerding
Zoning Administrator

BOA CASE 15-16 Variance to Front Yard Setback



1 inch = 3,333 feet

Created by City of Johnston Department of Community Development
6221 Merle Hay Road, P.O. Box 410, Johnston, IA, 50131-0410 (515)278-2344 Fax:(515)278-2033



For Office Use Only:
Application No.: _____
Date Received: _____

REC# 479532

CITY OF JOHNSTON

NOV 20 2015
RECEIVED

Date: 11/20/15

APPLICATION FOR VARIANCE

IS HEREBY REQUESTED BY:

LEE LULOFF
NAME/FIRM/CORPORATION
7900 NW 100TH ST GRIMES IA 50111
STREET CITY STATE ZIP
515 971 1516
PHONE FAX
leeluloff@msn.com
EMAIL

FOR PROPERTY LOCATED AT: 7900 NW 100TH ST

LEGALLY DESCRIBED AS: LT 15 ELMERODD ESTATES PIAT 1

DESCRIBE THE VARIANCE SOUGHT: SET BACK

BASIS FOR VARIANCE SOUGHT:

Will the land in question yield a reasonable return without a variance being granted? _____

Is the hardship unique to your property and not a general condition of the neighborhood? MY PROPERTY

Will granting the variance alter the character of the surrounding area? _____

State why you feel the variance should be granted: THE PROPERTY NEXT TO MY IS A DRIVE WAY WITH A 50' EASEMENT. WITH THE 2 SEPTIC TANK, ALL THE LATERALS IN THE YARD THIS IS THE ONLY PLACE TO BUILD THE GARAGE

PRIMARY CONTACT, IF DIFFERENT FROM APPLICANT:

LEE LULOFF
NAME
7900 NW 100TH ST
ADDRESS
515 971 1516
PHONE FAX
leeluloff@msn.com
EMAIL

Signature of Appellant: 

With application, please include filing fee:
In residential and agricultural zones..... \$ 60.00
In all other zoning districts..... \$ 100.00

The application should also include all background information needed. If you have oversized sheets (larger than 11"x17"), please submit 10 copies of each.

From: Clayton Ender
Sent: Tuesday, December 08, 2015 2:48 PM
To: 'leeluloff@msn.com'
Subject: Questions Regarding Variance Request for Garage

Mr. Luloff,

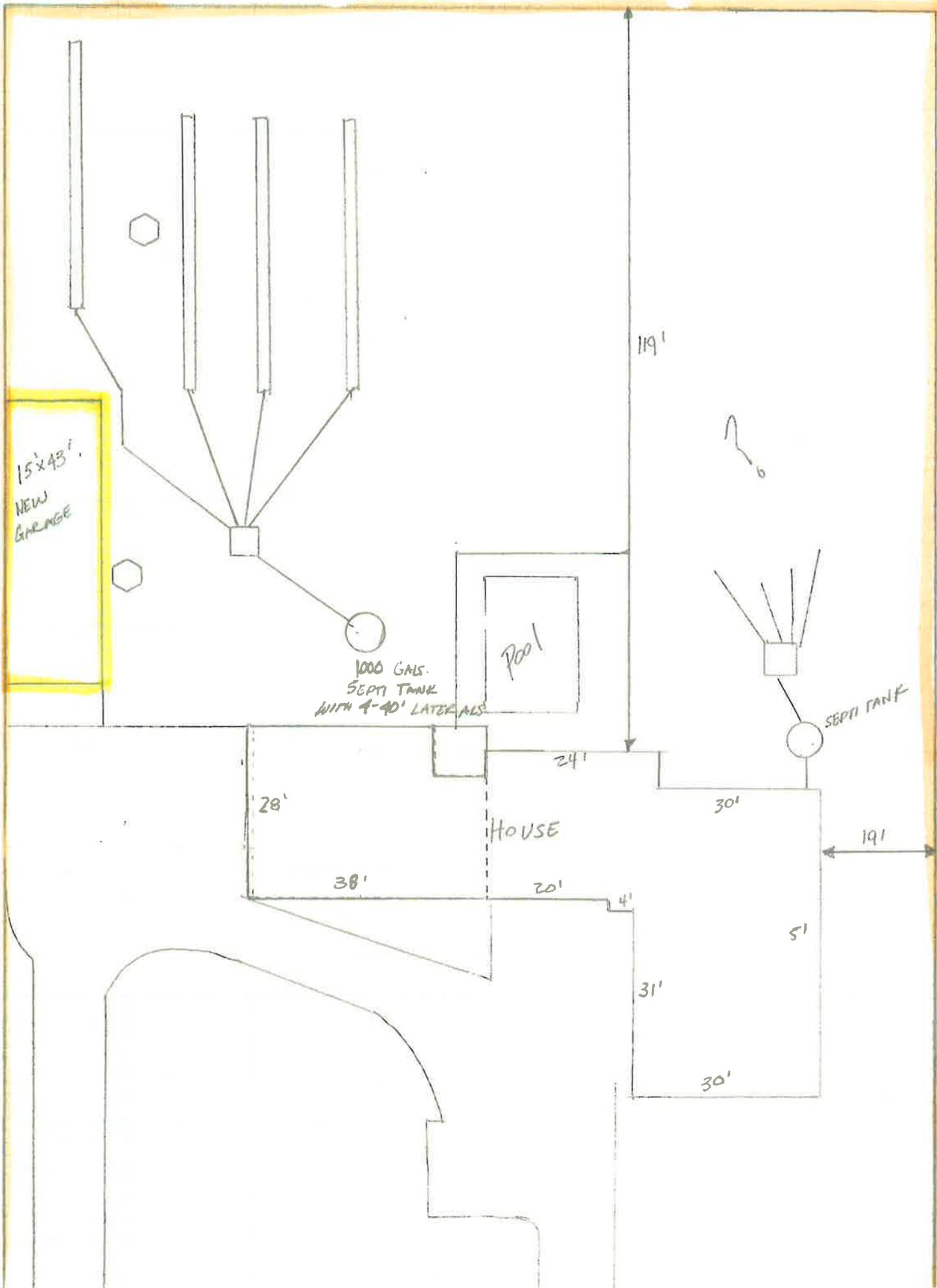
I have several questions regarding your request for a variance to the side yard setback for a garage on your property located at 7900 NW 100th Street.

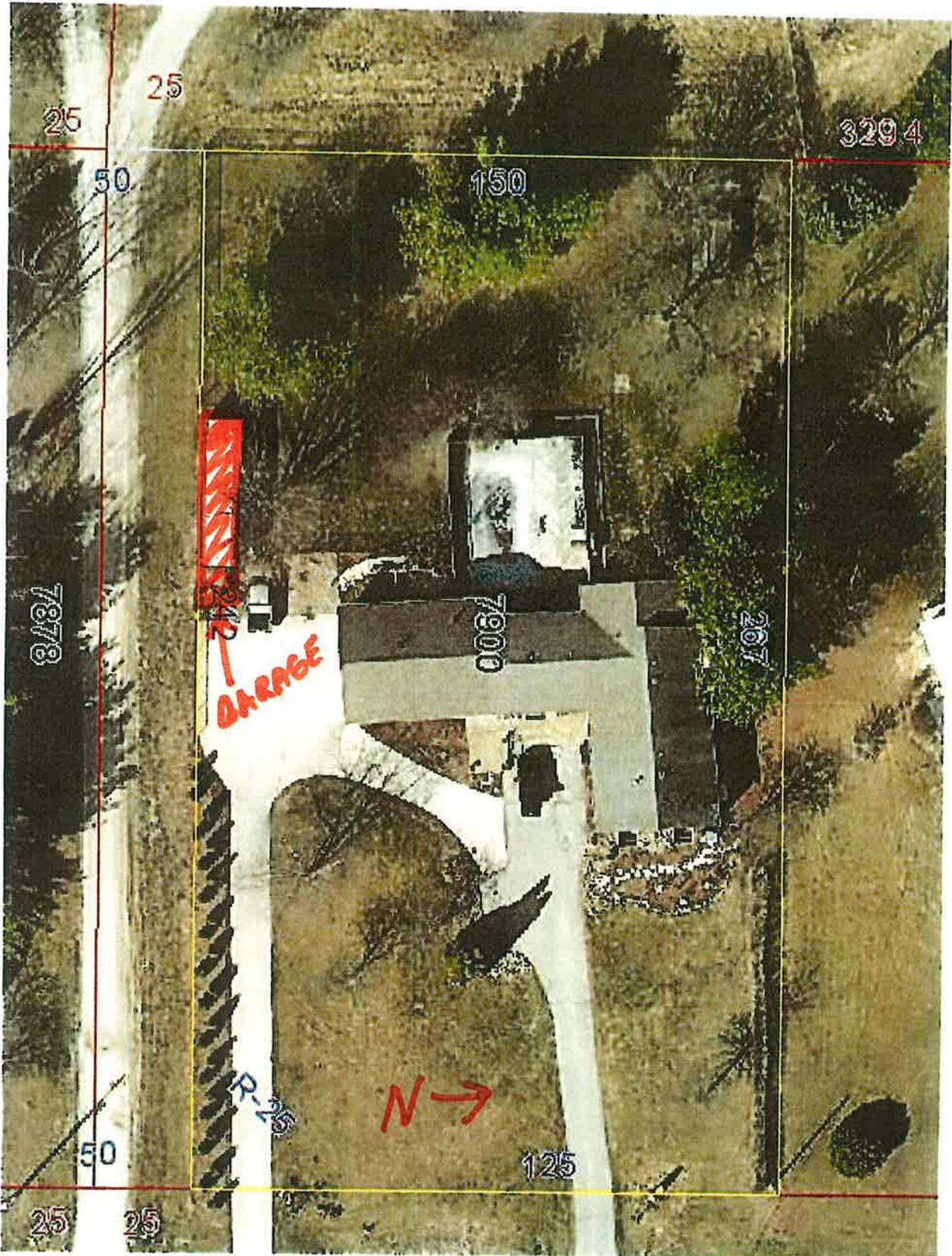
1. Your property is zoned R-1(100), so the minimum side yard setback requirement for an accessory structure is 10 feet as outlined in City of Johnston Code of Ordinances Chapter 166.23.4. What is the distance you are requesting to have the side yard setback reduced to? *0*
2. The application also had questions that were not answered that I need.
 - a. Will the land in question yield a reasonable return without a variance being granted? *Not Applicable*
 - b. Is the hardship unique to your property and not a general condition of the neighborhood? *yes, Two septic tanks + laterals, which were original to the property and the 2nd was required as part of Remodel/Expansion*
 - c. Will granting a variance alter the character of the surrounding area? *It will not*
3. The Board of Adjustment is required to make the following findings regarding your request and I thought it to be of good use for you to provide narrative to answer these questions.
 - a. Does the site have exceptional narrowness, shallowness, shape, exceptional topographical conditions or other extraordinary or exceptional site conditions? *see Existing septic tank + lateral lines in the majority of back yard*
 - b. Are the conditions requiring the variance, the result of actions of the property owner? *The septic and laterals were original to the house and not part of new construction.*
 - c. Does the strict application of the terms of this ordinance actually prohibit the use of the property in a manner reasonably similar to that of other property in the same district? *no it does not, the only issue would be proximity within the setback.*

Your request is scheduled to be on the December 17th Board of Adjustment meeting. If you could please provide me with answers to these questions by this Thursday, December 10th, I can have them added to my staff report to the Board members that I send out Friday morning.

Clayton Ender
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1" = 20'





41°42'18.4"N 93°45'23.3"W - Google Maps

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Google Maps 41°42'18.4"N 93°45'23.3"W



166.23 ACCESSORY BUILDINGS AND GARAGES. Accessory structures, whether attached or detached to the principal structure, shall be erected as provided for in the following paragraphs and according to the maximum structure size and minimum bulk requirements tables.

1. No accessory structure shall be constructed upon a lot until the construction of the main structure has been commenced, and no accessory structure shall be used if the main structure has been unused for a period of six (6) months or longer.
2. The cumulative area of all accessory buildings shall not exceed the more restrictive of those shown in Table 166.23(2) or paragraphs B and C below, unless a special exception is granted as provided for in subsection 3.
 - A. For the purpose of calculating the cumulative area of accessory buildings, an integrally attached garage is exempt from this area requirement. Connection by a breezeway, similar structure or short section of common wall is not considered integrally attached.
 - B. The cumulative area of all accessory buildings shall not exceed thirty percent (30%) of the rear yard.
 - C. The cumulative area of all accessory buildings shall not exceed ten percent (10%) of the lot area.

Table 166.23(2) - Maximum Accessory Building Area (square feet)		
Lot Size	Zoning District Classification	
	A-R	R Districts
Less than 1 acre	No Limit	1600
1 acre to less than 2 acres		2000
2 acres to less than 3 acres		2400
3 acres to less than 5 acres		3000
5 acres to less than 10 acres		3600
10 acres to less than 15 acres		4200
Greater than 15 acres		4500
Greater than 30 acres		4500

3. Accessory Structure Building Materials. Accessory buildings must be constructed of common residential exterior materials, provided the color scheme of the accessory structure is consistent with the primary residential structure. In addition, accessory buildings over 720 square feet shall be constructed with the same or comparable building materials as the primary residential dwelling. The provision applicable to buildings over 720 square feet shall not apply to the repair, remodel or replacement of structures permitted prior to the adoption of Ordinance 915 which are not in conformance with this requirement, provided however no such structure can be expanded or enlarged without complying with this provision.

(Ord. 915 – June 15 Supp.)

4. Detached Accessory Building Bulk and Height Regulations. Except as provided for in this subsection, the requirements of Table 166.23(4) shall be observed for accessory buildings.

Table 166.23(4) – Minimum Setback and Height Regulations in Feet for Detached Accessory Buildings									
Minimum Setback (if used to house animals or fowl)									
	A-R	A Overlay District					R-1A		
From residence	200	50					50		
Front yard setback	200	150					150		
Side yard setback	200	50					50		
Rear yard setback	200	50					50		
Minimum Setback									
	A-R	R-E	R-1					R-1A	R-2
			(60)	(75)	(90)	(100)	(150)		
Front yard setback	75	50	30	35	35	40	40	40	30
Side yard setback	50	15	7	8	9	10	12	12	7
Sum of side yards		30	15	17	19	25	30	30	15
Rear yard setback	75	15	7	8	8	10	12	12	7
<p>A. In districts R-1, R-1A, R-E and R-2, no detached accessory structures shall be located between the front lot line and the principal structure’s front building line. In cases of a corner lot, the above provision shall apply to both lot lines abutting a public street.</p> <p>B. A detached structure of less than 120 square feet in floor area shall have a minimum setback of 3 feet of the property line if located in the side or rear yard.</p> <p>C. Any accessory building that exceeds 720 square feet in area shall comply with all setback requirements for a principal structure. This provision shall not apply to the repair, remodel or replacement of structures permitted prior to the adoption of Ordinance 915 which are not in conformance with this requirement, provided however no such structure can be expanded or enlarged without complying with this provision.</p>									
Maximum Height									
Height (feet) measured at midpoint of ridge and soffit	A-R	R-E	R-1					R-1A	R-2
			(60)	(75)	(90)	(100)	(150)		
	None	16	15	15	15	15	16	16	15

(Ord. 915 – June 15 Supp.)

5. Accessory buildings, except buildings housing animals or fowl, may be erected as part of the principal structure provided they adhere to the setback requirements of the principal structure. This provision would apply to an accessory building connected by a breezeway or similar structure.

6. Special Exceptions. The Board of Adjustment may grant a Special Exception to the provisions of Section 166.23 as detailed below after considering all evidence and factors it deems important in its deliberation.

- A. Accessory Structures Without a Main Structure [166.23(1)].
- (1) In no circumstance may the Board of Adjustment grant a special exception to construct an accessory structure on a lot prior to commencing construction of the main structure.
 - (2) The Board of Adjustment may grant a special exception to allow an existing accessory structure to remain on a lot without a main structure in circumstances where the main structure has been destroyed by fire or means of natural disaster (such as a wind storm or tornado).
 - (3) The Board of Adjustment may grant a special exception to allow an existing accessory structure to remain on a lot without a main structure in circumstances where the owner wishes to demolish a dilapidated main structure. In such an instance, a special exception to allow the accessory structure without a main structure must be granted prior to demolition of the main structure.
 - (4) Any special exception granted by the Board of Adjustment to allow an accessory structure on a lot without a main structure must include the following conditions for approval:
 - a. The accessory structure may only house equipment used to maintain the property on which it resides.
 - b. All materials stored on premises must be kept within the accessory structure. No outdoor storage of equipment or materials is allowed. The accessory structure may not be used as rental storage or otherwise for any commercial activity.
 - c. The structural and aesthetic integrity of the accessory structure must be maintained at all times. Dilapidated structures must be rehabilitated as a condition for approval.
 - d. In choosing to grant a special exception as outlined above, the Board of Adjustment may choose to impose additional restrictions as deemed appropriate by the Board.
- B. Maximum Accessory Building Area and Height [166.23(2) and (4)].
- (1) The need for additional floor area and/or height of accessory structure is demonstrated to the Board of Adjustment's satisfaction, and
 - (2) The additional floor area will not significantly affect the property value of the subject property or adjoining properties. The Board of Adjustment may request the applicant or opponents of the application submit an appraisal completed by a certified appraiser to demonstrate this condition has or has not been met, and
 - (3) The siting (such as setbacks) of the proposed accessory structure minimizes any adverse effect upon adjacent properties, and
 - (4) Greater architectural restrictions than contained in subsection 3 may be employed as needed to assure compatibility with neighboring residential structures.

C. Minimum Setback for Structures Larger than 720 Square Feet [166.23(4)(C)].

(1) The Board of Adjustment may grant a special exception to allow an accessory structure larger than 720 Square Feet to utilize the minimum side and rear yard setbacks for an accessory structure, rather than the setbacks for a primary structure, provided:

- a. The need for the reduced setbacks for the accessory structure is demonstrated to the Board of Adjustment's satisfaction, and
- b. The reduced setbacks will not significantly affect the property value of the subject property or adjoining properties. The Board of Adjustment may request the applicant or opponents of the application submit an appraisal completed by a certified appraiser to demonstrate this condition has or has not been met, and
- c. The siting (such as drainage, access, etc.) of the proposed accessory structure minimizes any adverse effect upon adjacent properties, and
- d. Greater architectural restrictions than contained in subsection 3 may be employed as needed to assure compatibility with neighboring residential structures.

D. Building Materials for Structures Larger than 720 Square Feet [166.23(3)].

(1) The Board of Adjustment may grant a special exception to allow an accessory structure to be constructed of materials, other than material that is the same or similar to the primary structure, provided:

- a. The use of building materials in compliance with Section 166.23(3) is impractical and such is demonstrated to the Board of Adjustment's satisfaction, and
- b. The proposed building materials will not significantly affect the property value of the subject property or adjoining properties. The Board of Adjustment may request the applicant or opponents of the application submit an appraisal completed by a certified appraiser to demonstrate this condition has or has not been met, and
- c. The building materials of the proposed accessory structure minimizes any adverse effect upon adjacent properties, and

E. Prior to the Board's consideration of any application for a Special Exception as allowed in this section, they shall cause all property owners within 250 feet of the boundaries thereof to be notified by ordinary mail.

F. The Board may not grant a special exception to the limitations set forth in paragraphs 2(B) and (C) of this section. Any variance to those limitations must be in conformance with Section 166.16(5).

(Ord. 915 – June 15 Supp.)

Notice of Public Meeting

January 8th, 2015

The Johnston Board of Adjustments will hold a Public Meeting at 6:30p.m. on Thursday, January 21, 2015. The meeting will be held in the Council Chambers of Johnston City Hall, 6221 Merle Hay Road to consider the following item:

BOA Case No. 15-16 Variance Request to the Side Yard Setback for accessory structure in a R-1(100) District; 7900 NW 100th Street, Johnston, IA.

Lee Luloff has requested a variance to chapter 166.23 of the City of Johnston Code of Ordinances regarding the side yard setback for accessory structures in an R-1(100) district. The nature of the variance request is to allow a 0' side yard setback in lieu of 10' as required by code. This case was rescheduled to the above date at the request of the applicant.

If you have questions or comments on the above-described action, please contact the city staff person listed at the bottom of this card, or attend the meeting at the above-listed date and time. Additional information is also available on the City's Website: www.cityofjohnston.com. Look for the "Proposed Development Notices" link under the Community Development Department.

Aaron Wolfe, Senior Planner
Johnston City Hall; 6221 Merle Hay Road; Johnston, IA 50131
Phone: 727-7766; Email: awolfe@cityofjohnston.com

BOA 15-16 Mailing List

OWNER	ADDRESS	CITY, STATE, ZIP
ANTHONY LIGOURI	7878 NW 100TH ST	GRIMES, IA 50111-1086
LEWAYNE WHITE	7924 NW 100TH ST	GRIMES, IA 50111-8796
ROSS STAFFORD	7868 NW 100TH ST	GRIMES, IA 50111-1086
JEFFREY MARTIN	7948 NW 100TH ST	GRIMES, IA 50111-8796
BAMBI WAGNER (TRUSTEE)	10131 NW 78TH AVE	GRIMES, IA 50111-8705
WALTER LULOFF	7900 NW 100TH ST	GRIMES, IA 50111-8796
RICHARD SCHMIDT	7880 NW 100TH ST	GRIMES, IA 50111-1086
JERROD APPENZELLER	10085 NW 78TH AVE	GRIMES, IA 50111-8704
LARRY NOON	7844 NW 100TH ST	GRIMES, IA 50111-1086
MARK SMITH (TRUSTEE)	7887 NW 100TH ST	GRIMES, IA 50111-1086
HEINZ PALLWITZ	7951 NW 100TH ST	GRIMES, IA 50111-8796
JOHNSTON COMMUNITY SCHOOL DISTRICT	PO BOX 10	JOHNSTON, IA 50131
TOMI NELSON	10154 NW 80TH LN	GRIMES, IA 50111-1038
ALAN BOLGER	7941 NW 103RD LN	GRIMES, IA 50111-1073
DANIEL NEBOLA	7968 NW 100TH ST	GRIMES, IA 50111-8796
STEPHEN WATROUS	10108 NW 80TH LN	GRIMES, IA 50111-1038
BRIAN HUTCHINS	10200 NW 80TH LN	GRIMES, IA 50111-1037

Aaron Wolfe

From: Tony Ligouri [tony.ligouri@gmail.com]
Sent: Monday, January 11, 2016 8:49 PM
To: Aaron Wolfe
Subject: BOA Case No. 15-16 Variance Request

I would be opposed to any variance to Chapter 166.23 regarding the side yard setback mentioned in this matter. The new structure is located directly on the boarder to mine and my neighbor's access/driveway lot.

Thank

You,
7878 N.W. 100th st.

Anthony J. Ligouri

Aaron Wolfe

From: Ross Stafford [rstafford1052@gmail.com]
Sent: Friday, December 11, 2015 3:44 PM
To: Aaron Wolfe
Subject: BOA Case No. 15-16

Aaron-

I live directly south of Lee Luloff and have for 29+ years. I do not know if you are familiar with the Elmerado Estates subdivision when it was in unincorporated Polk County. The two 25-foot wide property strips between us used to be a paper street ROW to gain access to the 5 AC to the west. Both of our houses had a 75-foot required front yard setback from that ROW. That was very appealing to me. We also had a covenant in place that would not allow any out buildings, which was also appealing. Over the years, many out buildings have been built and the BOA for Polk County allowed the two "flagpole" lots, without a paved access drive. A paved street with required storm water management would have served my downhill property much better.

Lee built an addition on the south side of his house (a very nice one) when he moved in and has done a great job with landscaping and additional driveway area. The only issue I have with this variance request is a visual one. I recently retired from being the Permit and Development Administrator for the City of Des Moines. To approve a variance, our BOA had to hear evidence proving that there was no other way to resolve the issue, rather than simply hearing that there was hardship, which was the standard for granting an exception. Does Johnston's BOA do things this way?

I am not able to attend the Public Meeting. Please take these things into account with your staff recommendations to the BOA.

-Ross Stafford
7868 NW 100th Street

On a different subject, whatever happened to the street connection to NW 86th Street from the Crosshaven development? Traffic on NW 100th Street is getting congested at times and the NW 70th Avenue roundabout construction has potential to be a nightmare.

I would greatly appreciate a reply. THANK YOU Sent from my iPhone