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**STORY COUNTY, IOWA  
CERTIFICATE OF VARIANCE  
AND WRITTEN FINDINGS OF FACT**

**IN THE MATTER OF THE APPLICATION OF:** : **CASE NO. VAR05-19**  
**Andrew Craig, 5038 Skycrest Dr, Ames, IA** :  
**50014, for the request of a Variance for an** :  
**accessory structure, located on the SE NE of** :  
**Section: 23 Township: 84 Range: 24, Franklin** :  
**Township, (Parcel ID Number 05-23-175-155)** :

**On December 18, 2019, the Story County Board of Adjustment approved the Variance CASE NO. VAR05-19 for the request of a 31 foot Front Setback Variance from 40 feet to 9 feet for an accessory structure with the following conditions:**

- 1. The existing significant trees located between the accessory structure and Skycrest Drive must remain intact.
- 2. The front property line must be identified and marked clearly for preliminary and final inspections.

**VOTE:           Ayes:           Neubauer, Brekke, McGill, Youngberg, Schneider**  
**Nayes:**  
**Absent:**  
**Vote:           (5-0)**

**Written Findings of Fact**

**Case Summary:** The request is for a variance to the minimum front setback for a proposed accessory structure located in the R-1 District, which establishes a minimum front set back of 40 feet. The variance request is to permit the construction of an accessory structure that will encroach on the front setback requiring a variance of 31 feet from 40 feet to 9 feet. The proposed accessory structure will replace the existing accessory structure that was also granted a variance in 1961 and consequently is located 8.1 feet from the front property line. The property is located in Section 23 of Franklin Township parcel number 05-23-175-155. Planning and Development Staff is recommending approval of the variance with conditions. The Story County Board of Adjustment approved the variance with conditions on December 18, 2019.

Marcus Amman, Story county Planning and Development Planner, reviewed the Variance Application, site plans, written narrative and other related submittal materials and responses from the applicant to County staff comments in accordance to Chapter 90 Conditional Uses of the Story County Land Development Regulations. Amman presented the staff report at the December 18, 2019, Story County Board of Adjustment meeting.

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**Variance Permit Analysis**

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- A. Finding of unnecessary hardship**
  - 1. The land in question cannot yield a reasonable return if used only for a purpose allowed in that zone;**

Applicant Comment: *If the variance is not granted, the accessory structure will deteriorate to the point of being useless and will devalue the property due to having no storage space or indoor parking space. In addition to that, it will become a burden and will actually be a financial burden for upkeep or demolition.*

Staff Comment: The principle of reasonable return asks the Board to consider if, without a variance, a property owner cannot establish any beneficial use on their property.

The existing accessory structure was built after being granted a variance for its current location. The proposed accessory structure will be built within a portion of the same foot print not encroaching any further on the front setback. All the dwellings in the neighborhood have accessory structures and by not granting the variance the value of the Craig's dwelling will likely be negatively affected. As this structure deteriorates it will lessen the value of the Craig's property and likely affect other adjacent properties. Not only would the property likely lose a space for storing personal vehicles but for storage as well.

**2. The plight of the owner is due to unique circumstances and not to general conditions in the neighborhood which may reflect the unreasonableness of the Ordinance itself; and**

Applicant Comment: *The accessory structure has been in the same spot since 1963 that I hope to build on and not encroach further towards the north property line or roadway.*

Staff Comment: The existing accessory structure has been in this location since 1963 and was granted a variance in 1961 based on the topographical issues on the parcel. The variance was based on the Zoning Ordinance No 2 Article XVI, Section 4(2-e) which was adopted December 22, 1960. This provision allowed for the granting of the variance for topographical reasons among others. These topographical issues are the same as they were in 1961 and they are not requesting to encroach of the front setback any further. Further the strict application of the front setback requirement for the Craig's prohibits the use of the property in a manner reasonably similar to that of other properties in the area.

**3. The use to be authorized by the variance will not alter the essential character of the locality.**

Applicant Comment: *This is applicable and true – The new building will not alter the character of the locality – it will enhance the character; also, larger shop/accessory structures are quite common in the neighborhood.*

Staff Comment: The property is located at the end of Skycrest Drive on a cul-de-sac. Of the four dwelling on the cul-de-sac the Craig property and two others have all been granted variances to their front setbacks, the neighbors being for their dwellings. Most of the dwellings in the area have at least a two car accessory structure some attached some detached, some have that plus car ports or shop areas. This proposed building size is similar to those in the area. This will continue an existing use in the neighborhood. The mature trees that separate the existing accessory structure and the road way will not be removed. This will assist with not changing the essential character of the locality.

**B. Granting the variance will not be contrary to the public interest; and**

Applicant Comment: *True – I am certain the neighbors will not have issues with a new building being constructed mostly the same location. I have spoken with most of*

*them already about it and there have been no concerns.*

Staff Comment: Granting the variance would not be contrary to the public interest of the Land Development Regulations to protect public health, safety, and welfare without significant investments/improvements made to the subject property.

The existing accessory structure has been in its current location since 1963. Granting the variance to reconstruct the accessory structure that is slightly larger but will appear smaller, while not encroaching in to the front setback any further would not be contrary to the public interest. The accessory structure will be separated from the road by an existing tree line that will not be affected by the reconstruction of the accessory structure. There are three variances granted for 4 parcels located on the cul-de-sac, all for front setbacks.

**C. The spirit and intent of the Story County Development Plan and Story County Land Development Regulations are protected.**

Applicant Comment: *Yes/True*

Staff Comment: The Story County Comprehensive Plan and the Story County Land Development Regulations have similar spirits/intents to maintain the county's rural character.

The Statement of Intent for the R-1 Residential Zoning District is:

“The R-1 Transitional Residential District is designed to provide a district for single-family detached dwellings between a rural and urban density. Subdivisions created within the R-1 district may also include community facilities and open space uses, with special provisions to protect the residential character of the District. This District is not intended to permit isolated rural dwellings incompatible with surrounding land uses and not in conformance with the Cornerstone to Capstone (C2C) Comprehensive Plan.”

This property is located in the Story County R-1 district as well as Ames Urban Fringe Plan Rural Transitional Residential. The use of the property is consistent with the Rural Transitional Residential designation. The subject property includes a dwelling with no area in agriculture production. The primary land use of the subject parcel is the dwelling which has been on the property since 1961. Due to the location of the property at a cul-de-sac, anticipated lower speeds of vehicles, the mature tree buffer between the existing accessory structure and the road way, the spirit and intent of the ordinance is maintained. It also protects the undisturbed natural areas on the parcel. The Cornerstone to Capstone (C2C) Comprehensive Plan Housing Goal 1 Objective 2 and Housing Goal 3 Objective 1 provide support for the variance. Goal 1 Objective 2 describes keeping structures maintained to levels deemed safe and Goal 3 Objective 1 describes proactively and meaningfully engaging with residents in their planning decisions that impact their housing and the neighborhood. This request addresses both objectives.

**Comments from the Interagency Review Team**

The complete application was forwarded to the members of the Interagency Review Team on Thursday, October 4<sup>th</sup>, 2019. The following comments were received:

Story County Environmental Health: No Comments

Story County Engineer: No Comments

Story County Assessor: No Comments

Story County Planning and Development: (Applicant responses are in bold.)

1. Please identify the front property line. **I have located the northern property pins and using a combination of GIS, coordinates produced by CGA, manual measurements, and professional engineering judgement, I have determined that the existing setback of the northeast corner of the accessory structure is 8.1 feet from the property line at its nearest point. I plan to keep this as the north corner guideline. The property line will not be encroached on by the new construction.**
2. Why can this accessory structure not be built elsewhere on the property? **The topography of the lot does not allow many options for relocating or rebuilding the accessory structure and it is easy to see why/how the decision was made to allow the building to be erected in its current location.**
3. Would this encroach on the front property line anymore? **The north building line would not move towards the property line or roadway.**
4. How did you identify the front property line? **I have located the northern property pins and using a combination of GIS, coordinates produced by CGA, manual measurements, and professional engineering judgement, I have determined that the existing setback of the northeast corner of the accessory structure is 8.1 feet from the property line at its nearest point. I plan to keep this as the north corner guideline. The property line will not be encroached on by the new construction.**
5. Will you take out any of the trees between the existing structure and the roadway? **No, significant trees will remain intact.**
6. Why does the accessory structure need to be rebuilt? **The existing accessory structure is in bad shape due to the concrete slab settling and cracking and the walls no longer reach the ground. The accessory structure is nothing more than a shed at this point. I would like to update to protect my equipment enclosed within the accessory structure and also to enhance the property value.**
7. Are there other accessory structures of similar size in the neighborhood? **There are many nice shop type accessory structures around the neighborhood and on my street including my next door neighbor's property.**
8. Please explain how this is a unique circumstance that was created not by you? **The accessory structure has been in the same spot since 1963 that I hope to build on and not encroach further towards the north property line or roadway.**
9. How big is the current accessory structure and what are you proposing to rebuild it with? **The existing footprint is approximately 25.3 feet deep (East/West) by 21.6 feet wide (North/South) according to my manual measurements (Figure 1). There is also a privacy fence extending the apparent north wall of the accessory structure to the east and west to a total length of 40.5 feet. I propose to build a 24 wide by 36 deep accessory structure with 12 feet high ceiling.**
10. Please provide proposed drawings? **Provided**
11. Please provide topographical information? **Provided**
12. Please explain how granting the variance will not be contrary to the public interest? **True – I am certain the neighbors will not have issues with a new building being constructed in mostly the same location. I have spoken with most of them already about it and there have been no concerns.**
13. Please explain how the land in question cannot yield a reasonable return if used only for

a purpose allowed in that zone? **If the variance is not granted, the accessory structure will deteriorate to the point of being useless and will devalue the property due to having no storage space or indoor parking space. In addition to that, it will become a burden and will actually be a financial burden for upkeep or demolition.**

14. Please explain how this will not alter the essential character of the locality? **This is applicable and true – The new building will not alter the character of the locality – it will enhance the character; also, larger shop/accessory structures are quite common in the neighborhood.**

#### **Comments from Cities within Two Miles**

Notification was provided to the City of Ames and the City of Gilbert on December 10<sup>th</sup>, 2019. No comments were received from the City of Ames or the City of Gilbert at the time of the writing of this report.

#### **Comments from the General Public**

Notification letters were mailed to surrounding property owners regarding the variance request on December 10<sup>th</sup>, 2019. Seven property owners that received notices voiced their approval through petition signatures or emails, one person voiced their support at the Board of Adjustment December 18<sup>th</sup> meeting for the variance.

#### **Public Hearing comments from the Board of Adjustment Meeting – December 18, 2019**

Amman presented the staff report and stated that this request is for a variance of 31 feet from the R-1 District front setback requirement of 40 feet. Amman stated that the previous property owners applied for a variance for an accessory structure that was granted a variance in 1961 for 10 feet. During the course of applying for this permit CGA, Engineers and Land Surveyors, were hired to locate the property pins. The property pins were located and it was noted that the current structure is 8.1 feet from the front property line. The proposed accessory structure will encroach less than the existing accessory structure by one foot and will be rotated counterclockwise away from the property lines.

McGill asked if it was being twisted (rotated) southerly away from where the existing structure is. Amman explained that through discussion with Craig it was decided to shift it some. Craig stated that by doing this he will be able to enlarge the accessory structure while not encroaching any further into the setback. This rotation area is also on flat ground.

Craig was in attendance and provided more contextual information to the board.

There was one neighbor present in support of the variance, a letter with signatures from 6 other neighbors, and one email in support as well.

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#### **Points to Consider for the Variance Request**

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1. The project is necessary to replace an accessory structure that is in poor condition.
2. The proposed accessory structure will appear smaller than the existing accessory structure.
3. The existing accessory structure along with two of the other three dwellings that share the cul-de-sac have variances for front setbacks.
4. The accessory structure will continue to be separated from the road by trees. No significant trees will be removed with this project.
5. The traffic is highly limited on Skycrest Dr at the subject property due to the cul-de-sac, (IDOT does not have traffic counts for the road specifically).
6. The proposed accessory structure will not exceed the existing variance setback distance.
7. The cost of building the accessory structure would be substantially greater on any other location on the property and would require disturbing undisturbed natural areas

and require fill dirt.

8. The neighbors have provided letters of support for the variance.
9. The existing character of the area will not be negatively impacted by granting the variance to construct a smaller footprint accessory structure no closer to the property line.

**The Board of Adjustment approved (vote 5-0) the Variance with the conditions as identified below, as recommended by the Planning and Development Staff based on the information provided in the staff report, site review, material provided by the applicant in the submittal, responses to questions/comments, and meeting discussion as put forth in case VAR05-19:**

1. The existing significant trees located between the accessory structure and Skycrest Drive must remain intact.
2. The front property line must be identified and marked clearly for preliminary and final inspections.

**Board of Adjustment Action on Written Findings of Fact**

**Date: January 15, 2020**

**VOTE:           Ayes                   Nays**

**McGill**

**Brekke**

**Neubauer**

**Schneider**

**Winfrey**

**Vote:**

**Chair:** \_\_\_\_\_