

Staff Report

Board of Adjustment

Date of Meeting:
January 15, 2020

Case Number: VAR06-19—Ballard Golf and Country Club Side Setback Variance Request for a 35' x 24' and a 23' x 33' accessory structures

APPLICANT: Kory Brown
30608 U.S. Highway 69
Huxley, Iowa 50124

STAFF PROJECT MANAGER: Marcus Amman, Planner

SUMMARY:

The request is for a variance to the minimum side setback for an existing accessory structure located in the A-1 District for other permitted uses, which establishes a minimum side setback of 50 feet. The variance request is to permit the existing 24'x35' (840 square feet) and 23'x33' (783 square feet) accessory structures that encroach on the side setback requiring a variance of 26 feet from 50 feet to 24 feet, from the closest point of the proposed building to the south property line. The existing accessory structures were built as part of the Ballard Golf and Country Club in 1975 but were never issued zoning permits. The property is located in Section 14 of Palestine Township parcel number 13-14-400-105.



Planning and Development Staff is recommending approval of the variance with conditions:

- Permits for the two accessory structures must be obtained within 30 days of the Board of Adjustment action.
- Business sign lighting must be discontinued



Property Information

PROPERTY OWNER

Ballard Golf and Country Club

PROPERTY ADDRESS

30608 U.S. Highway 69, Huxley, Iowa 50124
NW SE and NE SE of Section 14, Township 82, Range 24

LEGAL DESCRIPTION

LOTS 1 2 3 4 5 NE SE & NW SE

PARCEL IDENTIFICATION NUMBER

13-14-400-105, 13-14-400-001

SIZE OF PARCEL

75.32 Net-Acres, 0.44 Net-Acres

CURRENT ZONING

A-1 Transitional Residential

CURRENT LAND USE

Commercial

LAND USE FRAMEWORK MAP DESIGNATION

Natural Areas

CITIES WITHIN TWO MILES

Huxley

REQUESTED ACTION

The variance request is to permit the existing 24'x35' (840 square feet) and 23'x33' (783 square feet) accessory structures that encroach on the side setback requiring a variance of 26 feet from 50 feet to 24 feet, from the closest point of the proposed building to the south property line. The existing accessory structures were built as part of the Ballard Golf and Country Club in 1975 but were never issued zoning permits.

Background

Applicable Story County Land Development Regulations Sections

All Other Permitted Uses in the A-1 district of the Story County Land Development Regulation require a 50 foot setback from the side property line.

Subject Property

This variance application is for the existing golf course and country club's maintenance buildings located at the southwestern portion of the property according to the Assessor's records. These structures were constructed in 1975 to serve as the maintenance shops for the golf course that was built in 1974 and is



the principal use of the property. These structures did not have permits issued for them when they were constructed. The golf course obtained zoning permits in 1974 for the golf course, clubhouse, and the dam and was a permitted use in the A-1 Agricultural District. In June of 1977 golf courses were removed from the permitted uses list in A-1 districts and placed under the conditional use permits in the Story County Code of Ordinances. When golf courses were removed from the permitted uses in the A-1 district the status of the Ballard Golf and Country Club became a legal non-conforming use due to the changes the County made to its ordinances. Under the ordinance that the golf course was constructed under the setback for structures from the side property lines was 10 feet. Under the current Story County Land Development Regulations, the setback requirements for the Other Permitted Uses is 50 feet in the A-1 District.

The property is located on the northern side and contiguous to the boundary of the City of Huxley, while being in the county. The property is 75.32 net acres and is generally surrounded by residential subdivisions. Of the parcels contiguous or within 40 feet of the subject parcel, 24 are less than 2 acres in size and 10 are greater than 2 acres.

The existing structures on the parcel have the following approximately setbacks based on aerial imagery:

Building	West (Front)	East (Rear)	North (Side)	South (Side)
Clubhouse	258'	2,200'	425'	841'
Northwestern Accessory Structure	386'	2,071'	136'	1,117'
Northeastern Accessory Structure	494'	1,915'	100'	1,196'
Southwestern Accessory Structure	110'	2,419'	1,277'	24'
Southeastern Accessory Structure	143'	2,375'	1,285'	24'
Pond Structure	1,521'	1,008'	742'	577'
Proposed Accessory Structure	112'	2,403'	1,229'	83'

The golf course and country club was built in 1974. The Deer Creek Subdivision to the east of the subject property was platted in 1977. The Country Club View Subdivision was platted in 1999 and is located directly south of the southwestern area of the subject property. Northview Heights was platted in 2004 and is southeast of the subject property.

Upon visiting the parcel it is evident that the existing structures are significantly buffered from the parcel to the south by mature evergreen trees. The applicant proposes to also be rewrap the existing structures in new metal siding to match the proposed new maintenance shop.

There is an employee access and driveway on the parcel line leading to the southern accessory structures (maintenance buildings). The parcel generally slopes to the north and east away from U.S. Highway 69. The parcel also has a small portion of the northwestern area in the floodplain. The golf course and country club is located on the northwestern portion of the parcel and is buffered by mature trees along the northern and eastern parcel lines. The maintenance shops at the southwestern corner of the parcel is buffered on the south by mature trees from the subdivision to the south. The southeastern portion of the parcel is not buffered from the subdivision contiguous with the subject parcel.

The applicant was able to locate two property pins on the parcel. Planning Staff met the applicant on the property and were able to see the property pins and the measurements for the existing conditions. This allowed for an accurate measurement of the existing accessory structures setback to be identified as 24



feet. Using this as the closet point the setback variance request was determined to be 26 feet. The applicant also owns the adjacent parcel to the south that is 15 feet wide along the south portion of the subject property. Accounting for this the nearest property line not owned by the applicant is then 39 feet from the existing structures. The applicant is considering adjoining the two parcels into one tax parcel. If they were to be adjoined the variance would be for 11 feet.

The golf course and maintenance buildings have been at this location for 45 years and are a significant part of the essential character of the area. The structures in question are also located 112 feet to the east or further from the road right-of-way and are not contrary to the public interest.

The applicant is also currently requesting a Conditional Use Permit to bring the use, associated structures, and proposed structure into conformance with the county zoning standards with CUP12-19.

Future Land Use

This property is located in the Story County A-1 district. The C2C plan is oriented toward preserving the county’s rural character and high value agricultural land, protecting environmentally-sensitive areas, and identifying areas for future growth and development. The continued use of this area as its existing use is in keeping with the C2C plan as this area is identified as Natural Resource Areas to include parks.

Surrounding Land Use

The property is 75.32 net acres and is generally surrounded by subdivisions. The Deer Creek Subdivision to the east of the subject property was platted in 1977. The Country Club View Subdivision was platted in 1999 and is located directly south of the southwestern area of the subject property. Northview Heights was platted in 2004 and is southeast of the subject property. Of the parcels contiguous or within 40 feet of the subject parcel, 24 are less than 2 acres in size and 10 are greater than 2 acres.

There is a small portion of floodplain on the subject parcel in the northwestern area where there are no site improvements.

Legal Principles

According to Section 92.03(4) of the Story County Land Development Regulations, in deciding whether to grant a variance request, the Board of Adjustment shall consider all the following legal principles. **All legal principles shall be satisfied for the Board of Adjustment to grant a variance.**

- 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;
 - 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
 - 3. The use to be authorized by the variance will not alter the essential character of the locality.
- B. Granting the variance will not be contrary to the public interest; and
- C. The spirit and intent of the Story County Development Plan and Story County Land Development Regulations are protected.

Findings of Fact



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: Both of the accessory buildings in the southwest corner of the property were constructed in 1975 and have been used as the golf course maintenance buildings since that time.

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 golf course is an established use that has operated on the property for 45 years. The golf course has operated as a permitted use, legal non-conforming use, and the applicant is currently requesting a CUP to bring the use into conformance with the county's regulations. The existing accessory structures were built as the maintenance shops for the golf course and country club. Without these structures the golf course would not function as it currently does. These buildings are associated with the primary use.

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: Both of the accessory buildings in the southwest corner of the property were constructed in 1975 and have been used as the golf course maintenance buildings since that time.

Staff Comment: The existing accessory structured have been in this location since 1975. Had the golf course applied for zoning permits for these buildings when they applied for the zoning permits for the golf course, country club, and the dam, the structures would have met the required side setbacks at the time of 10 feet. Story County in June of 1977 removed golf courses from the list of permitted uses in the A-1 District. Golf courses then became a conditional use and now falls under the other permitted uses category in the A-1 District setback requirements. This requirement is 50 feet in the A-1 District.

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

Applicant Comment: These buildings have never changed in use and have been in the same location since constructed.

Staff Comment: The golf course and country club has been at this location since 1975. The maintenance sheds have been there since 1975 as well. Granting the variance for the associated structures to the primary use that have both been in there existing locations for 45 years will not change the essential character of the locality. The existing landscaping to the south is providing some buffering to the structures.

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



Applicant Comment: Both buildings will continue to be used in the same way they have been for the last 45 years, and have caused no harm to the community or neighbors where they are located.

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 golf course and country club has been at this location since 1975. The maintenance sheds have been there since 1975 as well. Granting the variance for the associated structures to the primary use that have both been in there existing locations for 45 years will not be contrary to the public interest. The structures are located near the access and driveway and the applicants adjacent parcel to the south also assists in increasing the distance to the adjacent outlot to the south that is not owned by the applicant. The accessory structures will be separated from the road by an existing setback of 112 feet or more from the right-of-way.

C. The spirit and intent of the Story County Cornerstone to Capstone (C2C) Comprehensive 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 A-1 Agricultural Zoning District is:

“The A-1 District is intended and designed to accommodate land uses compatible with agriculture and to protect agricultural land from encroachment of urban land uses. The County Development Plan designates priority agricultural land as Agricultural Conservation Areas. These areas are intended to preserve rural character by limiting the development of most new non-farm dwellings to large lots. In some instances, the A-1 District permits non-farm residential development on smaller lots in furtherance of the County Development Plan goals and objectives.”

This property is located in the Story County A-1 district. The property is designated Natural Area to include parks. The primary land use of the subject parcel is the golf course and country club which has been on the property since 1974. The subject property includes the golf course, club house, and 5 other accessory structures with no area in agriculture production.

Commentary

Comments from the Interagency Review Team



The complete application was forwarded to the members of the Interagency Review Team on Thursday, January 2nd, 2020. 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:

1. Please identify the Side property line. **Side Property pins were identified. A stringer was placed between them to obtain the current side setback of 24 feet.**
2. How did you identify the side property line? **Side property pins were identified using Beacon as a starting point and metal detecting for the pins.**
3. Please explain how this is a unique circumstance that was created not by you? **The building were included on when the initial golf course was approved. The ordinance was changed to remove this use.**
4. Please provide proposed drawings? **Provided**

Comments from Cities within Two Miles

Notification was provided to the City of Huxley on December 7th, 2020. No comments were received from the City of Huxley 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 27th, 2019. No comments were received at the time of the writing of this report.

Points to Consider

1. The accessory structures have been at their current location since 1975.
2. Having equipment to maintain the golf course is essential to their operation.
3. Had zoning permits been applied for at the time of the construction of the accessory structures they would have met setback requirements.
4. The granting of the variance is not contrary to the public interest.
5. The golf course is an established use and is essential to the character of the locality.
6. The property owner also owns a 15 foot wide adjacent parcel to the south of the subject property making the distance from the building to a parcel not owned by the Ballard Golf and Country Club 39 feet.



Staff Recommendation and Alternatives for VAR06-19

Based on consideration of variance application submittal, location of property, review of existing use, review of responses to County Staff comments or questions, and site review, it can be concluded that the request to allow the side set back variance of 26 feet, does meet all legal principles. Therefore, Staff recommends approval of the request with the following condition/s:

- Permits for the two accessory structures must be obtained within 30 days of the Board of Adjustment action.
- Business sign lighting must be discontinued

The Story County Board of Adjustment may consider the following alternatives on the Ballard Golf and Country Club Side Setback variance request, VAR06-19:

1. The Story County Board of Adjustment approves the Ballard Golf and Country Club Side Setback variance request, as requested by the applicant and as put forth in case VAR06-19, for a variance to allow the proposed accessory structure to have a side setback of 24 feet in the A-1 District.
2. **The Story County Board of Adjustment approves the Ballard Golf and Country Club Side Setback variance request with conditions and as put forth in case VAR06-19, for a variance to allow the proposed accessory structure to have a side setback of 24 feet in the A-1 District.**
3. The Story County Board of Adjustment denies the Ballard Golf and Country Club Side Setback variance request, as requested by the applicant and put forth in case VAR06-19, for a variance to allow the proposed accessory structure to have a side setback of 24 feet in the A-1 District.
4. The Story County Board of Adjustment remands the Ballard Golf and Country Club Side Setback variance request as put forth in case VAR06-19, for a variance to allow the proposed accessory structure to have a side setback of 24 feet in the A-1 District back to the applicant for further review and/or modifications, and directs staff to place this item on a future Board of Adjustment agenda.