

****NEW INFORMATION ADDED TO ORIGINAL JULY 11TH STAFF REPORT******CITY OF WEST DES MOINES
BOARD OF ADJUSTMENT COMMUNICATION**

Meeting Date: July 25, 2018

Item: Houston Variance, 501 Grand Oaks Drive – Vary the side yard setback for an accessory structure from 20 feet to 6 feet for the construction of a 2,647 square foot carriage house – Dan Houston (VAR-003960-2018)

Requested Action: Adopt Findings Regarding Setback Variance

Case Advisor: J. Bradley Munford, Planner

Applicant's Request: The applicant, Dan Houston, is requesting a fourteen foot variance of the side yard accessory structure setback for property located at 501 Grand Oaks Drive. The variance would reduce the side yard setback for an accessory structure from 20 feet to 6 feet. Mr. Houston has submitted his response to the findings for the variance. In that response, he noted steep grades and mature trees, as rationale for the variance need (see Attachment E – Findings from the Applicant).

History: The property is currently the applicant's home and is zoned Residential Estates (RE). It was platted as Lot 8 Grand Oaks on March 2, 1987. The home was built in 1988.

Staff Review and Comment: Staff notes the following:

- **Lot Characteristics:** The property has a number of very large trees. It also has some changes in topography that is to some extent atypical from a lot that is completely flat. The high point is located along the eastern property line about mid lot and then gradually slopes to the west and north. These types of lots do typically require slightly more design effort and tree clearing than a flat, unwooded lot. All of these factors along with the existing setback requirements should have been taken into consideration when purchasing this type of lot and designing the carriage house. With the existing setback, this lot is still a buildable lot that can have a carriage house without the need for a variance.

New Information:

- **Residential Estate District Setbacks:** Since the writing of the July 11th staff report, additional research has identified the following as it relates to side and rear yard setbacks.

Detached accessory structures within parcels zoned Residential Estate (RE) are allowed to be a maximum of 10% of the total lot area. Prior to 2003, the side yard and rear yard setbacks for these accessory structures was a minimum of five feet (5') to closest element, including roof overhangs. In response to a few resident's comments that these accessory structures can be quite large, the side and rear yard setbacks were increased to 20' in the RE zoning district. In this situation, the adjoining neighbor to the property line for which the variance is desired, is supportive of the construction of the carriage house. It could be argued that with the neighbors acknowledgement of the structure size and agreement with its location, that granting of a variance to allow the structure is not counter to the reasoning for the increasing the side yard setback from 5' to 20'.

Noticing Information: On June 29, 2017, a notice of the July 11, 2018, Board of Adjustment public hearing was published in the *Des Moines Register*. Notice of this public hearing was mailed to all surrounding property owners within 370 feet of the subject property on June 26, 2018.

Property Owner and Applicant: Dan Houston
501 Grand Oaks Drive
West Des Moines IA 50265

Attachments:

- Attachment A - Board of Adjustment Resolutions (Approval and Denial)
- Exhibit A - Conditions of Approval (none)
- Attachment B - Location Maps
- Attachment C - Aerial Pictures of Property
- Attachment D - Carriage House Architecture
- Attachment E - Reason for Variance and Findings from the Applicant
- Attachment F - Findings from Staff
- Attachment G - Letter of Support from Neighbor

RESOLUTION BOA-2018-11

A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES, (APPROVING OR DENYING) _____ THE VARIANCE REQUEST (VAR-003960-2018) OF A 14 FOOT VARIANCE OF THE REQUIRED 20 FOOT SIDE YARD ACCESSORY STRUCTURE SETBACK FOR PROPERTY LOCATED AT 501 GRAND OAKS DRIVE FOR PURPOSES OF BUILDING A CARRIAGE HOUSE ON THE PROPERTY

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicants, Dan Houston, have requested approval of a variance from Title 9, Zoning, Chapter 7 (Setback and Bulk Density Regulations), Section 4 (Setback and Bulk Density Regulations), Table 7.6, for a variance of fourteen (14) feet of the required twenty foot (20') side yard setback to build a carriage house on property located at 501 Grand Oaks Drive and legally described as:

Legal Description of Property

LOT 8, GRAND OAKS, NOW IN AND FORMING A PART OF
THE CITY OF WEST DES MOINES, POLK. COUNTY, IOWA

WHEREAS, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

WHEREAS, on July 25, 2018, the Board of Adjustment held a duly-noticed public hearing to consider the application for a variance (VAR-003960-2018);

WHEREAS, based upon a review of the submitted variance request, the Board of Adjustment finds **(In Favor of Applicant's Findings, In Favor of Staff Findings, or in Favor of the Board's Findings)** _____ as attached at Exhibit E;

NOW, THEREFORE, THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. A Variance Request (VAR-003960-2018), for a fourteen (14) foot variance from the twenty foot (20') side yard accessory building setback requirement for property locally known at 501 Grand Oaks Drive to allow the construction of a carriage house is _____ **(approved or denied)**.

PASSED AND ADOPTED on July 25, 2018

Thomas M. Cunningham, Chair

ATTEST:

Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Board of Adjustment for the City of West Des Moines, Iowa, at a regular meeting held on July 25, 2018, by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

ATTEST:

Recording Secretary

Exhibit A
Conditions of Approval

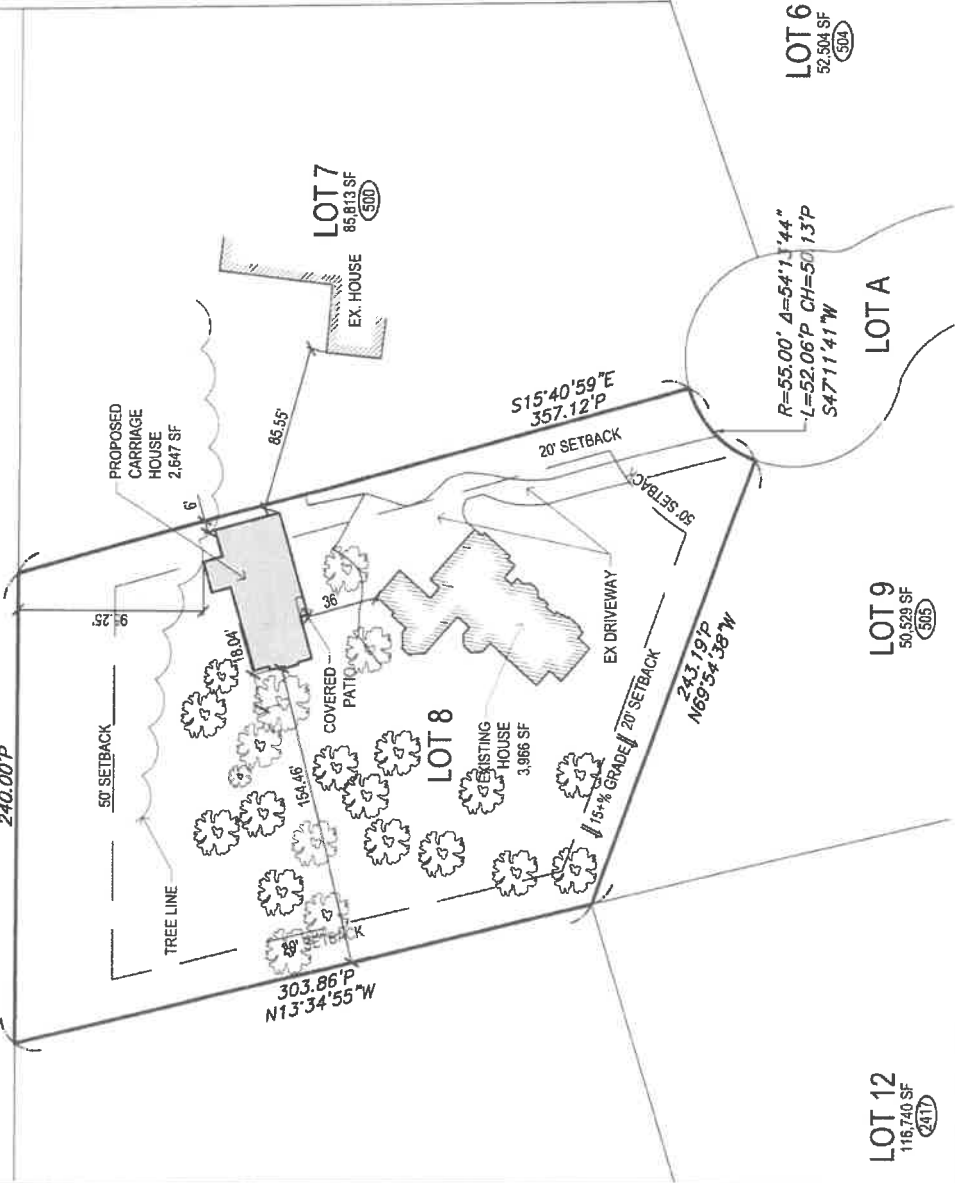
None.

HOMES BY DEPHILLIPS

HOUSE SITE PLAN

OUTLOT B

S89°45'38"E
240.00'P



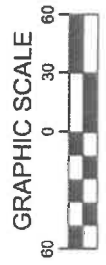
PROPERTY DESCRIPTION:
 LOT 8 GRAND OAKS, AN OFFICIAL PLAT OF WEST DES MOINES, POLK COUNTY, IOWA
 SAID TRACT OF LAND BEING SUBJECT TO AND TOGETHER WITH ANY EASEMENTS OF RECORD.
 SAID TRACT OF LAND CONTAINS 1.92 ACRES (83,635 SQUARE FEET) MORE OR LESS.

ADDRESS:
 501 GRAND OAKS DRIVE
 WEST DES MOINES, IOWA
 50266

OWNER:
 JOAN M HOUSTON
 501 GRAND OAKS DRIVE
 WEST DES MOINES, IA 50265

PREPARED FOR:
 HOMES BY DEPHILLIPS
 C/O KEVIN DEPHILLIPS

ZONING:
 RE - RESIDENTIAL ESTATE DISTRICT
 BULK REGULATIONS
 SETBACKS
 FRONT = 50'
 SIDE = 20'
 REAR = 50'



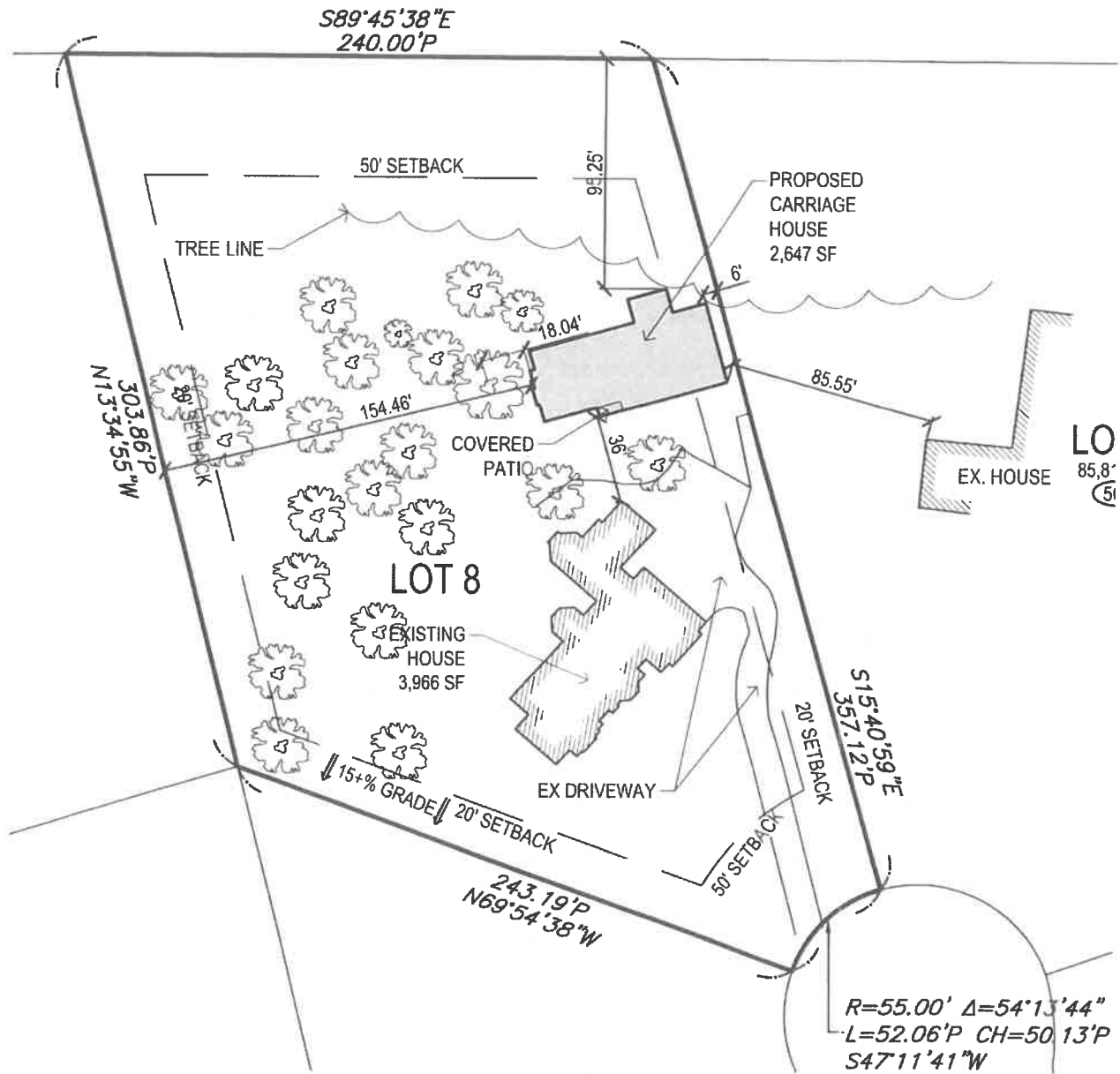
LEGEND:
 P PLATTED DISTANCE

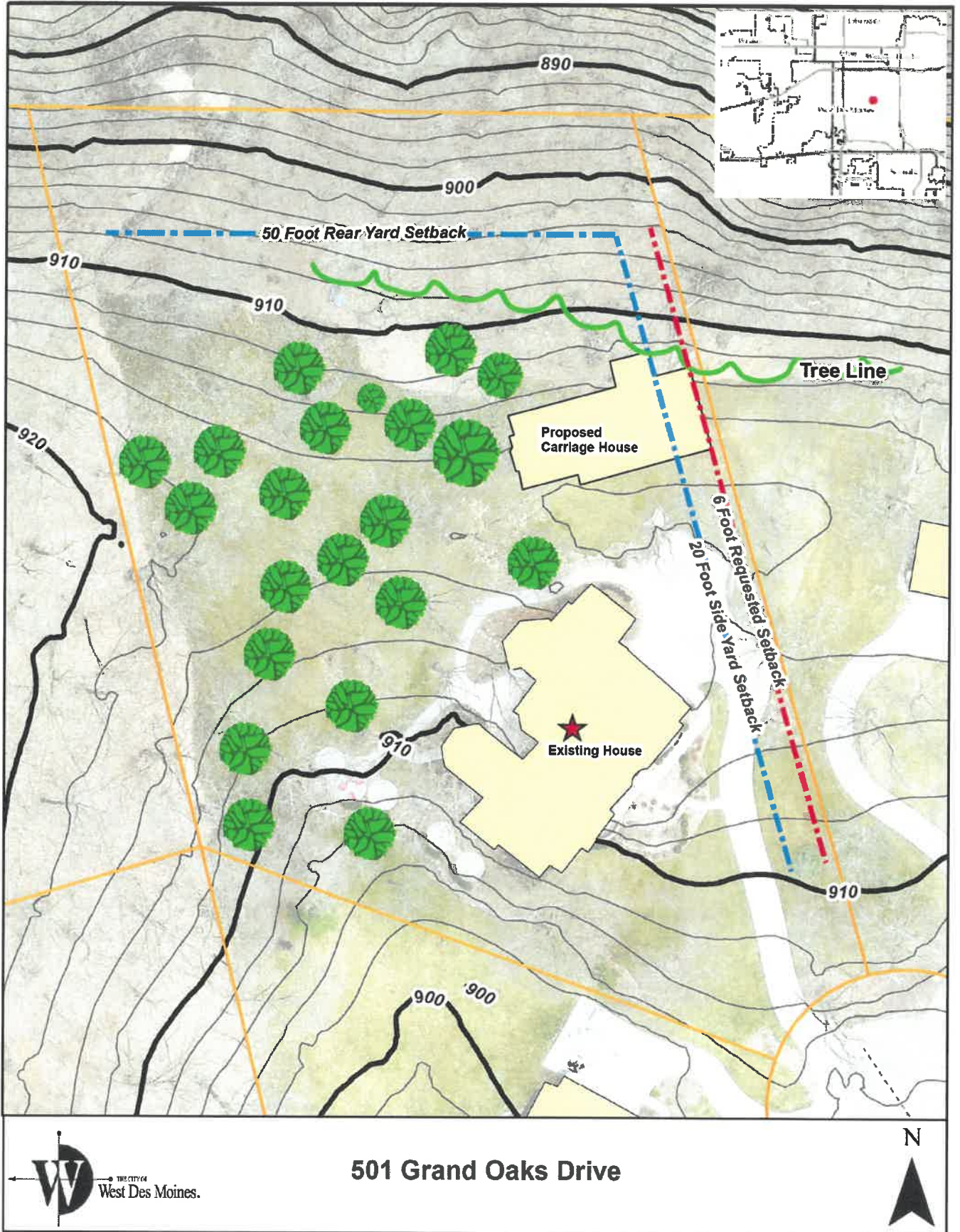
Bishop Engineering
 "Planning Your Successful Development"
 3501 104th Street
 Des Moines, Iowa 50322-3925
 Phone: (515) 276-0467 Fax: (515) 276-0217
 Civil Engineering & Land Surveying
 Established 1959

HOUSE LAYOUT PLAN

501 GRAND OAKS DRIVE WEST DES MOINES, IOWA

REFERENCE NUMBER:	
DRAWN BY:	MAE
PROJECT NUMBER:	180316
SHEET NUMBER:	C0.1

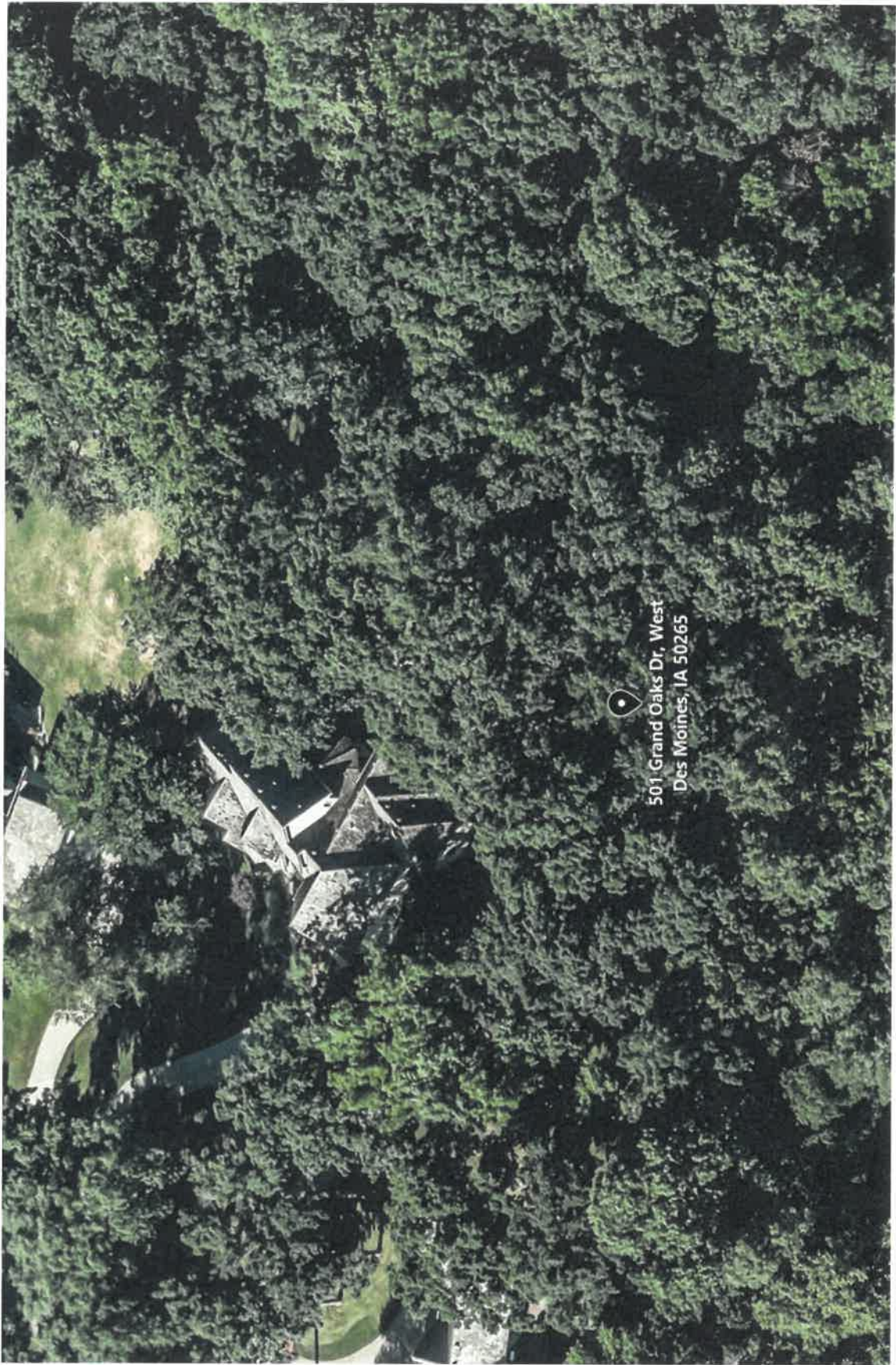




501 Grand Oaks Drive



South Looking North



East Looking West



West Looking East



North Looking South

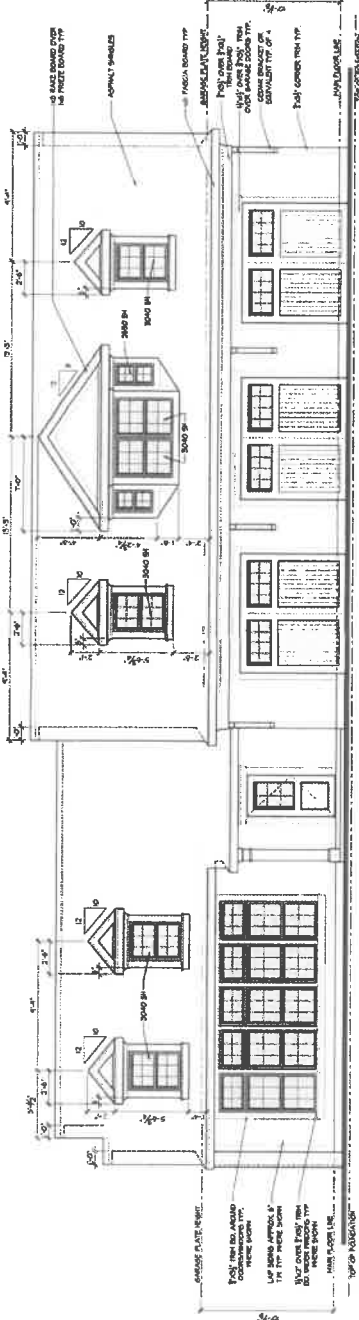
Exterior Elevation Notes:

1. ALL DIMENSIONS UNLESS OTHERWISE NOTED ARE IN FEET AND INCHES.
2. FINISHES SHALL BE AS SHOWN ON THE EXTERIOR ELEVATIONS UNLESS OTHERWISE NOTED.
3. ALL MATERIALS SHALL BE APPROVED BY THE ARCHITECT PRIOR TO INSTALLATION.
4. ALL MATERIALS SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.
5. ALL MATERIALS SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S MAINTENANCE AND CARE INSTRUCTIONS.
6. ALL MATERIALS SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S WARRANTY REQUIREMENTS.

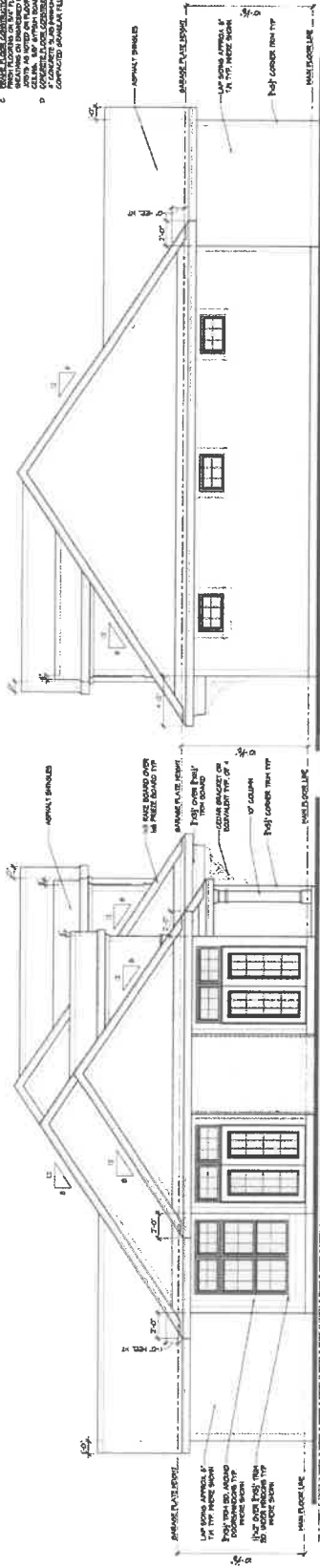
Technical Construction

Assemblies:

- A. ROOF CONSTRUCTION: ROOFING SHALL BE AS SHOWN ON THE EXTERIOR ELEVATIONS UNLESS OTHERWISE NOTED. ROOFING SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.
- B. EXTERIOR WALL CONSTRUCTION: EXTERIOR WALLS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.
- C. FLOOR CONSTRUCTION: FLOORING SHALL BE AS SHOWN ON THE EXTERIOR ELEVATIONS UNLESS OTHERWISE NOTED. FLOORING SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.
- D. CEILING CONSTRUCTION: CEILING SHALL BE AS SHOWN ON THE EXTERIOR ELEVATIONS UNLESS OTHERWISE NOTED. CEILING SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.

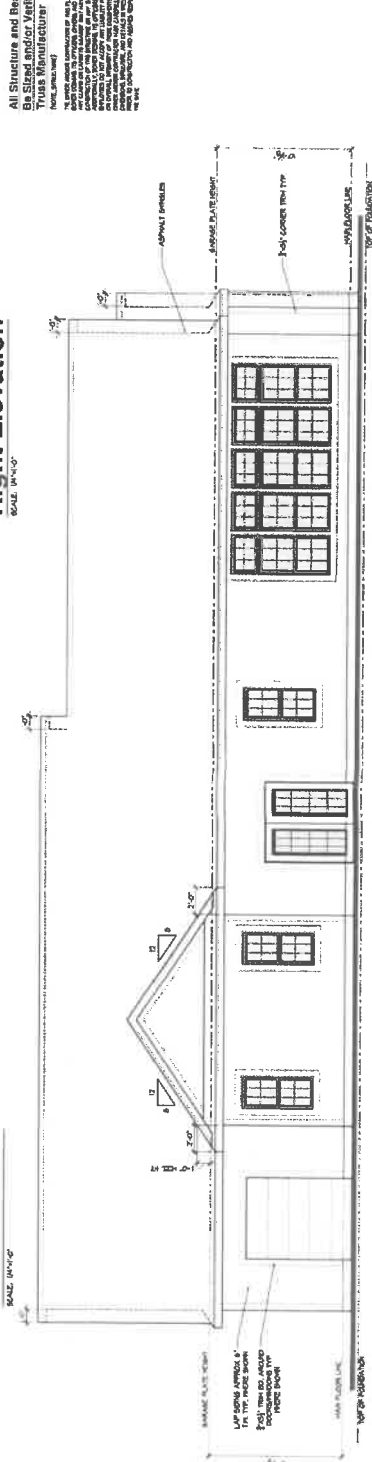


Front Elevation
SCALE: 1/4"=1'-0"



Left Elevation
SCALE: 1/4"=1'-0"

Right Elevation
SCALE: 1/4"=1'-0"



Rear Elevation
SCALE: 1/4"=1'-0"

All Structure and Beams To Be Sized and/or Verified By Truss Manufacturer

Attachment E
APPLICANT REASON FOR VARIANCE

Briefly explain the reason(s) for the variance request, including reasons why you cannot comply with the regulations of the Zoning Ordinance: _____

SEVERAL 30" + TREES EXIST ON THE LOT, THERE IS ALSO 15" + 6" GRADE ON THE SOUTH WEST SIDE OF LOT MAKING THAT AREA UN-BUILDABLE. IN ORDER TO CONSTRUCT A CARriage House & SAVE THE 100-YR + OLD TREES WE REQUEST A VARIANCE TO THE 20' SIDE SETBACK TO 5'. ALL EXISTING & PROPOSED STRUCTERS ARE OVER 20' OF SEPERATION A LETTER IS INCLUDED FROM THE ABUTTING LOT OWNER STATING THEY ARE IN FAVOR OF THIS REQUEST FOR VARIANCE.

APPLICANT RESPONSE TO FINDINGS

1. That the proposed development or use is consistent with the West Des Moines comprehensive plan and any applicable sub-area plan.
 - a. *The proposed use is consistent with the West Des Moines comprehensive plan.*
2. That there are special circumstances or exceptional characteristics applicable to the subject property with regard to size, shape, topography or location, which do not apply generally to comparable properties in the same vicinity and zones.
 - a. *This lot has a very unique configuration given the fact the property sits on a cul-de-sac. It also is unique in that it has mature oak trees – these factors are what make this property unique, requiring an exception.*
3. That the strict application of the zoning regulations as they apply to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations provide that such hardships shall not be self-imposed by the applicant or his or her successor in interest.
 - a. *The hardship associated with this current zoning restriction would require significant loss of value to the property due to the removal of the mature oak trees.*
4. That there have been no changes in the character of the site or its surrounding which detrimentally affect the environment.
 - a. *The proposed improvements do not change the character of the site or its surround detrimentally; it is the preservation of the natural environment that has predicated this request for variance.*
5. That the granting of such variance does not, under the circumstances and conditions applied in the particular case, adversely affect the health or safety of persons, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements.
 - a. *The proposed improvements do not adversely affect the health or safety of any persons, and a letter from the abutting neighbor has also been submitted to address their willingness to accept the proposed variance.*

Attachment F
CITY OF WEST DES MOINES
STAFF VARIANCE APPLICATION FINDINGS

1. That the proposed development or use is consistent with the West Des Moines comprehensive plan and any applicable sub-area plan.

The proposed use of single family residential is consistent with the West Des Moines Comprehensive Plan in that the land use of the property is designated Low Density Residential on the Comprehensive Plan Land Use Map.

2. That there are special circumstances or exceptional characteristics applicable to the subject property with regard to size, shape, topography or location, which do not apply generally to comparable properties in the same vicinity and zones.

Staff was unable to identify any special circumstances or exceptional characteristics with this property. It is a fairly typical wooded walk-out type lot that is desired in single family developments. These lots feature topography where a portion of the basement is at grade and privacy is created by mature trees. These types of lots do require slightly more design effort and tree clearing than a flat, unwooded lot. That effort has historically not been so egregious to detour similar lots in our community from complying this portion of our code.

3. That the strict application of the zoning regulations as they apply to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations provided that such hardships shall not be self-imposed by the applicant or his or her successor in interest.

In evaluation of the request, the existing site condition and comparison to similarly situated properties, it is staff's conclusion that the strict application of the zoning ordinance does not result in practical difficulties of hardships and that the hardship could be considered self-imposed by the applicant in that the applicant prefers to not change the size, orientation or location of the carriage house. Staff believes that with some reorientation and small amount of design effort a carriage house can be constructed that complies with City code. However, as indicated in the staff report, the adjoining neighbor to the property line for which the variance is desired, is supportive of the construction of the carriage house. With the code requirement for a 20' setback being in response to individuals that did not want structures of the proposed size close to the common property line, it could be viewed that with the neighbors acknowledgement of the structure size and agreement with its location, that denying the variance is counter to the purpose of the larger setback requirement identified in city code.

4. That there have been no changes in the character of the site or its surroundings which detrimentally affect the environment.

This development is in an area with varying characteristics such as topography and vegetation. The character of the site has not been changed over the years. The platting of the subdivision respected the existing features of the ground. Staff does not believe that the proposal detrimentally affect the points listed above.

5. That the granting of such variance does not, under the circumstances and conditions applied in the particular case, adversely affect the health or safety of persons, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements.

The intent of the 20 foot setback in Residential Estate (RE) districts is to promote a residential environment typified by larger lot single-family detached dwellings and to be mindful of the impact of larger residential structures to adjacent property owners. Unlike the majority of our residential zoning districts, RE does not have the 1,000 square foot maximum size cap for accessory buildings. Years ago the maximum size cap was removed from the RE district with the reasoning that larger lots may have the need because of maintenance demands and the expressed desire for large accessory buildings for hobbies, recreation or storage uses. It was believed that RE properties (minimum lot size of 1 acre per code) have sufficient space to setback the inherently larger buildings and insulate their impacts from surrounding neighbors. The 20 foot setback was put into place as a way to protect the quality of life of neighbors and allow these larger lots to have the type of accessory buildings they desired.

In this case the applicant has obtained the support of his neighbor. Considering that the intent of the setback was to insulate neighbors from adverse effects of accessory structures, it could be argued that an approval would not negatively impact the quality of life of this particular neighbor. However, staff does have some concerns with setting precedent where all that is needed is support from your neighbor to obtain a variance.

Cancel

Variance

Send

To: Houston.Dan@principal.com

Cc: BCC: from: grandoaksubdivision.com

Subject: Variance

We are located at 500 Grand Oaks Drive and our property is adjacent to our neighbors, Daniel and Joan Houston at 501 Grand Oaks Drive. We have met and discussed the construction of a carriage house and the necessary exception required in order to locate this structure 6 feet from our property line. We are recommending this variance to the current regulations in order to unnecessarily remove mature oak trees from our neighborhood.

Thank you for your consideration.



Marie and Dale Andres
 Marie & Andres

12 June 2018