

**CITY OF WEST DES MOINES  
BOARD OF ADJUSTMENT COMMUNICATION**

**Meeting Date:** November 4, 2020

**Item:** Zoning Exception – 1490 S. Deer Road – Zoning exception from the front yard setback to accommodate a building addition – VAR-004904-2020

**Requested Action:** Request for Zoning Exception to allow reduction by no more than twenty-five percent (25%) of the City Code required front yard setback for principal structures

**Lead Staff Member:** Brian Portz, AICP

**Applicant's Request:** The property owner, Dan Pearson, would like to construct a 17.92' garage addition onto the front of his house. The addition will place the front of the house at thirty-nine feet (39') from the front yard property line along S. Deer Road. Per the bulk regulations for the Residential Estate (RE-1A) zoning district, a fifty foot (50') front yard setback is required. The applicant is seeking approval of the zoning exception that allows a reduction by no more than twenty-five percent (25%) of City Code required front yard setback for principal structures. A twenty-five percent (25%) reduction of the required fifty-foot (50') setback would allow for up to a 12.5' encroachment. The applicant's request falls within this allowance.

**History:** The 1.44-acre subject property is Lot 25 within the Lakeview Heights Addition Subdivision that was approved and recorded in 1971. The County Assessor indicates the home was constructed in 1984. The property was annexed into the City in 2003 and zoned Residential Estate District (RE-1A). On September 2, 2020, the applicant requested a variance from the 50-foot front yard setback requirement and a variance from the average front yard depth requirement. These variances were denied by the Board of Adjustment as the variance test of an unnecessary hardship could not be met.

**City Council Subcommittee:** This item was not presented to the Development and Planning City Council Subcommittee as they do not have authority over zoning exceptions.

**Staff Review and Comment:** Staff would summarize the following key points of interest:

- **Front Yard Setback:** Although platted with a 35' setback while still in unincorporated Dallas County, upon annexation, setback regulations stated in city code for the applicable zoning district became the governing regulation. The property is zoned Residential Estate (RE-1A) which requires a minimum 40,000 sq. ft. minimum lot size, fifty-foot (50') front and rear yard setbacks and a minimum twenty-foot (20') side yard setback for the primary structure. The existing house is located approximately fifty-seven feet (57') from the front property line. As explained above, the applicant is proposing an addition onto the existing garage that will encroach approximately eleven feet (11') into the fifty foot (50') front yard setback required for the zoning district.
- **Average Front Yard Depth:** At the time that this request was considered for a variance (September of 2020), City Code required that on any existing platted property where the average front yard setback of the built environment is different than that required for the specific zoning district (which is the case in this situation), the front yard setback for the subject

lot is equal to the average of the front yard depths of any existing immediate adjacent dwellings on the same side of the street, including the existing dwelling of the subject property. That requirement would not have allowed the addition to be closer than 66' to the street, even though the home itself is located approx. 57' from the street. This requirement has since been amended to provide that this requirement does not apply in situations in which the proposed improvement is 75 feet or greater from an existing structure on the properties on either side. This is measured between closest elements of both the existing structures and the proposed improvement, including roof overhangs. The proposed improvement at 1490 S. Deer Road will be over 100 feet away from the dwellings adjacent on either side, removing the need for a variance from the average front yard setback requirement for the proposed addition.

**Zoning Exception Findings:** The applicant's findings to grant a Zoning Exception are attached as Attachment D and Staff's findings are attached as Attachment E.

**Noticing Information:** On October 28, 2020, notice of the November 4, 2020 Board of Adjustment Public Hearing on this project was published in the Des Moines Register. Notice of this public hearing was also mailed to all surrounding property owners within 370 feet of the subject property on October 23, 2020.

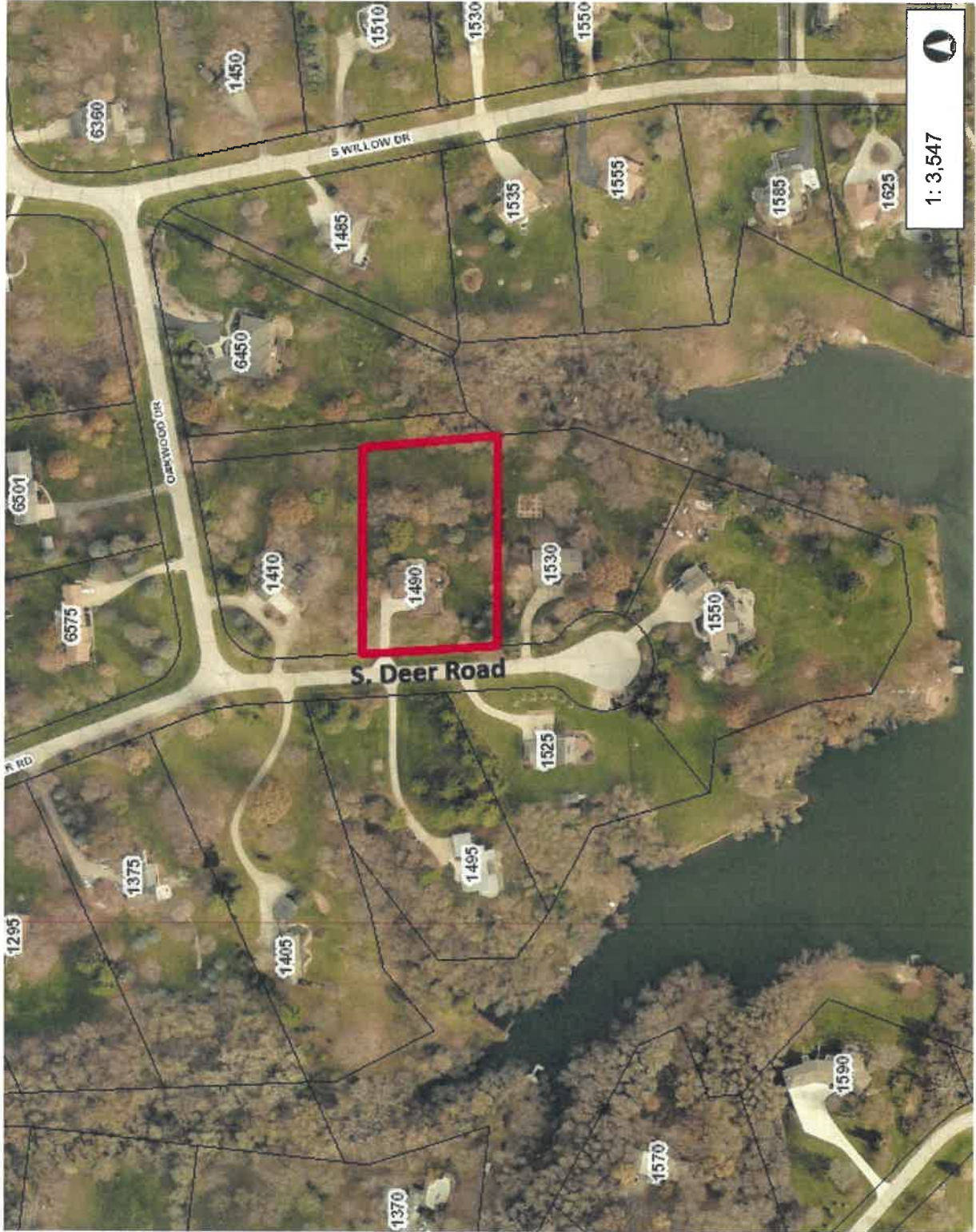
**Property Owner:** Daniel Pearson  
1490 S. Deer Road  
West Des Moines, IA 50265  
[danpearson@mchsi.com](mailto:danpearson@mchsi.com)

**Applicant's Representative:**  
Daniel M. Manning, Jr.  
Lillis O'Malley Law Firm  
317 6<sup>th</sup> Avenue, Suite 300  
Des Moines, IA 50309  
[dmmanning@lolaw.com](mailto:dmmanning@lolaw.com)

**ATTACHMENTS:**

- Attachment A - Location Map
- Attachment B - Illustrations
- Attachment C - HOA Approval and Neighbor's comments
- Attachment D - Applicant findings
- Attachment E - Staff findings
- Attachment F - Board of Adjustment Resolution
- Exhibit A - Conditions of Approval
- Exhibit B - Findings (to be added after meeting)

# Location Map



1 : 3,547



591.1  
0 295.57 591.1 Feet  
WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere  
© City of West Des Moines, Iowa

**Legend**

- Addresses
- Corporate Limits
- Parcels



Disclaimer: The City of West Des Moines makes no warranties regarding the accuracy or completeness of the data provided herein.  
THIS MAP IS NOT TO BE USED FOR NAVIGATION



# HOMES BY DEPHILLIPS

## SITE PLAN

**GENERAL NOTES:**

1. BOUNDARY DRAWN PER RECORDED PLAT BK. 3 PG. 394 - DALLAS COUNTY RECORDER.
2. DIMENSIONS ARE APPROXIMATE AND ARE TO BE AS-BUILT AT THE TIME OF STAKEOUT SURVEY FOR EXCAVATION OF ADDITION FOUNDATIONS.
3. SETBACKS ARE PER RECORDED PLAT AND HAVE BEEN VERIFIED BY CITY OF WEST DES MOIENS STAFF (BRIAN PORTZ)
  - 3.1. IF ACCESSORY STRUCTURE AND LESS THAN 1,000SF, THEN SIDE SETBACKS = 5'
  - 3.2. IF ANY OTHER APPLICATION, SIDE SETBACKS = 20'

**LEGEND:**

P PLATTED DISTANCE

**PROPERTY DESCRIPTION:**

WARRENTY DEED (BK.617, PG. 97)  
 LOT 25 LAKEVIEW HEIGHTS, AN OFFICIAL PLAT OF DALLAS COUNTY, IOWA.

**ADDRESS:**

1490 SOUTH DEER ROAD  
 WEST DES MOINES, IOWA 50266

**OWNER:**

PEARSON, DANIEL B & SHARON M JTRS  
 1490 SOUTH DEER ROAD  
 WEST DES MOINES, IOWA 50266

**PREPARED FOR:**

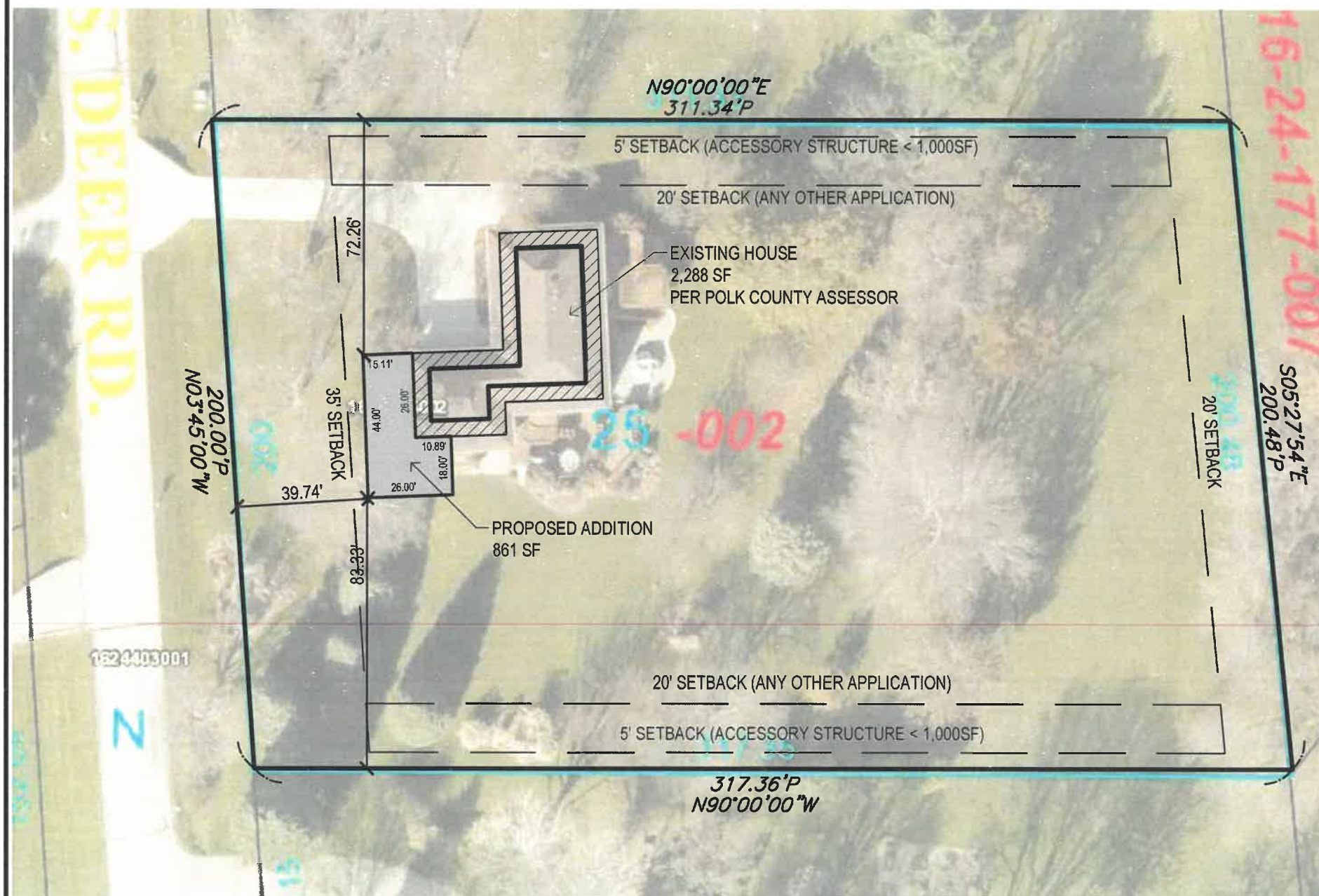
MICHAEL DEPHILLIPS

**ZONING:**

RE-1A SINGLE FAMILY RESIDENTIAL ESTATE (MIN LOT AREA = 1.00 ACRES.

**BULK REGULATIONS:**

**SETBACKS:**  
 FRONT = 50'  
 REAR = 20'  
 SIDE = 5' EACH (FOR ACCESSORY STRUCTURE > 1,000SF)  
 20' EACH FOR ANY OTHER APPLICATION



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3501 104th Street  
 Des Moines, Iowa 50322-3825  
 Phone: (515)276-0467 Fax: (515)276-0217  
 Civil Engineering & Land Surveying  
 Established 1959

1490 SOUTH DEER ROAD  
 WEST DES MOINES, IOWA

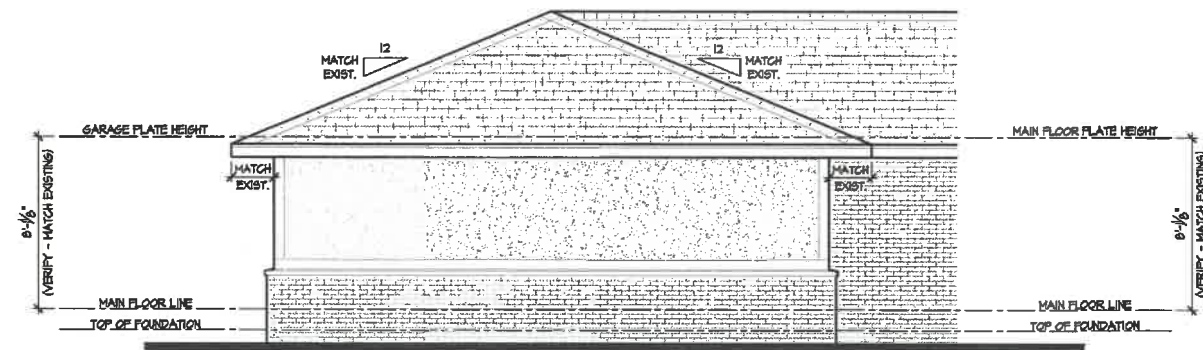
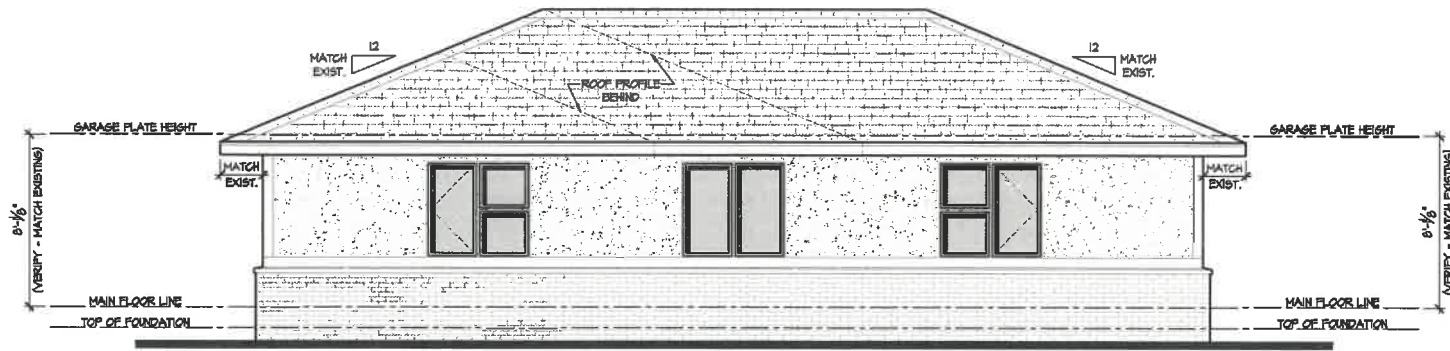
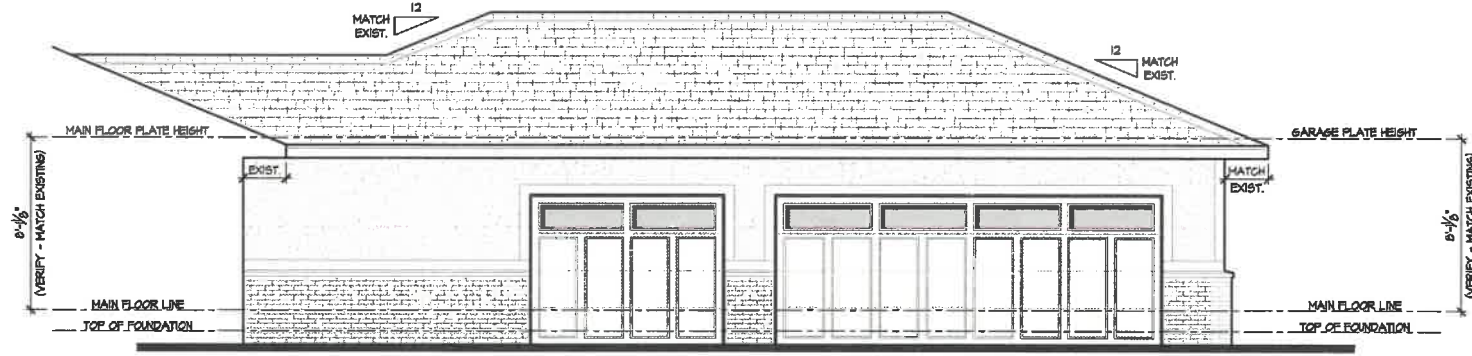
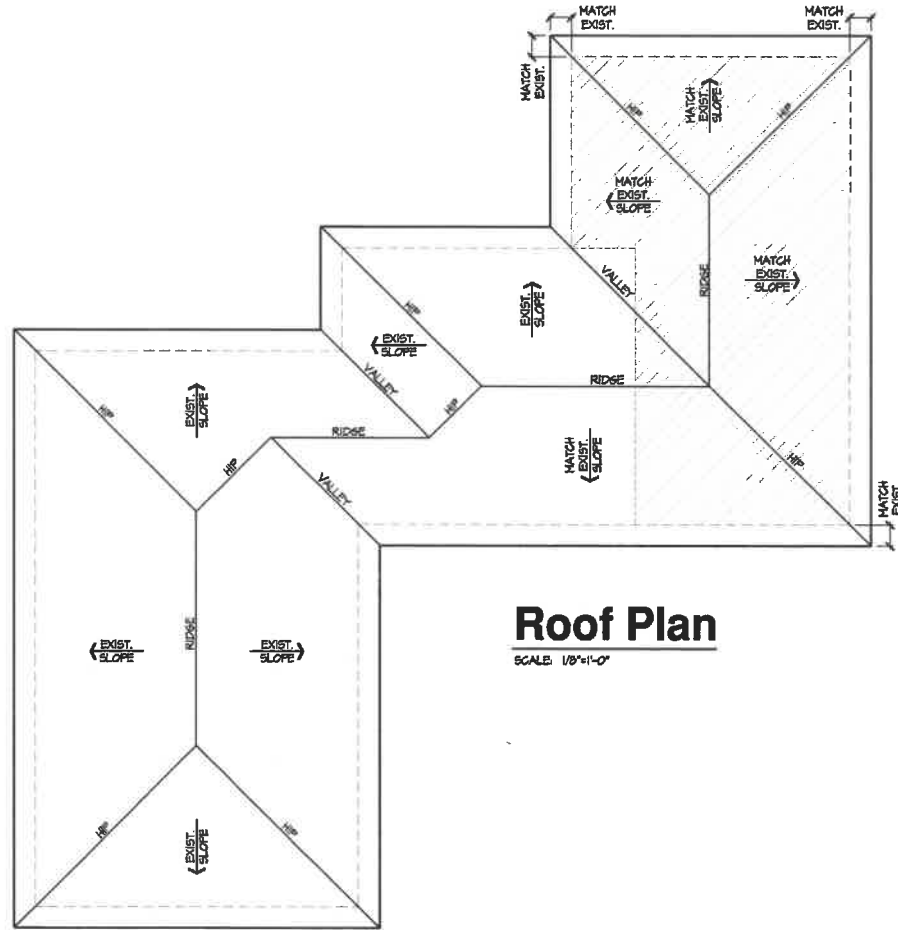
**ADDITION LAYOUT PLAN**

REFERENCE NUMBER:  
 7-13-2020

DRAWN BY:  
 MJW

PROJECT NUMBER:  
 190266

SHEET NUMBER:  
 1 OF 1



**Schematic Design - Not For Construction**

**Dan and Sharon Pearson Addition**

1490 South Deer Road, West Des Moines, IA 50266

Builder:  
Homes By  
DePhillips  
515.201.2247

Project No.:  
Date: 07.07.20

Revisions:

Sheet Title:  
Exterior Elevations

Sheet No.:  
**3.1**

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**HOMEOWNERS ASSOCIATION OF LAKEVIEW HEIGHTS  
(Pheasant Ridge)  
STANDARDS FOR HOME CONSTRUCTION AND REMODELING  
Approval Form**

I/We, the undersigned, having read the Standards for Home Construction and Remodeling and the Restrictive Covenants of Lakeview Heights, agree to conform with and abide by the rules and regulations described therein. Further, I/we agree to inform the Architectural Committee of any changes in the approved plans prior to their implementation.

Daniel B. Pearson  
Builder/Owner

7/20/20  
Date

The attached plans are:

APPROVED	DISAPPROVED	DATE	SIGNATURE
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7/20/20	[Signature]
<input type="checkbox"/>	<input type="checkbox"/>		[Signature]
<input type="checkbox"/>	<input type="checkbox"/>		

Comments:

Additional comments to the owner/builder:

The common ground in any area belongs to the Association and cannot be altered in any way without the permission of the Pheasant Ridge Board of Directors. New owners should acquaint themselves with the rules and regulations governing those areas. These are available from either the lot seller or from the Board. Because of our insurance, we desire all new owners to give specific attention to those rules governing water and its use for recreational purposes. Additionally, please be advised that boats, trailers, and similar may not be left parked on the roads or common ground.

**From: JERRYRANCH**

**Sent: Friday, August 21, 2020 6:01:43 PM (UTC-06:00) Central Time (US & Canada)**

**To: Development Services Inbox**

**Subject: [EXT] Request by Daniel Pearson for approval of a ten foot variance**

**Request by Daniel Pearson for approval of a ten foot variance Board of Adjustment public hearing Sept 2, 2020**

**Our property is adjacent to the Pearson's property in the variance request.**

**As long time neighbors, we trust that the planned garage addition will be in harmony with their current residence and neighborhood.**

**We have no opposition to granting the variance.**

**Jerry Ranch**

**On behalf of the Ranch Family Trust**

**6450 Oakwood Dr**

**WDM IA 50266**

October 29, 2020

Development Services Department  
4200 Mills Civic Parkway  
West Des Moines, IA 50265

To West Des Moines Zoning Committee:

We are writing on behalf of Dan and Sharon Pearson who reside at 1490 South Deer Road.

We are neighbors to them and live directly across the street from them. We are completely in favor of their proposed garage addition. We have no concerns and feel this will be a wonderful esthetic improvement to their home and our neighborhood.

Our neighborhood has large, spacious yards, and we have no objections to them doing this addition. We would appreciate the board's approval in this matter.

If you have questions, we can be reached at our phone numbers below.

Thank you,

Jeremy and Susan Rhyan

1495 South Deer Road



**From:** Sharelle Moranville

**Sent:** Thursday, October 29, 2020 10:55:02 AM (UTC-06:00) Central Time (US & Canada)

**To:** Development Services Inbox

**Subject:** [EXT] Hearing to consider a request by Daniel Pearson for approval of a zoning exception  
Hello,

I've been the Pearson's next door neighbor for over 35 years. They're wonderful neighbors: neat, friendly, helpful. They're good people. The ten foot incursion won't hurt the neighborhood in any way. Please grant them an exception.

Thank you.

**Sharelle Byars Moranville**

[www.sharellebyarsmoranvillebooks.com](http://www.sharellebyarsmoranvillebooks.com)

*We write to taste life twice, in the moment and in retrospect. ~Anais Nin*

**Explain how #1-6 are applicable to the request: (all 6 standards & criteria must be explained)**

#1: The improvements are reasonable and consistent with the character of the neighborhood and the City Comprehensive Plan. Setbacks vary widely from 40' to over 200' in this area. This property is at a disadvantage because it was one of several homes with a "closer" setback. The requested garage in this case would be consistent with other properties in the area.

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#2: This property is at a disadvantage because it was one of several homes with a "closer" setback. At the time of purchase, it was understood the setback was 35' and there was room for an addition in the future. The plat still shows the setback at 35', but that was changed when the property was annexed into the City. We believe a garage constructed in this manner is consistent with the characteristics of this neighborhood and are not aware of any objections from neighboring property owners. This request fits within the framework that this newly amended "exception" ordinance was intended to address and should be granted.

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#3: The landowner is requesting only the minimum relief necessary to build the garage and is not asking for any additional relief.

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#4: The improvements will not have a negative impact on the character of the neighborhood.

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#5: The improvements will not result in any negative impacts to the health or safety of the general public or neighboring residents.

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#6: The request does not authorize or expand an illegal or non-permitted use.

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## Attachment E Staff Findings

A zoning exception may be approved only when the Board of Adjustment determines that all of the following standards and criteria have been met. There may be zoning exception requests that are not granted. **It shall be the responsibility of the applicant to prove to the satisfaction of the Board that the following findings can be made:**

1. Without the requested exception, strict compliance with the ordinance prevents improvement of the property in a manner which is reasonable, customary, and consistent with other properties in the area;  
*\*\* The subject lot is generally of a similar size to other lots within this subdivision, however, the house is located closer to the street than most houses in the area, which generally range from 60' to more than 200' from the front property line. And it should be noted, due to the large lot sizes in this area (1 acre and above), the homes adjacent to the subject property are generally 100' to 150' feet away and there are many large trees on each lot that obscure the views of each dwelling and therefore would obscure the proposed building addition in the proposed location.*
  
2. Without the requested exception, strict compliance with the ordinance results in a practical difficulty. A "practical difficulty" may be shown by:
  - a. Significant or unjustified expense in light of the scope of the project; or
  - b. Destruction or demolition of significant or attractive features of the property, or similar reasons; or
  - c. Unique physical attributes of the subject property such as exceptional narrowness, shallowness, size, shape, mature & desirable vegetation, natural water features such as streams, creeks, and ponds, or topographical conditions of the subject property that restrict the placement of the intended improvement; or
  - d. Orientation or interior configuration of the existing structure which impacts the logical function of the intended improvement unless additional modifications are made to the existing layout or use of the existing structure.  
*\*\* Practical difficulty 'd' would apply in this situation. The location and configuration of the driveway and interior of the home is not very conducive to an attached garage in another location compliant with city code. Significant changes to the layout and structure of the home would need to be made to allow for logical functioning of the home if the garage were added to another portion of the house.*
  
3. The requested exception is the minimum necessary to achieve the purpose of the request.  
*\*\* The applicant wishes to add additional garage parking space to the existing home. The requested exception is the minimum necessary to achieve the desired garage space.*
  
4. The requested exception will not have a substantial negative impact on the character and context of the neighborhood.  
*\*\* The requested exception will not have a negative impact on the character and context of the neighborhood since this area is made up of large lots with homes at varying front yard setbacks. This house is already one of the homes in the area that is closer to the street than most other homes and due to the varying setbacks, visually the addition would not be out of line or uncharacteristic for the street.*

5. The requested exception will not be detrimental to the public health, safety, or general welfare.

*\*\* The requested exception will not be detrimental to the public health, safety, or general welfare of the adjacent property owners.*

6. The requested exception does not authorize or expand a use or activity not otherwise expressly authorized by the regulations within the zoning district in which the property is located.

*\*\* The requested exception does not authorize or expand a use or activity not otherwise expressly authorized by the regulations within the Residential Estate (RE) zoning district as the site is developed with a single family dwelling, which is an allowed use in the designated zoning district.*

Prepared by: B. Portz, West Des Moines Development Services PO Box 65320 West Des Moines IA 502650320 515-222-3620  
When Recorded, Return to: City Clerk, City of West Des Moines PO Box 65320 West Des Moines IA 50265-0320

**RESOLUTION-**

**A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES,  
(APPROVING / DENYING) THE ZONING EXCEPTION REQUEST (VAR-004904-2020)  
ALLOWING A REDUCTION BY NO MORE THAN TWENTY-FIVE PERCENT (25%) OF CITY  
CODE REQUIRED FRONT YARD SETBACK FOR PRINCIPAL STRUCTURES FOR THAT  
PROPERTY LOCATED AT 1490 S. DEER ROAD**

**WHEREAS**, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant and property owner, Daniel Pearson, has requested approval of a Zoning Exception from Title 9, Zoning, Chapter 7 (*Setback and Bulk Density Regulations*), Section 4 (*Setback and Bulk Density Regulations*), Table 7.2, of eleven feet (11') of the required fifty foot (50') front yard setback resulting in a thirty-nine foot (39') front yard setback for a garage addition that will be located on the property located at 1490 S. Deer Road and legally described as:

**LOT 25, LAKEVIEW HEGHTS ADDITION, AN OFFICIAL PLAT WITHIN  
THE CITY OF WEST DES MOINES, DALLAS 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; and

**WHEREAS**, on November 4, 2020, the Board of Adjustment held a duly-noticed public hearing to consider the application for a Zoning Exception (VAR-004904-2020).

**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 B;

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

**SECTION 1.** A Zoning Exception Request (VAR-004904-2020), to allow a zoning exception of eleven feet (11') of the required fifty foot (50') front yard setback to construct a garage addition on property located at 1490 S. Deer Road is (**approved / denied**).



**PASSED AND ADOPTED** on November 4, 2020

\_\_\_\_\_  
Angie Pfannkuch, 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 November 4, 2020, by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

ATTEST:

\_\_\_\_\_  
Recording Secretary

**Exhibit A**  
Conditions of Approval

No Conditions of Approval.

**Exhibit B**  
**Board of Adjustment Findings**