

## CITY OF WEST DES MOINES BOARD OF ADJUSTMENT STAFF REPORT COMMUNICATION

**Meeting Date:** August 17, 2022

**ITEM:** 2135 SE Browns Woods Lane – Zoning Exception to reduce side yard setback from 20' to 12' to accommodate construction of garage addition – Four Seasons Solutions LLC – VAR-005678-2022

### **REQUESTED ACTION: Zoning Exception for Reduction of Side Yard Setback**

**Applicant's Request:** The applicant, Kyle Hoyt with Four Seasons Solutions LLC, on behalf of the property owner, Lindsay and Christopher Scheidler, is requesting a Zoning Exception to reduce the 20' side yard setback to accommodate a garage addition. If approved, the exception would allow for a reduction in the side yard setback from 20' to 12'. The proposed structure will have a garage door that faces east rather than south as it is currently, which will allow easier vehicle access from SE Browns Woods Lane.

**History:** The subject property was platted in 1964 as part of the original Juliann Estates subdivision (Plat 1). According to the Polk County Assessor website, the home on the property was constructed in 1969. On March 27, 1988, the subject property was annexed into the City of West Des Moines as part of the South Raccoon River Annexation. When the subject property and surrounding neighborhood was annexed into the city, the property owners at the time wanted to maintain the rural character, requesting their property be zoned Residential Estate (RE), even though the majority of the lots in the annexed area did not meet the bulk regulations for RE zoning which requires a minimum 40,000 square foot lot. The lots in this Plat 1 range from approximately 24,000sf to 51,000sf. A zoning designation of Residential Single-Family RS-24 (minimum 24,000 square foot lot) would have been a more appropriate zoning designation. It is assumed the homes in the subdivision, including the subject property complied with the building setbacks required by Polk County; however, the homes do not comply with the minimum setbacks currently required for properties in the city's Residential Estate (RE) zoning district (50' front and rear and 20' side yards). Had the properties been zoned RS-24, the setbacks would be 35' front and rear and minimum 8' side yard one side and minimum 12' the other side yard).

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

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

- **City Code Requirement:** The currently adopted zoning code requires structures in the RE zoning district to provide a minimum 20' side yard setback. The existing home currently has a 32' side yard setback, however, the proposed 20' wide garage addition will then encroach into this side yard setback. The applicant originally requested the setback be reduced from 20' to 10', which is the maximum reduction allowed by code for a side yard setback. However, upon review, staff determined the applicant only needed an 8' reduction in the side yard setback to accommodate the new garage. One of the findings for a Zoning Exception is that it is the least amount of reduction necessary. Therefore, the request is for the required side yard setback to be reduced from 20' to 12', which is the minimum reduction needed to construct the proposed addition.

- **Variance vs Zoning Exception:** In the fall of 2020, city code was amended to provide an alternative to the variance process (AO-004860-2020). This amendment created the Zoning Exception process specifically for existing residential properties wanting to make improvements. A variance is similar to a zoning exception in that it is a relaxation of the applicable zoning requirement; however, a variance requires the applicant show there is an “unnecessary hardship,” while an applicant must only show there is a “practical difficulty” for a zoning exception request. Specifically defined allowable Zoning Exceptions only apply to existing single-family zoned and developed properties. Relief from zoning regulations for undeveloped single-family lots, as well as requests associated with non-single-family zoned parcels must be considered as a variance. Neither a variance nor a zoning exception is permission to circumvent zoning regulations just because a resident wants an improvement: the necessary findings applicable to each request (variance or zoning exception) must be made in granting the request.

**Zoning Exception Findings:** The Zoning Exception process is not permission to evade zoning regulations just because a property owner wants an improvement. To grant the zoning exception, all of the following standards and criteria must be met, or conditions and limitations, as the Board deems necessary, imposed to allow it to make said findings.

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.
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 and 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 features such as streams, creek, and ponds, or topographical conditions of the subject property that restrict 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.
3. The requested exception is the minimum necessary to achieve the purpose of the request.
4. The requested exception will not have a negative impact on the character or context of the neighborhood.
5. The requested exception will not be detrimental to public health, safety or general welfare.
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.

It shall be the responsibility of the applicant to prove to the satisfaction of the Board that the above findings can be made. The applicant’s findings to grant the variance and staff’s findings, are included herein for the Board’s consideration in making their decision.

**Lead Staff Member: Bryce Johnson**

**Staff Report Reviews:**

<input checked="" type="checkbox"/> Development Coordinator or Director	<input checked="" type="checkbox"/> Legal Department
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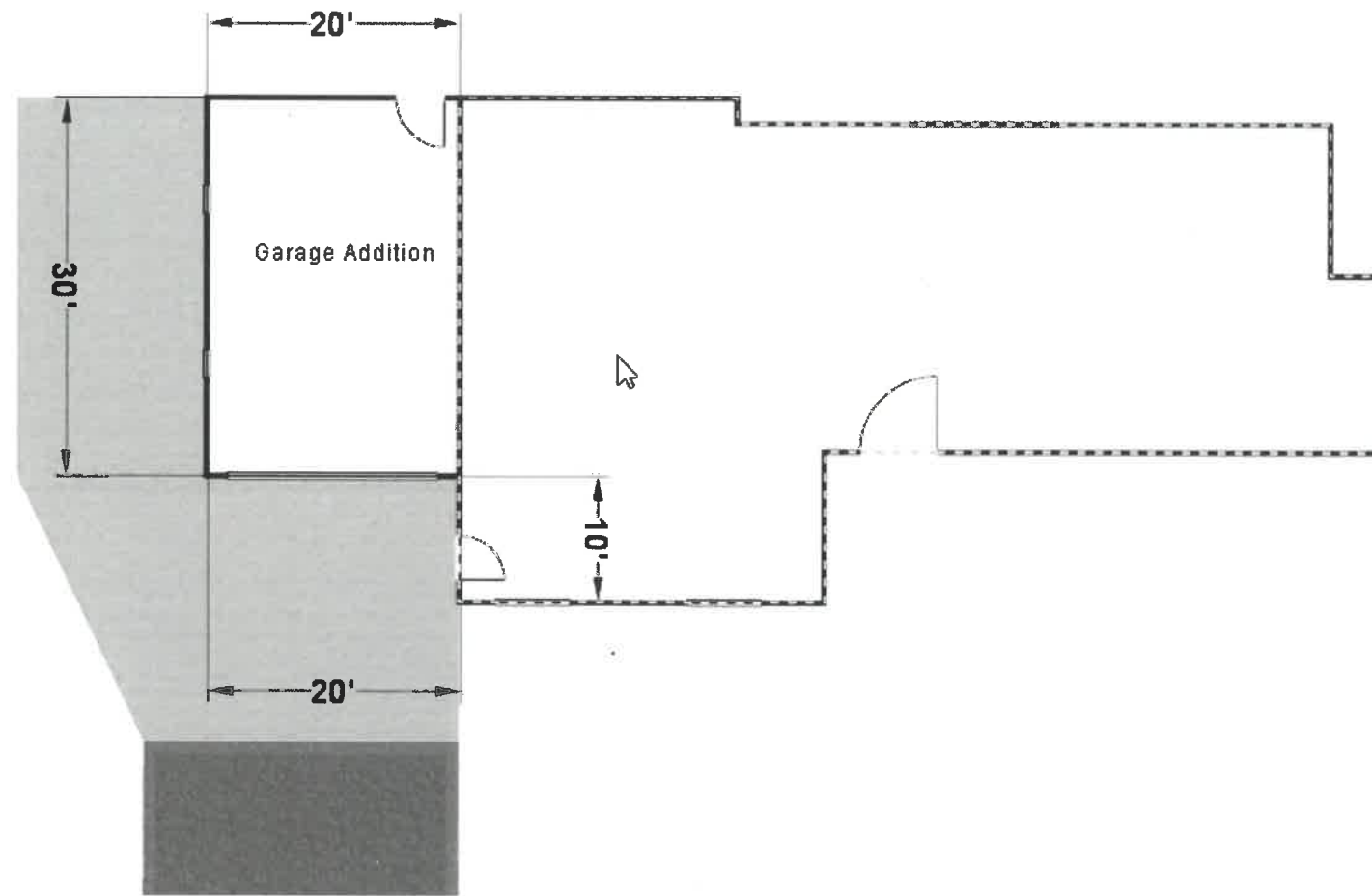
**Publications (if applicable)**

Published In:	Des Moines Register Community Section
Date(s) Published	July 29, 2022
Date(s) of Mailed Notices	July 29, 2022

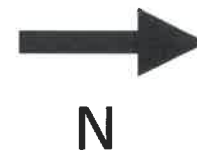
# Location Map



# 2135 SE Browns Woods Lane Garage Addition



Vicinity Map  
No Scale



Case Number: VAR-005678-2022

Site Address: 2135 SE Browns Woods Lane West Des Moines, IA 50265

Legal Description: LOT 4 JULIANN ESTATES containing 23,499 SF (0.539 acres)

Property Owner: Christopher and Lindsay Scheidler

Comprehensive Plan Designation: Low Density Residential  
Zoning District: Residential Estates (RE-1A)

**Minimum Yard Setbacks:**

Front Setback: 50'

Rear Setback: 50'

Side Setback: 20' (12' if ZE approved)

Existing Impervious Surface: 4,298-square feet

Added Impervious Surface: 0-square feet

Total New Impervious Surface: 4,298-square feet

Lot Size (in square feet and acres): 23,499 Sq Ft and .539 Acres

**Project Summary:** Construct garage addition where existing paving is – concrete pad south of addition is not part of this request

**Other Information (attach elevations/renderings, specs):**  
None

PLANS INCLUDED ARE FOR ILLUSTRATIVE  
PURPOSES ONLY – APPROVED PLANS ON FILE  
WITH THE CITY

Applicant's signature (print and

drawings:

\_\_\_\_\_

\_\_\_\_\_



147.4'

161.9'

2135 SE BROWNS WOODS LN

160'

Proposed Addition

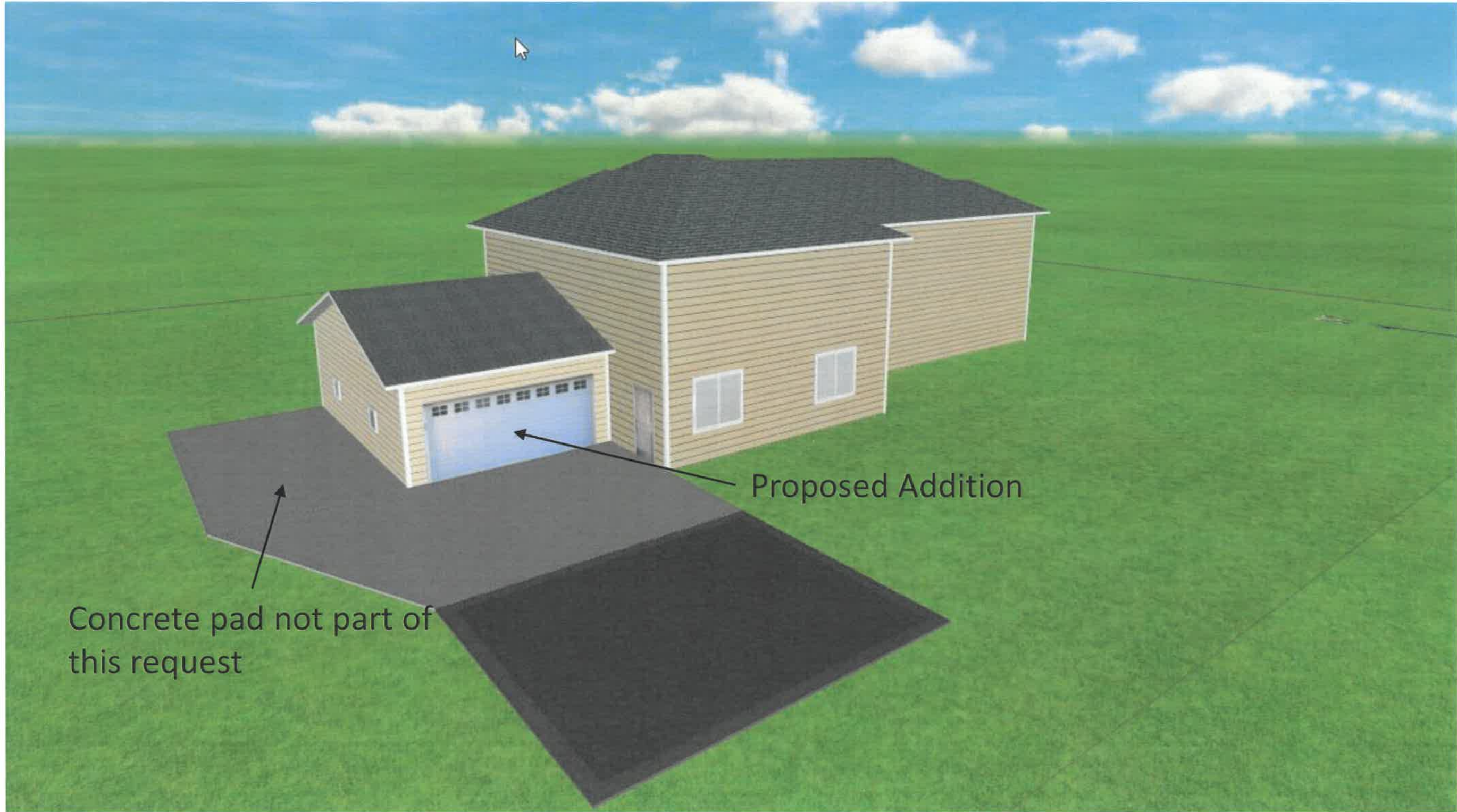
144.6'

12' setback (if ZE approved)

PRIVATE STREET  
(Approx. 15' wide)

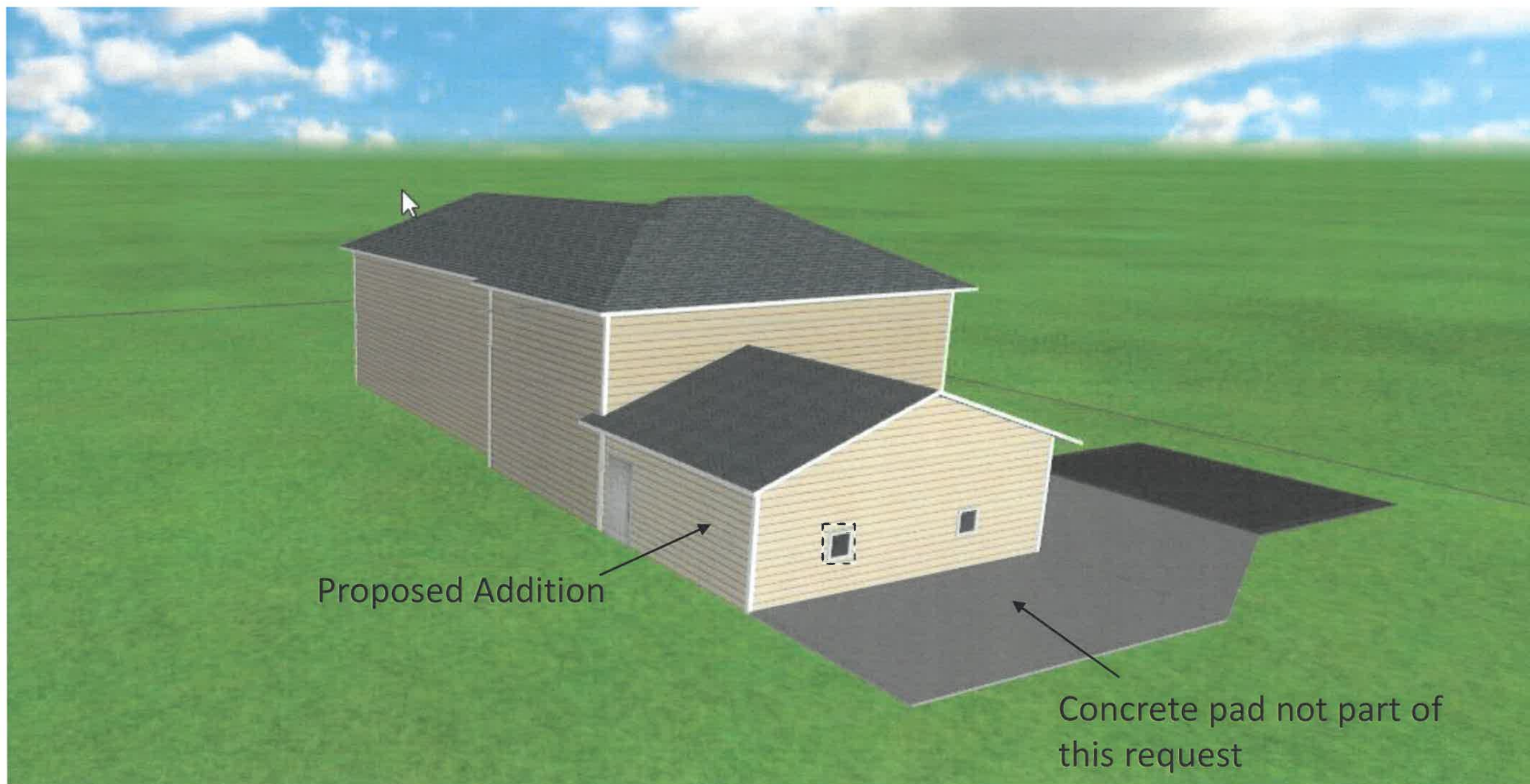
SE BROWNS WOODS LN (Private)

Street ROW=  
66' full  
33' half



Concrete pad not part of  
this request

Proposed Addition



Proposed Addition

Concrete pad not part of  
this request



## Applicant's Findings

An exception shall only be granted if all of the following findings are made; or if conditions and limitations, as the Board deems necessary, are imposed to allow it to make said findings. **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.

**APPLICANT RESPONSE:** *The current garage is practically unusable given that it faces south making it difficult to turn into it. Strict compliance would prevent us from constructing a new attached garage that faces east allowing for easier vehicle access.*

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 and 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 features such as streams, creek, and ponds, or topographical conditions of the subject property that restrict 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.

**APPLICANT RESPONSE:** *The orientation of the existing garage makes vehicle access very difficult because it faces south. The intended improvement of an attached garage would provide a east facing garage door. Our plan for the existing garage, which is also attached to our home, is to turn it into additional living area.*

3. The requested exception is the minimum necessary to achieve the purpose of the request.

**APPLICANT RESPONSE:** *Yes, with the exception we will be able to add a 2 car garage and an additional concrete parking pad on the south making it the minimum necessary to achieve the purpose of the request. Building to 10-feet within the property line would be the necessary amount in order for us to build a garage with two stalls.*

4. The requested exception will not have a negative impact on the character or context of the neighborhood.

**APPLICANT RESPONSE:** *The existing garage faces south making it impossible to park 2 vehicles given the steep angle needed to pull a car in so we often have a car or two parking outside. If this exception is approved we will have much easier access and a place to park vehicles inside which will have a positive impact on the character of the neighborhood. This has been agreed upon by our neighbors with the new septic in their front yard and our HOA president.*

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

**APPLICANT RESPONSE:** *Absolutely no public health, safety, or general welfare concerns. No hazardous waste.*

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.

**APPLICANT RESPONSE:** *This is correct. We have not had any prior requested exceptions. There are no other uses for the new garage other than parking and storage.*

## Staff's Findings

An exception shall only be granted if all of the following findings are made; or if conditions and limitations, as the Board deems necessary, are imposed to allow it to make said findings. **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.

***STAFF RESPONSE:*** *Though there is 32' between the existing home and south property line the 20' side yard setback here allows only 12' of buildable space, which is not enough for even a single-car garage addition. The exception will allow the property owner to construct a garage that opens to the east for easier vehicle access similar to most, if not all, other properties in the area.*

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 of demolition of significant and 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 features such as streams, creek, and ponds, or topographical conditions of the subject property that restrict 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.

***STAFF RESPONSE:*** *The property has significant area on the north side of the existing home to construct the proposed garage addition. However, doing so would create a significant expense for an additional driveway from SE Browns Woods Lane.*

3. The requested exception is the minimum necessary to achieve the purpose of the request.

***STAFF RESPONSE:*** *The applied zoning exception allows up to 50% reduction from the 20' side yard setback (i.e. 10'). The applicant originally requested the setback be reduced by the full 10' as allowed in the zoning code, however, upon staff's review of the application, it was determined that only an 8' reduction in the side yard setback is needed for the proposed garage addition thus meeting the requirement that the exception be the minimum necessary.*

4. The requested exception will not have a negative impact on the character or context of the neighborhood.

***STAFF RESPONSE:*** *The garage addition will provide added storage area for equipment and vehicles and is proposed to match the design of the current home. Therefore, the exception will not have a negative impact on the character or context of the neighborhood.*

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

***STAFF RESPONSE:*** *The proposed garage is for private use only and will not be detrimental to the public health, safety, or general welfare.*

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.

***STAFF RESPONSE:*** *The exception will only allow the construction of a garage addition to an existing residential home in a residential zoning district for private use by the property owner.*

**RESOLUTION BOA-2022-14**

**A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES,  
(APPROVING / DENYING) THE ZONING EXCEPTION REQUEST FOR A SIDE YARD  
SETBACK FOR THAT PROPERTY LOCATED AT 2135 SE BROWNS WOODS LANE**

**WHEREAS**, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the property owner, Lindsay and Christopher Scheidler, 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 for a reduction of 8' of the required 20' side yard setback resulting in a 12' side yard setback for the installation of a garage addition on the property located at 2135 SE Browns Woods Lane and legally described as:

**LOT 4 JULIANN ESTATES, AN OFFICIAL PLAT  
NOW WITHIN 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; and

**WHEREAS**, on August 17, 2022, the Board of Adjustment held a duly noticed public hearing to consider the application for a Variance (VAR-005678 -2022); and

**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 Variance Request (VAR-005678-2022), to allow a zoning exception of 8' of the required 20' side yard setback resulting in a 12' side yard setback is **(approved / denied)**.

**PASSED AND ADOPTED** on August 17, 2022.

\_\_\_\_\_  
Michele Stevens, 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 August 17, 2022, by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

ATTEST:

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

**Exhibit A**  
Conditions of Approval

1. None.

**Exhibit B**  
Board of Adjustment Findings