

Where an accessory building is structurally attached ~~to a main building it shall be subject to and must conform to all regulations of the Ordinance applicable to the main building.~~

~~When an accessory building is attached~~ to the principal building by a wholly enclosed breezeway, passageway or similar means, it shall comply with the yard requirements of the principal building to which it is accessory.

On a corner lot, no accessory building or use shall be located closer to any street right-of-way line than the principal building setback.

Accessory uses and structures shall be located on the same lot or parcel as the principal use or structure. No garage or other accessory building or use shall ~~be allowed within a front yard area~~ ~~or~~ be located closer to ten (10) feet to a side or rear lot line. A two (2) foot overhang for eaves or gutters will be permitted within this ten (10) foot setback.

B. Number and Size. No accessory use, or structure, or combination of, shall exceed the number ~~allowed as shown in Table 5.4. Accessory structures shall be included in the total lot coverage allowed per Table 7.1A: Minimum District Development Standards. or total lot coverage area shown in the attached chart.~~ Wells, pump houses, and well houses of less than thirty-five (35) square feet, gazebos and other decorative ~~structures~~ of less than ~~120-200~~ square feet, farm outbuildings, and barns shall not be included in determining the allowable ~~number or size~~ lot coverage. ~~— Except for barns and farm outbuildings in AG, No~~ accessory structure may exceed the footprint of the principal structure.

C. Height. No accessory building ~~or portion thereof located in the required side or rear yard~~ shall exceed twenty-five (25) feet in height or the height of the primary structure, whichever is lower.

D. Structure Limitations. Accessory structures shall not be used as dwelling units or for lodging purposes except as otherwise provided herein. (See Guest ~~Houses~~ Quarters ~~Section 5.6-11~~)

E. Incidental uses. The following accessory uses and structures ~~and similar uses and structures~~ which are incidental to a residential use ~~or use~~ are permitted in their respective residential and AG districts, ~~except for farm outbuildings which shall be permitted in the AG district only.~~

~~5.1-15.6-1~~ 5.1-15.6-1 A children's playhouse, private greenhouse.

~~5.1-25.6-2~~ 5.1-25.6-2 A swimming pool for private use. Pools shall be fenced with a sturdy material of chain link or of material and colors compatible with the main dwelling; that prevents entry that is continuous around the pool except for gate openings; that is a minimum of five feet in height; that has latches out of reach of children or at least five feet off the ground; and locked to exclude all persons unless a responsible person is at the pool.

~~5.1-35.6-3~~ 5.1-35.6-3 A garage, shed or building for domestic storage.

~~5.1-45.6-4~~ Reserved.

~~5.1-55.6-5~~ Signs (other than advertising sign) as permitted and regulated in each district incorporated in this ordinance.

~~5.1-65.6-6~~ Public utility communication, electric, gas, water and sewer lines, their supports, and incidental equipment.

~~5.1-75.6-7~~ Carports.

~~5.1-85.6-8~~ A satellite disk or dish, subject to the same restrictions and requirements as sheds and storage buildings.

~~5.1-95.6-9~~ Domestic pets such as dogs and cats of an appropriate type and number kept inside or outside a structure but not violating health standards, constituting inhumane treatment or constituting a nuisance to neighbors. Farm animals, including horses are not domestic pets for purposes of this provision. Animal quarters for domestic animals, not including livestock; kennels.

~~5.1-10~~ No fence or free-standing wall other than a retaining wall shall be more than eight (8) feet in height or be constructed in a public right-of-way or future street right-of-way, as defined by the Cherokee County Major Thoroughfare Plan. If a fence is adjacent to a public road right-of-way and within the required setback in a residential district such fence shall not exceed six (6) feet in height respectively and shall further meet the requirements set forth in 5.7. If a fence is placed on the property line then it becomes an adjoining fence with that property owner. We recommend that fences be placed a minimum of six (6) inches off the property line onto your property.

~~5.1-115.6-10~~ Guest Houses. Guest houses are accessory structures which are allowed in the AG and Residential districts. Only one (1) guest house shall be constructed concurrently with or after the construction of the principal structure. Any living area included in any accessory structure detached garage or swimming pool cabana is shall be considered a guest house. Mini-Warehouse facilities may establish one (1) resident-manager of the facility.

Table 5.4: Accessory Structure Standards

| ZONE | DISTRICT | MAX NO. ACCESSORY STRUCTURES |
|------|---------------------------|------------------------------|
| AG | Unplatted | - |
| AG | Platted Subdivision | 3 |
| R-80 | Estate Residential | 3 |
| R-60 | Single-Family Residential | 3 |
| R-40 | Single-Family Residential | 3 |

| | | |
|------|---------------------------|---|
| R-30 | Single-Family Residential | 2 |
| R-20 | Single-Family Residential | 2 |
| R-15 | Single-Family Residential | 2 |
| RD-3 | Single-Family Residential | 1 |
| RZL | Zero-Lot-Line | 1 |

NOTE: This chart applies to accessory structures only. Homes, pools and tennis courts are excluded.

(Ord. No. 2007-Z-001, 04-03-07)

5.7 Fences.

Vision Clearance at Intersections.

~~In all zoning districts, no fence, wall, structure, shrubbery or other obstruction to vision between the heights of three (3) feet and fifteen (15) feet, except utility poles, light or street sign standards or tree trunks shall be permitted within twenty-five (25) feet of the intersection of the right-of-way lines or streets, roads, highways or railroads as long as the same also complies with State Law.~~
A. Vision Clearance at Intersections. In all zoning districts, no fence, wall, structure, shrubbery or other obstruction to vision between the heights of three (3) feet and fifteen (15) feet, except utility poles, light or street sign standards or tree trunks shall be permitted within twenty-five (25) feet of the intersection of the right-of-way lines or streets, roads, highways or railroads as long as the same also complies with State Law.

B. Location and Height. No fence or free-standing wall other than a retaining wall shall be more than eight (8) feet in height or be constructed in a public right-of-way or future street right-of-way as defined by the Cherokee County Roadway Functional Classification map. If a fence is adjacent to a public road right-of-way and within the required setback in a residential district such fence shall not exceed six (6) feet in height and meet the requirements in Section 5.7. It is recommended that fences be installed a minimum of six (6) inches off the property line.

Section 1.075.8 Approvals for Developments along Interstates, State Highways and County Roads.

Section 1.085.9 Use Occupancy and Erection.

Section 1.095.10 Classification of Streets.

Section 1.105.11 Connecting Access Among Adjoining Businesses.

Section 1.115.12 Requirements of the Cherokee County Development Standards, the Cherokee County Soil Sedimentation and Control Ordinance and the Cherokee County Flood Plain Regulation Ordinance.

Article 4 – Rules and Definitions

4.3 Definitions.

Animal Quarters. Any structures which surrounds or is used to shelter, care for, house, feed, exercise, train, exhibit, display or show any animals, other than fenced pasture land for grazing. Covered and uncovered arenas, and other similar facilities, shall be considered animal quarters.

Building Height. The vertical distance measured from the finished grade ~~threshold of the front door entrance~~ to the highest point of roof surface of a flat roof, the deck line of a mansard floor, and to the mean height level between eaves and ridges of a gable hip, or gambrel roof. Finished grade shall be defined as the final elevation of the average ground level adjoining a building at all exterior walls.

Dwelling Unit. A single unit providing complete independent living facilities for one or more persons, including provisions for living, sleeping, eating, cooking and sanitation, designed for the exclusive use of a family maintaining a household. ~~One or more rooms designed for the occupancy, cooking and sleeping of one or more persons living as a family.~~

Lot Line, Front. The lot line separating a lot from a street right-of-way or access easement.

Article 15 – Zoning Board of Appeals

E.

15.19 Administrative Variances

The Zoning Administrator may grant an Administrative Variance where, in his/her opinion, the intent of the ordinance can be achieved and equal performance obtained by granting an Administrative Variance and upon presentation of evidence indicating that such variance is necessary and/or a practical solution without significant impact to adjoining properties, provided that the same applicant has not requested an Administrative Variance or an Administrative Variance has not been requested for the same property within the preceding six (6) months. The authority to grant such variances shall be limited to variances from the following requirements:

1. Minimum Building Setbacks: Up to ten percent (10%) of the minimum required building setbacks outlined in Table 7.1 of Article 7, Table 16.1.5-B of Article 16, Section 5.6A of Article 5 and Table 23-2 of Article 23 of the Cherokee County Zoning Ordinance.

Any and all administrative variances granted pursuant to this Section shall be reported to the Board of Commissioners on a monthly basis and to the Cherokee County Board of Appeals.

(Ord. No. 2009-Z-002, 10-06-09, Ord. No. 2019-O-012, 08-06-19)

Appendix A -- Schedule of Fees

The following fees shall be paid to Cherokee County in accordance with Section 15.14(B) of Article 15 of the Cherokee County Zoning Ordinance:

1. Appeal from Action of the Zoning Administrator -- \$200.00; or
2. Application for Variance (Residential) -- \$200.00; or
3. Application for Variance (Commercial, Industrial, Building Contractor) -- \$300.00.

No fee shall be required for an interpretation of the Zoning Ordinance when there is a variance between the street layout on the ground and the street layout as shown on the district zoning map.

DRAFT



Accessory Structures – Article 5

CHEROKEE COUNTY ZONING ORDINANCE

PLANNING AND ZONING DEPARTMENT

CHEROKEE COUNTY BOARD OF COMMISSIONERS WORK SESSION

APRIL 20, 2021

Topics of Discussion

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- ▶ **Part 1: Intro**

- ▶ Why?

- ▶ **Part 2: Non-Dwelling Type**

- ▶ Accessory Structures
 - ▶ Intro
 - ▶ Article 5 Requirements
 - ▶ Issues and Data
 - ▶ Examples
 - ▶ Possible Solutions

- ▶ **Part 3: Dwelling Type**

- ▶ Guest Houses
 - ▶ Intro
 - ▶ Issues
 - ▶ Possible Solutions

Part 1: Introduction

- ▶ Why?
 - ▶ Address issues and questions about certain requirements for accessory structures (Article 5).
 - ▶ Reduce the need for requested variances (many are approved)
 - ▶ Common questions:
 - ▶ What is a barn?
 - ▶ What are animal quarters?
 - ▶ Outdoor training areas and building setbacks
 - ▶ What is considered the “front yard area”?
 - ▶ Large lots (AG)
 - ▶ What is a “guest house”?
 - ▶ Can my aging parents live in the guest house?
 - ▶ How large can I build a guest house?

Part 2: 5.6 Accessory Uses and Structures

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- ▶ **Accessory Structure** – A structure detached from a principal building on the same lot and incidental and subordinate to the principal building.
- ▶ Examples: Shed, detached garage, guest house, barn (in residential), farm outbuilding, swimming pool, etc.



5.6 Requirements - Summarized

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▶ 5.6A – Location on Lot

- ▶ Not allowed in the front yard area
- ▶ 10-foot side and rear building setbacks

▶ 5.6B – Number and Size

- ▶ Not to exceed the footprint of the principal structure
- ▶ Maximum number and lot coverage

▶ 5.6C – Height

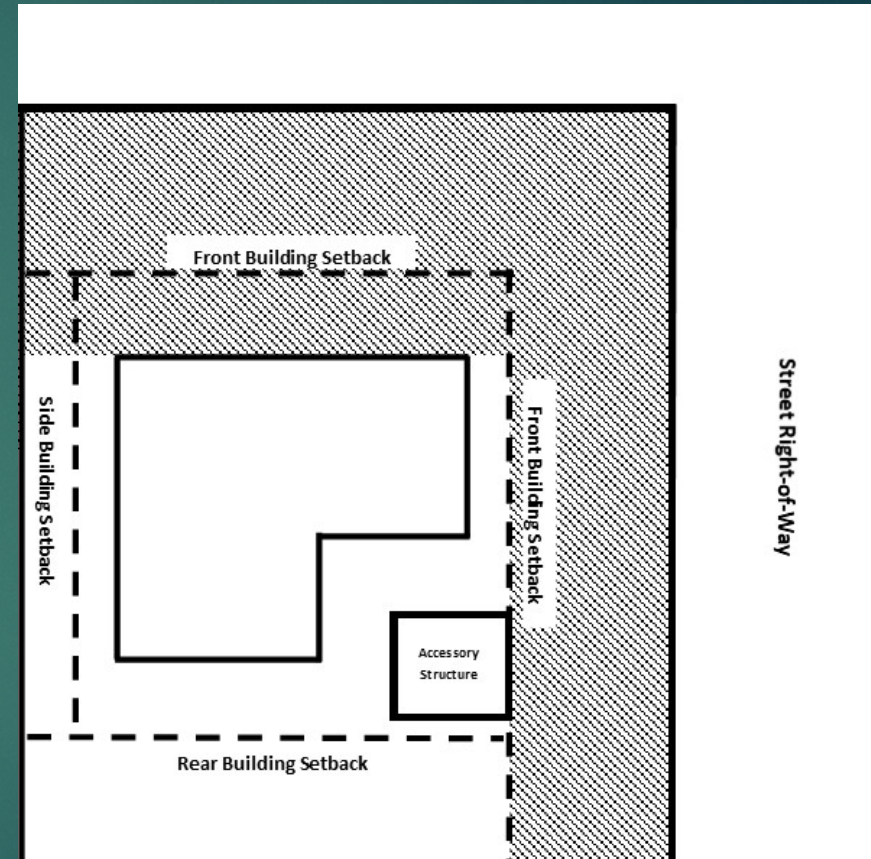
- ▶ Not to exceed 25-feet or the height of the principal structure, whichever is less

▶ *5.6D – Structure Limitations

- ▶ *Not be used as a dwelling unit except for guest houses (temporary)*

▶ 5.6E – Incidental Uses

- ▶ Examples of allowed accessory structures and uses



Corner Lot Example

Exceptions

- ▶ **Barns** - Building traditionally used for storing hay, grain, etc., and often for housing livestock.
 - ▶ Can be built as the primary structure in AG zoning only. (Accessory in residential zoning)
 - ▶ Exempt from 5.6A (Location), 5.6B (Size) and 5.6C (Height) in AG
- ▶ **Farm Outbuildings** — A detached accessory structure used in AG only for farm related storage or activity.
 - ▶ May exceed the footprint of the primary structure in AG (Section 5.6B).
- ▶ **Animal Quarters** — Any **structure** which surrounds or is used to shelter, care for, house, feed, exercise, train, exhibit, display or show any animals, other than fenced pasture land for grazing.
 - ▶ Does not include uncovered riding areas and outdoor training areas.

Issues

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- ▶ ISSUE: Increase in Setback and Location variance requests. (Location on large rural lots)
 - ▶ GOAL: Reduce the number of variance requests that both citizens and staff take to the Zoning Board of Appeals for accessory structures particularly on large rural lots (AG).
- ▶ ISSUE: Ordinance is not specific on characterizing certain standards (front yard, barn, animal quarters, etc.)
 - ▶ GOAL: Revise the definitions and code requirements as mentioned

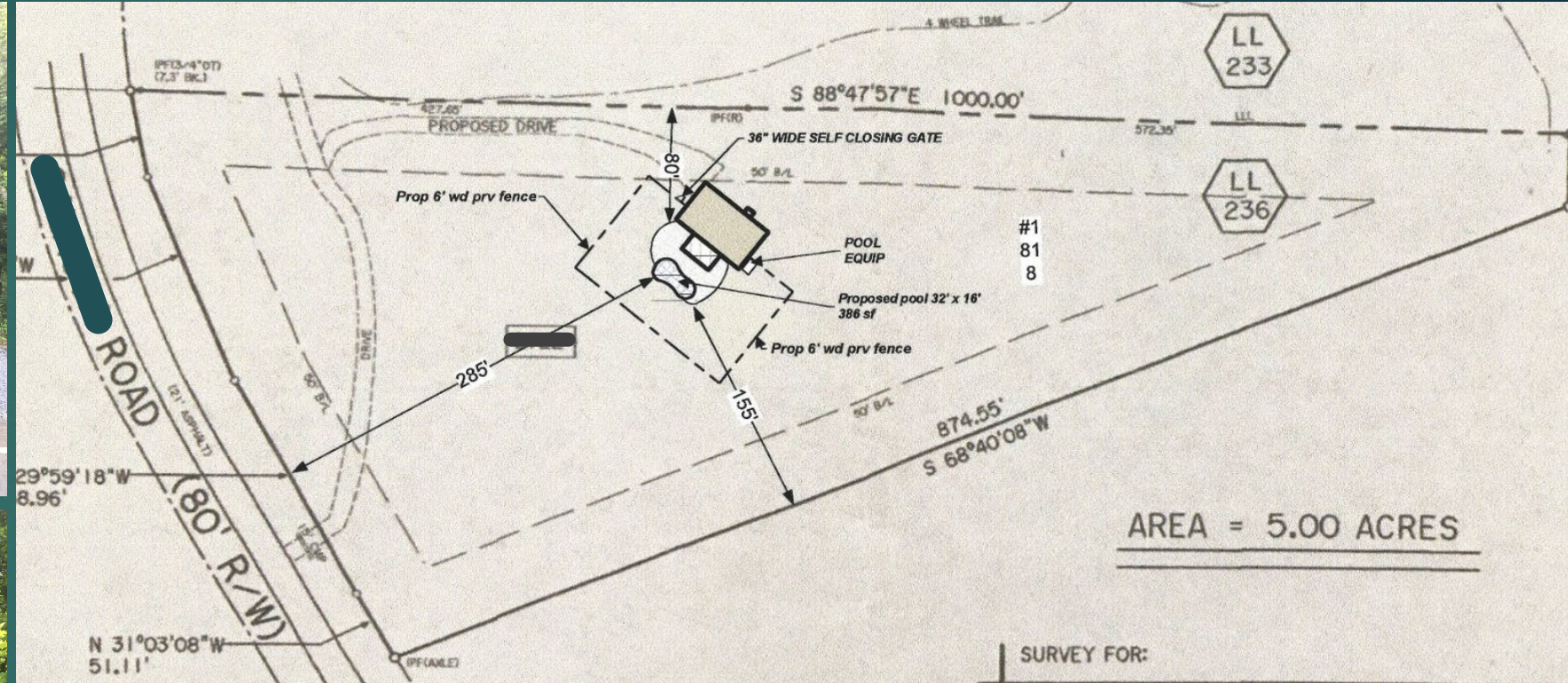
| Variance Cases | | | |
|----------------|-------------|-------------------|---------------------|
| Year | Total Cases | Section 5.6 Cases | Percentage of Total |
| 2015 | 38 | 4 | 11% |
| 2016 | 42 | 7 | 17% |
| 2017 | 52 | 14 | 27% |
| 2018 | 66 | 6 | 9% |
| 2019 | 62 | 11 | 18% |
| 2020 | 63 | 21 | 33% |
| TOTAL | 323 | 63 | 20% |

| Section 5.6 Requests | | | | | |
|----------------------|----------|------|-------|----------|--------|
| Setback | Location | Size | Other | Approved | Denied |
| 1 | 3 | 0 | 1 | 4 | 0 |
| 2 | 4 | 2 | 0 | 5 | 2 |
| 6 | 8 | 2 | 2 | 14 | 0 |
| 2 | 3 | 1 | 2 | 6 | 0 |
| 1 | 8 | 3 | 1 | 9 | 2 |
| 6 | 15 | 1 | 0 | 19 | 2 |
| 18 | 41 | 9 | 6 | 57 | 6 |

90.5% of Section 5.6 variance requests have been approved from
2015-2020

Section 5.6A – Location on Lot

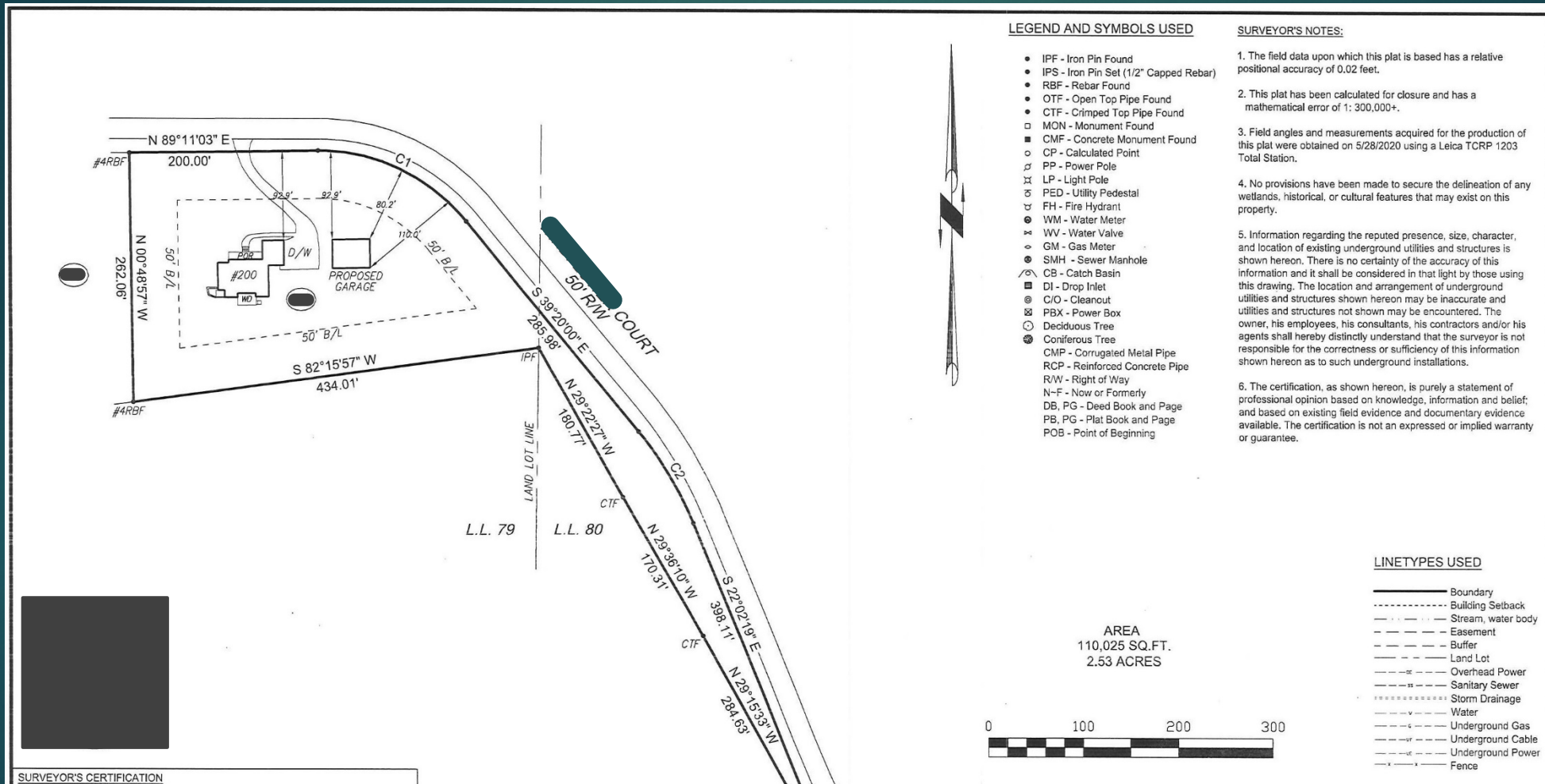
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► Case 19-06-032V: 5 acres (AG)

Section 5.6A – Location on Lot

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Possible Solutions

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▶ Reduce the number of variance requests

- ▶ Article 5: On AG property at least two acres and not in a platted subdivision, allow accessory structures in front yard area.
- ▶ Article 15: Allow administrative variances of not more than 10% for accessory structure setbacks.

▶ Clarify barn criteria and revise animal quarters description

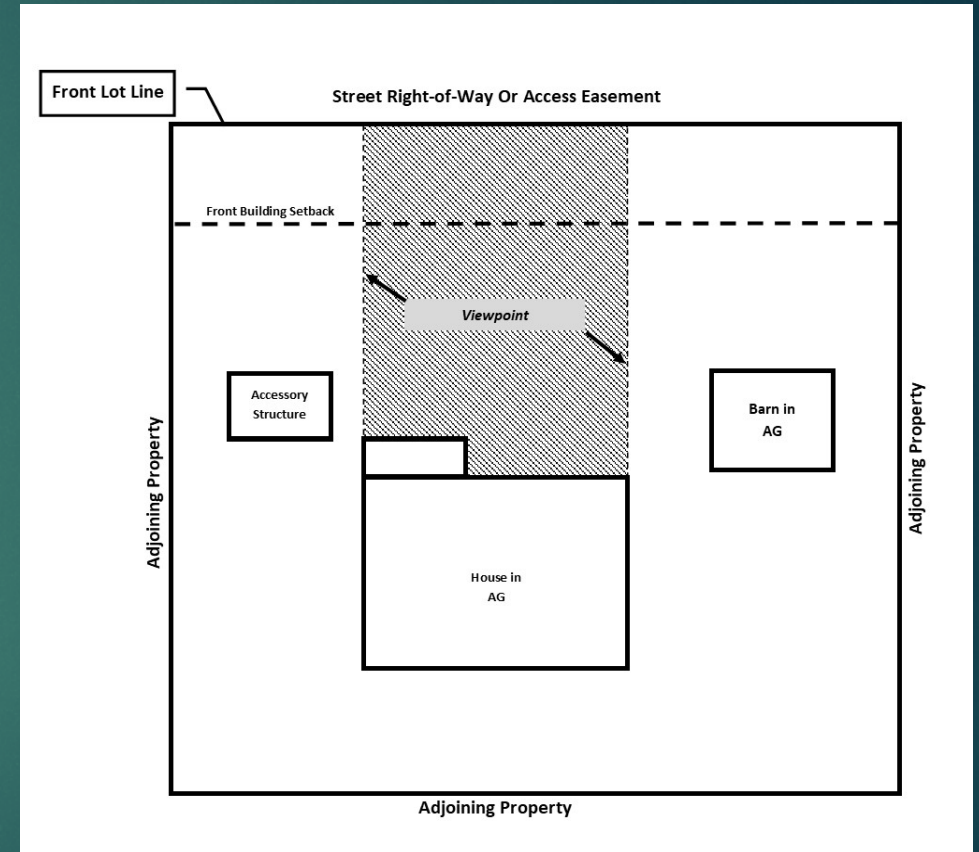
- ▶ Article 5: Revise definition of barn and remove definition of farm outbuilding.
- ▶ Article 5: Establish 75-foot setback for barns.
- ▶ Article 4: Revise the definition of Animal Quarters to include uncovered arenas and outdoor training areas.

▶ Clarify “front yard area”

- ▶ Article 5: Clarify and illustrate “front yard area”.
- ▶ Article 4: Revise the definition of Front Lot Line to apply to property on easement.

▶ Other Amendments

- ▶ Article 5: Remove lot coverage requirement for accessory structures and have zoning district lot coverage standards apply.
- ▶ Article 5: Exempt accessory structures less than 200 sq. ft. from lot coverage requirement.
- ▶ Article 5: Move and revise criteria for fences.
- ▶ Article 5: Clarify “Height” criteria.
- ▶ Article 4: Revise “Building Height” definition.
- ▶ Article 5: Clarify “attached” criteria.
- ▶ Article 5: Add “viewpoint” criteria.



Example

Part 3: Section 5.6 - Guest Houses

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- ▶ **Guest Houses** - Accessory structures which are allowed in AG and Residential districts. Only (1) guest house shall be constructed concurrently with or after the construction of the principal structure. Any living area included in a detached garage or swimming pool cabana is a guest house (Section 5.6-11).

- ▶ **5.6D – Structure Limitations**

- ▶ Not be used as a dwelling unit except for guest houses (temporary)

- ▶ **Issues**

- ▶ ISSUE: Ordinance says no accessory structure shall be a dwelling, however guest homes are allowed.
 - ▶ Possible Solution: Revise the definition of guest house and dwelling to distinguish temporary vs. permanent living
 - ▶ For long-term situations, review other local ordinances for standards regarding Accessory Dwelling Units (ADUs)
 - ▶ ISSUE: No maximum size requirement (Section 5.6B).
 - ▶ Possible Solution: Apply size restrictions

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