

# **28E AGREEMENT**



## 28E AGREEMENT

### CITY-COUNTY PLANNING BOARD CITY-COUNTY BOARD OF ADJUSTMENT

1. Parties to the Agreement: The parties to this Agreement are the incorporated City of \_\_\_\_\_, Iowa, and Mitchell County, Iowa. For simplicity in the rest of this Agreement, they will be referenced as “City” and “County.”

2. Intent and Purpose: The City and County state that there are three basic purposes for this Agreement: (1) to allow the City to exercise zoning jurisdiction within the designated area beyond the city limits; (2) to increase the City Planning and Zoning Commission and City Board of Adjustment by two (2) members each, and thereby reform those Boards into new Boards; and (3) to surrender the County’s zoning authority within the designated area of the \_\_\_\_\_ city limits to the newly formed Boards.

3. Legal Authority: The Iowa Code provides in Chapter 28E that governmental agencies may enter into joint Agreements like this one.

Section 414.23 of the Iowa Code provides that a City may exercise zoning jurisdiction into an unincorporated area up to two (2) miles beyond the limits of such City. That section goes on to provide that the City may exercise such jurisdiction by increasing the size of its Planning and Zoning Commission and Board of Adjustment each by two (2) members who will be residents of the two-mile unincorporated area outside the city limits and shall be appointed by the Board of Supervisors of the County.

Section 331.304 of the Iowa Code allows the County to act jointly with the City if a Chapter 28E Agreement is entered into.

These statements of the law are obviously paraphrased references to the sections of the Iowa Code. For details, please see the referenced code chapters. This general statement is only included at this point to show the legal authority for the City and County to enter into this Agreement and to further show the need to clarify the jurisdiction for the exercise of legal power within the two-mile unincorporated area adjacent to the city limits.



4. Planning and Zoning Commission: A new Board shall replace the \_\_\_\_\_ Planning and Zoning Commission. It shall be made up of the current members of the \_\_\_\_\_ Planning and Zoning Commission plus two (2) persons appointed by the Mitchell County Board of Supervisors. All members shall have equal authority. The new Board may adopt such By-Laws as it sees fit in keeping with legal authority and restrictions; until any such By-Laws are adopted, the new Board will use the existing By-Laws and procedures of the \_\_\_\_\_ Planning and Zoning Commission.

Two (2) members appointed by the County Board of Supervisors must be residents of Mitchell County who live outside the city limits of \_\_\_\_\_ and within the designated area outside the \_\_\_\_\_ city limits. The term of office of the members of the Commission shall be five (5) years. The terms of not more than one-third (1/3) of the members will expire in any one (1) year. The initial term for one of the County appointed members shall be for five (5) years and the initial term of the other appointee shall be for four (4) years.

5. Board of Adjustment: This new Board shall replace the present \_\_\_\_\_ Board of Adjustment. It shall be made up of the current members of the \_\_\_\_\_ Board of Adjustment plus two (2) persons appointed by the Mitchell County Board of Supervisors. All members shall have equal authority. The new Board shall adopt such By-Laws as it sees fit in keeping with legal authority and restrictions; until any such By-Laws are adopted, the new Board will use the existing By-Laws and procedures of the \_\_\_\_\_ Board of Adjustment.

The two (2) members appointed by the County Board of Supervisors must be residents of Mitchell County who live outside the city limits of \_\_\_\_\_ and within the designated area beyond the \_\_\_\_\_ city limits. The term of office of the members of the Commission shall be five (5) years. The terms of not more than one-third (1/3) of the members will expire in any one (1) year. The initial term for one (1) of the County appointed members shall be for five (5) years and the initial term of the other appointee shall be for four (4) years.

6. Powers and Duties: The enabling authority for the creation of and powers of these Boards comes from Chapters 28E and 414 of the Iowa Code. Both Boards are subject to the authority and supervision of the City of \_\_\_\_\_ (Section 414.23, Code of Iowa).



Generally, the Boards have the same legal powers and duties in the area within two (2) miles of the city limits that the City Planning and Zoning Board and City Board of Adjustment have had within \_\_\_\_\_'s city limits.

7. Duration of this Agreement: This Agreement becomes effective upon approval by both the City and County by duly enacted ordinance or resolution or otherwise pursuant to the law of the governing bodies (Section 28E.4, Iowa Code), and then filing of the Agreement with the Secretary of State of Iowa, and the County Recorder (Section 28E.8, Iowa Code).

This Agreement shall remain in effect perpetually, unless dissolved by ordinance or resolution of either the City or County.

8. Amendments: No amendment to this Agreement shall be effective unless both the \_\_\_\_\_ City Council and Mitchell County Board of Supervisors approve it by at least a two-thirds (2/3) vote of each of those governing bodies.

9. Financing: Any budget for, revenues received by, or expenses of either Board shall be the responsibility of the City.

10. Boundaries of Jurisdiction: Both Boards shall have legal powers and duties as provided in the Iowa Code and in this Agreement within two (2) miles of the city limits of \_\_\_\_\_. The City Clerk shall keep current and available for public inspection a map showing the city limits and extent of this two-mile area of jurisdiction. A change in the city limits automatically changes the area of jurisdiction of these Boards.

To avoid difficult descriptions of the area being included in the Agreement and to avoid having to draw boundaries through private properties, it shall not be required that the two-mile area always be two miles from the city limits. The boundaries of the two-mile area shall be drawn to conform to readily identifiable features of land.





CITY OF \_\_\_\_\_

MITCHELL COUNTY, IOWA

BY \_\_\_\_\_

BY \_\_\_\_\_

ATTEST:

ATTEST:

\_\_\_\_\_

\_\_\_\_\_

(SEAL)

(SEAL)

DATE \_\_\_\_\_

DATE \_\_\_\_\_



# **FORMS**



APPLICATION FOR ADMINISTRATIVE REVIEW  
TO THE BOARD OF ADJUSTMENT

MITCHELL COUNTY

Basic Instructions and Questions

I. The Board of Adjustment will hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Administrative Official in the enforcement of the County Ordinance.

II. Complete the following questions as accurately and completely as possible. Include any rough drawings or other material that may be relevant to this request for Administrative Review.

III. Legal Description of Area in Proposed Conflict:

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IV. Layman's Description or Address:

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V. Zoning District:

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VI. Brief Description of Reason for Administrative Review:

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VII. General Information:

- A) Name of Person Making Request: \_\_\_\_\_  
B) Address of Person: \_\_\_\_\_  
C) Telephone: \_\_\_\_\_

(Office Use Only)

Case Number: \_\_\_\_\_

Date of Board of Adjustment

Meeting: \_\_\_\_\_



POLICY STATEMENT OF THE BOARD OF ADJUSTMENT

It shall be the policy of the Board of Adjustment for the Mitchell County, Iowa, to grant or deny Administrative Reviews, Special Exceptions or Variances in accordance with the provisions of Ordinance No. \_\_\_\_\_ of the County. The intent of a particular District Regulation of this Ordinance shall take precedence over personal convenience of an applicant. Approvals shall be granted only when the applicant can prove that literal enforcement of a provision of the County Ordinance will result in unnecessary hardship. No approval shall be granted unless the above provisions have been met and the appropriate application completed.

I certify that the attached application is complete and true to the best of my knowledge.

\_\_\_\_\_  
Owner(s)

CERTIFICATION:

Office of the County Administrator

\_\_\_\_\_  
Zoning Secretary

Filing Fee:

\_\_\_\_\_  
County Auditor

\_\_\_\_\_  
Date





PETITION

TO AMEND THE ZONING ORDINANCE OF  
MITCHELL COUNTY, IOWA

The Board of Supervisors of Mitchell County:

The undersigned is the owner of the following described property located in Mitchell County, Iowa, and requests that an Amendment be made to the Zoning Ordinance of Mitchell County, Iowa.

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Requested Action:

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Legal Description:

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Layman's Description or Address:

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Size of Tract:

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Comprehensive Land Use Plan Reference:

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Topography:

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Available Utilities:

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Present Use:

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Proposed Use: Residential \_\_\_\_\_ (Multi-Family \_\_\_\_\_)  
(Single-Family \_\_\_\_\_)  
Commercial \_\_\_\_\_  
Industrial \_\_\_\_\_

Additional Comments:

Applicant's Name:

Address:

Telephone:

Date Property Purchased: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Is an Offer on Property Pending: Yes \_\_\_\_\_ No \_\_\_\_\_

Applicant's Signature

Date

Planning Certification

Date

Case Number: \_\_\_\_\_

Filing Fee Paid: \_\_\_\_\_

County Auditor's Office

Date

Routing: To County Auditor \_\_\_\_ / \_\_\_\_ / \_\_\_\_

To Planning & Zoning \_\_\_\_ / \_\_\_\_ / \_\_\_\_



APPLICATION FOR SPECIAL EXCEPTION  
TO THE BOARD OF ADJUSTMENT

MITCHELL COUNTY, IOWA

BASIC INSTRUCTIONS:

- I. The following application must be completed as accurately and completely as possible in order for the Board of Adjustment to fully assess this request. Application should be submitted at least twenty-one (21) days in advance of Board meeting.
- II. A rough layout of the proposed location for the special exception shall be attached to this application.
- III. The owner of the property for which a special exception is sought and/or their agent shall be notified of the time and date of required public hearings. Notice of such hearing(s) will also be published and posted on the property of the requested special exception.

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(Office Use Only)

Case Number: \_\_\_\_\_

Date of Board of Adjustment Meeting: \_\_\_\_\_

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I. The undersigned is the owner of the following described property located in Mitchell County, Iowa, and is hereby requesting a Special Exception under the provisions of Ordinance No. \_\_\_\_\_ of the County for the purpose of:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

II. Legal Description of Property:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

III. Layman's Description or Address:

\_\_\_\_\_  
\_\_\_\_\_

IV. Zoning District: \_\_\_\_\_

V. Are there properties in your District that are presently being used for similar purposes: Yes \_\_\_\_\_ No \_\_\_\_\_

VI. Briefly describe the need for which a Special Exception is being requested:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

VII. Will granting the Special Exception substantially increase traffic or use additional parking spaces?

\_\_\_\_\_  
\_\_\_\_\_

VIII. Site Conditions:

- a) Topographical Characteristics: \_\_\_\_\_
- b) Available Utilities: \_\_\_\_\_
- c) Present Use: \_\_\_\_\_
- d) Proposed Use: \_\_\_\_\_

IX. Owners of Record:

- a) Name: \_\_\_\_\_
- b) Address: \_\_\_\_\_
- c) Telephone No.: \_\_\_\_\_





APPLICATION FOR VARIANCE REQUEST  
TO THE BOARD OF ADJUSTMENT

MITCHELL COUNTY, IOWA

BASIC INSTRUCTIONS:

- I. Prior to Board action there shall be no construction or alteration on the proposed site of the variance.
- II. At least eight (8) days in advance of the scheduled Board of Adjustment meeting, in which a case shall be reviewed, the building or addition must be staked for board members to review.
- III. A rough layout of the proposed development showing lot lines, streets, dimensions and other appropriate data shall be attached to this application.
- IV. In order for the Board of Adjustment to fully assess this application all questions must be answered as accurately and completely as possible.

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(Office Use Only)

Case Number: \_\_\_\_\_

Date of Board of Adjustment Meeting: \_\_\_\_\_

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I. The undersigned is the owner of the following described property located in Mitchell County, Iowa, and is hereby requesting a Variance under the provisions of Ordinance No. \_\_\_\_\_ of the County for the purpose of:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

II. Describe any irregularities in your lot (peculiar shape, narrowness, contours, etc.) or buildings that prohibit your building or improvement without a Variance:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

III. Provide examples of properties in your area that are enjoying the benefits for which you are applying:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IV. Had the applicant conducted improvements in the past or altered the shape of the lot for which he/she is applying for a Variance:

\_\_\_\_\_  
\_\_\_\_\_

V. In what year was the property purchased: \_\_\_\_\_

VI. Legal Description of the Property: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

VII. Layman's Description or Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

VIII. Zoning District: \_\_\_\_\_

IX. Site Conditions:

a) Land Topography: \_\_\_\_\_

b) Available Utilities: \_\_\_\_\_

c) Present Use: \_\_\_\_\_

d) Proposed Use: \_\_\_\_\_



X. Owners of Record:

- a) Name: \_\_\_\_\_
- b) Address: \_\_\_\_\_  
\_\_\_\_\_
- c) Phone: \_\_\_\_\_

XI. Demonstration of Compliance:

- 1. A written application for a Variance is submitted demonstrating:
  - a) What special conditions and circumstances exist which are peculiar to land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district?
  - b) How does the literal interpretation of the provisions of this ordinance deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance?
  - c) What special conditions and circumstances do not result from the actions of the applicant?
  - d) How doesn't the granting of the Variance requested confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings in the same district?



**ZONING APPLICATION  
MITCHELL COUNTY, IOWA**

No. \_\_\_\_\_

\_\_\_\_\_, 19\_\_\_\_

APPLICATION IS HEREBY MADE BY: \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Phone)

TO: \_\_\_\_\_ BUILD \_\_\_\_\_ ALTER \_\_\_\_\_ OCCUPY \_\_\_\_\_ BUILDING ON THE FOLLOWING:

QUARTER: \_\_\_\_\_ SECTION: \_\_\_\_\_ TOWNSHIP: \_\_\_\_\_ RANGE: \_\_\_\_\_

TYPE OR PURPOSE OF IMPROVEMENT PROPOSED: \_\_\_\_\_

SIZE OF LOT: \_\_\_\_\_ FRONT WIDTH: \_\_\_\_\_ SIDE WIDTH: \_\_\_\_\_

STRUCTURE WILL SET BACK \_\_\_\_\_ FEET FROM FRONT RIGHT-OF-WAY LINE

STRUCTURE WILL BE \_\_\_\_\_ FEET AND \_\_\_\_\_ FEET FROM EACH SIDE LOT LINE

STRUCTURE WILL BE \_\_\_\_\_ FEET FROM REAR LOT LINE

OCCUPANCY USE: \_\_\_\_\_

TYPE OF SANITARY DISPOSAL: \_\_\_\_\_

SEPTIC TANK PERMIT NUMBER: \_\_\_\_\_

TYPE OF WORK: \_\_\_\_\_ NEW \_\_\_\_\_ ALTERATION \_\_\_\_\_ ADDITION

NUMBER OF FAMILIES: \_\_\_\_\_ SIZE: \_\_\_\_\_

The undersigned applicant certifies under oath and the penalty of perjury that the following information is true and correct.

\_\_\_\_\_  
(OWNER OR AGENT)

\_\_\_\_\_  
APPROVED

\_\_\_\_\_  
DENIED

\_\_\_\_\_  
ADMINISTRATOR  
ZONING COMMISSION

THIS APPLICATION MUST BE ACCOMPANIED BY AN APPLICATION FEE OF TEN DOLLARS (\$10.00) MADE PAYABLE TO THE MITCHELL COUNTY TREASURER AND A SKETCH OF THE TRACT OR LOT, INCLUDING THE DIMENSIONS OF SAME. ALSO, DRAW PROPOSED BUILDINGS INDICATING THE SIZE OF THE BUILDINGS, AS WELL AS THE DISTANCES FROM ALL BOUNDARY LINES.





**ZONING CERTIFICATE  
MITCHELL COUNTY, IOWA**

No. \_\_\_\_\_

\_\_\_\_\_, 19\_\_\_\_

PERMISSION IS HEREBY GRANTED TO: \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address) (Phone)

TO: \_\_\_\_\_ BUILD \_\_\_\_\_ ALTER \_\_\_\_\_ OCCUPY

TO BE USED AS: \_\_\_\_\_

DESCRIPTION OF PROPERTY: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SAID IMPROVEMENTS TO BE CONSTRUCTED IN COMPLIANCE WITH ALL LAWS AND ORDINANCES GOVERNING SAME.

THIS PERMIT DOES NOT AUTHORIZE THE USE OF ANY STREET FOR DEPOSITING BUILDING MATERIALS, NOR DOES IT AUTHORIZE THE PLACING OF ANY OBSTRUCTIONS IN OR UPON ANY STREET.

(IF THE USE OF ANY PART OF A STREET IS DESIRED IN CONNECTION WITH THE CONSTRUCTION OF SAID BUILDING, WRITTEN APPLICATION MUST BE MADE THEREFORE TO THE COUNTY ENGINEER, AND A BOND TO INDEMNIFY THE COUNTY AGAINST LOSS ON ACCOUNT OF INJURY TO PERSONS OR DAMAGE TO PROPERTY MUST BE GIVEN.)

FRONT YARD SETBACK FROM PROPERTY LINE WILL BE: \_\_\_\_\_ FEET

SIDE YARD: \_\_\_\_\_ FEET

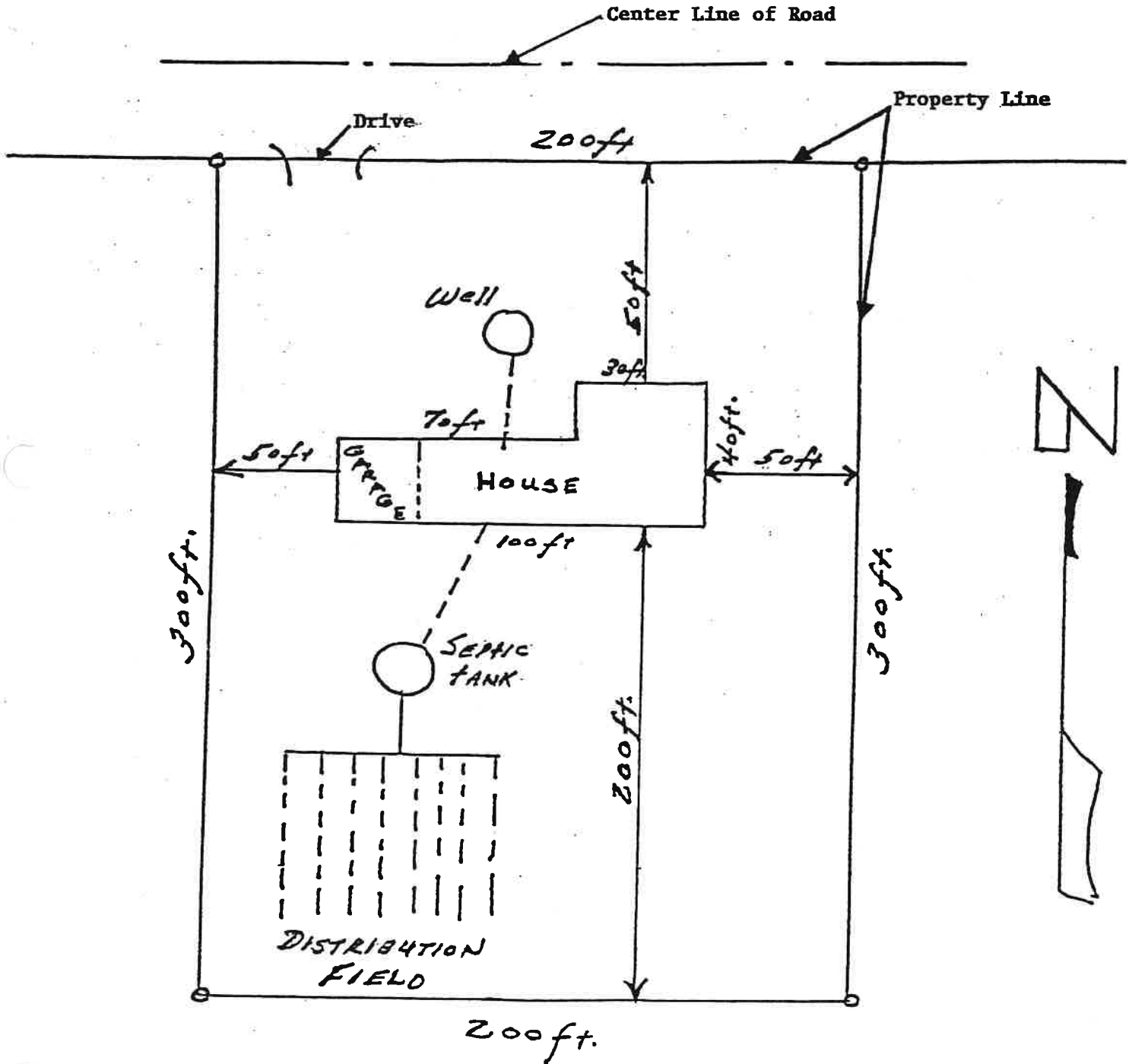
REAR YARD: \_\_\_\_\_ FEET

\_\_\_\_\_  
ADMINISTRATOR  
ZONING COMMISSION



PROPERTY PLAT FOR ZONING CERTIFICATE

(SAMPLE)



(SAMPLE)

