# Cerro Gordo County Planning & Zoning Staff Report SPECIAL USE

Case No.: Case No. 19-22 Use Request: 20.2(HH) Second dwelling on a farm Current Zoning: A-1 Agricultural Address: 14869 300<sup>th</sup> Court Mason City, IA 50401 Legal: NE<sup>1</sup>/<sub>4</sub>, NE<sup>1</sup>/<sub>4</sub>, Section 29, Lime Creek Township Date of Application: March 1, 2019 Owner: Scott Ward Petitioner: Joshua Ward Size of Special Use: 36'x44' Size of Parcel: 10 acres Hearing Date: March 26, 2019

#### **BACKGROUND INFORMATION:**

#### 1) PURPOSE OF SPECIAL USE REQUEST -

Joshua Ward (Ward) is proposing to build a second agricultural, 36'x44' dwelling on his father's property (See Figure 1). He began construction on the second house without a permit. His father, Scott Ward, is the deeded owner of the property and lives in the existing house (See Figure 2). The narrative states that is seeking the second dwelling to live in with his family in order to take care of father due to health issue. The Zoning Ordinance allows only one dwelling per parcel in the A-1 Agricultural District. However, the ordinance permits second dwellings for a member of the immediate family or farm workers on property zoned A-1 with a Special Use Permit under Section 20.2(HH).

#### 2) EXISTING LAND USE AND ZONING CLASSIFICATION OF PROPERTY -

The property has an existing dwelling, in which Ward's father currently lives, and two large accessory buildings (See Figure 2). The remainder of the property is mainly low lying, open-area within the floodplain of the Winnebago River (See Figures 3 & 4). The property is zoned A-1 Agricultural.

#### 3) LAND USE AND ZONING CLASSIFICATION OF SURROUNDING PROPERTY -

All surrounding property is zoned A-1 Agricultural. Property to the north, west, and east is mainly used for residential purposes. All property on the south side of 300<sup>th</sup> Court runs along the Winnebago River with significant wetlands and floodplains. Property across the river to the south and southwest also has floodplain and a major stockpile area for quarrying activities in the area.

#### **GENERAL FINDINGS**:

#### 1) HARMONY AND ACCORD WITH GENERAL PRINCIPLES AND PROPOSALS OF ZONING ORDINANCE -

The stated purpose of the Zoning Ordinance is to promote public health, safety, morals, comfort, and general welfare. It is also intended to conserve property values, encourage the most appropriate use of land, facilitate the adequate but economical provision of public improvements, and provide the social and economic advantages that result from an orderly planned use of land.

The proposed house should not be a detriment to public health, safety, or other goals of the Zoning Ordinance. The new house will be used for single family use, and the new residents on the property are immediate family members. The proposed special use does not change the overall use of the property significantly and should not result in any negative impacts to neighbors than what already exists. A second home will not change the open, residential character of the area.

#### 2) COMPATIBILITY OF USE WITH APPEARANCE AND ESSENTIAL CHARACTER OF AREA -

The proposed house does not significantly change the existing or future uses of the property. This is a residential area that is fairly open overall with some fairly intensive uses relatively close. The Winnebago Heights subdivision is located ¼-mile to the east with the Van Horn Auto Parts Salvage Yard nearby. There is also a major mineral excavation area, formerly owned by Holcim, somewhat closer to the northwest.

#### 3) IMPACT ON EXISTING AND FUTURE USES, VICINITY, AND COMMUNITY AS A WHOLE -

The proposed house will have no significantly greater impact on the area than the existing activity and dwelling on the property (See Figure 2). A second dwelling on the same parcel generally means twice the use of water and septic impacts a single-family home would normally have. The provided diagrams show a well and leech field system for the new house. Any necessary well or wastewater treatment permits for the new house required by the Health Department should be made a condition of the Special Use Permit.

There are minimal foreseeable negative impacts to the surrounding area or the community as a whole. The visual impact will be in character with the surrounding large-lot residential neighborhood.

# 4) ADEQUACY OF PUBLIC SERVICES (i.e., highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, or schools) -

300th Court is a paved road. A paved road is ideal for single family dwelling development.

Law enforcement protection is provided by the Cerro Gordo County Sheriff's Department. Fire protection and Emergency Medical Services are provided by the Mason City Fire Department. There should not be a significant increase in demand for either service if the Special Use Permit is approved.

Much of the property is located within the FEMA-designated 100-year floodplain. The new dwelling and proposed new leech field, however, are located outside of the floodplain. No floodplain permits are required as a result. The site is not near any drainage district or any drainage structures.

The new dwelling will utilize private water and wastewater systems. The new dwelling diagrams show a well and leech field nearby. Obtaining any necessary well or wastewater treatment permits for the new house required by the Health Department should be made a condition of the Special Use Permit. The Health Department recommends that a site evaluation be conducted to determine if isolation distances may be an issue; this would likely be conducted during the permitting process. Electric service is already served to the site.

There will not be an impact on schools, except for the moving of Ward's family into the new home.

#### 5) PUBLIC COST FOR ADDITIONAL PUBLIC FACILITIES AND SERVICES -

The proposed dwelling should not result in additional costs to the public. No additional public facilities or services are likely to be needed.

# 6) POTENTIAL DETRIMENTS TO PERSONS, PROPERTY, OR GENERAL WELFARE (i.e., excessive traffic, noise, smoke, fumes, glare, or odors) -

Dwellings usually create 8-10 trips per day. The homestead is accessed off of 300<sup>th</sup> Court, which carries 340 vehicles per day. The road will likely see a nominal increase in traffic with the new house, though being paved the road is sufficient for such an increase.

No smoke, fumes, glare, or odors are anticipated to be created by the use.

#### 7) COMPATIBILITY AND CONSISTENCY WITH THE INTENT AND PURPOSE OF THE ZONING DISTRICT -

The Zoning Ordinance intends that property in the A-1 District remain in agricultural use when possible. The proposed use is consistent with this and does not impact any agricultural operations. The proposed house will not take any crops out of production.

A second dwelling for immediate family members is consistent with the permitted uses in the A-1 Agricultural District. It is a Special Use that has been granted many times by the Board in the past.

#### 8) COMPATIBILITY WITH COUNTY COMPREHENSIVE PLAN -

There are four statements in the Agricultural and Farming section of the Comprehensive Plan that are applicable to this proposed use.

**Policy 3.1.1:** This policy statement discourages the development of agricultural soils for non-farm uses. The proposed special use will not disturb any farm uses.

**Policy 3.1.2:** This policy says that the Corn Suitability Rating (CSR) is to be applied as a factor for the review of any development affecting agricultural soils. No soils in agricultural production will be impacted by the special use. While the location of the second dwelling has a CSR of 72, the county GIS system shows the site has never been used for farming.

**Policy 3.1.3:** Similar to policy 3.1.2, this policy states other factors besides CSR are to be applied to development affecting agricultural soils. Again, the proposed special use will not impact any farming operations.

**Policy 3.1.4**: This policy encourages the use of farming techniques and soil conservation practices to protect top soil and prevent degradation to water resources. A new septic and leech field are proposed. Any permits required by the Health Department should be made a condition of the Special Use Permit.

**Policy 4.1.5**: This policy encourages proposed non-farm residential development to locate on small lots. The second dwelling is essentially infill development and increases the density of the area. This area is already a residential area and is consistent with this policy. A split of the land will be necessary if either of the houses are sold outside of the immediate family and is a recommended condition of the permit. The new dwelling will utilize on-site water and wastewater systems. It is on a hard-surfaced road.

#### COMPLIANCE WITH ADDITIONAL ARTICLE 20 REQUIREMENTS:

Additional requirements for the special use requested are as follows. Ordinance provisions are in normal type. Staff comments are in **bold**:

#### 20.2 SPECIAL USES

HH. Second dwelling on a farm for someone in the immediate family or a full-time farm employee. A-1 District. The Zoning Ordinance defines "Immediate Family" as, "Father, mother, brother, sister, son, daughter – related by blood or marriage or adoption." The proposed house will be occupied by the Ward and his family. Ward's father lives in the existing house (See Figure 2). The property is zoned A-1.

#### **ZONING DISTRICT REQUIREMENTS:**

Requirements of the zoning district for which the proposed special use is to be located are as follows. Ordinance provisions are in normal type. Staff comments are in **bold**:

#### 7.5 HEIGHT REGULATIONS

No building hereafter erected or structurally altered shall exceed two and one-half (2-1/2) stories or thirty five (35) feet. The proposed house will be two stories and not exceed the maximum permitted height.

#### 7.6 YARD REQUIREMENTS

Each lot shall have the front, side and rear yards not less than the depths or widths following:

- A. Front yard depth, fifty (50) feet. The proposed house is set back significantly from the road and easily meets this requirement (See Figure 1).
- B. Each side yard width, twenty-five (25) feet. The closest proposed side yard setback has been surveyed on the partially constructed second dwelling, 5.3 feet from the east side lot line. This does not meet the requirement (See Figure 5). I recommend a variance be granted for this. A denial would require the structure be removed. Since no structures exist on the property to the east and the neighboring property is mostly unused, the second house will have only nominal impact (See Figure 6).
- C. Rear yard depth, thirty (30) feet. The proposed rear yard setback is over 500 feet.

#### **MISCELLANEOUS REQUIREMENTS**

- Minimum parcel size is 10 acres. The property is 10 acres in size.
- Requiring a Zoning Permit Application be filed with the Planning and Zoning Office should be a condition
  of the Special Use Permit.
- Section 6.19 states, "The minimum dimension of the main body of the dwelling unit shall not be less than twentytwo (22) feet. The width of the house is 43'-6.5".
- Section 6.20 requires the minimum ground floor coverage area of a single story dwelling to be 720 square feet of usable space. The second house's dimension are 43'—6.5"x114'—5.5", which is just over 4,986 square feet.

#### STATUTORY REQUIREMENTS:

Additional requirements under lowa Code pertain to the Special Use applied for:

Permits for on-site wastewater treatment and the well must be obtained from the Cerro Gordo County Department of Public Health prior to issuance of a Zoning Permit.

Additionally, any new driveways to access the house will require an access permit from the County Engineer's Office.

#### STAFF ANALYSIS AND RECOMMENDED ACTION:

I find this to be an appropriate location for a second dwelling. The residents of both houses will be immediate family members, and this location is located outside of the floodplain in an existing residential area. Although the property is not used for agricultural purposes and the second house is too close to the east side lot line, the impact is nominal to the surrounding area and the neighboring property. Infill development or developing on existing building sites is preferable to taking farmland out of production or developing new ones, even if a subdivision will likely be necessary in the future. I recommend requiring a Zoning Permit Application be filed with the Planning and Zoning Office be made a condition of the Special Use Permit. To ensure environmental health regulations are met, required permits from the Health Department should also be made a condition of approval. This proposal is generally in line with the goals of the Comprehensive Plan.

#### RECOMMENDED CONDITIONS TO BE MET IF POSITIVE VOTE BY BOARD OF ADJUSTMENT:

**Note:** In granting a Special Use Permit, the Board of Adjustment may attach conditions which it finds are necessary to carry out the purpose of the Zoning Ordinance, in conformance with what is provided in Article 20 of the Zoning Ordinance, and where reasonable and necessary may increase the required lot or yard, control the location and number of vehicular access points to the property, limit the number of signs, limit coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent property, and require screening and landscaping to reduce noise and glare and maintain the property in character in keeping with the surrounding area. Special uses shall ordinarily comply with the standards of the district concerned for principal uses which are permitted therein, except as modified by the Board of Adjustment in granting a Special Use Permit.

#### The following conditions are recommended:

- 1. This Special Use Permit may be reviewed at any time in the future upon the request of the applicants or a majority of the Board of Adjustment members.
- 2. The provisions and/or regulations shall be minimum requirements and wherever the requirements of any other lawfully adopted rules, regulations or ordinances are at a variance, the most restrictive shall govern.
- 3. It is contemplated that from time to time during the operation of a second farm dwelling, that conditions may arise which are not covered by the terms of this permit and which cannot be anticipated. In the event such conditions do arise, the Board of Adjustment of Cerro Gordo County, Iowa, may impose additional regulations to meet any new conditions. In addition, if said use should, at any time, be operated in any manner which violates the rules and regulations of any federal or state regulatory agency, then the Board of Adjustment may impose such other conditions so as to insure compliance with such rules and regulations.
- 4. This permit will be subject to revocation for operator's failure to comply with the provisions as herein set forth or such other provisions as may, from time to time, be imposed by the Board of Adjustment of Cerro Gordo County, lowa, under the terms of this permit.
- 5. County representatives shall have the right to enter the premises at any time upon notification to the permit holder for the purposes of enforcing the provisions of this Special Use Permit.
- 6. This Special Use Permit is granted solely to Scott and Joshua Ward and members of the immediate family. Only a member of the Wards' immediate family, as defined by the Zoning Ordinance, shall occupy either dwelling. One of the two dwellings shall be removed or the property subdivided if the occupation of either dwelling by a person outside of the immediate family occurs. Any transfer of ownership of either dwelling to a person outside of the immediate family shall require the same.
- 7. An east side yard setback variance is hereby granted for the second dwelling to be no closer than 5.3 feet.
- 8. A Zoning Permit Application shall be applied for and a Zoning Permit granted by the Zoning Administrator for the new dwelling before any construction continues or begins. Necessary permits or authorizations shall be issued by the Cerro Gordo County Department of Public Health prior to issuance of a Zoning Permit.
- 9. Any permits required by the Engineering Department shall be received prior to the installation of any new driveway from 300<sup>th</sup> Court.

#### **QUESTIONS & COMMENTS:**

*Proposed motion for approval of application:* To adopt the staff report as the Board's findings and to grant the application, subject to the conditions recommended by staff and as modified by the Board of Adjustment, for the placement of a second farm dwelling, and further, that the grant of the application be made effective immediately and on the condition that Scott and Joshua Ward shall perform all operations under the application under the specific direction of the Cerro Gordo County Zoning Administrator, consistent with the proposed conditions and recommendations approved by the Board of Adjustment, until such time as a formal resolution is drafted and adopted by the Board of Adjustment, not to exceed 60 days.

Proposed motion for denial of application: To adopt the staff report as the Board's findings and to deny the application for the reasons stated in the staff report as well as for the following reasons: **[STATE ADDITIONAL REASONS FOR DENIAL, IF ANY]**. Said reasons for denial shall be stated in the official transcript and minutes of the Board of Adjustment, and shall be made in writing to the applicant in letter form by the Board's secretary.

Prepared by: John Robbins Planning and Zoning Adminstrator Final Draft date – March 12, 2019

### **APPLICATION/APPEAL FORM**

[For Completion by All Applicants]

Date 1-3-19 TO: ZONING BOARD OF ADJUSTMENT CERRO GORDO COUNTY, IOWA Joshua V I (WE), (NAME) N Cardina Ave, MO OF QUI (MAILING ADDRESS respectfully request that a determination be made by the Board of Adjustment on this

respectfully request that a determination be made by the Board of Adjustment on this Application/Appeal based on the letter written by the Zoning Administrator dated \_\_\_\_\_\_ for the reason that it was a matter which, in his/her opinion, should come before the Board of Adjustment.

This Application/Appeal is: (Please Check One)

A Variance to a Zoning District requirement where there are unusual conditions or circumstances which cause a hardship when the provisions of Zoning are strictly applied.

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A Special Use listed in Article 20.2 of the Zoning Ordinance upon which the Board is required to act under the Ordinance.

An Appeal where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of the Zoning Ordinance.

| The property affected is located in Section                  | of Mason City               | Township.       |
|--|-----------------------------|-----------------|
| The property affected is zoned                               | according to the Cerro Gord | o County Zoning |
| District Maps. Legal description of the property is: ${f P}$ | CL LOC NE 1/4 29-1          | 97-20 DESC      |
| AS COM AT N 1/4 COR SEC 29 T                                 |                             |                 |
| 10-97-20 THS 70° 54'30"E 5                                   |                             |                 |
| 75°09'E 541.5'573°51'30"E 2                                  |                             |                 |
| E 504.9'S 21º 13'W 93 943.5'T                                | TH N 62° 22'30" W           | 60.0'N          |
| 19°55'E 809.5'TO POB 10 AC                                   |                             |                 |

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Describe what you are proposing to do on the property affected.

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|----|--------|------|-------|--------|-------------|------|--------|----------|
| My | father | has  | Some  | health | sues        | and  | noorly | 1 like   |
| +0 | share  | some | ofthe | restou | · sibilitie | SOF  | the.   | Dropert. |
|    |        |      |       | /      |             |      | ,      |          |

I (We) grant permission to the Planning & Zoning staff and Board of Adjustment members to enter onto the above described property for purposes of review.

I (We) further state that if this request is granted, I (We) will proceed with the actual construction in accordance with the purposes herein stated and any conditions and/or requirements the Board of Adjustment may stipulate.

Signature of Applicant

| OFFICE                           | USE ONLY              |
|----------------------------------|-----------------------|
| Date Filed 3/1/2019              | Case Number _ 19 - 22 |
| Date Set for Hearing 3/26/2019   | Fee Paid75            |
| Application/Appeal was D Granted | Denied Denied         |

## VARIANCE CRITERIA SUPPLEMENTAL INFORMATION Cerro Gordo County Zoning Board of Adjustment [For completion by Variance Applicants Only]

This attachment is intended to supplement the Appeal to the Board of Adjustment Application for requests for variances. This attachment shall be submitted as a part of and attached to the Appeal Application and serve to enable the Board to make fair and equitable decisions. Failure to complete this form in its entirety may result in postponing the request until adequate information is submitted.

The Board of Adjustment shall authorize upon appeal, in specific cases, such variance from the terms of the Ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done.

The Applicant shall be held responsible to provide adequate evidence that the literal enforcement of the Ordinance will result in unnecessary hardship. "Hardship" as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by the provisions of the Ordinance, the plight of the landowner is due to circumstances unique to his property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality.

The Board shall ensure that their decision shall not be contrary to the public interest, that the spirit of the Ordinance shall be observed, and substantial justice done.

Applicant(s) Josh Ward Type of Variance Requested \_\_\_\_\_\_

1. The land in question cannot yield a reasonable use for the following reasons:

Too rocky for forming. 2. What is unique about this property compared to other properties in the vicinity? Childhood home sentimental feelings. Got morrial on the holl.

3. Explain how the variance will fit in with the character of the area (i.e., size, height, scale, etc.):

| The | House | woll be | оп | a l | 2111 | Will | be | beinter |
|-----|-------|---------|----|-----|------|------|----|---------|
|     |       | will be |    |     |      |      |    |         |
|     |       | used    |    |     |      |      |    |         |

4. The need for the variance cannot be attributed to the present or past property owner for the following reasons:

5. The Zoning Ordinance requirements have resulted in a need for a variance for the following reasons:

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| Hiping | to be allowed a dwelling closes            |
|--------|--|
| to my  | dad in order to be anelp to him.           |
| He had | a value transplant and will need some more |
|        | his heart this summer.                     |

6. The variance is in accord with the purposes and intent of the Zoning Ordinance and Comprehensive Plan for the following reasons:

7. The variance will not impair the public health, safety and general welfare of the residents of the County for the following reasons:

Nobody uses the land and only a handful anywhere near it. people live i, \_\_\_\_\_\_ certify that

all of the above statements are true to the best of my knowledge and belief.

i.

## Case No. 19-22 Joshua Ward (14869 300<sup>th</sup> Court) *Figure 1* Looking at the second dwelling



March 8, 2019, J. Robbins

**Figure 2** Looking at the existing house in which Scott Ward resides



March 8, 2019, J. Robbins

*Figure 3* Looking westerly from near the second welling toward the floodplain areas



March 8, 2019, J. Robbins

*Figure 4* Looking southerly from near the second welling toward the floodplain areas



March 8, 2019, J. Robbins

*Figure 5* Looking northeasterly along the east side lot line



March 8, 2019, J. Robbins

*Figure 6* Looking easterly toward the neighboring property to the east.



March 8, 2019, J. Robbins

| INDEX LEGEND  |
|---|
| NE 1/4 529-T97N-R20W OF THE 5TH<br>P.M., CERRO GORDO COUNTY   |
| PROPRIETOR<br>SCOTT D. WARD   |
| SURVEY REQUESTED BY<br>JOSHUA WARD  |
| SURVEYOR COMPANY<br>STARK SURVEYING INC.<br>1622 S. TAFT AVE.<br>MASON CITY, IOWA, 50401<br>PHONE: 641-423-7947 |
| RETURN TO:<br>BENJAMIN STARK<br>1622 S. TAFT AVE.<br>MASON CITY, KOWA, 50401                                    |
|   |

active and

marker sile.

## **RETRACEMENT PLAT OF SURVEY**

#### **DESCRIPTION OF RECORD**

A PARCEL OF LAND LOCATED IN THE NE 1/4 OF SECTION 29, TOWNSHIP 97 NORTH, RANGE 20 WEST OF THE STH P.M., CERRO GORDO COUNTY, IOWA; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE N 1/4 CORNER OF SAID SECTION 29;

THENCE N1°34'W 349.5 FEET ALONG THE WEST LINE OF THE SE 1/4 OF SECTION 20, TOWNSHIP 97 NORTH, RANGE 20 WEST OF THE 5TH P.M. TO THE CENTER LINE OF THE COUNTY ROAD;

THENCE \$70"54'30"E 557.9 FEET;

THENCE SOUTHEASTERLY ALONG A 1°CURVE, CONCAVE NORTHEASTERLY AND HAVING A CHORD BEARING \$73"01'45"E 424.9 FEET;

THENCE \$75"09'E 541.5 FEET;

THENCE THENCE SOUTHEASTERLY 267.6 ALONG A 1\*CURVE, CONCAVE SOUTHWESTERLY AND HAVING A CHORD BEARING S73\*51\*30"E 267.5 FEET TO THE POINT OF BEGINNING;

THENCE SOUTHEASTERLY 505.0 FEET ALONG A 1\*CURVE, CONCAVE SOUTHWESTERLY AND HAVING A CHORD BEARING 570°26'30"E 504.9 FEET;

#### THENCE S21°13'W 943.5 FEET (S22°32'21"W 921.24 FEET);

THENCE N61°30'W 132.2 FEET;

THENCE N50°48'W 310.6 FEET;

THENCE N62"22'30"W 60.0 FEET;

THENCE N19°55'E 809.5 FEET TO POINT OF BEGINNING, CONTAINING TEN ACRES, MORE OR LESS, THE NORTH LINE OF THE NE 1/4 OF SECTION 29-97-20 IS ASSUMED TO BEAR EAST AND WEST.

SURVEYOR'S NOTES: 1) IARCS ZONE 2 IS THE BASIS OF BEARING FOR THE PURPOSE OF THIS SURVEY. 2) FOR THE PURPOSE OF THIS SURVEY THE EASTERLY LINE OF DOC.#2000-9145 AND BK.109 PG.159 WAS SURVEYED ONLY.

**...** •

Brene

License number 23709

Benjamin Stark

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My license renewal date is December 31, 2019

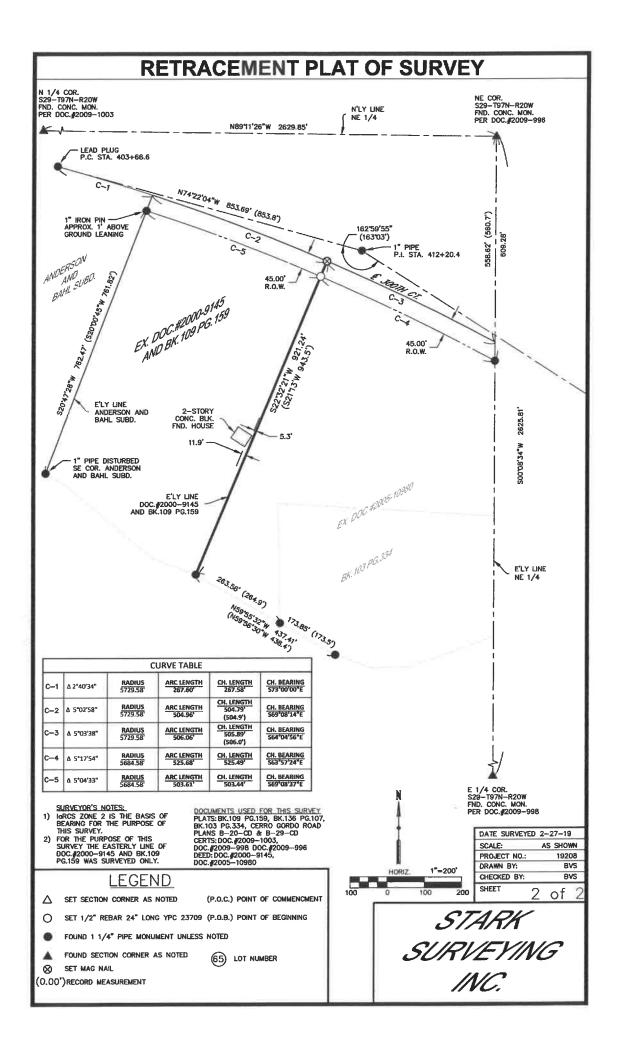
DOCIMENTS USED FOR THIS SURVEY. PLATS: BK.109 PG.159, BK.136 PG.107, BK.103 PG.334, CERRO GORDO ROAD PLANS B-20-CD & B-29-CD CERTS: DOC.#2009-1035, DOC.#2009-938 DOC.#2009-996 DEED: DOC.#2009-03145, DOC.#2005-10860

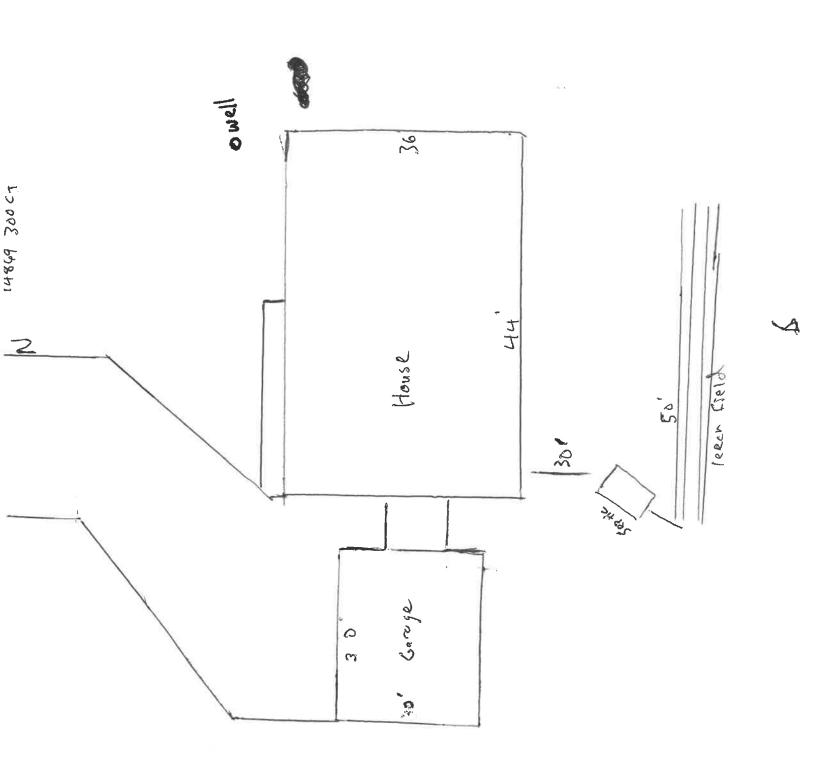
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DATE SURVEYED 2-27-18 SCALE: AS SHOWN PROJECT NO .: 19208 DRAWN BY: 8VS CHECKED BY: **BVS** SHEET 1 of 2

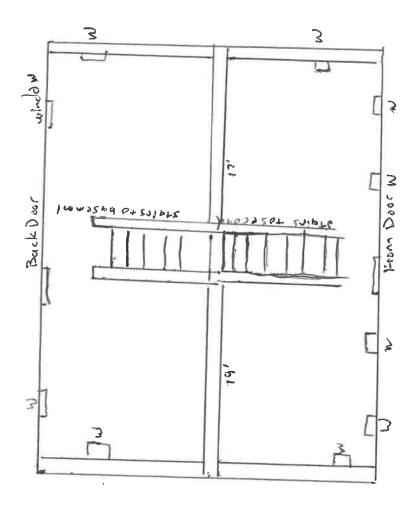
I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of lowa. STARK SURVEYING 3-1-19 Date INC Sheats covered by this seal: 2





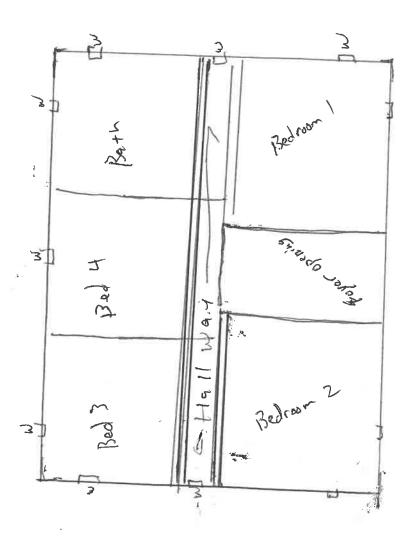
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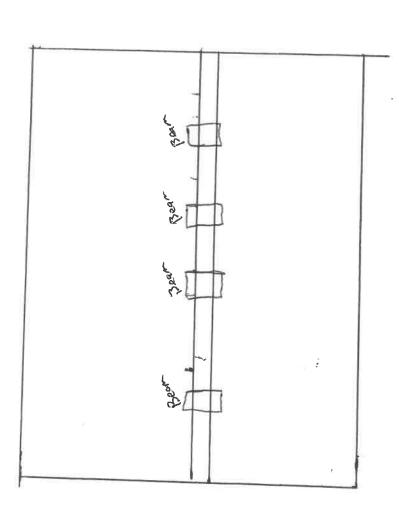
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Znd Floor

Basement



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