



## PLANNING AND ZONING Cerro Gordo County Courthouse

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### SPECIAL EXCEPTION STAFF REPORT

#### SUMMARY OF REQUEST

**Case No.:** 22-3

**Hearing Date:** February 22, 2022

**Applicant**

Cerro Gordo County Conservation  
3501 Lime Creek Road  
Mason City, IA 50401

**Owner**

William & Patricia Hansen  
20230 Cardinal Avenue  
Clear Lake, IA 50428

**Property Address:** 22217 Cardinal Avenue

**Brief Legal Description:** Parcel A in W½ of the SW¼, Section 16, Grant Township

**Zoning:** A-1 Agricultural

#### Background

The Hansens are donating about 200 acres of their property to Cerro Gordo County that is under a Wetland Reserve Program (WRP) easement administered by the US Department of Agriculture. They intend to split off the acreage from the WRP land, which is 18' from the existing southernmost machine shed (See Figure 1). A rezoning from the current zoning to A-2 Agricultural is being requested in March for the proposed acreage to be split off as proposed. The Board is considering the resulting setback on the south side lot line.

SPECIAL EXCEPTION REQUEST*		
Structure	Request(s)	Requirement(s)
Machine shed	18' south side yard setback	25' side yard setback (8.6-B)

\*See Figure 2

#### FINDINGS OF FACT

1. William and Patricia Hansen are the owners of the subject property, located in the W½ of the SW¼, Section 16, Grant Township.
2. Cerro Gordo County is applying on behalf of the owners, with the intention of receiving about 200 acres of WRP land being donated by the Hansens.
3. The property is zoned A-1 Agricultural, with a rezoning to A-2 Agricultural being considered by the Planning and Zoning Commission in March.
4. The new south side property line is being proposed 18' from the existing southernmost machine shed.
5. The required side yard setback is 25' in the A-1 District.
6. The application was filed on January 11, 2022 with the Planning and Zoning Office.

## ANALYSIS

The Board of Adjustment is provided the power to grant special exception under Section 24.4(A)(2) of the Zoning Ordinance. The Board may grant special exception to bulk standards of the ordinance if, in its judgement, the standards established in Section 24.4(A)(2)(a) are met. In its review, the Board may attach certain conditions to any special exception granted in order to observe the spirit of the Zoning Ordinance and Comprehensive Plan and mitigate any potential impacts that may directly result from the requested special exception.

### **Discussion of Standards of Review**

***Strict compliance with the standards governing setback, frontage, height, or other bulk provisions of this ordinance would result in a practical difficulty upon the owner of such property and only where such exception does not exceed 50 percent of the particular limitation or number in question.***

The proposed setback for the proposed south side lot line from the existing southernmost machine shed is 18'. A 25' side yard setback is required in the A-2 District (See Figure 2). The standard appears to be met.

***The exception relates entirely to a permitted use (principal, special, or accessory) classified by applicable district regulations, or to a permitted sign or off-street parking or loading areas accessory to such a permitted use.***

There is no change in use to the acreage as a result of the request. The structure is a typical building on an acreage. Workshops, storage, and similar uses are a permitted use in the A-2 District.

***The practical difficulty is due to circumstances specific to the property and prohibits the use of the subject property in a manner reasonably similar to that of other property in the same district.***

The WRP easement is a permanent status that runs with the land. The easement is required to be maintained as wildlife habitat. The proposed south property line is the boundary for this easement. Splitting up the land would place a burden on the owner of the acreage to maintain a small portion of land under the terms of the easement that would be difficult to enforce. This would severely limit the Conservation Department's ability to maintain the habitat as required if split onto a separate property. The standard appears to be met.

***A grant of the special exception applied for, or a lesser relaxation of the restriction than applied for, is reasonably necessary due to practical difficulties related to the land in question and would do substantial justice to an applicant as well as to other property owners in the locality.***

There is no other option for a potential split of the property, as the proposed property lines are the boundaries of the WRP easement. For the county to take ownership of the WRP easement differently, the easement would have to be split up or the property would have to be even more out of compliance from zoning rules. No lesser exception is reasonable as a result. The standard appears to be met.

***Such practical difficulties cannot be overcome by any feasible alternative means other than an exception.***

The proposed property lines are the WRP easement boundary itself. The standard appears to be met.

***Relief can be granted in a manner that will not alter the essential character of the locality.***

For the purpose of the land donation, there is no other alternative, as denial or a lesser approval would split off a portion of the easement and create an untenable situation. The standard appears to be met.

**Discussion of Potential Impacts to Immediate Area**

No change of use or new structures are being proposed as a result of this request. The request will only result in the change of ownership and have no tangible effects.

**Staff Conclusions and Recommendation**

Staff recommends approval of the request. All standards of review appear to be met.

**BOARD DECISION**

The Board of Adjustment may consider the following alternatives:

**Alternatives**

1. Grant the requested special exception subject to any condition as deemed necessary by the Board.
2. Grant relief less or different from the requested special exception.
3. Deny the requested special exception.

The following motions are provided for the Board’s consideration:

**Provided motion of approval:**

- I move to adopt the staff report as the Board’s findings and to approve the special exception as requested by Cerro Gordo County Conservation for William and Patricia Hansen.

**Provided motion of denial:**

- I move to adopt the staff report as the Board’s findings and to deny the special exception as requested by Cerro Gordo County Conservation for William and Patricia Hansen for the following reasons:  
[STATE REASONS FOR DENIAL]

**EXHIBITS**

- Exhibit 1: Figures
- Exhibit 2: Special Exception Application
- Exhibit 3: Plot Plan
- Exhibit 4: Aerial photo of site

**Figure 1**

Looking at the southernmost machine shed



January 27, 2022, J. Robbins

**Figure 2**

Looking east along the proposed south lot line



January 27, 2022, J. Robbins

**SPECIAL EXCEPTION APPEAL**

**APPLICATION**

Date Filed 1/11/22 Date Set for Hearing 2/22/22 Case Number: 22-3

Applicant Name: Cerro Gordo County Conservaiton Phone: 641-423-5309 E-Mail: mwebb@cgcounty.org

Mailing Address: 3501 Lime Creek Road Mason City, IA 50401

Property Owner Name: William and Patty Hansen Phone: 641-425-2840 E-Mail: patjhansen@gmail.com

Property Owner Address: 20230 Cardinal Ave Clear Lake, IA 50428

Property Description (Not to be used on legal documents): Parcel # 011630000300 (1 of 5) Township Grant

Property Address: NE corner of Cardinal and 310th Street 22217 Cardinal Ave Zoning: A-1

Brief Legal Description: Sec 16, Township 92 North, Range 22 West approximatley 200 acres

**Project Description**

Decision Date: N/A

The Hansen's are donating 200 acres of property to the county and a portion of the property is under a Wetland Reserve Program (WRP) easement administered by the US Department of Agriculture.

**Special Exception(s) Requested (As cited on results from denied Zoning Permit Application)**

A portion of the WRP boundary (new property boundary) will be within the 25 foot requirement of a building when the property is split from the acreage.

**Criteria Justifying Special Exception under Standards for Review (You may add more details in the Additional Information)**

Not having the current WRP easement boundary as the newly established property line will create a practical difficulty in management and compliance of the WRP easement. The conservation easement established and monitored by the NRCS states that the area must be maintained for wildlife habitat. Not having complete control of the WRP will create a compliance hardship, as the NRCS will keep the WRP property as 1 contract even if there are 2 landowners and if any portion of the WRP area is out of compliance, the whole property would be out of compliance. The NRCS encourages the WRP property be maintained as a 1 owner property. Breaking up the WRP would severely limit and create a hardship on the County Conservation Boards ability to maintain the required WRP easment rules. The proposed boundary does follow an existing established fenceline. Following the WRP boundary will create a 18-20 foot boundai versus the standand 25 foot boundary. The line is at an angle to the closest building, an equipment storage

I am the  Owner  Contract Purchaser  Other (Explain) Receiver of Donation  
\_\_\_\_\_ of the property affected.

*I, the applicant, being duly sworn, depose and say that I am the owner, or that I am authorized and empowered to make affidavit for the owner, who makes the accompanying application; that the application and plan are true and contain a correct description of the proposed building, lot, work, and use to which the structure is to be placed if a special exception is granted. The Planning & Zoning staff is also given permission to enter the above property in reviewing this Application.*

Applicant Signature Mike Webb (CGCC Director)

Date 1/3/2022

## **SPECIAL EXCEPTION APPEAL**

### **ADDITIONAL INFORMATION**

Please provide any additional details below needed to fully address the standards for review and any potential impacts to the immediate vicinity that may directly result from the special exception requested.

The current code states that buildings must be 25 feet from the property line. The Hansen's plan to donate the WRP to the County and maintain the acreage adjacent to the WRP. This division will place the new property line boundary at minimum 18 feet from an existing building. As stated earlier the NRCS will keep the existing WRP area as 1 contract and if the new property boundary is placed at 25 feet from the building it will cause the WRP contract to have 2 owners. If either landowner fails to fulfill the requirements of the WRP contract the whole contract will be out of compliance. The County would be at a huge disadvantage, if a 0.05 acre of WRP remained with the acreage. If the acreage owner did not follow the rules of the WRP easement it would negatively impact the remaining 200 acres of WRP owned by the County. The Conservation Board feels it is in their best interest to have the whole WRP contract area within their boundaries. The NRCS encourages the County to have the WRP boundary also be the property boundary, to help prevent future encroachment issues in the future and not having to encumber the acreage with a WRP easement on their property. The building being within 18 feet of the property line will not impact any management activities the Conservation Board will have with the WRP property. The Hansen's who are donating the WRP property are in agreement with the WRP boundaries remaining intact and used as the new property line and the County being the sole owner of the entire WRP contract. The new property line will not be parallel with the shed, at the closest point the shed will be 18' from the new property line which is greater than the minimum requirement of 12.5'.

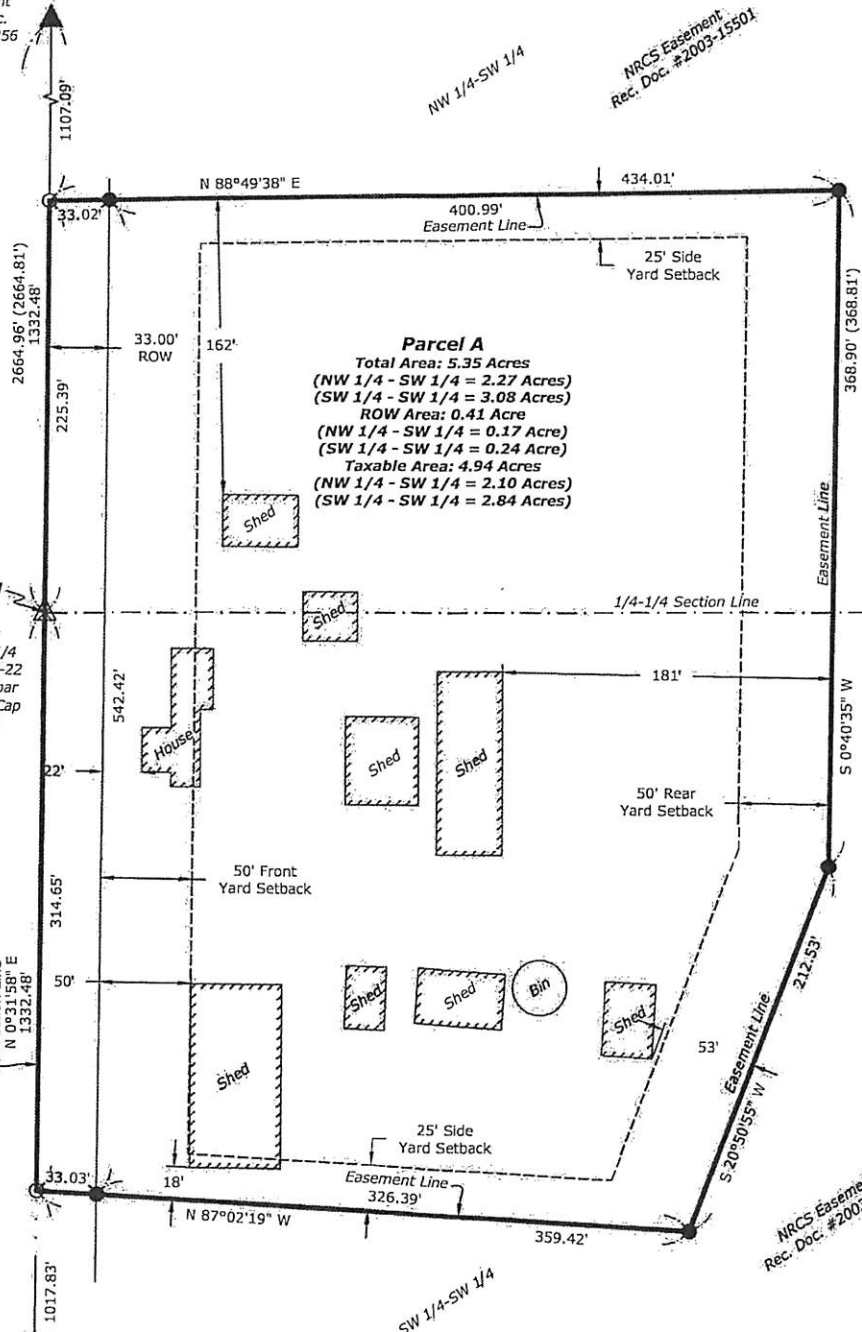
Zoning Exhibit

W 1/4 Corner  
Section 16-97-22  
Fd. Aluminum  
Monument  
Rec. Doc.  
#2009-4256

**Point of Beginning  
Parcel A**

NW Corner  
SW 1/4-SW 1/4  
Section 16-97-22  
Set 5/8"Ø Rebar  
w/2"Ø Alum. Cap  
PLS 24510

SW Corner  
Section 16-97-22  
Fd. MAG Nail  
Rec. Doc.  
#2018-2763



**HRS**  
Herald-Reicks Surveying  
www.hrsurveying.com

10 East Main Street  
New Hampton IA 50659  
641-394-2725

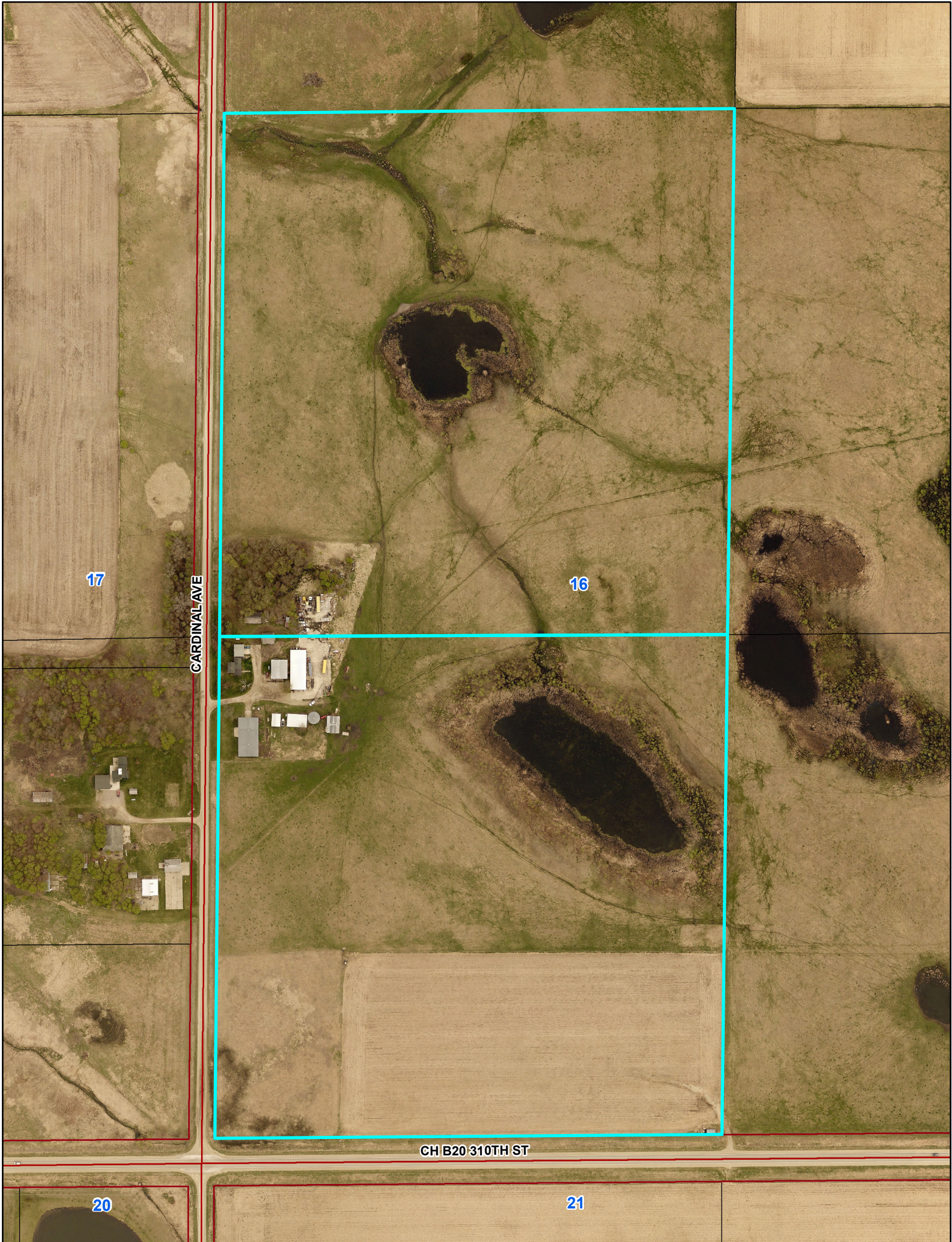
2206 East Bremer Avenue  
Waverly IA 50677  
319-483-5187

805 Buddy Holly Place  
Clear Lake IA 50428  
641-231-8092

NRCS Easement  
Rec. Doc. #2003-15501

NRCS Easement  
Rec. Doc. #2003-15501





17

CARDINAL AVE

16

20

CH B20 310TH ST

21