



PLANNING AND ZONING Cerro Gordo County Courthouse

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VARIANCE STAFF REPORT

SUMMARY OF REQUEST

Case No.: 22-6

Hearing Date: February 22, 2022

Applicant

Owner

James Pieper

Same

3710 S Goldfield Road, # 982

Apache Junction, AZ 85119

Property Address: not assigned

Brief Legal Description: Lot 3, Replat of Lot 1 of Lake Court Addition

Zoning: R-3 Single Family Residential

Background

Mr. Pieper proposes to construct a 42'x30' detached garage. The lot is currently vacant with no structures (See Figure 1). The lot sits immediately south of the Grandview neighborhood and nearby the public well serving the neighborhood (See Figure 2). The lot is also accessed via a private road, a loop of Lakeview Drive which has no additional access via a public road. These details are discussed below in this report.

VARIANCE REQUEST*

Structure	Request(s)	Requirement(s)
Detached garage	Accessory building before a permitted principal building	A permit shall be issued for a principal building before a permit is issued for an accessory building. (6.24)

FINDINGS OF FACT

1. James and Jacqueline Pieper are the owners of the subject property, located on Lot 3, Replat of Lot 1 of Lake Court Addition.
2. The property is zoned R-3 Single Family Residential.
3. The lot is currently vacant with no improvements. A detached garage—an accessory building—is being requested to be constructed before any other improvements.
4. Article 6.24 of the Zoning Ordinance requires a permit to be issued for a principal building before a permit is issued for an accessory building.
5. The application was filed on January 24, 2022 with the Planning and Zoning Office.

ANALYSIS

The Board of Adjustment is provided the power to grant variance under Section 24.4(A)(3) of the Zoning Ordinance. The Board may grant variance from the provisions of the ordinance where, in its judgement, a literal enforcement of the rules will result in an unnecessary hardship as established by the standards in Section 24.4(A)(3). In its review, the Board may attach certain conditions to any variance 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 variance.

Discussion of Standards of Review

As aforementioned, the lot is currently vacant with no improvements (See Figure 1). There are no installed wells or connection to the public sanitary sewer, which the closest available line is over 225 feet away. The requested variance for the proposed detached garage does not have any plans for well or wastewater facilities.

A principal building in the single family residential district is—more often than not—a dwelling, although there are a few other permitted principal uses in the R-3 District. The Cerro Gordo County Health Nuisance Ordinance requires a dwelling or any place with human habitation to have adequate sanitary wastewater facilities. Further, the Iowa State Code requires such a building to have safe, potable water facilities. While a significant expense, hookup to the Clear Lake Sanitary District's facilities is possible. However, there are significant questions regarding potential availability of well facilities.

The lot sits nearby the Iowa DNR permitted public water supply for the Grandview Circle Homeowners Association. The DNR rules prohibit a deep private well from being located within 200' of a public water supply well source. The whole of the subject property is within 200' of the public water supply well source.

Additionally, the subject property is not a part of the Homeowners Association. The county cannot require the lot to hook up to the public water supply. There is a variance process in place for private wells; however, there is no guarantee a variance would be approved by the DNR. Any possibility for a well variance from the DNR is only hypothetical and is unlikely to be approved according to the Iowa DNR.

The property is accessed via Lakeview Drive. In the neighborhood, Lakeview Drive is a private road owned and maintained by the Grandview Circle Homeowners Association. This raises questions about legal access into the lot itself. If ever tested, such questions must be decided by a court and is beyond the county's expertise and authority.

The proposed detached garage is within the character of the immediate vicinity. There are several detached garages along this segment of Lakeview Drive (See Figure 3).

Discussion of Potential Impacts to Immediate Area

The largest impact of the proposed detached garage would be to the character of the residential neighborhood. However, given the existing character of this location with such buildings being common, the impact is minimal in this instance. Beyond this usual concern, there are no foreseeable negative impacts from this proposal.

Staff Conclusions and Recommendation

The question of hardship rests solely in the question of the ability to have a private well on the property. The county's Health Nuisance Ordinance and other state requirements require access to potable water for an occupied dwelling. Given the 200' minimum separation distance from the nearby public water supply, the unlikelihood of receiving a variance from the DNR to drill a private well, and lack of access to another water source to the lot, staff believes the standards of review have been met. The request is in line with the character of the immediate vicinity. Approval of the request is recommended.

BOARD DECISION

The Board of Adjustment may consider the following alternatives:

Alternatives

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

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 variance as requested by James Pieper, subject to the following conditions:
 1. All construction shall comply with the site plan submitted with the application.
 2. No construction shall begin until a Zoning Permit has been issued by the Planning and Zoning Office.

Provided motion of denial:

- I move to adopt the staff report as the Board's findings and to deny the variance as requested by James Pieper for the following reasons:
[STATE REASONS FOR DENIAL]

EXHIBITS

- Exhibit 1: Figures
- Exhibit 2: Variance Application
- Exhibit 3: Site plan
- Exhibit 4: Clear Lake Sanitary District infrastructure illustration
- Exhibit 5: Public water supply illustration
- Exhibit 6: CG Public Health comments
- Exhibit 7: Aerial photo of site

Figure 1

Looking at the proposed lot location for the detached garage



January 27, 2022, J. Robbins

Figure 2

Looking at the Iowa DNR permitted public water supply serving the Grandview Circle Homeowners Association



January 27, 2022, J. Robbins

Figure 3

Looking at the existing detached garage on the adjacent property to the west of the subject property



January 27, 2022, J. Robbins

VARIANCE APPEAL

APPLICATION

Date Filed 1/24/22

Date Set for Hearing 2/22/22

Case Number: 22-6

Applicant Name: JAMES F PIEPER Phone: 641-512-4046 E-Mail: jmpieper23@gmail.com

Mailing Address: 3710 S. GOLDFIELD RD #982, APACHE JUNCTION, AZ 85119

Property Owner Name: JAMES F PIEPER Phone: 641-512-4046 E-Mail:

Property Owner Address: 3710 S. GOLDFIELD RD #982 APACHE JUNCTION, AZ 85119

Property Description (Not to be used on legal documents): Parcel # 052331603700 Township C LAKE

Property Address: N/A Zoning: R-3

Brief Legal Description:

L 3 IN REPLATE OF LOT 1 LAKE COURT APARTMENT 23-96-22

Project Description

Decision Date: 1/17/22

ACCESSORY BUILDING TO BE USED AS GARAGE & STORAGE

Variance(s) Requested (As cited on results from denied Zoning Permit Application)

REMOVAL OF REQUIREMENT FOR RESIDENCE AS REQUIRED BY R-3

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

LOT DOES NOT HAVE ACCESS TO POTABLE WATER AS IT IS TOO CLOSE TO A PRIVATELY OWNED PUBLIC WELL. DNR RULES DON'T ALLOW NEW WELLS WITHIN 200 FT OF PUBLIC WELL. SANITARY SEWER IS OVER 200 FEET AWAY AND WOULD REQUIRE OBTAINING ACCESS OVER OTHER PRIVATELY OWNED LAND. BELIEVE HARDSHIP RULES SHOULD APPLY. ONLY ACCESS IS VIA PRIVATELY OWNED ROADWAY AND THOSE OWNERS MAY WISH TO PURCHASE BUT ONLY IF VARIANCE IS GRANTED

I am the [X] Owner [] Contract Purchaser [] Other (Explain)

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 variance is granted. The Planning & Zoning staff is also given permission to enter the above property in reviewing this Application.

Applicant Signature

[Handwritten Signature]

Date

1-18-2022

VARIANCE APPEAL

ADDITIONAL INFORMATION

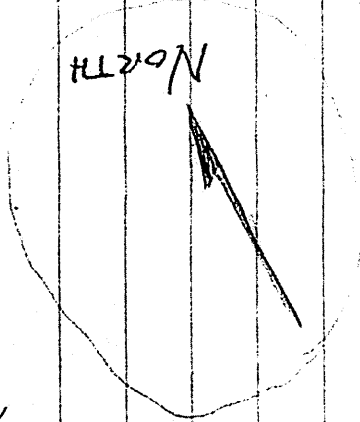
Please provide any additional details below needed to fully address the standards for review and any potential impacts to the immediate vicinity that may directly result from the variance requested.

THIS LOT IS NOT ACCESSABLE WITHOUT THE USE OF THE PRIVATE ROAD THUS LIMITING ITS USE TO OTHER THAN GRANDVIEW POINT OWNERS. THE OTHER 2 LOTS IN THIS REPLAT HAVE ONLY GARAGES ON THEM. THE INTENT WHEN REPLATED WAS FOR GARAGES & STORAGE FACILITIES AND PRE APPROVAL FOR SUCH WAS GIVEN AT THAT TIME. IN FACT THIS WAS HOW THE PERMIT FOR THE NOW TETMEYER GARAGE WAS OBTAINED. WE PURCHASED OUR LOT WITH THIS IN MIND BUT NEVER DECIDED TO BUILD. THE LOT IS CURRENTLY ASSESSED AS A BUILDABLE LOT AND WE PAY TAXES ACCORDINGLY. WE FEEL THE VARIANCE WOULD CONTINUE THE INTENT AND WOULD BE AESTHETICALLY CONSISTENT WITH THE OTHER 2 LOTS.

OUTLET BEDDINGS TO JAMES & JACQUELINE FERRER

LOTS 3 or REPLAT OF
LOT 1
LAKE COURT ADDITION
TERRO GORD COURTY

SCALE
1" = 160'



EDGE OF STREET &
NORTH LOT LINE

30' 0" SETBACK

12' 0" SETBACK

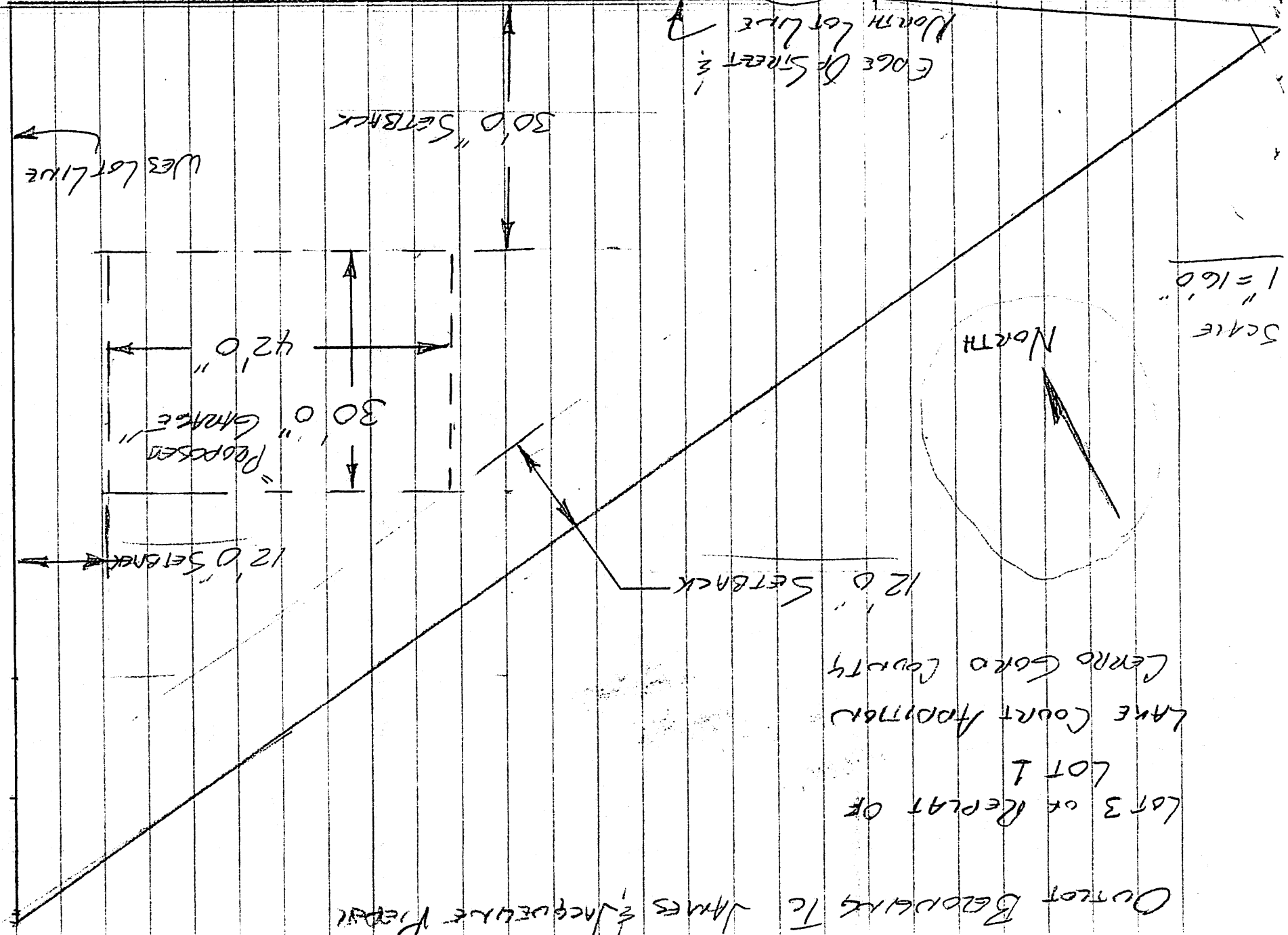
42' 0"

30' 0" GARAGE
POSSIBLE

12' 0" SETBACK

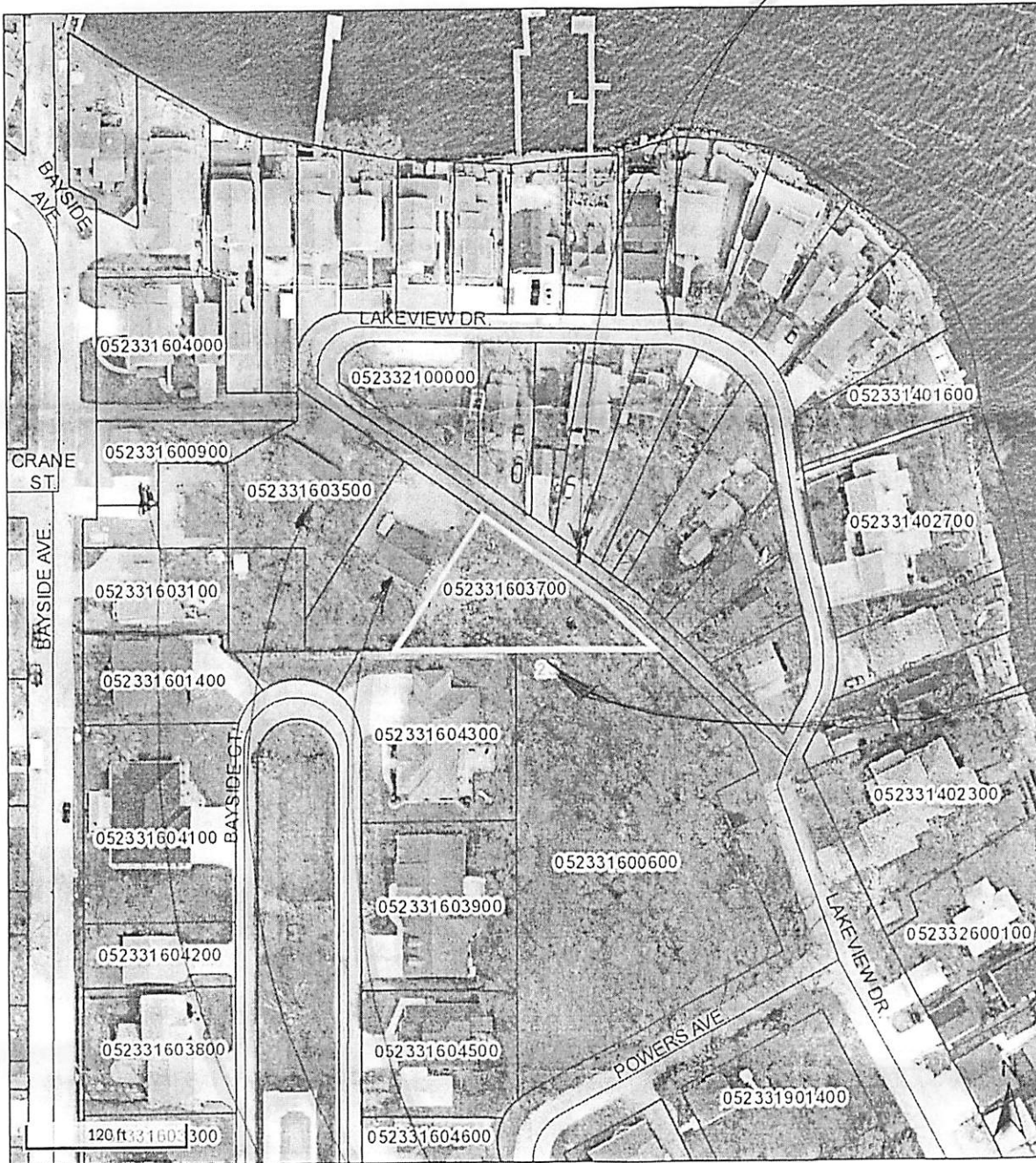
WEST LOT LINE

SMITHVIEW POINT PAVING

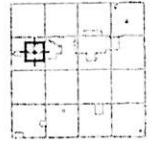




GRANDVIEW PRIVATE ROAD



Overview



Legend

- Roads
- Parcels
- Section

PIEPER LOT

Date created: 1/6/2022
Last Data Uploaded: 1/6/2022 7:45:44 AM

Developed by Schneider GEOSPATIAL

TETMEYER GARAGE

YOUNG GARAGE

LAABS GARAGE

LAKEVIEW DR

LAKEVIEW DR

23

Grandview Public Water
Supply Location



From: [Daniel Ries](#)
To: [Robbins, John](#); [Mark Mathre](#); [J.D Sliger](#)
Subject: RE: Lot 3 in the Replat of Lot 1, Lake Court Addition - Variance
Date: Monday, January 31, 2022 11:22:28 AM
Attachments: [image001.png](#)

John,

See answers in red.

1. What are your requirements for wells? Are wells required for dwellings? Is the drilling of a well possible for this property? **Under our Health Nuisance Ordinance 2.6 Habitation without Adequate Water or Disposal Facilities. No person shall own, operate or use any building or place for human habitation with inadequate or unsanitary wastewater disposal facilities, or which otherwise fail to meet applicable state or local standards or any abandoned well not properly plugged as provided in Iowa Code, 455B.190 and 567 Iowa Administrative Code Chapter 39, or without a safe potable water supply under pressure.**

-
It may take some approvals from the Iowa DNR to drill a well on this property for a couple reasons:

There is a LUST (leaking underground storage tank) site roughly 265 feet west and another one about 1,000 feet south of the property in question. This means it would have to go through Iowa DNR review prior to issuing a private well permit (any LUST within 1,000 feet). That doesn't necessarily mean that a private well couldn't be drilled, it would just have to go through their review process.

The Grandview Circle Water Association public water supply well is located at 15424 Lakeview Dr, it may be difficult to get 200 feet from that well to any location on the property in question, which is the required separation distance for deep private wells from public water supplies. I would have to check the exact location of the well, but it looks like most/all the property in question may be within the 200 feet. I would have to get permission from Iowa DNR to issue a private well permit within 200 feet of a public water supply well, I don't know if that would be approved or not.

2. There is a Iowa DNR permitted public water supply nearby? **Yes, see above** How does this impact the property regarding a potential well? **See answer above**

3. Do you have any concerns? **It can be difficult to drill wells in the Southshore area due to the concerns listed above as well as challenges with space with large well rigs and their accessory equipment. Additionally, they must be very careful with well drilling fluid control to keep fluids out of Clear Lake. Many wells do get drilled in the area, but it can certainly be more challenging.**



Daniel Ries
Senior Environmental Health Specialist

2570 4th St SW, Ste. 1 | Mason City, IA 50401

email: dries@cghealth.com | **website:** www.cghealth.com

phone: 641-421-9338



PHAB Accredited Health Department

From: Robbins, John <jrobbins@cgcounty.org>

Sent: Friday, January 28, 2022 2:02 PM

To: Daniel Ries <dries@cghealth.com>; Mark Mathre <mmathre@cghealth.com>; J.D Sliger <jsliger@cghealth.com>

Subject: Lot 3 in the Replat of Lot 1, Lake Court Addition - Variance

Good afternoon,

Our office received a request for variance from requirement for a detached garage at the subject address from James Pieper. No water is proposed for the garage. I have attached an aerial photo of the property and the proposed site plan. I have a couple questions that I would request comment on:

1. What are your requirements for wells? Are wells required for dwellings? Is the drilling of a well possible for this property?
2. There is a Iowa DNR permitted public water supply nearby? How does this impact the property regarding a potential well?
3. Do you have any concerns?

The Board of Adjustment will hold the public hearing on **Tuesday, February 22, 2022** at 4 p.m. at the courthouse. If you could please make comment prior to that date, that would be greatly be appreciated. Please let me know if you have any questions or need further information

Thank you,

John Robbins

Planning and Zoning Administrator

Cerro Gordo County

jrobbins@cgcounty.org

Office: (641) 421-3075

LAKEVIEW DR

LAKEVIEW DR

23

BAYSIDE CT

