



## PLANNING AND ZONING Cerro Gordo County Courthouse

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### SPECIAL EXCEPTION STAFF REPORT

#### SUMMARY OF REQUEST

**Case No.:** 23-5

**Hearing Date:** March 28, 2023

**Staff Contact:** John Robbins, Planning and Zoning Administrator

**Applicant**

Larry P. & Mary L. Miller  
1343 Raven Avenue  
Hampton, IA 50441

**Owner**

Same

**Property Address:** not assigned

**Brief Legal Description:** Lots 7 & 8, Block 9, Crane & Hills, except Parcel B containing 154 sq ft

**Zoning:** R-3 Single Family Residential

#### Background

The applicant proposes to construct a 48'x38' house, including a 35'x38' main structure and 8'x38' open, second-story deck (See Figure 1). The property currently is unimproved with no structures constructed onsite. The applicant intends to make the house their permanent dwelling.

SPECIAL EXCEPTION REQUEST*		
Structure	Request(s)	Requirement(s)
House & deck	20' front yard setback 15.5' rear yard setback	30' front yard setback (11.6-A) 30' rear yard setback (11.6-C)

\*See Figures 2-5

#### FINDINGS OF FACT

1. Larry P. and Mary L Miller are the owners of the subject property.
2. The property is zoned R-3 Single Family Residential.
3. The proposed house and deck are 20' from the front lot and 15.5' from the rear lot line.
4. A 30' front yard setback and a 30' rear yard setback are required in the R-3 District.
5. The application was filed on February 24, 2023 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 lot is just over 78' deep. A literal enforcement of the 30' front yard setback requirement and 30' rear yard setback requirement would only allow for an 18'-deep house. The Zoning Ordinance requires the minimum dimension for a dwelling to be at least 22'-wide. No house could be constructed on the property without a special exception or variance otherwise, leaving a hardship on the property owner to have a reasonable residential use of the property.

The proposed house and deck are 20' from the front lot line and 15.5' from the rear lot line. A minimum 30' front yard setback and 30' rear yard setback are required in the R-3 District. This is no closer than 50 percent of the requirement. 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.***

A single family home is a principal permitted use in the R-3 District. The standard appears to be met.

***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 practical difficulty, if not hardship, is entirely related to the short depth of the lot and does not allow for the construction of a reasonable-sized house without an except as described above. 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.***

Every property owner of a residential lot has, at minimum, a right to be able to construct a dwelling in a similar manner and size as other property owners in the neighborhood. The proposed house is similar in size and positioning as houses on neighboring properties and should not impose a foreseeable undue burden to the surrounding vicinity. The standard appears to be met.

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

A smaller house is an option; however, an exception would still be needed to build a house, so there is not a feasible alternative otherwise. The standard appears to be met.

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

The proposed house is similar to other houses in the vicinity and consistent with the character of the neighborhood. The standard appears to be met.

#### **Discussion of Potential Impacts to Immediate Area**

It is typically desirable to maintain a consistent front building line within a street block (attached decks are considered as part of a dwelling). The proposed deck will be a few feet closer to the road than the houses on adjacent lots (See Figures 2 & 3). The property sits between a curve of Crane Street to the west and a parking lot further to the northeast, so a slight difference in the setback will largely be unnoticeable, if not help to form a better character to the building line in the short block. The proposed front yard setback is negligible as a result.

The lot is relatively flat so pooling of water may be an issue far away from the road and could be a potential concern with more impermeable surfaces being constructed onsite. Directing runoff from the house toward would be a reasonable condition of approval to mitigate any potential drainage issues resulting from construction of a new house.

The provided site plan indicates a proposed well near the northeast corner of the lot. Legal access should not be a concern for any potential needed maintenance. However, CG Public Health has indicated the well is within 1,000' of two leaking underground storage tanks (LUST), so a new well must be reviewed by the Iowa DNR, so the applicant should be made aware of this (e-mailed during review process, CG Public Health comment included in packet). Mr. Miller indicated in e-mail correspondence that he is exploring options, such as a well-share agreement with a neighbor. The well matter should not be a significant impact to neighbors, but it will be the applicant's responsibility to ensure they meet all requirements of CG Public Health and the Iowa DNR.

### **Staff Conclusions and Recommendation**

All standards of review appear to be met. The Board would be justified to limit the front yard setback further, but the difference would largely be negligible regarding the front building line. The Board would be hard-pressed to deny the request outright, as an exception is necessary to build a house on the lot at all. Staff recommends approval as requested.

### **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 Larry P. & Mary L. Miller, 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.
  3. Water-runoff from the resulting construction shall be directed toward Crane Street.

#### 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 Larry P. & Mary L. Miller for the following reasons:  
[STATE REASONS FOR DENIAL]

### **EXHIBITS**

- Exhibit 1: Figures
- Exhibit 2: Special Exception Application
- Exhibit 3: Site plan and elevation drawings
- Exhibit 4: Aerial photo of site
- Exhibit 5: CG Public Health Comments

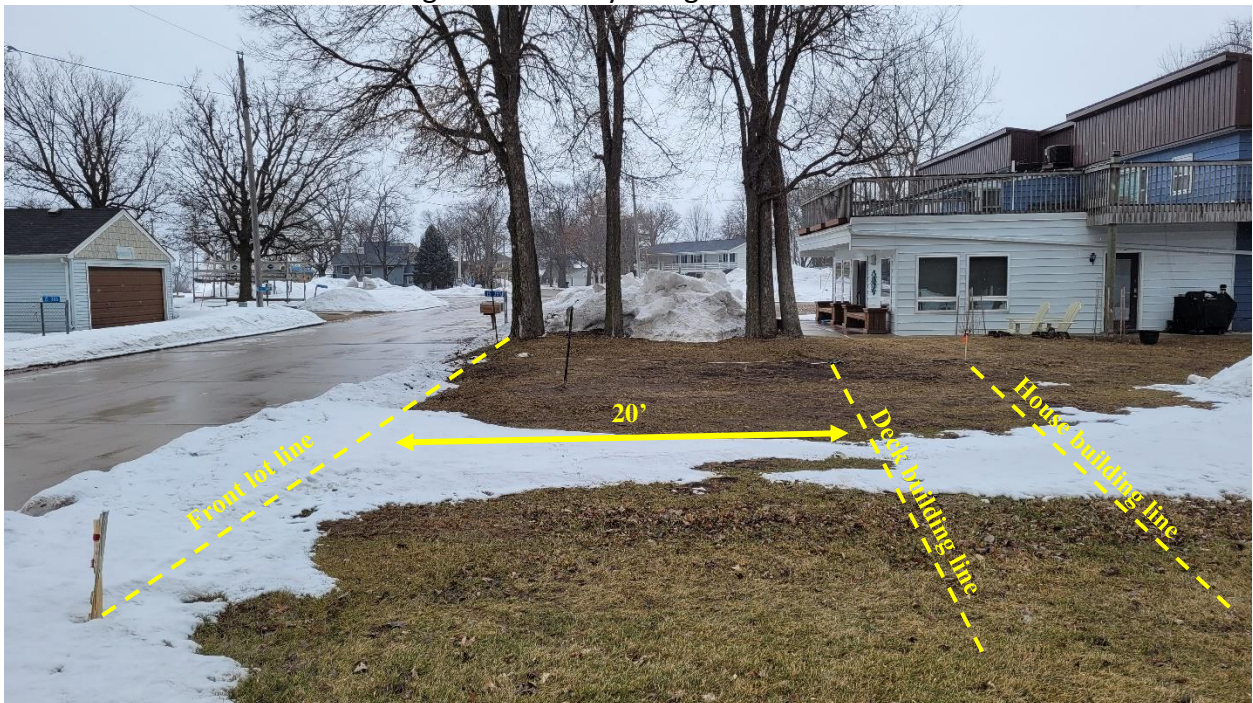
**Figure 1**



March 8, 2023, J. Robbins

**Figure 2**

Looking northeasterly along the front lot line



March 8, 2023, J. Robbins

**Figure 3**

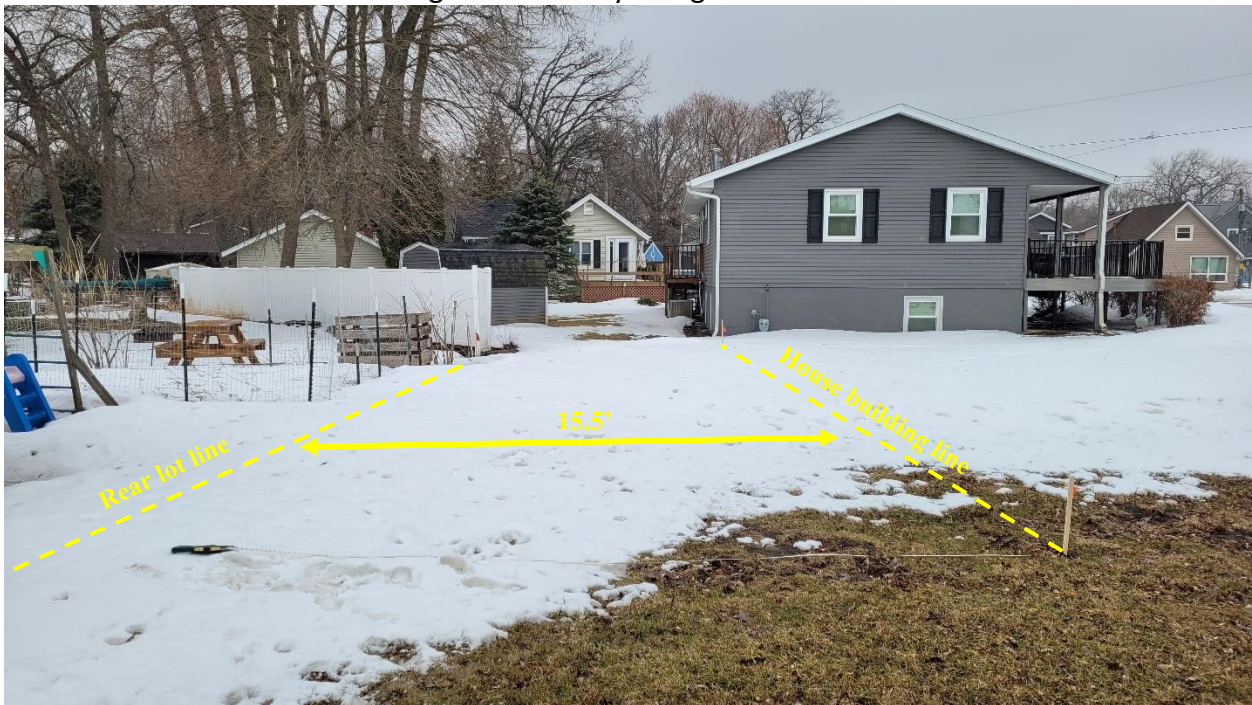
Looking southwesterly along the front lot line



March 8, 2023, J. Robbins

**Figure 4**

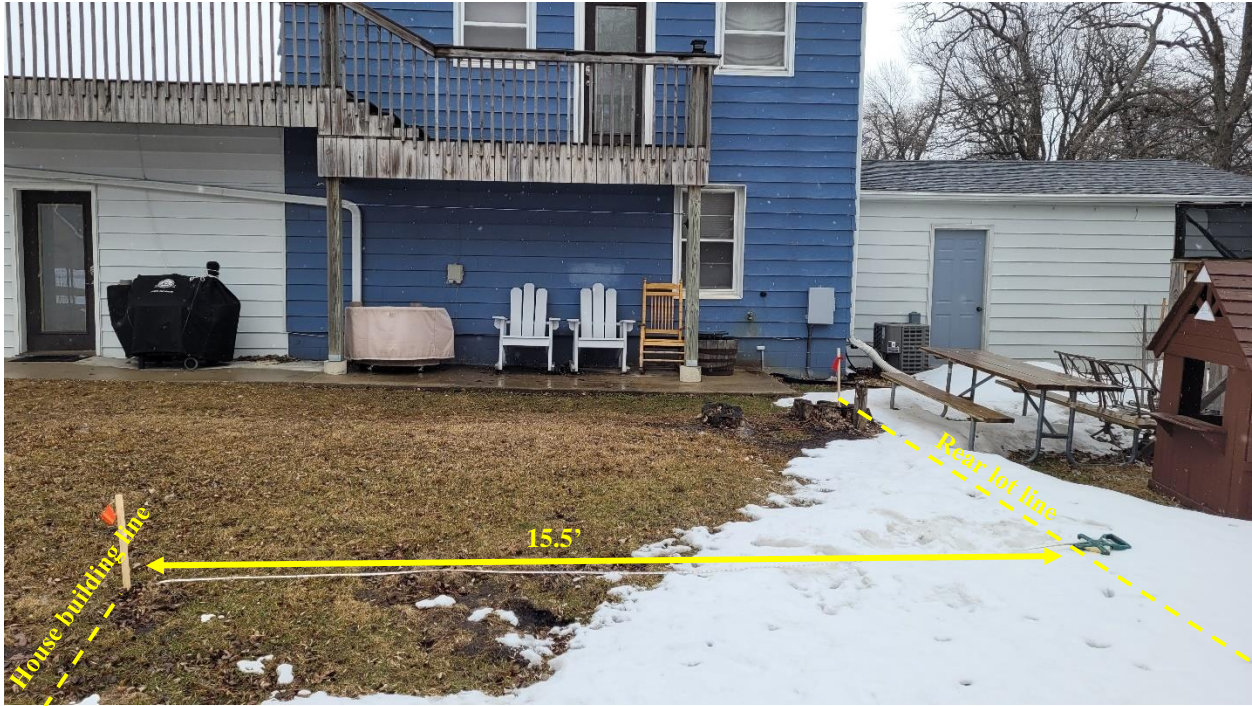
Looking northeasterly along the rear lot line



March 8, 2023, J. Robbins

**Figure 5**

Looking southwesterly along the rear lot line



March 8, 2023, J. Robbins

**SPECIAL EXCEPTION APPEAL**

**APPLICATION**

Date Filed 2/24/23

Date Set for Hearing 3/28/23

Case Number: 23-5

Applicant Name: Larry and Mary Miller

Phone: 319-404-1637

E-Mail: millerponderosa@gmail.c

Mailing Address: 1343 Raven Ave., Hampton, Iowa 50441

Property Owner Name: same as above

Phone: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Property Owner Address: \_\_\_\_\_

Property Description (Not to be used on legal documents): Parcel # 052330302000

Township C LAKE

Property Address: NOT ASSIGNED, CRANE STREET

Zoning: R-3

Brief Legal Description:

**LOTS 7&8 IN BLOCK 9, CRANE AND HILLS 1ST ADDITION TO OAKWOOD PARK  
EXCEPT PARCEL B CONTAINING 154 SQUARE FEET**

**Project Description**

**Decision Date: 2/1/23**

**SINGLE FAMILY DWELLING, PERMANENT RESIDENCE, NEW BUILD**

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

**RELIEF FROM FRONT AND REAR YARD SETBECKS DUE TO LOT SIZE AND SHAPE**

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


**First and foremost we want to be good community members and neighbors. We want our home to fit in with the neighborhood and not compromise or inconvenience the people around us in any way. If we followed the setback requirements for our district we have room for a 18x50 home. It IS our intention to downsize. Just not quite that much!!**

Continue on next page

I am the  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; and that the information provided is true and correct and actual construction will proceed in accordance with the purposes herein stated and any conditions and/or requirements the Board of Adjustment may stipulate. The Planning & Zoning staff and Board of Adjustment members are also given permission to enter the above property in reviewing this Application.*

Applicant Signature 

Date 2/8/2023



## **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.

Our plan is to construct a two story dwelling 38' in length and 35' in depth, with an 8' deck on the front, off of the upper level..  
Each level will be 1330 sq/ft with the bulk of the ground level being garage, utility and storage. There will be no basement. original application shows a 20' front setback.(actual distance to the dwelling is 28' with an 8 foot deck) rear setback is at 15.5'.  
Front setback is in line with the homes on either side of us. Homes on either side are single story dwellings. With the deck on the second level, views of the neighbors up and down street and towards the lake will not be hindered.

Based on the size and shape (depth) of our lot, I ask for the exceptions requested.

Criteria considered:

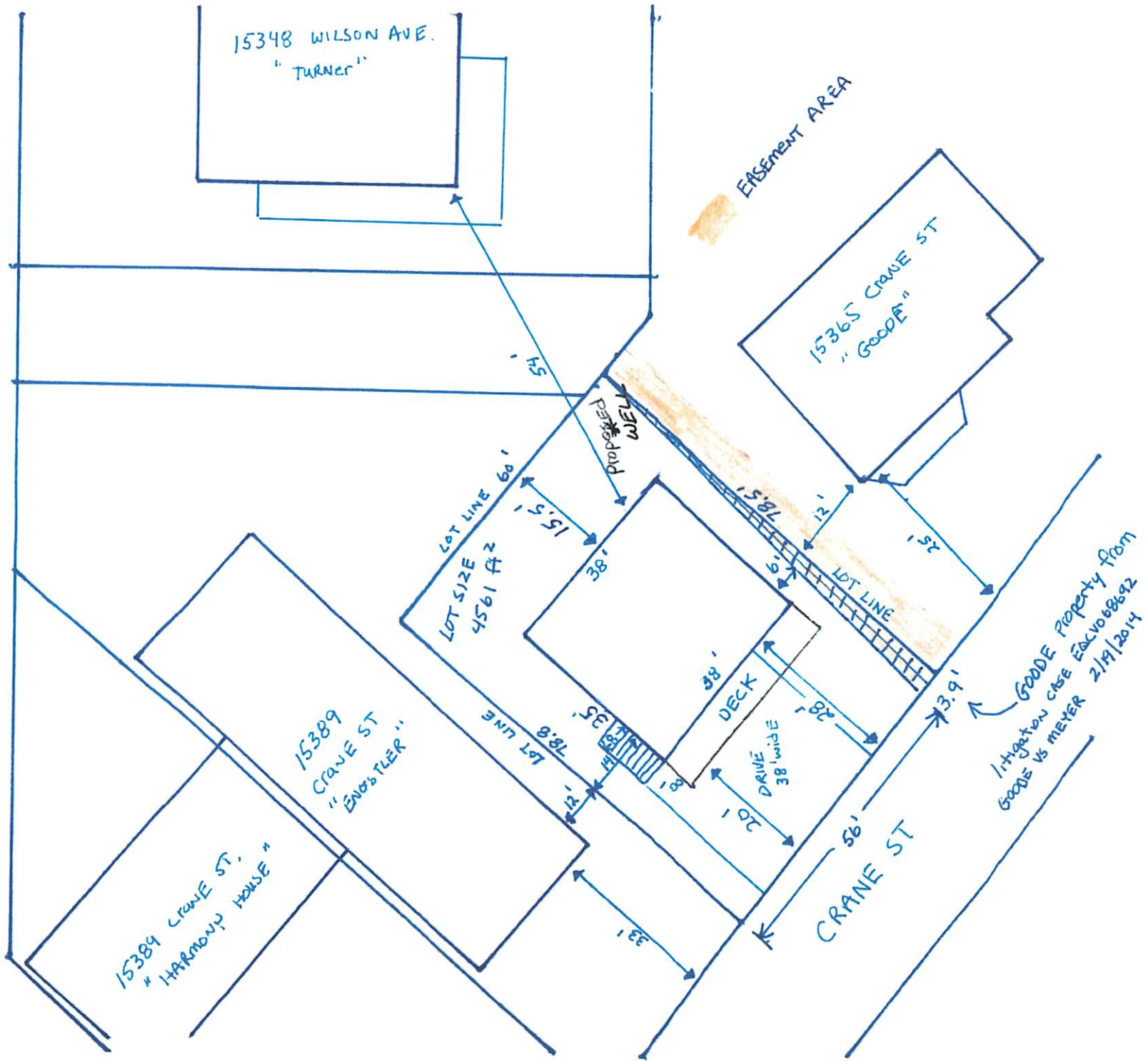
- We are within the 50% criteria or particular limitations
- We are within the permitted use for a single family dwelling.
- Lot size and shape do not allow for a very modest size home to be built
- Other property owners in the area will not be harmed
- Difficulties can not be overcome by adjusting planned home on the lot
- Proposed home does not interfere with the character of the surrounding neighborhood.

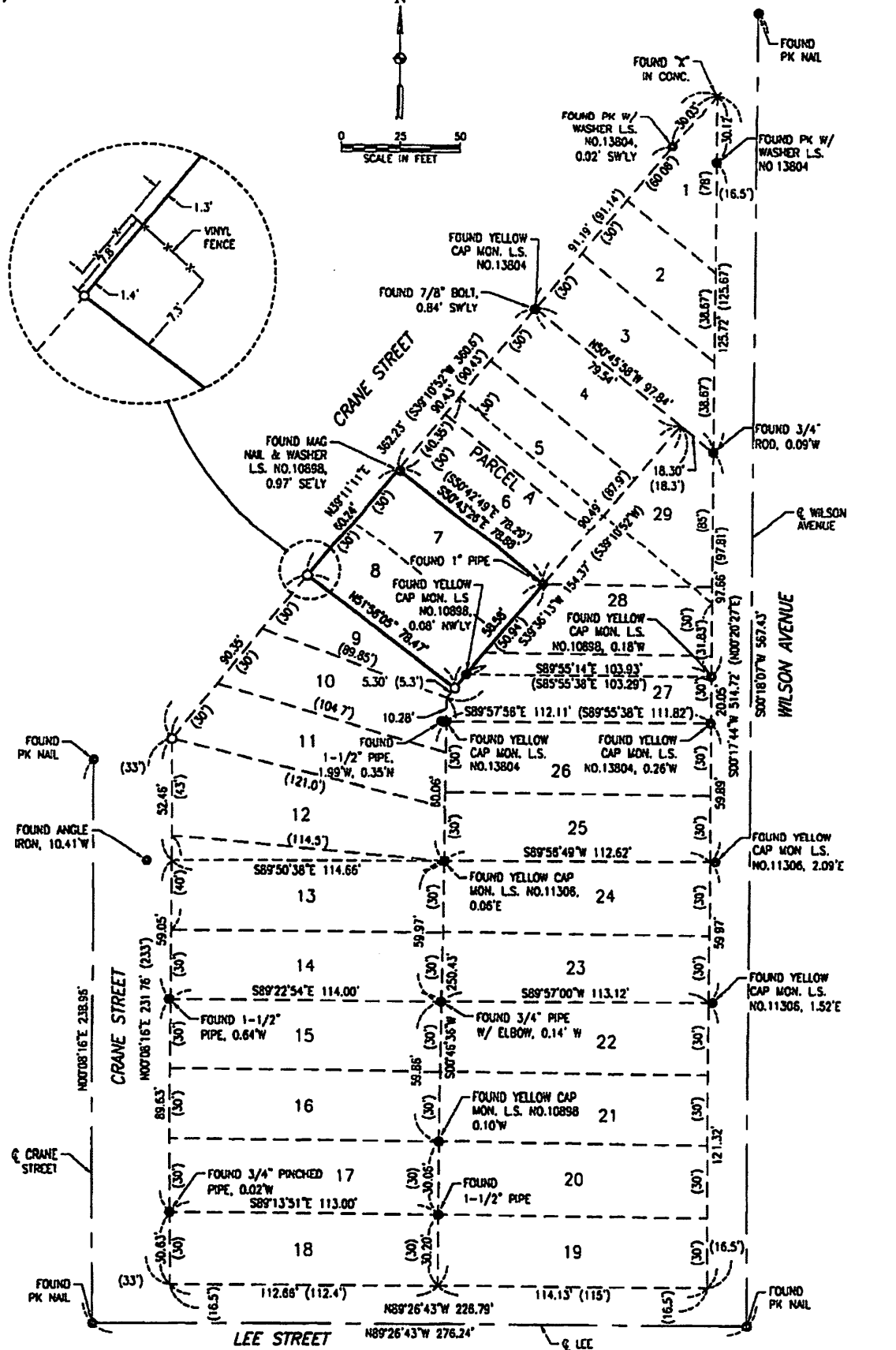
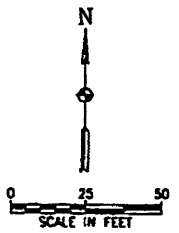
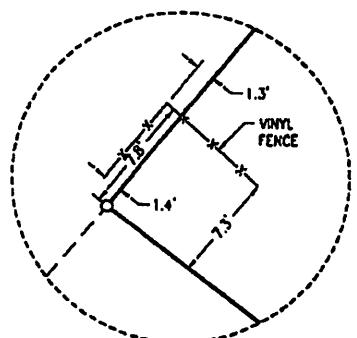
Well company is on extended winter vacation and will not be available to consult on absolute well location until he returns mid March 2023

Application from engineers office on proposed driveway will be completed when snow is gone to allow the taking of measurements.

Thank you for your consideration, Larry and Mary Miller

WILSON AVE.





**BRIAN J. DIEHL, P.L.S.**  
**LAND SURVEYING SERVICES**  
 10 SUMAC  
 MASON CITY, IA 50401  
 641-512-8004  
 brianjdiehlp@gmail.com

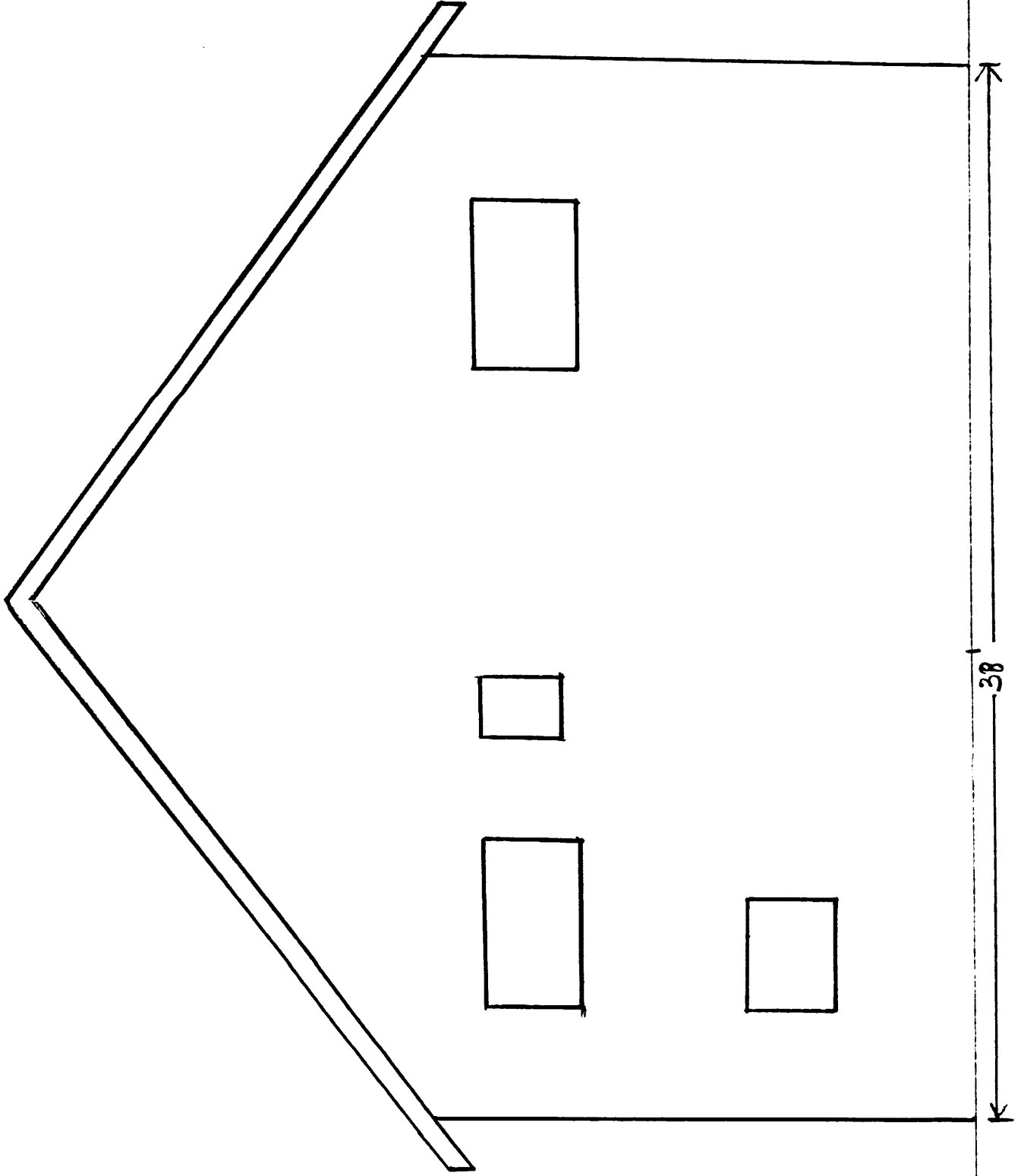
Entry No. 37

FRONT

STEEL HORIZONTAL SIDING  
STONE VENEER UNDER DECK

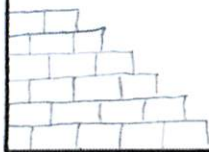
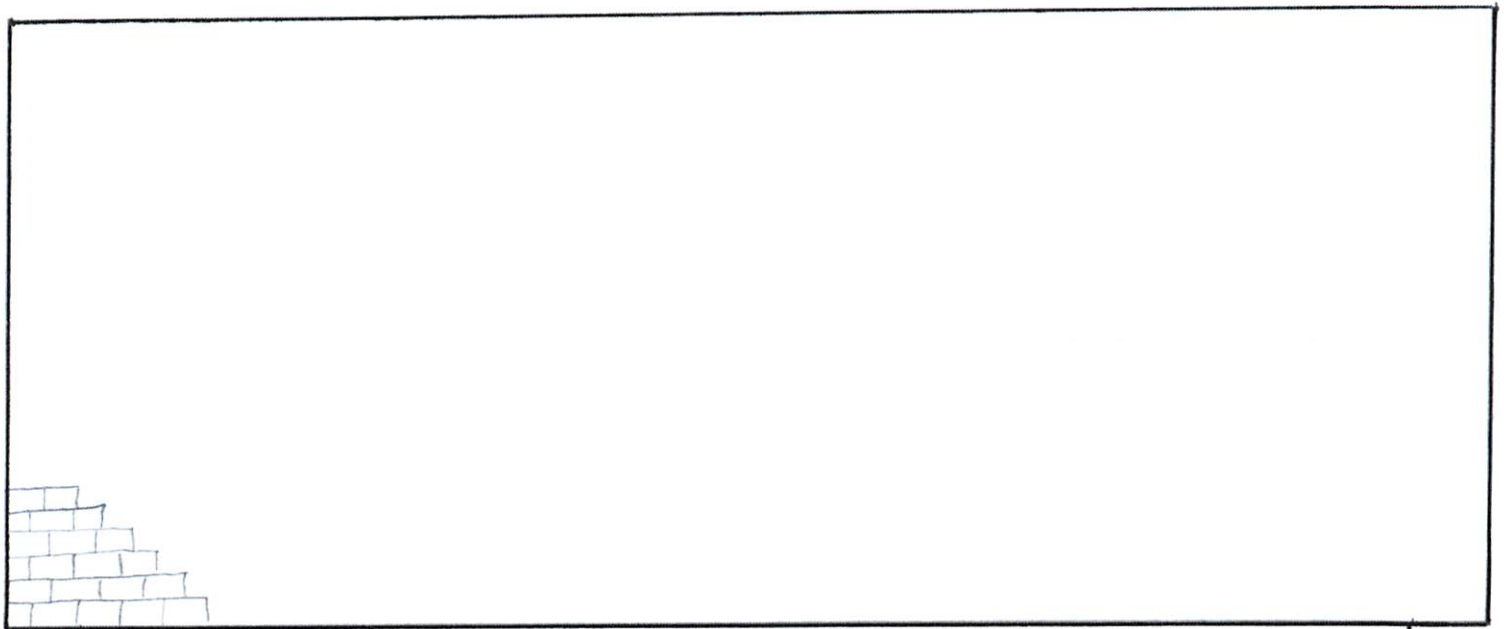


BACK

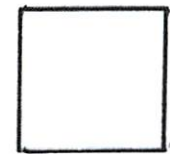
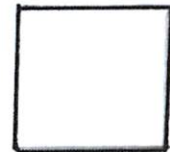
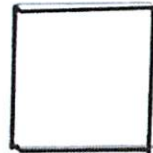
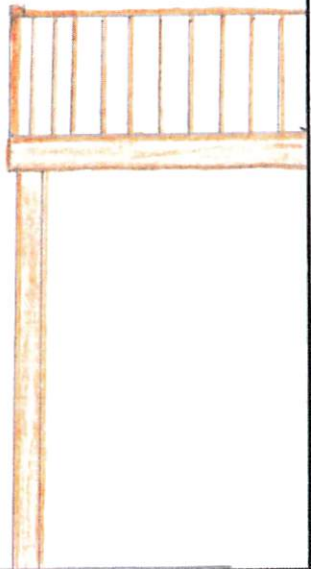


38'

RIGHT SIDE

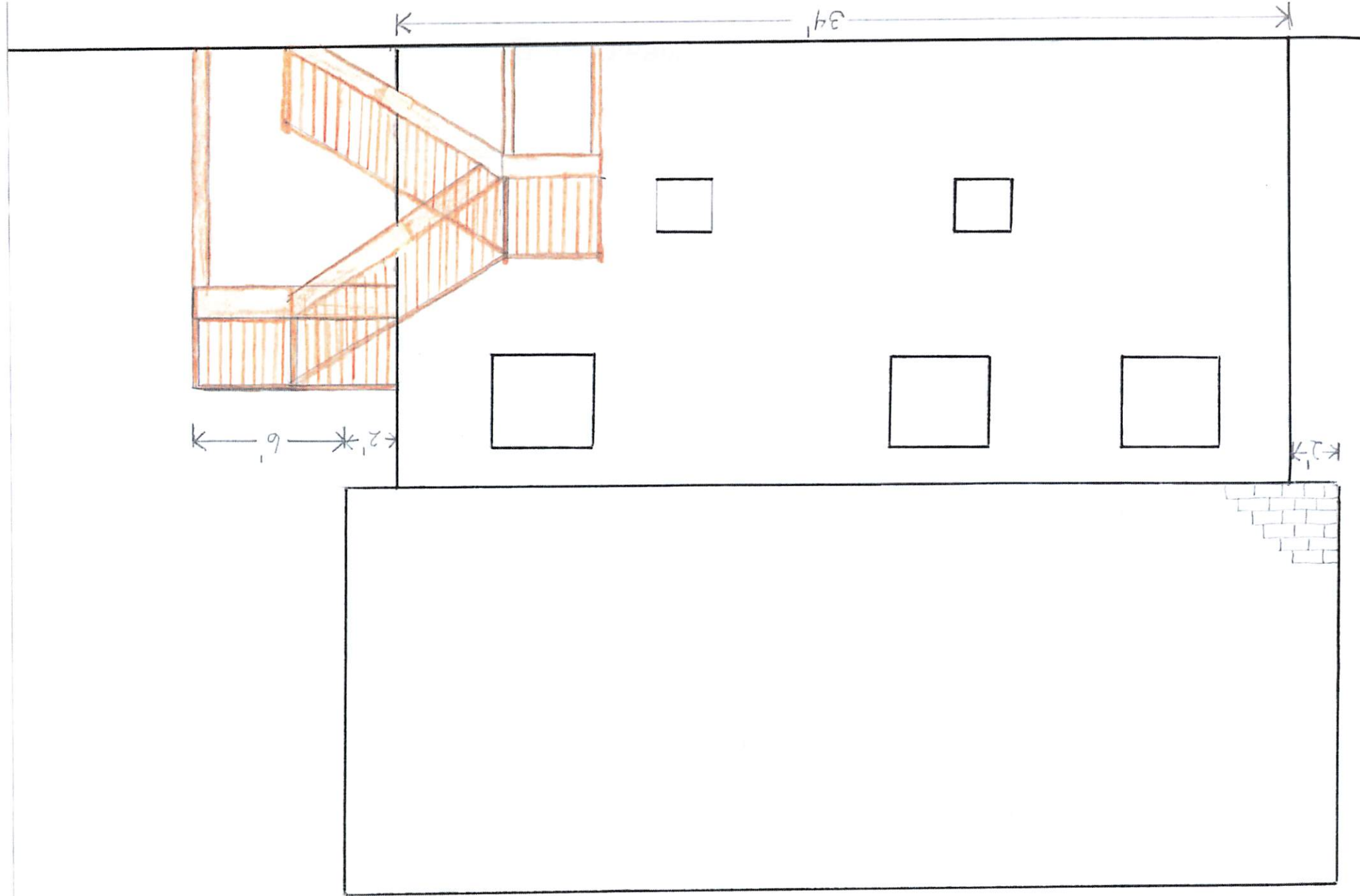


← 2' →



8'

34'



LEFT SIDE



LAMBERT DR

CRANE ST

22

CRANE ST

23





# PUBLIC HEALTH

healthier together

**DATE:** March 2, 2023

**TO:** John Robbins, Cerro Gordo County Planning and Zoning

**FROM:** Daniel Ries, Senior Environmental Health Specialist

**SUBJECT:** Special Exception Request for Setbacks for Larry and Mary Miller

This memorandum is to provide comments related to the Special Exception request for setbacks for Larry and Mary Miller on the unaddressed property on Crane Street between 15389 Crane St and 15365 Crane St. The applicant is planning on building a house on the property. The main concern from the perspective of the Cerro Gordo County Department of Public Health Environmental Health Division is the proposed well for the property.

### **Proposed Well Concerns**

The applicant plans on drilling a well on the property; there are two LUST (leaking underground storage tank) sites within 1,000 feet of the property. Therefore, it will need to go through Iowa DNR review prior to issuance of a well permit. Additionally, there may be a few private wells with status unknown (conforming vs non-conforming) in proximity. A new well has to be 100 feet from a non-conforming well; if this is not possible this Department is often able to grant a variance with conditions. The well will need to be drilled and cased into the Cedar Valley Aquifer and the entire casing needs to be grouted (which is actually part of our well ordinance).

Based on the applicants drawing, the proposed well location is on the back of the property. Future repairs may be challenging because sometime a truck with a hoist is needed and there will be limited space on the sides of the house to get behind the house. They might consider placing the well on the front side of the house. If that option is chosen, the well will need to be 15 feet from the road right-of-way and ten feet from the sewer line.

Cc: Jodi Willemsen, Cerro Gordo County Department of Public Health