



## PLANNING AND ZONING Cerro Gordo County Courthouse

220 N Washington Ave  
Mason City, IA 50401-3254  
[https://cerrogordo.gov/planning\\_and\\_zoning/](https://cerrogordo.gov/planning_and_zoning/)

(641) 421-3075

[plz@cgcounty.org](mailto:plz@cgcounty.org)

### SPECIAL EXCEPTION STAFF REPORT

#### SUMMARY OF REQUEST

**Case No.:** 24-08

**Hearing Date:** May 28, 2024

**Staff Contact:** Michelle Rush, Assistant Zoning Administrator

**Applicant:**

Meints Construction  
801 6<sup>th</sup> Ave S  
Clear Lake, IA 50428

**Owner:**

David & Mary Ann Amend  
15310 Pascal St  
Clear Lake, IA 50428

**Property Address:** 15310 Pascal St, Clear Lake, IA 50428

**Brief Legal Description:** Lot 10, Block 1, PM Park

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

#### Background

The applicant proposes to construct a new 10'x19' second story deck on the lakeside of the dwelling and a 4' walkway on the east side of the dwelling. The lot sits at the dead end of Pascal Street, which becomes a public access to the lake. Since the street is on the east side of the property, it is considered the front side for setback purposes. This scenario is atypical for a lake lot as the front side is typically opposite the lake side. Therefore, the west side of the property is considered the rear for setback purposes.

SPECIAL EXCEPTION REQUEST		
Structure	Request(s)	Requirement(s)
Second story deck and walkway	15' rear yard setback (west) 5' front yard (east)	30' rear yard setback 8.5' front yard setback, per the average of setbacks within 200' (6.11)

#### FINDINGS OF FACT

1. David & Mary Ann Amend are the owners of the subject property.
2. Meints Construction is applying for a special exception on behalf of the Amends
3. The property is zoned R-3 Single Family Residential District.
4. The proposed deck will be 15' from the rear (west) lot line; a 30' rear yard setback is required.
5. The proposed deck & walkway will be 5' from the front (east) lot line; an 8.5' front yard setback is required per the average setbacks within 200'.
6. The application was filed on April 4, 2024 with the Planning & Zoning Office.

## ANALYSIS

The Board of Adjustment is provided the power to grant special exceptions under Section 24.4(A)(2) of the Zoning Ordinance. The Board may grant special exceptions 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 second story deck is 15' from the rear (west) lot line, which is half of the required 30' rear yard setback requirement in the R-3 District. The proposed second story deck and 4' walkway are 5' from the front (east) lot line, which is further than 50 percent of the required 8.5' front yard average setback. 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.***

Porches, canopies, decks or similar architectural features as a part of a dwelling that are open and unenclosed is a principal permitted use. The walkway is used to access the front door of the dwelling and is incidental and necessary to the use of the dwelling. 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 is due to the atypical lot orientation discussed under the **Background** information provided above. Similar decks are a regular feature on lake lots along the south shore. The walkway is needed to enter the dwelling. 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.***

Narrow lots and limited development space is a regular occurrence for lake lots in the South Shore neighborhoods. Once a house is constructed, there are limitations to how and where features such as decks can be built to comply with the requirements of the ordinance. As with most lake lots, usually a special exception from the setback

requirements is necessary to get full enjoyment of the lake zoning requirements. It appears substantial justice would be done to allow a deck that is similar to other decks in the neighborhood. The standard appears to be met.

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

There is no alternate feasible location for the proposed deck and walkway on the property. As a result, there are no other practical options. The standard appears to be met.

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

Similar decks are a regular feature in the neighborhood. The standard appears to be met.

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

The proposed deck is unlikely to impact neighbors' views. The proposed deck will sit behind the rear footprint of the neighbors dwelling to the west which sits closer to the lake than the Amend property. With the public access between the Amend property and the neighbor to the east, their view of the lake should not be impacted. The dwelling to the south is able to view the lake along the public access.

### **Staff Conclusions and Recommendation**

Staff recommends approval of the request. All standards of review appear to have been met, and there are no foreseeable negative impacts as a direct result of the proposed deck and walkway.

## **BOARD DECISION**

The Board of Adjustment may consider the following alternatives:

### **Alternatives**

1. Grant the requested special exception subject to any conditions 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 Meints Construction for David & Mary Ann Amend, 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 special exception as requested by Meints Construction for David & Mary Ann Amend for the following reasons:  
[STATE REASONS FOR DENIAL]

**EXHIBITS**

- Exhibit 1: Figures 1-6
- Exhibit 2: Special Exception Application
- Exhibit 3: Site plan
- Exhibit 4: Aerial photo of site
- Exhibit 5: Plat of Survey

Figure 1 – looking at location of proposed 2<sup>nd</sup> story deck on lakeside of house





Figure 2 – location of proposed 4' walkway along the front (east)side of the dwelling



Figure 3 – looking along deck footprint in relation to neighbors house to the west





Figure 4 – looking south showing location of walkway on front of house



Figure 5 – looking south along the rear (west) lot line



Figure 6 – looking north at 4' walkway to be extended toward the lake





SPECIAL EXCEPTION APPEAL

APPLICATION

Date Filed 4-4-24 Date Set for Hearing 5-28-24 Case Number: 24-08

Applicant Name: Meints Const. Builders Phone: 641-357-4987 <sup>ron@meints</sup> E-Mail: construction@meints.com

Mailing Address: 801 6th Ave. S. Clear Lake Ia 50428

Property Owner Name: Dave Amend Phone: 319-290-8772 E-Mail: djamen56@gmail.com

Property Owner Address: 15310 Pascal St Clear Lake Ia 50428

Property Description (Not to be used on legal documents): Parcel # 05224260020 Township CLAKE

Property Address: 15310 Pascal St. Clear Lake Ia 50428 Zoning: R-3

Brief Legal Description: L 10 BLK 1 PM PARK

Project Description

Decision Date: \_\_\_\_\_

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

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

I am the  Owner  Contract Purchaser  Other (Explain) Contractor doing work,  
representing owner 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 Kim Houdenberg

Date 4-4-24



The property at 15310 pascal Street is unique in a couple different ways.

Lot width is 40' with a 22" by 40' structure.

It originally had the main entrance located on the side of the house opposite the street.

Prior to any work being done, the original structure had the main entrance of the "west" side of the house. As I met with and applied for the original permit, it was determined by P & Z official that the main entrance should be on the street side of the structure. That being the "east" side Pascal St.

So, with that orientation, the front or "east" side has a setback of 5' to the deck walkway. Which is the same dimension that it is at the entrance platform. (Access into the house)

The rear or back yard setback would be 15' from back property line to the "back" of the deck.

This does create an awkward detail in that the deck and railing would stop and return into the middle of a window on the "north" end of the house. Ideally the deck and railing would need to move 3' closer to the back property line.

The side setbacks are 21' and 43'. Those being the "ends of the house on the "south and north".

Under this revised application the setback from the back would be 15' or 50% of the normal required amount.

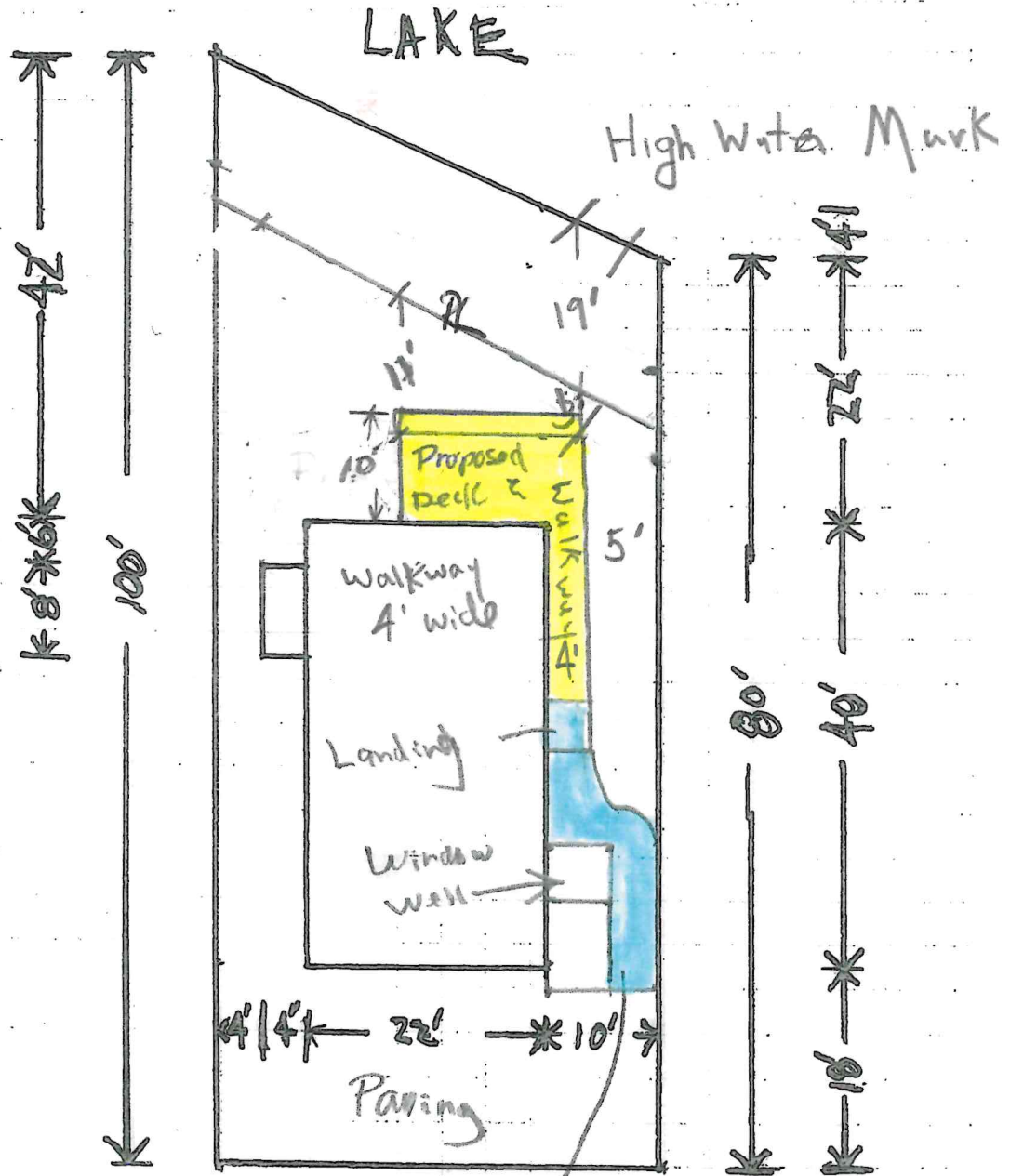
If you need any additional information, please contact me.

Thank you,

Ron Loudenburg

641-420-4747

Meints Construction Builders



Walkway Prev. Approved

JOB NAME: DAVID & MARY ANN AMEND JOB #: \_\_\_\_\_

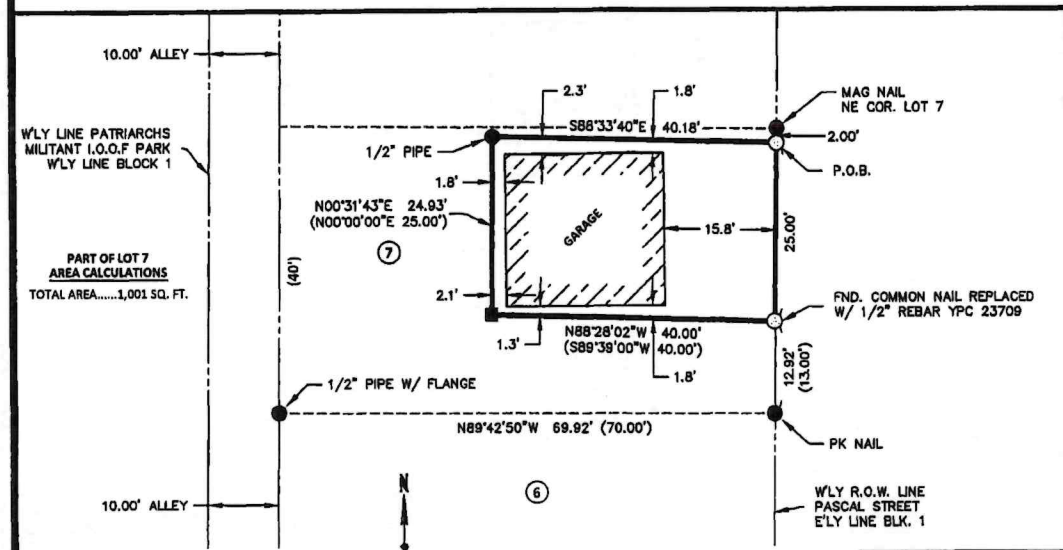
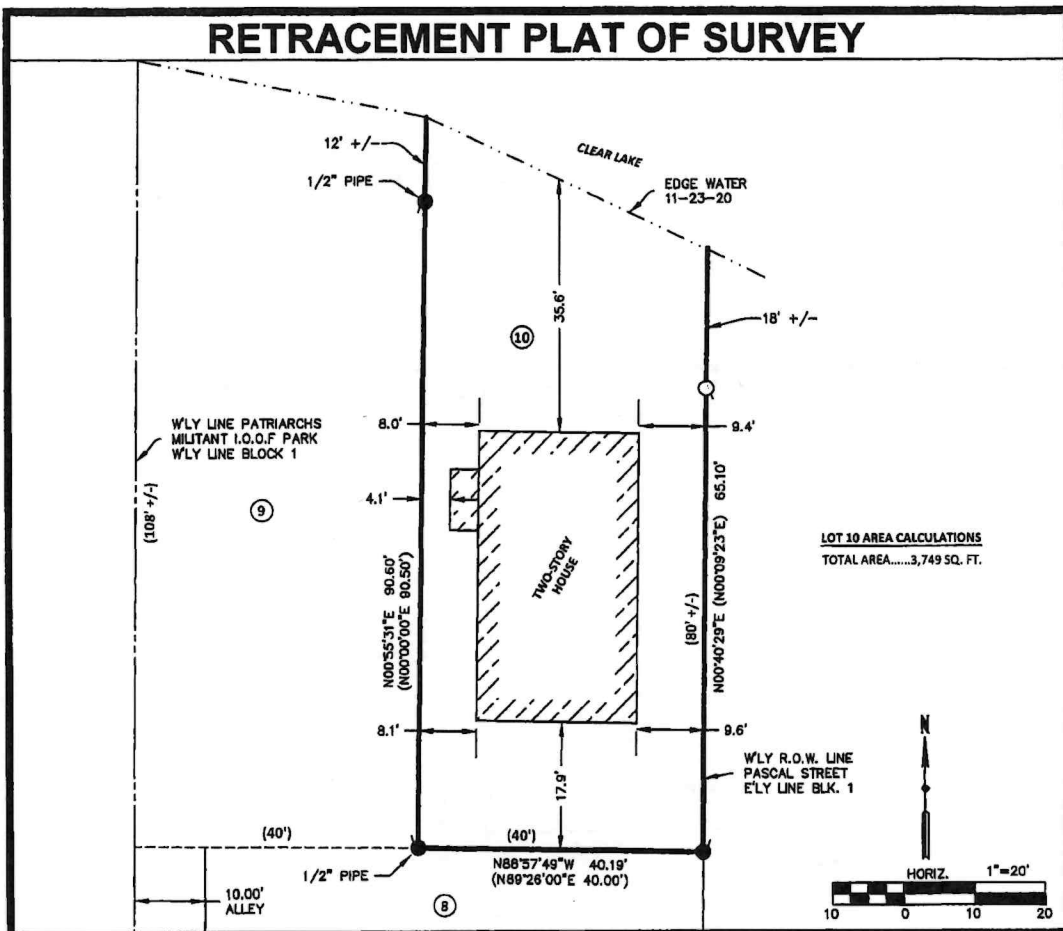
LOCATION: 15310 PASCAL ST. CL. SHEET: \_\_\_\_\_ OF: \_\_\_\_\_

SALESMAN: \_\_\_\_\_ BY: \_\_\_\_\_ DATE: \_\_\_\_\_





# RETRACEMENT PLAT OF SURVEY



DATE SURVEYED	11-23-20
SCALE:	AS SHOWN
PROJECT NO.:	20380
DRAWN BY:	BVS
CHECKED BY:	BVS
SHEET	2 of 2

## LEGEND

- △ SET SECTION CORNER AS NOTED (P.O.C.) POINT OF COMMENCEMENT
  - SET 1/2" REBAR 24" LONG YPC 23709 (P.O.B.) POINT OF BEGINNING
  - FOUND TBAR W/ CHROME CAP 13644 MONUMENT UNLESS NOTED
  - ▲ FOUND SECTION CORNER AS NOTED
  - FOUND 5/8" REBAR W/ YPC 8656 (0.00') RECORD MEASUREMENT
- (65) LOT NUMBER

**STARK  
SURVEYING  
INC.**