



PLANNING AND ZONING Cerro Gordo County Courthouse

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Staff Report Board of Adjustment Variance Request July 28, 2026

Case No.: 26-03

Hearing Date: July 28, 2026

Request: A variance request to construct a detached garage related to the side yard setback.

Applicants

Tim & Melody Harty
19167 Yarrow Ave
Nora Springs, IA 50458

Owners

Same

Property Address: 19167 Yarrow Ave, Nora Springs, IA 50458

Brief Legal Description: SE¼ of the SE¼ of Section 35, Falls Township

Zoning: R-2 Single Family Residential District

Background

Tim and Melody Harty propose to remove the existing 24-foot-by-24-foot detached garage and construct a new 32-foot-by-36-foot detached garage on the property.

The existing house and detached garage were located on the property when the applicants purchased it. The property slopes significantly downward behind the proposed garage location, which prevents the garage from being moved farther toward the rear of the property.

The applicants have also identified an existing drainage problem affecting the garage. Groundwater and surface water flow downward toward the existing garage, resulting in water entering or affecting the structure. Removal of the existing garage will allow the applicants to regrade the area and address the drainage conditions before constructing the replacement garage.

At its closest point, the proposed garage would be located eight feet from the westerly side lot line. Article 10.6B of the Zoning Ordinance requires a minimum 15-foot side yard setback in the R-2 Single-Family Residential District. The applicants are requesting a seven-foot reduction from the required side yard setback.

VARIANCE REQUEST

Structure	Request(s)	Requirement(s)
32'x36' detached garage	8-foot side yard setback	15-foot side yard setback – Article 10.6B

Findings of Fact

1. Tim and Melody Harty are the owners of the subject property.
2. The property is zoned R-2 Single-Family Residential District.
3. The house and existing detached garage were located on the property when the applicants purchased it.
4. The applicants propose to remove the 24-foot-by-24-foot existing detached garage and construct a new 32-foot-by-36-foot detached garage.
5. At its closest point, the proposed garage would be located eight feet from the westerly side lot line.
6. Article 10.6B requires a minimum 15-foot side yard setback in the R-2 District.
7. The requested variance would reduce the required side yard setback by seven feet.
8. The application was filed on June 1, 2026.

ANALYSIS

The requested relief concerns a setback, which is an area or dimensional limitation governed by Iowa Code section 335.15(4). Under that provision, the Board may grant a dimensional variance when literal enforcement would result in practical difficulties in making a beneficial use of the property, the difficulty is unique to the property and not self-created, the public interest is protected, the spirit of the ordinance is observed, substantial justice is done, and the essential character of the neighborhood will not be significantly altered.

The applicants bear the burden of presenting evidence supporting each criterion. The Board should evaluate whether the eight-foot setback and the proposed garage dimensions constitute reasonable and limited relief in light of the physical conditions affecting the property.

The Board of Adjustment is provided with the power to grant a variance under Section 24.4(A)(3) of the Zoning Ordinance. In its review, the Board may attach certain conditions to any variance granted in order.

Discussion of Standards of Review per Iowa Code Section 335.15(4)

1. Not granting the variance would be contrary to the public interest

Detached garages are customary accessory structures in residential districts. The proposed use would remain residential and would not introduce a new or incompatible use onto the property.

The side yard setback protects building separation, access, drainage, fire safety, and compatibility between neighboring properties. The proposed garage would be seven feet closer to the westerly property line than ordinarily allowed. However, the requested variance may also allow the applicants to correct an existing drainage condition by removing the existing garage, regrading the site, and directing water away from the replacement structure.

Approval should be conditioned upon completion of the drainage improvements in a manner that does not increase or redirect stormwater onto adjacent property.

Staff Assessment: Provided that the garage complies with applicable building and fire-separation requirements and the regrading does not adversely affect neighboring property, the requested variance would not appear contrary to the public interest.

2. Not granting the variance would cause “practical difficulties” for the property owner trying to make a beneficial use of the property allowed by the Zoning Ordinance.

The special conditions affecting the property include the existing placement of the dwelling and garage, the limited area available for a replacement garage, the significant downward slope behind the proposed garage location, and the existing drainage pattern directing water toward the garage.

The downward slope prevents the garage from being moved farther toward the rear without potentially requiring substantial grading, retaining walls, structural work, or other site alterations. The need to remove the existing garage and regrade the site is related to an existing drainage problem rather than merely to the applicants’ preference for a different garage location.

A detached garage is a customary and beneficial accessory use associated with a single-family residence. Literal enforcement of the 15-foot setback may prevent the applicants from constructing a reasonably sized replacement garage in the area physically available between the existing dwelling and the downward slope.

The Board should nevertheless determine whether the proposed 32-foot-by-36-foot dimensions are reasonably necessary or whether a smaller or differently configured garage could comply with the setback or reduce the requested relief.

Staff Assessment: The existing building placement, downward slope, and drainage conditions constitute special physical conditions that may create practical difficulties in constructing a replacement garage. This criterion can be satisfied if the Board finds that a compliant or less encroaching alternative is not reasonably feasible.

3. The spirit of the Ordinance is observed, and substantial justice is done by granting the variance.

The purpose of the side yard setback is to maintain reasonable separation between structures and property lines and to protect neighboring properties from adverse impacts.

The applicants are not seeking to establish a prohibited use. They are seeking to replace an existing detached garage while correcting drainage conditions affecting the structure. The physical constraints of the lot make strict compliance more difficult than it would be on a level and unobstructed residential property.

Substantial justice requires balancing the purpose of the setback against the effect that strict compliance would have on the applicants' ability to replace the garage and address the drainage problem. Approval of only the minimum setback relief reasonably necessary, together with appropriate drainage and construction conditions, would preserve the purpose of the ordinance while allowing reasonable use of the property.

Staff assessment: If the eight-foot setback is the minimum reasonable relief available, the spirit of the ordinance would be observed and substantial justice done. This criterion can be satisfied.

4. The difficulties are unique to the property and not self-created (e.g., lot shape, topography, prior lawful platting).

The significant downward slope, existing drainage pattern, and placement of the house and garage are physical conditions specifically affecting this property. These conditions are not general circumstances shared by all properties in the R-2 District.

The house and existing garage were already located on the property when the applicants purchased it. The applicants did not create the original placement of the structures or the natural slope of the property. The existing groundwater and surface-water drainage conditions also do not appear to have resulted from the applicants' actions.

Although purchasing property with knowledge of existing conditions may be considered by the Board, the physical conditions themselves are not necessarily self-created merely because they existed at the time of purchase. The more significant question is whether the requested encroachment results from those conditions or from the applicants' selection of an unnecessarily large garage.

Staff assessment: The slope, drainage pattern, and preexisting placement of the structures are unique, non-self-created conditions. This criterion can be satisfied if the Board finds that the proposed size and placement reasonably respond to those conditions and are not merely matters of personal preference.

5. The variance will not significantly alter the essential character of the surrounding neighborhood.

The property currently contains a detached garage, and the proposed structure would continue the established residential accessory use. Replacing an existing garage with a

larger garage would not, by itself, significantly alter the neighborhood's essential residential character.

The Board should consider the proposed garage's height, distance from neighboring structures, and the size and location of other garages in the surrounding area.

The replacement garage would be more visible and larger than the existing garage, but the parcel is positioned back in a heavily wooded area, those differences do not necessarily constitute a significant alteration of neighborhood character. Conditions limiting the garage to customary residential accessory use and requiring compliance with the approved plans would further protect surrounding properties.

Staff assessment: Provided that the garage is residential in appearance and scale, complies with applicable height and lot-coverage limitations, and does not create adverse drainage or safety impacts, the variance would not significantly alter the essential character of the surrounding neighborhood.

Staff Conclusions and Recommendation

Unlike a request based solely on a desire to construct a larger garage, the proposed project involves physical conditions affecting the property and the need to replace an existing structure while correcting a drainage problem. The slope prevents the garage from being moved farther toward the rear, and the applicants did not create the original building placement or natural site conditions.

The principal remaining consideration is whether the proposed 32-foot-by-36-foot garage and eight-foot setback are reasonably necessary in light of those constraints. The Board should determine whether a smaller garage, narrower design, different orientation, or greater side yard setback would provide a reasonable alternative.

If the evidence establishes that the proposed placement represents the minimum reasonable variance necessary, the record could allow the Board to support approval under the five statutory criteria.

Recommended Conditions if Approved

1. The garage shall be constructed substantially in accordance with the site plan and building plans presented to the Board.
2. The garage shall be located no closer than eight feet from the westerly side lot line.
3. The property shall be regraded and maintained so that stormwater, groundwater, roof runoff, and snowmelt are not discharged or directed onto neighboring property.
4. Gutters and downspouts shall be installed and directed to an appropriate drainage area on the applicants' property.

5. The garage shall be used only for customary residential accessory purposes and shall not be used for a commercial or industrial business unless separately authorized under the Zoning Ordinance.
6. The variance shall apply only to the construction of the 32'x36' detached garage as shown in the application materials reviewed by the Board.
7. Stormwater, roof drainage, grading, and construction activity shall be managed on the property and shall not be directed onto adjoining properties in a manner that creates a nuisance or drainage impact.
8. Any material change in size, location, height, use, or setback encroachment shall require review by the Zoning Office and may require further Board approval.
9. All other applicable zoning, building, sanitation, floodplain, and permitting requirements shall be satisfied before construction.

BOARD DECISION

The Board of Adjustment may consider the following alternatives:

Alternatives

1. Grant the requested variance subject to any conditions as deemed necessary by the Board.
2. Grant relief less or different from the requested variance by modifying 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 the applicant, based on the Board's findings that all criteria in Iowa Code Section 335.15(4) have been met, subject to the following conditions:
 1. All construction shall comply with the site plan submitted on May 26, 2026.
 2. Any material change in the submitted plans including a change in project size, location, height, use, or setback encroachment shall require review by the Zoning Office and may require further Board approval.
 3. No construction shall begin until a Zoning Permit has been issued by the Planning and Zoning Office.
 4. All recommended conditions in the staff report shall be adopted as part of the approval.

Provided Alternate Action:

- I move to adopt the staff report as the Board's findings and to approve a variance with the following changes (**list changes**).
 1. 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 the applicant for the following reasons:
The request does not meet the criteria in Iowa Code Chapter 335.15 (STATE ANY OTHER REASONS FOR DENIAL)

EXHIBITS

- Exhibit 1: Figures 1-6 photos
- Exhibit 2: Variance Application filed June 1, 2026
- Exhibit 3: Site Plan
- Exhibit 4: Parcel Highlight

Figure 1
Location of proposed garage replacing existing shed and garage



Figure 2
NW corner of proposed garage along west side lot line



Figure 3
SW corner of proposed garage



Figure 4
West side property marker



Figure 5
Ground slope behind rear of garage



Figure 6
Slope behind garage and house



VARIANCE APPEAL

APPLICATION

Date Filed 6-1-26

Date Set for Hearing 7/28/24

Case Number: 24-03

Applicant Name: Tim + Melody HARTY Phone: 641-420-3521 E-Mail: Tigger@mysonnetel.com

Mailing Address: 19167 YARROW AVE., NORA SPRINGS, IOWA 50458

Property Owner Name: SAME Phone: _____ E-Mail: _____

Property Owner Address: SAME

Property Description (Not to be used on legal documents): Parcel # 043547700300 Township FALLS

Property Address: 19167 YARROW AVE. Zoning: R2

Brief Legal Description:

Project Description 32' x 36' Accessory building (GARAGE)

Decision Date: _____

Variance(s) Requested (As cited on results from denied Zoning Permit Application) I am asking for a variance to have garage be 8 ft. from west side lot line. A 15 ft. yard setback is current setback requirement.

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

I would like to replace current garage with a new one. The existing garage is in poor condition. The lot does not leave any options to move structure to new site. It would enhance property and be larger to store my boat, lawn tractor and vehicles. I get along good with affected neighbor and he said he has no problem with change. Property is wooded lot and will not cause any other issues. Thank you for your consideration.

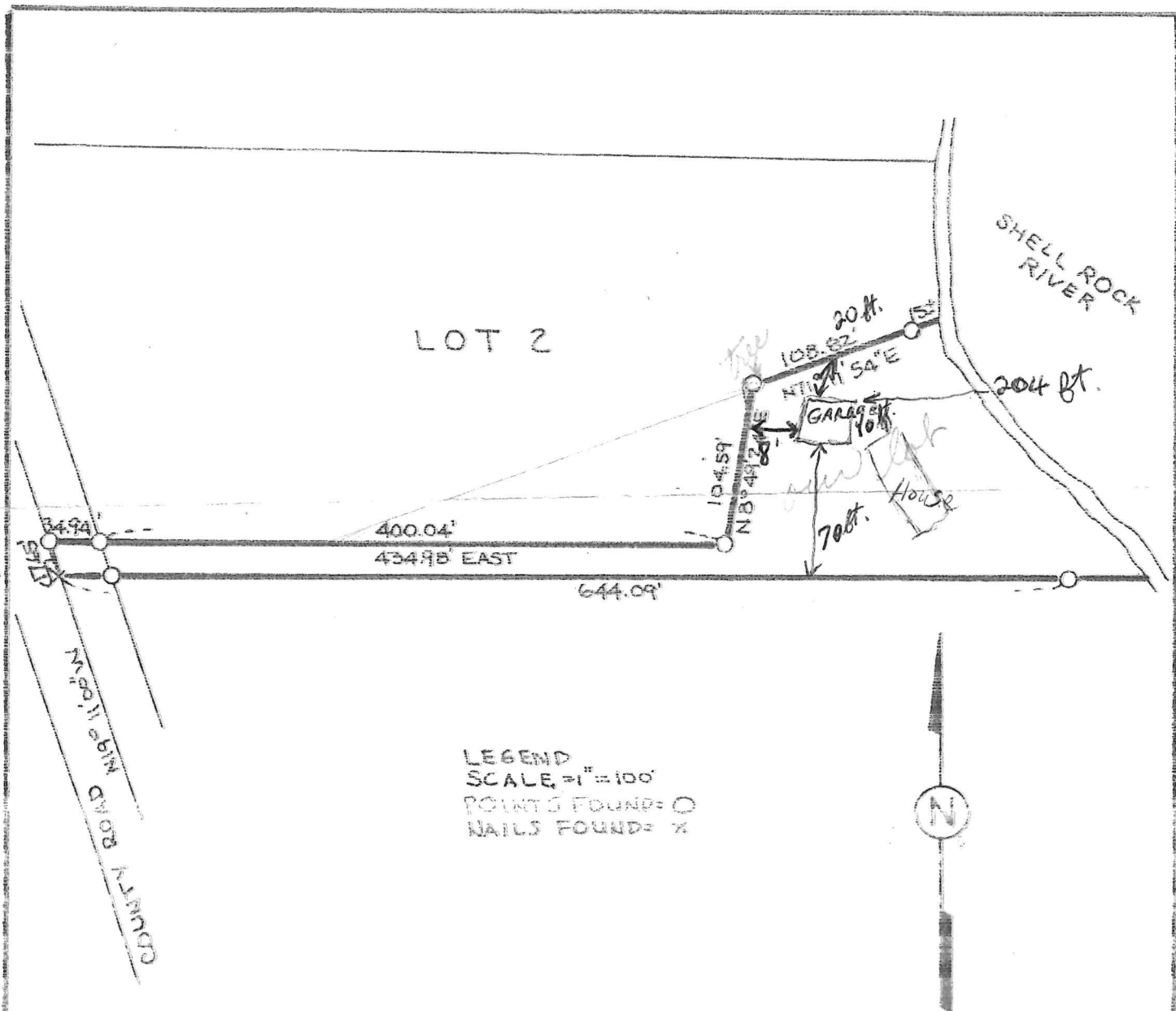
I am the ☒ Owner ☐ Contract Purchaser ☐ Other (Explain) _____

_____ 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; 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 Timothy E. Harty

Date 5-30-2026



SURVEY FOR
~~David E. Dunn~~
 TIM HARTY

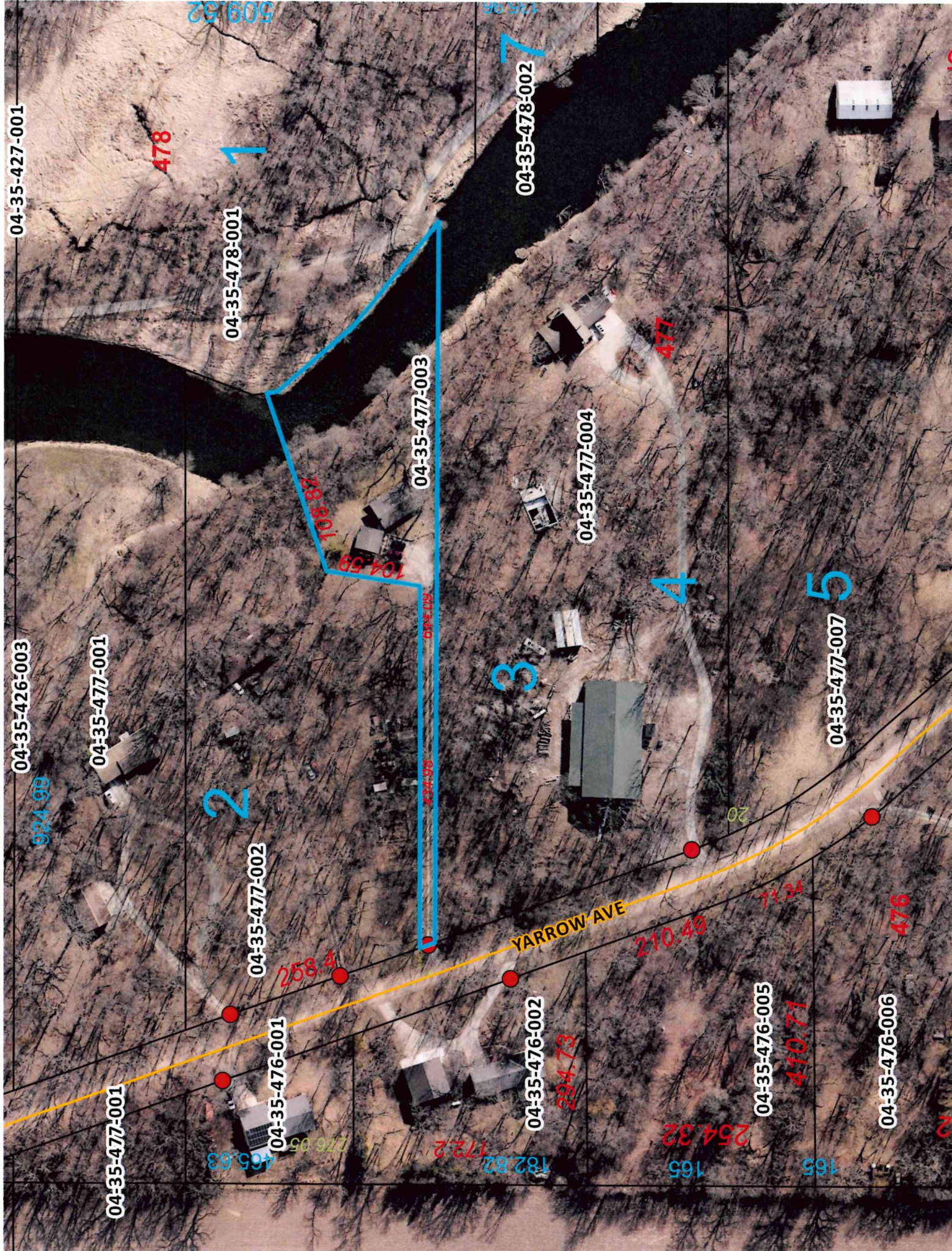
SURVEY DESCRIPTION:

That part of the South 2/6.05 feet of Lot 2 in the Subdivision of the SE 1/4 of the SE 1/4 of Section 35, T 97 N, R 19 W of the 5th P.M., Cerro Gordo County, Iowa, lying East of the centerline of the local road described as follows: Beginning at the intersection of the South line of said Lot 2 and the centerline of the local road; thence N 19°-11'-00" W along said centerline 17.65 feet; thence East parallel with the said South line of Lot 2 434.98 feet; thence N 8°-49'-24" E 104.59 feet; thence N 71°-11'-54" E to the East line of said Lot 2; thence in a Southeasterly direction to the Southeast Corner of said Lot 2; thence due West to the point of beginning.

NOTE: The Southwesterly line of this tract is subject to Cerro Gordo County, Iowa road right of way easements. The South line of Lot 2 is assumed to bear due West.

CERTIFICATION:

I hereby certify that this map, plat, report or survey was made by me or under my direct personal supervision and that I am a duly registered Land Surveyor under the laws of the State of Iowa.



04-35-427-001

04-35-426-003

924.99

04-35-477-001

04-35-477-001

2

04-35-478-001

1

04-35-477-002

04-35-476-001

465.63

258.4

108.82

276.05

04-35-477-003

DRIVE

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182.82

04-35-476-002

294.73

YARROW AVE

210.49

165

254.32

04-35-476-005

410.71

165

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