

---

**Hamburg Township  
Zoning Board of Appeals  
Hamburg Township Board Room  
Wednesday, September 12, 2018  
7:00 P.M.**

**AGENDA**

- 1. Call to order**
- 2. Pledge to the Flag**
- 3. Roll call of the Board**
- 4. Correspondence**
- 5. Approval of agenda**
- 6. Call to the public**
- 7. Variance requests**

**a) ZBA 2018-007**

Owner: Lynda Chaney  
Location: 6203 Hiawatha Ave.  
Whitmore Lake MI 48189  
Parcel ID: 15-23-306-001  
Request: Variance application to allow the construction of a new dwelling with a 1,309 square foot footprint, a 1,200 square foot walk out basement, and a 618 square foot attached garage. The proposed home will have a 13.2-foot west front yard setback from the right-of-way of M-36 (25-foot front yard setback required, Section 7.6.1), a 7.89-foot north rear yard setback (30-foot rear yard setback required, Section 7.6.1), and an 82 square foot elevated deck with a 4.32-foot north rear yard setback. (Elevated deck may project into required yard not to exceed 6 feet; 24-foot setback required, Section 8.17.2).

**b) ZBA 2018-008**

Owner: Richard Olson  
Location: 8772 Rushside Dr.  
Pinckney MI 48169  
Parcel ID: 15-17-402-028  
Request: Variance application to allow a 982 square foot second story addition to the existing non-conforming dwelling. The addition will have a 7.1-foot south side yard setback, resulting in an aggregate side yard setback of 12.4 feet (15-foot aggregate side yard setback required, Section 7.6.1 fn. 4).

c) **ZBA 2018-009**

Owner: Jason Muller  
Location: 2260 Mumford  
Pinckney, MI 48169  
Parcel ID: 15-31-102-001

Request: Variance application to allow construction of a 2,240-square foot pole barn, with a 4/12 pitch resulting in a height of 17.3 feet (detached accessory buildings located within residential districts which have a roof pitch less than 8/12 shall not exceed 14 feet in height, Section 8.3.8.), and a 10-foot west rear yard setback (30-foot rear yard setback required, Section 7.6.1.).

**8. New/Old business**

a) Approval of June 13, 2018 minutes

**9. Adjournment**



# Zoning Board of Appeals Staff Report

## AGENDA ITEM: 7a



**TO:** Zoning Board of Appeals  
(ZBA)

**FROM:** Amy Steffens, AICP  
Zoning Administrator

**HEARING  
DATE:** September 12, 2018

**SUBJECT:** ZBA 18-007

**PROJECT  
SITE:** 6203 Hiawatha Avenue  
(TID 15-23-306-001)

**APPLICANT/  
OWNER:** Lynda Chaney

**AGENT:** Bruce Donovan

**Request:** Variance application to allow the construction of a new dwelling with a 1,309 square foot footprint, a 1,200 square foot walk out basement, and a 618 square foot attached garage. The proposed home will have a 13.2-foot west front yard setback from the right-of-way of M-36 (25-foot front yard setback required, Section 7.6.1), a 7.89-foot north rear yard setback (30-foot rear yard setback required, Section 7.6.1), and an 82 square foot elevated deck with a 4.32-foot north rear yard setback. (Elevated deck may project into required yard not to exceed 6 feet; 24-foot setback required, Section 8.17.2).

### Site description and history

The subject site is a 11,761-square foot lot that is divided into two parts by the unimproved, platted Riverside Drive right-of-way. The southern portion of the lot, zoned WFR, fronts onto Hiawatha Avenue to the south, the M-36 right-of-way to the west, and Riverside Drive to the north. The northern portion of the site, zoned NR, fronts only Riverside Drive to the south, the M-36 right-of-way to the west and the Huron River to the north. The southern portion of the site, along Hiawatha Avenue, is improved with a 928-square foot dwelling with a walk-out basement;

the northern portion of the site is unimproved. Single-family dwellings are located to the east and south along Hiawatha Drive. Because this site is a corner lot, the dwelling must meet the 25-foot required front yard setback for both Hiawatha Avenue and the M-36 right-of-way and the 30-foot rear yard setback for Riverside Drive. The petitioner has begun proceedings to have Riverside Drive vacated, which is a process that goes through the Michigan circuit courts.

If approved, the variance request would allow for the demolition of the existing dwelling and reconstruction of a dwelling on the existing foundation with a footprint of 1,309 square feet, a 1,200-square foot walkout basement, and a 604-square foot attached garage.. The table below summarizes the existing and proposed setbacks of the dwelling.

|                         | Existing  | Proposed  | Required | Variance required |
|-------------------------|-----------|-----------|----------|-------------------|
| North rear yard (house) | 7.89 feet | 7.89 feet | 30 feet  | X                 |
| North rear yard (deck)  | N/A       | 4.32 feet | 24 feet  | X                 |
| South front yard        | 77.5 feet | 110 feet  | 25 feet  |                   |
| East side yard          | 10.1 feet | 10.1 feet | 5 feet   |                   |
| West front yard         | 18 feet   | 13.2 feet | 25 feet  | X                 |

**Standards of Review**

The Zoning Board of Appeal’s (ZBA) decision in this matter is to be based on the findings of facts to support the following standards. The applicable discretionary standards are listed below in bold typeface followed by staff’s analysis of the project as it relates to these standards. A variance may only be granted if the ZBA finds that all of the following requirements are met.

- 1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.**

This site is a triple-frontage lot, meaning it has right-of-way on three sides, which does constitute an exceptional or extraordinary circumstance applicable to the property that does not apply generally to other properties in the same district or zone. Development on a triple-frontage lot is constrained by the right-of-way which results in a small building envelope. The Riverside Drive right-of-way is not likely to ever be developed, even if the right-of-way is not vacated, nor is it likely that MDOT would approve an additional curb-cut along this portion of M-36. Additionally, given the configuration of the MDOT M-36 right-of-way along this portion of M-36 it is not likely that the right-of-way adjacent to the subject site would become operational right-of-way. There is a slight embankment along the M-36 right-of-way at this site and the proposed dwelling is not likely to be visible from M-36.

- 2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The**

**possibility of increased financial return shall not be deemed sufficient to warrant a variance.**

Right-of-way on three sides of this lot does constrain development possibilities. However, the dwelling could be shifted to the east, toward Hiawatha Avenue, to meet the 30-foot required rear yard setback.

- 3. That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.**

See analysis under standard number one.

- 4. That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.**

The subject site is within the Northeast Hamburg/Winans Lake Area of the Master Plan which calls for medium density single family residential. The proposed variance would not adversely affect the objectives of the Master Plan.

- 5. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.**

A lot with frontage on three roads is an unusual circumstance and not a general or recurrent situation that should be addressed by an ordinance amendment. In this instance, variance approval could be an appropriate remedy to the constrained development possibilities of the subject site.

- 6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district;**

The property is currently used for single-family residential and the use will not change if the proposed variance request is granted.

- 7. The requested variance is the minimum necessary to permit reasonable use of the land.**

Given the triple frontage of the lot, there is a practical difficulty in developing the site without variance approval. It is unlikely that either the Riverside Drive or the M-36 right-of-way will be developed and operational.

### **Recommendation**

Staff recommends the ZBA open the public hearing, take testimony, close the public hearing, evaluate the proposal for conformance with the applicable regulations, and approve or deny the

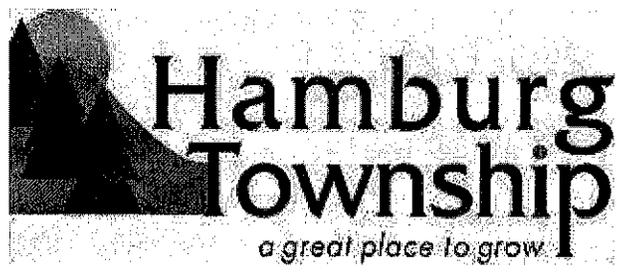
application. In the motion to approve or deny the project the ZBA should incorporate the ZBA's discussion and analysis of the project and the findings in the staff report. The Board then should direct staff to prepare a memorialization of the ZBA decision that reflects the board's action to accompany the hearing minutes and to be reviewed and approved at the next ZBA hearing.

**Approval Motion:**

Motion to approve variance application ZBA 18-007 at 6203 Hiawatha Avenue to allow the construction of a new dwelling with a 1,309 square foot footprint, a 1,200 square foot walk out basement, and a 618 square foot attached garage. The proposed home will have a 13.2-foot west front yard setback from the right-of-way of M-36 (25-foot front yard setback required, Section 7.6.1), a 7.89-foot north rear yard setback (30-foot rear yard setback required, Section 7.6.1), and an 82 square foot elevated deck with a 4.32-foot north rear yard setback. (Elevated deck may project into required yard not to exceed 6 feet; 24-foot setback required, Section 8.17.2).

The variance does meet variance standards one through seven of Section 6.5 of the Township Ordinance and a practical difficulty does exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight's hearing and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

Exhibit A: Application Materials



FAX 810-231-4295  
PHONE 810-231-1000

P.O. Box 157  
10405 Merrill Road  
Hamburg, Michigan 48139

**APPLICATION FOR A ZONING BOARD OF APPEALS (ZBA)  
VARIANCE/INTERPRETATION  
(FEE \$500 plus \$50 each additional)**

1. Date Filed: 8/10/18
2. Tax ID #: 15-23-306-001 subdivision: HIAWATHA BEACH Lot No.: 242, 243, 241, 240
3. Address of Subject Property: 6203 HIAWATHA AVE, WHITMORE LAKE, MI 48139
4. Property Owner: LYNOA CHANEY Phone: (H) [REDACTED]  
 Email Address: [REDACTED] (W) \_\_\_\_\_  
 Street: 8280 MERCER RD. City PINCKNEY State MI 48169
5. Appellant (If different than owner): \_\_\_\_\_ Phone: (H) \_\_\_\_\_  
 E-mail Address: \_\_\_\_\_ (W) \_\_\_\_\_  
 Street: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_
6. Year Property was Acquired: 2018 Zoning District: WFR Flood Plain No
7. Size of Lot: Front 56.96 Rear 62± Side 1 158 Side 2 158.08 Sq. Ft. 9006
11. Dimensions of Existing Structure (s) 1st Floor 32'-10" x 38'-3" 2nd Floor \_\_\_\_\_ Garage \_\_\_\_\_
12. Dimensions of Proposed Structure (s) 1st Floor 32'-10" x 38'-3" 2nd Floor \_\_\_\_\_ Garage 30' x 22'
13. Present Use of Property: RESIDENTIAL
14. Percentage of Existing Structure (s) to be demolished, if any 0 %
15. Has there been any past variances on this property? Yes \_\_\_\_\_ No X
16. If so, state case # and resolution of variance application \_\_\_\_\_
17. Please indicate the type of variance or zoning ordinance interpretation requested:  
REAR & SIDE YARD SET BACK

18. Please explain how the project meets each of the following standards:

- a) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.

CONSTRAINED BY RIGHT OF WAYS ON THREE SIDES

- b) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.

FRONT PORCHES & INCREASE BEDROOM SIZES (ONLY 2 BEDROOMS)  
INCREASE BEDROOM SIZES ARE WITHIN THE FOOT PRINT OF THE FOUNDATION

- c) That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.

NO IT DOESN'T

- d) That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.

NO, THE VARIANCES ARE MOSTLY WITHIN THE FOOT PRINT OF THE FOUNDATION.

- e) That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.

NO

- f) Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district;

NO

- g) The requested variance is the minimum necessary to permit reasonable use of the land.

YES, AGAIN MOST OF THE VARIANCE REQUEST ARE WITHIN THE FOOT PRINT OF THE FOUNDATION.

- I hereby certify that I am the owner of the subject property or have been authorized to act on behalf of the owner(s) and that all of the statements and attachments are true and correct to the best of my knowledge and belief.
- I acknowledge that approval of a variance only grants that which was presented to the ZBA.
- I acknowledge that I have reviewed the Hamburg Township Zoning Ordinance, The ZBA Application and the ZBA Checklist and have submitted all of the required information.
- I acknowledge that filing of this application grants access to the Township to conduct onsite investigation of the property in order to review this application.
- I understand that the house or property must be marked with the street address clearly visible from the roadway.
- I understand that there will be a public hearing on this item and that either the property owner or appellants shall be in attendance at that hearing.
- I understand that a Land Use Permit is required prior to construction if a variance is granted.
- I understand that any order of the ZBA permitting the erection alteration of a building will be void after six (6) months, unless a valid building permit is obtained and the project is started and proceeds to completion (See Sec. 6.8 of the Township Zoning Ordinance).

Sydney Cheney 8-10-18  
Owner's Signature Date

[Signature] 8/10/18  
Appellant's Signature Date

**VARIANCE:** A modification of the literal provisions of the zoning ordinance granted when strict enforcement would cause undue hardship due to circumstances unique to the individual property for which the variance is granted

**VARIANCE STANDARDS:**

- A. Where, owing to special conditions, a literal enforcement of the provisions of this Zoning Ordinance would involve practical difficulties, the Zoning Board of Appeals shall have power upon appeal in specific cases to authorize such variation or modification of the provisions of this Zoning Ordinance with such conditions and safeguards as it may determine, as may be in harmony with the spirit of this Zoning Ordinance and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the provisions of this Zoning Ordinance shall be granted unless it appears that, at a minimum, the applicant has proven a practical difficulty and that all the following facts and conditions exist:
1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.
  2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.
  3. That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.
  4. That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.
  5. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.
  6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district;
  7. The requested variance is the minimum necessary to permit reasonable use of the land.
- B. For the purpose of the above, a "practical difficulty" exists on the subject land when the strict compliance with the Zoning Ordinance standards would render conformity unnecessarily burdensome (such as exceptional narrowness, shallowness, shape of area, presence of floodplain or wetlands, exceptional topographic conditions), and the applicant has proven all of the standards set forth in Section 6.5 (c) (1) through (7). Demonstration of practical difficulty shall focus on the subject property or use of the subject property, and not on the applicant personally.
- C. In consideration of all appeals and all proposed variations to this Zoning Ordinance, the Zoning Board of Appeals shall, before making any variations from this Zoning Ordinance in a specific case, determine that the standards set forth above have been met, and that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public

streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the inhabitants of the Township.

**VARIANCE APPLICATION CHECKLIST:**

(8) sets of plans must be submitted. The sets are for the individual use of the Zoning Board members and the Township's records. None will be returned to you. The Land Use Permit will not be released until three (3) final construction blueprints and three (3) copies of your site plan are submitted which have been prepared according to the variances granted and conditions imposed at the appeals meeting.

- \_\_\_\_\_ 1. **Zoning Board of Appeals Application Form**  
All Drawing should have a north arrow and be to scale
- \_\_\_\_\_ 2. **Site Plan with following information:**
  - a) Location and width of road (s) and jurisdiction (public or private road).
  - b) Location and dimensions of existing/proposed construction.
  - c) Dimensions, designation, and heights of existing structures on property clearly marked.
  - d) Dimensions of property.
  - e) Location and dimensions of required setbacks
  - f) Measurement from each side of existing and proposed structure to the property lines.
  - g) All easements
  - h) Any bodies of water (lake, stream, river, canal) with water body name.
  - i) Distance from any body of water.
  - j) Septic Tank and Field, Sewer Tap (Grinder pump), Water Well
  - k) All areas requiring variances clearly marked with dimensions and amount of variance requested.
  - l) Any outstanding topographic features that should be considered (hills, drop-offs, trees, boulders, etc.).
  - m) Any other information which you may feel is pertinent to your appeal.
  - n) If the variance is to a setback requirement a licensed professional stamp shall be on the site plan.
- \_\_\_\_\_ 3. **Preliminary sketch plans** may be submitted for the Appeal in lieu of final construction drawings.
  - a) Elevation:
    - i. Existing and proposed grade;
    - ii. Finished floor elevations
    - iii. Plate height
    - iv. Building height

- v. Roof Pitch
- b) Floor plans:
  - i. Dimension of exterior walls
  - ii. Label rooms
  - iii. Clearly identify work to be done
  - iv. Location of floor above and floor below
- c) All other plans you may need to depict the variance. (grading plans, drainage plans etc.....)

**4. Proof of Ownership:** Include **one** of the following:

- a) Warranty Deed - showing title transaction bearing Livingston County Register of Deeds stamps
- b) Notarized letter of authorization from seller of property giving the purchaser authorization to sign a Land Use Permit

**VARIANCE PROCESS:**

Once a project is submitted:

The Zoning Administrator will review your submittal to make sure you have submitted a complete set of project plans (1 week if complete).

Once the project has been deemed complete by the Zoning Administrator:

The project will be scheduled for a Zoning Board of Appeals (ZBA) hearing. (ZBA hearing are held of the second Wednesday of each month) Your Project will need to be deemed complete by the Zoning Administrator a minimum of three (3) weeks prior to a hearing in order to be schedule for that hearing.

Once the project has been schedule for a ZBA hearing:

All property owners within a three hundred (300) foot radius of the subject property shall be notified of the date and time of the public hearing on your variance request and the basic nature of your proposed project and variances being requested, and the owner's name and address of the subject property. Notices will be sent on or before Fifteen (15) days prior to the hearing date.

A public hearing notice stating all appeals for a given date will be published in the Tuesday Edition of the Livingston County Daily Press & Argus fifteen (15 days) prior to the date of the hearing.

At the ZBA Meeting

1. You or your representative (lawyer, builder, contractor, relative, friend) must attend.
2. Appeals are taken in order of submission.
3. Unless your appeal is tabled due to lack of information, insufficiency of drawings, etc., you will know the disposition of the appeal at the meeting before you leave.
4. **No Land Use Permits will be available for pick up on the night of the meeting, so please do not ask the Zoning Administrator for them that night.**

5. In the event that the Zoning Board of Appeals **does not grant** your variance request there will be **no refund** of the filing fee, as it pays for administration costs, the member's reviewing and meeting time, and noticing costs in the newspaper and for postage.
6. Rehearing requests may be charged \$200.00 for postage and newspaper costs in addition to the original \$325.00 charge, at the discretion of the Zoning Board of Appeals.

Once the project has been approved

You will need to submit a completed Land Use Permit, 3 sets of your final construction blueprints and 3 copies of your site plan from which your project will actually be constructed before your Land Use Permit will be released. If the Board has made special conditions, they must be met before your Land Use Permit will be released.

If the project is denied

Section 6.6.4 (C) of the Hamburg Township Zoning Ordinance states that a one (1) year period must elapse before a rehearing of the appeal "except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid."

Section 6.7 of the Zoning Ordinance governs appeals to Circuit Court. If you desire to appeal the decision of the Zoning Board of Appeals, you need to contact your attorney for filing appeals to Circuit Court.

# Burchfield & Pollesch

A Professional Corporation  
Attorneys at Law

225 East Grand River Avenue, Suite 203  
Brighton, Michigan 48116-1576

Kenneth E. Burchfield

Shari L. Pollesch

Telephone: (810) 227-3100

Facsimile: (810) 227-2996

E-mail: [REDACTED]

August 1, 2018

Ms. Lynda Chaney  
6203 Hiawatha Road  
Whitmore Lake, MI 48189

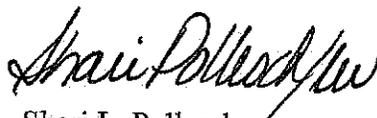
Re: **Action to Vacate Hiawatha Beach Plat**  
**Our File No. S-18-5036**

Dear Lynda:

This letter confirms that you have retained our law firm to file an action to vacate the Hiawatha Beach Subdivision Plat as to Riverside Drive and the process for starting that litigation is underway.

If you have any further questions, please contact me.

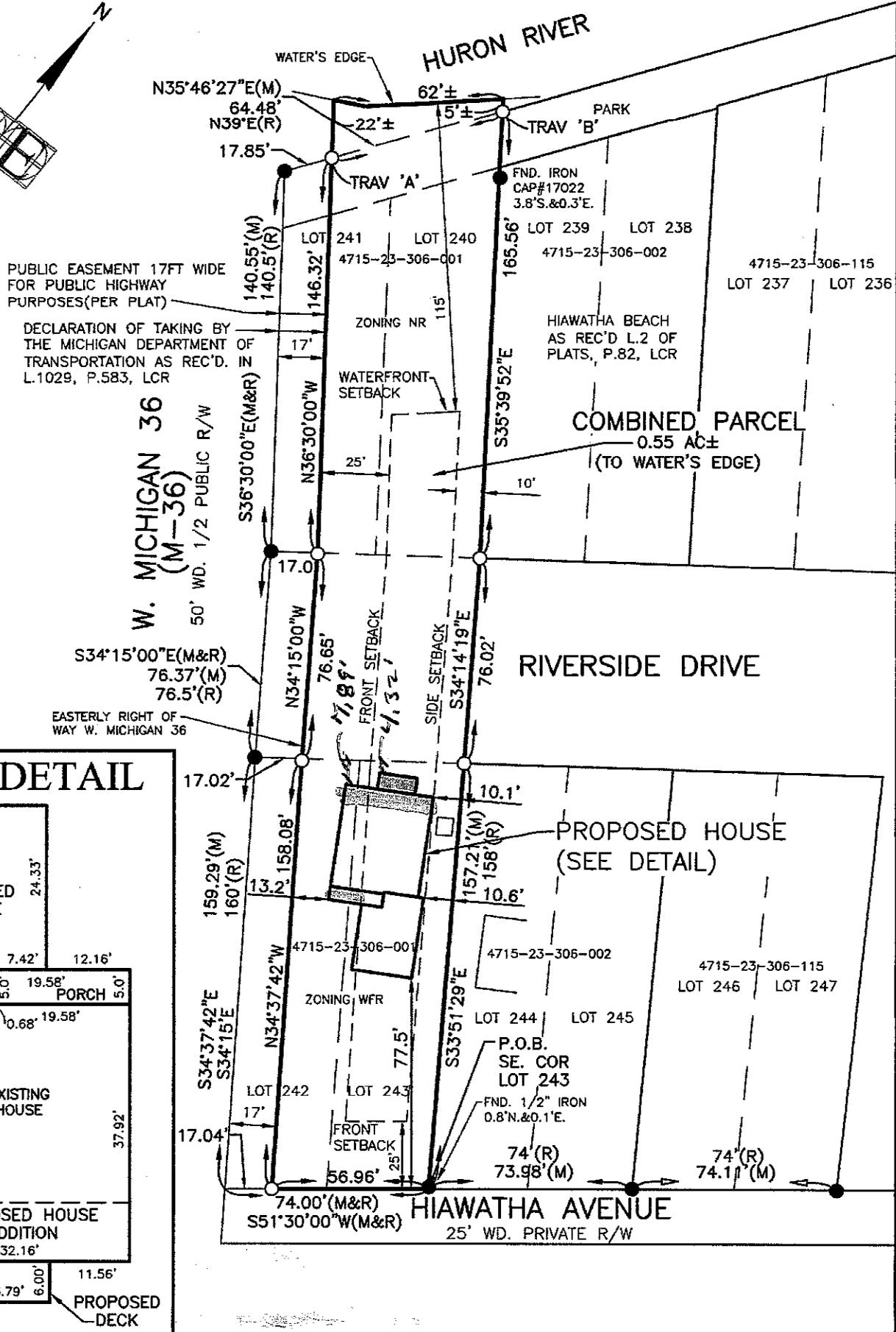
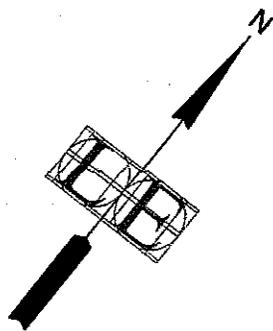
Sincerely,



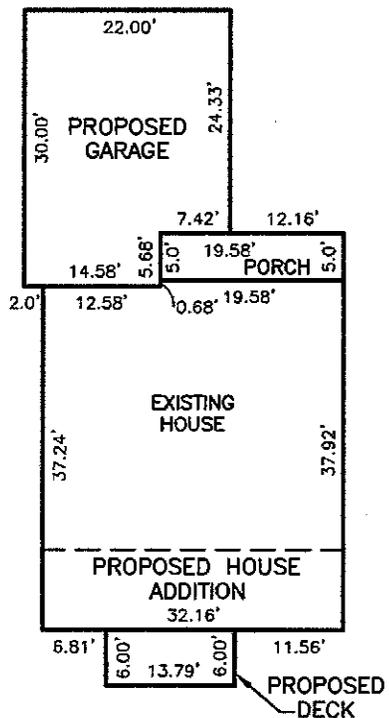
Shari L. Pollesch

SLP/lw

# PLOT PLAN



## HOUSE DETAIL



- LEGEND**
- ⊕ SECTION CORNER
  - SET IRON ROD
  - FOUND MONUMENT
  - x-x-x FENCE
  - FOUND IRON ROD/PIPE
  - SOIL BORING

I HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY, THAT THE RATIO OF CLOSURE ON THE UNADJUSTED FIELD OBSERVATIONS OF SUCH SURVEY WAS 1/10,000 AND THAT SAID SURVEY FULLY COMPLIES WITH THE REQUIREMENTS OF PUBLIC ACT 132-10.



**LIVINGSTON ENGINEERING**  
CIVIL ENGINEERING SURVEYING PLANNING  
3300 S. OLD U.S., BRIGHTON, MI 48114  
INTERNET: WWW.LIVINGSTONENG.COM PHONE: (810) 225-7100 FAX: (810) 225-7699

|  |                 |               |
|--|-----------------|---------------|
| CLIENT DONOVAN   |                 | DATE 08-09-18 |
| DESCRIPTION SOUTHWEST 1/4, SEC.23, T1N-R5E,HAMBURG TWP., LIVINGSTON COUNTY, MICHIGAN | SCALE 1"=50'    | REV.          |
|  | SHEET No.1 of 2 | CREWAJS       |
|  | JOB No. 18196   | CHECK         |
|  | DRAWN R.PARAMO  |               |

**LEGAL DESCRIPTION** (Per Warranty Deed as recorded in Instrument #2018R-015812, Livingston County Records.)

Land is located in the Township of Hamburg, County of Livingston, State of Michigan, and described as follows:

Lot(s) 240, 241, 242, and 243, Hiawatha Beach, according to the recorded Plat thereof, as recorded in Liber 2 of Plat(s), Page 82, Livingston County Records.

The above described property is commonly known as 6203 Hiawatha Ave., Whitmore Lake, MI 48189.

**LEGAL DESCRIPTION** (Per Quit Claim Deed as recorded in Liber 3663, Page 2, Livingston County Records.)

All that property between the South Lot Line of Lots 240 and 241 and the North Lot Line of Lots 242 and 243, commonly known as "Riverside Drive," and all the property between the North Lot Line of Lots 240 and 241 and the low water mark of the Huron River, commonly known as "Park", Hiawatha Beach Subdivision.

**LEGAL DESCRIPTION COMBINED PARCEL (AS SURVEYED)**

Lots 240 and 243 and part of Lots 241 and 242, Plat of "Hiawatha Beach", as recorded in Liber 2 of Plats, on Page 82, Livingston County Records and that portion of Riverside Drive lying South of Lots 240 and 241 and North of Lots 242 and 243, as platted and all that portion of property North of Lots 240 and 241 extending to the low water mark of the Huron River, excepting that portion of Lots 241 and 242 deeded for right of way as recorded in Liber 1029, on Page 583, Livingston County Records, being more particularly described as: Part of the Southwest 1/4 of Section 23, T1N-R5E, Hamburg Township, Livingston County, Michigan, BEGINNING at the Southeast corner of said Lot 243 of the parcel to be described; thence along the Northerly right of way of Hiawatha Avenue (25 feet wide private right of way), S 51°30'00" W, 56.96 feet; thence along the Easterly right of way of W. Michigan 36 (50 feet wide 1/2 public right of way), N 34°37'42" W, 158.08 feet; thence continuing along the Easterly right of way of said W. Michigan 36, N 34°15'00" W, 76.65 feet; thence continuing along the Easterly right of way of said W. Michigan 36, N 36°30'00" W, 146.32 feet, to Traverse Point 'A'; thence continuing N 36°30'00" W, 22 feet, more or less, to a point on the water's edge of Huron River; thence Easterly along the water's edge of Huron River, 62 feet, more or less, to a point; thence S 35°39'52" E, 5 feet, more or less, to Traverse Point 'B', said Traverse Point 'B' being N 35°46'27" E, 64.48 feet (previously recorded as N 39° E), from Traverse Point 'A'; thence along the Easterly line of said Lot 240, and an extension thereof, S 35°39'52" E, 165.56 feet; thence S 34°14'19" E, 76.02 feet; thence along the Easterly line of said Lot 243, S 33°51'29" E, 157.21 feet (previously recorded as 158 feet), to the Point of Beginning, containing 0.55 Acres, more or less, and subject to easements and restrictions of record.

Bearings based upon Plat of "Hiawatha Beach", as recorded in Liber 2 of Plats, on Page 82, Livingston County Records.

CURRENT ZONING: NR  
(Natural River Residential)  
Min. Lot Area: 43,560Sq.Ft.  
Min. Lot Width: 150Ft.  
Max. Building Hgt: 2 Stories/35Ft.  
Max. Lot Coverage(%): Buildings/Imperv.  
Surface: 35/40%  
Setback Requirements:  
Front: 25' Min.  
Sides (Ea.): 10' Min.  
Rear: 30' Min. (Any property that abuts a river must maintain 125Ft. setback. Setback may be decreased ten feet for every ten foot rise in bank height. 125-10=115Ft.)  
CURRENT ZONING: WFR  
(Waterfront Residential)

Min. Lot Area: 43,560Sq.Ft.  
Min. Lot Width: 125Ft.  
Max. Building Hgt: 2 Stories/35Ft.  
Max. Lot Coverage(%): Buildings/Imperv.  
Surface: 35/40%  
Setback Requirements:  
Front: 25' Min.  
Sides (Ea.): 10' Min.  
Rear: 30' Min. (Any property that abuts a water body must maintain 50Ft. setback.)



**LIVINGSTON ENGINEERING**

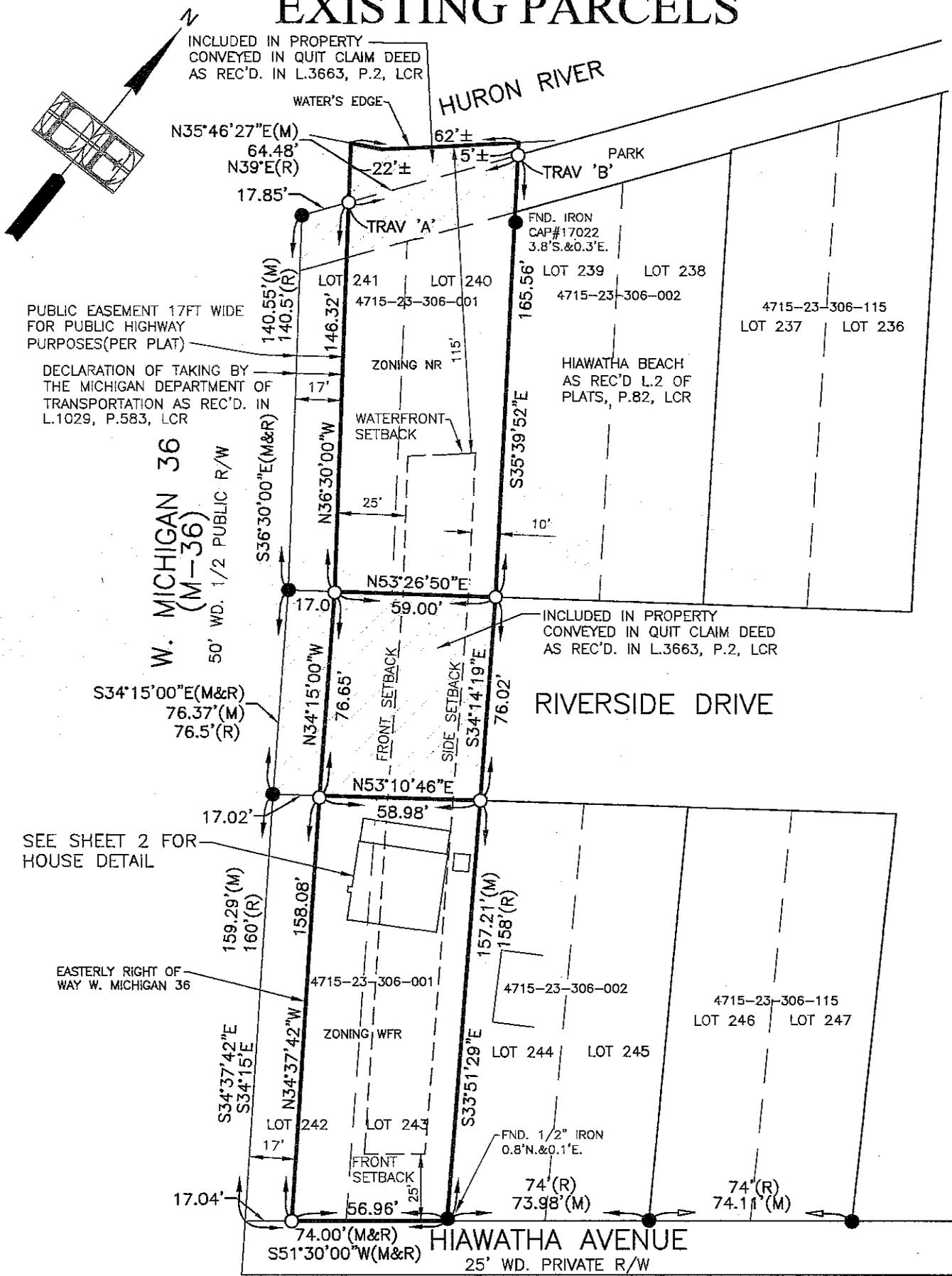
3300 S. OLD U.S. 23, BRIGHTON, MICHIGAN 48114

PHONE: 810-225-7100

www.livingstoneng.com

FAX: 810-225-7699

# PARCEL COMBINATION EXISTING PARCELS



**LEGEND**

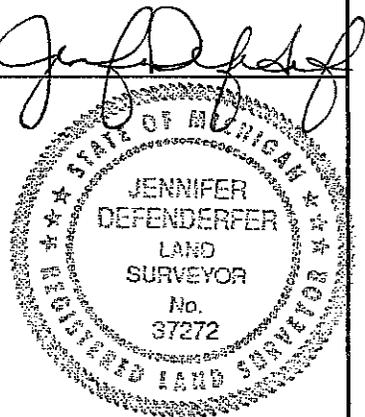
- SECTION CORNER
- SET IRON ROD
- FOUND MONUMENT
- (M) = MEASURED
- ✕✕✕ FENCE
- FOUND IRON ROD/PIPE
- SOIL BORING
- (R) = RECORD PLAT

I HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY, THAT THE RATIO OF CLOSURE ON THE UNADJUSTED FIELD OBSERVATIONS OF SUCH SURVEY WAS 1/10,000 AND THAT SAID SURVEY FULLY COMPLIES WITH THE REQUIREMENTS OF PUBLIC ACT 132-10.



**LIVINGSTON ENGINEERING**  
CIVIL ENGINEERING SURVEYING PLANNING

3300 S. OLD U.S., BRIGHTON, MI 48114  
INTERNET: WWW.LIVINGSTONENG.COM PHONE: (810) 225-7100 FAX: (810) 225-7699



|   |                 |                |          |
|---|-----------------|----------------|----------|
| CLIENT DONOVAN  | 0' 50' 100'     | DATE 08-09-18  |          |
| DESCRIPTION<br>SOUTHWEST 1/4,<br>SEC.23, T1N-R5E,HAMBURG TWP.,<br>LIVINGSTON COUNTY, MICHIGAN |                 | REV.           |          |
|   | SCALE 1"=50'    | JOB No. 18196  | CREWAJS  |
|   | SHEET No.1 of 4 | DRAWN R.PARAMO | CHECK JD |





# Zoning Board of Appeals Staff Report

## AGENDA ITEM: 7b



**TO:** Zoning Board of Appeals  
(ZBA)

**FROM:** Brittany Stein

**HEARING DATE:** September 12, 2018

**SUBJECT:** ZBA 18-008

**PROJECT SITE:** 8772 Rushside Drive  
TID 15-17-402-028

**APPLICANT/  
OWNER:** Richard Olson

**PROJECT:** Variance application to allow a 982 square foot second story addition to the existing non-conforming dwelling. The addition will have a 7.1-foot south side yard setback, resulting in an aggregate side yard setback of 12.4 feet (15-foot aggregate side yard setback required, Section 7.6.1 fn. 4).

**ZONING:** WFR (waterfront residential district)

### Project Description

The subject site is a 6,272-square foot that fronts onto Rushside Drive to the East; Rush Lake is to the West, and single family dwellings are located to the north and south of the site. The dwelling shown in the site map (above) is currently one-story.

If approved, the variance request would permit the construction of a 982-square foot second story addition with a 7.1-foot south side yard setback, resulting in an aggregate side yard setback of 12.4 feet. (15-foot aggregate side yard setback required, Section 7.6.1 fn. 4).

The dwelling's existing and proposed setbacks are noted in the table below.

|                                 | <b>Proposed</b> | <b>Required</b> |
|---------------------------------|-----------------|-----------------|
| <b>North (side)</b>             | 4.6 feet        | 5 feet          |
| <b>South (side)</b>             | 7.1 feet        | 10 feet         |
| <b>West (rear)</b>              | 50.5 feet       | 30 feet         |
| <b>Ordinary high water mark</b> | 50.5 feet       | 50 feet         |
| <b>East (front)</b>             | 35.6 feet       | 25 feet         |

Based on the site plan, dated August 1, 2018, the project is not within the 100-year floodplain.

**Standards of Review**

The Zoning Board of Appeals (ZBA) decision in this matter is to be based on the findings of facts to support the following standards. The applicable discretionary standards are listed below in bold typeface followed by staff’s analysis of the project as it relates to these standards. A variance may be granted only if the ZBA finds that all of the following requirements are met.

- 1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.**

The ordinance, requiring a 15-foot aggregate side setback upon Waterfront Residential lots less than 60 feet wide, is intended to provide adequate space, open vistas, and privacy throughout neighborhoods and between structures on smaller residential lots. The bulk of the structure proposed at the setback neighborhood privacy and open vistas. Constructing a second story onto the existing non-conforming single story dwelling creates the need for a variance and is therefore self-imposed and is not a condition of the property. The property can accommodate a compliant single family dwelling.

- 2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.**

The site is zoned for single-family residential uses, has been developed for such uses, and can continue to be used for such use with a conforming structure. A second story on the existing dwelling is not necessary to use the site for residential purposes and is solely a personal preference of the homeowner. The second story could be reconfigured to meet the setback requirements. The proposed second story that encroaches into the required setbacks is a self-imposed practical difficulty.

- 3. That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.**

As stated under standard one, the setback is intended to provide adequate space, open vistas, and privacy throughout neighborhoods and amid structures on smaller residential lots

to preserve side yards from encroachment of residential structures. The dwellings to the east and west have been constructed to comply with the 10-foot side setback requirements.

**4. That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.**

The subject site is in the West Hamburg/Rush Lake planning area of the Master Plan. This area envisions medium density residential development in the developed areas around Rush Lake. The proposed request would not adversely affect the proposed or objectives of the Master Plan.

**5. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.**

There is no condition or situation of the subject site that is not of so general or recurrent a nature that the proposed second story addition cannot comply with the required rear and ordinary high-water mark setback standards. The dwellings to the east and west have been constructed to comply with the required setbacks, and the dwelling that was demolished appears to have met the setback standards. The need for the variance arises from a personal preference and not a condition specific to the property. In November 2017 Section 11.3 of the zoning ordinance was amended to bring future development into compliance: *A residential nonconforming building may be allowed to expand provided the expansion is within a yard which retains compliance with the required setbacks and height, (eg. A second level is added to an existing single story house with a non-conforming side yard setback the second story must not encroach into the required setback even if the existing main level already encroaches into the setback).*

**6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district.**

The use of the site is single-family residential and the proposed variance would not change the use.

**7. The requested variance is the minimum necessary to permit reasonable use of the land.**

The proposed design creates both a self-imposed practical difficulty and a more non-conforming structure. Clearly, the lot can accommodate a single family residential dwelling (Exhibit B). The property must be considered, not the design preference of the applicant, in determining if the variance is the minimum necessary to permit reasonable use of the land. There is nothing peculiar about the property, such as topographical changes or significant environmental features that warrants variance approval for a second story addition to the existing dwelling.

“Practical difficulty” exists on the subject site when the strict compliance with the Zoning Ordinance standards would render conformity unnecessarily burdensome (such as exceptional narrowness, shallowness, shape of area, presence of floodplain or wetlands, exceptional topographic conditions)

**Recommendation**

Staff recommends the ZBA open the public hearing, take testimony, close the public hearing, evaluate the proposal for conformance with the applicable regulations, and deny or approve the application. In the motion to deny or approve the project the ZBA should incorporate the ZBA’s discussion and analysis of the project and the findings in the staff report. The ZBA then should direct staff to prepare a memorialization of the Board’s decision that reflects the Board’s action to accompany the hearing minutes and to be reviewed and approved at the next ZBA hearing.

**Denial Motion:**

Motion to deny variance application ZBA 18-008 at 8772 Rushside Drive to allow for the construction of a 982-square foot second story addition with a 7.1-foot south side yard setback, resulting in an aggregate side yard setback of 12.4 feet. (15-foot aggregate side yard setback required, Section 7.6.1 fn. 4).

The variance does not meet variance standards one, two, three, five, or seven of Section 7.6.1 of the Township Ordinance and a practical difficulty does not exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at the meeting tonight and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

**Exhibits**

Exhibit A: Application Materials

Exhibit B: Site plan

(Construction plans for the dwelling were too large to include)

HAMBURG TOWNSHIP  
Date 08/10/2018 12:23:53 PM  
Ref ZBA0180-008  
Receipt 1189335  
Amount \$500.00

ZBA Case Number 18-0008  
\$500



FAX 810-231-4295  
PHONE 810-231-1000

P.O. Box 157  
10405 Merrill Road  
Hamburg, Michigan 48139

**APPLICATION FOR A ZONING BOARD OF APPEALS (ZBA)  
VARIANCE/INTERPRETATION  
(FEE \$500 plus \$50 each additional)**

1. Date Filed: 08.10.18

2. Tax ID #: 15-17-402-028 - Subdivision: \_\_\_\_\_ Lot No.: 503

3. Address of Subject Property: 8772 Rushside Dr. Pinckney, MI 48169

4. Property Owner: Richard Olson Phone: (H) ~~XXXXXXXX~~  
 Email Address: ~~XXXXXXXXXXXX~~ (W) \_\_\_\_\_  
 Street: 8772 Rushside Dr. City Pinckney State MI

5. Appellant (If different than owner): Daniel Merritt Phone: (H) \_\_\_\_\_  
 E-mail Address: ~~#####~~ (W) ~~#####~~  
 Street: 9815 Fairfax Ct. City Pinckney State MI

6. Year Property was Acquired: 2014 Zoning District: WFR Flood Plain \_\_\_\_\_

7. Size of Lot: Front 39.88 Rear 36.92 Side 1 166.20 Side 2 163.40 Sq. Ft. 1071

11. Dimensions of Existing Structure (s) 1st Floor 25'-10" x 28'-3" 2nd Floor \_\_\_\_\_ Garage \_\_\_\_\_

12. Dimensions of Proposed Structure (s) 1st Floor 25'-10" x 28'-3" 2nd Floor 25'-10" x 28'-3" Garage \_\_\_\_\_

13. Present Use of Property: Residential

14. Percentage of Existing Structure (s) to be demolished, if any \_\_\_\_\_ %

15. Has there been any past variances on this property? Yes \_\_\_\_\_ No X

16. If so, state case # and resolution of variance application \_\_\_\_\_

17. Please indicate the type of variance or zoning ordinance interpretation requested:  
 We request ~3' setback variance on the south side setback of the existing house to allow us to use the existing structural bearing walls to support a second story addition

18. Please explain how the project meets each of the following standards:

- a) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.

The property contains an existing one-story residence that is non compliant for a WFR zone with less than 60 feet in lot width.

We run into a structural issue on the NOOrth bearing wall because the bearing point for the second floor due to ordinance would I

- b) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.

The variance will allow for additional bedrooms to accomadate family and bring the 1 bedroom residence to match

the multi bedroom neighborhood.

- c) That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.

The variance will not be materially detrimental to public nor materially injurious to the property. All existing foundations

are being utilized and there is no new increase to building footprint.

- d) That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.

We do not foresee this addition to at any way adversely affect the currenty master plan of the Township.

- e) That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.

The ordinance was implemented after the original house was already built. If the bearing wall had been built within the setback

at the time this would not be an issue. We also are a restricted WFR property due to our lot width be less than the typical 60'

- f) Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district;

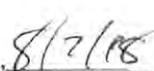
There is no change to use. The structure will remain a family residence.

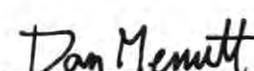
- g) The requested variance is the minimum necessary to permit reasonable use of the land.

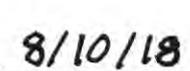
We are keeping the same building footprint and there will be no new foundations or dramatic changes to the site.

- I hereby certify that I am the owner of the subject property or have been authorized to act on behalf of the owner(s) and that all of the statements and attachments are true and correct to the best of my knowledge and belief.
- I acknowledge that approval of a variance only grants that which was presented to the ZBA.
- I acknowledge that I have reviewed the Hamburg Township Zoning Ordinance, The ZBA Application and the ZBA Checklist and have submitted all of the required information.
- I acknowledge that filing of this application grants access to the Township to conduct onsite investigation of the property in order to review this application.
- I understand that the house or property must be marked with the street address clearly visible from the roadway.
- I understand that there will be a public hearing on this item and that either the property owner or appellants shall be in attendance at that hearing.
- I understand that a Land Use Permit is required prior to construction if a variance is granted.

  
\_\_\_\_\_  
Owner's Signature

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Appellant's Signature

  
\_\_\_\_\_  
Date

**VARIANCE:** A modification of the literal provisions of the zoning ordinance granted when strict enforcement would cause undue hardship due to circumstances unique to the individual property for which the variance is granted

**VARIANCE STANDARDS:**

- A. Where, owing to special conditions, a literal enforcement of the provisions of this Zoning Ordinance would involve practical difficulties, the Zoning Board of Appeals shall have power upon appeal in specific cases to authorize such variation or modification of the provisions of this Zoning Ordinance with such conditions and safeguards as it may determine, as may be in harmony with the spirit of this Zoning Ordinance and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the provisions of this Zoning Ordinance shall be granted unless it appears that, at a minimum, the applicant has proven a practical difficulty and that all the following facts and conditions exist:
1. **That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.**
  2. **That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.**
  3. **That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.**
  4. **That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.**
  5. **That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.**
  6. **Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district;**
  7. **The requested variance is the minimum necessary to permit reasonable use of the land.**
- B. For the purpose of the above, a "practical difficulty" exists on the subject land when the strict compliance with the Zoning Ordinance standards would render conformity unnecessarily burdensome (such as exceptional narrowness, shallowness, shape of area, presence of floodplain or wetlands, exceptional topographic conditions), and the applicant has proven all of the standards set forth in Section 6.5 (c) (1) through (7). Demonstration of practical difficulty shall focus on the subject property or use of the subject property, and not on the applicant personally.
- C. In consideration of all appeals and all proposed variations to this Zoning Ordinance, the Zoning Board of Appeals shall, before making any variations from this Zoning Ordinance in a specific case, determine that the standards set forth above have been met, and that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public

streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the inhabitants of the Township.

**VARIANCE APPLICATION CHECKLIST:**

(8) sets of plans must be submitted. The sets are for the individual use of the Zoning Board members and the Township's records. None will be returned to you. The Land Use Permit will not be released until three (3) final construction blueprints and three (3) copies of your site plan are submitted which have been prepared according to the variances granted and conditions imposed at the appeals meeting.

**1. ZONING BOARD OF APPEALS APPLICATION FORM**

**2. SITE/PLOT PLAN**

- a. Location and width of road (s) and jurisdiction (public or private road).
- b. Location and dimensions of existing/proposed construction.
- c. Dimensions, designation, and heights of existing structures on property clearly marked.
- d. Dimensions of property.
- e. Measurement from each side of existing and proposed structure to the property lines.
- f. All easements
- g. Any bodies of water (lake, stream, river, canal) with water body name.
- h. Distance from any body of water.
- i. Septic Tank and Field, Sewer Tap (Grinder pump), Water Well
- j. North Arrow
- k. All areas requiring variances clearly marked with dimensions and amount of variance requested.
- l. Any outstanding topographic features that should be considered (hills, drop-offs, trees, boulders, etc.).
- m. Landscaping if required under Section 9.4 of the Township Zoning Ordinance.
- n. Any other information which you may feel is pertinent to your appeal.
- o. Lot coverage calculations:
  - i. Building lot coverage; the total footprint of buildings, parking, paved and gravel storage yards, driveways, streets, roads and sidewalks divided by the size of the site, excluding water bodies and wetlands.
  - ii. Total impermeable surface; the total footprint of buildings, parking, paved and gravel storage yards, driveways, streets, roads, and sidewalks divided by the size of the site, excluding water bodies and wetlands.

**3. EXTERIOR BUILDING ELEVATIONS**

- a. All proposed and existing exterior elevations showing existing and proposed exterior walls, roof, architectural features, doors, windows, trim, down spouts, exterior wall, roofing materials.
- b. Include full exterior dimensions.
- c. Please distinguish between existing and proposed.
- d. Profile of existing and finished grades.

**4. PROPERTY STAKING**

- a. Lot corners must be CLEARLY staked.
- b. Lot lines must be marked with string for accurate lot line identification (when applicable).
- c. Project corners must be CLEARLY staked and the building perimeter footprint marked with string.
- d. Lot must be CLEARLY identified with a sign (i.e. "LOT 49" or "SMITH'S LOT") If the property has an address, the address must be visible from the road

**5. ADDITIONAL REQUIREMENTS (if necessary)**

- a. Floor plan(s):
  - i. All proposed usable floor level area (including basements, attics, detached accessory structures, etc.)
  - ii. All areas to be demolished with proposed walls and existing walls clearly indicated.
  - iii. All proposed rooms clearly identified and labeled for each floor level.
  - iv. All proposed decks, balconies, porches, garages/carports, etc.
  - v. Exterior building dimensions.
  - vi. Doors, windows, bay windows, chimneys, stairways, etc.
- b. Proof of ownership
  - i. Warranty Deed - showing title transaction bearing Livingston County Register of Deeds stamps
  - ii. Letter of authorization signed by the property owner allowing an agent to process an application on their behalf.
- c. A survey prepared and stamped by a licensed surveyor may be required. Note: If a survey is not submitted with the initial application and the ZBA has questions about the location of the property lines for the lot, a decision on the project may be delayed.

**VARIANCE PROCESS:**

Once a project is submitted:

The Zoning Administrator will review your submittal to make sure you have submitted a complete set of project plans (1 week if complete).

Once the project has been deemed complete by the Zoning Administrator:

The project will be scheduled for a Zoning Board of Appeals (ZBA) hearing. (ZBA hearing are held of the second Wednesday of each month) Your Project will need to be deemed complete by the Zoning Administrator a minimum of three (3) weeks prior to a hearing in order to be schedule for that hearing.

Once the project has been schedule for a ZBA hearing:

All property owners within a three hundred (300) foot radius of the subject property shall be notified of the date and time of the public hearing on your variance request and the basic nature of your proposed project and variances being requested, and the owner's name and address of the subject property. Notices will be sent on or before Fifteen (15) days prior to the hearing date.

A public hearing notice stating all appeals for a given date will be published in the Tuesday Edition of the Livingston County Daily Press & Argus fifteen (15 days) prior to the date of the hearing.

At the ZBA Meeting

1. You or your representative (lawyer, builder, contractor, relative, friend) must attend.
2. Appeals are taken in order of submission.
3. Unless your appeal is tabled due to lack of information, insufficiency of drawings, etc., you will know the disposition of the appeal at the meeting before you leave.
4. **No Land Use Permits will be available for pick up on the night of the meeting, so please do not ask the Zoning Administrator for them that night.**
5. In the event that the Zoning Board of Appeals **does not grant** your variance request there will be **no refund** of the filing fee, as it pays for administration costs, the member's reviewing and meeting time, and noticing costs in the newspaper and for postage.
6. Rehearing requests may be charged \$200.00 for postage and newspaper costs in addition to the original \$325.00 charge, at the discretion of the Zoning Board of Appeals.

Once the project has been approved

You will need to submit a completed Land Use Permit, 3 sets of your final construction blueprints and 3 copies of your site plan from which your project will actually be constructed before your Land Use Permit will be released. If the Board has made special conditions, they must be met before your Land Use Permit will be released.

If the project is denied

Section 6.6.4 (C) of the Hamburg Township Zoning Ordinance states that a one (1) year period must elapse before a rehearing of the appeal "except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid."

Section 6.7 of the Zoning Ordinance governs appeals to Circuit Court. If you desire to appeal the decision of the Zoning Board of Appeals, you need to contact your attorney for filing appeals to Circuit Court.

# CERTIFICATE OF SURVEY

Prepared For: RICHARD OLSEN

Legal Description:

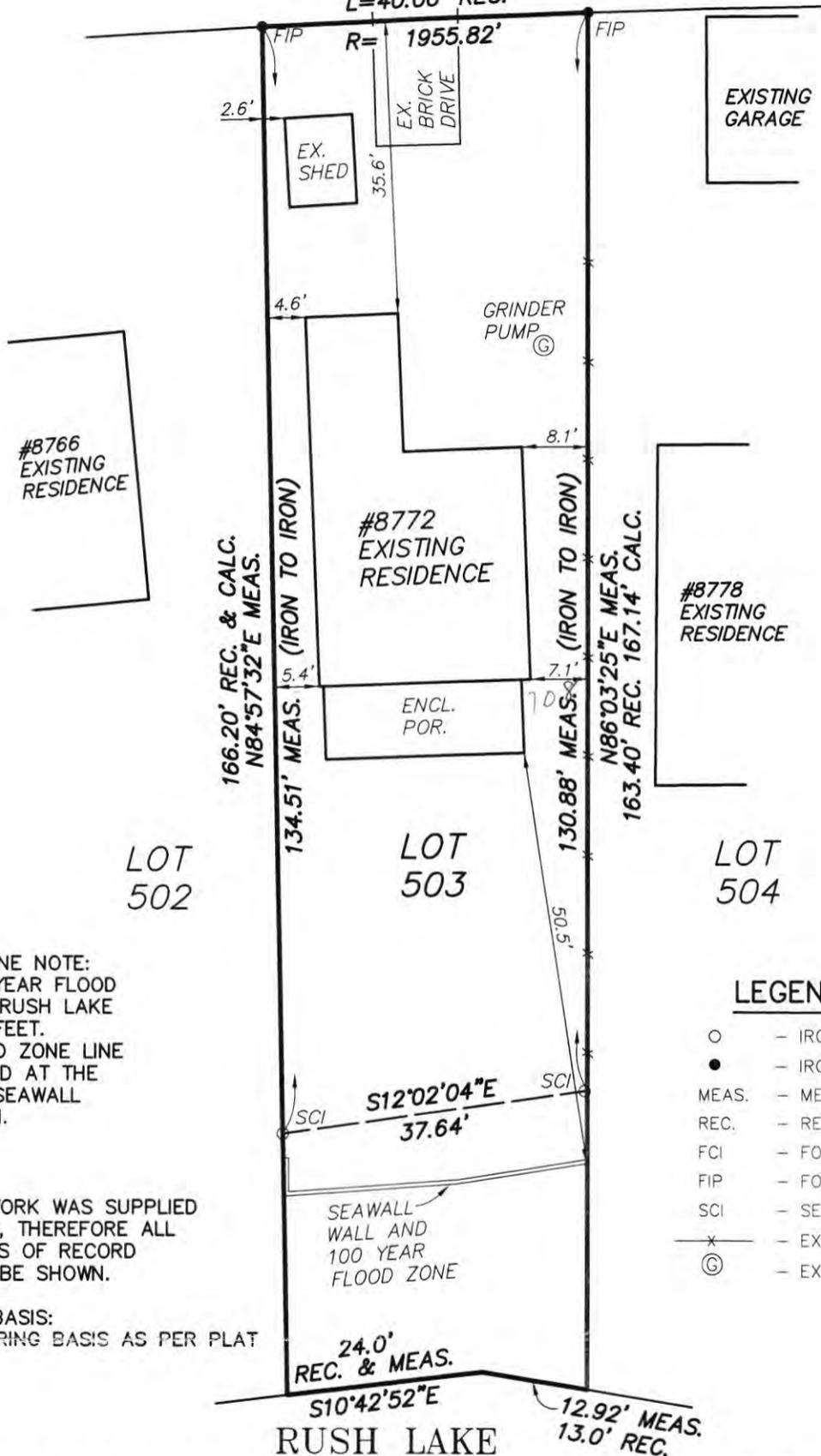
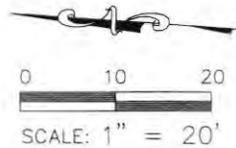
Lot 503, HERNDON'S RUSH LAKE ESTATES, a subdivision of part of the S.E. 1/4 of Section 17, T.1N., R.5E., Hamburg Township, Livingston County, Michigan, as recorded in Livingston County Records.

## RUSHSIDE DRIVE

(60' WIDE)

L=39.88' MEAS.

L=40.00' REC.



FLOOD ZONE NOTE:  
THE 100 YEAR FLOOD ZONE ON RUSH LAKE IS 879.6 FEET.  
THE FLOOD ZONE LINE IS LOCATED AT THE EXISTING SEAWALL AS SHOWN.

NOTE:  
NO TITLEWORK WAS SUPPLIED BY CLIENT, THEREFORE ALL EASEMENTS OF RECORD MAY NOT BE SHOWN.

BEARING BASIS:  
HELD BEARING BASIS AS PER PLAT

### LEGEND

- - IRON SET
- - IRON FOUND
- MEAS. - MEASURED
- REC. - RECORDED
- FCI - FOUND CAPPED IRON
- FIP - FOUND IRON PIPE
- SCI - SET CAPPED IRON
- X— - EXISTING FENCE LINE
- ⊙ - EXISTING GRINDER PUMP

I hereby certify only to the parties hereon, that we have surveyed, at the direction of said parties, the above described lot, and that we have found or set as noted hereon, permanent markers at the exterior corners of said lot and that all visible encroachments of a permanent nature upon said lot, are as shown on this survey. Said lot subject to all easements and restrictions of record.

**ALPINE**  
Land Surveying, Inc.

11590 HIGHLAND ROAD, SUITE #100  
HARTLAND, MICHIGAN, 48353  
PHONE: 810-207-8050, FAX: 419-735-0171

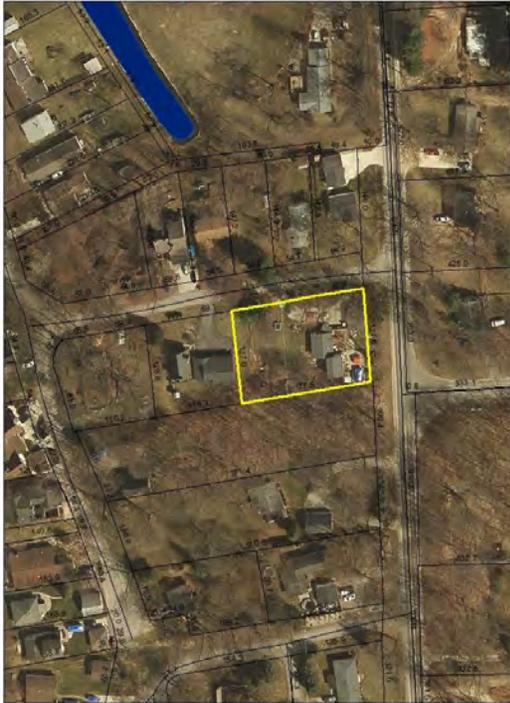
|             |                      |
|-------------|----------------------|
| FIELD: KG   | DATE: AUGUST 1, 2018 |
| DRAWN: DS   | JOB NO: 18-3746      |
| CHECKED: KG | SHEET: 1 OF 1        |
| REVISED:    |                      |

*Karol L. Grove*  
KAROL L. GROVE  
LICENSED PROFESSIONAL SURVEYOR #39075



# Zoning Board of Appeals Staff Report

## AGENDA ITEM: 7c



**TO:** Zoning Board of Appeals  
(ZBA)

**FROM:** Amy Steffens, AICP  
Zoning Administrator

**HEARING  
DATE:** September 12, 2018

**SUBJECT:** ZBA 18-009

**PROJECT  
SITE:** 2260 Mumford Drive  
(TID 15-31-102-001)

**APPLICANT/  
OWNER:** Jason Muller

**AGENT:** None

**Request:** Variance application to allow construction of a 2,240-square foot pole barn, with a 4/12 pitch resulting in a height of 17.3 feet (detached accessory buildings located within residential districts which have a roof pitch less than 8/12 shall not exceed 14 feet in height, Section 8.3.8.), and a 10-foot west rear yard setback (30-foot rear yard setback required, Section 7.6.1.).

### Site description and history

The subject site is a 22,390-square foot lot that fronts onto McGregor Road to the east and Mumford Road to the north; the site gains access from Mumford Drive. The site is improved with a 1,066-square foot single-story dwelling, a 432-square foot attached garage, and a 624-square foot detached garage. Single family dwellings are located to the north, south, east, and west of the site.

If approved, the variance request would allow for the construction of a 40-foot by 56-foot pole barn with a 10-foot west rear yard setback where a 30-foot rear yard setback is required (Section 7.6.1.). Because this site is a corner lot the primary structure must comply with the required front yard

setbacks for both street frontages, which the existing dwelling does. However, because corner lots tend to be either oddly shaped or shallow in depth the ordinance allows accessory structures to comply with only one front yard setback, rather than the front yard setback along both front property lines. Because the existing dwelling was constructed with a 10-foot side yard setback from the south property line, the south yard was determined to be the side yard and therefore the rear property line is the west lot line. The rear yard setback for any structure on the lot would be 30 feet from the west lot line.

Additionally, the proposed 2,240-square foot pole barn would have a roof pitch of 4/12, resulting in a height of 17.3 feet, where a 14-foot maximum height is permitted. Section 8.3.8. requires that a detached accessory structure with a roof pitch of less than 8/12 have a maximum height of 14 feet as measured from grade to the midpoint between the eave and peak; structures with a pitch of 8/12 or greater are permitted to have a maximum height of 17 feet.

The township received a code complaint in June, 2014, indicating that the site was being used for repair of boats, lawn mowers, snowmobiles, and boat hoists. Staff did a site inspection and found no evidence of a business. Section 8.1. of the zoning ordinance regulates home occupations. Any home occupation at this site must comply with Section 8.1. regulations regarding nuisances such as noise, vibration, fumes, unsightly conditions, glare, odor, or fire hazard. Additionally, no more than 25 percent of the total floor area of the site may be used for home occupations, and all home occupation activities shall be conducted indoors.

### **Standards of Review**

The Zoning Board of Appeal's (ZBA) decision in this matter is to be based on the findings of facts to support the following standards. The applicable discretionary standards are listed below in bold typeface followed by staff's analysis of the project as it relates to these standards. A variance may only be granted if the ZBA finds that all of the following requirements are met.

- 1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.**

Setback standards of the zoning ordinance serve multiple purposes: encourage orderly development of parcels, maintain open vistas of a neighborhood, and protect adjoining properties from negative impacts from development on adjoining parcels. The abutting property to the west has an expectation that the rear yard setback of 30 feet would apply to future development of the subject site. There is a powerline that traverses the site from north to south. While the power line could be an exceptional circumstance applicable to the property, the size and location of the proposed pole barn is a self-created practical difficulty that requires variance approval. There is space on the site for a compliant pole barn.

There is no exceptional or extraordinary circumstance or condition applicable to the property that would warrant a deviation from the maximum height requirement. The proposed height is solely a personal preference and is not a result of any condition of the property.

- 2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.**

Property rights are not advanced based on a single proposed site plan or architectural design. The site is zoned and used for single-family residential uses and currently has a compliant accessory structure. The existing garage could be removed to make room for the proposed structure. Constructing an accessory structure that requires variance approval for both setback and height standards does not meet the finding that the variance is necessary for the preservation and enjoyment of a substantial property right possessed by neighboring properties.

- 3. That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.**

An accessory structure is a customary residential use found on other properties in the vicinity. However, the sheer bulk would dominate the site and would be most impactful to the neighbor to the west. As the structure moves closer to the property line, the visual impact of the structure's bulk becomes more pronounced. As stated under finding number one, the setback requirements are intended to protect neighboring properties from negative impacts of development on surrounding properties. In an attempt to provide a scale to the pole barn, staff Exhibit B shows a picture of a zoning department staff member standing in front of the carwash on M-36. The carwash has a wall plate of 11 feet which is three feet shorter than the wall plate of the proposed pole barn. Staff would be concerned about the impact of a 40-foot by 56-foot building, with a 17-foot height, at ten feet from the property boundary and how it would dominate surrounding residential properties.

- 4. That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.**

The subject site is within the North Chain of Lakes planning area, which calls for continued residential development.

- 5. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.**

The condition or situation of the specific piece of property, or the intended use of the property for which the variance is sought, is not of so general or recurrent a nature because this is a typical residentially-zoned parcel, developed for its intended use, and the relaxed standards for accessory structures on corner lots can be applied to result in a compliant structure. Additionally, the height restriction was amended in 2017 to allow for a taller accessory structure. The current zoning ordinance adequately addresses the conditions of the property. There is a compliant location that could accommodate an

accessory structure. The variance request for the height is a self-created practical difficulty.

**6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district;**

The property is currently used for single-family residential and the use will not change if the proposed variance request is granted.

**7. The requested variance is the minimum necessary to permit reasonable use of the land.**

The proposed site plan and architectural design both create a self-imposed practical difficulty. The site can accommodate a conforming structure. The property itself, and not the design preference of the application, must be considered in determining if the variance request is the minimum necessary to permit reasonable use of the land.

**Recommendation**

Staff recommends the ZBA open the public hearing, take testimony, close the public hearing, evaluate the proposal for conformance with the applicable regulations, and approve or deny the application. In the motion to approve or deny the project the ZBA should incorporate the ZBA's discussion and analysis of the project and the findings in the staff report. The Board then should direct staff to prepare a memorialization of the ZBA decision that reflects the board's action to accompany the hearing minutes and to be reviewed and approved at the next ZBA hearing.

**Denial Motion:**

Motion to deny variance application ZBA 18-009 at 2260 Mumford Drive to allow construction of a 2,240-square foot pole barn, with a 4/12 pitch resulting in a height of 17.3 feet (detached accessory buildings located within residential districts which have a roof pitch less than 8/12 shall not exceed 14 feet in height, Section 8.3.8.), and a 10-foot west rear yard setback (30-foot rear yard setback required, Section 7.6.1.). The variance does not meet variance standards one, two, three, five, or seven of Section 6.5 of the Township Ordinance and a practical difficulty does not exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight's hearing and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

Exhibit A: Application Materials (including project plans)

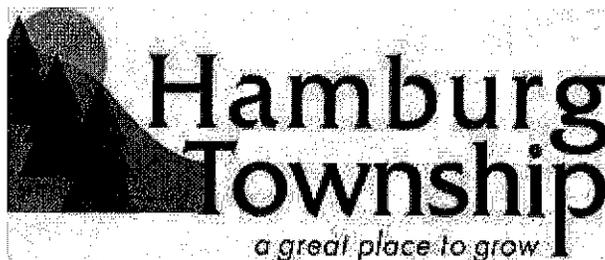
Exhibit B: staff photo

ZBA Case Number 18-0009

\$550

HAMBURG TOWNSHIP  
Date: 08/10/2018 4:26:58 PM  
Ref ZBA0180-009  
Receipt 1187446  
Amount \$550.00

FAX 810-231-4295  
PHONE 810-231-1000



P.O. Box 157  
10405 Merrill Road  
Hamburg, Michigan 48139

**APPLICATION FOR A ZONING BOARD OF APPEALS (ZBA)  
VARIANCE/INTERPRETATION  
(FEE \$500 plus \$50 each additional)**

1. Date Filed: 8/10/2018
2. Tax ID #: 15-31-102-001 Subdivision: Mumford Park Lot No.: 1,2,3
3. Address of Subject Property: 2260 Mumford Rd
4. Property Owner: Jason Moller Phone: (H) ~~XXXXXXXXXX~~  
 Email Address: ~~XXXXXXXXXXXXXXXXXXXX~~ (W) \_\_\_\_\_  
 Street: 2260 Mumford Rd City Pinckney State MI
5. Appellant (If different than owner): \_\_\_\_\_ Phone: (H) \_\_\_\_\_  
 E-mail Address: \_\_\_\_\_ (W) \_\_\_\_\_  
 Street: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_
6. Year Property was Acquired: 2013 Zoning District: \_\_\_\_\_ Flood Plain \_\_\_\_\_
7. Size of Lot: Front \_\_\_\_\_ Rear \_\_\_\_\_ Side 1 \_\_\_\_\_ Side 2 \_\_\_\_\_ Sq. Ft. 22390ft<sup>2</sup>
11. Dimensions of Existing Structure (s) 1st Floor 1374ft<sup>2</sup> 2nd Floor 624ft<sup>2</sup> Garage 600ft<sup>2</sup>
12. Dimensions of Proposed Structure (s) 1st Floor 2240ft<sup>2</sup> 2nd Floor \_\_\_\_\_ Garage \_\_\_\_\_
13. Present Use of Property: Primary Residence
14. Percentage of Existing Structure (s) to be demolished, if any 0 %
15. Has there been any past variances on this property? Yes \_\_\_\_\_ No X
16. If so, state case # and resolution of variance application \_\_\_\_\_
17. Please indicate the type of variance or zoning ordinance interpretation requested:  
Property line Set Back & Height



- A. Lot Line- There is a power line running thru my property at approx. 62' from the rear line, therefore my building cannot meet the 30ft setback, or it would be under the power line.

Height- Our property is set on a steep downward grade from the roadway and to build with a lower roof line would make the building difficult to enter from the roadway.

- B. Lot Line- By building closer to the property line it will give our property and the adjacent property a better aesthetic by our buildings being in similar locations on our properties in relationship to the lines.

Height- By building the proposed building with a height midpoint of 17.3ft it will make our building within 1ft in height of the garage on the adjacent property. There for making our properties flow visually when viewed from the roadway.

- C. Lot Line- By approving the variance to build nearer the line, it will not adversely affect the public welfare as there is an appearance that this is the side lot line and this is a more appropriate placement of the proposed building.

Height- By allowing the height variance it will make it so the building on the adjacent property appear after ours, instead of being visible above our building. As our road heads downhill to the west. If our request was denied and we built to the 14ft midpoint, it would make the neighboring building appear much taller than it really is, which could have an adverse effect on all surrounding properties.

- D. Lot Line- By approving the building of this pole barn it will support the growth and development of Hamburg Township as it will show future residents, who may come from more rural areas, that they don't have to leave that behind. That we are a diverse community and we can all live together side by side and support one another.

Height- By approving the height variance request it will help to make our community have a natural flow about it by allowing our building to blend in with our neighboring properties existing structures.

- E. Lot Line- This request is specific to this property as most power lines are ran along property line, our property was combined after the power line was already in place, otherwise we would be able to appease both the county and DTE.

Height- Our property being in close proximity to several properties with similar buildings already in existence, that our building will better compare and blend in with them. Which is not regularly found in our township.

- F. Lot Line & Height- The purpose of this building, personal use, is within the guide lines of what is allowed within our township.

- G. Lot Line- This is the minimum distance being asked for to be a sufficient distance from the power line, for the safety of all.

Height- To build our building with a standard roof line pitch of 4/12. This is the minimum height required. As this is also the minimum slope required to get a full manufacturer's warranty for the roof in our region.

**VARIANCE:** A modification of the literal provisions of the zoning ordinance granted when strict enforcement would cause undue hardship due to circumstances unique to the individual property for which the variance is granted

**VARIANCE STANDARDS:**

- A. Where, owing to special conditions, a literal enforcement of the provisions of this Zoning Ordinance would involve practical difficulties, the Zoning Board of Appeals shall have power upon appeal in specific cases to authorize such variation or modification of the provisions of this Zoning Ordinance with such conditions and safeguards as it may determine, as may be in harmony with the spirit of this Zoning Ordinance and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the provisions of this Zoning Ordinance shall be granted unless it appears that, at a minimum, the applicant has proven a practical difficulty and that all the following facts and conditions exist:
1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.
  2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.
  3. That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.
  4. That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.
  5. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.
  6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district;
  7. The requested variance is the minimum necessary to permit reasonable use of the land.
- B. For the purpose of the above, a "practical difficulty" exists on the subject land when the strict compliance with the Zoning Ordinance standards would render conformity unnecessarily burdensome (such as exceptional narrowness, shallowness, shape of area, presence of floodplain or wetlands, exceptional topographic conditions), and the applicant has proven all of the standards set forth in Section 6.5 (c) (1) through (7). Demonstration of practical difficulty shall focus on the subject property or use of the subject property, and not on the applicant personally.
- C. In consideration of all appeals and all proposed variations to this Zoning Ordinance, the Zoning Board of Appeals shall, before making any variations from this Zoning Ordinance in a specific case, determine that the standards set forth above have been met, and that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public

streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the inhabitants of the Township.

**VARIANCE APPLICATION CHECKLIST:**

(8) sets of plans must be submitted. The sets are for the individual use of the Zoning Board members and the Township's records. None will be returned to you. The Land Use Permit will not be released until three (3) final construction blueprints and three (3) copies of your site plan are submitted which have been prepared according to the variances granted and conditions imposed at the appeals meeting.

- \_\_\_\_\_ 1. **Zoning Board of Appeals Application Form**  
All Drawing should have a north arrow and be to scale
- \_\_\_\_\_ 2. **Site Plan with following information:**
  - a) Location and width of road (s) and jurisdiction (public or private road).
  - b) Location and dimensions of existing/proposed construction.
  - c) Dimensions, designation, and heights of existing structures on property clearly marked.
  - d) Dimensions of property.
  - e) Location and dimensions of required setbacks
  - f) Measurement from each side of existing and proposed structure to the property lines.
  - g) All easements
  - h) Any bodies of water (lake, stream, river, canal) with water body name.
  - i) Distance from any body of water.
  - j) Septic Tank and Field, Sewer Tap (Grinder pump), Water Well
  - k) All areas requiring variances clearly marked with dimensions and amount of variance requested.
  - l) Any outstanding topographic features that should be considered (hills, drop-offs, trees, boulders, etc.).
  - m) Any other information which you may feel is pertinent to your appeal.
  - n) If the variance is to a setback requirement a licensed professional stamp shall be on the site plan.
- \_\_\_\_\_ 3. **Preliminary sketch plans** may be submitted for the Appeal in lieu of final construction drawings.
  - a) Elevation:
    - i. Existing and proposed grade;
    - ii. Finished floor elevations
    - iii. Plate height
    - iv. Building height

- v. Roof Pitch
- b) Floor plans:
  - i. Dimension of exterior walls
  - ii. Label rooms
  - iii. Clearly identify work to be done
  - iv. Location of floor above and floor below
- c) All other plans you may need to depict the variance. (grading plans, drainage plans etc.....)

- \_\_\_\_\_ 4. **Proof of Ownership:** Include **one** of the following:
- a) Warranty Deed - showing title transaction bearing Livingston County Register of Deeds stamps
  - b) Notarized letter of authorization from seller of property giving the purchaser authorization to sign a Land Use Permit

**VARIANCE PROCESS:**

Once a project is submitted:

The Zoning Administrator will review your submittal to make sure you have submitted a complete set of project plans (1 week if complete).

Once the project has been deemed complete by the Zoning Administrator:

The project will be scheduled for a Zoning Board of Appeals (ZBA) hearing. (ZBA hearing are held of the second Wednesday of each month) Your Project will need to be deemed complete by the Zoning Administrator a minimum of three (3) weeks prior to a hearing in order to be schedule for that hearing.

Once the project has been schedule for a ZBA hearing:

All property owners within a three hundred (300) foot radius of the subject property shall be notified of the date and time of the public hearing on your variance request and the basic nature of your proposed project and variances being requested, and the owner's name and address of the subject property. Notices will be sent on or before Fifteen (15) days prior to the hearing date.

A public hearing notice stating all appeals for a given date will be published in the Tuesday Edition of the Livingston County Daily Press & Argus fifteen (15 days) prior to the date of the hearing.

At the ZBA Meeting

1. You or your representative (lawyer, builder, contractor, relative, friend) must attend.
2. Appeals are taken in order of submission.
3. Unless your appeal is tabled due to lack of information, insufficiency of drawings, etc., you will know the disposition of the appeal at the meeting before you leave.
4. **No Land Use Permits will be available for pick up on the night of the meeting, so please do not ask the Zoning Administrator for them that night.**

5. In the event that the Zoning Board of Appeals **does not grant** your variance request there will be **no refund** of the filing fee, as it pays for administration costs, the member's reviewing and meeting time, and noticing costs in the newspaper and for postage.
6. Rehearing requests may be charged \$200.00 for postage and newspaper costs in addition to the original \$325.00 charge, at the discretion of the Zoning Board of Appeals.

Once the project has been approved

You will need to submit a completed Land Use Permit, 3 sets of your final construction blueprints and 3 copies of your site plan from which your project will actually be constructed before your Land Use Permit will be released. If the Board has made special conditions, they must be met before your Land Use Permit will be released.

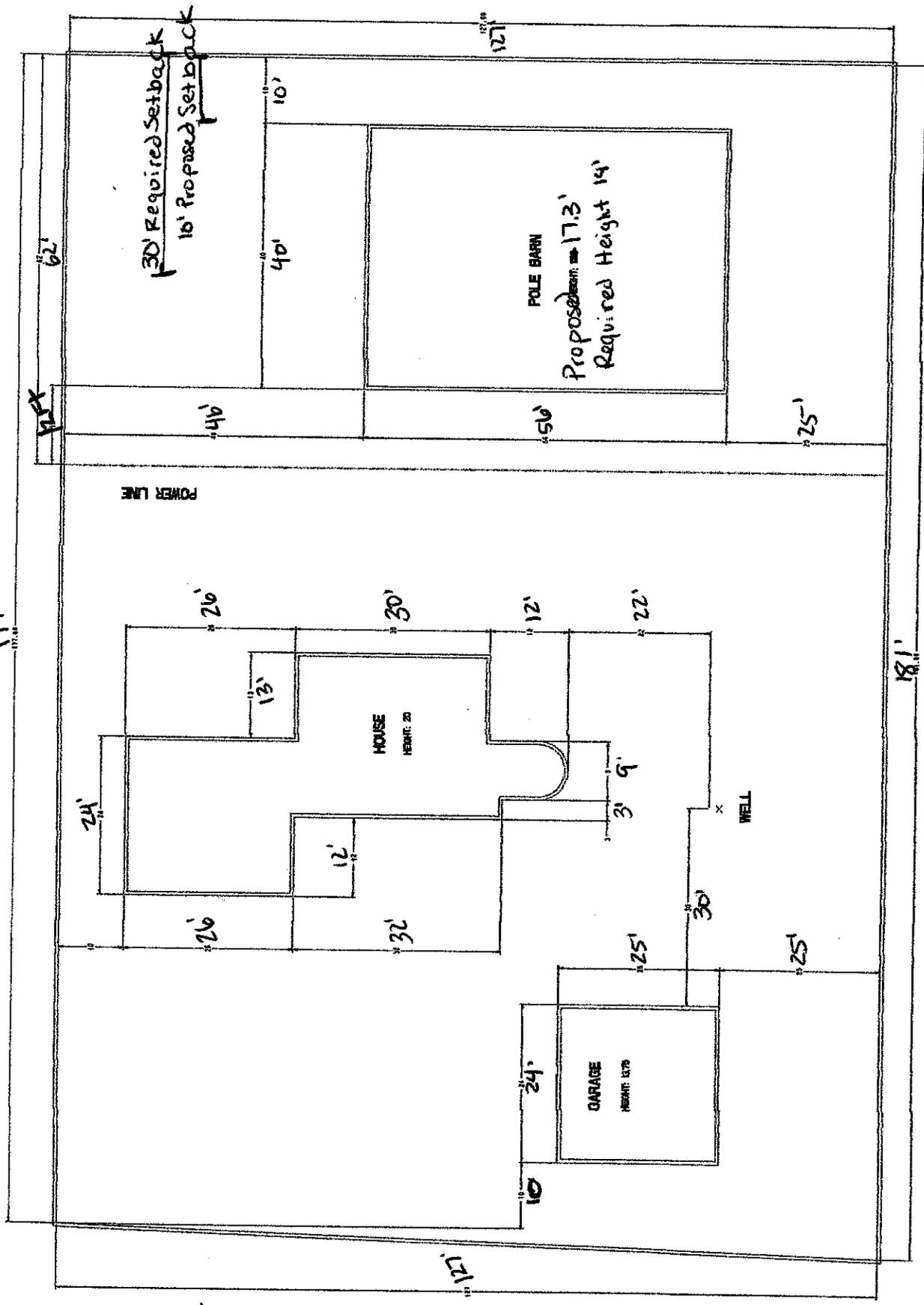
If the project is denied

Section 6.6.4 (C) of the Hamburg Township Zoning Ordinance states that a one (1) year period must elapse before a rehearing of the appeal "except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid."

Section 6.7 of the Zoning Ordinance governs appeals to Circuit Court. If you desire to appeal the decision of the Zoning Board of Appeals, you need to contact your attorney for filing appeals to Circuit Court.

---

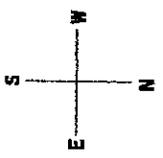
|        |        |
|--------|--------|
| NO. 1  | DATE   |
| LAYOUT | LAYOUT |



MUMFORD RD

Muller

2260 Mumford Rd.  
15-31-102-001



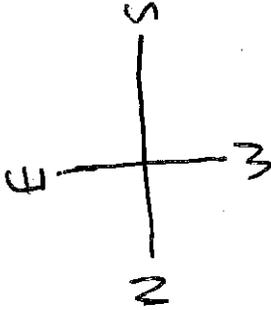
1.47' = 10ft

Mcgregor Rd

RECEIVED

AUG 10 2018

Hamburg Township  
Planning and Zoning Department



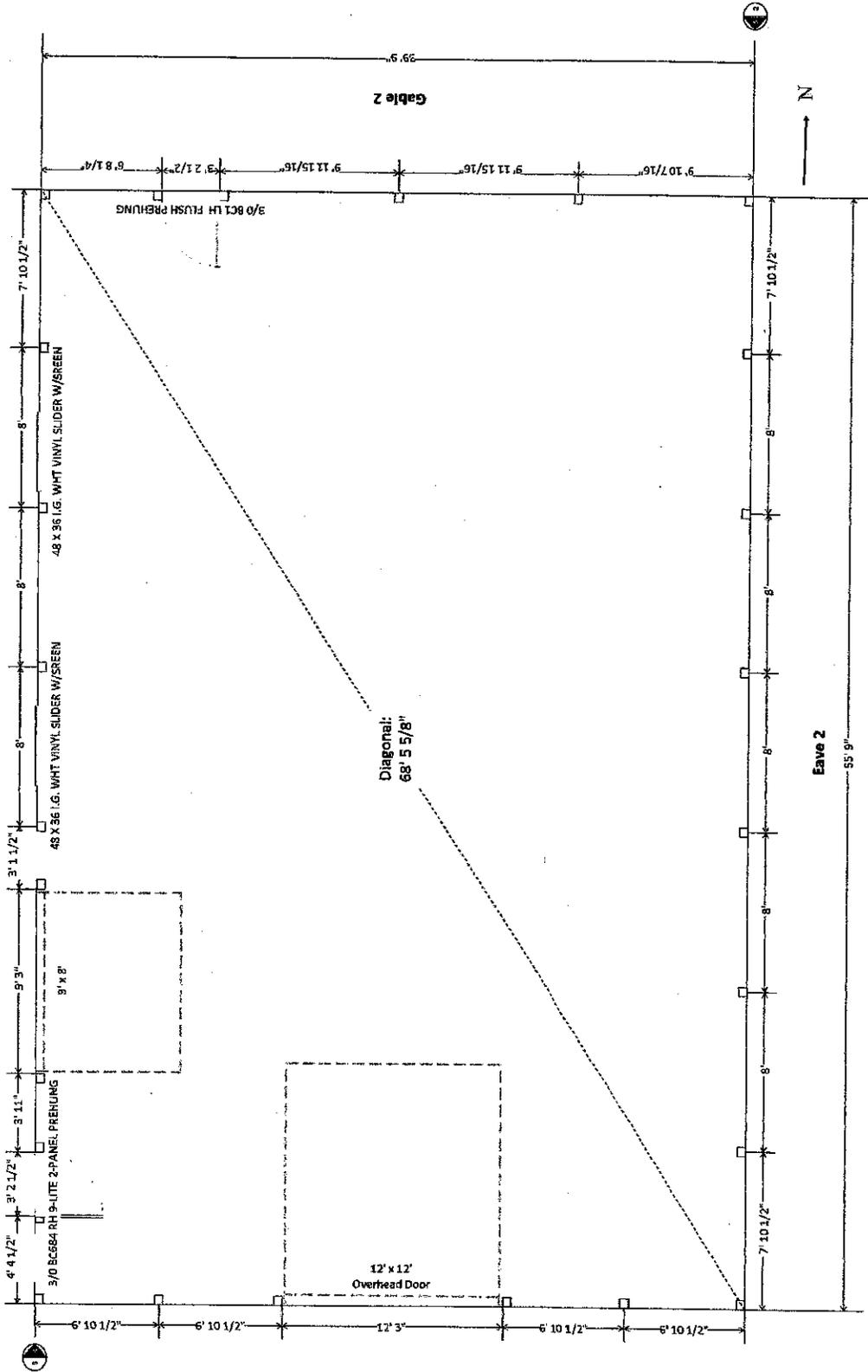
CONSTRUCTIONS  
**Maestro**  
11111  
11111

**POLE LAYOUT**

Personal Use, 2240 sq. ft.

**Eave 1**

**CHELSEA LUMBER**  
CORPORATION



**Gable 1**







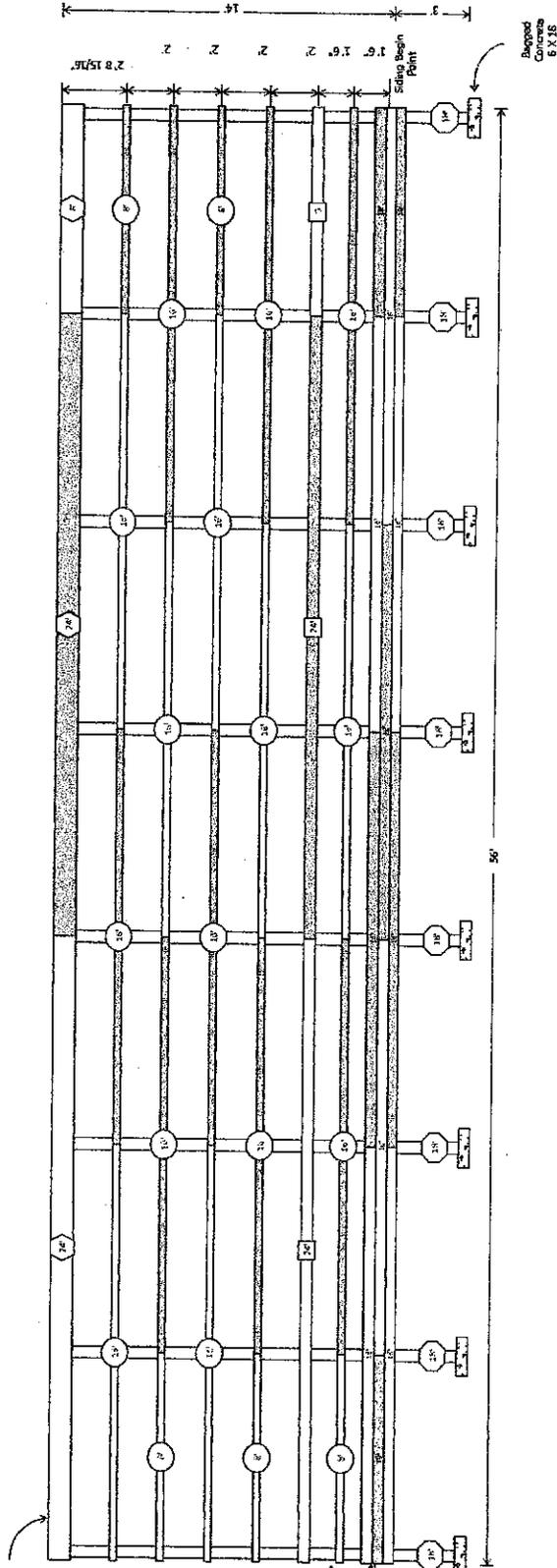
**WEST**  
**1000 SIDE-EAVE SIDE 2 WALL GIRTS VIEW**



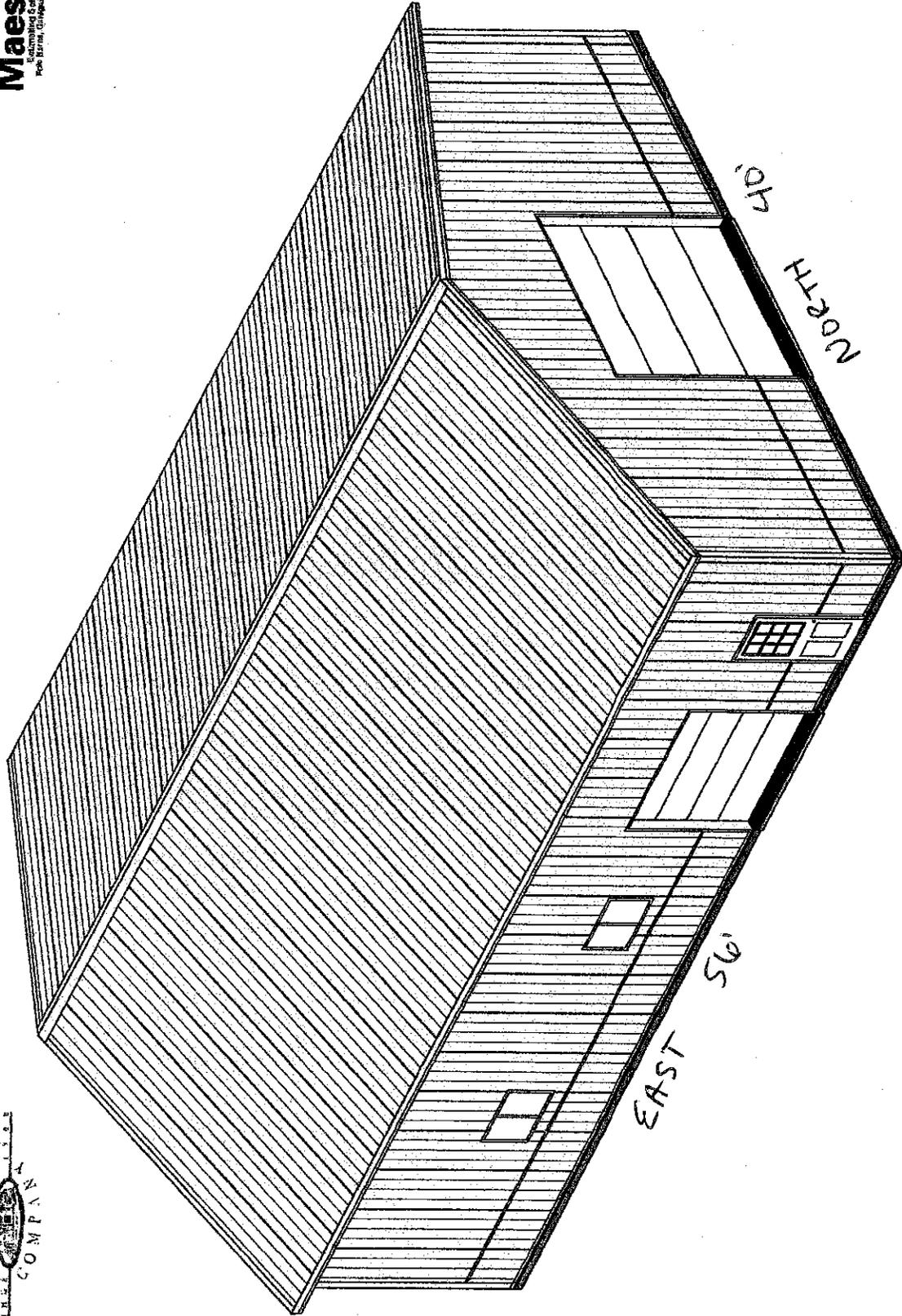
Truss Center  
 2 x 12  
 #2 SPF

Wall Girt  
 2 x 4  
 #2 SPF  
 PERMANENT

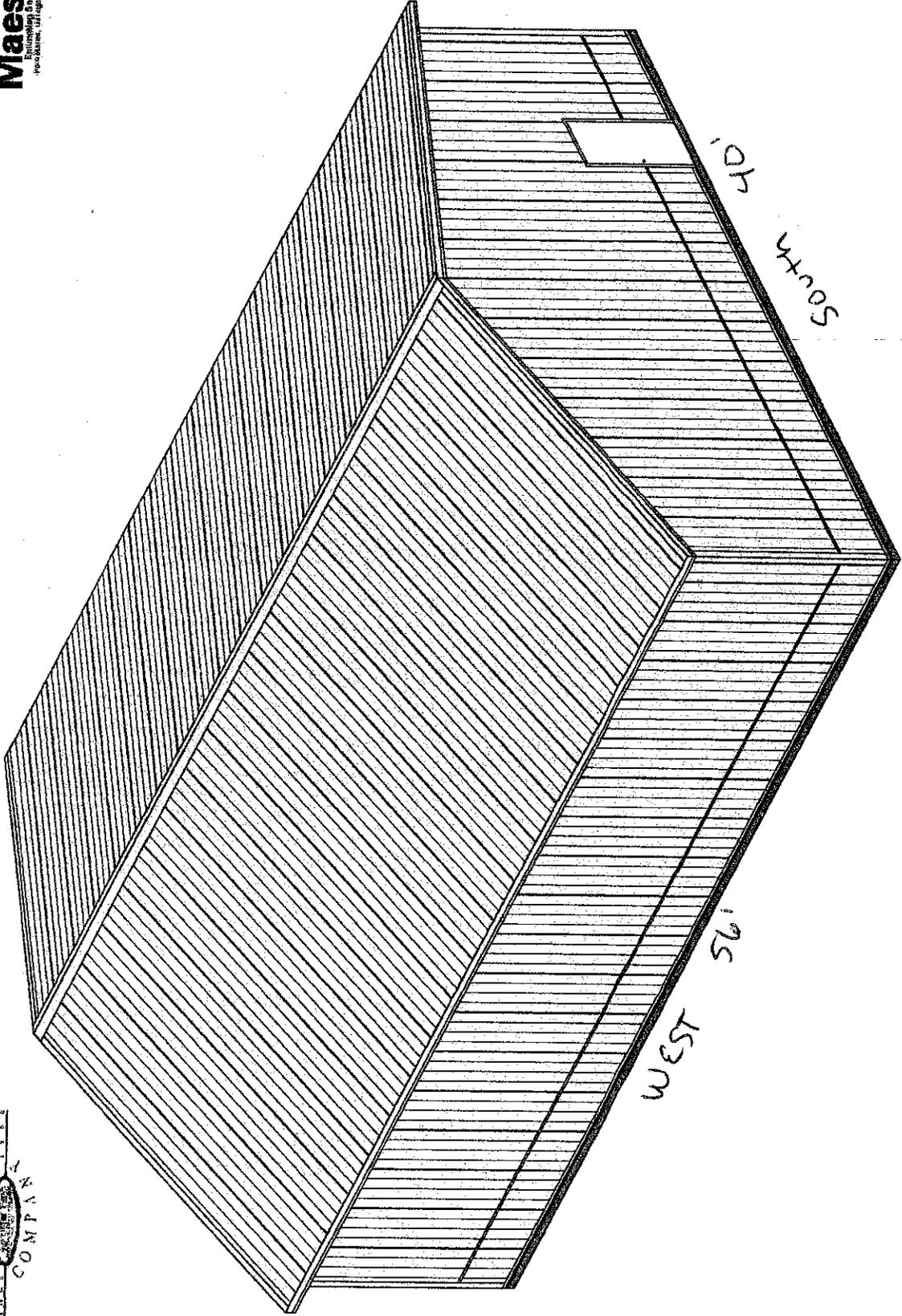
Shear Board  
 1/2" x 4"  
 Truss  
 Center







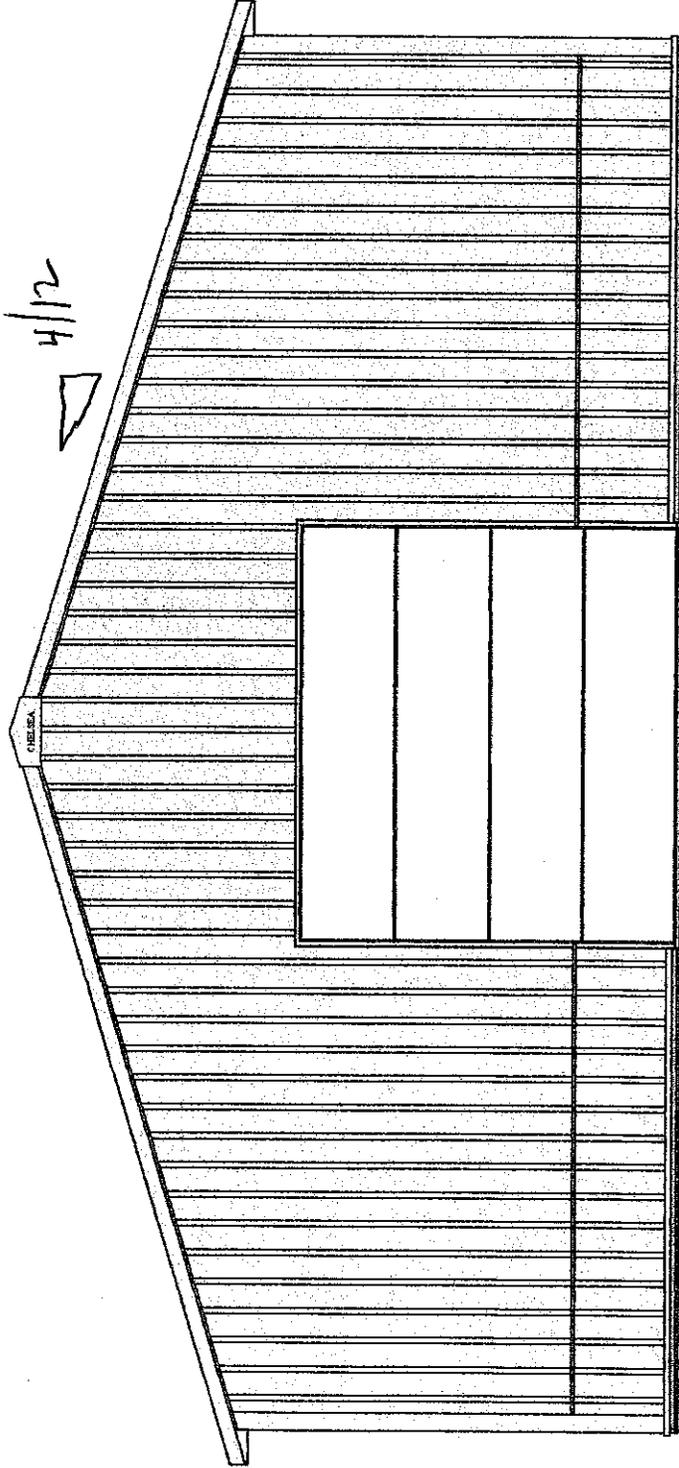
"Tiffany Boskirk  
Estimate Number: 5079  
7/30/2018"



"Tiffany Boskirk  
Estimate Number: 5079  
7/30/2018"



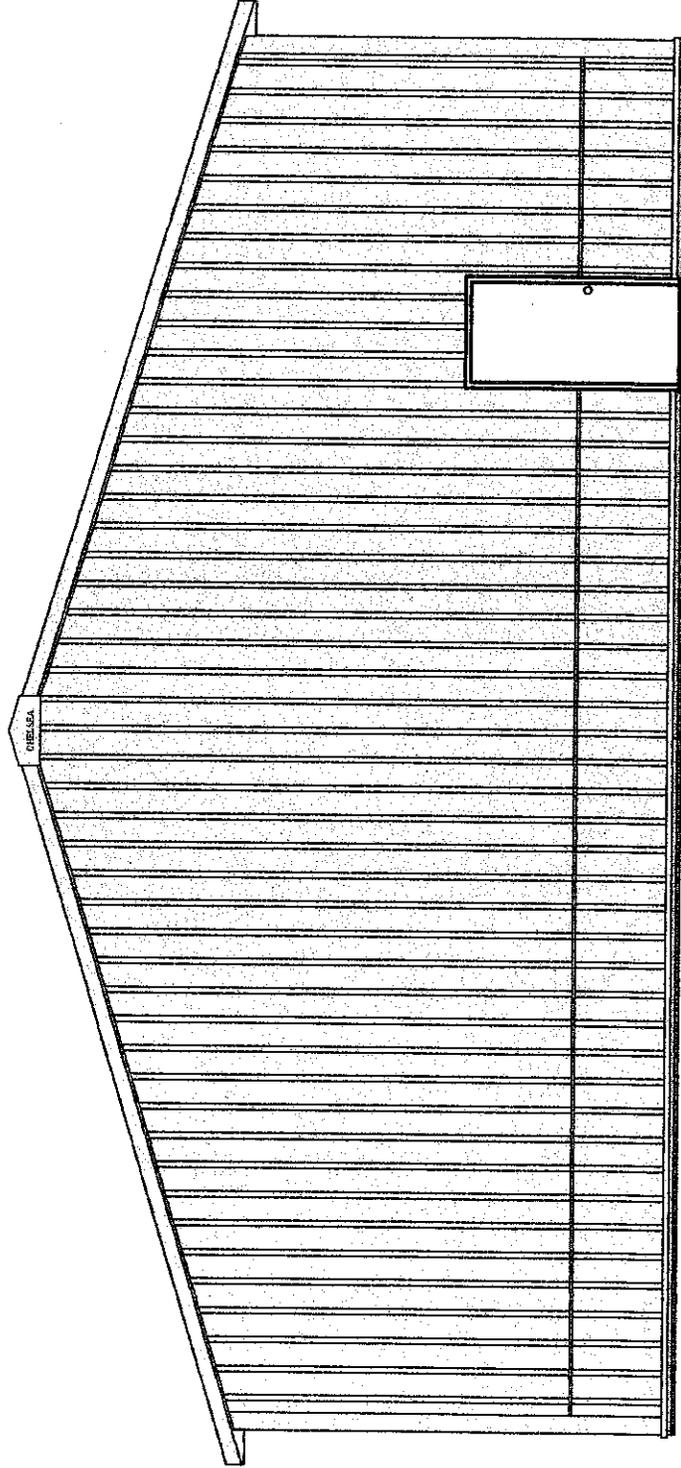
North  
SOUTH SIDE-GABLE SIDE 1 ELEVATION





SOUTH  
~~00220~~ SIDE-GABLE SIDE 2 ELEVATION

Construction  
**Maestro**  
Estimating Software  
For Windows, Macintosh & Linux

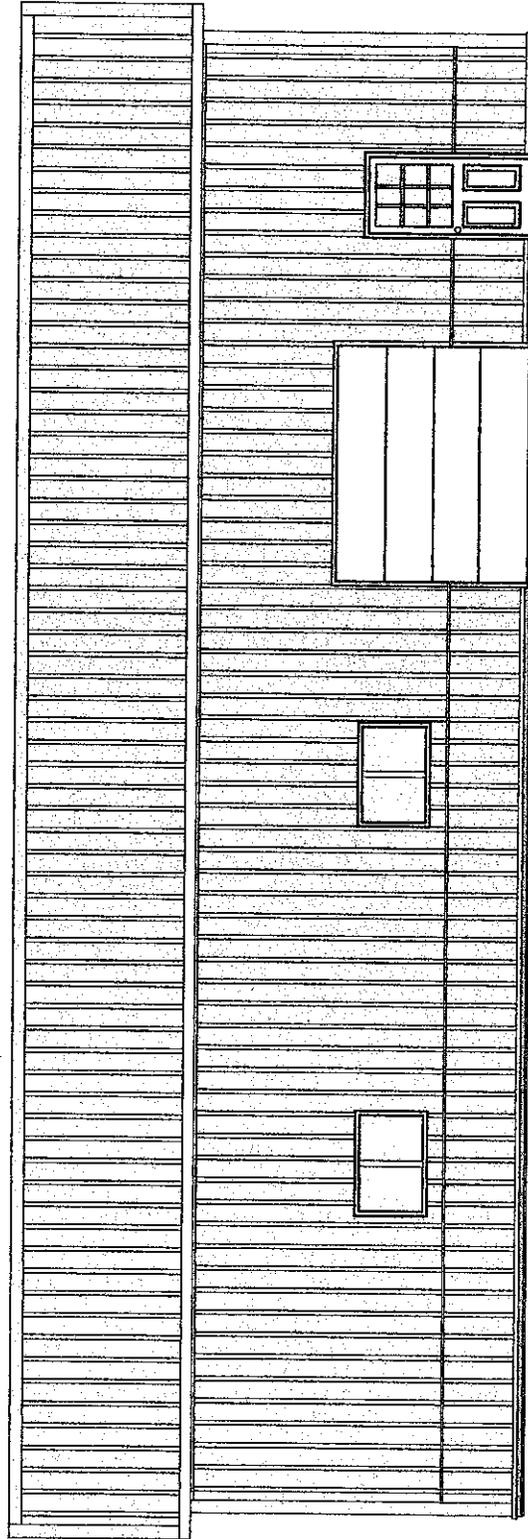


← 40' →

"Tiffany Boskirk  
Estimate Number: 5079  
7/30/2018"



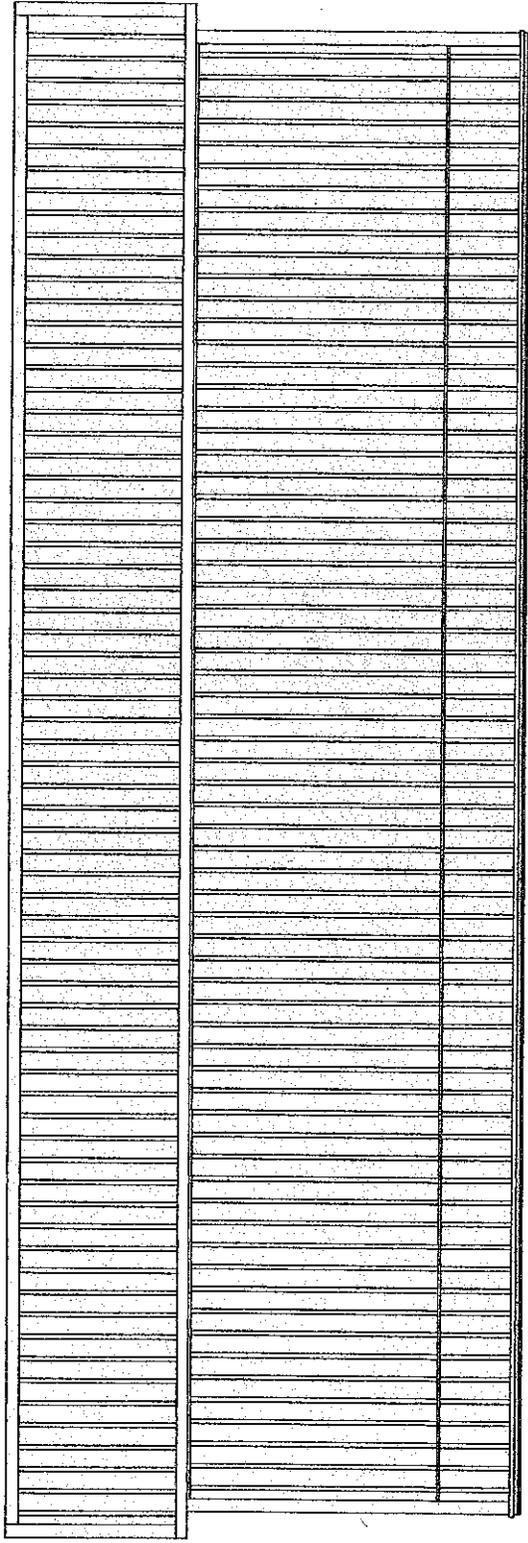
**EAST**  
**200377 SIDE-EAVE SIDE 1 ELEVATION**



← 50' →



WEST SIDE-EAVE SIDE 2 ELEVATION



← 56' →

**How to use the building height calculator:** Fill in the width of the building, the pitch of the roof, and the height of the wall plate as measured from grade (see illustration). The building height will be automatically calculated for you.

**Project address or tax identification number**

|                 |
|-----------------|
| 2260 Mumford Rd |
|-----------------|

Width of building

|    |
|----|
| 40 |
|----|

Pitch (vertical rise)

|   |
|---|
| 4 |
|---|

Wall plate height (measured from grade)

|    |
|----|
| 14 |
|----|

Height to midpoint between ridge and eave

|             |
|-------------|
| 17.33333333 |
|-------------|

Detached accessory buildings located within residential districts

\*which have roof pitch less than 8/12 shall not exceed 14 feet in height

\*which have roof pitch 8/12 or greater shall not exceed 17 feet in height

For primary structure height restrictions, see Section 7.6.1. of the Zoning Ordinance:

<http://www.hamburg.mi.us/lawroom/PDFS/ZONING%20ORDINANCE/ART07-District%20Regs.pdf>

#####

**Project address or tax identification number**

2260 Mumford Rd

**Square footage**

|                  |        |
|------------------|--------|
| <b>Lot size*</b> | 22,390 |
|------------------|--------|

**Building coverage (square feet)**

|   |              |
|---|--------------|
| dwelling/principal building (and attached garage) | 1,498        |
| detached garage                                   | 624          |
| pole barn 1                                       | 2,240        |
| pole barn 2                                       |              |
| shed  |              |
| carport   |              |
| <b>Proposed total building square footage</b>     | <b>4,362</b> |
| <b>Total building coverage permitted (35%)</b>    | <b>7,837</b> |
| <b>Percentage building coverage</b>               | <b>19.5%</b> |

**Is proposed building coverage within permissible limit? YES**

**Impermeable surface coverage (square feet)**

|  |              |
|--|--------------|
| driveway (paved and gravel)                        | 2,800        |
| sidewalk (paved and gravel)                        |              |
| patio (paved and gravel)                           |              |
| roads/streets                                      |              |
| parking pad (paved and gravel)                     |              |
| storage area (paved and gravel)                    |              |
| <b>Proposed total impermeable surface coverage</b> | <b>2,800</b> |

**Lot coverage (square feet)**

|  |              |
|--|--------------|
| total proposed building coverage                     | 4,362        |
| total proposed impermeable surface coverage          | 2,800        |
| <b>Total proposed lot coverage</b>                   | <b>7,162</b> |
| <b>Total lot coverage permitted (40% of lot)</b>     | <b>8,956</b> |
| <b>Percentage lot coverage</b>                       | <b>32.0%</b> |
| <b>Is lot coverage within permissible limit? YES</b> |              |

To whom it may concern:

I, George Renyolds, live at 2230 Mumford Rd, Pinckney. My property shares Jason Muller's (2260 Mumford) Western Property Line.

I understand that he is applying for a variance to build his Pole Barn 10 feet from our shared property line, I am writing in support of his request and that it is acceptable to me the proposed location of his Pole Barn.

He is also applying for a Height Variance. This would make his pole barn a similar height to my building near our shared property line. I think this would make for an appeasable appearance from the road and a nice flow for our neighborhood.

Thank you



George J. Reynolds



George Renyolds

To whom it may concern:

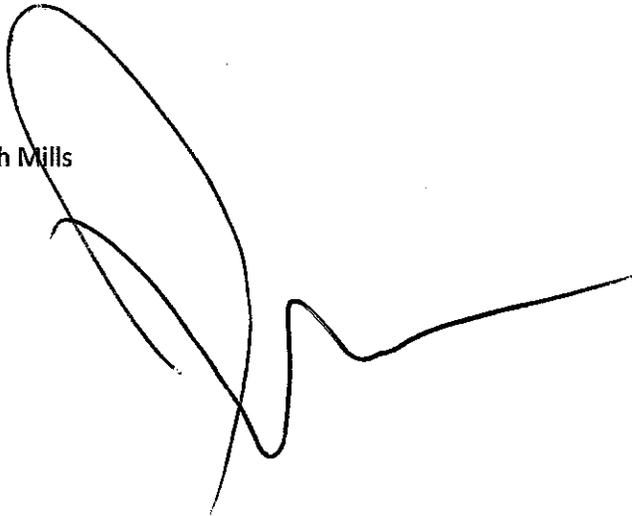
I, Josh Mills, live at 2261 Mumford Rd, a property owner across the street from the proposed building site at 2260 Mumford Rd.

Jason Muller has approached me regarding his proposed building plan with setback and height variance requests.

I am writing this letter to show support for his proposed building plan and hope you approve his variance requests.

Thank you for your time

Josh Mills

A handwritten signature in black ink, consisting of a large, loopy initial 'J' followed by a series of connected, somewhat horizontal strokes that trail off to the right.

September 4<sup>th</sup>, 2018

To whom it may concern:

I, Daniel Allain, live at 2231 Mumford Rd, a property owner across the street from the proposed Pole Barn at 2260 Mumford Rd.

Jason Muller has approached me regarding his setback and height variance requests for his proposed Pole Barn.

I am writing this letter to show support for his proposed building plan and hope you approve his variance requests.

Thank you for your time,

A handwritten signature in cursive script that reads "Daniel Allain".

Daniel Allain

September 3rd, 2018

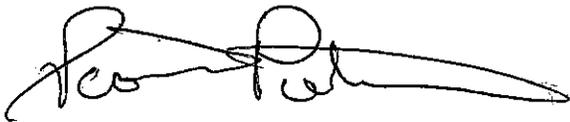
To whom it may concern:

I, Scott Peterson, live at 11315 Algonquin Rd, a property owner two doors west from the proposed variance requests at 2260 Mumford Rd.

Jason Muller has approached me regarding his setback and height variance requests for his proposed Pole Barn.

I am writing to show support for his proposed building plan, and I hope you grant his requests.

Thank you,

A handwritten signature in black ink, appearing to read "Scott Peterson", written in a cursive style.

Scott Peterson

September 2<sup>nd</sup>, 2018

To whom it may concern:

I, Derrich Woehle, live at 2241 Mumford Rd, a property owner directly across the street from the proposed Pole Barn site at 2260 Mumford Rd.

Jason Muller has approached me regarding his setback and height variance requests for his proposed Pole Barn.

I hope with my written support of his proposed building plan that you approve his variance requests.

Thank you for listening,



Derrich Woehle

September 5<sup>th</sup>, 2018

To whom it may concern:

I, David Pierzinski, live at 11255 McGregor Rd, a property owner Northeast across the street from the proposed variance requests at 2260 Mumford Rd.

Jason Muller has approached me regarding his setback and height variance requests for his proposed Pole Barn.

I am writing to show support for his proposed building plan, and I hope you grant his requests.

Thank you.

David Pierzinski

A handwritten signature in black ink, appearing to read "David Pierzinski", written in a cursive style.

September 5<sup>th</sup> , 2018

To whom it may concern:

I, Joseph Early, live at 11231 McGregor Rd, a property owner Northeast across the street from the proposed variance requests at 2260 Mumford Rd.

Jason Muller has approached me regarding his setback and height variance requests for his proposed Pole Barn.

I am writing to show support for his proposed building plan, and I hope you grant his requests.

Thank you,

Joseph Early

A handwritten signature in black ink, appearing to read 'Joseph Early', written in a cursive style.

**Staff exhibit B: staff picture**



11-foot wall plate, three feet shorter than the proposed wall plate

P.O. Box 157  
10405 Merrill Road  
Hamburg, Michigan 48139-0157

(810) 231-1000 Office  
(810) 231-4295 Fax



**Supervisor:** Pat Hohl  
**Clerk:** Mike Dolan  
**Treasurer:** Jason Negri  
**Trustees:** Bill Hahn  
Annette Koeble  
Chuck Menzies  
Jim Neilson

---

**Hamburg Township  
Zoning Board of Appeals Minutes  
Hamburg Township Board Room  
Wednesday, June 13, 2018 Minutes  
7:00 P.M.**

**1. Call to order:**

The meeting was called to order by Chairperson Priebe at 7:00 p.m.

**2. Pledge to the Flag:**

**3. Roll call of the Board:**

Present: Hollenbeck, Neilson, Priebe and Watson

Absent: Bohn

Also Present: Amy Steffens, Planning & Zoning Administrator & Brittany Stein, Planning/Zoning Coordinator

**4. Correspondence:** None

**5. Approval of Agenda:**

Motion by Neilson, supported by Watson

To approve the agenda as presented

Voice vote: Ayes: 4    Nays: 0    Absent: 1    MOTION CARRIED

**6. Call to the public:**

Chairperson Priebe opened the hearing to the public for any item not on the agenda. There was no response. The call was closed.

**7. Variance requests:**

a. ZBA 2018-005

Owner: Daniel and Kristin Hall

Location: 5150 Redding Drive Pinckney MI 48169

Parcel ID: 15-22-300-047

Request: Variance application to allow for the construction of a 732-square foot attached garage with a 3.9-foot east front yard setback (15-foot front yard setback required, Section 8.3.2.).

Mr. Daniel Hall, applicant, thanked the board for their consideration at the last meeting. He stated that he revisited the plans and was not able to come up with anything better than what he originally proposed considering his needs and taking into consideration the neighbors' properties and lake views. He did have a couple of contractors look at the plans and they looked at a couple options, but they were not viable. He

stated that the minutes from the last meeting were very detailed and accurate, and he does not feel the need to make an additional presentation. He stated that a standard garage is 24'x24'. If the Board does not approve the request as submitted, he is asking that they approve the construction of a standard garage rather than the 24'x30' request. That should still allow him to construct another accessory structure.

Planning/Zoning Administrator Steffens stated that staff continues to recommend denial of the project as proposed. She stated that a 24'x24' garage would still require a variance, but it is a less intrusive variance. Staff does not like to add to a non-conforming situation particularly in an area that has been built with nonconformities. On Redding Drive it is difficult to tell where the road is, where people's property lines are, etc. This lot is a peculiar lot without a doubt and there are circumstances that do not apply to other lots in the general vicinity. If the Board does decide that a 24'x24' garage is acceptable, there are a couple conditions. This portion of the lot is identified by FEMA as being in the 100 year flood plain, therefore, a sealed topographical survey would have to be submitted showing the base flood elevation as well as the elevations of the existing structure and the proposed garage. Also, during a site visit on April 25, 2018, staff observed an area of blight in the front yard which is a violation of General Ordinance 38C. No land use permit may be issued until the blight is removed. If the Board approves something other than what has been submitted, we will need corrected construction plans as well as a corrected site plan. She stated that these conditions are required for a land use permit and does not have to be included in the motion

The question was asked if the applicant lives in the residence 12 months out of the year. Mr. Hall stated that he does not currently live there, however once the remodel is done, it is intended to be his residence.

Motion by Neilson, supported by Neilson

Motion to approve variance application ZBA 18-005 at 5150 Redding Drive to allow for the construction of a 24' x 24' attached garage with a 9.9-foot east front yard setback (15-foot front yard setback required, Section 8.3.2.). The variance does meet variance standards one through seven of Section 6.5 of the Township Ordinance and a practical difficulty does exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight's hearing and as presented in the staff report based on the architectural plan dated April 13, 2018 and contingent upon the conditions set forth in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

Chairperson Priebe stated that it is a unique situation based on the size and configuration of the lot as well as the placement of the home and surrounding neighbors.

Voice vote: Ayes: 4 Nays: 0 Absent: 1 MOTION CARRIED

b. ZBA 2018-006

Owner: Tim and Diane Comperchio

Location: 5591 Seney Circle Hamburg Township MI 48189

Parcel ID: 15-34-401-007

Request: Variance application to allow an enclosed sunroom to encroach 9 feet 11 inches into the required 35-foot rear yard setback (Section 7.6.1.).

Mr. Comperchio stated that in 2015 he received variance approval for a covered deck. At that time he was asked if they intended to enclose it at which time they did not intend to do so. They simply needed a covered area due to the fact that his wife has melanoma. Since that time after living here, they discovered the amount of mosquitos, etc. from the wooded area and they did enclose it. However, they did not know they needed a permit to do so. He apologized for his error.

Discussion was held on the required variance. It was stated that the original variance was for a covered porch, therefore this is a brand new project for an enclosed sunroom.

Planning/Zoning Administrator Steffens stated that the subject site is a 0.30-acre parcel located in the Mystic Ridge subdivision and improved with a 1,935-square foot single-family dwelling. Single-family dwellings are located to the north, south, and east; the west rear yard of the site adjoins the common open space of the subdivision. On June 10, 2015, the ZBA granted variance approval for the construction of a 17-foot by 14-foot covered porch off of the rear of the existing dwelling with a 9-foot, 11-inch encroachment into the required 35-foot rear yard setback. A land use permit was issued and the covered porch was constructed. Sometime between the construction of the porch in 2015 and 2018, the covered porch was converted into an enclosed three season sunroom. Because the enclosure went above and beyond what the ZBA approved, that triggered the need for an additional variance. She reviewed the seven standards of review. She stated that when the subdivision was developed, the rear yard setback was required to be 35 feet, rather than the 30 feet the zoning ordinance requires. The 35-foot rear yard setback does make it impractical for some lots to have accessory structures in the rear yard without variance approval. However, there is ample room to the north and south of the existing dwelling to construct additional enclosed living space and still conform to all setback requirements. While the rear of the site abuts the subdivision's open space, the neighboring properties abutting the open space have developed in accordance with the rear yard setbacks for enclosed living space. She stated that the possibility of increased financial return shall not be deemed sufficient to warrant a variance. An enclosed living space is more impactful than the previously approved covered patio. The ZBA did find in 2015 that a covered patio is a customary residential structure similar to those structures on surrounding properties. Staff can find no other variance approvals for accessory structures or enclosed living space on Seney Circle, indicating that neighboring properties have been developed in accordance with the zoning ordinance. The subject property is designated Low Density Rural Residential development in the future use map and is within the South Hamburg/Strawberry Lake Planning Area in the Township Master Plan. The Plan envisions single family residential development. We do have substantial requests filed for either rear or front yard variances, however they are usually constrained by environmental factors such as water or wetlands or small lot sizes. Most of our variance requests are on waterfront lots. This lot is not constrained by any of those factors. It is a typical subdivision lot. A zoning text amendment recently adopted by the township allows uncovered at-grade appurtenances to extend up to five feet from a lot line. This text amendment allows for greater flexibility for structures that are not as impactful as covered or enclosed structures. No neighboring properties have received variance approval for either accessory structures or enclosed living space. The property is currently used for single-family residential and the use will not change if the proposed variance request is granted. Finally, a covered patio was approved in 2015 and constructed per the variance approval. The decision to enclose the patio, contrary to the previous approval and the permit requirements, creates the self-created practical difficulty that drives the need for variance relief from the rear yard setback requirement. The lot can accommodate enclosed living space in a compliant location. The Board has to find that there is something about the property that is peculiar, that they cannot comply with the ordinance for enclosed living space. Staff does not believe there is a practical difficulty on this site.

The question was asked what would happen if the variance is denied. Steffens stated that they would have to return the enclosed living space to the covered porch that was approved in 2015.

Chairperson Priebe opened the public hearing. Hearing no public comment, the hearing was closed.

Priebe stated that the footprint is not changing. Discussion was held on the addition of the walls partially blocking the neighbors' views. It was stated that in 2015, if they applied for an enclosed porch, the Board may have considered it considering the applicant's wife, mosquitos, etc. Steffens stated that you cannot consider bugs or the applicant's conditions. You have to look at the lot.

Member Hollenbeck stated that he feels that tearing it down would be counter productive. However, he feels there should be some type of fine. It was stated that he was made to come back and pay the fee for the additional variance. Steffens stated that we do have an "after-the-fact" fee. Discussion was held on the applicant needing to pull permits at the County as well. Steffens stated that she understands that they do have an "after-the-fact" fee, however they typically only do that if someone is red-tagged.

The question was asked if the motion should include that the “after-the-fact” fee be applied. Steffens stated that we would apply that fee regardless.

Motion by Bohn, supported by Neilson

Motion to approve variance application ZBA 18-006 at 5591 Seney Circle to allow an enclosed sunroom to encroach 9 feet 11 inches into the required 35-foot rear yard setback (Section 7.6.1.). The variance does meet variance standards one through seven of Section 6.5 of the Township Ordinance and a practical difficulty does exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight’s hearing and as presented in the staff report subject to an after-the-fact permit fee. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

Voice vote: Ayes: 4 Nays: 0 Absent: 1 MOTION CARRIED

Discussion was held on the process to obtain the proper land use and building permits.

**8. New/Old Business:**

- a. Approval of April 11, 2018 minutes and memorialization of findings for ZBA 18-004

Motion by Hollenbeck, supported by Watson

To approve the April 11, 2018 minutes and memorialization of findings for ZBA 18-004 as written

Voice vote: Ayes: 4 Nays: 0 Absent: 1 MOTION CARRIED

- b. Approval of May 9, 2018 minutes

Motion by Neilson, supported by Watson

To approve the May 9, 2018, 2018 as written

Voice vote: Ayes: 4 Nays: 0 Absent: 1 MOTION CARRIED

Brittany Stein, Planning/Zoning Coordinator stated that the Master Plan 2020 website is live which is linked through our Planning and Zoning website. Our survey is out there and we encourage anyone in the Township to take the survey and give us their feedback. We will be at the Hamburg Funfest from 3-8 p.m. Thursday through Saturday. The question was asked how many questions are on the survey. Stein stated that there are 13 questions, but they are multiple-part questions. Steffens stated that it is important to know what our residents want and how they envision the Township growing in the next 20+ years.

**9. Adjournment:**

Motion by Hollenbeck, supported by Watson

To adjourn the meeting

Voice vote: Ayes: 4 Nays: 0 Absent: 1 MOTION CARRIED

The meeting was adjourned at 7:41 p.m.

Respectfully submitted,

---

Julie C. Durkin  
Recording Secretary

The minutes were approved  
As presented/Corrected: \_\_\_\_\_

---

Chairperson Priebe