

**Hamburg Township
Zoning Board of Appeals
Hamburg Township Board Room
Wednesday, May 8, 2019
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 2019-0005**

Owner: Edward Murawski
Location: 10311 Kress Road
Lakeland, MI 48143
Parcel ID: 15-28-203-015
Request: Variance application to allow for the construction of a 100-square foot shed with a five-foot north side yard setback and a 10-foot east rear yard setback (10-foot side yard and 30-foot rear yard setbacks required, Sections 7.6.1. and 8.3.).
 - b) **ZBA 2019-0006**

Owner: Jeffery Settle
Location: 10450 Kress Rd.
Pinckney, MI 48169
Parcel ID: 15-28-301-001
Request: Variance application to construct a 486 square foot addition on the north facade and a 282 square foot addition on the east facade of the existing dwelling. The resulting dwelling will have a 15.9-foot east front yard setback (25-foot front yard setback required, Section 7.6.1.fn4).

c) **ZBA 2019-0007**

Owner: Richard and Kristine Mancik
Location: 5229 Post Drive
Pinckney MI 48169
Parcel ID: 15-27-105-039
Request: Variance application to allow the demolition and reconstruction of a 1,053-square foot dwelling, with a walkout basement and partially constructed 729-square foot attached garage. The proposed dwelling would have a 7-foot, 3-inch north side yard setback (10-foot side yard setback required, Section 7.6.1.), and a 576-square foot elevated deck with a 6-foot, 6-inch north side yard setback (8-foot setback required, Section 8.17.1.).

d) **ZBA 2019-0008**

Owner: Gary Phillips & Marilyn Kellepourey
Location: 5308 Gallagher Blvd.
Whitmore Lake, MI 48189
Parcel ID: 15-27-301-089
Request: Variance application to allow for the demolition of an existing dwelling and construction of a new 2,284 square foot single family dwelling with an attached 1,012 square foot two-car garage. The dwelling will have a 24.6-foot setback from a regulated wetland (50-foot setback from a regulated wetland required, Section 9.9.3.B.).

e) **ZBA 2019-0009**

Agent: Angelini & Associates Architects
Owner: Stephen and Catherine Boston Living Trust
Location: 9658 Zukey Drive
Pinckney, MI 48169
Parcel ID: 15-22-301-001
Request: Variance application to allow for the removal of 100 percent, or 29 linear feet, of a dwelling's non-conforming perimeter exterior walls and reconstruction of the walls in the existing footprint (no more than 50 percent of the exterior perimeter walls of the nonconforming structure shall be removed, Section 11.3.3.). The proposed dwelling will have a 43-foot setback from the ordinary high water of Zukey Lake (50-foot setback from the ordinary high water required, Section 7.6.1.).

8. New/Old business

- a) Approval of April 10, 2019 ZBA Minutes
- b) 19-0004 Memo of Findings
- c) Withdrawal of ZBA 19-002

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:** May 8, 2019

SUBJECT: ZBA 19-005

**PROJECT
SITE:** 10311 Kress Road
(TID 15-28-203-015)

**APPLICANT/
OWNER:** Edward Murawski

AGENT: None

Request: Variance application to allow for the construction of a 100-square foot shed with a five-foot north side yard setback and a 10-foot east rear yard setback (10-foot side yard and 30-foot rear yard setbacks required, Sections 7.6.1. and 8.3.).

Site description and history

The subject site is a 7,492-square foot parcel improved with a 1,394-square foot single-family dwelling with a 360-square foot attached garage. The site is a triple frontage lot that gains access from Kress Road to the west; unimproved platted right-of-way is to the north and south of the site. Single-family dwellings are located to the north, west, and south; a vacant parcel is to the east.

The site received ZBA approval in 1995 to remove an existing home and install a new manufactured home in the same location, resulting in deficient east and south yard setbacks. The ZBA also approved a variance in 1999 to allow for the construction of the attached garage, resulting in a deficient south front yard setback.

If approved, the variance request would allow for the construction of a 10-foot by 10-foot shed in the north side yard, providing a five-foot north side yard setback and a 10-foot east rear yard

setback where 10-foot and 30-foot setbacks would be required, respectively (Sections 7.6.1. and 8.3.).

Accessory Structure Setback Requirements (in feet)

	Required	Existing	Proposed
North	10	25 (dwelling)	5
South	10	5 (attached garage)	5
West	25	40	50
East	30	10 (dwelling)	10

Standards of Review

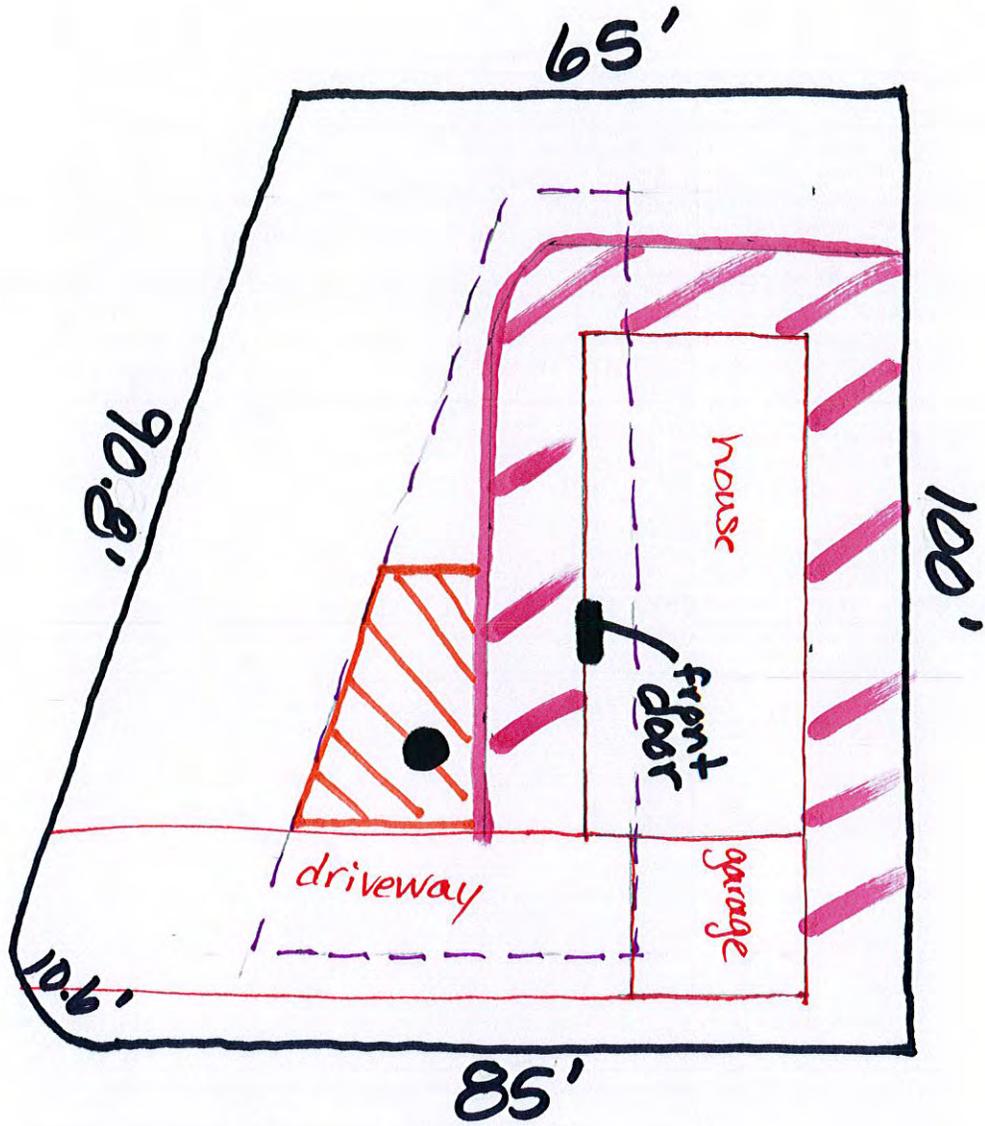
The Zoning Board of Appeal’s (ZBA) decision in this matter is to be based on the findings of facts to support the following standards. The applicable discretionary standards are listed below in bold typeface followed by staff’s analysis of the project as it relates to these standards. A variance may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

The subject site is constrained by extraordinary circumstances or conditions applicable to the property: the location of the home on the far east of lot means that the shed cannot go behind the home in a compliant location (10-foot distance separation required between the dwelling and detached accessory structures) to make use of the relaxed setbacks of five feet to the side and rear property boundaries for accessory structures located behind the dwelling. Because there is no compliant location behind the dwelling, the shed must meet the required accessory structure setbacks of a 25-foot front yard setback, 30-foot rear yard setback, and 10-foot side yard setbacks, and 10-foot separation from the dwelling. Staff drew a schematic of the lot, indicating the location of the home, driveway, grinder pump; accessory structure building envelope; and the required 10-foot distance separation between the home and shed. As shown on the drawing, there is just one compliant location for a 100-square foot shed: ten feet away from the dwelling’s front door.

- 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.**

As stated above, the site is constrained because of the location of the existing dwelling in relation to the property boundaries. While a shed is not necessary for the preservation of substantial property rights, the proposed 100-square foot shed is a relatively small improvement and is a customary and reasonable accessory in a residential zone.



● grinder pump

- - - accessory structure building envelope

— footprint of house and driveway

/// ten foot requirement between home and accessory structure

/// compliant location for proposed 10-foot by 10-foot shed

- 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.**

The proposed shed would have a ten-foot setback from the east property boundary which abuts a vacant lot that could accommodate a single-family dwelling and a five-foot setback from the unimproved right-of-way of Norene Drive that could be improved in the future. However, staff does not believe that the proposed five-foot setback from an improved right-of-way would be detrimental to the public welfare or materially injurious to the property or improvements in the district and the dwelling's ten-foot setback could be more impactful than a 100-square foot shed with the same setback.

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

The subject property is designated Medium Density Rural Residential development in the future use map and is within the North Chain of Lake Planning Area in the Township Master Plan. The Plan envisions single family residential development tied to the waterfronts.

- 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.**

See analysis under standard number one.

- 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.**

As discussed under standard number one, there is one compliant location for the shed in front of the main door to the dwelling. The proposed location is a less impactful location aesthetically and functionally than the single compliant location available for an accessory structure.

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/deny) the application. In the motion to approve/deny the project the ZBA should incorporate the ZBA's discussion and analysis of the project and the findings in the staff report. The Commission 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 19-005 at 10311 Kress Road to allow for the construction of a 100-square foot shed with a five-foot north side yard setback and a 10-foot east rear yard setback (10-foot side yard and 30-foot rear yard setbacks required, Sections 7.6.1. and 8.3.). 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 (including project plans)

Exhibit B: Utilities review



Hamburg Township

a great place to grow

ZBA 19-0005
\$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: 3-29-19
2. Tax ID #: 15 28-203-06 Subdivision: Collins Beach Annex Lot No.: 15 E 16
3. Address of Subject Property: 10311 KRESS Rd
4. Property Owner: Edward Murawski Phone: (H) 734-678-8048
 Email Address: bigedmura@yahoo.com (W) _____
 Street: KRESS Rd City Lakeland State MI
5. Appellant (If different than owner): _____ Phone: (H) _____
 E-mail Address: _____ (W) _____
 Street: _____ City _____ State _____
6. Year Property was Acquired: 1990 Zoning District: WFR Flood Plain NO
7. Size of Lot: Front 90.8 Rear 100' Side 1 ^{NORTH} 65' Side 2 ^{SOUTH} 85' Sq. Ft. 7500 sq FT
11. Dimensions of Existing Structure (s) 1st Floor 24x52 2nd Floor _____ Garage 18x20
12. Dimensions of Proposed Structure (s) 1st Floor _____ 2nd Floor _____ Garage 10x10 SHED
13. Present Use of Property: Single Fam Resident
14. Percentage of Existing Structure (s) to be demolished, if any 0 %
15. Has there been any past variances on this property? Yes _____ No
16. If so, state case # and resolution of variance application _____
17. Please indicate the type of variance or zoning ordinance interpretation requested:
10' required, 5' proposed for shed

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MAR 29 2019

Hamburg Township
Planning and Zoning Department

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.

My house is only 10' from the back, and I have 2 Alley's and a road around me.

- 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 shed will be hidden behind a Oak Tree.

- 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 shed will be in line with the other house on the Rd.

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

It will NOT adversely affect anything

- 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.

Zero

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

0, will Remain single Family Resident.

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

Its the minimum size of wooden SHED.

- 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).

Edward Murawski 3-29-19
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**
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.



**Heartland (Common: 10-ft x 10-ft;
Interior Dimensions: 10-ft x 9.71 Feet)
Rainier Gambrel Engineered Wood
Storage Shed**

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Hamburg Township
Planning and Zoning Department

Description

Item #: 496840 | Model #: 182921

- Pre-cut kit - nothing to saw
- 64 in. extra-wide doors for easy access with lawn tractors
- Bonus storage loft - 40% more storage space
- Pre-hung doors with heavy-duty continuous hinges to prevent sagging
- Strong wood construction stands up to demanding wind and snow loads
- Treated, engineered wood siding is factory-primed and ready to paint
- Will not warp like plastic sheds, will not rust like metal sheds
- 10-year limited material warranty
- Full on-site installation available; call 1-888-645-6937 or see Lowe's associate

Specifications

Siding Type	Engineered wood
Series	Rainier
Style	Gambrel
Actual Exterior Width (Feet)	10.15
Actual Exterior Length (Feet)	10.03
Actual Exterior Peak Height (Feet)	10.57
Door Opening Width (Inches)	64
Door Opening Height (Inches)	71.25
Floor Included	No
Floor Storage Capacity (Sq. Feet)	100
Storage Capacity (Cu. Feet)	892
Installation Included	No (not included)
Paintable	Yes
Primed	Yes
Construction	24-in on center
Warranty	10-year limited

Construction	24-in on center
Warranty	10-year limited
Actual Interior Width (Feet)	10
Actual Interior Length (Feet)	9.71
Actual Interior Peak Height (Feet)	10
Foundation Width (Feet)	10
Foundation Length (Feet)	9.71
Package Width (Inches)	48
Package Length (Inches)	96
Package Height (Inches)	14.75
Package Weight (lbs.)	1063
Storage Capacity Range (Sq. Ft.)	37 to 100
Common Exterior Length (Feet)	10
Common Exterior Width (Feet)	10
Number of Windows	0
Nominal Size Range	6 ft x 7 ft to 10 ft x 10 ft (medium)
Number of Shelves	0
CA Residents: Prop 65 WARNING(S)	Yes

Peek
10.57



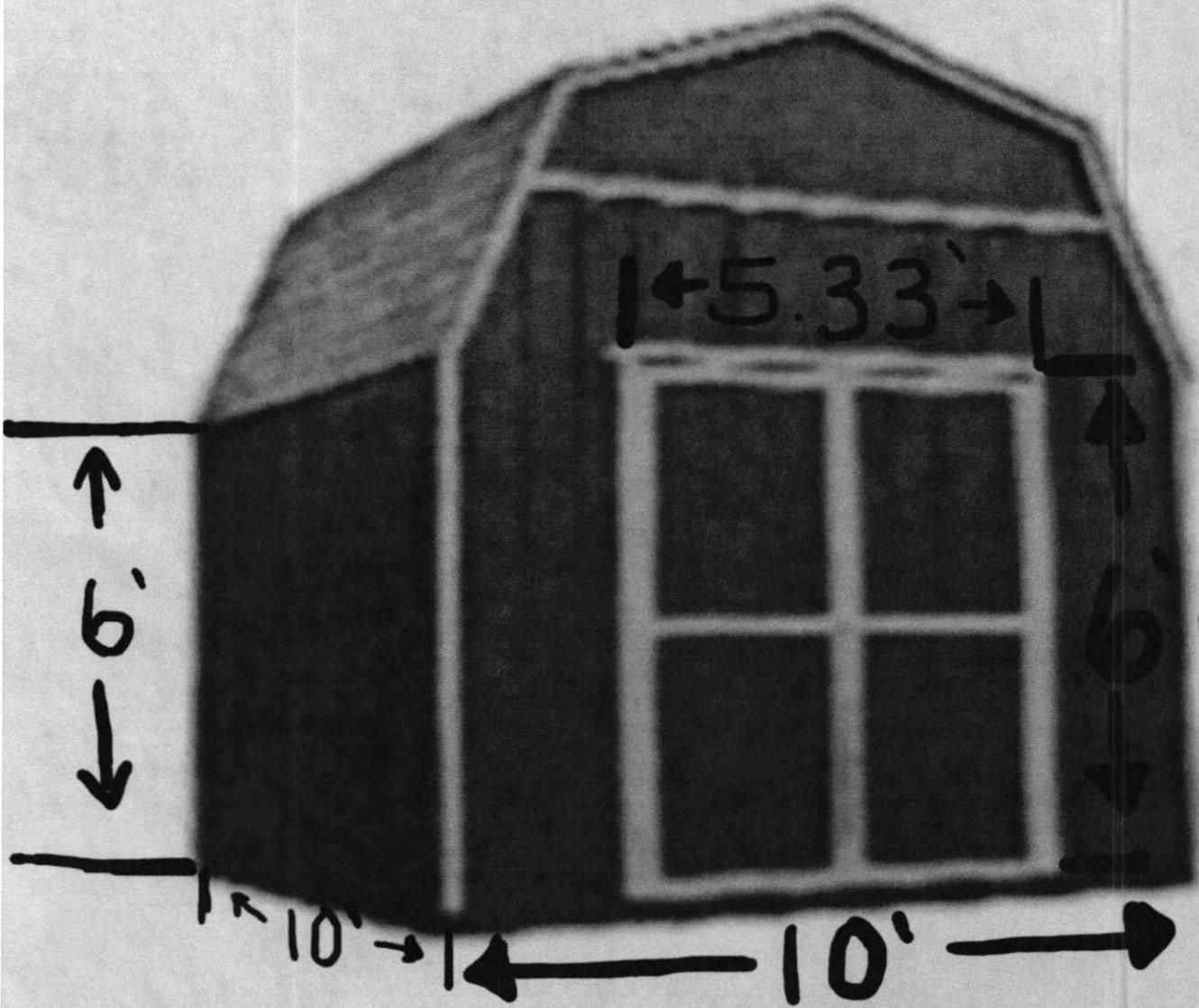
← 5.33' →

↑
6'
↓

Door
height

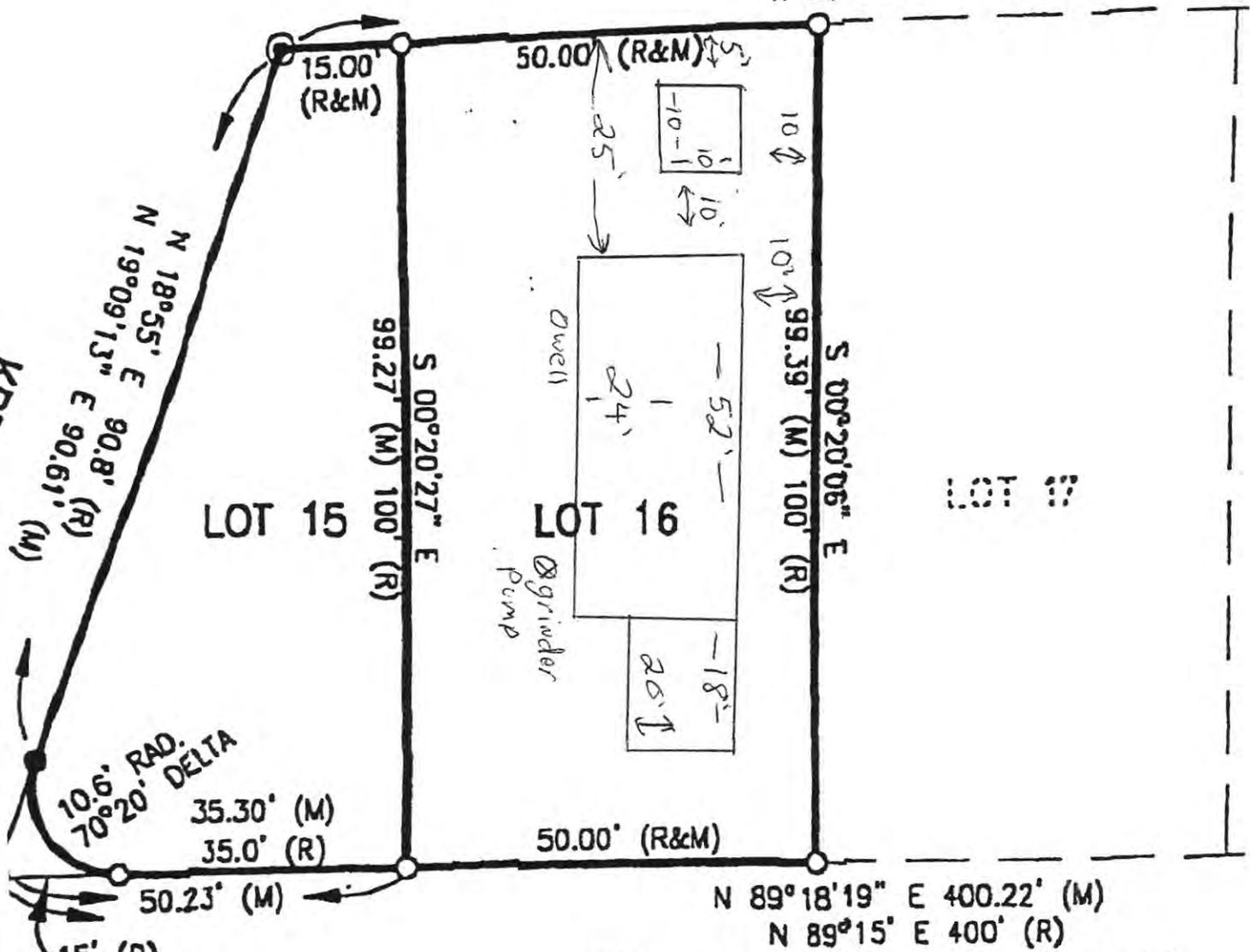
← 10' →

← 10' →



NORTH DRIVE

N 89°15' E 365.0' (R)
N 89°11'41" E 364.65' (M)



LOT 15

LOT 16

LOT 17

NORTH ALLEY (NOT CONSTRUCTED)

50.00'(R&M)

50.00'(R&M)

50.00'(R&M)

LOT 24

LOT 25

LOT 26



10405 Merrill Road ♦ P.O. Box 157
Hamburg, MI 48139
Phone: 810.231.1000 ♦ Fax: 810.231.4295
www.hamburg.mi.us

DPW/UTILITIES DEPT. REVIEW

I have reviewed ZBA Case # ZBA19-015 located at 10311 Kress Road and offer the following:

[] The parcel is not on sewers.

[X] The parcel is serviced by the Hamburg Township Sanitary Sewer System (HTSSS).

- The property owner is requesting variance to construct a 100 sq. foot shed that will encroach into the side and rear yard setbacks.
- The grinder pump station and sewer service lateral are located on the southwest side of the property (see attached sketch).
- Based on the “as-built” drawing for the grinder pump station and sewer service lateral locations, the requested variance to construct the 100 sq. ft. shed will not interfere with the sanitary sewer structures.
- The DPW/Utilities Department has no objections if this variance is granted.
- The property owner or Builder must contact Miss Dig at 1-800-482-7171 at least 3 days prior to any digging or excavation work to confirm the location of the sewer and other utility locations.

Dated: May 2nd, 2019

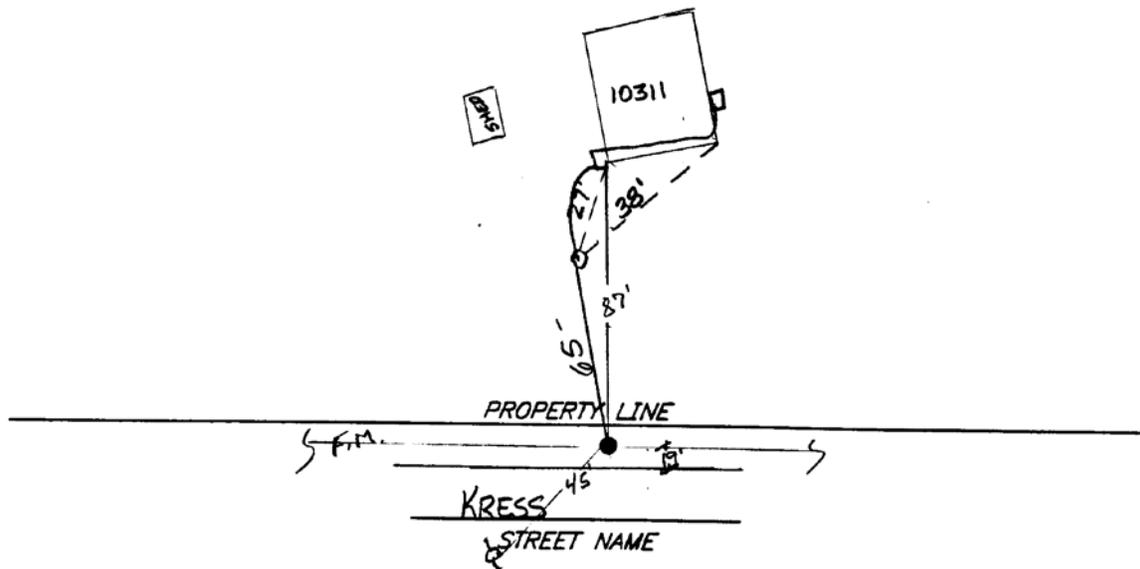
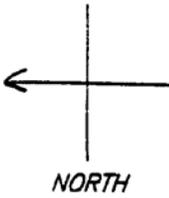
Respectfully submitted,


Brittany K. Campbell
Hamburg Township Utilities Coordinator

The proposed shed will not pose any issues with the existing location of grinder pump station and/or service lateral. The Utilities Department has no objections to the request for variance.



NUMBER 26-2



HOME OWNERS NAME: EDWARD MURAWSKI
 ADDRESS: 10311 KRESS

- ITEMS TO BE SHOWN ON SKETCH**
1. LOCATION OF CORPORATION STOP/CHECK VALVE WITH WITNESSES.
 2. FORCE MAIN ROUTE FROM PROPERTY LINE TO HOUSE.
 3. _____
 4. _____

PROPERTY TAX NO.: 15-28-203-015
 WAS OCCUPANT INVOLVED IN LOCATION OF SERVICE? YES NO _____
 CONSTRUCTION PLAN SHEET NO.: 26

COMMENTS: _____

1 UNIT/MT 1.00.0000 01-10-22 AMU 1 10/16/2023/AMU

4/12/95
 DATE INSTALLED
JLY
 INSPECTOR

PROJECT NAME: Strawberry Lake LPCS
 CLIENT/CONTRACT NO.: 351.28-S-1

GRINDER PUMP LOCATION SHEET



Zoning Board of Appeals Staff Report

AGENDA ITEM: 7b



TO: Zoning Board of Appeals
(ZBA)

FROM: Brittany Stein

HEARING DATE: May 08, 2019

SUBJECT: ZBA 19-0006

PROJECT SITE: 10450 Kress Rd.
TID 15-28-301-001

**APPLICANT/
OWNER:** Jeffery Settle

PROJECT: Variance application to construct a 486 square foot addition on the north facade and a 282 square foot addition on the east facade of the existing dwelling. The resulting dwelling will have a 15.9-foot east front yard setback (25-foot front yard setback required, Section 7.6.1.fn4).

ZONING: WFR (waterfront residential district)

Project Description

The subject site is a 17,000-square foot corner lot that fronts onto Kress Road to the east, Cordley Lake Road to the south, and single family dwellings are located to the west of the site. The existing dwelling is one-story 1,370 square foot, with an attached 489 square foot garage. Additionally, the site plan indicates a garage to the south of the dwelling completed in 2017, and a shed in the rear yard permitted with a variance in 2015.

If approved, the variance request would permit the construction of a 486 square foot addition on the north facade and a 282 square foot addition on the east facade of the existing dwelling. The resulting dwelling will have a 15.9-foot east front yard setback (25-foot front yard setback required, Section 7.6.1.fn4).

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

	Existing	Proposed	Required
North (side)	69.9 feet	52.0 feet	10 feet
North (high water mark)	69.6 feet	52.0 feet	50 feet
South (front)	24.1 feet	24.1 feet	25 feet
West (rear)	5.0 feet	5.0 feet	30 feet
East (front) (Variance Required)	15.9 feet	15.9 feet	25 feet

As proposed, lot coverage is 41 percent; the Zoning Ordinance allows for up to 40 percent of lot coverage but up to 50 percent lot coverage with an engineered grading and drainage plan. If the variance is approved, the proposed project will require an engineered grading and drainage plan or the lot coverage must be reduced to 40 percent.

The applicant submitted a topographic survey showing the limit of the 100 year floodplain in NAVD 88 datum. However, the spot elevations are not shown in NAVD 88 datum. Because of the proximity to the floodplain line, as well as the proposed lot coverage overage requiring an engineered grading plan, prior to issuance of a land use permit, a topographical survey and drainage plan are to be submitted with all elevations shown in NAVD 88.

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.**

This site is a corner lot requiring the primary structure to have a front yard setback from both Kress Road and from Cordley Lake Road. The setback requirements (25-foot front yard setback) are intended to provide adequate space, open vistas, and privacy throughout neighborhoods and between structures on smaller residential lots. Development of a compliant single family dwelling additions on this corner lot is constrained by the lot width which results in a small building envelope.

- 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 lot is only 48 feet deep from west to east, with frontage on two right-of-ways. A 25-foot front yard setback is required along Kress Road to the east and a 30-foot rear yard setback is required to the west, meaning that the total required setback is five feet deeper than the physical dimensions of the lot. Development possibilities are constrained on this lot.

- 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.**

The existing home is 15.9 feet setback from the front property line, where 25-foot front yard setback is required. The proposed additions would not impact the surrounding properties nor would the improvements likely create sight visibility problems given the fact that the dwelling would be more than 15 feet from the traveled roadway, plus an additional 15 feet back from the property boundary.

- 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 North Chain of Lakes planning area of the Master Plan. This area envisions medium density residential development in the developed areas around the chain of lakes. 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 a condition or situation of the subject site that is of so general or recurrent a nature that the proposed additions to the existing dwelling cannot comply with the required front yard setback standards. The short depth of this corner lot constrains development on this site for single family residential purposes.

- 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.**

Given the small narrow size of the corner lot with a front yard setback from the east property line of Kress Rd. and a rear yard setback from the west side property line, there is a practical difficulty in constructing a compliant dwelling on the lot.

“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.

Approval Motion:

Motion to approve variance application ZBA 19-0006 at 10450 Kress Rd. to allow for the construction of a 486 square foot addition on the north facade and a 282 square foot addition on the east facade of the existing dwelling. The resulting dwelling will have a 15.9-foot east front yard setback (25-foot front yard setback required, Section 7.6.1.fn4).

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 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 (hard copies only)

Exhibit C: Construction Plans

MAY 8TH

Exhibit A

ZBA Case Number 19-0006

\$500

RECEIVED

APR 05 2019

Hamburg Township
Planning and Zoning Department



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: _____

2. Tax ID #: 15- 28301001 Subdivision: Bross Beach Lot No.: 1

3. Address of Subject Property: 10450 Kress Rd

4. Property Owner: Jeffery Settle Phone: (H) 810-516-6269
 Email Address: jeff@sentinelrestoration.com (W) _____
 Street: 10450 Kress 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: 2004 Zoning District: WFR Flood Plain AE

7. Size of Lot: Front 332 Rear 279 Side 1 48 Side 2 72.5 Sq. Ft. 14,712

11. Dimensions of Existing Structure (s) 1st Floor 62x24 2nd Floor 0 Garage 20x24

12. Dimensions of Proposed Structure (s) 1st Floor 87x24 2nd Floor 0 Garage 14x24

13. Present Use of Property: Residence

14. Percentage of Existing Structure (s) to be demolished, if any 20 %

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

16. If so, state case # and resolution of variance application ZBA 15-019 Approved shed locatio

17. Please indicate the type of variance or zoning ordinance interpretation requested:
Corner lot 25' road 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.

Narrow lot, road travels through rear corner of lot, 25 foot set back on 48 wide lot, three property lines share road commission easement.

- 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.

Site is not buildable based on corner lot set backs.

- 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 view of the lake will be blocked based on existing roadway condition and the way the site has been previously developed.

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

Does not.

- 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.

Corner lot has 25' set back and is 48' deep.

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

Home will remain 2 bedroom single family residence.

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

Currently home is close to minimum square footage allowable.

Request is to make the home more functional.

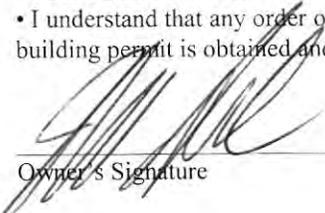
- I hereby certify that I am the owner of the subject property or have been authorized to act on behalf of the owner(s) and that all of the statements and attachments are true and correct to the best of my knowledge and belief.
- I acknowledge that approval of a variance only grants that which was presented 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).

Owner's Signature

Date

Appellant's Signature

Date

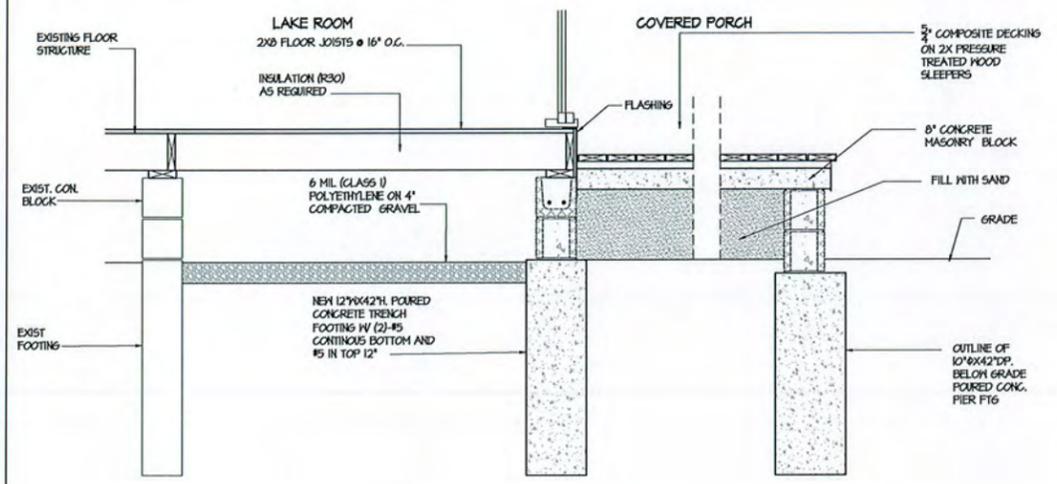
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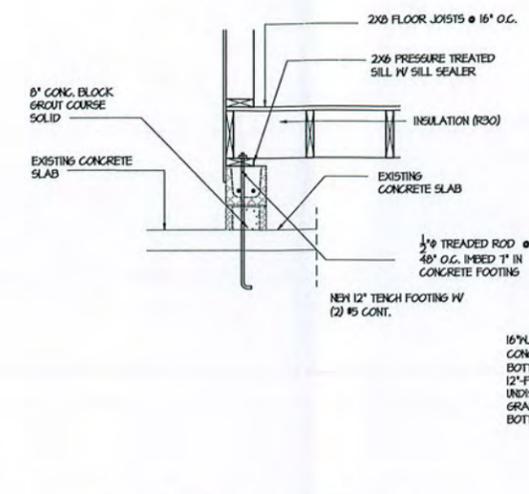
GINO CASSIA
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 3787 UNIVERSITY PARK DR. LIVONIA, MI 48152
 Phone: (810) 360 3653 EMAIL: g_cassia@msnc.com

PROJECT: **SETTLE RESIDENCE-REMODELING**
 10450 KRESS RD.
 SHEET TITLE: **FOUNDATION PLAN-STRUCTURAL NOTES AND DETAILS**

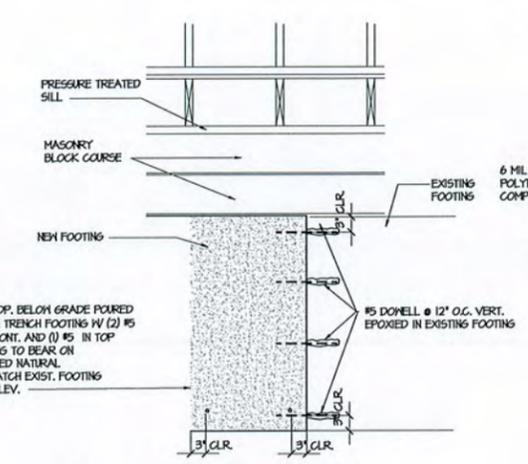
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CHECKED BY	DATE
GC	1-27-2019
DRAWN BY	FILE NO
SHEET No	
A-1	



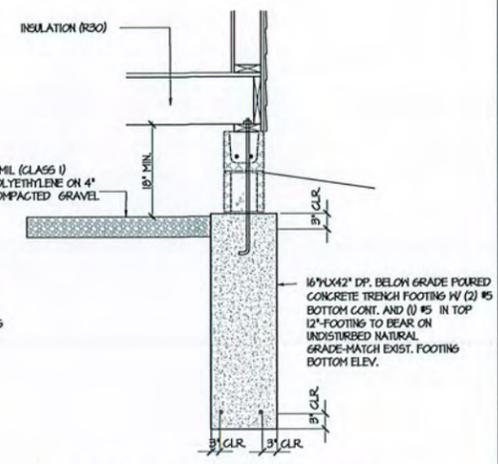
4 FOOTING DETAIL (OPTIONAL)
 A-1



3 FOOTING DETAIL
 A-1 SCALE: 3/4" = 1'-0"

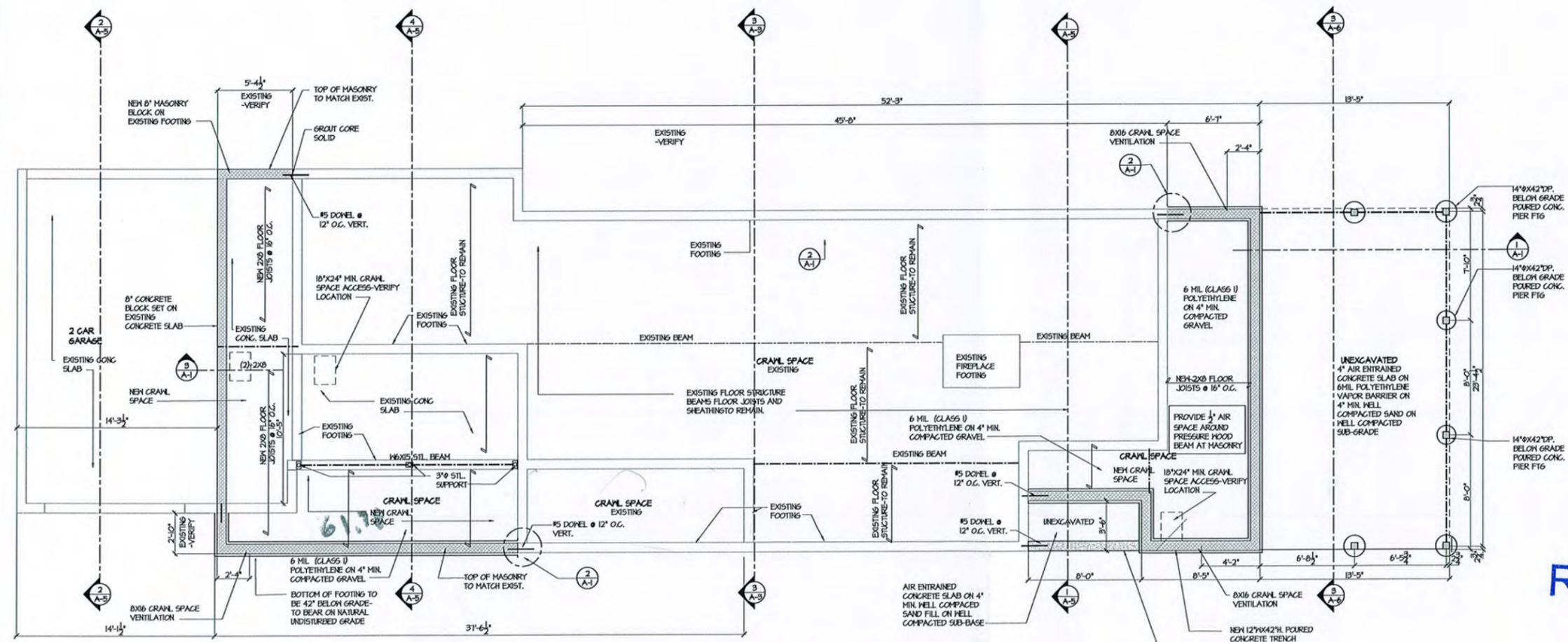


2 FOOTING DETAIL
 A-1 SCALE: 3/4" = 1'-0"



1 FOOTING DETAIL
 A-1 SCALE: 3/4" = 1'-0"

- STRUCTURAL NOTES:**
- ALL FOOTINGS SHALL BEAR ON SOLID UNDISTURBED SOILS HAVING A SAFE SOIL BEARING CAPACITY OF 3,000 PSF (MIN.)
 - ALL CONCRETE WORK ON THIS PROJECT SHALL CONFORM TO ALL REQUIREMENTS OF A.C.I. 301-04.3. ALL CONCRETE SHALL BE READY MIXED CONCRETE CONFORMING TO THE FOLLOWING SCHEDULE OF APPLICATIONS AND 28 DAY COMPRESSIVE STRENGTH:
 - a. COLUMN FOOTINGS.....3,000PSF
 - b. FOUNDATION WALLS.....3,000 PSI
 - c. WALL FOOTINGS.....3,000 PSI
 - d. INTERIOR FLOOR SLABS ON GRADE.....3,000 PSI
 - e. ALL EXTERIOR CONCRETE.....4,000 PSI (ALL EXTERIOR CONCRETE SHALL BE AIR ENTRAINED)
 - ALL STRUCTURAL REINFORCING STEEL SHALL BE ASTM A615-60 AS SHOWN ON THE DRAWINGS.
 - ALL MORTAR FOR USE IN NON REINFORCED CONCRETE MASONRY SHALL BE TYPE "N" ABOVE GRADE, AND TYPE "M" BELOW GRADE AND CONFORM TO ASTM C270.
 - THE DESIGN OF ALL CONNECTIONS FOR STRUCTURAL STEEL, EXCEPT FOR THOSE FULLY DETAILED ON THE DRAWINGS, SHALL BE INCLUDED IN THE WORK OF THE STRUCTURAL STEEL SUPPLIER.
 - ALL STRUCTURAL STEEL SHALL BE ASTM A36 STEEL PIPE CONFORM TO ASTM A-53.



EXISTING/DEMOLITION FOUNDATION PLAN
 SCALE: 3/4" = 1'-0"

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 APR 05 2019
 Hamburg Township
 Planning and Zoning Department

GENERAL NOTES:

BUILDING RULES AND REGULATIONS CODE AUTHORITY. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2015 MICHIGAN RESIDENTIAL BUILDING CODE & LOCAL GOVERNING RULES AND REGULATIONS AND CODE AMENDMENTS, AND THE COUNTY HEALTH DEPARTMENT.

1. ALL ELECTRICAL WORK SHALL COMPLY WITH THE LATEST EDITION OF THE NATIONAL ELECTRIC CODE, LOCAL AND STATE CODES, ORDINANCES, AND REGULATIONS, INCLUDING THE OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA).

2. THE PLUMBING AND PIPING SYSTEM SHALL BE INSTALLED IN STRICT ACCORDANCE WITH THE STATE AND LOCAL PLUMBING CODES.

3. MECHANICAL DUCTWORK CONSTRUCTION WORK SHALL BE IN ACCORDANCE WITH "SMACNA" LVDC, STANDARDS, NFPA STANDARDS, AND THE LATEST EDITION OF THE IBC MECHANICAL CODE AND ASHRAE GUIDE. ALL HVAC SYSTEMS AND EQUIPMENT SHALL CONFORM TO ALL NATIONAL STATE, LOCAL BUILDING, HEALTH, AND SANITATION CODES.

4. ALL TRADES ARE TO CO-ORDINATE THEIR WORK AND VERIFY DIMENSIONS AND FIELD CONDITIONS OF THE PLANS PRIOR TO THE BEGINNING OF THE WORK. NOTIFY THE DEVELOPER OF ANY DISCREPANCIES PRIOR TO THE BEGINNING OF THE WORK. NOTIFY THE OWNER/DESIGNER OF ANY QUESTIONABLE OR UNCERTAIN CONDITIONS.

5. NO CUTTING OF THE BUILDING STRUCTURAL SYSTEM SHALL BE DONE WITHOUT CONSULTING WITH THE DESIGNER AND OBTAIN A WRITTEN APPROVAL BY THE STRUCTURAL ENGINEER.

6. ALL WINDOWS ON THIS RESIDENCE ARE TO BE "E" ALL BEDROOM WINDOWS SIZES SHALL MEET OR EXCEED EGRESS REQUIREMENTS. REGARDLESS OF THE GLASS SIZE SPECIFIED, ALL WINDOW HEADERS SHALL BE SET AT 6'-10" V2" ABOVE FINISH FLOOR EXCEPT OTHERWISE NOTED.

7. PROVIDE ONE SMOKE DETECTOR IN EACH BEDROOM, IN THE VICINITY OF SLEEPING AREAS, IN KITCHEN AREA AND FURNACE AREA. SMOKE DETECTOR SHALL BE INTERCONNECTED. INSTALLATION SHALL COMPLY WITH NFPA72 AND SECTION R314 FROM THE M.R.G.

8. PROVIDE 5/8" TYPE "X" GYPSUM BOARD AT GARAGE WALLS ADJACENT TO RESIDENCE.

9. PROVIDE CONTINUOUS SOFFIT VENTS AT ALL CORNERS.

10. ALL EXTERIOR DECK MATERIAL, INCLUDED FRAMING SHALL BE PRESSURE TREATED WOOD OR APPROVED WOOD/PLASTIC COMPOSITE MATERIAL. INSTALLATION OF WOOD/PLASTIC COMPOSITE DECK IN ACCORDANCE WITH MANUFACTURER'S INSTRUCTIONS.

11. PROVIDE RND BRACING AT ALL EXTERIOR CORNERS.

12. PROVIDE ATTIC AND RAFTER VENTILATION PER CODE REQUIREMENT ONE-HALF AT THE RIDGE OF THE ROOFS AND ONE-HALF AT THE EAVES.

13. PROVIDE BLOCKING IN FLOOR JOIST SPACE WHERE WALLS ARE PARALLEL WITH THE FLOOR JOISTS, DOUBLE FLOOR JOISTS WHERE INTERIOR WALLS ARE ON JOISTS AND PARALLEL, EXCEPT PLUMBING AND HEATING WALLS SHALL BE LADDERED. - FIRST FLOOR FRAMING PLAN/BLOCKING TO BE THE SAME SIZE AS FLOOR JOISTS AND PERPENDICULAR TO FLOOR JOISTS.)

14. ALL STRUCTURAL LUMBER SHALL HAVE MINIMUM STRESS VALUES OF: Fb = 850 PSI. (BASED ON DOUGLAS NORTH) E = 1,300,000 PSI. WOOD DEAM AND HEADERS TO BE #1 OR BETTER. MICRO LAMs: Fb = 2,150 PSI. LAMINATED BEAMS: Fb = 2,400 PSI. E=1,400,000PSI.

15. PROVIDE AND INSTALL CO2 DETECTOR AS REQUIRED. UNDER SECTION R314

16. ROOF VENTILATION AREA SHALL COMPLY WITH SECTION R006 OF THE M.R.G.

DOOR SCHEDULE

DOOR TAG	DIMENSION	HOLLOW CORE	FIBERGLASS	FIRE RATING (2 HOURS)	ALUMINUM	STEEL DOOR	VINTL-GLASS	STEEL FRAME	ALUMINUM	WOOD	VINTL	REMARKS
1	3'-0"x6'-8"											ENTRY DOOR WITH LITE-LH
2	2'-6"x6'-8"											CLOSET DOOR-LAKE RM-RH
3	2'-0"x6'-8"											PANTRY-RH
4	3'-0"x6'-8"											KITCHEN TO LAUNDRY-RH
5	2'-6"x6'-8"											CLOSET DOOR LAUNDRY COAT-RH
6	2'-6"x6'-8"											MASTER BEDROOM-RH
7	2'-6"x6'-8"											MASTER CLOSET-LH
8	2'-6"x6'-8"											GUEST RESTROOM-RH
9	2'-0"x6'-8"											LINEN-LH
10	3'-0"x6'-8"											GARAGE TO HOUSE - RH
11	3'-6"x6'-8"											CLOSET SLIDING
12	5'-0"x6'-8"											UTILITY ROOM-DOUBLE DOOR
13	10'x8'-0"											GARAGE DOOR W/ LITES
14	6'-0"x6'-8"											DOORVALL
15	2'-6"x6'-8"											REPLACE EXISTING DOOR - FIELD MEASURE EXISTING DOOR
16	2'-6"x6'-8"											

ROOM FINISH SCHEDULE

DESCRIPTION	FINISH FLOOR	CEILING HEIGHT
LAKE ROOM		
LIVING ROOM		
KITCHEN/DINING ROOM		
LAUNDRY/HUDROOM		
GUEST RESTROOM		
MASTER BEDROOM		
WALK-IN-CLOSET		
MASTER BATH		
BATH		
BEDROOM		

WINDOW SCHEDULE

TAG	SIZE	DESCRIPTION	DESCRIPTION	LOCATION
1A	2'-0"x3'-0"	CASEMENT-RH		GUEST RESTROOM
1B	2'-0"x3'-0"	FIXED		LAUNDRY
1C	2'-0"x3'-0"	CASEMENT-LH		LAUNDRY
2	2'-0"x2'-0"	FIXED (3 EA)		1 IN KITCHEN, 1 IN PORCH, 1 IN LAKE ROOM
3A	2'-6"x5'-0"	CASEMENT-RH		KITCHEN
3B	2'-6"x5'-0"	FIXED		KITCHEN
3C	2'-6"x5'-0"	CASEMENT		KITCHEN
4	(2)-2'-0"x2'-0"	CASEMENT		SITTING/DINING ROOM-ANNEX OPT.
5A	3'-0"x4'-6"	CASEMENT		LAKE ROOM
5B	3'-0"x4'-6"	CASEMENT		LAKE ROOM
6	3'-0"x5'-0"	DOUBLE HUNG	EGRESS	BEDROOM
7A	2'-4"x5'-0"	CASEMENT-RH	EGRESS	MASTER BEDROOM
7B	3'-6"x5'-0"	FIXED		MASTER BEDROOM
7C	2'-4"x5'-0"	CASEMENT-LH	EGRESS	MASTER BEDROOM
8	2'-6"x4'-6"	FIXED		DORMER (2 EA) - STANDARD CLEAR GLASS
9	2'-0"x3'-0"	DOUBLE HUNG		BATHROOM-FIELD MEASURE
10	3'-6"x2'-0"	SLIDING		GARAGE-FIELD MEASURE
11	3'-0"x6'-8"	FIXED		LAKE ROOM
EX				EXISTING-MASTER BATHROOM

WALLS LEGEND

- 1 VINYL SIDING ON MOISTURE BARRIER (TYVEK OR EQUIVALENT) ON 1/2" APA RATED SHEATHING ON EXISTING 2X4 WOOD STUDS @ 16" O.C.
- 2 NEW INTERIOR WALL 1/2" 6"PT. BRD. EACH SIDE ON 2X4 WOOD STUDS @ 16" O.C.
- 3 NEW EXTERIOR WALL VINYL SIDING ON MOISTURE BARRIER (TYVEK OR EQUIVALENT) ON 1/2" APA RATED SHEATHING ON 2X6 WOOD STUDS @ 16" O.C. W/ INSULATION (5/2" FIBERGLASS BATT INSULATION W/ KRAFT PAPER OR BLOWN-IN INSULATION) R21 MIN.
- 4 VINYL SIDING ON MOISTURE BARRIER (TYVEK OR EQUIVALENT) ON 1/2" APA RATED SHEATHING ON 2X4 WOOD STUDS @ 16" O.C.

EXISTING AREA CALCULATION

GARAGE ----- 412 SQ. FT.
HOUSE ----- 1358 SQ. FT.
DECK ----- 360 SQ. FT.

NEW AREA CALCULATION

GARAGE AND UTILITY CLOSET ----- 334 SQ. FT.
HOUSE ----- 1018 SQ. FT.
COVERED DECK SCREEDED PORCH ----- 360 SQ. FT.

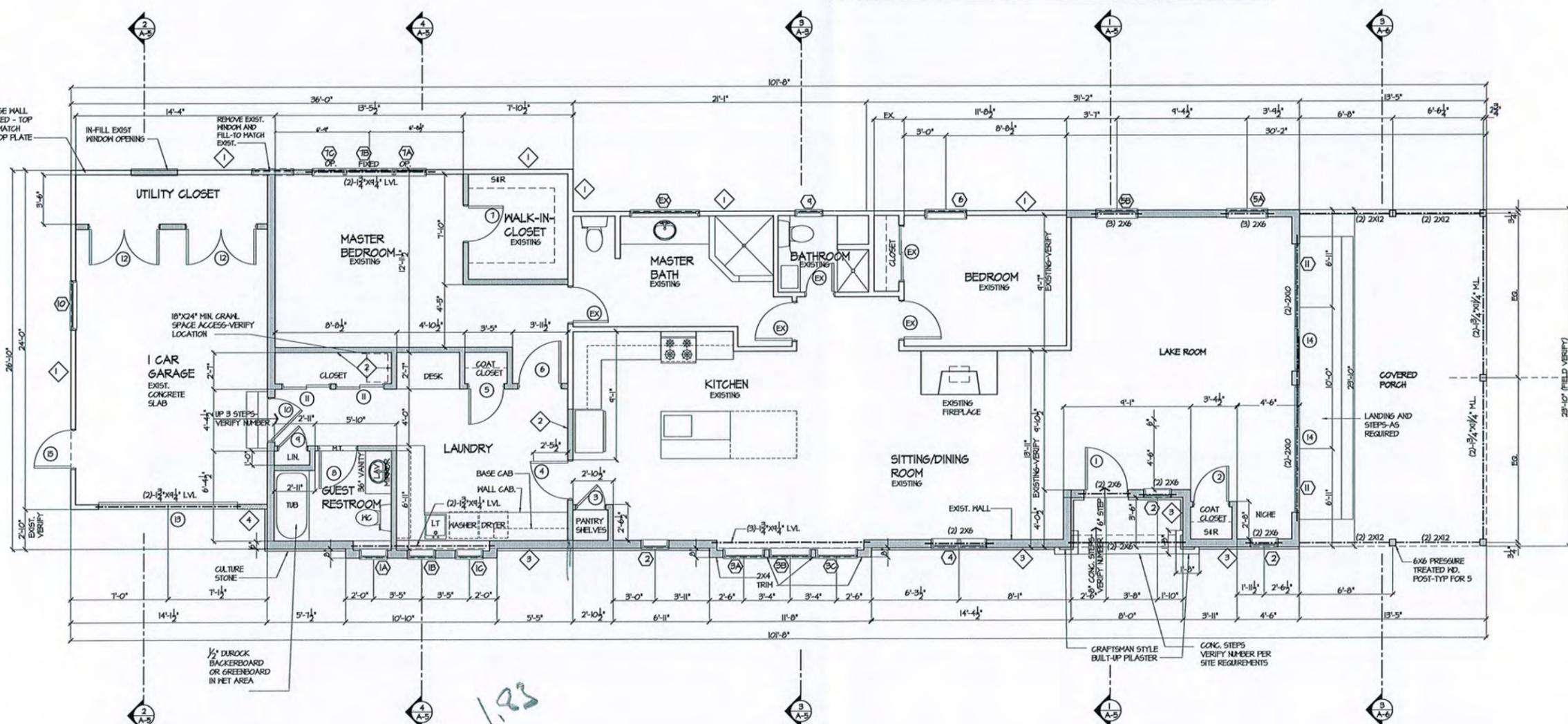
INSULATION REQUIREMENTS

- CEILING INSULATION TO HAVE A MINIMUM INSULATION VALUE OF R38
- EXTERIOR WOOD FRAME WALLS TO HAVE A MIN INSULATION VALUE OF R20
- BASEMENT WALLS TO HAVE A MIN INSULATION VALUE OF R13

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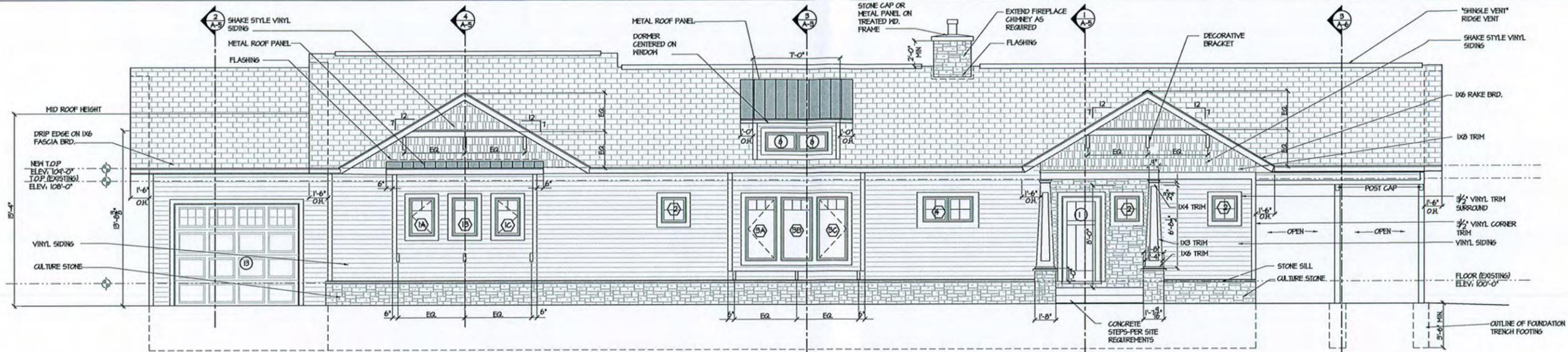
GINO CASSIA
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27972 UNIVERSITY PARK DR. LIVONIA, MI 48354
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PROJECT: **SETTLE RESIDENCE-REMODELING**
10450 KRESS RD.
SHEET TITLE: **FLOOR PLAN-GENERAL NOTES AND SCHEDULES**



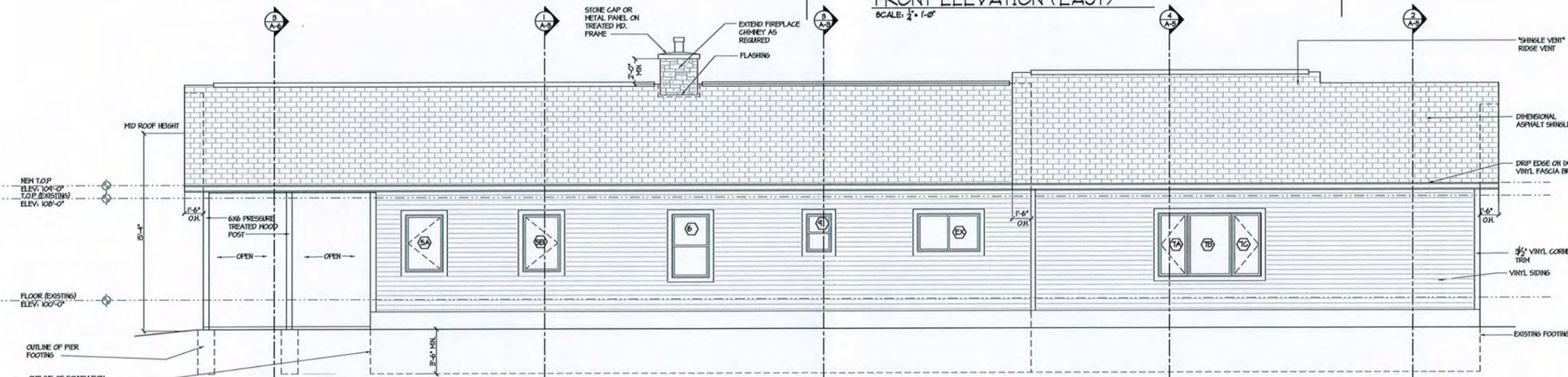
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CHECKED BY: GC
DATE: 1-27-2018
DRAWN BY: GC
FILE NO:
SHEET NO: **A-2**



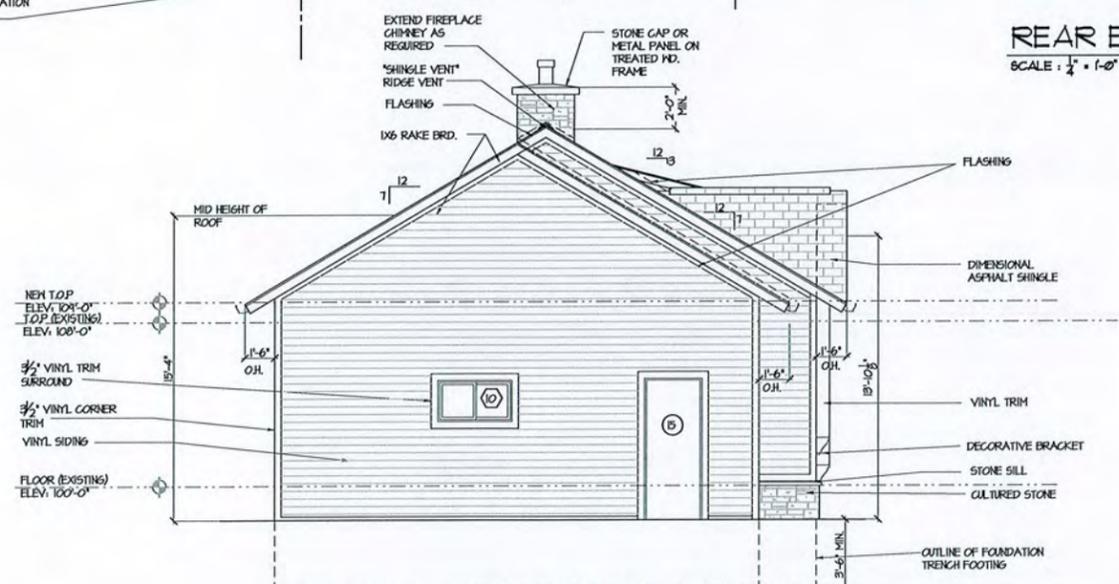
FRONT ELEVATION (EAST)

SCALE: 1/4" = 1'-0"



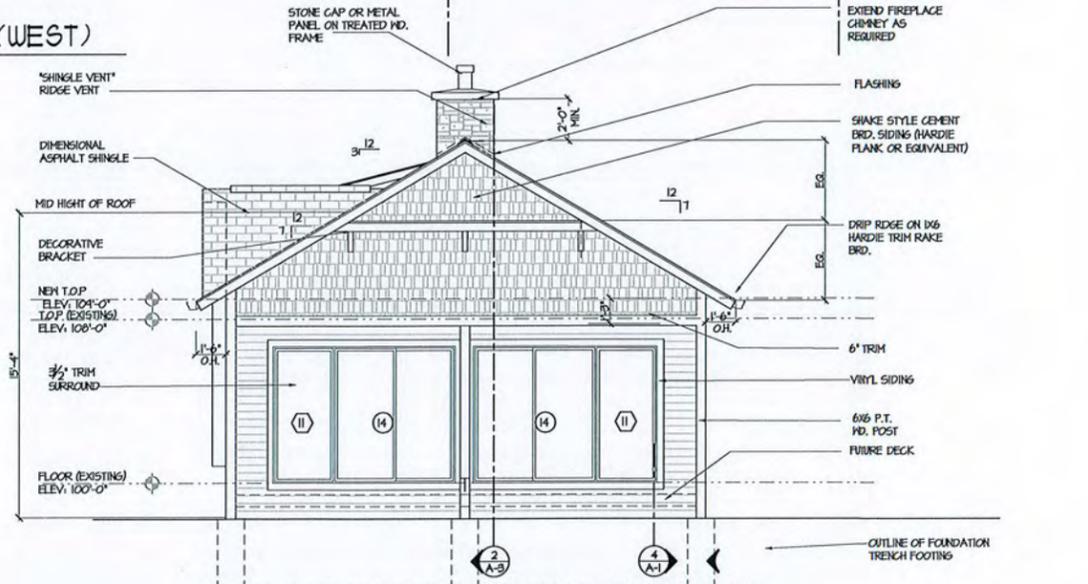
REAR ELEVATION (WEST)

SCALE: 1/4" = 1'-0"



LEFT ELEVATION (SOUTH)

SCALE: 1/4" = 1'-0"



RIGHT ELEVATION (NORTH)

SCALE: 1/4" = 1'-0"

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PROJECT: **SETTLE RESIDENCE-REMODELING**
10450 KRESS RD.

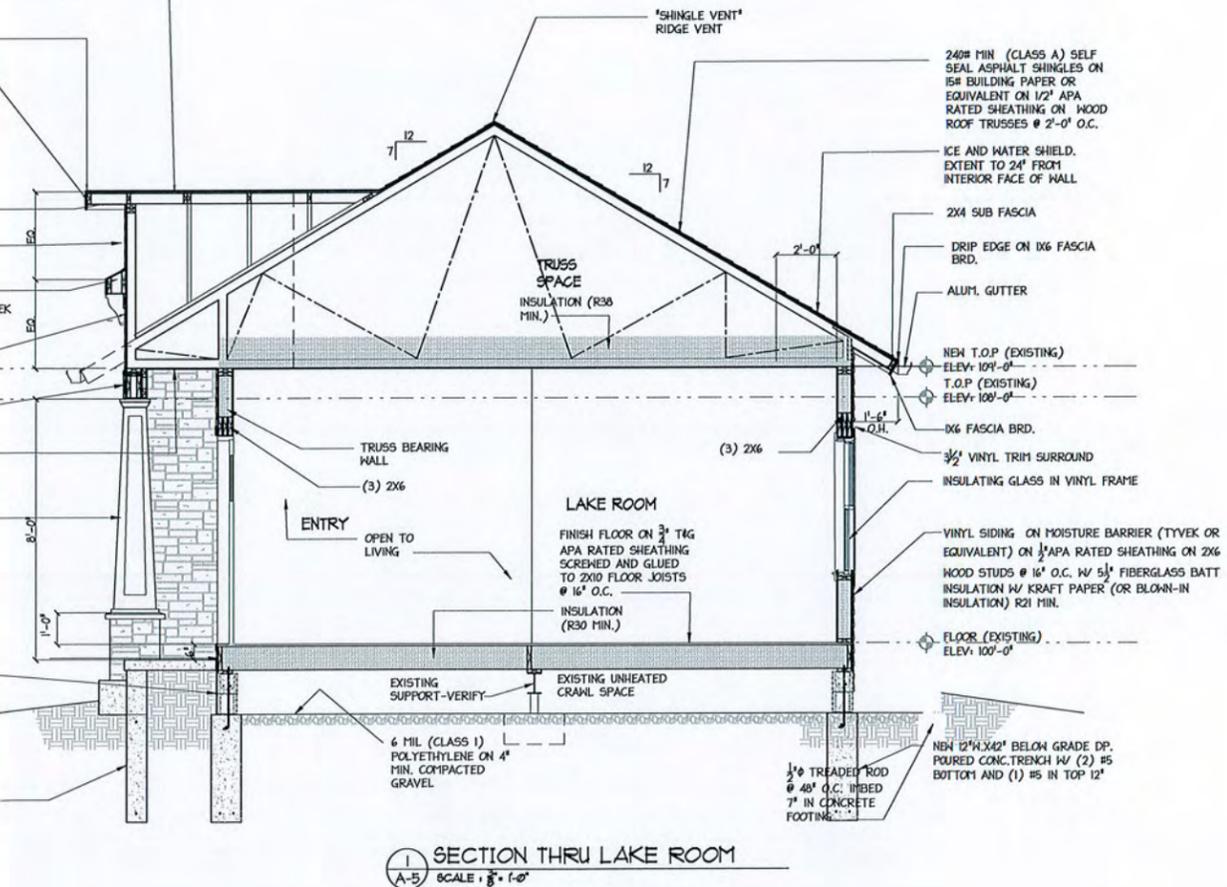
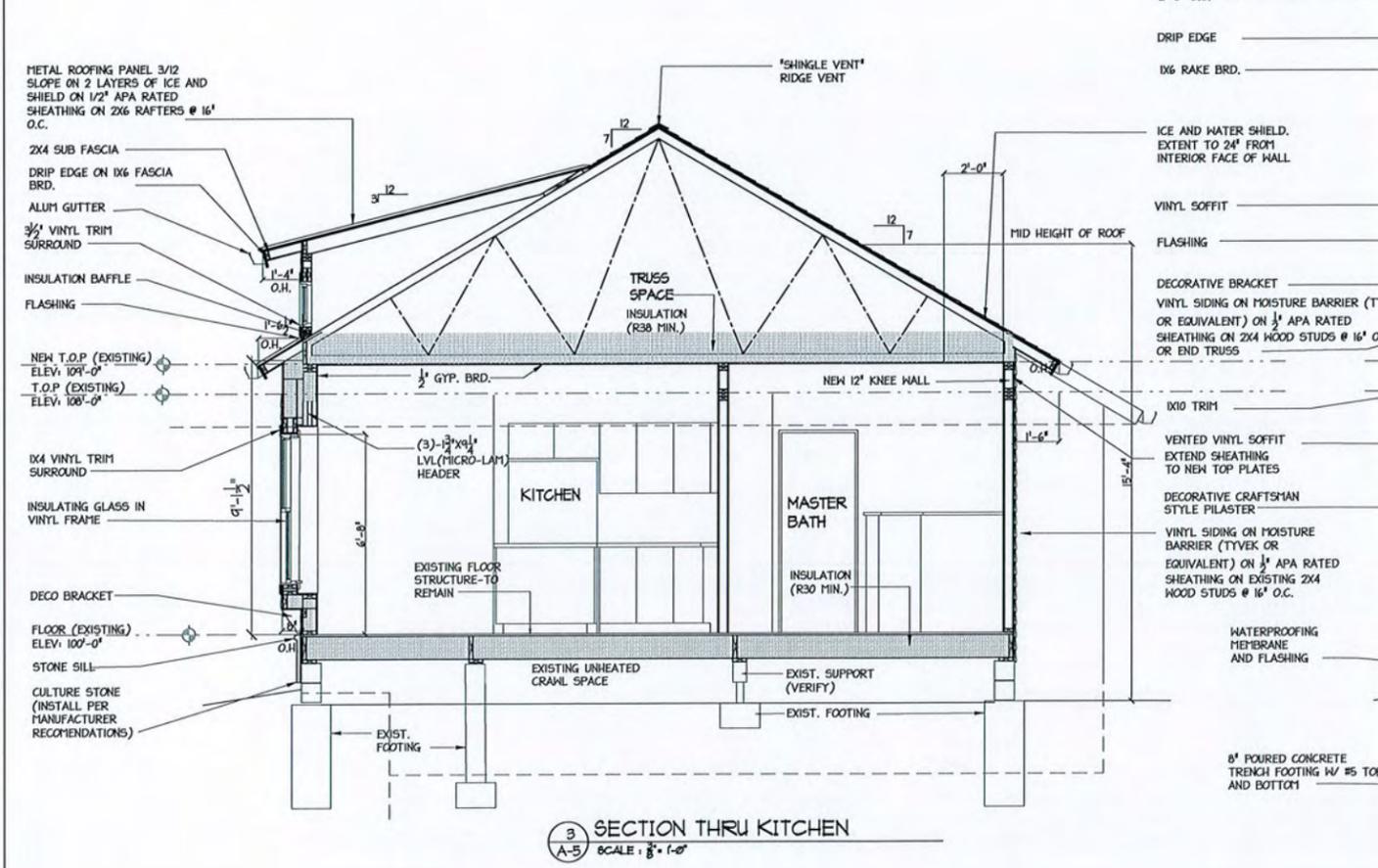
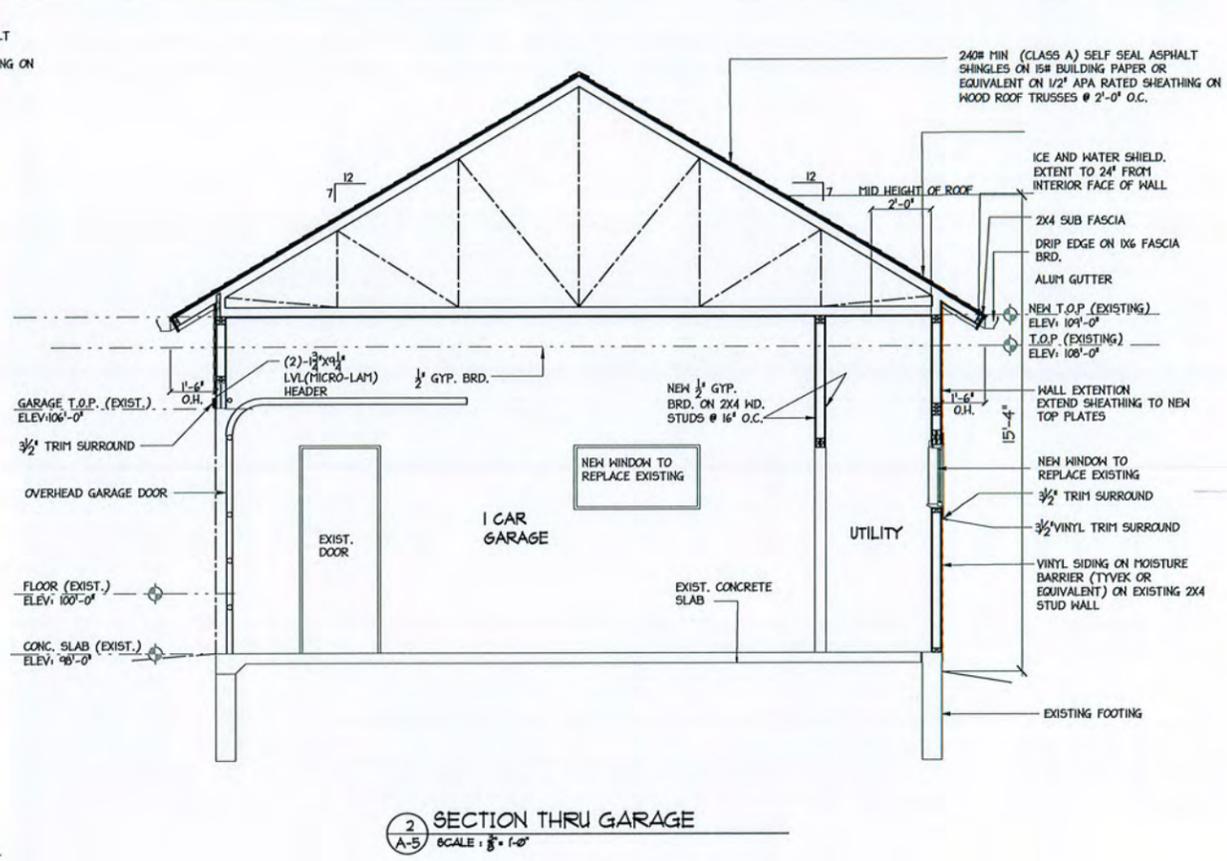
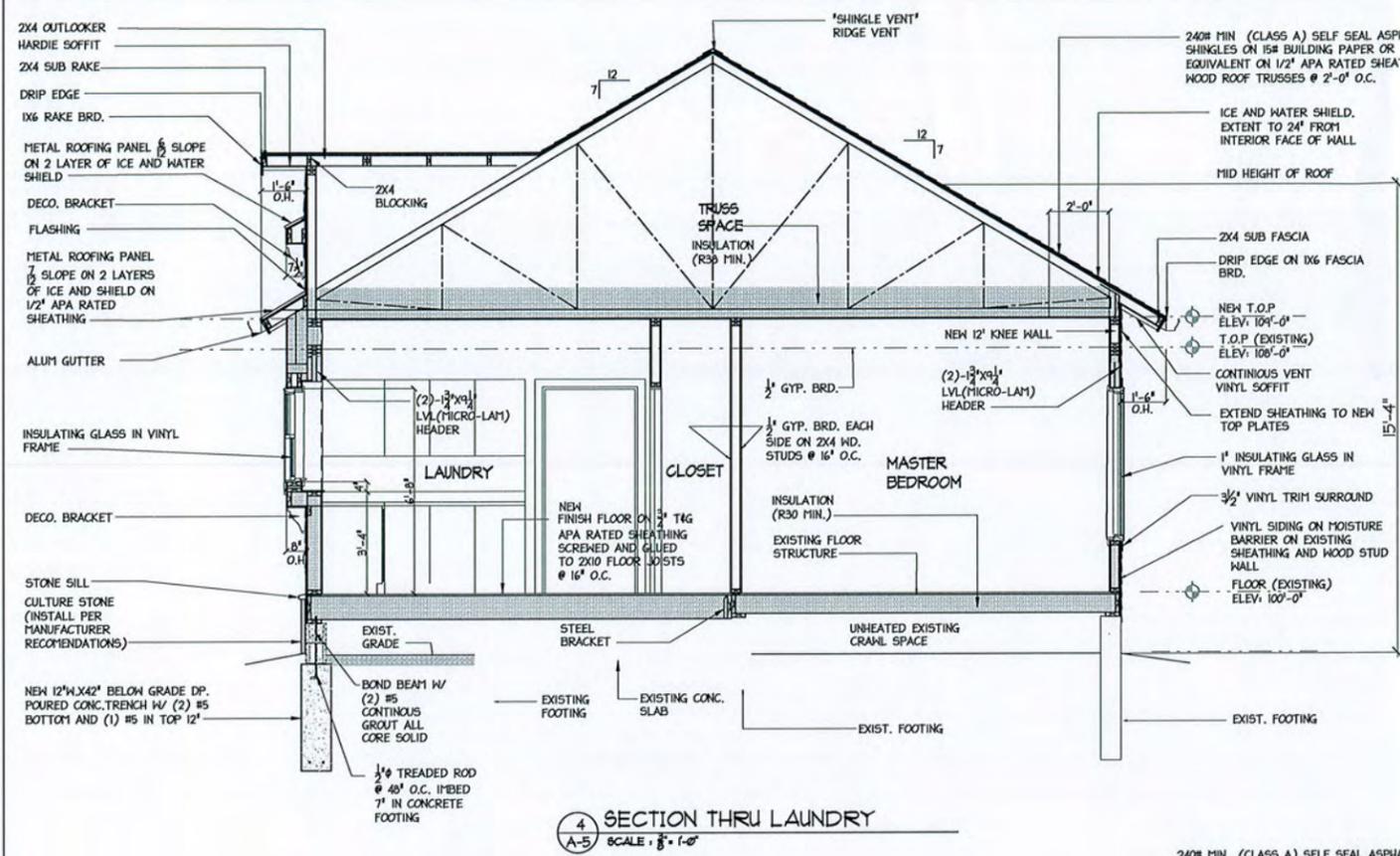
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		1-27-2008
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SHEET No	A-3	

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SETTLE RESIDENCE-REMODELING
 10450 KRESS RD.
 BUILDING CROSS SECTIONS



REVISIONS	REVISED	CHECKED BY	DATE
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GC			

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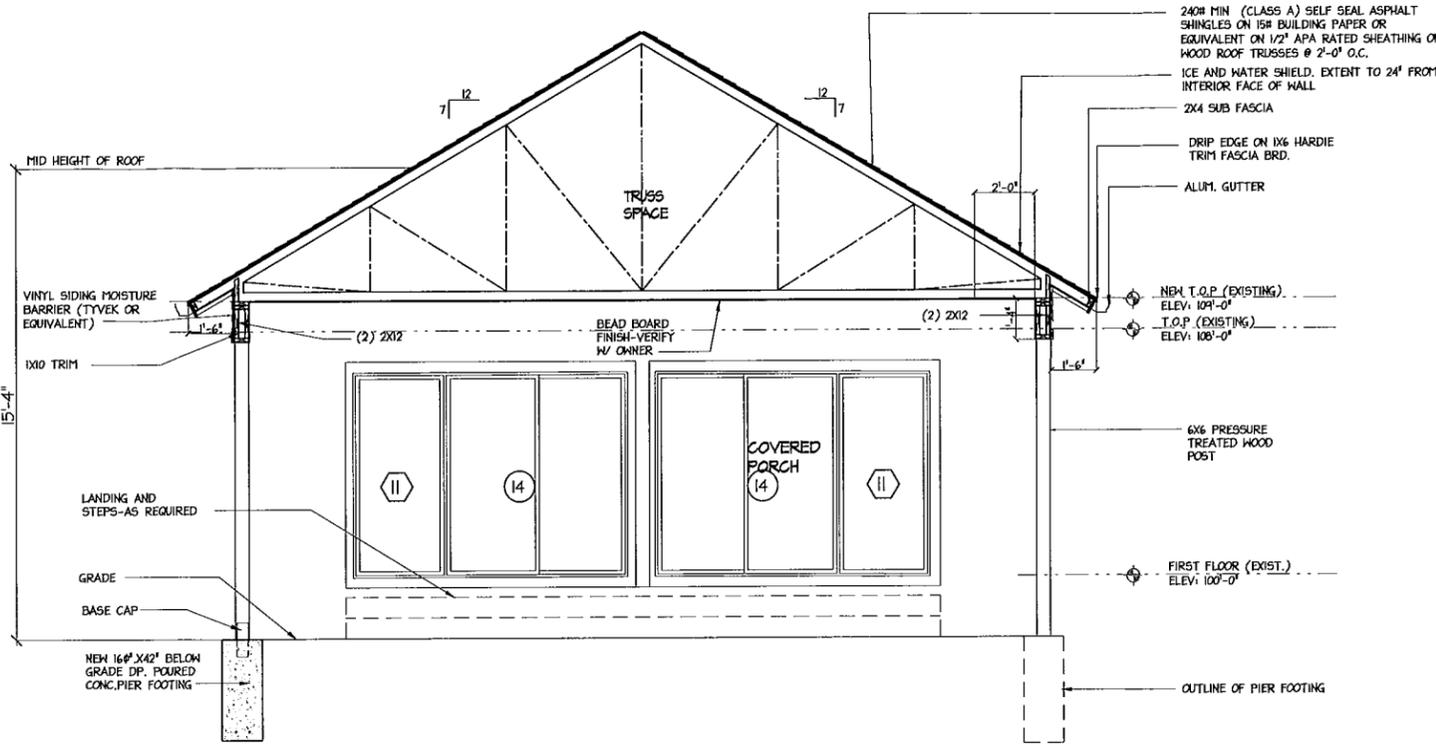
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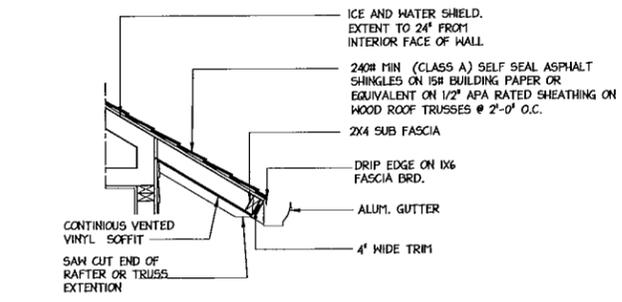
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 10450 KRESS RD.
 SHEET TITLE: **BUILDING CROSS SECTION- WALL SECTIONS AND DETAILS**

NO.	REVISIONS	DATE
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2	2-1-2018	
CHECKED BY:		DATE: 11-21-2018
DRAWN BY: GC		FILE NO:

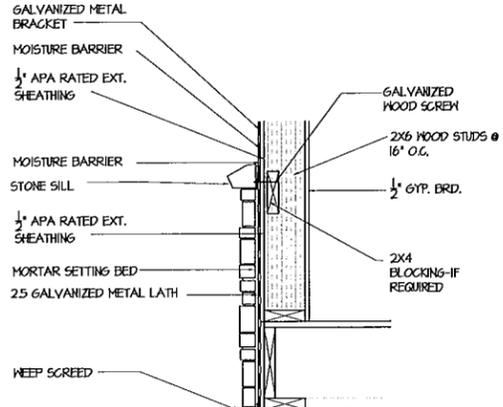
SHEET No
A-6



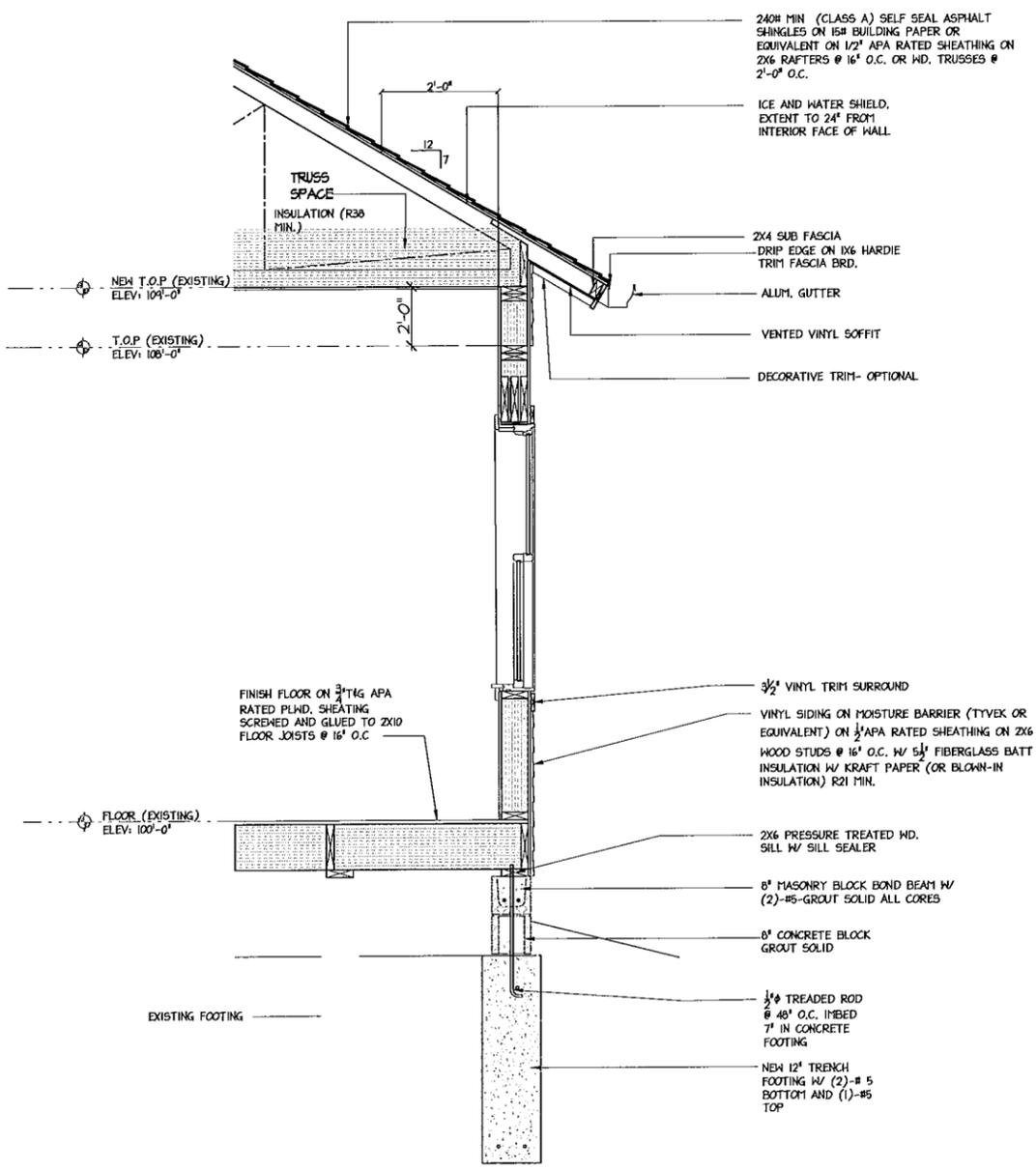
3 EXTERIOR WALL DETAIL
 SCALE: 3/8" = 1'-0"



2 ALTERNATE EAVE DETAIL
 SCALE: 3/8" = 1'-0"



1 CULTURE STONE DETAIL
 SCALE: 3/8" = 1'-0"



4 WALL SECTION AT WINDOW
 SCALE: 3/8" = 1'-0"



Zoning Board of Appeals Staff Report

AGENDA ITEM: 7c

TO: Zoning Board of Appeals
(ZBA)

FROM: Amy Steffens, AICP
Zoning Administrator

**HEARING
DATE:** May 8, 2019

SUBJECT: ZBA 19-007

**PROJECT
SITE:** 5229 Post Drive
(TID 15-27-105-039)

**APPLICANT/
OWNER:** Richard Mancik

AGENT: None



Request: Variance application to allow the demolition and reconstruction of a 1,053-square foot dwelling, with a walkout basement and partially constructed 729-square foot attached garage. The proposed dwelling would have a 7-foot, 3-inch north side yard setback (10-foot side yard setback required, Section 7.6.1.), and a 576-square foot elevated deck with a 6-foot, 6-inch north side yard setback (8-foot setback required, Section 8.17.1.).

Site description and history

On October 10, 2018, the Zoning Board of Appeals considered the applicant's request to allow for the demolition of the existing dwelling and the reconstruction, using the same footprint, of the 1,053-square foot dwelling. The dwelling would have a 7-foot, 3-inch north side yard setback, where a 10-foot side yard setback is required. Additionally, the proposed 576-square foot elevated deck would have a 6-foot, 6-inch north side yard setback, where an 8-foot setback is required.

After opening the public hearing, taking testimony, and deliberating, the ZBA voted to approve

the request. Section 6.8.(A) specifies that “No order of the Zoning Board of Appeals permitting the erection or alteration of a building shall be valid for a period longer than six months, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.” The applicant is ready to begin demolition and construction of the dwelling but must have the variance re-heard by the ZBA in order to construct the dwelling in the proposed nonconforming location.

What follows is the reissued staff report from the October 1, 2018 ZBA hearing. Staff continues to recommend denial of the variance request.

Staff report from the October 10, 2018 ZBA hearing

The subject site is a 20,603-square foot parcel improved with a 1,053-square foot, single-story dwelling with a walk-out basement and a partially constructed 729-square foot attached garage. The site fronts onto Post Drive to the south; Zukey Lake is to the west, a vacant residential parcel is to the north, and a park and a single-family dwelling are to the south.

If approved, the variance request would allow for the demolition of the existing dwelling and the reconstruction, using the same footprint, of the 1,053-square foot dwelling. The dwelling would have a 7-foot, 3-inch north side yard setback, where a 10-foot side yard setback is required. Additionally, the proposed 576-square foot elevated deck would have a 6-foot, 6-inch north side yard setback, where an 8-foot setback is required.

On September 2, 2014, the township issued a land use permit for the construction of a 729-square foot attached garage. However, on November 7, 2017, the Livingston County Building Department notified the township that, due to a lack of progress or job abandonment, the county permits were closed. On May 1, 2018, the township confirmed that the attached garage had been partially completed and that the lack of completion was a violation of General Ordinance 38-C, Anti-blight and anti-nuisance. At that time, the property owner indicated that a completed land use permit application for the completion of the garage would be submitted by May 3, 2018. The plans submitted in July did not address all of the requirements; however, after revising the plans the applicant decided to demolish the existing structure and re-build in the same footprint.

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. There is nothing exceptional or extraordinary about the property that would warrant a deviation from the zoning ordinance. Of the 28 parcels within 300 feet of the site, the subject site is larger than 19 of them and is able to accommodate a dwelling and an elevated deck that meet the ordinance requirements. The applicant indicates in the application that the location of the house is due to an existing stone stairway to the rear of the property. The stairway could be preserved even if the house was built in a conforming location. The proposed house would have a 57-foot south side yard setback, meaning there are no constraints on the property itself that would warrant a deviation from the setback standards.

- 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 dwelling could be relocated to a compliant location, and the deck could be reduced in size to meet the ordinance. An elevated deck does not preserve a substantial property right, nor does creating a non-conforming structure where one does not currently exist.

- 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 in the North Chain of Lakes planning area in the Master Plan. This area envisions continued residential development closely tied to the lake waterfronts. The proposed project would not adversely affect the purpose of 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.**

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 and developed for its intended use. Recent zoning text amendments have relaxed the setback standards for lots that have lot widths of less than sixty feet. However, the subject site is a larger than typical waterfront lot at nearly one-half an acre and with a lot width of 99 feet.

An amendment to the zoning ordinance Section 8.17., yard encroachments, was adopted in May, 2016. The amendment relaxed the setback standards for elevated decks to allow an elevated deck to encroach up to six feet into a required yard, provided that the

elevated deck is not closer than eight feet to the property boundary. This zoning text amendment allows for greater development possibilities, especially on smaller lots.

An amendment to the zoning ordinance Section 11.3., non-conforming buildings and structures, was adopted in November, 2017. The ordinance previously allowed an expansion without ZBA approval of a non-conforming structure up to fifty percent of the market value of the existing structure. However, with the zoning text amendment the ordinance requires all new construction to come into compliance with the setback standards of the ordinance. Staff offers Section 11.3. as a reminder that the zoning ordinance is written to phase out non-conforming structures, not encourage or create them.

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 use 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 creates 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. Demolishing the structure entirely offers the opportunity to bring the site into compliance with the zoning ordinance, and the zoning ordinance amendment adopted less than one year ago was written to address this situation.

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:

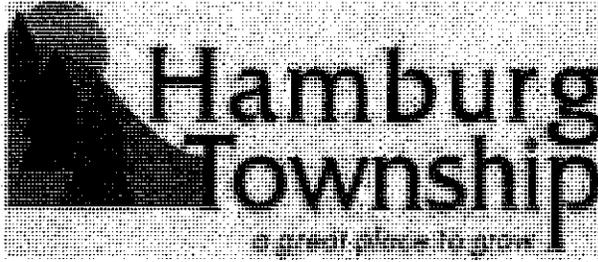
Motion to deny variance application ZBA 18-0010 at 5229 Post Drive to allow the demolition and reconstruction of a 1,053-square foot dwelling, with a walkout basement and partially constructed 729-square foot attached garage. The proposed dwelling would have a 7-foot, 3-inch north side yard setback (10-foot side yard setback required, Section 7.6.1.), and a 576-square foot elevated deck with a 6-foot, 6-inch north side yard setback (8-foot setback required, Section 8.17.1.). 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) file-dated April 8, 2019
- Exhibit B: DPW review from October 10, 2018 hearing
- Exhibit C: October 8, 2018 ZBA hearing minutes

SCANNED

ZBA Case Number: 19-007

Amount: \$550



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: _____

2. Tax ID #: 15-27-105-038 subdivision: _____ Lot No.: _____

3. Address of Subject Property: 5229 POST DR.

4. Property Owner: RICHARD MANCIK Phone: (H) 810-931-4995

Email Address: richard.mancik@caseenergy.com

Street: _____ City _____ State _____

5. Appellant (If different than owner): _____ Phone: (H) _____

E-mail Address: _____ (W) _____

Street: _____ City _____ State _____

6. Year Property was Acquired: 2007 Zoning District: WFR Flood Plain NO

7. Size of Lot: Front 99.4' Rear 99.03' Side 1 253' Side 2 261' Sq. Ft. _____

11. Dimensions of Existing Structure (s) 1st Floor 33x54' 2nd Floor Ø Garage _____

12. Dimensions of Proposed Structure (s) 1st Floor 33x54' 2nd Floor _____ Garage _____

13. Present Use of Property: SINGLE FAMILY HOUSE

14. Percentage of Existing Structure (s) to be demolished, if any 90 %

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:

THE HOMES N.W. FRONT CORNER IS AT 7.2" FROM PROPERTY LINE, NOT THE 10' AS REQUIRED SIDE SETBACK. THE HOME DOES TAPER AWAY, THE N.E. CORNER IS AT 10'.

RECEIVED

APR 08 2019

Hamburg Township
Planning and Zoning Department

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.

THIS HOME HAS BEEN AT THIS LOCATION SAME FOOTPRINT SINCE 1921.

(REBUILD SAME FOOTPRINT!)

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.

THERE IS A 100 YEAR OLD CIRCULAR STONE STAIRCASE LEADING UP TO THE TERRACE, THAT WOULD BE LOST IF FOOTPRINT HAD TO BE MOVED.

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.

THERE IS A 30 TO 50,000.00 VALUE IN THE FOUNDATION AND BASEMENT THAT WOULD BE LOST IF THE FOOTPRINT HAD TO BE MOVED.

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

NOT CHANGING THE FOOTPRINT 2 INCH.

ONLY A MINOR ROOF LINE CHANGE

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 HOME AND ALL ITS MECHANICALS ARE SUBSTANDARD.

REBUILD TO CODE TO MAKE IT RIGHT!

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

SOME LOTS ALLOW FOR A 5' SIDE-SETBACK, LIKE THE LOT ON THAT SIDE. THAT WOULD GIVE THAT LOT 15' PLUS MY HOUSE AT 7', TOTAL OF OVER 22' BETWEEN HOMES.

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

THE VARIANCE IS FOR ONLY 2'-10" AT ONE CORNER

STILL 2' MORE THAN THE 5' SOMETIMES GRANTED. (7'-2")

- 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).

Richard March 4-8-2019
Owner's Signature Date

Richard March 4-8-2019
Appellant's Signature Date

PLEASE SEE BACK PAGE FOR SECOND PART OF VARIANCE.

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."

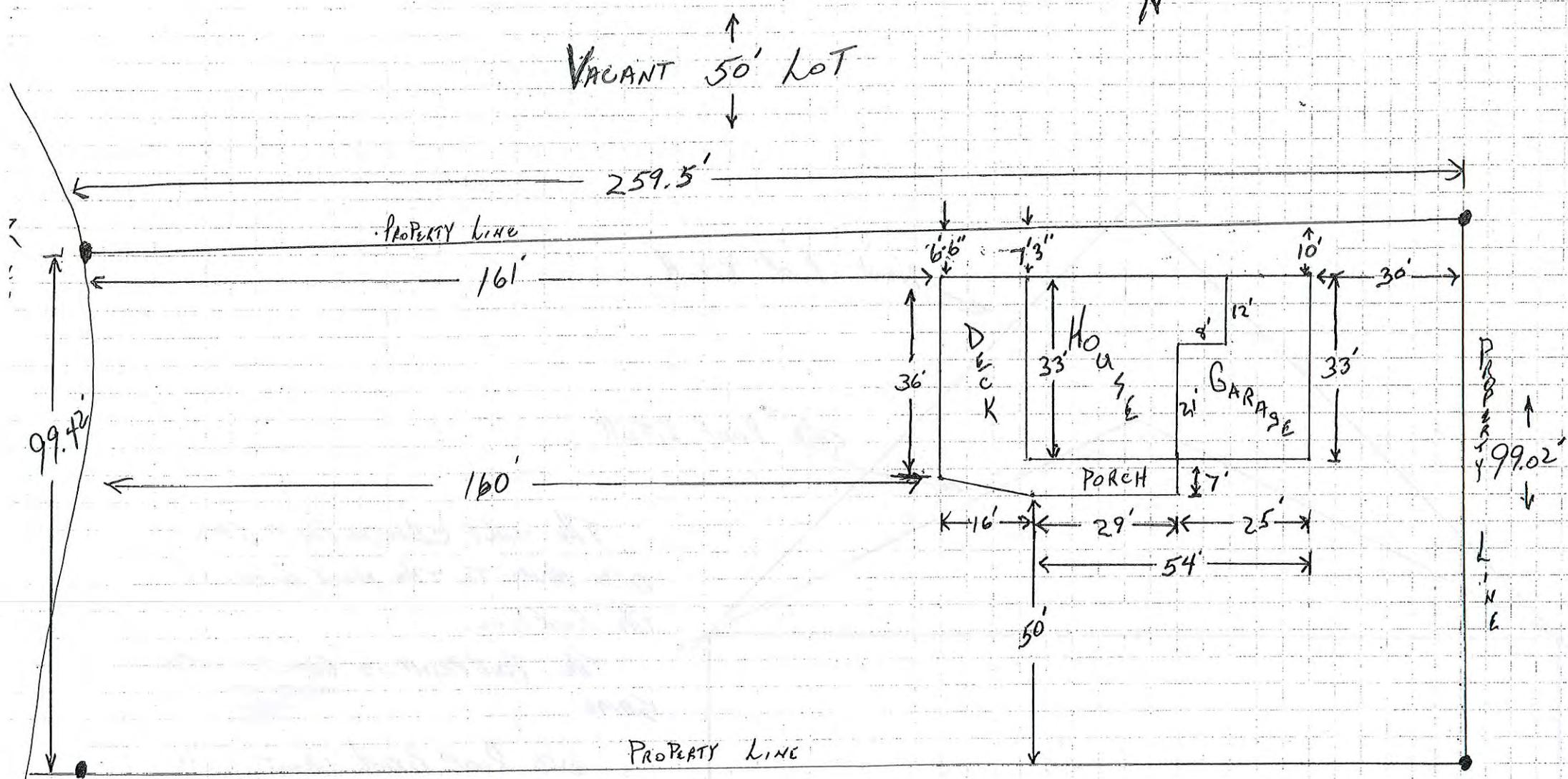
Section 6.7 of the Zoning Ordinance governs appeals to Circuit Court. If you desire to appeal the decision of the Zoning Board of Appeals, you need to contact your attorney for filing appeals to Circuit Court.

PART 2: THE NEW ELEVATED DECK'S FRONT LEFT CORNER (N.W) IS 6'-2" FROM PROPERTY LINE. THE SET BACK REQUIREMENT IS 8'. 1'-10" VARIANCE REQUEST!

THE REQUEST IS BASED ON APPEARANCE AND FUNCTIONALITY.

Richard March

4-8-2019

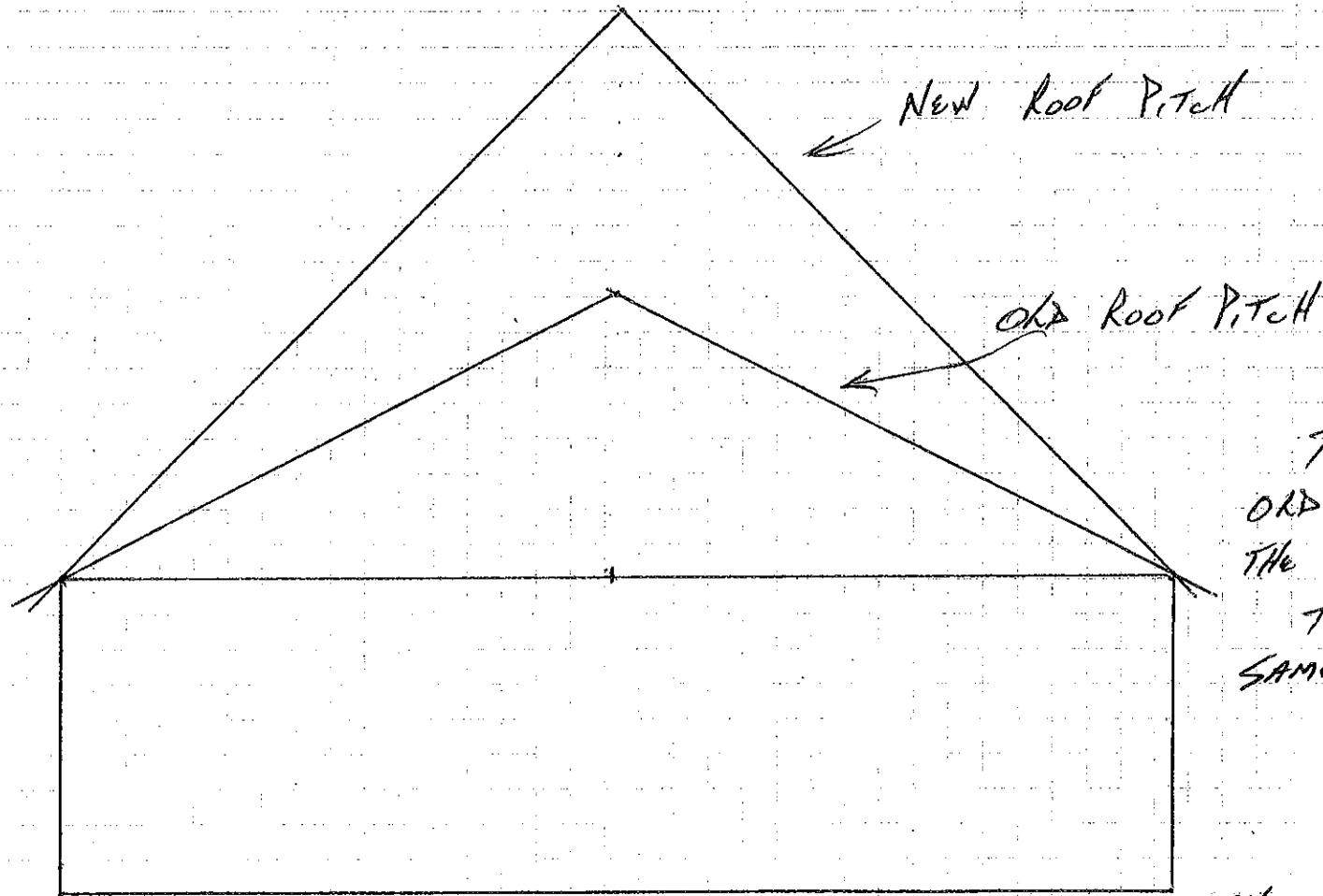


EXISTING FOOTPRINT NO CHANGE
 SCALE 1/4" = 5'

RECEIVED

APR 08 2019

Hamburg Township
 Planning and Zoning Department



THE ONLY CHANGE FROM THE
 OLD HOME TO THE NEW HOME IS
 THE ROOFLINE.

THE FOOTPRINT IS EXACTLY THE
 SAME.

OLD ROOF PITCH ABOUT 6x12

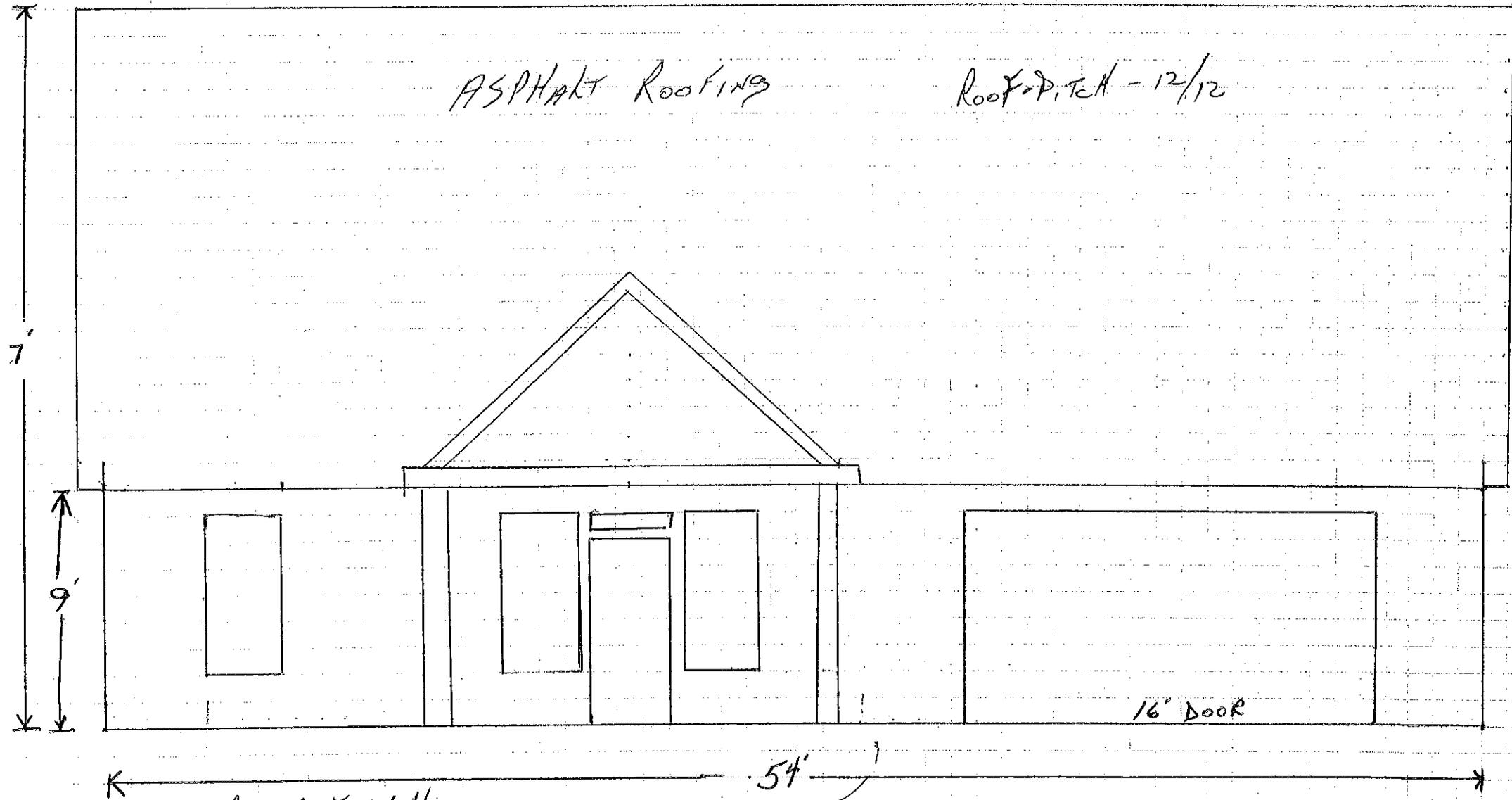
NEW ROOF PITCH 12x12

THE PROPOSED DECK IS A MIRROR IMAGE
 OF THE EXISTING PAVER PATIO
 ON THE LOWER LEVEL!

Scale: $\frac{1}{4}'' = 1'$



Scale: 1/4" = 1'



ASPHALT ROOFING

ROOF PITCH - 12/12

7'

9'

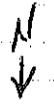
16' DOOR

54'

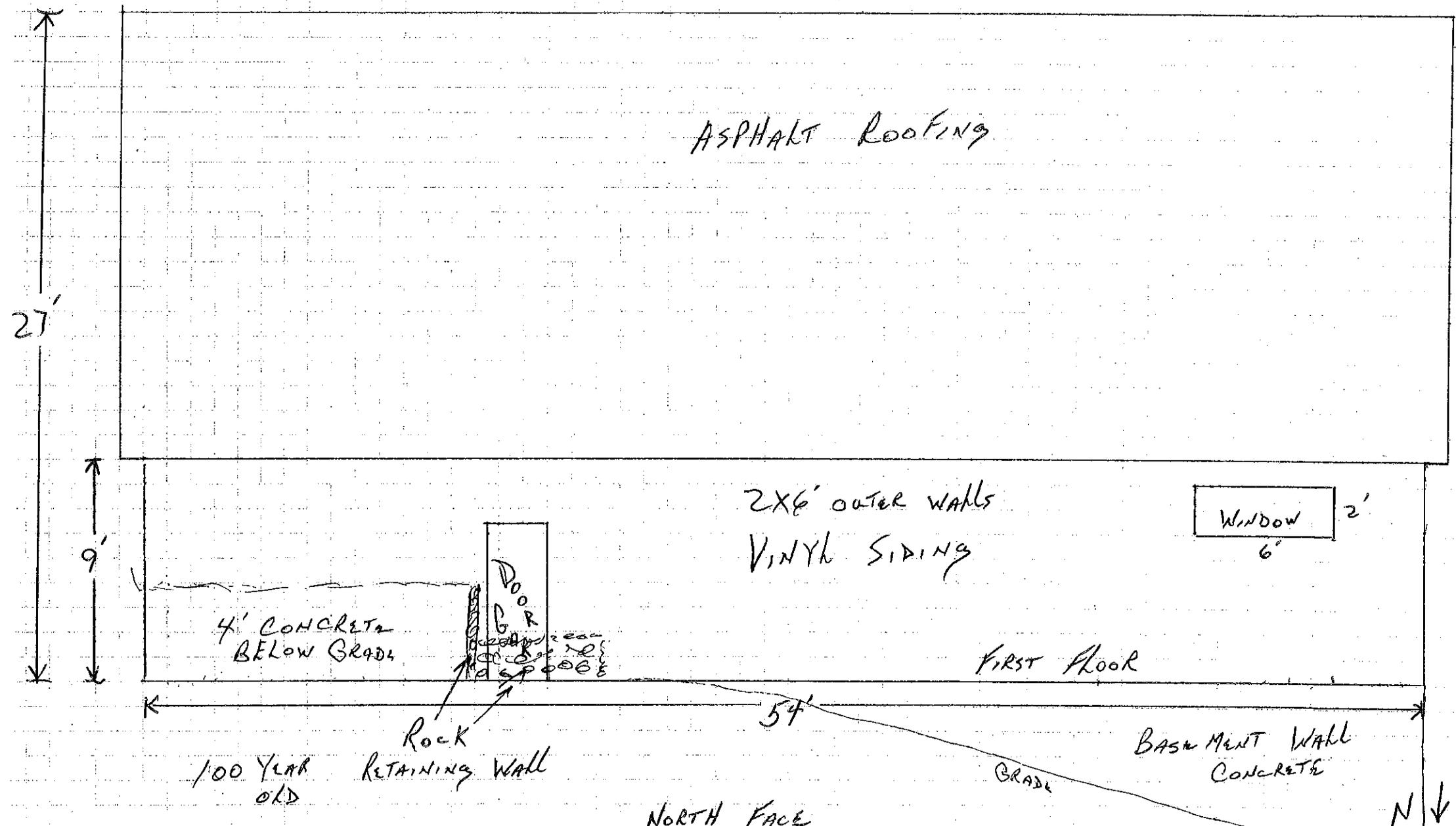
BASMENT WALL
8" BLOCK 12" EVERY 4"

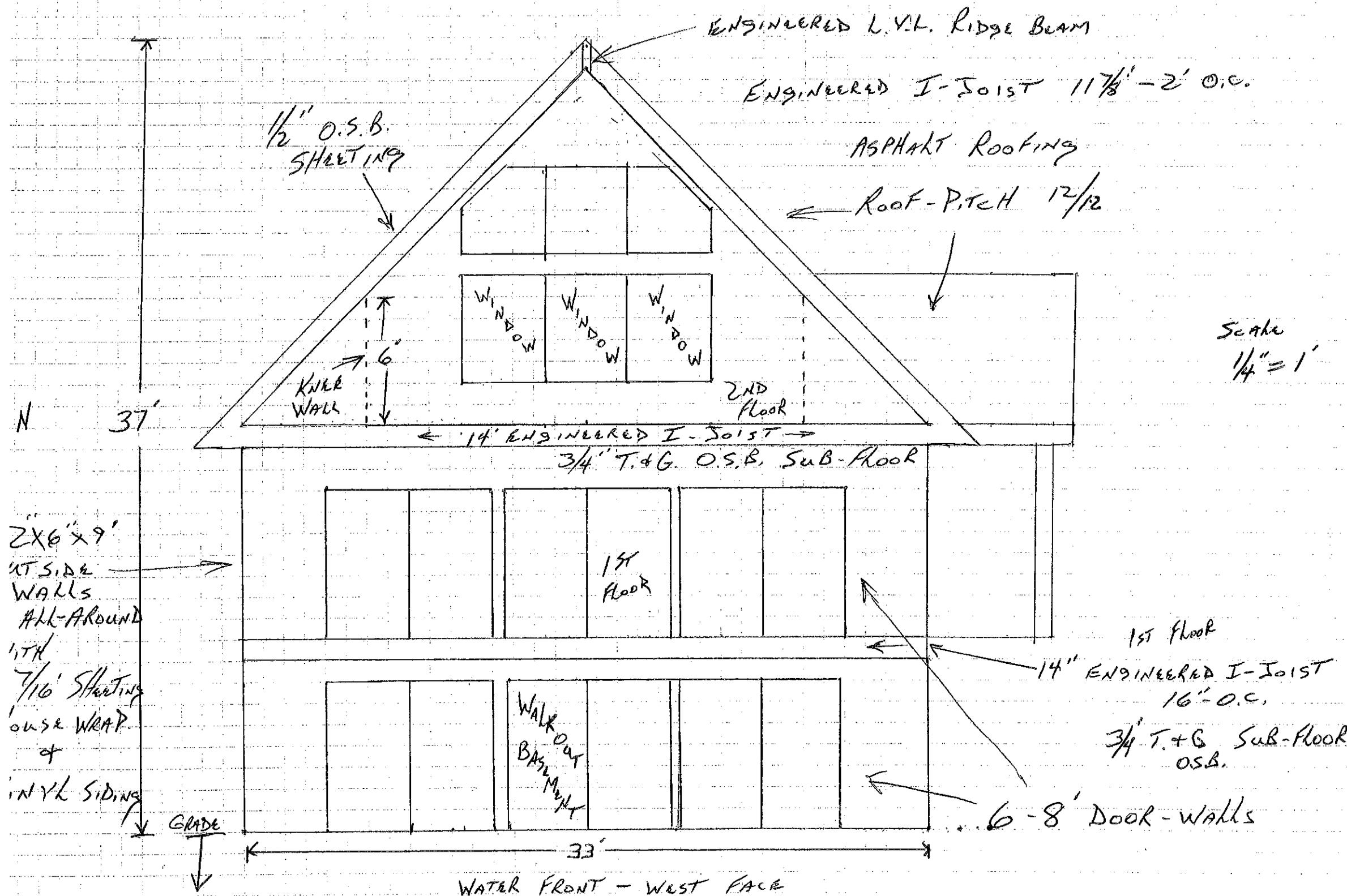
GRADE

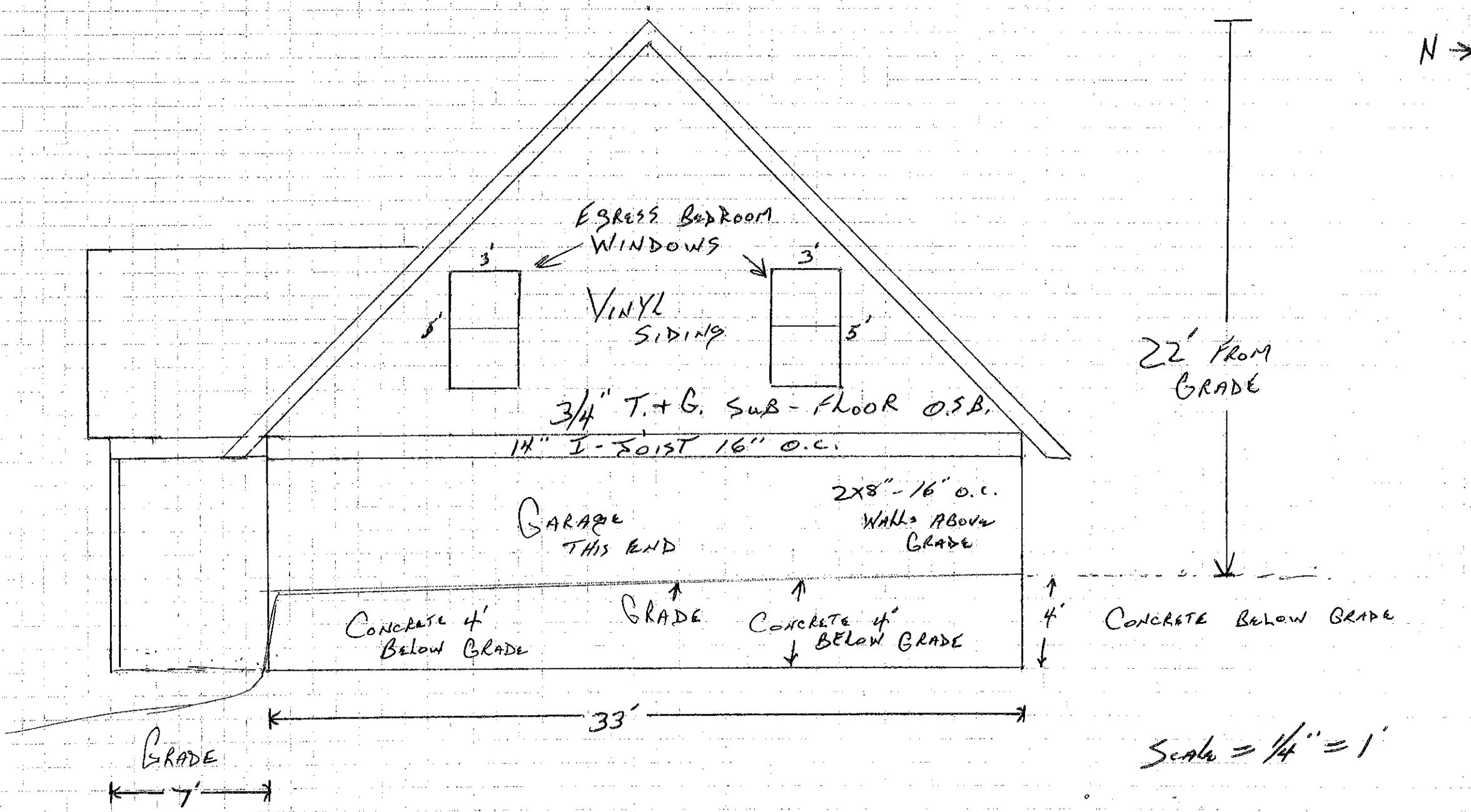
SOUTH FACE



Scale 1/4" = 1'







N →

22' FROM GRADE

3/4" T.+G. SUB-FLOOR O.S.B.
1 1/2" I-FOIST 16" O.C.

GARAGE THIS END

2x8" - 16" O.C. WALLS ABOVE GRADE

CONCRETE 4" BELOW GRADE

↑ GRADE

↑ CONCRETE 4" BELOW GRADE
↓

↑ 4" CONCRETE BELOW GRADE
↓

33'

GRADE

7'

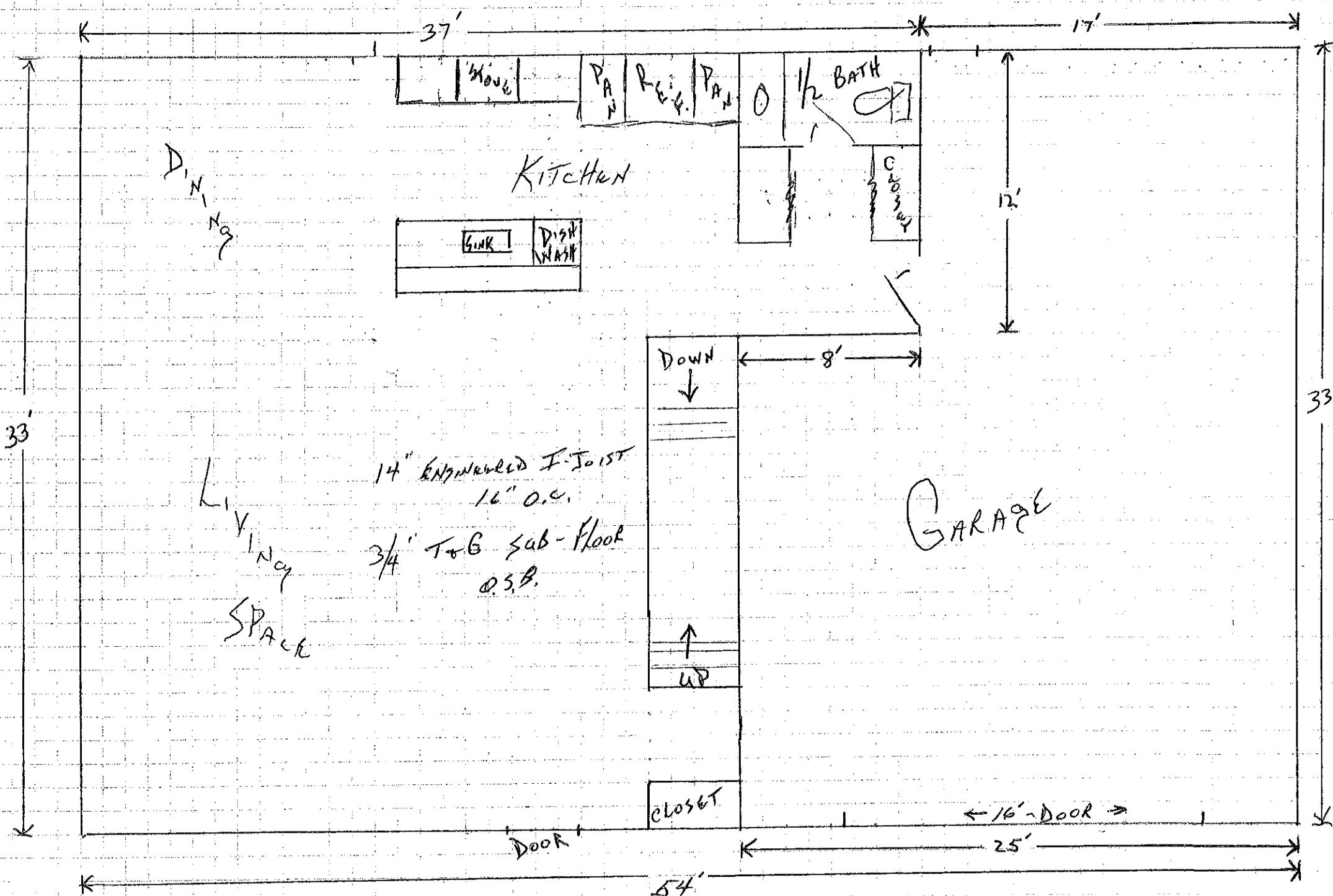
Scale = 1/4" = 1'

EAST FACE

1ST FLOOR PLAN

Scale: 1/4" = 1'

N



DINING

KITCHEN

1/2 BATH

CLOSET

DOWN

UP

GARAGE

LIVING SPACE

14" ENGINEERED I-JOIST
16" O.C.
3/4" T&G sub-floor
0.5.B.

CLOSET

DOOR

16'-DOOR

54'

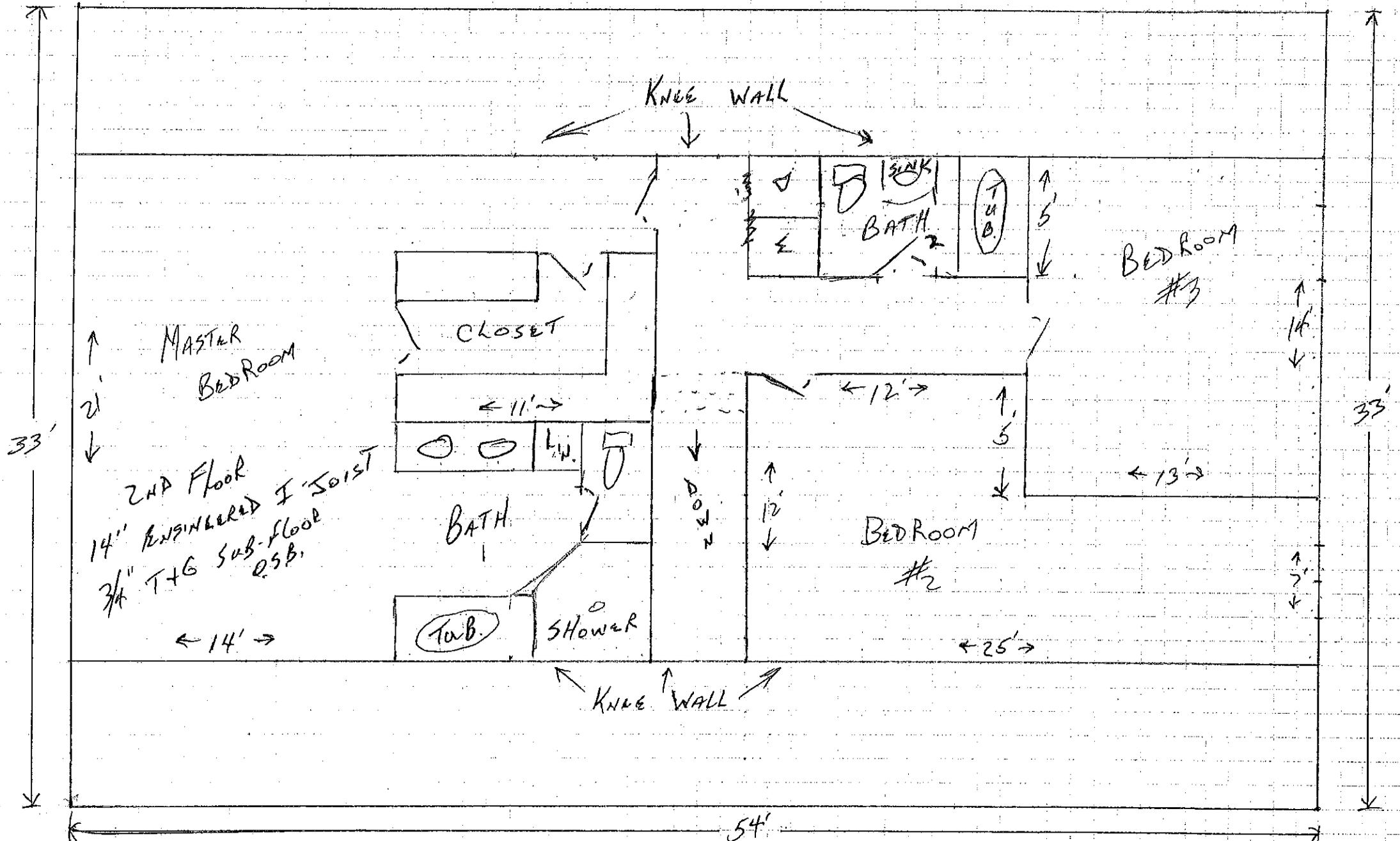
25'

33'

33'

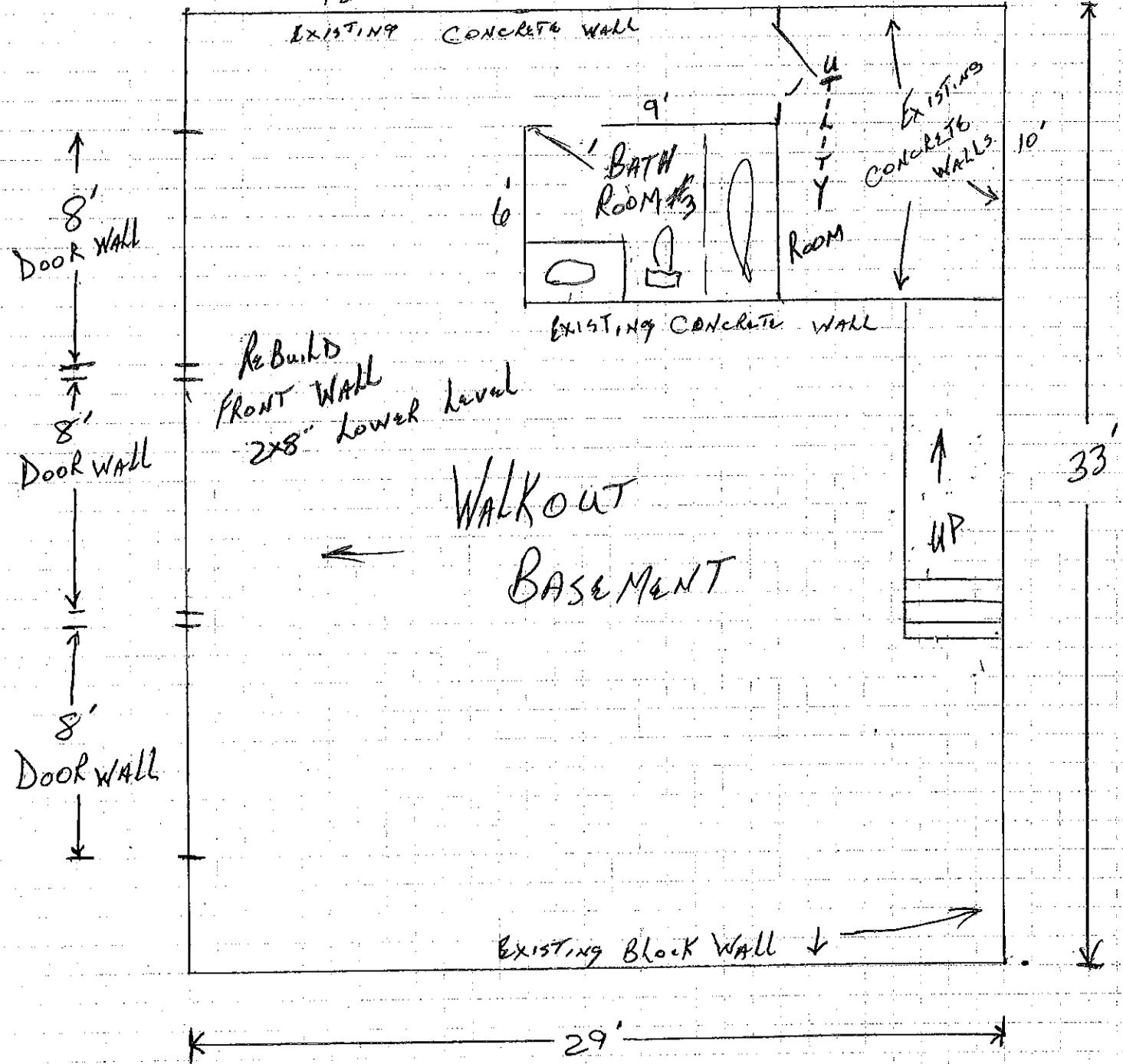
37'

17'



2ND FLOOR, FLOOR PLAN.

Scale: 1/4" = 1'



EXISTING CONCRETE WALL



EXISTING CONCRETE WALL

ReBuild FRONT WALL
2x8" lower level

WALKOUT
BASEMENT

8'
DOOR WALL
8'
DOOR WALL
8'
DOOR WALL

33'

GARAGE

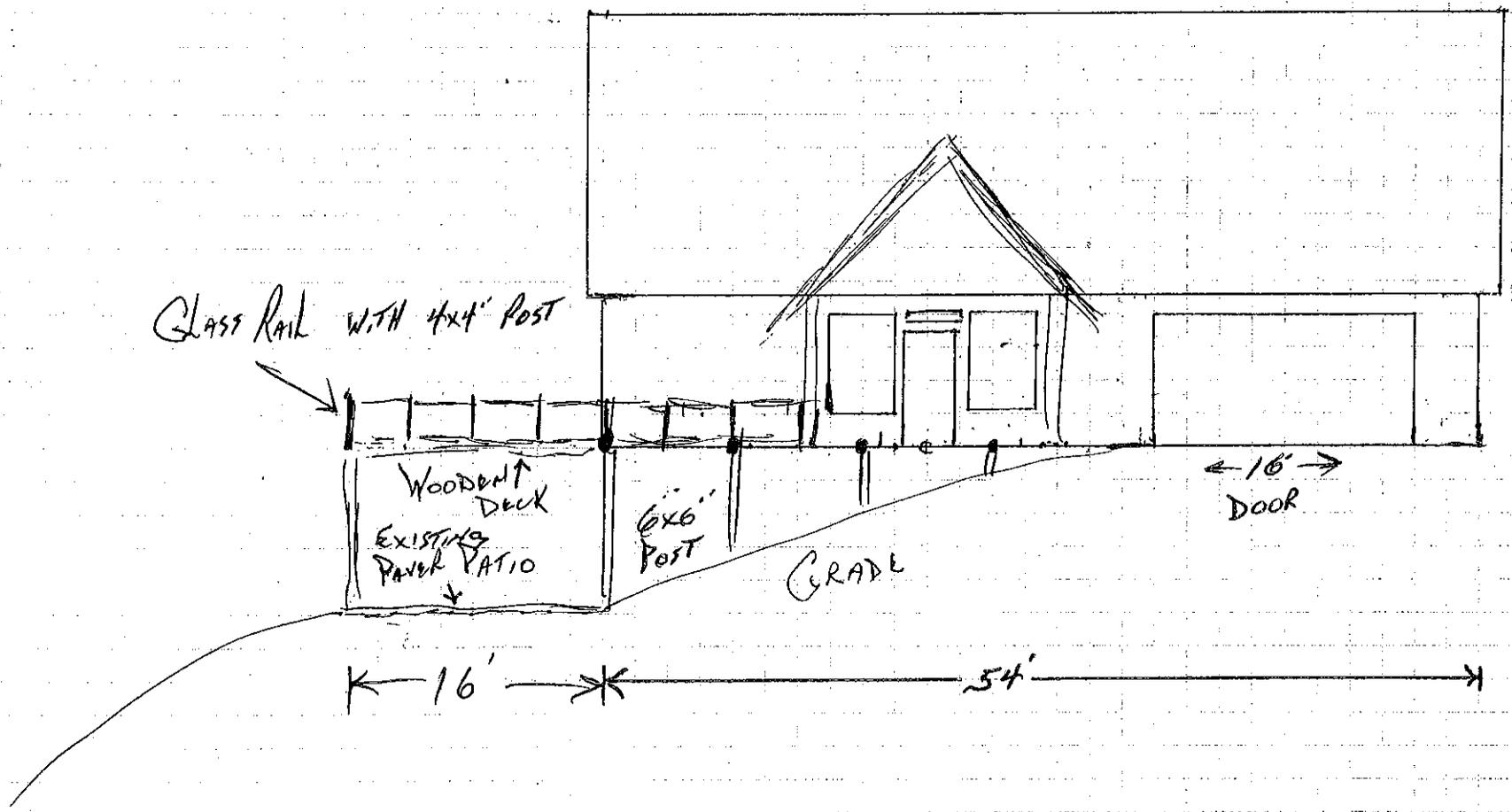
"BASEMENT NOT UNDER"
GARAGE

EXISTING BLOCK WALL

29'

SCALE: 1/4" = 1'

N



GLASS RAIL WITH 4x4 POST

WOODEN DECK
EXISTING
PAVEMENT PATIO

6x6
POST

GRADE

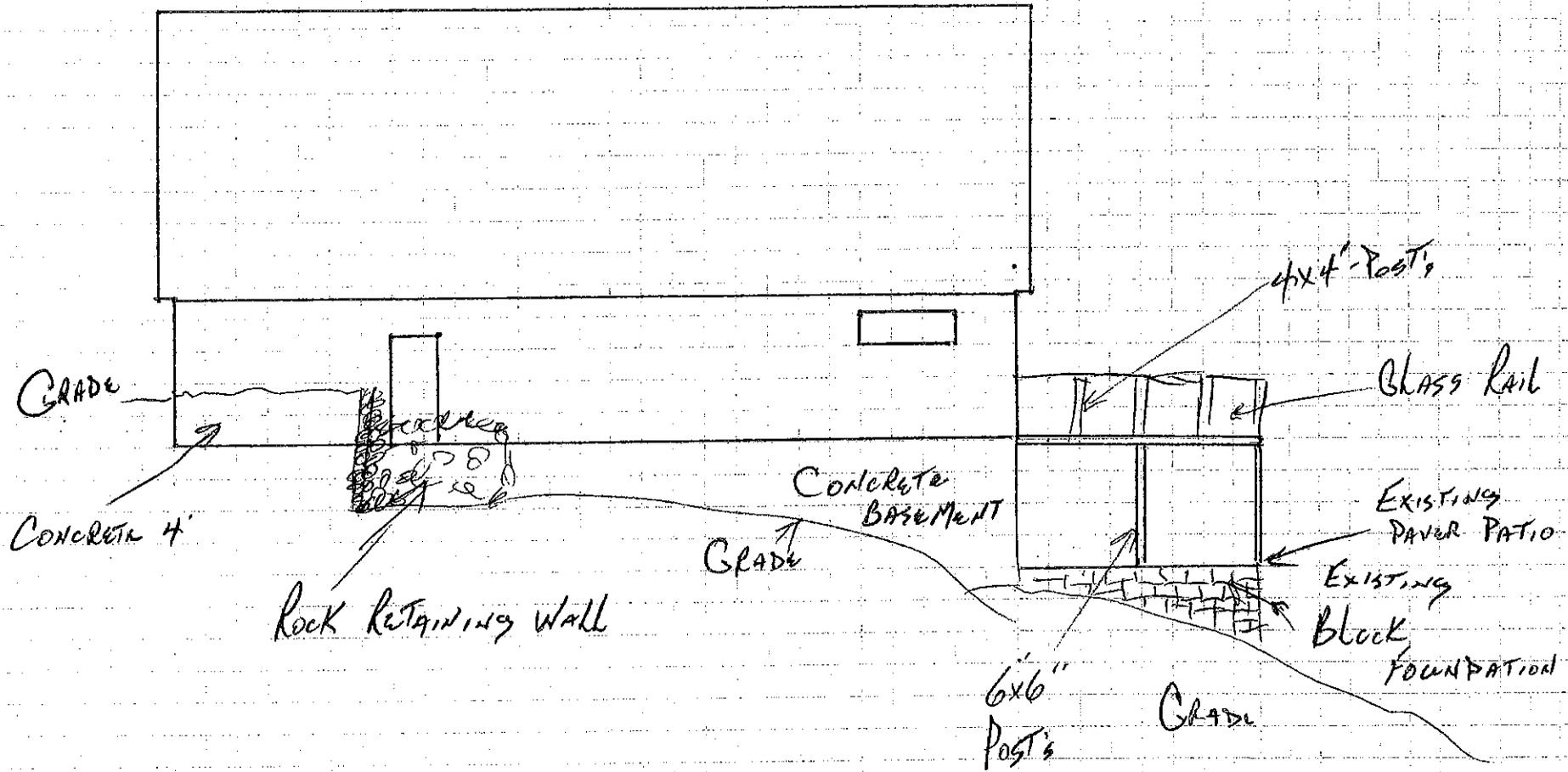
← 16' →
DOOR

← 16' →

54'

South Face

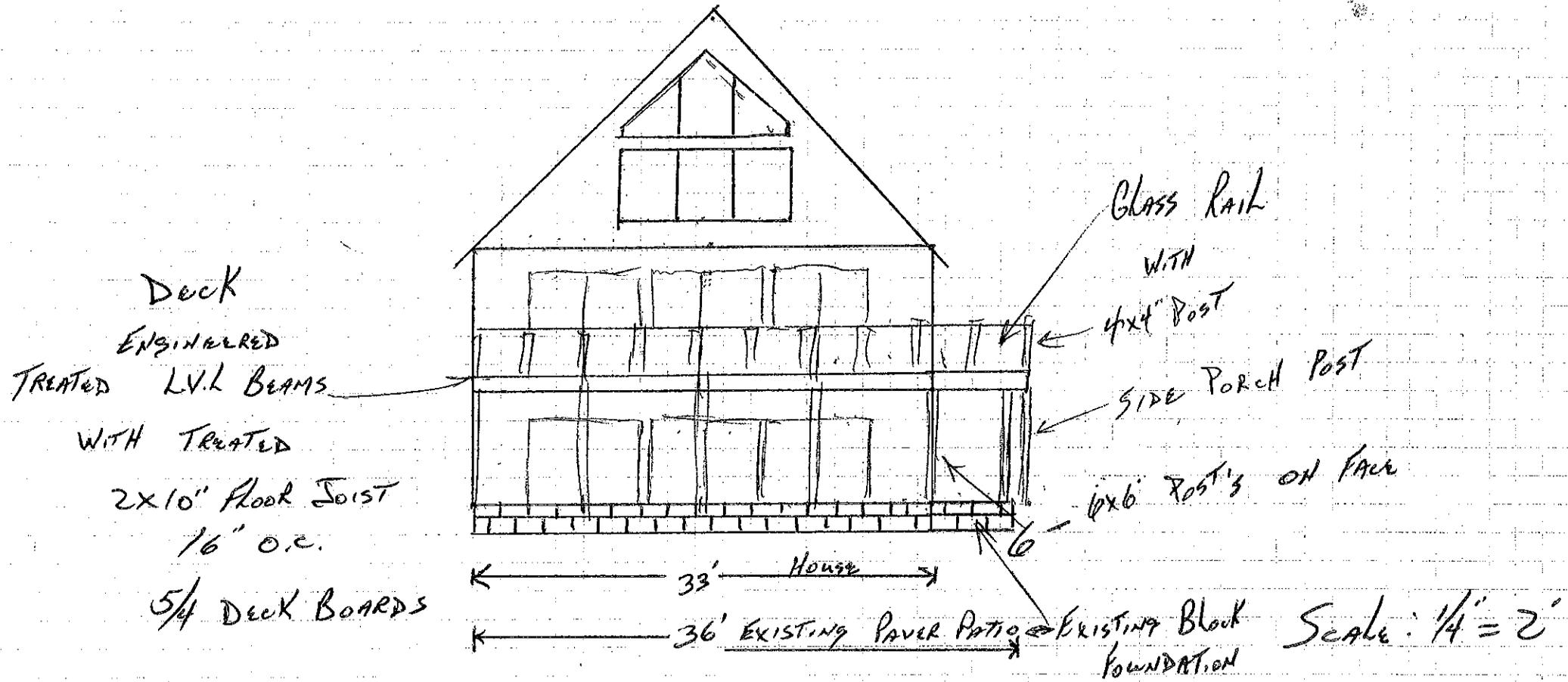
Scale: 1/4" = 2'



NORTH FACE



← N



WEST FACE

WALK OUT BASEMENT

WITH FIRST FLOOR DECK TO MIRROR EXISTING
RAILED LEVEL PATIO

HOUSE

← N

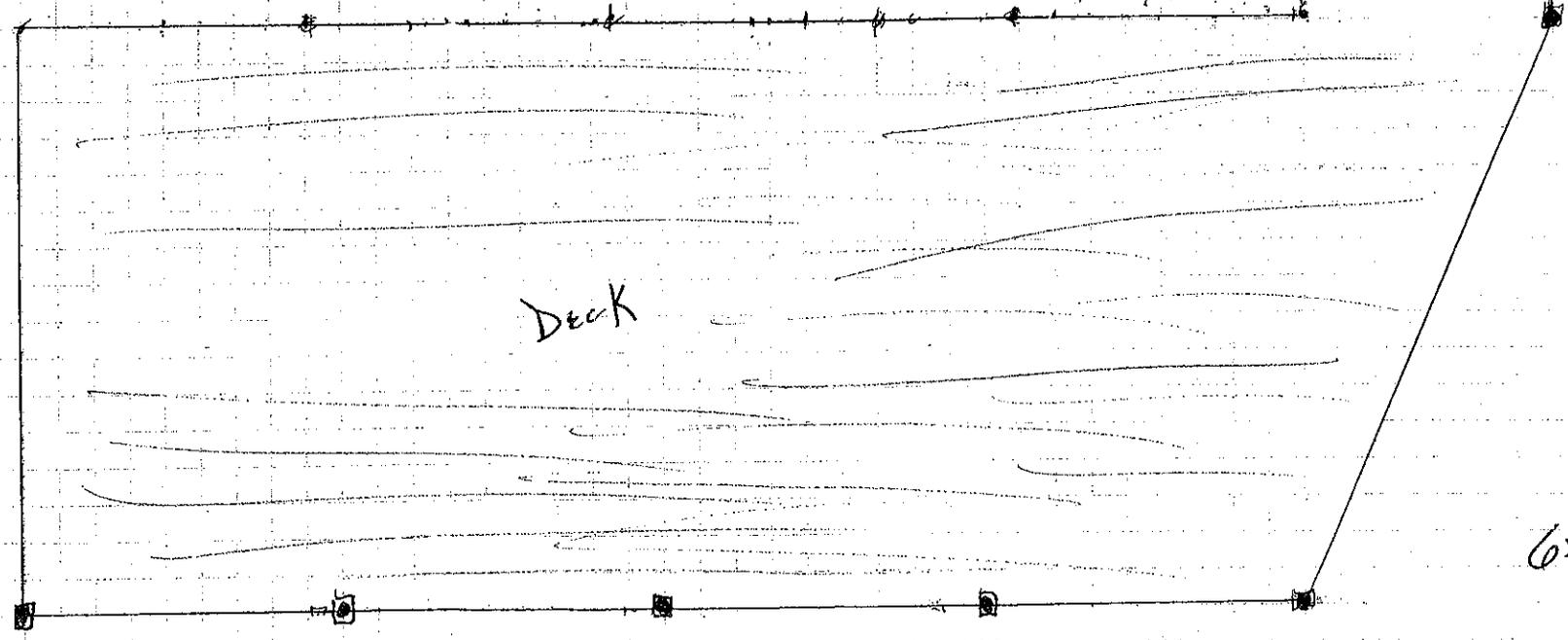
DOOR
R
G
H
SAME
AS
DECK

SCALE
1/4" = 1'

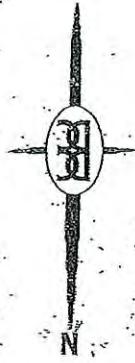
DECK

2x12" DECK JOIST (TREATED)
16" O.C.
5/4 DECK BOARDS
GREEN

6x6" POST TREATED
GREEN



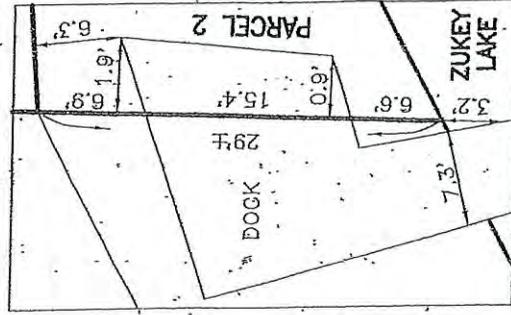
SURVEY SKETCH



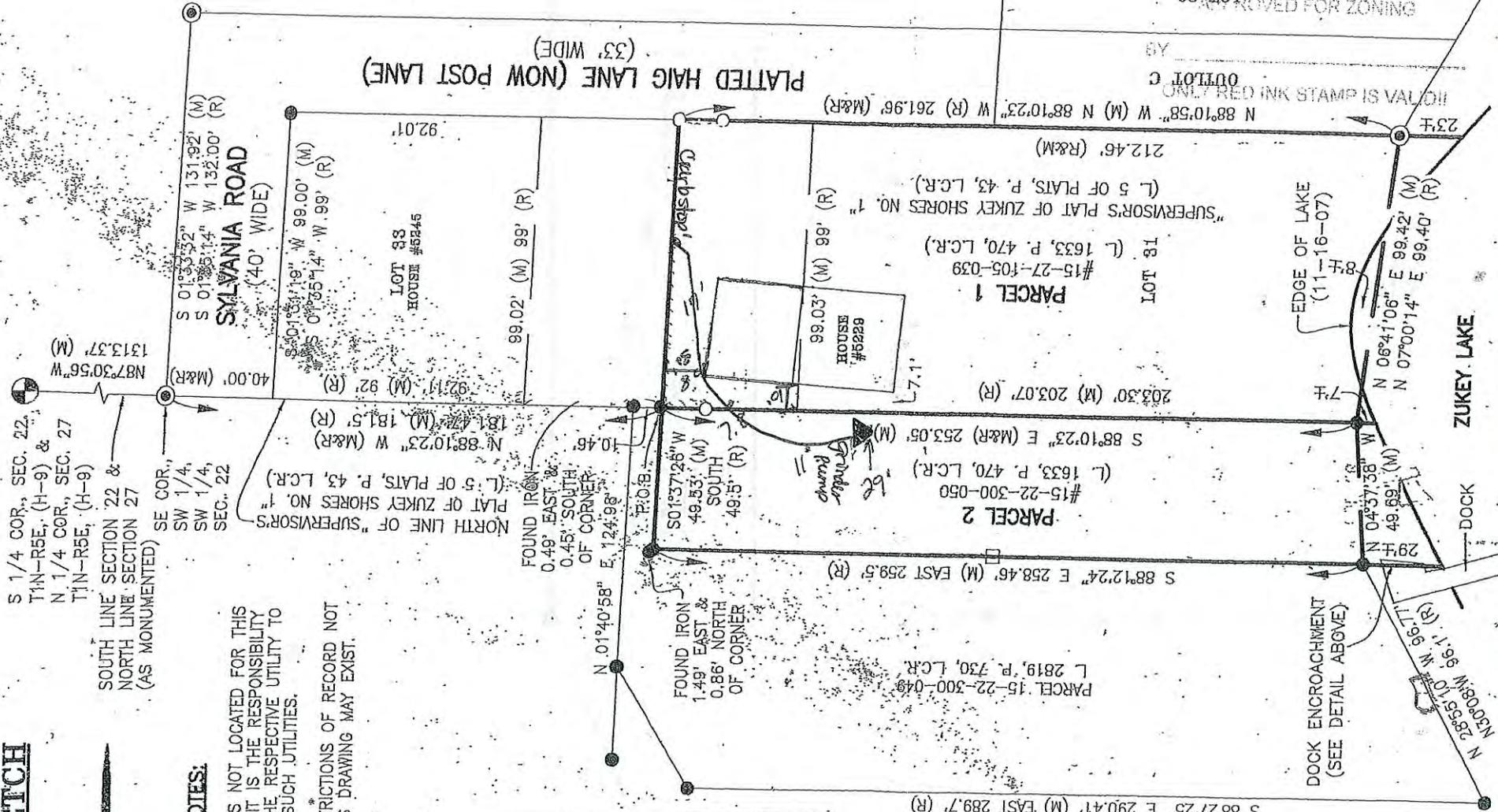
S 1/4 COR., SEC. 22,
T1N-R5E, (H-9) &
N 1/4 COR., SEC. 27
T1N-R5E, (H-9)
SOUTH LINE SECTION 22 &
NORTH LINE SECTION 27
(AS MONUMENTED)

GENERAL SURVEY NOTES:

- SUBSURFACE UTILITIES NOT LOCATED FOR THIS SURVEY MAY EXIST. IT IS THE RESPONSIBILITY OF THE OWNER OF THE RESPECTIVE UTILITY TO ACCURATELY LOCATE SUCH UTILITIES.
- EASEMENTS OR RESTRICTIONS OF RECORD NOT DEPICTED ON THIS DRAWING MAY EXIST.



DOCK ENCROACHMENT DETAIL
(NO SCALE)



BY: *[Signature]* /DATE 11/21/07
HAMBURG TOWNSHIP
APPROVED FOR ZONING

18-0233 /DATE
HAMBURG TOWNSHIP
LOT 30
APPROVED FOR ZONING

DESCRIPTION:
PART OF THE SW 1/4,
SEC. 22 & PART OF THE
NW 1/4, SEC. 27,
T1N-R5E, HAMBURG
TOWNSHIP, LIVINGSTON
COUNTY, MICHIGAN

CLIENT: MANCIK

JOB NO. 07405
SHEET 1 OF 2

DATE 11-19-07
FB 473 CREW GFD DR. AEB CK. JPL

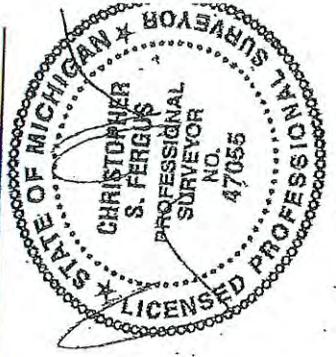
G:\07405\dwg\07405_s.dwg, 11/19/2007 4:41:00 PM, andy

BOSS ENGINEERING
ENGINEERS • SURVEYORS • PLANNERS
LANDSCAPE ARCHITECTS
(E-MAIL: boss@bosseng.com)

LIVINGSTON COUNTY OFFICE:
3121 E. GRAND RIVER AVE.
LIVESTON, MI 48320
(800) 246-0755 FAX (517) 346-1670

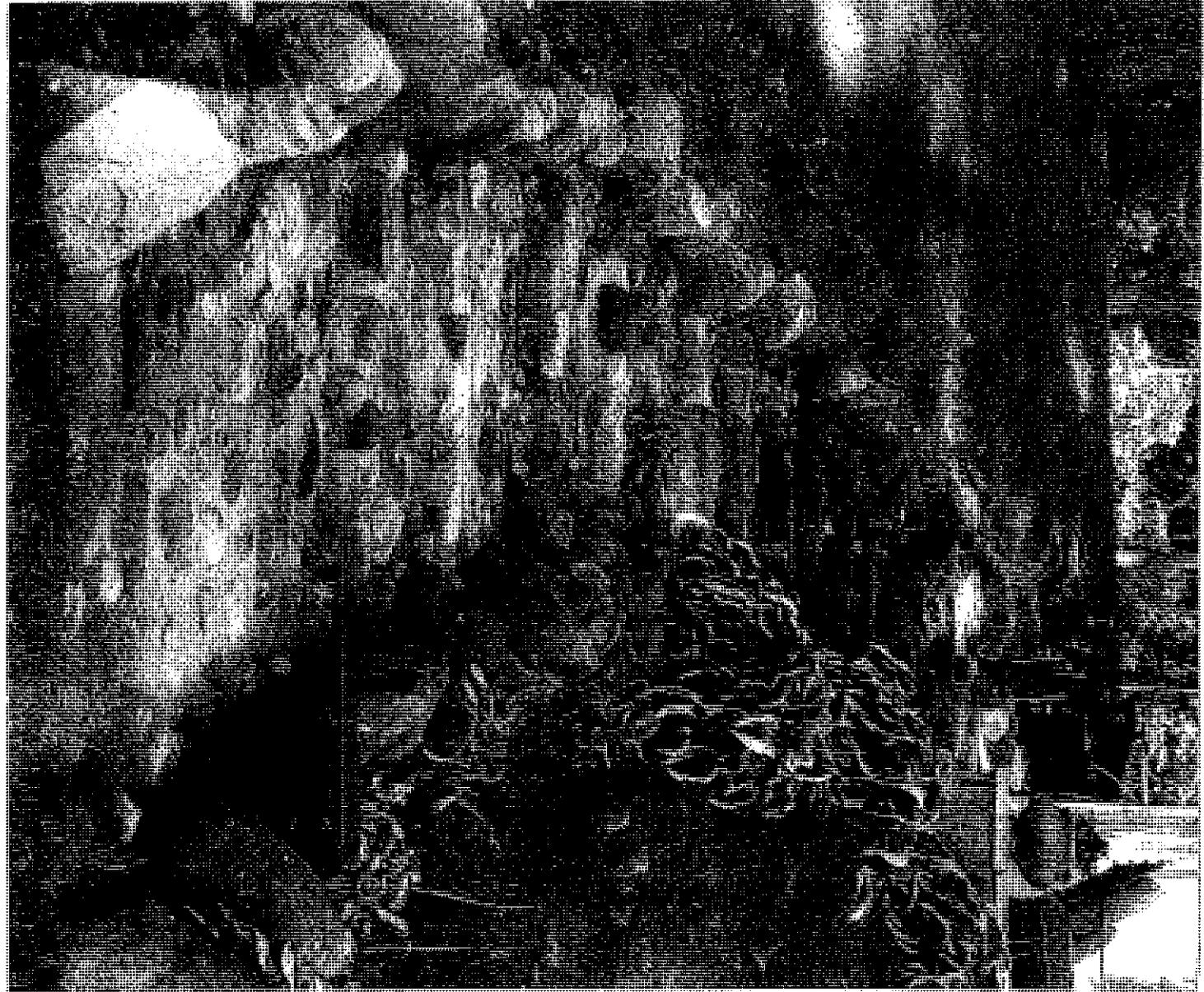


LEGEND
○ = IRON SET
⊙ = IRON FOUND
= = = = = MONUMENT FOUND
+ = FENCE
⊙ (R) = RECORDED
⊙ (M) = MEASURED



ONLY RED INK STAMP IS VALID!!







10405 Merrill Road ♦ P.O. Box 157
Hamburg, MI 48139
Phone: 810.231.1000 ♦ Fax: 810.231.4295
www.hamburg.mi.us

DPW/UTILITIES DEPT. REVIEW

I have reviewed ZBA Case # ZBA18-010 located at 5229 Post Road and offer the following:

[] The parcel is not on sewers.

[X] The parcel is serviced by the Hamburg Township Sanitary Sewer System (HTSSS).

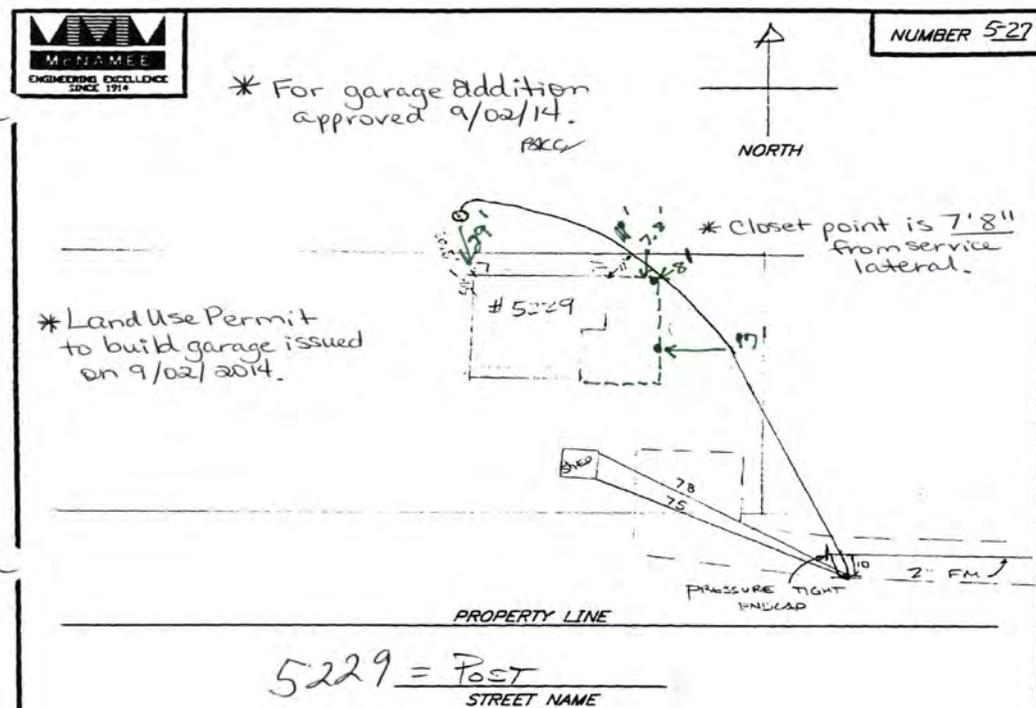
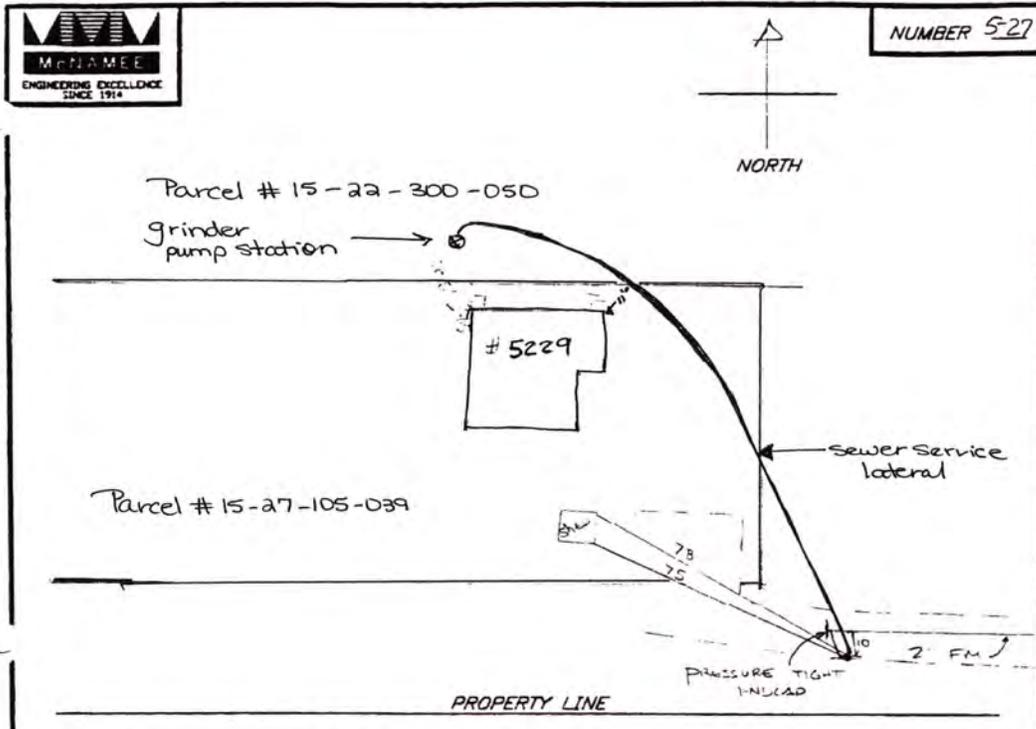
- The property owner is requesting variance to allow for demolition and reconstruction of a 1,053 square foot house with walkout basement and a partially constructed 729 sq. ft. attached garage. The attached garage meets the absolute minimum distance of 7-1/2 feet from the sewer service lateral.
- When sewer was installed in 1995, Parcel #15-27-105-039 and Parcel #15-22-300-050 were owned by Charles Murphy. Mr. Murphy deed restricted Parcel #15-22-300-050 stating that the lot could **not** be split or sold without Parcel #15-27-105-039. The grinder pump station and sewer service lateral were installed to serve the home at 5229 Post Road with the grinder pump station installed on Parcel #15-22-300-050 (see drawing).
- Parcel #15-27-105-039 was purchased outright by Mr. Richard Mancik. Parcel #15-22-300-050 is currently under purchase through a Land Contract with Mr. Murphy and Mr. Mancik. The Manciks approached the Township to split off Parcel #15-22-300-050 as a separate parcel to be sold with another home to be built on the lot.
- Staff from the Zoning Department, Utilities Department, Pat Hohl and Jason Negri met with Mr. & Mrs. Mancik and Charles Murphy on May 1, 2018 to discuss the possibility of separating the 2 parcels and how to best address the sanitary sewer issue that results from the lot split. Two options were determined to best resolve the issue, the first will be to leave the sewer lateral and grinder pump station on Parcel #15-22-300-050 for future use when that lot is built on. A new grinder pump and sewer connection would be required for the home at 5229 Post Road. The second, and more costly option, would be to relocate the existing service lateral and grinder pump onto Parcel #15-27-105-039 and then extend a new sewer main to the vacant Parcel #15-22-300-050 through a utility easement, which would also require a new sewer tap fee, grinder pump and all on-site construction charges when a new house is construction on the lot. Either option requires approved from the Municipal Utilities Committee as explained to the Manciks during the meeting.
- **It is my recommendation to make resolution of the sewer issue a condition of getting a Land Use Permit if the variance is requested.** It will require that the sewer connection issue be resolved with the Municipal Utilities Committee prior to the issuance of the final Zoning approval and issuance of the Certificate of Occupancy. The sewer connection application shall be made and the estimated sewer fees shall be paid in full prior to issuance of the C of O.

Dated: October 2nd, 2018

Respectfully submitted,

Brittany K. Campbell
Brittany K. Campbell, Hamburg Township Utilities Coordinator

Approval of the Municipal Utilities Committee will be required for the sewer connection to service Parcel #15-22-300-050 and Parcel #15-27-105-039 **prior** to the issuance of the Certificate of Occupancy to demo and rebuild the home at 5229 Post Road if the variance is granted.



Mancik/Murphy Meeting regarding Parcel #15-22-300-050
May 1, 2018

Discussion Points:

1. Affidavit, Quit Claim Deed or other instrument must be recorded with the Livingston County Register of Deeds to remove the deed restriction from Parcel #15-22-300-050 (vacant lot).
2. Issue of Ownership of vacant lot – lot is being purchased by Mr. & Mrs. Mancik from Charles Murphy. Has the land contract been paid-off in full? If yes, a Warranty Deed needs to be recorded with the LC Register of Deeds confirming the Mancik's ownership of the lot as well as filing a property transfer affidavit with the Assessing office. Otherwise, the property is still owned by Mr. Murphy.
* Ingress/Egress easement needed across Mancik property to vacant lot recorded with Register of Deeds office.

3. Sewer Related Options:

- A. The current grinder pump station and service lateral serving the Mancik property at 5229 Post Drive (Parcel #15-27-105-039) is currently installed on the vacant lot in question. The property owners must relocate their service lateral and grinder pump station onto their lot before the vacant parcel can be sold and/or a new home built on it.

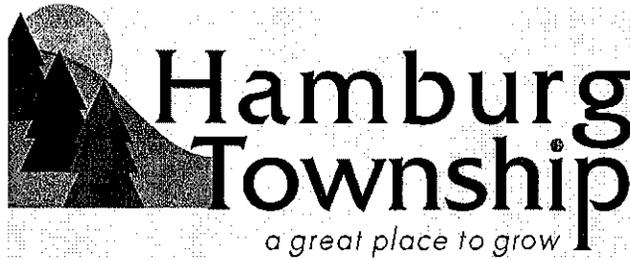
*A permanent utility easement grant through Parcel #15-27-105-039 will need to be granted by the Manciks in order to extend a sewer line to the vacant lot. Legal description for easement right-of-way to be provided by Manciks at their expense.

- B. Property owners request to share the 1-1/4" sewer service lateral in order to serve both properties. This will require approval from the Municipal Utilities Committee prior to the issuance of any Land Use Permits to construct a new home on the vacant parcel. Mancik's will still be required to move the grinder pump station to their own property at their expense under the Township's Blanket Contract.
- C. Existing grinder pump station and service lateral is left in current location to be used by the new house to be constructed on the vacant lot. This will require approval from the Municipal Utilities Committee prior to the issuance of any Land Use Permits to construct a new home on the vacant parcel.

*Manciks will be required to install a new grinder pump station and sanitary sewer service lateral on their property at their expense, including tap fee, grinder pump station costs, administration fee and all construction charges. Installation will be completed under the Township's Blanket Contract.

P.O. Box 157
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(810) 231-1000 Office
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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, October 10, 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: Auxier, Bohn, Neilson, Priebe, and Watson

Absent: None

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: 5 Nays: 0 Absent: 0 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:

1. ZBA 2018-0010

Owner: Richard and Kristine Mancik

Location: 5229 Post Drive Pinckney MI 48169

Parcel ID: 15-27-105-039

Request: Variance application to allow the demolition and reconstruction of a 1,053-square foot dwelling, with a walkout basement and partially constructed 729-square foot attached garage. The proposed dwelling would have a 7-foot, 3-inch north side yard setback (10-foot side yard setback required, Section 7.6.1.), and a 576-square foot elevated deck with a 6-foot, 6-inch north side yard setback (8-foot setback required, Section 8.17.1.).

Mr. Mancik explained his proposal. He stated that they are not proposing to change the existing footprint. The roof-line would change slightly. They would also be adding a deck which would be the mirror image of the lower level.

The question was asked regarding the adjacent lot. Mr. Mancik stated that there are two separate lots. The home sits on a 100 foot lot and the septic sits on a 50 foot lot. He has purchased the 50 foot lot on land contract. It has been agreed that it would be best suited to put in a new grinder pump with the home and leave the existing pump. They have drawn up an easement at the back of the 100 lot giving access. This will have to go to the Sewer Board for approval.

Amy Steffens, Planning & Zoning Administrator stated that the subject site is a 20,603-square foot parcel improved with a 1,053-square foot, single-story dwelling with a walk-out basement and a partially constructed 729-square foot attached garage. The site fronts onto Post Drive to the south; Zukey Lake is to the west, a vacant residential parcel is to the north, and a park and a single-family dwelling are to the south. If approved, the variance request would allow for the demolition of the existing dwelling and the reconstruction, using the same footprint, of the 1,053-square foot dwelling. The dwelling would have a 7-foot, 3-inch north side yard setback, where a 10-foot side yard setback is required. Additionally, they are proposing a 576-square foot elevated deck. An elevated deck can encroach into a yard no more than 6 feet, but it has to be no nearer than 8 feet to the property boundary. The Mancik's are proposing an elevated deck 6 feet 6 inches to the north side yard setback.

Steffens stated that on September 2, 2014, the Township issued a land use permit for the construction of a 729-square foot attached garage. However, on November 7, 2017, the Livingston County Building Department notified the township that, due to a lack of progress or job abandonment, the county permits were closed. On May 1, 2018, the Township confirmed that the attached garage had been partially completed and that the lack of completion was a violation of General Ordinance 38-C, Anti-blight and anti-nuisance. At that time, the property owner indicated that a completed land use permit application for the completion of the garage would be submitted by May 3, 2018. The plans submitted in July did not address all of the requirements; however, after revising the plans, the applicant decided to demolish the existing structure and re-build in the same footprint. As you know, the Board is bound by the findings of fact relating to a practical difficulty of the property, not the property owners. She reviewed the Standards. She stated that setbacks serve a couple purposes. It encourages orderly development of parcels, neighborhoods, etc. and helps maintain open vistas of the neighborhoods, streets and adjoining property. They also protect adjoining properties from the negative impact from development on adjacent parcels. There is nothing exceptional or extraordinary about the property to warrant a deviation from the Zoning Ordinance. Of the 28 parcels that would have received the legal notification, the subject site is larger than 19 of them and would be large enough to accommodate a dwelling and elevated deck and meet the ordinance requirements. The applicant has indicated that the location of the house is due to an existing stone stairway to the rear of the property. The stairway could be maintained with a house in a conforming location. The house would have a 50 foot south side yard setback indicating to staff that there is room on the property itself to build a conforming structure. Property rights are not advanced based on a single proposed site plan or architectural design. The building could be relocated to a compliant location and the deck could be reduced in size to meet the ordinance. An elevated deck does not preserve a substantial property right nor does creating a non-conforming structure where one does not currently exist. The subject site is in the North Chain of Lakes planning area of the Master Plan. This area envisions medium density residential development in the developed areas around the chain of lakes. The proposed request would not adversely affect the propose or objectives of the Master Plan.

Steffens stated that we recently amended the Zoning Ordinance. The previous ordinance allowed an expansion of a non-conforming structure without ZBA approval up to 50% of the market value of the existing structure. We had more variance requests to that section of the ordinance than any other. On these lake front lots, these homes are small, most are non-conforming and it was driving the need for a lot of these requests. We changed it to make it easier for people to improve or add on to a non-conforming structure. The ordinance recognizes that non-conforming structures and uses are something we are trying to fade out. Therefore, moving forward, our ordinance says that on a non-conforming structure, anything new must meet

the setbacks. If there is some type of natural disaster that causes damage to the structure, you can put it back. However, the ordinance is very clear that if a structure is removed for any other reason other than a natural disaster, it must come into conformance with the setback standards. Additionally, an amendment was made in 2016 to relax the setback standards for elevated decks. Again, this was based on the smaller lake front lots. It allows for anything over 24 inches above grade to encroach into the required setback up to 6 feet but you may not be closer than 8 feet to the setback standard. Staff does believe that the requests have been addressed adequately by the Zoning Ordinance and there is no other text amendment that could be offered to this property so the property owner would not have to file for a variance. She stated that the use of the site is single-family residential and the proposed variance would not change the use. The proposed site plan is what is creating a practical difficulty. The site can accommodate a conforming structure. 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 that warrants variance approval for a second story addition to the existing dwelling over an attached garage. Demolishing the structure entirely gives the opportunity to bring the structure into compliance. And, the Zoning Ordinances have been amended to offer greater flexibility on constrained lots within our waterfront district.

Discussion was held on the building being an existing non-conforming structure. Steffens stated that the deck would be an additional non-conformity if it was approved. The patio itself is conforming.

Discussion was held on the need for pilings for many of the homes constructed along the lakes and the large expense associated with it. Steffens stated that she does not know what the building department would require. However, when you start considering what one person is going to pay versus another, you take out the intent of the findings, which is that they are specific to the property.

Member Bohn made the point that most of the house does meet the 10 foot setback and the owner also owns the adjacent parcel. He would agree that the purpose of the setback is correct to have conformity and avoid adverse impact to the adjacent owner. In this case, the applicant is the impacted owner as well. He further stated that they strive to preserve things that are unique and interesting. If he had to do pilings, most of the hard work on the stairways from 1921 would be destroyed. That is unique to this piece of property.

Member Auxier asked if the applicant would entertain changing the deck, the house would only encroach the setback 1.5 feet. This is one of the most open areas in that bay and he would not see how any of the neighbors would be impacted or a potential new neighbor on the adjacent lot. Mr. Mancik stated that the deck he proposed was simply a mirror image of the patio so there is already entertainment on the deck below. It would be nice to have a deck off the main living area, but if the deck is the main issues, he would leave it off. It was stated that the deck could be reduced. Mr. Mancik stated that it would not be symmetrical.

It was stated that the two lots could be combined and there would be no problem. Mr. Mancik stated that they do intend to sell that in the future, which is why they came to the understanding about putting in the new sewer/grinder pump for the house.

Steffens stated that it is the recommendation of the DPW that the grinder pump issue be resolved prior to the issuance of a land use permit. Staff would suggest that be part any approval. Mr. Mancik stated that he has a problem with that because until he sells it, that issue should not be a factor. He will make it part of the project, but should not be before he can have a permit. Steffens stated a condition of the permit would be that the sewer connection application would be made and the sewer connection fee paid in full prior to the issuance of a Certificate of Occupancy. Mr. Mancik stated that he does not have a problem with that. Steffens stated that this should be a condition of approval.

Member Auxier stated that his opinion is that the non-conforming part of this request is so small and there is a lot of space involved. The area is very secluded. He does not see any impact on anyone around with the exception of a future home.

Steffens stated that ZBA approval is good for six months. Therefore permits must be pulled and construction must begin within six months.

Discussion was held on the slope of the lot.

Chairman Priebe opened the public hearing. There was no response. The call was closed.

Member Watson stated that his opinion is that this would be a new structure and should be conforming even if the request is minor. This is a big lot, therefore it is difficult not to stick with that. Member Nielson agreed. However, there are special circumstances.

Mr. Mancik stated that there is an existing basement. He could fix and repair what is there or take everything down to the foundation. Everything there from the structure to the mechanical, etc. is sub-standard. He further stated that he could tear everything out and build a much larger home, but that is not what he is trying to do. There is a lot of value with the existing basement.

Motion by Auxier, supported by Bohn

Motion to approve variance application ZBA 18-0010 at 5229 Post Drive to allow the demolition and reconstruction of a 1,053-square foot dwelling, with a walkout basement and partially constructed 729-square foot attached garage. The proposed dwelling would have a 7-foot, 3-inch north side yard setback (10-foot side yard setback required, Section 7.6.1.), and a 576-square foot elevated deck with a 6-foot, 6-inch north side yard setback (8-foot setback required, Section 8.17.1.) as proposed contingent upon the sewer issue being resolved prior to the issuance of a land use permit and be that the sewer connection application be made and the sewer connection fee paid in full prior to the issuance of a Certificate of Occupancy.

Voice vote: Ayes: 5 Nays: 0 Absent: 0 MOTION CARRIED

2. ZBA 2018-012

Owner: David and Sharon Gauntlett

Location: 2105 Cardinal Court Pinckney MI 48169

Parcel ID: 15-31-302-020

Request: Variance application to allow for an 875-square foot second-story addition to an existing dwelling. The addition will have a 24.1-foot south front yard setback along Cardinal Court and a 20.5-foot west front yard setback along Algonquin Drive (25-foot front yard setback required along both street frontages, Section 7.6.1.fn4.). Variance application to allow for a 1,166-square foot, two-story addition to the north façade of the dwelling. The addition will have a 16-foot west front yard setback along Algonquin Drive (25-foot front yard setback required, Section 7.6.1.fn4.) and a 15-foot north rear yard setback (30-foot rear yard setback required, Section 7.6.1.).

Mr. Gauntlett stated that this was his childhood home. With the passing of his parents, he assumed ownership. He would like to move his family here, but it is a little too small. They are proposing to make it longer with a garage as well as a second story. There is currently only two bedrooms with a very small bathroom.

Discussion was held on the current non-conformity. Mr. Gauntlett stated that it is also a corner lot with the road frontages.

Brittany Stein, Planning/Zoning Coordinator, stated that the subject site is a 6,142-square foot lot that fronts onto Cardinal Court to the south; Algonquin Drive to the west, and single family dwellings are located to the north and east of the site. If approved, the variance request would permit the construction of an 875-square foot second story addition to an existing dwelling. The addition will have a 24.1-foot south front yard setback along Cardinal Court and a 20.5-foot west front yard setback along Algonquin Drive where a 25-foot front yard setback required along both street frontages. If approved, the variance request would permit the

construction of a 1,166-square foot, two-story addition to the north façade of the dwelling. The addition will have a 16-foot west front yard setback along Algonquin Drive where a 25-foot front yard setback required and a 15-foot north rear yard setback where a 30-foot rear yard setback is required. The property is within FEMA's mapped 100-year floodplain. Any development of this site would require a sealed topographical survey with the base flood elevation noted to the nearest tenth of a foot. Hamburg Township participates in the National Flood Insurance Program (NFIP). Proper enforcement of the building code standards is a prerequisite of the township's participation in the NFIP. NFIP communities, flood insurance must be purchased as a condition of obtaining a federally insured mortgage in federally identified 100-year floodplain area. If the location of the proposed addition and location of the existing dwelling is found to be in the floodplain, the top of the bottom floor must be at least one-foot above the base flood elevation. Additionally, if the project constitutes a significant improvement under the NFIP, the existing structure may need to be brought up to standards for buildings in the floodplain. She reviewed the seven findings of fact. This site is a corner lot requiring the primary structure to have a front yard setback from both Cardinal Court and from Algonquin Drive. The setback requirements are intended to provide adequate space, open vistas, and privacy throughout neighborhoods and between structures on smaller residential lots. Development of a single family dwelling on this corner lot is constrained by the size of the lot which results in a small building envelope. The property cannot accommodate a compliant single family dwelling. Currently, the lot is improved with a 1,080-square foot dwelling with no garage. The proposed addition to include a garage with living space above does not meet the ordinance, however corner lots provide reduced side, front and rear yard setbacks to adequately accommodate a detached garage that does meet the standards of the zoning ordinance. Because it is a corner lot, a detached garage could meet the zoning ordinance. It could be 10 feet from the road side and 5 feet from the back if it was detached with no living space above. Having frontage on two sides of this lot, with a 30-foot rear yard setback does constrain development possibilities for the single family dwelling. Therefore, the lot may not accommodate a conforming dwelling. The plans propose an attached garage with living space above attached to the existing dwelling, however the plans could be redesigned to meet the requirements of the zoning ordinance to accommodate a detached garage. It would also have to be 10 feet from any other structure. The provision of a 15-foot rear yard setback for the garage & living space might be less detrimental than a garage built with a 5-foot rear and side yard setback. The subject site is in the North Chain of Lakes planning area of the Master Plan. This area envisions medium density residential development in the developed areas around the chain of lakes. The proposed request would not adversely affect the proposed or objectives of the Master Plan. There is a condition or situation of the subject site that is of so general or recurrent a nature that the proposed second story addition can comply with the required front and rear setback standards. The surrounding dwellings have been constructed to comply with the required setbacks. The plans propose an attached garage with living space above attached to the existing dwelling, however the plans could be redesigned to meet the requirements of the zoning ordinance to accommodate a detached garage. Given the small size of the corner lot with double frontage, there is a practical difficulty in constructing a compliant structure. However, due to the extent of the proposed plans of the two-story addition, the design creates a self-imposed practical difficulty. The lot can accommodate a detached garage that meets the zoning ordinance requirements. 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 that warrants variance approval for a second story addition to the existing dwelling over an attached garage.

Chairman Priebe opened the public hearing. There was no response. The call was closed.

Member Bohn stated that this is an unusual lot. The most compelling argument is that the provision of a 15-foot rear yard setback for the garage & living space might be less detrimental than a garage built with a 5-foot rear and side yard setback.

The question was asked if the applicant had looked at flood insurance. Mr. Gauntlett stated that he does not believe that the home is in the floodplain although very close. Planning/Zoning Administrator Steffens stated that as a reminder, the applicant will have to provide a topographical survey. If the floodplain was not an issue, we would not require a survey.

Discussion was held on the lot and the impact of the road.

The question was asked if the shed would be removed. Mr. Gauntlett stated that it would. That is where the garage would be located.

Motion by Bohn, supported by Neilson

Motion to approve variance application ZBA 18-0012 at 2105 Cardinal Court to allow for the construction of an 875-square foot second-story addition to an existing dwelling. The addition will have a 24.1-foot south front yard setback along Cardinal Court and a 20.5-foot west front yard setback along Algonquin Drive (25-foot front yard setback required along both street frontages, Section 7.6.1.fn4.) and approve variance application ZBA 18-0012 at 2105 Cardinal Court to allow for a 1,166- square foot, two-story addition to the north façade of the dwelling. The addition will have a 16-foot west front yard setback along Algonquin Drive (25-foot front yard setback required, Section 7.6.1.fn4.) and a 15-foot north rear yard setback (30-foot rear yard setback required, 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 the meeting tonight (with one example being the configuration of the lot and adjacent streets) and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

Voice vote: Ayes: 5 Nays: 0 Absent: 0 MOTION CARRIED

8. New/Old Business:

1. Approval of September 12, 2018 minutes and 2018-007 and 2018-009 memo of findings

Motion by Bohn, supported by Watson

To approve the September 12, 2018 minutes and 2018-007 and 2018-009 memo of findings

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

Chairperson Priebe welcomed Member Auxier as a permanent member of the Board.

2. 2019 ZBA meeting dates

Planning/Zoning Administrator Steffens stated that this does not require action. She was providing this as information to the Board.

Discussion was held on the number of cases for the year. Steffens stated that the Zoning Text Amendments did exactly what we intended them to do. We have had less cases as a result.

Discussion was held on the Master Plan Update. Steffens stated that the public participation section is closed. We had a Steering Committee meeting last week to review the survey results. Now the hard work begins with the draft. We are planning to have that done by December or January. We are not making any major changes. There are a few things in our current master plan that are not addressed adequately. We are planning on rolling the Village Center Plan into the Master Plan so that it is used more often and provide some cohesion between the two plans. The survey shows that we are doing what everyone wants. The last update was major.

9. Adjournment:

Motion by Priebe, supported by Bohn

To adjourn the meeting

Voice vote: Ayes: 5 Nays: 0 Absent: 1 MOTION CARRIED

The meeting was adjourned at 8:06 p.m.

Respectfully submitted,

Julie C. Durkin
Recording Secretary

The minutes were approved

As presented/Corrected: 11-14-18



Chairperson Priebe



Zoning Board of Appeals Staff Report

AGENDA ITEM: 7d



TO: Zoning Board of Appeals
(ZBA)

FROM: Brittany Stein

HEARING DATE: May 8, 2019

SUBJECT: ZBA 19-0008

PROJECT SITE: 5308 Gallagher Blvd.
TID 15-27-301-089

APPLICANT/ OWNER: Gary Phillips & Marilyn
Kellepourey

PROJECT: Variance application to allow for the demolition of an existing dwelling and construction of a new 2,284 square foot single family dwelling with an attached 1,012 square foot two-car garage. The dwelling will have a 24.6-foot setback from a regulated wetland (50-foot setback from a regulated wetland required, Section 9.9.3.B.).

ZONING: WFR (waterfront residential district)

Project Description

The subject site is a 10,450 square foot parcel that fronts onto Gallagher Boulevard to the east, wetlands to the south, and single-family dwellings are located to the north, east and west of the site. The site currently is developed with a two-story single family dwelling.

If approved, the variance request would allow for the demolition of the existing dwelling and construction of a new 2,284 square foot single family dwelling with an attached 1,012 square foot two-car garage. The dwelling will have a 24.6-foot setback from a regulated wetland (50-foot setback from a regulated wetland required, Section 9.9.3.B.).

The proposed and required setbacks for the dwelling and attached garage from the property lines and the wetlands are noted in the table below.

Dwelling	Proposed	Required
East (front)	29.6 feet	25 feet
North (side)	10 feet	10 feet
South (side)	10 feet	10 feet
South (wetlands) (variance required)	24.6 feet	50 feet
West (rear)	30 feet	30 feet

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 50-foot regulated wetlands setback requirement applies generally to all properties in Hamburg Township. This parcel is unique as it is a small parcel with an existing home that is not ordinated on the lot parallel to the lot lines and has a large wetland area to the south. Because of the proximity of the wetlands and the 50-foot wetlands setback requirement, there is no compliant buildable area for the home on the lot.

- 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 requested variance would permit the demolition of an existing dwelling and construction of a new single family dwelling within the required 50-foot wetlands setback. The site could not accommodate a compliant location for a home due to the wetlands.

- 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.**

The requested variance will not be materially injurious to the property or the zone or district because there will be a wetlands setback sufficient for minimal impact to the wetlands. If the proposed development was more intense than a single family residential dwelling, the impact to the wetlands could potentially be greater.

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 South Hamburg/Strawberry planning area of the Master Plan. This area of the Township contains areas of farmland, large wetland areas and residential areas. The proposed request would not adversely affect the purpose 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.

The wetlands setback applies to all properties in Hamburg Township and is intended to preserve the natural, beneficial functions of wetlands such as flood protection, wildlife habitat, and improved water quality. The subject site is a small platted lot, constrained by wetlands which greatly impedes development on this lot.

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 zoned for single-family residential and the requested variance would not change the use.

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

Given the small size of buildable area on the lot with the wetlands setback restriction on the lot, there is a practical difficulty in constructing a compliant 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.

Approval Motion:

Motion to deny variance application ZBA 19-0008 at 5308 Gallagher Blvd. (TID 15-27-301-089) to allow for the demolition of an existing dwelling and construction of a new 2,284 square foot single family dwelling with an attached 1,012 square foot two-car garage. The dwelling will have a 24.6-foot setback from a regulated wetland (50-foot setback from a regulated wetland required, Section

9.9.3.B.).

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 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 (including site plan and construction plans)

Exhibit B: ASTI Wetland Delineation Report

Exhibit C: Email from Jeff Pierce

May 8th

Exhibit A

HAMBURG TOWNSHIP
Date 04/08/19 11:00:22 AM
ZBA Case Number 19-0008
Ref ZBA1900-08
Receipt 1205308
Amount \$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: 4/8/19
2. Tax ID #: 15-27-301 -~~089~~ Subdivision: Strawberry Point Bluffs Lot No.: 1/2 lot 90 & 91
3. Address of Subject Property: 5308 Gallagher Blvd. Whitmore Lake, MI 48189
4. Property Owner: Gary Phillips & Marilyn Kellepourey Phone: (H) 734-476-1234
Email Address: phillipshelp@gmail.com (W) _____
Street: Gallagher Blvd. City Whitmore Lake State MI
5. Appellant (If different than owner): _____ Phone: (H) _____
E-mail Address: _____ (W) _____
Street: _____ City _____ State _____
6. Year Property was Acquired: 2007 Zoning District: _____ Flood Plain No
7. Size of Lot: Front 75' Rear 75' Side 1 140 Side 2 140 Sq. Ft. 10,500
11. Dimensions of Existing Structure (s) 1st Floor 32'x54' 2nd Floor 32x54 Garage lower level 24'x22'
12. Dimensions of Proposed Structure (s) 1st Floor 31'x66' 2nd Floor N/A Garage 24x44 attached
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:
Wetland Delineation Variance Request: 50' set back required.
A 25' variance is requested.

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.

(See Attachment I) (NEXT PAGE)

- 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.

- 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.

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

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

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

- 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).

Mary Phillips 4-8-19
 Owner's Signature Date

 Appellant's Signature Date

Attachment I

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

A) Our lot has extraordinary adverse circumstances due to a steep grade along our North lot line and the wetlands bordering the full length of our South lot line. Due to these unique circumstances, to meet the required 10 foot setback requirement along the North lot line and the 50 foot set back from the wetlands on the South lot line.

The majority of the homes in the Strawberry Point Bluffs Subdivision are built on relatively flat lots on the street side. Our lot is the last lot on the street and the topography changes drastically as compared to the rest of the neighborhood. With the steep grade on the North boundary and the wetlands on the South boundary meeting all set back requirements will be an extraordinary challenge. Therefore we are applying for this one time variance. (See photos that have been included for more detail on pages (11-13).

B) With the current steep grade of the property, navigating has inherent safety concerns for property owners and their guests. Entering and exiting the property, especially during Michigan's long winters, is hazardous. Entering the home can be physically demanding due to the higher than normal rise from the driveway to the home entryway. This has resulted in elderly visitors declining invitations to our home. As we enter into our senior years, this variance is necessary for the continued use and enjoyment of this property by us as well as guests. (See photos of topography on (pages 12 and 26 – 29).

C) I have shared my proposal with the MDEQ including drawings of the Wetland Delineation, while noting the new construction will have no negative impact on bordering wetlands.

D) The proposed project would not adversely affect the purpose or objectives of the Master Plan. 5308 Gallagher Blvd. will remain undisturbed wetlands.

E) This is a one time use variance application.

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

G) Due to the unique location and topography of this parcel it has been difficult to design a home that will fit all set back requirements. The current proposed plan meets all set back requirements except the Hamburg Township wetlands set back requirement of 50'. The variance we are asking for would put the nearest wetland boundary at 24.6'. As opposed to the current home which is at 28'10". We are basically asking for a 4'4" variance when you compare the existing home to the proposed new home.

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.

Table of Contents

Pages (1-7) Application For A Zoning Board Of Appeals Variance/Interpretation

Page 8) Table of Contents

Page 9) Project Overview 5308 Gallagher Blvd. Whitmore Lake MI 48189

Page 10) Survey showing existing home location on lot

Page 11) Proposed footprint of new home with Elevations, Wetland Delineations and Wetland Setbacks noted

Page 12) Topography map of current lot w/heights noted

Page 13) Site Plan of existing home with Wetland Delineations and 50' set back noted

Pages (14-21) ASTI Environmental Wetland Delineation Assessment and GPS Survey

Pages (22-24) Warranty Deed and Bill of Sale for 5308 Gallagher Blvd.

Page 25) Warranty Deed for 5310 Gallagher Blvd. (Vacant Wetlands)

Page 26) Front view #1 of current home showing the NE lot corner, lot line and Topography

Page 27) Front view #2 of current home showing NE lot corner and Topography

Page 28) Side view of current home showing topography and steep driveway

Page 29) Side view showing wetland delineation markers, topography and property line markers.

Page 30) Parcel map showing lot location and wetlands location within township map

Page 31) Front view of proposed new home

Page 32) Left or Side view of proposed new home

Page 33) Right view of proposed new home

Page 34) Back view of proposed new home

Page 35) Floor Plan of proposed new home and garage

Page 36) Elevations of garage and basement grade

Gary Phillips & Marilyn Kellepourey

5308 Gallagher Blvd.

Whitmore Lake, MI 48189

PROJECT OVERVIEW FOR 5308 GALLAGHER BLVD.

Our current home located at 5308 Gallagher Blvd. was built almost entirely by the original home owner. The original home owner was not a carpenter or a contractor. He was just a guy that built the home with the help of family and friends. We purchased the home from the original home owner in 2006.

Over the last year we have gathered estimates from licensed contractors to have our current home remodeled and updated including a 500 S.F. addition on the south side of the home. As plans were drawn and estimates were put together we have discovered the main support beam over our "under house garage" is sagging about 3 – 4 inches. We learned the sagging is due to inadequate header sizing when the home was originally built. This sagging header is causing our front kitchen counter to sag and begin to pull away from the wall. As estimates were totaled we also discovered that the retaining wall on the north side property line is failing. Upon closer inspection of the retaining wall we also discovered there were signs of possible failure and weakness in our existing foundation.

After making all of these costly discoveries and then looking at renovation cost, plus the addition, plus the structural issues and retaining wall, we felt that remodeling could turn out to be cost prohibitive. We decided to seek out other home improvement solutions.

Our next step was to seek out the help of a very experienced local builder (Brighton Building Company). After evaluation our options with Don Harvey from Brighton Building Company, we decided to remove the existing home from the building site and design a home that would fit all the setback requirements on our existing lot.

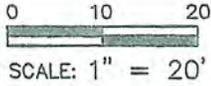
By removing the existing home from the site we are correcting 2 different set back violations that exist currently. 1) The deck on the north property line not only does not meet the 10' setback, but it is built 24" across the property line onto the neighbors lot. 2) The rear bedroom on the west property line crosses the 30' setback requirement by approximately 5'. Also the existing home does not meet the 50' wetland set back requirement. The distance to the wetlands from the existing home is 28'.

As we move forward with planning for the construction of a new home, we plan to design the home in a way that it meets the majority of the setbacks. The only setback we are not able to meet is the 50' wetland setback, for reasons explained on (Attachment 1) and as shown on (Page 11)

We plan to design the home and reshape the lot topography in a way that minimizes many of our safety concerns with the steepness of the lot and the steepness of the driveway. We also plan to minimize steps entering into and out of the home. As it stands, the steepness of our lot and its many stairs has resulted in elderly visitors declining invitations to our home.

The design proposal we have submitted was created with my wife's failing knees and hips in mind. My wife likely faces knee replacement surgery along with possible hip surgery in the future. As we approach our senior years, we are making plans to have this be our forever home.

GALLAGHER (40' WIDE) ASPHALT PAVEMENT



LEGEND

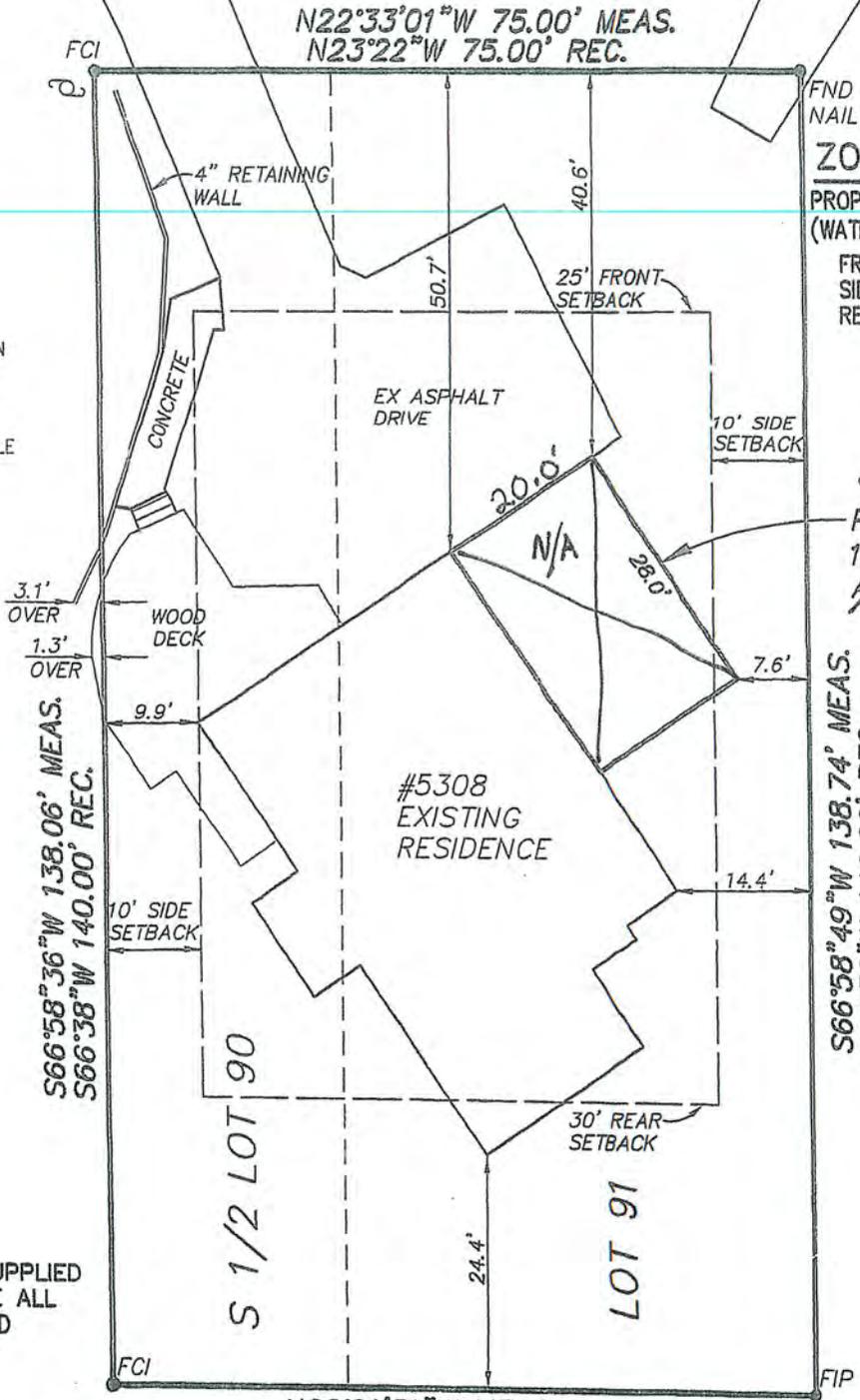
- - IRON SET
- - IRON FOUND
- MEAS. - MEASURED
- REC. - RECORDED
- FCI - FOUND CAPPED IRON
- FIP - FOUND IRON PIPE
- SCI - SET CAPPED IRON
- ⊕ - EXISTING POWER POLE

ZONING CHART

PROPERTY IS ZONED WFR:
(WATERFRONT RESIDENTIAL)

FRONT = 25 FEET
SIDE = 10 FEET
REAR = 30 FEET

N 1/2 LOT 90



~~N/A
PROPOSED
18' X 28'
ADDITION~~

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

BEARING BASIS:
HELD BEARING OF SOUTH LINE OF
SECTION 16 BEING, S 88°25'38" W

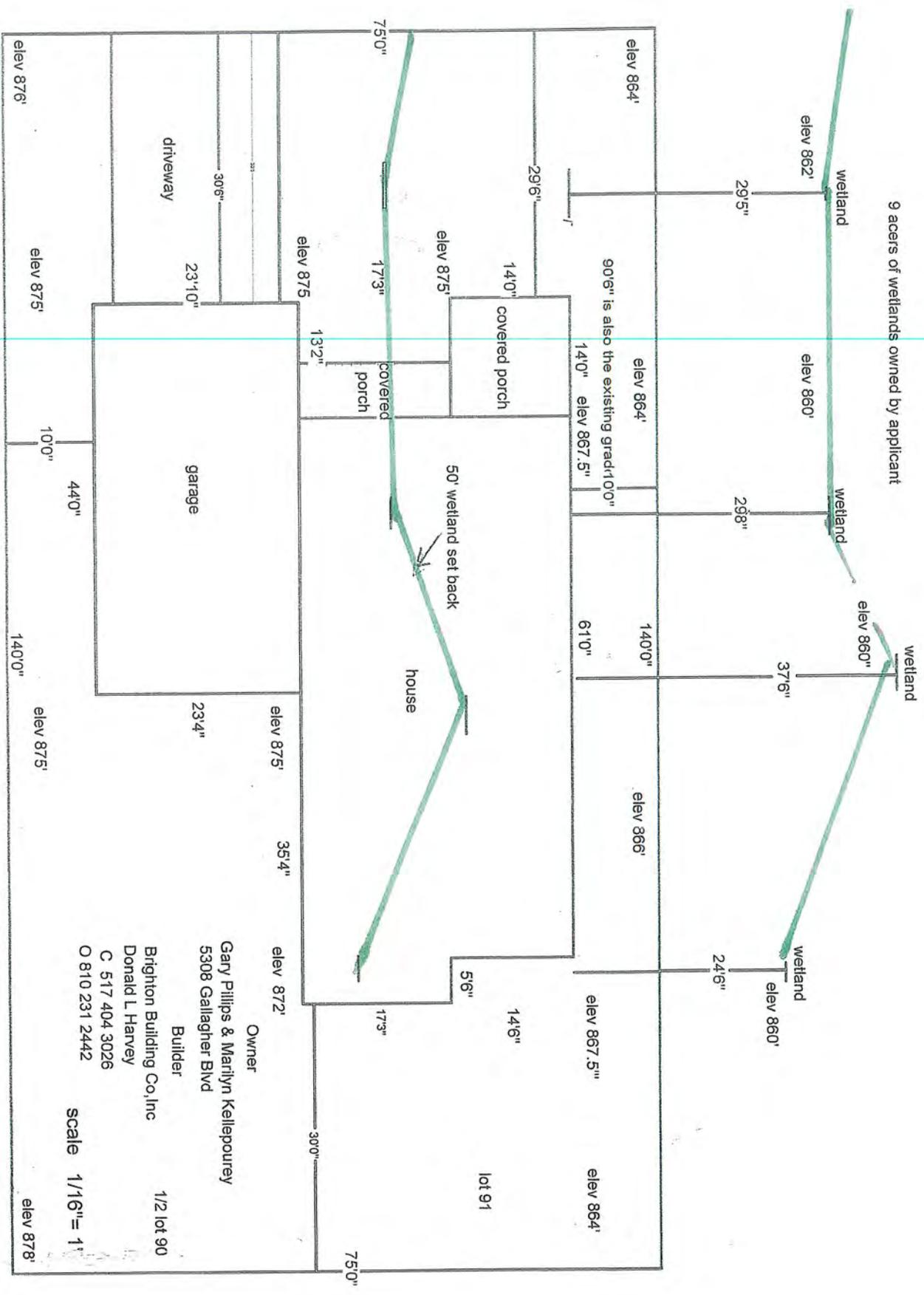


ALPINE

Land Surveying Inc

11590 HIGHLAND ROAD, SUITE #100
HARTLAND, MICHIGAN, 48353
PHONE: 810-207-8050, FAX: 810-632-0200

9 acres of wetlands owned by applicant



Owner
 Gary Phillips & Marilyn Kelleppourey
 5308 Gallagher Blvd
 Brighton Building Co, Inc
 Donald L Harvey
 C 517 404 3026
 O 810 231 2442

Builder
 1/2 lot 90

scale 1/16" = 1'

TOPOGRAPHY OF CURRENT 5308 LOT



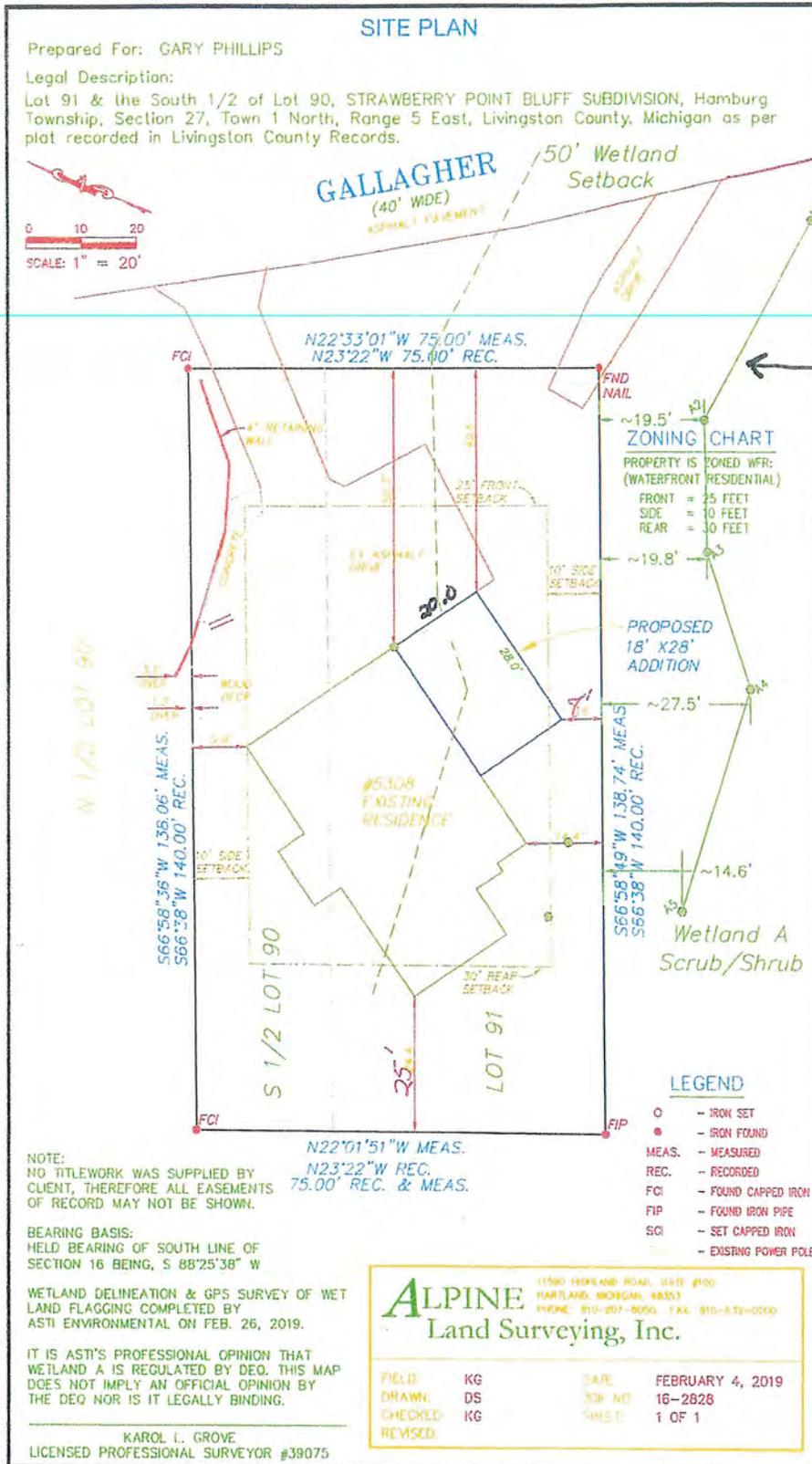
EXISTING HOME

STRAWBERRY LAKE

103 YARDS

ROAD EDGE

Wetland Delineation Green Line





Investigation • Remediation
Compliance • Restoration

10448 Citation Drive, Suite 100
Brighton, MI 48116

Mailing Address:
P.O. Box 2160
Brighton, MI 48116-2160

800 395-ASTI
Fax: 810.225.3800

www.asti-env.com

March 4, 2019

Mr. Gary Phillips
5308 Gallagher Boulevard
Whitmore Lake, MI 48189

RE: *Wetland Delineation and Jurisdictional Assessment and GPS Survey
Portions of 5308 & 5310 Gallagher Boulevard
Hamburg Township, Livingston County, Michigan
ASTI File No. 10979*

Dear Mr. Phillips:

A site investigation was completed on February 26, 2019 by ASTI Environmental (ASTI) to delineate wetland boundaries on the above-referenced properties; specifically in the area of a proposed residential addition located in Hamburg Township, Livingston County, Michigan (Project Area). One wetland believed to be regulated by the Michigan Department of Environmental Quality (DEQ) was found within the Project Area (see Alpine Land Surveying Sheet 1). Wetland boundaries, as depicted on Sheet 1, were located by ASTI using a professional grade, hand-held Global Positioning System unit (GPS).

SUPPORTING DATA

The United States Geological Survey (USGS) Hamburg, Michigan 7.5' Quadrangle Map, the USDA Web Soil Survey (WSS), the National Wetland Inventory Map (NWI), the DEQ Wetlands Map Viewer web site, and digital aerial photographs were all used to support the wetland delineation and subsequent regulatory status determination. No reviewed data indicated the presence of wetland within the Project Area. All reviewed data also indicated Strawberry Lake to the east of the Project Area.

The WSS indicates the Project Area is comprised of the soil complexes of Boyer-Oshtemo loamy sands (12-18% slopes) and Carlisle muck (0-2% slopes). Carlisle muck (0-2% slopes) is on the list *Hydric Soils of Michigan*.

FINDINGS

ASTI investigated the Project Area for the presence of lakes, ponds, wetlands, and watercourses. This work is based on MCL 324 Part 301, Inland Lakes and Streams and Part 303, Wetlands Protection.

The delineation protocol used by ASTI for this delineation is based on the US Army Corps of Engineers' *Wetland Delineation Manual*, 1987, the *Regional Supplement to the Corps of Engineer Wetland Delineation Manual: Midwest Region*, and related guidance/documents, as appropriate. Wetland vegetation, soils, and hydrology indicators were used to determine wetland boundaries.

Wetland A

Wetland A is a scrub/shrub wetland located to the south of the existing residence at 5308 Gallagher (see Sheet 1). Dominant vegetation found within Wetland A included silky dogwood (*Cornus amomum*), highbush cranberry (*Viburnum opulus v. americanum*), tag alder (*Alnus incana*), and lake bank sedge (*Carex lacustris*). Soils within Wetland A were mucky and are considered hydric because the hydric soil criteria of a histosol and a 2cm (minimum) muck layer were met. Indicators of wetland hydrology observed within Wetland A included observations of surface water and saturated soils.

Vegetation in the upland adjacent to Wetland A was dominated by white oak (*Quercus alba*) and Kentucky blue grass (*Poa pratensis*). Soils in the upland adjacent to Wetland A were comprised of loamy sands that did not exhibit hydric soils characteristics. No indicators of wetland hydrology were observed.

It is ASTI's opinion that Wetland A is regulated by the DEQ under Part 303 because it is a portion of a wetland complex that extends off-site that is greater than five acres in size and because it is within 500 of Strawberry Lake, which meets the definition of an inland lake under Part 301.

Please note that Hamburg Township requires a 50 feet setback around any DEQ-regulated wetland in regards to site development. ASTI has placed this setback as required on Sheet 1 in regards to Wetland A.

Wetland Flagging

Wetland boundaries were marked in the field with day-glow and black striped flagging and numbered as follows:

Wetland A = A-1 through A-5

All wetland boundaries were located in the field by ASTI with a professional grade GPS.

SUMMARY

Based upon the data, criteria, and evidence noted above, it is ASTI's professional opinion that the Project Area contains one wetland (Wetland A) regulated by the DEQ. However, the DEQ has the final authority on the extent of regulated wetlands, lakes, and streams in the State of Michigan.

Attached are Sheet 1, which shows the GPS-surveyed wetland boundaries on the Project Area, and completed US Army Corps of Engineers (ACOE) Wetland Data Forms.

Thank you for the opportunity to assist you with this project. Please let us know if we can be of any further assistance in moving your project forward.

Cordially,

ASTI ENVIRONMENTAL



Kyle Hottinger
Wetland Ecologist
Professional Wetland Scientist #2927



Dianne C. Martin
Vice President
Professional Wetland Scientist #1313

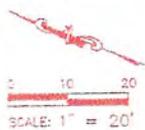
Attachments: Alpine land Surveying Sheet 1
Completed ACOE Wetland Data Forms

SITE PLAN

Prepared For: GARY PHILLIPS

Legal Description:

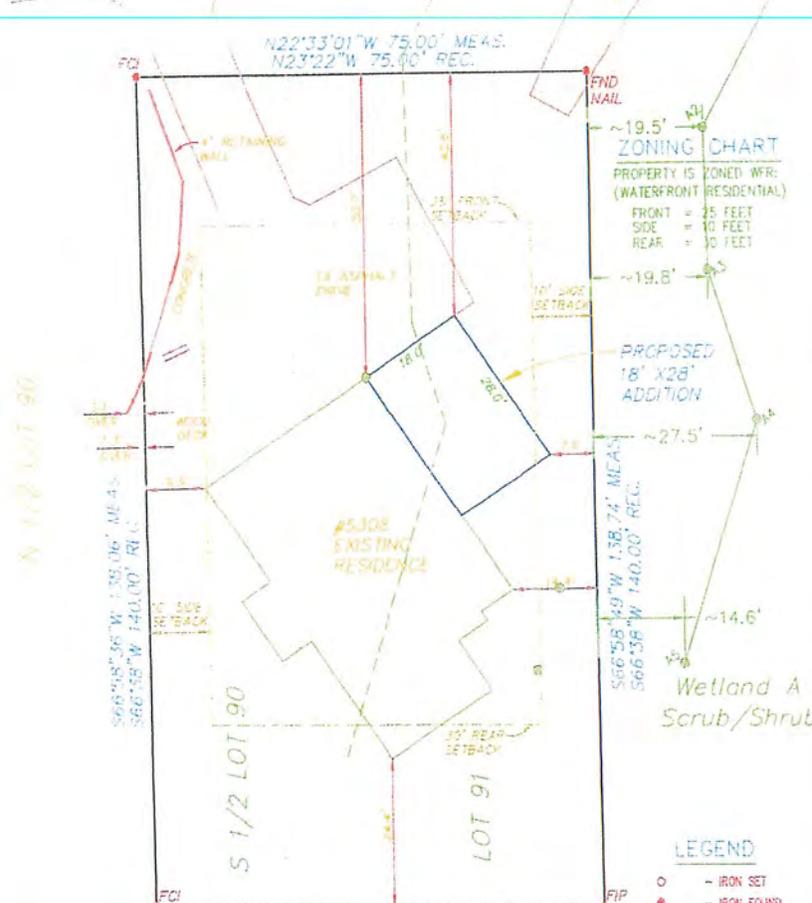
Lot 91 & the South 1/2 of Lot 90, STRAWBERRY POINT BLUFF SUBDIVISION, Hamburg Township, Section 27, Town 1 North, Range 5 East, Livingston County, Michigan as per plat recorded in Livingston County Records.



GALLAGHER
(40' WIDE)
ASPHALT DRIVE

50' Wetland Setback

WETLAND DELINEATION LINE



ZONING CHART
PROPERTY IS ZONED WFR: (WATERFRONT RESIDENTIAL)
FRONT = 25 FEET
SIDE = 10 FEET
REAR = 30 FEET

LEGEND

- - IRON SET
- - IRON FOUND
- MEAS. - MEASURED
- REC. - RECORDED
- FCI - FOUND CAPPED IRON
- FIP - FOUND IRON PIPE
- SCI - SET CAPPED IRON
- EXISTING POWER POLE

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

BEARING BASIS:
HELD BEARING OF SOUTH LINE OF SECTION 16 BEING, S 88°25'38" W

WETLAND DELINEATION & GPS SURVEY OF WETLAND FLAGGING COMPLETED BY ASTI ENVIRONMENTAL ON FEB. 26, 2019.

IT IS ASTI'S PROFESSIONAL OPINION THAT WETLAND A IS REGULATED BY DEQ. THIS MAP DOES NOT IMPLY AN OFFICIAL OPINION BY THE DEQ NOR IS IT LEGALLY BINDING.

KAROL L. GROVE
LICENSED PROFESSIONAL SURVEYOR #39075

ALPINE
Land Surveying, Inc.

11500 HIGHLAND ROAD, SUITE #100
HARTLAND, MICHIGAN 48353
PHONE: 810-201-8000, FAX: 810-632-0000

FIELD	KG	DATE	FEBRUARY 4, 2019
DRAWN	DS	JOB NO	16-2828
CHECKED	KG	SHEET	1 OF 1
REVISED			

WETLAND DETERMINATION DATA FORM – Midwest Region

Project/Site: 5308 Gallagher City/County: Hamburg Twp-Livingston Co. Sampling Date: 2-26-19
 Applicant/Owner: Gary Phillips State: MI Sampling Point: UPA4
 Investigator(s): ASTI-KAH Section, Township, Range: Sec 27 T1N R5E
 Landform (hillside, terrace, etc.): slope Local relief (concave, convex, none): slope
 Slope (%): 10-15 Lat: _____ Long: _____ Datum: _____
 Soil Map Unit Name: Carlisle muck (0-2% slopes) NWI classification: none

Are climatic / hydrologic conditions on the site typical for this time of year? Yes x No _____ (If no, explain in Remarks.)
 Are Vegetation _____, Soil _____, or Hydrology _____ significantly disturbed? Are "Normal Circumstances" present? Yes x No _____
 Are Vegetation _____, Soil _____, or Hydrology _____ naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes _____ No <u>X</u> Hydric Soil Present? Yes _____ No <u>X</u> Wetland Hydrology Present? Yes _____ No <u>X</u>	Is the Sampled Area within a Wetland? Yes _____ No <u>X</u>
Remarks: Upland adjacent to Wetland A at flag A\$	

VEGETATION – Use scientific names of plants.

Tree Stratum	(Plot size: <u>30'</u>)	Absolute % Cover	Dominant Species?	Indicator Status
1. <u>Quercus alba</u>		15	Yes	FACU
2. _____				
3. _____				
4. _____				
5. _____				
		15 =Total Cover		
Sapling/Shrub Stratum	(Plot size: <u>15'</u>)	Absolute % Cover	Dominant Species?	Indicator Status
1. <u>Elaeagnus umbellata</u>		5	Yes	UPL
2. _____				
3. _____				
4. _____				
5. _____				
		5 =Total Cover		
Herb Stratum	(Plot size: <u>5'</u>)	Absolute % Cover	Dominant Species?	Indicator Status
1. <u>Poa pratensis</u>		50	Yes	FAC
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
7. _____				
8. _____				
9. _____				
10. _____				
		50 =Total Cover		
Woody Vine Stratum	(Plot size: <u>15'</u>)	Absolute % Cover	Dominant Species?	Indicator Status
1. _____				
2. _____				
		=Total Cover		

Dominance Test worksheet:

Number of Dominant Species That Are OBL, FACW, or FAC: 1 (A)

Total Number of Dominant Species Across All Strata: 3 (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: 33.3% (A/B)

Prevalence Index worksheet:

Total % Cover of:	Multiply by:
OBL species <u>0</u>	x 1 = <u>0</u>
FACW species <u>0</u>	x 2 = <u>0</u>
FAC species <u>50</u>	x 3 = <u>150</u>
FACU species <u>15</u>	x 4 = <u>60</u>
UPL species <u>5</u>	x 5 = <u>25</u>
Column Totals: <u>70</u> (A)	<u>235</u> (B)
Prevalence Index = B/A = <u>3.36</u>	

Hydrophytic Vegetation Indicators:

___ 1 - Rapid Test for Hydrophytic Vegetation

___ 2 - Dominance Test is >50%

___ 3 - Prevalence Index is ≤3.0¹

___ 4 - Morphological Adaptations¹ (Provide supporting data in Remarks or on a separate sheet)

___ Problematic Hydrophytic Vegetation¹ (Explain)

¹Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Hydrophytic Vegetation Present? Yes _____ No X

Remarks: (Include photo numbers here or on a separate sheet.)

SOIL

Sampling Point: UPA4

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type ¹	Loc ²		
1-4	10R 4/2	100					Sandy	loamy sand
4-18	10YR 5/4	100						SAME with gravel

¹Type: C=Concentration, D=Depletion, RM=Reduced Matrix, MS=Masked Sand Grains. ²Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators:	Indicators for Problematic Hydric Soils ³ :
<input type="checkbox"/> Histosol (A1)	<input type="checkbox"/> Coast Prairie Redox (A16)
<input type="checkbox"/> Histic Epipedon (A2)	<input type="checkbox"/> Iron-Manganese Masses (F12)
<input type="checkbox"/> Black Histic (A3)	<input type="checkbox"/> Red Parent Material (F21)
<input type="checkbox"/> Hydrogen Sulfide (A4)	<input type="checkbox"/> Very Shallow Dark Surface (F22)
<input type="checkbox"/> Stratified Layers (A5)	<input type="checkbox"/> Other (Explain in Remarks)
<input type="checkbox"/> 2 cm Muck (A10)	
<input type="checkbox"/> Depleted Below Dark Surface (A11)	
<input type="checkbox"/> Thick Dark Surface (A12)	
<input type="checkbox"/> Sandy Mucky Mineral (S1)	
<input type="checkbox"/> 5 cm Mucky Peat or Peat (S3)	
<input type="checkbox"/> Sandy Gleyed Matrix (S4)	
<input type="checkbox"/> Sandy Redox (S5)	
<input type="checkbox"/> Stripped Matrix (S6)	
<input type="checkbox"/> Dark Surface (S7)	
<input type="checkbox"/> Loamy Mucky Mineral (F1)	
<input type="checkbox"/> Loamy Gleyed Matrix (F2)	
<input type="checkbox"/> Depleted Matrix (F3)	
<input type="checkbox"/> Redox Dark Surface (F6)	
<input type="checkbox"/> Depleted Dark Surface (F7)	
<input type="checkbox"/> Redox Depressions (F8)	

³Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed): Type: <u>none</u> Depth (inches): _____	Hydric Soil Present? Yes _____ No <u>X</u>
--	--

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:	Secondary Indicators (minimum of two required)
<u>Primary Indicators (minimum of one is required; check all that apply)</u>	
<input type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Surface Soil Cracks (B6)
<input type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Drainage Patterns (B10)
<input type="checkbox"/> Saturation (A3)	<input type="checkbox"/> Dry-Season Water Table (C2)
<input type="checkbox"/> Water Marks (B1)	<input type="checkbox"/> Crayfish Burrows (C8)
<input type="checkbox"/> Sediment Deposits (B2)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)
<input type="checkbox"/> Drift Deposits (B3)	<input type="checkbox"/> Stunted or Stressed Plants (D1)
<input type="checkbox"/> Algal Mat or Crust (B4)	<input type="checkbox"/> Geomorphic Position (D2)
<input type="checkbox"/> Iron Deposits (B5)	<input type="checkbox"/> FAC-Neutral Test (D5)
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)	
<input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)	
<input type="checkbox"/> Water-Stained Leaves (B9)	
<input type="checkbox"/> Aquatic Fauna (B13)	
<input type="checkbox"/> True Aquatic Plants (B14)	
<input type="checkbox"/> Hydrogen Sulfide Odor (C1)	
<input type="checkbox"/> Oxidized Rhizospheres on Living Roots (C3)	
<input type="checkbox"/> Presence of Reduced Iron (C4)	
<input type="checkbox"/> Recent Iron Reduction in Tilled Soils (C6)	
<input type="checkbox"/> Thin Muck Surface (C7)	
<input type="checkbox"/> Gauge or Well Data (D9)	
<input type="checkbox"/> Other (Explain in Remarks)	

Field Observations: Surface Water Present? Yes _____ No <u>x</u> Depth (inches): _____ Water Table Present? Yes _____ No <u>x</u> Depth (inches): _____ Saturation Present? Yes _____ No <u>x</u> Depth (inches): _____ (includes capillary fringe)	Wetland Hydrology Present? Yes _____ No <u>X</u>
---	--

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

WETLAND DETERMINATION DATA FORM – Midwest Region

Project/Site: 5308 Gallagher City/County: Hamburg Twp-Livingston Co. Sampling Date: 2-26-19
 Applicant/Owner: Gary Phillips State: MI Sampling Point: WETA4
 Investigator(s): ASTI-KAH Section, Township, Range: Sec 27 T1N R5E
 Landform (hillside, terrace, etc.): toe of slope Local relief (concave, convex, none): flat
 Slope (%): 1-2 Lat: _____ Long: _____ Datum: _____
 Soil Map Unit Name: Carlisle muck (0-2% slopes) NWI classification: none

Are climatic / hydrologic conditions on the site typical for this time of year? Yes x No _____ (If no, explain in Remarks.)
 Are Vegetation _____, Soil _____, or Hydrology _____ significantly disturbed? Are "Normal Circumstances" present? Yes x No _____
 Are Vegetation _____, Soil _____, or Hydrology _____ naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes <u>X</u> No _____ Hydric Soil Present? Yes <u>X</u> No _____ Wetland Hydrology Present? Yes <u>X</u> No _____	Is the Sampled Area within a Wetland? Yes <u>X</u> No _____
Remarks: Wetland A at flag A\$	

VEGETATION – Use scientific names of plants.

Tree Stratum (Plot size: <u>30'</u>)	Absolute % Cover	Dominant Species?	Indicator Status																	
1. <u>Ulmus americana</u>	10	Yes	FACW	Dominance Test worksheet: Number of Dominant Species That Are OBL, FACW, or FAC: <u>5</u> (A) Total Number of Dominant Species Across All Strata: <u>5</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>100.0%</u> (A/B)																
2. _____																				
3. _____																				
4. _____																				
5. _____																				
	10	=Total Cover																		
Sapling/Shrub Stratum (Plot size: <u>15'</u>)																				
1. <u>Viburnum opulus</u>	30	Yes	FAC	Prevalence Index worksheet: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: right;">Total % Cover of:</td> <td style="text-align: center;">Multiply by:</td> </tr> <tr> <td>OBL species <u>15</u></td> <td style="text-align: center;"><u>x 1 = 15</u></td> </tr> <tr> <td>FACW species <u>80</u></td> <td style="text-align: center;"><u>x 2 = 160</u></td> </tr> <tr> <td>FAC species <u>30</u></td> <td style="text-align: center;"><u>x 3 = 90</u></td> </tr> <tr> <td>FACU species <u>0</u></td> <td style="text-align: center;"><u>x 4 = 0</u></td> </tr> <tr> <td>UPL species <u>0</u></td> <td style="text-align: center;"><u>x 5 = 0</u></td> </tr> <tr> <td>Column Totals: <u>125</u> (A)</td> <td style="text-align: center;"><u>265</u> (B)</td> </tr> <tr> <td colspan="2" style="text-align: center;">Prevalence Index = B/A = <u>2.12</u></td> </tr> </table>	Total % Cover of:	Multiply by:	OBL species <u>15</u>	<u>x 1 = 15</u>	FACW species <u>80</u>	<u>x 2 = 160</u>	FAC species <u>30</u>	<u>x 3 = 90</u>	FACU species <u>0</u>	<u>x 4 = 0</u>	UPL species <u>0</u>	<u>x 5 = 0</u>	Column Totals: <u>125</u> (A)	<u>265</u> (B)	Prevalence Index = B/A = <u>2.12</u>	
Total % Cover of:	Multiply by:																			
OBL species <u>15</u>	<u>x 1 = 15</u>																			
FACW species <u>80</u>	<u>x 2 = 160</u>																			
FAC species <u>30</u>	<u>x 3 = 90</u>																			
FACU species <u>0</u>	<u>x 4 = 0</u>																			
UPL species <u>0</u>	<u>x 5 = 0</u>																			
Column Totals: <u>125</u> (A)	<u>265</u> (B)																			
Prevalence Index = B/A = <u>2.12</u>																				
2. <u>Frangula alnus</u>	10	No	FACW																	
3. <u>Alnus incana</u>	20	Yes	FACW																	
4. <u>Cornus amomum</u>	40	Yes	FACW																	
5. _____																				
	100	=Total Cover																		
Herb Stratum (Plot size: <u>5'</u>)																				
1. <u>Carex lacustris</u>	15	Yes	OBL	Hydrophytic Vegetation Indicators: <u>1</u> - Rapid Test for Hydrophytic Vegetation <u>X</u> 2 - Dominance Test is >50% <u>X</u> 3 - Prevalence Index is ≤3.0 ¹ <u>4</u> - Morphological Adaptations ¹ (Provide supporting data in Remarks or on a separate sheet) _____ Problematic Hydrophytic Vegetation ¹ (Explain) ¹ Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.																
2. _____																				
3. _____																				
4. _____																				
5. _____																				
6. _____																				
7. _____																				
8. _____																				
9. _____																				
10. _____																				
	15	=Total Cover																		
Woody Vine Stratum (Plot size: <u>15'</u>)																				
1. _____				Hydrophytic Vegetation Present? Yes <u>X</u> No _____																
2. _____																				
		=Total Cover																		
Remarks: (Include photo numbers here or on a separate sheet.)																				

SOIL

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type ¹	Loc ²		
1-25	10YR 2/1	100					Muck	25" + muck

¹Type: C=Concentration, D=Depletion, RM=Reduced Matrix, MS=Masked Sand Grains. ²Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators:		Indicators for Problematic Hydric Soils³:	
<input checked="" type="checkbox"/> Histosol (A1)	<input type="checkbox"/> Sandy Gleyed Matrix (S4)	<input type="checkbox"/> Coast Prairie Redox (A16)	
<input type="checkbox"/> Histic Epipedon (A2)	<input type="checkbox"/> Sandy Redox (S5)	<input type="checkbox"/> Iron-Manganese Masses (F12)	
<input type="checkbox"/> Black Histic (A3)	<input type="checkbox"/> Stripped Matrix (S6)	<input type="checkbox"/> Red Parent Material (F21)	
<input type="checkbox"/> Hydrogen Sulfide (A4)	<input type="checkbox"/> Dark Surface (S7)	<input type="checkbox"/> Very Shallow Dark Surface (F22)	
<input type="checkbox"/> Stratified Layers (A5)	<input type="checkbox"/> Loamy Mucky Mineral (F1)	<input type="checkbox"/> Other (Explain in Remarks)	
<input checked="" type="checkbox"/> 2 cm Muck (A10)	<input type="checkbox"/> Loamy Gleyed Matrix (F2)		
<input type="checkbox"/> Depleted Below Dark Surface (A11)	<input type="checkbox"/> Depleted Matrix (F3)		
<input type="checkbox"/> Thick Dark Surface (A12)	<input type="checkbox"/> Redox Dark Surface (F6)		
<input type="checkbox"/> Sandy Mucky Mineral (S1)	<input type="checkbox"/> Depleted Dark Surface (F7)		
<input type="checkbox"/> 5 cm Mucky Peat or Peat (S3)	<input type="checkbox"/> Redox Depressions (F8)		

³Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed): Type: <u>none</u> Depth (inches): _____	Hydric Soil Present? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
--	--

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:		
<u>Primary Indicators (minimum of one is required: check all that apply)</u>		<u>Secondary Indicators (minimum of two required)</u>
<input checked="" type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Water-Stained Leaves (B9)	<input type="checkbox"/> Surface Soil Cracks (B6)
<input type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Aquatic Fauna (B13)	<input type="checkbox"/> Drainage Patterns (B10)
<input checked="" type="checkbox"/> Saturation (A3)	<input type="checkbox"/> True Aquatic Plants (B14)	<input type="checkbox"/> Dry-Season Water Table (C2)
<input type="checkbox"/> Water Marks (B1)	<input type="checkbox"/> Hydrogen Sulfide Odor (C1)	<input type="checkbox"/> Crayfish Burrows (C8)
<input type="checkbox"/> Sediment Deposits (B2)	<input type="checkbox"/> Oxidized Rhizospheres on Living Roots (C3)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)
<input type="checkbox"/> Drift Deposits (B3)	<input type="checkbox"/> Presence of Reduced Iron (C4)	<input type="checkbox"/> Stunted or Stressed Plants (D1)
<input type="checkbox"/> Algal Mat or Crust (B4)	<input type="checkbox"/> Recent Iron Reduction in Tilled Soils (C6)	<input checked="" type="checkbox"/> Geomorphic Position (D2)
<input type="checkbox"/> Iron Deposits (B5)	<input type="checkbox"/> Thin Muck Surface (C7)	<input checked="" type="checkbox"/> FAC-Neutral Test (D5)
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)	<input type="checkbox"/> Gauge or Well Data (D9)	
<input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)	<input type="checkbox"/> Other (Explain in Remarks)	

Field Observations:	
Surface Water Present? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Depth (inches): <u>0.5</u>	Wetland Hydrology Present? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Water Table Present? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Depth (inches): _____	
Saturation Present? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Depth (inches): <u>3</u> (includes capillary fringe)	

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

FILE NO. L15026

PARCEL ID 15-27-301-089

EXHIBIT A/LEGAL DESCRIPTION

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

South 1/2 of Lot 90 and Lot 91, Strawberry Point Bluffs, as recorded in Liber 2 of Plats, Page(s) 26, Livingston County Records.

LIBERTY TITLE

BILL OF SALE

Steven J. Blaszczyk and Judy M. Blaszczyk, hereinafter called "Seller", for and in consideration of One Dollar (\$1.00) does sell and convey to Gary L. Phillips hereinafter called "Purchaser", the personal property described as follows:

Stove, Refirgerator, Dishwasher, Washer, Dryer, Freezer, Microwave

Seller represents that these items are in working order and are situated on the property located at:

5308 Gallagher Blvd.

And the Seller does hereby agree to defend the title of the property conveyed against the claims and demands of all persons whomsoever.

EXCEPT AS SET FORTH ABOVE, SAID PROPERTY IS SOLD "AS IS". AND SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO SAID PROPERTY, EXPRESS OR IMPLIED.

Seller being duly sworn, deposes and says that they are the Owners of the above personal property, consideration for this instrument was actual and adequate, and that the same was given in good faith, and not for the purpose of security.

Dated: 7-21-06

Ashley M Blaszczyk AIF
Steven J. Blaszczyk, BY ASHLEY M. BLASZCZYK
HIS ATTORNEY IN FACT
Judy M Blaszczyk
Judy M. Blaszczyk

STATE OF MICHIGAN
COUNTY OF LIVINGSTON

On this 21st day of July, 2006, before me personally appeared Steven J. Blaszczyk and Judy M. Blaszczyk to me known to be the person described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act.

ROBYN C. HAYNE
Notary Public, Livingston Co., MI
Acting in Livingston County
My Commission Exp.: 08/06/07

Robyn C Hayne

, Notary Public
Washtenaw County, Michigan
My Commission Expires:
Acting in the County of Livingston

Drafted by:
Thomas D. Richardson, Esq.
111 N. Main Street
Ann Arbor, MI 48104

LIVINGSTON COUNTY TREASURER'S CERTIFICATE

2017R-016619
RECORDED ON
06/06/2017 4:42:52 PM
BRANDON DENBY
REGISTER OF DEEDS
LIVINGSTON COUNTY, MI 48843
RECORDING: 26.00
REMON: 4.00
PAGES: 1

ereby certify that there are no TAX LIENS OR TITLES
d by the State or any individual against the within
cription, and all TAXES are same as paid for five years
vious to the date of this instrument or appear on the
ords in this office except as stated.

inc 6/2017 Jennifer M. Nash, Treasurer

Taxes not examined Certificate # 25817

AWT ✓

WARRANTY DEED 201724497
STATUTORY FORM FOR CORPORATION

KNOW ALL MEN BY THESE PRESENTS: That Royal Ducks Limited, LC, a Michigan liability company,
the address of which is 4022 Dickson, Sterling Heights, MI

Convey(s) and Warrant(s) to Gary L. Phillips and Marilyn Kellepourey, husband and wife
whose street number and post office address is 5308 Gallagher Blvd., Whitmore Lake, MI 48189

the following described premises situated in the Township of Hamburg, County of Livingston and State of Michigan, to wit:

Northerly part of Parcel A Section 27, T1N, R5E, Township of Hamburg, Livingston County, Michigan, described as follows: Beginning at the South ¼ corner of Section 27; thence North 86 degrees 41 minutes 34 seconds West; thence along the South line of Section 27 to a point on the Easterly right-of-way line of Indianola Road; thence North 01 degrees 35 minutes 15 seconds East 96.06 feet; thence along said right-of-way line to the Southwest corner of Lot 7 of STRAWBERRY HILL ESTATES NO. 1; thence South 88 degrees 24 minutes 55 seconds East 200 feet; thence North 01 degrees 35 minutes 15 seconds East 150 feet; thence North 60 degrees 46 minutes 21 seconds East 522.89 feet; thence North 23 degrees 21 minutes 47 seconds West 78 feet; thence North 66 degrees 38 minutes 00 seconds East 140 feet; thence South 23 degrees 22 minutes 00 seconds East 624.90 feet; thence on an arc left 221.20 feet; with a radius of 199.33 feet and a central angle of 63 degrees 35 minutes 00 seconds to the point of tangency; thence South 86 degrees 57 minutes 00 seconds East 770.40 feet; thence South 00 degrees 24 minutes 00 seconds East 17.87 feet to the point of beginning. 8.71 acres more or less.

also known as Property Address: 5310 Gallagher Blvd., Whitmore Lake, MI 48189
Sidwell No. 4715-27-300-003

This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan right to farm act. The grantor grants to the grantee the right to make ALL division(s) under section 108 of the land division act, Act No. 288 of the Public Acts of 1967.

together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, for the sum of One Hundred Twenty One Thousand Five Hundred Dollars and no/cents (\$21,500.00)

subject to easements and building and use restrictions of record, if any.

Dated this 6th day of June, 2017.

Signed by:
Royal Ducks Limited, LC, a Michigan liability company

Bruce LeVon
By Bruce LeVon, its member

State of Michigan.
County of Livingston

The foregoing instrument was acknowledged before me this 6th. day of June, 2017, by , Bruce LeVon, member of Royal Ducks Limited, LC, a Michigan liability company

MARILYN T. FORDYCE
NOTARY PUBLIC, STATE OF MI
COUNTY OF LIVINGSTON
MY COMMISSION EXPIRES Aug 11, 2018
ACTING IN COUNTY OF Livingston

Marilyn T. Fordyce
Marilyn T. Fordyce
Notary Public
Livingston County, Michigan

My commission expires: August 11, 2018
Acting in the County of Livingston

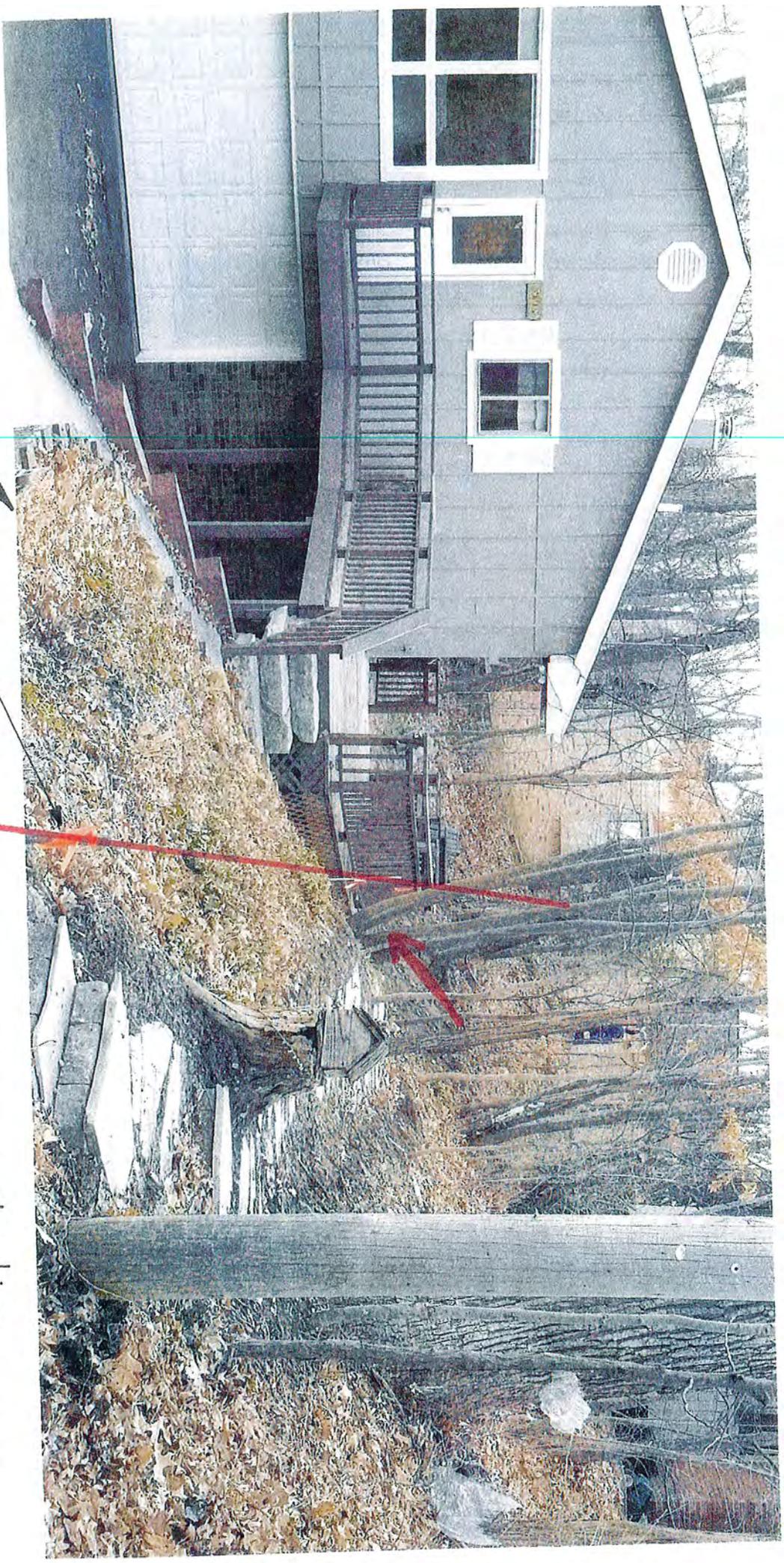
5308 Gallagher Blvd.

N.E. Corner View I
Facing West

(N)



(26)



NOTE: Steep grade

NE Lot Corner Stake

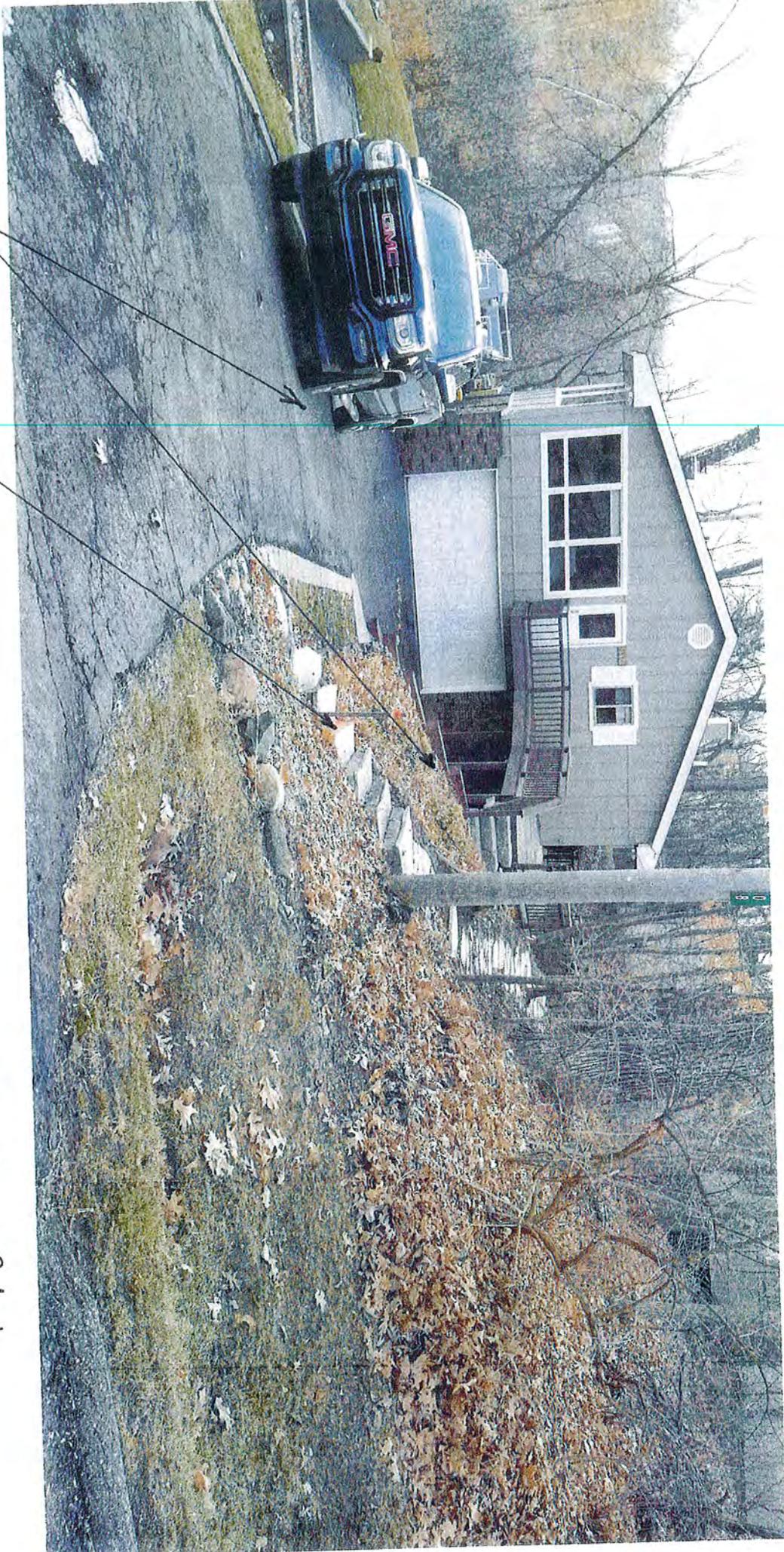
North Side property line.
(Note the original homeowners built their deck over the property line)
This issue will be corrected with the new construction.

5308 Gallagher Blvd.

NE Corner View II
Facing West



(27)



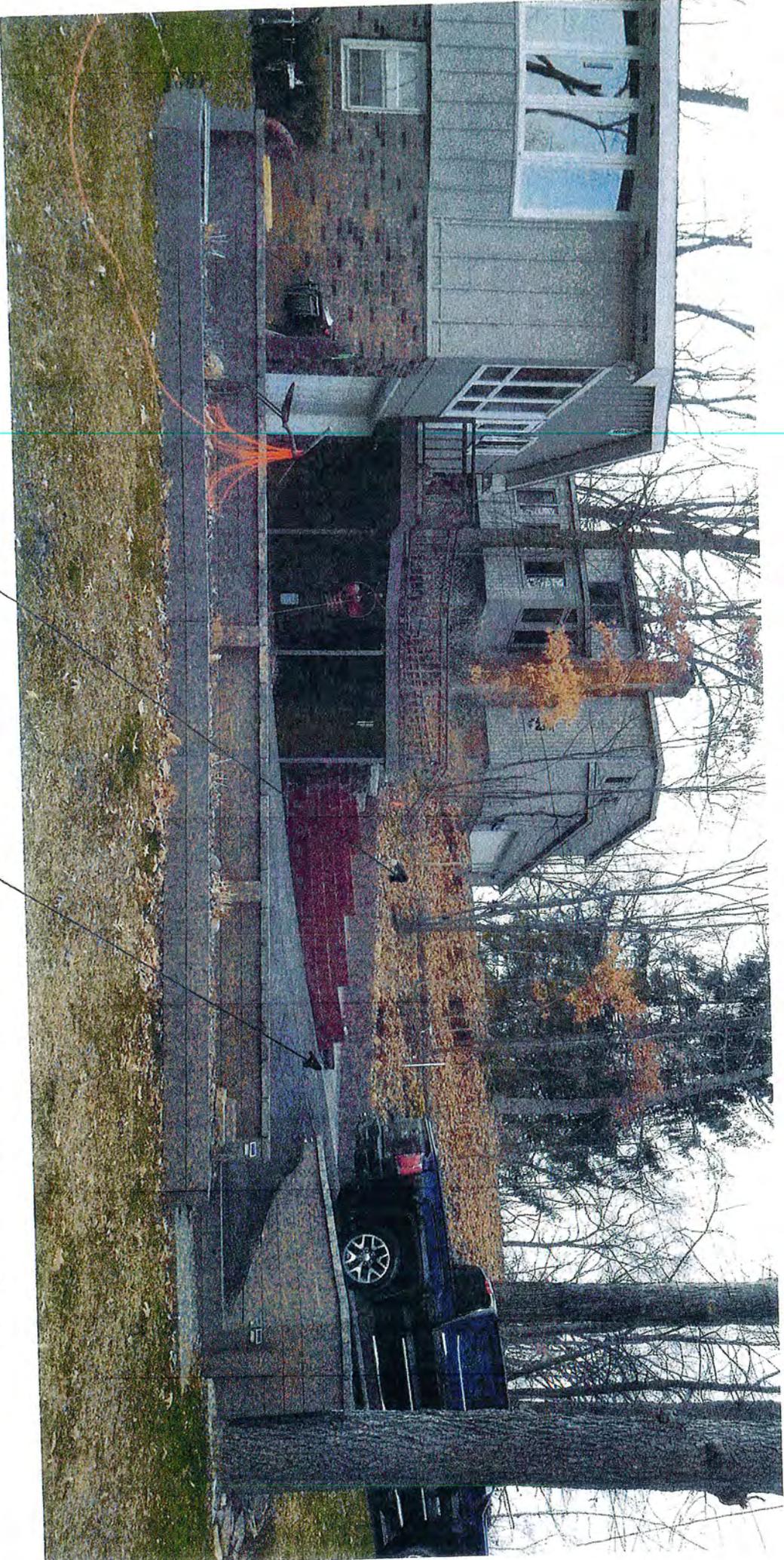
Note: Steep Grade

NE corner survey stake

Street View of lot
from NE corner

5308 Gallagher Blvd.

SIDE VIEW



↙ Note: Steep grade on North Property line.

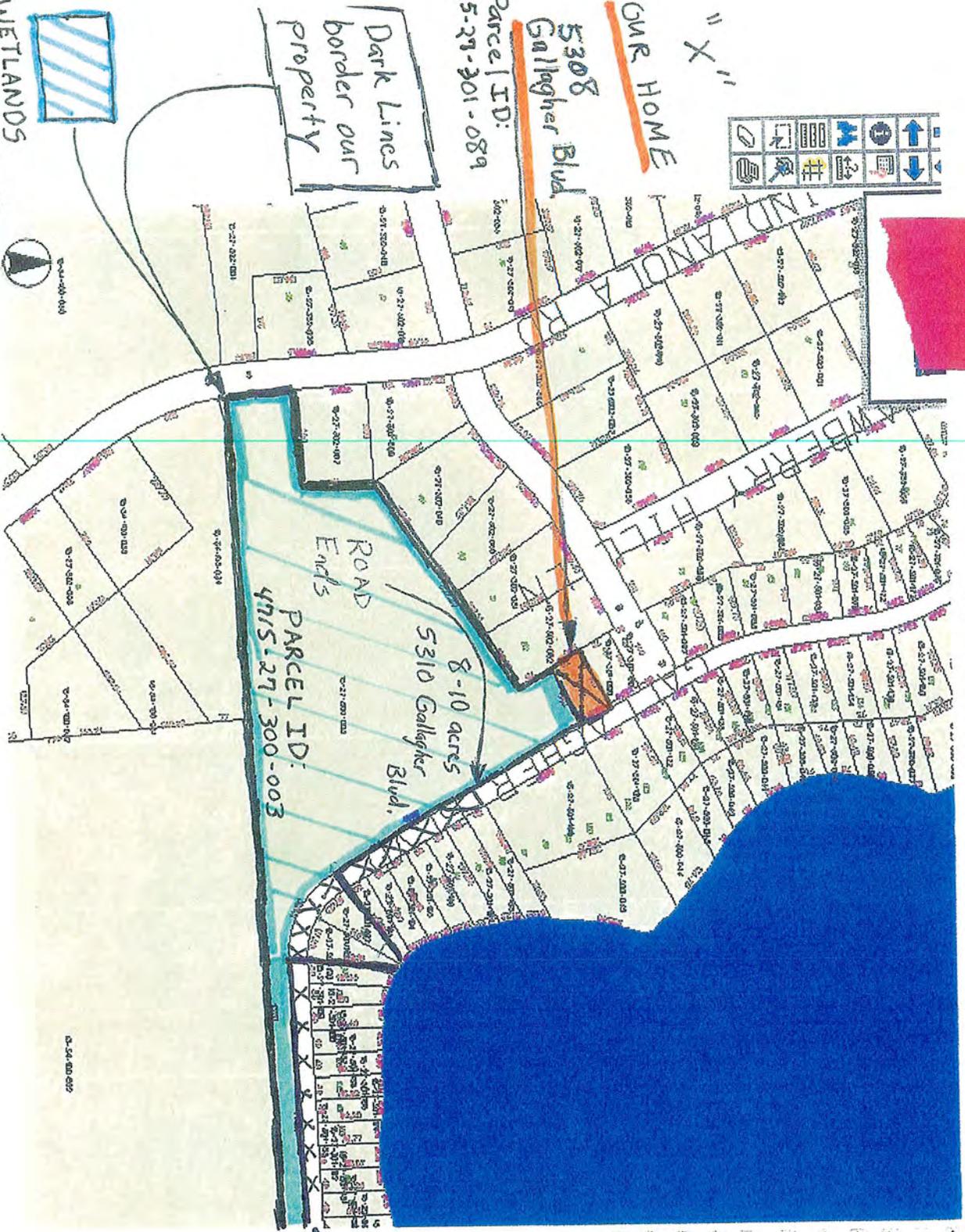
↘ Note: Current Steep Drive

5308 Gallagher Blvd.

S.E. Corner View from Street
Facing West



Wetland Delineation Flags
South side property line



WETLANDS
4915-27-300-003
Owned By
Phillips

Print Map

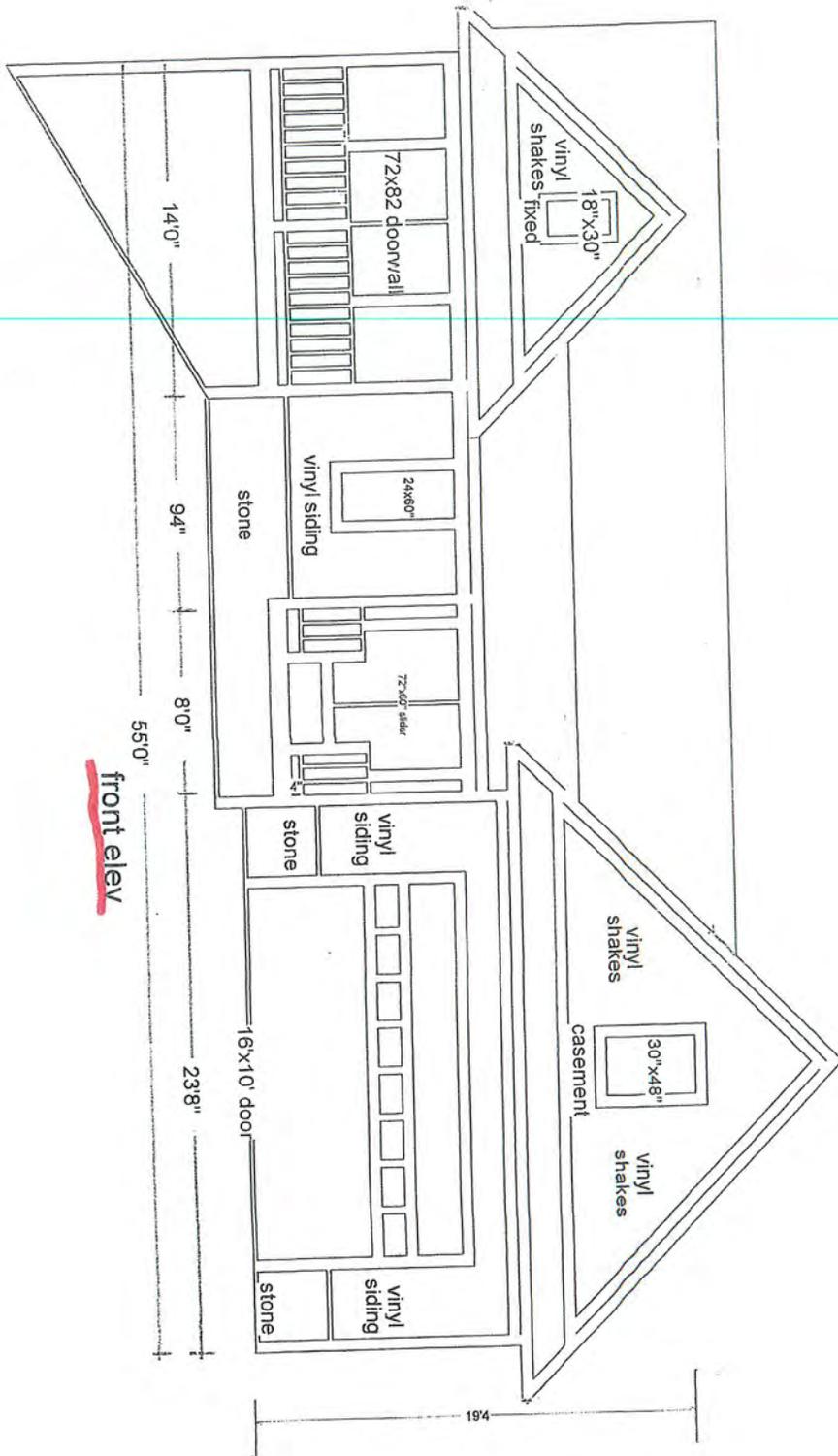
Title to display on Map:
ArcIMS HTML Viewer Map

http://info.hamt...
mi.us/mapping/gis/parcel_map.htm

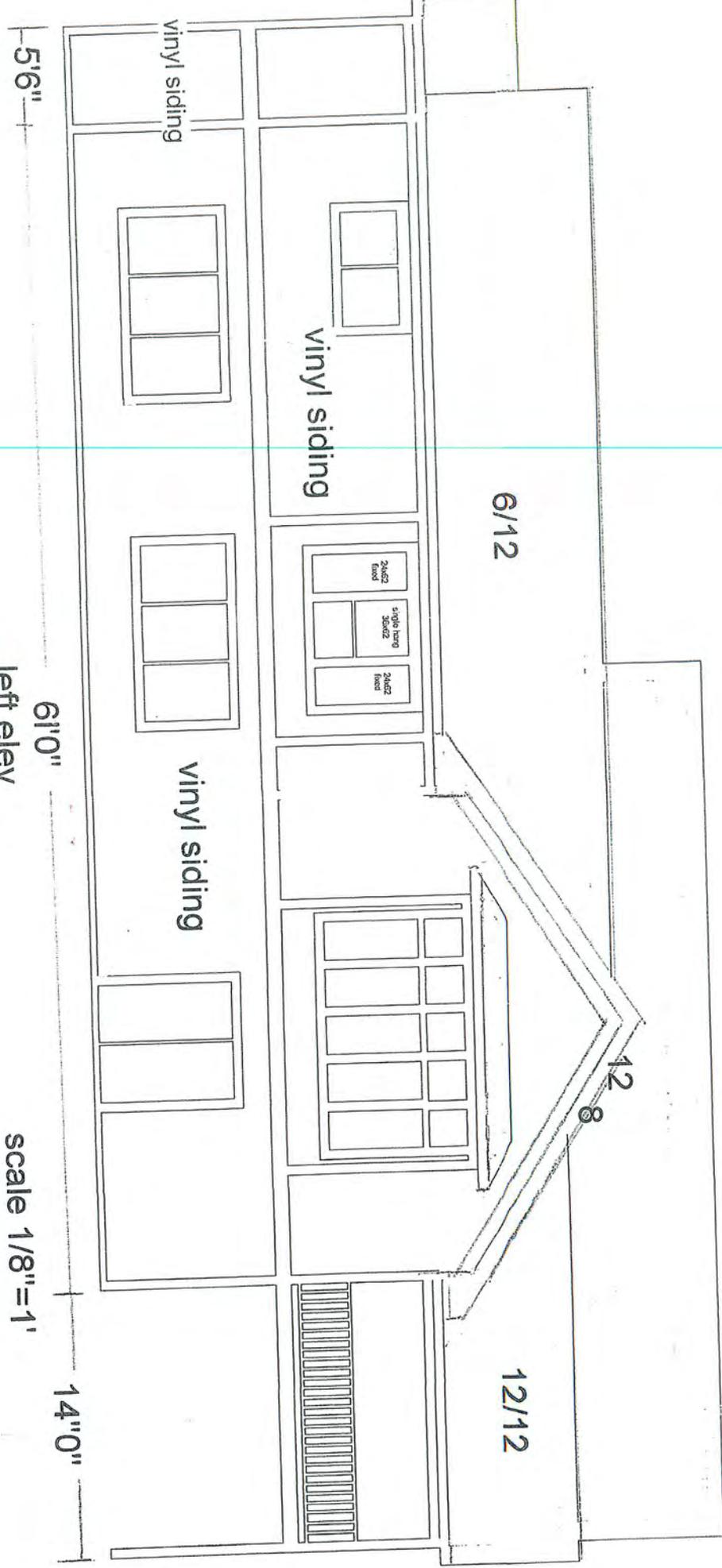
- Addresses
- Small Road Names
- Lot Numbers
- Lake Names
- Road Names
- AA Railroad & Lakeland Trail
- Sewered Parcels
- ROW
- Streams
- Lakes
- Parcels

Refresh Map

Section of road with X's does not exist and will never be built due to wetlands,



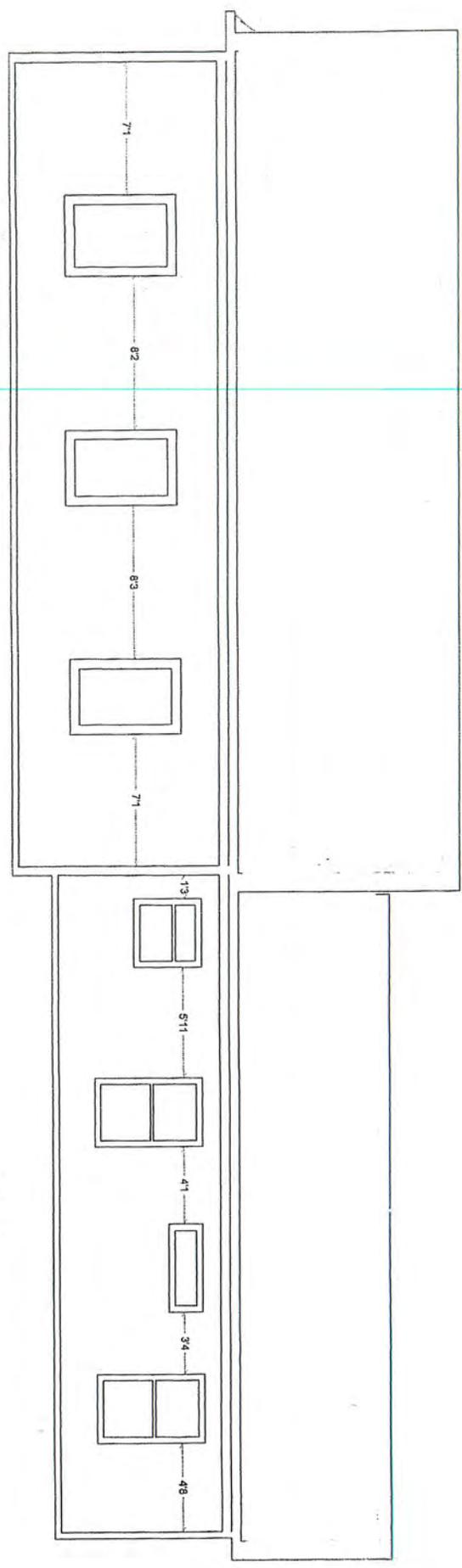
front elev



left elev

scale 1/8"=1'

19'6"



44'0"

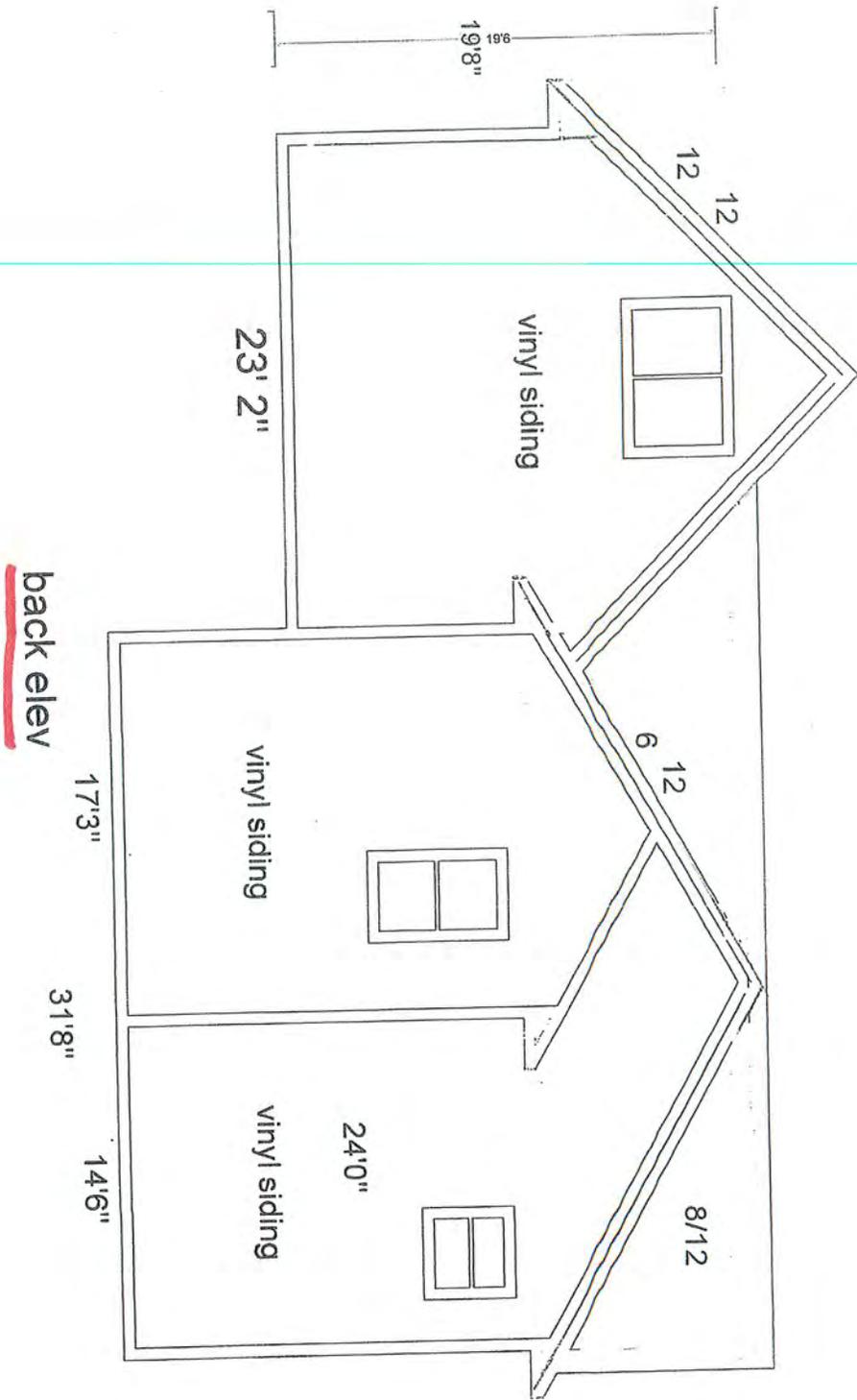
Right elve

75'0"

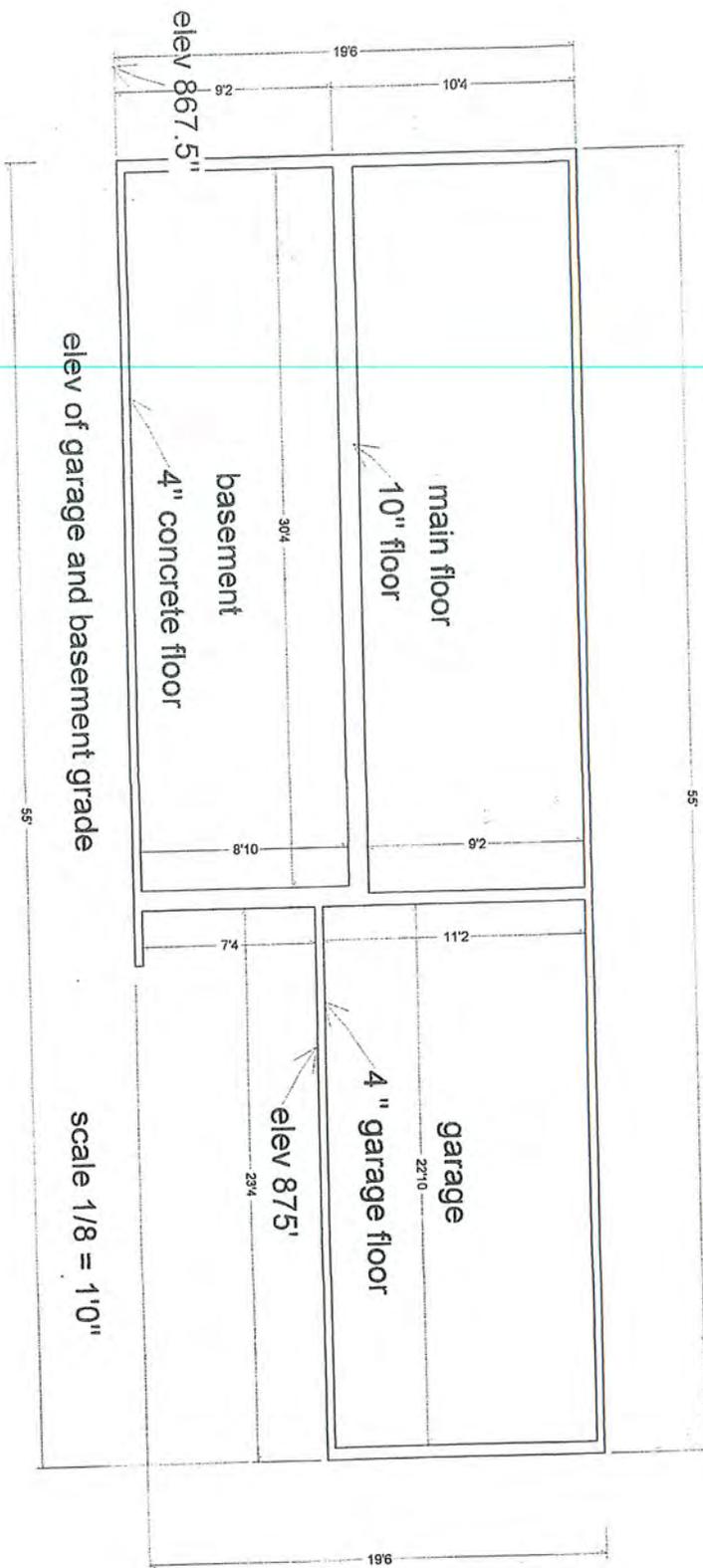
35'4"

scale 1/8 = 1'

181'6"







elev of garage and basement grade

scale 1/8" = 1'0"

5308 Gallagher
ZBA

From: **Pierce, Jeff (EGLE)** <PierceJ2@michigan.gov>
Date: Wed, Apr 24, 2019, 10:43 AM
Subject: RE: Wetland Delineation Questions
To: Gary <phillipshelp@gmail.com>

Hi Gary,

I apologize for the delay in getting back to you. It looks like the delineated wetland boundary pretty much matches up with what we identified during our meeting last year.

Based on this delineation, it looks like your proposed project would not involve any regulated work in wetlands and therefore no permit would be required under Part 303. I don't have any other concerns regarding the proposed project at this time.

Jeff Pierce

Water Resources Division, Lansing District Office

Michigan Department of Environment, Great Lakes, and Energy

517-416-4297 | piercej2@Michigan.gov

[Follow Us](#) | **Michigan.gov/EGLE**



Zoning Board of Appeals Staff Report

AGENDA ITEM: 7e



TO: Zoning Board of Appeals
(ZBA)

FROM: Amy Steffens

HEARING DATE: April 11, 2018

SUBJECT: ZBA 19-009

PROJECT SITE: 9658 Zukey Drive
TID 15-22-301-001

APPLICANT: Angelini & Associates
Architects

OWNER: Stephen and Catherine
Boston

PROJECT: Variance application to allow for the removal of 100 percent, or 29 linear feet, of a dwelling's non-conforming perimeter exterior walls and reconstruction of the walls in the existing footprint (no more than 50 percent of the exterior perimeter walls of the nonconforming structure shall be removed, Section 11.3.3.). The proposed dwelling will have a 43-foot setback from the ordinary high water of Zukey Lake (50-foot setback from the ordinary high water required, Section 7.6.1.).

ZONING: WFR (waterfront residential district)

Project Description

The subject site is a 9,627-square foot parcel that fronts onto Zukey Drive to the east; Zukey Lake is to the west, an unimproved platted right-of-way and single-family dwelling are to the north, and a single-family dwelling is to the south. The site is currently improved with a partially-demolished and reconstructed dwelling, that when completed will be a two-story, 3,135-square foot structure, as well

as a 654-square foot detached garage.

If approved, the variance request would allow for removal of 100 percent, or 29 linear feet, of a dwelling's non-conforming perimeter exterior walls and reconstruction of the walls in the existing footprint (no more than 50 percent of the exterior perimeter walls of the nonconforming structure shall be removed, Section 11.3.3.). The proposed dwelling will have a 43-foot setback from the ordinary high water of Zukey Lake (50-foot setback from the ordinary high water required, Section 7.6.1.).

Site History

On April 11, 2018, the Zoning Board of Appeals considered a variance application to allow for the partial demolition of an existing dwelling and the reconstruction of a 3,877-square foot dwelling. The proposed dwelling would have had a 34.5-foot setback from the ordinary high water mark of Zukey Lake (50-foot setback from the ordinary high water mark required) and an 11-foot north front yard setback from the platted right-of-way of Petty's Drive (25-foot front yard setback required for a corner lot). After opening the public hearing, taking testimony, and deliberating, the ZBA voted to deny the applicant's variance request.

On May 25, 2018, staff met with the applicant and the architects to review a revised site plan that would comply with the zoning ordinance. At that time, staff discussed Section 11.3.3. of the nonconforming ordinance and advised the applicant of the requirements of keeping at least fifty percent of the perimeter of the nonconforming walls. On October 22, 2018, a land use permit was issued for a partial demolition of and rebuilding of two-story 3,135-square foot dwelling. Both the applicant's site plan and the land use permit clearly indicated that fifty percent of the existing structure was to remain on the west façade, and the land use permit stipulated that removal of more than 50 percent of the west walls would require ZBA approval.

On December 6, 2018, staff received an email from the architect indicating that there was no foundation under the western portion of the existing dwelling, which was the portion of the dwelling that needed to remain in order to maintain its nonconforming status. Staff replied on December 7, 2018, with the pertinent sections of the zoning ordinance related to nonconforming structures:

Section 11.3.: *“Nothing in this Ordinance shall prevent the repair, reinforcement, reconstruction, building construction, or other such improvements of a nonconforming building, or part thereof, rendered necessary by wear and tear, deterioration, flood, fire, or vandalism provided that a land use and building permit shall be obtained for such work, and the work does not increase or alter the footprint and the work does not consist of the removal of more than 50 percent of the exterior perimeter walls of the nonconforming structure, except as provided in this Section.”*

Section 11.3.4.C.: *“should a structure be replaced or damaged by any other means (other than natural disaster), it shall not be reconstructed, except in conformity with the zoning regulations. Any improvements that do not meet the zoning regulations shall obtain Zoning Board of Appeals approval under the established variance procedures of the Ordinance.”*

Section 11.3.4.D.: *“Replacement as used in this Section of the ordinance means removal of more than 50 percent of the exterior perimeter walls of the existing structure, based on*

the linear feet.”

The township received no response to the December 7 email and visited the site on December 13, 2018, to determine whether or not work had commenced on the nonconforming portion of the dwelling; it appeared at that time that construction had stopped.

The township was notified on February 5, 2019, by the Livingston County Building Department that a posthole inspection had been scheduled and staff contacted the architect to confirm that the nonconforming walls of the existing structure had not been removed. The architect confirmed that the “walls were per the plan.”

On April 1, 2019, the zoning staff was advised that more than fifty percent of the nonconforming walls had been removed in violation of the zoning ordinance and the land use permit requirements. A stop work order was posted on the site. Staff met with the architect and contractor on April 5 and agreed to lift the stop work order on the new construction if the work on the nonconforming portion of the dwelling ceased and if the owner applied for a variance to permit removal of more than 50 percent of the exterior perimeter walls of the nonconforming structure. The site was resurveyed to determine the OHM of 852.2, resulting in a 43-foot setback from the OHM, rather than the 34.5-foot setback from the previous site plan with what the applicant believes is an erroneous OHM.

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.**

A structure conforming to the setback from the ordinary high water mark of Zukey Lake could be constructed on the site. With the removal of the existing dwelling the opportunity exists to bring this site into compliance with the setback from Zukey Lake that the township strives to protect. Furthermore, removal of more than 50 percent of the perimeter of the exterior nonconforming walls is not a condition specific to the property, nor is a deteriorated structure a condition specific to the property.

The zoning ordinance’s non-conforming section (Section 11) was amended in November 2017 to allow the expansion of a non-conforming structure’s footprint *only* if the expansion complies with the zoning requirements. Both the Planning Commission and the Township Board approval recommendations show a deliberate attempt by the township to amortize nonconforming structures by requiring compliance with the setback requirements. The ordinance requirements for nonconforming structures were made clear to the applicant and apply to all properties in the township, not only those that have a structural deterioration.

- 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.**

A substantial property right is not preserved based on granting a variance for a particular architectural design. 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. With the majority of the dwelling being demolished, staff finds no compelling reason to approve either the replacement of the nonconforming structure nor encroachment into the setback from the ordinary high water mark.

- 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.**

The setback from the ordinary high water mark is intended to maintain and protect an open vista to the water from neighboring properties. Permitting a new structure to impede on the waterfront setback when there are alternative locations to construct additional living space is detrimental to the public welfare, particularly those properties that have been built with a complaint setback.

- 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 North Chain of Lakes planning area of the Master Plan. This area envisions waterfront and natural river district zoning closely tied to the lakes and Huron River. The proposed request would not adversely affect the purpose 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 dwelling cannot comply with the ordinary high-water mark setback standards. The site is a sizeable waterfront lot and there is adequate room in the east front yard to construct additional living space. Zoning text amendments have been recently enacted to address recurrent conditions of waterfront lots and of nonconforming structures. The subject site can accommodate a compliant structure. Removing a nonconforming structure to construct another nonconforming structure is not consistent with the intent and spirit of the zoning ordinance. Furthermore, this structure is not the only structure in the vicinity, zone, or township to have structural deterioration, otherwise there would be no need for Section 11.3.3. Houses deteriorate and the expectation is that when a nonconformity is removed that the terms of the zoning ordinance shall be met.

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.

As previously stated, the lot could accommodate a compliant structure and the actions taken by the applicant created a practical difficulty where one would not otherwise exist.

“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.

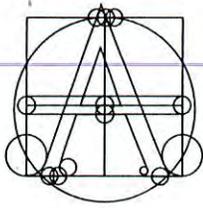
Denial Motion:

Motion to deny variance application ZBA 19-009 at 9658 Zukey Drive to allow for the removal of 100 percent, or 29 linear feet, of a dwelling’s non-conforming perimeter exterior walls and reconstruction of the walls in the existing footprint (no more than 50 percent of the exterior perimeter walls of the nonconforming structure shall be removed, Section 11.3.3.). The proposed dwelling will have a 43-foot setback from the ordinary high water of Zukey Lake (50-foot setback from the ordinary high water 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.

Exhibits

- Exhibit A: Application materials
- Exhibit B: site and construction plans (to be included in hard copy of report)
- Exhibit C: April 11, 2018 ZBA minutes
- Exhibit D: October 22, 2018 land use permit
- Exhibit E: Staff and architect emails
- Exhibit F: Stop work order and photos



Transmittal

To:	Amy Steffens, Planning & Zoning Administrator Zoning Board of Appeals Hamburg Township	From:	Theresa Angelini Angelini & Associates Architects 113 East Ann Street Ann Arbor, MI 48104
Phone:	810-222-1167	Phone:	(734) 998-0735
Fax:	810-231-4295	Fax:	(734) 998-0319
Re:	9658 Zukey Drive, ZBA Application	Date:	04/09/19
CC:			

**Angelini
& Associates
Architects**

# OF COPIES	FORMAT	# OF PAGES	TITLE	DATE
8	8-1/2" x 11"	2	Application for a Variance, signature page	04/09/19
8	8-1/2" x 11"	4	Variance Application Request - Attachment	04/09/19
8	8-1/2" x 11"	3	Variance Application –Construction Photos	04/09/19
8	8-1/2" x 11"	1	A1.1 Detail of Floor Plan at OHM Setback	04/09/19
8	24" x 36"	1	Cover Sheet with Site Plan and Info	04/09/19
8	24" x 36"	1	Survey from Boss Engineering re OHM	04/09/19
8	24" x 36"	1	A-1.1 First Floor Plan	04/09/19
8	24" x 36"	1	A-1.2 Second Floor Plan	04/09/19
8	24" x 36"	1	A-1.3 Roof Plan	04/09/19
8	24" x 36"	1	A-2.1 Exterior Elevations	04/09/19

Dear Amy,

Attached, please find the application for a Zoning Board of Appeals Variance for The Boston Residence at 9658 Zukey Drive. Tom Johnson of Johnson Brothers Construction is dropping off these drawings with the check for \$500 to Hamburg Township.

Thank you for your consideration,
Theresa Angelini

RECEIVED

APR 09 2019

Hamburg Township
Planning and Zoning Department



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: April 9, 2019
2. Tax ID #: 15- 22 - 301 001 Subdivision: Petteys Subdivision Lot No.: 1
3. Address of Subject Property: 9658 Zukey Drive
4. Property Owner: Stephen and Catherine Boston Phone: (H) 248-644-7211
Email Address: cathyboston@gmail.com sobos1@gmail.com (W) _____
Street: 9666 Zukey Drive City Pinckney State MI
5. Appellant (If different than owner): Theresa Angelini/Angelini & Associates Architects
E-mail Address: tangelini@angeliniarchitects.com (W) 734-998-0735
Street: 113 East Ann Street City Ann Arbor State MI
6. Year Property was Acquired: 2013 Zoning District: WFR Flood Plain at 855.2 on far west side of property
7. Size of Lot: Front 74.75 Rear 74.75 Side 1 132 Side 2 132 Sq. Ft. 9627 SF
11. Dimensions of Existing Structure (s) 1st Floor 1589 SF 2nd Floor 991 SF Garage 654 SF
12. Dimensions of Proposed Structure (s) 1st Floor 1546 SF 2nd Floor 1589 SF Garage 654 SF
13. Present Use of Property: single family residence
14. Percentage of Existing Structure (s) to be demolished, if any +/- 90 % First floor floor joists and foundations remain
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:
See attached. The variance request is due to more than 50% of the existing structure being removed within
the 50 ft. setback from the Ordinary High Water Mark due to rotted sills, warped floor joists, carpenter ants, etc.

Variance Application Request for 9658 Zukey Drive, Pinckney, MI

17. Please indicate the type of variance or zoning ordinance interpretation requested:

The Zoning Ordinance references involved include:

Article 7.00 District Regulations, Footnotes to Section 7.6.1

3. ... In any District a principal building, all attached structures, fences, and accessory structures shall not be permitted within fifty (50) feet of the ordinary high water mark (OHM) of any body of water.

11.3.3 Permitted Repairs: Nothing in this Ordinance shall prevent the repair, reinforcement, reconstruction, building construction, or other such improvements of a nonconforming building or part thereof, rendered necessary by wear and tear, deterioration, flood, fire or vandalism provided that a land use and building permit shall be obtained for such work, the work does not increase or alter the footprint and the work does not consist of the removal of more than 50% of the exterior perimeter walls of the non-conforming structure, except as provided in this Section.

11.3.4. Permitted Replacement: A nonconforming building and its accessory structures and uses damaged by natural Disaster (i.e. tornado, flood, fire) or by vandalism may be repaired or replaced subject to the following: ...

C. Should a structure be replaced by any means, it shall not be reconstructed, except in conformity with the zoning regulations. Any improvements that do not meet the zoning regulations shall obtain Zoning Board of Appeals approval under the established variance procedures of the Ordinance.

D. Replacement as used in this section of the ordinance means removal of more than 50% of the exterior perimeter walls of the existing structure, based on the linear feet.

We request a variance from Section 7.6.1 fn.3 to allow for the removal and replacement of more than 50% of the exterior perimeter walls within the existing footprint within fifty feet of the Ordinary High Water Mark (OHM) of Zukey Lake. The area includes approximately 28 linear feet at the west face of the house where the 50' OHM setback overlaps the house at 5 ft. at the north end to 7 ft. at the south end.

Therefore, we are asking for a setback of 43 feet from the ordinary high water mark (a variance of 7 feet) to replace more than 50% of the existing perimeter walls within 50' of the OHM due to structural deterioration found during construction.

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

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 project was designed with careful planning to keep at least 50% of the existing structure in the area within 50' of the OHM, (encroaching by 11 feet, based on a survey from Boss Engineering, dated 2/22/18, later found to be not accurate due to winter conditions on the lake). The architect and owner met with the Zoning Administrator to clearly understand the meaning of keeping 50% of the exterior perimeter walls and the project was designed and bid with this intention shown. We understood that

windows could be replaced/enlarged and siding could be removed. We diagrammed our intentions on the elevations on the permit cover sheet.

The unique condition or practical difficulty of the property is the location of the existing house that was built in the late 1920's and the poor condition of the existing perimeter walls that was concealed prior to construction. The west end of the house, wrapped by an enclosed porch that was not possible to reuse, appeared to be built on a full foundation and appeared continuous with the rest of the house to the east. The interior finishes of the house appeared in good/fair condition but the concealed actual conditions found during construction included no foundations, rotted sills and rot at the bottom of studs, carpenter ants, balloon framing, and general deterioration. This led to a practical difficulty in attempted to keep 50% of existing perimeter walls in the area within 50 feet of the OHM that were in poor condition that did not meet the building code.

Construction began in October/November of 2018 with demolition of the east end of the house to the top of the subfloor (subfloor, first floor joists, and foundation walls to remain). The west end within the OHM was planned for less than 50% demolition in order to meet the zoning ordinance so the west face of the house could be located where it existed. Demolition of the west porch then revealed that no foundation existed under the west end of the house. The floor joists were held up with some logs, debris, and a few rocks. The structure above remained while new footings and foundations were installed below to 42" below grade to meet the building code requirements. A central beam was found to be a hand-hewn timber that was warped and was adjusted to the floor framing would be level. The correction to the floor joists required removal of the tongue and groove subfloor. There was rot in a joist and a new one was carefully sistered to the existing. Carpenter ants had also done a lot of damage to the sill plate, which was replaced. The new work required the crawl space under the joists to be dug out further to meet the building code clearance to wood floor joists while the new foundation walls underpinned the structure. This work took place in December 2018 and January 2019. The winter weather slowed the work until March 2019. Photos from March 19th show the exterior walls still intact at the west end. The wall framing resumed the week of March 25th and at some point went beyond the tipping point of keeping 50% of the exterior perimeter walls with the need to remove/replace the subfloor under the sill plate to tie the walls and floor structure together.

Another issue that factors into this OHM setback is the practical difficulty of establishing an accurate Ordinary High Water Mark on an inland lake that does not have a set elevation and has a sandy beach and rubble retaining walls. (Ken Recker of Livingston County Drain Commissioner's office confirmed they do not have an OHM for Zukey Lake.) It then becomes difficult to take a 50 foot setback from a moving target. We are using an OHM elevation of 852.2 per Boss Engineering's survey, resurveyed and revised on 04/08/19 which leads to the variance request for a setback of 43 feet, reduced by 7 feet from the 50 foot OHM setback. The revised site plan shows the 50' setback from the OHM overlaps the existing structure by 5' on the north and 7' on the south.

The requested setback would have no negative impact on the adjacent properties given that the house to the south is setback approximately 35 feet from the OHM and there is a drive to the north with the owner's sister's home much further north.

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 walls of the house will be where they were originally located, which is actually 10 feet further back from the alignment with the west faces of the adjacent cottages to the south (the porch previously aligned with the other cottages and was 10' out further to the west). The walls of the house will be located exactly as shown on the building permit drawings, which was the footprint of the house at the west end. This variance will allow the structure to be built to meet the building code requirements, which is a property right of all building owners.

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.

The granting of the replacement of the exterior perimeter walls that are within 50 feet of the OHM will not be detrimental to the public welfare, nor would it be materially injurious to the property, improvements in the WFR zone or the district.

The west end of the house aligns with the rest of the house, which is within all setbacks and height restrictions of the zoning ordinance. It will not interfere with anyone's view. The owners own the house immediately south and its west end is 10' feet further west than this house, aligning with the rest of the houses to the south.

Allowing for the replacement of the deteriorated structure in this area will make the property safer for the neighborhood in general.

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

In reviewing the goals of the 2011 Master Plan, the proposed variance request will result in no change to the footprint of the existing house in the area of the OHM (except that it has been improved by the removal of the previous porch) and it will not negatively affect any natural amenities. The changes will improve this residence, contributing to the goal of protecting and promoting the public health, safety, comfort, and welfare of the area.

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 specific conditions of deterioration found at the west end of the house during demolition and construction is unique to this property. These are not issues that are general or recurrent in nature. There is no change in the use of this property.

6. 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 proposed to the existing use as a single family residential home that is permitted within this WFR Waterfront Residential zoning district.

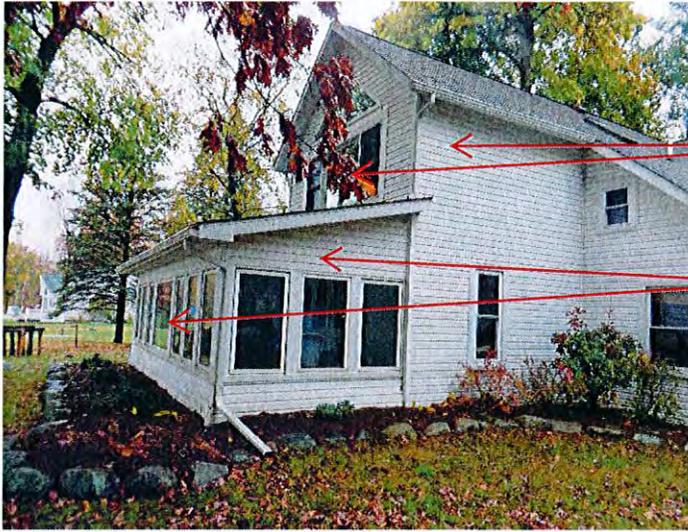
7. The requested variance is the minimum necessary to permit reasonable use of the land:

This project was downsized from a larger project and this was planned with the goal of working within the zoning ordinance. The construction proceeded with the intention of keeping 50% of the exterior walls in the area at the west within 50 feet of the Ordinary High Water Mark. This entailed underpinning the structure when removal of the west porch revealed that there were no foundation walls under the west end of the house. The demolition and subsequent construction proceeded with keeping 50% of the exterior walls within the OHM setback from November 2018 through the end of March 2019. After finding rotted sills, carpenter ant destruction, warped beams, balloon framing, and damaged wood studs, this tipped the scales beyond keeping 50% of the existing perimeter walls in this area of the OHM setback and required the walls and floor structure to meet the building code.

The granting of this variance would allow for the structural integrity of the exterior walls to be built to meet the building code. There is no enlargement to the footprint within the 50' setback from the OHM and the resulting project will be exactly the footprint and massing shown in the permit set that was approved for construction, which we believe to be the minimum necessary to permit reasonable use of the land.

A practical difficulty exists here where a strict compliance requiring a minimum of 50% of the existing perimeter walls to be kept within the 50 foot setback from the OHM would be unnecessarily burdensome when concealed conditions were revealed during demolition and construction that included no foundations, rotted sill plates, rotted bottom of studs, warped floor joists, balloon framing, carpenter ant damage, and overall deterioration.

9658 Zukey Drive, Pinckney, MI, Variance Application Submittal – Construction Photos

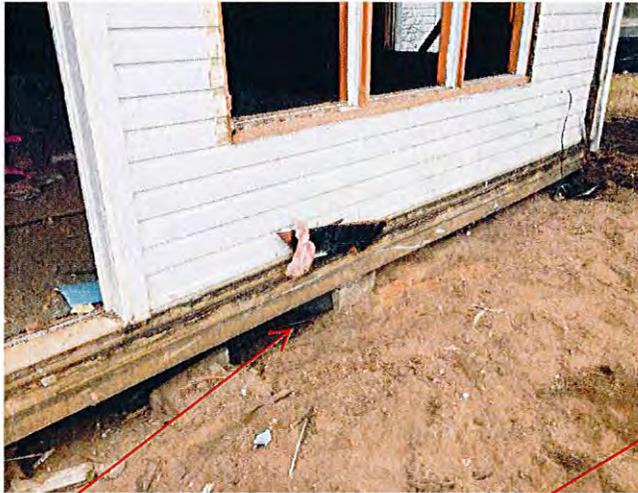


West elevation face and north side, intended to remain 50% intact as per permit drawings Fall 2018

Porch demolished in Fall 2018 as per permit drawings

View from SW Prior to Construction, 11/2/2017

- Enclosed porch within setback was removed as per permit drawings issued 09/17/18
- West face of house and adjacent walls to north and south were identified as area within 50' OHWM setback and 50% of walls were intended to be kept in this area only



View of west elevation after porch was removed, 12/5/18 Detail of foundation situation

- No footings existed under the west end of the house – it was bearing on rubble and a log
- Note rot on floor joists



Timber below center of floor – joists aren't bearing on it (warped)



West gable collapsed during demolition, photo from 12/5/18 Interior remains, looking west

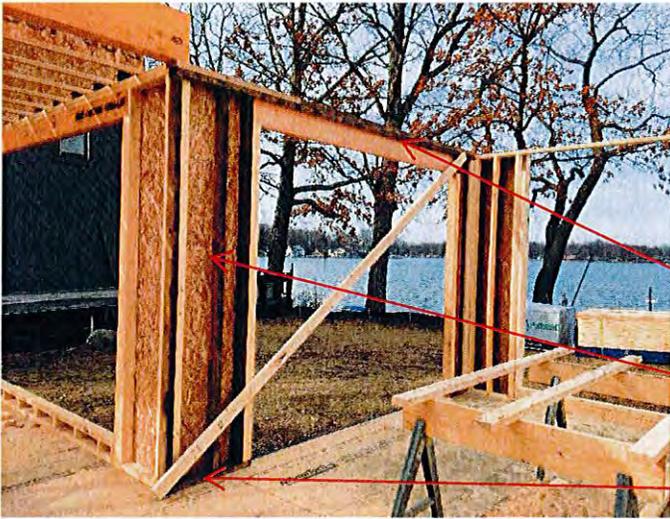
- Note balloon framing exists and studs extend upward beyond second floor floor. (Balloon framing studs are notched to accept the floor framing, rendering them non-structural above the floor)
- Wood paneling in living room concealed tongue and groove siding behind it on the interior
- Flooring within house did not reveal separate west end without foundation



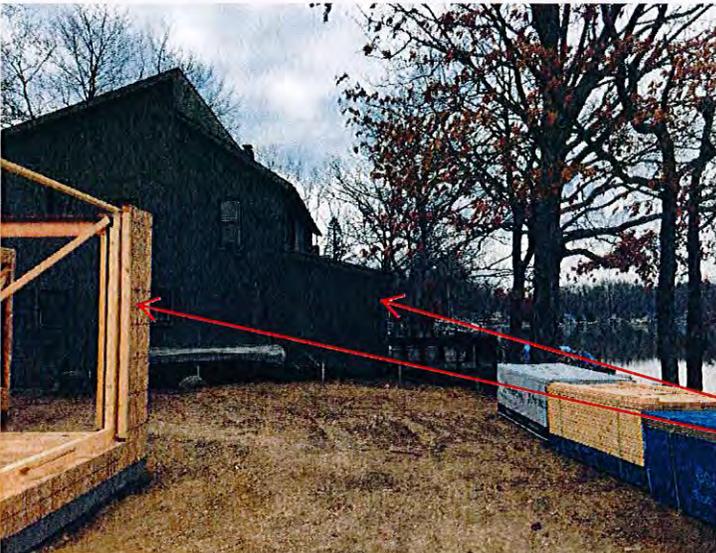
West end of first floor remaining as of 12/15/18 West end remaining during winter 2019



3/19/19 – subfloor removed but walls remain. 3/19/19 subfloor removed, insulated, new foundation



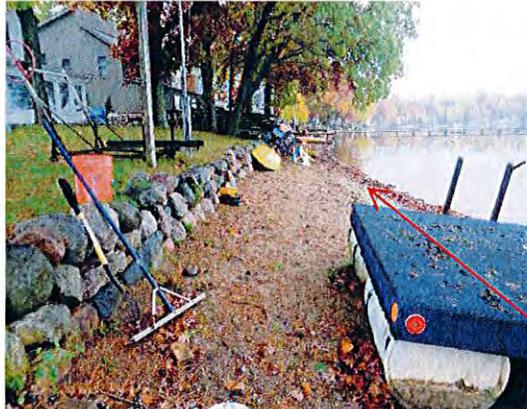
04/03/19 showing salvaged studs, sill, and top plates at west and south walls within the 50' of OHWM



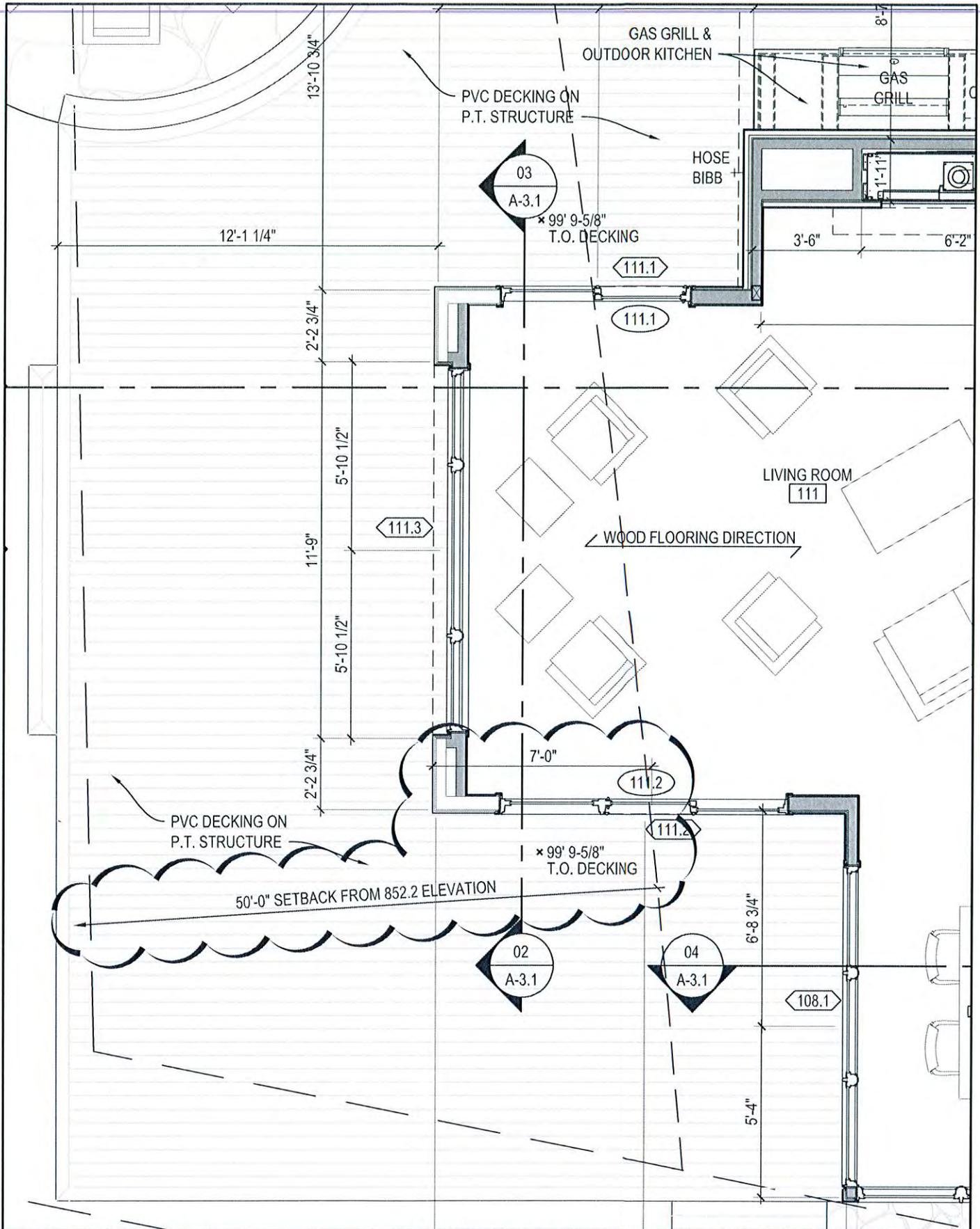
Alignment of west face as of 4/05/19, which is now approx. 9.5' further east than house to south.



View to south showing OHWM as of 04/05/19



View to south showing OHWM as of 11/02/17



Boston Residence
 9658 Zukey Drive
 Pinckney, MI 48169



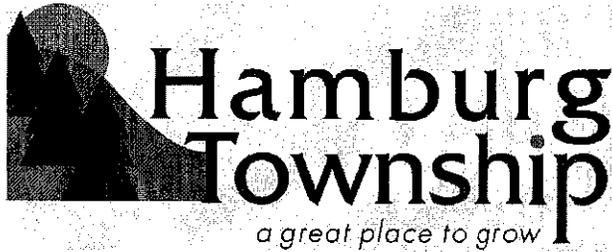
**Angelini & Associates
 Architects**
 113 East Ann Street
 Ann Arbor, MI. 48104
 (734) 998-0735

19.04.09	Variance Application

A1.1

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, April 11, 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: Bohn, Hollenbeck, Neilson, Priebe and Watson

Absent: None

Also Present: Amy Steffens, Planning & Zoning Administrator

4. Correspondence: None

5. Approval of Agenda:

Motion by Neilson, supported by Watson

To approve the agenda as presented

Voice vote: Ayes: 5 Nays: 0 Absent: 0 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 2018-004

Agent: Angelini & Associates Architects

Owner: Stephen and Catherine Boston Living Trust

Location: 9658 Zukey Drive Pinckney MI 48169

Parcel ID: 15-22-301-001

Request: Variance application to allow for the partial demolition of an existing dwelling and the reconstruction of a 3,873-square foot dwelling. The proposed dwelling will have a 34.5-foot setback from the ordinary high water of Zukey Lake (50-foot setback from the ordinary high water required, Section 7.6.1.) and an 11-foot north side front yard setback from the platted right-of-way of Petty's Drive (25-foot front yard setback required for corner lot, Section 7.6.1.fn4.).

Variance application to allow for the addition to an existing non-conforming detached garage. The addition will have a 2.7-foot south side yard setback (five-foot side yard setback

required, Sections 8.3.2. and 11.3.2.). A pergola attached to the garage will have a 9.4-foot east front yard setback (25-foot front yard setback required, Section 8.3.2.).

Theresa Angelini of Angelini & Associates Architects clarified the project description and the requested variances. She reviewed the proposed project including a partial demolition of the existing structure and utilizing 100% of the existing foundation, except the porch foundation on the lake side which they believe is not structurally reliable. Most of the walls on the south and east sides will remain. The existing ground floor is 1589 square feet, they will be adding 556 square feet for a total ground floor of 2,145 square feet. They are adding roughly 25% more square footage. The second floor existing is 2,580 square feet and are adding roughly 1,300 square feet. The total square footage will be 3,877. From the ordinary high water mark, the existing dwelling is 29 feet 3 inches and the proposed dwelling would have a 33 foot setback. She stated that none of the dwellings in the area meet the required 50 foot setback. She reviewed the current setbacks in the area and stated that enforcement of that setback would create a hardship that the surrounding property owners do not have. She further discussed the elevation of the house, grade and 100 year floodplain. Mr. Angelini reviewed the design of the house. Ms. Angelini reviewed the site layout including the fact that it is a corner lot with a 25 foot setback on the north side, which they are asking to be reduced to 11 feet. She discussed the garage. She stated that currently the footprint overlaps the property line by .9 feet and they have moved the north end of that east wall back 1 foot so it is back from the property line 2.7 feet. She stated that they are proposing the pergola to soften the connection of the detached garage and the house from the street. It is open on top and is not much more than a garden element. She discussed the standards of review. She stated that this is a corner lot and has additional restrictions that do not apply to other properties. The lot size is 9,627 square feet which is slightly larger than some of the properties in the Petty's subdivision, but it is significantly less than the minimum lot size as stated in the zoning ordinance for Waterfront Residential. The lot width is 74.75 feet or 60% of the required width. The staff report indicates that the dwelling could be demolished and replaced with a conforming structure, however that would result in a subdivision type house. They feel that the scale of that would be wrong for the site. The staff has described the garage addition as minor. However they feel that it makes the space much more functional. She discussed the November 2017 Zoning Text Amendment. She further stated that there is no basement so the additional storage is needed. The proposed remodeling and addition does not block the view from the north or south and they are proposing to move that back an additional 4 feet from the existing house improving the current setback from the ordinary high water mark. Since all of the homes in the area are built within that 50 foot setback, it would be unreasonable to hold this applicant to that standard. She further discussed the need for storage space and adding that to the existing garage rather than an additional accessory structure. They believe that none of the variances requested are detrimental to the public welfare or materially injurious to the properties in the district nor will they adversely affect the purpose or objectives of the master plan. She further discussed the estimated demolition and the desire to use portions of the existing dwelling. She discussed the existing cottages and houses in the area. The practical difficulty here is that the lot is ¼ the size stated in the zoning ordinance, all the homes in the area have setbacks within that 50 foot required setback, and they are re-using the existing structure as much as possible.

Planning & Zoning Administrator Steffens described the subject site, existing conditions and the existing and proposed setbacks. She stated that the ordinance considers a lot to be a corner lot even if the right-of-way that it touches is unimproved. In this case it is platted that way, and in the future it could be improved. Ms. Steffens discussed the ordinary high water mark. She stated that this is separate from the 100-year flood plain. The applicant has supplied a topo survey, but it is not sealed which will be required. It does show that the proposed structure is outside the flood plain. The ordinary high water mark has no relation to the flood plain elevations. They also understand that the ordinary high water mark can change over time. She stated that the Board is bound to find that the application would or would not comply with the seven standards of review. She reviewed the staff's findings. She stated that the lot could accommodate a compliant structure but the chosen design creates a self-imposed practical difficulty. With the demolition of approximately 70 percent of the existing walls, the project could be designed to meet the setback standards. Staff does find that the requested north front yard setback variance is a reasonable deviation from the ordinance based on the unlikelihood that the platted right-of-way would be developed as anything other than unimproved lake access. However, the requested setback from the ordinary high water mark and the setback for the garage are a

concern. The applicant has indicated that because the lot is smaller than the minimum lot size required for the waterfront district, it creates an exceptional or ordinary circumstance. However, the one-acre requirement is applied when creating a lot. The vast majority of our lakefront subdivisions were platted with 50-foot lot widths. This is actually a sizeable lot for lots within the waterfront district. The removal of the majority of the structure does present the opportunity to bring the structure into compliance. Additionally, the garage addition would increase the nonconformity of a structure that basically sits right on the street. Our ordinance is designed to get rid of nonconformities, not make the nonconformity greater. She stated that the pergola is a self-imposed practical difficulty. It is something that is desired and not needed. The site is zoned for single family uses and can be used for such a use. With 70% of the walls being removed, there is no reason to approve further encroachment into the setbacks. Additional living space could be constructed on the other side of the street. The location of the addition is a self-created practical difficulty. Also, as it relates to the additional garage storage, additional storage could be located elsewhere on the site in a conforming location. Furthermore, the proposed pergola's deficient setbacks is due to personal preference. She stated that the setback from the ordinary high water mark is intended to protect an open vista to the water from neighboring properties. Permitting a new structure to impede on the waterfront setback when there are alternative locations is detrimental to the public welfare, particularly those properties that have been built with a compliant setback. She discussed the master plan vision of the area and stated that the proposed request would not adversely affect the purpose or objectives of the Master Plan. She further discussed review standards 5-7 as it relates to the site. The lot could accommodate a compliant structure, but the chosen design creates a self-imposed practical difficulty requiring variance approval. The project could be designed to meet the setback requirements. Ms. Steffens presented a drawing of the lot drawn to scale and included the required setbacks and building envelope and showed how the house could be built in a compliant location. The Board is here to determine if there is something so restrictive with the lot that a compliant structure could not be built. Clearly it can.

Ms. Boston, applicant, stated that what is being missed is that they are trying to preserve what they can of a 100 year old house. They do not want to tear down the house and build a new house. They have spent a lot of money to try to preserve a 100 year old home that they love. After many plans, this is what they have come up with. There is a beautiful aesthetic along that strip and that is what they are trying to preserve.

Member Bohn stated that all of the houses to the south have substantially less than 50 foot setback from the high water mark. Discussion was held on the engineering and the use of the FEMA map to determine the high water mark.

Member Watson stated that he still has a problem with the front yard setback at the unimproved right-of way. The existing setback is 27 feet and proposed is 11 feet. You cannot ignore the setback simply because you want a bigger structure. He agrees that a lot of the structures are non-conforming, but if they chose to re-build, they would also have to meet the setbacks.

Chairperson Priebe opened the public hearing.

Mr. John Lamb of 9700 Zukey Drive stated that he does have some concern particularly with the 11 foot side setback. He stated that he and some of the other residents have been discussing putting gravel down on the access to the lake. The applicants have approached some of the residents because they do not feel that they should be using that access to park their boats and trailers, which they have been doing since the 1950s. His understanding when he bought his property was that was the intent for the residents in the subdivision. They do not want to lose their rights to that property. They are concerned that if the house is that close to the easement, then they will end up putting grass there, etc. He is also concerned about the road during construction. It is a private road maintained by the residents. They would hope that they would maintain the road as they are building or restore the road when they are complete. Finally, this is already a non-conforming property and they are requesting an additional three variances making it even more non-conforming.

Mr. Nick Graham of 9669 Zukey Drive stated that he lives across the road from the Boston's. One of the concerns he has is the site lines. They are requesting to take the home that is already encroaching on the south side and extending it further to the north side. He is losing his site lines. When he purchases a property, he knows the provisions and the setbacks. Prior to purchasing that property, he has a plan. They are already encroaching the setbacks on the lake side, the south side and the east side, and they are now asking to encroach even further on the north side. He is concerned about the site lines and how it affects his property value into the future.

Mr. Paul Stark of 9638 Zukey Drive stated that he lives to the north of the Boston's and has been on the lake since 1968. The Boston's house was his brother's house, and he gave a brief history of the property. Unfortunately, the houses all along that road are non-conforming. To try and correct some of these things is going to be difficult. To tear down the house to make it fit does not make a lot of sense. We want to use what's there and make sense of it. Ever since he has been there, nobody knew what that right-of-way was. People have been able to use it to whatever extent they wanted. There will never be a road there. When his brother owned the home, he made some improvements, but there are still a lot of deficiencies. We can try to use common sense here. If changes can be made, he would hope that they don't have to tear down the entire building. He does not have any opposition to what they are trying to do. He stated that he knows the Bostons, and they are trying to do what is right to meet the requirements but yet not start from scratch. If you move the structure back from the water, then they will lose their view because of existing structures.

Marlo Stevens of 9708 Zukey Drive stated that she is fairly new to the subdivision. She recently added an addition to her house and did not have to ask for any variances. When she moved in, she was told that they did have the access that they could use to park boats and trailers, etc. They do not have a homeowner's association. They all work together. She has had a knock on her door from someone saying they could not park their stuff on the common area. She does not want them to encroach the area that is common to all of them.

Elizabeth Ann Winter of 9715 Zukey Drive stated that area has always been known as common area. It is used and it always looks nice. She agrees that having a defined space is important for those who use it.

Mr. Rick Beaudin of 9676 Zukey Drive stated that the good thing that has come out of this is that the neighbors have gotten together to discuss the access. Now they are finding out that it is a road. They need to have a discussion about what they are going to allow there. He does not have a problem with the variance, but they cannot tell us that they cannot park there.

Mr. Boston, applicant, stated that this is about the variance to the property no so much about the road. He did not strong-arm anyone, but he did talk to people. There is no intent to take down the fence or develop the road. Since it is a drive, they are asking that it be treated as a drive. They have used it for storage and are in agreement to move their equipment somewhere else. They feel that their proposal is consistent with other remodels that have been done in the area. They have been trying to work with the existing footprint as much as possible while trying to expand it to what they want out of a lake house. If they were to meet all of the setbacks, it would look like a neighborhood house out of a typical subdivision, not a lake house they intend it to be. They feel that the variances they are requesting are fair and reasonable to meet the design they are trying accomplish and still meet the requirements with as few variances as possible. He appreciates everyone's time and comments.

Chairperson Priebe closed the public hearing.

Chairperson Priebe stated that the ZBA deals only with zoning. Issues dealing with the lake access would be a civil matter. We are looking at the variance requests as submitted.

Commissioner Bohn asked how that access is platted. Planning & Zoning Administrator Steffens stated that it is a platted right-of-way dedicated to the use of the owners within the subdivision.

Steffens stated that there has been discussion regarding a fence along the right-of-way. Staff would like to point out that a fence is not allowed within 50 feet of the ordinary high water mark.

Chairperson Priebe stated that her biggest concern is the garage issue.

Member Watson asked if the Board could ask the applicant to re-look at this to possibly reduce the variance request. Steffens stated that the Board could table the issue to the next hearing to allow the petitioner time to re-work their plan.

Chairperson Priebe stated that the Board could approve or deny all or part of the request. If it is denied, the applicant could not make a request for a year unless the plan is substantially different than the original request.

Member Neilson stated that the request is to go from 2500 square feet to over 3800 square feet. Something in between could meet the setbacks. He feels that there are too many things that are self-imposed.

Steffens discussed an alternative design.

Mrs. Boston stated that they would be willing to forgo the pergola and additional space to the garage if it is helpful to reach a conclusion.

Member Bohn stated that he does not feel that we will ever be able to achieve 50- foot setback to the high water mark on this road. And, it is completely for aesthetic purposes, not a safety issue.

Motion by Bohn, supported by Hollenbeck

Motion to approve variance application ZBA 18-004 at 9658 Zukey Drive to allow for the construction of a dwelling with an 11-foot north front yard setback from platted right-of-way (25-foot front yard setback required for a corner lot, Section 7.6.1.fn4.). The variance does meet variance standards one through seven of Section 6.5. of the Township Ordinance and a practical difficulty does exist (predominantly the shape and location and size of the lot and its relationship to an undeveloped, dedicated, and used by the subdivision. right-of-way) 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 and allow for a 3,877 square foot dwelling with a 34.5 foot setback from the ordinary high water of Zukey Lake (50-foot setback from the ordinary high water mark is required by 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 (predominantly its orientation to the lake and it's lot size relative to other waterfront lot sizes) 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.

Steffens asked if the intent of the motion is that any of the existing structure could remain. Staff has indicated that the entire structure could be removed. Member Bohn stated that the intent is to approve the variance request as submitted with no more than 70 percent of the existing structure being removed. This is an improvement to an existing structure with those features to be preserved. If those walls were to be removed, it would not comply with the approval.

Voice vote: Ayes: 2 Nays: 3 Absent: 0 MOTION FAILED

Member Watson again discussed the applicant going back to re-design the request.

Motion by Watson, supported by Neilson

To deny a variance application to allow for the addition to an existing non-conforming detached garage. The addition would have a 2.7-foot south side yard setback (five-foot side yard setback required, Sections 8.3.2. and 11.3.2.). A pergola attached to the garage would have a 9.4-foot east front yard setback (25-foot front yard setback required, Section 8.3.2.). 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.

Voice vote: Ayes: 3 Nays: 2 Absent: 0 MOTION CARRIED

Chairperson Priebe stated that the applicant has the option of re-designing the garage and making another request at a future date.

It was stated that the existing house is already within the 50-foot setback to the high water mark. Any addition to a non-conforming structure has to comply with the setbacks. You could keep what is there, but anything added would have to be 50 feet back from the high water mark and 25 feet back on the north.

8. New/Old Business:

- a. Approval of March 14, 2018 meeting minutes and findings of fact for ZBA 18-003

Motion by Neilson, supported by Watson

To approve the March 14, 2018 meeting minutes and findings of fact for ZBA 18-003 as presented

Voice vote: Ayes: 5 Nays: 0 Absent: 0 MOTION CARRIED

Steffens stated that the 2020 Master Plan Update kick-off meeting is tomorrow here at 1:00 p.m. Chairperson Priebe and Member Neilson are on the steering committee. We welcome anyone interested in attending and would love to have additional Board members attend. We will introduce the steering committee, the process, the schedule and set our next meeting date. We will have a mix of daytime and evening meetings.

9. Adjournment:

Motion by Hollenbeck, supported by Watson

To adjourn the meeting

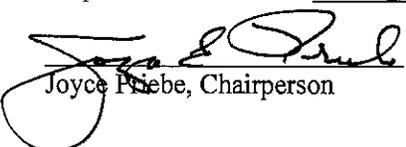
Voice vote: Ayes: 5 Nays: 0 Absent: 0 MOTION CARRIED

The meeting was adjourned at 8:39 p.m.

Respectfully submitted,

Julie C. Durkin
Recording Secretary

The minutes were approved
As presented/Corrected: 6-13-18


Joyce Priebe, Chairperson



Hamburg Township

10405 Merrill Rd P.O. Box 157 Hamburg MI 48139 (810) 231-1000

ZONING DEPARTMENT

HAMBURG TOWNSHIP
 Date 10/22/2018 10:29:10 AM
 Ref: PLUP18-0471
 Receipt: 1125280
 Amount: \$70.00

PLUP18-0471

Issued: 10/22/2018
 Expires: 10/22/2019

Land Use

Home

Flood Plain: No

JOB LOCATION	OWNER	CONTRACTOR
9658 ZUKEY DR 4715-22-301-001 Plat/Sub: ZONING WFR	Lot: BOSTON STEPHEN & CATHERINE PO BOX 609 LAKELAND MI 48143 Phone: Email:	Angelini and Associates Architects 113 East Ann St. Ann Arbor MI 48104 Phone: (734) 998 0735 Email: tangelini@angeliniarchitect

Permit Item	Work Type	Fee Basis	Item Total
		Fee Total:	\$0.00
		Amount Paid:	\$0.00
		Balance Due:	\$0.00

WORK DESCRIPTION:

partial demolition of dwelling and rebuilding two-story dwelling; foundation and first floor framing to remain intact as noted on plan; fifty percent of existing structure to remain on west facade. 3,135 square feet. Elevated deck on north facade; at-grade deck and patio on west, south and north facade. Fire pit. No work on existing detached garage authorized by this permit. Not in SFHA.

REQUIREMENTS FOR FINAL ZONING COMPLIANCE:

Maintain ten-foot distance separation from detached garage. Elevated deck not to encroach more than six feet into required setback. Removal of more than 50 percent of west walls will require ZBA approval. All Construction Debris Removed. Final Grading of Site. All storm water run-off to be managed on site.

<input checked="" type="checkbox"/>	Zoning Review Comment:	Public4	10/22/2018
<input checked="" type="checkbox"/>	Utilities Review Comment: Hold Harmless Agreement for sewer encroachment signed by property owners.	Brittany	10/22/2018
<input checked="" type="checkbox"/>	Treasurers Review Comment:	TriciaB	10/10/2018
<input checked="" type="checkbox"/>	Assessing Review Comment:	BrendanS	10/10/2018

APPLICANT CERTIFICATION: I hereby certify that all structures and uses for which this application is made shall conform to the Ordinances of Hamburg Township, Livingston County and the State of Michigan. All information submitted for this permit is to my knowledge accurate. If the information is determined either now or in the future to be inaccurate the permit shall be void and any structures built or uses approved may be in violation of the required ordinances and must otherwise be brought into compliance with all regulations.

Applicant Signature *[Signature]* Date: 10/22/2018 Date Received: _____

ZONING ADMINISTRATOR *[Signature]* DATE: 10/22/2018

The accuracy of the lot lines, dimensions and other information presented in the project plans are the sole responsibility of the property owner and in NO way does the Zoning Inspector signature on this permit guarantee the accuracy of the information provided by the applicant for this permit. A site inspection can be required by Hamburg Township; however a site inspection also does not guarantee the location of the property boundaries.

Please call 1-810-231-1000, Ext. 230 to schedule your inspections (requirements listed above). This will help to eliminate any delays in the issuance of the Certificate of Occupancy from the Livingston County Building Department.

If the above marked items cannot be completed prior to the request for Final Zoning Compliance, the Zoning Department will require a cash bond for issuance of a Temporary Zoning Compliance. A re-inspection fee will be required. The bond will be returned when items are completed.

FINAL ZONING COMPLIANCE INSPECTION

THIS PROJECT DID PASS FINAL ZONING COMPLIANCE. THE CERTIFICATE OF OCCUPANCY MAY BE ISSUED BY THE LIVINGSTON COUNTY BUILDING DEPARTMENT.

ZONING ADMINISTRATOR/INSPECTOR: _____ DATE; _____

From: [Theresa Angelini](#)
To: [Amy Steffens](#)
Cc: ["Don MacDonald"](#); [Catherine Boston](#); ["Steve Boston"](#)
Subject: Boston 9658 Zukey Drive
Date: Friday, May 25, 2018 3:35:33 PM
Attachments: [C1 existing with demo.pdf](#)
[C2 proposed.pdf](#)

Hello Amy,

Thank you for meeting with us today. As we discussed, the goal of the current project for 9658 Zukey Drive is to proceed within the zoning requirements so that no zoning variance is required.

This email is to confirm what we discussed:

- The existing enclosed porch on the lake side of the house is going to be removed. This is within the 50' setback from the high water mark. (see the attached demo plan). There's no problem removing this per the zoning ordinance.
- The existing lake side of the house is built within the 50' setback from the high water mark at almost 41' from that mark (see proposed). This is a nonconforming structure and this is the only part of the project that is a concern for the zoning review, as long as the rest of the proposed work is within the setbacks and meets the height requirements, etc.
 - To confirm, we propose to remodel the interior of this structure and work within the exterior perimeter walls of this non-conforming area of the structure. We understand that we can replace up to 50% of the exterior perimeter walls here.
 - You confirmed that we can replace/change windows and siding in those walls and there's no problem with that.
 - The existing perimeter walls here measure 37'-1" (see attached proposed), so we could then remove parts of this wall as shown (17'-9") up to 18'-6", which would meet the 50% rule. This meets the zoning ordinance.
 - To confirm, we discussed that the second floor roof could be removed here as long as 50% of the second floor perimeter walls remain and are added to in order to make them taller. We could then reinstall a new roof structure on top of this that meets the height restrictions and this meets the intent of the zoning code.
 - We discussed the possibility of keeping all perimeter first floor walls and removing/rebuilding the second floor walls to be taller but you confirmed that this strategy of removing 50% in section (rather than in plan) does not meet the intention of the zoning ordinance.
- We also discussed the fact that a balcony (without a roof) can be built into the required setbacks a distance not to exceed 6 feet, if it meets other standards in the code in 8.17.2. You confirmed that the balcony can be built with posts below in that setback and it doesn't need to be cantilevered. (so, 50' minus 6' = 44' setback at the high water setback or 25' minus 6' = 19' at the side drive setback.)
- You confirmed that the surveyor needs to stamp/sign the survey so we will follow up with Boss Engineering for that.

- You confirmed that the permit drawings will be reviewed by Hamburg Township for the zoning review fairly quickly (2-5 days) and then the drawings will go to Livingston County for the actual building permit. We'll need to stake the addition at that time for review by the zoning inspector.

If we have misunderstood anything, please let us know as our intention is to work within the zoning ordinance.

Thank you very much – have a good weekend.

Theresa Angelini, AIA, NCARB, Partner

Angelini & Associates Architects

113 East Ann Street

Ann Arbor, MI 48104

734-998-0735

From: Amy Steffens
To: ["Theresa Angelini"](#)
Cc: ["Steve Boston"](#); ["Cathy Boston"](#); ["Tom Johnson"](#); [Brittany Stein](#)
Subject: RE: Boston at Zukey Lake Concealed Conditions
Date: Friday, December 07, 2018 9:30:00 AM

Was the ordinary high water mark of Zukey Lake actually surveyed? Oftentimes, the plans we receive for permits show the edge of water, not the OHM, which we accept because we do not require surveys for land use permits. In this case I wonder if the OHM might be located behind the seawall and not at the seawall as shown, which potentially could give you a few more feet.

Section 11.3., nonconforming buildings and structures, of the zoning ordinance is clear: "Nothing in this Ordinance shall prevent the repair, reinforcement, reconstruction, building construction, or other such improvements of a nonconforming building, or part thereof, rendered necessary by wear and tear, deterioration, flood, fire, or vandalism provided that a land use and building permit shall be obtained for such work, and the work does not increase or alter the footprint and the work does not consist of the removal of more than 50 percent of the exterior perimeter walls of the nonconforming structure, except as provided in this Section."

Furthermore, Section 11.3.4.C. says "should a structure be replaced or damaged by any other means (other than natural disaster), it shall not be reconstructed, except in conformity with the zoning regulations. Any improvements that do not meet the zoning regulations shall obtain Zoning Board of Appeals approval under the established variance procedures of the Ordinance."

Section 11.3.4.D.: "Replacement as used in this Section of the ordinance means removal of more than 50 percent of the exterior perimeter walls of the existing structure, based on the linear feet."

The ordinance requires the structure to come into compliance with the 50-foot setback from the OHM. Either submit plans that show the structure will meet the required setback from the water or file for a variance to Section 11.3.4.C. and take a chance that the ZBA would approve removing more than 50 percent of the exterior walls of the nonconforming structure. Staff would not support such a request, however, and would make a recommendation to the ZBA that the variance be denied.

Please let me know how you wish to proceed and I will help in any way I can.

Amy Steffens, AICP
Hamburg Township Planning and Zoning Administrator
(810)222-1167

From: Theresa Angelini <TAngelini@angeliniarchitects.com>
Sent: Thursday, December 06, 2018 1:06 PM
To: Amy Steffens <asteffens@HAMBURG.MI.US>
Cc: 'Steve Boston' <sobos1@gmail.com>; 'Cathy Boston' <cathy.boston@gmail.com>; 'Tom Johnson' <tom@jbcaa.com>
Subject: Boston at Zukey Lake Concealed Conditions

Hello Amy,

Nice to see you yesterday – thank you for meeting with us.

The demolition at Boston's is underway and this has revealed that there are no foundations under the west end of the house where we were planning to keep 50% of the existing. The porch was removed, which had minimal footings and then it turned out that the west wall of the house (about 12') is supported by a log, a pile of bricks, and some debris. (the interior of the house had no hint of this – the living room was large and the walls were all an older pine paneling while the west bedroom upstairs also seemed to overlap this area) Please see the attached field report – this was just uncovered and we wanted to be as open and proactive as possible.

We would like to talk to you about how to proceed. Steve Boston is available tomorrow morning to meet with you if you are available. Steve's cell is 586-212-0118 if you can contact him. Thank you in advance for responding at your earliest convenience.

Best regards,

Theresa Angelini, AIA, NCARB, Partner

Angelini & Associates Architects

113 East Ann Street

Ann Arbor, MI 48104

734-998-0735

Weather Conditions: 27 degrees, cloudy, light snow

Present on Site: Don MacDonald *Angelini & Associates*
Tom Johnson *Johnson Brothers*

Attachments: None.

Note: Description of construction work in this Field Report is to record the Architect’s observations. It does not indicate approval of the work. Conformance to the Contract Documents remains the General Contractor’s responsibility.

1. Construction Progress:

- Demolition:
 - All of the windows and doors have been removed from the house.
 - The porch has been fully removed and demolition of the second floor has started.
 - Once the porch was removed it was found that the west lakefront part of the house doesn’t have a continuous foundation.
 - The entire lakefront portion of the house is supported in only five points. These locations consist of loose concrete block, loose brick and a log. There are no connections between these pieces and the floor framing they’re supporting.
 - Due to how the gable on the second floor at the front of the house was framed it collapsed when they removed the triangular windows. The remainder of the walls in this area were removed down to the window sill level to make them safe for the workers below.

2. Action Items

1. The foundation issues that were uncovered need to be addressed. The foundation, as it stands now, will never pass inspection and a proper foundation needs to be constructed. The easiest way to achieve this is to completely remove this portion of the house even though it’s within the 50’ setback from the lake.

Photos



Demo showing porch removed and no foundation under west end of house.



NW Corner of house supported by log



North wall at NE joint where existing is supported on rubble.



Existing condition on west end of house viewed from north.

Reported by: Don MacDonald
Cc: File

From: [Theresa Angelini](#)
To: [Amy Steffens](#)
Cc: [Brittany Stein](#); [Michael Sumeracki](#); "[Tom Johnson](#)"
Subject: RE: 9658 Zukey Drive (Boston residence)
Date: Tuesday, February 05, 2019 11:53:44 AM

Hi Amy,

I double checked with the contractor, Tom Johnson, who has verified that "Walls are there per plan. Footing inspections were for new and underpinning footings. We have a backfill inspection today".

Best,

Theresa Angelini, AIA, NCARB, Partner
Angelini & Associates Architects
113 East Ann Street
Ann Arbor, MI 48104
734-998-0735

-----Original Message-----

From: Amy Steffens <asteffens@HAMBURG.MI.US>
Sent: Tuesday, February 5, 2019 6:38 AM
To: TAngelini@angeliniarchitects.com
Cc: [Brittany Stein <bstein@HAMBURG.MI.US>](mailto:bstein@HAMBURG.MI.US); [Michael Sumeracki <msumeracki@HAMBURG.MI.US>](mailto:msumeracki@HAMBURG.MI.US)
Subject: 9658 Zukey Drive (Boston residence)

Good morning, Theresa. I see that the county has scheduled a posthole inspection for the Boston build on Zukey; inspection sheet indicates that new footings are being constructed on a portion of existing house. Can you please confirm that the existing walls on the lake side are being preserved per the approved plans?

Thank you,
Amy =

SCANNED

NOTICE DATE: February 4, 2019
PROPERTY LOCATION ADDRESS:
9658 Zukey Drive
TAX CODE NUMBERS:
4715-22-301-001

STOP WORK ORDER

YOU ARE HEREBY ORDERED TO CEASE WORK IMMEDIATELY AT THIS JOB SITE

**TO: Stephen & Catherine Boston
Living Trust
PO Box 609
Lakeland MI 48143**

NOTICE SERVED VIA:

- First Class Mail
- Posted at Site
- Personal Service by:

VIOLATION ACTIVITY OCCURRING:

9658 Zuken, Hamburg Township

YOU MUST STOP ALL WORK AND CONTACT THE ZONING DEPARTMENT IMMEDIATELY.

Time of Action: **April 1, 2019**

***BE ADVISED THAT YOU ARE IN VIOLATION BECAUSE OF THE ACTION DESCRIBED ABOVE THAT
[] HAS OCCURRED [X] IS OCCURRING.***

VIOLATION OF:

- Hamburg Township General Ordinance -
- Hamburg Township Zoning Ordinance – Section 11.3; 11.3.4.C
- Michigan Department of Natural Resources Permit Required
- Other:

Section 11.3., nonconforming buildings and structures, of the zoning ordinance is clear: "Nothing in this Ordinance shall prevent the repair, reinforcement, reconstruction, building construction, or other such improvements of a nonconforming building, or part thereof, rendered necessary by wear and tear, deterioration, flood, fire, or vandalism provided that a land use and building permit shall be obtained for such work, and the work does not increase or alter the footprint and the work does not consist of the removal of more than 50 percent of the exterior perimeter walls of the nonconforming structure, except as provided in this Section."

Section 11.3.4.C. says "should a structure be replaced or damaged by any other means (other than natural disaster), it shall not be reconstructed, except in conformity with the zoning regulations. Any improvements that do not meet the zoning regulations shall

obtain Zoning Board of Appeals approval under the established variance procedures of the Ordinance."

SCANNED

REQUIRED CORRECTIVE ACTIONS TO BE TAKEN:

Land Use Permit Required Building Permits Required DNR/Other Permits Required

See attached demolition process handout. A land use permit from Hamburg Township is required for demolition, reconstruction, interior, or exterior modifications to the structure. A Livingston County building permit might also be required. Please contact the building department at (517) 546-3240 for their permit requirements.

ABSOLUTELY NO WORK IS TO CONTINUE UNTIL THE ORDER IS LIFTED!

LAND USE PERMITS are required for (1) the excavation, alteration (remodeling and repairs of structures) or filling of land; (2) the new use or change in use of land, except for the conduct of agricultural activity; (3) the new use or change in use of an existing building or structure. A Land Use Permit must be obtained from Hamburg Township before County building permits may be obtained.

VIOLATIONS ARE A NUISANCE. Buildings erected, altered, moved, razed or converted, or any use of land or premises carried on in violation of any provision of the Hamburg Township Zoning Ordinance are declared to be a nuisance per se. (Zoning Ordinance, Section 5.1.1).

CORRECTION PERIOD: A violation not corrected within the period stated shall be reported to the Township Attorney who shall initiate prosecution procedures. (Zoning Ordinance, Section 5.1.3).

PENALTIES AND REMEDIES FOR FAILURE TO COMPLY WITH THIS STOP WORK ORDER: Violation, disobedience, omission, neglect or refusal to comply with the Zoning Ordinance or any lawful order of the Zoning Administrator, Zoning Board of Appeals, Planning Commission or Township Board shall be responsible for a Class C municipal civil infraction (Zoning Ordinance, Section 5.2).

BLIGHT, BLIGHTING FACTORS, NUISANCES, ETC.: Hamburg Township General Ordinance No. 38 prohibits blighting, blighting factors and nuisances including, but not limited to, keeping, maintaining, accumulating or storage of junk, trash or litter, parts of machinery, automobiles, or other motorized vehicles, remnants of wood (other than cut and stacked firewood or construction materials), stoves, refrigerators, televisions, furniture, other appliances, scrap materials, broken glass, refuse, garbage, waste, dead animals, ashes, branches, leaves or yard clippings, and noxious materials, etc. This includes the throwing or depositing of any litter, debris or similar substance in any fountain, pond, lake, stream or other body of water, or any private property, whether occupied or vacant. For a complete list of prohibited actions and negligent conditions, see Ordinance 38.

RIGHT OF APPEAL: You are hereby notified that Section 6.6.1 of the Hamburg Township Zoning Ordinance gives you the right to appear before the Hamburg Township Zoning Board of Appeals for review of this matter. All work must cease until the Zoning Board of Appeals has reached a decision. The Zoning Board of Appeals "shall hear and decide appeals from and review any order, requirement, decision, or determination made in the administration of this Ordinance by the Zoning Administrator or Planning Commission." Contact the Township regarding information on filing an appeal.

PLEASE CONTACT THE ZONING ADMINISTRATOR IMMEDIATELY TO RESOLVE THIS MATTER.

THIS STOP WORK ORDER IS IN EFFECT UNTIL THE ZONING ADMINISTRATOR GIVES WRITTEN NOTICE LIFTING IT TO YOU.

Michael Sumeracki
Hamburg Township Code Enforcement Officer
(810) 222-1168
msumeracki@hamburg.mi.us

Amy Steffens, AICP
Hamburg Township Zoning Administrator
(810) 222-1167
asteffens@hamburg.mi.us

SCANNED

DATE: April 1, 2019

FOR OFFICE USE:

- Violation(s) corrected as of the date of _____. Inspected and approved by: _____
- Violation not corrected as required as of date of _____. Inspected by: _____
- Refer file to Township Attorney for further prosecution.
- Other action to be taken: _____

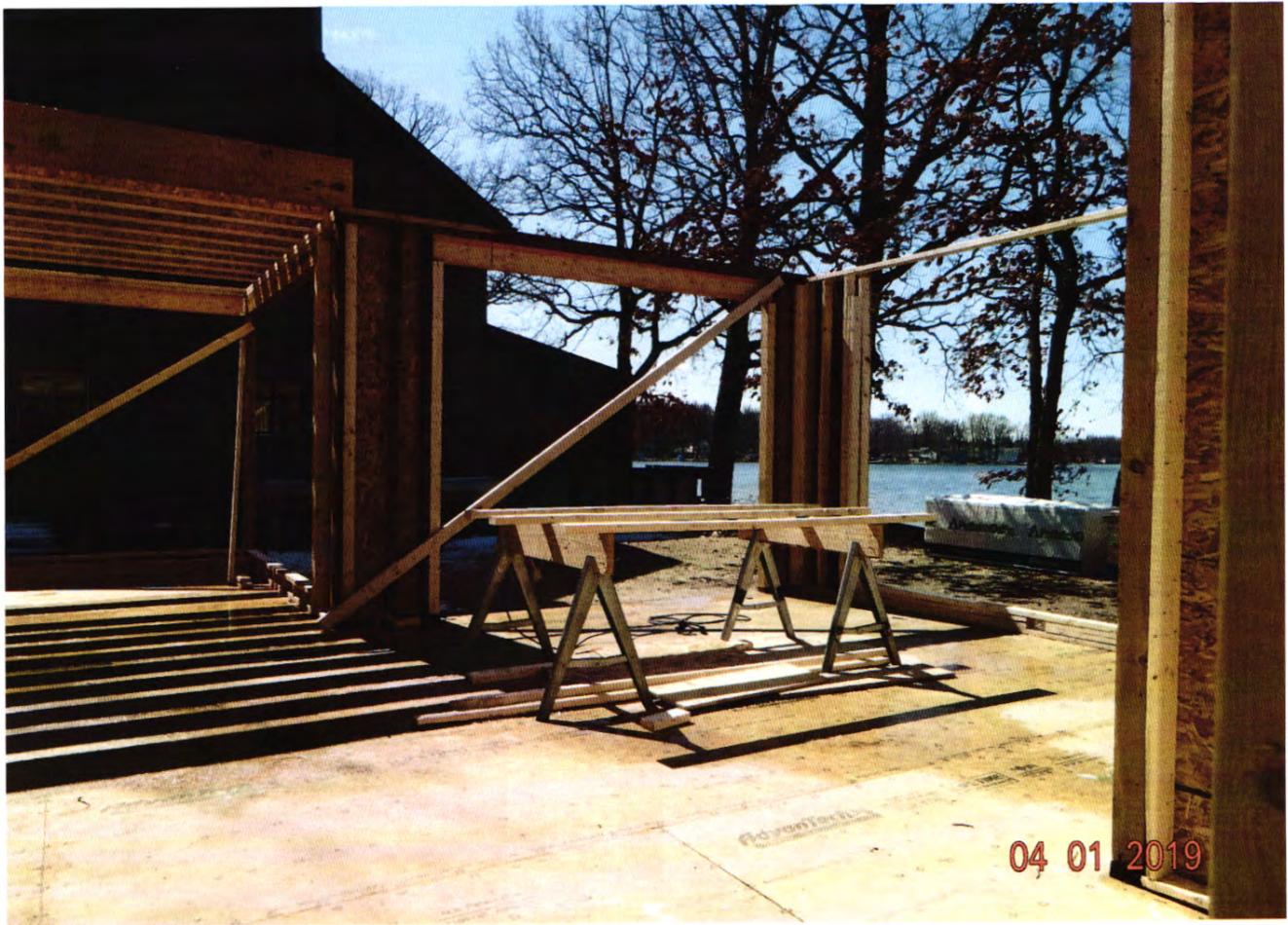
SCANNED



SCAMPT



04 01 2019



04 01 2019

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, April 10, 2019 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: Bohn, Neilson, Priebe, Rill & Watson,

Absent: Auxier

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

4. Correspondence: None

5. Approval of Agenda:

Motion by Neilson, supported by Watson

To approve the agenda as presented

Voice vote: Ayes: 5 Nays: 0 Absent: 0 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:

ZBA 2019-004

Applicant: James and Jennifer Gauntlett

Location: 2105 Cardinal Court Pinckney, MI 48169

Parcel ID: 15-31-302-020

Request: Variance application to allow for the demolition of an existing dwelling and construction of a new 1,440 square foot single family dwelling with an attached two-car garage. The dwelling will have a 24.1-foot south front yard setback along Cardinal Court and a 16-foot west front yard setback along Algonquin Drive (25-foot front yard setback required, Section 7.6.1.fn4) and a 15-foot north rear yard setback (30-foot rear yard setback required, Section 7.6.1.).

Mr. Bruce Donovan, Builder for the applicants, stated that for clarification, they are planning to leave the sub-floor and foundation and taking it up from there. Originally, when it was approved, the Board thought that it was

just the second floor and attached garage. He discussed the problems with adding 2x6 studs with the old 2x4 studs.

Brittney Stein, Zoning Coordinator, stated that the subject site is a 6,142-square foot lot that fronts onto Cardinal Court to the south; Algonquin Drive to the west, and single family dwellings are located to the north and east of the site. The existing dwelling has an 864 square foot footprint, and is one and a half story. Additionally, the site plan indicates an existing non-conforming shed in the rear yard. Stein stated that based on FEMA's Flood Insurance Rate Map (FIRM), a portion of the site lies within the 100- year floodplain and any development of this site would require an elevation certificate. If the location of the proposed addition and location of the new dwelling is found to be in the floodplain, the top of the bottom floor must be at least one-foot above the base flood elevation. We did receive a 2009 letter of map amendment from FEMA, but anything new removes that LOMA from the property. Since there is an addition to the house, we will need that elevation certificate.

Stein gave a brief history of the request. She stated that on October 10, 2018, a ZBA hearing for second story addition and two-story addition, including garage onto existing house was approved. In March 2019, the Contractor/Builder wanted to obtain a land use permit for the project, described as removing all walls of existing structure and rebuilding, therefore not meeting the approvals of the ZBA.

Stein discussed the Standards of Review. This site is a corner lot requiring the primary structure to have a front yard setback from both Cardinal Court and from Algonquin Drive. The setback requirements are intended to provide adequate space, open vistas, and privacy throughout neighborhoods and between structures on smaller residential lots. Development of a single family dwelling on this corner lot is constrained by the size of the lot which results in a small building envelope. The property cannot accommodate a compliant single family dwelling. Currently, the lot is improved with an 864-square foot one and half story dwelling with no garage. The site is a corner lot requiring a 25-foot front yard setback from both Cardinal Court and from Algonquin Drive. The proposed two-story dwelling which includes a garage does not meet the ordinance, however corner lots provide reduced side, front and rear yard setbacks to adequately accommodate a detached garage that does meet the standards of the zoning ordinance. Again, a detached garage would meet the ordinance. Having frontage on two sides of this lot, does constrain development possibilities for the single family dwelling. Therefore, the lot may not accommodate a conforming dwelling. The rear yard abuts a lot with only an accessory structure, and the closest neighbor to the west is across Algonquin Drive. A detached garage could have five-foot setbacks from the rear and east side property lines, which staff believes would be more impactful than what is proposed. The provision of a 15-foot rear yard setback for the proposed garage attached to the home might be less detrimental than a detached garage built with a 5-foot rear and side yard setback. The subject site is in the North Chain of Lakes planning area of the Master Plan. The proposed request would not adversely affect the proposed objectives of the Master Plan. There is a condition or situation of the subject site that is of so general or recurrent a nature that the proposed new dwelling cannot comply with the required front and rear setback standards. The surrounding dwellings have been constructed to comply with the required setbacks. The use of the site is single-family residential and the proposed variance would not change the use. Given the small size of the corner lot with double frontage, there is a practical difficulty in constructing a compliant dwelling.

Chairperson Priebe opened the hearing to the public. There was no response. The call was closed.

Chairperson Priebe asked for clarification that the shed would be removed. The applicant indicated that it would.

Motion by Bohn, supported by Watson

Motion to approve variance application ZBA 19-0004 at 2105 Cardinal Court to allow for the demolition of an existing dwelling and construction of a new 1,440 square foot single family dwelling with an attached two-car garage. The dwelling will have a 24.1-foot south front yard setback along Cardinal Court and a 16-foot west front yard setback along Algonquin Drive (25-foot front yard setback required, Section 7.6.1.fn4) and a 15-foot north rear yard setback (30-foot rear yard setback required, Section 7.6.1.). Approval is subject to removal of existing non-conforming shed or moving shed to meet Zoning

Ordinance requirements. 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 the meeting tonight and as presented in the staff report. In addition, the alternative of an attached garage versus a more impactful detached garage is creative and consistent with the ordinances. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

Voice vote: Ayes: 5 Nays: 0 Absent: 0 MOTION CARRIED

8. New/Old business

- a) Approval of March 13, 2019 minutes and memorialization of findings.

Motion by Bohn, supported by Neilson

To approve the March 13, 2019 minutes and memorialization of findings as written

Voice vote: Ayes: 5 Nays: 0 Absent: 0 MOTION CARRIED

- b) Approval of February 27, 2019 Special Joint Meeting minutes

Motion by Rill, supported by Watson

To approve the February 27, 2019 Special Joint Meeting minutes as written

Voice vote: Ayes: 5 Nays: 0 Absent: 0 MOTION CARRIED

Amy Steffens, Planning & Zoning Administrator stated that there will be five cases for the May 8th meeting.

Discussion was held on the basis for which a member of the ZBA can abstain from voting on a particular case. Steffens reminded the members that they should not have ex-parte communication with any of the applicants scheduled to appear before the Board.

9. Adjournment

Motion by Neilson, supported by Watson

To adjourn the meeting

Voice vote: Ayes: 5 Nays: 0 Absent: 0 MOTION CARRIED

The meeting was adjourned at 7:21 p.m.

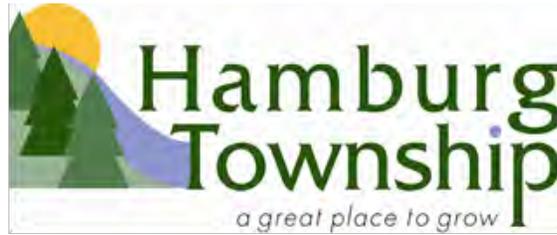
Respectfully submitted,

Julie C. Durkin
Recording Secretary

The minutes were approved as presented/Corrected: _____

Chairperson Priebe

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



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

**ZONING BOARD OF APPEALS
MEMORIALIZATION OF FINDINGS**

April 10, 2019

Approval of Variance 19-0004

PROJECT SITE: 2105 Cardinal Ct.
(TID 15-31-302-020)
AGENT: Bruce Donovan Construction
OWNER: James and Jennifer Gauntlett

PART I – PROJECT DESCRIPTION

Variance application to allow for the demolition of an existing dwelling and construction of a new 1,440 square foot single family dwelling with an attached two-car garage. The dwelling will have a 24.1-foot south front yard setback along Cardinal Court and a 16-foot west front yard setback along Algonquin Drive (25-foot front yard setback required, Section 7.6.1.fn4) and a 15-foot north rear yard setback (30-foot rear yard setback required, Section 7.6.1.).

PART II– FINDINGS FOR APPROVAL

The Zoning Board of Appeals approves the project described above because the Board finds that the project complies with the applicable standards of the township ordinance including the applicable variance standards as follows:

Variance Standards

- 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 new dwelling will be 1,440 square foot single family dwelling with an attached two-car garage with a 24.1-foot setback from Cardinal Court and a 16-foot setback from Algonquin Drive. Because of the small size of the subject corner lot, 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.

See analysis under standard number one.

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.

The provision of a 15-foot rear yard setback for the proposed garage attached to the home is less detrimental than a detached garage built with a 5-foot rear and side yard setback.

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 North Chain of Lakes planning area of the Master Plan. This area envisions medium density residential development in the developed areas around the chain of lakes. 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.

See analysis under standard number one.

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 permitted 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.

Given the small size of the corner lot with double frontage, there is a practical difficulty in constructing a compliant structure.

Approved by the Hamburg Township Zoning Board of Appeal at a regular meeting on April 10, 2019 by the following vote:

AYES:	BOARD MEMBERS:	Priebe, Watson, Neilson, Rill, Watson
NOES:	BOARD MEMBERS:	
ABSENT:	BOARD MEMBERS:	

MEMORANDUM

To: Zoning Board of Appeals Board Members
CC: Amy Steffens, Zoning Administrator; File;
From: Brittany Stein, Zoning Coordinator;
Date: May 8, 2019
Subject: ZBA 19-0002 Stephen and Crystal Shuster (15-07-300-071)

On March 13, 2019 the Zoning Board of Appeals considered the following request by Stephen and Crystal Shuster for a vacant property on Kice Drive.

Variance request to construct a 3,578-square foot dwelling with a 1,139-square foot attached garage. The dwelling will have a 27-foot setback from a regulated wetland and the garage will have a 45-foot setback from a regulated wetland (50-foot setback from a regulated wetland required, Section 9.9.3.B.).

On March 13, 2019 the ZBA tabled the variance request to allow the applicants time to revise their plans. Stephen and Crystal Shuster submitted plans that meet the Zoning Ordinance requirements and a land use permit was issued (PLUP 19-0131). The proposed home was relocated to the suggested location by staff, which was discussed at the March 13, 2019 ZBA hearing.

Sincerely,

Brittany Stein
Zoning Coordinator
Hamburg Township
bstein@hamburg.mi.us
(810) 231-1000 Ext: 230