

**SUPERIOR CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
3040 N. PROSPECT RD., YPSILANTI, MI 48198**

**TUESDAY
JULY 27, 2021
7:00 P.M.
AGENDA**

1. CALL TO ORDER
2. ROLL CALL
3. ADOPTION OF AGENDA
4. APPROVAL OF MINUTES
 - A. Approval of the September 16, 2020 minutes
5. CITIZEN PARTICIPATION
6. COMMUNICATIONS
 - A. Memo from applicant of ZBA #21-01 – 7155 Cherry Hill Road, request to withdraw application.
7. PUBLIC HEARINGS AND CONSIDERATION OF APPEALS
 - A. **ZBA #21-02 – 5728 Geddes Road Appeal**
Appeal of the decision of the Township Zoning Official
8. OLD BUSINESS
9. OTHER BUSINESS AS NECESSARY
 - A. ZBA Bylaws
 - B. Election of Officers for 2021
10. ADJOURNMENT

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SEPTEMBER 16, 2020
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1. CALL TO ORDER

The meeting of the Superior Charter Township Zoning Board of Appeals was called to order by Member Dail at 7:00 p.m.

2. ROLL CALL

The Zoning Board of Appeals members present were Dail, Deeds, Guenther, and Parm. Rick Mayernik, Building and Zoning Official, was also in attendance. A quorum was present.

3. ADOPTION OF AGENDA

A motion was made by Member Parm and supported by Member Deeds to adopt the agenda as presented. The motion carried by voice vote.

4. APPROVAL OF MINUTES

A motion was made by Member Guenther and supported by Member Parm to approve the minutes of June 25, 2019. The motion carried by voice vote.

5. CITIZEN PARTICIPATION

There was no Citizen Participation.

6. COMMUNICATIONS

None.

7. PUBLIC HEARINGS AND CONSIDERATION OF APPEALS

- A. ZBA #20-01 – Variance from Section 6.03(2)(b) (Accessory Structures and Uses) to allow for the construction of an accessory structure in the required front yard setback. The property is located at 7515 Plymouth Road and is zoned R2 (Single Family Residential).

Motion by Member Deeds and supported by Member Parm to open the public hearing.

Laura Garrity, 7493 Plymouth Road, voiced support of the shed location.

Mike Cianfrocco, 3925 Albert Road, stated that he has no problem with

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the proposed shed location. The applicant's property is unique and there really is not a good spot to put the shed.

Motion by Member Deeds and supported by Member Parm to close the public hearing.

Member Dail noted the applicant is requesting to put the shed within the fifty-foot setback, but not in the county road right-of-way.

Mr. Mayernik stated that was correct. He added that when you live on a corner lot both sides with road frontage are considered to be front yard setback.

Member Dail inquired about construction in the flood plain.

Mr. Mayernik replied that to construct in the flood plain the applicant would need a permit and construction would be such that water could flow through the structure; flood louvers for example. It would be complex and on this particular lot, the way the grade is, he is not sure it would be practical.

Member Guenther questioned whether this request for variance would meet all the standards of review.

Member Dail explained the applicant purchased the property after the property was delineated and the flood plain already existed. In his opinion, to build within the flood plain would require an unreasonable construction technique.

Member Dail reviewed the following five standards in Section 13.08B of the Zoning Ordinance.

1. Special conditions and circumstances exist that are unique to the land, structures, or buildings involved, and are not applicable to other lands, structures, or buildings in the same district, subject to the following:
 - a. The existence of nonconforming dwellings, lots of record, structures, uses, or sites on neighboring lands in the same zoning district or other zoning districts shall not be considered grounds for a variance.

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- b. The special conditions and circumstances on which the variance request is based do not result from the actions of the applicant.
- 2. Literal interpretation of this Ordinance would deprive the applicant of rights commonly enjoyed by other property owners in the same district under the terms of this Ordinance.
- 3. Granting the variance requested would not confer upon the applicant any special privilege that is denied by the Ordinance to other lands, structures, or buildings in the same district.
- 4. A variance granted shall be the minimum that will make possible a reasonable use of the land, building, or structure. The Board of Appeals may consider lesser variances than that requested by an applicant.
- 5. The variance granted shall be in harmony with the intent of this Ordinance and will not be injurious to the environment, neighborhood, or otherwise detrimental to the public interest.

Members Dail and Guenther concluded that due to existing conditions, a precedence would not be set by approving the variance.

Member Deeds agreed every outcome is unique and this would not set a precedence.

Member Dail explained that because this storage shed is less than 200 square feet a building permit is not required.

Motion by Member Deeds, supported by Member Parm, to approve ZBA #20-01, granting a variance from Section 6.03(2)(b) (Accessory Structures and Uses) to allow for the construction of an accessory structure in the required front yard setback.

Roll Call Vote:

Yes:	Dail, Deeds, Guenther, Parm.
No:	None.
Absent:	Heningburg, Lewis.
Abstain:	None.

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The Motion Carried.

8. OLD BUSINESS

None.

9. OTHER BUSINESS AS NECESSARY

A. Election of Officers for 2020

Motion by Member Dail, supported by Member Parm to wait until the seventh member of the Zoning Board of Appeals is appointed to vote for officers.

The Motion Carried.

10. ADJOURNMENT

A motion was made by Member Parm and supported by Member Guenther to adjourn the meeting at 7:54 p.m.

Respectfully submitted,

Doug Dail, Vice-Chairman Zoning Board of Appeals

Laura Bennett, Recording Secretary Superior Charter Township
3040 N. Prospect, Ypsilanti, MI 48198

Laura Bennett

From: Michael Klement <mklement@architecturalresource.com>
Sent: Thursday, July 15, 2021 9:31 PM
To: Laura Bennett; Angie Genthe; Bruce Genthe; Mike Clark; Klement Michael; dbabcock@architecturalresource.com
Subject: Re: Superior Township Zoning Board of Appeals 7/27/2021

Laura,

Thanks so much for looking into this for us. Considering the 180/360 day time limit requirement, our clients would like to recend their application for a Zoning Variance and request the partial refund that you had so graciously offered.

Let us know if you need anything else from us to formally withdraw our application.

Best,

Michael

Michael R. Klement AIA,
CPHC, NCARB, AIBD, CPBD, CAPS, CGP, GCP

Dale Babcock, CPHC
Project Designer

Architectural Resource, LLC
Celebrating 30 Years of Inspired Design

ph/fx 734.769.9784
2301 Platt Road, Suite 30
Ann Arbor, MI 48104 USA
mklement@architecturalresource.com
www.architecturalresource.com

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On Wed, Jul 14, 2021 at 10:28 AM Laura Bennett <planning@superior-twp.org> wrote:

MEMO

DATE: July 19, 2021

TO: Superior Township Zoning Board of Appeals

FROM: Richard Mayernik, Building/Zoning Official

RE: 5728 Geddes Road – Boardwalk Building Permit Appeal



Matthew Schuster and Alyssa Cairo thru their attorneys (Maddin, Hauser, Roth & Heller, P.C.) have made an appeal seeking reversal of the Superior Township's Building Departments final approval of Building Permit PB20-0199. The appeal application makes allegations which I will address in this memo however, it is my opinion that the Township's Zoning Board of Appeals has no jurisdiction in this matter. Building permits are issued and inspected under the authority of the Stille-Derossett-Hale Single State Construction Code Act (Act 230 of 1972) and are not under the authority of the Zoning Board of Appeals. Additionally, I find no authority in Section 13.04 (Powers and Duties) of the Township Zoning Ordinance that would authorize the ZBA to overturn the decision of the Building Official relating to Building Department construction materials or methods. The Township's attorney (Fred Lucas) has contacted the applicant's attorney by phone and advised them of the same. Nonetheless, this appeal is before you this evening for your consideration.

The applicant alleges the boardwalk "...*must be constructed to the specifications as outlined in the EGLE Permit...*". While the building permit references the EGLE permit, it was included in the permit description as a reference only. Separate boardwalk drawings were submitted by the contractor (Snyder Contracting, LLC) and those plans were approved for construction by the Building Department. I have no knowledge of any EGLE objections to the post sizes or other boardwalk construction methods. In my opinion, EGLE's review and approval of the permit was based on their evaluation of the limited wetlands disturbance that would occur with the installation of posts and not on any structural evaluation of 6x6 posts versus 4x4 posts.

The applicant alleges "*The posts do not appear to be set at a depth of 4 feet and they are not encased in concrete but instead are set directly in the mud...*" The minimum footing depth in our area is 42" based on frost depth. Footing inspections were performed by the Township building inspector prior to posts being set. The posts were set on a concrete base per the approved building department drawings (indicating 42" deep footings) and were not completely encased in concrete as shown on the EGLE drawings. Additionally, Section R403.1.4.1 (exception #3) of the Michigan Residential Code indicates "*Decks not supported by a dwelling need not be provided with footings that extend below the frost line.*"

The applicant alleges "*The boardwalk does not include joist hangers.*" This is false.... joist hangers were installed.

The applicant alleges "*The boardwalk was constructed with interior screws that are not appropriate for outdoor use.*" This is false. The screws use are RSS Rugged Structural Screws by GRK Fasteners. These screws are approved for structural applications, outdoor use, and use with treated lumber.

The applicant alleges "*No cross bracing has been installed.*" and that "*Portions of the structure shake easily.*" After the deck construction was approved by the building inspector, I reinspected the boardwalk with the contractor based on the applicants' complaints. I did find that a landing area of the boardwalk did exhibit some movement and required the contractor to cross brace that area along with some other minor corrections.

Included in the appeal, the applicant included information relating to his appeal of the Township's issuance of the Wetland Permit. The applicant failed to indicate that the Wetlands Board heard this appeal and upheld my decision to issue the permit.

The applicant included an affidavit from Clif Seiber, P.E. relating to his site visit on March 20, 2021. This visit occurred prior to completion of the boardwalk and prior to the final building inspection which occurred on April 9, 2021.

In conclusion, it is my opinion that the applicants allegations are almost all without merit and further, that the ZBA has no authority in these matters.

June 8, 2021

VIA EMAIL ONLY AND FEDERAL EXPRESS

Superior Township Zoning Board of Appeals
3040 North Prospect
Ypsilanti, MI 48198

RE: 5728 Geddes Road – Boardwalk Building Permit Appeal

Dear Board Members:

As described in the enclosed Zoning Board of Appeals Application and pursuant to Section 13.06(1) of the Superior Township Zoning Ordinance, this letter and application serves as an appeal of the April 9, 2021 final inspection and approval of the boardwalk on or around 5728 Geddes Road, Ann Arbor (the “Property”) that is owned by the Moulieres (**Exhibit 1**, 4.9.21 Inspection Notice).

This appeal is filed on behalf of Matthew Schuster and Alyssa Cairo (the “Schusters”) who own and occupy the adjacent real property and improvements located at 5766 Geddes Road, Ann Arbor (the “Schuster Property”). By way of background, the Schuster Property benefits from a 30-foot-wide pedestrian easement (the “Pedestrian Easement”) which benefits the Schuster Property, encumbers the Moulieres’ Property, and provides “for a pathway of up to 8 feet in width to provide pedestrian access to the Huron River.” On May 12, 2020, without the consent of, the Moulieres purported to relocate the Pedestrian Easement from its then-existing location to the far eastern boundary of the Moulieres’ Property. Because of the new location across wetlands, the Moulieres obtained a permit from EGLE (further described below), and constructed a boardwalk along the new easement location for the Schusters to use and as a purported substitute for the previously-existing pedestrian easement. The Township gave final approval of the Moulieres’ construction of the boardwalk, and the Schusters appeal from that decision and seek its reversal.

Because the Schusters are adjacent property owners and have express easement rights in the Property and the boardwalk at issue, they have the right to bring this appeal pursuant to Section 13.06 of the Ordinance as they are each a “person . . . aggrieved by the order, requirement, decision or determination; or by an officer, department, board, commission or bureau of the Township, county, state, or federal governments.”

Per the Superior Charter Township Building Permit No. PB20-0199 (“Building Permit”) (**Exhibit 2**, Building Permit) and Superior Charter Township Wetlands Permit No. PW20-0003 (**Exhibit 3**, Wetlands Permit) (“Wetlands Permit” collectively the “Permits”) issued on November 23, 2020, the boardwalk on the east side of the Property must be constructed to the specifications as outlined in the EGLE Permit – WRP023919 v1.2 (“EGLE Permit”) (**Exhibit 4**, EGLE Permit). Not only has the boardwalk not been constructed in accordance with the EGLE Permit, but there are numerous safety concerns that should have prevented final approval of the boardwalk. Most importantly, the soils are not capable of supporting foot traffic, which should preclude the relocation of the boardwalk in its entirety. Further, the boardwalk was not constructed in compliance with the Atwell specifications, which clearly show that the second boardwalk section must extend to the water’s edge. Instead the area to the end of the boardwalk was merely cleared and added with fill, which indicate the anticipation of ground travel over the wetland, despite there being no approval for such action.

Civil Engineer Clif Seiber, C.P.E., who was retained by the Schusters, performed a site visit of the Property on March 20, 2021 and further identified how the boardwalk failed to comply with the EGLE Permit. (**Exhibit 5**, Seiber Affidavit). Mr. Seiber identified several deviations and non-conformities in the boardwalk design and construction including:

- The boardwalk is constructed with 4x4 posts, while the EGLE Permit requires 6x6 posts, as evidenced by the Atwell Engineering plan dated August 6, 2020 and attached to the EGLE Permit.
- The posts do not appear to be set at a depth of 4 feet and they are not encased in concrete but instead are set directly in the mud in violation of the EGLE Permit.
- The boardwalk does not include joist hangers.
- The boardwalk was constructed with interior screws that are not appropriate for outdoor use.
- No cross-bracing has been installed.
- Portions of the structure shake easily. There is significant likelihood that the boardwalk is not adequately supported and will sink into the wetland to the point of not being safely traversable within the next few years.

For the reasons discussed herein, the Board of Appeals must reverse the final approval of the Building Permit pursuant to Section 13.06 (6) because the decision to issue the final approval was an abuse of discretion, was arbitrary or capricious, was based upon an erroneous finding of a material fact and/or an erroneous interpretation of the Zoning Ordinance. Enclosed are ten (10) copies of the exhibits discussed herein along with a copy of the Zoning Board of Appeals Application. If you have any further questions or concerns, please feel free to contact me.

Very truly yours,

Maddin, Hauser, Roth & Heller, P.C.

Michelle C. Harrell

Michelle C. Harrell

Enclosures

ecc: Matthew and Alyssa Cairo Schuster
W. Daniel Troyka, Esq.

ZONING BOARD OF APPEALS APPLICATION

(This application must be typewritten or printed. All questions must be answered.)

Request is hereby made for one of the following:

☐ Variance from the requirements of the following Zoning Ordinance
Section(s): _____

☒ Appeal of the decision of the Township Zoning Official

APPLICANT INFORMATION

Name Matthew Schuster and Alyssa Cairo

Address 5766 Geddes Road, Ann Arbor, MI 48104

Phone Number (248) 790-5650 Email mattaschuster@yahoo.com

Is the property owned by the applicant? ☐ YES ☒ NO

If "NO", what is the applicant's interest in the property? Easement Holder/Neighbor

Name, address and telephone number of owner(s): Jean-Marie & Ingrid Mouliere
2107 Hill Street, Ann Arbor, MI 48197; (734) 545-4840

DESCRIPTION OF THE PROPERTY

Address 5728 Geddes Road, Ann Arbor, MI 48105

Parcel ID# J-10-30-400-061 Parcel size 4.66 acres

Size of the proposed building or addition, if any N/A

Use of existing building (if any) and property No building on site, a boardwalk is being constructed

Zoning classification of property R-1

If a new building is proposed, has the Building Inspection department examined the plans for the proposed building? ☐ YES ☒ NO

Has the department refused a permit? ☐ YES ☒ NO

Has there been any previous land use application involving this property? ☒ YES ☐ NO

If "YES", state the date of filing, the character of appeal and the disposition.

On 11/27/20 an appeal of the issuance of a wetland permit for 5728 Geddes was processed. That appeal was denied on 1/20/21.

DESCRIBE THE REASONS FOR YOUR APPEAL

Note: The Zoning Board of Appeals is required to use the standards listed in Section 13.08(B) of the Zoning Ordinance when considering an appeal. It is recommended that applicants review these standards and consider them in preparing a description of why the variance is needed. A copy of the standards is attached to the application.

Please see attached.

YOU MAY WISH TO ASK YOUR NEIGHBORS TO SIGN THE FOLLOWING SECTION IF THEY HAVE NO OBJECTION TO THE APPEAL YOU ARE MAKING.

We the undersigned, as owners of property any part of which is located within 300 feet of any part of the property involved in this appeal, have no objections to the granting of the request made in this appeal:

NAME (PLEASE PRINT)

SIGNATURE

STREET ADDRESS

INFORMATION REQUIRED TO BE SUBMITTED WITH APPEAL

The following must attached and submitted with the application:

- Ten (10) sets of drawings, all on sheets 8 ½ inches by 11 inches or 8 ½ inches by 14 inches, drawn to scale and showing all measurements, features and structures, including the general location of all natural features on the property, measurements to show distances between structures, measurements between structures and property lines, measurements for lot width and lot area, and height of structures. Rights-of-way and easements must also be shown.
- A letter of authority, or power of attorney, in the event the appeal is being made by a person other than the actual owner of the property.
- A complete legal description of the premises (as stated on the property deed or property tax bill.)

APPLICANT'S DEPOSITION – Must be completed by applicant.

I hereby state that all of the statements and information contained in this application and the supporting documents herewith are true and correct.

Signature of applicant *Matthew S. Smith* Date 6/8/21

NOTARY PUBLIC – Applicant's signature must be notarized.

Sworn to before me this 8th day of June 20 21

My commission expires May 24, 2022
(Notary Public, Washtenaw County, Michigan)

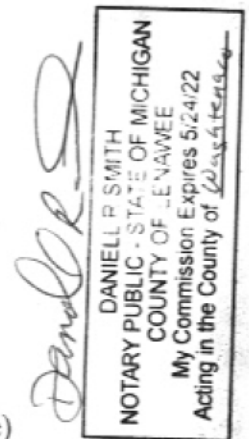
Acting in Washtenaw County

To be filled in by Township Clerk (or designated Township Officer/Personnel)

I hereby state that this petition was properly received and filed on _____ (date)

Signature of Clerk (or designee)

Fee paid _____



Notice to Applicants for the Zoning Board of Appeals

Filing Applications

You must call and schedule an appointment with the Township Zoning Official Richard Mayernik to file an application. He may be reached at the Township Office at (734) 482-6099.

Meeting Schedule

The Zoning Board of Appeals does not have a regular meeting schedule. Meetings are called whenever there is an application for a variance. Because variance requests require a public hearing, it generally takes four (4) weeks from the date an application is received until a meeting of Zoning Board of Appeals can be held. This time is needed to schedule the meeting date and to mail out notices of the public hearing.

Reasons for the Appeal

The Zoning Board of Appeals is required to use the standards listed in Section 13.08 of the Zoning Ordinance when considering the appeals. It is recommended that applicants review these standards and consider them in preparing a description of why the variance is needed.

Site Visits

Filing an application gives the implied consent for Township officials and/or consultants to visit the subject site.


Application Fees

An application fee must be paid when you file your application. The fees are as follows:

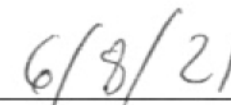
1. Appeals brought by the owner of a single-family dwelling for a variance from density and height regulations of the Zoning Ordinance = **\$175.00**
2. Any other appeal = **\$500.00**

Applicant's Acknowledgement

I hereby acknowledge that I have read and agree to the above and that I have been given a copy of this notice.



Signature



Date

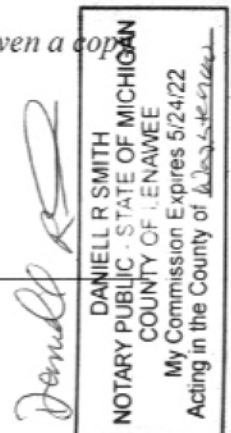


EXHIBIT 1

A.M.

P.M.

CHARTER TOWNSHIP OF SUPERIOR
3040 N. Prospect
Ypsilanti, MI 48198
1-734-482-6099

Date
Requested

Date
Wanted

4/9/21

INSPECTION NOTICE

Permit
Holder

Permit
Number

PR20-0199

Job
Address

5723 Genes

TYPE OF INSPECTION:

- | | | | |
|---|---|-------------------------------------|---------------------------------------|
| <input type="checkbox"/> Footing | <input type="checkbox"/> Temp. Svc. | <input type="checkbox"/> Water | <input type="checkbox"/> U.G. Mech. |
| <input type="checkbox"/> Backfill | <input type="checkbox"/> Perm. Svc. | <input type="checkbox"/> Sewer | <input type="checkbox"/> Rough Mech. |
| <input type="checkbox"/> Floor Slab | <input type="checkbox"/> U.G. Electric | <input type="checkbox"/> U.G. Plb. | <input type="checkbox"/> Fireplace |
| <input type="checkbox"/> Rough Frame | <input type="checkbox"/> Rough Electric | <input type="checkbox"/> Rough Plb. | <input type="checkbox"/> Gas. P. Test |
| <input type="checkbox"/> Open Ceiling | <input type="checkbox"/> Final Electric | <input type="checkbox"/> Med. Gas | <input type="checkbox"/> Final Mech. |
| <input type="checkbox"/> Insulation | | <input type="checkbox"/> Final Plb. | |
| <input type="checkbox"/> Brick Flashing | | | |
| <input type="checkbox"/> Final Building | | | |



APPROVED



NOT
APPROVED

INSPECTOR

DATE

4/9/21

EXHIBIT 2

SUPERIOR CHARTER TOWNSHIP**Building Permit No: PB20-0199**

Building and Zoning Department

3040 North Prospect

Ypsilanti, Michigan 48198

Phone: (734) 482-6099

Fax: (734) 482-3842

Hours: Monday-Friday 8:30 am - 4:30 pm

5728 GEDDES RD

Location

J -10-30-400-061

MOULIERE JEAN-MARIE L & INGRID D

Owner

2107 HILL ST

ANN ARBOR

MI

48104

Issued: 11/23/20***PLEASE CALL (734) 482-6099 FOR AN
INSPECTION 24 HOURS IN ADVANCE.***

Snyder Contracting LLC

Contractor

8650 Huron River Dr

Dexter

MI

48130

Work Description: Construct stairs and boardwalk at east side of property. Stairs and boardwalk to maintain minimum 20 foot setback from east property line. EGLE Permit - WRP023919 v1.2

Permit Item	Work Type	No. of Items	Item Total
Permit Fee	Standard Item	1.00	\$100.00

Richard Mayernik - Building Official**Fee Total: \$100.00**

I agree this permit is only for the work described, and does not grant permission for additional or related work which requires separate permits. I understand that this permit will expire, and become null and void if work is not started within 180 days, or if work is suspended or abandoned for a period of 180 days at any time after work has commenced; and, that I am responsible for assuring all required inspections are requested in conformance with the applicable code. I hereby certify that the proposed work is authorized by the owner, and that I am authorized by the owner to make this application as his authorized agent. I agree to conform to all applicable laws of the State of Michigan and the local jurisdiction. All information on the permit application is accurate to the best of my knowledge.

Payment of permit fee constitutes acceptance of the above terms.

EXHIBIT 3

SUPERIOR CHARTER TOWNSHIP**Wetlands Permit No: PW20-0003**

Building and Zoning Department

3040 North Prospect

Ypsilanti, Michigan 48198

Phone: (734) 482-6099

Fax: (734) 482-3842

Hours: Monday-Friday 8:30 am - 4:30 pm

5728 GEDDES RD

Location

J -10-30-400-061

MOULIERE JEAN-MARIE L & INGRID D

Owner

2107 HILL ST

ANN ARBOR

MI

48104

Issued: 11/23/20***PLEASE CALL (734) 482-6099 FOR AN
INSPECTION 24 HOURS IN ADVANCE.***

Contractor

Work Description: Construct a stair and boardwalk in wetland at the east side of the property as per EGLE Permit #WRP023919 v1.2

Permit Item	Work Type	No. of Items	Item Total
Administrative Fee	Administrative Fee	1.00	\$0.00

Richard Mayernik - Building Official**Fee Total: \$0.00**

I agree this permit is only for the work described, and does not grant permission for additional or related work which requires separate permits. I understand that this permit will expire, and become null and void if work is not started within 180 days, or if work is suspended or abandoned for a period of 180 days at any time after work has commenced; and, that I am responsible for assuring all required inspections are requested in conformance with the applicable code. I hereby certify that the proposed work is authorized by the owner, and that I am authorized by the owner to make this application as his authorized agent. I agree to conform to all applicable laws of the State of Michigan and the local jurisdiction. All information on the permit application is accurate to the best of my knowledge.

Payment of permit fee constitutes acceptance of the above terms.

EXHIBIT 4



**MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY
WATER RESOURCES DIVISION
PERMIT**

Issued To:

**Jean-Marie Mouliere
5123 Buckley Drive
Ypsilanti, Michigan 48197**

**Permit No: WRP023919 v1.2
Submission No.: HP2-BCP8-1P3FW
Site Name: 81-5728 Geddes Road-Ann Arbor
Issued: July 31, 2020
Revised: September 29, 2020
Expires: July 31, 2025**

This permit is being issued by the Michigan Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division, under the provisions of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA); specifically:

- | | |
|---|--|
| <input type="checkbox"/> Part 301, Inland Lakes and Streams | <input type="checkbox"/> Part 323, Shorelands Protection and Management |
| <input checked="" type="checkbox"/> Part 303, Wetlands Protection | <input type="checkbox"/> Part 325, Great Lakes Submerged Lands |
| <input type="checkbox"/> Part 315, Dam Safety | <input type="checkbox"/> Part 353, Sand Dunes Protection and Management |
| <input type="checkbox"/> Part 31, Water Resources Protection (Floodplain Regulatory Authority) | |

Permission is hereby granted, based on permittee assurance of adherence to State of Michigan requirements and permit conditions, to:

Authorized Activity:

Construct a permanent 8-foot-wide by 105-foot-long, elevated, open pile boardwalk in wetland.

All work shall be completed in accordance with the attached approved plans and the specifications of this permit.

**Waterbody Affected: wetland
Property Location: Washtenaw County, Superior Township, Town 02S, Range 07E, Section 30,
Property Tax No. J-10-30-400-061**

Authority granted by this permit is subject to the following limitations:

- A. Initiation of any work on the permitted project confirms the permittee's acceptance and agreement to comply with all terms and conditions of this permit.**
- B. The permittee, in exercising the authority granted by this permit, shall not cause unlawful pollution as defined by Part 31 of the NREPA.**

**EGLE-WRD
WRP023919 v1.2
Approved
Issued On:07/31/2020
Expires On:07/31/2025**

- C. This permit shall be kept at the site of the work and available for inspection at all times during the duration of the project or until its date of expiration.
- D. All work shall be completed in accordance with the approved plans and specifications submitted with the application and/or plans and specifications attached to this permit.
- E. No attempt shall be made by the permittee to forbid the full and free use by the public of public waters at or adjacent to the structure or work approved.
- F. It is made a requirement of this permit that the permittee give notice to public utilities in accordance with 2013 PA 174 (Act 174) and comply with each of the requirements of Act 174.
- G. This permit does not convey property rights in either real estate or material, nor does it authorize any injury to private property or invasion of public or private rights, nor does it waive the necessity of seeking federal assent, all local permits, or complying with other state statutes.
- H. This permit does not prejudice or limit the right of a riparian owner or other person to institute proceedings in any circuit court of this state when necessary to protect his rights.
- I. Permittee shall notify EGLE within one week after the completion of the activity authorized by this permit by completing and forwarding the attached preaddressed postcard to the office addressed thereon.
- J. This permit shall not be assigned or transferred without the written approval of EGLE.
- K. Failure to comply with conditions of this permit may subject the permittee to revocation of permit and criminal and/or civil action as cited by the specific state act, federal act, and/or rule under which this permit is granted.
- L. All dredged or excavated materials shall be disposed of in an upland site (outside of floodplains, unless exempt under Part 31 of the NREPA, and wetlands).
- M. In issuing this permit, EGLE has relied on the information and data that the permittee has provided in connection with the submitted application for permit. If, subsequent to the issuance of a permit, such information and data prove to be false, incomplete, or inaccurate, EGLE may modify, revoke, or suspend the permit, in whole or in part, in accordance with the new information.
- N. The permittee shall indemnify and hold harmless the State of Michigan and its departments, agencies, officials, employees, agents, and representatives for any and all claims or causes of action arising from acts or omissions of the permittee, or employees, agents, or representative of the permittee, undertaken in connection with this permit. The permittee's obligation to indemnify the State of Michigan applies only if the state: (1) provides the permittee or its designated representative written notice of the claim or cause of action within 30 days after it is received by the state, and (2) consents to the permittee's participation in the proceeding on the claim or cause of action. It does not apply to contested case proceedings under the Administrative Procedures Act, 1969 PA 306, as amended, challenging the permit. This permit shall not be construed as an indemnity by the State of Michigan for the benefit of the permittee or any other person.
- O. Noncompliance with these terms and conditions and/or the initiation of other regulated activities not specifically authorized shall be cause for the modification, suspension, or revocation of this permit, in whole or in part. Further, EGLE may initiate criminal and/or civil proceedings as may be deemed necessary to correct project deficiencies, protect natural resource values, and secure compliance with statutes.
- P. If any change or deviation from the permitted activity becomes necessary, the permittee shall request, in writing, a revision of the permitted activity from EGLE. Such revision request shall include complete documentation supporting the modification and revised plans detailing the proposed modification. Proposed modifications must be approved, in writing, by EGLE prior to being implemented.
- Q. This permit may be transferred to another person upon written approval of EGLE. The permittee must submit a written request to EGLE to transfer the permit to the new owner. The new owner must also submit a written request to EGLE to accept transfer. The new owner must agree, in writing, to accept all conditions of the permit. A single letter signed by both parties that includes all the above information may be provided to EGLE. EGLE will review the request and, if approved, will provide written notification to the new owner.
- R. Prior to initiating permitted construction, the permittee is required to provide a copy of the permit to the contractor(s) for review. The property owner, contractor(s), and any agent involved in exercising the permit are held responsible to ensure that the project is constructed in accordance with all drawings and specifications. The contractor is required to provide a copy of the permit to all subcontractors doing work authorized by the permit.

- S. Construction must be undertaken and completed during the dry period of the wetland. If the area does not dry out, construction shall be done on equipment mats to prevent compaction of the soil.
- T. Authority granted by this permit does not waive permit requirements under Part 91, Soil Erosion and Sedimentation Control, of the NREPA, or the need to acquire applicable permits from the County Enforcing Agent (CEA).
- U. Authority granted by this permit does not waive permit requirements under the authority of Part 305, Natural Rivers, of the NREPA. A Natural Rivers Zoning Permit may be required for construction, land alteration, streambank stabilization, or vegetation removal along or near a natural river.
- V. The permittee is cautioned that grade changes resulting in increased runoff onto adjacent property is subject to civil damage litigation.
- W. Unless specifically stated in this permit, construction pads, haul roads, temporary structures, or other structural appurtenances to be placed in a wetland or on bottomland of the water body are not authorized and shall not be constructed unless authorized by a separate permit or permit revision granted in accordance with the applicable law.
- X. For projects with potential impacts to fish spawning or migration, no work shall occur within fish spawning or migration timelines (i.e., windows) unless otherwise approved in writing by the Michigan Department of Natural Resources, Fisheries Division.
- Y. Work to be done under authority of this permit is further subject to the following special instructions and specifications:
 - 1. Authority granted by this permit does not waive permit or program requirements under Part 91, Soil Erosion and Sedimentation Control, of the NREPA or the need to acquire applicable permits from the CEA. To locate the Soil Erosion Program Administrator for your county, visit www.mi.gov/degstormwater and select "Soil Erosion and Sedimentation Control Program" under "Related Links."
 - 2. Prior to the start of construction, all adjacent non-work wetland areas shall be protected by properly trenched sedimentation barrier to prevent sediment from entering the wetland. Orange construction fencing shall be installed as needed to prohibit construction personnel and equipment from entering or performing work in these areas. Fence shall be maintained daily throughout the construction process. Upon project completion, the accumulated materials shall be removed and disposed of at an upland site, the sedimentation barrier shall then be removed in its entirety and the area restored to its original configuration and cover.
 - 3. Additional attachments to permitted structures, including but not limited to roofs, sidewalls, benches, decks, docks, piers, or extensions thereof, are **not** authorized by this permit.
 - 4. Dredging is not authorized by this permit.
 - 5. Filling is not authorized by this permit.
 - 6. No fill, excess soil, or other material shall be placed in any wetland, floodplain, or surface water area not specifically authorized by this permit, its plans, and specifications.
 - 7. The following federally threatened or endangered species are known to occur on or near this project site and may be impacted by your activities: Eastern Massasauga Rattlesnake (EMR) (*Sistrurus catenatus*) and Indiana Bat (*Myotis sodalists*). Please be advised that any activity that would cause harm to these species may require a federal permit under the Endangered Species Act or other federal regulations. The permittee shall continue Endangered Species Act Consultation with the U.S. Fish and Wildlife Service, 2651 Coolidge Road, East Lansing, Michigan 48829.

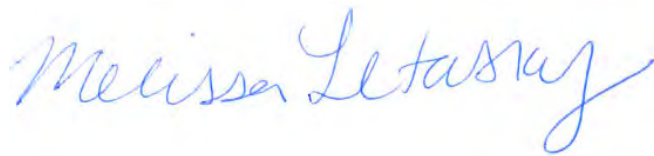
Indiana Bat

8. To avoid take of Indiana Bat, any trees larger than five (5) inches dbh on the project site shall not be cut between April 1 and September 30 in any permit year.

Eastern Massasauga Rattlesnake

9. When working during the EMR active season (generally April 15 through October 15), exclusionary fencing shall be used to separate EMR habitat from the work site to prevent EMR from accessing the disturbance area.
10. Any areas using exclusionary fencing shall first be “cleared” by a qualified individual before beginning construction activities. Fencing shall be installed a minimum of one (1) day before construction activities occur and walked weekly to ensure the integrity of the fence. If snakes are seen within the work zone, activity shall stop until the snake can be safely moved by a qualified individual, and the fence examined for breeches.
11. Fencing materials that can entangle or injure snakes shall not be used for exclusionary fencing.
12. When working during the EMR inactive season, protentional hibernation areas shall be avoided to the extent possible.
13. Exclusionary fencing is not necessary if the work can be conducted entirely within the inactive season.
14. Water levels in known/presumed occupied habitats shall not be artificially manipulated during the inactive season.
15. Wildlife-safe materials shall be used for erosion control and site restoration throughout the project area. Erosion control products containing plastic mesh netting or other similar material that could entangle EMR shall not be used.
16. Best management practices shall be used to prevent the spread of invasive species into EMR habitat. Equipment and vehicles shall be inspected and cleaned between work sites as needed to prevent the spread of invasive plant materials.
17. All imported fill material shall be free from contaminants or invasive species. Exclusionary fencing shall be used around areas to be filled and must be inspected for EMR by a qualified individual prior to placing fill.
18. Vehicle activity shall be minimized in known/presumed occupied EMR habitat to the extent possible. When feasible, vehicle activity will be limited to after mid-October but before mid-April. After mid-April and before mid-October, travel speeds will be reduced to give vehicle operators adequate time to identify and avoid EMR and other wildlife. Speeds should be below 15 MPH.
19. To increase human safety and awareness of EMR, those implementing the project should first watch Michigan Department of Natural Resources “60-Second Snakes: The Eastern Massasauga Rattlesnake” video (available at https://youtu.be/~PFnXe_e02w), or review the EMR factsheet (available at <https://www.fws.gov/midwest/endangered/reptiles/eama/pdf/EMRfactsheetSep2016.pdf>), or call 517-351-2555.
20. Any EMR observations, or observation of any other listed threatened or endangered species, during project implementations shall be reported to the USFWS within 24 hours.

21. All disturbed habitat areas shall be restored with appropriate, native plant species.
22. Upon completion of the project, the exclusionary fencing shall be removed.
23. The authority to conduct the activity as authorized by this permit is granted solely under the provisions of the governing act as identified above. This permit does not convey, provide, or otherwise imply approval of any other governing act, ordinance, or regulation, nor does it waive the permittee's obligation to acquire any local, county, state, or federal approval or authorization necessary to conduct the activity.
24. This permit does not authorize or sanction work that has been completed in violation of applicable federal, state, or local statutes.
25. The permit placard shall be kept posted at the work site in a prominent location at all times for the duration of the project or until permit expiration.
26. This permit is being issued for the maximum time allowed and no extensions of this permit will be granted. Initiation of the construction work authorized by this permit indicates the permittee's acceptance of this condition. The permit, when signed by EGLE, will be for a five-year period beginning on the date of issuance. If the project is not completed by the expiration date, a new permit must be sought.



Issued By: _____

Melissa Letosky
Jackson District Office
Water Resources Division
517-416-7001

cc: Superior Township Clerk
Washtenaw County SESC
Mr. Don Berninger, Atwell, LLC
Mr. Chris Kunkle, Atwell, LLC

MEADOWLARK
3250 W. LIBERTY ROAD
ANN ARBOR, MI 48103
ATTN: REBECCA LUSSIER

ATWELL, LLC
TWO TOWNE SQUARE, SUITE 700
SOUTHFIELD, MI 48076
PHONE: 248.447.2000
FAX: 248.447.2001
ATTN: BOURKE THOMAS

EGLI IMPACT PLANS



ELEVATIONS ARE BASED ON THE NAVD 88 DATUM.

STATE PLANE, MICHIGAN SOUTH, NAD 83
BASED UPON GPS OBSERVATIONS ALONG WITH
SOLUTIONS PROVIDED BY O.P.U.S.

SHEET INDEX

DR	BS	CH	OK
P.M. DB			
BOOK		NA	
JOB		18002735	
SHEET NO.			



811

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SECTION 30

TOWN 2 SOUTH, RANGE 7 EAST

SUPERIOR TOWNSHIP

WASHTENAW COUNTY, MICHIGAN

MEADOWLARK

EGLI: IMPACT PLANS

IMPACT CROSS SECTIONS

DATE: 08/06/2020

CLIENT:

SCALE: 0 10 20 30

1" = 30 FEET

BY: JG

CHK: NA

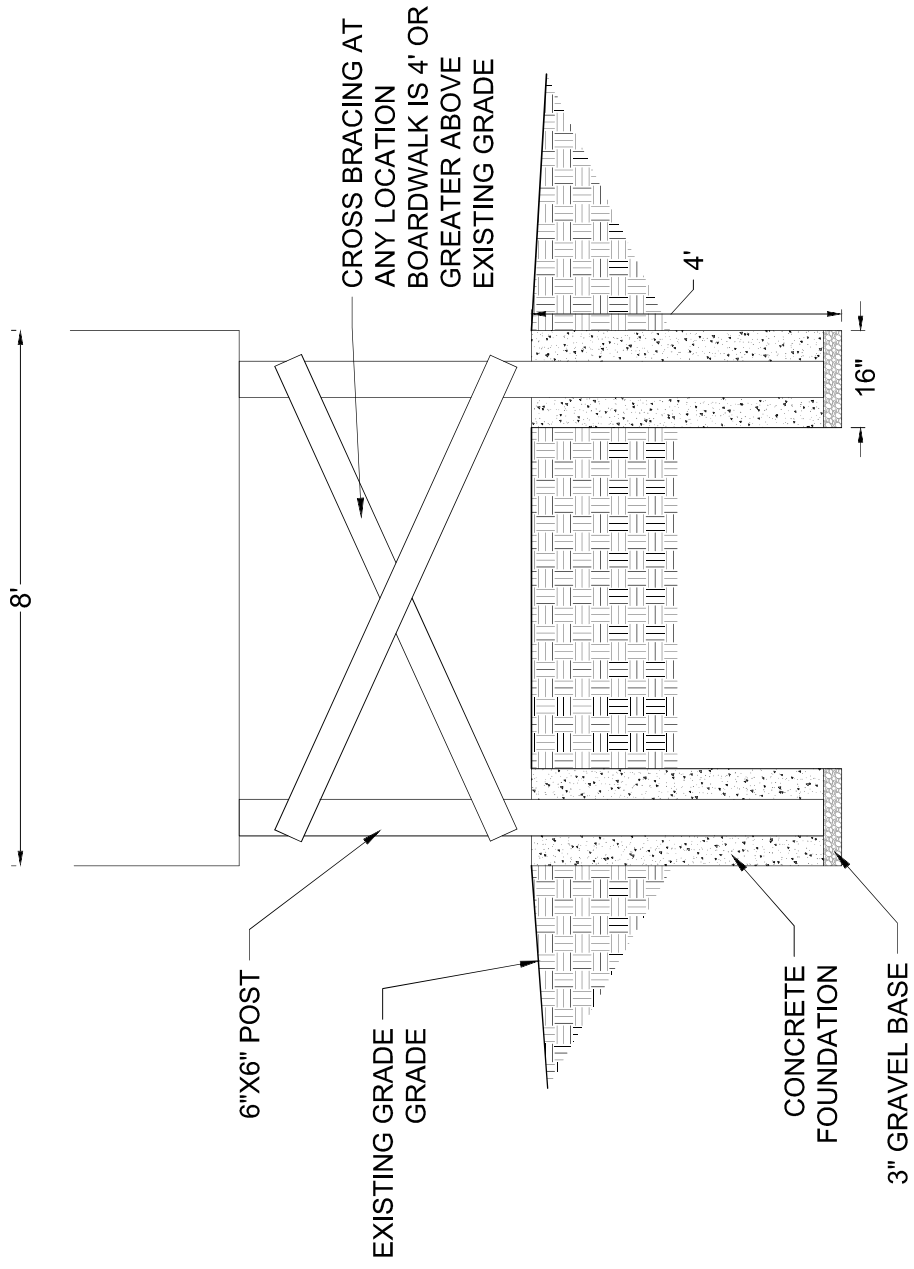
APP: NA

NO: 18022735

SHEET NO: 03

NOTES:

1. THE INFORMATION ON THIS PLAN IS BASED ON THE RECORD DRAWINGS AND FIELD SURVEY DATA PROVIDED BY THE CLIENT. THE ENGINEER HAS CONDUCTED A VISUAL INSPECTION OF THE EXISTING CONDITIONS AND HAS FOUND THEM TO BE IN ACCORDANCE WITH THE RECORD DRAWINGS AND FIELD SURVEY DATA. THE ENGINEER HAS NOT CONDUCTED A FIELD SURVEY OF THE PROPOSED IMPACT CROSS SECTIONS AND HAS NOT VERIFIED THE EXISTING CONDITIONS. THE ENGINEER HAS NOT CONDUCTED A FIELD SURVEY OF THE PROPOSED IMPACT CROSS SECTIONS AND HAS NOT VERIFIED THE EXISTING CONDITIONS. THE ENGINEER HAS NOT CONDUCTED A FIELD SURVEY OF THE PROPOSED IMPACT CROSS SECTIONS AND HAS NOT VERIFIED THE EXISTING CONDITIONS.



BOARDWALK DETAIL

NOT TO SCALE

CONSTRUCTION DEWATERING PLAN

1.0 DEWATERING
DEFINITION: DEWATERING CONSISTS OF THE REMOVAL OF SURFACE WATER AND/OR GROUNDWATER BY DIVERTING AND/OR REMOVING CONSTRUCTION AREAS WITHIN WATER FEATURES (I.E. WETLANDS, WATERCOURSE AND/OR WATERSHED) AS NEEDED FOR CONSTRUCTION.

A. GENERAL

- A. **GENERAL:**
 1. Dewatering activities shall conform to applicable part 91, soil erosion and sedimentation control (SESC), of the natural resources and environmental protection act (NREPA), 1984 (P.L.61), as amended.
2. The sediment loads which cannot be directly discharged to surface waters, options for reducing the turbidity of the water include:
 - a. constructing a temporary sediment trap for turbid water discharge retreatment;
 - b. use of a portable sediment containment system such as sandbags;
 - c. use of natural flood recovery technology such as cotton in sediment traps on a series of ditch checks to contain sediment;
 - d. discharge water through a series of fiber logs or a rock weeper into a large vegetated buffer area;
 - e. erosion dispersion should be provided at all discharge points;
 - f. dewatering or sand draining activities should not cause erosion in receiving channels or adversely impact wetlands.
 3. Sediment control and erosion control measures shall be implemented to prevent sediment from entering the surface waters.
- B. **PROCESS:**
 1. Process materials will filter water of sediment, oils, and other chemicals, thus preventing these pollutants from entering the surface waters.
- C. **APPLICATION:**
 1. dewater accumulated ground water or stormwater via pump dewatering bag and ensure discharged water does not contribute sedimentation to receiving waters.
- D. **WHEN TO APPLY:**
 1. during the beginning of and during construction when it is necessary to lower the water levels within the construction area.
 2. pumping needs to be maintained to keep utility ditches and coffer dams dry until all underpinning works is completed.
- E. **WHERE TO APPLY:**

1. APPLY ON CON

4. APPLY TO CONSTRUCTION SITES WHERE APPROPRIATE, OR ANYWHERE ELSE DISCHARGING IS NEEDED.
 - a. WHEN CONSTRUCTION ACTIVITIES INVOLVE THE INSTALLATION OF WATCH PIPES TO DRAINWATER BASINS OR OTHER ADEQUATE COLLECTION SYSTEMS, THE PIPES SHALL BE INSTALLED TO PREVENT THE LEAKAGE OF WASTEWATER.
 - b. CLEAN WATER SHOULD BE PUMPED FROM THE BASIN AND DISCHARGED TO RECEIVING WATERS. THESE BEST MANAGEMENT PRACTICES (BMPs) SHALL BE EMPLOYED AS LONG AS THE BASIN IS BEING MAINTAINED.
5. WHEN CONSTRUCTION ACTIVITIES INVOLVE EXCAVATING OR DRAINING WATERS:
 - a. CLEAN WATER SHOULD BE DISCHARGED TO A VEGETATED AREA, DITCHES OR OTHER CONVEYANCE. AN HOSE ENERGY DISSIPATION SHOULD BE USED TO PREVENT EROSION OF THE RECEIVING AREA.
 - b. WASTEWATER SHOULD BE PUMPED TO A COLLECTION SYSTEM, SUCH AS A DRAINAGE BASIN, AND THEN DISCHARGED TO RECEIVING WATERS.
 - c. CLEAN WATER SHOULD BE DISCHARGED TO A DRAINAGE BASIN, SUCH AS A DRAINAGE BASIN, AND THEN DISCHARGED TO RECEIVING WATERS.
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F. RELATIONSHIP WITH OTHER BMPs:

1. **REINTEGRATION WITH OTHER EMPLOYERS:**
 - a. **REPAIRS:** REPAIRS TO CONDUITS WITH DEEP CRACKS OR NEARLY FULL SEPARATION BANDS AND FILTERS SHOULD BE CONSIDERED TO MEET THE DOWNTIME WATER BEFORE IT IS DISCHARGED TO A SURFACE WATER WITHIN A UPSTREAM.
2. **UTILIZE ENGLISH BLENTERS, ENGLISH CONTROL, FENCING, STRAW BALES, SILE SHEDDERS, SILT FENCING, ETC., WHEN NECESSARY TO MIGRATE OR REDUCE THE FLOW OF SEDIMENT AND OTHER PARTICLES TO THE DOWNSTREAM.**
3. **UTILIZE ENGLISH BLENTERS, ENGLISH CONTROL, FENCING, STRAW BALES, SILE SHEDDERS, SILT FENCING, ETC., WHEN NECESSARY TO MIGRATE OR REDUCE THE FLOW OF SEDIMENT AND OTHER PARTICLES, KEEP EXTRA EROSION AND SEDIMENT CONTROL MATERIALS ON SITE (E.G., HEAVY DUTY SACKS, STRAW BALES).**
4. **CHITONAN AND CHITIN BASED ADHESIVES HAVE BEEN SHOWN TO SIGNIFICANTLY INCREASE THE EFFECTIVENESS OF FILTERATION AND SETTLING IN CHITONAN BASED ADHESIVES. THESE ADHESIVES ARE AVAILABLE FOR PURCHASE FROM THE FOLLOWING WEBSITE:** www.chitonan.com
5. **OTHER PRODUCTS SUCH AS ANIONIC POLYACRYLAMIDE (ANIONIC PAM) ARE COMMERCIALY AVAILABLE TO INCREASE SETTLING, OTHER THAN CHITONAN. OTHER PRODUCTS ARE AVAILABLE TO INCREASE SETTLING, OTHER THAN CHITONAN. OTHER PRODUCTS ARE AVAILABLE TO INCREASE SETTLING, OTHER THAN CHITONAN.**
6. **EACH PARTICLE SHOULD BE UTILIZED WITHIN THE MANUFACTURED SPECIFICATIONS AND TAILORED TO THE SOIL AND SITE CONDITIONS.**
7. **ADAPTABLE FILTER UNITS UTILIZING CARTRIDGES OF ENCLOSED FILTERING RINGS CAN REMOVE SMALLER PARTICLES DEPENDING ON THE FILTER SIZE. IT IS RECOMMENDED THAT THE FILTER SIZE BE TAILORED TO THE SOIL AND SITE CONDITIONS.**
8. **CHECK THAT ENGLISH CONTROL, TOOLS ARE IN GOOD REPAIR AND PROPERLY FUNCTIONING HAVE BEEN VERIFIED (E.G., REPAIRS).**
9. **REPAIR AS NECESSARY PRIOR TO COMMENCING FINAL CONSTRUCTION ACTIVITIES.**

G. DESIGN SPECIFICATIONS:

- [illegible]

1) GEOTEXTILE FILT

- 1) GEOTEXTILE FILTER BAGS REMOVE SEDIMENT FROM Dewatering DISCHARGE AND ARE PUMPED INTO A FILTER BAG CHOSER FOR FURTHER PROCESSING. THE CHOSER SEPARATES THE BAGS FROM THE DISCHARGE AND RECYCLES THEM TO THE TAILINGS PILE. THE TAILINGS PILE IS USED TO RECOVER FINE PARTICLES AND TO RECYCLE THE COARSE MATERIALS. ALL SANDS OR NON-WOVEN GEOTEXTILES (BUT NOT POLYESTERS) ARE SINGLE USE PRODUCTS THAT MUST BE REPLACED WHEN THEY BECOME CLOGGED OR HALF-FULL OF SEDIMENT.
- 2) GEOTEXTILE FILTER BAGS ARE GENERALLY CONSIDERED HIGH FLOW PRODUCTS, WHICH HAVE LIMITED ABILITY TO TREAT FINE-GRANDED MATERIALS. THE BAGS ARE NOT DESIGNED TO TREAT FINE PARTICLES, BUT ARE USED TO REMOVE COARSE PARTICLES AND TO PREVENT FINE PARTICLES FROM CLOGGING THE FILTER BAGS.
- 3) GEOTEXTILE FILTER BAGS ARE USED TO PREVENT EROSION CAUSED BY WATER LEAVING THE BAG. 3.1 THE PLACEMENT OF THE BAG OUTLINES A FLAT BED OF AGGREGATE MATERIAL THAT IS USED TO PREVENT EROSION AND NOT IN CLOSE PROximity TO THE STREAM OR WATER RESERVOIR. 3.2 THEY MUST SIT ON A RELATIVELY FIRM GRADE. 3.3 THE BAGS ARE USED TO PREVENT EROSION OF THE BAG. 4) THE BAGS MUST BE USED IN CONJUNCTION WITH A LARGE VESTIGATED OR AN OVERLAYING POND AND/OR BARRIER.
- 4) FILTER BAGS MUST BE MADE FROM NON-WOVEN GEOTEXTILE MATERIAL SEWN WITH HIGH STRENGTH DOUBLE-STITCHED "U" TYPE SEAMS CAPABLE OF TRAPPING PARTICLES LARGER THAN 150 MICRONS.
- 5) THE BAGS MUST BE PLACED ON TOP OF SURFACES GREATER THAN 10% SLOPE.
- 6) THE BAGS SHOULD NOT BE PLACED ON TOP OF SURFACES GREATER THAN 10% SLOPE.
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M. MAINTENANCE

- #### 4. MAINTENANCE:
1. THE DEWATERING SITE SHOULD BE INSPECTED SEVERAL TIMES DAILY TO ENSURE THAT THE PUMPING PROCEDURE IS ADEQUATELY CONTROLLING THE EXCESS WATER, TO ENSURE THE FILTER BAG IS NOT CLOGGED, AND THAT THE VEGETATIVE FILTER, WHERE USED, IS STILL RETAINING SEDIMENT. IF THE FILTER BAGS BECOME CLOGGED, REPLACE WITH A NEW ONE.

LOCAL AND STATE CONDITIONS AND CLARIFICATIONS:

- [illegible]

MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES & ENERGY

- [illegible]

SEDIMENTATION PERMIT.

- [illegible]

AREAS REQUIRING TEMPORARY STABILIZATION	IMMEDIATELY FOLLOW CAVES AND THE MOST RECENT DISBURGE IF THE AREA WILL BE IN CONTACT WITH CAVES	THE FRAME TO PREVENT FLOODING CONTROLS
ANY DISTURBED AREAS WITHIN 50 FEET OF A REACHING FINAL GRADE	FOR ALL CONSTRUCTION ACTIVITIES, ANY DISTURBED AREAS SHALL BE REACHED FOR MORE THAN 14 DAYS BUT LESS THAN ONE YEAR, AND NOT WITHIN 50 FEET OF A STREAM	WITHIN 10 DAYS TO 14 DAYS SHALL BE STABILIZED IN ANOTHER APPROPRIATE WAY AS SOON AS POSSIBLE
DISTURBED AREAS THAT WILL BE DUE OVER WINTER	(NUMBER 1)	THE ONSET OF WINTER WEATHER
PERMANENT STABILIZATION		
AREAS REQUIRING PERMANENT STABILIZATION	WHERE VEGETATIVE STABILIZATION TECHNIQUES MAY CAUSE STRUCTURAL INSTABILITY OF AREAS OTHERWISE UNSUITABLE, ALTERNATIVE STABILIZATION TECHNIQUES MUST BE EMPLOYED THIS YEAR OR THE FOLLOWING YEAR, OR ON OTHER STABILIZATION METHODS	THE FRAME TO PREVENT FLOODING CONTROLS
ANY AREAS THAT WILL BE DRAINANT FOR ONE YEAR OR MORE		WITHIN 10 DAYS TO 14 DAYS OF THE MOST RECENT DISBURGE
ANY AREAS WITHIN 50 FEET OF A STREAM AND AT FINAL GRADE		WITHIN 2 CALENDAR DAYS OF REACHING FINAL GRADE
ANY OTHER AREAS AT FINAL GRADE		WITHIN 10 DAYS TO 14 DAYS OF REACHING FINAL GRADE WITH THAT AREA



Know what's below.
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811
The numbers are free.
The service is better.
The safety is priceless.
Call 811 to get the location and depth of underground utilities before you dig. It's the smart way to dig. It's the safe way to dig. It's the easy way to dig. Call 811 today.

NOTICE:
CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AGENCIES.

ATWELL
966.850.4200
www.atwell-group.com
TWO TOWN SQUARE, SUITE 700
SOUTH BEND, IN 46708
(414) 443-2000



SECTION 30
TOWN 2 SOUTH, RANGE 7 EAST
SUPERIOR TOWNSHIP
WASHTENAW COUNTY, MICHIGAN

MEADOWLARK
EGLE IMPACT PLANS
SESC NOTES

CLIENT
DATE 09/09/2020

REVISIONS

NO. 05
JOB 18002735
SHEET NO.

GENERAL EROSION AND SEDIMENT CONTROL NOTES:

- CONTRACTOR SHALL IMPLEMENT BEST MANAGEMENT PRACTICES AS REQUIRED BY THE PLANS. ADDITIONAL BEST MANAGEMENT PRACTICES SHALL BE IMPLEMENTED AS REQUIRED BY THE LOCAL, STATE, AND FEDERAL AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AGENCIES.
- BEST MANAGEMENT PRACTICES (BMPs) AND CONTROL MEASURES SHALL CONFORM TO FEDERAL, STATE, OR LOCAL REGULATIONS OR MANUALS OF PRACTICE, AS APPLICABLE. CONTRACTOR SHALL IMPLEMENT ADDITIONAL CONTROL TECHNIQUES AS DIRECTED BY PERMITTING AGENCY OR OWNER.
- ALL EROSION AND SEDIMENT CONTROL MEASURES SHALL BE DESIGNED TO PREVENT EROSION AND SEDIMENTATION FROM THE CONSTRUCTION SITE. ALL EROSION AND SEDIMENT CONTROL MEASURES SHALL BE DESIGNED TO PREVENT EROSION AND SEDIMENTATION FROM THE CONSTRUCTION SITE.
- ALL WASH-WATER CONCRETE TRUCKS, VEHICLE CLEANING, EQUIPMENT CLEANING, ETC.) SHALL BE DESIGNED AND PROPERLY TREATED OR DISPOSED.
- ALL EROSION AND SEDIMENT CONTROL MEASURES SHALL BE DESIGNED TO PREVENT EROSION AND SEDIMENTATION FROM THE CONSTRUCTION SITE. ALL EROSION AND SEDIMENT CONTROL MEASURES SHALL BE DESIGNED TO PREVENT EROSION AND SEDIMENTATION FROM THE CONSTRUCTION SITE.
- RUBBISH, TRASH, CARGAGE, LITTER, OR OTHER SUCH MATERIALS SHALL BE DEPOSITED INTO SEALED CONTAINERS. MATERIALS SHALL BE REMOVED FROM THE PREMISES THROUGH THE ACTION OF WIND OR STORMWATER DISCHARGE INTO DRAINAGE DITCHES OR WATERS OF THE STATE.
- ALL DISTURBED AREAS THAT WILL BE INACTIVE FOR 14 DAYS OR MORE, MUST BE STABILIZED TEMPORARILY WITH THE USE OF STRIP AND STOOPPLE TOPSOIL, OR OTHER EROSION CONTROL MEASURES. ALL DISTURBED AREAS THAT WILL BE INACTIVE FOR 14 DAYS OR MORE, MUST BE STABILIZED TEMPORARILY WITH THE USE OF STRIP AND STOOPPLE TOPSOIL, OR OTHER EROSION CONTROL MEASURES.
- ALL WADPORT MATERIALS SPILLED, DROPPED, WASHED, OR TRACKED FROM VEHICLES ONTO PUBLIC ROADWAYS OR INTO WATER COURSES SHALL BE PROMPTLY REMOVED BY THE CONTRACTOR.
- IMPLEMENTATION OF BEST MANAGEMENT PRACTICES, STOOPPLE AND BARRIOW AREA LOCATIONS SHALL BE NOTED ON THE SITE MAP AND PERMITTED IN ACCORDANCE WITH GENERAL PERMIT REQUIREMENTS.
- CONTRACTOR TO LIMIT DISTURBANCE OF SITE IN STRICT ACCORDANCE WITH EROSION CONTROL SEQUENCING SHOWN ON THIS PLAN. NO UNNECESSARY AND/OR REMEDIATION OF EXISTING EROSION OR GRADING SHALL BE PERMITTED.
- ALL EROSION AND SEDIMENT CONTROL MEASURES SHALL BE DESIGNED TO PREVENT EROSION AND SEDIMENTATION FROM THE CONSTRUCTION SITE. ALL EROSION AND SEDIMENT CONTROL MEASURES SHALL BE DESIGNED TO PREVENT EROSION AND SEDIMENTATION FROM THE CONSTRUCTION SITE.
- ON-SITE AREAS OR WATERWAYS, WATERWAYS INCLUDE BOTH NATURAL AND MAN-MADE OPEN DITCHES, STREAMS, STORM DRAINS, LAKES AND POND.
- CONTRACTOR SHALL APPLY TEMPORARY EROSION AND SEDIMENTATION CONTROL MEASURE WHEN REQUIRED. HE SHALL REMOVE TEMPORARY MEASURES AS SOON AS PERMANENT STABILIZATION OF SLOPES, STOOPPLES AND OTHER EARTH CHANGES HAVE BEEN COMPLETED.
- ALL SOIL EROSION AND SEDIMENTATION CONTROL WORK SHALL CONFORM TO THE PERMIT REQUIREMENTS OF THE WASHTENAW COUNTY LOW GROUND PRESSURE EQUIPMENT SHALL BE USED TO MINIMIZE LAND DISTURBANCE BETWEEN STRUCTURES.
- SITES WILL BE INSPECTED WEEKLY ANY AREAS OF OFF-SITE EROSION WILL BE CORRECTED WITHIN 2 BUSINESS DAYS.
- ALL GRADING TO BE PERFORMED AS NOT TO OBSTRUCT UPSTREAM DRAINAGE.
- TIMBER CROSSING BARS WILL BE USED AS SHOWN TO MINIMIZE DISRUPTION TO WETLAND AREAS.

SEQUENCE OF CONSTRUCTION FOR SOIL EROSION CONTROL (FOR EACH SITE)

WORK DAY	EROSION CONTROL DAY
1. SCHEDULE TO BE FILLED OUT BY CONTRACTOR.	
1. PULL ALL NECESSARY PERMITS & LICENSES.	
2. INSTALL SILT AND PROTECTIVE FENCING.	
3. CLEAR AND GRUB WORK AREA	
4. COMPLETELY REMOVE EXISTING STRUCTURE & FOUNDATION.	
5. STRIP AND STOOPPLE TOPSOIL	
6. EXCAVATE FOR PROPOSE STRUCTURE, STOOPPLE SPOOLS AND GRADE ACCORDINGLY	
7. BEGIN FOUNDATION CONSTRUCTION OF NEW STRUCTURE.	
8. REPLACE TOPSOIL, SEED AND STABILIZE DISTURBED AREAS.	
9. REMOVE SILT FENCE, REPAIR DISTURBED AREAS AS NECESSARY.	
10. COORDINATE WITH PERMITTING AGENCIES FOR CLOSEDOUT INSPECTION.	

NOTE:
CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AGENCIES.

SEEDING SPECIFICATION

GENERAL:
SEED SHALL BE USED FOR TEMPORARY OR PERMANENT STABILIZATION. DISTURBED AREAS OF THE SITE WHERE CONSTRUCTION ACTIVITY HAS CEASED FOR MORE THAN 14 DAYS SHALL BE TEMPORARILY SEEDING AND WATERED. AREAS WHERE FINAL GRADING HAS BEEN COMPLETED SHALL BE SEEDING AND WATERED. SEEDING SHALL BE COMPLETED WITHIN 14 DAYS OF THE DATE OF THE LAST DISTURBANCE. SEEDING SHALL BE COMPLETED WITHIN 14 DAYS OF THE DATE OF THE LAST DISTURBANCE. SEEDING SHALL BE COMPLETED WITHIN 14 DAYS OF THE DATE OF THE LAST DISTURBANCE.

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Superior Township Hall
3040 N Prospect Rd
Superior Charter TWP, MI 48198

To whom it may concern,

On the east easement located on 5728 Geddes Rd. We will keep the stairs and boardwalk at least 20' away from the easternmost property line.

The provided plot plan shows a house and boat house which are not correct representations of the actual house and no boat house is currently proposed.

We are currently only proposing to build a boardwalk and stairs on the east easement at this time. No other work outside of necessary site clearing will take place at this time.

Dan Snyder

A handwritten signature in black ink, appearing to be 'DS' with a long, sweeping horizontal line extending to the right.

11/19/2020

Snyder Contracting LLC
(734)545-4840

Snyder Contracting LLC

8650 Huron River Dr
Dexter, MI 48130

(734) 545-4840
tdsnydercontracting@gmail.com

Rick Mayernik

From: Chris Nordstrom <cnordstrom@cwaplan.com>
Sent: Thursday, November 19, 2020 7:14 AM
To: Rick Mayernik
Cc: Laura Bennett
Subject: RE: EGLE Revised Permit No. WRP023919 v1.2

I have no issues with the proposed boardwalk; any disturbance created by it will be minimal. They're showing a house envelope on the plan, however, and I would have the same concerns here as I did previously. The permit is specifically for the boardwalk, though, so maybe that's something they're considering for the future?

From: Rick Mayernik <rmayernik@superior-twp.org>
Sent: Wednesday, November 18, 2020 4:14 PM
To: Chris Nordstrom <cnordstrom@cwaplan.com>
Cc: Laura Bennett <planning@superior-twp.org>
Subject: FW: EGLE Revised Permit No. WRP023919 v1.2

Chris,

Back in March of 2019, you did a site visit at this property with Rebecca Lussier of Meadowlark Construction and issued a letter dated 3-18-19. Quite a bit of time has passed and I don't think Meadowlark is still involved. A new contractor has requested a permit to build a boardwalk and stairs at the far eastern side of the property. EGLE has issued a permit for this work which is attached. Can you please review the EGLE permit and let me know if you have any issues with it??

If not, I will issue a Township wetland permit referencing the EGLE permit and issue the building permit. I think they still plan on building the house and will be submitting for a revised EGLE permit for that portion of the construction.

Regards,

Rick Mayernik

From: Coffey, Kristina (EGLE) <COFFEYK@michigan.gov>
Sent: Tuesday, September 29, 2020 10:47 AM
To: jeanmarie@mouliere.fr
Cc: Lynette Findley <lynettefindley@superior-twp.org>; leek@ewashtenaw.org; engelhardb@ewashtenaw.org; dberninger@atwell-group.com; Chris Kunkle <ckunkle@atwell-group.com>
Subject: EGLE Revised Permit No. WRP023919 v1.2

Please see attached EGLE issued revised permit for your records.

If you have any questions, please contact Melissa Letosky directly at LetoskyM@Michigan.gov or 517-416-7001.

Thank you,

Kris Coffey
Secretary
Water Resources Division/Jackson District Office
Michigan Department of Environment, Great Lakes, and Energy (EGLE)
517-780-7904 | coffeyk@michigan.gov
Follow Us | [Michigan.gov/EGLE](https://michigan.gov/EGLE)

SUPERIOR CHARTER TOWNSHIP**Wetlands Permit No: PW20-0003**

Building and Zoning Department

3040 North Prospect

Ypsilanti, Michigan 48198

Phone: (734) 482-6099

Fax: (734) 482-3842

Hours: Monday-Friday 8:30 am - 4:30 pm

5728 GEDDES RD

Location

J -10-30-400-061

MOULIERE JEAN-MARIE L & INGRID D

Owner

2107 HILL ST

ANN ARBOR

MI

48104

Issued: 11/23/20***PLEASE CALL (734) 482-6099 FOR AN
INSPECTION 24 HOURS IN ADVANCE.***

Contractor

Work Description: Construct a stair and boardwalk in wetland at the east side of the property as per EGLE Permit #WRP023919 v1.2

Permit Item	Work Type	No. of Items	Item Total
Administrative Fee	Administrative Fee	1.00	\$0.00

Richard Mayernik - Building Official**Fee Total: \$0.00**

I agree this permit is only for the work described, and does not grant permission for additional or related work which requires separate permits. I understand that this permit will expire, and become null and void if work is not started within 180 days, or if work is suspended or abandoned for a period of 180 days at any time after work has commenced; and, that I am responsible for assuring all required inspections are requested in conformance with the applicable code. I hereby certify that the proposed work is authorized by the owner, and that I am authorized by the owner to make this application as his authorized agent. I agree to conform to all applicable laws of the State of Michigan and the local jurisdiction. All information on the permit application is accurate to the best of my knowledge.

Payment of permit fee constitutes acceptance of the above terms.

SUPERIOR CHARTER TOWNSHIP

Building Permit No: PB20-0199

Building and Zoning Department3040 North ProspectYpsilanti, Michigan 48198

Phone: (734) 482-6099Fax: (734) 482-3842Hours: Monday-Friday 8:30 am - 4:30 pm

5728 GEDDES RD J -10-30-400-061	Location	MOULIERE JEAN-MARIE L & INGRID D 2107 HILL ST ANN ARBORMI48104	Owner
------------------------------------	----------	--	-------

Issued: 11/23/20

PLEASE CALL (734) 482-6099 FOR AN
INSPECTION 24 HOURS IN ADVANCE.

Snyder Contracting LLC 8650 Huron River Dr DexterMI48130	Contractor
--	------------

Work Description: Construct stairs and boardwalk at east side of property. Stairs and boardwalk to maintain minimum 20 foot setback from east property line. EGLE Permit - WRP023919 v1.2

Permit Item	Work Type	No. of Items	Item Total
Permit Fee	Standard Item	1.00	\$100.00

Richard Mayernik - Building Official

Fee Total: \$100.00

I agree this permit is only for the work described, and does not grant permission for additional or related work which requires separate permits. I understand that this permit will expire, and become null and void if work is not started within 180 days, or if work is suspended or abandoned for a period of 180 days at any time after work has commenced; and, that I am responsible for assuring all required inspections are requested in conformance with the applicable code. I hereby certify that the proposed work is authorized by the owner, and that I am authorized by the owner to make this application as his authorized agent. I agree to conform to all applicable laws of the State of Michigan and the local jurisdiction. All information on the permit application is accurate to the best of my knowledge.

Payment of permit fee constitutes acceptance of the above terms.

Rick Mayernik

From: Matt Schuster <mattaschuster@yahoo.com>
Sent: Friday, November 27, 2020 11:35 PM
To: Lynette Findley
Cc: Rick Mayernik
Subject: Appeal of Wetland Permit - 5728 Geddes
Attachments: Appeal of Wetland Permit 5728.docx

Hello,

I attempted to deliver this appeal to the township office on Wednesday, 11/25 but I found the office closed due to the holiday.

Please accept this email as evidence of an appeal request for an issued wetland permit at the property 5728 Geddes Rd. I have attached a copy of a letter citing my reasons based on information available thus far. Please contact me with any questions or to facilitate further discussion.

Best Regards,

Matt Schuster
5766 geddes
(248) 790-5650

11.25.20

I am writing to appeal the issuance of a wetland permit issued by the township relating to:

Property Tax No. J-10-30-400-061 aka 5728 Geddes Rd

I understand the permit was issued on or about 11/20/20.

I am an adjacent parcel owner located within 300 ft of the proposed activity. I am also the holder of a dominant easement over access through the same parcel.

I have not had the opportunity to review the issued permits. To my understanding, the same parcel has been identified by its owners and/or their agents as having wetlands regulated by EGLE (formerly MDEQ). The owners and/or their agents have also identified the wetlands as regulated under Superior Township Wetland Ordinance. The parcel owner has previously caused and provided notice to the township of the EGLE wetlands determination. It is my understanding that EGLE regulation should designate the identified wetlands as "Protected Wetlands" under the Superior township wetland ordinance. I further believe that finding should result in the parcel being included in the Superior Township Wetlands Map, which I am not aware of occurring. The wetlands are contiguous with and within 500 ft of the Huron river and/or its impoundment. The wetlands should receive the full protection and evaluations afforded the 'protected wetland' status.

I am appealing the issuance of the permit to allow for a fuller review of the related submitted materials by myself, adjacent parcel owners, and the wetlands board. Upon initial review of information provided to me, the Superior Township Building Permit and wetlands permit do not match the location of the activity approved by EGLE in the wetlands per the drawing. The EGLE approved plans identify the entire activity LESS than 20 ft from the parcel border. The building permits stipulate any activity occur entirely MORE than 20 ft from the parcel border (outside the side yard setback) unless the activities extend less than 18" from the ground (which is not as shown in building plans). These location changes also alter the amount of impacted wetland in linear feet, and appear to necessitate an additional review by EGLE.

Please contact me at your convenience to discuss next steps and/or facilitate information review for further evaluation of the appeal.

Best Regards,

Matt Schuster

5766 Geddes Rd

NOV 30 2020

CHARTER TOWNSHIP OF SUPERIOR
WASHTENAW COUNTY, MICHIGAN

Snyder Contracting LLC
Attn: Daniel Snyder
8650 Huron River Dr.
Dexter, MI 48130

Mr. Snyder,

Please be advised that my office has received a written appeal relating to the issuance of the wetland permit for the boardwalk construction at 5728 Geddes Road. This appeal was received within ten calendar days of the issuance of the permit. Per Section 178-07.4(A) of the Wetlands Ordinance, this letter is your notification that an appeal has been received and that your Wetland Permit # PW20-0003 is now suspended until the outcome of the appeals process is known. A hearing will be scheduled within 60 days of the receipt of the appeal.

Since the Wetlands Permit has been suspended, your Building Permit # PB20-0199 is likewise suspended and no work may be performed under it until such time as the Wetlands Board takes action on the appeal.

Please contact me if you have any questions.

Regards,



Richard Mayernik, CBO
Building/Zoning Official
734-482-6099



Carlisle | Wortman
ASSOCIATES, INC.

117 NORTH FIRST STREET SUITE 70 ANN ARBOR, MI 48104 734.662.2200 734.662.1935 FAX

To: Rick Mayernik, Superior Township Building and Zoning Official
From: Chris Nordstrom, Township Wetland Administrator
Ben Carlisle, Township Planner
Date: December 3, 2020
RE: Boardwalk Installation at 5728 Geddes Road

CWA prepared a report in March of 2019 evaluating the presence and quality of wetlands at the subject site. We determined that the site survey prepared by Atwell Hicks in February 2019 provided an accurate depiction of the wetland boundaries. Because of the subject site's location within 500 feet of the Huron River, we noted that the wetlands would be considered protected by the Michigan Department of Environment, Great Lakes, and Energy (EGLE, formerly Department of Environmental Quality). On September 29, 2020, EGLE issued a permit authorizing construction of an 8-foot wide by 105-foot long elevated open pile boardwalk in the wetland.

An "open pile" system refers to the driven columns that support the elevated walkway. Because interaction with the soil is limited to the support points, open pile systems are considered minimally disruptive. Per EGLE, an open pile boardwalk minimizes soil disturbance, reduces the potential for soil erosion, and does not impede surface or ground water movement. Open pile boardwalks are very common across southeast Michigan, and are used to allow visitor access to otherwise inaccessible natural areas.

In our opinion, boardwalk construction is a reasonable alternative for this site. While the topography and proximity to the river make it an unusual wetland worthy of protection, we did not see any rare or endangered plants or animals during our inspection that suggest the site should be completely free from development.

The current drawings include generic details that are not appropriate for construction in a wetland setting, e.g. using turf grass seed as an erosion technique. We suggest that the Township reserve the right to approve final construction details to ensure that the construction is as sustainable and minimally disruptive as possible.

Please let me know if you have any questions.



CARLISLE/WORTMAN ASSOC., INC.
Chris Nordstrom, PLA, ASLA
Landscape Architect

Richard K. Carlisle, *President* Douglas J. Lewan, *Executive Vice President* John L. Enos, *Principal*
David Scurto, *Principal* Benjamin R. Carlisle, *Principal* Sally M. Elmiger, *Principal* Craig Strong, *Principal* R. Donald Wortman, *Principal*
Laura K. Kreps, *Associate* Paul Montagno, *Associate*

EXHIBIT 5

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

JEAN-MARIE L. MOULIERE and
INGRID D. MOULIERE,

Plaintiffs/Counter-Defendants,

Case No. 20-001274-CH

v

Hon. Archie C. Brown

MATTHEW A. SCHUSTER and
ALYSSA L. CAIRO,

Defendants/Counter-Plaintiffs.

J. Adam Behrendt (P58607)
Melissa Benton Moore (P73018)
Bodman PLC
Attorneys for Plaintiffs
201 W. Big Beaver Road, Suite 500
Troy, MI 48084
(248) 743-6000
abehrendt@bodmanlaw.com
mmoore@bodmanlaw.com

W. Daniel Troyka (P65155)
Joseph W. Phillips (P34063)
Conlin, McKenney & Philbrick, P.C.
Attorneys for Defendants
350 S. Main Street, Suite 400
Ann Arbor MI 48104-2131
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troyka@cmplaw.com
phillips@cmplaw.com

AFFIDAVIT OF CLIF SEIBER, P.E.

STATE OF MICHIGAN)
) ss
COUNTY OF WASHTENAW)

Clif Seiber, P.E., being first duly sworn, deposes and states:

1. I am a professional engineer and principal of Seiber Engineering, P.L.L.C. I have 35 years of experience in civil engineering including site development, stormwater management, and road planning. A copy of my curriculum vitae is attached as Exhibit A.

2. My company has been retained in this litigation to offer an expert opinion for defendants Matthew A. Schuster and Alyssa L. Cairo regarding plans prepared for plaintiffs

Jean-Marie L. Mouliere and Ingrid D. Mouliere, including plans for a driveway on the Schuster parcel and a pedestrian path and boardwalk on the Mouliere parcel..

3. These plans include:

- a. EGLE Impact Plans prepared by Atwell LLC approved by the Michigan Department of Environment, Great Lakes, and Energy (“EGLE”) on October 9, 2019. The Proposed Site Plan from these Impact Plans is attached hereto as Exhibit B (the “2019 Approved EGLE Plan”).
- b. EGLE Impact Plans prepared by Atwell LLC approved by the Michigan Department of Environment, Great Lakes, and Energy (“EGLE”) on July 31, 2020, and attached hereto as Exhibit C (the “2020 Approved EGLE Plan”).
- c. Easement Stormwater Plan prepared by InSite Design Studio, Inc., dated February 4, 2021, and attached hereto as Exhibit D (the “02.04.21 Stormwater Plan”).
- d. Revised Easement Stormwater Plan prepared by InSite Design Studio, Inc., dated February 25, 2021 (the “02.25.21 Stormwater Plan”). I understand that this Plan has not been filed with the Court and is not part of the record.

4. In addition to reviewing the Plans, I reviewed the survey recorded at Liber 03370, Page 0901, Washtenaw County Records (“Survey”) depicting two access easements on the Schuster parcel and a pedestrian easement on Mouliere parcel and related documents.

5. I reviewed the transcript of the testimony of the Moulieres’ landscape architect, Shannan Gibb-Randall, from the evidentiary hearing held on February 8, 2021.

6. I conducted a site visit to the parcels on Saturday, March 20, 2021.

7. I am informed that under Michigan law an easement holder cannot make improvements to the servient estate if such improvements are unnecessary for the effective use of the easement or they unreasonably burden the servient tenement.

The 2019 and 2020 Approved EGLE Plans

8. There is an existing access road (the “Existing Access Road”) on the Schuster parcel within a 15-foot wide easement. This access road corresponds, for most of its length, to the access road shown in the 2019 Approved EGLE Plan. The principal difference is that the 2019 Approved EGLE Plan shows separate driveway access on Geddes Road which is not material to this Affidavit.

9. The Existing Access Road is sufficient and adequate for providing vehicular access to the Mouliere parcel. In my opinion, and to a reasonable degree of engineering certainty, there is no need for a separate access road or driveway across the Schuster parcel to provide vehicular access to the Mouliere parcel.

10. A proposed driveway (the “Proposed Driveway”) is shown in the 2020 Approved EGLE Plan within a 66-foot-wide easement on the Schuster parcel leading to the Mouliere parcel. Construction has already commenced in the area of the Proposed Driveway on the Schuster parcel.

11. EGLE approved both sets of Plans. There is no basis in the Plans for concluding that the Proposed Driveway in the 2020 Plan is reasonably necessary for access to the Mouliere parcel given the approval of the Existing Access Road in the 2019 Plan.

12. Both site plans in the approved 2019 and 2020 EGLE Plans are marked “Not for Construction.” I am informed that the Moulieres have no approved construction or building plans for their proposed residence.

13. There is no basis in the Plans for concluding that the building envelope for the proposed house on the Mouliere parcel must be in the location approved in the 2020 Plan, which

appears to be as close as possible to the Schuster parcel with a 50-foot setback, as opposed to the location approved in the 2019 Plan.

14. The 2020 Plan does not show the dimensions of the proposed house.

The February 4 and February 25 Stormwater Plans

15. The 02.04.21 Stormwater Plan shows severe impacts on the Schuster parcel from the Proposed Driveway, including an emergency vehicle turnaround, retaining walls up to 6 ½ feet high on the Schuster parcel, a driveway width of 20 feet as it approaches the turnaround from Geddes Road and widening even further as it approaches the Mouliere property boundary, and a point discharge of stormwater across the Schuster septic field.

16. The 02.04.21 Stormwater Plans poses a significant threat to the Schusters' septic field and septic line. The proposed driveway and retaining walls within the 66-foot easement area will be built on top of the Schusters' waste water drain line, which threatens its integrity. In addition, the discharge of stormwater is not adequately shown to protect the septic field. The septic field can fail if excessive stormwater is directed to it.

17. Based upon my review of the testimony of Ms. Gibb-Randall at the February 8 evidentiary hearing, I understand that the retaining walls do not comply with the Superior Township Zoning Ordinance and that a variance will be required before they can be constructed because they exceed a limit of "four (4) feet in height" for walls "within any required yard setback area." Section 3.203.G.1 of the Ordinance states:

The following structures may be located within any required yard setback area: open and unroofed terraces, and patios; awnings; flag poles; hydrants; trellises; recreation equipment; outdoor cooking equipment; sidewalks; trees, plants, shrubs, and hedges; solid fences, screens, or walls less than four (4) feet in height; fences, screens, or walls having at least fifty percent (50%) of their surface area open when viewed from the perpendicular; and mailboxes.

18. The Mouliere parcel is zoned R-1 which requires a 60-foot minimum front yard setback and 50-foot minimum rear yard set back under Section 3.101 of the Zoning Ordinance. For purposes of this Affidavit, I assume that the area between the Mouliere building envelope and the Schuster property boundary is a rear yard subject to a 50-foot setback.

19. According to testimony at the evidentiary hearing from the Superior Township Building / Zoning Official Richard J. Mayernik, C.B.O., the retaining walls may be subject to an 18-inch height limitation. This may be based on Section 6.08 of the Zoning Ordinance (“Access Through Yards”). For purposes of this Affidavit, I assume that the retaining walls are subject to a 4-foot height limitation under Section 3.203.G.1.

20. The 02.04.21 Stormwater Plan shows retaining walls on the Mouliere parcel right at the Schuster property boundary up to 7.5 feet high. These retaining walls, which require a variance which has not yet been granted, may require disturbing the Schuster parcel where there is no easement, including installation of footings or tie-backs.

21. These impacts are not reasonably necessary given the Existing Access Road.

22. In my professional opinion, and to a reasonable degree of engineering certainty, these burdens on the Schuster parcel are unreasonable for an access easement. It is extremely rare to see such burdens in Michigan imposed by a driveway crossing a front parcel to reach a landlocked parcel. In my decades of experience, I have never seen a residential driveway built in an access easement without the fee owner’s consent with this degree of impact, including the retaining walls and turnaround.

23. I am informed that the Moulieres prepared the 02.25.21 Stormwater Plan to mitigate impacts shown on the 02.04.21 Stormwater Plan. I am also informed that the 02.25.21

Stormwater Plan has not been submitted to the Court. I have not attached the 02.25.21 Stormwater Plan to this Affidavit because I presume the Moulieres would submit it themselves if they want the Court to review it.

24. The 02.25.21 Stormwater Plan shows a retaining wall 8.9 feet high on the Schuster parcel. This Plan also shows retaining walls on the Moulriere parcel close to the Schuster boundary up to 11 feet high and retaining walls on the Moulriere parcel up to 15 feet high that appear to be within the 50-foot setback. As with the 02.04.21 Stormwater Plan, retaining walls of these heights will require a variance under Township Ordinance.

25. The 02.25.21 Stormwater Plan removes the emergency vehicle turnaround from the Moulriere parcel. Other than removal of the turnaround, the impacts on the Schuster parcel from this Plan are substantially the same as for the 02.04.21 Stormwater Plan.

26. The impacts shown in the 02.25.21 Stormwater Plan are not reasonably necessary given the Existing Access Road. In my professional opinion, and to a reasonable degree of engineering certainty, these burdens on the Schuster parcel are unreasonable for an access easement.

27. The Stormwater Plans have insufficient detail to determine whether stormwater treatment will adequately protect the Schuster parcel. The Plans show discharge from the Proposed Driveway onto the Schuster Parcel outside the easement areas. Among other problems, the Plans appear not to address the flow of stormwater from a low area located in the Schuster front yard that overflows in a westerly direction across the Proposed Driveway. A more detailed grading plan will be required to confirm that the existing drainage pattern will be maintained without raising the overflow elevation of the low area.

28. Both Stormwater Plans show a 14-foot wide driveway over much of its length. I am informed that the Moulieres plan to use an asphalt or concrete surface. I am further informed that the Moulieres claim these choices are required by the Superior Township Fire Chief. In general, residential driveways do not need to be 14 feet wide. I would need to review requirements from the Fire Chief in order to comment on them, which, I understand have not been provided and are not part of the record.

Boardwalk in the Relocated Pedestrian Easement

29. During my site visit on March 20, 2021, I inspected the boardwalk being constructed by the Moulieres' contractor along the east side of their parcel in what I understand to be a relocated easement they have selected. The construction of the boardwalk appears complete or mostly complete.

30. Soils in the location of the boardwalk are not capable of supporting foot traffic.

31. The boardwalk has not been constructed in conformance with the 2020 Approved EGLE Plan. Among other deviations from approved plans, it uses 4x4 posts instead of the required 6x6 posts. The posts appear not to be set at a depth of 4 feet, and the posts are not encased in concrete but instead are set directly in the mud. The boardwalk does not include joist hangers and was constructed with interior screws not appropriate for outdoor use. No cross-bracing has been installed. A portion of the structure shakes easily. The handrails are also just 2x4's and do not meet Building Code requirements for graspability.

32. Based upon my observations of the boardwalk as currently constructed, there is a significant likelihood that it is not adequately supported and will sink into the wetland to the point of not being safely traversable within the next few years.

33. If called as a witness, I can testify competently to the foregoing.


Clif Seiber, P.E.

Subscribed and sworn to before me
this 30th day of March, 2021


Notary Public, Washtenaw County, MI
My Commission Expires: _____

H:\BJM\Schuster\PLEADINGS\Reconsideration\EXH 4 - Seiber Affidavit-03.30.21-final.docx

NICHOLE R. DAILEY
Notary Public, Livingston County, MI
Acting in the County of Washtenaw
My commission expires 12/29/2022

EXHIBIT A

Clif Seiber, PE

Managing Member / Project Engineer

EDUCATION

- 1967 - 1971 Kansas University School of Engineering
Major: Aerospace Engineering
- 1971 - 1973 Wayne State University
School of Engineering
Attended part-time; Major: Civil Engineering
- 1981 - 1984 Lawrence Technological University
Major: Construction Engineering, B.S.C.E.

REGISTRATIONS

- Professional Engineer, Michigan - 1985
License Number 31672
- Licensed Builder, Michigan - 1981
License Number 55144 Exp
- Real Estate Broker, Michigan - 2000
License Number 6502103884
- Certified Storm Water Operator - 2002
License Number C-03672 Exp

AWARDS

- 1984 Engineering Excellence Award -
Presented by the Consulting Engineers
Council of Michigan for the City of Novi
Storm Water Management Master Plan -
Eminent Conceptor
- 1984 Michigan Municipal League 1ST
Place Municipal Achievement Award for
the City of Novi Storm Water Management
Master Plan
- First Place Award by the Michigan Society
of Professional Planners for the City of
Novi Storm Water Management Master Plan
- 1986 Michigan Environmental Excellence
Award for the City of Novi Storm Water
Management Master Plan

PROFESSIONAL AFFILIATIONS

American Council of Engineering Companies –
Served on the Board of Directors of the
Michigan Chapter
American Society of Civil Engineers

EXPERIENCE

Seiber Keast Engineering, L.L.C.
Northville, Michigan
Managing Member, Project Engineer
2008 – Present

Atwell-Hicks
Ann Arbor, Michigan
Group Leader, Land Dev. Services
2005 – 2008

Seiber, Keast & Associates, Inc.
Novi, Michigan
President, Principal, Project Engineer
1985 - 2005

Typical Duties:

- Site Development Design (Subdivisions, Apartments, Commercial Centers, Condominiums, Office and Industrial, Site Plans)
- Utility Master Planning
- Road Projects
- Easement and Right-Of-Way Negotiation and Acquisition
- Public Presentations to City Councils and Planning Commissions
- Expert Witness Testimony

McNeely & Lincoln Associates, Inc.
Northville, Michigan
Project Engineer, Design Engineer, Client Contact
1984 – 1985

Typical Duties:

- Site Development Design (Site Plans)
- Utility Master Planning
- Road Projects
- Easement and Right-Of-Way Negotiation and Acquisition
- Public Presentations to City Councils and Planning Commissions

JCK & Associates, Inc.

Novi, Michigan

Project Engineer, Design Engineer, Client Contact
1979 - 1984

Typical Duties:

- Site Development (Site Plans and Subdivisions)
- Developed City of Novi Storm Water Management Master Plan
- Sanitary Sewer Design and Master Planning
- Water System Design
- Easement Acquisition, Title Searching and Negotiations for Municipal Utility Projects
- Public Presentations for Voter Approval of Public Utility Project
- Ordinance Writing
 - Landfill and Mining Ordinance
 - Lot Split Ordinance
 - Storm Water Detention Ordinance (first one in Michigan)
 - Storm Water Systems Maintenance Ordinance
 - Subdivision Control Ordinance
 - Grading and Drainage Ordinance
 - Design and Construction Standards Ordinance
- Represent Firm at Planning Commission and City Council Meetings
- Plan Review
- Site Inspection
- Surveying

Waterford Township Engineering Department

Engineering Aide

1974 -1979

Road Commission for Oakland County

Plat Engineer for the Subdivision and Street Improvement Department

1973 -1974

Hubbell, Roth & Clark, Inc.

Draftsman, Inspector, and Surveyor

1971 - 1973

EXPERT WITNESS - LITIGATION

- Grand Meadowbrook Development vs. City of Novi
- Aron Zola vs. City of Novi
- R & T Management vs. City of Novi
- Miller vs. Oakland County Road Commission (UAW-GM)
- Damavolites vs. Beztak Corporation
- Queffenne vs. Lapeer County Drain & Road Commission (UAW-GM)
- Thick vs. CSX Railroad Company (UAW-GM)
- Boettcher vs. Genesee County (UAW-GM)
- Rosin Company vs. West Bloomfield Township
- McMahon vs. City of Farmington Hills
- Grossman vs. Independence Township
- Richardson vs. City of Farmington Hills
- Canton Township vs. Royal Holiday Mobile Home Park*
- Sosnik vs. West Bloomfield Township
- Ratliff Trucking vs. Unitec Construction Services, Inc.
- Boutrous vs. City of Dearborn
- Aldingbrook Condominium Association vs. Beztak Company*
- Maple Ridge Condominium Association vs. Singer*
- Ugartechea vs. Saginaw Township (UAW-GM)
- Havarm Associates vs. City of Novi
- French vs. Waterford Township*
- Christopher vs. Independence Township*
- Gross Isle Development vs. Gross Isle Township
- Hill vs. Hilton Hotels*
- MCI Communications vs. Homrech Wrecking Company
- Bonner vs. Charter Township of Northville
- MDOT vs. Dean* (M-59)
- MDOT vs. Deneweth* (M-59)
- Krueger vs. Dart Corporation
- Spectrum vs. City of Wayne
- Land Engineering, Inc. vs. Bally, Inc.*
- Graves vs. Parkway Associates*
- Carabel vs. Michigan Department of Environmental Quality

- Carabel vs. US Army Corp of Engineers (Fed. Supreme Court)
- Tiggan, Inc. vs. Taweel Associates, Inc.
- Ecclesia vs. Deerfield Township
- Gilbert vs. Superior Township
- San Marino Corners vs. Hartland Township
- MDOT vs. Lublin* (M-5)
- Coast to Coast Telecommunications vs. City of Birmingham
- Charter Twp. of Lyon vs. Langan*
- Langan vs. City of Farmington Hills
- Garmo vs. West Bloomfield Township
- City of Troy vs. E. Maple Road, L.L.C.*
- Young vs. Gross Isle Township
- Bynum vs. Dowhan*
- MDOT vs. Champion Chevrolet*
- City of Warren vs. Cole Carbide*
- Dearborn Schools vs. Northwind
- City of Novi vs. Novi Memorial Cemetery*
- MVA Contracting vs. Tyrone Park*
- Dutton Partners vs. Orion Township*
- DiCicco vs. Grosse Pointe Woods
- Road Commission for Oakland County vs. Living Word Lutheran Church*
- City of Novi vs. Michigan Cat*
- Marino vs. Pulte Homes*
- MDOT vs. Sosin*
- FTAG vs. Genoa Township*
- Navigate vs. Huron Township
- Braun, et. Al vs. Ann Arbor Township
- MDOT vs. Rock Solid*
- MDOT vs. Russell*
- MDOT vs. Haze Company, LP*
- MDOT vs. Charrington Estates*
- MDOT vs. JPT Acquisition Company*
- MDOT vs. Gilling*
- Thomas Prose vs. Glennbrook Beach Association
- Glacier Rock Estates vs. Iosco Township
- Latson Investments v. Oceola Township
- Mark Rogers v. Neighbor (Capac)
- RCOC vs. Evangelista*
- RCOC vs. LaSalle Bank*
- MDOT vs. Miles*
- MDOT vs. Fleck*
- MDOT vs. Chuhak*
- MDOT vs. Schwartz*
- Moga vs. Oakwood Development
- City of Novi vs. Adell Family Children's Trust*
- RCOC vs. Garmo Mapleview Shopping Center*
- RCOC vs. Garmo H Ford Medical Office*
- RCOC vs. Maple Farmington Professional Park*
- Macomb County vs. Slebodnik*
- Macomb County vs. Beaufait*
- White Lake Township vs. LaFlame*
- Washtenaw County Road Commission vs. Thetford Corporation*
- Washtenaw County Road Commission vs. Carver*
- Washtenaw County Road Commission vs. Honig*
- Washtenaw County Road Commission vs. Trachet–University Plastics*
- Pittsfield Township vs. Philippou*
- Washtenaw County Road Commission vs. 6800 Jackson Road, LLC*
- Petoskey Development vs. Bear Creek Township
- Whitmore Lake/23, LLC vs. Ann Arbor Township
- Washtenaw County Road Commission vs. Eyde Family Partnership*
- Litchfield vs. SEMCO Energy Gas Company*
- County of St. Clair vs. EJ Skotcher*
- BelloVino Market Place vs. Ann Arbor Shopping Center
- Washtenaw County Road Commission vs. Printech*
- Washtenaw County Road Commission vs. Gerald McCree*
- Commerce Township vs. Broder*
- Commerce Township vs. Touby*
- Napier 7 Shopping vs. Villanova
- Road Commission for Oakland County vs. Dunkin Donuts*
- Indian Michigan Power Company vs. Tolbert*
- MBS Airport vs. Krause*
- City of Rochester Hills vs. Leslie*

- City of Troy vs. Price Funeral Home*
- City of Troy vs. Kin Properties, Inc.*
- Island Lake North Bay Assn vs. Toll Brothers, Inc. et al*
- Bloomfield Township vs. Dr. Terry A. Podolsky*
- City of Troy vs. Sentry, Inc.*
- City of Troy vs. Midwest Masters Investment*
- City of Troy vs. General Development*
- City of Troy vs. Old Troy, LLC*
- City of Troy vs. MNAD Property, LLC*
- City of Troy vs. Farbman Group*
- City of Troy vs. Dominic & Brenda Picano*
- Road Commission for Oakland County vs. Collex Collision*
- Road Commission for Oakland County vs. Michigan Cat*
- Road Commission for Oakland County vs. Stricker Paint*
- Silverman Development vs. Giffels Webster Engineers*
- Columbia Development vs. Professional Engineering Associates
- Fingerly vs. City of Ann Arbor
- Livingston County vs. Grand-Burke Development, LLC*
- New Gateways, LLC vs. State of Michigan, Jennifer Granholm
- City of Hastings vs. Ludwig*
- MDOT vs. Temple Beth Israel*
- Jackson County vs. Tylutki*
- Woodbridge Estates vs. Geric Group, LLC*
- Road Commission for Oakland County vs. Hunters Square, Inc.*
- Sadler vs. Fox Chase Farms
- Washtenaw County Drain Commissioners. Enclave Associates*
- RCOC vs. Nicholas Center*
- Class Action Lit. vs. City of Ann Arbor
- Rose vs. Woodridge HOA
- Cadotte vs St. Clair Shore Club
- Zatto vs. Costello*
- Meloche vs. City of St. Clair Shores
- Martin vs. City of Lapeer

- Dowling v. DW Development*

**All cases provided engineering services for plaintiff except those noted with an asterisk.*

**BY-LAWS
OF THE
SUPERIOR TOWNSHIP
ZONING BOARD OF APPEALS**

ARTICLE I - PREAMBLE

SECTION 1.1 - Basis

Pursuant to the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, as amended, the Superior Township Board of Trustees has created the Superior Township Zoning Board of Appeals (ZBA), with the power to exercise the authority conferred on the ZBA as set forth in the Superior Township Zoning Ordinance and the Michigan Zoning Enabling Act.

SECTION 1.2 - Title

The official title of this body shall be the Superior Township Zoning Board of Appeals, hereinafter referred to as the "ZBA".

ARTICLE II - AREA

The area served by the ZBA shall include all lands legally within the present or future boundaries of Superior Township.

ARTICLE III - PURPOSES

The purpose of the ZBA shall be to carry out the provisions set forth in Article 13 of the Superior Township Zoning Ordinance, and to consider any other matters upon which the ZBA is called upon to act under law or other ordinances.

ARTICLE IV - MEMBERSHIP

SECTION 4.1 - Membership

The Board of Appeals shall consist of seven (7) members appointed by the Township Board. One (1) member shall be a member of the Township Planning Commission, and one member may be a member of the Township Board.

1. The remaining members shall be selected from the electors of the Township residing in the unincorporated area of the Township. The members selected shall be representative of the population distribution, and of the various interests present in the Township.
2. An employee or contractor of the Township Board shall not serve as a member of the Board of Appeals.
3. In the event a member is elected to The Township Board and such election increases the number of Township Board members serving on the Board of Appeals to more than one (1), then such member's seat on the Board of Appeals shall be deemed vacant. Such vacancy shall be filled for the remainder of the un-expired term by Township Board appointment.

SECTION 4.2 - Alternates

The Township Board may appoint up to two (2) alternate members for the same term as regular members of the Board of Appeals. An alternate member may be called to serve as a regular member for the Board of Appeals in the absence of a regular member if the regular member is absent from or will be unable to attend one (1) or more meetings of the Board of Appeals. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons described in Section 4.4 (Abstaining). The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Board of Appeals.

SECTION 4.3 - Terms

The term of office of each member shall be for three (3) years, except for members serving because of their membership on the Planning Commission or Township Board, whose terms shall be limited to the time they are members of those bodies. A successor shall be appointed in a timely manner after the term of the preceding member has expired. All vacancies shall be filled for the remainder of the unexpired term by Township Board appointment.

SECTION 4.4 - Abstaining

A member shall abstain from participating in a public hearing or voting on any question in which he or she has a conflict of interest, as set forth in Section 7.9. A member of the Board of Appeals who is also a member of the Township Board or Planning Commission shall abstain from participating in a public hearing or voting on the same matter that the member previously voted on as a member of the Board or Commission. The member may consider and vote on other unrelated matters involving the same property. Failure of a member to abstain in such cases shall constitute malfeasance of office.

SECTION 4.5 - Removal From Office

A member may be removed from office by the Township Board for misfeasance, malfeasance, or nonfeasance in office, upon written charges and following a public hearing held in accordance with Zoning Ordinance Section 1.14 (Public Hearing Procedures). Minutes of the meeting at which the hearing is held shall record the reasons for the hearing, the motion or resolution, if any, regarding removal from office, and the roll call vote of the Township Board.

SECTION 4.6 - Succession

Each member shall serve until his/her term shall expire. Members may be reappointed by the Board of Trustees. Vacancies resulting from resignation and/or removal shall be filled and shall be appointed for the remainder of the term of the resigning member.

SECTION 4.7 - Compensation

ZBA members may be paid reasonable per diem compensation as determined by the township board.

SECTION 4.8 – ZBA Employees

The Board of Trustees may employ appropriate staff and other employees and/or contract for part-time or full-time service of individuals or firms to assist the ZBA in its responsibilities and duties.

ARTICLE V - OFFICERS

SECTION 5.1 – Selection

At the first meeting of each year, the ZBA shall elect from its membership a Chairperson, Vice-Chairperson, Secretary, and any other officers deemed necessary. All officers are eligible for reelection. The member of the Board of Trustees shall not serve as Chairperson of the ZBA.

SECTION 5.2 - Term

The term of all officers shall be one (1) year and each officer shall serve until reelected or his/her successor shall have been elected.

SECTION 5.3 – Election

The Chairperson, Vice-Chairperson and Secretary shall be elected by a majority vote of the regular membership of the ZBA present at the time of election.

SECTION 5.4 - Attendance

Members of the ZBA who are absent from three (3) consecutive ZBA meetings or four (4) meetings held within the calendar year may be subject to review and/or removal from the ZBA by action of the Board of Trustees.

ARTICLE VI - DUTIES OF OFFICERS

SECTION 6.1 - Chairperson

The Chairperson shall be the chief executive officer of the ZBA and shall preside at all meetings of the ZBA. The Chairperson shall conduct all meetings in accordance with the rules promulgated herein. The Chairperson shall recognize members of the audience during the portion of hearings reserved for public comment and may also recognize members of the audience during other agenda items at the Chairperson's discretion. The Chair shall have a vote on all items before the ZBA.

SECTION 6.2 – Vice-Chairperson

In the event that the office of Chairperson becomes vacant by death, resignation or otherwise, the Vice-Chairperson shall serve as Chairperson until a new Chairperson is elected.

In the event of the absence of the Chairperson, or inability to discharge the duties of that office, such duties shall, for the time being, devolve upon the Vice-Chairperson or Secretary. Other members

may temporarily assume the position of chair for the subject meeting if no other officers are present. The person temporarily assuming the position of chair for the subject meeting shall be elected by a majority vote of the ZBA members in attendance.

SECTION 6.3 - Secretary

The Secretary shall attend all meetings of the ZBA. Other members may temporarily assume the position of secretary for the subject meeting if the Secretary cannot attend. The Township Board may provide a recording secretary to take meeting minutes.

SECTION 6.4 – Assumption of Office

The officers shall take office immediately following their election.

ARTICLE VII - MEETINGS

SECTION 7.1 – Regular Meeting

Meetings of the ZBA shall occur as needed.

Notice of any meeting will be delivered to the Township Clerk and posted in general view of the public at the Township Hall. Notice of any meeting shall include the date, time, and place of the scheduled meeting. Any changes in the date, time or location of the meeting shall be posted in a like manner.

SECTION 7.2 – Special Meeting

Special meetings may be held as required, subject to the call of the Chair or by two (2) members upon written request to the Secretary and Township Clerk.

Special meetings may be requested by members of the public by making application for said meeting with the Township Clerk after receiving approval of the Chair, and paying all necessary costs and additional fee, as set by Township Board of Trustees, in connection with the meeting. Missing the application deadline shall not be a reason to hold a special meeting. The option of a special meeting will be dependent upon the availability of ZBA members and meeting room and noticing requirements.

Notice of special meetings shall be given by the Township Clerk to members of the ZBA. Notice shall also be provided to others requiring notice in compliance with the requirements of the Michigan Zoning Enabling Act. The notice shall state the purpose and time of the meeting. The business which the ZBA may perform at the special meeting shall be conducted at a public meeting in compliance with the Open Meetings Act, Act 267 of the Public Acts of 1976, as amended.

Agenda items that may be legally added without public notice may not be added at a special meeting unless a majority of regular ZBA members are present and approve an addition to the agenda.

SECTION 7.3 - Agenda

The ZBA and Township staff shall establish deadlines for items to be included on the agenda. Unless proper notice is required or necessary, items may be added to the agenda upon the majority consent of the ZBA members present at a scheduled meeting. Added agenda items shall be listed in order of those items closest to needing deadline action.

SECTION 7.4 – Workshop Meetings

Workshop meetings for the purpose of performing ZBA studies or for educational purposes may be called at the request of the Chairperson or any three (3) members of the ZBA. No formal action by motion or resolution may be voted upon at a workshop meeting.

SECTION 7.5 - Quorum

A majority of the total number of members (a minimum of four of the seven members) shall constitute a quorum for the transaction of business and the taking of official action for all matters.

A majority vote of the total number of members (a minimum of four of the seven members), at a scheduled or special meeting, is required to effectuate an action or a decision of the ZBA and all other matters of business.

Whenever a quorum is not present at a scheduled or special meeting, the meeting shall be adjourned, and no discussion of any agenda items shall take place.

SECTION 7.6 – Order of Business

The order of business for scheduled or special meetings shall be:

1. Call to order by the Chairperson or Vice-Chairperson
2. Roll call
3. Approval of the agenda
4. Approval of the Minutes of that last preceding meeting
5. Citizen Participation
6. Communications
7. Public Hearings and Consecration's of Appeals to be Heard – By Case
 - A. Case is called
 - B. Appellant presents case

- C. Board asks questions
 - D. Public comments on the case
 - E. Board comments and discusses case; a motion is made and seconded; discussed then voted upon; the results are announced by the Chair
- 8. Old Business
 - 9. Other Business as Necessary
 - 10. Adjournment

This order of business may be revised by a majority vote of the members of the ZBA present at the meeting.

SECTION 7.7 - Motions

Motions may be restated by the Secretary before a vote is taken. The name of the maker and the supporter of a motion shall be recorded for the minutes.

SECTION 7.8 - Voting

Voting on minutes, opening and closing of public hearings, election of officers, adopting of agenda, recess and adjournment shall be by voice and shall be recorded by yeas and nays, unless a roll call vote is requested by any member of the ZBA. Roll call votes will be recorded on all other matters before the ZBA.

SECTION 7.9 – Conflict of Interest

A member of the ZBA should only abstain from voting on a motion if he/she has a bonafide conflict of interest. Situations which give rise to a conflict of interest may include:

- a) A relative or other family member is involved in any request for which the ZBA is asked to make a decision.
- b) The ZBA member has a business or financial interest in the property involved in the request, has a business or financial relationship with the applicant, or a financial interest in the applicant's company.
- c) The ZBA member owns or has a financial interest in a neighboring property. For purposes of this section, a neighboring property shall include any property falling within the notification radius for the application, as required by the Zoning Ordinance or the Michigan Zoning Enabling Act.

- d) There is a reasonable appearance of a conflict of interest. An example of this includes a situation where the ZBA member is on the Board of Directors of an applicant association.

Any member abstaining from a vote shall not participate in the discussion of that item and shall excuse himself/herself from the table.

SECTION 7.10 – Notice of Decision

A written notice or copy of the minutes containing the decision of the ZBA will be sent by the Township, to the applicant(s) of any case.

SECTION 7.11 – Adjournment of Meeting

ZBA meetings shall adjourn no later than 10:00 p.m, unless the ZBA members present decide by a majority vote to continue past this time. New agenda items shall not be taken up after 9:30 p.m., unless the ZBA members present decide by a majority vote to continue with one or more agenda items after that time.

SECTION 7.12 - Minutes

ZBA minutes shall be prepared by the Secretary or designated appointee of the ZBA. The minutes shall include a brief synopsis of the meeting, including information presented and a restatement of all motions and recording of votes; statement of the conditions or recommendations made on any action; and recording of attendance. All ZBA minutes shall be maintained by the Township Clerk's office as public records open to public inspection in accordance with the Open Meetings Act and the Freedom of Information Act, Act 442 of the Public Acts of 1976, as amended.

ARTICLE VIII - PERIODIC REPORTS

The ZBA, through the Township Board representative, shall make periodic reports of its activities to the Superior Township Board of Trustees.

ARTICLE IX - FISCAL YEAR

The fiscal year of the ZBA shall be the same as the fiscal year of the Township Board.

ARTICLE X - AMENDMENTS

The Board of Zoning Appeals may recommend to Township Board that these By-laws, in whole or in part, be altered, amended, added to or repealed by an affirmative vote of at least four (4) regular members of the ZBA at any scheduled or special meeting provided that notice of proposed alterations, amendments or repeals shall be submitted by mail to all members of the ZBA at least

seven (7) days before the scheduled or special meeting of the ZBA at which they are to be considered.

ARTICLE XI - EFFECTIVE DATE

These rules of procedure of the Superior Township Board of Zoning Appeals were adopted at a regular meeting of the Township Board held on _____. The rules shall have immediate effect.

ARTICLE XII - EFFECT AND INTERPRETATION OF BY-LAWS

All By-laws and parts thereof which conflict with any of the terms of these By-laws, are hereby rescinded. The catch line headings which precede each section of these By-laws are for convenience and reference only and shall not be taken into consideration in the construction or interpretation of any of the provisions of these By-laws.

Approved by the Board of Zoning Appeals on _____, 2021.

Adopted by the Superior Township Board of Trustees on _____, 2021.

Ken Schwartz, Supervisor

Lynette Findley, Clerk