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

WEDNESDAY
NOVEMBER 06, 2024
7:00 P.M.
AGENDA

1. CALL TO ORDER

2. ROLL CALL

3. ADOPTION OF AGENDA

4. APPROVAL OF MINUTES

   A. Approval of the April 8, 2024 minutes

5. CITIZEN PARTICIPATION

6. COMMUNICATIONS

7. PUBLIC HEARINGS AND CONSIDERATION OF APPEALS

   A. **ZBA #24-02 - 5766 Geddes Road**
   Continuance of an appeal of the decision of the Township Zoning Administrator

   B. **ZBA #24-03 - 7486 Plymouth-Ann Arbor Road - – Accessory Structure**
   Variance from Section 3.101 (Dimensional Standards) to allow for for an attached accessory structure to be constructed in the front yard setback.

8. OLD BUSINESS

9. OTHER BUSINESS AS NECESSARY

10. ADJOURNMENT

1. CALL TO ORDER

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

2. ROLL CALL

The Zoning Board of Appeals members present were Brennan, Devereaux, Parm, Smith, Lewis. Arico and Deeds were absent. Laura Bennett, former Planning & Zoning Administrator, was not in attendance. Fred Lucas, Township Attorney, and Bill Balmes, Building Inspector, were also in attendance. A quorum was present. Member Devereaux offered to serve as interim secretary as Member Arico was absent.

3. ADOPTION OF AGENDA

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

4. APPROVAL OF MINUTES

Secretary Brennan pointed out the need to update the minutes from January 31, 2024, to reflect the officers elected. The minutes were updated to reflect the following:

- Brennan (chair)
- Smith (co-chair)
- Arico (secretary)

A motion was made by Member Devereaux and supported by Member Lewis to approve the minutes of January 31, 2024, with the amendments listed. The motion carried.

5. CITIZEN PARTICIPATION

Stephen Przybylski of 5630 Meadow Lane shared with the board his concern with the construction of a one-car garage at 5843 Vreeland Rd, which was approved by the Zoning Board of Appeals on January 31, 2024. Mr. Przybylski stated that he did not believe that the ultimate design (2 stories with a subfloor) and construction was in-line with what the Board had approved and encouraged the Board to be even more specific in the future so that those residents seeking Zoning variances did not push the boundaries of what has been approved. Mr. Przybylski also thanked the entire ZBA for their

consideration and thoughtfulness and expressed that he felt listened to and respected by the ZBA. Chair Brennan called for additional Citizen Participation. There was none.

6. COMMUNICATIONS

Chair Brennan called for the approval of all Memorandums submitted. Motion by Member Smith, supported by Member Parm. The motion carried.

7. PUBLIC HEARINGS AND CONSIDERATION OF APPEALS

A. ZBA #24-02 - 5766 Geddes Road – Schuster Appeal

Motion by Member Lewis, supported by Member Parm, to open public hearing.

Mr. Gaton, the lawyer of Mr. Schuster, began with his opening remarks. He stated that building occurred on the Schuster property without their consent. He provided documentation, including images of the property to support this position.

Mr. Gaton claimed that construction was started without a permit because the height of the retaining wall was not expected to exceed 4 feet in height. A stop work order was issued when it was discovered that the walls did indeed exceed 4 feet.

Mr. Gaton continued by stating that the application of the Mouliere's was "woefully inadequate" because the Plot Plan does not include existing structures.

Mr. Gaton then claimed that the judge never ordered that the permit be approved by Superior Township, but rather that Superior Township could accept the application from the Mouliere's without the approval of the Schusters.

Mr. Gaton also stated that the distinction between a "road" and "driveway" in the case does not matter as the Zoning Ordinance states that both a road and a driveway need to be able to support emergency vehicles and called for a review by the Fire Chief.

Mr. Gaton closed by asking the ZBA to send the application back and do a proper review, which he claims was not done by Laura Bennett.

Member Smith asked for more detail regarding the structures that were not included in the Plot Plan.

Mr. Gaton responded that they were concrete blocks that could be turned into future structures.

Mr. X, the lawyer for the Mouliere's, began his address by running through the legal process and timelines, including the judge's order and Court of Appeals decision.

Mr. X claimed that the Schuster's put concrete blocks on the edge of the retaining wall so they would "count" as a building. Mr. X also claimed that the only reason the Karmani easement was granted was so the driveway would be reclassified as a private road, which would benefit the Schuster's objection to the Mouliere's construction plans.

There were no questions from the Board following Mr. X's comments.

Fred Lucas, Township Attorney, then addressed the ZBA and shared the order from the Washtenaw County Court to approve the Mouliere application.

Chair Brennan stated that his opinion was that the ZBA should abide by the Washtenaw County Court's order.

Member Smith asked for clarification on what appeals are pending.

Member Smith and Member Devereaux asked for clarification on the difference between application approval and permit approval.

Mr. Gaton clarified the current appeals underway and his interpretation of what the order from the Washtenaw County Court means and requires of Superior Township.

Member Devereaux stated that she did not feel that the order from the judge required Superior Township to approve the application as it currently stands, but rather that the judge's order allowed Superior Township to approve the application in lieu of a signed document from the Shuster's.

Mr. X stated that there is no confusion on the language used in the order from the Washtenaw County judge — Superior Township MUST approve the application.

Chair Brennan asked if a fire truck would be able to turn around with the current construction of the driveway/private road.

Bill Balmes, Building Inspector, stated that the driveway/private road was constructed before his tenure and he did not inspect it or have any knowledge of its inspection.

Daniel Snyder, the builder for the Mouliere's, stated that a fire truck had ample room at the top of the driveway/private road to turn around.

Member Lewis asked for documented proof that a fire truck could in fact turn around.

Daniel Snyder stated that the plans were complete and construction was currently underway.

Member Smith asked what was included in the zoning application and requested more details on the driveway construction specifically. This concern was addressed by Mr. Balmes.

Chair Brennan asked if there were any additional questions or statement. There were none.

The public hearing was closed.

The ZBA then began Deliberations.

Chair Brennan pointed that this issue has been brought before the ZBA before and has been through the courts with a ruling in favor of the Mouliere's.

Member Smith read Zoning Ordinance 1.07.

Member Lewis asked Member Smith to state her intention for referencing Zoning Ordinance 1.07.

Member Smith stated that according to her interpretation, this case has not been in compliance with Zoning Ordinance 1.07.

Member Smith made a motion to appeal the certificate of zoning compliance dated November 18, 2023 based on the fact that the application was not approved. Member Devereaux seconded the motion.

Member Lewis asked for clarification on what the ZBA should do next to move the matter forward.

Chair Brennan suggested that the Township reach out to Laura Bennett to obtain missing information and get clarification on her original decision.

Fred Lucas, Township Attorney, asked the ZBA to amend the language of their previous motion.

Member Smith made a motion to grant the appeal filed by the Schuster's relative to the inadequacy of the application. Member Parm seconded.

Chair Brennan entertained a motion to postpone action for ZBA #24-02 pending contact via email with Laura Bennett, former Planning & Zoning Administrator, for further comment.

Member Lewis made the motion. Member Parm seconded.

Roll Call Vote:

Yes: Brennan, Devereaux, Lewis, Parm, Smith
No: None.
Absent: Deeds, Arico
Abstain: None.

The motion carried.

8. OLD BUSINESS

None

9. OTHER BUSINESS AS NECESSARY

None.

10. ADJOURNMENT

A motion was made by Member Parm and supported by Member Lewis to adjourn the meeting at ??? p.m.

Respectfully submitted,

Thomas Brennan, III, Chair

Sarah Devereaux, Recording Secretary
Superior Charter Township
3040 N. Prospect, Ypsilanti, MI 48198

ZONING BOARD OF APPEALS
SUPERIOR CHARTER TOWNSHIP
SUPERIOR TOWNSHIP HALL
3040 N. PROSPECT, YPSILANTI, MI 48198
WEDNESDAY, NOVEMBER 06, 2024
7:00 p.m.

ZBA #24-02

The Superior Township Zoning Board of Appeals will hold a public hearing on **Wednesday, November 6, 2024, at 7:00 p.m.** at the Superior Township Hall, 3040 N. Prospect.

The case (ZBA #24-02) is a continuation of an appeal of the decision of the Township Zoning Administrator. The property is located at **5766 Geddes Road** and is zoned R-1 (Single-Family Residential).

A complete copy of the petition is available for inspection or copying at the Township Hall 9:00 a.m. – 4:00 p.m. weekdays. Persons wishing to express their views may do so in person at the public hearing, or in writing addressed to the Zoning Board of Appeals at the above address. Superior Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities upon four (4) business days notice to the Township. Individuals requiring auxiliary aids or services should contact Superior Charter Township by writing the Township Clerk.

Diane Mulville-Friel
3040 N. Prospect
Ypsilanti, MI 48198
734-482-6099

From: Diane Mulville-Friel
To: Diane Mulville-Friel; LauraB Gmail
Cc: Ben Carlisle
Subject: RE: ZBA #24-02 - 5766 Geddes Road – Schuster Appeal
Date: Tuesday, October 22, 2024 3:24:00 PM
Attachments: Letter to ZBA.docx
image001.png
image002.png
image003.png

Hello Laura,

I am confirming that Wednesday, November 6th, 2024, is set for the next ZBA meeting and ZBA #24-02 - 5766 Geddes Road (Schuster Appeal) will be on that agenda. In case you want to add or clarify anything, I have attached the memo that was included in the April 8, 2024, ZBA meeting packet. Again, you are not obligated to respond; however, I wanted to give you the opportunity and honor the request of the ZBA.

Let me know if you need additional information.

Best regards,

Carlisle | Wortman
ASSOCIATES, INC.

Diane Mulville-Friel
Senior Associate Planner, AICP
Phone: 734-662-2200 | Mobile: 727-422-0380
117 N. 1st Street, Suite 70, Ann Arbor, MI 48104

From: Diane Mulville-Friel <dmulville-friel@cwaplan.com>
Sent: Wednesday, October 2, 2024 2:50 PM
To: LauraB Gmail <labennett07@gmail.com>
Cc: Ben Carlisle <bcarlisle@cwaplan.com>; Diane Mulville-Friel <planning@superior-twp.org>
Subject: ZBA #24-02 - 5766 Geddes Road – Schuster Appeal

Hello Laura -

Hope you are well. I am reaching out at the request of the Superior Township ZBA to ask if you can provide any additional information or comments related to the ZBA case #24-02 - 5766 Geddes Road – Schuster Appeal.

This case was scheduled as a public hearing on April 8, 2024, and pertains to an appeal of a decision you made as Planning and Zoning Administrator, to approve a Certificate of Zoning Compliance for a building permit (requested by Daniel Snyder) to construct a retaining wall on Mr. Schuster's property at 5766 Geddes Road.

Attached are draft minutes from the April 8, 2024, ZBA meeting which took place after you left employment with Superior Township. Please note that Chair Brennan entertained a motion to postpone action for ZBA #24-02 pending contact via email with Laura Bennett, former Planning & Zoning Administrator, for further comment. Member Lewis made the motion. Member Parm seconded. The motion carried 5-0 with two (2) members absent.

You are not obligated to respond; however, I wanted to give you the opportunity and honor the request of the ZBA.

Let me know if you need additional information.

Best regards,

Carlisle | Wortman
ASSOCIATES, INC.

Diane Mulville-Friel
Senior Associate Planner, AICP
Phone: 734-662-2200 | Mobile: 727-422-0380
117 N. 1st Street, Suite 70, Ann Arbor, MI 48104

MEMO

TO: Superior Township Zoning Board of Appeals
FROM: Laura Bennett, Planning & Zoning Administrator
DATE: March 15, 2024
RE: ZBA 24-02 Schuster Appeal

On December 19, 2023, I approved a Certificate of Zoning Compliance for the completion of retaining walls located on Mr. Schuster's property, located at 5766 Geddes Road. This Certificate of Zoning Compliance for the remaining retaining walls was accompanied by a Building Permit authorized by Judge Connors on December 18, 2023.

Prior to that, On January 12, 2022, the Zoning Board of Appeals held a public hearing to hear a request from Mr. Schuster on seven separate Zoning Ordinance interpretations as well as an appeal of the former Superior Township Zoning Administrator, Rick Mayernik (letter dated December 21, 2021, appended to this memo).

In his most recent ZBA submittal, Mr. Schuster brings up items that were already decided on by the Zoning Board of Appeals at their meeting on March 30, 2022. At their meeting on March 30, 2022, the Zoning Board of Appeals voted to uphold Mr. Mayernik's interpretations and decisions stated in his memo dated December 21, 2021.

For a more detailed history on these rulings please see the following ZBA Minutes:

- September 29, 2021
- January 12, 2022
- March 30, 2022
- October 19, 2022
- November 3, 2022

Following this memo and letter from Rick Mayernik, dated December 21, 2021, the ZBA application begins Mr. Schuster's application, in its entirety.

MEMO

DATE: December 21, 2021

TO: Charter Township of Superior Zoning Board of Appeals

FROM: Richard Mayernik, Building/Zoning Official

RE: Matthew Schuster ZBA Interpretation Request

The applicant (Mr. Schuster) has requested the Zoning Board of Appeal to provide interpretations of the Zoning Ordinance for seven (7) questions. The following pages include my comments related to each question.

Request for zoning ordinance interpretation #1 Guard Rails, Guards, Railings (indications in article 6.01B5 and 6.01B6, etc)

Requested interpretation that fences, guards, guard rails, or other named protective structures required under the state building code or BOCA around construction sites, atop grade differentials, or retaining walls must comply with the Superior Township Zoning Ordinance including provisions governing structures and certificates of zoning compliance

Response:

On the attached pages, is the definition of a "guard" from page 18 of the 2015 Michigan Residential Code (MRC) and the definition of "fence" found on page 17-22 of the Zoning Ordinance. The term "guard" is not defined within the Zoning Ordinance and likewise, the term "fence" is not defined within the MRC.

The differences between the definitions is clear; guards are for safety and to "minimize the possibility of a fall" whereas fences serve as a physical barrier to ingress/egress or as a screen or enclosure.

Unlike guards, fences are not mandatory at certain locations (see page 70 MRC) and fences do not have specific structural loading as do guards (see page 53 MRC). For the Zoning Ordinance to prohibit or otherwise regulate guards required by the MRC is contrary to the intent of the Zoning Ordinance and violates the Stille-Derossett-Hale Single State Construction Code Act 230 of 1972.

For the above listed reasons, I ask that the ZBA find that guards required by the MRC are not fences and are not regulated by the Zoning Ordinance.

FURNACE. A vented heating *appliance* designed or arranged to discharge heated air into a *conditioned space* or through a duct or ducts.

[RB] GLAZING AREA. The interior surface area of all glazed fenestration, including the area of sash, curbing or other framing elements, that enclose *conditioned space*. Includes the area of glazed fenestration assemblies in walls bounding conditioned *basements*.

[RB] GRADE. The finished ground level adjoining the building at all *exterior walls*.

[RB] GRADE FLOOR OPENING. A window or other opening located such that the sill height of the opening is not more than 44 inches (1118 mm) above or below the finished ground level adjacent to the opening.

GRADE, PIPING. See "Slope."

[RB] GRADE PLANE. A reference plane representing the average of the finished ground level adjoining the building at all *exterior walls*. Where the finished ground level slopes away from the *exterior walls*, the reference plane shall be established by the lowest points within the area between the building and the *lot line* or, where the *lot line* is more than 6 feet (1829 mm) from the building between the structure and a point 6 feet (1829 mm) from the building.

GRAY WATER. Waste discharged from lavatories, bathtubs, showers, clothes washers and laundry trays.

GRIDDED WATER DISTRIBUTION SYSTEM. A water distribution system where every water distribution pipe is interconnected so as to provide two or more paths to each fixture supply pipe.

[RB] GROSS AREA OF EXTERIOR WALLS. The normal projection of all *exterior walls*, including the area of all windows and doors installed therein.

GROUND-SOURCE HEAT PUMP LOOP SYSTEM. Piping buried in horizontal or vertical excavations or placed in a body of water for the purpose of transporting heat transfer liquid to and from a heat pump. Included in this definition are closed loop systems in which the liquid is recirculated and open loop systems in which the liquid is drawn from a well or other source.

[RB] GUARD. A building component or a system of building components located near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to the lower level.

[RB] GUESTROOM. Any room or rooms used or intended to be used by one or more guests for living or sleeping purposes.

[RB] GYPSUM BOARD. The generic name for a family of sheet products consisting of a noncombustible core primarily of gypsum with paper surfacing. Gypsum wallboard, gypsum sheathing, gypsum base for gypsum *veneer* plaster, exterior gypsum soffit board, predecorated gypsum board and water-resistant gypsum backing board complying with the standards listed in Section R702.3 and Part IX of this code are types of gypsum board.

[RB] GYPSUM PANEL PRODUCT. The general name for a family of sheet products consisting essentially of gypsum.

[RB] HABITABLE SPACE. A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered *habitable spaces*.

[RB] HANDRAIL. A horizontal or sloping rail intended for grasping by the hand for guidance or support.

HANGERS. See "Supports."

HAZARDOUS LOCATION. Any location considered to be a fire hazard for flammable vapors, dust, combustible fibers or other highly combustible substances.

HEAT PUMP. An *appliance* having heating or heating and cooling capability and that uses refrigerants to extract heat from air, liquid or other sources.

[RE] HEATING DEGREE DAYS (HDD). The sum, on an annual basis, of the difference between 65°F (18°C) and the mean temperature for each day as determined from "NOAA Annual Degree Days to Selected Bases Derived from the 1960-1990 Normals" or other weather data sources acceptable to the code official.

[RB] HEIGHT, BUILDING. The vertical distance from *grade plane* to the average height of the highest roof surface.

[RB] HEIGHT, STORY. The vertical distance from top to top of two successive tiers of beams or finished floor surfaces; and, for the topmost *story*, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

[RE] HIGH-EFFICACY LAMPS. See Section N1101.6 for definition applicable in Chapter 11.

HIGH-TEMPERATURE (H.T.) CHIMNEY. A high temperature chimney complying with the requirements of UL 103. A Type H.T. chimney is identifiable by the markings "Type H.T." on each chimney pipe section.

[RB] HILL. With respect to topographic wind effects, a land surface characterized by strong relief in any horizontal direction.

[RB] HISTORIC BUILDING. Buildings that are listed in or eligible for listing in the National Register of Historic Places, or designated as historic under an appropriate state or local law.

HORIZONTAL BRANCH, DRAINAGE. A drain pipe extending laterally from a soil or waste stack or *building drain*, that receives the discharge from one or more *fixture drains*.

HORIZONTAL PIPE. Any pipe or fitting that makes an angle of less than 45 degrees (0.79 rad) with the horizontal.

HOT WATER. Water at a temperature greater than or equal to 110°F (43°C).

[RB] HURRICANE-PRONE REGIONS. Areas vulnerable to hurricanes, defined as the U.S. Atlantic Ocean and Gulf of Mexico coasts where the ultimate design wind speed, V_{ult}, is greater than 115 miles per hour (51 m/s), and Hawaii, Puerto Rico, Guam, Virgin Islands and America Samoa.

HYDROGEN-GENERATING APPLIANCE. A self-contained package or factory-matched packages of integrated

including barns, silo, granary, milkhouse, and similar structures, but not including any building used as a dwelling.

c. **Farm Labor Housing**. Temporary facilities provided for the housing of workers who are employed in the seasonal planting, harvesting, or processing of crops. This term is synonymous with "migratory labor camp."

d. **Feed Lot.** Includes any of the following facilities:

(1) any tract of land or structure wherein any type of fowl or the by-products thereof are raised for sale at wholesale or retail; and

(2) any structure, pen, or corral wherein cattle, horses, sheep, goats, or swine are maintained in close quarters for the purpose of fattening such livestock for final shipment to market.

e. **Livestock** or **Farm Animals.** Animals used for human food and fiber or animals used for service to humans, including cattle, swine, sheep, llamas, goats, bison, equine, poultry, and rabbits. Farm animals do not include companion animals, such as dogs and cats, which are capable of being trained and adapting to living in a human environment.

78. **Fence.** Linear structures or partitions of definite height and location erected upon or near the dividing line between adjoining owners intended to serve as: a physical barrier to ingress or egress; a screen from objectionable vista or noise; a marker; an enclosure in carrying out the requirements of this Ordinance; or for decorative use.

a. **Chain-link fence.** A fence constructed of galvanized steel or similar materials as approved by the Building Inspector for the purpose of enclosing or securing an area.

b. **Ornamental fence.** A fence consisting of wrought iron, galvanized steel, aluminum, vinyl, wood or similar materials fabricated into a design with specific pattern elements or ornamentation, and which does not block vision to an extent greater than fifty percent (50%). Ornamental fences shall not include chain-link or wire fences or fences of similar construction.

c. **Privacy fence.** A fence constructed of wood, vinyl or similar materials that blocks vision to an extent greater than fifty percent (50%) for the purpose of obscuring or screening an area from public view.

d. **Rail fence.** A fence constructed of wood, vinyl or similar materials and consisting of one (1) to four (4) horizontal rails connecting to vertical posts spaced a minimum of six (6) feet apart, and which does not block vision to an extent greater than fifty percent (50%).

e. **Temporary fence.** A fence constructed of canvas, plastic, chain-link, wood or similar material for the purpose of enclosing or securing an area for a limited period of time; for securing a construction site against unauthorized access; or for public safety at a special event [amended 4/1/2011, Ord. 174-05].

R311.7.12 Ships ladders. Ships ladders shall not be used as an element of a means of egress. Ships ladders shall be permitted provided that a required means of egress stairway or ramp serves the same space at each adjoining level or where a means of egress is not required. The clear width at and below the handrails shall be not less than 20 inches.

R311.7.12.1 Treads of ships ladders. Treads shall have a depth of not less than 5 inches (127 mm). The tread shall be projected such that the total of the tread depth plus the nosing projection is not less than $8^1/_2$ inches (216 mm). The riser height shall be not more than $9^1/_2$ inches (241 mm).

R311.7.12.2 Handrails of ships ladders. Handrails shall be provided on both sides of ships ladders and shall comply with Sections R311.7.8.2 to R311.7.8.4. Handrail height shall be uniform, not less than 30 inches (762 mm) and not more than 34 inches (864 mm).

R311.8 Ramps.

R311.8.1 Maximum slope. Ramps serving the egress door required by Section R311.2 shall have a slope of not more than 1 unit vertical in 12 units horizontal (8.3-percent slope). All other ramps shall have a maximum slope of 1 unit vertical in 8 units horizontal (12.5 percent).

Exception: Where it is technically infeasible to comply because of site constraints, ramps shall have a slope of not more than 1 unit vertical in 8 units horizontal (12.5 percent).

R311.8.2 Landings required. There shall be a floor or landing at the top and bottom of each ramp, where doors open onto ramps, and where ramps change directions. The width of the landing perpendicular to the ramp slope shall be not less than 36 inches (914 mm).

R311.8.3 Handrails required. Handrails shall be provided on not less than one side of ramps exceeding a slope of one unit vertical in 12 units horizontal (8.33-percent slope).

R311.8.3.1 Height. Handrail height, measured above the finished surface of the ramp slope, shall be not less than 34 inches (864 mm) and not more than 38 inches (965 mm).

R311.8.3.2 Grip size. Handrails on ramps shall comply with Section R311.7.8.3.

R311.8.3.3 Continuity. Handrails where required on ramps shall be continuous for the full length of the ramp. Handrail ends shall be returned or shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have a space of not less than $1^1/_2$ inches (38 mm) between the wall and the handrails.

SECTION R312
GUARDS AND WINDOW FALL PROTECTION

R312.1 Guards. *Guards* shall be provided in accordance with Sections R312.1.1 through R312.1.4.

R312.1.1 Where required. *Guards* shall be located along open-sided walking surfaces, including stairs, ramps and landings, that are located more than 30 inches (762 mm) measured vertically to the floor or *grade* below at any point within 36 inches (914 mm) horizontally to the edge of the open side. Insect screening shall not be considered as a *guard*.

R312.1.2 Height. Required *guards* at open-sided walking surfaces, including stairs, porches, balconies or landings, shall be not less than 36 inches (914 mm) in height as measured vertically above the adjacent walking surface or the line connecting the leading edges of the treads.

Exceptions:

1. *Guards* on the open sides of stairs shall have a height not less than 34 inches (864 mm) measured vertically from a line connecting the leading edges of the treads.
2. Where the top of the *guard* serves as a handrail on the open sides of stairs, the top of the *guard* shall be not less than 34 inches (864 mm) and not more than 38 inches (965 mm) as measured vertically from a line connecting the leading edges of the treads.

R312.1.3 Opening limitations. Required *guards* shall not have openings from the walking surface to the required *guard* height that allow passage of a sphere 4 inches (102 mm) in diameter.

Exceptions:

1. The triangular openings at the open side of stair, formed by the riser, tread and bottom rail of a *guard*, shall not allow passage of a sphere 6 inches (153 mm) in diameter.
2. *Guards* on the open side of stairs shall not have openings that allow passage of a sphere $4^3/_8$ inches (111 mm) in diameter.

R312.1.4 Exterior plastic composite guards. Plastic composite exterior *guards* shall comply with the requirements of Section R317.4.

R312.2 Window fall protection. Window fall protection shall be provided in accordance with Sections R312.2.1 and R312.2.2.

R312.2.1 Window sills. In dwelling units, where the top of the sill of an operable window opening is located less than 24 inches (610 mm) above the finished floor and greater than 72 inches (1829 mm) above the finished *grade* or other surface below on the exterior of the building, the operable window shall comply with one of the following:

1. Operable windows with openings that will not allow a 4-inch-diameter (102 mm) sphere to pass through the opening where the opening is in its largest opened position.
2. Operable windows that are provided with window fall prevention devices that comply with ASTM F2090.
3. Operable windows that are provided with window opening control devices that comply with Section R312.2.2.

R312.2.2 Window opening control devices. Window opening control devices shall comply with ASTM F2090.

dance with Section R322. Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area. Buildings and structures located in whole or in part in identified floodways shall be designed and constructed in accordance with ASCE 24.

R301.2.4.1 Alternative provisions. As an alternative to the requirements in Section R322, ASCE 24 is permitted subject to the limitations of this code and the limitations therein.

R301.3 Story height. The wind and seismic provisions of this code shall apply to buildings with *story heights* not exceeding the following:

1. For wood wall framing, the *story height* shall not exceed 11 feet 7 inches (3531 mm) and the laterally unsupported bearing wall stud height permitted by Table R602.3(5).
2. For cold-formed steel wall framing, the *story height* shall be not more than 11 feet 7 inches (3531 mm) and the unsupported bearing wall stud height shall be not more than 10 feet (3048 mm).
3. For masonry walls, the *story height* shall be not more than 13 feet 7 inches (4140 mm) and the bearing wall clear height shall be not greater than 12 feet (3658 mm).

   Exception: An additional 8 feet (2438 mm) of bearing wall clear height is permitted for gable end walls.
4. For insulating concrete form walls, the maximum story height shall not exceed 11 feet 7 inches (3531 mm) and the maximum unsupported wall height per *story* as permitted by Section R608 tables shall not exceed 10 feet (3048 mm).
5. For structural insulated panel (SIP) walls, the story height shall be not greater than 11 feet 7 inches (3531 mm) and the bearing wall height per *story* as permitted by Section R610 tables shall not exceed 10 feet (3048 mm).

Individual walls or wall studs shall be permitted to exceed these limits as permitted by Chapter 6 provisions, provided that *story heights* are not exceeded. An engineered design shall be provided for the wall or wall framing members where the limits of Chapter 6 are exceeded. Where the *story height* limits of this section are exceeded, the design of the building, or the noncompliant portions thereof, to resist wind and seismic loads shall be in accordance with the *International Building Code*.

R301.4 Dead load. The actual weights of materials and construction shall be used for determining dead load with consideration for the dead load of fixed service *equipment*.

R301.5 Live load. The minimum uniformly distributed live load shall be as provided in Table R301.5.

TABLE R301.5
MINIMUM UNIFORMLY DISTRIBUTED LIVE LOADS
(in pounds per square foot)

USE	LIVE LOAD
Uninhabitable attics without storage[b]	10
Uninhabitable attics with limited storage[b, g]	20
Habitable attics and attics served with fixed stairs	30
Balconies (exterior) and decks[e]	40
Fire escapes	40
Guards and handrails[d]	200[h]
Guard in-fill components[f]	50[h]
Passenger vehicle garages[a]	50[a]
Rooms other than sleeping rooms	40
Sleeping rooms	30
Stairs	40[c]

For SI: 1 pound per square foot = 0.0479 kPa, 1 square inch = 645 mm^2, 1 pound = 4.45 N.

a. Elevated garage floors shall be capable of supporting a 2,000-pound load applied over a 20-square-inch area.

b. Uninhabitable *attics* without storage are those where the clear height between joists and rafters is not more than 42 inches, or where there are not two or more adjacent trusses with web configurations capable of accommodating an assumed rectangle 42 inches in height by 24 inches in width, or greater, within the plane of the trusses. This live load need not be assumed to act concurrently with any other live load requirements.

c. Individual stair treads shall be designed for the uniformly distributed live load or a 300-pound concentrated load acting over an area of 4 square inches, whichever produces the greater stresses.

d. A single concentrated load applied in any direction at any point along the top.

e. See Section R507.1 for decks attached to *exterior walls*.

f. *Guard* in-fill components (all those except the handrail), balusters and panel fillers shall be designed to withstand a horizontally applied normal load of 50 pounds on an area equal to 1 square foot. This load need not be assumed to act concurrently with any other live load requirement.

g. Uninhabitable *attics* with limited storage are those where the clear height between joists and rafters is not greater than 42 inches, or where there are two or more adjacent trusses with web configurations capable of accommodating an assumed rectangle 42 inches in height by 24 inches in width, or greater, within the plane of the trusses.

   The live load need only be applied to those portions of the joists or truss bottom chords where all of the following conditions are met:

   1. The *attic* area is accessible from an opening not less than 20 inches in width by 30 inches in length that is located where the clear height in the *attic* is not less than 30 inches.
   2. The slopes of the joists or truss bottom chords are not greater than 2 inches vertical to 12 units horizontal.
   3. Required insulation depth is less than the joist or truss bottom chord member depth.

   The remaining portions of the joists or truss bottom chords shall be designed for a uniformly distributed concurrent live load of not less than 10 pounds per square foot.

h. Glazing used in handrail assemblies and *guards* shall be designed with a safety factor of 4. The safety factor shall be applied to each of the concentrated loads applied to the top of the rail, and to the load on the in-fill components. These loads shall be determined independent of one another, and loads are assumed not to occur with any other live load.

Request for interpretation #2 Retaining wall definition (article 17, article 3, article 6, etc). Retaining wall is not defined in the ordinance

Request that the ZBA interpret a retaining wall as a wall and structure under the zoning ordinance (subject to ordinance restrictions such as article 3 and certificates of zoning compliance) consistent with the Superior Township engineering standards and/or 2015 State of MI Building Code:

> *Any wall separating a differential grade of more than 12" shall be considered a retaining wall and a structure.*

Response:

Section 17.02.226 defines a wall as " screening structure of definite height and location constructed of a masonry, concrete, rock or similar material". Section 17.02.207 defines a structure as "anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including, but not limited to, buildings, mobile homes, aboveground swimming pools, radio towers, sheds, signs and storage bins, but excluding sidewalks and paving on roads, driveways, parking areas and patios".

The applicant is correct that "retaining wall" is not a defined term within the Zoning Ordinance. While I agree that a retaining wall meets the definition of a "wall" and is a constructed on the ground, a retaining wall is more akin to a paving on a road in that both serve a similar purpose and therefore should be excluded from the definition of a structure. To interpret retaining walls as requested by the applicant would severely limit their locations. I contend that this is not the intent of the Zoning Ordinance.

The ZBA should adopt MRC definition of "wall, retaining" to mean to walls separating differential grades. I further ask that the ZBA interpret that retaining walls are "Permitted Yard Encroachments" per Section 3.203(G)(1) unless such retaining walls exceed 4 feet in height measured from the ground level at the higher side of the wall and that retaining walls located within the right-of -way easement for public or private roads that are necessary for the construction of such roads, be exempt from setback requirements.

Finally, since the definition of "Accessory Use, Building or Structure" limits a structure to be located "on the same zoning lot as the principal use", if the ZBA adopts my recommendation that a retaining wall not be treated as a "structure" this restriction would not be applicable. If a retaining wall is located within right-of-way easements and is necessary for the construction of the road/drive it should not be treated as a structure and therefore be exempt from being located entirely on the same zoning lot as the principal use.

225. **Viewshed.** The total physiographic area, composed of land, water, biotic, and other environmental and cultural elements, visible from one (1) or more fixed vantage points (such as a series of views along a roadway, or the view from the perspective of one riverfront dwelling).

225a. **Volatile Farm-Based Biofuel Production Facility.** An accessory use, clearly incidental and subordinate to an active farm operation lawfully operating on the same zoning lot, in which biofuel (as defined in this Section) is derived from recently living organisms or their metabolic by-products. This term shall include all equipment, storage tanks, and other improvements needed to produce, store, and transport the biofuel in a manner that meets all federal, state, and Township standards and limitations [amended 12/16/2013, Ord. 174-14].

226. **Wall.** A screening structure of definite height and location constructed of a masonry, concrete, rock or similar material.

227. **Warehouse.** A building used for short- and/or long-term storage in connection with production and marketing or in connection with manufacturing, freight handling, wholesaling, and retailing. See also "**Distribution Center**" and "**Truck Terminal**."

228. **Watercourse.** Any waterway including a river, stream, lake, pond or any body of surface water having definite banks, a bed and visible evidence of a continued flow or continued occurrence of water.

229. **Water Supply System.** Facilities for collection, transportation, processing, or distribution of sanitary drinking water serving or intended to serve more than one principal dwelling unit, principal use, or principal building; including all potable water sources, treatment and purification facilities, pumps, lines, and appurtenances.

a. **Publicly-Owned and Operated Water System.** A water supply system owned and operated by one or more governmental entities.

b. **Community Well.** A water supply system serving more than one (1) dwelling that is owned by a non-governmental entity.

230. **Wetland.** Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the land surface or the land is saturated with or covered by water. Some wetland areas are more commonly referred to as bogs, swamps or marshlands. Wetlands shall also have one (1) or more of the following attributes:

a. At least periodically, the land supports predominantly hydrophytes.

b. The substrate is predominantly un-drained hydric soil.

c. The substrate is saturated with water or covered by shallow water at some time during the growing season of each year.

231. **Wetland Ordinance.** Ordinance No. 135, duly adopted by the Superior Charter Township Board, entitled "Wetland and Watercourse Protection and Restoration."

232. **Wetland, Regulated.** Certain wetlands as regulated by the Michigan Department of Environmental Quality (MDEQ) or the Township's Wetland Ordinance.

of Michigan under the Adult Foster Care Facility Licensing Act (P.A. 218 of 1979, as amended) or Child Care Organizations Act (P.A. 116 of 1973, as amended).

203. **Steep Slopes**. A rise of 25 feet or more over a distance of 100 feet, or any existing slope of twenty five percent (25%) or greater.

204. **Story.** That part of a building, except a basement or mezzanine as defined herein, included between the upper surface of any floor and the upper surface of the floor or roof next above it (see "**Basic Structural Terms**" illustration).

a. A mezzanine shall be deemed a full story when it covers more than one-third (1/3) of the area of the story underneath, or, if the vertical distance from the floor next below the mezzanine to the floor above it is 24 feet or more.

b. A basement shall be deemed a full story when the vertical distance from the average grade to the floor below is half than the vertical distance from the average grade to the ceiling.

205. **Story, Half.** An uppermost story lying under a sloping roof having an area of at least 200 square feet in area with a clear ceiling height of seven (7) feet six (6) inches. For the purposes of this ordinance, the usable floor area is only that area having at least five (5) feet clear height between floor and ceiling.

206. **Street.** See "**Road**."

207. **Structure.** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including, but not limited to, buildings, mobile homes, aboveground swimming pools, radio towers, sheds, signs and storage bins, but excluding sidewalks and paving on roads, driveways, parking areas and patios.

a. **Temporary Structure.** A structure permitted to exist during periods of construction, special events, and other limited time periods.

208. **Subdivision Plat.** The division of a tract of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development, in accordance with the Land Division Act (P.A. 288 of 1967, as amended), and the Superior Charter Township Subdivision Control Ordinance, as amended.

209. **Swimming Pool.** Any structure or container located above or below grade designed to hold water to a depth of greater than two (2) feet and intended for swimming or bathing. A swimming pool is an accessory structure for purposes of this Ordinance.

210. **Tavern.** An establishment licensed by the State of Michigan to sell at retail and serve alcoholic beverages on the premises where less than thirty percent (30%) of the gross floor area is made up of a bar, being a barrier or counter at which any alcoholic beverages are sold or served to and consumed by customers, and also including areas dedicated for the use of stages, dance floors, standing-room areas, pool tables, and other amusement devices.

VACUUM BREAKER. A device that prevents back-siphonage of water by admitting atmospheric pressure through ports to the discharge side of the device.

[RB] VAPOR PERMEABLE. The property of having a moisture vapor permeance rating of 5 perms (2.9×10^{-10} kg/Pa · s · m^2) or greater, where tested in accordance with the desiccant method using Procedure A of ASTM E96. A vapor permeable material permits the passage of moisture vapor.

[RB] VAPOR RETARDER CLASS. A measure of the ability of a material or assembly to limit the amount of moisture that passes through that material or assembly. Vapor retarder class shall be defined using the desiccant method with Procedure A of ASTM E96 as follows:

Class I: 0.1 perm or less

Class II: 0.1 < perm ≤ 1.0 perm

Class III: 1.0 < perm ≤ 10 perm

VENT. A passageway for conveying flue gases from fuel-fired *appliances*, or their vent connectors, to the outside atmosphere.

VENT COLLAR. See "Flue collar."

VENT CONNECTOR. That portion of a venting system that connects the flue collar or draft hood of an *appliance* to a vent.

VENT DAMPER DEVICE, AUTOMATIC. A device intended for installation in the venting system, in the outlet of an individual, automatically operated fuel burning *appliance* and that is designed to open the venting system automatically where the *appliance* is in operation and to close off the venting system automatically where the *appliance* is in a standby or shutdown condition.

VENT GASES. Products of combustion from fuel-burning *appliances*, plus excess air and dilution air, in the venting system above the draft hood or draft regulator.

VENT STACK. A vertical vent pipe installed to provide circulation of air to and from the drainage system and that extends through one or more stories.

VENT SYSTEM. Piping installed to equalize pneumatic pressure in a drainage system to prevent trap seal loss or blow-back due to siphonage or back pressure.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

For definition applicable in Chapter 11, see Section N1101.6.

VENTING. Removal of combustion products to the outdoors.

VENTING SYSTEM. A continuous open passageway from the flue collar of an *appliance* to the outside atmosphere for the purpose of removing flue or vent gases. A venting system is usually composed of a vent or a chimney and vent connector, if used, assembled to form the open passageway.

VERTICAL PIPE. Any pipe or fitting that makes an angle of 45 degrees (0.79 rad) or more with the horizontal.

[RB] VINYL SIDING. A shaped material, made principally from rigid polyvinyl chloride (PVC), that is used to cover exterior walls of buildings.

[RB] WALL, RETAINING. A wall not laterally supported at the top, that resists lateral soil load and other imposed loads.

[RB] WALLS. Walls shall be defined as follows:

Load-bearing wall. A wall supporting any vertical load in addition to its own weight.

Nonbearing wall. A wall which does not support vertical loads other than its own weight.

WASTE. Liquid-borne waste that is free of fecal matter.

WASTE PIPE OR STACK. Piping that conveys only liquid sewage not containing fecal material.

WASTE RECEPTOR. A floor sink, standpipe, hub drain or a floor drain that receives the discharge of one or more indirect waste pipes.

WATER DISTRIBUTION SYSTEM. Piping that conveys water from the service to the plumbing fixtures, *appliances*, appurtenances, *equipment*, devices or other systems served, including fittings and control valves.

WATER HEATER. Any heating *appliance* or *equipment* that heats potable water and supplies such water to the potable hot water distribution system.

WATER MAIN. A water supply pipe for public use.

WATER OUTLET. A valved discharge opening, including a hose bibb, through which water is removed from the potable water system supplying water to a plumbing fixture or plumbing *appliance* that requires either an *air gap* or backflow prevention device for protection of the supply system.

[RB] WATER-RESISTIVE BARRIER. A material behind an *exterior wall* covering that is intended to resist liquid water that has penetrated behind the exterior covering from further intruding into the *exterior wall* assembly.

WATER SERVICE PIPE. The outside pipe from the water main or other source of potable water supply to the water distribution system inside the building, terminating at the service valve.

WATER SUPPLY SYSTEM. The water service pipe, the water-distributing pipes and the necessary connecting pipes, fittings, control valves and appurtenances in or adjacent to the building or premises.

WET VENT. A vent that receives the discharge of wastes from other fixtures.

WHOLE-HOUSE MECHANICAL VENTILATION SYSTEM. An exhaust system, supply system, or combination thereof that is designed to mechanically exchange indoor air for outdoor air where operating continuously or through a programmed intermittent schedule to satisfy the whole-house ventilation rate.

For definition applicable in Chapter 11, see Section N1101.6.

Request for interpretation #3. Retaining wall height (article 17, article 3, article 6)

Retaining wall height calculation is not directly specified in the ordinance, although it is found in the State Building Code and Superior Township Engineering Standards Manual

Given request #2 above, we recommend that retaining wall height be interpreted consistent with any wall height under the ordinance, from the bottom of the wall to the top of the wall. In no event should the height of the retaining wall be measured as less than the differential between the lower and upper grade, nor the differential between the upper grade of any retaining wall within 2 feet of another retaining wall and the lower walls lowest grade, which should be correctly measured as a single unit if engineered together due to grade differential.

-Note - there are conditional provisions for fence height determinations of retaining walls in the zoning ordinance article 6 which may result in determining the most restrictive height calculation (consistent with ordinance 1.04.1), not a replacement calculation of lesser value, which should be specified by the ZBA.

Response:

As noted above, the Zoning Ordinance does not define "retaining walls" and further, only discusses retaining wall height measurements in those situations where retaining walls treated as fences. (Section 6.01(B)(6) and 6.01(C) attached). Without correlating retaining wall heights to fence heights, retaining wall heights above the upper grade elevation would be unlimited. These restrictions make perfect sense viewed in that light.

The Ordinance is intentionally silent on defining or limiting the overall height of retaining walls from the lower to the upper grade. The project engineer will design the wall based on the needs of the development at hand. An example would be the retaining wall constructed at the western side of the Woodlands at Geddes Glen development. That retaining wall height is approximately 15 feet from lower to higher elevations directly adjacent to the U of M Golf Course property. Defining retaining wall height in the manner the applicant proposes would prohibit any retaining walls that exceed 4 foot in height (lower to upper elevation) from being located within any required yard setback. See Section 3.203(G)(1) (copy attached).

I ask that the ZBA affirm that retaining wall heights from lower to higher elevations are unregulated by the Zoning Ordinance and further that retaining wall heights above the higher grade are regulated as fences and are measured exactly as prescribed in Sections 6.01B6 and 6.01C.

following completion of construction activity on the site. The Zoning Inspector may order the removal of temporary construction fences by a date certain where such fences have remained in place for a period exceeding 545 calendar days.

6. **Retaining walls.** Retaining walls shall be considered fences subject to the provisions of this Section if the wall extends more than 30 inches above the adjacent ground level. Fences shall be required on top of retaining walls when required by the State Construction Code.

C. Height Measurements.

The height of a fence shall be measured from the ground level at the lowest grade within four (4) feet of any side of a fence post, except that the height of a retaining wall, or a fence located on top of a retaining wall, shall be measured from the ground level at the higher side of the wall (see illustration).

D. Maintenance.

Fences shall be maintained so as not to endanger life or property. Any fence that endangers life or property through lack of repair, type, or construction, or otherwise is hereby deemed a nuisance. If an unsafe condition exists in regard to a fence, the Zoning Inspector shall serve written notice to the owner, agent, or person in control of the property upon which such fence is located.

1. The notice shall describe the unsafe condition(s), shall specify the repairs or modifications required to make the fence safe, and shall require an unsafe fence or portions thereof to be removed. The notice shall provide a time limit for such repairs, modifications, or removal.

2. Failure to make repairs or modifications or to remove the fence within the time limit specified in the notice shall constitute a violation of this Ordinance and shall be punishable in accordance with the provisions of Section 1.13 (Violations and Penalties).

E. Approval Required.

It shall be unlawful for any person to construct or cause to be constructed a fence in the Township without having first obtained all necessary permits or approvals in accordance with this Section and Ordinance.

Section 6.02 Swimming Pools.

Outdoor swimming pools, spas, and hot tubs erected or maintained in the Township with a diameter exceeding twelve (12) feet, a depth exceeding two (2) feet or an area exceeding 100 square feet permanently or temporarily placed in, on or above the ground shall be permitted as an accessory structure in all zoning districts shall comply with the following requirements:

1. The pool or its fence shall not be located within any required front yard, or within any yard area between a road right-of-way and front building line of a dwelling.

Request for interpretation #4. Approved Road (article 3)

The 2008 zoning ordinance in section 3.207 states:

> *Section 3.207 Access to Streets.*
>
> *No dwelling shall be built on any lot that does not abut and have direct frontage on an APPROVED ROAD. Access to streets shall be subject to the following....*

No definition of "approved road" is given.

We request that the ordinance provision be interpreted as a road having record of approval in Superior Township for its width, grade, construction, and maintenance details.

Response:

I would ask that the ZBA interpret an "approved road" to mean the following:

- For public and private roads within developments subject to Planning Commission review, "approved roads" shall mean roadways approved through the planning process and further approved by the Township Engineer and Washtenaw County Road Commission or MDOT as applicable.

- For new private roads not subject to Planning Commission review, "approved roads" shall mean roadways which have obtained a Private Road Permit per Ordinance #163 (Private Road Ordinance). Further, that per Ordinance #163, prior to the issuance of any building permit for any dwellings, the approved road must be constructed, and that construction shall be approved by the Building Official and, at the Building Officials discretion, the Township Engineer or Fire Chief.

- For existing lots, rights-of-way, easements and drives created prior to the 2004 enactment of Ordinance #163, "approved road" shall mean an easement, right-of-way or drive created in accordance with the provisions of the Zoning Ordinance in effect at the time of creation or division of property. Examples of the 1997 and the 1978 Zoning Ordinance provisions are attached. Approval would generally be evidenced by the Zoning Officials review and approval of the plot plans showing the lots and easement width. The roadway would not need to have been constructed to be considered "approved". Prior to the issuance of a Certificate of Occupancy for a home, the roadway shall be constructed, and that construction shall be approved by the Building Official and/or the Fire Chief.

SECTION 3.03 ACCESS TO STREETS

A. Access to Public or Private Streets

In any district, every lot created and every principal use or structure which is established after the effective date of adoption or amendment of this Ordinance shall be on a lot or parcel which abuts a public or private street by the entire width of the lot. Such street shall have a right-of-way at least sixty-six (66) feet wide unless a lesser width has been established and recorded prior to the effective date of this Ordinance.

B. Access for Emergency Services and Parking and Loading Areas

Every building and structure located or relocated after the effective date of adoption or amendment of this Ordinance shall be so located on lots as to provide safe and convenient access for emergency purposes and fire protection vehicles, and for required off-street parking and loading areas.

C. Access to Uses Not Permitted in Residential Districts

1. No land in a Residential District shall be used for vehicular or pedestrian access to land or structures in other districts used for any purpose not permitted in the Residential District except as provided in Paragraph 2 below or otherwise authorized by this Ordinance.

2. Where provision does not exist for safe access for emergency and public service vehicles and such access is not reasonably feasible except through privately-owned residentially zoned land, access reserved for and limited to such vehicles may be authorized by the Planning Commission, subject to such conditions and safeguards as the Planning Commission deems necessary to protect the tranquility and character of the residential lands so traversed.

SECTION 3.04 COMPLETION OF CONSTRUCTION

A. Where Actual Construction Was Lawfully Begun

Nothing in this Ordinance shall require a change in plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance.

1997 - ZONING ORD. # 134

SECTION 3.12 ACCESS TO STREETS

A. In any district, every lot created and every principal use or principal structure which is established after the effective date of adoption or amendment of this ordinance shall be on a lot or parcel which abuts a public or private street by the entire width of the lot. Such street shall have a right-of-way at least sixty-six (66) feet wide unless a lesser width has been established and recorded prior to the effective date of this ordinance. Or such lot, use or structure shall abut, by the entire width of the lot a private street with an easement at least sixty-six (66) feet wide and width conforms to the Superior Township Private Street Ordinance. The private street easement shall not be included in the required minimum area of the lot.

B. Every building and structure constructed or relocated after the effective date of adoption or amendment of this ordinance shall be so located on lots as to provide safe and convenient access for fire protection vehicles and required off-street parking and loading areas.

SECTION 3.13 ZONING BOARD

All powers, duties and responsibilities for a zoning board as provided by Act 184 of the Public Acts of 1943, as amended are hereby transferred to the Township Planner Commission in accordance with Section 11 of Act 168 of the Public Acts of 1959, as amended.

SECTION 3.14 SEWER AND WATER FACILITIES

All dwelling units constructed or put into place on or after the effective date of adoption or amendment of this ordinance in any urban residence district (R-3 through R-8, except R-5, where on-site services are permitted) or business district (C-1 through C-3 and 0) and all buildings in a special district shall be connected to public sanitary sewer and water supply systems. On-site facilities and privately owned and operated community systems are prohibited in such districts for service of dwelling units. Single family detached dwelling units in a PC district that is located in areas designated for rural residential use is adopted general development plan shall be exempt from this section, provided each such dwelling unit is connected to a water well and septic tank/drainfield approved by the Washtenaw County Health Department.

SECTION 3.15 RAISING AND KEEPING OF ANIMALS

The raising and keeping of fowl and similar small animals where permitted as an accessory use, shall be on a lot with a minimum area of one (1) acre. The raising and keeping of horses, cows, and similar domestic animals, where permitted as an accessory use, shall be on a lot with a minimum area of four (4) acres. All animals shall be property housed and fenced so as not to be a public nuisance.

1978 ORD. AS AMENDED IN 1989 - ORD. #53

Request for interpretation #5. Accessory Structure (Article 17)

The definition of accessory structure raises questions about interpretations of structures that span 2 lots of record. It is conceivable that structures crossing lot lines may benefit only one impacted lot.

We request that accessory structure definition be interpreted to preclude structures placed on a lot other than the lot of its builder, sponsor, or dependent related primary use. We request that the exclusive use provision be determined for any structure meant to span a lot line be interpreted as unrelated to any lot that does not participate in its construction or require its presence for that lots primary use.

Response:

The Zoning ordinance defines a structure as "anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including, but not limited to, buildings, mobile homes, aboveground swimming pools, radio towers, sheds, signs and storage bins, but excluding sidewalks and paving on roads, driveways, parking areas and patios." Section 17.02.207.

While a retaining wall is constructed or erecting on the ground, it is more akin to paving on a road or parking area, which are specifically exempted from this definition and therefore should not be treated in the same manner as a building or shed or the other structures specifically identified in as structures in the definition.

I ask that the ZBA interpret and confirm that accessory structures are to be located on the same zoning lot as the principal use except for retaining walls and other structures necessary for the construction of drives or private roads when such structures are located within the right-of-way or easement.

Request for interpretation #6. Site Plan Exemption Criteria (10.02.A.3.a)

The ordinance specifies exemption for certain projects from site plan review:

> *3. All RESIDENTIAL USES, as specified in Article 4.0 (Land Use Table), for which site plan approval is required per Article 5.0 (Use Standards). The following RESIDENTIAL USES shall be exempt from site plan approval:*
>
> > *a. One (1) single-family detached dwelling and customary accessory structures on an existing residential lot of record.*

We request that 10.02.A.3.a be interpreted to require that exclusion only applies to a residential development if it involves structures and uses exclusively contained on a single lot of record, not related uses or structures spanning multiple lots of record or present across or upon lots under disparate ownership.

Response:

The specifics of this request relate to the private road easement that traverses the applicant's property and terminates at the adjacent property where a single-family dwelling is proposed. Interpreting the Zoning Ordinance section in the manner the applicant suggests would effectively require Planning Commission approval of every residential lot created by metes and bounds divisions where property lines are centered in the road right-of-way. Also, presumably every lot located on a public road where the property lines are centered in the road would also be subject to Planning Commission site plan review.

Consistent with the past practices of the Township, single lots of record accessed by public or private roads, easements or drives should continue to be exempt from Planning Commission review.

Request for interpretation #7. Definition of Mass Grading (Article 17) within construction definition 42

The definition of mass grading is not given in the ordinance:

> *42. Construction. The mass grading and similar site work conducted upon land in preparation for a new use, establishment of necessary site improvements for a new use, and development of a new structure, relocation of a structure, or addition to an existing structure on land in the Township.*

We request that mass grading be interpreted to be grade elevation changes of more than 30" or represented by earth removal or fill of more than 50 cubic yards.

Response:

"Mass grading' is a term generally accepted describe the movement or redistribution of large quantities of earth over large areas. This term is commonly applied to earthwork relating to large residential or commercial developments and would not normally be associated with grading for a single dwelling on one lot.

In February of 1999, the Township adopted Ordinance #147 (Soil Removal and Deposit) which regulated the removal and deposit of soil material by providing for licensing, procedures, fees, inspections, enforcement, etc. In February of 2008, the Board repealed Ordinance #147 by adopting Ordinance #171. Currently, filling, grading and other earthwork is regulated by the Washtenaw County Water Resources Soil Erosion Division.

Since the Township does not to regulate soil deposit and removal, there is no need to define the term "mass grading".

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 48105

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

*Applicants are represented by Gaetan Gerville-Reache, Warner Norcross + Judd LLP, 150 Ottawa Ave. NW, Ste. 1500, Grand Rapids, MI 49503-2832

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

If "NO", what is the applicant's interest in the property? N/A

Name, address and telephone number of owner(s): N/A

DESCRIPTION OF THE PROPERTY

Address 5766 Geddes Road, Ann Arbor, MI 48105

Parcel ID# J-10-30-400-055 Parcel size 3.130 total acres

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

Use of existing building (if any) and property Completion of retaining wall, driveway and possible fence or handrail at top of retaining wall. Wall to be made of Redi-wall cobblestone. Driveway to be gravel during construction and finished as concrete. Fence or handrail is TBD

Zoning classification of property 401 Residential - Improved

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

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.

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 than in preparing a description of why the variance is needed. A copy of the standards is attached to the application.

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 if 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 _____ Date 2/16/24

Debora Malubidi Kimwanga Ngandu
Notary Public - State of Michigan
County of Washtenaw
My Commission Expires 09/29/2028

NOTARY PUBLIC – Applicant's signature must be notarized.

Sworn to before me this 16th day of February 2024

My commission expires 09/29/2028 _____
(Notary Public, Washtenaw County, Michigan)

DEBORA MALUBIDI KIMWANGA NGANDU

****

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

I hereby state that this petition was properly received and filed on 2/16/24 (date)

Signature of Clerk (or designee)

Dana Bennett

Fee paid $ 500.00

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

2/15/24
Date

Warner Norcross + Judd LLP

February 16, 2024

Superior Charter Township
Zoning Board of Appeals
3040 North Prospect Road
Ypsilanti, Michigan 48198

Re: **Zoning Board of Appeals Application**
5766 Geddes Road, Ann Arbor, Michigan, Parcel ID# J-10-30-400-055

Dear Members of the Zoning Board of Appeals,

Please accept this letter and referenced appendix as a narrative for the application signed by Matt Schuster and Alyssa Cairo, which together serve as a timely appeal by the owners of 5766 Geddes Road from the December 19, 2023, decision of the Township's Zoning Inspector to grant a certificate of zoning compliance for a building permit requested by Daniel Snyder for construction on 5766 Geddes Road. (See Appx. 79-84.)

The purpose of an application for certificate of zoning compliance is to provide the Township with adequate information to determine compliance with the zoning ordinance prior to the work being performed. A proper determination of zoning compliance is critical to ensuring not just conformity with the aesthetic and dimensional requirements of the ordinance but also the safety of those using the land and adjoining residents.

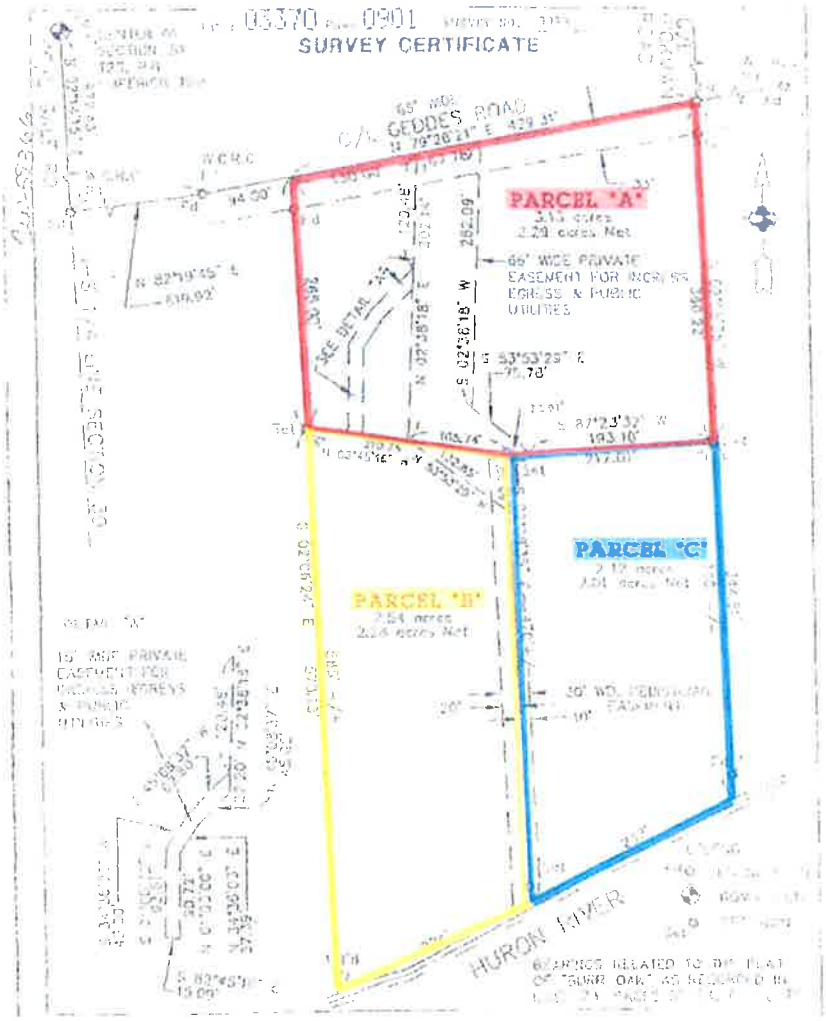
It is readily apparent from review of the documents submitted (which were provided to me by the Township for the first time on January 24, 2024) that they are woefully inadequate, failing to provide even the most basic information required under the zoning ordinance for a certificate of compliance. It provides no dimensioned location, outline, or dimensions for the existing structures on 5766 Geddes Road (the lot where construction will be performed). It does not provide any information necessary to determine that it provides a safe and convenient access for emergency purposes as required under Zoning Ordinance § 3.207(B). It fails to provide the information necessary to see that steep slope cuts are involved, requiring compliance with Zoning Ordinance § 14.05(C). And the application even contradicts itself. On the one hand, it provides a drawing of retaining walls no higher than 4 feet, and on the other hand proposes to "complete" retaining walls already been constructed to a height well over 4 feet—a critical fact for determining a setback variance would be required for compliance with the Zoning Ordinance.

Gaëtan Gerville-Réache | Partner
D 616.752.2207
E greache@wnj.com
150 Ottawa Avenue, N.W., Suite 1500
Grand Rapids, MI 49503

For all of these reasons and those detailed below, the Zoning Inspector committed an error of law and/or fact in granting the certificate of zoning compliance and that decision should be reversed.

BACKGROUND

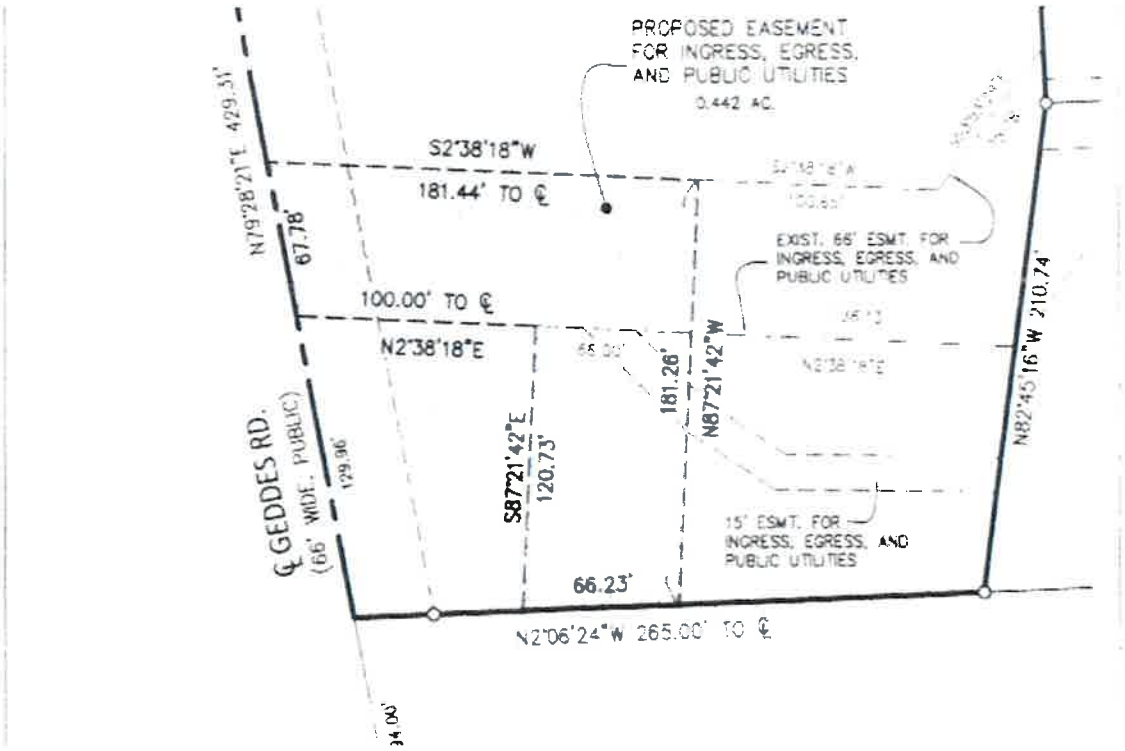
Matt Schuster and Alyssa Cairo purchased their home at 5766 Geddes Road (the "5766 Lot") in 2005. They raised their three children there and enjoyed their home without easement disputes for 13 years. Built in 1946, the Schuster home sits on the landward side of a rise above the Huron River just outside of Ann Arbor. The land between the river and the home is lush with vegetation, including numerous trees. It rises about 100 feet from the river to the hillcrest in the Schusters' backyard. The Schusters' property does not front on the Huron River but lies next to two parcels, Lots "B" and "C", that do. (See Survey Certificate, Appx. 1.)[1]



[1] "Appx." refers to the Appendix filed with this ZBA Appeal, which is sequentially paginated.

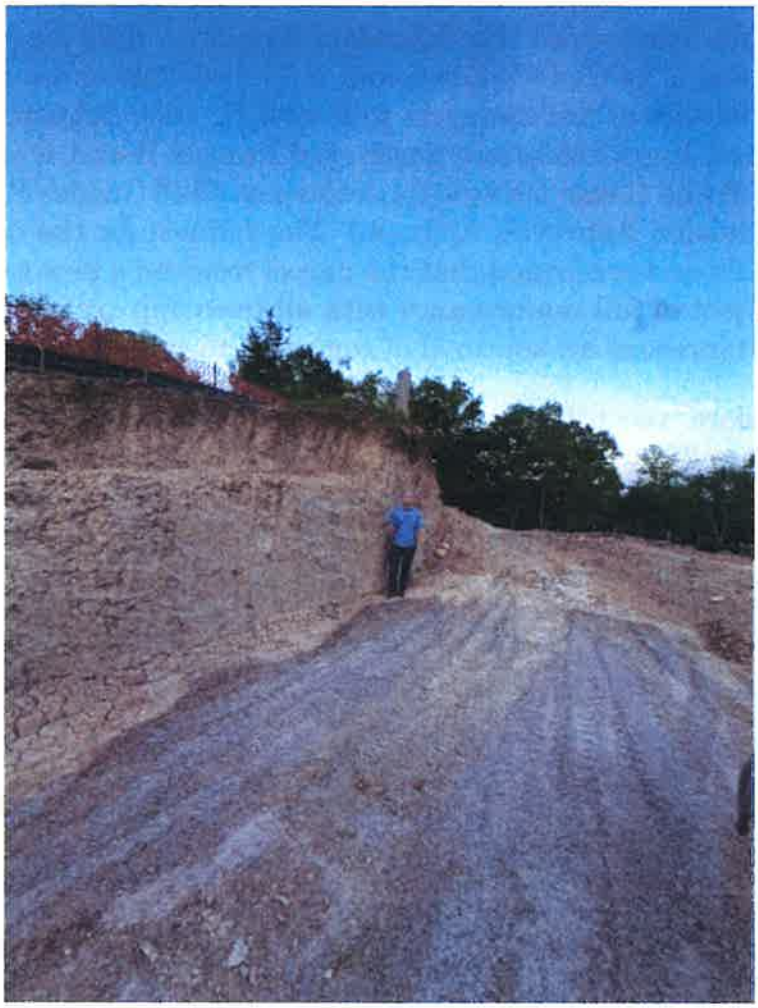
During most of the time that the Schusters have lived in their home, Lots B and C were owned by Ray and Ginny Reilly. Because Lots B and C are landlocked, the Schusters also understood when they purchased Lot A that there were easements both benefitting and burdening their property. As depicted in the survey, two easements run across the Schusters' property: a 66-foot-wide easement connecting Lots B and C to Geddes Road, and a 15-foot-wide easement that branches from the 66-foot easement and connects to Parcel B. (See Schuster Deed, Appx. 1-3.) Jean-Marie and Ingrid Mouliere purchased Parcels B and C in October 2018, combining Parcels B and C into a single lot, known as 5728 Geddes Road (the "5728 Lot"). (2018 Land Division Approval, Appx. 4.) The request for the consolidation was signed by Ray Reilly and confirmed that the parcel received a new township and County ID and was subject to full conformance with all township ordinances in force at the time and did not represent an approval of zoning conformance or site build-ability.

More recently, another easement was granted on 5766 Geddes Road in November 2021 that overlaps in part with the 66-foot-wide easement that serves the 5728 Lot. (Karnani Easement, Appx. 5-8.) That easement is likewise 66-feet wide and serves the residence at 5668 Geddes Road (the 5668 Lot), currently owned by Aneel Karnani, as shown below.



In consultation with their landscape architect, the Moulieres chose to construct an 11,000 square foot mansion into the steep slope hillside and carve a 12-foot-deep trench through the hillside on the Schusters' property. To stabilize the side of the Moulieres' trench across the Schusters' property, the Moulieres planned to construct retaining walls.

Here's what the trench looked like on the Schusters' land before the Moulieres built their retaining walls (with Mr. Schuster who is six-foot-one-inch tall to show scale):



For more than a year, the Moulieres left the trench on the Schusters' property completely unsupported. They were cited by the Township for dangerous slopes and compelled by the Township to install fall protection due to the unprotected hazards. (10.06.2021 Mavernik letter, Appx. 85.) They then proceeded to illegally construct a series of retaining walls on the Schusters' property—17 feet high in total—that each ranged from 4.5 feet to 7.5 feet tall from the grade at the face of the retaining wall to the top of the wall. (Retaining Wall Measurements, Appx. 9-10; see 4.10.2023 Gibb-Randall Testimony, Appx 70.) Below is a photograph of the Schusters standing at the bottom and the top of the stacked retaining walls at their property line, demonstrating the height of the retaining walls:

Even though the retaining walls required a building permit under Michigan statute, the Moulieres never obtained a permit to perform any construction on the Schusters' property before they steamed ahead with the project on their neighbors' land. The Superior Township Building and Zoning Department issued a permit for the Moulieres to build retaining walls, but the permit application was only for the Moulieres' property—not the Schusters' parcel. (See 2021 Building Permit Appl., Appx. 11-18.) The Moulieres' contractor attested under oath that he had obtained all necessary building permits for the Schuster parcel to construct the access, and the Township's former zoning and building official echoed that representation in support of approving the 5728 Geddes Site Plan. (Washtenaw Cir. Ct. Case No. 20-001274, Snyder Aff. ¶ 8; Washtenaw Cir. Ct. Case No. 22-1590-AV, Twp Appellee Br 13.) After the Schusters challenged the construction on their property without a permit—a permit that required the Schusters' approval[2]—Superior Township issued a stop-work order. (See 4.11.23 Snyder Testimony, Appx. 22; see Photo of Stop-Work Order, Appx. 23.) But by that time, the illegal retaining walls were almost fully built. The absence of any permitting on the Schuster parcel was confirmed by the Washtenaw County Construction Board of Appeals on September 9, 2022. (2022-09-09 CBA Decision, Appx. 24.)

[2] Under MCL 125.1510(1) only a property owner or the owners' agents can obtain a permit to build on a property.

As a result, the Moulieres' contractor, Daniel Snyder, has now applied for a building permit and certificate of zoning compliance for "completion of retaining wall, driveway and possible fence or handrail and top of retaining wall" that were initially constructed illegally on the Schuster's lot. While Mr. Snyder has signed the applications representing to Superior Township that he is "the owner or agent of the owner authorized to submit this application," neither Matt Schuster nor Alyssa Cairo ever personally authorized Daniel Snyder to operate as their agent or submit these applications on their behalf. Instead, the Washtenaw County Circuit Court, over the objections of the Schusters, entered an order that permits the Township to "rely upon this order in lieu of a document signed by the Schusters." (See Court Order, Appx. 25-27.)

Nothing in the court's order or any prior ruling of the court in the dispute between the Moulieres or appeals from the Township's earlier decisions overrides the Township's ordinances or state law, the decision-making authority of the Township's Building Inspector or Zoning Inspector, or the authority of the Zoning Board of Appeals to decide the issues presented in this appeal in accordance with the law. The Township is obligated to follow the law in deciding whether or not to grant the certificate of zoning compliance and what it will require from the applicant to make that decision.

Accordingly, the court's order should not be construed as prejudicing or usurping that administrative process and the Township's decision-making authority and duty. The court allowed Daniel Snyder to also apply for a variance on the Schuster parcel—which the Moulieres' own landscape architect said was required—but he declined to do so. The Township—through this ZBA—retains primary jurisdiction to make zoning determinations in the first instance. By the same token, the court's order "does not constitute acquiescence by the Schusters in the propriety of the permit." (Appx. 27.) The Schusters accordingly may be considered aggrieved by the granting of a certificate of zoning compliance and permit on their own property, to which they object.

ARGUMENT

I. A Certificate of Zoning Compliance should not have been approved because the Plot Plan does not satisfy all of Section 1.07(J)(3)'s requirements.

The Zoning Inspector based its grant of a zoning certificate of compliance on an erroneous interpretation of the Zoning Ordinance, as the application on its face does not conform to all the requirements of the Ordinance. First, it fails to include a plot plan that shows the scale or a "[d]imensioned location, outline, and dimensions of all existing and proposed structures." ZO § 1.07(J)(3). Second, the certificate of zoning compliance application provides no "clear and complete description of existing and intended uses of all structures, existing or proposed." ZO § 1.07(J)(4). Third, it

fails to provide any of the information necessary to determine whether the proposed access drive being constructed provides a safe and convenient access for emergency purposes as required by Section 3.207(B). Finally, the application does not provide information necessary to determine whether the construction fully complies with Section 14.05(C) governing slopes from 12% to 25%, which were present at the location of the as-built retaining walls.

Applications for Certificates of Zoning Compliance "shall include a site plan as required in Section 1.07J (Site Plan), and *all information necessary to determine zoning compliance.*" ZO § 1.07(A) (emphasis added). Under Section 1.07(J), "[i]f a site plan is not required under Article 7.0 or Article 10.0, two (2) copies of a plot plan, drawn to scale and containing the following information, shall be submitted:

> 1. Scale, date, and north point.
>
> 2. Location, shape, and dimension of the lot.
>
> 3. Dimensioned location, outline, and dimensions of all existing and proposed structures and the location and extent of all uses not involving structures.
>
> 4. A clear and complete description of existing and intended uses of all structures, existing or proposed.
>
> 5. Additional information as required by the Zoning Inspector for purposes of determining compliance with this Ordinance.

"If the application or plans do not conform to all of the requirements of this Ordinance, the Zoning Inspector shall reject the application in writing, stating the reasons therefore, within 15 calendar days of filing." ZO § 1.07(F)(1).

The plot plan submitted by Daniel Snyder ("Plot Plan") (Appx 83) does not comply with these requirements and should have been rejected for the following reasons:

A. The Plot Plan provided to the Township does not show the "[d]imensioned location, outline, and dimensions of all existing and proposed structures." ZO § 1.07(J)(3).

One of the straightforward requirements for a plot plan is that it must show the existing and proposed structures in an outline format with all dimensions and at their dimensioned locations. Recall that Daniel Snyder has applied for a certificate of zoning compliance and building permit for the 5766 Lot, owned by the Schusters. Yet the Schuster home is not outlined on the Plot Plan (Appx. 83), nor are any of the other structures on the 5766 Lot, including:

1. Existing retaining walls partially constructed illegally by Daniel Snyder, with height, distances from lot line and other structures. [See Retaining Wall Photos, supra] (Retaining walls are structures, as explained further below.)

2. Concrete structures on the Schuster parcel above the existing retaining walls which will eventually be used to create a berm. (Concrete Block Photos, Appx. 21, 28.)

These are not inconsequential oversights. As discussed below, the application states that it is for completion of retaining walls that were previously partially built (hereafter, the "as-built retaining walls"). Had the as-built retaining walls been shown dimensionally, it would be apparent that they are different from what is proposed in the Plot Plan. The walls listed show only dimensions of 4 feet for the walls. The actual walls all exceed 4 feet in height, both from a basic exposed wall measurement and, more importantly, from the Building code measurement method to the bottom for foundation, where the walls are 7.5, 6, and 4.5 feet tall respectively. Indeed, if they were not over 4 feet in height, Mr. Snyder would not be requesting the at-issue certificate of zoning compliance for a building permit.

Compare this to the information provided for 5728 Geddes Road on the Plot Plan. What Daniel Snyder essentially provided was a plot plan for 5728 Geddes Road, not a plot plan for 5766 Geddes Road. The application states that it is seeking a certificate of zoning compliance for 5766 Geddes Road. A proper plot plan for 5766 Geddes Road is required.

B. The certificate of zoning compliance application provides no "clear and complete description of existing and intended uses of all structures, existing or proposed." ZO § 1.07(J)(4).

The only intention expressed on the application regarding the as-built retaining walls is that the applicant will "complete construction." This raises questions as to whether Daniel Snyder's intention is to construct walls as proposed in the Plot Plan or simply complete the walls already constructed, which would not conform to the Plot Plan. If this is a clear and complete description of the intended use of the existing retaining walls, then the application fails to provide a plot plan that shows the retaining walls for which construction will be completed. Such information is necessary to determine what is proposed to be constructed and determine its compliance. If the intended use of the existing retaining walls is not to use them as built for the purpose of completing construction of retaining walls proposed on the Plot Plan, then the application fails to provide the description of the intended use of the existing retaining walls as required by Section 1.07(J)(4).

The application also fails to describe the use of the driveway. It will not only be used for ingress and egress by the Moulieres from the 5728 Lot but also may be used to serve the 5766 Lot and the residence at the 5668 Lot, owned by Aneel Karnani. (Karnani Easement, Appx. 5-8.)

C. The certificate of zoning compliance application provides none of the information necessary to determine whether the proposed access drive provides a safe and convenient access for emergency purposes as required by Section 3.207(B).

Section 3.207(B) provides: "Every building and structure located or relocated after the effective date of adoption or amendment of this Ordinance shall be so located on lots as to provide safe and convenient access for emergency purposes and fire protection vehicles." The driveway at issue is the only means of access for the 5728 Lot and must therefore provide safe and convenient access for emergency purposes and fire protection vehicles.

Ordinance No. 190 establishes standards for what constitutes safe and convenient access for emergency purposes and fire protection vehicles by incorporating the International Fire Code, 2012 Edition, including Appendix Chapters A, B, C, D, E, and G, as published by the International Code Council. Superior Township Ordinance No. 190.02. That code, in turn, imposes a requirement that new buildings must be accessible by "an approved fire apparatus access road with an asphalt, concrete or other approved driving surface capable of supporting the imposed load of a fire apparatus weighing at least 75,000 pounds." International Fire Code, D102.1.

The application for certificate of zoning compliance and its accompanying documents do not provide any information showing that the proposed driveway and adjacent retaining walls are capable of supporting such weight. No load-bearing calculations on the driveway are provided. Indeed, the Moulieres' engineer admitted the driveway was not designed to carry a fire truck. (4.11.2023 Ghussaini Testimony, Appx. 77-78.) The Township's former zoning and building official, Mr. Mayernik, previously advised this Board and the Moulieres that he expected them to consult with the fire chief (9.29.2021 ZBA Minutes Corner Lot Annotated, Appx. 35), but they never did (Snyder Testimony, Appx 65). The fire chief explained under oath that this driveway is to provide access for a fire truck. (Appx. 57-65.)

D. The application does not provide information necessary to determine full compliance with slope regulations in Section 14.05(C).

Other provisions of the Zoning Ordinance have equal bearing here, such as Section 14.05(C) governing slopes. These standards apply to the access drive being constructed by Mr. Snyder because it constitutes a private road under Ordinance No.

163 and the slopes affected by the construction are greater than 12%. However, the certificate of zoning compliance application fails to provide the information necessary to determine compliance with Section 14.05(C) for the following reasons:

1. The standards of Section 14.05(C) apply to the driveway and retaining walls proposed in the Plot Plan.

The standards of Section 14.05(C) "shall . . . apply to development of a private road under the Township's Private Road Ordinance (Ord. No. 163)." The Private Road Ordinance defines a "private road" as a "road, street, or driveway serving two or more residential properties under private ownership which has been constructed for the purpose of providing access to adjoining property which has not been accepted as a public road by the Washtenaw County Road Commission."

The access drive shown on the Plot Plan meets this definition. It is either a "road, street, or driveway" and would serve three adjoining residential properties—the 5728 Lot, 5766 Lot, and 5668 Lot. For instance, the 5766 Lot has the right to apply for a permit to construct another garage on the lot and to use the access drive to access that garage. And the 5668 Lot has a vehicular access easement that would be served by the access drive. (Karnani Easement, Appx. 5-8.)

The easements meet the Private Road Ordinance's definition of a "right-of-way." A right-of-way is defined in Ordinance No. 163 as "[t]he right of an owner of property by reasons of such ownership, to use the property of another for purposes of ingress egress, utilities, drainage and similar uses. In the context of this Ordinance, private right-of-way shall be designated for purposes of vehicle ingress and egress." Superior Twp. Ord. No. 163 § 163.02. The easements on the 5766 Lot provide vehicular ingress and egress to the 5728 Lot and the 5668 Lot.

While there is an exemption to the Private Road Ordinance for right-of-ways and drives that existed prior to the enactment of the ordinance in 2004, that exemption does not apply to the right-of-way and drive at issue here for three reasons:

First and foremost, the "drive" being constructed did not exist prior to enactment of the ordinance in 2004, as it has not even been constructed yet. It must therefore conform with all the Private Road Ordinance's requirements for drives.

Second, the exemption for pre-existing right-of-way does not apply if "additional lots are connected to the private road." Superior Twp Ord. No. 163 § 163.02. Here, the Karnani lot was connected to the private road via an additional right-of-way granted in 2021.

Third, the 5728 Lot did not exist in 2004. (4.11.2023 Mayernik Testimony, Appx 44.) Two separate lots existed. Those were merged in 2018 into a new single lot.

2. The application materials fail to show that the construction requires a cut into slopes greater than 12%, which are regulated under Section 14.05(C).

"Land areas with slopes of at least twelve percent (12%) but less than twenty five percent (25%)" are subject to a number of requirements. ZO § 14.05(C)(3). "[Structures][3] may be built into such slopes, subject to the applicable requirements of the State Construction Code, other Township ordinances, and Township engineering standards." ZO § 14.05(C)(3)(a). The topographical information provided in the Plot Plan provides no readable scale from which the grade of the original slopes can be determined. This information is necessary to determine compliance with the Zoning Ordinance. A higher definition version of the Moulieres' plot plan drawing combined shows the slopes are indeed greater than 12%. (See Updated Site Plan, Appx. 45; Slope Calculations, Appx. 46.)[4] Note that the driveway on the 5766 Lot is 14 feet wide.

3. The application materials do not show compliance with Ordinance No. 190, which is required under Section 14.05(C).

The standards in Zoning Ordinance § 14.05(C) incorporate by reference the State Construction Code, other Township ordinances, and the Township's Engineering Standards and require compliance with their applicable provisions. This means the proposed construction would need to comply with the emergency access safety provisions of Ordinance No. 190 for yet another reason. To determine whether the application complies with Section 14.05(C), information must be provided to show compliance with those other legal authorities.

Again, the Fire Code imposes a requirement that new buildings must be accessible by "an approved fire apparatus access road with an asphalt, concrete or other approved driving surface capable of supporting the imposed load of a fire apparatus weighing at least 75,000 pounds." International Fire Code, D102.1. The access under review is for the purpose of access to the Moulieres' new residence and therefore must comply with this provision.

II. The as-built retaining walls intended to be "completed" do not comply with the Zoning Ordinance setback requirements.

If the intention for the existing retaining walls is to merely complete their construction rather than reconstruct in accordance with the Plot Plan, then the Certificate of Zoning Compliance must be denied because the walls are not shown on

[3] The word "building" when used in the Zoning Ordinance includes the word "structure." ZO § 17.02(7).

[4] The slope calculations were prepared using https://gisappsecure.ewashtenaw.org/mapwashtenaw/

the Plot Plan and completion of those retaining walls as built would violate the Zoning Ordinance. First, completing construction of the existing retaining walls would violate the Zoning Ordinance for all of the reasons give above for why the walls actually shown on the Plot Plan are not an authorized use. Second, the walls exceed four feet in height in a rear yard setback, in violation of Section 3.205.

"New lots created, new structures erected, and alterations to existing structures after the effective date of adoption or amendment of this Ordinance shall comply with all applicable dimensional standards of this Ordinance." ZO § 3.205. "No structure shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the yard and area regulations of the district in which the structure is located." ZO § 3.205(1). "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." ZO § 3.203(G).

The as-built retaining walls are in the "rear yard." A "yard" is "[a]n open space of prescribed width or depth on the same zoning lot with a building or group of buildings between the building or group of buildings and the nearest lot line, and is unoccupied from the ground upward except as otherwise provided herein (see "Yard Terms" illustration)." ZO § 17.03(235). A "rear yard" is "[t]he yard directly opposite the designated front yard; or an open space extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the principal building."

They are also a "structure," which the Zoning Ordinance defines as: "Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including, but not limited to, buildings, mobile homes, aboveground swimming pools, radio towers, sheds, signs and storage bins, but excluding sidewalks and paving on roads, driveways, parking areas and patios." ZO § 17.03(207). The Township's own zoning official has testified under oath that a retaining wall fits this definition of a "structure." (Bennett Testimony, Appx. 50.)

There should be no need to argue that the retaining wall is not a sidewalk or paving on a road, driveway, parking area or patio—it should be obvious. But because the argument has been made before, the issue will be addressed.

Consider the definitions of those terms. A "road" is defined as a "public or private thoroughfare or way, other than public alley, which affords principal means of access to adjacent land." A "way" is commonly understood to be a "passage or path." Black's Law Dictionary (11th ed. 2019). The common meaning of "thoroughfare" in

this context is similar: "a way or place for passage: such as a: a street open at both ends b: a main road." Merriam-Webster.com Dictionary.[5] A "driveway" is a "hard-surfaced access connecting parking space for motor vehicles with a road or alley, and permitting ingress and egress of a motor vehicle." The Zoning Ordinance does not define "access" but its ordinary meaning is "a way or means of entering or approaching." Merriam-Webster.com Dictionary, https://www.merriam-webster.com/dictionary/access. Accessed 2/13/2024. Relatedly, the Zoning Ordinance defines "access drive" as a "[p]rivate way or improvement designed to provide a physical connection for vehicles from a public road to a developed site." ZO § 17.03(1).

A retaining wall fits none of these definitions. A retaining wall's purpose is not to pave a way, passage, access, means of entering or approaching. That is the purpose of the paved access drive shown on the Plot Plan separate from the retaining walls. The purpose of a retaining wall is to screen and support unsightly earth. Accordingly, retaining walls are identified and treated separately from streets, drives, and rights-of-way in the Zoning Ordinance. *See* ZO § 5.205(B)(8)(c)(13), (21).[6]

It should also be obvious that a retaining wall is a "wall," as its name indicates. Nothing in the Zoning Ordinance suggests otherwise. The retaining walls therefore must be less than 4 feet in height in a rear yard.

The as-built retaining walls are greater than four feet in "height." If they were not, then Mr. Snyder would not be seeking a certificate of zoning compliance for a building permit for the retaining walls, since a building permit is only required such walls are greater than four feet in height (2022-04-04 Mayernik Letter, Appx. 52.)

The height of a structure is generally measured from the grade to the top of the structure, except where specific rules apply. *See*, e.g., ZO § 17.03(91), (97). The "grade" is "[a] reference plane representing the average of the finished ground level adjoining the [structure] at all exterior walls established for the purpose of regulating the number of stories and the height of [structures]. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the [structure]." ZO § 17.03(91). The "face" of a retaining wall is the exterior portion of the wall. *See*, e.g., Twp. Engineering Standards. This height standard is consistent with the Building Code. MAC R. 408.30505 ("A retaining wall that is not more than 4 feet (1 219 mm) in height measured from the bottom of the footing to the top of the wall . . . ."); see MCL 125.3201 ("Except as otherwise provided under this act, the regulations shall be uniform for each class of land or buildings, dwellings, and structures within a district.").

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[5] Available at https://www.merriam-webster.com/dictionary/thoroughfare. Accessed 2/13/2024.

[6] If it were pavement, it would still be a structure under Section 6.08, because it is in the Schuster lot's rear yard and is more than 18 inches above grade. *See* ZO § 17.03(235) (defining "Rear Yard"); *id.* § 6.08.

The only special rule applicable here is that "[w]here a [structure][7] is located upon a terrace, the height may be measured from the average grade of the terrace at the [structure] wall." ZO § 17.03(97). Some of the walls are properly considered to be located on a terrace created by the retaining wall below.[8]

The height of the as-built retaining walls exceeds four feet when properly measured from grade at the face of the retaining wall to the top, which is why Daniel Snyder had to apply for a building permit to construct them. (See Retaining Walls Measurements, Appx. 9-10; 4.10.2023 Gibb-Randall, Appx 70); see MAC R. 408.30505.

III. If the retaining walls are "accessory structures" but not "walls," then the as-built and as-proposed retaining walls still do not comply with the Zoning Ordinance.

Finally, in the off chance the Board were to disagree with any of the arguments above that the retaining walls are (a) not accessory structures or (b) walls, then it should be noted this does not change the result. The retaining walls as proposed and as built still violate the Zoning Ordinance. First, if the retaining wall is not a "wall," then it is not permitted in the rear yard setback, unless it is an "accessory structure." But even if it is an "accessory structure," it violates a different set of setbacks. "In the Rural, Rural Residential, and Urban Residential Districts, detached accessory structures shall be set back behind the rear line of the principal building, and shall be set back a minimum of five (5) feet from interior side or rear property lines" except in certain circumstances that do not exist here. ZO § 6.03(1). The retaining walls as built and as proposed span both parcels and therefore obviously encroach on the five-foot setback. No matter what, a variance would be required for the as-built walls to comply with the Zoning Ordinance.

CONCLUSION & RELIEF REQUESTED

For the reasons given above, the Zoning Inspector erred as a matter of law and/or fact in determining that the application satisfies the requirements for granting a certificate of zoning compliance, as the application on its face does not provide the information required for the Plot Plan and does not provide the information necessary to determine compliance with applicable Zoning Ordinance provisions. The Board

---

[7] Again, the word "building" when used in the Zoning Ordinance includes the word "structure." ZO § 17.02(7).

[8] Article 6 contains a special rule describing how to measure the height of a retaining wall for purposes of determining whether it also qualifies as a "fence" and is subject to the requirements of Article 6. ZO § 6.01(B)(6)(C). The issue here is whether the retaining wall complies with Section 3.203(G), which has nothing to do with whether it serves the same function as a fence. No one is claiming that these retaining walls must comply with the regulations governing fences.

should reverse the approval of Daniel Snyder's certificate of zoning compliance for the 5766 Lot.

Very truly yours,

Gaëtan Gerville-Réache

GGR/sra
211702.212197 #30070358

Superior Charter Township
Zoning Board of Appeals
3040 N. Prospect Road
Ypsilanti, MI 48198

Re: 5766 Geddes Road, Parcel ID# J-10-30-400-055

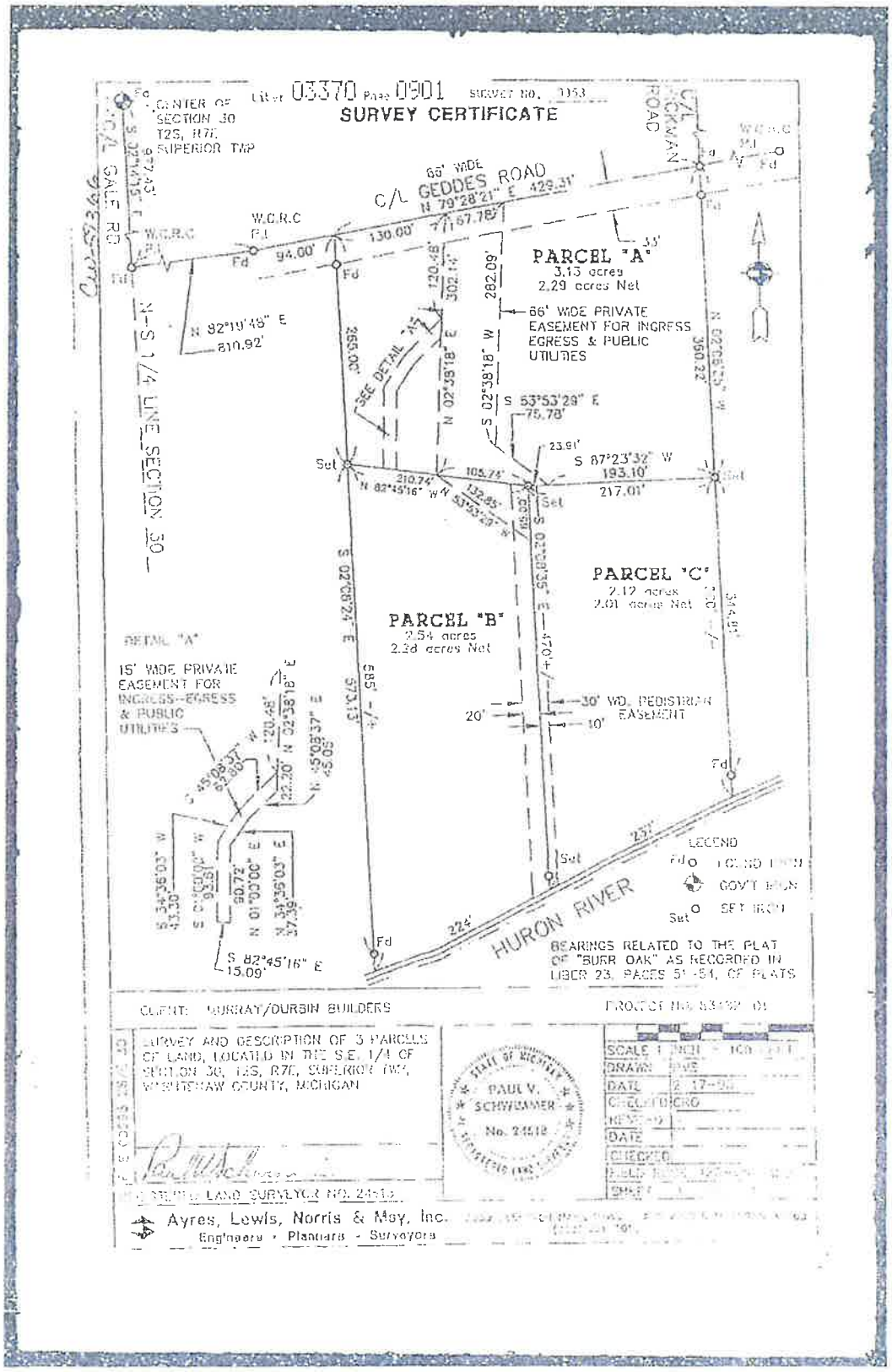
APPENDIX

TABLE OF CONTENTS

211702.212197 #30063386

EXHIBIT

1



Plaintiffs' Exhibit B

Mouliere 000008

OFFICIAL SEAL
Washtenaw Co., MI
07/28/05 Lawrence Kestenbaum
L-4495 P-719 Clerk Register

Page: 1 of 2
01:18 P
07/28/05
ACS-5662022-D-2005-2
Lawrence Kestenbaum, Washtenaw
L-4495 P-719

WARRANTY DEED - CORPORATION (Statutory Form)

Know all persons by these presents that **Fifth Third Mortgage, by M.D. Webb and Associates, Inc., a California corporation,** its attorney in fact, whose address is 5050 Kingsley, Cincinnati, OH 45263, convey(s) and warrant(s) to **Matthew A. Schuster and Alyssa L. Cairo, Husband and Wife,** whose address is 299 Westchester Way, Birmingham, MI 48009, the following described premises:

Land situated in the Township of Superior, County of Washtenaw, State of Michigan, described as:

SEE ATTACHED LEGAL DESCRIPTION – EXHIBIT "A"

Property I.D. No. (J) 10-30-400-055

Commonly known as: 5766 Geddes Rd.

For the full consideration of One and 00/100 ($1.00), subject to existing building and use restrictions, easements and zoning ordinances of record, if any. REAL ESTATE TRANSFER TAX VALUATION AFFIDAVIT FILED.

Dated: 05/11/2005

WASHTENAW COUNTY TREASURER
TAX CERTIFICATE NO. 32481D.

Fifth Third Mortgage

By: _____

M.D. Webb & Associates, Inc., its attorney in fact
By: Douglas Battin
Its: Vice President

STATE OF ~~CALIFORNIA~~ Ohio)
) ss.
County of Hamilton)

The foregoing instrument was acknowledged before me this 11th day of May, 2005, before me, a Notary Public in the State of California, personally appeared Douglas Battin, known to me to be the person whose name is subscribed to the within Warranty Deed and to be a Vice President * of said company, acting as the attorney in fact for Fifth Third Mortgage, and acknowledges that he/she executed the same on behalf of such corporation for the purposes therein contained; the proper corporate seal was affixed; and this document was signed and delivered by the corporation as ist voluntary act and deed by virtue of authority from its board of directors.

* OF M.D. WEBB & ASSOCIATES, INC.

_____, Notary Public
Angela Eiser
Hamilton County, ~~California~~ Ohio
Acting in ~~Washtenaw~~ Hamilton County
My commission expires on: 12/19/2007

NOTARY PUBLIC STATE OF OHIO

ANGELA EISER
Notary Public, State of Ohio
My Commission Expires
December 19, 2007

EXHIBIT 4

Instrument drafted by:
Andrew Komblevitz
301 W. Michigan Ave., Suite 102
Ypsilanti, MI 48197

When recorded ~~return to:~~
Matthew A. Schuster and Alyssa L. Cairo, Husband and Wife
299 Westchester Way
Birmingham, MI 48009

Recording Fees: $ 18.00 County Transfer Tax $ State Transfer Tax: $ TTQB

Return To:
Recordoc, LLC
42650 Woodward Ave., Suite 115
Bloomfield Hills, MI 48304

(12)

1142121

Plaintiffs' Exhibit C

Mouliere 000012

002

01:18 P
07/28/05
ACS-5662022-0-2005-2
Lawrence Kaplanbeum, Washtenaw
L-4495 P-719

EXHIBIT "A" – LEGAL DESCRIPTION

CT File No.: 20040307-CT

Land situated in the Township Superior, County of Washtenaw, State of Michigan described as:

Parcel A:

Commencing at the center of Section 30, Town 2 South, Range 7 East, Superior Township, Washtenaw County, Michigan; thence South 02 degrees 14 minutes 15 second East, 977.43 feet along the North and South 1/4 line of said Section and centerline of Gale Road as shown on the plat of "Burr Oak" Subdivision, as recorded in Liber 23 of Plats on Pages 51-54, Washtenaw County Records; thence North 82 degrees 19 minutes 48 seconds East, 810.92 feet along the centerline of Geddes Road (formerly Potawatomie Trail); thence continuing along said centerline North 79 degrees 28 minutes 21 seconds East, 94.00 feet for a Place of Beginning; thence continuing along said centerline North 79 degrees 28 minutes 21 seconds East, 429.31 feet to a found iron at the intersection of said Geddes Road and Hickman Road; thence South 02 degrees 08 minutes 35 seconds East, 360.22 feet; thence South 87 degrees 23 minutes 32 seconds West, 217.01 feet; thence North 82 degrees 45 minutes 16 seconds West, 210.74 feet; thence North 02 degrees 06 minutes 24 seconds West, 265.00 feet to the Place of Beginning, being a part of the Southeast 1/4 of said Section 30. Subject to the rights of the public over the Northerly 33.00 feet thereof as occupied by Geddes Road.

Also subject to a 66 foot wide private easement for ingress, egress and public utilities described as follows: Commencing at the center of Section 30, Town 2 South, Range 7 East, Superior Township, Washtenaw County, Michigan; thence South 02 degrees 14 minutes 15 seconds East, 977.43 feet along the North and South 1/4 line of said section and centerline of Gale Road as shown on the plat of "Burr Oak" Subdivision, as recorded in Liber 23 of Plats, Pages 51-54, Washtenaw County Records; thence North 82 degrees 19 minutes 48 seconds East, 810.92 feet along the centerline of Geddes Road (formerly Potawatomie Trail); thence continuing along said centerline North 79 degrees 28 minutes 21 seconds East, 224.00 feet for a Place of Beginning; thence continuing along said centerline North 79 degrees 28 minutes 21 seconds East, 67.78 feet; thence South 02 degrees 38 minutes 18 seconds West, 282.09 feet; thence South 53 degrees 53 minutes 29 seconds East, 75.78 feet; thence South 87 degrees 23 minutes 32 seconds West, 23.91 feet; thence North 82 degrees 45 minutes 16 seconds West, 105.74 feet; thence North 02 degrees 38 minutes 18 seconds East, 302.14 feet to the Place of Beginning.

Also subject to a 15 foot wide private easement for ingress, egress and public utilities described as follows: Commencing at the center of Section 30, Town 2 South, Range 7 East, Superior Township, Washtenaw County, Michigan; thence South 02 degrees 14 minutes 15 seconds East, 977.43 feet along the North and South 1/4 line of said section and centerline of Gale Road as shown on the plat of "Burr Oak" Subdivision, as recorded in Liber 23 of Plats on Pages 51-54, Washtenaw County Records; thence North 82 degrees 19 minutes 48 seconds East, 810.92 feet along the centerline of Geddes Road (formerly Potawatomie Trail); thence continuing along said centerline North 79 degrees 28 minutes 21 seconds East, 224.00 feet; thence South 02 degrees 38 minutes 18 seconds West, 120.48 feet for a Place of Beginning; thence South 45 degrees 08 minutes 37 seconds West, 62.80 feet; thence South 34 degrees 36 minutes 03 seconds West, 43.30 feet; thence South 01 degrees 00 minutes 00 seconds West, 93.61 feet; thence South 82 degrees 45 minutes 16 seconds East, 15.09 feet; thence North 01 degrees 00 minutes 00 seconds East, 90.72 feet; thence North 34 degrees 36 minutes 03 seconds East, 37.39 feet; thence North 45 degrees 08 minutes 37 seconds East, 45.05 feet; thence North 02 degrees 38 minutes 18 seconds East, 22.20 feet to the Place of Beginning.

This property may be located within the vicinity of farmland or farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

The Grantor grants to the Grantee the right to make all division(s), if any, under section 108 of the Land Division Act, Act No. 288 of the Public Acts of 1967.

Subject to:

Easement as disclosed in survey recorded in Liber 3370 on Page 901, Washtenaw County Records.

Commonly known as: 5766 Geddes Rd.

Parcel I.D. No.: (J) 10-30-400-055

COPY

TOWNSHIP HALL
3040 NORTH PROSPECT STREET
COR. PROSPECT & CHERRY HILL RDS.
YPSILANTI, MICHIGAN 48198
TELEPHONE: (734) 482-6099
FAX: (734) 482-3842

CHARTER TOWNSHIP OF SUPERIOR
WASHTENAW COUNTY, MICHIGAN

NOTICE OF APPROVAL ON LAND DIVISION

Date: July 12, 2018

To: Ray Reilly
155 Laurin Court
Ann Arbor, MI 48105

Re: Land Combination Approval for parcels J-10-30-400-053 (2.54 acres) and J-10-30-400-054 (2.12 acres)

Legal Description for J -10-30-400-053 (2.54 Acres)

W.D. L3143 P713 ****FROM 1030400023 08/17/95SU 30-19 PCL "B" COM AT CEN OF SEC 30, TH S 02-14-15 E 977.43 FT, TH N 82-19-48 E 810.92 FT, TH N 79-28-21 E 94.00 FT, TH S 02-06-24 E 265.00 FT, TH S 82-45-16 E 210.74 FT TO POB, TH N 82-45-16 W 210.74 FT, TH S 02-06-24 E 585' TO WATERS EDGE, TH N'ELY TO PT BRG S 02-08-35 E FROM POB, TH N 02-08-35 W 470' TO POB. PT OF SE 1/4 SEC 30, T2S-R7E. 2.54 AC.

COMBINED ON 07/16/2018 WITH J -10-30-400-054 INTO J -10-30-400-061;

And

Legal Description for J -10-30-400-054 (2.12 Acres)

W.D. L3143 P713 ****FROM 1030400023 08/17/95SU 30-19 PCL "C" COM AT CEN OF SEC 30, TH S 02-14-15 E 977.43 FT, TH N 82-19-48 E 810.92 FT, TH N 79-28-21 E 94.00 FT, TH S 02-08-24 E 265.00 FT, TH S 82-45-16 E 210.74 FT, TH N 87-23-32 E 217.01 FT TO POB, TH S 87-23-32 W 217.01 FT, TH S 02-08-35 E 470' TO WATERS EDGE, TH N'ELY TO PT BRG S 02-08-35 EFROM POB, TH N 02-08-35 W 360' TO POB. PT OF SE 1/4 SEC 30, T2S-R7E. 2.12 AC.

COMBINED ON 07/16/2018 WITH J -10-30-400-053 INTO J -10-30-400-061;

Your land combination has been completed by the Assessing Department. The 2018 summer and winter tax bills will show the original two parcel numbers, legal descriptions and acreage amounts as noted above.

Below is the new legal description, parcel number, and acreage amount that will take effect for the 2019 tax year and will reflect on the 2019 tax bill.

Legal Description for J -10-30-400-061 (4.66 Acres) ~~5278~~ 5728 Geddes Road

OWNER REQUEST SU 30-19A PCLS " B & C " COM AT CEN OF SEC 30, TH S 02-14-15 E 977.43 FT, TH N 82-19-48 E 810.92 FT, TH N 79-28-21 E 94.00 FT, TH S 02-08-24 E 265.00 FT, TH S 82-45-16 E 210.74 FT, TH N 87-23-32 E 217.01 FT TO POB, TH S 87-23-32 W 217.01 FT, TH N 82-45-16 W 210.74 FT, TH S 02-06-24 E 585 FT +/- TO WATERS EDGE, TH N'ELY ALNG WATERS EDGE TO PT S 02-08-35 E 360 FT +/- FROM POB, TH N 02-08-35 W 360 FT +/- TO POB. PT OF SE 1/4 SEC 30, T2S-R7E. 4.66 AC.

COMBINED ON 07/16/2018 FROM J -10-30-400-054, J -10-30-400-053;

If you have any questions please feel free to contact me at your convenience.

Thank you,
Paula Calopisis, Superior Township Assessor

Lawrence Kestenbaum
Clerk/Register of Deeds

Receipt 21-45086

Product	Name	Extended
EAS	Easment	$30.00
Total		$30.00
Tender:Check		$30.00

Thank You!

11/9/21 1:22 PM cash2

ACCESS EASEMENT

This Grant of Access Easement (the "Easement") is executed this 8th day of November 2021, by **Matthew A. Schuster and Alyssa L. Cairo, Husband and Wife**, of 5766 Geddes Road, Ann Arbor, Michigan 48105 ("Grantors"). Grantors hereby grant to **Aneel Karnani** ("Grantee") of 5668 Geddes Road, Ann Arbor, Michigan 48105, tax parcel # J-10-30-400-052 (the "Karnani Parcel"), a non-exclusive residential 66-ft wide private easement for purposes of ingress and egress as described in the Sketch of Easement and legal description attached hereto (the "Sketch") to and from the Karnani Parcel. This Easement is subject to existing easements of record. This Easement shall only allow Grantee to traverse over the land surface as currently exists which is unpaved and undeveloped. Grantee is not to construct any improvements without the prior written approval of Grantors, which shall not be unreasonably withheld. This Easement does not serve and gives no rights or benefits to any other parcel and there are no third-party beneficiaries to this Easement express or implied. Grantors shall not be required to, and are not responsible for, any expense relating to or arising out of this Easement or the Grantor's use of this Easement. Grantors may, at any time and in their sole and absolute discretion, relocate this Easement or designate such other 66-ft wide strip of land in the place of the location set forth on the attached Sketch, by recording a modification of this Easement. If no access drive has been constructed and approved by Superior Township as a private road within five (5) years of the date of this Easement, or if the Karnani Parcel is transferred, subdivided, combined, leased or sold, in whole or in part, by Grantee or his successors or assigns to any person or entity other than Grantors, this Easement will automatically terminate and will be of no further force or effect.

Dated this 8th day of November 2021.

Matthew A. Schuster

Alyssa L. Cairo

STATE OF MICHIGAN,
COUNTY OF WASHTENAW

The foregoing instrument was acknowledged before me this 09 day of November, 2021, by **Matthew A. Schuster and Alyssa L. Cairo, Husband and Wife.**

Heather Alsheimer, Notary Public
Wayne ~~Washtenaw~~ County, Michigan
My commission expires: March 25 2026

HEATHER ALSHEIMER
NOTARY PUBLIC, STATE OF MI
COUNTY OF WAYNE
MY COMMISSION EXPIRES Mar 25, 2026
ACTING IN COUNTY OF Washtenaw

This instrument prepared by:
Matthew A. Schuster
5766 Geddes Road
Ann Arbor, MI 48105

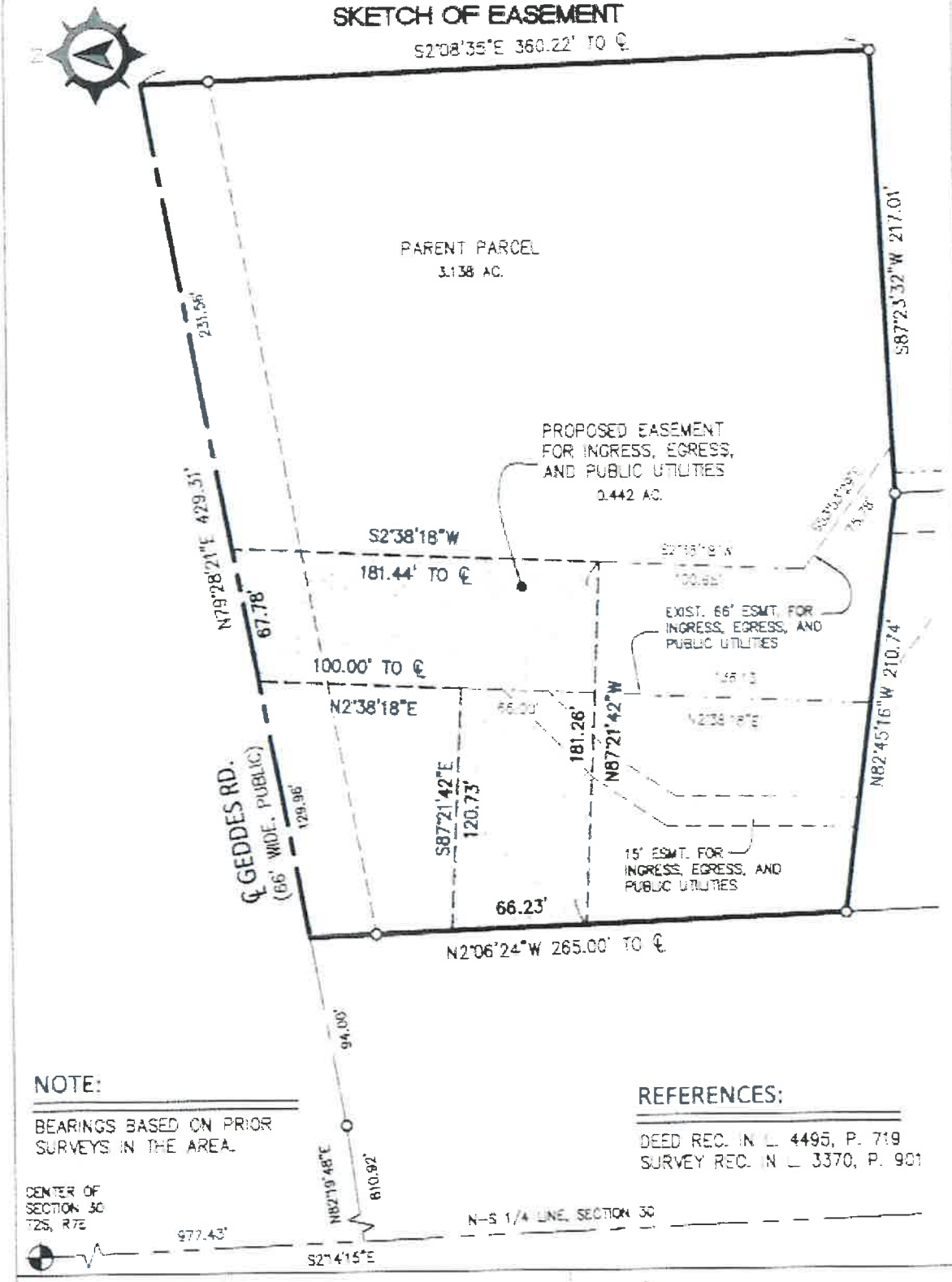
When recorded return to and
send subsequent tax bills to:
Grantors

Recording fee: $30.00
Tax parcel #: J-10-30-400-055

Transfer Taxes: Exempt: MCL 207.505(a) and MCL 207.526(a)

less than $100.00

SKETCH OF EASEMENT



NOTE:

BEARINGS BASED ON PRIOR SURVEYS IN THE AREA.

REFERENCES:

DEED REC. IN L. 4495, P. 719
SURVEY REC. IN L. 3370, P. 901

CLIENT: SCHUSTER

SKETCH OF EASEMENT

IN THE SE 1/4 OF SECTION 30, T2S, R7E SUPERIOR TOWNSHIP, WASHTENAW COUNTY, STATE OF MICHIGAN.

LEGEND:

⊕	SECTION CORNER
○ FIP	FOUND IRON PIPE
○ FIR	FOUND IRON ROD
○ FMN	FOUND MAG NAIL
○ FM	FOUND MONUMENT
○ SIP	SET IRON PIPE
▭	SET WOOD LATH
(R)	RECORDED
(C)	CALCULATED

SCALE: 1" = 60'

ARBOR LAND CONSULTANTS
Professional Land Surveyors
6653 Schneider Rd. • Manchester, MI • 48158
(734) 669-2960 • arborlandinc.com

JOB NO.: 16621	DATE: 10-28-2021
FLD. BOOK: 00013	REVISED: -
SHEET 1 OF 2	BY: KJG

PROPOSED EASEMENT FOR INGRESS, EGRESS, AND PUBLIC UTILITIES:

A part of the Southeast 1/4 of Section 30, Town 2 South, Range 7 East, Superior Township, Washtenaw County, Michigan described as: Commencing at the Center of said Section 30; thence along the North–South 1/4 line of said Section 30 South 02°14'15" East 977.43 feet to a point on the Centerline of Geddes Road; thence along said centerline North 82°19'48" East 810.92 feet; thence continuing along said centerline North 79°28'21" East 223.96 feet to the POINT OF BEGINNING; thence continuing along said Centerline North 79°28'21" East 67.78 feet; thence South 02°38'18" West 181.44 feet; thence North 87°21'42" West 181.26 feet; thence North 02°06'24" West 66.23 feet; thence South 87°21'42" East 120.73 feet; thence North 02°38'18" East 100.00 feet to the POINT OF BEGINNING, containing 0.442 acres of land, more or less.

CLIENT: SCHUSTER

SKETCH OF EASEMENT

IN THE SE 1/4 OF SECTION 30, T2S, R7E SUPERIOR TOWNSHIP, WASHTENAW COUNTY, STATE OF MICHIGAN.

LEGEND:

- SECTION CORNER
- FOUND IRON PIPE
- FOUND IRON ROD
- FOUND MAG NAIL
- FOUND MONUMENT
- SET IRON PIPE
- SET WOOD LATH
- (R) RECORDED
- (C) CALCULATED

SCALE: 1" = 60'

ARBOR LAND CONSULTANTS
Professional Land Surveyors
6653 Schneider Rd. • Manchester, MI • 48158
(734) 669-2960 • arborlandinc.com

JOB NO.: 16621	DATE: 10-28-2021
FLD. BOOK: 00013	REVISED: -
SHEET 2 OF 2	BY: KJG


0010

EXHIBIT
number 21

SUPERIOR TOWNSHIP

BUILDING PERMIT APPLICATION (revised 3-3-14)

Charter Township of Superior
3040 N. Prospect, Ypsilanti, MI 48198
(734) 482-6099

Applicant to Complete All Items in Sections I, II, III, IV and V
NOTE: Separate Applications Must Be Completed for Plumbing, Mechanical, & Electrical

I. JOB LOCATION

Street Address of Job	Project Name/Subdivision
5728 Geddes Road, Ann Arbor, MI 48105	Mouliere Residence

II. IDENTIFICATION

A. OWNER OR LESSEE

Name		Address	
Jean-Marie and Ingrid Mouliere		5728 Geddes Road	
City: Ann Arbor	State: MI	Zip Code: 48105	Phone: (734) 645 - 6045

B. APPLICANT INFORMATION

☐ HOMEOWNER ☑ CONTRACTOR ☐ ARCHITECT/ENGINEER ☐ AGENT

Name/ Company Name	License Number	Expiration Date
Snyder Contracting	2102206239	05/31/22

Address	City	State	Zip Code
8650 Huron River Drive	Dexter	MI	48130

Telephone Number (Include Area Code)	Federal Employer ID Number (or reason for exemption)
(734) 545 - 4840	46-0915638
Worker's Compensation Insurance Carrier (or reason for exemption)	**MESC Employer Number (or reason for exemption)**
Accident Fund Insurance Co of America	No employees

III. TYPE OF IMPROVEMENT AND PLAN REVIEW

A. PROPOSED USE OF BUILDING AND TYPE OF IMPROVEMENT

☑ RESIDENTIAL ☐ NON-RESIDENTIAL

☑ New Building ☐ Addition ☐ Mobile Home

☐ Alteration ☐ Repair ☐ Demolition

IF RESIDENTIAL-describe in detail scope of work; IF NONRESIDENTIAL-describe proposed use of building, e.g. food processing plant, machine shop, laundry building at hospital, elementary school, college parking garage, rental office building. If use of existing building is being changed, enter proposed use.

New build of 7800 sq ft 2 story home. 3800 sq ft basement to be finished as well.

APPLICATION FOR BUILDING PERMIT AND PLAN EXAMINATION - PAGE TWO

IV. CHARACTERISTICS OF BUILDING

A. TYPE OF WATER SUPPLY AND SEWAGE DISPOSAL

☑ Public Water ☐ Public Sewer	☐ Private Well ☐ Septic System

B. DIMENSION/DATA

Floor Area	Alteration	New
Basement	N/A	3800
1st & 2nd Floor	N/A	7800

Construction Cost (or submit copy of contract) 1.5 million

V. SIGNATURE

I HEREBY CERTIFY THAT THE PROPOSED WORK IS AUTHORIZED BY THE OWNER OF RECORD AND THAT I HAVE BEEN AUTHORIZED BY THE OWNER TO MAKE THIS APPLICATION AS HIS/HER AUTHORIZED AGENT, AND WE AGREE TO CONFORM TO ALL APPLICABLE LAWS OF THE STATE OF MICHIGAN. ALL INFORMATION SUBMITTED ON OR WITH THIS APPLICATION IS ACCURATE TO THE BEST OF MY KNOWLEDGE.

Section 23a of the state construction code act of 1972, 1972 PA 230, MCL 125.1523A, prohibits a person from conspiring to circumvent the licensing requirements of this state relating to persons who are to perform work on a residential building or a residential structure. Violator's of section 23a are subject to civil fines.

APPLICANT SIGNATURE: _____ **DATE:** 10/18/21

PRINT NAME: Daniel Snyder

BUILDING DEPARTMENT USE ONLY

	REQUIRED?		RECEIVED	NOTES
A. Zoning Review	☐ YES	☐ NO	☐	
B. Well/Septic Permit	☐ YES	☐ NO	☐	
C. Driveway Permit	☐ YES	☐ NO	☐	
D. Soil Erosion	☐ YES	☐ NO	☐	
E. Utility Charges	☐ YES	☐ NO	☐	
F. Wetlands	☐ YES	☐ NO	☐	

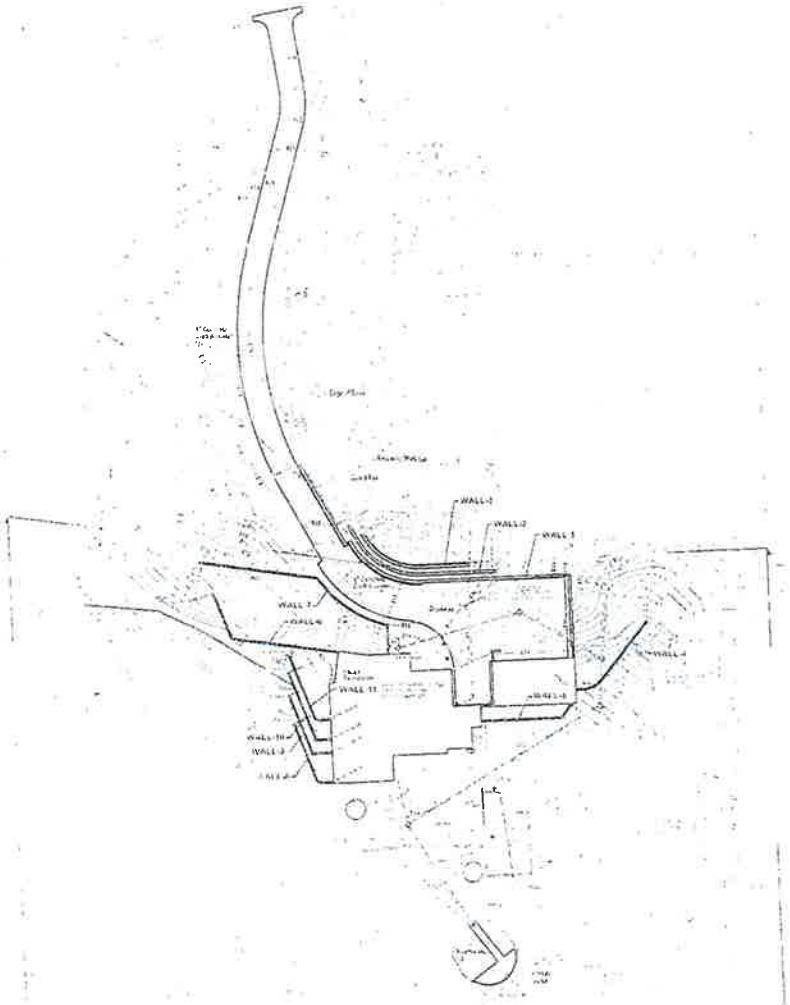
Data _____

Construction Type	Use Group	Square Footage	Occupant Load
Parcel Number		Valuation	Zoning District
Approval Signature		Date	Permit Fee

0013

REDI-ROCK® DESIGN AND DETAILS
PREPARED FOR:

PROPOSED REDI-ROCK RETAINING WALLS
"MOULIERE RESIDENCE"
5728 GEDDES ROAD, SUPERIOR CHARTER TWP., WASHTENAW COUNTY, MI 48105



INDEX

SHEET	DESCRIPTION
RW 1	TITLE SHEET
RW-2 #	WA FLEVAT ON
RW-3	WALL DETAILS
RW 4	SPEC F CATIONS AND CONSTRUCTION NOTES

NOTE:
SHOP DRAWINGS FOR WALL NO's 1, 2 AND 3

RETAINING WALLS PLAN VIEW
SCALE N T S

JEAN MARIE MOULIERE
1207 HILL STREET
ANN ARBOR, MI 48104

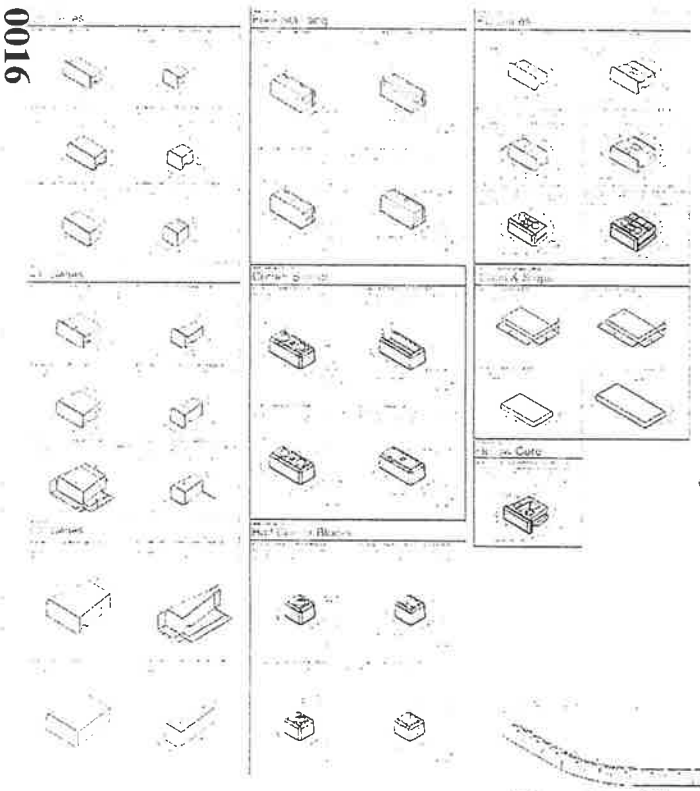
PROPOSED REDI-ROCK" RETAINING WALLS
MOULIERE RESIDENCE
5728 GEDDES RD SUPERIOR CHARTER TWP MI 48105

TITLE SHEET

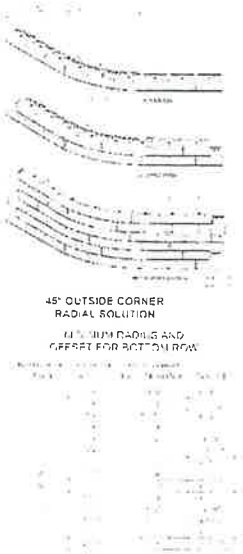
COPYRIGHT

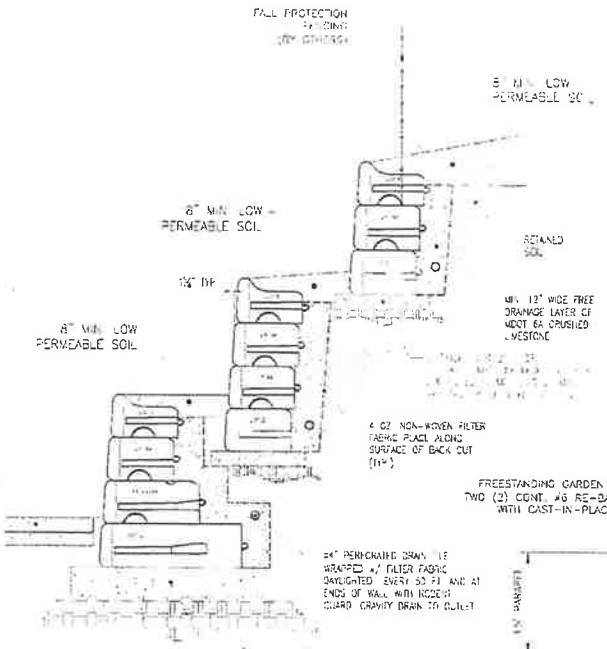
SEAL

22-101
RW-1

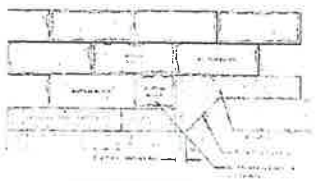


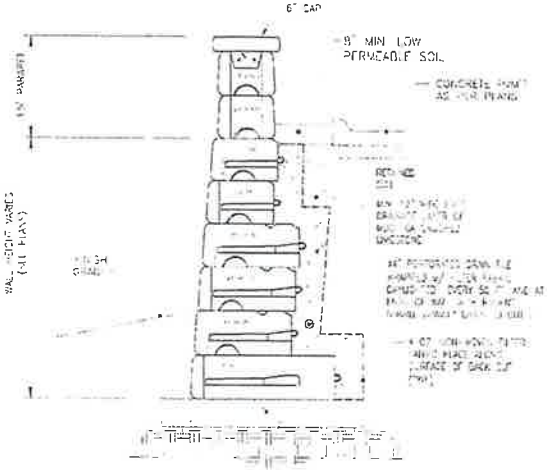
TYPICAL PEDESTRIAN
FENCE PROTECTION



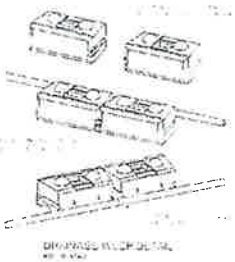


CROSS-SECTION "A-A"
WALL NO-1, 2 AND 3
SCALE NONE

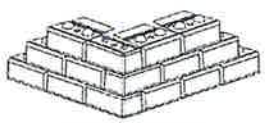




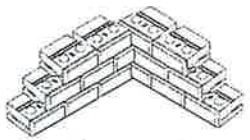
CROSS-SECTION "B-B"
WALL NO-1
SCALE NONE



DRAINAGE WEEP DETAIL



90° OUTSIDE CORNER
ISOMETRIC VIEW



90° INSIDE CORNER
ISOMETRIC VIEW

JEAN MARIE MOULIERE
209 HILL STREET
ISHPEMING, MI 49849

PROPOSED RED-ROCK RETAINING WALLS
MOULIERE RESIDENCE
5728 GLADSTONE RD., SUPERIOR CHARTER TWP., MI 49906

WALL DETAILS

22.101
RW-3

SPECIFICATION FOR REDI-ROCK® 28", 41", 60" SERIES WALL SYSTEM

PART 1 GENERAL

[illegible] SCOPE

[illegible]

[illegible] REFERENCE STANDARDS

[illegible]

[illegible] DELIVERY, STORAGE AND HANDLING

A. CONTRACTOR SHALL CHECK THE MATERIALS [illegible]
[illegible]
[illegible] MATERIALS FROM COMING IN CONTACT WITH THE SRW UNITS.
[illegible] CONTRACTOR SHALL PROTECT THE MATERIALS FROM DAMAGE. DAMAGED MATERIAL SHALL NOT BE INCORPORATED IN THE PROJECT.

PART 2 MATERIALS

[illegible] WALL UNITS

A. [illegible] UNITS SHALL BE REDI-ROCK BLOCKS [illegible] TEXTURE AS [illegible]
B. [illegible] UNITS SHALL BE MADE WITH READY MIXED CONCRETE IN ACCORDANCE WITH ASTM C94, LATEST REVISION [illegible]
[illegible]

[illegible] LEVELING LAYER AND [illegible] DRAINAGE BACKFILL

[illegible]

[illegible] NOT SECTION OF THE WALL.

[illegible]

[illegible] DRAINAGE

[illegible]

PART 3: CONSTRUCTION OF WALL SYSTEM

3.1 EXCAVATION

A. CONTRACTOR SHALL EXCAVATE TO THE LINES AND GRADES SHOWN ON THE CONSTRUCTION DRAWINGS, SUBJECT OF FIELD MEASUREMENTS AND/OR EXISTING SITE CONDITIONS ENCOUNTERED DURING EXCAVATION.

3.2 FOUNDATION SOIL PREPARATION

A. EXISTING UNSUITABLE SOILS, IF ENCOUNTERED, MUST BE REMOVED FROM BELOW THE LEVELING LAYER AND REPLACED WITH 1"X3" CRUSHED LIMESTONE, ENCAPSULATED IN GEOTEXTILE FABRIC (MIRAFI 140N OR GEOTURF H4800 OR EQUAL, APPROVED BY PROJECT ENGINEER) TO PREVENT MIGRATION. FILL UNDERCUT AND REPLACEMENT MUST EXTEND OUTWARD AND DOWNWARD FROM THE BOTTOM OF LEVELING LAYER ON A SLOPE OF 2V : 1H.
B. IN-SITU FOUNDATION SOIL SHALL BE EXAMINED BY THE PROJECT GEOTECHNICAL ENGINEER TO ENSURE THAT THE ACTUAL FOUNDATION SOIL STRENGTH MEETS OR EXCEEDS ASSUMED DESIGN STRENGTH. SOIL NOT MEETING THE REQUIRED STRENGTH SHALL BE REMOVED AND REPLACED WITH ACCEPTABLE, COMPACTED MATERIAL.

3.3 LEVELING LAYER PLACEMENT

A. LEVELING LAYER SHALL BE PLACED AS SHOWN ON THE CONSTRUCTION DRAWINGS.
B. LEVELING LAYER SHALL CONSIST OF MIN 6" TO 12" OF MDOT 21AA OR 6A CRUSHED [illegible] THE LEVELING LAYER SHALL BE COMPACTED TO MIN 95% OF MAX [illegible] DENSITY (MODIFIED PROCTOR) AND SHALL BE CONSTRUCTED TO THE [illegible] ELEVATION TO ENSURE THE FINAL ELEVATION SHOWN ON THE PLANS.
C. LEVELING [illegible] SHALL HAVE A 6 TO 12 INCH MINIMUM DEPTH. LAYER DIMENSIONS SHALL EXTEND BEYOND THE BLOCKS IN ALL DIRECTIONS TO A DISTANCE OF AT LEAST 6 TO 12INCHES.

3.4 UNIT INSTALLATION

A. THE FIRST COURSE OF WALL UNITS SHALL BE PLACED ON THE PREPARED LEVELING LAYER WITH THE AESTHETIC SURFACE FACING OUT AND THE FRONT [illegible] TIGHT TOGETHER. ALL UNITS SHALL BE CHECKED FOR LEVEL AND ALIGNMENT AS THEY ARE PLACED.
B. ENSURE THAT UNITS ARE IN FULL CONTACT WITH LEVELING LAYER. PROPER CARE SHALL BE TAKEN TO DEVELOP STRAIGHT LINES AND SMOOTH CURVES ON [illegible]
C. THE BACKFILL IN FRONT AND BACK OF ENTIRE BASE ROW SHALL BE PLACED AND COMPACTED TO FIRMLY LOCK THEM IN PLACE. CHECK ALL UNITS AGAIN FOR LEVEL AND ALIGNMENT. [illegible] MATERIAL SHALL BE SWEPT FROM TOP OF UNITS.
D. INSTALL NEXT COURSE OF WALL UNITS ON TOP OF BASE ROW. POSITION BLOCKS TO BE [illegible] FROM SEAMS OF BLOCKS BELOW. BLOCKS SHALL BE [illegible] KNOB [illegible] ENGAGED. CHECK EACH BLOCK FOR PROPER ALIGNMENT AND [illegible] BEHIND BLOCK WITH FREE DRAINING BACKFILL. SPREAD BACKFILL IN UNIFORM LIFTS [illegible] METHODS USING LIGHTWEIGHT [illegible] COMPACTION EQUIPMENT [illegible] NOT [illegible] STABILITY OR BATTER OF THE WALL. [illegible] COMPACTION EQUIPMENT SHALL BE USED AROUND THE BLOCK AND WITHIN 3 FEET OF THE WALL TO ACHIEVE CONSOLIDATION.
E. INSTALL EACH SUBSEQUENT COURSE IN THE MANNER. REPEAT PROCEDURE TO THE EXTENT OF WALL HEIGHT.
F. ALLOWABLE CONSTRUCTION TOLERANCE AT THE WALL FACE IS 2 DEGREES VERTICALLY AND [illegible] INCH IN 10 FEET HORIZONTALLY.
G. ALL WALLS SHALL BE INSTALLED IN ACCORDANCE WITH LOCAL, STATE AND FEDERAL BUILDING CODES REQUIREMENTS.

3.5 QUALITY CONTROL

A. OWNER MUST RETAIN SERVICES OF A QUALIFIED PROFESSIONAL TO PERFORM QUALITY ASSURANCE CHECKS OF INSTALLATION'S WORK.

3.6 DESIGN OF WALLS BASED ON THE 'GRADING PLAN' (SHEET [illegible]), PREPARED BY [illegible] DESIGN STUDIO, INC. DATED 02-07-2022.

3.8 DESIGN PARAMETERS

3.8.1 DESIGN OF WALL BASED ON THE FOLLOWING PARAMETERS

	EFFECTIVE FRICTION ANGLE	EFFECTIVE COHESION	MOIST UNIT WT
RETAINED SOIL	32°	0	120 PCF
FOUNDATION SOIL	30°	0	120 PCF

3.8.2 DESIGN SURCHARGE LOADS 50 PSF LIVE LOAD (CONSTRUCTION/ MAINTENANCE),
150 PSF LIVE LOAD (TRAFFIC)
1150 TO 2,000 PSF DEAD LOAD SURCHARGE (TIER WALL)

3.8.3 MAX. APPLIED BEARING PRESSURE 2,500 PSF

3.8.4 SOIL PARAMETERS ARE BASED ON GEOTECHNICAL EXPLORATION REPORT PREPARED BY G2 CONSULTING GROUP (G2 PROJECT NO. 213719), DATED 10-27-2021

PART 4: AVAILABILITY

LIVINGSTON CONCRETE AND REDI-WALL COMPANY
550 NORTH OLD US-23
BRIGHTON, MI 48114
1-810-632-3030
MR. ERIC TAYLOR

JEAN-MARIE MOULIERE
2107 HILL STREET
ANN ARBOR, MI 48104

PROPOSED REDI-ROCK RETAINING WALLS
MOULIERE RESIDENCE
5728 GEDDES RD., SUPERIOR CHARTER TWP., MI 48105

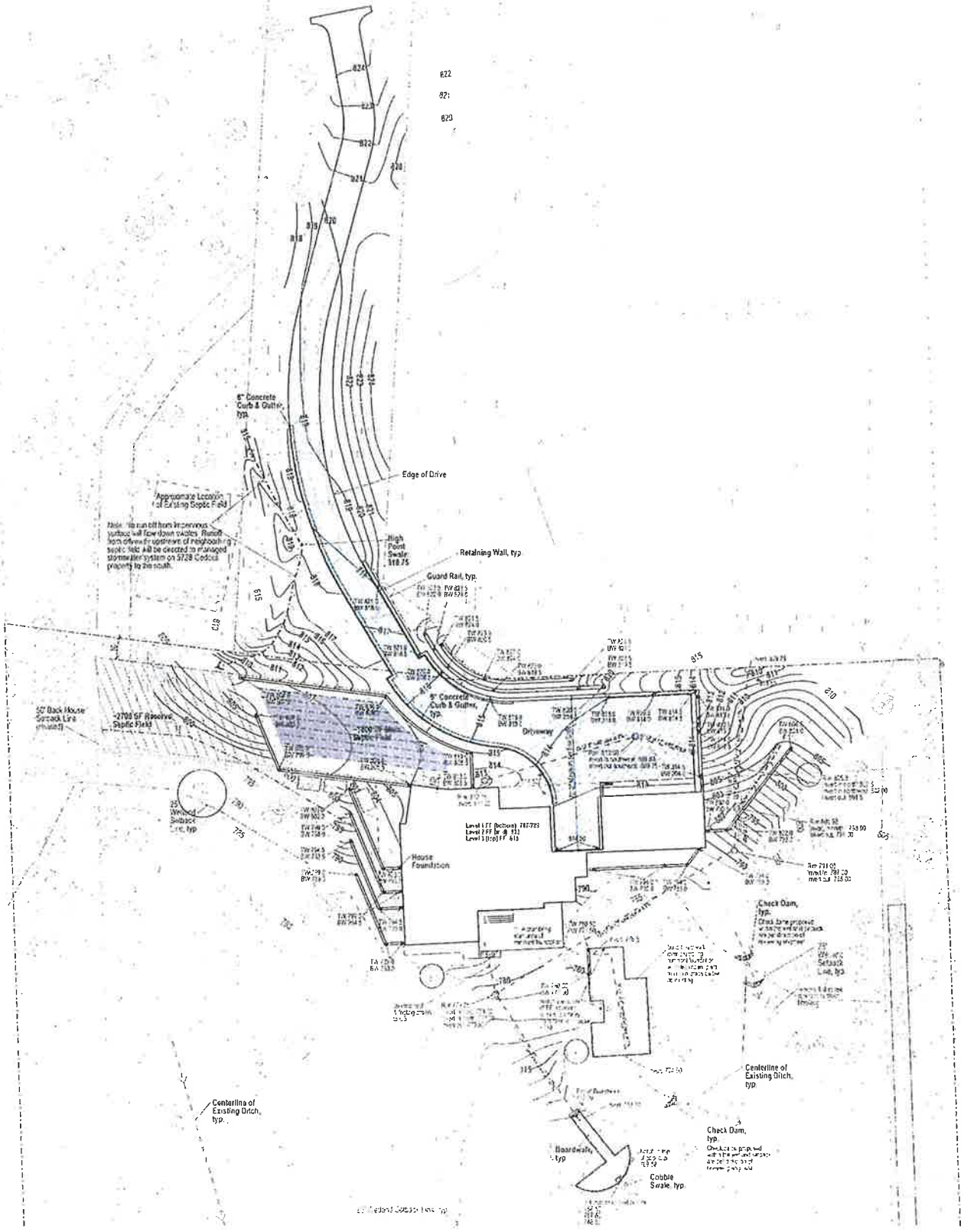
SPECIFICATIONS AND CONSTRUCTION NOTES

SEAL

GES-LLC

22-101

RW-4



Project:
Mouliere Residence: 5728 Geddes

Sheet:
L-2

Title:
Grading Plan

0018

INSITE
InSite Design Studio, Inc.

EXHIBIT
31

shows up after the pump truck, there's really nowhere to park unless they park on Hickman and walk over which we've also had the police called on us for parking on Hickman as well, so they don't like parking there either.

Q. Have you done what you can to try and minimize that?

A. Everything I can. I mean, we're all human, so -- but everything I can.

Q. There's no "Dont Park Here" sign or --

A. There isn't and that is a great point and I should probably go in there and (INDECIPHERABLE).

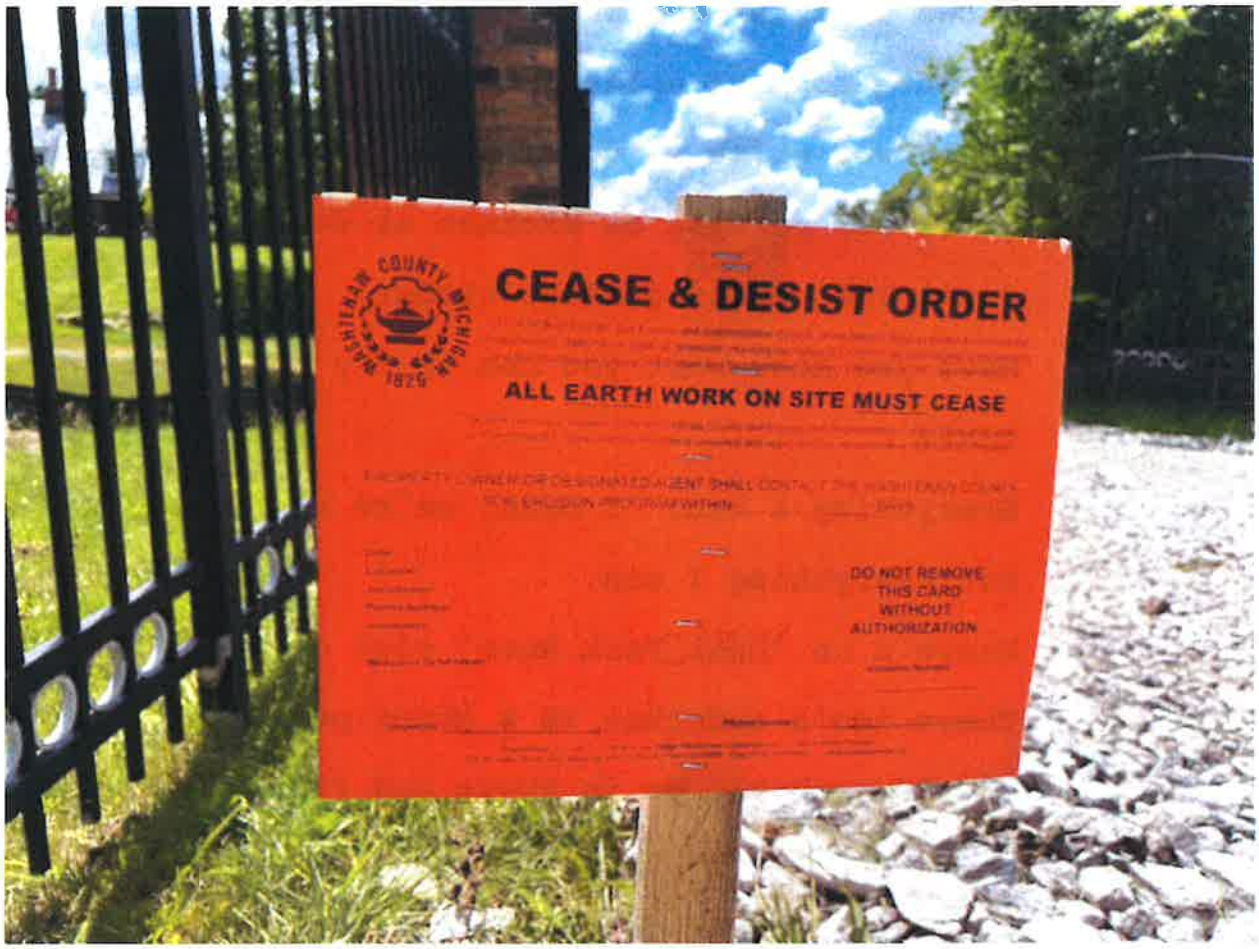
Q. Did there come a time when your permit got a cease-work order on the permit for the construction of the wall?

A. Yeah, after they were completed. It's still somewhere in this area on the Schuster side of the property.

Q. What was your understanding as to why it was --

A. From the injunction from what I understand that they decided that since we didn't permit their property, 5766, on our permit that that section of wall should technically not have been built because we didn't have a permit for 5766.

So this area of two-tier and maybe a


WASHTENAW COUNTY MICHIGAN
1826
CEASE & DESIST ORDER
ALL EARTH WORK ON SITE MUST CEASE
DO NOT REMOVE
THIS CARD
WITHOUT
AUTHORIZATION

WASHTENAW COUNTY BUILDING INSPECTION 734) 222-3900
705 NORTH ZEEB ROAD, P.O. BOX 8645, ANN ARBOR, MI 48107-8645
Fax (734) 222-3930
Inspection Line (866) 458-7358 – (IVR) automated system – 24 hours a day
http://www.washtenaw.org/government/departments/building_inspection/

September 9, 2022

Matt Schuster
5766 Geddes Rd
Ann Arbor, Michigan 48105

RE: AUGUST 17, 2022, CONSTRUCTION CODE BOARD OF APPEALS DECISION
APPEAL FOR 5728 GEDDES RD., SUPERIOR TOWNSHIP – MATT SCHUSTER

Mr. Schuster,

Below please find the decision of your appeal application submitted to the Construction Code Board of Appeals:

> Motion by Jack Campbell, supported by Charles Hookham, the permit No. PB22-0070 is for construction activity at 5728 Geddes Rd., ONLY, as identified as parcels B and C, on the survey drawing by Ayres, Lewis, Norris & May Survey, Proj. No. 83482-01. (3) Yeas (1) Nay (1) Abstained. Motion carried.

If you do not agree with this decision, you have the right to appeal further to the State of Michigan Construction Code Board of Appeals.

If you have questions, please feel free to contact my office at 734-222-3892.

Sincerely,

Deb Schmitt, Director
Washtenaw County Building Inspection

Lance Mitchell, Building Official
Washtenaw County Building Inspection

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

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

Plaintiffs/Counter-Defendants,

v.

MATTHEWA A. SCHUSTER and ALYSSA L. CAIRO,

Defendants/Counter-Plaintiffs.

Case No. 20-001274-CH

Hon. Timothy P. Connors

ORDER APPROVING APPLICATION FOR BUILDING PERMIT IN ACCORDANCE WITH ORDER TO ENFORCE FINAL JUDGMENT

BODMAN PLC
By: J. Adam Behrendt (P58607)
Melissa Benton Moore (P73018)
Michelle Kolkmeyer (P81355)
201 W. Big Beaver Rd., Suite 500
Troy, MI 48084
(248) 743-6000
abehrendt@bodmanlaw.com
mmoore@bodmanlaw.com
mkolkmeyer@bodmanlaw.com
Attorneys for Plaintiffs/Counter-Defendants

CONLIN MCKENNEY & PHILBRICK, P.C.
By: W. Daniel Troyka (P65155)
350 S. Main Street, Suite 400
Ann Arbor, MI 48104-2131
(734) 761-9000
troyka@cmplaw.com

HONIGMAN LLP
By: Michael P. Hindelang (P62900)
Laura E. Biery (P82887)
2290 First National Building
660 Woodward Avenue
Detroit, MI 48226
(313) 465-7000
mhindelang@honigman.com
lbiery@honigman.com
Attorneys for Defendants/Counter-Plaintiffs

ORDER APPROVING APPLICATION FOR BUILDING PERMIT IN ACCORDANCE WITH ORDER TO ENFORCE FINAL JUDGMENT

At a session of said Court, held in the
Washtenaw County Circuit Court, State of Michigan

on 12/18/23

PRESENT: Hon. Timothy P. Connors
Circuit Court Judge

WHEREAS, this matter comes before the Court following the Court's entry of its "Order to Enforce Final Judgment," dated November 30, 2023. That order states, in relevant part:

> [I]n the event that Defendants/Counter-Plaintiffs refuse to cooperate in the permitting process and to sign any necessary documents, Plaintiffs/Counter-Defendants may present an order to the Court for Court approval of an application for a building permit, a variance, or other zoning relief, and the Court will enter an order such that it can be provided to the Township in lieu of a document signed by Defendants/Counter-Plaintiffs.

Plaintiffs/counter-plaintiffs Jean-Marie L. Mouliere and Ingrid D. Mouliere (collectively, "Moulieres") have asked defendants/counter-plaintiffs Matthew A. Schuster and Alyssa L. Cairo (collectively, "Schusters") to sign the building permit application attached as **Exhibit A** so they may complete the construction at issue in this case. The Schusters have refused to sign the building permit application.

AND WHEREAS, the Schusters agree that the form of this Order complies with the Court's rulings, and approve the form of the Order only, and the Schusters restate their previous objections to the issuance of the permit.

NOW, THEREFORE, having been so advised, the Court hereby orders as follows:

IT IS HEREBY ORDERED that, the building permit application attached hereto as Exhibit A is approved and that Superior Township may accept and rely upon this order in lieu of a document signed by the Schusters;

IT IS FURTHER ORDERED that the Schusters' approval of the form of this Order does not constitute acquiescence by the Schusters in the propriety of the permit.

IT IS SO ORDERED.

Dated: _____

/s/ Timothy Connors
December 18, 2023
Hon. Circuit Court Judge

APPROVED AS TO FORM ONLY:

BODMAN PLC

By: /s/ J. Adam Behrendt
J. Adam Behrendt (P58607)
Attorneys for Plaintiffs/Counter-Defendants

HONIGMAN LLP

By: /s/ Michael P. Hindelang
Michael P. Hindelang (P62900)
Attorneys for Defendants/Counter-Plaintiffs

1. CALL TO ORDER

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

2. ROLL CALL

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

3. ADOPTION OF AGENDA

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

4. APPROVAL OF MINUTES

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

5. CITIZEN PARTICIPATION

There was no Citizen Participation.

6. COMMUNICATIONS

Motion by Member Parm and supported by Member Lewis to receive and file an email from Terri Oif regarding ZBA #21-03.

7. PUBLIC HEARINGS AND CONSIDERATION OF APPEALS

A. ZBA #21-03 5728 Geddes Road and 5766 Geddes Road Appeal

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

Matt Schuster, applicant, noted he has been working with Rick Mayernik regarding these complex issues.

Member Dail reported he visited the sites in question, and it was not readily apparent where the property lines are.

Mr. Schuster explained there is a tree stump where the marker is, and anything from that marker to the river is 5728 Geddes Road.

Mr. Schuster introduced Daniel Troyka, attorney at Conlin, McKenney & Philbrick, representing Mr. Schuster and his wife. Mr. Schuster also set up a PowerPoint presentation showing photos of the site and outlining the issues brought forth in the appeal to the ZBA.

Mr. Troyka stated the work taking place at 5728 Geddes Road should require permits and they should not be able to do work of such magnitude without permits. He continued to state the Zoning Ordinance should be interpreted so zoning compliance and a permit is required so the Schuster family is protected. At least engineering review should be required.

Troyka stated the first issue to interpret is 6.01(c) of the Zoning Ordinance, which is a provision of how you measure the height of a retaining wall. He explained the Township has taken the position measurements from take from the high side, theoretically resulting in a retaining wall of indefinite height. He indicated this is inconsistent with the Michigan Building Code and engineering standards. He disagrees with how the retaining wall has been interpreted.

Troyka went on to explain the neighbors are put up a ten-foot retaining wall. Mr. Mayernik did require a safety fence to be placed at the top, but there has been no regulation whatsoever. He also discussed permitted yard encroachments in Section 3.203(g)(1) and where retaining walls were discussed.

Troyka introduced the second issue of interpretation - when does construction start? The applicant believes mass grading constitutes the start of construction and requires a certificate of zoning compliance. He went on to state generally, if you're going to build a structure, you need a certificate of zoning compliance first. He reported the Township indicated permits are not needed until you start putting in "construction parts" of the wall. The applicant disagrees and asks the Zoning Board of Appeals to interpret Section 1.07 so a certificate of zoning compliance is required before they can keep working.

Mr. Troyka stated Section 10.02(a)(3)(a) of the Zoning Ordinance gives an exemption to single family dwellings for requiring site plan approval. He

stated the retaining wall is on the Schuster's property, but the retaining wall is not an accessory structure to the Schuster's property.

Mr. Troyka questioned if this type of plan would benefit from site plan review. He believes given the complexity of the project it does not feel like the project should be exempt.

The last point Mr. Troyka discussed involved the denial of a building permit for a garage on Mr. Schuster's property. He explained the house was built in the 1960s and there is existing access to the riverfront parcel. He added there is no private street there.

Mr. Troyka explained the fourth item on the appeal has been pulled from ZBA consideration because the applicant will go in front of the Township Board of Trustees for that issue. It was noted the ZBA doesn't hear issues on the private road ordinance.

Member Dail asked Mr. Mayernik to speak on the timing of the appeal.

Mr. Mayernik stated the letter from Maddin Hauser outlined four specific items they are requesting an appeal on. He added he included a memo in the packet to ZBA members that included some letters. The first letter from Maddin Hauser dated May 24, 2021, relates to the site plan approval question. The second letter dated May 25, 2021 refers to construction of walls and fences. The third letter is from Fred Lucas, Township Attorney, dated May 25, 2021 which indicates he has read the letters from Maddin Hauser, and the Township does not agree with their findings. Section 13.06 of the Zoning Ordinance addresses administrative appeals. Appeals of the Zoning Official must be received within 60 days of the decision. The letter from the Township Attorney establishes the decision was made over 90 days ago. Mr. Mayernik requests item one and two be denied, not on merit, but on procedural issue.

Member Dail asked Mr. Mayernik to reiterate the key dates. Mr. Mayernik answered that the letter from Mr. Lucas to Maddin Hauser stating the township didn't agree was dated May 25, 2021 and the application for this hearing was submitted on August 30, 2021. He further explained he is not arguing the merits of the case at this time, but item one and two of the appeal are now beyond the scope of the ZBA.

Mr. Mayernik went on to discuss the third portion of the applicant's appeal. He stated the property division being referred to in the creation of

the private road was approved in 1996, and at that time the 1978 Zoning Ordinance was in effect requiring all new lots created to front on a public or private street. He also explained there was no Private Street Ordinance in 1978. One was enacted in 2004, but until then, a 66' easement was accepted as a private road.

Member Dail asked Mr. Schuster to show where the garage was going to be. He asked if Mr. Schuster would have to excavate into the wall.

Mr. Schuster replied finished grade is not established.

Member Dail asked Mr. Schuster if he's explored that far enough and if he knows it is feasible.

Mr. Schuster answered yes, there are building plans. He added he wouldn't need to dig into the hill much.

Mr. Mayernik stated during the presentation Mr. Schuster made an example of homes on Ann's Way. A couple of the ZBA members remember appeals coming in from homeowners on Ann's Way relating to setbacks for additions. He explained the current Private Road Ordinance sets up a sequence of events of how you get a permit and what needs to happen before you get a building permit. There is no requirement for a private road to be constructed prior to the permit being issued for a house. An absence of a road being constructed does not mean the private road does not exist.

Member Dail asked, in terms of issue number three, if there is a timing issue?

Mr. Mayernik replied it was received on day 60, so the ZBA can review it.

Member Deeds reminded fellow members the ZBA is allowed to address the appeal before them, not the presentation shown by Mr. Schuster. He felt the ZBA should be addressing the items in order and making decisions on those three.

Deeds added he agrees with Member Dail recommending the applicant request a variance instead of an appeal for the garage. He feels it would have been a better approach, and it still could be followed. He stated Mr. Schuster's parcel is unique and thinks the applicant might want to consider a variance in the future.

Troyka stated in June, the applicant requested an interpretation of the Zoning Ordinance. Prior to June 28, 2021 neither the applicant nor their attorney had gotten clear guidance from the township at all. He believes it incorrect to say Mr. Lucas sending a letter that the Township disagrees would "start the clock." He stated on July 6, 2021 the applicant was told he could go the ZBA. There is no requirement the applicant do anything with the appeal other than fill out an application and submit a check.

Troyka does not understand the township's reluctance to hear these issues. He asked the ZBA to make a decision and doesn't think it is out of order to do so. The applicant feels the ZBA needs to interpret this and there needs to be some guidance from this township.

Mr. Mayernik stated he would agree if the applicants had made an application on July 7, 2021 it could be heard. But the applicant's attorney is very clear in the questions they are asking. Mr. Lucas's letter stating the Zoning Official doesn't agree with their interpretation is crystal clear.

Member Dail stated the applicant is entitled to ask for interpretations from the ZBA, but this application is requesting Mr. Mayernik's decision is overturned. If interpretations were wanted, the applicant can fill out an application and come before the ZBA.

Member Dail asked Mr. Mayernik how the site would transpire if the issues weren't in front of the ZBA. He stated the site is a mess and there is a ten-foot unsupported earth wall.

Mr. Mayernik replied he would expect the applicant would come in with building plans, site plans, and stamped sealed documents for the retaining wall. He added the size of the house will require sealed documents from the builder as well. The plans would be reviewed by Mr. Mayernik and OHM. Because this would not go before the Planning Commission, the Michigan Residential Code would apply rather than the Township Engineering Standards.

Member Dail asked Mr. Mayernik if he, as the Building Inspector, has an expectation he'll receive drawings for the retaining wall that will be reviewed, approved, and inspected. Mr. Mayernik confirmed, and it was noted this would occur under the Residential Building Code.

Member Dail deems "there needs to be some level of assurance the mess out there will be properly buttoned up."

Mr. Schuster asked if the Township has conducted a safety review. He explained he's watching the wall cave and fall into the wetlands, and someone is going to get hurt.

Mr. Mayernik stated he and the Township Supervisor have discussed if the situation, as it stands, elevates to what they'd call a "public nuisance" to where the Township would enter into litigation or issue citations. He also explained initially the builder put up a plastic snow fence as a safety guard along the upper side of the retaining wall. Mr. Mayernik informed the builder that was not adequate as a guard and asked him to put something more substantial, which he did. The intent is they won't go on into perpetuity.

Motion by Member Lewis supported by Member Brennan to close the public hearing. The motion carried.

Member Dail stated regarding the third appeal, the discussion has been if it is a private road or not and the appeal of the decision to deny the permit to construct a garage. He continued to state the suggestion of the ZBA is for the applicant to apply for a variance to allow construction in the setback, but that would take a separate application.

Mr. Schuster stated there is no lot in the Zoning Ordinance that can have a private road running through the middle of it, and he did reference that in his appeal. He does not believe his property is considered a corner lot. He questions the interpretation and asks the ZBA to make a determination.

Mr. Mayernik passed out a handout with the definition of a "through lot" from the 1978 Zoning Ordinance to the ZBA Members and the applicant. He maintains the lot was created in 1996, which would have been subject to the 1978 Zoning Ordinance where it would have been classified as a "through lot." He continued to state the other problem the township ran into that had to be addressed in the Zoning Ordinance were private roads that ran into adjacent properties. The Township stated land divisions could not occur unless the neighboring property owner agreed because they could create setbacks on the adjacent property owners.

Mr. Schuster stated he still questions the designation of his property as a corner lot.

Mr. Mayernik acknowledged his representation to a corner lot in the denial letter was the closest he could come to describing the conditions of that lot.

Mr. Schuster gave information on the original split in 1995/1996.

Mr. Mayernik pointed out in the applicant's paperwork there are several letters relating to the land division. He reviewed the paperwork and stated the Building Official at the time of the division was asking for dimensions from the house to the private road. Mr. Mayernik infers the logical reason he was asking for those dimensions is because he was checking for setbacks.

Member Dail stated looking at the August 30, 2021 letter from Maddin Hauser, the applicant is appealing the decision of the Building Official to deny the garage permit. The reason the permit was denied is because it is in the 60-foot setback of what we would call the private road. The counter argument is that it is not a private road.

Mr. Mayernik stated the private road had to be created because of the two riverfront lots not fronting Geddes Road.

Mr. Mayernik explained the Township Fire Chief has looked at the preliminary sketches for what would be required at this location. The reality is the two lots have been combined into one lot. As far as Fire Department access, it's basically a driveway. Once Mr. Mayernik receives firm drawings and a plan submission it will be sent to the Fire Chief for review.

Member Deeds suggested taking this appeal by appeal and making a motion for each.

Motion by Member Deeds, supported by Member Brennan, to deny appeal number one due to the failure to meet the timing requirements of an administrative appeal as defined in Zoning Ordinance Section 13.06(1), requiring an appeal be filed within 60 calendar days from the decision.

Roll Call:

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

The motion carried.

Motion by Member Deeds, supported by Member Parm, to deny appeal number two due to the failure to meet the timing requirements of an administrative appeal as defined in Zoning Ordinance Section 13.06(1), requiring an appeal be filed within 60 calendar days from the decision.

Roll Call:

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

The motion carried.

Motion by Member Deeds, supported by Member Parm to deny appeal number three due to the correct interpretation of the Township Zoning Official on setback requirements per Zoning Ordinance Section 3.101 for the building application for a garage at 5766 Geddes Road.

Roll Call:

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

The motion carried.

8. OLD BUSINESS

None.

9. OTHER BUSINESS AS NECESSARY

A. ZBA Bylaws

Motion by Member Lewis, supported by Member Craigmile to approve the ZBA Bylaws as presented. The motion carried.

B. Election of Officers for 2021

Motion by Member Brennan supported by Member Lewis to nominate Doug Dail as Chair. Member Dail accepted. The motion carried.

Motion by Member Lewis supported by Member Parm to nominate Rebecca Craigmile as Vice-Chair. Member Craigmile accepted. The motion carried.

Motion by Member Lewis supported by Member Craigmile to nominate Daniel Deeds as Secretary. Member Deeds accepted. The motion carried.

10. ADJOURNMENT

A motion was made by Member Brennan and supported by Member Craigmile to adjourn the meeting at 9:10 p.m.

Respectfully submitted,

Douglas Dail, Chairman Zoning Board of Appeals

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

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

JEAN-MARIE L. MOULIERE and
INGRID D. MOULIERE,
Plaintiffs/Counter-Defendants
vs. Civil Action
No. 20-001274-CH
HON. TIMOTHY P. CONNORS
MATTHEW A. SCHUSTER and
ALYSSA L. CAIRO
Defendants/Counter-Plaintiffs
_____/

PAGES 1 TO 285

TRANSCRIPTION OF VIDEO RECORDED TRIAL TESTIMONY
in front of HON. TIMOTHY P. CONNORS
Ann Arbor, Michigan,
Commencing at 8:59 a.m.,
Tuesday, April 11, 2023,
Transcribed from Video by Dale E. Rose, CSR-0087

APPEARANCES:

MR. J. ADAM BEHRENDT (P58607)
MS. MELISSA BENTON MOORE (P73018)
Bodman, PLC
201 West Big Beaver Road, Suite 500
Troy, Michigan 48034
(248) 743-6000
abehrendt@bodmanlaw.com
mmoore@bodmanlaw.com
Appearing on behalf of the
Plaintiffs/Counter-Defendants

MR. W. DANIEL TROYKA (P65155)
Conlin McKenney & Philbrick, P.C.
350 South Main Street, Suite 400
Ann Arbor, Michigan 48104
(734) 761-9000
troyka@cmplaw.com

and

APPEARANCES (CONTINUED)

MR. MICHAEL P. HINDELANG (P62900)
MS. LAURA E. BIERY (P82887)
Honigman, LLP
2290 First National Building
660 Woodward Avenue
Detroit, Michigan 48226
(313) 465-7000
mhindelang@honigman.com
lbiery@honigman.com
Appearing on behalf of
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INDEX OF EXAMINATIONS (CONTINUED)

*** MAJED GHUSSAINI ***

*** GEORGE TSAKOFF ***

*** RICHARD MAYERNIK ***

official.

Q. Do you have any college degrees or professional certifications?

A. Certifications, no college degrees, no.

Q. I think we testified that you took some certificates on zoning compliance and building codes?

A. Michigan State had a program for a Zoning officials that I took and I had a license in licenced mechanical contractor, building contractor, plumbing contractor and registered with the State as inspector and Building official in all those categories.

Q. You're the person my wife wishes I was and my father wanted me to be.

Before Superior Township were you involved in similar type of work?

A. Yes, I worked in the City of Southfield as a Building inspector for four years and then prior to that a short stint at Van Buren Township -- I started inspecting in an engineering (INDECIPHERABLE).

Q. Just as a point of reference I'm going to show you Exhibit 1, make sure we can establish your knowledge of the topics we've been talking about

today.

Have you ever seen this survey before?

A. Yes, I have.

Q. Just as a point of reference here, do you see Geddes Road up top?

A. Correct.

Q. Huron River at the bottom?

A. Yes.

Q. Can you see the depiction of Parcel A?

A. Un-huh.

Q. And Parcels B and C?

A. Correct.

Q. Do you know who owns Parcel A?

A. Parcel is owned by Matt Schuster and his wife.

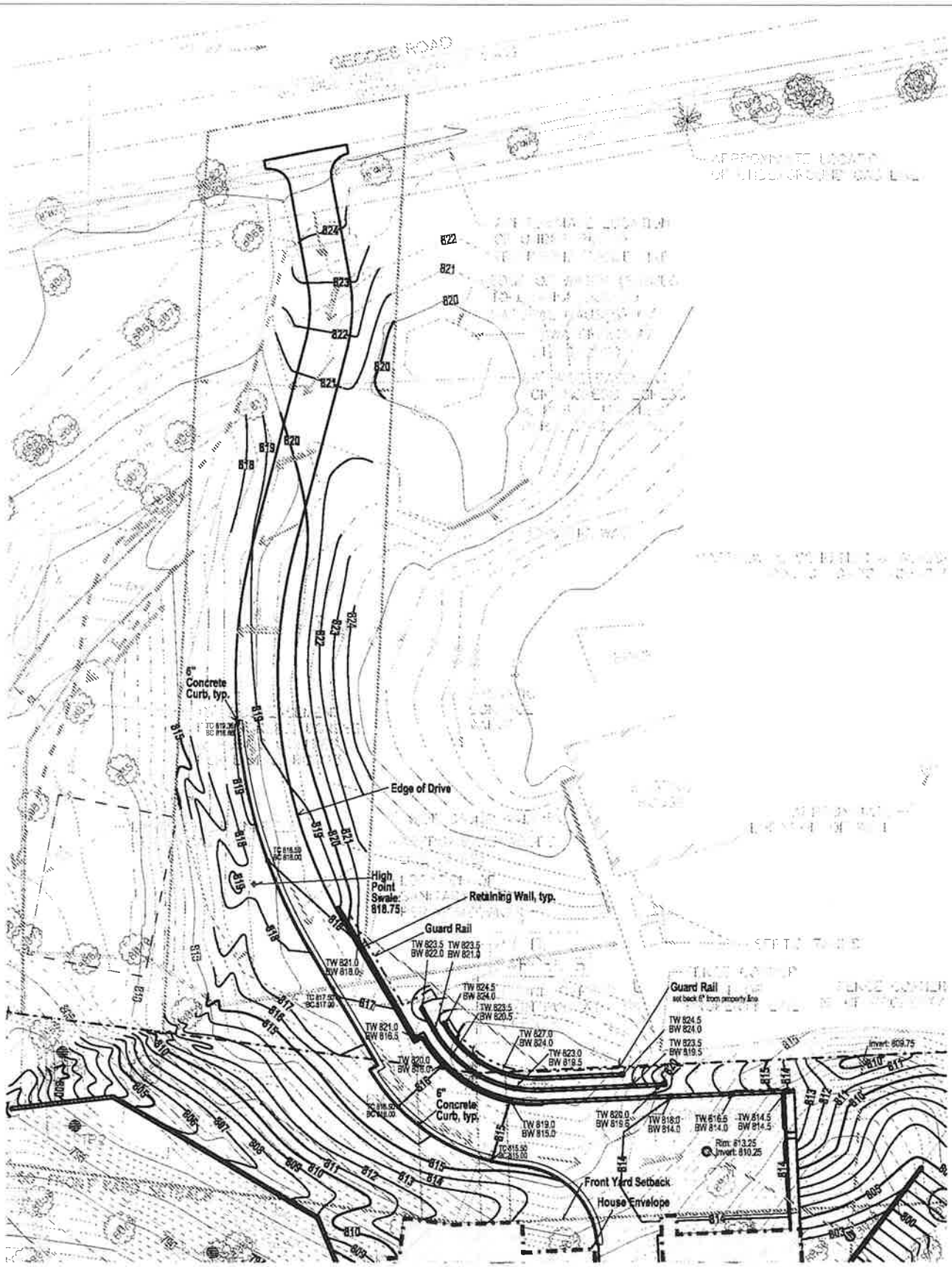
Q. And do you know who owns Parcels B and C?

A. B and C actually no longer exist, but they're owned by the Moulieres, they were combined.

Q. Have you met the Moulieres for the first time today?

A. I believe I saw Ms. Mouliere someplace before, but I don't recall (INDECIPHERABLE) I don't believer we ever spoke, just had maybe met briefly.

Q. Are you aware that the Moulieres intend to build a home on Parcels B and C?



Title:

Updated Site Plan

Project:

Mouliere Residence

Date: 29 November, 2021

Issued For: Review

Scale: 1"= 30'- 0"

Drawn by: SGR

North

CONTRACTOR is responsible to field verify location of all underground utilities prior to any work

InSite Design Studio, Inc.

412 Longshore
Ann Arbor, Michigan
48105

734.995.4184 Phone
734.995.3436 Fax


Total: 26.17 ft

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

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Hon. Timothy Connors

MATTHEW A. SCHUSTER and
ALYSSA L. CAIRO,

Defendants/Counter-Plaintiffs.

_____/

PAGE 1 TO 302

The third day of bench trial in the above matter,
Taken at 101 East Huron Street,
Ann Arbor, Michigan,
Commencing at 9:00 a.m.,
Held on April 12, 2023,
Transcribed by Caitlyn Hartley, RPR, CSR-8887.

APPEARANCES:

MR. J. ADAM BEHRENDT (P58607)
Bodman PLC
201 W Big Beaver Road, Suite 500
Troy, Michigan 48084
(248) 743-6068
jbehrendt@bodmanlaw.com
Appearing on behalf of the
Plaintiffs/Counter-Defendants.

MR. MICHAEL HINDELANG (P62900)
Honigman LLP
660 Woodward Avenue, Suite 2290
Detroit, Michigan 48226
(313) 465-7412
mhindelang@honigman.com
Appearing on behalf of the
Defendants/Counter-Plaintiffs.

ALSO PRESENT:
Melissa Moore, on behalf of Plaintiffs
W. Daniel Troyka, on behalf of Defendants
Laura Biery, on behalf of Defendants
Jean-Marie Mouliere and Ingrid D. Mouliere, Plaintiffs
Matthew A. Schuster and Alyssa L. Cairo, Defendants

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E X A M I N A T I O N S

A. Rick Meyrick's retirement.

Q. Thank you. And have you been asked to perform any zoning reviews of 5766 Geddes the Schuster parcel?

A. No.

Q. Have you ever received or been asked to consider a variance application for 5766 Geddes?

A. A variance for zoning board of appeals?

Q. Yes.

A. We've received -- okay. 5766 is the Schuster property?

Q. Sorry.

A. That's okay. Sometimes I --

Q. Fair point. Let me ask again. Have you received any requests for consideration of a variance for the Schuster parcel?

A. I can't be certain. There's been a zoning board of appeals request on both for one of the properties.

Q. Okay. So the -- would you agree with me -- I'm going to try to do this quickly -- there's been a lot of testimony over the last week.

A. Sure.

Q. Would you agree with me that a retaining wall over four feet is considered a structure for purposes of zoning review?

A. I would consider it. Yes.

Q. And have you ever been asked to consider whether a structure can be built where it is on the Schuster parcel without further approval of your office?

A. No.

Q. Very good.

MR. HINDELANG: That's all I needed from you, Ms. Bennett.

THE WITNESS: Okay.

MR. BEHRENDT: I don't have any.

THE WITNESS: I can go?

MR. HINDELANG: We told you it would be easy for you, Laura.

JUDGE CONNORS: Say hi to the township for us.

THE WITNESS: Yes certainly.

MR. BEHRENDT: Let them know we're thinking of them.

MR. HINDELANG: Your Honor, we call John Barber.

JUDGE CONNORS: Good afternoon, sir.

THE WITNESS: Good afternoon.

JUDGE CONNORS: Would you raise your right hand, please?

THE CLERK: Do you swear or affirm the testimony you're about to give will be the truth, the

OFFICE OF
RICHARD MAYERNIK C.B.O.
BUILDING/ZONING OFFICIAL

TOWNSHIP HALL
3040 NORTH PROSPECT ROAD
COR. PROSPECT & CHERRY HILL RDS.
YPSILANTI, MICHIGAN 48198
TELEPHONE: (734) 482-6099
FAX: (734) 482-3842

CHARTER TOWNSHIP OF SUPERIOR
WASHTENAW COUNTY, MICHIGAN

April 4, 2022

Mr. Schuster
5766 Geddes Rd.
Ann Arbor, MI 48105

Mr. Schuster,

I have reviewed your building permit application and drawing from Bowers& Associates and have the following comments:

- Building permits are not required for retaining walls which are 4-foot or less in height measured from the bottom of the footing to the top of the wall. Based upon the notes on your plan, it appears that the wall at your south property line and portions of the walls at the proposed parking pad are 4-foot or less and would not require a building permit.
- Other portions of the retaining wall at the proposed parking pad exceed 4-foot in height and do require a permit however, the details of the construction at this area are unclear. Please submit additional construction drawings and details (section cuts) of the retaining walls at this location.
- Please complete the attached Certificate of Zoning Compliance.
- Please find attached your check #1469 as payment for permits occurs once the permit is ready for pick-up.

Richard Mayernik, CBO
Building/Zoning Official

STATE OF MICHIGAN

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lbiery@honigman.com

Appearing on behalf of
Defendants/Counter-Plaintiffs

INDEX TO EXAMINATIONS

(INDECIPHERABLE) Everything you told me I learned 40 years ago when I was representing you guys; same thing.

MR. BEHRENDT: Your Honor, our next witness is Vic Chevrette, the fire chief. I told him 9:30. If I could ask for the Court's patience for a few minutes here.

THE COURT: Sure.

THE COURT: Your next witness is here.

MR. BEHRENDT: Sure. Your Honor, we call Vic Chevrette.

VICTOR G. CHEVRETTE,

having first been duly sworn, was examined and testified on his oath as follows:

THE CLERK: Go ahead and have a seat on the witness stand. Once you get seated, please state and spell your name for the record.

THE WITNESS: My name is Victor G. Chevrette, last name C-h-e-v-r-e-t-t-e.

THE COURT: Thank you, go right ahead.

DIRECT EXAMINATION

BY MR. BEHRENDT:

Q. Thank you, sir. I appreciate you coming this morning. Sir, what do you do for a living?

A. I am fire chief for Superior Township Fire

Department.

Q. How long have you been employed by Superior Township?

A. Since 2015.

Q. Have you been a firefighter your whole life?

A. Yes, sir.

Q. Can you just describe for me just generally what the duties are of the fire chief in a fire department?

A. For Superior Township I oversee the administrative operations of the fire department as well as function as the fire marshal at the time for the Township, review all the fire codes.

Q. Are you familiar with the requirements of the fire chief and fire codes and things of that nature?

A. Yes, sir.

Q. As fire chief are you consulted regarding emergency access to driveways at residential homes?

A. Yes, I am.

Q. Do you approve whether a residential home has sufficient emergency access?

A. A single residential home relies a lot on the Building Department. I don't see much of

regulations on the structure itself. However, the access road or the driveway, I'm usually consulted about that.

Q. Sir, we've been talking about property at 5728 Geddes Road and we have on here a depiction of the survey of the property. Let me orient you to it.

Here's Geddes Road, here's the Huron River and Parcel A has an existing house on it. Parcel B and C are intended to develop a home.

Were you consulted about a driveway accessing Parcels B and C?

A. Vaguely I would say yes.

Q. Do you recall speaking with somebody from Insight Designs regarding the width of the driveway?

A. Yes, I do.

Q. What -- does the Township require the driveway be a certain width to accommodate, in this instance, the emergency vehicles?

A. There is nothing in the fire code that addresses a driveway. It addresses a fire access road, so what I did was when that person contacted me I gave them the portion of the International Fire Code 2015, the segment on access roads for the fire apparatus and also the turnarounds at the

end of the access road.

Q. Did you set the fire width at 14 feet?

A. The code calls for 24 feet, but that's for a roadway. Driveways, we consulted and seeing there was only a single family home on this driveway I as the code official could accept that as acceptable.

Q. Can I set up Exhibit D, please?

Sir, I know it's hard to read. There's a small black binder in front of you on the table and I'm going to direct you to -- do you see the tabs. I can ask you to turn to the tab marked 8.

A. Which one?

Q. 8.

A. Okay.

Q. Sir, if you see Exhibit 8 purports to be a e-mail from you to Shannon (INDECIPHERABLE) Randall, do you see that?

A. Yes, sir.

Q. And is your e-mail address correctly depicted there?

A. That is correct.

Q. Did you send this e-mail?

A. Yes, sir.

Q. Do you see it says that there's an attachment as

well?

A. Yes.

Q. If you turn the page is that Appendix D the attachment?

A. Yes, it is.

Q. I see here there's references to the International Fire Code like we talked about, correct?

A. Yes, sir.

Q. I see that there's a portion regarding required access that in the Section D1021 it says, paraphrasing, apparatus by way of approved fire apparatus access road with an asphalt, concrete or other approved drive surface.

Do you see that on that D -- that second one there, do you --

A. Yes, sir, I do see that.

Q. I unfortunately forgot my reading glasses today, so I'm (INDECIPHERABLE) myself.

Sir, does it make a reference there -- how much does a fire truck weigh?

A. Our heaviest truck is 80,000 pounds.

Q. How much does a fire truck cost, hundreds of thousands of dollars?

A. Today's cost is a ladder truck is $1.4 million,

our tanker is probably about $900,000.

Q. Would it be correct to say that these requirements are not only for safety, but to make sure also to the public's money is not wasted if it falls off a cliff?

A. Yes, sir.

Q. Falls into a ditch?

A. Yes.

Q. I see also that -- I'm jumping here to D1032, that is a certain grade requirement?

A. Yes, sir.

Q. Is that grade 10 percent?

A. Yes.

Q. And then jumping, looks like -- looking at D1033 and D1034 in conjunction, you need to be able to turn the fire truck around, right?

A. At a certain distance, yes.

Q. Did the fire department in this instance require a turnaround for the fire truck?

A. I had not received any blueprints to review. This was just material that was given to the engineer to review.

Q. Okay, but on a property such as this would the expectation be that there be a turnaround for the fire department?

A. Depending on the distance of the driveway from Geddes Road to the home. You know, some fire trucks can back out. It could be 150 feet, 300 feet as an example in distance, so there wouldn't be any turnaround required.

Q. This, however, does identify a turnaround option at the bottom as well?

A. Yes, sir.

MR. BEHRENDT: That's all the questions I have, sir.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. HINDELANG:

Q. Chief, I heard you tell Mr. Behrendt there's nothing in the code for driveways, so you looked at the access road provisions for guidance, is that fair?

A. Correct.

Q. A 75,000 pound limit is something you must have to support your trucks, fair enough?

A. Right.

Q. The Transportation Department requires 12 feet for certain driveways, 10 for others. Fair to say a 12-foot drive is something you must have to fit your truck?

A. Yes.

Q. 14-foot is nice to have, but not a must have, is that fair?

A. I would say that's fair.

Q. Moving out to a 20-foot driveway, it's nice to have, but not a must have, is that fair?

A. Yes.

Q. A turnaround for something like this is nice to have, but not a must have because you can back out?

A. Depending on the distance.

Q. Depending on the distance and you've never been given plans to review or approve for 5728, correct?

A. No, sir.

MR. HINDELANG: Thank you very much, that's all I have for you.

THE COURT: Any redirect?

REDIRECT EXAMINATION

BY MR. BEHRENDT:

Q. Sir, you testified 14 feet in this instance?

A. I did in (INDECIPHERABLE).

MR. BEHRENDT: Thank you, sir.

RECROSS-EXAMINATION

BY MR. HINDELANG:

Q. Just one follow-up there. Did you tell them that 14 feet was necessary for an approved driveway or when asked what would you like to see did you say 14 feet is nice to have versus a must have?

A. I believe, if I can recall correctly, was 14 feet was acceptable because of the distance of the driveway from Geddes Road to the home. It's not that far, so that width was acceptable.

Q. Fair to say they never asked you if they could do something narrower?

A. No.

Q. Fair to say they never asked if they could make other adjustments to accommodate the necessity of making changes in an easement?

A. I have no knowledge of that, sir.

Q. Fair to say they never asked you if particular driveway locations would work?

A. No, sir.

MR. HINDELANG: Thank you very much, Chief.

THE COURT: Thank you very much. Careful stepping down.

MR. BEHRENDT: Sir, thank you for your time.

THE WITNESS: Thank you.

STATE OF MICHIGAN

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MATTHEW A. SCHUSTER and
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Defendants/Counter-Plaintiffs.
_____/

PAGE 1 TO 301

Day one of bench trial in the above matter,
Taken at 101 East Huron Street,
Ann Arbor, Michigan,
Commencing at 9:00 a.m.,
Held on April 10, 2023,
Transcribed by Caitlyn Hartley, RPR, CSR-8887.

APPEARANCES:

MR. J. ADAM BEHRENDT (P58607)
Bodman PLC
201 W Big Beaver Road, Suite 500
Troy, Michigan 48084
(248) 743-6068
jbehrendt@bodmanlaw.com
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ALSO PRESENT:
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Laura Biery, on behalf of Defendants
Jean-Marie Mouliere and Ingrid D. Mouliere, Plaintiffs
Matthew A. Schuster, Defendant

TABLE OF CONTENTS

E X A M I N A T I O N S

THE WITNESS: I do.

THE CLERK: Go ahead and have a seat. Once you're seated, please state and spell your name for the record.

THE WITNESS: Shannan Gibb-Randall. S-H-A-N-N-A-N. Excuse me. G-I-B-B hyphen R-A-N-D-A-L-L.

JUDGE CONNORS: Thank you. And there's water here if you need.

THE WITNESS: Thank you.

DIRECT EXAMINATION BY MR. BEHRENDT:

Q. You all set?

A. All set.

Q. Good afternoon. Shannan, are you employed?

A. I am.

Q. And by whom?

A. InSite Design Studio.

Q. What does that company do?

A. We are landscape architects.

Q. What is your role at the company?

A. I am the principal.

Q. How long have you been in landscape -- well strike that. Are you a landscape architect?

A. I am.

Q. How long have you been a landscape architect?

Q. Yes ma'am.

A. You're only going up a block and a half; you're not going 60 inches then.

Q. There's only a block and a half underground I'm asking --

A. Oh you're talking about the entire thing?

Q. Right you're talking --

A. Sorry --

Q. -- bottom of wall --

A. Yeah. Got it.

Q. Okay. So here's my question again: This shows above the ground more than four feet, doesn't it?

A. It does, yeah.

Q. So when you say you designed these walls to be four feet, you had no expectation that the engineer would design a 7.5 foot wall with five feet exposed, did you?

A. No. That is -- that was a surprise to me so they adjusted it somewhat, yep.

Q. All right. What took us off on this tangent was the four foot walls and back to my question for you. If the house was raised just two feet, that won't have any impact on the septic field; it would reduce the walls in the easement area of the Schuster property, correct?

A. Yes.

STATE OF MICHIGAN

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lbiery@honigman.com

Appearing on behalf of
Defendants/Counter-Plaintiffs

INDEX TO EXAMINATIONS

INDEX OF EXAMINATIONS (CONTINUED)

THE COURT: Sure. Those objections stand and over those objections 25 is admitted.

MR. BEHRENDT: Thank you.

BY MR. HINDELANG:

Q. Mr. Ghussaini, you prepared designs and calculations and you testified the Township engineers reviewed them, correct?

A. Yes, sir.

Q. Those Township calcu -- or, sorry, those calculations you had reviewed by the Township -- don't pull it up yet -- were your original set, not revised, correct?

A. Correct.

Q. To you knowledge, has the Township ever reviewed or approved your Revision-2?

A. Not that I'm aware of, no.

Q. To your knowledge has the Township ever reviewed or approved your Revision-3?

A. Not that I'm aware of, no.

Q. You also testified that while you didn't inspect, you looked at the walls and in general they were built in accordance with your specifications, is that right?

A. Yes, sir.

Q. Were you referring to the specifications Version

pounds, would you accept that representation?

A. I don't know.

Q. Okay, would you turn with me, please, to Exhibit 8 in the black book.

A. Okay.

Q. Second page of Exhibit 8 identifies a 75,000 weight to be considered for access roads, do you see that?

A. Okay.

Q. And I'll represent to you that the fire chief testified earlier that this is a driveway, not an access road, but 75,000 is something he considers necessary.

Are you following my representation?

A. Sure.

Q. In order to support 75,000 pounds the -- your standards, your NCMA standards, would call for the use of at least a 240 psf, usually use 250 psf like you did for highway traffic, to support that, correct?

A. That's correct.

Q. Wall 7 isn't designed to support that fire truck, is it, sir?

A. It's designed for 150 psf.

Q. 150 psf?

A. Light traffic, yes.

Q. So it's not designed to support the 75,000 fire truck, is it?

A. Not that I'm aware of, no.

MR. HINDELANG: Thank you, Mr. Ghussaini, that's all I have for you.

THE COURT: Redirect.

REDIRECT EXAMINATION

BY MR. BEHRENDT:

Q. Mr. Ghussaini, have you designed Wall 7 yet or is that still in progress?

A. We designed it, but based on the information we have it could be changed. If that's going to be a fire truck, then we would probably change that design and make sure it meets those requirements.

Q. And that's doable?

A. Very much so. It hasn't been done, so it hasn't been submitted.

Q. It's not fatal to the project?

A. It's not fatal, no.

Q. A lot of questions regarding soil on the property and what's there now and what was there a year ago on the topographic.

You said the words "it's a back yard."

A. The Schuster property?

SUPERIOR CHARTER TOWNSHIP — Building Permit No: PB23-0212

Building and Zoning Department | 3040 North Prospect | Ypsilanti, Michigan 48198
Phone: (734) 482-6099 | Fax: (734) 482-3842 | Hours: Monday-Friday 8:00 am - 4:00 pm

Location
5766 GEDDES RD
J -10-30-400-055

Owner
SCHUSTER MATTHEW A & CAIRO ALYSSA L
5766 GEDDES RD
ANN ARBOR MI 48105

Issued: 12/21/23

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

Contractor
Snyder Contracting LLC
8650 Huron River Dr
Dexter MI 48130

Work Description: Completion of retaining wall, driveway and possible fence or handrail at top of retaining wall.
Wall to be made of Redi-wall cobblestone. Driveway to be gravel during construction and finished as concrete.
Fence or handrail is TBD.

Permit Item	Work Type	No. of Items	Item Total
Building Valuation	Permit Fee	100,000.00	$650.00

Bill Balmes - Building Official

Fee Total: $650.00

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 TOWNSHIP

BUILDING PERMIT APPLICATION (revised 03-01-23)

Charter Township of Superior
3040 N. Prospect, Ypsilanti, MI 48198
(734) 482-6099

Applicant to Complete All Items in Sections I, II, III, IV and V
NOTE: Separate Applications Must Be Completed for Plumbing, Mechanical, & Electrical

I. JOB LOCATION

Street Address of Job	Project Name/Subdivision
5766 Geddes Rd Ann Arbor MI 48105	N/A

II. IDENTIFICATION

A. OWNER OR LESSEE

Name	Address			
Matt Schuster	5766 Geddes Rd.			
City	**State**	**Zip Code**	**Phone**	**Email**
Ann Arbor	MI	48105	248-790-5650	mattaschuster@yahoo.com

B. APPLICANT INFORMATION

☐ HOMEOWNER ☒ CONTRACTOR ☐ ARCHITECT/ENGINEER ☐ AGENT

Name/Company Name	License Number	Expiration Date		
Snyder Contracting LLC	242200533	5/31/2025		
Address	**City**	**State**	**Zip Code**	
8650 Huron River Dr	Dexter	MI	48130	
Telephone (with area code)	**Email**			
(734) 5454840	Dan@snydercontractingllc.com			
Workers Comp. Ins. Carrier	**Federal Employer ID #**			
Accident fund of America	46-0915638			

III. TYPE OF IMPROVEMENT AND PLAN REVIEW

A. PROPOSED USE OF BUILDING AND TYPE OF IMPROVEMENT

☒ RESIDENTIAL ☐ NON-RESIDENTIAL

☐ New Building ☐ Addition ☐ Mobile Home

☒ Alteration ☐ Repair ☐ Demolition

IF RESIDENTIAL-describe in detail scope of work; IF NONRESIDENTIAL-describe proposed use of building, e.g. food processing plant, machine shop, laundry building at hospital, elementary school, college parking garage, rental office building. If use of existing building is being changed, enter proposed use.

Completion of retiaing wall, driveway and possible fence or handrail and top of retaining wall

Wall to be made of Redi-wall coblestone. Driveway to be gravel during construction and finished as concrete.

Fence or handrail is TBD

APPLICATION FOR BUILDING PERMIT AND PLAN EXAMINATION - PAGE TWO

IV. CHARACTERISTICS OF BUILDING

A. TYPE OF WATER SUPPLY AND SEWAGE DISPOSAL

☐ Public Water ☐ Public Sewer ☐ Private Well ☐ Septic System

B. DIMENSION/DATA

Floor Area	Alteration	New
Basement		
1st & 2nd Floor		

Construction Cost (or submit copy of contract) 100,000

V. SIGNATURE

I HEREBY CERTIFY THAT THE PROPOSED WORK IS AUTHORIZED BY THE OWNER OF RECORD AND THAT I HAVE BEEN AUTHORIZED BY THE OWNER TO MAKE THIS APPLICATION AS HIS/HER AUTHORIZED AGENT, AND WE AGREE TO CONFORM TO ALL APPLICABLE LAWS OF THE STATE OF MICHIGAN. ALL INFORMATION SUBMITTED ON OR WITH THIS APPLICATION IS ACCURATE TO THE BEST OF MY KNOWLEDGE.

Section 23a of the state construction code act of 1972, 1972 PA 230, MCL 125.1523A, prohibits a person from conspiring to circumvent the licensing requirements of this state relating to persons who are to perform work on a residential building or a residential structure. Violator's of section 23a are subject to civil fines.

APPLICANT SIGNATURE: [signature] DATE: 11/2/2023

PRINT NAME: Daniel Snyder

BUILDING DEPARTMENT USE ONLY

	REQUIRED?		RECEIVED	NOTES
A. Zoning Review	☑ YES	☐ NO	☑	
B. Well/Septic Permit	☐ YES	☑ NO	☐	
C. Driveway Permit	☐ YES	☑ NO	☐	
D. Soil Erosion	☑ YES	☐ NO	☑	
E. Utility Charges	☐ YES	☑ NO	☐	
F. Wetlands	☐ YES	☑ NO	☐	

Data SEE PLAN

Construction Type	Use Group	Square Footage	Occupant Load

Parcel Number	Valuation	Zoning District
540-30-400-055	$100,000.-	

Approval Signature	Date	Permit Fee
[signature]	12-19-2023	$650.-

SUPERIOR CHARTER TOWNSHIP
3040 NORTH PROSPECT, YPSILANTI, MI 48198
TELEPHONE (734) 482-6099 FAX (734) 482-3842

Certificate of Zoning Compliance

This application must be accompanied by a site plan which is drawn to scale and contains the following information: 1) scale, date and north point. 2) location, shape and dimensions of the lot. 3) dimensioned location, outline and dimensions of all existing and proposed structures, and location and extent of uses not involving structures.

Address of Property: 5766 Geddes Rd Ann Arbor MI 48105

Applicant Name: Daniel Snyder Snyder Contracting LLC

Address: 8650 Huron River Dr

City, State, Zip Code: Dexter MI 48130

Phone Number: 7345454840 **Email Address:** Dan@snydercontractingllc.com

Provide a complete description of existing and intended uses of the property and structures, existing and proposed:

Completion of retaining wall, driveway and possible fence or handrail and top of retaining wall

The undersigned certifies that he/she is the owner or agent of the owner authorized to submit this application.

Applicant Signature — Date: 11/18/23

Township Use Only

Parcel Number: J-10-35-400-055

Site Plan Number: N/A

Parcel Zoning District: R-1

Zoning Administrator: Jamie Bennett

X Zoning Compliance Approved

____ Zoning Compliance Denied

Reason for Denial:

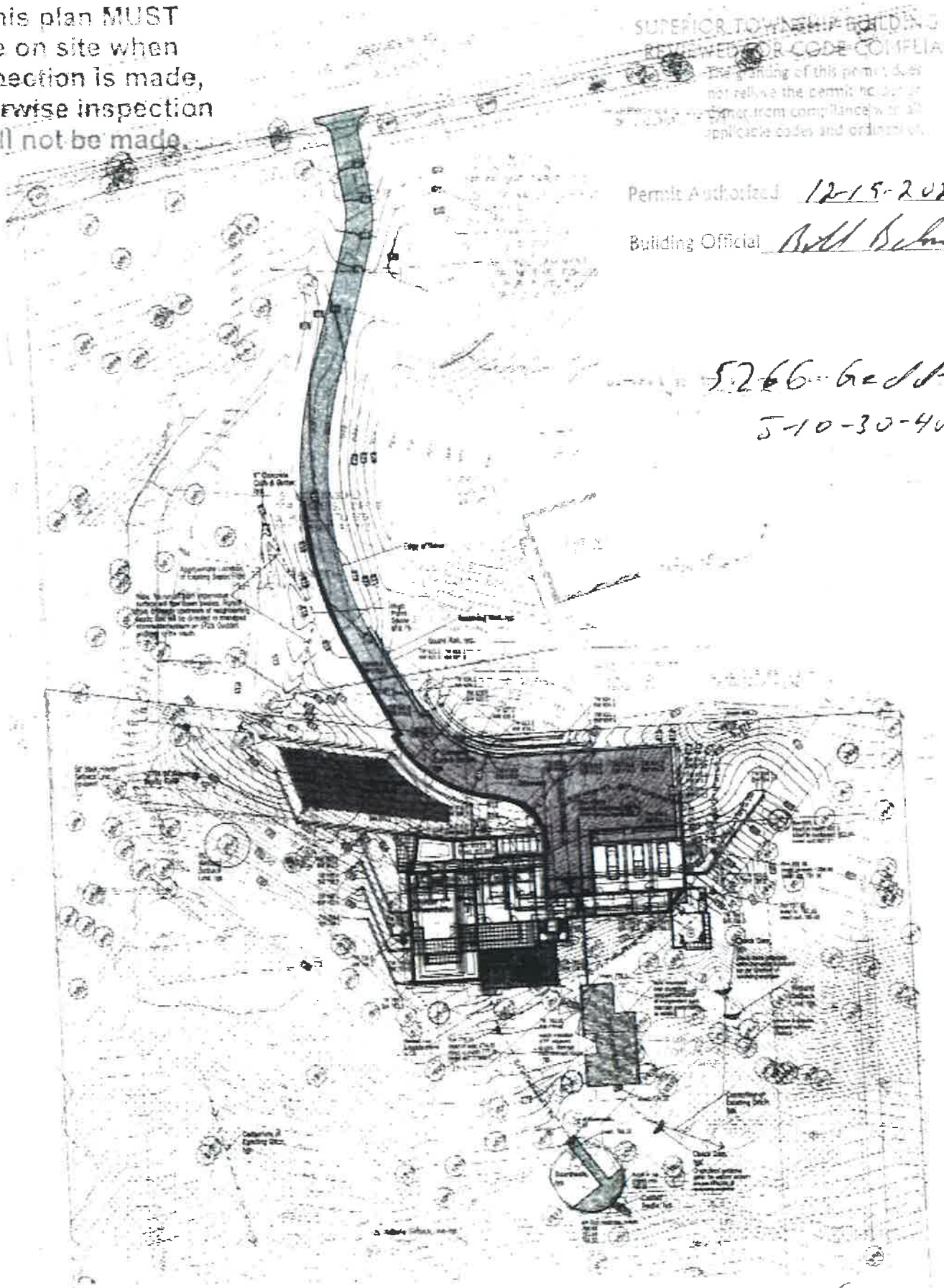
This plan MUST be on site when inspection is made, otherwise inspection will not be made.

SUPERIOR TOWNSHIP BUILDING DEPT
REVIEWED FOR CODE COMPLIANCE
The granting of this permit does not relieve the permit holder of compliance with all applicable codes and ordinances.

Permit Authorized 12-15-2023

Building Official Bill Bahm

5266 Geddes
S-10-30-400-053



Project
Mouliere Residence: 5728 Geddes

Sheet
L-2

Title
Grading Plan

INSITE

SUPERIOR CHARTER TOWNSHIP
3040 NORTH PROSPECT, YPSILANTI, MI 48198
TELEPHONE (734) 482-6099 FAX (734) 482-3842

Certificate of Zoning Compliance

This application must be accompanied by a site plan which is drawn to scale and contains the following information: 1) scale, date and north point. 2) location, shape and dimensions of the lot. 3) dimensioned location, outline and dimensions of all existing and proposed structures, and location and extent of uses not involving structures.

Address of Property: 5766 Geddes Rd Ann Arbor MI 48105

Applicant Name: Daniel Snyder Snyder Contracting LLC

Address: 8650 Huron River Dr

City, State, Zip Code: Dexter MI 48130

Phone Number: 7345454840 Email Address: Dan@snydercontractingllc.com

Provide a complete description of existing and intended uses of the property and structures, existing and proposed:

Completion of retaining wall, driveway and possible fence or handrail and top of retaining wall

The undersigned certifies that he/she is the owner or agent of the owner authorized to submit this application.

Applicant Signature — Date: 11/18/23

Township Use Only

Parcel Number: [illegible]

Site Plan Number: N/A

Parcel Zoning District: R-1

Zoning Administrator: [illegible]

X Zoning Compliance Approved

____ Zoning Compliance Denied

Reason for Denial: _____

OFFICE OF
RICHARD MAYERNIK C.B.O.
BUILDING/ZONING OFFICIAL

TOWNSHIP HALL
3040 NORTH PROSPECT STREET
COR. PROSPECT & CHERRY HILL RDS.
YPSILANTI, MICHIGAN 48198
TELEPHONE: (734) 482-6099
FAX: (734) 482-3842

CHARTER TOWNSHIP OF SUPERIOR
WASHTENAW COUNTY, MICHIGAN

June 10, 2021

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

Re: 5728 Geddes Road

Mr. Snyder,

During a site visit, it was noted that driveway excavation work created an 8' to 10' drop off in some areas directly adjacent to the property to the north. Per our phone call, this letter is your notification that Section 6.01 B5 of the Zoning Ordinance requires protection (guards) that comply with the State Construction Code to be installed at the locations where the grade drop off exceeds 30". This work should begin immediately.

Please contact me to inspect once the guards are in place.

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

Electronic CC: K. Schwartz
F. Lucas

ZONING BOARD OF APPEALS
SUPERIOR CHARTER TOWNSHIP
SUPERIOR TOWNSHIP HALL
3040 N. PROSPECT, YPSILANTI, MI 48198
WEDNESDAY, NOVEMBER 06, 2024
7:00 p.m.

ZBA #24-03

The Superior Township Zoning Board of Appeals will hold a public hearing on **Wednesday, November 6, 2024, at 7:00 p.m.** at the Superior Township Hall, 3040 N. Prospect.

The petitioner is requesting a variance from Section 3.101 (Dimensional Standards) to allow for an attached accessory structure to be constructed in the front yard setback. The property is located at **7486 Plymouth-Ann Arbor Road** and is zoned R-2 (Single-Family Residential).

A complete copy of the petition is available for inspection or copying at the Township Hall 9:00 a.m. – 4:00 p.m. weekdays. Persons wishing to express their views may do so in person at the public hearing, or in writing addressed to the Zoning Board of Appeals at the above address. Superior Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities upon four (4) business days notice to the Township. Individuals requiring auxiliary aids or services should contact Superior Charter Township by writing the Township Clerk.

Diane Mulville-Friel
3040 N. Prospect
Ypsilanti, MI 48198
734-482-6099

From: Diane Mulville-Friel
To: Diane Mulville-Friel
Subject: FW: For Review - Carter Certificate of Zoning Compliance and attachements
Date: Wednesday, October 23, 2024 12:20:29 PM
Attachments: image001.png
image002.png
image003.png
image010.png
image011.png
image012.png
Zoning-Board-of-Appeals-Application Carter 7486 Plymouth.pdf

Carlisle | Wortman ASSOCIATES, INC.

Diane Mulville-Friel
Senior Associate Planner, AICP
Phone: 734-662-2200 | Mobile: 727-422-0380
117 N. 1st Street, Suite 70, Ann Arbor, MI 48104

From: Kelly C <KellyCAGA2@outlook.com>
Sent: Friday, October 4, 2024 4:44 PM
To: Diane Mulville-Friel <dmulville-friel@cwaplan.com>
Subject: Re: For Review - Carter Certificate of Zoning Compliance and attachements

Good Afternoon Diane,

As indicated, attached please find an application for zoning variance for consideration by the Zoning Board of Appeals. The packet includes the following:

1. Completed, signed and notarized application;
2. Attachment indicating the reasons for the variance;
3. A copy of the Denied Certificate of Zoning Compliance;
4. Plans of the proposed renovation, including a site plan;
5. A picture and legal description of the subject property, together with examples of nearby properties used in the same way as proposed in this application.

Please contact me to discuss and arrange for payment of the fee. I understand the meeting to consider the application will take several weeks to schedule, but I am hoping we can schedule the meeting by the end of this month. I am happy to provide any additional information you may need.

Best,
Kelly A. Carter
7486 Plymouth Rd
Ann Arbor, MI 48105
734-904-0712

From: Diane Mulville-Friel <dmulville-friel@cwaplan.com>
Sent: Wednesday, September 11, 2024 3:54 PM
To: Kelly C <KellyCAGA2@outlook.com>; Kelly C <KellyCAGA2@outlook.com>
Subject: RE: For Review - Carter Certificate of Zoning Compliance and attachements

Diane Mulville-Friel reacted to your message:

Thank you Diane. I appreciate the variance information. We will be seeking a variance.

Best,
Kelly

Sent from my Verizon, Samsung Galaxy smartphone
Get Outlook for Android

From: Diane Mulville-Friel <dmulville-friel@cwaplan.com>
Sent: Wednesday, September 11, 2024 2:11:22 PM
To: Kelly C <KellyCAGA2@outlook.com>
Cc: Bill Balmes <bbalmes@superior-twp.org>; planning@superior-twp.org <planning@superior-twp.org>
Subject: RE: For Review - Carter Certificate of Zoning Compliance and attachements

Good afternoon Kelly,

Carlisle Wortman Associates (CWA) has been contracted by Superior Township to assist with planning and zoning related matters. Unfortunately, we are denying your Certificate of Zoning Compliance for the proposed attached garage located at 7486 PLYMOUTH-ANN ARBOR RD (J -10-09-200-023). Section 6.03 of the Superior Township Zoning Ordinance includes regulations related to Accessory Structures and Uses. Per Section 6.03.1, where the accessory structure is attached to the principal building, the accessory structure shall be subject to all regulations of the district in which it is located.
The property is zoned R-2 in a Rural Residential District and accessory structure attached to the principal building shall comply with all area, placement, and height regulations of the district in which it is located. Minimum setbacks for R-2 are as follows:

Front Yard – 50 feet
Rear Yard – 50 feet

Side Yard – 15 feet
Combined Side Yards – 50 feet

Your property is considered to have two front lot lines (i.e., along the Plymouth Road right-of-way and line fronting the water) and the minimum 50-foot front yard setback applies to these two lot lines. The new attached garage is proposed to be setback 33.5 feet from the right-of-way line and 50 feet is required. You may reduce the size of the garage so that it fits within the required yard setbacks or you may request a variance from the Zoning Board of Appeals (ZBA) in accordance with Article 13 of the Zoning Ordinance.

The ZBA has the authority to grant variances where, owing to special conditions, strict enforcement of this Ordinance would result in unnecessary hardship or practical difficulty. Please note that a variance is not guaranteed and should not be granted unless all standards for review under Section 13.08.B are met.

Should you wish to request a variance, the application can be found at the following link on the Superior Township website:

https://superiortownship.org/wp-content/uploads/2018/01/Zoning-Board-of-Appeals-Application.pdf

There is a $175 fee for appeals brought by the owner of a single-family dwelling for a variance from density and height regulations of the Zoning Ordinance.

Let me know if you have any questions.

Best regards,

Carlisle | Wortman
ASSOCIATES, INC.

Diane Mulville-Friel
Senior Associate Planner, AICP
Phone: 734-662-2200 | Mobile: 727-422-0380
117 N. 1st Street, Suite 70, Ann Arbor, MI 48104

From: Kelly C <KellyCAGA2@outlook.com>
Sent: Wednesday, September 11, 2024 10:30 AM
To: Diane Mulville-Friel <dmulville-friel@cwaplan.com>
Subject: For Review - Carter Certificate of Zoning Compliance and attachements

Good morning Diane,

It was a pleasure speaking with you on Monday. As we discussed, attached for your review please find an application for a Certificate of Zoning Compliance for our planned garage and addition. Please let me know if you need any additional information to complete your timely review.

Best,
Kelly Carter
7486 Plymouth Rd.
Ann Arbor, MI 48105
734-975-1226

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): Sec. 6.03.1

□ Appeal of the decision of the Township Zoning Official

APPLICANT INFORMATION

Name Kelly A. Carter

Address 7486 Plymouth Rd, Ann Arbor, MI 48105

Phone Number 734-975-1226 Email KellyCAGA2@outlook.com

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

If "NO", what is the applicant's interest in the property?

Name, address and telephone number of owner(s):

DESCRIPTION OF THE PROPERTY

Address 7486 Plymouth Rd, Ann Arbor, MI 48105

Parcel ID# J 10-009-050-00 Parcel size .7 ac

Size of the proposed building or addition, if any 32x24

Use of existing building (if any) and property Residential

Zoning classification of property R2

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.

I believe in the early 2000s a variance was sought for a new septic system due to the limitations of the parcel.

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 than in preparing a description of why the variance is needed. A copy of the standards is attached to the application.

The request meets the following standards for review pursuant to Superior Charter Township Zoning Ordinance, Section 13.08B

1. Unique conditions and circumstances exist due to the proximity of the road and Lakeshore.

2. The literal interpretation of the setback requirement would deprive applicants of the rights commonly enjoyed by others owners in the same district.

See attached for further explanation.

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 if 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 Ashley Li-Lott Date 9/26/2024

NOTARY PUBLIC – Applicant's signature must be notarized.

Sworn to before me this 26th day of September 2024

My commission expires June 17, 2030 A. Dzevenko
(Notary Public, ~~Washtenaw~~ Macomb County, Michigan)

ASHLEY DZEVENKO
NOTARY PUBLIC, STATE OF MI
COUNTY OF MACOMB
MY COMMISSION EXPIRES Jun 17, 2030
ACTING IN COUNTY OF Wayne

****

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

9/26/2024
Date

7486 Plymouth Rd., Zoning appeal application attachment

Reasons for Appeal

The request meets the following standards for review pursuant to Superior Charter Township Zoning Ordinance, Section 13.08B (see below):

1. Unique conditions and circumstances exist. The proximity of the road and the lakeshore are unique to this property in the district and are not the result of actions of the applicant.

2. The literal interpretation of the setback requirement would deprive applicants of the rights commonly enjoyed by other owners in the same district. The current 1 car detached garage is grandfathered in to non-compliance on the set-back. However, in today's day and age a two car attached garage is a very commonly property use within the district. (see attached pictures of nearby properties with attached 2 car garages). Moreover, the proposed setback of the new garage would still comply with the requirement that the front of an attached garage sit back 4 feet from the front of the house.

Superior Charter Township Zoning Ordinance, Section 13.08B Standards of review

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.
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.

SUPERIOR CHARTER TOWNSHIP
3040 NORTH PROSPECT, YPSILANTI, MI 48198
TELEPHONE (734) 482-6099 FAX (734) 482-3842

Certificate of Zoning Compliance

This application must be accompanied by a site plan which is drawn to scale and contains the following information: 1) scale, date and north point. 2) location, shape and dimensions of the lot. 3) dimensioned location, outline and dimensions of all existing and proposed structures, and location and extent of uses not involving structures.

Address of Property: 7486 Plymouth Rd. Ann Arbor, MI 48105

Applicant Name: Kelly A. Carter

Address: 7486 Plymouth Rd.

City, State, Zip Code: Ann Arbor, MI 48105

Phone Number: 734-975-1226 Email Address: KellyCAGA@@outlook.com

Provide a complete description of existing and intended uses of the property and structures, existing and proposed:

The current use is single family residence with a detached one car garage. The proposed usage will be a single family residence with a 2 car garage with a storage loft attached by a new mudroom addition.

The undersigned certifies that he/she is the owner or agent of the owner authorized to submit this application.

Kelly A. Carter — Applicant Signature

September 11, 2024 — Date

****

Township Use Only

Parcel Number: J-10-09-200-023

Site Plan Number: _____

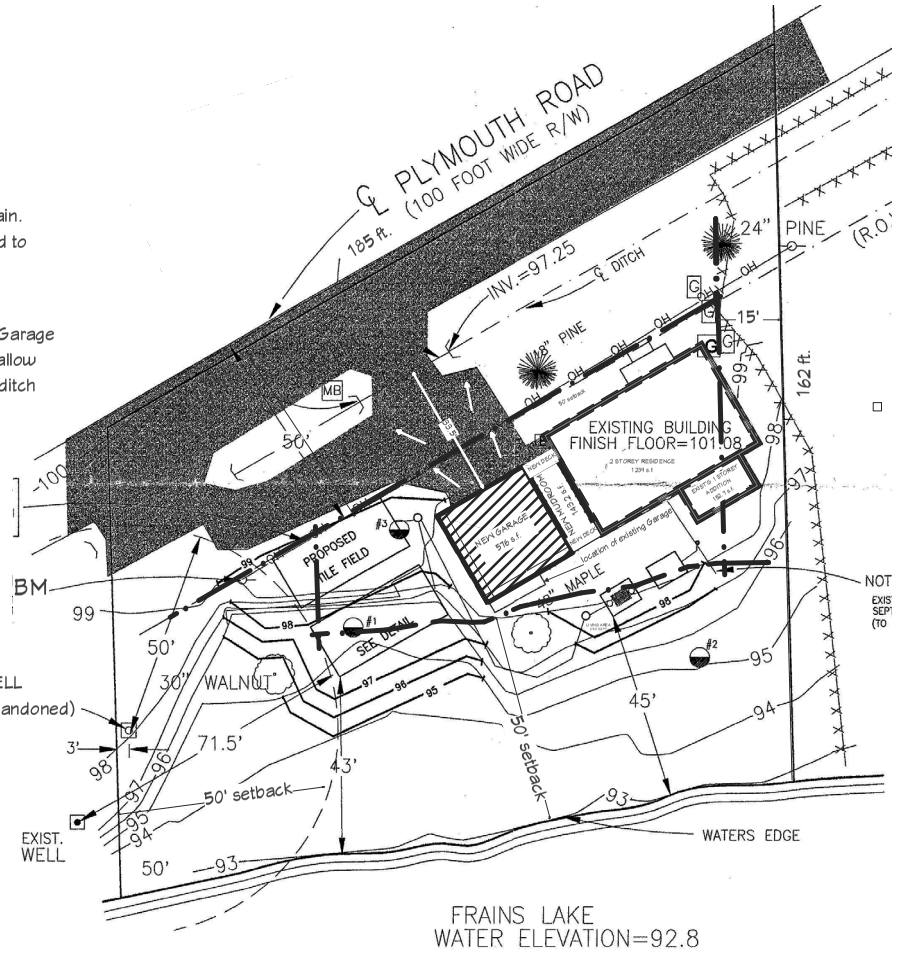
Parcel Zoning District: R-2 (RURAL RES)

Zoning Administrator: BEN CARLISLE (DNF)

_____ Zoning Compliance Approved 9-11-24

X Zoning Compliance Denied

Reason for Denial: SEC. 6.03.1. ACCESSORY STRUCTURES ATTACHED TO PRINCIPAL BUILDING DOES NOT MEET REQUIRED 50 FT SETBACK FROM PLYMOUTH ROAD RIGHT-OF-WAY.



Exist'g driveway to remain. Repairs may be required to improve drainage.

Note: Elevation of new Garage to be +/- 99.33 elev. to allow for positive drainage to ditch along road

BENCHMARK- TAG SET IN NORTH SIDE OF UTILITY POLE. ELEV.=100.0

Note: Site Plan based on Septic Plan on record with Township. No mortgage survey exists.

PIN: J -10-09-200-023
CVT Code: J
CVT Description: TOWNSHIP OF SUPERIOR
School: 81010 , ANN ARBOR PUBLIC SCHOOLS
Property Class: 401 , RESIDENTIAL

Zoning: R-2
Parcel Size: 0.7 Acre
Exist'g Residence s.f.: 1391.7
New Addition s.f.: 719.2
Setbacks: Front (Lakeside): 50'
Rear: (Road): 50'
Side: Total 50' (min. 15')

Tax Description
*OLD SID - J 10-009-050-00 SU 9-20-A COM AT N 1/4 POST OF SEC, THS 1 DEG 41'30" E 1481.82 FT IN N&S 1/4 LINE FOR PL OF BEG, TH S 59 DEG 36' W 185 FT ON C/L OF PLYMOUTH RD, THS 1 DEG 41' 30" E TO SHORE OF FRAINS LAKE, TH NELY ALONG SHORE LINE TO N & S 1/4 LINE, TH N 1 DEG 41' 30"W 162 FT TO PL OF BEG, BEING PART OF NW 1/4 SEC 9 T2S-R7E 0.70 AC.

SITE PLAN

Revisions
Date: 3-8-18
1-10-19

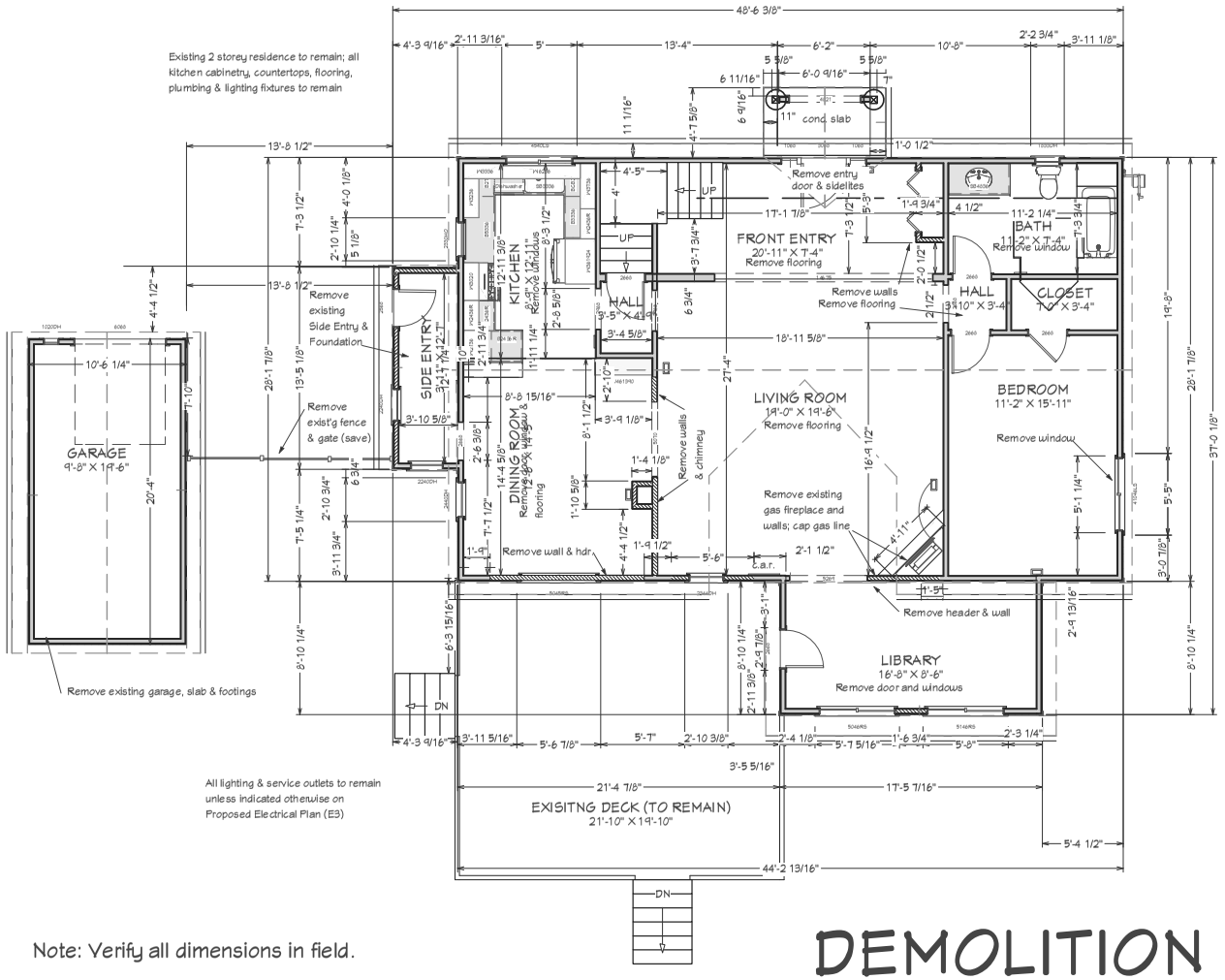
Carter Remodel
7486 Plymouth Rd.
Ann Arbor, MI 48105

DRAWINGS PROVIDED BY:
Neering Architect. Design
120 Depot St..
Ann Arbor, MI 48104

DATE:
7 / 9 / 2017

SCALE:
1" = 30'

SHEET:
S1



Note: Verify all dimensions in field.

DEMOLITION PLAN

1st Floor

Scope of Work:

New Garage and Mudroom Addition: Remove garage, slab, foundation, & asphalt out to front of house and concrete behind vestibule to be removed. New 2 car, 2 story, unheated Garage with slab on grade pitched to front for drainage to be connected to existing 2-story home by new Mudroom at existing first floor level with crawl space with foam insulation in floor, and front & rear porches with railings. Garage sided with fiber cement siding and trim. Paint exterior of garage, mudroom and existing home. Garage 1st Floor to be finished with 1/2" drywall, taped, mudded and sanded. Garage attic to have rough plumbing for utility sink and electrical per Plans & Elevations. Garage to have electric car charger and rough electric for future mini-split A/C in attic only.
New mudroom to have windows, doors, closet with shelf/rod, cabinetry, bench, sink & washer/dryer hookups, tile flooring with floor drain per Plans & Elevations. Paint interior walls, ceiling and trim.

Electrical & HVAC: Upgrade current electrical panel to 200A panel with manual generator lock out and exterior generator plug. Assure capacity for future charging station for electric car and mini-split AC in attic only in future garage.

Revisions
Date: 3-8-18
1-10-19
8-30-21

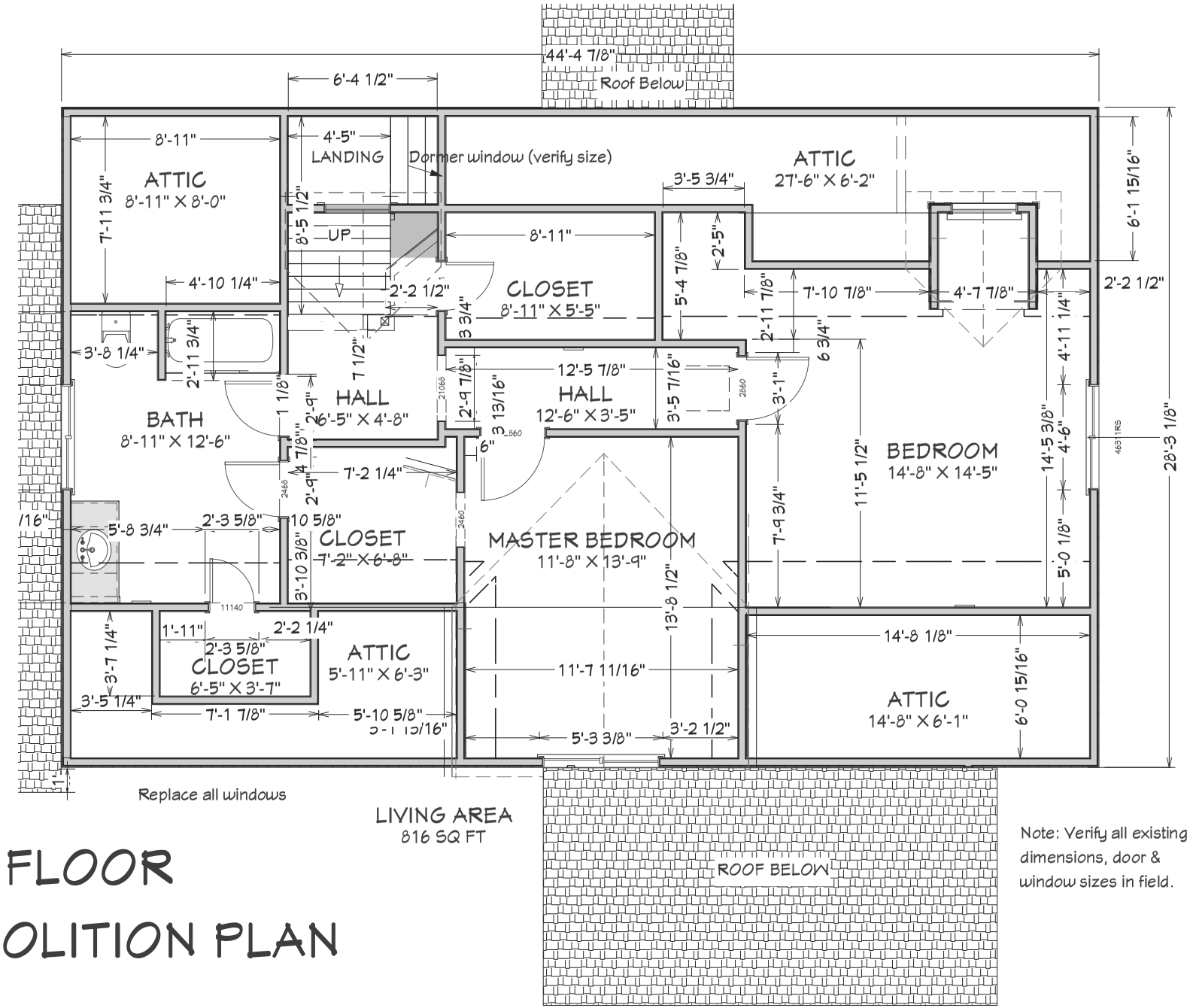
Carter Remodel
7486 Plymouth Rd.
Ann Arbor, MI 48105

DRAWINGS PROVIDED BY:
Neering Architect. Design
120 Depot St.
Ann Arbor, MI 48104

DATE:
7 / 9 / 2017

SCALE:
1/8" = 1'- 0"

SHEET:
A1



Note: Verify all existing dimensions, door & window sizes in field.

2ND FLOOR DEMOLITION PLAN

Revisions
Date: 3-8-18
1-10-19

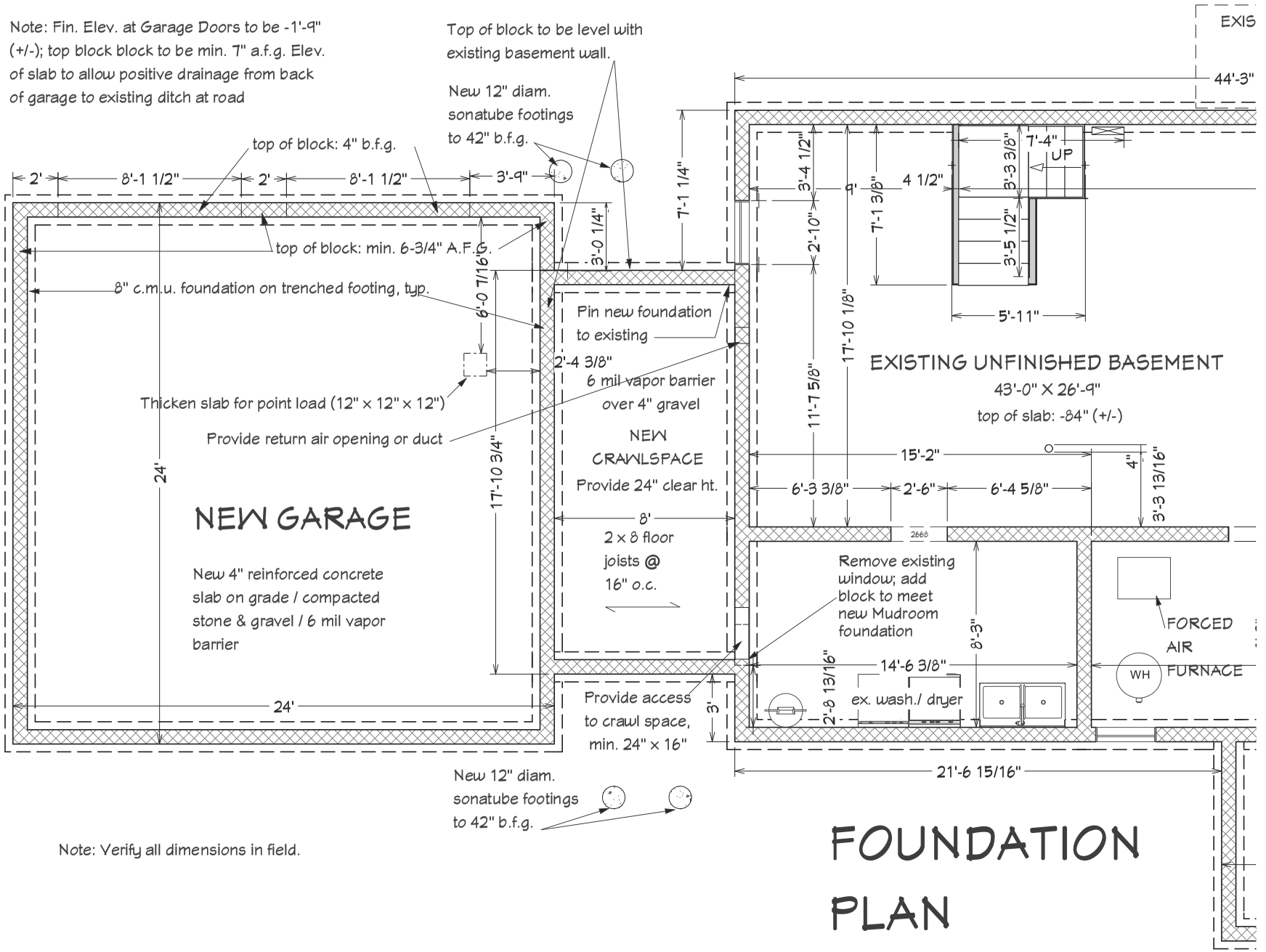
Carter Remodel
7486 Plymouth Rd.
Ann Arbor, MI 48105

DRAWINGS PROVIDED BY:
Neering Architect. Design
120 Depot St..
Ann Arbor, MI 48104

DATE:
7 / 9 / 2017

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

SHEET:
A2



FOUNDATION PLAN

Revisions
Date: 3-8-18
1-10-19

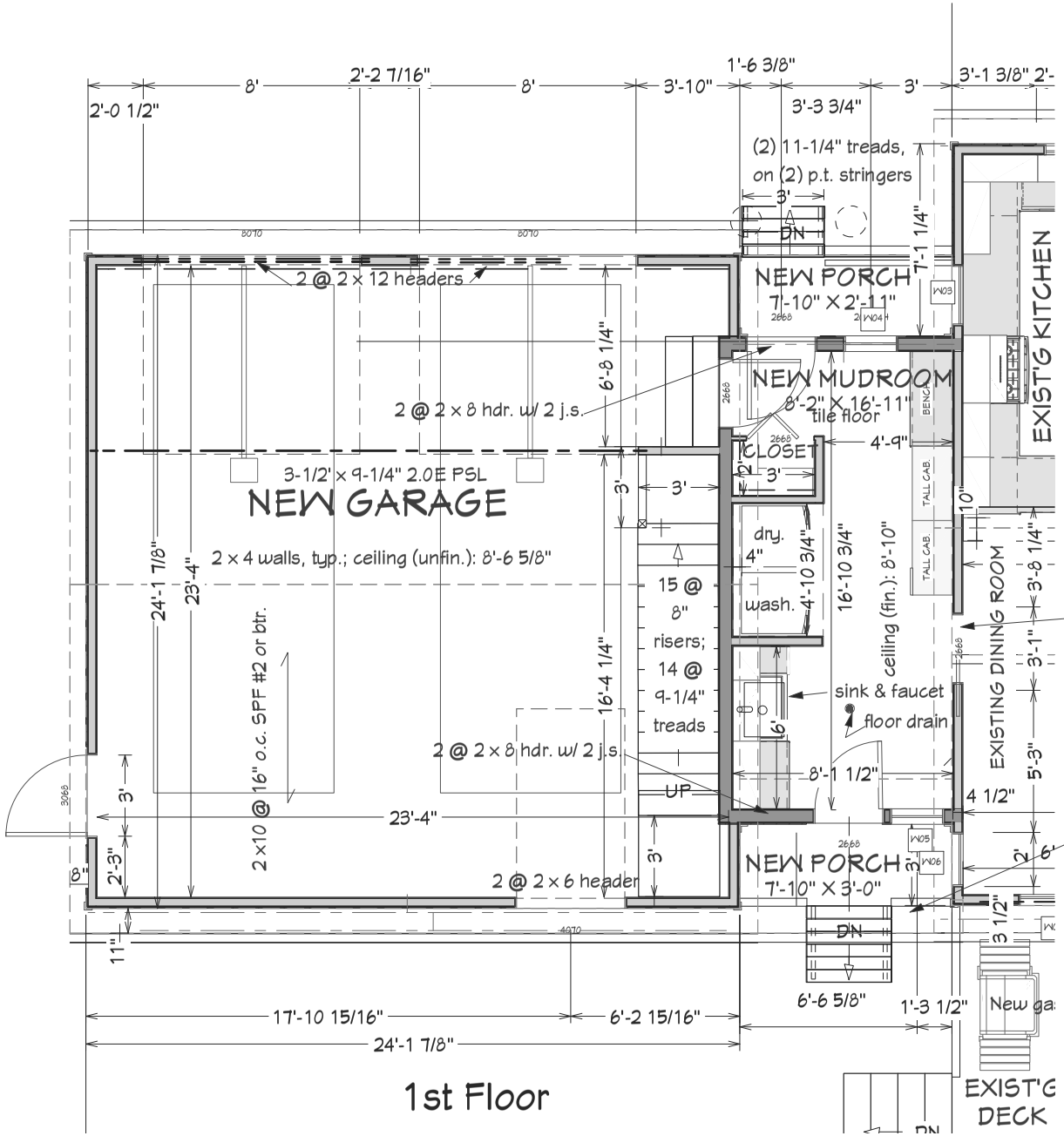
Carter Remodel
7486 Plymouth Rd.
Ann Arbor, MI 48105

DRAWINGS PROVIDED BY:
Neering Architect. Design
120 Depot St..
Ann Arbor, MI 48104

DATE:
7 / 9 / 2017

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

SHEET:
A3



Note: Verify all existing dimensions, door & window sizes in field.

New pocket door in exist'g location

Note: New Mudroom floor to be level with existing Dining Room floor

PROPOSED ADDITION

Revisions
Date: 3-8-18
1-10-19

Carter Remodel
7486 Plymouth Rd.
Ann Arbor, MI 48105

DRAWINGS PROVIDED BY:
Neering Architect. Design
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Ann Arbor, MI 48104

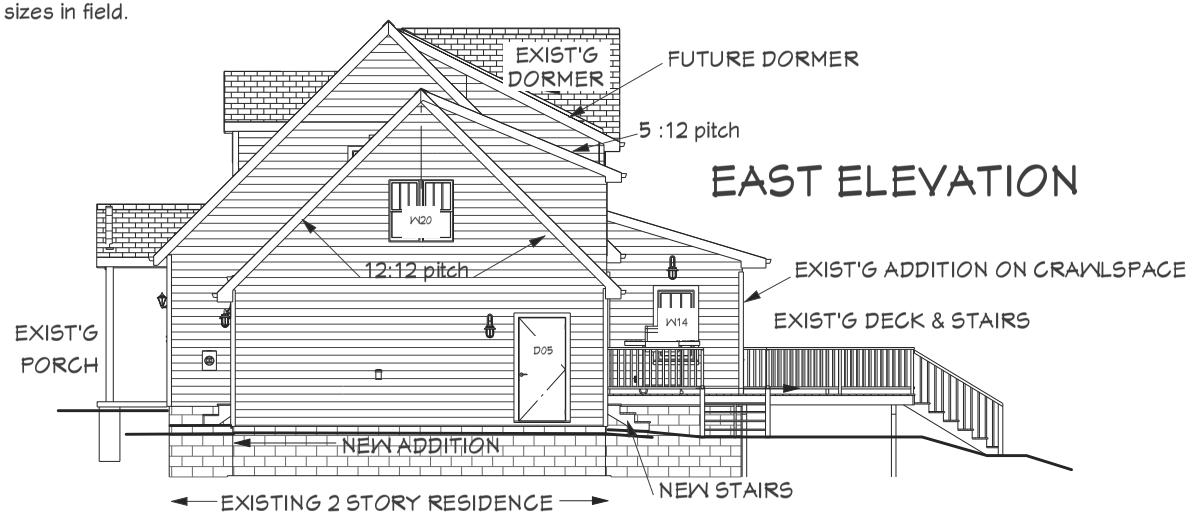
DATE:
7 / 9 / 2017

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

SHEET:
A4

NORTH ELEVATION

Note: Verify all existing door & window sizes in field.



EAST ELEVATION

EXTERIOR ELEVATIONS

Revisions
Date: 3-8-18
1-10-19

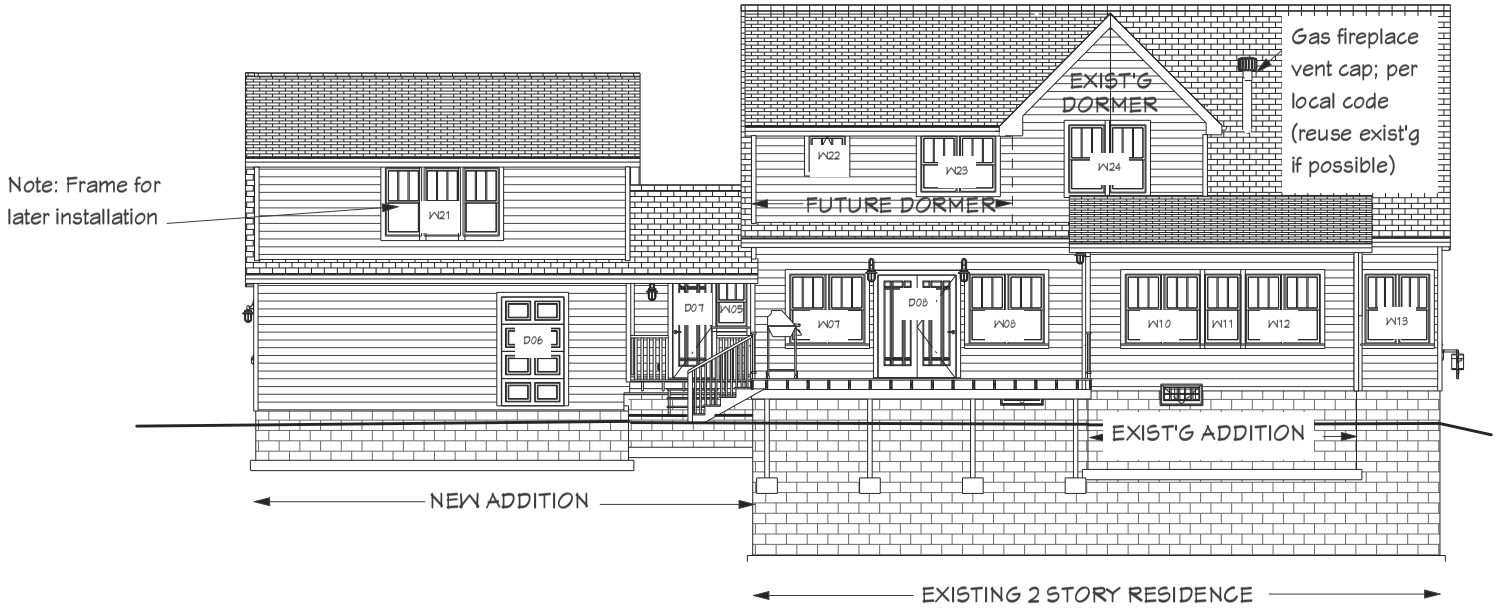
Carter Remodel
7486 Plymouth Rd.
Ann Arbor, MI 48105

DRAWINGS PROVIDED BY:
Neering Architect. Design
120 Depot St..
Ann Arbor, MI 48104

DATE:
7 / 9 / 2017

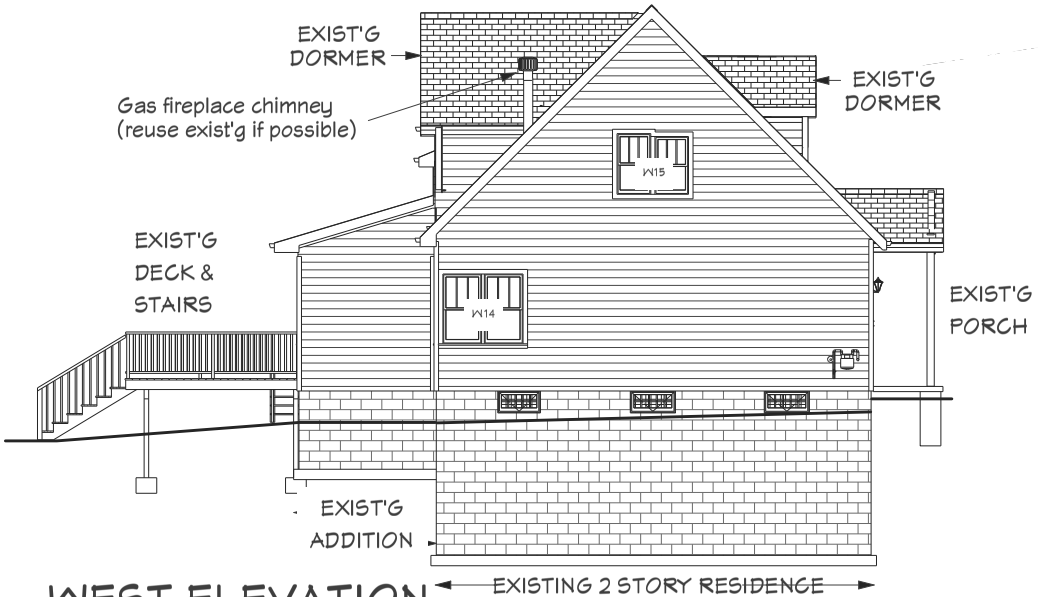
SCALE:
1/8" = 1'- 0"

SHEET:
A6



SOUTH ELEVATION

Note: Verify all existing door & window sizes in field.



WEST ELEVATION

EXTERIOR ELEVATIONS

Revisions
Date: 3-8-18
1-10-19

Carter Remodel
7486 Plymouth Rd.
Ann Arbor, MI 48105

DRAWINGS PROVIDED BY:
Neering Architect. Design
120 Depot St.
Ann Arbor, MI 48104

DATE:
7/9/2017

SCALE:
1/8" = 1'- 0"

SHEET:
A7

SUBJECT PROPERTY: 7486 PLYMOUTH RD.

Property Address: 7486 PLYMOUTH-ANN ARBOR RD ANN ARBOR, MI 48105

Tax ID Number: J -10-09-200-023

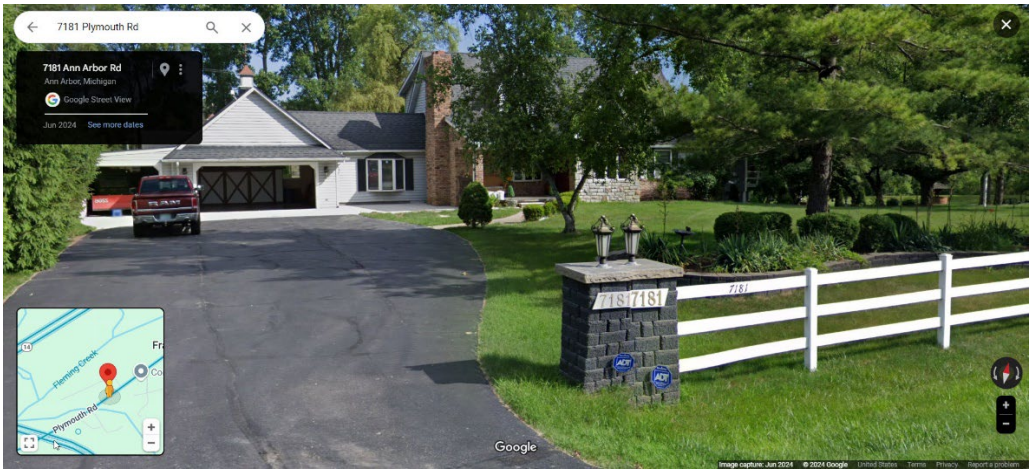
Full Legal Description:

Land in Superior Township, Washtenaw County, and State of Michigan, described as:

Commencing at the intersection of the North and South quarter line of Section 9 with the center line of the Plymouth Road, said point being 1481.82 feet South of the North quarter post of Section 9; thence deflecting a Southwesterly angle of 61 degrees 17 minutes from the North and South quarter line 185 feet along the center line of the Plymouth road; thence South parallel to the North and South quarter line to the North Shore of Frain's Lake; thence Easterly along the North Shore of Frain's lake to the North and South quarter line; thence North along the North and South quarter line to the place of beginning, being a part of the Northwest quarter of Section 9, Town 2 South, Range 7 East, Washtenaw County, Michigan.

NEARBY PROPERTIES WITH ATTACHED GARAGE AND ADDITION BETWEEN

7181 PLYMOUTH RD



7340 PLYMOUTH RD

3925 ALBERT

7428 CYNTHIA

7427 CYNTHIA

From:	Diane Mulville-Friel
To:	Rachel Smith; Sarah Devereaux; Thomas Brennan; Dan Deeds; Nathalia Arico; Lisa Lewis; Diane Mulville-Friel
Cc:	Ken Schwartz; Lynette Findley; Ben Carlisle; Frederick Lucas
Subject:	CONFIRMED ZBA Meeting Date - 11/6/24
Date:	Thursday, October 17, 2024 10:52:18 AM
Attachments:	image007.png image008.png image009.png

Hello ZBA Members,

I am confirming that the next ZBA meeting date will be **Wednesday, November 6 @ 7:00**. Two (2) cases are scheduled:

1. 7486 Plymouth Road variance for garage setback
2. Continuance of ZBA #24-02 - 5766 Geddes Road (Schuster Appeal)

Board members availability to attend a meeting on this date are as follows:

- Arico - Yes
- Brennan - Yes
- Deeds - No
- Devereaux – Yes
- Lewis - No
- Parm - Yes
- Smith - No

Please let me know if the status of your availability changes as we need four (4) members for a quorum.

Thank you all and see you soon!

Carlisle | Wortman
ASSOCIATES, INC.

Diane Mulville-Friel
Senior Associate Planner, AICP
Phone: 734-662-2200 | Mobile: 727-422-0380
117 N. 1st Street, Suite 70, Ann Arbor, MI 48104