

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

**WEDNESDAY
AUGUST 3, 2022
7:00 P.M.
AGENDA**

1. CALL TO ORDER
2. ROLL CALL
3. ADOPTION OF AGENDA
4. APPROVAL OF MINUTES
 - A. Approval of the March 30, 2022 minutes
5. CITIZEN PARTICIPATION
6. COMMUNICATIONS
7. PUBLIC HEARINGS AND CONSIDERATION OF APPEALS
 - A. **ZBA #22-04 Schuster Appeal**
Appeal of the decision of the former Township Zoning Official;
regarding 5766 Geddes Road.
 - B. **ZBA #22-03 3728 N. Dixboro Road**
Variance from Section 6.03(2)(b) (Accessory Structures) for the
construction of hoop houses/high tunnels in the front yard of the
proposed single-family dwelling.
 - C. **ZBA #22-05 8541 Cherry Hill Road**
Variance from Section 3.101 (Dimensional Standards) for the
construction of a new single-family dwelling in the 75' private
road setback.
8. OLD BUSINESS
 - A. Election of Officers for 2022
9. OTHER BUSINESS AS NECESSARY
10. ADJOURNMENT

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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, Heningburg, and Parm. Deeds and McKinney were absent. Rick Mayernik, Building Official, was also in attendance. A quorum was present.

3. ADOPTION OF AGENDA

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

4. APPROVAL OF MINUTES

A motion was made by Member Heningburg and supported by Member Brennan to approve the minutes of January 12, 2022. The motion carried.

5. CITIZEN PARTICIPATION

None.

6. COMMUNICATIONS

- Communication from Mike Spelman dated March 21, 2022, regarding the Secrest Nature Preserve.
- Communication from Shane Scherbarth dated March 24, 2022, regarding the Secrest Nature Preserve.
- Communication from Duane Scherbarth dated March 24, 2022, regarding the Secrest Nature Preserve.
- Communication from Daniel and Lorelei Coonce dated March 25, 2022, regarding the Secrest Nature Preserve.
- Communication from Joann Shay dated March 27, 2022, regarding the Secrest Nature Preserve.
- Communication from Drew and Danielle Reed dated March 30, 2022, regarding the Secrest Nature Preserve.
- Communication from Jack Smiley dated March 30, 2022, regarding the Secrest Nature Preserve.

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- Communication from W. Daniel Troyka dated March 29, 2022, regarding ZBA 21-05, 5766 Geddes Road.

A motion was made by Member Brennan and supported by Member Parm to receive and file the communications. The motion carried

7. PUBLIC HEARINGS AND CONSIDERATION OF APPEALS

A. ZBA 22-01 Secrest Nature Preserve

Variance from Section 8.06C1 (Design Requirements for Parking Areas) for a parking area proposed to be located in the front yard setback.

Jill Lewis, Executive Director at Southeast Michigan Land Conservancy (SMLC), discussed how much land has been preserved within the Township and noted that Secrest Nature Preserve was acquired in 2019.

Sara Steenbergh, Johnson Hill Land Ethics Studio, shared a presentation about the nature preserve. She explained that the required front yard setback is 75 feet; putting the parking lot 15 feet from the road right-of-way reduces the amount of disturbed vegetation by about half. Additional benefits include increased distance from a wetland area and creates an increased upland buffer. An increased upland buffer would help invasive species seeds that land on vehicles to not implant into the ecosystem.

Member Dail asked if there would be a gate at the entrance to the preserve that would be closed at night.

Ms. Lewis replied that there would not be a gate.

Zackary Coonce, 8265 Plymouth-Ann Arbor Road, shared concerns about increased traffic and dumping of trash along Berry Road. He questioned whether the parking lot could be placed along Ford Road. He feels other nature preserves in the area have smaller parking lots than the proposed size for Secrest Nature Preserve.

Member Dail asked how SMLC chose the location for the parking lot as well as the number of spaces.

Ms. Steenbergh stated that the location of the parking lot is necessitated by the building envelope that is part of the conservation easement, which

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is located off Berry Road. Regarding the number of spaces, Ms. Steenbergh noted that the other preserves have undersized parking lots. Their goal is to prevent visitors from parking on the road.

Drew Reed, 3701 Berry Road, stated that since the Secret Nature Preserve opened, there has been an increase in traffic and garbage along the sides of Berry Road.

Danielle Reed, 3701 Berry Road, added that she has spoken to the Park Steward about the issues mentioned by Mr. Reed, and stated that the Conservancy tried to help, however, the issues remain.

Jack Smiley, Cherry Hill Road, urged the support of the proposed parking lot variance. Mr. Smiley noted the wetland and natural feature disturbances that can be avoided with the variance.

Member Dail explained that the function of the Zoning Board of Appeals is to hear the issue at hand, which is the parking lot variance.

Member Dail reviewed Section 13.08B of the Zoning Ordinance, Standards for Review.

A motion was made by Member Brennan and supported by Member Parm, to approve ZBA #22-01, a variance from Section 8.06C1 (Design Requirements for Parking Areas) for a parking area proposed to be located in the front yard setback.

Roll Call:

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

The motion carried.

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B. ZBA 22-02 8414 Joy Road - Green

Variance from Section 3.101 (Dimensional Standards) for an addition to the existing single-family dwelling in the front yard setback.

Mr. Green, the homeowner of 8414 Joy Road, explained that he would like to add a six-foot addition to the front of the home in order to expand the existing bathroom.

The right-of-way in front of Mr. Green's home was discussed. It was determined that the widening of the right-of-way was created with the M-14 overpass

Member Dail reviewed Section 13.08B of the Zoning Ordinance, Standards for Review.

Motion by Member Brennan and supported by Member Parm to approve ZBA 22-02, a variance from Section 3.101 (Dimensional Standards) for an addition to the existing single-family dwelling in the front yard setback.

Roll Call:

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

The motion carried.

8. OLD BUSINESS

A. ZBA #21-05 – 5766 Geddes Road - Schuster

Request for seven separate Zoning Ordinance interpretations and an appeal of the decision of the Township Zoning Administrator.

Member Dail explained the public hearing for this item was held on January 12, 2022, and Mr. Schuster gave a presentation to the Zoning Board of Appeals regarding at that time.

Member Dail read Zoning Ordinance Section 13.07: Interpretations.

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Member Dail asked Mr. Schuster to discuss the appeal of the decision of the Township Zoning Administrator and the letter submitted by his counsel.

Mr. Schuster discussed the letter submitted by his counsel, W. Daniel Troyka, dated March 9, 2022. The letter submitted by Mr. Troyka was written in response to the memo written by Fred Lucas, Superior Township Attorney, dated March 15, 2022 which is included in the ZBA packet. A copy of the letter submitted by Mr. Troyka is on file with the Township.

Mr. Schuster explained that he is an “aggrieved party” to the situation. He reiterated safety issues at the site, including major excavation and the guard/fence on his property above the location for the retaining wall.

Member Dail asked when the retaining wall would be erected.

Mr. Mayernik stated he did not know.

Interpretation One:

Motion by Member Craigmile, supported by Member Brennan, that after reviewing the application for interpretation filed by Schuster and the documentation provided by Building Official Rick Mayernik, and after giving the Schusters and their attorney an opportunity to present their position to the entire Zoning Board of Appeals, the Zoning Board of Appeals adopts the interpretation provided by Mr. Mayernik for the reasons set forth in his memorandum dated December 21, 2021.

Roll Call:

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

The motion carried.

Interpretation Two:

Motion by Member Craigmile, supported by Member Parm, that after reviewing the application for interpretation filed by Schuster and the

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documentation provided by Building Official Rick Mayernik, and after giving the Schusters and their attorney an opportunity to present their position to the entire Zoning Board of Appeals, the Zoning Board of Appeals adopts the interpretation provided by Mr. Mayernik for the reasons set forth in his memorandum dated December 21, 2021

Roll Call:

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

The motion carried.

Interpretation Three:

Motion by Member Craigmile, supported by Member Brennan, that after reviewing the application for interpretation filed by Schuster and the documentation provided by Building Official Rick Mayernik, and after giving the Schusters and their attorney an opportunity to present their position to the entire Zoning Board of Appeals, the Zoning Board of Appeals adopts the interpretation provided by Mr. Mayernik for the reasons set forth in his memorandum dated December 21, 2021

Roll Call:

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

The motion carried.

Interpretation Four:

Motion by Member Brennan, supported by Member Parm, that after reviewing the application for interpretation filed by Schuster and the documentation provided by Building Official Rick Mayernik, and after giving the Schusters and their attorney an opportunity to present their position to the entire Zoning Board of Appeals, the Zoning Board of

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Appeals adopts the interpretation provided by Mr. Mayernik for the reasons set forth in his memorandum dated December 21, 2021
Roll Call:

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

The motion carried.

Interpretation Five:

Motion by Member Brennan, supported by Member Parm, that after reviewing the application for interpretation filed by Schuster and the documentation provided by Building Official Rick Mayernik, and after giving the Schusters and their attorney an opportunity to present their position to the entire Zoning Board of Appeals, the Zoning Board of Appeals adopts the interpretation provided by Mr. Mayernik for the reasons set forth in his memorandum dated December 21, 2021
Roll Call:

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

The motion carried.

Interpretation Six:

Motion by Member Craigmile, supported by Member Parm, that after reviewing the application for interpretation filed by Schuster and the documentation provided by Building Official Rick Mayernik, and after giving the Schusters and their attorney an opportunity to present their position to the entire Zoning Board of Appeals, the Zoning Board of Appeals adopts the interpretation provided by Mr. Mayernik for the reasons set forth in his memorandum dated December 21, 2021

Roll Call:

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

The motion carried.

Interpretation Seven:

Motion by Member Craigmile, supported by Member Parm, that after reviewing the application for interpretation filed by Schuster and the documentation provided by Building Official Rick Mayernik, and after giving the Schusters and their attorney an opportunity to present their position to the entire Zoning Board of Appeals, the Zoning Board of Appeals adopts the interpretation provided by Mr. Mayernik for the reasons set forth in his memorandum dated December 21, 2021

Roll Call:

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

The motion carried.

Member Dail stated that as he understands the law, Mr. Schuster is not considered an aggrieved party.

It was noted that a permit has not yet been issued for the house nor the retaining wall at 5728 Geddes Road.

Additionally, Mr. Mayernik stated he will issue Zoning Compliance for the house, driveway, and retaining wall(s), collectively.

A motion was made by Member Dail and supported by Member Brennan that because the Appellants have not established that they are "aggrieved parties," this ZBA lacks jurisdiction to hear the appeal on this issue and must dismiss the appeal.

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Roll Call:

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

The motion carried.

9. OTHER BUSINESS AS NECESSARY

A. Election of Officers for 2022

A motion was made by Member Brennan and supported by Member Craigmile to postpone the 2022 Election of Officers.

10. ADJOURNMENT

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

Respectfully submitted,

Doug Dail, Chairman Zoning Board of Appeals

Laura Bennett, 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, AUGUST 3, 2022
7:00 p.m.**

ZBA #22-04

The Superior Township Zoning Board of Appeals will hold a public hearing on **Wednesday, August 3, 2022, at 7:00 p.m.** at the Superior Township Hall, 3040 N. Prospect, on a request for the following:

Appeal of the decision of the former Township Zoning Official.

The property is located at 5728 Geddes Road and is zoned R-1 (Single Family Residential).

Parcel ID # J-10-30-400-061

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.

Laura Bennett, Planning & Zoning Administrator
3040 N. Prospect
Ypsilanti, MI 48198
734-482-6099

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 _____

Address _____

Phone Number _____ Email _____

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 _____

Parcel ID# _____ Parcel size _____

Size of the proposed building or addition, if any _____

Use of existing building (if any) and property _____

Zoning classification of property _____

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. _____

DESCRIBE THE REASONS FOR YOUR APPEAL

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

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

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

NAME (PLEASE PRINT)	SIGNATURE	STREET ADDRESS
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INFORMATION REQUIRED TO BE SUBMITTED WITH APPEAL

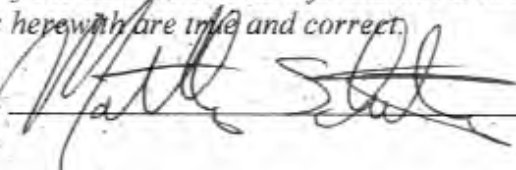
The following must attached and submitted with the application:

- 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

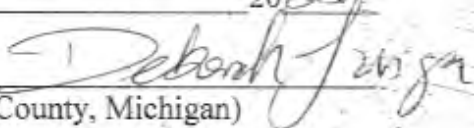
6/8/22

NOTARY PUBLIC – Applicant's signature must be notarized.

DEBORAH JURIGA
NOTARY PUBLIC STATE OF MICHIGAN
COUNTY OF WASHTENAW
My Commission Expires October 04, 2027
Acting in the County of Washtenaw

Sworn to before me this 8 day of June 2022

My commission expires October 4, 2027
(Notary Public, Washtenaw County, Michigan)



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

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

Signature of Clerk (or designee)

Fee paid _____

Notice to Applicants for the Zoning Board of Appeals

Filing Applications

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

Meeting Schedule

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

Reasons for the Appeal

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

Site Visits

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

Application Fees

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

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

Applicant's Acknowledgement

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



Signature

Date

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

**RE: Appeal of Certificate of Zoning Compliance Issued for 5728 Geddes Road,
Ann Arbor, MI**

Dear Zoning Board of Appeals:

This letter and the attached Zoning Board of Appeals Application serves as Matthew A. Schuster and Alyssa L. Cairo's ("Schusters") appeal of Superior Township's ("Township") April 18, 2022 approval of a Certificate of Zoning Compliance ("Certificate") for real property commonly known as: 5728 Geddes Road, Ann Arbor, MI (the "Mouliere Property").

I Description of Appeal

The Schusters seek revocation of the Certificate and resulting Building Permit issued on April 18, 2022 on grounds, among other things, that they were obtained based on material misrepresentations and omissions in the approved 12/15/21 building plans (the "12/15/21 Plans") which significantly impact the Private Road Safety and the Schuster parcel, including:

- The 12/15/21 Plans show no encroachment on the Schuster parcel outside the alleged access easement. In fact, the plans encroached on the Schuster parcel, and the applicants are now revising the plans to remove the encroachment on the Schuster parcel which may result in encroachment into the wetland setback (see Gibb Randal deposition Exhibit D)
- The new plans must be subject to new review and approval.
- The 12/15/21 Plans show no construction in the right of way. In fact, a significant portion of the septic field and the house are being constructed in the right-of-way. New plans must be submitted showing the actual location of construction. See Exhibit C for Engineer, Architect, and Surveyor confirmation of ROW infringement.
- The 12/15/21 Plans were not accepted by the County Health Department and were revised specifically to obtain approval. The revised plans approved by the County materially differ from the 12/15/21 Plans approved by the Township by moving the septic field into the right-of-way and removing a cantilevered room in the house which is perched over the well in the 12/15/21 Plans. These revised plans have not been reviewed or approved by the Township to our knowledge.
- The applicants already had a ZBA variance granting a zero (0) ft setback from the ROW based on the erroneous drawings when the plans were further altered to obtain county approval. The material alterations to the structure and the new, dangerous ROW encroachment immediately adjacent to the Private Road were reviewed by the ZBA or the Fire Marshal to our knowledge.

- The Building Plans do not document the right-of-way or any approved public road or private street, which is required to determine zoning compliance. The omission of right-of-way or approved road designations from the Plans masks the fact that construction is being planned within the right-of-way (again Exhibit C).
- The Building Official denied the original permit request on November 2, 2021 stating: “In fact, while not illustrated on the submitted drawings, it appears the subject home is located in the right-of-way.” In response, the owners submitted a revised plan sheet with a line labeled “60’-0” Easement Setback.” The Township relied on this revised plan sheet in approving the 12/15/21 Plans. In fact, the line does not show a setback from right-of-way and masks the fact that construction is being planned within the right-of-way (see Exhibit C).
- The revised plans approved by the County – but not approved by the Township – show a new undocumented retaining wall with a new 8-foot drop within the right-of-way and immediately adjacent to the only emergency access route to the new home. This new retaining wall was not approved by the Township and has not been engineered to show that it can handle anticipated loads.

The Schusters’ additional claims are set forth below (and detailed in Exhibit B).

These claims are the result of professional reports investigating the safe access over the Schuster Parcel. Attached in Exhibit C is the report of Clif Seiber PE dated 6/7/22 which finds no ability to confirm compliance of the plans with the entirety of ordinance 3.207

Further, the actual location of the ROW and Private road boundaries have been called into question based upon the plot plans and submissions of the Mouliere team by reports generated by an Architect and Surveyor (See Exhibit C for reports from Susan Bowers, RA and Kevin Gingras, P.S.). Both assessments demonstrate that construction of the residence AND the septic field are taking place within the ROW. This encroachment violates the ZBA variance and endangers all access to the parcel.

II. BACKGROUND OF THE DISPUTE AND STANDING/ AGGRIEVED STATUS

By way of background, the Schusters have resided at 5766 Geddes Road, Ann Arbor, Michigan, 48105 (“Schuster Property”) since 2005. In 2018, Jean-Marie L. Mouliere and Ingrid D. Mouliere’s (the “Moulieres”), purchased a landlocked parcel, the Mouliere Property, located behind the Schuster Property with the intent to develop an 11,000+ sqft structure on the property. Both properties are burdened by ROW as established by the land division approved by the township in 1996. This ROW is the central element to the Appeal before you as it is located on both parcels. The ROW is a required element of the required ‘Private Road’ which must be

constructed in advance of any C of O for a residence of 5728 Geddes, and is to be constructed on both parcels ROWs as established in 1996. The ROW existence was the premise for exemption from the private road ordinance, which we believe needs to be followed given the scale of changes to the ROW. The requirement of the proposed plans to build a private road capable of safely servicing both parcels on the Schuster Property clearly establishes the Schusters as an aggrieved party for any appeal of the site development - especially relating to access which cannot be accomplished without Schuster Property impact.

There is an underlying case in the Washtenaw County Circuit Court, Case No. 20-001274-CH, where the Schusters and Moulieres are litigating, among other things, the Moulieres' excessive and unreasonable development of the Driveway Easement (ROW) AND the location of an existing pedestrian easement on the Moulriere parcel benefitting the Schusters parcel. This pedestrian easement location in the center of the Moulriere parcel has been attempted to be relocated using a conditioned clause of their predecessors title, but the final location of the pedestrian easement is uncertain due to contested claims in the litigation. The approved building plans, location of the shared access on the Schusters parcel, and certificate of zoning compliance are based upon infringements within the contested easement, giving the Schusters standing. It is simply not possible to develop the site without clear use of contested easements impacting soils owned by the Schusters and no other township resident. Any unsafe conditions within the ROW will cause circulation limitations and will impact the Schuster parcel.

It is important to note that retaining walls purported to be approved by the Certificate of Zoning Compliance are located upon and immediately adjacent to the Schuster property. The ability of these retaining walls to both retain the Schuster parcel soils and loads connected with Schuster Use of their own parcel outside of any rightful claim or use by the Moulieres is at issue in the engineering prints and calculations - also indicates Schuster standing. OHM, the engineers to the township, have repeatedly questioned the 5728 applicants ability to construct these retaining walls without interfering with the Schuster property in writing to the township. Further, the supposed relocated pedestrian easement was placed into township protected wetlands using a contested wetland permit which was not built in accordance with EGLE approved plans and its use is endangered by increased discharge of stormwaters in violation of Zoning Ordinance section 14.05 and wetland ordinance 178 - reinforcing the standing of the Schusters to development issues on the Moulriere parcel.

See Exhibit A for additional standing discussion.

III BASIS OF THE APPEAL

1) The application for Certificate of Zoning Compliance (and resulting building permit) is incomplete and misleading. The building prints dated 12/15/21 DID NOT RECEIVE APPROVAL from Washtenaw County Environmental Health for the septic field or entire house.

2) The applicant extensively modified the plans in order to obtain the Septic Approval in 2022. These Changes include: Removing an entire cantilevered room from the county approved plan, relocating the septic field away from the onsite wetlands and INTO the ROW which is part of the only 'approved road' ever reviewed for the parcels, creating a new undocumented and NOT engineering reviewed retaining wall at a new 8' drop WITHIN the ROW and immediately adjacent to the only emergency access route to the home - a safety hazard.

3) The applicant had possession of these approved revised prints from the county which include the ROW line the septic field is within but withheld the plans from OHM review in knowledge that the 12/15/21 plans were unbuildable and new revised plans without the room where septic and retaining wall were within the ROW as detailed by R. Mayernik.

4) The county plans (through applicant engineer ATWELL) also confirm what this ZBA applicant has proven - that the residence proposed is actually WITHIN the same ROW that the ZBA was considering granting setback relief from.

5) The revised home plans without the 'treehouse' and ROW septic location were not submitted for new township review including OHM review.

6) The newly located ROW encroachment of an 8' excavated drop, retaining walls and septic field immediately adjacent to the emergency access was not reviewed by the ZBA. The ZBA original review utilized the materially deficient 12/15/21 plans.

This ZBA Appeal is needed to place material detail on the record by the ZBA (which is lacking in the applications). These questions must be answered with competent material on the record.

- 1) Where is the approved road (if any) and is it exempt from Ordinance 163? Only the 1996 lot split is of record before private road ordinance was implemented.**
- 2) Where is the ROW boundary to that road? NONE is listed ANYWHERE in the approved 12/15/21 prints.**
- 3) What is the design setbacks from the ROW and from the protected wetlands to the Mouliere Residence?**
- 4) Where is the engineering review of the septic field retaining wall design calculations to confirm state building code compliance (as plans approved by Washtenaw County Health Department IS NOT as drawn and approved in 12/15/21 township prints)**
- 5) Where exactly are the retaining walls placed at the lot line between 5766 Geddes Rd and 5728 Geddes Rd.**
- 6) Where is the required emergency vehicle access turnaround, what is its distance from the Washtenaw county approved septic field retaining wall (8' drop) and has it been approved by Fire Marshal, especially since it is within the ROW and adjacent to the emergency access route?**

It is important to note that the primary requirement of the Plot Plan needed for approval by the township for certificate of zoning compliance is an accurate representation of the proposed plans.

Certificates of Zoning Compliance Section 1.07J3 specifies plot plans must include:

Dimensioned location, outline, and dimensions of all existing and proposed structures and the location and extent of all uses not involving structures.

Further, section 1.07H states

Revocation of Certificate.

If any false statement or misrepresentation of fact is made in the application or on the plans on which the Certificate was based, the Zoning Inspector may revoke the Certificate of Zoning Compliances

IV Misstatements of Facts

It is important to note that the entire submission of the plans for 5728 Geddes Rd are hinged on misrepresentations to the Zoning Department and ZBA about the ROW.

1) Misrepresentation of ‘Approved Road’ / Private Road / ROW

-R. Mayernik DENIED the October Building permit listing due to his assessment that the building is in the ROW. The architect replied, inaccurately, denying building in the ROW and added a meaningless line to the prints claiming to be a ‘60’ easement setback’ which dimensioned WITHIN (not out from) the 66’ easement on the Schuster property and part of the ROW on 5728 Geddes (again, unlabelled). The setback line literally crosses and touches the easement on the Schuster parcel at multiple points- which is the opposite of a 60’ setback (which should never touch). We have provided a surveyor review and architect letter identifying the ACTUAL encroachments known to the 5728 Geddes applicant agents in exhibit C. We also provided an engineers review letter which concludes the same meaningless status of the ‘60’ easement setback’)

-The applicant at 5728 Geddes applied to the ZBA for a variance for a Zero ft setback from ROW according to 12/15/21 prints, knowing that ROW was on the Mouliere parcel but was unwilling to label it, and never labelled the ROW on any print which would have disclosed the misstatement. There is no shown ROW anywhere on the drawings, and the setback is undocumented.

-The denial handed out by R. Mayernik on 11/2/21 was appropriate, correct to the facts, and the facts HAVE NOT CHANGED. The house is proposed to be constructed within the ROW that R.

Mayernik determined was created in 1996, and the applicant misled and documented a false artifice on the drawings which is meaningless to seek an approval.

-The actual improvements needed to construct the Mouliere residence (the home and the septic field) and both located within the actual ROW for the only 'approved road' ever to gain an approval prior to the 2004 Private Road Ordinance, which could be conceivably exempted from its permit requirements. If the 'approved road' were altered AFTER 2004 adoption of the private Road Ordinance, it is fully subject to a new Private Road permit requirement. Surveyor and Architect reviews of the Building Improvements proposed is attached (in Exhibit C)

2) Withholding of Location of Approved Septic Field

-The applicant received Septic system approval from Washtenaw County on 3/21/21 which included a relocated septic field and requiring an 8' retaining wall. This county approved location was materially different from the 12/15/21 prints already under ZBA variance appeal for ROW setback. Both elements are BETWEEN THE HOUSE AND THE LOT LINE within the ROW that they were already seeking a 0' setback from. This further encroachment to the ROW is immediately adjacent to emergency vehicle access and wasn't disclosed to the ZBA during their deliberations AT ALL. It is not clear that the 60' setback requirement variance would have been granted to the applicant if it was known that an 8ft drop was being engineered directly adjacent to the proposed access and within the ROW. An amended ZBA appeal should have been filed and published prior to Certificate Zoning Compliance and building permit approval. The ability of this location to allow safe emergency access to the 5728 site and the rear of the Schuster Parcel is significantly in question and endangers the community.

-The applicant DID NOT provide engineering or detail to the township for the required retaining wall at the septic field AT ALL to satisfy emergency access concerns or the ability to meet State Building Code at the time of the issuance of a Certificate of Zoning Compliance (and a building Permit) for the outdated, unbuildable 12/15/21 plans. The septic retaining wall is a structure requiring a permit under the Michigan State Building Code. This retaining wall was not engineered and reviewed by OHM for the SIGNIFICANT surcharge loads it will experience - posing a safety hazard, especially for emergency vehicle access. There was no review by the fire marshal for this significant hazard up to 5/19/22 (date of FOIA). This represents a safety hazard to the residents of 5766 Geddes, 5728 Geddes, emergency personnel, and all guests.

3) Location of planned Site Improvements

-The applicant presented (and received approval for and variances with) prints marked 12/15/21. In fact, the drawn retaining walls located across the Mouliere property and access on the Schuster property are not represented in those drawings accurately. The actual walls intended to be built were not engineered (as revealed upon questioning by OHM 2/28/22) until March 2022. Upon actual design, the walls are larger than presented in the stylized prints by OX studio or Insite. As drawn on 12/15/21, the retaining walls are unbuildable (despite representations to OHM to the contrary) and the entire designed assemblage had to be moved due to an encroachment onto the Schuster property by at least 8". Under sworn deposition, the principal for Insite design acknowledge issues relating to the designed walls necessitating moving both the

walls and the residence by at least 8” (See Exhibit D). None of these revisions were disclosed to the Zoning/Building Official nor the ZBA during the variance request hearing. The approval for a setback variance was conditioned upon the 12/15/21 drawings and it is unclear if revised (accurate) drawings would qualify for a variance.

4) Buildability of 12/15/21 Site Plan (beyond retaining walls and septic field)

-The applicant for the 5728 Certificate of Zoning Compliance and Building Permits knowingly removed a room/element from the 12/15/21 designs in order to gain Washtenaw County Health Department Septic Approvals of the property. The ‘treehouse’ or ‘nest’ shown in the 12/15/21 plot plans and prints is NOT BUILDABLE with the currently existing county health approvals. This fact appears to not have been shared with either the Superior Township Zoning Administrator or the Zoning Board of Appeals, who approved the 12/15/21 plans without corrections to remove the structure component to meet existing county approvals. It is documented in emails in February 2022 that the room must be removed for Steve Aguinaga approval and is shown as removed in the Septic Permit approved drawing dated 3/21/22. Email proof of willful alteration of the submitted prints and knowledge of the material building revision is included in Exhibit C. It is especially material information to the validity of the ZBA granted variance for setback reduction that the actual ROW was encroached and revised plans further limited circulation in the ROW and reduced access security.

V Requested Relief - (Action 1)

Based on the above (and reports included in Exhibit C), it is clear that R. Mayernik was correct to deny the permit on 11/2/21 due to building in the ROW and Setback. The setback variance granted by the ZBA to false plans does not alleviate the construction INSIDE the ROW.

Based on these misstatements of fact indicating that the 12/15/21 plans are NOT an accurate representation of the location and nature of material components of the proposed construction, we request that the ZBA overturn the issuance of the certificate of zoning compliance (due to an incomplete, in-accurate plan submitted which does not meet the requirements of 1.07J3). It is clear that there is NO Septic Approval granted to the plans as drawn for 12/15/21. The application for Certificate of Zoning Compliance is therefore incomplete and should be overturned until plans are submitted for review with “Dimensioned location, outline, and dimensions of all existing and proposed structures and the location and extent of all uses not involving structures” are submitted.

We ask that the ZBA overturn the issued certificate of zoning compliance for 5728 Geddes Rd to allow for proper documentation and permitting in accordance with the full Zoning

Ordinance. In the interim, we ask the ZBA, planning, and building department to place a stop work order to cease all excavations (particularly in the ROW) and to eliminate the undermining of steep slopes and risking of the protected wetlands on the project site, for the reasons cited in the OHM construction review dated 11/2/21 and the Tetra Tech report dated 5/16/22.

Alternatively,

If the ZBA would prefer to attempt to decipher the multiple submitted plans to the various regulatory body and attempt to discern whether the assemblage of the different details meets the standards of the Zoning Ordinance, below and attached are a summary of the reasons to overturn the certificate of zoning compliance based upon the ordinance. It is tremendously unfair to this ZBA applicant and Due Process of zoning enabling act procedures to be working from incomplete plans, representing only stylized retaining walls and generalized locations. The mere fact that the ROW is not shown on any print makes detailing of setbacks and frontages accurately impossible (why the arbitrary assertion above was made) - but below is the best summary available from the incomplete plans that were approved relying on the mistatements of facts. Much relating to 3.207 is confirmed in the Engineer Letter located in Exhibit C

Significant to this direct appeal of the certification of zoning approval, the Moulieres have failed to comply with the Township Ordinance, as follows (and detailed in Exhibit B):

- A. **The Moulieres' plot plan and documents do not comply with Ordinance 3.207 as the proposed plans do not list ANY Right of Way (ROW) or an 'approved road' or its boundaries.**
- B. **The 5728 Plot plan and documents do not comply with 3.207A by abutting a private street by the entire width of the lot. The entire width of the lot abuts a parcel lot line (not a private road) and only a small fraction of the frontage is ingress/egress.**
- C. **The Moulieres' Plot plan and documents do not comply with Ordinance 3.207(B) as the Moulire Property does not provide for safe and convenient access for emergency purposes and fire protection vehicles.**
- D. **The Mouleire plot plan and documents violate the ZBA variance granted for a ZERO ft setback from the ROW by building within the ROW.**

- E. The Moulieres have not obtained a private road permit under Ordinance 163 despite requiring encroachment into the original ROW and violating the exemption.**
- F. Failure to conform to 6.08 and 6.03(2) - All pavement in a required yard must be less than 18” above grade to be exempted from being a structure. The retaining walls, driveway, and septic terrace wall are in excess of 18” in various locations in the required yards (and therefore structures per 6.08. All accessory structures must be more than 5’ from a rear lot line per 6.03(2).**
- G. Violation of 14.05B Watercourses and Wetlands. The failure to pursue and confirm compliance with wetland use requirements in Ordinance 178, maintain vegetative areas with setback demarkations, and placing cobble fill in setbacks. Plans neglect to create a unified stormwater management plan in keeping with Ordinance 178**

Notwithstanding the above ordinance violations and forgoing lack of details in the prints or disclosures, on April 18, 2022, the Township issued a Certificate of Zoning Compliance (“Certificate”) to the Moulieres to proceed with their construction project on the Driveway Easement and the Moulriere Property. The Moulieres’ plan violation of the Ordinance and the Township’s failure to enforce the Ordinance has caused significant harm to the Schusters and the Schuster Property, and poses significant health the safety risks to the Schusters, emergency responders, the public, and the natural features in the township.

VI CONCLUSION AND RELIEF REQUESTED (Action 2)

Consistent with the forgoing, we request that the ZBA revoke the Township’s approval of the Moulieres’ Certificate (and therefore Building Permit). It is simply NOT possible to rely on the outdated 12/15/21 prints - shown and acknowledged by the designer to not reflect actual location of proposed improvements, inconsistent with the Washtenaw County Health Plans and septic location..

The approval of a certificate of zoning compliance without accurate plot plans and prints at 5728 Geddes Rd, plans without ANY demarkation of ROW or an approved road boundary, is Arbitrary and Capricious. All setback measurements, frontage requirements, and emergency access confirmations are Arbitrary and Undocumented - posing a significant safety risk to the

community, emergency services personnel, and the Schuster parcel in particular as the dangerous conditions for the access already causes site visitors to make dangerous turnarounds and maneuvers in the proximity of steep grades and septic fields without a culdesac.

The absence of an Approved Road abutting the Mouliere Parcel by its entire lot width per the EXPRESS requirements of 3.207A is a material defect that must be independently reviewed for safety and possible variances. Ignoring this requirement is arbitrary and Capricious and poses a danger to all parcels on the Private Road.

Addition of retaining wall elements which 6.08 and 6.03(2) makes clear ARE structures when more than 18" above grade in a required yard (despite the generic structure exemption for paving in Article 17) and placing them at lot lines with assumed and unenforceable loading limits on neighbor parcels to determine safety is arbitrary and capricious, contrary to the law, and dangerous - especially in connection to emergency access routes.

We ask that the ZBA overturn the certificate of zoning compliance for 5728 Geddes Rd to allow for proper documentation and permitting in accordance with the full Zoning Ordinance. In the interim, we ask the ZBA and building department to place a stop work order to cease all excavations (particularly in the ROW) and to eliminate the undermining of steep slopes and risking of the protected wetlands on the project site, for the reasons cited in the OHM construction review dated 11/2/21 and the Tetra Tech report dated 5/16/22.

Very truly yours,

Matt Schuster

5766 Geddes Rd

Ann Arbor, MI 48105

Exhibit A

LEGAL DISCUSSION AND APPEAL

A. The Schusters are an aggrieved party as a result of the Township's failure to enforce the Ordinance, which has caused harm to the Schusters and the Schuster Property.

Preliminary, it is necessary to address the Schusters as an aggrieved party. Under Ordinance 13.06(1), appeals may be taken to the Board of Appeals by a person, firm or corporation aggrieved by the order, requirement, decision or determination; or by an officer, department, board, commission or bureau of the Township, county, state, or federal governments. Such appeals shall be filed within 60 calendar days of the order, requirement, decision or determination in question.

Under Michigan law, the term "standing" generally refers to the right of a plaintiff initially to invoke the power of a trial court to adjudicate a claimed injury. *Olsen v Chikaming Township*, 325 Mich App 170, 180; 924 NW2d 889 (2018). For zoning appeal purposes, a party aggrieved by a final decision from a zoning board may appeal to the circuit court for the county in which the property is located as provided under section 606. *Id.*; MCL 125.3605. The aggrieved party must allege and prove that he has suffered some special damages not common to other property owners similarly situated. *Id.* at 183.

It is undisputed that the access to 5728 Geddes Rd requires a Private Road. It is also undisputed that the Private Road must pass through and over the Schuster Parcel. It is disputed where the ROW and boundaries of the Private Road are located. The township has asserted that the ROW was established in 1996 with the land division approval of the property split (shown in Exhibit D). That split included easements (and therefore ROW) to support parcel C. The only access available to the Mouliere parcel is an easement for ingress and egress through the Schuster Parcel that does not specify Private Road Construction.

In this case, the Schusters have proffered substantial evidence to show that the Moulieres are developing the Driveway Easement in a manner that does not comply with the Ordinance and that is posing significant health and safety risks to the Schusters. The access has been designated a Private Road by the township serving both parcels. There are shown improvements placed onto the Schuster property within and near an access easement. This includes retaining walls, fences, swales, and grading. No other township resident is subject to these actions by the proposed development

- a. 4'+ retaining walls are being built on the subject property that are incapable of supporting living activities on the Schuster Property;

- b. 4'+ retaining walls are being built on the Schuster Property without any approval from Schuster, the fee owner of the land;
- c. Schuster is the fee owner of the Driveway Easement where a private road is being constructed without Ordinance compliance or design as a private road;
- d. The issuance of the Building Permit and Certificate was given to the Moulieres without a designated right of way and emergency turnaround for the Driveway Easement – this is an issue because the Driveway Easement does not accommodate fire rescue to the Schuster Property through the Driveway Easement.
- e. The Schusters are dominant easement holders over the Moulriere parcel in either the direct placement of the Moulriere home (original easement) or within protected wetlands impacted by stormwater runoff from the proposed development (contested easement location will ultimately be determined by the courts)
- f. The Schuster parcel is being diminished in value by the excessive excavation, grade alteration, and wetland impacts undertaken in the proposed development (by way of the above easements) that no other township resident is impacted by.

These are special damages under *Olsen, supra*, qualifying the Schusters as an aggrieved party. Accordingly, it is indisputable that the Schusters are an aggrieved party and this appeal must be heard by the ZBA.

Exhibit B

Details of Zoning Technical Ordinance Violations

- A. **The Moulieres' plot plan does not comply with Ordinance 3.207 as the proposed plans do not list ANY Right of Way (ROW) or an 'approved road' geometry or boundaries.**
- a. **It is the premise of the township that the 'approved road' from the land division in 1996 is in effect since the ROW was dedicated at that time. The ZBA confirmed this interpretation, and the township board exempted the parcel from the Private Road Ordinance instituted in 2004. However - the proposed development is building the home and the septic field WITHIN the ROW as approved in 1996 and the applicant misled the zoning official about the home location. Surveyor and Architect confirmation of placement is attached in exhibit C**
 - b. **The violation of the ROW is also shown in their approved septic plan (environmental health 3/21), which similarly was not disclosed as existing (after relocation from submitted plans) within the 'approved road' and its ROW**
 - c. **The plot plan construction clearly infringes into the contested pedestrian easement location.**
 - d. **The applicant at 5728 Geddes did NOT disclose the septic location to the ZBA in seeking a zero (0) ft setback from the ROW (which again is NOT dimensioned or labelled) and it is in violation of the granted variance**

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:

According to the ZBA interpretations of the Superior township zoning ordinance (3/30/22):

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.

The only zoning approval for plot plans on record with superior township for the division of property was issued in 1996 (attached). The plans indicate a ROW on the Mouliere parcel dimensioned as 65’ x 132.85’ x 105.74’. In 2018, the parcels were approved for consolidation, but the ROW was continued upon the approved drawing on parcel B as shown from 1996 without changes. If the ROW was to be considered altered by the 2018 consolidation, then 2004 private road ordinance would immediately be in effect and require a private road permit approval.

This ROW is not labelled or dimensioned on the 12/15/21 prints at all. Setbacks are not calculated from this ROW at all. Frontage is not calculated from this ROW at all. In fact, the 5728 residence is designed to be within the ‘approved road’ as shown in the attached analyses (exhibit C) conducted by an architect and surveyor using a CAD file obtained from the property owners agents through their litigation.

This infringement upon the ROW is in violation of ordinance and means that there is no shown ‘approved road’ warranting approval of the prints as presented.

It is obvious from the plan drawings that the residence is being sited at the 50’ setback demarkation despite the ROW reaching 65’ into the center of the Mouliere Parcel at 5728 Geddes.

If the “Approved Road” is being modified, a private road permit is required under private road ordinance 163 (which we strongly advocate for) and the definition of “Approved Road” adopted by the ZBA at the request of the zoning administrator. This private road ordinance was enacted to promote public safety and protection of natural resources - it is not a burden, and has provisions specifically to protect resident of challenging sites, such as a stormwater management plan provisions

- B. The 5766 Plot plan does not comply with 3.207A by abutting a private street by the entire width of the lot.**
- a. The entire frontage of the Mouliere parcel is abutting the Schusters parcel, not a private road running perpendicular to the frontage. Only a subset of the Schusters parcel frontage could be considered ROW, and there is NO culdesac present fitting the terms of the current zoning ordinance ordinance. This entire width deficiency is material as it was added in the current 2008 zoning ordinance as a requirement for establishing any principal use OR structure (even if a lot is grandfathered). The calculation of the frontage if the ROW on Parcel B is included in the Private Road (as determined by R. Mayernik and ZBA) would be determined by the turning radius of the vehicle turning circle (not documented or labelled) per 3.202A**

Ordinance 3.207A states:

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 66 feet wide unless a lesser width has been established and recorded prior to the effective date of this Ordinance.

As above,

This ROW on the 5728 Geddes Parcel is not labelled or dimensioned on the 12/15/21 prints at all. Setbacks are not calculated from this ROW at all. Frontage is not calculated from this ROW at all. In fact, the 5728 residence is designed to be within the 'approved road' as shown in the attached analyses (exhibit C) conducted by an architect and surveyor using a CAD file obtained from the property owners agents through their litigation.

Without frontage calculations shown or listed, it is IMPOSSIBLE to ascertain compliance with 3.207A. The drawing makes plain that the 'private road' involves the frontage to the Schuster parcel. However, the entire width of the Mouliere parcel fronts the entire width of the Schuster parcel and only a subset of the Schuster parcel is arguably ROW. It does not appear possible for the Mouliere parcel to meet 3.207A without a variance (which has not been requested). If there

is considered to be a cul-de-sac (despite clearly not being present to the definition in ordinance 174), it would need to be labelled, dimensioned, and setback from for safety.

Further, to eventually obtain a certificate of occupancy of the home at 5728 Geddes, “the roadway shall be constructed”(according to ZBA approve definition of approved road in the case of exempted Ordinance 163 lots, 3/30/22, interpretation #4, article 3). The 12/15/21 plans DO NOT DEMONSTRATE construction of a road. Per their designer, Shannon Gibb-Randall principal of Insite, under sworn deposition, the shown drive is ONLY a driveway and DOES NOT meet the design standards for a Road. (See attached Deposition Transcript at p. 30).

It is not possible to ‘grandfather’ the home development and use from the frontage requirement when it was created in 1996. Similar language existed as to the lot only. The adoption of Ordinance 174 in 2008 added the requirements for “Full Lot Width” abutment to ‘every principal use or structure which is established after the effective date of adoption or amendment of this Ordinance’. While the Lot at 5728 Geddes rd may be grandfathered in its existence as a legal non-conforming lot, new uses and structures are bound by its full width frontage requirement (for safe access) to a private ROAD. The Schuster parcel has submitted plans to the township which clearly indicated there will be another driveway on this private road, and a driveway may not meet the requirements for access, posing a safety concerns for all road parcels,

The approval of the plans for 5728 Geddes rd with a certificate of zoning compliance is arbitrary and contrary to the law and must be reversed for further documentation and variances.

- C. **The Moulieres' Site Plan does not comply with Ordinance 3.207(B) as the Moulriere Property does not provide for safe and convenient access for emergency purposes and fire protection vehicles.**
- a. **The presence in the ROW of the house, steep retaining walls, and a septic field presents a dangerous site for emergency vehicle access, which have no maneuvering space consistent with the required 66ft wide actual easement. Through May 17, there is NO RECORD of a fire marshal approval of the plot plan. The presence of an 8' drop at a turn within the 'approved road' (1996) and ROW presents a unique danger to ingress.**

3.207B states

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.

As of 5/17/22, there is no record of a Superior Township Emergency Access review or approval by the Fire Marshal for the plans at 5728 Geddes. The lack of a labelled ROW and the lack of approved plans documenting the construction and location of retaining walls within the ROW pose a significant hazard. The lack of ANY township approval for the septic field placed in the path of incoming traffic at a turn with an 8' drop inside the ROW is a clear public safety hazard. Further withholding this fact from the ZBA as it considered a variance from the ROW setback did not allow the ZBA to consider the hazards and a variance may well have been denied for this reason. The ZBA may have followed neighbor expressed concerns and limited the size of the variance to limit the home size - which could have allowed the home and septic to be placed outside the ROW entirely for safety concerns.

As stated above, the plans do not meet standards for a Private Road according to the designer, and it is simply not possible to ensure safe and convenient access without accurate plans (which deviate materially depending on the public body they were submitted to).

The approval of the plans for 5728 Geddes rd with a certificate of zoning compliance is arbitrary and contrary to the law and must be reversed for further documentation and variances.

- D. The Mouleire plot plan violates the ZBA variance granted for a ZERO ft setback from the ROW**
- a. The presence of the home and septic field in the ROW as shown indicates the lack of conforming to a ZERO ft setback. The crossing of the ROW boundary invalidates the Variance and requires new ZBA consideration.**
 - b. The relocation of the ROW and relocation of the Septic location within the path of emergency vehicles was NOT presented to the ZBA despite being made available to Moulieres. The ZBA granted a variance for an earlier plan without knowledge of the ROW encroachments clearly shown in the Atwell drawing approved by Environmental Health and withheld from the ZBAs review. A smaller structure footprint would NOT infringe in the ROW and would require smaller Septic fields which would NOT encroach into the ROW (or would encroach less). This is a classic self created hardship, if a hardship at all.**

The variance granted on 1/12/22 is under court appeal. The revelation that the applicant withheld disclosure of the septic field relocation and further wall requirement voids any conceivable variance validity. The ZBA was requested to approve the Zero ft setback by the Zoning Administrator who relied upon the representations of the applicant that it was NOT building within the ROW.

Attached are analyses by a surveyor and architect using the applicants own CAD files that shows the home construction and septic field are both within the ONLY approved road ROW, which was not labelled.

That the applicant applied for a 0' setback. It is possible that a smaller footprint home and its resulting smaller septic field requirements, could have avoided the further infringement in the ROW. As ALL neighbors to the subject documented in advance of the 1/12/22 hearing - the large footprint of the proposed home is a self created hardship which had created the conformance burdens on a challenging lot with natural features worth protecting.

The approval of the plans for 5728 Geddes rd with a certificate of zoning compliance is arbitrary and contrary to the law and must be reversed for further documentation and variances.

- E. The Moulieres have not obtained a private road permit under Ordinance 163.**
- a. If the ROW and private road dedicated in 1996 is not to be observed (building house and septic within the private road section on the Moulriere parcel), it is not exempted and requires a new private road permit. The requirement of Washtenaw Environmental health that the septic field be placed 50' from a wetland precludes maintenance of the exempted 'private road' and requires fresh private road vetting for approval.**

The Schusters have long advocated that a private road permit was required by the operation of land division act in 2018, the plain language of the Private Road Ordinance, and in the interests of public safety, protection of first responders, and the protection of natural resources.

The revelation that (despite assurances to the contrary) the 5728 Development was placing building improvements including a residence, a septic field, and numerous retaining walls directly within the ROW of the only approved road demonstrates that the 'exemption' of this ROW is lost. This ROW had been repeatedly exempted from conforming to the Private Road ordinance, and these misrepresentations and encroachments highlight an attempt to evade an ordinance that was adopted more than 15 years ago ONLY to promote cooperation between neighbors and protect public safety, welfare, and the environment.

It appears that the required septic location (per Washtenaw County Health Department requirements) precludes further exemption of the private road ordinance. In addition, the township holds proof that another lot was added to the Private road by granting an easement on 11/9/21 recorded on liber 5455 page 242 (attached). Per the terms of the private road ordinance, this new lot eliminated exemption of the private road from permit requirements.

The approval of the plans for 5728 Geddes rd with a certificate of zoning compliance is arbitrary and contrary to the law and must be reversed for further documentation and variances.

- F. Failure to conform to 6.08 and 6.03(2) - Retaining Walls and terraces encroaching in required yards as part of required emergency vehicle access deviating from ‘approved road’ and created by grade alterations**
- a. The Zoning Administrator arbitrarily exempted all retaining walls from being considered structures (due to being ‘akin’ to pavement) without conformance to 6.08 (access through yard)- any walk, terrace, or other pavement serving a like function is limited to 18” above adjacent grade to be not considered a structure.**
 - b. The township attorney (F. Lucas) and Zoning Administrator documented in 2021 that retaining walls bordering the 2 parcels would be considered structures and accessory (letter attached). Since they are more than 18” tall and in a required yard - they are no longer exempted due to the stricter ordinance limitation in 6.08 and 6.03(2) states “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”**
 - c. In particular, the driveway in the required rear yard at 5728 Geddes (near the garage) is elevated more than 18” above grade and serves a similar purpose - in violation of 6.08.**
 - d. The entire access has retaining walls (pavement per the ZA) and paving on the 5728 Geddes Parcel as a terrace on the hillside (paving up the hill) 4.5’ above paved drive and septic field 8’ below grade of paved drive. These retaining walls are either walls (and therefore structures) or paving more than 18” above adjacent grade (and therefor structures losing the 18” exemption per 6.08 in required yards) and violate 6.03(2) as accessory structures within 5 ft of a rear lot line**
 - e. Further - the approved prints dated 12/15/21 comprehend retaining walls that encroach on the neighboring parcel (Schuster Parcel) by at least 8” by print design per sworn deposition of Insite principal Shannon Gibb-Randall. (See attached Deposition Transcript at p. 31).**

The ZBA adopted a general interpretation on 3/30/22 that retaining walls are not structures under the definition 17.02.207 and permitted encroachments in certain circumstances under 3.203(G)

(1). Despite these general allowances (which this applicant is appealing to circuit court) the zoning ordinance carries additional tests for location of paving, paved surfaces, and structures. The ordinance is constructed to use the most restrictive.

1.04(1) states:

Minimum requirements. The provisions of this Ordinance shall be held to be the minimum required for promoting and protecting the public health, safety, and general welfare, and shall be uniform for each class of land, buildings, structures, or uses throughout each zoning district. Wherever the requirements of this Ordinance are at variance with the requirements of any other adopted rules, regulations, or ordinances, the most restrictive or those imposing the higher standards shall govern.

6.08 states - Access Through Yards.

For the purpose of this Ordinance, access drives may be placed in the required front or side yards so as to provide access to rear yards or accessory or attached structures. Any walk, terrace or other pavement serving a like function and not in excess of 18 inches above grade shall be permitted in any required yard and not be considered to be a structure.

6.03(2) states

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 as follows:

6.08 states a maximum limit on exempted structures, particular to those related to access and pavement. That EXPRESS limit for not being considered a structure is 18" above adjacent grade.

This secondary requirement in the ordinance is specific to access in required yards. Based upon the plans submitted to the township for 5728 Rd (and indeed some portions of 5766 Geddes Rd) parts of the access to 5728 and retaining walls on both parcels EXCEED 18" above adjacent grade. According to 6.08 - they must specifically be considered structures if they are located within a required yard. This is a clarification of the general definition in section 17 (and subsequent ZBA interpretation) which specifically regulates access and paving within required yards.

This ordinance section (6.08) is more specific than the generalize structure definition exemption. It makes clear that any paving related to access within a required yard is limited to 18" above grade to be exempt. It is not dependent on the height definition of a retaining wall. If it is +18" above grade (any grade) - it is a structure - especially if its associated with access. Given that retaining walls related to access in this development are therefore structures, this plan violates

the site plan exemption for single family residences by placing retaining walls (that 5766 Geddes does not want and are not accessory to our parcel use) on multiple parcels in violation of the exemption under 10.02A(3)1. The decision to split the retaining wall into 3 sections is a matter of form over function. It is clearly retaining more than 10 ft of earth over 3 sections. It is an arbitrary allowance to permit this as an exemption at 4' when the upper walls are clearly load bearing on the lower wall. The engineering analysis was conducted as a single unitized structure, at the request of OHM (who has stated concerns on this wall).

Even if the tortured justification for exempting retaining walls from the requirement of 3.203(G)(1) is maintained, 6.03(2) makes a specific prohibition from placing the structures (above 18" elements) within 5 ft of a property line. THIS IS A SEPARATE TEST from 3.203(G)(1). The ordinance was NOT contemplating allowing 10+ ft walls without a variance in the close proximity of a lot line. This same consideration is found in the township engineering standards, which specifically precludes retaining walls within 2 ft of a lot line

Significant retaining walls are contemplated by the 5728 plans that are within 5' from the property line and severely undermine structural integrity of the parcels. This specific prohibition of structures at the lot line in 6.03(2) is an explicit acknowledgement that the owner of one parcel does not control the loading of weight or use on the opposing side of the lot line. I have attached an engineering review taking issue with the design weight bearing capability of the retaining walls proposed upon the lot line (Clif Sieber, exhibit C). The township engineers (OHM) have similarly cited numerous times about concern over retaining wall collapse and/or inability to properly and safely construct. The walls as currently listed appear to only be designed to 50 lbs per sq ft load bearing despite no ability to restrict the use opposite the wall to that (artificially low) limit. I disclosed plans to the township to develop parts of my parcel impacted by these walls at weights exceeding 50 lbs per sq ft. The walls as designed are not satisfactorily safe to preclude failure due to norm use indications.

As a confirmation that the township has longstanding previously considered retaining walls to be accessory and structures, I have attached a letter from Fred Lucas in 2021 specifically stating such. If the township were truly interested in exempting retaining walls from ordinance regulation - It would pursue an ordinance update, not waiving requirements.

The approval of the plans for 5728 Geddes rd with a certificate of zoning compliance is arbitrary and contrary to the law and must be reversed for further documentation and variances. I request that the ZBA overturn the certificate of zoning compliance and remand this application to the planning and zoning department for a site plan review under the ordinance to protect all involved residents due to the significant retaining walls crossing lot lines and requiring CLEAR maintenance requirements (again OHM concern). This development is ANYTHING but a standard SFR with minor needed review.

Stated purposes of the zoning ordinance is:

1. Promoting and protecting the public health, safety, and general welfare;
3. Regulating the intensity of land use; and determining lot areas and open spaces necessary to surround buildings to provide adequate light and air;
6. Providing adequate light, air, privacy and convenience of access to property, and promoting healthful surroundings for family life in residential and rural areas;
9. Preventing the overcrowding of land and undue concentration of buildings so far as is possible and appropriate in each zoning district by regulating the use, height, location, and bulk of buildings in relation to the surrounding land;

Given the complexity of the Access Road, Retaining Walls, and Wetlands onsite impacting the entire community, following a Site Plan process is the only way to ensure long term viability of the development.

- G. Violation of 14.05B Watercourses and Wetlands. The failure to pursue the private road permit (Ordinance 163) and and confirm compliance with wetland use requirements in Ordinance 178 NEGLECTS to create a unified stormwater management plan**
- a. The plot plan indicates fill (swales and riprap) within the 25ft setback of 14.05B4f2**
 - b. placing of perforated drain pipe in violation of 14.05B4f1**
 - c. removal of vegetation in violation of 14.05B4e1**
 - d. failure to complete plans approved under ordinance 178 and replacement with full contact foot paths**
 - e. All the above impacts alter the wetlands and infringe upon the Schusters quiet enjoyment of the pedestrian easement within the proposed relocated easement.**

Attached is a report from a wetland consultant which identifies failures of the existing site conditions and develop plans to confirm to the required elements of 14.05B and Ordinance 178 permit conditions. The 5728 property owner has made a choice to relocated a pedestrian use easement at the center of their parcel arbitrarily in a wetland (per sworn deposition). Approval of a wetland use permit is dependent on the land use approval, and requires a stormwater management plan (just as the private road ordinance does). The failure to abate stormwater runoff into the wetland (threatened to further flood the relocated easement) is a violation of the wetland permit land use conditions, as is relocating a use into the wetlands where the applicant has an alternative.

The presence of an issued wetland permit in advance of a land decision use is an allowed condition that the wetland permit specifies is entirely dependent on the eventual approved land development use (178-06 f.1). This application is deficient for a finding of zoning compliance in section 14.05B (as a project requiring a certificate of zoning compliance) due to the reasons cited in the attached reports from Tetra-Tech. The Carlisle Wortman Report dated 11/2/21 Cites similar concerns over wetland impacts.

The approval of the plans for 5728 Geddes rd with a certificate of zoning compliance is arbitrary and contrary to the law and must be reversed for further documentation and variances.

Exhibit C

Professional Reports Supporting ROW Infringement and Material Misrepresentation

- 1) **Clif Seiber Report**
- 2) **Architect Analysis of Building Placement**
- 3) **Surveyor Analysis of Building Placement**
- 4) **1996 Approved Split (showing ROW)**
- 5) **2018 Approved Consolidation (showing ROW)**

-Mayernik Denial of Plans due to ROW building

-Architect representing building location in response to denial of plans and misleading statements

-12/15/21 G-201 (Annotated)

-Email confirming Changes to 12/15/21 Plans to obtain Septic Permit

-Washtenaw County Environmental Health Approved Drawing

-Above Drawing with annotations

Exhibit D

Professional Reports supporting Exhibit B technicals

- 6) Clif Seiber Report**
- 7) OHM Report citing construction/infringement concerns**
- 8) Carlisle Wortman Report citing construction and Wetland Concerns**
- 9) Tetra Tech Report**
- 10) Tetra Tech Report**
- 11) Deposition Excerpt of Shannan Gibb-Randall**

15 December 2021

Richard Mayernik
Township Hall
3040 North Prospect Street
Ypsilanti, Michigan 48198
(734) 482-6099



RE:
Building Permit Application 5726 Geddes Road

Dear Mr. Mayernik,

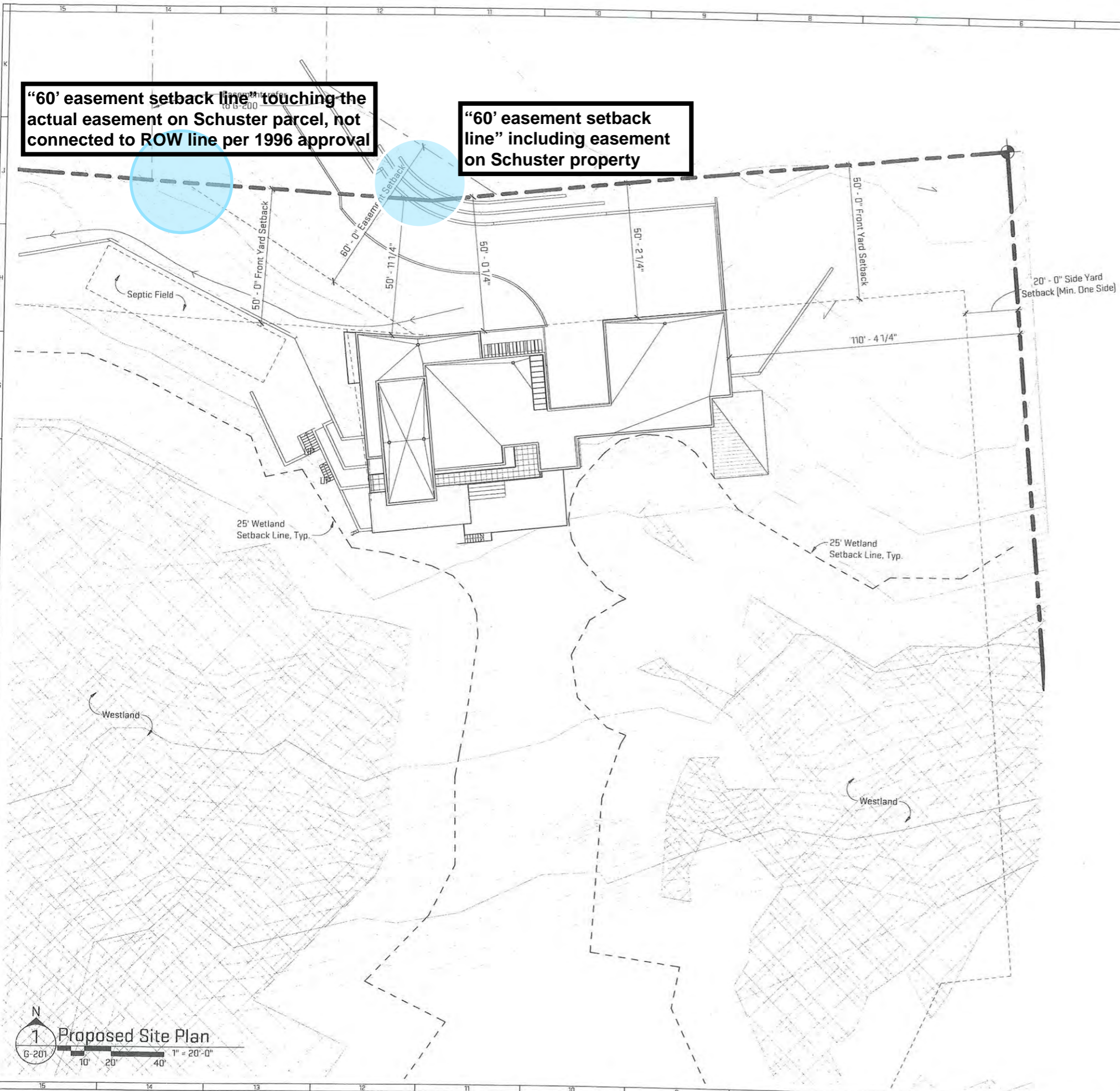
Please find below our response to the review comments and requested information for the Moulriere Residence at 5726 Geddes Road. The responses below are numbered to match the comments we received from the review process.

No.	Comments or Requested Information
1	<i>Setbacks from private road rights-of-way are required to be equal to the zoning district front yard setback. The subject parcel is zoned R-1 and a 60' setback is required per section 3.101. In fact, while not illustrated on the submitted drawings, it appears the subject home is located in the right-of-way.</i>
	Sheet G-201 shows the private road easement and the required 60' setback. The proposed building does not encroach into the setback.
2	<i>The submitted site plan (sheet G-201) is not adequate. The private road easement is not illustrated. The limits of the wetlands are not illustrated. Grading elevations and storm water management elements are not shown. Specific locations, heights and designs of site retaining walls are not shown on the site plan nor elsewhere on the plans.</i>
	Additional information was added to sheet G-201. Sheets G-200 (Existing Site Plan) and L-2 (Grading Plan) were added to show the existing site including the private road easement and extents of wetland. Sheet L-2 shows grading on the site and storm water management elements.
3	<i>Sheets G-100 and G-201 indicate conflicting home and garage square footage - which is correct?</i>
	Square footage has been confirmed and corrected between sheets.
4	<i>Notes on sheet S-012 indicated "construction surcharge on retaining wall to be determined." Who will be determining the surcharge if not the engineer?</i>
	Sheet S-012 has been updated with the construction surcharge information.
5	<i>Plans do not indicate specific steel beam sizing, footing sizing and foundation wall sizing and reinforcement (other than "typical" details) for the home or for site retaining walls.</i>

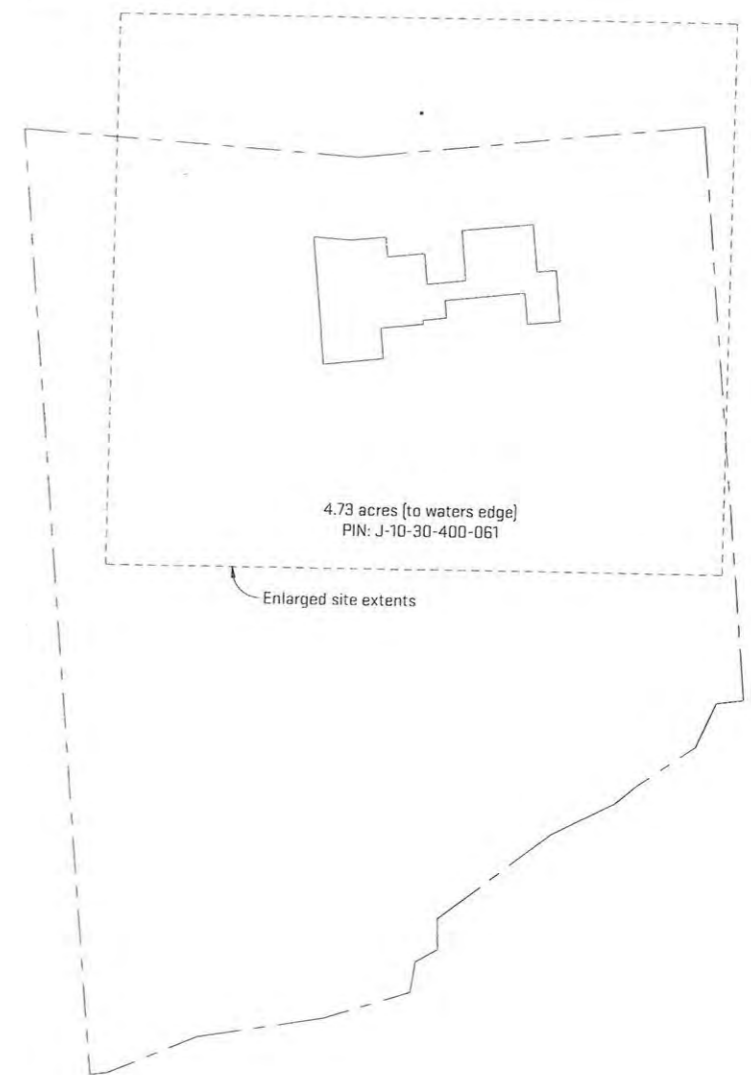
Plot Date/Time: 12/15/2021 8:42:40 AM File Path: C:\Users\srowse\Documents\MRP21_SarahRowse.rvt

"60' easement setback line" touching the actual easement on Schuster parcel, not connected to ROW line per 1996 approval

"60' easement setback line" including easement on Schuster property



Parcel Sketch



Building Information

Area and Height Regulations		
	Existing Required	Proposed
Zoning	R-1	No change
Building Sizes		
Proposed Residence Size		11,712 sf
Proposed Garage - Attached		1,178 sf
Required Setback Line Minimum and Maximum Dimensions		
Rear Yard Setback	50' - 0"	50' - 4"
Side (West) Yard Setback	20' - 0"	No change
Side (East) Yard Setback	20' - 0"	198' - 4"
Riverside Setback	25' - 0"	550' - 0"
Maximum Height	35' - 0" / 2 stories	No change
Minimum Gross Lot Size		
Minimum Gross Lot Area	2 acres	No change
Minimum Lot Width	200 feet	No change

Refer to G-200 for site survey



Job Title:
Mouliere Residence
5728 Geddes Road, Ann Arbor, MI 48105

Sheet Title:
Architectural Site Plan
Released For: Revised Permit



12/15/2021
SCN-MRP21
G-201

Scales listed are for 22x34 drawing size

From: Daniel Snyder <tdsnydercontracting@gmail.com>
Sent: Tuesday, March 1, 2022 12:39 PM
To: Todd Pascoe <TPascoe@atwell-group.com>
Subject: Re: revised Moulriere

Hey Todd,
Just checking in again. Sorry to push you. I believe Steve's sign off is my last piece to this two year long puzzle for permits.

Thanks

Dan Snyder

Sent from my iPhone

On Feb 25, 2022, at 1:13 PM, Daniel Snyder <tdsnydercontracting@gmail.com> wrote:

Thank you sir!

On Fri, Feb 25, 2022 at 1:06 PM Todd Pascoe <TPascoe@atwell-group.com> wrote:
We'll make Steve's revisions and remove the treehouse.

I'll email a plan to Steve for approval prior to having final prints dropped off

Sent from my iPhone

On Feb 24, 2022, at 12:11 PM, Daniel Snyder <tdsnydercontracting@gmail.com> wrote:

Hey Todd

I left you a VM as well. Steve said he was going to talk to you. But want to make sure it's cleared up. For now we are going to remove the tree house that is over top of the existing well. So I Steve requested you remove the tree house overlay portion of the house so we can keep the existing well until I find water elsewhere. If you haven't already done this can you send it to him ASAP. Thank you.

Dan

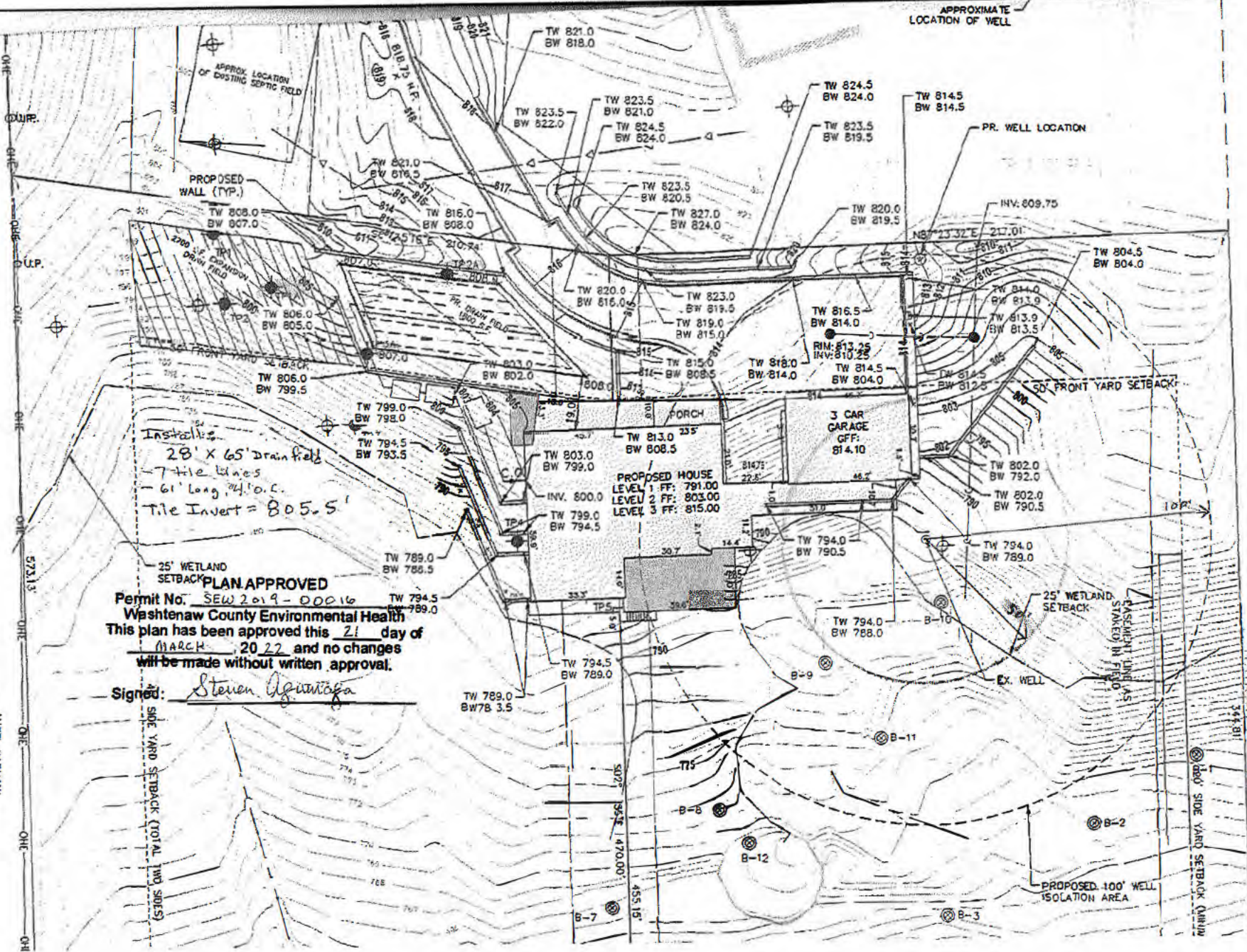
On Fri, Feb 11, 2022 at 3:50 PM Todd Pascoe <TPascoe@atwell-group.com> wrote:

Dan,

Should I go ahead and submit septic design back to Steve at WCHD?

Todd Pascoe, PE
ATWELL, LLC

APPROXIMATE
LOCATION OF WELL



Install:
28' x 65' drain field
- 7 tile lines
- 61' long, 24" i.d.
Tile Invert = 805.5'

PLAN APPROVED
Permit No. SEW 2019-00016
Washtenaw County Environmental Health
This plan has been approved this 21 day of
MARCH, 2022 and no changes
will be made without written approval.

Signed: Steven Aguirreaga

ELABE M. QUIRK
PH: J-10-30-400-024

N02708.35' 360.00'
144.81'

ANIEL KARNANI
PH: J-10-30-400-052

SIDE YARD SETBACK (TOTAL TWO SIDES)

SIDE YARD SETBACK (MIN)

PROPOSED 100' WELL ISOLATION AREA

25' WETLAND SETBACK

25' WETLAND SETBACK

PROPOSED WALL (TYP.)

2700 SF DRAINAGE FIELD

PORCH

3 CAR GARAGE
G.F.F.: 814.10

PROPOSED HOUSE
LEVEL 1 FF: 791.00
LEVEL 2 FF: 803.00
LEVEL 3 FF: 815.00

50' FRONT YARD SETBACK

50' FRONT YARD SETBACK

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APPROXIMATE LOCATION OF WELL



Note that lines meet unlike G-207

Septic field relocated from 12/15/21 plans into 1996 ROW, lines visible crossing field and house

Install 2" x 6" drain field
- 7 tile lines
- 61' long, 24" o.c.
Tile Invert = 805.5'

PLAN APPROVED
Permit No. SEW 2019-00016
Washtenaw County Environmental Health
This plan has been approved this 21 day of MARCH, 2022 and no changes will be made without written approval.

Signed: Steven Aguirreaga

Removed Treehouse from 12/15/21 plans

ANIEL KARNANI
P.N. J-10-30-400-052

ELABE M. QUIRK
P.N. J-10-30-400-024

N02708.35' 360.00'

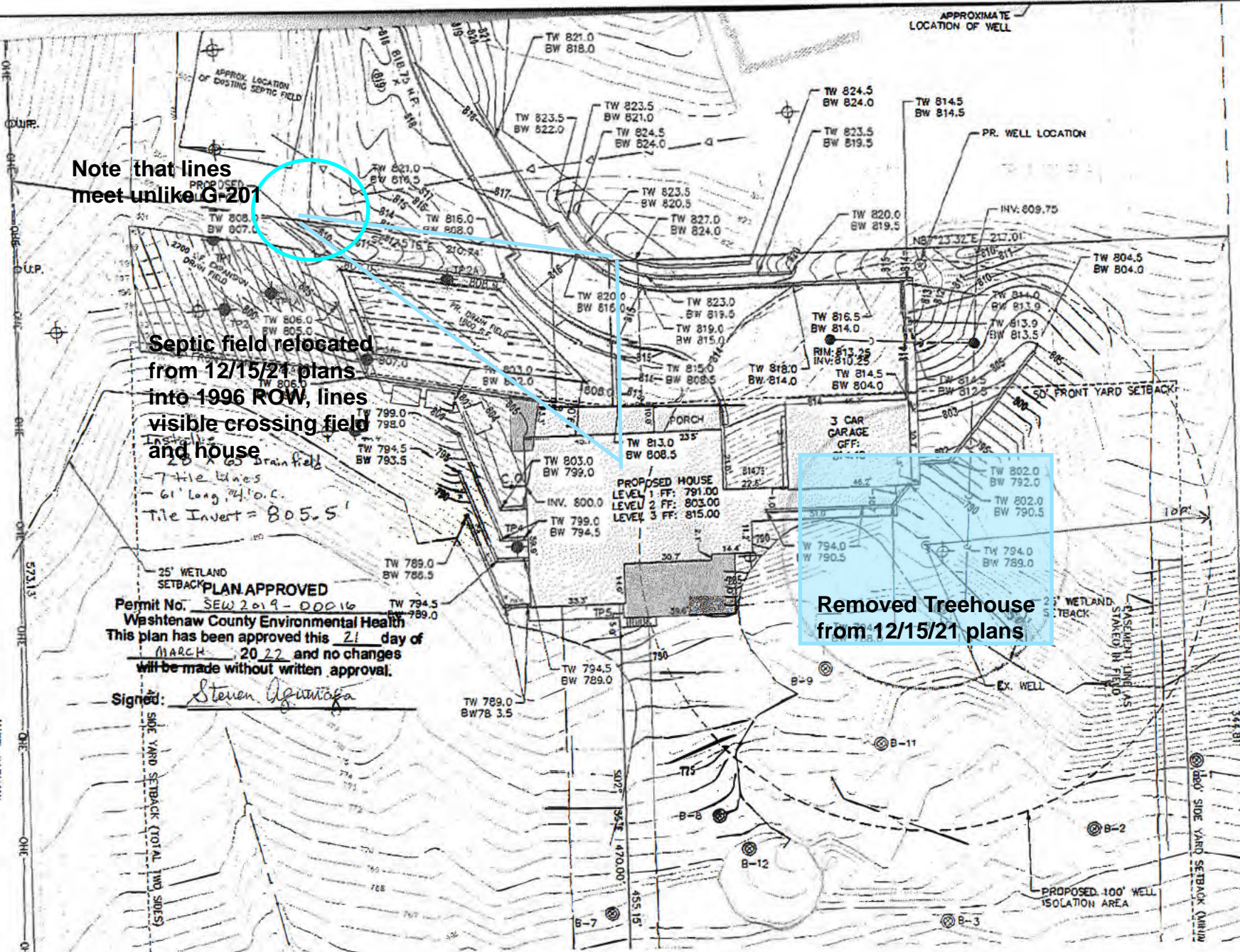


EXHIBIT D

SEIBER ENGINEERING, PLLC
CONSULTING ENGINEER

CLIF SEIBER, P.E.

8145 BENNY LANE
WHITE LAKE, MI 48386-3507
Phone No. 248.231.9036
E-mail: cs@seibereng.com

March 26, 2022

Mr. Matthew A. Schuster
5766 Geddes Road
Ann Arbor, MI 48105-9331

Re: **Mouliere v Schuster**

Dear Mr. Schuster:

As you requested I have conducted a review of the architectural drawings for the Mouliere Residence submitted to the Superior Township Building Department on January 19, 2022. Those plans included sheet L-2 by the Insight Design Studio, Inc. (IDS) entitled Grading Plan, bearing a most recent revision dated of 12-15-21, and sheets G200 and G201. Also included in my review was the letter issued by OHM, the consulting engineers for Superior Township, dated February 28, 2022. The following are the comments generated by my review for your consideration.

Retaining Walls

The IDS plan proposes a series of retaining walls in a terraced configuration. The separation between the 3 walls is not provided on the plan, however, they scale approximately 3 feet between the back of a wall to the face of the wall behind it. Proposed elevations indicate the top of the highest wall at 827.0 while the driveway is 815.2, for a total retaining height of 11.8 feet (See photograph below.)

The retaining wall system being proposed is a Redi-Rock gravity wall. Such a wall relies on the sheer weight of the blocks to retain the earth loading behind them. Three wall sections were provided that included an 8-block wall (11' high), a 3-block wall (4' high), and a typical gravity wall detail. Due to the use of a gravity wall system, no tie-backs or spread footings are proposed that would encroach onto your property. Please note that both the 3-block and 8-block high sections shown as "Load Condition A", state that no live load surcharge is included. Accordingly, it does not provide for loading such as tractors, riding mowers or any vehicles that may be used in your back yard.

The highest wall noted on the Grading Plan is 4.5 feet (821 TW/816.5 B/W). At the highest point on the wall, the height is 11.8' while the horizontal distance is scaled at 8 feet between the face of the highest wall to the driveway surface. The plan also shows a distance of only 3 feet from the face of the top wall to the property line. Since the top retaining wall shows a maximum height of 3 feet, it is assumed that the 3-block high wall will be utilized at that location. The design calls for a 28" block plus 12" of stone placed behind it, for a total of 40", plus 1-5/8" for

the batter angle. Therefore, the proposed wall construction would encroach onto your property during construction and upon completion of construction.



Existing 12-foot high excavation along property line.

Note 3 under General Comments in the OHM letter states that ***“The retaining wall design and calculations should be prepared by a licensed professional engineer (PE) in the State of Michigan.”*** This design requires a structural engineer for the wall, but also the review of a geotechnical engineer to determine earth loading based on the existing soils. I note that the G2 Consulting Group provided the Report on the Geotechnical Investigation and they could provide earth loading information to the structural engineer.

The IDS plan calls for a Guard Rail that runs along the back of the retaining walls and along your property line. No detail is provided for the Guard Rail on the plan. Such a railing system must meet Building codes for height and strength, and should be shown on the plan.

I understand that no permit has been applied for or granted to build retaining walls under the 2015 Michigan Residential Code or the Township Zoning Ordinance despite the limitation of the permit exemption in R 408.30505 to “[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, unless supporting a

Mr. Matthew A. Schuster

March 26, 2022

Page 3

surcharge.” The proposed retaining walls will exceed 4 feet in height measured from the footing to the top of the wall and will bear a surcharge. Therefore, a permit should be required under the Residential Code for the retaining walls proposed within the easement as well as for the walls located on Mouliere property.

The excavation that has occurred in preparation for the retaining walls has left a near vertical embankment (see above photograph). The Executive Summary prepared by the geotechnical engineers, G2 Consulting Group, states:

“Where sloped excavations can be made, we recommend a maximum slope of 2 horizontal units to 1 vertical unit (2H:1V). Where sloped excavations are not possible, shoring will be required to support vertical cuts.”

They further recommend that the design of the shoring be developed by a registered professional engineer with substantial experience in geotechnical engineering. Although that paragraph refers to the main and lower level house construction, the need for shoring remains the same for the retaining wall systems.

Leaving exposed excavations steeper than the slopes described by G2 Consulting Group, present dangerous and hazardous conditions to the workers and you, the adjacent land owner, due to the possible collapse of the earthen embankment. This issue should be addressed as soon as possible.

Based on the above comments, I recommend the following:

1. That detailed retaining wall design and calculations be provided by a structural and geotechnical engineer licensed in the State of Michigan.
2. That live loading be included in the design calculations.
3. That the wall be sufficiently moved away from the property line so as not to encroach on your property during and after construction.
4. A detail of the Guard Rail should be provided that complies with Building Code requirements.
5. A building permit for construction of the retaining walls should be secured in accordance with the 2015 Residential Building Code.
6. Shoring of the exposed retaining wall excavation should be installed in accordance with the recommendations of the G2 Consulting Group.

Proposed Driveway

The driveway grading proposed on the IDS plan indicates a maximum driveway slope by scaling at 3.3% (1 foot of drop in 30 feet). Maximum driveway slopes by industry standard is 8 to 10 percent or 8 to 10 feet of elevation drop in a 100-foot distance. The driveway elevations next to the house are proposed at 814 and 815 resulting in a 2.5% slope. If that slope is increased to 4%, and the next 80 feet of driveway would be sloped at 8%, the elevation shown as 817 would be raised to 821.4. This would eliminate 50 feet of retaining wall along the easement line and reduce the height of roughly half of the remaining walls. The amount of grading and cut on your property within the easement would be greatly reduced.

A second alternative is to simply raise the finish grade of the proposed Moulriere house. Such an adjustment would reduce the height of the retaining wall system.

Thirdly, as described in my affidavit, the existing access road contained within the 15-foot wide easement, is sufficient and adequate for providing vehicular access to the Moulriere parcel. The width of the currently proposed driveway is 14 feet wide and would fit within the 15-foot wide easement.

At a distance of approximately 90 feet from Geddes Road, an existing depression exists east of the proposed driveway. The overflow route from this depression is to the west, across the proposed driveway. Additional grades should be provided to ensure that the driveway is not raised above the existing ground elevations. If the ground elevations were raised, it would result in additional ponding on your property. In the alternative, a culvert should be placed under the driveway to ensure an outlet is maintained from this low area.

In conclusion, there are several alternatives available that provide less impact on your property than what is being proposed.

Boardwalk

As stated in my previous affidavit, the boardwalk construction did not comply with the approved plans. That affidavit read:

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

During my visit yesterday, March 21, 2022, I noted that the easterly side of the deck, approximately one-third of the distance from its southerly end, had sunk 1-1/4" during the winter months. Due to the existing unstable soils that the deck was built on, I expect this movement to continue. See photograph below.



Emergency Access

Section 3.207 B. Access for Emergency Services and Parking and Loading Areas of the Superior Township Zoning Ordinance states:

“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 or emergency purposes and fire protection vehicles...”

The plan should demonstrate that emergency services including fire truck access can be achieved as required by the Township Fire Marshall.

Access to Public or Private Streets

Section 3.207 Access to Streets, of the Superior Township Zoning Ordinance states:

“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 66 feet wide unless a lesser width has been established and recorded prior to the effective date of this Ordinance”.

It appears that the Mouliere Parcel does not meet the requirement that the “entire width of the lot” abuts a “public or private street” necessary to establish a principal use or structure. The right-of-way and all pertinent dimensions must be shown on the plans as required so that the exact calculations can be reviewed and confirmed.

I hope this provides the information that you were looking for. If you have any questions regarding the items contained in this letter, please contact me.

Sincerely,

SEIBER ENGINEERING, PLLC

A handwritten signature in black ink, appearing to read "Clif Seiber", with a long, sweeping underline that extends to the right.

Clif Seiber, P.E.



February 28, 2022

Mr. Richard Mayernik
Chief Building Official
Superior Charter Township
3040 N. Prospect Rd
Ypsilanti, MI 48198

RE: 5728 Geddes Road site
Civil Plan Review No. 1

Dear Mayernik:

At the request of Superior Township, we have provided a review of the plot plan/grading plan related documents that were provided to us on January 21, 2022. Our review is focused on various aspects of the site work to construct a new single-family house at 5728 Geddes Road, which include site grading, drainage, and landscape retaining walls. Our comments are based on our knowledge of typical civil engineering practice and industry criteria, and are outlined below:

General Comments

1. We assume that soil erosion control aspects of the site work are under the jurisdiction of Washtenaw County Water Resources Commissioner's (WCWRC) Office, Soil Erosion Division, therefore our comments related to soil erosion are recommendations based on engineering principles to minimize erosion.
2. As we understand, Township Engineering Standards only apply to formal site plan submittals, and the Township Private Road Ordinance does not apply to this scenario. Therefore, our technical review comments are based on standard engineering practice and the technical expertise of our staff, not on published local or County engineering standards.
3. Although retaining wall material sheets were provided to our office on February 23, 2022, for Redi-wall material and related typical details and data sheets, for our office to perform a cursory review of the retaining wall an engineering design and related structural calculations are necessary. This retaining well design and calculations should be prepared by a licensed professional engineer (PE) in the State of Michigan.

Sheet G-200 Existing Site Plan (Page 6)

4. Show and label all existing ditches on the plan sheet.
5. It is not clear if the boathouse is proposed or existing. Applicant's engineer should clarify this on the plan.
6. There is a label "Proposed Footpath", but no footpath shown on the plan sheet. Applicant's engineer should clarify and update as necessary.
7. There is a label "Path to Boathouse", but no path shown on drawings. Applicant's engineer should clarify and update as necessary.



8. There is a label for a 30' wide easement running north/south through the property. Is this an access easement for the parcel to the north? Is this an existing easement that needs to be shown on the plans or should it be vacated? We ask the Applicant's engineer to clarify these questions on the next plan submittal.
9. There is a label for a 15' wide easement running north to southwest next to the proposed drive. The Applicant's Engineer should clarify if this easement is existing or proposed and label on the plans accordingly.

Sheet L-2 Grading Plan (Page 9)

10. Items 4 – 9 listed above under Sheet G-200 may also apply to this sheet for modifications.
11. The Applicant's Engineer should show all proposed swales on the plan sheet with appropriate grading and labels.
12. The Applicant's Engineer should provide check dams along proposed and existing ditches (outside wetland areas) to minimize stormwater runoff velocities and reduce long term erosion impact.
13. We question if it is possible for the Applicant's Contractor to construct retaining walls without encroaching the property to the north. We request the Applicant's Engineer or Contractor provide a narrative regarding construction of the retaining wall and how they intend to maintain construction impact on this property only during construction.
14. There is a label "Guard Rail" at beginning of curb and gutter on the northeast side of the driveway. We question whether this guard rail is necessary at this location. The Applicant's Engineer should clarify if this is based on interpretation of an engineering standard or for another reason. If required, clearly show the extent of the proposed guardrail, as well as its type and length on the plans for further evaluation.
15. The proposed catch basin/inlet east of the parking area with Rim 803 would not collect the entire drainage area upgrade of the retaining wall. We recommend modifying the grading plan by creating a low point at the catch basin to collect as much runoff in the immediate area as possible before sheeting over the wall.
16. Provide typical detail for the Cobble Swales. We recommend designing them as wide and shallow as practical with existing constraints.
17. We recommend installing riprap at the outlet of the 4" perforated pipe (located south of broken foundation south of proposed house).
18. We recommend placing a drainage inlet on the south gutter line of the driveway to the northwest of the entrance of the house to help control drainage run-off in this vicinity.
19. Depending on the depth of permanent water in the pool area, it may be optimal to submerge the proposed inlet pipe to further dissipate energy at the pipe outlet into this area while reducing downstream velocity and erosion concerns. We ask the Applicant's Engineer to evaluate this option further.
20. Assuming there will be one 3/4 inch orifice at each level of the pool outlet as labeled on the plan sheet, that discharge rate may not be adequate to avoid stormwater runoff quickly overflowing the concrete wall, and therefore minimizing the benefit of the restriction. We ask that stormwater calculations be provided to identify the proposed discharge rate of the orifice control that has been designed at this location. Would larger orifices be more beneficial to reducing the time to overflow the pool cap during small to moderate rain events? What size notch is recommended at the top of the pool cap as an overflow?



21. We recommend that silt fence or other erosion control methods be implemented around all excavation limits and to note this requirement on the plans. Ultimately methodology and implementation will be per jurisdiction of WCWRC SESC division.

If you have any questions regarding our review comments outlined above, please do not hesitate to contact me at 734-466-4439. If requested by the Township, we can review an updated version of the relevant plan sheets upon resubmittal by Applicant.

Sincerely,
OHM Advisors

George Tsakoff

Digitally signed by George Tsakoff
DN: cn=US,
o=George Tsakoff@ohm-advisors.com
ou=OHM Advisors, ou=Municipal
c=George Tsakoff
Date: 2022.03.01 19:51:53-0500

George Tsakoff, PE
Principal

cc: file



Carlisle | Wortman
ASSOCIATES, INC.

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

To: Rick Mayernik, Superior Township Building and Zoning Official
From: Chris Nordstrom, Township Wetland Consultant
Ben Carlisle, Township Planner
Date: November 2, 2021
RE: Construction Impact Inspection for 5728 Geddes Road

As requested by the Township, Chris Nordstrom of CWA completed a site inspection on Tuesday, October 26, 2021, to evaluate the environmental impact of construction on wetlands on the site and on the Huron River. Chris was accompanied by Mr. Mayernik.

The contractors have properly installed silt erosion fencing throughout the site to help mitigate the erosion, both at the point of the construction and near the wetland edge at the bottom of the slope. Delays in completing the construction, combined with heavy rains throughout the summer, have led to significant erosion. In some spots, the silt fencing is in danger of complete failure, with silt runoff at or near the top of the fence. Erosion is evident throughout the site and unless remediation measures are implemented quickly, complete failure of the upper retaining wall area seems appears possible.

The site is challenging, with slopes of around 37% at the steepest points. It may be possible to construct a retaining wall system that would both hold the existing soil in place and control stormwater runoff. To the best of our knowledge, the Township has not received any engineering drawings showing the configuration of the proposed retaining wall and stormwater control system. Lacking any engineering plans, we agree that concerns about the environmental impact of construction on this site are warranted.

Please let me know if you have any questions.

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



Photo 1: Silt fence failure at bottom of slope



Photo 2: Erosion along slope (typical)



Photo 3: Erosion along slope



Photo 4: Runoff undercutting silt fencing

April 1, 2022

Transmitted Electronically

W. Daniel Troyka
Conlin, McKenney & Philbrick, P.C.
350 S. Main Street, Suite 400
Ann Arbor, Michigan 48104

Re: 5766 Geddes Rd, Ann Arbor, Michigan 48105

Dear Mr. Troyka:

Per your request, Tetra Tech, Inc. (Tetra Tech) has reviewed the following documents and completed a site evaluation on March 3rd and 30th at 5766 Geddes Road to assess the boardwalk and Wetland 1:

1. The permit and design drawings issued by Michigan Department of Environment, Great Lakes and Energy (EGLE) Water Resources Division, under the Natural Resources and Environmental Protection 1994 Public Act 451 as amended, Part 303 Wetlands Protection Permit WRP023919 v1.2, issued on July 31, 2020. This permit was issued to construct an 8-foot wide, 105-foot long elevated boardwalk.
2. *Wetland Delineation and Threatened and Endangered Species Habitat Letter*, completed by Atwell and dated April 17, 2019.
3. Superior Charter Township Ordinance No. 178 *Wetlands and Watercourse Protection and Restoration*.
4. Superior Charter Township Wetlands Permit No: PW20-0003
5. OHM letter dated February 28, 2022 regarding review of the plot plan/grading plan at 5728 Geddes Road.

EGLE has been authorized to administer Section 404 of the Clean Water Act in the majority of the state under an agreement with the United States Environmental Protection Agency; and jointly with United States Army Corps of Engineers, primarily in coastal regions. Jurisdiction on the project site is solely with EGLE. Any impact to regulated wetlands requires a permit application and review by EGLE Water Resources Division to determine if impacts to the wetlands have been avoided and minimized to the extent practicable and that the project is permissible. If EGLE issues a permit for the project, several conditions are included that must be followed.

Superior Charter Township, having understood that *'...wetlands and watercourses are indispensable and fragile resources that provide many public benefits...'* has enacted Wetland Ordinance No. 178 that provides regulation by the township for wetlands that would not be regulated by the State of Michigan. A wetland use permit is required by the Superior Charter Township for impacts to wetlands.

Based on the Atwell Wetland Delineation report, the location of the boardwalk that was installed in April 2021, is in Wetland 1. As described by Atwell, this is an EGLE regulated and likely Township regulated, wetland. The conclusion of the report was that a permit was required from both entities. In addition, the site is located in Tier 1 habitat for the eastern massasauga rattlesnake (EMR), a federally threatened and state special concern species. Atwell's opinion of the site is that it contains suitable habitat for the species.

There are numerous deviations from the wetland permit and design drawings that have increased the impact on the state regulated wetlands. The wetland delineation is not in question for the purposes of this evaluation and Tetra Tech did not evaluate Atwell's wetland line or complete a wetland delineation. Instead, the wetland delineation is assumed accurate; and both the EGLE and Superior Charter Township permits, and site conditions were evaluated. .

During the site walks, personnel observed the following:

1. The soils in the boardwalk area that intersect the wetland are not capable of supporting foot traffic. It would not be easily accessible for most people because of the mucky soils. Additionally, walking through the area repeatedly would be destructive to the wetland by compressing the soils over time and potentially liberating the topsoil in the area.
2. The posts of the boardwalk were installed directly into the wetland soils and not secured in a concrete foundation. The boardwalk has visibly shifted and is twisting over time (see Attachment A – Site Photos), because the underlying wetland soil is not suitable for the load without the concrete foundation.
3. The permit application indicates that the boardwalk would be constructed 4-feet off the ground to ensure that the wetland underneath would not be impacted. This is not the case for much of the boardwalk within the wetland. In some sections, the boardwalk is flush with the ground, impacting the wetland. This is considered fill of a regulated wetland and a violation of the state permit (conditions 3 and 4) and Township Ordinance 178-05.1 (A).
4. Only the northern portion of the boardwalk is constructed, and it ends abruptly at a tree surrounded by a mound of soil that appears to have been moved during the construction of the boardwalk. Exiting the boardwalk has to occur on the east side, making the area immediately south unwalkable. In addition the path to the Huron River is not easily accessible or easily traversed due to uneven terrain, a depressional wetland near the River's edge and the existing vegetation.
5. The portion of the boardwalk that was permitted to be built along the Huron River does not exist, reducing the homeowner's access.
6. Pea gravel is located to the east of the boardwalk near the southern end. It appears to be lying on geotechnical fabric and within the wetland. This is considered fill of a regulated wetland and a violation of the state permit and Township Ordinance 178-05.1 (A).
7. There is soil, felled trees and vegetative debris located to the west of the southern end of the boardwalk. The exact wetland boundary was not discernible, but it appears that the material is located in the wetland. This is considered fill of a regulated wetland and a violation of the state permit (conditions 3 and 4) and Township Ordinance 178-05.1 (A).
8. What appears to be a new stream has formed and potentially merged with what Atwell identified as watercourse 3. Additionally, the watercourse appears very incised as it continues to the south. The area may have been manipulated during the boardwalk construction to keep water flowing away from the boardwalk and to the south. If available, photos taken before installation of the boardwalk would need to be reviewed to determine the pre-existing conditions. If the drainage and existing watercourse were manipulated, it has the potential to alter the success of that portion of the wetland to the east. Alternation of this watercourse has the potential to liberate sediment to the south and it is also a violation of the state permit and Township Ordinance 178-05.1 (D and potentially I).
9. Superior Charter Township Ordinance 178-06.C requires 'Soil Drainage and stormwater management plans' with the wetland application. A stormwater management plan does not appear to have been included in the application for review.
10. Tetra Tech agrees with OHM's request that stormwater calculations be provided to support the use of the pool outlet, as identified in the OHM February 28, 2022 letter report. Any quickly overflowing

water from the concrete wall has the potential to liberate soil, fill the wetlands and enter Huron River.

11. Section 178-08.1 B of the Superior Charter Township Ordinance indicates '*To ensure no net loss of wetlands in the Township, mitigation shall be required in instances where there are losses of wetlands resources...*' Current site conditions would indicate that there are greater impacts to the wetlands than those permitted by EGLE and Superior Charter Township. As such mitigation requirements appear to be prudent and consistent with the Superior Township Ordinance, or removal of the fill and restoration of the wetlands. Additionally, these were not permitted under EGLE permit WRP023919 v1.2 and are a violation.

Based on the current site conditions, it appears more wetland impact has occurred than was permitted by EGLE based on the pea gravel and sediment surrounding the southern end of the boardwalk, as well as the flush portions of the boardwalk in the wetland. The walkability of the path from the end of the boardwalk to the Huron River is in question. One cannot walk off the boardwalk because of the tree in the center of the boardwalk where it ends, and the soil piled up around the tree to the west. The area between the boardwalk and the Huron River is not easily traversed on foot and the second portion of the boardwalk at the Huron River was not built. These call into question the accessibility of the river to your client.

Finally, during the site walk on March 3rd, Tetra Tech observed the retaining wall and discussed the stormwater plan with your client. The stormwater plan at the site will be crucial to ensure that sediment and erosion are minimized given the large topographical relief onsite and the newly constructed retaining wall. Stormwater calculations and an understanding of the water budget onsite by a licensed Professional Engineer are highly recommended. Ensuring that the existing wetlands and the site in general do not receive increased siltation and flooding from the northern upland areas are critical to the preservation of the wetlands and the habitat of the federally threatened EMR.

Sincerely,



Patti J. McCall, CPG, PWS
Principal Hydrogeologist

Enclosures: Attachment A – Site Photos

Attachment A – Site Photos
5766 Geddes Road Boardwalk Inspection



Photo 1: boardwalk posts installed directly into wetland soil without concrete foundations.



Photo 2 facing north: visible shifting of boardwalk section.



Photo 3 facing northwest: boardwalk clearance: permit application indicates construction of boardwalk with 4-feet of clearance to ensure underlying wetland would not be impacted.

Attachment A – Site Photos
5766 Geddes Road Boardwalk Inspection



Photo 4 facing south: southern extent of boardwalk ends abruptly at base of tree. Mounds of soil and felled trees to the west of the landing.



Photo 5 facing west: pea gravel over geotechnical fabric within wetland, to the east of boardwalk.



Photo 6 facing southwest: potential new watercourse connected to watercourse 3, appears to be incised.



Photo 7: potentially trenched watercourse to move water away from the boardwalk.

May 20, 2022

Transmitted Electronically

W. Daniel Troyka
Conlin, McKenney & Philbrick, P.C.
350 S. Main Street, Suite 400
Ann Arbor, Michigan 48104

Re: Geddes Rd, Ann Arbor, Michigan 48105

Dear Mr. Troyka:

Per your request, Tetra Tech, Inc. (Tetra Tech) has reviewed the following documents and completed a site evaluation on May 18, 2022 from 5766 Geddes Road to assess if wetland setbacks are in place at 5728 Geddes Road:

1. *Wetland Delineation and Threatened and Endangered Species Habitat Letter*, completed by Atwell and dated April 17, 2019.
2. Superior Charter Township Ordinance No. 178 *Wetlands and Watercourse Protection and Restoration*.
3. InSite Design Studio, Inc. Grading Plan Sheet L-2, dated 3/18/2022.
4. OX Studio, Architectural Site Plan Sheet G-200 and G-201, dated 12/15/2021 and approved by Superior Building Department on April 18, 2022.
5. OHM letter dated April 11, 2022 and February 28, 2022 regarding review of the plot plan/grading plan at 5728 Geddes Road.
6. Septic plan approved by Washtenaw County Environmental Health on March 2022.

It is my understanding that Superior Charter Township has enacted and requires adherence to Article 14 *Special Development Provisions*, Section 14.05(B) *Natural Features Protection: Watercourses and Wetlands* for 'any construction project requiring a certificate of zoning compliance', including the development at 5728 Geddes Road. Review of 14.05(B) requires setbacks from wetlands. Specifically ' a minimum open space setback of 25 feet shall be maintained from the boundary or edge of any wetland, as defined and regulated in the Township Wetlands Ordinance' and that 'individual single-family residential lots shall be located entirely outside of required wetland setback areas.'

Further limitations are prohibited within the open space setback as defined in 14.05(B)(4)(e)(f) and (g) and specifically in 14.05(B)(4)(e)(1) 'Removal of trees and other vegetation shall be limited to removal of invasive or poisonous species and dead or diseased trees...' Sheet G-201 of the Architectural Site Plan created by OX Studio identifies that the residential home is adjacent to the 25-foot open space buffer in much of the southern facing portion of the home. The open space setback is intended to be a natural buffer, without 'deposition of any materials, including soil, compost, gravel, garbage, concrete or asphalt debris, and other fill materials.' The ability to occupy the residence without using this space for seemingly normal homeowner enjoyment appears unlikely because of the adjacency of the buffer.

A site visit was completed on May 18th and it appears that the silt fence is adjacent to the wetland without open space setbacks in place, at least in part if not in whole. The property and silt fence line were not

Mr. W. Daniel Troyka
May 20, 2022
Page 2 of 2

walked, and access was only from 5766 Geddes Road. However, wetland vegetation appeared to be adjacent to the silt fence and in the location that Atwell identified in their wetland delineation. This would violate the requirement for maintaining a 25-foot open space setback and potentially the requirement that vegetation removal be limited to ‘...invasive or poisonous species and dead or diseased trees...’ Additionally, fill remains in the wetland, as documented in my letter of opinion dated April 1, 2022 and site visit completed on March 3, 2022.

Section 14.05(B)(4)(f)(1) requires that ‘drainage by ditching, underdrains or other systems’ be prohibited. As indicated on Sheet L-2 of the Grading Plan, there is a 12-inch perforated pipe that discharges into the former swimming pool. The drainage pipe is located inside the 25-foot setback boundary, based on the OX Design Sheet G-200. There is a cobble swale proposed at the downgradient discharge of the pool that abuts the wetland and is entirely within the open space setback, in violation of this section. Understandably, the cobble swale is intended to slow the discharge to the wetland, however the open space setback is an added later of protection to protect the wetland that is not included.

In reviewing the design plans, it appears Superior Township Building Department and Washtenaw County Environmental Health Department may have approved septic plans that are not consistent. The Superior Township set of drawings created by OX Design Sheet G-200 encroaches into the wetland buffer on the southeast end. The Washtenaw County Environmental Health Department plans approved under permit No. SEW2019-00016 is located further to the north. It’s not clear if the earlier septic approval by the County has been re-submitted and approved. There are also easements indicated on the drawings that are unclear as documented in OHM’s April 11, 2022 letter. It appears the septic field may be within these easements but it’s unclear what the restrictions to the easements are.

It appears that the Superior Township Wetland Permit PW20-0003 was requested by your client to be reopened or appealed and it was denied by the wetland administrator. It appears there are violations of Superior Township’s Wetlands Ordinance 178 as documented here and in my previous April 1, 2022 letter of opinion. Additionally, there remain violations to the Michigan Department of Environment, Great Lakes and Energy Water Resources Division, Part 303 Wetlands Protection Permit WRP023919 v1.2, issued on July 31, 2020; also previously documented. As previously stated in my April 1, 2022 letter of opinion, ensuring that the existing wetlands and the site in general do not receive increased siltation and flooding from the northern upland areas are critical to the preservation of the wetlands and the habitat of the federally threatened eastern massassauga rattlesnake (EMR). Adhering to the regulations and the authority afforded both EGLE and Superior Township will reduce the likelihood degradation to the wetlands and the EMR habitat.

Sincerely,



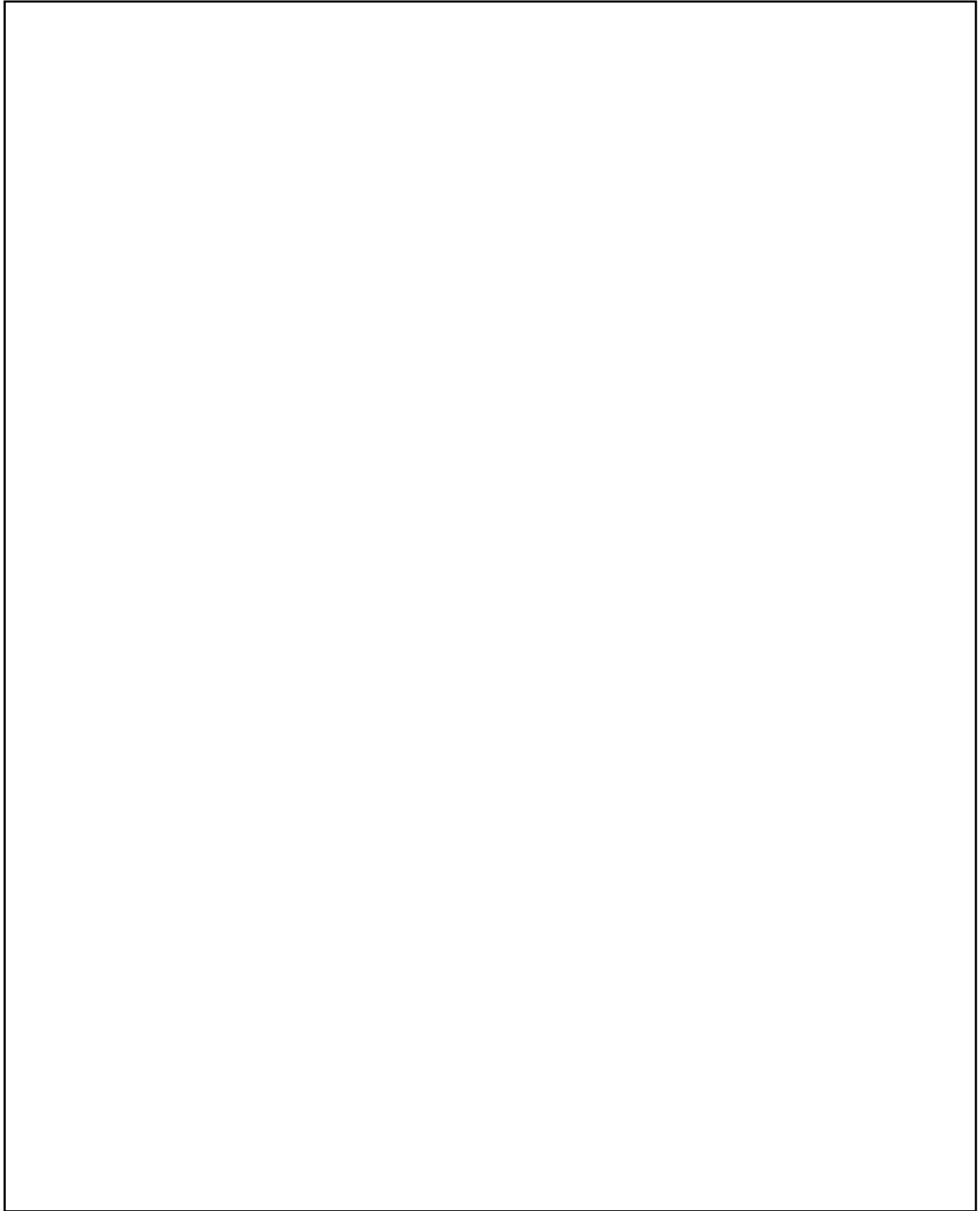
Patti J. McCall, CPG, PWS
Principal Hydrogeologist

Enclosures: Attachment A – Site Photos

ATTACHMENT A
Site Photos



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Legal



Fortz Legal Support
www.FortzLegal.com
844.730.4066

FORTZ
Legal

1 the septic tanks.

2 Q Okay.

3 A There's some -- it's all part of the survey. It's kind
4 of the gobbly gook underneath.

5 Q Okay. So going back to the point that -- I want you to
6 assume that I'm correct that that's a private road
7 that's exempt from the ordinance.

8 A Okay.

9 Q What are you going to do to change your design plan?

10 A To be able to accommodate him if he wants to use it?

11 Q No, no, no. To be able to accommodate the other issues
12 that you've discussed about having to be wider. It
13 affects waterflow.

14 A We could -- we could make it wider if we need to.

15 Q And what about the water issue?

16 A The water issue -- that's what I'd have to look up to
17 see what the township regulations are. If it's exempt
18 from it, then I would imagine that it doesn't have to
19 follow the stormwater regulations of the county.

20 Q Couldn't that become a health and safety issue?

21 A If -- if it doesn't have water control?

22 Q Yes.

23 A No. All the water has been accounted for so that does
24 not go to his septic field.

25 Q Well, then what's the point of even having to change

1 the design to accommodate waterflow between a driveway
2 and a private road if it doesn't have any effect?

3 A Well, again, I wasn't aware of the facts --

4 Q That's not my question. I'm asking what's the point of
5 it? Why do they require a different waterflow for a
6 private road compared to a driveway?

7 A My understanding -- and I don't design private roads.
8 I design driveways, okay. Usually that's an engineer
9 that would design a driveway. My understanding is that
10 for a private road you need a larger regulatory agency
11 reviewing it, but I haven't designed -- I haven't
12 designed private roads so much so --

13 Q Can we just agree that you didn't design that to be a
14 private road, correct?

15 A I designed this to be a driveway.

16 Q Okay. Did any engineer -- did you consult any
17 engineers about this?

18 A About this -- the layout of this road?

19 Q Yes.

20 A No.

21 Q Okay.

22 MR. BEHRENDT: You said driveway, right?

23 THE WITNESS: I'm sorry, driveway. Like of
24 this driveway, no.

25 BY MR. MACKENZIE:

1 Q If that roadway or driveway -- whatever we're gonna
2 call it -- has to be made wider won't that push the
3 retaining walls out farther?

4 A We would push them in the direction that is not towards
5 the Schuster property.

6 Q Do you know, as you sit here today, whether the
7 retaining walls do and will encroach this --

8 A So this requires a little bit of explanation because we
9 put the layout on here, then the materials were picked
10 after I did this. The materials that were picked were
11 thicker than what I anticipated when I drew this on.
12 Once I read the report, I said, crap, it's encroaching.
13 I have since talked with the builder, and we can scoot
14 the house in the portion where it would encroach -- we
15 can move that easily. It's an 8 inch difference.

16 Q So you're gonna move the house back to not encroach --

17 A We're going to --

18 Q -- let me finish -- to not encroach the Schuster
19 property; is that accurate?

20 A Correct.

21 Q Is there any other areas of concern that are
22 encroaching?

23 A No, not that I'm aware of.

24 Q Have you ever designed a private road before?

25 A A private road?

1 Q Yes.

2 A No.

3 Q Never in your career?

4 A Nope.

5 Q Okay. Have you ever designed a project with retaining
6 walls?

7 A Lots of them.

8 Q Have you ever had an issue where retaining walls have
9 failed?

10 A No.

11 Q What's the purpose of a retaining wall?

12 A To hold back the earth that would otherwise be -- how
13 do I describe this. When you're cutting into
14 topography and you need to maintain the topography on
15 the high side, you need a wall to be able to hold it
16 back.

17 Q So does the retaining walls that you've designed
18 provide a lateral support for the Schuster property?

19 A They provide -- I mean, lateral support is specific.
20 Yes, they -- they provide support of the landforms that
21 are here to be able to -- for this Schuster property,
22 yes.

23 Q So retaining walls are supporting the Schuster
24 property?

25 A Yes.

Deposition Confirmation of ZBA Appeal Claims - Incomplete Plot Plans Not Demonstrating Zoning Compliance

Mr. Mayernik stated Under Oath in Deposition on 7/19/22:

Mr Mayernik Confirmed that there is a ROW established in 1996 upon the 5728 Geddes Rd Parcel. He drew the boundaries and labelled it on the attached exhibit in his own hand. It indicates that the triangular ROW on the parcel measures 105.74 x 65 x 132.85. This triangular ROW is part of the only 'Approved Road' ever recorded.

Mr Mayernik also confirmed that he could not locate the pre-existing triangular ROW upon the completed 5728 approved building plans 12/15/21. He could not recall seeing it upon the approved prints, and he could not confirm or deny whether construction of the 5728 Geddes prints would encroach into the ROW.

The ZBA approved a variance of building setback from 60' to 0' from the ROW for 5728 Geddes Rd. The ZBA did not authorize any construction WITHIN the ROW, and construction within the ROW would violate the granted variance.

Mr Mayernik also confirmed my allegation that the Mouliere parcel does not have frontage abutting a private road by its entire width (or contain a cul-de-sac) - which is REQUIRED under the zoning ordinance and for which no variance was sought nor granted by the ZBA.

The 2008 Superior Township Zoning Ordinance states 3.207A

"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.**"

The issued certificate of zoning compliance purports to approve a new principal use and structure (a residence). The use and structure are CLEARLY established AFTER the adoption of the Zoning Ordinance and represent a limitation and impairment to street access directed by the zoning ordinance in order to provide safe access (a continued criterion in 3.207B)

Shannan Gibb Randall (5728 landscape architect) stated Under Oath in Deposition on 5/25/22 of the retaining walls drawn on the 12/15/21 plans "Once I read the report, I said, crap, it's encroaching."

and of the retaining walls and house shown on the 12/15/21 plans "I have since talked with the builder, and we can scoot the house in the portion where it would encroach - - we can move it easily"

Dan Snyder (5728 Builder) stated under oath

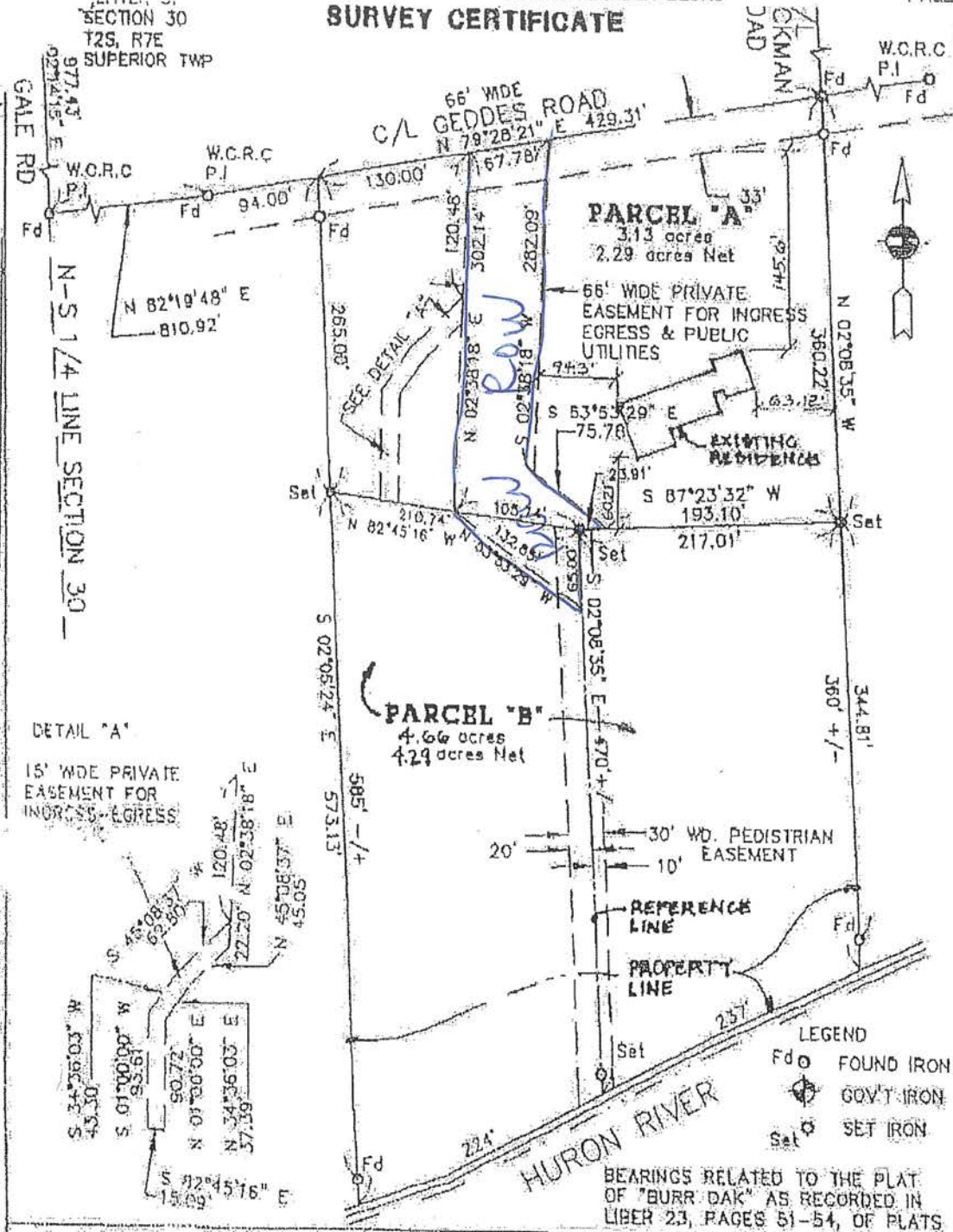
- The 12/15/21 retaining wall plans encroached on the Schuster parcel outside of any easement
- The retaining walls were being re-engineered due to encroachment and load concerns and in fact revised plans were generated on or about 6/15/22 that reflect what is actually to be built.
- The retaining walls and home were moved from the drawn and approved 12/15/21 plans
These revised 6/15/22 plans have not been provided to the township for zoning approval, to OHM for review, or to the building department for approval versus the 2015 state residential building code (as of most Recent July FOAI disclosures)

Mayernik Deposition Exhibit of ROW
(handwriting is his)

03/29/1994 04:25 3136631875

MURRAY/DURBIN BLDRS

PAGE 03



CLIENT: MURRAY/DURBIN BUILDERS		PROJECT NO. 83482-01	
FILE 00606 2575 30	SURVEY AND DESCRIPTION OF 3 PARCELS OF LAND, LOCATED IN THE S.E. 1/4 OF SECTION 30, T2S, R7E, SUPERIOR TWP, WASHTENAW COUNTY, MICHIGAN		SCALE 1 INCH = 100 FEET
			DRAWN PVS
REGISTERED LAND SURVEYOR NO. 24618			DATE 2-17-95
			CHECKED CRO
			REVISED -
			DATE -
			CHECKED -
			FIELD BOOK 120-05 PG 28
			SHEET 1 OF 4

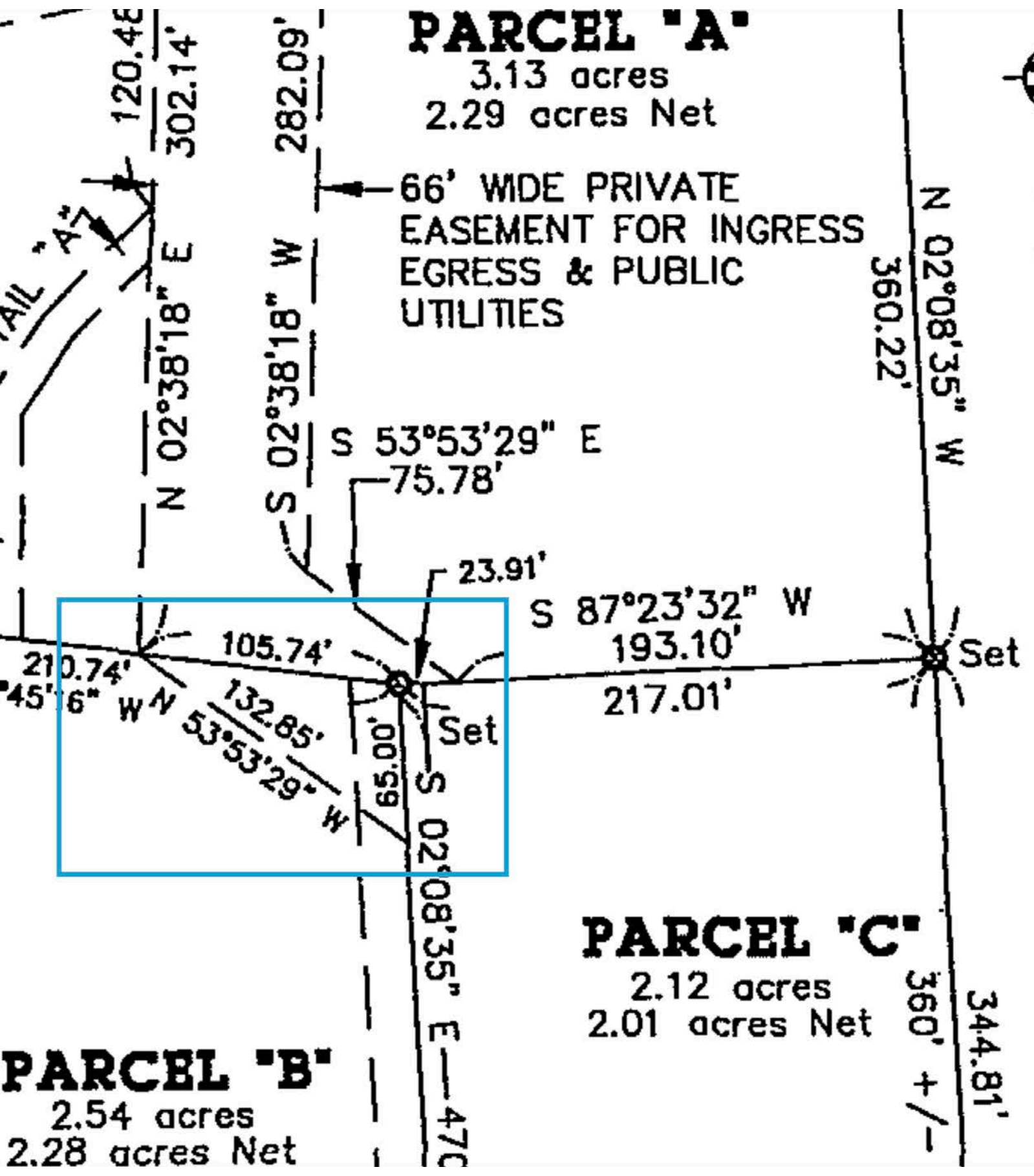
Ayres, Lewis, Norris & May, Inc.
Engineers • Planners • Surveyors

3958 RESEARCH PARK DRIVE ANN ARBOR, MICHIGAN 48106
(313) 761-1010

PARCEL "A"

3.13 acres
2.29 acres Net

66' WIDE PRIVATE
EASEMENT FOR INGRESS
EGRESS & PUBLIC
UTILITIES



PARCEL "B"

2.54 acres
2.28 acres Net

PARCEL "C"

2.12 acres
2.01 acres Net

360' +/-
344.81'

1 right?

2 A I'm considering the entire ordinance.

3 Q All right. Let's look at -- if you flip to page two
4 of your memo, have you ever seen this survey before?

5 A Yes.

6 Q This is dated February 17th of 1995; correct?

7 A Yeah.

8 Q Do you have a pen, sir?

9 A No.

10 Q Do you have -- I'll give you one.

11 Can you please mark for me on this survey
12 where the right-of-way is to Parcel B?

13 A So this is the extent of the 66-foot wide easement
14 there.

15 Q So can you write ROW in there?

16 A Sure.

17 Q And can you write it -- is this still part of the
18 right-of-way here?

19 A Yes.

20 Q Can you write it right there, too, just so I
21 understand?

22 A (Indicating.)

23 Q And does the right-of-way continue onto Parcel C?

24 A In this case, no, it appears not.

25 Q In '95, those were two separate parcels still or no?

1 A Yes.

2 Q Okay. So --

3 A Well, in '95 -- in '95, this was all one parcel.

4 Q It was one parcel at that point?

5 A Right, yeah. Because the division didn't occur

6 until '96.

7 Q Okay. So when the division occurred in '96, would

8 the right-of-way have to continue to Parcel C, then?

9 A No. It's existing right-of-way.

10 Q Well, then how would you ever get to Parcel C?

11 A Well, it abuts right up against it right there.

12 Q So that -- so this -- all right. So it would stay

13 like this even after the split?

14 A Yes. Well, I mean, this right-of-way was created at

15 the same time as these two parcels. The

16 right-of-way was created to accommodate these

17 parcels.

18 Q Okay. Now, I want you to look at Exhibit 2 and keep

19 them side-by-side. This is the Moulieres' site

20 plan.

21 A Uh-huh.

22 Q Can you mark where the right-of-way is on this plan?

23 A Yeah, this drawing is a mess. That's -- I can see

24 portions of it, but it's so small.

25 Q Please mark it where you can see it.

1 A Yeah, I'll mark it where I can see it here.

2 I can't determine the rest of that. It's
3 too small and too close together.

4 Q This is the only drawings that we have, Mr.
5 Mayernik. This is what we were given.

6 A Yeah. No, I get it.

7 Q And that's our issue, too, is that we can't
8 determine where the right-of-way is, either.

9 So do you know where the right-of-way is on
10 Parcel B?

11 A Not on this drawing. I mean, it's -- there's a
12 legal description for it and an engineer or surveyor
13 could go out and plot it exactly.

14 Q Well, when you approved the site -- the Mouliere
15 site plan -- well, let me back up.

16 Did you have to approve the Mouliere site
17 plan?

18 A Yes.

19 Q Did you use this survey from '95 or did you use
20 their recent plan?

21 A I used the plans that came with the construction
22 drawings. And to be honest with you, I had several
23 different plans, site plans, that came through my
24 office. And I don't know if the plan I'm looking at
25 here as Exhibit 2 is a reduced version of the plan

1 that I approved or not.

2 Q What I can tell you with certainty is, this is what
3 I've received from the Moulieres' counsel as the
4 most up-to-date site plan. So I'm going to ask you
5 one more time to be clear. Can you tell me where
6 the right-of-way is on Parcel B, if you see it on
7 there?

8 A The lines are too close together. I can't determine
9 exactly where it is on the exhibit that you've given
10 me.

11 Q Do you see where it says, "front yard setback"?

12 I'm looking at it upside down, but it would
13 be this line right here.

14 A Right. Uh-huh.

15 Q Do you know where that line came from?

16 A Well, their engineers drew it in there.

17 Q What is the purpose of it?

18 A Well, first of all, that's not a front yard.

19 Q Okay.

20 A So on river properties, the front yard setback
21 applies to the river side. So the property line,
22 the Moulieres' property line, that abuts the
23 Schusters' property to the north is the rear yard.
24 The rear yard has a 50-foot setback.

25 Q And have the Moulieres been granted a variance to

1 build within that setback?

2 A The Moulieres were granted a variance as relates to
3 the setback requirement from the private road
4 easement. So the private road easement itself
5 creates front yard setbacks just the same as Geddes
6 Road would or any other road would.

7 The home location that the Moulieres chose
8 encroached not in the rear yard setback, but rather
9 in the front yard -- in the setback that was
10 required from the private road easement, and that's
11 what variance they were granted was.

12 Q The Moulieres are prohibited from building within
13 the right-of-way; correct? That's not allowed under
14 the ordinance?

15 A Correct.

16 Q How were you able to determine -- if you can't tell
17 me where the right-of-way is on Parcel B, how do you
18 know that they're not building within the
19 right-of-way?

20 A I can't tell where the easement is on the drawing
21 that's in front of me.

22 Q Well, did you ever see a drawing where you were able
23 to confirm that they weren't building within the
24 right-of-way?

25 A I can't recall.

1 it.

2 Q Does the ordinance require the Moulieres' entire
3 parcel, the frontage, to abut to a private or public
4 road?

5 A The way the ordinance is -- current ordinance is
6 written, it says that a new parcel is created, it
7 should abut a public or private road for the
8 frontage of the property. The exception to that is
9 cul-de-sac lots.

10 Q So does the Moulieres' parcel comply with that?

11 A The land division was approved in 1996. I've got no
12 knowledge of what was considered in 1996. I know
13 that there was several memos back and forth, which I
14 believe you've got copies of, relating to the
15 creation of a cul-de-sac, and I believe this
16 division was held up for a little while relating to
17 that, but ultimately it was approved. I can't say
18 why it was approved. And, you know, for looking at
19 it now, you know, 20-some years later, what factors
20 played into the approval at that time, I can't say.

21 Q Okay. But when you look at this map, the one in
22 front of you, you see Geddes Road?

23 A Right.

24 Q Is it pronounced Geddes or Geddes?

25 A Geddes.

1 Q So you have Geddes Road. That is a public road;
2 correct?

3 A Yes.

4 Q And then you have the 66-foot wide easement, which
5 is a private road --

6 A Yes.

7 Q -- correct?

8 So the entire frontage of the Mouliere
9 parcel does not abut a public or a private road. Do
10 you agree or disagree?

11 A I agree.

12 Q Then what -- you mentioned an exception for the
13 cul-de-sac. Can you help me understand that?

14 A So if a cul-de-sac was created. Basically a
15 turnaround. You understand what a cul-de-sac is?

16 Q Yeah.

17 A So a cul-de-sac lot would not be required to have
18 the whole entire frontage.

19 Q Is the Moulieres' parcel considered a cul-de-sac
20 lot?

21 A No.

22 Q Then how are they in compliance with the ordinance?

23 A As I mentioned before, I've got no idea what was
24 considered for approval in 1996.

25 Q Okay. So for your purposes, you're just relying on

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:

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 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.

COPY

TOWNSHIP HALL
3040 NORTH PROSPECT STREET
COR. PROSPECT & CHERRY HILL RDS.
YPSILANTI, MICHIGAN 48198
TELEPHONE: (734) 482-6059
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 E FROM 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) 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.

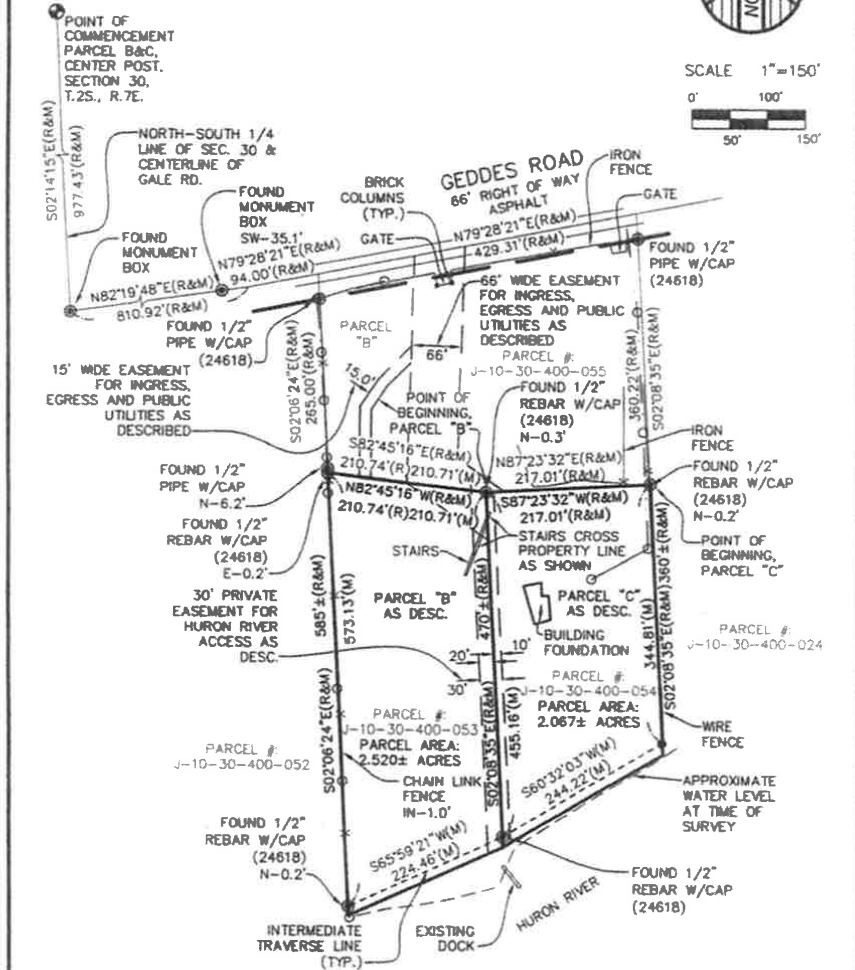
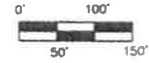
Thank you,
Paula Calopisis, Superior Township Assessor

CERTIFIED SURVEY

PROPERTY DESCRIPTION:
SEE SHEETS 2 & 3 OF 3



SCALE 1" = 150'



NOTE:
A CURRENT TITLE POLICY HAS NOT BEEN FURNISHED AT TIME OF SURVEY, THEREFORE EASEMENTS AND/OR ENCUMBRANCES AFFECTING SUBJECT PARCEL MAY NOT BE SHOWN.

- LEGEND**
- SET 1/2" REBAR WITH CAP, #32341
 - ⊙ FOUND MONUMENT (AS NOTED)
 - (M) MEASURED DIMENSION
 - (R) RECORD DIMENSION

I HEREBY CERTIFY THAT I HAVE SURVEYED THE LAND HEREIN PLATTED AND DESCRIBED AND THAT THE RATIO OF CLOSURE MEETS THE REQUIREMENTS OF PUBLIC ACT 132 OF 1970.

THOMAS G. SMITH, P.S. NO. 32341

KEM-TEC & ASSOCIATES
22556 GRATIOT AVE. EASTPOINTE, MI 48021
PROFESSIONAL SURVEYORS - PROFESSIONAL ENGINEERS
(586)772-2222 * FAX (586)772-4048

CERTIFIED TO: RAYMOND REILLY	
FIELD SURVEY: TS MR	DATE: MARCH 24, 2017
DRAWN BY: DLD	SHEET: 1 OF 3
SCALE: 1" = 100'	JOB NO.: 17-00913

CERTIFIED SURVEY

PROPERTY DESCRIPTION:

PARCEL C:

COMMENCING AT THE CENTER OF SECTION 30, T2S, R7E, SUPERIOR TOWNSHIP, WASHTENAW COUNTY, STATE OF MICHIGAN; THENCE S02°14'15"E 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 N82°19'48"E 810.92 FEET ALONG THE CENTERLINE OF GEDDES ROAD (FORMERLY POTAWATOMIE TRAIL); THENCE CONTINUING ALONG SAID CENTERLINE N79°28'21"E 94.00 FEET; THENCE S02°08'24"E 265.00 FEET; THENCE S82°45'16"E 210.74 FEET FOR A PLACE OF BEGINNING; THENCE N82°45'16"W 210.74 FEET; THENCE S02°06'24"E 585 FEET MORE OR LESS TO THE WATER'S EDGE OF THE HURON RIVER; THENCE NORTHEASTERLY ALONG SAID WATER'S EDGE TO A POINT BEARING S02°08'35"E FROM THE POINT OF BEGINNING; THENCE N02°08'35"W 470 FEET MORE OR LESS TO THE PLACE OF BEGINNING, PART OF THE SE 1/4 OF SAID SECTION 30. SUBJECT TO AND INCLUDING A 66 FOOT WIDE PRIVATE EASEMENT FOR INGRESS, EGRESS, AND PUBLIC UTILITIES DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SECTION 30, T2S, R7E, SUPERIOR TOWNSHIP, WASHTENAW COUNTY, STATE OF MICHIGAN; THENCE S02°14'15"E 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 N82°19'48"E 810.92 FEET ALONG THE CENTERLINE OF GEDDES ROAD (FORMERLY POTAWATOMIE TRAIL); THENCE CONTINUING ALONG SAID CENTERLINE N79°28'21"E 224.00 FEET FOR A PLACE OF BEGINNING; THENCE CONTINUING ALONG SAID CENTERLINE N79°28'21"E 67.78 FEET; THENCE S02°38'18"W 282.09 FEET; THENCE S53°53'29"E 75.78 FEET; THENCE S87°23'32"W 23.91 FEET; THENCE S02°08'35"E 65.00 FEET; THENCE N53°53'29"W 132.85 FEET; THENCE N02°38'18"E 302.14 FEET TO THE PLACE OF BEGINNING.

ALSO INCLUDING RIGHT OF INGRESS, EGRESS AND PUBLIC UTILITIES OVER A 15 FOOT WIDE PRIVATE EASEMENT DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SECTION 30, T2S, R7E, SUPERIOR TOWNSHIP, WASHTENAW COUNTY, STATE OF MICHIGAN; THENCE S02°14'15"E 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 N82°19'48"E 810.92 FEET ALONG THE CENTERLINE OF GEDDES ROAD (FORMERLY POTAWATOMIE TRAIL); THENCE CONTINUING ALONG SAID CENTERLINE N79°28'21"E 224.00 FEET; THENCE S02°38'18"W 120.48 FEET FOR A PLACE OF BEGINNING; THENCE S45°08'37"W 62.80 FEET; THENCE S34°38'03"W 43.30 FEET; THENCE S01°00'00"W 93.61 FEET; THENCE S82°45'16"E 15.09 FEET THENCE N01°00'00"E 90.72 FEET; THENCE N34°36'03"E 37.39 FEET; THENCE N45°08'37"E 45.05 FEET; THENCE N02°38'18"E 22.20 FEET TO THE PLACE OF BEGINNING.

ALSO SUBJECT TO AND INCLUDING A PRIVATE EASEMENT FOR A PATHWAY OF UP TO 8 FEET IN WIDTH TO PROVIDE PEDESTRIAN ACCESS TO THE HURON RIVER OVER THE ABOVE-DESCRIBED PROPERTY, SUCH EASEMENT BEING DESCRIBED AS FOLLOWS:

PROPERTY LYING 20 FEET WESTERLY AND 10 FEET EASTERLY OF THE FOLLOWING DESCRIBED LINE:
COMMENCING AT THE CENTER OF SECTION 30, T2S, R7E, SUPERIOR TOWNSHIP, WASHTENAW COUNTY, STATE OF MICHIGAN; THENCE S02°14'15"E 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 N82°19'48"E 810.92 FEET ALONG THE CENTERLINE OF GEDDES ROAD (FORMERLY POTAWATOMIE TRAIL); THENCE CONTINUING ALONG SAID CENTERLINE N79°28'21"E 94.00 FEET; THENCE S02°06'24"E 265.00 FEET; THENCE S82°45'16"E 210.74 FEET FOR A PLACE OF BEGINNING; THENCE S02°08'35"S 470 FEET MORE OR LESS TO THE WATER'S EDGE OF THE HURON RIVER FOR A PLACE OF ENDING.

OR SUCH OTHER 30-FOOT WIDE STRIP OF LAND FROM PARCEL "A" TO THE HURON RIVER AS THE OWNERS OF PARCELS "B" AND "C" MAY LATER DESIGNATE IN A RECORDED MODIFICATION OF THE EASEMENT, PROVIDED THAT SUCH ALTERNATE STRIP MUST HAVE SOIL CAPABLE OF SUPPORTING FOOT TRAFFIC AND FURTHER PROVIDED THAT THE OWNERS OF PARCELS "B" AND "C" SHALL PROVIDE PEDESTRIAN ACCESS IMPROVEMENTS EQUAL TO THOSE IN PLACE ON THE ABOVE-DESCRIBED EASEMENT AT THE TIME SUCH ALTERNATE STRIP IS DESIGNATED.

CHARTER TOWNSHIP OF SUPERIOR
WASHTENAW COUNTY, MICHIGAN
ASSESSING DEPARTMENT

NEW ADDRESS REQUEST APPLICATION

DATE REQUESTED: _____

NAME: Ray Reilly PHONE: 734 730-8529

MAILING ADDRESS: 155 Laurin Ct.
STREET
Ann Arbor MI 48105
CITY STATE ZIP

PARCEL I.D. #: J-10-30-400-054

ACREAGE: 2.12 ZONING: Res OWNERS SIGNATURE 

PLEASE SUBMIT THE FOLLOWING:

PROOF OF OWNERSHIP: (TAX BILL OR DEED WITH COPY OF DRIVERS LICENSE)

SITE PLAN OR SURVEY: LEGAL DESCRIPTION OF PROPERTY:

TO BE COMPLETED BY SUPERIOR TOWNSHIP

ADDRESS ASSIGNED: 5728 Geddes Road
STREET
Ann Arbor, MI 48105
CITY STATE ZIP

APPROVED BY: Paula Calopisis, Assessor

DATE: 7-3-2018

SCHOOL DISTRICT: Ann Arbor-81010

A COPY OF THIS COMPLETED APPLICATION WILL GO TO THE FIRE DEPARTMENT UPON APPROVAL

New Parcel J-10-30-400-061

SUPERIOR CHARTER TOWNSHIP LAND DIVISION APPLICATION

You MUST answer all questions and include all attachments or this application will be returned to you as incomplete. Bring or mail the completed application to: 3040 N. Prospect, Ypsilanti, MI 48198, for the municipal reviewing agent.

Division of land within the Township requires prior Township approval whenever a proposed division is less than 40 acres and is not otherwise exempt from the requirement by the Township's Land Division Ordinance. NOTE: Approval of a proposed land division is not a determination that any resulting parcel complies with other Township Land Use Ordinances and/or regulations, or that a building permit can or will be issued for any resulting parcel in the future.

Applicant Information.

Name: RAY Reilly
Address: 155 Laurin St
City, state, zip: Ann Arbor, MI 48105
Phone: 734 730-8529 Fax:

This form is designed to comply with section 109 of the Michigan Land Division Act (formerly the subdivision control act), P.A. 288 of 1967, as amended, and the Township's Land Division Ordinance.

1. LOCATION OF PARENT PARCEL TO BE SPLIT:
Address: 5728 Hadden Rd RoadName:

Parent parcel number: J 10 30 400 053/054
Legal description of Parent Parcel (attach extra sheets if needed).

2. PROPERTY OWNER INFORMATION:
Name: same as applicant Phone: ()
Address: City, State: Zip:

- 3. DESCRIBE THE DIVISION(S) BEING PROPOSED:
A. Is the proposed division from a parent parcel (parcel created on or before March 31, 1997)? (yes or no)
B. Is the proposed division from an exempt split or other parcel created subsequent to March 31, 1997? (yes or no) If yes, what is the recording date of the parcel being divided?
C. Total acreage of the parcel or tract being divided.
D. Number of proposed new Parcels
E. Intended use (residential, commercial, etc.)
F. Is the parcel to be divided a lot or outlot in a platted subdivision? (yes or no)
G. Are all proposed new parcels greater than or equal to 40 acres? (yes or no). If so, is each resulting parcel accessible as defined by the Township's Land Division Ordinance? (yes, or no).
H. Does each proposed parcel have a depth to width ratio of 4 to 1 or less? (yes or no).
I. Does each parcel have a width not less than required by the Township's Land Division and/or Zoning Ordinance? (yes or no).
J. Does each parcel have an area not less than required by the Township's Land Division and/or Zoning Ordinance? (yes or no).
K. Does each resulting parcel of the proposed division provide access to an existing or proposed public road? (yes or no).
L. Does each resulting parcel that is a development site have adequate easements for public utilities from the parcel to existing public utility facilities? (yes or no).

4. RIGHT TO MAKE FUTURE DIVISIONS EXEMPT FROM PLATTING:
The owner or proprietor of a parent parcel may transfer the right to make divisions exempt from platting. If the proposed division includes the transfer of future division rights, you must include a statement in the deed in substantially the following form: "The grantor grants to the grantee the right to make ___ division(s) under section 108 of the Land Division Act."

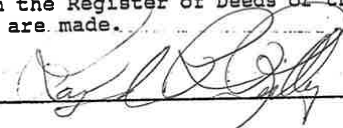
- A. Is the proposed division being made from a parent parcel? (yes or no)
B. Does the proposed division include a transfer of the right to make future divisions exempt from platting under the Act? (yes or no). If yes, provide the following information:

8. **AFFIDAVIT and permission for municipal, county and state officials to enter the property for inspections:**

I agree that the statements made above are true, and if found not to be true, this application and any approval will be void. Further, I agree to comply with the conditions and regulations provided with parent parcel division. Further, I agree to give permission for officials of the municipality, county and the State of Michigan to enter the property where this parcel division is proposed for purposes of inspection to verify that the information on the application is correct at a time mutually agreeable with the applicant. I understand that the Township's approval of the proposed division is not a determination that the resulting parcels comply with the Township's zoning ordinance and does not include any representation that a building permit can or will be issued for any resulting parcel, nor does approval of a proposed division convey rights under any other statute, building code, zoning Ordinance, deed restriction or other property rights.

Finally even if this division is approved, I understand that zoning, local Ordinances and state Acts change from time to time, and if changed the divisions made here must comply with the new requirements (apply for division approval again) unless deeds, land contracts, leases or surveys representing the approved divisions are recorded with the Register of Deeds or the division is built upon before the changes to laws are made.

Property Owner's Signature



Date:

7/9/18

DO NOT WRITE BELOW THIS LINE

Reviewer's action

Total \$

Receipt #

Approved: Conditions, if any:

Denied: Reasons (cite):

Signature:

Date:

LAW OFFICES OF

CONLIN, MCKENNEY & PHILBRICK, P.C.
350 SOUTH MAIN STREET, SUITE 400
ANN ARBOR, MICHIGAN
48104-2131

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ALBERT J. PARKER (1901-1970)
PHILLIP J. BOWEN (1947-2007)

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ARMINIA DUENAS
CHRISTOPHER J. WALLAKER
CURTISS D. FLEXTER

July 27, 2022

By Email Only

Frederick Lucas, Esq.
Lucas Law PC
7577 US Highway 12, Suite A
Onsted, MI 49265

Re: Aggrieved party status for ZBA #22-04 (“ZBA Appeal”)
Matthew Schuster and Alyssa L. Cairo (“Schusters”)

Dear Mr. Lucas:

I am writing regarding the above-referenced ZBA Appeal scheduled for hearing at 7 pm on Wednesday, August 3, 2022. This letter establishes that the Schusters are aggrieved parties for purposes of the appeal. Photographs depicting the work and substantial impairment of the Schuster parcel are attached as *Exhibit 1*.

A portion of the approved construction encroaches onto the Schuster parcel outside of any easement and, if built, would constitute a permanent trespass approved by the Township. Much of the approved construction is located on the Schuster parcel and would permanently impair its utility. The approved work presents safety risks to the Schuster parcel (including fall hazards and inadequate emergency vehicle access) and imposes monetary costs including loss of market value, cost of safety measures made necessary by defective and inadequate construction, and increased costs of utilizing their own property as fee simple owners. These facts plainly establish “aggrieved party” standing for the Schusters.

Aggrieved Party Standing

The Michigan Supreme Court has just clarified the test for determining whether an appellant is a “person aggrieved” for purposes of a ZBA appeal pursuant to MCL 125.3604(1). As stated by the Court in *Saugatuck Dunes Coastal Alliance v Saugatuck Township et al.*, Case No. 160358-9 Slip. Op. at 2-3 (Mich. Sup. Ct. July 22, 2022):

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Frederick Lucas, Esq.

July 27, 2022

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to be a “party aggrieved” under MCL 125.3605 and MCL 125.3606, the appellant must meet three criteria. First, the appellant must have participated in the challenged proceedings by taking a position on the contested proposal or decision. Second, the appellant must claim some protected interest or protected personal, pecuniary, or property right that will be or is likely to be affected by the challenged decision. Third, the appellant must provide some evidence of special damages arising from the challenged decision in the form of an actual or likely injury to or burden on their asserted interest or right that is different in kind or more significant in degree than the effects on others in the local community. We agree with the parties’ arguments that “aggrieved” has the same meaning in MCL 125.3604(1) and MCL 125.3605.

Criterion No. 1 - Participation

The Schusters have “participated in the challenged proceedings” by filing this appeal of the Certificate of Zoning Compliance and resulting Building Permit issued on April 18, 2022. They have filed other appeals and have generally opposed the construction on their property and the adjacent property on grounds, among other things, that the Township is not enforcing its Ordinances. They have objected to construction of driveway access across their property without obtaining a private road permit to establish safe access for residents, emergency vehicle access, and general public welfare.

The Schusters have appealed the refusal to require a private road permit to the Board of Trustees, they have appealed issuance of the Building Permit to the Construction Board of Appeals, and they have appealed permitted work to the Wetland Board of Appeals. These appeals are in the possession of the Township and are hereby incorporated by reference into the record for this ZBA Appeal.

The Schusters are also actively defending a lawsuit filed by the neighbors in the Circuit Court and pursuing counterclaims relating to, among other things, construction of the access road, validity and scope of alleged easements, the burden placed on the Schuster parcel by the construction, unauthorized removal of earth from their property, improper relocation and faulty reconstruction of their pedestrian easement to the Huron Rive, and other issues. These appeals and litigation meet the “participation” element for standing under *Saugatuck Dunes*.

Criterion No. 2 – Protected Interest

The Schusters own their property in fee simple. ““A person having all possible rights incident to ownership of a parcel of property has the entire bundle of sticks or a fee simple title to the property.” *Eastbrook Homes, Inc. v. Treasury Dept.*, 296 Mich. App. 336, 348; 820 N.W.2d 242 (2012). The ZBA Appeal concerns issuance of a Certificate of Zoning Compliance to authorize

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Page 3

a new use and construct a new principal structure on the neighboring parcel as well as approving construction on the Schuster parcel.

The Schusters' rights as fee simple owner of their property are compromised by the approved 12/15/21 plans (the "Approved Plans") including improvements that encroach onto the Schuster parcel and will constitute a permanent trespass, thereby depriving them of use of the occupied property. The construction alters the topography of the Schuster parcel and creates a significant vertical discontinuity preventing use of their property and posing a safety hazard. These impacts substantially impair the Schusters' protected fee simple property interests within the meaning of *Saugatuck Dunes*.

The work approved in the 12/15/21 Approved Plans includes retaining walls that encroach onto the Schuster parcel not within any alleged easement. As stated by the neighbors' design professional in a deposition on May 25, 2022, the retaining walls approved by the Township encroach eight inches onto the Schuster parcel. *Exhibit 2* (Transcript of Deposition of Shannon Gibb-Randall). The neighbors claim that they will "scoot the house in the portion where it would encroach." *Id.* The Schusters requested that new plans be submitted eliminating the encroachment. The Township refused to require new plans and instead approves the encroachment contained in the Approved Plans.

The Township's engineering consultant predicted this problem in their report dated April 11, 2022. *Exhibit 3* (OHM Review). Item No. 8 of that report states: "We question if it is possible for the Applicant's Contractor to construct retaining walls without encroaching the property to the north." Rather than require the plans to eliminate encroachment, the Township approved the encroachment on April 18, 2022.

As can be seen in the Approved Plans and photos attached in *Exhibit 1*, the approved work includes stacked retaining walls in excess of ten feet in height in an alleged easement on the Schuster property. These walls create discontinuity in the Schuster parcel, prevent vehicular access to the rear of the parcel, and create a fall hazard rendering much of the yard unusable. The plans adopt lax loading standards for the retaining walls that will prevent the Schusters from safely using their property, including property outside of any alleged easement, in proximity to the walls, as described in the report of Clif Seiber, P.E., attached as *Exhibit 4*.

As detailed in the ZBA Appeal, the Approved Plans fail to designate any approved "public or private street" which is a precondition to occupancy. Sec. 3.207.A of the Zoning Ordinance states:

Frederick Lucas, Esq.
July 27, 2022
Page 4

A. Access to Public or Private Streets

In any district, every lot created and every principal use or structure which 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 lot. Such street shall have a right-of-way at least 66 feet wide unless a lesser width has been established and recorded prior to the effective date of this Ordinance.

The Building Official noted that the proposed construction appears to be taking place inside the right-of-way, to the extent right-of-way can be determined, in his permit denial issued on November 23, 2021. *Exhibit 5*. Although this issue was never corrected, the Township approved the plans on April 18, 2022 without any designated “public or private street.” At his deposition on July 19, 2022, the Building Official (former) admitted that he could not locate right-of-way on the Approved Plans. *Exhibit 6*. The neighbors’ design professional admits that they are not actually building a private road as required under the Ordinance and instead are building a “driveway.” *Exhibit 1*.

The failure to require compliance with Sec. 3.207.A presents a safety issue. There is no designated “public or private street” for emergency vehicle access as required by Sec. 3.207.B, and apparently no documented review of the safety of the design. One unattended fire has already occurred on the neighbors’ property resulting in visible flame on the neighbors’ property and embers and ash on the Schuster parcel. *Exhibit 7*. The fire department first responder could not access the neighbors’ parcel and had to call in a second smaller vehicle (shown in the last photo of *Exhibit 1*), resulting in delay and heightened risk. With no approved public road, private street, or right-of-way for emergency vehicle access, the safety of the Schuster parcel will be compromised.

Criterion No. 3 – Special Damages

The Approved Plans will result in special damages to the Schusters within the meaning of *Saugatuck Dunes*: “actual or likely injury to or burden on their asserted interest or right that is different in kind or more significant in degree than the effects on others in the local community.”

The Approved Plans literally approve a permanent trespass onto the Schuster parcel in the form of encroaching retaining walls. The inadequate loading specification of the walls will prevent the Schusters from using their own property, including areas outside any alleged easement, close to the walls. The Plans also approve stacked retaining walls in excess of ten feet within an alleged easement on the Schuster parcel, inadequate retaining walls that threaten lateral support along the property boundary, and failure to designate any approved road or right-of-way for emergency vehicle access.

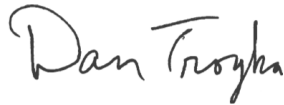
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No other property will suffer these harms which are unique to, and concentrated on, the Schuster parcel. The Schusters will suffer monetary damages substantially in excess of \$100,000, in addition to physical damage to and loss of use of their property, in the form of reduced market value of their property, costs of safety measures to address risks created by the unsafe construction, and increased costs of exercising their rights as property owners including, for example, the now much higher cost of providing vehicular access to the rear of their property or connecting their existing driveway to the new access road.

Therefore, the Schusters meet the test for “aggrieved party” standing under *Saugatuck Dunes* and this appeal must be heard on the merits. Thank you for your attention.

Very truly yours,



W. Daniel Troyka
Direct Dial: (734) 997-2153
Email: troyka@cimplaw.com

WDT/dmw

H:\BJM\Schuster\LETTERS\Lucas 7.27.22.docx

EXHIBIT 1













EXHIBIT 2

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

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

Plaintiffs/Counter-Defendants,

vs

Case No. 20-001274-CH
Hon. Archie C. Brown

MATTHEW A. SCHUSTER
and ALYSSA L. CAIRO,

Defendants/Counter-Plaintiffs.
~~~~~

DEPOSITION OF SHANNAN GIBB-RANDALL,

taken on Wednesday, May 25, 2022, at 201 South Division  
Street, Suite 400, Ann Arbor, Michigan, at 12:00 p.m.,  
pursuant to Notice.

Reported by DEBORAH LINEHAN, CER 7251

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Fortz Legal Support

[www.FortzLegal.com](http://www.FortzLegal.com)

844.730.4066

FORTZ  
Legal

1 the septic tanks.

2 Q Okay.

3 A There's some -- it's all part of the survey. It's kind  
4 of the gobbly gook underneath.

5 Q Okay. So going back to the point that -- I want you to  
6 assume that I'm correct that that's a private road  
7 that's exempt from the ordinance.

8 A Okay.

9 Q What are you going to do to change your design plan?

10 A To be able to accommodate him if he wants to use it?

11 Q No, no, no. To be able to accommodate the other issues  
12 that you've discussed about having to be wider. It  
13 affects waterflow.

14 A We could -- we could make it wider if we need to.

15 Q And what about the water issue?

16 A The water issue -- that's what I'd have to look up to  
17 see what the township regulations are. If it's exempt  
18 from it, then I would imagine that it doesn't have to  
19 follow the stormwater regulations of the county.

20 Q Couldn't that become a health and safety issue?

21 A If -- if it doesn't have water control?

22 Q Yes.

23 A No. All the water has been accounted for so that does  
24 not go to his septic field.

25 Q Well, then what's the point of even having to change

1 the design to accommodate waterflow between a driveway  
2 and a private road if it doesn't have any effect?

3 A Well, again, I wasn't aware of the facts --

4 Q That's not my question. I'm asking what's the point of  
5 it? Why do they require a different waterflow for a  
6 private road compared to a driveway?

7 A My understanding -- and I don't design private roads.  
8 I design driveways, okay. Usually that's an engineer  
9 that would design a driveway. My understanding is that  
10 for a private road you need a larger regulatory agency  
11 reviewing it, but I haven't designed -- I haven't  
12 designed private roads so much so --

13 Q Can we just agree that you didn't design that to be a  
14 private road, correct?

15 A I designed this to be a driveway.

16 Q Okay. Did any engineer -- did you consult any  
17 engineers about this?

18 A About this -- the layout of this road?

19 Q Yes.

20 A No.

21 Q Okay.

22 MR. BEHRENDT: You said driveway, right?

23 THE WITNESS: I'm sorry, driveway. Like of  
24 this driveway, no.

25 BY MR. MACKENZIE:

1 Q If that roadway or driveway -- whatever we're gonna  
2 call it -- has to be made wider won't that push the  
3 retaining walls out farther?

4 A We would push them in the direction that is not towards  
5 the Schuster property.

6 Q Do you know, as you sit here today, whether the  
7 retaining walls do and will encroach this --

8 A So this requires a little bit of explanation because we  
9 put the layout on here, then the materials were picked  
10 after I did this. The materials that were picked were  
11 thicker than what I anticipated when I drew this on.  
12 Once I read the report, I said, crap, it's encroaching.

13 I have since talked with the builder, and we can scoot  
14 the house in the portion where it would encroach -- we  
15 can move that easily. It's an 8 inch difference.

16 Q So you're gonna move the house back to not encroach --

17 A We're going to --

18 Q -- let me finish -- to not encroach the Schuster  
19 property; is that accurate?

20 A Correct.

21 Q Is there any other areas of concern that are  
22 encroaching?

23 A No, not that I'm aware of.

24 Q Have you ever designed a private road before?

25 A A private road?

1 Q Yes.

2 A No.

3 Q Never in your career?

4 A Nope.

5 Q Okay. Have you ever designed a project with retaining  
6 walls?

7 A Lots of them.

8 Q Have you ever had an issue where retaining walls have  
9 failed?

10 A No.

11 Q What's the purpose of a retaining wall?

12 A To hold back the earth that would otherwise be -- how  
13 do I describe this. When you're cutting into  
14 topography and you need to maintain the topography on  
15 the high side, you need a wall to be able to hold it  
16 back.

17 Q So does the retaining walls that you've designed  
18 provide a lateral support for the Schuster property?

19 A They provide -- I mean, lateral support is specific.  
20 Yes, they -- they provide support of the landforms that  
21 are here to be able to -- for this Schuster property,  
22 yes.

23 Q So retaining walls are supporting the Schuster  
24 property?

25 A Yes.

# **EXHIBIT 3**



April 11, 2022

Mr. Richard Mayernik  
Chief Building Official  
Superior Charter Township  
3040 N. Prospect Rd  
Ypsilanti, MI 48198

RE: 5728 Geddes Road site  
Civil Plan Review No. 2

Dear Mr. Mayernik:

At the request of Superior Township, we have provided a second review of the revised plot plan/grading plan related documents that were provided to us on March 22, 2022. Additionally, we have provided review related to an initial submittal of structural engineering calculations that were provided to us for landscape retaining walls on the subject site. Our review is focused on various aspects of the site work to construct a new single-family house at 5728 Geddes Road, which include site grading, drainage, and landscape retaining wall. Our comments are based on our knowledge of typical civil engineering practice and industry criteria, and are outlined below:

#### General Comments & Clarifications

1. We assume that soil erosion control aspects of the site work are under the jurisdiction of Washtenaw County Water Resources Commissioner's (WCWRC) Office, Soil Erosion Division, therefore our comments related to soil erosion are recommendations based on engineering principles to minimize erosion.
2. As we understand, Township Engineering Standards only apply to formal site plan submittals, and the Township Private Road Ordinance does not apply to this scenario. Therefore, our technical review comments are based on standard engineering practice and the technical expertise of our staff, not on published local or County engineering standards. Our comments should be regarded as a professional opinion in this regard, and consistent with the existing constraints of the single-family home site.
3. Since the initial submittal of retaining wall material sheets provided to our office on February 23, 2022, for Redi-wall material and related typical details and data sheets, the Applicant's structural engineer has now provided structural calculations for the landscape retaining wall design prepared by a licensed professional engineer (PE) in the State of Michigan. We provide further comment on this in Item #14 below.

#### Sheet G-200 Existing Site Plan (Page 6)

4. There is a label for a 30' wide easement running north/south through the property. Is this an access easement for the parcel to the north? Is this an existing easement that needs to be shown on the plans? Are there restrictions on the use of this easement? The Applicant's landscape architect that prepared the grading and drainage plan indicated to us that the Applicant's Surveyor, Atwell Inc. may be able to provide clarification on this comment.



5. There is a label for a 15' wide easement running north to southwest next to the proposed drive. The Applicant's Engineer should clarify if this easement is existing or proposed and label on the plans accordingly and provide background on restrictions that may apply to the use of the easement. The Applicant's landscape architect that prepared the grading and drainage plan indicated that the Applicant's Surveyor, Atwell Inc. may be able to provide clarification on this comment.

Sheet L-2 Grading Plan (Page 9)

6. Items 4 and 5 listed above under Sheet G-200 may also apply to this sheet for future clarification of easements shown.
7. The Applicant's Engineer should provide check dams along proposed and existing ditches (outside wetland and wetland setback areas) to minimize stormwater runoff velocities and reduce long term erosion impact. Through discussion with the landscape architect for the site, optimal locations for these additional check dams were discussed and would be placed on the resubmittal.
8. We question if it is possible for the Applicant's Contractor to construct retaining walls without encroaching the property to the north. We request the Applicant's Contractor provide a narrative regarding construction of the retaining wall and how they intend to maintain construction impact on this property only during construction. It may also be beneficial for the Applicant to have their geotechnical engineering and structural engineering consultants for the project provide input on the best practices to construct the tiered retaining wall without encroaching the property line to the north without a temporary grading easement.
9. The Applicant's landscape architect has indicated they would revise the label for "guard rail" to note "safety fence" where it is provided along the top of the tiered wall for pedestrian safety purposes. We also request a typical detail for the "safety fence" be placed on the plans for the contractor.
10. We recommend placing a drainage inlet on the south gutter line of the driveway to the northwest of the entrance of the house to help control drainage run-off in this vicinity. We have clarified with the Applicant's landscape architect that this inlet should be along the curb of the driveway, near the end of the radius between the 814 and 815 contours. The landscape architect will then determine if the recently added inlet in the greenbelt area to the south of the driveway is still necessary or if grading can be modified in that area.
11. Depending on the depth of permanent water in the pool area, it may be optimal to submerge the proposed inlet pipe to further dissipate energy at the pipe outlet into this area while reducing downstream velocity and erosion concerns. We ask the Applicant to provide a civil engineers opinion on this recommendation from their design team prior to resubmittal of the plans.
12. The Applicant's landscape architect has clarified in a follow up email to us that the design storm for the orifices at the downstream face of the pool area is a 2 year/ 24-hour storm event based on reference to WCWRC rules. It's our opinion that it is reasonable to maintain the existing orifices at the downstream face of the pool area. It should be noted that this single-family house site is not required to be designed to meet WCWRC or other jurisdictional stormwater quantity control, so this level of stormwater quantity control provided on the site would be beneficial and is encouraged.
13. We recommend that silt fence or other erosion control methods be implemented around all excavation limits and to note this requirement on the plans. Ultimately methodology and implementation will be per jurisdiction of WCWRC SESC division.



### Structural Calculations for Landscape Retaining Walls

14. The Applicant's structural engineer provided detailed structural calculations for the landscape retaining wall including a global stability analysis for the stacked wall system. Per the Applicant's Structural Engineer, the portion of the exposed block wall to the east of the driveway is not intended to act as a vehicle barrier, only has a pedestrian barrier. Also, a 50 PSF (pound per square foot) load surcharge was applied to the walls in the calculations at the top of the wall for general maintenance and pedestrian loads. We take no exception to the structural calculations provided for the landscape retaining wall.

If you have any questions regarding our review comments outlined above, please do not hesitate to contact me at 734-466-4439. If requested by the Township, we can review an updated version of the relevant plan sheets upon resubmittal by Applicant.

Sincerely,  
OHM Advisors

George Tsakoff

Digitally signed by George Tsakoff  
DN: cn=US,  
e=george.tsakoff@ohm-advisors.com,  
o=OHM Advisors, OU=Municipal,  
c=George Tsakoff  
Date: 2022.04.11 08:49:59-04'00'

---

George Tsakoff, PE  
Principal

cc: file

# **EXHIBIT 4**

**SEIBER ENGINEERING, PLLC**  
**CONSULTING ENGINEER**

CLIF SEIBER, P.E.

8145 BENNY LANE  
WHITE LAKE, MI 48386-3507  
Phone No. 248.231.9036  
E-mail: cs@seibereng.com

June 7, 2022

Mr. Matthew A. Schuster  
5766 Geddes Road  
Ann Arbor, MI 48105-9331

Re: **Mouliere v Schuster**

Dear Mr. Schuster:

As you recently requested, I have further reviewed the architectural drawings for the Mouliere Residence submitted to Superior Township on January 19, 2022, and approved by the Superior Township Building Department on April 18, 2022. This plan set included a 5-sheet retaining wall design by Redi-Rock dated 3-21-2022. I have also received a revised sheet L-2 by the Insight Design Studio, Inc. (IDS) entitled Grading Plan, bearing a revision date of 03-16-2022, and a Plot Plan designed by Atwell containing a most recent revision date of February 24, 2022. In addition, my review included a letter issued by OHM, the consulting engineers for Superior Township, dated April 11, 2022, and a letter from Kevin Gingras, P.S. President of Arbor Land Consultants dated May 26, 2022.

Upon completion of my review, I offer the following comments for your consideration:

**Section 3.207 of the Superior Township Zoning Ordinance**

Just for your reference, Section 3.207 states:

“No dwelling shall be built on any lot that does not abut and have direct frontage on an approved road.”

Section 3.207 A. states:

“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.”

Section 3.207 B. states:

“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.”

**Is any “right-of-way”, “approved road”, or “public or private street” identified on the plans?**

Upon examination of the plan set, I could find no reference to “right-of-way”, “approved road”, or “public or private street”.

Accordingly, I cannot confirm that the house meets the parcel width requirement, setback requirements from the right-of-way, or complies with the zero foot setback variance from the road right-of-way.

In his letter of November 23, 2021, Richard J. Mayernik, the Building and Zoning Official for Superior Township, states that the “application for a building permit at the above address (5728 Geddes Road) has been rejected for the following reasons:

1. Setback from private road rights-of-way are required to be equal to the zoning district front yard setback. The subject parcel is zoned R-1 and a 60’ setback is required per Section 3.101. In fact, while not illustrated on the submitted drawings, it appears the subject home is located in the right-of-way.”

Kevin Gingras, P.S. of Arbor Land Consultants, wrote a letter dated May 26, 2022, indicating that the CAD files that he received on May 6, 2022, included proposed improvements such as the residence, driveway, retaining walls, septic system and other features. He confirmed that these proposed improvements are located within the 66’ wide easement as Mr. Mayernik correctly pointed out in the case of the proposed home.

The recently approved plans continue to show the encroachment of the home and the septic field within the easement area. The building plans should be revised to clearly show the right-of-way and the setbacks measured therefrom. This information should be documented, drawn and dimensioned prior to the issuance of the Certification of Zoning Compliance.

**Do the approved building plans for the Moulriere residence propose construction of the house and drain field within the recorded ingress and egress easements?**

The revised sheet L-2 by the Insight Design Studio, Inc. (IDS) entitled Grading Plan, bearing a revision dated of 03-16-2022, and the Plot Plan prepared by Atwell with a revision on February 24, 2022, Septic Revision, both show approximately one-half of the proposed active septic field and a portion of the house located within the 66-foot wide ingress/egress and public utility easement. Furthermore, as noted above, Kevin Gingras, P.S. of Arbor Land Consultants has confirmed that the house and septic field continue to be shown within the easement area as initially identified by the Township Building and Zoning Official.

However, the approved Architectural Building Plans containing sheets G-201 and the IDS plan bearing a most recent revision date of December 15, 2021, do not identify the ingress/egress easement and, therefore, do not show the septic field or house inside the ingress/egress easement.

The more recent Atwell and IDS plans conflict with the approved plan set and show a different design. The plans should be revised so that the correct information is documented, drawn and dimensioned prior to the issuance of the Certification of Zoning Compliance.

**Was the 8-foot high retaining wall that separates the proposed driveway from the septic field designed for fire truck live loads?**

The Redi-Rock retaining wall plan set included in the approved architectural plans, only provide wall elevations for retaining walls 1, 2 and 3. The wall between the driveway and the septic field is Wall Number 7. The IDS Grading Plan shows the bottom of the northeast corner of the wall at an elevation of 808.0 while the top of the wall is 816.0, for a height of 8 feet. Fire truck loading is typically 25 tons. The approved plans contain no wall profile for Wall No. 7. Therefore, it is not possible to determine if the retaining wall, which is subject to the State of Michigan Building Code, complies with code safety requirements and is adequate to support emergency vehicles prior to the issuance of the Certification of Zoning Compliance.

**Will the retaining wall construction encroach onto the Schuster property?**

No dimensions between the face of the retaining walls and the geotextile fabric that will line the excavation are shown on the Redi-Rock plan set. In addition, there is no dimension shown between the face of wall and the property line. Upon scaling the plan set, it appears that encroachment will take place during and upon completion of construction.

The OHM review letter of April 11, 2022, stated in paragraph 8 on page 2 the following:

“We question if it is possible for the Applicant’s Contractor to construct retaining walls without encroaching the property to the north. We request the Applicant’s Contractor to provide a narrative regarding construction of the retaining wall and how they intend to maintain construction impact on this property only during construction. It may also be beneficial for the Applicant to have their geotechnical engineering and structural engineering consultants for the project provide input on the best practices to construct the tiered retaining wall without encroaching the property line to the north without a temporary grading easement.”

Based on scaled dimensions from the plans, it appears that encroachment into your property will occur during and after construction of the tiered retaining wall. Therefore, based on the lack of information on the building plans, it is not possible to determine if the retaining wall, which is subject to the State of Michigan Building Code, encroaches onto your property. This possible encroachment should be documented prior to the issuance of the Certification of Zoning Compliance.

**Did the Redi-Rock design of the retaining wall along the Schuster property line and easement line include sufficient live loading?**

I received no structural calculations indicating the design loading for the tiered retaining wall. However, paragraph number 14 of the OHM review letter stated the following:

Mr. Matthew A. Schuster

June 2, 2022

Page 4

“...Per the Applicant’s Structural Engineer, the portion of the exposed block wall to the east of the driveway is not intended to act as a vehicle barrier, only as a pedestrian barrier. Also, a 50 PSF (pounds per square foot) load surcharge was applied to the walls in the calculations at the top of the wall for general maintenance and pedestrian loads. We take no exception to the structural calculations provided for the landscape retaining wall.”

Prior to the excavation and removal of the earth supporting the your property, you could use whatever vehicles and live loading along your south property line as you saw fit with no restriction. This ability to use your property should not be diminished because your neighbor’s engineer elected to use a pedestrian loading rate. The Redi-Rock plan set contains a chart for live loading that indicates that traffic loading should be 150 PSF. In order to reduce the risk of retaining wall failure due to your unrestricted use of your back yard, the design should be revised to include the higher loading factor.

The loading rate currently proposed by the Mouliere design engineer diminishes the full use of your back yard. Inasmuch as their design engineer has no control over the imposed loading at the property line, the under design of the wall could result in wall failure and a dangerous condition for both parties. Therefore, the load rating for the wall should be increased from 50 to 150 PSF, subject to the State of Michigan Building Code requirements, and should comply with code safety requirements and be adequate to support vehicle live loading and/or material storage prior to the issuance of the Certification of Zoning Compliance.

**What does the notation “60’-0” Easement Setback” mean on Sheet G-201 of the approved plan set?**

The dimension from the edges of the ingress/egress easement indicates a 60’-0” Easement Setback. This dimension is meaningless because it dimensions a portion of the 66-foot ingress/egress easement width within the easement (mostly in the original Parcel B), not the setback from the easement. The “60’-0” Easement Setback” line does not show a setback of any type. This notation makes no sense and is of no value.

If you have any questions regarding my response to your questions, please contact me.

Sincerely,

**SEIBER ENGINEERING, PLLC**

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

Clif Seiber, P.E.

# **EXHIBIT 5**

CHARTER TOWNSHIP OF SUPERIOR  
WASHTENAW COUNTY, MICHIGAN

November 23, 2021

Snyder Contracting  
8650 Huron Rive Drive  
Dexter, MI 48130

RE: Building Permit Application 5728 Geddes Road

Mr. Snyder,

In accordance with Section R105.3.1 of the 2015 Michigan Residential Code, your application for a building permit at the above address has been rejected for the following reasons:

1. Setbacks from private road rights-of-way are required to be equal to the zoning district front yard setback. The subject parcel is zoned R-1 and a 60' setback is required per section 3.101. In fact, while not illustrated on the submitted drawings, it appears the subject home is located in the right-of-way.
2. The submitted site plan (sheet G-201) is not adequate. The private road easement is not illustrated. The limits of the wetlands are not illustrated. Grading elevations and storm water management elements are not shown. Specific locations, heights and designs of site retaining walls are not shown on the site plan nor elsewhere on the plans.
3. Sheets G-100 and G-201 indicate conflicting home and garage square footage – which is correct?
4. Notes on sheet S-012 indicate “construction surcharge on retaining wall to be determined.” Who will be determining the surcharge if not the engineer?
5. Plans do not indicate specific steel beam sizing, footing sizing and foundation wall sizing and reinforcement (other than “typical” details) for the home or for site retaining walls.
6. Where are the shear walls located?
7. Several references to compacted engineered fill are indicated on the plans. Who be the testing engineers on this project?
8. “Typical” details have no dimensions such as sheet S-025 and others.
9. The indoor pool is generally illustrated with a note “pool design by others.” Provide specific design, size, depth and details for the pool.
10. Provide a copy of the County Soil Erosion Permit which includes the house construction.

11. Provide copies of the County Well and Septic Permits.

12. Provide a copy of the County Driveway Permit for the construction to Geddes Road.

Once the information requested in items 1-12 is submitted, the plans will be forwarded to Township Engineers for detailed review. Please contact me if you have any questions relating to this review.

Richard J. Mayernik, Building & Zoning Official

# **EXHIBIT 6**

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

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

Plaintiffs/Counter-Defendants,

Case No. 20-001274-CH

-vs-

HON. ARCHIE C. BROWN

MATTHEW A. SCHUSTER and  
ALYSSA L. CAIRO,

Defendants/Counter-Plaintiffs.  
\_\_\_\_\_ /

DEPOSITION OF

RICHARD J. MAYERNIK

Taken by the Defendants/Counter-Plaintiffs, on the 19th day of  
July, 2022, at 7577 US Highway 12, Suite A, Onsted, Michigan,  
at 12:03 p.m.

FORTZ  
Legal

Fortz Legal Support

[www.FortzLegal.com](http://www.FortzLegal.com)

844.730.4066

FORTZ  
Legal

1 A Yes.

2 Q Okay. So --

3 A Well, in '95 -- in '95, this was all one parcel.

4 Q It was one parcel at that point?

5 A Right, yeah. Because the division didn't occur  
6 until '96.

7 Q Okay. So when the division occurred in '96, would  
8 the right-of-way have to continue to Parcel C, then?

9 A No. It's existing right-of-way.

10 Q Well, then how would you ever get to Parcel C?

11 A Well, it abuts right up against it right there.

12 Q So that -- so this -- all right. So it would stay  
13 like this even after the split?

14 A Yes. Well, I mean, this right-of-way was created at  
15 the same time as these two parcels. The  
16 right-of-way was created to accommodate these  
17 parcels.

18 Q Okay. Now, I want you to look at Exhibit 2 and keep  
19 them side-by-side. This is the Moulieres' site  
20 plan.

21 A Uh-huh.

22 Q Can you mark where the right-of-way is on this plan?

23 A Yeah, this drawing is a mess. That's -- I can see  
24 portions of it, but it's so small.

25 Q Please mark it where you can see it.

1 A Yeah, I'll mark it where I can see it here.

2 I can't determine the rest of that. It's  
3 too small and too close together.

4 Q This is the only drawings that we have, Mr.  
5 Mayernik. This is what we were given.

6 A Yeah. No, I get it.

7 Q And that's our issue, too, is that we can't  
8 determine where the right-of-way is, either.

9 So do you know where the right-of-way is on  
10 Parcel B?

11 A Not on this drawing. I mean, it's -- there's a  
12 legal description for it and an engineer or surveyor  
13 could go out and plot it exactly.

14 Q Well, when you approved the site -- the Mouliere  
15 site plan -- well, let me back up.

16 Did you have to approve the Mouliere site  
17 plan?

18 A Yes.

19 Q Did you use this survey from '95 or did you use  
20 their recent plan?

21 A I used the plans that came with the construction  
22 drawings. And to be honest with you, I had several  
23 different plans, site plans, that came through my  
24 office. And I don't know if the plan I'm looking at  
25 here as Exhibit 2 is a reduced version of the plan

1 that I approved or not.

2 Q What I can tell you with certainty is, this is what  
3 I've received from the Moulieres' counsel as the  
4 most up-to-date site plan. So I'm going to ask you  
5 one more time to be clear. Can you tell me where

6 the right-of-way is on Parcel B, if you see it on  
7 there?

8 A The lines are too close together. I can't determine  
9 exactly where it is on the exhibit that you've given  
10 me.

11 Q Do you see where it says, "front yard setback"?

12 I'm looking at it upside down, but it would  
13 be this line right here.

14 A Right. Uh-huh.

15 Q Do you know where that line came from?

16 A Well, their engineers drew it in there.

17 Q What is the purpose of it?

18 A Well, first of all, that's not a front yard.

19 Q Okay.

20 A So on river properties, the front yard setback  
21 applies to the river side. So the property line,  
22 the Moulieres' property line, that abuts the  
23 Schusters' property to the north is the rear yard.  
24 The rear yard has a 50-foot setback.

25 Q And have the Moulieres been granted a variance to

# **EXHIBIT 7**

# Superior Township Fire Department

7999 Ford Rd, Ypsilanti MI, 48198 Tel: (737) 484-1996 Fax: (734) 484-1997, [www.superior-twp.org/departments/fire](http://www.superior-twp.org/departments/fire)


To: Michelle C. Harrell  
Maddin Hauser Attorneys  
28400 Northwestern Hwy  
Second Floor  
Southfield, MI 48034-1839

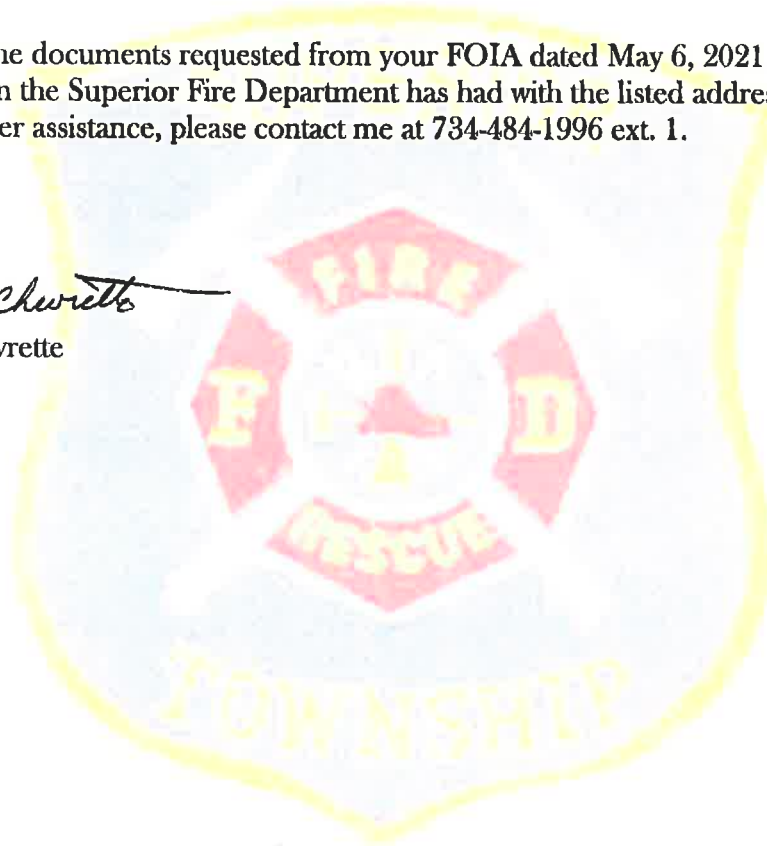
Date: 14 May 2021

Ms. Harrell,

Attached are the documents requested from your FOIA dated May 6, 2021. This is the only interaction the Superior Fire Department has had with the listed addresses. If you need any further assistance, please contact me at 734-484-1996 ext. 1.

Respectfully

  
Victor G. Chevrette  
Fire Chief



**A** END  MI   2021    NFIRS-1 Basic

**B Location Type**  Check this box to indicate that the address for this incident is provided on the Wildland Fire Module in Section B. "Alternative Location Specification" is only for wildland fires.  Street address  Intersection  In front of  Rear of  Adjacent to  Directions  U.S. National Grid

**C Incident Type**  561  Unauthorized burning

**E1 Dates and Times** Month  Day  Year  Hour  Min

**E2 Shifts and Alarms** Local Origin   Alarm District

**E3 Special Studies** Special Study ID#  Special Study Value

**D Aid Given or Received**  None

1  Mutual aid received      
 2  Auto. aid received      
 3  Mutual aid given      
 4  Auto. aid given      
 5  Other aid given

**F Actions Taken**  Investigate  Extinguishment by fire service personnel

**G1 Resources**  Apparatus or Personnel or Medium (as used)  Check box if resources provided but not recorded (resources)

Suppression   EMS   Other

**G2 Estimated Dollar Losses and Values** LOSSES: Reported for all fires (Amount Optional for non-fires) None

Property \$     Contents \$

PRE-INCIDENT VALUE: Optional  
 Property \$     Contents \$

**H1 Casualties**  None

Deaths  Injuries

Fire Service    
 Civilian

**H2 Detector** Required for controlled fires  
 1  Detector alerted occupants  
 2  Detector did not alert them  
 U  Unknown

**H3 Hazardous Materials Release**  None

1  Natural gas: slow leak, no evacuation or HazMat actions  
 2  Propane gas: <2.5-lb tank (as in home BBQ grill)  
 3  Gasoline: vehicle fuel tank or portable container  
 4  Kerosene: fuel burning equipment or portable storage  
 5  Diesel fuel/fuel oil: vehicle fuel tank or portable storage  
 6  Household solvents: hemorrhage spill, cleanup only  
 7  Motor oil: from engine or portable container  
 8  Paint: from paint cans totaling <55 gallons  
 0  Other: special HazMat actions required or spill > 55 gal (Please complete the HazMat form.)

**Mixed Use Property**  Not mixed

10  Assembly use  
 20  Education use  
 33  Medical use  
 40  Residential use  
 51  Row of stores  
 53  Enclosed mall  
 58  Business & residential  
 59  Office use  
 60  Industrial use  
 63  Military use  
 65  Farm use  
 00  Other mixed use

**J Property Use Structures**  None

131  Church, place of worship  
 161  Restaurant or cafeteria  
 162  Bar/Tavern or nightclub  
 213  Elementary school, kindergarten  
 215  High school, junior high  
 241  College, adult education  
 311  Nursing home  
 331  Hospital

**Outside**

124  Playground or park  
 655  Crops or orchard  
 669  Forest (timberland)  
 807  Outdoor storage area  
 919  Dump or sanitary landfill  
 931  Open land or field

341  Clinic, clinic-type infirmary  
 342  Doctor/Dentist office  
 361  Prison or jail, not juvenile  
 419  1- or 2-family dwelling  
 429  Multifamily dwelling  
 439  Rooming/Boarding house  
 449  Commercial hotel or motel  
 459  Residential, board and care  
 464  Dormitory/Barracks  
 519  Food and beverage sales

936  Vacant lot  
 938  Graded/Cared for plot of land  
 946  Lake, river, stream  
 951  Railroad right-of-way  
 960  Other street  
 961  Highway/Divided highway  
 962  Residential street/driveway

539  Household goods, sales, repairs  
 571  Gas or service station  
 579  Motor vehicle/boat sales/repairs  
 599  Business office  
 615  Electric-generating plant  
 629  Laboratory/Science laboratory  
 700  Manufacturing plant  
 819  Livestock/Poultry storage (barn)  
 882  Non-residential parking garage  
 891  Warehouse

981  Construction site  
 984  Industrial plant yard

Look up and enter a Property Use code and description only if you have NOT checked a Property Use box

Property Use

NFIRS 1.0 (revised 10/05)

**K1 Person/Entity Involved**

Local Option: \_\_\_\_\_ Business Name (if applicable): \_\_\_\_\_ Area Code: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Check this box if same address as incident location (Section B). Then skip the three duplicate address lines.

Mr. Ms. Mrs. First Name: \_\_\_\_\_ MI: \_\_\_\_\_ Last Name: \_\_\_\_\_ Suffix: \_\_\_\_\_

Number: \_\_\_\_\_ Prefix: \_\_\_\_\_ Street or Highway: \_\_\_\_\_ Street Type: \_\_\_\_\_ Suffix: \_\_\_\_\_

Post Office Box: \_\_\_\_\_ Apt./Suite/Room: \_\_\_\_\_ City: \_\_\_\_\_

State: \_\_\_\_\_ ZIP Code: \_\_\_\_\_

More people involved? Check this box and attach Supplemental Forms (NFIRS-1S) as necessary.

**K2 Owner**

Local Option: \_\_\_\_\_ Business Name (if applicable): \_\_\_\_\_ Area Code: **734** Phone Number: **883** - **2464**

Check this box if same address as incident location (Section B). Then skip the three duplicate address lines.

**MR** First Name: **Craig** MI: \_\_\_\_\_ Last Name: **Hinz** Suffix: \_\_\_\_\_

Number: \_\_\_\_\_ Prefix: \_\_\_\_\_ Street or Highway: \_\_\_\_\_ Street Type: \_\_\_\_\_ Suffix: \_\_\_\_\_

Post Office Box: \_\_\_\_\_ Apt./Suite/Room: \_\_\_\_\_ City: \_\_\_\_\_

State: \_\_\_\_\_ ZIP Code: \_\_\_\_\_

**L** **Remarks:**

**NICHOLAS ROBSON**  
**April 22, 2021 23:37:58**

FD was contacted by resident at 5766 Geddes Rd for an unattended fire at a construction site. Resident that called stated that ashes were falling on his home and he could see flames. E11-2 responded from station two. FD arrived to find a construction site where land clearing was being done, and there was a pile of wood burning in between two excavators. 11C-3 had station one toned for the utility to respond to extinguish the fire. FD extinguished the fire. FD cleared scene.

More remarks? Check this box and attach Supplemental Forms (NFIRS-1S) as necessary.

**M Authorization**

Check box if same as Officer in charge:

Officer in charge ID: **11C3** Signature: \_\_\_\_\_ Position or rank: **cptn** Assignment: \_\_\_\_\_ Month: **04** Day: **22** Year: **2021**

Member making report ID: **11F14** Signature: \_\_\_\_\_ Position or rank: **ff** Assignment: \_\_\_\_\_ Month: **04** Day: **22** Year: **2021**

**ZONING BOARD OF APPEALS  
SUPERIOR CHARTER TOWNSHIP  
SUPERIOR TOWNSHIP HALL  
3040 N. PROSPECT, YPSILANTI, MI 48198  
WEDNESDAY, AUGUST 3, 2022  
7:00 p.m.**

**ZBA #22-03**

The Superior Township Zoning Board of Appeals will hold a public hearing on **Wednesday, August 3, 2022, at 7:00 p.m.** at the Superior Township Hall, 3040 N. Prospect, on a request for the following variance from the Superior Township Zoning Ordinance:

Variance from Section 6.03(2)(b) (Accessory Structures) for the construction of hoop houses/high tunnels in the front yard of the proposed single-family dwelling.

**The property is located at 3728 N. Dixboro Road** and is zoned A-2 (Agricultural District).

Parcel ID # J-10-07-300-043

A complete copy of the petition for variance 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.

Laura Bennett, Planning & Zoning Administrator  
3040 N. Prospect  
Ypsilanti, MI 48198  
734-482-6099

## 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): 6-03(2)(b) Accessory Structures

- Appeal of the decision of the Township Zoning Official

### APPLICANT INFORMATION

Name Meadowlark Design Builder, Rebecca Lussier

Address 3250 W. Liberty Rd, Ann Arbor, MI 48103

Phone Number 734-332-1500 Email rlussier@homewithmeadowlark.com

Is the property owned by the applicant?  YES  NO

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

Name, address and telephone number of owner(s): Darcy Rhoden + Casey Thacker

C/O 3704 Dixboro Rd Ann Arbor, MI 48105

### DESCRIPTION OF THE PROPERTY

Address 3728 Dixboro Rd, Ann Arbor, MI 48105

Parcel ID# J-10-07-300-043 Parcel size 6.780 Acres

Size of the proposed building or addition, if any 50'x16' hoop house

Use of existing building (if any) and property Farm + Residential Home

Zoning classification of property A-2

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.



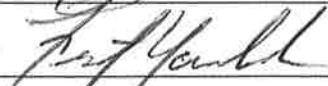

**DESCRIBE THE REASONS FOR YOUR APPEAL**

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

This request is to seek variance from 6.03(2)(b) which only allows accessory structures to be located in the front yard when certain conditions have been met. A large portion of this front yard area is currently being used for farmland, and thus we seek to install accessory structures, called "hoop houses" or "high tunnels" within this front yard area, adjacent to the existing functioning crop farms. Installing them to conform to this ordinance will produce an inefficient and disconnected farming operation. We can establish changes to the site to meet conditions 2-4 of 6.03(2)(b) through screening methods such as planting coniferous trees and installing berms at the roadside of the property. Condition 1, the requirement that the property be 10 acres minimum is being appealed. With respect to this condition (#1), the reason we are appealing is because we believe the spirit of the ordinance is based on mitigating potential impacts to neighboring properties. In this case, impact to neighboring properties is reduced for several reasons A. There is not a neighboring property to the north. North is M-14, B. The neighboring property to the west is a preserve C. The neighboring property to the south is owned by personal friends who are in support of our farming operation. D. The neighboring property to the east has the benefit of being located further from the front yard and screened by the natural trees on our property. In addition, our new home is being built in a location which will obscure the view of our front yard completely.

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     |
|------------------------|--------------------------------------------------------------------------------------|--------------------|
| MARIAH + STEPH PARRISH |  | 3704 N. Dixboro Rd |
| Monief Maiza           |  | 5200 Overbrook Dr  |
| FRITZ YAMBRACIT        |  | 5347 Kelsey Cir    |
| Adrian Vine            |  | 5355 Kelsey Cir    |
|                        |                                                                                      |                    |
|                        |                                                                                      |                    |
|                        |                                                                                      |                    |
|                        |                                                                                      |                    |

**INFORMATION REQUIRED TO BE SUBMITTED WITH APPEAL**

The following must attached and submitted with the application:

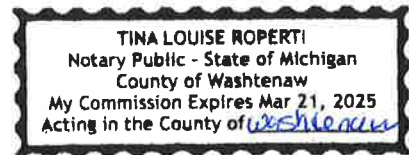
- Ten (10) sets of drawings, all on sheets 8 ½ inches by 11 inches or 8 ½ inches by 14 inches, drawn to scale and showing all measurements, features and structures, including the general location of all natural features on the property, measurements to show distances between structures, measurements 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 5-27-22

**NOTARY PUBLIC** – Applicant's signature must be notarized.



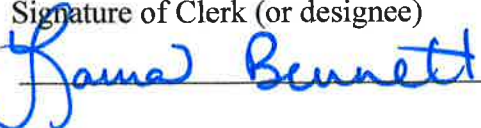
Sworn to before me this 27<sup>th</sup> day of May 2022

My commission expires March 21, 2025   
(Notary Public, Washtenaw County, Michigan)

\*\*\*\*\*

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

I hereby state that this petition was properly received and filed on 6/6/22 (date)

Signature of Clerk (or designee)  


Fee paid \$175.00

## 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

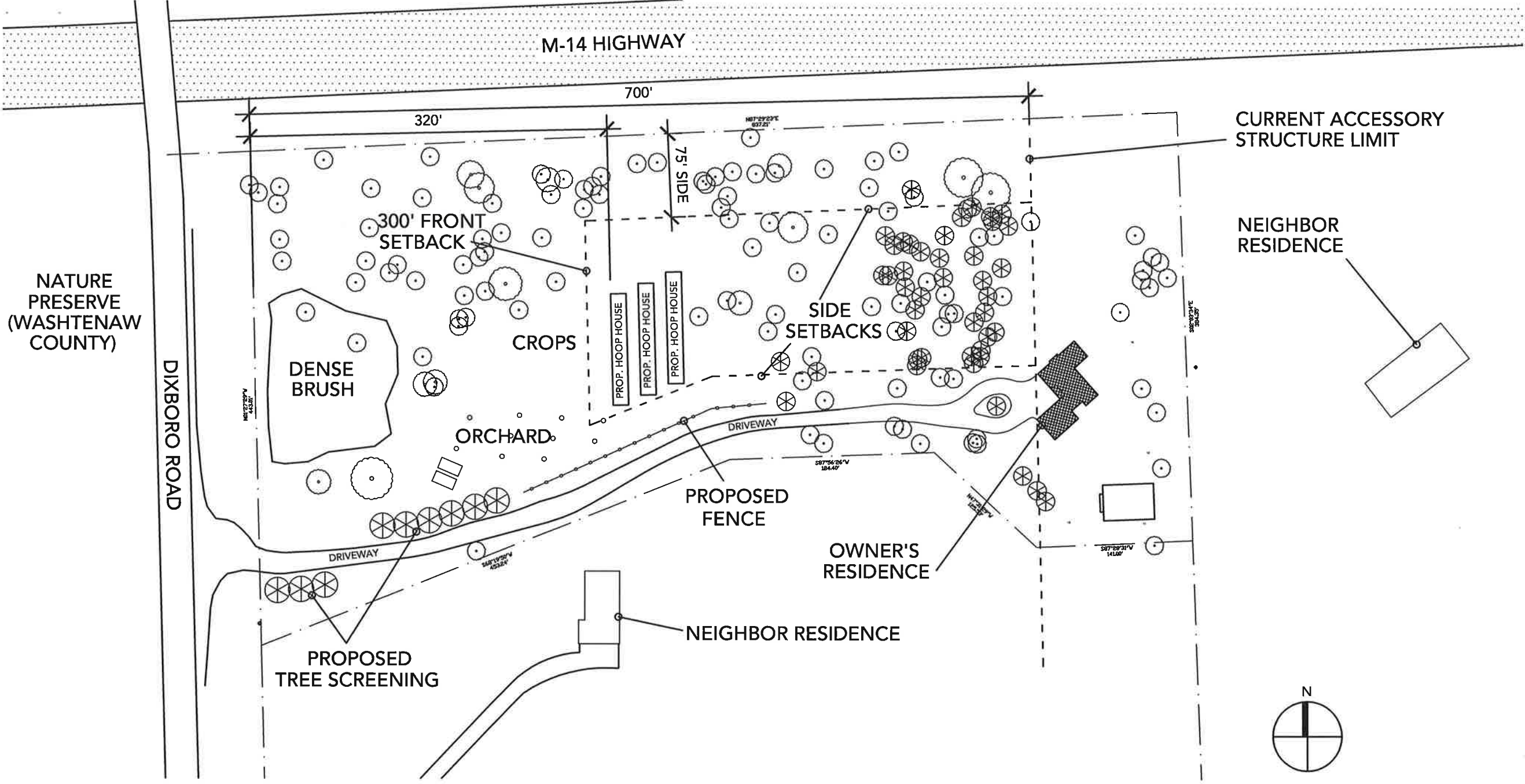
*I hereby acknowledge that I have read and agree to the above and that I have been given a copy of this notice.*



Signature




Date



|                         |                   |                         |  |
|-------------------------|-------------------|-------------------------|--|
| <b>Site Plan</b>        |                   |                         |  |
| PROJECT #:<br>RHOD21017 | SCALE:<br>1"=100' | PRINT DATE:<br>05/18/22 |  |

Darcy Rhoden + Casey Thacker  
 3728 Dixboro Road  
 Ann Arbor, MI 48105

**MEADOWLARK** 

3250 West Liberty Ann Arbor, MI 48103  
 Office: 734.332.1500

A photograph showing a rural landscape. On the left, a gravel driveway leads to a dirt area. A white sign with the number '3728' is placed in the grass. To the right, there is a field of tall, dry grasses. In the background, a dense line of trees, mostly without leaves, stretches across the horizon under a cloudy sky.

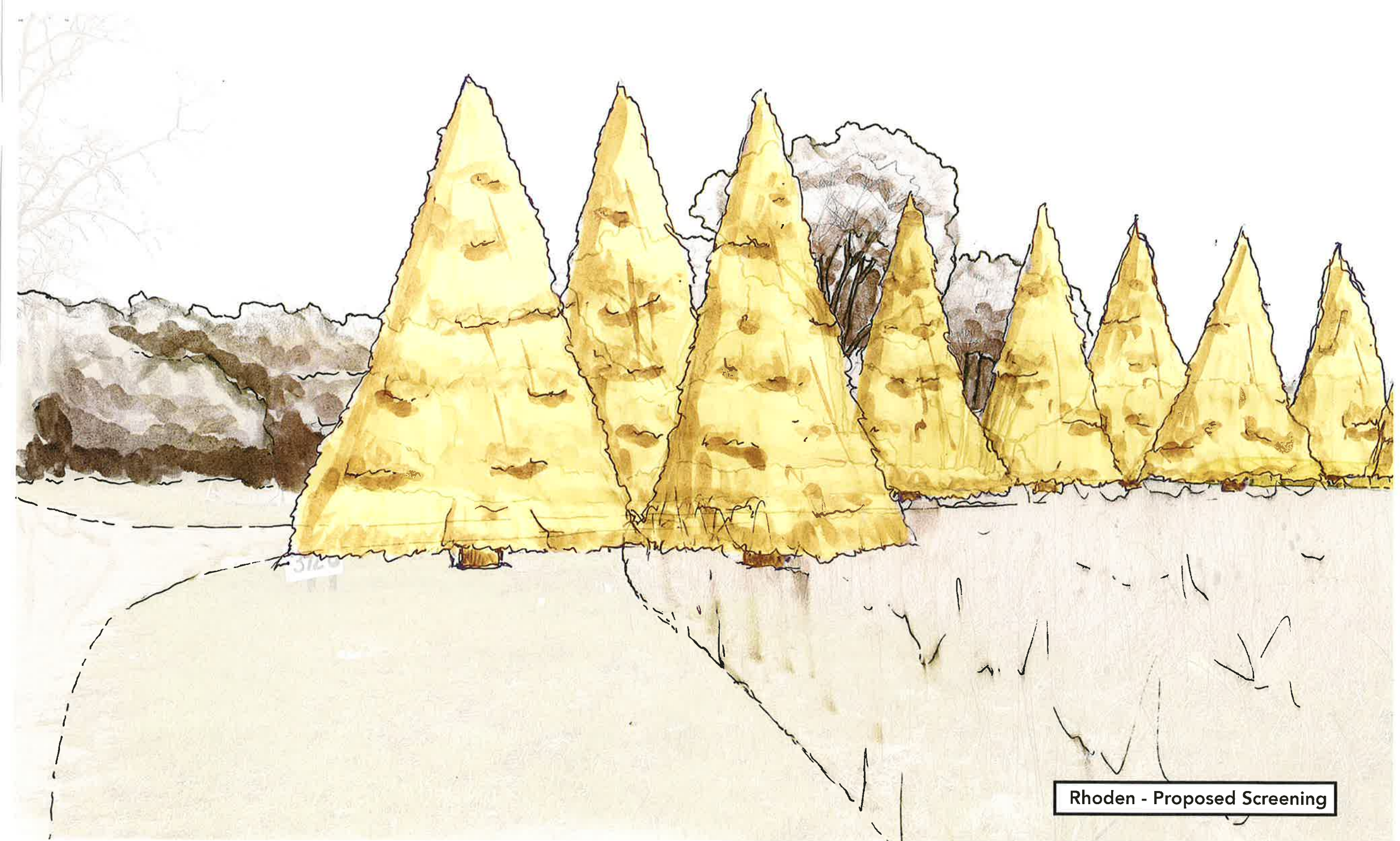
3728

Rhoden - Existing Street View



3728

Rhoden - Proposed Hoop House Location



Rhoden - Proposed Screening

**ZONING BOARD OF APPEALS  
SUPERIOR CHARTER TOWNSHIP  
SUPERIOR TOWNSHIP HALL  
3040 N. PROSPECT, YPSILANTI, MI 48198  
WEDNESDAY, AUGUST 3, 2022  
7:00 p.m.**

**ZBA #22-05**

The Superior Township Zoning Board of Appeals will hold a public hearing on **Wednesday, August 3, 2022, at 7:00 p.m.** at the Superior Township Hall, 3040 N. Prospect, on a request for the following variance from the Superior Township Zoning Ordinance:

Variance from Section 3.101 (Dimensional Standards) for the construction of a new single-family dwelling in the 75' private road setback.

**The property is located at 8541 Cherry Hill Road** and is zoned A-1 (Agricultural District).

Parcel ID # J-10-15-300-025

A complete copy of the petition for variance 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.

Laura Bennett, Planning & Zoning Administrator  
3040 N. Prospect  
Ypsilanti, MI 48198  
734-482-6099

## 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:

Interpretation of the Zoning Ordinance/Official Zoning Map (Section 13.07)

Variance from the requirements of the following Zoning Ordinance

Section(s): 3.101 Dimensional Standards

Appeal of the decision of the Township Zoning Official

### APPLICANT INFORMATION

Name JOSEPH SIELOFF

Address 8400 CHERRY HILL ROAD SUPERIOR TOWNSHIP 48198

Phone Number 734 776 7085 Email JDS96@MAC.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 8541 CHERRY HILL ROAD

Parcel ID# J-10-15-300-025 Parcel size 5.96 ACRES

Size of the proposed building or addition, if any 3000 SQ FT RESIDENCE

Use of existing building (if any) and property RESIDENCE

Zoning classification of property RESIDENTIAL

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.



**INFORMATION REQUIRED TO BE SUBMITTED WITH APPEAL**

The following must attached and submitted with the application:

- <sup>10 Large 10 Small</sup> 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 7/11/2022

**NOTARY PUBLIC** – Applicant's signature must be notarized.

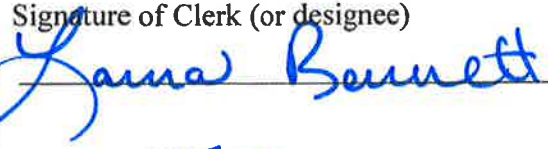
Sworn to before me this 11<sup>th</sup> day of July 2022

My commission expires Nancy L. Mason 6-16-27  
(Notary Public, Washtenaw County, Michigan)

\*\*\*\*\*

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

I hereby state that this petition was properly received and filed on 7/11/22 (date)

Signature of Clerk (or designee)  


Fee paid 175.00

NANCY L. MASON  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF WASHTENAW  
MY COMMISSION EXPIRES Jun 16, 2027  
ACTING IN COUNTY OF Washtenaw

## 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.

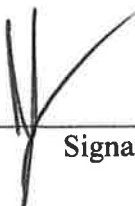
### Application Fees

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


7/11/2022  
\_\_\_\_\_  
Date

Joe Sieloff  
8541 Cherry Hill Road  
Superior Township Michigan

ZBA MEETING  
AUGUST 3<sup>RD</sup>, 2022

The reason for the request is as follows:

- We chose to build on the eastern side of the Drain rather than placing the house on the western side off the drain which would require us to cross the drain and disrupt the landscape.
- By keeping the house in the place as it is drawn it will allow for a yard behind the house.
- The Road Easement for lot 4A, the lot that I own, is on my lot entirely where the measurement is taken from.
- The setback along with the road easement is 108' and that is a substantial distance to accommodate and still leave a place for a yard for my family.
- The variance to the setback does not have any affect to anyone except me and my family.
- By shifting the house back to accommodate the setback it will start to encroach on the trees along North Branch of the Crippen Drain that runs thru the property.

X  7/11/2022

# 8541 CHERRY HILL ROAD JOE SIELOFF

## EXHIBIT "A"

Beginning at a point distant South 88 degrees 05 minutes 30 seconds West 996.60 feet and North 00 degrees 15 minutes 57 seconds West 1,430.69 feet from the South 1/4 corner of Section 15, Town 2 South, Range 7 East, Superior Township and proceeding thence North 00 degrees 15 minutes 57 seconds West 448.84 feet; thence North 88 degrees 26 minutes 35 seconds East 449.53 feet; thence South 01 degrees 33 minutes 25 seconds East 579.14 feet; thence North 77 degrees 12 minutes 14 seconds West 576.05 feet to the Point of Beginning.

TOGETHER WITH AND SUBJECT TO A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND PUBLIC UTILITIES, DESCRIBED AS: Beginning at a point distant from the South 1/4 corner, Section 15, Town 2 South, Range 7 East, Superior Township, Washtenaw County, Michigan, South 88 Degrees 05 Minutes 03 Seconds West 238.90 feet and North 00 Degrees 00 Minutes 23 Seconds West 33.02 feet and proceeding thence North 00 Degrees 00 Minutes 23 Seconds West 42.10 feet; thence 59.40 feet along the arc of curve concave to the West, with a radius of 67.00 feet, a delta of 50 Degrees 48 Minutes 01 Seconds, a chord of 57.48 feet bearing North 25 Degrees 24 Minutes 23 Seconds West; thence North 50 Degrees 48 Minutes 24 Seconds West 150.83 feet; thence 86.89 feet along the arc of a curve concave to the East, with a radius of 98.00 feet, a delta of 50 Degrees 48 Minutes 01 Seconds and a chord of 84.07 feet bearing North 25 Degrees 24 Minutes 23 Seconds West; thence South 00 Degrees 00 Minutes 23 Seconds East 126.83 feet; thence 101.29 feet along the arc of a curve concave to the East with a radius of 133.00 feet, a delta of 43 Degrees 38 Minutes 13 Seconds and a chord of 98.86 feet bearing North 21 Degrees 48 Minutes 44 Seconds East; thence 195.26 feet along the arc of a curve concave to the West, with a radius of 117.00 feet, a delta of 95 Degrees 37 Minutes 18 Seconds and a chord of 173.38 feet bearing North 04 Degrees 10 Minutes 49 Seconds West thence North 51 Degrees 59 Minutes 28 Seconds West 128.13 feet; thence 117.07 feet along the arc of a curve concave to the East, with a radius of 133.00 feet, a delta of 43 Degrees 26 Minutes 03 Seconds and a chord of 113.33 feet bearing North 26 Degrees 46 Minutes 27 Seconds West; thence North 01 Degrees 33 Minutes 25 Seconds West 25.74 feet; thence South 59 Degrees 29 Minutes 05 Seconds East 176.23 feet; thence South 54 Degrees 25 Minutes 25 Seconds West 75.00 feet; thence South 00 Degrees 56 Minutes 56 Seconds East, 182.30 feet; thence South 88 Degrees 55 Minutes 14 Seconds West 85.24 feet; thence South 01 Degrees 33 Minutes 25 Seconds East 294.65 feet; thence 56.98 feet along the arc of a curve concave to the East, with a radius of 67.00 feet, a delta of 50 Degrees 26 Minutes 03 Seconds and a chord of 57.09 feet bearing South 26 Degrees 46 Minutes 27 Seconds East; thence South 51 Degrees 59 Minutes 28 Seconds East 128.13 feet; thence 305.41 feet along the arc of a curve concave to the West, with a radius of 183.00 feet, a delta of 95 Degrees 37 Minutes 18 Seconds and a chord of 271.18 feet bearing South 04 Degrees 10 Minutes 49 Seconds East thence 51.03 feet along the arc of a curve concave to the East, with a radius of 67.00 feet, a delta of 43 Degrees 38 Minutes 13 Seconds and a chord of 49.80 feet bearing South 21 Degrees 48 Minutes 44 Seconds East; thence South 00 Degrees 00 Minutes 23 Seconds East 126.83 feet; thence 28.37 feet along the arc of a curve concave to the East, with a radius of 32.00 feet, a delta of 50 Degrees 48 Minutes 01 Seconds and a chord of 27.45 feet bearing South 25 Degrees 24 Minutes 23 Seconds East; thence South 50 Degrees 48 Minutes 24 Seconds East 150.83 feet; thence 117.92 feet along the arc of a curve concave to the West, with a radius of 133.00 feet, a delta of 50 Degrees 48 Minutes 01 Seconds and a chord of 114.10 feet bearing South 75 Degrees 24 Minutes 23 Seconds East; thence South 00 Degrees 00 Minutes 23 Seconds East, 39.91 feet; thence South 88 Degrees 05 Minutes 30 Seconds West, 66.04 feet to the point of beginning.

### IMPORTANT

Agent, it is your responsibility, to verify with your Seller(s) that this is indeed the LEGAL DESCRIPTION in which your Seller(s) intends to sell. If this Legal Description is incorrect or incomplete, then please notify us in writing immediately. Delays, additional charges and Claims could result in your failure to do so.

Thank-You,  
Examination Department

2/7/2022 10:32 AM

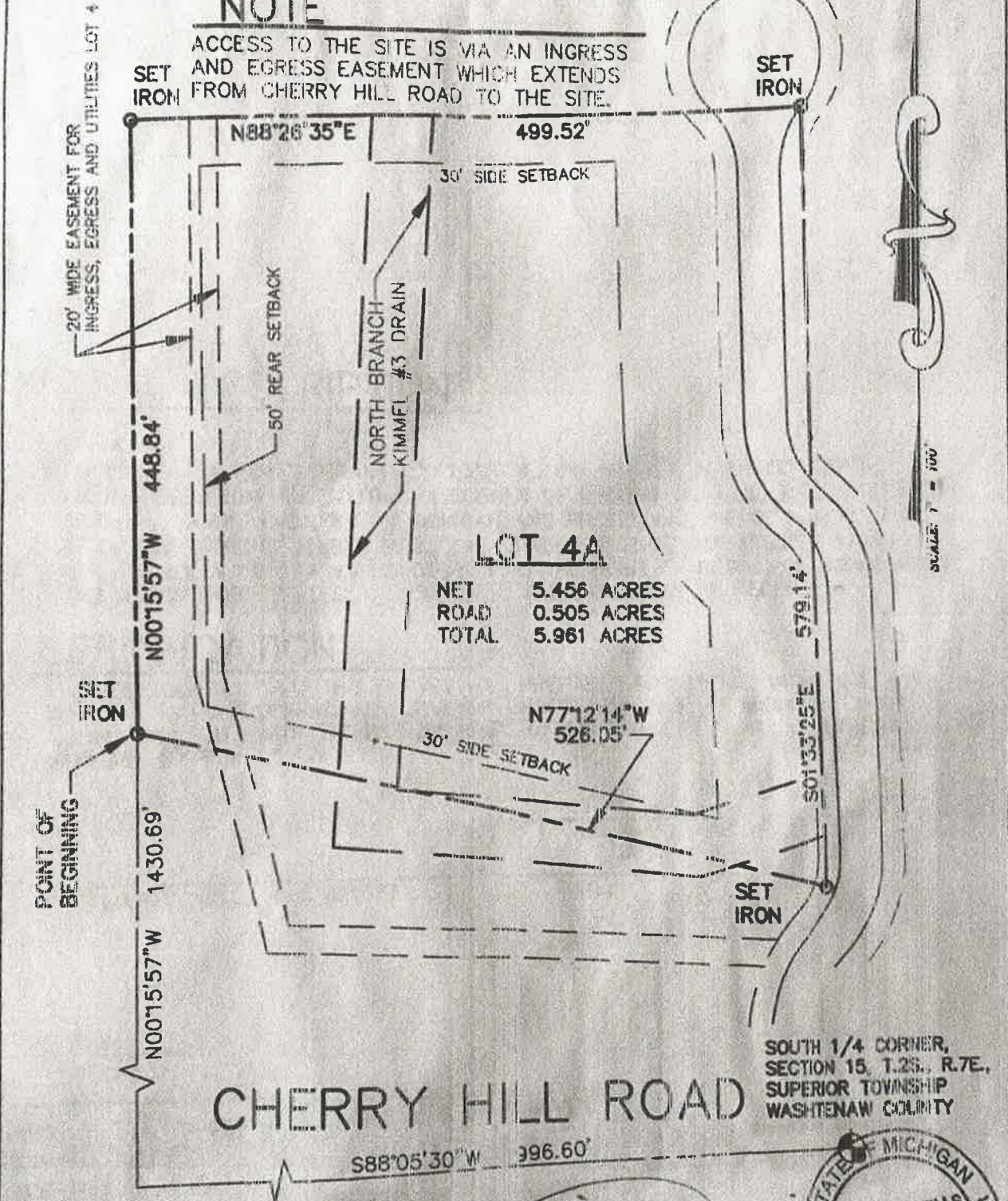


8541 Cherry Hill Road Joe Siehoff

### SKETCH of SURVEY

### NOTE

ACCESS TO THE SITE IS VIA AN INGRESS AND EGRESS EASEMENT WHICH EXTENDS FROM CHERRY HILL ROAD TO THE SITE.



### LOT 4A

NET 5.456 ACRES  
 ROAD 0.505 ACRES  
 TOTAL 5.961 ACRES

SOUTH 1/4 CORNER,  
 SECTION 15, T.25., R.7E.,  
 SUPERIOR TOWNSHIP  
 WASHTENAW COUNTY

REVISION  
 04-28-04

*William D Mills*



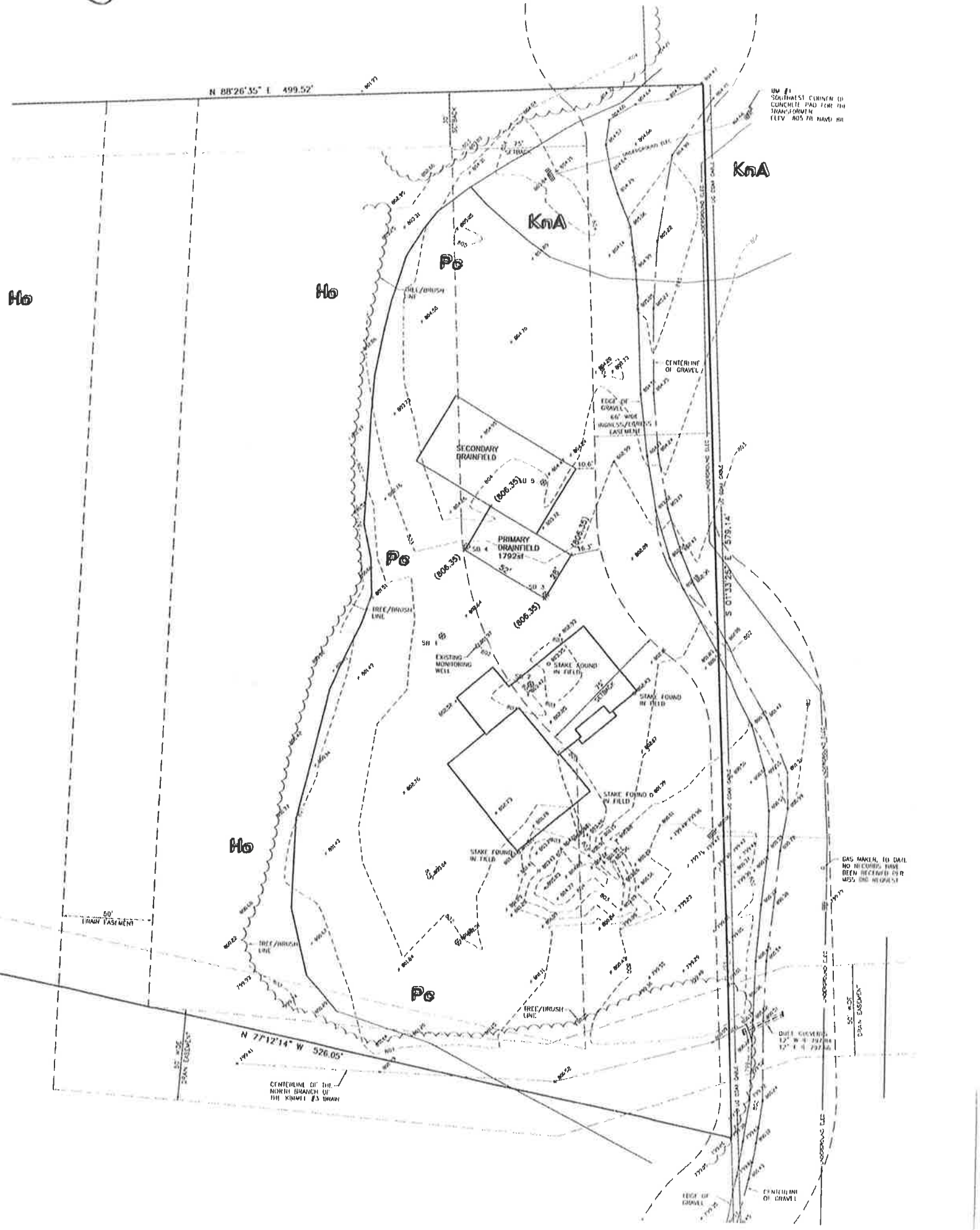
DATE: 11-18-02  
 JOB No. 02157  
 DWG. No. D-871  
 SHEET: 1 of 2  
 SCALE: 1"=100'

SKETCH of SURVEY  
 LOT 4A  
 SUPERIOR TOWNSHIP  
 WASHTENAW CO., MI

**JMS** Jerritt-Hille-Blumen  
 and Associates, Inc.  
 CONSULTING ENGINEERS AND LAND SURVEYORS  
 3308 Palmer, Westland, Michigan 48126  
 (734) 720-0830



Joe Sneloff 8544 Cherry Hill Rd.



UM #1  
SOUTHWEST CORNER OF  
CONCRETE PAD FOR THE  
TRANSFORMER  
ELEV. 855.10 NAVD 83

GAS METER TO DATE  
NO RECORDS HAVE  
BEEN RECEIVED FOR  
M55 AND M45R-1

Duff CENTER  
12" x 8" x 24" (12'  
12" x 8" x 24" (12'

50' W/25'  
DRAIN EASEMENT

Ho

Ho

Ho

KnA

KnA

Pe

Pe

Pe

CENTERLINE OF THE  
NORTH SHADER OF  
THE KUMBLE #3 DRAIN

EDGE OF GRAVEL

CENTERLINE OF GRAVEL