

GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS

February 18, 2014

6:30 P.M.

AGENDA

Call to Order:

Pledge of Allegiance:

Introduction:

Approval of Agenda:

Declaration of Conflict of Interest:

Call to the Public: *(Please Note: The Board will not begin any new business after 10:00 p.m.)*

1. 14-02... A request by Larry and Christa White, Section 28, 4489 Oak Pointe Drive, for a variance from the maximum allowable building height to construct a new single family residence.
2. 14-03...A request by Michael and Gail McLean, Section 21, Parcel ID #4711-21-401-015, on Homestead Drive, for a variance from the required front yard setback to construct a new single family residence.

Administrative Business:

1. Approval of minutes for the January 14, 2014 Zoning Board of Appeals meeting.
2. Correspondence
3. Township Board Representative Report
4. Planning Commission Representative Report
5. Zoning Official Report
6. Member Discussion
7. Adjournment

GENOA TOWNSHIP
ZONING BOARD OF APPEALS
February 18, 2014
6:30 P.M.

The Genoa Township Zoning Board of Appeals will hold a public hearing at Genoa Township Hall, 2911 Dorr Road, Brighton, MI, 48116 for the following variance requests at the February 18, 2014 regular meeting:

- 1. 14-02... A request by Larry and Christa White, Section 28, 4489 Oak Pointe Drive, for a variance from the maximum allowable building height to construct a new single family residence.*
- 2. 14-03...A request by Michael and Gail McLean, Section 21, Parcel ID #4711-21-401-015, on Homestead Drive, for a variance from the required front yard setback and side yard setback to construct a new single family residence.*

Please address any written comments to the Genoa Township Zoning Board of Appeals at, 2911 Dorr Rd, Brighton, MI 48116 or via email at ron@genoa.org. All materials relating to this request are available for public inspection at the Genoa Township Hall prior to the hearing.

Genoa Township will provide necessary reasonable auxiliary aides and services to individuals with disabilities who are planning to attend. Please contact the Genoa Township Hall at (810) 227-5225 at least one day in advance of the meeting if you need assistance.

Published: BA-LCP 2-2-14

GENOA CHARTER TOWNSHIP APPLICATION FOR VARIANCE

2911 DORR RD. BRIGHTON, MI 48116
(810) 227-5225 FAX (810) 227-3420

Case # 14-02 Meeting Date: 2/18/14

- PAID Variance Application Fee
\$125.00 for residential - \$300.00 for commercial/industrial
 Copy of paperwork to Assessing Department

- **Article 23** of the Genoa Township Zoning Ordinance describes the Variance procedure and the duties of the Zoning Board of Appeals. (Please see attached)

Applicant/Owner: LARRY & CHRISTA WHITE (DENNIS DINJER, DESIGNER)

Property Address: 4489 OAKPOINTE DR. Phone: 248 672 9520

Present Zoning: LRR Tax Code: 4711-28-100-014

The applicant respectfully requests that an adjustment of the terms of the Zoning Ordinance be made in the case of their property because the following peculiar or unusual conditions are present which justify variance.

1. Variance Requested: SEEKING RELIEF OF 25' HEIGHT RESTRICTION, REQUESTING 5' VARIANCE

This variance is requested because of the following reasons:

- a. Unusual topography/shape of land (explain) _____
- b. Other (explain) PLEASE SEE ATTACHED WRITTEN EXPLANATION AND DRAWINGS.

Variance Application Requires the Following:

- **Plot Plan Drawings showing setbacks and elevations of proposed buildings showing all other pertinent information. Note: Will need 8 copies of any drawings larger than 8 1/2 and 14 in size.**
- **Waterfront properties must indicate setback from water for adjacent homes**
- **A Land Use Permit Application to be submitted with ZBA Variance Application.**
- **Property must be staked showing all proposed improvements 5 days before the meeting and remain in place until after the meeting**
- **Petitioner (or a Representative) must be present at the meeting**

Date: 1-23-14

Signature: [Signature]

Any Variance not acted upon within 12 months from the date of approval is invalid and must receive a renewal from the ZBA.

After the decision is made regarding your variance approval contact Adam or Amy at the township office to discuss what your next step is.

300 ft Buffer for Noticing



Source: Esri, DigitalGlobe, GeoEye, USA, USDA, AeroGRID, IGN, SIA, Swisstopo, and the City of Atlanta



Variance Case #14-02

Applicants: Larry and Christa White

Parcel: 4711-28-100-014

Meeting Date: 2-18-2014



January 23, 2014

4711-28-100-014
WHITE LARRY H & CHRISTA L
4489 OAK POINTE DR
BRIGHTON MI 48116

4711-28-100-015
CLUB CORP.
PROPERTY TAX DEPT
P O BOX 790830
SAN ANTONIO TX 78279-0830

4711-28-101-064
PERSYN JAMES & SARA
4009 ST. ANDREWS
HOWELL MI 48843

4711-28-201-042
GROTENHUIS BRUCE G
4225 HOMESTEAD
HOWELL MI 48843

4711-28-201-044
KOZAR PATRICIA & DAVE
4237 HOMESTEAD
HOWELL MI 48843

4711-28-201-045
LEWIS, JACK & SUSAN
4243 HOMESTEAD
HOWELL MI 48843

4711-28-201-046
WILSON SCOTT, JERALD JR & GARRICK
PO BOX 2190
HOWELL MI 48844

4711-28-201-047
MC DONALD, KURT & NANCY
4261 HOMESTEAD
HOWELL MI 48843

4711-28-201-050
WHITE, CRAIG R.
4277 HOMESTEAD
HOWELL MI 48843

4711-28-201-052
CLEMENTS, SCOTT & CYNTHIA
4291 HOMESTEAD
HOWELL MI 48843

4711-28-300-011
CLUB CORP.
PROPERTY TAX DEPT
P O BOX 790830
SAN ANTONIO TX 78279-0830

4711-28-302-044
MARKOV'S ROBERT & VIJA
4465 OAK POINTE DR.
BRIGHTON MI 48116

4711-28-302-045
PARKER, DAVID & LAURA
4665 PINE EAGLES DR.
BRIGHTON MI 48116

4711-28-302-046
DELUCA, JOSEPH & TANJA
4481 OAK POINTE DR.
BRIGHTON MI 48116

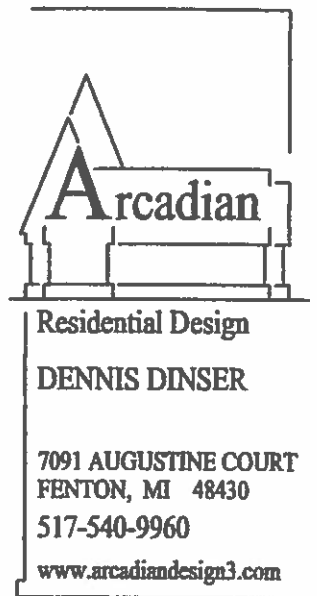
4711-28-400-002
WHITE LARRY H & CHRISTA
4489 OAK POINTE DR.
BRIGHTON MI 48116

4711-28-400-003
PRICE, GLENN & BONNIE
4495 OAK POINTE DR.
BRIGHTON MI 48116

4711-28-404-015
LIVINGSTON CO. MUNICIPAL CORP
DRAIN COMMISSION
304 GRAND RIVER
HOWELL MI 48843

January 22, 2014

Genoa Zoning Board of Appeals
Re: White Residence, 4489 Oak Pointe Drive, Brighton



Dear Board,

Our site falls within the bounds of the Lakeshore Resort Residential zone, with a 25' height restriction. The LRR zoning district, almost exclusively, defines very narrow lakefront properties. Lots of this nature, positioned one next to another, warrant the 25' height restriction. Homes of greater height would form canyon walls when built so closely together. We understand and respect the purpose of this restriction.

Our lot, however, does not follow suit with these characteristics, as shown on the site plan following this explanation. Our lot is large and broad; wetlands to the west, a tall, large home to the east. Our neighbor to the east is not close to our building site, and wetlands to the west prohibits any neighbor from existing there. Our building height will not impact their properties or view.

Most importantly though, we'd like to demonstrate that our proposal honors the spirit of the ordinance by building a home of significantly less height and mass than the restriction allows. Please refer to the first of the large drawings attached to follow our reasoning for a height restriction variance. The second sheet of large drawings defines all four elevations for your consideration.

Figure 1 shows our proposed front elevation. Figure 2 shows the exteriors of a hypothetical home, designed in a different manner, that would meet the height restriction of the LRR zoning district. Finally, figure 3 shows the elevation of the hypothetical home overlaid with our proposed elevation. The difference in height and overall mass is the shaded area. This drawing demonstrates that the care and effort put forth in the design of our proposal produces 6' less height and 56% less mass than we could otherwise build under this height restriction.

While we are technically outside the bounds of the height restriction, we think we have upheld the spirit of the ordinance by designing a home that is much less impactful in its size than the LRR district allows. We think that the manner in which we have honored the ordinance with this creative solution warrants a 5' relief from the height restriction.

Thank you for your time and consideration.

Respectfully,

A handwritten signature in cursive script, which appears to read "Dennis Dinsler".

Y
I TO
SIZE
OF
AND

RTY MAY
AD/OR
RRIAN
J WITH
KE.

HOMESTEAD DRIVE

SOUTH LINE OF
OLD HOMESTEAD
PLAT.

S 69°04'14" E 168.55
N 38°53'30" E 194.25
NELY 190±
S 69°04'14" E 6.0±

TRAVERSE
POINT "A"

WEST
CROOKED
LAKE

APPROXIMATE
LOCATION OF
EXISTING WATER'S
EDGE.

549.20

NORTH-SOUTH 1/4
LINE OF SEC. 28

PARCEL 2
AS DESC.

(DESCRIBED)
SHORELINE OF
WEST CROOKED LAKE

TRAVERSE
POINT "C"

WOOD
DOCK

WOOD
RAMP

10.2X14.3
WOOD
SHED

P.O.B.
PARCEL 2

S 35°41'14" W 18.55
S 45°40'39" W 150.29
N 45°40'39" E 57±

N 45°40'39" E 57±

S 58°18'51" E 130.21
SELY 165±

S 42°52'20" W 20±

S 87°03'30" W 218.42

PARCEL 1
AS DESC.

TRAVERSE
POINT "D"

NOTE: SHED FROM
SUBJECT PROPERTY
ENCR. ONTO ADJACENT
PROPERTY AS SHOWN.

N 35°41'14" E 124.81
N 35°41'14" E 143.36

N 45°40'39" E 63.96
N 86°47'50" E 47.15

N 45°40'39" E 57±

S 58°18'51" E 130.21

S 42°52'20" W 134.83

N 56°40'28" W 165.12
N 56°40'28" W

S 33°26'19" W 100.00
N 56°40'28" W 79.19

S 42°52'20" W 134.83

S 42°52'20" W 134.83

15' EASE. FOR
INGRESS AND
EGRESS AS DESC.

P.O.B.
PARCEL 1

NORTH-SOUTH
1/4 LINE OF
SECTION 28

CONC. CURB
ASPH. PAV'T

N 02°05'30" W 88.52

N 87°03'07" E

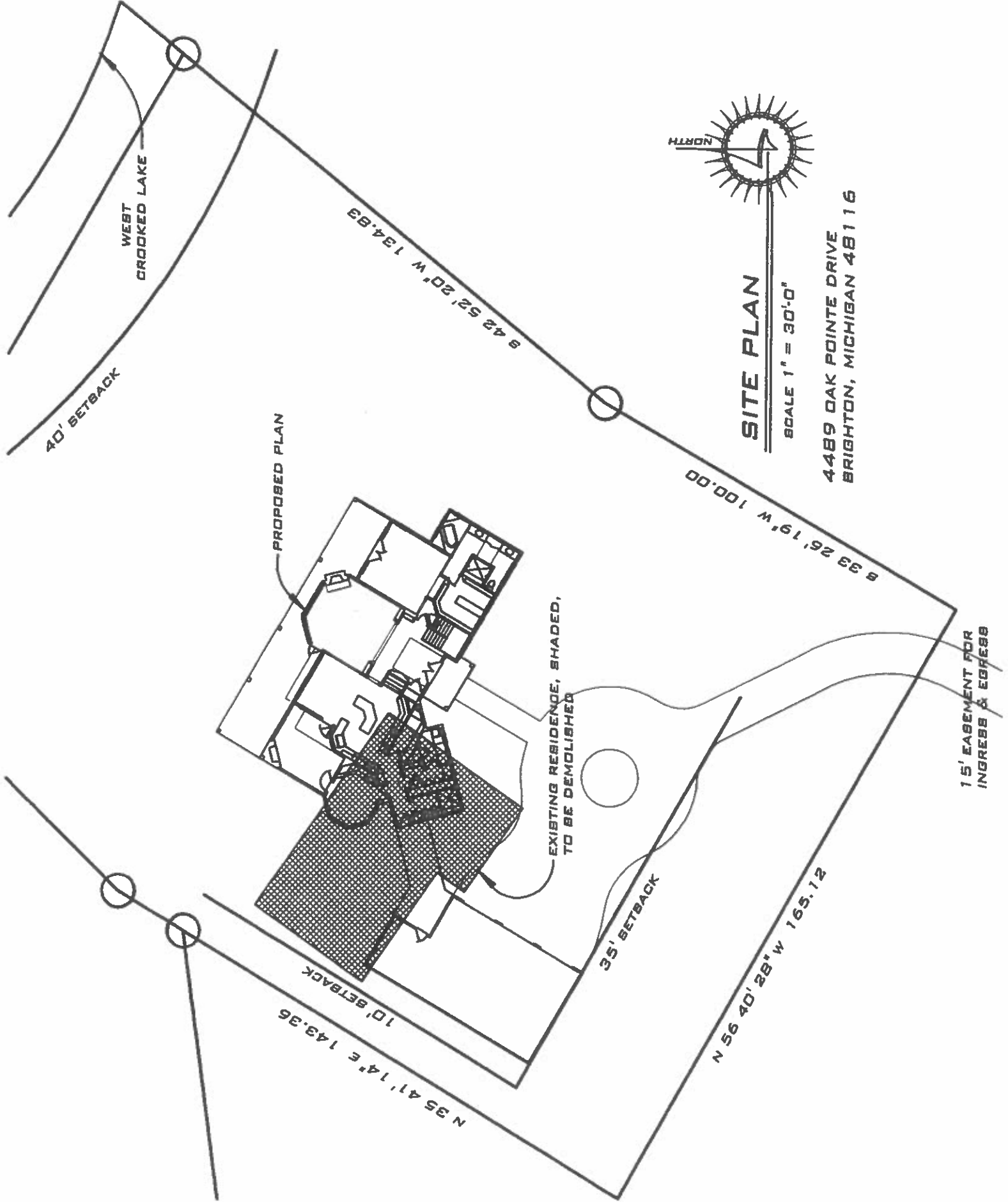
2635.28

CENTERLINE OF
OAK POINTE DR.

CENTER OF
SECTION 28
T.2N., R.5E

OAK POINTE DRIVE

OF HIGH



WEST CROOKED LAKE

40' SETBACK

PROPOSED PLAN

EXISTING RESIDENCE, SHADED, TO BE DEMOLISHED

N 35° 41' 14" E 143.36

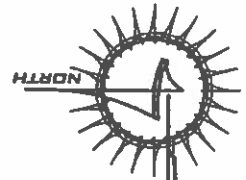
S 42° 52' 20" W 134.83

S 33° 26' 19" W 100.00

N 56° 40' 28" W 165.12

35' SETBACK

15' EASEMENT FOR INGRESS & EGRESS

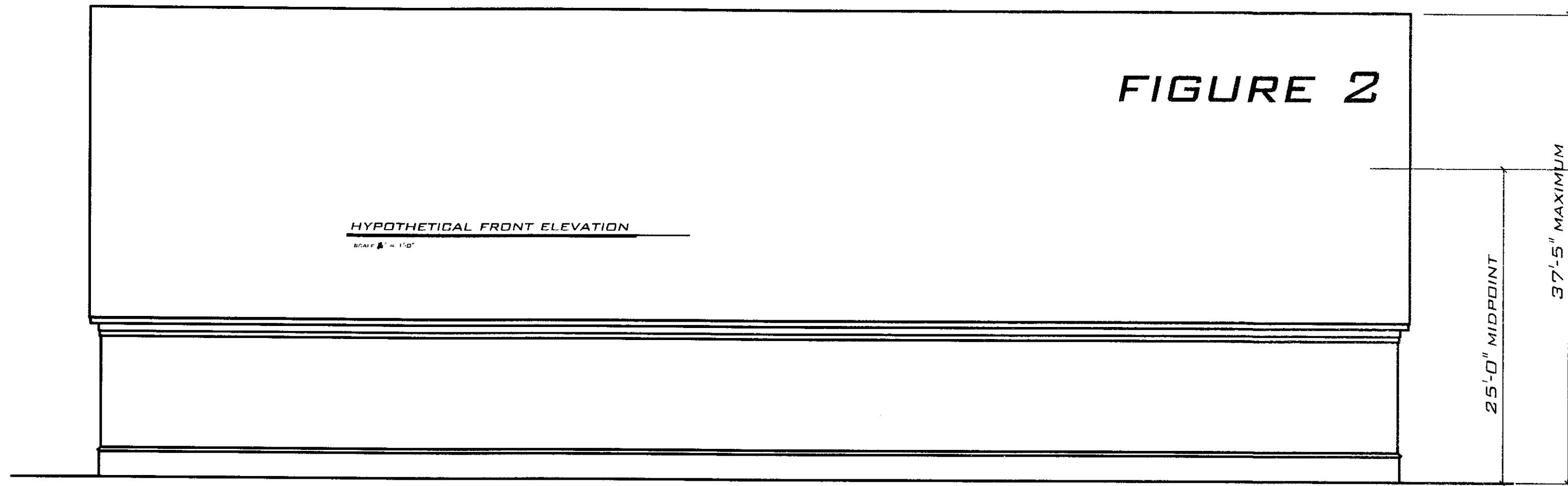


SITE PLAN

SCALE 1" = 30'-0"

4489 OAK POINTE DRIVE
BRIGHTON, MICHIGAN 48116

FIGURE 2



THIS SHADED AREA REPRESENTS THE DIFFERENCE BETWEEN WHAT IS ALLOWABLE UNDER THE ORDINANCE AND WHAT WE ARE PROPOSING.

OUR PROPOSAL IS ONLY 56.8% OF THE ALLOWABLE MASS UNDER THE CURRENT HEIGHT RESTRICTION.

FIGURE 1

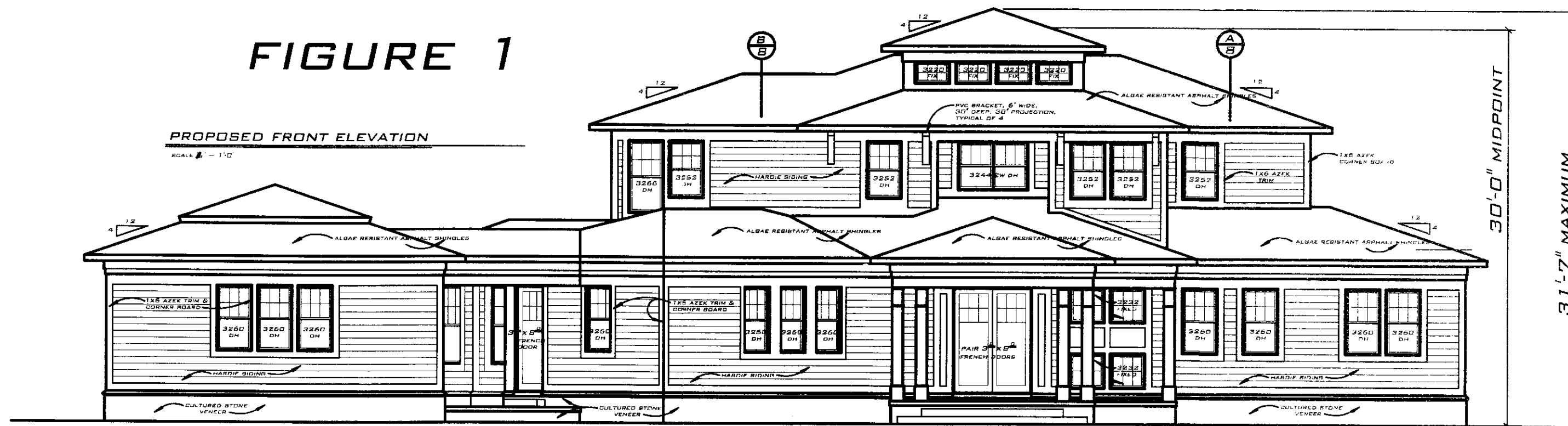


FIGURE 3

WHITE
RESIDENCE



Residential Design
DENNIS DINER
7091 Augustine Ct.
Fenton, MI 48430
517-540-9960
www.arcadiandesign.net

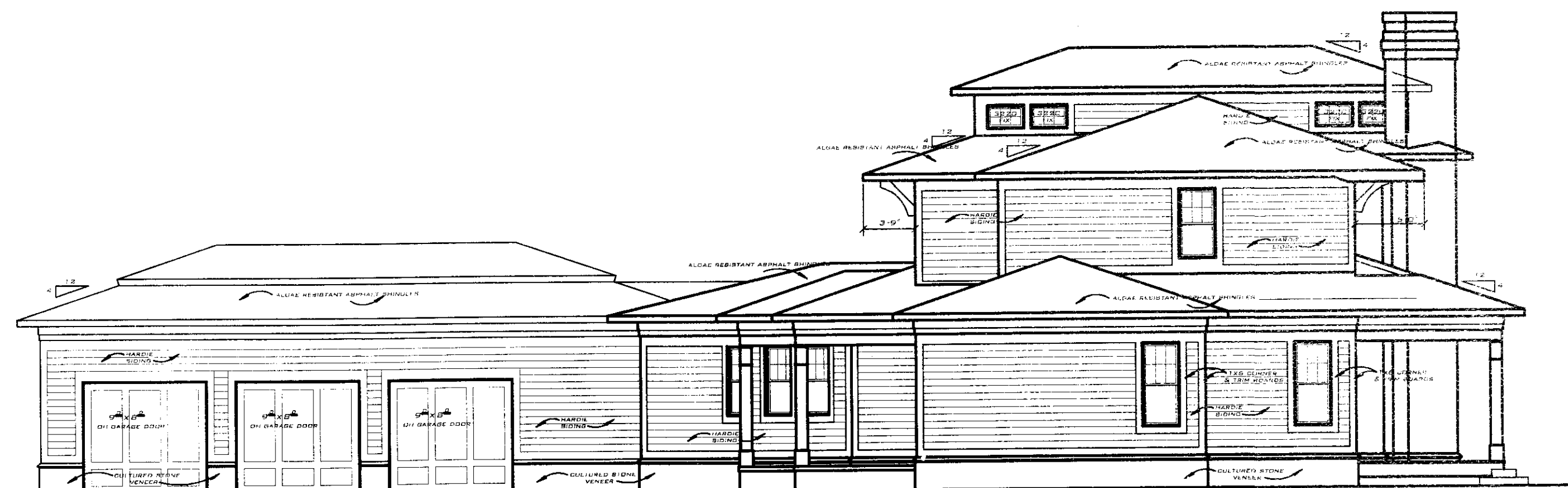
DRAWN DD

CHECKED

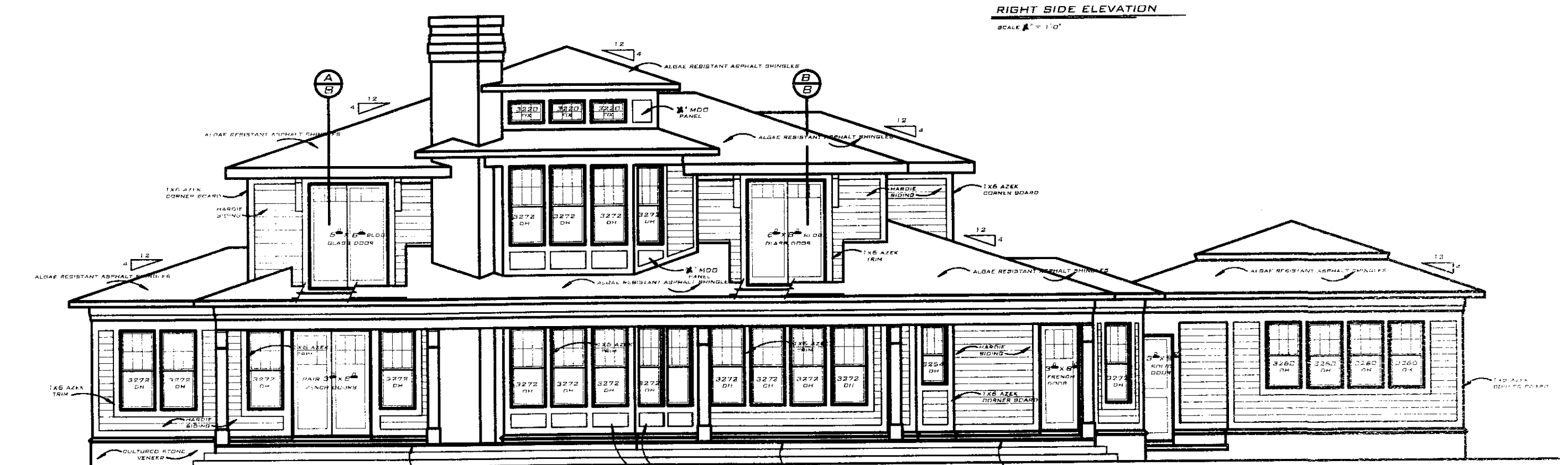
DATE

SHEET NUMBER

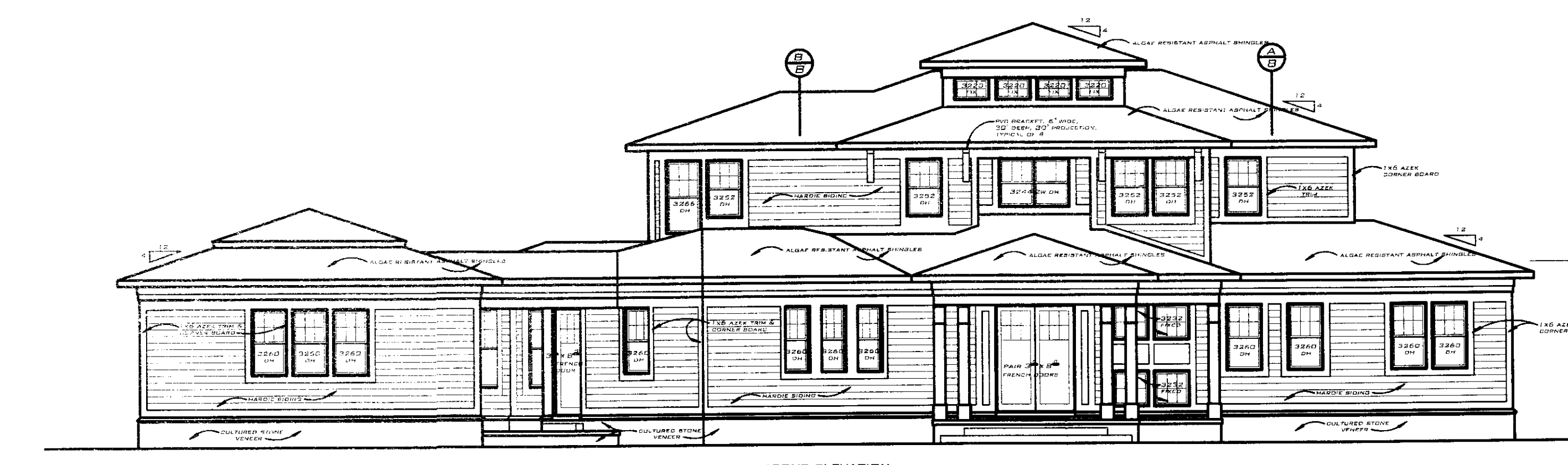
PROJECT NUMBER



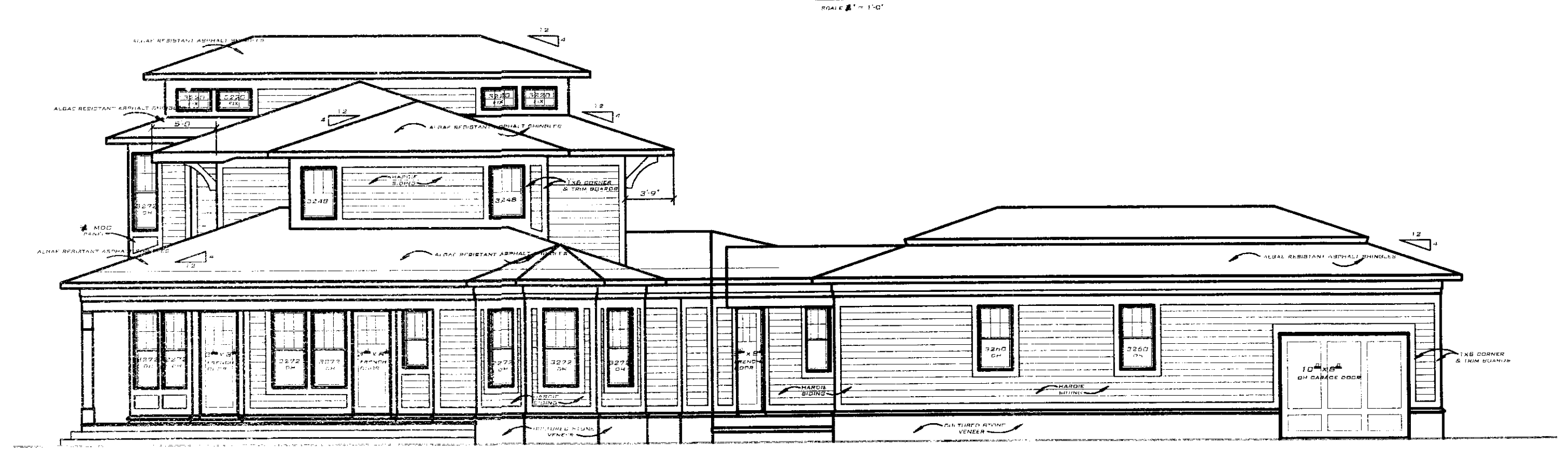
RIGHT SIDE ELEVATION
SCALE: 1/8" = 1'-0"



REAR ELEVATION
SCALE: 1/8" = 1'-0"



FRONT ELEVATION
SCALE: 1/8" = 1'-0"



LEFT SIDE ELEVATION
SCALE: 1/8" = 1'-0"

WHITE
RESIDENCE



Residential Design
DENNIS DINSER
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Fenton, MI 48430
517-540-9960
www.arcadiandesign.net

DRAWN DD
CHECKED
DATE
SHEET NUMBER
PROJECT NUMBER

Charter Township of Genoa
ZONING BOARD OF APPEALS
February 18, 2014
CASE #14-02

PROPERTY LOCATION: 4489 Oak Pointe Dr.

PETITIONER: Larry and Christa White

ZONING: LRR (Lake Resort Residential)

WELL AND SEPTIC INFO: Well and Septic Present, Will be required to hook up to sewer and potentially water if it is available.

PETITIONERS REQUEST: Maximum allowable height variance of 5' to construct a new single family residence.

CODE REFERENCE: 3.04.01

STAFF COMMENTS: See Attached Staff Report

	Front	Side	Other Side	Rear	Height	
Allowed	N/A	N/A	N/A	N/A	25'	
Requested	N/A	N/A	N/A	N/A	30'	
Variance Amount	N/A	N/A	N/A	N/A	5'	



MEMORANDUM

TO: Genoa Township Zoning Board of Appeals
FROM: Ron Akers, Zoning Official
DATE: January 30, 2013
RE: ZBA 14-02

2911 Dorr Road
Brighton, MI 48116
810.227.5225
810.227.3420 fax
genoa.org

STAFF REPORT

File Number: ZBA#14-02

Site Address: 4489 Oak Pointe Dr.

Parcel Number: 4711-28-100-014

Parcel Size: 0.87 Acres

Applicant: Larry & Christa White

Property Owner: Same as Applicant

Information Submitted: Application, site plan, building façade drawings

Request: Dimensional Variance

Project Description: Applicant is requesting a building height variance from Article 3.04.01 to construct a single family residence.

Zoning and Existing Use: LRR (Lake Resort Residential), Single Family Residential

Other:

The public hearing notice was published in the Livingston County Press and Argus on February 2, 2014 and notices were mailed to any real property within 300 feet of the property lines on January 21, 2014 in accordance with the Michigan Zoning Enabling Act.

Please note that due to the variance request being for height only the applicant will not be staking the property.

Background

The following is a brief summary of the background information we have on file:

- There is an existing home located on the property built in 1971 with a total floor area of 2512 square feet.
- The house is currently on a septic system and a well.
- See Record Card and Real Estate Summary Sheet.
- This property has a 100% PRE (Primary Residence Exemption)

SUPERVISOR

Gary T. McCririe

CLERK

Paulette A. Skolarus

TREASURER

Robin L. Hunt

MANAGER

Michael C. Archinal

TRUSTEES

H. James Mortensen

Jean W. Ledford

Todd W. Smith

Linda Rowell

- The property has frontage on West Crooked Lake.

Summary

The applicant is proposing to demolish the existing residence on this parcel and construct a new single family residence. The proposed residence (30') is not in compliance with the height restrictions for the LRR zoning district (25').

Variance Requests

The following is the portion of the zoning ordinance that the variance is being requested from:

1. Article 3.04.01 Schedule of Area and Bulk Requirements: The proposed single family residence exceeds the maximum building height by 5'. The maximum allowed building height is 25' (applicant has proposed 30').

Standards for Approval

The following is the standards of approval that are listed in the Zoning Ordinance for Dimensional Variances:

23.05.03 Criteria Applicable to Dimensional Variances. No variance in the provisions or requirements of this Ordinance shall be authorized by the Board of Appeals unless it is found from the evidence that all of the following conditions exist:

(a) Practical Difficulty/Substantial Justice. Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, density, or other dimensional provisions would unreasonably prevent the use of the property. Granting of a requested variance or appeal would do substantial justice to the applicant as well as to other property owners in the district and is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and vicinity of the subject parcel.

(b) Extraordinary Circumstances. There are exceptional or extraordinary circumstances or conditions applicable to the property or the intended use which are different than other properties in the same zoning district or the variance would make the property consistent with the majority of other properties in the vicinity. The need for the variance was not self-created by the applicant.

(c) Public Safety and Welfare. The granting of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, comfort, morals or welfare of the inhabitants of the Township of Genoa.

(d) Impact on Surrounding Neighborhood. The variance will not interfere with or discourage the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

Summary of Findings

The following are findings based upon the presented materials.

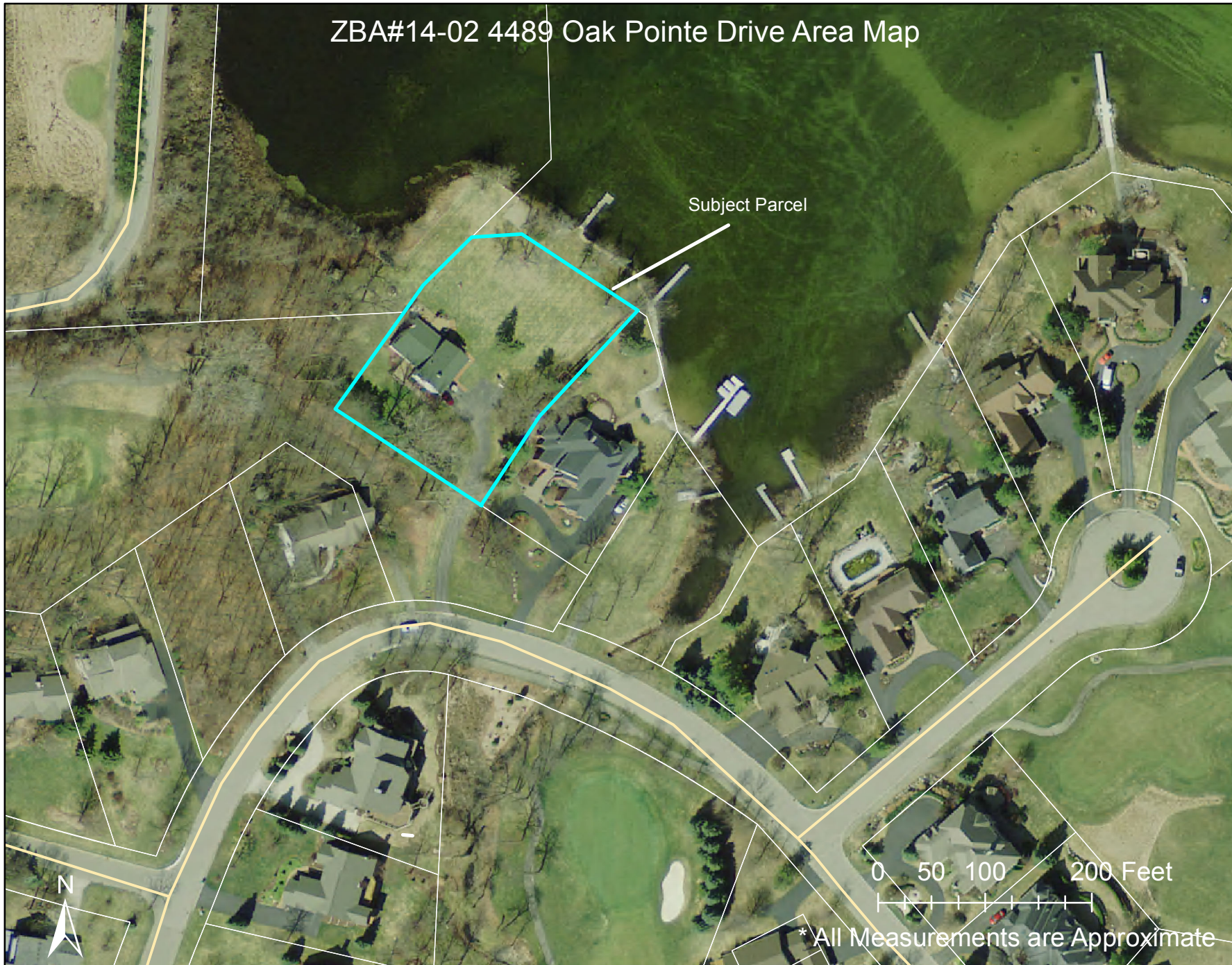
- **Practical Difficulty/Substantial Justice** – The applicant did a very good job presenting the facts of this case and made a very compelling argument in support of the variance request, but in order to comply with this provision strict application of the height restriction would have to unreasonably prevent the ability of the applicant to construct a house which complies with the Zoning Ordinance. In this case there is no physical characteristic of the site which would prevent the applicant from constructing a single family home which meets the height requirements. While it is true that the applicant could meet the height criteria of the Zoning Ordinance and construct a taller house than what is proposed (due to how the Zoning Ordinance measures building height), I do not believe that this application demonstrates a practical difficulty because there appears to be no regulatory or physical characteristics of the site which would prevent the applicant from complying with the Zoning Ordinance.
- **Extraordinary Circumstances** – The conditions of this property are similar to those in the LRR district. When height variances have been granted in the past, they typically have been due to some topographic issue on the property. There appears to be no topographic issue on the property. The need for the variance appears to be derived from the design of the building. Due to this it would appear that the need for the variance is self- created.
- **Public Safety and Welfare** –There should be little if any impact on public safety and welfare.
- **Impact on Surrounding Neighborhood** – The additional height of the building should not have a substantial negative impact on the surrounding neighborhood. The additional 5' of height should have a very limited negative impact on the adjacent property owners.

Staff Findings of Fact

1. There are no physical characteristics of the parcel which would prohibit the construction of a building which complies with the Zoning Ordinance.
2. The need for the variance is self-created.
3. The proposed height variance will have little impact on public safety.

4. The variance request will not have a substantial negative impact which would discourage continued use or value of adjacent properties and the surrounding neighborhood.

ZBA#14-02 4489 Oak Pointe Drive Area Map



Subject Parcel

0 50 100 200 Feet

*All Measurements are Approximate

GENOA CHARTER TOWNSHIP APPLICATION FOR VARIANCE

2911 DORR RD. BRIGHTON, MI 48116
(810) 227-5225 FAX (810) 227-3420

Case # 14-⁰³~~03~~ Meeting Date: February 18, 2014

- PAID Variance Application Fee
\$125.00 for residential - \$300.00 for commercial/industrial
- Copy of paperwork to Assessing Department

- **Article 23** of the Genoa Township Zoning Ordinance describes the Variance procedure and the duties of the Zoning Board of Appeals. (Please see attached)

Applicant/Owner: MICHAEL & GAIL McLEAN (DENNIS DINSELE, DESIGNER.)
Property Address: LOT 68 & 69 ADDRESS: SOUTH OF 3907 517 540 9960
Present Zoning: L2R2 Tax Code: 4711-21-401-015
HOMESTEAD DRIVE

The applicant respectfully requests that an adjustment of the terms of the Zoning Ordinance be made in the case of their property because the following peculiar or unusual conditions are present which justify variance.

1. Variance Requested: SEEKING 8' VARIANCE FROM
FRONTYARD SETBACK

This variance is requested because of the following reasons:

- a. Unusual topography/shape of land (explain) _____
- b. Other (explain) PLEASE SEE ATTACHED WRITTEN EXPLANATION
AND DRAWINGS.

Variance Application Requires the Following:

- **Plot Plan Drawings showing setbacks and elevations of proposed buildings showing all other pertinent information. Note: Will need 8 copies of any drawings larger than 8 1/2 and 14 in size.**
- **Waterfront properties must indicate setback from water for adjacent homes**
- **A Land Use Permit Application to be submitted with ZBA Variance Application.**
- **Property must be staked showing all proposed improvements 5 days before the meeting and remain in place until after the meeting**
- **Petitioner (or a Representative) must be present at the meeting.**

Date: 1-23-14

Signature: *Dennis Dinsele*

Any Variance not acted upon within 12 months from the date of approval is invalid and must receive a renewal from the ZBA.

After the decision is made regarding your variance approval contact Adam or Amy at the township office to discuss what your next step is.

300 ft Buffer for Noticing



Case #14-03

Applicants: Michael and Gail McLean

Parcel: 4711-21-401-015

Meeting Date: 2-18-2014



January 28, 2014



4711-21-400-021
KERR, DONALD D. & CAROLYN J.
4540 SEIM
HOWELL MI 48843

4711-21-401-006
GADBAW, SHANE P. & KINI J.
PO BOX 2192
BEAVER UT 84713

4711-21-401-008
ANDREWS LAND TITLE STANDARD 9.3
3949 HOMESTEAD
HOWELL MI 48843

4711-21-401-012
REA, RONALD & ANNA D.
543 GREENWOOD
BIRMINGHAM MI 48009

4711-21-401-015
MCLEAN BRIAN & GAIL
3973 HOMESTEAD
HOWELL MI 48843

4711-21-401-021
ECKHOLD BARRY J
78 N POLK DR.
SARASOTA FL 34236-1211

4711-21-401-023
PEREIRA JOSEPH & DENNIS
11411 KATHERINE
TAYLOR MI 48180

4711-21-401-024
REIMONDO DONALD & KAREN
3943 HOMESTEAD
HOWELL MI 48843

4711-21-401-026
PEAL, MICHAEL & MARY ANN TRUST
3883 HOMESTEAD
HOWELL MI 48843

4711-21-401-027
DAVIS DONALD
3907 HOMESTEAD
HOWELL MI 48843

January 22, 2014

Genoa Zoning Board of Appeals
Re: McLean Residence, partial lots #68 & 69,
Homestead Drive, Howell

Dear Board,

The proposed McLean Residence is located in the LRR zoning district with a 35' frontyard setback, and our proposal is the construction of a new home on an unbuilt site.

Our lot presents us with 53.76' of frontage, 32% deficient of the 80' specified in the current ordinance. Further, our lot is 9,051 square feet in area, 24% deficient of the 12,000 sq. ft. specified in the ordinance.

The McLeans have lived on Homestead for some time, and I've designed homes on this street as well. We understand and appreciate the primary importance of the waterfront and sideyard setbacks, and we have diligently designed around these restraints despite the non-conforming conditions of the lot.

Our design calls for all bedrooms to be located on the second floor, we think we've trimmed all non-essential spaces from the first floor, and have arrived at 1539 square feet of area with a garage. We consider the waterfront setback untouchable, and do not want to stray from this restriction. Still, we find ourselves in need of relief, and are asking for your consideration on the frontyard setback.

An 8' variance will allow us to build what we think is the minimum necessary first floor to make this a viable building project.

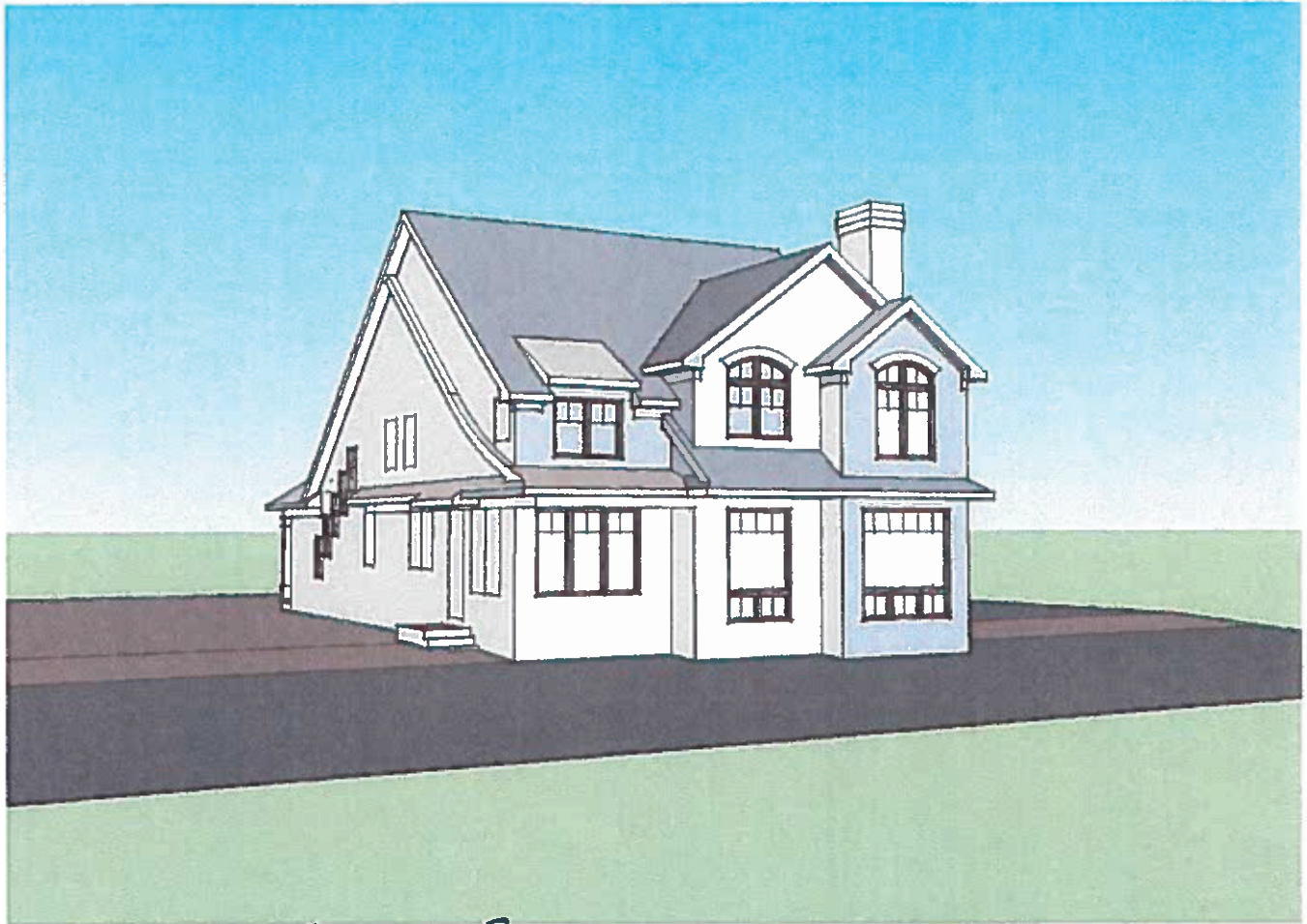
The result is a 27' frontyard setback rather than 35', and it amounts to a 15% difference from the current zoning ordinance. Our conditions are similar to frontyard variances granted to 4077, 4093, 3943, & 3997 Homestead. Those variances range from 11'-8" to 23'-6". We hope you agree that an 8' request will fall within the bounds established on Homestead Drive.

The McLeans & I are very proud of the house we've created, designing within the allowable 35' width has been a rewarding challenge. We think that effort is reflected in the character of the perspective drawings attached, and hope you see that we've made every effort to design with our constraints.

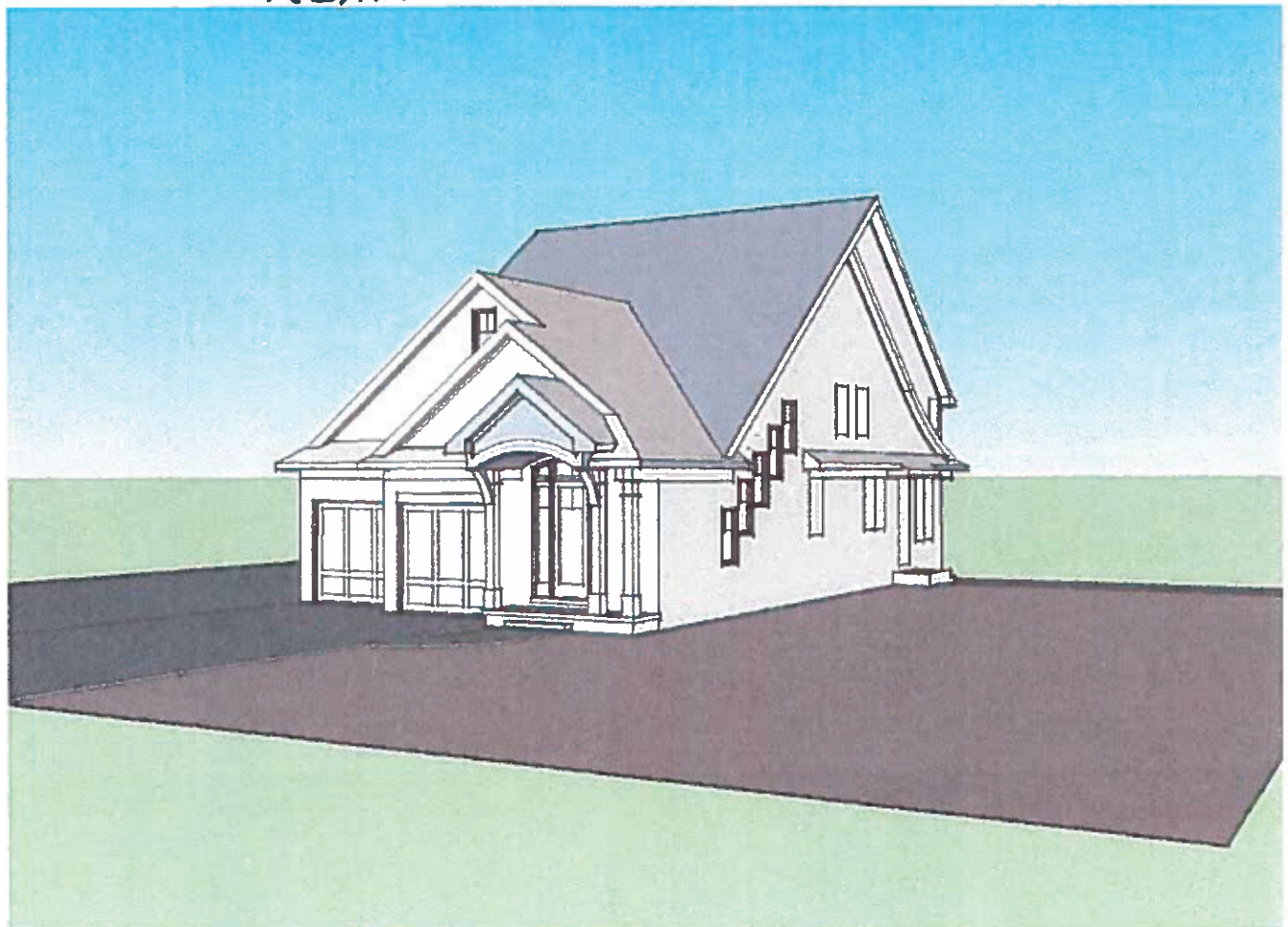
Thank you for time and consideration in our request.

Respectfully,

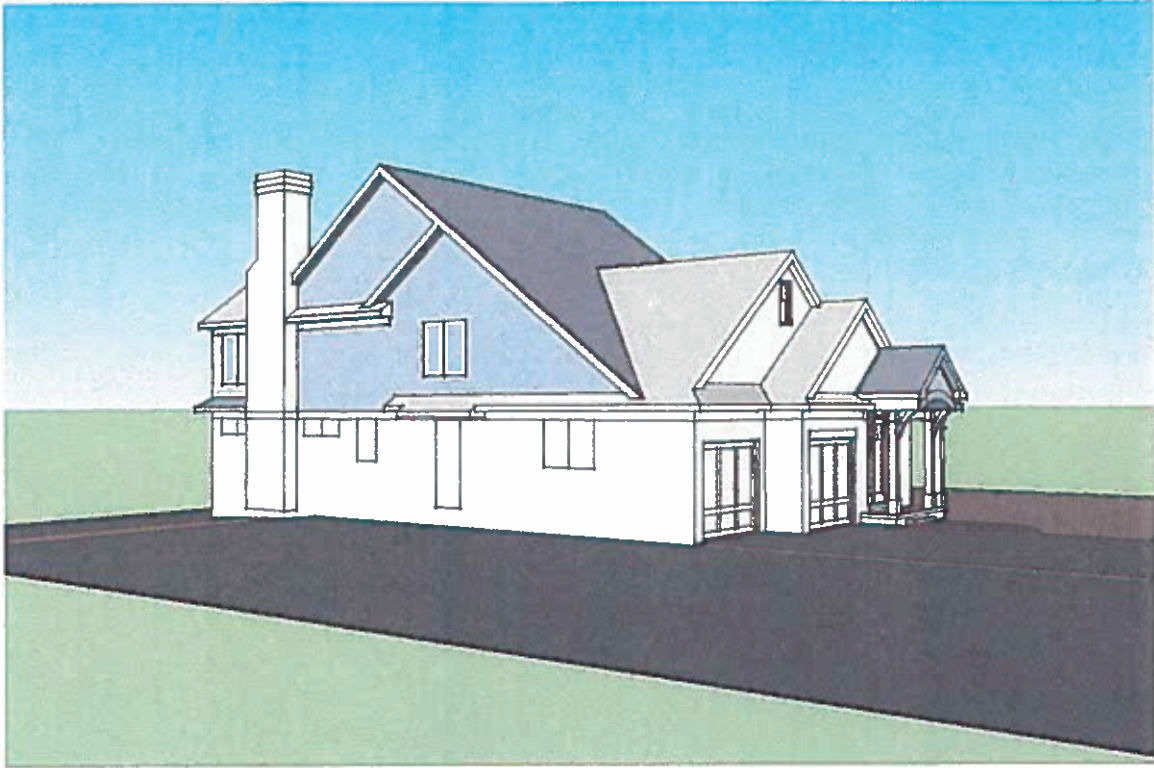




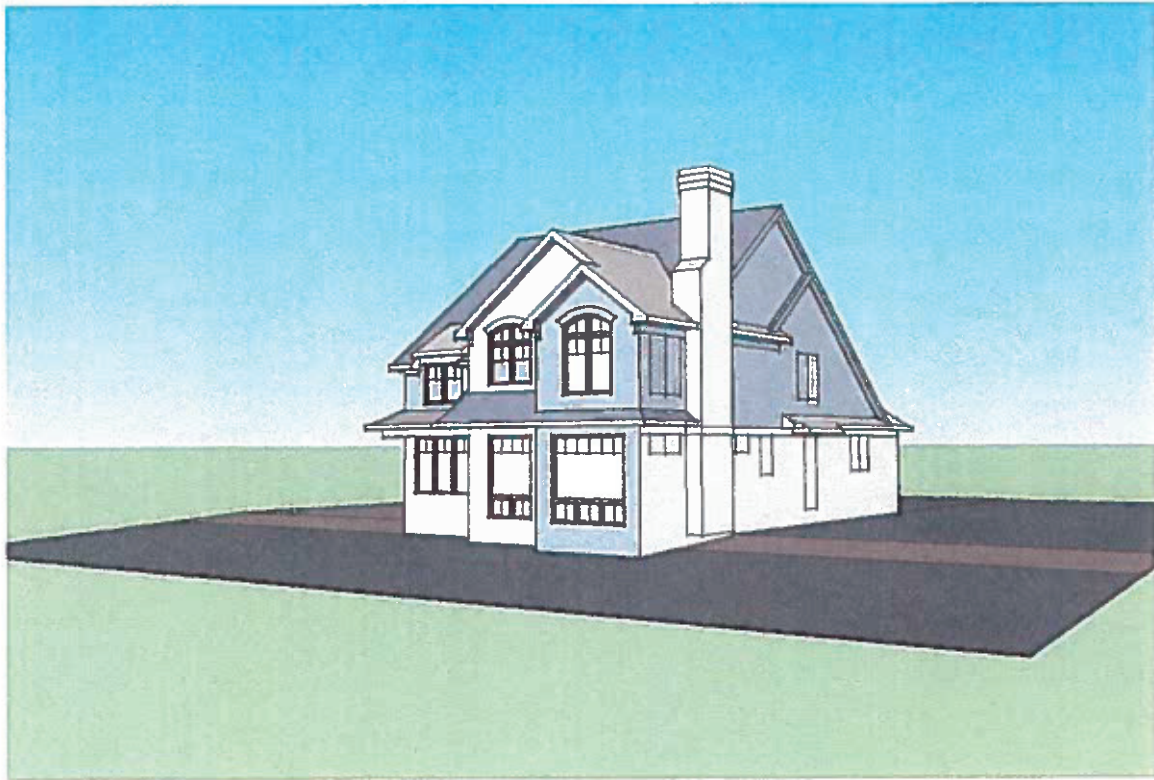
REAR RIGHT



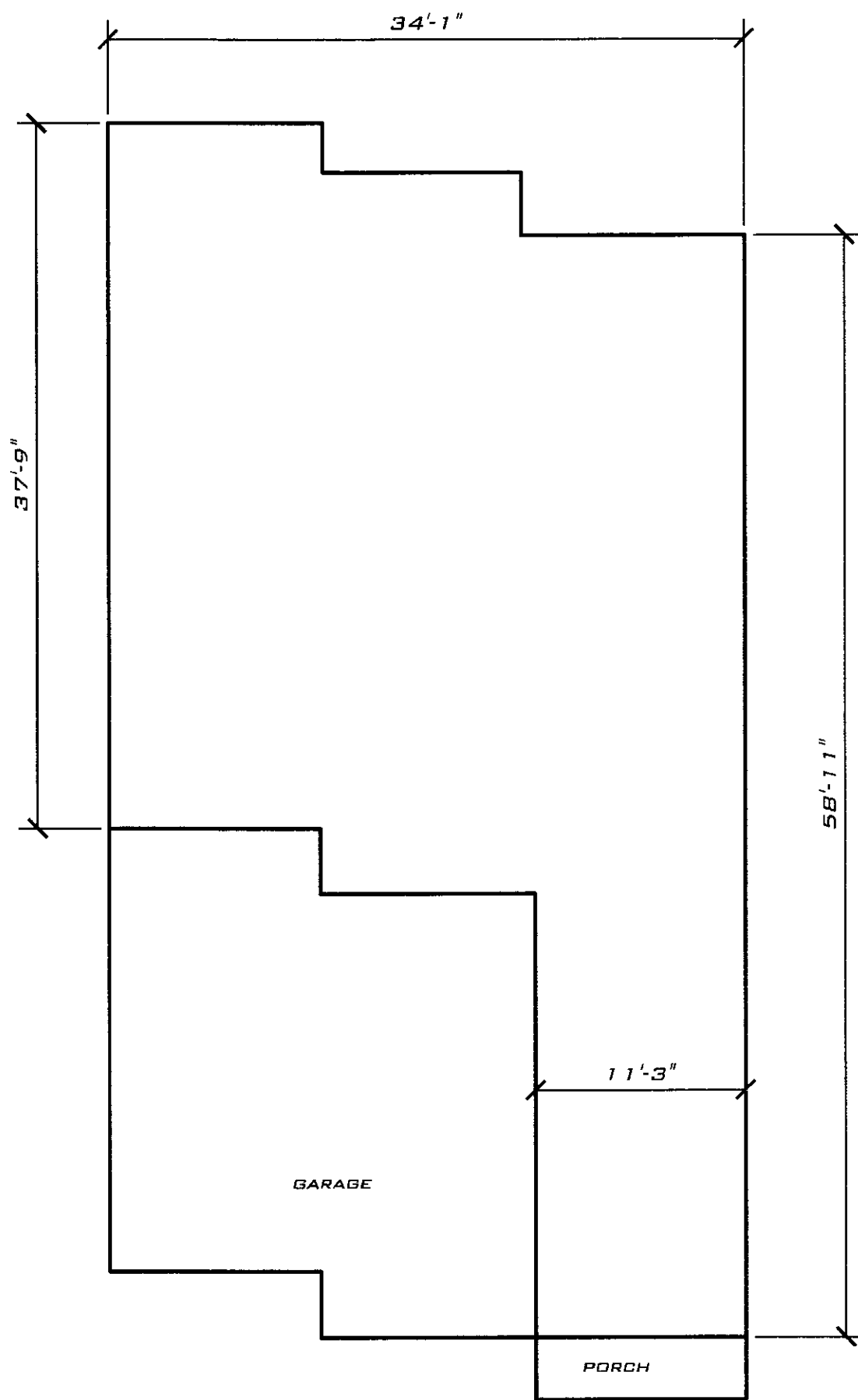
FRONT RIGHT



FRONT LEFT



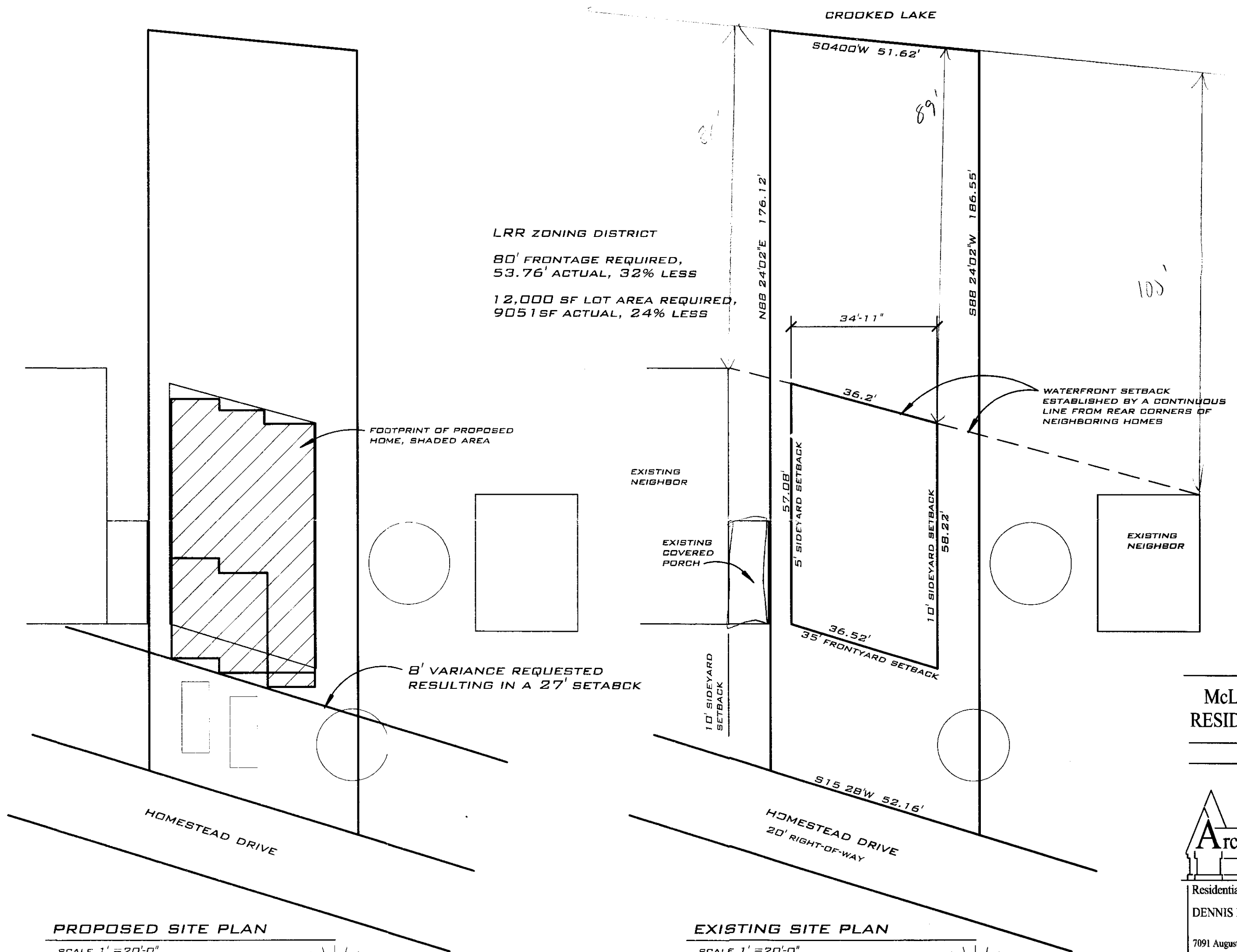
REAR LEFT



FIRST FLOOR PLAN

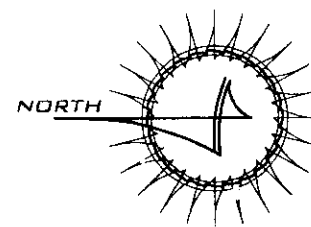
SCALE 1/8" = 1'-0"

1539 SQUARE FEET



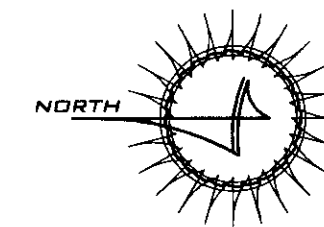
PROPOSED SITE PLAN

SCALE 1" = 20'-0"

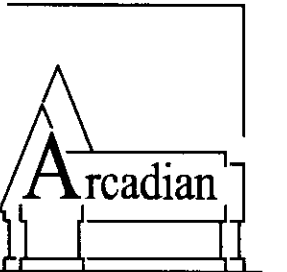


EXISTING SITE PLAN

SCALE 1" = 20'-0"



**McLEAN
RESIDENCE**



Residential Design
DENNIS DINSER
7091 Augustine Ct.
Fenton, MI 48430
517-540-9960
www.arcadiadesign.net

DRAWN **DD**

CHECKED

DATE

SHEET NUMBER

1 of 1

PROJECT NUMBER

14

Charter Township of Genoa
ZONING BOARD OF APPEALS
February 18, 2014
CASE #14-03

PROPERTY LOCATION: Parcel ID: 4711-21-401-015 (No Address)

PETITIONER: Michael & Gail McLean

ZONING: LRR (Lake Resort Residential)

WELL AND SEPTIC INFO: Sewer available, Well will be required

PETITIONERS REQUEST: Front yard setback variance of 8' and 5' side yard setback variance to construct a new single family residence.

CODE REFERENCE: 3.04.01

STAFF COMMENTS: See Attached Staff Report

	Front	Side	Other Side	Shoreline	Height	
Allowed	35	10	10	≈90	N/A	
Requested	27	5	10	≈90	N/A	
Variance Amount	8	5*	N/A	N/A	N/A	

***Required due to the inability to maintain a 10' separation distance between their house and the neighbors covered walkway. (See e-mail).**



MEMORANDUM

TO: Genoa Township Zoning Board of Appeals
FROM: Ron Akers, Zoning Official
DATE: January 29, 2014
RE: ZBA 14-03

2911 Dorr Road
Brighton, MI 48116
810.227.5225
810.227.3420 fax
genoa.org

STAFF REPORT

File Number: ZBA#14-03

Site Address: No Site Address Available (Homestead)

Parcel Number: 4711-21-401-015

Parcel Size: 0.206 Acres

Applicant: Michael & Gail McLean

Property Owner: Same as Applicant

Information Submitted: Application, site plan, building conceptual

Request: Dimensional Variance (Front Yard Setback & Side Yard Setback)

Project Description: Applicant is requesting a front yard setback to construct a new single family residence. The application as proposed will also require a side yard setback due to the proposed plans not meeting the 10' separation distance between the houses.

Zoning and Existing Use: LRR (Lake Resort Residential), Vacant Parcel

Other:

The public hearing notice was published in the Livingston County Press and Argus on February 2, 2014 and notices were mailed to any real property within 300 feet of the property lines on January 30, 2014 in accordance with the Michigan Zoning Enabling Act.

Background

The following is a brief summary of the background information we have on file:

- The parcel is a vacant parcel and has frontage on East Crooked Lake
- See Record Card and Real Estate Summary Sheet.
- Sewer is available for the proposed house.

SUPERVISOR

Gary T. McCririe

CLERK

Paulette A. Skolarus

TREASURER

Robin L. Hunt

MANAGER

Michael C. Archinal

TRUSTEES

H. James Mortensen

Jean W. Ledford

Todd W. Smith

Linda Rowell

Summary

The applicant is proposing to construct a 1,539 square foot new single family residence with an attached garage. In order to maintain the shoreline setback the applicant has requested an eight (8) foot front yard setback variance. The applicant is also required to obtain a five (5) foot side yard setback variance because the proposed house does not comply with the required ten (10) separation distance between it and the house to the north.

Variance Requests

The following is the portion of the zoning ordinance that the variance is being requested from:

1. Article 3.04.01 Schedule of Area and Bulk Requirements: The proposed new single family residence does not meet the front yard setback or the side yard setback requirements for the Lake Resort Residential district (LRR). The applicant is requesting an eight (8) foot variance from the front yard setback requirement and a five (5) foot variance from the side yard setback is also required. The required front yard setback for the Lake Resort Residential district is thirty-five (35) and the required side yard setback is ten (10) feet. The Zoning Ordinance in section 3.04.02(k) allows for the reduction of one (1) side yard setback in the LRR district to five (5) feet only if; 1. The other side yard setback is at least ten (10) feet, 2. The distance between the building and any building on the adjacent lot shall be no less than ten (10) feet and 3. The roof shall have gutters.

Standards for Approval

The following are the standards of approval that are listed in the Zoning Ordinance for Dimensional Variances:

23.05.03 Criteria Applicable to Dimensional Variances. No variance in the provisions or requirements of this Ordinance shall be authorized by the Board of Appeals unless it is found from the evidence that all of the following conditions exist:

- (a) Practical Difficulty/Substantial Justice. Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, density, or other dimensional provisions would unreasonably prevent the use of the property. Granting of a requested variance or appeal would do substantial justice to the applicant as well as to other property owners in the district and is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and vicinity of the subject parcel.

(b) Extraordinary Circumstances. There are exceptional or extraordinary circumstances or conditions applicable to the property or the intended use which are different than other properties in the same zoning district or the variance would make the property consistent with the majority of other properties in the vicinity. The need for the variance was not self-created by the applicant.

(c) Public Safety and Welfare. The granting of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, comfort, morals or welfare of the inhabitants of the Township of Genoa.

(d) Impact on Surrounding Neighborhood. The variance will not interfere with or discourage the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

Summary of Findings

The following are findings based upon the presented materials.

Prior to discussion on the variance requests merits I wanted to provide you with a background in regards to the side yard setback. The applicant made application under the belief that all that was required was a front yard setback variance. Staff review revealed that as proposed, a side yard setback variance would also be required due to the applicant's inability to meet the ten (10) foot separation distance between buildings which is a condition of reducing the side yard setback to five (5) feet. After addressing this with the applicant, we made publication for both variances. The applicant discussed the matter with their neighboring property owner and the neighbor told them that he would be removing the covered walkway and thus removing the need for the variance. I have included the e-mail that I received from the neighbor which confirms this. This new information leaves us with two (2) potential ways to handle this. The first is to not consider the variance request due to the new information and the other is to consider the variance request and make a decision. **My recommendation is to make no decision on the side yard setback request so long as the applicant has faith that their neighbor will complete the removal of the covered walkway/porch, but to make it clear to the applicant that we cannot issue a permit until the covered walkway/porch is removed.**

- **Practical Difficulty/Substantial Justice** – Strict compliance with the front yard setback requirements would prevent the applicant from placing a home that is of similar size to the homes commonly built in the area. Due to this the proposed front yard setback variance is necessary and it is preferred over the alternative of the applicant applying for a shoreline setback variance. The side yard setback request would not meet this requirement because the applicant would have the ability to relocate the structure on the property to alleviate the need for this variance.

- **Extraordinary Circumstances** – There have been many properties in the surrounding area which have received front yard setback variances. The smaller lakefront lots present unique challenges due to their small widths and the varying lakefront setback. This parcel is no different, the larger shoreline setback requirements create the need for the variance. Due to this, the need for the variance is not self-created. The side yard setback variance request, while very common on narrow lake front lots, could be alleviated by moving the house five (5) feet to the south.
- **Public Safety and Welfare** –There should be little if any impact on public safety and welfare. The proposed 27' front yard setback will leave sufficient off road parking to meet the minimum parking standards for a single family residence (2 off road parking spaces) and will allow for additional vehicles if needed. The side yard setback variance would place the buildings five (5) feet apart, which could create a fire hazard.
- **Impact on Surrounding Neighborhood** –The main impact considered in setback variance requests on lake front property is the impact the new single family residence will have on the adjacent home's view of the lake. By complying with the shoreline setback variance, the applicant has limited the negative impact of the new single family home on the adjacent residences.

Staff Findings of Fact

1. Strict compliance with the standards in 3.04.01 with regards to the front yard setback variance request would unreasonably prevent the ability of the applicant to construct a single family residence of similar size to those in the surrounding area due to the larger shoreline setback and small lot size.
2. Other homes in the surrounding area encroach into the front yard setback area. The need for the variance is created by the large shoreline setback and the small lot size.
3. The need for the variance is not self-created by the applicant.
4. The remaining 27' setback distance and the parking space in the attached garage create sufficient off-road parking as determined by the Zoning Ordinance. Due to this there should be no need to parking on the road.
5. The applicant has met the shoreline setback which limits any lake view impacts. The front yard setback variance request will not interfere with or discourage the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.
6. Strict compliance with the standards in 3.04.01 with regards to the side yard setback variance request would not unreasonably prevent the applicant from constructing a proposed single family residence.
7. The need for the side yard setback variance request could be alleviated by moving the house five (5) feet to the south.

Grantor	Grantee	Sale Price	Sale Date	Inst. Type	Terms of Sale	Liber & Page	Verified By	Prcnt. Trans.			
KERR, DONALD & CAROLYN	MCLEAN BRIAN & GAIL	278,000	10/09/2013	LC	MEMO L/C	2013R-040756	BUYER	100.0			
Property Address		Class: 402 RESIDENTIAL-VA		Zoning: LRR	Building Permit(s)	Date	Number	Status			
VACANT		School: BRIGHTON									
Owner's Name/Address		P.R.E. 0%									
MCLEAN BRIAN & GAIL 3973 HOMESTEAD HOWELL MI 48843		MAP #: V14-03		2014 Est TCV 120,000							
Tax Description		Improved	X	Vacant	Land Value Estimates for Land Table 00029.OLD HOMESTEAD						
SEC 21 T2N R5E OLD HOMESTEAD NO.1. N 1/2 OF LOT 68 & S 30FT. OF LOT 69.		Public Improvements		* Factors *							
Comments/Influences		Dirt Road		Description	Frontage	Depth	Front	Depth	Rate %Adj.	Reason	Value
		Gravel Road		LAKE FRONT	50.00	0.00	1.0000	1.0000	2400	100	120,000
		Paved Road		50 Actual Front Feet, 0.00 Total Acres				Total Est. Land Value =		120,000	
		Storm Sewer									
		Sidewalk									
		Water									
		Sewer									
		Electric									
		Gas									
		Curb									
		Street Lights									
		Standard Utilities									
		Underground Utils.									
		Topography of Site									
		Level									
		Rolling									
		Low									
		High									
		Landscaped									
		Swamp									
		Wooded									
		Pond									
		Waterfront									
		Ravine									
		Wetland									
		Flood Plain									
		Year	Land Value	Building Value	Assessed Value	Board of Review	Tribunal/Other	Taxable Value			
Who	When	What	2014	60,000	0	60,000		60,000S			
			2013	60,000	0	60,000		32,391C			
			2012	60,000	0	60,000		31,632C			
			2011	62,500	0	62,500		30,801C			

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Licensed To: Township of Genoa, County of Livingston, Michigan

*** Information herein deemed reliable but not guaranteed***

Real Estate Summary Sheet

Information herein deemed reliable but not guaranteed

01/29/2014 9:00 AM

Parcel:	4711-21-401-015	Current Class:	402.402 RESIDENTIAL-VACANT
Owner's Name:	MCLEAN BRIAN & GAIL	Previous Class:	402.402 RESIDENTIAL-VACANT
Property Address:	VACANT HOWELL, MI 48843	Gov. Unit:	4711 GENOA CHARTER TOWNSHIP
		MAP #	V14-03
		School:	47010 BRIGHTON
		Neighborhood:	4304 4304 OLD HOMESTEAD
Liber/Page:	2013R-040756	Created:	//
Split:	//	Active:	Active
Public Impr.:	None		
Topography:	None		

Mailing Address:

MCLEAN BRIAN & GAIL
3973 HOMESTEAD
HOWELL MI 48843

Most Recent Sale Information

Sold on 10/09/2013 for 278,000 by KERR, DONALD & CAROLYN.

Terms of Sale: MEMO L/C

Liber/Page: 2013R-040756

Most Recent Permit Information

None Found

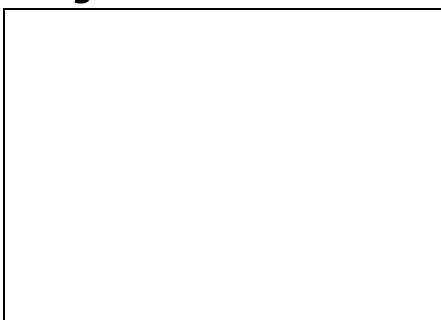
Physical Property Characteristics

2014 S.E.V.:	60,000	2014 Taxable:	60,000	Lot Dimensions:	
2013 S.E.V.:	60,000	2013 Taxable:	32,391	Acreage:	0.00
Zoning:	LRR	Land Value:	120,000	Frontage:	50.0
PRE:	0.000	Land Impr. Value:	0	Average Depth:	0.0

Improvement Data

None

Image



ZBA Case# 14-03 Area Map



Subject Parcel

0 75 150 300 Feet

* All Measurements are Approximate

Ron Akers

From: Davis, Don <Don.Davis@BartonMalow.Com>
Sent: Sunday, February 09, 2014 4:30 PM
To: Ron Akers
Subject: Re: variance request parcel ID 4711-21-401-015
Attachments: image001.png; image002.jpg; image003.png

Follow Up Flag: Follow up
Flag Status: Flagged

Mr Akers.

Thank you again for explaining the set backs and the requested variance. I had a chance to study the plan a little today and wanted clarify a comment and note on the architects plans. What is referred to as a cover porch is really much more of a trellis or architectural feature. Beneath it is a narrow sidewalk leading to an entry door, the septic systems sewage ejector, and a planter area with large Japanese maple. I will be removing the deteriorating structure shortly. I don't believe this changes anything but wanted to make you aware and clarify. I can have photos available if you'd like.

Regards,

Don

> On Feb 4, 2014, at 9:49 AM, "Ron Akers" <Ron@genoa.org> wrote:

>

> Mr. Davis,

>

> For the LRR district the required setbacks are as follows:

>

> F: 35' S: 10' S2: 5'* Shoreline: Average setback distance of adjacent properties.

>

> *In order to reduce one of the side yard setbacks to 5' the applicant

> is required to meet the following conditions

>

> 1. The other side yard must be at least ten (10) feet.

>

> 2. The distance between the building and any building on the adjacent lot shall be no less than ten (10) feet.

>

> 3. The roof shall have gutters.

>

> In some instances the shoreline setback leaves a very small building envelope thus the requirement for the front yard setback variance. The intent of the way we calculate our shoreline setback is to keep the homes inline along the shoreline side and to try to reduce the impact a new home could have on the neighbors lake view. The applicants architect has indicated to me that this is their intent. I have attached the proposed plans for your review. The side yard setback is required due to the applicant being unable to maintain the required ten (10) foot separation distance between the proposed house and the covered porch of your home. Their plans indicate that the covered porch sits directly on the property line. Due to this they will need a side yard setback variance. My discussions with the architect indicate that they may change the position of the proposed home to maintain the ten (10) feet setback on the north side rather than the south side, thus eliminating the need for a variance, but I have not heard anything that has confirmed this. If you have any additional questions or would like to further discuss the application please feel free to contact me.

>

> Thanks,

>

>
> [e-mail signature]
> [cid:image002.jpg@01CEAB1B.1BF327B0]<<https://www.facebook.com/pages/Genoa-Charter-Township/167575086591878?ref=hl>>
> [cid:image003.png@01CEAB1B.1BF327B0]
> <<https://twitter.com/GenoaTownship>>
>
>
>
> From: Davis, Don [<mailto:Don.Davis@BartonMalow.Com>]
> Sent: Tuesday, February 04, 2014 7:07 AM
> To: Ron Akers
> Subject: variance request parcel ID 4711-21-401-015
>
> Ron,
> I live next door to the McLean property seeking the variance. Can you tell me the current required side yard and front yard setbacks and what the requested variance is or do I have to come in and review at the township? I plan to attend the meeting on the 18th.
> Regards,
> Don Davis
> 3907 Homestead Dr.
> Howell 48843
>
>
> Donald T. Davis | Vice President |
> don.davis@bartonmalow.com<<mailto:don.davis@bartonmalow.com>>
> Barton Malow Company | 26500 American Drive, Southfield, MI 48034
> 248.436.5762<<tel:248.436.5762>> Direct |
> 248.219.0859<<tel:248.219.0859>> Cell | 248.436.5763<<tel:248.436.5763>>
> Fax | www.bartonmalow.com<<http://www.bartonmalow.com>>/>
> BUILDING INNOVATIVE SOLUTIONS
>
> <image001.png>
> <image002.jpg>
> <image003.png>
> <mclean_app_mailing_drawings.pdf>



**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
JANUARY 14, 2014
MINUTES**

Chairman Dhaenens called the regular meeting of the Zoning Board of Appeals to order at 6:30 p.m. at the Genoa Charter Township Hall. The Pledge of Allegiance was then said. The members and staff of the Zoning Board of Appeals were as follows: Chris Grajek, Jean Ledford, Barbara Figurski, Marianne McCreary and Jeff Dhaenens. Also present was Township staff member Ron Akers. There was 1 person in the audience.

Moved by Figurski, supported by Grajek to approve the agenda as presented. **Motion passed.**

There was no declaration of Conflict of Interest.

14-01...A request by Benjamin J. Marhofer, Section 09, 4179 Sweet Road, for a side yard variance to build an attached garage.

Mr. Marhofer was present for the petitioner. Mr. Marhofer stated that he will be removing the existing garage. The new garage will be bigger and attached to the side of the current home. The current garage is 7.3 feet away from the side lot line and the new garage will be further away at 8'6 feet. He would be using attic trusses.

A call to the public was made with no response.

Moved by Figurski, supported by McCreary to approve case#14-01, 4179 Sweet Road, for Mr. Benjamin Marhofer, for a side yard variance of 31.5 feet on the East side of the property to construct an attached garage. Conditioned upon the garage being guttered and with downspouts.

The practical difficulty is the location of the well and septic field, the current placement of the house and the topography of the lot. The request does not impair the public safety and welfare. **Motion passed as follows: Ayes: Ledford, Figurski, Dhaenens, and McCreary and Nays: Grajek.**

Moved by Ledford, supported by Grajek to approve the minutes with corrections as submitted. **Motion passed with Figurski abstaining.**

Review Draft By-Laws- Mr. Akers stated that the Rules of Procedure were presented to the Township Board and Township Attorney. The Township Attorney resubmitted several changes that he saw were needed. It was discussed that Board of Appeals as stated in the Rules of

Procedure should be changed to ZBA. In Article A in a bullet point 'A' should be added. The Declaration of Conflict of Interest will be removed from the agenda.

Moved by Grajek, supported by Figurski, to approve the Rules of Procedures with the changes as discussed at the meeting and the changes recommended by the Township Attorney. **Motion passed.**

Election of Officers: Moved by Figurski, supported by Grajek, to appoint Mr. Dhaenens as Chairperson. **Motion passed.**

Moved by Figurski, supported by McCreary to appoint Mr. Grajek as Vice Chairperson. **Motion passed.**

Township Board Representative Report: Ledford stated that the January 6th, 2014 Board meeting was canceled due to the snow storm.

Planning Commission Representative Report: Figurski stated that the Planning Commission meeting was canceled for January.

Zoning Official Report: Mr. Akers stated that there is training on Transportation in Lansing next month. There are four people that were interested in applying for the February meeting.

Moved by Figurski, supported by Ledford to adjourn the Zoning Board of Appeals meeting at 7:15p.m. **Motion passed.**

**Genoa Township Officials
Amended: Nov. 4, 2013**

PLANNING COMMISSION (3-year term)

	<u>Term</u>
Dean Tengel	06/30/14
Barbara Figurski	06/30/15
Diana Lowe	06/30/14
John McManus	06/30/16
Jim Mortensen	11/20/14
Doug Brown	06/30/15
Eric Rauch	06/30/16

ZONING BOARD OF APPEALS (3-year term)

Barbara Figurski	06/30/15
Marianne McCreary	06/30/15
Jeff Dhaenens	06/30/16
Chris Grajek	06/30/14
Jean Ledford	11/20/14

BOARD OF REVIEW (2-year term)

Robert Lupi	12/31/14
Ron Matkin	12/31/14
Barbara Figurski	12/31/14
Patricia Petrat	12/31/14

SELCRA

Jean Ledford	11/20/14
Michael Archinal	11/20/14

SEMCOG

Jean Ledford	11/20/14
Paulette A. Skolarus	11/20/14

GENOA/OCEOLA SEWER AND WATER AUTHORITY

Robin Hunt	11/20/14
Gary McCririe	11/20/14

HOWELL PARKS AND RECREATION

Todd Smith	11/20/14
Gary McCririe (Alternate)	11/20/14

MHOG (Marion, Howell, Oceola and Genoa)

Robin Hunt	11/20/14
Gary McCririe	11/20/14

GREENWAYS

Paulette Skolarus

11/20/14

FOIA COORDINATOR

Michael Archinal

11/20/14

BRIGHTON FIRE AUTHORITY

Gary McCririe

11/20/14

Jim Mortensen

11/20/14

HURON RIVER- WATERSHED COUNCIL

Kelly VanMarter

11/20/14

Paul Edwards (alternate)

11/20/14

BROWNFIELD DEVELOPMENT

John Kirsch (1-year)

11/20/14

Jean Ledford (2-year)

11/20/15

Todd Smith (2-year)

11/20/15

James Mortensen (2-year)

11/20/15

Linda Rowell (2-year)

11/20/15

Paulette A. Skolarus (3-year)

11/20/14

Robin Lynn Hunt (3-year)

11/20/14

Gary McCririe (3-year)

11/20/14

ELECTION COMMISSION

Todd Smith

11/20/14

Jean Ledford

11/20/14

(Policy-officials-terms)

GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS RULES OF PROCEDURE
Effective January 14, 2014

ARTICLE 1: AUTHORITY

These rules of procedure are adopted by the Genoa Charter Township Zoning Board of Appeals (hereinafter referred to as the “ZBA”), to facilitate the duties of the ZBA as outlined in Public Act 110 of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L. 125.3101 et. seq.) and the Genoa Charter Township Zoning Ordinance.

ARTICLE 2: MEMBERSHIP

Section 1. The ZBA shall consist of five (5) members as follows:

- A. Planning Commission Member.** The first member shall be a member of the Township Planning Commission.
- B. Other Members.** The remaining members shall be selected and appointed by the Township Board from among electors residing in the unincorporated area of the Township.
- C. Township Trustee.** Only one member may be from the Township Board and their membership term shall be limited to the time they are a member of the Township Board.
- D. Alternates.** The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the ZBA.
- E. Terms.** Terms shall be for three (3) years, except for members serving because of their membership on the Planning Commission or Township Board, whose terms shall be limited to the time they are members of those respective boards. Any vacancies shall be filled within one (1) month after the vacancy occurs. Vacancies for unexpired terms shall be filled by the Township Board for the remainder of the unexpired term.
- F. Removal.** Members of the ZBA shall be removable by the Township Board for misfeasance, malfeasance or nonfeasance, upon filing of written charges and after a public hearing before the Township Board.
- G. Resignation.** A member may resign from the ZBA by sending a letter of resignation to the Township Supervisor or the Township Board.

Section 2. Members of the ZBA shall be subject to the following membership requirements.

- A. Attendance.** If any member of the ZBA is absent from three (3) consecutive meetings then that member shall be considered delinquent. Delinquency can be grounds for the

Township Board to remove a member of the ZBA for nonperformance of duty or misconduct after holding a public hearing on the matter.

- B. Training.** Members of the ZBA should participate in training opportunities when they are available. Participating in training is not mandatory for membership, but it is strongly encouraged.
- C. Staff Support.** Township staff will have the ability to participate in discussion with the ZBA and nothing else. Township staff cannot vote, introduce motions, initiate any other parliamentary action, be counted for a quorum or be expected to comply with attendance requirements in these rules of procedure. Township staff includes employees, agents and consultants of Genoa Charter Township. Other individuals may be allowed to participate in discussion at the discretion of the chairperson.

ARTICLE 3: OFFICERS

Section 1. The Officers of the ZBA shall be a chairperson and a vice-chairperson. The Township Board representative shall not serve as an officer.

- A. Duties of the Chairperson.** The chairperson shall preside at all meetings and hearings of the ZBA, shall have the duties normally conferred by parliamentary usage on such officers and shall serve as the liaison between the ZBA and Township Staff.
- B. Duties of the Vice-Chairperson.** The vice-chairperson shall preside and exercise all of the duties of the chairperson in his/her absence. Should neither the chairperson nor the vice-chairperson be present at a meeting, a temporary chairperson shall be elected by a majority vote of the members present.

Section 2. The duties of the Planning Commission representative and Township Board representative shall be as follows:

- A. Duties of the Township Board Representative.** The Township Board representative shall report the actions of the ZBA to the Township Board and shall update the ZBA on the actions of the Township Board.
- B. Duties of the Planning Commission Representative.** The Planning Commission representative shall report the actions of the ZBA to the Planning Commission and shall update the ZBA on the actions of the Planning Commission.

Section 3. The election of officers shall be carried out in the following manner.

- A. Elections.** At the first meeting of the calendar year, the ZBA shall select from its membership a chairperson and a vice-chairperson who shall serve for a twelve-month period and who shall be eligible for re-election. A candidate receiving a majority vote of the membership present shall be declared elected. Newly elected officers will assume their office at the next meeting.

B. Vacancies. Vacancies in office shall be filled by regular election procedure and shall only serve the remainder of the term.

ARTICLE 4: ADMINISTRATIVE DUTIES

Section 1. Duties of Township Staff. Township Staff is responsible for the execution of documents in the name of the ZBA and shall perform the duties hereinafter listed below, and other such duties as the ZBA may determine.

- A. Minutes.** ZBA minutes shall be prepared by Township Staff. The minutes shall contain a brief synopsis of the meeting, complete statement of the conditions or recommendations made on any action; and recording of attendance.
- B. Correspondence.** Township Staff shall be responsible for the issuance of formal written correspondence with other groups or persons, as directed by the ZBA.
- C. Attendance.** Township Staff shall be responsible for maintaining an attendance record for each member of the ZBA.
- D. Notices/Agenda.** Township Staff shall issue such notices and prepare the agendas for all meetings.

ARTICLE 5: MEETINGS

Section 1. Regular Meetings. Regular meetings of the ZBA shall be held the third Tuesday of every month. The dates and times shall be posted at the Township Hall in accordance with the Open Meetings Act. Any changes in the date or time of the regular meetings shall be posted in the same manner as originally established. When a regular meeting falls on or near a legal holiday, suitable alternate dates in the same month shall be selected in accordance with the Open Meetings Act.

Section 2. Meeting Notices. All meetings shall be posted at the Township Hall according to the Open Meetings Act. The notice shall include the date, time and place of the meeting.

Section 3. Special Meetings. A special meeting may be called by three members of the ZBA upon written request to the chairperson or by the chairperson himself/herself. The business which the ZBA may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act. Public notice of the time, date, and place of the special meeting shall be given in a manner as required by the Open Meetings Act, and Township Staff shall send notice of a special meeting to ZBA members.

Section 4. Open Meetings. All meetings of the ZBA shall be opened to the public and held in a place available to the general public. A person shall be permitted to address the ZBA during call to the public. A person shall not be excluded from a meeting of the ZBA except for breach of the peace, committed at the meeting.

Section 5. Public Record. All meetings, minutes, records, documents, correspondence, and other materials of the ZBA shall be open to public inspection in accordance with the Freedom of Information Act, except as may otherwise be provided by law.

Section 6. Quorum. In order for the ZBA to conduct business or take any official action, a quorum consisting of the majority of the voting members of the ZBA shall be present. When a quorum is not present, no official action, except for closing of the meeting shall occur. The members of the ZBA may discuss matters of interest, but can take no action until the next regular or special meeting. All public hearings without a quorum shall be scheduled for the next regular or special meeting.

Section 7. Voting. Any decision made by the ZBA shall require a majority vote of the membership of the Zoning ZBA with the exception of a use variance, which will require a 2/3 vote of the membership. Voting shall ordinarily be voice vote; provided however that a roll call vote shall be required if requested by any ZBA member or directed by the chairperson. All ZBA members shall vote on every motion placed on the floor unless there is an impermissible conflict of interest, as established in ARTICLE 6 or is otherwise prohibited.

Any member of the ZBA shall avoid situations where they are sitting in judgement and voting on a decision, which they had a part in making. As used here, sitting in judgement and voting on a decision which they had a part in making at a minimum shall include, but not necessarily be limited to, the following:

- A. When the appeal is of an administrative or other decision by the Planning Commission, and the member of the ZBA sits both on the Planning Commission and ZBA.
- B. When the appeal is of an administrative or other decision by the Township Board, and the member of the ZBA sits both on the Township Board and ZBA.
- C. When the appeal is of an administrative or other decision by any committee of the Planning Commission, Township Board, other committee, and the member of the ZBA sits both on that committee and the ZBA.

Any member abstaining from a vote shall indicate their intention to abstain prior to any discussion on that item and shall not participate in the discussion of that item.

Section 8. Agenda. A written agenda for all regular meetings shall be prepared as follows:

The required agenda items for all regular meetings shall be:

- A. Call to order
- B. Pledge of Allegiance
- C. Introduction
- D. Approval of Agenda
- E. Call to the Public
- F. Administrative Business
- G. Adjournment

Section 10. Rules of Order. All meetings of the ZBA shall be conducted in accordance with generally accepted parliamentary procedure, as governed by “Robert’s Rules of Order”.

Section 11. Public Hearings. Hearings shall be scheduled and due notice given in accordance with the Genoa Township Zoning Ordinance and the Michigan Zoning Enabling Act. Public hearings conducted by the ZBA shall be run in an orderly and timely fashion. This shall be accomplished by the established hearing procedures as follows.

- A. Prior to holding a public hearing for any variance request, interpretation or appeal of administrative decision, the chairperson shall explain to the public the criteria in the zoning ordinance for how that decision is made.
- B. Announce Subject. The chairperson announces each agenda item and describes the subject to be considered.
- C. Open Public Hearing. The chairperson summarizes the hearing rules and then opens the hearing to the floor.
- D. Close Public Hearing. The chairperson should give ample opportunity for comment, including a “last call” for comments. The chairperson will then close the hearing.
- E. Deliberation. Any action of the ZBA must be supported by reasonable findings and conclusions, which will become part of the record through minutes, resolutions, staff reports, etc. All motions shall summarize these findings, or provide reasons for the suggested action. If a matter is tabled to a specific meeting date, it is not necessary to re-advertise the hearing so long as the public hearing was opened and closed and proper notice as specified in the zoning ordinance and Zoning Enabling Act was given.
- F. Action. After deliberation, the ZBA may take any of the following actions:
 - 1. In the event of a variance request, the ZBA may table the request, approve the request, deny the request or approve the request with conditions.
 - 2. In the event of an administrative appeal, the ZBA may decide in favor of the Zoning Administrator or may reverse any order, requirements, decision, or determination of the Zoning Administrator.
 - 3. In the event of a request to make an interpretation of the zoning ordinance, the ZBA may take action explaining the interpretation.

ARTICLE 6: CONFLICT OF INTEREST

Section 1. Declaration of Conflict. No ZBA member shall participate in any matter where they have an impermissible conflict of interest. ZBA members shall declare a conflict of interest when any one (1) or more of the following occur:

- A. A relative or other family member of a ZBA member has a business or financial interest in the property involved in the request, or has a business or financial interest in the applicant’s company, agency, or association.
- B. The ZBA member has a business or financial interest in the property involved in the request, or has a business or financial interest in the applicant’s company, agency, or association.

- C. The ZBA member or a relative or other family member of a ZBA member owns or has a financial interest in neighboring property. For purposes of this Section, a neighboring property shall include any property falling within the notification radius for the request, as required by the Zoning Ordinance and Michigan Zoning Enabling Act.
- D. There is a reasonable appearance of a conflict of interest, as determined by the ZBA member declaring such conflict.

Section 2. Requirements. Prior to discussion on a request, the ZBA member shall do all of the following to declare a conflict:

- A. Announce a conflict of interest and state its general nature.
- B. Abstain from any discussion or votes relative to the matter which is the subject of an impermissible conflict.
- C. Absent himself/herself from the room in which the discussion and voting take place.

ARTICLE 7: POWERS OF THE ZBA

Section 1. The ZBA shall have the following powers/duties as granted by the Michigan Zoning Enabling Act and the Genoa Township Zoning Ordinance:

- A. **Appeal of Administrative Decisions.** To hear and decide appeals where it is alleged by an appellant that there is an error in any order, requirement, permit, decision, or refusal made by the Planning Commission or any administrative official charged with administration or enforcement of the zoning ordinance.
- B. **Variances (Dimensional and Use).** To authorize, upon a variance from the strict application of the provisions of the zoning ordinance, where by reason of exceptional narrowness, shallowness, shape or area of a specific piece of property at the time of enactment of the zoning ordinance or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon the owner of such property, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning ordinance.
- C. **Interpretation.** Upon request of the Planning Commission or any administrative or enforcement officer charged with administration or enforcement of the zoning ordinance, the ZBA may interpret and clarify the meaning of zoning ordinance text. The ZBA may also be requested to interpret boundaries of zoning districts where the zoning district classification cannot be clearly discerned on the Official Zoning Map.

ARTICLE 8: OTHER DUTIES

Section 1. Duties. The following are duties which are expected of the individual members of the ZBA.

- A. Ex Parte Contact.** Members shall avoid Ex Parte contact with the Zoning Administrator in cases where an administrative decision is before the ZBA, whenever possible. Sometimes it is not possible to avoid Ex Parte contact. When this occurs the member should take detailed notes about what was discussed and make every member or other interested parties aware of what was said.
- B. Site Inspections.** Members may perform site inspections, however, no more than two (2) members may perform site inspections at the same time. Members should avoid discussing the merits of the request with the applicant, family member of the applicant or agent of the applicant.
- C. Accepting Gifts.** Gifts shall not be accepted by a member of the ZBA or liaisons from anyone connected with an agenda item before the ZBA. As used here, gifts shall mean cash, any tangible item or service, regardless of value and food valued over \$10.
- D. Spokesperson for the ZBA.** The ZBA may appoint a spokesperson for the ZBA for all matters which occur outside of the meetings.

ARTICLE 9: AMENDMENTS

These rules may be amended by the ZBA by a concurring vote during any meeting, provided that all members have received an advance copy of the proposed amendments at least 3 days prior to the meeting at which such amendments are to be considered.