

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
NOVEMBER 17, 2020
8:00 P.M.
AGENDA**

Call to Order:

Pledge of Allegiance:

Introductions:

Approval of Agenda:

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

1. Request by Township Manager for interpretation of sections 11.04.03, 11.01.04, and 11.04.05 of the Township Zoning Ordinance as it applies to waterfront yards in accordance with section 23.02.03 of the Township Zoning Ordinance.
 - A. Interpretations of Section 11.04.03 and 11.04.05 as it relates to swimming pools in the required waterfront yard.
 - B. Interpretation of Section 11.01.04 and 11.04.05 as it relates to retaining walls and terraces in the required waterfront yard.
2. 20-18 ... A request by Ventures Design, 3470 Pineridge Lane, for a variance to allow a swimming pool in the required waterfront yard and a variance to construct retaining walls in the required waterfront yard.

Administrative Business:

1. Member Discussion
2. Adjournment

MEMORANDUM

TO: Zoning Board of Appeals
FROM: Michael Archinal; Manager
DATE: 11/10/2020
RE: ZBA Case 20-18

Pursuant to §23.02.03 of the Zoning Ordinance I am requesting that the Zoning Board of Appeals interpret and clarify several sections as they pertain to waterfront yards.

The applicant is seeking to install retaining walls and an infinity pool in a waterfront yard.

§11.04.03 specifically applies to swimming pools. None of the conditions contained in this section provide a basis for denial.

§11.01.04 allows for certain architectural features to project into required yards. Among permitted projections are steps, landscaping and paved terraces.

§11.04.05 addresses waterfront accessory structures and states, in substantial part, "Only the following structure and appurtenances shall be permitted within the required waterfront yard:

Docks and mooring apparatus;

Decks, subject to the requirements of §11.04.02(c);

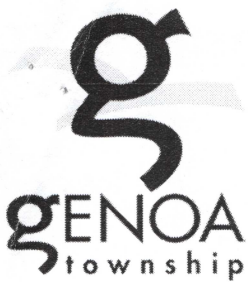
No more than on gazebo, subject to the requirements of §11.04.02(d).

Appurtenances are not defined in our ordinance. Merriam Webster defines appurtenances as accessory objects. Taken literally §11.04.05 would prohibit everything not listed above. Trees, fire rings, grills, gardens, etc. – are all prohibited.

Structures are defined by the ordinance as anything constructed or erected, the use of which requires location on ground or attachment to something having location on the ground. Taken literally this would preclude steps, all retaining walls and flag poles.

Generally when applying a Zoning Ordinance the more specific governs. The section that applies specifically to pools (11.04.03) does not prohibit pools in waterfront yards. This is in conflict with §11.04.05. It is likely that pools in waterfront yards were not contemplated when the ordinance was written. ***Please clarify which section applies and whether or not pools are allowed in required waterfront yards.***

§11.01.04 allows projections in required yards including certain walls and terraces. §11.04.05 only allows docks, decks and gazebos in a waterfront yard. Retaining walls, landscaping, gardens etc. are common in waterfront yards. ***Please clarify which section applies and whether or not retaining walls and terraces are permitted in required waterfront yards.***



GENOA CHARTER TOWNSHIP VARIANCE APPLICATION
 2911 DORR ROAD | BRIGHTON, MICHIGAN 48116
 (810) 227-5225 | FAX (810) 227-3420

Case # 20-18 Meeting Date: Sept. 15th

PAID Variance Application Fee

\$215.00 for Residential | \$300.00 for Sign Variance | \$395.00 for Commercial/Industrial

Applicant/Owner: Ventures Design Email: Lubig@Ventures-design.com
 Property Address: 3470 Pineridge Ln Phone: (734) 395-4375
 Present Zoning: LRR Tax Code: 11-22-202-014

ARTICLE 23 of the Genoa Township Zoning Ordinance describes the Variance procedure and the duties of the Zoning Board of Appeals.

Each application for Variance is considered individually by the ZBA. The ZBA is a board of limited power; it cannot change the Zoning Ordinance or grant relief when it is possible to comply with the Zoning Ordinance. It may provide relief where due to unique aspects of the property with strict application of the zoning ordinance to the land results in practical difficulties or unnecessary hardship.

The applicant is responsible for presenting the information necessary to support the relief requested. While much of the necessary information is gathered through the completed application, other information may be gathered by on-site visits, other sources, and during the ZBA meeting. ZBA members, township officials and township staff may visit the site without prior notification to property owners.

Failure to meet the submittal requirements and properly stake the property showing all proposed improvements may result in postponement or denial of this petition.

Please explain the proposed variance below:

1. Variance requested/intended property modifications: Requesting a variance to build into the waterfront setback to construct retaining walls and a pool. We are requesting a 21 foot variance.

The following is per Article 23.05.03 of the Genoa Township Ordinance:

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

Under each please indicate how the proposed project meets each criteria.

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.

There is a very significant grade drop approx 60ft from the water. The wall will cut into the area of the grade drop to create more functional/practical space. The current lakefront set back is in line with the back of the house leaving no room for the pool or walls.

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.

Similar properties have drops in grade between the home and the water but not as drastic compared to the property in question. Neighboring properties also have retaining walls in similar locations near the water front.

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.

The proposed pool and walls will not be visible from the street. The pool will be elevated and protected with an auto cover.

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.

The walls will be retaining the current grade before the significant drop off. So there will be no added height interfering with the current sight line.

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

After the decision is made regarding your Variance approval a land use permit will be required with additional site plan and construction plans.

Date: 8/20/2020 Signature: 



REVISED MEMORANDUM

TO: Genoa Township Zoning Board of Appeals
FROM: Amy Ruthig, Zoning Official
DATE: **November 13, 2020**

RE: ZBA 20-18

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

STAFF REPORT

File Number: ZBA#20-18
Site Address: 3470 Pineridge Lane
Parcel Number: 4711-22-202-014
Parcel Size: .449 Acres
Applicant: Ventures Design
Property Owner: Ralph and Mary Slider, 9903 Doornoch, Brighton
Information Submitted: Application, site plan, conceptual drawings
Request: Dimensional Variances
Project Description: Applicant is requesting a variance to install an in ground pool in the required waterfront yard and a variance to allow retaining walls in the required waterfront yard.
Zoning and Existing Use: LRR (Lakeshore Resort Residential) Single Family Dwelling located on property.
Other: Public hearing was published in the Livingston County Press and Argus on Sunday August 30, 2020 and 300 foot mailings were sent to any real property within 300 feet of the property in accordance with the Michigan Zoning Enabling Act.

Background

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

- Per assessing records the current home is under construction.
- In 2019, a waterfront setback variance to construct a new home was denied. (See attached minutes)
- Applicant was tabled at the September 15, 2020 and October 20, 2020 Zoning Board of Appeals meeting. (See Attached Minutes)
- In 2019, a permit was issued to construct a new home.
- The parcel is serviced by a well and public sewer.
- See Assessing Record Card.

SUPERVISOR

Bill Rogers

CLERK

Paulette A. Skolarus

TREASURER

Robin L. Hunt

TRUSTEES

Jean W. Ledford

H. James Mortensen

Terry Croft

Diana Lowe

MANAGER

Michael C. Archinal

Summary

The proposed project is to install an in ground swimming pool and retaining walls in the waterfront yard. The applicant is required to obtain a waterfront variance to install the in ground swimming pool and a variance to allow retaining walls in the required waterfront yard.

The following information has been submitted for November 17, 2020 ZBA Meeting:

1. New drawings from the applicant demonstrating a terrace.

Variance Requests

The following is the section of the Zoning Ordinance that the variance is being requested from:

As a result from inquiries from the applicant, Township staff identified a correction to the ordinance section from which the applicant is seeking a variance. Separately, the Township Manager is also seeking an interpretation of the ordinance language as requested in Item #1 on the agenda.

The necessity for these variance requests will be dependent on the outcome of Item #1 on the agenda.

11.04.05 Waterfront Accessory Structures: Waterfront structures and appurtenances are permitted structures on waterfront property, subject to the requirements of this section. The following requirements apply to all structures and appurtenances within the required waterfront yard (i.e. the minimum required setback from the ordinary high water mark.) in all zoning districts.

(a) Only the following structures and appurtenances shall be permitted within the required waterfront yard:

(1) docks and mooring apparatus;

Pool located in the Required Waterfront Yard:

Summary of Findings of Fact- After reviewing the application and materials provided, I offer the possible findings of fact for your consideration:

Please note that in order for variance to be approved it has to meet all of the standards in 23.05.03.

(a) Practical Difficulty/Substantial Justice – In regards to the in ground swimming pool request, strict compliance with the ordinance would prevent the installation of the in ground swimming pool. Although the applicant has found one other example of a swimming pool located within the waterfront yard on a different nearby lake, this single example is not sufficient to provide substantial justice and is not necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same vicinity of the subject parcel.

(b) Extraordinary Circumstances – In regards to the in ground swimming pool request, there are no exceptional or extraordinary conditions of the property due to the large building envelope and the fact that the home was newly constructed in such a way that left no non-required waterfront yard. As a result of these facts, the need for the variance is self-created.

(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 proposed variance would have little or no impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

Recommended Conditions

If the Zoning Board of Appeals grants the variance requests staff recommends the following conditions be placed on the approval.

1. Applicant should ensure that grading on site will not affect neighboring properties.
2. Applicant must comply with the Livingston County Drain Commissioner and Livingston County Building Department final grading requirements.
3. No fence or above ground enclosure will be installed.
4. The pool must be secured by a locking retractable flush mounted cover as approved by the Livingston County Building Official.

Retaining Walls located in the Required Waterfront Yard:

Summary of Findings of Fact- After reviewing the application and materials provided, I offer the possible findings of fact for your consideration:

Please note that in order for a variance to be approved it has to meet all of the standards in 23.05.03.

(a) Practical Difficulty/Substantial Justice –Strict compliance with the required waterfront yard setback would prevent the installation of the retaining walls. The granting of the retaining walls in the required waterfront yard could provide substantial justice and maybe necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same vicinity of the subject parcel. This property has historically had retaining walls and there are multiple properties in the area and around the subject lake with retaining walls in the required waterfront yard.

(b) Extraordinary Circumstances – In regards to the retaining wall request, the exceptional or extraordinary condition of the property is the topography of the lot however it appears that the property has had substantial grading since construction of the home which included removal of an existing retaining wall. Applicant needs to confirm that the need for the retaining walls was not self-created and is the least amount necessary.

(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.

Impact on Surrounding Neighborhood – The proposed variance could have an impact to the adjacent neighbors in regards to the grading that has taken place on the parcel.

Recommended Conditions

If the Zoning Board of Appeals grants the variance for the retaining wall, staff recommends the following conditions be placed on the approval.

1. Applicant should ensure that grading on site will not affect neighboring properties.
2. Applicant must comply with the Livingston County Drain Commissioner and Livingston County Building Department final grading requirements and that no railing shall be installed on the wall.

asked for it to be tabled. He is now requesting that the Board approve his requested variance, with a condition that he has to build the home within a certain amount of time. He does not want to lose the ability to build a home on that property in the future.

Board Member McCreary asked where the new home would be built. Mr. Newton stated they would tear down the existing garage and shed and build it on that property. They would leave the existing house that is on the other property as a guest house.

Board Member McCreary noted that the applicant was advised by the Township that a variance would be needed to build a shed and a variance was not requested and the shed was built anyway. Mr. Newton agreed. He apologized to the Board and knows he made a mistake. She stated the reasons given in the applicant's letter for requesting the variance are not hardships. She agrees with Board Member Ledford's motion from last month.

Mr. Newton stated there is no location on the property with the house to build the shed and he needs the storage space.

The call to the public was made at 7:22 pm with no response.

Moved by Board Member McCreary, second by Board Member Ledford, to deny Case #20-16 for Chad Newton to allow an addition to an existing nonconforming detached accessory structure on vacant lot located on the northwest corner of Grand River Avenue and Wildwood Drive (4711-10-301-033), based on the following findings of fact:

- The request does not comply with the current ordinance
- The request for the variance was self-created.

This denial is based on the following condition:

1. The petitioner shall remove the shed within six month and no other work will be done on the shed
2. No other structures shall be built on the lot.

The motion carried unanimously.

3. 20-18 ... A request by Ventures Design, 3470 Pineridge Lane, for a waterfront setback variance to install a swimming pool and a variance to construct retaining walls in the required waterfront yard.

Mr. Loch Durrant and Mr. Brandon Bertrang were present to represent the homeowners. He reviewed their requests and the outcome of the meeting from last month. He read the following statement to address the four requirements of granting a variance.

To recap the last meeting; we are requesting two variances, one for a retention wall due to the severe slope of the property and one for an inground pool to be constructed between the retention wall and the house. At September's board meeting the board determined that a

retention wall was needed and that the board would utilize an engineer to determine where the retention wall would be placed. Based on the report the board would determine the second variance request.

What we concluded from the engineers report is the reason for a retaining wall is to create more usable space between the proposed wall and the lake, and that the severe slope, although could be left in place, would create hardship. We outlined these findings in our synopsis of the engineered report.

We are seeking two variances that allow us to build a retaining wall in the water front yard and a 14'10" variance to allow us to build an inground pool. I think there has been some confusion that we are seeking to change the setback for primary structures amongst the community, but this is not the case. Our goal does not and is not to set a precedent for reducing the setbacks of houses within this community; this is simply for a retaining wall to replace a severe slope and an inground pool placed between the retaining wall and the house. The principal structure currently has an 80'6" setback from the water's edge. The proposed distance from the pool structure and retaining wall is 65'8" from the water's edge, which is substantially less than numerous homes on Crooked Lake. This distance has also been confirmed by the township's engineer. We are primarily seeking a variance to construct a retaining wall in order to gain usable yard space between the proposed wall and the lake, NOT between the house and the wall which seems to be a point of confusion. We are additionally seeking this variance to eliminate a severe slope. In conjunction with that we are seeking to build an inground pool behind the retaining wall. We believe these variances should be looked at in a step by step order. First we would like to discuss the proposed retaining wall since it is clearly evident that one should be permitted, not to mention the countless other homes around the lake that have been granted the same or even more encroaching variances. Once we have come to a consensus on the wall we would like to discuss the placement of the pool behind the retaining wall since it will have no impact on line of site and would be no different from a lawn, patio, deck, or pond.

To give background the current lot has a substantial topographic drop from the rear walkout to water level. If you look at the topographic survey and supplied photographs you can see there is a 10' drop which was also verified by the township's engineer. Our proposed plan cuts back the disturbed soil that was pushed out on the slope. Ultimately the current slope is not suitable for a rear yard and creates a hardship for the homeowner because it's such a severe slope and reduces their usable yard space (steeper than any point on Mt. Brighton). The pre-existing home had natural stone landscape retaining walls that had become overgrown with vegetation, since construction started on the new home these have all been removed. And since the retaining wall is not being built higher than the slope and existing grade they will not impact the line of site from either property as seen in the overlays we have provided. In most jurisdictions retaining walls fall into 2 categories. 1. A wall that is being built up and backfilled usually has to follow certain zoning restrictions because it is built up and out from existing grade. 2. A retaining wall that is being cut back and built into the existing grade generally does not require zoning restrictions because it is not conflicting with lines of site. Our proposed wall is the latter of these two circumstances and ultimately will have zero effect on the neighboring community.

Practical Difficulty: We believe the unusual characteristics of this lot demonstrate practical difficulty and the setbacks that have been granted to other homes within the community and the next door neighbor's variances demonstrate Substantial Justice. The homeowner has an

unusual pie shaped lot that is located on a peninsula with unusual topography with a steep slope in the lake front yard. The current principal set back is 80.5' from the water's edge, this is substantially more than multiple houses within the community and on Crooked Lake including the neighbor directly to the north at 3450 Pine Ridge Lane the setback variance that was granted at this house are as follows Deck: 45' setback from water. House: 58' setback from water. To put into comparison our proposed wall/pool are 7'8" farther back from the water's edge than the neighbor to the north's house. And 20'8" further back than that neighbors deck. Countless other lots have been granted variances reducing the waterfront set back up to 40' as well, these were all based on unusual lot shapes and topographic issues therefore it would be unjust to not take into account the same issues this lot faces. Not to mention these are setbacks for principal structures.

Additionally, the rationale of the setback requirement is to ensure that a person cannot build a home that would take away the lake views from his adjacent neighbors. With the petitioner's variance request, neither of the neighbors would lose any lake views. As our proposal is to build a retaining wall with a pool at grade level, since neither structure has a wall or a roof, no line of site is impacted.

In regards to our second variance request, there has been Precedent set with a pool located at 4252 Highcrest Dr. that was permitted and built beyond the principal structure setback, the validity of this pool is not in question since we believe it does not impact the line of site from neighboring properties but is a further demonstration of substantial justice. In this case, based on the zoning approved the pool was not viewed as a principal structure. There are also water front yard retaining walls throughout the community that have been granted variances for the same reasons we are before you today. The inconsistencies between other zoning approvals and our proposal show a general bias from one project to the other. We have brought copies of 30 variances that have been granted based on one or two of the exact hardships faced by the petitioner, and will be willing to read through them should the board determine it necessary.

In addition, there is a strong argument that the Ordinance's setback requirement of taking the averages of the two houses should NOT be applied at all in this situation. Due to the unique situation that the outdated ordinances do not specify set back requirements for inground pools, thereby defaulting them to the same category as a house with walls and a roof, the rationale of protecting the neighbors views simply do not apply in this situation.

Additional "exceptional undue hardships" include the narrowness of the lot. This is an exceptional undue hardship because the placement of the home on the lot had to conform to side yard setbacks. If the home were to be built further from the lake, to allow space to conform with the waterfront set back, additional variances for side yard setbacks would be necessary.

Extraordinary circumstances: We believe extraordinary circumstances do apply to our case. The unusual shape and topographic nature of the lot set forth the location of the principal structure and to ensure site stability we need to either have a slope with a 50% grade (determined by engineer) or a retaining wall. During demolition multiple failing retaining walls were removed and overgrown vegetation was cleared. In order to reduce the total amount of retaining walls and to have the least amount of impact we are proposing a wall being built well within the side yard setbacks. We have returns cutting in towards the house to allow proper side yard grading so it will not affect neighboring properties. As for the pool there is not a more suitable location on the

property, there is no room on either side and it is not permitted to place the pool in the front yard of the property. Since the pool has to abide by the same setback as the house it would require a variance for any location in the waterfront yard. We also feel that given the need for a retaining wall, the most minimally intrusive way to incorporate the pool would be to do so as a monolithic structure with the wall, therefore serving two purposes. Furthermore if we were to build the retaining wall out of natural stone or landscape block we would not need to seek a variance for the monolithic wall.

Further points to take into consideration:

- A deck is permitted to be built 15' beyond the existing house at the ground level or second story level, which poses an actual impact of line of site for neighboring properties. Additionally the original house had a ground level deck that was in the same location as our proposed structure so we are not proposing anything that impacts the area more than it did before.
- If the house were to be shifted back further away both the pool and principle structure could be built within the 80' setback, this would cause a significant cut out of land for the walkout basement which could cause grading issues for neighboring lots, and create the need for additional unnecessary retaining walls.
- We feel the current ordinances for walls are somewhat outdated and not fully intended to apply to structures built below the existing high point of land. As mentioned before we would be cutting into the existing grade to gain usable space as opposed to building out and up.
- An inground pool with an autocover should not follow the same setbacks as a principal structure or accessory structure in a waterfront yard and rather should carry its own setback requirements as common in other jurisdictions for the reason that it poses no additional burden to neighboring properties than if the surface were mowable grass, or concrete. We feel the code was written during a time when a pool was built a fence was required. With new technology and advanced pool practices also supported by the Livingston County Building Department, the need for a fence is obsolete when a locking automatic pool cover is installed.

To summarize based on the site conditions, distances determined by the townships engineer, and variances granted to other properties within the community we believe there is ample evidence to grant a variance for the proposed retaining wall. And based on that approval we cannot find a reason as to why an inground pool with an autocover should not be permitted in this location. We could see there being restrictions for pools that would require a permanent fence but with a certified autocover Livingston County no longer requires a fence. The inground pool would be set back further than multiple houses within the neighborhood including the direct neighbor (that all were granted variances for the primary structure) and most importantly poses no impact to other properties unlike the variances that have been approved for the houses that are located closer to the water. The inground pool itself would be no different than lawn, or concrete, or most comparably a pond. Technically we could build a pond in that exact location without any zoning restrictions and the only technical difference between a pond and a pool is the filtration system which would be located on the side of the house far behind any setback requirements. These points we believe indicate the need for a variance or revised zoning

ordinances within this community since many of the current ones are out of date for current construction practices.

Mr. Bertrang showed photographs of the home prior to the construction and the proposed new structure. He noted that the Township Engineer confirmed that the retaining wall is needed; however, based on his comments, they reduced the size of the pool and brought it closer to the home by three feet and moved the retaining walls further back. He presented an overlay where the pool will be in relation to the location of the previous deck and noted that the pool could be built in this location without the retaining wall, but the retaining wall is necessary due to the slope of the land. They could plant 30 to 40 foot high arborvitae along one side of the property to block the view of the pool from the neighbor.

He showed another home on Highcrest that has an infinity pool that was not considered a structure. He also noted that many homes on Crooked Lake have retaining walls.

Mr. Durrant reiterated that they are allowed, by ordinance, to build a deck on the second floor, which would impact the neighbors' lines of sight. They also could plant the arborvitae with no variance needed. Mr. Durrant stated they could put a patio there with no variance needed.

Board Member McCreary is concerned with the noise from the people in the pool that could negatively impact the neighbors because it is further away from the home and closer to the water. Mr. Bertrang stated they could plant the arborvitae with no variance needed to help shield the noise from the neighbors.

Board Member McCreary noted that the applicant was denied a variance to build the home closer to the lake and asked why the pool was not presented at that time. Mr. Bertrang stated the pool was decided to be built after the home was planned. Venture Designs was not part of the construction of the home. They are building the retaining wall and the pool.

Mr. Durrant stated that the Township Ordinance does not speak to pools on lakefront lots, so it is considered a structure. A variance is needed for the retaining wall due to the hardship of the topography of the lot and they are putting in a pool at the same location. They could put grass, a patio, etc. at the retaining wall and they would not need a variance for any of those.

Ms. Ruthig agrees that the ordinance is silent to pools on lakefront lots, so staff refers to detached accessory structures. She noted that this will be added during the zoning ordinance update. She also noted that the applicant can build a wall with boulders and would be considered landscaping and could be placed anywhere on the property.

The call to the public was made at 8:10 pm.

Mr. Robert Pettengill of 3540 Pineridge Lane read the letter that he submitted to the Township. I think what is presented here - the fundamental problem - is a package too big for the size and shape of the lot. A huge amount of earth has been moved and removed and most of the trees were taken down, which may have created the need for this variance. But this is not uncommon today: fitting big houses on small lots. Particularly for those of us who have been in this neighborhood for some time this can be an aesthetic shock and departure from what has been

including norms of setback, lines of sight, etc. Nevertheless I must assume up to this point this is all within the various ordinances and in accordance with the owner's permits.

You as the Zoning Board and we as neighbors are reduced to being able to only address the ordinance dealing with lakefront setback. In the case of the pool there is also a quibble about the definition of "structure", between attached or unattached even though they both look the same and require the same footprint.

So, technically the subject on the table tonight is the retaining wall and pool, not the house construction. However, this is because the complete plan, house and pool, were not presented in the beginning even though as I understand it (and I could be wrong) the pool was always intended. There was no mention of a pool at your February 2019 meeting when you denied their variance request of 6.5 feet. It was then that this should have been considered.

It was stated by the owner's representative in the September 15, 2020 meeting that discussion of construction of the home was not relevant to the discussion of the request now being made. It is relevant because it's the total package, house and pool, that result in a variance requirement. Now with the foundation in and construction proceeding the house becomes a fait accompli, a given, and accommodating the pool can only be done by a variance. Any hardship or practical difficulty with the property that causes this variance request goes back to the original layout of the house and pool apparently being incompatible with the lot configuration. Everything was known when they bought the property in 2016 and when the house and pool plans were being developed. Apparently the topographic features of this property were disregarded in favor of going with their plans hoping for variances to deal with the anomalies. Beginning construction before these issues were addressed is what caused the so-called hardship. Going ahead with construction makes this a self-created problem.

I found it difficult to follow the owner's agreements/disagreements with the engineer's recent review. But, looking at the photographs and overlays: the previous property including the house, now gone, was rather modest on both the lakeside and roadside. In fact the previous house was hardly noticeable from the road. The new structure with or without the variance will dominate both lakeside and roadside. My point is the discussion about grades not being changed I find hard to match with the visuals and knowing how much earth has been moved. But, my reading of the engineering review is: no pool; no need for variance. Further, going with a natural grade obviates the need for a retaining wall.

The fact remains a variance is required to accommodate this house and pool on this particular lot. Is this not the definition of a self-created situation? It is only now an unfortunate hardship to the owners because construction is in progress and they do not want to forego the pool which is an add-on to the original plans and to repeat not in their February 2019 variance request which was denied. The conclusions reached then still apply. Adding a pool now only exacerbates the problem.

Bottom line: I can't see how the need for this variance is not self-created, the basis for denial.

Mr. Bob Musch of 3500 Pine Ridge was present to read Donnie Bettes' letter dated October 17, 2020.

After reading the engineer's comments it would appear that the only reason for the wall would be to support the pool. It appears the petitioner's pool engineers may disagree but when you look at the pictures below you can see that before the dirt was added the grade appeared to be more gradual. Also since the home's foundation was already in before this variance request was made in the past couple months the hardship was again self-created vs adjusting the footprint to accommodate the lot while they were in the planning phase. Note the petitioner has owned the property since Feb 2016, so there has been plenty of time to plan for this feature.

In the previous meeting, in September, there was a motion to deny which was withdrawn so the board could consider the need for a wall. It was suggested that the township engineer's review the area and give their opinion regarding its need. The report appears to purport that the only need for a wall is to support the request for a pool. Otherwise natural settings can be used for landscaping the area. It would appear via your expert's professional opinion that the motion for denial would have the support needed to move forward.

If a wall were approved there is certainly no need for it to be 21 feet closer to the lake. I am sure 0-5 feet is all that is necessary, as that is what is typically allowed along the sides of buildings for emergency personnel to get around.

Mr. Doug Brown of 3420 Pineridge Lane would like Tetra Tech to be given the chance to review Venture's response to their letter.

Mr. Mike Balagna of 3450 Pineridge Lane lives to the north of this property. His biggest concern is the sight line. The applicant raised the grade three to four feet higher and now it blocks his view. They are not allowed to put trees along their property line that would block views.

The call to the public was closed at 8:24 pm.

Ms. Ruthig clarified that trees are allowed to be planted along the property line.

Board Member Ledford lives far off a lake and can still hear the noise all summer. Mr. Bertrang stated it is not what people are in or on that creates the noise, it's what they do while they are there. People in a pool do not make more noise than people on a patio.

Board Member McCreary agrees with Mr. Brown's comment regarding Tetra Tech being able to respond to Venture's response to their letter.

Board Member Rockwell has not changed his mind from last month and Tetra Tech's letter confirmed his decision.

Mr. Bertrang stated that other retaining walls have been built and other variances have been granted for retaining walls and homes closer to the lake than what they are proposing.

Board Member McCreary stated that each property has its own set of circumstances.

Mr. Ralph Slider, the property owner, stated that the neighbor's house to the north of his house is closer to the water than his and his retaining wall will be at grade level.

Mr. Loch stated the house to the north was given a variance to be closer to the lake than the house that is to the north of that one.

Mr. Bertrang reiterated that because the ordinance is silent to pools, it is considered a structure with walls and a floor. They could build a deck with a railing, which would be more intrusive, and that would be allowed by ordinance. He would like to know at what slope the Township would determine that a retaining wall is needed.

Board Member Kreutzberg noted that Tetra Tech stated a wall is not necessary. It can be done with landscaping, boulders, etc.

Board Member Ledford would like to have this item tabled this evening and have the engineer present at the next meeting. Board Member McCreary agrees; however, she is not sure that it will change her opinion.

Moved by Board Member Ledford, seconded by Board Member McCreary, to table Case #20-18 until the next Zoning Board of Appeals Meeting to allow the Township Engineer to be present. **The motion carried unanimously.**

New Business:

4. 20-20 ... A request by Sarah Lanning, 2638 Hubert Road, for a size variance to allow for an existing addition to remain on a detached accessory structure.

Mr. and Mrs. Lanning were present. Ms. Lanning stated they wanted to add to their existing barn for a gym because of the requirement to wear a mask at the gym due to COVID. They understand there is no hardship with the property; however, they would like to be able to work out without having to wear a mask.

Board Member McCreary asked why this wasn't requested when the permit for the barn was requested in April. She added that the addition was started to be built on the barn without another approval.

10 foot separation from the two structures, so Mr. Bush's home can be five feet from the property line.

Chairman Tengal noted that the Building Department and the Drain Commissioner's Office will address the issue of the soil erosion concerns. That is an issue that is beyond the scope of the Zoning Board of Appeals.

The call to the public was closed at 7:10 p.m.

Board Member Rassel stated last month the concern was with the height variance request and the applicant has addressed that concern.

Moved by Rassel, seconded by Ledford, to approve Case #19-05 for Brad and Amber Busch at 792 Pathway Drive for a side variance of 4' 11" and to build an accessory structure without a principle structure, based on the following findings of fact:

- Strict compliance with the zoning requirements would prevent the applicant from constructing the proposed accessory structure. Granting the variance to construct the proposed structure on the lot would give the applicant substantial justice due to other accessory structures in the area on lots without principal dwellings.
- The exceptional or extraordinary condition of the property is the narrow lot size and that the parcel with house cannot be combined to this parcel. Granting of the variance for the structure on a lot without a principle structure would make it consistent with other properties in the vicinity.
- The need for the variance is not self-created.
- The granting of the variances 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.
- The proposed variance would have little or no impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

The motion carried unanimously.

3. 19-06... A request by Ralph and Mary Slider, 3470 Pineridge Lane, for a waterfront variance to construct a new single-family home.

Mr. and Mrs. Slider were present. They are requesting a 6.5 foot waterfront yard setback variance. This building will not be further toward the lake than the existing home.

Mr. Slider stated the challenge with the property is that it narrows toward the road so it would be difficult to get a boat from the road into the garage. Because of the curve of the properties, both of the homes on either side of them actually face away from him so their house would not impede their lake view.

Chairman Tengel does not believe there is a hardship or practical difficulty with the property that would justify granting this variance. Board Member Ledford agrees. Mr. Slider noted that the covered patio can be shorted by nine feet and then an uncovered deck could be built fifteen feet further out from that instead of the size of the covered patio that is being proposed.

Mr. Slider noted that his neighbor was granted a 102 foot variance in 2002, which allows them to place their home 63 feet from the water's edge.

The call to the public was made at 7:26 pm with no response.

Board Member Rassel agrees that there is no practical difficulty with the property. Board Member Kreutzberg agrees.

Moved by Board Member Rassel, seconded by Board Member Kreutzberg to deny Case #19-06 for Ralph and Mary Slider of 3470 Pineridge Lane for a waterfront yard setback variance of 6.5 feet, due to the following findings of fact:

- Strict compliance with the waterfront yard setback would prevent the applicant from constructing the new home with the same setback as the existing home. While the adjacent homes have reduced waterfront setbacks the majority of the homes in the vicinity are setback further from the water than what is proposed. Granting the variance would provide substantial justice to the applicant in consideration of the adjacent homes however this is not supported by review of properties in the district or vicinity. Granting of the variance request is not 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.
- There are not 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. The variance would not make the property consistent with the majority of other properties in the vicinity.
- The need for the variance is self-created by the applicant.
- 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.

- The proposed variance would have little or no impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

The motion carried unanimously.

4. 19-07... A request by Lynda and Jackie Williams, 4219 Homestead Drive, for a waterfront variance to construct a sunroom to an existing home.

Ms. Lynda Williams and Ms. Jackie Williams stated they are requesting to add an all-seasons sunroom to their home. They are requesting an 11 foot, 7 inch waterfront setback variance. The hardship is that this is the only location on their home where they can put this addition because of the type of roofline of the home.

Board Member Kreutzberg's concern is the sight line of the lake for the neighbor to the left. This would block their view.

The call to the public was made at 7:37 pm.

Mr. Mark O'Brien at 4225 Homestead Drive, which is directly to the south of the Williams' property is concerned with his sight line of the lake being blocked. It will cause the value of his property to decrease.

The call to the public was closed at 7:38 pm.

Board Member Rockwell feels the requested variance is self-created.

Motion by Board Member Ledford, seconded by Board Member Rassel, to deny Case # 19-07 for 4219 Homestead Drive for the applicants and property owners, Lynda & Jackie Williams, for waterfront setback variance of 11.7 feet from the required 40 feet to 28.5 feet, due to the following findings of fact:

- There are no exceptional or extraordinary circumstances or conditions of the property. The variance would not make the property consistent with the surrounding properties.
- The need for the variance to construct the sunroom is self-created.
- Strict compliance with the setbacks would cause the applicant to be unable to construct the sunroom but does not unreasonably prevent the use of the property. There are other homes in the vicinity that do not meet the waterfront

GENOA TOWNSHIP



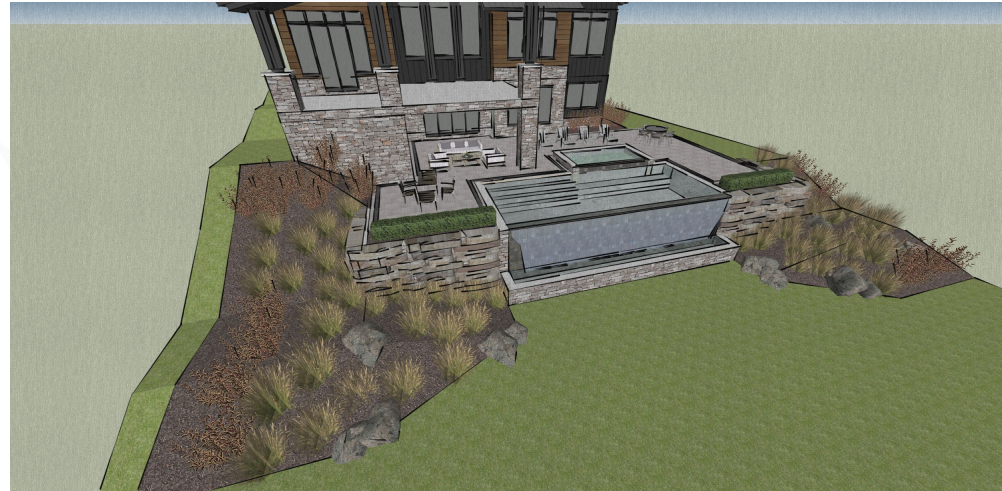
Design Proposal

**3740 Pineridge Ln
Brighton, MI 48116**

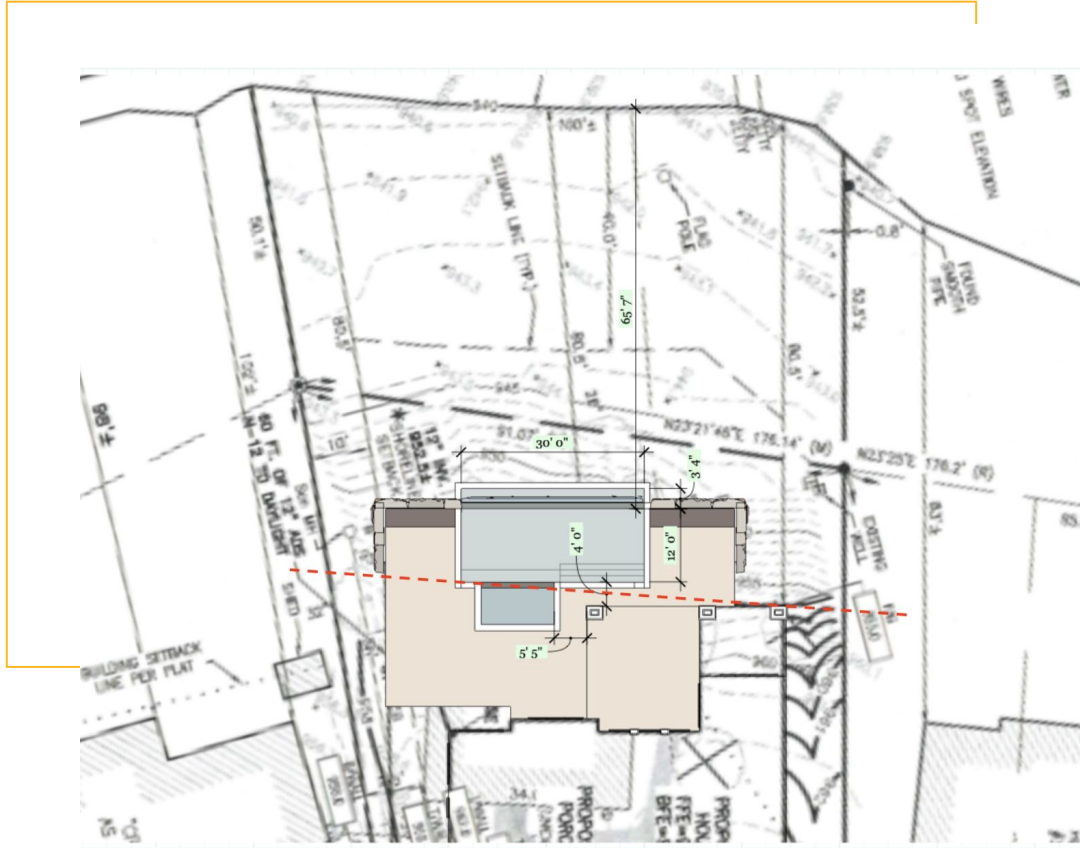
Prepared By:

Ventures Design

29454 Haas Rd
Wixom, MI 48393



Proposed Projection: Terrace, Retaining Walls, Pool, Landscaping



Original Variance - 3.04.02

Table 3.04.02 Shoreline Setback	
Condition	Required Setback from Shoreline or Ordinary High Water Mark of a Lake*
	Principal Building
Sites lacking public sanitary sewer	Minimum 100 feet
Sites connected to public sewer	Minimum 70 feet
Sites connected to public sewer in Lakeshore Resort Residential Dist.	Minimum 40 feet or consistent with the setbacks of adjacent principal buildings, whichever is greater as determined by the Zoning Administrator. If the setbacks of adjacent principal buildings vary because of irregular shoreline, the setback shall be the average of all lots within 500 feet along the shoreline or 40 feet whichever is the greater.
Paved parking areas	All paved parking areas shall be setback a minimum 25 feet from any shoreline.

* This setback shall be measured on a horizontal plane from the nearest point of the water's edge to the nearest point of the building or structure.

- (h) **Landscaping Buffers:** Landscaped greenbelts along the right-of-way and a landscaped buffer zone based on adjacent zoning shall be provided as required in Section 12.02.
- (i) **Projections into Yards:** Projections into required yards shall be allowed only as provided for in Section 11.01.04.

3.04.02 - Continued

(i) **Projections into Yards:** Projections into required yards shall be allowed only as provided for in Section 11.01.04.

3.05.02 - Continued

facilities approved and accepted by Genoa Township, which shall not include private community wastewater treatment systems. (as amended 12/31/06)

3.05.02 **Other Requirements:** All permitted and special land uses shall comply with all applicable provisions of this Zoning Ordinance including those listed below.

- (a) Article 11, General Provisions, shall be adhered to for general dimensional standards, calculation of (buildable) lot area, access to dedicated streets, projections into yards, supplementary height regulations, principal building, structure, or use, determination of "similar uses", changes in tenancy/ownership, voting place, temporary buildings, and structures, open storage, parking, and repair of vehicles, essential public services, wireless communication facilities, single family dwelling design standards, regulations on accessory dwellings, accessory buildings, and structures, decks, swimming pools, fences, walls, and screens, private boat docks, wind energy conversion systems and reception antennas, and towers. (as amended 3/5/10)

Section 11.01.04

GENOA TOWNSHIP ZONING ORDINANCE

11.01.04 **Projections into Yards:** Certain architectural features may project into the required yards as follows:

PERMITTED PROJECTIONS INTO REQUIRED YARDS

Projection	Front Yard	Rear/ Waterfront Yard	Interior Side Yard	Corner Side Yard
Air conditioning equipment shelters	--	5 ft.	3 ft.	3 ft.
Arbors and trellises	Permitted up to 4 feet from any lot line			
Awnings and canopies	3 ft.	5 ft.	3 ft.	3 ft.
Bay windows	3 ft.	5 ft.	3 ft.	3 ft.
Decks, open or enclosed*	See Section 11.04.02			
Eaves, overhanging	3 ft.	5 ft.	3 ft.	3 ft.
Fences and walls*	See Section 11.04.04			
Flagpoles	Permitted up to 4 feet from any lot line			
Gardens and landscaping	Permitted in all yards			
Gutters	3 ft.	5 ft.	3 ft.	3 ft.
Laundry drying equipment	--	5 ft.	3 ft.	--
Light standard, ornamental	Permitted in any yard			
Mechanical equipment such as HVAC	--	5 ft.	3 ft.	--
Paved terraces	Permitted up to 4 feet from any lot line			
Unroofed porches and stoops*	3 ft.	5 ft.	3 ft.	3 ft.
Approved signs*	See Article 16			
Stairways, open unroofed	3 ft.	5 ft.	3 ft.	3 ft.
Steps	3 ft.	5 ft.	3 ft.	3 ft.
Television or radio towers or antennas*	--	5 ft.	3 ft.	3 ft.
Window air conditioning units	3 ft.	5 ft.	3 ft.	3 ft.

* See additional regulations in this ordinance.

Definitions - Landscaping

GENOA TOWNSHIP ZONING ORDINANCE

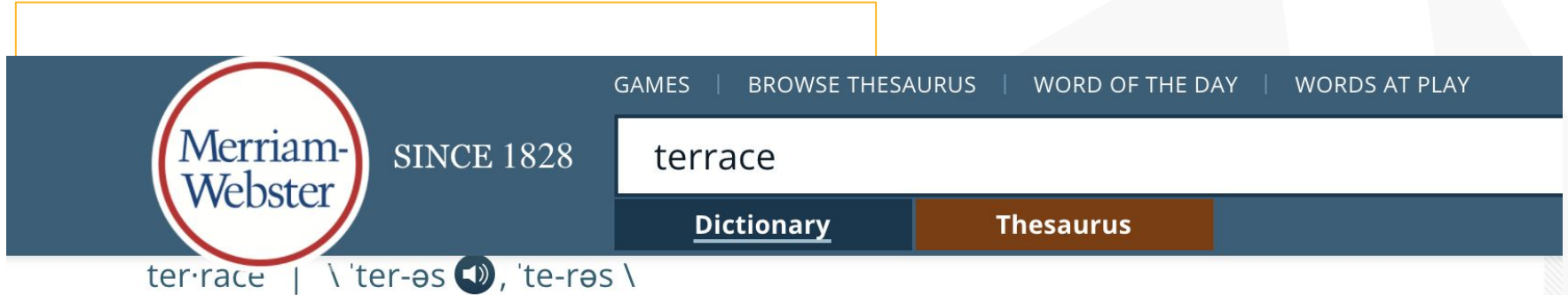
blood, tissue, or other human medical or animal products. Forensic laboratories for analysis of evidence in support of law enforcement agencies would also be included in this category. (as amended 09/04/18)

Land Use Permit: An authorization issued by the Township Zoning Administrator to erect, move or alter a structure within the Township or to approve a change in use of land or structure. For certain uses, the land use permit is issued following site plan approval by the Planning Commission or special land use approval by the Township Board.

Lake. A permanent water body that has definite banks, a bed, visible evidence of a continued occurrence of water, and a surface area of water that is ten (10) acres or more in size.

Landscaping: The treatment of the ground surface with live plant materials normally grown in Livingston County such as, but not limited to, grass, ground cover, trees, shrubs, vines, and other live plant material. In addition, a landscape design may include other decorative natural or processed materials, such as wood chips, crushed stone, boulders or mulch. Structural features such as fountains, pools, statues, and benches shall also be considered a part of landscaping if provided in combination with live plant material. Various landscaping related terms are defined below.

Definitions - Terrace



The screenshot shows the Merriam-Webster website interface. At the top, there are navigation links: GAMES, BROWSE THESAURUS, WORD OF THE DAY, and WORDS AT PLAY. The Merriam-Webster logo is on the left, with the text 'SINCE 1828'. A search bar contains the word 'terrace'. Below the search bar, there are two tabs: 'Dictionary' (which is selected) and 'Thesaurus'. Below the tabs, the word 'ter·race' is displayed with a pronunciation guide: \ 'ter-əs , 'te-rəs \.

Definition of *terrace* (Entry 1 of 2)

- 1 **a** : a relatively level paved or planted area adjoining a building
- b** : a colonnaded porch or promenade
- c** : a flat roof or open platform

Section 11.04.03

a maximum size of one hundred fifty (150) square feet and a maximum height of fourteen (14) feet (see Article 25 for calculation of building height). (as amended 5/13/05 and 3/5/10)

11.04.03 Swimming Pools

- (a) Requirement for Fence: Every person owning land on which there is located a swimming pool, spa, hot tub, or similar device (below ground or above ground) which contains twenty-four (24) inches or more of water in depth at any point, shall erect and maintain thereon a fence or enclosure approved by the Building Official surrounding the device sufficient to make such device inaccessible to small children. Such fence or enclosure, including the gates, shall not be less than four (4) feet or greater than (6) feet above grade. All gates shall be self-latching with latches placed no less than four (4) feet above grade or otherwise made inaccessible from the outside to small children. A hot tub with a locking cover shall not require a fence.
- (b) Relationship of Height to Setback: Swimming pools, spas, hot tubs, similar facilities and surrounding decks with an elevation measured from the mean grade at any point adjacent to such facility of three (3) feet or less shall be at least ten (10) feet from any lot line. Where the elevation is greater than three (3) feet above grade at any point, the setback shall be at least fifteen (15) feet from any lot line.
- (c) Restriction from Front Yard: Swimming pools, spas, hot tubs and similar devices shall not be located in any front yard.

*****This section provides no basis for denial.**

Section in question: 11.04.05

11.04.05 **Waterfront Accessory Structures:** Waterfront structures and appurtenances are permitted structures on waterfront property, subject to the requirements of this section. The following requirements apply to all structures and appurtenances within the required waterfront yard (i.e. the minimum required setback from the ordinary high water mark.) in all zoning districts.

- (a) Only the following structures and appurtenances shall be permitted within the required waterfront yard:
- (1) docks and mooring apparatus;

General Provisions

11-19

GENOA TOWNSHIP ZONING ORDINANCE

- (2) decks, subject to the requirements of Section 11.04.02(c);
- (3) no more than one gazebo, subject to the requirements of Section 11.04.02(d).

Per this section, all of the following common features are prohibited

- **Grass and landscaping**
- **Paver patios/ terraces**
- **Trellis, pergola, flag poles**
- **Literally, anything other than what is stated here**

Section 11.02.02

11.02.02 **Determination of "Similar Uses":** Since every type of potential use cannot be addressed in the zoning ordinance, each district provides for "similar uses", referencing this section. All applications for a use not specifically addressed in any zoning district shall be submitted to the Planning Commission for review at a public hearing, based on the following standards.

- (a) A finding the proposed use is not listed as a Permitted or Special Land Use in any zoning district.

General Provisions

11-3

GENOA TOWNSHIP ZONING ORDINANCE

- (b) If the use is not addressed in the Zoning Ordinance, the Planning Commission shall select the use listed in the zoning ordinance which most closely resembles the proposed use using criteria such as the nature of the use, aesthetics, traffic generated, potential impact on property values, noise, vibration, dust, smoke, odor, glare and other objectionable impacts in terms of health, safety and welfare in the Township.

Practical Difficulty/ Substantial Justice

Compliance with section 11.04.03 and 11.01.04 would provide substantial justice

Section 11.04.05 would create the need for ZBA approval to install many of the common things seen around the lake.

- **“Retaining Walls, Landscaping, gardens etc. are common in waterfront yards” - Michael Archinal**
- **“Trees, fire rings, grills, gardents, etc - are all prohibited” - Michael Archinal**

Other things not named:

Flag poles, terraces, patios, steps,

Extraordinary Circumstances

Compliance with section 11.04.03 and 11.01.04 would make the property consistent with the majority of other properties in the vicinity.

This need is not self created.

4190 Highcrest Drive



- Retaining wall
- Terrace
- Landscaping
- Steps

4330 Highcrest Drive



- Retaining wall
- Terrace
- Landscaping
- Steps
- Firepit

RE/MAX Platinum

4174 Highcrest Drive



- Retaining wall
- Terrace
- Landscaping
- Steps
- Firepit

ZBA Approved walls for 3940 Hichrest Drive - August 20, 2019



- Retaining wall
- Terrace
- Landscaping
- Steps

4300 Skusa Drive



- Retaining wall
- Terrace
- Landscaping
- Spool
- Firepit
- Pillars

4390, 4326, 4314 Skusa Drive



- Terrace
- Fire pits

3450 Pine Ridge Lane



- Retaining Walls
- Steps
- Landscaping

5400 Sharp Drive



- **Retaining Walls**
- **Steps**
- **Landscaping**
- **Pathways**
- **Swimming Pool (front yard)**

4252 Highcrest Drive - Most Similar Case



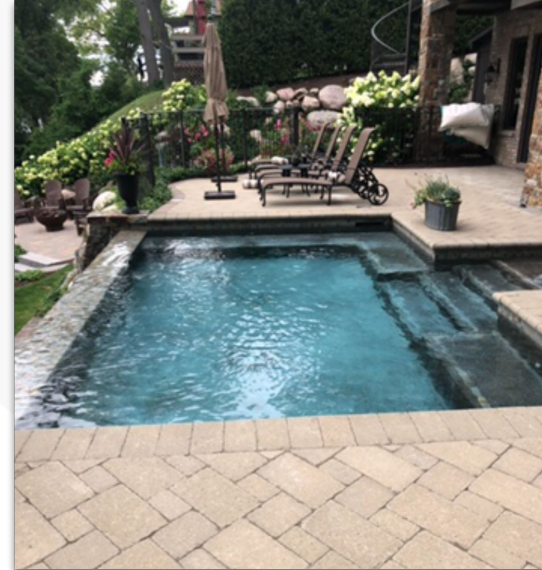
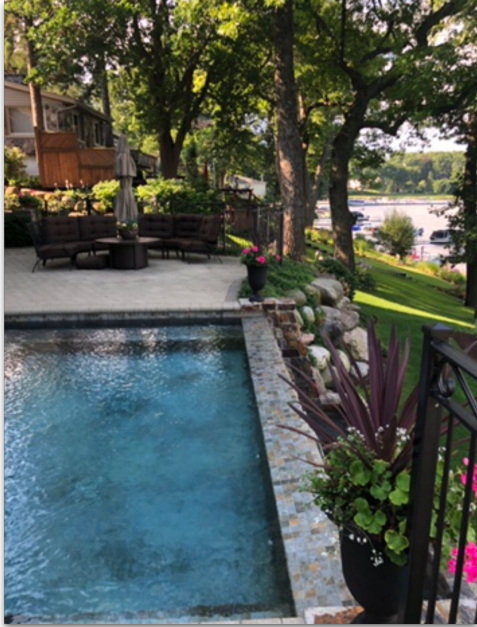
- Retaining Walls
- Terrace
- Pool

REVISION #	DATE	REVISION DESCRIPTION	REVISION #	DATE	REVISION DESCRIPTION

1LOT PLAN **LOTS 102 AND 103**
CROOKED LAKE HIGHLANDS SUBDIVISION

CLIENT: SCALE: 1"=10'
 BLAIR SCHWAB PROJECT NO.: 190208
 4252 HIGHCREST DR DWG. NAME: 2300.P01

4252 Highcrest Drive - Most Similar Example



Proposed Projection: Terrace, Retaining Walls, Pool, Landscaping



- Retaining Walls
- Terrace
- Pool

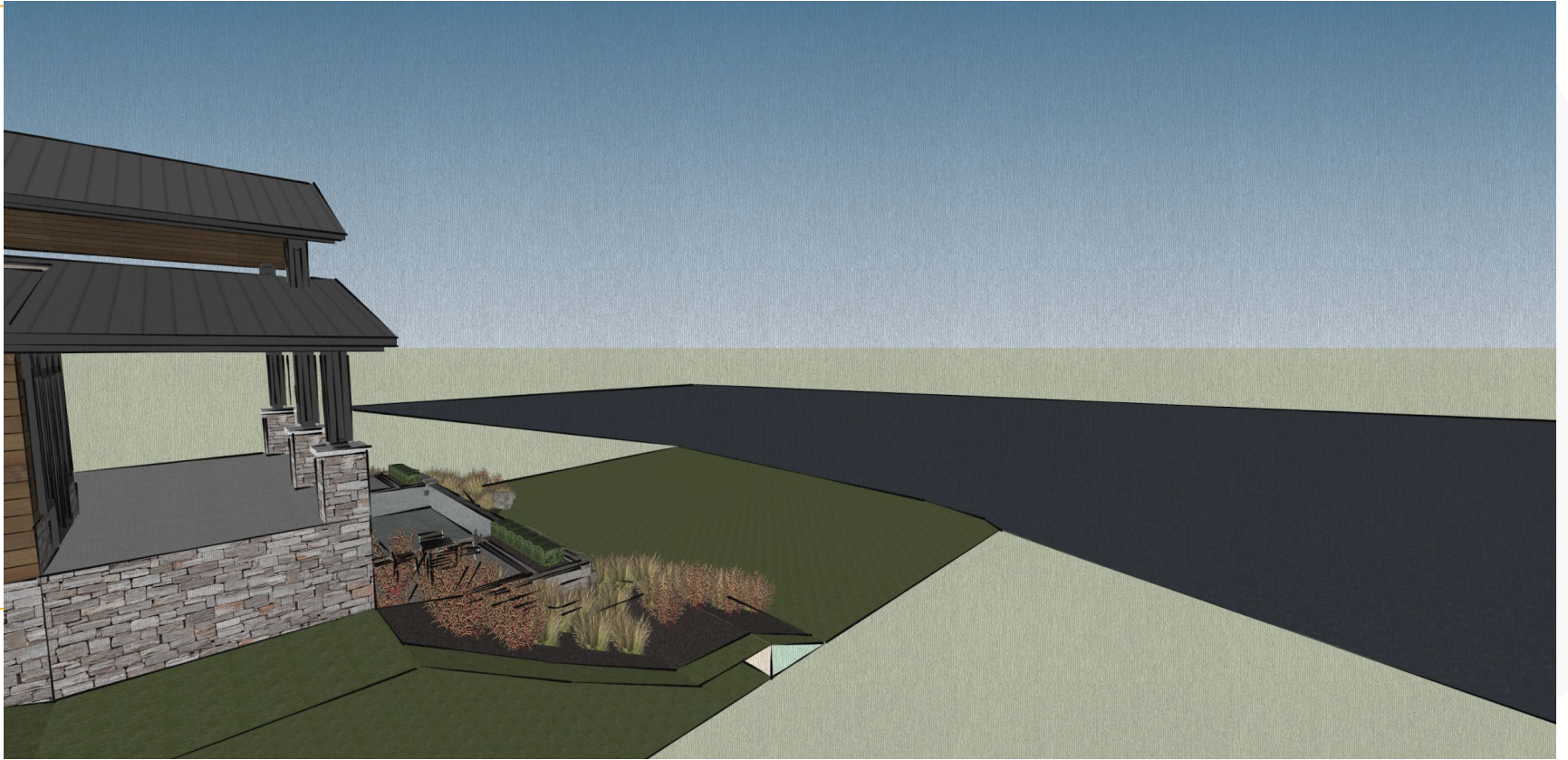
Proposed Projection: Terrace, Retaining Walls, Pool, Landscaping



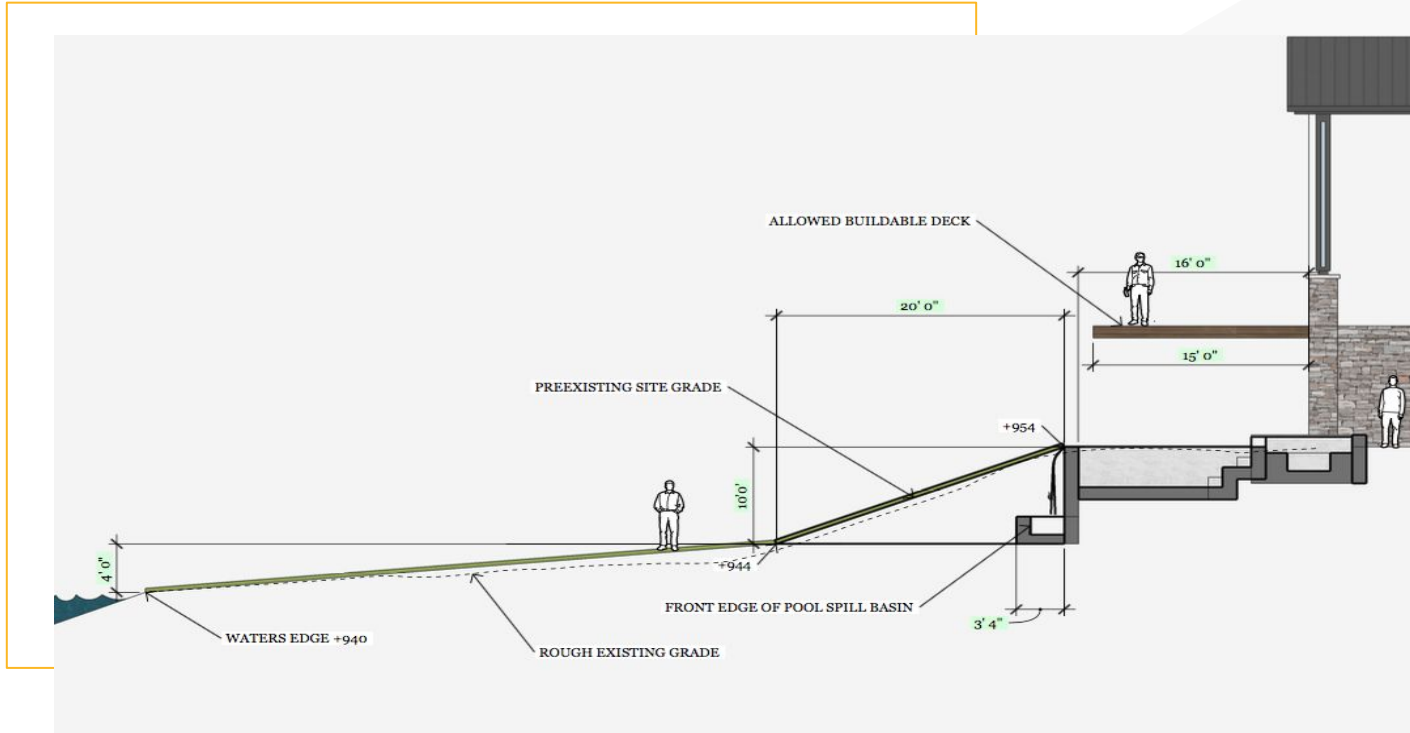
Proposed Projection: Terrace, Retaining Walls, Pool, Landscaping



Proposed Projection: Terrace, Retaining Walls, Pool, Landscaping



Existing Grade Cross Section



Public Safety and Welfare, Impact on Surrounding Neighborhood

Summary of Findings

- (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 proposed variance would have little or no impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.





Terrace

All "Landscaping"

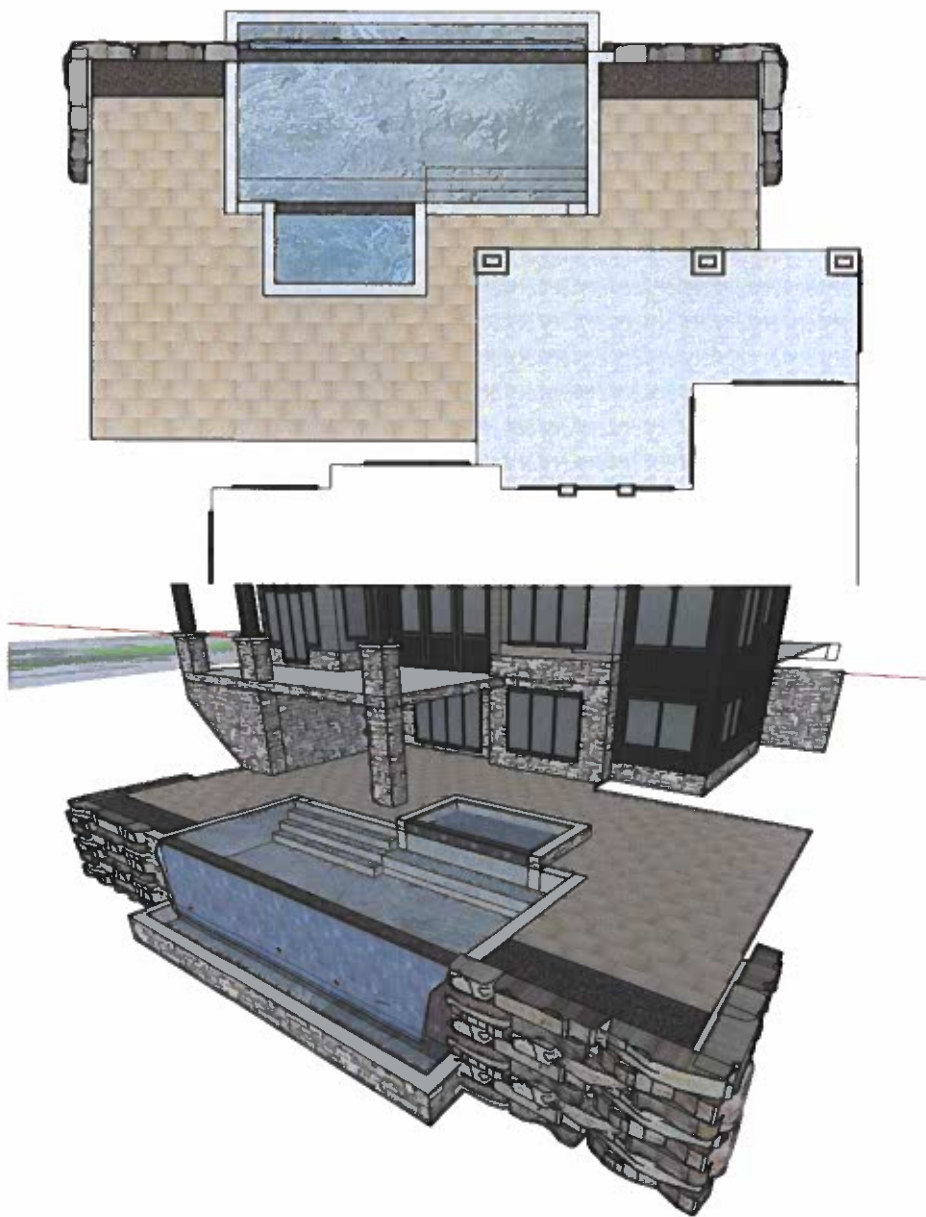
Revised

Amy Ruthig

From: Brandon Bertrang <brandon@ventures-design.com>
Sent: Friday, October 23, 2020 10:20 AM
To: Amy Ruthig
Subject: Updated Terrace Images

Hey Amy,

I had Jake do a quick update to the terrace. See attached



Please see page 44 of the previous packet for the October 20,
2020 submittal

<https://www.genoa.org/dbfiles/download/boardmeetings/packet1/2286>

From: [BOB MUSCH](#)
To: [Amy Ruthig](#)
Subject: Fwd: 3470 Variance request
Date: Monday, November 16, 2020 8:53:09 PM

Amy

Sorry it is so late if you can't add it to the packet I can read it at the meeting and you will have it for the minutes

Dear Zoning Board of Appeals panel:

My Name is:

Robert Musch
3500 Pineridge lane
Brighton Mi. 48116

What I would like to focus on is the variance request for a set back for a wall at 3470 Pineridge Lane

Background:

- The petitioner purchased the home in Feb 2016. (This should have given them ample time to research their options and prepare a comprehensive plan.)
- Also a little more than 18 months ago (Feb 2019) the petitioner requested a variance for a set back of 6.5 feet for the home to move closer to the water to have more room for the garage due in part to the configuration of the lot. (Note the garage is 50 feet long.) The request was denied as it was determined by the ZBA that there was **no hardship**, as it was all self created.
- Also per the minutes of the Feb 2019 meeting my observation was there was no mention of a need for a wall or concerns for safety due to the height or steepness of the elevation or grade.

Today:

- Now you are being petitioned initially for a 21 foot variance, so the petitioner can construct a wall. (8-10 feet high) . They say for safety reasons as the 10 foot slope is steeper than a double diamond at Mt Brighton.

My question: is there a **hardship** and if so **who created it?**

- The site was a green site and this is all new construction (planning period at least since 2016 as noted above). Also who excavated the dirt and made the slope as it is today. See the pictures of the original home.

- All the waterfront homes in the sub are/were built on the set-back ridge (18) (defined by the plat on file with the township) with all but 3 (petitioner's and one each to the north and south) having slopes steeper than the petitioner's. My slope is **44 foot** and there are others even steeper. I have not heard of any safety concerns from a height perspective other than possibly having a stroke as one owner has over 50 steps to traverse to the waterfront.

- Remember per the petitioners first variance request in Feb 2019, they didn't request a wall nor did they mention safety concerns. In fact they wanted to move the home even closer to the water possibly making even a steeper slope. There was no hardship mentioned.

- Even if they have a wall (8-10 feet), I contend that it would be more dangerous, as we were told there would be no railings. I would think a natural slope would be more acceptable

- Also upon reading section **11.04.04 1.(a)** in the code even if you have a wall it shouldn't be higher than 3 feet or more than 49% impervious which in the petitioner's case will be in violation of both criteria. (see excerpt below)

-Finally we were told by our expert engineers, Tetra Tech, hired by the ZBA, that the only reason or need for a wall would be to have a pool. What I glean from the report is a wall is not needed for safety reason, therefore there is no hardship.

As I stated in the previous 2 meetings I am opposed to the variance of the 21 feet closer to the water. We already have one home that was approved and built in front of the set back guidelines and if I would have known what it was going to look like I would have opposed it. I don't want another home infringing on the waterfront. My fear is new owners will continue to creep closer to

the water using the same reasoning and as homes are sold and redeveloped new owners will continue to disrupt the look and appeal of our subdivision.

I am sure the set back guidelines were purposely designed to be fair but more importantly protect the integrity of the surrounding area and their homeowners.

11.04.04 Fences, Walls and Screens

1. (a) Unless specifically authorized elsewhere in this Ordinance, fences, walls or screens located within the front yard in any residential zoning district shall not exceed three (3) feet in height, or be in excess of forty nine (49) percent (%) solid or impervious.

Respectfully yours,
Bob Musch

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
November 17, 2020**

2. 20-18 ... A request by Ventures Design, 3470 Pineridge Lane, for a variance to allow a swimming pool in the required waterfront yard and a variance to construct retaining walls in the required waterfront yard.

My comments: I know this Zoning Board is aware of the applicable parts of the Zoning ordinances. But I would like to highlight what I see as relevant to this variance request in addition to the 21 foot setback variance being asked for.

11.04.03 Swimming Pools paragraph c says: Restriction from Front Yard: **Swimming pools**, spas, hot tubs and similar devices **shall not be** located in **any** front yard.

Mr Archinal's letter to you dated 11/10/2020 says "none of the conditions in this section provide a basis for denial". He further states this section "... does not prohibit pools in waterfront yards." What about the paragraph c restriction? Is there a quibble about front yard vs waterfront yard? Doesn't **any** include front and waterfront?

11.04.05 Waterfront Accessory Structures: Waterfront structures and appurtenances are permitted structures on waterfront property, subject to the requirements of this section.

11.04.05 (a) **Only** the following structures and appurtenances shall be permitted within the required waterfront yard: (1) docks and mooring apparatus

The other paragraphs in 11.04.05 have to do with very specific allowable things but **do not include pools**.

I conclude a plain reading of the zoning ordinance says no pool allowed and there are no bases for approving the variance request.

How the owners got to this unfortunate situation is that they purchased this property in 2014 and developed a house plan, including a pool. In spite of (or possibly because of) tearing down the existing house, removal of a substantial amount of earth and almost all trees, the plan did not fit the land. Any anomalies or difficulties in the topography were known from the beginning. Disregarding physical realities and zoning ordinances created the need for variance requests. This is clearly a self-created situation not a "hardship" as defined in the ordinances.

I don't see a basis for disregarding the plain language of the ordinance and approving the variance request. If the Board is inclined to approve this variance request a clear explanation of the rationale given the apparent contradictions is owed to the public.

Robert Pettengill
3504 Pineridge Lane
November 16, 2020

Grantor	Grantee	Sale Price	Sale Date	Inst. Type	Terms of Sale	Liber & Page	Verified By	Prcnt. Trans.
RINGHOLZ, DAVID	SLIDER RALPH & MARY	417,500	02/12/2016	WD	ARMS-LENGTH	2016R-006071	BUYER	100.0
MCMACHEN		0	12/26/1995	WD	L.C.P.O.	2000-0730	BUYER	0.0

Property Address	Class: RESIDENTIAL-IMPROV	Zoning: LRR	Building Permit(s)	Date	Number	Status			
3470 PINERIDGE LANE	School: BRIGHTON AREA SCHOOLS		Residential New Constructi	05/26/2020	P20-050				
Owner's Name/Address	P.R.E. 0% Cond. 1st								
SLIDER RALPH & MARY 9903 DOORNOCH BRIGHTON MI 48114	MAP #: V20-18								
Tax Description	2021 Est TCV Tentative								
SEC. 22 T2N, R5E CRANDALL'S CROOKED LAKE HEIGHTS NO. 1 LOT 14 & S 1/2 OF LOT 15	X	Improved	Vacant	Land Value Estimates for Land Table 4306.TRI LAKES LAKE FRONT					
Comments/Influences	Public Improvements		* Factors *						
	Dirt Road		Description	Frontage	Depth	Front Depth	Rate %Adj. Reason	Value	
	Gravel Road		A LAKE FRONT	91.00	215.00	1.0000 1.0000	4000 100	364,000	
	Paved Road		91 Actual Front Feet, 0.45 Total Acres					Total Est. Land Value = 364,000	
	Storm Sewer		Land Improvement Cost Estimates						
	Sidewalk		Description	Rate	Size	% Good	Cash Value		
	Water		D/W/P: Patio Blocks	12.95	340	65	2,862		
	Sewer		Total Estimated Land Improvements True Cash Value =					2,862	
	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								
	X	REFUSE	Year	Land Value	Building Value	Assessed Value	Board of Review	Tribunal/ Other	Taxable Value
	Who	When	What	2021	Tentative	Tentative	Tentative		Tentative
	LM	08/23/2013	DATA ENTER	2020	182,000	90,100	272,100		199,223C
				2019	125,800	87,300	213,100		195,509C
				2018	105,800	89,200	195,000		190,927C

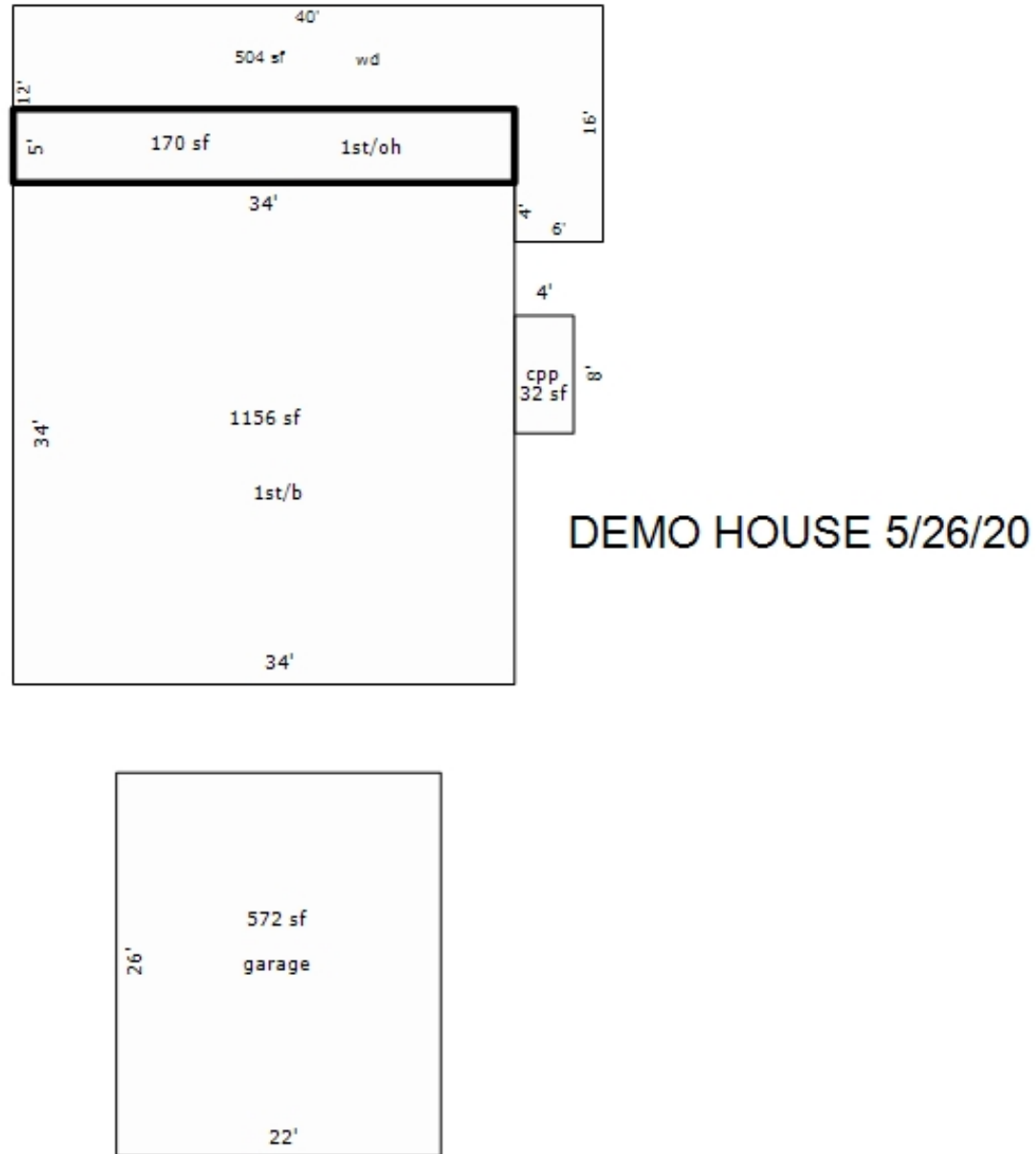


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*** Information herein deemed reliable but not guaranteed***

Building Type		(3) Roof (cont.)		(11) Heating/Cooling			(15) Built-ins			(15) Fireplaces			(16) Porches/Decks		(17) Garage																																										
X	Single Family Mobile Home Town Home Duplex A-Frame		Eavestrough Insulation 0 Front Overhang 0 Other Overhang	X	Gas Wood		Oil Coal		Elec. Steam		Appliance Allow. Cook Top Dishwasher Garbage Disposal Bath Heater Vent Fan Hot Tub Unvented Hood Vented Hood Intercom Jacuzzi Tub Jacuzzi repl.Tub Oven Microwave Standard Range Self Clean Range Sauna Trash Compactor Central Vacuum Security System		Interior 1 Story Interior 2 Story 2nd/Same Stack Two Sided 1 Exterior 1 Story Exterior 2 Story 1 Prefab 1 Story Prefab 2 Story Heat Circulator Raised Hearth Wood Stove Direct-Vented Gas	Area 32 504	Type CPP Treated Wood	Year Built: Car Capacity: Class: C Exterior: Siding Brick Ven.: 0 Stone Ven.: 0 Common Wall: Detache Foundation: 42 Inch Finished ?: Auto. Doors: 0 Mech. Doors: 0 Area: 572 % Good: 0 Storage Area: 0 No Conc. Floor: 0																																									
X	Wood Frame		Drywall Paneled		Plaster Wood T&G																																																				
Building Style: C		Trim & Decoration		Central Air Wood Furnace			(12) Electric			Class: C Effec. Age: 47 Floor Area: 1,326 Total Base New : 236,235 Total Depr Cost: 125,204 Estimated T.C.V: 186,930			E.C.F. X 1.493		Bsmnt Garage: Carport Area: Roof:																																										
Yr Built 1965	Remodeled 0	Size of Closets		No./Qual. of Fixtures			Cost Est. for Res. Bldg: 1 Single Family C			Cls C			Blt 1965																																												
Condition: Good		Lg	X	Ord		Min	No. of Elec. Outlets			Ground Area = 1156 SF Floor Area = 1326 SF. Phy/Ab.Phy/Func/Econ/Comb. % Good=53/100/100/100/53																																															
Room List		(5) Floors		(13) Plumbing			Building Areas			Stories			Size		Cost New		Depr. Cost																																								
	Basement 1st Floor 2nd Floor 2 Bedrooms	Kitchen: Other: Other:		(12) Electric			Average Fixture(s)			1 Story			Siding		Foundation		Basement		1,156																																						
(1) Exterior		(6) Ceilings		0 Amps Service			3			2 Story			Siding			Overhang		170		Total:		155,381		82,353																																	
X	Wood/Shingle Aluminum/Vinyl Brick	Basement: 1156 S.F. Crawl: 0 S.F. Slab: 0 S.F. Height to Joists: 0.0		No./Qual. of Fixtures			2			Other Additions/Adjustments			Basement Living Area			867			25,793			13,670																																			
	Insulation	(8) Basement		Ex.			X			Ord.			Min			Basement, Outside Entrance, Below Grade			1			2,124			1,126																																
(2) Windows		Conc. Block Poured Conc. Stone Treated Wood Concrete Floor		Many			X			Ave.			Few			Plumbing			3 Fixture Bath			2 Fixture Bath			Softener, Auto			Softener, Manual			Solar Water Heat			No Plumbing			Extra Toilet			Extra Sink			Separate Shower			Ceramic Tile Floor			Ceramic Tile Wains			Ceramic Tub Alcove			Vent Fan		
X	Many Avg. Few	X	Large Avg. Small	(9) Basement Finish			1			Water/Sewer			Public Water			Public Sewer			1			Water Well, 200 Feet			Fireplaces			Exterior 1 Story			1			5,404			2,864																				
	Wood Sash Metal Sash Vinyl Sash Double Hung Horiz. Slide Casement Double Glass Patio Doors Storms & Screens	Recreation SF Living SF 1 Walkout Doors No Floor SF		(14) Water/Sewer			Lump Sum Items:			Notes:			E.C.F. (4306 TRI LAKES LAKE FRONT) 1.493 =>			TCV:			186,930																																						
(3) Roof		Recreation SF Living SF 1 Walkout Doors No Floor SF		Public Water			Public Sewer			1			Water Well, 200 Feet			Fireplaces			Exterior 1 Story			1			5,404			2,864																													
X	Gable Hip Flat	Gambrel Mansard Shed		Joists: Unsupported Len: Cntr.Sup:			1			Water Well			1000 Gal Septic			2000 Gal Septic			Lump Sum Items:			Notes:			E.C.F. (4306 TRI LAKES LAKE FRONT) 1.493 =>			TCV:			186,930																										
X	Asphalt Shingle																																																								
Chimney: Brick																																																									

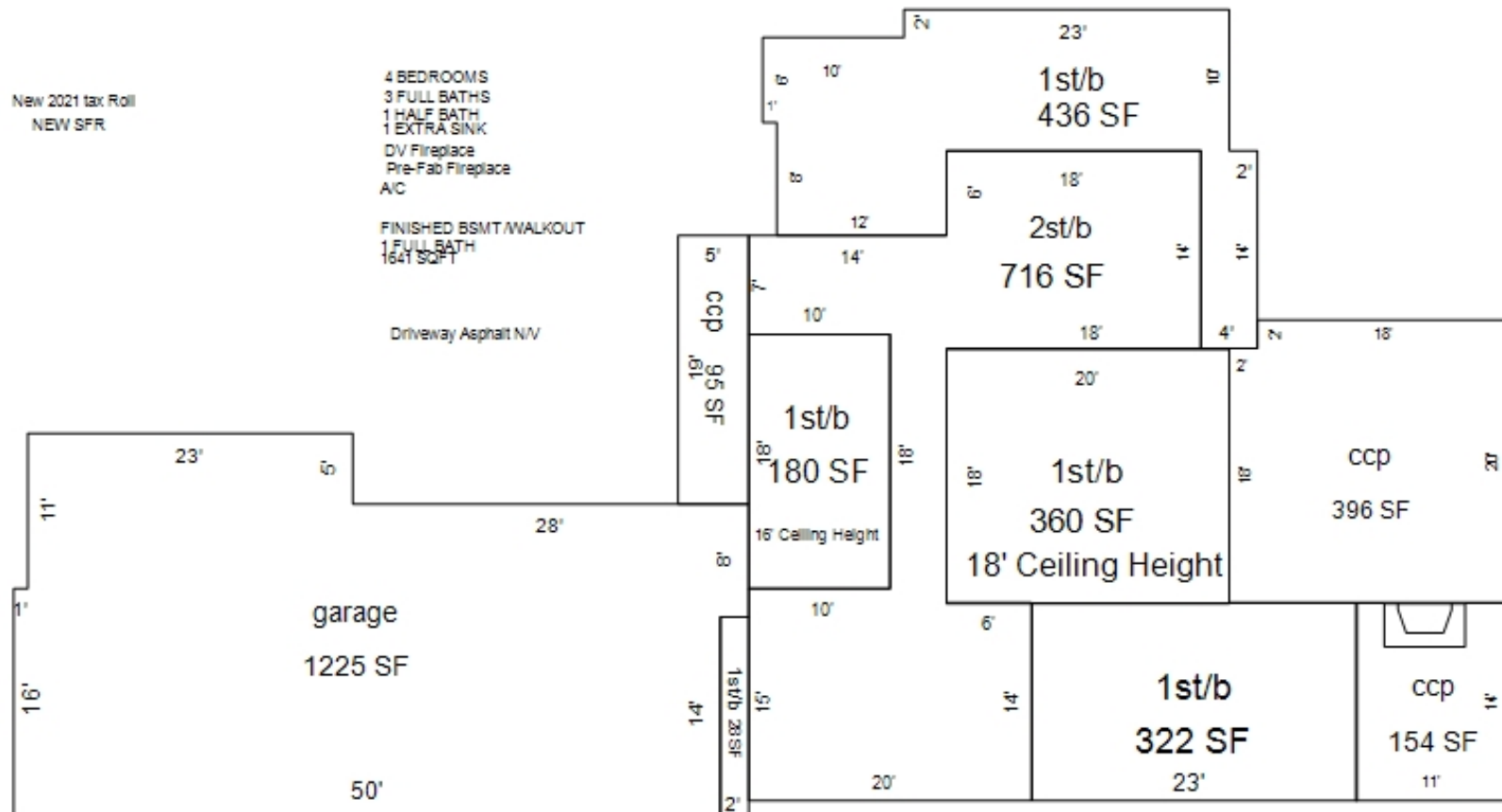
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Building Type		(3) Roof (cont.)			(11) Heating/Cooling			(15) Built-ins			(15) Fireplaces			(16) Porches/Decks		(17) Garage	
X Single Family Mobile Home Town Home Duplex A-Frame	X Eavestrough X Insulation 0 Front Overhang 0 Other Overhang			X Gas Wood	Oil Coal	Elec. Steam	Appliance Allow. Cook Top Dishwasher Garbage Disposal Bath Heater Vent Fan Hot Tub Unvented Hood Vented Hood Intercom Jacuzzi Tub Jacuzzi repl.Tub Oven Microwave Standard Range Self Clean Range Sauna Trash Compactor Central Vacuum Security System	Interior 1 Story Interior 2 Story 2nd/Same Stack Two Sided Exterior 1 Story Exterior 2 Story Prefab 1 Story Prefab 2 Story Heat Circulator Raised Hearth Wood Stove Direct-Vented Gas	Area	Type	Year Built: Car Capacity: Class: Exterior: Brick Ven.: Stone Ven.: Common Wall: Foundation: Finished?: Auto. Doors: Mech. Doors: Area: % Good: Storage Area: No Conc. Floor:						
	(4) Interior															Forced Air w/o Ducts Forced Air w/ Ducts Forced Hot Water Electric Baseboard Elec. Ceil. Radiant Radiant (in-floor) Electric Wall Heat Space Heater Wall/Floor Furnace X Forced Heat & Cool Heat Pump No Heating/Cooling	
X Wood Frame	X Drywall Paneled		Plaster Wood T&G	Trim & Decoration Ex X Ord Min			Central Air Wood Furnace										
Building Style: B		Size of Closets Lg X Ord Small			(12) Electric 0 Amps Service			Cost Est. for Res. Bldg: 2 Single Family B						Cls B		Blt 2020	
Yr Built 2020	Remodeled 0	Doors: Solid X H.C.			No./Qual. of Fixtures Ex. X Ord. Min			Ground Area = 0 SF Floor Area = 0 SF. Phy/Ab.Phy/Func/Econ/Comb. % Good=100/100/100/100/100									
Condition: Good		(5) Floors Kitchen: Other: Other:			(13) Plumbing Average Fixture(s) 1 3 Fixture Bath 2 Fixture Bath Softener, Auto Softener, Manual Solar Water Heat No Plumbing Extra Toilet Extra Sink Separate Shower Ceramic Tile Floor Ceramic Tile Wains Ceramic Tub Alcove Vent Fan			Building Areas Stories Exterior Foundation Size Cost New Depr. Cost									
Room List Basement 1st Floor 2nd Floor 3 Bedrooms		(6) Ceilings			(14) Water/Sewer Public Water Public Sewer Water Well 1000 Gal Septic 2000 Gal Septic			Notes: ECF (4306 TRI LAKES LAKE FRONT) 1.493 => TCVC: 0									
(1) Exterior Wood/Shingle Aluminum/Vinyl Brick X Brick/Siding X Insulation		(7) Excavation Basement: 0 S.F. Crawl: 0 S.F. Slab: 0 S.F. Height to Joists: 0.0						Totals: 0 0									
(2) Windows Many Avg. Few X Avg. Large X Avg. Small		(8) Basement Conc. Block Poured Conc. Stone Treated Wood Concrete Floor															
Wood Sash Metal Sash Vinyl Sash Double Hung Horiz. Slide Casement Double Glass Patio Doors Storms & Screens		(9) Basement Finish Recreation SF Living SF Walkout Doors No Floor SF															
(3) Roof X Gable Hip Flat X Asphalt Shingle		(10) Floor Support Joists: Unsupported Len: Cntr.Sup:			Lump Sum Items:												
Chimney:																	

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