

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
MARCH 21, 2023
6:30 P.M.
AGENDA**

Call to Order:

Pledge of Allegiance:

Election of Officers:

Introductions:

Approval of Agenda:

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

Old Business:

1. 23-03...A request by Chaldean Catholic Church of the United States, 7000 McClements Road, for a height variance to construct a zip line.
2. 23-07...A request by Derek MacCallum, 7901 Birkenstock Dr., for a front yard setback variance and a fence height variance and any other variance deemed necessary by the Zoning Board of Appeals to allow an inground pool in the front yard.

New Business:

3. 23-09... A request by Daniel R. Grace, 4177 Homestead, for a front yard setback variance and any other variance deemed necessary by the Zoning Board of Appeals to construct a new garage and an addition to an existing home.

Administrative Business:

1. Approval of minutes for the February 21, 2023 Zoning Board of Appeals meeting.
2. Correspondence
3. Member Discussion
4. Adjournment



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

Case # 23-03 Meeting Date: Jan 17, 2023
 @ 6:30 pm

PAID Variance Application Fee

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

Applicant/Owner: Chaldean Catholic Church of the United States Email: jberigan@gmail.com
 Property Address: 7000 McClements Road, Brighton, MI 48114 Phone: 248 379-0943
 Present Zoning: PRF Public and Recreational Facilities Tax Code: 11-11-200-001; 11-12-100-002

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:

- Variance requested/intended property modifications:** Height of the proposed climbing tower is 45 feet above grade. Structure height allowed in the PRF district is 35 feet. A 10 foot variance is requested to provide a climbing tower and starting location for the zip line. Zip line terminating pole is 25' in height and giant swing support poles are 36' in height. A variance of of 7 feet and 18 feet, respectively, over the 18 foot height limit is requested.

Please note that the packet and staff report for your scheduled Zoning Board of Appeals meeting will be available to review at <https://www.genoa.org/government/boards/zoningboard> five days prior to the meeting.

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.

As a part of its non-profit, religious ministry, Our Lady of the Fields camp would like to create additional activities for youth campers to participate in during their stay at the camp. The proposed climbing tower, zip line and giant swing will provide unique activities in which campers may participate. Height of the climbing tower, zip line terminating pole and giant swing are required for the safe operation of the tower and zip line.

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.

A climbing tower and giant swing require minimum heights to provide authentic experiences along with adequate structure above to support necessary safety equipment. The zip line terminating pole height is based on the minimum height required for safe operation of the zip line. A 45' tower is common in the camping world. By comparison, the Howell Nature Center in Marion Township has a 60' tall climbing tower.

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 location of the climbing tower will not create an impact to light, air and/or adjacent properties, and will not increase congestion on public streets, or endanger public safety. The proposed climbing tower will not negatively impact the residents of Genoa Township. Tall poles are necessary to support the giant swing and zip line. The proposed poles will not negatively impact the residents of Genoa Township.

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 proposed location of the climbing tower is located near the center of the property, on the North side of the lake, surrounded by mature trees with heights in excess of the proposed 45 foot high tower. The tower will not be visible from adjacent properties and the surrounding neighborhood. The climbing tower and zip line are over 2,260 feet from Filice Road.

Attendance by the applicant is required at the Zoning Board of Appeals meeting.

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 plans and construction plans.

11/30/2022

Date: _____ Signature: James Berigan

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
February 21, 2023 - 6:30 PM**

MINUTES

Call to Order: Vice-Chairperson McCreary called the regular meeting of the Zoning Board of Appeals to order at 6:31 pm. The members and staff of the Zoning Board of Appeals were present as follows: Michelle Kreutzberg, Marianne McCreary, Jean Ledford, Bill Rockwell, Craig Fons, and Amy Ruthig, Planning Director. Absent was Greg Rassel.

Pledge of Allegiance: The Pledge of Allegiance was recited.

Election of Officers:

Vice-Chairperson McCreary recommended to table this item again until there is a full board present.

Moved by Board Member Rockwell, seconded by Board Member Kreutzberg, to table the Election of Officers until the March 21, 2023 ZBA meeting. **The motion carried unanimously.**

Introduction: The members of the Board and staff introduced themselves.

Conflict of Interest: None

Approval of the Agenda:

Moved by Board Member Ledford, seconded by Board Member Rockwell, to approve the agenda as presented. **The motion carried unanimously.**

Call to the Public:

The call to the public was opened at 6:34 pm with no response.

Old Business

1. 23-03...A request by Chaldean Catholic Church of the United States, 7000 McClements Road, for a height variance to construct a zip line. (Requested to be postponed to the March 21, 2023 ZBA meeting)

Vice Chairman McCreary advised that Staff has requested to have this item tabled this evening.

The call to the public was opened at 6:34 pm.

Mr. Mike Berean of 1237 Euler Road asked if the Board Members reviewed the packet he dropped off last week. Ms. Ruthig stated they received it today, which is the first time they have been in the office. He asked what year the Genoa Township Ordinances started? Ms. Ruthig stated the oldest version she has seen was from the 1960's. He also asked what the

classification of this property per Table is 6.01.01 of the ordinance. Ms. Ruthig stated it is zoned as Public/Private Campground. He had other questions regarding the special use as well as this property being grandfathered. Vice Chairman McCreary advised that those questions are being researched by the Township Attorney.

He stated the Planning Commission Chairman stated at a previous meeting that this property has been grandfathered. If it has been grandfathered, then it automatically becomes a non-conforming use per Michigan Zoning Law. He requested that all the approved special uses granted for this property be rescinded because this property is a non-conforming use.

The call to the public was closed at 6:39 pm.

Moved by Board Member Rockwell, seconded by Board Member Kreutzberg, to postpone Case #23-03 until the March 21, 2023 ZBA meeting as requested by Staff. **The motion carried unanimously.**

New Business:

2. 23-05... A request by Jeffrey Parkkila, 1776 S. Hughes Road, for front and waterfront yard setback variances and any other variance deemed necessary by the Zoning Board of Appeals to construct an addition to an existing home.

Mr. Dennis Disner of Arcadian Design, who designed the house for Mr. and Mrs. Parkkila, stated this lot is non-conforming. It does not meet the minimum lot size requirement per the current ordinance for this zoning. For the lake side, the addition will not extend further than the existing home. For the addition on the front of the home, it will be 11 feet, 2 inches behind the current front wall of the house. The existing shed will be removed so the distance between the two homes will be greater and there will be better emergency access, if needed. The proposal meets the criteria for lot coverage and impervious surface.

The design is harmonious with the existing house, and it will appear as if the entire home was built at the same time. They will not be building a second story so as not to negatively affect the lake views for the neighbors.

The call to the public was opened at 6:54 pm with no response.

Moved by Board Member Kreutzberg, seconded by Board Member Fons, to approve Case #23-05 for Jeffrey Parkkila of 1776 S. Hughes Road for a street front yard setback variance of 10 feet, 7 inches from the required 35 feet for a street front setback of 24 feet, 5 inches and a waterfront variance of 7 feet, 9 inches from the required 67 feet for a waterfront setback of 59 feet, 3 inches to build a 370-square-foot addition on the north side of the home, based on the following findings of fact:

- Strict compliance with the setbacks would unreasonably restrict the intended use of the property. This variance will provide substantial justice, is the least necessary and would make the property consistent with other properties and homes in the area.
- The variances are necessary due to extraordinary circumstances, such as the deficient lot width and building area.

Genoa Township Zoning Board of Appeals Meeting

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1. Final architectural design shall not exceed the 25-foot height requirement, including any steeple feature.
2. The structure must be guttered with downspouts and drainage must be maintained on the lot.
3. Any retaining walls will require a land use permit to be obtained.
4. Silt fencing will be in place during construction.
5. The applicant shall seek approval from MHOG for grinder pump movement prior to construction.

The motion carried unanimously.

2. 23-03...A request by Chaldean Catholic Church of the United States, 7000 McClements Road, for a height variance to construct a zipline.

Mr. Wayne Perry of Desine Engineering and Jim Berigan of Our Lady of the Field Campground were present.

Vice-Chairperson McCreary noted the Planning Commission approved the sketch plan for the zipline with a condition that the applicant obtain height variances.

Mr. Perry stated the camp would like to add additional amenities, specifically a zipline with a climbing tower and a giant swing. The tower is proposed to be 45 feet high, the terminating pole is proposed to be 25 feet high, and the giant swing would be 36 feet high. The ordinance does not speak to these types of structures. Township Staff has interpreted these structures as accessory structures, so the maximum height allowed is 18 feet. These structures will be on the north side of the lake. Ms. Ruthig stated accessory structures in this zoning district shall not exceed 35 feet.

Mr. Berigan provided a description of the giant swing, including the reason for the structures to be so high. There was a discussion regarding the safety of the participants. Mr. Berigan stated it is very safe. The people who operate it are highly trained. It will not be open to the public. It is locked when not being used.

Board Member Kreuzberg questioned if the height and distance recommended by the manufacturer is being used. Mr. Berigan stated yes. He noted that the Howell Nature Center has a zipline whose tower is 60 feet high.

The call to the public was opened at 7:15 pm.

Mr. Patrick Spence of 1838 Euler Road asked for a review of the four criteria that must be met to grant a variance. Vice-Chairperson McCreary provided that information. Mr. Spence stated this will negatively affect the value of his property. He is opposed to the variance. He feels there are plenty of activities at the camp and there is no need for anymore. The 45-foot tower would overlook his property. He is concerned that the poles drilled into the ground could affect the groundwater. This does not fit in this area. It will bring in more people and more noise.

Mr. Fred Berean of 1121 Euler Road is opposed to this.

Genoa Township Zoning Board of Appeals Meeting
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Approved Minutes

Mr. Mike Berean of 1237 Euler Road stated his wife, who was unable to be here tonight, is opposed to this request. This camp is destroying their residential neighborhood. He reviewed prior Township meeting minutes regarding the grandfathering of the zoning of this property. Because it had sat vacant for more than 12 months, it should have lost its grandfather status and should revert to the current zoning. He submitted a packet to the Board with documentation regarding this. They request that the zoning be returned to the current zoning and all expansion requests be denied.

Mr. Berean read a letter from Mrs. Berean of 1121 Euler Road who is opposed to this request.

Charles Saliba of 1829 Kellogg Road agrees with Mr. Berean. He is concerned with the noise. There will be yelling from people on the zipline and the swing. He does not agree with the variance request.

Mr. John Connely owns property on Euler Road. He is in support of the residents who are against this variance. His property was used previously to store vehicles, trailers, etc. and since it sat vacant for 12 months, he lost his grandfather status, and the Township returned it to its current zoning.

Mr. Bill Maniaci of 1866 Euler Road, who is a real estate agent, sold a property on Euler Road to someone who chose to buy a home, tear it down, and build a new one instead of purchasing a livable home on a property that would be close to the camp. He is concerned that there will be more requests from the church. He is opposed to these variances.

Ms. Patty Kopicko of 6843 Felice stated the existing rope course never received a variance. Vice-Chairperson McCreary stated the Township was not aware it was installed. The owners of the camp have purchased additional property. They will be listening to kids scream on the zipline and swing. The people that use the camp pay and it is not open to everyone.

Mr. James Drouillard of 6781 Felice agrees with his neighbors. He would like this variance to be denied.

Mr. Robert Kopicko of 6843 Felice stated the traffic is deteriorating the roads in this area. He asked if the swing and zipline will be open at night? Will there be lights? Will there be speakers? This is a residential neighborhood in the country.

Ms. Kate Baker at 1780 Euler Road agrees with her neighbors. Her home is her retirement, so she does not want it to lose value.

The call to the public was closed at 7:44 pm.

Board Member Kreutzberg asked how long has this been a camp and how many acres is the property. Mr. Berigan stated it has been a camp since at least 1920 and it is 164 acres.

There was a discussion regarding the information provided at the call to the public.

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Mr. Fons stated the issue before the Board is the height of the structures. Mr. Rockwell agrees; however, he does not see how the request has met all four of the requirements to grant a variance.

Vice-Chairperson McCreary suggested having this item tabled this evening to review the information that was given at the call to the public in order to make a decision knowing all of the facts.

Board Member Ledford stated many requests have been approved for this property and asked if more requests are coming.

Mr. Fons stated the property is being used how it is zoned.

Board Member Ledford would not want to have this in her neighborhood. She would not want her property values to decrease because of it. She would like to investigate the information presented this evening.

Board Member Kreutzberg understands all comments made by the Board members; however, change happens. There are many places in Livingston County that used to be farmland that are now homes. She agrees with Board Member Fons that the Board is asked to review the request for the height of the poles.

Moved by Board Member Kreutzberg, seconded by Board Member Ledford, to table Case #23-03 until the February 21, 2023 ZBA meeting for the Caldean Catholic Church until further information can be uncovered regarding property usage and history. **The motion carried (Ledford - yes; McCreary - yes; Kreutzberg - yes; Rockwell - yes; Fons - no).**

3. 23-04...A request by Peter Wood, 4021 Homestead, for a side, front and waterfront variance to construct an addition to an existing single-family home.

Mr. Peter Wood and Mr. David Hazen, who designed the home, were present. Mr. Wood stated his hardship is that he does not have a garage and would like a first-floor master bedroom. It is a very unique, non-conforming lot. His lot was originally two lots that were split and sold separately. This addition will add value to the neighborhood.

Mr. Hazen provided a review of the proposed changes to the home. He stated the minimum lot size allowed per the ordinance is 80 feet; however, this property is only 30 feet. The location of the home to the road is consistent with the homes on either side of this property. They are proposing the side-entry garage so vehicles will fit in front of the garage.

The call to the public was opened at 8:15 pm with no response.

Moved by Board Member Ledford, seconded by Board Member Kreutzberg, to approve Case #23-04 for Peter Wood, 4021 Homestead, for a 25 foot front yard variance from the required 35 feet for a 10 foot setback, a 1.5 foot side yard variance from the required 10 feet for an 8.5 foot setback, and a 21.20 foot shoreline variance from the required 36.5 feet for a setback of 36.5 feet, to construct an addition to the existing residence, which would include a covered patio,

March 16, 2023

Kelly VanMarter
Amy Ruthig
GENOA TOWNSHIP
2911 Dorr Road
Brighton, MI 48116

VIA EMAIL

Re: *Chaldean Camp's request for variance*

Dear Ms. VanMarter and Ms. Ruthig:

This correspondence is in response to the ZBA requesting my review of the materials surrounding the Chaldean Camp's application for variances for a climbing tower, zip line, and giant swing. I have examined the materials provided including what the citizens have given the Township opposing the variance. Before I delve into what I understand to be the history of ownership and use of the property as well as the variance request, I would like to clear up a misunderstanding regarding abandonment of a nonconforming use. I note comments referring to the Township's ordinance § 24.05.07 and § 24.06.03 which states the abandonment of a nonconforming use occurs when the use, property or structures have not been utilized for twelve or more consecutive months. The Township's ordinances are not the definitive answer on determining if a nonconforming use has been abandoned. In 1972 the Michigan Supreme Court declared that for an abandonment to occur, there must be evidence of a clear intent to abandon that nonconforming use. See *Dusdal v City of Warren*, 387 Mich 354, and *Rudnik v Mayers*, 387 Mich 379, both 1972 cases. The Michigan Court of Appeals, relying upon these two cases clearly stated that a community's ordinance setting a time frame of when abandonment occurs is not determinative. Instead, evidence of intent to abandon the use must be presented.

One example is the Court of Appeals decision in *Livonia Hotel v City of Livonia*, 259 Mich App 116, a 2003 case which is attached. The questions answered by the Court of Appeals included whether a hotel's operation of a restaurant had been abandoned when the operator of the restaurant and nightclub vacated the hotel when it was sold to the current owner. The current owner continuously attempted to find an operator for the restaurant and was able to do so approximately five years later. The City of Livonia contended that pursuant to its ordinance, a discontinued use of one year or more constitutes an abandonment of the use. The Michigan Court of Appeals clearly said that is not the law, instead the Court looked to the owner's actions to determine if the owner intended to abandon that use. The Court noted the owner had for five years sought an operator for the restaurant and therefore this demonstrated an intent not to abandon this special use.

Another example is *Soechtig v Greenbush Township*, a 2012 case which is also attached. There, the plaintiff owned lake property and had maintained a cottage that had been rented or was available for rent since 1957. In 1984 the property was rezoned to R-1, which prohibited weekly rentals. In 2010 the Township told the owner that the property could no longer be rented pursuant



to zoning ordinance. The zoning official asked for rental receipts prior to 1984 through the current year, which would establish that the cottages were being used as rental and if provided this information, the Township would allow them to continue to be rented. The plaintiff, not surprisingly, could not find rental receipts going back 25 years. The Michigan Court of Appeals held that the ZBA's reliance upon an ordinance to establish when a prior non-conforming use was abandoned is not the proper standard. Instead, the Court directed the ZBA to look at the evidence of whether the cottages were used as summer rentals before the enactment of the 1984 ordinance. The Court of Appeals gave the ZBA some guidance when it said that the undisputed testimony from a property owner seeking to establish a prior non-conforming use is sufficient to support the existence of such a non-conforming use. If the Township tried to establish the owner abandoned the prior non-conforming use, the Township had to demonstrate the owner intended to abandon the non-conforming use and establish an act or omission by the owner that clearly manifests her voluntary decision to abandon using the cottages as rentals.

In contrast is a situation that occurred closer to the Township, the City of Brighton's dispute with Leon and Marilyn Bonner. That dispute resulted in a Court of Appeals decision issued in 2014. The dispute revolved around whether some residential homes owned by the Bonners in a district that subsequently was zoned commercial could stand. The Court of Appeals decided against the Bonners, ruling that the use of the homes as residential units had been abandoned. The Court noted that no one had lived in the homes for over thirty years, there was no running water nor sanitary facilities, and the roofs had deteriorated to the point that the interiors were open to the elements. The Court also mentioned that the homes were uninhabitable, that the plumbing could not be restored. The Bonners argued that they kept some furniture in these homes, but the Court of Appeals said that the Bonners' failure to act for thirty-plus years, and that they had not maintained the structures, showed an intent to abandon the residential use of the properties.

As I will explain below, I believe the use of the Chaldean Church property as a camp has not been abandoned and I will contrast the factual basis for that statement to how I believe an abandonment occurred at the Conely property. But before doing so, I need to discuss the concept of estoppel that would likely apply to the Chaldean Camp's request.

Estoppel is a concept that because of the actions the Township took together with the acts of the owner, the Township can be equitably stopped from enforcing the current zoning ordinance. As will be explained further in this memo, the current owners have used the land as a campground and have relied on the previous special land use permits to do so. This is consistent with the concept of estoppel as discussed in *Pittsfield Township v Malcolm*, 375 Mich 135 (1965). Malcolm constructed and operated an animal kennel contrary to the Township's zoning regulations. Malcolm had been issued a building permit before the construction and spent approximately \$45,000 building the kennel. He operated the kennel for nearly a year before Pittsfield Township attempted to stop the use. The Supreme Court recognized that where municipal authority had previously issued a permit later found to be contrary to the zoning laws, under exceptional circumstances, the municipality may be estopped from enforcing that regulation. The Supreme Court found that spending \$45,000 to build the kennel, and that the Township waited over ten months after construction before challenging the right to use the kennel, were circumstances under



which good conscience and equity required the Court to find Pittsfield Township was prohibited from enforcing the zoning ordinance.

Subsequent cases have highlighted that equitable estoppel is only for exceptional circumstances, the vast majority of cases have found that the landowner could not show facts fitting within this exception. One property owner, though, was successful in *Kalkman v Village of Douglas*, a 2012 Michigan Court of Appeals decision. Plaintiff Kalkman had begun building his home spending \$65,000 on construction before the Village ordered him to stop the construction. Before beginning construction Kalkman had obtained approval for the location of the home. Later the Village found that he did not meet the setback requirement and the Zoning Board of Appeals denied a variance.

In ruling for Kalkman, the Court of Appeals noted that this was one situation where the City was estopped from interfering with the construction because it did issue the permit approving the initial setback. Importantly, the Court noted that Kalkman had spent \$65,000 in construction costs after he had been given a permit that later was revoked because it did not meet setback requirements.

I. FACTS

With this background, the history of this property is important in determining whether the use of the property, currently as a campground, has been abandoned and whether the Township may be estopped from recognizing the campground as a permitted use.

From the Township

Ms. Ruthig and Ms. VanMarter provided me with a chart showing the zoning history for the property as well as the Master Plan history. I have attached those charts below. As can be seen, in 1981 the property was zoned Recreational Facilities, and then ten years later changed to Public Recreational Facilities, which is its current designation.

ZONING HISTORY

DATE	ZONING DISTRICT	DISTRICT NAME
1969	AR	Agricultural Residential
1973	CR	Commercial Recreation
1981	RF	Recreational Facilities
1985	RF	Recreational Facilities
1989	RF	Recreational Facilities
1991	PRF	Public Recreational Facilities
1993	PRF	Public Recreational Facilities
1995	PRF	Public Recreational Facilities
2005-CURRENT	PRF	Public Recreational Facilities



The history for how the Master Plan listed the future uses is shown below.

MASTER PLAN HISTORY

DATE	FUTURE LAND USE	FUTURE LAND USE DISTRICT NAME
1976	PR	Private Recreation
1995	RR	Large Lot Rural Residential
1998	RR	Large Lot Rural Residential
2000	RR	Large Lot Rural Residential
2002	PQP	Public/Quasi-Public
2003	PQP	Public/Quasi-Public
2006	LDR	Low Density Residential
2013 - CURRENT	RR	Large Lot Rural Residential

In the Detroit Recreation Camp Written Impact Assessment, its “master plan” for the camp contains minutes from a March 27th, 1997, Planning Commission meeting stating that the camp had an existing special land use permit. An additional important fact that can be gleaned from this submission is the City of Detroit’s desire to continue to use the property as a campground. The March 27th, 1997, minutes of the Planning Commission shows that the City of Detroit was constructing buildings on the property. And the photograph below (circa 1948) shows a good number of buildings for a camp.



Ms. Ruthig and Ms. VanMarter assembled a series of overhead views of the property, which show the continuation of the land as a camp. Please see the following pages.

Camp Brighton - 1950



1 inch = 200 feet

Camp Brighton - 1966



1 inch = 402 feet

Camp Brighton - 1980



Camp Brighton - 1985



Camp Brighton - 1990



Camp Brighton - 1995



Camp Brighton - 2002



Camp Brighton - 2005



Camp Brighton - 2005

Note: Lawn Mower Lines in Grass



Camp Chaldean - 2008



Camp Chaldean - 2010



Camp Chaldean - 2015



Camp Chaldean - 2020



The above photographs are consistent with the records showing that the Township has issued land use permits to the City of Detroit for construction of decks, a garage and signs, see permits 01-073; 01-300; and 01-620. In July of 2007 the City of Detroit deeded the property (and specifically referenced it as Camp Brighton) to the Chaldean Catholic Church of the United States of America. Almost immediately a land use waiver was issued to the new owners to make improvements to the existing buildings and to convert a south dining hall to a clergy building with only interior renovations, see permit 08-085 as well as waiver 08-059.

Resident Provided Information

The packets of information from residents state that in 1995 the Detroit City Council was shuttering the property. (I have not been able to locate support for this statement.) I note in the journal of the City of Detroit City Council in 2005 as well as in 2006, the City Council passed resolutions for a housekeeper and a separate caretaker for the property. See the attached from the Detroit City Council Journals.

The 46-page submission by the citizens also make reference that in 2002 the Genoa Township Board changed the future land use status of the property to public/quasi-public uses in the Grand River Corridor Plan. This statement refers to the Planning Commission's suggestion that the Township's Master Plan reflects that future uses for the property be public/quasi-public. That certainly makes sense because at the time the property was owned and being operated by a public entity, the City of Detroit. Included in the 46-page packet is a Detroit News article regarding the sale of the property to the Chaldean Church. The news article quotes Kwame Kenyatta as stating that the facilities should not have been sold because it benefits all the City's youth.

I have not addressed the other information contained in the 46-page packet nor the 13-page packet. Much of that information relates to newspapers articles about two persons receiving a bribe, which is irrelevant to my review and analysis.

II. ANALYSIS

My conclusion, based upon the materials provided to me as well as what I found in the City of Detroit's City Council journals for 2005 and 2006, leads me to the conclusion that the City of Detroit did not abandon its use of the property as a campground. A large part of that is based upon the permits obtained in the 2000s by the City of Detroit together with the City Council's decision to fund housekeeping and a caretaker for the property. The overhead view of the property from 2005 shows the property being maintained. In addition, Kwame Kenyatta's comments that the property should not be sold, instead it should be kept for the City's youth further supports the conclusion that the campground status was not abandoned by the City of Detroit. My conclusion is that when the Chaldean Church purchased the property as a campground in 2007, it purchased a use that was permitted by a special use permit issued by the Township going back to before 1997, and that use continues even as of today. From that, my conclusion is that the current request of the Chaldean Church to have a zipline and swing structures are permitted subject to the Township's



Zoning Board of Appeals granting a variance. That said, the Chaldean Church still must meet all of the requirements to entitle it to such a variance.

The factual materials mentioned above clearly demonstrate the City of Detroit did not intend to abandon using the property as a campground. Reliance on the Township's ordinance is misplaced. I contrast the factual materials identified above with my understanding of the Conely property. At one time, the Conely property had a special use permit to store trailers that were being constructed. That business fell on hard times, the business ceased operations for a number of years prior to Mr. Conely purchasing it. Mr. Conely did not purchase an ongoing business, and he did not locate a trailer manufacturing facility to the property. The use of storing recently-manufactured trailers was abandoned similar to the Court of Appeals finding that the Bonners of Brighton had abandoned their residential buildings.

I also am of the opinion that the Township is equitably estopped from asserting the current owners lack a valid special use permit. As mentioned above, equitable estoppel is based upon the concept that a governmental agency cannot take a position allowing a certain construction or use of the property, then after the property owner expends significant resources to use the property as allowed, the governmental agency is not permitted to revoke the property owner's use of the property as improved. As a starting point, the McKenna letter of 1977 states that the City of Detroit had a valid special land use permit, and that even as of today, the Township has recognized the validity of that special land use permit. Based upon the assertions that a special land use permit existed, both the City of Detroit and the Chaldean Church have expended a significant amount of monetary and physical resources in making changes and improvements to the property and using it as a campground. The above photographs provide significant evidence that both the City of Detroit and the Chaldean Church relied upon the existence of a special land use permit for this property. To now suggest that a special land use permit does not exist for the Chaldean Camp would almost certainly lead to a Court's determination that the Township cannot equitably take that position.

Please let me know if this answers the questions posed, and if you have any other questions or comments.

Very truly yours,

SEWARD HENDERSON PLLC

T. Joseph Seward

TJS/et
Enclosure(s)



210 East 3rd Street, Suite 212, Royal Oak, Michigan 48067

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Detroit 50% to Empowerment Zone residents—Neighborhood Centers Inc., 8300 Longworth, Detroit, MI 48209—July 30, 2003 thru January 31, 2007—contract increase: \$78,696.00—Not to exceed \$148,696.00. Planning & Development.

2595242—Change Order No. 1—100% Federal Funding—Economic Development—Eastern Market Advancement Coalition, 2468 Market Street, Detroit, MI 48207—November 15, 2002 thru June 30, 2006 Contract Increase: \$30,000.00—Not to exceed \$600,000.00. Planning & Development.

2639749—Change Order No. 1—100% Federal Funding—Psychosocial case management—HSTA-ATS (Health Services Technical Assistance Addiction, Treatment Series, Inc.), 1151 Taylor, Bldg. 1, Detroit, MI 48202—April 1, 2004 thru March 31, 2006—Contract Increase: TIME ONLY—Not to exceed \$73,600.00. Planning & Development.

2624929—Change Order No. 1—100% Federal Funding—To provide cultural enrichment program—Gray and Gray Productions, PO Box 14644, Detroit, MI 48214—January 1, 2004 thru June 30, 2005—Contract Increase: TIME ONLY—Not to exceed \$46,000.00. Planning & Development.

2627696—Change Order No. 1—100% Federal Funding—To operate a neighborhood employment and training center—Mack Alive, 7815 E. Jefferson, Detroit, MI 48214—September 1, 2003 thru July 31, 2006—Contract Increase: \$44,620.00—Not to exceed \$135,620.00. Planning & Development.

2608679—Change Order No. 1—100% Federal Funding—Public Facility Rehabilitation (PFR)—Bridging Communities, 6900 McGraw, Detroit, MI 48210—Contract Period: upon notice to proceed for twenty four (24) months thereafter—Contract Increase: \$125,000—Not to exceed \$251,000.00. Planning & Development.

83301—100% City Funding—Legal instructor for basic recruit classes at Detroit Metropol, Police Academy—Adrienne C. Watts, 16584 Parkside, Detroit, MI 48221—January 1, 2005 thru December 31, 2005—\$36.00 per hour—Not to exceed \$75,000.00. Police.

83611—100% City Funding—Legislative Assistant to Council Member Alonzo W. Bates—Nikki Harris, 3889 Russell, Detroit, MI 48207—January 1, 2005 thru June 30, 2005—\$8.00 per hour—Not to exceed \$3,456.00. City Council.

83121—100% City Funding—Housekeeper, Detroit Recreation Camp—Lisa A. Kwasny, 7561 Gold Club Road, Howell, MI 48843—December 17, 2004 thru June 30, 2005—\$9.00 per hour—Not to exceed \$8,000.00. Recreation.

2616858—100% City Funding—To provide primary health care services (pharmacy)—RPH On the Go, 5940 W. Touhy Ave., Niles, Illinois 60714—June 1, 2003 thru August 30, 2004—Not to exceed \$156,000.00. Health & Wellness Promotion.

2661435—100% Federal Funding—to provide after school, evening and weekend academic, social skills development and alcohol and drug prevention programs for youth and their families—The Safe Center, 11241 Gunston, Detroit, MI 48213—Contract Period: upon notice to proceed for eighteen (18) months thereafter—Not to exceed \$50,000.00 with an advance payment of up to \$5,000.00. Planning & Development.

2661607—100% Federal Funding—To provide tutoring, mentoring and computer training program for at risk youth—Abayomi CDC, 24331 W Eight Mile, Detroit, MI 48219—Contract Period: upon notice to proceed for eighteen (18) months thereafter—Not to exceed \$40,000.00 with an advance payment of up to \$5,200.00. Planning Development.

2661694—100% Federal Funding—to provide after school video production and media literacy program for youth in grades 9 through 12—Cable Communications Public Benefit Corp., 2111 Woodward, Ste 1006, Detroit, MI 48201—October 1, 2004 thru March 31, 2006—Not to exceed \$50,000.00. Planning & Development.

2661755—100% Federal Funding—To provide literacy tutoring to youth and adults in one to one and small group settings—Literacy Volunteers of America, 3011 W. Grand Blvd., Ste 215, Detroit, MI 48202—July 1, 2004 thru December 31, 2005—Not to exceed \$135,900.00. Planning & Development.

2661780—100% Federal Funding—To provide mental health services and transportation for residents of Detroit residents of Empowerment Zone—Northeast Guidance Center, 12800 E. Warren, Detroit, MI 48215—Contract period: upon notice to proceed for eighteen (18) months thereafter—Not to exceed \$115,720.00. Planning & Development.

2662273—100% Federal Funding—To provide information and referral for pregnant and parenting teens—Lulu Belle Stewart Center, Inc., 1534 Webb, Detroit, MI 48206—July 1, 2004 thru December 31, 2005—Not to exceed \$46,000.00. Planning & Development.

2662307—100% Federal Funding—To provide shelter and transitional housing for teen moms—DRMM/Genesis House I, 150 Stimson, Detroit, MI 48231—October 1, 2004 thru September 30, 2005—Not to exceed \$78,000.00. Human Services.

2662335—100% Federal Funding—To provide advanced math instruction for

Adopted as follows:
Yeas — Council Members S. Cockrel, Collins, McPhail, Tinsley-Talabi, Watson, and President Pro Tem. K. Cockrel, Jr. — 6.

Nays — None.

**Finance Department
Purchasing Division**

November 18, 2005

Honorable City Council:

The Purchasing Division of the Finance Department recommends a Contract with the following firms or persons:

2621950—(CCR: November 26, 2003)
— Coach Engine & Transmission Overhauls from October 1, 2003 through November 30, 2005. RFQ. #9623. Original dept. estimate: \$1,800,000.00, Requested dept. increase: \$750,000.00, Total contract estimate: \$2,550,000.00. Jimmy Diesel, Inc., 550 South East Ave., LaGrange, IL 60525. D-DOT.

Respectfully submitted,
AUDREY P. JACKSON
Director

Finance Dept./Purchasing Div.

By Council Member Collins:

Resolved, That Contract #2621950 referred to in the foregoing communication, dated November 18, 2005 be and hereby is approved.

Adopted as follows:

Yeas — Council Members S. Cockrel, Collins, McPhail, Tinsley-Talabi, Watson, and President Pro Tem. K. Cockrel, Jr. — 6.

Nays — None.

**Finance Department
Purchasing Division**

November 18, 2005

Honorable City Council:

The Purchasing Division of the Finance Department recommends a Contract with the following firms or persons:

83139—100% City Funding — Camp Caretaker. Detroit Recreation Camp, Brighton, MI. Carl M. Trano, 1140 Kellog Road, Brighton, MI 48114-8718. From July 1, 2005 through June 30, 2006. Hourly rate: \$11.25. Not to exceed: \$49,000.00 for life of contract. Recreation.

Respectfully submitted,
AUDREY P. JACKSON
Director

Finance Dept./Purchasing Div.

By Council Member Collins:

Resolved, That Contract #83139 referred to in the foregoing communication, dated November 18, 2005 be and hereby is approved.

Adopted as follows:

Yeas — Council Members S. Cockrel, Collins, McPhail, Tinsley-Talabi, Watson, and President Pro Tem. K. Cockrel, Jr. — 6.

Nays — None.

**Finance Department
Purchasing Division**

November 18, 2005

Honorable City Council:

The Purchasing Division of the Finance Department recommends a Contract with the following firms or persons:

2685216—Furnish: Exercise Equipment which includes, Elliptical Machine, Exercise Bikes, Treadmill to be used in the Recreation Centers throughout the City of Detroit. Req. #'s 186969, 186968, 186967, & 189179. Life Fitness Inc., 5100 N. River Rd., Schiller Park, IL 60176. Amount: \$57,140.00. Recreation.

Respectfully submitted,
AUDREY P. JACKSON
Director

Finance Dept./Purchasing Div.

By Council Member Collins:

Resolved, That Contract #2685216 referred to in the foregoing communication, dated November 18, 2005 be and hereby is approved.

Adopted as follows:

Yeas — Council Members S. Cockrel, Collins, McPhail, Tinsley-Talabi, Watson, and President Pro Tem. K. Cockrel, Jr. — 6.

Nays — None.

**Buildings and Safety
Engineering Department**

November 4, 2005

Honorable City Council:

Re: 14119-31 Kercheval. Emergency Demolition.

The building at the above location was recently found to be extensively fire damaged and structurally unsafe to the point of near collapse.

Our records indicate that this building was ordered removed by City Council on September 23, 2002.

It is our opinion that there is an actual and immediate danger affecting the health, safety and welfare of the public. Therefore, under the authority of Ordinance 290-H, we are taking emergency measures to have this building or portions thereof removed with the cost assessed against the property.

By copy of this letter, we will notify all utility companies to immediately start utility disconnects.

Respectfully submitted,
AMRU MEAH
Director

By Council Member S. Cockrel:

Resolved, That in accordance with the foregoing communication, the Buildings and Safety Engineering Department is hereby authorized and directed to implement emergency measures to have the dangerous building demolished which is located at 14119-31 Kercheval, and have the costs assessed as a lien against the foregoing properties.

Contract increase: \$768,575.00. Not to exceed: \$5,989,941.00. Health.

83141—100% State Funding — Camp Housekeeper — Camp Brighton. Lisa A. Kwasny, 7561 Golf Club Rd., Howell, MI 48843-8043. From July 1, 2005 through June 30, 2006. Hourly rate: \$8.10/Hour. Not to exceed: \$7,200.00. Recreation.

84053—100% City Funding — Legislative Assistant to Council Member Sharon McPhail. Gwen Mayers, 20030 Prairie, Detroit, MI 48221. From September 7, 2005 through December 31, 2005. Hourly rate: \$10.00/Hour. Not to exceed: \$5,360.00. City Council.

84151—100% City Funding — Court Reporter for the Department of Administrative Hearings. Maia Fields, 19700 Plainview, Detroit, MI 48219. From January 1, 2006 through December 31, 2008. Hourly rate: \$25.00/Hour. Not to exceed: \$100,000.00. Department of Administrative Hearings.

2693073—100% Federal Funding — Shelter and Support Services for HIV-AIDS Patients. Wellness House of Michigan CDBG HMLS, 1419 W. Warren Ave., Detroit, MI 48208. From October 1, 2005 through September 30, 2006. Not to exceed: \$100,000.00. Planning & Development.

2686389—100% Federal Funding — Comprehensive Pre-Employment Services and Placement to Displaced Homemakers. Arab American & Chaldean Council, 28551 Southfield Rd., Se. #204, Lathrup Village, MI 48076. From July 1, 2005 through June 30, 2006. Not to exceed: \$65,121.00. Detroit Workforce Development.

By Council Member S. Cockrel:

Resolved, That the Purchasing Division of the Finance Department be and it is hereby authorized and directed to enter into contract with the person or firm recommended for furnishing the departments mentioned with the material, equipment, supplies or services, in amounts, kinds and at prices as listed in accordance with the foregoing communication, designated as Contract or File Nos. 2678162, 2696288, 2696338, 83141, 84053, 84151 and 2686389 be and the same are hereby approved.

Resolved, That renewals, extensions of, additions to, and changes in commodities and/or prices on contracts as recommended in the foregoing communication, designated as Contract or File Nos. 2512342, 2517456, 2529258, 2565529, 2601804, 2684521 and 2658891 be and the same are hereby approved.

Adopted as follows:

Yeas — Council Members S. Cockrel, Collins, Conyers, Jones, Kenyatta, Reeves, Tinsley-Talabi, Watson, and President K. Cockrel, Jr. — 9.

Nays — None.

Finance Department Purchasing Division

December 1, 2005

Honorable City Council:

Re: List of Awards for the Week of December 5, 2005 submitted in accordance with City Council Resolution date of November 21, 2005, which outlines the procedure for processing contracts and purchase orders during the Council Recess.

Attached is the list of awards for the week of December 5, 2005. The awards will be held until **Thursday, December 8, 2005**. In the event any Council Member objects to any contract or purchase, the contract or purchase will then be held until formal action by the City Council or withdrawal of the objection by the objecting Council Member.

Should you object to any contract listed, kindly notify the Committee Clerk by 4:00 P.M., Wednesday, December 7, 2005, so that the proper notice can be given to the Purchasing Division.

Respectfully submitted,
AUDREY P. JACKSON

Purchasing Director

2591314—(CCR: October 12, 2002) — Uniform Rental & Laundry from November 1, 2005 through October 31, 2006. RFQ. #8311. Van Dyne Crotty, 45700 Port St., Plymouth, MI 48170. Estimated cost: \$20,000. DWSD/MTR Operations.

Renewal of existing contract.

2594591—(CCR: November 20, 2002) — Parts, Engine, Detroit Diesel & Transmission from December 1, 2005 through November 30, 2006. RFQ. #6777. W.W. Williams Detroit Diesel, 400 Stecker Ave., Dearborn, MI 48126. Estimated cost: \$718,000.00/Year. D-DOT.

Renewal of existing contract.

2596231—(CCR: December 9, 2002; May 25, 2005) — Parts and Accessories, New and Remanufactured, Rockwell from December 1, 2005 through November 30, 2006. RFQ. #7260. H & H Wheel Service, 2520 22nd St., Detroit, MI 48216. Estimated cost: \$350,000.00/Year. Finance Dept.: City-wide.

Renewal of existing contract.

2688768—Furnish: Hydraulic Compressors & Drilling Equipment — RFQ. #16811, Req. #192444, 100% City Funds. Jack Doheny Supplies, Inc., 777 Doheny Court, Northville, MI 48167. 5 Items, unit prices range from \$2,163.00/Each to \$4,918.00/Each. Lowest acceptable bid. Actual cost: \$63,180.00. DPW.

2688919—Barricades, Traffic/Defense — RFQ. #16831, Req. #189672, 100% City Funds. Subcon International, LLC, 4480 Brookmeadow Drive, Kentwood, MI 49512. 200 Only @ \$157.63/Each. Sole bid. Actual cost: \$31,526.00. DPW.

259 Mich.App. 116
Court of Appeals of Michigan.

LIVONIA HOTEL, LLC, Plaintiff–Appellant,
v.
CITY OF LIVONIA and Building
Official of Livonia, Defendant–Appellees.

Docket No. 237609.

|
Submitted Sept. 10, 2003, at Detroit.

|
Decided Oct. 21, 2003, at 9:00 a.m.

|
Released for Publication Dec. 23, 2003.

Synopsis

Background: Hotel and restaurant seeking to locate in hotel filed action against city seeking declaration they had a vested right to operate restaurant using prior liquor license and that mayor had no power to veto city council's approval of waiver to operate restaurant. The Wayne Circuit Court, John H. Gillis, Jr., J., granted city summary disposition, and hotel and restaurant appealed.

Holdings: The Court of Appeals held that:

restaurant use in hotel was a valid nonconforming use;

hotel did not abandon restaurant use;

hotel did not have a vested right to operate a restaurant pursuant to proposed restaurant operator's class C liquor license; and

mayor had no veto power over city council's approval of waiver to allow restaurant to operate in hotel with restaurant's class C liquor license.

Reversed and remanded.

Attorneys and Law Firms

****765 *117** Honigman, Miller, Schwartz & Cohn, L.L.P.
(by Norman Hyman), Bingham Farms, for the plaintiff.

Sean P. Kavanagh, City Attorney, and Cathryn K. White, Chief Assistant City Attorney, Livonia, for the defendants.

Before: OWENS, P.J., and RICHARD ALLEN GRIFFIN and SCHUETTE, JJ.

Opinion

PER CURIAM.

In this zoning case, plaintiff appeals as of right from the October 11, 2001, order of dismissal ***118** with prejudice entered by the Wayne Circuit Court. We reverse and remand.

I. Facts

Plaintiff owns and operates a Quality Inn hotel on Plymouth Road in Livonia. Plymouth Road, a major, heavily traveled, east-west thoroughfare that runs the entire length of the city, is zoned and used for commercial and industrial uses. There are a number of restaurants on Plymouth Road, many of which serve beer, wine, and other alcoholic beverages.

The Quality Inn hotel was initially developed as a Holiday Inn hotel in 1967. At the time, the Livonia Zoning Ordinance (LZO) permitted a two-story structure to be constructed within the existing C–2 zoning designation. According to defendant city, the LZO in effect at the time required that waiver use approval be obtained in order to operate a hotel. As a result, the property owners filed and were granted a waiver use permit in 1967 allowing the construction of the two-story Holiday Inn hotel.

The waiver use approval granted in 1967 was limited to hotel use because the LZO, at the time, provided that restaurants were permitted uses in C–2 zoning districts. Further, the restaurant or lounge on the property was permitted to serve alcoholic beverages, apparently pursuant to the class B hotel liquor license held by the Holiday Inn.

In 1968, the year after the Holiday Inn was constructed, the LZO was amended to provide that restaurants were allowed only as waiver uses (rather than permitted uses) in C–2 zoning districts. In addition, the LZO has since been amended to allow hotels as ***119** permitted uses (rather than waiver uses) in C–2 zoning districts.

The LZO requires a separate waiver use approval in order to use a class C liquor license in connection with a restaurant in a C-2 zoning district. According to Mark Taormina, the city's planning director, "[t]he requirement that waiver use approval must be obtained in order to utilize a Class C liquor license in a C-2 zoning district was in effect when the Holiday Inn was constructed in 1967 and the requirement has remained continuously in effect since then." City records indicate that waiver use approval has never been granted for a class C liquor license at the property in question. In 1997, the LZO was amended to enlarge the class of liquor licenses that require waiver use approval in C-2 zoning districts and now includes tavern, club, class A hotel and class B hotel licenses, and microbrewers and brewpubs, as well as class C licenses. However, before the LZO was amended in 1997, a waiver use approval was not required **766 for the use of a class B hotel liquor license at the property.

Since 1967, the property in question has been used as a hotel, becoming a Ramada Inn for a time, then a Terrace Inn, and finally a Quality Inn. Until some time in 1995, a restaurant and a lounge/night club occupied part of the hotel. Both the restaurant and the lounge/nightclub were licensed to sell alcoholic beverages for consumption on the premises. As already stated, the restaurant and the nightclub were apparently permitted to sell alcoholic beverages pursuant to the hotel's liquor license. The restaurant and the night club were uses accessory to the hotel and were permitted as waiver uses under the Livonia zoning ordinance.

*120 In 1995, plaintiff purchased the property in question. "In 1995, the operator of the restaurant and night club vacated the premises." Since the closure of the restaurant and the nightclub in 1995, plaintiff has kept the hotel liquor license current and attempted to obtain a new operator for the restaurant. Despite numerous efforts, plaintiff was unsuccessful in attracting a restaurant operator to reopen the restaurant until May 2000. On September 6, 2000, plaintiff entered into a lease with Hooters of Livonia, Inc., to operate a restaurant in the restaurant portion of the premises. The Hooters restaurant would serve beer and wine, but not liquor, using Hooters own class C liquor license.

According to plaintiff, when the city was contacted in connection with the work of preparing the premises for Hooters' occupancy, the city's building official informed John Glasnak, plaintiff's managing representative, that plaintiff would be required to obtain a new waiver use approval because the prior restaurant use had been discontinued for

over one year, and, thus, the right to operate a restaurant had been "abandoned" under § 18.18 of the LZO. Plaintiff stated that it "never even considered the idea of abandoning the restaurant use."

Plaintiff filed a waiver use petition with the city on November 2, 2000. Plaintiff was required to file a waiver use petition because the city claimed that the prior restaurant use had been discontinued for more than one year. However, according to plaintiff, it already had waiver use approval for a restaurant. Hooters also filed a waiver use petition. A separate waiver use petition was required because Hooters wanted to use its class C liquor license in connection *121 with the operation of its restaurant and because there had not been a previous use of such a license at this location.

The planning commission conducted a public hearing on both petitions on December 12, 2000. At the conclusion of the public hearing, the planning commission recommended that both petitions be denied.

The city council then considered the waiver use petitions at a public hearing conducted on March 28, 2001, and a regular meeting held on May 2, 2001. The city council approved the waiver use petitions, each by a four-to-three vote, at its regular meeting on May 2, 2001. On May 7, 2001, the mayor vetoed the city council's approval of the waiver use petitions.

On June 15, 2001, plaintiff and Hooters filed a seven-count complaint seeking a declaratory judgment, that would state, in pertinent part, that plaintiff "has a lawful vested right to the proposed restaurant on the premises, which has not been abandoned" and seeking an order requiring the city to issue "a certificate of occupancy and such other approvals and permits as are required to permit the operation of the proposed Hooters restaurant within the restaurant portion of the premises upon **767 presentation of plans which comply with the City's building code." On July 2, 2001, defendants answered the complaint and set forth their affirmative defense, requesting that judgment be entered against plaintiff and Hooters for no cause of action. On August 2, 2001, plaintiff and Hooters moved for summary disposition under MCR 2.116(C)(9) (defendants have failed to state a valid defense to the claims asserted against them) and MCR 2.116(C)(10) (no genuine issue of material fact). In their response on August 29, 2001, defendants *122 requested that plaintiff and Hooters' "appeal" be dismissed as "procedurally improper," and, alternatively, that summary disposition be granted in favor of defendants pursuant to

MCR 2.116(C)(8) (failure to state a claim on which relief can be granted) and (C)(10).

A hearing regarding the parties' cross-motions for summary disposition was held on September 6, 2001. After hearing argument, the trial court denied plaintiff's and Hooters' motion for summary disposition. In pertinent part, the trial court stated:

Clearly the City had the right to require—first of all, the restaurant was abandoned.

Secondly, the license itself was a Class C license which is a new non conforming [sic] use. So clearly the proper procedure the plaintiff had applied to the zoning—or the Planning Commission and then go to City Council, which they did. The City Council denied it by a four to three vote the mayor vetoed, and the city council decided not to override the veto, and the majority was one vote short.

As far as the legal procedures, that was perceived or conducted by the city in accordance with the law. The proper procedures were there. He had to go before the Planning Commission, City Council, and then has the right to do so. Plaintiff came up with one vote short with the City Council. So the motion for summary disposition is denied.

* * *

The City had the right to reject [the waiver petitions]. They need one more vote. The bottom line here is the claim of Livonia Hotel, which is Hooters, came up one vote short with the City Council and Mayor. Proper legal procedure was followed; they don't have the vote. That's the bottom line.

On October 8, 2001, the trial court entered an order dismissing the case with prejudice.

*123 II. Jurisdiction

In their appeal brief, defendants argue that plaintiff is not entitled to an appeal as of right under MCR 7.203(A), but is required to seek leave to appeal under MCR 7.203(B), because the decision challenged by plaintiff “is properly the subject of a Circuit Court appeal from the decision of the City Council pursuant to Const. 1963, art. 6[,] § 28.” As set forth in Const. 1963, art. 6, § 28:

All final decisions, findings, rulings and orders of any administrative officer or agency existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights or licenses, shall be subject to direct review by the courts as provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law; and, in cases in which a hearing is required, whether the same are supported by competent, material and substantial evidence on the whole record....

Defendants rely, in part, on ****768** *Krohn v. Saginaw*, 175 Mich.App. 193, 437 N.W.2d 260 (1988), in support of their argument that the trial court's dismissal of plaintiffs' complaint in this case arose from an appeal to the circuit court, not an original action, because plaintiffs' claims “relate to the denial of its waiver use petitions and the procedures employed in reaching that decision.” We disagree.

A. Standard of Review

Questions of law are reviewed de novo. *Sun Communities v. Leroy Twp.*, 241 Mich.App. 665, 668, 617 N.W.2d 42 (2000).

*124 B. Analysis

As plaintiff points out in its reply brief, the present case does not fall within the exception to an appeal as of right that is listed in MCR 7.203(A)(1)(a). As plaintiff rightly notes, “[t]his suit has not been treated as an appeal.” Plaintiffs' complaint raised issues that “had nothing to do with whether appellant was entitled to special use approval.” Rather, plaintiffs challenged the legal authority of the mayor to veto the city council's approval of a special use, asserted that it had a vested right to a restaurant licensed to serve alcoholic beverages, and “challenged on constitutional grounds the validity of the zoning ordinance's treatment of restaurants in hotels.” To hold that the present appeal is not an appeal of right from the circuit court's decision in this case would be contrary to MCR 7.203(A).

III. Abandonment

Plaintiff argues that the trial court erred in finding that plaintiffs had abandoned the restaurant use of the property. We agree that the trial court erred in finding that plaintiffs had

abandoned the property, but we do not agree with plaintiff's contention that plaintiff had a vested right to have a restaurant operate on the property using a class C liquor license.

A. Standard of Review

This Court reviews de novo a trial court's grant or denial of summary disposition. *Sun Communities*, supra at 668, 617 N.W.2d 42. Summary disposition of all or part of a claim or defense may be granted when:

*125 [e]xcept as to the amount of damages, there is no genuine issue as to any material fact, and the moving party is entitled to judgment or partial judgment as a matter of law. MCR 2.116(C)(10).

A motion for summary disposition under MCR 2.116(C)(10) tests whether there is factual support for a claim. *Spiek v. Dep't of Transportation*, 456 Mich. 331, 337, 572 N.W.2d 201 (1998); *Mino v. Clio School Dist.*, 255 Mich.App. 60, 67, 661 N.W.2d 586 (2003). When deciding a motion for summary disposition, a court must consider the pleadings, affidavits, depositions, admissions, and other documentary evidence submitted in the light most favorable to the nonmoving party. *Ritchie–Gamester v. City of Berkley*, 461 Mich. 73, 76, 597 N.W.2d 517 (1999).

B. Analysis

The record indicates that a waiver use petition was granted in 1967 for the construction of the Holiday Inn hotel. At the time the Holiday Inn was constructed in 1967, restaurants were permitted uses in C–2 zoning districts. Further, at the time of the opening of the Holiday Inn in 1967, the restaurant and the lounge/nightclub on the property were permitted to serve alcoholic beverages, apparently pursuant to the class B hotel liquor license held by the Holiday Inn. After the construction of the Holiday Inn, the LZO was amended in 1968 to designate restaurants as waiver uses in C–2 zoning districts. Further, in 1997, the LZO was amended again to designate establishments having class B hotel liquor licenses as waiver uses in C–2 zoning **769 districts. Restaurants were permitted uses in C–2 zoning districts when the waiver use was granted *126 in 1967 to operate a hotel on the property; therefore, a waiver use was never granted for a restaurant or nightclub/lounge on the property. Likewise, there is no indication that a waiver use was ever granted

to permit a restaurant or lounge on the property to serve alcoholic beverages.

The LZO was amended in 1968 to designate restaurants as waiver uses in C–2 zoning districts, and, as a result, the restaurant use in the hotel became a nonconforming use after the Holiday Inn was initially opened. As set forth in part in § 18.17 of the LZO:

The lawful use of land or a structure exactly as such existed at the time of the enactment of this ordinance, may be continued, except as provided in Section 18.18 of this ordinance, although such use or structure does not conform with the provisions of this ordinance. Such a use, where lawfully continued pursuant to the provisions of this section, shall, for the purpose of this ordinance, be know [sic] as a “Valid Nonconforming Use”; but where such use is not thus lawfully continued, the same, for the purpose of this ordinance, shall be known as an “Invalid Nonconforming Use.”¹

Although plaintiff claims that there was no evidence that there was ever a change in the zoning ordinance that made restaurant use nonconforming because “the restaurant was a use permitted by the zoning ordinance, albeit as a waiver use, on the premises,” defendants rightly contend that the restaurant use in plaintiff's *127 hotel became nonconforming after 1968, because restaurant uses in C–2 zoning districts were not permitted unless the waiver use standards were met and specific approval was granted for the waiver use. Given that a waiver use had not been approved for the restaurant in the hotel after 1968, it follows that the restaurant use in plaintiff's hotel became a valid nonconforming use after 1968, because “such use ... does not conform with the provisions of this ordinance.” LZO § 18.17.

In addition, use of a class B hotel liquor license in the restaurant became a nonconforming use after the LZO was amended in 1997 to designate establishments having class B hotel liquor licenses as waiver uses in C–2 zoning districts.

While the operation of a restaurant in the hotel was a valid nonconforming use after 1968, there is no evidence that plaintiff abandoned this use, as defendants allege. Section 18.18 of the LZO addresses the abandonment of a nonconforming use of property. Specifically, it provides, in pertinent part, “Actual discontinuance of such valid nonconforming use for a period of one (1) year, either as to the whole or any part of a building or parcel of land, in which

case such discontinuance shall be considered an abandonment of said use [.]” LZO § 18.18(b).

As plaintiff points out, the Court in *Dusdal v. City of Warren*, 387 Mich. 354, 196 N.W.2d 778 (1972), and *Rudnik v. Mayers*, 387 Mich. 379, 196 N.W.2d 770 (1972), addressed the definition of “abandonment” in the context of zoning law. As **770 stated in *Dusdal, supra* at 360, 196 N.W.2d 778:

The record does not support a finding of legal abandonment. Abandonment in the contemplation of the law is *128 something more than mere nonuser. It is rather a nonuser combined with an intention to abandon the right to the nonconforming use. The burden of proving the abandonment was on the city. It introduced no evidence from which it would be reasonable to conclude that the plaintiff ever intended to relinquish or abandon his vested right to use his property in the manner in which it was being used prior to the residential zoning amendment.

In *Rudnik, supra* at 384, 196 N.W.2d 770, the Court stated, “The necessary elements of ‘abandonment’ are intent and some act or omission on the part of the owner or holder which clearly manifests his voluntary decision to abandon.”

As plaintiff correctly notes, “Section 18.18 is in direct contravention of the Supreme Court’s holdings in *Rudnik* and *Dusdal*” because it defines abandonment solely on the basis of “actual discontinuance of such valid nonconforming use for a period of one (1) year,” LZO 18.18(b), without requiring an intent to abandon the right to the nonconforming use. Further, as plaintiff correctly points out, there was no genuine issue of material fact in this case whether there was an abandonment. As indicated in Glasnak’s affidavit, after purchasing the property in 1995, plaintiff continued to operate the hotel and has kept the hotel liquor license in full effect even after the operator of the restaurant ceased the operation of the restaurant. It is undisputed that Glasnak, as plaintiff’s managing representative, then began to search for a new operator for the restaurant, which culminated in a lease with Hooters in September 2000. We agree with plaintiff that the “continued efforts to reopen a restaurant in the hotel [negates] any suggestion that Appellant abandoned its waiver use for a restaurant licensed to serve liquor.” The record indicates that, as a matter of *129 law, plaintiff did not abandon its restaurant use. Thus, the trial court erred in finding that “the restaurant was abandoned.”

Nevertheless, although the trial court erred in finding that plaintiff had abandoned its restaurant use, it does not follow that plaintiff was thereby entitled to summary disposition on

this basis. Although plaintiff frames the issue in terms of having a vested right to have the Hooters restaurant in the hotel because it had a waiver use for a restaurant licensed to dispense alcoholic beverages pursuant to its class B hotel liquor license, defendants point out that Hooters sought approval to use its own class C liquor license in connection with its operation of the restaurant. As defendants rightly note, “[t]his type of use is a new use for this location and has always required waiver use approval under the applicable provisions of the LZO.” Defendants claim that plaintiff did not have a vested right of a valid nonconforming use to operate a restaurant on the property using a class C liquor license.

In its reply brief, plaintiff contends that the LZO, as amended in 1997, “does not require waiver use approval for establishments having Class C liquor licenses; it requires waiver use approval for ‘Establishments having liquor licenses *such as* Class C, Tavern, Club, Class A Hotel, Class B Hotel licenses and Micro brewers and Brewpubs’” quoting from LZO 11.03(h). According to plaintiff, “[t]he distinction is significant” because “[t]he use which the ordinance makes a special use is a licensed restaurant.” There was a licensed restaurant on the property since **771 1967, and as a result, plaintiff claims that it had a vested *130 right to a restaurant licensed to serve liquor, provided that such use was not abandoned.

Although it is true that plaintiff had a vested right to operate a restaurant licensed to serve alcoholic beverages pursuant to its class B hotel liquor license, we agree with defendants that it did not have a vested right to operate a restaurant pursuant to Hooters’ class C liquor license because this constituted a new use of the property. As a result, plaintiff and Hooters were each required to file a waiver use petition because this constituted a change in the use of the property. Plaintiff had no vested right to have Hooters, a class C liquor licensed establishment, operate a restaurant in the hotel; thus, it follows that the trial court did not err in denying plaintiff’s motion for summary disposition on this basis because waiver use approval was required to operate a restaurant in the hotel using a class C liquor license.

IV. Mayoral Veto

The trial court erred in concluding that the mayor had the power to veto the city council’s decisions approving the waiver uses.

A. Standard of Review

Statutory interpretation is a question of law that is reviewed de novo on appeal. *Eggleston v. Bio-Medical Applications of Detroit, Inc.*, 468 Mich. 29, 32, 658 N.W.2d 139 (2003). The primary goal of judicial interpretation of statutes is to ascertain and give effect to the intent of the Legislature. *Frankenmuth Mut. Ins. Co. v. Marlette Homes, Inc.*, 456 Mich. 511, 515, 573 N.W.2d 611 (1998). If the plain and ordinary meaning *131 of the language is clear, judicial construction is neither necessary nor permitted. *Sun Valley Foods Co. v. Ward*, 460 Mich. 230, 236, 596 N.W.2d 119 (1999). However, if reasonable minds can differ regarding the meaning of a statute, judicial construction is appropriate. *Adrian School Dist. v. Michigan Pub. School Employees Retirement Sys.*, 458 Mich. 326, 332, 582 N.W.2d 767 (1998). The rules of statutory construction also apply to ordinances, *Gora v. Ferndale*, 456 Mich. 704, 711, 576 N.W.2d 141 (1998), and city charters, *Detroit v. Walker*, 445 Mich. 682, 691, 520 N.W.2d 135 (1994).

If two statutes lend themselves to a construction that avoids conflict, that construction should control. *House Speaker v. State Admin Bd.*, 441 Mich. 547, 568–569, 495 N.W.2d 539 (1993). The construction should give effect to each “without repugnancy, absurdity, or unreasonableness.” *Michigan Humane Society v. Natural Resources Comm.*, 158 Mich.App. 393, 401, 404 N.W.2d 757 (1987). When two statutes or provisions conflict, and one is specific to the subject matter while the other is only generally applicable, the specific statute prevails. *Gebhardt v. O'Rourke*, 444 Mich. 535, 542–543, 510 N.W.2d 900 (1994).

B. Analysis

The city of Livonia is organized and operates pursuant to the Michigan Home City Rule Act, MCL 117.1 *et seq.* See *Korash v. Livonia*, 388 Mich. 737, 202 N.W.2d 803 (1972). Chapter IV, § 24, of the Livonia City Charter states:

The Mayor shall have the power to veto, except as otherwise in this Chapter provided, which veto, with his reasons *132 therefor in writing, must be made and filed with the City Clerk prior to the time of the next regular meeting of the Council, at which said meeting the Clerk shall present such veto or vetoes to the Council;

provided, however, that if the next regular meeting of the Council following the meeting or adjournment **772 thereof, at which an ordinance or resolution was enacted occurs within seven (7) days of the adjournment, the Mayor shall continue to have the right to veto such ordinance or resolution until the next succeeding regular meeting of the Council. The Council may, only at said meeting, or at any adjournment thereof, reconsider the vote by which such proceedings were passed and adopted; and if it so elects, may, only at said meeting or at any adjournment thereof, readopt such proceedings by an affirmative vote of five (5) of the members elect, in which event the Mayor shall have no further right to veto, and in which event, all such proceedings, except ordinances, shall take effect on the day succeeding said meeting of the Council; and ordinances so passed shall become effective when published according to law, provided, however, that if the next regular meeting of the Council following the receipt of a veto occurs within seven (7) days of the same, the Council shall continue to have the right to re-adopt such proceedings in the manner herein prescribed at the next succeeding regular meeting of the Council. All resolutions and proceedings, not vetoed by the Mayor in the manner and within the time hereinabove specified, shall become effective on the date succeeding the date of the next regular meeting of the Council; and ordinances not so vetoed by the Mayor shall become effective when published and recorded according to law.

As the parties acknowledge, the charter grants broad veto power to the mayor. In *Livonia Drive-In Theatre Co. v. Livonia*, 363 Mich. 438, 109 N.W.2d 837 (1961), the Supreme Court, interpreting the Livonia Charter, found that the mayor had veto power over not just legislation, but also over administrative matters decided by the city council. In that case, the *133 plaintiff challenged the right of the mayor to veto a decision of the city council involving the issuance of a license to operate a drive-in theatre on industrially zoned property. In *Livonia Drive-In*, the Court ruled that the mayor had the authority to veto the decision and concluded that there was no valid approval of the plaintiff's application because the city council failed to override the mayor's veto.

Plaintiff argues that *Livonia Drive-In* is not controlling in this case because “[that] decision did not ... deal with the question of whether the provisions of the CVZA [City and Village Zoning Act, MCL 125.581 *et seq.*] overrode the Charter.” Since *Livonia Drive-In* was decided, the CVZA has been substantially revised, with the adoption, in 1978, of MCL 125.584a and 125.584c. According to plaintiff, “Sections 4a

and 4c were added to the CVZA to ensure that administrative decisions, such as the waiver use decision involved in the instant case, were based on standards and procedures specified in the zoning ordinance, and were protected from arbitrary, standardless action.” In plaintiff’s view, “[t]his case thus involves a clash between the provisions of a city charter and the provisions of the CVZA.”

In support, plaintiff relies on *Korash, supra*, in which the city defended the use of initiative to amend the Livonia Zoning Ordinance on the ground that the charter provided broadly for enactment of ordinances by initiative. Ruling against the city, the Supreme Court in *Korash* held that, under the CVZA, a zoning ordinance could not be enacted by initiative because the CVZA, a state statute, prevails over the provisions of the city charter. *Id.* at 743, 202 N.W.2d 803 (noting that the Home Rule City Act, MCL 117.36, states that, “No provision *134 of any charter shall conflict with or contravene the provisions of any general law of the state.”).

****773** According to plaintiff, *Korash* controls the outcome of this case because § 4a of the CVZA directs that the zoning ordinance “shall specify ... the body or official charged with reviewing special land uses and granting approval[.]” MCL 125.584a(1)(a), and “[t]he procedures ... required for application, review, and approval[.]” MCL 125.584a(1)(c). In accordance with the CVZA, the LZO specifies the procedures for application, review, and approval of a waiver use, and designates the body or official to review and approve waiver uses. Specifically, LZO § 11.03, pertaining to “waiver uses,” provides, in pertinent part:

The following uses are permitted only if specifically recommended by the City Planning Commission and approved by the Council. The Commission shall recommend approval of the use only if it finds that the proposal for such use complies with the special requirements and regulations provided therefor and with the standards set forth in Section 19.06 of this ordinance.... In relevant part, § 19.06 provides:

Where this ordinance empowers the City Planning Commission to review waivers or approval of conditional uses to be approved by the City Council, such waiver or use shall be approved only where the proposal complies with all of the special requirements for the waiver or use sought to be approved and that the proposal, whether it is for a waiver or use approval, complies with all of the following general standards:

* * *

The Commission and/or City Council in acting on any request for waiver or approval of a conditional use, may attach any conditions to its approval which it determines as *135 necessary to accomplish the reasonable application of the special requirements and the foregoing standards.

The zoning ordinance in question, § 11.03, essentially provides that an application for waiver use is to be reviewed by the planning commission, which then makes a recommendation to the city council for review and ultimate approval or rejection.² The relevant zoning ordinance is silent, however, about the role of the mayor in this process. Thus, plaintiff argues that because the zoning ordinance does not give the mayor a role in this process, “the Mayor has no authority to make his own determination as to whether the standards required by the zoning ordinance have been met, and the Mayor has no authority to set aside, reverse, or veto the determination by the City Council.” Put in other terms, plaintiff asserts that “[t]he zoning ordinance clearly grants th[e] authority to grant approval for waiver uses to the City Council with no power *whatsoever* granted to the Mayor to overturn the City Council’s approval.” In this regard, plaintiff points out that defendants’ brief in support of their motion for summary disposition concedes as much by admitting that the city council has “absolute discretion” and “exclusive authority” to grant waiver use approvals.

****774** Plaintiff also maintains that *The Raven, Inc. v. Southfield*, 69 Mich.App. 696, 245 N.W.2d 370 (1976), *136 rev’d for reasons stated in dissent, 399 Mich. 853, 387 N.W.2d 925 (1977), is dispositive, thereby supporting its view that the mayor had no veto authority in this case. In *The Raven*, the Supreme Court, reversing the decision of this Court, adopted this Court’s dissenting opinion by Judge Danhof in concluding that the city council’s four-to-three decision approving an application for a liquor license was final because the state statute, which gave the mayor no veto power, prevailed over the mayor’s general veto power conferred by the city’s charter. As plaintiff notes, Judge Danhof stated in his dissenting opinion that the state statute, which had “only one plain meaning,” provided for “a delegation of exclusive legislative power to the City of Southfield’s ‘legislative body.’” Judge Danhof further stated that “[t]he statute does not, and the city charter cannot, confer any authority upon the mayor of the city.” [*The Raven, supra* at 704, 245 N.W.2d 370.

We agree with plaintiff that “under the authority of [*The Raven* and *Korash* and under MCL 117.36, the Mayor had no veto power, and the City Council's approval must stand.” Under the CVZA, the zoning ordinance designates “the body or official charged with reviewing special land uses and granting approval.” MCL 125.584a(1)(a). Sections 11.03 and 19.06 of the LZO, when read together, provide that city council ultimately makes the decisions regarding applications for special land uses, such as waiver uses. Although the Livonia City Charter grants broad veto power to the mayor, the LZO does not explicitly provide for a mayoral veto with regard to waiver use decisions. Given that the city council chose not to provide for a mayoral veto in the LZO when enacting the special land use provisions of the CVZA, we agree with plaintiff that *137 the trial court erred in concluding that the mayor had the power to veto the city council's decisions approving the waiver uses.

The complete silence of the LZO regarding mayoral veto power of the waiver use decision of the Livonia City Council requires a judicial adherence to the state statute on the matter before this Court. The city officials in Livonia may wish to specifically provide for mayoral veto power in the future. But, the stark omission of such power is in sharp contrast with the specificity required by MCL 125.584a(1)(a) and (c) with which the Livonia City Council adhered consistently.

Contrary to defendants' claim, reliance upon *Korash* is not misplaced. Although *Korash* was decided before the 1978 amendments of the CVZA pertaining to special land uses, *Korash* remains controlling legal authority for the general proposition that a charter provision may not conflict with or contravene a state statute. Here, we agree with plaintiff that the charter provision pertaining to the veto power of the mayor conflicts with the CVZA, which provides that if a city wishes to provide for special uses, it must do so “in [the] zoning ordinance” and specify the body or official reviewing proposals and deciding on them. MCL 125.584a(1). Under *Korash*, the Livonia charter provision granting the mayor broad veto power does not override the CVZA, which indicates that the zoning ordinance must specify the body or official with the power to grant approvals for special land uses and the procedure for approval. In this instance, §§ 11.03 and 19.06 of the LZO specify that the city council is the body authorized to grant approvals for special land uses. Thus, even though the Livonia City Charter, adopted pursuant to the Home Rule City Act, provides *138 the mayor with broad **775 veto power over the decisions of city council, the CVZA prevails over the city charter provision, which may

not conflict with “any general law of the state” under MCL 117.36 of the Home Rule City Act. Further, the CVZA, as a more specific statute, prevails over the Home Rule City Act in the event of a conflict concerning the Livonia City Charter provision regarding mayoral veto power. *Gebhardt, supra* at 542–543, 510 N.W.2d 900. Provisions of the LZO, namely, §§ 11.03 and 19.06, which were enacted pursuant to the CVZA, do not grant the mayor the power to veto the city council's approval of a special land use decision, such as a waiver use; thus, the city council's decisions approving the waiver uses in this case must stand as final decisions.

Further, contrary to defendants' contention, the power of the mayor to veto land use decisions of the city council does present a conflict with the procedures set forth in the CVZA because the zoning ordinance, § 11.03, provides no authority to the mayor to veto the city council's approval. Indeed, defendants' admission that “[t]he subsequent veto by the Mayor served only to force a super-majority vote requirement on the part of the City Council in order to grant final approval of the petitions” is a clear recognition that the charter provision conferring veto power upon the mayor conflicts with the procedures set forth in the CVZA and expressed in the zoning ordinance, which only requires the city council's approval by a majority vote, not a supermajority vote.

In addition, contrary to defendants' claim, *The Raven* is, for relevant purposes, not distinguishable from the present case. In *The Raven*, the statute provided the exclusive authority to the city council, *139 while in this case the CVZA, as an enabling statute, directs the zoning ordinance to provide the grant of authority. Although defendants point out that “the CVZA contains no state mandate as to the appropriate body or official to consider special land use requests and instead provides that cities shall make this determination by designating such body or official in their zoning ordinance,” the critical legal fact remains that, in both *The Raven* and this case, the grant of exclusive authority was unequivocal. In *The Raven*, the grant of exclusive authority came directly from the statute, whereas in this case it proceeds from a zoning ordinance enacted pursuant to the statute. In our view, this is a distinction without an essential legal difference because in both instances the exclusive authority is statutorily based.

Contrary to defendants' contention, *Oakland Co. Comm'r v. Oakland Co. Executive*, 98 Mich.App. 639, 296 N.W.2d 621 (1980), is not applicable. In *Oakland Co. Comm'r*, the issue involved the county executive's veto power under the optional

unified form of county government adopted by Oakland County. Pursuant to MCL 45.561, the county executive may veto any ordinance or resolution adopted by the board of commissioners. In that case, the voters in Oakland County, as authorized by the statute, expressly chose to grant veto power to the county executive. In *Oakland Co. Comm'r*; this Court held that the statutes in question were not in conflict, but were “completely harmonious,” where “[t]he ability of the board of commissioners to vote ... does not conflict with the ultimate veto power of the county executive, nor with the board of commissioners' subsequent ability to override such vetoes.” *Id.* at 652, 296 N.W.2d 621. Unlike *Oakland Co. *140 Comm'r*; where there was no conflict between the statutes, there is a conflict between the statutes in question here (the CVZA and the Home Rule City Act). As plaintiff points out, “the applicable statute authorized the City to designate in the zoning ordinance the body or official empowered to grant or deny **776 special use approval and to specify the procedures applicable. The City could have chosen to provide in its zoning ordinance for a role for the mayor in the special use process, but it chose not to.” Moreover, as plaintiff rightly argues, *Oakland Co. Comm'r* is actually consistent with *The Raven* in that “[b]oth cases stand for the proposition that there is no inherent veto power, and that one must look to the controlling statute.”

Finally, as plaintiff notes in its supplemental brief, this Court's recent decision in *Harbor Telegraph 2103, LLC v. Oakland Co. Bd. of Comm'rs*, 253 Mich.App. 40, 654 N.W.2d 633 (2002), “while not directly on point, is instructive.” In *Harbor Telegraph*, this Court stated that “[t]he clear and unambiguous language of MCL 45.561 inescapably leads to our conclusion that the county executive possessed the authority to veto the board of commissioners' detachment resolution....” *Id.* at 54, 654 N.W.2d 633. As plaintiff points out, “[t]he executive veto is a creature of statute” and does not exist unless the statute creates it. The reasoning, as applied to the present case, is that because there is no inherent veto power, one must look to the controlling statute to determine whether veto power

has been granted. Thus, because neither the CVZA nor the zoning ordinance explicitly granted veto power to the mayor regarding special land use decisions, the *141 mayor did not have the power to veto the city council's approval of the waiver uses in this case.

V. Conclusion

The mayoral veto issue is dispositive of this appeal. Plaintiff's remaining issues are based on the supposition that the mayor did have veto power and, because we find that he did not, we decline to reach the remaining issues. Accordingly, we reverse the trial court's order dismissing plaintiff's complaint. The mayor had no power to veto the city council's special land use decisions; therefore, we remand for entry of a judgment granting plaintiff's motion for summary disposition under MCR 2.116(I), affording it the relief requested in its complaint, specifically a declaration that the waiver use approvals granted by the city council have full force and effect and an order directing defendants and their agents to issue “a certificate of occupancy and such other approvals and permits as are required to permit the operation of the proposed Hooters restaurant within the restaurant portion of the premises upon presentation of plans which comply with the City's building code.”

Reversed and remanded for entry of an order granting plaintiffs' motion for summary disposition under MCR 2.116(I). We do not retain jurisdiction.

DONALD S. OWENS, RICHARD ALLEN GRIFFIN, and
BILL SCHUETTE, JJ., concur.

All Citations

259 Mich.App. 116, 673 N.W.2d 763

Footnotes

- 1 As plaintiff points out, § 18.17 incorporates the definition of nonconforming use set forth in the City and Village Zoning Act, the zoning enabling statute, in which MCL 125.583a(1) provides, in pertinent part, that “[t]he lawful use of land or a structure exactly as the land or structure existed at the time of enactment of the ordinance affecting that land or structure may be continued ... although that use or structure does not conform with the ordinance.”
- 2 There does appear to be some conflict between the two sections in the LZO. Section 11.03 provides that approval of waiver uses requires both the planning commission's approval *and* the city council's approval. On the other hand, § 19.06 provides that the planning commission reviews waiver uses, which require the approval of city council. Reading the two

sections of the LZO together, we believe that the planning commission's approval is not necessary for the final approval of a waiver use and that only the approval of city council is required.

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UNPUBLISHED OPINION. CHECK
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UNPUBLISHED
Court of Appeals of Michigan.

Patricia Ann SOECHTIG, Plaintiff–Appellant,

v.

TOWNSHIP OF GREENBUSH and
Greenbush Township Zoning Board
of Appeals, Defendants–Appellees.

Docket No. 301757.

I

June 12, 2012.

Alcona Circuit Court; LC No. 10–001545–AA.

Before: MARKEY, P.J., and BECKERING and M.J. KELLY,
JJ.

Opinion

PER CURIAM.

*1 Plaintiff Patricia Ann Soechtig appeals by leave granted from the circuit court's order affirming the decision of defendant Greenbush Township Zoning Board of Appeals (ZBA), denying plaintiff's request for a zoning variance. We reverse and remand to the ZBA for further proceedings.

I. PERTINENT FACTS AND PROCEDURAL HISTORY

Plaintiff's family has owned lakefront property in Greenbush, Michigan, since 1956. Plaintiff maintained that the cottage on the property has either been rented or available for rent every summer since 1957. In 1984, the property was rezoned as “R–1” or single-family residential, which prohibited weekly rentals. In 2010, defendant informed plaintiff that the property could not be rented pursuant to the zoning ordinance. Plaintiff explained that the cottage had been available for rent since 1957.

Defendant requested that plaintiff provide rental receipts “prior to 1984 and each consecutive year, through 2009. This would easily validate your claim of continuous rentals and would settle the issue.” By letter, plaintiff responded:

I cannot provide any rental receipts prior to 1984 since my grandmother was responsible for the cottage prior to her death in 1985. She rented the cottage to friends and neighbors and when my mother took over from 1985 to 2004 she also rented to friends and neighbors and I have no idea if she kept receipts and now that she's dead, I can't ask her.

Plaintiff's letter included a signed affidavit in which plaintiff attested that “[t]he cottage ... which has been owned by my family since 1956 was either rented or offered continuously for rent since 1957.” The township formally denied plaintiff's request for summer rentals, stating the following:

Greenbush Township has been more than reasonable in requesting some sort of verification that your cottage in Greenbush has been rented continuously during the summer months since prior to 1984 and through 2009.

Unfortunately, you provided no proof this occurred other than providing us with a General Affidavit stating your position. We have no alternative than to deny your request for summer rentals in the established R–1 Zoning District.

Plaintiff appealed the township's decision to the ZBA and was told by the township's attorney that “[i]f you have any other proof that the property was used as a rental, ... gather the same and present it to the Zoning Board of Appeals as part of your appeal.” Plaintiff provided three letters from families that rented the cottage from plaintiff's mother “on several occasions” during the 1970s and 1980s. One letter specifically emphasized that the rentals occurred during the summer. Plaintiff also provided four notarized affidavits that stated that the cottage had been owned by plaintiff's family since 1956 and “either rented or offered continuously for rent since 1957” or “to my personal knowledge has been rented since at least 1983.” In addition, plaintiff provided a printout of a rental property website, showing that an internet listing for rental of the cottage was “Live since: Mar 29 2006.” During the ZBA hearing, the following “ordinance” was read into the record: “Non-conforming uses shall not be re-established after discontinued use and for abatement of use for a period of three hundred and sixty-five (365) consecutive days.” The ZBA voted unanimously to deny plaintiff's request for a variance. Relying on the “ordinance,” the ZBA found that plaintiff had not established a prior nonconforming use by

demonstrating continuous use as rental property “every year” since 1984. It also opined that plaintiff’s supporting affidavits were “self-serving” and unpersuasive.

*2 Plaintiff appealed to the circuit court. The circuit court affirmed the ZBA’s decision, finding that plaintiff did not “even come close” to establishing a prior nonconforming use.

This Court granted plaintiff’s application for leave to appeal and directed the parties to “address the applicability of *Livonia Hotel, LLC v. City of Livonia*, 259 Mich.App 116, 127–128; 673 NW2d 763 (2003), and the cases cited therein.”

II. ANALYSIS

We review de novo a circuit court’s decision in an appeal from a city’s zoning board, while giving great deference to both the circuit court’s and the zoning board’s findings. *Edw C Levy Co v. Marine City Zoning Bd of Appeals*, 293 Mich.App 333, 340; 810 NW2d 621 (2011); see also *Norman Corp v. East Tawas*, 263 Mich.App 194, 198; 687 NW2d 861 (2004). A circuit court reviews the decision of a zoning board of appeals to ensure that it (1) conforms to the constitution and the laws of this state, (2) is based upon proper procedure, (3) is supported by competent, material, and substantial evidence, and (4) represents the reasonable exercise of discretion granted by law to the zoning board of appeals. *Levy Co*, 293 Mich.App at 340; see also *Janssen v. Holland Charter Twp Zoning Bd of Appeals*, 252 Mich.App 197, 201; 651 NW2d 464 (2002) (“The decision of a zoning board of appeals should be affirmed unless it is contrary to law, based on improper procedure, not supported by competent, material, and substantial evidence on the record, or an abuse of discretion.”). “ ‘Substantial evidence’ is evidence that a reasonable person would accept as sufficient to support a conclusion. While this requires more than a scintilla of evidence, it may be substantially less than a preponderance.” *Levy Co*, 293 Mich.App at 340–341; see also *Keller v. Farmington Twp*, 358 Mich. 106, 111; 99 NW2d 578 (1959) (“[T]he court should not interfere with the judgment of a zoning board if there is a reasonable basis for its ruling.”).

“A prior nonconforming use is a vested right in the use of particular property that does not conform to zoning restrictions, but is protected because it lawfully existed before the zoning regulation’s effective date.” *Belvidere Twp v. Heinze*, 241 Mich.App 324, 328; 615 NW2d 250 (2000), citing *Heath Twp v. Sall*, 442 Mich. 434, 439;

502 NW2d 627 (1993). “[I]t is a lawful use that existed before the restriction, and therefore continues after the zoning regulation’s enactment.” *Sall*, 442 Mich. at 439. “Nonconforming use involves the physical characteristics, dimensions, or location of a structure, as well as the use of the premises.” *Levy Co*, 293 Mich.App at 342. Notably, a nonconforming use may be seasonal. See *Civic Ass’n of Dearborn Twp, Dist No. 3 v. Horowitz*, 318 Mich. 333, 339–340; 28 NW2d 97 (1947).

“Whether an activity warrants classification as a nonconforming use necessarily involves an imprecise determination.” *Grosse Ile Twp v. Dunbar & Sullivan Dredging Co*, 15 Mich.App 556, 563; 167 NW2d 311 (1969). The burden of establishing a nonconforming use is on the property owner. See *Sall*, 442 Mich. at 439. This Court has stated that “[t]o establish a prior nonconforming use, a property owner must engage in work of a substantial character done by way of preparation for an actual use of the premises.” *Belvidere Twp*, 241 Mich.App at 328 (landowner’s purchase of property with the intention to use it for the purpose of operating a large-scale hog farm did not give rise to a vested nonconforming use). “[I]t is essential to show nonconformance in a reasonably substantial manner.” *Fruitport Twp v. Baxter*, 6 Mich.App 283, 285; 148 NW2d 888 (1967); see also *Peacock Twp v. Panetta*, 81 Mich.App 733, 738; 265 NW2d 810 (1978). “The zoning restriction’s enactment date is the critical point in determining when a nonconforming use vests.” *Sall*, 442 Mich. at 441. “Once a nonconforming use is established, a subsequently enacted zoning restriction, although reasonable, will not divest the property owner of the vested right. Thus, a prior nonconforming use is an exception to zoning’s general principle that certain uses should be confined to certain localities.” *Id.* at 439. (internal citation omitted). MCL 125.3208(1) provides in part:

*3 If the use of a dwelling, building, or structure or of the land is lawful at the time of enactment of a zoning ordinance or an amendment to a zoning ordinance, then that use may be continued although the use does not conform to the zoning ordinance or amendment.

“The policy of the law is against the extension or enlargement of nonconforming uses.... The continuation of a nonconforming use must be substantially of the same size and the same essential nature as the use existing at the time of passage of a valid zoning ordinance.” *Levy Co*, 293 Mich.App at 342.

In granting leave to appeal, this Court directed the parties to address the principles of abandonment of a prior nonconforming use as articulated in this Court's decision in *Livonia Hotel* and the cases cited therein, i.e., *Dusdal v. City of Warren*, 387 Mich. 354; 196 NW2d 778 (1972), and *Rudnik v. Mayers*, 387 Mich. 379; 196 NW2d 770 (1972).

The plaintiff in *Livonia Hotel* operated a hotel with an adjoining restaurant that served alcohol pursuant to a class B liquor license, a valid nonconforming use. *Livonia Hotel*, 259 Mich.App at 118, 128. The plaintiff purchased the hotel in 1995, continued to operate it, and kept the liquor license in effect although the restaurant owner discontinued operations. *Id.* at 128. In 2000, the plaintiff signed a lease agreement with a new restaurant. *Id.* The city asserted that the plaintiff would be required to obtain a new waiver for a nonconforming use because the prior restaurant use had been abandoned for more than one year and, thus, was considered abandoned under Livonia Zoning Ordinance § 18.18, which stated that discontinuance of a nonconforming use for one year would be considered an abandonment of the use. *Id.* at 127. The plaintiff contended that it never intended to abandon the restaurant use. *Id.* at 120. The plaintiff and the new restaurant owner each filed new waiver use petitions. *Id.* The city council approved the petitions, but the mayor vetoed them. *Id.* at 120–121. The plaintiff and the restaurant owner filed a complaint in circuit court, seeking a declaration that the proposed restaurant use had not been abandoned. *Id.* at 121. The circuit court found that the restaurant was abandoned and dismissed the case. *Id.* at 122.

On appeal, the plaintiff argued that the circuit court erred in finding that it had abandoned the restaurant use. This Court stated:

As plaintiff points out, the Court in *Dusdal v. City of Warren*, 387 Mich. 354, 196 NW2d 778 (1972), and *Rudnik v. Mayers*, 387 Mich. 379, 196 NW2d 770 (1972), addressed the definition of “abandonment” in the context of zoning law. As stated in *Dusdal*, *supra* at 360, 196 NW2d 778:

The record does not support a finding of legal abandonment. Abandonment in the contemplation of the law is something more than mere nonuser. It is rather a nonuser combined with an intention to abandon the right to the nonconforming use. The burden of proving the abandonment was on the city. It introduced no evidence from which it would be reasonable to conclude that the plaintiff ever intended to relinquish or abandon

his vested right to use his property in the manner in which it was being used prior to the residential zoning amendment.

*4 In *Rudnik*, *supra* at 384, 196 NW2d 770, the Court stated, “The necessary elements of ‘abandonment’ are intent and some act or omission on the part of the owner or holder which clearly manifests his voluntary decision to abandon.”

As plaintiff correctly notes, “Section 18.18 is in direct contravention of the Supreme Court's holdings in *Rudnik* and *Dusdal* ” because it defines abandonment solely on the basis of “actual discontinuance of such valid nonconforming use for a period of one (1) year,” LZO 18.18(b), without requiring an intent to abandon the right to the nonconforming use. [*Livonia Hotel*, 259 Mich.App at 127–128.]

This Court held that “as a matter of law, plaintiff did not abandon its restaurant use” given the plaintiff's “continued efforts to reopen a restaurant in the hotel.” *Id.* at 128–129.

In this case, the nonconforming use at issue is the summer rental of the cottage owned by plaintiff's family. The ordinance that prohibited the rental of the cottage was enacted in 1984. Thus, the 1984 enactment date “is the critical point in determining” whether plaintiff had a vested nonconforming use. See *Sall*, 442 Mich. at 441. Importantly, while plaintiff's use of the cottage after the 1984 enactment date would be relevant to determine whether plaintiff abandoned a prior nonconforming use or expanded the scope of such use, it is irrelevant to the initial determination of whether plaintiff established a vested right in the nonconforming use of the cottage for summer rentals. See *id.* (“Construction undertaken after the zoning regulation's enactment is inapposite to determining whether a property owner tangibly changed the land,” i.e., whether there is a vested nonconforming use.). When determining whether plaintiff established a prior nonconforming use, the ZBA relied on the “ordinance” and required plaintiff to demonstrate continuous use of the cottage as rental property “every year” since 1984, i.e., that the rental of the cottage had not been discontinued for 365 days since the 1984 enactment date. The “ordinance” relied upon by the ZBA addresses abandonment of a prior nonconforming use—not establishment of a prior nonconforming use. Without addressing the legality of the Greenbush Township “ordinance” under *Livonia Hotel*, we conclude that the ZBA's reliance on the “ordinance” for purposes of determining whether plaintiff established a prior nonconforming use was contrary to law. See *id.*; *Levy Co*, 293 Mich.App at 340. In

order to establish a prior nonconforming use, plaintiff did not have to prove the continuity required by the “ordinance.” The ZBA’s requirement that plaintiff do so was contrary to Michigan law. Therefore, the circuit court’s decision must be reversed, and the case must be remanded to the ZBA for further proceedings consistent with Michigan law.

On remand, the ZBA shall determine whether plaintiff established the existence of a prior nonconforming use, i.e., whether the cottage was rented during the summer before the 1984 ordinance became effective. To do so, the ZBA shall determine whether plaintiff submitted evidence demonstrating that the cottage was used in a reasonably substantial manner for summer rental before enactment of the 1984 ordinance. See *Belvidere Twp*, 241 Mich.App at 328; *Fruitport Twp*, 6 Mich.App at 285; *Grosse Ile Twp*, 15 Mich.App at 564. As noted above, a nonconforming use may be seasonal. See *Horowitz*, 318 Mich. at 338–339 (an outdoor carnival, which was operated during the summer months, was deemed to be a prior nonconforming use); see also *Adams v. Kalamazoo Ice & Fuel Co*, 245 Mich. 261, 263–264; 222 NW 86 (1928) (removal of an old building, fitting the ground for and placement of an ice station building thereon, to be used only during the ice demand season, was deemed to be a prior nonconforming use). We note that the Michigan Supreme Court has concluded that undisputed testimony from a property owner seeking to establish a prior

nonconforming use is sufficient to support the existence of a prior nonconforming use. See *White Lake Twp v. Amos*, 371 Mich. 693, 696, 699–700; 124 NW2d 803 (1963).

*5 Assuming a prior nonconforming use has been established by plaintiff, the continuation of a vested right to the nonconforming use “may not generally be expanded,” and “[t]he continuation of a nonconforming use must be substantially of the same size and the same essential nature as the use existing at the time of passage of” the 1984 ordinance. See *Levy Co*, 293 Mich.App at 342. If the evidence submitted by plaintiff establishes a prior nonconforming use, then the township may attempt to show that plaintiff abandoned the prior nonconforming use. To do so, the township must demonstrate that (1) plaintiff intended to abandon the nonconforming use, i.e., summer rental of the cottage, and (2) an act or omission by plaintiff that clearly manifests her voluntary decision to abandon. See *Livonia Hotel*, 259 Mich.App at 127–128.

Reversed and remanded to the ZBA for further proceedings. We do not retain jurisdiction.

All Citations

Not Reported in N.W.2d, 2012 WL 2126046



January 11, 2023

Zoning Board of Appeals
Genoa Township
2911 Dorr Road
Brighton, Michigan 48116

Attention:	Amy Ruthig, Planning Director
Subject:	Our Lady of the Fields Camp – Review of Dimensional Variances
Location:	South side of McClements Road, between Kellogg and Euler Roads
Zoning:	PRF Public and Recreational Facilities District

Dear Board Members:

At the Township’s request, we have reviewed the materials submitted seeking dimensional variances for the construction of recreational structures.

Specifically, the proposal entails a zip line and “giant swing” on the north side of the lake.

For the Board’s information, the Planning Commission approved the sketch plan for the zip line project at their November 14, 2022 meeting with a condition that the applicant obtain height variances.

It is important to note that the approved sketch plan did not include the “giant swing.” This structure has been added as part of the ZBA submittal.

Additionally, the terminating pole depicted on the approved sketch plan has a height of 20’, as opposed to the 25’ shown on the ZBA submittal.

Furthermore, the application form does not accurately represent the requirements of the Zoning Ordinance in relation to the extent of variances sought. Specifically, the reference to a 35’ height allowance is for principal buildings, which does not apply to the accessory structures proposed.

In accordance with accessory structure requirements (Section 11.04) of the Zoning Ordinance, the applicant seeks the following dimensional variances:

- A climbing tower with a height of 45’ (where a maximum of 18’ is allowed);
- A terminating pole with a height of 25’ (where a maximum of 18’ is allowed); and
- A “giant swing” with a height of 36’ (where a maximum of 18’ is allowed).

SUMMARY

1. Given the height limitations for accessory structures, the Board could view strict compliance as unnecessarily burdensome (practical difficulty).
2. We request the applicant provide the Board with information related to the height needed for the “giant swing,” and why it cannot function at the allowable height of 18’ (substantial justice).
3. In this instance, the extraordinary circumstance is tied to the intended use of accessory recreational structures, and the need for increased height (extraordinary circumstance).
4. Given the nature of the project, granting of the variances will not impair the supply of light and air, nor will it unreasonably impact traffic or public safety (public safety and welfare).
5. The proposed structures will be buffered from off-site properties via ample setbacks and/or mature vegetation (impact on surrounding neighborhood).
6. If favorable action is considered, we suggest two conditions: that the existing vegetation be preserved and maintained between the “giant swing” and Euler Road; and that illumination of the structures be prohibited (impact on surrounding neighborhood).



Aerial view of site and surroundings (looking north)

VARIANCE REVIEW

We have reviewed the request in accordance with the dimensional variance review criteria of Section 23.05.03, as follows:

- 1. Practical Difficulty/Substantial Justice.** Variances are not necessary to maintain or even expand the existing private campground.

However, the Zoning Ordinance does not provide regulations for recreational structures, such as those proposed.

As such, these structures are governed by accessory building/structure regulations, which do not allow the heights necessary for these types of structures.

The Board may view strict compliance, which limits heights to 18', as unnecessarily burdensome to the applicant.

We are somewhat familiar with zip lines through our work with other communities, and understand the need for a height increase to provide a functional structure; however, we request the applicant provide the Board with information supporting the need for a 36' tall "giant swing."

- 2. Extraordinary Circumstances.** The property is relatively large and regular in shape with no discernable extraordinary circumstances.

In this instance, the extraordinary circumstance is tied to the intended use of accessory recreational structures, and the need for increased height.

As noted above, the applicant should provide additional information related to the variance sought for the "giant swing."

- 3. Public Safety and Welfare.** Given the nature of the project, granting of the variances will not impair the supply of light and air, nor will it unreasonably impact traffic or public safety.

- 4. Impact on Surrounding Neighborhood.** Though the structures are tall in relation to a conventional accessory structure, they are generally located such that there is ample setback and/or screening by mature trees.

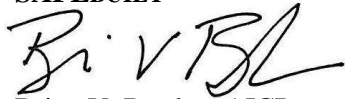
Given the proposed location of the “giant swing,” we suggest the Board include a condition that the applicant must preserve and maintain the existing vegetation between the structure and Euler Road (if favorable action is considered).

Additionally, we suggest a condition that illumination of the proposed structures be prohibited (if favorable action is considered). This will limit use to reasonable hours and help to mitigate any potential off-site impacts.

Should you have any questions concerning this matter, please do not hesitate to contact our office.

Respectfully,

SAFE BUILT

A handwritten signature in black ink, appearing to read "B. V. Borden". The signature is stylized and cursive.

Brian V. Borden, AICP
Michigan Planning Manager

Moved by Commissioner Rauch, seconded by Commissioner Dhaenens, to approve the Sketch Plan dated September 22, 2022 for a dumpster enclosure and gravel drive for Image Pros located at 1910 Dorr Road, based on the following conditions:

- The use of gravel is acceptable due to the use conditions discussed this evening
- The minimum width of the gravel drive will be increased to 15 feet wide
- The dumpster enclosure will be installed on the south side of the building. The location and design will be approved by Township Staff and shall meet ordinance requirements.
- The material of treated lumber or cedar is acceptable for the dumpster enclosure materials.
- An “Employees Only” sign will be placed in front of the dumpster enclosure.
- All conditions of the Brighton Area Fire Authority Fire Marshal’s letter dated October 20, 2022 shall be met.

The motion carried unanimously.

OPEN PUBLIC HEARING #4...Consideration of a sketch plan for proposed camp zip line structures including a climbing tower, terminating pole and a deck for the Our Lady of the Fields located at 7000 McClements Road, south side of McClements Road, between Kellogg and Euler Roads. The request is petitioned by Chaldean Catholic Church of the United States.

A. Disposition of Sketch Plan (10-26-22)

Mr. Wayne Perry of Desine, Inc. stated the applicant would like to add a deck to the rear of one of the buildings, as well as a tower, end pole, and a zip line for the camp participants.

Mr. Borden reviewed his letter dated November 8, 2022.

1. The “climbing tower” at 45 feet exceeds the maximum height requirement, which will require variances from the ZBA.
2. Pending the Township’s interpretation, the “terminating pole” may also need a variance for its height.
3. Note D on Sheet C1.0 needs to be revised to remove the phrase “at grade.”

Ms. Byrne stated she has no engineering related comments on this proposed sketch plan.

The Brighton Area Fire Authority Fire Marshal’s letter dated November 2, 2022 stated:

1. No details were provided regarding the specific construction of the deck. The applicant is advised that the existing building is a sprinklered wood frame structure. The sprinkler code requires combustible exterior projections greater than 4-feet be suppressed below when used for storage. Due to the height and area below this will require suppression.
2. The fire pump test connection is located below the proposed location of the deck. The test connection shall be relocated near the FDC or a minimum 44-inch wide 84-inch tall clear access space maintained clear along the building face for pump testing.

Mr. Perry stated he will work with the Fire Marshal regarding his concerns.

The call to the public was opened at 9:17 pm

Mr. James Drouillard of 6781 Felice questioned if this will bring excessive noise or more people.

Ms. Patty Kopicko of 6843 Felice read a letter from Mike and Dory Berean of 1237 Euler Road, who were not able to attend tonight's meeting. They continue to have concerns with the use of this property as well as the addition of this zip line. Ms. Kopicko agrees with Mr. and Mrs. Berean's letter. The camp was at full capacity last year so they do not need this to have to bring in more people. She is concerned with the additional noise this will bring.

Mr. Steve Olivieri of 1200 Kellogg Road questioned if the rope course was approved by the Township.

Ms. Lynn Drouillard of 6781 Felice questioned why a large building needs to be there for people to start the zip line. She is concerned with the users being able to look into her house as well as the noise. She is fine with the camp, but they keep adding elements. They have now purchased the property across the street.

Mr. David Shirk of 1160 Kellogg loves to hear the children in the camp having a good time. He does not care how tall the structure is. If it makes the kids happy, he is in favor of it. He prefers that instead of the gunshots that he hears behind him.

The call to the public was closed at 9:28 pm.

Commissioner Lowe asked about safety. She questioned if the zip line will be open to the public. Mr. James Berigan stated the zip line is only available when the camp is being used. When the camp is closed, it is locked and not accessible. There will also be certified personnel monitoring the people using the zipline.

Moved by Commissioner Rauch, seconded by Commissioner Dhaenens, to approve the Sketch Plan dated October 26, 2022 for propose camp zip line structures including a climbing tower, terminating pole and a deck for the Our Lady of the Fields located at 7000 McClements Road, with the following conditions:

- The climbing tower and terminating pole will require a variance form the ZBA for the height.
- Note D on Sheet C1.0 shall be revised to remove the phrase "at grade."
- All conditions of the Brighton Area Fire Authority Fire Marshal's letter dated November 2, 2022 shall be met

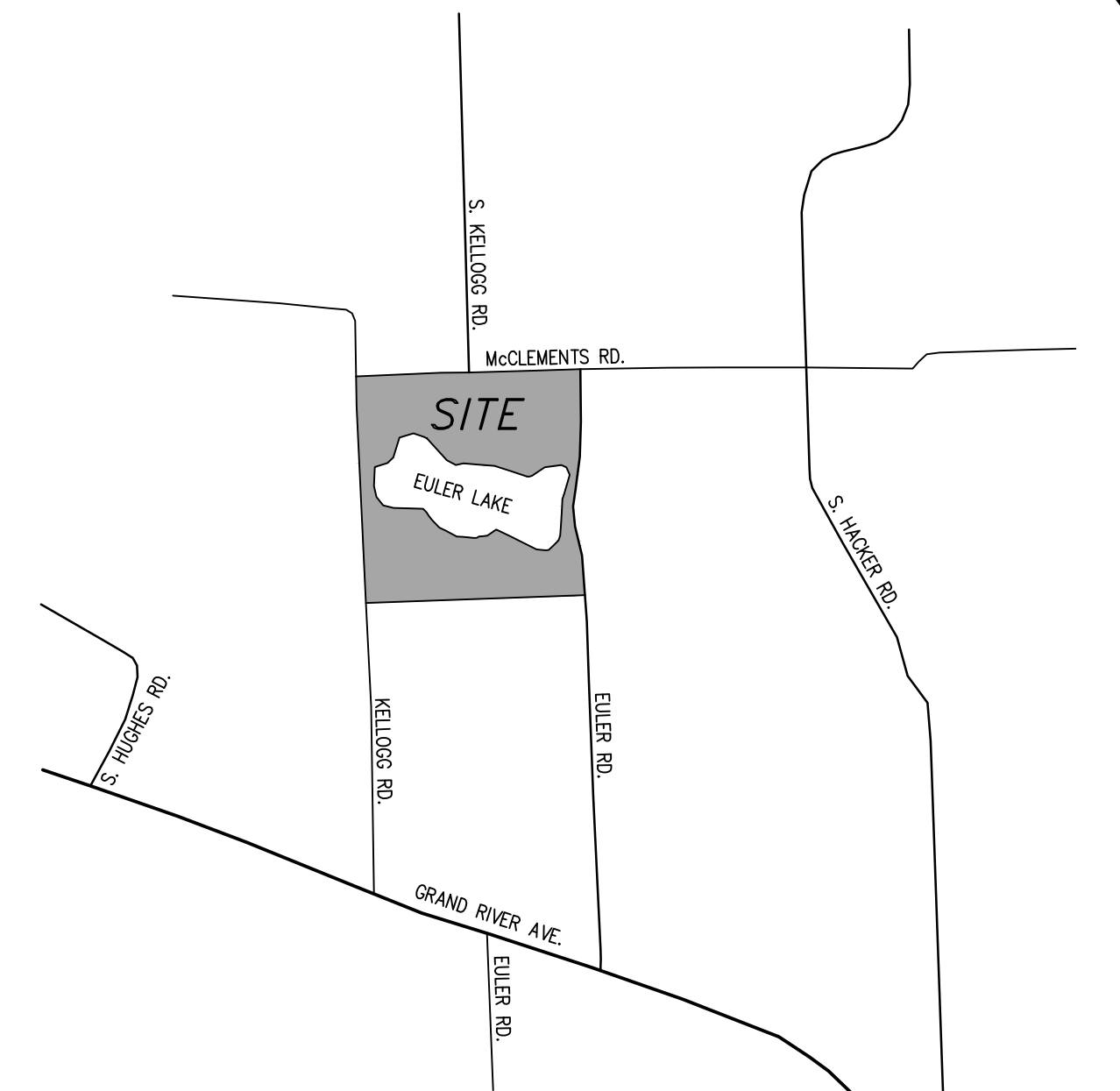
The motion carried unanimously.

OPEN PUBLIC HEARING #5...Public hearing for the proposed Genoa Charter Township Master Plan.

PROPOSED IMPROVEMENTS TO
 CHALDEAN CATHOLIC CHURCH of the UNITED STATES of AMERICA
 OUR LADY of the FIELDS CAMPGROUND
 SKETCH PLAN



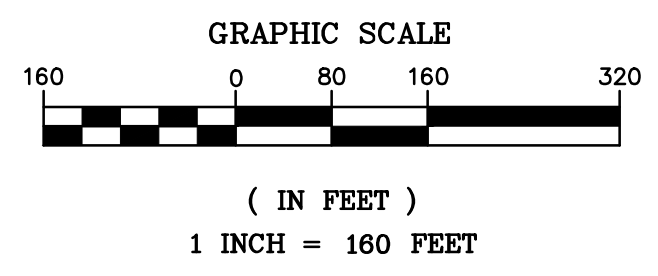
LEGAL DESCRIPTIONS
 11-11-200-001
 THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 11
 T2N, R5E, GENOA TOWNSHIP, LIVINGSTON COUNTY, MICHIGAN.
 11-12-100-002
 THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 12
 T2N, R5E, GENOA TOWNSHIP, LIVINGSTON COUNTY, MICHIGAN



LOCATION MAP
 SCALE: 1in. = 2000ft.

NOTES:
 NO CHANGES ARE PROPOSED TO EXISTING SITE UTILITIES
 NO CHANGES ARE PROPOSED TO EXISTING GRADING, LIGHTING
 DUMPSTERS, PROTECTED OR LANDMARK TREES.
 NO CHANGES ARE PROPOSED TO EXISTING BUILDINGS.

SHEET INDEX
 C1.0 NORTH CAMP GROUND IMPROVEMENT SKETCH PLAN
 C1.1 NORTH CAMP GROUND RECREATION STRUCTURES SKETCH PLAN



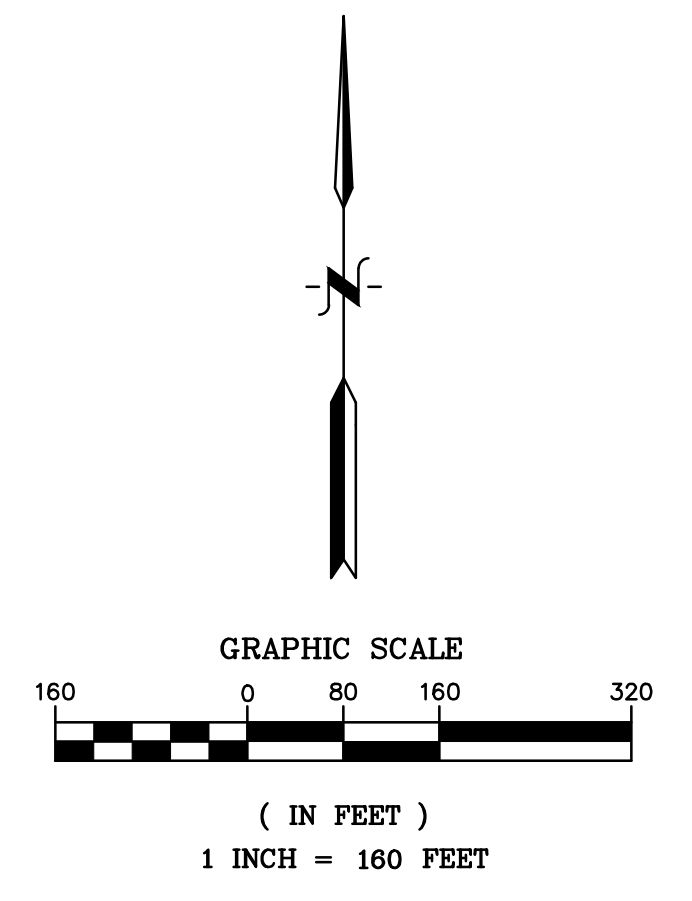
OWNER / APPLICANT
 CHALDEAN CATHOLIC CHURCH OF
 THE UNITED STATES OF AMERICA
 25603 BERG ROAD
 SOUTHFIELD, MICHIGAN 48033

ENGINEER / SURVEYOR
 DESINE, INC.
 2183 PLESS DR.
 BRIGHTON, MICHIGAN 48114

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 BEFORE YOU DIG
 CALL 811 OR 1-800-482-7171
 (TOLL FREE)
 OR VISIT CALL811.COM

DESINE INC
 (810) 227-9533
 CIVIL ENGINEERS
 LAND SURVEYORS
 2183 PLESS DRIVE
 BRIGHTON, MICHIGAN 48114

ISSUED	SCALE: 1in. = 200ft.
OCT. 26, 2022	PROJECT No.: 224345
	DWG NAME: 4345 COV
	PRINT: DEC. 7, 2022



- PROPOSED IMPROVEMENTS:
- A) CLIMBING TOWER – 45' HEIGHT
 - B) 650 FOOT ZIP LINE
 - C) TERMINATING POLE – 25' HEIGHT
 - D) 72' X 30' DECK
 - E) GIANT SWING – 36' HEIGHT

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DESIGN INC

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CIVIL ENGINEERS
LAND SURVEYORS
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BRIGHTON, MICHIGAN 48114

DESIGN:	REVISION #	DATE	REVISION-DESCRIPTION	REVISION #	DATE	REVISION-DESCRIPTION
DRAFT:						
CHECK:						

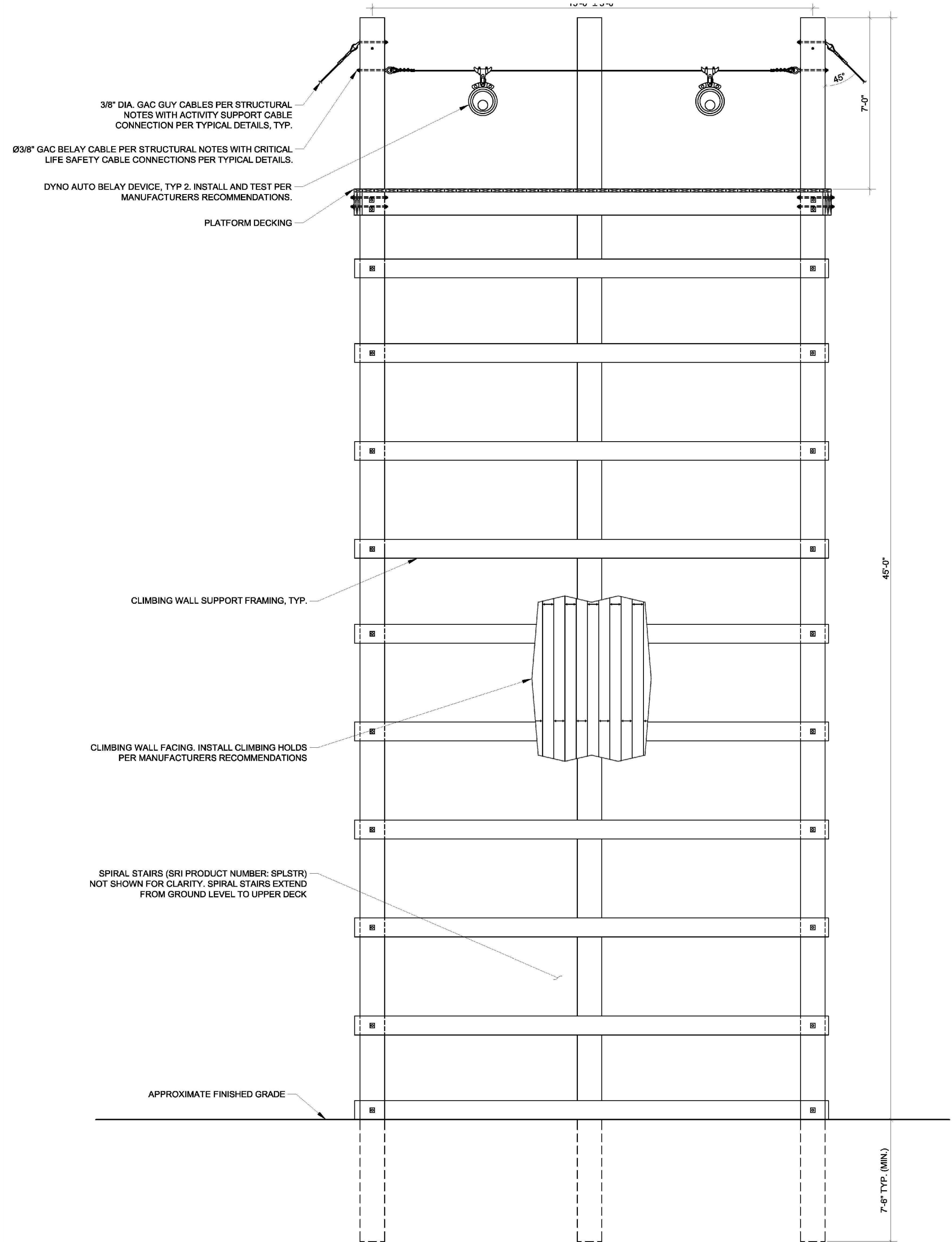
Our Lady of the
Fields

North Campground
Improvement
Sketch Plan

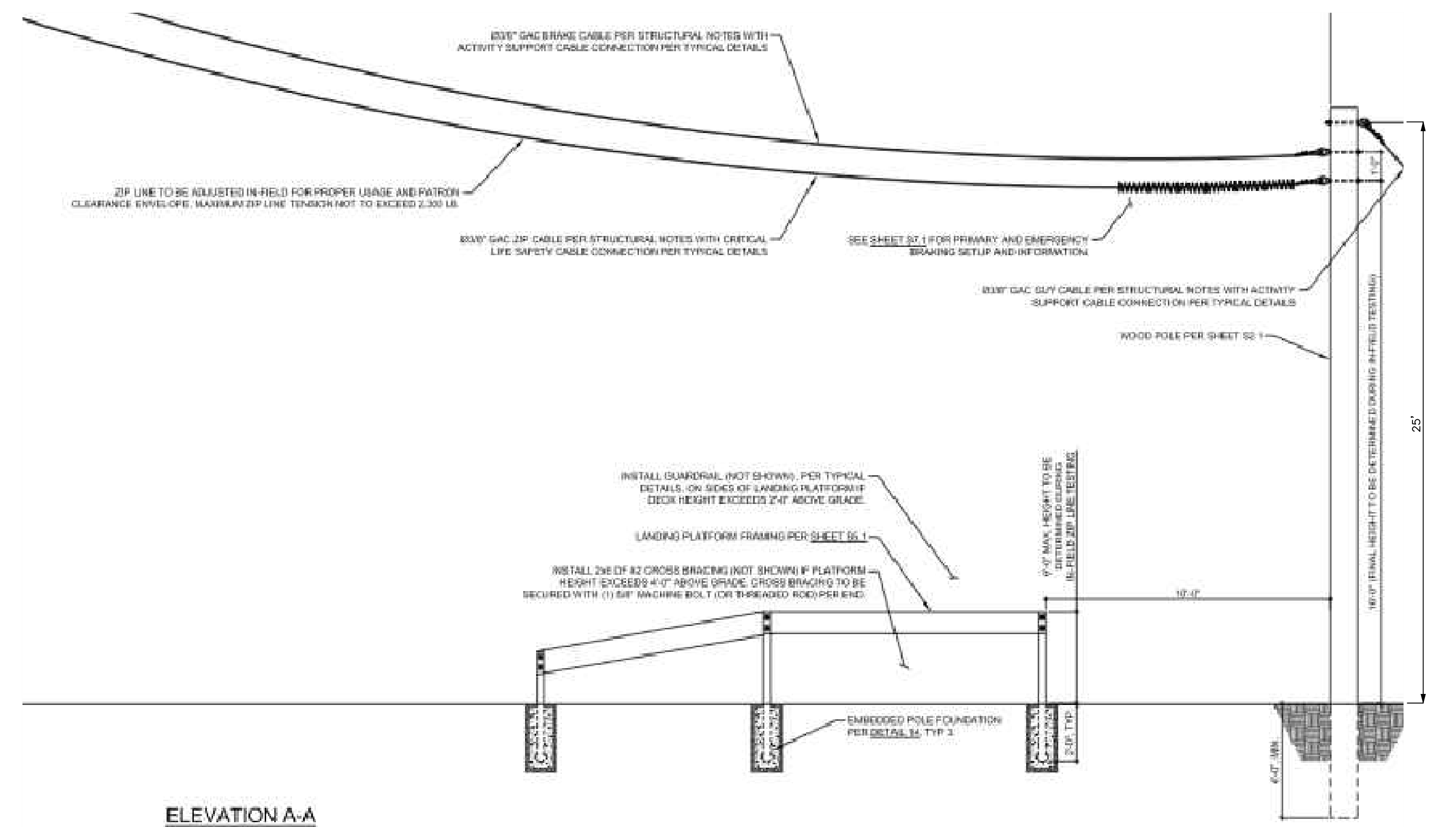
CLIENT:
Chaldean Catholic Church of
the United States of America
25603 Berg Road
Southfield, Michigan 48033

SCALE: 1"=100'
PROJECT No.: 224345
DWG NAME: 4345 CP
ISSUED: DEC, 7, 2022

C1.0

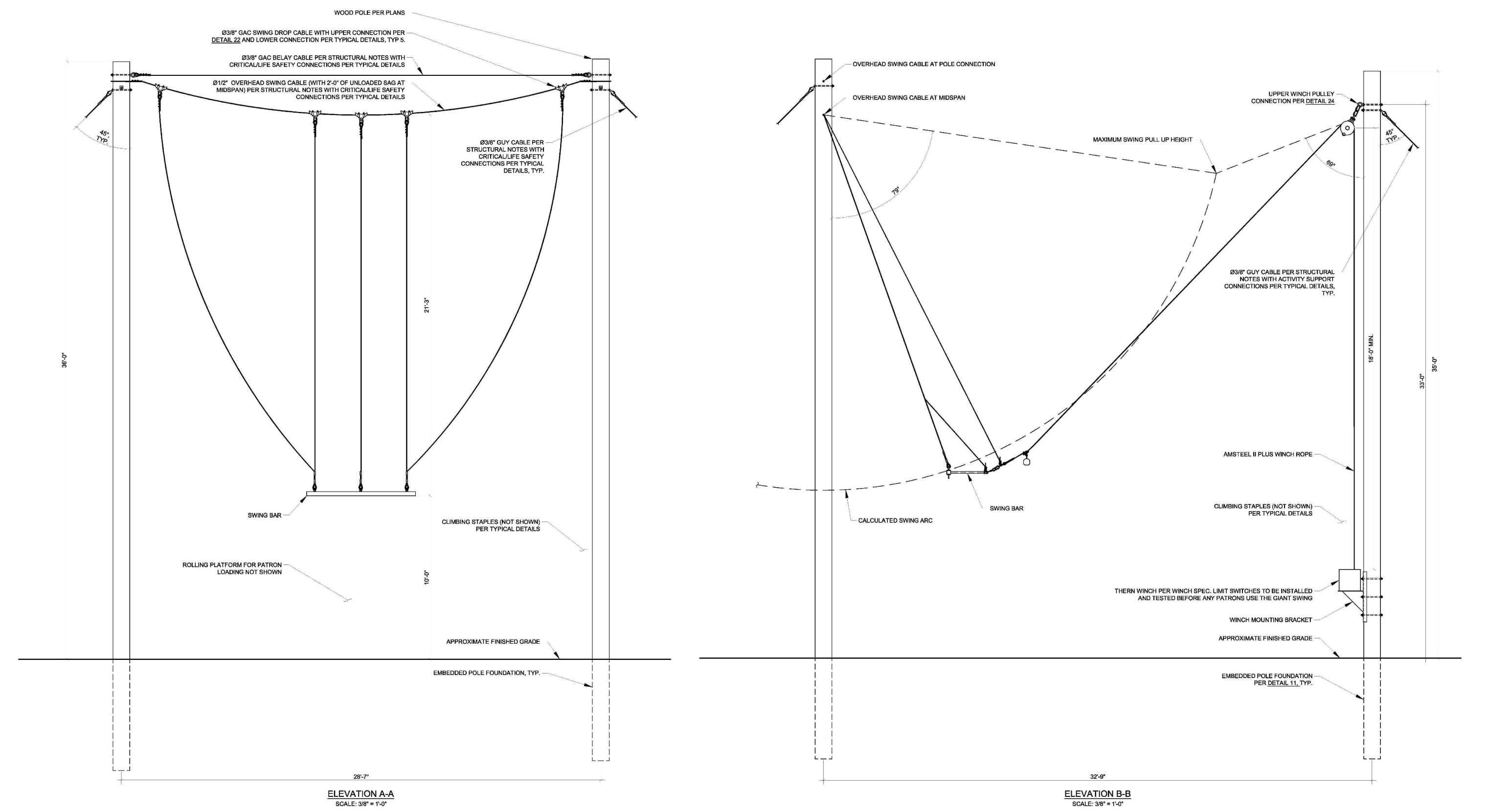


ELEVATION
CLIMBING TOWER
NOT TO SCALE



ELEVATION A-A
SCALE: 3/8" = 1'-0"

TERMINATING POLE
NOT TO SCALE



ELEVATION A.A
SCALE: 3/8" = 1'-0"

SWING ELEVATIONS
NOT TO SCALE

ELEVATION B.B
SCALE: 3/8" = 1'-0"

DESIGN:	REVISION #	DATE	REVISION-DESCRIPTION	REVISION #	DATE	REVISION-DESCRIPTION
DRAFT:						
CHECK:						

Our Lady of the Fields

North Campground Recreation Structures Sketch Plan

CLIENT:
Chaldean Catholic Church of the United States of America
25603 Berg Road
Southfield, Michigan 48033

SCALE: NONE
PROJECT No.: 224345
DWG NAME: 4345 CP
ISSUED: DEC. 7, 2022

C1.1



FEB 13 2023

RECEIVED

To the Zoning Board Members of Genoa Township.

Statement-

We the residents of the Kellogg Rd, Euler Rd, and McClements neighborhood believe that the property 1391 Kellogg rd. (Prophet Elijah Center, Our lady of the Fields) and all attached camp properties, addresses, and amenities should not be allowed to operate as a indoor/outdoor private recreation/retreat center(camp), daily use parish, or a PRF zoned property for rent mostly for attendees outside of the neighborhood or township. The owner's intended use is not within the scope of the Grand River Corridor Master Plan and does not meet all Ordinance and Use Restrictions to operate that type of facility at that specific location regardless of current zoning. The previous use of the camp is irrelevant as it was nonconforming once Genoa township ordinance went into effect. It does not matter how long it was a camp previously. Grandfather status is not permanent.

For this property to have any grandfather status for any reason confirms it is a nonconforming property, use or building. You cannot have a grandfather status for a conforming property. This status of grandfathered use, property or buildings is only allowed to continue on a continuous use basis. Per Michigan Zoning Law and the Genoa Township ordinance all nonconforming property, uses, and buildings must be removed if not used as established for 12 months. The camp did not operate as established from 1995-2007 by the original owners. All grandfather status was lost at this time. This is 12 years!

If this property existed and was for sale and not zoned PRF currently it would not be allowed to be rezoned PRF for the purpose of establishing a religious indoor/outdoor recreation facility or daily use parish for mostly attendees from outside the immediate neighborhood at this location. Since it would not match the master plan for the Grand River Corridor Plan. The zoning is what is in issue as well as the grandfather status as we see it (see example of zoning reverting on existing property pg 10). This is why the PRF property owned by Joyce Oliveto was approved to change to Rural Residential in 2002 to more closely match the master plan(see meeting notes 5.27.2003)

Expansion of existing buildings, uses or property is not allowed per Michigan Zoning Law. The camp should never had been allowed to expand its use to a commercial one, build additional buildings and add more amenities, traffic, occupancy, or property to the nonconforming property that exists. We believe there has been an oversight by previous township boards as early as 1996 in applying the removal of any grandfather status to this property per the master plan and Michigan Zoning Law which prohibits the expansion of any nonconforming use, building, or property as they have with other properties in the township.

The property is also limited in scope of reconstruction of existing buildings by Michigan Zoning Law. By admission of the owner at the time of shuttering the property. It had fallen into a decrepit condition. (Detroit City council,1995 when motion passed to shutter the property) This means the shuttered buildings should have been demolished and not renovated to reopen. All grandfather status protection was forfeited by the owner, The City of Detroit when they shuttered the property in 1995 due to the lack of use, cost of upkeep, and decrepit condition of the property at that time as stated by themselves in Detroit City Council meetings in 1995,2006, and 2007.

By definition the property was beyond the renovation point as deemed by its owner.

"Enlargement, expansion or extension of nonconforming uses is generally restricted because each is usually contrary to the intent of the ordinance. Many communities prohibit any enlargement or expansion of nonconforming uses because that usually entrenches the use, when the ordinance objective is for nonconforming uses to either go away, or even better, changed to conform to the ordinance." - Ryan Coffey, [Michigan State University Extension](#) - April 04, 2013 see pg 15-16

To allow any increase in use, property, building or amenities beyond 1996 is in direct violation of the Genoa township ordinances and Michigan Zoning Law. We have supplied proof of damage to property values surrounding the camp if allowed to operate as owner wants or if they expand uses from 2 different real estate professionals from the area that have personally addressed the boards and explained minimum 10-20% loss of property value to the surrounding homes around the camp. There is no argument that the increase in attendees to the camp will add to the road use, noise, trash, water, and septic use and destroy the natural intent of the neighborhood in an area deemed for LDR (low density residential) per the soil density maps. The township ordinance is in place to protect all these things from happening.

The zoning should have automatically reverted to Rural Residential (RR) Low Density Residential (LDR) Country estates (CE) or Agricultural (AG) after 12 months of nonuse of the property as established by the city of Detroit per the Township ordinance and Michigan zoning law in 1996. In 2002 after 6 years of vacancy and nonuse the Genoa township board changed the use status of the property to public/quasi-public during a review and update of the Grand River Corridor Master Plan (see meeting notes 10.15.02 hearing #4). This too would have ended any grandfather status and the property would have to comply fully with all Genoa Township ordinances and use restrictions moving forward.

Even if grandfather status had remained, they would not be allowed to expand or add to the grandfathered use beyond its original size and scope at the time the zoning ordinances went into effect (prior to 1996). If the special use permit was grandfathered for the camp, then it should have expired 12 months after the boarding up of the property by the current owner to fit with the Genoa township ordinance and Michigan Zoning Law. This is an automatic mechanism and takes no vote or notice by any of the township boards as the ordinance automatically goes into effect after 12 months of nonuse of the grandfathered use.

Per Michigan Zoning Law and the Genoa Township ordinance all non-conforming properties, buildings, and uses must be eliminated per the master plan and are restricted in expansion of size, scope and use of the property.

"Further limitations exist with respect to the nature of continuing the nonconforming use. In particular, Michigan law prohibits the extension or enlargement of nonconforming uses, and the courts have concluded that zoning regulations should be strictly construed with respect to expansion. Similarly, the law emphasizes that the continuation of a nonconforming use must be substantially of the same size and the same essential nature as the use existing at the time of passage of a valid zoning ordinance. As a result, a nonconforming use will be closely examined to ensure that it is continued in a consistent manner and form, **without expansion or increase in the nonconformity.**"

-Vested rights to nonconforming uses under Michigan zoning laws-Dalton Tomich pages 11-13

This means on the date the first Ordinances went into effect in Genoa township this property was restricted to the size and use at that time. **What year did Genoa Township Ordinances go into effect?**

This property and camp were established to serve the children of the City of Detroit only. No adults, special groups, or paying renters other than those that represented the children of the city of Detroit specifically (like boy scouts of Detroit, etc.). OLF purchased the property in 2007 under the guise of using it just for the children of the parish as they told the Detroit City Council at the June 2007 meeting for purchase approval (see Detroit News article David Josar June 27, 2007 reporting on the council meeting). Now they want to rent it out to whomever 7 days a week, 365 days a year. This is a long way from disclosed purpose when purchasing the property to OLF's current and intended use as a for rent religious indoor/outdoor recreation and retreat center open to anyone in the world is new to the property as it was never used in this manner previously.

The church that was built in 2009 under the auspices of only using it 4-5 times a year with the largest use to be in August each year and not to be used as a regular parish church per the building application and meeting minutes for the approval (see meeting minutes 12/14/2009). They stated there would be no need for delivery trucks, parking lot, or outdoor lighting for use at the church due to the limited amount of use intended. They now want 7 days a week, 365 days a year use of the church with other amenities.

The township approved this use based on the limited use of 4-5 times a year and even questioned the building of such an expensive building for such a limited use. They were told "the money for the building was donated" so it wasn't an impact on the church. Per Michigan Zoning Law new buildings which would entrench a nonconforming property is not allowed. This was a mistake for the township as the grandfather status does not allow expansion or application of a different use of a grandfathered property. No church has ever been on that property. The fact that a church can be in PRF zoning does not mean this property could have it with a grandfather status for any reason. At the time the permit was approved the property was believed to be in grandfather status. The grandfather status blocks all new buildings, uses, and properties. For their current want of use churches with regular weekly or daily services/use must be located on a primary paved road per ordinance. This property does not meet this requirement for the church, camp, or indoor/outdoor recreation facilities intended mostly for people outside of the immediate neighborhood.

This allowance is in violation of Michigan Zoning law as it allows for a nonconforming use to entrench as the purpose of the nonconforming use law is to remove and eliminate per master plan all such properties, buildings, and uses.

Conclusion-

Neither the planning nor zoning board has given the public a definitive classification of the camps special use classification at any meeting. They call it a camp but say the campground requirements don't apply as it has no campsites. What is on the special use permit application the township holds. **We request the board disclose the classification under the PRF zoning table 6.01.01 that the camps special use permit was given.** There are only 3 as per ordinance that could be applicable. **What is the special use permit for the camp classification?** The township has not clearly defined to the public what is the grandfathered status for the camp just that they have one. **We ask the board to disclose this at the upcoming meeting as well.**

Is it the zoning of PRF? We believe so as it cannot be used in the current capacity without being on a primary paved road. The camp special use permit, or something else? This matters and should be disclosed. We have provided documentation that shows the property was not used for well over 12 years as established. Therefore, it has no grandfather protection and must meet all ordinance and zoning requirements as of the date of loss of grandfather status in 1996. We have attached documentation that proves no new uses, buildings, or properties are allowed for a nonconforming property if it had grandfather protection when permits were issued for remodeling, new construction, or outdoor amenities after 1996.

If the current existing special use permit is as a campground, then they are subject to all its ordinances and additional Use Restrictions regardless of campsites on the property or not. We believe the property must be classified as one of the following three recreational uses from the genoa township ordinance for its special use permit if allowed. All these classifications are subject to the additional Use Restrictions to be allowed to operate. The classification would be Campground, Commercial outdoor recreational establishments due to the outdoor amenities such as the outdoor basketball courts. The other being Private, non-commercial institutional or community recreation facilities.

Filmore park on McClements is a different situation as it was deeded to the county for the use of the residents of genoa township and Livingston County only, for free. It is not to be used as a retreat center for profit in which 90%+ of the participants will be from out of the township and county. This is why its PRF zoning is allowable. This was not a private organization approaching the township for the use. This was a donation to the residents of Livingston County with specific restrictions. Therefore, the two are not comparable.

We have also attached examples of loss of grandfather status from 2014 and 2023. There are 2 properties on Euler Rd that had/have grandfather status. One, is Mr Connolly's property near grand river who has been ticketed 3 times for using his property as it was established. However, 10 years passed without the continuous use and he lost his status with no warning other than the tickets he received. The other is 1315 Euler with 3 residences on a single parcel. The township has already stated that if one or more of the residences go unrented for 12 months the owner will lose the grandfather status to rent or occupy those buildings as a residence.

We have attached supporting documents for your review in this matter. We are asking the township to do the right thing though it may be difficult and move to remove the special use permit for the camp as it is not being used in the form in which it was established prior to zoning ordinances in the township. To have current owner remove any outdoor amenities, remodels, or buildings added after 1996 when the grandfather status on this property expired. To not allow any purchase of property to expand or be used by the camp for any support to the existing property. To find a resolution to allowing the church to be built in the first place violating Michigan zoning law. Please review and due your due diligence so you can make the necessary decisions moving forward regarding this property and its uses for the February 21st, 2023 zoning board meeting.

Thank you,

Euler, Kellogg, and McClements Road Residents

History of Camp

The History of the camp as relevant to the zoning ordinances and mechanisms of such.

- a. Camp was established in the 1920's for the specific use of the children of the city of Detroit. It was never allowed to be used as a commercial retreat center for the general public or people abroad.
- b. Camp was established prior to genoa twp zoning ordinances.
- c. In 1995 the city of Detroit shuttered the entire property for safety due to the decrepit condition of the buildings and the property no longer being used.(This statement of the condition of the buildings by the owner at the time proves it was at least 50% damaged. This also falls under the Michigan zoning law as pertaining to reconstruction of a non-conforming building)
- d. In October 2002 the camps property was made public/ quasi-public use by the township (10-15-02 MINUTES). This is a change of use and designation from the original use protected by grandfather status as well.
- e. OLF bought the church in 2007 under the auspices of using it only for the children of the parrish.(see Nov 2006-Jun 2007 Detroit city council meeting minutes, and article dated 6/27/2007 David Josar, that reported on the sale.
- f. Camp was found to have paid an illegal \$50,000 consultant fee in which the recipient of said fee went to jail. (see FBI case report)

The OLF owners have not been neighborly since they purchased the property. They continually violate the township noise ordinance with the burden falling to the residents to prove since the township has no one responsible to verify noise complaints. Law enforcement does not enforce twp ordinances. We have attached meeting minutes from 9.2.2008 of neighbors approaching the board to help with the problem. We know that the OLF has been ticketed at least one time if not twice by the township.

They have mentioned that good neighbors are hard to find in their video on their website and is the reason to purchase more land abutting the current camp. We agree, but there is only one neighbor the neighborhood is having trouble with, the camp. This has been documented countless times at board meetings with nearly every neighbor on Euler, McClements, and Kellogg Rds coming to oppose all the camps expansion attempts due to these reasons. This is documented in meeting minutes on 5.10.22, 6.2.22, 11.14.22, 1.17.23 and many prior.

Township Ordinances that are in relation to this property, its status and development.

Different boards have said the camp is grandfathered repeatedly. We have supplied information that proves that the property lost all grandfather status of a retreat/camp facility for children of Detroit while still under the city of Detroit ownership.

Ordinance 1.02.10 Promote the gradual elimination of uses buildings and structures that do not conform to the regulations and standards of this Ordinance.

1.03.03 Prior to establishing or expanding a use which is allowed only after special land use approval, **all requirements of Article 19 must be complied with**, in addition to site plan approval requirements.

1.05.01 **Where any provision of this Ordinance imposes either greater or lesser restrictions, limitations, conditions, standards or requirements upon the use of buildings, structures or land; the height of buildings or structures; lot coverage; lot areas; yards, wetlands, woodlands or other open spaces; or any other use or activity which is regulated by this Ordinance, the provision or standard which is more restrictive or limiting shall govern.**

Sec. 6.01 STATEMENT OF PURPOSE PRF zoning district

6.01.01 The Public and Recreational Facilities District (PRF) and regulations are intended to provide an appropriate zoning classification for specified governments, civic and recreational facilities where a separate zoning district is deemed appropriate. This Article is also intended to protect public and quasi-public facilities and institutions from the encroachment of certain other uses, and to insure compatibility with adjoining residential uses. Several of the public facilities addressed in this section are also Permitted or Special Land Uses in one or more of the other zoning districts. Governmental agencies which are exempted from Township Zoning by state or federal statute shall be responsible for complying with the standards of this section to the greatest extent possible.

Recreational		
Public parks, public open space, public recreation areas, public playgrounds, lakes, beaches, pools, public gardens and public nonprofit golf courses without driving ranges or restaurant/banquet facilities, excluding off-road vehicle courses and trails, gun and archery ranges	P	
GENOA TOWNSHIP ZONING ORDINANCE Public and Recreational Facilities District 6-2 Table 6.02 Schedule of Public and Recreational Facilities Uses PRF Req. Public arenas, stadiums and skating rinks	S	
Public or private campgrounds	S	
Public golf courses with ancillary driving ranges or restaurant/banquet facilities	S	6.02.02(d)
Golf driving ranges and miniature golf courses	S	6.02.02(e)
Golf domes	S	6.02.02(f)
Commercial outdoor recreational establishments	S	6.02.02(g)
Commercial indoor recreational facilities	S	6.02.02(h)
Private non-commercial institutional or community recreation facilities	S	6.02.02(i)

Private commercial or noncommercial outdoor recreational areas for off-road vehicles and snowmobiles, gun/archery ranges, paintball and similar uses	S	6.02.02(j)
Ski facilities that may or may not be operated for profit	S	6.02.02(k)
Commercial or noncommercial campgrounds for travel trailers, tent-campers, motor homes and tents	S	6.02.02(l)
Carnivals, fairs, commercial cider mills and amusement parks	S	6.02.02(m)

6.02.02 Use Conditions: Uses noted above shall only be allowed where the following requirements are complied with:

(a) Churches, Temples and similar places of worship and related facilities

- (1) Minimum lot area shall be three (3) acres plus an additional fifteen thousand (15,000) square feet for each one hundred (100) persons of seating capacity.
- (2) Buildings of greater than the maximum height allowed in Section 6.03.02 may be allowed provided front, side and rear yards are increased above the minimum required yards by one (1) foot for each foot of building height that exceeds the maximum height allowed. The maximum height of a steeple shall be sixty (60) feet.
- (3) Wherever an off-street parking area is adjacent to a residential district, there shall be a minimum parking lot setback of fifty (50) feet with a continuous obscuring wall, fence and/or landscaped area at least four (4) feet in height shall be provided. The Township Board may reduce this buffer based on the provision of landscaping, the presence of existing trees or in consideration of topographic conditions. (as amended 3/5/10)

fence and/or landscaped area at least four (4) feet in height shall be provided. The Township Board may reduce this buffer based on the provision of landscaping, the presence

(g) Commercial Outdoor Recreation Establishments (excluding golf related uses)

- (1) Such uses shall include, but need not be limited to, the following: recreational fields, rinks or courts, including football, softball, soccer, tennis, basketball, ice skating, and similar activities, swimming pools open to the general public or operated by a private non-profit organization, archery and shooting ranges, animal racing, go-cart, automobile or motorcycle tracks, music concert pavilions and bandshells, amusement parks and uses accessory to the above uses, such as refreshment stands, retail shops selling items related to the above uses, maintenance buildings, office for management functions, spectator seating and service areas, including locker rooms and rest rooms.
- (2) The site shall be adequate to accommodate the intended use(s), parking and adequate buffer areas without significant impact on nearby properties in terms of noise, traffic, lighting glare, views, odors, trespassing, dust or blowing debris, as determined by the Planning Commission. The applicant shall provide documentation the site size is adequate using national facility standards.
- (3) The site shall be located on a paved street which is classified as a Primary Route by the Livingston County Road Commission.
- (4) No building or spectator seating facility shall be located within one hundred (100) feet of a property line. GENOA TOWNSHIP ZONING ORDINANCE Public and Recreational Facilities District 6-5
- (5) The site shall be periodically cleared of debris.

(i) Private, non-commercial institutional or community recreation facilities

- (1) The proposed site for any of the uses permitted herein which would attract persons from, or are intended to serve, areas beyond the immediate neighborhood shall have at least one property line abutting a County Primary Road, and the site shall be so planned as to provide all ingress and egress directly onto or from said primary road.
- (2) Front, side and rear yards shall be at least eighty (80) feet wide, and shall be landscaped in trees, shrubs, and grass. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in these yards, except required entrance drives and those walls used to obscure the use from abutting residential districts. Any such site shall have a minimum area of at least forty (40) acres.
- (3) Off-street parking shall be provided so as to accommodate not less than one half of the member families and/or individual members. The Planning Commission may modify the off-street parking requirements in those instances wherein it is specifically determined that the users will originate from the immediately adjacent areas, and will therefore be pedestrian. Prior to the issuance of a building permit or zoning compliance permit, by-laws of the organization shall be provided in order to establish the membership involved for computing the off-street parking requirements. In those cases wherein the proposed use or organization does not have by-laws or formal membership, the off-street parking requirements

(l) Campgrounds for travel trailers, tent- campers, motor homes and tents which may or may not be operated for profit, subject to the following conditions:

- (1) Minimum lot size shall be twenty (20) acres.
- (2) All ingress and egress shall be along a County Primary Road or a roadway with a minimum right-of-way of eight six (86) feet.
- (3) Development features including the principal and accessory buildings and structures shall be located and related to minimize adverse affects on adjacent properties. Minimum setbacks for any buildings, structures or use areas shall be two hundred (200) feet from any property line abutting a residential district, one hundred twenty-five (125) feet from any other district or surface water body, including wetlands. Where topographic conditions are such that they provide a screen and shield, the Planning Commission may modify these requirements in their site plan review.
- (4) Each camp site shall be at least two thousand (2,000) square feet in size.
- (5) Each camp site shall be provided with individual water and sewer hookups approved by the Health Department or have convenient access to approved service buildings.

Sec 19.03 REVIEW AND APPROVAL OF SPECIAL LAND USES: GENERAL REVIEW STANDARDS

Prior to approving a special land use application the Planning Commission shall require the following general standards shall be satisfied for the use at the proposed location, in addition to specific standards for individual special land uses listed in the districts. The proposed special land use shall:

19.03.01 **Master Plan.** Be compatible and in accordance with the goals, objectives and policies of the Genoa Township Master Plan and promote the Statement of Purpose of the zoning district in which the use is proposed;

19.03.02 **Compatibility.** Be designed, constructed, operated and maintained to be compatible with, and not significantly alter, the existing or intended character of the general vicinity;

19.03.03 **Public Facilities and Services.** Be served adequately by essential public facilities and services such as: highways, streets, police and fire protection, drainage structures, water and sewage facilities, refuse disposal and schools;

19.03.04 **Impacts.** Not involve uses, activities, processes, or materials detrimental to the natural environment, public health, safety or welfare by reason of excessive production of traffic, noise, vibration, smoke, fumes, odors, glare or other such nuisance; and

19.06.01 **Major Amendments:** Any person or agency who has been granted a special land use permit shall notify the Zoning Administrator of any proposed amendment to the approved site plan of the special land use permit. A major amendment to a special land use permit shall require submittal of a new application for special land use and follow the review procedures contained in this Article. The Zoning Administrator shall determine whether the proposed amendment constitutes a minor or major amendment based on the following standards:

(a) Changes increase the buildings usable floor area by more than twenty five percent (25%);

(b) Parking lots are expanded by more than twenty five percent (25%);

(c) The occupancy, capacity or membership of the use is increased by more than twenty five percent (25%);

(d) The use is expanded to occupy an additional twenty five percent (25%) or more land area;

(e) The expansion will result in a twenty five percent (25%) or more increase in traffic generation based upon the traffic impact assessment standards contained in Article 18;

(f) The expansion will result in a twenty five percent (25%) or more increase in the demand for public water or sewer; or,

(g) Other similar types of changes deemed by the Zoning Administrator to be "major."

In addition to all the Genoa Township Ordinances and Use restrictions the property must also comply with all State of Michigan Zoning Laws in regards to nonconforming (grandfathered) properties.

Per Michigan Zoning Law

Grandfather status ends as an automatic mechanism. Nothing is required to be done by the township as it is the property owners' responsibility to check for all ordinance and zoning issues prior to purchasing any property.

Recent Examples of loss of grandfather status and zoning reversions-

1. April 15, 2014 Mr. Joseph Andrews was the owner in question. He purchased a duplex that was a non-conforming use in a zoning that did not allow two family homes. His realtor assured it was grandfathered in as it had always been used as a duplex. Board Member Mr. Akers indicated that the property zoning did not allow the use and was non-conforming. He indicated that the zoning ordinance states that if a non-conforming use is discontinued for 12 continuous months, the property can only be used in conformance with the zoning ordinance. Passed property was vacant for the past 12 months, zoning was reverted to single family residential. Genoa twp minutes 4/15/2014
2. Currently Mr Connoly on Euler rd has been informed by the township that his outside storage is no longer grandfathered in as the property failed to use the outside storage for more than 12 months. This property was allowed outside storage but had remained vacant for 10 years. Once Mr. Connoly had started using the property as it always had the township sent him cease and desist and 3 tickets for the outside storage.
NOTE- This happened automatically with no notice to previous or new owner by township. It is not the townships responsibility to inform current of future owners of any zoning or ordinance changes to the property. That is part of the due diligence of the new or current owner to stay up to date on. The township also cannot stop the automatic change in status when the nonconforming property has been past the 12 month period. As the ordinances are designed to remove all nonconforming property, buildings and uses per the master plan (Genoa Twp minutes 1.17.23)

Michigan legal precedent for grandfather status as to expansion or addition to a nonconforming property.

DALTON-TOMICH ATTORNEYS

VESTED RIGHTS TO NONCONFORMING USES UNDER MICHIGAN ZONING LAWS

Written by Admin on September 14, 2020 Category: [Land Use and Zoning](#), [Michigan Land Use and Zoning](#)

When a landowner uses his or her property in a way that becomes contrary to a newly adopted or amended zoning ordinance, the ability of that landowner to continue the prior use is frequently questioned and challenged. From a legal standpoint, any use consistent with local zoning codes will, in general, be deemed lawful for purposes of zoning compliance. However, there are often occasions where the zoning code is modified and the particular use you have enjoyed is no longer permitted. When that happens, Michigan law recognizes what's known as a lawful nonconforming use, which is the term used to describe the right of a property owner to continue using the property in the same manner it has been used, despite recent changes to local zoning provisions. The right to a nonconforming use is established by law in the Michigan Zoning Enabling Act, codified at MCL 125.3208, which provides, "[i]f the use of a dwelling, building, or structure or of the land is lawful at the time of enactment of a zoning ordinance or an amendment to a zoning ordinance, then that use may be continued although the use does not conform to the zoning ordinance or amendment."

In addition to statute, a nonconforming use is protected by well-established common law. For example, the court in *Edw C Levy Co v Marine City Zoning Board of Appeals*, explained that "[a]n existing nonconforming use is a vested right in the use of particular property that does not conform to zoning restrictions, but is protected because it lawfully existed before the zoning regulation's effective date." 293 Mich App 333, 341-342 (2011). The purpose of the nonconforming use doctrine is simple; to protect property owners from the burden of fluctuating zoning codes. Understandably, a property

owner should not be punished for continuing a use of property that has only recently been made violative of a zoning ordinance due to a change in the law. In other words, “[p]ermitting the continuation of a nonconforming use is designed to avoid the imposition of hardship upon the owner of property.” *Gerrish Twp v Esber*, 201 Mich App 532, 533; 506 NW2d 588 (1993).

The vested right to a nonconforming use is also something that a local government cannot take away from property owners. Specifically, the Michigan Supreme Court in *Dusdal v Warren*, explained that “[a] prior nonconforming use is a vested right to continue the lawful use of real estate in the manner it was used prior to the adoption of a zoning ordinance. Though the ordinance be reasonable, it cannot operate to oust the property owner of his vested right.” 387 Mich 354, 359 (1972). This means that a municipality is barred by law from enacting any ordinance that prohibits prior nonconforming uses.

However, to establish the right to a nonconforming use, a property owner must satisfy certain standards. For instance, to establish a nonconforming use on property that has not been fully developed, “there must be work of a substantial character done by way of preparation for an actual use of the premises.” *Gackler Land Co v Yankee Springs Twp*, 427 Mich 562, 574-75 (1986). In addition, the actual nonconforming use “must be apparent and manifested by a tangible change in the land, as opposed to intended or contemplated by the property owner.” *Id.* To that end, “preliminary operations such as ordering plans, surveying the land, and the removal of old buildings are insufficient to establish a nonconforming use.” *Id.* The ultimate test in each case hinges on whether there has been any tangible change in the land itself by excavation and construction.

Further limitations exist with respect to the nature of continuing the nonconforming use. In particular, Michigan law prohibits the extension or enlargement of nonconforming uses, and the courts have concluded that zoning regulations should be strictly construed with respect to expansion. Similarly, the law emphasizes that the continuation of a nonconforming use must be substantially of the same size and the same essential nature as the use existing at the time of passage of a valid zoning ordinance. As a result, a

nonconforming use will be closely examined to ensure that it is continued in a consistent manner and form, without expansion or increase in the nonconformity.

We have also attached a packet of Genoa twp meeting minutes to support our statements above. See packet A

Detroit Council Sells Camp Brighton to the Chaldean Church

- [ado-world](#)
28 June 2007
- [Assyrian news](#)
38 Views

David Josar

DETROIT- The Detroit News — The City Council this afternoon finally approved the sale of the shuttered Camp Brighton for \$3.5 million to the Chaldean Church.

This was the third time the council took up the sale of the 320-acre camp, which is located off Grand River near I-96. Mayor Kwame Kilpatrick targeted the property for sale as part of his strategy to balance the city's budget and eliminate the city's deficit. Voting for the sale were council members Sheila Cockrel, Barbara Rose Collins, Martha Reeves, Alberta, Tinsley Talabi and Kenneth V. Cockrel Jr.

Opposing the sale were Brenda Jones, Kwame Kenyatta, JoAnn Watson and Monica Conyers. The sale passed by a single vote. Kenyatta has been a vocal opponent of the sale from the start. He said Detroit should keep the facility because it could benefit all of the city's youth. He said the church, which has had an offer on the table since November, plans to use it only for their kids.

"This should be for all the children of Detroit," he said. He called the deal a "disgrace," complaining that the property had been appraised at \$6.8 million. The Kilpatrick administration has wanted to sell as much as \$40 million in excess property for the fiscal year that ends Friday.

Irv Corley, the council's fiscal analyst, said he will have a report to the council Friday to see how close the city is to ending the year with a balanced budget.

David Josar

The Detroit News

Understanding nonconformity: Are you 'grandfathered' in?

Ryan Coffey, [Michigan State University Extension](#) - April 04, 2013

Properties that qualify as nonconforming often have particular regulations that affect how an owner can make changes to the property. Understanding these regulations is important in order to avoid potential conflict with local government.

A nonconforming use, building or parcel is a use of land, a structure, or a parcel that was lawfully in existence prior to the adoption or amendment of the zoning ordinance that made it nonconforming. These are often referred to as *grandfathered in* or *grandparented in*.

In communities across Michigan, there are many homes, businesses, and parcels that have been grandfathered in under nonconforming status, since they were built or established prior to zoning taking effect. If you own a nonconforming use, structure or parcel, there are a few things you should know and consider before planning or making any changes.

Nonconformities are allowed to continue into the future in the same manner and same extent as they existed at the time they became nonconforming. A nonconforming property can be sold and the new owner is permitted to continue its use in the same fashion as the previous owner without any new zoning approvals. However, if a change in a nonconforming use, building, or parcel is proposed, it must conform to ordinance requirements. The ordinance should have established standards and procedures for treatment of nonconformities (the basic objective is gradual elimination of nonconformities). The three most basic types of regulation address enlargement, reconstruction and substitution.

Enlargement, expansion or extension of nonconforming uses is generally restricted because each is usually contrary to the intent of the ordinance. Many communities prohibit any enlargement or expansion of nonconforming uses because that usually

entrenches the use, when the ordinance objective is for nonconforming uses to either go away, or even better, changed to conform to the ordinance.

Reconstruction of a nonconforming building is usually prohibited if it is damaged greater than 50 percent. There are various ways of measuring damage and the method selected should be clearly spelled out in the zoning ordinance. This method provides a great opportunity for reconstruction in a manner that conforms to the ordinance and therefore replaces a nonconforming building with a conforming one.

Substitution of one nonconforming use for another is usually allowed if the change is *more conforming* or *no less conforming*, allowing for the property to move closer to conformity over time with district requirements.

Most nonconforming provisions are administered by your local zoning administrator. Ordinances, however, vary dramatically with regard to nonconforming requirements. Consequently, it is important to become familiar with the unique requirements in your zoning ordinance by reading the ordinance and speaking with your zoning administrator about the particulars of your nonconforming status. Michigan State University Extension's nationally recognized Michigan Citizen Planner program addresses nonconformity in greater detail.

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Packet A

Township Meeting Minutes

GENOA TOWNSHIP
PLANNING COMMISSION
WORK SESSION
October 15, 2002
6:30 P.M.
MINUTES

The work session of the Planning Commission was called to order by Chairman Don Pobuda at 6:30 p.m. The following commission members were present constituting a quorum for transaction of business: Don Pobuda, Barbara Figurski, James Mortensen, Ken Burchfield, Curt Brown, and Bill Litogot. Also present was Michael Archinal, Township Manager; Jeff Purdy from Langworthy, Strader, LeBlanc & Associates, Inc. and Deb Huntley from Tetra Tech, MPS. By the end of the work session, there were a few persons in the audience.

Items scheduled for action during the regular session of the commission were discussed.

GENOA TOWNSHIP
PLANNING COMMISSION
PUBLIC HEARING
7:00 P.M.
MINUTES

The regular session of the Planning Commission was called to order by Chairman Don Pobuda at 7:07 p.m.

The Pledge of Allegiance was recited and a moment of silence was observed.

Moved by Litogot, seconded by Figurski, to approve the Agenda with the following correction:

- A. 1. Under Open Public Hearing #1, add "Recommendation regarding Grand River Corridor Plan Update"

The motion carried unanimously.

The call to the public was made to discuss items not on the agenda. There was no response and the call to the public was closed at 7:09 p.m. Chairman Pobuda noted that the Board will not begin any new business after 10:00 p.m.

OPEN PUBLIC HEARING # 1...Review of site plan application, site plan, and environmental impact assessment, for proposed Detroit Edison electrical substation located east of Latson Rd., north of Grand River Ave., in the Lorentzen PUD, Sec. 4, petitioned by Detroit Edison Co.

- **Planning Commission disposition of petition**

- A. Recommendation regarding impact assessment.
- B. Recommendation regarding site plan.

Mr. Paul Gantz, the Regional Relations Manager with Detroit Edison, was present to represent the petitioner. He advised that the addition of this substation is a necessary and critical element for the continuing growth in Genoa Township. The other stations have been stretched to capacity and are currently operating over 100 percent.

Detroit Edison feels this site is appropriate as it is near the center of the customer base it will service, it is near an existing transmission line corridor, and it is on available property at market rates.

They want to be good neighbors and appreciate the considering that the Township has given them. They would like approval this evening so they could begin working in December with an aim at a June 2003 in-service date.

Chairman Pobuda asked about the name, "Flint". Why was that chosen? Mr. Jim Holtzgrove with Detroit Edison advised that was the next name in their nomenclature book.

Mr. Purdy reviewed his letter of October 10, 2002. They have addressed most of their previous concerns; however, there is a system of roads that is interconnected within this PUD and it has been the general practice that each developer complete his portion of the roads. They propose that Detroit Edison construct all of the remaining road. The Township should seek some type of assurance that these roads are going to be constructed, such as a bond or letter of credit.

Mr. Randall Book of Syndeco, the real estate agent for Detroit Edison, stated they have gotten an estimate of \$460,000 for the completion of the road and will supply a letter of credit to validate that what they say they will do, will get done. He spoke to Township Engineers and they agreed this amount is acceptable to complete the walkways, driveways, and ornamental lighting. Mr. Purdy outlined the area that needs to be developed and Mr. Book agreed.

Ms. Huntley advised that the \$460,000 does not include approximately 500 feet of roadway across the easement. Mr. Book ensured that whatever needs to be done, will be done. They will revise the amount of their letter of credit when the Township advises the cost of that additional 500 feet.

Mr. Purdy advised the driveway outside of the gate should be asphalt paved. The petitioner will comply.

The call to the public was made at 7:25 p.m. with no response.

Ms. Huntley reviewed her letter dated October 9, 2002.

Stormwater detention should be provided for the additional runoff resulting from the proposed road improvements. The size of this detention pond will be determined by the engineer. The petitioner will comply.

The portion of the driveway between the entrance and the concrete pad has to have a minimum slope of 0.5%. The petitioner will comply.

The portion between the berms and the concrete pad should be adjusted to grades that will provide sufficient runoff capability and prevent ponding. The petitioner will comply.

Mr. Archinal stated the part of the road over the easement will eventually be dedicated to the public. The Township is hoping to receive a subordination of easement for this purpose. Mr. Gantz advised that Consumers Power owns this easement, but they will work with them and do what they can to support the subordination of the easement across the corridor. Mr. Dennis Kelly, the architect from Detroit Edison, advised that the easement is 215 feet wide and 59 feet on each side is owned by Detroit Edison, with the remainder being owned by Consumers Power.

Moved by Figurski, seconded by Litogot, to recommend to the Township Board approval of the Impact Assessment dated August 15, 2002 for the proposed Detroit Edison Flint electrical substation located east of Latson Rd., north of Grand River Ave., in the Lorentzen PUD, Sec. 4, petitioned by Detroit Edison Co. with the condition that dust control measures will be added. **The motion carried unanimously.**

Moved by Burchfield, seconded by Mortensen, to recommend the Township Board approval of the Site Plan dated September 24, 2002 and signed by architect Dennis M. Kelly for the proposed Detroit Edison Flint electrical substation located east of Latson Rd., north of Grand River Ave., in the Lorentzen PUD, Sec. 4, petitioned by Detroit Edison Co. with the following conditions:

1. Detroit Edison shall post a bond as suitable to the Township in an amount to be determined by the Township Engineer and duration to be determined by the Township Board for the construction of a service drive from the east end of the Detroit Edison / Consumers Power corridor west, north, and then west to Latson Road, to the specifications of the Livingston County Road Commission, including compliance required for acceptance of the service drive as a public road by the Road Commission.
2. The internal access drive and turnaround shall be hard surface up to the gate.
3. Township Board approval of the Impact Assessment as recommended by motion this evening.

4. Placement of a stormwater detention area on site as determined by the Township Engineer.
5. The petitioner shall meet the design standards of the Township Engineer, including a 0.5% slope along the driveway, grade adjustment between the berms and concrete pads to prevent ponding, and the extension of the water main to include an additional hydrant.
6. Dust control measures shall be added to the site plan and construction plan.

The motion carried unanimously.

OPEN PUBLIC HEARING # 2... Review of site plan application, site plan, and environmental impact assessment for proposed 3,000 sq. ft. office building, located at the north-west corner of the Grand River Ave./Euler Rd. intersection, Sec. 13, petitioned by Ronald Godair.

- **Planning Commission disposition of petition**
 - A. Recommendation regarding impact assessment.
 - B. Recommendation regarding site plan.

Mr. Ron Godair was present to represent the petitioner. They are proposing to demolish the existing buildings, bring the property back to a level state, and construct a 3,000 square foot office building. He showed colored photographs of the proposed building as well as elevations. They will be eliminating the curb cut on Grand River.

Commissioner Burchfield feels strongly that the petitioner will be better served by the use of the Township's PUD Ordinance as opposed to trying to squeeze this building on this site of a lot with the number of variances that are needed.

Commissioner Brown likes this project and feels it is a great improvement to this site.

Mr. Purdy reviewed his letter of September 26, 2002.

He recommends rezoning the site to OSD zoning so the variances requested would be less than if it was zoned industrial. He also recommended the petitioner seek PUD zoning. Mr. Godair asked what he would have to do for the PUD zoning. Mr. Archinal stated a PUD agreement would have to be drafted. He added that the request would not have to go to the ZBA, where it has a potential to be denied, and would be worked through with the Planning Commission.

Commissioner Mortensen advised that the rezoning to PUD would not be for the purpose of "avoiding the ZBA", but will help the petitioner as well as the Township in improving blight, unsightly properties, such as in this case.

Mr. Purdy stated that since this building is on a corner, the east side of the building should have the same façade as the south side. Mr. Godair advised they want to enforce that the front of the building is the entrance. After a brief discussion, the petitioner agreed to change the gable on the east side.

Mr. Purdy recommended a service drive connection to the property to the west as well as a shared access agreement be provided. He also recommends a future drive be planned with the property to the north. This will eliminate the need for another curb cut on Grand River. Mr. Godair stated they have taken out their Grand River curb cut. He does not want the traffic from the neighboring site using their property. Mr. Purdy advised the Township has always encouraged service drives and suggests the petitioner posting a financial guarantee that this will be done when the adjoining property is developed.

There was a brief discussion regarding this issue. Commissioner Brown likes the fact that they have taken out the curb cut on Grand River. He would support one access drive, but not two.

Commissioner Mortensen stated that since the petitioner is eliminating the curb cut off Grand River, he would support a shared access to the north and not the west. Commissioners Figurski and Burchfield agree.

Commissioner Litogot does not see the purpose of an easement due to the small size of this lot.

Mr. Purdy advised the site cannot be used for medical offices due to the parking requirements.

A five-foot wide sidewalk is required along Grand River. The petitioner will comply.

There is additional landscaping required. The petitioner will comply.

A waste receptacle enclosure should be provided and should be constructed of the same brick as the building. Mr. Godair advised they do not have any room on the site for a dumpster and are proposing to handling the garbage internally and put it out on a weekly basis for pick up. Mr. Purdy advised there has to be some plan as to where the trash is going to be stored until it is picked up at the end of the week.

Manufacturer's sheets for the lighting, a photometric grid, and sign details must be provided. Also, the sign must be set back 15 feet from both front lot lines. The petitioner will comply with these requests.

Ms. Huntley advised that the petitioner has stated they will comply with all of her requests from her letter dated October 9, 2002.

The call to the public was made at 8:16 p.m. with no response.

Commissioner Figurski stated there is no architect stamp on the drawings. Mr. Godair advised they are waiting to stamp it until the Township approves the final plans.

Moved by Figurski, seconded by Mortensen, to table Open Public Hearing #2, a request for a proposed 3,000 sq. ft. office building, located at the northwest corner of the Grand River Ave./Euler Rd. intersection, Sec. 13, at the petitioner's request. **The motion carried unanimously.**

OPEN PUBLIC HEARING # 3... Review of a site plan application, sketch plan review, and impact assessment for proposed covered storage shed on the east side of existing service building located at 1850 Dorr Rd., Sec. 10, petitioned by Wilson Marine Corp.

- **Planning Commission disposition of petition**
 - A. Recommendation regarding impact assessment.
 - B. Recommendation regarding sketch plan.

Mr. Ron Wilson of Wilson Marine was present. They are proposing to begin on-site service and the additional vehicles needed for this need to be stored out of the elements.

Commissioner Litogot asked what color is being proposed for the building. Mr. Wilson advised it will be the same color as the existing building, which is a cream color.

Commissioner Litogot asked about that additional runoff. Mr. Wilson stated it will go into the retention pond that is currently there.

1. Samples of building materials need to be shown. All commissioners agree that the cream color proposed is acceptable.
2. Lighting fixture detail must be shown. Mr. Wilson advised there will be no additional lighting.
3. Information on potential impacts from hazardous material storage needs to be provided. Mr. Wilson advised there will be no hazardous material stored, except for any chemicals that are stored on or in the trucks.

The call to the public was made at 8:30 p.m. with no response.

Moved by Litogot, seconded by Mortensen, to recommend to the Township Board approval of the Impact Assessment dated October 8, 2002 for a proposed three-sided vehicle storage area on the east side of existing service building located at 1850 Dorr Rd., Sec. 10, petitioned by Wilson Marine Corp. **The motion carried unanimously.**

Moved by Burchfield, seconded by Litogot, to recommend to the Township Board approval of the Sketch Plan for a proposed three-sided vehicle storage area on the east side of existing service building located at 1850 Dorr Rd., Sec. 10, petitioned by Wilson Marine Corp. with the following conditions:

1. The building colors are to be the same as the color of the existing building.
2. There will be no storage of hazardous materials, except what is stored in or on the vehicle.
3. Prior to the Township Board meeting, compliance with Township Engineer recommendations, if any.
4. Compliance with all prior site plan conditions approved by this Planning Commission on November 22, 1999.

The motion carried unanimously.

OPEN PUBLIC HEARING # 4... Grand River Corridor Plan update.

- B. Recommendation regarding Grand River Corridor Plan Update

Mr. Purdy reviewed the proposed changes to the Master Plan as discussed at the joint meeting last month.

Chairman Pobuda suggested amending the Detroit Camp area near Dueler Road to public / quasi public. All Commissioners agree this is a good suggestion.

The call to the public was made at 8:54 p.m. with no response.

Moved by Burchfield, seconded by Figurski, to approve and recommend approval to the Livingston County Planning Commission the Future Land Use Plan of the Grand River Avenue Areas Corridor dated October 4, 2002 and further amended by the discussions at this evening's meeting. **The motion carried unanimously.**

Moved by Figurski, seconded by Mortensen, to approve the minutes of September 23, 2002 as corrected. **The motion carried unanimously.**

Member Discussion

Mr. Archinal advised the Township is working on the issue of the reader boards as put up by McDonalds. The Township ordinance only allows them to display time and temperature and therefore, the tenants of Country Corners are saying that the Township is limiting their freedom of speech. There are two ways the Township can handle this problem. We can permit the signs and regulate what is displayed or eliminate all of them. This is something that would be at the Planning Commission's discretion.

There was a discussion regarding signage and the Planning Commissioner's role in regulating them. Mr. Archinal feels the Planning Commission should not put conditions on signage; they should just enforce what the ordinance says and if the Planning Commission doesn't like the current ordinance, they should change it.

Mr. Archinal attended the Michigan Department of Transportation Summit today and gave a brief review of the upcoming plans for the Township.

1. The I-96 / Lake Chemung exit is funded and planned to be completed in 2003.
2. There will be four new signals on Grand River in Genoa Township. One at St. Joe's, one at the new Chemung exit, one at Dorr Road, and one at Lawson Drive.

He advised that he will be giving all of the Commissioners a list of the Township's CIP projects for this year.

Chairman Pobuda reviewed the recent case in Holland regarding granting use variances. This now establishes that in Townships use variances can be granted. Mr. Purdy suggested amended the ZBA section of the ordinance to allow for use variances.

Chairman Pobuda distributed a chart showing the proper channels / offices to go to when dealing with MDOT. This will ensure that you receive the correct direction and answers to your questions.

The meeting adjourned at 9:18 p.m.

GENOA TOWNSHIP
PLANNING COMMISSION
WORK SESSION
May 27, 2003
6:30 P.M.
MINUTES

The work session of the Planning Commission was called to order by Chairman Don Pobuda at 6:30 p.m. The following commission members were present constituting a quorum for transaction of business: Don Pobuda, Barbara Figurski, James Mortensen, Ken Burchfield, John Cahill, Curt Brown, and Bill Litogot. Also present was Jeff Purdy from Langworthy, Strader, LeBlanc & Associates, Inc., Debra Huntley from Tetra Tech MPS, and Kelly Kolakowski, Township Planner. By the end of the work session, there were a few persons in the audience.

Items scheduled for action during the regular session of the commission were discussed.

GENOA TOWNSHIP
PLANNING COMMISSION
PUBLIC HEARING
7:00 P.M.
MINUTES

The regular session of the Planning Commission was called to order by Chairman Don Pobuda at 7:08 p.m.

The Pledge of Allegiance was recited and a moment of silence was observed.

Moved by Figurski, seconded by Mortensen, to approve the Agenda as presented. **The motion carried unanimously.**

The call to the public was made to discuss items not on the agenda. There was no response and the call to the public was closed at 7:09 p.m. Chairman Pobuda noted that the Board will not begin any new business after 10:00 p.m.

OPEN PUBLIC HEARING # 1...Rezoning application, environmental impact assessment, and site plan to rezone 40 acres in the northwestern half of Sec. 12, Euler & McClements Rd. The request is to rezone property from PRF (public/recreational facilities) to RR (rural residential), petitioned by Joyce Oliveto. (PC 03-13)

- **Planning Commission disposition of petition**
 - A. Recommendation regarding impact assessment.
 - B. Recommendation regarding rezoning request.

Ms. Joyce Oliveto, the property owner, and Dan Schrauben, the engineer for the project, were present.

Mr. Purdy reviewed his letter of April 29, 2003.

1. The request is consistent with the Master Plan and will provide a transition from the low density residential to the agricultural zoning.
2. This rezoning would allow the site to be developed with close to 20 single-family homes.
3. The site will be served by individual septic systems.

Debra Huntley reviewed her letter of May 1, 2003.

1. All roadways shall be designed in accordance with Genoa Township and Livingston County Road Commission standards.
2. All drainage, grading and soil erosion control measures shall be in compliance with the regulations of the Livingston County Drain Commission.

Commissioner Mortensen suggested that the entire 80 acres be rezoned to rural residential to comply with the Master Plan. Ms. Oliveto is fine with that suggestion. She is not planning on changing the way that she uses the property. Mr. Purdy advised that if the entire parcel was rezoned, the camp would be a non-conforming use and can continue to operate and would be grandfathered between owners; however, no changes could be made to it. Commissioner Cahill agrees with Commissioner Mortensen. He stated that this rezoning could not be done this evening as it would need to be noticed to the public that the entire parcel is being rezoned and another public hearing would need to be held. Kelly and Jeff agreed.

The call to the public was made at 7:17 p.m.

Gail, who is a resident of 1835 Euler Road, is concerned that if this parcel is rezoned, there could be a lot of homes built and the traffic would increase. She feels Euler Road would eventually be paved and then utilities would also be brought in.

Mr. Tom Evely of 7746 Darlene is a 30-year resident of Genoa Township and is concerned about losing more recreational land in the Township.

Mr. Baker of 1780 Euler Road feels there is no residential development needed in this area. The traffic is already busy. He feels the area needs to stay the way it is and preserve what is currently there.

Mr. Rob Russell of 1272 Pond Bluff Way agrees with what was stated by his neighbors. They enjoy the area and the wildlife.

Mr. Chris Hensick of 7589 Mc Clements questions the issue of the non-conforming use. He is not sure that the Township is aware of what the use is currently on the site and what would be considered a non-conforming use. He does agree that the entire parcel should be rezoned and not just half of it. He is concerned that the property could be sold to someone else and then developed. He feels that the two-acre zoning is appropriate. He is also concerned how the commercial development on Grand River has encroached north toward this area.

Mr. Charles Szafran of 7584 Mc Clements is concerned about the wetland that is part of what is being proposed as Parcel A as well as the drainage in that area. He lives adjacent to this parcel and does not want to have water drain onto his property.

Ms. Chris Gay of 1820 Euler Road echoed the concerns of her neighbors. She asked for clarification on what the Master Plan is. She noted that the Detroit Recreational Camp is being proposed to be sold and asked if that is going to be able to be developed as two-acre parcels.

Ms. Kay Spence of 1780 Euler Road believed that all of the property on Euler Road is zoned five acres. She is concerned about the traffic.

Mr. Hensick noted that this is not a public recreation area and it is operated by a private company.

The call to the public was closed at 7:30 p.m.

Commissioner Mortensen advised the public that the Master Plan is a planning tool for the Township. Genoa Township developed their Master Plan in 1998 and it is based on how the growth of the Township is expected to go. There were public hearings held at that time.

Mr. Purdy showed how the surrounding area is master planned. Mc Clements Road south to Grand River is master planned for two acre zoning. North of Mc Clements is zoned for five-acre parcels. If this site is sold, and the new owner wanted to develop the property more dense than what it is currently zoned, they would need to come before the Planning Commission and Township Board and another public hearing would be held. He stated the Township has no knowledge of the City of Detroit wanting to sell this property.

Mr. Schrauben stated that $\frac{3}{4}$ or 50 acres of the property could be developed due to the wetlands and the pond, which would be approximately 25 homes.

Ms. Oliveto stated she has the same concerns as the neighbors. She wanted to keep this the way it is. She does not want the traffic or to have this developed. She needs money so that is why she is asking to sell the small portion. It was Township staff that suggested she rezone the 40 acres. She is building her

house in the middle of the site. She stated the camp is used for private functions and sometimes she rents out the buildings. There are groundhogs, fox, hawks, deer, as well as other wildlife and she wants to continue to preserve this.

Ms. Huntley addressed the neighbor's concern about drainage. She has not addressed the issue of drainage at the rezoning stage; however, any development would have to comply with the standards of the Livingston County Drain Commission.

Moved by Burchfield, seconded by Mortensen, to table Agenda Item #1, a rezoning application, environmental impact assessment, and site plan to rezone 40 acres in the northwestern half of Sec. 12, Euler & Mc Clements Road from PRF (public/recreational facilities) to RR (rural residential), petitioned by Joyce Oliveto for the following reasons:

1. To enable the petitioner to resubmit the rezoning application for the entire 80 acres.
2. The petitioner shall obtain written consent of the current titleholder for the rezoning.
3. The Impact Assessment shall be updated to include the entire 80 acres.

The motion carried unanimously.

Commissioner Mortensen noted to the petitioner that this is not guaranteed to be rezoned.

OPEN PUBLIC HEARING # 2...Consideration of a request for an increase in permitted pylon sign area for the Country Corners Shopping Center located on the south side of Grand River east of Latson Road pursuant to Footnote 3 of Table 16.1 of the Genoa Township Zoning Ordinance.

- **Planning Commission disposition of petition**
 - A. Disposition regarding pylon sign area for the Country Corners Shopping Center.

Mr. Dan Habril from the Sing Works was present to represent Country Corners. Ms. Kolakowski advised they are requesting an increase in area to the proposed pylon sign. He added that they are requesting only one sign and not two, which is allowed.

The call to the public was made at 7:50 p.m.

Mr. Jeff Kelley of Great Harvest Bread Company, who is a tenant at the Country Corners Shopping Center, noted that when he has put his temporary sign on Grand River, his business has been busier. The sign is very important to the businesses in that shopping center. He feels an agreement needs to be made.

The call to the public was closed at 7:51 p.m.

**GENOA CHARTER TOWNSHIP
PLANNING COMMISSION
PUBLIC HEARING
DECEMBER 14th, 2009
6:30 P.M.**

AGENDA

CALL TO ORDER: At 6:30 p.m., the Genoa Charter Township Planning Commission meeting was called to order. Present constituting a quorum were Chairman Doug Brown, Barbara Figurski, Dean Tengel, John McManus, Diana Lowe, and Lauren Brookins, and Jim Mortensen. Also present were Brian Borden of LSL Planners, Tesha Humphriss, Township Engineer, and Kelly VanMarter, Township Planner.

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was recited.

APPROVAL OF AGENDA: Motion by Barbara Figurski to approve the agenda as presented with addition of the introduction of Board members. Support by James Mortensen. **Motion carried unanimously.**

CALL TO THE PUBLIC: (*Note: The Board reserves the right to not begin new business after 10:00 p.m.*)

OPEN PUBLIC HEARING # 1... Review of site plan application, impact assessment and site plan for a proposed 6,854 sq.ft. chapel located at the Chaldean Camp on the east side of Kellogg Road, North of Grand River Avenue, Sec. 11 & 12, petitioned by Bishop Abraham M. Abraham.

This project's architect, Kassad Abdonew and the civil engineer, Teon Sujak appeared before the Planning Commission. This proposed project would be in the camp, itself. There will not be a lot of parking/paving in the area for the church. The artist's rendering of the St. George's Shrine was provided to the Planning Commission. Mr. Abdonew believes the design of the building will compliment the design of the camp.

Outdoor lighting was discussed. Petitioner does not believe lighting poles in the parking lot will be required because the church would only be used during the day, except in case of emergency.

Mr. Abdonew addresses the matters outlined in the Planner's letter dated December 3, 2009. He believes there are a lot of trees that provide screening along the property line. Color boards were previously submitted. The parking was also addressed. The petitioner is seeking grass paving. The Township Engineer will discuss that with the petitioner. A loading and unloading zone is

not really needed. There will be no trucks coming in and out of the camp for the purposes of deliveries.

Father Bogi addresses the Planning Commission. He believes the church would be used on occasion for retreats with 40-50 people and perhaps larger events three to four times per year.

Any proposed signage will need to be approved by the Township.

Brian Borden addresses the Planning Commission. The screening requirement could be waived as far as he is concerned. He will defer to Tesha Humphriss' judgment regarding grass pavers. He doesn't believe there should be much concern regarding the loading area because he doesn't believe there will be many deliveries, if any. Mr. Borden will defer to Tesha Humphriss regarding the contouring of the detention pond. There was discussion regarding the necessity of a dumpster. Once one is planned, the details for it will need to be submitted to the Township.

Tesha Humphriss discusses her December 9, 2009 letter. The Fire Department has not granted final approval. She would like a designation of where the final tank will be located re: fire storage. As it relates to drainage, the area has been split into three areas. She is supportive of the best management practices. The drainage areas to the south and the northeast of Euler Road were discussed. They are proposing a gravel check dam level spreader to the west to assist with drainage. The drain is privately owned and maintained, although Kellogg Road is under the jurisdiction of the Drain Commission. The system at the camp must be periodically maintained by the petitioner. A soil erosion permit will be required prior to construction. The existing asphalt drive is being improved and a permit is required for that, as well as a permit from the Health Department will be required, as well.

The letter of the Fire Department dated December 7, 2009 was discussed. The petitioner has made subsequent revisions and the petitioner is still working with the Fire Marshall. Chairman Brown read the letter of December 14, 2009 from the Fire Department and the contents were discussed.

Occupancy was discussed. There is seating for 240 people in the chapel, room for twenty standing, and an additional 25 in the multipurpose room. Some changes have been made to the drawings, which were not provided to the Commission. Fire lane signs were added. The dumpster was updated. One parking stall was deleted. The pond was re-contoured to look more natural, while still providing the volume that was required.

There will be a six inch curb near the placement of the tank at this point.

The propane tank will be relocated from where it is currently located in the middle of the drive. The current well will remain where it currently is. The pump house at the shoreline will remain where it is currently, but could be removed if necessary.

Brian Borden indicates that there is no issue with the building heights due to the setbacks. It is well within the ordinance.

Father Bogi indicates that one mass per year may have bells that would ring outdoors and would have an outdoor mass. This is the Assumption of Mary and is celebrated on a weekend near August 15th. The Township noise ordinance will be observed. The area will be set up that the speakers do not face the lake to prevent further amplification.

Charles Saliba of 1829 Kellogg Road address the Planning Commission. He inquires if the west entrance can be paved since the drive is somewhat hidden. He asks how often the chapel would be used. He believes the noise issues are becoming worse and he fears the chapel would be on the highest geographical point on the camp's land and that it may become loud. Microphones and speakers will not be used outdoors except as noted above for The Assumption of Mary festivities. Chairman Brown answers questions from Mr. Saliba regarding the process regarding approval of the land use permit by the Township or the building permit by the County. Any noise level issues should be addressed to the Township. Mr. Saliba asks if the petitioner can proceed since he believes ownership is in question. He is informed that the Township has been provided legal documentation indicating ownership. He asks what steps can be taken to object to this building. Mr. Mortensen explains this to Mr. Saliba.

Patricia Kopicko, 6843 Filice addressed the Planning Commission regarding road usage on Kellogg Road. She is concerned the increased traffic could cause problems with the road, which is already deteriorating. James Mortensen indicates that it's a Road Commission issue. She asks if it will be lit while unoccupied. It will not be lit.

Father Bogi addresses Chairman Brown's question as to why such a beautiful church would be built for a minimal attendance. The monies for the church were donated by a man who wanted a church built to honor Saint George. Saint George is a saint who is honored in the Chaldean culture. This church is not a parish church, so it is not anticipated that it will be open every week, except in the summer. It is more of a shrine than a church.

Joe Guzek of 1717 South Kellogg, inquires whether there is an ordinance regarding lighting after dark. Brian Borden responds to that question. There is a .5 candle light maximum at a private property line.

This site is not formerly Camp Dearborn. It is formerly the Detroit Recreation Camp.

Planning Commission disposition of petition

- A. Recommendation of Environmental Impact Assessment.
- B. Disposition of Site Plan.

Motion by Barbara Figurski to recommend to the Township Board that they approve the Environmental Impact Assessment subject to:

1. Inserting noise control measures under "e" indicating that the site will comply with the noise ordinance;
2. Dust control measures be taken;
3. **The church's outdoor service is planned to be held once per year during the month of August.**

Support by James Mortensen. **Motion carried unanimously.**

Motion by James Mortensen to approve the site plan presented this evening, subject to the following:

1. The site plan that is being approved is the October 31, 2009 site plan, with several minor modifications on the new site plan dated December 11, 2009;
2. The landscaping as proposed this evening on the site plan is acceptable;
3. The site plan rendering, architectural materials and architectural rendering as reviewed this evening are acceptable and will become the property of the Township;
4. Grass paving as shown on the site plan is acceptable;
5. A loading and unloading zone is not required;
6. The storm ponds have been redesigned to blend more with the natural features of the site;
7. No dumpster is required at this time, but may be modified in the future by the Township staff, in which case the conditions for that dumpster as spelled out in LSL's letter of December 3, 2009, including the base pad, will be complied with;
8. **Exterior site lighting is not being provided and is acceptable to the Township Planning Commission.** Moreover, the lighting ordinance of the Township will be complied with;
9. The conditions spelled out in the Township Engineer's letter dated December 9, 2009 will be complied with;
10. Also, the conditions spelled out in the Fire Department's letter of December 7, 2009 will be complied with subject to future modification

12-14-09 PC Approved minutes

between the Township Engineer, petitioner, applicant and Fire Department;

11. Signage will comply with the Township ordinance and will be reviewed by the Township staff.

Support by Barbara Figurski. **Motion carried unanimously.**

OPEN PUBLIC HEARING # 2...Review of amendment to Zoning Ordinance Article 7.

This was reviewed last month, but because it was to be added to the Commercial Zoning, it was not published last month. The actual change is on page nineteen, which is 7-4 of the ordinance.

Planning Commission disposition of petition

A. Recommendation of Zoning Ordinance Text Amendments.

Motion by James Mortensen to recommend to the Township Board that they approve the amendment to ordinance 7.02.02 to add shooting ranges as a special use in the general commercial and regional commercial zoning districts. Support by Barbara Figurski. **Motion carries unanimously.**

Administrative Business:

- *Planners report presented by LSL Planners. There is nothing to add per Brian Borden.*
- *Approval of 11-9-09 Planning Commission meeting minutes. Motion by Barbara Figurski to approve the minutes as amended. Support by James Mortensen. **Motion carried unanimously. Diana Lowe abstained from voting. All other members voted affirmatively.***
- *Discussion of Capital Improvement Plan Projects. Kelly VanMarter addresses the Planning Commission regarding applying a schedule to her list of projects. James Mortensen discussed his thoughts regarding the Nixon/Latson Road interchange. He supported the project when it was \$500,000.00. He will vote against it if it continues to cost \$1 million dollars.*
- *Member Discussion*

Adjournment. At 8:40 p.m., motion by Barbara Figurski to adjourn. Support by John McManus . **Motion carried unanimously.**

*At under 1 year ownership the Camp was already
a nuisance and has continued*

**GENOA CHARTER TOWNSHIP
Public Hearing and Regular Meeting
September 2, 2008
6:30 p.m.**

MINUTES

Supervisor McCririe called the regular meeting of the Genoa Charter Township Board to order at 6:30 p.m. The Pledge of Allegiance was then said. The following persons were present constituting a quorum for the transaction of business: Gary McCririe, Paulette Skolarus, Robin Hunt, Todd Smith, Jean Ledford, Steve Wildman and Jim Mortensen. Also present were Township Manager Michael Archinal and 25 persons in the audience.

A Call to the Public was made with township residents living near the Saint George Caldean Camp responding. Residents advised the board that they had phoned the State Police and Sheriff's Department because of the amplified speakers within the facility broadcasting music and prayer all day and evening this past weekend. The sound from the speakers vibrated the windows of the homes of residents living $\frac{3}{4}$ mile from the facility. Residents were frustrated because they could not reach township officials to notify them of the problem. Cars were parked outside the camp ground on both sides of the roads leading up to the entrance of the facility and residents were treated rudely by church members. "We are just asking them to be good neighbors." stated Sandy Harrison. Joe Buzack said that he could not hold personal conversation in his own home – $\frac{3}{4}$ mile from the facility. The music and party lasted from noon on Sunday until 1:40 a.m. Monday morning. Two residents complained that there was dynamite being used at the camp. Tom Grostic who farms land in that area was unable to drive his farm equipment down the road because he needed more than 12' to pass along the roadway.

McCririe – We have to balance their rights versus your rights. If they are in violation of our ordinance we will notify them. They need to operate in a manner that is respectful of their neighbors. Please give us the opportunity to address your concerns. We will call them concerning the upcoming event scheduled for the 14th.

Archinal – We will be glad to loan a sound meter to one of the neighboring property owners. Video of the violations would also be helpful when we speak with them.

Smith – According to our zoning ordinance parking outside of the camp is only allowed within 50' of the entrance. Anything else is a violation unless they ask for a special use permit. Should a special use permit be requested, residents within 300' of the camp would be notified.

All members of the board agreed that the issue would be raised with the Caldean Church and that the township's position and zoning ordinance would be complied with.

Approval of Consent Agenda:

Moved by Smith, supported by Wildman, to approve all items listed under the consent agenda as presented. The motion carried unanimously.

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Posted December 8, 2009

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Former cop says he took kickback in Detroit camp sale

By David Runk

Associated Press Writer

DETROIT (AP) ♦ A former police officer last Friday pleaded guilty to conspiracy to commit bribery and implicated two former officials in ex-Mayor Kwame Kilpatrick's administration in a kickback scheme tied to the \$3.5 million sale of a city camp.

Jerry Rivers, 39, of Taylor, said during a hearing in U.S. District Court that he and brothers DeDan and Kandia Milton shared \$50,000 after Camp Brighton in Livingston County was sold to the Chaldean Catholic Church in 2007. No one else, including the Miltons, has been charged in the case.

Rivers, who once was on Kilpatrick's security unit, said he was approached by a representative of the church in 2006 seeking help on the deal. He said he introduced the representative to the Miltons, and the money later came from a priest through a middleman.

"I got \$20,000 and split the balance between the Miltons," Rivers told the court.

In court documents, prosecutors would only say he was working with city officials C and D.

Kandia Milton was a top aide when Kilpatrick was mayor and recommended the camp sale in a memo to the Detroit City Council. DeDan Milton also worked for Kilpatrick.

Rivers was a police officer from 1999 until resigning in the past week or two, and was on Kilpatrick's security unit early in his tenure as mayor ♦ not at the time of the kickback scheme, defense lawyer Sheldon Halpern said.

He said he knew of no others involved in the case other than those named by Rivers in court.

"This was an error in judgment," Halpern said after the hearing. "He would have made the introduction without being offered one penny. ... He foolishly took it."

Messages seeking comment were left with the Miltons and the church.

Chaldean Bishop Ibrahim Ibrahim acknowledged a \$50,000 payment to "someone well-known" but also told The Detroit News: "We had no intention to do anything wrong."

Kilpatrick resigned in 2008 after pleading guilty to obstruction of justice and pleading no contest to assault. Last month, an FBI agent testified as part of a restitution hearing for Kilpatrick and indicated that federal investigators are interested in the dealings of the embattled ex-mayor.

A message seeking comment was left after regular business hours last Friday with a lawyer for Kilpatrick.

A federal probe of corruption at city hall has been ongoing for more than two years.

"The Detroit employees acted in their own best interests which was personal gain," Andrew Arena, the head of the FBI's Detroit office, said in a statement. "Detroit has a right to expect honest services from both city employees and elected officials."

Gina Balaya, spokeswoman for the U.S. Attorney's Office, said she couldn't say whether anyone named by Rivers would be charged. Rivers has agreed to cooperate with prosecutors.

City Council voted 5-4 in June 2007 to sell the camp. Councilman Kwame Kenyatta, who voted against the deal, attended Rivers' hearing and said that there might be reason to void the sale.

"The previous administration was rotten to the core," Kenyatta said of the Kilpatrick administration.

The city acquired the Genoa Township property in the 1920s. Camp Brighton, once a wilderness haven for Detroit inner-city youth about



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40 miles northwest of the city, was closed in 1995 and was in decrepit condition.

Councilwoman Sheila Cockrel, who supported the camp sale, said it was a good deal for the city, despite Rivers' guilty plea.

"The city didn't have the resources to run it. This is a facility we had mothballed," she said. "There was an enormous amount of due diligence done on it."

The conspiracy charge is punishable by up to 5 years in prison, a \$250,000 fine and three years probation. Under the terms of Rivers' plea agreement, the sentencing guidelines would be 2 years and 6 months to 3 years and one month in prison. He was released on bond and will be sentenced next year.

During the hearing, federal prosecutors made it clear the Rivers' actions were as an individual and not in his official capacity as an officer. Detroit police spokesman John Roach declined to comment on Rivers' plea.

Prosecutors said they could ask for a lower sentence based on the extent of Rivers' cooperation.



Associated Press Writer Ed White contributed to this report.

Published: Tue, Dec 8, 2009

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Former Detroit Police Officer Pleads Guilty to Bribery Scheme Related to Sale of Camp Brighton

U.S. Attorney's Office
December 04, 2009

Eastern District of Michigan
(313) 226-9100

Jerry M. Rivers, 39, of Taylor, and a former Detroit Police Officer, pleaded guilty today before United States District Judge Gerald Rosen to participating in a bribery scheme, United States Attorney Terrence Berg announced today. Berg was joined in the announcement by Andrew G. Arena, Special Agent In Charge of the Detroit Field Office of the Federal Bureau of Investigation.

According to the charges in the Information and the facts stipulated to in the written plea agreement, in 2006 and 2007, in exchange for \$50,000, Rivers assisted a non-profit entity in purchasing property from the City of Detroit—namely, a 160-acre campsite in Livingston County called Camp Brighton/Detroit Recreation Camp. Two city officials (described in court documents as City Officials C & D) assisted Rivers, using their positions in the city administration to advocate that the administration and city council approve the sale of Camp Brighton to the non-profit entity for \$3.5 million. On November 9, 2006, the City's Planning & Development Department recommended that the City Council approve the sale. On June 27, 2007, the City Council, by a five-to-four vote, approved the sale. After the sale closed, the \$50,000 payment from the non-profit entity was divided roughly as follows: \$20,000 to Rivers; \$20,000 to City Official C; and \$10,000 to City Official D. They recruited a middleman to accept the money from the Non-Profit Entity because they did not want the money to go directly to themselves.

United States Attorney Berg said, "This Office is committed to aggressively pursuing corruption by public officials. It is a fundamental violation of the public trust for an official to accept payments or bribes in exchange for carrying out an official act, as the defendant admitted doing in today's guilty plea. I commend the continuing hard work of the FBI and the prosecutors in this Office that has resulted in today's guilty plea."

Special Agent in Charge Arena stated, "The Detroit employees acted in their own best interests which was personal gain. Detroit has a right to expect honest services from both city employees and elected officials. This investigation further demonstrates the FBI's commitment in investigating public corruption and bringing those who betray the public's trust to justice."

Rivers was released on bond pending his sentencing. He was referred to the United States Probation Department for a presentence investigation. Rivers faces a statutory maximum sentence of up to five years in prison or a fine of \$250,000, or both.

Under the terms of the plea agreement, the parties agreed that the sentence would not exceed 37 months in prison. The agreement also provided that Mr. Rivers would cooperate in the government's continuing investigation of others, and that he could be eligible to receive a sentence reduction if his cooperation is deemed to be substantial assistance under the Federal Sentencing Guidelines.

The investigation of this case is being conducted by the Federal Bureau of Investigation and prosecuted by Assistant U.S. Attorneys Mark Chutkow and R. Michael Bullotta.

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Former City Official Pleads Guilty to Bribery Scheme Related to Sale of Camp Brighton

U.S. Attorney's Office
December 04, 2009

Eastern District of Michigan
(313) 226-9100

Kandia N. Milton, 38, of Detroit, former Liaison to City Council for the Mayor of Detroit, and later Deputy Mayor, pled guilty today before United States District Judge Gerald Rosen to participating in a bribery scheme, United States Attorney Terrence Berg announced today. Berg was joined in the announcement by Andrew G. Arena, Special Agent In Charge of the Detroit Field Office of the Federal Bureau of Investigation.

According to the charges in the Information and the facts stipulated in the written plea agreement, in 2006 and 2007, in exchange for \$50,000, Milton and co-defendant Jerry Rivers, a former police officer, assisted a non-profit entity in purchasing property from the City of Detroit – namely, a 160-acre campsite in Livingston County called Camp Brighton/Detroit Recreation Camp. Milton and another city official (described in court documents as City Official D) used their positions in the city administration to move forward consideration of the sale of Camp Brighton to the non-profit entity for \$3.5 million. On November 9, 2006, the City's Planning & Development Department recommended that the City Council approve the sale. On June 27, 2007, the City Council, by a five-to-four vote, approved the sale. After the sale closed, the \$50,000 payment from the non-profit entity was divided roughly as follows: \$20,000 to Milton; \$20,000 to Rivers; and \$10,000 to City Official D. A middleman was recruited to accept the money from the Non-Profit Entity because they did not want the money to go directly to themselves.

United States Attorney Berg said: "As a high-level public official for Detroit, Mr. Milton owed the people a duty to execute his office with integrity, untainted by receiving bribes or under the table payments in exchange for his official actions. All public officials owe this same duty. This case marks the eighth such bribery-related conviction obtained by the U.S. Attorney's Office this year. I commend the hardworking federal prosecutors and investigators who have devoted much time and effort to bringing these cases successfully to justice."

Special Agent Arena stated, "Detroit has a right to expect honest services from both city employees and elected officials. This investigation further demonstrates the FBI's commitment in investigating one its highest priorities, public corruption, and bringing those who betray the public's trust to justice."

Milton was released on bond pending his sentencing. He was referred to the United States Probation Department for a presentence investigation. Milton faces a statutory maximum sentence of up to five years in prison or a fine of \$250,000, or both. A sentencing date was set for March 18, 2010 at 10:00 a.m.

Under the terms of the plea agreement, the parties agreed that the sentence would not exceed 46 months in prison. The agreement also provided that Mr. Milton would cooperate in the government's continuing investigation of others, and that he could be eligible to receive a sentence reduction if his cooperation is deemed to be substantial assistance under the Federal Sentencing Guidelines.

The investigation of this case is being conducted by the Federal Bureau of Investigation and prosecuted by Assistant U.S. Attorneys Mark Chutkow and R. Michael Bullotta.

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FBI Jobs

Grantor	Grantee	Sale Price	Sale Date	Inst. Type	Terms of Sale	Liber & Page	Verified By	Prcnt. Trans.			
CITY OF DETROIT	CHALDEAN CATHOLIC CHURCH	3,500,000	07/09/2007	QC	21-NOT USED/OTHER	2007R-030588	BUYER/SELLER	100.0			
Property Address		Class: COMMERCIAL-IMPROVE		Zoning: PRF	Building Permit(s)		Date	Number	Status		
7000 MC CLEMENTS		School: HOWELL PUBLIC SCHOOLS		Other		01/06/2023	P23-001				
Owner's Name/Address		P.R.E. 0%		COMMERCIAL BLDG		05/05/2016	P16-069	NO START			
CHALDEAN CATHOLIC CHURCH OF THE USA 25603 BERG RD SOUTHFIELD MI 48033-2556		MAP #: V23-03		COMM MISCEL		12/16/2008	W08-125	NO START			
		2023 Est TCV Tentative		COMM MISCEL		12/16/2008	08-149	NO START			
Tax Description		X	Improved	Vacant	Land Value Estimates for Land Table 4500.HOWELL M& B						
SEC. 12 T2N, R5E, W 1/2 OF NW 1/4 80A NORTH CAMP AREA & WELCOME CENTER		Public Improvements		* Factors *							
Comments/Influences		Dirt Road		Description	Frontage	Depth	Front	Depth	Rate %Adj.	Reason	Value
		Gravel Road		LAND TABLE A			80.000	Acres	10,500	100	840,000
		Paved Road		80.00 Total Acres Total Est. Land Value = 840,000							
		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	2023	EXEMPT	EXEMPT	EXEMPT	EXEMPT			
				2022	EXEMPT	EXEMPT	EXEMPT	EXEMPT			
				2021	0	0	0	0			
				2020	0	0	0	0			

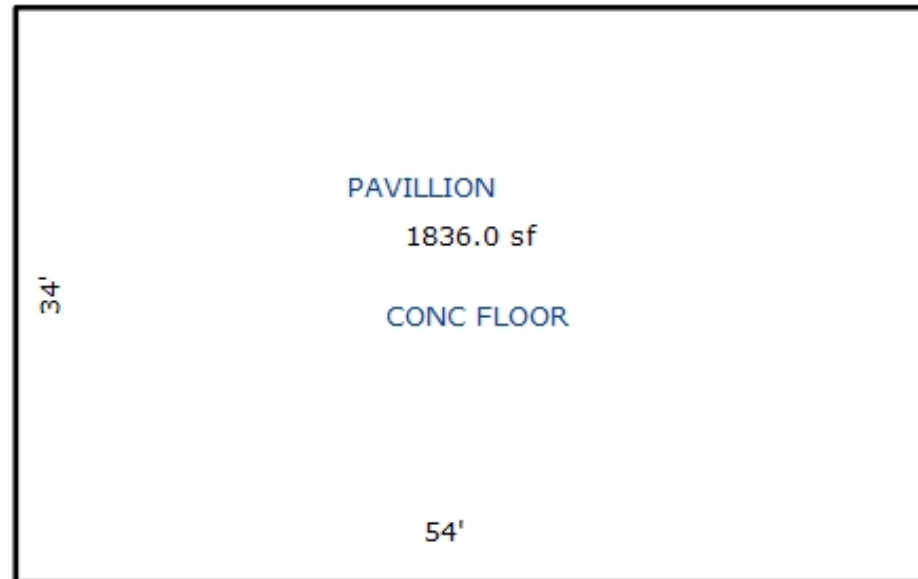
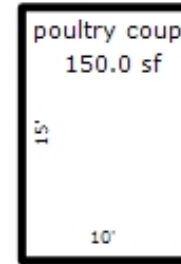
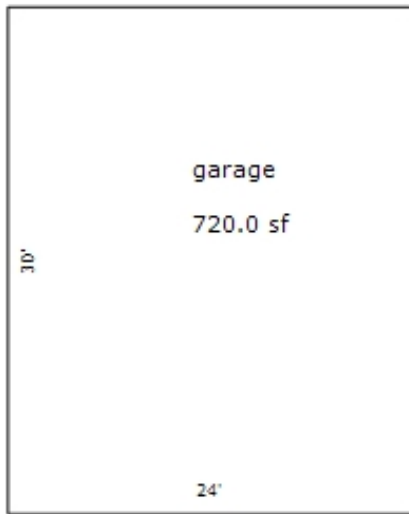


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*** Information herein deemed reliable but not guaranteed***

Desc. of Bldg/Section: Calculator Occupancy: Clubhouses				<<<<<< Calculator Cost Computations >>>>>>			
Class: C Floor Area: 6,417 Gross Bldg Area: 6,417 Stories Above Grd: 1 Average Sty Hght : 12 Bsmnt Wall Hght				Class: C Quality: Average Stories: 1 Story Height: 12 Perimeter: 0			
Depr. Table : 2.5% Effective Age : 30 Physical %Good: 47 Func. %Good : 100 Economic %Good: 100				Base Rate for Upper Floors = 128.86			
Year Built Remodeled				(10) Heating system: Package Heating & Cooling Cost/SqFt: 21.07 100% Adjusted Square Foot Cost for Upper Floors = 149.93			
Overall Bldg Height				Total Floor Area: 6,417 Base Cost New of Upper Floors = 962,101			
Comments:				Reproduction/Replacement Cost = 962,101 Eff.Age:30 Phy.%Good/Abnr.Phy./Func./Econ./Overall %Good: 47 /100/100/100/47.0 Total Depreciated Cost = 452,187			
(1) Excavation/Site Prep:				(7) Interior:			
(2) Foundation:				(8) Plumbing:			
Footings				Outlets: Fixtures:			
X Poured Conc. Brick/Stone Block				Many Above Ave. Average Typical Few None			
(3) Frame:				Total Fixtures Urinals 3-Piece Baths Wash Bowls 2-Piece Baths Water Heaters Shower Stalls Wash Fountains Toilets Water Softeners			
(4) Floor Structure:				Flex Conduit Incandescent Rigid Conduit Fluorescent Armored Cable Mercury Non-Metalic Sodium Vapor Bus Duct Transformer			
(5) Floor Cover:				(9) Sprinklers:			
(6) Ceiling:				(10) Heating and Cooling:			
Gas Oil Coal Stoker Hand Fired Boiler				(13) Roof Structure: Slope=0			
(11) Electric and Lighting:				(14) Roof Cover:			
(39) Miscellaneous:				(40) Exterior Wall:			
Thickness Bsmnt Insul.				Thickness Bsmnt Insul.			

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



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Grantor	Grantee	Sale Price	Sale Date	Inst. Type	Terms of Sale	Liber & Page	Verified By	Prcnt. Trans.
CITY OF DETROIT	CHALDEAN CATHOLIC CHURCH	3,500,000	07/09/2007	QC	21-NOT USED/OTHER	2007R-030588	BUYER/SELLER	100.0

Property Address	Class: COMMERCIAL-IMPROVE	Zoning: PRF	Building Permit(s)	Date	Number	Status
1391 S KELLOGG RD	School: HOWELL PUBLIC SCHOOLS		EXEMPT	04/12/2013	P13-021	NO START
	P.R.E. 0%		EXEMPT	02/16/2011	11-014	NO START
Owner's Name/Address	MAP #: V23-03		MISC EXEMPT	01/21/2011	W11-005	NO START
CHALDEAN CATHOLIC CHURCH OF THE USA 25603 BERG RD SOUTHFIELD MI 48033-2556	2023 Est TCV Tentative		ADDITION	06/09/2010	10-065	NO START

Tax Description	X Improved		Vacant	Land Value Estimates for Land Table 4502.HARTLAND M & B							
	Public Improvements			Description	Frontage	Depth	Front	Depth	Rate %Adj.	Reason	Value
SEC. 11 T2N, R5E, E 1/2 OF NE 1/4 80A SOUTH CAMP				TABLE A			80.000	Acres	10,500	100	840,000
Comments/Influences				80.00 Total Acres Total Est. Land Value = 840,000							

CHALDEAN CHURCH

CHALDEAN CHURCH



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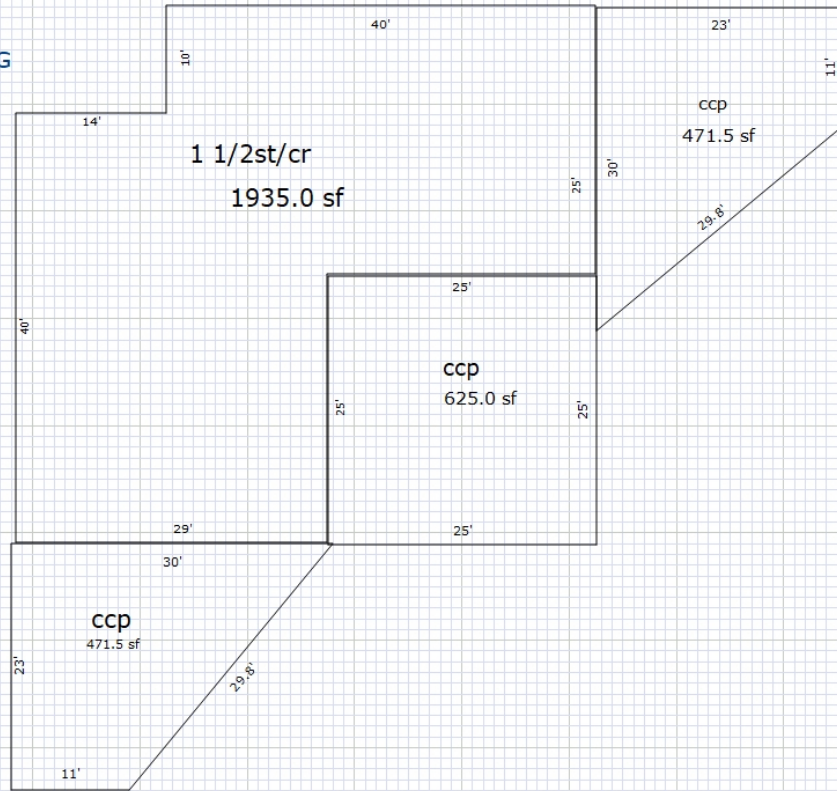
Who	When	What	Year	Land Value	Building Value	Assessed Value	Board of Review	Tribunal/Other	Taxable Value
			2023	EXEMPT	EXEMPT	EXEMPT			EXEMPT
			2022	EXEMPT	EXEMPT	EXEMPT			EXEMPT
			2021	0	0	0			0
			2020	0	0	0			0

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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		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 Exterior 1 Story Exterior 2 Story Prefab 1 Story Prefab 2 Story Heat Circulator Raised Hearth Wood Stove Direct-Vented Gas	Area 970 55	Type Treated Wood Treated Wood	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:		
X	Wood Frame		(4) Interior Drywall Paneled Plaster Wood T&G		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											
Building Style: C		Trim & Decoration Ex X Ord Min		Central Air Wood Furnace			Class: C Effec. Age: 9 Floor Area: 2,800 Total Base New : 377,467 Total Depr Cost: 343,495 Estimated T.C.V: 360,670			E.C.F. X 1.050		Bsmnt Garage: 2 Car Carport Area: Roof:				
Yr Built 0	Remodeled 0	Size of Closets Lg X Ord Small		(12) Electric 0 Amps Service			Cost Est. for Res. Bldg: 1 Single Family C (11) Heating System: Forced Heat & Cool Ground Area = 1778 SF Floor Area = 2800 SF. Phy/Ab.Phy/Func/Econ/Comb. % Good=91/100/100/100/91			Cls C Blt 0						
Condition: Good		Doors: Solid X H.C.		No./Qual. of Fixtures Ex. X Ord. Min			Building Areas Stories Exterior Foundation Size Cost New Depr. Cost 1 Story Siding Basement 1,778 1 Story Siding Overhang 1022 Total: 337,719 307,324									
Room List		(5) Floors Kitchen: Other: Other:		No. of Elec. Outlets Many X Ave. Few			Other Additions/Adjustments Basement, Outside Entrance, Below Grade 1 2,505 2,280 Plumbing 3 Fixture Bath 2 9,093 8,275 Water/Sewer 1000 Gal Septic 1 4,761 4,333 Water Well, 100 Feet 1 5,684 5,172 Deck Treated Wood 55 1,822 1,658 Treated Wood 970 12,329 11,219 Garages Class: C Exterior: Siding Foundation: 42 Inch (Unfinished) Basement Garage: 2 Car 1 3,554 3,234 Totals: 377,467 343,495									
(1) Exterior		(6) Ceilings		(13) Plumbing Average Fixture(s) 3 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			Notes: ECF (4502 (47060) HARTLAND M & B) 1.050 => TCV: 360,670									
X	Wood/Shingle Aluminum/Vinyl Brick	Basement: 1778 S.F. Crawl: 0 S.F. Slab: 0 S.F. Height to Joists: 0.0		(14) Water/Sewer Public Water Public Sewer 1 Water Well 1 1000 Gal Septic 2000 Gal Septic Lump Sum Items:												
(2) Windows		(7) Excavation														
X	Many Avg. Few	X	Large Avg. Small													
(3) Roof		(8) Basement Conc. Block Poured Conc. Stone Treated Wood Concrete Floor														
X	Wood Sash Metal Sash Vinyl Sash Double Hung Horiz. Slide Casement Double Glass Patio Doors Storms & Screens	(9) Basement Finish Recreation SF Living SF 1 Walkout Doors No Floor SF														
X	Gable Hip Flat	Gambrel Mansard Shed	(10) Floor Support Joists: Unsupported Len: Cntr.Sup:													
X	Asphalt Shingle															
Chimney: Brick																

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COMMUNITY BUILDING



Sketch by Apex Sketch

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

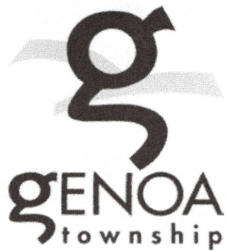
Building Type		(3) Roof (cont.)		(11) Heating/Cooling			(15) Built-ins		(15) Fireplaces		(16) Porches/Decks		(17) Garage	
X	Single Family Mobile Home Town Home Duplex A-Frame	X	Eavestrough Insulation 0 Front Overhang 0 Other Overhang	X	Gas Wood	Oil Coal	Elec. Steam	Appliance Allow. Cook Top Dishwasher 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 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:		
X	Wood Frame	X	Drywall Paneled			Plaster Wood T&G								
Building Style: CD		Trim & Decoration		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										
Yr Built Remodeled 2008 CLER0		Ex X Ord Min												
Condition: Good		Lg X Ord Small												
Room List		Doors: Solid X H.C.		Central Air Wood Furnace										
Basement 1st Floor 2nd Floor Bedrooms		Kitchen: Other: Other:		(12) Electric 0 Amps Service										
(1) Exterior		(6) Ceilings		No./Qual. of Fixtures										
Wood/Shingle Aluminum/Vinyl Brick X Vinyl X Insulation				Ex. X Ord. Min										
(2) Windows		Basement: 0 S.F. Crawl: 1572 S.F. Slab: 0 S.F. Height to Joists: 0.0		No. of Elec. Outlets										
Many Avg. Few X Avg. X Avg. Large Small		(7) Excavation		Many X Ave. Few										
Wood Sash Metal Sash Vinyl Sash Double Hung Horiz. Slide Casement Double Glass Patio Doors Storms & Screens		(8) Basement		(13) Plumbing										
(3) Roof		Conc. Block Poured Conc. Stone Treated Wood Concrete Floor		Average Fixture(s) 2 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 Gable Hip Flat X Asphalt Shingle		Gambrel Mansard Shed		(9) Basement Finish										
Chimney:		Recreation SF Living SF Walkout Doors No Floor SF		(14) Water/Sewer										
		(10) Floor Support		Public Water Public Sewer Water Well 1000 Gal Septic 2000 Gal Septic										
		Joists: Unsupported Len: Cntr.Sup:		Lump Sum Items:										
				Cost Est. for Res. Bldg: 2 Single Family CD (11) Heating System: Forced Heat & Cool Ground Area = 1572 SF Floor Area = 1572 SF. Phy/Ab.Phy/Func/Econ/Comb. % Good=91/100/100/100/91 Building Areas Stories Exterior Foundation Size Cost New Depr. Cost 1 Story Siding Crawl Space 1,572 Total: 175,554 159,754 Other Additions/Adjustments Plumbing 1 3,778 3,438 3 Fixture Bath Totals: 179,332 163,192 Notes: ECF (4502 (47060) HARTLAND M & B) 1.050 => TCV: 171,352										

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

Desc. of Bldg/Section: Calculator Occupancy: Religious Buildings - Church Sanctuaries		<<<<<< Calculator Cost Computations >>>>>>	
Class: B Floor Area: 6,953 Gross Bldg Area: 6,953 Stories Above Grd: 1 Average Sty Hght : 32 Bsmnt Wall Hght		Class: B Quality: Good Stories: 1 Story Height: 32 Perimeter: 518 Base Rate for Upper Floors = 461.55	
Depr. Table : 2% Effective Age : 7 Physical %Good: 87 Func. %Good : 100 Economic %Good: 100		(10) Heating system: Package Heating & Cooling Cost/SqFt: 40.84 100% Adjusted Square Foot Cost for Upper Floors = 502.39	
Year Built Remodeled Overall Bldg Height		Total Floor Area: 6,953 Base Cost New of Upper Floors = 3,493,118 6,953 Sq.Ft. of Sprinklers @ 7.06, Cost New = 49,088	
Comments:		Reproduction/Replacement Cost = 3,542,206 Eff.Age:7 Phy.%Good/Abnr.Phy./Func./Econ./Overall %Good: 87 /100/100/100/87.0 Total Depreciated Cost = 3,081,719	
Area: Perimeter: Type:		Local Cost Items Rate Quantity/Area %Good Depr.Cost GOOD ENTRY 25.00 1873 100 46,825	
Area #1: Type #1: Area #2: Type #2:		ECF (4502 (47060) HARTLAND M & B) 1.000 => TCV of Bldg: 1 = 3,128,544 Replacement Cost/Floor Area= 516.18 Est. TCV/Floor Area= 449.96	
Area: 6953 Type: Good			

(1) Excavation/Site Prep:		(7) Interior:		(11) Electric and Lighting:		(39) Miscellaneous:	
(2) Foundation:		(8) Plumbing:		Outlets: Fixtures:			
X Poured Conc.	Brick/Stone	Block	Footings	Many Above Ave.	Average Typical	Few None	
(3) Frame:		Total Fixtures		Urinals		Few Average	
		3-Piece Baths		Wash Bowls		Average	
		2-Piece Baths		Water Heaters		Many Unfinished	
		Shower Stalls		Wash Fountains		Typical	
		Toilets		Water Softeners			
(4) Floor Structure:				Flex Conduit		Incandescent	
				Rigid Conduit		Fluorescent	
				Armored Cable		Mercury	
				Non-Metalic		Sodium Vapor	
				Bus Duct		Transformer	
(5) Floor Cover:		(9) Sprinklers:		(13) Roof Structure: Slope=0		(40) Exterior Wall:	
						Thickness	
						Bsmnt Insul.	
(6) Ceiling:		(10) Heating and Cooling:		(14) Roof Cover:			
		Gas Oil		Coal Stoker			
				Hand Fired Boiler			

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



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

Case # 23-07

Meeting Date: Feb 21, 2023
@ 6:30 pm

PAID Variance Application Fee

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

Applicant/Owner: Derek MacCallum Email: dmac75287@gmail.com

Property Address: 7901 Birkenstock Dr. Brighton 48114 Phone: 214-566-0656

Present Zoning: LDR Tax Code: 11-12-402-035

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:** _____

I am writing to seek a pool & fence height variance for our single-family home at 7901 Birkenstock Dr, Brighton (LOT 35).

Pool: 45' distance to water's edge from street lot line and 40' distance to fence from street lot line.

Fence: Asking for a 48" fence height to satisfy pool requirements.

Please note that the packet and staff report for your scheduled Zoning Board of Appeals meeting will be available to review at <https://www.genoa.org/government/boards/zoningboard> five days prior to the meeting.

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.

Placement of the septic field is located in the center left of our backyard, therefore forcing the pool/fence to be built off-centered and extending past the 50' Setback line

Other Lots in the Subdivision extend past the established Setback Lines:
1965 Claiborne Dr, Brighton, MI & 7828 Spring Trace Rd. Brighton MI

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.

Septic Field Location

Variance was not self-created by the applicant.

Placement of the pool/fence is the only location we could place the pool/fence. All other alternatives have been exhausted

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.

Correct, the approval of the variance will not be an issue.

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.

Correct, the approval of the variance will not interfere with or discourage the appropriate development, continued use or value of adjacent properties and the surrounding neighborhood.

Attendance by the applicant is required at the Zoning Board of Appeals meeting.

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 plans and construction plans.

Date: _____ Signature: _____

- Granting of these variances would not impair adequate light or air to adjacent property, would not increase congestion or increase the danger of fire or threaten public safety or welfare.
- The proposed variances would have little or no impact on the appropriate development, continued use or value of adjacent properties and surrounding neighborhood.

This approval is conditioned upon the following:

1. Removal of the current accessory structure adjacent to the proposed addition.

The motion carried unanimously.

3. 23-06...A request by Yvette Whiteside, 5780 Glen Echo, for a front yard setback and lot coverage variance and any other variance deemed necessary by the Zoning Board of Appeals to construct a roof over existing patios.

Ms. Whiteside and Mr. John Liogas were present. Ms. Whiteside stated they would like to put covers over the existing porch and patio. They will not be extending past the existing footprints. The porch currently has a three foot overhang, so they would extend it seven feet. The entire patio would be covered, except for the circular part.

This property is not a buildable lot without a variance because it does not meet the minimum lot size requirement per the current ordinance. The property is wide and shallow, and this causes the need for the variance to not be self-created. The coverings would not negatively affect their neighbors and would not block their views.

Vice-Chairperson McCreary stated a variance was previously approved and asked if that work has been completed. Mr. Liogas stated yes, the addition has been done.

Board Member Kreutzberg asked for clarification that this request is to not enclose the patio and porch and there will be no walls. Ms. Whiteside said it will only be the roofs.

Ms. Ruthig noted the temporary carport will need to be added and be included in the total lot coverage amount. It was not included in the application.

Ms. Whiteside asked if she could have time to calculate those amounts this evening and then return to the Board to ask for those variances if needed.

Moved by Board Member Kreutzberg, seconded by Board Member Ledford, to delay Case #23-06 until the end of tonight's meeting. **The motion carried unanimously.**

4. 23-07...A request by Derek MacCallum, 7901 Birkenstock Dr., for a front yard setback variance and a fence height variance and any other variance deemed necessary by the Zoning Board of Appeals to allow an inground pool in the front yard.

Mr. MacCallum stated the practical difficulty is the location of his septic field. This is forcing the pool to be placed closer to the property line. His property is a corner lot, so he has two front yards. If they placed it in other locations on the property, it would not allow for any line of sight from the home and it would be closer to the other neighbor. They will be installing landscaping to soften the visual of the pool for the neighbors. He submitted renderings. The HOA has approved the installation and location of the pool. He has spoken to all five of his neighbors and they are all in favor of granting this variance. He supplied those letters to the Board this evening.

Genoa Township Zoning Board of Appeals Meeting
February 21, 2023
Unapproved Minutes

They were received from Derek Pluta, Robert Bruce, Mark Krzyskowski, Laura Allegoet, and Dominic Daquano.

Board Member Fons noted that there are no measurements from the septic company to show the location of the septic field. The Board would need this information to determine how much of a variance is needed. He recommends the pool be placed as close to the septic field as possible to allow for the least amount of variance needed.

Mr. Jim Pitila, who designed the pool, stated Livingston County requires an inground pool be at least 10 feet from a septic field, so that is the measurement that was used to determine where the pool would be placed.

Board Member Rockwell suggested having this item tabled this evening to allow the applicant to provide detailed information on the location of the septic field.

Moved by Board Member Rockwell, seconded by Board Member Kreutzberg, to table Case #23-07 until the March 21, 2023 ZBA meeting to allow the applicant to obtain accurate measurements for the location of the septic field. **The motion carried unanimously.**

5. 23-08...A request by Jason Jacobs, 6094 Brighton Road, for a front yard, side yard setback variance and any other variance deemed necessary by the Zoning Board of Appeals to allow a detached accessory building in the front yard.

Mr. Jacobs stated the rear of his property slopes severely. He stated that this has already been built. He apologized as he did not believe he needed a permit for it since it is a shed. Due to the location of the septic field, and the slope of his property, this is the only location where it could be placed. This will not have any negative effect on public safety, and it is shielded from the roadway and the neighbors in the summer and he has also planted arborvitae. The shed matches his house. He has spoken to his neighbors, and they are in favor of allowing the shed. He provided letters of support from David Damusis of 6056 Brighton Road, Gary Deroche of 6132 Brighton Road, Polly from 5130 Old Hickory Drive, Tom Dutcher of 5015 Timberline Drive, and Celia Pienkosz of 5032 Old Hickory Drive. The letter from David Damusis contained photographs showing his view of the shed from various locations in his yard.

Ms. Ruthig stated that Mr. Jacobs responded to the letter from the code enforcement officer immediately after it was received.

Board Member Rockwell has concerns with the building being in the front yard. The ordinance does not allow them. Mr. Jacobs stated there are other properties in his neighborhood that have structures in the front yard. His house was built into a hill. There is no other location for it to be placed.

The call to the public was opened at 8:04 pm.

Ms. Linda Rolly of 5117 Forest View Court, which is behind Mr. Jacob's home, stated they have done a wonderful job redoing the home. These changes improve the entire area.


Mr. Gary Deroche lives on the east side of Mr. Jacobs. There is no other location on the property where the shed could be built. The home and the shed are beautiful.

HOWELL EXCAVATING CO.
WENDALL H. LYBRINK
223 TRIANGLE LAKE ROAD
HOWELL, MI 48843
(517) 546-1595

New information submitted for March ZBA meeting.

TO WHOM IT MAY CONCERN:

THE SEPTIC FIELD WAS LOCATED
ON 3-9-2023. LOCATION OF SEPTIC
FIELD IS THE SAME AS THE
LIVINGSTON COUNTY HEALTH DEPARTMENT
ORIGINAL DOCUMENTATION.

Wendall Lybrink


3-9-23

REC. 177.29

15' EASEMENT

LOT 35

48" FENCE

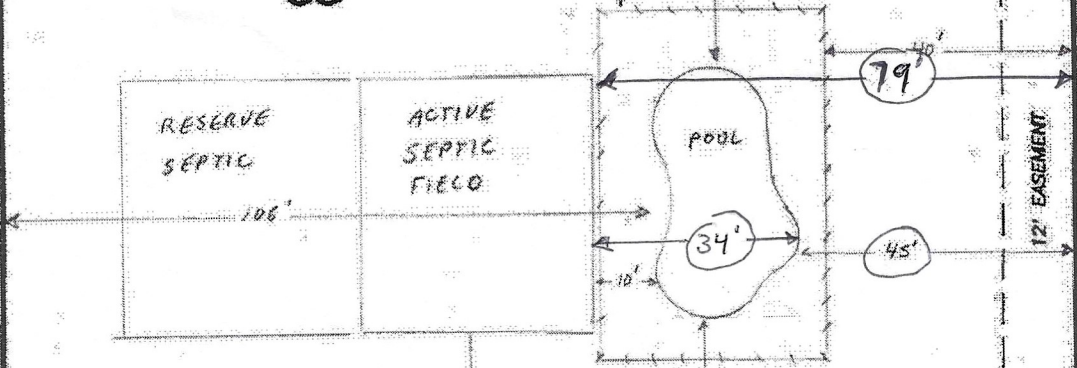
RESERVE SEPTIC

ACTIVE SEPTIC FIELD

POOL

REC. 248.54

REC. 269.93



PATIO

PROPOSED RESIDENCE

PROPOSED DRIVEWAY

DEREK & LINDSEY
 MacCallum
 7901 BIRKENSTOCK DR
 BRIGHTON MI 48114

50' SETBACK LINE

PROPOSED WELL 50' MINIMUM TO SEPTIC FIELD

12' EASEMENT

ARC 31.40

REC. 145.90

36

7901

BIRKENSTOCK DRIVE (66' R.O.W.)

February 13, 2023

Zoning Board of Appeals
Genoa Township
2911 Dorr Road
Brighton, Michigan 48116

Attention:	Amy Ruthig, Planning Director
Subject:	7901 Birkenstock Drive – Dimensional Variance Review
Location:	7901 Birkenstock Drive – northwest corner of Birkenstock Drive and Windhaven Lane
Zoning:	LDR Low Density Residential District

Dear Board Members:

At the Township’s request, we have reviewed the materials submitted seeking dimensional variance to construct a pool for the existing residence at 7901 Birkenstock Drive.

The existing residence and property comply with the dimensional requirements for the LDR District.

The proposal entails a new pool and fence enclosure that encroaches into the Windham Lane front yard. The fencing proposed has a height of 48” (as required for pools), which exceeds the allowable height for fencing in a front yard.

In accordance with Sections 11.04.03(b) and (c), dimensional variances are needed for the following:

- A pool and enclosure partially in the front yard (where such structures are not permitted); and
- A fence with a height of 48” in the front yard (where such structures are limited to a maximum of 36”).

SUMMARY

1. The location of the septic field presents difficulty for compliance with pool regulations (practical difficulty).
2. We request the applicant explain to the Board why the size/shape of the pool cannot be altered in an attempt to gain compliance (substantial justice).
3. Depending on the reasonableness of an alternative pool design, the Board could view strict compliance as unnecessarily burdensome (practical difficulty).
4. While it certainly creates difficulty, the location of a septic field is not necessarily a unique property condition (extraordinary circumstance).
5. Given the nature of the project, we do not foresee issues with the supply of light and air or to traffic and public safety (public safety and welfare).
6. If the Board considers favorable action, we suggest a condition that the applicant install landscape screening to reduce the impacts of the front yard encroachment (impact on surrounding neighborhood).



Aerial view of site and surroundings (looking north)

VARIANCE REVIEW

We have reviewed the request in accordance with the dimensional variance review criteria of Section 23.05.03, as follows:

- 1. Practical Difficulty/Substantial Justice.** Variances are not necessary to maintain the existing residence; however, the location of the septic field does make pool location difficult.

Alternatives include relocation immediately west of the residence or in the northwest corner of the property. We request the applicant explain to the Board why such options are unreasonable.

Additionally, we request the applicant explain to the Board why the size/shape of the pool cannot be altered in an attempt to gain compliance (or greater compliance).

If the Board finds these alternatives unreasonable, they may view strict compliance as unnecessarily burdensome to the applicant.

- 2. Extraordinary Circumstances.** While it is not necessarily a unique property condition, the location of the septic field does create difficulty for pool placement.

However, as noted above, alternatives should be explored prior to granting of variances.

- 3. Public Safety and Welfare.** Given the nature of the proposal, granting of the variances will not impair the supply of light and air to adjacent properties.

Furthermore, the granting of the variances will not unreasonably impact traffic or public safety.

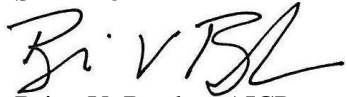
- 4. Impact on Surrounding Neighborhood.** Based on review of aerial photos, there are other residences with pools in this neighborhood. However, none appear to encroach into a front yard.

If the Board is amenable to granting the variances based on practical difficulty and substantial justice, we suggest a condition that landscape screening be provided to soften the visual impacts of the front yard encroachment.

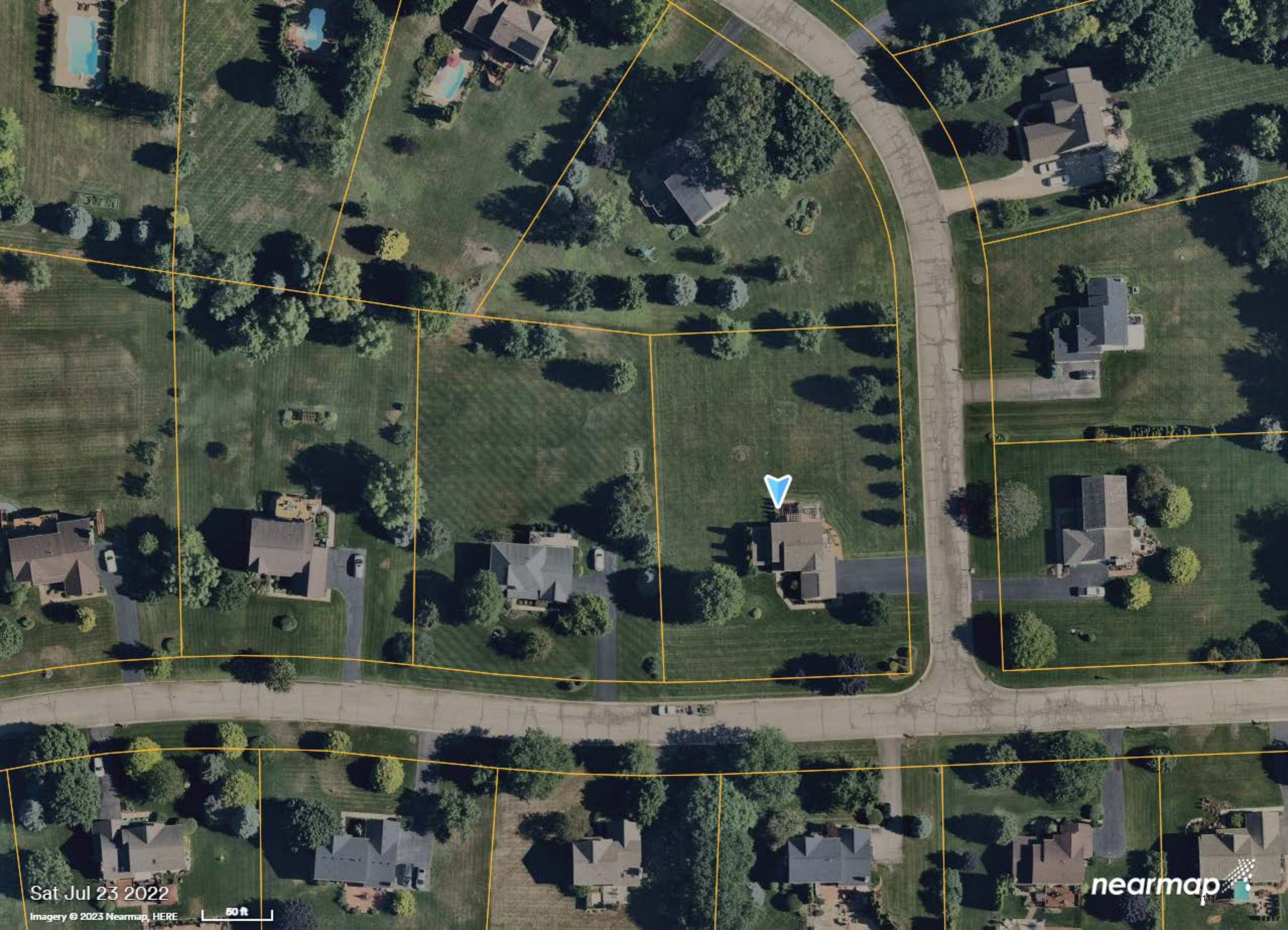
Genoa Township ZBA
7901 Birkenstock Drive
Dimensional Variance Review
Page 3

Should you have any questions concerning this matter, please do not hesitate to contact our office.

Respectfully,
SAFEBUILT

A handwritten signature in black ink, appearing to read "B. V. Borden". The signature is stylized and cursive.

Brian V. Borden, AICP
Michigan Planning Manager



Sat Jul 23 2022

Imagery © 2023 Nearmap, HERE

50 ft

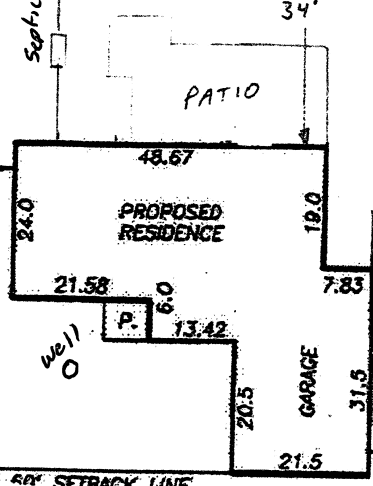
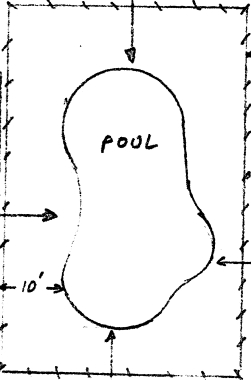
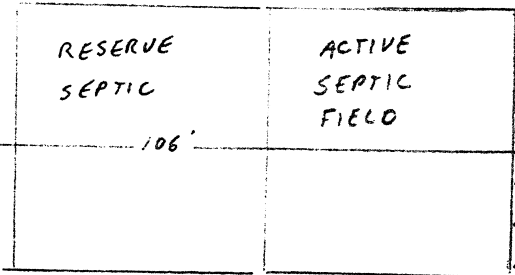
nearmap

REC. 177.29

15' EASEMENT

LOT 35

48" Fence



REC. 248.54

REC. 269.93

DEREK & LINDSEY
 MacCALLUM
 7901 BIRKENSTOCK DR
 BRIGHTON M148114

60' SETBACK LINE

PROPOSED WELL
 30' MINIMUM
 TO SEPTIC FIELD

ARC 31.40

REC. 145.90

← Birkenstock Drive →

Windhaven

36

7901

BIRKENSTOCK DRIVE (66' R.O.W.)

STEEL WALL POOL SYSTEM

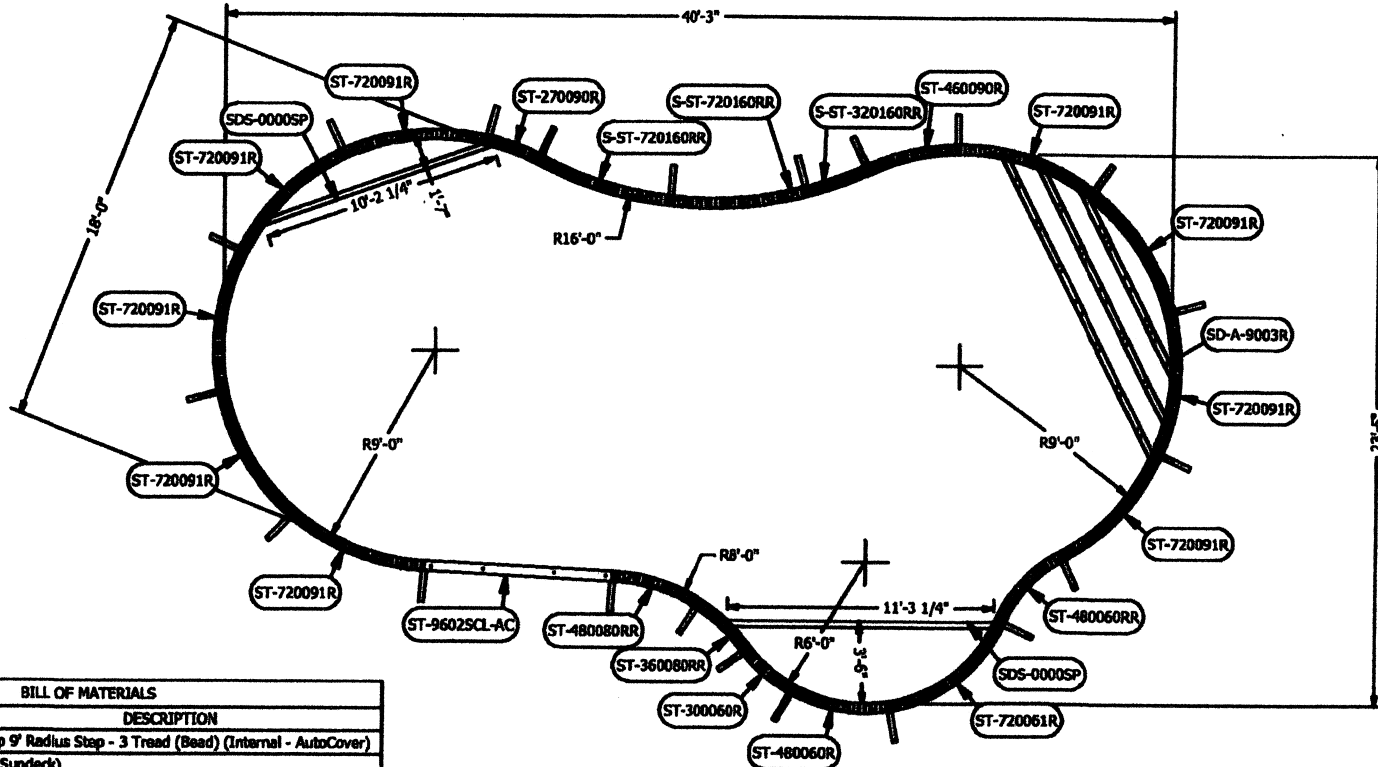
23'-5" X 40'-3" FREE-FORM

DWG #: GS-21368 DATE: 12/16/2022 REV: - PAGE 1 OF 5
 AREA (SqFt): 680 PERIMETER: 107' EST. VOL (US Gal): 23,460

CUSTOMER: 3R POOLS INC. - SOUTH LYON
 TAG: MACALLUM

*THIS DRAWING REPRESENTS CUSTOMER SPECIFICATIONS.
 *YOUR SIGNATURE ACKNOWLEDGES ACCEPTANCE.

SIGN: _____ DATE: _____



BILL OF MATERIALS


QTY	PART NUMBER	DESCRIPTION
1	SD-A-9003R	Std Stp 9" Radius Step - 3 Tread (Bead) (Internal - AutoCover)
1	SDS-0000SP	TBD (Sundeck)
1	SDS-0000SP	TBD (Bench)
1	S-ST-320160RR	Std Prl 32" x 16'R Reverse
2	S-ST-720160RR	Std Prl 72" x 16'R Reverse
1	ST-9602SCL-AC	Std Prl 96"x42" - Skim Cntr (1085) (Auto Cover-1.125) 2 Rib
1	ST-270090R	Std Prl 27" x 9'R
1	ST-300060R	Std Prl 30" x 6'R
1	ST-360080RR	Std Prl 36" x 8'R Reverse
1	ST-460090R	Std Prl 46" x 9'R
1	ST-480060R	Std Prl 48" x 6'R
1	ST-480060RR	Std Prl 48" x 6'R Reverse
1	ST-480080RR	Std Prl 48" x 8'R Reverse
1	ST-720061R	Std Prl 72" x 6'R - 1 Rib
9	ST-720091R	Std Prl 72" x 9'R - 1 Rib

BRACE / HARDWARE OPTIONS

QTY	PART NUMBER	DESCRIPTION
21	ST-1002CCB	Std Brc C-Channel Tumbuckle Brace + Drive Stake
36	ST-1006DS	Std Brc Deck Support
1	HW-2002	Hdw Steel/Rnd Kit
1	HW-2013	Hdw Steel Add-on Kit (3/8" Bolts-100, 3/8" Nuts-100)

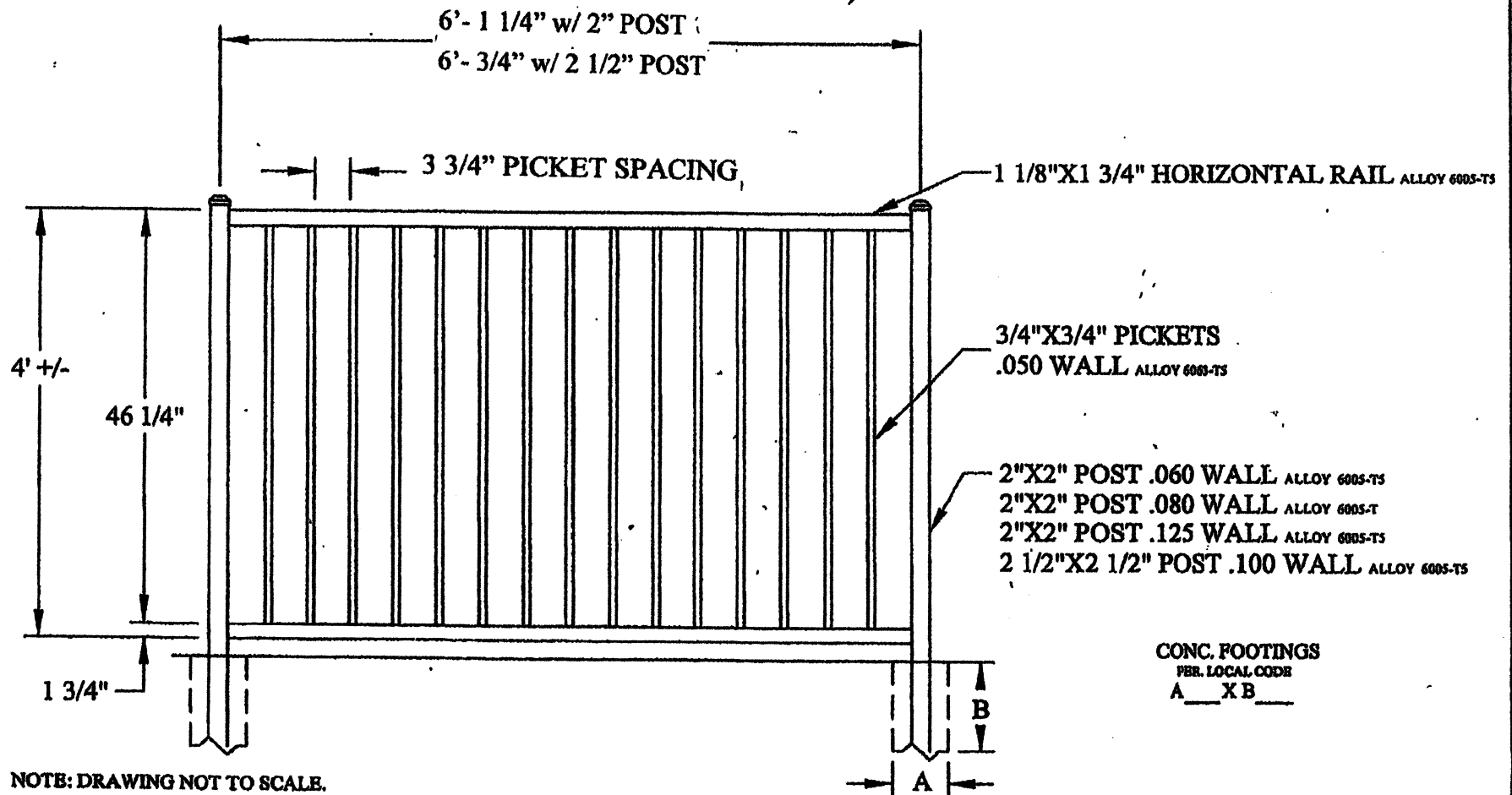
COPING

QTY	PART NUMBER	DESCRIPTION
1	HW-2018	Hdw Auto-Cover, No-Diving Platf(7/Bag)

NO DIVING 
 Signage must be permanently attached around the perimeter of the pool.

THIS DOCUMENT IS FOR ILLUSTRATIVE PURPOSES ONLY.
 Only Alpha Pool Products make only those representations which are stated in its written warranty. Any other representations, statements, or contracts made by the dealer/contractor to the customer regarding any components produced by Only Alpha Pool Products are attributable to the dealer/contractor only. The dealer or contractor who sells or installs your pool is an independent contractor and is not an agent or employee of Only Alpha Pool Products. The construction methods illustrated here are suggestions and apply only to normal ground conditions. There may be additional precautions and/or methods of construction. The responsibility is to the contractor's. -A safety line, with buoys, is to be permanently attached 1'-0" to the shallow side of the point of that slope change. -Different methods and precautions may be dictated by various ground conditions. This is to be determined by and is the responsibility of the contractor who is not an agent of the manufacturer of the component parts. -Installation is to be done in accordance with all federal, state and local building codes, as well as A.N.S.I./I.S.P.I. suggested standards. -BOTTOM SPECIFICATIONS MUST MEET OR EXCEED A.N.S.I./I.S.P.I./A.P.S.P. RECOMMENDED STANDARDS -NO DIVING Signage must be permanently attached to the entire perimeter of the pool. See instructions with signage. -IT IS RECOMMENDED TO NOT INSTALL DIVING BOARDS AND/OR BLEEDING EQUIPMENT ON RESIDENTIAL POOLS. If diving boards and/or sliding equipment is installed by the contractor, such diving boards and sliding equipment MUST BE INSTALLED WITHIN THE GUIDELINES ESTABLISHED BY ANSI/NSFP/ASFA RECOMMENDED STANDARDS, AND IN ACCORDANCE WITH ALL APPLICABLE STATE AND LOCAL CODES AND REGULATIONS.

Only
Alpha
 Pool Products



LIFEGARD COMMERCIAL	COLOR	PROJECT	OWNER/CONTRACTOR	DATE


Grantor	Grantee	Sale Price	Sale Date	Inst. Type	Terms of Sale	Liber & Page	Verified By	Prcnt. Trans.
SAUNDERS TERRANCE	MACCALLUM DEREK	309,900	07/02/2018	WD	03-ARM'S LENGTH	2018R-018388	BUYER/SELLER	100.0
DEBAKER LAWRENCE E & DEANN	SAUNDERS TERRANCE	289,900	03/06/2017	WD	03-ARM'S LENGTH	2017R-007561	BUYER/SELLER	100.0
CHASE HOME FINANCE LLC	DEBAKER LAWRENCE E & DEANN	180,000	01/06/2012	WD	10-FORECLOSURE	2012R-002696	BUYER/SELLER	100.0
COLESON KENNETH A & DANA M	CHASE HOME FINANCE LLC	182,750	11/12/2010	PTA	10-FORECLOSURE		BUYER/SELLER	0.0

Property Address	Class: RESIDENTIAL-IMPROV	Zoning: LDR	Building Permit(s)	Date	Number	Status
7901 BIRKENSTOCK DR	School: HOWELL PUBLIC SCHOOLS		WOOD DECK	04/07/1998	98-121	NO START
	P.R.E. 100% 07/09/2018		HOME	03/17/1997	97-068	50%
Owner's Name/Address	MAP #: V23-07					
MACCALLUM DEREK 7901 BIRKENSTOCK DR BRIGHTON MI 48114-7322	2023 Est TCV Tentative					

Tax Description	X	Improved		Vacant	Land Value Estimates for Land Table 4029.BIRKENSTOCK FARMS					
		Public	Improvements		Description	Frontage	Depth	Front	Depth	Rate %Adj.
SEC 12 T2N R5E BIRKENSTOCK FARMS LOT 35					<Site Value B> 'B' STANDARD					65,000
Comments/Influences					0.00 Total Acres Total Est. Land Value =					65,000

Comments/Influences	X	Improved		Vacant	Land Improvement Cost Estimates				
		Description	Rate		Size	% Good	Cash Value		
		Dirt Road							
		Gravel Road							
		Paved Road							
		Storm Sewer							
		Sidewalk							
		Water			D/W/P: 3.5 Concrete	8.06	192	50	774
		Sewer			D/W/P: 3.5 Concrete	8.06	64	50	258
		Electric			Total Estimated Land Improvements True Cash Value =				1,032
		Gas							
		Curb							
		Street Lights							
		Standard Utilities							
		Underground Utils.							

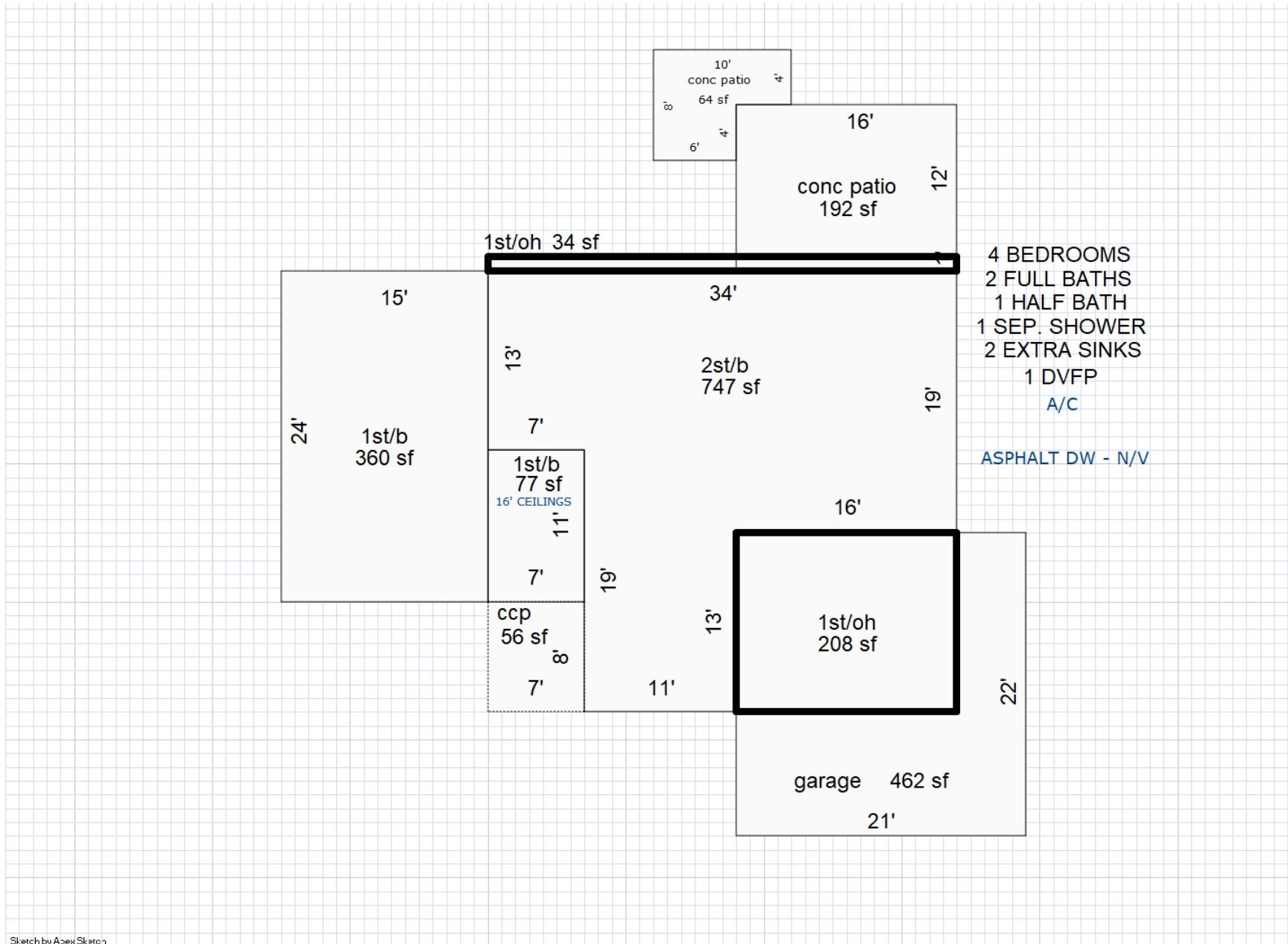
Topography of Site	X	Year	Land Value	Building Value	Assessed Value	Board of Review	Tribunal/Other	Taxable Value
Rolling								
Low								
High								
Landscaped								
Swamp								
Wooded								
Pond								
Waterfront								
Ravine								
Wetland								
Flood Plain								
REFUSE								

	Who	When	What	2023	Tentative	Tentative	Tentative			Tentative
	JB	08/15/2018	REVIEWED R	2022	32,500	137,300	169,800			155,300C
				2021	32,500	132,800	165,300			150,339C
				2020	32,500	131,300	163,800			148,264C
	The Equalizer. Copyright (c) 1999 - 2009. Licensed To: Township of Genoa, County of Livingston, Michigan									

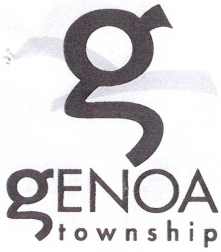
*** Information herein deemed reliable but not guaranteed***

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 Exterior 1 Story Exterior 2 Story Prefab 1 Story Prefab 2 Story Heat Circulator Raised Hearth Wood Stove 1 Direct-Vented Gas	Area 56	Type CCP (1 Story)	Year Built: Car Capacity: Class: B Exterior: Siding Brick Ven.: 0 Stone Ven.: 0 Common Wall: 1 Wall Foundation: 42 Inch Finished?: Auto. Doors: 0 Mech. Doors: 0 Area: 462 % Good: 0 Storage Area: 0 No Conc. Floor: 0																																																																																																																			
X	Wood Frame	(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																																																																																																																														
Building Style: B		Drywall Paneled	Plaster Wood T&G	Trim & Decoration																																																																																																																															
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Condition: Good		Size of Closets																																																																																																																																	
		Lg	X	Ord		Small																																																																																																																													
Room List		Doors:		Solid	X	H.C.																																																																																																																													
	Basement 1st Floor 2nd Floor 4 Bedrooms	(5) Floors			(12) Electric																																																																																																																														
		Kitchen: Other: Other:			0 Amps Service																																																																																																																														
(1) Exterior		No./Qual. of Fixtures			X Ex.				Ord.		Min																																																																																																																								
X	Wood/Shingle Aluminum/Vinyl Brick Insulation	(6) Ceilings			No. of Elec. Outlets				Many	X	Ave.		Few																																																																																																																						
		(13) Plumbing			Average Fixture(s)																																																																																																																														
(2) Windows		(7) Excavation			2 3 Fixture Bath 1 2 Fixture Bath Softener, Auto Softener, Manual Solar Water Heat No Plumbing Extra Toilet 2 Extra Sink 1 Separate Shower Ceramic Tile Floor Ceramic Tile Wains Ceramic Tub Alcove Vent Fan																																																																																																																														
X	Many Avg. Few	X	Large Avg. Small	Basement: 1184 S.F. Crawl: 0 S.F. Slab: 0 S.F. Height to Joists: 0.0			(14) Water/Sewer																																																																																																																												
	Wood Sash Metal Sash Vinyl Sash Double Hung Horiz. Slide Casement Double Glass Patio Doors Storms & Screens	(8) Basement			Public Water Public Sewer 1 Water Well 1 1000 Gal Septic 2000 Gal Septic																																																																																																																														
(3) Roof		Recreation SF 950 Living SF Walkout Doors (B) No Floor SF Walkout Doors (A)			Lump Sum Items:																																																																																																																														
X	Gable Hip Flat		Gambrel Mansard Shed	(10) Floor Support			Joists: Unsupported Len: Cntr.Sup:																																																																																																																												
X	Asphalt Shingle																																																																																																																																		
Chimney: Brick																																																																																																																																			
<p>Cost Est. for Res. Bldg: 1 Single Family B (11) Heating System: Forced Heat & Cool Ground Area = 1184 SF Floor Area = 2173 SF. Phy/Ab.Phy/Func/Econ/Comb. % Good=78/100/100/100/78 Building Areas</p> <table border="1"> <thead> <tr> <th>Stories</th> <th>Exterior</th> <th>Foundation</th> <th>Size</th> <th>Cost New</th> <th>Depr. Cost</th> </tr> </thead> <tbody> <tr> <td>1 Story</td> <td>Siding/Brick</td> <td>Basement</td> <td>360</td> <td></td> <td></td> </tr> <tr> <td>2 Story</td> <td>Siding/Brick</td> <td>Basement</td> <td>747</td> <td></td> <td></td> </tr> <tr> <td>1 Story</td> <td>Siding/Brick</td> <td>Basement</td> <td>77</td> <td></td> <td></td> </tr> <tr> <td>1 Story</td> <td>Siding</td> <td>Overhang</td> <td>208</td> <td></td> <td></td> </tr> <tr> <td>1 Story</td> <td>Siding</td> <td>Overhang</td> <td>34</td> <td></td> <td></td> </tr> <tr> <td colspan="3">Total:</td> <td></td> <td>425,428</td> <td>331,833</td> </tr> </tbody> </table> <p>Other Additions/Adjustments</p> <table border="1"> <thead> <tr> <th>Item</th> <th>Size</th> <th>Cost New</th> <th>Depr. Cost</th> </tr> </thead> <tbody> <tr> <td>Basement Living Area</td> <td>950</td> <td>54,378</td> <td>42,415</td> </tr> <tr> <td>Plumbing</td> <td></td> <td></td> <td></td> </tr> <tr> <td>3 Fixture Bath</td> <td>1</td> <td>10,230</td> <td>7,979</td> </tr> <tr> <td>2 Fixture Bath</td> <td>1</td> <td>6,820</td> <td>5,320</td> </tr> <tr> <td>Extra Sink</td> <td>2</td> <td>3,397</td> <td>2,650</td> </tr> <tr> <td>Separate Shower</td> <td>1</td> <td>3,109</td> <td>2,425</td> </tr> <tr> <td>Water/Sewer</td> <td></td> <td></td> <td></td> </tr> <tr> <td>1000 Gal Septic</td> <td>1</td> <td>5,984</td> <td>4,668</td> </tr> <tr> <td>Water Well, 200 Feet</td> <td>1</td> <td>12,091</td> <td>9,431</td> </tr> <tr> <td>Porches</td> <td></td> <td></td> <td></td> </tr> <tr> <td>CCP (1 Story)</td> <td>56</td> <td>2,293</td> <td>1,789</td> </tr> <tr> <td>Garages</td> <td></td> <td></td> <td></td> </tr> <tr> <td colspan="4">Class: B Exterior: Siding Foundation: 42 Inch (Unfinished)</td> </tr> <tr> <td>Base Cost</td> <td>462</td> <td>32,358</td> <td>25,239</td> </tr> <tr> <td>Common Wall: 1 Wall</td> <td>1</td> <td>-3,568</td> <td>-2,783</td> </tr> <tr> <td>Fireplaces</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Direct-Vented Gas</td> <td>1</td> <td>5,159</td> <td>4,024</td> </tr> </tbody> </table> <p><<<<< Calculations too long. See Valuation printout for complete pricing. >>>>></p>																		Stories	Exterior	Foundation	Size	Cost New	Depr. Cost	1 Story	Siding/Brick	Basement	360			2 Story	Siding/Brick	Basement	747			1 Story	Siding/Brick	Basement	77			1 Story	Siding	Overhang	208			1 Story	Siding	Overhang	34			Total:				425,428	331,833	Item	Size	Cost New	Depr. Cost	Basement Living Area	950	54,378	42,415	Plumbing				3 Fixture Bath	1	10,230	7,979	2 Fixture Bath	1	6,820	5,320	Extra Sink	2	3,397	2,650	Separate Shower	1	3,109	2,425	Water/Sewer				1000 Gal Septic	1	5,984	4,668	Water Well, 200 Feet	1	12,091	9,431	Porches				CCP (1 Story)	56	2,293	1,789	Garages				Class: B Exterior: Siding Foundation: 42 Inch (Unfinished)				Base Cost	462	32,358	25,239	Common Wall: 1 Wall	1	-3,568	-2,783	Fireplaces				Direct-Vented Gas	1	5,159	4,024
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*** Information herein deemed reliable but not guaranteed***



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

Case # 23-09 Meeting Date: MARCH 21, 2023
 PAID Variance Application Fee @ 6:30pm

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

Applicant/Owner: DANIEL R GRACE Email: DANG1776@GMAIL.COM
 Property Address: 4177 HOMESTEAD Phone: (949) 292-6122
 Present Zoning: _____ Tax Code: 11-28-201-033

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: We wish to build a new garage and enlarge the existing garage. We are asking for relief to the 35 foot front yard setback standard and requesting a 25.1" setback

Please note that the packet and staff report for your scheduled Zoning Board of Appeals meeting will be available to review at <https://www.genoa.org/government/boards/zoningboard> five days prior to the meeting.

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.

See att

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.

See att

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.

See att

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.

See att

Attendance by the applicant is required at the Zoning Board of Appeals meeting.

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 plans and construction plans.

Date: 2/21/2023

Signature: *David Jones*

Daniel Grace
4177 Homestead
Howell, MI 48834

Variance requested:

We wish to build a new garage and enlarge the existing garage. We are asking for relief to the 35 foot front yard setback standard, and requesting a 25.1 foot setback. The lot coverage with the existing house and new garage /foyer will be 21% of the total property. No portion will be taller than the existing structure.

Practical difficulty:

By allowing us a variance to the front yard standard, we would be able to construct a new, longer and wider garage. This would allow easier access for my mother in law, who is a permanent resident with us, to be able to transition from her wheelchair and walker into a vehicle, while remaining inside the confines of the garage. The wider garage gives us room to get between two parked vehicles and a longer garage will give us room to construct a ramp into the house, all inside and not exposed to the outdoor elements. The larger foyer will allow for a wider door and ease to come into the house from the garage. The added garage space also allows more guest parking on my property, and not on the narrow street. I believe that this would also be aesthetically beneficial to the neighborhood, reducing objects and vehicles being stored outside.

Extraordinary circumstances:

There are a number of properties on Homestead that are less than 35 feet from the road. My request is not unique to the street, and granting my variance would not create a new standard or precedent for Homestead.

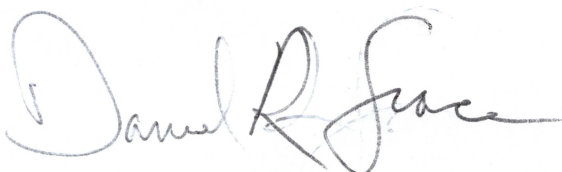
4165 Homestead has the garage less than 24 feet from the road. 4093 is less than 16 feet from the road, and 4089 is about 17 feet from the road.

Public Safety:

Granting my variance will not negatively effect my neighbors or the safety of the public. When we have guests, there will be more available parking on my property, and not on the street. With 25 feet of driveway there will be plenty of space to safety back onto the street. The majority of backing and vehicle positioning will be done on my driveway, before entering onto street. The sewer line is on the opposite side of the yard from this proposed building and the well head is on the opposite side, rear yard. My request will be safe and enhance the neighborhood.

Impact on surrounding neighborhood.

Granting the variance will not have any negative impact on the neighborhood or my neighbors.

 2/21/2023

March 13, 2023

Zoning Board of Appeals
 Genoa Township
 2911 Dorr Road
 Brighton, Michigan 48116

Attention:	Amy Ruthig, Planning Director
Subject:	4177 Homestead Drive – Dimensional Variance Review
Location:	4177 Homestead Drive – waterfront lot on the east side of Homestead Drive
Zoning:	LRR Lakeshore Resort Residential District

Dear Board Members:

At the Township’s request, we have reviewed the materials submitted seeking a dimensional variance for an expansion of the existing attached garage at 4177 Homestead Drive.

Both the existing property and residence comply with the dimensional standards of the LRR District.

The proposal entails an expanded attached garage with a 6’ side yard setback (compliant) and a 25’-1” street front yard setback (not compliant). The project also includes a covered porch, which meets current LRR requirements.

As such, the project necessitates a dimensional variance from Section 3.04.01 for the following:

- An expanded residence with a street front yard setback of 25’-1” (where a minimum of 35’ is required).

SUMMARY

1. Strict compliance allows only a 3’ expansion of the attached garage towards the street front lot line, which could be viewed as unnecessarily burdensome (practical difficulty).
2. Deficient street front setbacks are relatively common throughout this neighborhood in particular, and the LRR District in general (substantial justice).
3. We request the applicant describe an extraordinary circumstance of the property, as opposed to a condition of the neighborhood (extraordinary circumstance).
4. Given the nature of the property and project, we do not foresee issues with the supply of light and air or to traffic and public safety (public safety and welfare).
5. The project results in a street front setback that is generally consistent with those found in the neighborhood (impact on surrounding neighborhood).



Aerial view of site and surroundings (looking north)

VARIANCE REVIEW

We have reviewed the request in accordance with the dimensional variance review criteria of Section 23.05.03, as follows:

- 1. Practical Difficulty/Substantial Justice.** A variance is not necessary for continued use of the property for a permitted purpose (single-family residence). Furthermore, strict compliance will not preclude the owner's ability to expand the residence, though the garage can only be increased by 3' towards Homestead Drive.

The neighborhood contains several residences with deficient street front setbacks, so the Board may view strict compliance as unnecessarily burdensome to the applicant and the variance as fair to the owner.

- 2. Extraordinary Circumstances.** As previously noted, the property complies with current LRR standards for lot width and area. It is also generally rectangular in shape with no obvious extraordinary circumstances.

The submittal materials reference the neighborhood character, which includes reduced street front setbacks, as demonstration of an extraordinary circumstance. However, this condition is more applicable to the substantial justice and impact on surrounding neighborhood standards.

As such, we request the applicant describe to the Board a unique property condition in keeping with this criterion.

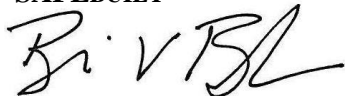
- 3. Public Safety and Welfare.** The project complies with requirements for side yard setbacks, spacing between residences, and lot coverage. As such, we do not believe that granting of the variance will impair the supply of light and air.

Given the nature of the project, approval is not expected to unreasonably impact traffic or public safety.

- 4. Impact on Surrounding Neighborhood.** As previously noted, the project will generally be consistent with established street front yard setbacks in the neighborhood, and is not expected to adversely impact surrounding properties.

Should you have any questions concerning this matter, please do not hesitate to contact our office.

Respectfully,
SAFE BUILT



Brian V. Borden, AICP
Michigan Planning Manager



11-28-201-028
4141 HOMESTEAD DR

11-28-202-032
0 HOMESTEAD DR

11-28-100-023
4151 ROSECREEK LN

11-28-202-031
0 VACANT

11-28-201-029
4151 HOMESTEAD DR

11-28-201-031
4159 HOMESTEAD DR

11-28-201-032
4165 HOMESTEAD DR

11-28-201-033
4177 HOMESTEAD DR

11-28-101-065
4006 ST ANDREWS

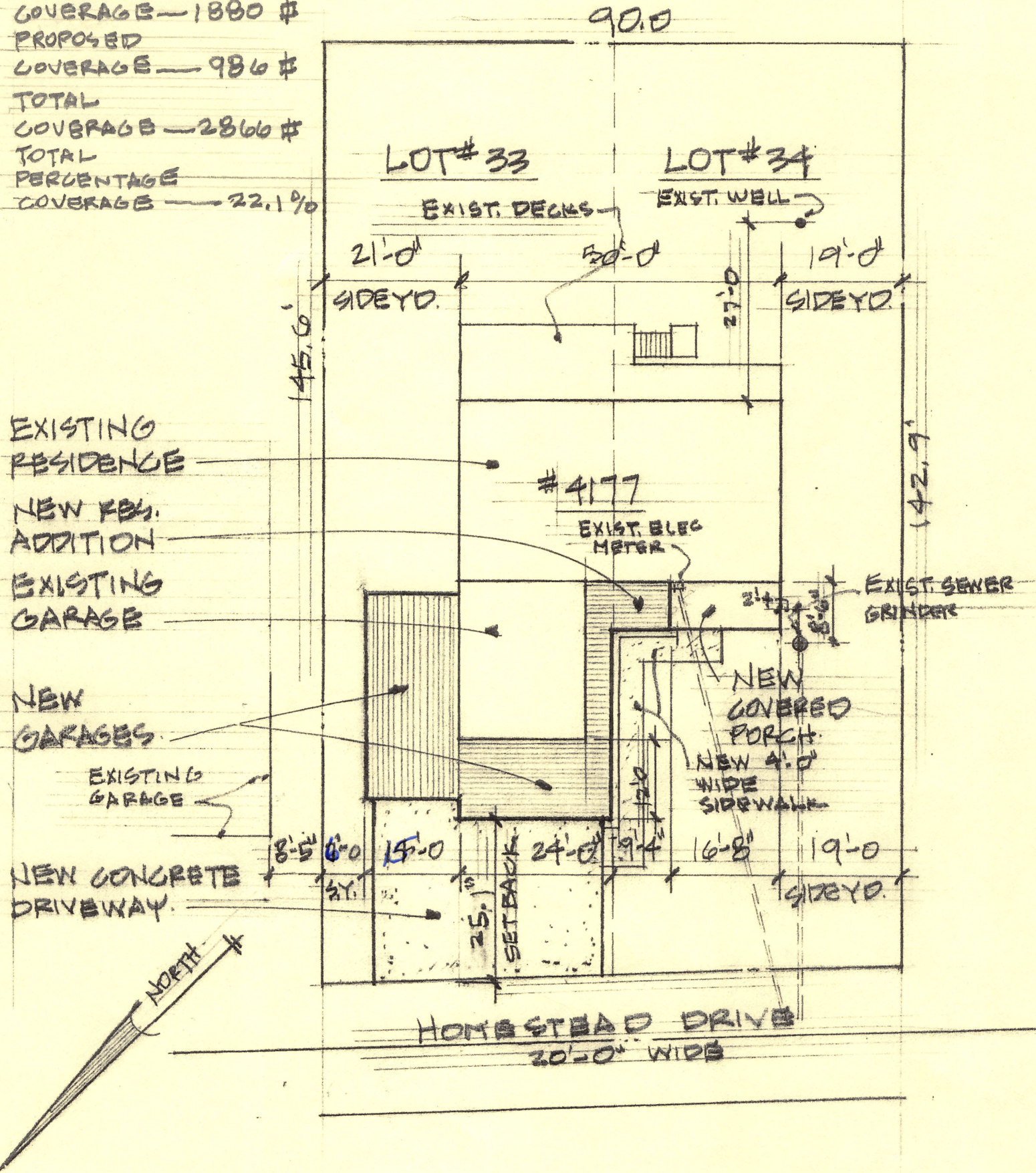
11-28-201-035
4183 HOMESTEAD DR

11-28-201-054
4195 HOMESTEAD DR

11-28-201-038
4203 HOMESTEAD DR

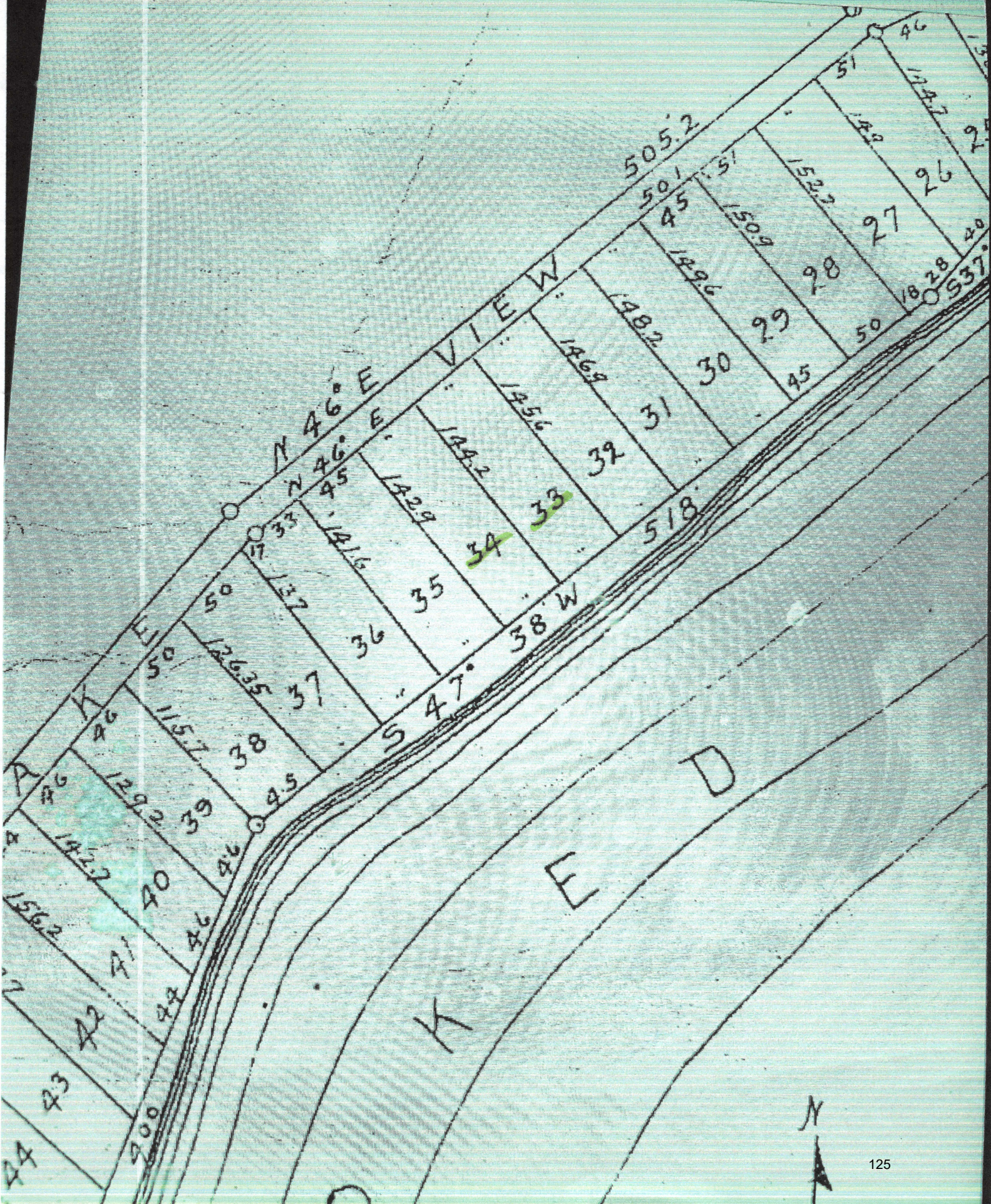
CROOKED LAKE

TOTAL LOT 12,982.5 #
 EXISTING COVERAGE — 1880 #
 PROPOSED COVERAGE — 986 #
 TOTAL COVERAGE — 2866 #
 TOTAL PERCENTAGE COVERAGE — 22.1%



SITE PLAN - GRACE RES. 1" = 20'-0"

NOTE: INFORMATION ON THIS SITE PLAN WAS
 TAKEN FROM "MORTGAGE CERT"
 DATED 28 JULY 1992



To the best of the designer's knowledge these plans are drawn to comply with the owner's specifications. Any changes made to the plans after final print are made at the owner's expense. The contractor will verify all dimensions and drawings. The designer is not liable for errors after construction has begun. While every attempt has been made in the preparation of these plans to avoid errors, the designer cannot guarantee against human error. The contractor on the job must check all dimensions and other details and be responsible for same.

Use Figured Dimensions Only
Do Not Scale

All local codes take precedence over these plans

NOTICE THESE PLANS ARE NOT TO BE REPRODUCED IN ANY WAY, IN PART OR IN WHOLE, WITHOUT WRITTEN PERMISSION FROM LIVINGSTON HOME PLANNERS AND DESIGNERS, LLC.

Owner
GRACE RESIDENCE
4177 HOMESTEAD
BRIGHTON, MICH.

Builder

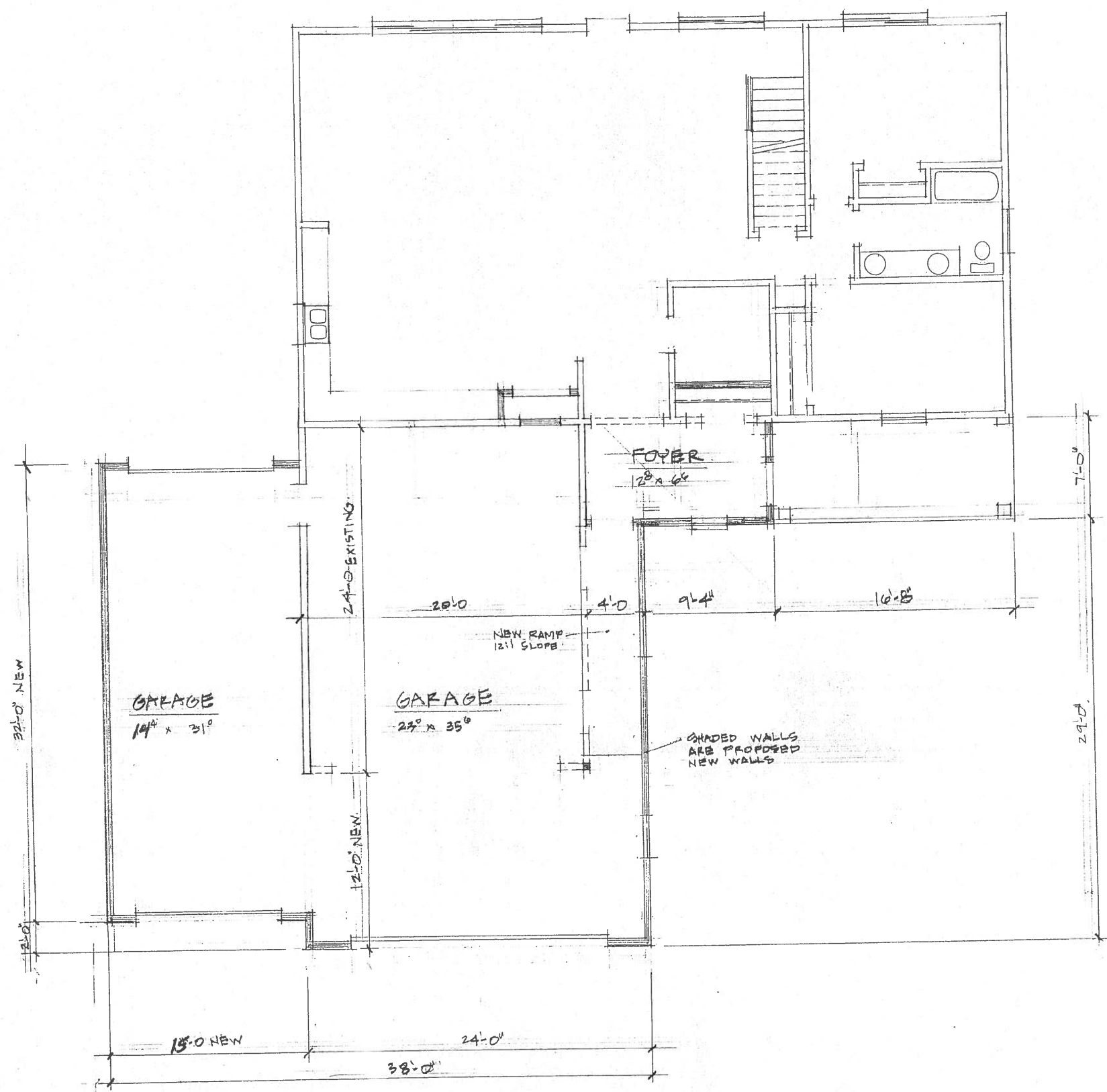


Livingston Home Planners and Designers LLC
123 East Main Road
Howell, Michigan
517.546.3114
livingstonhomeplanners@yohod.com

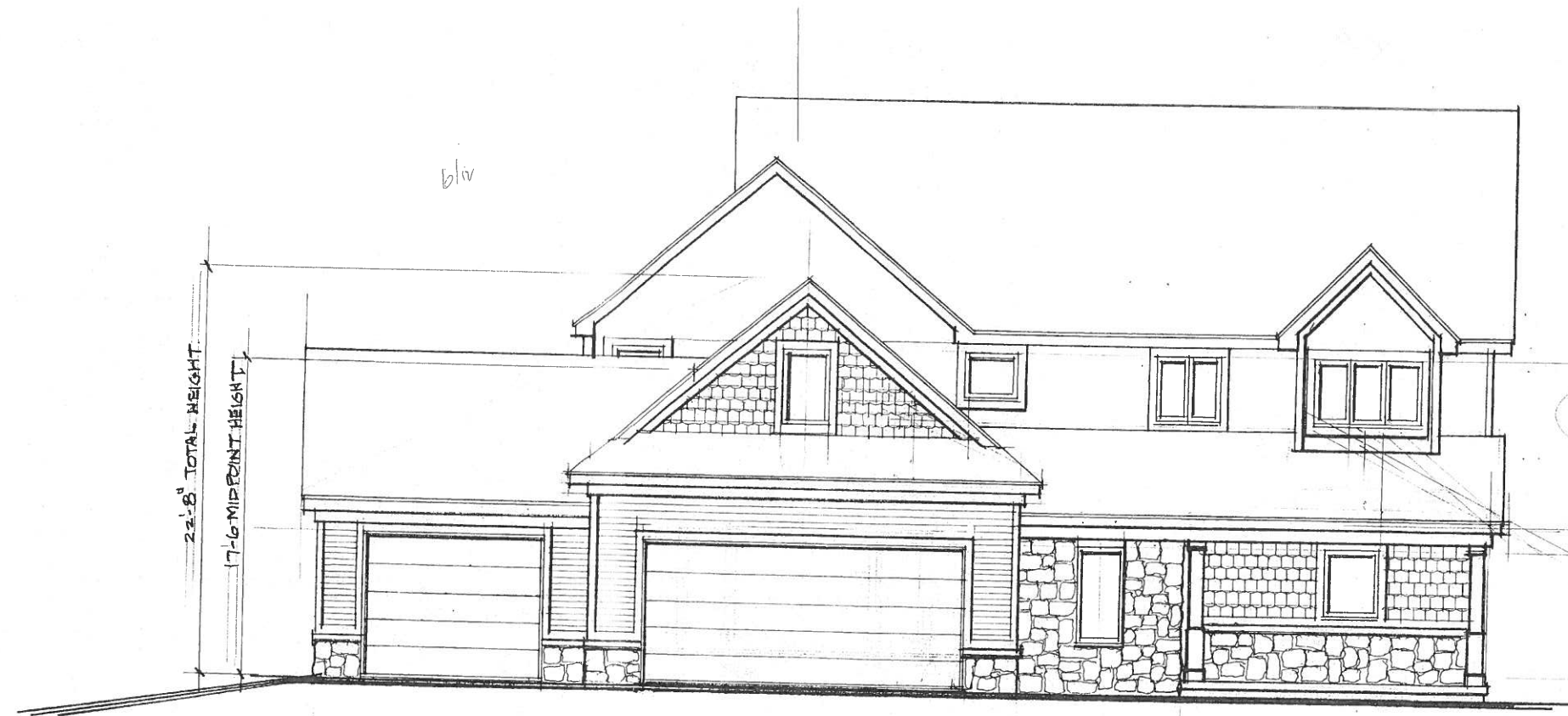
Job #

Sheet #

Date



FLOOR PLAN 1/4" = 1'-0"



FRONT ELEVATION

1/4" = 1'-0"

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6/12

Owner

Builder




Livingston Home Planners and Designers LLC
 123 East Mason Road
 Howell, Michigan
 517-546-3114
 livingstonhomeplanners@ymail.com

Job #

Sheet #

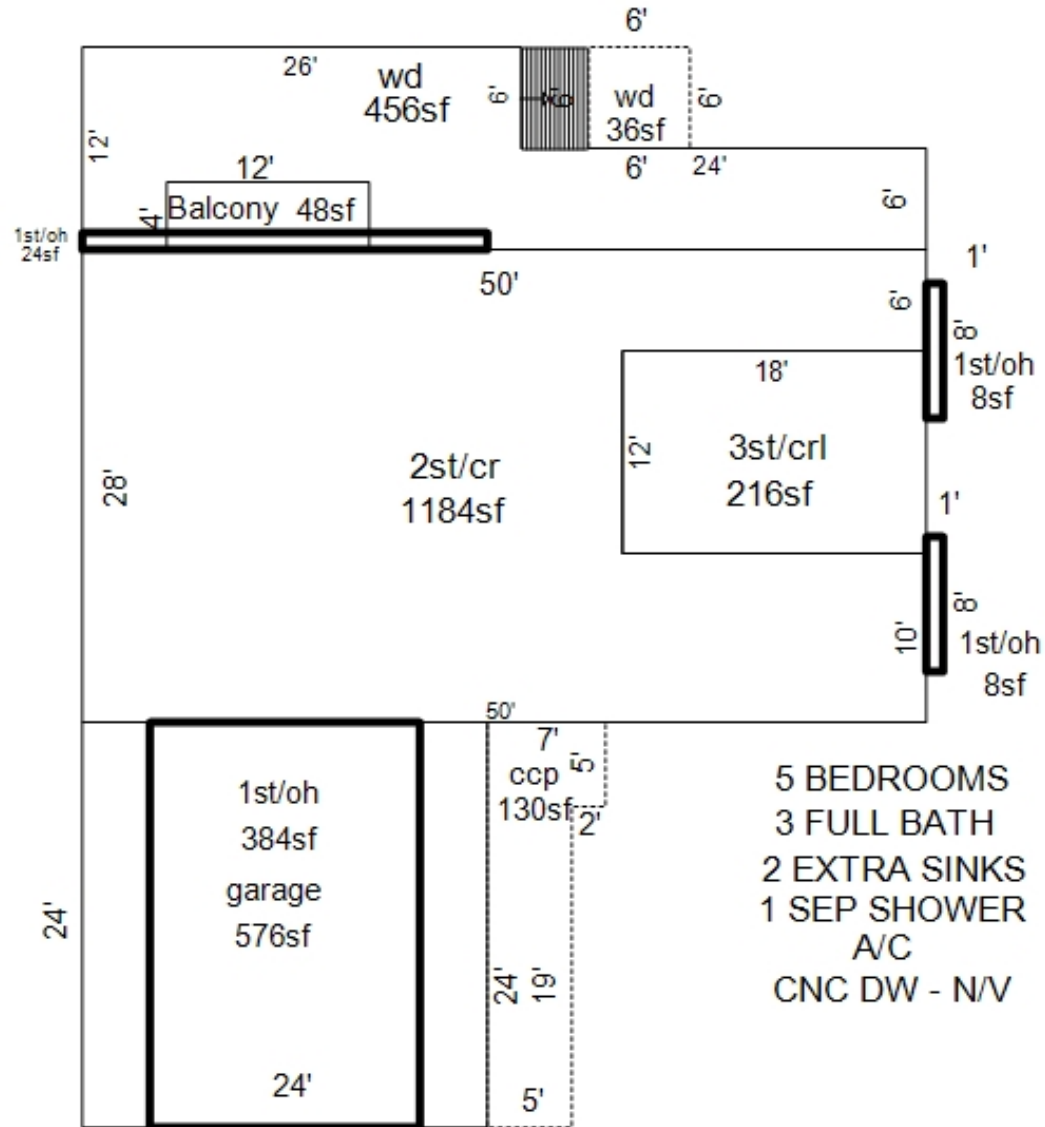
Date

Grantor	Grantee	Sale Price	Sale Date	Inst. Type	Terms of Sale	Liber & Page	Verified By	Prcnt. Trans.			
ZAMMIT, VICTOR & PATRICIA	GRACE DANIEL & LORRAINE	1,150,000	01/09/2023	WD	03-ARM'S LENGTH	2023R-000661	BUYER/SELLER	100.0			
		175,000	09/01/1992	WD	21-NOT USED/OTHER	16120348	BUYER/SELLER	0.0			
Property Address		Class: RESIDENTIAL-IMPROV		Zoning: LRR	Building Permit(s)		Date	Number	Status		
4177 HOMESTEAD DR		School: BRIGHTON AREA SCHOOLS			HOME		08/26/2002	02-408	NO START		
Owner's Name/Address		P.R.E. 100% / /		MAP #: V23-10/11							
GRACE DANIEL & LORRAINE 4177 HOMESTEAD DR HOWELL MI 48843-7428		2023 Est TCV 944,108 TCV/TFA: 274.45									
Tax Description		X	Improved	Vacant	Land Value Estimates for Land Table 4304.OLD HOMESTEAD						
SEC 28 T2N R5E OLD HOMESTEAD, LOTS 33 & 34		Public Improvements		* Factors *							
Comments/Influences		Dirt Road		Description	Frontage	Depth	Front	Depth	Rate %Adj.	Reason	Value
		Gravel Road		A LAKE FRONT	90.00	144.00	1.0000	1.0000	4300	100	387,000
		Paved Road		90 Actual Front Feet, 0.30 Total Acres Total Est. Land Value = 387,000							
		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									
		X	REFUSE	Year	Land Value	Building Value	Assessed Value	Board of Review	Tribunal/Other	Taxable Value	
		Who	When	What	2023	193,500	278,600	472,100		272,676C	
		JB	01/26/2023	SALES REVI	2022	193,500	213,800	407,300		240,604C	
					2021	193,500	201,700	395,200		232,918C	
					2020	180,000	192,800	372,800		229,703C	
		The Equalizer. Copyright (c) 1999 - 2009. Licensed To: Township of Genoa, County of Livingston, Michigan									

*** 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 Exterior 1 Story Exterior 2 Story Prefab 1 Story Prefab 2 Story Heat Circulator Raised Hearth Wood Stove Direct-Vented Gas	Area 130 456 36 48	Type CCP (1 Story) Treated Wood Treated Wood Wood Balcony	Year Built: Car Capacity: Class: C Exterior: Siding Brick Ven.: 0 Stone Ven.: 0 Common Wall: 1 Wall Foundation: 42 Inch Finished?: Yes Auto. Doors: 0 Mech. Doors: 0 Area: 576 % Good: 0 Storage Area: 0 No Conc. Floor: 0 Bsmnt Garage: Carport Area: Roof:
X	Wood Frame	(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 Forced Heat & Cool Heat Pump No Heating/Cooling			X			Class: C Effec. Age: 14 Floor Area: 3,440 Total Base New : 431,867 Total Depr Cost: 371,405 Estimated T.C.V: 557,108			E.C.F. X 1.500			
Building Style: C		Drywall Paneled	Plaster Wood T&G	Trim & Decoration			X			E.C.F. X 1.500						
Yr Built 2003	Remodeled 0	Ex	X Ord		Min	Size of Closets			Lg			X Ord		Small		
Condition: Good		Doors:			Solid	X	H.C.	Central Air Wood Furnace			(12) Electric					
Room List		(5) Floors		(12) Electric			0 Amps Service			No./Qual. of Fixtures						
	Basement 1st Floor 2nd Floor 3 Bedrooms	Kitchen: Other: Other:		No. of Elec. Outlets			Ex. X Ord. Min			Many X Ave. Few						
(1) Exterior		(6) Ceilings		(13) Plumbing			Average Fixture(s) 3 3 Fixture Bath 2 Fixture Bath Softener, Auto Softener, Manual Solar Water Heat No Plumbing Extra Toilet 2 Extra Sink 1 Separate Shower Ceramic Tile Floor Ceramic Tile Wains Ceramic Tub Alcove Vent Fan			Cost Est. for Res. Bldg: 1 Single Family C (11) Heating System: Forced Heat & Cool Ground Area = 1784 SF Floor Area = 3440 SF. Phy/Ab.Phy/Func/Econ/Comb. % Good=86/100/100/100/86			Cls C Blt 2003			
X	Wood/Shingle Aluminum/Vinyl Brick Insulation	(7) Excavation		Basement: 0 S.F. Crawl: 1400 S.F. Slab: 0 S.F. Height to Joists: 0.0			3 3 Fixture Bath 2 Fixture Bath Softener, Auto Softener, Manual Solar Water Heat No Plumbing Extra Toilet 2 Extra Sink 1 Separate Shower Ceramic Tile Floor Ceramic Tile Wains Ceramic Tub Alcove Vent Fan			Building Areas			Stories Exterior Foundation Size Cost New Depr. Cost			
(2) Windows		(8) Basement		Basement: 0 S.F. Crawl: 1400 S.F. Slab: 0 S.F. Height to Joists: 0.0			3 3 Fixture Bath 2 Fixture Bath Softener, Auto Softener, Manual Solar Water Heat No Plumbing Extra Toilet 2 Extra Sink 1 Separate Shower Ceramic Tile Floor Ceramic Tile Wains Ceramic Tub Alcove Vent Fan			Other Additions/Adjustments			Total: 363,870 312,928			
Many Avg. Few	X Large Avg. Small	(9) Basement Finish		Conc. Block Poured Conc. Stone Treated Wood Concrete Floor			2 Extra Sink 1 Separate Shower Ceramic Tile Floor Ceramic Tile Wains Ceramic Tub Alcove Vent Fan			Plumbing			3 Fixture Bath 2 9,093 7,820 Extra Sink 2 1,859 1,599 Separate Shower 1 1,331 1,145 Water/Sewer 1000 Gal Septic 1 4,761 4,094 Water Well, 200 Feet 1 10,514 9,042			
(3) Roof		(10) Floor Support		Recreation SF Living SF Walkout Doors (B) No Floor SF Walkout Doors (A)			Public Water Public Sewer Water Well 1 1000 Gal Septic 2000 Gal Septic			Porches			CCP (1 Story) 130 3,502 3,012			
X	Gable Hip Flat	Gambrel Mansard Shed	(14) Water/Sewer		Public Water Public Sewer Water Well 1 1000 Gal Septic 2000 Gal Septic			Deck			Treated Wood 456 6,954 5,980 Treated Wood 36 1,477 1,270					
X	Asphalt Shingle	Joists: Unsupported Len: Cntr.Sup:		Lump Sum Items:			Balcony			Wood Balcony 48 1,914 1,646		Garages		Class: C Exterior: Siding Foundation: 42 Inch (Finished)		
Chimney: Brick		Joists: Unsupported Len: Cntr.Sup:		Lump Sum Items:			Garages			Wood Balcony 48 1,914 1,646		Class: C Exterior: Siding Foundation: 42 Inch (Finished)		<<<<< Calculations too long. See Valuation printout for complete pricing. >>>>>		

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



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**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
February 21, 2023 - 6:30 PM**

MINUTES

Call to Order: Vice-Chairperson McCreary called the regular meeting of the Zoning Board of Appeals to order at 6:31 pm. The members and staff of the Zoning Board of Appeals were present as follows: Michelle Kreutzberg, Marianne McCreary, Jean Ledford, Bill Rockwell, Craig Fons, and Amy Ruthig, Planning Director. Absent was Greg Rassel.

Pledge of Allegiance: The Pledge of Allegiance was recited.

Election of Officers:

Vice-Chairperson McCreary recommended to table this item again until there is a full board present.

Moved by Board Member Rockwell, seconded by Board Member Kreutzberg, to table the Election of Officers until the March 21, 2023 ZBA meeting. **The motion carried unanimously.**

Introduction: The members of the Board and staff introduced themselves.

Conflict of Interest: None

Approval of the Agenda:

Moved by Board Member Ledford, seconded by Board Member Rockwell, to approve the agenda as presented. **The motion carried unanimously.**

Call to the Public:

The call to the public was opened at 6:34 pm with no response.

Old Business

1. 23-03...A request by Chaldean Catholic Church of the United States, 7000 McClements Road, for a height variance to construct a zip line. (Requested to be postponed to the March 21, 2023 ZBA meeting)

Vice Chairman McCreary advised that Staff has requested to have this item tabled this evening.

The call to the public was opened at 6:34 pm.

Mr. Mike Berean of 1237 Euler Road asked if the Board Members reviewed the packet he dropped off last week. Ms. Ruthig stated they received it today, which is the first time they have been in the office. He asked what year the Genoa Township Ordinances started? Ms. Ruthig stated the oldest version she has seen was from the 1960's. He also asked what the

classification of this property per Table is 6.01.01 of the ordinance. Ms. Ruthig stated it is zoned as Public/Private Campground. He had other questions regarding the special use as well as this property being grandfathered. Vice Chairman McCreary advised that those questions are being researched by the Township Attorney.

He stated the Planning Commission Chairman stated at a previous meeting that this property has been grandfathered. If it has been grandfathered, then it automatically becomes a non-conforming use per Michigan Zoning Law. He requested that all the approved special uses granted for this property be rescinded because this property is a non-conforming use.

The call to the public was closed at 6:39 pm.

Moved by Board Member Rockwell, seconded by Board Member Kreutzberg, to postpone Case #23-03 until the March 21, 2023 ZBA meeting as requested by Staff. **The motion carried unanimously.**

New Business:

2. 23-05... A request by Jeffrey Parkkila, 1776 S. Hughes Road, for front and waterfront yard setback variances and any other variance deemed necessary by the Zoning Board of Appeals to construct an addition to an existing home.

Mr. Dennis Disner of Arcadian Design, who designed the house for Mr. and Mrs. Parkkila, stated this lot is non-conforming. It does not meet the minimum lot size requirement per the current ordinance for this zoning. For the lake side, the addition will not extend further than the existing home. For the addition on the front of the home, it will be 11 feet, 2 inches behind the current front wall of the house. The existing shed will be removed so the distance between the two homes will be greater and there will be better emergency access, if needed. The proposal meets the criteria for lot coverage and impervious surface.

The design is harmonious with the existing house, and it will appear as if the entire home was built at the same time. They will not be building a second story so as not to negatively affect the lake views for the neighbors.

The call to the public was opened at 6:54 pm with no response.

Moved by Board Member Kreutzberg, seconded by Board Member Fons, to approve Case #23-05 for Jeffrey Parkkila of 1776 S. Hughes Road for a street front yard setback variance of 10 feet, 7 inches from the required 35 feet for a street front setback of 24 feet, 5 inches and a waterfront variance of 7 feet, 9 inches from the required 67 feet for a waterfront setback of 59 feet, 3 inches to build a 370-square-foot addition on the north side of the home, based on the following findings of fact:

- Strict compliance with the setbacks would unreasonably restrict the intended use of the property. This variance will provide substantial justice, is the least necessary and would make the property consistent with other properties and homes in the area.
- The variances are necessary due to extraordinary circumstances, such as the deficient lot width and building area.

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- Granting of these variances would not impair adequate light or air to adjacent property, would not increase congestion or increase the danger of fire or threaten public safety or welfare.
- The proposed variances would have little or no impact on the appropriate development, continued use or value of adjacent properties and surrounding neighborhood.

This approval is conditioned upon the following:

1. Removal of the current accessory structure adjacent to the proposed addition.

The motion carried unanimously.

3. 23-06...A request by Yvette Whiteside, 5780 Glen Echo, for a front yard setback and lot coverage variance and any other variance deemed necessary by the Zoning Board of Appeals to construct a roof over existing patios.

Ms. Whiteside and Mr. John Liogas were present. Ms. Whiteside stated they would like to put covers over the existing porch and patio. They will not be extending past the existing footprints. The porch currently has a three foot overhang, so they would extend it seven feet. The entire patio would be covered, except for the circular part.

This property is not a buildable lot without a variance because it does not meet the minimum lot size requirement per the current ordinance. The property is wide and shallow, and this causes the need for the variance to not be self-created. The coverings would not negatively affect their neighbors and would not block their views.

Vice-Chairperson McCreary stated a variance was previously approved and asked if that work has been completed. Mr. Liogas stated yes, the addition has been done.

Board Member Kreutzberg asked for clarification that this request is to not enclose the patio and porch and there will be no walls. Ms. Whiteside said it will only be the roofs.

Ms. Ruthig noted the temporary carport will need to be added and be included in the total lot coverage amount. It was not included in the application.

Ms. Whiteside asked if she could have time to calculate those amounts this evening and then return to the Board to ask for those variances if needed.

Moved by Board Member Kreutzberg, seconded by Board Member Ledford, to delay Case #23-06 until the end of tonight's meeting. **The motion carried unanimously.**

4. 23-07...A request by Derek MacCallum, 7901 Birkenstock Dr., for a front yard setback variance and a fence height variance and any other variance deemed necessary by the Zoning Board of Appeals to allow an inground pool in the front yard.

Mr. MacCallum stated the practical difficulty is the location of his septic field. This is forcing the pool to be placed closer to the property line. His property is a corner lot, so he has two front yards. If they placed it in other locations on the property, it would not allow for any line of sight from the home and it would be closer to the other neighbor. They will be installing landscaping to soften the visual of the pool for the neighbors. He submitted renderings. The HOA has approved the installation and location of the pool. He has spoken to all five of his neighbors and they are all in favor of granting this variance. He supplied those letters to the Board this evening.

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They were received from Derek Pluta, Robert Bruce, Mark Krzyskowski, Laura Allegoet, and Dominic Daquano.

Board Member Fons noted that there are no measurements from the septic company to show the location of the septic field. The Board would need this information to determine how much of a variance is needed. He recommends the pool be placed as close to the septic field as possible to allow for the least amount of variance needed.

Mr. Jim Pitila, who designed the pool, stated Livingston County requires an inground pool be at least 10 feet from a septic field, so that is the measurement that was used to determine where the pool would be placed.

Board Member Rockwell suggested having this item tabled this evening to allow the applicant to provide detailed information on the location of the septic field.

Moved by Board Member Rockwell, seconded by Board Member Kreutzberg, to table Case #23-07 until the March 21, 2023 ZBA meeting to allow the applicant to obtain accurate measurements for the location of the septic field. **The motion carried unanimously.**

5. 23-08...A request by Jason Jacobs, 6094 Brighton Road, for a front yard, side yard setback variance and any other variance deemed necessary by the Zoning Board of Appeals to allow a detached accessory building in the front yard.

Mr. Jacobs stated the rear of his property slopes severely. He stated that this has already been built. He apologized as he did not believe he needed a permit for it since it is a shed. Due to the location of the septic field, and the slope of his property, this is the only location where it could be placed. This will not have any negative effect on public safety, and it is shielded from the roadway and the neighbors in the summer and he has also planted arborvitae. The shed matches his house. He has spoken to his neighbors, and they are in favor of allowing the shed. He provided letters of support from David Damusis of 6056 Brighton Road, Gary Deroche of 6132 Brighton Road, Polly from 5130 Old Hickory Drive, Tom Dutcher of 5015 Timberline Drive, and Celia Pienkosz of 5032 Old Hickory Drive. The letter from David Damusis contained photographs showing his view of the shed from various locations in his yard.

Ms. Ruthig stated that Mr. Jacobs responded to the letter from the code enforcement officer immediately after it was received.

Board Member Rockwell has concerns with the building being in the front yard. The ordinance does not allow them. Mr. Jacobs stated there are other properties in his neighborhood that have structures in the front yard. His house was built into a hill. There is no other location for it to be placed.

The call to the public was opened at 8:04 pm.

Ms. Linda Rolly of 5117 Forest View Court, which is behind Mr. Jacob's home, stated they have done a wonderful job redoing the home. These changes improve the entire area.

Mr. Gary Deroche lives on the east side of Mr. Jacobs. There is no other location on the property where the shed could be built. The home and the shed are beautiful.

The call to the public was closed at 8:07 pm.

Mr. Fons does not have a concern with the setback or the location of the shed, but stressed that residents need to obtain permits.

Moved by Board Member Kreutzberg, seconded by Board Member Ledford, to approve Case #23-08 for Jason Jacobs of 6094 Brighton Road for a side yard setback variance of 8 feet from the required 30 feet, for a 22 foot side yard setback to allow a 240 square foot accessory structure in the front yard, based on the following findings of fact:

- Strict compliance with the setbacks would unreasonably restrict the intended use of the property. These variances will provide substantial justice and are the least necessary.
- The variances are necessary due to extraordinary circumstances, such as unusually steep topography and property conditions as well as the location of the septic field.
- Granting of these variances would not impair adequate light or air to adjacent property, would not increase congestion or increase the danger of fire or threaten public safety or welfare.
- The proposed variances would have little or no impact on the appropriate development, continued use or value of adjacent properties and surrounding neighborhood.

This approval is conditioned on the following:

1. The applicant shall maintain vegetative screening and landscaping to reduce visual impact of front yard placement on the surrounding neighborhood.
2. Land use and building permits must be obtained.
3. If the Livingston County Building Department requires footings to be placed, the applicant will be required to determine the exact location of the septic field and the shed shall be relocated to be as close to the septic field as possible.

The motion carried unanimously.

The discussion for Case #23-06 resumed at 8:17 pm.

Ms. Whiteside apologized for not having the complete lot coverage information when she submitted her application. She was not aware that the concrete driveway should be included in the amount. She has done the calculations and she will need to request a four percent variance for impervious lot coverage and an eight percent variance for building lot coverage.

The call to the public was opened at 8:29 pm.

Mr. John McCormick of 5695 East Grand River, Howell stated these are the best neighbors he has ever had. They are always willing to help their neighbors. They have done beautiful work on the home. It has improved the neighborhood. He and his wife are in favor of granting this request.

The call to the public was closed at 8:31 pm.

Moved by Board Member Rockwell, seconded by Board Member Kreutzberg, to approve Case #23-06 for Yvette Whiteside of 5780 Glen Echo for an 11 foot front yard variance from the required 35 feet for a front yard setback of 24 feet for a covered porch and 21 foot front yard variance from the required 35 feet for a front yard setback of 14 feet for a covered patio, a 4 percent impervious lot coverage variance from the required 50 percent for 54 percent

impervious lot coverage and an 8 percent building lot coverage variance from the required for building lot coverage from the required 35 percent for a 43 percent building lot coverage, based on the following findings of fact:

- Strict compliance with the ordinance would prevent the construction of the covered structures. The variances would support substantial justice and are 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.
- The exceptional or extraordinary condition of the property is the lot's irregular shallow shape and the size of lots in this neighborhood. The need for the variance is not self-created.
- The granting of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion on 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 a limited impact on the appropriate development, continued use or value of adjacent properties and the surrounding neighborhood.

This approval is conditioned upon the following:

1. The final architectural design shall not exceed the 25 foot height requirement.
2. The structure must be guttered with downspouts and drainage must be maintained on the lot.
3. No more structures or impervious surfaces shall be added to the lot
4. The shed shall not be replaced or expanded any further

The motion carried unanimously.

Administrative Business:

1. Approval of minutes for the January 17, 2023 Zoning Board of Appeals meeting.

Moved by Board Member Ledford, seconded by Board Member Fons, to approve the minutes of the January 17, 2023 Zoning Board of Appeals meeting as presented. **The motion carried unanimously.**

2. Correspondence

Ms. Ruthig stated there will be four items on the March 21, 2023 agenda.

3. Member Discussion

There were no items to discuss this evening.

4. Adjournment

Moved by Board Member Ledford, seconded by Board Member Fons, to adjourn the meeting at 8:45 pm. **The motion carried unanimously.**

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Respectfully submitted:

Patty Thomas, Recording Secretary

DRAFT