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**Hamburg Township  
Zoning Board of Appeals  
Hamburg Township Board Room  
Wednesday, March 13, 2019  
7:00 P.M.**

**AGENDA**

- 1. Call to order**
- 2. Pledge to the Flag**
- 3. Roll call of the Board**
- 4. Correspondence**
- 5. Approval of agenda**
- 6. Call to the public**
- 7. Variance requests**

**ZBA 2019-002**

Applicant: Stephen and Crystal Shuster  
Location: Vacant on Kice Drive  
Pinckney MI 48169  
Parcel ID: 15-07-300-071  
Request: Variance request to construct a 3,578-square foot dwelling with a 1,139-square foot attached garage. The dwelling will have a 27-foot setback from a regulated wetland and the garage will have a 45-foot setback from a regulated wetland (50-foot setback from a regulated wetland required, Section 9.9.3.B.).

**ZBA 2019-003**

Applicant: Joan Fitzgibbon  
Location: 3574 Windwheel Pointe  
Pinckney MI 48169  
Parcel ID: 15-32-102-040  
Request: Variance request to construct a 336-square foot enclosed sunroom over an existing patio. The sunroom will have an 8-foot west rear yard setback (30-foot rear yard setback required, Section 7.6.1.).

- 8. New/Old business**
  - a) Approval of February 13, 2019 minutes
- 9. Adjournment**



# Zoning Board of Appeals Staff Report

## AGENDA ITEM: 7a



**TO:** Zoning Board of Appeals  
(ZBA)

**FROM:** Brittany Stein

**HEARING DATE:** March 13, 2019

**SUBJECT:** ZBA 19-002

**PROJECT SITE:** Vacant on Kice Drive  
TID 15-07-300-071

**APPLICANT/ OWNER:** Stephen and Crystal  
Shuster

**PROJECT:** Variance request to construct a 3,578-square foot dwelling with a 1,139-square foot attached garage. The dwelling will have a 27-foot setback from a regulated wetland and the garage will have a 45-foot setback from a regulated wetland (50-foot setback from a regulated wetland required, Section 9.9.3.B.).

**ZONING:** RAA (Single-Family Low Density Rural District)

### Project Description

The subject site is a four (4) acre parcel that fronts onto Kice Drive to the east, Putnam Township Rural Residential Zoning District is to the west, and single-family dwellings are located to the north, south, east and west of the site. The site is currently vacant.

If approved, the variance request would allow for a new 3,578-square foot single-family home with a 1,139-square foot attached garage to have a 27.1-foot setback from the wetlands to the north, and a 45.3-foot setback from the wetlands to the south. The location of the proposed home with an attached garage is going to encroach into the required 50-foot setback from regulated wetlands

22.9 feet to the north and 4.7 feet into the wetland setback to the south.

Zoning Ordinance Section 9.9.3. requires a 50-foot setback from the boundary or edge of a regulated wetland. However, *the Zoning Administrator or body undertaking plan review may reduce or eliminate the setback upon review of a request which details the future protection of the natural feature(s) and or mitigation of the natural feature(s).* The applicant has requested a variance from the 50-foot setback to the regulated wetland. The ZBA may either grant the variance or request that the owner detail the future protection of the wetland in some way and administratively approve the encroachment.

The ZBA could request a property owner protect the wetlands with one of the following methods:

1. The homeowner could submit an engineered drainage plan for the property, prepared either by a civil engineer or registered landscape architect, which would ensure runoff from the home and attached garage does not drain into the wetlands.
2. The homeowner could construct a physical barrier along the wetlands to preserve the wetland from further encroachment by lawn equipment or any other trampling of the area.



Example method #2 – physical wetland barrier

3. The homeowner could record an open space or wetland easement over the wetland portion of the site to restrict development and interference with the natural vegetation of the area in the future.

A Wetland Delineation Report has been submitted to Hamburg Township (Exhibit B). The Report indicates Wetland A (north pocket) is 0.60 acres in size, while Wetland B (south area) is 0.81 acres in size. Any wetlands which are greater than five acres in size are regulated by the Michigan Department of Environmental Quality (MDEQ) through the Natural Resources and Environmental Protection Act, Part 303, Wetlands Protection, as amended. Any activity which requires that these regulated wetlands be filled or drained requires a permit from the MDEQ.

An email was sent to Jeff Pierce with the MDEQ, which then Pierce confirmed there would not be a direct impact to the wetlands, which are regulated by the MDEQ. Pierce stated in the email response (Exhibit C) that the proposed project does not propose direct filling or construction within wetlands, therefore no permit would be required from the MDEQ under Part 303, Wetlands Protection.

The proposed and required setbacks for the dwelling and attached garage from the property

lines and the wetlands are noted in the table below.

Dwelling	Proposed	Required
East (front)	114.7 feet	30 feet
North (side)	190 feet	20 feet
North (wetlands)	27.1 feet	50 feet
South (side)	109.2 feet	20 feet
South (wetlands)	45.3 feet	50 feet
West (rear)	205 feet	35 feet
West (wetlands)	75 feet	50 feet

### **Standards of Review**

The Zoning Board of Appeals (ZBA) decision in this matter is to be based on the findings of facts to support the following standards. The applicable discretionary standards are listed below in bold typeface followed by staff's analysis of the project as it relates to these standards. A variance may be granted only if the ZBA finds that all of the following requirements are met.

- 1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.**

The 50-foot regulated wetlands setback requirement applies generally to all properties in Hamburg Township. This parcel is unique as it has two wetland areas which are part of the Hay Creek wetland area, as indicated on the survey, one pocket of wetlands to the north of the proposed building area and one area to the south of the proposed building area along the south side property line. The location of the wetlands with the 50-foot setback requirement on this parcel creates a smaller buildable area than what a buildable area would be on a parcel of this size without the presence of wetlands. There is a compliant location for the home on the lot that would not require any variance. Staff created a revised site plan by moving the same size home only 80 feet forward towards the front property line from the proposed location (Exhibit E).

Additionally, staff discovered that elevation plan A7.10 indicates a barricaded sliding door, this describes the possibility of a future elevated deck to be constructed here. The elevated deck is not proposed at this time, but in the future the elevated deck would be proposed where it would not meet the 50-foot required wetland setback. The compliant location for the home, as drawn by staff, also provides ample room to construct a deck that would meet the Zoning Ordinance requirements. In the location proposed by the applicant, any future addition, deck, patio, garage & other improvements to the dwelling as proposed in the requested variance would also require a variance to the 50-foot wetland setback.

- 2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The**

**possibility of increased financial return shall not be deemed sufficient to warrant a variance.**

The requested variance would permit construction of a new single family dwelling on a vacant lot within the required 50-foot wetlands setback. Substantial property rights enjoyed by property owners with the RAA district include single-family dwellings on larger lots (minimum 2 acres). The size and placement of a new home, especially on larger lots, is based on personal preference. The site could accommodate a compliant location for the home, which would meet the Zoning Ordinance without the need of a variance.

**3. That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.**

The requested variance may be materially injurious to the property or the zone or district as the proposed home is nearer the wetlands than the 50-foot requirement.

See analysis under standard number one.

**4. That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.**

The subject site is in the North Hamburg planning area of the Master Plan. This area of the Township is largely in a natural state and contains large areas of woodlands, wetland and wildlife habitat. The wetlands that are located on this property are part of the Hay Creek wetland area. Future development of any kind in areas surrounding wetlands could significantly impact wetland resources. Therefore, developers and community leaders should evaluate viable alternatives to avoid the impact. They also contribute significantly to the aesthetic character of the community. As the Master Plan states, wetlands are undevelopable, the open areas should remain natural. The proposed request would adversely affect the purpose or objectives of the Master Plan.

**5. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.**

There is no condition or situation of the subject site that is not of so general or recurrent a nature that the proposed dwelling cannot comply with the 50-foot wetland setback requirement. The site could accommodate a compliant new dwelling unit. The wetlands setback applies to all properties in Hamburg Township.

**6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district.**

The use of the site is zoned for single-family residential and the requested variance would not change the use.

**7. The requested variance is the minimum necessary to permit reasonable use of the land.**

The Applicant has created a practical difficulty where one does not exist. Moving the home's location would allow for the 50-foot wetland setback protection, the same size dwelling, future development without a variance, and no variance for the new home.

"Practical difficulty" exists on the subject site when the strict compliance with the Zoning Ordinance standards would render conformity unnecessarily burdensome (such as exceptional narrowness, shallowness, shape of area, presence of floodplain or wetlands, exceptional topographic conditions)

**Recommendation**

Staff recommends the ZBA open the public hearing, take testimony, close the public hearing, evaluate the proposal for conformance with the applicable regulations, and deny or approve the application. In the motion to deny or approve the project the ZBA should incorporate the ZBA's discussion and analysis of the project and the findings in the staff report. The ZBA then should direct staff to prepare a memorialization of the Board's decision that reflects the Board's action to accompany the hearing minutes and to be reviewed and approved at the next ZBA hearing.

**Denial Motion:**

Motion to deny variance application ZBA 19-002 at vacant property on Kice Drive (TID 15-07-300-071) to construct a 3,578-square foot dwelling with a 1,139-square foot attached garage. The dwelling will have a 27-foot setback from a regulated wetland and the garage will have a 45-foot setback from a regulated wetland (50-foot setback from a regulated wetland required, Section 9.9.3.B.). The variance does not meet variance standards one, two, three, four, five or seven of Section 6.5. of the Township Ordinance and a practical difficulty does not exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight's hearing and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

**Exhibits**

Exhibit A: Application materials (site plan too large to include in digital packet)  
Exhibit B: ASTI Wetland Delineation Report  
Exhibit C: Email from Jeff Pierce  
Exhibit D: DPW Review  
Exhibit E: Staff drawn revised site plan

# Exhibit A

ZBA Case Number 19-002

\$500



FAX 810-231-4295  
PHONE 810-231-1000

P.O. Box 157  
10405 Merrill Road  
Hamburg, Michigan 48139

## APPLICATION FOR A ZONING BOARD OF APPEALS (ZBA) VARIANCE/INTERPRETATION (FEE \$500 plus \$50 each additional)

1. Date Filed: 2-13-2019
2. Tax ID #: 15-07-300 076 Subdivision: \_\_\_\_\_ Lot No.: \_\_\_\_\_
3. Address of Subject Property: 000 Kice Dr Pinckney, MI 48169
4. Property Owner: Stephen & Crystal Shuster Phone: (H) 517-304-9414  
Email Address: Crystal.Shuster@gmail.com (W) 517-861-7993  
Street: 7713 Partridge Hill Dr. City Brighton State MI
5. Appellant (If different than owner): \_\_\_\_\_ Phone: (H) \_\_\_\_\_  
E-mail Address: \_\_\_\_\_ (W) \_\_\_\_\_  
Street: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_
6. Year Property was Acquired: 2017 Zoning District: RAA Flood Plain \_\_\_\_\_
7. Size of Lot: Front 394.82 Rear 389.6 Side 1 1556.99 Side 2 338.19 Sq. Ft. 4 174,675.6
11. Dimensions of Existing Structure (s) 1st Floor \_\_\_\_\_ 2nd Floor \_\_\_\_\_ Garage \_\_\_\_\_
12. Dimensions of Proposed Structure (s) 1st Floor 2257 2nd Floor 1321 Garage 1139
13. Present Use of Property: Vacant Land
14. Percentage of Existing Structure (s) to be demolished, if any N/A %
15. Has there been any past variances on this property? Yes \_\_\_\_\_ No X
16. If so, state case # and resolution of variance application \_\_\_\_\_
17. Please indicate the type of variance or zoning ordinance interpretation requested:  
Area Variance



**VARIANCE:** A modification of the literal provisions of the zoning ordinance granted when strict enforcement would cause undue hardship due to circumstances unique to the individual property for which the variance is granted

**VARIANCE STANDARDS:**

- A. Where, owing to special conditions, a literal enforcement of the provisions of this Zoning Ordinance would involve practical difficulties, the Zoning Board of Appeals shall have power upon appeal in specific cases to authorize such variation or modification of the provisions of this Zoning Ordinance with such conditions and safeguards as it may determine, as may be in harmony with the spirit of this Zoning Ordinance and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the provisions of this Zoning Ordinance shall be granted unless it appears that, at a minimum, the applicant has proven a practical difficulty and that all the following facts and conditions exist:
1. **That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.**
  2. **That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.**
  3. **That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.**
  4. **That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.**
  5. **That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.**
  6. **Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district;**
  7. **The requested variance is the minimum necessary to permit reasonable use of the land.**
- B. For the purpose of the above, a "practical difficulty" exists on the subject land when the strict compliance with the Zoning Ordinance standards would render conformity unnecessarily burdensome (such as exceptional narrowness, shallowness, shape of area, presence of floodplain or wetlands, exceptional topographic conditions), and the applicant has proven all of the standards set forth in Section 6.5 (c) (1) through (7). Demonstration of practical difficulty shall focus on the subject property or use of the subject property, and not on the applicant personally.
- C. In consideration of all appeals and all proposed variations to this Zoning Ordinance, the Zoning Board of Appeals shall, before making any variations from this Zoning Ordinance in a specific case, determine that the standards set forth above have been met, and that the proposed variation 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, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the inhabitants of the Township.

**VARIANCE APPLICATION CHECKLIST:**

(8) sets of plans must be submitted. The sets are for the individual use of the Zoning Board members and the Township's records. None will be returned to you. The Land Use Permit will not be released until three (3) final construction blueprints and three (3) copies of your site plan are submitted which have been prepared according to the variances granted and conditions imposed at the appeals meeting.

- ✓ **1. Zoning Board of Appeals Application Form**  
All Drawing should have a north arrow and be to scale
- \_\_\_\_\_ **2. Site Plan with following information:**
- a) Location and width of road (s) and jurisdiction (public or private road).
  - b) Location and dimensions of existing/proposed construction.
  - c) Dimensions, designation, and heights of existing structures on property clearly marked.
  - d) Dimensions of property.
  - e) Location and dimensions of required setbacks
  - f) Measurement from each side of existing and proposed structure to the property lines.
  - g) All easements
  - h) Any bodies of water (lake, stream, river, canal) with water body name.
  - i) Distance from any body of water.
  - j) Septic Tank and Field, Sewer Tap (Grinder pump), Water Well
  - k) All areas requiring variances clearly marked with dimensions and amount of variance requested.
  - l) Any outstanding topographic features that should be considered (hills, drop-offs, trees, boulders, etc.).
  - m) Any other information which you may feel is pertinent to your appeal.
  - n) If the variance is to a setback requirement a licensed professional stamp shall be on the site plan.
- \_\_\_\_\_ **3. Preliminary sketch plans** may be submitted for the Appeal in lieu of final construction drawings.
- a) Elevation:
    - i. Existing and proposed grade;
    - ii. Finished floor elevations
    - iii. Plate height
    - iv. Building height

- v. Roof Pitch
- b) Floor plans:
  - i. Dimension of exterior walls
  - ii. Label rooms
  - iii. Clearly identify work to be done
  - iv. Location of floor above and floor below
- c) All other plans you may need to depict the variance. (grading plans, drainage plans etc.....)



**4. Proof of Ownership:** Include **one** of the following:

- a) Warranty Deed - showing title transaction bearing Livingston County Register of Deeds stamps
- b) Notarized letter of authorization from seller of property giving the purchaser authorization to sign a Land Use Permit

**VARIANCE PROCESS:**

Once a project is submitted:

The Zoning Administrator will review your submittal to make sure you have submitted a complete set of project plans (1 week if complete).

Once the project has been deemed complete by the Zoning Administrator:

The project will be scheduled for a Zoning Board of Appeals (ZBA) hearing. (ZBA hearing are held on the second Wednesday of each month) Your Project will need to be deemed complete by the Zoning Administrator a minimum of three (3) weeks prior to a hearing in order to be scheduled for that hearing.

Once the project has been scheduled for a ZBA hearing:

All property owners within a three hundred (300) foot radius of the subject property shall be notified of the date and time of the public hearing on your variance request and the basic nature of your proposed project and variances being requested, and the owner's name and address of the subject property. Notices will be sent on or before Fifteen (15) days prior to the hearing date.

A public hearing notice stating all appeals for a given date will be published in the Tuesday Edition of the Livingston County Daily Press & Argus fifteen (15) days prior to the date of the hearing.

At the ZBA Meeting

1. You or your representative (lawyer, builder, contractor, relative, friend) must attend.
2. Appeals are taken in order of submission.
3. Unless your appeal is tabled due to lack of information, insufficiency of drawings, etc., you will know the disposition of the appeal at the meeting before you leave.
4. **No Land Use Permits will be available for pick up on the night of the meeting, so please do not ask the Zoning Administrator for them that night.**

5. In the event that the Zoning Board of Appeals **does not grant** your variance request there will be **no refund** of the filing fee, as it pays for administration costs, the member's reviewing and meeting time, and noticing costs in the newspaper and for postage.
6. Rehearing requests may be charged \$200.00 for postage and newspaper costs in addition to the original \$325.00 charge, at the discretion of the Zoning Board of Appeals.

Once the project has been approved

You will need to submit a completed Land Use Permit, 3 sets of your final construction blueprints and 3 copies of your site plan from which your project will actually be constructed before your Land Use Permit will be released. If the Board has made special conditions, they must be met before your Land Use Permit will be released.

If the project is denied

Section 6.6.4 (C) of the Hamburg Township Zoning Ordinance states that a one (1) year period must elapse before a rehearing of the appeal "except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid."

Section 6.7 of the Zoning Ordinance governs appeals to Circuit Court. If you desire to appeal the decision of the Zoning Board of Appeals, you need to contact your attorney for filing appeals to Circuit Court.

See attached page

ZBA Case Number \_\_\_\_\_

18. Please explain how the project meets each of the following standards:

- a) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.

- b) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.

- c) That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.

- d) That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.

- e) That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.

- f) Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district;

- g) The requested variance is the minimum necessary to permit reasonable use of the land.

- I hereby certify that I am the owner of the subject property or have been authorized to act on behalf of the owner(s) and that all of the statements and attachments are true and correct to the best of my knowledge and belief.
- I acknowledge that approval of a variance only grants that which was presented to the ZBA.
- I acknowledge that I have reviewed the Hamburg Township Zoning Ordinance, The ZBA Application and the ZBA Checklist and have submitted all of the required information.
- I acknowledge that filing of this application grants access to the Township to conduct onsite investigation of the property in order to review this application.
- I understand that the house or property must be marked with the street address clearly visible from the roadway.
- I understand that there will be a public hearing on this item and that either the property owner or appellants shall be in attendance at that hearing.
- I understand that a Land Use Permit is required prior to construction if a variance is granted.
- I understand that any order of the ZBA permitting the erection alteration of a building will be void after six (6) months, unless a valid building permit is obtained and the project is started and proceeds to completion (See Sec. 6.8 of the Township Zoning Ordinance).

Cynthia L. Shuster 2/7/2019  
Owner's Signature Date

\_\_\_\_\_  
Appellant's Signature Date

18. Please explain how the project meets each of the following standards:

- a) We have two regulated wetland on the property that are making it difficult to fit our house, within the imposed setbacks, to allow for reasonable use of the property.
- b) We are trying to keep the house centrally located on the property while preserving as much of the natural habitat as possible.
- c) This proposal is not detrimental to public welfare or any more injurious to the property than trying to build on a lot without regulated wetlands.
- d) We are looking to fit the house on the property. The parcel will remain residential in use.
- e) We are asking for a 27.1 foot variance to fit our house per the plot plan.
- f) Residential house on residential property.
- g) This variance is required to fit the house on the property.

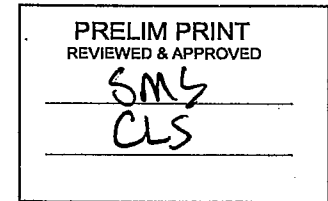
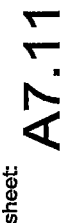






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name		date
prelim:	TML	01/08/19
perm:		
final:		
est:		
revisions:		
date:	drawn by:	







# CONSTRUCTION NOTES:

## GENERAL CONSTRUCTION:

1. THESE PLANS WILL COMPLY WITH 2014 NEC.
2. THESE PLANS WILL COMPLY WITH 2015 MRC.
3. 9'-0" CEILINGS FIRST FLOOR, UNLESS STATED OTHERWISE.
4. CYPRESS CREEK VINYL SIDING.
5. FEX PLUMBING SYSTEM.
6. ADD PRIVACY LOCK TO MASTER BDRM DOOR.

## MASONRY/CONCRETE:

1. 108" HIGH, 10" POURED BASEMENT WALLS.
2. HORIZONTAL BARS AT 12", 48" & 84".
3. VAPOR BARRIER REQUIRED UNDER ALL SLABS.
4. 42" MINIMUM FROST PROTECTION REQUIRED ON ALL FOUNDATIONS.
5. PASSIVE-SUB SLAB DEPRESSURIZATION RADON CONTROL SYSTEM REQUIRED.

## FRAMING:

1. ICE AND WATER SHIELD TO BE INSTALLED AT ALL EAVES.
2. OSB SHEATHING ON ALL GARAGE EXTERIOR WALLS.
3. ADD SHEATHING TO EXTERIOR SIDE OF BONUS ROOM KNEEWALLS. SHEATHING TO MATCH REST OF HOUSE.
4. 3'x3' LANDING REQUIRED ON ALL EXTERIOR DOORWAYS WHERE FINISHED GRADE IS GREATER THAN 16".
5. 2x6 WALLS W/ R-19 INSULATION FOR ALL EXTERIOR WALLS, EXCLUDING GARAGE EXTERIOR WALLS.
6. HOUSEWRAP REQUIRED ON ENTIRE HOUSE AND MUST BE TAPED.
7. 2" DOWN BOARD INSTALLED ON INTERIOR BASEMENT WALLS. HANG FROM SILL PLATE USING CAP NAILS.

# FIRST FLOOR PLAN

1/8" = 1'-0"

CRAFTSMAN ELEVATION

OSB SHEATHING

OSB SHEATHING

PRELIM PRINT  
REVIEWED & APPROVED

SMS  
CLS

## FIRST FLOOR PLAN

Wayne Homes expressly reserves its common law copyright and other property rights in these plans. These plans are not to be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission and consent of Wayne Homes. In the event of unauthorized reuse of these plans by a third party, the third party shall hold Wayne Homes harmless. ©2008 Wayne Homes

name	date
prelim: TML	01/08/19
perm:	
final:	
est:	
revisions:	
date:	drawn by:



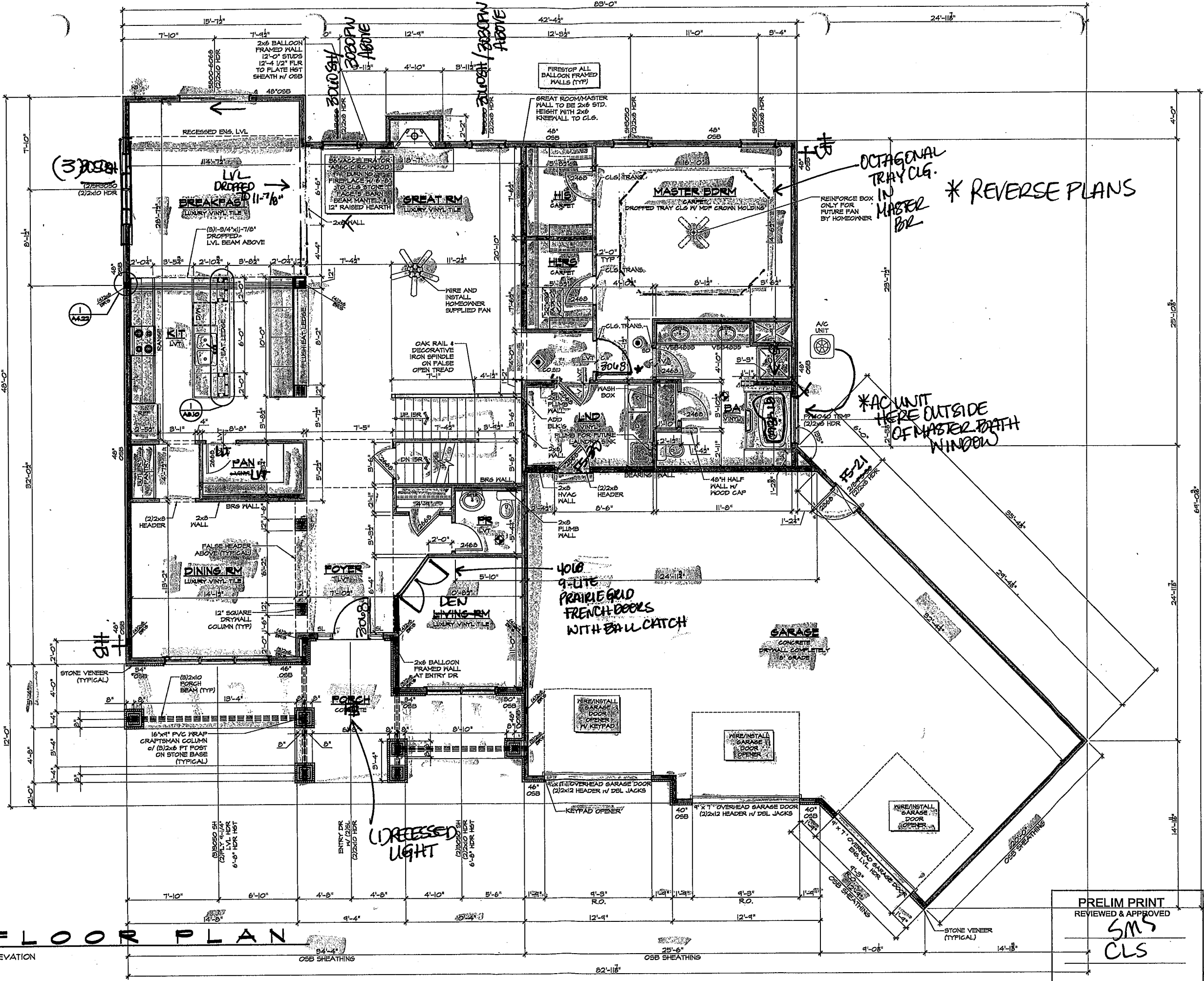
sheet: A4.20

## Winchester

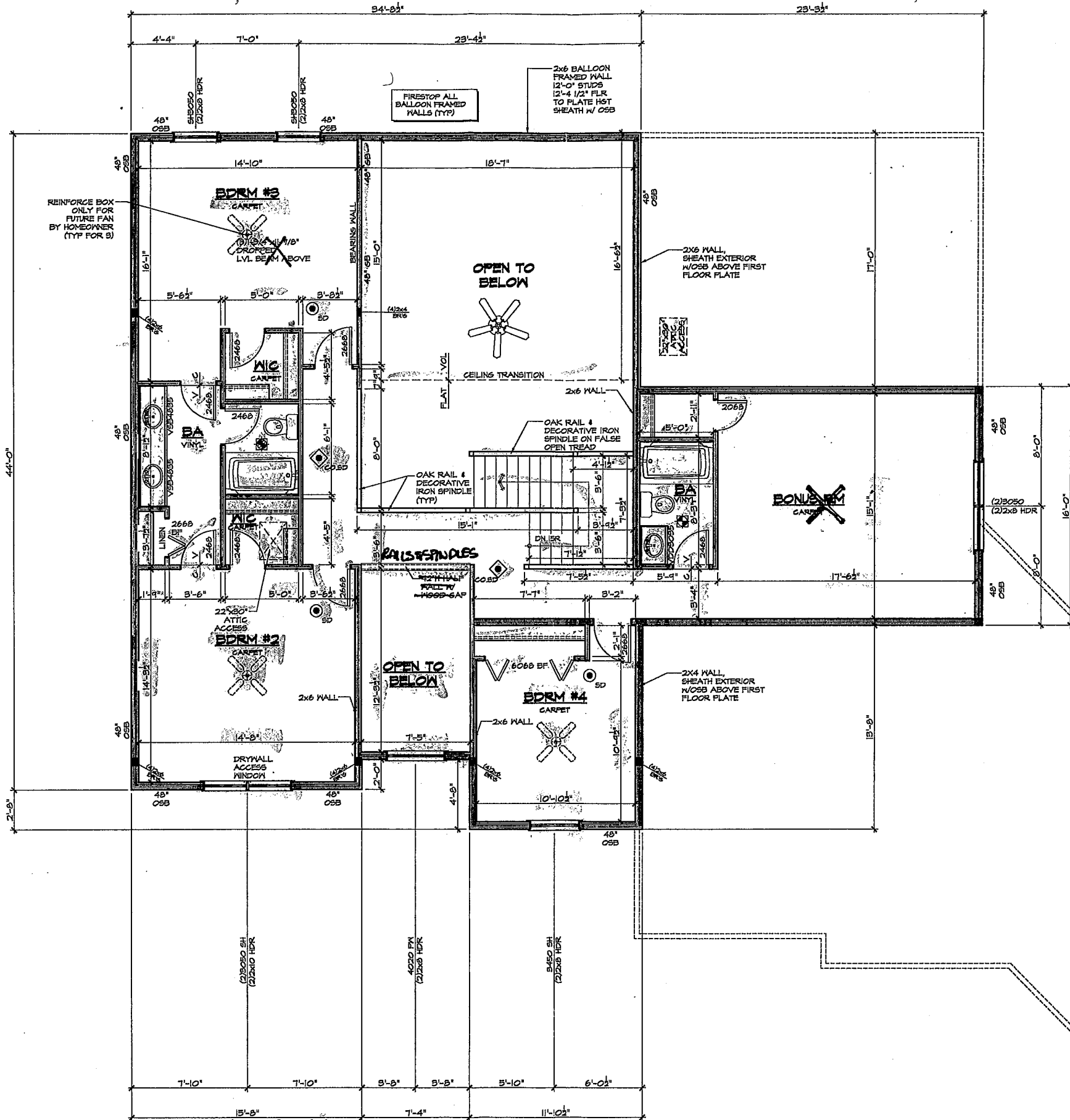
STEPHEN & CRYSTAL SHUSTER  
000 KICE DR  
HAMBURG TWP, MI 48169  
HAR #2082  
LIVINGSTON CO.

Wayne Homes

Est. 1973



- CONSTRUCTION NOTES:**
- GENERAL CONSTRUCTION:**
1. THESE PLANS WILL COMPLY WITH 2014 NEC.
  2. THESE PLANS WILL COMPLY WITH 2015 MRC.
  3. 4'-0" CEILINGS FIRST FLOOR, UNLESS STATED OTHERWISE.
  4. CYPRESS CREEK VINYL SIDING.
  5. PEX PLUMBING SYSTEM.
  6. ADD PRIVACY LOCK TO MASTER BDRM DOOR.
- MASONRY/CONCRETE:**
1. 108" HIGH, 10" FOURED BASEMENT WALLS.
  2. HORIZONTAL BARS AT 12", 48" & 84".
  3. VAPOR BARRIER REQUIRED UNDER ALL SLABS.
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  5. PASSIVE-SUB SLAB DEPRESSURIZATION RADON CONTROL SYSTEM REQUIRED.
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  2. OSB SHEATHING ON ALL GARAGE EXTERIOR WALLS.
  3. ADD SHEATHING TO EXTERIOR SIDE OF BONUS ROOM KNEEWALLS. SHEATHING TO MATCH REST OF HOUSE.
  4. 3'x8' LANDING REQUIRED ON ALL EXTERIOR DOORWAYS WHERE FINISHED GRADE IS GREATER THAN 16".
  5. 2x6 WALLS W/ R-19 INSULATION FOR ALL EXTERIOR WALLS, EXCLUDING GARAGE EXTERIOR WALLS.
  6. HOUSEWRAP REQUIRED ON ENTIRE HOUSE AND MUST BE TAPED.
  7. 2' DOWN BOARD INSTALLED ON INTERIOR BASEMENT WALLS. HANG FROM SILL PLATE USING CAP NAILS.



\* REVERSE PLAN

SECOND FLOOR PLAN

1/8" = 1'-0"

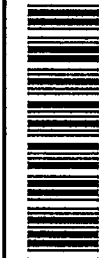
CRAFTSMAN ELEVATION

PRELIM PRINT  
REVIEWED & APPROVED

SMS  
CLS

SECOND FLOOR PLAN

name	date
prelim: TML	01/08/19
perm:	
final:	
est:	
revisions:	
date:	drawn by:



sheet:  
A5.20

Winchester

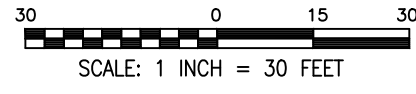
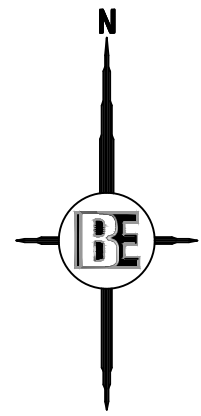
STEPHEN & CRYSTAL SHUSTER  
000 KICE DR  
HAMBURG TWP, MI 48169  
HAR #2032  
LIVINGSTON CO.

Wayne Homes  
Est. 1973

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TOPOGRAPHICAL SURVEY AND PLOT PLAN



DESCRIPTION OF PARCEL #4715-07-300-071  
PER LIVINGSTON COUNTY TAX ROLL:

SEC 7 T1N R5E COM SW COR SAID SEC TH N 01°28'29"W  
1075 FT FOR POB TH N 01°28'29"W 389.60 FT TH N  
88°31'31"E 230.10 FT TH N 56°12'00"E 108.09 FT TO CL  
KICE DR TH S 33°48'00"E 293.14 FT TH S 31°30'00"E  
140.24 FT TH S 73°12'57"W 229.71 FT TH S 85°26'22"W  
327.28 FT TO POB CONT 4.01 AC SPLIT 7/05 FROM 015

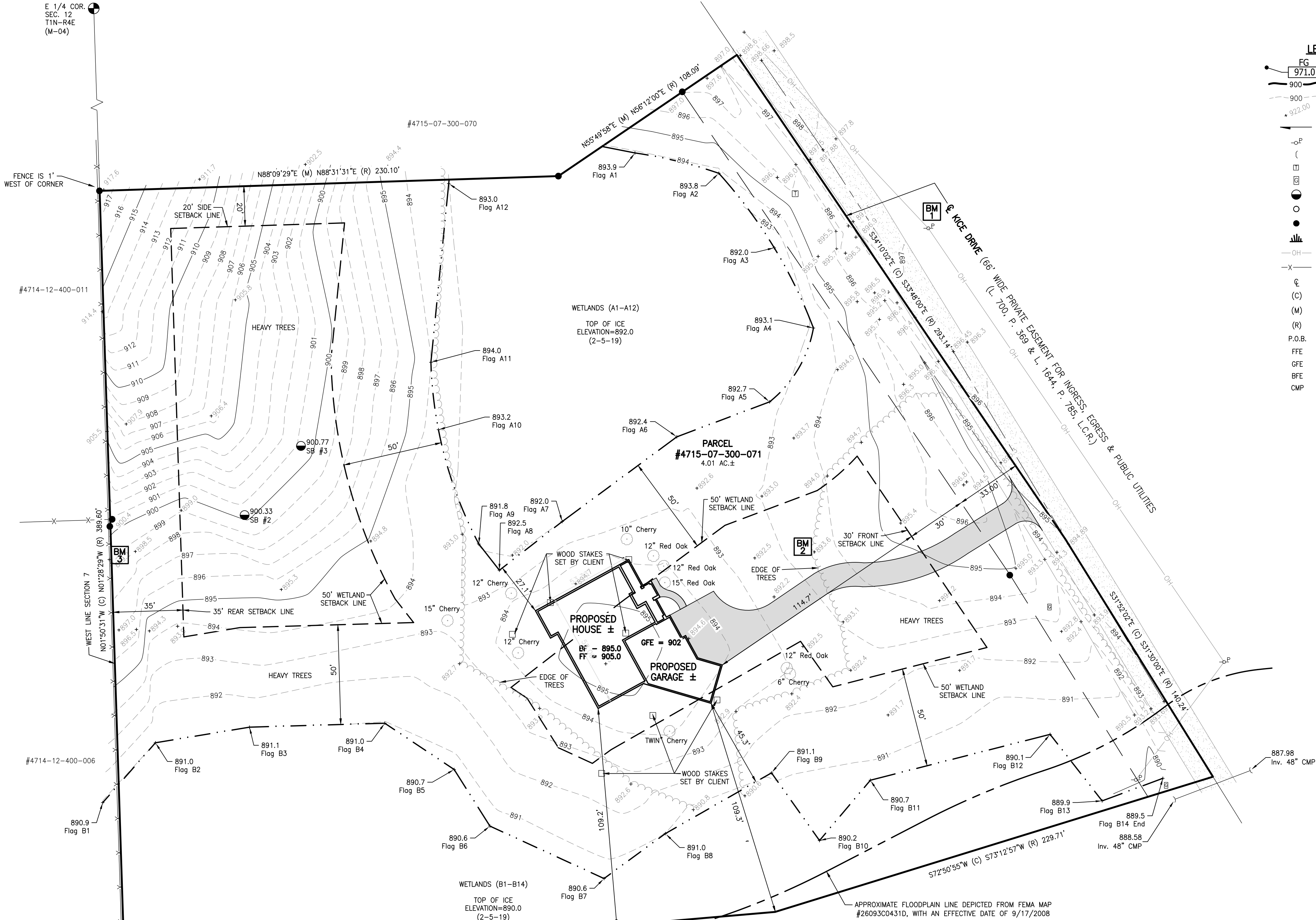
CURRENT ZONING: RAA (SINGLE FAMILY LOW DENSITY RURAL DISTRICT)  
MINIMUM SETBACK REQUIREMENTS:  
FRONT = 30 FEET  
SIDES = 20 FEET  
REAR = 35 FEET  
ORDINARY HIGH WATER MARK = 50 FEET  
DELINEATED WETLAND BOUNDARY = 50 FEET  
MAXIMUM LOT COVERAGE = 20%  
MAXIMUM BUILDING HT. = 35 FEET OR (2-1/2) STORIES

SITE BENCHMARKS (NAVD88 DATUM):

- BM #1 = MAG NAIL/TAG SET S/S P. POLE, E/S KICE DRIVE IN FRONT OF HOUSE #7553. ELEVATION = 897.38
- BM #2 = NAIL FOUND (SET BY CLIENT) IN W/S 10" OAK, 6'± ABOVE GROUND, ON SITE BETWEEN WETLAND "A" AND "B", 100'± WEST OF KICE DRIVE. ELEVATION = 900.39
- BM #3 = TOP OF 1/2" STEEL ROD ENCASED IN CONCRETE ALONG WEST PROPERTY LINE, 0.5'± EAST OF NORTH-SOUTH FENCE AND 3.5'± SOUTH OF FENCE RUNNING WEST. ELEVATION = 900.46

GENERAL SURVEY NOTES:

- BEARINGS ARE BASED ON MICHIGAN STATE PLANE COORDINATE SYSTEM, SOUTH ZONE. RECORD BEARINGS ARE FROM ESTABLISHED FROM A PREVIOUS SURVEY BY BOSS ENGINEERING, JOB NO. 3663, DATED 10-8-74, AS RECORDED IN LIBER 709, PAGE 368, LIVINGSTON COUNTY RECORDS.
- SUBSURFACE UTILITIES NOT LOCATED FOR THIS SURVEY MAY EXIST. IT IS THE RESPONSIBILITY OF THE OWNER OF THE RESPECTIVE UTILITY TO ACCURATELY LOCATE SUCH UTILITIES.
- EASEMENTS OR RESTRICTIONS OF RECORD NOT DEPICTED ON THIS DRAWING MAY EXIST.
- ELEVATIONS WERE ESTABLISHED WITH GPS USING OPUS. (NAVD88 DATUM)
- CONTOURS ARE SHOWN AT 1 FOOT INTERVALS.
- THE MAJORITY OF SUBJECT PROPERTY IS DESIGNATED AN AREA DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOOD PLAIN (ZONE X) AS SHOWN ON FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), FLOOD INSURANCE RATE MAP (FIRM), FOR THE TOWNSHIP OF HAMBURG, LIVINGSTON COUNTY, MICHIGAN, MAP NUMBER 26093C0431D, PANEL 431 OF 495, WITH AN EFFECTIVE DATE OF SEPTEMBER 17, 2008. PART OF SUBJECT PROPERTY IS LOCATED WITHIN THE 100 YEAR FLOODPLAIN (ZONE A) AND THE APPROXIMATE LOCATION OF THE FLOODPLAIN LINE IS SHOWN ON THIS SURVEY AS DEPICTED FROM SAID FEMA MAP.
- WETLANDS WERE FLAGGED BY ASTI ENVIRONMENTAL ON JANUARY 1, 2019 AND FIELD LOCATED BY BOSS ENGINEERING ON FEBRUARY 8, 2019. THE WETLANDS ON THE NORTH SIDE OF SUBJECT PROPERTY CONTAIN WETLANDS FLAGS A1 THROUGH A12. THE WETLANDS ON THE SOUTH SIDE OF SUBJECT PROPERTY CONTAIN WETLANDS FLAGS B1 THROUGH B14.

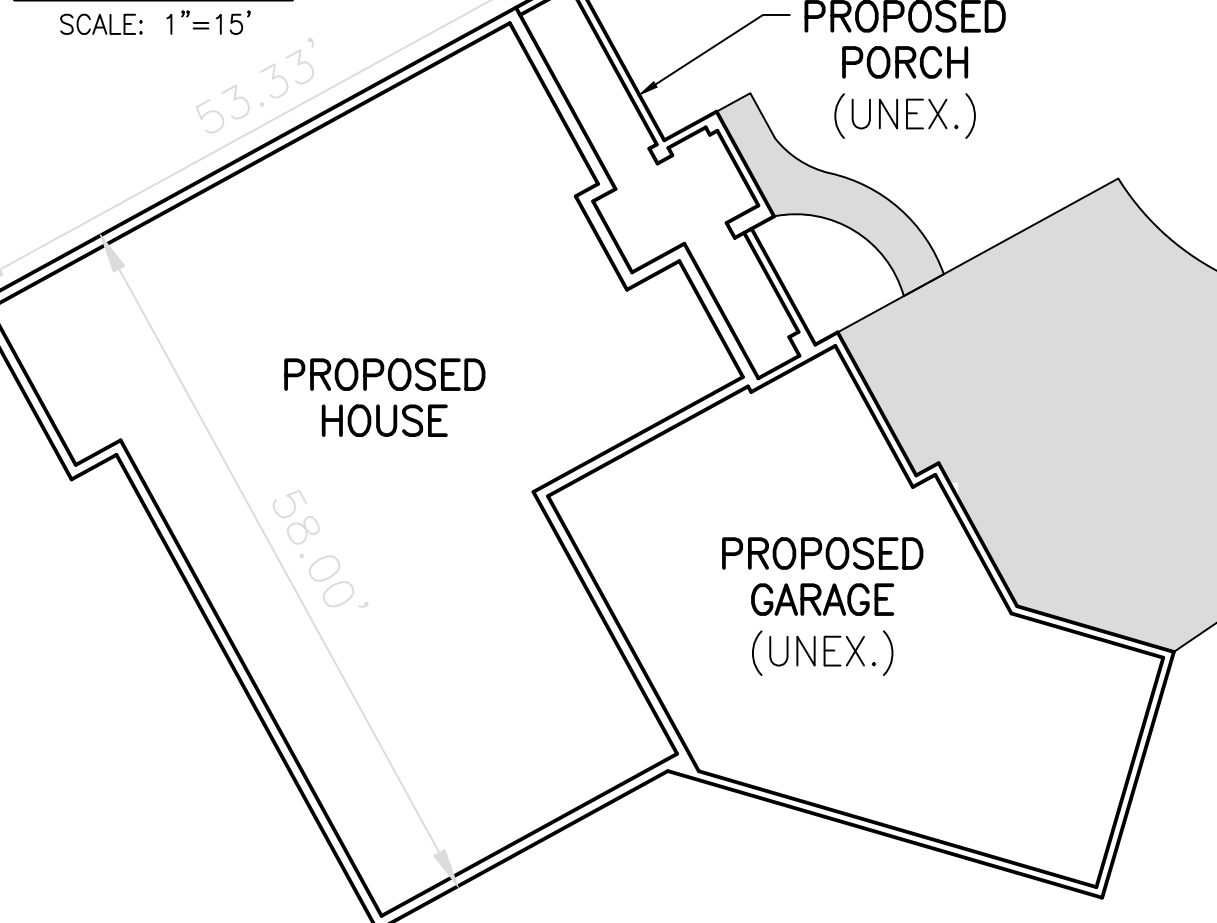


LEGEND

- FG 971.0 PROPOSED SPOT ELEVATION
- 900 PROPOSED CONTOUR
- 900 EXISTING CONTOUR
- 922.00 EXISTING SPOT ELEVATION
- STORM DRAINAGE FLOW
- POWER POLE
- STORM INVERT
- TELEPHONE RISER
- U.G. GAS MARKER
- SOIL BORING
- STEEL ROD SET
- STEEL ROD/PIPE FOUND
- MARSH SYMBOL
- OVERHEAD WIRES
- FENCE
- CENTERLINE
- (C) CALCULATED
- (M) MEASURED
- (R) RECORD
- P.O.B. POINT OF BEGINNING
- FFE FINISHED FIRST FLOOR ELEVATION
- GFE GARAGE FLOOR ELEVATION
- BFE BASEMENT FLOOR ELEVATION
- CMP CORRUGATED METAL PIPE

HOUSE DETAIL

SCALE: 1"=15'



**BEBOSS**  
Engineering  
Engineers Surveyors Planners Landscape Architects  
3121 E. GRAND RIVER AVE.  
HOWELL, MI 48843  
517.546.4836 FAX 517.548.1670

PROJECT: 2018 SWARTHOUT ROAD

PREPARED FOR: SHUSTER

7713 PARTRIDGE HILL DRIVE  
BRIGHTON, MI 48116  
517-304-9414

TITLE: TOPOGRAPHICAL SURVEY AND PLOT PLAN

DESIGNED BY:	JA
DRAWN BY:	AEB
CHECKED BY:	
SCALE	1" = 30'
JOB NO.	19-022
DATE	2-19-19
SHEET NO.	1 OF 1



THE DRAWING AND EXHIBITS OF THIS SURVEY, INCLUDING BUT NOT LIMITED TO, THE FIELD NOTES, FIELD BOOKS, AND ALL OTHER DOCUMENTS, ARE HEREBY CERTIFIED TO BE TRUE AND CORRECT. THE ENGINEER'S SIGNATURE IS SHOWN ON THESE DRAWINGS AND ONLY THE ENGINEER'S SIGNATURE IS VALID. THE ENGINEER'S SIGNATURE IS REQUIRED FOR THE DRAWING TO BE USED FOR ANY PURPOSE. THE ENGINEER'S SIGNATURE IS REQUIRED FOR THE DRAWING TO BE USED FOR ANY PURPOSE. THE ENGINEER'S SIGNATURE IS REQUIRED FOR THE DRAWING TO BE USED FOR ANY PURPOSE.





# Exhibit B



Investigation • Remediation  
Compliance • Restoration

10448 Citation Drive, Suite 100  
Brighton, MI 48116

Mailing Address:  
P.O. Box 2160  
Brighton, MI 48116-2160

800 395-ASTI  
Fax: 810.225.3800

[www.asti-env.com](http://www.asti-env.com)

January 15, 2019

Ms. Crystal Shuster  
7713 Partridge Hill Drive  
Brighton, MI 48116

RE: *Wetland Delineation and Jurisdictional Assessment and GPS Survey  
Kice Road Property; Sidwell No. 15-07-300-017  
Hamburg Township, Livingston County, Michigan  
ASTI File No. 10930*

Dear Ms. Shuster:

A site investigation was completed on January 11, 2019 by ASTI Environmental (ASTI) to delineate wetland boundaries on the above-referenced parcel located along Kice Road, south of Swarthout Road in Hamburg Township, Livingston County, Michigan (Property). Two wetlands and one watercourse believed to be regulated by the Michigan Department of Environmental Quality (DEQ) were found on the Property (see Figure 1 – *GPS-Surveyed Wetland Boundaries*). Wetland boundaries, as depicted on Figure 1, were located using a professional grade, hand-held Global Positioning System unit (GPS).

## **SUPPORTING DATA**

The United States Geological Survey (USGS) Pinckney, Michigan 7.5' Quadrangle Map, the USDA Web Soil Survey (WSS), the National Wetland Inventory Map (NWI), the DEQ Wetlands Map Viewer web site, and digital aerial photographs were all used to support the wetland delineation and subsequent regulatory status determination. All reviewed data indicated the presence of wetland over the majority of the Property. All reviewed data also indicated Hay Creek to the south of the Property.

The WSS indicates the Property is comprised of the soil complexes of Fox sandy loam (6-12% slopes), Fox-Boyer complex (12-18% slopes), Gilford sandy loam (0-2% slopes, gravelly subsoil), and Houghton muck (0-1% slopes). Gilford sandy loam (0-2% slopes, gravelly subsoil) and Houghton muck (0-1% slopes) are on the list *Hydric Soils of Michigan*.

## **FINDINGS**

ASTI investigated the Property for the presence of lakes, ponds, wetlands, and watercourses. This work is based on MCL 324 Part 301, Inland Lakes and Streams and Part 303, Wetlands Protection.

The delineation protocol used by ASTI for this delineation is based on the US Army Corps of Engineers' *Wetland Delineation Manual*, 1987, the *Regional Supplement to the Corps of Engineer Wetland Delineation Manual: Midwest Region*, and related guidance/documents, as appropriate. Wetland vegetation, soils, and hydrology indicators were used to determine wetland boundaries.

### Wetland A

Wetland A is a scrub/shrub wetland 0.60 acres in size on-site located in the northern portion of the Property (see Figure 1). Dominant vegetation found within Wetland A included silky dogwood (*Cornus amomum*), gray dogwood (*Cornus racemosa*), pussy willow (*Salix discolor*), and lake bank sedge (*Carex lacustris*). Soils within Wetland A were mucky and are considered hydric because the criteria for a 2cm of muck matrix was met. Indicators of wetland hydrology observed within Wetland A included observations of surface water, ground water, and saturated soils.

Vegetation in the upland adjacent to Wetland A was dominated by black cherry (*Prunus serotina*), white oak (*Quercus alba*), autumn olive (*Elaeagnus umbellata*), and annual grass (*Poa annua*). Soils in the upland adjacent to Wetland A were comprised of sandy loams that did not exhibit hydric soils characteristics. No indicators of wetland hydrology were observed.

It is ASTI's opinion that Wetland A is regulated by the DEQ under Part 303 because it is within 500 feet of Hay Creek to the south. Hay Creek exhibited defined channel bed and banks and was flowing on the day of the site inspection and thus, meets the definition of a stream under Part 301.

### Wetland B

Wetland B is an emergent wetland 0.81 acres in size on-site located in the southern portion of the Property (see Figure 1). Dominant vegetation found within Wetland B included lake bank sedge, tussock sedge (*Carex stricta*), reed canary grass (*Phalaris arundinacea*), and purple loosestrife (*Lythrum salicaria*). Soils within Wetland B were mucky and are considered hydric because the criteria for a 2cm of muck matrix was met. Indicators of wetland hydrology observed within Wetland B included observations of surface water, ground water, and saturated soils.

Vegetation in the upland adjacent to Wetland B was dominated by black cherry, red oak (*Quercus rubra*), and autumn olive. Soils in the upland adjacent to Wetland B were comprised of sandy loams that did not exhibit hydric soils characteristics. No indicators of wetland hydrology were observed.

It is ASTI's opinion that Wetland B is regulated by the DEQ under Part 303 because it is directly connected to Hay Creek, which meets the definition of a stream under Part 301.

Wetland Flagging

Wetland boundaries were marked in the field with day-glow and black striped flagging and numbered as follows:

Wetland A = A-1 through A-12      Wetland B = B-1 through B-13

All wetland boundaries were located in the field by ASTI with a professional grade GPS.

**SUMMARY**

Based upon the data, criteria, and evidence noted above, it is ASTI's professional opinion that the Property contains two wetlands (Wetlands A and B) and one watercourse (Hay Creek) regulated by the DEQ. However, the DEQ has the final authority on the extent of regulated wetlands, lakes, and streams in the State of Michigan.

Attached are Figure 1, which shows the GPS-surveyed wetland boundaries on the Property, and completed US Army Corps of Engineers (ACOE) Wetland Data Forms.

Thank you for the opportunity to assist you with this project. Please let us know if we can be of any further assistance in moving your project forward.

Cordially,

ASTI ENVIRONMENTAL



Kyle Hottinger  
Wetland Ecologist  
Professional Wetland Scientist #2927



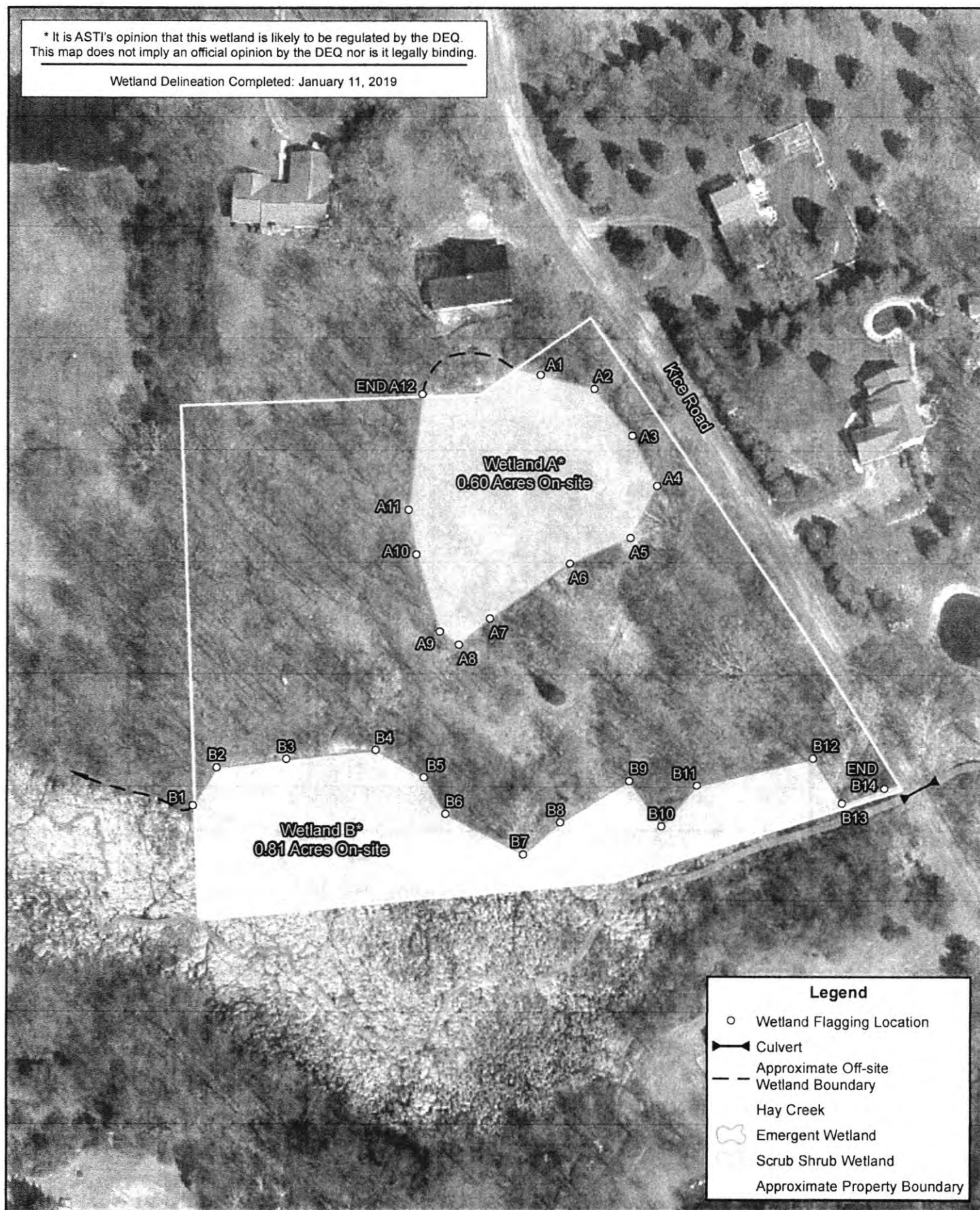
Dianne C. Martin  
Vice President  
Professional Wetland Scientist #1313

Attachments:      Figure 1 – GPS-Surveyed Wetland Boundaries  
Completed ACOE Wetland Data Forms



\* It is ASTi's opinion that this wetland is likely to be regulated by the DEQ.  
This map does not imply an official opinion by the DEQ nor is it legally binding.

Wetland Delineation Completed: January 11, 2019



Kice Road Property

PIN: 15-07-300-071  
Hamburg Twp., MI

Client: Crystal Shuster

Created by: BJG, January 14, 2019, ASTi Project 10930

Imagery: ArcGIS Online, Livingston County Aerial Imagery (April 2015)

Figure 1 - GPS-Surveyed Wetland Boundaries

# WETLAND DETERMINATION DATA FORM – Midwest Region

Project/Site: Kice Road Property - Sidwell No 15-07-300-017 City/County: Hamburg Twp-Livingston Sampling Date: 1-11-19  
 Applicant/Owner: Crystal Schuster State: MI Sampling Point: UPA5  
 Investigator(s): ASTI-KAH Section, Township, Range: Sec 7 T1N R5E  
 Landform (hillside, terrace, etc.): slope Local relief (concave, convex, none): convex  
 Slope (%): 3-5 Lat: \_\_\_\_\_ Long: \_\_\_\_\_ Datum: \_\_\_\_\_  
 Soil Map Unit Name: Fox sandy loam (6-12% slopes) NWI classification: PSS1C

Are climatic / hydrologic conditions on the site typical for this time of year? Yes x No \_\_\_\_\_ (If no, explain in Remarks.)  
 Are Vegetation \_\_\_\_\_, Soil \_\_\_\_\_, or Hydrology \_\_\_\_\_ significantly disturbed? Are "Normal Circumstances" present? Yes x No \_\_\_\_\_  
 Are Vegetation \_\_\_\_\_, Soil \_\_\_\_\_, or Hydrology \_\_\_\_\_ naturally problematic? (If needed, explain any answers in Remarks.)

## SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes _____ No <u>X</u>	Is the Sampled Area within a Wetland? Yes _____ No <u>X</u>
Hydric Soil Present? Yes _____ No <u>X</u>	
Wetland Hydrology Present? Yes _____ No <u>X</u>	
Remarks: Upland adjacent to Wetland A at flag A5	

## VEGETATION – Use scientific names of plants.

Tree Stratum	(Plot size: <u>30'</u> )	Absolute % Cover	Dominant Species?	Indicator Status
1. <u>Quercus alba</u>		25	Yes	FACU
2. <u>Prunus serotina</u>		15	Yes	FACU
3. <u>Acer negundo</u>		15	Yes	FAC
4. _____				
5. _____				
		55	=Total Cover	
Sapling/Shrub Stratum	(Plot size: <u>15'</u> )			
1. <u>Juniperus virginiana</u>		5	No	FACU
2. <u>Elaeagnus umbellata</u>		75	Yes	UPL
3. _____				
4. _____				
5. _____				
		80	=Total Cover	
Herb Stratum	(Plot size: <u>5'</u> )			
1. <u>Poa annua</u>		70	Yes	FACU
2. <u>Phalaris arundinacea</u>		15	No	FACW
3. <u>Daucus carota</u>		10	No	UPL
4. _____				
5. _____				
6. _____				
7. _____				
8. _____				
9. _____				
10. _____				
		95	=Total Cover	
Woody Vine Stratum	(Plot size: <u>15'</u> )			
1. _____				
2. _____				
			=Total Cover	

**Dominance Test worksheet:**

Number of Dominant Species That Are OBL, FACW, or FAC: 1 (A)

Total Number of Dominant Species Across All Strata: 5 (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: 20.0% (A/B)

**Prevalence Index worksheet:**

Total % Cover of:	Multiply by:
OBL species <u>0</u>	x 1 = <u>0</u>
FACW species <u>15</u>	x 2 = <u>30</u>
FAC species <u>15</u>	x 3 = <u>45</u>
FACU species <u>115</u>	x 4 = <u>460</u>
UPL species <u>85</u>	x 5 = <u>425</u>
Column Totals: <u>230</u> (A)	<u>960</u> (B)
Prevalence Index = B/A = <u>4.17</u>	

**Hydrophytic Vegetation Indicators:**

1 - Rapid Test for Hydrophytic Vegetation \_\_\_\_\_

2 - Dominance Test is >50% \_\_\_\_\_

3 - Prevalence Index is ≤3.0<sup>1</sup> \_\_\_\_\_

4 - Morphological Adaptations<sup>1</sup> (Provide supporting data in Remarks or on a separate sheet) \_\_\_\_\_

Problematic Hydrophytic Vegetation<sup>1</sup> (Explain) \_\_\_\_\_

<sup>1</sup>Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

**Hydrophytic Vegetation Present?** Yes \_\_\_\_\_ No X

Remarks: (Include photo numbers here or on a separate sheet.)

## SOIL

Sampling Point: UPA5

[illegible]

## HYDROLOGY

Wetland Hydrology Indicators:			
Primary Indicators (minimum of one is required; check all that apply)		Secondary Indicators (minimum of two required)	
<input type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Water-Stained Leaves (B9)	<input type="checkbox"/> Surface Soil Cracks (B6)	
<input type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Aquatic Fauna (B13)	<input type="checkbox"/> Drainage Patterns (B10)	
<input type="checkbox"/> Saturation (A3)	<input type="checkbox"/> True Aquatic Plants (B14)	<input type="checkbox"/> Dry-Season Water Table (C2)	
<input type="checkbox"/> Water Marks (B1)	<input type="checkbox"/> Hydrogen Sulfide Odor (C1)	<input type="checkbox"/> Crayfish Burrows (C8)	
<input type="checkbox"/> Sediment Deposits (B2)	<input type="checkbox"/> Oxidized Rhizospheres on Living Roots (C3)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)	
<input type="checkbox"/> Drift Deposits (B3)	<input type="checkbox"/> Presence of Reduced Iron (C4)	<input type="checkbox"/> Stunted or Stressed Plants (D1)	
<input type="checkbox"/> Algal Mat or Crust (B4)	<input type="checkbox"/> Recent Iron Reduction in Tilled Soils (C6)	<input type="checkbox"/> Geomorphic Position (D2)	
<input type="checkbox"/> Iron Deposits (B5)	<input type="checkbox"/> Thin Muck Surface (C7)	<input type="checkbox"/> FAC-Neutral Test (D5)	
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)	<input type="checkbox"/> Gauge or Well Data (D9)		
<input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)	<input type="checkbox"/> Other (Explain in Remarks)		
<b>Field Observations:</b>			
Surface Water Present?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Depth (inches):	
Water Table Present?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Depth (inches):	
Saturation Present?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Depth (inches):	
(includes capillary fringe)		<b>Wetland Hydrology Present?</b> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:			
Remarks:			



# WETLAND DETERMINATION DATA FORM – Midwest Region

Project/Site: Kice Road Property - Sidwell No 15-07-300-017 City/County: Hamburg Twp-Livingston Sampling Date: 1-11-19  
 Applicant/Owner: Crystal Schuster State: MI Sampling Point: WETA5  
 Investigator(s): ASTI-KAH Section, Township, Range: Sec 7 T1N R5E

Landform (hillside, terrace, etc.): depression Local relief (concave, convex, none): concave

Slope (%): 1-2 Lat: \_\_\_\_\_ Long: \_\_\_\_\_ Datum: \_\_\_\_\_

Soil Map Unit Name: Fox sandy loam (6-12% slopes) NWI classification: PSS1C

Are climatic / hydrologic conditions on the site typical for this time of year? Yes x No \_\_\_\_\_ (If no, explain in Remarks.)

Are Vegetation \_\_\_\_\_, Soil \_\_\_\_\_, or Hydrology \_\_\_\_\_ significantly disturbed? Are "Normal Circumstances" present? Yes x No \_\_\_\_\_

Are Vegetation \_\_\_\_\_, Soil \_\_\_\_\_, or Hydrology \_\_\_\_\_ naturally problematic? (If needed, explain any answers in Remarks.)

## SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes <u>X</u> No _____	Is the Sampled Area within a Wetland? Yes <u>X</u> No _____
Hydric Soil Present? Yes <u>X</u> No _____	
Wetland Hydrology Present? Yes <u>X</u> No _____	
Remarks: Wetland A at flag A5	

## VEGETATION – Use scientific names of plants.

Tree Stratum	(Plot size: <u>30'</u> )	Absolute % Cover	Dominant Species?	Indicator Status
1. <u>Acer negundo</u>		<u>5</u>	<u>Yes</u>	<u>FAC</u>
2. _____				
3. _____				
4. _____				
5. _____				
		<u>5</u>	=Total Cover	
Sapling/Shrub Stratum	(Plot size: <u>15'</u> )			
1. <u>Cornus amomum</u>		<u>50</u>	<u>Yes</u>	<u>FACW</u>
2. <u>Cornus racemosa</u>		<u>15</u>	<u>No</u>	<u>FAC</u>
3. <u>Frangula alnus</u>		<u>25</u>	<u>Yes</u>	<u>FACW</u>
4. <u>Populus deltoides</u>		<u>10</u>	<u>No</u>	<u>FAC</u>
5. _____				
		<u>100</u>	=Total Cover	
Herb Stratum	(Plot size: <u>5'</u> )			
1. <u>Carex lacustris</u>		<u>10</u>	<u>Yes</u>	<u>OBL</u>
2. <u>Phalaris arundinacea</u>		<u>10</u>	<u>Yes</u>	<u>FACW</u>
3. <u>Lythrum salicaria</u>		<u>10</u>	<u>Yes</u>	<u>OBL</u>
4. <u>Onoclea sensibilis</u>		<u>10</u>	<u>Yes</u>	<u>FACW</u>
5. <u>Typha latifolia</u>		<u>5</u>	<u>No</u>	<u>OBL</u>
6. _____				
7. _____				
8. _____				
9. _____				
10. _____				
		<u>45</u>	=Total Cover	
Woody Vine Stratum	(Plot size: <u>15'</u> )			
1. _____				
2. _____				
			=Total Cover	

**Dominance Test worksheet:**

Number of Dominant Species That Are OBL, FACW, or FAC: 7 (A)

Total Number of Dominant Species Across All Strata: 7 (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: 100.0% (A/B)

**Prevalence Index worksheet:**

Total % Cover of:	Multiply by:
OBL species <u>25</u>	x 1 = <u>25</u>
FACW species <u>95</u>	x 2 = <u>190</u>
FAC species <u>30</u>	x 3 = <u>90</u>
FACU species <u>0</u>	x 4 = <u>0</u>
UPL species <u>0</u>	x 5 = <u>0</u>
Column Totals: <u>150</u> (A)	<u>305</u> (B)
Prevalence Index = B/A = <u>2.03</u>	

**Hydrophytic Vegetation Indicators:**

1 - Rapid Test for Hydrophytic Vegetation

X 2 - Dominance Test is >50%

X 3 - Prevalence Index is ≤3.0<sup>1</sup>

4 - Morphological Adaptations<sup>1</sup> (Provide supporting data in Remarks or on a separate sheet)

Problematic Hydrophytic Vegetation<sup>1</sup> (Explain)

<sup>1</sup>Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

**Hydrophytic Vegetation Present?** Yes X No \_\_\_\_\_

Remarks: (Include photo numbers here or on a separate sheet.)

## SOIL

Sampling Point: WETA5

[illegible]

## HYDROLOGY

Wetland Hydrology Indicators:																
Primary Indicators (minimum of one is required; check all that apply)		Secondary Indicators (minimum of two required)														
<input checked="" type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Water-Stained Leaves (B9)	<input type="checkbox"/> Surface Soil Cracks (B6)														
<input checked="" type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Aquatic Fauna (B13)	<input type="checkbox"/> Drainage Patterns (B10)														
<input checked="" type="checkbox"/> Saturation (A3)	<input type="checkbox"/> True Aquatic Plants (B14)	<input type="checkbox"/> Dry-Season Water Table (C2)														
<input type="checkbox"/> Water Marks (B1)	<input type="checkbox"/> Hydrogen Sulfide Odor (C1)	<input type="checkbox"/> Crayfish Burrows (C8)														
<input type="checkbox"/> Sediment Deposits (B2)	<input type="checkbox"/> Oxidized Rhizospheres on Living Roots (C3)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)														
<input type="checkbox"/> Drift Deposits (B3)	<input type="checkbox"/> Presence of Reduced Iron (C4)	<input type="checkbox"/> Stunted or Stressed Plants (D1)														
<input type="checkbox"/> Algal Mat or Crust (B4)	<input type="checkbox"/> Recent Iron Reduction in Tilled Soils (C6)	<input checked="" type="checkbox"/> Geomorphic Position (D2)														
<input type="checkbox"/> Iron Deposits (B5)	<input type="checkbox"/> Thin Muck Surface (C7)	<input checked="" type="checkbox"/> FAC-Neutral Test (D5)														
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)	<input type="checkbox"/> Gauge or Well Data (D9)															
<input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)	<input type="checkbox"/> Other (Explain in Remarks)															
<b>Field Observations:</b> <table border="0"> <tr> <td>Surface Water Present?</td> <td>Yes <input checked="" type="checkbox"/></td> <td>No <input type="checkbox"/></td> <td>Depth (inches): <u>1</u></td> <td rowspan="3"> <b>Wetland Hydrology Present?</b>    Yes <input checked="" type="checkbox"/>    No <input type="checkbox"/> </td> </tr> <tr> <td>Water Table Present?</td> <td>Yes <input checked="" type="checkbox"/></td> <td>No <input type="checkbox"/></td> <td>Depth (inches): <u>4</u></td> </tr> <tr> <td>Saturation Present?</td> <td>Yes <input checked="" type="checkbox"/></td> <td>No <input type="checkbox"/></td> <td>Depth (inches): <u>4</u></td> </tr> </table>				Surface Water Present?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Depth (inches): <u>1</u>	<b>Wetland Hydrology Present?</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Water Table Present?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Depth (inches): <u>4</u>	Saturation Present?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Depth (inches): <u>4</u>
Surface Water Present?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Depth (inches): <u>1</u>	<b>Wetland Hydrology Present?</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>												
Water Table Present?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Depth (inches): <u>4</u>													
Saturation Present?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Depth (inches): <u>4</u>													
Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:																
Remarks:																

# WETLAND DETERMINATION DATA FORM – Midwest Region

Project/Site: Kice Road Property - Sidwell No 15-07-300-017 City/County: Hamburg Twp-Livingston Sampling Date: 1-11-19  
 Applicant/Owner: Crystal Schuster State: MI Sampling Point: UPB5  
 Investigator(s): ASTI-KAH Section, Township, Range: Sec 7 T1N R5E  
 Landform (hillside, terrace, etc.): slight slope Local relief (concave, convex, none): concave  
 Slope (%): 2-4 Lat: \_\_\_\_\_ Long: \_\_\_\_\_ Datum: \_\_\_\_\_  
 Soil Map Unit Name: Gilford sandy loam (0-2% slopes, gravelly subsoil) NWI classification: PSS1C

Are climatic / hydrologic conditions on the site typical for this time of year? Yes x No \_\_\_\_\_ (If no, explain in Remarks.)  
 Are Vegetation \_\_\_\_\_, Soil \_\_\_\_\_, or Hydrology \_\_\_\_\_ significantly disturbed? Are "Normal Circumstances" present? Yes x No \_\_\_\_\_  
 Are Vegetation \_\_\_\_\_, Soil \_\_\_\_\_, or Hydrology \_\_\_\_\_ naturally problematic? (If needed, explain any answers in Remarks.)

## SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes _____ No <u>X</u>	Is the Sampled Area within a Wetland? Yes _____ No <u>X</u>
Hydric Soil Present? Yes _____ No <u>X</u>	
Wetland Hydrology Present? Yes _____ No <u>X</u>	
Remarks: Upland adjacent to Wetland B at flag B5	

## VEGETATION – Use scientific names of plants.

Tree Stratum	(Plot size: <u>30'</u> )	Absolute % Cover	Dominant Species?	Indicator Status
1. <u>Quercus rubra</u>		35	Yes	FACU
2. <u>Prunus serotina</u>		20	Yes	FACU
3. _____				
4. _____				
5. _____				
		55	=Total Cover	
Sapling/Shrub Stratum	(Plot size: <u>15'</u> )			
1. <u>Cornus amomum</u>		5	No	FACW
2. <u>Elaeagnus umbellata</u>		95	Yes	UPL
3. _____				
4. _____				
5. _____				
		100	=Total Cover	
Herb Stratum	(Plot size: <u>5'</u> )			
1. <u>Onoclea sensibilis</u>		5	Yes	FACW
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
7. _____				
8. _____				
9. _____				
10. _____				
		5	=Total Cover	
Woody Vine Stratum	(Plot size: <u>15'</u> )			
1. _____				
2. _____				
			=Total Cover	

**Dominance Test worksheet:**

Number of Dominant Species That Are OBL, FACW, or FAC: 1 (A)

Total Number of Dominant Species Across All Strata: 4 (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: 25.0% (A/B)

**Prevalence Index worksheet:**

Total % Cover of:	Multiply by:
OBL species <u>0</u>	x 1 = <u>0</u>
FACW species <u>10</u>	x 2 = <u>20</u>
FAC species <u>0</u>	x 3 = <u>0</u>
FACU species <u>55</u>	x 4 = <u>220</u>
UPL species <u>95</u>	x 5 = <u>475</u>
Column Totals: <u>160</u> (A)	<u>715</u> (B)
Prevalence Index = B/A = <u>4.47</u>	

**Hydrophytic Vegetation Indicators:**

1 - Rapid Test for Hydrophytic Vegetation \_\_\_\_\_

2 - Dominance Test is >50% \_\_\_\_\_

3 - Prevalence Index is ≤3.0<sup>1</sup> \_\_\_\_\_

4 - Morphological Adaptations<sup>1</sup> (Provide supporting data in Remarks or on a separate sheet) \_\_\_\_\_

Problematic Hydrophytic Vegetation<sup>1</sup> (Explain) \_\_\_\_\_

<sup>1</sup>Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

**Hydrophytic Vegetation Present?** Yes \_\_\_\_\_ No X

Remarks: (Include photo numbers here or on a separate sheet.)

## SOIL

Sampling Point: UPB5

[illegible]

## HYDROLOGY

Wetland Hydrology Indicators:			
Primary Indicators (minimum of one is required; check all that apply)		Secondary Indicators (minimum of two required)	
<input type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Water-Stained Leaves (B9)	<input type="checkbox"/> Surface Soil Cracks (B6)	
<input type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Aquatic Fauna (B13)	<input type="checkbox"/> Drainage Patterns (B10)	
<input type="checkbox"/> Saturation (A3)	<input type="checkbox"/> True Aquatic Plants (B14)	<input type="checkbox"/> Dry-Season Water Table (C2)	
<input type="checkbox"/> Water Marks (B1)	<input type="checkbox"/> Hydrogen Sulfide Odor (C1)	<input type="checkbox"/> Crayfish Burrows (C8)	
<input type="checkbox"/> Sediment Deposits (B2)	<input type="checkbox"/> Oxidized Rhizospheres on Living Roots (C3)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)	
<input type="checkbox"/> Drift Deposits (B3)	<input type="checkbox"/> Presence of Reduced Iron (C4)	<input type="checkbox"/> Stunted or Stressed Plants (D1)	
<input type="checkbox"/> Algal Mat or Crust (B4)	<input type="checkbox"/> Recent Iron Reduction in Tilled Soils (C6)	<input type="checkbox"/> Geomorphic Position (D2)	
<input type="checkbox"/> Iron Deposits (B5)	<input type="checkbox"/> Thin Muck Surface (C7)	<input type="checkbox"/> FAC-Neutral Test (D5)	
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)	<input type="checkbox"/> Gauge or Well Data (D9)		
<input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)	<input type="checkbox"/> Other (Explain in Remarks)		
<b>Field Observations:</b>			
Surface Water Present?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Depth (inches):	
Water Table Present?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Depth (inches):	
Saturation Present?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Depth (inches):	
(includes capillary fringe)		<b>Wetland Hydrology Present?</b> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:			
Remarks:			



# WETLAND DETERMINATION DATA FORM – Midwest Region

Project/Site: Kice Road Property - Sidwell No 15-07-300-017 City/County: Hamburg Twp-Livingston Sampling Date: 1-11-19  
 Applicant/Owner: Crystal Schuster State: MI Sampling Point: WETB5  
 Investigator(s): ASTI-KAH Section, Township, Range: Sec 7 T1N R5E  
 Landform (hillside, terrace, etc.): depression Local relief (concave, convex, none): concave  
 Slope (%): 1-2 Lat: \_\_\_\_\_ Long: \_\_\_\_\_ Datum: \_\_\_\_\_  
 Soil Map Unit Name: Gilford sandy loam (0-2% slopes, gravelly subsoil) NWI classification: PSS1C

Are climatic / hydrologic conditions on the site typical for this time of year? Yes x No \_\_\_\_\_ (If no, explain in Remarks.)  
 Are Vegetation \_\_\_\_\_, Soil \_\_\_\_\_, or Hydrology \_\_\_\_\_ significantly disturbed? Are "Normal Circumstances" present? Yes x No \_\_\_\_\_  
 Are Vegetation \_\_\_\_\_, Soil \_\_\_\_\_, or Hydrology \_\_\_\_\_ naturally problematic? (If needed, explain any answers in Remarks.)

## SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes <u>X</u> No _____	Is the Sampled Area within a Wetland? Yes <u>X</u> No _____
Hydric Soil Present? Yes <u>X</u> No _____	
Wetland Hydrology Present? Yes <u>X</u> No _____	
Remarks: Wetland B at flag B5	

## VEGETATION – Use scientific names of plants.

Tree Stratum	(Plot size: <u>30'</u> )	Absolute % Cover	Dominant Species?	Indicator Status	<b>Dominance Test worksheet:</b>  Number of Dominant Species That Are OBL, FACW, or FAC: <u>4</u> (A)  Total Number of Dominant Species Across All Strata: <u>4</u> (B)  Percent of Dominant Species That Are OBL, FACW, or FAC: <u>100.0%</u> (A/B)																
1. _____																					
2. _____																					
3. _____																					
4. _____																					
5. _____																					
		=Total Cover																			
Sapling/Shrub Stratum	(Plot size: <u>15'</u> )				<b>Prevalence Index worksheet:</b>  <table border="1"> <thead> <tr> <th>Total % Cover of:</th> <th>Multiply by:</th> </tr> </thead> <tbody> <tr> <td>OBL species <u>90</u></td> <td>x 1 = <u>90</u></td> </tr> <tr> <td>FACW species <u>15</u></td> <td>x 2 = <u>30</u></td> </tr> <tr> <td>FAC species <u>5</u></td> <td>x 3 = <u>15</u></td> </tr> <tr> <td>FACU species <u>0</u></td> <td>x 4 = <u>0</u></td> </tr> <tr> <td>UPL species <u>0</u></td> <td>x 5 = <u>0</u></td> </tr> <tr> <td>Column Totals: <u>110</u> (A)</td> <td><u>135</u> (B)</td> </tr> <tr> <td colspan="2">Prevalence Index = B/A = <u>1.23</u></td> </tr> </tbody> </table>	Total % Cover of:	Multiply by:	OBL species <u>90</u>	x 1 = <u>90</u>	FACW species <u>15</u>	x 2 = <u>30</u>	FAC species <u>5</u>	x 3 = <u>15</u>	FACU species <u>0</u>	x 4 = <u>0</u>	UPL species <u>0</u>	x 5 = <u>0</u>	Column Totals: <u>110</u> (A)	<u>135</u> (B)	Prevalence Index = B/A = <u>1.23</u>	
Total % Cover of:	Multiply by:																				
OBL species <u>90</u>	x 1 = <u>90</u>																				
FACW species <u>15</u>	x 2 = <u>30</u>																				
FAC species <u>5</u>	x 3 = <u>15</u>																				
FACU species <u>0</u>	x 4 = <u>0</u>																				
UPL species <u>0</u>	x 5 = <u>0</u>																				
Column Totals: <u>110</u> (A)	<u>135</u> (B)																				
Prevalence Index = B/A = <u>1.23</u>																					
1. <u>Cornus amomum</u>		<u>5</u>	Yes	FACW																	
2. <u>Cornus racemosa</u>		<u>5</u>	Yes	FAC																	
3. _____																					
4. _____																					
5. _____																					
		<u>10</u> =Total Cover																			
Herb Stratum	(Plot size: <u>5'</u> )				<b>Hydrophytic Vegetation Indicators:</b> <u>1</u> - Rapid Test for Hydrophytic Vegetation <u>X</u> <u>2</u> - Dominance Test is >50% <u>X</u> <u>3</u> - Prevalence Index is ≤3.0 <sup>1</sup> <u>4</u> - Morphological Adaptations <sup>1</sup> (Provide supporting data in Remarks or on a separate sheet) <u>Problematic Hydrophytic Vegetation</u> <sup>1</sup> (Explain) <sup>1</sup> Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.																
1. <u>Phalaris arundinacea</u>		<u>10</u>	No	FACW																	
2. <u>Carex stricta</u>		<u>30</u>	Yes	OBL																	
3. <u>Asclepias incarnata</u>		<u>5</u>	No	OBL																	
4. <u>Lythrum salicaria</u>		<u>15</u>	No	OBL																	
5. <u>Carex lacustris</u>		<u>40</u>	Yes	OBL																	
6. _____																					
7. _____																					
8. _____																					
9. _____																					
10. _____																					
		<u>100</u> =Total Cover																			
Woody Vine Stratum	(Plot size: <u>15'</u> )				<b>Hydrophytic Vegetation Present?</b> Yes <u>X</u> No _____																
1. _____																					
2. _____																					
		=Total Cover																			
Remarks: (Include photo numbers here or on a separate sheet.)																					

## SOIL

Sampling Point: WETB5

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type <sup>1</sup>	Loc <sup>2</sup>		
1-16	10YR 2/1	100					Muck	
16-28	10YR 2/1	95	10YR 8/1	5	C	M	Muck	Prominent redox concentrations 28" + muck with trace marl

<sup>1</sup>Type: C=Concentration, D=Depletion, RM=Reduced Matrix, MS=Masked Sand Grains.      <sup>2</sup>Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators:		Indicators for Problematic Hydric Soils <sup>3</sup> :	
<input checked="" type="checkbox"/> Histosol (A1)	<input type="checkbox"/> Sandy Gleyed Matrix (S4)	<input type="checkbox"/> Coast Prairie Redox (A16)	
<input type="checkbox"/> Histic Epipedon (A2)	<input type="checkbox"/> Sandy Redox (S5)	<input type="checkbox"/> Iron-Manganese Masses (F12)	
<input type="checkbox"/> Black Histic (A3)	<input type="checkbox"/> Stripped Matrix (S6)	<input type="checkbox"/> Red Parent Material (F21)	
<input type="checkbox"/> Hydrogen Sulfide (A4)	<input type="checkbox"/> Dark Surface (S7)	<input type="checkbox"/> Very Shallow Dark Surface (F22)	
<input type="checkbox"/> Stratified Layers (A5)	<input type="checkbox"/> Loamy Mucky Mineral (F1)	<input type="checkbox"/> Other (Explain in Remarks)	
<input checked="" type="checkbox"/> 2 cm Muck (A10)	<input type="checkbox"/> Loamy Gleyed Matrix (F2)		
<input type="checkbox"/> Depleted Below Dark Surface (A11)	<input type="checkbox"/> Depleted Matrix (F3)		
<input type="checkbox"/> Thick Dark Surface (A12)	<input type="checkbox"/> Redox Dark Surface (F6)		
<input type="checkbox"/> Sandy Mucky Mineral (S1)	<input type="checkbox"/> Depleted Dark Surface (F7)		
<input type="checkbox"/> 5 cm Mucky Peat or Peat (S3)	<input type="checkbox"/> Redox Depressions (F8)		

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed):	Hydric Soil Present?
Type: <u>none</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Depth (inches): <u> </u>	

Remarks:

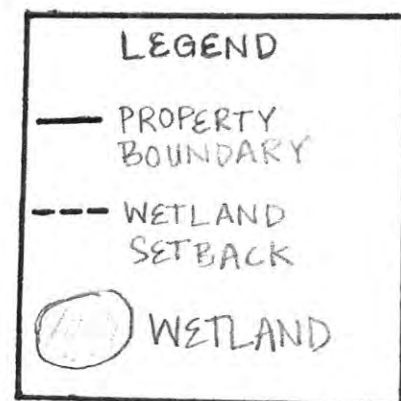
## HYDROLOGY

Wetland Hydrology Indicators:		Secondary Indicators (minimum of two required)	
Primary Indicators (minimum of one is required; check all that apply)			
<input checked="" type="checkbox"/> Surface Water (A1)	<input type="checkbox"/> Water-Stained Leaves (B9)	<input type="checkbox"/> Surface Soil Cracks (B6)	
<input checked="" type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Aquatic Fauna (B13)	<input type="checkbox"/> Drainage Patterns (B10)	
<input checked="" type="checkbox"/> Saturation (A3)	<input type="checkbox"/> True Aquatic Plants (B14)	<input type="checkbox"/> Dry-Season Water Table (C2)	
<input type="checkbox"/> Water Marks (B1)	<input type="checkbox"/> Hydrogen Sulfide Odor (C1)	<input type="checkbox"/> Crayfish Burrows (C8)	
<input type="checkbox"/> Sediment Deposits (B2)	<input type="checkbox"/> Oxidized Rhizospheres on Living Roots (C3)	<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)	
<input type="checkbox"/> Drift Deposits (B3)	<input type="checkbox"/> Presence of Reduced Iron (C4)	<input type="checkbox"/> Stunted or Stressed Plants (D1)	
<input type="checkbox"/> Algal Mat or Crust (B4)	<input type="checkbox"/> Recent Iron Reduction in Tilled Soils (C6)	<input checked="" type="checkbox"/> Geomorphic Position (D2)	
<input type="checkbox"/> Iron Deposits (B5)	<input type="checkbox"/> Thin Muck Surface (C7)	<input checked="" type="checkbox"/> FAC-Neutral Test (D5)	
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)	<input type="checkbox"/> Gauge or Well Data (D9)		
<input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)	<input type="checkbox"/> Other (Explain in Remarks)		

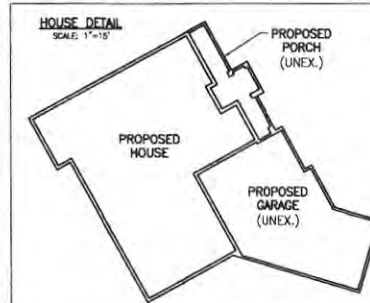
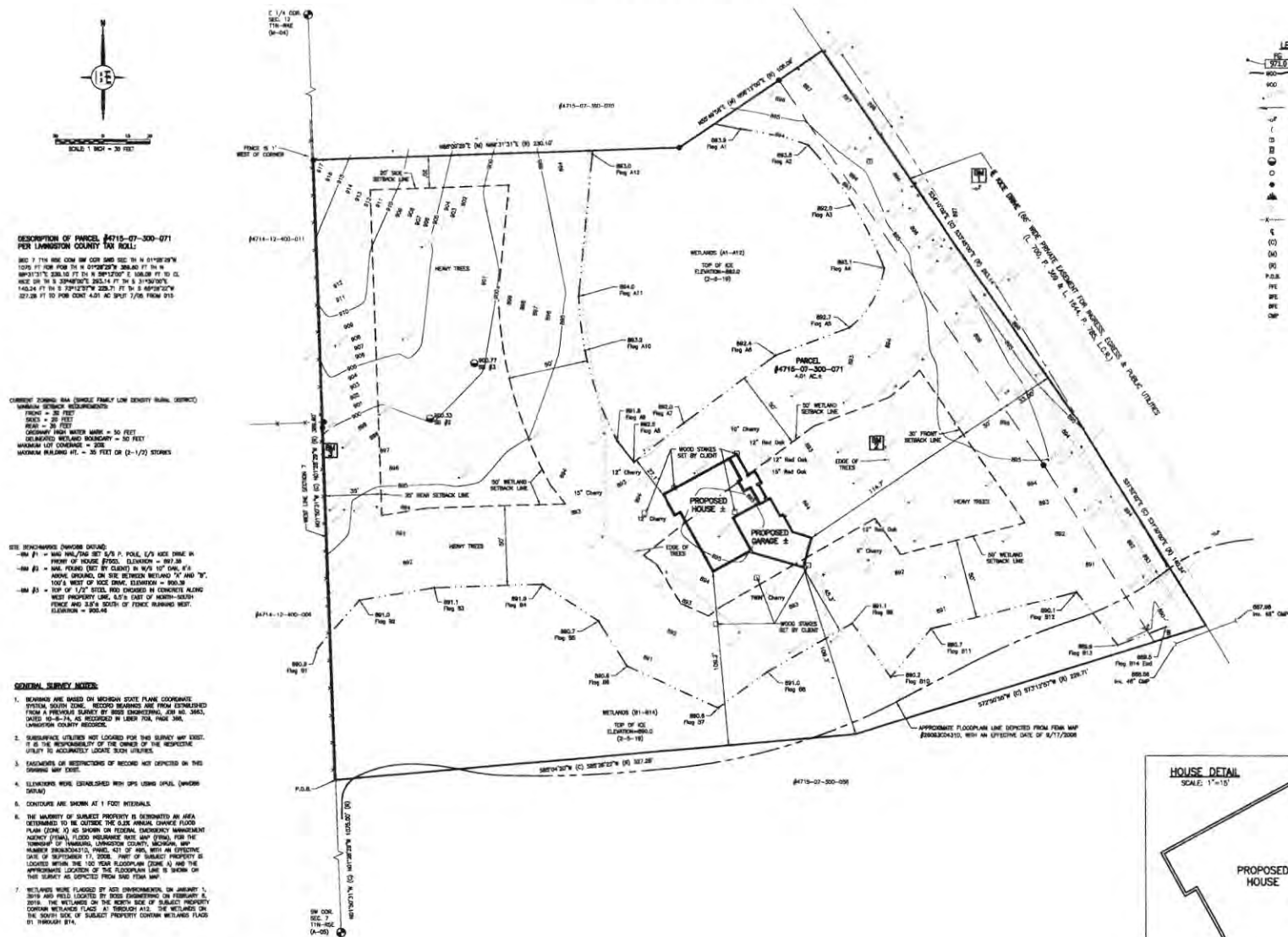
Field Observations:				Wetland Hydrology Present?	
Surface Water Present?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Depth (inches):	<u>3</u>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Water Table Present?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Depth (inches):	<u>3</u>		
Saturation Present?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Depth (inches):	<u>4</u>		
(includes capillary fringe)					

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:



## TOPOGRAPHICAL SURVEY



PROJECT: 2018 STARWORTH ROAD PREPARED FOR: <b>SUBSISTERS</b> 7713 PATRIDGE MIL DRIVE BRIGHTON, MI 48116 313-300-4444		DESIGNED BY: DRAWN BY: AEB CHECKED BY: SCALE: 1" = 30' JOB NO.: 19-022 DATE: 2-13-19		SHEET NO. 1 OF 1	
TITLE: TOPOGRAPHICAL SURVEY		REVISIONS:		DATE:	
18 BOSS Engineering Registered Professional Engineer 3121 E GRAND RIVER AVE. HOWELL, MI 48843 517.546.4836 FAX 517.548.1670		19-022-001 19-022-001			

# Exhibit C

## Brittany Stein

---

**From:** Pierce, Jeff (DEQ) <PierceJ2@michigan.gov>  
**Sent:** Tuesday, February 12, 2019 1:27 PM  
**To:** Brittany Stein  
**Subject:** RE: Kice Rd. - Wetland Setback Variance

Hi Brittany,

Based on aerial imagery review, I don't see anything that would suggest that there are any issues with ASTI's wetland delineation. It looks like the project will not propose any direct filling or construction within wetlands. Based on this, it looks like no permit would be required from the DEQ under Part 303, Wetlands Protection.

Jeff Pierce  
Water Resources Division, DEQ  
Lansing District Office  
525 W. Allegan Street  
P.O. Box 30242  
Lansing, MI 48909

Phone: 517-416-4297 FAX: 517-241-3571

**From:** Brittany Stein <bstein@HAMBURG.MI.US>  
**Sent:** Tuesday, February 12, 2019 12:11 PM  
**To:** Pierce, Jeff (DEQ) <PierceJ2@michigan.gov>  
**Subject:** Kice Rd. - Wetland Setback Variance

Jeff,

We have a potential ZBA (Wetland Setback – 50 ft. required) application coming to us for a March 13<sup>th</sup> ZBA hearing requesting a reduced setback from the wetlands. I have attached the information that I have so far for this property on Kice Rd. (4715-07-300-071). Are you able to tell me if the proposed home would have direct impact or require a DEQ Permit?

Let me know if you have questions, or give me a call if you would like.

Thanks,

Brittany Stein  
Hamburg Township, Zoning Coordinator  
(810) 222-1166

## Exhibit D



10405 Merrill Road ♦ P.O. Box 157  
Hamburg, MI 48139  
Phone: 810.231.1000 ♦ Fax: 810.231.4295  
www.hamburg.mi.us

### DPW/UTILITIES DEPT. REVIEW

I have reviewed ZBA Case # ZBA19-002 located at Kice Drive (Vacant) and offer the following:

☒ [X] The parcel is **not** on sewers.

☐ [ ] The parcel is serviced by the Hamburg Township Sanitary Sewer System (HTSSS).

- The homeowners are requesting a variance to allow for the construction of a 3,578 sq. foot dwelling with a 1,139 sq. foot attached garage that will encroach into the required 50-foot setback from a regulated wetland.
- The property will have an individual on-site sewage disposal (septic) system to serve the home. There is no municipal sanitary sewer system in this area of the Township.
- The Utilities Department has no objections to the request for variance.

The property owner or Builder must contact Miss Dig at 1-800-482-7171 at least 3 days prior to any digging or excavation work to confirm the location of any utility locations.

Dated: March 1<sup>st</sup>, 2019

Respectfully submitted,

Brittany K. Campbell  
Hamburg Township Utilities Coordinator



Exhibit E







# Zoning Board of Appeals Staff Report

## AGENDA ITEM: 7b



**TO:** Zoning Board of Appeals  
(ZBA)

**FROM:** Amy Steffens, AICP  
Zoning Administrator

**HEARING**

**DATE:** March 13, 2019

**SUBJECT:** ZBA 19-003

**PROJECT** 3574 Windwheel Pointe  
**SITE:** (TID 15-32-102-040)

**APPLICANT/  
OWNER:** Joan Fitzgibbon

**AGENT:** Chris Childs, Tri-County  
Builders

**Request:** Variance request to construct a 336-square foot enclosed sunroom over an existing patio. The sunroom will have an 8-foot west rear yard setback (30-foot rear yard setback required, Section 7.6.1.).

### **Site description and history**

The subject site is an 8,146-square foot parcel improved with a 2,280-square foot dwelling, including the attached 616-square foot garage. The site fronts onto Windwheel Pointe to the east; Whitewood Lake is to the west, and single-family dwellings are to the north and south.

If approved, the variance request would allow for the construction of a 336-square foot enclosed sunroom over an existing patio. The sunroom would have an eight-foot west rear yard setback where a 30-foot rear yard setback would be required per Section 7.6.1.

The subject structure is mapped within FEMA's 1 percent floodplain. Hamburg Township participates in the National Flood Insurance Program (NFIP). Proper enforcement of the building code standards is a prerequisite of the community's participation in the NFIP. In NFIP

communities, flood insurance must be purchased as a condition of obtaining a federally insured mortgage in federally identified 100-year floodplain areas. Insurance rates can be very high for new construction if the lowest floor elevation standards are not met. FEMA has issued a LOMA, removing the structure from the SFHA, but it is not clear if the LOMA was issued before or after the existing raised patio was installed. Prior to issuance of a building permit, an elevation certificate would be required to ensure that any improvements would meet the floodplain development standards of Hamburg Township (Section 9.6.).

The subject site appears to be over the maximum permitted lot coverage of 35 percent for structures and 40 percent for impervious surfaces. Prior to issuance of a land use permit for any further development on the subject site, lot coverage percentages should be provided, and if necessary, an engineered drainage plan submitted (Section 7.6.1.fn7).

### **Standards of Review**

The Zoning Board of Appeal's (ZBA) decision in this matter is to be based on the findings of facts to support the following standards. The applicable discretionary standards are listed below in bold typeface followed by staff's analysis of the project as it relates to these standards. A variance may only be granted if the ZBA finds that all of the following requirements are met.

**1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.**

The subject site is a typical waterfront lot, located within a platted subdivision; the plat indicates the lot runs to the water's edge. The applicant believes that because the plat specifies that the lot runs to the water's edge, the rear yard setback from the property boundary would not apply. However, the rear lot line as shown on the plat has been interpreted both by previous zoning administrators and the ZBA to be the point from which the rear yard setback is determined. If the Planning Commission or Zoning Board of Appeals wishes to apply only the 50-foot setback from the ordinary high water mark (OHM), and not the 30-foot rear yard setback, staff should be directed as such. What is under consideration by the ZBA with the current request is a setback from the platted rear lot line. The picture on the following page shows the existing setbacks from the property lines for adjacent properties. If approved, the sunroom would encroach farther into the rear yard than surrounding properties. The edge of water is approximately 20 feet from the rear lot line and could be considered an exceptional or extraordinary circumstance of the subject site that would mitigate the visual impact of the encroachment into the rear yard of the proposed sunroom.



2. **That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.**

Property rights are not advanced based on a single proposed site plan or architectural design. The property is currently zoned, developed, and used for residential purposes and complying with the required setbacks would not deny the property's continued residential and riparian uses. Given the way the site was developed, the site cannot accommodate any further development to the rear of the dwelling without the granting of a variance. However, there is room for additional enclosed living space on the front of the dwelling.

3. **That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.**

See analysis under standard number two.

4. **That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.**

The subject site is located in the North Chain of Lakes planning area of the township's Master Plan. This planning area is closely tied to lake waterfronts and envisions continued waterfront residential designation to minimize development pressure on the waterfronts.

**5. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.**

This is a situation of the subject site that is not of a recurrent nature. A setback from the rear property boundary line applies to all development on every parcel in Hamburg Township. The platted lot line is used to determine only the setback line, not riparian rights or access or the land encompassed by property rights.

**6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district.**

The property is currently used for single-family residential use and the use will not change if the proposed variance request is granted.

**7. The requested variance is the minimum necessary to permit reasonable use of the land.**

An enclosed sunroom that encroaches farther into the rear yard setback than the adjacent properties is not the minimum necessary to permit reasonable use of the land. An unenclosed covered patio would be less impactful than an enclosed sunroom. As stated above, however, the fact that the top of the water is about twenty feet from the property boundary could help mitigate any visual impact of the encroachment into the rear setback.

**Recommendation**

Staff recommends the ZBA open the public hearing, take testimony, close the public hearing, evaluate the proposal for conformance with the applicable regulations, and deny or approve the application. In the motion to deny or approve the project the ZBA should incorporate the ZBA's discussion and analysis of the project and the findings in the staff report. The ZBA then should direct staff to prepare a memorialization of the Board's decision that reflects the Board's action to accompany the hearing minutes and to be reviewed and approved at the next ZBA hearing.

**Approval Motion:**

Motion to approve variance application ZBA 19-003 at 3574 Windwheel Pointe to allow for the construction of a 336-square foot enclosed sunroom over an existing patio. The sunroom will have an 8-foot west rear yard setback (30-foot rear yard setback required, Section 7.6.1.). The variance does meet variance standards one through seven of Section 6.5. of the Township Ordinance and a practical difficulty does exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight's hearing and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

**Denial Motion:**

Motion to deny variance application ZBA 19-003 at 3574 Windwheel Pointe to allow for the construction of a 336-square foot enclosed sunroom over an existing patio. The sunroom will have an 8-foot west rear yard setback (30-foot rear yard setback required, Section 7.6.1.). The variance does not meet variance standards one, two, three, five, and seven of Section 6.5. of the Township Ordinance and a practical difficulty does not exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight's hearing and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

Exhibit A: Application Materials (including project plans)

Exhibit B: Utilities review letter





10405 Merrill Road ♦ P.O. Box 157  
Hamburg, MI 48139  
Phone: 810.231.1000 ♦ Fax: 810.231.4295  
www.hamburg.mi.us

## **DPW/UTILITIES DEPT. REVIEW**

I have reviewed ZBA Case # ZBA19-003 located at 3574 Windwheel Pointe Dr. and offer the following:

[ ] The parcel is not on sewers.

[X] The parcel is serviced by the Hamburg Township Sanitary Sewer System (HTSSS).

- The property owner is requesting variance to construct a 336 sq. foot enclosed sunroom over and existing patio.
- The grinder pump station and sewer service lateral are located on the northeast side of the property. The sewer service lateral was installed underneath some existing landscaping (see attached sketch).
- Based on the “as-built” drawing for the grinder pump station and sewer service lateral locations, the requested variance to construct the enclosed sunroom will not interfere with the sanitary sewer structures.
- The DPW/Utilities Department has no objections if this variance is granted.
- The property owner or Builder must contact Miss Dig at 1-800-482-7171 at least 3 days prior to any digging or excavation work to confirm the location of the sewer and other utility locations.


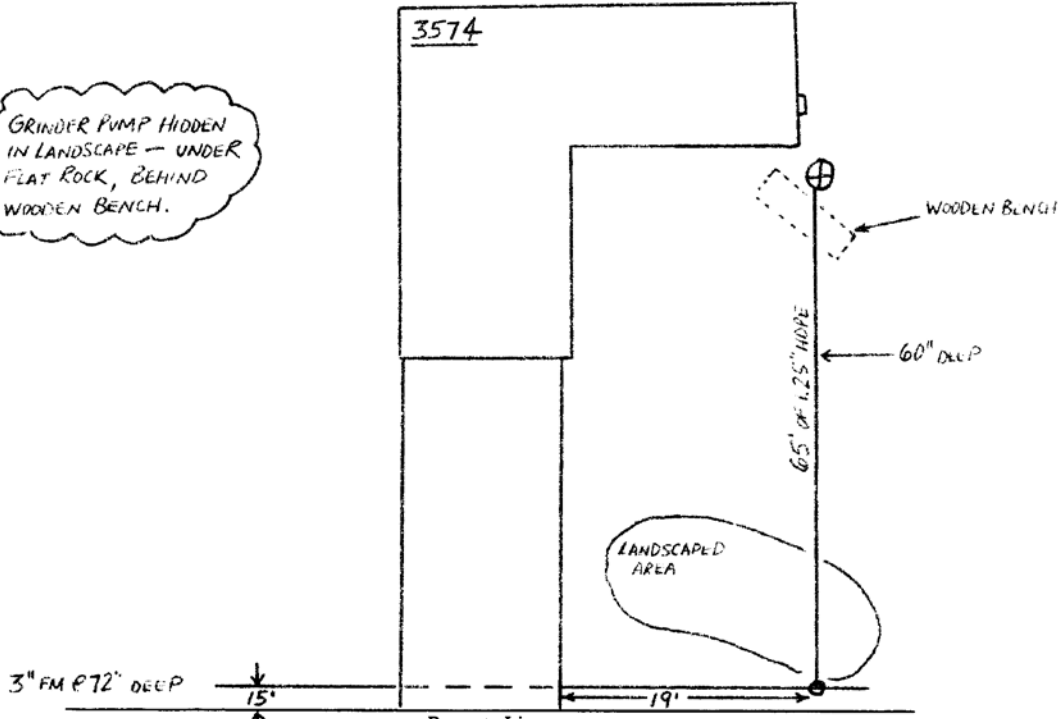
Dated: March 1<sup>st</sup>, 2019

Respectfully submitted,

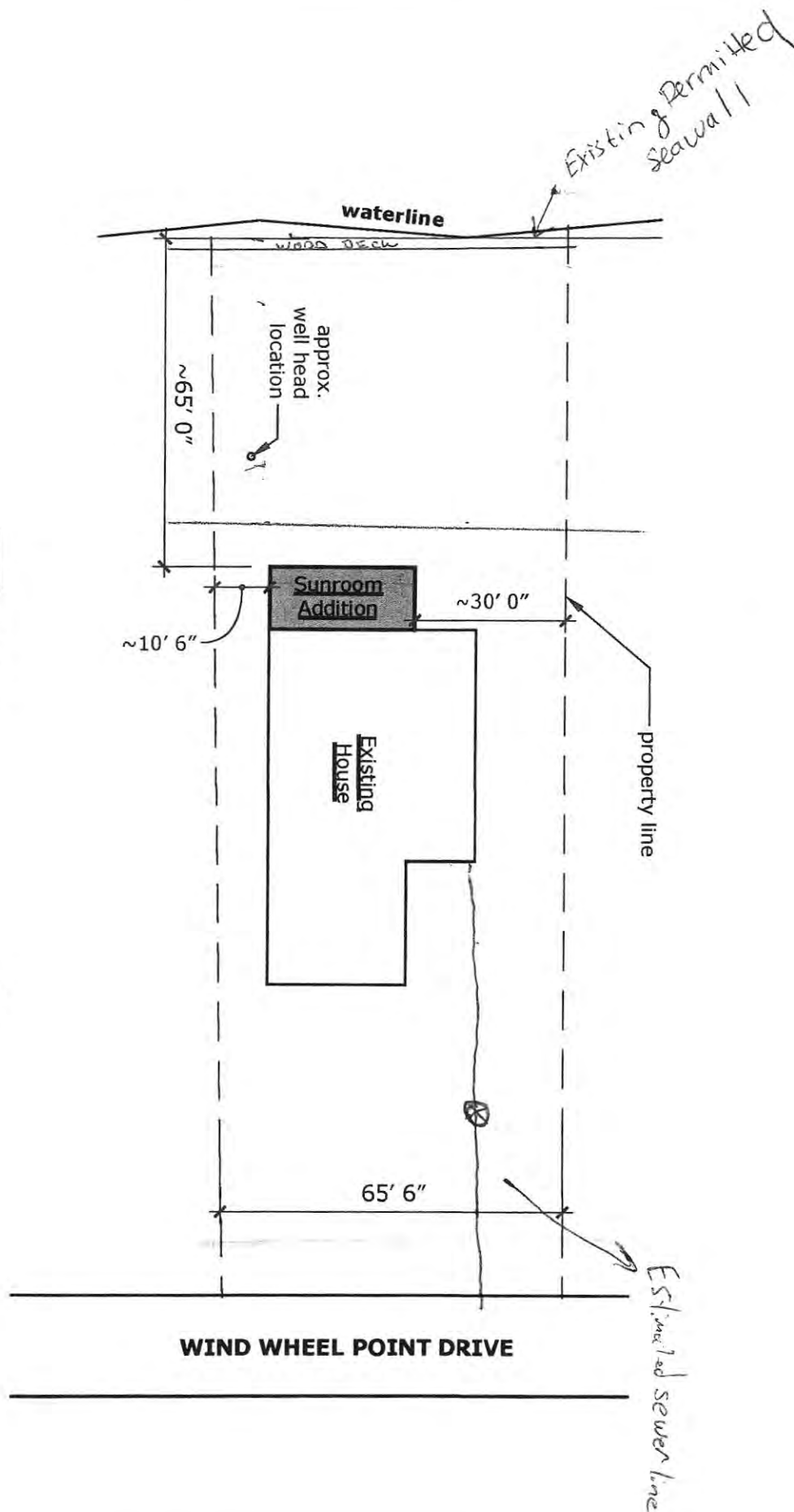
Brittany K. Campbell  
Hamburg Township Utilities Coordinator

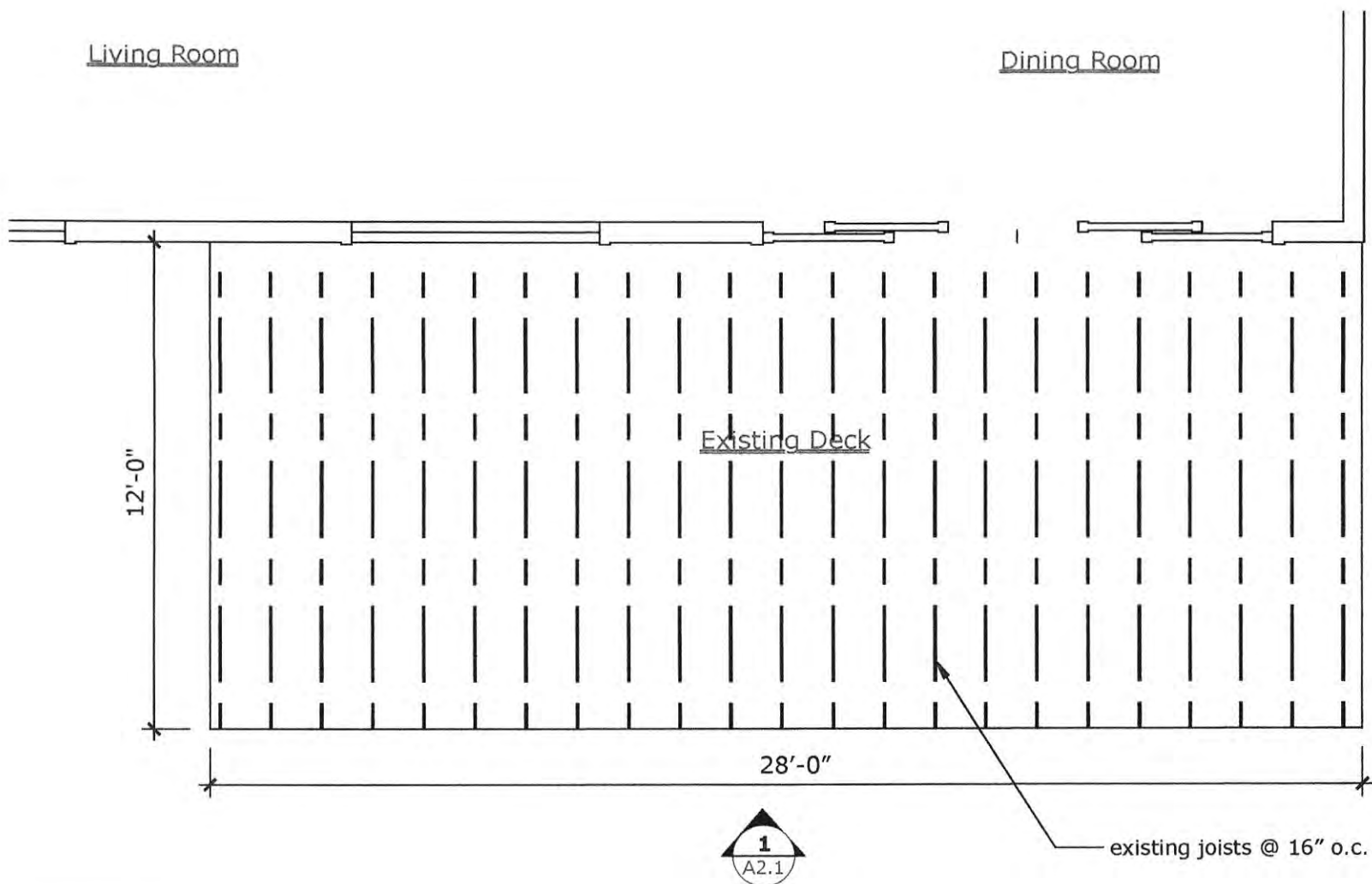
The proposed enclosed sunroom will not pose any issues with the existing location of grinder pump station and/or service lateral. The Utilities Department has no objections to the request for variance.

15-32-102-040

<b>Hamburg Township</b>		Construction Plan Sheet No. _____	
<div style="display: flex; align-items: center;"><div style="margin-left: 20px;">+ N</div></div> <div style="border: 1px solid black; border-radius: 50%; padding: 10px; margin-top: 20px; width: fit-content;">GRINDER PUMP HIDDEN IN LANDSCAPE — UNDER FLAT ROCK, BEHIND WOODEN BENCH.</div>		<div style="font-size: 1.2em; font-weight: bold;">3574</div>  <p>WOODEN BENCH</p> <p>60" DEEP</p> <p>6.5' OF 1.25' HOLE</p> <p>LANDSCAPED AREA</p> <p>3" FM P 12" DEEP</p> <p>15'</p> <p>19'</p> <p>Property Line</p>	
WINDWHEEL POINTE DR.		Street Name	
Home Owner's Name: _____		Private Utilities? _____	
Address: <u>3574 WINDWHEEL POINTE DR.</u>		Sprinklers? _____	
Property Tax No: _____		Existing Basement Plumbing to be Served? _____	
Was Occupant Involved _____		Extra Depth Required? _____	
In Location of Service YES _____ NO _____			
Comments: <u>CURB STOP @ EDGE OF LANDSCAPED AREA.</u>			
Signatures: _____		MTS _____	
Hamburg Township		Contractor	
		Homeowner	
<div style="display: flex; justify-content: space-between;"><div>2-23-01 Date</div><div style="font-weight: bold; font-size: 1.1em;">GRINDER PUMP LOCATION SHEET</div></div> <div style="margin-top: 10px;">Project Name: <u>WHITEWOOD AREA S.A.D.</u></div>			

**General Notes:**  
 - Dimensions to be verified on site.





- General Notes:**
- Demo existing treated decking.
  - Inspect all existing joists - reconstruct as needed.
  - Inspect existing foundation - posts in concrete at 42" depth

**1**

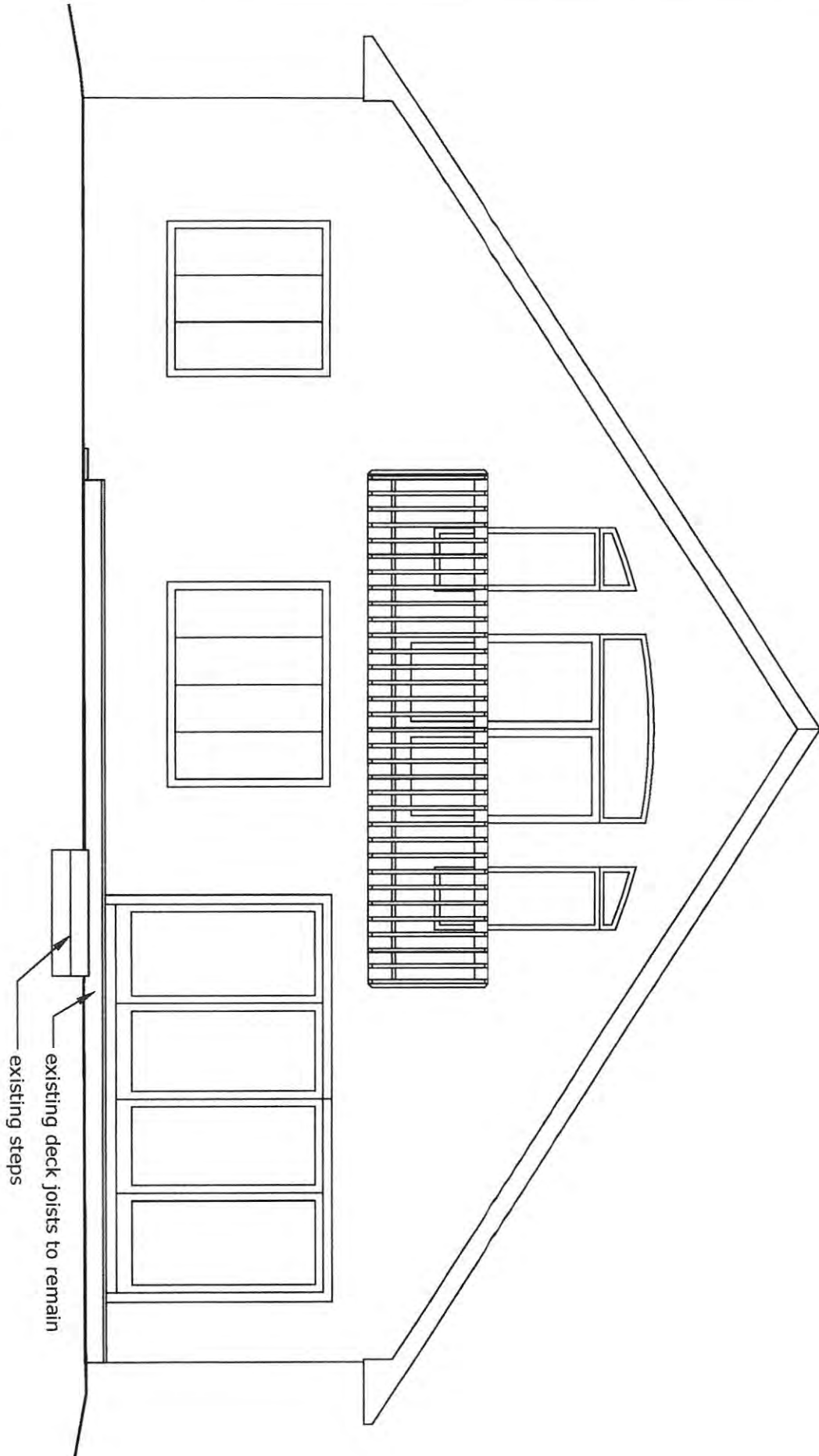
**EXISTING PLAN**

scale: 1/4" = 1'-0"

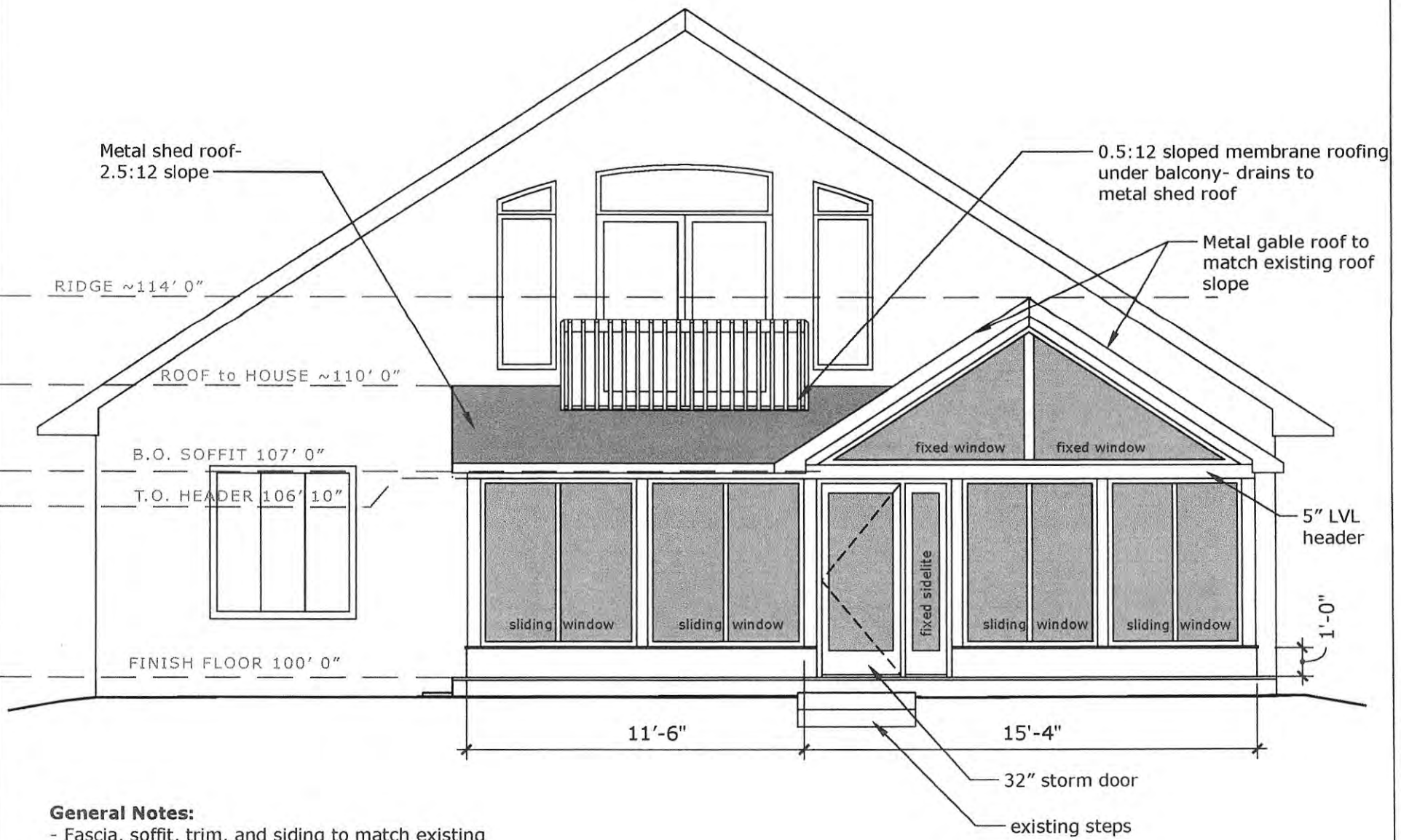




- General Notes:**
- Existing second floor balcony to be reduced to approx. 8'2" length - railing to match existing
  - Existing 5/4" treated decking to be removed and replaced with new to match existing



**1** **EXISTING ELEVATION**  
 scale: not to scale



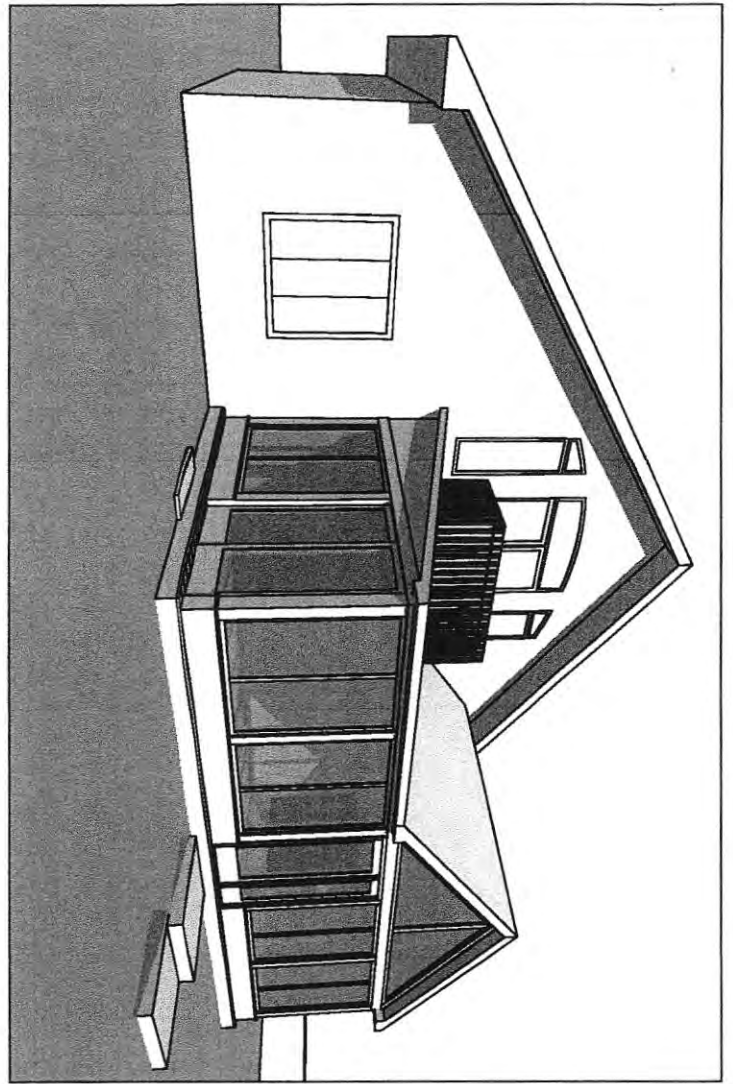
**General Notes:**

- Fascia, soffit, trim, and siding to match existing
- Existing second floor balcony to be reduced to approx. 8'2" length - railing to match existing
- Roof and soffit ventilation T.B.D.
- 1' 0" soffits on gable ends - 6" soffits all else

1

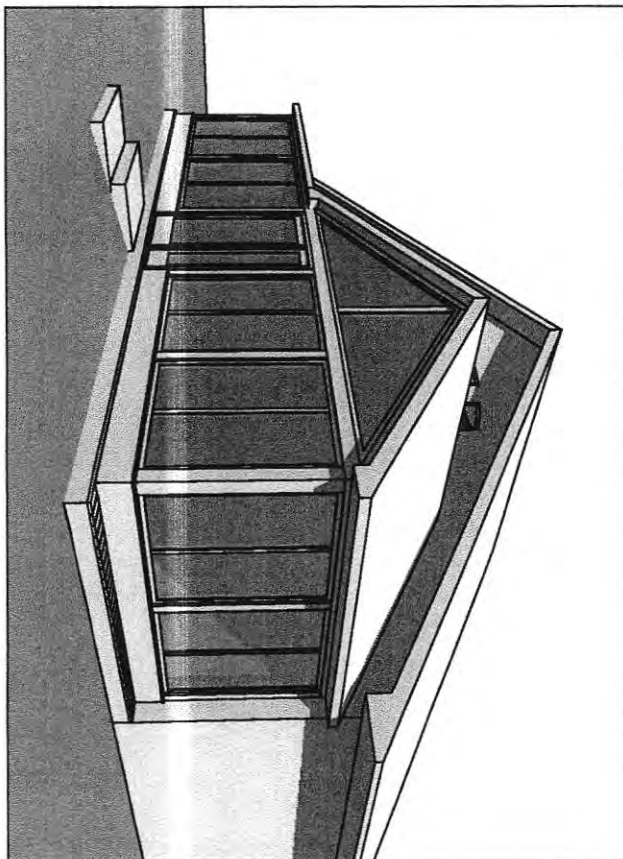
NEW ELEVATION

scale: not to scale



**1**

**PERSPECTIVE LOOKING SOUTHEAST**  
*scale: not to scale*

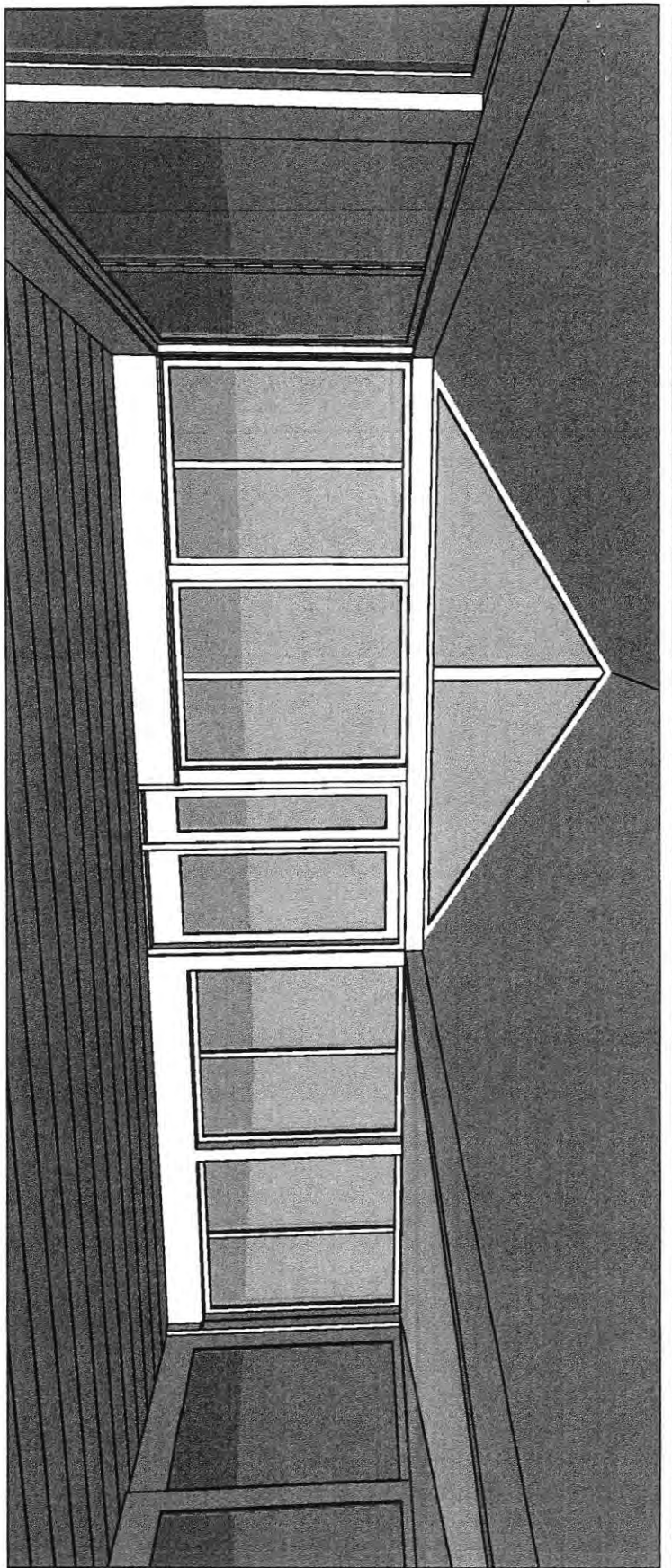


**2**

**PERSPECTIVE LOOKING NORTHEAST**  
*scale: not to scale*

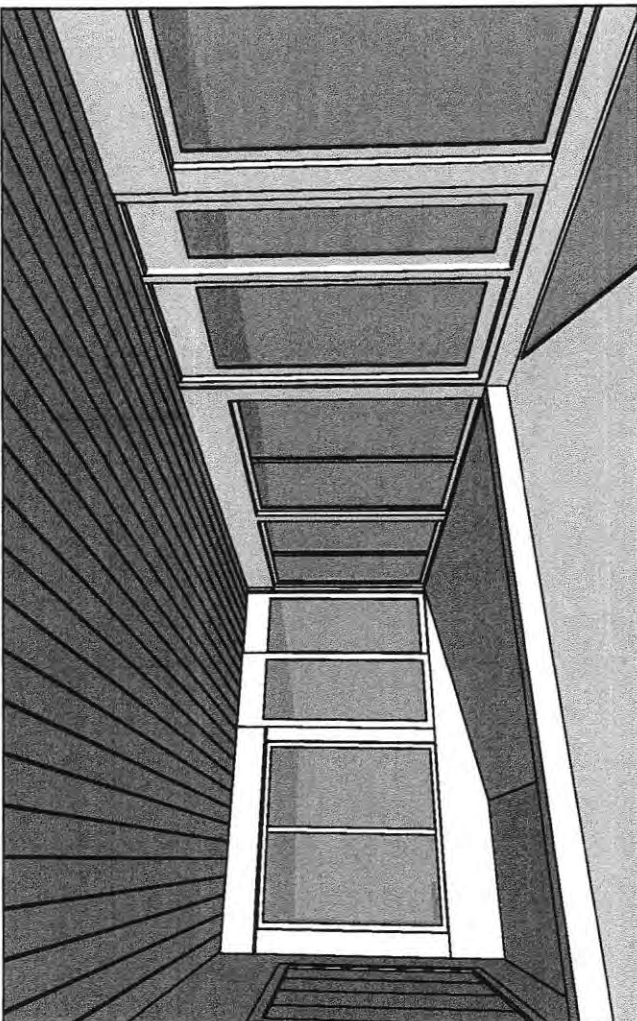
## EXTERIOR PERSPECTIVES

**A4.1**



**1**

**PERSPECTIVE FROM DINING ROOM**  
*scale: not to scale*



**2**

**PERSPECTIVE LOOKING NORTHWEST**  
*scale: not to scale*

P.O. Box 157  
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Hamburg, Michigan 48139-0157

(810) 231-1000 Office  
(810) 231-4295 Fax



**Supervisor:** Pat Hohl  
**Clerk:** Mike Dolan  
**Treasurer:** Jason Negri  
**Trustees:** Bill Hahn  
Annette Koeble  
Chuck Menzies  
Jim Neilson

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**Hamburg Township  
Zoning Board of Appeals Minutes  
Hamburg Township Board Room  
Wednesday, February 13, 2019 Minutes  
7:00 P.M.**

**1. Call to order:**

The meeting was called to order by Chairperson Priebe at 7:00 p.m.

**2. Pledge to the Flag:**

**3. Roll call of the Board:**

Present: Auxier, Neilson, Priebe, Rill & Watson,

Absent: Bohn

Also Present: Amy Steffens, Planning & Zoning Administrator & Brittney Stein, Zoning Coordinator

**4. Correspondence:** None

**5. Approval of Agenda:**

Motion by Auxier, supported by Watson

To approve the agenda as presented

Voice vote: Ayes: 5    Nays: 0    Absent: 1    MOTION CARRIED

**6. Call to the public:**

Chairperson Priebe opened the hearing to the public for any item not on the agenda. There was no response. The call was closed.

**7. Variance requests:**

ZBA 2019-001

Applicant: Stephen and Deborah Nash

Location: Downing Drive Hamburg MI 48139

Parcel ID: 15-28-402-010

Parcel owner: Greg and Kimberly Attwood

Request: Appeal of Zoning Administrator's issuance of land use permit 18- 0584 that would permit the installation of 70 linear feet of a six-foot tall fence at parcel 15-28-402-010.



Mr. Stephen Nash, applicant, made the following statement: In some areas, building a “spite wall” is prohibited because of the doctrine of abuse rights. In Michigan, the law has been settled since at least 1895. A right ends where an abuse begins. The free standing construction for the Atwood vacant property located across from 4831 Downing Drive is in a secure neighborhood where crime is nearly non-existent. Yet, the developers of that site needlessly began construction of a six-foot high by 70 foot long solid white plastic wall that invites urban blight into this otherwise natural setting and intentionally blocks the lake views of existing neighboring homes that have been enjoying that view for centuries. How do we know that the wall is being erected for malicious purposes? Look to the representations in the permit application. The developers represented that the fence was a 42 inch open split rail design to be open on all sides and allow complete visibility of adjacent properties. If the developer had a legitimate purpose, there would not be a need for deception. They represented that the fence would be the same or similar to other decorative fences that can be seen throughout the neighborhood. What they actually installed was quite different. This is an important distinction for this particular community because other owners of properties do not block views. They do not interfere with neighbor’s quiet enjoyment or decimate property values. Such abuse is a prohibited public nuisance because it serves no legitimate purpose to the developer and it unreasonably interferes with the use and enjoyment of existing property owners. Indian Gardens is a very unique community because even though Hamburg Township enjoys an abundance of natural resources, existing residents in Indian Gardens are like-minded people who agreed to covenants and restrictions that would ensure the legacy of Strawberry Lake and the Huron River for perpetuity. Residents here protect and respect the natural environment and have developed a way of life that minimizes human intrusion to preserve natural habitat. Their common understanding is as guardians of this natural beauty, residents have learned to cooperate and negotiate petty differences with respect for each other and for the unique way of life we have all come to enjoy. No one who has risen from a night’s sleep to have a cup of coffee on their front deck while watching the geese, sandhill cranes and the ducks walk across the park would contemplate shutting off their neighbors from such enjoyment. Indian Gardens offers peace and tranquility with common community fire pits and children playing in the park in a setting of unparalleled harmony with natural splendor. For over 100 years neighbors respected each other and the beauty nature brought to this unique community. We ask that before you attempt to continue to endorse the land use permit for the white plastic barrier to separate the once undivided community, you re-visit your initial decision. I urge you to stand where the Indian Gardens community stands, look out at the cove, the Huron river and the lake and consider just how many communities in America exist like this and how many people in the world who are not millionaires afford to give such a life to their families and their children. I ask that before you permanently take this precious way of life away from the residents of our community, that you ask yourself to what end will it accomplish. The answer is manifest; there is no legitimate purpose. In your discretion as an individual and ZBA Board Member, sometimes all that needs to be done is to respect what has been accomplished by those that came before us. We ask that you simply allow the residents of Indian Gardens to continue life on the lake as it has been without the intrusion of an unnecessary and monstrously conceived eyesore in the form of what is legally described as a “spite wall” and is outlawed in Michigan.

Mr. Roger Meyers, Attorney for Mr. Nash presented a number of exhibits. He stated that they are appealing the decision granting the land use permit for the construction of the fence. The basis on which they are seeking to reverse the decision is Section 8.14.1 (f) of the Township’s Zoning Ordinance which provides that a fence shall not be erected where it would prevent or unreasonably obstruct the use of adjacent properties or use of an existing driveway or other means of access of adjacent properties. The focal point of their appeal is that this fence would unreasonably obstruct the use of the adjacent property. The question is what is the key element of the use of the Nash’s property and all of their neighbors? The quintessential use of these properties is the natural, unobstructed views of the lake which has been enjoyed for hundreds of years. He believes that it will be clear that the permit and construction of the fence will unreasonably obstruct the use of those properties. He explained the notification to the property owner that they would pursue this course of action. He gave a history of the Downing’s Subdivision and Indian Gardens plats. He discussed the private restrictions that were imposed on the properties restricting the building of any boat house or plant any trees thereon so as to obstruct the view of the lake now or at any future time for any owners or occupants of property in said subdivision and a restriction that said no fence or building shall be erected on said premises and this shall be a perpetual restriction. He stated that this entire area

was deed restricted for everyone's benefit and against everyone's property. He showed the continuation of the deed restrictions that had been in place since the 1930s.

Mr. Meyers reviewed that application for the fence. He stated that there is a blatant misrepresentation where it says "matches existing". There was no existing fence that this fence is replacing. Further, the survey provided indicates "No title work was supplied by client". This fence should not have been lawfully allowed because it clearly violates the deed restrictions. This was a deliberate omission because they did not want to alert the surveyor or Township in submitting the application for the land use permit. He presented a number of photographs from the Nash's deck including the construction of the fence. He gave a definition of Spite fence: A fence of no beneficial use to person erecting and maintaining it on his land and maintained solely for purpose of annoying owner of adjoining land. There is no other purpose for this fence other than to obstruct not only the Nash's view but all of the adjacent property owners in the Indian Garden Subdivision. Not only is it a spite fence but it is in clear violation of all of the deed restrictions and contrary to the quintessential use of these properties and that is the beauty and unobstructed views. Based on all of this information, he would submit that the issuance of the land use permit and construction of the fence does constitute a violation of Section 8.14.1(f) of the Township's Zoning Ordinance. He would request that the ZBA reverse the decision granting the permit.

Mr. Nash presented a video of the construction of the fence including the auger close to the trees possibly causing damage to the trees.

Ms. Elizabeth Hodges representing Deborah Nash read a letter from Mrs. Nash:

I regret that an unforeseen medical condition prevents me from attending the February 13, 2019 meeting personally. The matter of the Attwood construction is a matter of critical importance to me and so many others in our community who have invested their life savings to live in this unique environment. This letter is written for your consideration before any final decision is rendered. I feel strongly that the Attwood's, as developers, must be prohibited from further damaging our community because the wall they are building is needlessly and negatively impacting neighboring properties in Indian Gardens. Michigan state law forbids erecting a spite wall. The right to use property as one sees fit ends where abuse begins. The Attwood's proposed 6' by 70' solid white plastic wall invites urban blight into an otherwise natural setting and intentionally blocks the lake views of existing neighbors - without any functional purpose.

It is difficult to understand the motive for such actions unless we accept that the Attwood's simply do not respect the community from which they seek to profit. Numerous indicators of malicious nuisance exist. For example, representations in the permit application are missing or inaccurate. Plans submitted to the Township fail to provide required information such as easements and deed restrictions. Without such information, permits cannot be properly considered. The developers also represented that their permitted fence would be a 42" open split rail design that was open on all sides, like the one existing with the adjacent home. That fence allows complete visibility between adjacent properties and stops short of interfering with the root systems of established trees. Although they represented that the fence to be installed was the same or similar to other small decorative fences that could be seen throughout Indian Gardens, what they actually installed was quite different. This is a material distinction for this particular community because by design other properties do not block views, interfere with neighbor's quiet enjoyment or decimate property values. To accomplish construction of the wall, developers intentionally brought in approximately 10"-12" augers that bore 4' XI' deep holes into the root system of established trees on our property without permission. These developers made no effort to minimize the impact their ill-founded activities had on the community and they failed to consider any less intrusive actions. If the developers had a legitimate purpose, there would not have been a need for deception and they would have worked with the community to achieve mutual goals. Such abuses are prohibited because they serve no legitimate purpose to the developers and instead they unreasonably interfere with the use and enjoyment of existing property owners. Indian Gardens is a unique community because even though Hamburg Township enjoys an abundance of natural resources, existing residents in Indian Gardens have agreed to covenants and restrictions that would ensure the legacy of Strawberry Lake and the Huron River for perpetuity. No one who has risen to have a cup of coffee on their front deck while watching the geese walk across the park or ducks splash with their young would contemplate shutting off their neighbors from such enjoyment. For over a hundred years neighbor; other and the

beauty nature brought to this unique community. We ask that you revisit your initial decision and revise recommendations in your staff report to protect and preserve the natural and historic character of this extraordinary community. The white plastic wall serves no functional purpose and, instead senselessly conflicts with the natural harmony of the existing environment. Sometimes all that needs to be done is to respect what has been accomplished by those who came before us. Township founders had it right when they set up the park setting with surrounding homes. The small waterfront parcels of the Indian Gardens community are particularly susceptible and their character will be lost forever without your protection.

Chairperson Priebe stated that we have received three emails from neighbors opposed to the fence. We have also received one letter from another neighbor in support of the fence as well as a letter from the Attwoods.

Amy Steffens, Planning & Zoning Administrator stated that this is not the typical variance request. Referring to the Staff Report for ZBA 19-001, she gave a project description. Stephen and Deborah Nash have filed an appeal of the zoning administrator's issuance of land use permit (LUP)18-0584 to permit the installation of 70 linear feet of a six-foot tall fence at parcel 15- 28-402-010, lot 8 of the Supervisor's Plat of Indian Gardens. Lot 8 fronts onto Downing Drive to the east; Strawberry Lake is to the south; the site is improved with an existing 1,196-square foot garage. On December 11, 2018, Greg Attwood, owner of lot 8, applied for a land use permit through his representative, Chris Hewison, to construct approximately 70 linear feet of a six-foot tall board-on-board vinyl fence along the north property boundary of the site. When Mr. Hewison submitted the land use permit application, staff verified the location of the fence on the survey and highlighted the area included in the application. It should be noted that the writing on the fence drawing is staff writing as our own internal note. The application proposed a 6-foot tall vinyl fence. The applicant did not apply for a 4 foot split rail fence and did not indicate anything other than what was permitted and partially constructed. On December 14<sup>th</sup> & 17<sup>th</sup> we conducted site visits to verify the application. She reviewed Section 3.3 of the Zoning Ordinance which governs Land Use Permits and application and issuance of those. She discussed what is required when you apply for a permit and the information provided for the application for the fence. She stated that deed restrictions are not required to be shown on either the plot plan or survey. The Township does not enforce private deed restrictions or easements. If there is an easement for a sanitary sewer line, we require that to be shown because that is something the Township has an interest in. Section 3.3.3 requires evidence of ownership. We have a warranty deed on file for lot 8 with the Township Assessor which shows that Greg and Kimberly Atwood are the owners. We knew that we had everything to initiate a review of the land use permit application. Zoning Coordinator Brittany Stein conducted a site inspection on December 14 to verify that lot conditions were as shown on the survey. She found that the survey stakes were installed, the location of the proposed fence was indicated, and the survey accurately depicted the site conditions. Zoning Administrator Amy Steffens and Code Enforcement Officer Mike Sumeracki conducted a second site inspection on December 17 to confirm the existing site conditions matched the owner's permit application. The owner's survey does show that the site is within the AE floodplain. Staff confirmed with the Michigan Department of Environmental Quality that the fence would not require a DEQ permit under Part 301. In a telephone conversation with Donna Cervelli on December 18, 2018, staff confirmed with Donna Cervelli, DEQ floodplain engineer, that the proposed fence would not constitute a hazard if properly anchored. The DEQ also confirmed that no Part 301 permit was necessary.

Steffens presented the application showing the request for a permit for a 6 foot tall fence approximately 70 linear feet as well as the survey and fence detail. She discussed Section 8.14.1- Fences, Walls and Screens of the Zoning Ordinance which was applied when reviewing Mr. Attwood's fence permit application. Section 8.14.2 is in addition to the standards of Section 8.14.1 that applies to all fences, walls or other screening structures within the residential zoning district. This property is located within the WFR zoning district. She reviewed those additional standards. The zoning administrator determined that Mr. Attwood had submitted an administratively complete land use permit application that included a boundary survey, fence details, and application. Section 8.14 permits a six-foot fence at the location as shown on the application. On December 21, 2018, the zoning administrator issued LUP 18-0584 for a "six-foot tall vinyl privacy fence along only the north property line, extending from the existing fence to the rear property line. Approximately 70 linear feet. Fence posts shall be designed and anchored to prevent flotation, collapse, or lateral movement of the fence panels. On January 8, 2109 Stephen and Deborah Nash filed an appeal of the issuance of Land Use Permit 18-0584. That same day, the

Zoning Administrator contacted Mr. Greg Atwood and advised him of the appeal and that a stop work order was being placed on the property. January 22, 2019 a stop work order was placed on lot 8. It is not a requirement to place a stop work order, but she chose to do so as a courtesy to the property owner as well as adjacent properties.

Steffens stated that Article 6 of the Zoning Ordinance governs the activities of the Zoning Board of Appeals. Section 6.4. of the Zoning Ordinance specifies the appeal process for a decision of the zoning administrator. She reviewed Section 6.4. She stated that Section 6.5 grants the Zoning Board of Appeals the authority to hear and decide appeals where it is alleged there is an error of law in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this Zoning Ordinance. The applicants believe that the fence permit violates Section 8.14.(F): “A fence shall not be erected where it would prevent or unreasonably obstruct the use of adjacent property or the safe use of an existing driveway or other legal means of access to adjacent property.” The permitted fence does not obstruct access to the Nash property, as it is entirely on lot 8 and does not block the right-of-way of Downing Drive, which is the legal access to the Nash’s property. Furthermore, the permitted fence would not prevent or unreasonably obstruct the use of any adjacent properties for the intended, zoned, and developed purpose of single-family residential use. The permitted fence does not obstruct Nash’s adjacent property’s access to the water, as the Nash property to the north has direct, platted access to the water. She reviewed the applicant’s grounds of appeal:

1. The application for the fence permit contained material misrepresentations that there was existing fence on the subject property and proposed fence “matches existing.” Staff comment: Staff wrote the notation on the survey indicating that there was an existing fence on a neighboring property, not on lot 8, and that the proposed fence on lot 8 would be even with the fence on the adjacent property. Whether or not there was an existing fence on lot 8 does not change the application of Section 8.14. to lot 8 and the permit application for a fence. Permit review contemplates the proposed project and how it relates to existing site conditions. The permitted fence complies with the height and location requirements of the Zoning Ordinance. It is not clear by the applicant’s appeal letter how “matches existing” is a material misrepresentation of the fence permit application. Determining whether or not the permitted fence “matches existing” fence materials either on lot 8 or on an adjacent property is not contemplated by the Zoning Ordinance.
2. The privacy fence will completely obstruct the waterway and riverway views of Applicant’s property and neighboring properties thereby adversely altering the entire unique character of this established neighborhood of properties with natural, unobstructed views of the lake. Staff comment: The intent of the Zoning Ordinance requirement of the 50-foot setback from the ordinary high water mark of a waterbody is to preserve aesthetic views. The permitted fence complies with the required 50-foot setback from the OHM. Providing, maintaining, and guaranteeing an unobstructed view of a waterway when all Zoning Ordinance requirements are met is not contemplated or addressed by any provision of the Zoning Ordinance.
3. The installation of the posts for the privacy fence will cause irreparable damage to the root structure of the large mature hardwood trees that are an integral part of the overall character of the neighborhood and which will create a safety hazard for adjacent properties. Staff comment: Neither the Zoning Ordinance nor the zoning administrator can address damage to a neighboring property. Any damage caused by the installation of the fence is a civil matter between property owners.
4. The privacy fence is contrary to existing easements, right-of-ways, plat restrictions and deed restrictions. Staff comment: The fence is not located in the right-of-way of Downing Drive. Easements and plat and deed restrictions are civil matters between property owners. As previously indicated to Mr. Nash, the Township has the authority to regulate land use through the Zoning Ordinance, not deed restrictions, under the Michigan Zoning Enabling Act.
5. Blatant trespassing on and malicious destruction of Applicant’s property in furtherance of the construction of the privacy fence. Staff comment: Neither the Zoning Ordinance nor the zoning administrator can address trespassing. The applicant has been previously advised to contact the Hamburg Township Police Department.

Steffens reviewed MCL 125.3201 which is where the Township derives its Zoning authority. She stated that we do not ask for deed restrictions or easements on surveys because the township can regulate land use only through the zoning ordinance. Those are things that need to be taken up between property owners through the courts. The applicants have also raised the issue of a spite fence. Again, that is something that needs to be addressed through the courts, and is not something that the Zoning Administrator or the ZBA can find that it rises to the level of a spite fence.

Chairperson Priebe opened the public hearing.

Chris Hewison, partner with Greg Atwood, stated that they applied for the permits and did everything they were supposed to do. Many of the things that the attorney said were untrue and ridiculous. He had plans to erect a house on that property for his family. It is a very peaceful area, which is why he wanted to put up a house.

There being no further comment, the public hearing was closed.

Ms. Hodges asked if the Township does not enforce the restrictions and covenants, then who is responsible. Chairperson Priebe stated that the Township enforces its Zoning Ordinance. Deed restrictions are a civil matter, and we have no jurisdiction.

Mr. Meyers stated that he would agree that the Township does not have any legal authority to enforce deed restrictions, however the Township has an obligation to enforce the provision of its Zoning Ordinance. The provision is that fences shall not be erected where it would prevent or unreasonably obstruct the use of adjacent properties. Ms. Steffens defined use as it is zoned for single family residential use. He does not believe that it should be interpreted that broadly. There are property uses that are inherent other than it is just single family residential. There are other uses that any property owner makes and is part of the enjoyment of their property. The law is to promote the public health, safety and welfare. The peaceful enjoyment of property and ability to continue to have unobstructed views of the lake is an inherent part of these properties. The deed restrictions are just a manifestation of that. He is not asking the Township to enforce those. You have the authority to recognize they are a foundation of what is an inherent use of all of these properties.

Member Auxier stated that guaranteeing a view via the ordinance is a challenging situation. We have the 50 foot setback. An argument could be made that if there is a vacant lot across the street that if a house is built, then it would obscure their view of the lake. You need to draw the line and we have a line drawn in the ordinance, which is 50 feet back from the high water mark. The ordinance is clear and the law is clear, and that is the role of the ZBA.

Chairperson Priebe agreed with Auxier and stated that again she feels that this will be decided as a civil matter.

Steffens stated that this may be a topic that could be discussed at our upcoming joint meeting. We could look at how other communities address preservation of views beyond the 50 foot setback. She further stated that there is communication from the Township Attorney with regards to this matter as well.

Member Watson suggested that possibly the property owner could take another look at the fence and bring it down to make it agreeable to other neighbors.

Mr. Nash further discussed that there is no other purpose for this fence. Generations have grown up enjoying the scenery. He discussed the Detroit Tigers using the park back in the 1930s-1940s. Chairperson Priebe stated that the permit was granted based on our ordinance. Spite fences are not addressed in our ordinance.

Mr. Nash asked if the Township has an ordinance to allow a spite fence which State Law says is illegal.



Motion by Auxier, supported by Neilson

To make the following decision on the issue raised by Stephen and Deborah Nash. Stephen and Deborah Nash are not a person aggrieved by the issuance of the December 21, 2018 land use permit to Greg and Kimberly Attwood for the construction of 70 linear feet of six-foot tall privacy fence on their property on Downing Drive, being appealed. To deny the appeal because Stephen and Deborah Nash have not shown that they have suffered special damages so as to be a person aggrieved by and having a right to appeal the decision under Section 6.4. of the Township Zoning Ordinance and MCL 125.3604(1). This decision is based on the statement of appeal not identifying any special damages, and the special damages identified in the January 18, 2019 application from Stephen and Deborah Nash and the presentation at this hearing being generalized concerns that would be shared by other property owners that are speculative in nature and not establishing any unique particular or other interest that will be directly affected by the Zoning Board of Appeals decision. The Board furthermore agrees with the zoning administrator's interpretation of Sections 3.3.2.(E) and 8.14.1.(F).

Voice vote: Ayes: 5    Nays: 0    Absent: 1    MOTION CARRIED

**8. New/Old business**

a) Approval of January 9, 2019 minutes and memo of findings for ZBA 18-014

Motion by Auxier, supported by Watson

To approve the January 9, 2019 minutes and memo of findings for ZBA 18-014 as written

Voice vote: Ayes: 5    Nays: 0    Absent: 1    MOTION CARRIED

Planning & Zoning Administrator Steffens reminded the Board of the joint meeting that will be held on Wednesday, February 27<sup>th</sup> at 7:00 p.m. This will be a year in review as well as our work session with the Planning Commission and Township Board and Parks and Recreation Committee. Discussion was held on adding discussion of views to that agenda. Member Auxier suggested that we take some time to think about it individually. He stated that he cannot think of another area on the Chain of Lakes that has this scenario. We need to think about making a change that may only apply to a very small number.

**9. Adjournment:**

Motion by Neilson, supported by Watson

To adjourn the meeting

Voice vote: Ayes: 5    Nays: 0    Absent: 1    MOTION CARRIED

The meeting was adjourned at 8:33 p.m.

Respectfully submitted,

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Julie C. Durkin  
Recording Secretary

The minutes were approved as presented/Corrected: \_\_\_\_\_

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Chairperson Priebe