



**CITY OF SAUGATUCK  
SPECIAL MEETING ZONING BOARD OF APPEALS  
ADJOURNED FROM JUNE 17, 2021, TO  
WEDNESDAY JULY 14, 2021 – 7:00 PM**

1. Call to Order/Roll Call
2. Agenda Changes
3. Approval of Minutes: None
4. New Business:
  - A. 184 Park Street – front yard setback from Vine Street  
Public Hearing
5. Unfinished Business:
  - A. 443 Park Street – various variance requests  
Public hearing was closed on June 22, 2021
6. Communications:
7. Public Comments:
8. ZBA Comments:
9. Adjourn:

**Public Hearing Procedure**

- A. Hearing is called to order by the Chair
- B. Summary by the Zoning Administrator
- C. Presentation by the Applicant
- D. Public comment regarding the application
  - Participants shall identify themselves by name and address
  - Comments/Questions shall be addressed to the Chair
  - Comments/Questions shall be limited to five minutes
  1. Supporting comments (audience and letters)
  2. Opposing comments (audience and letters)
  3. General comments (audience and letters)
  4. Repeat comment opportunity (Supporting, Opposing, General)
- E. Public comment portion closed by the Chair
- F. Commission deliberation
- G. Commission action

**NOTICE:**

This public meeting will be held using Zoom video/audio conference technology due to the COVID-19 restrictions currently in place.

Join online by visiting:  
<https://us02web.zoom.us/j/2698572603>

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**(312) 626-6799**  
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Please send questions or comments regarding meeting agenda items prior to meeting to:  
[cindy@saugatuckcity.com](mailto:cindy@saugatuckcity.com)

**Proposed Minutes**  
**Saugatuck Zoning Board of Appeals**  
**Saugatuck, Michigan, June 17, 2021**

The Saugatuck Zoning Board of Appeals met in regular session at 7:00 p.m. via Zoom video/conference technology due to COVID-19 restrictions currently in place.

1. **Call to Order**

Chairperson Kubasiak called the meeting to order at 7:03 p.m.

2. **Attendance:**

Present: Bouck, Bont, Kubasiak.

Absent: Zerfas, Hundreiser, Ludlow.

Late: Muir joined the meeting at 7:22pm. (excused)

Others Present: Zoning Administrator Osman

3. **Approval of Agenda:**

A motion was made by Bont, 2<sup>nd</sup> by Kubasiak , to approve the agenda as presented. Upon roll call the motion carried unanimously.

4. **Approval of Minutes:**

A motion was made by Bont, 2<sup>nd</sup> by Bouck, to approve the December 10, 2020 meeting minutes as presented. Upon roll call the motion carried unanimously.

5. **New Business:** 443 Park Street. Three different issues, bathroom setbacks, four foot fence with gate, and security fence. Zoning Administrator gave an overview of the request. Matt Zimmerman, representing the applicant described the request and made a few points to supplement the information in the application. A bathroom is a customary accessory structure for a marina, permitted by DEQ, now EGLE, and the Army Corp of Engineers. Zimmerman read into the record the City's definition in the ordinance of Marina. He also read into the record design standards for Marinas and the screening requirements for trash. Needed because there is no area for these structures on land. The bulk of the property is under water. To put those structures on the bottom land would require a permit from EGLE and the Army Corp of Engineers, and they would most likely not approve those permits. There is a lot of traffic including from the chain ferry. There are a lot of other structures between the public road and the water.

The primary use would be in the summer season, one of the letters stated that the area is a very congested during the summer months. And the chain ferry passengers are getting off next to the marina, this burden could be alleviated somewhat by allowing for the screening. He would drop it down to 6 feet for the majority of its length.

It would give substantial justice to the owner and would uphold a written agreement allowing the 8 foot screening. The city directed the applicant to apply for a variance.

The property is unique in that only 4 properties abut the chain ferry. The other three are a park and two properties that have a significant set back to the chain ferry.

The problem is not self-created – it has been that way for probably centuries.

The other fence is required because of the narrowness of the lot where people walk along the right-of-way, and would provide some much appreciated height. His client is reaching out for a compromise.

Public hearing opened at 7:35 pm, and attorney Sluggett made some opening comments about the scope of the ZBA's authority and the right of the owner to request a variance and the need to follow the facts and the standards in the ordinance.

Public comments limited to five minutes.

Jane Underwood could not get online but wanted to state there is a safety issue. When the ferry comes in and people get off especially children will run out into the street. Doesn't understand why they need this and it is uncalled for, why so much need for privacy.

Ann Broecker like Jane could not get online so is on her phone. She does not believe the screening section applies.

Sue McGee – the west side of the river has a widespread internet outage.

Staff read a letter into the record – Tom and Carol Bruckman.

Tom Bruckman could not connect via internet so was in on his phone. Why is there a screen, and why do they have six slips.

Jim Bouck – Stated there is a significant internet outage on both sides of the river to postpone the meeting until internet is back up – as soon as possible. Bont concurs – public can't get in and some of the members can't get in.

Motion by Bont to continue the meeting with all the letters summarized and attached to record on next Tuesday, June 22, 2021 with the public hearing still open, Bouck second, upon roll call the motion carried unanimously.

6. **Communications:** Postponed to June 22<sup>nd</sup>.
7. **Public Comments:** Postponed to June 22<sup>nd</sup>.
8. **ZBA Comments:** in person meetings will be decided by City Council.
9. **Adjournment:** A motion was made by Muir, 2<sup>nd</sup> by Bouck, to adjourn the meeting at 8:15 p.m. Upon roll call the motion carried unanimously.

Respectfully Submitted,

Cindy Osman  
Interim City Clerk

**Proposed Minutes  
Special Meeting Saugatuck Zoning Board of Appeals  
Saugatuck, Michigan, June 22, 2021**

The Saugatuck Zoning Board of Appeals met in special session at 7:00 p.m. via Zoom video/conference technology due to COVID-19 restrictions currently in place.

**1. Call to Order**

Chairperson Kubasiak called the meeting to order at 7:03 p.m from the June 17 meeting that was adjourned with the public hearing open due to wide spread internet outage.

**2. Attendance:**

Present: Bouck, Bont, Kubasiak, Zerfas, Ludlow, and Muir.

Absent:

Others Present: Zoning Administrator Osman

**3. Public Comments Continued:**

Gary Medler – Resident

“First, it's disturbing the zoning administrator and city attorneys are still participating in applicants matters before the city. Their collusive actions with applicant throughout the entire permitting process and continuing today through their attempts to find some way to cover up the illegal fence and illegal affected uses have led to the present situation. The zoning administrator and city attorney should recuse themselves. City Council should have addressed this issue when the fence controversy arose in late 2020. Instead, city council kicked this bucket of manure down the hall and dumped this load of crap on the zoning board.

Fence and all installations at the property are illegal and must be abated. The zoning board should require city council to engage independent competent counsel and a qualified zoning professional to advise the zoning board in this case. Last Thursday, we were privileged to have a reading of the definition of Marina from the city code, followed by a recitation of all necessary uses permitted for a Marina. as entertaining as it was it's not relevant to applicant's variance requests, or any uses at the property. Applicant does not possess a marina permit from the city. The permit issued in July 2017 was a minor waterfront construction permit pursuant to code section 154.206. This type of permit prohibits retail and commercial uses and only authorizes construction of bulkheads and docks for the private use of the property owner and not for rent, lease or availability to the general public as a commercial facility or Yacht Club.

This permit is not a marina permit and cannot be used by applicant to engage in any retail for commercial uses, only private use by the property owner. Even applicant's 2015 EGLE permit stated that the permit was for private, non-commercial use. A minor permit permits one dock per residential lot. Applicants' property at the time the city permit was issued consisted of two non-adjacent lots separated by a 20-foot city own lot, each consisting of approximately 1250 square feet. It was only issued for the lot adjacent to the chain ferry. This lot did not meet the lot requirements for a residential lot, and therefore not even one dock was permitted.

The city permit authorized six boat slips or three docks, but applicant has installed six including installations on the city-owned lot, which wasn't transferred to applicant until two years later. Applicant continues to falsely assert the property is a marina which cannot be fully utilized as a commercial enterprise unless the requested variances are granted.

In any of that, none of the variances can be granted because the zoning board lacks authority due to the absolute prohibition on structures located within 25 feet of the waterfront as provided in code section 154.022 (F4).

As discussed in my June 17 comment letter, the Planning Commission lacked jurisdiction to approve a minor permit, only the zoning administrator is authorized and only if the request met all code requirements. It did not and could not have been approved. The use is affected at 443 Park Street violate the code. Applicant's reliance on the void city permit and void provisions contained in the land swap agreement is misplaced and legally unenforceable.

The zoning board should make referrals to city council to commence abatement of not only the eight-foot fence, but all installations affected at and on the property. Thank you."

**Matt Zimmerman - Representative of the applicant**

"...In light of the unusual circumstance of the continuation and the internet problems, I would like to supplement what I had said last week, I won't repeat all 15 minutes of the presentation, but I would like to respond given the public comments that have been made."

**Carol Bruckman Resident**

"I have lived here a long time and (audio interference)

People who move here love the charm of this place. It's a small, beautiful town.

The city and various groups, such as the Historical Society, have spent a lot of time fixing things up from the past, maintaining the chain ferry.

You know, this is not a place where people want to come and see ugly commercial stuff on the water. It is my belief, and I certainly believe the belief of a lot of people, that Saugatuck would be nothing if it weren't for its water and its waterfront. Once we start making variances for developers to come in and put currently unallowed ugly facilities on the lake front, we are damaging our ability to attract people in the future. This is not what most property owners want from this place. That's it."

**Tim Condon Resident**

"I would, well, I was hoping Tom was going to speak but if he's off the list, I'll repeat his question from the other night for the benefit of everybody. Because I think Tom kind of hit it on the head with just a simple question about if variances weren't, and correct me if I'm wrong Tom, if variances weren't granted in the past, (then) how is there anything there now? How are we even having this discussion? And, you know, those sorts and nobody can answer that, and it sounded like people on the board seem to have the same question. So, I wanted to repeat that to the benefit of everybody who's on the line tonight.

I thought it was a very simple, you know, common sense question. If we can't answer things like that, then, you know, it seems, it seems like we may not be in the appropriate setting that to make decisions. But I've sat on boards like this before in other places, zoning and planning, and, you know, I was selected for that, not because I was an attorney, but because I had experience in the town and I had been accused of having some common sense. And when it got to situations like this, you know, I would raise my hand and say, 'Look, I don't have enough information. This isn't, I don't feel like I have enough here. That this should not be in front of us. That, there, I need more help.' And it sounds like that's something that Mr. Medler was referring to, just more information required to make a decision like that. If you can't answer those simple, common sense questions clearly and explain it to somebody else, especially after the fact, then you've got to think twice about making a decision like this. That's it for me. Thank you. Appreciate everybody's hard work on this. Thank you."

**Megan Hopkins & Susan Hopkins - Resident**

“We're directly across the street from the docks and everything. And I mean, really, we just everything Carol said resonated so much with us, like mom's a retired science teacher, I'm a teacher. We're not very good with like the legalities of everything. But everything that Carol Bruckman said, like, struck a chord. You know, we're just very concerned about, you know, we love this town, like we feel like we live there.

You know, we come up every single year, my mom for like 65 years. And we don't want to see it lose, like, its charm. And I know that, like, that is why people go to Saugatuck, to get away from the crazy traffic and the crazy congestion. And I just feel like these docks are going to turn into like a floating parking lot that's going to take away from what draws people to the town in the very first place. You know, and another huge concern, like obviously, we think the docks are ugly and shouldn't be there, but we're not the only people there, like people drive by that area every day to go to the Oval Beach, to go to Mount Baldy.

So, it's not just the people who have homes there that are affected, it's the people, the tourists that we're trying to attract that drive down Park Street to get to the Oval Beach that, you know, it's going to create traffic, congestion. It's ugly, it's not going to attract people to our town the way that we want it to. We're, also, for a safety standpoint, I know that we've got a nine-month-old little baby that's going to be walking soon and the traffic is already a concern in that area because if you've been there, it like turns, there's a curve. And I'm just even worried about like the safety aspect of having like more parking there and I just know Carol was so much more well-spoken than us, but we just really feel that it's going to diminish the qualities that make Saugatuck special. Yeah. That's all we want to say.”

**Jeff Sluggett- Municipal Attorney for Saugatuck**

“Mr. Chairman, thank you. Just a quick comment. In lieu of, I don't know what the ZBA was intending to do relative to the letters it's received, and the various correspondence. Cindy has listed those I think in the document that shown on the right side of the screen. I think everybody's seeing that, and I believe that encompasses... is that everything, Cindy, that's come in?”

**Cindy Osman – Zoning Administrator**

“There is one missing and I apologize, it's Jean Prokopeak. I thought I already had Prokopeak, but she wrote a separate letter and it is attached in the packet and it will be a part of the record.”

**Sluggett**

“It's certainly up to the ZBA in terms of how it wants to handle that. I would encourage you to consider simply acknowledging its receipt, that you've reviewed it and then someone, it would not be inappropriate to have a motion to receive and file those letters as part of the record. And then, you will, then there wouldn't be the need go through them individually.”

**Matt Zimmerman**

“Client, the applicant, received a copy of a letter from a Gary Plowe to the City Manager supporting the project. And I'm curious as to why that isn't listed as a written communication. It wasn't addressed to you or the zoning administrator. But I guess I would have assumed that the City Manager would have forwarded that communication dated June 17. So it's, you know, nearly a week old.”

**Ryan Heise - City Manager**

“So I did receive that email, as Mr. Zimmerman says on the 17th. So, I'm just going back to look at it now. And, you know, it's kind of a random, it's a general email. I'm just kind of scanning

through it now. I would say that they certainly have comments about Mr. Heule's development. But I'm not so sure that it's specific to this variance request. So, I mean, I'll just, I'll just note that I have the email. But again, it's kind of very general in nature. And, again, it doesn't seem very specific to the variance request. (In response to Jeff Sluggett's question of whether it is a long email) You know, it's, it's not that long. And it's kind of cute. So, if you want me to read it into the record? Just to be you know, you know, just to cross all the T's and dot all the i's? I'm happy to do that."

**Gary Plowe**

Requested the email not be read into the record.

Chairman Kubasiak closed the public hearing.

**8. ZBA Comments:**

Bont

"Bob, I have a general comment to start with. Before you look at all three of these, I think we have to look at this is, if I'm correct, C4 resort district. And that that particular, and it's 443 Park Street, that particular parcel is a non-conforming waterfront lot. I think we need to look at what we're trying to approve on what lot. So that particular parcel is a non-conforming waterfront lot and that lot, for over 150 years, has been used somewhat even by our Native Americans to put canoes in, and then by the Presbyterian camp to use and launch canoes and boats and everything else. So, I think we have to consider what the lot is first, before you can put all three of those variances on that parcel."

Bouck

"Number one is that everyone on this committee and everyone who works for the city has stake (audio cuts out). In section three of the Constitution specifies that dealing with the president, or in this case, the people in power, which would be the ZBA, it says they shall see that the laws are obeyed. So that's our task tonight, is what are the applicable laws, which ones are appropriate, which ones are not? And then how should those laws be applied in this case, and when applying the law, it's not a matter of negotiation, the law is clear. And as far as an a, a settlement that would be appealing to everybody, what could be more appealing than to have a settlement based on the equal application of the law with the right to appeal to the circuit court. So that's the beginning.

And then to understand which laws, I would refer specifically to 154.06 interpretation of this chapter, paragraph B: "whenever the requirements of this chapter are at a variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or higher standard shall control." So that that leads us to which standards to apply if there are duplicate standards that could be applied or other standards that could be applied. And then the next thing that we need to consider is that zoning affects every structure in use, which is 154.020, except as hereinafter specified, no building structure or premises shall hereafter be used or occupied and no building or part thereof, or other structure shall be erected, moved to place reconstructed, except in conformance with the regulations here in specified for the zoning district in which it is located.

Now in the applicant's statement, he cited other structures extending into the water based on a Google Earth search. And I also did a Google Earth search, but I also did a walk around town. And yes, there are structures, particularly north of this, that extend into the water, just exactly as the applicant said, and the applicant implied that that would be justification for new construction that shouldn't be there within the waterfront setback. The difference is that the structure north and the other structures I could identify, were built in 1950. According to the Allegan County tax records, that information is readily available and easy to find. And those were clearly

grandfathered in. They existed before the rules were set in place and they're totally not applicable in this case. So, the other structures justifying a new structure set within the front setback is not applicable at all.

The only thing I would say with respect to standard one is according to the historical records this parcel has been in use for several decades. Strict compliance with the ordinance will not prevent the planned use of the property for boat docking without a bathhouse. The cumulative impact of multiple setback deviations would create a parcel that is different in kind and nature from other parcels in the area. Granting relief to multiple setback requirements deviates too much from the spirit of the zoning ordinance. This request is for a larger structure, which is... he's now... they're asking for a slight increase over what had been denied previously, they're asking for 181 square feet. The previous request, which was denied in 2016, was for 144 square feet.

The previous request was denied by this ZBA in case 16001, and was appealed to the circuit court case number 16-56795-AA in which judge Cronin upheld the ZBA ruling. There have been no significant changes in circumstances that would affect the ZBA's prior analysis of the applicants previous substantially similar setback request. In particular, with respect to standard one, nothing has changed about the nature of recreational boating that wouldn't render a need for a bathroom essential for using the property for that purpose.

Nearby on both sides of the river in this area there are city-maintained bathroom facilities for boaters and tourists to use, lessening or eliminating the burden associated with complying with the setback variances. And I would also cite that directly across the river, the city maintains ten boat slips, which is 66% more than this applicant, and at those boat slips, there are none of these requests. There is no screening. There are no public bathrooms, especially for this facility. There are public bathrooms in the area. There are no private bathrooms. And there is no screening to prevent the public and this area gets more traffic than does the applicant's property. Because it's immediately adjacent to Wicks Park. It abuts the boardwalk, which is the greatest tourist attraction in town, and on the other side of the boardwalk is a public parking lot. And especially on Wednesdays when we have our concerts, this boardwalk and those ten boat slips get more traffic in one night than the applicant's property would get in a month or six weeks. So I certainly don't see the need for this bath house, and I think it should be denied as it was in the past. I think that the applicant is trying to overrule the circuit court ruling by bouncing it back to us and we don't have the authority to overrule the circuit court on substantially the same motion. Thank you."

Ludlow

"Thanks Jim Bouk for so eloquently stating what he stated. I think that was... mimics my feelings as well. You know, from my standpoint, I'm unclear as why we are going through this again when four years ago, five years ago, we went through this once. And in general, things have not substantially changed other than the fact that the size of the bathroom utility structure has increased from, as Jim said, from 144 to 181 square feet. So from my standpoint I think this is an exercise in futility. Sometimes I don't understand the strict legal issues involved, but I would mimic what Jim Bouck just said and I'll leave it at that."

No additional comments from Jim Hundrieser

Muir

"Well I have no additional comments. I would concur with what Jim Bouck said, as well as Dr. Ludlow. As I looked at the two proposals, I saw no visible significant changes in this standard as well as the other standards and it was denied in May of 2016 and I think it should be denied again tonight. So, no, I have no comments."



Zerfas

“In my experience on the ZBA, you know, if we’ve had variances denied when someone reapplied for a variance, it was usually a lesser ask. It was usually something where they thought differently about the problem and asked for a lesser variance. This one seems like a much bigger ask than in 2016. What stood out about that meeting for me, just from memory, in 2016 because I was on that board, was the safety issue of putting a structure 10 feet from the road, which seemed reckless at the time and seems reckless now to put something 10 feet from that roadway which already doesn’t have great visibility. If you go there now with the fence that’s put up, and also there’s a huge tree there, putting something else so close to the road that could be even taller, doesn’t seem very safe.”

Kubasiak

“My view of the application here is very similar to the general board feelings that we have to look at our standards and go through our standards, but in general when you look at the numbers and the information that we’ve been supplied. And supporting justice of a change, something that would justify some kind of a change in our earlier decision, it doesn’t seem substantial to me. And, of course, the standards are part of our process that we go through that reminds us those things, but we’ve been through this before and when you see something that is almost within a minor percentage, in fact an increase in size, doesn’t really change how it look at the standards, as we probably reviewed before.

But, that said, we do also want to, as we go through our deliberation, go through our standards and look at things and we eventually get down to some kind of review of the standards on each one of these, make sure that all of our information is well documented and it’s fairly complex for this. So, therefore, because of the uniqueness of this total set of applications, Board, I want to do a similar thing on the next two issues before we go back to any standards or, make any, move along here. Because there is, you know, I’d like you guys, if you guys would rather not go through those and hear more and talk more about those if you want to go through this one and go through the standards and get a feel for it. But I’m going to, I’m going to, go around... to get an... ask anybody’s opinion is that if you want to stop here, go through the standards and have any comments. I suggest that we go through the rest of them because of the relationship of the things that are coming along, some of the things like Dick’s first question as to, you know, there’s, there’s concern as to applying certain laws to the request when we want to make sure that we know that we’re in the right to... the right use. And that’s very important to some of these things. Dick Bont, did you have any comments on that is how you want to proceed with this?”

Bont

“Yeah, Bob in 154.022 talks about lots and waterfront. And I think that way back when we first denied this, I think we brought up the issue that all non-standing or other structures have to be and set back 25 feet from the waterfront. And if I take a look at the three variances required for the bath house, the fence height and the fence and the wall or structure that is there, they all don’t fall... they’re all within that 25 feet, they don’t fulfill that. So, I think that back then even when we denied the bath, the bath house I think the 25 foot requirement setback from the waterfront was involved in it.”

Kubasiak

“Okay, Cindy, I have a question or want a little clarification here and with Dick’s comment, if you would. If I recall one of my earlier questions and clarifications from you, as I picked up one of my hardcopy packets, was that the item number two, the fence height capacity, and I’m sorry, the yeah, well, what we’re calling the wall, the structure there, is that is the Board is to take the look at that during this meeting as if it’s not there. Is that correct?”

Osman  
“That's correct.”

Kubasiak

“So our, our judgment is to look at it as if we have to know what, make sure we're all, we're all straight on how it's zoned or what the use, what applications, what applies to it. And that there's no structure there. And whether or not that would be allowable or not allowable. Okay. So Board members, just, that's just to make sure we all understand the, the, you know, the amount of information or lack of sometimes information that we have to go on these other issues that are in front of us. So, there are many factors and many facts that enter into questions that we're trying to clarify. I think the Board is trying to get clarification as we work through this to make sure we're more straight on what we're voting on or what we're looking at as far as the use and, and how we're supposed to be looking at it based on what's happened.”

Osman

“All of these structures from Perryman and to the north of Perryman and to south to Casa Loma are all located in the C4 zone districts, which is the resort district. Marinas are permitted in that zone district as approved by the Planning Commission. And in this case, it was approved by the Planning Commission, although there have been substantial changes to what Planning Commission approved under a special land use.”

Bouck

“The question is do I think that we should continue with standards one, two, three and four, for variance number one, the bathhouse, or should we cover standard number one for variance request one, two and three, is that correct?”

Kubasiak

“Yes.”

Bouck

“I can go any way on it, sir. Whatever, whatever seems to work out best.”

Kubasiak

“Right. Okay. I guess one of my concerns is making sure that the, you know, I think, yeah, I think that the details here that we need to look at are part of any either vote, you know, voted for or against the applicant's information has to in our reviews or motion is needed to make sure that it is well documented and pretty well, pretty well detailed, which is pretty, pretty complex for this type of an issue. May take some time here.”

Bont

“I'm assuming that all of the comments that are made here are going to be summarized in our findings of facts. And that summary would be prepared by the City Clerk or Cindy or someone in the city office. Is that correct?”

Kubasiak & Osman

“Correct.”

Ludlow

“Yeah, just getting back to what Dick Bont was talking about in looking at section 154.022 and it's line F which is the lots and then refers to number four, which is the waterfront lots. Just so I have clarification on this. I didn't really understand some of the some of the verbiage here. The 25 feet from the waterfront. Yeah, that makes, that's pretty cut and dry. But then it says that the lot line

which abuts the street shall be deemed the front lot line. Yeah. So, the lot line which abuts the street shall be deemed the front lot line. Just so I have clarification, and I just want to do this correctly. When I look at variance number one, they have the front setback and the setback to the roadway. I don't know, Cindy, can you clarify that for me? Am I just not sharp enough to figure this out? Or am I, am I missing something here?"

Osman

"It might be too small to see on your screen. But the section numbers are listed for each variance request. The front setback is required at 15 feet. And then under another section, a different section which talks about waterfront construction, that's 092 (D), 2 (CD). That says from the roadway for waterfront construction. So there are two different sections that apply to that setback, the one is to the front yard to the property line, and the other one is to the roadway. Two separate sections."

Muir

"I'll defer to the group about what they feel is most appropriate. But once again, I returned to my original comment about no visibly significant changes to the proposal. And I think we've reviewed the standards in detail the first time through. I'm wondering what's going to change the second time through other than we're going to restate what we stated at that time. But I'll defer to the group and what they feel is appropriate, because it may go beyond us at this point. So we want to touch all our bases."

Zerfas

"Whatever you want to do, Bob. I think, you know, he wanted to go over the standards for all three at the same, you know, move forward. That's fine."

Kubasiak

"Well, it'll get a little too confusing, I guess, if we do it. If we do not, you know, because of the details. I guess I was trying to avoid the bouncing back and forth, you know, kind of stuff. But I believe my opinion is we should review the standards right now for the bathroom, have any comments or discussions based on our earlier stuff and being in this position for a long time. I don't know what there might be, but I would like to go through those four standards with the Board and make sure that we've reviewed those and whether there are comments that want to be added or, or for or against the standard, or whether there's things that you want to consider that might be a part of a motion for or against. We can go through that prior to any motions at that point. That way we've reviewed the standards on the bathhouse and then we'll move on. So why don't I start backwards this time? Zack."

Zerfas

"So, standard one for the bathrooms?"

Kubasiak

"That's correct."

Zerfas

"Okay, that strict compliance with area setbacks, frontage height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity unnecessarily burdensome. Well, my opinion is that strict compliance with the setbacks does not prevent the owner from using the property for permitted purpose. It's already being used for its permitted purpose, so it does not meet the standard and therefore, the variances should not be granted."

Ludlow

“Yeah. Regarding that, it seems like the setbacks are granted. Because of the substantial nature of the setbacks in relation to that property. It seems like, from my standpoint, that's such a difficult precedent. That's what I would add to it, what Zack just said.”

Bont

“Bob, I'd like to make a comment also that the request to give a variance to the front lot, besides the waterfront lot could create a very severe safety problem. I am finding the facts, I went out there and stuck my car where the bath house was, and it wasn't even the same size of the bath house. And where that would be setting, if there was a child that wanted to come out and look beyond that bath house to see if anybody was coming from the corner. It takes three seconds for a car to go from the corner where you can see it to the edge of that bathhouse, if anybody turn left, look, turn right, look, turn left look, and walked out and they'd be hit by a car. So, I think, besides looking at all that, that's putting in a safety issue here, along with that, besides what Zack has said.”

Ludlow

“I would agree with that.”

Bouck

“My previous comments address standard one, and to that I would add that I'm not confident that we're reading 154.022 correctly; the general regulations, Section F, paragraph four, waterfront lots. That paragraph says, “Notwithstanding any other provisions of this chapter,” and in this, I'm going to end the quote there. This chapter is chapter 154, which is the land use chapter of the zoning regulations. So, “Notwithstanding any other provisions of the land use chapter. All structures on a waterfront lot shall have a setback of 25 feet from the waterfront.” And I think that first paragraph notwithstanding any other provisions of this chapter, makes that statement superior to anything else in all of section one, paragraph 154, which would say that we are not authorized to grant a variance. Before defines the roles of the Planning Commission, the ZBA, the right to appeal to Circuit Court. That would seem to make it superior that no structure, every structure, all structures on a waterfront shall have a setback of 25 feet from the waterfront. So that combined with my previous statements is my comments for standard one for variance number one, bathhouse.”

Bont

“And, Bob, just to add to that the interpretation of chapter earlier 154.006(B) talks about the more restrictive or higher standard, I think, which Jim is referring to.”

Kubasiak suggests moving along to standard two under Section 154.155(B) and asks Dick Bont to read section two.

Bont

“That a variance would not do substantial justice to the owner, as well to other property owners in the district or a lesser relaxation would not give substantial relief and be more consistent with justice to others.’ Well, there have been many other applicants in that area that we have denied lesser requests. And I think this would fall into that same thing in this zoning district and giving the property owners request, there is no other lesser relaxation that could be granted on this property.”

Bouck

“Section two says substantial justice to others. Well, that includes our requirement to assure that public safety and welfare is secured. That's not stated explicitly in our standard number two, but it is required of us to assure that public safety and welfare is secured and as was previously stated by Dick, the proposed structures completely obstruct the view of oncoming vehicles on Park Street for the pedestrians at the chain ferry and conversely blocked the view of pedestrians from the vehicles on the street. It's a very narrow street pedestrians must walk on the street surface and there is no walkable shoulder on the road. In this area, the width the Park Street is severely constrained by sand dunes to the west and Kalamazoo River to the east. Vehicle and pedestrian traffic in this area is intense. The proposed structures additionally obstruct the view of Saugatuck downtown area for the visitors and residents near the chain ferry. This waterfront view has been a significant element of Saugatuck's charm and character as a tourist destination and is essential to maintenance of local property values.”

Kubasiak suggests Jim Muir read standard three under Section 154.155(B).

Muir

“That the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions.”

Kubasiak asks for any comments from Muir related to standard three.

Muir

“No, I don't see that the owner has any unique circumstances that's not unique to all the other neighborhood conditions. I just don't see it so I would say that it doesn't exist.”

Kubasiak asks Jim Bouck to read standard four under Section 154.155(B).

Bouck

“The size and shape of the parcel is not self created. The problem with the narrow piece of land is created by the location of Park Street and the location of the Kalamazoo River. However, the property can be used for many purposes, including docking boats. Adding a bathroom would, could enhance the value of the property, but that's not a factor to be relied upon by the Board. This problem is self created because the applicant incorrectly insists that a bathroom is necessary for recreational boat dockage while hundreds of boat docks have been continually and successfully operating within Saugatuck without private attached bathroom facilities.”

Bont

“Yeah, I think I go along with Jim, with what he is saying about that. Really, this is self-created because he wants this larger structure and everything. So, I see what Jim is saying.”

Kubasiak

“Okay. So, in general, at this point, I didn't hear too many positives here that would, that would render something that would seem that the board would make any kind of a motion in favor of meeting the standards, there was pretty much all that they did not meet any of the four standards and there were some, I guess, some documentation you guys put out after that. Some of us may have related back to our original issues. Sounds like it did, had a lot of the same comments and with some new findings. So at this point, the Board, do you guys feel that you are in a position where we should, do you want to make any kind of a motion based on the facts of our findings? Or do you want to wait? Now ask that again and go through any of the others? And come back to this?”

Bouck

“I would prefer to go through all four standards and get our findings of fact for all four standards for all three variances before a vote.”

Kubasiak

“So, we would move along on to the item, fence heights, opacity, front with gate. Anybody want to jump into this one with any comments, questions. Remember, if we do have questions of the applicant, we can ask them if we have any questions or concerns during our deliberation.”

Bouck

“Okay, what we're talking about here, just so everybody knows what I'm thinking. We're talking about a four-foot wall with a gate that goes from the bath house, slightly south and then down to the waterfront. We're not talking about the larger screening wall, which is variance number three. Standard number one, that strict compliance with area setbacks, branch height, bulk or density would not unreasonably prevent the owner from using the property for permitted purpose or would not render conformity unnecessarily burdensome. For this four-foot wall with a gate, it's a solid wall, not meeting the standards, the applicant did not meet its burden of explaining how each of the four standards for a variance is met.

Nowhere in the application does the applicant explain how any of the standards for the variances for this fence are met. Despite the fact that the code clearly places the burden of proof on the applicant to show that each standard is met. Strict compliance with the ordinance will neither prevent any use nor the planned use of the property as pleasurable docking without a non-compliant privacy solid fence, as requested. A compliant fence would in fact be less burdensome than the proposed solid fence. The cumulative impact of multiple deviations would create a parcel that is different in kind and nature from other persons in the area. Granting relief to multiple zoning requirements deviates too much from the spirit of the zoning ordinance. Thank you.”

Bont

“Right, would the variance do substantial justice to the owner, as well to other property owners in the district or would lesser relaxation would give substantial relief and be more consistent with justice to others. While they're along that whole entire side of the river, there aren't even fences that people are erecting that are solid are right with gates. And so, I feel that if in fact we gave them lesser relaxation would not do justice here either. So that's my statement.”

Zerfas

“I 100% agree with what Dick said.”

Muir

“I would concur also. Yeah, I would agree.”

Ludlow

“Yeah, I think Dick was fairly succinct there in point out the important issues.”

Kubasiak

“Let's move along to number three. I'll read that one: “That the plight of the owner is not due to unique circumstances of the property but is due to the general neighborhood conditions” Well, let's see. That's a pretty good size one here. The pedestrian chain ferry... there's a lot of traffic in the lot and it's not sufficient to impede or, you know, the applicant's docking their pleasure boat, so that doesn't seem to have too much bearing on it. You know, there are currently hundreds of successful operating public-private boat docks in the area and that have a high traffic pedestrian area and walkways. So that doesn't seem to have, you know, too much of an issue on that. So, I'm not sure that the uniqueness we've brought this, we have commented a little bit on this property

before and it applies to every one of these standards, whether it's one, two, or three of the interesting uniqueness of the property, so it has a play on a couple of these standards. It's my opinion on that, so I don't know. Anyone else have any other comments on that, on standard number three for this? For the fence here?"

Silence. Kubasiak asks Jim Muir to do standard number four.

Muir:

"That the problem is not self-created or based on personal financial circumstances.' I would echo what we said about the previous request for variance is that the problem is definitely self-created and I think to place another fence out there is just asking for more trouble in an already crowded area and I don't think it's our place to rewrite standard. I just feel like their request is asking or attempting to negotiate their way through a different interpretation of the standard. I go back to what you guys did a number of years ago when you denied the variances and you spent a lot of time analyzing this and I think, I mean, I suppose it's good that we're doing it, but I just think it's very burdensome for all the parties involved."

Bouck

"I completely agree with the applicant's stated desire for privacy in a boat docking area is a self-created requirement."

Kubasiak

"Not, again, based on that review of that one it seemed like there was... we would again have to go back and look at any motions and have good documentation, however we choose to make that. But all good comments, but mostly on the side that was not finding that it met all the standards or any of the standards at this point. So let's do the third and final one which is the screening privacy fence wall, type of one that is for height and security. There's a lot of input from our public on this side of this variance, but any discussion before, anybody have any questions or discussions about that before we enter into our standards with this. Again, we're to look at this pretty much like it's not there and I'll say if it's not there, it should meet the standards. I'll say that right off the front."

Bouck

"The question is which standard: fencing or screening, because they're very different."

Kubasiak

"Right and that's part of what we need, that's up to us to... well, it's been determined, do I understand, it's been determined, Cindy can confirm. I believe she said she determined it to be called screening. Is that correct, Cindy?"

Osman

"Yes, Mr. Chairman, that is correct. However, part of your, part of the things that you could consider is whether or not I made an incorrect determination and that is totally proper."

Sluggett

"Yeah, I'm going to respectfully disagree with you, Cindy. That matter is not, no one has appealed that interpretation formally and so I do not believe that's in front of the ZBA. The determination of the zoning administrator is that this is subject to screening provisions. The screening provisions, as I read Cindy's memo, indicate that a six foot screen is permitted. The variance that is being requested is to increase that to eight feet for a portion of the overall screen, but the remainder would remain at six feet. I believe, is that correct, Cindy?"

Osman: "That's correct."

Bouck

“We disagree because of 154.006: ‘Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the more restrictive or higher standards shall control.’ And in this case, the screening standard was implied because of incompatible uses but by the applicant’s own statement when they filled out their request for minor construction, the applicant stated that the uses were consistent both with Casa Loma to the south and the property, the chain ferry, and the property to the north, so we do not have inconsistent uses. We totally consistent and, in fact, the same uses boat docking, period, and to say that screening is required because of inconsistent applications is not valid in this case. The fencing standard is the more restrictive.

The fencing standard applies specifically and directly to waterfront applications. The screening standard is a general one for separating commercial, industrial, other areas like that from residential. In this case, the waterfront fencing standard should be the one to apply. Additionally, the screening as requested violates several other regulations. Number one, it’s a structure, it’s on metal posts welded to the sea wall, so it’s absolutely a structure and it can, and it has to be set back 25 feet from the waterfront, so that the screening cannot apply. It has to be fencing and the applicant’s statement that screening is necessary for trash is not applicable in this case because we’re not reviewing it for screening trash containers, which could be located anywhere on the property if they’re required at all and I would note that the city boat slips across the street where there are 10 boat slips, not six, have no separate trash cans. People take their trash home and, in this case, the users of this so-called marina only live a half mile away, so they can take their trash home as well if they want or they can have small trash cans. Whatever they want, but trash is, screening for trash is not considered. Additionally, the electrical panels are a self-created hardship for the applicant. Those were installed after the wall and the installation of electrical panels is subject to the National Electric Code, the zoning standards, and the Consumers Power electric metering guidelines. The applicant controls how many panels, where they’re located, and the arrangement of them and the applicant chose to arrange them in a manner seven feet tall to justify his wall, which had already been built. Electrical panels and meters don’t have to be any higher than 3.6 feet, 3 feet 6 inches from the ground, according to the Consumers Power guidelines and I’ve confirmed that with their rep for this area, so I completely disagree that screening is the appropriate standard in this case. It should be waterfront fencing and we may need to get more rulings on that.”

Kubasiak

“I wouldn’t disagree on that. Based on what I’ve read a little and some of the standards you referenced that it does seem that that is not, you know, we also have a right to our job to make sure that, in case there was some kind of assignment or something by the zoning administrator, so that it doesn’t really meet that standard or it falls under a different jurisdiction, like this one where fencing could be the proper standard as opposed to screening.”

Bouck

“Additionally, Mr. Chairman, the special land use as approved by the Planning Commission, if that is valid, required the applicant to get a variance for their fence as a precondition to granting the application and no variance for that fence was ever requested. They’re not applying for a variance for a fence, which is what they requested in their application. They’re applying for screening, so they’ve changed from their application.”

Kubasiak: “The original was fence?”

Bouck: “Yes and they were required to get a variance.”



Bont

“Mr. Chairman, also, and I want to reiterate a little bit of what Jim said. In 154.005, the screening, fence, neither of those is what it is. It is a structure. Anything constructed or erected or use of which requires a permanent location on the ground or attachment to something having a permanent location on that ground, which was welded permanently to a structure below, so that is a structure. I don’t see it as a fence or screening.”

Bouck

“In addition, sir, the party has said that they’re suffering an extreme burden from this pedestrian traffic, but they have yet to define what that burden is. Is it people swimming in front of his docks, so they cannot dock the boats? Is it people walking peacefully across the chain ferry dock? Those same conditions exist all over town and it’s not clear what constitutes a burden in this case.”

Ludlow

“I’m curious. When I look I have a picture of the fence or the structure, whatever you want to call it, and the main portion which runs east and west, at the east end, there is a short segment that sort of runs to the north. When I went down there, it looked as though that had crossed the property line of the city’s property. Does anybody, did anybody see that or take note of that? Just out of curiosity.”

Bont

“John, I actually have a picture, photo showing that return on the front there that does extend over into the city’s property.”

Kubasiak concurs.

Muir

“No I’m completely satisfied that we’ve covered the topic ad nauseam, to tell you the truth, but we had to, we had to. It’s interesting to see, you know, I was here 50 years ago when I jumped in a canoe down there and got out onto the river because I was a camper at the presbyterian camp and if you’d have told me that I’d have been involved in this in my future, I’d have said you were crazy. It’s progress, right?”

Osman

“I do have a question and maybe it is really for Jeff but this was noticed out as a variance, not an interpretation, so I think procedurally we would have to notice it out as an interpretation, but, Jeff, could you answer some of those questions?”

Sluggett

“Well, yeah, I tried to before. You know, I understand the arguments in terms of why this isn’t screening. I fully understand those arguments why it’s a fence or not a fence and a structure, but the fact is the zoning administrator for the city has made a determination. That interpretation has not been appealed to the ZBA and in my opinion, without an appeal to the ZBA, this Board does not have authority to act on that issue. A variance request has been submitted. That’s what’s technically before you and I would encourage you, again, to restrict your determination to that variance request.”

Kubasiak

“And who would create that appeal, Jeff?”

Sluggett

“Well, I suppose, I think it, to some extent, it may be moot depending on how it plays out this evening, but it would have to be somebody with standing. We’d have to take a look at that. I mean, that’s the honest answer. We’d have to take a look at it.”

Kubasiak

“I think my understanding is that the Zoning Board of Appeals can review determinations made by the zoning administrator.”

Sluggett

“Yeah and I apologize for interrupting. They have authority under the zoning ordinance and the Zoning Enabling Act to in fact review appeals of a zoning administrator’s interpretation, but in this case there has not been an appeal and I don’t believe the Zoning Board of Appeals unilaterally can take it upon to overturn zoning administrator interpretations.”

Kubasiak

“And for my clarity, how is an appeal made on something like that?”

Sluggett

“Well typically there would be a written... it would be in writing, it would be to the zoning administrator by somebody withstanding, saying basically, ‘I want to challenge the interpretation that’s been made and that would then get process, that would get put on a future agenda and notice for a ZBA review. It’s noticed just like any other ZBA matter.”

Kubasiak

“Okay, so, Board members, based on what we’re hearing, do you feel that there’s any reason to go through the standards based of it on a screening or see if we want to have further discussion or something on our understanding of how this should be determined? Anybody have any input on that?”

Bouck

“I would hereby make the following motion: That this Board grant a continuance of this special meeting until our next scheduled meeting on July 14<sup>th</sup>, 2021. This continuance is necessary to allow a consolidation of findings, a review of comment letters and information recently received, and to consult with independent, competent legal counsel.

Point two: That as soon as practical, the representative prepare the special meeting minutes for this session and compile findings of facts for each of the three requests, as determined by the Board at this meeting and shall submit the correspondence to all ZBA members for review.

Point three: That prior to the next scheduled meeting, the members of this ZBA and others, as requested by the chair, meet in a special closed session with independent legal counsel to assess this request.

Point four: This ZBA respectfully requests the City of Saugatuck to engage independent legal counsel to advise the ZBA and to be in attendance at all meetings related to this matter and this is based on Section 154, 153 of the City Code, which states an attorney for the City shall act as legal counsel for the Board and shall be present at all meetings upon request by the Board as approved by the zoning administrator.”

Kubasiak

“Okay, Jim, you’re actually putting that in as a motion. I understood the way you stated that.”

Bouck

“Yes sir. I think it’s time to end our debate at this point we’ve got to many issues in front of us. This is a really convoluted issue that we haven’t dealt with before and I think we need independent legal counsel based on all the different opinions that we’re getting.”

Bont

“Bob, I would second Jim’s motion.”

Kubasiak

“Dick Bont would second that motion. Okay, let me ask the Board members if they have any comments or concerns about what we’re, what direction we’re going here. Let me go up to Mr. Ludlow. Can I ask you first?”

Ludlow

“I guess my question is to Jim Bouck. So what we’ve accomplished thus far in looking at the standards for the first two requested variances? Is that now inclusive in what you’re talking about or is that exclusive? Are you talking about the whole, all three variances, I assume? Correct?”

Bouck

“Talking about all three. What we have covered, plus item three because of the open issues on that one.”

Kubasiak

“Okay, that’s good questioning and clarification. I was thinking that way. Zach, you have any input on Jim’s motion and Dick’s second on this?”

Zerfas

“I just want to understand, you know. So, Jim, what you’re wanting to seek legal counsel for is to determine if we even have the right to grant a variance for three or if it should be considered a screen or a fence or a structure?”

Bouck

“Yes, plus the open questions from number one and number two. Specifically relating to waterfront lots notwithstanding any provisions of this chapter. All structures shall a setback of 25 feet plus the fact that these three variances, especially the bath house is basically the applicant appealing a circuit court ruling back to the ZBA, so there’s a lot of conflicting issues here and issues we’ve never dealt with and I think we need to sit down with an independent, non-conflicted attorney and go through all this. In a closed session where we can be very frank and open with all of our opinions.”

Muir

“You know, I’m comfortable with the first two variances, but the discussion on the third one about whether we have a screen or a fence. I think Jim Bouck makes a good argument for the fact that we need clarification there and also the bigger issue of it appears to me that the Zoning Board has rarely had a request come back to them that has already been resolved, especially through a court decision, which has not substantially changed from the original one. I think it would be incumbent upon us to sit in closed session to see exactly where we stand and I think Jim has done a great job of preparation for tonight in reviewing the standards, reviewing our guidelines, but, you know, Jim won’t be sitting at the table in court. The attorneys will and so I think I would concur with Jim that it would be valuable for us to have a session.”

Ludlow

“Can I ask a quick question? And I don’t know if, Bob, is this for you or for Cindy. What time constraints are we under right now from, I guess, a definitional or a legal standpoint? Do we have time constraints?”

Osman

“We do have time constraints and we have to make a decision within 45 days. I’m sure Jeff can speak to this better than I can.”

Ludlow

“45 days from when?”

Kubasiak

“To the time we first started to hear the hearing on the 17<sup>th</sup>, which puts us up into summer, early August. I think it is something like that.”

Osman

“And the noticing for another meeting will take quite some time. We don’t have enough time.. maybe for the 15<sup>th</sup>, maybe we do, but I would have to get that to the newspaper.”

Kubasiak

“The next meeting’s on the 14<sup>th</sup>. Right, Cindy?”

Osman

“It’s on the 15<sup>th</sup>.”

Kubasiak

“I thought you moved it to the 14<sup>th</sup>? You said you couldn’t meet on the 15<sup>th</sup>.”

Osman

“Oh that’s for, yes, you’re correct. That’s right.”

Kubasiak

“14<sup>th</sup>, and we could have the meeting before that and put it on the agenda for the 14<sup>th</sup>.”

Osman

“We can’t, we don’t have enough time for that, for the public notice that goes in the newspaper and mailed to everyone within 300 feet.”

Kubasiak

“For a special meeting? I thought Special meetings are only like 18 hour notice or so.”

Osman

“Oh no, not for zoning board. That we have to have public notice 15 days before the public hearing and that’s under the Zoning Enabling Act. I think Jeff can answer more questions about that. He has his hand raised.”

Sluggett

“If the intent is simply to have a special meeting, so you can meet with counsel in closed session, then you don’t need... then the 18 hours notice would be accurate.”

Kubasiak

“So we do have time for that. Yeah, I think I’m sure the Board members could work with a schedule on that after we could probably figure that out here tomorrow or whatever or set a date now that we to do that. We do have to work through it.”

Muir

“Cindy, do we have to have a special meeting? Can’t we adjourn the closed session on July the 14<sup>th</sup> and then go back into open session as we finish our deliberations?”

Sluggett

“Mr. Chairman, the answer to that is yes.”

Kubasiak

“Yeah we can have a special meeting based on the motions that’s in front of us, right?”

Sluggett

“Well my understanding was he was saying we’ve got the meeting coming up on July 14<sup>th</sup> or 15<sup>th</sup>, whatever it is, that’s already a scheduled meeting. So you wouldn’t have a special meeting, you would simply postpone this meeting consistent with the motion that was made to that date and at that date, you will add to the agenda a closed session to discuss presumably a written legal opinion from counsel.”

Bouck

“I would prefer to have the closed session directly with counsel, face-to-face.”

Kubasiak

“Prior to that meeting.”

Bouck

“Prior to that meeting, not immediately prior but some number of days in advance, if possible.”

Sluggett

“Okay, then that would require an 18-hour notice for that special meeting.”

Bouck

“Okay we could do an 18-hour notice, I think.”

Kubasiak

“Okay so our motion is doable it sounds like. Any other discussion on the motion that we have in front of us? Then I guess, Cindy, I would like to call for a vote on this that we go for a continuance as the motion read, if you would like. Jim, if we need to read that back to anybody, do we want to do it or do you have it in front of you? You could say it one more time, so everybody hears it again. Just as a clarity.”

Bouck

“Sure, let’s see how good my memory is. I hereby make the following motion: This Board grant a continuance of this special meeting until out next scheduled meeting on July 14<sup>th</sup>, 2021. This continuance is necessary to allow a consolidation of findings, a review of comment letters and information recently received, and to consult with independent, competent legal counsel.

Point two: That as soon as practical, the city representative prepare the special meeting minutes for this session and compile findings of facts for each of the three requests as determined by the Board at this meeting and shall submit the compilation to all ZBA members for review.

That prior to the next scheduled meeting, the members of this ZBA and others, as requested by the Chair, meet in a special closed session with independent legal counsel to assess this request and prepare a response to develop proposals for closing the ongoing issues in this case.

Number four: The ZBA respectfully requests the City of Saugatuck to engage independent legal counsel to advise the ZBA and to be in attendance at all meetings related to this matter. This is based on Section 154.133 of the City zoning codes.”

Kubasiak

“Okay so, again, motion on the floor by Jim Bouck, seconded by Dick Bont and discussion has been reviewed, so if there’s no more questions anybody. If not, I’m going to call for a vote on this.” Upon roll call, the motion carried unanimously.

9. **Adjournment:** A motion was made by Bont, 2<sup>nd</sup> by Bouck, to adjourn the meeting at 7:39 p.m. Upon roll call the motion carried unanimously.

Respectfully Submitted,

Padley Gallagher  
City Clerk



**BACKGROUND REPORT  
ZONING BOARD OF APPEALS July 14, 2021**

**184 PARK ST 57-009-073-10**

**Patricia Galien**

**REQUEST:** Charles Carlson, on behalf of owner Patricia Galien is requesting a variance to construct a new single family dwelling in the critical dunes at 184 Park Street (parcel number 03-57-009-073-10) with a reduced front yard setback from Vine Street. The requirement in this R-1 PW zone district is a 25 foot front yard. The house as proposed will be 15 feet from the property line where 25 feet is required.

**BACKGROUND:** The property is approximately 43,690 square feet, and is located in the PW R-1 zone district. Previous owner, Leonard Chinnichi, and previous owner Richard Crichton submitted applications to the Zoning Board of Appeals and both were granted a variance from the required front yard setback on Vine Street. Applicant proposes a 15 foot setback where 25 feet is required. The minutes with your findings of fact from the previous meetings are attached. In all other respects, the proposed structure will comply with the requirements of the zoning district. Those variances have expired.

(D) *Dimension and area regulations:*

Front setback	25 feet
Side setback	10 feet
Rear setback	25 feet
Minimum lot area	21,780 square feet
Minimum lot width	100 feet
Maximum lot coverage	25%

**Section 154.155 (B)** provides the standards that must be met in order for the Board to grant a dimensional (non-use) variance:



1. That strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.

**Comment:** The topography of the site limits the buildable area without encroaching on the critical dunes. The property was purchased from the City in the 1980's prior to the Critical Dune act. A single family home is a permitted use. The DEQ/EGLE permits have not yet expired.

2. That a variance would do substantial justice to the owner as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others.

**Comment:** The variance on Vine Street would allow the house to be built on flatter land area and reduce the encroachment on a critical dune.

3. That the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions.

**Comment:** The lot is a ravine lot purchased prior to the zoning Critical Dune act.

4. That the problem is not self-created or based on personal financial circumstances.

**Comment:** The condition is the natural condition of the topography.

RECOMMENDATION: We bring to your attention that it is the responsibility of the applicant to provide evidence that ALL of the above conditions be met in order to grant a variance. In order to assure that your decision can withstand any challenges, it is essential that the findings are clearly articulated.

The sample motion may be used:

I hereby make a motion to (Approve/Deny) the application for the above named property at 184 Park Street (granting/not granting) a request for a front yard setback from Vine Street to be set back from the property line on Vine Street at 15 where 25 feet is required for a variance of ten feet.

Please state the findings of fact:





# Zoning Board of Appeals Application

## LOCATION INFORMATION APPLICATION NUMBER \_\_\_\_\_ - \_\_\_\_\_

Address 184 Park Street Parcel Number 03-57-009-073-10

## APPLICANTS INFORMATION

Name CKC Architect Address / PO Box PO Box 111  
City Douglas State MI Zip 49406 Phone 616-886-1688  
Interest In Project Architect E-Mail charleskcarlson@aol.com  
Signature *Charles K Carlson* Date 05/19/2021

## OWNERS INFORMATION (IF DIFFERENT FROM APPLICANTS)

Name Patrica Galien Address / PO Box 226 N. Clinton Street  
City Chicago State IL Zip 60661 Phone 312-399-9734

I hereby authorize that the applicant as listed above is authorized to make this application for proposed work as my agent and we agree to conform to all applicable laws and regulations of the City of Saugatuck. I additionally grant City of Saugatuck staff or authorized representatives thereof access to the property to inspect conditions, before, during, and after the proposed work is completed or to gather further information related to this request.

Signature \_\_\_\_\_ Date \_\_\_\_\_

## CONTRACTORS/ DEVELOPERS INFORMATION (UNLESS PROPOSED WORK IS TO BE DONE BY THE PROPERTY OWNER)

Name To be determined Contact Name \_\_\_\_\_  
Address / PO Box \_\_\_\_\_ City \_\_\_\_\_  
State \_\_\_\_\_ Zip \_\_\_\_\_ Phone \_\_\_\_\_ Fax \_\_\_\_\_  
License Number \_\_\_\_\_ Expiration Date \_\_\_\_\_

## PROPERTY INFORMATION

Depth 294 Width 77 Size 1.0 Acre Zoning District PWR-1 Current Use Vacant  
Check all that apply: Waterfront \_\_\_\_\_ Historic District \_\_\_\_\_ Dunes  Vacant   
Application Type: Interpretation \_\_\_\_\_ Dimensional Variance  Use Variance \_\_\_\_\_

## REQUEST DESCRIPTION (ATTACH MORE SHEETS IF NECESSARY)

Construction of a one-story (with walk-out/daylight basement) residence, and driveway.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**SITE PLAN REQUIREMENTS (SECTION 154.061)**

A site plan and survey showing the following information shall be submitted with the coverage of this application and other required information as outlined below. (Please note that not all will apply for minor waterfront construction)

Y N NA

- Dimensions of property of the total site area,
- Contours at 2-foot intervals
- Locations of all buildings
- Other structures on adjacent properties within 100 feet of the property, including those located across the street from the property
- Parking areas
- Driveways
- Required and proposed building setbacks
- Location of abutting streets and proposed alignment of streets, drives and easements serving the development, including existing rights-of-way and pavement widths;
- Location, screening, dimensions and heights of proposed buildings and structures, such as trash receptacles, utility pads and the like, including accessory buildings and uses, and the intended uses thereof. Rooftop or outdoor appurtenances should also be indicated, including proposed methods of screening the equipment, where appropriate;
- Location and dimensions of parking areas, including computations of parking requirements, typical parking space dimensions, including handicapped spaces, and aisle widths;
- Proposed water supply and wastewater systems locations and sizes;
- Proposed finished grades and site drainage patterns, including necessary drainage structure. Where applicable, indicate the location and elevation of the 100-year floodplain;
- Proposed common open spaces and recreational facilities, if applicable;
- Proposed landscaping, including quantity, size at planting and botanical and common names of plant materials;
- Signs, including type, locations and sizes;
- Location and dimensions of all access drives, including driveway dimensions, pavement markings, traffic-control signs or devices, and service drives;
- Exterior lighting showing area of illumination and indicating the type of fixture to be used.
- Elevations of proposed buildings drawn to an appropriate scale shall include:
  1. Front, side and rear views;
  2. Heights at street level, basement floor level, top of main floor, top of building, and if applicable, height above water level; and
  3. Exterior materials and colors to be used.
- Location, if any, of any views from public places to public places across the property;
- Location, height and type of fencing; and



- The name and address of the person and firm who drafted the plan, the seal of the professional responsible for the accuracy of the plan (licensed in the state) and the date on which the plan was prepared.
- Other information as requested by the Zoning Administrator

**DIMENSIONAL VARIANCE REQUEST STANDARDS PER SECTION 154.155(B)**

Please respond to each of the following questions. As part of your request to obtain a dimensional or non-use variance, the owner must show a practical difficulty by demonstrating that all of the following standards are met:

- (1) Explain how strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome;

**See attached document for explanations 1-4**

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- (2) Explain how a variance would do substantial justice to the owner as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others;

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- (3) Explain how the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions; and

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- (4) Explain how the problem is not self-created or based on personal financial circumstances.

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**USE VARIANCE REQUEST STANDARDS PER SECTION 154.155(C)**

Please respond to each of the following questions. As part of your request to obtain a use variance, the applicant must show an unnecessary hardship by demonstrating that all of the following standards are met:

- (1) Please explain how the property in question cannot be used for any of the uses permitted in the district in which it is located;

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- (2) Please explain how the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions;

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- (3) Please explain how by granting the variance, the essential character of the neighborhood would not be altered; and

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- (4) Please explain how the problem is not self-created or based on personal financial circumstances.

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**OFFICE USE ONLY:**

Application Complete \_\_\_\_\_ Date \_\_\_\_\_ Fee Paid \_\_\_\_\_ Date Paid \_\_\_\_\_

Date Notice Sent \_\_\_\_\_ Date Resident Notification \_\_\_\_\_ Hearing Date \_\_\_\_\_

Notes: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Motion to Approve \_\_\_\_\_ Deny \_\_\_\_\_

Findings of Fact:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Chair Signature \_\_\_\_\_ Vote \_\_\_\_

Member Signature \_\_\_\_\_ Vote \_\_\_\_

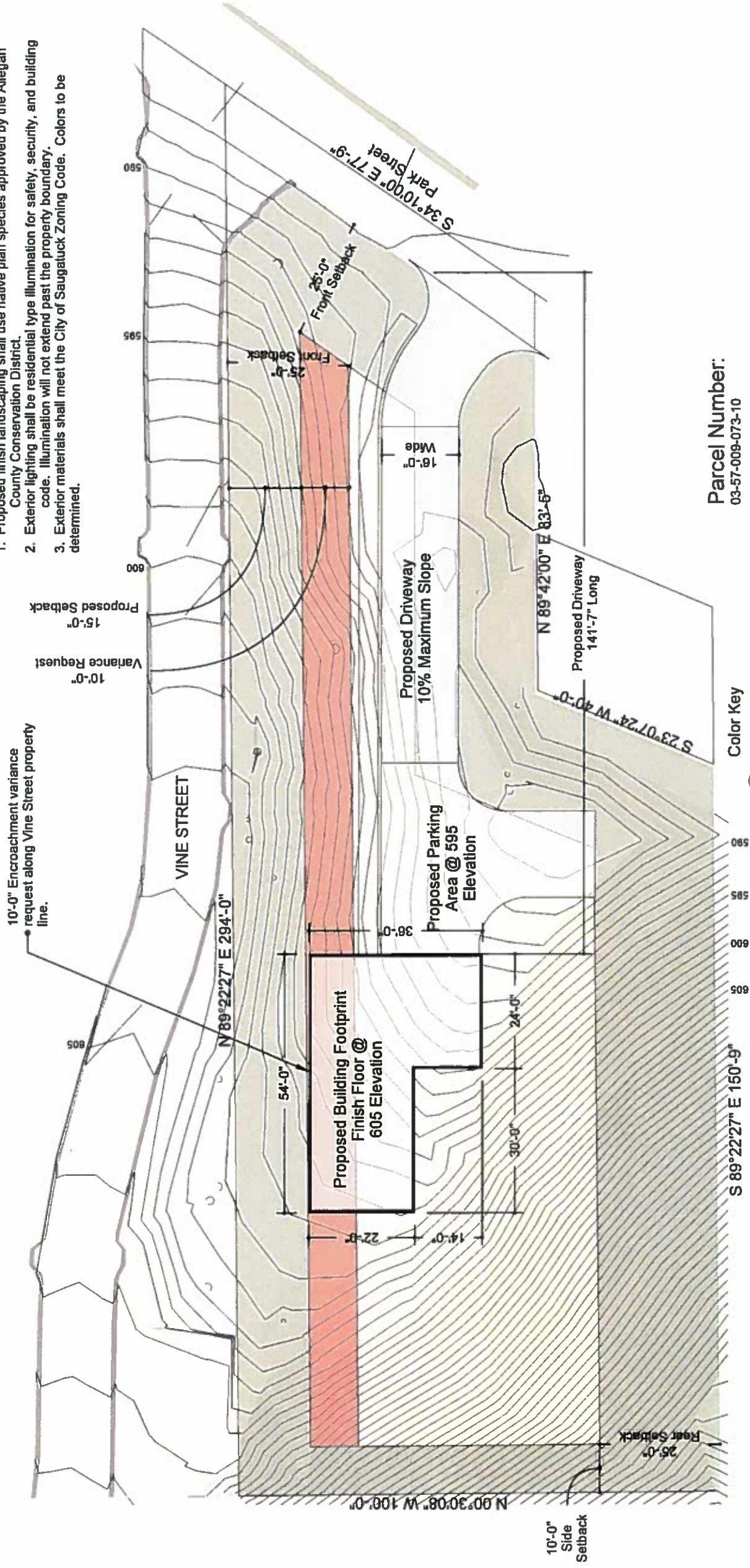
Member Signature \_\_\_\_\_ Vote \_\_\_\_

Member Signature \_\_\_\_\_ Vote \_\_\_\_

Member Signature \_\_\_\_\_ Vote \_\_\_\_

**Property Development Notes:**

1. Proposed finish landscaping shall use native plan species approved by the Allegan County Conservation District.
2. Exterior lighting shall be residential type illumination for safety, security, and building code. Illumination will not extend past the property boundary.
3. Exterior materials shall meet the City of Saugatuck Zoning Code. Colors to be determined.



Parcel Number:  
03-57-009-073-10

- Color Key**
- Existing Roads
  - Neighboring Property
  - 10'-0" Variance Request
  - Zoning Setback (Buildable Area)
  - Property Boundary

**Site Plan**  
Scale: 1" = 20'-0"

*Charles K Carlson*  
Charles K Carlson  
13010335103

**Legal Description:**  
BEG 658.23' S & 605.77' E OF NW COR SW 1/4 TH N 89 DEG 22' 27"E 294.04' TH S 34 DEG 10'W 77.77' ALG C/L RIVER RD TH S 89 DEG 42'W 83' TH S 23 DEG 07'24"W 40' TH S 89 DEG 22'27"W 150.77' TH N 100 FT TO POB BEING PART GOV'T LOT 4 SEC 9 T3N R16W (89)



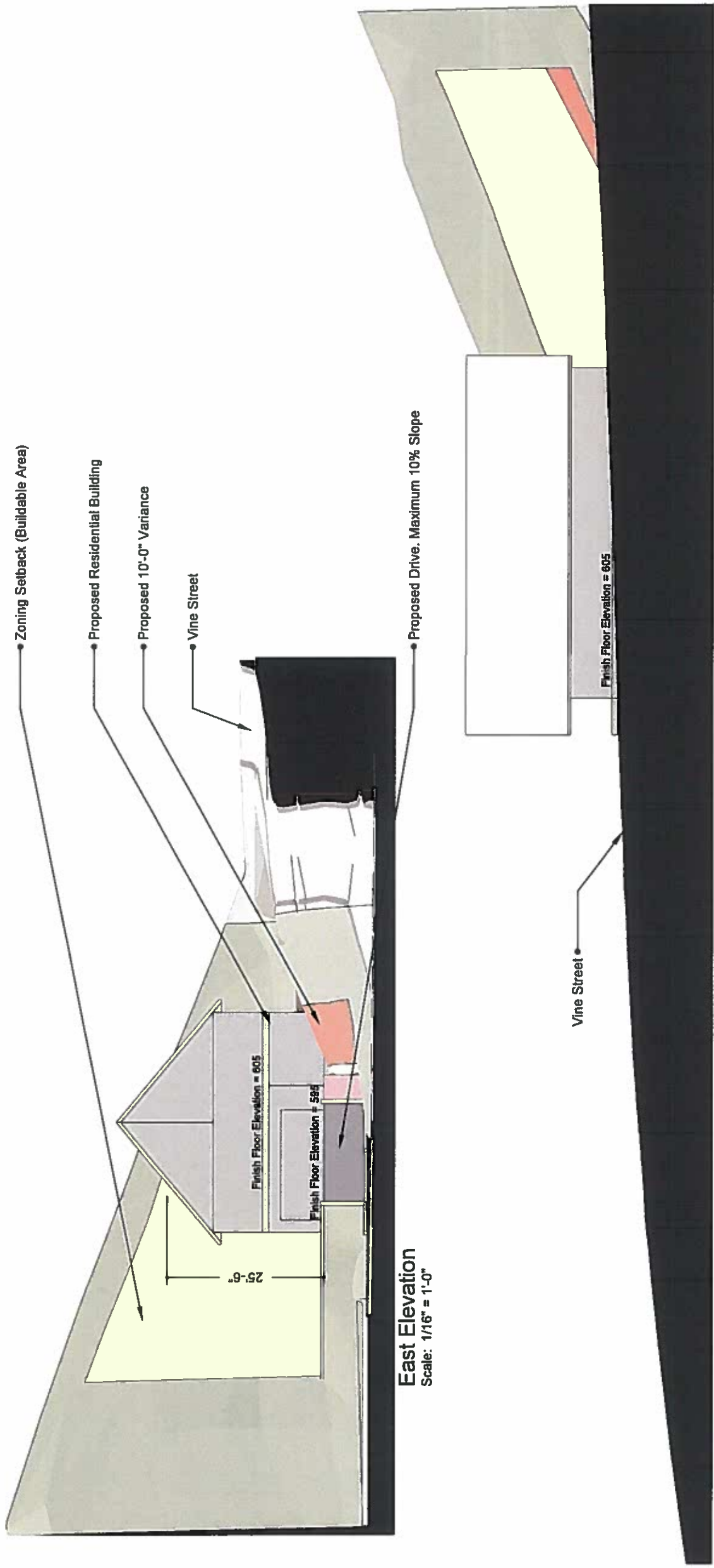
P.O. Box 111  
Douglas, MI 49406  
616-888-1888

**The Galien Residence**  
184 Park Street  
Saugatuck, MI 49453

**For Zoning Board of Appeals  
Application Only**  
Not For Construction

Project Number: 2106  
May 25, 2021

**01 of 05**  
COPYRIGHT CKC Architect LLC, 2021



**Building Notes:**

1. Proposed Elevations are conceptual for variance approval. Final elevations pending final plan/design.
2. Exterior materials shall meet the City of Saugatuck Zoning Code. Colors to be determined.
3. Proposed finish floor elevations are estimated.

- Color Key**
- Existing Roads
  - Neighboring Property
  - 10'-0" Variance Request
  - Zoning Setback (Buildable Area)
  - Property Boundary



P.O. Box 111  
Douglas, MI 49406  
616-886-1688

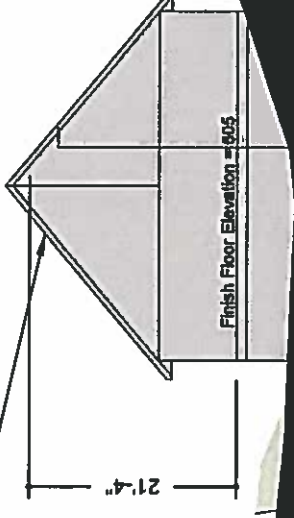
**The Galien Residence**  
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Saugatuck, MI 49453

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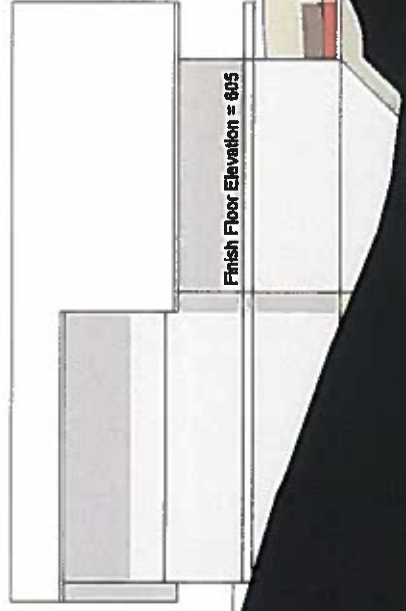
Project Number: 2106  
May 25, 2021

Proposed Residential Building

Vine Street



**West Elevation**  
Scale: 1/16" = 1'-0"



**South Elevation**  
Scale: 1/16" = 1'-0"

Vine Street

10'-0" Variance Request

Proposed Drive. Maximum 10% Slope

**Building Notes:**

1. Proposed Elevations are conceptual for variance approval. Final elevations pending final plan/design.
2. Exterior materials shall meet the City of Saugatuck Zoning Code. Colors to be determined.
3. Proposed finish floor elevations are estimated.

**Color Key**

- Existing Roads
- Neighboring Property
- 10'-0" Variance Request
- Zoning Setback (Buildable Area)
- Property Boundary



P.O. Box 111  
Douglas, MI 49406  
616-888-1888

**The Galien Residence**  
184 Park Street  
Saugatuck, MI 49453

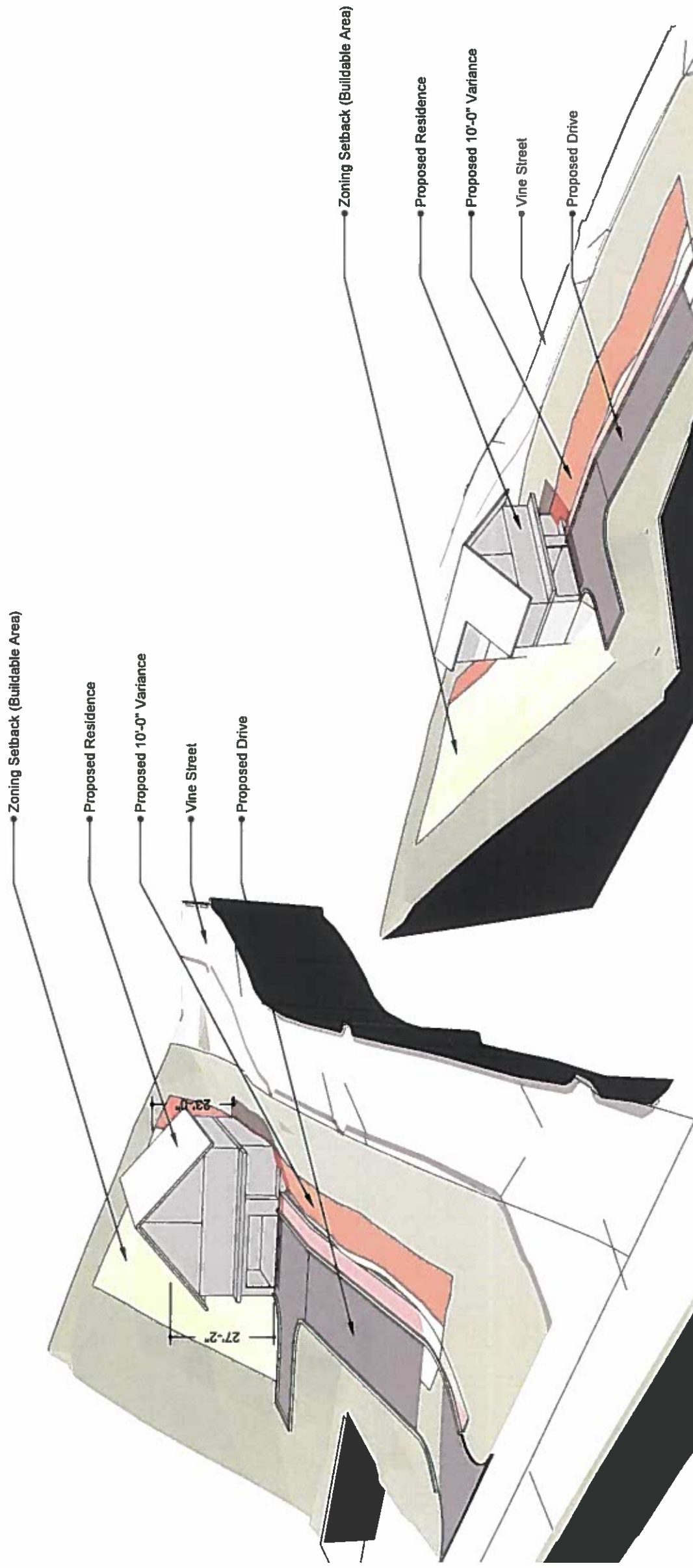
**For Zoning Board of Appeals  
Application Only**  
Not For Construction

Project Number: 2106  
May 25, 2021

**03 of 05**

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**Birds Eye View**  
Scale: N/A

**Building Notes:**

1. Proposed Elevations are conceptual for variance approval. Final elevations pending final plan/design.
2. Exterior materials shall meet the City of Saugatuck Zoning Code. Colors to be determined.
3. Proposed finish floor elevations are estimated.

**Birds Eye View**  
Scale: N/A

- Color Key**
- Existing Roads
  - Neighboring Property
  - 10'-0" Variance Request
  - Zoning Setback (Buildable Area)
  - Property Boundary



P.O. Box 111  
Douglas, MI 49406  
616-886-1688

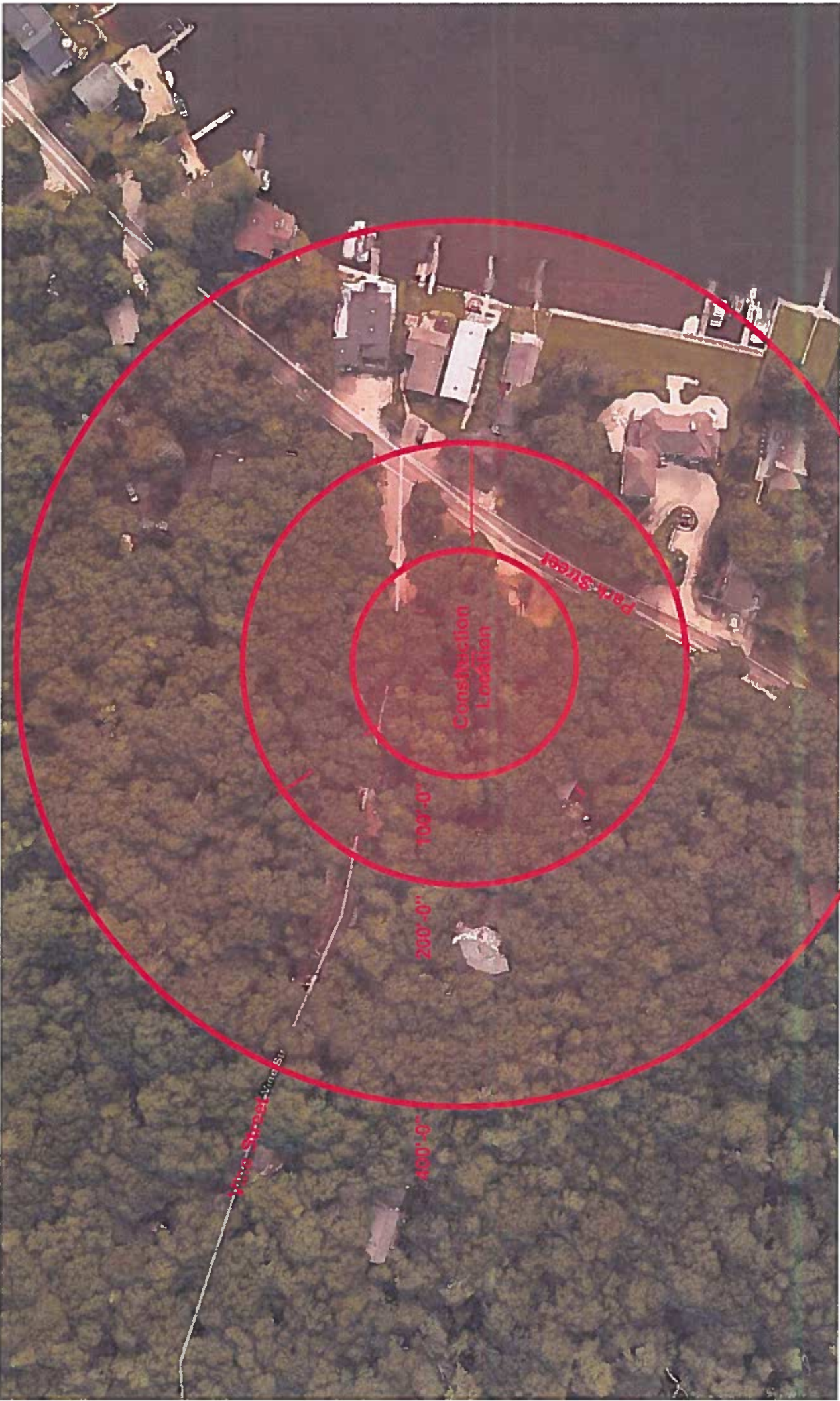
**The Galien Residence**  
184 Park Street  
Saugatuck, MI 49453

**For Zoning Board of Appeals  
Application Only**  
Not For Construction

Project Number: 2106  
May 25, 2021

**04 of 05**

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**Aerial Map**  
Scale: N/A



P.O. Box 111  
Douglas, MI 49406  
616-888-1688

**The Gallien Residence**  
184 Park Street  
Saugatuck, MI 49453

**For Zoning Board of Appeals  
Application Only**  
Not For Construction

Project Number: 2106  
May 25, 2021

**05 of 05**

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## Standards for Variance

25 May 2021

Re: 184 Park Street  
Saugatuck, MI 49453

Parcel Number: 03-57-009-073-10

Please respond to each of the following questions. As part of your request to obtain a dimensional or non-use variance, the owner must show a practical difficulty by demonstrating that all of the following standards are met:

(1) Explain how strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property of a permitted purpose, or would render conformity unnecessarily burdensome;

**Over 50% of the property has a 1 on 3 slope or greater rendering it an unbuildable area as determined by the Michigan Environment, Grate Lakes, and Energy (EGLE). In addition, the unique lot shape, 8600 square feet of the front yard (along Park Street) is not buildable because of the extremely narrow (77'-9") street front.**

(2) Explain how a variance would do substantial justice to the owner as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others;

**The variance will allow a residence of comparable size to other residences in the neighborhood.**

(3) Explain how the plight of the owner is due to unique circumstances of the property and not to general neighborhood condition;

**Due to the unusual lot shape, the required building setbacks required by zoning, and the restrictions place by the EGLE, the allowable buildable area remaining is an odd shape providing limited space for a small building footprint/foundation. A setback variance along Vine Street (the least used street) would allow a more suitable building foundation/footprint.**

(4) Explain how the problem is not self-created or based on personal financial circumstances;

**The hardships places on the property are defined by the EGLE, the uniquely shaped property lines, and the building setback lines required for a corner lot.**

**Proposed Minutes**  
**Saugatuck Zoning Board of Appeals SPECIAL Meeting**  
**Saugatuck, Michigan, December 17, 2018**

The Saugatuck Zoning Board of Appeals met in special session at 7:00 p.m. at City Hall, 102 Butler Street, Saugatuck, Michigan.

1. **Call to Order** by Chairperson Kubasiak at 7:00 p.m.

**Attendance:**

Present: Zerfas, Ludlow, Kubasiak  
Absent: Bouck, Riekse, Bont  
Others Present: Zoning Administrator Osman

2. **Approval of Agenda:** None

3. **Approval of Minutes:** A motion was made by Zerfas, 2<sup>nd</sup> by Ludlow, to approve the November 13, 2018 minutes as presented. Upon voice vote the motion carried unanimously.

4. **Schedule of Meetings:** A motion was made by Kubasiak, 2<sup>nd</sup> by Ludlow, to approve the 2019 Schedule of Meetings as presented. Upon voice vote the motion carried unanimously.

5. **Public Comments** (*agenda items only*):

6. **Old Business:**

7. **New Business:**

- A. 184 Vine Street - Setback – Public Hearing** A public hearing was scheduled on this date to receive comments regarding a variance to construct a new single family dwelling in the critical dunes with a reduces front yard setback from Vine Street. The parcel does have access to Vine Street. A large portion of the property is not buildable due to the slope over 3:1. There was a previous variance granted in 2016. That variance has expired. The original set back variance was either 10 feet or 15 feet, the drawing submitted showed the structure at 15 feet from the property line, while the minutes reflected that the approved setback between the house and the property line was 10 feet.

Chairperson Kubasiak opened the hearing at 7:15 p.m.

Rick Critchett presented the project. The corner of the deck is shown at 9 feet, but he can make the deck smaller. The paved Vine Street curves away from the property line at the point where the house is proposed. He is hoping for a modification to the original permit from the DEQ. The garage is proposed to be 22 feet deep. The house is under 2,100 square feet. Three letters were received in opposition from Gary Medler, Kenneth Altman, and James Lindsey. The letters are attached to the packet.

There being no further comments, Chairperson Kubasiak closed the public at 7:55 p.m.

The Board discussed the letters and the previous variance and the findings of fact from that date. At that time, the applicant stated he was willing to scale back on the deck. They then turned to the standards

1. A house of any size will need some kind of variance from ZBA or DEQ.
2. The proposed house will protrude a lesser density into the setback than the previous approval.
3. It is a ravine lot and every property in the area is unique.
4. The circumstances were not self-created but were created by natural topography of the land.

A motion was made by Zerfas, 2<sup>nd</sup> by Ludlow, to approve the application for 184 Park Street granting a request for a front yard setback from Vine Street varying from a minimum of 10 feet between the open deck and the property line, 16 feet between the corner of the garage and the property line, and 13.5 feet between the corner of the great room and the property line to construct a single family residential dwelling as shown in the application packet presented to the board. The variance is conditioned upon a new or revised DEQ permit. Upon roll call vote the motion carried unanimously.

- B. 810 Allegan Street – Setback - Public Hearing:** A public hearing was scheduled on this date to receive comments regarding a variance for a bathroom addition to the house setback at zero feet from the property line on East Street in line with the existing house, where setback of 20 feet is required. There used to be a shed in this location, and the area to be used is currently occupied by a deck.

Chairperson Kubasiak opened the hearing at 8:07 p.m.

Christopher Vishey, property owner described the project and distributed a conceptual elevation. There are foundation challenges and interior systems challenges with the house. Other locations on the property were ruled out. The proposed location would provide for safer and more functional home. The addition would project 6-12 inches into the ROW. The projection into the ROW will require a revocable license. Other locations on the property were ruled out. The proposed location would provide for safer and more functional home. The addition will be a single story. The Chair read a letter of support from Brian Stevens and Kirbie Peterson.

There being no further comments, Chairperson Kubasiak closed the public at 8:20 p.m.

The board discussed the four standards that must be met to approve the variance.

1. The use of the property as a single family home is a permitted use. It would be unnecessarily burdensome to reconfigure the electrical plumbing and HVAC. The house was located before the land was platted. A bathroom is very important to the function of a house
2. There is no lesser remedy, and the neighbor that will see it the most wrote the letter of support. Since it will extend over the right of way it will need a revocable license
3. It is an older home and the request definitely is related to the unique condition of the property.
4. The problem is not self-created as the house was built where it was built.

A motion was made by Zervas, 2<sup>nd</sup> by Ludlow, to approve Application V180007 / 810 Allegan Street for a 10' x 14' bathroom addition along the same wall plane as the existing house extending not more than 12 inches into the ROW as presented. ZBA is recommending approval of the revocable license. Upon roll call vote the motion carried unanimously.

8. **Communications:** None

9. **Reports of Officers and Committees:**

10. **Public Comments:**

11. **Adjournment:** Chairperson Kubasiak adjourned the meeting at 8:45 p.m.

Respectfully Submitted,

Monica Nagel, CMC  
City Clerk

**Minutes**  
**Saugatuck Zoning Board of Appeals Meeting**  
**Saugatuck, Michigan, September 8, 2016**

The Saugatuck Zoning Board of Appeals met in regular session at 7:00 p.m. in Council Chambers of Saugatuck City Hall, 102 Butler Street, Saugatuck, MI 49453

1. **Call to Order** by Chairperson ~~Kubasiak~~ **Bont** at 7:00 p.m.

**Attendance:**

Present: Bont, Bouck, Riekse, Zerfas, Ludlow

Absent: Kubasiak

Others Present: Zoning Administrator Osman

2. **Approval of Agenda:** No changes
3. **Approval of Minutes:** A motion was made by Riekse, 2<sup>nd</sup> by Zack, to approve the August 11, 2016 regular meeting minutes as presented. Upon voice vote the motion carried unanimously.

4. **Public Comments** (*agenda items only*): None

5. **Unfinished Business:**

**A. Application 16.0002 Park/Vine Street – Residential Setback:** A motion was made by Ludlow, 2<sup>nd</sup> by Bont to approve a variance from the required front yard setback of 25 feet to a ten foot setback on Vine Street for the construction of a new single family home on permanent parcel number (0357-009-073-10). Upon voice vote the motion carried unanimously. The Board adopted the following findings of fact:

Charles Carlson, on behalf of property owner Leonard Chinnici presented a revised drawing of the proposed home.

The topography of the site limits the buildable area without encroaching on sandy dunes. The property was purchased from the City in the 1980's prior to the Dune act. A single family home is a permitted purpose.

The variance on Vine Street would allow the house to be built on flatter land area and reduce the encroachment on a sandy dune.

The lot is a ravine lot purchased prior to the state dune act.

The condition is the natural condition of the topography.

6. **New Business:** None

7. **Communications:**

**A. Dunegrass Docks Update:** Zoning Administrator Osman updated the commission on the Dunegrass Dock project.

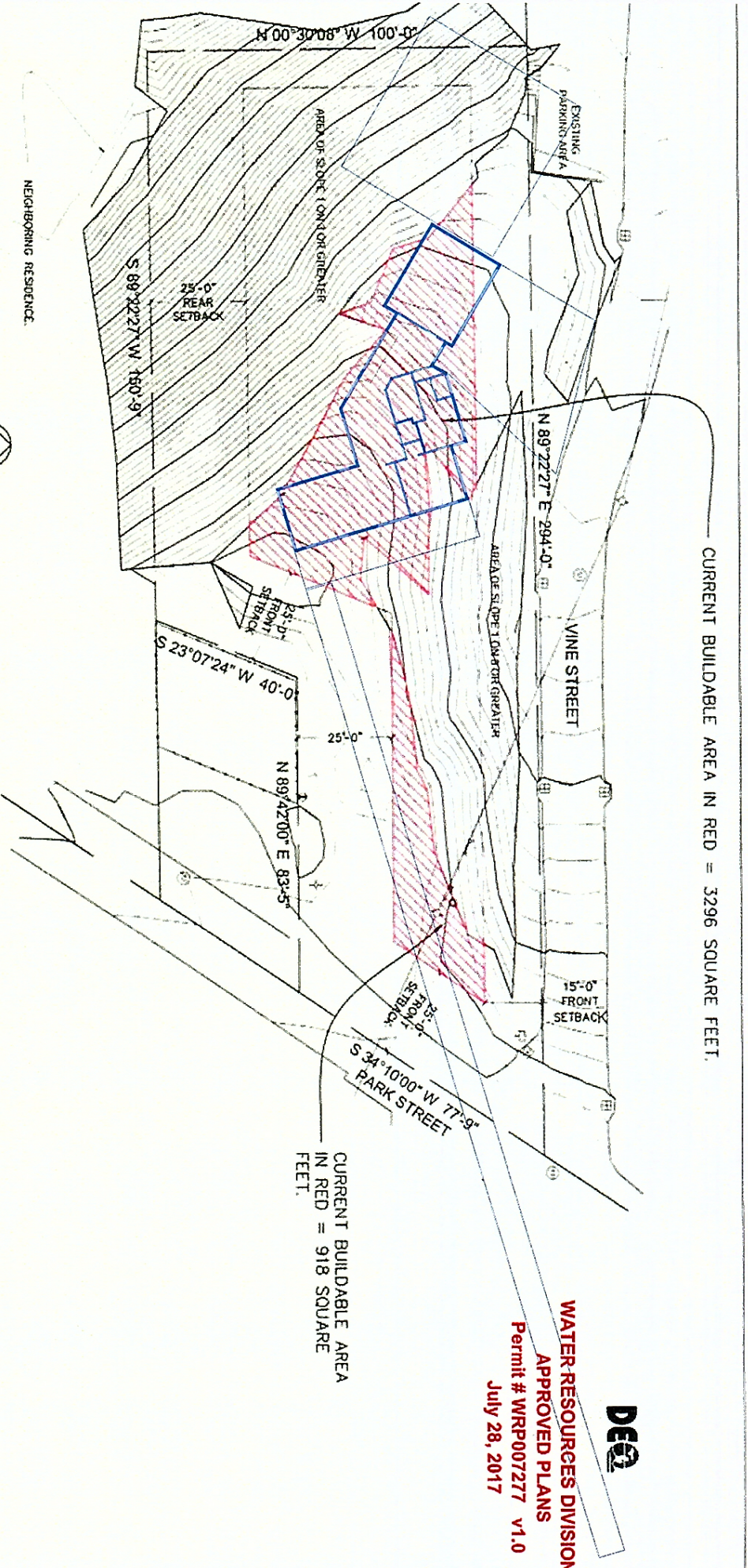
8. **Commission Comments:** The Board is willing to consider early meetings during the winter months.

9. **Public Comments:**

10. **Adjournment:** Chairperson Kubasiak adjourned the meeting at 7:40 p.m.

Respectfully Submitted,

Monica Nagel, CMC  
City Clerk

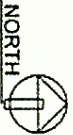


CURRENT BUILDABLE AREA IN RED = 3296 SQUARE FEET.

CURRENT BUILDABLE AREA IN RED = 918 SQUARE FEET.

**SITE PLAN**

SCALE: 1/32" = 1'-0"



**DEQ**  
**WATER RESOURCES DIVISION**  
**APPROVED PLANS**  
**Permit # WRP007277 v1.0**  
**July 28, 2017**

Scale  
 0 100ft

LEGAL DESCRIPTION:  
 PART OF GOVERNMENT LOT 4 OF SECTION 9, TOWNSHIP 16 NORTH, RANGE 16 WEST, VILLAGE OF SAUGATUCK, ALLEGAN COUNTY, MICHIGAN, DESCRIBED AS BEING 1/2 ACRES MORE OR LESS SUBJECT TO THE RIGHTS RESERVED AT

**City of Saugatuck**  
**Zoning Board of Appeals Special Meeting**  
**Thursday, December 10, 2020 at 7:00 pm.**

1. **Call to Order:** by Vice Chairperson Bont at 7:00 pm.

**Attendance:**

**Present:** Bont, Bouck, Muir, Zerfas, Ludlow (joined at 7:09 pm)

**Absent:** Kubasiak

**Others Present:** Zoning Administrator Osman, Clerk Wilkinson

2. **Agenda Changes:** None

3. **Approval of Minutes:** A motion was made by Muir, 2nd by Bouck, to approve the November 12, 2020 meeting minutes as presented. Upon roll call vote the motion passed unanimously. Ludlow and Kubasiak abstained as they were not at the November 12, 2020 meeting.

4. **New Business**

Osman presented an overview of the application at 979 Singapore Drive, and the public hearing was opened at 7:08 PM. The proposed new home is squeezed between a curved front yard at the end of a cul-de-sac, and a drainage easement on the rear and on the side of the lot.

The public hearing was closed at 7:38 pm.

- A. **Front yard setback for 979 Singapore Drive** - A motion was made by Muir, 2nd by Ludlow, to approve the application for a six foot variance at the front yard for a new home at 979 Singapore Drive as submitted with the following findings of fact: The lot is an unusual shape with significant portions taken up by drainage easements. A single family home is a permitted use in this zone district. Extending the house toward the easement would create an unreasonable burden by a significant portion of the foundation would have to extend over a challenging bank. In addition to the 50 foot setback, there is an unimproved portion of the ROW between the property line and the paved portion of the street (about 20 – 25 feet) on the cul-de-sac. The property lines, topography, and cul-de-sac were not created by the owners. Upon roll call vote the motion passed unanimously.



**5. Adjourn:** A motion was made by Bouck, 2nd by Ludlow, to adjourn the meeting at — pm.  
Upon roll call vote the motion passed unanimously.

Respectfully Submitted,

Erin K. Wilkinson  
City Clerk



**ZONING BOARD OF APPEALS JUNE 10, 2021**

**APPLICATION: 21001**

**443 PARK STREET**

**VHH SAUGATUCK HOLDINGS, LP**

**REQUEST:** Ed Pynnonen on behalf of VHH SAUGATUCK HOLDINGS, LP is requesting dimensional setback variances in connection with a 181 square foot bathroom and utility structure at 443 Park Street, and various fencing and screening variances.

Ed Pynnonen, agent for the owner of property located at 443 Park Street has submitted an application to the Zoning Board of Appeals for setback variances and fence and height variances. The purpose of this report is to provide a review of the application, requirements of the zoning ordinance, and standards for consideration.

**ZONE DISTRICT:** The property is located in the R Resort C-4 zoning district.

**IMPORTANT REMINDER:** This board is authorized to grant or deny requests for variances from the requirements of the zoning ordinance. In this case, dimensional variances are requested. This board does not have the ability to approve or deny a permitted use. Should you determine to grant these variances, it does not absolve the applicants from any other requirements under Local, State or Federal laws.

**Variance 1: Bathroom/Utility Room**

While the applicant is requesting multiple variances for the bathroom structure, it appears as if the conditions of the land apply equally to each variance request for the building. In this case, it would be appropriate to make a single motion to cover all of the dimensional variances requested for the building.

The applicant is requesting the following variances in connection with the proposed 181 sq. ft. bathhouse and storage area.

	Required	Proposed	Variance of:	Section
Front setback	15 feet	.2 feet	14.8 feet	154.37,D,1
Side setback	10 feet	1.5 feet	8.5 feet	154.37,D,1
Set back to roadway	20 feet	10 feet	10 feet	154.092,D,2c-d
Waterfront setback	25 feet	9 feet	16 feet	154.021,F,4

Section 154.155 (B) provides the standards that must be met in order for the Board to grant a dimensional (non-use) variance:

1. That strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
2. That a variance would do substantial justice to the owner as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others.
3. That the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions.
4. That the problem is not self-created or based on personal financial circumstances.

**RECOMMENDATION:** We bring to your attention that it is the responsibility of the applicant to provide evidence that ALL of the above conditions be met in order to grant a variance. If ALL of the above conditions are met the variance shall be granted. In order to assure that your decision can withstand any challenges, either for or against, it is essential that the findings are clearly articulated.

The sample motion may be used:

I hereby make a motion to (Approve/Deny) the application for 443 Park Street for the construction of a bathroom and laundry area at the following setbacks:

Description	Required	Proposed	Variance of:	Section
Front setback	15 feet	12.2 feet	14.8 feet	154.37,D,1
Side setback	10 feet	1.5 feet	8.5 feet	154.37,D,1
Set back to roadway	20 feet	10 feet	10 feet	154.092,D,2c-d
Waterfront setback	25 feet	9 feet	16 feet	154.021,F,4

and conditioned upon proper building and zoning permits being issued, subject to any actions by the Planning Commission and the State and Federal Governments. This motion is based on the following findings of fact:

Please restate the findings of fact:

Standard 1 is met/not met because: \_\_\_\_\_

---



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Standard 2 is met/not met because: \_\_\_\_\_

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Standard 3 is met/not met because: \_\_\_\_\_

---



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Standard 4 is met/not met because: \_\_\_\_\_

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**Variance 2. Four foot high screen with gate**

It would be appropriate to make a single motion to cover all the dimensional variances requested for the screen with gate.

The applicant is requesting the following variances in connection with the proposed screen with gate.

	Ordinance	Proposed	Variance of:	Section
Maximum height	3 feet	4 feet	1 foot	154.143 (E) 5
Opacity	6:1	Solid board	No opacity	154.143 (F) 6

Section 154.155 (B) provides the standards that must be met in order for the Board to grant a dimensional (non-use) variance:

1. That strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity unnecessarily burdensome.
2. That a variance would do substantial justice to the owner as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others.
3. That the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions.
4. That the problem is not self-created or based on personal financial circumstances.

**RECOMMENDATION:** We bring to your attention that it is the responsibility of the applicant to provide evidence that ALL of the above conditions be met in order to grant a variance. If ALL of the above conditions are met the variance shall be granted. In order to assure that your decision can withstand any challenges, either for or against, it is essential that the findings are clearly articulated.

The sample motion may be used:

I hereby make a motion to (Approve/Deny) the application for 443 Park Street for a four foot high solid board screen in the front yard and within 25 feet of the waterfront subject to any actions by the Planning Commission. This motion is based on the following findings of fact:

Please restate the findings of fact:

Standard 1 is met/not met because: \_\_\_\_\_

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Standard 2 is met/not met because: \_\_\_\_\_

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Standard 3 is met/not met because: \_\_\_\_\_

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Standard 4 is met/not met because: \_\_\_\_\_

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**Variance 3. Eight feet high screen for electrical equipment**

**154.142 SCREENING.**

(A) *Intent.* The intent of this section is to promote the public’s health, safety and general welfare by minimizing noise, air and visual pollution; to improve the appearance of off-street parking and other vehicular use areas; and require buffering between incompatible land uses.

\* \* \* \* \*

(D) *Screening between land uses.* Upon any project for which a site plan is required, or whenever a nonresidential use or multiple family dwelling abuts a residentially zoned or used property, screening shall be constructed along all adjoining boundaries with residentially zoned or used property. . . . The required screening may be accomplished by the following methods:

\* \* \* \* \*

(3) A solid wall or fence meeting the requirements of this section at least five feet but not greater than six feet in height measured on the side of the proposed wall having the higher grade within five feet horizontally. When the distance between structures or adjoining lots is less than twice the minimum setback, or where there is a need to provide a greater noise or dust barrier or to screen more intense development, a solid wall or fence may be required at the discretion of the Planning Commission.

\* \* \* \* \*

(F) *Additional screening requirements.* Where a commercial or industrial zone or use abuts a residential zone or use, all support equipment including but not limited to air conditioning and heating equipment, gas meters and exhaust fans located outside of a building shall be screened from the view of abutting streets and surrounding properties. If the building is located in the Historic District, the proposed screening must be approved by the Historic District.

Screening	Ordinance	Proposed	Variance of:	Section
Maximum height	6 feet	6 feet / 8 feet section	2 foot	154.142 (D) 3, (F)

**RECOMMENDATION:** We bring to your attention that it is the responsibility of the applicant to provide evidence that ALL of the above conditions be met in order to grant a variance. If ALL of the above conditions are met the variance shall be granted. In order to assure that your decision can withstand any challenges, either for or against, it is essential that the findings are clearly articulated.

Section 154.155 (B) provides the standards that must be met in order for the Board to grant a dimensional (non-use) variance:

1. That strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.

2. That a variance would do substantial justice to the owner as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others.
3. That the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions.
4. That the problem is not self-created or based on personal financial circumstances.

**RECOMMENDATION:** We bring to your attention that it is the responsibility of the applicant to provide evidence that ALL of the above conditions be met in order to grant a variance. If ALL of the above conditions are met the variance shall be granted. In order to assure that your decision can withstand any challenges, either for or against, it is essential that the findings are clearly articulated.

The sample motion may be used:

I hereby make a motion to (Approve/Deny) the application for the screening between 443 Park Street and the Chain Ferry by solid board screen at 8 foot high for a section 10 feet in length to screen the electric panels, and the remainder will be reduced to 6 feet in height subject to any actions by the Planning Commission. This motion is based on the following findings of fact:

Please restate the findings of fact:

Standard 1 is met/not met because: \_\_\_\_\_

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Standard 2 is met/not met because: \_\_\_\_\_

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---

Standard 3 is met/not met because: \_\_\_\_\_

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---

Standard 4 is met/not met because: \_\_\_\_\_



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## Cindy Osman

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**From:** loyda cull <lc1636@icloud.com>  
**Sent:** Wednesday, July 7, 2021 10:48 AM  
**To:** Cindy Osman  
**Cc:** loyda cull; Ryan Heise; Scott Dean; Ken Trester; robt2456@att.net  
**Subject:** ZBA --- River lot # 25 on Park St. Saugatuck

To Zoning Board of Appeals,

This note is in reference to the petition from Dune Ridge (now VHH) to ZBA , applying for a permit to build a 4' fence next to Casa Loma property. Why do they keep saying "next to Casa Loma"?.

We want to notate and make clear, that VHH cannot, will not, be building it next to Casa Loma. Next to Casa Loma is lot # 25. This lot belongs to Alcock's, Prokopeak's and Cull's.

Please include this note in the packet sent to ZBA and make it a part of record.

Best Regards

Bob and Loyda Cull



# Zoning Board of Appeals Application

## LOCATION INFORMATION APPLICATION NUMBER \_\_\_\_\_ - \_\_\_\_\_

Address 443 Park St Parcel Number 03-57-009-054-00

## APPLICANTS INFORMATION

Name Paul Heule Address / PO Box 231 W Fulton  
City Grand Rapids State MI Zip 49503 Phone 616-813-3333  
Interest In Project Manager of Dune Ridge SA, LP E-Mail pcheule@eenhoorn.com  
Signature \_\_\_\_\_ Date \_\_\_\_\_

## OWNERS INFORMATION (IF DIFFERENT FROM APPLICANTS)

Name Dune Ridge SA, LP Address / PO Box 231 W Fulton  
City Grand Rapids State MI Zip 49503 Phone 616-813-3333

I hereby authorize that the applicant as listed above is authorized to make this application for proposed work as my agent and we agree to conform to all applicable laws and regulations of the City of Saugatuck. I additionally grant City of Saugatuck staff or authorized representatives thereof access to the property to inspect conditions, before, during, and after the proposed work is completed or to gather further information related to this request.

Signature  Date 5/5/2021

## CONTRACTORS/ DEVELOPERS INFORMATION (UNLESS PROPOSED WORK IS TO BE DONE BY THE PROPERTY OWNER)

Name Graystone Homes LLC Contact Name Ed Pynnonen  
Address / PO Box 7114 Gladys SE City Grand Rapids  
State MI Zip 49546 Phone 616-437-4288 Fax NA  
License Number 2102212841 Expiration Date 5/31/22

## PROPERTY INFORMATION

Depth 25 Width 105 Size 0.8 A Zoning District R-C4 Current Use Boat slip  
Check all that apply: Waterfront  Historic District \_\_\_\_\_ Dunes \_\_\_\_\_ Vacant \_\_\_\_\_  
Application Type: Interpretation \_\_\_\_\_ Dimensional Variance  Use Variance \_\_\_\_\_

## REQUEST DESCRIPTION (ATTACH MORE SHEETS IF NECESSARY)

(See Attached Request Description)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**SITE PLAN REQUIREMENTS (SECTION 154.061)**

A site plan and survey showing the following information shall be submitted with the coverage of this application and other required information as outlined below. (Please note that not all will apply for minor waterfront construction)

- | Y                                   | N                                   | NA                                  |  |
|-------------------------------------|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Dimensions of property of the total site area,   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Contours at 2-foot intervals   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | Locations of all buildings   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Other structures on adjacent properties within 100 feet of the property, including those located across the street from the property   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | Parking areas  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | Driveways  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | Required and proposed building setbacks  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | Location of abutting streets and proposed alignment of streets, drives and easements serving the development, including existing rights-of-way and pavement widths;  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | Location, screening, dimensions and heights of proposed buildings and structures, such as trash receptacles, utility pads and the like, including accessory buildings and uses, and the intended uses thereof. Rooftop or outdoor appurtenances should also be indicated, including proposed methods of screening the equipment, where appropriate;                  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | Location and dimensions of parking areas, including computations of parking requirements, typical parking space dimensions, including handicapped spaces, and aisle widths;  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Proposed water supply and wastewater systems locations and sizes;  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Proposed finished grades and site drainage patterns, including necessary drainage structure. Where applicable, indicate the location and elevation of the 100-year floodplain;   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Proposed common open spaces and recreational facilities, if applicable;  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Proposed landscaping, including quantity, size at planting and botanical and common names of plant materials;  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Signs, including type, locations and sizes;  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | Location and dimensions of all access drives, including driveway dimensions, pavement markings, traffic-control signs or devices, and service drives;  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Exterior lighting showing area of illumination and indicating the type of fixture to be used.  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | Elevations of proposed buildings drawn to an appropriate scale shall include: <ol style="list-style-type: none"> <li>1. Front, side and rear views;</li> <li>2. Heights at street level, basement floor level, top of main floor, top of building, and if applicable, height above water level; and</li> <li>3. Exterior materials and colors to be used.</li> </ol> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | Location, if any, of any views from public places to public places across the property;  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Location, height and type of fencing; and  |



- The name and address of the person and firm who drafted the plan, the seal of the professional responsible for the accuracy of the plan (licensed in the state) and the date on which the plan was prepared.
- Other information as requested by the Zoning Administrator

**DIMENSIONAL VARIANCE REQUEST STANDARDS PER SECTION 154.155(B)**

Please respond to each of the following questions. As part of your request to obtain a dimensional or non-use variance, the owner must show a practical difficulty by demonstrating that all of the following standards are met:

- (1) Explain how strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome;

The property cannot be used for any of the uses permitted in the district because all of the property is covered by setback.

- (2) Explain how a variance would do substantial justice to the owner as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others;

A variance to allow the construction on a bathroom and storage/laundry room and would allow the owner to use the property for an intended use that is much less impact than a variance to build a home (which is consistent with what other property owners have done).

- (3) Explain how the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions; and

It is unique to have a lot that due to setbacks has no building envelope. Granting a variance would not alter the essential character of the neighborhood as the intended use is consistent the existing uses along the riverfront.

- (4) Explain how the problem is not self-created or based on personal financial circumstances.

This problem is a result of the geometry of the lot and riverfront, the offset of the road right of way, the set backs in the zoning district, the Kalamazoo River and the adjacent property for the landing area for the chain ferry, none of which are self-created.



**USE VARIANCE REQUEST STANDARDS PER SECTION 154.155(C)**

Please respond to each of the following questions. As part of your request to obtain a use variance, the applicant must show an unnecessary hardship by demonstrating that all of the following standards are met:

- (1) Please explain how the property in question cannot be used for any of the uses permitted in the district in which it is located;

The setbacks do not allow for the construction of any structure. The dock adjacent to the City's chain ferry is so close, and the number of times that numerous people leave the chain ferry and walk past the dock each time the chain ferry arrives on the west side of the river, and the number of times that numerous people stand next to that dock waiting for the chain ferry to arrive is so large, that it makes the adjacent dock (without a privacy screen) essentially unusable to any of the owners of units in Dunegrass. A privacy screen is essential allowing the entire intended uses of the dock.

- (2) Please explain how the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions;

The unique proximity of the ROW to the Riverfront prevent the construction of any structure. It's unique shape and its proximity to the City's chain ferry property are what cause the unnecessary hardship without a privacy screen. Though possibly created in part by artificial means (the dredging or filling of the south boundary of the City's chain ferry parcel so that the river abuts most of it, the lack of sufficient space to properly buffer the dock (and accompanying vessel) from the chain ferry customers leaves no other means for providing necessary buffering than a privacy screen.

- (3) Please explain how by granting the variance, the essential character of the neighborhood would not be altered; and

The essential nature of the area revolves around waterfront activities, primarily related to pleasure boating granting a variance for the bath room/laundry/storage building is consistent the existing uses. The requested 6' privacy screen would allow a continuation of pleasure boat usage at the adjacent dock. The only other parcel that the privacy screen would be close enough to impact would be the City's chain ferry parcel. Applicant is proposing to landscape the City parcel in front of the privacy screen and allow a part of it to be used for a historic story board. Thus the City will not be negatively impacted by the privacy screen.

- (4) Please explain how the problem is not self-created or based on personal financial circumstances.

This problem is a result of the geometry of the lot and riverfront, the offset of the road right of way, the set backs in the zoning district, the Kalamazoo River and the adjacent property for the landing area for the chain ferry, none of which are self-created. The applicant agreed to swap nearby parcels with the City, to provide a radar speed sign, and to stripe a crossing lane and sidewalk in exchange for the right to construct the privacy screen (at its cost). Applicant is now also agreeing to reduce the height of the privacy screen, to landscape the City parcel in front of the privacy screen, and to allow an historic story board on part of it. Thus applicant is trying to minimize the problem that other parties created.



OFFICE USE ONLY:

Application Complete \_\_\_\_\_ Date \_\_\_\_\_ Fee Paid \_\_\_\_\_ Date Paid \_\_\_\_\_  
Date Notice Sent \_\_\_\_\_ Date Resident Notification \_\_\_\_\_ Hearing Date \_\_\_\_\_

Notes: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Motion to Approve \_\_\_\_\_ Deny \_\_\_\_\_

Findings of Fact:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Chair Signature _____	Vote _____
Member Signature _____	Vote _____
Member Signature _____	Vote _____
Member Signature _____	Vote _____
Member Signature _____	Vote _____

## REQUESTED DESCRIPTION

The owner requests a variance from the front yard setback from the 15' to 2', side setbacks from 10' to 2', and from the water side set back from 25' to 10' to construct a bathroom and storage closet/laundry on the upland portion of its marina. The owner requests a dimension variance for a 4' solid board half wall with gate in lieu of a 3' fence with 6:1 ratio open space. If these requested variances are approved, then the owner will consent to reducing the existing 8' privacy screen that was installed pursuant to a 2019 written agreement with the City. The owner would request a variance to allow the 8' privacy screen to remain at 8' to cover the electric meter, but would agree to reduce the rest of the privacy screen to 6' (without waiving its legal argument that the entire 8' privacy screen has already been properly approved by the City in a legally enforceable document). As a result of the unique lot shape, the riverfront, the offset of the Park Street right-of-way, and the overlapping setbacks, the upland portion of the parcels have no building envelope (see site setback sketch). The structures proposed to be built are customary accessories to marina uses. Boat owners that use the marina would utilize these structures as is done in other area marinas. The marina is fully permitted (both state and US Army Corps of Engineers) and is a use that is permitted with special land use approval, which was obtained from the Planning Commission in 2017. It is a long-time parcel that is subject to property tax yet is not capable of being used like other marinas without a variance.



# 443 PARK STREET, SAUGATUCK, MI

## GENERAL NOTES

1. CONTRACTOR TO SITE VERIFY ALL SITE CONDITIONS AND COORDINATION OF ALL DIMENSIONS OF THIS DRAWINGS. IF ANY CONFLICTS OCCUR DURING CONSTRUCTION THE CONTRACTOR IS TO NOTIFY OWNER OR OWNER'S REPRESENTATIVE BEFORE PROCEEDING.
2. STRUCTURAL DRAWINGS TO BE PROVIDED BY OTHERS. ANY STRUCTURAL NOTES ON THESE DRAWINGS TO BE VERIFIED AND APPROVED BY THE STRUCTURAL ENGINEER PRIOR TO CONSTRUCTION.
3. CONTRACTORS AND SUB-CONTRACTORS ARE TO NOTIFY OWNER OR OWNER'S REPRESENTATIVE BEFORE CUTTING INTO, DRILLING OR OTHERWISE CHANGING ANY STRUCTURAL ELEMENT BEFORE PROCEEDING. ANY ISSUES CREATED BY CHANGING ANY STRUCTURAL ELEMENTS SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR THAT DID THE MANIPULATION.
4. ALL WORK SHALL BE DONE TO THE "BEST PRACTICE" QUALITY STANDARDS OF THE INDUSTRY AND IN A PROFESSIONAL WORKMANSHIP MANNER.
5. ALL WORK TO BE DONE TO THE CODE REQUIREMENTS/PRACTICES OF ALL GOVERNING BODIES WITH JURISDICTION OVER PROJECT.

## SITE/GRADE/CONCRETE WORK

1. ALL CONCRETE WORK SHALL CONFORM TO THE LATEST EDITION CODE OF THE AMERICAN CONCRETE INSTITUTE AND THE LATEST EDITION OF MANUAL OF STANDARD PRACTICE FOR DETAILING CONCRETE STRUCTURES SHALL BE ADHERED TO.
2. LOCATION OF ALL CONSTRUCTION OR COLD JOINTS MUST BE APPROVED BY THE ENGINEER.
3. PIPE OR DUCTS EXCEEDING 1/3 THE SLAB OR WALL THICKNESS SHALL NOT BE PLACED IN STRUCTURAL CONCRETE UNLESS SPECIFICALLY DETAILED. PIPES MAY PASS THROUGH CONCRETE IN SLEEVES BUT SHALL NOT BE IMBEDDED THEREIN.
4. ALL REINFORCING BARS, ANCHOR BOLTS, AND OTHER INSERTS SHALL BE SECURED IN PLACE BEFORE POURING CONCRETE. BAR PLACEMENT, REPLACEMENT AND SUPPORT SHALL BE IN ACCORDANCE WITH THE RECOMMENDED PRACTICE ACCEPTED BY A.C.I.
5. ALL INSERTS, ANCHOR BOLTS, PLATES, ETC. TO BE EMBEDDED IN CONCRETE SHALL BE HOT DIP GALVANIZED UNLESS NOTED OTHERWISE.
6. IT IS THE CONTRACTOR'S RESPONSIBILITY TO PROVIDE ADEQUATE DRAINAGE AWAY FROM THE STRUCTURE WITH BOTH SOIL AND CONCRETE FINISH GRADES. CONCRETE CONTRACTOR TO WORK WITH EXCAVATION CONTRACTOR TO INSURE PROPER DRAINAGE.
7. IT IS THE CONTRACTOR'S RESPONSIBILITY TO PROVIDE COMPACTED SUB GRADES/FINISH GRADES/ AND WELL DRAINED BACKFILLS PER ACCEPTED INDUSTRY STANDARDS AS REQUIRED FOR EXISTING SOIL AND MARINA CONDITIONS.
8. CONCRETE USED SHALL BE AS PRESCRIBED FOR MARINA SITES. ANY VAPOR BARRIER/CONTROL JOINTS OR EXPANSION CONTROL ARE THE RESPONSIBILITY OF THE CONTRACTOR, SCOPE OF WORK TO BE INCLUDED IN CONTRACTOR'S QUOTE.
9. USE OF ADMIXTURES IS PERMITTED TO PROVIDE PROPER SLUMP AND WORKABILITY BUT SUBJECT TO THE ENGINEER'S APPROVAL. ADDITION OF WATER TO CONCRETE AT THE JOB SITE IS NOT ALLOWED.
10. ALL AREAS TO RECEIVE WALL PLATES TO BE PROVIDED WITH INSET ANCHOR BOLTS PER CODE.
11. ALL FOOTINGS FOR NEW LAND FOUNDATION WALLS TO BE KEYED INTO EXISTING SOIL BY 2".
12. PROVIDE 4" PERFORATED SOCK DRAIN TILE AROUND OUTSIDE OF FOOTINGS AS REQUIRED/NEEDED FOR DRAINAGE.
13. CONCRETE LAND WALLS SHALL BE HEIGHT, DEPTH AND REINFORCED PER ENGINEERED SPECIFICATIONS.
14. ALL FOOTINGS TO BE PER ENGINEER'S SPECIFICATIONS
15. PROVIDE FOUNDATION BLEEDERS AS NEEDED, MIN. (1) EACH 30' OF WALL.
16. PROVIDE ALL NEW CONCRETE SLABS AS NOTED ON PLANS.

## WOOD FRAMING NOTES

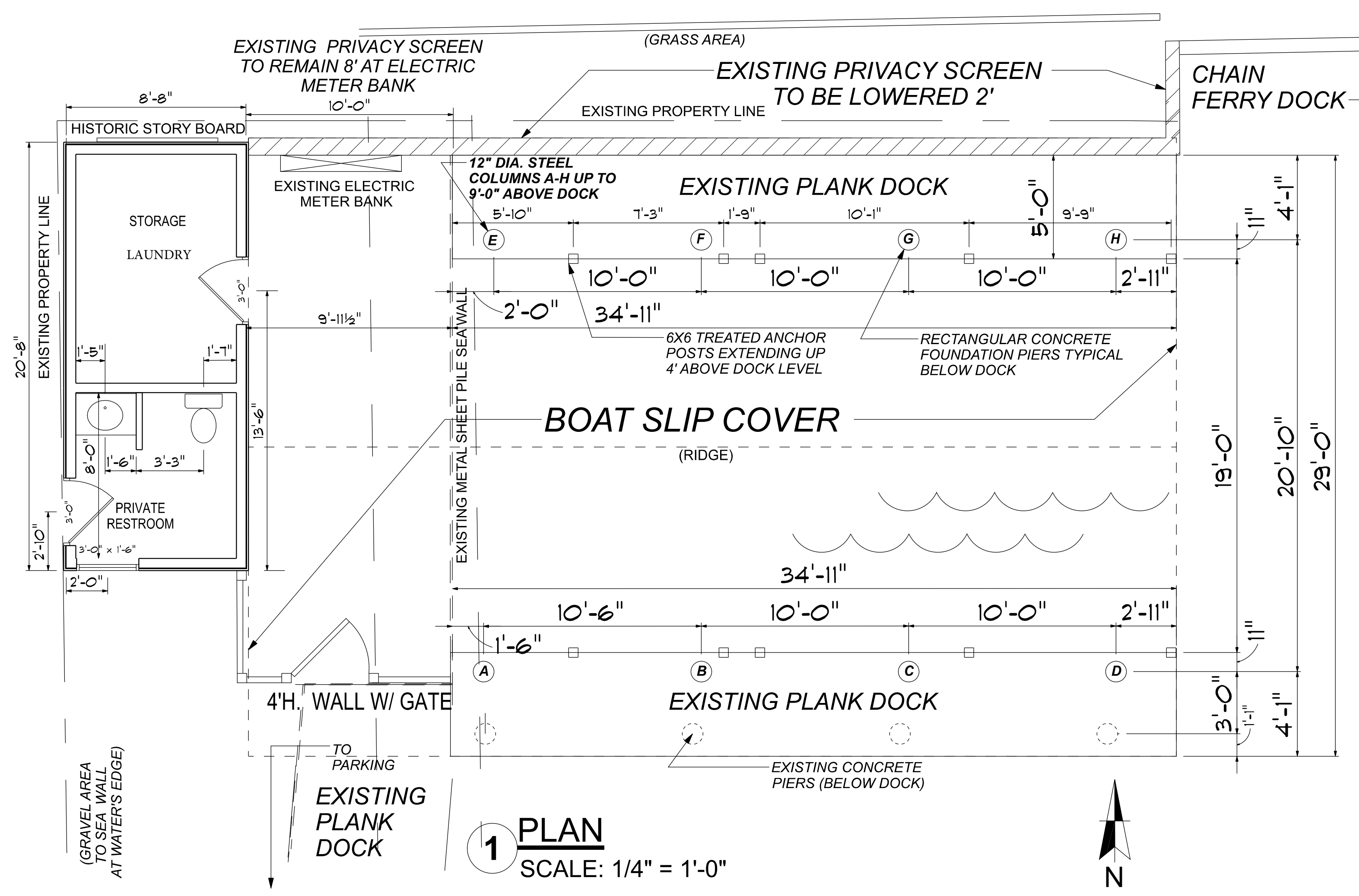
1. SEE STRUCTURAL DRAWINGS FOR ROOF TRUSSES, BEAMS, FLOOR SYSTEMS, HEADERS & OTHER STRUCTURAL ELEMENTS.
2. ALL BASE PLATES AGAINST CONCRETE TO BE ANTI-ROT TREATED LUMBER WITH FOAM INSULATION PAD AND SECURED BY ANCHOR BOLTS SET INTO CONCRETE.
3. TYPICAL EXTERIOR WALL FINISH TO BE 3/4" OSB/TYVEC/AND SPECIFIED SIDING/SHEATHING UNLESS OTHERWISE NOTED.
4. CONTRACTOR TO PROVIDE PROPER FLASHING TO INSURE WEATHER TIGHT JOINT.
5. FRAMER TO BUILD STEPS AS NEEDED FOR ACCESS AND EGRESS TO MEET CODE, NO RISER HIGHER THAN 7", MIN. TREAD 11"
6. FRAMER TO INSTALL BRACES FOR ROOF SUPPORT AND WIND BRACING DURING CONSTRUCTION WITH EFFECTIVE HOLD DOWNS IN PLACE TO PROTECT AGAINST UPLIFT AND GRAVITY.
7. FRAMER TO INSTALL MOISTURE BARRIER.
8. ALL FRAMING TO BE 16" O.C. FOR WALLS/FLOORS/CEILING UNLESS OTHERWISE NOTED. SEE STRUCTURAL DRAWINGS FOR OTHER SPACING.
9. ALL FRAMING SHALL BE PLUMB/SQUARE.
10. STEEL WELDING TO BE COMPLETED PRIOR TO WOOD COMPONENT INSTALLATION - INCLUDING ALL ACHORS, SEATS, FASTENERS TO SUPPORT WOOD/STEEL CONNECTIONS.

## FINISH & MATERIAL NOTES

1. ALL INTERIOR FINISHES AND CEILING TO BE WATERPROOF/WATER RESISTANT CERTIFIED UNLESS OTHERWISE NOTED.
2. INSULATION ONLY AS REQUIRED AND INCLUDE ATTIC VENTING AND ENERGY SAVING SEAL BLOCKING BY CONTRACTOR TO MEET ALL CODE REQUIREMENTS.
3. ALL FASTENING SYSTEMS AND PRODUCTS TO BE PROVIDED BY CONTRACTOR AND THEY MUST MEET CODE REQUIREMENT PER SITUATION.
4. ALL FRAMING TO BE 16" O.C. FOR WALLS/FLOORS/CEILING UNLESS OTHERWISE NOTED. SEE STRUCTURAL DRAWINGS FOR OTHER SPACING.
5. ALL FRAMING NOT PLUMB/SQUARE IS TO BE CORRECTED PRIOR TO INSTALLATION OF FINISH MATERIAL.
6. ALL WINDOWS/DOORS/EXTERIOR & INTERIOR COLOR SPECIFICATIONS/OTHER PRODUCT SPECIFICATIONS TO BE SPECIFIED BY OWNER. CONTRACTOR TO PROVIDE SAMPLES FOR APPROVAL AS REQUIRED.
7. ALL DETAILS FOR PRODUCTS, PLUMBING FIXTURES, BUILT-IN FIXTURES/COVERINGS & MISCELLANEOUS PRODUCT REQUIRED TO BE PROVIDED BY OWNER, VENDOR TO SUPPLY DETAIL DRAWINGS/SAMPLES WHEN REQUIRED.
8. INSTALLATION FOR INTERIOR AND EXTERIOR MATERIALS/PRODUCTS SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR UNLESS OTHERWISE SPECIFIED BY THE OWNER.
9. ALL TRIM SPECIFICATIONS AND LOCATIONS (NOT SHOWN ON THE DRAWINGS) TO BE SPECIFIED BY BUILDER/OWNER'S-REPRESENTATIVE.

## ELECTRICAL NOTES

1. ALL POWER OUTLETS TO BE EXTERIOR/GFI PROTECTED PROVIDED PER CODE, AND AT MIN. 18" TOP OF BOX ABOVE FLOOR PER LOCATIONS SPECIFIED BY BUILDER/OWNER'S-REPRESENTATIVE.
2. ALL SWITCH CONTROLS TO BE PROVIDED AT 41" TOP OF BOX PER LOCATIONS SPECIFIED BY OWNER.
3. ALL POWER/LIGHTING/UTILITY OUTLETS IN WET LOCATIONS TO BE PROVIDED WITH SAFETY PROTECTIONS PER CODE.
4. LIGHTING LOCATIONS TO BE PROVIDED/SPECIFIED BY OWNER OTHER THAN THOSE REQUIRED BY CODE.



**1 PLAN**  
SCALE: 1/4" = 1'-0"

**MAIN FLOOR - DOCK ONLY**  
SCALE: 1/4" = 1'-0"

## GENERAL STRUCTURAL NOTES

1. ALL DESIGN AND CONSTRUCTION SHALL CONFORM TO THE MICHIGAN RESIDENTIAL BUILDING CODE 2015
2. DESIGN LOADS: TO BE DETERMINED BY STRUCTURAL ENGINEER  
LIVE LOAD: SNOW 50 PSF (GROUND)  
WIND: T.B.D.  
SEISMIC: T.B.D.  
DESIGN SOIL BEARING: TO BE VERIFIED BY SOIL SAMPLE TESTING, FOUNDATION FOR THIS STRUCTURE IS EXISTING.  
SOILS: TO BE VERIFIED BY SOIL SAMPLE TESTING
3. TRUSS MANUFACTURER TO SUBMIT CERTIFIED TRUSS DRAWINGS AND LVL/STEEL BEAM ROOF FRAME/STRUCTURE TO BUILDING AUTHORITY.

## CODE INFORMATION --- RESIDENTIAL

DESIGN PARAMETERS:  
2015 MICHIGAN BUILDING CODE  
2015 MICHIGAN MECHANICAL CODE  
2015 MICHIGAN PLUMBING CODE  
NFPA 70 - NATIONAL ELECTRIC CODE 2017

OCCUPANCY:  
U - UTILITY & MISCELLANEOUS GROUP, BOATHOUSE

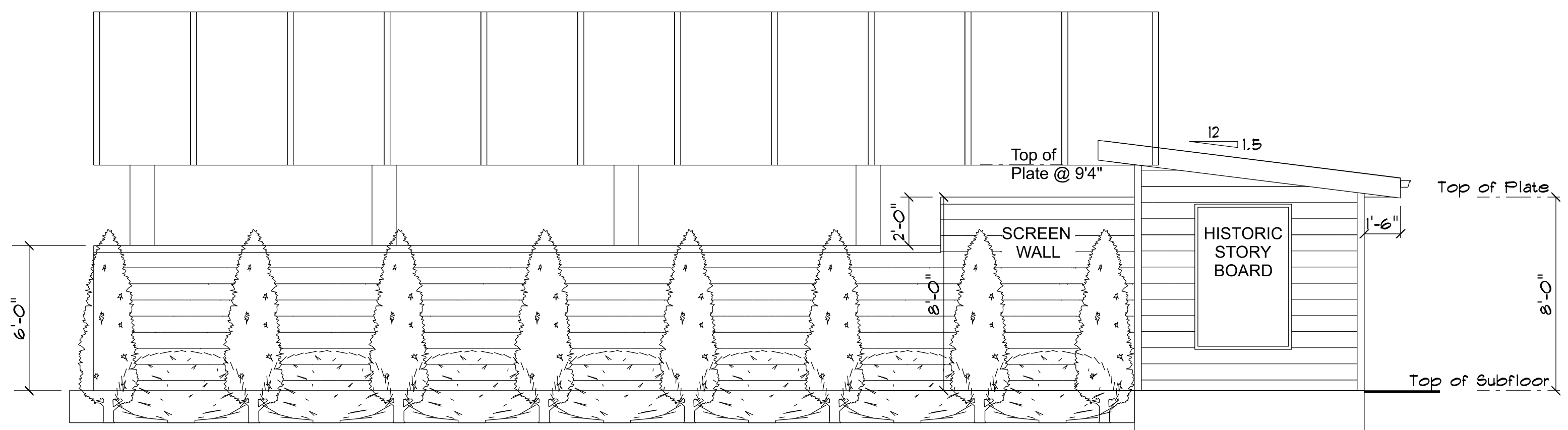
CONSTRUCTION:  
TYPE 5-B UNPROTECTED  
NON-SPRINKLERED  
EXTERIOR BEARING WALLS - #2 & BTR 6PF  
ROOFING MATERIAL - WOOD TRUSS/BEAMS, STEEL BEAMS  
SHINGLE, EPDM

SEPARATION:  
NONE

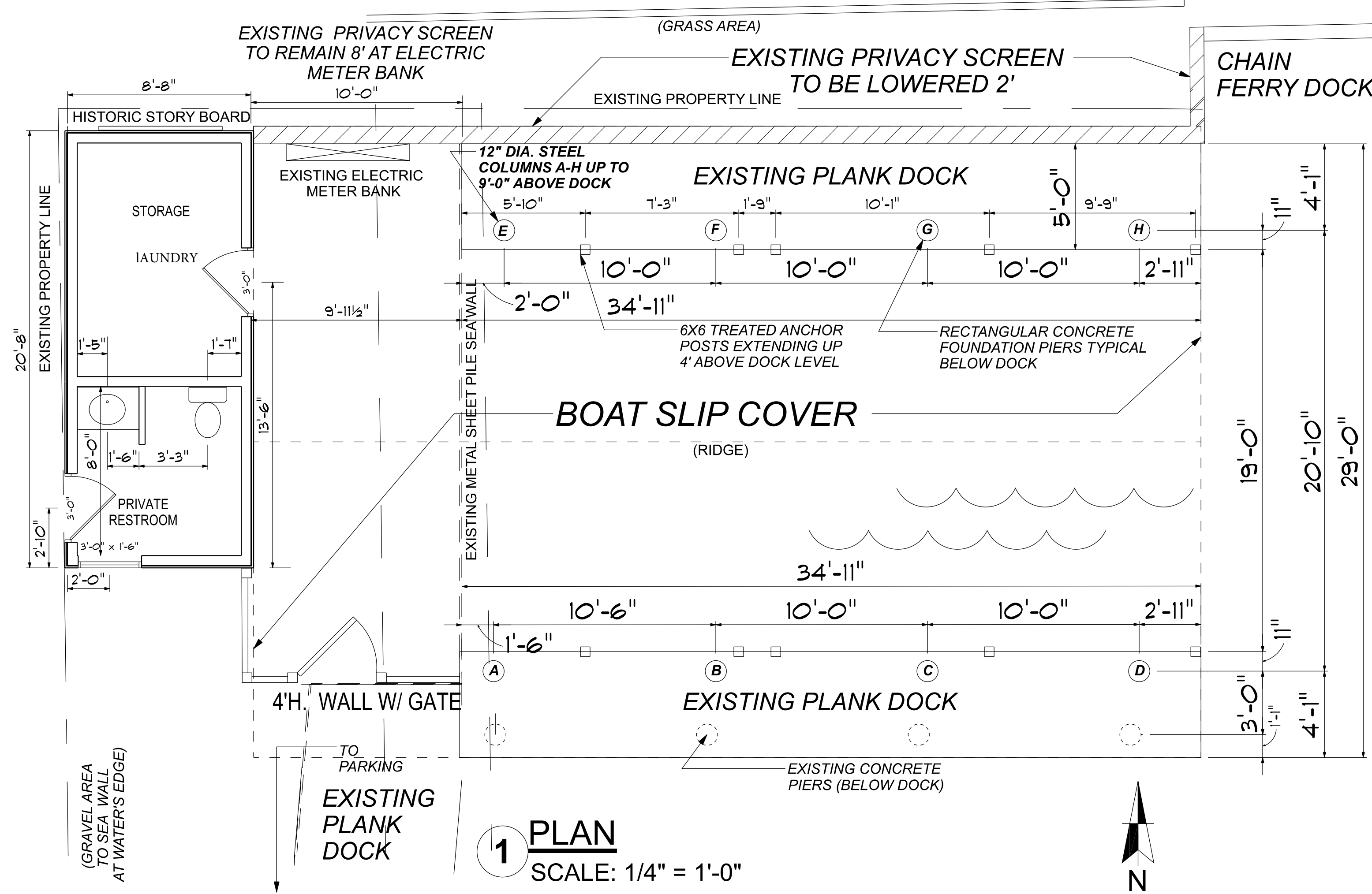
DRAWING TITLE	PAGE #
COVER/SCHEMATIC DESIGN	PAGE #1
MAIN DOCK LEVEL PLAN	PAGE #2
FOUNDATION LEVEL PLAN	PAGE #3
NORTH/SOUTH ELEVATIONS	PAGE #4
EAST/WEST ELEVATIONS	PAGE #5



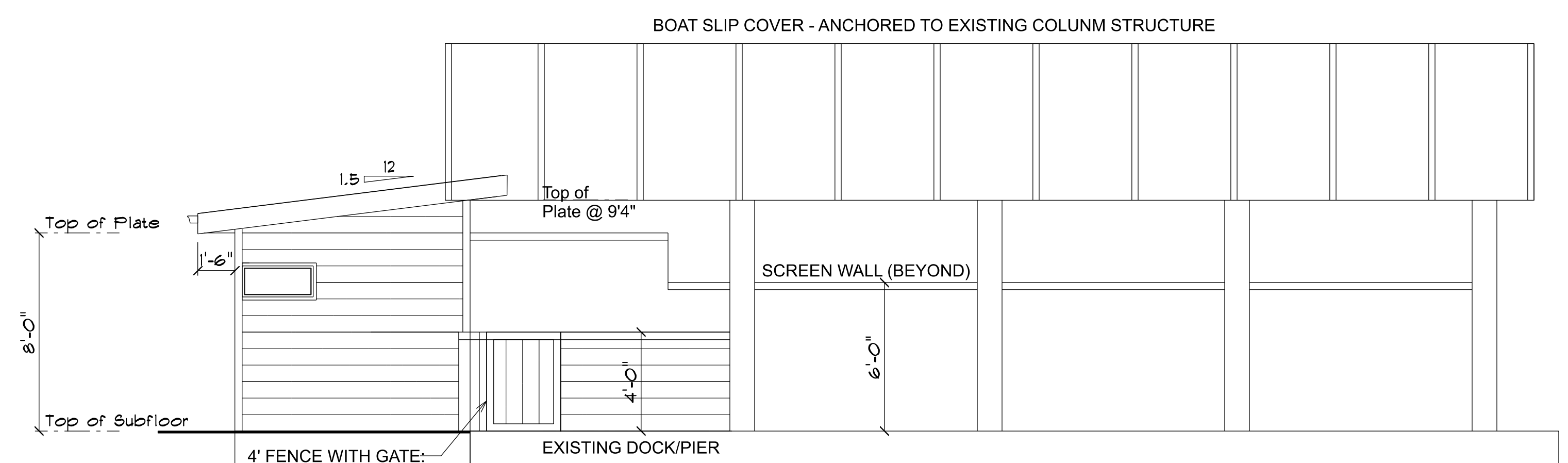
**EXISTING DOCK + STEEL COLUMN STRUCTURE**



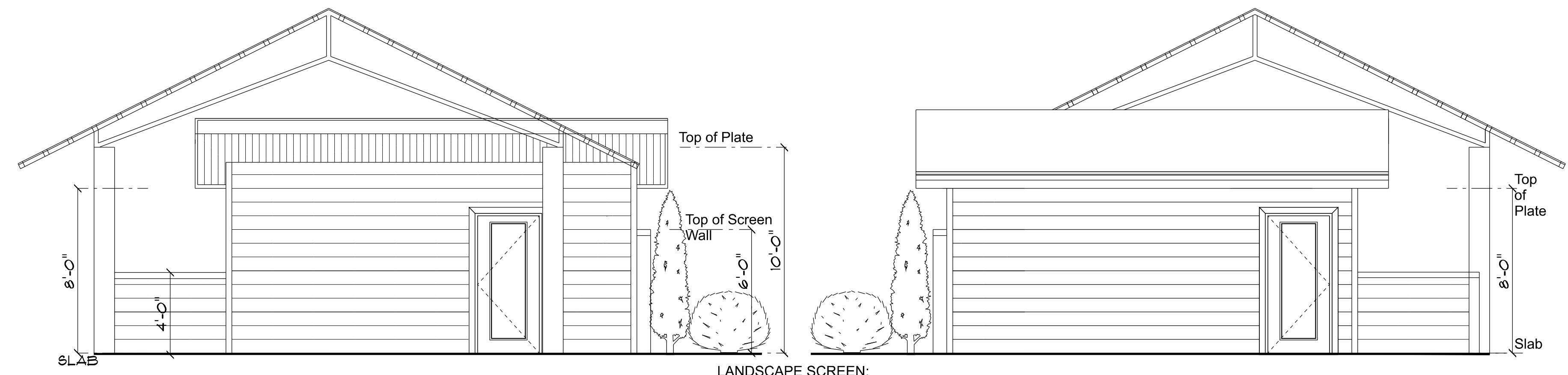
CHAIN FERRY ELEVATION



1 PLAN SCALE: 1/4" = 1'-0"

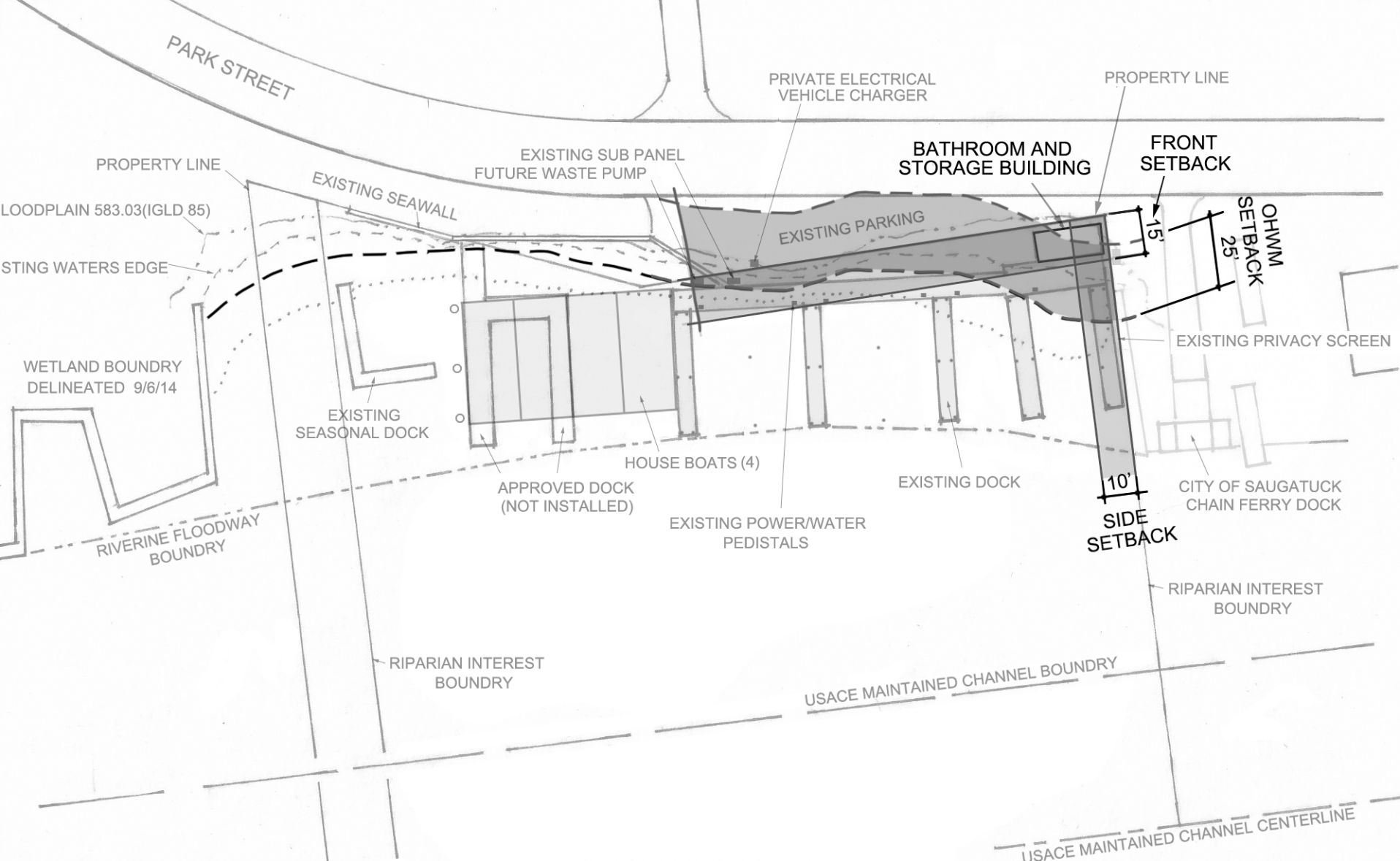


PARKING SIDE - ELEVATION (PRIVATE ENTRY SIDE)



WATER ELEVATION

LAND ELEVATION



**LOT SETBACKS AT  
BATHROOM STORAGE BUILDING**

SCALE: 1" = 40'

## Cindy Osman

---

**From:** Sue Bleers <susiebleers@gmail.com>  
**Sent:** Thursday, June 10, 2021 5:12 PM  
**To:** Cindy Osman  
**Subject:** Variances at Park and Bliss

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

To Saugatuck city:

It is difficult to comprehend how the question of a variance regarding the building of a washroom would even be allowed to be introduced again when it was already denied when it came up before. It is just as difficult to understand why a n 8 foot fence was allowed to be constructed when it was also denied. Who is running Saugatuck. Others of us who have tried to get variances have been denied and we had to live with the decision. Why on earth shouldn't they have to live with the decision also. Shouldn't the ordinances apply to all especially when variances are denied. Who follows through when someone ignores the decision and does whatever they want. Wouldn't Saugatuck become chaos and fall apart if this is the way the government is treated This went from a couple of piers for owners of the houses being built on the lake to calling a little slip of land a marina? And putting in rental houseboats? Since when is a marina a rental facility full of houseboats owned by one company.

A marina by definition is a place for small boats and yachts to dock not a place for an owner to put in a bunch of houseboats he rents out.

Is the definition of a marina now a small strip of l lol and along water that anybody can buy and throw in rental houseboats. This doesn't benefit the neighborhood or Saugatuck at all.

Sincerely, Susan Bleeds

STATE OF MICHIGAN  
48TH JUDICIAL CIRCUIT

PARTY NOTIFICATION

CASE NO.  
16-056795-AA

Court Address ALLEGAN COUNTY  
113 CHESTNUT STREET  
ALLEGAN MI 49010

Court Telephone No.  
269-673-0231

Mailing Date: 4/10/17

Mail To:  
CRYSTAL L. MORGAN  
BLOOM SLUGGETT MORGAN PC  
15 IONIA AVE SW  
STE 640  
GRAND RAPIDS MI 49503

Judge: KEVIN W. CRONIN

Plaintiff  
DUNEGRASS SA LP

v

Defendant  
CITY OF SAUGATUCK

PLEASE TAKE NOTICE THAT ON APRIL 05, 2017 THE FOLLOWING WAS FILED IN THIS CAUSE:  
DECISION ON APPEAL FROM DENIAL OF ZONING SETBACK VARIANCES  
(COPY ATTACHED)

BOB GENETSKI  
CLERK OF THE COURT

THIS NOTICE HAS ALSO BEEN SENT TO:  
KYLE PATRICK KONWINSKI

STATE OF MICHIGAN  
IN THE 48<sup>TH</sup> CIRCUIT COURT FOR THE COUNTY OF ALLEGAN

DUNE RIDGE, SA, LP,  
a Michigan limited partnership,

Appellant,

v.

File: 16-56795-AA  
Hon. Kevin Cronin

CITY OF SAUGATUCK, a Michigan city,

Appellee.

---

Varnum, LLP  
Aaron M. Phelps (P647900)  
Attorney for Appellant  
333 Bridge Street, NW Ste 1700  
Grand Rapids, MI 49501

Bloom Sluggett Morgan, PC  
Crystal Morgan (P68837)  
Attorney for Appellee  
15 Ionia Ave., SW Ste 7640  
Grand Rapids, MI 49503

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**DECISION ON APPEAL  
FROM DENIAL OF ZONING SETBACK VARIANCES**

This Court, having reviewed the appellate pleadings and conducted a hearing on January 20, 2017, to consider the oral arguments of the parties, renders its findings and decision, as follows:

- 1) Appellant requested multiple non-use or so called "dimensional" zoning variances (for front, rear, sideline, roadway and waterfront setbacks and minimum lot area) to accommodate the construction of a 144 square foot structure intended to include a bathroom and two sinks. The number and degree of variance deviations which Appellant sought is quite substantial. (See chart of variations requested depicted in the Record on Appeal, Page ZBA21).
- 2) The parcel in question, currently vacant, is zoned in the C-4 Resort Zoning District and covers an area of only .11 acres. This distinctly narrow parcel is 40 feet wide and 130 feet long, and it is bordered by the Kalamazoo River on one side and Park Street on the other.
- 3) The City's Zoning Board of Appeals ("ZBA") conducted a public hearing in the matter on May 12, 2016, and ultimately denied the variance requests. Some testimony was offered and several letters were considered. The hearing decision is memorialized in the ZBA's minutes, approved on June 9, 2016. Neither party has contested the adequacy of notice.

- 4) Although portions of this record name the Appellant-variance applicant as “Dunegrass” and others use the name “Dune Ridge,” the Court finds that Appellant is accurately described as “Dune Ridge” in the ZBA Application for variance and notice of hearing. The Court hereby grants an amendment of all pleadings and the ZBA’s decision to conform Appellant’s nomenclature to “Dune Ridge.” Accordingly, Dune Ridge is recognized as the “aggrieved party” authorized by statute to proceed with this Appeal.
- 5) The appeal of a zoning decision is limited to the record established before the municipal body, pursuant to MCL 125.3606(1). In reviewing the ZBA record, the Court is not empowered to make credibility determinations or to re-weigh the evidence. *Brainard v. Secretary of Health and Human Services*, 889 F2d 679 at 681 (6th Circuit, 1989).
- 6) Jurisdiction is vested in the circuit court to consider this appeal from the City’s ZBA decision by MCL 125.3606(1).
- 7) A non-use or setback variance under MCL 125.3604 is properly determined under the “practical difficulties” standard. A clear test for establishing practical difficulties has not been established, but the Court of Appeals has applied a three factor test adopted from a zoning treatise and adopted by other jurisdictions. *National Boatland, Inc v Farmington Hills Zoning Bd of Appeals*, 146 Mich App 380, 380 NW2d 472 (1985). The three factors applied are:
  - a. Whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;
  - b. Whether a grant of the variance would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners; and
  - c. Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

*Id.* at 388.
- 8) Appellant’s claim that granting neighboring property owners a non-use variance automatically makes their denial unfair and an abuse of discretion is without merit. The case Appellant’s rely on for this contention is misplaced. The *Puritan* case involved a use and not a dimensional variance request and was examined under the unnecessary hardship standard and not the standard of practical difficulty for a non-use variance, as is the case here. *Puritan-Greenfield Ass’n v Leo*, 7 Mich App 659, 153 NW2d 162 (1967). Furthermore, the case was partially decided on a condition not created by the appellant, and the portion cited in Appellant’s brief arrives at a different conclusion than Appellant asserts. The Court of Appeals was expressing that the ZBA decisions are based on an

objective standard that would not give way to granting a variance simply because a variance was granted to neighboring properties in the past. *Id.* at 675-676.

- 9) Appellant claims on appeal that the parcel in question has “no building envelope” where any structure of any size can be located anywhere on the parcel, if strict conformity with the zoning ordinance is maintained (as to street and waterfront and minimum lot size). This is manifestly true because the roadway setback on one side is 20 feet, and the waterfront setback on the other side is 25 feet. The entire parcel is only 40 feet wide. Also, Appellant’s parcel is only 2/3 of the minimum size for a parcel. We are legally confined to the record in this case, and nothing in the record explains why Appellant acquired this very narrow parcel and what use he contemplated for the parcel consistent with the ordinance.
- 10) Absent the grant of variances as requested, Appellant leaps to the dire conclusion that its parcel cannot be used for any purpose under the zoning ordinance and urges the Court to find that strict ordinance compliance would “unreasonably prevent” or “unnecessarily burden” Appellant from using the property. This is a leap too far for this Court. There are other uses for this property that are neither prevented nor unnecessarily burdened by the denial of variances. A boat dock as sketched in the record, is one such use. Under prior ownership, this parcel was used to store canoes. It was apparently useful at that point despite the absence of a toilet, two sinks or a building of any kind.
- 11) The river shoreline for this parcel lies very near a popular boating area and a short walk from even more densely populated destinations for local and out-of-state tourists. Appellant could rent outdoor storage space for canoes, kayaks or bicycles or rent those recreational items to tourists. A small marina on this parcel was mentioned at the public hearing as a possible use. The ZBA suggested that strict zoning enforcement without variances would not prevent the use of this property as a marina without a bathhouse. Apparently, a marina would require a special use permit outside the ZBA’s jurisdiction, for which the Appellant has not yet applied.
- 12) Renting space to sketch artists, painters and craft sellers to ply their wares on this parcel has not been prohibited. There may be additional or more suitable ideas for the use of this property. The point is that it is premature and unfounded to conclude that without a bathroom and sink, this parcel has been stripped of usefulness. In their oral argument, Appellee seems to disclaim any suggestion that this property has usefulness without a building. On the record before us, the ZBA concluded that Appellant would not be unreasonably prevented or unnecessarily burdened in the use of the property, as it now rests, with no building and strict compliance with the zoning ordinance. This Court agrees.
- 13) The ZBA correctly concluded that Appellant cannot be faulted for “self-creation” of the problem which the variance requests address. There is nothing in this record to suggest that Appellant’s variance requests were rejected because his conduct made the parcel nonconforming.
- 14) The ZBA decision acknowledges that adding a bathroom to this parcel would enhance the property’s value, whether it is used as marina or in some other permissible fashion. The Court entirely agrees, but it doesn’t follow logically or legally that the ZBA should support



a series of variances because they would improve, even substantially, the value of one parcel. There is far more to the sound evaluation of a variance than that. Variances typically “run with the land” and can have long term effects beyond the lifetime of the current owner or several owners. Variances are designed to encourage a proper use of every parcel, and not necessarily the most profitable use, whether vacant or not. The potential income for a lot owner or the added value to the parcel is certainly not the dominant consideration on a variance. Far more important factors concern “substantial justice for other property owners and others impacted by the variance” and “general neighborhood conditions.” Personal financial circumstances (i.e. financial benefit for a parcel owner) are expressly discouraged as a factor for the ZBA to consider on a dimensional variance. Ordinance Section 154.155(B)(4).

- 15) Each variance holds the potential to weaken the perceived uniformity and fairness of zoning administration, but variances also afford the flexibility needed to adjust ordinance requirements for a single parcel for good reasons, considered in an open process. The variance is the tool by which the ZBA achieves “substantial justice” under unique circumstances. Variances are not designed to address broader zoning issues in the neighborhood. The ordinance expressly and appropriately directs those matters to be referred to the Planning Commission for evaluation of broader zoning amendments. In all these respects, the Saugatuck City Zoning Ordinance is a model for identifying the proper factors that should be addressed in deciding a variance. (Ordinance Sections 154.155 and 154.156, attached hereto).
- 16) This Court finds that ZBA members paid careful attention to considerations of uniqueness and soundly exercised their discretion. The ZBA found that the circumstances of Appellant’s property are not actually unique at all, but reflect a more widespread problem affecting several narrow parcels in the neighborhood. “There are several other narrow lots in the same [C-4] zoning district” between Park Street and the river, the ZBA said.
- 17) It was entirely appropriately for the ZBA to consider that Appellant was seeking several variances (not just one) and that the extent of the variances from each standard were not minor, but “great.” The ZBA considered the “cumulative impact” of all of the variances sought and concluded that Appellant was deviating “too much” from the spirit of the ordinance. The language of the ZBA’s decision reflects appropriate comparisons to similar parcels, past variance requests and the benefits of having members on the ZBA who know their communities well. No irrelevant, immaterial or improper subjects crept into the ZBA deliberations, the minutes reflect. The ZBA looked at all the evidence and exercised sound discretion in evaluating these matters, we conclude.
- 18) The ZBA apparently considered its member’s experience with other variances, noting that “there have been many other [variance] applicants who have been denied lesser requests.”
- 19) Based upon the entire record, the Court concludes that the ZBA decision is supported by substantial, material and competent evidence. Appellant failed to adequately show “practical difficulties” or to convince the ZBA that Appellant was unnecessarily burdened. The ZBA’s decision reflects a thoughtful and proper exercise of the discretion vested in that body.

The ZBA's decision reflects a thoughtful and proper exercise of the discretion vested in that body.

ORDER

For the reasons stated above, the decision of the City of Saugatuck Zoning Board of Appeals denying all dimensional variances requested by Dune Ridge on parcel 0357-009-006-10 is hereby affirmed.

4/5/17  
Date

Kevin W. Cronin  
Hon. Kevin W. Cronin  
48<sup>th</sup> Circuit Court

PROOF OF SERVICE

I certify that on this date, the above parties were personally served or mailed by ordinary mail a copy of this notice.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

(e) Seating shall be arranged to not interfere with pedestrian travel or the opening of car doors; and

(f) No outdoor seating within the public right of way shall be permitted between November 1 and April 1.

(P) *Service of alcoholic beverages standards.*

(1) Any new establishment seeking a license for the sale and consumption of beer, wine, or alcoholic beverages on-premises shall require special land use approval and site plan review in accordance with this division.

(2) The applicant shall provide a copy of any licensing materials submitted to the Michigan Liquor Control Commission.

(3) The applicant shall provide a site plan illustrating the proposed location where the alcohol sales would occur, as well as all other locations where on-premises sales presently exist within a one thousand-foot radius of the closest lot lines of the subject site.

(4) The proposed establishment must promote the city's economic development goals and objectives, and must be consistent with the city's master plan and zoning ordinance.

(5) Given the character, location, development trends and other aspects of the area in which the proposed use or change in use is requested, the applicant shall demonstrate that the use will: rejuvenate an underutilized property or an identifiable area within the city; provide a unique business model, service, product, or function; add to the diversity of the to the city or to an identifiable area within the city; or, that the addition of the use or proposed change in use will be otherwise a benefit or asset to the city or identifiable area.

(6) The applicant must demonstrate that the use or change in use as constructed and operated is compatible with the area in which it will be located, and will not have appreciable negative secondary effects on the area, such as:

(a) Vehicular and pedestrian traffic, particularly during late night or early morning hours that might disturb area residents;

(b) Noise, odors, or lights that emanate beyond the site's boundaries onto property in the area on which there are residential dwellings;

(c) Excessive numbers of persons gathering outside the establishment; or

(d) Peak hours of use that add to congestion or other negative effects in the neighborhood.

(Ord. passed 6-24-1996; Am. Ord. 040726, passed - -; Am. Ord. 040927, passed - -; Am. Ord. 02-02, passed 2-11-2002; Am. Ord. 060710-1, passed 7-10-2006; Am. Ord. 070108-1, passed 1-8-2007; Am. Ord. 080324-3, passed 3-24-2008; Am. Ord. 100726-1, passed 7-26-2010; Am. Ord. 101122-1, passed 11-22-2010; Am. Ord. 110214-1, passed 12-14-2011; Am. Ord. 121008-1, passed 10-8-2012; Am. Ord. 140908-1, passed 9-8-2014; Am. Ord. 150309-2, passed 3-9-2015) Penalty, see § 154.999

## § 154.155 STANDARDS FOR VARIANCES.

(A) Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this chapter, the Board of Appeals may in passing on appeals vary or modify any of the rules or provisions of this chapter relating to the construction, or structural changes in, equipment, or alteration of buildings or structures, or the use of land, buildings or structures, so that the intent of this chapter should be observed, public safety secured, and substantial justice done.

(B) To obtain a dimensional or non-use variance, the owner must show a practical difficulty by

demonstrating that all of the following standards are met:

(1) That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome;

(2) That a variance would do substantial justice to the owner as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others;

(3) That the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions; and

(4) That the problem is not self-created or based on personal financial circumstances.

(C) To obtain a use variance, the applicant must show an unnecessary hardship by demonstrating that all of the following standards are met:

(1) That the property in question cannot be used for any of the uses permitted in the district in which it is located;

(2) That the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions;

(3) That by granting the variance, the essential character of the neighborhood would not be altered; and

(4) That the problem is not self-created or based on personal financial circumstances.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

#### § 154.156 USE AND NON-USE VARIANCE REQUESTS.

The following standards apply to consideration of use and non-use variance requests:

(A) If when applying the standards of § 154.155 of this chapter to a non-use variance request, the Zoning Board of Appeals finds that the requirements of this chapter, as written, can be met or that there is no practical difficulty preventing a reasonable use of the land, then the non-use variance request shall be denied;

(B) If when applying the standards of § 154.155 of this chapter to a use variance request, the Zoning Board of Appeals finds that no hardship exists and there is a reasonable use of the property as zoned without the grant of a use variance, then the use variance request shall be denied; and

(C) If when applying the standards of § 154.155 above to either a use or non-use variance request, the Zoning Board of Appeals finds that the hardship or practical difficulty is not unique, but common to several properties in the area, the finding must be transmitted by the Board of Appeals to the Planning Commission who shall determine whether to initiate an amendment to this Zoning Code. See § 154.153.

(Ord. passed 6-24-1996; Am. Ord. 02-02, passed 2-11-2002)

Dear Members of the Saugatuck Zoning Board of Appeals,

I am writing to you to implore you to reject the many variances and setbacks applied for by VHH Saugatuck Holdings, LP at 443 Park Street. This stretch of Park Street is a favorite spot for tourists and residents alike. Because of this, it is a very congested area during the summer season. Pedestrians, bikers, and hikers flood this area from early morning until after sunset. The fence/wall that currently blocks their sightline and that of drivers approaching the area is a safety hazard. Their safety would be compromised further with construction of the building and additional new fencing if it is allowed. The road is already congested and narrow and additional encroachments on space for walking and biking would be extremely dangerous.

I question what is the reason that Saugatuck Holdings is requesting that the fence should be 4' high; what is the reason that it must be solid board; and what is the reason for no opacity? The previously constructed wall/fence is out of character with the area and I believe that all the variances requested are also out of character with the area.

Please deny the many variances that are not appropriate for the size or character of the land.

Thank you,

Jean Prokopeak

438 Park

June 10, 2021

Dear Members of the Saugatuck Zoning Board of Appeals,

As you face the decision on the issue of approving/disapproving the variance and setback requests made by VHH Saugatuck Holdings, LP, I would like to add my voice to the discussion. I find it difficult to understand why, when this issue was previously litigated, it should be considered again. It is the same party making the same request.

In 2017 when the original request was brought before the Planning Commission and a special land use was permitted the request was presented in very different terms. The original request was presented as private dock spaces for personal watercraft of Dune Grass residents. Since that time, the "marina" has completely changed its character and has developed into something for which the sliver of land was never suitable. The VHH Saugatuck Holdings, LP current plan to use this property as a commercial marina is not appropriate for the size of the land.

Although this area is designated R-Resort C-4 that does not mean that this sliver of property is appropriate for a commercial marina with all the amenities and sufficient parking. VHH Saugatuck Holdings, LP purports that "the essential nature of the area revolves around waterfront activities, primarily related to pleasure boating granting a variance for the bathroom/laundry room/storage building is consistent with the existing uses. The requested 6' privacy screen would allow a continuation of pleasure boat usage at the adjacent dock". From my recollection, the area has been used for pleasure boating/canoeing for well over 50 years without a 6' privacy screen. A privacy screen is not needed now.

Thank you for your attention to this matter.

Sincerely,

Bob and Amy Peick

438 Park Street

John and Rita Richardson  
426 Bliss Street  
Saugatuck, MI  
49453  
[johnandrita2@comcast.net](mailto:johnandrita2@comcast.net)  
313-550-9957

June 12, 2021

To The City Of Saugatuck Zoning Board Of Appeals

Re: June 17, 2021 Public Hearing

Dear members of the ZBA,

We are opposed to granting the variance requests made by VHH Saugatuck Holdings, LP (Application #21001). These requests have been almost unanimously opposed by every neighbor in the surrounding area, many of whom have submitted letters to the city outlining various reasonable objections. Like our neighbors we believe granting approval of these would:

1. Increase traffic in an already overly congested area,
2. Create an unacceptable risk to public safety and,
3. Be inconsistent with the character of the neighborhood.

Furthermore, we question the fact that a request for these variances was even allowed to be made and a hearing scheduled, since it appears that VHH is asking for essentially the same thing that was already denied by the Zoning Board of Appeals (May 12, 2016). The same denial was upheld by The Allegan County Circuit Court (April 5, 2017). Who allowed this dead horse to be beaten a third time? And why?

We suggest these variance requests be denied and the hearing quickly adjourned as they are procedurally improper, legally questionable, and an affront to the neighbors and concerned citizens of Saugatuck who have been obliged to waste so much time repeating the same message: "We don't approve".

Sincerely,

John and Rita Richardson

We have owned our home at 129 Park Street for over 30 years. It is just down the street from the chain ferry. We love Saugatuck and feel that the developer- built wooden fence is appalling. Even more appalling is the idea that ugly houseboats may be placed at the developer's docks next to the chain ferry.

Not only are these developer actions hurting the appearance and charm of our small, quaint town, they are apparently against the City's own ordinances. So, what's the deal here? This sure smells like corruption. Is it?

Aren't you as elected officials supposed to protect our small town and keep it quaint and beautiful for your current and future taxpayers? Do you care that this is a step in the direction of an ugly over- commercialized harbor?

Sometimes it would appear that our elected officials forget that what makes Saugatuck special and different from other harbors along the coast is its natural beauty and charm. That's why people come here. Our Historical Society does a great job of preserving the city's heritage and maintaining important historical places and things. We have the wonderful chain ferry, so integral to the city's culture. Across the river is the newly-restored fishing shack. We have the reconditioned root beer barrel. These things are integral to the city's culture, to its quaintness, to its brand.

The harbor is key. We are boaters who have spent quite a bit of time cruising up Michigan's coast. Saugatuck is very special. Attracting boaters is key to the city's prosperity. Houseboats are not.

Residents of Saugatuck pay really high taxes, especially those of us who live along the water. We abide by City laws, and so should developers. Please stop this ugly, illegal developer activity.

Tom and Carol Bruckman  
129 Park St.  
480-510-8487  
Cbrucky@aol.com



John and Rita Richardson  
426 Bliss Street  
Saugatuck, MI  
49453  
[johnandrita2@comcast.net](mailto:johnandrita2@comcast.net)  
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John and Rita Richardson

**Written Communications:**

Susan Bleers – Opposition  
Bob and Amy Peick - Opposition  
John and Rita Richardson - Opposition  
Tom and Carol Bruckman - Opposition  
Ann Broeker – Opposition  
Michael and Gina Prokopeak - Opposition  
Gary Medler + 49 others – Opposition  
Trista and Kevin McCarthy – Opposition  
Carol Bruckman - Opposition  
Trista and Kevin McCarthy – Opposition  
Lefort – Opposition

**Spoke at the June 17<sup>th</sup> meeting**

Jane Underwood  
Ann Broeker  
Susan McGee  
John Richardson  
Tom Bruckman

**Letters Read**

Tom and Carol Bruckman

John and Rita Richardson  
426 Bliss Street  
Saugatuck, MI  
49453  
[johnandrita2@comcast.net](mailto:johnandrita2@comcast.net)  
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Tom and Carol Bruckman  
129 Park St.  
480-510-8487  
Cbrucky@aol.com

Ryan/Cindy: please provide our comments below to the members of the ZBA as soon as possible. Please also include this email in the packet sent to the ZBA as part of the record for its June 17, 2021, hearing.

Dear Members of the City of Saugatuck Zoning Board of Appeals,

I urge the ZBA to reject the dimensional variances requested by Dune Ridge/VHH Saugatuck Holdings in Application 21001 related to two sections of fencing and setbacks for a bathroom/laundry facility at 443 Park Street. The applicant has not demonstrated that any of these variances meet the standards set forth in the Saugatuck Code of Ordinances for dimensional variances from Code requirements. As a result, approving any of the variances would cause harm to city residents and tourists and would be inconsistent with the Code.

Sincerely,  
Trista and Kevin McCarthy  
442 Park Street  
Saugatuck

Received 6/16/21 2:47 PM

To the ZBA:

I listened to the arguments of the Dune Ridge attorney. At no time did he mention the public safety risk for people exiting the chain ferry with their view of Park Street blocked by the "screening" fence. In my opinion the entire issue should be determined by this issue.

The attorney DID use the words of a local resident that the area is "very congested". This was the only part of his argument I agreed with. The area is already a disaster - with busy and speeding traffic, no police enforcement, limited site lines, and now a fence in a dangerous location. I know this - having walked Park Street for 25 years.

However - the attorney misused the congestion to offer it as a reason why those using the docks for pleasure SHOULD be screened from what people on Park Street have lived with for many years before the docks were built. This is nonsense! The people with the highest priority are those exiting the chain ferry (many unfamiliar with the congestion) who are at greater risk because of the "screening fence". They enter the congestion with a decreased view of the road.

So - the fence should be entirely removed. The restroom, utility room, and laundry facilities should receive a "NO". How could any of these be a higher priority than recognizing the public safety risk of someone being seriously injured?

Best  
Gordon Neil Lefort  
714 Park Street  
Saugatuck

Received 6/18/21 9:34 am (accessed 1:36 pm)

## **GARY E. MEDLER**

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312-848-2453

**June 17, 2021**

### **By Email Delivery**

Zoning Board of Appeals

102 Butler Street

Saugatuck, MI 49453

Bob Kubasiak, Chair

Richard Bont, Vice Chair

James Bouck

James Muir

Zack Zerfas

John K. Ludlow, Alternate

Re: Zoning Board Special Meeting  
Agenda Item 4 A – 443 Park Street

### **Summary:**

443 Park Street has a lot area of 2,625 sq. ft., 25 ft. width and 105 ft. street frontage.

A commercial marina requires a minimum lot area of 17,424 sq. ft. and 132 ft. road frontage.

A commercial marina requires a Major Waterfront Construction Permit.

Dune Ridge never obtained a Major Waterfront Construction Permit.

In 2015, former Zoning Administrator rejected Dune Ridge's marina proposal.

In 2016, former Zoning Administrator rejected Dune Ridge's marina proposal.

On July 20, 2017, Zoning Administrator Osman presented Dune Ridge's Minor Waterfront Construction Special Land Use Application to the Planning Commission.

On July 20, 2017, Dune Ridge obtained a Minor Waterfront Construction Permit for 6 slips.

The Minor Waterfront Construction Permit required Dune Ridge to obtain a fence variance.

Dune Ridge never obtained a fence variance as required by the Planning Commission.

A Minor Waterfront Construction Permit prohibits retail and commercial uses – personal use only.

A Minor Waterfront Construction Permit only authorizes 1 dock per residential lot.

A residential lot requires a minimum lot area of 15,000 sq. ft.

443 Park Street only has a lot area of 2,625 square feet.

On May 12, 2016, the Zoning Board denied Dune Ridge's lot area variance which was upheld by Circuit Court Decision on April 5, 2017.

Why are there docks at 443 Park Street?

Why is there an 8 foot solid wood wall of fence at 443 Park Street?

Why has any installation/construction been effected at 443 Park Street?



In 2015, former Zoning Administrator Clark rejected the Dune Ridge marina proposal due to lack of lot area and other required variances.

In 2017, former Zoning Administrator Kushion rejected the Dune Ridge marina proposal due to lack of lot area and other required variances.

In 2017, Zoning Administrator Osman submitted Dune Ridge's Minor Waterfront Construction Permit request to the Planning Commission.

The Planning Commission lacked jurisdiction to grant the Minor Waterfront Construction Permit. Why did Zoning Administrator Osman process the Dune Ridge Minor Waterfront Construction Permit request when 443 Park Street lacked the necessary lot area and other required variances had been denied by the Zoning Board?

Why did Zoning Administrator Osman fail to disclose to the Planning Commission that 443 Park Street lacked the necessary lot area for the proposed uses at 443 Park Street?

Why did Zoning Administrator Osman fail to disclose to the Planning Commission the April 5, 2017, Circuit Court Decision upholding the Zoning Board's May 12, 2016, denial of Dune Ridge's lot area and setback variances?

Why did Zoning Administrator Osman fail to disclose to the Planning Commission that Dune Ridge was not permitted to install even 1 dock at 443 Park Street because the property lacked the required 15,000 sq. ft. lot area and the required lot area variance had been denied?

Why did Zoning Administrator Osman falsely state to the Planning Commission that the Dune Ridge request was for a commercial marina?

How did all of this get past the Planning Commission?

Who negotiated the infrastructure, fence and dock provisions in the Land Swap Agreement?

Only the Zoning Board has the authority to grant these variances.

Why did Zoning Administrator Osman and City Attorneys Bloom Sluggett fail to advise City Council of these Land Swap Agreement provisions?

Why did Zoning Administrator Osman and City Attorneys Bloom Sluggett permit City Council to approve the Land Swap Agreement with these impermissible provisions?

Dune Ridge, Zoning Administrator Osman and City Attorneys Bloom Sluggett at all times knew the infrastructure, fence and dock Land Swap Agreement provisions were void and unenforceable.

The April 5, 2017, Circuit Court Decision dismissed Dune Ridge's "taking" claims.

On July 20, 2017, Dune Ridge obtained the Minor Waterfront Construction Permit.

A Minor Waterfront Construction Permit as defined is for the private use of the facility by the property owner, and not for rent, lease or availability to the general public as a commercial facility.

So why has City Council held numerous meetings on houseboats/floating homes?

Why has Dune Ridge been crying foul over lost revenue and dockominiums at 443 Park Street?

Why didn't Zoning Administrator Osman and City Attorneys Bloom Sluggett put a stop to all of this knowing Dune Ridge's Minor Waterfront Construction Permit didn't permit a commercial marina or any retail or commercial use?

The Dune Ridge Application before the Zoning Board fails because:

1. The Zoning Board lacks jurisdiction to reverse the Circuit Court Decision on the previously denied area/dimensional variances.
2. The Fence is not governed by the City's Screening Regulations as asserted by Zoning Administrator Osman. The Screening Regulations only apply if the proposed land uses are incompatible with the adjacent land uses and the proposed land uses require a formal site plan review/approval by the Planning Commission.

The proposed uses at 443 Park Street and the uses at the Chain Ferry and Casa Loma are compatible – they are identical; and, the proposed uses at 443 Park Street did not require formal site plan review/approval by the Planning Commission. Zoning Administrator Osman did not require any site plan and no formal site plan was submitted to, or approved by, the Planning Commission in connection with Dune Ridge's July 20, 2017 Minor Waterfront Construction Permit request.

3. The Fence, as erected, constitutes a "structure" under the Code and is subject to the 25 foot setback for waterfront lots for which no variance is permitted under the Code.

### **EXHIBIT LIST**

**EXHIBIT A:** Dune Ridge 443 Park Street Permitting History

**EXHIBIT B:** Dune Ridge Marina Articles from Commercial Record, dated August 28, 2014 through November 17, 2016

**EXHIBIT C:** October 15, 2015 Dune Ridge Special Land Use Application No. 15-073

**EXHIBIT D:** April 5, 2017 Circuit Court Decision upholding Zoning Board's denial of Dune Ridge's area/dimensional variances

**EXHIBIT E:** July 20, 2017 Planning Commission Meeting Packet – 443 Park Street Dune Ridge Minor Waterfront Construction Special Land Use Application

**EXHIBIT F:** July 8, 2019 City Council Meeting Packet – Land Swap Agreement

Comments:

I hereby submit the following comments to the Zoning Board of Appeals (“Zoning Board”). A detailed history of the permitting process for 443 Park Street is attached as Exhibit A.

On May 12, 2021, Dune Ridge SA LP, now known as VHH Saugatuck Holdings GP LLC (“Dune Ridge”) filed a Zoning Board of Appeals Application as described below (“Fence Application”).

Conflict of Interest:

Zoning Administrator Osman and City Attorneys Bloom Sluggett PC (“City Attorneys”), have conflicts of interest relating to all Dune Ridge matters and should recuse themselves prior to any business being conducted at the June 17, 2021, Zoning Board Special Meeting. If refused, the Zoning Board should remove Zoning Administrator Osman and the City Attorneys from participation in the Zoning Board Special Meeting due to conflict of interest.

The Zoning Board should then request City Council engage competent, independent legal counsel to advise the Zoning Board and to be present at all Zoning Board meetings related to Dune Ridge. The Zoning Board should then continue the June 17, 2021, Special Meeting relating to 443 Park Street until legal counsel has been engaged and has advised the Zoning Board accordingly.

Fence Application:

The reason this Fence Application has been filed with the Zoning Board is because City Council on April 22, 2021, adopted the following resolution:

“A motion was made by Peterson, 2<sup>nd</sup> by Lewis, to direct legal counsel to send Mr. Heule’s attorney a letter advising that he needs to get an application for the fence filed by May 13<sup>th</sup> in order to have this matter tentatively placed on the June 8 Special Zoning Board of Appeals Meeting agenda for review and decision. If a completed application is not received by the City by May 13 then the entire fence must be removed by May 14 and, if it is not, regardless of reason, the City will initiate enforcement action on or about the 15 of May. If we are told he will not agree to apply under these circumstance, then we can begin enforcement proceedings immediately. Upon roll call vote the motion carried unanimously (“Fence Resolution”).”

Neither Dune Ridge nor Zoning Administrator Osman advised the Zoning Board as to the reason this Fence Application was filed with the Zoning Board. Such failure constitutes a material omission of fact.

Pursuant to the Fence Resolution, Dune Ridge filed the Fence Application with the Zoning Board on May 12, 2021. The Fence Application states as follows:

“The owner requests a variance from the front yard setback from the 15’ to 2’, side setbacks from 10’ to 2’, and from the water side set back from 25’ to 10’ to construct a bathroom and storage closet/laundry on the upland portion of its marina. The owner requests a dimension variance for a 4’ solid board half wall with gate in lieu of a 3’ fence with 6:1 ratio open space. If these requested variance are approved, then the owner will consent to reducing the existing 8’ privacy screen that was installed pursuant to a 2019 written agreement with the City. The owner would request a variance to allow the 8’ privacy screen to remain at 8’ to cover the electric meter, but would agree to reduce the rest of the privacy screen to 6’ (without waiving its legal argument that the entire 8’ privacy screen has already been properly approved by the City in a legally enforceable document) As a result of the unique lot shape, the riverfront, the offset of the Park Street right-of-way, and the overlapping setbacks, the upland portion of the parcels have no building envelope (see site setback sketch). The structures proposed to be build are customary accessories to marina uses. Boat owners that use the marina would utilize these structures as is done in other area marinas. The marina is fully permitted (both state and US Army Corps of Engineers) and is a use that is permitted with special land use approval, which was obtained from the Planning Commission in 2017. It is a long-time parcel that is subject to property tax yet is not capable of being used like other marinas without a variance.”

If not for the Fence Resolution, Dune Ridge would not have filed the Fence Application.

Dune Ridge has structured and conditioned the variance request (“Fence Variance”) for the 8 foot solid board fence along the northern boundary of 443 Park Street (“Fence”) as follows:

1. Zoning Board must approve both the requested front yard setback, side setbacks and waterside setback (“Setback Variances”) and the variance request (“Secondary Fence Variance”) for a 4 foot solid board half wall with a gate (“Secondary Fence”) before there can be any consideration of the Fence Variance.
2. Only if the Setback Variances and the Secondary Fence Variance are granted will Dune Ridge agree to reduce the Fence from 8 feet to 6 feet, with no reduction of the Fence on which the electric meters have been installed. Dune Ridge asserts the Fence was installed pursuant to a “2019 written agreement with the City.”
3. But even then, Dune Ridge asserts the Fence does not require a variance due to a “legally enforceable document” between the City and Dune Ridge.

Neither Dune Ridge nor Zoning Administrator Osman provided the Zoning Board with a copy of the "agreement with the City"/“legally enforceable document” (See Exhibit F) on which Dune Ridge asserts reliance. Such failure constitutes a material omission of fact.

Setback Variances: The Setback Variances are substantially identical to the variance requests the Zoning Board denied on May 12, 2016. These denials were upheld by the Allegan County Circuit Court on April 5, 2017 (“Denied Variances”) (Decision on Appeal from Denial of Zoning Setback Variances, *Dune Ridge, SA, LP v. City of Saugatuck*, File No. 16,56795-AA, appeal denied) (“Circuit Court Decision”) (See Exhibit D).

The current setback to roadway variance request and waterfront setback variance request are identical to the Denied Variances. The current front setback variance request and side setback variance request seek greater variances than the Denied Variances, but are substantially identical to the Denied Variances.

Neither Dune Ridge nor Zoning Administrator Osman addressed the Circuit Court Decision or provided the Zoning Board an analysis of the differences between the Setback Variances and the Denied Variances. Such failures constitute material omissions of facts and law.

Since the Circuit Court Decision, no change has been effected to the Code relevant to the Denied Variances, this Fence Application or the “Property,” as defined below. Neither Dune Ridge nor Zoning Administrator Osman has provided any information to the Zoning Board evidencing any substantial change in circumstances effecting the Denied Variances or the Property since the Circuit Court Decision.

Pursuant to Code Section 154.157 (F) and Section 605 of the Act, the Zoning Board decision on the Denied Variances was final. Dune Ridge pursued its rights under Code Section 154.157 (K) and Sections 605 and 606 of the Act through its appeal to the Allegan County Circuit Court. The Circuit Court upheld the Denied Variances (appeal denied). Neither the Act nor the Code authorizes Dune Ridge to appeal the Circuit Court Decision back to the Zoning Board.

The Michigan Legislature, by enactment of the Act, as codified into the Code (Code Section 154.150), granted sole and exclusive jurisdiction to the Zoning Board to hear and decide variances. Neither the Act nor the Code authorize the Zoning Board to hear appeals from the Circuit Court. As a result, the Zoning Board lacks jurisdiction to hear Dune Ridge’s request to grant the Setback Variances.

Note: The Code minimum lot area of 15,000 square feet, minimum lot width of 66 feet and maximum lot coverage variances previously denied by the Zoning Board and upheld by the Circuit Court Decision have not been made a part of this Application. As a result, any use of the Property in violation of these Code area/dimensional requirements violates the Code and the Act and would constitute nuisances per se and must be abated.

Note: The Property constitutes a “waterfront lot” as defined in Code Section 154.005. Code Section 154.022 (F) (4) provides: “Waterfront lots. Notwithstanding any other provisions of this chapter, all structures on a waterfront lot shall have a setback of 25 feet from the waterfront.” Therefore, the Zoning Board has no authority under the Code to grant a variance from this 25 foot setback requirement. Likewise, the Fence as erected is a structure and subject to the 25 foot setback.

#### Dune Ridge’s Conditions Precedent to Fence Variance:

The Fence Application relating to the Fence Variance is conditioned upon the Zoning Board granting the Setback Variances and the Secondary Fence Variance. As discussed, the Zoning Board lacks jurisdiction to hear the Setback Variances and therefore, under the structured Fence Application: (a) Dune Ridge’s conditions precedent have not been met; (b) the Fence will remain as erected; (c) the Fence remains in violation of Code Section 154.143 (E) and (F) (6) (as to height, opacity and location); and (d) Dune Ridge has failed to satisfy the terms of the Fence Resolution and the Fence must be abated.

The Fence in its current form constitutes a “structure” as defined in Code Section 154.005. Pursuant to Code Section 154.022 (F) (4), the Fence as a structure must be 25 feet from the waterfront. No variance from this setback requirement is permitted under this Code Section. Therefore, the Fence violates the Code and the Act and must be removed.

#### Standards for Variances:

Code Section 154.155 (B) provides: “To obtain a dimensional or non-use variance, the owner must show a practical difficulty by demonstrating that all of the following standards have been met:

1. That strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity unnecessarily burdensome.
2. That a variance would do substantial justice to the owner as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others.
3. That the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions.
4. That the problem is not self-created or based on personal financial circumstances.”

Neither the Act nor the Code authorize the Zoning Board to impose conditions precedent, restrictions or standards outside the standards set forth in Code Section 154.155 (B). Therefore, the Zoning Board should review the Fence Variance without regard to Dune Ridge's conditions precedent.

#### 443 Park Street:

Property: On February 14, 2014, Dune Ridge acquired the property formerly known as the Presbyterian Camp. This property included two very small non-adjacent parcels along the Kalamazoo River, south of the Chain Ferry, separated by a 20 foot parcel ("City Lot") owned by the City of Saugatuck ("City"), bordered by Park Street to the west and the Kalamazoo River to the east. Each lot measured approximately less than 1,400 square feet in area and each constituted a nonconforming waterfront lot under the City Code of Ordinances ("Code").

On July 8, 2019, City Council approved the Agreement Regarding Real Property ("Land Swap Agreement") (Exhibit F) with Dune Ridge which reconfigured the non-adjacent parcels into a contiguous lot measuring approximately 25' x 105' or 2,625 square feet (0.06 acres) in area ("Property"). The reconfigured lots remain a nonconforming lot (Code Section 154.005 definition "Nonconforming Lot") because it fails to meet the area and/or dimensional requirements under the City's C-4 Resort Zoning District.

On March 3, 2020, Dune Ridge transferred title to the Property to VHH Saugatuck Holdings GP LLC.

Zoning: The Property is located within the City's C-4 Resort Zoning District (Code Section 154.037). As a waterfront lot, the Property is subject to the provisions of Code Sections 154.200-154.206 (Waterfront Construction) and the Design Standards for Selected Special Land Uses (Code Sections 154.092 *et seq.*). As a waterfront lot, the Property's waterfront yard is governed by Code Section 154.022 (F) (4) (all structures on a waterfront lot must have a setback of 25 feet from the waterfront for which no variance is permitted).

#### Dune Ridge's Reliance on EGLE/City Permits:

The Fence Application asserts and places reliance on: "The marina is fully permitted (both state and US Army Corps of Engineers) and is a use that is permitted with special land use approval, which was obtained from the Planning Commission in 2017." (Sec Exhibit E)

On July 15, 2014, Dune Ridge applied to the Michigan Department of Environmental Quality (now the Michigan Department of Environment, Great Lakes and Energy ("EGLE")) for a permit to build/install docks for 7 boats and 10 personal watercraft, a bulkhead and boat house to be used as a private marina. On September 17, 2015, EGLE issued Permit #14-03-0032-P to Dune Ridge to install docks for 7 boats and 10 personal watercraft ("EGLE Permit") (Exhibit E). The EGLE Permit (page 4, paragraph 4) only authorized "construction of a marina for private, non-commercial use only, for individuals residing the Dune Ridge Development."

In December 2016, Dune Ridge began construction of the bulkhead at 443 Park Street without first obtaining the necessary City permits (See Code Section 154.205(B) (1) and Code Section 154.206 (b) (1)), area/dimensional variances from the Zoning Board or approval of the Planning Commission. Dune Ridge representative David Barker was quoted in the Saugatuck Commercial that no City permitting was required for the bulkhead (See last page of Exhibit B).

Fence/Permitting:

The Fence has had a long history of review by the City as part of an overall “marina proposal (See Exhibit A).”

First Dune Ridge Marina Application: In 2014/2015, Dune Ridge submitted the marina proposal to then City Zoning Administrator Clark who made the determinations set forth in Exhibit A, rejecting the marina proposal (See also Exhibit B). Dune Ridge never appealed Zoning Administrator Clark’s determinations to the Zoning Board.

Second Dune Ridge Marina Proposal: On or about October 15, 2015, Dune Ridge filed a Special Land Use Application (SLU Application No. 15-073) (Exhibits B and C) which sought a permit to construct 6 boat slips and other structures, including a fence. In this application, Dune Ridge asserted: (1) the proposed boat slips are compatible with the adjacent property uses on either side of the property; (2) Casa Loma Marina and the City Chain Ferry both deal with boating and dockage activity; (3) the adjacent land and buildings on either side are currently used as a private marina and chain ferry; and (4) the proposed use is consistent and complimentary with such adjacent uses.

Dune Ridge also asserted “No commercial use is proposed. These are private boat slips not for the public use with no business or enterprise allowed on the site (See Exhibit C).”

Upon review of this application, Zoning Administrator Kushion determined: (a) the marina proposal constituted Major Waterfront Construction (Code Section 154.205) over the objection of Dune Ridge which asserted the proposal constituted Minor Waterfront Construction (Code Section 154.206); (b) the nonconforming waterfront parcel did not meet the area/dimensional requirements for a marina under Code Section 154.092 (D) (7) (c) (minimum site size of 17,424 square feet and minimum road frontage of 132 feet) and would require variances from the Zoning Board; (c) a number of variances would be required from the Zoning Board for other aspects of the marina proposal, including the fence; (d) the proposed use was compatible with the adjacent land uses as asserted and admitted by Dune Ridge; and (e) the marina proposal would require special land use approval from the Planning Commission.

This application was never presented to the Planning Commission nor was any variance request filed with the Zoning Board. Dune Ridge never appealed Zoning Administrator Kushion’s determinations to the Zoning Board.



Opinion of City Attorneys: At the end of November 2016, Zoning Administrator Kushion resigned. At this time, Dune Ridge leveraged former City Manager Harrier to obtain an opinion from the City Attorneys that the Dune Ridge marina proposal was Minor Waterfront Construction, not Major Waterfront Construction as previously determined by Zoning Administrators' Clark and Kushion (See Exhibit B). The City Attorneys issued this opinion contradicting the final and non-appealable determinations of Zoning Administrators Clark and Kushion (See Exhibit B).

Third Dune Ridge Marina Application: On or about June 17, 2017, just over two months following the Circuit Court Decision, Dune Ridge filed a Special Land Use Application for a Minor Waterfront Construction permit with the Planning Commission ("Minor Construction Application") (See Exhibit E). On July 20, 2017, Dune Ridge, through Zoning Administrator Osman, presented this Minor Construction Application to the Planning Commission, which included a variance request to construct a six foot high, 6:1 opacity fence along the northern boundary of the Property (See Exhibit E). The Minor Construction Application and Zoning Administrator Osman's Memorandum to the Planning Commission both state that the proposed use was compatible with the adjacent land uses and no utilities were proposed (See Exhibit E).

On July 20, 2017, the Planning Commission approved the Minor Construction Application for five boat slips and one covered slip/building, sidewalk, parking area and security fencing, subject to obtaining a variance for the proposed fence (See Exhibit E). Pursuant to the Planning Commission's approval, Zoning Administrator Osman issued a Minor Waterfront Construction Permit No. PZ17026, dated July 20, 2017, expiring July 20, 2018 ("City Permit") (See Exhibit E). There has been no extension of, or amendment to, the City Permit. Dune Ridge has never filed a variance request for the fence as required by the Planning Commission and City Permit.

The Planning Commission lacked jurisdiction to grant a special land use permit on a Minor Waterfront Construction proposal under Code Section 154.206 (I) (3) because such a permit request is approved by the zoning administrator, provided all requirements of the Code are met (Code Section 154.206 (I) (3)). A Minor Waterfront Construction permit does not authorize commercial marinas and prohibits all retail and commercial uses (Code Section 154.092 (D) (2) (f)).

A Minor Waterfront Construction permit only authorizes installation of one pier or dock per residential lot, limited in magnitude for the personal benefit of the owner and immediate family members (Code Section 154.206 (D)). The Property does not meet the area/dimensional requirements of the C-4 Resort Zoning District for a residential lot (15,000 square feet) (Code Section 154.037 (D) (1)), and therefore, not even one pier or dock is permitted at the Property without a variance from the Zoning Board.

On May 12, 2016, the Zoning Board denied Dune Ridge's minimum lot area (15,000 square feet) variance request and minimum lot width (66 feet) variance request. These denied variances were upheld by the Circuit Court Decision on April 5, 2017. Neither Dune Ridge nor Zoning Administrator Osman advised the Planning Commission on July 20, 2017, of the Circuit Court Decision which was issued less than 4 months prior to the July 20, 2017, Planning Commission Meeting at which the City Permit was issued. The Circuit Court Decision precluded any processing of the Minor Construction Application because Dune Ridge did not, and can never,

meet the area/dimensions requirements under the Code. All piers or docks installed/constructed on the Property were installed in violation of the Code, constitute nuisances per se and must be abated.

Neither Dune Ridge nor Zoning Administrator Osman advised the Planning Commission of the Circuit Court Decision which legally precluded Dune Ridge from obtaining the requested permit from the Planning Commission because Dune Ridge did not, and can never, meet the area/dimensional requirements under the Code. Such failures constitute material omissions of facts and law.

The consequences of Dune Ridge's material omissions of facts and law have resulted in substantial installation/construction at and on the Property in violation of the Code – a self-created problem. The required abatement of the Fence, the docks, the sidewalk, the parking area, the utilities, the infrastructure and all other installations and uses effected on and at the Property by Dune Ridge is on Dune Ridge.

Regardless of the actions of former City Manager Harrier and Zoning Administrator Osman, it was Dune Ridge that intentionally withheld material information from the Planning Commission, obtained the City Permit on false pretenses and proceeded with effecting uses on the Property knowing the Circuit Court Decision upholding the Denied Variances legally precluded such use of the Property.

Furthermore, the 2019 Land Swap Agreement contravenes the dictates and effects of the Circuit Court Decision and is an attempt by Dune Ridge to cover-up the illegal uses effected at and on the Property prior to the Land Swap Agreement, and to provide cover for all illegal uses effected at and on the Property after the Land Swap Agreement and continuing to date. The Circuit Court Decision upholding the Zoning Board's denial of the area/dimensional variances on April 5, 2017, left Dune Ridge with no possibility of installing/constructing anything at or on the Property because the Property lacks the required lot area under the Code.

#### Fence Nomenclature:

The Minor Construction Application uses the phrase "privacy screen" to describe the Fence. In the First and Second Marina Applications (See Exhibit C), Dune Ridge called the Fence a "fence." In the July 20, 2017, Special Land Use Application, Dune Ridge deemed the Fence a "fence (See Exhibit E)." It was Zoning Administrator Osman who used the term "security fence" in her presentation to the Planning Commission on July 20, 2017 (See Exhibit E). In the 2019 "Land Swap Agreement," the term "privacy screen" was used for the Fence (See Exhibit F).

But the Fence is just a fence at the waterfront and subject to Code Section 154.143 (F) (6) which provides:

"Fences located within 25 feet of the shore of any lake, river or stream shall not be greater than four feet in height and shall be wrought iron, open mesh, chain link, lattice, slatted or similar type fencing provided that a minimum ratio of six parts open space to one part solid material is maintained."

But the Fence as erected (an 8 foot solid wall of wood) is also a “structure” as defined in Code Section 154.005 and subject to Code Section 154.022 (F) (4) which states: “Waterfront lots. Notwithstanding any other provisions of this chapter, all structures on a waterfront lot shall have a setback of 25 feet from the waterfront.”

Code Section 154.022 (F) (4) does not permit a variance to be granted for this setback requirement. Therefore, the Zoning Board has no authority under the Code to grant a variance from this 25 foot setback requirement and this Fence as erected violates the 25 foot setback restriction and must be abated.

#### False Narrative that the Fence is a Required Screen:

Since the Fence controversy became public in late 2020, Zoning Administrator Osman and the City Attorneys have been pressing the false narrative that the Fence is a required “screen” pursuant to the screening provisions of Code Section 154.142.

In March 2021, Dune Ridge installed electric meters on a portion of the Fence in violation of the Planning Commission Resolution and City Permit of July 20, 2017, which specifically found that no utilities had been proposed by Dune Ridge and none were approved. The electric meter installation was simply an after-the-fact (4 years after-the-fact), self-created condition to justify the “screen” argument and cover-up the illegality of the Fence.

In the entire permitting process for 443 Park Street, neither Dune Ridge nor any Zoning Administrator referenced, discussed, applied or relied on the screening regulations of Code Section 154.142 to justify the Fence, until now.

Zoning Administrator Osman’s presentation to the Zoning Board in this Fence Application sets forth selected portions of Code Section 154.142 (Screening) and a variance chart based on the Code Section 154.142 screening requirements. This presentation is false and intended to deceive the Zoning Board into reviewing the Fence Variance under the incorrect Code provisions. Zoning Administrator Osman’s presentation constitutes material misstatements of fact and law.

Screening is defined in Code Section 154.005 as: “(T)he erection or construction of a greenbelt buffer zone, earthen berm, solid wall or fence for the purpose of obscuring views, limiting noise or objectionable lighting between incompatible land uses or adjacent to a street or highway.”

The screening provisions of Code Section 154.142 only apply if the proposed land uses are incompatible with the adjacent land uses and the proposed land uses require a formal site plan review/approval by the Planning Commission under Code Sections 154.060 through 154.068.

The proposed uses at 443 Park Street and the uses at the Chain Ferry to the north and Casa Loma to the south are compatible. In fact, they are identical. The proposed uses at 443 Park Street did not require formal site plan review/approval by the Planning Commission under the Code and Zoning Administrator Osman did not require any site plan and no formal site plan was submitted

to the Planning Commission for approval in connection with Dune Ridge's July 20, 2017 Minor Waterfront Construction Permit request.

The Fence Variance must be evaluated by the Zoning Board under provisions of Code Sections 154.143 (F) (6) and 154.022 (F) (4).

### Land Swap Agreement

On July 8, 2019, City Council approved the Land Swap Agreement with Dune Ridge by voice vote, without discussion. The entirety of the presentation to City Council on July 8, 2019, was contained in Zoning Administrator Osman's Memorandum, dated July 8, 2019, which provided:

"This is a land swap of properties of similar size to relocate a City property to the south end of land owned by Dune Ridge SA, LP. This property is located between the Chain Ferry landing on Park Street and Casa Loma at 405 Park Street."

This Memorandum also states: "This agreement was reviewed by Municipal Attorney Cliff Bloom."

Section 1 (b) of the Land Swap Agreement provides:

"City approves and Dunegrass shall install the remaining infrastructure including an eight (8) foot high privacy screen to separate commercial traffic at the Chain Ferry from the adjacent private boat slips. The City does not have jurisdiction or authority to limit docks or other structures over the water with the exception of limiting the length of docks. These structures are subject to any applicable state or federal laws. A three (3) foot high open weave (6:1) fence along the current boardwalk and along future paved parking area will be permitted with the issuance of a standard fence permit. The gravel parking area will be paved and signs not to exceed 1 square foot in area indicating the parking assignments will be placed at the east side of each parking space."

Dune Ridge, its representatives and counsel, the entire City organization, including Zoning Administrator Osman (a licensed attorney) and the City Attorneys, know that the Michigan Legislature, by enactment of the Michigan Zoning Enabling Act, codified into the Code (See Code Section 154.150), granted sole and exclusive jurisdiction to the Zoning Board to hear and decide variances.

Section 1 (b) evidences the intentional act of a group of people, acting in concert, to violate the dictates of the Circuit Court Decision, the Act and the Code and to circumvent the sole and exclusive authority of the Zoning Board and the sole and exclusive authority of the Planning Commission.

Only the Zoning Board can hear and determine to grant a variance for the illegal Fence. Only the Zoning Board can hear and determine to grant a variance to permit a dock at the Property, but only after first hearing and determining to grant a variance from the area/dimensional requirements for the Property which substantially fail to meet the requirements for either a commercial marina or a residential lot.

The Fence and docks have been installed and erected in contravention of the dictates and effect of the Circuit Decision, in violation of the Act, the Code and the City Permit.

The very foundation for any installation/construction is the required minimum lot area. The Zoning Board denied the lot area variance which denial was upheld by the Circuit Court Decision. No installation/construction of any kind was therefore permitted at 443 Park Street and the Land Swap Agreement does not provide cover for such illegal uses effected at the Property.

The Fence, the docks and all other installations at or on the Property constitute nuisances per se and must be immediately abated.

Note: No evidence has been found that City Council was advised on the language of Section 1 (b) and how it violates the Circuit Court Decision, the Act, the Code and the Permit. Zoning Administrator Osman and the City Attorneys had a duty and fiduciary obligation to refuse to negotiate these terms without direction from City Council, and even then, they had a duty and fiduciary obligation to advise City Council it could not execute the Land Swap Agreement as long as the agreement contained the void provisions of Section 1 (b).

Any reliance on the void provisions of Section 1 (b) are misplaced, ineffective and legally unenforceable.

Standards: Dune Ridge has simply failed to meet the required standards for granting a variance under Code Section 154.155 (B).

### Conclusion

The Zoning Board should take the following actions:

A. Dismiss the front yard setback, side setbacks and waterside setback because:

1. The setback to roadway variance request and waterfront setback variance request are identical to the variance requests the Zoning Board denied on May 12, 2016. These denials were upheld by the Allegan County Circuit Court on April 5, 2017 (“Denied Variances”) (Decision on Appeal from Denial of Zoning Setback Variances, *Dune*

*Ridge, SA, LP v. City of Saugatuck*, File No. 16,56795-AA, appeal denied) (“Circuit Court Decision”).

2. While the front setback variance request and side setback variance request seek greater variances than these same variance requests denied by the Zoning Board on May, 12, 2016 (which denials were upheld by the Circuit Court Decision), these requested variances are substantially identical to the Denied Variances.
  3. Dune Ridge has submitted no information to the Zoning Board evidencing any substantial change in circumstances effecting the Denied Variances which would affect the prior Zoning Board’s denial of the front setback and side setback variances.
  4. Pursuant to Code Section 154.157 (F) and Section 605 of the Act, the Zoning Board decision on the Denied Variances was final. Dune Ridge pursued its rights under Code Section 154.157 (K) and Sections 605 and 606 of the Act through its appeal to the Allegan County Circuit Court. The Circuit Court upheld the Denied Variances (appeal denied). Neither the Act nor the Code authorizes Dune Ridge to appeal the Circuit Court Decision back to the Zoning Board.
  5. The Michigan Legislature, by enactment of the Act, as codified into the Code (Code Section 154.150), granted sole and exclusive jurisdiction to the Zoning Board to hear and decide variances. Neither the Act nor the Code authorizes the Zoning Board to hear appeals from the Circuit Court. As a result, the Zoning Board lacks jurisdiction to hear Dune Ridge’s setback to roadway, waterfront setback, front setback and side setback variances requests.
- B. The Zoning Board rejects the argument the 8 foot fence is governed by the screening provisions of Code Section 154.142.
1. Screening is defined in Code Section 154.005 as: “(T)he erection or construction of a greenbelt buffer zone, earthen berm, solid wall or fence for the purpose of obscuring views, limiting noise or objectionable lighting between incompatible land uses or adjacent to a street or highway.”
  2. The screening provisions of Code Section 154.142 only apply if the proposed land uses are incompatible with the adjacent land uses and the proposed land uses require a formal site plan review/approval by the Planning Commission under Code Sections 154.060 through 154.068.
  3. The proposed and effected uses at 443 Park Street and the uses at the Chain Ferry to the north and Casa Loma to the south are compatible. In fact, they are identical. The proposed uses at 443 Park Street did not require formal site plan review/approval by

the Planning Commission under the Code and the Zoning Administrator did not require any site plan and no formal site plan was submitted to the Planning Commission for approval in connection with Dune Ridge's July 20, 2017 Minor Waterfront Construction Permit request.

4. The 8 foot fence variance must be evaluated by the Zoning Board under provisions of Code Sections 154.143 (F) (6) and 154.022 (F) (4).

C. With respect to the 8 foot fence and 4 foot fence variance requests:

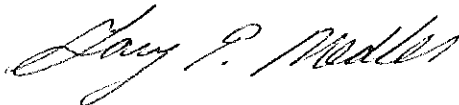
1. Dune Ridge has failed to show a practical difficulty because Dune Ridge has not demonstrated it has met all of standards set forth in Code Section 154.155 (B,) and Dune Ridge has not met all of the Standards set forth in Code Section 154.155 (B) with respect to the 8 foot and 4 foot fence variance requests.
2. The Zoning Board hereby denies the 8 foot and 4 foot variance requests.
3. The Zoning Board hereby refers this matter back to City Council to seek immediate abatement of the 8 foot fence in accordance with terms of the City Council resolution adopted on April 22, 2021.

D. Dune Ridge has asserted the 8 foot fence has been properly approved by the City of Saugatuck pursuant to the Agreement Regarding Real Property, dated April 8, 2019 ("Agreement").

1. The Zoning Board rejects this argument because Section I (b) of the Agreement effects variances only the Zoning Board is authorized to grant.
2. The Michigan Legislature, by enactment of the Act, codified into the Code (See Code Section 154.150), granted sole and exclusive jurisdiction to the Zoning Board to hear and decide variances.
3. The provisions of Section 1 (b) of the Agreement violate the Act and the Code because only the Zoning Board can hear and determine to grant a variance for the 8 foot fence.
4. The Zoning Board also rejects this argument because the Agreement relating to the 8 foot fence contravenes the dictates and effects of the Circuit Court Decision.
5. The Circuit Court Decision upholding the Zoning Board's denial of the area/dimensional variances on April 5, 2017, left Dune Ridge with no possibility of installing/constructing anything at or on 443 Park Street because the parcel lacks the required lot area under the Code.

6. Therefore, no basis exists for any uses to be effected at or on 443 Park Street and all installations/construction and effected uses on or at 443 Park Street are in violation of the Code and Act, constitute nuisances per se and must be abated.
7. The Zoning Board refers to City Council the request to seek immediate abatement of all installations/construction and effected uses on or at 443 Park Street and to immediately issue a stop-order on 443 Park Street.

Sincerely



Gary E. Medler

The undersigned concur with the above comments and recommendations to the Zoning Board of Appeals.

Jane Underwood  
130 Perryman Street  
Saugatuck, MI

Fred Munding  
439 Vine Street  
Saugatuck, MI

Jim and Holly Lindsey  
430 Vine Street  
Saugatuck, MI

Ken Altman  
415 Vine Street  
Saugatuck, MI

Debra and David Blanford  
306 Park Street  
Saugatuck, MI

Trista and Kevin McCarthy  
442 Park Street  
Saugatuck, MI

Tom Brown  
565 Weirich  
Saugatuck, MI

Susan Bleers  
442 Park Street  
Saugatuck, MI

John and Rita Richardson  
426 Bliss  
Saugatuck, MI

James and Beth Craft  
120 Park Street  
Saugatuck, MI

Tim and Lisa Condon  
135 Van Dalson Street  
Saugatuck, MI

Ann Broeker  
508 Park Street  
Saugatuck, MI

Anthony & Etta Rodriguez  
450 Park Street  
Saugatuck, MI

Mary Lou Graham  
624 Shorewood Dr.  
Saugatuck, MI

Ruth Johnson  
399 Park Street  
Saugatuck, MI

Robert and Loyda Cull  
434 Park Street  
Saugatuck, MI

Greg Parsons  
109 Park Street  
Saugatuck, MI

Tom and Carol Bruckman  
129 Park Street  
Saugatuck, MI



Renee Zita  
Saugatuck, MI

Dawn Schumann  
Saugatuck, MI

Ed Ahern  
Wheaton, IL

Julie Fletcher  
Saugatuck, MI

Amy and Bob Peick  
Saugatuck, MI

Ken Springer  
Saugatuck, MI

Susan E. Hopkins  
William E. Hopkins  
Meghan E. Hopkins  
Katherine A. Hopkins  
444 Park Street  
Saugatuck, MI

Ann and Bill Guild  
156 Park Street  
Saugatuck, MI  
Frederick Eagle Royce III  
144 Lakeshore Drive  
Douglas, MI

Jean Prokopeak  
Susan Prokopeak  
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430 Bliss Street  
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Greg Alcock  
432 Park Street  
Saugatuck, MI

Steve Alcock  
432 Park Street  
Saugatuck, MI

Steve and Maureen Scheller  
181 Park Street  
Saugatuck, MI

Marjorie and Richard Schuham  
204 Lakeshore Drive  
Douglas, MI

## EXHIBIT A

### **443 PARK STREET PERMITTING HISTORY**

Dune Ridge Saugatuck Holdings GP LLC (Formerly Dune Ridge SA LP)

June 16, 2021

#### 443 Park Street

Property: On February 14, 2014, Dune Ridge SA LP (“Dune Ridge”) acquired the property formerly known as the Presbyterian Camp. This property included two very small non-adjacent parcels along the Kalamazoo River, south of the Chain Ferry, separated by a 20 foot parcel (“City Lot”) owned by the City of Saugatuck (“City”), bordered by Park Street to the west and the Kalamazoo River to the east. Each lot measured approximately less than 1,400 square feet in area and each constituted a nonconforming waterfront lot under the City Code of Ordinances (“Code”).

On July 8, 2019, City Council approved the Agreement Regarding Real Property (“Land Swap Agreement”) with Dune Ridge which reconfigured the non-adjacent parcels into a contiguous lot measuring approximately 25’ x 105’ or 2,625 square feet (0.06 acres) in area (“Property”). The reconfigured lots remain a nonconforming lot (Code Section 154.005 definition “Nonconforming Lot”) because it fails to meet the area and/or dimensional requirements under the City’s C-4 Resort Zoning District.

On March 3, 2020, Dune Ridge transferred title to the Property to Dune Ridge Saugatuck Holdings GP LLC (“Dune Ridge”).

Zoning: The Property is located within the City’s C-4 Resort Zoning District (Code Section 154.037). As a waterfront lot (Code Section 154.005 definition of “Lot, Waterfront”), the Property is subject to the provisions of Code Sections 154.200-154.206 (“Waterfront Construction”) and the Design Standards for Selected Special Land Uses (Code Sections 154.092 *et seq.*).

#### EGLE (EGLE) Permitting:

On July 15, 2014, Dune Ridge applied to MDEQ (now EGLE) for a permit to build/install docks for 7 boats and 10 personal watercraft, a bulkhead and boat house to be used as a private marina (“Private Marina”). This application was based on the false assertion Dune Ridge owned the City Lot which did not occur until 5 years and 5 months later (April 2019).

On November 20, 2014, EGLE held a public hearing on the Private Marina.

On September 17, 2015, EGLE issued Permit #14-03-0032-P to Dune Ridge to install docks for 7 boats and 10 personal watercraft (“EGLE Permit”). The EGLE Permit (page 4, paragraph 4) only authorized “construction of a marina for private, non-commercial use only, for individuals residing the Dune Ridge Development.”

In December 2016, Dune Ridge began construction of the bulkhead at one of its nonconforming waterfront parcels without first obtaining the necessary permit (See Code Section 154.205(B) (1) and Code Section 154.206 (b) (1)) or necessary variances from the Zoning Board or approval of the Planning Commission. Dune Ridge representative David Barker falsely claimed no City

approval was required for installation of the bulkhead. In the absence of a zoning administrator, the City failed to issue a stop-order or abate the nuisance.

### City Permitting

#### First Dune Ridge Marina Application:

In 2014/2015, City Zoning Administrator Michael Clark determined:

- a. Proposed marina constituted “Major Waterfront Construction” (Code Section 154.205);
- b. The nonconforming waterfront parcel did not meet the area/dimensional requirements for a marina under Code Section 154.092 (D) (7) (minimum site size of 17,424 square feet and minimum road frontage 132 feet) and would require a variance from the Zoning Board of Appeals (“Zoning Board);
- c. A number of variances would be required from the Zoning Board for other aspects of the proposal, including the fence;
- d. The proposed use was compatible with the adjacent land uses as asserted and admitted by Dune Ridge; and
- e. The proposal would require special land use approval from the Planning Commission.

This application was never presented to the Planning Commission nor any aspect presented to the Zoning Board. Dune Ridge never appealed these Clark determinations to the Zoning Board.

Clark resigned as City Zoning Administrator, effective May 19, 2015.

In late May 2015, Steve Kushion was hired as City Zoning Administrator to replace Clark.

#### Second Dune Ridge Marina Application:

On or about October 15, 2015, Dune Ridge filed a Special Land Use Application (SLU Application No. 15-073) which sought a permit to construct 6 boats slips and other structures at and on one of Dune Ridge’s nonconforming waterfront parcels.

In this application, Dune Ridge asserted: (1) “(T)he proposed boats slips are compatible with the adjacent property uses on either side of the property. Casa Loma Marina and the City Chain Ferry both deal with boating and dockage activity.” and (2) “(T)he adjacent land and buildings on either side are currently used as a private marina and chain ferry. The proposed use is consistent and complimentary with such adjacent uses.” (See SLU Application, 154.082 STANDARDS FOR SPECIAL USE, paragraphs (2) and (8), respectively).

Dune Ridge also asserted “No commercial use is proposed. These are private boat slips not for the public use with no business or enterprise allowed on the site.” (See SLU Application, 154.082 STANDARDS FOR SPECIAL USE, paragraph (10)).

Upon review of this application, City Zoning Administrator Kushion determined:

- a. Proposed marina constituted “Major Waterfront Construction” (Code Section 154.205) over the objection of Dune Ridge which asserted the proposal constituted “Minor Waterfront Construction” (Code Section 154.206);
- b. The nonconforming waterfront parcel did not meet the area/dimensional requirements for a marina under Code Section 154.092 (D) (7) (minimum site size of 17,424 square feet and minimum road frontage 132 feet) and would require a variance from the Zoning Board;
- c. A number of variances would be required from the Zoning Board for other aspects of the proposal, including the fence;
- d. The proposed use was compatible with the adjacent land uses as asserted and admitted by Dune Ridge; and
- e. The proposal would require special land use approval from the Planning Commission.

This application was never presented to the Planning Commission nor any aspect presented to the Zoning Board. Dune Ridge never appealed these Kushion determinations to the Zoning Board.

At the end of November 2015, Kushion resigned as City Zoning Administrator.

On February 22, 2016, the City hired Cindy Osman as City Zoning Administrator to replace Kushion.

#### Dune Ridge’s Zoning Board Application (Variances):

On or about March 8, 2016, Dune Ridge filed a Zoning Board Application No. 16-001 seeking dimensional setback variances in connection with a 144 square foot bathroom and wet bar structures on and at one of its nonconforming waterfront parcels. City Zoning Administrator Osman submitted this application to the Zoning Board falsely representing that a “minor marina construction is a permitted use after approval as a special land use” and despite the prior determinations of City Zoning Administrators’ Clark and Kushion.

On May 12, 2016, the Zoning Board denied the requested variances, which included denial of the lot area variance and lot width area variance, effectively precluding installation/construction of the marina proposal. On June 23, 2016, Dune Ridge appealed the Zoning Board’s variance denials to the Allegan County Circuit Court.

On April 5, 2017, the Allegan Circuit Court upheld the Zoning Board’s decision denying Dune Ridge’s variance requests (Decision on Appeal from Denial of Zoning Setback Variances, *Dune Ridge, SA, LP v. City of Saugatuck*, File No. 16,56795-AA), appeal denied (“Circuit Court Decision”). The Circuit Court Decision also addressed and dismissed Dune Ridge’s “taking” arguments as without merit.

### Third Dune Ridge Marina Application:

On or about June 17, 2017, just over two months following the Circuit Court Decision, Dune Ridge filed a Special Land Use Application which sought a “Minor Waterfront Construction” special land use permit from the Planning Commission to construct 6 boats slips (3 docks) and other structures at and on one of its nonconforming waterfront parcels.

On July 20, 2017, Dune Ridge, through City Zoning Administrator Osman, presented its Minor Waterfront Construction (Code Section 154.206) Special Land Use Application to the Planning Commission which included a variance request to construct a six foot high, 6:1 opacity fence along the northern boundary of the parcel. This application and the Zoning Administrator’s Memorandum both state that the proposed use was compatible with the adjacent land uses and no utilities were proposed.

On July 20, 2017, the Planning Commission approved the Minor Waterfront Construction Special Land Use Application for construction of five boat slips and one covered slip/building, sidewalk, parking area and security fencing, subject to obtaining a variance for the proposed fence at only one of Dune Ridge’s nonconforming waterfront parcels (Parcel No. 009-054),

Pursuant to the Planning Commission’s approval, Zoning Administrator Osman issued a Minor Waterfront Construction Permit No. PZ17026 to Dune Ridge, expiring July 20, 2018 (“City Permit”). No extension of, or amendment to, the City Permit has been issued.

Zoning Administrator Osman also signed a Major Waterfront Construction Permit No. PZ15073 in the name of Dune Ridge; however, this permit did not contain an “issued” or “expiration” date and no Planning Commission Special Land Use Application for Major Waterfront Construction was ever filed or approved by the Planning Commission.

The Osman/Dune Ridge presentation to the Planning Commission contained material misstatements of facts and law and failed to disclose to the Planning Commission material facts and applicable laws, such as, but not limited to:

1. Prior Zoning Administrators had already determined the proposal constituted Major Waterfront Construction and required various area/dimensional variances from the Zoning Board which had not been obtained;
2. Dune Ridge failed to appeal any of the prior zoning administrators’ determinations to the Zoning Board;
3. On April 5, 2017, the Circuit Court Decision upholding the Zoning Board’s variance denials had been issued;
4. The Planning Commission lacked jurisdiction or authority to grant a special land use permit on a Minor Waterfront Construction proposal under Code Section 154.206 (I) ((3));
5. A Minor Waterfront Construction proposal does not require special land use approval from the Planning Commission and under Code Section 154.206 (I) (3) is approved by the zoning administrator if the application for Minor Waterfront Construction meets the requirements of the Code;
6. The Minor Waterfront Construction proposal did not meet the requirements of the Code;

7. A Minor Waterfront Construction proposal does not authorize commercial marinas but only permits a single pier or dock at any one single-family residential parcel of land and construction is limited in magnitude to that which might be done for the personal benefit of the owner and immediate family members as provided in Code Section 154.206 (B) (2);
8. Only one pier or dock is permitted for each residential lot or parcel with a Minor Waterfront Construction permit under Code Section 154.206 (D) (minimum lot area of 15,000 square feet);
9. Neither of Dune Ridge's nonconforming waterfront parcels meet the area/dimensional requirements of the C-4 Resort Zoning District for a residential lot and not even one pier or dock could be installed at either of Dune Ridge's nonconforming waterfront parcels without a variance from the Zoning Board; and
10. No retail or commercial uses are permitted under a Minor Waterfront Construction permit (Code Section 154.092 (D) (2) (f)).

### Land Swap Agreement

On July 8, 2019, City Council approved the Land Swap Agreement with Dune Ridge by voice vote, without discussion. The entirety of the presentation to City Council on July 8, 2019, was contained in Zoning Administrator Osman's Memorandum, dated July 8, 2019, which provided:

“This is a land swap of properties of similar size to relocate a City property to the south end of land owned by Dune Ridge SA, LP. This property is located between the Chain Ferry landing on Park Street and Casa Loma at 405 Park Street.”

This Memorandum also states: “This agreement was reviewed by Municipal Attorney Cliff Bloom.”

Section 1 (b) of the Land Swap Agreement provides:

“City approves and Dunegrass shall install the remaining infrastructure including an eight (8) foot high privacy screen to separate commercial traffic at the Chain Ferry from the adjacent private boat slips. The City does not have jurisdiction or authority to limit docks or other structures over the water with the exception of limiting the length of docks. These structures are subject to any applicable state or federal laws. A three (3) foot high open weave (6:1) fence along the current boardwalk and along future paved parking area will be permitted with the issuance of a standard fence permit. The gravel parking area will be paved and signs not to exceed 1 square foot in area indicating the parking assignments will be placed at the east side of each parking space.”

Dune Ridge, its representatives and counsel, the entire City organization and all their members and employees, including Zoning Administrator Osman, who is a licensed attorney, and the City's outside counsel, Bloom Sluggett PC, know that the Michigan Legislature, by enactment of the

Michigan Zoning Enabling Act (“Act”), as codified into the Code, granted sole and exclusive jurisdiction to the Zoning Board to hear and decide variances.

Code Section 154.171 (N) specifically limits the authority of the City Zoning Administrator as follows:

“Under no circumstances is the Zoning Administrator permitted to make changes in this chapter, nor to vary the terms of this chapter while carrying out the duties prescribed herein. It shall be the responsibility of the City Council to assure that the Zoning Administrator enforces the provisions of this chapter.”

Section 1 (b) evidences the intentional act of a group of people, acting in concert, to violate the Act and Code by attempting to circumvent the sole and exclusive authority of the Zoning Board by attempting to grant the variances contained in Section 1 (b) of the Land Swap Agreement.

Only the Zoning Board can hear and determine to grant a variance for the illegal Fence. Only the Zoning Board can hear and determine to grant a variance to permit a dock at the Property, but only after first hearing and determining to grant a variance from the area/dimensional requirements for the Property which substantially fail to meet the requirements for either a commercial marina or a residential lot.

The Fence and the docks have been installed and erected in violation of the Act and Code and pursuant to the Act and the Code, constitute nuisances per se and must be abated.

No evidence has been found that City Council was advised on the language of Section 1 (b) and how it violates the Act and Code and usurps the sole and exclusive authority of the Zoning Board.

Zoning Administrator Osman and Bloom Sluggett had a duty and fiduciary obligation not to have negotiated these terms without direction from City Council, and even then, had a duty and fiduciary obligation to advise City Council it could not execute the Land Swap Agreement as long as the agreement contain the void provisions of Section 1 (b).

### Fence

On or about December 8, 2020, Dune Ridge completed construction of an eight foot solid board fence along the northern boundary of the Property (“Fence”). On December 10, 2020, a group of residents advised City Council of the Fence being in violation of City Code Section 154.153 (F) (6) (as to height, opacity and location). Neither Zoning Administrator Osman nor City Council has issued a stop-order or sought abatement of the nuisance.

## City Council

Since being notified of the Fence, City Council has held numerous meetings related to the Fence and other issues arising out of the uses and proposed uses at and on the Property. Over six months have passed since City Council has attempted to deal with the Fence and other Property related matters. Such attempts have been far from effective. Even after each Council Member verbally asserted the Fence was illegal and must come down, no affirmative action to abate the nuisance was taken. Instead, at the April 22, 2021, City Council Special Meeting, Council Members adopted the following resolution (“Fence Resolution”):

“A motion was made by Peterson, 2<sup>nd</sup> by Lewis, to direct legal counsel to send Mr. Heule’s attorney a letter advising that he needs to get an application for the fence filed by May 13<sup>th</sup> in order to have this matter tentatively placed on the June 8 Special Zoning Board of Appeals Meeting agenda for review and decision. If a completed application is not received by the City by May 13 then the entire fence must be removed by May 14 and, if it is not, regardless of reason, the City will initiate enforcement action on or about the 15 of May. If we are told he will not agree to apply under these circumstance, then we can begin enforcement proceedings immediately. Upon roll call vote the motion carried unanimously.”

## Fence Application:

On May 12, 2021, Dune Ridge submitted a Zoning Board application pursuant to the Fence Resolution (“Fence Application”). A Zoning Board Special Meeting was set for June 10, 2021, and Public Notice was published. This Zoning Board Special Meeting was then rescheduled for June 17, 2021.

The Fence Application as filed states:

“The owner requests a variance from the front yard setback from the 15’ to 2’, side setbacks from 10’ to 2’, and from the water side set back from 25’ to 10’ to construct a bathroom and storage closet/laundry on the upland portion of its marina. The owner request a dimension variance for a 4’ solid board half wall with gate in lieu of a 3’ fence with 6:1 ratio open space. If these requested variance are approved, then the owner will consent to reducing the existing 8’ privacy screen that was installed pursuant to a 2019 written agreement with the City. The owner would request a variance to allow the 8’ privacy screen to remain at 8’ to cover the electric meter, but would agree to reduce the rest of the privacy screen to 6’ (without waiving its legal argument that the entire 8’ privacy screen has already been properly approved by the City in a legally enforceable document) As a result of the unique lot shape, the riverfront, the offset of the Park Street right-of-way, and the



overlapping setbacks, the upland portion of the parcels have no building envelope (see site setback sketch). The structures proposed to be build are customary accessories to marina uses. Boat owners that use the marina would utilize these structures as is done in other area marinas. The marina is fully permitted (both state and US Army Corps of Engineers) and is a use that is permitted with special land use approval, which was obtained from the Planning Commission in 2017. It is a long-time parcel that is subject to property tax yet is not capable of being used like other marinas without a variance.”

If not for the Fence Resolution, Dune Ridge would not have filed the Fence Application.


The Fence Application does not comport with the requirements of the Fence Application because it does not even seek an after-the-fact variance for the illegally erected Fence. Instead, Dune Ridge is seeking variances previously denied by the Zoning Board and upheld by the Circuit Court Decision and a variance for a separate 4 foot solid board fence with a gate. If both of these variances requests are not first granted, then no variance is proposed related to the illegally erected Fence.

The Zoning Board simply has no authority to overrule a valid and final order of the Court which upheld the denial of the requested variances. The requested variances are substantially identical to those previously rejected by the Court. Since Dune Ridge has provided no information or evidence of a substantial change in the Code, the denied variances under the Circuit Court Decision and the Property, the Fence Application fails by Dune Ridge’s own terms and conditions.

Without the capacity to overturn the valid and final Circuit Court Decision, the Zoning Board need not, and cannot not, address the remainder of the Fence Application pursuant to Dune Ridge’s structured and conditioned Fence Application.

**EXHIBIT B**

Dune Ridge Marina Articles from Commercial Record,  
dated August 28, 2014 through November 17, 2016



**Wine, cheese and song**  
(See Page A8)

**Back to school**  
(See Page A4)



Our 165th Year

# The Commercial Record

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\$1



Thursday, August 28, 2014

Saugatuck, Michigan

Vol. 40 Number 35



## In good taste

Saugatuck's 27th annual Taste of Saugatuck brought sunshine and thousands of hungry and thirsty diners, including this one, to Saugatuck's Wick's Park and along nearby Water Street. More than a dozen local culinary artisans showed off and sold their wares, live bands played, children milked and petted goats and had their faces painted during traditional festivities. Can Labor Day and school's start really be at hand? (Photo by Scott Sullivan)

## Camp developer seeks Park Street marina permit

**BY SCOTT SULLIVAN**  
EDITOR  
The new owner of Saugatuck's Presbyterian Camps is proposing to build a private marina with slips for nine boats and 10 personal watercraft in the Kalamazoo River

south of the chain ferry landing on Park Street. The parcel, 170 feet south of where Perryman Street intersects Park and north of Casa Loma, is zoned by the City of Saugatuck R-1 Peninsula South, which does

not allow marinas. Dune Ridge SA LP, which Feb. 14 bought the 130-acre camp for \$10 million from the Presbytery of Chicago, filed July 15 with the Michigan Department of Environmental Quality for a permit

to build a boat house, bulkhead, fill and dock for a "Dune Grass" project on now largely-vacant riverfront land it owns. The DEQ's Coastal and Inland Waters Permit Information Systems lists the request's

status as Waiting for Additional Information. The U.S. Army Corps of Engineers on Aug. 22 issued a public notice with drawings on the proposed construction (www.usace.army.mil/Portals/66/docs/regulatory/PN/

2014001952514.pdf). It includes a 200-foot steel sheet pile wall, discharge of approximately 550 cubic yards of fill material in a 217-foot long by 25-foot wide by 4-foot deep area (See Marina, Page A6)

## Ex-official sentenced to probation, jail

**BY DANIEL PEPPER**  
STAFF WRITER  
An Allegan County judge said he felt financial restitution was not enough as he sentenced former Saugatuck Township supervisor and Allegan County commissioner Terry Burns to serve two months in jail for embezzling money from a friend.

Burns, 71, was before Judge Kevin Cronin Monday for a sentencing hearing after pleading guilty to one count of attempted embezzlement from a vulnerable person by an agent or trustee.



"There's a long-time policy in this county of not giving jail if there's complete repayment."

said Cronin. "I don't think no jail is appropriate."

"I think it could say we aren't interested in deterrence when someone takes money from someone who's vulnerable and we only make them be financially accountable."

Burns was arrested in November 2013 and charged with embezzling money from Joseph Migas, for whose estate he'd been appointed conservator, when he made several loans to himself in furtherance of his run for state representative. Migas' former property, the Mi Ro golf course, hotel and lounge in Saugatuck Township, had been sold by Burns to the City of Douglas on behalf of

Migas. Burns gave funds from the proceeds to himself and political consultant Matt Maxlow, which he said were loans.

Burns' explanation for taking money from the estate of Migas—who was suffering from dementia and whose previous conservator, Burns' attorney said, hadn't been taking care of his interests—was Burns had often borrowed money from Migas, who had been a friend of his and of his father, Ed.

The state sentencing guideline in the case called for a zero- to six-month jail sentence. Cronin decided on a sentence of two or four months.

"I don't find any substan-

tial and compelling reason to go above the guidelines in this case," Cronin said. "I think some punishment is necessary for this act."

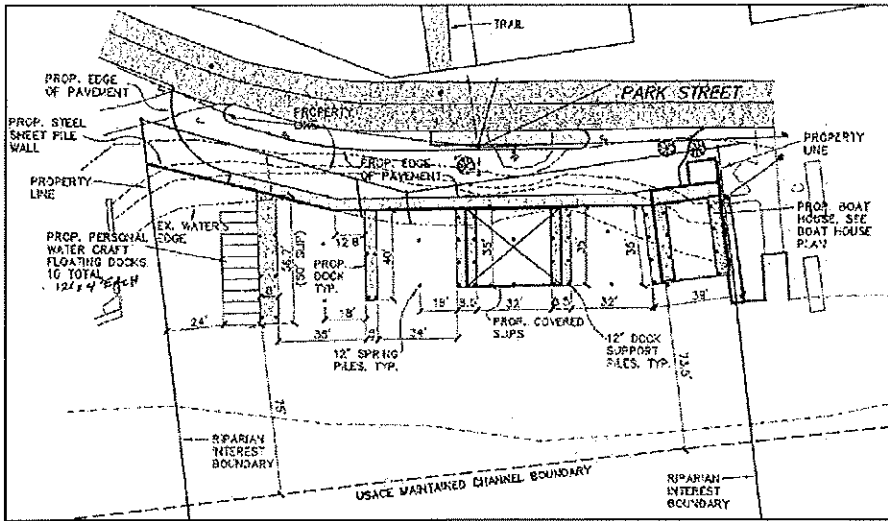
He sentenced Burns to report to jail Saturday, Aug. 30, and serve 30 days there, followed by a month free and then another 30 days in jail.

"An additional sentence of two months, I'll hold in abeyance," Cronin said.

Whether Burns serves that sentence, beginning Jan. 2, 2015, will depend, the judge said, on whether restitution is repaid by then and whether state regulators take Burns' counseling license. Cronin asked attorneys whether it

(See Burns, Page A3)





STATE OF MICHIGAN  
OFFICE OF THE ALLEGAN COUNTY  
DRAIN COMMISSIONERS  
BOARD OF DAY OF REVIEW  
OF DRAINAGE DISTRICT BOUNDARIES & BOARD OF DAY OF REVIEW  
OF APPOINTMENTS

Notice is hereby given that on Wednesday, September 3, 2014, the Allegan County Drain Commissioners will hold a Day of Review of Drainage District Boundaries from 9 a.m. to 5 p.m. at the Office of the Allegan County Drain Commissioners, 113 Chestnut Street, Allegan, Michigan 49010. At that time and place, the Drain Commissioners will have the maps and exhibits and readily accessible and receive the description of lands comprising the Drainage Districts for the Drainage Districts, and determine whether the inclusion or deletion of lands will more accurately define the boundaries of the land benefited by the drains and is just and equitable pursuant to Section 197 of 1955 PA 49, as amended. The Districts are located and established in the following municipalities, and a general description by section number of the lands proposed to be added or deleted, in whole or in part, to the following DRAIN MUNICIPALITY, SECTION NUMBERS:

# 260 HERRING DRAIN  
CITY OF DOUGLAS, SAUGATUCK TOWNSHIP  
Dockets 20 21; Saugatuck 20 21  
# 275 MAPLE BALE DRAIN  
SAUGATUCK TOWNSHIP  
Saugatuck 3  
# 723 POTATOWAY PINES DRAIN  
SAUGATUCK TOWNSHIP  
Saugatuck 3  
# 783 SAMPSON WOODS DRAIN  
SAUGATUCK TOWNSHIP  
Saugatuck 3

## Marina from Page A1

backfill for the wall and parking area and discharge of 19 cubic yards of concrete in a 205-foot long by 5-foot wide by 0.05-foot deep area for a walkway immediately landward of the new steel sheet pile wall.

The proposed project would also involve dredging 3,000 cubic yards of material from a 235-foot long by 85-foot wide by 11.5-foot deep area off-shore of the wall for the depth for the marina.

Dune Ridge is further seeking permission to install six open pile piles.

- 1) One 35x5-foot dock;
- 2) One 35x9-foot dock supporting a 20x35-foot covered boathouse;
- 3) Two 35x8.5-foot docks supporting a 49x8.5-foot dock supporting a 49x35-foot covered boathouse;
- 4) One 40x5-foot dock;
- 5) One 54.7x8-foot dock with 16 14x3-foot interlocking personal watercraft docks attached to the south side.

The owner would also install eight spring piles, two between each dock.

The purpose of the proposed work, says the public notice, is to provide a private marina for homeowners in a new development.

The move marks a change from what Dune Ridge—a private equity firm first fronted by David Barker and funded by Paulus C. Heule of Grand Rapids—to the Saugatuck Planning Commission last December when the latter voted 4-2 to approve a special land use for the owner to create eight private home lots on 22.7 acres of the former camp fronting Lake Michigan south of and adjacent to the city-owned Oval Beach.

Barker assigned his rights and obligations Jan. 22 to Dune Ridge, whose principal Heule is president and was co-founder with his late father, Amsterdam real estate magnate F.F. Carl Heule, of the Grand Rapids-based property management firm Eenhorn, LLC.

Fanhorn, which translates to "incomer," owns Plaza Towers, the August Tech Center and nine residential apartment complexes in Grand Rapids. It also owns and manages properties in Lansing, Hastings, Kalamazoo and Battle Creek, Texas, Georgia,

California, Wisconsin, the Netherlands and China.

Asked last fall what plans he had for the former camp's inland acres, Barker said none at this time, adding future proposals would need to go through their own public permit processes.

Nine months later, at least one of those titles is here.

"The site is designed," Dune Ridge applicant Ed Pynnonen told the corps, "to the minimum size requirement possible in order to limit the amount of construction on the bottomlands."

"Extending a boardwalk waterward along the seawall was considered to limit filling," he continued, "however due to significant additional costs and long term maintenance was considered not feasible. A silt curtain will be in place throughout dredging and sheet pile construction to minimize sedimentation downstream at the project."

The notice says the corps has not verified the accuracy of the applicant's avoidance and mitigation statement at this time. Nor has it verified Dune Ridge's claim "No wetland area is being impacted by the proposed project."

Concerned citizens have through Sept. 11 to submit written comments on the proposal to Charles M. Simon, Chief, Permit Evaluation, Western Branch Regulatory Office, Detroit District, Corps of Engineers, 671 Michigan Ave., Detroit, MI 48226-2350. Comments may be emailed to James D. Luke at wbrs-army.mil, but must include a name and mailing address.

Any person may request in writing a public hearing be held to consider this application. Requests must state, with particularity, the reasons for holding such a hearing.

"The decision whether to issue the permit," says the corps' notice, "will be based on evaluation of the probable impacts of the proposed activity on the public interest. That decision will reflect the national concerns for both protection and utilization of important resources."

"The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments."

the document continues.

"All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concern, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation,

water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people."

The case will consider any comments received "to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, gen-

eral environmental effects and the other public interest factors listed above.

"Comments will be used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity," the notice says.



On Labor Day, we salute the men and women whose hard work keeps our nation moving in the right direction. Their expertise, dedication, innovation and industry are the lifeblood of America's economy, and it's the combined effort of so many hands, hearts and minds working together as a team that keeps our country strong and vibrant. As we celebrate Labor Day, we recognize with gratitude all of the workers who uphold and embody the robust work ethic that makes us so proud to be Americans.

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| Allegan County Medical Care Community          | Saugatuck Drug Store           |
| Allegan County United Way and Volunteer Center | Strobeline Realtors            |
| James Brandless Studios & Gallery Inc.         | Surdy & Dan Spoonhan           |
| Laura Durham of Mill Pond Realty, Inc.         | Star of Saugatuck Boat Cruises |
| Greovy Paws                                    | The Commercial Record          |
|  | Uncommon Coffee Roasters       |

eral environmental effects and the other public interest factors listed above.

"Comments will be used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity," the notice says.

Any drain assessments against land will be collected in the same manner as property taxes. If drain assessments are approved and collected, installment payments may pay the assessments in 1.5 years with a one percent interest charge.

In addition to the assessed parcels and tracts of land in the Section a number's listed above, shall be regularly assessed at large for benefits of the maintenance of the aforementioned drains in Section 3.

**NOW THEREFORE**, all persons and business and professions, owners, and persons interested in the above-described special assessment district, and you:

Chief of Allegan County, Allegan County Road District, Township Supervisors, City or Village Managers, are hereby notified that at the time and place specified in the appointment of hearing and the lands comprised within the appointment of Drainage Districts shall be subject to review.

Persons with objections needing accommodations for either a meeting or the meeting should contact the Allegan County Drain Commissioners at (269) 678-0440 or the Michigan Relay Center at (269) 649-5777 (TDD) at least 24 hours in advance of the meeting to request mobility, visual, hearing, or other accommodations.

Aug. 31, 2014  
Dane Heuleman  
Allegan County Drain Commissioners 6-26-2



## Dive team makes splash

(See Page A8)

## Event nets homes for pets

(See Page A5)



Our 145th Year

# The Commercial Record

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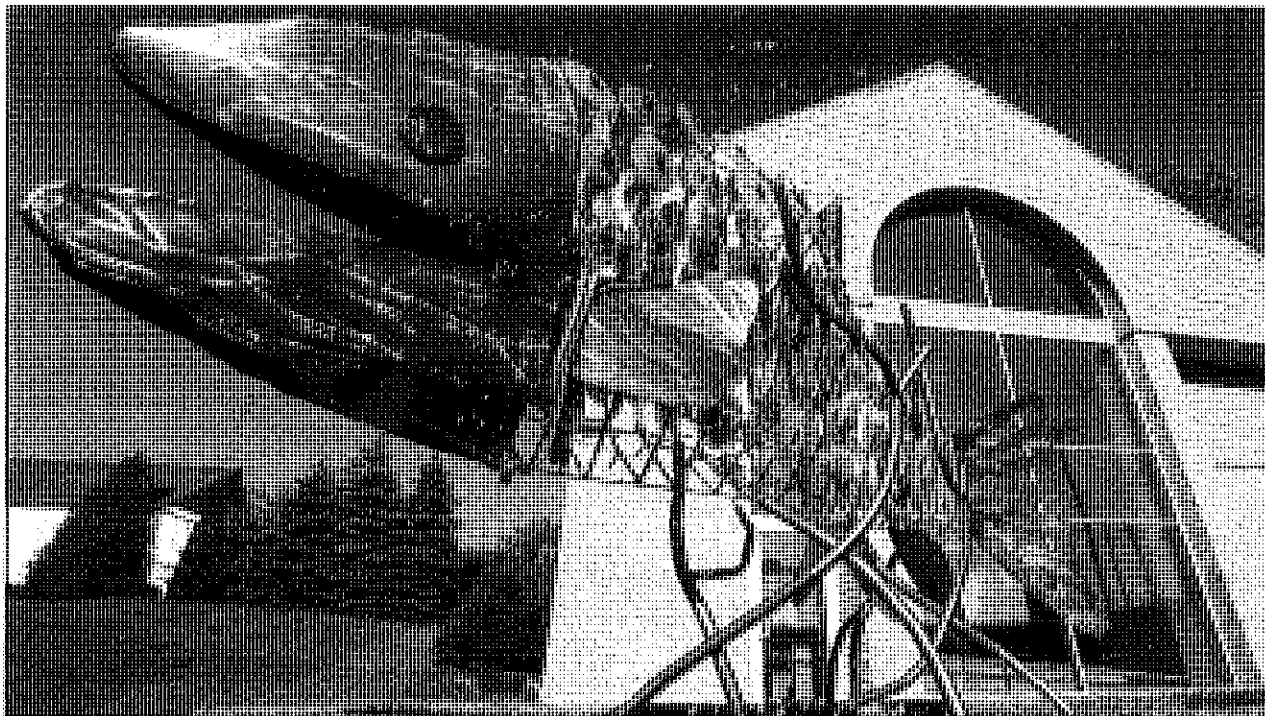
\$1



Thursday, June 26, 2014

Saugatuck, Michigan

Vol. 40 Number 26



Saugatuck summer residents Darinda Walker and her new husband, Michael Rippey, have donated "Big Fish"—a large metal sculpture by Josh Russell, adorned with colorful glass "scales" by Jeff Blumford—to the Saugatuck-Douglas Convention & Visitors Bureau in memory of their friend, the late Steve Rubinkam, who commissioned it for his Douglas gallery. It now sits in front of the CVB Welcome Center on the corner of Blue Star Highway and Randolph Street in Douglas. "We are hoping 'Big Fish' lures visitors to their fabulous building," said Walker, adding she is looking for a dedication plaque and hopes the bureau can get electricity to light the work properly. (Photo by Scott Sullivan)

## Something fishy

## Public hearing set June 30 for camp development

By SCOTT SULLIVAN  
EDITOR

The Michigan Department of Environmental Quality will host a second public hearing

regarding the new owner's plans to develop the former Saugatuck Presbyterian Camps Monday, June 30, in the Saugatuck High School media center at 6:30 p.m.

Dune Ridge SA LP—a private equity firm fronted by David Barker and funded by Paulus C. Heule of Grand Rapids—bought 130

acres at 631 Perryman St. that had hosted church camps since 1899 from the Presbytery of Chicago for \$10 million Feb. 14. It is seeking DEQ permits to build improved roadways to eight single-family home sites on 22.7 acres fronting Lake Michigan on the tract's northwest corner, next to

Saugatuck's Oval Beach.

Several of the 40-some attendees at the first scheduled hearing June 3 complained the state agency had not provided them adequate prior notice.

"We scheduled the June 30 hearing because of that," said DEQ Water Resources Division environmental

engineer John Bayha.

"Dune Ridge has since then submitted alternate plans to install private well and septic systems for homes on the property," he continued. "That would eliminate the need for public sewer and water infrastructure that is currently included in the application.

"If built and installed correctly, private water and septic systems would be far less interruptive environmentally," Bayha said.

The proposed roads would be built over the former camps' gravel roadways. They would be paved throughout their course and widened in (See Camps, Page A3)

## Business association rebrands, reboots

By SCOTT SULLIVAN  
EDITOR

The Saugatuck-Douglas Area Business Association is rebranding and rebooting.

New president Jim Petzing announced new board members, goals and more during the organization's "Get on Board" membership meeting June 16 at its new headquarters in the old Douglas hospi-

tal building on Blue Star Highway at Wiley Road.

"Our vision is to be the premier business association in western Michigan with a "AAA" rating from its membership by the end of the year 2017," said Petzing. "Our mission is to drive incremental business in our members' businesses."

Key priorities now through December 2015, he continued, are:

- Get SABA back on track.
- Establish a clear identity: fill

vacant board positions with passionate, strategic, creative and hardworking members who complement the existing board; and focus on "Fewer, bigger, better."

- Be inclusive vs. exclusive. Ensure decision-making and programming is not "Saugatuck-centric"; encourage more active participation from Douglas and Blue Star Highway businesses; avoid being overly retail-focused; build membership across a variety of businesses and

beyond the immediate Saugatuck-Douglas area; and recruit SABA members for board-led committees.

- Develop and execute five or six "signature" events throughout the calendar year. Make successful existing events bigger and better; create at least one new "big" event idea integrating SABA members in both Saugatuck and Douglas (e.g. Taste of Fashion); and go for the "wow" factor.
- Provide more value-

added benefits for members. Offer educational programs taught by service industry SABA members (e.g. hospitality and computer training); develop a directory listing service industry members; create better exposure opportunities for members within signature events and overall marketing efforts; hold monthly merchant meetings to share success stories and issues; and waive/discount membership fees for board (See SDABA, Page A3)



## Volunteers sought for Venetian Fest July 25-26

An organizing committee has been established to coordinate production of the 2014 Saugatuck Venetian Festival, which takes place July 25-26 in Coghlin Park.

The nonprofit Cow Hill Yacht Club, the event's first-year sponsor, has recruited a local management committee and welcomes more volunteers, said commodore Ken Trester. Key organizers include:

- Sherry Tedaldi, general chairperson
  - Mary Battaglia, sponsor coordinator
  - Brian Butler, bar and refreshment manager
  - Patrick Cuttica, social media coordinator
  - Felicia Fairchild, publicity coordinator
  - Jared Kearns, Friday night tent concert manager
  - Nancy McDonnell, online media, volunteers and poker run manager
  - Kathy Mooradian, sponsor event coordinator
  - John O'Malley, beer service and marketing
  - Dawn Perez-Pala, children's games
  - Leslie Thompson, chief financial officer
  - Howard Vanderbeck, licenses, permits and insurance
  - Lance Winchester, boat parade director
- "We are fortunate to have

such a talented and hard-working group of volunteers to lead the Venetian and provide a great festival for area residents and visitors," said Trester.

Festival fun will include:

- A Friday night tent concert featuring the 1980's rock group Star Pann, plus refreshments and food in Coghlin Park from 5 to 11 p.m. There will also be children's games and a costume contest.
- The Dinghy Poker Run will launch Saturday at noon.
- The annual Lighted Boat Parade on the Kalamazoo River will start Saturday at 9:15 p.m., followed by a fireworks show at 10.

The theme for this year's festival is "The Pirate Invasion." Pirate boat decorations and costumes are encouraged.

Event proceeds will support Cow Hill's charitable work helping needy families and to underwrite Saugatuck's downtown holiday lighting program.

"Sponsors will help assure that we not only have a great time but continue the club's great work," Trester said.

For more information, go to the festival's new website, [www.saugatuckvenetianfest.org](http://www.saugatuckvenetianfest.org).



New association president Jim Petzing discusses goals and visions during membership meeting June 16. (Photo by Betsy Burns)

## SDABA from Page A1

active committee members. Petzing, who owns Zing Eat/Drink in Douglas, heads a board that includes treasurer Jack Den Uyl and trustees Greg Muncey, Mike Gustafis, Tammy Kerr,

David Langley, John Jerome, Jodie White and Jamie Wolters. Elizabeth Burns is administrator and marketing director, while Madeline Peterson is an intern. Part of the group's re-

branding, said Burns, will be dropping its longtime "SABA" acronym—which omitted the "D" for Douglas—in favor of "Saugatuck-Douglas ABA." "It may seem symbolic,

but it is significant," Burns said. For more information about the new Saugatuck-Douglas ABA, visit [www.saugatuckdouglas.com](http://www.saugatuckdouglas.com) or call (269) 857-1626.

## Camps from Page A1

certain locations to allow for fire-protection access.

The new roads would have an average 16-foot width, with fire truck passing zones as wide as 26 feet. The 3,200-foot long completed roadway would include close to 2,000 feet of new retaining walls to support it and stormwater-handling structures.

Serving the homes with public water and sewer would involve installing utilities along close to 2,300 feet of city-owned Pertyman Street, plus building a water main at the end of Vine Street. This would mean close to 5,750 feet of new water main and 3,650 feet of new sewer lines, with two accompanying sanitary lift stations.

The nine permit applications (one for the road and possible public infrastructure, the other eight for individual lots) are considered related by the DEQ and will be reviewed accordingly, said Bayha.

The application is available for review at the DEQ website, [www.deq.state.mi.us/CIVPLS](http://www.deq.state.mi.us/CIVPLS); at its district office, 7953 Adobe Road, Kalamazoo, MI 49009-5025; or by calling (269) 567-3500.

The hearing record will remain open for 10 days after next Monday's session. Any written comments to be submitted for the record must be received at the district office address on or before July 9.

## Hospice House closes due to funding cuts

Hospice of Holland will close its Hospice House due to Affordable Care Act funding changes affecting its residential operations and will focus on in-home and non-hospice palliative care services.

The organization's board decided June 12 to cease accepting new patients at Hospice House June 23 and discontinue operations there effective July 18.

"Changes in healthcare at the national level, particularly with hospice reimbursement rates, have dramatically affected our operating margin," said Hospice of Holland executive director Torrey Husmann.

"We have a strong financial footing for providing hospice care in facility and home settings, which is the largest part of our overall operations," he continued. "Unfortunately, given all the

changes brought on by the Affordable Care Act, the operational model of the Hospice House is unsustainable."

Under the Affordable Care Act, hospice programs will experience major cuts in reimbursement over the next five years. In 2013, Hospice of Holland experienced \$165,000 in reductions; this year it anticipates \$365,000 more, dramatically affect operating income.

Since its opening, the Hospice House has operated with a deficit, which has increased over time due to increased regulations, the high cost of care and lowered reimbursements from Medicare, Medicaid and other insurance providers.

The Hospice House on average loses \$700,000 a year; in 2014 it is projected to lose \$1.2 million.

"Hospice House usage is 13 percent

of our total patient care," said Husmann, "yet takes the majority of our financial resources to stay open. We cannot continue to support this trend if we want to remain open and service our community with in-home care, which is 87 percent of our operation."

"This was a very difficult decision for everyone involved," said business development director Denise Stancill. "But, when faced with the reality that Hospice of Holland would not be able to survive for the long term if we continued operating the Hospice House at a large deficit, the decision was clear."

Since its inception in 1981, more than 10,000 individuals have received care in their final days from Hospice of Holland. For more information, call (616) 396-2972 or visit [www.holland-hospice.org](http://www.holland-hospice.org).

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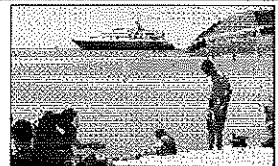


## Figment of reality

(See Page A4)

## Big boat

(See Page A8)



Our 145th Year

# The Commercial Record

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\$1



Thursday, July 3, 2014

Saugatuck, Michigan

Vol. 40 Number 27



## Having a ball

The Saugatuck-Douglas Area Business Association's first 2014 Music in the Park concert brought more than the Top 40 band The Niche and listener-pickers to Saugatuck's Wicks Park June 25. It also boasted lids playing with mini-beach balls. Local favorite Don Middlebrook and his top-rock band Living Soul performed Wednesday, July 2; next up is the new country Brenda Lewis Band Wednesday, July 9, at 7 p.m. The free Wednesday concerts continue through Aug. 27. For more information, visit [www.SaugatuckDouglas.com](http://www.SaugatuckDouglas.com). (Photo by Scott Sullivan)

## Most object to ex-camps development requests

By SCOTT SULLIVAN  
EDITOR  
Most citizens attending a Michigan Department of Environmental Quality public hearing Monday spoke against a new private own-

er's request to develop the former Presbyterian Camps on Lake Michigan in Saugatuck.  
Dune Ridge SA LP—a private equity firm fronted by David Barker and funded

by Paulus Heule of Grand Rapids—bought 130 acres at 631 Perryman St. that had hosted church camps since 1899 from the Presbytery of Chicago for \$110 million Feb. 14.

The Saugatuck Planning Commission voted 4-2 Dec. 3, 2013, to grant Barker a special use to create eight home lots—served by sewer, water and road improvements—subject to

contingencies Barker said he'd comply with.  
Camp neighbors the Shorewood Association and Gary Medler have sued the city claiming it granted approvals illegally. Hearings on both

lawsuits remain pending.  
Now Dune Ridge is seeking DEQ permits to build improved roadways to eight single-family home sites on 22.7 acres on the tract's (See Camps, Page A3)

## Ex-official pleads guilty to embezzlement

By DANIEL PEPPER  
STAFF WRITER  
Former Allegan County commissioner and Saugatuck Township supervisor Terry Burns has entered a guilty plea to attempted embezzlement charges.  
Burns, 71, of Saugatuck Township was in court Monday, June 30, where he admitted to lending himself and a political consultant money belonging to Joseph Migas, of whom Burns had been appointed guardian. Migas, the former owner of Mi Ra Golf Course, hotel and lounge in



Terry Burns

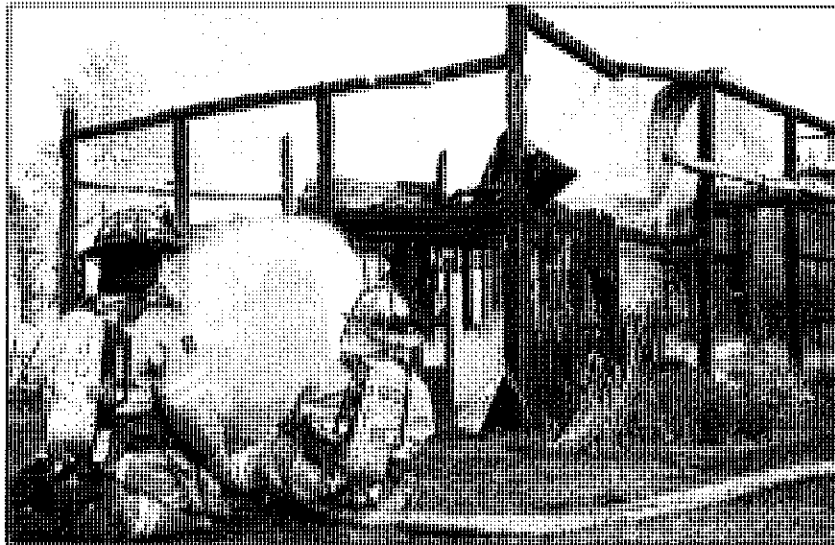
Saugatuck Township, is suffering from dementia, according to court records, and

Burns, whose late father was a longtime friend of Migas, was appointed by Allegan County Probate Court to manage his financial affairs.  
Judge Kevin Cronin accepted the plea.  
"If he'd made the statement he made here today in front of a jury, though of course that would be unlikely to occur, he might have been convicted of the full offense and not just an attempt," Cronin said.  
Burns pleaded guilty to attempting embezzlement of \$20,000 to \$50,000 from a vulnerable adult as part of a plea agreement with Allegan County prosecutors, who agreed to drop the original

charge of actual embezzlement.  
Burns told the court he'd been appointed Migas' guardian and had overseen the sale of 16.4 acres where the Mi Ra had been located on 130th Avenue/Wiley Road to Douglas city officials, which netted \$160,000.  
Burns told the court he loaned himself money from Migas' account and also to political consultant Matt Muxlow.  
"I did borrow \$16,500 from him and I loaned \$10,750 to a guy who was helping me run for state rep," Burns said.  
In June 2013 Burns announced his intention to run for the seat currently held by

the term-limited State Rep. Bob Genetski, R-Saugatuck, by skydiving out of a plane. He later withdrew his candidacy, citing the loss of his daughter, Kelly Burns-Mack, in an August car crash.  
He said he'd borrowed the money and put it in his account.  
"I put it in my own bank account for the state representative race," Burns said. "I had enough money coming in from donations I didn't need to use it, so I paid it back early."  
Burns' attorney, Brad Johnson, asked whether the amount loaned to Muxlow was for campaign services.  
"It was a small portion for (See Burns, Page A5)





# Blaze devours Ganges barn

Firefighters were able to keep a blaze which destroyed a Ganges Township barn June 24 from harming any other nearby structures. Ganges Township Fire Chief Doug Compton said his department was called about 5:45 p.m. to a home on 66th Street. "The early-1900s wooden barn was fully involved when we got there," he said. "It burned very hot."

Ganges firefighters Kathy Andry and Brad Bale maneuver a jet of water at the remaining embers. (Photo by Brad Klosner)

He said goats and chickens were killed in the fire. Causes are unknown. "There was really nothing left to even investigate," Compton said.

The owners live in Chicago and weren't around when the fire started.

Compton said sounds heard around the neighborhood were the result of a 100-pound propane tank venting as designed when it was heated up. "It freaked out everyone around there," he said.

Firefighters were on the scene until about 9:30 p.m. and the departments from Clyde Township, Fennville and South Haven assisted.

## Camps from Page A1

northwest corner, next to the Saugatuck city-owned Oval Beach.

The state agency scheduled a second hearing Monday, June 30, in the Saugatuck High School media center after several of 40-some attendees at its first scheduled hearing June 3 complained the DEQ had not provided them adequate prior notice.

Since then Dune Ridge has submitted alternate plans to install private well and septic systems for homes on the

property. "That," said DEQ Water Resources Division environmental engineer John Bayha, "would eliminate the need for public sewer and water infrastructure currently included in the application."

"If built and installed correctly, private water and septic systems would be far less intrusive environmentally," Bayha said.

The proposed roads would be built over the camps' existing gravel roadways. They would be paved throughout

their course and widened in certain locations to allow for fire-protection access.

The new roads would have an average 16-foot width, with fire truck passing zones as wide as 26 feet. The 3,200-foot long completed roadway would include close to 2,000 feet of new retaining walls to support it and stormwater-handling structures.

Serving the homes with public water and sewer would involve installing utilities along close to 2,300 feet of

city-owned Perryman Street, plus building a water main at the end of Vine Street. This would mean close to 5,750 feet of new water main and 3,650 feet of sewer lines, with two accompanying lift stations.

The nine permit applications (one for the road and possible public infrastructure, the other eight for individual lots) are considered related by the DEQ and being reviewed accordingly, said Bayha.

Saugatuck Township Fire District Chief Greg Janik told

Monday's audience of about 100 he had worked with the developer, whose plans have since changed, to create an ingress/egress to the homes compatible with International Fire Code standards.

"If the sites are buildable, give me a road and water supply," said Janik. "IFC standards today are different than what was required when the camps were built."

Shorewood member Keith Walker, a real estate attorney whose newly-created non-

profit Oval Beach Preservation Society bid unsuccessfully to buy the camps from the Presbytery, contested the Dune Ridge requests.

"Their application starts with the false premise that the property is served with a road," said Walker. "It's a 6- to 8-foot-wide two-track driveway."

"Converting a gravel drive to a 16-foot-wide paved road will be a massive construction project with adverse impacts to this critical dune," said Walker.

(See Camps, Page A6)

## ALLEGAN AREA EDUCATIONAL SERVICE AGENCY 2014-2015 SCHOOLS OF CHOICE

When classes start this fall, additional educational options are available to students attending public schools in Allegan County and surrounding intermediate school districts. The eight (8) public school districts in Allegan County that are accepting applications include Allegan, Fennville, Glenn, Hopkins, Martin, Otsego, Plainwell, Wayland. Options are also available for residents in contiguous intermediate school districts (Barry, Kalamazoo, Kent, Ottawa, and Van Buren) to attend the above mentioned eight (8) districts.

All Allegan County school districts have the following openings available to non-resident students for the 2014-2015 school year. These numbers are based on current enrollment and building capacities:

### DISTRICT OPENINGS

Grade	Allegan	Fennville	Glenn	Hopkins	Martin	Otsego	Plainwell	Wayland
Pre-K	n/a	n/a	n/a	unlimited	unlimited	unlimited	unlimited	unlimited
K	unlimited	unlimited	4	unlimited	unlimited	unlimited	unlimited	unlimited
1	unlimited	unlimited	1	unlimited	unlimited	unlimited	unlimited	unlimited
2	unlimited	unlimited	1	unlimited	unlimited	unlimited	unlimited	0
3	unlimited	unlimited	1	unlimited	unlimited	unlimited	unlimited	0
4	unlimited	unlimited	1	unlimited	unlimited	unlimited	unlimited	0
5	unlimited	unlimited	1	unlimited	unlimited	unlimited	unlimited	0
6	unlimited	unlimited	0	11	unlimited	unlimited	unlimited	0
7	unlimited	unlimited	n/a	0	unlimited	unlimited	unlimited	unlimited
8	unlimited	unlimited	n/a	13	unlimited	unlimited	unlimited	unlimited
9	unlimited	unlimited	n/a	unlimited	unlimited	unlimited	unlimited	unlimited
10	unlimited	unlimited	n/a	unlimited	unlimited	unlimited	unlimited	unlimited
11	unlimited	unlimited	n/a	unlimited	unlimited	unlimited	unlimited	unlimited
12	unlimited	unlimited	n/a	unlimited	unlimited	unlimited	unlimited	unlimited

Applications and information are available at the central offices of the school districts listed below. Please direct any questions to your resident district's central office.

**Allegan Public Schools**  
550 Fifth Street, Allegan, MI 49010  
Ph: (269) 673-5431 Fax: (269) 673-5463

**Hopkins Public Schools**  
400 Clark Street, Hopkins, MI 49328  
Ph: (269) 793-7261 Fax: (269) 557-7919

**Plainwell Community Schools**  
600 School Drive, Plainwell, MI 49080  
Ph: (269) 685-5823 Fax: (269) 685-1108

**Fennville Public Schools**  
5 Memorial Drive, Fennville, MI 49408  
Ph: (269) 561-7331 Fax: (269) 561-5792

**Martin Public Schools**  
1619 University Street, P.O. Box 241, Martin, MI 49070  
Phone: (269) 672-7194 Fax: (269) 672-7116

**Wayland Union Schools**  
850 East Superior Street, Wayland, MI 49348  
Ph: (269) 792-2181 Fax: (269) 792-1615

**Glenn Public School**  
1394 Adams, P.O. Box 69, Glenn, MI 49416  
Ph: (269) 227-3411 Fax: (269) 227-5375

**Otsego Public Schools**  
400 Sherwood Street, Otsego, MI 49078  
Ph: (269) 692-6076 Fax: (269) 692-6074



Camps from Page A3

"The current driveway served hundreds of campers for more than 100 years," said Saugatuck Dunes Coastal Alliance president David Swan. "It seems arbitrary and capricious to require such a wide paved road to serve just eight homes."

"Creating and stabilizing these proposed roads will cause massive destruction of the dunes," said Kalamazoo Lake Protection Association president Dayle Harrison. "Such work requires an environmental impact assessment before you (the DEQ) approve it."

"I think it is feasible to serve the home sites with the existing roads, maybe using smaller fuel vehicles."

"I oppose the road as proposed," said West Michigan League of Conservation Voters director Patty Birkholz. "It is not in the best interest of the ecosystem or neighbor homes."

"There are examples of more-rimble fire vehicles bought by departments with the help of developers," Birkholz said.

"What about the current insufficient hydrants and water along the lakeshore?" asked Sarah Hurley. "This application does not feel complete. 'Maybe' they'll install well, septic and/or a conservation easement."

"You (the DEQ) should table these applications until you know what their actual building plan is," said Frederick Eagle ("Fritz") Royce III. "Then hold another public hearing."

Speakers also objected to the location of several home sites.

"Your statute references public interest on privately-owned land," Walker told Bayha and DEQ Water Resource Division director Cameron Jordan, the prevailing official Monday.

Oval Beach is a major attraction and economic driver for this community. Houses on proposed lots 6, 8 and 9 would be visible from the beach," continued Walker. "That is not in the public interest."

"Eight sites don't need to be served by public water and sewer. A larger development might. You should require Dune Ridge to go with well and septic. If they get permits to build on lots 6, 8 and 9 as proposed, we will contest that in court," he said.

Photographer and longtime Shownwood resident Mary Lou Graham showed officials pictures from 1986, when Great Lakes water levels were at cyclical highs, causing many dunes and homes to fall into Lake Michigan.

"If you build homes too close to the high-water mark and beach, it could negatively impact both their value and our \$200-million-per-year tourist industry," Swan said.

"These pictures tell the story," Royce said. "High water will come back. It has risen two feet in the last 18 months."

"Where will these developers be when the houses on their \$2-million lots crumble into the lake?" Royce asked.

"Maintaining the view shed from Oval Beach is an economic and public-interest concern," said SDCA vice president Marcia Perry. "Pull the lots back behind the tree line."

After all citizens who wanted to had spoken, roughly 100 minutes into the

hearing, Jordan noted the City of Saugatuck would have say over whether well and septic would be permissible as opposed to public water and sewer hookups. "Before we issue a permit, we'll know their status."

continued the DEQ official. As for road widths, "We rely on local officials—e.g. the fire chief and city—to determine what minimum standards are," Jordan said. The application is available for review at the DEQ

website, www.deq.state.mi.us/CIWPIIS; at its district office, 7953 Adobe Road, Kalamazoo, MI 49009-5025; or by calling (269) 567-3500. The hearing record will remain open for 10 days

after Monday's session. Any written comments to be submitted for the record must be received at the district office address on or before July 10. "We expect to make a decision by the first week

of August, unless the applicant asks for an extension," said Jordan. The public can track progress on the issue at the DEQ website (above), he said.

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Table listing board members and their names, organized in multiple columns.

GIVE. ADVOCATE. VOLUNTEER. LIVE UNITED United Way

ALLEGAN COUNTY UNITED WAY and VOLUNTEER CENTER 650 Grand St, Allegan MI 49010 www.acuww.org 269. 673.6545

## Saugatuck City election results:

Four two-year terms; bold denotes incumbents

Mark Bekken	278	Kenneth G. Trester	292
Barry E. Johnson	270	Jane Verplank	267
John Porzondek	108		

## Douglas City election results:

Four two-year terms; bold denotes incumbents

William H. Japinga	315	Eric W. Smith	286
Neal Seibert	301	James I. Wiley	378

Our  
145th  
Year

# The Commercial Record

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\$1



Thursday, November 6, 2014

Saugatuck, Michigan

Vol. 40 Number 45

## Hearing set Nov. 20 for former camps marina plan

By SCOTT SULLIVAN  
EDITOR

A request by the Presbyterian Camps' new owner to build a marina in the Kalamazoo River south of the chain ferry landing on Park Street will be discussed at a public hearing in the Saugatuck Township hall Thursday, Nov. 20.

The Michigan Department of Environmental Quality-sponsored event will start with an informal question-and-answer session at 6:30 p.m. The hearing itself will begin at 7.

Dune Ridge SA LP, which Feb. 14 bought the 130-acre camps for \$10 million from the Presbytery of Chicago, is seeking a permit to build private slips for nine boats and 10 personal watercraft on the east end of its property. They would serve owners of homes it plans to sell on Lake Michigan.

The parcel, 170 feet south of where Perryman Street intersects Park and north of Casa Loma, is zoned by the City of Saugatuck R-1 Peninsula South, which does not allow marinas.

Dune Ridge, a private equity firm whose principal is Paulus C. Heule of Grand Rapids, wants to build a boat house, bulkhead, fill and dock for a "Dune Grass"

project on a now largely-vacant parcel.

It would include a 300-foot steel sheet pile wall and discharge approximately 550 cubic yards of material in a 217x25-foot area (5,425 square feet) four feet deep as backfill for the wall and a parking area.

Approximately 653 square feet of wetland would be filled with 70 cubic yards of material dredge. The project would also involve dredging 3,600 cubic yards of material from a 235-foot long by 85-foot wide by 11.5-foot deep area offshore of the wall for the depth for the marina.

Dune Ridge is further seeking permission to install six open pile piers:

- 1) One 35x5-foot dock.
- 2) One 35x9.5-foot dock supporting a 20x35-foot covered boathouse.
- 3) Two 35x8.5-foot docks supporting a 49x8.5-foot dock and a 49x35-foot covered boathouse.
- 5) One 40x5-foot dock.
- 6) One 56.7x8-foot dock with 10 14x5-foot interlocking personal watercraft docks attached to the south side.

The owner would also install eight spring piles, two between each dock.

The proposed marina would be served by a 20x35-foot timber-framed boat-house with a garage-type door on its waterward side. A second, seasonal 49x35-foot covered slip would have canvas walls and a timber-frame roof with structural steel where needed.

The move marks a change from what Dune Ridge representative David Barker told the Saugatuck Planning Commission last December when the latter voted 4-2 to approve a special land use for the owner to create eight private home lots on 22.7 acres of the former camp fronting Lake Michigan. They would be south of and adjacent to the city-owned Oval Beach.

(See Marina, Page 3)



## Let us prey

These birds are not intended for sale. They are intended for use in education, research, and conservation. They are not intended for use in entertainment, such as falconry, and should only be used for educational purposes. The birds are not intended for use in falconry. The birds are not intended for use in falconry.





Capt. Henry Gleason narrates from memory while at Star's helm.

# Capt. Henry leads final trip

By AL SHAIKH

"Oh Captain! My Captain!" wrote poet Walt Whitman.

Oct. 11 was the last day for Capt. Henry Gleason at the helm of the Star of Saugatuck II.

Gleason, now 89, remembers helping his Uncle Ed take people on his wooden passenger boat Wolverine upstream from Saugatuck to New Richmond, where there were two stores to buy treats from, in the 1920s and '30s. The vessel had a "tunnel stern" fits prop was inside the tunnel, which allowed it to navigate the Kalamazoo River's shallow waters.

In the afternoon passengers were taken to the Lake Michigan shore near an area that later became Oval Beach and the Saugatuck Harbor Natural Area. The Wolverine was docked at the Tourist Home Hotel, which is now the Ship N Shore Hotel/Boatel.

Gleason, a lifelong resident,

began his banking career at Fruit Growers State Bank on the corner of Butler and Mason streets. Later he worked at Shoreline Bank until he retired at age 58.

After studying on his own, he took a 100-question exam in 1980 in Ludington to earn his captain's license.

Gleason's first ship was the Queen of Saugatuck built by his stepson Bruce Starring and his wife Marilyn. Bruce obtained plans to the Island Queen, a passenger boat operated by Dick Hoffman. Prior to 1980, Hoffman moved his passenger boat business from Saugatuck to Kentucky Lake, a manmade lake in western Kentucky and Tennessee.

After Starring made modifications to the Island Queen's plans, the 82-passenger Queen of Saugatuck, was built with the help of John and Jim Shashagway at the Shag Shop on Old Allegan Road.

The boat's name was changed in 1983 to the Star of Saugatuck to reflect its owners' name.

In June 2000 the U.S. Coast Guard approved the Starrings' new 150-passenger Star of Saugatuck II, also built at the Shag Shop. The entire Starring family—Bruce, Marilyn, Mike and Paula—had a hand in the construction.

Gleason recalls how the harbor has changed: the building of new homes, the activity of Broward Marine, and the lower Kalamazoo Lake water levels, limiting boat access there.

He remembers buses of people going on cruises and the excitement of kids who visited the pilot-house and had a chance to "steer" the Star.

Once, a woman carrying a small box insisted the boat Star go out into Lake Michigan. The weather allowed it, so Gleason complied.

(See Captain, Page 5)

## Marina

from Page 1

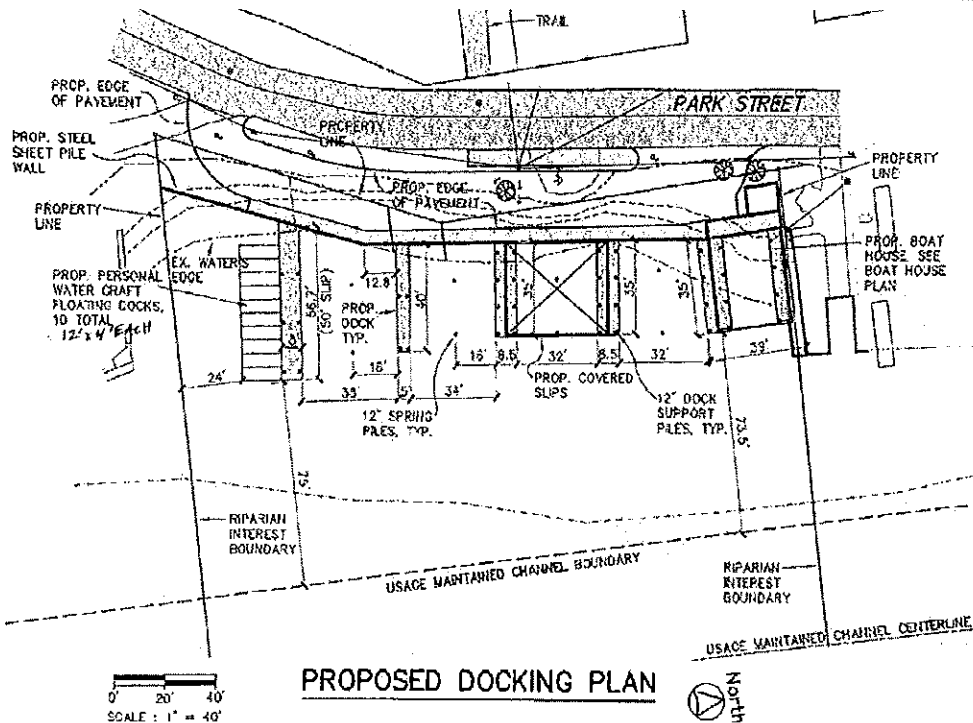
Asked last fall what plans he had for the former camps' inland acres, Barker said none at this time, adding future proposals would need to go through their own public permit processes.

Now one of those times is here.

Dune Ridge's application is available for review at [www.deq.state.mi.us/CIW-PIS](http://www.deq.state.mi.us/CIW-PIS) or at the DEQ's Kalamazoo District Water Resources Division office at 7953 Adobe Road, Kalamazoo, MI 49009-5025. The phone there is (269) 567-3500.

Public hearings are not legal proceedings. No witnesses will be sworn nor will there be cross-examination. Such sessions are primarily informational and held to encourage expressing views and presenting facts.

The public hearing record will remain open for 10 days after the hearing. Written comments on the matter will be accepted at the above address through that time.



**Notice**  
of Public Hearing for the Saugatuck Township Planning Commission

**Date of Hearing:** Wednesday, November 19, 2014 at 7:00 PM

**Location:** Saugatuck Township Hall, 3461 Blue Star Hwy Saugatuck, MI 49453

**Request:** Request for Special Approved Use in the C-2 Zoning District to allow an Accessory Apartment in association with a business at 3219 Blue Star Hwy, Suite 200, PPN 0320-500-003-00, Curtis D. Day as the applicant.

**Legal Description:** T 300 OF 3219 BLUE STAR CONDO SEC 10 T3N R16W (06).

Facilities for impaired persons will be made available upon 7 days' notice to the clerk.

Bradley Rudich  
Clerk  
269-857-7721

Steve Kushion  
Zoning Administrator  
Fax 269-857-4542

skushion@saugatucktownship.org

**BEGINNER WORKSHOP:**  
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File Edit Image Layer Select Filter View Window Help  
Photoshop CS4 (64-bit) (English)

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Happy Thanksgiving

Creative space

(See Page 5)



Our 185th Year

# The Commercial Record

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Thursday, November 27, 2014

Saugatuck, Michigan

Vol. 40 Number 48

## Artist Baughman closes local shop

By SCOTT SULLIVAN  
EDITOR

Artist Bruce Baughman, a 20-year downtown mainstay, is leaving Saugatuck.

Baughman, who will turn 70 next September, and partner Bill Davis will consolidate Baughman's year-round studio/gallery in Tubac, Ariz., an artists' community 40 miles south of Tucson.

"Last winter was hard," said Davis, who Baughman defers to as spokesman, wanting his work to speak for itself.

"We love it here and are keeping our home (on six wooded acres) in Laketown Township.

"Bruce says he wants to take some time off, but he can't not paint," continued Davis. "We've had winter galleries in Tubac since 2001. The high desert sunlight there is more year-round.

"We will go and see."

Baughman, who grew up in Muskegon, ventured from the Lake Michigan shoreline to New York, Spain and Switzerland, where for 20 years he pursued a career as an opera tenor.

"Bruce painted throughout that time," said Davis. "He decided to concentrate on his visual arts, moved back to the states and lived south of Holland while traveling to and showing his work in Boston, New Haven, Conn., and Florida."

Baughman, allergic to oils, focused on acrylic paints (which also affect his hands; he wears gloves while working). Acrylics, with their water content, dry faster, compelling him to complete works more quickly.

One word to categorize a Bruce Baughman painting? Don't. He moves from literal to abstract, from land- and

(See Baughman, Page 2)

## Public questions marina plan

By SCOTT SULLIVAN  
EDITOR

A proposal by the former Presbyterian Camp's new owner to build a marina south of the Saugatuck chain ferry landing ran into questions at a Michigan Department of Environmental Quality public hearing Nov. 20 in the Saugatuck Township hall.

Dune Ridge SA LP, which Feb. 14 bought the 130-acre camps for \$10 million from

the Presbytery of Chicago, filed with the DEQ July 15 for a permit to build private slips for nine boats and 10 personal watercraft, a bulkhead, fill, two boathouses and docks on now-vacant land it owns fronting Park Street and the Kalamazoo River.

They would serve owners of homes Dune Ridge plans to sell on the west portion of its property on Lake Michigan, south of the Saugatuck city-owned Oval Beach.

The parcel, 170 feet south of where Pynnyan Street intersects Park and north of Casa Loma, is zoned C-4 Commercial Resort District by the city. The disposition allows marinas that meet special land use requirements. The project would also need city approval for major waterfront construction.

But first the firm chose to go through the DEQ. A crowd of some 50 residents braved pre-Thanksgiving snows Thursday night to ask questions of Dune Ridge owner Paulus Henle, project representative David Barker, construction manager Ed Pynnyon and design

(See Marina, Page 2)



By Scott Sullivan  
Editor

Love Letters  
What a difference a letter makes. Anyone citing stories about "public" hearings and people arrested for "reckless" driving knows why story analysts start with "and."

This vigilance takes a toll. Who knows how, among the email come-ons I get, I mistook the one from "Brain Stimulator" for "Simulation?" "You may find this shocking," it said, "but a 104-year-old retired Neuroscientist has developed a sequence of simple 'mind twisting exercises' that have been proven to profoundly improve your mental capabilities."

I was shocked it capitalized "shocking" and "neuroscientist," didn't put dashes between "104-year-old" and the comma after. But I kept reading.

"Long lost memories, like when you met your first lover, return with pristine clarity, as if it (the word should be "they") just happened ..."

"Far forgotten lessons from your freshman year of high school are recalled in the snap of your fingers."

"And all it takes is just a couple minutes each day for only 14 days, and you can re-program the way your brain works, forever."

How do you simulate things like that? The come-on assigned things—like I had a first lover, learned anything as a freshman and had a brain to begin with. Wrong: no nice lady as an editor so encumbered.

So I sent away for the book and CDs. What follows comes not from my brand-new brain simulation:

...mi live reports the City of Grand Rapids (which we know, from its tourist campaign, is the nerve center of a Gold Coast that fronts Lake Michigan) held a public hearing Nov. 19 about its GR Forward planning process. It was missing only one thing: the public.

"The display boards were set up, the brochures were on the table and the researchers were ready with their PowerPoint presentations," wrote Jim Harger.

Officials blamed the night's snowy weather. The next night, nearly identical, saw 50 citizens go to a public hearing about a marina proposed in Saugatuck (pop-



192,294 Grand Rapidsians not attending were fully informed already. So they were out skiing, sledding or snowshoeing on their Lake Michigan-fronting properties.

My colleagues at the Allegan County News, the CR's sister paper, marvel about the heated debates we have here: consolidation, the Presbyterian Camps, McClendon land, even awnings turned into butterflies. Do you best to stake out a neutral ground and the zealots on both sides hate you.

That's why I love it. A creative dynamic is at work: people vivacious and acting on their ideas, meeting questions and resistance. Friction is no fiction: it slows things down but it gives us grip. Rubbing sticks makes fire. Spinning wheels meet ground and the car moves forward.

Man's ability to contend these forces sets us apart. When we lose control, we're more deadly than anything with claws, horns or razor teeth.

Now, thanks to the exercises I've learned from the 104-year-old neuroscientist, my brain is a bane no longer. As days grow shorter, the light of knowledge becomes more visible.

Order now, and you too can be not in you.

Local fire response merits gratitude

To the editor,  
Our praise and gratitude go out to our prompt, professional and considerate Saugatuck Township Fire District chief and colleagues who responded to a mysterious smoke smell in our house

Nov. 18.  
After a thorough check of wall heat, Chief Greg Janik's team identified the smoke source to be a fried furnace fan motor, which put us at ease. His crew even offered to mop up drops of water

front snow brought in on their boots. They urged us to add a more night-visible address sign, which we're doing and recommend others do too.  
John and Charlaize Shack  
Douglas

Rotary shares Thanksgiving thanks

To the editor,  
Many thanks from the Rotary Club of Saugatuck-Douglas to all who helped with our efforts to raise funds for the Christian Neighbors Thanksgiving Basket project.  
Contributions from club members and the general public were matched by the

Rotary member Thelma Coughlin, enabling a donation of over \$6,500 to Christian Neighbors, roughly a 50-percent increase over the amount given by the club in each of the past three years. We'd like to thank all local media for helping to publicize this effort.  
Thanks also to Christian Neighbors

and its many volunteers for the service they provide throughout the year. Each volunteer is a shining example of why our community is such a wonderful one in which to live.  
George Stottin and Carl Jennings  
Rotary project chairs

Opportunity remains to enjoy creche show

To the editor,  
On behalf of the All Saints' Episcopal Church parish faculty, thank you for joining us this Saturday for the first day of our Celebration of the Christmas Creche at the Retreat House, 212 Grand

St., Saugatuck.  
There is one final opportunity to see the exhibition. The doors will be open Saturday, Dec. 6, from 9 a.m. until 2 p.m. We know it is a full day in our community, but do add this to your list

of fun activities to enjoy.  
For more information, please call the church offices at (269) 857-5201.  
G. Corwin Stoppel  
Rector

Marina from Page 1

design consultant/engineer Matt Hufst.

The firm's "Dune Grass" 100-foot steel sheet pile wall and discharge approximately 550 cubic yards of material in a 217x25-foot area (5,125 square feet) four feet deep as backfill for the wall and its parking area.

Approximately 653 square feet of wetland would be filled with 70 cubic yards of material dredge. The project would also involve dredging 3,600 cubic yards of material from a 255-foot long by 85-foot wide by 11.5-foot deep area offshore of the wall for the depth for the marina.

Dune Ridge is further seeking permission to install six open pile piers ranging from 35 to 56.7 feet long. The owner would also install eight spring piles, two between each dock.

The proposed marina would be served by 20x35-foot timber-framed boathouse with a garage-type door on its waterward side. A second, seasonal 49x35-foot covered slip would have canvas walls and a timber-frame roof with structural steel where needed.

The marina would be served by a nine-space parking lot, said Pymmon, adding homeowners could also walk to their boats on a path over a Dune Ridge easement land that will give public access from the chain ferry landing to Oval Beach.

DEQ environmental quality analyst Mark Schieber chaired the session, joined by U.S. Army Corps of Engineers permit evaluation officer James Lake and DBO environmental engineer John Dyke.

Schieber said the applicant must adhere to provisions of Part 201, Inland Lakes and Streams, of the Natural Resources and Environ-

al Protection Act, 1994 PA 451, as amended.

"The decision whether to issue the permit," according to an August Corps public notice "will be based on evaluation of the probable impacts of the proposed activity on the public interest. That decision will reflect the national concerns for both protection and utilization of important resources."

"The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments," it continued.  
"All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people."

Kalamazoo River Protection Association president Doyle Harrison was among audience members claiming the request doesn't meet those standards.

"There are viable and prudent alternatives to dredging and filling an area important to fish and wildlife," said Harrison.

"With all the available slips on that side of the river," said Saugatuck Township resident Jan Dickie, "there are other places where people can park and dock boats without disturbing one of the few wetlands left in that area."

"The Saugatuck Yacht Club

just down Park Street expanded this summer," said project neighbor Jane Underwood.

"There's no need for a new marina on a road that is very narrow and congested during the summer season."

Star of Saugatuck owner Marilyn Storing, who manages the chain ferry for the city, said winds and currents can move the ferry as far as 10 feet off line either way.

"I'm concerned about visibility around these boathouses, boats and docks," said Storing. "What about people taking off them at an already narrow and crowded part of the river?"

"Part of the land you requested a permit for is not yours," Saugatuck Dunes Coastal Alliance vice president Marcia Perry told Heule.

"It's a 25-foot-wide strip surrounded by Dune Ridge land belongs to the city. How can you have a permit on land you don't own completely?"

"It is our intention to acquire that property," said Pymmon.

"The project is viable without it, but would be better with the strip," said Heule. "I don't see it as a problem."

"Is it viable without a seawall?" asked neighbor Mike Johnson.

"No," said Pymmon.

"We applied for a seawall just down the block," Johnson

said. "The DEQ denied it because it would not allow wildlife water access," said Johnson. "Wouldn't that apply for this parcel too?"

"I'm concerned about impacts this project would have on the area, especially regarding tourism, our major industry, and on residents," said Perry.

"It would block one of the few river views remaining, damage habitat for moose and other wildlife, create road and river congestion hazards and concerns about storing dredging spoils," she continued.

"This whole thing is too big for this narrow space of the river," lifelong Saugatuck resident Peggy Boyce said. "We don't need more docks there."

"Another seawall and landfill are the last things we need," she said.

Dune Ridge's application is available for review at www.deq.state.mi.us/CIV-PIS or at the DEQ's Kalamazoo District Water Resources Division office at 7953 Adobe Road, Kalamazoo, MI 49009-5025. The phone there is (269) 567-3500.

The public hearing record will remain open through Nov. 30, 10 days after last Thursday's hearing. Written comments on the matter will be accepted at the above address through that time.

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MEETING  
7 p.m. City of the Village Board, Council City Hall, Douglas  
7 p.m. Saugatuck Township Board, Township Hall, Blue Star Highway  
7 p.m. Saugatuck Historic District Board, 201 City Hall, Saugatuck

CONSTRUCTION  
The Saugatuck-Douglas Rotary Club donated \$400 to the reading intervention program sponsored by Douglas Elementary School. Last week's story named the incorrect sponsor. We regret the error.

**Saugatuck boys, girls win**  
(See Page 8)

**Shine a light**  
(See Pages 4-5)

Our 166th Year **The Commercial Record**

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\$1

Thursday, December 17, 2015

Saugatuck, Michigan

Vol. 40 Number 51



**Bah, really?**

Yes, this is truly Steve Williford's 20th year playing Ebenezer Scrooge in Saugatuck Village Players' productions of Charles Dickens' "A Christmas Carol." "I started as a young old 'Scrooge,'" he recalls. "I've grown into the role now. Will the old miser be redeemed? Will Tiny Tim again declaim, 'God bless us, one and all'? Find out during remaining shows this Friday at 8 p.m., Saturday at 2 and 8 p.m. and Sunday at 2 p.m. in the Saugatuck Woman's Club. For ticket information, call (269) 857-1701. (Photo by Scott Sullivan)

**Saugatuck studies scaled-back marina plan**

**By Scott Sullivan**  
**EDITOR**  
The new owner of Saugatuck's Presbyterian Camps has won state approval to build a 6-slip private marina with a boathouse on the Kalamazoo River south of the chain ferry landing. But Dune Ridge SA I.P., which is also developing 21 home lots on 56 of its 134 acres nearest Lake Michigan, still needs the City of

Saugatuck to grant it a special land use before building a facility scaled back from what the firm first requested. City council Dec. 7 rejected special land use standards, but advised members at their Nov. 19 meeting: • Look at parking and ingress and egress of the project, as it will essentially be on the shoulder of a road that is highly traveled during peak tourist seasons, and • Consider requiring addition of a small traffic is-

land there. Former zoning administrator Steve Kushion told the planning commission the owner's request met about special land use standards, but advised members at their Nov. 19 meeting: • Look at parking and ingress and egress of the project, as it will essentially be on the shoulder of a road that is highly traveled during peak tourist seasons, and • Consider requiring addition of a small traffic is-

land there. Kushion, who resigned as part-time ZA three weeks ago (see story below), raised another issue: city attorney Clifford Bloom is reviewing. "The proposed site is only 13,068 square feet and the minimum square footage for Major Waterfront construction is 17,424 feet," Kushion told planners. "There are more factors than square footage that determine whether construction is major or minor," said

city manager Kirk Harrier. "Different land-use criteria apply for each designation. The developer thinks it's minor; Steve's interpretation was it's major." If the planning commission approves the land use and Major Waterfront Construction, a variance would be required from the minimum square footage requirement, Kushion said. "Our marina plan is an allowable use that we think meets city standards," said

Dune Ridge project manager Dave Baker. "We will work to address concerns their officials have." **Scaled Back** Dune Ridge in 2014 bought the century-old former church campus for \$10 million from the Presbytery of Chicago, fiscally strapped to pay off liens resulting from its settlement of a 1990s sex scandal. The firm, headed by Grand Rapids real estate magnate (See Marina, Page 2)

**City eyes Kushion replacement for ZA seat**

**By Scott Sullivan**  
**EDITOR**  
The City of Saugatuck is again seeking a zoning administrator/planner. Steve Kushion, who replaced Mike Clark in that post on a part-time basis in May, resigned in late November to take a similar, better-paying job in Olive Township. Clark, who is working in North Carolina now, is helping the city remotely, on a consulting basis, while council seeks a replacement, said

city manager Kirk Harrier. "We've sent a request for proposals to three planning and zoning firms—Williams & Works and LSL Planning, both with offices in Grand Rapids, and the Michigan Townships Association—with a plan to contact out the work for six months," Harrier continued. "The council wants to hire someone full-time," he said. Clark '86 resigned May 19 after seven years as the city's part-time planning and zoning contractor to become senior planner for Apex, N.C., population 42,214. Saugatuck's year-round population is 925.

Kushion, 35, came to the area to become Saugatuck Township ZA planner July 1, 2014. He remains in that post, for which he is paid \$10,000, working Mondays, Tuesdays and Wednesdays in the office. The township's population was 2,944 as of 2010. After Clark left, Kushion worked Thursdays and Fridays in city hall. He works the same hours now in Olive, which is nearer his family's home in Grand Rapids. The Saugatuck city website now lists an opening for a part-time planning-zoning-historic district administrator responsible for its zoning or-

dinance, historic district regulations, sign ordinance, site plan reviews, special use permits, variance requests and other duties as assigned. It lists starting pay as \$27,000. He or she will act as a staff liaison in preparing and presenting reports to the council, planning and historic district commissions and zoning board of appeals. The person must spend at least two days at city hall and attend meetings (typically two a month). "The candidate should be a positive problem solver with excellent public relations and computer skills," says the city's

listing. A bachelor's degree or higher is preferred. "We've never had a full-time ZA before," said Harrier. "We'll develop a list of duties, possibly adding code inspections and similar expectations, knowing in small towns staff is asked to wear many hats. The skills and experience of the candidates we interview may play into these duties too." Douglas listed his recent ZA opening (for which Lisa Inous was hired in September) for a salary between \$47,000 and \$52,000, plus benefits. "I expect our range will be similar," Harrier said.



DEPARTMENTS

By Scott Sullivan, Editor

Excess Access? Nothing lends urgency to photography like the fact you'll go blind. I can't really see it coming. But knowing I'm diabetic and my nearsightedness is degrading would drive me to drink if it weren't so sobering.

I was shooting the sunset at Lake Michigan except not. Everybody does that. The more interesting image was of a woman standing near her car looking at her cell phone while the sunset behind reflected off the glass and chrome of her vehicle.

Light was fading, she was moving and I had no time to play with my camera settings. Result? Good idea, poor execution. I never lack opportunities to humble myself.

I ran further down the beach, trying to frame the parallel swing-set chairs with the last orange-tinted, orange-tinged-into purple light. The best angle required me to climb a knoll with the wind howling.

I fumbled up there, pressed the camera to my face and it smashed my glasses. There was no one to hear what I said, which blew east to land in Lansing or our nation's capitol, while I scoured in the grass and sand in vain for my snapped-off temple.

It was dark and cold with sand blowing over everything, but so what? I could not see anyway. I groped my way back to the car and put on my backup glasses—an old prescription filled when my vision and mine were sharper—but safe to drive in.

I thought of things we take for granted until we lose them: our youth, health, families... I used to run 50-plus miles a week. Now I limp past handicap parking areas wondering when I will need to hang one of those wheelchair-silhouette signs on my rear-view mirror.

Seems the Saugatuck Public Schools will have to accommodate my type better. They've had to drive the top floor of their football field press box after federal authorities ruled it was non-compliant with the U.S. Americans with Disabilities Act.

The structure was built eight years ago after the schools were granted a



waver from the state's Barrier-Free Design Act. Last year the fed. in response to complaints, overruled that waiver. The schools' current administration, lacking \$125,000 to build an elevator that would make the top story handicap-accessible, chose to close it.

It's a lose-lose outcome. The top floor should not have been built, but that's hindsight. The thing is there. Who is served by closing it to everyone?

I get it's an object lesson. Public facilities should be accessible to all. Unenforced laws may be plentiful but mean nothing, unless one counts their in-stent. Do you?

The ADA's not intractable. A "reasonable accommodations" fudge factor is built into it. Otherwise Saugatuck might have to build a train to the top of Mt. Baldhead, exit every valley, lay low every mountain and make the rough places plain. Good luck with that, city manager Kirk Harrier. You might want to run those by council and counsel first.

What do we get without reason? Lawyers. Not in shape to climb Mt. Everest, trek to the South Pole and/or explore your own heart of darkness? City discrimination? Can I sing, like Canis? There's gotta be somebody you can sue!

I've worked in the press forever but almost never in hives. I cover events and games where they're played, mostly, with a camera.

That may change once I'm blind. Still, I don't begrudge lack of access by place I've never been. Where I am is OK with me—even cold and half-blind while the sun disappears in Lake Michigan.

What would be more foolish? Not to enjoy those things while we can.

LETTERS TO THE EDITOR

Schools' don't-ask, don't-tell is wrong

To the editor, After learning about the top floor of the Saugatuck High school football stadium press box being closed, I felt I should attend the next school board meeting.

How could a board believe a state law trumps a federal one? Why did they continue to build when they knew it did not meet Americans with Disability Act standards?

Unfortunately I did not get to ask the questions. After another parent and I had

addressed the board about other matters, we were told someone would get back with us at a later date.

Is this a generic reply to every question? Why can a school board not answer questions? Did we not select members to represent the community at large?

If left my questions were direct and simple to answer. 1) What employee performance reviews does the school board perform? 2) Who has input on the reviews?

I had thought since the board performs the reviews they could answer these. I

find it disturbing that both parents left the meeting with no answers or dialog on these questions.

As for the stadium issues, if the school knew there were violations and had to lock up the second floor to meet ADA requirements, it would have been wise to inform the public when they first found out.

I'm not convinced don't-ask, don't-tell is a good policy for our schools to follow. Becky Carter-Candell Saugatuck

WILSON PUBLISHING GROUP

By Fr. G. Corwin Stuyves

This time of the year I miss Abbot and Sherry Davis, who lived on the corner of Hoffman and Grand streets right across from All Saints'.

Well before the leaves fell, they were outside with a clipboard and pencil, plotting how they would display their Christmas extravaganza. Rumor has it they had so many lights they had to run another line from the power pole and add a new circuit box.

While the weather was still gust, the Davises strung several thousand lights on their big pine tree. Then more went up in their garden.

If a decoration was on the market, they bought and used it. Toy soldiers, nativity and a small chapel were a few, all illuminated.

Santa and reindeer "item" between trees. A nativity scene on the lawn showed a mechanized waving Jesus in the manger, guarded by Foxy



the Snowman on one side and a toy soldier on the other. One year the little motor must have been rusty or shorting out, because Jesus' arm and hand jerked in place for a while, moved ahead, then back and repeated.

The last piece installed was a G-grauge (or garden train)

that went in one porch window and out the other on a loop. There were two cars which alternately played "Jingle Bells" and "Deck the Halls."

There were so many white and multi-colored lights that I ceased Abbot airplanes were circling, thinking they were over the Grand Rapids airport. He took it good-naturedly and added more lights the next year.

Children loved it, of course—all the more so when Sherry came out with a plate of fresh-baked cookies. The Davises loved it, too, because they were putting smiles on faces.

That's the real joy of a holiday season in a small town. It's homemade and uninhibited. No corporations looking for a chance to advertise; no city ordinances or association restrictions on how to decorate.

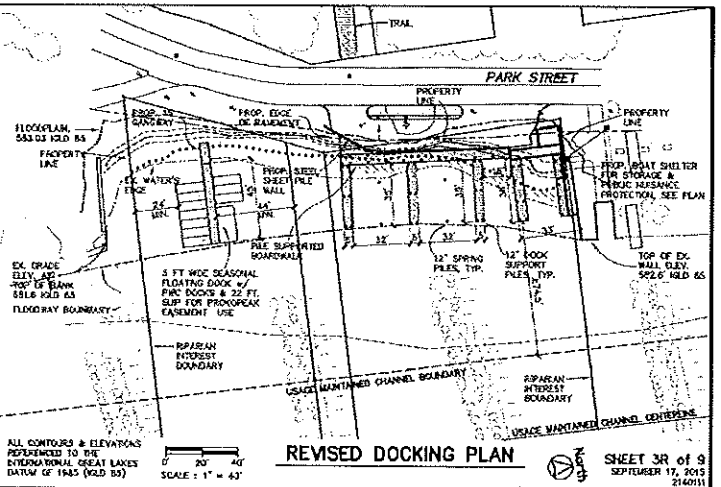
The Rockettes and Mormon

Tabernacle Choir don't include us on their itineraries, so if we want song and dance we do it ourselves. That's what makes the Village Players' performances of "A Christmas Carol," the downtown lighting and Christmas tree and choral music so wonderful. It's neighbors giving the best gift of all, themselves, to each other.

So unplug the computer, put down the smart phone, put on your coats and enjoy it all. Break out the old-fashioned clothes and go for a walk in the late afternoon and take it all in.

The data fana said one way to find happiness and serenity is be intentional about walking. Focus on the beauty around you, think it in and your face muscles start to relax. Your mind starts to wander and before long you will be remembering good experiences. In on the great. Just consider it an early gift!

Marina from Page 1



Paulus Heule, filed with the Michigan Department of Environmental Quality that summer for a permit to build private slips for nine boats

and 10 personal watercraft, a bulkhead, fill, two basic houses and docks on now-vacant riverfront land it owns. At a Nov. 20, 2014, public

hearing, residents voiced objections based on what they called the plan's "recreation" of natural resources, congestion it would bring to Park Street and the waterway, encroachment on a neighbor easement and the firm's inclusion of a 20-foot-wide parcel owned by the city in its application.

Project engineer Matthew Hulst asked DEQ environmental quality analyst Mark Schieber the next month for an extension on the agency's decision until negotiations with the city and easement holder south of the proposed

site could be carried out. "We decided to just build on land we own north of the city's strip," Barker told The Commercial Record.

On Sept. 17 the DEQ granted Dune Ridge a permit for a smaller project as depicted nearby. In addition to showing the bulkhouse and six proposed 35-foot long piers (to the right), it also shows a floating pier that would serve 10 personal watercraft serving the Dune Ridge-owned parcel south of the city's strip.

The latter, said Barker, has (See Marina, Page 3)

The Commercial Record

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MEETINGS

Monday, Dec. 21 6 p.m. Saugatuck School Board 149th meeting, Saugatuck High School cafeteria, 431 Elizabeth St., Saugatuck. 7 p.m. City of the Village of Douglas County, City Hall, 86 W. Center St., 7 p.m. Saugatuck Township, 4750 S. Village Boulevard meeting, City Hall, 112 Butler St.

Tuesday, Dec. 22 7 p.m. Gasco Township, 4750 S. Village Boulevard meeting, 115th & 47th St. 7 p.m. Douglas County Board of Appeals, City Hall, 86 W. Center St., Wednesday, Dec. 23 8 a.m. Allegan County Road Commission, 1505 Lincoln Road, Allegan.

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# Help firefighters help you by clearing snow around hydrants



Snow happens, despite evidence to the contrary so far this El Niño-warmed December. In anticipation, the Saugatuck Township Fire District asks residents to help it protect their homes by clearing the white stuff away from hydrants.

Firefighters, Kalamazoo Lake Sewer and Water Au-

thority and city public works crews clear snow from about 600 hydrants after it falls each winter. Doing so is labor intensive but needed, says fire chief Greg Janik.

"In an emergency, each minute is a matter of life and death," said Janik. "Precious time can be lost if firefighters must first locate and clear snow-buried hydrants."

"Keeping them clear means easier access to water and more time doing

what really matters: fighting the fire," Janik said.

Business and home owners can help themselves and their neighbors by locating nearby hydrants and clearing away the snow in a three-foot radius.

As with all physical activity, the STD advises, protect yourself from injury by lifting only small portions of snow. If you can push it out of the way, even better.

"We thank citizens for their help with this," Janik said.

not a problem.

"We want to remind them the inland is private though,"

## Marina from Page 2

been OK'd by the DEQ and does not need city approval.

In addition — or subtraction — to fewer docks, slips and boathouses, the revised plan reduces the marina's environmental impact.

The permit allows building roughly 177 feet of new sheet-pile seawall (down from 200 feet requested) on the river.

It allows Dune Ridge to place about 15 cubic yards of clean fill landward of the seawall behind the ordinary high-water mark and 138 cubic yards of fieldstone waterward of that structure at a 1-in-1.5 to 2 slope.

The owner can dredge mechanically or hydraulically approximately 2,180 cubic yards of material (down from 3,690 sought last year) from designated areas, placing spoils behind the seawall as much as possible. Other spoils will be transported to an upland disposal area.

The marina, says the permit, will include boat slips ranging from approximately 25 to 30 feet long. Docks shall be 5 feet wide and signs installed where appropriate to inform the public where mooring is not allowed.

"The size and intensity of our proposed docks," said Dune Ridge documents filed with the city, "will have much less intense use than the Casa Loma private marina directly south of the subject property."

Casa Loma has a similar use as the proposed project.

"Our six private boat slips," the developer continued, "will have no adverse effect on the commercial use of this public river crossing and landing area, which is also a more intense use."

"The existing cottage on the west side of Park Street is elevated and sits higher, minimizing any negative affect of the view scape."

"This project will improve values of adjacent properties and increase future tax revenue for the city, thereby creating economic benefit for adjacent owners as the city."

Dune Ridge officials said.

Donegrass Grows Meanwhile work continues on the firm's Donegrass

homes project west of the planned marina, where Barker said one house is under construction and three more will start next spring. One will be for Hecule's family.

"We're thinking homeowners might use golf carts to go to and from marina slips, rather than cars," said Barker. "That will reduce space we need at the site for parking."

A municipal water loop serving the development, which involved construction alongside Perryman last summer, has largely been completed. Homes will have individual septic systems.

Ingress and egress roads off Perryman have been widened and paved to 16-foot-wide standards for emergency vehicle access, as agreed to by Saugatuck

Township Fire District Chief Greg Janik.

Dune Ridge in August installed a 400-foot-long, 6-foot-high chain-link fence along its northern boundary with city-owned Oval Beach.

Its western terminus sports a sign reading "Private property — Under surveillance — Violators will be prosecuted."

State law allows the public the right to walk along Great Lake beaches to the ordinary high-water mark. Owners don't dispute that.

"Walkers are welcome

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Sid Greenwood, 6th grade Quality Work  
Josie Lubben, 8th grade Outstanding Effort

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**SEEKING CITY COUNCIL MEMBER**

The City of Douglas is taking applications to fill an unexpired term on the City Council (until November 2016). Members of council must be a resident of the city for not less than one year and shall be a registered voter. Council meetings are held on the 1st and 3rd Mondays of each month, year round. Interested parties should file a Board & Commission application, which may be found online at [www.ci.douglas.mi.us](http://www.ci.douglas.mi.us) Submit application with cover letter and brief resume to the City of Douglas, P.O. Box 757, Douglas, MI, 49406, [douglas@ci.douglas.mi.us](mailto:douglas@ci.douglas.mi.us) or Fax 269 857-4751 no later than December 29, 2015. City Council members will review applications at their January 4th meeting. Interviews will be held at a special meeting on January 11th.

And Santa-Bus said as he turned off his lights,  
**"Merry Christmas to All and to All a Good Night!"**

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Dec. 28 7am-6pm	Dec. 29 7am-6pm	Dec. 30 7am-6pm	Dec. 31 New Year's Eve 7am-2am**	Jan. 1 New Year's Day CLOSED	Jan. 2 9am-6pm	Jan. 3 CLOSED

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# Saugatuck, fed weigh impact of private marina plan

BY SCOTT SULLIVAN  
Editor  
The U.S. Army Corps of Engineers is weighing concerns about the impact a private marina south of the Saugatuck Chain Ferry would have on the Kalamazoo River.

Dane Grass SA I P, which bought the century-old Presbyterian Camps in 2014 for \$10 million and is developing 21 home sites on waterfront acres near Lake Michigan, won Michigan Department of Environmental Quality approval Sept. 17 to build a 6-slip private marina with a boat house fronting the river, on the parcel's east side.

But it still needs a special land use from the City of Saugatuck and U.S. Army Corps approval before starting work on a project scaled back from what the developer first requested.

Dane Ridge in 2014 filed with the DEQ and USACE for a permit to build private slips for nine boats and 10 personal watercraft, a built-in lift, 10 boat houses and docks on now-vacant riverfront land it owns.

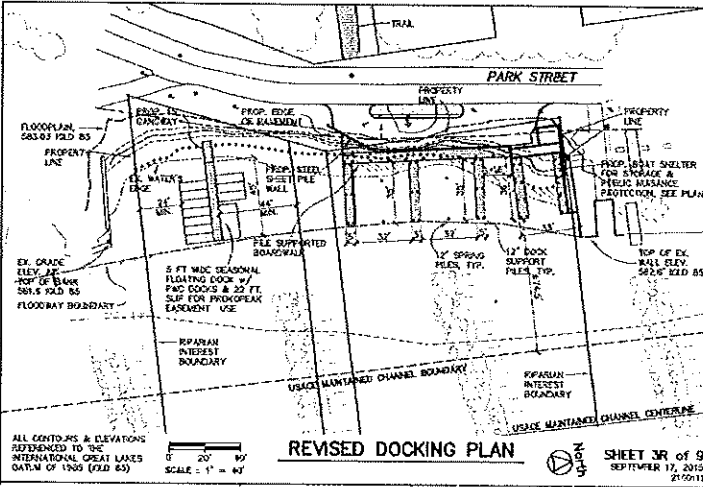
At a Nov. 20, 2014, public hearing, residents voiced objections based on what they called the plan's "exacerbation" of natural resources, congestion it would bring to Park Street and the waterway, encroachment on a neighbor easement and the firm's inclusion of a 20-foot-wide parcel owned by the city in its application.

Dane Ridge filed for extensions on both agencies' decisions, then came back with requests for a smaller plan. "We decided to just build on land we own north of the city's slip," project manager Barker told The Commercial Record.

The DEQ permit allows building approximately 177 feet of new sheet-pile seawall (down from 500 first requested) on the river, plus sets fill and dredging standards. The marina, says the permit, will include boat slips ranging from 25 to 36 feet long. Docks shall be 5 feet wide.

The USACE and city have different priorities.

City Eyes Setbacks, Parking City council Dec. 7 echoed past concerns voiced by neighbors about congestion. (See Marina, Page 5)



## Arson from Page 2

and drug/alcohol abuse whatever the court's sentence was. Barker said she had trouble believing the defendant was remorseful, based on recordings made of phone calls from jail where he referred to the case as a joke, the judge said. Starring said, "I've been in max, with people who really don't show remorse." He said he'd seen upset when he made

the comments she was referring to. "I understand the crime was serious," Starring said. "I thought the arson charge was trumped up." Barker warned Starring that his probation would be closely monitored. "There are a couple things you really need to know," she said. "One is that there will be no tolerance of probation violations.

"If you violate any color of this court, you'll almost certainly be sent to prison." She added a fifth year of probation to the sentence recommendation and required a year on electronic tether. Starring received credit for 102 days already served in jail. He is also not allowed to have contact with his grandparents and must attend alcohol and drug counseling as part of his probation.

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**Notice to the Residents of the Saugatuck Township**  
Please take notice that the Saugatuck Township Planning Commission will hold a public hearing during its regular meeting at 7:00 PM on Monday, February 22, 2016, at the Township Hall located at 3461 Blue Star Highway, Saugatuck, Michigan 49453 for the purpose of considering recommendation of adoption to the Saugatuck Township Board of a newly updated Tri-Community Master Plan that was developed in coordination with the City of Saugatuck and the City of the Village of Douglas. The revised plan includes minor updates primarily to the plan text and demographics.  
Copies of the current Tri-Community Master Plan and the proposed Tri-Community Master Plan are available for public viewing on the Township's website at [www.saugatucktownship.org](http://www.saugatucktownship.org) and during regular business hours at Saugatuck Township Hall located at: 3461 Blue Star Highway, Saugatuck, Michigan 49453. Written comments will be received until the night of the hearing at P.O. Box 100, Saugatuck, Michigan 49453.  
Facilities for impaired persons shall be made available upon 7 days notice to the Clerk.  
Bradley Rud.ch, Township Clerk  
(269) 857-7721

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Nick Stanberry, 7th grade Quality Work  
  
Isabel Stenman, 6th grade Outstanding Effort  
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# Felt Estate goes solar amid winter snow

By SCOTT SULLIVAN  
EDITOR

Inventor Don Felt might have loved the new solar garden at his Laketown Township mansion, where work was completed in time for the last sunny weeks all year.

Harvest Energy Solutions of Jackson finished installing a 109-kilowatt solar panel array on a half-acre of the soccer field north of the mansion in December, said township manager Al Meshkin.

The five rows of panels are snow covered now. "Still," said Meshkin, "we expect them to provide year-round electricity to the mansion, carriage house, chapel and irrigation system at the estate."

"Neighbors can subscribe to be part of the garden by paying a fee, then receive a tax credit they can use to pay their electric bills."

"It's not costing the township anything," Meshkin said.

Solar is not at this point the most cost-efficient energy form. But it is renewable, almost pollution-free and green in another way—the state government offers users tax credits.

"Consumers Energy Co. is buying power from the township for 19.9 cents per kilowatt-hour and selling it back to us for 13 cents," Meshkin said. "We get the money benefits, they get tax credits."

Community Green Energy LLC of LaPorte, Wis., is the garden's vendor, broker, while Harvest did installation. There are 40 to 50 solar gardens nationwide, the township official said.

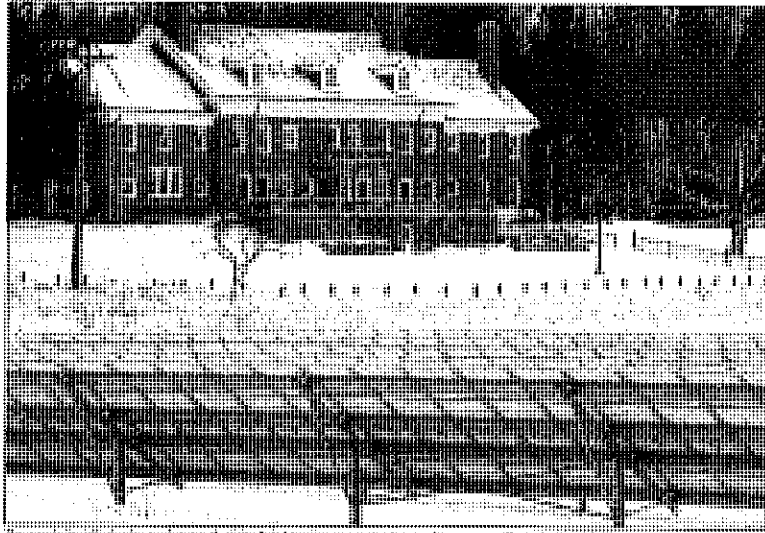
Felt, the Chicago businessman who invented the Comptonizer, the first major office machine to perform mathematical functions, built his 12,000-square-foot mansion near the lakeshore in 1925. He set about powering it efficiently almost instantly.

The site employed natural light and the building's thermal mass to keep temperatures steady inside even as they varied outside. The grounds were powered by a windmill and a wave undulation machine in Lake Michigan. A collectivist pool used the sun to warm water to irrigate the crops.

"Mr. Felt was 'green' long before people thought of the term," Meshkin said.

Felt died in 1930 and the family sold the estate in 1947. Several hundred acres of what is now Saugatuck Dunes State Park once belonged to them.

Over the ensuing years the mansion was home to



The former, abandoned site of the Laketown Township mansion, built in 1925, is now a solar garden. The site employed natural light and the building's thermal mass to keep temperatures steady inside even as they varied outside.

the St. Augustine Seminary, then a convent for cloistered nuns Michigan bought the land for a prison in 1978, using the dwelling as state police headquarters.

Laketown bought the mansion and 44 acres surrounding it for \$1 in 1996 and the prison buildings were demolished. Volunteers have worked since then to restore the structure and its grounds, hosting tours, special events and more.

Mindful of its legacy, Friends of the Felt Estate won the mansion LEED (Leadership in Energy and Environmental Design) Gold designation from the U.S. Green Building Council in 2012.

It cited their installation that year of a heating and cooling system as a key to the green design and construction at the site.

The council also recognized their re-use of original materials, custom interior storm windows, Energy Star appliances, soy-based insulation, low-maintenance native plants and use of local materials and contractors.

"Having the solar garden is a win-win for everyone," Meshkin said.

To learn more about the estate, visit feltmansion.org. For more about the solar garden, visit communitygreenenergy.com.

## Marina from Page 3

at the Park Street site south of Perryman Street, north of Cass Loma.

One involves proposed parking for three cars and four golf carts in two-lane Park Street's west side right-of-way. Another is whether the boathouse meets setback standards.

City attorney Clifford Blossum wrote Jan. 7 that his view of the project qualifies as minor rather than major waterfront construction, but the boathouse, as proposed, does not meet setback standards.

"The proposed site is only 13,668 square feet and the minimum square footage for Major Waterfront construction is 17,124 feet," former zoning administrator Kathleen told the planning commission Nov. 19.

But more factors than square footage determine whether construction is considered major or minor. While plans to site work is major, Dune Ridge would need a variance from the city. The owner has argued the work qualifies as minor.

Blossum, conceding the city ordinance

on the matter has ambiguities, said the proposed docking facility more likely qualifies as minor as it would include no buildings except the boathouse, very limited parking, a lot size under 17,223 square feet and no commercial uses.

"It appears that the proposed boathouse would not meet the required setbacks from either the waterfront or the road," Blossum wrote on. As such, Dune Ridge must pursue and receive a variance from the zoning board of appeals to build such a structure.

"Our marina plan is an allowable use that we think meets city standards," said Barker. "We will work to address concerns their officials have."

### Corps Concerns

Meanwhile, the USACE Detroit District is reviewing the proposed project structure and work waterfront of the ordinary high water mark under Section 10 of the Federal Rivers and Harbors Act and Section 404 of the Clean

Water Act.

"The corps," project manager Kristi DeFoe told The Commercial Record, "must consider the direct and indirect impacts caused by the activity on a range of public interest factors such as water quality, aquatic organisms, wildlife, navigation and safety."

The agency "reviews a project's potential impacts to navigation and safety as it pertains to the general rights of access to, or use of, navigable waters by the general public and riparian use areas," she continued.

The proposed marina's proximity to the chain ferry is one such issue.

"The office will continue our review toward a final decision on the application whether to issue, deny or issue with special conditions," DeFoe continued.

"Any subsequent permit issued by the corps does not preclude the need for state or local authorizations required by law. We expect to complete our review within the next several weeks," she said.

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Cindy Osman

## City names Osman zoning/planning head

By SCOTT SULLIVAN  
Editor

Cindy Osman may be new to the City of Saugatuck as its zoning administrator/planner. But she's not new to government.

Osman, listed at the Feb. 22 city council meeting, has worked for the City of Holland since 1992, starting as a building, zoning and housing officer.

She was building inspector/zoning

administrator there from 1995 to 1999, environmental health and inspections director from 1999 to 2004, assistant director of community and neighborhood services since that time.

"Cindy is coming from Holland, but lives in Fenwick," said Saugatuck city manager Kirk Horner. "Hiring her works out well for all of us."

Osman succeeds Steve Kushnir, who resigned in November to take a

similar, better-paying part-time job in West Olive. He remains as Saugatuck Township's part-time zoning administrator/planner.

Kushnir started with the City of Saugatuck last May after fulltime Z/A planner Mike Clark took a new job in Apex, N.C. Clark has continued as a consultant here from afar.

Osman earned a master's degree in public administration from Grand Valley State University in 2004 and

a juris doctor degree from Cooley Law School five years later.

She is state registered as a building inspector, licensed builder and plan reviewer, and is a member of the Michigan State Bar.

Osman expects to work one day a week for the next two to three weeks as she transitions from Holland, then fulltime here.

The pay range was listed at more than \$50,000 plus benefits.

## Kengis seeks county prosecutor's seat

Roberts "Rob" Kengis has announced he is a Republican candidate to become Allegan County's next prosecuting attorney.

During the Feb. 25 county commission meeting, current prosecutor Frederick Anderson announced he will not seek re-election in 2016. Anderson is endorsing Kengis to succeed him.

Kengis, who has served in the prosecutor's office 23 years, the last five as

chief assistant, also has the support of his campaign committee co-chairs county sheriff Blaine Koops and Allegan city police chief Rick Hoyt.

Kengis said he has learned through his years in office what it takes to be an effective prosecuting attorney.

He has prosecuted hundreds of cases, including successful convictions in numerous murder trials. The candidate added his court room experience has proven him a successful trial

attorney and earned him the respect of police officers, lawyers and judges throughout southeast Michigan.

Kengis believes in collaborating with others in the criminal justice system to reduce and fight crime and make the community a safe place to live and work. He said he has demonstrated this commitment by being active on the Allegan County

Methamphetamine Task Force, Substance Abuse Prevention task force,

Safe Schools work group, Coordinating Council on Domestic Violence, Law Enforcement Council, Court-Hosts Safety and Security Team, Tri-County Task Force and Ottawa-Allegan Human Trafficking Task Force.

Kengis serves on boards of the Allegan General Hospital Foundation and Kalamazoo-Laivian Evangelical Lutheran United Church. He lives in Gosh Plain Township with his wife Shelley and their two children.



Rob Kengis

## Charged from Page 1

House testimony he gave under oath.

The case will be forwarded to the secretary of state's office, which has initial jurisdiction over state campaign finance law, in review for possible violations, and to the Michigan Attorney Grievance Commission. Courser is currently licensed to practice law in Michigan.

The charges were filed Feb. 26 at the 34-A District Court in Ingham County. Courser and Gamrat were arraigned on felony charges Tuesday, March 1, and were released on personal recognizance bonds. Gamrat's bond was \$7,500.



Cindy Gamrat



Todd Courser

Preliminary hearings for Gamrat and Courser will take place later this month.

Schutte's office opened its investigation late last summer and officially joined with the state police after a formal request was filed Sept. 11, 2015, for an investigation after Gamrat's expulsion and Courser's resignation.

Charges allege they engaged in a pattern of corrupt conduct while holding state office, including both lying to the House Business Office during its investigation and Courser lying during testimony before the House Select Committee, while under oath, about directing staff to

forge his signature on proposed legislation.

Gamrat is charged with two counts of misconduct in office, a felony with a maximum penalty of five years in prison and/or maximum \$10,000 fine.

Courser faces three counts of misconduct in office, a felony with a maximum penalty of five years in prison and/or a \$10,000 fine; and one charge of perjury, a felony with a maximum penalty of 15 years in prison.

"The voters placed a sacred trust in the hands of Todd Courser and Cindy Gamrat when they chose them to serve as their voices

in the Capitol," Schutte said. "Not instead of serving their hometowns, they served only themselves at the expense of everyone else."

"With the filing of these charges, it is my hope that citizens of Michigan see that no one is above the law, not even those who walk in the halls of power; that no one is beyond the reach of the law, not even those who make the laws and when laws are broken, justice can and will be delivered."

Two former staffers have also sued Gamrat and Courser, alleging their firing was in retaliation for reporting misconduct.

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### PUBLIC NOTICE

**INTERURBAN TRANSIT AUTHORITY  
PROPOSED STATE AND FEDERAL APPLICATION FOR  
OPERATING AND CAPITAL ASSISTANCE**

All citizens are advised that Interurban Transit Authority has prepared an application for State of Michigan financial assistance for fiscal year 2017 as required under Act 51 of the Public Acts of 1951, as amended, and for federal assistance as required under the federal transit laws, as amended.

The Interurban Transit Authority is requesting a total of \$ 764,105 through the following funding sources:

Funding Sources	Operating Amount	Capital Amount Per Project	Total Amount
State Operating	\$ 280,033	-	\$ 280,033
Federal Operating	\$ 144,872	-	\$ 144,872
Federal/State Capital 5339	-----	-	\$ 339,200

\$72,200 for Facility Renovations  
\$42,000 for Replacement Office Equipment/Furniture  
\$10,000 for Rehab Holst  
\$34,000 for Replacement Service Vehicle  
\$ 4,000 for Computer Equipment  
\$32,000 for Communications Equipment  
\$145,000 for two Replacement Buses

The Interurban Transit Authority ensures that the level and quality of transportation service is provided without regard to race, color, or national origin in accordance with Title VI of the Civil Rights Act of 1964. For more information regarding our Title VI obligations or to file a complaint please contact us at the address given below.

The proposed application is on file at the Interurban Transit Authority, 100 Wiley Road, Douglas, Michigan, and may be reviewed during a 30-day period (March 7 through April 5, 2016), between the hours of 7 a.m. and 7 p.m.

Written comments regarding the application and/or written requests for a public hearing to review the application must be received by April 5, 2016. Should a hearing be requested, notice of the scheduled date, time, and location will be provided at least 10 days in advance.

Submittals should be sent to the Interurban Transit Authority, P.O. Box 649, Douglas, Michigan, 49406, or via e-mail to [pyff@saugatuckinterurban.org](mailto:pyff@saugatuckinterurban.org).

# Dunegrass marina suit to go on

**By JIM HAYDEN**  
**CORRESPONDENT**  
The City of Saugatuck is not settling a lawsuit over its denial for additions to a proposed marina along the Kalamazoo River.

Council met in closed session with the city attorney for about 20 minutes Monday to discuss a lawsuit by the Dunegrass S.A.P. filed June 23 in Allegan County Circuit Court challenging the May 12 decision by the Saugatuck Zoning

Board of Appeals denying variances to construct a bathroom and utility room along Park Street.

Council also is no action so the lawsuit will continue in circuit court, said city manager Kirk Herber.

Dunegrass bought the 1.3-acre Presbyterians Camps that border Lake Michigan and the Kalamazoo River in 2014 for \$10 million. It is developing 21 home sites and plans to build a six-slip private marina along the river.

The lawsuit says the denial of the variance "was not based on proper procedures or standards, was not a reasonable exercise of discretion granted by law, and otherwise failed to be supported by credible, material and substantial evidence on the record."

The ZBA made a mistake in using standards for a "use" variance, not the "dimensional" variance requested, according to the lawsuit.

The zoning board denied the variance requests for several reasons, including compliance with the rules "could not" reasonably prevent the owner from using the property for a permitted purpose "and the changes would create a parcel that is different in kind and nature from other parcels in the area" according to zoning board statutes.

# Woman, 93, drowns during big lake swim

A 93-year-old Ganges Township woman drowned Tuesday during what police said was her regular, often daily swim in Lake Michigan.

The 93-year-old woman, Margaret Sheff, was found by the Ganges Township Fire Department at 4:30 p.m. on Aug. 4 after witnesses reported pulling Elizabeth Ann Barnes out of the water and beginning CPR.

Undersheriff Frank Baker said officers by AMR Ambulance and the Ganges Township Fire Department to resuscitate Barnes were unsuccessful.

"The victim lives at a residence near the scene of the drowning and is known to swim in Lake Michigan regularly," said Baker. "She was de-

scribed as being in good shape and swims at the 1/4 mile in an adult daily basis."

Witnesses said Barnes swam with a Shyloram raft present. A witness, after finding her, began CPR and called 911. Baker said, "The medical examiner's office will determine cause of death," he continued. Until the witness noticed Barnes had not come in from the water, nothing was out of the ordinary. "The witnesses stated everything seemed consistent with the victim's normal routine; therefore, a medical condition cannot be ruled out at this time."

The sheriff's office rescue team also assisted on the scene.

# Senator's rep host local hours

Deb Shields, district director for state Rep. Tonya Schumaker, R-Lawton, will meet with constituents during local office hours Monday, Aug. 15, in Fenville City Hall.

222 S. Maple St., from 10:45 to 11:45 a.m., and Tuesday, Aug. 16, at the Saugatuck-Douglas District Library, 10 Mixer St., Douglas, from 1:30 to 2:30 p.m.

# Peter Elliott, 59

Peter M. Elliott, 59, passed away at his home in Pacific Grove, Calif., in April 2016, lovingly surrounded by family and close friends.

Peter was born in Oak Park, Ill., growing up in Saugatuck and Holland, Mich.

Peter studied at the University of Chicago and at California State University, Monterey Bay. In the early 1980s, Peter moved to San Francisco and for many years lived between California and Saugatuck where he operated The



Peter Elliott

Procter Store. After working at Dreamworks Los Angeles, Peter secured a position at Paramount Studios as a team member in worldwide business affairs group.

Peter traveled between Los Angeles and Pacific Grove for more than 20 years. He always took an active interest in politics, starting in high school where he was elected speaker of the student body. He worked at holding public and private officials accountable as few can—with facts

and firm diplomacy.

Peter wrote a political activist blog, www.cleardeception.com. His final article, written a few days before his death, explored the differences between Hillary Clinton and Barack Obama. His website is www.cleardeception.com. A developer of interest, he had a recent at the World Peace Epiphany in Pacific Grove. His passion for history and efficiency as a skilled researcher made him a natural and re-

spected public speaker.

Preceded in death by his parents, Elmer and Helen Elliott, Tom Elliott of Zealand, Bert Sue and her husband Bill Brockington of Whitehall, sister Lane and her husband John Grayberry of Lake Tahoe, Calif., sister Ginger Elliott and her husband Gary Jones of San Francisco, niece Melissa Brockington of Ann Arbor, nephew Matthew and his wife Lisa Brockington of Rochester Hills, and Peter's best friend

Peter V. Brown of Pacific Grove.

Peter's compassionate and loving nature, his authenticity and focused presence will be missed beyond what words can convey. Peter Meredith Elliott was deeply loved by many and his life was a gift well lived.

An open house is scheduled for Aug. 20, in the Douglas Schoolhouse. Orders from 11 a.m. to 1 p.m. for Peter's friends to meet and remember him. The schoolhouse is at 150 Center St., Douglas.

# Richard Coleman, 69 — Emily Drapak, 90

Richard (Rick) Alan Coleman, 69, of Saugatuck, passed away peacefully at his home in the early morning hours of Tuesday, Aug. 2, 2016, surrounded by his family.

Rick was born June 22, 1947, in Indianapolis, Ind., a son of T. Fredrick and Mary Lane Coleman and younger brother of Thomas. In his early childhood, the family relocated to Holland where Rick grew up in the Grandstep neighborhood and attended Holland Public School.



Rick Coleman

Emily Marie Drapak, 91, of Douglas, passed away on Sunday, June 11, 2016, at Holland Hospital, born on Dec. 27, 1925, in Chicago, Ill., she was the daughter of Joseph and Kathryn's infant Stazek.

Emily was preceded in death by her husband John Drapak and sisters, Rukn and Irene.

Surviving are her children, Joanne Gilliam of Douglas, Nancy Harvey of Fenville, John and Vicki Drapak of Douglas, eight grandchildren, six great-grandchildren, two great-great-grandchildren, brother Stanley Stazek of Steamwood, Ill., brother-in-law Joe Drapak of Chicago, and many nieces and nephews.



Emily Drapak

# Craig Miser, 58

Craig A. Miser, 58, of Fort Lauderdale, Fla., passed away on April 6, 2016, after his battle with lung cancer.

Craig was born on Nov. 24, 1957, in Lansing to Arden and Gwen Johns Miser.

Craig resided in Fort Lauderdale, Fla., where he found his career in the marine industry.



Craig Miser

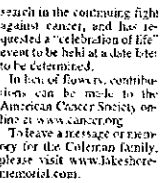
Surviving are his parents, Arden and Gwendolyn Miser of Douglas; brothers, Scott (Joyce) Miser of Penrose, N.C., and Jeff (Gina) Miser of Ashville, N.C.; sisters, Julie (Nick) Schmitt of Fenville, late (Bob) Engle of Douglas and Lori (Marc) Schumaker of Saugatuck; 11 nieces and nephews; and 10 great nieces and nephews.

Please join the family in honoring Craig's life on Saturday, Sept. 10, from 1 to 3 p.m. at Spectator's Restaurant, 6432 Blue Star Highway, Saugatuck, MI 49453.

search in the continuing fight against cancer, and has requested a "celebration of life" event to be held at a date later to be determined.

In lieu of flowers, contributions can be made to the American Cancer Society online at www.cancer.org.

To leave a message or memory for the Coleman family, please visit www.lakeshore-cremation.com.



Rick Coleman

Rick was a graduate of Holland High School and was an active member in both band and the football team. He went on to graduate from Western Michigan University with a degree in business and soon after started a successful small business in the West Michigan area. At 62, he retired from his business and pursued his passion for golf, Harley's, and spending time with his family.

Rick was preceded in death by his parents, Ted and May Jane, as well as his brother Tom.

He is survived by his wife, Tammy; his children, Matt (Lori) Coleman, Alicia Coleman, Sara (Matt) Kennedy, Andrea (Dan) Koopers and Amanda Garich; eight grandchildren, Isabella, Ian, John, Neelan, Cole, Mason, Charlie and Tammy; and his niece Erin (Dallas) Swendeman and her son Atticus.

St. Saugatuck, MI 49453 with a burch to follow.

His services may be made to the American Cancer Society of the American Heart Association.

An online registry book is available at www.happilyherethere.com.

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**SAUGATUCK TOWNSHIP BOARD**  
**WEDNESDAY, JULY 6, 2016, 6:00 p.m.**  
**SAUGATUCK TOWNSHIP HALL, 3461 BLUE STAR HIGHWAY, SAUGATUCK, MI 49453**  
**DRAFT MINUTES**

Supervisor Wester called the meeting to order at 6:00 p.m. with the pledge of allegiance.

Members Present: Bill Wester, Lori Babinski, Brad Rudich, Jonathan Phillips, Roy McIlwaine.

Absent: None.

Also Present: Manager Aaron Sheridan.

Public Comment: Abigail Novel introduced herself as a candidate for State Representative.

Approval of Agenda: Wester asked for any additions. No changes, agenda approved unanimously.

Approval of Invoices and Minutes:

A. Accounts Payable Invoices to be paid.

a. Accident Fund through Williams and Works. Total to be paid \$36,604.43.

B. A/P check register to be post-audited.

C. Payroll check register.

D. Approval of Minutes.

a. June 1, 2016 Meeting. McIlwaine asked to add "new liability policy will include non-marital, injunctive relief, lawsuits against the Township"

Wester made the motion to approve the Invoices and Minutes, second by McIlwaine. No discussion. Motion passes 5-0.

Correspondence

A. None

Unfinished Business

A. Frontier DSL Update. Sheridan gave update. Sheridan and Rudich met with two regional managers from Frontier Communications. Frontier would put together a proposal on improving DSL with Township help. No timetable was set.

B. Inland Transition Site Area. Sheridan updated the Board. No changes.

C. Township Board Appointments. Rudich stated Maggie Conklin, Bill Rowe, John Tuckeman were up for re-appointment to three year terms. Wester made the motion to re-appoint Conklin, Rowe, and Tuckeman, second by Phillips. Motion passes 4-1.

New Business:

A. Police Protection for Fire Department. Wester asked Fire Chief Junk to talk. Junk asked for consideration to look into police coverage for the Township and especially the Fire Department. McIlwaine suggested a Township Board member join a police consortium with the Fire Chief. Saugatuck, council member and Douglas council member. McIlwaine stated potential solutions could be County coverage, a unified Police District, or a pay per call response. Rudich added possible increase in the Fire Department millage to pay for coverage. Rudich made the motion to appoint Jon Phillips to Policing committee, second by McIlwaine. Motion passes 5-0.

B. Public Hearing — Saugatuck Township Joining Harbor Authority. Sheridan stated the Township had a Resolution of Intent to join the Harbor Authority. McIlwaine made the motion to make public the Township attorney's memo concerning the Authority. Phillips supported. Motion passes 5-0.

Wester opened up the Public Hearing. Jon Herber introduced the board for discussing joining the Authority. Patty Binkley supported the Township joining the Harbor Authority and asked the three communities to work together to grow the community. Ken Trester of Saugatuck stated that the Harbor Authority was interested in Township joining as a full partner.

Trester spoke of the Lakewater Associates plan for the harbor. Lisa Greenwood of Douglas spoke in support of the Township joining the Harbor Authority. Greenwood stressed a united effort from the three Municipalties to fix harbor issues. Bill Bock, retired from the DNR, stated that the DNR likes to see community partnerships, especially when funding projects.

Terry Kluge of the Township was concerned about costs. Phillips asked if there were separate plans for the Cities and the Harbor Authority. Ken Trester answered that the Cities each looked at options, and the Authority tried to incorporate both. McIlwaine made the motion to table discussion. Wester seconded. Motion passes 5-0.

McIlwaine made the motion to close the Public Hearing supported by Wester. Motion passes 5-0.

C. Saugatuck Township Arden. Rudich explained that the 2015-2016 audit is scheduled for September.

Committee Reports

A. Planning Commission. No report.

B. Road Committee. Road side meeting went very well.

C. Incentives. Babinski reported the board was looking into expanding hours.

D. Fire Board. McIlwaine reported an increase in year to date calls. Motor vehicle incidents have increased. Response time stayed the same. Cost recovery was \$8,500 for the year. Fund raises for jaws of life equipment. A burn building was being brought to the Township Planning Commission.

E. Harbor Commission Report. Ken Herber reported that the Authority passed a motion supporting a public hearing. The DEQ will have a great candidate in August.

F. Open Board Report. McIlwaine asked if the Township could ask County Commissioner Dean Kappenga about retaining the washout on Lakeshore Drive. Rudich had asked Roldo Cormac's Director Larry Brown, who stated it was unlikely.

Public Comment. Chris Maczels stated support for Police service in the Township.

There being no further business, Wester declared the meeting adjourned at 7:04 p.m.

Brad Rudich, Clerk



## Brush fires spread, Ganges workshop burns

By SCOTT SULLIVAN  
EDITOR

Two small brush fires fanned by nearby Lake Michigan breezes spread Friday and burned down a Ganges Township building.

Leo Banaszak, who owns a mostly wooded property north of 120th Avenue, told firefighters he was burning leaves and brush when flames got away from him. Ganges assistant fire chief Dan Diaz told The Commercial Record.

"They spread into an aluminum-sided building where Banaszak told us he had a workshop. A neighbor called in the fire around 12:15 p.m.," Diaz continued.

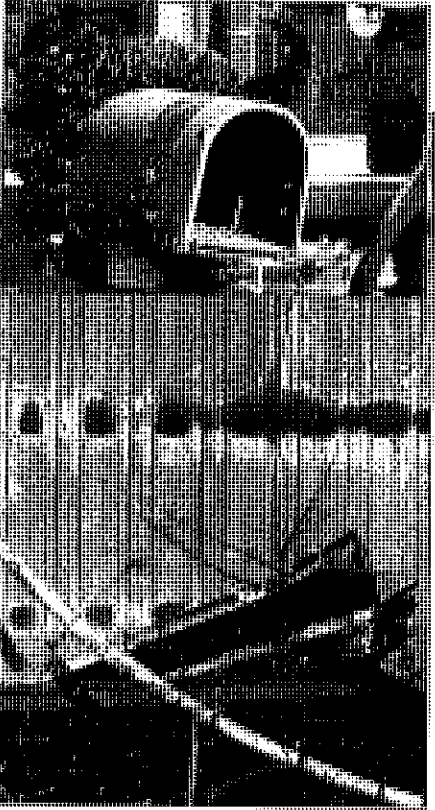
Saugatuck Township, Ferrisville and South Haven firefighters assisted in putting out the blaze. An AMR ambulance arrived on the scene on standby. No one was injured.

"The important part is that you should not allow fires to continue until they are completely extinguished," Diaz said.



Firefighters from several departments, including South Haven, worked to bring the brush fire under control. Photo by Scott Sullivan.

fires, know why smoke is reported in certain places and advise people not to burn when it is dangerously dry and windy," Diaz said.



## Seawall eyed at disputed marina site

By JIM HANSEN  
CORRESPONDENT

Work could begin next month on a seawall along the Kalamazoo River in Saugatuck as part of a possible marina whose fate remains in court.

The more than 100-foot seawall will be built next to the Saugatuck Chain Ferry landing along Park Street. The land is part of the 21-acre Donegrass development on the site of the former Presbyterian Camp that borders Lake Michigan and the Kalamazoo River.

Developers are planning a six-stop private marina along the river. The U.S. Army Corps of Engineers and the state have approved the seawall. Donegrass Development property manager David Barker told Saugatuck

City Council Monday. Work on the seawall could begin in December, he said.

The city has no say about the wall. Barker wanted to let council know what was going on along the river so staff members could be ready to answer questions from residents about the high-profile development.

A lawsuit is pending over the marina.

Donegrass SA LP filed June 23 in Allegan County Circuit Court challenging the May 12 decision by the Saugatuck Zoning Board of Appeals denying variances to construct a bathroom and utility room along Park Street.

A decision could be announced in January, according to Barker.

In August, council agreed not to settle the lawsuit that

claims the denial of the variance "was not based on proper procedures or standards, was not a reasonable exercise of discretion granted by law, and otherwise failed to be supported by competent, material and substantial evidence on the record."

The ZBA made a mistake in using standards for a "use" variance, not the "dimensional" variance requested,

according to the lawsuit.

The zoning board denied the variance requests for several reasons, including compliance with the rules would not "unreasonably prevent the owner from using the property for a permitted purpose" and the changes would create a parcel that is "different in kind and nature from other parcels in the area," according to zoning board minutes.

## Business groups continue merger talks

The final meeting to discuss a possible merger of the Greater Ferrisville Chamber of Commerce and Saugatuck-Douglas Area Business Association will be Tuesday, Nov. 22, at 5:30 p.m. at the Park, 114 E. Main St., Ferrisville, from 6 to 7 p.m.

The two merchant groups since June 2015 have been investigating forming a single organization to represent the interests of western Allegan County businesses.

It is thought a larger group will give retailers, industry and agriculture more resources, networking and educational opportunities and a stronger legislative voice.

Prior merger discussion meetings were held at Saugatuck-Douglas locations Nov. 1, 5 and 8.

Advance registration is requested to help organizers plan food and refreshments. To register, call NDABA at (269) 857-1626 or email info@sugatuckdouglas.com or info@greaterferrisville.com.

**EXHIBIT C**

October 15, 2015 Dune Ridge Special Land Use Application No. 15-073

## Park Street SLU application

From: Steve Kushion (steve@saugatuckcity.com)

To: gary.medler@yahoo.com

Date: Friday, October 30, 2015, 11:47 AM EDT

Good morning, Gary

I've attached the application for your review. Let me know if you have any questions.

Thanks,

Steve Kushion

Planning/Zoning/HDC Administrator

City of Saugatuck

(269) 857-2603

Office Hours- Thursday and Friday 8:30AM-5:00PM

Emails returned daily



Park Street Special Land Use application.pdf  
1.1MB



# Special Land Use Application

### LOCATION INFORMATION APPLICATION NUMBER 16-073

Address Park St Parcel Number 03-57-009-066-10

### APPLICANTS INFORMATION

Name Dave Barker Address / PO Box 2721 Arbor Chase  
City Grand Rapids NE State MI Zip 49525 Phone 650-400-7675  
Interest In Project Agent E-Mail djb888@comcast.net  
Signature [Signature] Date 10/15/15

### OWNERS INFORMATION (IF DIFFERENT FROM APPLICANTS)

Name Dune Ridge SA LP, Paul Heule (d) Address / PO Box 231 W Fulton  
City Grand Rapids State MI Zip 49503 Phone 616-530-5500

I hereby authorize that the applicant as listed above is authorized to make this application for proposed work as my agent and we agree to conform to all applicable laws and regulations of the City of Saugatuck. I additionally grant City of Saugatuck staff or authorized representatives thereof access to the property to inspect conditions, before, during, and after the proposed work is completed.

Signature [Signature] His president of the GP Date 10/15/15

### CONTRACTORS/ DEVELOPERS INFORMATION (UNLESS PROPOSED WORK IS TO BE DONE BY THE PROPERTY OWNER)

Name \_\_\_\_\_ Contact Name \_\_\_\_\_  
Address / PO Box \_\_\_\_\_ City \_\_\_\_\_  
State \_\_\_\_\_ Zip \_\_\_\_\_ Phone \_\_\_\_\_ Fax \_\_\_\_\_  
License Number \_\_\_\_\_ Expiration Date \_\_\_\_\_

### PROPERTY INFORMATION

Depth 40 Width 130 Size 0.11 Acres Zoning District C4 Current Use Vacant  
Check all that apply:  
Waterfront  Historic District \_\_\_\_\_ Dunes \_\_\_\_\_ Vacant

### PROJECT DESCRIPTION (ATTACH MORE SHEETS IF NECESSARY)

Construction of 8 boat slips and appurtenant structures per attached MDEQ Permit No. 14-03-0032-P  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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Application # _____
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<b>SITE PLAN REQUIREMENTS (SECTION 154.061)</b>
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A) Applications for preliminary site plan approval shall consist of the following information unless waived by the Zoning Administrator.

Y    N    NA

- Property dimensions
- Significant vegetation
- Water courses and water bodies, including human-made surface drainage ways
- Existing public right-of-way, pavements and/or private easements
- Existing and proposed uses, buildings, structures and parking areas
- Zoning classification of abutting properties
- The name, address and telephone number of the person and firm who prepared the site plan, and the date on which it was prepared
- A north arrow

B) Applications for final site plan approval shall consist of the following information unless waived by the Zoning Administrator. Twelve reproducible copies of a final site plan, at a scale of not less than one inch equals ten feet, shall include:

Y    N    NA

- Dimensions of property of the total site area,
- Contours at 2-foot intervals
- Locations of all buildings
- Other structures on adjacent properties within 100 feet of the property, including those located across the street from the property
- Parking areas
- Driveways
- Required and proposed building setbacks
- Location of abutting streets and proposed alignment of streets, drives and easements serving the development, including existing rights-of-way and pavement widths;
- Location, screening, dimensions and heights of proposed buildings and structures, such as trash receptacles, utility pads and the like, including accessory buildings and uses, and the intended uses thereof. Rooftop or outdoor appurtenances should also be indicated, including proposed methods of screening the equipment, where appropriate;
- Location and dimensions of parking areas, including computations of parking requirements, typical parking space dimensions, including handicapped spaces, and aisle widths;
- Proposed water supply and wastewater systems locations and sizes;
- Proposed finished grades and site drainage patterns, including necessary drainage structure. Where applicable, indicate the location and elevation of the 100-year floodplain;
- Proposed common open spaces and recreational facilities, if applicable;
- Proposed landscaping, including quantity, size at planting and botanical and common names of plant materials;
- Signs, including type, locations and sizes;



# Special Land Use Application

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- Location and dimensions of all access drives, including driveway dimensions, pavement markings, traffic-control signs or devices, and service drives;
- Exterior lighting showing area of illumination and indicating the type of fixture to be used.
- Elevations of proposed buildings drawn to an appropriate scale shall include:
  1. Front, side and rear views;
  2. Heights at street level, basement floor level, top of main floor, top of building, and if applicable, height above water level; and
  3. Exterior materials and colors to be used.
- Location, if any, of any views from public places to public places across the property;
- Location, height and type of fencing; and
- The name and address of the person and firm who drafted the plan, the seal of the professional responsible for the accuracy of the plan (licensed in the state) and the date on which the plan was prepared.

## STANDARDS FOR APPROVAL (SECTION 154.082)

Please respond to how the request will meet each of the following standards for special land use:

(1) How will the location, size, height and intensity of the principal and/or accessory operations, compatible with the size, type and kind of buildings, uses and structures in the vicinity and on adjacent property?

See attached narrative

(2) How will the proposed request consistent with, and will promote the intent and purpose of this chapter?

See attached narrative

(3) How will the proposed request compatible with the natural environment and will it conserve natural resources and energy?

See attached narrative

(4) How will the proposed request consistent with existing and future capabilities of public services and facilities?

See attached narrative

(5) How will the proposed request protect the public health, safety and welfare as well as the social and economic well-being of those who will use the land use or activity, residents, businesses and landowners immediately adjacent and the city as a whole?

See attached narrative



# Special Land Use Application

Application # \_\_\_\_\_

(6) How will the proposed request create any hazards arising from storage and use of inflammable fluids?  
See attached narativa

(7) How will the proposed request will be in conflict with convenient, safe and normal vehicular and pedestrian traffic routes, flows, intersections and general character and intensity of development? In particular:

(a) Will the property be easily accessible to fire and police?

See attached narativa

(b) Will measure be taken as to not create or add to any hazardous traffic condition?

See attached narativa

(8) How will the proposed request be of such a design and impact that the location and height of buildings, the location, nature and height of walls, fences and the nature and extent of landscaping on the site not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof?

See attached narativa

(9) How will the nature, location, size and site layout of proposed request be a harmonious part of the district in which it is situated taking into account, among other things, prevailing shopping habits, convenience of access by prospective patrons, the physical and economic relationship of one type of use to another and characteristic groupings of uses of the district?

See attached narativa

(10) How will the location, size, intensity and site layout be such that operations will not be objectionable to nearby dwellings, by reason of noise, fumes, pollution, vibration, litter, refuse, glare or flash of lights to an extent which is greater than would be operations of any use permitted by right for that district within which the special land use is proposed to be located?

See attached narativa

**OFFICE USE ONLY:**

Application Complete \_\_\_\_\_ Date \_\_\_\_\_ Fee Paid \_\_\_\_\_ Date Paid \_\_\_\_\_

Notice Sent \_\_\_\_\_ Resident Notification \_\_\_\_\_ Hearing Date \_\_\_\_\_

Notes: \_\_\_\_\_

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## **154.082 STANDARDS FOR SPRECIAL USE.**

Before any special land use permit is granted, the Planning Commission shall make findings of fact based upon competent evidence certifying compliance with the specific regulations governing individual special land uses and, in addition, ensure that the following general standards have been met. Each proposed special land use shall:

- (1) In location, size, height and intensity of the principal and/or accessory operations, be compatible with the size, type and kind of buildings, uses and structures in the vicinity and on adjacent property;

The size and intensity of our proposed docks will be much less intense use than the Casa Loma private marina, which is located directly south of the subject property. Casa Loma has a similar use as the proposed project. The City Chain Ferry is located directly to the north of the subject property. Our 6 private boat slips will have no adverse affect on the commercial use of this public river crossing and landing area, which is also a more intense use. The existing cottage located on the west side of Park Street is elevated and sits higher, minimizing any negative affect of the view-scape.

- (2) Be consistent with and promote the intent and purpose of this chapter;

The proposed boat slips are compatible with the adjacent property uses on either side of the property. Casa Loma Marina and the City Chain Ferry both deal with boating and dockage activity. The marine character compliments the waterfront property and is consistent with intent of the district.

- (3) Be compatible with the natural environment and conserve natural resources and energy;

The 6 boat slips will be a low intense use and allow users to keep boats close to their homes rather than in offsite marinas. This will lessen the traffic burden on roads and provide an amenity that promotes the natural harbor and utilization of existing resources.

- (4) Be consistent with existing and future capabilities of public services and facilities affected by the proposed use;

The proposed project will have no negative affect on the current available public services. There is sufficient capacity to service the 6 boast slips with all available public services.

- (5) Protect the public health, safety and welfare as well as the social and economic well-being of those who will use the land use or activity, residents, businesses and landowners immediately adjacent and the city as a whole;

The MDEQ has issued a permit for the proposed project and determined it meets all their required standards. This project will improve values of adjacent properties and increase future tax revenue for the City thereby creating economic benefit for adjacent owners as well as the City. Social well-being will be increased by providing an amenity to our adjacent development project, which will be the users of our proposed boat slips.

- (6) Not create any hazards arising from storage and use of inflammable fluids;

No such fluids are proposed to be stored or used on site.

- (7) Not be in conflict with convenient, safe and normal vehicular and pedestrian traffic routes, flows, intersections and general character and intensity of development. In particular:

- (a) The property shall be easily accessible to fire and police; and

Due to the shallow nature of the site and large amount of frontage on Park Street, emergency vehicles will have easy access to the entire site.

- (b) Not create or add to any hazardous traffic condition.

All parking will be a pull in and pull out one-way driveway system with no parallel parking on Park Street.

- (8) Be of such a design and impact that the location and height of buildings, the location, nature and height of walls, fences and the nature and extent of landscaping on the site shall not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof;

The adjacent land and buildings on either side are currently used as a private marina and chain ferry. The proposed use is consistent and complimentary with such adjacent uses. Any future development of these adjacent properties will not be hindered in any way or value affected by our proposed 6 boat slips.

- (9) That in the nature, location, size and site layout of the use, be a harmonious part of the district in which it is situated taking into account, among other things, prevailing shopping habits, convenience of access by prospective patrons, the physical and economic relationship of one type of use to another and characteristic groupings of uses of the district; and

The DEQ approved layout of the proposed 6 boat slips is harmonious with the district and is appropriately sized, not over massing the site. It will be an improvement to the current vacant site full of unsightly weeds and vegetation.

- (10) That in the location, size, intensity and site layout be such that operations will not be objectionable to nearby dwellings, by reason of noise, fumes, pollution, vibration, litter, refuse, glare or flash of lights to an extent which is greater than would be operations of any use permitted by right for that district within which the special land use is proposed to be located.

Nearby dwellings will not be negatively affected by the proposed use of the boat slips because it is a very low intense use of the property. No commercial use is proposed. These are private boat slips not for public use with no business or enterprise allowed on the site.



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
Kalamazoo



DAN WYANT  
DIRECTOR

NOTICE OF AUTHORIZATION

Permit Number: 14-03-0032-P

Date Issued: 9/17/2015  
Expiration Date: 9/17/2020

The Michigan Department of Environmental Quality, Water Resources Division, P.O. Box 30458, Lansing, Michigan 48909-7958, under provisions of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, and specifically:

- Floodplain Regulatory Authority in Part 31, Water Resources Protection.
- Part 301, Inland Lakes and Streams.
- Part 303, Wetlands Protection.

Authorized activity:

[Redacted]

Place a turbidity barrier around the lakeward perimeter of the project area. Construct approximately 177 feet of new seawall on Kalamazoo Lake, Saugatuck, Michigan. The steel sheet pile wall will tie into adjacent seawall on one end and end in a return wall on the other. Approximately 15 cubic yards of clean fill will be placed landward of the seawall below the ordinary high water mark. Place approximately 138 cubic yards of field stone waterward of the new seawall at a 1-on-1.5 to 2 slope along approximately 165 linear feet of the wall.

Dredge mechanically or hydraulically approximately 2,100 cubic yards of material from the areas designated on the project plans. Place dredge spoils behind seawall as much as possible. All other spoils are transported to an upland disposal area.

Install docks with a configuration based on the attached plans to accommodate 7 boats and 10 personal water craft on Kalamazoo River. This marina facility will include boat slips ranging from approximately 25 feet to 36 feet in length and personal water craft slips measuring approximately 15 feet in length. All docks shall be 5 feet in width. Install signs where appropriate to inform the public where mooring is not allowed. All work shall be completed in accordance with the attached modified plans and the specifications of this permit.

[Redacted]

To be conducted at property located in: Allegan County, Kalamazoo River

Section(s) 09, Township 03N, Range 16W, Local Government.

Permittee: Paul Huels  
Dune Ridge SA LP  
231 Fulton Street West  
Grand Rapids, MI 49503

Mark Schieber  
Kalamazoo District Office  
Water Resources Division  
269-567-3625

*This notice must be displayed at the site of work.  
Laminating this notice or utilizing sheet protectors is recommended.  
Please refer to the above Permit Number with any questions or concerns.*



**MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY  
WATER RESOURCES DIVISION  
PERMIT**

**Permit No.: 14-03-0032-P**

**Submission No: 14-03-0032-P**

**Issued: 9/17/2015**

**Extended:**

**Revised:**

**Expires: 9/17/2020**

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**Issued To:**

Paul Huele, Dune Ridge SA LP  
231 Fulton Street West  
Grand Rapids, MI 49503

This permit is being issued by the Michigan Department of Environmental Quality (MDEQ), Water Resources Division, under the provisions of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), and specifically:

- Part 31, Water Resources Protection (Floodplain Regulatory Authority)
- Part 301, Inland Lakes and Streams
- Part 303, Wetlands Protection
- Part 315, Dam Safety
- Part 323, Shorelands Protection and Management
- Part 325, Great Lakes Submerged Lands
- Part 353, Sand Dunes Protection and Management



Permission is hereby granted, based on permittee assurance of adherence to State of Michigan requirements and permit conditions, to:

Place a turbidity barrier around the lakeward perimeter of the project area. Construct approximately 177 feet of new seawall on Kalamazoo Lake, Saugatuck, Michigan. The steel sheet pile wall will tie into adjacent seawall on one end and end in a return wall on the other. Approximately 15 cubic yards of clean fill will be placed landward of the seawall below the ordinary high water mark. Place approximately 138 cubic yards of field stone waterward of the new seawall at a 1-on-1.5 to 2 slope along approximately 165 linear feet of the wall.

Dredge mechanically or hydraulically approximately 2,100 cubic yards of material from the areas designated on the project plans. Place dredge spoils behind seawall as much as possible. All other spoils are transported to an upland disposal area.

Install docks with a configuration based on the attached plans to accommodate 7 boats and 10 personal water craft on Kalamazoo River. This marina facility will include boat slips ranging from approximately 25 feet to 36 feet in length and personal water craft slips measuring approximately 15 feet in length. All docks shall be 5 feet in width. Install signs where appropriate to inform the public where mooring is not allowed. All work shall be completed in accordance with the attached modified plans and the specifications of this permit.

Watercourse Affected: Kalamazoo River

Property Location: Allegan County,

Town/Range/Section 03N16W09, Property Tax No. 03-57-009-066-01

Authority granted by this permit is subject to the following limitations:

- A. Initiation of any work on the permitted project confirms the permittee's acceptance and agreement to comply with all terms and conditions of this permit.
- B. The permittee, in exercising the authority granted by this permit, shall not cause unlawful pollution as defined by Part 31, Water Resources Protection, of the NREPA.
- C. This permit shall be kept at the site of the work and available for inspection at all times during the duration of the project or until its date of expiration.
- D. All work shall be completed in accordance with the approved plans and specifications submitted with the application and/or plans and specifications attached to this permit.
- E. No attempt shall be made by the permittee to forbid the full and free use by the public of public waters at or adjacent to the structure or work approved.
- F. It is made a requirement of this permit that the permittee give notice to public utilities in accordance with Act No. 174 of the Public Acts of 2013 and comply with each of the requirements of Act 174.
- G. This permit does not convey property rights in either real estate or material, nor does it authorize any injury to private property or invasion of public or private rights, nor does it waive the necessity of seeking federal assent, all local permits, or complying with other state statutes.
- H. This permit does not prejudice or limit the right of a riparian owner or other person to institute proceedings in any circuit court of this state when necessary to protect his rights.
- I. Permittee shall notify the MDEQ within one week after the completion of the activity authorized by this permit, by completing and forwarding the attached preaddressed postcard to the office addressed thereon.
- J. This permit shall not be assigned or transferred without the written approval of the MDEQ.

- K. Failure to comply with conditions of this permit may subject the permittee to revocation of permit and criminal and/or civil action as cited by the specific state act, federal act, and/or rule under which this permit is granted.
- L. All dredged or excavated materials shall be disposed of in an upland site (outside of floodplains, unless exempt under Part 31 of the NREPA, and wetlands).
- M. In issuing this permit, the MDEQ has relied on the information and data that the permittee has provided in connection with the submitted application for permit. If, subsequent to the issuance of a permit, such information and data prove to be false, incomplete, or inaccurate, the MDEQ may modify, revoke, or suspend the permit, in whole or in part, in accordance with the new information.
- N. The permittee shall indemnify and hold harmless the State of Michigan and its departments, agencies, officials, employees, agents, and representatives for any and all claims or causes of action arising from acts or omissions of the permittee, or employees, agents, or representative of the permittee, undertaken in connection with this permit. The permittee's obligation to indemnify the State of Michigan applies only if the state: (1) provides the permittee or its designated representative written notice of the claim or cause of action within 30 days after it is received by the state, and (2) consents to the permittee's participation in the proceeding on the claim or cause of action. It does not apply to contested case proceedings under the Administrative Procedures Act, 1969 PA 306, as amended, challenging the permit. This permit shall not be construed as an indemnity by the State of Michigan for the benefit of the permittee or any other person.
- O. Noncompliance with these terms and conditions and/or the initiation of other regulated activities not specifically authorized shall be cause for the modification, suspension, or revocation of this permit, in whole or in part. Further, the MDEQ may initiate criminal and/or civil proceedings as may be deemed necessary to correct project deficiencies, protect natural resource values, and secure compliance with statutes.
- P. If any change or deviation from the permitted activity becomes necessary, the permittee shall request, in writing, a revision of the permitted activity from the MDEQ. Such revision request shall include complete documentation supporting the modification and revised plans detailing the proposed modification. Proposed modifications must be approved, in writing, by the MDEQ prior to being implemented.
- Q. This permit may be transferred to another person upon written approval of the MDEQ. The permittee must submit a written request to the MDEQ to transfer the permit to the new owner. The new owner must also submit a written request to the MDEQ to accept transfer. The new owner must agree, in writing, to accept all conditions of the permit. A single letter signed by both parties that includes all of the above information may be provided to the MDEQ. The MDEQ will review the request and, if approved, will provide written notification to the new owner.
- R. Prior to initiating permitted construction, the permittee is required to provide a copy of the permit to the contractor(s) for review. The property owner, contractor(s), and any agent involved in exercising the permit are held responsible to ensure that the project is constructed in accordance with all drawings and specifications. The contractor is required to provide a copy of the permit to all subcontractors doing work authorized by the permit.
- S. Construction must be undertaken and completed during the dry period of the wetland. If the area does not dry out, construction shall be done on equipment mats to prevent compaction of the soil.
- T. Authority granted by this permit does not waive permit requirements under Part 91, Soil Erosion and Sedimentation Control, of the NREPA, or the need to acquire applicable permits from the County Enforcing Agent.
- U. Authority granted by this permit does not waive permit requirements under the authority of Part 305, Natural Rivers, of the NREPA. A Natural Rivers Zoning Permit may be required for construction, land alteration, streambank stabilization, or vegetation removal along or near a natural river.
- V. The permittee is cautioned that grade changes resulting in increased runoff onto adjacent property is subject to civil damage litigation.
- W. Unless specifically stated in this permit, construction pads, haul roads, temporary structures, or other structural appurtenances to be placed in a wetland or on bottomland of the water body are not authorized and shall not be constructed unless authorized by a separate permit or permit revision granted in accordance with the applicable law.
- X. For projects with potential impacts to fish spawning or migration, no work shall occur within fish spawning or migration timelines (i.e., windows) unless otherwise approved in writing by the Michigan Department of Natural Resources, Fisheries Division.
- Y. Work to be done under authority of this permit is further subject to the following special instructions and specifications:

1. The docks must be located such that watercraft dockage and ingress/egress shall not interfere with riparian rights.
2. Additional attachments to permitted structures, including but not limited to roofs, sidewalls, handrails, benches, decks, additional docks, or extensions thereof, are **not** authorized by this permit, unless included in the attached plans.
3. The structure shall be of open construction, maintaining free water movement and circulation.
4. This permit authorizes construction of a marina for private, non-commercial use only, for individuals residing the Dune Ridge Development.
5. This project shall be constructed as shown on the attached plans and riparian interest area estimate survey.
6. No boat shall extend beyond the end of the authorized dock or slip length. Swim platforms, bow sprits, and/or pulpits must be factored into total length of the boat. No other structures such as boat hoists or spring piles shall extend beyond the end of the authorized dock or slip length.
7. Signage indicating special conditions for dockage shall read, "No Watercraft Mooring at Any Time", or similar language. Professionally-made signs facing waterward with readable print size by marina customers and the public shall be placed on the side of the permitted docks facing the adjacent riparian owner at the marina owner's discretion. The signs are to be repaired and replaced as necessary.
8. All fill/backfill shall consist of clean inert material that will not cause siltation nor contain soluble chemicals, organic matter, pollutants, or contaminants. All fill shall be contained in such a manner so as not to erode into any surface water, floodplain, or wetland. All raw areas associated with the permitted activity shall be stabilized with sod and/or seed and mulch, riprap, or other technically effective methods as necessary to prevent erosion.
9. Prior to commencing installation of the shore protection structure, the entire lakeward perimeter of the project site shall be isolated with a turbidity curtain to prevent movement of suspended sediments. The turbidity curtain shall be installed to extend from the bed of the waterbody to a point above the existing water's surface. The turbidity curtain shall be maintained for the duration of the project and shall be left in place after completion until all disturbed sediments have settled.
10. Unless authorized by the attached plans, the seawall, bulkhead, or revetment structure shall be placed at or above (landward) of the Ordinary High Water Mark (OHWM) in the location shown on the attached approved plans. Any variation from the approved location must be authorized in writing by the MDEQ prior to the initiation of these activities.
11. On a project requiring backfilling, the seawall shall be in place prior to placing any fill.
12. The seawall shall have toe stone (i.e. riprap) placed along a minimum of 165 linear feet of the seawall to prevent undercutting by wave action, to mitigate for the loss of habitat, and to provide a use for fish and other aquatic life. The toe stone shall be placed at a 1-on-1.5 to 2 slope (e.g. 1 foot vertical to 1 foot horizontal) or gentler. Toe stone shall be properly sized and consist of natural field stone or rock (broken concrete is not allowed). Toe stone shall be installed immediately upon completion of the seawall. This toe stone shall be placed in accordance with the attached plans.
13. Authority granted by this permit does not waive any jurisdiction of the United States Army Corps of Engineers or the need for a federal permit, if required.
14. Authority granted by this permit does not waive permit requirements under Part 91 of the NREPA, or the need to acquire applicable permits from the CEA. To locate the Soil Erosion Program Administrator for your county visit, [http://www.michigan.gov/deq/0,4561,7-135-3311\\_4113-8870--](http://www.michigan.gov/deq/0,4561,7-135-3311_4113-8870--)

[.00.html](#) or contact John Johnson at 269-686-4501.

15. Prior to commencement of any dredging authorized by this permit, the entire dredged area shall be enclosed with a turbidity curtain to prevent off-site siltation. The turbidity curtain shall be installed to extend from the bed of the waterbody to a point above the existing water's surface. The turbidity curtain shall be maintained for the duration of the project and shall be left in place after completion of dredging until all disturbed sediments have settled.
16. All dredge/excavated spoils including organic and inorganic soils, vegetation, and other material removed shall be placed on upland (non-wetland, non-floodplain or non-bottomland), prepared for stabilization, and stabilized with sod and/or seed and mulch in such a manner to prevent and ensure against erosion of any material into any waterbody, wetland, or floodplain.
17. The permittee is cautioned that excessive dredging resulting in the impairment of the structural integrity of seawalls on neighboring riparian properties is subject to civil damage litigation.
18. No work or dredging within the water authorized by this permit is allowed from March 15 to June 30 or September 1 to December 15 in any year due to critical spawning, migration, and/or recreational use periods. Contact MDEQ if dredging may be required outside of these dates.
19. The design flood or 1.0% annual chance (100-year) floodplain elevation at this location on Kalamazoo River is 583.03 feet IGLD85.
20. Under Appendix G of the Michigan Building Code 2012, a local building permit is required for development located in flood hazard areas.
21. The project is located within a community that participates in the National Flood Insurance Program (NFIP). As a participant in the NFIP, the community must comply with the Michigan Building Code (including Appendix G and listed supporting materials); the Michigan Residential Code; and Title 44 of the Code of Federal Regulations, Part 60, Criteria for Land Management and Use. The community is also responsible to ensure that its floodplain maps and studies are maintained to show changes to flood elevations and flood delineations as described in 44 CFR, Part 65, Identification and Mapping of Special Hazard Areas.
22. Any other filling, grading, or construction within the 100-year floodplain will require a separate DEQ permit before starting the work.
23. The proposed fill and building are located within a 100-year floodplain included in the community's Flood Insurance Rate Map and/or flood elevation study. The permittee must apply to the Federal Emergency Management Agency (FEMA) for a Letter of Map Revision based on fill (LOMR-F) if engineered earthen fill is placed within the mapped 100-year floodplain. As part of the National Flood Insurance Program (NFIP) requirements the community must ensure that the requirements found in Section 65.5(a) of the FEMA's 44 CFR Part 65 are followed.
24. The lowest floor including basement shall be elevated at least one foot above the design flood elevation. The lowest floor shall be the floor of the lowest enclosed area, including basement, but excluding any unfinished flood-resistant enclosure that is usable solely for vehicle parking, building access, or limited storage provided that such enclosure is not built so as to render the building or structure in violation of this permit.
25. This permit does not authorize basement construction within the filled portion of the 1% annual chance (100-year) floodplain, or below the 1% annual chance (100-year) floodplain elevation. The applicant must obtain a permit revision to the existing valid permit or obtain a separate permit to construct a basement within the filled portion of the floodplain.
26. All permitted structures shall be firmly anchored to prevent flotation or lateral movement.

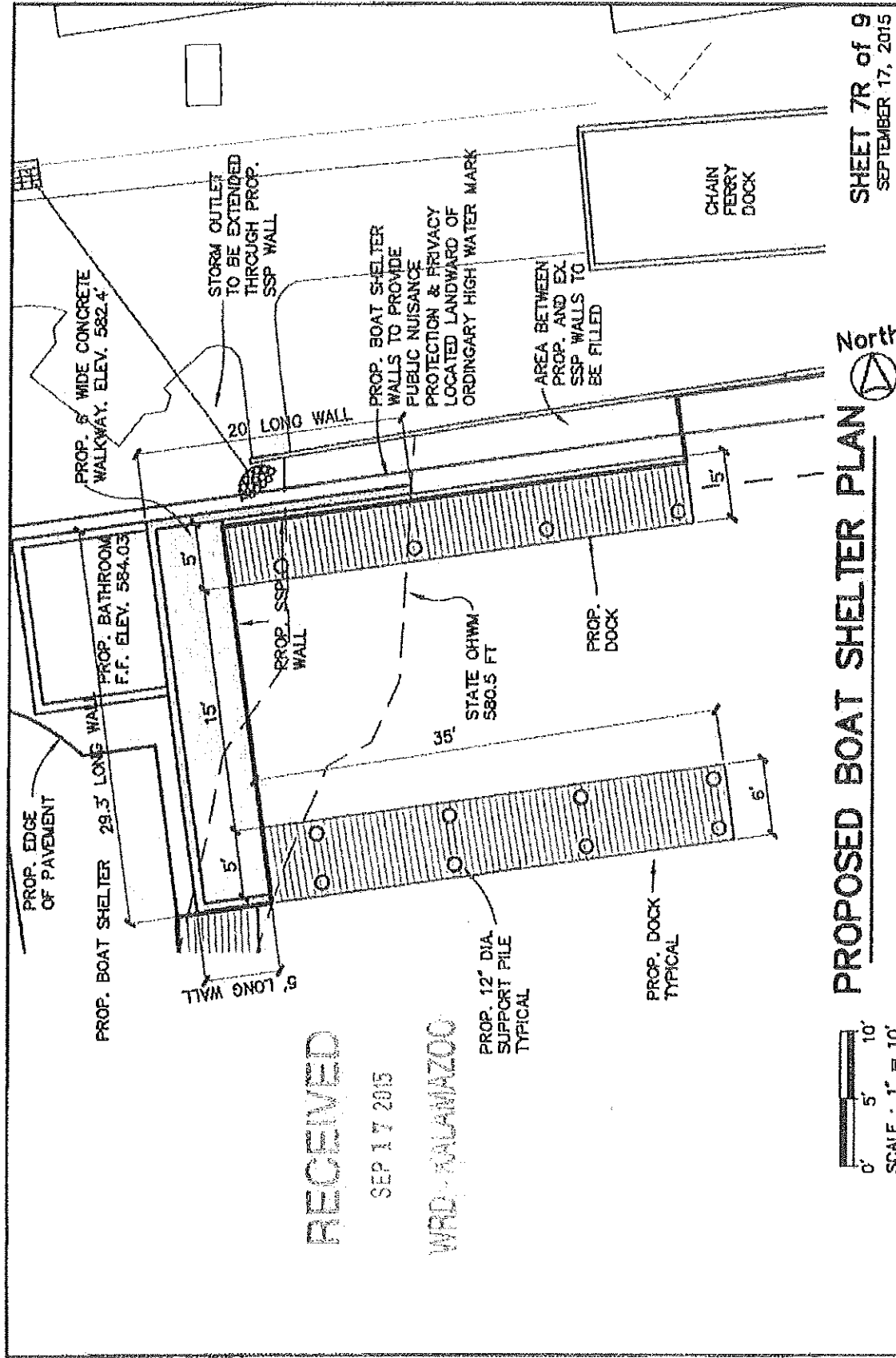
27. A registered professional engineer or land surveyor must submit an elevation certificate to the local building official upon placement of the lowest floor, including basement, prior to further vertical construction. When the project is located in a National Flood Insurance Program (NFIP) community, using the elevation certificate form, found at <http://www.fcma.gov/media-library/assets/documents/160?id=1383>, is encouraged. The form is required if the community participates in the Community Rating System. Provide a copy of the certification to this office within **15 days** of when it was completed.
28. This permit does not waive the requirements of Michigan Building Code and its referenced standards, ASCE 7: Minimum Design Loads for Buildings and Other Structures, and ASCE 24: Flood Resistant Design and Construction, for substantial improvements to existing structures or new construction. Please reference the Code for details.
29. In issuing this permit, the MDEQ has relied on the information and data which the permittee has provided in connection with the permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete, or inaccurate, the MDEQ may modify, revoke, or suspend the permit, in whole or in part, in accordance with the new information.
30. The authority to conduct the activity as authorized by this permit is granted solely under the provisions of the governing act as identified above. This permit does not convey, provide, or otherwise imply approval of any other governing act, ordinance, or regulation, nor does it waive the permittee's obligation to acquire any local, county, state or federal approval, or authorizations necessary to conduct the activity.
31. If any change or deviation from the permitted activity becomes necessary, the permittee shall request, in writing, a revision of the permitted activity and/or mitigation plan from the MDEQ. Such revision requests shall include complete documentation supporting the modification and revised plans detailing the proposed modification. Proposed modifications must be approved, in writing, by the MDEQ prior to being implemented.
32. This permit is being issued for the maximum time allowed under Part 301, Inland Lakes, of the Natural Resources and Environmental Protection Act, PA 451 of 1994, as amended, including all permit extensions allowed under the administrative rule R 281.813. Therefore, no extensions of this permit will be granted. Initiation of the construction work authorized by this permit indicates the permittee's acceptance of this condition. The permit, when signed by the MDEQ, will be for a five-year period beginning at the date of issuance.

Issued By:

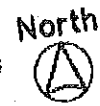


Mark Schieber, Environmental  
Quality Analyst  
Kalamazoo District Office  
Water Resources Division  
269-567-3625

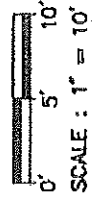
cc: Saugatuck Township Clerk  
City of Saugatuck  
Allegan County CEA  
Prein&Newhof, Matt Hulst



SHEET 7R of 9  
 SEPTEMBER 17, 2015  
 2140111



**PROPOSED BOAT SHELTER PLAN**



RECEIVED  
 SEP 17 2015

WRD - KALAMAZOO

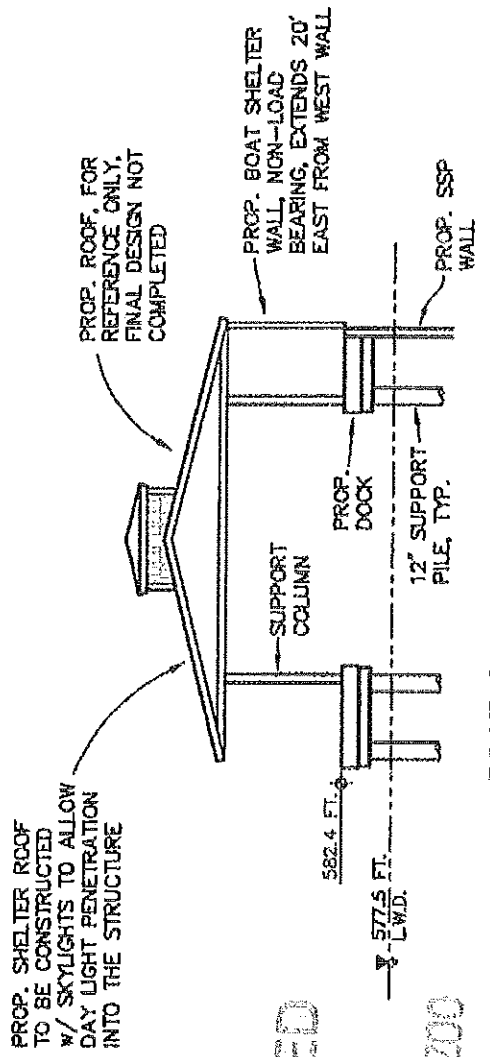
PREPARED BY: **Prein & Newhof**  
 DECAWRD  
 11-02-0022  
 APPROVED PLANS  
 4910 STARHA DRIVE  
 MUSKEGON, MICHIGAN 49441 / (231-798-0101)

APPLICANT:  
**DUNE RIDGE SA LP**  
 PAUL HEULE - MANAGER  
 231 FULTON STREET WEST  
 GRAND RAPIDS, MI 49503

**DUNEGRASS**  
 WATERWAY: KALAMAZOO RIVER  
 LOCATION: CITY OF SAUGATUCK  
 ALLEGAN COUNTY, MICHIGAN  
 SECTION 9, T. 3 N., R. 16 W.

SHEET 8R of 9  
 SEPTEMBER 15, 2015  
 2140111

PREPARED BY: **Prein&Newhof**  
 ENGINEERS & SURVEYORS & ENVIRONMENTAL LABORATORY  
 4910 STARIHA DRIVE  
 MUSKEGON, MICHIGAN 49441/(231-798-0101)



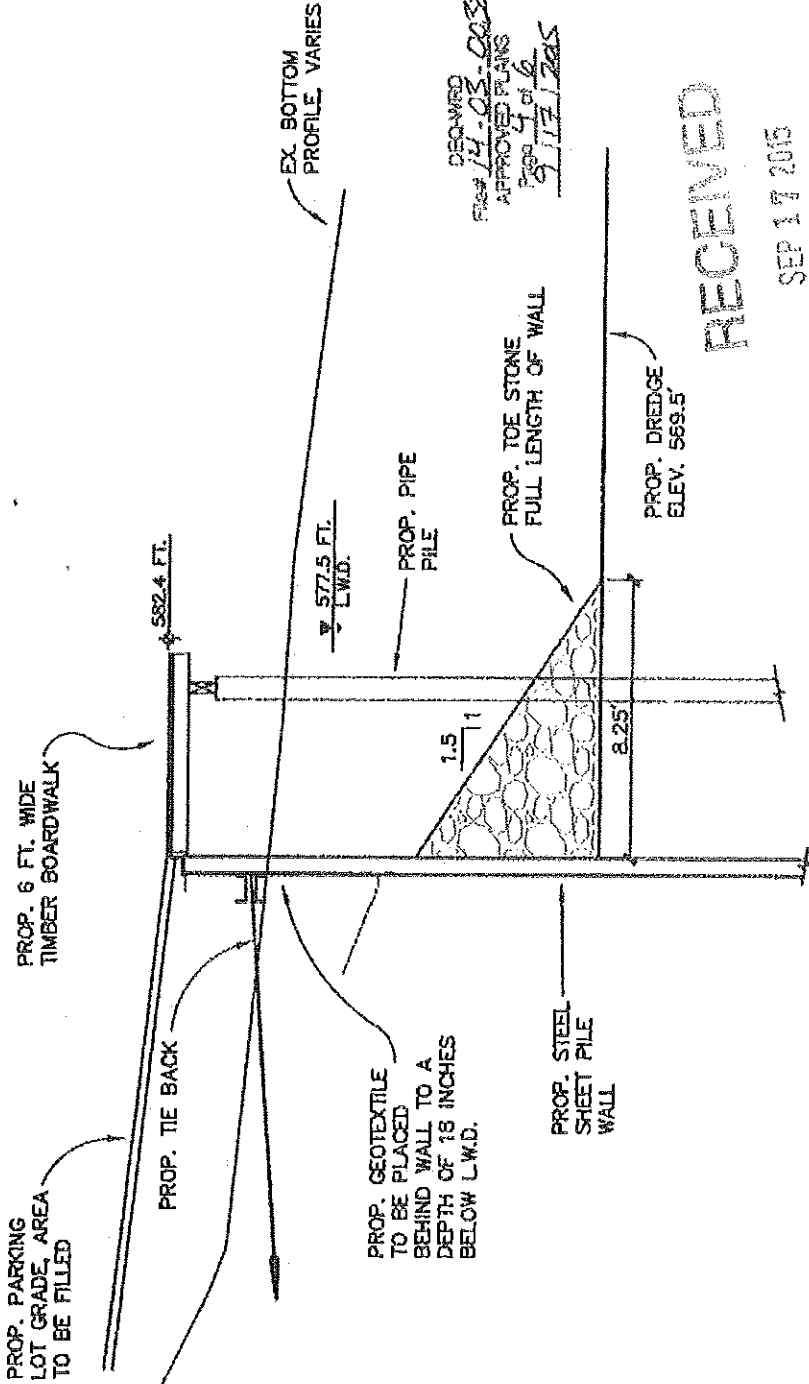
**BOAT SHELTER CROSS SECTION**  
 SCALE: 1" = 10'

RECEIVED  
 SEP 17 2015  
 WFD - KALAMAZOO

APPLICANT:  
 DUNE RIDGE SA LP  
 PAUL HEULE - MANAGER  
 231 FULTON STREET WEST  
 GRAND RAPIDS, MI 49503

DUNEGRASS  
 WATERWAY: KALAMAZOO RIVER  
 CITY OF SAUGATUCK  
 ALLEGAN COUNTY, MICHIGAN  
 SECTION 9, T. 3 N., R. 16 W.

DEC-2015  
 FILED 12-02-2015  
 APPROVED PLANS  
 [Signature]



DECEMBER  
 FILE # 14-03-0032-P  
 APPROVED PLANS  
 SEP 4 of 6  
 SULLIVAN

RECEIVED

SEP 17 2015

WRD - KALAMAZOO

**REVISED TYPICAL SHEETPILE WALL SECTION**

SCALE: 1" = 5'

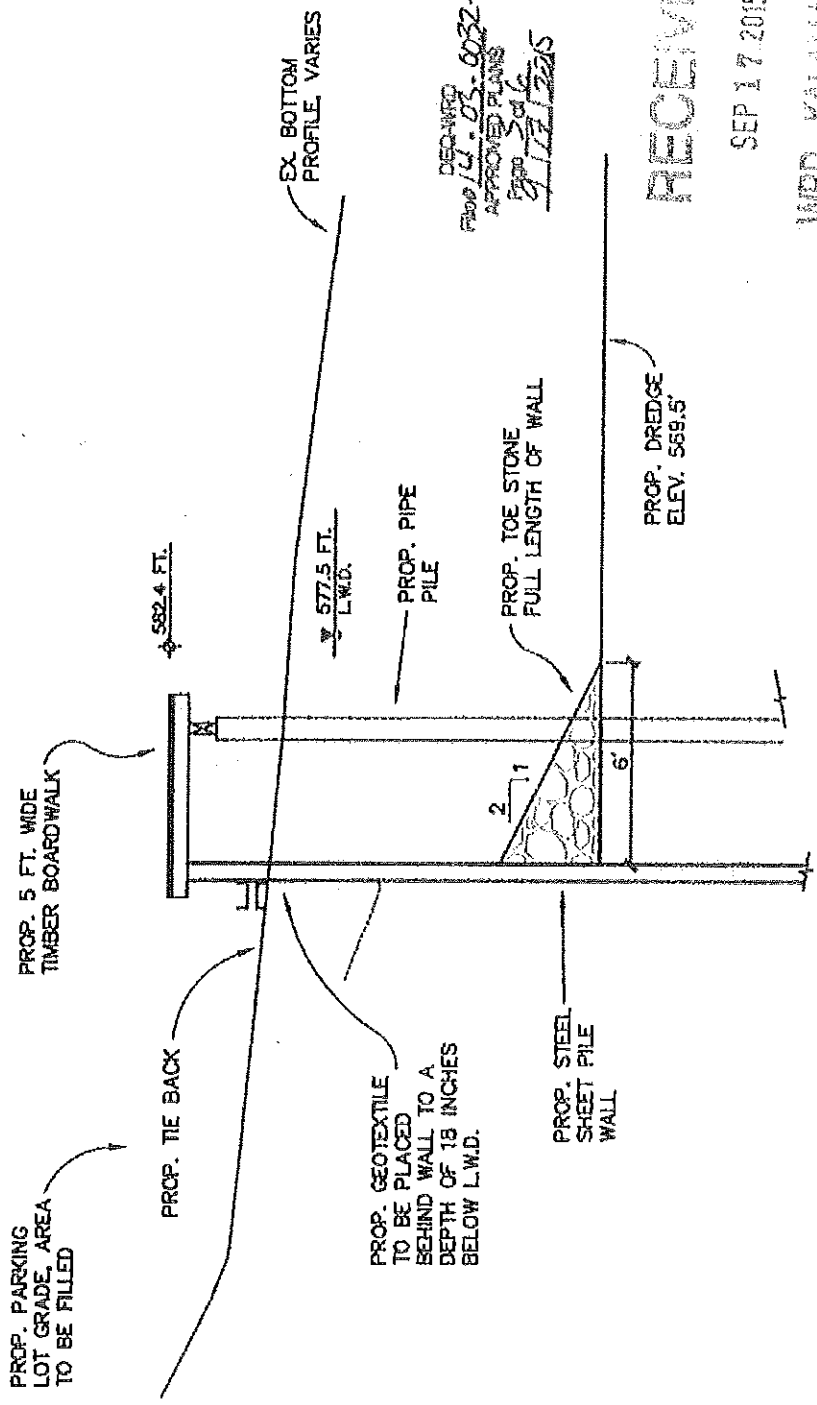
SHEET 6R of 9  
 SEPTEMBER 17, 2015  
 2140111

DUNEGRASS  
 WATERWAY : KALAMAZOO RIVER  
 LOCATION : CITY OF SAUGATUCK  
 ALLEGAN COUNTY, MICHIGAN  
 SECTION 9, T. 3 N., R. 15 W.

APPLICANT :  
 DUNE RIDGE SA LP  
 PAUL HEULE - MANAGER  
 231 FULTON STREET WEST  
 GRAND RAPIDS, MI 49503

PREPARED BY : **Prain & Newhof**  
 Engineers & Surveyors & Environmental & Laboratory  
 4910 STARHA DRIVE  
 MUSKEGON, MICHIGAN 49441/(231-798-0101)





DESIGNED  
 FROM LL-03-032-7  
 APPROVED PLANS  
 BY SLZ/SLZ

RECEIVED

SEP 17 2015

WRD - KALAMAZOO

**TYPICAL SHEETPILE WALL SECTION ALONG CHAIN FERRY WALL**  
 SCALE: 1" = 5'

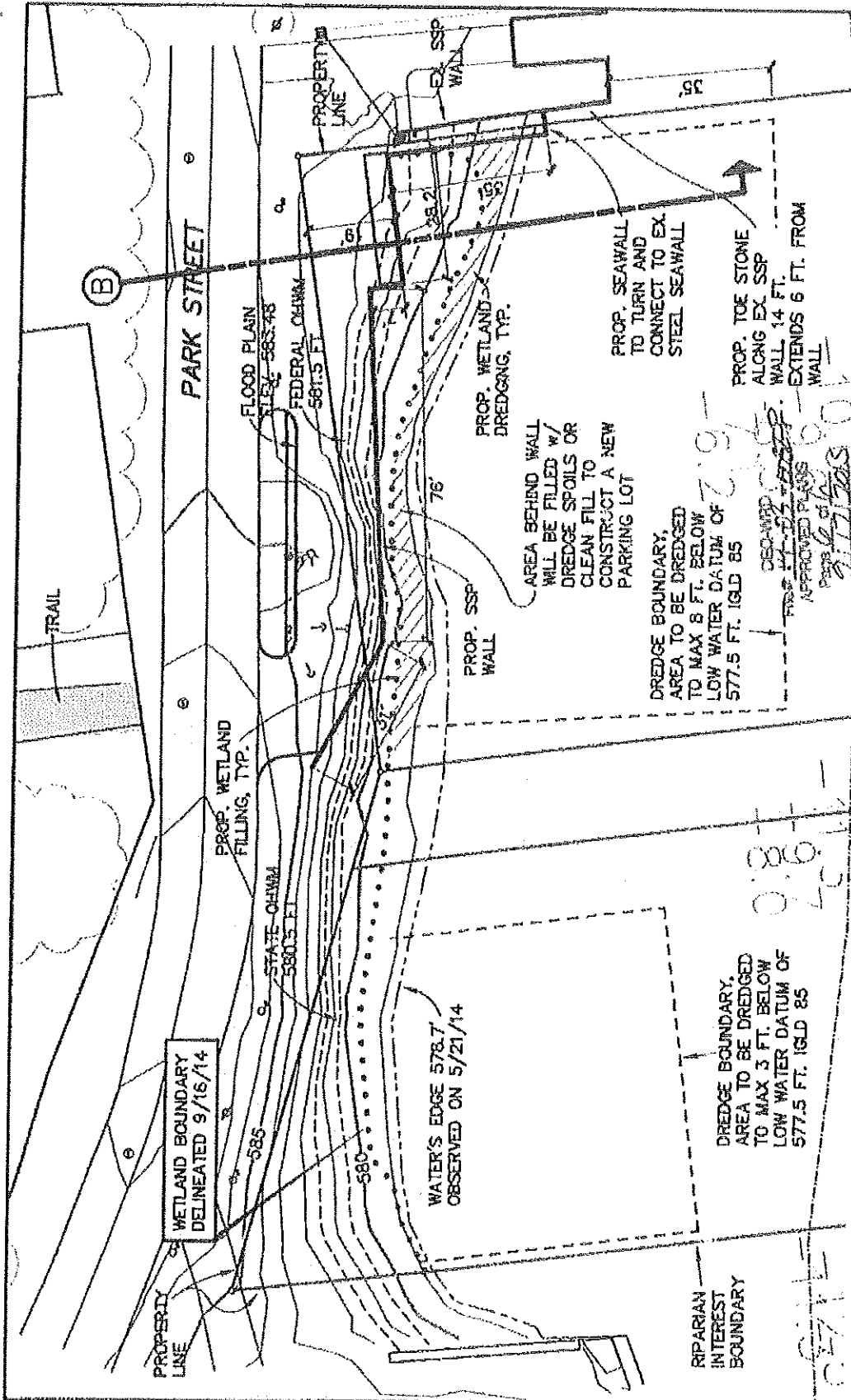
SHEET 11 OF 11  
 SEPTEMBER 17, 2015  
 2140111

DUNEGRASS

WATERWAY : KALAMAZOO RIVER  
 LOCATION : CITY OF SAUGATUCK  
 ALLEGAN COUNTY, MICHIGAN  
 SECTION 9, T. 3 N., R. 16 W.

APPLICANT :  
 DUNE RIDGE SA LP  
 PAUL HEULE - MANAGER  
 231 FULTON STREET WEST  
 GRAND RAPIDS, MI 49503

PREPARED BY : **Prein & Newhof**  
 Engineers - Surveyors - Environmental Laboratory  
 4910 STARIHA DRIVE  
 MUSKEGON, MICHIGAN 49441/(231-798-0101)



**REVISED SEAWALL/DREDGING PLAN**

SHEET 4R of 9  
 SEPTEMBER 15, 2015  
 2140111



<p><b>DUNEGRASS</b></p> <p>WATERWAY : KALAMAZOO RIVER        CITY OF SAUGATUCK        ALLEGAN COUNTY, MICHIGAN        SECTION 9, T. 3 N., R. 15 W.</p>	<p>APPLICANT :</p> <p><b>DUNE RIDGE SA LP</b>        PAUL HEULE - MANAGER        231 FULTON STREET WEST        GRAND RAPIDS, MI 49503</p>	<p>PREPARED BY :</p> <p><b>Prein &amp; Newhof</b>        Engineers &amp; Surveyors • Environmental • Laboratory        4910 STARHA DRIVE        MUSKEGON, MICHIGAN 49441/(231-798-0101)</p>
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**EXHIBIT D**

April 5, 2017 Circuit Court Decision upholding Zoning Board's  
denial of Dune Ridge's area/dimensional variances



**Jeffrey V.H. Sluggett**  
Direct Dial (616) 965-9341  
Direct Fax (616) 965-9351  
jsluggett@bsmlawpc.com

April 13, 2017

Mr. Kirk Harrier, City Manager  
City of Saugatuck  
102 Butler Street  
P.O. Box 86  
Saugatuck, MI 49453

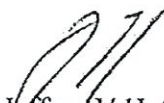
**Re: Dune Ridge, SA, LP v City of Saugatuck  
Allegan County Circuit Court Case No. 16-56795-AA**

Dear Kirk:

Enclosed for your records is a copy of the *Decision on Appeal from Denial of Zoning Setback Variances* entered by Judge Cronin in the above-referenced matter on April 5, 2017. In summary, the Court upheld the ZBA's denial of Dune Ridge's Variance request.

If there are any questions, please do not hesitate to contact me. Thank you.

Very truly yours,



Jeffrey V.H. Sluggett

Enclosure

cc (w/encl): ~~C. Osman, Planning Director~~  
C. Morgan, Law Offices of Crystal Morgan

{09805-015-00067956.1}

15 Ionia SW . Suite 640 . Grand Rapids . MI 49503 . t 616.965.9340 . f 616.965.9350 . www.bsmlawpc.com

# 41751  
RECEIVED APR 13 2017

STATE OF MICHIGAN 48TH JUDICIAL CIRCUIT	PARTY NOTIFICATION	CASE NO. 16-056795-AA
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Court Address ALLEGAN COUNTY  
113 CHESTNUT STREET  
ALLEGAN MI 49010

Court Telephone No.  
269-673-0231

Mailing Date: 4/10/17

Mail To:  
CRYSTAL L. MORGAN  
BLOOM SLUGGETT MORGAN PC  
15 IONIA AVE SW  
STE 640  
GRAND RAPIDS MI 49503

Judge: KEVIN W. CRONIN

Plaintiff  
DUNEGRASS SA LP

v

Defendant  
CITY OF SAUGATUCK

PLEASE TAKE NOTICE THAT ON APRIL 05, 2017 THE FOLLOWING WAS FILED IN THIS CAUSE:  
DECISION ON APPEAL FROM DENIAL OF ZONING SETBACK VARIANCES  
(COPY ATTACHED)

BOB GENETSKI  
CLERK OF THE COURT

THIS NOTICE HAS ALSO BEEN SENT TO:  
KYLE PATRICK KONWINSKI

STATE OF MICHIGAN  
IN THE 48<sup>TH</sup> CIRCUIT COURT FOR THE COUNTY OF ALLEGAN

DUNE RIDGE, SA, LP,  
a Michigan limited partnership,

Appellant,

v.

File: 16-56795-AA  
Hon. Kevin Cronin

CITY OF SAUGATUCK, a Michigan city,

Appellee.

---

Varnum, LLP  
Aaron M. Phelps (P647900)  
Attorney for Appellant  
333 Bridge Street, NW Ste 1700  
Grand Rapids, MI 49501

Bloom Sluggett Morgan, PC  
Crystal Morgan (P68837)  
Attorney for Appellee  
15 Ionia Ave., SW Ste 7640  
Grand Rapids, MI 49503

---

DECISION ON APPEAL  
FROM DENIAL OF ZONING SETBACK VARIANCES

This Court, having reviewed the appellate pleadings and conducted a hearing on January 20, 2017, to consider the oral arguments of the parties, renders its findings and decision, as follows:

- 1) Appellant requested multiple non-use or so called "dimensional" zoning variances (for front, rear, sideline, roadway and waterfront setbacks and minimum lot area) to accommodate the construction of a 144 square foot structure intended to include a bathroom and two sinks. The number and degree of variance deviations which Appellant sought is quite substantial. (See chart of variations requested depicted in the Record on Appeal, Page ZBA21).
- 2) The parcel in question, currently vacant, is zoned in the C-1 Resort Zoning District and covers an area of only .11 acres. This distinctly narrow parcel is 40 feet wide and 130 feet long, and it is bordered by the Kalamazoo River on one side and Park Street on the other.
- 3) The City's Zoning Board of Appeals ("ZBA") conducted a public hearing in the matter on May 12, 2016, and ultimately denied the variance requests. Some testimony was offered and several letters were considered. The hearing decision is memorialized in the ZBA's minutes, approved on June 9, 2016. Neither party has contested the adequacy of notice.

- 4) Although portions of this record name the Appellant-variance applicant as "Dunegrass" and others use the name "Dune Ridge," the Court finds that Appellant is accurately described as "Dune Ridge" in the ZBA Application for variance and notice of hearing. The Court hereby grants an amendment of all pleadings and the ZBA's decision to conform Appellant's nomenclature to "Dune Ridge." Accordingly, Dune Ridge is recognized as the "aggrieved party" authorized by statute to proceed with this Appeal.
- 5) The appeal of a zoning decision is limited to the record established before the municipal body, pursuant to MCL 125.3606(1). In reviewing the ZBA record, the Court is not empowered to make credibility determinations or to re-weigh the evidence. *Brainard v. Secretary of Health and Human Services*, 889 F2d 679 at 681 (6th Circuit, 1989).
- 6) Jurisdiction is vested in the circuit court to consider this appeal from the City's ZBA decision by MCL 125.3606(1).
- 7) A non-use or setback variance under MCL 125.3604 is properly determined under the "practical difficulties" standard. A clear test for establishing practical difficulties has not been established, but the Court of Appeals has applied a three factor test adopted from a zoning treatise and adopted by other jurisdictions. *National Boatland, Inc v Farmington Hills Zoning Bd of Appeals*, 146 Mich App 380, 380 NW2d 472 (1985). The three factors applied are:
  - a. Whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome;
  - b. Whether a grant of the variance would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners; and
  - c. Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

*Id.* at 388.
- 8) Appellant's claim that granting neighboring property owners a non-use variance automatically makes their denial unfair and an abuse of discretion is without merit. The case Appellant's rely on for this contention is misplaced. The *Puritan* case involved a use and not a dimensional variance request and was examined under the unnecessary hardship standard and not the standard of practical difficulty for a non-use variance, as is the case here. *Puritan-Greenfield Ass'n v Leo*, 7 Mich App 659, 153 NW2d 162 (1967). Furthermore, the case was partially decided on a condition not created by the appellant, and the portion cited in Appellant's brief arrives at a different conclusion than Appellant asserts. The Court of Appeals was expressing that the ZBA decisions are based on an

objective standard that would not give way to granting a variance simply because a variance was granted to neighboring properties in the past. *Id.* at 675-676.

- 9) Appellant claims on appeal that the parcel in question has “no building envelope” where any structure of any size can be located anywhere on the parcel, if strict conformity with the zoning ordinance is maintained (as to street and waterfront and minimum lot size). This is manifestly true because the roadway setback on one side is 20 feet, and the waterfront setback on the other side is 25 feet. The entire parcel is only 40 feet wide. Also, Appellant’s parcel is only 2/3 of the minimum size for a parcel. We are legally confined to the record in this case, and nothing in the record explains why Appellant acquired this very narrow parcel and what use he contemplated for the parcel consistent with the ordinance.
- 10) Absent the grant of variances as requested, Appellant leaps to the dire conclusion that its parcel cannot be used for any purpose under the zoning ordinance and urges the Court to find that strict ordinance compliance would “unreasonably prevent” or “unnecessarily burden” Appellant from using the property. This is a leap too far for this Court. There are other uses for this property that are neither prevented nor unnecessarily burdened by the denial of variances. A boat dock as sketched in the record, is one such use. Under prior ownership, this parcel was used to store canoes. It was apparently useful at that point despite the absence of a toilet, two sinks or a building of any kind.
- 11) The river shoreline for this parcel lies very near a popular boating area and a short walk from even more densely populated destinations for local and out-of-state tourists. Appellant could rent outdoor storage space for canoes, kayaks or bicycles or rent those recreational items to tourists. A small marina on this parcel was mentioned at the public hearing as a possible use. The ZBA suggested that strict zoning enforcement without variances would not prevent the use of this property as a marina without a bathhouse. Apparently, a marina would require a special use permit outside the ZBA’s jurisdiction, for which the Appellant has not yet applied.
- 12) Renting space to sketch artists, painters and craft sellers to ply their wares on this parcel has not been prohibited. There may be additional or more suitable ideas for the use of this property. The point is that it is premature and unfounded to conclude that without a bathroom and sink, this parcel has been stripped of usefulness. In their oral argument, Appellee seems to disdain any suggestion that this property has usefulness without a building. On the record before us, the ZBA concluded that Appellant would not be unreasonably prevented or unnecessarily burdened in the use of the property, as it now rests, with no building and strict compliance with the zoning ordinance. This Court agrees.
- 13) The ZBA correctly concluded that Appellant cannot be faulted for “self-creation” of the problem which the variance requests address. There is nothing in this record to suggest that Appellant’s variance requests were rejected because his conduct made the parcel nonconforming.
- 14) The ZBA decision acknowledges that adding a bathroom to this parcel would enhance the property’s value, whether it is used as marina or in some other permissible fashion. The Court entirely agrees, but it doesn’t follow logically or legally that the ZBA should support



a series of variances because they would improve, even substantially, the value of one parcel. There is far more to the sound evaluation of a variance than that. Variances typically "run with the land" and can have long term effects beyond the lifetime of the current owner or several owners. Variances are designed to encourage a proper use of every parcel, and not necessarily the most profitable use, whether vacant or not. The potential income for a lot owner or the added value to the parcel is certainly not the dominant consideration on a variance. Far more important factors concern "substantial justice for other property owners and others impacted by the variance" and "general neighborhood conditions." Personal financial circumstances (i.e. financial benefit for a parcel owner) are expressly discouraged as a factor for the ZBA to consider on a dimensional variance. Ordinance Section 154.155(B)(4).

- 15) Each variance holds the potential to weaken the perceived uniformity and fairness of zoning administration, but variances also afford the flexibility needed to adjust ordinance requirements for a single parcel for good reasons, considered in an open process. The variance is the tool by which the ZBA achieves "substantial justice" under unique circumstances. Variances are not designed to address broader zoning issues in the neighborhood. The ordinance expressly and appropriately directs those matters to be referred to the Planning Commission for evaluation of broader zoning amendments. In all these respects, the Saugatuck City Zoning Ordinance is a model for identifying the proper factors that should be addressed in deciding a variance. (Ordinance Sections 154.155 and 154.156, attached hereto).
- 16) This Court finds that ZBA members paid careful attention to considerations of uniqueness and soundly exercised their discretion. The ZBA found that the circumstances of Appellant's property are not actually unique at all, but reflect a more widespread problem affecting several narrow parcels in the neighborhood. "There are several other narrow lots in the same [C-4] zoning district" between Park Street and the river, the ZBA said.
- 17) It was entirely appropriate for the ZBA to consider that Appellant was seeking several variances (not just one) and that the extent of the variances from each standard were not minor, but "great." The ZBA considered the "cumulative impact" of all of the variances sought and concluded that Appellant was deviating "too much" from the spirit of the ordinance. The language of the ZBA's decision reflects appropriate comparisons to similar parcels, past variance requests and the benefits of having members on the ZBA who know their communities well. No irrelevant, immaterial or improper subjects crept into the ZBA deliberations, the minutes reflect. The ZBA looked at all the evidence and exercised sound discretion in evaluating these matters, we conclude.
- 18) The ZBA apparently considered its member's experience with other variances, noting that "there have been many other [variance] applicants who have been denied lesser requests."
- 19) Based upon the entire record, the Court concludes that the ZBA decision is supported by substantial, material and competent evidence. Appellant failed to adequately show "practical difficulties" or to convince the ZBA that Appellant was unnecessarily burdened. The ZBA's decision reflects a thoughtful and proper exercise of the discretion vested in that body.

The ZBA's decision reflects a thoughtful and proper exercise of the discretion vested in that body.

ORDER

For the reasons stated above, the decision of the City of Saugatuck Zoning Board of Appeals denying all dimensional variances requested by Dune Ridge on parcel 0357-009-006-10 is hereby affirmed.

4/5/17  
Date

Kevin W. Cronin  
Hon. Kevin W. Cronin  
48<sup>th</sup> Circuit Court

PROOF OF SERVICE

I certify that on this date, the above parties were personally served or mailed by ordinary mail a copy of this notice.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

**EXHIBIT E**

July 20, 2017 Planning Commission Meeting Packet – 443 Park Street  
Dune Ridge Minor Waterfront Construction Special Land Use Application



Planning Commission Meeting  
July 20, 2017 City Hall  
102 Butler Street, Saugatuck, MI  
7:00 PM

- 
1. Call to Order/Roll Call:
  2. Approval of Agenda:
  3. Approval of Minutes: May 18, 2017
  4. Public Comment on Agenda Items: Limit 3 minutes
  5. Old Business: None
  6. New Business:
    - a. Election of officers
    - b. 125 Water Street – Special Land Use – outdoor seating – public hearing
    - c. 443 Park Street – Special Land Use – Minor waterfront construction – public hearing
  7. Communications: proposed amendments for bulk and mass of new homes and additions
  8. Reports of Officers and Committees:
  9. Public Comments: Limit 3 minutes
  10. Adjournment

**\*Public Hearing Procedure**

- A. Hearing is called to order by the Chair
- B. Summary by the Zoning Administrator
- C. Presentation by the Applicant
- D. Public comment regarding the application
  - 1) Participants shall identify themselves by name and address
  - 2) Comments/Questions shall be addressed to the Chair
  - 3) Comments/Questions shall be limited to five minutes
1. Supporting comments (audience and letters)
2. Opposing comments (audience and letters)
3. General comments (audience and letters)
4. Repeat comment opportunity (Supporting, Opposing, General)
- E. Public comment portion closed by the Chair
- F. Commission deliberation
- G. Commission action



## MEMORANDUM

**TO:** Planning Commission  
City of Saugatuck

**FROM:** Cindy Osman, Planning and Zoning

**DATE:** July 20, 2017

**RE:** 443 PARK ST– Minor water front construction for five boat slips and one covered slip/building, sidewalk, parking area and security fencing.

---

DUNE RIDGE SA. LP has applied for the construction of Minor water front construction for five boat slips and one covered slip/building, six total, sidewalk, parking area and security fencing at 443 PARK ST. This property is located in the R-RESORT C4 Zone District. The purpose of this memo is to provide a review of the standards for this special land use, and how the ordinance relates to this application.

**Background:** The City of Saugatuck requires a public hearing and a special land use permit by the Planning Commission on all construction for minor water front construction. (154.092(D)(2)).

**Project Description:** The applicant proposes to construct six boat slips, one of which will be covered/by a roof supported by columns, a sidewalk, parking spaces, and a security fence. The DEQ permit is attached for your information.

**Completeness of Submittal:** All requested materials have been submitted

Before any special land use permit is granted, the Planning Commission shall make findings of fact based upon competent evidence certifying compliance with the specific regulations governing individual special land uses and, in addition, ensure that the following general standards have been met. Each proposed special land use shall:

- (1) In location, size, height and intensity of the principal and/or accessory operations, be compatible with the size, type and kind of buildings, uses and structures in the vicinity and on adjacent property;

**Comment:** The chain ferry to the north and the Casa Loma to the south both have docked boats. The applicant is not proposing any building on the property other than the building that was approved by the DEQ, and the fence. The applicant proposes to build an open 6:1 security fence to separate the north most dock from the chain ferry dock. The proposed fence will be 6 feet in

height. The Planning Commission should consider a condition of approval that the applicant be granted a variance from the four foot maximum height or reduce the height to four feet.

(2) Be consistent with and promote the intent and purpose of this chapter;

**Comment:** Marinas and commercial boats are allowed in this district as a special land use. There are docks and marinas up and down both sides of the river. Some are full blown marinas, but many are a single dock or handfuls of docks without other services such as fueling, pumping, or other amenities.

(3) Be compatible with the natural environment and conserve natural resources and energy;

**Comment:** The DEQ reviews the application for compliance with State and Federal laws. The approved DEQ permit is attached for your consideration. The DEQ reviewed the application for compliance with the Natural Resources and Environmental Protection Act (NREPA) This includes the flood plain regulatory Authority in Part 31 – Water Resources protection, Inland Lakes and Streams, and Wetland protection.

(4) Be consistent with existing and future capabilities of public services and facilities affected by the proposed use;

**Comment:** The proposed minor waterfront construction will have no impact on public services or facilities. No utilities are proposed.

(5) Protect the public health, safety and welfare as well as the social and economic well-being of those who will use the land use or activity, residents, businesses and landowners immediately adjacent and the city as a whole;

**Comment:** The proposed construction will enhance the public health and safety by providing a 5 foot wide public sidewalk to take some of the pedestrian traffic off the traveled portion of the street. It will also enhance the social and economic well-being of the city as a whole by attracting residents who will buy local gas for the boats, eat in local restaurants, and provide for positive economic development.

(6) Not create any hazards arising from storage and use of inflammable fluids;

**Comment:** There are no plans to store or use flammable liquids.

(7) Not be in conflict with convenient, safe and normal vehicular and pedestrian traffic routes, flows, intersections and general character and intensity of development. In particular:

(a) The property shall be easily accessible to fire and police; and

**Comment:** There will be no changes that will affect accessibility.

(b) Not create or add to any hazardous traffic condition.

**Comment:** This question was raised in the original application, so a traffic study was conducted by Prein and Newhoff. They concluded that the proposed additional parking spaces will not add

to any hazardous traffic conditions. The study is attached for your review. If the Planning Commission would like to challenge the traffic study, they should commission a new study by a third party.

- (8) Be of such a design and impact that the location and height of buildings, the location, nature and height of walls, fences and the nature and extent of landscaping on the site shall not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof;

**Comment:** Current view from all adjacent properties will not be affected. All proposed construction is at a lower elevation than the homes on the west side of Park Street. The fence will have the requisite 6:1 open ratio.

- (9) That in the nature, location, size and site layout of the use, be a harmonious part of the district in which it is situated taking into account, among other things, prevailing shopping habits, convenience of access by prospective patrons, the physical and economic relationship of one type of use to another and characteristic groupings of uses of the district; and

**Comment:** The proposed use and activity will be harmonious with the district. Especially see Casa Loma to the south, and the condominiums and Hotel to the north.

- (10) That in the location, size, intensity and site layout be such that operations will not be objectionable to nearby dwellings, by reason of noise, fumes, pollution, vibration, litter, refuse, glare or flash of lights to an extent which is greater than would be operations of any use permitted by right for that district within which the special land use is proposed to be located.

**Comment:** There will be no noise, fumes, pollution, vibration, litter, refuse, glare, or flashing lights greater than adjacent uses.

(B) The Planning Commission shall consult the city land use plan to determine if the proposed special land use is compatible with the future planned use of surrounding property and may limit the permit so as not to conflict with future planned land use. The duration of the permit may be limited only if such use is clearly temporary in nature.

**Comment:** The proposed use is consistent with the Master Plan, and the future land use map.



### Special Land Use Application

**LOCATION INFORMATION** **APPLICATION NUMBER** \_\_\_\_\_ - \_\_\_\_\_

Address 443 Park St, Saugatuck Parcel Number 009-054

**APPLICANTS INFORMATION**

Name Dune Ridge SA LP, David Burke Address / PO Box 231 Fulton St. West  
City Grand Rapids State Mi Zip 49503 Phone 650-400-7675  
Interest In Project owner E-Mail djb888@comcast.net  
Signature [Signature] Date 6/17/17

**OWNERS INFORMATION (IF DIFFERENT FROM APPLICANTS)**

Name Dune Ridge SA LP Address / PO Box 231 Fulton St. West  
City Grand Rapids State Mi Zip 49503 Phone 650-400-7675

I hereby authorize that the applicant as listed above is authorized to make this application for proposed work as my agent and we agree to conform to all applicable laws and regulations of the City of Saugatuck. I additionally grant City of Saugatuck staff or authorized representatives thereof access to the property to inspect conditions, before, during, and after the proposed work is completed.

Signature [Signature], agent Date 6/17/17

**CONTRACTORS/ DEVELOPERS INFORMATION (UNLESS PROPOSED WORK IS TO BE DONE BY THE PROPERTY OWNER)**

Name \_\_\_\_\_ Contact Name \_\_\_\_\_  
Address / PO Box \_\_\_\_\_ City \_\_\_\_\_  
State \_\_\_\_\_ Zip \_\_\_\_\_ Phone \_\_\_\_\_ Fax \_\_\_\_\_  
License Number \_\_\_\_\_ Expiration Date \_\_\_\_\_

**PROPERTY INFORMATION**

Depth \_\_\_\_\_ Width \_\_\_\_\_ Size \_\_\_\_\_ Zoning District C-4 Current Use Vacant  
Check all that apply:  
Waterfront  Historic District \_\_\_\_\_ Dunes \_\_\_\_\_ Vacant

**PROJECT DESCRIPTION (ATTACH MORE SHEETS IF NECESSARY)**

See Attached

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**SITE PLAN REQUIREMENTS (SECTION 154.061)**

B) Applications for final site plan approval shall consist of the following information unless waived by the Zoning Administrator. Twelve reproducible copies of a final site plan, 24" by 36" or larger, at a scale of not less than one inch equals ten feet, and a PDF of the plan set shall include:

Y N NA

- The name and address of the person and firm who drafted the plan, the seal of the professional responsible for the accuracy of the plan (licensed in the state) and the date on which the plan was prepared;
- Dimensions of property of the total site area;
- A north arrow;
- Contours at 2-foot intervals;
- Zoning classification of the subject property and abutting properties;
- Required and proposed building setbacks;
- Location of structure on the subject property and structures on adjacent properties within 100 feet of the property, including those located across the street from the property;
- Existing and proposed driveways, parking areas, walk ways, curb cuts, and other hardscape features;
- Existing water courses, water bodies, including human-made surface drainage ways, floodplain, and wetlands;
- Location of abutting streets and proposed alignment of streets, drives and easements serving the development, including existing rights-of-way and pavement widths;
- Location, screening, dimensions and heights of proposed buildings and structures, such as trash receptacles, utility pads and the like, including accessory buildings and uses, and the intended uses thereof. Rooftop or outdoor appurtenances should also be indicated, including proposed methods of screening the equipment, where appropriate;
- Location and dimensions of parking areas, including computations of parking requirements, typical parking space dimensions, including handicapped spaces, and aisle widths;
- Proposed water supply and wastewater systems locations and sizes;
- Proposed fire suppression system, including details of fixtures, supply lines, hydrant locations, and/or other required features;
- Proposed floor plan with applicable features including but not limited to the location of furniture, utility rooms, restrooms, kitchens, storage area, and display areas;
- Proposed finished grades and site drainage patterns, including necessary drainage structure. Where applicable, indicate the location and elevation of the 100-year floodplain;
- Proposed common open spaces and recreational facilities, if applicable;
- Existing significant vegetation;
- Proposed landscaping, including quantity, size at planting and botanical and common names of plant materials;
- Signs, including type, locations and sizes;
- Location and dimensions of all access drives, including driveway dimensions, pavement markings, traffic-control signs or devices, and service drives;



# Special Land Use Application

Application # \_\_\_\_\_

- Exterior lighting showing area of illumination and indicating the type of fixture to be used;
- Elevations of proposed buildings drawn to an appropriate scale shall include:
  1. Front, side and rear views;
  2. Heights at street level, basement floor level, top of main floor, top of building, and if applicable, height above water level; and
  3. Exterior materials and colors to be used;
- Location, if any, of any views from public places to public places across the property; and
- Location, height and type of fencing;

## STANDARDS FOR APPROVAL (SECTION 154.082)

Please respond to how the request will meet each of the following standards for special land use:

- (1) How will the location, size, height and intensity of the principal and/or accessory operations, compatible with the size, type and kind of buildings, uses and structures in the vicinity and on adjacent property?  
*Cham Ferry blocks of property, and Casa Loma South of property both used for boating/waterfront activity.*
- (2) How will the proposed request consistent with, and will promote the intent and purpose of this chapter?  
*encouraged waterfront use and boating use*
- (3) How will the proposed request compatible with the natural environment and will it conserve natural resources and energy?  
*No buildings are proposed, only docks, thereby protecting view shed.*
- (4) How will the proposed request consistent with existing and future capabilities of public services and facilities?  
*No utilities are proposed*
- (5) How will the proposed request protect the public health, safety and welfare as well as the social and economic well-being of those who will use the land use or activity, residents, businesses and landowners immediately adjacent and the city as a whole?  
*Recreational activity of waterfront will be consistent with adjacent uses.*
- (6) How will the proposed request create any hazards arising from storage and use of inflammable fluids?  
*NO such storage is proposed.*



# Special Land Use Application

Application #      -     

(7) How will the proposed request will be in conflict with convenient, safe and normal vehicular and pedestrian traffic routes, flows, intersections and general character and intensity of development? In particular:

(a) Will the property be easily accessible to fire and police?

yes

(b) Will measure be taken as to not create or add to any hazardous traffic condition?

yes - traffic study on file

(8) How will the proposed request be of such a design and impact that the location and height of buildings, the location, nature and height of walls, fences and the nature and extent of landscaping on the site not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof?

will not be affected. Current view from all adjacent properties at a lower elevation. All proposed construction is

(9) How will the nature, location, size and site layout of proposed request be a harmonious part of the district in which it is situated taking into account, among other things, prevailing shopping habits, convenience of access by prospective patrons, the physical and economic relationship of one type of use to another and characteristic groupings of uses of the district?

proposed use is for boat slips which is similar to adjacent property uses.

(10) How will the location, size, intensity and site layout be such that operations will not be objectionable to nearby dwellings, by reason of noise, fumes, pollution, vibration, litter, refuse, glare or flash of lights to an extent which is greater than would be operations of any use permitted by right for that district within which the special land use is proposed to be located?

Use for boat slips is very low intensity use. Use and ops will not create any objectionable externalities.

**OFFICE USE ONLY:**

Application Complete \_\_\_\_\_ Date \_\_\_\_\_ Fee Paid \_\_\_\_\_ Date Paid \_\_\_\_\_

Notice Sent \_\_\_\_\_ Resident Notification \_\_\_\_\_ Hearing Date \_\_\_\_\_

Notes: \_\_\_\_\_

\_\_\_\_\_

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Application for construction of boat slips

The following application and drawing are hereby submitted for the construction of docks, sea wall and covered boat slips as permitted by MDEQ and Army Corps of Engineers.

This is a minor waterfront construction project by definition of the City of Saugatuck zoning ordinance.

A 2-foot high concrete base with a 4-foot high fence is proposed along the North and West side of the covered boat slip for security and safety reasons.

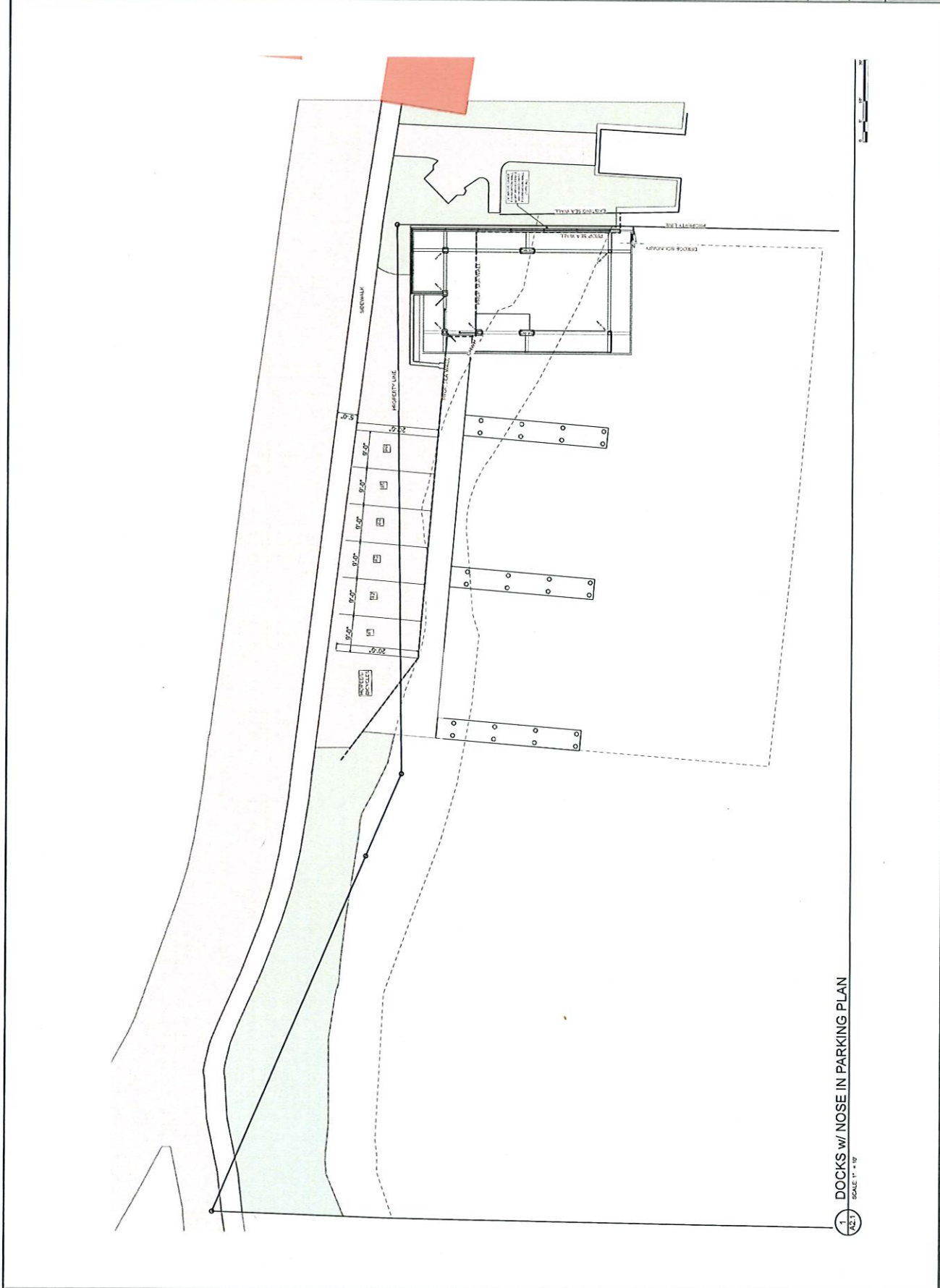
FENCE

Also, included in the application is a plan for construction of a sidewalk parallel to the Park Street, along with parking spaces perpendicular to the street. A traffic study has been completed and indicates no hazard in creating such parking.

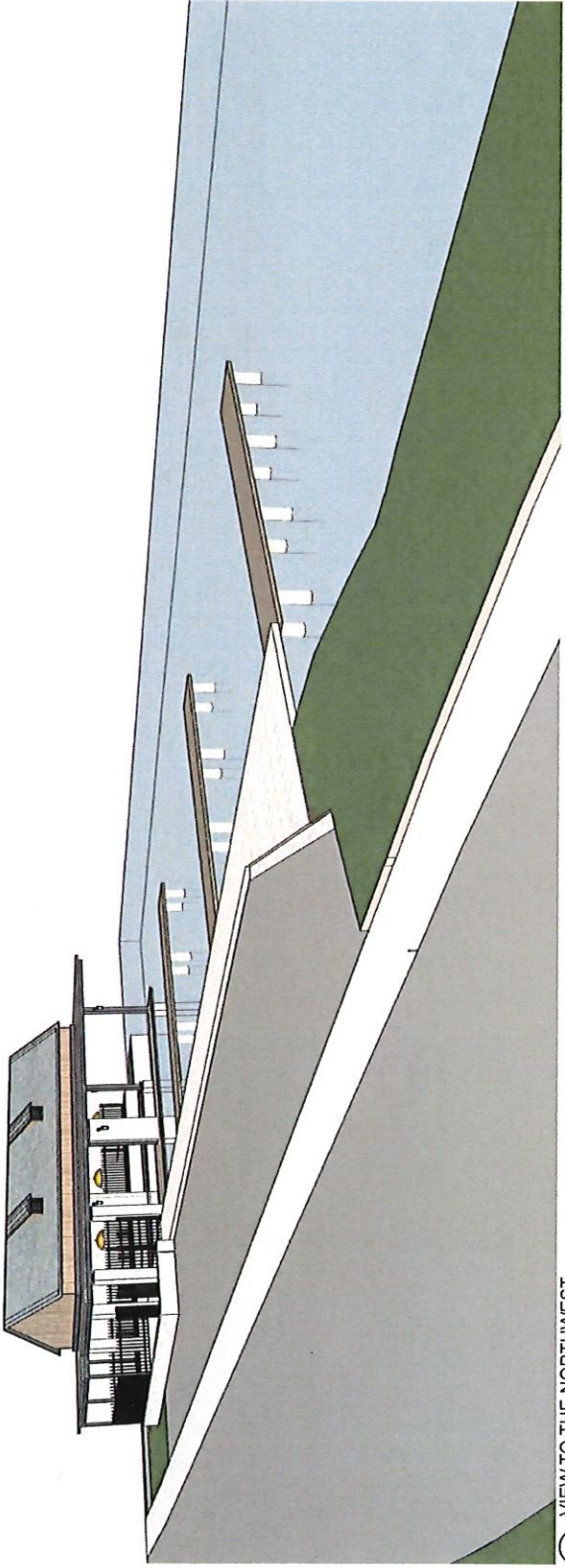


, Dated: 6/17/17

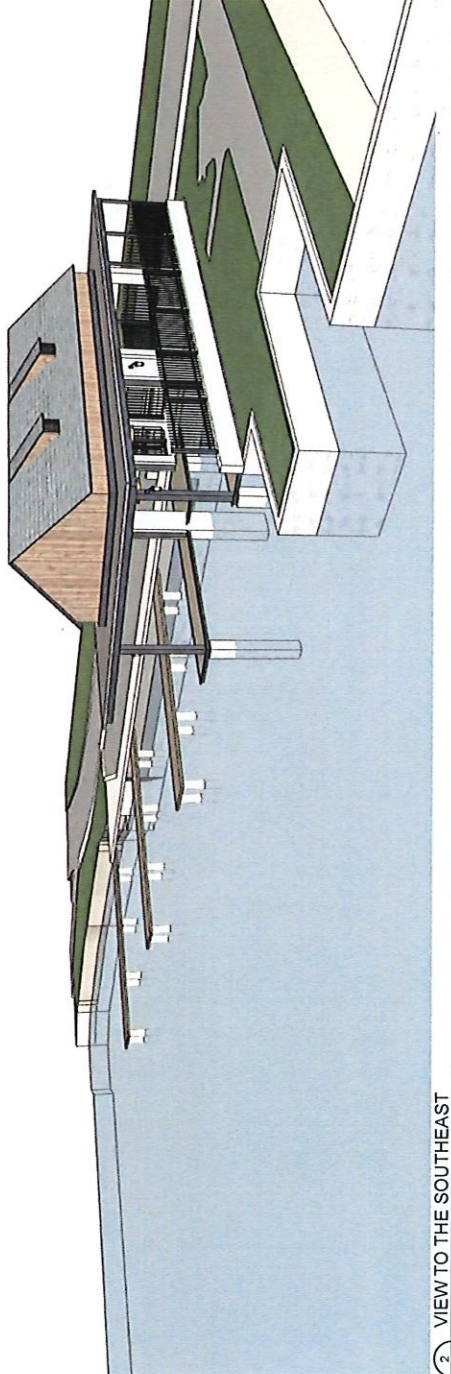
David J. Barker, agent  
Dune Ridge, SA, LP



1. DOCKS w/ NOSE IN PARKING PLAN  
SCALE: 1" = 10'-0"



1 VIEW TO THE NORTHWEST  
NOT TO SCALE



2 VIEW TO THE SOUTHEAST  
NOT TO SCALE



**MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY  
WATER RESOURCES DIVISION  
PERMIT**

**Permit No.: 14-03-0032-P**

**Submission No: 14-03-0032-P**

**Issued: 9/17/2015**

**Extended:**

**Revised:**

**Expires: 9/17/2020**

**Issued To:**

Paul Huele, Dune Ridge SA LP  
231 Fulton Street West  
Grand Rapids, MI 49503

This permit is being issued by the Michigan Department of Environmental Quality (MDEQ), Water Resources Division, under the provisions of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), and specifically:

✓ Part 31, Water Resources Protection (Floodplain Regulatory Authority)

✓ Part 301, Inland Lakes and Streams

✓ Part 303, Wetlands Protection

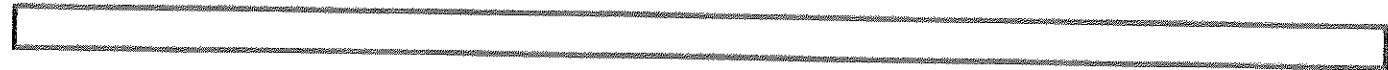
Part 315, Dam Safety

Part 323, Shorelands Protection and Management

Part 325, Great Lakes Submerged Lands

Part 353, Sand Dunes Protection and Management

Permission is hereby granted, based on permittee assurance of adherence to State of Michigan requirements and permit conditions, to:



Place a turbidity barrier around the lakeward perimeter of the project area. Construct approximately 177 feet of new seawall on Kalamazoo Lake, Saugatuck, Michigan. The steel sheet pile wall will tie into adjacent seawall on one end and end in a return wall on the other. Approximately 15 cubic yards of clean fill will be placed landward of the seawall below the ordinary high water mark. Place approximately 138 cubic yards of field stone waterward of the new seawall at a 1-on-1.5 to 2 slope along approximately 165 linear feet of the wall.

Dredge mechanically or hydraulically approximately 2,100 cubic yards of material from the areas designated on the project plans. Place dredge spoils behind seawall as much as possible. All other spoils are transported to an upland disposal area.

Install docks with a configuration based on the attached plans to accommodate 7 boats and 10 personal water craft on Kalamazoo River. This marina facility will include boat slips ranging from approximately 25 feet to 36 feet in length and personal water craft slips measuring approximately 15 feet in length. All docks shall be 5 feet in width. Install signs where appropriate to inform the public where mooring is not allowed. All work shall be completed in accordance with the attached modified plans and the specifications of this permit.



Watercourse Affected: Kalamazoo River

Property Location: Allegan County,

Town/Range/Section 03N16W09, Property Tax No. 03-57-009-066-01

Authority granted by this permit is subject to the following limitations:

- A. Initiation of any work on the permitted project confirms the permittee's acceptance and agreement to comply with all terms and conditions of this permit.
- B. The permittee, in exercising the authority granted by this permit, shall not cause unlawful pollution as defined by Part 31, Water Resources Protection, of the NREPA.
- C. This permit shall be kept at the site of the work and available for inspection at all times during the duration of the project or until its date of expiration.
- D. All work shall be completed in accordance with the approved plans and specifications submitted with the application and/or plans and specifications attached to this permit.
- E. No attempt shall be made by the permittee to forbid the full and free use by the public of public waters at or adjacent to the structure or work approved.
- F. It is made a requirement of this permit that the permittee give notice to public utilities in accordance with Act No. 174 of the Public Acts of 2013 and comply with each of the requirements of Act 174.
- G. This permit does not convey property rights in either real estate or material, nor does it authorize any injury to private property or invasion of public or private rights, nor does it waive the necessity of seeking federal assent, all local permits, or complying with other state statutes.
- H. This permit does not prejudice or limit the right of a riparian owner or other person to institute proceedings in any circuit court of this state when necessary to protect his rights.
- I. Permittee shall notify the MDEQ within one week after the completion of the activity authorized by this permit, by completing and forwarding the attached preaddressed postcard to the office addressed thereon.
- J. This permit shall not be assigned or transferred without the written approval of the MDEQ.



- K. Failure to comply with conditions of this permit may subject the permittee to revocation of permit and criminal and/or civil action as cited by the specific state act, federal act, and/or rule under which this permit is granted.
- L. All dredged or excavated materials shall be disposed of in an upland site (outside of floodplains, unless exempt under Part 31 of the NREPA, and wetlands).
- M. In issuing this permit, the MDEQ has relied on the information and data that the permittee has provided in connection with the submitted application for permit. If, subsequent to the issuance of a permit, such information and data prove to be false, incomplete, or inaccurate, the MDEQ may modify, revoke, or suspend the permit, in whole or in part, in accordance with the new information.
- N. The permittee shall indemnify and hold harmless the State of Michigan and its departments, agencies, officials, employees, agents, and representatives for any and all claims or causes of action arising from acts or omissions of the permittee, or employees, agents, or representative of the permittee, undertaken in connection with this permit. The permittee's obligation to indemnify the State of Michigan applies only if the state: (1) provides the permittee or its designated representative written notice of the claim or cause of action within 30 days after it is received by the state, and (2) consents to the permittee's participation in the proceeding on the claim or cause of action. It does not apply to contested case proceedings under the Administrative Procedures Act, 1969 PA 306, as amended, challenging the permit. This permit shall not be construed as an indemnity by the State of Michigan for the benefit of the permittee or any other person.
- O. Noncompliance with these terms and conditions and/or the initiation of other regulated activities not specifically authorized shall be cause for the modification, suspension, or revocation of this permit, in whole or in part. Further, the MDEQ may initiate criminal and/or civil proceedings as may be deemed necessary to correct project deficiencies, protect natural resource values, and secure compliance with statutes.
- P. If any change or deviation from the permitted activity becomes necessary, the permittee shall request, in writing, a revision of the permitted activity from the MDEQ. Such revision request shall include complete documentation supporting the modification and revised plans detailing the proposed modification. Proposed modifications must be approved, in writing, by the MDEQ prior to being implemented.
- Q. This permit may be transferred to another person upon written approval of the MDEQ. The permittee must submit a written request to the MDEQ to transfer the permit to the new owner. The new owner must also submit a written request to the MDEQ to accept transfer. The new owner must agree, in writing, to accept all conditions of the permit. A single letter signed by both parties that includes all of the above information may be provided to the MDEQ. The MDEQ will review the request and, if approved, will provide written notification to the new owner.
- R. Prior to initiating permitted construction, the permittee is required to provide a copy of the permit to the contractor(s) for review. The property owner, contractor(s), and any agent involved in exercising the permit are held responsible to ensure that the project is constructed in accordance with all drawings and specifications. The contractor is required to provide a copy of the permit to all subcontractors doing work authorized by the permit.
- S. Construction must be undertaken and completed during the dry period of the wetland. If the area does not dry out, construction shall be done on equipment mats to prevent compaction of the soil.
- T. Authority granted by this permit does not waive permit requirements under Part 91, Soil Erosion and Sedimentation Control, of the NREPA, or the need to acquire applicable permits from the County Enforcing Agent.
- U. Authority granted by this permit does not waive permit requirements under the authority of Part 305, Natural Rivers, of the NREPA. A Natural Rivers Zoning Permit may be required for construction, land alteration, streambank stabilization, or vegetation removal along or near a natural river.
- V. The permittee is cautioned that grade changes resulting in increased runoff onto adjacent property is subject to civil damage litigation.
- W. Unless specifically stated in this permit, construction pads, haul roads, temporary structures, or other structural appurtenances to be placed in a wetland or on bottomland of the water body are not authorized and shall not be constructed unless authorized by a separate permit or permit revision granted in accordance with the applicable law.
- X. For projects with potential impacts to fish spawning or migration, no work shall occur within fish spawning or migration timelines (i.e., windows) unless otherwise approved in writing by the Michigan Department of Natural Resources, Fisheries Division.
- Y. Work to be done under authority of this permit is further subject to the following special instructions and specifications:

1. The docks must be located such that watercraft dockage and ingress/egress shall not interfere with riparian rights.
2. Additional attachments to permitted structures, including but not limited to roofs, sidewalls, handrails, benches, decks, additional docks, or extensions thereof, are not authorized by this permit, unless included in the attached plans.
3. The structure shall be of open construction, maintaining free water movement and circulation.
4. This permit authorizes construction of a marina for private, non-commercial use only, for individuals residing the Dune Ridge Development.
5. This project shall be constructed as shown on the attached plans and riparian interest area estimate survey.
6. No boat shall extend beyond the end of the authorized dock or slip length. Swim platforms, bow sprits, and/or pulpits must be factored into total length of the boat. No other structures such as boat hoists or spring piles shall extend beyond the end of the authorized dock or slip length.
7. Signage indicating special conditions for dockage shall read, "No Watercraft Mooring at Any Time", or similar language. Professionally-made signs facing waterward with readable print size by marina customers and the public shall be placed on the side of the permitted docks facing the adjacent riparian owner at the marina owner's discretion. The signs are to be repaired and replaced as necessary.
8. All fill/backfill shall consist of clean inert material that will not cause siltation nor contain soluble chemicals, organic matter, pollutants, or contaminants. All fill shall be contained in such a manner so as not to erode into any surface water, floodplain, or wetland. All raw areas associated with the permitted activity shall be stabilized with sod and/or seed and mulch, riprap, or other technically effective methods as necessary to prevent erosion.
9. Prior to commencing installation of the shore protection structure, the entire lakeward perimeter of the project site shall be isolated with a turbidity curtain to prevent movement of suspended sediments. The turbidity curtain shall be installed to extend from the bed of the waterbody to a point above the existing water's surface. The turbidity curtain shall be maintained for the duration of the project and shall be left in place after completion until all disturbed sediments have settled.
10. Unless authorized by the attached plans, the seawall, bulkhead, or revetment structure shall be placed at or above (landward) of the Ordinary High Water Mark (OHWM) in the location shown on the attached approved plans. Any variation from the approved location must be authorized in writing by the MDEQ prior to the initiation of these activities.
11. On a project requiring backfilling, the seawall shall be in place prior to placing any fill.
12. The seawall shall have toe stone (i.e. riprap) placed along a minimum of 165 linear feet of the seawall to prevent undercutting by wave action, to mitigate for the loss of habitat, and to provide a use for fish and other aquatic life. The toe stone shall be placed at a 1-on-1.5 to 2 slope (e.g. 1 foot vertical to 1.5 feet horizontal) or gentler. Toe stone shall be properly sized and consist of natural field stone or rock (broken concrete is not allowed). Toe stone shall be installed immediately upon completion of the seawall. This toe stone shall be placed in accordance with the attached plans.
13. Authority granted by this permit does not waive any jurisdiction of the United States Army Corps of Engineers or the need for a federal permit, if required.
14. Authority granted by this permit does not waive permit requirements under Part 91 of the NREPA, or the need to acquire applicable permits from the CEA. To locate the Soil Erosion Program Administrator for your county visit, [http://www.michigan.gov/deq/0,4561,7-135-3311\\_4113-8870--](http://www.michigan.gov/deq/0,4561,7-135-3311_4113-8870--)

[00.html](#) or contact John Johnson at 269-686-4501.

15. Prior to commencement of any dredging authorized by this permit, the entire dredged area shall be enclosed with a turbidity curtain to prevent off-site siltation. The turbidity curtain shall be installed to extend from the bed of the waterbody to a point above the existing water's surface. The turbidity curtain shall be maintained for the duration of the project and shall be left in place after completion of dredging until all disturbed sediments have settled.
16. All dredge/excavated spoils including organic and inorganic soils, vegetation, and other material removed shall be placed on upland (non-wetland, non-floodplain or non-bottomland), prepared for stabilization, and stabilized with sod and/or seed and mulch in such a manner to prevent and ensure against erosion of any material into any waterbody, wetland, or floodplain.
17. The permittee is cautioned that excessive dredging resulting in the impairment of the structural integrity of seawalls on neighboring riparian properties is subject to civil damage litigation.
18. No work or dredging within the water authorized by this permit is allowed from March 15 to June 30 or September 1 to December 15 in any year due to critical spawning, migration, and/or recreational use periods. Contact MDEQ if dredging may be required outside of these dates.
19. The design flood or 1.0% annual chance (100-year) floodplain elevation at this location on Kalamazoo River is 583.03 feet IGLD85.
20. Under Appendix G of the Michigan Building Code 2012, a local building permit is required for development located in flood hazard areas.
21. The project is located within a community that participates in the National Flood Insurance Program (NFIP). As a participant in the NFIP, the community must comply with the Michigan Building Code (including Appendix G and listed supporting materials); the Michigan Residential Code; and Title 44 of the Code of Federal Regulations, Part 60, Criteria for Land Management and Use. The community is also responsible to ensure that its floodplain maps and studies are maintained to show changes to flood elevations and flood delineations as described in 44 CFR, Part 65, Identification and Mapping of Special Hazard Areas.
22. Any other filling, grading, or construction within the 100-year floodplain will require a separate DEQ permit before starting the work.
23. The proposed fill and building are located within a 100-year floodplain included in the community's Flood Insurance Rate Map and/or flood elevation study. The permittee must apply to the Federal Emergency Management Agency (FEMA) for a Letter of Map Revision based on fill (LOMR-F) if engineered earthen fill is placed within the mapped 100-year floodplain. As part of the National Flood Insurance Program (NFIP) requirements the community must ensure that the requirements found in Section 65.5(a) of the FEMA's 44 CFR Part 65 are followed.
24. The lowest floor including basement shall be elevated at least one foot above the design flood elevation. The lowest floor shall be the floor of the lowest enclosed area, including basement, but excluding any unfinished flood-resistant enclosure that is usable solely for vehicle parking, building access, or limited storage provided that such enclosure is not built so as to render the building or structure in violation of this permit.
25. This permit does not authorize basement construction within the filled portion of the 1% annual chance (100-year) floodplain, or below the 1% annual chance (100-year) floodplain elevation. The applicant must obtain a permit revision to the existing valid permit or obtain a separate permit to construct a basement within the filled portion of the floodplain.
26. All permitted structures shall be firmly anchored to prevent flotation or lateral movement.

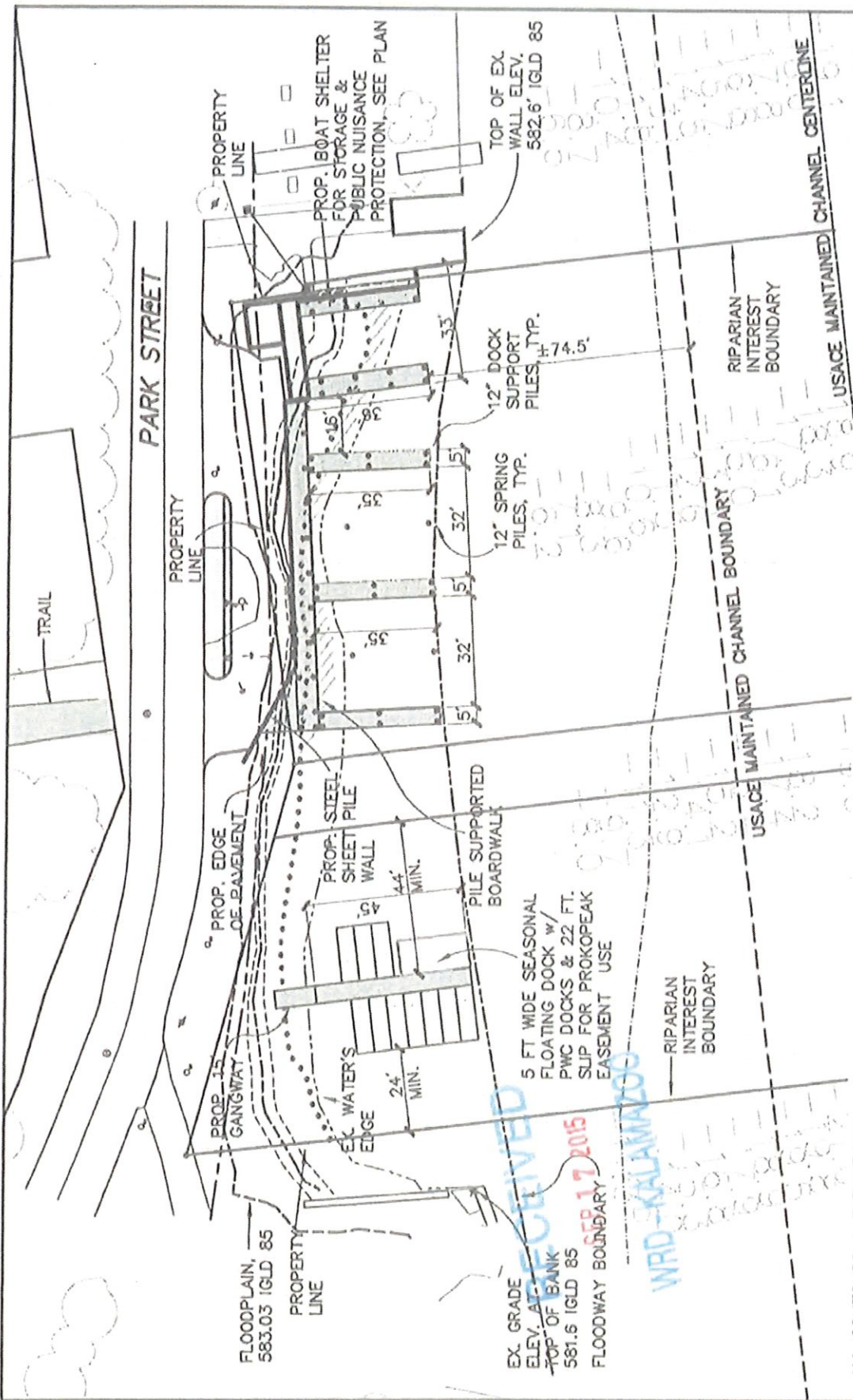
27. A registered professional engineer or land surveyor must submit an elevation certificate to the local building official upon placement of the lowest floor, including basement, prior to further vertical construction. When the project is located in a National Flood Insurance Program (NFIP) community, using the elevation certificate form, found at <http://www.fema.gov/media-library/assets/documents/160?id=1383>, is encouraged. The form is required if the community participates in the Community Rating System. Provide a copy of the certification to this office within **15 days** of when it was completed.
28. This permit does not waive the requirements of Michigan Building Code and its referenced standards, ASCE 7: Minimum Design Loads for Buildings and Other Structures, and ASCE 24: Flood Resistant Design and Construction, for substantial improvements to existing structures or new construction. Please reference the Code for details.
29. In issuing this permit, the MDEQ has relied on the information and data which the permittee has provided in connection with the permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete, or inaccurate, the MDEQ may modify, revoke, or suspend the permit, in whole or in part, in accordance with the new information.
30. The authority to conduct the activity as authorized by this permit is granted solely under the provisions of the governing act as identified above. This permit does not convey, provide, or otherwise imply approval of any other governing act, ordinance, or regulation, nor does it waive the permittee's obligation to acquire any local, county, state or federal approval, or authorizations necessary to conduct the activity.
31. If any change or deviation from the permitted activity becomes necessary, the permittee shall request, in writing, a revision of the permitted activity and/or mitigation plan from the MDEQ. Such revision requests shall include complete documentation supporting the modification and revised plans detailing the proposed modification. Proposed modifications must be approved, in writing, by the MDEQ prior to being implemented.
32. This permit is being issued for the maximum time allowed under Part 301, Inland Lakes, of the Natural Resources and Environmental Protection Act, PA 451 of 1994, as amended, including all permit extensions allowed under the administrative rule R 281.813. Therefore, no extensions of this permit will be granted. Initiation of the construction work authorized by this permit indicates the permittee's acceptance of this condition. The permit, when signed by the MDEQ, will be for a five-year period beginning at the date of issuance.

Issued By:

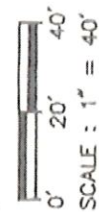


Mark Schieber, Environmental  
Quality Analyst  
Kalamazoo District Office  
Water Resources Division  
269-567-3625

cc: Saugatuck Township Clerk  
City of Saugatuck  
Allegan County CEA  
Prein&Newhof, Matt Hulst



ALL CONTOURS & ELEVATIONS REFERENCED TO THE INTERNATIONAL GREAT LAKES DATUM OF 1985 (IGLD 85)



# REVISED DOCKING PLAN



SHEET 3R of 9  
SEPTEMBER 17, 2015  
2140111

**DUNEGRASS**

WATERWAY : KALAMAZOO RIVER  
LOCATION : CITY OF SAUGATUCK  
ALLEGAN COUNTY, MICHIGAN  
SECTION 9, T. 3 N., R. 16 W.

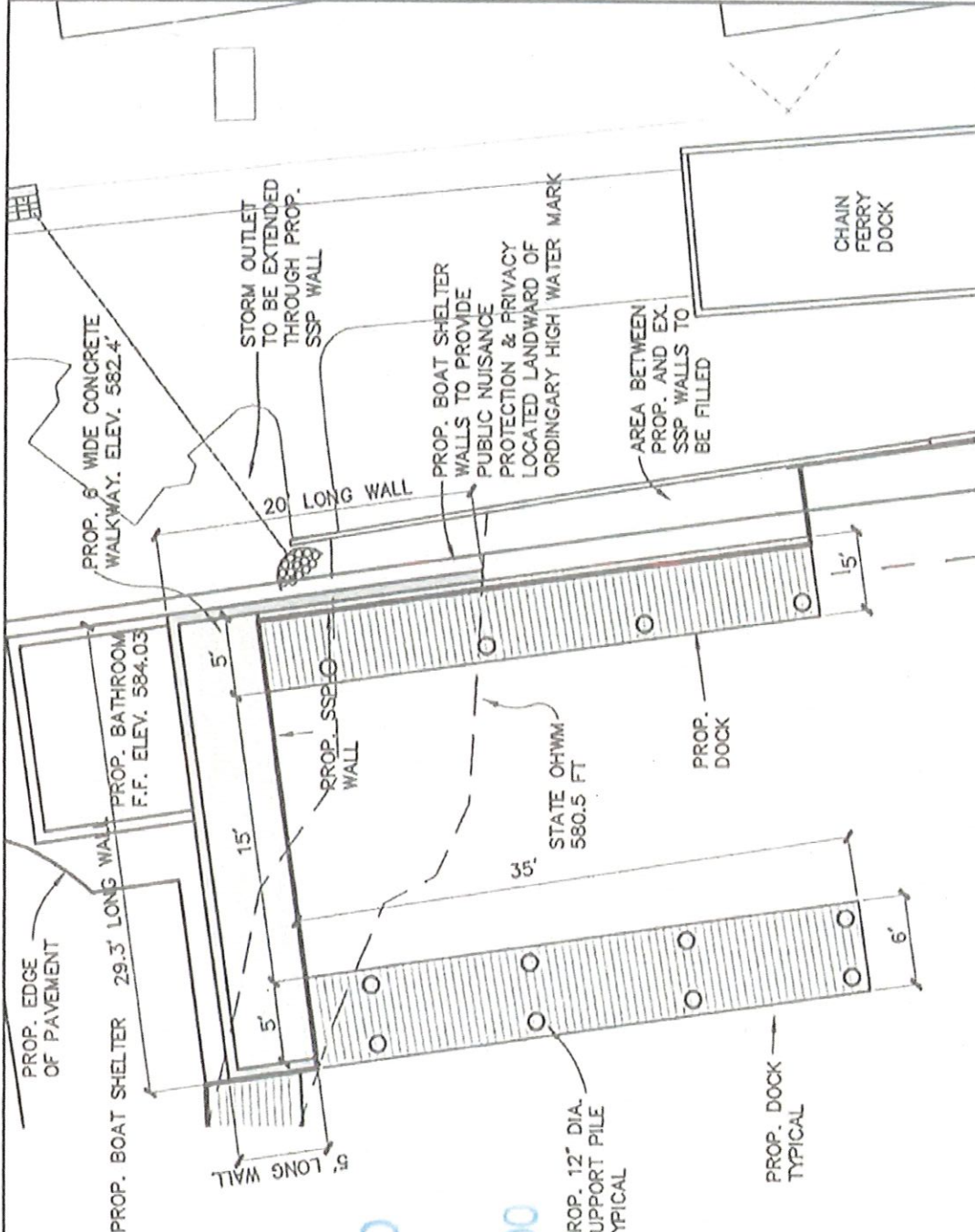
**APPLICANT :**

DUNE RIDGE SA LP  
PAUL HEULE - MANAGER  
231 FULTON STREET WEST  
GRAND RAPIDS, MI 49503

**PREPARED BY :**

**Prein & Newhof**  
DEQ-WRD  
14-03-0037-2  
APPROVED PLANS  
Page 1 of 16  
4910 STARIHA DRIVE  
MUSKEGON, MICHIGAN 49441/(231-798-0101)

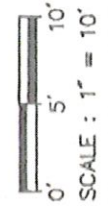
RECEIVED  
SEP 17 2015  
WRD - KALAMAZOO



SHEET 7R of 9  
 SEPTEMBER 17, 2015  
 2140111



**PROPOSED BOAT SHELTER PLAN**



RECEIVED  
 SEP 17 2015  
 WRD - KALAMAZOO

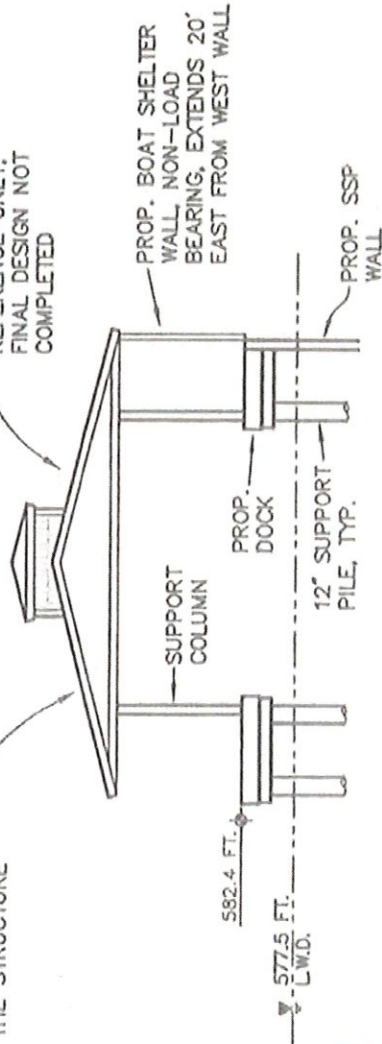
PREPARED BY: **Prein&Newhof**  
 DEQ-WRO  
 File # 14-02-022-7  
 APPROVED PLANS  
 Page 2 of 6  
 PREIN & NEWHOF  
 4910 STARIHA DRIVE  
 MUSKEGON, MICHIGAN 49441 / (231-798-0101)

APPLICANT:  
**DUNE RIDGE SA LP**  
 PAUL HEULE - MANAGER  
 231 FULTON STREET WEST  
 GRAND RAPIDS, MI 49503

DUNEGRASS  
 WATERWAY: KALAMAZOO RIVER  
 LOCATION: CITY OF SAUGATUCK  
 ALLEGAN COUNTY, MICHIGAN  
 SECTION 9, T. 3 N., R. 16 W.

PROP. SHELTER ROOF  
TO BE CONSTRUCTED  
W/ SKYLIGHTS TO ALLOW  
DAY LIGHT PENETRATION  
INTO THE STRUCTURE

PROP. ROOF, FOR  
REFERENCE ONLY.  
FINAL DESIGN NOT  
COMPLETED



RECEIVED

SEP 17 2015

WRD - KALAMAZOO

**BOAT SHELTER CROSS SECTION**

SCALE: 1" = 10'

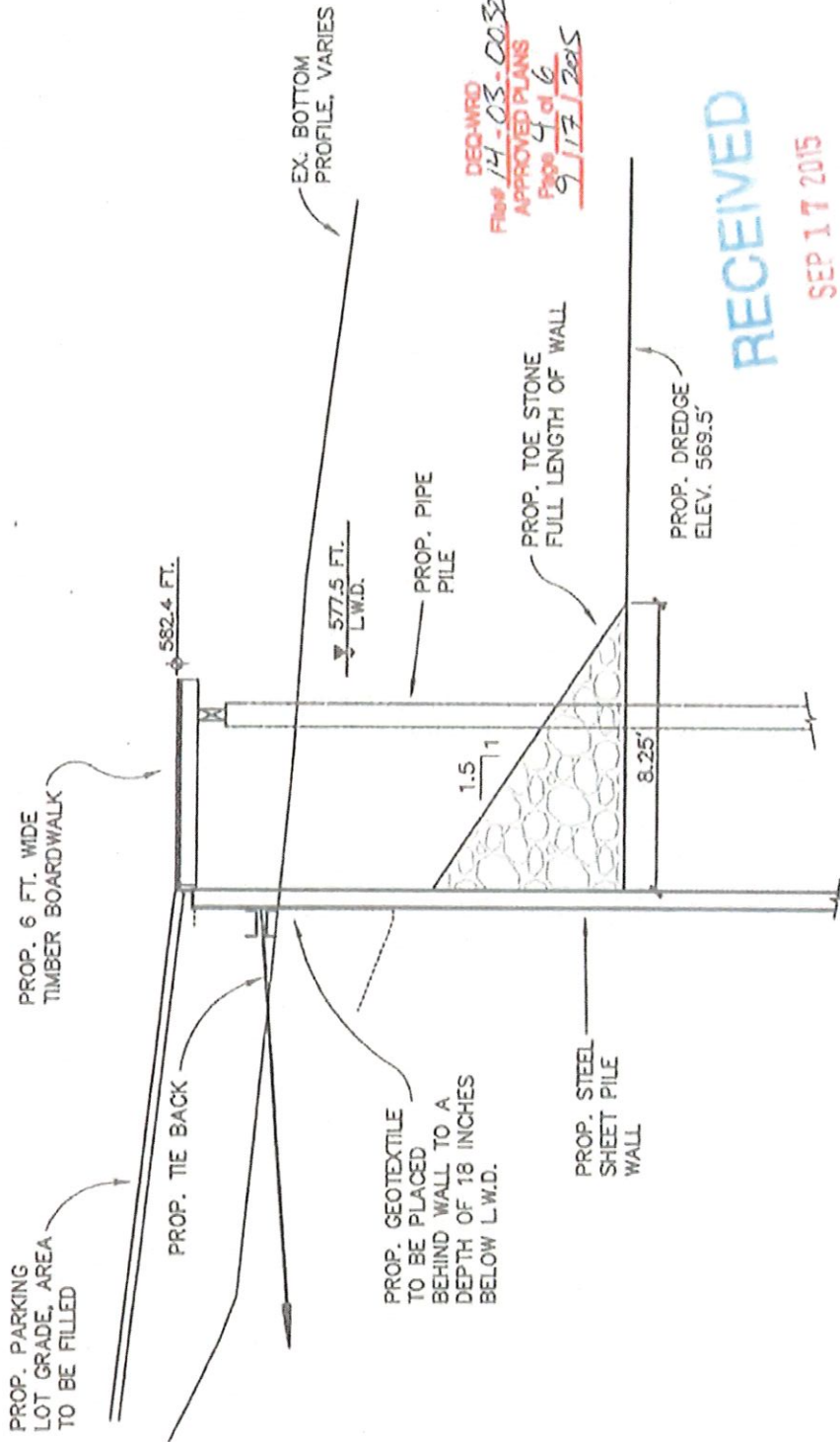
SHEET 8R of 9  
SEPTEMBER 15, 2015  
21-40111

DUNEGRASS

WATERWAY : KALAMAZOO RIVER  
CITY OF SAUGATUCK  
LOCATION : ALLEGAN COUNTY, MICHIGAN  
SECTION 9, T. 3 N., R. 16 W.

APPLICANT :  
DUNE RIDGE SA LP  
PAUL HEULE - MANAGER  
231 FULTON STREET WEST  
GRAND RAPIDS, MI 49503

PREPARED BY : **Prein&Newhof**  
 DEC-19-10  
 Filed 14-03-0052  
 APPROVED PLANS  
 Page 3 of 6  
 DECEMBER 15, 2015  
 Engineers & Surveyors & Environmental & Laboratory  
 4910 STARIHA DRIVE  
 MUSKEGON, MICHIGAN 49441 / (231-798-0101)



DEC-WRO  
File# 14-03-0032-P  
APPROVED PLANS  
Page 4 of 6  
9/17/2015

RECEIVED

SEP 17 2015

WRD - KALAMAZOO

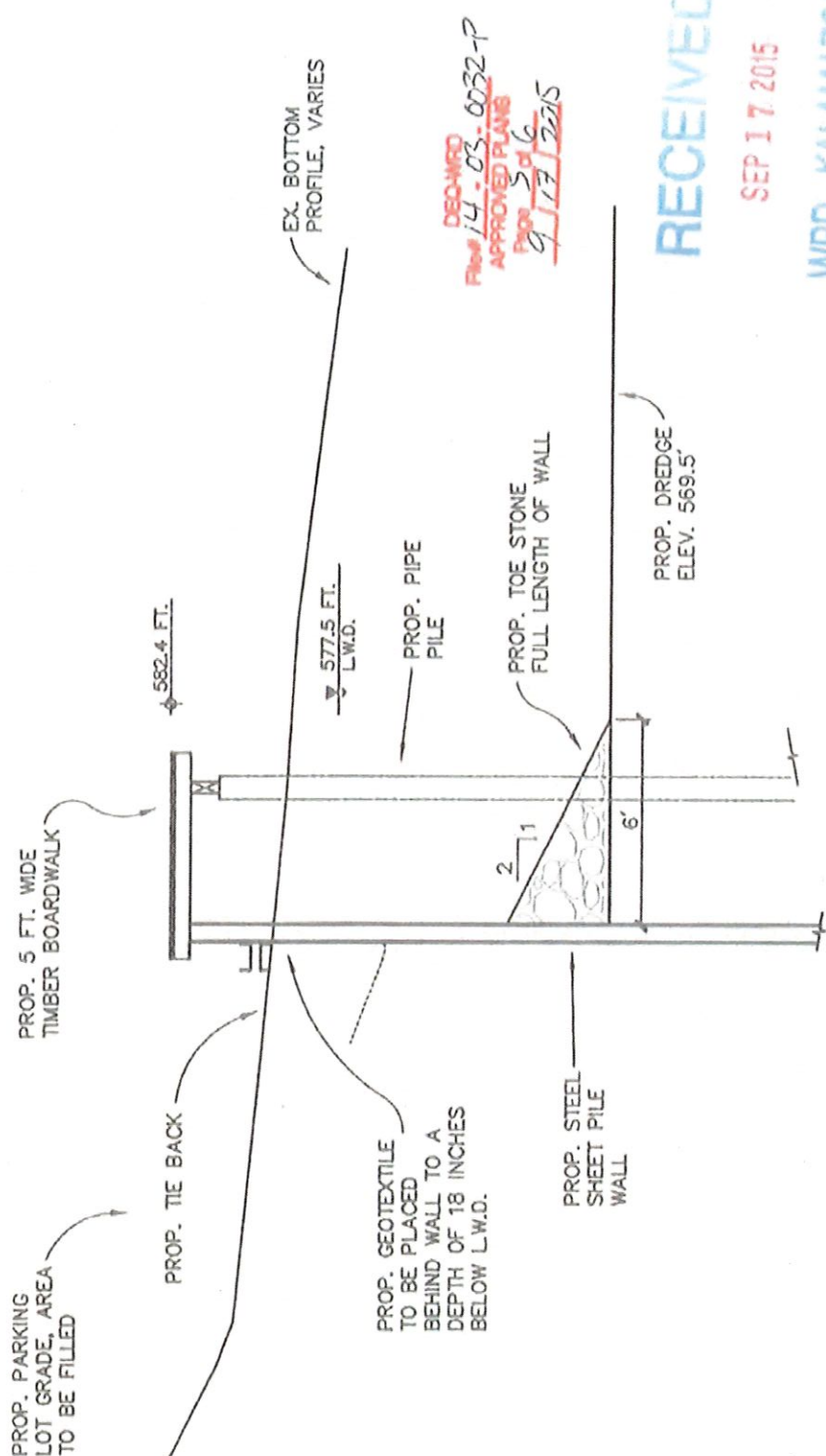
**REVISED TYPICAL SHEETPILE WALL SECTION**

SCALE: 1" = 5'

SHEET 6R of 9  
SEPTEMBER 17, 2015  
2140111

<p><b>DUNEGRASS</b> WATERWAY : KALAMAZOO RIVER LOCATION : CITY OF SAUGATUCK ALLEGAN COUNTY, MICHIGAN SECTION 9, T. 3 N., R. 16 W.</p>	<p>APPLICANT : <b>DUNE RIDGE SA LP</b> PAUL HEULE - MANAGER 231 FULTON STREET WEST GRAND RAPIDS, MI 49503</p>	<p>PREPARED BY : <b>Prein&amp;Newhof</b> Engineers - Surveyors - Environmental - Laboratory 4910 STARIHA DRIVE MUSKEGON, MICHIGAN 49441/(231-798-0101)</p>
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TYPICAL SHEETPILE WALL SECTION ALONG CHAIN FERRY WALL

SCALE: 1" = 5'

SHEET 11 OF 11  
 SEPTEMBER 17, 2015  
 21-40111

DUNEGRASS

WATERWAY : KALAMAZOO RIVER  
 LOCATION : CITY OF SAUGATUCK  
 ALLEGAN COUNTY, MICHIGAN  
 SECTION 9, T. 3 N., R. 16 W.

APPLICANT :

DUNE RIDGE SA LP  
 PAUL HEULE - MANAGER  
 231 FULTON STREET WEST  
 GRAND RAPIDS, MI 49503

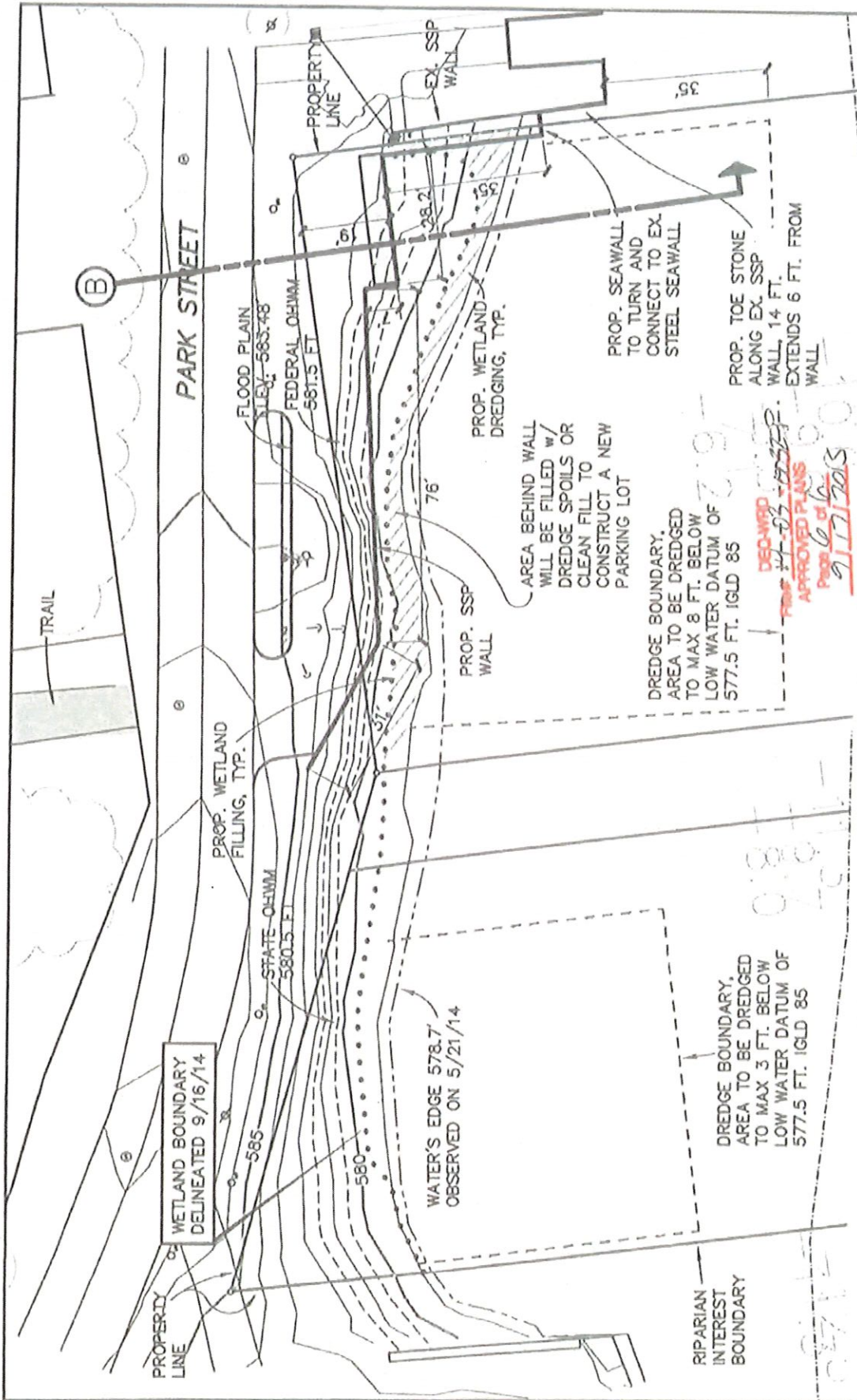
PREPARED BY :

Prein & Newhof  
 Engineers - Surveyors - Environmental - Laboratory  
 4910 STARIHA DRIVE  
 MUSKEGON, MICHIGAN 49441 / (231-798-0101)

RECEIVED

SEP 17 2015

WRD - KALAMAZOO



**REVISED SEAWALL/DREDGING PLAN**

0' 15' 30'  
SCALE : 1" = 30'



SHEET 4R of 9  
SEPTEMBER 15, 2015  
21440111

<p><b>DUNEGRASS</b> WATERWAY : KALAMAZOO RIVER LOCATION : CITY OF SAUGATUCK ALLEGAN COUNTY, MICHIGAN SECTION 9, T. 3 N., R. 16 W.</p>	<p>APPLICANT : <b>DUNE RIDGE SA LP</b> PAUL HEULE - MANAGER 231 FULTON STREET WEST GRAND RAPIDS, MI 49503</p>	<p>PREPARED BY : <b>Prein &amp; Newhof</b> Engineers - Surveyors - Environmental - Laboratory 4910 STARIHA DRIVE MUSKEGON, MICHIGAN 49441/(231-798-0101)</p>
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RECEIVED  
SEP 15 2015  
WARD KALAMAZOO

DEC 10 10 00 AM '15  
APPROVED PLANS  
Page 6 of 6  
9/17/2015

PROP. SEAWALL TO TURN AND CONNECT TO EX. STEEL SEAWALL

PROP. TOE STONE WALL, 14 FT. EXTENDS 6 FT. FROM WALL

AREA BEHIND WALL WILL BE FILLED W/ DREDGE SPOILS OR CLEAN FILL TO CONSTRUCT A NEW PARKING LOT

DREDGE BOUNDARY, AREA TO BE DREDGED TO MAX 8 FT. BELOW LOW WATER DATUM OF 577.5 FT. IGLD 85

DREDGE BOUNDARY, AREA TO BE DREDGED TO MAX 3 FT. BELOW LOW WATER DATUM OF 577.5 FT. IGLD 85

WATER'S EDGE OBSERVED ON 5/21/14

FLOOD PLAIN STATE OF MICHIGAN  
FEDERAL OHMAM 581.5 FT

STATE OHMAM 580.5 FT

WETLAND BOUNDARY DELINEATED 9/16/14

PARK STREET

TRAIL

(B)

PROPERTY LINE

PROP. WETLAND FILLING, TYP.

PROP. SSP WALL

PROP. WETLAND DREDGING, TYP.

EX. SSP WALL

PROPERTY LINE

RIPARIAN INTEREST BOUNDARY

## Memorandum

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Date:	July 7, 2016
To:	Mr. Ed Pynnonen
Company:	REAlliance
From:	Ariana Jeske, PE, PTOE
CC:	
Project #:	2160319
Re:	Dunegrass Marina Traffic Safety Study

---

Contained in this memorandum is a summary of the pedestrian and traffic safety analysis for the proposed Dunegrass Marina located along the Kalamazoo River approximately 265 feet south of the intersection of Park Street and Perryman Street on the east side of Park Street. The proposed marina will consist of six berths, a small building, and parking, with a driveway off of Park Street.

### **Crash Analysis**

Crash reports for a 500 foot radius around the proposed marina site were obtained from the Michigan Traffic Crash Facts Database. The last five available years, 2011 to 2015 were queried for crashes near the study site. The crash data includes vehicle, bicycle, and pedestrian crashes. Two vehicular crashes were reported in that search area. One crash was a sideswipe between a recreational vehicle and a passenger vehicle on Park Street north of Perryman Street where the roadway reduces to 16 feet wide and is unmarked. The other reported crash was related to a vehicle towing a trailer attempting a U-turn at the intersection of Park Street and Perryman Street and backing into a parked vehicle. Neither crash was related to the existing conditions around the proposed marina site. No bicycle or pedestrian crashes were reported in the area.

### **Site Evaluation**

The speed limit for Park Street is 25 miles per hour (mph) in the area of the proposed marina. Sight distance for several turning movements was evaluated during a site visit on June 9, 2016. The maneuvers evaluated were left turns in, left turns out, and right turns out. Right turns into a driveway from the traveled roadway are generally not evaluated as they are not dependent on the clearance of other vehicles from the turning path.

The American Association of State Highway Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Streets was consulted to determine the minimum sight distance needed to enter and exit the proposed marina sight. This is the national standard of practice for highway and street design and geometrics. The sight distance at the proposed marina site was evaluated by placing a marker with flagging at 3.5 feet above existing finished grade, the presumed eye height of a driver, at the proposed driveway locations and then finding and measuring the distance to the location along the roadway where that marker was no longer visible. The turning movements and their required sight distance for 25 mph and available sight distance are listed in the table below:

Turning Movement	Required Sight Distance (ft)	Available Sight Distance (ft)
Left Turn In	205	200
Left Turn Out	280	478
Right Turn Out	240	251

Required sight distances are met for left and right turns out by the existing conditions. For left turns in the recommended sight distance is 205 feet; 200 feet was measured in the field. The difference of five feet is minimal and should not affect safety in the area. A vehicle traveling the speed limit of 25 miles per hour would traverse five feet in 0.13 seconds, a negligible amount of time when considering human reaction speed.

Stopping sight distance was also evaluated. Stopping sight distance refers to the distance needed for a driver traveling on Park Street to see a hazard, react, and then stop. The stopping sight distance for 25 mph is 155 feet. Both directions of Park Street have that sight distance available at the proposed marina site.

### **Parking Evaluation**

Two parking options for the proposed marina were presented and evaluated for safety, a perpendicular and parallel layout.

#### **Perpendicular**

The advantages of the perpendicular parking options include the provision of more spaces and expansion of the available sight distance for lefts turning in. The point at which a driver turns left into a parking space from Park Street is variable; the sight distance measured above was taken at the southernmost point as minimum available sight distance. As you move north, the sight distance increases. The disadvantages of the perpendicular parking option include potential conflict points with pedestrians when backing out of a space if pedestrians are close to the rear of the parking stalls, a lack of defined pedestrian space alongside the roadway, and the requirement that vehicles exiting the parking must first back up, then evaluate their available gaps in passing traffic, continuing backing up, stop, and then move forward to join the traffic flow. This maneuvering may have negative impacts to traffic flow. The impacts the backing vehicles may to traffic flow is not readily quantifiable with nationally accepted methods of practice. These backups from parking would impact higher speed roadways more than the lower speed of Park Street. In the summer months in peak traffic volumes, average operating speeds are much lower than the posted 25 mph, potential impacts to traffic flow would also be reduced with the lower speeds. Many of these disadvantages can easily be mitigate with a defined crosswalk area offset from the back of the parking spaces to the maximum extent, warning signs to both parked vehicles and pedestrians, and advance warning signing on Park Street for approaching motorists. The dimensions of the proposed perpendicular parking do provide an adequately large buffer space for drivers to back up, evaluate traffic flow (due to adequate sight distance), and then proceed into the roadway.

## Parallel

The advantages to the parallel parking option include two defined driveways which minimizes conflict points for pedestrians and better sight distance for vehicles exiting the parking area. The disadvantage to the parallel parking is that the sight distance for lefts into the south driveway starts to approach the minimum required sight distance. As evaluated during the sight distance evaluation the available sight distance is adequate for the posted speed.

Either of the parking options, perpendicular or parallel are appropriate for the proposed marina site and have similar safety impacts, with proper mitigation. Neither option is substantially anticipated to be safer than the other.

### **Pedestrian Safety Evaluation**

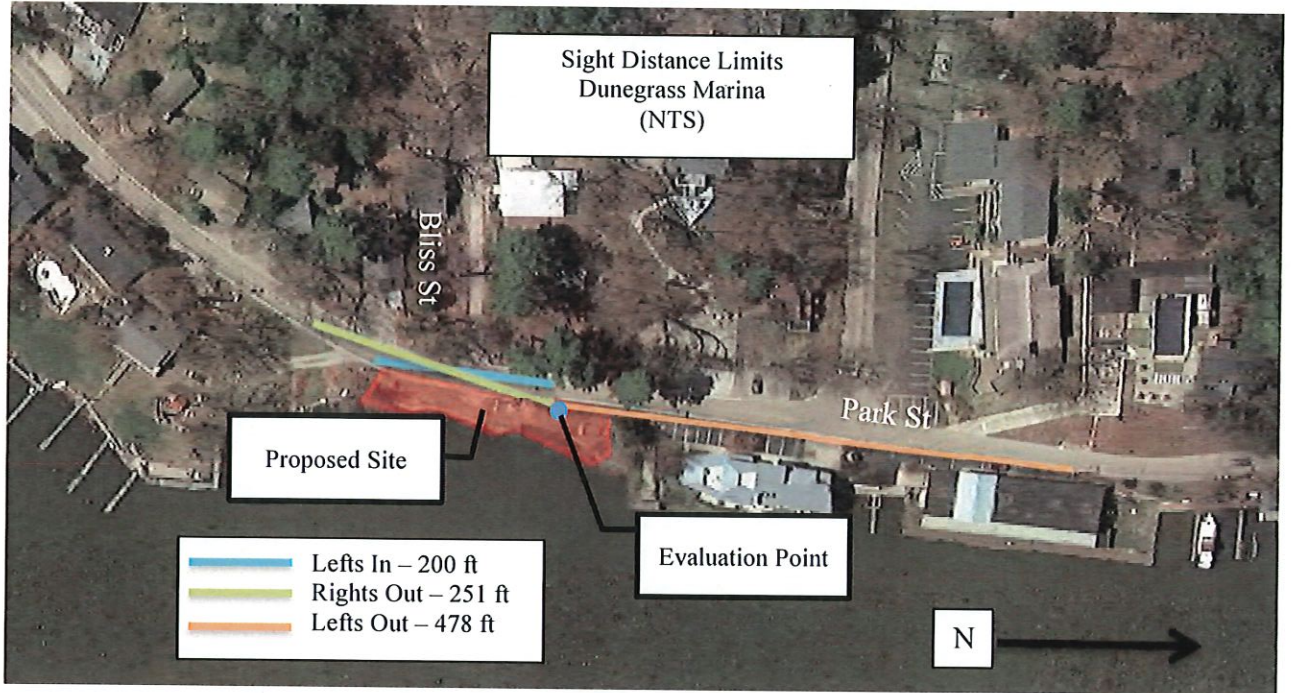
Pedestrian routing from the chain ferry landing to the north of the marina site to the proposed pedestrian path at Bliss Street was evaluated. The best option would be to route pedestrians south from the landing on the east side of Park Street and provide a crossing opposite Bliss Street. The parallel parking option would minimize conflict points with this pedestrian path and provide an area in the island to construct a pedestrian pathway. Additionally, the east side does not have established parking adjacent to the roadway.

The stopping sight distance for motorists on Park Street is adequate for a crossing at Bliss Street. The sight distance for pedestrians to evaluate traffic and then cross is adequate. Pedestrian sight distance is not specifically defined in typical traffic engineering practice. For the purposes of this analysis, pedestrian sight distance for pedestrians crossing Park Street can be calculated by determining the distance a vehicle traveling the speed limit would travel in the time it takes a pedestrian to cross. In this situation, 252 feet would be required to cross the 24 foot wide Park Street. That sight distance is available in both directions and sides of Park Street.

### **Conclusions and Recommendations**

No history of crashes related to roadway conditions in the area of the proposed marina site exists for the past five years. The sight distance is adequate for all proposed turning maneuvers into and out of the proposed marina for the posted speed limit. Either parking option, with appropriate signing and other mitigation measures, is appropriate for proposed usage and pedestrian routing on the east side of Park Street and a proposed crossing opposite Bliss Street. The sight distance at the proposed crossing at Bliss Street is adequate for both pedestrians to evaluate traffic and travel across Park Street and for approaching motorists to react to pedestrians in the roadway.

It is not anticipated that the traffic traveling to and from the marina will pose a safety hazard to vehicles traveling on Park Street or to pedestrians accessing the future path at Bliss Street.



Site Photos



Looking south from the site



Looking north from the site



Looking South from Perryman Street Stop Sign

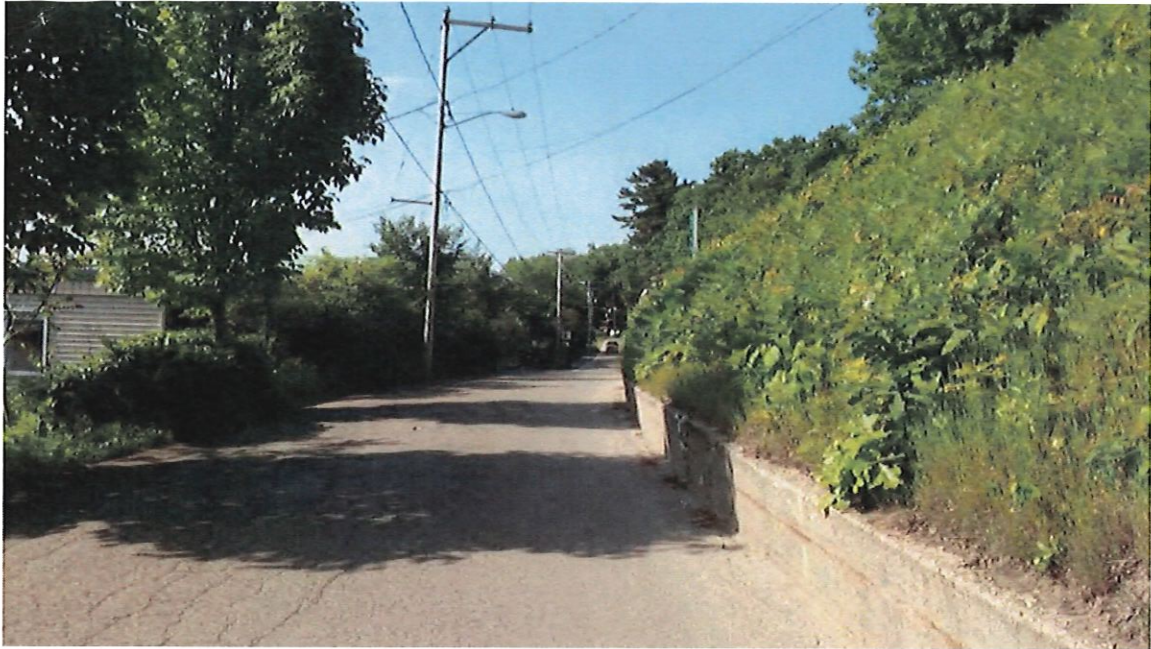


Looking south from the southbound lane (location of left turns into the site)



Looking south towards the site (extent of available sight distance)





Looking south to the site, extent of available sight distance

**PROPOSED Minutes**  
**Saugatuck Planning Commission Meeting**  
**Saugatuck, Michigan, July 20, 2017**

The Saugatuck Planning Commission met in regular session at 7:00 p.m. at City Hall, 102 Butler Street, Saugatuck, Michigan.

1. **Call to Order** by Vice Chairperson McPolin at 7:00 p.m.

**Attendance:**

Present: McPolin, Hess, Lewis, Crawford, Schmidt & Fox

Absent: None

Others Present: Zoning Administrator Osman.

2. **Approval of Agenda:** A motion was made by Lewis, 2<sup>nd</sup> by Crawford, to approve the agenda as presented. Upon voice vote the motion carried unanimously.

3. **Approval of Minutes:** A motion was made by Hess, 2<sup>nd</sup> by Schmidt, to approve the May 18, 2017 regular meeting minutes as presented. Upon voice vote the motion carried unanimously.

4. **Public Comments (agenda items only):** None

5. **Old Business:** None

6. **New Business:**

**A. Election of Officers:** A motion was made by Hess, 2<sup>nd</sup> by Schmidt, to appoint Garnet Lewis as Chairperson. Upon roll call the motion carried unanimously.

**B. 125 Water Street – Special Land Use - Outdoor Seating:** A public hearing was schedule on this date to hear comments regarding the placement of tables and chairs for food service at Marro's on private property only at 125 Water Street with week day operations until 10:00 p.m. and Friday and Saturday operations until 11:00 p.m.

Chairperson Lewis opened the hearing at 7:10 p.m.

Applicant presented project.

Marta Petter (*resident*) spoke in opposition of the outdoor seating.

There being no other comments, Chairperson Lewis closed the public hearing at 7:20 p.m.

A motion was made by Fox, 2<sup>nd</sup> by Schmidt, to approve the application for placement of tables and chairs for food service at Marro's on private property only at 125 Water Street with week day operations until 10:00 p.m. and Friday and Saturday operations until 11:00 p.m. Upon roll call the motion carried unanimously.

The applicant is not building anything, just placing tables and chairs for outdoor seating.

Other nearby places do it, Butler, Coral Gables, Borrowed Time, and others. It adds to the downtown vibrancy. It is well established that outdoor seating promotes the intent and purpose of this chapter.

There will be no change to the natural environment. There will be no impact on public services.

It will attract new customers to the City. There will be no flammable fluids.

It will be entirely accessible to fire and police. It will be entirely on private property.

There will be no walls or other structures to hinder development. It will compliment other uses and be harmonious.

Few nearby dwellings, and only eight tables, there will be no fumes, pollution, vibration, litter, refuse, glare, or flashing lights. This is consistent with the master plan.

The tables and chairs do not have signage. The area is all durable surfaces. We have a copy of the alcohol permit on file.

**C. 443 Park Street – Special Land Use – Minor Waterfront Construction:** A public hearing was scheduled on this date to hear comments regarding construction of five boat slips and one covered slip/building, sidewalk, parking area and security fencing at 443 Water Street.

Chairperson Lewis opened the hearing at 7:45 p.m.

Matt Zimmerman representing the applicant made a presentation.

Jane Underwood of 130 Perryman Street spoke in opposition because of the traffic.

Susan Atkins of 444 Park Street spoke in opposition because of traffic safety.

Ann Broeker of 508 Park Street spoke in opposition because of the traffic and commented on the fence.

Mike Economides of 716 Park Street is concerned about the traffic.

A communication from Cheryl Sohn was read into the record in opposition.

Etta Rodriguez of 450 Park Street spoke in opposition to the project.

There being no comments, Chairperson Lewis closed the public hearing at 8:22 p.m.

A motion was made by Hess, 2<sup>nd</sup> by Fox, to approve construction of five boat slips and one covered slip/building, sidewalk, parking area and security fencing at 443 Water Street with the following conditions:

1. That the applicant obtains a variance before construction of the fence, or in the alternative, brings the height into compliance with the ordinance.
2. That the applicant encourages safe pedestrian crossing by painting and maintaining a crosswalk to the trail.
3. That the applicant works with Prein and Newhoff to develop and install signage and other mitigation measures as suggested in their traffic study at the applicant's expense, and subject to review and approval by the City Engineer.
4. That the applicant by the use of landscaping at least 2 feet in height to conceal the concrete foundation of the fence as it faces the neighbor and the street. The design and style of the fence should be in character with the Chain Ferry, and be reviewed and approved by the Zoning Administrator.
5. The applicant stated that there will be no lighting in the parking area, and no lighting on the docks.

Upon roll call the motion carried unanimously and the Commission makes the following findings of fact.

The chain ferry to the north docks the chain ferry and is an intense use. Casa Loma to the south both dock boats. The applicant is not proposing any building on the property other than the covered boat slip that was approved by the DEQ, and the fence. The applicant proposes to build an open 6:1 security fence to separate the north most dock from the chain ferry dock. The proposed fence will be 6 feet in height. The Planning Commission should consider a condition of approval that the applicant be granted a variance from the four foot maximum height or reduce the height to four feet.

Marinas and commercial boats are allowed in this district as a special land use. There are docks and marinas up and down both sides of the river. Some are full blown marinas, but many are a single dock or handfuls of docks without other services such as fueling, pumping, or other amenities.

The DEQ reviews the application for compliance with State and Federal laws. The approved permit is attached for your consideration. The DEQ reviewed the application for compliance with the Natural Resources and Environmental Protection Act (NREPA) This includes the flood plain regulatory Authority in Part 31 – Water Resources protection, Inland Lakes and Streams, and Wetland protection.

The proposed minor waterfront construction will have no impact on public services or facilities. No utilities or only electric or water are proposed.

The proposed construction will enhance the public health and safety by providing a 5 foot wide public sidewalk to take some of the pedestrian traffic off the traveled portion of the street. It will also enhance the social and economic well-being of the city as a whole by attracting residents who will buy local gas for the boats, eat in local restaurants, and provide for positive economic development.

There are no plans to store or use flammable liquids. There will be no changes that will affect accessibility.

A traffic study was conducted by Prein and Newhoff. They concluded that the proposed additional parking spaces will not add to any hazardous traffic conditions.

The location and height will not hinder appropriate development of adjacent land or buildings as all adjacent lands with the exception of Dune Ridge's land to the south are already developed. All proposed construction is at a lower elevation than the homes on the west side of Park Street. The fence will have the requisite 6:1 open ratio.

The proposed use and activity will be harmonious with the district. Especially see Casa Loma to the south, and the condominiums and Hotel to the north.

There will be no noise, fumes, pollution, vibration, litter, refuse, glare, or flashing lights greater than adjacent uses.

The proposed use is consistent with the Master Plan, and the future land use map.

**7. Communications:**

**A. Proposed Amendments for Bulk and Mass of New Homes and Additions**

**8. Reports of Officers and Committees:**

**9. Public Comments:** None

**10. Adjournment:** Chairperson Lewis adjourned the meeting at 9:02 p.m.

Respectfully Submitted,

Monica Nagel, CMC  
City Clerk



**City of Saugatuck**

102 Butler St PO Box 86  
 Saugatuck, MI 49453  
 (269) 857-2603 (269) 857-4406

PZ17026

**PLANNING & ZONING**

**Zoning**

Issued: 07/20/17  
 Expires: 07/20/18

Type of Construction: **Minor Waterfront Construction** Edition of Code: **Section 154**

LOCATION	OWNER	APPLICANT
443 PARK ST 57-009-054-00 Plat/Sub: Lot:	DUNE RIDGE SA. LP 231 W FULTON GRAND RAPIDS MI 49503 Ph.: (650) 400 7675 Fx.:	DUNE RIDGE SA. LP 231 W FULTON GRAND RAPIDS MI 49503 Ph.: (650) 400 7675 Fx.:


**Work Description:** Minor water front construction for five boat slips and one covered slip, sidewalk, parking area and security fencing

**Stipulations:**

Permit Item	Work Type	Fee Basis	Item Total
Site Plan Review	Zoning	1.00	\$300.00

In accordance with Chapter 154, Section 154.172 (A) through (J) of the Saugatuck City Code, this permit will remain valid and in full effect unless it expires from the applicant's failure to start construction within twelve months. This permit shall be kept at the site of the work and available for inspection at all times during the project and until an occupancy permit has been issued or until its date of expiration. The Zoning Administrator shall be notified of any proposed modifications in the permitted work prior to the start of such work and shall also determine whether the proposed changes are in compliance with the Saugatuck City Zoning Ordinance and whether a new zoning permit must be issued. This permit does not authorize construction activities on said property until all applicable permits have been issued by MTS. The applicant shall notify the building inspector of proposed inspection dates and shall not begin a later stage of work until the previous stage has been approved.

Fee Total: \$300.00  
 Amount Paid: \$0.00  
 Balance Due: \$300.00

  
 Cindy Osman, Zoning Administrator

**FOR ALL PERMITS AND INSPECTIONS, INCLUDING WATER AND SEWER INSTALLATION INSPECTIONS, CONTACT MTS AT 800-626-5964 FOR WATER AND SEWER CONNECTION PERMITS CONTACT CINDY AT SAUGATUCK CITY HALL AT 269-857-2603**

Additional permits may be required.  
 Building, plumbing, mechanical, electrical, and water and sewer connection inspection permits from Michigan Township Services 800-626-5964.  
 Working in Critical Dunes, Floodplains, or high risk erosion area contact DEQ at 269-568-2680.  
 Soil Erosion Permits from Allegan County when working within 500 feet of a lake or stream or creek 269-673-5415  
**OBTAINING THESE PERMITS IS YOUR RESPONSIBILITY AND OTHER PERMITS NOT IDENTIFIED HERE MAY BE REQUIRED**



PZ15073

**City of Saugatuck**

102 Butler St PO Box 86  
 Saugatuck, MI 49453  
 (269) 857-2603 (269) 857-4406

**PLANNING & ZONING**

**Zoning**

Issued:

Expires:

Type of Construction: Major Waterfront Construction Edition of Code: Section 154

LOCATION	OWNER	APPLICANT
443 PARK ST 57-009-054-00 Plat/Sub:	Lot: DUNE RIDGE SA. LP 231 W FULTON GRAND RAPIDS MI 49503 Ph.: (650) 400 7675 Fx.:	DUNE RIDGE SA. LP 231 W FULTON GRAND RAPIDS MI 49503 Ph.: (650) 400 7675 Fx.:

Work Description:

Stipulations:

Permit Item	Work Type	Fee Basis	Item Total
SLU	Site Plan Review	1.00	\$250.00
Application for Variance	Zoning	1.00	\$300.00

In accordance with Chapter 154, Section 154.172 (A) through (J) of the Saugatuck City Code, this permit will remain valid and in full effect unless it expires from the applicant's failure to start construction within twelve months. This permit shall be kept at the site of the work and available for inspection at all times during the project and until an occupancy permit has been issued or until its date of expiration. The Zoning Administrator shall be notified of any proposed modifications in the permitted work prior to the start of such work and shall also determine whether the proposed changes are in compliance with the Saugatuck City Zoning Ordinance and whether a new zoning permit must be issued. This permit does not authorize construction activities on said property until all applicable permits have been issued by MTS. The applicant shall notify the building inspector of proposed inspection dates and shall not begin a later stage of work until the previous stage has been approved.

Fee Total:	\$550.00
Amount Paid:	\$550.00
Balance Due:	\$0.00

Cindy Osman, Zoning Administrator

**FOR ALL PERMITS AND INSPECTIONS, INCLUDING WATER AND SEWER INSTALLATION INSPECTIONS, CONTACT MTS AT 800-626-5964 FOR WATER AND SEWER CONNECTION PERMITS CONTACT CINDY AT SAUGATUCK CITY HALL AT 269-857-2603**

Additional permits may be required.  
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**OBTAINING THESE PERMITS IS YOUR RESPONSIBILITY AND OTHER PERMITS NOT IDENTIFIED HERE MAY BE REQUIRED**

**EXHIBIT F**

July 8, 2019 City Council Meeting Packet – Land Swap Agreement



**CITY COUNCIL AGENDA  
JULY 8, 2019 – 7:00 P.M.**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. APPROVAL OF MINUTES
  - A. Regular City Council Meeting of June 24, 2019
5. MAYOR'S COMMENTS
6. CITY MANAGER'S COMMENTS
7. AGENDA CHANGES (ADDITIONS/DELETIONS)
8. GUEST SPEAKERS:
  - A. Lt. Brett Ensfield – Allegan Co. Sheriff Department
  - B. John Sharar – Retro Boat Rentals
9. PUBLIC COMMENT *Agenda Items Only (Limit 3 minutes)*
10. REQUESTS FOR PAYMENT
  - A. Approval of Accounts Payable
11. INTRODUCTION OF ORDINANCES:
12. PUBLIC HEARINGS: None
13. UNFINISHED BUSINESS: None
14. NEW BUSINESS
  - A. Proclamation No. 190708-P1 – Jeff Spangler (ROLL CALL)
  - B. Land Transfer Agreement – Park Street Dune Ridge SA, LP (VOICE VOTE)
  - C. Special Event Application – National Night Out – August 6, 2019 (VOICE VOTE)
15. CONSENT AGENDA: None
16. PUBLIC COMMENTS *(Limit 3 minutes)*
17. COMMUNICATIONS:
18. BOARDS, COMMISSIONS & COMMITTEE REPORTS: None
19. COUNCIL COMMENTS
20. ADJOURN

**NOTICE**

This facility is wheelchair accessible with accessible parking spaces available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact Saugatuck City Clerk at 269-857-2603 or [monica@saugatuckcity.com](mailto:monica@saugatuckcity.com) for further information.





# City Council Agenda Item Report

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City of Saugatuck

**FROM:** Cindy Osman, Planning and Zoning  
**MEETING DATE:** July 8, 2019  
**SUBJECT:** Land Transfer Agreement – Park Street Dune Ridge SA, LP

**DESCRIPTION**

This is a land swap of properties of similar size to relocate a City property to the south end of land owned by Dune Ridge SA, LP. This property is located between the Chain Ferry landing on Park Street and Casa Loma at 405 Park Street.

**BUDGET ACTION REQUIRED**

N/A

**COMMITTEE/COMMISSION REVIEW**

**LEGAL REVIEW**

This agreement was reviewed by Municipal Attorney Cliff Bloom.

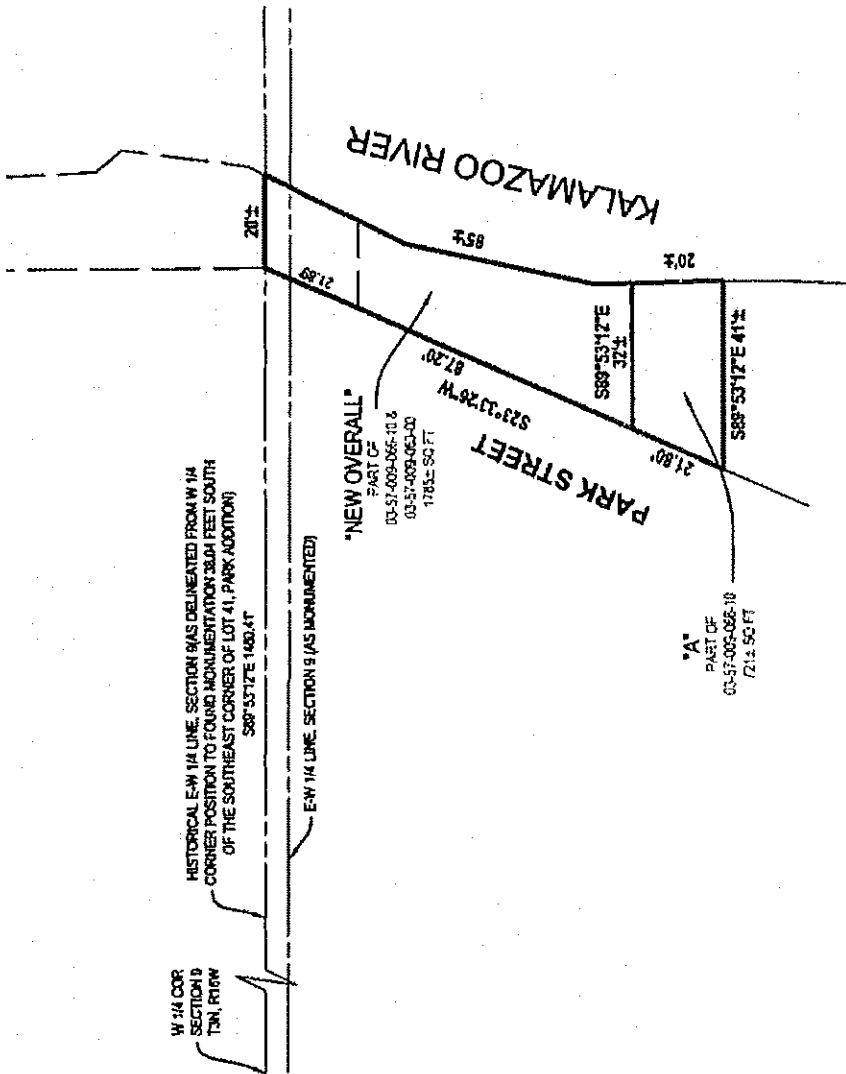
**SAMPLE MOTION:**

Motion to **approve/deny** the attached Agreement as presented regarding real property to exchange parcels of land between the City of Saugatuck and Dune Ridge SA, LP, as shown in exhibit B contingent on Dune Ridge SA, LP paying invoice #526 for water main repairs in the Dune Grass Development.

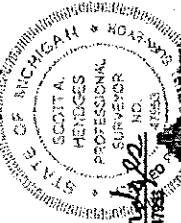
# DESCRIPTIONS

"New Overall": Part of Government Lot 4 of Section 9, Town 3 North, Range 16 West, Saugatuck Township, Allegan County, Michigan, described as: Commencing at the West 1/4 corner of said Section; thence S89°53'12"E 1480.41 feet along the historical East-West 1/4 line of said Section to the Point of Beginning; thence S23°33'26"W 87.20 feet along the Easterly right-of-way line of Park Street; thence S89°53'12"E 32 feet, more or less, to the waters edge of the Kalamazoo River; thence Northeastly 85 feet, more or less, along said waters edge to a line bearing S89°53'12"E from the Point of Beginning; thence N89°53'12"W 20 feet, more or less, along said historical East-West 1/4 line to the Point of Beginning. Contains 1785 square feet, more or less. Subject to easements, restrictions and rights-of-way of record.

Parcel "A": Part of Government Lot 4 of Section 9, Town 3 North, Range 16 West, Saugatuck Township, Allegan County, Michigan, described as: Commencing at the West 1/4 corner of said Section; thence S89°53'12"E 1480.41 feet along the historical East-West 1/4 line of said Section; thence S23°33'26"W 87.20 feet along the Easterly right-of-way line of Park Street to the Point of Beginning; thence continuing S23°33'26"W 21.80 feet along said right-of-way line; thence S89°53'12"E 41 feet, more or less, to the waters edge of the Kalamazoo River; thence Northerly 20 feet, more or less, along said waters edge to a line bearing S89°53'12"E from the Point of Beginning; thence N89°53'12"W 32 feet, more or less, to the Point of Beginning. Contains 721 square feet, more or less. Subject to easements, restrictions and right-of-way of record.



By: *Scott A. Hendegge*  
 Scott A. Hendegge, Licensed Professional Surveyor No. 417553, No. 417553



SCALE: 1" = 30'

Vernon Law  
 Diane Chiles  
 333 Bridge Street, NW  
 Grand Rapids, MI 49504

Dune Ridge  
 Park Street

DATE: 6-22-18  
 REV. DATE: 1 OF 1



This sketch was made from the legal description shown above. The description should be compared with the Abstract of Title or Title Policy for accuracy, easements and exceptions.

**AGREEMENT REGARDING REAL PROPERTY**

FOR VALUABLE CONSIDERATION, the amount and sufficiency of which are acknowledged by the parties, the CITY OF SAUGATUCK, a Michigan home rule city, with offices located at 102 Butler Street, Saugatuck, Michigan 49453 (the "City") and DUNE RIDGE SA, LP, a Michigan limited liability company, with an address of 231 West Fulton Street, Grand Rapids, Michigan 49503 ("Dune Ridge") enter into this Agreement regarding Real Property (the "Agreement") on \_\_\_\_\_, 2019.

**RECITALS**

A. Dune Ridge owns property within the City along the Kalamazoo River commonly known as Park St and as Permanent Parcel No. 57-009-066-10, and which is legally described as follows:

THAT PART OF THE N 100' OF GOVT LOT 4 LYING E OF RIVER RD EX THE N 20' THEREOF SEC 9 T3N R16W (93) (the "Dune Ridge Parcel").

B. The City owns intervening real property on the Kalamazoo River commonly known as Park St and as Permanent Parcel No. 57-03-009-063-00 and which is legally described as follows:

N 20 FT OF THAT PT OF GOVT LOT 4 LYING E OF RIVER ROAD SEC 9  
T3N R16W. .03 A.

(the "City Narrow Parcel").

C. The southern 20 feet of the Dune Ridge Parcel is owned by Dune Ridge and is legally described as:

S 20 FT OF THAT PART OF THE N 100' OF GOVT LOT 4 LYING E OF RIVER RD EX THE N 20' THEREOF SEC 9 T3N R16W (93) (the "Transfer Parcel")

D. The City intends to transfer the City Narrow Parcel (subject to certain conditions and requirements) to Dune Ridge, with Dune Ridge thereafter permanently combining the City Narrow Parcel with the Dune Ridge Parcel, and Dune Ridge also concurrently transferring to the City the Transfer Parcel.

E. The Saugatuck City Council has found that this Agreement (and the transactions referenced in this Agreement) is in the best interests of the City, as well as its residents, property owners and visitors.

### AGREEMENT

BE IT AGREED as follows:

1. **The Transaction.** The City will transfer the City Narrow Parcel to Dune Ridge and the City will transfer the Transfer Parcel to Dune Ridge, plus the following undertakings:

- a. At closing, Dune Ridge shall pay the City the additional sum of \$4000 which the City shall use for a speed limit sign/apparatus that incorporates a radar gun to show passing motorists their speed, which will be installed at the future city installed cross walk at Vine Street and Park as shown on the attached exhibit.
- b. City approves and Dunegrass shall install the remaining infrastructure

including an eight (8) foot high privacy screen to separate commercial traffic at the Chain Ferry from the adjacent private boat slips. The City does not have jurisdiction or authority to limit docks or other structures over the water with the exception of limiting the length of docks. These structures are subject to any applicable state or federal laws. A three (3) foot high open weave (6:1) fence along the current boardwalk and along future paved parking area will be permitted with the issuance of a standard fence permit. The gravel parking area will be paved and signs not to exceed 1 square foot in area indicating the parking assignments will be placed at the east side of each parking space.

- c. At closing, the City shall transfer ownership of the City Narrow Parcel to Dune Ridge.
- d. Dune Ridge shall also reimburse the City for the City's reasonable attorney fees and costs incurred in drafting and negotiating this Agreement, preparing for closing and related matters, which sum shall not exceed a total of \$1,000.
- e. At closing, Dune Ridge shall transfer ownership of the Transfer Parcel to the City resulting in the legal descriptions and survey in attached exhibit B.

2. **The Closing.** At the closing, the following shall occur:

- a. Dune Ridge shall pay the City the sum of \$5,000 under Section 1(a) and 1(e) hereof together with any and all other sums specified herein.

- b. The City shall transfer title to the City Narrow Parcel to Dune Ridge via a quitclaim deed.
- c. Dune Ridge shall transfer title to the Transfer Parcel to the City via a quitclaim deed.
- d. The parties shall pay the closing costs as specified in Section 3 hereof.
- e. Dune Ridge shall execute and record a deed permanently combining the Dune Ridge Parcel and the City Narrow Parcel.

3. **Closings Costs.** In addition to the other costs and expenses allocated in this Agreement, the following sums shall be paid at closing:

- a. Each party shall pay an equal fee to the title insurance company for document preparation and closing services.
- b. The real estate transfer taxes shall be split equally between the parties
- c. The recording costs for the quitclaim deeds and deed restriction documents shall be split equally between the parties.
- d. Given that the City is exempt from property taxes for the Transfer Parcel, there shall be no payment or apportionment of property taxes for the Transfer Parcel at closing.

4. **Governing Law.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Michigan.

5. **Entire Agreement.** This Agreement shall constitute the entire agreement between the parties, and any prior understanding or representation of any kind preceding the date

of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement.

6. **Authority of Signer.** Each signer below represents that he or she is authorized to sign and bind the respective party to the terms of this Agreement.

7. **Modification of the Agreement.** Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

8. **Successors and Assigns.** This Agreement touches and concerns the lands involved, shall run with the land and shall be binding on and shall inure to the benefit of the parties hereto, their heirs, successors and assigns.

9. **Paragraph Headings.** The titles to the paragraphs of this Agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement.

10. **Duplicate.** This Agreement has been executed in duplicate but constitutes only one contract or agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date stated above.

CITY OF SAUGATUCK, a Michigan  
home rule city

Dated: \_\_\_\_\_, 2019

By \_\_\_\_\_  
Ken Trester  
Its Mayor

Dated: \_\_\_\_\_, 2019

And by \_\_\_\_\_  
Monica Nagel  
Its City Clerk

\* \* \*

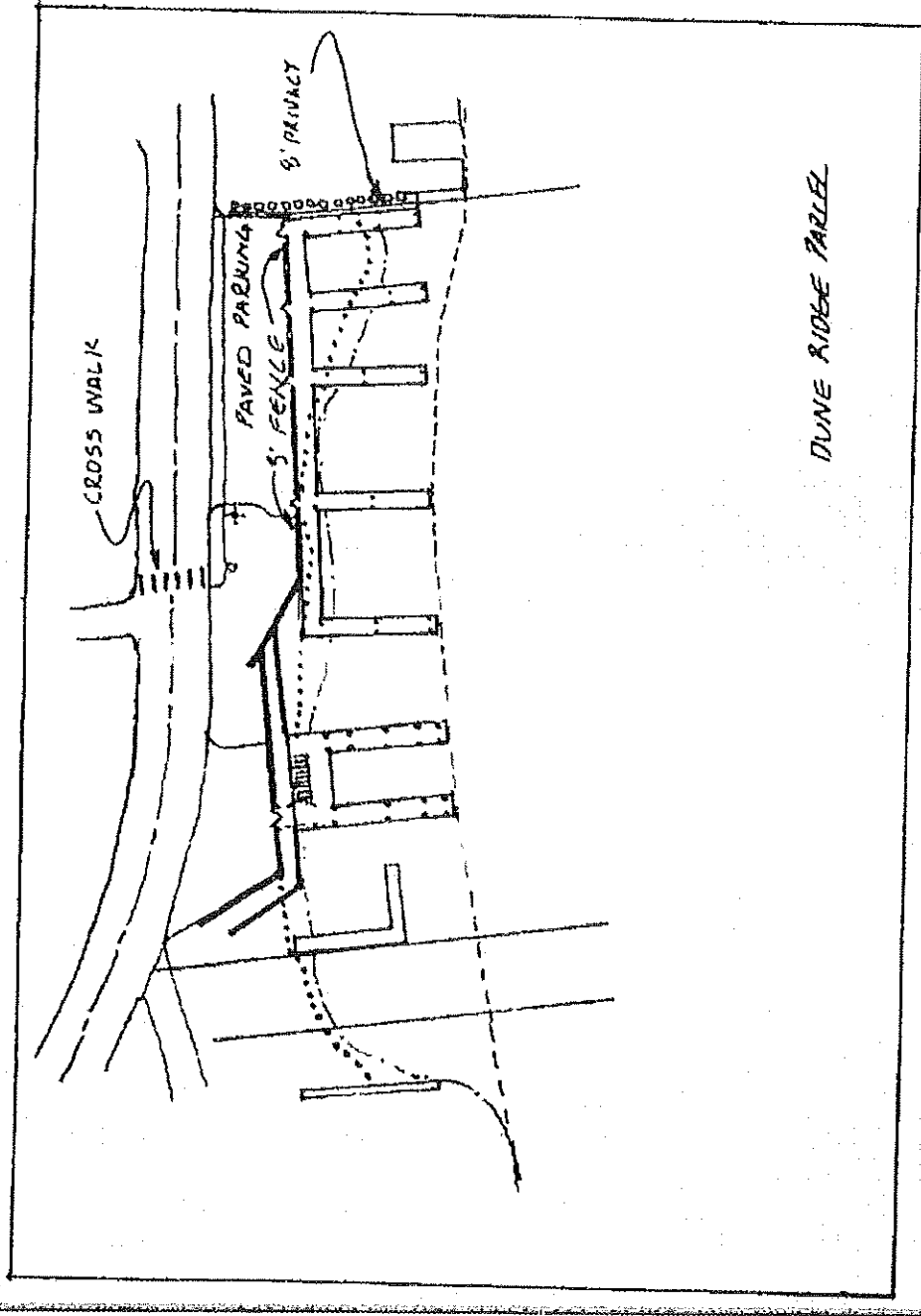
DUNE RIDGE, LLC, a Michigan  
limited liability company

Dated: \_\_\_\_\_, 2019

By \_\_\_\_\_  
Its Managing Member



# Exhibit A



DUNE RIDGE PARCEL

**Exhibit B:**

"New Overall": Part of Government Lot 4 of Section 9, Town 3 North, Range 16 West, Saugatuck Township, Allegan County, Michigan, described as: Commencing at the West 1/4 corner of said Section; thence S89°53'12"E 1480.41 feet along the historical East-West 1/4 line of said Section to the Point of Beginning; thence S23°33'26"W 87.20 feet along the Easterly right-of-way line of Park Street; thence S89°53'12"E 32 feet, more or less, to the waters edge of the Kalamazoo River; thence Northeasterly 85 feet, more or less, along said waters edge to a line bearing S89°53'12"E from the Point of Beginning; thence N89°53'12"W 20 feet, more or less, along said historical East-West 1/4 line to the Point of Beginning. Contains 1785 square feet, more or less. Subject to easements, restrictions and rights-of-way of record.

Parcel "A": Part of Government Lot 4 of Section 9, Town 3 North, Range 16 West, Saugatuck Township, Allegan County, Michigan, described as: Commencing at the West 1/4 corner of said Section; thence S89°53'12"E 1480.41 feet along the historical East-West 1/4 line of said Section; thence S23°33'26"W 87.20 feet along the Easterly right-of-way line of Park Street to the Point of Beginning; thence continuing S23°33'26"W 21.80 feet along said right-of-way line; thence S89°53'12"E 41 feet, more or less, to the waters edge of the Kalamazoo River; thence Northerly 20 feet, more or less, along said waters edge to a line bearing S89°53'12"E from the Point of Beginning; thence N89°53'12"W 32 feet, more or less, to the Point of Beginning. Contains 721 square feet, more or less. Subject to easements, restrictions and right-of-way of record.

## Cindy Osman

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**From:** Michael Prokopeak <mprokopeak@yahoo.com>  
**Sent:** Thursday, June 17, 2021 3:13 PM  
**To:** Ryan Heise; Cindy Osman  
**Cc:** Mark Bekken  
**Subject:** Objection to variance/Application 21001

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hello Ryan/Cindy: please provide these comments below to the members of the ZBA and also include this email in the packet sent to the ZBA as part of the record for its June 17, 2021, hearing.

Dear Members of the City of Saugatuck Zoning Board of Appeals,

We urge the ZBA to reject the variances requested by Dune Ridge/VHH Saugatuck Holdings in Application 21001 related to two sections of fencing and setbacks for a bathroom/laundry facility at 443 Park Street. It's clear the applicant has not demonstrated that any of these variances meet the standards set forth in the Saugatuck Code of Ordinances for dimensional variances from Code requirements.

As a result, approval of these variances would cause harm to city residents and tourists alike and would be inconsistent with the Code. That's not to mention the negative effect these developments would cause to local property values and quality of life.

As immediate neighbors of this proposed development and property owners on Park Street for nearly 40 years, we are concerned about the irreparable damage this will cause the historic character of the area, and the safety implications of this development at an already congested location near which our small children often play.

Sincerely,  
Michael and Gina Prokopeak  
438 Park Street  
Saugatuck, MI

June 16, 2021

Dear Members of the City of Saugatuck Zoning Board of Appeals,

I am writing to share my concerns about Application 21001, submitted by Paul Heule and VHH Saugatuck Holdings, LP/Dune Ridge SA, LP (“the Submission”) that the Zoning Board of Appeals (“ZBA”) is scheduled to review at a hearing on June 17. My home is located almost directly across the street from the property at issue in the Submission, so I am very familiar with this location. For the reasons described below, the ZBA should reject each of the three dimensional variance requests presented in city staff’s memo to the ZBA (“the Memo”) because they do not meet the standards set forth in the City of Saugatuck Code of Ordinances (“the Code”).

**“Variance 1” in the Memo: Setback Variances for a Bathroom/Utility Room**

Compliance with the setback requirements at 443 Park Street (“the Property”) would not prevent the applicant from using the property for its permitted use as private docks. Common sense dictates that an on-site bathroom and laundry facility are not necessary to engage in recreational boating. Even if they were, the docks are only permitted for private use by Dunegrass residents under both the Code and Dune Ridge’s EGLE permit. Therefore, any boaters at the Property must own a single family home at the Dunegrass development that is located less than a mile from the Property where they can easily access their own laundry and bathroom facilities. Moreover, the city maintains public restrooms located within close proximity of the Property.

In addition, allowing the setbacks would cause substantial injustice to residents and tourists. If permitted, the proposed bathroom/laundry facility would practically sit on Park Street. As a result, it would fully block any driver’s view of Chain Ferry passengers disembarking onto a busy portion of Park Street, creating a dangerous situation for both the passengers and drivers.

Importantly, the ZBA has already considered and rejected Dune Ridge’s request for setback variances for a bathroom facility. The Submission is substantially the same as the application that was previously denied, and that denial was subsequently upheld by the Allegan Circuit Court in 2017. No changes to the Code or the Property have occurred since 2017 that would alter the ZBA’s analysis of the standards that led to its previously upheld denial of Variance 1. Moreover, the legal question remains as to whether the ZBA even has the authority to revisit a previously adjudicated ruling regarding these setback variances.

**“Variance 2” in the Memo: Variances to Allow a Four Foot High Fence with Gate on the South End of the Property**

The Code requires that applicants show that each of the four standards for a variance is met (section 154.155(B)). Dune Ridge has not met its burden as required in the Code by explaining how these variances meet each of these standards. In fact, the Submission does not address the standards with respect to Variance 2 in either the form application questions or the free

text narrative included in the Submission. Therefore, pursuant to the plain language of the Code, the ZBA must reject Variance 2 because Dune Ridge has failed to explain how these variances meet any of the Code's standards.

### **“Variance 3” in the Memo: Variances to Allow an Eight Foot High Fence Next to the Chain Ferry**

As an initial matter, the same fencing sections of the Code that apply to Variance 2 should be applied to Variance 3 when considering any variance with respect to the 8 foot tall fence next to the Chain Ferry. Sections 154.143(E)(5) and 154.143(F)(6) of the Code apply to the eight foot tall fence, and those provisions require that the front portion of the fence not exceed three feet in height (because it is within the front yard setback), that any portion beyond the front yard setback not exceed four feet in height (because it is located within 25 feet of the river), and that the entire stretch of fencing must be a minimum ratio of six parts open space to one part solid material (because it is located within 25 feet of the river).<sup>1</sup> As a result, the Submission effectively seeks a five foot variance for the front portion of the fence, a two-to-four foot variance for the back portion of the fence, and a variance from the six to one open space ratio for the entire fence.

The ZBA should reject all of these variances that comprise “Variance 3” because a deviation from the Code's fencing requirements is not necessary to enable boaters to use the Property. Chain Ferry passengers do not interfere with boaters at the Property in any way. In fact, the passengers have no interest in the Property; they either linger close to the Chain Ferry landing while eagerly waiting to take the ferry to the downtown area, or they quickly exit the ferry upon arrival on the west side of the river to explore the numerous sites that are exceedingly more interesting than the Property. Moreover, as with Variance 1, permitting these variances would cause substantial injustice to residents and tourists because the resulting fence would endanger those individuals when using the Chain Ferry or driving down a busy stretch of Park Street without a clear line of sight to Chain Ferry passengers exiting onto the street. In addition, the resulting structure would replace residents and tourists view of the river with a wooden eyesore. Lowering part, or even all, of the solid board fence to six feet in height would not alter this analysis.

Finally, it is not clear that the ZBA even has the authority to consider a variance related to the fencing structure next to the Chain Ferry. Section 154.022(F)(4) of the Code provides that “all

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<sup>1</sup> The Memo incorrectly states that the applicant only needs a variance of two feet based on sections 154.142(D)(3) and 154.142(F) of the Code. Section 154.142(D)(3) allows for a five to six foot fence along an adjoining boundary “with **residentially** zoned or used property” (emphasis added). Section 154.142(F) similarly refers to screening to covering support equipment “[w]here a commercial or industrial zone or use abuts a **residential** zone or use” (emphasis added). The City cannot interpret either of these sections of the Code as applying to the location of the eight foot fence because the Chain Ferry is not a residential property, and 443 Park Street is neither commercial nor industrial.

structures on a waterfront lot shall have a setback of 25 feet from the waterfront.” The ZBA should consider how this section of the Code affects its authority to rule on Variance 3.

\* \* \* \* \*

For the reasons set forth above, I believe the ZBA must deny each variance set forth in the Memo because none of them meet the standards set forth in the Code. Alternatively, it would also be appropriate for the ZBA to seek independent, outside counsel to consider whether it even has the authority to rule on the variances.

Sincerely,  
Ann Broeker  
508 Park Street

## Cindy Osman

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**From:** Sue Bleers <susiebleers@gmail.com>  
**Sent:** Thursday, June 10, 2021 5:12 PM  
**To:** Cindy Osman  
**Subject:** Variances at Park and Bliss

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

To Saugatuck city:

It is difficult to comprehend how the question of a variance regarding the building of a washroom would even be allowed to be introduced again when it was already denied when it came up before. It is just as difficult to understand why a n 8 foot fence was allowed to be constructed when it was also denied. Who is running Saugatuck. Others of us who have tried to get variances have been denied and we had to live with the decision. Why on earth shouldn't they have to live with the decision also. Shouldn't the ordinances apply to all especially when variances are denied. Who follows through when someone ignores the decision and does whatever they want. Wouldn't Saugatuck become chaos and fall apart if this is the way the government is treated This went from a couple of piers for owners of the houses being built on the lake to calling a little slip of land a marina? And putting in rental houseboats? Since when is a marina a rental facility full of houseboats owned by one company.

A marina by definition is a place for small boats and yachts to dock not a place for an owner to put in a bunch of houseboats he rents out.

Is the definition of a marina now a small strip of l lol and along water that anybody can buy and throw in rental houseboats. This doesn't benefit the neighborhood or Saugatuck at all.

Sincerely, Susan Bleeds

Dear Members of the Saugatuck Zoning Board of Appeals,

I am writing to you to implore you to reject the many variances and setbacks applied for by VHH Saugatuck Holdings, LP at 443 Park Street. This stretch of Park Street is a favorite spot for tourists and residents alike. Because of this, it is a very congested area during the summer season. Pedestrians, bikers, and hikers flood this area from early morning until after sunset. The fence/wall that currently blocks their sightline and that of drivers approaching the area is a safety hazard. Their safety would be compromised further with construction of the building and additional new fencing if it is allowed. The road is already congested and narrow and additional encroachments on space for walking and biking would be extremely dangerous.

I question what is the reason that Saugatuck Holdings is requesting that the fence should be 4' high; what is the reason that it must be solid board; and what is the reason for no opacity? The previously constructed wall/fence is out of character with the area and I believe that all the variances requested are also out of character with the area.

Please deny the many variances that are not appropriate for the size or character of the land.

Thank you,

Jean Prokopeak

438 Park



June 10, 2021

Dear Members of the Saugatuck Zoning Board of Appeals,

As you face the decision on the issue of approving/disapproving the variance and setback requests made by VHH Saugatuck Holdings, LP, I would like to add my voice to the discussion. I find it difficult to understand why, when this issue was previously litigated, it should be considered again. It is the same party making the same request.

In 2017 when the original request was brought before the Planning Commission and a special land use was permitted the request was presented in very different terms. The original request was presented as private dock spaces for personal watercraft of Dune Grass residents. Since that time, the "marina" has completely changed its character and has developed into something for which the sliver of land was never suitable. The VHH Saugatuck Holdings, LP current plan to use this property as a commercial marina is not appropriate for the size of the land.

Although this area is designated R-Resort C-4 that does not mean that this sliver of property is appropriate for a commercial marina with all the amenities and sufficient parking. VHH Saugatuck Holdings, LP purports that "the essential nature of the area revolves around waterfront activities, primarily related to pleasure boating granting a variance for the bathroom/laundry room/storage building is consistent with the existing uses. The requested 6' privacy screen would allow a continuation of pleasure boat usage at the adjacent dock". From my recollection, the area has been used for pleasure boating/canoeing for well over 50 years without a 6' privacy screen. A privacy screen is not needed now.

Thank you for your attention to this matter.

Sincerely,

Bob and Amy Peick

438 Park Street