



**CITY OF SAUGATUCK  
REGULAR MEETING ZONING BOARD OF APPEALS  
August 11, 2022 – 7:00 PM  
SAUGATUCK, 102 BUTLER STREET**

**In person meeting**

1. Call to Order/Roll Call
2. Agenda Changes
3. Approval of Minutes: June 9, 2022
4. New Business:
  - A. 1034 Holland Street - height
  - B. 640/650 Water Street – setback and use
5. Unfinished Business: None
6. Communications: None
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

This public meeting will be held in person at Saugatuck City Hall. Interested parties may attend in person or participate by using Zoom video/audio conference technology.

Join online by visiting:

<https://us02web.zoom.us/j/2698572603>

Join by phone by dialing:

**(312) 626-6799**

**-or-**

**(646) 518-9805**

Then enter “Meeting ID”:

**269 857 2603**

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 Meeting  
Saugatuck, Michigan, June 9, 2022**

The Saugatuck Zoning Board of Appeals met in regular 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: McPolin, Bouck, & Kubasiak

Absent: Bont, Zerfas, Muir, Hundrieser

Others Present: Zoning Administrator Osman

2. **Approval of Agenda:**

McPolin made a motion, 2<sup>nd</sup> by Bouck to approve the agenda as submitted. The motion carried unanimously.

3. **Approval of Minutes:**

Bouck made a motion, 2<sup>nd</sup> by McPolin, to approve the minutes as submitted. The motion carried unanimously.

4. **New Business:**

**A. Public Hearing 181 Park Street – lot coverage.**

Kubasiak opened the public hearing at 7:04. ZA Osman gave a brief overview of the application, how the application expired. Steve Scheller gave a presentation that there have been no changes to the property since the variance was granted in December 19, 2019. There was no public comment and no written communication. The public hearing was closed at 7:11.

The board went into deliberation and the Board discussed the standards:

Standard 1. The lot is very narrow and about 20% smaller than a standard lot. This standard is met.

Standard 2. The applicant is requesting the smallest size garage possible. This will be a single stall garage and will only result in a 2.7% coverage more than the 25% limit on lot coverage. This standard is met.

Standard 3. The lot is unique, only one of three that are this narrow. The new garage will meet all the required setbacks, only to exceed the maximum lot coverage of 25% by 2.7% This standard is met.

Standard 4. Is the problem self-created – no. Because the variance expired, it is costing the applicant a significant price increase, due to the COVID and price of materials is much higher. This standard is met.

A motion was made by Bouck, 2<sup>nd</sup> by McPolin, to approve the variance V220005 of 2.7 percent of lot coverage for the construction of a single car garage at 181 Park Street for a coverage of 27.7 percent where a maximum of 25 percent is permitted, based on the findings of fact. The application and staff report are to be attached to the minutes and are part of the record and findings of fact. The motion carried unanimously.

5. **Unfinished Business:** None
6. **Communications:** None
7. **Public comment:** None
8. **Reports of Officers and Committees:** None
9. **Adjournment:** Meeting adjourned at 7:29 by Kubasiak.

Respectfully Submitted,

Jamie Wolters  
City Clerk



**BACKGROUND REPORT  
ZONING BOARD OF APPEALS AUGUST 11, 2022**

**APPLICATION: V220006**

**1034 HOLLAND ST 57-100-005-00**

**KATHERINE JAMES**

**REQUEST:** Demolish existing house, build new house at approximately 32.5 feet in height, where a maximum of 28 feet is allowed, and an approximate peak height of 35 feet where a maximum of 32 feet is allowed.

Mike Schaap Builders Inc., on behalf of the owner of the property, Kathrine James, at **1034 HOLLAND ST** has submitted an application to the Zoning Board of Appeals for a variance. The purpose of this report is to provide a review of the application, standards for consideration, and any available history of zoning activity for this parcel.

**BACKGROUND:** The property is located in the **CR-COMM RES R-1 zoning district**. It is located in the Flint Assessor's Plat created in 1971 and approved by City (then Village) of Saugatuck, and by the State of Michigan. There have been recent lot line adjustments to correct some problems with access and easements. The lot is slightly bigger than it used to be but the issue with the slope still remains. **In 2019 the ZBA granted a similar variance, but they sold the property. In any event the variance would have expired.**

The applicant proposes to demolish the existing house and build a new house at approximately 32.5 feet in average height, where a maximum of 28 feet is allowed and a peak height of 34 feet 9 inches where the maximum height is 32 feet.

**ZBA AUTHORITY:** According to Section 154.155 (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 the Zoning Ordinance 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 the ordinance is observed, public safety secured, and substantial justice done.

Variations should only be approved in limited cases with unique circumstances and extraordinary conditions. When variations are granted that do not strictly satisfy the required standards, the review process becomes a way to circumvent zoning requirements. Further, it may eventually

delegitimize a process intended by the Michigan Zoning Enabling Act, the courts, and the City of Saugatuck Zoning Ordinance to identify true cases of practical difficulties and unnecessary hardships. If the required standards are not met, there is a higher likelihood that individual landowners will be granted singular benefits not available to other landowners in the City.

**DIMENSIONAL VARIANCE:** 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:** A single-family dwelling is a permitted use in this zoning district. Setback requirements and those created by the flood plain location limit the footprint of the house to a smaller house footprint. The building envelope is significantly narrower and smaller based on the steep grade and the narrower eastern portion of the property. One could argue that without the variance, a walk-out lower level would be impossible. Therefore, requiring compliance could be considered 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*

**Comment:** The architect and the owners worked to lessen the proposed height to the lowest possible level without compromising the floor area. Other homes in the area are higher than the proposed new home.

Although height is measured from the average grade, the “perceived” height of the home from the front elevation is just under 24 feet (average roof height to the existing front grade). Toward the rear of the proposed house, before the overhanging area, the perceived side elevation is just under 26 feet. The overall height measurement is only nonconforming based on the walk-out lower floor and steep grade. Even when viewing the side elevation, the upper floor does not overhang the slope, and there is a “step down” in building height. As such, the height would not cause any visual impact from the north and south side views. Only from the rear/river view would the home appear higher than a conforming home.

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

**Comment:** The property is unique because of its size, shape, and topography. The lot is narrow along the east end and then widens to a small level area before the steep slope. The creation of this plat in 1971 poses challenges that are unique to this plat.

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

**Comment:** The situation is created by the platters of the subdivision and is not based on personal financial circumstances. Additionally, the height restriction and terrain make it difficult, if not impossible, to build a compliant home with a lower-level walk-out.

**DIMENSIONAL VARIANCE RECOMMENDATION:** We bring to your attention that pursuant to Section 154.155 (B) that if the applicant is not able to meet **all the required standards noted above**, the Board must deny the request. If the Board finds that the practical difficulty is not unique but common to several properties in the area, the finding shall be transmitted by the Board to the Planning Commission, who will determine whether to initiate an amendment to the Zoning Code, per Section 154.156 (C).

**Possible motion:**

Move to approve/deny application V220006 for a new house at 1034 Holland Street with an average height of not more than 32.5 feet resulting in a variance of 4.5 feet and a maximum peak height of 34.75 for a variance of 2.75 feet. The proposed home will meet all the setback requirements. The staff report shall be attached to the minutes and become part of the findings of fact.

**FINDINGS OF FACT:** Please note that any motion, in support or against the variance requests, must specifically reference the ZBA's findings concerning all applicable standards. The ZBA must provide its own findings on why the request meets or does not meet the applicable standards. The comments in this report may be used as a basis for the ZBA's findings. Regardless of the decision, the minutes and written record of the decision must document the ZBA's findings and conclusions. As such, it is essential for the findings to be read aloud or referenced during the meeting.



# Zoning Board of Appeals Application

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

Address 1034,1040,&1044 Holland st Parcel Number 57-100-004-00

## APPLICANTS INFORMATION

Name Mike Schaap Builders inc Address / PO Box 12969 Greenly St.  
City Holland State MI Zip 49424 Phone 616 399 9925  
Interest In Project Home owners agent E-Mail mikes@mikeschaapbuilders.com  
Signature *Mike Schaap* Date 7-15-22

## OWNERS INFORMATION (IF DIFFERENT FROM APPLICANTS)

Name Troy and Katie James Address / PO Box 3410 Meadow hill dr.  
City South Bend State IN Zip 46614 Phone 312 925 7616  
E-Mail katiemillerjames@gmail.com

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 *Troy James* Date 7-15-22

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

Name Mike Schaap Builders inc Contact Name Mike Schaap  
Address / PO Box 12969 Greenly St City Holland  
State MI Zip 49424 Phone 616 399 9925 Fax \_\_\_\_\_  
E-Mail Mikes@mikeschaapbuilders.com  
License Number 2102088044 Expiration Date 5-31-23

## PROPERTY INFORMATION

Depth 270' Width 50' Size 17297 sf Zoning District R-1 Current Use single family  
Check all that apply: Waterfront  Historic District \_\_\_\_\_ Dunes \_\_\_\_\_ Vacant \_\_\_\_\_  
Application Type: Interpretation \_\_\_\_\_ Dimensional Variance  Use Variance \_\_\_\_\_

## REQUEST DESCRIPTION (ATTACH MORE SHEETS IF NECESSARY)

Requesting an additional 2'10" in height from average natural grade to peak roof height. The existing natural grade is so steep that it will be several feet below the basement floor. This situation causes the average natural grade to be extremely low. We have done everything we can including planing for a 3:12 pitch roof which is the lowest possible pitch possible with an asphalt roofing material to reduce the height of this structure, while maintaining a certain aesthetic quality.



**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;

The steep existing slope of this lot reduces the permissible height to the point of eliminating any possibility of a second level. The unique shape and limited size of the lot makes it very difficult and expensive to create a large footprint for the home, which is why its designed as a two story.

- (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;

Being able to build a two story home is standard practice in this area allowing the homeowner to build a comparable home to neighboring properties. Building a two story home would reduce the house footprint decreasing the impact on adjacent homes

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

The unique flag shape of the lot places the build able area of the lot on a steep slope. The steep slope of the natural grade creates an extremely low average grade.

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

This hardship is created by the natural steep slope of the land and the shape of the lot that dictates the the buildable area location



**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 \_\_\_\_\_



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Builder:



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Holland, MI 49424 fx: 616.399.9924

www.mikeschaapbuilders.com

Engineer:

Project:

**The James**

**Res.**

1034 Holland st.  
Saugatuck, MI

Description:

Site Plan

Scale

1" = 10'-0"

Drawing date

07/7/2022

description date

For Review 7/7/22

For Bid

For Permit

For Const.

Sheet number:

**AO.1**

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1 Site plan  
1" = 10'-0"



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Project:

**The James**

**Res.**  
1034 Holland st.  
Saugatuck, MI

Description:

Elevations

Scale

1/4" = 1'-0"

Drawing date

07/7/2022

description date

For Review 7/7/22

For Bid

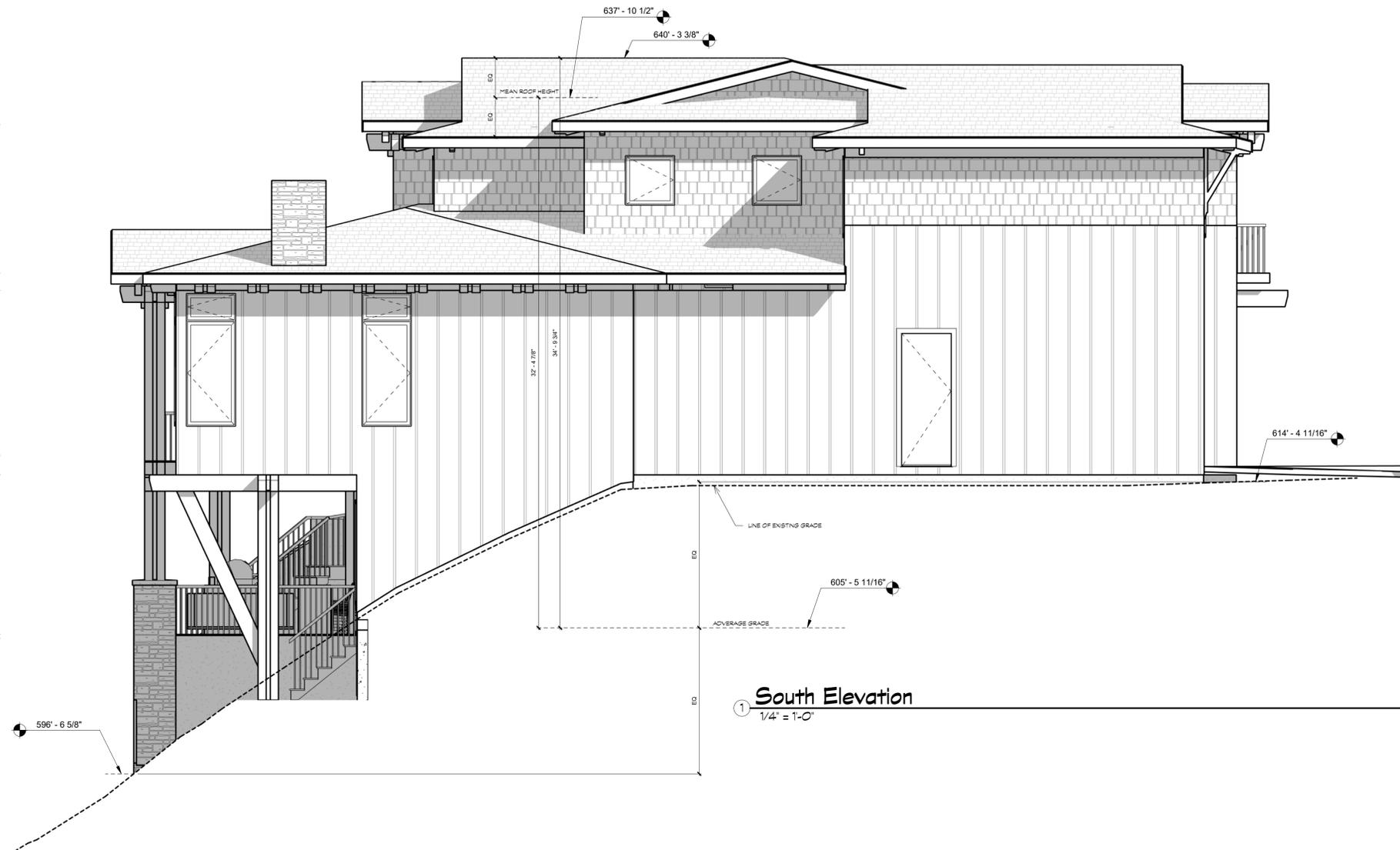
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Sheet number:

**A1.1**

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**South Elevation**  
1/4" = 1'-0"

Upper Lv. Plate  
636' - 2 7/8"

Upper Lv. Sub Floor  
627' - 1 3/4"

Main Lv. plate  
626' - 1 1/8"

Main Lv. Sub Floor  
616' - 0"

Top of Foundation wall  
614' - 9 7/8"



**East Elevation**  
1/4" = 1'-0"



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Engineer:

Project:

**The James Res.**  
1034 Holland st.  
Saugatuck, MI

Description:  
Elevations

Scale

1/4" = 1'-0"

Drawing date

07/7/2022

description date

For Review 7/7/22

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**A1.2**

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① North Elevation  
1/4" = 1'-0"



② West Elevation  
1/4" = 1'-0"



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Engineer:

Project:

**The James**

**Res.**  
1034 Holland st.  
Saugatuck, MI

Description:

Lower Lv.  
Design Plan

Scale

1/4" = 1'-0"

Drawing date

07/7/2022

description date

For Review 7/7/22

For Bid

For Permit

For Const.

Sheet number:

**D 1.0**

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① Lower Lv. Design Plan  
1/4" = 1'-0"



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Engineer:

Project:

**The James**

**Res.**  
1034 Holland st.  
Saugatuck, MI

Description:

Main Lv. Design  
Plan

Scale

1/4" = 1'-0"

Drawing date

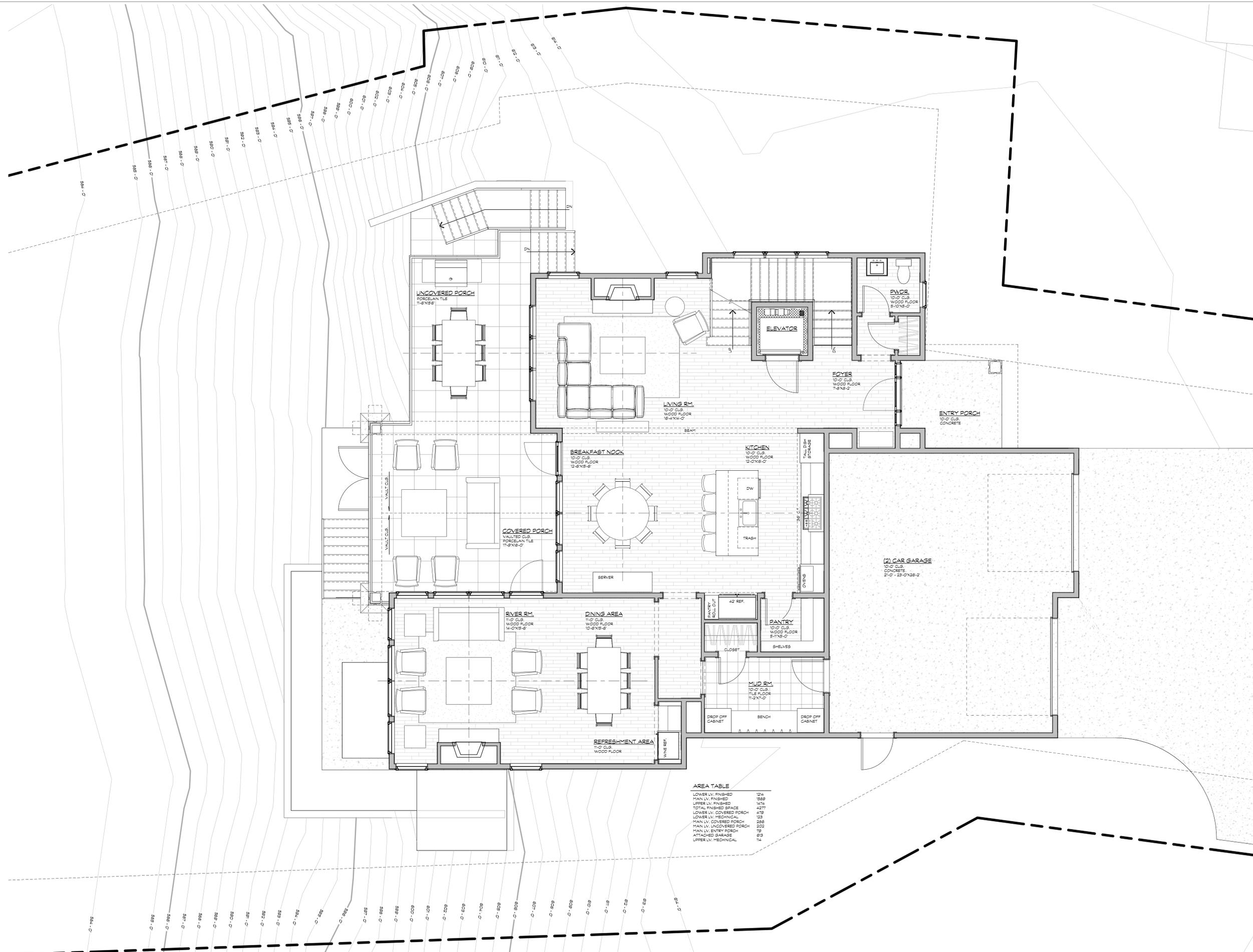
07/7/2022

description	date
For Review	7/7/22
For Bid	
For Permit	
For Const.	

Sheet number:

**D 1.1**

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1 Main Lv. Design plan  
1/4" = 1'-0"



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Engineer:

Project:

**The James**

**Res.**  
1034 Holland st.  
Saugatuck, MI

Description:

Upper Lv. Design  
Plan

Scale

1/4" = 1'-0"

Drawing date

07/7/2022

description date

For Review 7/7/22

For Bid

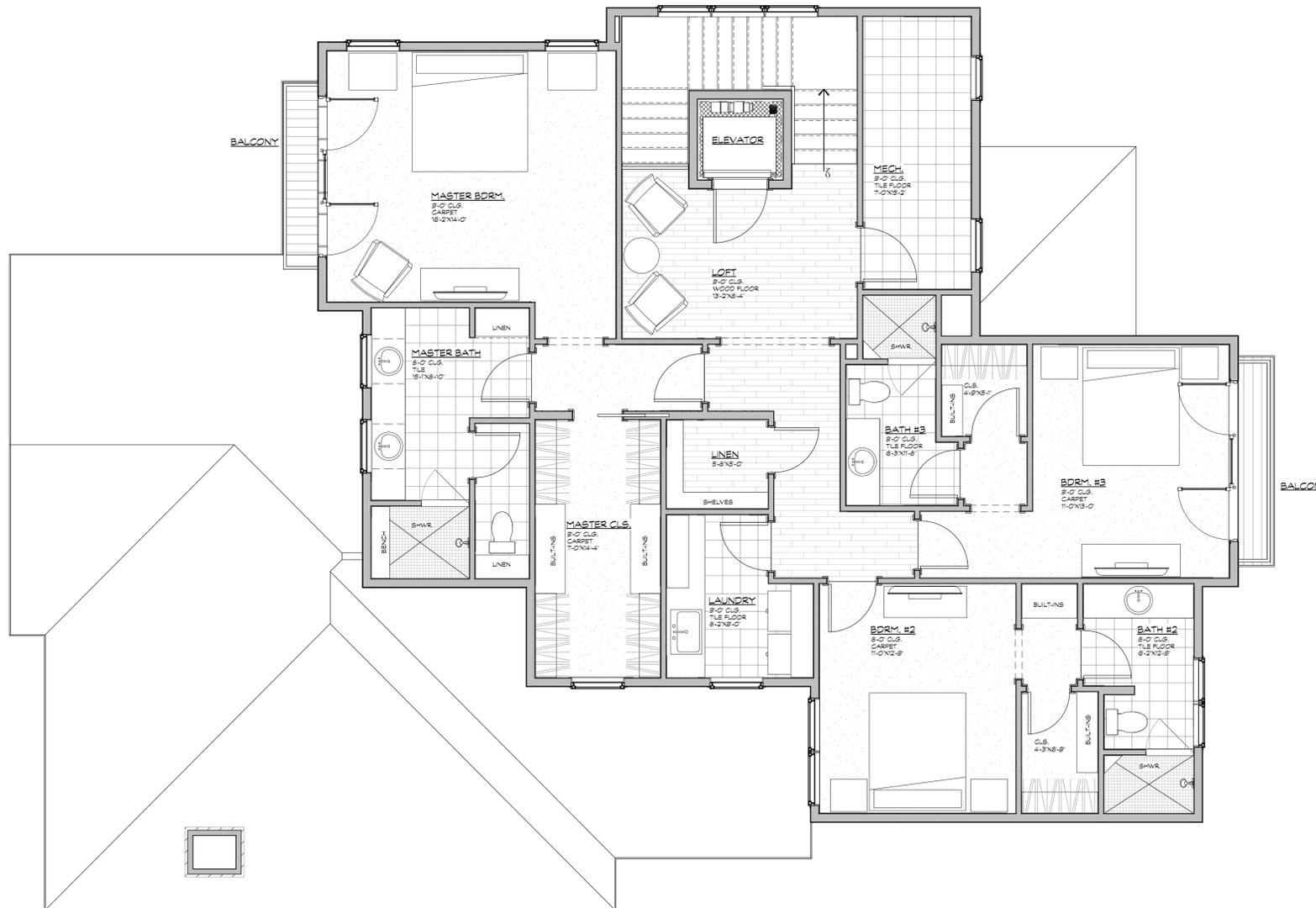
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For Const.

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**D 1.2**

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① Upper Lv. Design Plan  
1/4" = 1'-0"



**BACKGROUND REPORT  
ZONING BOARD OF APPEALS AUGUST 11, 2022**

**APPLICATION: V220007**

**640 AND 650 WATER ST 57-300-030-00**

**3520 36TH STREET PROPERTY LLC**

**REQUEST:** The applicant is requesting a non-use variance for the required waterfront setback and a use variance for a residential unit on the first floor.

Integrated Architecture, on behalf of D. J. VanderSlik, one of the owners of properties located at **640 WATER ST and 650 WATER ST**, has submitted an application to the Zoning Board of Appeals for two variances. The purpose of this report is to provide a review of the application, standards for consideration, and any available history of zoning activity for this parcel.

**BACKGROUND:** The properties are approximately 10,429 square feet and 7,003 square feet, respectively, and are located in the **WSN-WATER N C1** zoning district. The existing buildings encroach into the required setbacks and the City right-of-way and are proposed to be removed and replaced with a single new building. If redeveloped, these parcels will need to be combined, or the building will span over the shared property line.

The applicant proposes a 20,237 square foot, three-story, mixed-use building. The first floor is labeled commercial, lobby, a small apartment, and dock support that is assumed to be a laundry, shower, bathroom, and kitchen area. The commercial end-user is not known, and the applicant should address future use during the meeting. The second and third floors are proposed for residential dwelling units.

This application is also subject to Historic District Commission review and site plan review by the Planning Commission. If a future commercial use is classified as a special land use, a public hearing will occur as part of a future review. Condominium approval will be necessary if the units are intended to be sold.

The first request is a non-use variance related to the waterfront setback. The relevant Code section is 154.022(F)(4) *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. The lot line which abuts the street shall be deemed to be the front lot line, and the two remaining yards shall both be required side yards. There are no other exemptions for this zoning district. Please note

that the setbacks of the existing buildings have no relationship to the proposed building, as all nonconforming rights are lost as soon as the buildings are demolished.

The second request is a land use variance to allow a residential dwelling unit on the first floor of the building. In the subject zoning district, only “second- and third-floor apartments” are permitted, which means first-floor residential units are prohibited.

**ZBA AUTHORITY:** According to Section 154.155 (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 the Zoning Ordinance 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 the ordinance is observed, public safety secured, and substantial justice done.

Variations should only be approved in limited cases with unique circumstances and extraordinary conditions. When variations are granted that do not strictly satisfy the required standards, the review process becomes a way to circumvent zoning requirements. Further, it may eventually delegitimize a process intended by the Michigan Zoning Enabling Act, the courts, and the City of Saugatuck Zoning Ordinance to identify true cases of practical difficulties and unnecessary hardships. If the required standards are not met, there is a higher likelihood that individual landowners will be granted singular benefits not available to other landowners in the City.

**DIMENSIONAL VARIANCE:** 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 north end of the building could conceivably meet setback requirements because the lot is approximately 65 feet in depth (650 Water Street) while the property to the south constricts to 46 feet in depth (640 Water Street). One could argue that a setback variance for the north end of the building is unnecessary as it would not be unnecessarily burdensome to restrict the north portion of the building to 40 +/- feet in depth while conforming to the 25-foot setback.

The building could only be approximately 20-21 feet deep to conform to the 25-foot setback at the south end. This depth could be considered unnecessarily burdensome for a commercial and mixed-use structure. Approximately one-quarter of the 640 Water Street portion could be built with a 25-foot setback and 40-foot deep building. From that point south, the building depth would need to be constricted at the same rate as the lot constricts.

The applicant states that the buildable area is “not conducive to the program requirements of a mixed use commercial and residential building.” I would tend to agree with this comment, but only as it relates to the south end of the project area (640 Water Street).

- 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 applicant states, “a variance to the 25’ waterfront setback allowing a structure with similar waterfront setbacks to the existing structures provides a viable commercial lease depth and retains pedestrian access to the waterfront through the site. The non-conforming front yard setback condition of the existing structures will now conform to the ordinance with the proposed structure, effectively increasing the depth of the public streetscape along Water Street.”

As stated earlier, the setbacks of the existing buildings have no relationship to the proposed building, as all nonconforming rights are lost as soon as the buildings are demolished. A comparison should not be made to the existing building. However, the building to the south is generally aligned with the proposed rear elevation of the building, and the building to the north extends further west toward the river than the proposed building. One could argue that since the proposed building does not extend any further west than adjacent buildings, a variance would do justice to the applicant and adjacent property owners. However, the ZBA may wish to discuss if a lesser relaxation would give substantial relief.

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

**Comment:** The applicant states that the waterfront setback is irregular. The constricting nature of the lot is irregular, and some degree of setback relief may be appropriate. Further, this condition does not appear to apply to nearby waterfront properties, meaning this situation is fairly unique.

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

**Comment:** The applicant did not create the irregular-shaped lot, and a financial argument was not offered.

**DIMENSIONAL VARIANCE RECOMMENDATION:** We bring to your attention that pursuant to Section 154.155 (B) that if the applicant is not able to meet **all the required standards noted above**, the Board must deny the request. If the Board finds that the practical difficulty is not unique but common to several properties in the area, the finding shall be transmitted by the Board to the Planning Commission, who will determine whether to initiate an amendment to the Zoning Code, per Section 154.156 (C).

**Possible motion:**

Motion to approve/deny the application for a non-use variance for the properties at 640 and 650 Water Street based on the following findings:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

If a motion for approval, the following may be added to the motion: Approval of a waterfront setback variance is conditioned upon the following:

1. The site plan submitted for Planning Commission review shall reflect the concept plan submitted as part of the variance review titled “Site Plan | Ground Floor” prepared by Integrated Architecture, last revised July 14, 2022 (if needed, add “except the setback shall be no less than \_\_\_\_\_ feet from the waterfront”).
2. The building shall be no higher than 28 feet and no more than three stories.
3. The building footprint shall be no greater than 6,467 gross square feet.
4. The building shall comply with all other dimensional requirements of the Zoning Ordinance.
5. The properties shall be joined as a single parcel.
6. \_\_\_\_\_
7. \_\_\_\_\_

**USE VARIANCE:** Section 154.155 (C) provides the standards that must be met in order for the Board to grant a use variance. 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;*

**Comment:** By proposing that commercial use is feasible on the first floor, the applicant has demonstrated that the property in question can be used for other land uses other than residential.

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

**Comment:** While the property is unique as it relates to its constricting dimension, that factor does not relate to the feasibility of first-floor land uses.

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

**Comment:** Committing a small percentage of the first-floor area to an apartment would not likely change the character of the neighborhood (600 square feet or nine percent)

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

**Comment:** A valid problem has not been identified by the applicant. The situation is self-created.

**USE VARIANCE RECOMMENDATION:** We bring to your attention that pursuant to Section 154.155 C that if the applicant is not able to meet all the required standards noted above, the Board shall deny the request. If the Board finds that the hardship is not unique but common to several properties in the area, the finding shall be transmitted by the Board to the Planning Commission, who will determine whether to initiate an amendment to the Zoning Code, per Section 154.156 (C).

**Possible motion:** Motion to approve/deny a use variance for an apartment on the first floor at 640/650 Water Street with the following findings of fact:

**Possible motion:**

Motion to approve/deny the application for a use variance for a one (1) first-floor dwelling unit within the proposed building at 640 and 650 Water Street based on the following findings:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

If a motion for approval, the following may be added to the motion: Approval of the use variance is conditioned upon the following:

1. The first-floor dwelling unit shall be no greater than 600 square feet.
2. The first-floor dwelling shall be oriented to the rear and central pedestrian corridor of the building.
3. The first-floor dwelling shall generally comply with the floor plan shown on the plan titled "Site Plan | Ground Floor" prepared by Integrated Architecture, last revised July 14, 2022.
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_

**FINDINGS OF FACT:** Please note that any motion, in support or against the variance requests, must specifically reference the ZBA's findings concerning all applicable standards. The ZBA must provide its own findings on why the request meets or does not meet the applicable standards. The comments in this report may be used as a basis for the ZBA's findings. Regardless of the decision, the minutes and written record of the decision must document the ZBA's findings and conclusions. As such, it is essential for the findings to be read aloud or referenced during the meeting.



### Zoning Board of Appeals Application

**LOCATION INFORMATION** **APPLICATION NUMBER** \_\_\_\_\_ - \_\_\_\_\_

Address 640 / 650 Water Street Parcel Number 03-57-300-029-00, 03-57-300-030-00

**APPLICANTS INFORMATION**

Name Integrated Architecture Address / PO Box 840 Ottawa Avenue  
City Grand Rapids State Michigan Zip 49503 Phone (616) 574-0220  
Interest In Project Project architect E-Mail dhuizenga@intarch.com  
Signature [Handwritten Signature] Date 7-15-2022

**OWNERS INFORMATION (IF DIFFERENT FROM APPLICANTS)**

Name 3520 36th St. LLC Address / PO Box 4720 52nd St. SE  
City Grand Rapids State Mi Zip 49512 Phone 616-437-6219  
E-Mail dj@grandridgemi.com

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 [Handwritten Signature] Date 7/18/2022

**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 \_\_\_\_\_  
E-Mail \_\_\_\_\_  
License Number \_\_\_\_\_ Expiration Date \_\_\_\_\_

**PROPERTY INFORMATION**

Depth ~65' Width ~166' Size ~.227 acres Zoning District C-1 WSN Current Use commercial  
Check all that apply: Waterfront  Historic District  Dunes  Vacant   
Application Type: Interpretation  Dimensional Variance  Use Variance

**REQUEST DESCRIPTION (ATTACH MORE SHEETS IF NECESSARY)**

\_\_\_\_\_  
Please see attached  
\_\_\_\_\_

**Request description**

We request a dimensional variance to the 25’ waterfront setback for a new mixed-use development to be located at 640 and 650 Water Street. The proposed project includes ground level commercial spaces, waterfront dock support spaces, and a residential entrance lobby. A pedestrian arcade bisects the ground floor commercial spaces allowing views and access to the waterfront areas and existing docks.

We also request a use variance to include one ground floor residential unit adjacent to the residential lobby.

**Dimensional variance request standards**

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 25’ waterfront setback from the existing irregular shoreline creates a narrow and unusually shaped buildable area not conducive to the program requirements of a mixed use commercial and residential building.

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 the 25’ waterfront setback allowing a structure with similar waterfront setbacks to the existing structures provides a viable commercial lease depth and retains pedestrian access to the waterfront through the site. The non-conforming front yard setback condition of the existing structures will now conform to the ordinance with the proposed structure, effectively increasing the depth of the public streetscape along Water Street.

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

The plight of the owner is caused by the irregular line of the existing waterfront.

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

The problem is created by the irregular line of the existing waterfront.

**Use variance request standards**

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 proposed development will include permitted commercial and residential uses.

2. *Please explain how the plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions.*

The request for (1) ground floor residential unit provides additional area for permitted uses by lessening area limitations created by the irregular waterfront site. This would remove additional area otherwise required by an elevator for vertical circulation, now made available for level 2 and 3 residential uses.

3. *Please explain how by granting the variance, the essential character of the neighborhood would not be altered.*

The area for permitted uses would be increased without altering the program for the proposed development. Other structures in the neighborhood include ground floor residential uses.

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

The problem is created by the area limitations inherent to the existing site.

KALAMAZOO RIVER

640 650

WATER STREET





**Property Description** (from Commitment No.: 939529):  
 Land in the City of Saugatuck, Allegan County, MI, described as follows:  
 Lot(s) 29, 30 and the North one-half of Lot 31 of KALAMAZOO PLAT,  
 according to the plat thereof recorded in Liber 111 of Plats, Page 551 of  
 Allegan County Records.

(for informational purposes only)  
 Tax Item No. 03-57-300-029-00, as to Lot 29  
 Property Address: 650 Water Street, Saugatuck, MI 49453

Tax Item No. 03-57-300-030-00, as to Lot 30 and North 1/2 of Lot 31  
 Property Address: 640 Water Street, Saugatuck, MI 49453

**Notes:**

- Description of record and recorded easement information shown hereon is based on First American Title Insurance Company, Commitment No. 939529, with a commitment date of July 21, 2021. There were no recorded easements listed in this commitment.
- The bearings shown hereon are assumed, based on the West line of Water Street as S00°45'15"W
- This property contains 0.23 acres, more or less.
- The dimensions of the structures shown hereon are based on exterior building measurements at ground level.
- Utility structures visible on the ground surface have been located and shown per actual measurements. Lacking excavation, the exact location of underground features cannot be accurately, completely and reliably depicted.
- The boundary along the Kalamazoo River is subject to change due to natural causes and may or may not represent the actual location of the limit of title.
- This property lies within Special Flood Hazard Area Zone A2 (areas of 100-year flood; base flood elevations and flood hazard factors determined), as identified on Flood Insurance Rate Map Community Panel No. 260305 0001 C, dated February 1, 1980, published by the U.S. Department of Housing and Urban Development, Federal Insurance Administration.
- The centerline for the Kalamazoo River as shown hereon are based on photographic images of the Kalamazoo River.
- The riparian lines as shown hereon are drawn perpendicular to the centerline of the Kalamazoo River to the point of intersection of the property line and shoreline.
- In our professional opinion, the equitable proportionment of the riparian rights to the sub-aqueous lands adjoining the parcels would be depicted as shown hereon. However, in a court of law, the final determination of the riparian line may differ.

**Elevation Notes:**

- Elevations shown hereon are based on the National Geodetic Vertical Datum of 1929 (NGVD 29) per GPS observation using MDDOT CORS.
- Flood Insurance Rate Map Community Panel No. 260305 0001 C shows the Special Flood Hazard Area Zone A2 at an elevation of 584. This elevation is referenced to the National Geodetic Vertical Datum of 1929 (NGVD 29).

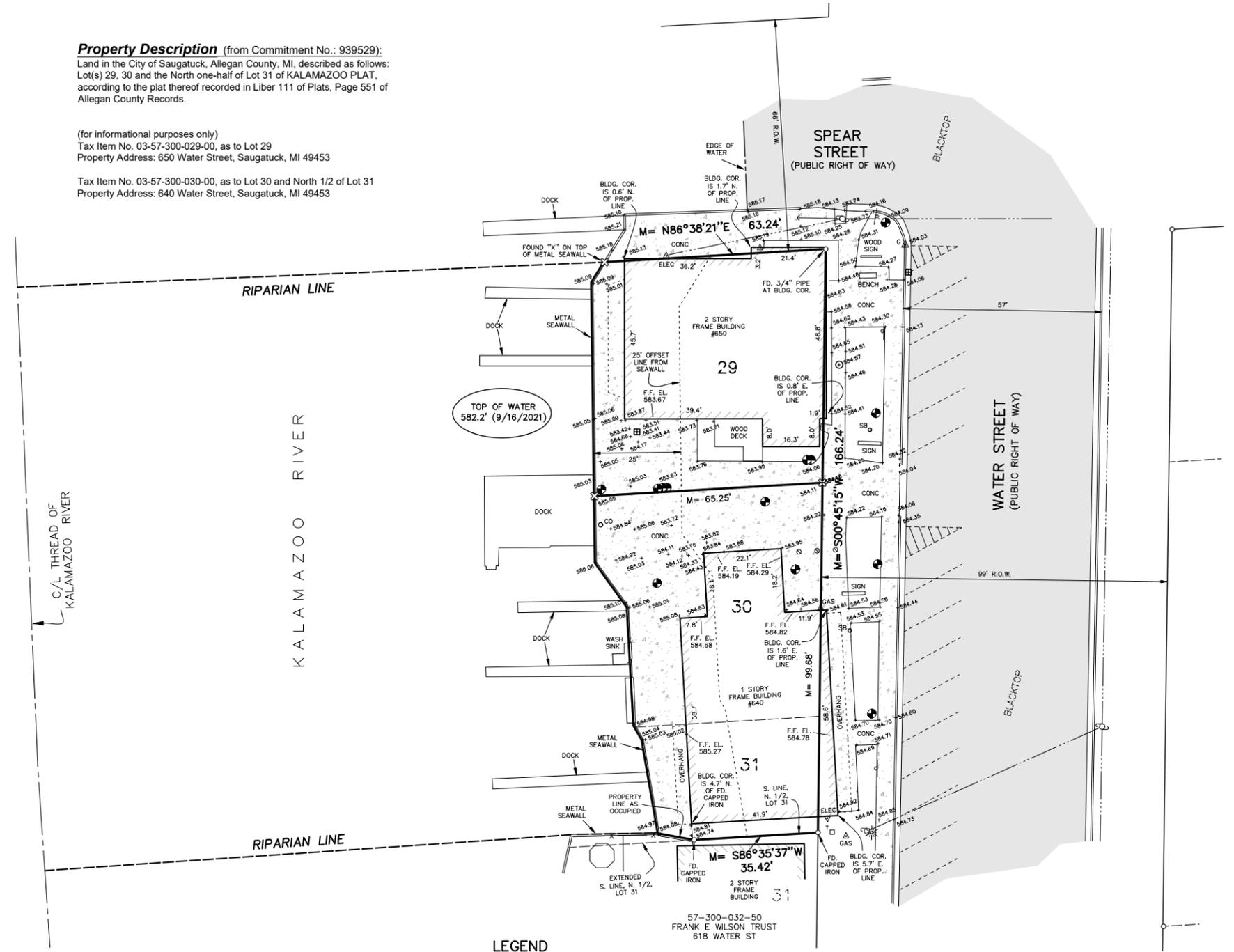
**SURVEYOR'S CERTIFICATE**  
 WE HEREBY CERTIFY to:

3520 36th Street Property, LLC  
 First American Title Insurance Company

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 4, 7a, 8 and 13 of Table A thereof. The field work was completed on September 16, 2021.

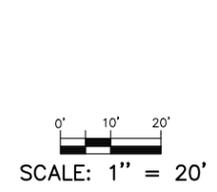
Date of Map: September 28, 2021

**PRELIMINARY**  
 Kenneth J. Viozzen R.S. 4001051491



**LEGEND**

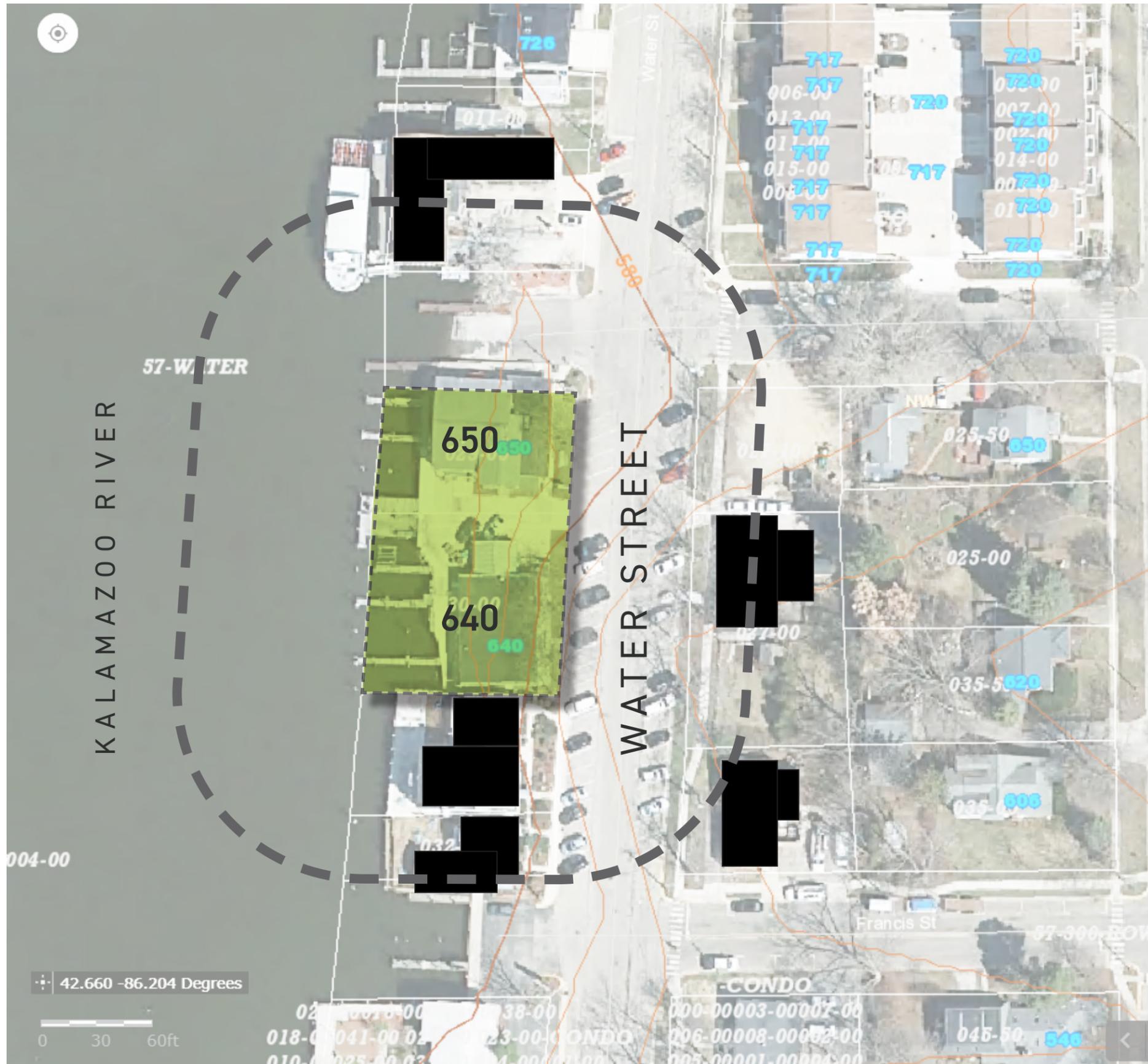
- = IRON STAKE FOUND
- = IRON STAKE SET
- ✕ = FOUND "X"
- ⊙ = MONITORING WELL
- ⊕ = UTILITY POLE & GUY WIRE
- ☼ = LIGHT POLE
- = SIGN
- ⊙ = BOLLARD
- ⊞ = STOP BOX
- ⊞ = CATCH BASIN
- = MANHOLE
- ∞ = CLEAN OUT
- ☎ = TELEPHONE BOX
- △ = BURIED GAS LINE MARKER
- - - = FENCE LINE
- — — = OVERHEAD WIRES
- M = MEASURED DIMENSION



**PRELIMINARY**  
**ALTA/NSPS LAND TITLE SURVEY**  
**RE: 640 & 650 WATER STREET, SAUGATUCK, MI**  
**FOR: 3520 36th STREET PROPERTY, LLC**  
**ATTN: DJ VANDERSLIK**  
**4720 52nd STREET SE**  
**GRAND RAPIDS, MI 49512**  
 PART OF THE NW 1/4, SECTION 9, T3N, R16W, CITY OF SAUGATUCK, ALLEGAN COUNTY, MICHIGAN

**exel engineering, inc.**  
 planners • engineers • surveyors  
 5252 Clyde Park, S.W. • Grand Rapids, MI 49509  
 Phone: (616) 531-3660 www.excelengineering.com

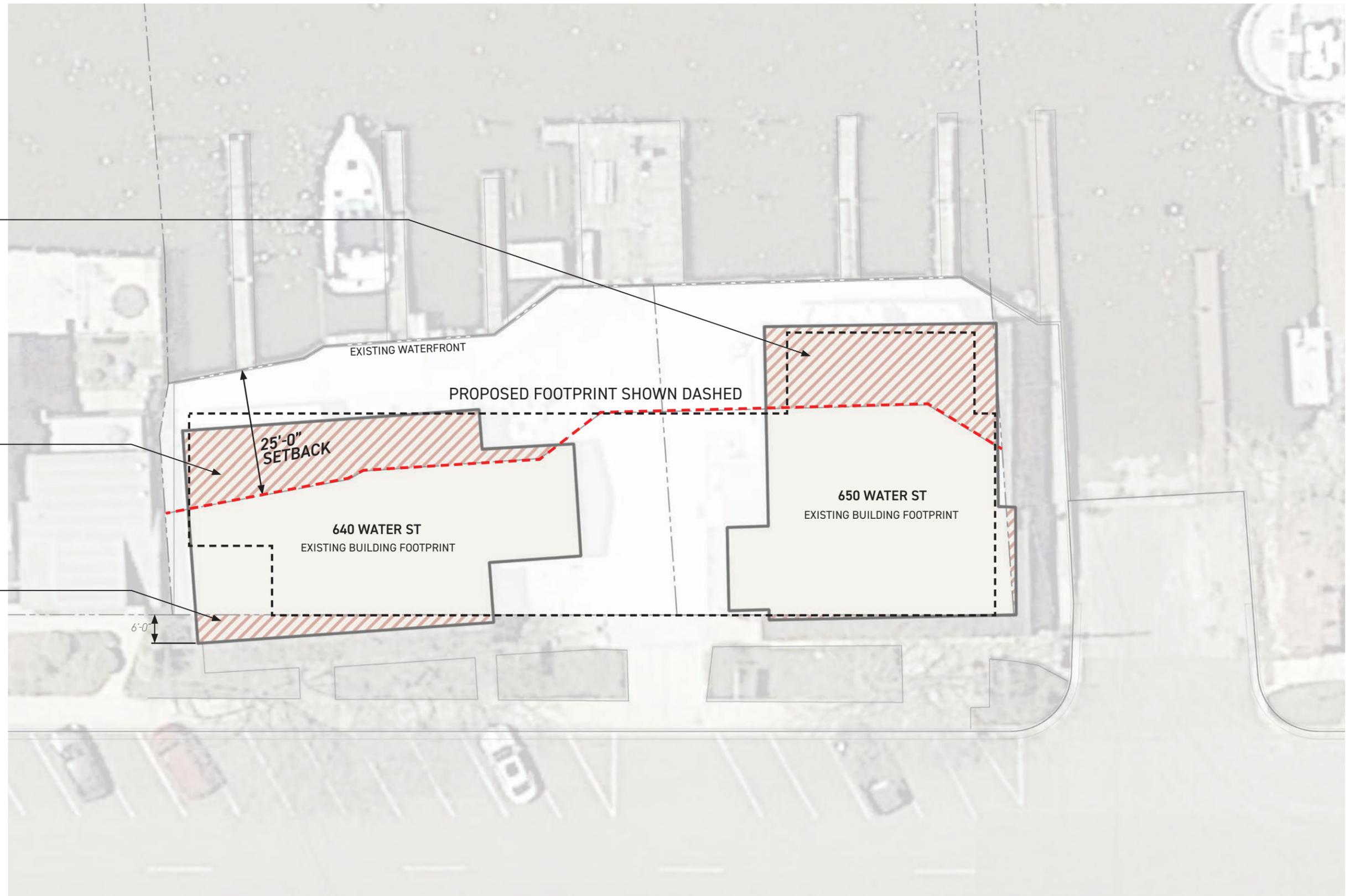
DRAWN BY: BAB	PROJ. ENG.: KJV	SHEET 1 of 1
APPROVED BY: [Signature]	PROJ. SURV.: KJV	
DATE: 09/28/2021	FILE NO.: S211791	



784SF ENCROACHMENT  
TO WATERFRONT SETBACK

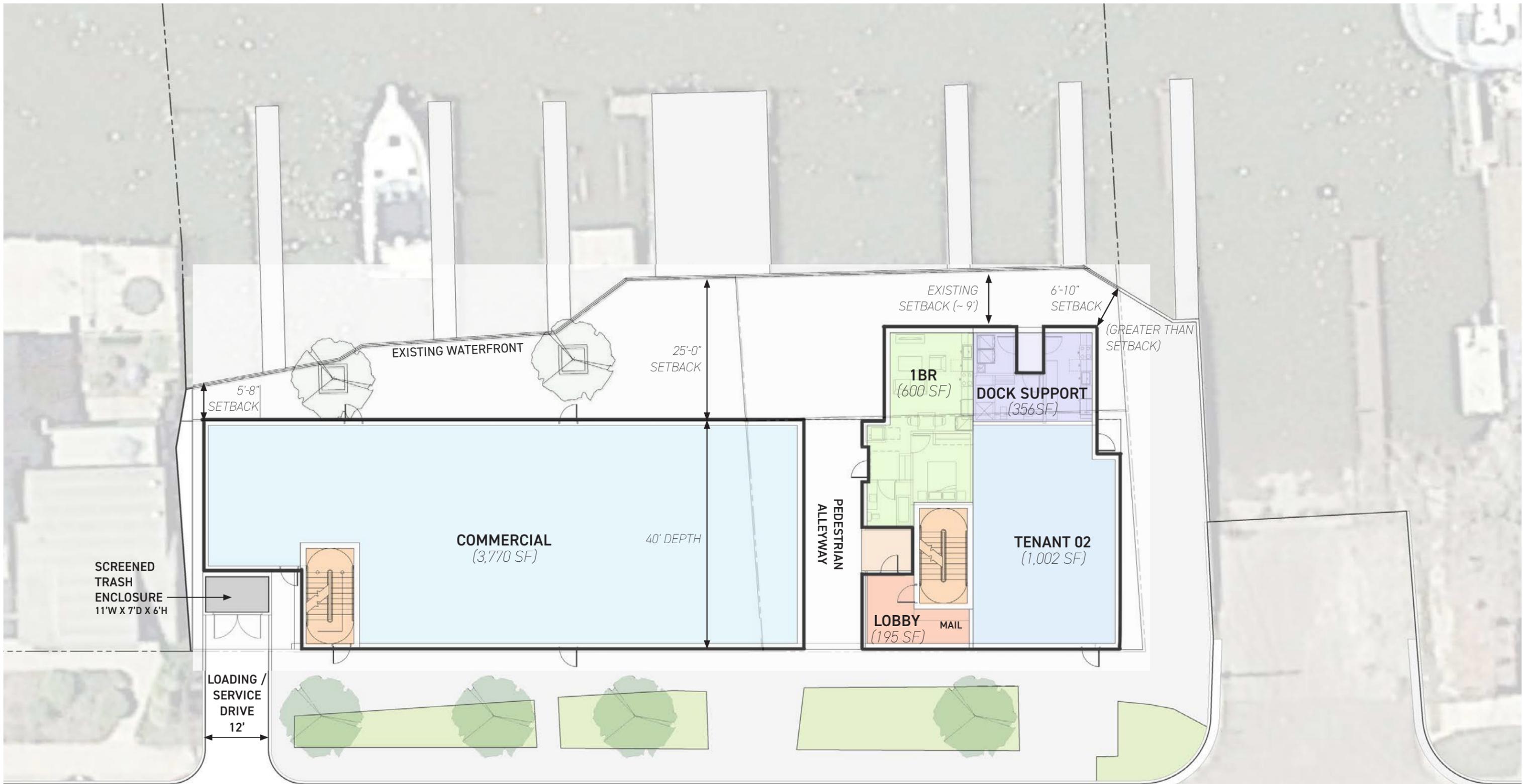
747SF ENCROACHMENT  
TO WATERFRONT SETBACK

213SF ENCROACHMENT  
IN FRONT PROPERTY LINE

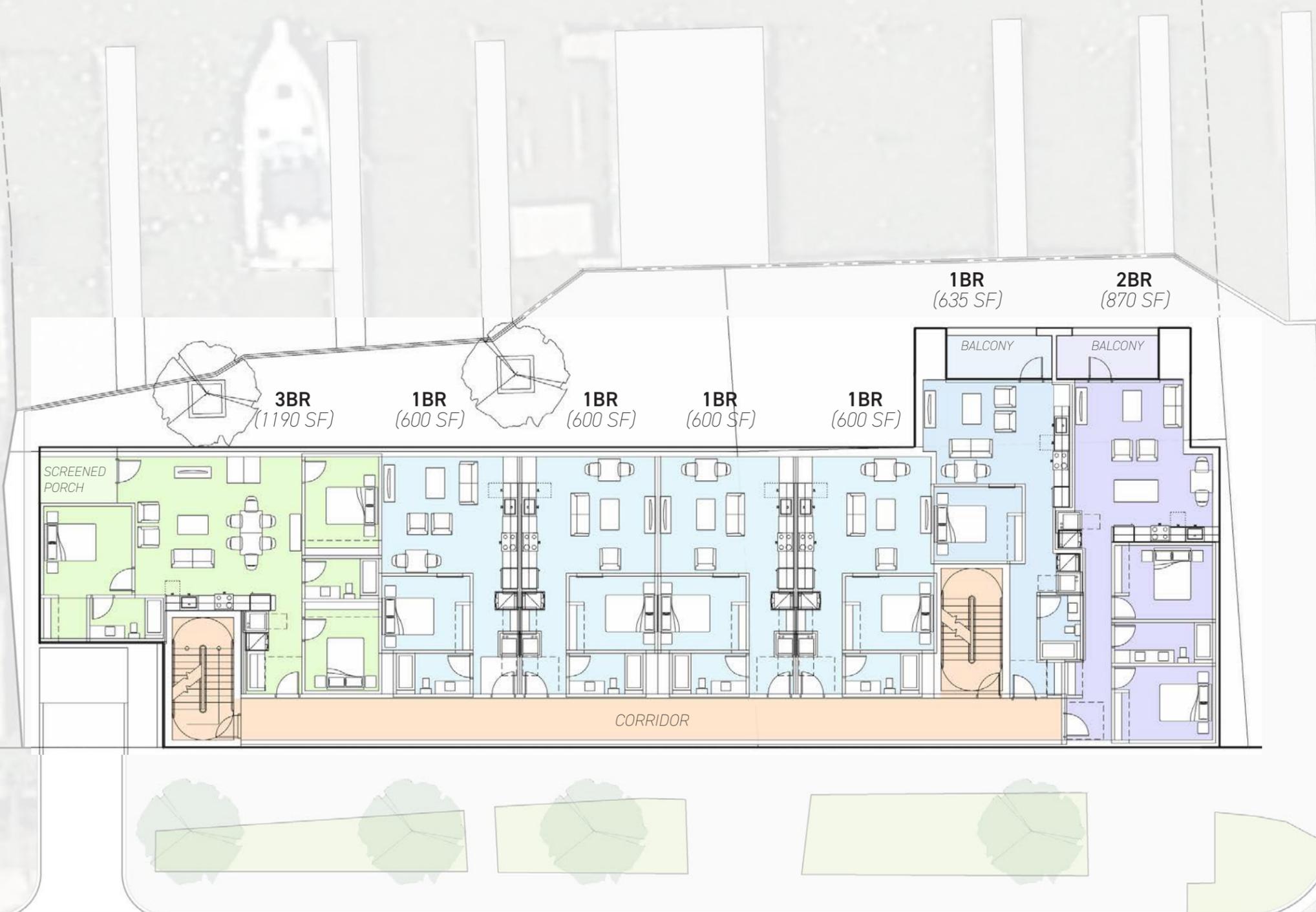


EXISTING GROUND FLOOR FOOTPRINTS 5,691 GSF

SITE PLAN | EXISTING CONDITIONS

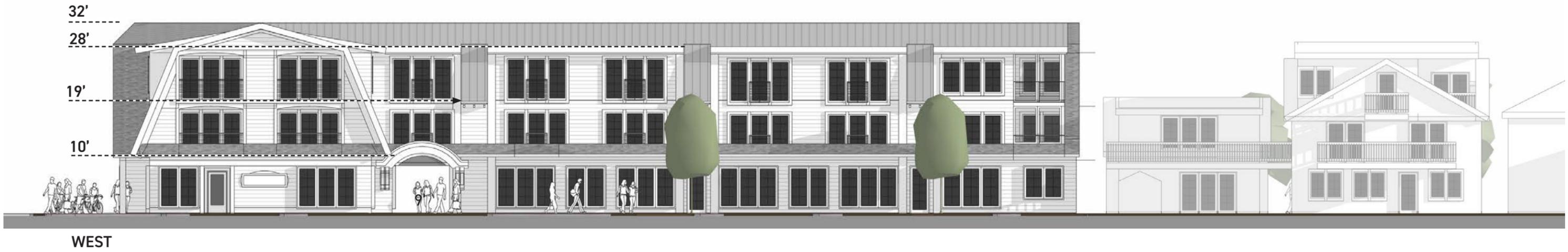


6,467 GSF  
 SITE PLAN | GROUND FLOOR



	STUDIO	1BR	2BR	3BR	TOTAL
FLOOR 1	-	1	-	-	1
FLOOR 2	-	5	1	1	7
FLOOR 3	-	5	1	1	7
<b>TOTAL</b>	-	<b>11</b>	<b>2</b>	<b>2</b>	<b>15</b>

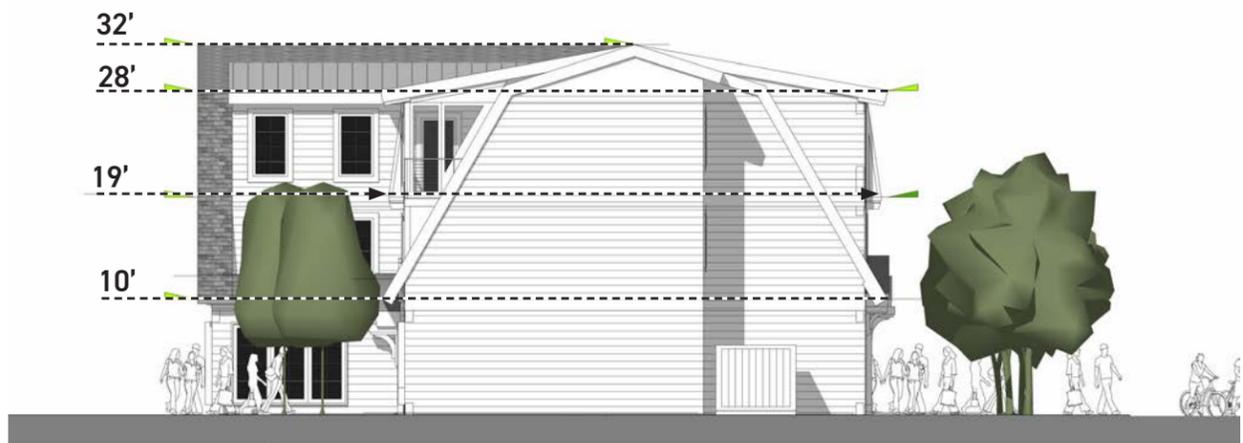
(2 LEVELS) 6,885 GSF EACH = 13,770 SF  
 FLOOR PLANS | LEVELS 2 AND 3



WEST



EAST



SOUTH



NORTH



# Syllabus

Chief Justice:  
Bridget M. McCormack

Justices:  
Brian K. Zahra  
David F. Viviano  
Richard H. Bernstein  
Elizabeth T. Clement  
Megan K. Cavanagh  
Elizabeth M. Welch

**This syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader.**

Reporter of Decisions:  
Kathryn L. Loomis

## SAUGATUCK DUNES COASTAL ALLIANCE v SAUGATUCK TOWNSHIP

Docket Nos. 160358 and 160359. Argued on application for leave to appeal October 7, 2021. Decided July 22, 2022.

Appellant, Saugatuck Dunes Coastal Alliance, brought two separate actions in the Allegan Circuit Court against Saugatuck Township, the Saugatuck Township Zoning Board of Appeals (the ZBA), and North Shores of Saugatuck, LLC, appealing the ZBA’s decision that appellant lacked standing to appeal the zoning decision of the Saugatuck Township Planning Commission (the Commission) concerning a proposed residential site condominium project on property owned by North Shores. North Shores applied for approval of a planned unit development that would include condominium units with a private marina, which required special use approval. The Commission granted conditional, preliminary approval, and appellant appealed the approval to the ZBA, invoking Saugatuck Township Ordinance, § 40-72 and the Michigan Zoning Enabling Act (the MZEA), MCL 125.3101 *et seq.* Appellant attached affidavits from some of its members to establish standing to appeal under MCL 125.3604(1) of the MZEA, claiming that the members would be uniquely harmed by the approved development. On October 11, 2017, the ZBA held a public hearing and decided that appellant lacked standing to appeal the Commission’s decision. The ZBA framed the allegations raised by appellant’s members as complaints that might be true of any proposed development in the area and found that appellant had not demonstrated any special damages—environmental, economic, or otherwise—that would be different from those sustained by the general public. Appellant appealed the ZBA’s decision in the Allegan Circuit Court and added two original claims: one for declaratory and injunctive relief and another seeking abatement of an alleged nuisance. While the first appeal was pending, North Shores obtained various state and federal approvals and applied to the Commission for final approval of the planned unit development, which included the marina. The Commission granted final approval, and appellant appealed the decision to the ZBA. After another public hearing on April 9, 2018, the ZBA adopted a resolution that largely mirrored the prior resolution and denied standing to appellant. Appellant also appealed this decision in the Allegan Circuit Court. On February 6, 2018, the circuit court, Wesley J. Nykamp, J., affirmed the ZBA’s October 11, 2017 decision and dismissed the appeal; the court did not, however, address the original claims that appellant had raised. On November 14, 2018, the circuit court, Roberts A. Kengis, J., affirmed the ZBA’s April 9, 2018 decision and dismissed the appeal. Appellant appealed both circuit court decisions in the Court of Appeals, and the Court of Appeals consolidated the cases. After determining that it had jurisdiction, the Court of Appeals, GADOLA, P.J., and MARKEY and RONAYNE KRAUSE, JJ., affirmed the circuit court’s

and the ZBA's decisions in an unpublished per curiam opinion issued August 29, 2019 (Docket Nos. 342588 and 346677), holding that appellant lacked standing to appeal because appellant was not a "party aggrieved" by the approvals. The panel relied on *Olsen v Chikaming Twp*, 325 Mich App 170 (2018), and MCL 125.3605. However, the panel remanded Docket No. 342588 to the circuit court for plenary consideration of the original claims that appellant had raised in that case. Appellant sought leave to appeal in the Supreme Court, and the Supreme Court ordered oral argument on the application, directing the parties to address three issues: (1) whether the "party aggrieved" standard of MCL 125.3605 requires a party to show some special damages not common to other property owners similarly situated; (2) whether the meaning of "person aggrieved" in MCL 125.3604(1) differs from that of "party aggrieved" in MCL 125.3605 and, if so, which standard applies to this case; and (3) whether the Court of Appeals erred by affirming the circuit court's dismissal of appellant's appeals. 505 Mich 1056 (2020).

In an opinion by Justice WELCH, joined by Chief Justice MCCORMACK and Justices BERNSTEIN, CLEMENT, and CAVANAGH, the Supreme Court, in lieu of granting leave to appeal, *held*:

The MZEA does not require an appealing party to own real property and to demonstrate special damages only by comparison to similarly situated real-property owners; *Olsen*, 325 Mich App 170, *Joseph v Grand Blanc Twp*, 5 Mich App 566 (1967), and related Court of Appeals decisions were overruled to the limited extent that they required (1) real-property ownership as a prerequisite to being "aggrieved" by a zoning decision under the MZEA and (2) special damages to be shown only by comparison to similarly situated real-property owners. Additionally, "aggrieved" has the same meaning in MCL 125.3604(1) and MCL 125.3605, and appellant in this case met the definition of a "person," MCL 125.3604(1), and a "party," MCL 125.3605.

1. MCL 125.3604(1) provides, in relevant part, that an appeal to the ZBA may be taken by a person aggrieved or by an officer, department, board, or bureau of this state or the local unit of government. MCL 125.3605 provides, in pertinent part, that a party aggrieved by the decision of the ZBA may appeal to the circuit court for the county in which the property is located as provided under MCL 125.3606. MCL 125.3606(1) provides, in pertinent part, that any party aggrieved by a decision of the ZBA may appeal to the circuit court for the county in which the property is located. Zoning statutes in Michigan have a long history of making the ability to appeal an administrative zoning decision contingent on establishing that one was "aggrieved" by the decision, but the Legislature has never defined what it means to be aggrieved by a zoning decision. *Joseph*, an original action challenging a rezoning ordinance, had been repeatedly cited for the proposition that to be "aggrieved" by a zoning decision for purposes of an appeal, a comparison to similarly situated property owners was required, which implicitly required the complaining party to be a property owner, but there was no discussion about why property ownership was itself key to one's ability to contest a zoning decision or how that requirement could be derived from any of Michigan's zoning statutes that were then in effect. In *Unger*, the Court of Appeals applied the *Joseph* property-ownership formulation in the context of zoning appeals. In this case, the Court of Appeals relied on *Olsen*, which reaffirmed *Joseph*'s primary holding without analyzing the procedural differences or the minimal source material relied on in *Joseph*. Over time, the term "aggrieved" in the MZEA became inappropriately intertwined with real-property ownership to a point where judicial decisions began to suggest that only real-property owners had the ability to appeal a zoning decision. But there is no indication in the text of the MZEA that the Legislature intended to grant the right to appellate review of zoning decisions only to real-property owners.

Neither the MZEA nor any of Michigan's previous zoning statutes explicitly require one to own real property in order to be "aggrieved" by local land-use decisions or to prove "aggrieved" status by comparison to other property owners who are similarly situated. By requiring one to be a "party aggrieved" by a zoning decision under MCL 125.3605 and MCL 125.3606, the Legislature implicitly rejected the idea that standing can be based on mere proximity to a development. The Legislature omitted mention of ownership or occupancy status when describing the class of individuals or entities that are entitled to appeal a decision under MCL 125.3605 or MCL 125.3606. Instead, the Legislature used the broader phrase "party aggrieved" without mandating that the party own any property within the relevant jurisdiction or that the required harm be shown by comparison to other property owners. That choice of words established a class of potential appellants broader than real-property owners, with the focus being on whether the decision at issue "aggrieved" the complaining party.

2. To be a "party aggrieved" under MCL 125.3605 and MCL 125.3606, the appellant must meet three criteria: (1) the appellant must have participated in the challenged proceedings by taking a position on the contested decision, such as through a letter or oral public comment; (2) the appellant must claim some legally protected interest or protected personal, pecuniary, or property right that is likely to be affected by the challenged decision; and (3) the appellant must provide some evidence of special damages arising from the challenged decision in the form of an actual or likely injury to or burden on their asserted interest or right that is different in kind or more significant in degree than the effects on others in the local community. The phrase "others in the local community" refers to persons or entities in the community who suffer no injury or whose injury is merely an incidental inconvenience and excludes those who stand to suffer damage or injury to their protected interest or real property that derogates from their reasonable use and enjoyment of it. Factors that can be relevant to this final element of special damages include but are not limited to: (1) the type and scope of the change or activity proposed, approved, or denied; (2) the nature and importance of the protected right or interest asserted; (3) the immediacy and degree of the alleged injury or burden and its connection to the challenged decision as compared to others in the local community; and (4) if the complaining party is a real-property owner or lessee, the proximity of the property to the site of the proposed development or approval and the nature and degree of the alleged effect on that real property.

3. Several well-established principles that are relevant to the standing analysis were reaffirmed. Under the current MZEA, mere ownership of real property that is adjacent to a proposed development or that is entitled to statutory notice, without a showing of special damages, is not enough to show that a party is aggrieved. Additionally, generalized concerns about traffic congestion, economic harms, aesthetic harms, environmental harms, and the like are not sufficient to establish that one has been aggrieved by a zoning decision; however, a specific change or exception to local zoning restrictions might burden certain properties or individuals' rights more heavily than others. Further, unlike in an original lawsuit, a circuit court sits as an appellate body with a closed record when reviewing an appeal brought under MCL 125.3605 and MCL 125.3606; accordingly, if the circuit court determines that the record is inadequate to make the review that MCL 125.3606 requires for purposes of analyzing standing under MCL 125.3605 and MCL 125.3606, then the court shall order further proceedings on conditions that the court considers proper, which may include a remand to the relevant planning or zoning body whose decision is being contested with instructions as to what is expected by the circuit court.

4. The term “aggrieved” must be given the same meaning in both MCL 125.3604(1) and MCL 125.3605. The Legislature has provided no indication that the term “aggrieved” was intended to have different meanings in these closely related statutes. Additionally, appellant in this matter met the definition of a “person,” MCL 125.3604(1), and a “party,” MCL 125.3605. To determine whether the ZBA’s standing decision was correct in this case, on remand the circuit court was directed to first determine whether appellant was aggrieved by the Commission’s decision for the purpose of appealing to the ZBA under MCL 125.3604, which will inform the subsequent analysis of whether appellant was aggrieved by the ZBA’s standing decision for the purpose of appealing in the circuit court under MCL 125.3605 and MCL 125.3606.

*Olsen, Joseph*, and related Court of Appeals decisions are overruled to the limited extent that they (1) require real-property ownership as a prerequisite to being “aggrieved” by a zoning decision under the MZEA and (2) require special damages to be shown only by comparison to similarly situated real-property owners; Part IV of the Court of Appeals opinion is vacated; Allegan Circuit Court’s judgment regarding standing is vacated; and the cases are remanded to the Allegan Circuit Court for reconsideration of appellant’s arguments regarding standing under MCL 125.3604(1) and MCL 125.3605, for consideration of appellant’s original causes of action as directed by Part V of the Court of Appeals opinion, and for other proceedings as may be necessary or appropriate under MCL 125.3606.

Justice VIVIANO, joined by Justice ZAHRA, dissenting, would have held that to appeal the decision of the ZBA, plaintiff needed to show that its members would suffer some harms that were different from the harms suffered by similarly situated community members and that the Court of Appeals correctly determined that plaintiff had not made that showing because the harms alleged were either common to other similarly situated community members or were not damages as a result of the decision of the Commission or the ZBA. The Court of Appeals in this case correctly understood that whether a party has standing is a distinct inquiry from whether a party is “aggrieved” for purposes of the MZEA. And because there has been long and consistent interpretation of the phrase “party aggrieved” in Michigan zoning jurisprudence, it was not only proper, but necessary, for the Court of Appeals to consider that caselaw in determining whether plaintiff was a “party aggrieved” under MCL 125.3605. The Court of Appeals has never held that a person must be a property owner to appeal a zoning decision or that, to determine aggrieved status, the appellant must be compared to property owners; rather, the Court of Appeals merely recognized that the parties challenging the ZBA decisions in *Joseph* and its progeny were, in fact, property owners. With regard to interpreting the term “party aggrieved,” the statutory history of the MZEA and the acts that it replaced demonstrated that the Legislature intended to return to a narrower “aggrieved” standard in place of the relaxed “interest affected” standard that it had adopted in 1979. And because the phrase “party aggrieved” had received past judicial interpretation, the requirement that a party show that he or she suffered some special damages not common to other property owners similarly situated would have been part of the Legislature’s understanding of the phrase “party aggrieved” when it enacted the MZEA. The majority abandoned the interpretation of “aggrieved” that stood for decades, including at the time the Legislature adopted the MZEA, and the majority’s expansive new definition of “party aggrieved” is contrary to the intent of the Legislature, confusing, and unnecessary to resolve this case. This new definition will have far-ranging and destabilizing effects on Michigan zoning law, which had been settled and had operated well for over a century.