OTSEGO COUNTY
ZONING BOARD OF APPEALS

AGENDA
September 25, 2018
6:00 PM

MEETING WILL BE IN THE PLANNING AND ZONING MEETING ROOM LOCATED AT 1322 HAYES RD

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES: From November 28, 2017 meeting

CITIZEN COMMENT REGARDING ITEMS NOT ON THE AGENDA

PUBLIC HEARINGS:

1. *David & Francine Musinski, property owners, request a variance for property located in Otsego Lake Township:*

   11927 Fantasy Dr
   Frederic, MI 49733
   091-210-000-625-01

   PZBA18-003 - The purpose of the variance is to allow a reduction in the side setback for a structure built.
   The property is currently zoned RR/Recreation Residential.

2. *Steven Sulkey/Otsego Lake Rentals, property owner, requests a variance for property located in Bagley Township:*

   Buck Rd
   Gaylord, MI 49735
   011-700-003-004-01 / 011-700-003-006-01

   PZBA18-004 - The purpose of the variance is to allow a larger accessory building. The property is currently zoned RR/Recreation Residential.

NEW BUSINESS:

1. Elections
2. Expiring Terms:
   a. Colosimo

OLD BUSINESS

ADJOURNMENT

Otsego County Zoning Board of Appeals

Proposed Minutes for November 28, 2017

Call to Order: 6:00 pm by Chairperson Sagasser

Roll Call:

Present: Chairperson Sagasser, Vice-Chairperson Hoffman, Secretary McCarthy, Ms. Bono, Mr. Brown, Mr. Glasser, Mr. Switalski *(Alternate)*

Absent: Mr. Colosimo *(Excused)*

Staff Present: Mr. Mouch, Ms. Boyak-Wohlfeil

Public Present: None

Approval of Minutes from October 25, 2016:

Motion made to approve minutes as presented by Mr. Brown; Seconded by Mr. Hoffman.

Motion approved unanimously.

Citizen Comment Regarding Items not on the Agenda: None

Public Hearing: None

New Business:

1. Elections

Mr. Sagasser requested nominations for the position of chairperson.

Mr. Hoffman nominated Mr. Sagasser for *chair*; Seconded by Ms. Bono.

Nomination accepted; voted unanimously.

Ms. Bono nominated Mr. Hoffman for *vice chair*; Seconded by Mr. Glasser.

Nomination accepted; voted unanimously.

Mr. Brown nominated Mr. McCarthy for *secretary*; Seconded by Ms. Bono.

Nomination accepted; voted unanimously.

2. Terms expiring:

   a. Sagasser
   b. Hoffman

Mr. Sagasser and Mr. Hoffman have both submitted applications for another term on the Zoning Board of Appeals. They will be reappointed by the Board of Commissioners.

New Business: None

Old Business: None

Communications: None

Otsego County Zoning Board of Appeals

Proposed Minutes for November 28, 2017

ZBA Member Items:

Ms. Bono requested minutes be sent remotely to all when complete because it was difficult to remember exactly what occurred when a meeting was held once a year.

Discussion ensued concerning holding meetings remotely. ZBA By-laws were distributed for review.

Ms. Bono also questioned the previous Burau case for a variance denied on the total square footage of detached accessory buildings.

Ms. Boyak-Wohlfeil stated permits had been issued for the attachment of the structure to the main house so Mr. Burau was in compliance.

Adjournment: 6:21 pm by Chairperson Sagasser

Mike McCarthy, ZBA Secretary

Christine Boyak-Wohlfeil, Recording Secretary

OTSEGO COUNTY
ZONING BOARD OF APPEALS

ZBA18-003
VARIANCE
091-210-000-625-01

Exhibit List

Exhibit #1:	Application for case ZBA18-003 submitted by Applicant
Exhibit #2:	Otsego County Zoning Map Effective Date March 20, 2010/Amended January 24, 2017
Exhibit #3:	Otsego County Zoning Ordinance Effective March 20, 2010/Amended July 10, 2018
Exhibit #4:	Copy of Otsego County Equalization Department record card/QC 1425/365
Exhibit #5:	Aerial Site Plan
Exhibit #6:	Survey
Exhibit #7:	Public Hearing Notice
Exhibit #8:	Letter to Otsego Lake Township Planning Commission dated August 27, 2018
Exhibit #9:	Response from Otsego Lake Township Planning Commission dated September 12, 2018
Exhibit #10:	Map and list of parties notified
Exhibit #11:	Receipt #01315958
Exhibit #12:	Finding of Fact/ZBA18-003

Zoning Board of Appeals
Non-Use Variance Applicant

Otsego County

APPLICANT INFORMATION:

Name: DAVID & FRANCINE MUSINSKI Owner/Agent/Other Interest *(Circle One)*

Address: 1955 N. PINEBORO DR. SANFORD, MI 48657

Phone: 989 687 9194 Fax:

Email Address: dmusinski@charter.net

PROPERTY OWNERS INFORMATION: *(If different from applicant)*

Name: Owner/Agent/Other Interest *(Circle One)*

Address:

Phone: Fax:

Email Address:

PROPERTY INFORMATION:

Address/Location: 11927 FANTASY DR, FREDERIC, MI

Parcel Number(s): 091-210-000-625-00, 091-210-000-626-00

Zoning District: RR Current Use: RESIDENTIAL

ATTACHMENTS: Please submit the following items with the application:

- Site Plan showing the following:
  - Dimensions of property
  - Location and dimensions of any existing buildings and/or structures
  - Any unique natural features such as lakes, rivers, streams, wetlands, steep slopes
  - Location and dimensions of proposed building and/or structure
- Copy of deed(s) and accurate legal description of property
- You are encouraged to include photographs and illustrations to support your case

*****You may use additional pages to explain any item that space does not allow.**

NATURE OF REQUEST: *(Clearly state the complete variance you are requesting)*

REQUESTING EXSISTING STRUCTURE BE GRANTED VARIANCE OF 3.2' TO BE IN COMPLIANCE WITH 10% PROPERTY SET BACK - 10 FEET.

****LAND USE SERVICES USE ONLY****

Permit Number:	Fee:	Date Received:	Date Complete:
PZBA18-003	$400	8.9.18	8.18.18

Exhibit 1

Zoning Board of Appeals
Non-Use Variance Applicant

UTILITIES AVAILABLE ON SITE: *(Check all that apply)*

☐ Water ☒ Well ☐ Sewer ☐ Septic

PROPERTY DESCRIPTION:

Area of Lot *(acres/square feet)*: LOT 625 .63 ACRES

Dimensions of Lot:

STRUCTURES:	DESCRIPTION	HEIGHT	EXISTING	PROPOSED
Number of Buildings on Site: (1)	1½ STORY	24'	YES	
	HOME WITH			
	ATTACHED			
	GARAGE			
Use, Area and Dimensions: *(Each building)*	SINGLE	1290 SQ FT	LOWER	32'x30' + 10'x12'
	FAMILY	790 SQ FT	UPPER	20'x14.5'
	DWELLING	576	GARAGE	24'x24'
Area of Other Structures: *(Decks, gazebos, steps, etc.)*	NONE			
Percentage of Lot Coverage			13.5%	

APPLICATION SIGNATURE:

All correspondence and notices regarding the application will be transmitted to the applicant. By signing this application the applicant is indicating that all information contained in this application is complete and accurate to the best of his/her knowledge.

David Musinski — (Signature) | 8-9-18 — (Date) | DAVID MUSINSKI — (Print Name)

I hereby grant permission for member of the Township Board, Township Planning Commission, Otsego County Zoning Board of Appeals and Otsego County officials, staff and consultants to enter the above described property for the purposes of gathering information related to the application.
Note to applicant/property owner: This permission is optional and failure to grant permission will not affect any decision on the applicant.

David Musinski — (Signature of Property Owner) | 8-9-18 — (Date) | DAVID MUSINSKI — (Print Name)

Zoning Board of Appeals
Non-Use Variance Applicant

THE APPLICANT MUST DEMONSTRATE THE FOLLOWING CONDITIONS EXIST:
*****This section *MUST* be completed*****

PRACTICAL DIFFICULTY: A practical difficulty exists on the subject site (such as exceptional narrowness, shallowness, shape or area; presence of floodplains; exceptional topographic conditions) and strict compliance with the Zoning Ordinance standards would unreasonably prevent the owner from using the subject site for a permitted use or would render conformity unnecessarily burdensome. Demonstration of a practical difficulty shall have a bearing on the subject site or use of the subject site and not to the applicant personally. Economic hardship or optimum profit potential is not consideration for practical difficulty.

PORTION OF HOUSE NOT IN COMPLIANCE WOULD BE IMPOSIBLE TO REMOVE AND KEEP THE INTERGRITY OF THE STRUCTURE.

26.6.1. PUBLIC WELFARE: Will granting this variance uphold the spirit of the ordinance, secure public safety and uphold substantial justice to the property owners in the district. The Board must consider whether or not granting a variance will hinder Otsego County in achieving the very goals and objectives the ordinance is trying to accomplish. You should explain how your application is consistent with and does not violate the intent of the particular section(s) that apply to it; merely saying it does not, is not enough.

UPON SPEAKING TO THE LANDOWNER EFFECTED BY THE VARIANCE, THEY WOULD BE IN FAVOR OF IT. THAT WOULD RENDER JUSTICE TO THE PROPERTY OWNERS INVOLVED.

26.6.2. SUBSTANTIAL JUSTICE: The variance would provide substantial justice by granting the property rights similar to those enjoyed by the majority of other properties in the vicinity and other properties in the same zoning district. The decision shall not bestow upon the property special development rights not enjoyed by other properties in the same district or which might result in substantial adverse impacts on properties in the vicinity (such as the supply of light and air, significant increases in traffic, increased odors and increase in the danger of fire or other activities which may endanger the public safety, comfort, morals or welfare).

BY GRANTING THIS VARIANCE, THERE WILL BE NO ADVERSE IMPACT ON SUPPLY OF LIGHT OR AIR, NO INCREASE IN TRAFFIC, ODORS, DANGER OF FIRE OR ANY ENDANGERMENT OF PUBLIC SAFETY, COMFORT, MORALS OR WELFARE.

Zoning Board of Appeals
Non-Use Variance Applicant

26.6.3. UNIQUE SITUATION: The demonstrated practical difficulty results from exceptional or extraordinary circumstances or conditions applying to the subject site at the time the Ordinance was adopted or amended which are different than typical properties in the same zoning district or vicinity. List in detail the unique circumstances or conditions that apply to your property. Please explain here the problem with your land.

WHILE LOT WAS BEING DEVELOPED, SOUTH BOUNDRY CORNERS WERE LOCATED. WAS BELIEVED THAT STRUCTURE WOULD BE APOXIMATELY 20 FEET FROM PROPERTY LINE. SE CORNER MARKER (TO BACK OF PROPERTY) WAS LOCATEDED WITH ORANGE MARKER TAPE ON IT. THIS MARKER WAS LATER FOUND TO BE THE CORNER OF LOT BUT 50 FEET AWAY FROM TRUE SE CORNER OF LOT.

26.6.4. NOT SELF-CREATED: The conditions resulting in a variance request cannot be self-created and would have existed regardless of ownership of the property.

HAD BOGUS MARKER NOT BEEN THOUGHT TO BE TRUE CORNER OF LOT, STRUCTURE LAYOUT AND PLACEMENT WOULD HAVE BEEN CHANGED TO MEET SET BACK REQUIRMENTS.

26.6.5. MINIMUM VARIANCE NECESSARY: The variance shall be the minimum necessary to grant relief created by the practical difficulty. Please explain/list other alternatives and the reasons why these options are not feasible.

MINIMUM VARIANCE WOULD BE 3.2', ALTERNATIVES WOULD BE TO MOVE STRUCTURE OUT OF SET BACK AREA OR REMOVE A PORTION OF STRUCTURE AFFECTING SET BACK FROM PROPERTY LINE. THESE OPTIONS WOULD BE COSTLY, DANGEROUS, AND AFFECT THE STRUCTUAL INTEGERTY AND PROLONG PROJECT COMPLETION. COST TO MOVE HOUSE WOULD BE 40,000.00 DOLLARS

COMPLIANCE WITH OTHER LAWS: The variance is the minimum necessary to comply with state or federal laws, such as farming activities protected by the "Right to Farming Act" or accessibility to meet the needs of individual with disabilities protected under the Americans with Disabilities Act.

THIS PROPERTY IS ZONED RESIDENTIAL. BY GRANTING THIS VARIANCE NO FARMING ACTIVITES ARE AFFECTED. THERE ARE NO PUBLIC EASEMENTS ON THIS PROPERTY. NO INDIVIDUALS WITH DISABILITES WILL BE AFFECTED

ZBA18-003 091-210-000-625-01 11927 FANTASY DR

OTSEGO COUNTY ZONING MAP

LEGEND

- R-1 / RESIDENTIAL
- R-2 / GENERAL RESIDENTIAL
- R-3 / RESIDENTIAL ESTATES
- RR / RECREATION RESIDENTIAL
- FR / FORESTRY RECREATION
- AR / AGRICULTURAL RESOURCE
- B-1 / LOCAL BUSINESS
- B-2 / GENERAL BUSINESS
- B-3 / BUSINESS, LIGHT MANUFACTURING
- I / INDUSTRIAL
- HX / HIGHWAY INTERCHANGE
- MUZ MAIN / MULTIPLE USE ZONING MAIN STREET
- MUZ TWN CN / MULTIPLE USE ZONING TOWN CENTER
- PUD / PLANNED UNIT DEVELOPMENT
- STATE LAND
- N/A

Exhibit 2

PAGE 8

LIBER 1425 PAGE 365

OTSEGO COUNTY MICHIGAN
RECEIVED FOR RECORD
SUSAN DEFENTER, CLERK REGISTER OF DEED
02/23/2017 1:12:13 PM

QUIT CLAIM DEED

Diann Axford, acting in official capacity as the **OTSEGO COUNTY TREASURER** of 225 W Main St, Gaylord, MI 49735

QUIT CLAIMS to

FRANCINE M. MUSINSKI and DAVID A. MUSINSKI, A Married Couple, As Tenants by the Entireties, whose address is 1955 N. Pinesboro Dr., Sanford, MI 48657.

The following lands situated in OTSEGO LAKE TOWNSHIP, County of Otsego, and State of Michigan, to wit:

LOT 625 ENCHANTED FOREST NO 3 SEC 36 T29N R3W

Further identified as permanent parcel ID number 091-210-000-625-00.

TOGETHER with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, for the sum of $500.00 and no other consideration.

This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act. If the land is unplatted, the grantor grants the grantee ALL available land divisions.

This instrument is exempt from Michigan Real Estate transfer taxes pursuant to MCL 207.505(h)(i) and MCL 207.526(h)(i) for County and State tax respectively. This form is issued under the authority of MCL 211.78 (m).

Dated February 23, 2017

Diann Axford

Diann Axford
Otsego County Treasurer

STATE OF MICHIGAN
COUNTY OF OTSEGO

The foregoing instrument was acknowledged before me this February 23, 2017 by Diann Axford, acting in official capacity as the Otsego County Treasurer, known to me to be the person who executed the same of their own free will.

Paula L Wright

Notary Public, Otsego County,
My commission expires 05/24/2018

Drafted by:
Martin J. Spaulding
622 W. Kalamazoo Ave.
Kalamazoo, MI 49007

Paula L. Wright Notary Public
Otsego County. State of Michigan
My Commission Expires: 05/24/2
Acting in Otsego County

Exhibit 4

Parcel Number: 69-091-210-000-625-01 Jurisdiction: OTSEGO LAKE TOWNSHIP County: OTSEGO Printed on 08/09/2018

Grantor	Grantee	Sale Price	Sale Date	Inst. Type	Terms of Sale	Liber & Page	Verified By	Prcnt. Trans.

Property Address

11927 FANTASY DR

Owner's Name/Address

MUSINSKI, FRANCINE M & DAVID A
1955 N PINESBORO DR
SANFORD MI 48657

Tax Description

LOTS 625&626 ENCHANTED FOREST NO 3 2018
COMBO OF 091-210-000-625-00 & 626-00

Comments/Influences

Class: 401 RES STRUCT Zoning: RR

School: Gaylord Community

P.R.E. 0%

:

2019 Est TCV 19,800(Value Overridden)

Building Permit(s)	Date	Number	Status
BUILDING (NEW) - RESIDENTI	06/13/2017	PB17-0314	
ZONING-RESIDENTIAL	06/13/2017	PZ17-128	
DEMOLITION	/ /	PB16-0551	

Improved | X | Vacant

Public Improvements

Dirt Road
Gravel Road
Paved Road
Storm Sewer
Sidewalk
Water
Sewer
Electric
Gas
Curb
Street Lights
Standard Utilities
Underground Utils.

Topography of Site

Level
Rolling
Low
High
Landscaped
Swamp
Wooded
Pond
Waterfront
Ravine
Wetland
Flood Plain

Who When What

Land Value Estimates for Land Table .

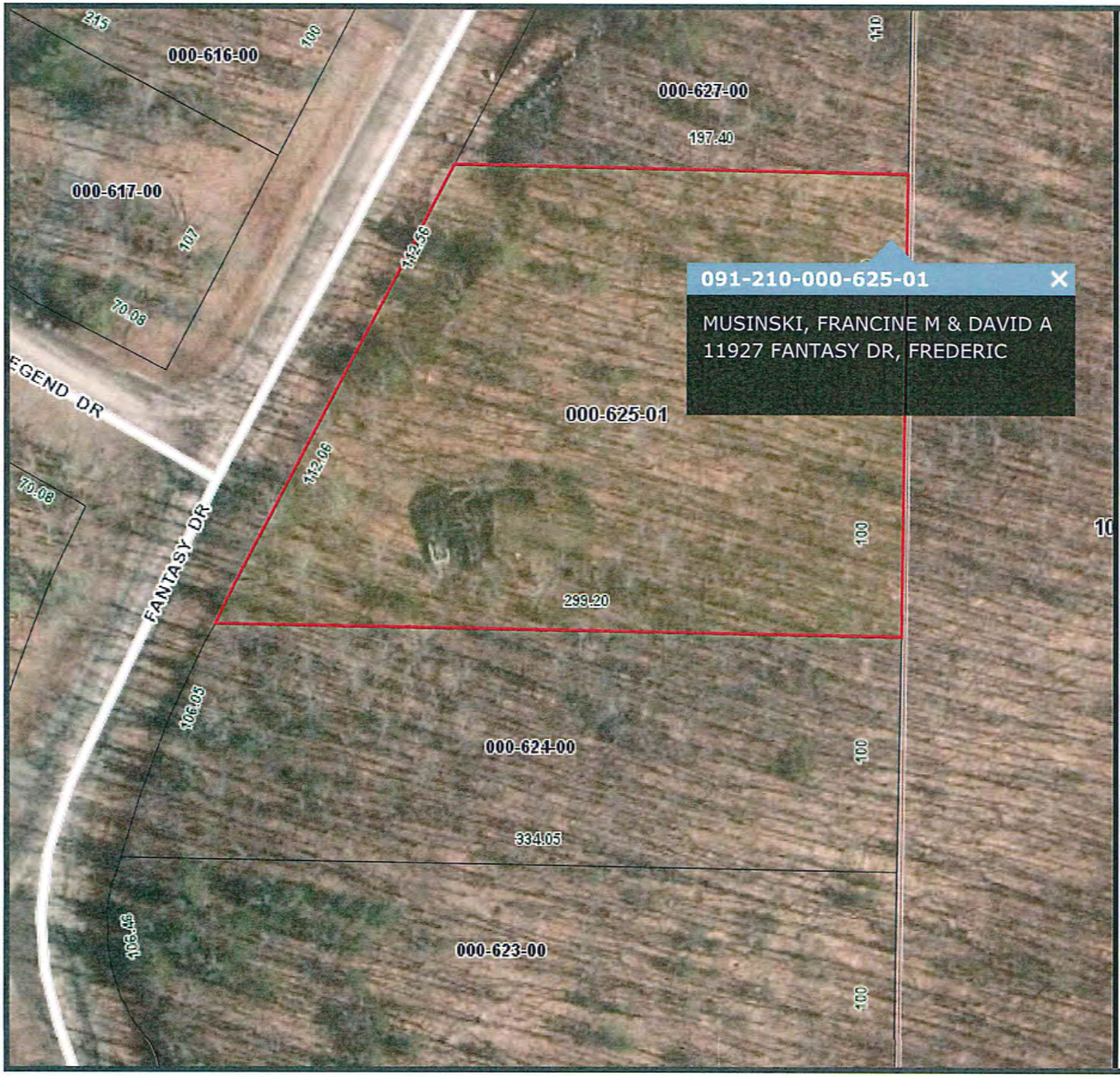
Description	Frontage	Depth	* Factors * Front	Depth	Rate	%Adj.	Reason	Value
			1.150 Acres		0	100		0
			1.15 Total Acres		Total Est. Land Value =			0

Year	Land Value	Building Value	Assessed Value	Board of Review	Tribunal/ Other	Taxable Value
2019	9,900	0	9,900			9,900C
2018	9,900	0	9,900			9,900S
2017	0	0	0			0
2016	0	0	0			0

The Equalizer. Copyright (c) 1999 - 2009.
Licensed To: County of Otsego, Michigan

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

Exhibit 4



Otsego County GIS

N

Map Publication:
08/10/2018 7:57 AM

20m
60ft

powered by FetchGIS

Disclaimer: This map does not represent a survey or legal document and is provided on an "as is" basis. Otsego County expresses no warranty for the information displayed on this map document.

Exhibit 5

PAGE 5

CERTIFICATE OF SURVEY

N

0 50 100

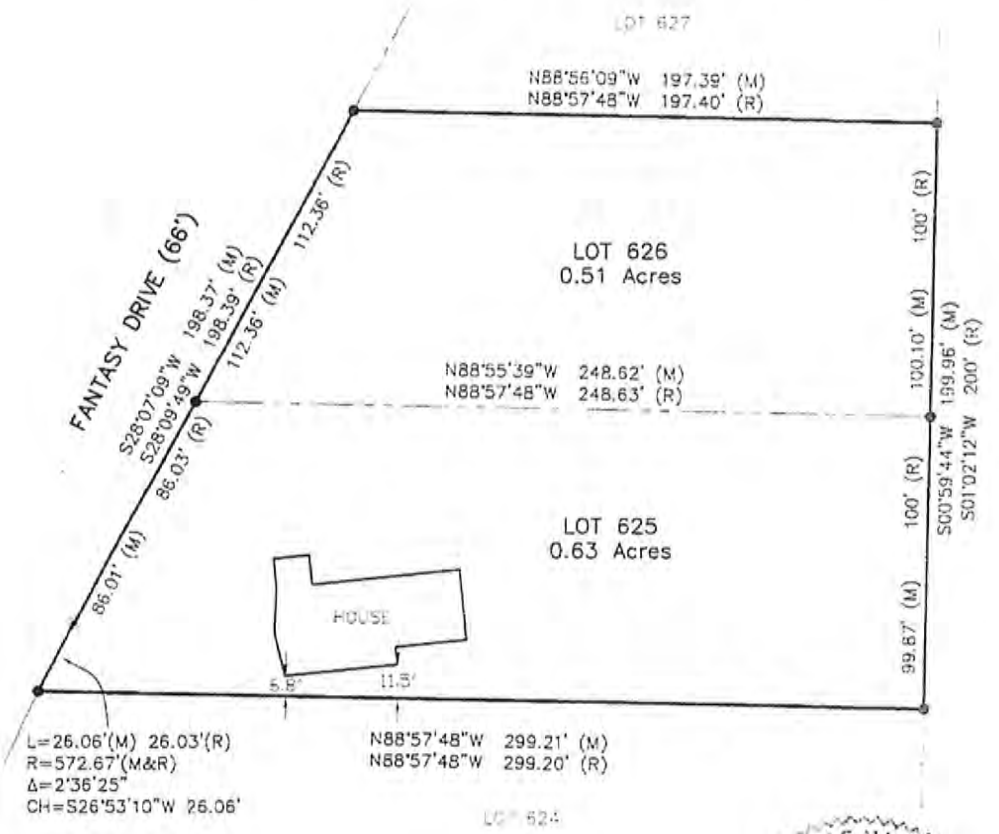
SCALE: 1" = 50'

- ● IRON ROD FOUND
- • CONCRETE MONUMENT FOUND
- (R) RECORD
- (M) MEASURED

DESCRIPTION: A parcel of land situated in the Township of Otsego Lake, County of Otsego, State of Michigan, and described as:

Lots 625 & 626, Enchanted Forest No. 3, according to the recorded plat thereof, Otsego County Records.

SUBJECT TO All valid agreements, covenants, easements and restrictions, if any.



STATE OF MICHIGAN
RONALD C. BRAND
Professional Surveyor
No. 43046
LICENSED PROFESSIONAL SURVEYOR

Brand Land Surveying LLC
Ronald C. Brand
Professional Surveyor No. 43046

ERROR OF CLOSURE IS < 1 / 5000 BASIS OF BEARING: ENCHANTED FOREST NO. 3

Brand Land Surveying LLC
533 Greenfield Drive
Gaylord, Michigan 49735
989-732-8077
www.brandlandsurveying.com

I, Ronald C. Brand, a Licensed Professional Surveyor in the State of Michigan, hereby certify that I have surveyed and mapped the above parcel of land. That the ratio of closure of the unadjusted field observations was within the accepted limits.

Alteration of any part of this document without the permission of Brand Land Surveying LLC is prohibited

SIGNED: Musinski

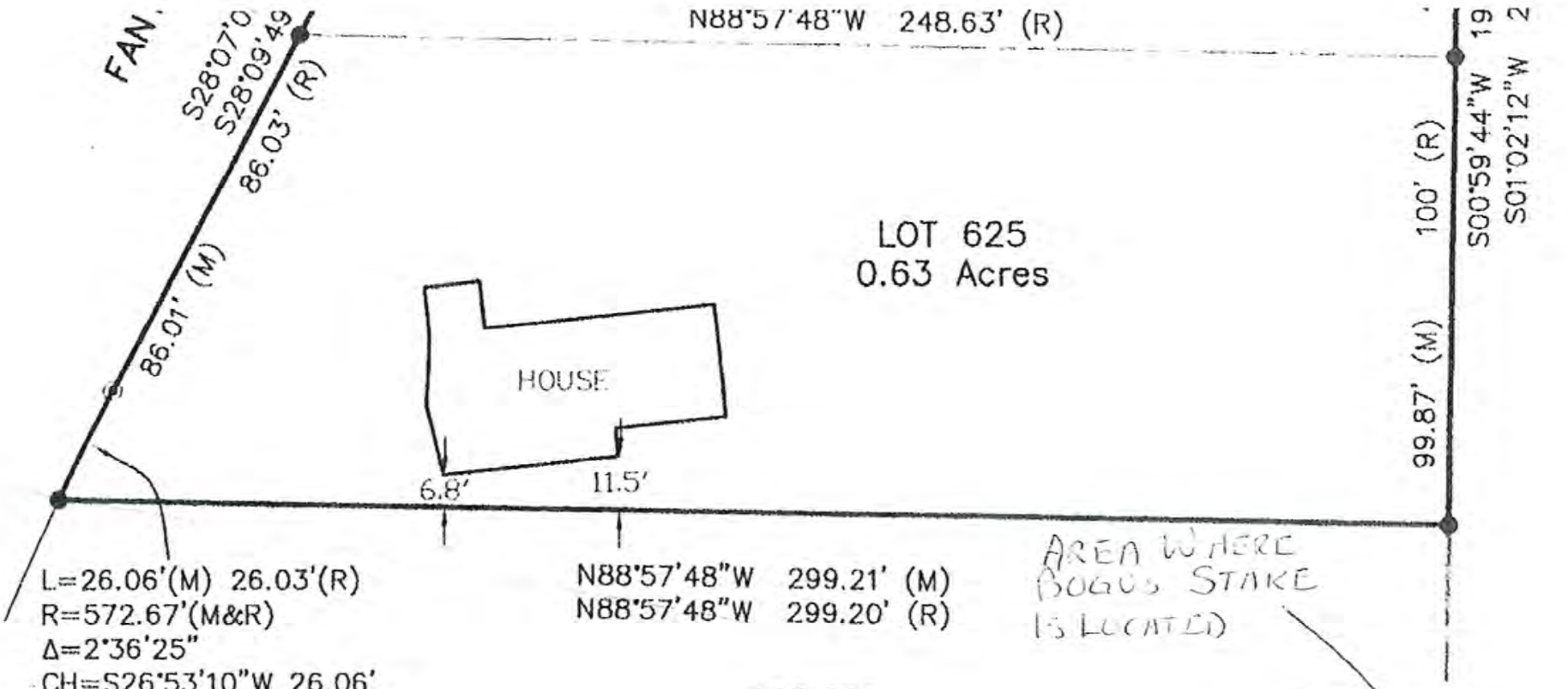
LOCATION: Section 36, T29N, R3W
Otsego Lake Township
Otsego County

FLD. BK. 5280 PG. 34

DATE: 7/11/2018

SHEET 1 OF 1 FILE NO.

Exhibit 6



Brand Land Surveying LLC
Ronald C. Brand
Professional Surveyor No. 430

ROR OF CLOSURE IS < 1 / 5000 BASIS OF BEARING: ENCHANTED FOREST NO. 3

I, Ronald C. Brand, a Licensed Professional Surveyor

CLIENT: Musinski

PAGE 6

OTSEGO COUNTY
ZONING BOARD OF APPEALS

PUBLIC HEARING NOTICE
September 25, 2018

The Otsego County Zoning Board of Appeals will hold a public hearing on Tuesday, September 25, 2018 at 6:00 pm in the Planning and Zoning Meeting room located at 1322 Hayes Rd Gaylord, Michigan.

The purpose of the public hearing will be to obtain citizen comment on the following:

1. David & Francine Musinski, applicants, have requested a variance for property located in Otsego Lake Township at 11927 Fantasy Dr Frederic, MI 49733. The purpose of the variance is to allow a reduction in the side setback for a structure built. The property is currently zoned RR/Recreation Residential. Side setbacks in a RR Zoning District are 10 feet.

   Parcel identification number: **091-210-000-625-01**
   11927 Fantasy Dr
   Frederic, MI 49733

   Legal Description:
   LOTS 625&626 ENCHANTED FOREST NO 3 2018 COMBO OF 091-210-000-625-00 & 626-00

2. Steven Sulkey/Otsego Lake Rentals, applicant, has requested a variance for property located in Bagley Township on Buck Rd Gaylord, MI 49735. The purpose of the variance is to allow a larger accessory building. The property is currently zoned RR/Recreation Residential. The maximum square footage of an accessory building in a RR Zoning District is 1200 sq ft.

   Parcel identification number: **011-700-003-004-01**
   Buck Rd
   Gaylord, MI 49735

   Legal Description:
   LOTS 4 & 5 BLK 3 POINT SUNSET SEC 21 T30N R3W

   Parcel identification number: **011-700-003-006-01**
   Buck Rd
   Gaylord, MI 49735

   Legal Description:
   LOT 6 & N 35' OF LOT 7 BLK 3 POINT SUNSET SEC 21 T30N R3W

All citizens are welcome to attend the meeting or provide written comment. If written comments are provided the comments must be received at the Otsego County Land Use Services Office by noon (12:00 pm) the day of the meeting.

Any citizen who has questions regarding this application or needs assistance to attend this meeting should contact the Director of Land Use Services at 989.731.7400.

Exhibit 7

Otsego COUNTY
ESTABLISHED 1875 MICHIGAN

Department of Land Use Services
1322 Hayes Rd • Gaylord, MI 49735
Phone: 989.731.7400 • Fax: 989.731.7419
www.otsegocountymi.gov

August 27, 2018

Otsego Lake Township
PO Box 99
Waters, MI 49797

Pursuant to Article 27 of the Otsego County Zoning Ordinance/Township Participation in County Zoning, the application for a Variance is being forwarded.

If you require the applicant to be present at your meeting, they can be notified at the following:

Applicants:

David & Francine Musinski
1955 N Pinesboro Dr
Sanford, MI 48657
989.687.9194

If you have any questions, please contact us and we will be glad to assist you. We anticipate your input concerning this matter. Thank you for your participation in County Zoning.

Sincerely,

James Mouch
Otsego County Land Use Director

cbw

encl

Exhibit 8

September 12, 2018

Mr. James Mouch
Director of Otsego County Land Use Services
1322 Hayes Road
Gaylord, Mi 49735

Dear Mr. Mouch,

The Otsego Lake Township Planning Commission held its meeting on September 6, 2018. At its meeting it reviewed ZBA 18-003, setback variance for Mr. David Musinski, 11927 Fantasy Dr., Frederic, Mi, parcel number 091-210-000-625.

Mr. Musinski did not obtain a property survey prior to construction of his house. A wooden stake assumed to be a property marker for the SE corner of the lot was fifty feet from the true property line. Mr. Musinski has been in contact with the adjacent property owner. While unable to purchase additional property to be in compliance with the required setback, the adjacent lot owner does not object to the variance, and was willing to provide a written statement to this affect. Although at the time of our meeting, this documentation had not been received. Mr. Musinski also contacted the Enchanted Forest Property Owners Association. He indicated they verbally communicated that they had no objection to the variance.

After discussing the variance with Mr. Musinski, the facts and conditions of the case were reviewed under section 26.6 of the Otsego County Zoning Ordinance. Our findings were:

26.6.1 Planning Commission voted unanimously, yes
26.6.2 Planning Commission voted unanimously, no
26.6.3 Planning Commission voted unanimously, no.
26.6.4 Planning Commission voted unanimously, no
26.6.5 Planning Commission voted unanimously, yes. However the variance requested is measured from the foundation of the house, and not the roof overhang. A request for a larger setback variance may be required.

Given 26.61 and 26.6.5 have been met, and 26.6.2,26.6.3,26.6.4 have not been met; and the encumbrance that would be applied with the economic hardship for relocating the home would be considerable, and given the unusual circumstances, the Otsego Lake Township Planning Commission recommends that the minimum applicable variance be granted to Mr. Musinski.

Sincerely,

Nora Corfis
Secretary

OTSEGO LAKE TOWNSHIP PLANNING COMMISSION
PROPOSED MINUTES
September 5, 2018

Chairperson Jack Udebrock called the meeting of the Otsego Lake Township Planning Commission to order at 7:00 pm. The meeting opened with roll call.

Planning Commission members present: Nora Corfis, Gary Johnson, Susan LaVanway, Leo Sensabaugh, Jack Udebrock, and Jay Welter.

Members absent: none

A quorum was present.

Audience members: Randy Stults, and David Musinski

After roll call the Pledge of Allegiance was said.

Persons Requested by the Commission to Attend the Meeting:

None

Public Hearing:

There was no public hearing.

Housekeeping Business:

The next meeting of the Otsego Lake Township Planning Commission is scheduled October 4, 2018 at 7:00 pm at the Otsego Lake Township Hall.

Approval of Minutes:

Chairperson Udebrock asked for approval of the Otsego Lake Township Planning Commission Minutes dated July 5, 2018. Susan LaVanway moved to accept the minutes as printed. Leo Sensabaugh supported the motion which passed unanimously by a voice vote.

Public Comments, Communications Concerning Items on the Agenda and Additions to the Agenda

There were no additions to the agenda.

Unfinished Business and Reports:

There was no unfinished business.

New Business:

ZBA18-003 Request for Side Setback Variance

David Musinski of 1955 N. Pinesboro Dr, Sanford, Mi is requesting a setback variance for 11927 Fantasy Dr., Frederic, Mi., parcel number 091-210-000-625 in an RR district. His house that is under construction is 6.8' from the south boundary line of lot 625.

Chairperson Udebrock introduced Mr. Musinski and asked if he would like to present his case. Mr. Musinski stated that his application provided the details of his request. He has contacted the lot owner of the adjacent lot. While not agreeing to sell Mr. Musinski any additional property, he stated that the neighbor does not object to the variance and would provide a letter stating this. At the time of this meeting, this documentation had not been received.

Mr. Musinski did not survey his property prior to beginning construction. A wooden marker that was on the property was assumed to be the SE corner of the lot; however it was 50 foot off from the true corner. The SW corner of the house now sits 6.8' from the side lot line. Upon questioning it was determined the 6.8' dimension to be from the house foundation, and not from the overhanging fascia of the roof. This would require additional setback variance.

Mr. Musinki stated that it would take a minimum of $40,000.00 to move the house into compliance with the zoning ordinance. Had the mistaken marker not been thought to be the true corner, the location of the house would have been changed to meet the setback requirements.

After discussing the variance with Mr. Musinski, the facts and conditions of case were reviewed under section 26.6 of the Otsego County Zoning Ordinance.

26.6.1, Commission voted unanimously, yes
26.6.2, Commission voted unanimously, no
26.6.3, Commission voted unanimously, no
26.6.4, Commission voted unanimously, no
26.6.5, Commission voted unanimously, yes. However the variance requested is measured from the foundation and not the roof overhang. A request for a larger setback variance may be required.

Gary Johnson moved:

Given conditions 26.6.1 and 26.6.5 have been met, and 26.6.2 and 26.6.3 and 26.6.4 have not been met; and that the encumbrance that would be applied with the economic hardship for relocating the home would be considerable, and given the unusual circumstances, we recommend that the minimum applicable variance be granted.

Leo Sensabaugh supported the motion.

There was discussion and Gary Johnson moved the following amendment be added to the motion:

A notice of the setback variance be filed on the applicant's parcel and an request that the adjoining property owner also do so.

Leo Sensabaugh supported the amendment to the motion.

Susan LaVanway moved to remove the amendment to the motion. Jay Welter supported the motion.

A roll call vote was called for removal of the amendment:

Gary Johnson	No
Susan LaVanway	Yes
Jack Udebrock	Yes
Nora Corfis	Yes
Leo Sensabaugh	No
Jay Welter	Yes

Motion to remove the amendment passed 4 Yes, 2 No

A roll call vote was called for the original motion by Gary Johnson.

Gary Johnson	Yes
Susan LaVanway	No
Jack Udebrock	Yes
Nora Corfis	No
Leo Sensabaugh	Yes
Jay Welter	Yes

Motion to recommend variance ZBA18-003 passed 4 Yes to 2 No. The Secretary will notify Land Use Services of this decision.

Mr. Musinski was excused from the meeting at 8:20 pm.

Public Participation For Items Not on the Agenda:

There was no public participation.

Reports, If Any, Regarding Planning and Zoning From Each Member of the Commission:

Gary Johnson reported on Township Board activities. Nora Corfis reported the Otsego County Planning Commission did not meet in August.

As there was no further discussion, Chairperson Udebrock adjourned the meeting at 8:54 PM.

Respectfully submitted,

Nora Corfis

Secretary

ZBA18-003 091-210-000-625-01 11927 FANTASY DR

OWNERS WITHIN THREE HUNDRED FEET (300')									
Parcel Number	Property Address	Owner	Mailing Address				Record Acres	Property Class	Zoning Code
030-031-100-005-00		STATE OF MICHIGAN	PO BOX 30028	LANSING	MI	48909	999.99	701	FR
091-210-000-615-00	11878 FANTASY DR	GRIDER, MAX B & YVONNE S	11878 FANTASY DR	FREDERIC	MI	49733	0.38	401	RR
091-210-000-616-00	11896 FANTASY DR	LAWRENCE, CONSTANCE J & CARL G	401 MCARTHUR RIVER DR	EATON RAPIDS	MI	48827	0.46	401	RR
091-210-000-627-00		HOWER, JOHN D	416 W MAPLE ST	BYRON	MI	48418	0.44	402	RR
091-210-000-622-00 / 091-210-000-623-00 / 091-210-000-624-00		VITALE, ROSEMARY / VITALE, GIROLAMO & ROSEMARIE	14336 IVANHOE DR	WARREN	MI	48088	0.79 / 0.76 / 0.75	402	RR
091-210-000-620-00		DAVIDSON, DEBORAH J TRUST	71505 MEMPHIS RIDGE RD	RICHMOND	MI	48062-4809	0.63	402	RR
091-210-000-621-00	11992 FANTASY DR	MOGLE, ROBERT A & BETH K	PO BOX 243	WATERS	MI	49797	0.88	401	RR
091-210-000-618-01	11960 FANTASY DR	SCHAFER FAMILY TRUST	21 REDBIRD	IRVINE	CA	92603	1.21	401	RR
091-210-000-628-00	11859 FANTASY DR	PAUL, RALPH R	11859 FANTASY DR	FREDERIC	MI	49733	0.48	401	FR
091-210-000-614-00		JUJNGLAS TRUST	1560 S KREPPS RD	ST JOHNS	MI	48879	0.44	402	RR
091-210-000-617-00	11914 FANTASY DR	SPRINGSTUBBE, CLARE P ETUX	PO BOX 44	WATERS	MI	49797	0.54	401	RR
091-210-000-625-01	11927 FANTASY DR	MUSINSKI, FRANCINE M & DAVID A	1955 N PINESBORO DR	SANFORD	MI	48657	1.13	401	RR

Exhibit 10

ZBA18-003 091-210-000-625-01 11927 FANTASY DR

030-031-100-005-00
091-210-000-614-00
091-210-000-615-00
091-210-000-616-00
091-210-000-617-00
091-210-000-618-01
091-210-000-620-00
091-210-000-621-00
091-210-000-622-00
091-210-000-623-00
091-210-000-624-00
091-210-000-625-01
091-210-000-627-00

Exhibit 10

OTSEGO COUNTY LAND USE SERVICE
1322 HAYES RD
GAYLORD, MI 49735
PH: 989-731-7400
FAX: 989-731-7419
INSPECTION LINE: 989-731-7401

Otsego COUNTY
ESTABLISHED 1875 MICHIGAN

Paid By:

MUSINSKI, FRANCINE M & DAVID A

1955 N PINESBORO DR

SANFORD, MI 48657

RECEIPT NUMBER

01315958

08/24/2018

Type	Record	Category	Description	Amount
Permit	PZBA18-003	ADMIN ZONING	ZBA VARIANCE	$ 400.00

Total	**$ 400.00**
Cash	
Check	$ 400.00
Credit	
Transferred	
Tendered	**$ 400.00**
Change	**$ 0.00**
To Overpayment	**$ 0.00**

Expiration of permit:

A permit will remain valid as long as work is progressing and inspections are requested and conducted. A permit will become invalid if the authorized work has not commenced within 6 months of issuance or if the authorized work is suspended or abandoned for a period of 6 months.

Exhibit 11

OTSEGO COUNTY
ZONING BOARD OF APPEALS

ZBA18-003
VARIANCE
091-210-000-625-01

FINDING OF FACT

1. This is a proposal for a variance for a parcel located in Otsego Lake Township at 11927 Fantasy Dr Frederic, MI 49733. *Exhibit #1, Exhibit #5*

2. The property is located in a RR/Recreation Residential Zoning District. *Exhibit #2*

3. The current side setback requirement is 10 feet in a RR Zoning District. *Exhibit #3*

4. The structure recently built sits 6.8 feet from side property line. *Exhibit #6*

5. A side setback variance of 3.2 feet is requested. *Exhibit #1, Exhibit #6*

6. The purpose of the variance is to allow the reduction in side setback and bring into compliance the structure recently built. *Exhibit #1, Exhibit #6*

7. The proposed property is currently under the ownership of David & Francine Musinski. *Exhibit #4*

8. The proposed property is 1.15 acres. *Exhibit #4*

9. The Public Hearing Notice was published in the Herald Times on September 11, 2018. *Exhibit #7*

10. The requirements of Article 27 of the Otsego County Zoning Ordinance have been met. *Exhibit #8, Exhibit #9*

11. All property owners within three hundred (300') feet were properly notified of the public hearing. *Exhibit #10*

12. The Zoning Administrator has the authority to approve a reduction in setbacks up to 25%; only the Zoning Board of Appeals has the authority to approve a larger reduction. *Exhibit #3*

13. The Zoning Board of Appeals has the authority to approve a *Variance* request after review and fact finding of Section 26.6. *Exhibit #3*

14. The required fees have been collected by Otsego County Land Use Services. *Exhibit #11*

FINDINGS UNDER ARTICLE 17

ARTICLE 17 SCHEDULE OF DIMENSIONS

17.1 Table 1 - LIMITING HEIGHT, DENSITY AND AREA BY ZONING DISTRICTS (See also Article 21.1 Accessory Buildings and Article 22 General Exceptions for Area, Height, and Use)

Zoning District	R1 & R2	R3	RR	FR & AR	Reserved for future use	Reserved for future use
Min. Lot Area (Sq. feet)	20,000 .46 acre	40,000 .92 acre	20,000 .46 acre	88,000 2.02 acre		
Min. Front Setback *(b)(j)*	25 ft	25 ft	25 ft	50 ft		
Max. Front Setback	NA	NA	NA	NA		
Min. Side Setback	10 ft	10 ft	10 ft	20 ft		
Min. Rear Setback	30 ft (a, h)	30ft (a, h)	30 ft (a, h)	40 ft (a)		
Min. Lot width (k)	100 ft 150 ft Duplex	100 ft	100 ft	150 ft 300 ft Duplex AR		
Max. % lot coverage	25%	25%	25%	30%		
Max. Building height (l)	35 ft (g)	35 ft (g)	35 ft (g)	35 ft (g)		
Min. Ground Floor area of principal structure (Square feet)	720 (i)	720 (i)	720 (i)	720 (i)		
Min. Width of principal structure	20 ft (i)	11ft (i)	20 ft (i)	11 ft (i)		

Minimum front, side and rear setbacks, and maximum lot coverage modifications of up to twenty-five percent (25%) may be approved by the Zoning Administrator for nonconforming lots, as described in Article 21.26.1 and 21.26.2.

Note a: Lots within five hundred (500) feet of lakes, ponds, flowages, rivers, streams: see Article 18, LOTS NEAR WATER.

Note b: Where the front yards of two (2) or more principal buildings in any block, or within five hundred (500) feet in existence at the time of the passage of this Ordinance (or amendment thereto), in the same zoned district or the same side of the road are less than the minimum front yard setback, then any principal building subsequently erected on the same side of the road shall not be required to provide a greater setback than the average for the existing two (2) or more principal buildings.

Note c: On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than twenty (20) feet on the residential side in B1, B2, B3 and HX.

Note d: Loading and unloading space shall be provided in the rear yard in the ratio of at least ten (10) square feet per linear foot of front building wall. Loading space shall not be counted as required off-street parking. Loading zones may be located in other non-required yards if screened or obscured from view from public streets and residential districts.

Note e: Off-street parking may be permitted in the front yard, except that a ten (10) foot wide landscaped buffer is maintained between the front lot line (or right-of-way line) and the parking area.

Note f: No building shall be placed closer than forty (40) feet to the outer perimeter of such district or property line when said use abuts a residential district boundary.

Note g: Subject to approval by the Planning Commission, the maximum height of buildings may be permitted to exceed the maximum stated in the Schedule by up to fifty percent (50%) in R1, R2, R3, RR, B1, B2 and HX Districts; and up to one hundred percent (100%) in all other districts, provided that the applicant can demonstrate that no good purpose would be served by compliance with maximums stated, (as in the case of steep topography, a Planned Unit

Development (PUD), or larger site); and further, there is no conflict with airport zoning height restrictions; fire safety is maintained subject to local fire authority approval; and the light, air and/or scenic views of adjoining property is not impaired. The Planning Commission and or Zoning Board of Appeals cannot allow a WTG height greater than allowed in Section 21.47 or a Wireless Telecommunication Towers and Facilities greater than the height allowed in the Zoning District PRINCIPAL USES PERMITTED or PERMITTED USES SUBJECT TO SPECIAL CONDITIONS. Also see Article 22 GENERAL EXCEPTIONS FOR AREA, HEIGHT AND USE .

Note h: Section 21.1 allows a rear setback of ten (10) feet for accessory buildings.

Note i: The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this Ordinance.

Note j: In instances where the property is adjacent to a public right of way or ingress egress easement dedicated as permanent adequate access to one (1) or more lots, the setback shall be measured from that right of way or ingress egress easement.

Note k: Specific allowable uses have greater minimum lot widths as required in the Zoning District allowable use lists.
Note l: Specific allowable uses have greater allowable heights as stated in the Zoning District allowable use lists, Article 21 and Article 22, Section 22.3 Height Limits, of this ordinance

******THE SCHEDULE OF DIMENSIONS GRANTS THE ZONING ADMINISTRATOR AUTHORITY TO APPROVE A REDUCTION IN SETBACKS UP TO TWENTY-FIVE PERCENT (25%)***

FINDINGS UNDER SECTION 21.26 NONCONFORMITIES

SECTION 21.26 NONCONFORMITIES

21.26.1 INTENT

It is recognized that there exists within the districts established by this Ordinance and/or by subsequent amendments, lots, buildings, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments.

It is the intent of this Ordinance to permit these legal nonconforming lots, buildings, structures, or uses to continue until they are removed but not to encourage their survival. Minimum front, side and rear setbacks, minimum lot width and maximum lot coverage modifications up to twenty-five percent (25%) may be approved by the Zoning Administrator upon a written finding that such a modification will have no adverse impact on the use or development of adjoining lots or threaten the public health or safety in any way.

21.26.2 NONCONFORMING LOT

A nonconforming lot is a lot that the boundaries of which are recorded in a plat, deed or land contract executed and delivered prior to the effective date of this Ordinance and the width, depth, and/or area of which does not meet the minimum dimensional requirements of the District in which it is located.

A single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the District; provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the District in which such lot is located. Minimum front, side and rear setbacks, and maximum lot coverage modifications up to twenty-five percent (25%) may be approved by the Zoning Administrator. Modifications greater than twenty-five percent (25%) may be obtained only by approval of the Board of Appeals.

Where two (2) or more adjoining nonconforming lots are in existence under single ownership, such lots shall be used only in combinations which most closely satisfy the minimum lot size standards prescribed for the District in which said lots are located.

For definition purposes, "most closely" shall apply in situations where, for example, two (2) lots combined do not meet the minimum, but a third (3) lot would exceed the minimum by a greater amount than two (2) lots would fall short; hence, only two (2) lots need to be combined in this case.

******ANY SETBACK MODIFICATION GREATER THAN TWENTY-FIVE PERCENT (25%) MAY BE OBTAINED ONLY BY APPROVAL OF THE ZONING BOARD OF APPEALS***

FINDINGS UNDER ARTICLE 26/BOARD OF APPEALS

SECTION 26.6 DIMENSIONAL OR NON-USE VARIANCE

Where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would involve "practical difficulties" within the meaning of this Ordinance, the Zoning Board of Appeals shall have power upon appeal in specific cases to authorize such variation or modification as may be in harmony with the spirit of this Ordinance, and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the provisions of this Ordinance shall be granted unless it appears that there is clear and convincing evidence that all the following facts and conditions exist:

26.6.1 That the requested variance will not be detrimental to the public welfare or otherwise injurious to other properties in the same zoning district.

26.6.2 That the requested variance is necessary for the applicant to receive a right available to other properties in the same zoning district.

26.6.3 That special physical conditions or unique circumstances exist with this property and do not generally apply to other properties in the same zoning district.

26.6.4 That the special conditions or circumstances are not the result of actions by the applicant or predecessor in title.

26.6.5 That the requested variance is the minimum variance necessary that will make possible the reasonable use of the land.

******THE ZONING BOARD OF APPEALS HAS THE AUTHORITY TO APPROVE A VARIANCE IF COMPLIANCE IS FOUND WITH THE SECTION 26.6***

OTSEGO COUNTY
ZONING BOARD OF APPEALS

PZBA18-004
VARIANCE
011-700-003-004-01, 011-700-003-006-01

Exhibit List

Exhibit #1:	Application for case PZBA18-004 submitted by Applicant
Exhibit #2:	Otsego County Zoning Map Effective Date March 20, 2010/Amended January 24, 2017
Exhibit #3:	Otsego County Zoning Ordinance Effective March 20, 2010/Amended July 10, 2018
Exhibit #4:	Copy of Otsego County Equalization Department record card / LC 1446/636, WD 1446/323
Exhibit #5:	Aerial Site Plan submitted by Applicant
Exhibit #6:	Letter from the Northwest Michigan Health Department dated May 14, 2018
Exhibit #7:	Public Hearing Notice
Exhibit #8:	Letter to Bagley Township Planning Commission dated August 31, 2018
Exhibit #9:	Response from Bagley Township Planning Commission dated July 30, 2018
Exhibit #10:	Map and list of parties notified
Exhibit #11:	Receipt #01316111
Exhibit #12:	Finding of Fact/PZBA18-004

Zoning Board of Appeals
Non-Use Variance Applicant

Otsego COUNTY MICHIGAN

APPLICANT INFORMATION:

Name: Steven Sulkey — Owner/Agent/Other Interest *(Circle One)*

Address: 3766 Buck Rd

Phone: 313-680-9393 Fax:

Email Address: SASULKEY@Hotmail.com

PROPERTY OWNERS INFORMATION: *(If different from applicant)*

Name: Steven Sulkey / Otsego Lake Rentals LLC — Owner/Agent/Other Interest *(Circle One)*

Address:

Phone: Fax:

Email Address:

PROPERTY INFORMATION:

Address/Location:

Parcel Number(s): 011-700-003-006-01 and 011-700-003-004-01

Zoning District: RR Current Use: Abandon on 006-01 and septic Feild on 004-01

ATTACHMENTS: Please submit the following items with the application:

- Site Plan showing the following:
  - Dimensions of property
  - Location and dimensions of any existing buildings and/or structures
  - Any unique natural features such as lakes, rivers, streams, wetlands, steep slopes
  - Location and dimensions of proposed building and/or structure
- Copy of deed(s) and accurate legal description of property
- You are encouraged to include photographs and illustrations to support your case

*****You may use additional pages to explain any item that space does not allow.**

NATURE OF REQUEST: *(Clearly state the complete variance you are requesting)*

I am wanting to build a pole barn on a back Lot off of Otsego Lake on Buck Rd. I would like to split Lot 011-700-003-006-01 in half. The south side of that will be for future septic field for 3776 Buck Rd 3 homes on the Lake. The other half will be combined w/ 011-700-003-004-01. I know I was told I could build a 1200 sq ft on each lot but that does not do good for the neighborhood. I would like to build a 40'x45' or a 36'x50 to make an 1800 sq ft Pole barn. I think by dedicating the 40' split lot to the lake homes I'm improving the lake. I also plan on keeping the pole barn back in the woods so it will be hard to see, with trees around 3 sides.

****LAND USE SERVICES USE ONLY****

Permit Number:	Fee:	Date Received:	Date Complete:
PZBA18-004	$400		8.31.18

Exhibit 1

Zoning Board of Appeals
Non-Use Variance Applicant

UTILITIES AVAILABLE ON SITE: *(Check all that apply)*

☐ Water ☐ Well ☐ Sewer ☒ Septic

PROPERTY DESCRIPTION:

Area of Lot *(acres/square feet)*: 0.62 acre / 27,101 sq/Ft

Dimensions of Lot: Combined Lots 206.6 x 178.4 x 123.8 x 149.7

STRUCTURES:	**DESCRIPTION**	**HEIGHT**	**EXISTING**	**PROPOSED**
Number of Buildings on Site:	Pole barn	16'	0	1
Use, Area and Dimensions: *(Each building)*	Recreational	1800 sq Ft		40'x45' or 36'x 50'
Area of Other Structures: *(Decks, gazebos, steps, etc.)*	—	—	—	—
Percentage of Lot Coverage	1800 sq Ft .04 acres		0	

APPLICATION SIGNATURE:

All correspondence and notices regarding the application will be transmitted to the applicant. By signing this application the applicant is indicating that all information contained in this application is complete and accurate to the best of his/her knowledge.

(Signature)	(Date)	(Print Name)
[signature]	8-15-18	Steven A. Sulkey

I hereby grant permission for member of the Township Board, Township Planning Commission, Otsego County Zoning Board of Appeals and Otsego County officials, staff and consultants to enter the above described property for the purposes of gathering information related to the application.

Note to applicant/property owner: This permission is optional and failure to grant permission will not affect any decision on the applicant.

(Signature of Property Owner)	(Date)	(Print Name)
[signature]	8-15-18	Steven A. Sulkey

 Permit Number: PZBA18-004

Zoning Board of Appeals
Non-Use Variance Applicant

THE APPLICANT MUST DEMONSTRATE THE FOLLOWING CONDITIONS EXIST:
*****This section *MUST* be completed*****

PRACTICAL DIFFICULTY: A practical difficulty exists on the subject site (such as exceptional narrowness, shallowness, shape or area; presence of floodplains; exceptional topographic conditions) and strict compliance with the Zoning Ordinance standards would unreasonably prevent the owner from using the subject site for a permitted use or would render conformity unnecessarily burdensome. Demonstration of a practical difficulty shall have a bearing on the subject site or use of the subject site and not to the applicant personally. Economic hardship or optimum profit potential is not consideration for practical difficulty.

I am trying to keep a place for a septic feild to be put away from the lake for 3 houses along with building a single pole barn instead of 2. The pole barn will be incorporated with the septic field for 3766 Buck Rd.

26.6.1. PUBLIC WELFARE: Will granting this variance uphold the spirit of the ordinance, secure public safety and uphold substantial justice to the property owners in the district. The Board must consider whether or not granting a variance will hinder Otsego County in achieving the very goals and objectives the ordinance is trying to accomplish. You should explain how your application is consistent with and does not violate the intent of the particular section(s) that apply to it; merely saying it does not, is not enough.

I feel that combining the 2 properties will bring the feature Pole Barn property up to code or conformity. As for the 40' of the other split property, it will be only for septic field. I have already talked to the health dept. about what size and they recomended it. I also have had an evaluation from the health dept on May 14th 2018. I am trying to better this neighborhood by making 1 structure not 2.

26.6.2. SUBSTANTIAL JUSTICE: The variance would provide substantial justice by granting the property rights similar to those enjoyed by the majority of other properties in the vicinity and other properties in the same zoning district. The decision shall not bestow upon the property special development rights not enjoyed by other properties in the same district or which might result in substantial adverse impacts on properties in the vicinity (such as the supply of light and air, significant increases in traffic, increased odors and increase in the danger of fire or other activities which may endanger the public safety, comfort, morals or welfare).

One structure would be better off then 2. Also, if I were to build 2, one of them would have to be closer to the road and the other one back futher, making it look like 2x the size I want to build. I am also keeping trees all around it as to hide in back in the woods.

Zoning Board of Appeals
Non-Use Variance Applicant

26.6.3. UNIQUE SITUATION: The demonstrated practical difficulty results from exceptional or extraordinary circumstances or conditions applying to the subject site at the time the Ordinance was adopted or amended which are different than typical properties in the same zoning district or vicinity. List in detail the unique circumstances or conditions that apply to your property. Please explain here the problem with your land.

The back properties in which I want to build on, do not line up with the Lake properties. So, If I were to build 2 buildings they would be having 3 Different homes, The center line of the future combined property would be the center of my Lake side home, therefore lineing them up perfectly. When the one parcel gets divided the South 40' will line up perfectly for the septic field for 3776 Buck Rd 3 homes.

26.6.4. NOT SELF-CREATED: The conditions resulting in a variance request cannot be self-created and would have existed regardless of ownership of the property.

The existing Lots were there already, im just trying to make it better, They did not do a good job of dividing up the land in the past.

26.6.5. MINIMUM VARIANCE NECESSARY: The variance shall be the minimum necessary to grant relief created by the practical difficulty. Please explain/list other alternatives and the reasons why these options are not feasible.

Building 2 pole barns takes away the space for the future septic system for 3776 BUCK Rd. 3 homes. Building 2 pole barns would also be an eye sore to the neighborhood. The space needed is the minimum needed to put most of the stuff I have Like a 25' Poontoon, Jet boat, 3 Jet skis, 2 lawn trailers, 3-4 wheelers, 2 Tractors, plow truck for the private road in which the county does not plow and the road is a dead end dirt road, (Buck Rd) and more stuff that my family of 7 can store. I'm trying to store it out of sight and probably need a bigger Pole Barn than 1800 sq ft but I will make it all fit in there.

COMPLIANCE WITH OTHER LAWS: The variance is the minimum necessary to comply with state or federal laws, such as farming activities protected by the "Right to Farming Act" or accessibility to meet the needs of individual with disabilities protected under the Americans with Disabilities Act.

We would be in coplianee with all laws.

PZBA18-004 011-700-003-004-01, 011-700-003-006-01 BUCK RD

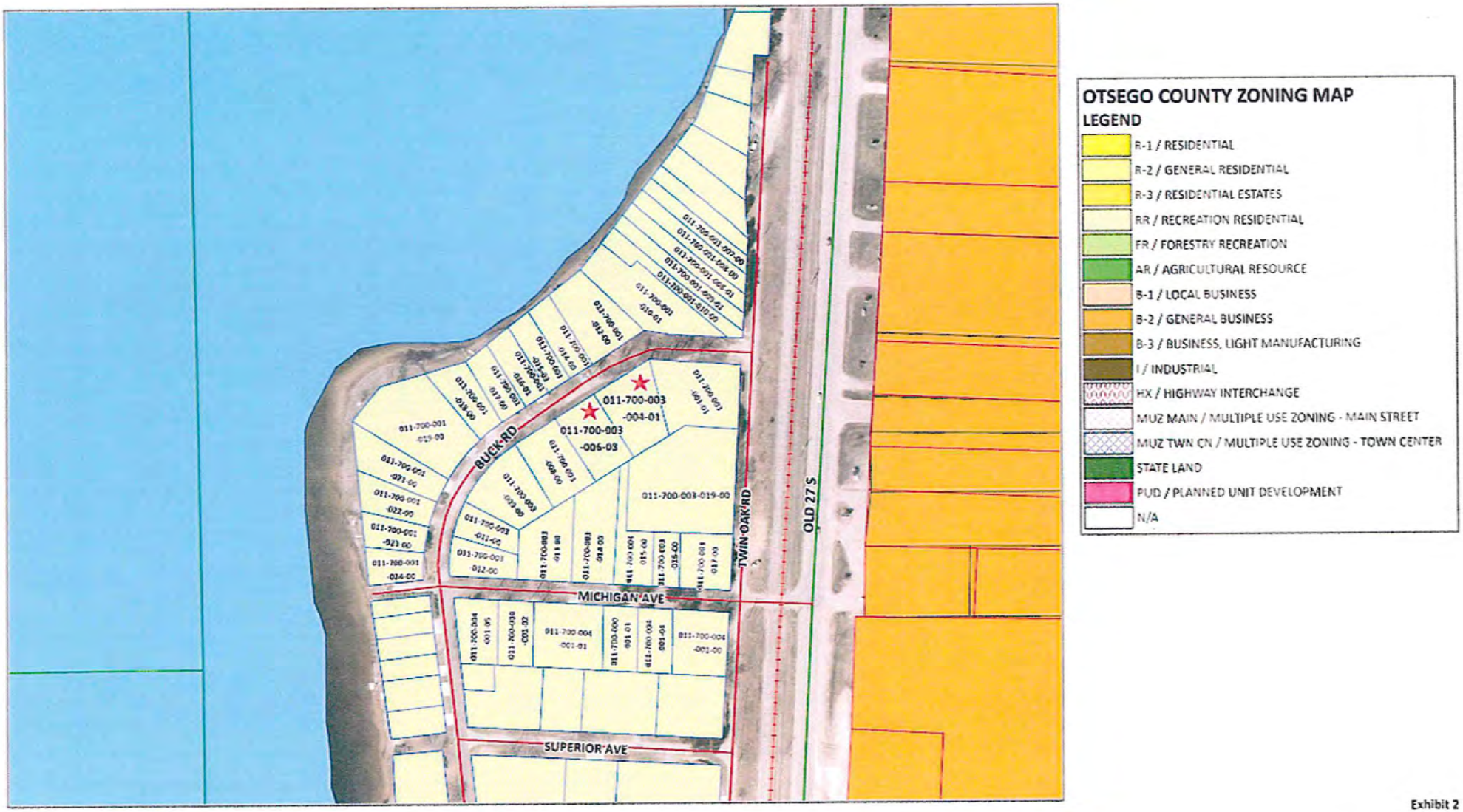


Exhibit 2

OTSEGO COUNTY
TREASURER'S OFFICE
Gaylord, Mich., 11/13/17

I hereby certify that according to our records all taxes returned to this office are paid for five years preceding the date of this instrument. This does not include taxes in the process of local collection, board of review, PRE denial or tax tribunal.

Linda Dargert, Deputy COUNTY TREASURER

OTSEGO COUNTY MICHIGAN
RECEIVED
SUSAN DEFEYTER, CLERK/REGISTER OF DEEDS
11/13/2017 10:38:48 AM

LIBER 1446 PAGE 636

OTSEGO COUNTY MICHIGAN
RECORDED
EVELYN M. PRATT, CLERK/REGISTER OF DEEDS
11/13/2017 10:39:11 AM

LAND CONTRACT

THIS CONTRACT, MADE ON November 09, 2017

BETWEEN William L Giles and Celestina Giles, husband and wife of 3766 Buck Rd, Gaylord, MI 49735, hereinafter referred to as the "SELLER" and Steven A Sulkey of PO Box 367, Gaylord, MI 49735, hereinafter referred to as the "PURCHASER"

WITNESSETH, That in consideration of the mutual covenants to be performed between the respective parties hereto as hereinafter expressed and the sum hereinafter stated to be duly paid by the PURCHASER to the SELLER, as hereinafter specified, it is agreed between the parties hereto as follows:

1. Sale. The seller hereby sells and agrees to convey to the PURCHASER the following described property: Land situated in the Township of Bagley, County of Otsego, State of Michigan described as follows:

Lot 14, Block 1 and Lots 4 & 5, Block 3, Supervisor's Plat of Point Sunset according to the plat thereof as recorded in Liber 2 of Plats, Page 33, Otsego County Records.
Together with all easements and rights benefiting the premises, whether or not such easements and rights are of record, and all tenements, hereditaments, improvements and appurtenances in accordance with the Purchase Agreement, subject to all recorded easements, conditions, encumbrances and limitations and to all applicable building and use restrictions, zoning laws and ordinances, if any, affecting the premises.

The SELLER grants to the Buyer the right to make ALL division(s) under Section 108 of the Land Division Act, Act No. 288 of Public Acts of 1967.

2. Price and Terms. That the full consideration for the sale of the land to PURCHASER is Three Hundred Ten Thousand Dollars and No Cents ($310,000.00) of which the sum of Forty Thousand Dollars and No Cents ($40,000.00) has been paid to SELLER prior to the delivery hereof, the receipt of which is hereby acknowledged, and the additional sum of Two Hundred Seventy Thousand Dollars and No Cents ($270,000.00) is to be paid to SELLERS, with interest on any part thereof at any time unpaid at the rate of **zero** (0%) while PURCHASER is not in default, and at the rate of zero % per annum computed upon the balance of the purchase price then unpaid, during the period of any default in payment. Such additional purchase money and interest is to be paid in monthly installments of Seven Hundred Twenty Dollars and No Cents ($720.00) or more at PURCHASER'S option, on the 9th day of each month, beginning December 9th, 2017 such payments to be applied first upon interest and the balance on principal. Notwithstanding any provision to the contrary contained herein. PURCHASER shall pay the entire balance of principal and interest due hereunder on or before the expiration of 2 years from the date hereof.

Payments to be made to SELLER at 3766 Buck Rd, Gaylord, MI 49735.

3. Late Payment Charge. If PURCHASER shall fail to pay, within ten (10) days after due date, any installment due hereunder, PURCHASER shall be required to pay an additional charge of five (5%) percent of the late installment. Such charge shall be paid to SELLER at the time of payment of the past due installment. The charge is deemed by the parties to cover SELLERS administrative costs resulting from PURCHASER'S delinquency.

4. Taxes and Insurance. To pay all taxes and special assessments hereafter levied on the land before any penalty for non-payment attaches thereto, and furnish receipts to SELLER upon request, as evidence of payment thereof, and also at all times keep the buildings now or hereafter on the land insured against loss or damage with the SELLER listed as an additional named insured, in manner and to an amount approved by SELLER, and to deliver the policies as issued to SELLER with the premiums fully paid. Should the PURCHASER fail to pay any tax or assessment, or installment thereof, when due, or keep said buildings insured, the SELLER may pay the same and have the buildings insured, and the amounts thus expended shall be a lien on said premises and may be added to the balance then unpaid hereon and be due at once and bear interest until paid at the rate of the per cent per annum above specified in Paragraph 2.

Exhibit 4

In case of damage as a result of which said insurance proceeds are available, the PURCHASER may, within sixty (60) days of said loss or damage, give to the SELLER written notice of PURCHASER'S election to repair or rebuild the damaged parts of the premises, in which event said insurance proceeds shall be used for such purpose. The balance of said proceeds, if any, which remain after completion of said repairing or rebuilding, or all of said insurance proceeds if the PURCHASER elects not to repair or rebuild, shall be applied first toward the satisfaction of any existing defaults under the terms of this contract, and then as a prepayment upon the principal balance owing, and without penalty, not withstanding other terms of paragraph 2 to the contrary. No such prepayment shall defer the time for payment of any remaining payments required by said contract. Any surplus of said proceeds in excess of the balance owing hereon shall be paid to the PURCHASER (Following paragraph applies unless deleted.) Notwithstanding the provisions of the foregoing paragraph, the SELLER herein shall, while this contract is not in default, pay all taxes (but not special assessments) levied on the above described premises and premiums on insurance on the buildings on said premises and the amounts so paid shall be added to the principal then unpaid thereon. It is understood that **Zero** is included in each monthly payment as a credit to cover taxes and insurance premiums as they mature. The monthly payment required shall be increased from time to time, as necessary, to cover any increase in cost of taxes and insurance incurred over such costs as of the time of execution of this contract.

5. Maintenance. All buildings, trees or other improvements now on said premises, or hereafter made or placed thereon, shall be a part of the security for the performance of this contract and may not be removed there from. PURCHASER shall not commit, or suffer any other person to commit, any waste or damage to said premises or the appurtenances and shall keep the said premises and all improvements in as good condition as they are now.

6. Enforcement on Default. If the PURCHASER shall fail to perform any of the covenants or conditions contained in this contract on or before the date on which the performance is required, the SELLER may: (a) give the PURCHASER a written notice specifying the default and informing the PURCHASER that if the default continues for a period of fifteen days after service of the notice that the SELLER will without further notice declare the entire balance due and payable, and proceed according to the common law or the statutes of the State of Michigan; or (b)not declare the entire balance due and payable, and proceed according to the common law or the statutes of the State of Michigan including but not limited to the right of SELLER to declare a forfeiture in consequence of the nonpayment of any money required to be paid under the contract or any other breach of the contract, but in the event the SELLER elects to proceed under this sub-paragraph the SELLER shall give the PURCHASER a written notice of forfeiture specifying the default which has occurred and shall give the PURCHASER a period of fifteen days after service of the notice of forfeiture to cure the default.

7. Deed and Evidence of Title. If the PURCHASER shall, in the time and manner above specified, make all the payments herein provided for, and shall observe and perform all the conditions and agreements herein made, the SELLER shall thereupon by good and sufficient warranty deed, convey the premises to the PURCHASER on the conditions herein agreed upon. SELLER shall deliver with said deed a complete abstract of title and tax history of the premises certified to date of conveyance and showing a marketable title, subject to easements, conditions, encumbrances and limitations of record, in the SELLER, or a fee simple title insurance policy guaranteeing title to the premises in the name of PURCHASER; provided, however, that the warranty deed, the abstract and the tax history shall be limited so as to except acts or negligence of parties other than the SELLER subsequent to the date of this contract.

In the event that evidence of title in the SELLER, by abstract of title or title insurance, has been furnished the PURCHASER current with the date of this contract, PURCHASER agrees that except for the costs resulting from acts, negligence, or death of the SELLER, the cost of additional evidence of title shall be the obligation of the PURCHASER.

8. Possession. Possession of said premises may be taken by said PURCHASER on and retained for so long as no default is made by said PURCHASER in any terms or conditions hereof.

9. Assignment or Sale. PURCHASER further agrees that, not withstanding any other provision herein contained, this land contract shall become immediately due and payable in the event PURCHASER shall sell, assign, transfer or convey his interest or any part of his interest in the subject property by assignment, sub-land contract, or any other manner, without first securing the written consent of the SELLER.

10. Conveyance or Mortgage by SELLER. The SELLER reserves the right to convey, his interest in the above described land and his conveyance hereof shall not be a cause for rescission.

The SELLER may, during the lifetime of this contract, place a mortgage on the premises above described, which shall be a lien on the premises, superior to the rights of the PURCHASER herein, or may continue and renew any existing mortgage thereon, provided that the aggregate amount due on all outstanding mortgages shall not at any time be greater than the unpaid balance of the contract, and provided that the aggregate payments of principal and interest, whether periodic or final, required in any one month in such new or renewal mortgage shall not exceed those named in this contract; nor shall said new or renewal mortgage restrict the time of payments thereon to a date later than is provided for similar payments in this contract. To secure the priority of lien granted to a new or renewal mortgage as provided for in this paragraph, written notice shall be given to the PURCHASER within fifteen (15) days of the execution of all such new mortgages and renewals containing the name and address of the mortgagee, the rate of interest of such mortgage, the amount and due date of payments and maturity of principal.

If the SELLER'S interest be that of land contract PURCHASER or is now or hereafter encumbered by mortgage, the SELLER covenants that he will meet the payments of principal and interest thereon as they mature and produce evidence thereof to the PURCHASER upon demand. In the event the SELLER shall default upon any such mortgage or land contract, the PURCHASER shall have the right to do the acts or make the payments necessary to cure such default and shall be reimbursed for so doing by receiving, automatically, credit on this contract to apply on the payments due or to become due hereon.

When payments on this contract have reduced the amount due hereon to the amount due by SELLER on any such mortgage or land contract indebtedness, thereafter the PURCHASER shall be entitled to make payments due on this contract directly to the mortgagee or land contract vendor for credit on such mortgage or land contract indebtedness and the PURCHASER shall be reimbursed for doing so by receiving, automatically, credit on this contract to apply on the payments due or become due heron.

11. Notices. Until endorsed on this contract to the contrary, each of the parties hereto agrees that notices required hereunder may be sent to SELLER at 3766 Buck Rd, Gaylord, MI 49735, PURCHASER at PO Box 367, Gaylord, MI 49735 and when mailed, postage prepaid, to said address, shall be binding and conclusively presumed to be served upon said parties respectively. Notice of forfeiture of this contract shall be served as provided by law.

12. Pronouns. If more than one joins in the execution hereof as SELLER or PURCHASER, or either be of the feminine sex, or a corporation, the pronouns and relative words herein used shall be read as if written in plural, feminine or neuter respectively.

13. Time of Essence. It is expressly understood and agreed by the parties hereto that time shall be deemed as of the very essence of this contract and all stipulations and agreements herein contained shall apply to and bind the heirs, executors, administrators, successors, executors, administrators, successors and assigns of the parties hereto.

14. Condition of Premises. PURCHASER agrees that the SELLER has made no representations or warranties and makes no representations or warranties as to the condition of the premises, the condition of the buildings, appurtenances and fixtures locate thereon, and/or the location of the boundaries.

15. Rents and Profits. Notwithstanding any other provision herein contained or any provision of law, the parties expressly agree that in the event of default not cured by the PURCHASER within fifteen (15) days after notice of intent to forfeit the contract is served upon PURCHASER, SELLER shall have the right to possession of the subject property, and to receive all rents and profits relative to the subject property from and after the date set in said notice for curing such default and such right of SELLER shall continue during any period that forfeiture or foreclosure proceedings may be pending and during any period of redemption. PURCHASER further agrees that SELLER shall have the right to the appointment of a receiver to receive such rents and profits and such receiver may be SELLER or an agent of SELLER.

16. Attorney Fees. In the event of default, in addition to any remedies or rights of SELLER, PURCHASER shall pay to SELLER, SELLER'S reasonable and actual attorneys' fees and expenses incurred by SELLER in enforcement of any rights of SELLER hereunder, which sums shall be payable prior to PURCHASERS being deemed to have corrected any such default.

17. Other Provisions. This Land Contract calls for a balloon payment to be made 2 years from this date hereof

IN WITNESS WHEREOF, the parties hereto have executed this Land Contract on the day and year first above written.

SELLER(S):

William L Giles

Celestina Giles

State of Michigan)
) SS
County of Otsego)

On this 9 day of November, 2017, before me personally appeared William L Giles and Celestina Giles, husband and wife to me known to be the person(s) described in and who executed the same as their free act and deed.

LAURA HOYT
NOTARY PUBLIC, STATE OF MICHIGAN
COUNTY OF OTSEGO
MY COMMISSION EXPIRES 11/20/2018
ACTING IN OTSEGO COUNTY

Laura Hoyt
, Notary Public
County, Michigan
My Commission Expires: _____
Acting in the County of: Otsego

PURCHASER(S):

Steven A Sulkey

State of Michigan)
) SS
County of Otsego)

On this 9 day of November, 2017, before me personally appeared Steven A Sulkey to me known to be the person(s) described in and who executed the same as his free act and deed.

LAURA HOYT
NOTARY PUBLIC, STATE OF M[illegible]
COUNTY OF OTSEGO
MY COMMISSION EXPIRES 11/[illegible]/2018
ACTING IN OTSEGO COUNTY

Laura Hoyt
, Notary Public
County, Michigan
My Commission Expires: _____
Acting in the County of: Otsego

File Number: 431993

Drafted By: William L Giles
3766 Buck Rd
Gaylord, MI 49735

Return To: Steven A Sulkey
PO Box 367
Gaylord, MI 49735

Assisted By: Alpine Title & Escrow
114 E. Main Street
Suite A
Gaylord, MI 49735

OTSEGO COUNTY
TREASURER'S OFFICE
Gaylord, Mich..

8-1-18

I hereby certify that according to our records all taxes returned to this office are paid for five years preceding the date of this instrument. This does not include taxes in the process of local collection, board of review, PRE denial or tax tribunal.

Deputy COUNTY TREASURER

LIBER 1467 PAGE 323

OTSEGO COUNTY MICHIGAN
RECORDED
SUSAN DEFEYTER, CLERK/REGISTER OF DEEDS
08/01/2018 4:02:04 PM

OTSEGO COUNTY
AUGUST 1, 2018
RECEIPT #29055

STATE OF MICHIGAN
REAL ESTATE TRANSFER TAX
$ 330.00-CO
$ 2250.00-ST
STAMP # 12599

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS: That Roger L Hutton, Joanna L Hutton, husband and wife, Evin L Hutton, Laura R. Hutton, husband and wife, Eric L Hutton, Beverly J Hutton, husband and wife, and Roger L Hutton and Joanna L Hutton, Trustees of the Roger L Hutton & Joanna L Hutton Trust u/a/d March 18, 2003

whose address is 3141 Pikewood Court, Commerce Twp, MI 48382, 44267 Brandywine Road, Canton, MI 48187, 2096 Devonshire Drive, Wixom, MI 48393, and MI

Convey(s) and Warrant(s) to Otsego Lake Rentals LLC, a Michigan Limited Liability Company, whose address is 3766 Buck Road, Gaylord, MI 49735

the following described premises:

Land situated in the Township of Bagley, County of Otsego, State of Michigan, described as:

Lot 6 and the North 35 feet of Lot 7, Block 3 and Lot 15 and 16, Block 1, Supervisor's Plat of Point Sunset, according to the plat thereof as recorded in Liber 1 of Plats, Page 72, Otsego County Records

Tax Parcel No.: 69-011-700-003-006-01, 69-011-700-003-006-02, 69-011-700-003-006-03, 69-011-700-001-015-02, 69-011-700-001-015-03, 69-011-700-001-016-01, 69-011-700-003-016-02, and 69-011-700-001-016-03

For the sum of Three Hundred Thousand Dollars and No Cents ($300,000.00) subject to the existing building and use restrictions, easements, and zoning ordinances of record, if any.

The grantor grants to the grantee the right to make All RA division(s) under section 108 of the Land Division Act, Act. No. 288 of the Public Acts of 1967. This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

Dated July 31, 2018

Signed
Roger L. Hutton and Joanna L. Hutton Trust
u/a/d March 18, 2003

Roger L Hutton
By: Roger L. Hutton, Trustee

Joanna L. Hutton
By: Joanna L. Hutton, Trustee

Roger L Hutton
Roger L Hutton

Joanna L. Hutton
Joanna L Hutton

By Roger L Hutton as Attorney in Fact For Evin L Hutton
By: Roger L. Hutton as Attorney in fact for Evin L. Hutton

By Roger L Hutton as Attorney in Fact For Laura R. Hutton
By: Roger L. Hutton, as Attorney in fact for Laura R. Hutton

2550

447508

Exhibit 4

By Roger L Hutton as Attorney in Fact for Eric L Hutton

By: Roger L. Hutton, as Attorney in fact for Eric L. Hutton

By Roger L Hutton as Attorney in Fact for Beverly J Hutton

By: Roger L. Hutton, as Attorney in fact for Beverly J. Hutton

LIBER 1467 PAGE 324

State of Michigan)
) SS
County of Otsego)

On this 31 day of July, 2018, before me personally appeared Roger L. Hutton and Joanna L. Hutton, individually and as Trustee's of the Roger L. Hutton and Joanna L. Hutton Trust u/a/d March 18, 2003. to me known to be the person described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

RITA L JOHNSON
NOTARY PUBLIC, STATE OF MICHIGAN
COUNTY OF OTSEGO
MY COMMISSION EXPIRES 3/13/2019
ACTING IN OTSEGO COUNTY

Rita L Johnson
, Notary Public
County, Michigan
My Commission Expires: _____
Acting in the County of: Otsego

State of Michigan }
}SS
County of Otsego }

On this 31 day of July, 2018, before me personally appeared Roger L. Hutton, as Attorney in fact for Evin L. Hutton, Laura R. Hutton, Eric L. Hutton and Beverly J. Hutton., to be know to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

RITA L JOHNSON
NOTARY PUBLIC, STATE OF MICHIGAN
COUNTY OF OTSEGO
MY COMMISSION EXPIRES 3/13/2019
ACTING IN OTSEGO COUNTY

Rita L Johnson
Notary Public
_____ County, Michigan
My Commission Expires: _____
Acting in the County of Otsego

Drafted By: Roger L Hutton
3141 Pikewood Court
Commerce Twp, MI 48382

Return To: Otsego Lake Rentals LLC, a Michigan Limited Liability Company
3776 Buck Road
Gaylord, MI 49735

Assisted By: Alpine Title & Escrow
114 E. Main Street
Suite A
Gaylord, MI 49735 (447508)

Recording Fee $35.00 State Transfer Tax $2,250.00 County Transfer Tax $330.00

County Treasurer's Certificate *City Treasurer's Certificate*

Parcel Number: 69-011-700-003-004-01 Jurisdiction: BAGLEY TOWNSHIP County: OTSEGO Printed on 08/16/2018

Grantor	Grantee	Sale Price	Sale Date	Inst. Type	Terms of Sale	Liber & Page	Verified By	Prcnt. Trans.
GILES, WILLIAM L & CELESTI	SULKEY, STEVEN A	310,000	11/09/2017	LC	Good	1446/636	DEED	0.0

Property Address

Class: 402 RES VACANT Zoning: RR

School: Gaylord Community

P.R.E. 100% 11/13/2017

: 0.00

2019 Est TCV 14,800(Value Overridden)

Building Permit(s)	Date	Number	Status

Owner's Name/Address

SULKEY, STEVEN A
PO BOX 367
GAYLORD MI 49734-0367

Improved | X | Vacant

Public Improvements

Dirt Road
Gravel Road
Paved Road
Storm Sewer
Sidewalk
Water
Sewer
Electric
Gas
Curb
Street Lights
Standard Utilities
Underground Utils.

Topography of Site

Level
Rolling
Low
High
Landscaped
Swamp
Wooded
Pond
Waterfront
Ravine
Wetland
Flood Plain

Land Value Estimates for Land Table .

Description	Frontage	Depth	* Factors * Front	Depth	Rate	%Adj.	Reason	Value
			0.320 Acres		0	100		0
			0.32 Total Acres		Total Est. Land Value =			0

Taxpayer's Name/Address

GILES, WILLIAM L & CELESTINA
3766 BUCK RD
GAYLORD MI 49735

Tax Description

LOTS 4 & 5 BLK 3 POINT SUNSET SEC 21 T30N R3W.

Comments/Influences

Who When What

Year	Land Value	Building Value	Assessed Value	Board of Review	Tribunal/ Other	Taxable Value
2019	7,400	0	7,400			7,400C
2018	7,400	0	7,400	7,400M		7,400S
2017	7,400	0	7,400			5,814C
2016	7,400	0	7,400			5,763C

The Equalizer. Copyright (c) 1999 - 2009.
Licensed To: County of Otsego, Michigan

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

Exhibit 4

Parcel Number: 69-011-700-003-006-01 Jurisdiction: BAGLEY TOWNSHIP County: OTSEGO Printed on 09/04/2018

Grantor	Grantee	Sale Price	Sale Date	Inst. Type	Terms of Sale	Liber & Page	Verified By	Prcnt. Trans.
HUTTON, ROGER L & JOANNA L	OTSEGO LAKE RENTALS LLC	300,000	07/31/2018	WD	ARMS LENGTH	1467/323	AGENT	0.0

Property Address

BUCK RD

Owner's Name/Address

OTSEGO LAKE RENTALS LLC
3766 BUCK RD
GAYLORD MI 49735

Tax Description

LOT 6 & N 35' OF LOT 7 1/3RD INTEREST THEREIN BLK 3 POINT SUNSET SEC 21 T30N R3W.

Comments/Influences

Class: 402 RES VACANT Zoning: RR

School: Gaylord Community

P.R.E. 0%

:

2019 Est TCV 3,800(Value Overridden)

Building Permit(s)	Date	Number	Status

Improved X Vacant

Public Improvements

Dirt Road
Gravel Road
Paved Road
Storm Sewer
Sidewalk
Water
Sewer
Electric
Gas
Curb
Street Lights
Standard Utilities
Underground Utils.

Topography of Site

Level
Rolling
Low
High
Landscaped
Swamp
Wooded
Pond
Waterfront
Ravine
Wetland
Flood Plain

Land Value Estimates for Land Table .

Description	Frontage	Depth	* Factors * Front	Depth	Rate	%Adj.	Reason	Value
			0.280 Acres		0	100		0
		0.28 Total Acres			Total Est. Land Value =			0

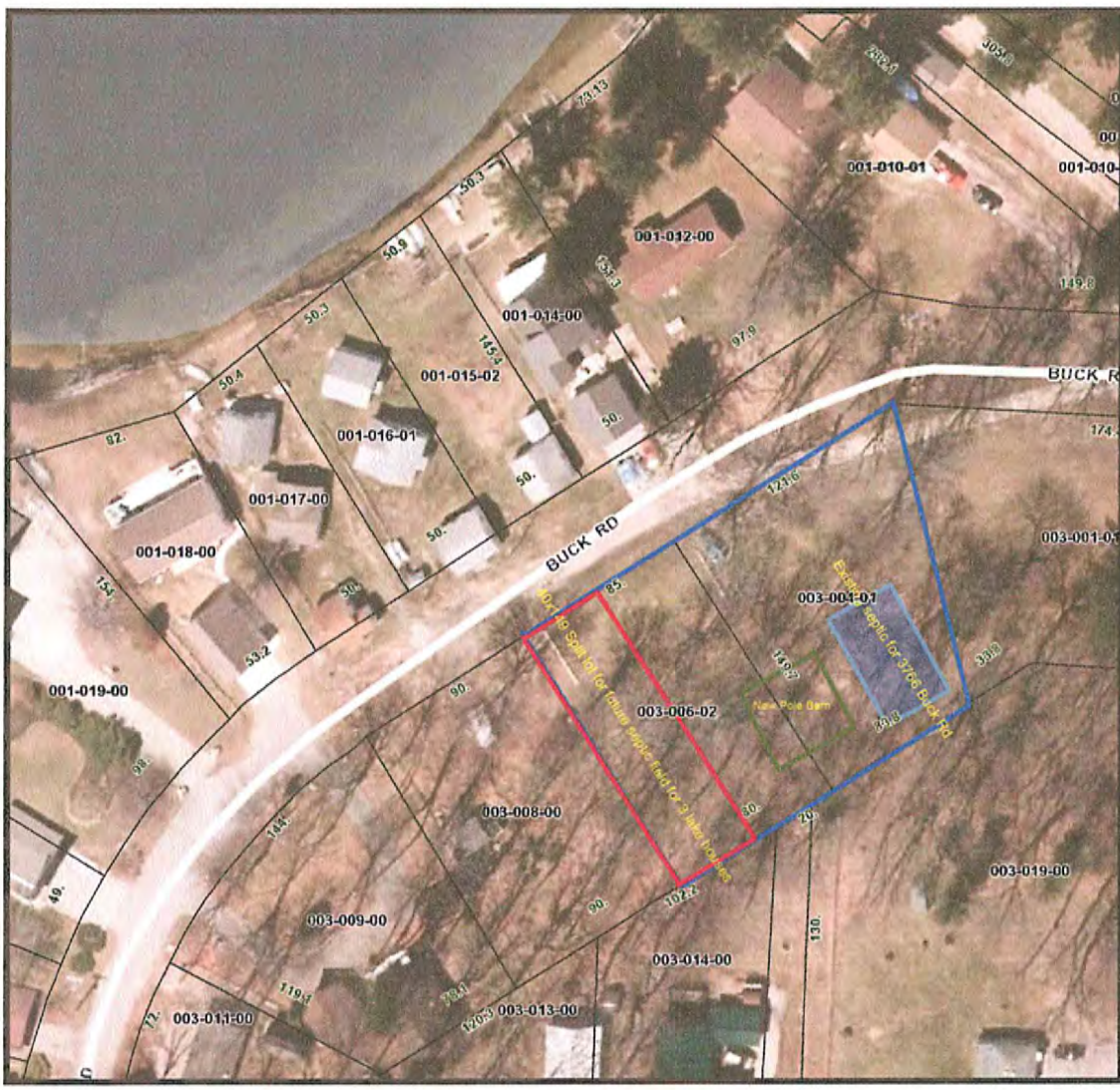
Year	Land Value	Building Value	Assessed Value	Board of Review	Tribunal/ Other	Taxable Value
2019	1,900	0	1,900			1,900C
2018	1,900	0	1,900			1,900S
2017	1,900	0	1,900			1,900S
2016	1,900	0	1,900			1,900S

Who When What

The Equalizer. Copyright (c) 1999 - 2009.
Licensed To: County of Otsego, Michigan

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

Exhibit 4



Otsego COUNTY MICHIGAN

ESTABLISHED 1875

New Pole Barn

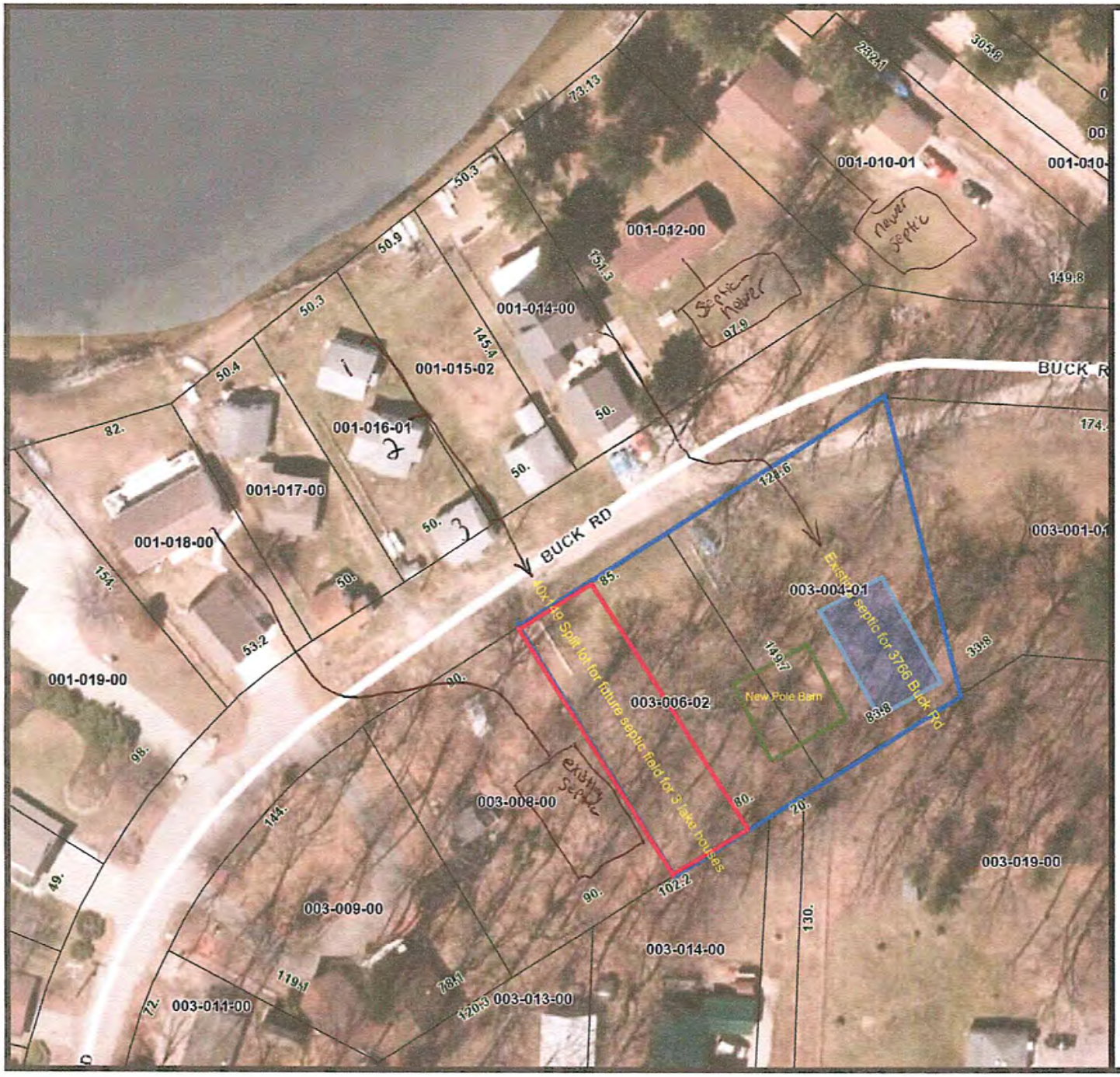
Map Publication:
08/15/2018 6:11 PM

20m
60ft

powered by FetchGIS

Disclaimer: This map does not represent a survey or legal document and is provided on an "as is" basis. Otsego County expresses no warranty for the information displayed on this map document.

Exhibit 5



Otsego COUNTY MICHIGAN
ESTABLISHED 1875

New Pole Barn

Map Publication:
08/15/2018 6:11 PM

20m
60ft

powered by FetchGIS

Disclaimer: This map does not represent a survey or legal document and is provided on an "as is" basis. Otsego County expresses no warranty for the information displayed on this map document.

Exhibit 5

HEALTH DEPARTMENT of Northwest Michigan

Administrative Office
220 West Garfield Ave
Charlevoix, MI 49720
231-547-6523
231-547-6238 Fax

209 Portage Drive
Bellaire, MI 49615
231-533-8670
231-533-8450 Fax

205 Grove Street
Mancelona, MI 49659
231-587-5052
231-587-5313 Fax

3434 M-119, Suite A
Harbor Springs MI 49740
231-347-6014
231-347-2861 Fax

95 Livingston Blvd
Gaylord, MI 49735
989-732-1794
989-732-3285 Fax

Dental Clinics North
Administrative Office
220 West Garfield Ave
Charlevoix, MI 49720
231-547-5696
231-547-6238 Fax

Hospice of NW Michigan
220 West Garfield Ave
Charlevoix, MI 49720
800-551-4140
231-547-1164 Fax

Northern Michigan Lab
95 Livingston Blvd
Gaylord, MI 49735
989-732-1794
989-732-3285 Fax

www.nwhealth.org

May 14, 2018

Steven Sulkey
3766 Buck Rd
Gaylord, MI 49735

Re: Evaluation of existing drainfield located at 69-011-700-001-014-00, 3766 Buck Rd, Section 21, Bagley Township, Otsego County

Dear Mr. Sulkey:

On May 2, 2018 this writer, representing the Health Department of Northwest Michigan, conducted an evaluation of the existing on-site sewage treatment/disposal system serving the above described premise. The evaluation (application O18-001) was conducted based upon a proposal to construct an addition to the home that that will bring it to 5 bedrooms (including bonus rooms) per our conversation at the site. The following observations were noted:

- No existing permits were identified to this site upon a record search. An installation date is unknown at this time.
- The septic tank and pump chamber were identified in the driveway are to the right of the garage. Based on top dimensions, via probing, it is believed the tank is approximately 1000 gallons capacity. A separate pump chamber is present of which the capacity was not confirmed.
- The drainfield is located across the street on a separate tax ID parcel (also owned by you).
- The drainfield was confirmed to be approximately 23' x 30' (690 square feet) in area and partially overgrown with brush and trees.
- Probing and soil borings adjacent to the drainfield confirm that the bottom of drainfield is approximately 35" above the legal high of Otsego Lake (1273.5').
- The existing septic system was verified to be in good working condition on this date. No evidence of ponding on the ground surface or within the drainfield itself was observed. This office makes no guarantee as to the continued life expectancy of t he system.
- Isolation to surface water and surrounding water wells is satisfactory.
- Adequate area is available for a replacement septic system to serve up to a 5 bedroom home.

Based upon the proposal to construct an addition to the home which includes 2 bedrooms for a total of 5 bedrooms, **it is the position of this agency that the existing on-site septic system is NOT adequate for the proposed use**. Approval cannot be granted for several reasons including the lack of adequate septic tank capacity, inadequate drainfield area, and insufficient isolation to seasonal ground water from the bottom of the drainfield. Additionally, there is a concern with the age of the system related to the growth of brush and small trees encroaching. In order to proceed with the current proposal you would need to apply for a permit to construct a new septic system meeting the full requirements of the current District Sanitary Code.

It was suggested that you may modify the proposed addition to keep the home as 3 bedrooms. As long as the modification do not exceed 50% of the original structure this MAY be permissible with the existing septic system. A set of floor plans showing the current and proposed layout would be required for review prior to any determination by this office.

If you have any questions concerning this matter, please contact this writer at the Gaylord office of the Health Department of Northwest Michigan.

Sincerely,

Chuck Edwards, R.S.
Environmental Health Supervisor, Otsego County

Cc: Otsego County Building Department

OTSEGO COUNTY
ZONING BOARD OF APPEALS

PUBLIC HEARING NOTICE
September 25, 2018

The Otsego County Zoning Board of Appeals will hold a public hearing on Tuesday, September 25, 2018 at 6:00 pm in the Planning and Zoning Meeting room located at 1322 Hayes Rd Gaylord, Michigan.

The purpose of the public hearing will be to obtain citizen comment on the following:

1. David & Francine Musinski, applicants, have requested a variance for property located in Otsego Lake Township at 11927 Fantasy Dr Frederic, MI 49733. The purpose of the variance is to allow a reduction in the side setback for a structure built. The property is currently zoned RR/Recreation Residential. Side setbacks in a RR Zoning District are 10 feet.

   Parcel identification number: **091-210-000-625-01**
   11927 Fantasy Dr
   Frederic, MI 49733

   Legal Description:
   LOTS 625&626 ENCHANTED FOREST NO 3 2018 COMBO OF 091-210-000-625-00 & 626-00

2. Steven Sulkey/Otsego Lake Rentals, applicant, has requested a variance for property located in Bagley Township on Buck Rd Gaylord, MI 49735. The purpose of the variance is to allow a larger accessory building. The property is currently zoned RR/Recreation Residential. The maximum square footage of an accessory building in a RR Zoning District is 1200 sq ft.

   Parcel identification number: **011-700-003-004-01**
   Buck Rd
   Gaylord, MI 49735

   Legal Description:
   LOTS 4 & 5 BLK 3 POINT SUNSET SEC 21 T30N R3W

   Parcel identification number: **011-700-003-006-01**
   Buck Rd
   Gaylord, MI 49735

   Legal Description:
   LOT 6 & N 35' OF LOT 7 BLK 3 POINT SUNSET SEC 21 T30N R3W

All citizens are welcome to attend the meeting or provide written comment. If written comments are provided the comments must be received at the Otsego County Land Use Services Office by noon (12:00 pm) the day of the meeting.

Any citizen who has questions regarding this application or needs assistance to attend this meeting should contact the Director of Land Use Services at 989.731.7400.

Exhibit 7

Otsego COUNTY
ESTABLISHED 1875 MICHIGAN

Department of Land Use Services
1322 Hayes Rd • Gaylord, MI 49735
Phone: 989.731.7400 • Fax: 989.731.7419
www.otsegocountymi.gov

August 31, 2018

Bagley Township
PO Box 52
Gaylord, MI 49734

Pursuant to Article 27 of the Otsego County Zoning Ordinance/Township Participation in County Zoning, the application for a Variance is being forwarded.

If you require the applicant to be present at your meeting, he can be notified at the following:

Applicant:

Steven Sulkey
PO Box 367
Gaylord, MI 49734-0367
313.680.9393

If you have any questions, please contact us and we will be glad to assist you. We anticipate your input concerning this matter. Thank you for your participation in County Zoning.

Sincerely,

James Mouch
Otsego County Land Use Director

cbw

encl

Exhibit 8

Bagley Township Planning Commission

Bagley Township, Michigan

Established 1868

July 30, 2018

Subject: Meeting Minutes and record of decisions for Scheduled Meeting on the above date.

Items Heard: Special use permits for parcels 011-225-0000-009-00 PZSU18-006 and
011-225-000-008-00, PZSU18-007

Members Present:

Ken Arndt
Brian Goebel
Wally Loney
Celeste Szymanski
Larry Beckett

Other Attendees:
Michelle Noirot, Supervisor
Celeste Szymanski, Voting Trustee, Planning Commission

Citizens Attending: None

Meeting Opened at 7:00PM by Arndt

Item 1. Rehearing of the two cases above previously heard and not approved.

Both cases involve parcels of land to be developed into incubated mini self-storage and other adjustable storage units at the corner of Dickerson Road and North Otsego Lake Drive. The project was designed by David Drews who appeared on behalf of the project and explained the original mix up. No citizens were present with comments on the project. The meeting was closed to public comment at 7:15PM.

Originally the commissioners did not object to the project itself but were not clear who owned the project to be developed since the names of the owners and lots were not clearly discernable.

Commissioners understood that, at construction commencement, there would be two owners and at completion, one owner would own the entire project. That cleared up the issues originally that caused the rejection.

Exhibit 9

Commissioners discussed the cases for a brief time and arrived at approval consensus as long as one owner only was in place at completion.

There being no further discussion, Loney offered a motion to: accept the project as presented, with the single condition that, at completion, there would only be one owner.

Larry Burkett seconded.

Chairman records a vote of all in favor. Project is accepted and recommended to the board as approved.

Item 2. Citizen Sulkey owner of a Lakefront parcel on Otsego Lake in Section 21, presented his idea of adding a large pole barn to a site, across the road from Otsego Lake. The barn for the parcel in question would not comply with current maximum zoning allowances on the site. He offered the development plan basically verbally, in which the off-water sites would be split into two or three parcels, two for the barns and one reserved for future drain fields to support the three cottages he own on the lakefront across the road.

This plan offered with two barns would reduce the barn sizes but still leave a non-compliance excess of about 600 square feet of barn.

Would the commissioners think these 600 square feet additional barn area a reasonable accommodation?

1. Regardless of the plan, the buildings would still be 600 square feet larger than permitted.
2. Most of the improvements would be screened by woods along the road and to the view of the cottages in the area to the west.
3. The accommodations would seem reasonable if the maximum building height was reasonable-saying 10 feet at the eave and perhaps 12 feet at the peak of the improvements.
4. There would have to be two buildings to maximize unit size, which would hobble the carve out for future drain field on one site that the owner plans as we understand it.
5. Consensus seemed to be support for the two barns with the 600 feet of noncompliance, limiting the height of the barns as above.

Discussion ended at 7:45 Meeting closed by the chair at 7:55 PM.

Respectfully Submitted,

Kenneth Arndt, Chairman

Item 1. Approved as Recommended Approved with Edits Not Approved

Item 2. Comments

For Bagley Township

Michelle Noirot
Supervisor

==========

Narrative supported by meeting recording

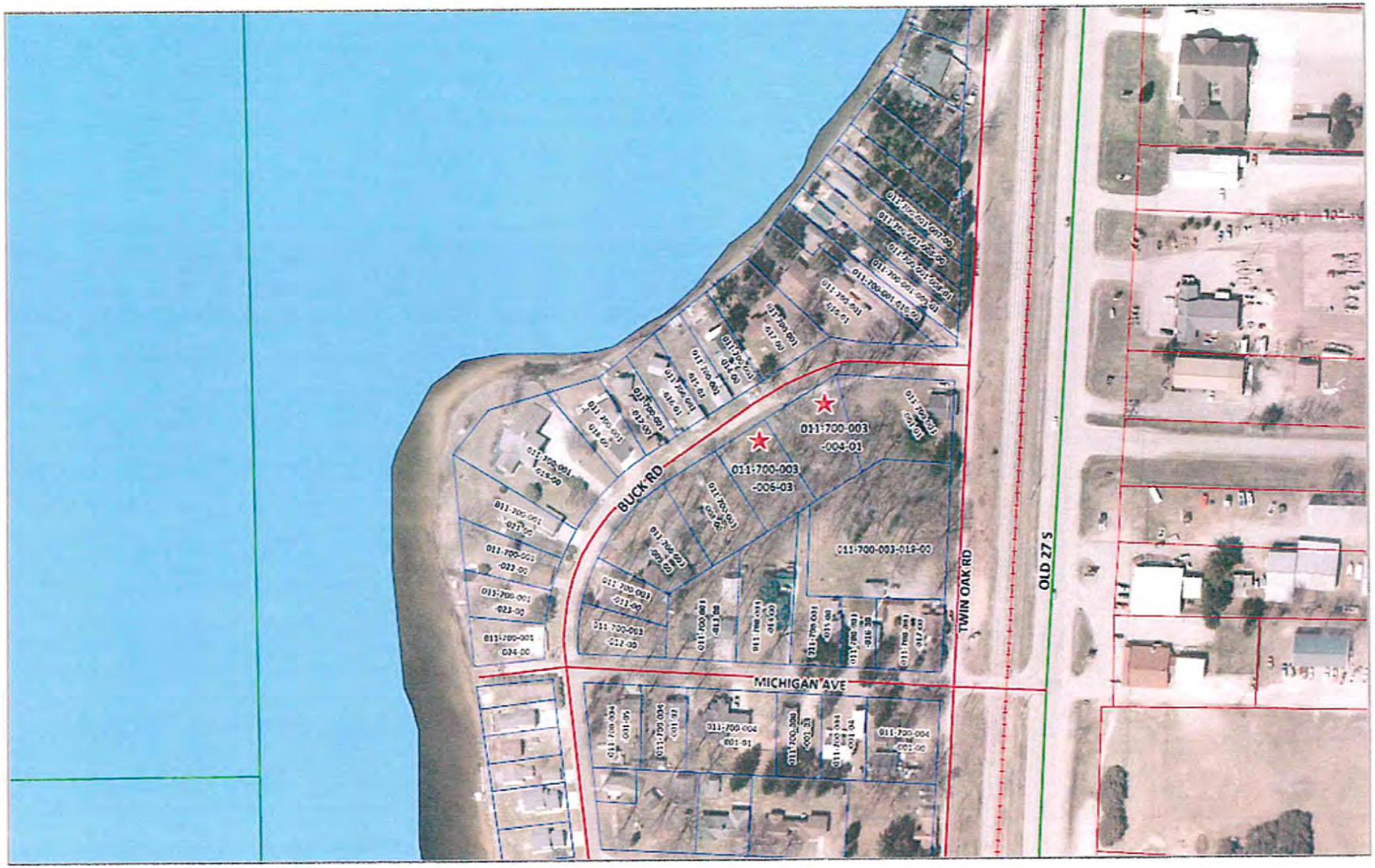
PZBA18-004 011-700-003-004-01, 011-700-003-006-01 BUCK RD

OWNERS WITHIN THREE HUNDRED FEET (300')									
Parcel Number	Property Address	Owner	Mailing Address				Record Acres	Property Class	Zoning Code
011-700-001-007-00	3714 TWIN OAK RD	JOHNSON, JOHN H	3714 TWIN OAK RD	GAYLORD	MI	49735	0.15	401	RR
011-700-001-008-00	3722 TWIN OAK RD	BRODIE, ANDREW & TONYA	7981 KREPS DR	MONROE	MI	48162	0.15	401	RR
011-700-001-008-01	3728 TWIN OAK RD	DUFFY-DUFFY-KINNEY	25595 23 MILE RD	NEW BALTIMORE	MI	48051	0.18	401	RR
011-700-001-009-00 / 011-700-001-009-01	3736 TWIN OAK RD	STIER, LISA	3736 TWIN OAK RD	GAYLORD	MI	49735	0.19	401	RR
011-700-001-010-00	3748 BUCK RD	RAGNONE, RANDALL R & LYNETTE A	12925 GRATIOT RD	SAGINAW	MI	48609	0.18	401	RR
011-700-001-010-01	3750 BUCK RD	RUDDY, JAY & JESSICA	3750 BUCK RD	GAYLORD	MI	49735-9485	0.44	401	RR
011-700-001-012-00	3756 BUCK RD	JACOBI, LYNN L	2065 MANDELL RD	GRAYLING	MI	49738	0.34	401	RR
011-700-001-014-00 / 011-700-003-004-01 / 011-700-003-001-01 / 011-700-003-006-01	3766 BUCK RD / 3749 BUCK RD	SULKEY, STEVEN A / OTSEGO LAKE RENTALS LLC	PO BOX 367	GAYLORD	MI	49734-0367	0.17	401	RR
011-700-001-017-00	3782 BUCK RD	NORTON, GREGORY B	19137 CLOISTER LAKE LN	BOCA RATON	FL	33498	0.16	401	RR
011-700-001-018-00 / 011-700-003-008-00	3794 BUCK RD	HARRISON, STEVEN S & DEARDREE D	2065 WINSTON DR	COMMERCE TWP	MI	48382-4875	0.21	401	RR
011-700-001-019-00	3802 BUCK RD	MAZZOLA, LEONARD JR	3802 BUCK RD	GAYLORD	MI	49735-9586	0.57	401	RR
011-700-001-021-00 / 011-700-001-022-00	3810 BUCK RD	SHERMAN, MARIA SILAMIANOS TRUST	56 OXFORD RD	GROSSE POINTE	MI	48236	0.26	401	RR
011-700-003-009-00	3801 BUCK RD	ASHER, DONALD R & BETTY M TRUST	3801 BUCK RD	GAYLORD	MI	49735-9486	0.32	401	RR
011-700-003-011-00	3819 BUCK RD	CHORNOBY, KURT M & KAREN A	19736 AMIRA DR	MACOMB	MI	48044-1294	0.16	401	RR
011-700-003-012-00 / 011-700-003-013-00	796 MICHIGAN AVE	SIBEL-CRAWFORD	3273 MANDRAKE	COMMERCE TWP	MI	48382	0.30	401	RR

011-700-003-014-00	784 MICHIGAN AVE	STAFFORD, DANNY H & DEANNA L TRUST	784 MICHIGAN AVE	GAYLORD	MI	49735-9525	0.35	401	RR
011-700-003-015-00	770 MICHIGAN AVE	BUTCHER, DONALD T	1279 FIVE LAKES RD	GAYLORD	MI	49735-9371	0.22	401	RR
011-700-003-016-00 / 011-700-003-019-00	760 MICHIGAN AVE / 3816 TWIN OAK RD	BOROWIAK, DOROTHY / BOROWIAK, ERNEST	760 MICHIGAN AVE	GAYLORD	MI	49735-9525	0.12	401	RR
011-700-003-017-00	746 MICHIGAN AVE	LATUSZEK-LATUSZEK-MAJOR	746 MICHIGAN AVE	GAYLORD	MI	49735-9525	0.23	401	RR
011-700-004-001-00	747 MICHIGAN AVE	STAFFORD, DANIEL H & LAURA	747 MICHIGAN AVE	GAYLORD	MI	49735	0.28	401	RR
011-700-004-001-01	795 MICHIGAN AVE	YOUNG, KIMBERLY S	795 MICHIGAN AVE	GAYLORD	MI	49735	0.36	401	RR
011-700-004-001-02	813 MICHIGAN AVE	PETERS-PETERS	813 MICHIGAN AVE	GAYLORD	MI	49735-9525	0.18	401	RR
011-700-004-001-03	775 MICHIGAN AVE	JUTRAS-MACKOWIAK	1480 MCCOY RD	GAYLORD	MI	49735-9117	0.18	401	RR
011-700-004-001-04	763 MICHIGAN AVE	REARICK, MICHAEL B & PATRICIA S	28435 ALGER ST	MADISON HGTS	MI	48071-4560	0.18	401	RR
011-700-004-001-05	827 MICHIGAN AVE	DIPZINSKI JR - DIPZINSKI - SPEAR	5071 MCCOY	GAYLORD	MI	49735	0.21	401	RR
011-700-001-015-03		HUTTON, ERIC L & BEVERLY J	2096 DEVONSHIRE DR	WIXOM	MI	48393-4412	0.16	401	RR
011-700-001-016-01	3776 BUCK RD A	HUTTON, ROGER L & JOANNA A	3141 PIKEWOOD CT	COMMERCE TWP	MI	48382-1444	0.16	401	RR

Exhibit 10

PZBA18-004 011-700-003-004-01, 011-700-003-006-02 BUCK RD



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011-700-001-015-03
011-700-001-016-01

Exhibit 10

OTSEGO COUNTY LAND USE SERVICE
1322 HAYES RD
GAYLORD, MI 49735
PH: 989-731-7400
FAX: 989-731-7419
INSPECTION LINE: 989-731-7401

Otsego COUNTY
ESTABLISHED 1875 MICHIGAN

Paid By:

SULKEY, STEVEN A

PO BOX 367

GAYLORD, MI 49734-0367

RECEIPT NUMBER

01316111

08/29/2018

Type	Record	Category	Description	Amount
Permit	PZBA18-004	ADMIN ZONING	ZBA VARIANCE	$ 400.00

Total	**$ 400.00**
Cash	
Check	$ 400.00
Credit	
Transferred	
Tendered	**$ 400.00**
Change	**$ 0.00**
To Overpayment	**$ 0.00**

Expiration of permit:

A permit will remain valid as long as work is progressing and inspections are requested and conducted. A permit will become invalid if the authorized work has not commenced within 6 months of issuance or if the authorized work is suspended or abandoned for a period of 6 months.

OTSEGO COUNTY
ZONING BOARD OF APPEALS

PZBA18-004
VARIANCE
011-700-003-004-01, 011-700-003-006-01

FINDING OF FACT

1. This is a request for a variance for parcels located in Bagley Township Point Sunset Subdivision on Buck Rd Gaylord, MI 49735. *Exhibit #1, Exhibit #5*
2. The property is located in a RR/Recreation Residential Zoning District. *Exhibit #2*
3. The proposed properties are currently under the ownership of Steven A Sulkey and Otsego Lake Rentals, Steven Sulkey, owner. *Exhibit #4*
4. Both existing parcels are considered non-conforming; parcel -004-01 is 0.32 acres – Lots 4&5 and parcel -006-01 is 0.28 acres – Lots 6&part of 7. *Exhibit #3*
5. The current minimum parcel size in a RR Zoning District is 0.46 acres. *Exhibit #3*
6. The applicant intends to divide a portion of parcel 011-007-003-006-01 for use as a septic field for his parcel across the street on Otsego Lake – 011-700-001-016-03; this parcel will be unbuildable. *Exhibit #5*
7. The applicant will combine the remainder with parcel 011-700-003-004-01 for an approximate parcel size of 0.49 acres, slightly over the minimum size required in a RR Zoning District. *Exhibit #5*
8. The maximum size of an accessory building in a RR Zoning District is 1200 sq ft unless the parcel is larger than the minimum required. *Exhibit #3*
9. With the combination of the parcels, the maximum square footage of an accessory building permitted by the Zoning Administrator would be 1233.75 sq ft. *Exhibit #3*
10. The request is to allow the construction of an 1800 sq ft accessory building, with a variance of 566.25 sq ft. *Exhibit #1, Exhibit #5*
11. The purpose of the variance is to allow one (1) larger accessory building on combined parcels instead of two (2) accessory buildings constructed at the maximum square footage each. *Exhibit #1, Exhibit #5*
12. The Public Hearing Notice was published in the Herald Times on September 11, 2018. *Exhibit #7*
13. The requirements of Article 27 of the Otsego County Zoning Ordinance have been met. *Exhibit #8, Exhibit #9*
14. All property owners within three hundred (300') feet were properly notified of the public hearing. *Exhibit #10*
15. The Zoning Administrator has the authority to approve an increase in square footage based on parcel size; only the Zoning Board of Appeals has the authority to approve a larger increase. *Exhibit #3*
16. The Zoning Board of Appeals has the authority to approve a *Variance* request after review and fact finding of Section 26.6. *Exhibit #3*
17. The required fees have been collected by Otsego County Land Use Services. *Exhibit #11*

FINDINGS UNDER ARTICLE 17

ARTICLE 17 SCHEDULE OF DIMENSIONS

17.1 Table 1 - LIMITING HEIGHT, DENSITY AND AREA BY ZONING DISTRICTS (See also Article 21.1 Accessory Buildings and Article 22 General Exceptions for Area, Height, and Use)

Zoning District	R1 & R2	R3	RR	FR & AR	Reserved for future use	Reserved for future use
Min. Lot Area (Sq. feet)	20,000 .46 acre	40,000 .92 acre	20,000 .46 acre	88,000 2.02 acre		
Min. Front Setback *(b)(j)*	25 ft	25 ft	25 ft	50 ft		
Max. Front Setback	NA	NA	NA	NA		
Min. Side Setback	10 ft	10 ft	10 ft	20 ft		
Min. Rear Setback	30 ft (a, h)	30ft (a, h)	30 ft (a, h)	40 ft (a)		
Min. Lot width (k)	100 ft 150 ft Duplex	100 ft	100 ft	150 ft 300 ft Duplex AR		
Max. % lot coverage	25%	25%	25%	30%		
Max. Building height (l)	35 ft (g)	35 ft (g)	35 ft (g)	35 ft (g)		
Min. Ground Floor area of principal structure (Square feet)	720 (i)	720 (i)	720 (i)	720 (i)		
Min. Width of principal structure	20 ft (i)	11ft (i)	20 ft (i)	11 ft (i)		

Minimum front, side and rear setbacks, and maximum lot coverage modifications of up to twenty-five percent (25%) may be approved by the Zoning Administrator for nonconforming lots, as described in Article 21.26.1 and 21.26.2.

Note a: Lots within five hundred (500) feet of lakes, ponds, flowages, rivers, streams: see Article 18. LOTS NEAR WATER.

Note b: Where the front yards of two (2) or more principal buildings in any block, or within five hundred (500) feet in existence at the time of the passage of this Ordinance (or amendment thereto), in the same zoned district or the same side of the road are less than the minimum front yard setback, then any principal building subsequently erected on the same side of the road shall not be required to provide a greater setback than the average for the existing two (2) or more principal buildings.

Note c: On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than twenty (20) feet on the residential side in B1, B2, B3 and HX.

Note d: Loading and unloading space shall be provided in the rear yard in the ratio of at least ten (10) square feet per linear foot of front building wall. Loading space shall not be counted as required off-street parking. Loading zones may be located in other non-required yards if screened or obscured from view from public streets and residential districts.

Note e: Off-street parking may be permitted in the front yard, except that a ten (10) foot wide landscaped buffer is maintained between the front lot line (or right-of-way line) and the parking area.

Note f: No building shall be placed closer than forty (40) feet to the outer perimeter of such district or property line when said use abuts a residential district boundary.

Note g: Subject to approval by the Planning Commission, the maximum height of buildings may be permitted to exceed the maximum stated in the Schedule by up to fifty percent (50%) in R1, R2, R3, RR, B1, B2 and HX Districts; and up to one hundred percent (100%) in all other districts, provided that the applicant can demonstrate that no good purpose would be served by compliance with maximums stated, (as in the case of steep topography, a Planned Unit Development (PUD), or larger site); and further, there is no conflict with airport zoning height restrictions; fire safety is maintained subject to local fire authority approval; and the light, air and/or scenic views of adjoining property is not impaired. The Planning Commission and or Zoning Board of Appeals cannot allow a WTG height greater than allowed in Section 21.47 or a Wireless Telecommunication Towers and Facilities greater than the height allowed in the Zoning District PRINCIPAL USES PERMITTED or PERMITTED USES SUBJECT TO SPECIAL CONDITIONS. Also see Article 22 GENERAL EXCEPTIONS FOR AREA, HEIGHT AND USE .

Note h: Section 21.1 allows a rear setback of ten (10) feet for accessory buildings.

Note i: The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this Ordinance.

Note j: In instances where the property is adjacent to a public right of way or ingress egress easement dedicated as permanent adequate access to one (1) or more lots, the setback shall be measured from that right of way or ingress egress easement.

Note k: Specific allowable uses have greater minimum lot widths as required in the Zoning District allowable use lists.

Note l: Specific allowable uses have greater allowable heights as stated in the Zoning District allowable use lists, Article 21 and Article 22, Section 22.3 Height Limits, of this ordinance.

******THE SCHEDULE OF DIMENSIONS DEPICTS MINIMUM PARCEL SIZE AND SETBACKS FOR EACH ZONING DISTRICT***

FINDINGS UNDER ARTICLE 21/SPECIFIC REQUIREMENTS FOR CERTAIN USES

FINDINGS UNDER SECTION 21.1/ACCESSORY BUILDINGS

SECTION 21.1 ACCESSORY BUILDINGS

21.1.1 Accessory buildings in the R1, R2, R3 & RR Districts shall be subject to the side and front yard setback requirements as regulated in Article 17 SCHEDULE OF DIMENSIONS, but need not be farther than ten (10) feet from the rear property line.

21.1.2 In Residential Districts all accessory buildings and uses shall be in the rear yard except in the case of one detached private garage which may be allowed in the side or front yard, provided it maintains the setback requirements as regulated in Article 17 SCHEDULE OF DIMENSIONS.

21.1.3 Detached accessory buildings for residential use in any district shall not exceed a total ground floor area of: twelve hundred (1,200) square feet in R1, R2 and RR, and two thousand (2,000) square feet in R3, FR and AR, except:

21.1.3.1 Where the lot is larger than the minimum size for that zoning district, the total accessory building square footage may be increased proportionally to the lot size in the following manner: twenty-five (25) square feet increase in allowable accessory buildings for every one thousand (1,000) square feet that the lot exceeds minimum lot size, up to a maximum of four thousand (4,000) square feet.

21.1.4 Agricultural buildings and structures incident to use for agricultural purposes are exempt from accessory building requirements.

21.1.5 Accessory buildings shall not be used for residences.

21.1.6 Accessory building may not be used for commercial storage

******THE ZONING ADMINISTRATOR CAN APPROVE AN INCREASE IN SQUARE FOOTAGE BASED ON PARCEL SIZE ONLY***

FINDINGS UNDER SECTION 21.26 NONCONFORMITIES

SECTION 21.26 NONCONFORMITIES

21.26.1 INTENT

It is recognized that there exists within the districts established by this Ordinance and/or by subsequent amendments, lots, buildings, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments.

It is the intent of this Ordinance to permit these legal nonconforming lots, buildings, structures, or uses to continue until they are removed but not to encourage their survival. Minimum front, side and rear setbacks, minimum lot width and maximum lot coverage modifications up to twenty-five percent (25%) may be approved by the Zoning Administrator upon a written finding that such a modification will have no adverse impact on the use or development of adjoining lots or threaten the public health or safety in any way.

21.26.2 NONCONFORMING LOT

A nonconforming lot is a lot that the boundaries of which are recorded in a plat, deed or land contract executed and delivered prior to the effective date of this Ordinance and the width, depth, and/or area of which does not meet the minimum dimensional requirements of the District in which it is located.

A single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the District; provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the District in which such lot is located. Minimum front, side and rear setbacks, and maximum lot coverage modifications up to twenty-five percent (25%) may be approved by the Zoning

Administrator. Modifications greater than twenty-five percent (25%) may be obtained only by approval of the Board of Appeals.

Where two (2) or more adjoining nonconforming lots are in existence under single ownership, such lots shall be used only in combinations which most closely satisfy the minimum lot size standards prescribed for the District in which said lots are located.

For definition purposes, "most closely" shall apply in situations where, for example, two (2) lots combined do not meet the minimum, but a third (3) lot would exceed the minimum by a greater amount than two (2) lots would fall short; hence, only two (2) lots need to be combined in this case.

******AN ACCESSORY BUILDING MAY BE ERECTED ON ANY SINGLE LOT OF RECORD REGARDLESS OF ITS CONFORMITY PROVIDED SETBACKS FOR THAT ZONING DISTRICT ARE MET***

FINDINGS UNDER ARTICLE 26/BOARD OF APPEALS

SECTION 26.6 DIMENSIONAL OR NON-USE VARIANCE

Where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would involve "practical difficulties" within the meaning of this Ordinance, the Zoning Board of Appeals shall have power upon appeal in specific cases to authorize such variation or modification as may be in harmony with the spirit of this Ordinance, and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the provisions of this Ordinance shall be granted unless it appears that there is clear and convincing evidence that all the following facts and conditions exist:

26.6.1 That the requested variance will not be detrimental to the public welfare or otherwise injurious to other properties in the same zoning district.

26.6.2 That the requested variance is necessary for the applicant to receive a right available to other properties in the same zoning district.

26.6.3 That special physical conditions or unique circumstances exist with this property and do not generally apply to other properties in the same zoning district.

26.6.4 That the special conditions or circumstances are not the result of actions by the applicant or predecessor in title.

26.6.5 That the requested variance is the minimum variance necessary that will make possible the reasonable use of the land.

******THE ZONING BOARD OF APPEALS HAS THE AUTHORITY TO APPROVE A VARIANCE IF COMPLIANCE IS FOUND WITH THE SECTION 26.6***