

GAINES CHARTER TOWNSHIP ZONING BOARD OF APPEALS – REGULAR MEETING

Township Board Room - 8555 Kalamazoo Ave. S.E. Caledonia, MI 49316

Tentative Agenda

7:00 p.m. – Wednesday, April 12th, 2023

- I. Call to Order and Roll Call**
- II. Consideration of the Meeting Agenda**
- III. Consideration of Meeting Minutes**
February 8th, 2023 – *Regular Meeting*
- IV. Inquiry of Conflict of Interest**
- V. Advertised Public Hearing**
 - 1. 10664 Eastern Avenue – Agricultural/Rural-Residential (A-R) Zoning District
A request for a dimensional variance to reduce the front yard setback of the front (western) property line to fifteen feet from the sixty-foot requirement to construct a 1,600-square-foot accessory building.
- VI. General Discussion Items**
- VII. Other Reports**
- VIII. Adjournment**

*Please note that advertised public hearings will not start before the noted time but may start later due to the length of other agenda items. All interested persons are invited to attend and participate. Persons with disabilities needing accommodation for effective participation in the meeting should contact the Township Office at 616-698-6640 one week in advance to request mobility, visual, hearing or other assistance.

**DRAFT MINUTES OF THE GAINES CHARTER TOWNSHIP ZONING BOARD OF APPEALS REGULAR
MEETING
HELD ON FEBRUARY 8TH, 2023
GAINES CHARTER TOWNSHIP
8555 KALAMAZOO AVENUE SE CALEDONIA, MICHIGAN 49316**

I. CALL TO ORDER AND ROLL CALL

Chair Werkema called the meeting to order at 7:00 PM.

MEMBERS PRESENT: Kooiman, Wiersema, Ringnalda, Werkema, Hilton

MEMBERS ABSENT: Peacock with excuse

OTHERS PRESENT: Dan Wells, Community Development Director; Natalie Davenport; Tricia Chapman; Dan Postmus

II. CONSIDERATION OF MEETING AGENDA

Chair Werkema stated that the agenda item VI.1 “Election of Officers” should be moved to Item III. Planner Wells stated that Item VI.2 should read “Schedule for 2023 – Request to move meetings to first Wednesday of month” rather than the third Wednesday as previously stated.

III. Election of Officers

Motion: Motion by Hilton to elect Kooiman as Secretary.

Discussion: None

Ayes: Kooiman, Wiersema, Ringnalda, Werkema, Hilton

Nays: None

Abstain: None

Decision: Motion carried (5-0).

Motion: Motion by Wiersema to elect Ruth Ringnalda as Vice-Chair.

Discussion: None

Ayes: Kooiman, Wiersema, Ringnalda, Werkema, Hilton

Nays: None

Abstain: None

Decision: Motion carried (5-0).

Motion: Motion by Hilton to elect Tom Werkema as Chair.

Discussion: None

Ayes: Kooiman, Wiersema, Ringnalda, Werkema, Hilton

Nays: None

Abstain: None

Decision: Motion carried (5-0).

IV. CONSIDERATION OF MEETING MINUTES

Motion: Motion by Ringnalda, support by Wiersema to approve the Zoning Board of Appeals regular meeting minutes from November 9th, 2022, as presented.

Discussion: None

Ayes: Kooiman, Wiersema, Ringnalda, Werkema, Hilton

Nays: None

Abstain: None

Decision: Motion carried (5-0).

V. INQUIRY OF CONFLICT OF INTEREST

None.

VI. PUBLIC HEARING

1. 1200 60th Street – Dimensional and Use Variance Requests for Increased Signage

Applicant Chapman approached the Zoning Board of Appeals to give an overview of the request. There are technological challenges associated with the existing signs as they're not operating correctly. The eastern sign at the location of 60th Street and Ridgebrook will be replaced with an updated LED sign, and the western sign will be changed from an LED sign to a static back-lit sign.

Chair Werkema opened the public hearing at 7:20 PM for public comment on the use variance. No public comment was made. Chair Werkema closed the public hearing at 7:20 PM.

Chair Werkema opened the public hearing at 7:21 PM for public comment on the dimensional variances. No public comment was made. Chair Werkema closed the public hearing at 7:21 PM.

Motion: Motion by Ringnalda, support by Wiersema to enter the staff report and other documentation into the public record and to address the use variance request separately from the dimensional variance requests.

Discussion: None

Ayes: Kooiman, Wiersema, Ringnalda, Werkema, Hilton

Nays: None

Abstain: None

Decision: Motion carried (5-0).

There was a consensus among the Zoning Board of Appeals to address the use variance first. Chair Werkema found that use variances require a minimum of four (4) votes to be approved.

Motion: Motion by Kooiman, support by Ringnalda to approve the use variance to allow three monument signs on the property with the condition of approval that the electronic message sign only display copy between the hours of 6:00 AM – 11:00 PM.

Discussion: None

Ayes: Kooiman, Wiersema, Ringnalda, Werkema, Hilton

Nays: None

Abstain: None

Decision: Motion carried (5-0).

Motion: Motion by Hilton, support by Werkema to allow the church to put a new sign in the existing framing of the eastern location as long as it does not exceed the size of the existing display with the hours of operation from 6AM – 11PM.

Discussion: Chair Werkema found that Standards 1 and 2 were not met due to the reasons outlined in the staff report.

Ayes: Hilton, Werkema

Nays: Ringnalda, Wiersema, Kooiman

Abstain: None

Decision: Motion failed (3-2)

Motion: Motion by Hilton, support by Kooiman to deny the dimensional variance request for the eastern monument sign based on the planning department's report that all the standards of review are not met.

Discussion: None

Ayes: Hilton, Ringnalda, Wiersema, Kooiman

Nays: Werkema

Abstain: None

Decision: Motion carried (4-1)

Planner Wells and Chair Werkema discussed the standards of review for the dimensional variance request on the western sign. All the standards of review were not found to be met, except for Standard 4, which was found to be met.

Member Wiersema found that the existing sign does not meet the current standards due to its size.

Motion: Motion by Ringnalda, support by Wiersema to deny the applicant's request for a 68 S.F. monument sign at the western entrance.

Discussion: None

Ayes: Hilton, Ringnalda, Wiersema, Kooiman

Nays: None

Abstain: Werkema

Decision: Motion carried (4-0-1)

2. GENERAL DISCUSSION

- a. Planner Wells stated that we can continue with the same schedule that is currently in place, and that changing the meeting times is no longer relevant.
- b. Planner Wells gave an overview of the 2022 Planning and Zoning Annual Report.

3. OTHER REPORTS

- a. None.

4. ADJOURNMENT

Motion: Motion by Kooiman, support by Ringnalda to adjourn at 9:04 PM.
Discussion: None
Ayes: Kooiman, Wiersema, Ringnalda, Werkema, Hilton
Nays: None
Abstain: None
Decision: Motion carried (5-0)

CERTIFICATION

I hereby certify that the above is a true copy of the minutes from February 8th, 2023, Regular Meeting of the Gaines Charter Township Zoning Board of Appeals held at the time and place mentioned above pursuant to the required statutory procedures.

Respectfully submitted,

Matt Kooiman
Secretary
Gaines Charter
Township Zoning
Board of Appeals

Dated: _____, 2023

Gaines Charter Township

Zoning Board of Appeals Memo

Meeting Date: April 12th, 2023

AGENDA ITEM: V.1.a

REQUEST: Dimensional Variance

ADDRESS: 10664 Eastern Avenue

PARCEL NUMBER: 41-22-32-300-054

APPLICANT: Mark Madsen

FILE NUMBER: 230214MM

PROPERTY ZONING DISTRICT:

Agricultural/Rural-Residential (A-R)

PROPERTY SIZE: 1.93 Acres

**REPORT BY: Dan Wells, Community
Development Director; Natalie Davenport,
Assistant Planner**



OVERVIEW

The applicant is requesting a dimensional variance to reduce the front yard setback of the western property line from 60 feet to 15 feet (a 45-foot variance from the ordinance requirement). If approved, the applicant will submit zoning and building permits to construct a 1,600-square-foot accessory building. There is a 50-foot-wide access easement along the western and southern borders of the property, which limits the amount of land that can be developed. Additionally, the topography of the site complicates the issue due to the steep slope of the land.

The access easement edge forms the line from which setbacks are measured. By ordinance, the proposed accessory building will only be 15 feet from the front (west) property line. Therefore, the building will encroach upon the required setback at a distance of 45 feet. However, the proposed accessory building will be 65 feet from the neighbor's property to the west due to the 50-foot-wide access easement to the west (see enclosed survey and site plan).

Accessory buildings are allowed in front yards in the Agricultural/Rural-Residential (A-R) zoning district if constructed a minimum of 60 feet from the front property line and a Type 1 Buffer is provided. All the other setback requirements for the proposed building are met.

The surrounding zoning is:

	NORTH: Agricultural/Rural-Residential (A-R)	
WEST: Agricultural/Rural-Residential (A-R)	SUBJECT PARCEL	EAST: Agricultural/Rural-Residential (A-R)
	SOUTH: Agricultural/Rural-Residential (A-R)	

STANDARDS OF REVIEW

The request has been reviewed using the applicable review standards of Chapter 26, Section 26.8 (D) Non-Use (Dimensional) Variances. The Zoning Board of Appeals must find that all standards in this report are satisfied to grant a variance.

1. The predicament is caused by exceptional, unique, or extraordinary physical conditions, dimensions, or circumstances that directly relate to the subject lot or parcel rather than the individual situation or desire of the applicant or property owner (see definition of "unique circumstance").

"Unique Circumstance": An exceptional, unique, or extraordinary physical condition that is one of the following:

- 1. Exceptional narrowness of the width or depth of a lot or parcel, or an irregular shape, as compared to a conforming lot or parcel.*
- 2. Exceptional natural or topographic features located on the lot or parcel, such as steep slopes, surface water features, existing significant trees, or other unique or extreme physical conditions of the land.*

3. Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional features of the land.

4. Other natural, topographic, built, or dimensional conditions or characteristics of land, lot, or parcel, which are determined by the Zoning Board of Appeals as exceptional or extraordinary

Meets standard. The request for a front yard setback reduction from 60 feet to 15 feet stems from a unique circumstance, namely exceptional topographic features located on the property. Below is a topographic map of the property:



As shown above, the gentlest slope on the parcel is located northwest of the existing home; the contour lines on the remainder of the property represent a steep increase/decrease in elevation. The side yard directly south of the home would be a viable second option if the drain field were not located here. Given the site conditions, staff believes that a unique circumstance is present, which supports the need for a variance.

2. The variance is necessary for the preservation and enjoyment of a substantial property right which is similar to that possessed by other landowners in the same Zoning District and vicinity and does not grant special privileges to the applicant that are not available to the owners of these properties.

Meets standard. Approving the dimensional variance request would not grant special privileges to the applicant. A 45-foot encroachment on the required 60-foot side yard setback is being requested due to the site conditions. If there are other property owners in the same zoning district that are unable to reasonably develop their properties due to exceptional physical conditions, they would be encouraged to apply for a dimensional variance as well. Staff does not

believe that the physical site conditions present on the subject parcel allow for the property to be reasonably developed for a use normally allowed by right.

3. The practical difficulty for which the variance is requested does not result from a self-created problem by the applicant, current landowner, or any previous landowner of the property involved (see definition of "self-created problem").

Self-Created Problem: A problem that occurs, results, or exists from one or more of the following conditions:

- 1. A problem that occurs when one can reasonably develop a property in a compliant manner, but the landowner or applicant's personal desires and preferences for property development do not align with zoning requirements.*
- 2. A problem that occurs when a property is currently built-out under current zoning constraints, but the landowner or applicant's personal desires and preferences for expansion do not align with zoning requirements.*
- 3. A problem that results from the action, preference, or desire of the landowner or applicant that is not a result of a unique characteristic of the property.*
- 4. A problem that exists because the landowner, previous landowner, or applicant took a specific action that created the need for the variance, such as adjusting a lot line, constructing a building, or developing a site in a manner that does not allow future compliant construction, building expansion, or site development.*

Meets Standard. After reviewing the request and site conditions, staff does not believe that the variance is being requested due to a self-created problem. The property is not currently built out, and the property owner or a previous landowner did not take a specific action that created the need for the variance. As explained under Standard 1, the accessory building cannot be built in a compliant setback due to easements, drainfield, and the steep slope of the land limiting the area in which an accessory building permitted by right could be constructed.

4. The variance will not be detrimental to the public welfare, injurious to neighboring properties, or change the essential character of the neighborhood.

Meets standard. The proposed location of the accessory building will still provide an adequate buffer between the edge of the building and the neighboring property to the west. The main impact of an accessory building at this location would be a visual impact on surrounding properties, but it is in a heavily wooded area and will not likely be visible. Additionally, the applicant will be required to install and maintain a Type I Buffer between the proposed accessory building and the access easement if the existing tree line is inadequate. The zoning ordinance defines a Type I Buffer as:

Buffer, Type I: A linear strip of land within any Yard as required by various sections throughout this Ordinance, at least ten (10) feet in width measured horizontally, providing a slight vegetative buffer, or natural equivalent, consisting of at least three (3) plantings for each thirty (30) linear feet, or fraction thereof, one (1) of which shall be evergreen and at least four (4) feet in height, and the other two (2) of which shall be not less than six (6) feet in height and capable of growing to a height at maturity at least twenty (20) feet.

If the variance is approved, staff will ensure that a Type I Buffer is provided when the applicant applies for the zoning permit, whether that be through utilizing the existing tree line or requiring new plantings.

5. The variance is consistent with the purpose and intent of the Master Plan and the intent and provisions of the Zoning Ordinance and Zoning District designation of the subject property.

Meets Standard. The 100th Street Subarea Plan designates this parcel as “Open Space Development.” The 2008 Master Plan states:

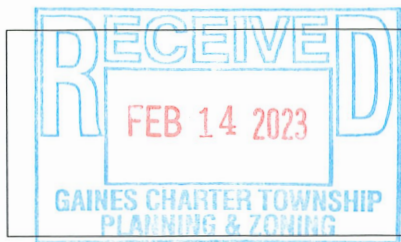
This designation includes single family development at higher densities, as well as townhome developments. Lands designated for Open Space Development (OSD) are close to the higher volume streets or are near existing or approved OSD subdivisions.

Given that the OSD future land use category applies to residential uses, staff believes that the request is consistent with the purpose and intent of the master plan.

The intent and purpose of Section 20.2 of the GCTZO is to promote consistent rules for the placement of buildings and structures within the A-R zoning district and to buffer accessory buildings from surrounding properties. In this specific location, the setback front yard setback is defined by an access easement, rather than the lot line. Measuring from the lot line to the west, the accessory building will be greater than 60 feet from the furthestmost projection of the building to the neighbor’s property.

STAFF RECOMMENDATION

Since all the standards for a dimensional variance are determined to be met, approval of the application is recommended with no conditions.



FILE NO. 230214MM

8555 Kalamazoo Avenue SE • Caledonia MI 49316
Ph: 616 698-6640 • Fax: 616 698-2490
www.gainestownship.org

Zoning Board of Appeals Application

Project Address	10664 Eastern Ave. Wayland, Mi. 49348		
Owner Name	Mark Madsen		
Owner Address	Street Address	City, State, Zip	
	10664 Eastern Ave.	Wayland, Mi. 49348	
Parcel Number(s):	41-22-	41-22-	
Description of Proposed Project/Use	Out Building for personal use. Storage and hobbies		

Applicant/Contact	Mark Madsen		
Applicant/Contact Address	Street Address	City, State, Zip	
	10664 Eastern Ave.	Wayland, Mi. 49348	
Contact Info	Home / Office / Cell	E-Mail	
	616/826/8448	markmadsen3191@yahoo.com	
<i>"I" hereby certify to the correctness and knowledge of the information submitted and hereby agree to comply with the terms and requirements of all applicable Township ordinances. I also grant Township staff permission to enter onto the subject property in review of this application.</i>			
Signature			
Please complete the appropriate Worksheet as part of your application packet (see Staff for more information) for: Planning Commission, Zoning Board of Appeals requests, Land Divisions, Combinations or Lot Line Adjustments.			

Township Use Only

Current Zoning District:	RL-14	RL-10	R-3	R-4	C-1	C-2	O-S	I-1	I-2	PUD	A-R	A-B
One / Two Family Construction ☐	Zoning Board of Appeals ☐		Planning Commission ☐		Land Combination ☐							
Site Plan Review ☐	Rezoning / PUD Rezoning ☐		PUD Amendment ☐		Land Division ☐							
Subdivision / Site Condo Review ☐			Special Use Permit ☐		Lot Line Adjustment ☐							
Other:												
Approved ☐		Approved with Conditions ☐		Denied ☐		Withdrawn ☐						
Zoning Administrator:											Date:	

Site Plan

Please Show:

The property lines and their dimensions.

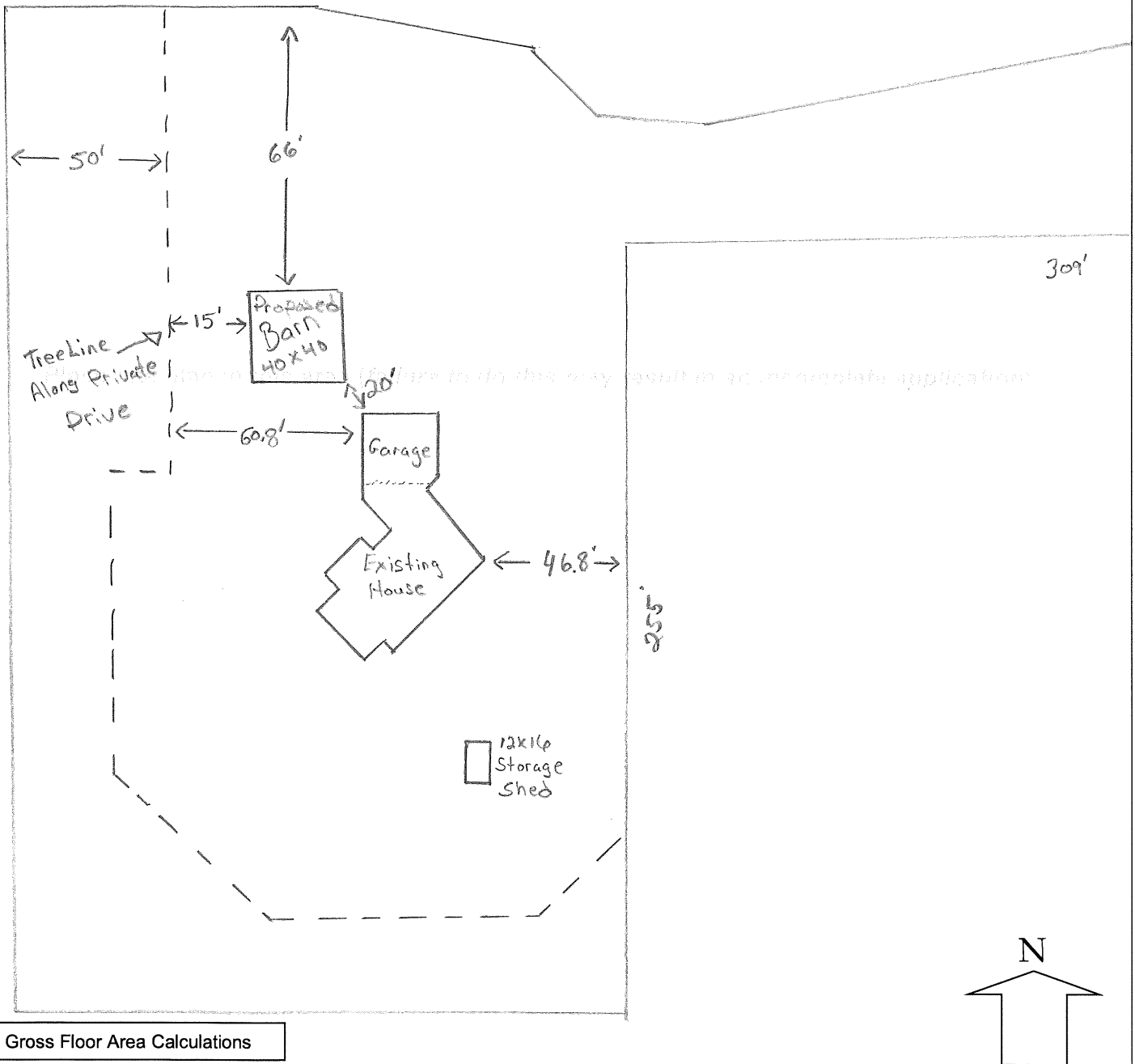
The location, dimensions, setbacks, minimum building openings and distance between all existing and proposed structures.

The gross floor area, listed by floor level, including basements.

The location of all roads bordering or private drives/easements on the property.

The location of all bodies of water, easements, utility lines, sidewalks, drives, septic systems, drain, and other improvements.

Please Note: Setbacks must be measured from the edge of the street right of way (which is not the edge of the pavement) or from the edge of an access easement. Staff reserves the right to determine whether or not an application is complete.



Gross Floor Area Calculations

Main Floor: _____ Second Floor: _____ Basement: _____ Total: _____ Garage: _____

Variance Request - Applicant Worksheet

File No. _____

Indicate your request type and the applicable Section(s) of the zoning ordinance.
Leave blank if uncertain.

☒ Dimensional (Area) Variance

Section(s) _____

☐ Use Variance

Section(s) _____

☐ Interpretation / Appeal of Zoning Administrator *

Section(s) _____

* Attach a narrative of your comments regarding the interpretation/appeal.

Applicant Response to Variance Standards

*ZBA must find that all standards under A) are met for Dimensional (Area) Variance,
OR*

all under B) for Use Variance approval

1. A) Does the property display any unique circumstances that justify the need for the dimensional variance request, rather than the individual situation or desire of the applicant? (See definition of "unique circumstance.")

OR

B) Is the use variance necessary due to the unique condition, location, or situation of the property in relation to the permitted and special land uses categorized within the applicable Zoning District?

The variance is necessary due to the elevation changes in the land. The property drops dramatically to the north of the existing house garage making it very difficult to build a pole barn.

2. A) Would approval of the variance request grant special privileges to the property owner requesting the dimensional variance that are not held by landowners in the same zoning district or vicinity?

OR

B) Does the unique nature of the property prevent the establishment of all other reasonable and appropriate permitted and special land uses categorized within the applicable Zoning District.

No

3. A) Is the practical difficulty for which the dimensional variance is being requested a result from a self-created problem by the current landowner, such as personal desire, convenience, or preference, or was the practical difficulty created by a previous landowner? (See definition of "self-created problem.")

OR

B) Is the hardship for which the use variance is being requested a result from a self-created problem by the current landowner, such as personal desire, convenience, or preference, or was the practical difficulty created by a previous landowner? (See definition of "self-created problem.")

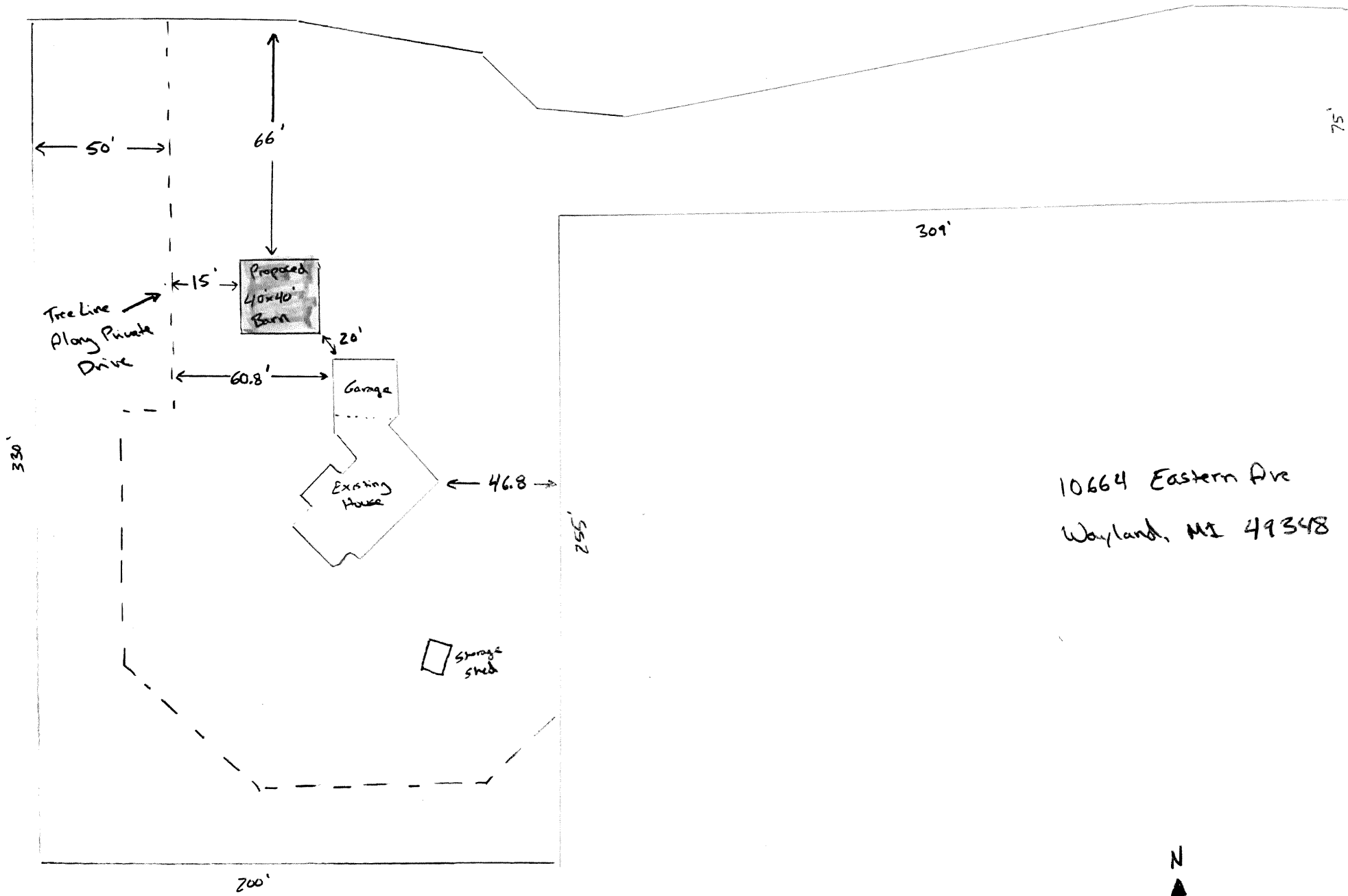
Current land owner

4. For A) & B) If approved, will the dimensional or use variance cause detriment to the public welfare, injury to neighboring properties, or change the essential character of the neighborhood? If so, please explain.

NO

5. For A) & B) To the best of your knowledge, is the dimensional or use variance request consistent with the purpose and intent of the Master Plan, Gaines Charter Township Zoning Ordinance, and zoning district designation of the property?

Yes, with the exception to the front yard setback. The proposed building location is covered by an existing tree line along the private drive. The existing house is in a position as to not make the proposed barn feel as if its in the front yard.



10664 Eastern Ave
Wayland, MI 49348



Proposed Site Plan

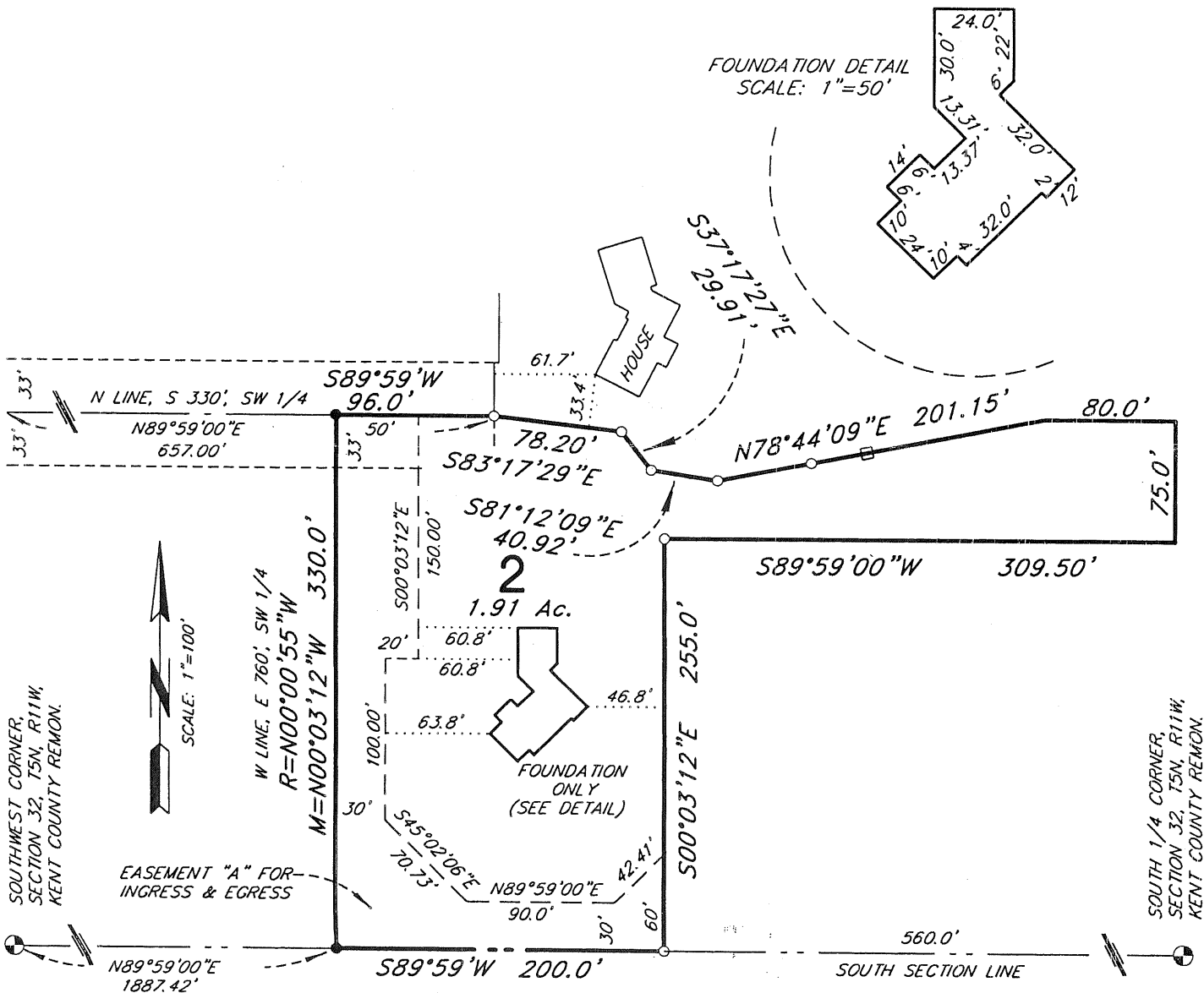
Keep

Project No.150700
Date: June 3, 2015
For: Berens, Curt
2009 Pleasant Pond Dr Sw
Byron Center, MI 49315
RE: Madsen Residence
Prop. Address: 10664 Eastern Ave SE

Revised: June 9, 2015
Revised: July 13, 2015
(staked prop. house)
Revised: August 20, 2015
(foundation location)

LEGAL DESCRIPTION

Parcel 2: Part of the Southwest 1/4 of Section 32, T5N, R11W, Gaines Township, Kent County, Michigan, described as: Commencing at the South 1/4 corner of said Section; thence S89°59'00"W 560.00 feet along the South line of said Section to the Place of Beginning; thence N00°03'12"W 255.00 feet along the West line of the East 560 feet of said Southwest 1/4; thence N89°59'00"E 309.50 feet; thence N00°03'12"W 75.00 feet; thence S89°59'00"W 80.00 feet along the North line of the South 330 feet of said Southwest 1/4; thence S78°44'09"W 201.15 feet; thence N81°12'09"W 40.92 feet; thence N37°17'27"W 29.91 feet; thence N83°17'29"W 78.20 feet; thence S89°59'00"W 96.00 feet (recorded as 99.00 feet) along the North line of the South 330 feet of said Southwest 1/4; thence S00°03'12"E (recorded as S00°00'55"E) 330.00 feet along the West line of the East 760 feet of said Southwest 1/4; thence N89°59'00"E 200.00 feet along the South line of said Section to the Place of Beginning.



I hereby certify that the buildings and Improvements are located entirely thereon and that said buildings and improvements are within the property lines and that there are no existing encroachments upon the lands and property described unless otherwise shown hereon.

LEGEND ○ - IRON STAKE - SET ● - IRON FOUND □ - WOOD STAKE - R - RECORDED DIMENSION - D - DEED DIMENSION - P - PLATTED DIMENSION - M - MEASURED DIMENSION - CL - CENTERLINE - x-x - FENCE LINE	Roosien & Associates SURVEYING AND ENGINEERING 5055 PLAINFIELD AVENUE, NE GRAND RAPIDS, MICHIGAN 49525 TELE. (616) 361-7220 FAX (616) 361-1822	STATE OF MICHIGAN KEVIN ROOSIEN LAND SURVEYOR No. 31604 PROFESSIONAL SURVEYOR	BY
--	---	---	------------