

GAINES CHARTER TOWNSHIP ZONING BOARD OF APPEALS – SPECIAL MEETING

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

Tentative Agenda

7:00 p.m. – Wednesday January 15, 2020

- I. Call to Order and Roll Call**
- II. Consideration of the Meeting Agenda**
- III. Consideration of Meeting Minutes**
October 9, 2019 – *Regular Meeting*
- IV. Inquiry of Conflict of Interest**
- V. Advertised Public Hearing**
 - 1. 1120 60th Street SE (RL-10)**
Dimensional variances to allow for construction of 3 homes: 1) Reduction of access easement width from 50 to 25 ft. 2) Waiver of 35-foot ft. yard setback from access easement, Parcel 1 (0 ft.), Parcel 2 (13 ft.)
- VI. General Discussion Items**
 - 1. Election of Officers**
- 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.

Zoning Board of Appeals

Agenda Item V.1
1120 60th Street SE
Dimensional Variances

Meeting Date:
January 15, 2020

Report Date:
January 9, 2020

File No. 191213CK

Applicant:
Eric Vanderkam

Location:
1120 60th Street SE

Parcel Number:
41-22-05-101-038

Current Zoning District:
RL-10 Residential

Proposed Request:
Dimensional Variance

Report Prepared By:
Matt McKernan
Assistant Planner



Overview

Dimensional variances to allow for construction of 3 homes: 1) Reduction of an access easement width from 50 to 25 ft. 2) Waiver of 35-foot ft. yard setback from access easement, Parcel 1 (0 ft.), Parcel 2 (13 ft.)

Related Documents

- ZBA Application



8555 Kalamazoo
Caledonia MI 49316
Phone: (616) 698-6640
Fax: (616) 698-2490

Overview and Relevant Facts of Request

The applicant, Eric Vanderkam intends to purchase the undeveloped property at 1120 60th street for the purpose of constructing 3 residential homes. The applicant originally intended to place a private driveway that would serve 3-4 residential lots in the southern portion of the parcel. The Michigan Department of Environment, Great Lakes, & Energy (EGLE) evaluated the site and determined that the southern part of the parcel is largely unbuildable due to the presence of wetlands. Vanderkam was able to locate three building sites that would be permitted by EGLE.

The applicant's desire to construct 3 homes on the property is partially driven by a desire to offset the costs associated with connecting the property to public water and sewer. Public water is available to the property from the 60th Street frontage. Sewer is available to the property from the 61st Street right-of-way on the south side of the property. The applicant would be required to pay connection fees based on the length of the entire 60th Street frontage for water and some portion of the 61st Street frontage for sewer. The applicant contends that it is not economically viable to develop the property with less than 3 residential units.

The applicant's current site plan would require 3 dimensional variances:

1. Variance from Section 4.7 Private Drives and Private Street Regulations

The applicant is requesting a dimensional variance to allow for a 25-foot access easement across the west side of Parcel A. Section 4.7 requires an access easement of 50 feet for private driveways serving 2 parcels (Parcel B & Parcel C).

2. Variance from Section 2.3 (C): Front Yard Setbacks on Corner Lots

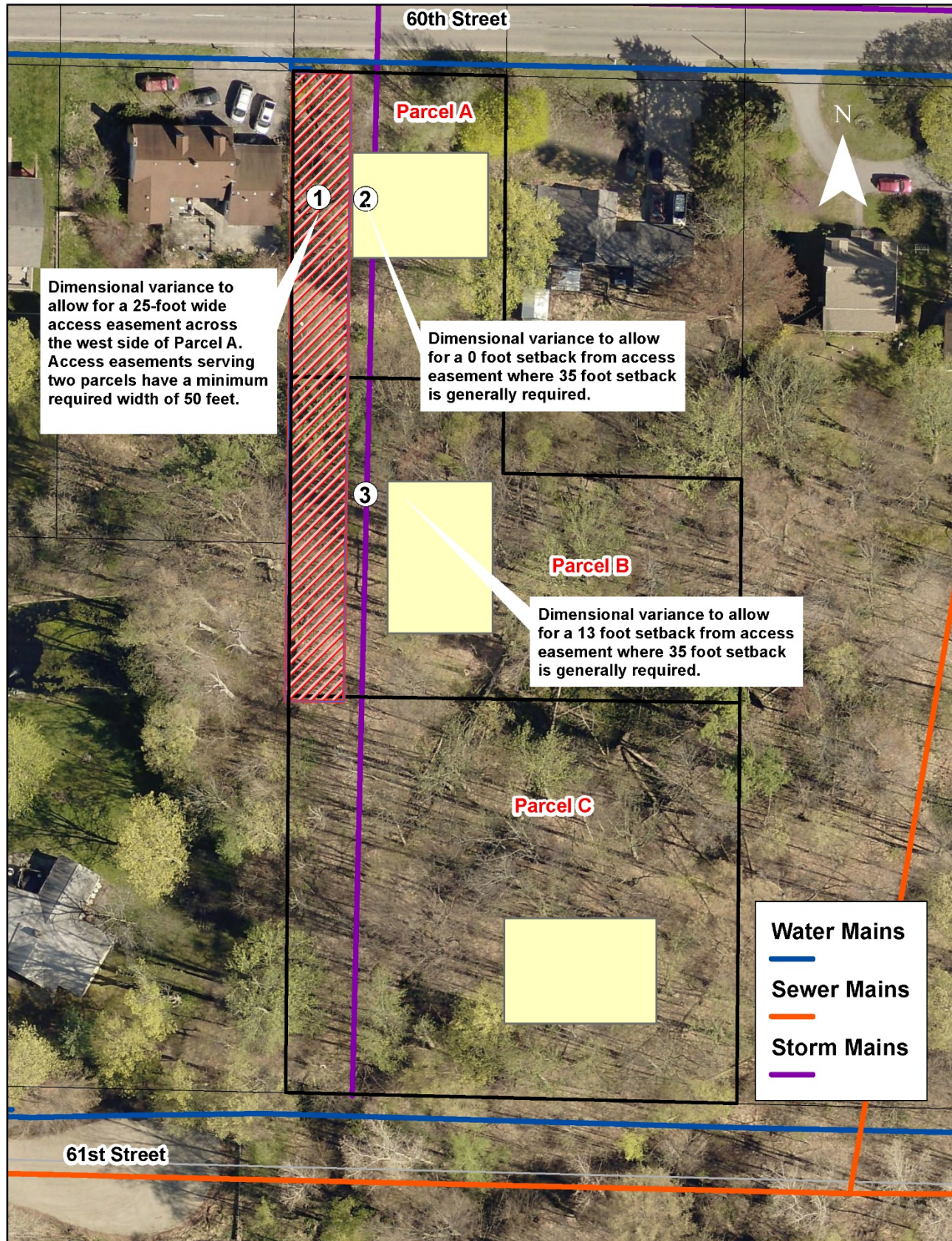
The applicant is requesting a 0-foot setback from the access easement on Parcel A. Section 2.3 (C) requires a 35-foot setback from access easements. Staff has identified a Kent County storm water main running north-south approximately 35 feet east of the western property line. The applicant would not be permitted to build a home above a storm water main and would thus have to set the home at least 10 feet from the access easement. The applicant has indicated he will most likely be able to decrease the width of his home to accommodate the storm drain. This would leave him with an approximate 10-foot setback from the easement.

3. Variance from Section 2.3 (C): Front Yard Setbacks on Corner Lots

The applicant is requesting a 13-foot setback from the access easement on Parcel B. Section 2.3 (C) requires a 35-foot setback from access easements.

The applicant would like to build duplex units on the three proposed lots. Duplexes are permitted by right for properties with direct frontage on primary arterial streets in the RL-10 Zoning District. Parcel A has direct frontage on 60th Street and thus a duplex building would be permitted by right. An amendment to the zoning ordinance would be required to allow for construction of duplex buildings on Parcels B & C. The Planning Commission has recently discussed the possibility of combining the RL-10 and RL-14 zoning districts and allowing duplexes on non-arterial streets by special use permits.

The Township is in the process of drafting private road regulations. The Township Board of Trustees is expected to pass a moratorium on the approval and creation of new private roads at the January 13 meeting. The moratorium will allow Township Staff time to complete work on an ordinance regulating private roads. The applicant will be required to comply with all components of the Township private roads ordinance once it has been approved.



Property Information

Size: 1.53 Acres

Current Zoning: RL-10 Residential

Master Plan Designation:

Low-Density Residential

Neighboring Land Uses & Zoning:

North: Single-Family Homes (R1-C Single-Family Residential-City of Kentwood)

South: Single-Family Homes (RL-10 Residential)

East: Single-Family Homes (RL-10 Residential)

West: Single-Family Homes (RL-10 Residential)

Analysis of Request; Dimensional Variance

Staff has reviewed this request using the applicable review standards set forth by Chapter 26, Section 26.8 (D) of the Zoning Ordinance:

1. ***The variance request, if granted, will be the minimum variance (i.e., the least variation or change from the particular requirement of the Ordinance involved) that will make possible the reasonable use of the land, structure, or building involved.***

The applicant has the ability to place a single duplex building on the property without the need for a variance. The duplex would not be required to connect to public sewer so long as the home is located 200 feet from the sewer line in the 61st Street right-of-way and a suitable location for a septic system can be found. ***It can be argued therefore, the variance request will not be the minimum variance that will make possible the reasonable use of the land.***

2. ***The granting of the variance will not be injurious or detrimental to neighboring properties or residents.***

The granting of the variance will allow for a development pattern that is similar to other properties along 60th and 61st Street. The duplex on Parcel A would be allowed by right if not for variances necessitated by access easement serving Parcels B & C. The proposed homes on Parcels B & C would be 150 and 200 feet from the nearest homes respectively. ***The granting of the variance is not expected to be injurious or detrimental to neighboring properties or residents.***

3. ***The variance will not be detrimental to the public welfare or change the essential character of the neighborhood.***

61st Street dead ends at a creek approximately 30 feet west of the property located at 1120 60th Street. Subsequently, it is common for many of the rear lots of homes on 60th Street to abut the rear yards of homes on 61st Street west of 1120 60th Street. The properties to the east of the creek crossing have been developed in a more haphazard manner as there are no homes along the 61st Street right-of-way in this area. Duplex units are also common in this portion of the Township. ***The applicant's proposed lot layout would be unique to this section of the Township but would not fundamentally change the essential character of the neighborhood.***

4. ***Whether the variance will impair the intent or purpose of this Ordinance.***

The intent of the ordinance provision is to create adequate separation between homes and private streets. Approving the requested variances would result in a relatively minimum separation between the homes on Parcels A & B and the edge of the paved private street (6-16 feet separation for Parcel A. ~19 feet separation for Parcel B.). For comparison purposes, the smallest separation distance allowed in the Township is the 25-foot separation permitted within the Cook's Crossing condominium development which was approved as a Planned Unit Development. On a typical single-family/duplex lot there would be a minimum separation of 40-45 feet from the edge of the paved section of a private street. ***Allowing the requested variances will result in separation distances***

much less than typically permitted in the Township. Allowing the requested variances will impair the intent of the ordinance.

5. The problem or condition for which the variance is requested is not a self-created problem by the applicant or property owner (or their predecessors in title) as to the property involved.

The applicant desire to create 3 revenue generating properties is partially driven by the desire to offset the infrastructure costs and fees associated with connecting the property to public water/sewer. The presence of wetlands on the property reduced the amount of viable building sites on the property. ***The variance request is driven primarily by factors inherent to the property itself and is therefore not a self-created hardship.***

6. The condition or situation involved is not of so general or recurrent a nature that it would be more reasonable or practical for the Township to amend the provision of the Ordinance involved rather than to grant a variance for the condition or situation.

The variance request is driven primarily by factors inherent to the property itself and therefore it would not be more reasonable or practical to amend the related provisions of the Zoning Ordinance.

7. There are exceptional, unique, or extraordinary physical conditions or circumstances which directly relate to the property itself (including the land or a structure or building thereon) rather than the individual situation or desire of the applicant or property owner. In other words, the problem or exception or extraordinary circumstances or conditions must be inherent in the land, structure, or building involved.

The southern portion of the property is largely unbuildable due to the presence of wetlands as identified by EGLE. The applicant was able to locate two building sites that would be permitted by EGLE. ***It can be said that the problems necessitating the variance are largely inherent to the property itself.***

8. The variance must be necessary for the preservation and enjoyment of a substantial property right which is similar to that possessed by other properties in the same zoning district and vicinity. (NOTE—a possible increased financial return shall not, of itself, be deemed sufficient to warrant a variance.)

A residential building could be constructed on Parcel without the need for a variance provided a suitable location for a septic system could be found. The applicant would not be required to connect to public sewer provided the location of the home is at least 200 feet from the sewer main located southwest of the property. A single-family home without sewer would have a minimum lot size of 21,780 square feet. A duplex without sewer would have a required minimum lots size of 35,000 square feet. ***Therefore, it can be stated that the variance is not necessary for the preservation of a substantial property right.***

9. As specified above, the ZBA must also find that the applicant has practical difficulty complying with the Ordinance provision or provisions at issue.

Staff has evaluated this request based on the “practical difficulty” standards applied by the Michigan Court of Appeals:

- ***Strict compliance with the standard would unreasonably prevent the landowner from using the property for a permitted use, or would render conformity necessarily burdensome;***

A single residential building (duplex or single-family home) could be constructed on the property without the need for a variance. Strict compliance with the ordinance would not unreasonably prevent the landowner from using the property for a permitted use.

- ***The particular request, or a lesser relaxation of ordinance standard, would provide substantial justice to the landowner and neighbors;***

A single residential building (duplex or single-family home) could be constructed on the property without the need for a variance. The applicant has requested three variances that are the minimum relaxation from the ordinance standards that would allow for construction of two additional homes on the property.

- ***The plight is due to unique circumstances of property and is not shared by neighboring properties in the same zone; and***
The requested variance was necessitated by circumstances that are somewhat unique to the subject property. The property has frontages on two separate rights-of-way with utilities, which increases the connection fees assessed by the Byron-Gaines Utility Authority. The applicant contends that connection fees and other costs associated with constructing utilities on the property make developing the property difficult to develop without at least 3 residential units on the property. The presence of wetlands identified by the Michigan Department of Environment, Great Lakes & Energy has limited the locations that would be suitable for the placement of homes.
- ***The problem is not self-created.***
The applicant desire to create 3 revenue generating properties is partially driven by the desire to offset the infrastructure costs and fees associated with connecting the property to public water/sewer. The presence of wetlands on the property reduced the amount of viable building sites on the property. ***The variance request is driven primarily by factors inherent to the property itself and is therefore not a self-created hardship.***

Staff Recommendations

While the conditions necessitating the variance would most likely not be considered “self-created”, the applicant has not explored whether it would be viable to develop the property for a singular residential unit along the 60th Street frontage. A single-family home or duplex could be built along 60th Street without the need for a variance. Section 26.8 (D) (8) of the Zoning Ordinance mandates that possible increased financial return shall not, of itself, be deemed sufficient to warrant a variance. Given that the proposed variance would be detrimental to the intent of the zoning ordinance and is driven by the desire for increased financial return, it is recommended that the Zoning Board of Appeals move to deny the applicant’s request.

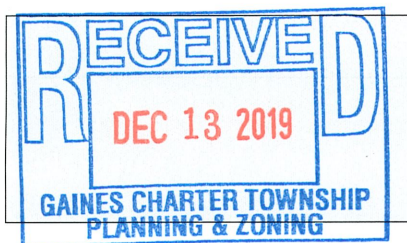
ZBA Action

It is recommended the Zoning Board of Appeals move to deny the request for dimensional variances from Zoning Ordinance Sections 2.3 (C) and 4.7 of the Zoning Ordinance based on the findings provided in the staff report and the following assertions:

1. The property could likely be developed for a duplex or single-family home without the need for a variance.
2. A possible increased financial return shall not, of itself, be deemed sufficient to warrant a variance.
3. Granting the variance would be detrimental to the Zoning Ordinance’s intent to create adequate separation between residential structures and private streets.

-OR-

If the Zoning Board of Appeals determines the requested variance is justified, it should provide facts and conclusions that support the determination that the applicant has a practical difficulty complying with the standards of Sections 2.3 (C) and 4.7 of the Zoning Ordinance.



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

FILE NO. 191213CK

TRACKING NO.

\$150 FEE

Zoning Board of Appeals Application

Project Address	1120 60th St SE		
Owner Name	Cal Kooiker		
Owner Address	Street Address	City, State, Zip	
	9645 E. Paris	Caledonia, MI 49316	
Parcel Number(s):	41-22- 05-101-038	41-22-	
Description of Proposed Project/Use	Split		

Applicant/Contact	Eric Vanderkam		
Applicant/Contact Address	Street Address	City, State, Zip	
	507 147th	Caledonia, MI 49316	
Contact Info	Home / Office / Cell	E-Mail	
	616-375-7133	eric.vanderkam@gmail.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:	

Zoning Board of Appeals Applicant Worksheet

FILE NO. _____

Please 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) _____

*For this requests, please attach in letter form your comments regarding the interpretation/appeal.

Applicant Response to Standards of Review

1. Does the property have physical characteristics, such as narrowness, shallowness, irregular shape, topography, or natural features that inhibit compliance with the zoning ordinance (attach additional sheets if needed)?

The property was split years ago in a flag-like shape with limited road frontage to allow for an access/ easement driveway to the rear of the property without a variance needed

2. If answered yes to #1 above, is (are) the physical characteristics) unique and not shared by neighboring properties?

The property is deeper and wider but at the road; the frontage is limited

3. Was the alleged practical difficulty (dimensional variance) or hardship (use variance) created by an action of the applicant or previous property owner?

The ~~previous~~ split ^{was} too skinny to maintain space for easment at the road

4. Can the property be reasonably used for the use permitted in the zoning district without granting the variance?

yes, but ~~not really~~ the building envelope would be limited in width making it difficult to build a structure of adequate space

5. Is the variance the minimum necessary to permit reasonable use of the land and buildings, or would a lesser variance provide substantial justice to the applicant as well as other property owners in the area?

yes

6. If granted, explained how the variance would not result in adverse affects on adjacent properties or alter the character of the area?

There are mostly rentals in area already; the neighboring properties would have good spacing from proposed building.

7. If granted, explain how the variance would not result in hazards such as dangers from fire or flood, or increased traffic congestion. That is, how will the public safety and welfare be observed and secured?

Proper construction practices will be observed - (ie. silt fences, grading, drainage) Fire protection is located in the rear of property (hydrant) and access ~~from~~ to the front will also be adequate. Adding a couple residences will not adversely affect traffic.

8. If granted, explain how the variance would not be contrary to the spirit and intent of the zoning ordinance.

I believe the ordinance in regard to the width and setback w/ easements is there to protect the property owner whose property is affected by it. In this case the property owner would be me long term and will not change any neighboring properties rights or as the ~~the~~ or encumber their use + enjoyment.

Proposed for: Eric Vanderkam

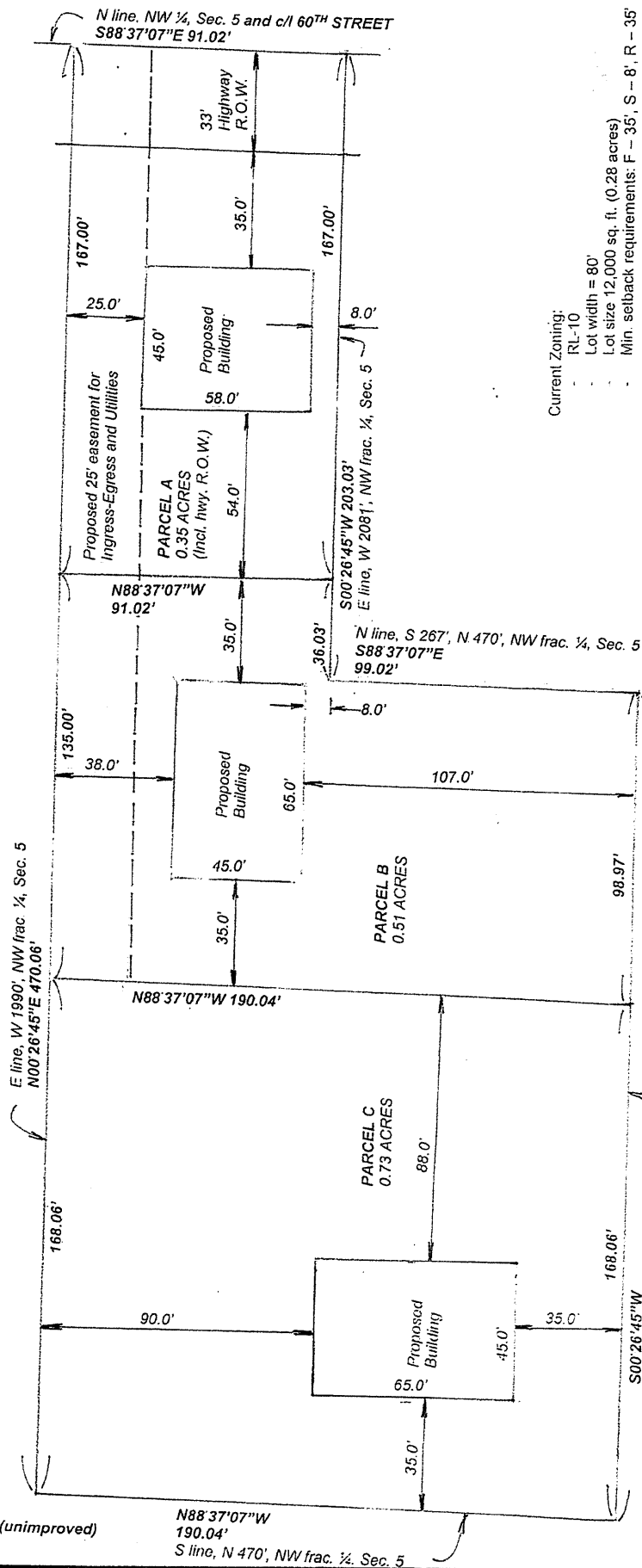
Re: 1120 60th Street SE

Tax Description: The East 91 feet of the West 2081 feet of the North 470 feet of the NW 1/4, Section 5, Town 5 North, Range 11 West. Also the South 267 feet of the North 470 feet of the East 99 feet of the West 2180 feet of the NW 1/4, Section 5, Town 5 North, Range 11 West.

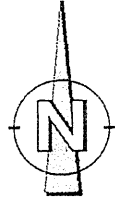
61ST STREET (unimproved)

N 88° 37' 07" W
190.04'

S line, N 470', NW frac. 1/4, Sec. 5



Current Zoning:
- RL-10
- Lot width = 80'
- Lot size 12,000 sq. ft. (0.28 acres)
- Min. setback requirements: F - 35', S - 8', R - 35'



Scale 1" = 40'
D = = = = = = = = = =
M = = = = = = = = = =
P = = = = = = = = = =
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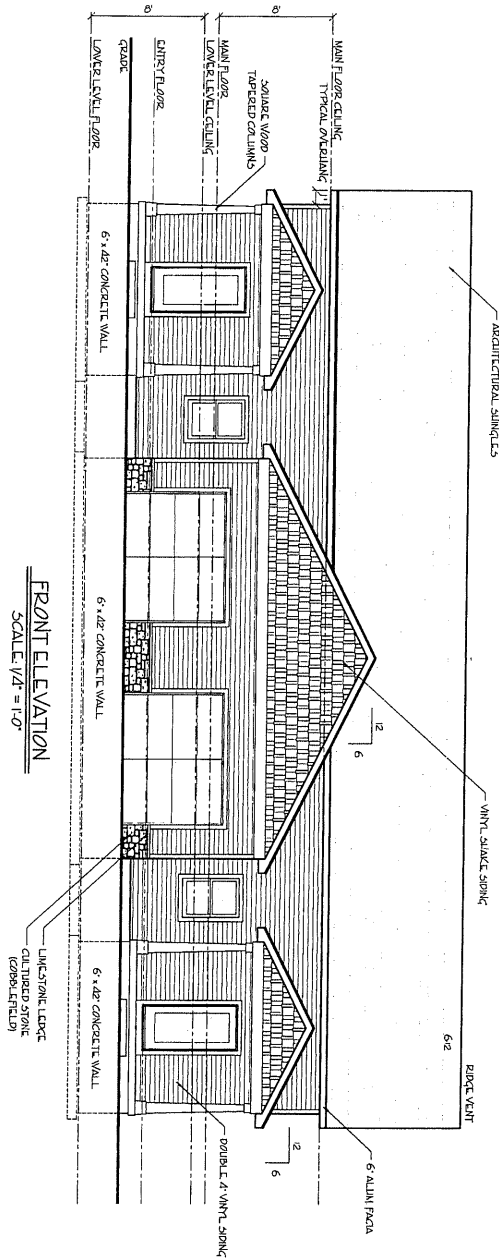
This survey was made from the legal description shown above. The description should be compared with the Abstract of Title or Title Policy for accuracy, easements and exceptions.

TRU-LINE SURVEYING P.C.

P.O. Box 708, Janison, Michigan 49429
Telephone: (616) 457-1711

Date: 12/13/2019

NOTE:
 BUILDER TO BE RESPONSIBLE
 FOR CONSTRUCTION TO MEET OR
 EXCEED STATE OF MICHIGAN ENERGY CODE



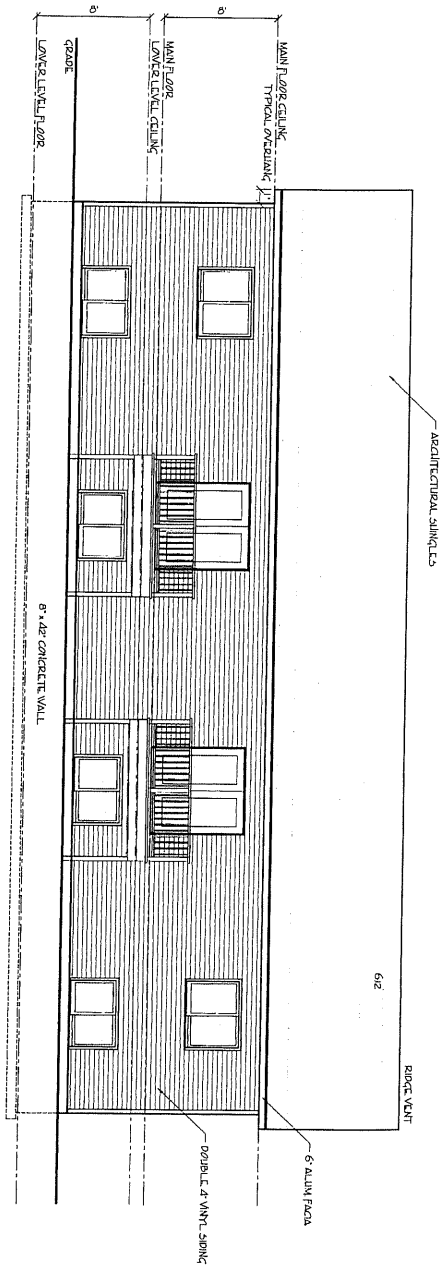
SQUARE FOOTAGE (EACH UNIT)

FINISHED LOWER LEVEL	725 SQ FOOT
MAIN FLOOR	955 SQ FOOT
TOTAL LIVING SPACE	1680 SQ FOOT
1-STORY GARAGE	295 SQ FOOT
TOTAL LIVING SPACE (2 UNITS)	3400 SQ FOOT

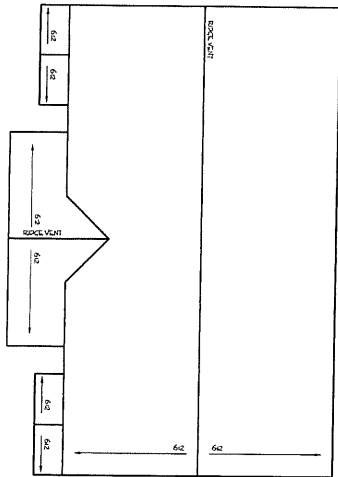
Sheet Index

#	Sheet	Description
1	FRONT ELEVATION	
2	REAR ELEVATION / BUILDING SECTION / ROOF PLAN	
3	LEFT ELEVATION / BUILDING SECTION	
4	RIGHT ELEVATION / BUILDING SECTION	
5	MAIN FLOOR PLAN / CEILING NOTES	
6	DOOR & WINDOW SCHEDULES	

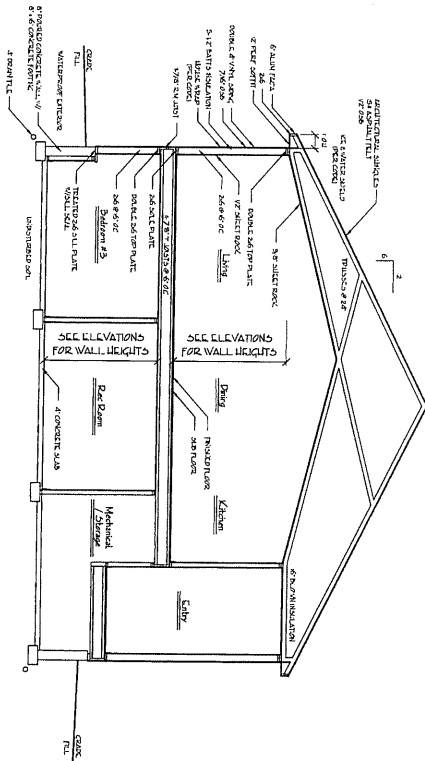
0	02/25/18	ISSUED FOR CONSTRUCTION
REV. #	DATE	DESCRIPTION



REAR ELEVATION
SCALE: 1/4" = 1'-0"



ROOF PLAN
SCALE: 1/8" = 1'-0"

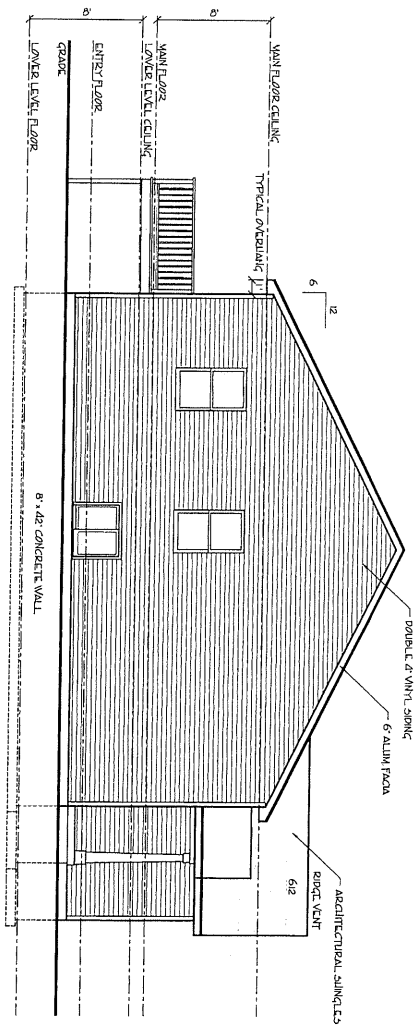


BUILDING SECTION
SCALE: 1/4" = 1'-0"

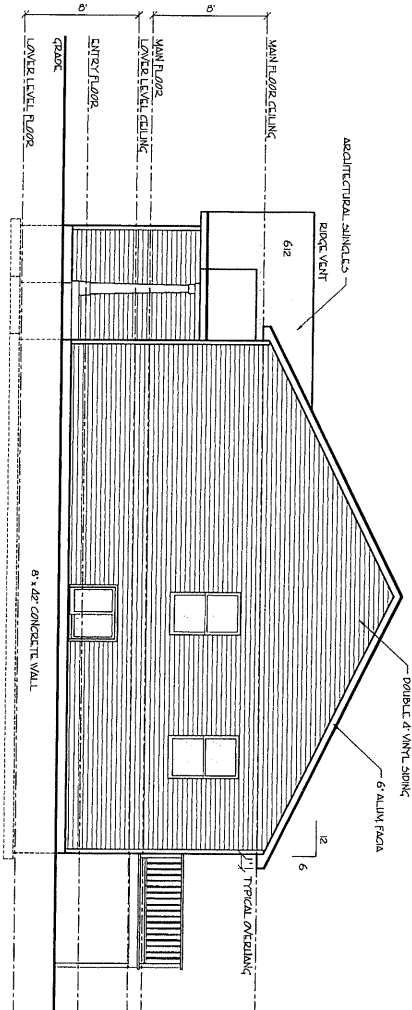
NOTE:
BUILDER TO BE RESPONSIBLE
FOR CONSTRUCTION TO MEET OR
EXCEED STATE OF MI ENERGY CODE

0	02/25/18	ISSUED FOR CONSTRUCTION
REV. #	DATE	DESCRIPTION

NOTE:
 BUILDER TO BE RESPONSIBLE
 FOR CONSTRUCTION TO MEET OR
 EXCEED STATE OF MI. ENERGY CODE



LEFT ELEVATION
 SCALE: 1/4" = 1'-0"



RIGHT ELEVATION
 SCALE: 1/4" = 1'-0"

REV. #	DATE	DESCRIPTION
0	02/25/16	ISSUED FOR CONSTRUCTION