

BOYNE CITY
ZONING BOARD OF APPEALS MEETING
Tuesday, July 1, 2014
5:00 P.M.
Boyne City Commission Chambers, City Hall



1. CALL TO ORDER AND ROLL CALL
2. APPROVAL OF MINUTES - May 16, 2014
3. HEARING CITIZENS PRESENT (on non-agenda items)
4. CORRESPONDENCE
5. NEW BUSINESS
 - A. Variance Request 520 E. Division Street
6. OLD BUSINESS
 - A. None
7. REPORTS OF OFFICERS, BOARDS, AND STANDING COMMITTEES
8. GOOD OF THE ORDER
9. ANNOUNCEMENTS
10. ADJOURNMENT

Individuals with disabilities requiring auxiliary aids or services in order to participate in municipal meetings may contact Boyne City Hall for assistance: Cindy Grice, City Clerk/Treasurer, 319 North Lake Street, Boyne City, MI 49712; phone (231) 582-0334

Approved: _____

Meeting Of
May 6, 2014

Record of the proceedings of the regular Boyne City Zoning Board of Appeals meeting held at Boyne City Hall, 319 N. Lake Street, on Tuesday, May 6, 2014 at 5:00 p.m.

Call To Order

Chair Kubesh called the meeting to order at 5:00 p.m.

Roll Call

Present: Bob Carlile, Pat Kubesh, John McClorey, Lynn Murray and Roger Reynolds
Absent: None

Meeting Attendance

City Officials/Staff: Recording Secretary Pat Haver
Public Present: None

Approval of the Minutes
MOTION

ZBA 2014-05-06-2
Murray moved, Reynolds seconded, **PASSED UNANIMOUSLY**, a motion to approve the November 5, 2013 minutes as presented.

Hearing Citizens Present

None

Correspondence(s)

None

New Business

Motion by McClorey, seconded by Murray to leave the slate of officers as they currently are, with Pat Kubesh as Chair and Bob Carlile as Vice Chair of the Zoning Board of Appeals.

Election of Officers

MOTION

ZBA 2014-05-06-5A
Roll Call
Ayes: Carlile, Kubesh, McClorey, Murray and Reynolds
Nays: None
Absent: None
Motion carries

Old Business
Reports of Officers, Boards and Standing Committees
Good of the Order
Announcements

None

Next Meeting

The next meeting of the Boyne City Zoning Board of Appeals is scheduled for June 3, 2014 at 5:00 p.m.

Adjournment
MOTION

ZBA 2014-05-06-10
McClorey moved, Murray seconded, **PASSED UNANIMOUSLY** a motion to adjourn the Tuesday, May 6, 2014 Boyne City Zoning Board of Appeals meeting at 5:03 p.m.

Patrick Kubesh, Chair

Pat Haver, Recording Secretary

City of Boyne City

To: Members of the Zoning Board of Appeals
From: Annie Doyle, Assistant Planner
Date: July 1, 2014
Subject: Variance Request at 520 E. Division Street



Background

The applicant, Jennifer Dietz, owns property in the Rural Estate District (RED) at 520 East Division Street that includes two adjacent parcel lots (Property ID #: 051-302-005-50 and 051-302-005-45). The property is in the Rural Estate District (RED) and has one primary dwelling structure.



Note:
Image provided shows a previously existing accessory building. There is currently no accessory building on the property. The previously existing structure was destroyed in a fire in February 2014.

Request

The applicant is requesting a variance from the Boyne City Zoning Ordinance regulation, Section 21.36, that states “no garage or portion thereof shall extend into the required front yard area”. The purpose of this request is to build a 21’ 6” x 25’ accessory building in the same location as a previously existing accessory building that was destroyed in a fire in February 2014. The proposed building will be constructed in accordance with the attached site plan drawings (Exhibit C).

Zoning Ordinance Requirements and the Proposed Construction Project

The following table and visual reference detail the relevant zoning ordinance requirements for accessory buildings/garages in the Rural Estate District and the comparable information for the proposed accessory building. Setbacks amounts and approximations were made from a 2000 Land Survey (Exhibit B), current GIS Planning Department software and previous Division Street engineering studies (Exhibit F).

	Front	Rear	Sides	Height	Lot Width	Lot and Building Area
Rural Estate District (RED) general requirements	10 ft	15 ft	5 ft 15 ft (total)	30 ft	50 ft (minimum)	Lot: 5,445 SF (minimum)
Rural Estate District (RED) requirements for accessory buildings and garages	No garage or portion thereof shall extend into the required front yard area. (Section 21.36)	15 ft 3 ft (if in rear of property)	5 ft (minimum/ 15 ft total of both sides) 3 ft (if in rear of property)	20 ft	-	Accessory building shall not occupy more area than the ground floor area of the principal building. (Section 21.36)
Proposed Accessory Building/ Garage	15 ft (approx)	115 ft (approx)	15.16 ft 115 ft (approx)	20ft 4in	181.75 ft	Lot: 34,056 SF Proposed building: 537.5 SF Existing Primary Dwelling: 1,250 SF

The following image provides a visual for the setbacks detailed in the table above. The aerial photo used was provided by Charlevoix County in 2004 and shows the previously existing accessory building.



Other factors to Consider

Destruction of Previous Non-Conforming Accessory Building

According to Boyne City Fire Chief Dennis Amesbury, the previous accessory building was destroyed in a fire on February 7, 2014. Prior to the fire, the existing accessory building was a non-conforming structure because of the front yard location. Boyne City Zoning Ordinance, Section 26.25, states in reference to non-conforming structures that *"should such structure be destroyed by any means to an extent greater than fifty (50) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this article"*.

Topography and Lot Size

The southern lot area behind the primary structure has a steep slope. *Please see Exhibit D for Contour Map.*

The lot size is smaller than the average lot size in the Rural Estate District with approximately 34,016 SF. The lot to the west has approximately 126,400 SF and the lot to the east has approximately 75,170 SF. The lots to the north are in the Traditional Residential District and have smaller average lot sizes than those in the Rural Estate District.

Proposed Accessory Building Height

According to the site plan drawings provided by the applicant, the height of the proposed accessory building will be 20 ft 4 in; this is four inches higher than the maximum height allowed for an accessory building in the Rural Estate District. The applicant advised that the roof line of the proposed accessory building is different from that of the previously existing structure. Staff could not verify the height of the previously existing accessory building, however a street view image from Google Maps (accessed on July 26, 2014) shows the previously existing accessory building in the visual below.



Summary

The applicant is requesting relief from the Zoning Ordinance regulation, Section 21.36, requiring that *“no garage or portion thereof shall extend into the required front yard area”*. The request is being made in order to rebuild an accessory building that was destroyed in a fire last winter. The accessory building as is proposed by the applicant will be in the same location and used in the same manner (garage and storage) as the previously existing building.

Application of Standards

The ZBA should review the enclosed information, visit the property, and apply the standards in Section 27.45.

Exhibits

- A. Zoning Board of Appeals Application
- B. Land Survey
- C. Zoning Permit Application with plan sketch and site plan drawings (August 15, 2013)
- D. Photos of Proposed Construction Site (taken June 26, 2014)
- E. Contour Aerial Map
- F. Engineering Overlay Aerial Maps (used to calculate ROW and setback approximations)
- G. Template for Findings of Fact



City of Boyne City

319 N. Lake Street
Boyne City, MI 49712-1188
231-582-0343

www.boynecity.com

No Faxed Copies/Originals only

ZONING BOARD OF APPEALS APPLICATION

Owner Name: Jennifer Dietz

Address: 520 E. Division St Boyne City

Phone: 231-582-0051 E-mail: jen.dietz@yahoo.com

Describe Variance Request: Rebuild

Property Street Address: _____

Nearest Intersection: _____

Property Tax ID #: 051-302-005-45 Zoning District: RED

Legal Description of Property (attach separate sheet if necessary): _____

Please attach:

- Proposed building/construction with dimensions and front, side and rear yard setbacks
- Existing buildings/structures including decks, driveways, storage buildings, etc.
- Lot lines and dimensions and layout, including parking/loading areas
- Photos, prints, maps, graphics, or drawings of current site
- Copy of Soil Erosion permit application or MDNR permit application, if applicable
- Letter of approval from association's Aesthetic Review Committee, if applicable
- Well and/or septic permit or copy of approved City sewer/water application, if applicable
- Pertinent topographic features (steep slopes, trees, water, etc.)
- Road names, lakeshores, streams, easements, or other dedicated rights-of-way abutting the property
- Any other information you feel is necessary to present your case

Note: I understand and agree to abide by all provisions of the Boyne City Zoning Ordinance as well as all procedures and policies of the Boyne City Zoning Board of Appeals as those provisions, procedures, and policies relate to the handling and disposition of this application; that the above information is true and accurate to the best of my knowledge; and that a filing fee is due with this application. I understand that if the requested variance is granted, I am in no way relieved from all other applicable requirements. I grant permission to the Zoning Administrator and other City Officials to enter the property and make such investigations and tests as they deem necessary.

Owner's Signature Jennifer Dietz Date 6/9/14

This is to certify the required filing fee was received on 6/10/14 and documented with receipt number 54409. This application is scheduled for public hearing on July 1st.

Staff Initials [Signature]

Section 27.45 Standards for Non-use Variances. (effective 4-28-2010)

- A. The Zoning Board of Appeals may authorize, upon an appeal, a non-use variance from the strict application of any provision of this Zoning Ordinance where, by reason of exceptional irregularity, narrowness, shallowness, shape, or area of a specific piece of property at the time of enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of this Zoning Ordinance would result in peculiar or exceptional practical difficulties upon the owner of such property.
- B. In hearing and deciding appeals for non-use variances, the Board shall adhere to the following criteria in determining whether or not practical difficulties exist:
1. Requiring the owner to comply with the regulations governing area, setbacks, frontage, height, bulk, density or other non-use requirements would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity with such regulations unnecessarily burdensome.
 2. The variance granted is the smallest variance necessary to do substantial justice to the owner as well as to other property owners.
 3. The Ordinance can be granted in such a fashion that the spirit of the Ordinance will be observed and public safety and welfare secured.
 4. The need for the variance is not self created.
 5. The need for the variance is due to unique circumstances of the property itself, and not due to general conditions in the area or to circumstances related to the owner personally or to others residing on the property.

The Board shall grant no non-use variance if it finds an application does not meet all of the above listed criteria for determining whether or not a practical difficulty exists.

Section 27.50 Standards for Use Variances. (effective 4-28-2010)

In consideration of variances from the allowed uses as prescribed by this Ordinance, the Zoning Board of Appeals shall, first determine that the proposed variation from use affirmatively meets all of the following general standards for unnecessary hardship:

- A. The proposed variation involves exceptional circumstances not found in other areas of the same zoning district.
- B. The proposed variation will be in harmony with the general purposes and intent of this Zoning Ordinance, and the Comprehensive Plan.
- C. The proposed variation will not in any respect impair the public health, safety, comfort or welfare of the inhabitants of the City.
- D. The proposed use will be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood.
- E. The proposed use will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and provisions for pedestrian traffic, with particular attention to minimizing child-vehicle contact in residentially zoned districts.
- F. The location, size, intensity, site layout and periods of operation of such proposed use will be designed to eliminate any possible nuisance emanating therefrom, which nuisance might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke or lights.
- G. The location and height of buildings or structures and the location, nature and height of walls and fences will be such that the proposed use will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.

CERTIFY

KEY

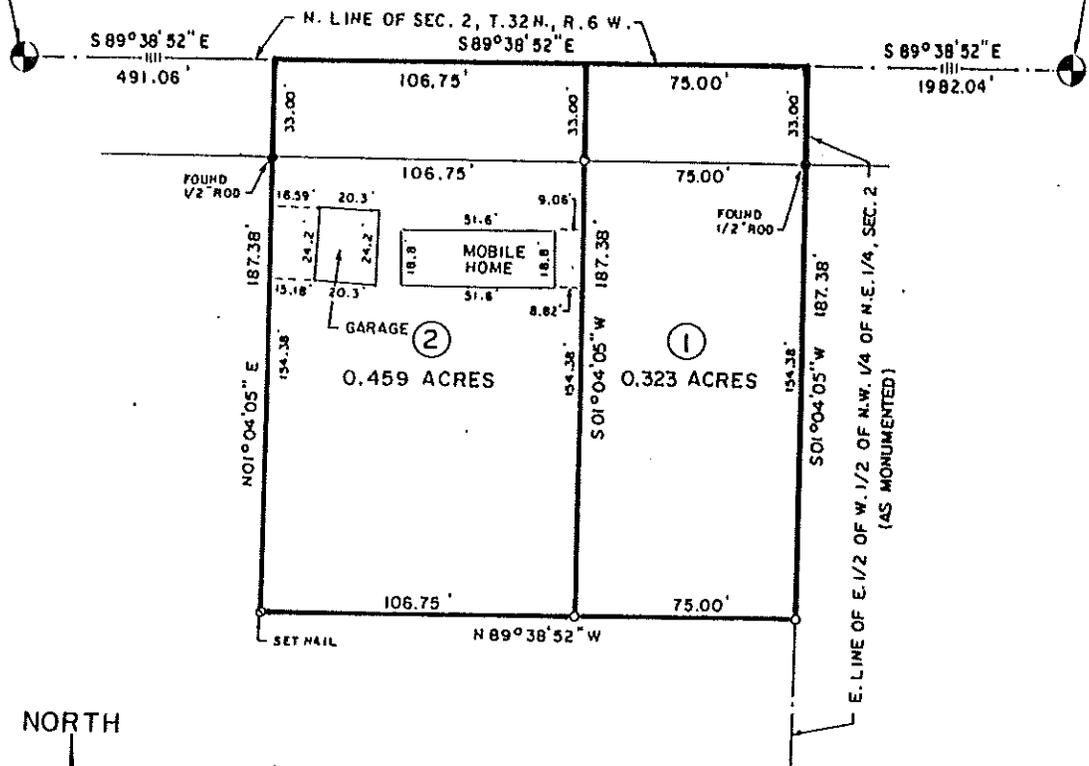
CERTIFIED TO:

JENNIFER BREIDENSTEIN
520 E. DIVISION
BOYNE CITY, MICHIGAN 49712

N. 1/4 COR., SEC. 2, T.32 N., R. 6 W.
WITNESSES: (FOUND 5/8" ROD)
1/2" ROD - NORTH - 33.40'
P.W.R. POLE - N 50° E - 40.35'
TELE. PED. - S 45° E - 38.40'
HYDRANT - S 80° E - 82.40'

N.E. COR., SEC. 2, T.32 N., R. 6 W.
WITNESSES: (FOUND 1" PIPE)
FIRE HYDRANT - N 52° E - 96.70'
UTIL. POLE - SOUTH - 49.20'
POWER POLE - N 10° W - 71.00'
7" ELN - S 62° W - 66.44'

DIVISION STREET



NORTH



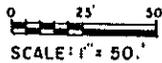
PART OF N.W. 1/4 OF N.E. FR'L. 1/4, SEC. 2, T. 32 N., R. 6 W.
CITY OF BOYNE CITY, CHARLEVOIX COUNTY, MICHIGAN

LEGEND:

1. ALL DIMENSIONS ARE IN FEET.
2. 1/2" x 24" STEEL RODS WITH I.D. CAPS HAVE BEEN SET AT ALL POINTS MARKED " "
3. " " INDICATES IRON STAKE FOUND IN PLACE AS IDENTIFIED ABOVE.
4. BEARINGS ARE IN RELATIONSHIP TO PRIOR SURVEYS.
5. RATIO OF POSITION CLOSURE OF UNADJUSTED FIELD OBSERVATIONS EXCEEDS 1:10,000.

DIVISION NOTES:

1. PARENT PARCEL (TAX NO. 15-051-302-005-20) CONTAINS 0.782 ACRES AND IS OWNED BY JENNIFER (CARROW) BREIDENSTEIN.
2. NO FUTURE DIVISIONS ARE ASSIGNED.



SCALE: 1" = 50'

JOHN E. FERGUSON, P.S. NO. 24593



I HEREBY CERTIFY that I have surveyed and mapped the property hereon delineated and that the ratio of position closure of the unadjusted field data exceeds 1:5000; and that it complies with P.A. 132, 1970.

FERGUSON & CHAMBERLAIN ASSOCIATES, INC.
PROFESSIONAL SURVEYORS
103 W. UPRIGHT STREET, CHARLEVOIX, MICHIGAN 49720
(231) 547-6882 - FAX (231) 547-0021
EMAIL: survey@freeway.net

FIELD: 9-29-0011.S. STAKED: 10-12-0011.S. DRAWN: 10-12-0011.E.F.
JOB: S.B. 17293c-00 DATE: OCT. 12, 2000



CITY OF

319 N. LAKE STREET
Boyne City, MI 49712
Phone: (231) 582-6597
Fax: (231) 582-6506
www.boyne-city.com

ZONING PERMIT APPLICATION

PERMIT NUMBER _____

- Project Address 520 E. Division St. Boyne City
- Property ID Number (Tax Code Number) 15-051- Rik 231-675-9709
- Property Owner Jennifer Dietz Phone 231-582-0051
- Address 520 E. Division St.
- City Boyne City State MI Zip 49712
- Contractor Dave Bricker Phone _____
- Address _____
- City _____ State _____ Zip _____

Proposed Use ~~RE~~ Accessory Buildings

Area of Lot (Square feet/Acres) _____ Construction Costs _____

Zoning District _____

Has a variance been granted for the proposed work? yes ___ no ___ If so, what is file #? _____

Applicant: The information provided is accurate to the best of my knowledge. I certify that all property and corners have been clearly staked and flagged and that all construction will conform with the Boyne City Zoning Ordinance and with the description contained in the application and site plan. All materials included with this application hereby become part of this application. Furthermore, I grant permission to the Zoning Administrator and other City Officials to enter the property and make such investigations and tests as they deem necessary. Applicant/landowner shall be responsible for movement of footing placement when not found in conformance with property zoning and/or required setbacks from the roads and property boundaries.

Signature of Applicant: Jennifer Dietz Date: 6/9/14

Signature of Property Owner: Jennifer Dietz Date: 6/9/14

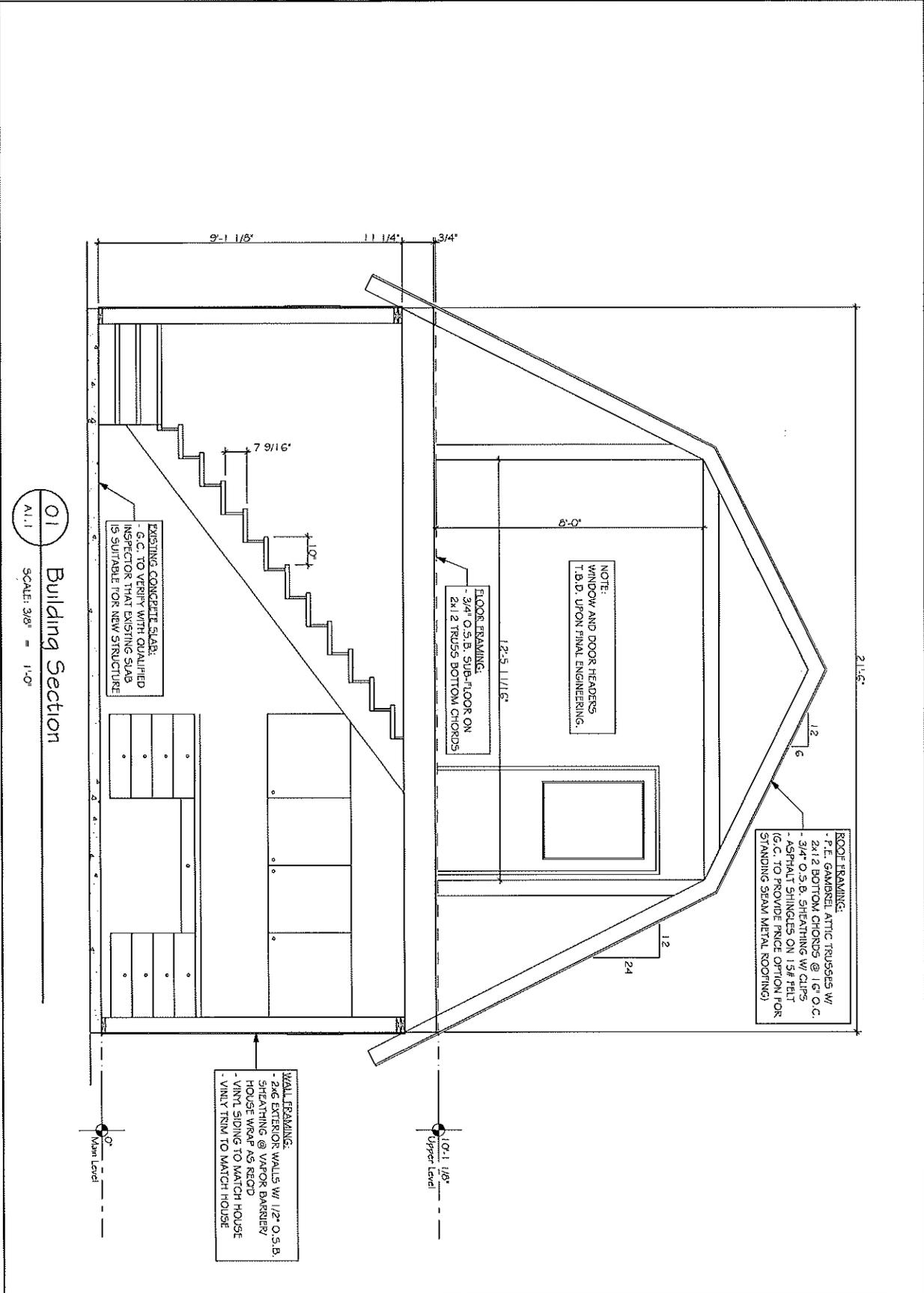
This is to certify the required permit fee was received on _____

Receipt Number: _____

Approved: Yes No

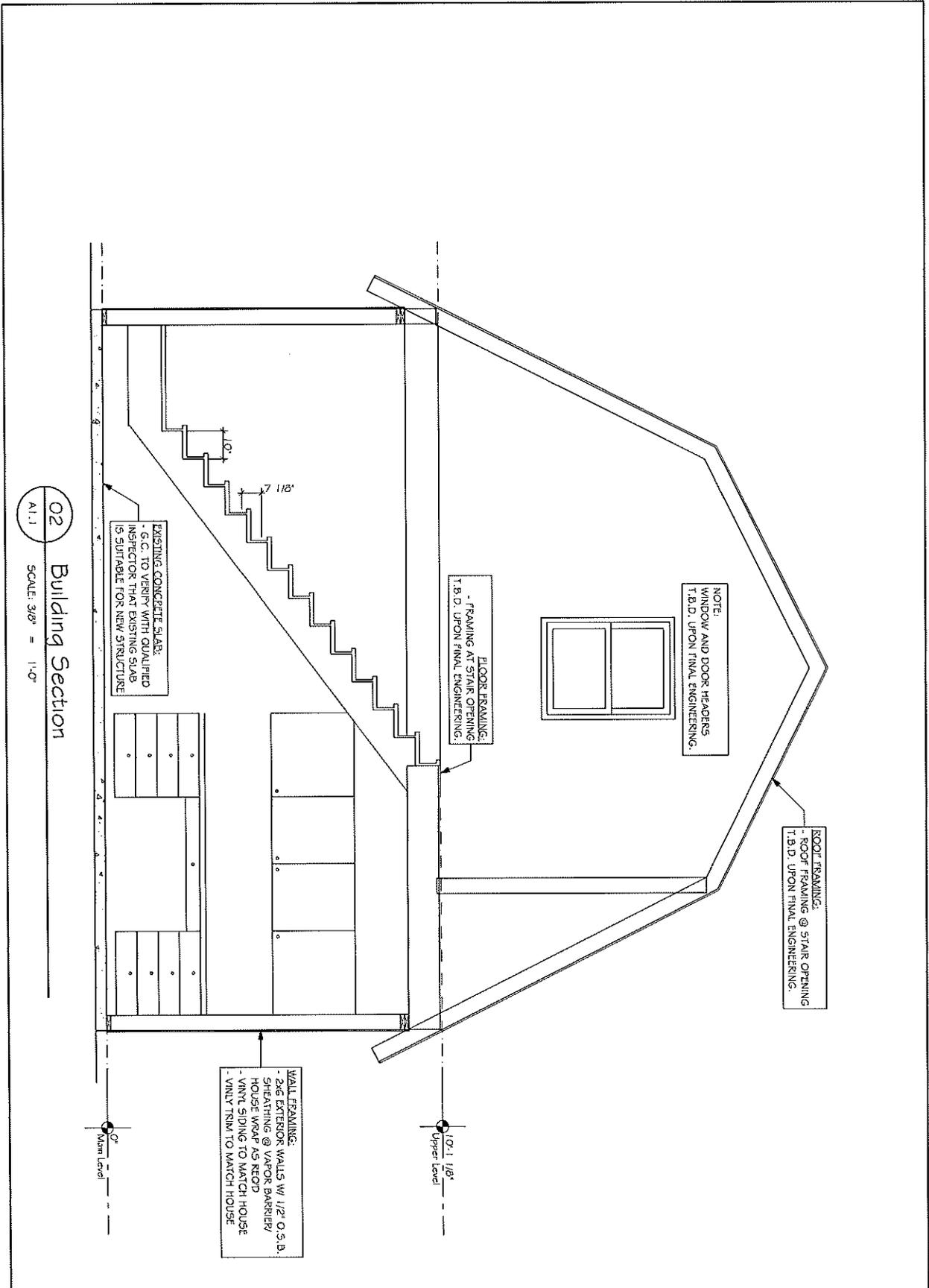
Signature of Zoning Administrator: _____

NOTES:

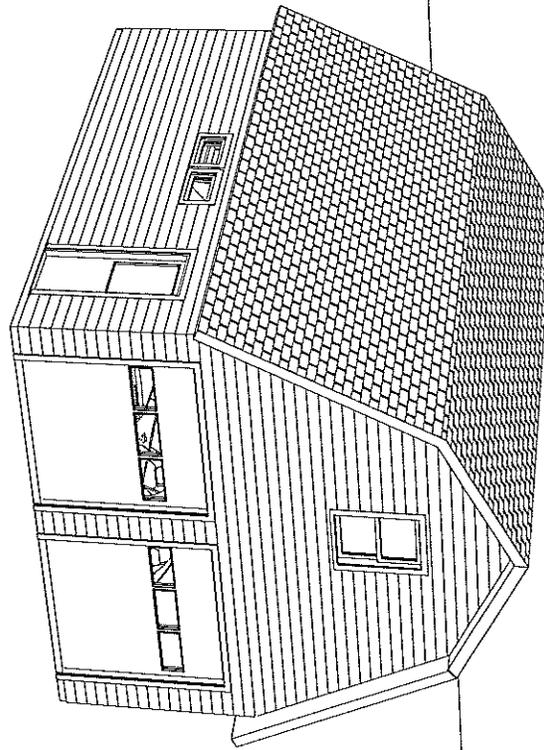


01 Building Section
A1.1 SCALE: 3/8" = 1'-0"

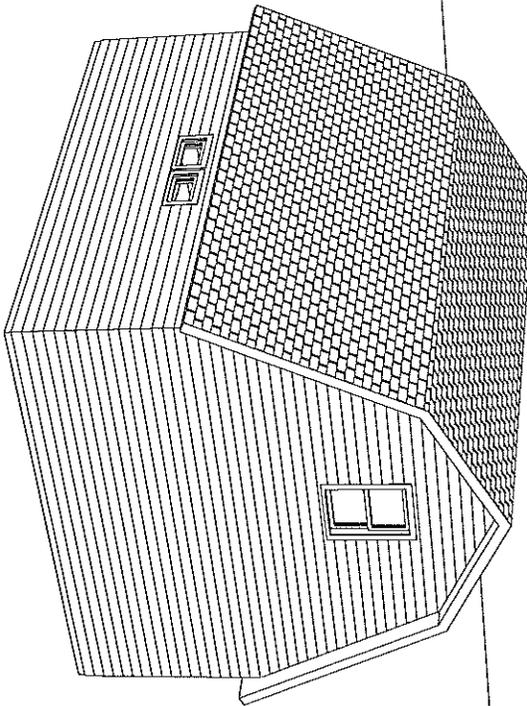
3/24/2014	Jennifer and Rik Dietz	<p align="center">EDGEWATER DESIGN  GROUP</p>	<p>301 E. MITCHELL STREET PETOSKEY, MICHIGAN 49770 (231) 348-0497</p>
	Building Sections		<p>THIS DRAWING IS CONSIDERED PROPRIETARY PRODUCT OF EDGEWATER DESIGN GROUP, LLC. IT IS NOT TO BE USED OR REPRODUCED IN ANY MANNER UNLESS AUTHORIZED IN WRITING BY EDGEWATER DESIGN GROUP, LLC.</p>



3/24/2014	Jennifer and Rik Dietz	EDGEWATER DESIGN GROUP	301 E. MITCHELL STREET PETOSKEY, MICHIGAN 49770 (231) 348-0497
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Front Perspective
SCALE: 1/4" = 1'-0"



Rear Perspective
SCALE: 1/4" = 1'-0"

3/24/2014

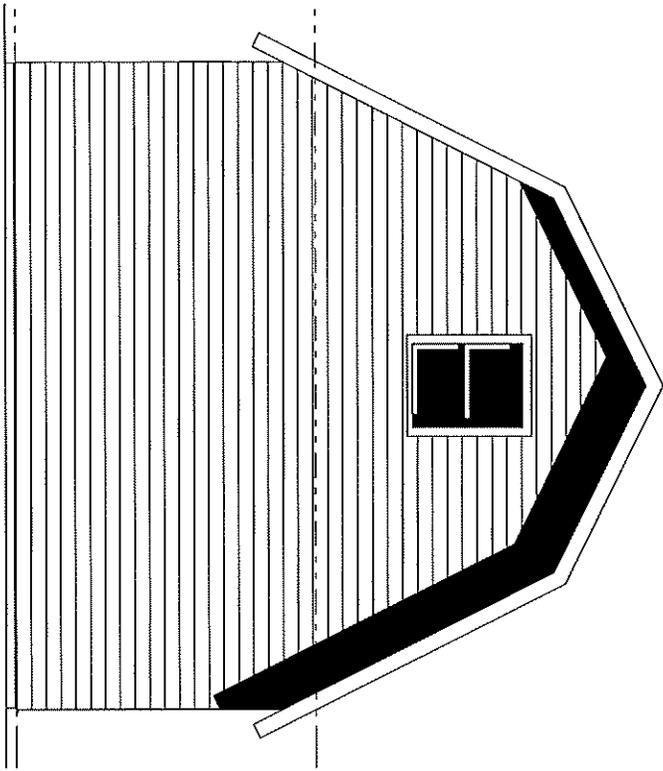
Jennifer and Rik Dietz

Exterior Perspectives

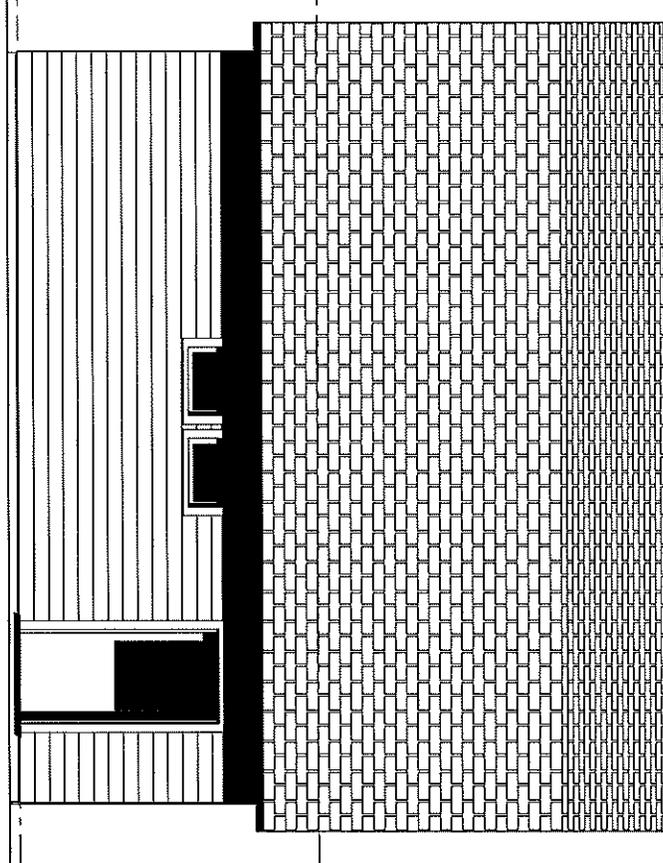
EDGEWATER
DESIGN  GROUP

301 E. MITCHELL STREET
PETOSKEY, MICHIGAN 49770
(231) 348-0497

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EDGEWATER DESIGN GROUP, LLC.



Rear Elevation
SCALE: 1/4" = 1'-0"



Left Elevation
SCALE: 1/4" = 1'-0"

3/24/2014

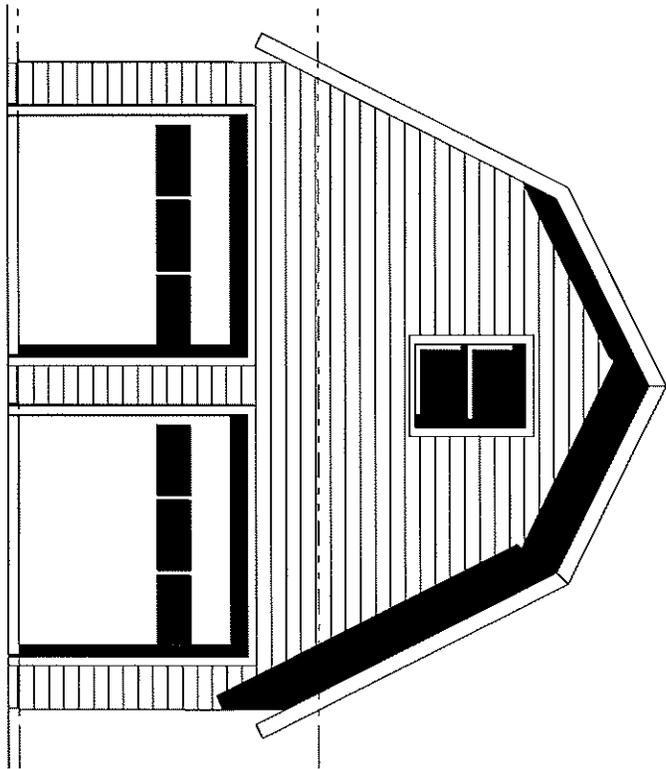
Jennifer and Rik Dietz

Exterior Elevations

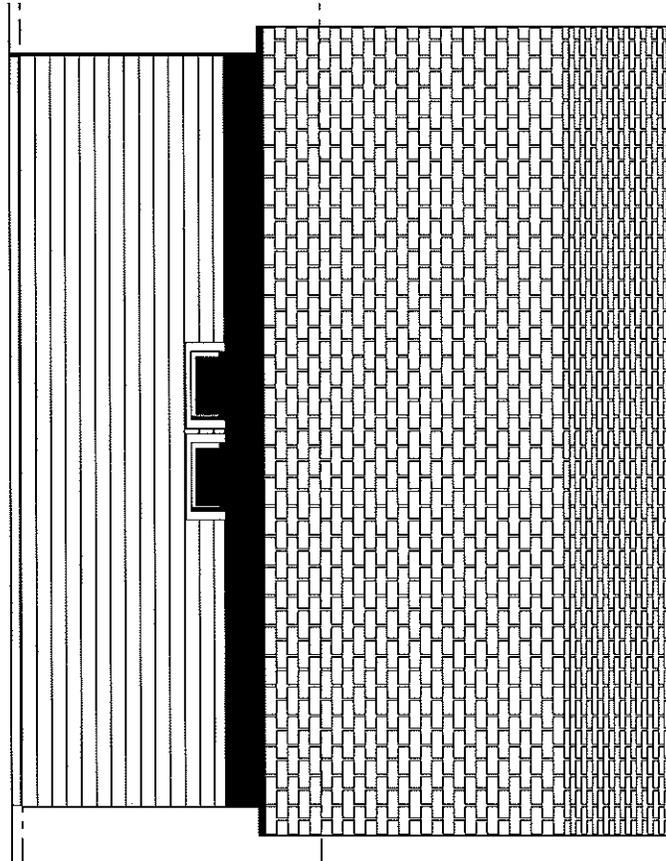
EDGEWATER
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EDGEWATER DESIGN GROUP, LLC.



Front Elevation
SCALE: 1/4" = 1'-0"



Right Elevation
SCALE: 1/4" = 1'-0"

3/24/2014

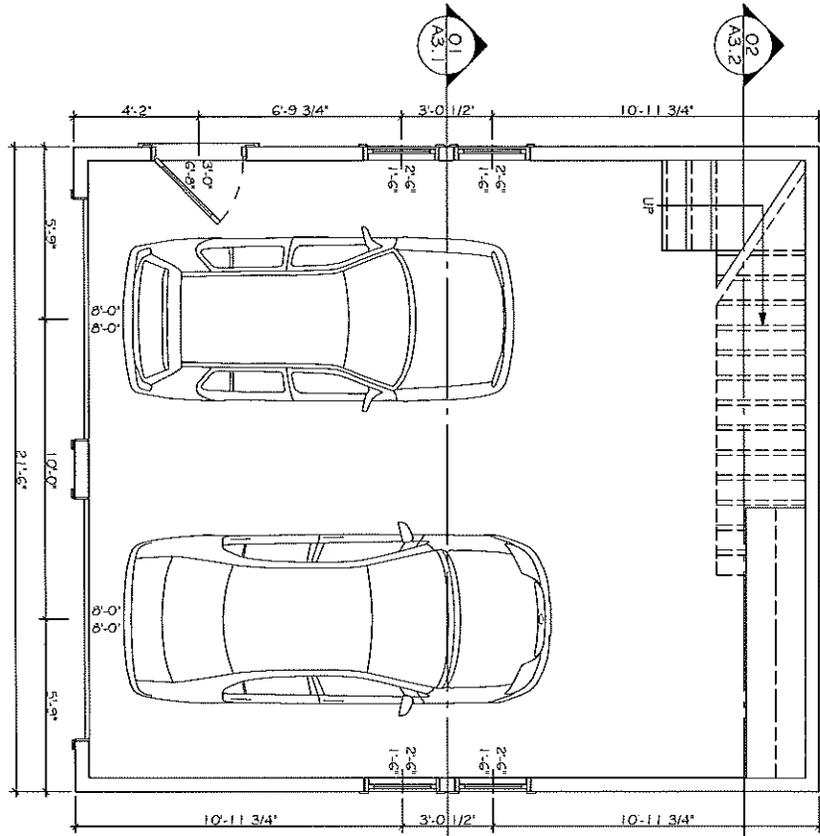
Jennifer and Rik Dietz

Exterior Elevations

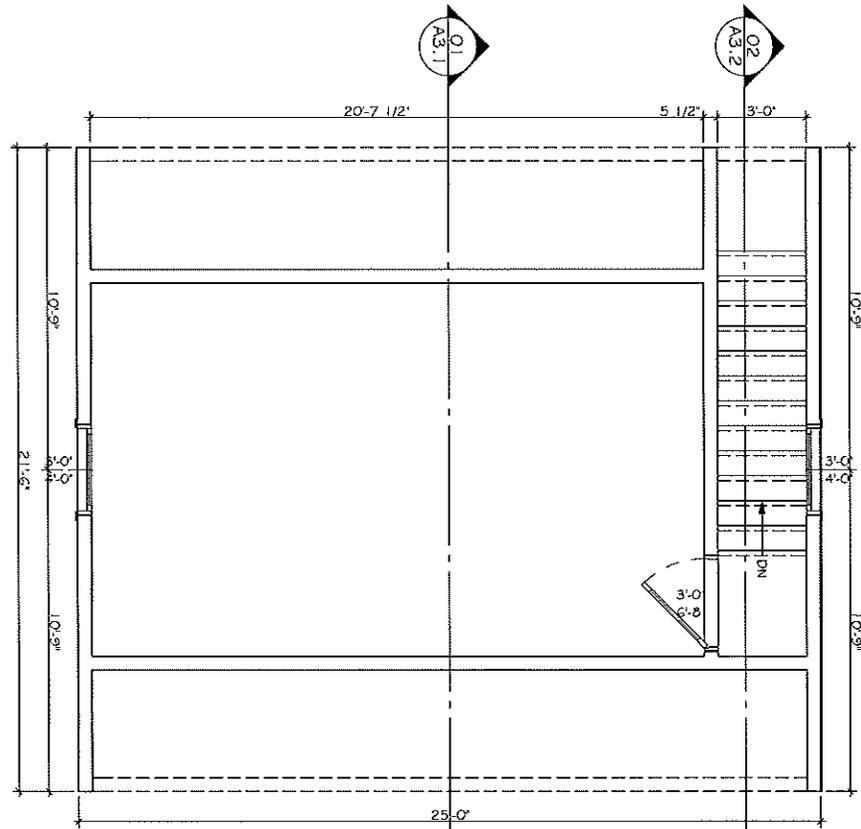
EDGEWATER
DESIGN  GROUP

301 E. MITCHELL STREET
PETOSKEY, MICHIGAN 49770
(231) 348-0497

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Main Level Plan
SCALE: 1/4" = 1'-0"



Upper Level Plan
SCALE: 1/4" = 1'-0"

3/24/2014	Jennifer and Rik Dietz	<h1 style="margin: 0;">EDGEWATER</h1> <h2 style="margin: 0;">DESIGN GROUP</h2>	301 E. MITCHELL STREET PETOSKEY, MICHIGAN 49770 (231) 348-0497
	Floor Plans		THIS DRAWING IS CONSIDERED PROPRIETARY PRODUCT OF EDGEWATER DESIGN GROUP, LLC. IT IS NOT TO BE USED OR REPRODUCED IN ANY MANNER UNLESS AUTHORIZED IN WRITING BY EDGEWATER DESIGN GROUP, LLC.

Exhibit D

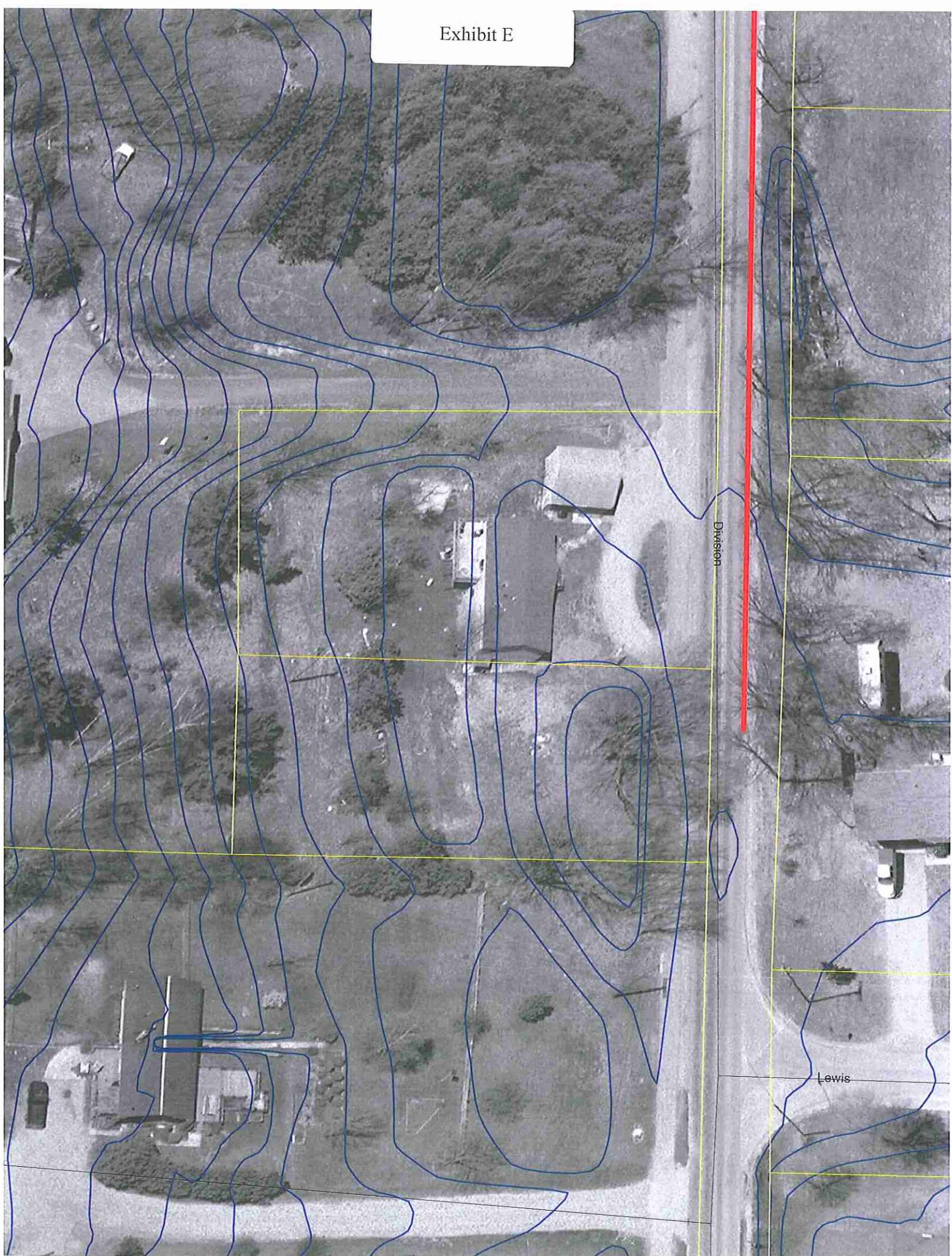


Photos: 520 E. Division Street.
Taken on July 26, 2014.

Shows the remaining cement slab of a previously existing accessory building destroyed by fire.



Exhibit E



Division

Lewis



MATCH LINE A SEE SHEET 5

66.00' R.O.W.

302-001-50
520 DIVISION ST

GRVL DRIVE

SBH85

R/BAN

34+00

21.85

Division

33+00

TREE LINE

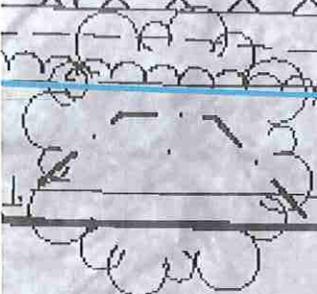
TREE LINE

1 1/4" G

GRVL DRIVE

378-037-00
532 LEWIS ST

48" MAPL



**BOYNE CITY
ZONING BOARD OF APPEALS**

APPLICANT INFORMATION

APPLICANT: **Jennifer Dietz**
 520 E. Division Street
 Boyne City, MI 49712

HEARING DATE: **July 1, 2014**

PROPERTY DESCRIPTION

The property located at 520 E. Division Street, described as tax identification number 15-051-032-005-50 and 051-302-005-45, hereinafter referred to as “the property”.

APPLICATION

Describe Variance Requests: The applicant is requesting a variance from the Boyne City Zoning Ordinance regulation, Section 21.36, that states “*no garage or portion thereof shall extend into the required front yard area*”. The purpose of this request is to build a 21 ft 6 in x 25 ft accessory building in the same location as a previously existing accessory building that was destroyed in a fire in February 2014. The property is located in the Rural Estate District (RED).

**BOYNE CITY
ZONING BOARD OF APPEALS**

An affirmative vote of a majority of members shall be required to reverse any order, requirement, decision or determination of the City Manager, an administrative official of the City, or the Planning Director except that a two-thirds (2/3) majority of members shall be necessary to grant any variances from uses of land which may be permitted by this Ordinance.

BOARD DECISION AND ORDER

The Board having considered the Application, a public hearing having been held on **July 1, 2014** after giving due notice as required by law, the Board having heard the statements of the Applicant/Applicant’s attorney and agents, the Board having considered letters submitted by members of the public and several comments by members of the public, the Board having considered the following Findings of Fact and Exhibits as part of the record, and the Board having reached a decision on this matter, states as follows:

GENERAL FINDINGS OF FACT

1. The property is owned by applicant, Jennifer Dietz.
2. The property is in the Rural Estate District (RED).
3. The property is currently developed with a single family dwelling.
4. Access to the property is provided by Division Street which is a public road that bounds the front side of the parcel.
5. The east, west and rear sides of the property share a lot line with other privately owned single family dwellings in the Rural Estate District.
6. The property is not irregularly shaped.
7. There are steep slopes in the rear portion of the property behind the primary dwelling.
8. The RED minimum lot area requirement is 5,445 SF.
9. Square footage of the lot is 34,056 SF.
10. The RED requires that no garage or portion thereof shall extend into the required front yard area.
11. The proposed accessory building would be located in the front yard of the property.
12. The proposed accessory building would have an approximately 15 ft front yard setback from the public right-of-way.
13. The proposed accessory building to the primary dwelling would be located on the west side of the property.
14. The proposed accessory building would be setback 115 ft from the rear of the property.
15. The RED requires a 5 ft side yard setback.
16. The proposed building would have an approximately 15.16 side yard setback on the west side and approximately 115 ft side yard setback on the east side.
- 17.

FINDINGS OF FACT UNDER SECTION 27.45. – NON-USE VARIANCES

In hearing and deciding appeals for variances, the Board shall adhere to the following criteria in determining whether or not practical difficulties and/or unnecessary hardships exist:

1. Requiring the owner to comply with the regulations governing area, setbacks, frontage, height, bulk, density or other non-use requirements would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity with such regulations unnecessarily burdensome.
2. The variance granted is the smallest variance necessary to do substantial justice to the owner as well as to other property owners.
3. The variance can be granted in such a fashion that the spirit of the Ordinance will be observed and public safety and welfare secured.
4. The need for the variance is not self created.
5. The need for the variance is due to unique circumstances of the property itself, and not due to general conditions in the area or to circumstances related to the owner personally or to others residing on the property.

The Board shall grant no variance if it finds an application does not meet all of the above listed criteria for determining whether or not a practical difficulty and/or unnecessary hardship exists.

<p>MOTION by _____ seconded by _____ to _____.</p> <p><i>Roll Call:</i> <i>Aye:</i> <i>Nay:</i> <i>Abstain:</i> <i>Absent:</i></p> <p style="text-align: right;">DATE:</p>

Zoning Board of Appeals Chairperson

TIME PERIOD FOR JUDICIAL REVIEW

- MCLA 125.3607 provides that a person having an interest affected by the zoning ordinance may appeal a decision of the Zoning Board of Appeals to the Circuit Court. Pursuant to MCLA 125.3606 any shall be filed within 30 days after the zoning board of appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the zoning board of appeals, if there is no chairperson, or within 21 days after the zoning board of appeals approves the minutes of its decision.