



**ACME TOWNSHIP ZONING BOARD OF APPEALS
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
October 10, 2019 7:00 p.m.**

CALL TO ORDER WITH PLEDGE OF ALLEGIANCE (7:00 pm)

ROLL CALL:

Members present: Hoxsie, LaSusa, Maitland, Kuncaitis, VanHouten

Members excused: none

Staff present: Lindsey Wolf

A. APPROVAL OF AGENDA:

B. INQUIRY AS TO CONFLICTS OF INTEREST: Kuncaitis excused himself from hearing

C. CORRESPONDENCE: Jim & Evie Huver, 7833 Sayler Road

D. PUBLIC HEARINGS:

1. ZBA 2019-01: Non-Use Variance Request for the Construction of an additional to a legal nonconforming accessory building, V. Larry Hebert, 7775 Saylor Rd
 - LaSusa read the public hearing notice into the record
 - LaSusa opens public comment portion of hearing
 - LaSusa read a letter of support of the application from Jim and Evie Huver 7833 Sayler Road
 - V. Larry Hebert, 7775 Saylor Road – discussed the project, difficult terrain, and his intentions to retain an existing portion of the eastern wall and foundation.
 - Discussion about the site by various ZBA members.
 - Hoxie inquired about moving the doors on the proposed addition to the north.
 - Hebert shared concerns of moving doors to the north because of the drop off and mature trees in that location.
 - Maitland inquired if the proposal required a permit from the road commission.
 - Wolf explained that no new entry points would be created and will utilize existing driveway.
 - LaSusa closed the public comment portion of the hearing.
 - **Motion by Maitland to approve the request as it meets the basic and special conditions with the findings of fact presented in Planning & Zoning Staff Report for ZBA Case 2019-01 in the minutes. Second by LaSusa. Motion carries unanimously.**

Standards for Determination:

5.4 NONUSE VARIANCES The Zoning Board of Appeals shall have the authority to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance, **PROVIDED ALL of the BASIC conditions listed herein and any ONE of the SPECIAL conditions listed thereafter can be satisfied.**

5.4.1 Basic Conditions: That any nonuse variance granted from this Ordinance:

Is a result of practical difficulties which prevent carrying out the strict letter of this Ordinance. These practical difficulties shall be evaluated in terms of the use of the particular parcel of land, and cannot be solely economic in nature.

SATISFIED: *This legally non-conforming use has been in existing for over fifty-six (56) years prior to the date of when the first township ordinance was put in place in the late 60s/early 70s. Zoning created the non-conformity.*

As the site plan and site pictures indicate there a number of challenges on the property: The topography of the property slopes in several locations; existing structures are located on the only flat areas of the parcel.

Mature trees also occupy the slopes: 43" diameter maple, 12" diameter apple tree, 12" diameter cedar

The location of the propane tank is situated directly behind the garage.

Will not be contrary to the public interest or to the intent and purpose of this Ordinance.

SATISFIED: *The applicant's non-use variance and extension of a legal non-conformity requests are not contrary to public interest in that it will create no discernable negative impact on property owners and is by and large consistent with the intent of the zoning district. The 5-acre parcel to the south is currently vacant. The applicant has also stated the pitch of the roof will direct all runoff onto his parcel and will not negatively impact the neighboring 5-acre parcel that the existing building is located closest to.*

Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.

SATISFIED: *The Applicant's proposed non-use variance and extension of a legally non-conforming use requests are believed to have no discernable negative impact on surrounding properties. As stated previously, the applicant has the design and pitch of the roof to direct runoff onto his property.*

Is not where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.

SATASFIED: *The applicants' request is unique to their needs on the property due to the various slopes.*

Will relate only to property that is under control of the applicant.

SATISFIED: *The specific non-use variance request relates only to the property under control by applicant/owner.*

Will not be permitted for a parcel of property that is not a Legal Lot of Record, as defined by this Ordinance.

SATISFIED: *The parcel is a Legal Lot of Record.*

5.4.2 Special Conditions: When ALL of the foregoing basic conditions can be satisfied, a nonuse variance may be granted when any ONE of the following special conditions can be clearly demonstrated:

Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property uses in the same zoning district. Such circumstances or conditions shall not have resulted from any act of the applicant subsequent to the adoption of this Ordinance.

SATISFIED: *As stated, zoning created the non-conformity. The applicant did not erect the non-conforming structure. Due to the topography of this parcel it makes the buildable area more challenging. Furthermore, the proposed addition is situated to provide the least amount of disturbance to the surrounding area.*

Where such variance is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

NOT EVALUATED

The applicant has submitted a narrative to support that all of the basic conditions can be satisfied, and that one of the special conditions can be demonstrated. This has been provided in your packet for consideration.

E. ADMINISTRATIVE ACTION

- 1.** Approve Zoning Board of Appeals draft minutes from 08/09/18
 - Motion by Maitland, second by LaSusa to approve the minutes as presented. Motion carries unanimously.
- 2.** Election of Officers
 - Kuncaitis opens the nomination for chair.
 - LaSusa nominates Kuncaitis. No other nominations. ZBA unanimously approves Kuncaitis as chair.
 - Kuncaitis opens the nomination for vice chair.
 - Maitland nominates LaSusa. No other nominations. ZBA unanimously approves LaSusa as vice chair.

ADJOURN: (7:17 pm)

Motion by LaSusa to adjourn, second by Maitland. Motion carries unanimously.

-----Original Message-----

From: Evie <ejjsdhuver@aol.com>

Sent: Thursday, October 10, 2019 3:24 PM

To: Cathy Dye <CDye@acmetownship.org>

Subject: Larry Hebert

To the Acme Township Office:

We are just writing to let you know that we do not have a problem with the improvements Mr. Hebert has planned for his house in front of our home on Sayler Road. Please forward this to the appropriate parties for the meeting tonight. Thank you.

Sincerely,

Jim and Evie Huver

231-218-1241/231-631-2071

7833 Sayler Road

Williamsburg, MI 49690

Sent from my iPhone



**ACME TOWNSHIP ZONING BOARD OF APPEALS
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
October 10, 2019 7:00 p.m.**

CALL TO ORDER WITH PLEDGE OF ALLEGIANCE

ROLL CALL:

Members present:

Members excused:

Staff present:

A. APPROVAL OF AGENDA:

B. INQUIRY AS TO CONFLICTS OF INTEREST:

C. CORRESPONDENCE:

D. PUBLIC HEARINGS:

1. ZBA 2019-01: Non-Use variance request for the construction of an addition to a legal nonconforming accessory building, V. Larry Herbert, 7775 Saylor Road Williamsburg

E. ADMINISTRATIVE ACTION

1. Approve Zoning Board of Appeals draft minutes from 08/09/18
2. Election of Officers

ADJOURN:



**ACME TOWNSHIP ZONING BOARD OF APPEALS
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
August 9, 2018 7:00 p.m.**

CALL TO ORDER WITH PLEDGE OF ALLEGIANCE (7:02 pm)

ROLL CALL:

Members present: Balentine, Hoxsie, LaSusa, Maitland, Kuncaitis

Members excused: none

Staff present: none

A. APPROVAL OF AGENDA:

B. INQUIRY AS TO CONFLICTS OF INTEREST: (none)

C. CORRESPONDENCE: (none)

D. PUBLIC HEARINGS:

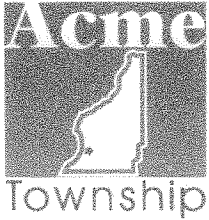
1. ZBA 2018-02: Non-Use Variance Request for the Construction of an Accessory Building, Thomas & Carol Finch, 5311 Bunker Hill Rd
 - Kuncaitis read the public hearing notice into the record
 - Carol Finch, 5311 Bunker Hill – discussed the pole barn on the adjacent lot. The two lots were supposed to be combined in 2000, but never occurred by the Township. The property owners are willing to have the parcels combined.
 - Discussion about the site visits by various ZBA members. Noted the buildings sit way far off the road.
 - Finch confirmed the proposed building is not for kennel use, just personal storage.
 - Bill Loomis, 5385 Bunker Hill – lives next door and is not concerned.
 - Maitland – is supportive if they're willing to combine the parcels
 - Kuncaitis closed the public comment portion of the hearing.
 - **Motion by Maitland to approve the request with the fact that it meets all the basic conditions and at least one of the special conditions as required by the zoning ordinance, with the added condition that the two parcels be combined as recommended by the zoning administrator. Second by LaSusa. Motion carries unanimously.**

E. ADMINISTRATIVE ACTION

1. Approve Zoning Board of Appeals draft minutes from 06/14/18
 - Motion by LaSusa, second by Hoxsie to approve the minutes as presented. Motion carries unanimously.
2. Election of Officers
 - Kuncaitis opens the nomination for chair.
 - Maitland nominates Kuncaitis. No other nominations. ZBA unanimously approves Kuncaitis as chair.
 - Kuncaitis opens the nomination for vice chair.
 - Hoxsie nominates LaSusa. No other nominations. ZBA unanimously approves LaSusa as vice chair.

ADJOURN: (7:14 pm)

Motion by Balentine to adjourn, second by Hoxsie. Motion carries unanimously.



Zoning Board of Appeals – Application for Hearing/Appeal

Township of Acme, Grand Traverse County, Michigan

6042 Acme Road, Williamsburg, MI 49690

Phone: (231) 938-1350 Fax: (231) 938-1510 Web: www.acmetownship.org

Planning & Zoning Administrator: Lindsey Wolf Email: zoning@acmetownship.org

Please fill out the following application as completely and legibly as possible:

A. Applicant Information:

Applicant's Name: V. LARRY HERBERT

Applicant's Current Mailing Address: 7775 SAYLER RD

City: WILLIAMSBURG State: MI Zip Code: 49690 Phone Number: 419 433-6367

B. Purpose of Hearing:

☐ Appeal from a Determination by the Zoning Administrator

☒ Apply for a Variance Permit as Authorized by Section(s) ARTICLE V, 5.4 of the Acme Township Zoning Ordinance

☐ Request Extension or Resumption of a Nonconforming Use

☐ Request an interpretation of the Zoning Ordinance

C. Property Information:

Property Address: 7775 SAYLER RD. Parcel Number: 28-01-013-010-00

Property Owner's Name: V. LARRY HERBERT

Property Owner's Current Mailing Address: 7775 SAYLER RD.

City: WILLIAMSBURG State: MI Zip Code: 49690 Phone Number: 419 433-6367

Proposed Use/Change to Property: EXPAND MY EXISTING GARAGE INTO ONE LARGER. THE EXISTING GARAGE, WHICH WAS BUILT AROUND 1963, WAS CONSTRUCTED PRIOR TO ANY ZONING REGULATIONS IN PLACE.

D. Please Attach the Following Documents:

☒ Site Plan/Plot Plan – drawn to scale, showing size and shape of buildings, accurate locations on lots, and accurate dimensions.

☒ Elevation Drawings – showing the height of the structure(s)

☒ Additional Drawings/Information as Listed Below:

DETAILS

WIND LOAD CALCULATIONS

☒ Fees – include initial fee as required in the attached Fee Schedule

☒ Fee Escrow Policy Acknowledgement – signed form with initial fee deposit (if determined applicable)

E. Affidavit:

The undersigned affirms that he/she is the OWNER (owner, agent, lessee, or other interested party) involved in this petition and that the foregoing answers, statements, and information are in all respects true and, to the best of his/her knowledge, correct. By making this application, the undersigned grants all officials and staff of Acme Township access to the subject property as required and appropriate to assess site conditions in support of a determination as to the suitability of the proposed project and/or current or future special use permit and zoning ordinance compliance.

Signature of Owner/Agent: V. Larry Helbert Date: 9-24-19

FOR TOWNSHIP USE ONLY

Application No.: _____

Date of Advertising: _____

Date Received: _____

Date of Hearing: _____

Fee Tendered: _____

Action Taken: _____

NOTES

ARTICLE V
NONUSE VARIANCE DISCOURSE

Basic and Special Conditions as
Related to
Parcel # 28-01-013-010-00,
7775 Saylor Road
Williamsburg, MI 49690

Introduction: The essence of this petition for a variance to the current zoning setback requirements is driven by the need for readily accessible, secure storage and is largely topographical in nature. A quick glance at the attached sketch shows that the existing house and garage are situated on the only substantially flat area in the 1.5 acre lot. The sketch also depicts the natural South/North terrain drainage which limits additional construction to the West. Terrain to the north of the existing structures similarly falls away in a manner discouraging development. In short, the only practical area to build requires a limited variance to more fully utilize the habitable area available.

In the Township's Zoning Ordinances is the paragraph entitled NONUSE VARIANCES. From that paragraph the following is required discourse related to both Basic and Special conditions listed in that paragraph.

The Zoning intent and purpose of this lot is Agricultural. This variance petition does not seek to change that status nor to diminish the existing setback, it merely seeks to extend the "grandfathered" setback deeper into the lot. That extension would facilitate the more comprehensive utilization of the existing buildable area.

Concern around diminished property values due to the proposed variance and subsequent construction is unwarranted. Indeed, property values may realize a modest improvement as the requested variance would enable the replacement of a time-worn structure with something more current in design and substantial in construction.

General applicability of the Variance: As this is effectively a singular situation, both in lot size and original construction date, it's general applicability is effectively non-existent.

Singular applicability: This petition does not seek to encumber any adjacent property nor to impose any limitations on those properties.

Legal Lot of Record: This parcel of land was researched and guaranteed in 2017 when it was acquired by this petitioner.

SPECIAL CONDITIONS: The topography of the property where the proposed variance is involved can be developed differently. This petitioner has considered engineering alternatives, pre-cast concrete slabs and "Geoform" terrain stabilization. Consideration has also been given to siting the proposed construction elsewhere on the property. They are simply impractical in the context of utilizing the property to the purpose of creating the accessible and secure storage cited earlier.

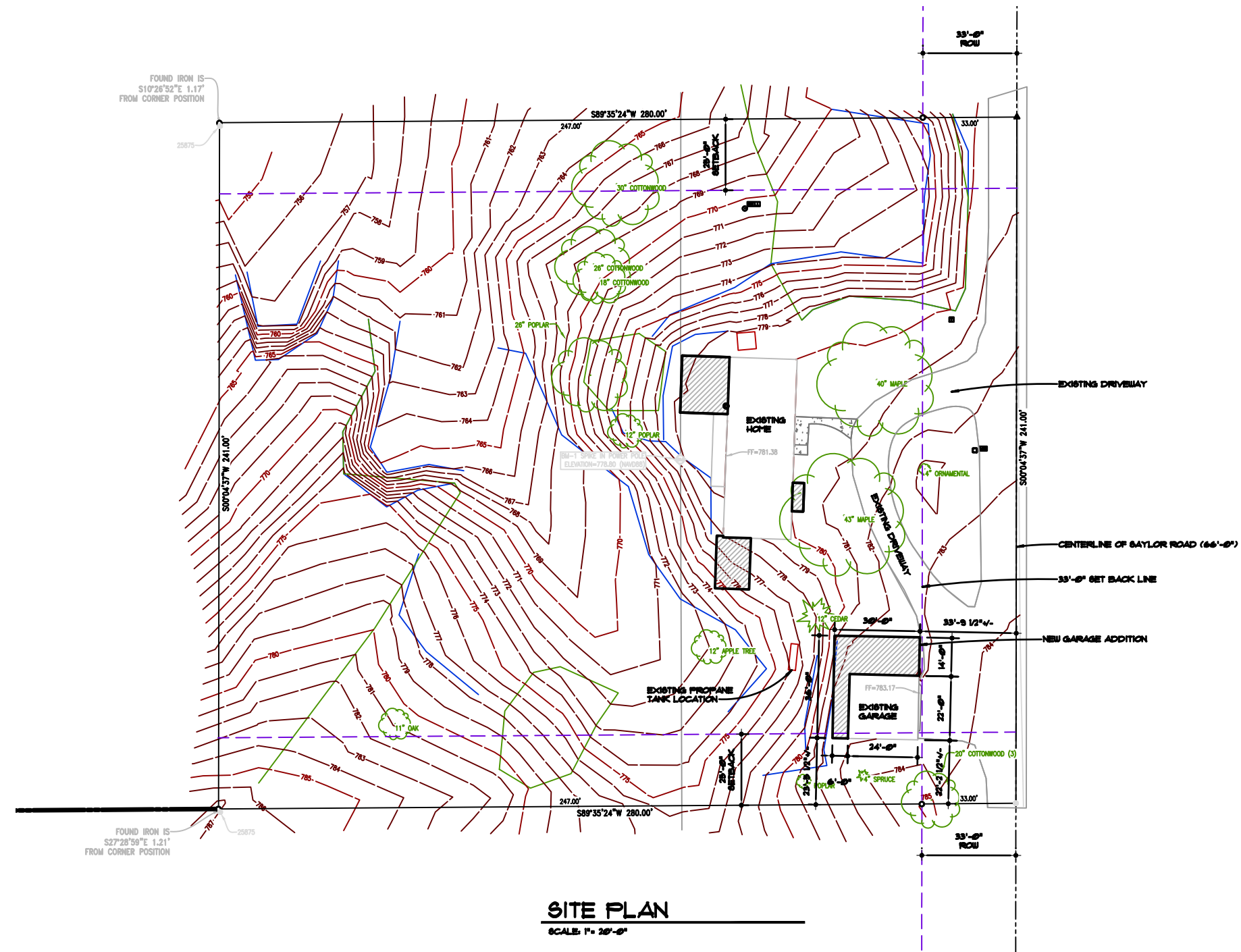
Thusly, it is with respect for the Board's mandate and an abundance of forethought and consideration that I petition the Zoning Board of Appeals to grant this Variance.

GARAGE ADDITION

7775 SAYLER RD
WILLIAMSBURG, MI 49690

INDEX OF DRAWINGS

| | |
|------|-------------------------|
| A1.J | COVER SHEET & SITE PLAN |
| A2.J | PLANS & SECTION |
| A3.J | ELEVATIONS |
| A4.J | WIND BRACING PLAN |



Cardinal
Drafting & Design

Residential and Commercial

184 Island View Dr.
Traverse City, Michigan
49896

Ph: (231) 933-9970
email: stevehaver2415@gmail.com

HEBERT RESIDENCE
GARAGE ADDITION

7775 SAYLER RD
WILLIAMSBURG, MI 49690

Project
**HEBERT
RESIDENCE**

**TTB SAYLER RD
WILLIAMSBURG, MI 49620**

**COVER SHEET
& SITE PLAN**

Drawn By
SAH

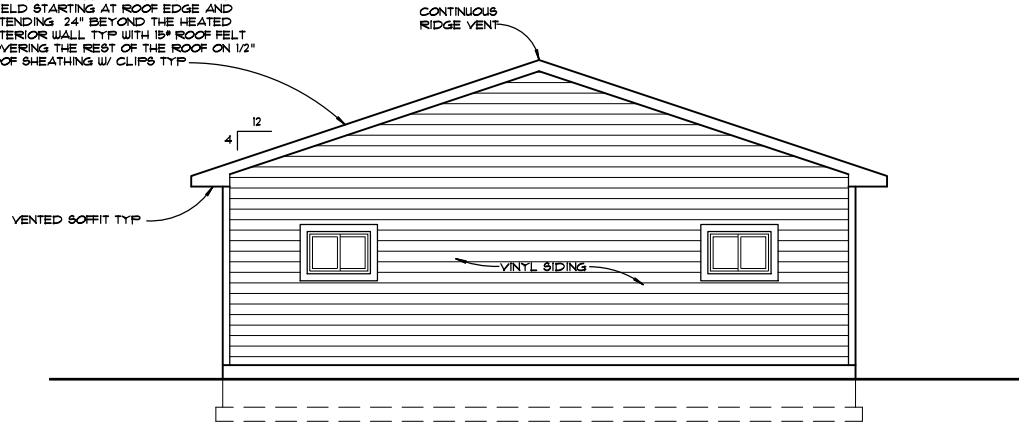
Approved By

Date Issued
8-29-2019

File No.
19-381

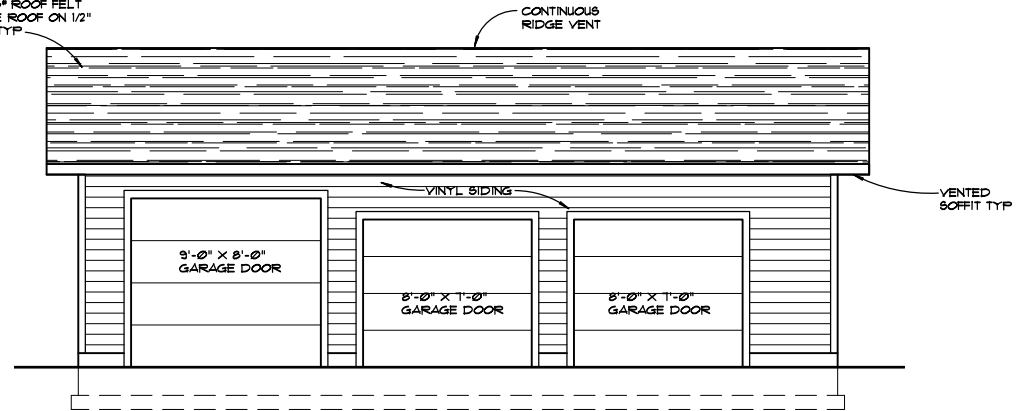
Sheet No.
A1.1

ASPHALT SHINGLES W/ ICE AND WATER
SHIELD STARTING AT ROOF EDGE AND
EXTENDING 24" BEYOND THE HEATED
EXTERIOR WALL TYP WITH 15" ROOF FELT
COVERING THE REST OF THE ROOF ON 1/2"
ROOF SHEATHING W/ CLIPS TYP



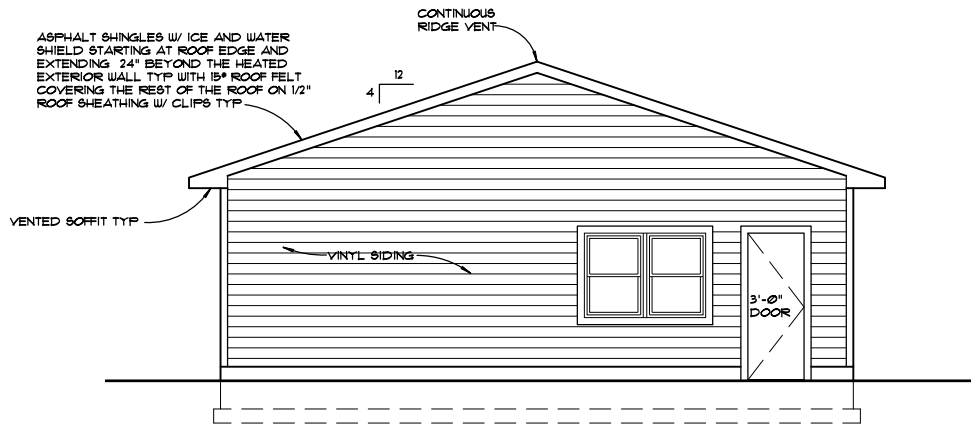
SOUTH ELEVATION
SCALE: 1/4" = 1'-0"

ASPHALT SHINGLES W/ ICE AND WATER
SHIELD STARTING AT ROOF EDGE AND
EXTENDING 24" BEYOND THE HEATED
EXTERIOR WALL TYP WITH 15" ROOF FELT
COVERING THE REST OF THE ROOF ON 1/2"
ROOF SHEATHING W/ CLIPS TYP



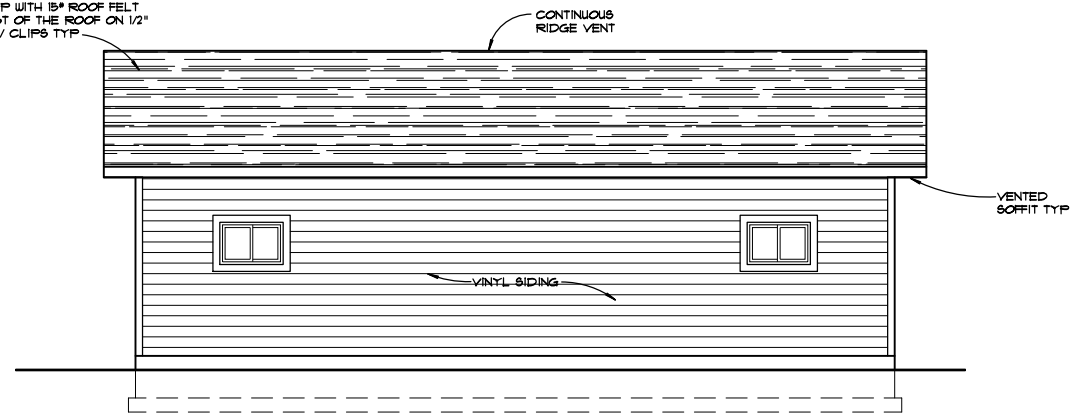
EAST ELEVATION
SCALE: 1/4" = 1'-0"

ASPHALT SHINGLES W/ ICE AND WATER
SHIELD STARTING AT ROOF EDGE AND
EXTENDING 24" BEYOND THE HEATED
EXTERIOR WALL TYP WITH 15" ROOF FELT
COVERING THE REST OF THE ROOF ON 1/2"
ROOF SHEATHING W/ CLIPS TYP



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

ASPHALT SHINGLES W/ ICE AND WATER
SHIELD STARTING AT ROOF EDGE AND
EXTENDING 24" BEYOND THE HEATED
EXTERIOR WALL TYP WITH 15" ROOF FELT
COVERING THE REST OF THE ROOF ON 1/2"
ROOF SHEATHING W/ CLIPS TYP



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

HEBERT RESIDENCE
GARAGE ADDITION

1115 SAYLER RD
WILLIAMSBURG, MI 49690

Project
**HEBERT
RESIDENCE**

1115 SAYLER RD
WILLIAMSBURG, MI 49690

Sheet
ELEVATIONS

Drawn By
SAH
Approved By

Date Issued
8-29-2019

File No.
19-381

Sheet No.
A3.1

T. C. RECORD-EAGLE, INC.
120 WEST FRONT STREET
TRAVERSE CITY MI 49684
(231)946-2000
Fax (231)946-8273

ORDER CONFIRMATION

Salesperson: DENISE LINGERFELT Printed at 09/20/19 11:22 by dling

Acct #: 6 Ad #: 531252 Status: New WHOLD

ACME TOWNSHIP Start: 09/24/2019 Stop: 09/24/2019
CATHY DYE, CLERK Times Ord: 1 Times Run: ***
6042 ACME ROAD STDAD 3.00 X 2.90 Words: 226
WILLIAMSBURG MI 49690 Total STDAD 8.70
Class: 147 LEGALS
Rate: LEGAL Cost: 109.55
Affidavits: 1

Contact: Ad Descrpt: LEGAL NOTICE ACME TOWNSHI
Phone: (231)938-1350 Given by: EMAIL LINDSEY WOLF
Fax#: (231)938-1510 P.O. #:
Email: jzollinger@acmetownship.org Created: dling 09/20/19 11:15
Agency: Last Changed: dling 09/20/19 11:22

PUB ZONE EDT TP START INS STOP SMTWTFS
RE A 97 W Tue 09/24/19 1 Tue 09/24/19 SMTWTFS
IN AIN 97 W Tue 09/24/19 1 Tue 09/24/19 SMTWTFS

AUTHORIZATION

Thank you for advertising in the Record-Eagle, our related publications and online properties. If you are advertising with the Record-Eagle classifieds, your ad will begin running on the start date noted above.

Please be sure to check your ad on the first day it appears. Although we are happy to make corrections at any time, the Record-Eagle is only responsible for the first day's incorrect insertions. Also, we reserve the right to edit or reclassify your ad to better serve buyers and sellers.

No refunds or rebates will be issued if you cancel your ad prior to the stop date.

We appreciate your business.

(CONTINUED ON NEXT PAGE)

T. C. RECORD-EAGLE, INC.
120 WEST FRONT STREET
TRAVERSE CITY MI 49684
(231)946-2000
Fax (231)946-8273

ORDER CONFIRMATION (CONTINUED)

Salesperson: DENISE LINGERFELT

Printed at 09/20/19 11:22 by dling

Acct #: 6

Ad #: 531252

Status: New WHOLD WHOI

**LEGAL NOTICE
ACME TOWNSHIP ZONING BOARD OF APPEALS
NOTICE OF PUBLIC HEARING**

Please be advised that on OCTOBER 10, 2019 the Acme Township ZONING BOARD OF APPEALS will conduct a public hearing at a regular meeting at 7:00 p.m. at the Acme Township Hall, 6042 Acme Road, Williamsburg, MI 49690. The public hearing will be to consider the following request:

An application for a variance request has been submitted by V. Larry Hebert, owner, to expand a non-conforming accessory building on the property within the 50' front yard setback (Article 6 Section 6.13.1 Setbacks A-1 Agricultural). The proposed structure is currently 1' from the front, eastern property line. The property is located at 7775 Saylor Road Williamsburg, MI 49690. Parcel ID #28-01-013-010-00. Legal Description: S 241' OF E 280' OF NE 1/4 OF NW 1/4 SEC 30 T28N R9W. Case # ZBA 2019-01.

All persons are welcome and will be heard concerning the request. A copy of the application and zoning ordinance are available for viewing at the township hall. Written comments will be received until October 10, 2019 and should be addressed to the Acme Township Zoning Department, 6042 Acme Road, Williamsburg, MI 49690 or zoning@acmetownship.org. If you are planning to attend and require any special assistance, please notify Cathy Dye, Township Clerk, within 24 hours of the meeting at 938-1350.

September 24, 2019-1T

531252

WHITE DOUGLAS R & MICHELLE J
7626 SAYLER RD
WILLIAMSBURG MI 49690

KUNCAITIS JOSEPH & CLAUDIA
7905 SAYLER RD
WILLIAMSBURG MI 49690

HUVER EVIE JO & JAMES A
7833 SAYLER RD
WILLIAMSBURG MI 49690

HEBERT VIRGIL L
7775 SAYLER RD
WILLIAMSBURG MI 49690

KUNCAITIS JOSEPH F & CLAUDIA J
7905 SAYLER RD
WILLIAMSBURG MI 49690

ARTICLE V: ZONING BOARD OF APPEALS

NUMBER OF MEMBERS, APPOINTMENT

The Zoning Board of Appeals shall consist of five members, to be appointed by the Township Board

ORGANIZATION AND PROCEDURES

The Zoning Board of Appeals' organization and procedures shall be governed by the Michigan Zoning Enabling Act.

DUTIES AND POWERS

The Zoning Board of Appeals shall have the duties and powers prescribed by the Michigan Zoning Enabling Act. Included among these shall be the power to determine Zoning District boundaries, where uncertainty exists with respect to the location of boundaries as depicted on the Zoning Map.

NONUSE VARIANCES

The Zoning Board of Appeals shall have the authority to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance, **PROVIDED ALL of the BASIC conditions listed herein and any ONE of the SPECIAL conditions listed thereafter can be satisfied.**

5.1.1 Basic Conditions: That any nonuse variance granted from this Ordinance:

Is a result of practical difficulties which prevent carrying out the strict letter of this Ordinance. These practical difficulties shall be evaluated in terms of the use of the particular parcel of land, and cannot be solely economic in nature.

Will not be contrary to the public interest or to the intent and purpose of this Ordinance.

Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.

Is not where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.

Will relate only to property that is under control of the applicant.

Will not be permitted for a parcel of property that is not a Legal Lot of Record, as defined by this Ordinance.

5.1.2 Special Conditions: When ALL of the foregoing basic conditions can be satisfied, a nonuse variance may be granted when any ONE of the following special conditions can be clearly demonstrated:

Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property uses in the same zoning district. Such circumstances or conditions shall not have resulted from any act of the applicant subsequent to the adoption of this Ordinance.

Where such variance is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

5.1.3 Rules: The following rules shall be applied in the granting of nonuse variances:

The Zoning Board of Appeals may specify, in writing, such conditions that will in its judgment, secure the objectives and purposes of this Ordinance. Any conditions imposed shall meet the requirements for conditions set forth the Michigan Zoning Enabling Act. Violation of conditions imposed shall nullify the variance.

No application for a nonuse variance which has been denied wholly or in part by the Zoning Board of Appeals shall be re-submitted for a period of one year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Zoning Board of Appeals to be valid.

ESSENTIAL SERVICES

The Zoning Board of Appeals shall have the power to permit the erection and use of a building, or an addition to an existing building, or a public service corporation for public utility purposes, in any permitted district to a greater height or of larger area than the district requirement herein established, and permit the location in any use district of a public utility building, structure or use if the Zoning Board of Appeals shall find such use, height, area, building or structure reasonably necessary for the public convenience and service.

BOND FOR COMPLIANCE

To ensure compliance with a zoning ordinance and any conditions imposed under a zoning ordinance, the Zoning Board of Appeals may require a performance guarantee, pursuant to the MZEA. MCL 125.3505.

LOT DIVISION

The subdivision or division of a lot is prohibited unless approved under either the Acme Township Subdivision Control Ordinance or the Acme Township Land Division Ordinance. All lots resulting from such land subdivisions or divisions shall comply with the provisions of this Ordinance.



Planning and Zoning Staff Report

6042 Acme Road | Williamsburg, MI | 49690

Phone: (231) 938-1350 Fax: (231) 938-1510 Web: www.acmetownship.org

Date: October 10, 2019

Case #: ZBA 2019-01

Request: Non-Use variance request to expand a legal non-conforming accessory building on the property within the 50' front setback and 25' side setback.

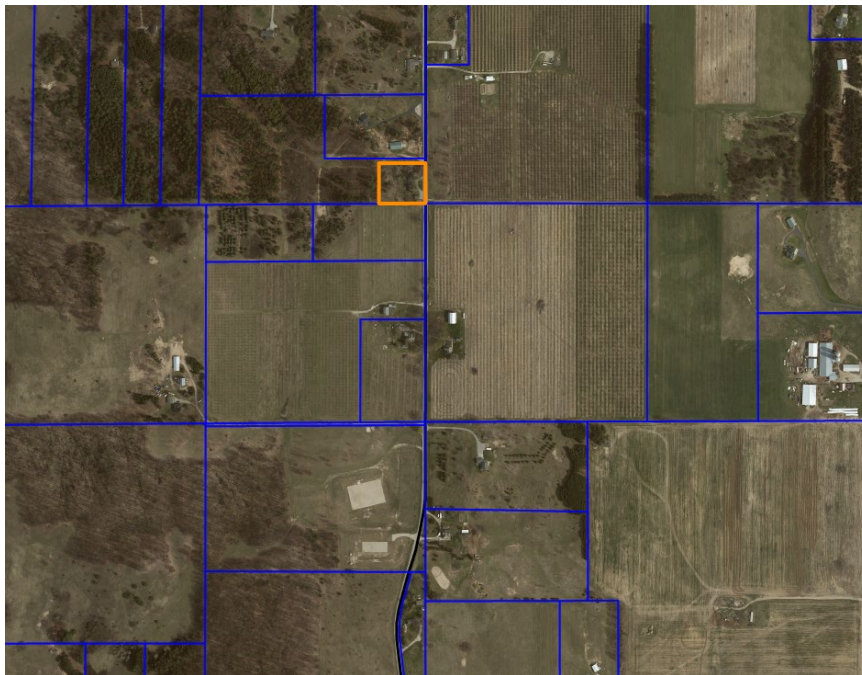
Applicant: V. Larry Hebert

Address: 7775 Saylor Road
Williamsburg, MI 49690

Parcel No: 28-01-013-010-00

Legal: S 241' OF E 280' OF NE 1/4 OF NW 1/4 SEC 30 T28N R9W.

Aerial Map:



Area: 1.550 Acres

Zoning: A-1: Agricultural

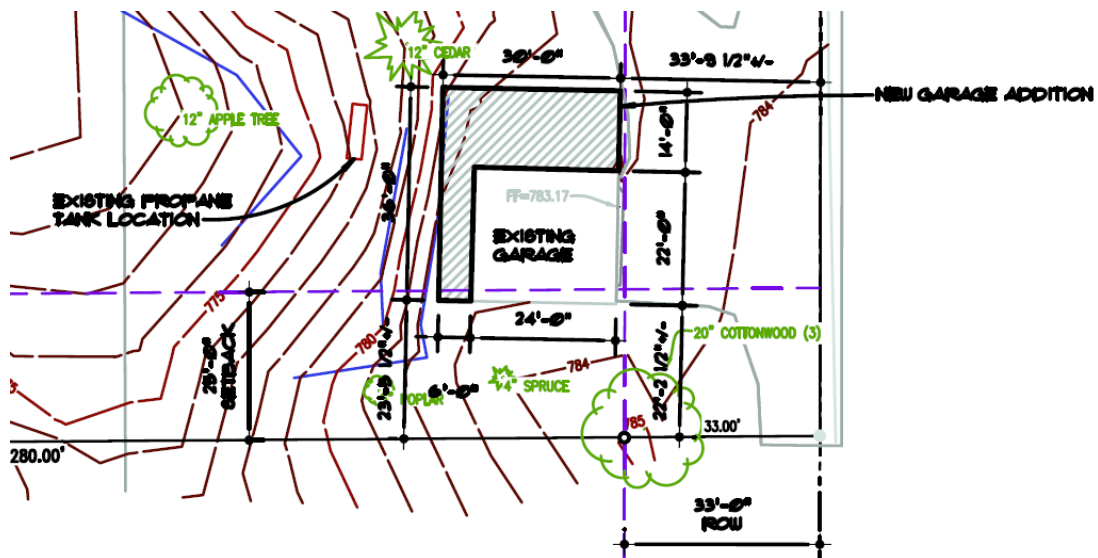
Public Notice: Published in the Record Eagle September 24, 2019. A total of (5) 300' mailers were mailed on September 25, 2019.

PROJECT DESCRIPTION:

"Expand the existing garage into one larger. The existing garage, which was built around 1963, was constructed prior to any zoning regulations in-place." V. Larry Hebert

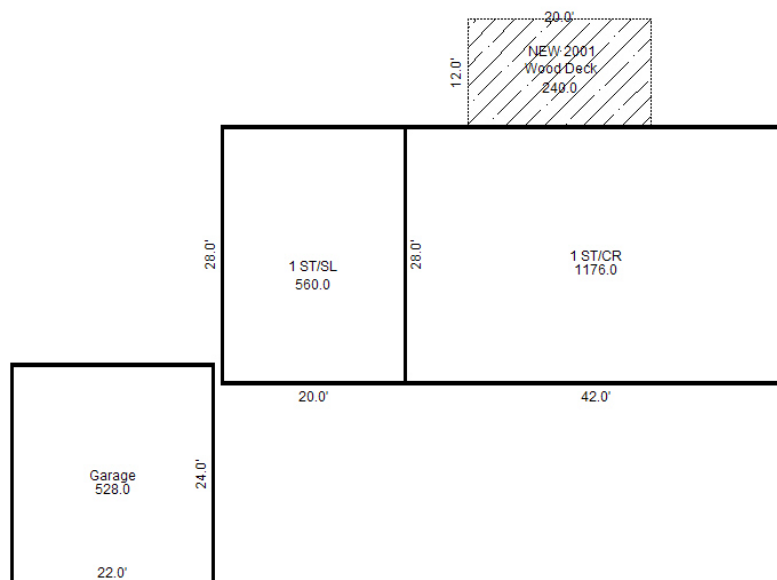
The applicant wishes to construct a 552 SF addition to an existing 22' x 24' (528 SF) accessory structure. The addition would result in a 1,080 SF accessory structure (51% increase). The current structure is 9 ½" from the ROW and sits entirely within the 50' front setback and 2' 9 ½" +/- within the 25' side setback.

The proposed addition would line up with the existing front and side facades and encroach into the front setback an additional 14' feet to the north; it would also encroach into the side setback 1'-6 ½" x 6' to the south. Applicant wishes to utilize existing foundation and rear wall – the rest of the structure will be rebuilt. Please consult with applicant for further detail.



EXISTING USE(S):

Property currently has a single-family home with a detached garage built in 1963*.



**Information from Assessment Records in BS&A*

ADJACENT ZONING & USES:

North: A-1: Vacant, Joseph & Claudia Kuncaitis
East: A-1: Pole Agricultural Building, Douglas & Michelle White
South: A-1: Vacant, Joseph & Claudia Kuncaitis
West: A-1: Vacant, Joseph & Claudia Kuncaitis

SITE IMAGES:



(aerial view)



(front view: Saylor Road)



(rear, southern property line view)



(rear view)



(View of gas pig and slopes in rear yard)

Article VI Zoning Districts: Map and Schedule Of Regulations

6.13.1 Schedule of Regulations

Setbacks A-1 District:

Front: 50'

Side: 25'

Article VII Supplementary Regulations

7.2 Supplementary Use and Area Regulations

7.2.1 Accessory Buildings:

Authorized accessory buildings may be erected as part of the principal building or may be connected to it by a roofed-over porch, patio, breezeway, or similar structure, or they may be completely detached. If attached to the principal building, an accessory building shall be made structurally a part of it, and shall comply in all respects with the requirements applicable to the principal building under this Ordinance. An accessory building not attached and not made a part of the principal building shall:

- a. Not be nearer than ten feet from any other separate structure on the same lot,
- b. Not be erected in any minimum side yard setback,
- c. *Not be erected in any front yard of any non-waterfront parcel,*
- d. Not occupy more than 25% of a required rear yard,
- e. Not exceed one twenty four feet in height, nor exceed the ground floor area of the main building within Residential Districts,
- f. Not be closer to the side yard lot line than the side yard setback of the principal building on a corner lot within Residential Districts.

STAFF REVIEW & RECOMMENDATION

The existing detached accessory structure currently sits in the front yard and within the 50' front yard setback and 25' side yard in the agricultural district (violation of §6.13.1 and §7.2.1). The extension of nonconforming use of structure may be allowed with permission granted by the Zoning Board of Appeals by Article XV Nonconforming Uses Section §15.7.

Standards for Determination:

5.4 NONUSE VARIANCES The Zoning Board of Appeals shall have the authority to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance, **PROVIDED ALL of the BASIC conditions listed herein and any ONE of the SPECIAL conditions listed thereafter can be satisfied.**

5.4.1 Basic Conditions: That any nonuse variance granted from this Ordinance:

Is a result of practical difficulties which prevent carrying out the strict letter of this Ordinance. These practical difficulties shall be evaluated in terms of the use of the particular parcel of land, and cannot be solely economic in nature.

SATISFIED: *This legally non-conforming use has been in existing for over fifty-six (56) years prior to the date of when the first township ordinance was put in place in the late 60s/early 70s. Zoning created the non-conformity.*

As the site plan and site pictures indicate there a number of challenges on the property:

The topography of the property slopes in several locations; existing structures are located on the only flat areas of the parcel.

Mature trees also occupy the slopes: 43" diameter maple, 12" diameter apple tree, 12" diameter cedar

The location of the propane tank is situated directly behind the garage.

Will not be contrary to the public interest or to the intent and purpose of this Ordinance.

SATISFIED: *The applicant's non-use variance and extension of a legal non-conformity requests are not contrary to public interest in that it will create no discernable negative impact on property owners and is by and large consistent with the intent of the zoning district. The 5-acre parcel to the south is currently vacant. The applicant has also stated the pitch of the roof will direct all runoff onto his parcel and will not negatively impact the neighboring 5-acre parcel that the existing building is located closest to.*

Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.

SATISFIED: *The Applicant's proposed non-use variance and extension of a legally non-conforming use requests are believed to have no discernable negative impact on surrounding properties. As stated previously, the applicant has the design and pitch of the roof to direct runoff onto his property.*

Is not where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.

SATASFIED: *The applicants' request is unique to their needs on the property due to the various slopes.*

Will relate only to property that is under control of the applicant.

SATISFIED: *The specific non-use variance request relates only to the property under control by applicant/owner.*

Will not be permitted for a parcel of property that is not a Legal Lot of Record, as defined by this Ordinance.

SATISFIED: *The parcel is a Legal Lot of Record.*

5.4.2 Special Conditions: When ALL of the foregoing basic conditions can be satisfied, a nonuse variance may be granted when any ONE of the following special conditions can be clearly demonstrated:

Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property uses in the same zoning district. Such circumstances or conditions shall not have resulted from any act of the applicant subsequent to the adoption of this Ordinance.

***SATISFIED:** As stated, zoning created the non-conformity. The applicant did not erect the non-conforming structure. Due to the topography of this parcel it makes the buildable area more challenging. Furthermore, the proposed addition is situated to provide the least amount of disturbance to the surrounding area.*

Where such variance is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

NOT EVALUATED

The applicant has submitted a narrative to support that all of the basic conditions can be satisfied, and that one of the special conditions can be demonstrated. This is has been provided in your packet for consideration.

For Board Discussion:

As the Ordinance states:**15.3 Intent And Purpose:** It is the intent of this Ordinance to permit legal nonconforming lots, structures, or uses to continue until they are removed, but not to encourage their survival.

It could be viewed that type of the construction the applicant suggests encourages the survival of the structure. However, the challenging topography does not provide a realistic alternative and poses a hardship on the applicant.

§5.4.3 Rules: The following rules shall be applied in the granting of nonuse variances:

The Zoning Board of Appeals may specify, in writing, such conditions that will in its judgment, secure the objectives and purposes of this Ordinance. Any conditions imposed shall meet the requirements for conditions set forth the Michigan Zoning Enabling Act. Violation of conditions imposed shall nullify the variance.

No application for a nonuse variance which has been denied wholly or in part by the Zoning Board of Appeals shall be re-submitted for a period of one year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Zoning Board of Appeals to be valid.

CONCLUSION & RECOMMENDATION:

It is respectfully recommended that the Zoning Board of Appeals grant the request for a nonuse variance allowing the addition to an existing accessory structure on the property located at 7775 Saylor Road, Williamsburg, MI 49690 as presented on the site plan.

SUGGESTED MOTION FOR CONSIDERATION:

Motion to adopt the findings of the Planning & Zoning Administrator and grant the non-use variance and extension of a legal non-conformity request to allow the proposed addition as indicated on the site plan submitted by the applicant, V. Larry Hebert, for the property located at 7775 Saylor Road, Williamsburg, MI 49690.

Election of Officers – Procedure

The general process to be used for the election of officers for the Zoning Board of Appeals is as follows:

1. The Chairperson states that elections for officers shall begin and that each officer shall be elected in turn.
2. The Chairperson opens nominations for the office of Chairperson.
3. Any member of the Planning Commission may nominate any other member for Chairperson.
4. Voting for Chairperson occurs in the order of nomination. The person nominated first is voted upon by roll call vote and if a majority votes in favor of that person being elected as Chairperson, then no more votes are taken. If there is not a majority in favor, then the person nominated second is voted upon, and so on until a nominee is elected by a majority. The nominee recuses him or herself from voting.
5. Steps 2 through 4 are repeated for the Vice Chairperson.