

**MARION TOWNSHIP
ZONING BOARD OF APPEALS**

The Township Zoning Board of Appeals will meet in person

December 02, 2024 at 7:30 pm

However, there will be virtual access.

Instructions to participate in the meeting are posted on www.mariontownship.com

AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIENCE

INTRODUCTION OF MEMBERS

APPROVAL OF AGENDA

December 02, 2024 Regular Meeting

APPROVAL OF MINUTES FOR:

August 12, 2024 Regular Meeting

CALL TO PUBLIC

NEW BUSINESS:

- 1) ZBA Case #03-24 Victor & Lynne Lewandowski 4154 Rurik is seeking a variance to
Section 6.04E Pool in Front Yard & 8.04E3a front yard setback. 4710-25-201-025

UNFINISHED BUSINESS:

SPECIAL ORDERS:

CALL TO PUBLIC:

ADJOURNMENT:

Submitted by: S. Longstreet

Approved: _____

**MARION TOWNSHIP
ZONING BOARD OF APPEALS
REGULAR MEETING
AUGUST 12, 2024**

MEMBERS PRESENT: Larry Fillinger, Linda Manson-Dempsey, Dan Lowe, Diane Bockhausen, and Larry Grunn

MEMBERS ABSENT: None

CALL TO ORDER

Larry Fillinger called the meeting to order at 7:30 pm. The meeting is also available to attend online.

PLEDGE OF ALLEGIANCE

MEMBERS PRESENT

The Zoning Board of Appeals members introduced themselves.

APPROVAL OF AGENDA

Larry Grunn motioned to approve the agenda. Diane Bockhausen seconded. **Motion carried.**

APPROVAL OF MINUTES

May 6, 2024 Regular Meeting: Diane Bockhausen motioned to approve the minutes as presented. Linda Manson-Dempsey seconded. **Motion carried.**

CALL TO THE PUBLIC

No response.

NEW BUSINESS

ZBA Case #02-24 Scott Hiltunen and Sherrie Borchardt, 3389 Sesame Drive, Tax Code #4710-21-100-031, seeking a variance to Section 6.07 3 Accessory Structure in Front Yard

Scott Hiltunen said they would like to build a 30' x 40' barn for storage. It will not be used for any type of business. There is a hill behind the house that would prevent the barn from being built there. The house was built 24 years ago and was placed toward the back of the lot so they could have a walkout basement; they didn't know that they would want a future accessory building.

Diane Bockhausen asked Mr. Hiltunen to go through the five conditions that need to be met. Mr. Hiltunen said the proposed location of the barn would be away from the road and the septic and would allow easy access.

Ronald Thompson, 3388 Sesame Drive, said he supports the request. Linda Manson-Dempsey said the situation was self-created because of where they built the house. Dan Lowe said he doesn't see a problem with granting the variance. The property owner owns a 3.37-acre parcel adjacent that could be

combined with the parcel that the house is on and it would be over 5 acres. This would allow them to place the accessory building in the front yard. Mr. Hiltunen asked if movable structures are allowed; Dave Hamann said two would be allowed, and they have to be less than 200 square feet. Mr. Hiltunen asked about placing an agricultural building on the vacant land; Dave Hamann said he would have to meet all of the requirements for an ag building (only used for ag purposes, no personal storage, etc.)

Mr. Hiltunen provided two letters of support from neighbors.

Motion

Linda Manson-Dempsey motioned for ZBA Case #02-24 Scott Hiltunen and Sherrie Borchardt, 3389 Sesame Drive, Tax Code #4710-21-100-031, to deny the request for a 30' x 40' accessory structure in the front yard, considering the following criteria:

1. **That the restrictions of the township zoning ordinance would unreasonably prevent the owner from using the property for a permitted use.** *The township restrictions don't unreasonably prevent the applicant from building an accessory structure; they chose where to place the house on the property*
2. **That the variance would do substantial justice to the applicant and a lesser relaxation than that requested would not give a substantial relief to the owner of the property.** *Did not address this condition.*
3. **That the request is due to the unique circumstances of the property.** *There are no unique circumstances of the property.*
4. **That the alleged hardship has not been created by a property owner.** *The owner created the hardship by placing the house in the back of the lot.*
5. **That the difficulty shall not be deemed solely economic.** *The applicant owns a vacant adjacent lot that they could combine to achieve their goal, but they don't want to do that for economic reasons.*

Diane Bockhausen seconded. Roll call vote: Manson-Dempsey—yes; Lowe—no; Fillinger—yes; Grunn—no; Bockhausen—yes. **Motion to deny the request carried 3-2.**

UNFINISHED BUSINESS

None.

SPECIAL ORDERS

None.

CALL TO THE PUBLIC

No response.

ADJOURNMENT

Diane Bockhausen motioned to adjourn at 8:07 pm. Linda Manson-Dempsey seconded. **Motion carried.**

APPLICATION TO ZONING BOARD OF APPEALS

ZBA Case # 03-24
Tax Code 4710-25-201-025
Current Zoning ERS1
Fee Paid 400
Date Received 10-31-2024
Received by SH

Applicant VICTOR & LYNNE LEWANDOWSKI
Address 4154 RURIK DR.
Telephone 734-552-1888 (VICTOR) 734-552-1818 (LYNNE)
(Home) Cell (Work) Cell

Applicant is (check one): ☒ Owner ☐ Purchaser ☐ Representative

Purchaser or Representative needs a letter of permission from owner

Nature of Request (check applicable one)

- ☐ Administrative Review (per Section 5.05 A)
☐ Interpretation of Ordinance (per Section 5.05 B 1, 2, 3 or 4)
☒ Variance Request (see below)

1. Zoning Ordinance Section

8.04 E - 3a
6.04 E

2. Letter stating reason request should be granted (per Section 5.05 C)
3. Plot Plan—example and checklist attached (requirement per Section 4.03 D)
4. Required Livingston County Health Department evaluation

Refer to checklist on last page for additional instructions

By signing this application, permission is granted for official representative(s) of Marion Township to do onsite inspections.

Lynne Lewandowski
Victor Lewandowski

Signature

10/31/24
Date

Office Use Only

Meeting Date 12.2.2024

Action Taken _____

Conditions (If applicable) _____

Signed _____

Application to Zoning Board of Appeals

Section 5.05C 1-5

Variance Request for Pool -Victor & Lynne Lewandowski

Request:

1. Variance be granted to place an inground pool on the front of the property (Lake side).
2. Variance be granted to place the inground pool 30 feet setback from property edge rather than 50 feet setback as documented in the zoning regulations. There is an additional 30 feet to the waters edge, making the total distance from the water's edge 60 feet setback to the pool.

Additional information requested for the Zoning Board:

1. How the restrictions of the Township Zoning Ordinance would unreasonably prevent the owner from using the property for a permitted use.

Current restrictions reflect that living on a lake unjustly restricts the owner from installation of a pool. Section 8.04 C indicates that a pool is permitted for ERS properties, however, further down in that section, those properties having lake frontage are specifically noted in section 8.04 E-3 indicating that our Lakeside is considered the front yard, and it will remain an undeveloped yard with accessory structures not permitted.

2. How the variance would do substantial justice to the applicant and a lesser relaxation than that requested would not give substantial relief to the owner of the property.

For the pool we will need the variances for setbacks to enjoy having a pool. Based on the building setback for this property it is not possible anywhere else on the parcel. In otherwards, to have a pool it requires setback variances. Receiving variance approval will also minimize disruption & cost of the current landscape in place.

3. How the unique circumstances of the property create the need for a variance.

The topography of the property does not show the slope (approx. 6 ft. drop off) away from the current building structure. Our request for a variance would assist us in better placement of the pool to minimize runoff to the neighbor's property, landscape around it and make it aesthetically pleasing from the lake.

Our property is a lot of record prior to zoning ordinances being developed. We fall under the ERS (Existing Residential Subdivision) which indicates that our lot does not necessarily conform to other residential properties. Being on the lake is beautiful, but also concerning since the lake undergoes multiple treatments for weeds/invasive species. This is done according to State regulations, however, there is still much concern on our part as it relates to swimming for our children & grandchildren. Having the ability to put in a pool would alleviate those concerns.

4. How the alleged hardship was not created by the property owner.

These zoning regulations were put into effect long after our home was built. Penalizing those of us that enjoy living on a lake is not fair and equitable. We totally support regulations to keep the lake safe and beautiful.

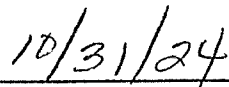
An additional 30ft to the water's edge was not included in the property record, however, that property has been maintained by the previous & current property owners since 1961. Technically if we include that property through adverse possession, we wouldn't need to ask for the second variance for property setback.

5. The difficulty shall not be deemed solely economic.

There is no intent for economic gain since the home/property will be handed down to our children and grandchildren. It is our Family Legacy.




Signature



Date

Attachments

1A: Plot Plan View (partial), Proposed pool position 1 (variance approved for accessory use only-pool install)

1B: Lake Side drawing of pool position 1 in relation to slope of property.

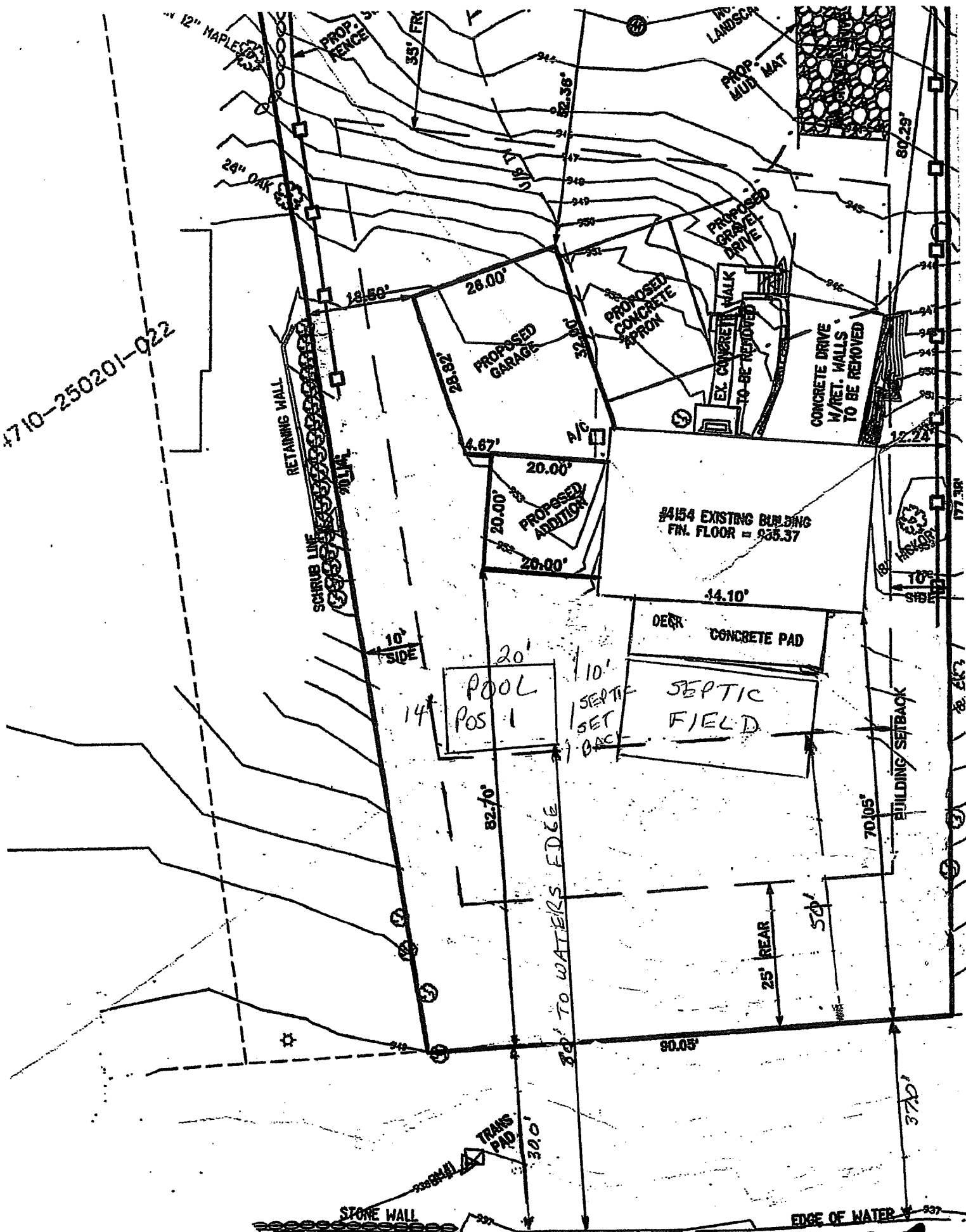
1C: Northern drawing view of pool position 1 in relation to slope of property.

1D: Picture of slope of property facing the lake

2A: Plot Plan view (partial), Proposed pool position 2 (variance approved for both accessory use (pool install) & setback from water's edge vs. property line).

2B: Picture of comparison of proposed pool positions 1 to 2 (north corner of pools)

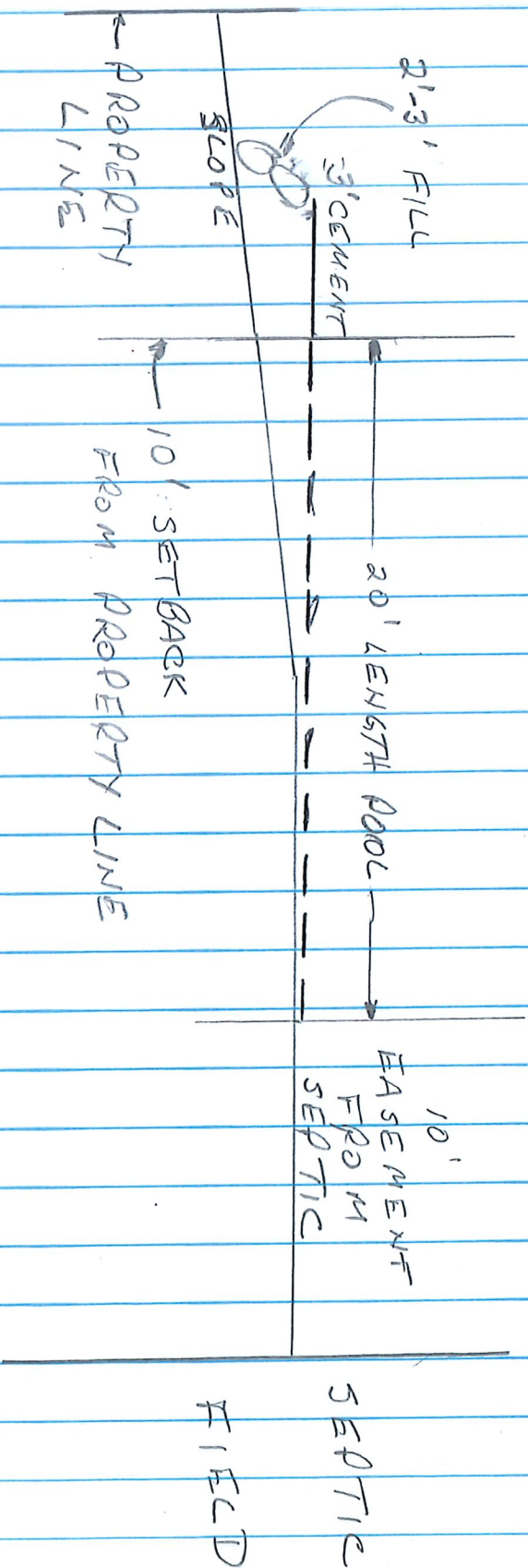
4710-250201-022



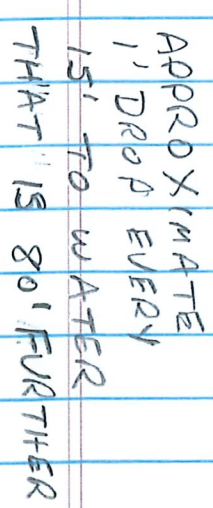
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1A

WEST (WATER SIDE) OF HOUSE



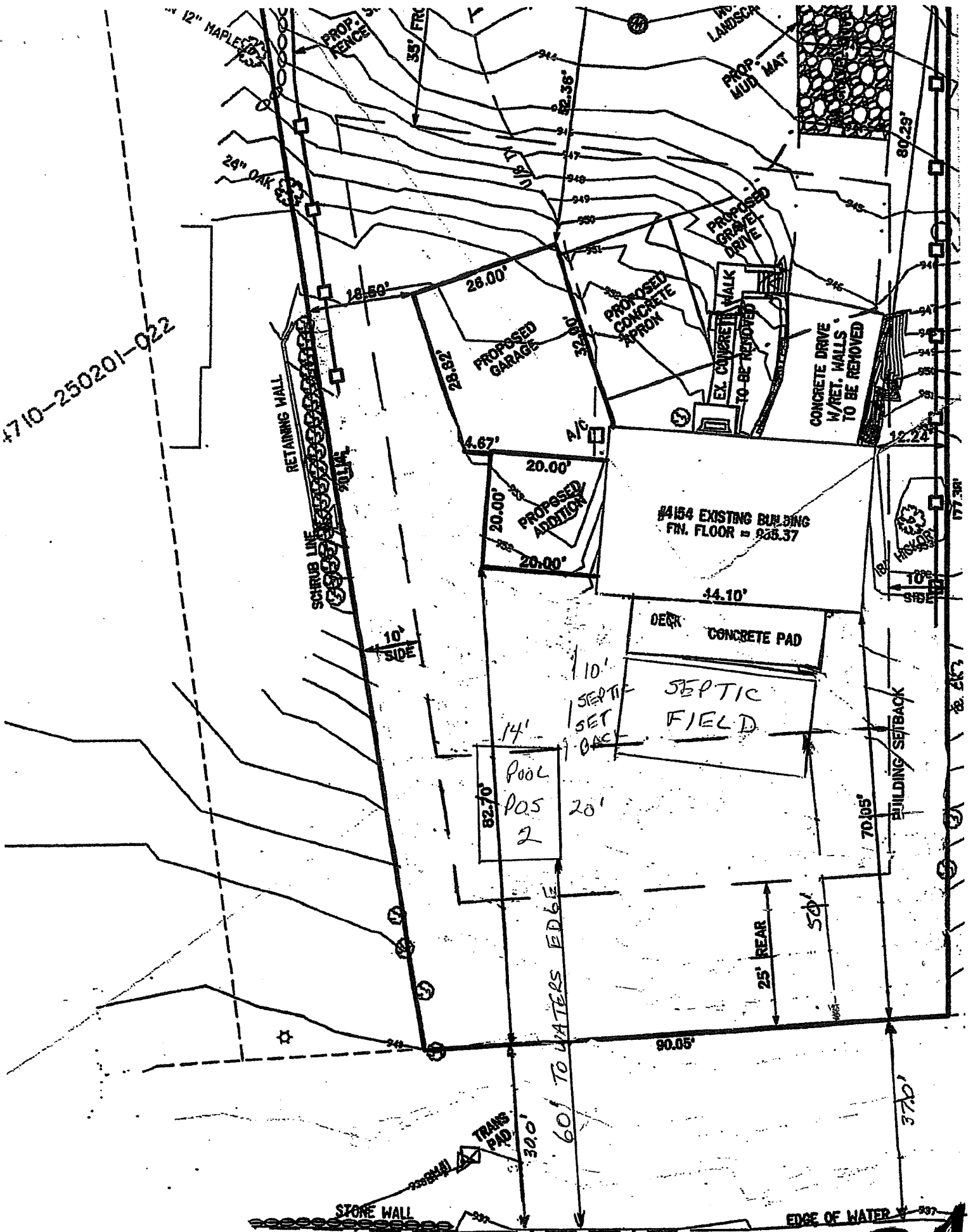
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1D

4710-250201-022



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2A



13. Nursing or convalescent homes.

14. Private recreational facilities.

E. **Site Development Requirements:** The following minimum and maximum standards shall apply to all uses and structures in the UR: Urban Residential District unless they are specifically modified by the provisions of Article VI: General Provisions or Article XVII: Standards for Specific Special Land Uses; or as varied pursuant to Article V: Zoning Board of Appeals.

1. **Minimum Lot Area:** No building or structure shall be established on any parcel less than fifteen thousand (15,000) square feet.

2. **Minimum Frontage:** Each parcel of land shall have a frontage of not less than seventy-five (75) feet.

3. **Yard and Setback Requirements:**

a. **Front yard:** Thirty (30) feet.

b. **Side yard:** Fifteen (15) feet.

c. **Rear yard:** Twenty-five (25) feet.

d. In no case shall any setback be less than one hundred (100) feet from the Pinckney Road right-of-way line.

4. **Maximum Lot Coverage:** Thirty-five (35) percent.

5. **Maximum Height:** Unless otherwise provided in this Ordinance, no principal building shall exceed a height of thirty-five (35) feet measured from the finished grade.

Section 8.04 ERS: Existing Residential Subdivision District

A. **Intent:** It is the intent of the Existing Residential Subdivision District (ERS) to recognize the existence of existing platted residential subdivisions, developed prior to the adoption of this Ordinance, and to protect the character of these existing residential developments and hence the investment in them by current owners. The inclusion of these existing residential developments within other residential zoning districts of this Ordinance would result in the creation of a substantial number of nonconforming lots. The resulting large number of nonconforming lots could possibly place extraordinary burden upon the landowners and the Marion Township Zoning Board of Appeals and Township staff in the administration of future variance requests and appeals associated with these nonconforming lots. It is the intent of this District to recognize these residential developments as legitimate and conforming uses and provide for the continuance of these uses and their current character. Two sub districts of the Existing Residential Subdivision District are established in recognition of the development densities associated with these existing platted residential lots and the resulting unique character associated with each development density. It is the intent of this Ordinance that no new ERS Districts be established after the effective date of this Ordinance.

B. **Uses Permitted By Right:** The following uses are permitted by right within all sub districts of the Existing Residential Subdivision District:

1. Single-family dwellings.
2. Family child care homes.
3. Adult foster care family homes.
4. Accessory buildings.

C. **Permitted Accessory Uses:**

1. Accessory uses or structures clearly incidental to a residence, including swimming pools and automobile parking.
2. Home Occupation.

D. **Uses Permitted by Special Use Permit:** (See specific provisions of Article XVII.)

1. Group child care homes.

E. **Site Development Requirements:** The following minimum and maximum standards shall apply to all uses and structures in the ERS: Existing Residential District unless specifically modified by the provisions of Article VI: General Provisions or Article XVII: Standards for Specific Special Land Uses; or as varied pursuant to Article V: Zoning Board of Appeals.

1. **Minimum Lot Area:** No single-family dwelling or structure shall be established on any parcel of a size less than the following, for the sub district the parcel is located within:
 - a. ERS-1: Eighteen thousand (18,000) square feet.
 - b. ERS-2: One (1) acre.
2. **Minimum Frontage:** Each parcel shall have continuous frontage of not less than the following, for the sub district, which the parcel is located within:
 - a. ERS-1: Fifty (50) feet.
 - b. ERS-2: One hundred (100) feet.

3. **Yard Setback Requirements:**

Lots having lake frontage shall provide the required front yard along the lakeside of the property. Lots having lake frontage shall provide the required rear yard along the road right-of-way. The yard on the lake side shall be maintained as an undeveloped yard. Accessory structures shall not be permitted within the required setback between the abutting road right-of-way and the principal building. (See Article III Definitions, Figure

3-9)

a. **ERS-1:**

- 1) **Front yard:** Fifty (50) feet.
- 2) **Side yard:** Ten (10) feet.
- 3) **Rear yard:** Twenty-five (25) feet.

b. **ERS-2:**

- 1) **Front yard:** One hundred (100) feet.
- 2) **Side yard:** Fifteen (15) feet.
- 3) **Rear yard:** Twenty-five (25) feet.

4. **Maximum Height:** Unless otherwise provided in this Ordinance, no principal building shall exceed a height of thirty-five (35) feet measured from the finished grade.

5. **Maximum Lot Coverage:** Thirty-five (35) percent.

Section 8.05 MHP, Manufactured Home Park District

- A. **Intent:** The purpose of the Manufactured Home Park District is to encourage a suitable environment for persons and families that choose to live in a manufactured home rather than a site-built one-family residence. Development is limited to mobile homes when located in and designed for the purpose of a manufactured home park with recreational facilities and necessary public utility buildings.
- B. **Principal Uses Permitted:** The following uses of land and structures shall be permitted by right in the MHP, Manufactured Home Park District:
1. Mobile home parks subject to the requirements of the Mobile Home Commission Act, Act 96 of Public Acts of 1987, as amended, and the rules of the Mobile Home Commission.
 2. Manufactured home subdivision subject to the Subdivision Control Act, Act 288 of the Public Acts of 1967, The Marion Township Subdivision Control Ordinance and all other applicable acts, rules, and regulations.
 3. Family child care homes.
 4. Adult foster care family homes.
 5. Home Occupation in accordance with Section 6.14.
- C. **Manufactured Home Park Regulations:** The development of a manufactured home park shall meet the requirements of the Michigan Mobile Home Commission Act, Act 96 of the Public Acts of 1987, as amended, and the Rules of the Mobile Commission.

Section 6.04 Swimming Pools

- A. **Classification:** A swimming pool shall be considered as an accessory building for the purposes of determining required yard spaces. If the swimming pool is enclosed by a roof, the enclosure area shall be included in the calculation of lot coverage.
- B. **Application:** The application for a land use permit to erect a swimming pool shall include the name of the owner, the manner of supervision of the pool, a plot plan, and location of adjacent buildings, fencing, gates, and other detailed information affecting construction and safety measures deemed necessary by the Zoning Administrator.
- C. **Fencing:** Yard areas with pools are to be fenced to discourage unsupervised access.
 - 1. Such fencing is to be a minimum of four (4) feet high, and equipped with a self-closing and self-latching gate.
 - 2. Latching devices are to be located at a minimum height of three (3) feet above the ground.
 - 3. Such fencing may be omitted where building walls without doorways abut the pool area, provided that the entire perimeter of the pool area is secured.
 - 4. Above ground swimming pools with sides four (4) feet or more above grade, do not require fencing but do require a removable access ladder that lifts for safety.
- D. **Placement:** No swimming pool shall be located in any easement.
- E. **Setbacks:** No swimming pool shall be located in any front yard.
- F. **Lighting:** No lights shall be erected, operated or maintained in connection with a swimming pool in such a manner as to create an annoyance to surrounding properties.
- G. **Overhead Wiring:** Service drop conductors and any other open overhead wiring shall not be above a swimming pool.

Section 6.05 Moving Buildings

No existing building or other structure within or outside of the Township shall be relocated upon any parcel or lot within the Township unless the building design and construction are compatible with the general architectural character, design and construction of other structures located in the immediate area of the proposed site; the building and all materials therein are in conformity with the Building Code enforced in the Township; and the building or structure can be located upon the parcel and conform to all other requirements of the respective zoning district.

Section 6.06 Temporary Uses and Buildings

All temporary uses and buildings are permitted in all districts unless otherwise provided or otherwise limited herein. Temporary buildings not greater than three hundred (300) square feet in area and not to be used for dwelling purposes may be placed on a lot or parcel of record and occupied only under the following conditions as authorized by a temporary land use permit issued by the Zoning Administrator.