

PENINSULA TOWNSHIP

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PENINSULA TOWNSHIP ZONING BOARD OF APPEALS AGENDA

January 16, 2024

7:00 p.m.

1. Call to Order

2. Pledge

3. Roll Call

4. Approval of Agenda

5. Conflict of Interest

6. Brief Citizen Comments – (for items not on the Agenda)

7. Business:

1. Public Hearing for Request No. 912, Zoning = A-1 – Agricultural (Tabled from December 19, 2023, meeting)

Applicant/Owner: Luke C Miller Trust, 2465 Carroll Road, Traverse City, MI 49686

Property Address: 11586 Center Road, Traverse City, MI 49686

1. Requesting an appeal to the zoning administrator's determination that concrete crushing is a heavy industrial use or activity and not allowed within the A-1 Agricultural District.

Parcel Code # 28-11-004-008-00

2. Public Hearing for Request No. 913, Zoning = R-1C – Suburban Residential

Applicants: Greg and Janet Heinlein, 886 Rosastone Trail, Houston, TX 77024

Owners: SGBR 2007 Management Trust, 886 Rosastone Trail, Houston, TX 77024

Property Address: 7470 East Shore Road, Traverse City, MI 49686

1. Requesting to replace an existing two (2) story non-conforming structure per Section 7.5.6.
2. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a new two (2) story single-family residence with attached garage 18 feet from the front property line/edge of right-of-way, where 25 feet is required.
3. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a new two (2) story single-family residence with attached garage 44 feet from the ordinary high water mark, where 60 feet is required.

Parcel Code # 28-11-030-023-00

8. Approval of Minutes from the December 19, 2023, Meeting

9. Citizen Comments

10. Board Comments

11. Adjournment

Business

Request #912

Peninsula Township Planning & Zoning Department

STAFF REPORT

ZBA Request # 912

Physical Address of Subject Property: 11586 Center Road, Traverse City, MI 49686

Date: January 16, 2024

To: Peninsula Township Zoning Board of Appeals

From: Jenn Cram, AICP, Director of Planning and Zoning

RE: Request # 912

**Zoning
District: A-1 Agricultural**

**Hearing
Date: January 16, 2024 – 7:00 PM**

**Applicant/
Owner: Luke C. Miller Trust, 2465 Carroll Road, Traverse City, MI 49686**

**Subject
Property: 11586 Center Road, Traverse City, MI 49686**

Tax ID: 28-11-004-008-00

Request:

Requesting an appeal to the zoning administrator's determination that concrete crushing, as part of a demolition of an existing structure, is a heavy industrial use or activity and not allowed within the A-1 – Agricultural district as provided under the Township Zoning Ordinance.

Applicant Statement:

Please see the enclosed application submitted by the property owner along with additional information submitted to date, **Exhibit A**.

Background Information:

- Parcel 28-11-004-008-00 is a metes and bounds parcel that is 9.3 acres in size.
- The property is zoned A-1 – Agricultural; and the surrounding area is also zoned A-1 – Agricultural.
- The parcel currently contains an existing building with a collapsed roof and piles of concrete resulting from the previous demolition of a warehouse and surface concrete paving.
- The property was historically used for agricultural operations related to cherries including the brining process. This property was a hub for receiving, sorting, brining, and storing cherries in the 70's and 80's.
- The property has been fallow or inactive with regard to farming operations since at least 2003, according to the Assessor.
- The property owner purchased the property in December of 2020, warranty deed dated January 4, 2021.

- Based on past farming operations we understand that a baseline environmental assessment was conducted. To date, we have not received a copy of the BEA to understand what might be contained in the concrete on the property.
- The property owner applied for a demolition permit on September 17, 2021. The application is attached for reference as [Exhibit B](#). The application itself did not specify the request to crush concrete, but the activity of crushing as part of the demolition was noted in an email from the applicant dated September 17, 2021, to the Township's then-zoning administrator as part of the submission.
- Per Section 6.7.2, the A-1 district does not permit concrete crushing or heavy industrial uses as a use or activity permitted by right.
- Per Section 8.7.2, the A-1 district does not permit concrete crushing or heavy industrial uses with the approval of a special use permit.
- The Township Zoning Ordinance does permit some limited temporary uses (such as temporary dwelling or use of construction structures), but none of provisions related to temporary uses references demolition and material handling via crushing.
- The zoning administrator issued land use permit # 6306 on September 27, 2021, that authorized the demolition of two buildings. There was no reference to concrete crushing see [Exhibit C](#). The property owner removed one of the two buildings. The land use permit expired on September 27, 2022.
- The building permit that was issued by the Grand Traverse County Construction Code office also authorized the demolition of an existing Ag building with no reference to concrete crushing, see [Exhibit D](#).
- Based on information submitted in the property owners appeal request, the property owner's agent applied for a "Permit to Install" a concrete crushing operation with EGLE Air Quality Division at the subject property on June 27, 2023. The permit was approved on July 13, 2023. Peninsula Township did not receive any notice from EGLE that the application had been submitted and was under review.
- The Permit to Install #87-23 that was issued by EGLE on July 13, 2023, was issued in error as it notes that the subject property is located in Ogemaw County and not Grand Traverse County. In September of 2022 the township received a complaint from a neighbor noting that they witnessed another load of concrete being delivered to the subject property. This concrete is in addition to the piles created from the demolition of the warehouse and surface concrete. The property owner told the ordinance enforcement officer that it was not concrete, but sand that was being dumped on the subject property. The complaint was closed. The email chain is included in [Exhibit G](#).
- The township received complaints about the existing building with a collapsed roof and the piles of concrete on the property. Staff met with the property owner on July 27, 2023, to discuss the process for cleaning the property up. During that meeting on site staff learned of the property owner's intention to crush concrete on the property. During the meeting staff noted that they were not sure if concrete crushing was an allowed use in the A-1 district.
- On September 20, 2023, the staff/zoning administrator provided the property owner with a determination via email that concrete crushing is considered a heavy industrial use and not allowed in the A-1 zone district by right or by special use permit.
- The zoning administrator received the property owner's request for an appeal to the determination on October 31. Based on the date received, the earliest that the application could be scheduled for a public hearing with the board was December 19, 2023.
- Staff spoke to EGLE on December 4, they noted that there is normally a 500-foot setback for concrete crushing operations from residential structures. They recommended that we obtain a copy of the application that was submitted including the baseline

environmental assessment and supporting documentation to understand the details of the permit being applied for and issued.

- Staff requested additional materials from the property owner on December 5, 2023, in preparation for the December 19 zoning board of appeals meeting. Most of the requested information has been received and has been included in the packet.
- As of the date of drafting this report, staff has not received a copy of the baseline environmental assessment for the property, copy of the application submitted to EGLE, details on the amount of concrete that that was actually removed from the subject property as part of the demolition vs. what will be crushed, nor a draft site plan that demonstrates how the crushed concrete will be used on site.
- The property owner has been proactive in talking with neighbors about the request to crush the concrete on the property. We have received several letters of support attached in **Exhibit E**.
- An alternative to crushing concrete on the property is to have the concrete hauled off site to an appropriate location that permits the use/activity of concrete crushing.

Analysis:

The Peninsula Township zoning ordinance was adopted June 5, 1972. There have been 203 approved amendments to date.

Section 2.1 Purposes:

The purposes of this Ordinance are to protect the public health, safety, morals and general welfare of the inhabitants of the Township; to provide for adequate light, air and convenience of access to secure safety from fire and other dangers; to avoid undue concentration of population by regulating minimum open spaces and by regulating and limiting types and locations of buildings and regulating the location of trades, industries, and buildings designated for specific uses; to provide for the orderly development of the Township; to encourage the use of lands and resources of the Township in accordance with their character and adaptability; to provide for safety in traffic, adequacy of parking and reduce hazards to life and property; to facilitate the development of adequate systems of fire protection, education, recreation, water supplies and sanitary facilities; and to conserve life, property, natural resources and the use of public funds for public services and improvements to conform with the most advantageous use of lands, resources and properties.

Section 3.1 (7) Rules Applying to the Text:

Any word or term not interpreted or defined by this Article shall be used with a meaning of common or standard utilization.

Currently the Peninsula Township Zoning Ordinance does not define heavy industrial uses. Below is a standard definition from Law Insider.

Heavy industrial uses: *in which raw materials are converted into products for subsequent assembly or fabrication or where uses create an excessive amount of noise, odor, smoke, dust, air borne debris or other objectionable characteristics which might be detrimental to surrounding areas.*

The crushing of concrete creates noise and dust. A photo of the equipment used in the crushing of concrete has been included in the packet under **Exhibit F** for reference. Staff will also have a

YouTube video to share with the board during the meeting on January 16. The use requires review and approval from the Michigan Department of Environment, Great Lakes, and Energy (EGLE) Air Quality Division.

Staff Comment: Based on the analysis above, the zoning administrator determined that concrete crushing is a heavy industrial use and/or activity.

Article 5 – Board of Appeals

Section 5.7.1 Review: *The Board shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or by any other official in administering or enforcing any provisions of this Ordinance.*

Section 5.7.2 Interpretation: *The Board of Appeals shall have the power to:*

- (1) *Interpret, upon request, the provisions of this Ordinance in such a way as to carry out the intent and purpose of this Ordinance.*
- (2) *Determine the precise location of the boundary lines between zoning districts.*
- (3) *Classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district.*

Section 6.1.4 Scope of Regulations: *No building or structure, or part thereof, shall be erected, moved, constructed, or altered, and no new use or change in use shall be made unless in conformity with the provision of this Ordinance and with the regulations specified for the district in which it is located.*

- (1) *The regulations applying to each district include specific limitations on the use of land and structure, height and bulk of structures, density of population, lot area, yard dimensions, and area of lot that can be covered by each structure.*
- (2) *The Board of Appeals shall have the power to classify a use which is not specifically mentioned along with a comparable permitted or prohibited use for the purpose of clarifying the use regulations in any district.*

Section 6.1.5 Categories Within Zone Districts: *In order to ensure all possible benefits and protection for the Zone Districts in this Ordinance, the land uses have been classified into three categories:*

- (1) *Uses permitted by RIGHT. The primary uses and structures specified for which the Zone District has been established.*
- (2) *Uses permitted UNDER SPECIAL CONDITIONS. Uses and structures compatible with the primary uses and structures permitted within the Zone District but subject to the special conditions specified with the Zone District.*
- (3) *Uses permitted by SPECIAL USE PERMIT. Uses and structures which have been*

generally accepted as reasonably compatible with the primary uses and structures within the Zone District, but could present potential injurious effects upon the primary uses and structures within the Zone District, therefore require special consideration in relation to the welfare of adjacent properties and to the community as a whole. All such uses proposed shall be approved in accordance with the provisions of Article VIII of this Ordinance.

Section 6.7 A-1 District – Agricultural:

Section 6.7.1 Intent and Purpose: *This District is intended to recognize the unique ecological character of the Peninsula and to preserve, enhance, and stabilize existing areas within the Township which are presently being used predominately for farming purposes, yet recognize that there are lands within the district which are not suited to agriculture, therefore allowing other limited uses which are deemed to be compatible with agricultural and open space uses.*

Per Section 6.7.2, the A-1 district does not permit concrete crushing or heavy industrial uses as a use or activity permitted by right.

Per Section 6.7.3, the A-1 district permits warehousing and light industrial with the approval of a special use permit subject to all requirements of Article 8, Section 8.7.2(7), and Section 8.7.3(7).

Staff Comment: The zoning administrator determined that warehousing and light industrial was the closest permitted use within the A-1 district.

Section 8.7.3(7):

Warehousing and light industrial:

(a) Uses allowed: (REVISED BY AMD 131)

1. *Printing and publishing establishments.*
2. *Small contractors' establishment having no outdoor storage of materials or equipment.*
3. *Wholesale and limited retail activities related to on-site warehousing. High volume retail sales normally accommodated in the other retail districts would not be allowed.*
4. *Research facilities, provided there is no use of radioactive, toxic, or explosive materials.*
5. *Computer operations.*
6. *Small warehousing structures such as controlled atmosphere apple storage or storage for food products processed in a food processing plant located on the farm, provided that the storage structures shall only be used for agricultural products grown on Old Mission Peninsula.*
(REVISED BY AMENDMENT 131)
7. *Light manufacturing operations employing twenty-five (25) or less.*

(b) Enclosed Buildings: *Activities in this District shall be carried on in completely enclosed buildings.*

(c) Noise *emanating from a use in this District shall not exceed sixty (60) decibels at any property line.*

- (d) Uses in this District shall conform to the following standards:
1. *Emit no obnoxious, toxic, or corrosive fumes or gases which are deleterious to the public health, safety or general welfare; except for those produced by internal combustion engines under designed operating conditions.*
 2. *Emit no smoke, odorous gases or other odorous matter in such quantities as to be offensive at or beyond any boundary of the use of the parcel.*
 3. *Produce no heat or glare humanly perceptible at or beyond the lot boundaries.*
 4. *Produce no physical vibrations humanly perceptible beyond the lot boundaries.*
 5. *Shall be compatible with and in the best interest of farming uses either in general or on specific contiguous lands.*

Supporting Evidence Required: *In all instances in which the Planning Commission or the Town Board considers the ability of a proposed use to meet all the requirements of this Section to be reasonably doubtful, it will be incumbent upon the proponent to furnish adequate evidence in support of his application. If such evidence is not presented, the land use permit shall not be issued.*

Staff Comment: Because concrete crushing cannot be conducted in an entirely enclosed building and cannot meet the requirements of (d), the zoning administrator determined that concrete crushing is not a permitted use or activity within the A-1 district.

In addition, the zoning administrator, having issued several demolition permits, does not find that concrete crushing is a customary or incidental use or activity related to demolition. The customary method for dealing with construction debris resulting from the demolition of a structure is to haul the debris off site to an appropriate receiving location.

The zoning ordinance does not have any specific standards or basic conditions to review an appeal to the zoning administrator's determination. After consultation with the Township Attorney, the following standards can serve as a guide for the ZBA's review of the decision:

1. Zoning ordinances should be interpreted using the plain language of words and phrases before looking at the intent underlying a zoning ordinance provision.
2. Interpreting a zoning ordinance should avoid interpretations that cause absurd zoning results.
3. Where possible, ordinances should be read in harmony with one another as opposed to choosing a reading that poses a conflict.
4. All words of an ordinance should have meaning, and the reader should not render any provision meaningless unless required by law

Staff and legal counsel will be present at the January 16 meeting to answer questions and assist with the appeal process.

**Peninsula Township
Zoning Board of Appeals**

ZBA Case No. 912

Date of Meeting: January 16, 2024

Peninsula Township
13235 Center Road
Traverse City, MI 49686

Applicants/Owner: Luke C. Miller Trust, 2465 Carroll Road, Traverse City, MI 49686

Address: 11586 Center Road, Traverse City, MI 49686

Parcel Code: #28-11-004-008-00

Request: An appeal to a determination made by the Zoning Administrator per Sections 5.7.1. (Review); 5.7.2 (Interpretation); and 6.1.4. (Scope) of the Zoning Ordinance.

Action by the Zoning Board of Appeals:

_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Chair)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Vice Chair)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		

Board Action:

**Fahey Schultz
Burzych Rhodes**

ATTORNEYS AT LAW

FSBRLAW.COM

4151 OKEMOS ROAD

TEL: 517.381.0100

OKEMOS, MI 48864 USA

FAX: 517.381.5951

January 11, 2024

Via Electronic Mail

John Dolton, Chairperson
Peninsula Township Zoning Board of Appeals
11586 Center Road
Traverse City, MI 49686

Dear Chairperson Dolton and Board of Appeals Members:

Re: Luke C. Miller Trust ZBA Request # 912

This letter is a supplement to the staff report contemporaneously issued by Jenn Cram, AICP, Director of Planning and Zoning regarding the Zoning Board of Appeals' ("ZBA") consideration of a Request for Administrative Review on January 16, 2024, submitted by the Luke C. Miller Trust for the subject property located at 11586 Center Road, Traverse City, MI 49686 (Request # 912). Given that the appeal is of a decision by Ms. Cram (in her capacity as zoning administrator), this supplemental letter is intended to review and outline several decisions that the ZBA can reach regarding Request #912, as well as provide guidance on the standards for consideration and final decision.

At this juncture, we trust you have reviewed and considered the staff report prepared by Jenn Cram, AICP, Director of Planning and Zoning, regarding this request. In short, the request by the applicant is an appeal to the zoning administrator's determination that concrete crushing is a heavy industrial use or activity and not allowed within the A-1-Agricultural district as part of a demolition of an existing structure.

We detail the primary options available to the ZBA and the standards that should be applied. As noted in the staff report, the Peninsula Township Zoning Ordinance does not provide the standards for administrative appeals, but we find that is in large because standards for an appeal are customary and understood for administrative appeals of this type. Any decision reached by the ZBA should uniformly apply consistent standards for each available option. The ZBA has four primary options to reach its decision in this matter:

1. Affirm the zoning administrator's decision;



EXPERT COUNSEL. REAL SOLUTIONS.

2. Affirm the zoning administrator's decision; but in light of the township approval and representations in which it was authorized, allow it to proceed with conditions for safety;
3. Reverse the zoning administrator's decision; interpret that the temporary use can be allowed via the demolition permit in the A-I district and via a zoning compliance permit with any conditions; or
4. Reverse the zoning administrator's decision; determine the demolition permit allows the activity.

As specified in the staff memo, the ZBA authority to review administrative appeals is broadly applied within Section 5.7.1 of the Zoning Ordinance: "The Board shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or by any other official in administering or enforcing any provisions of this Ordinance." Similar to the principles provided in the Zoning Ordinance for the ZBA's review, a reviewing court will be looking at the decision under similar principles:

1. Zoning ordinances should be interpreted using the plain language of words and phrases before looking at the intent underlying a zoning ordinance provision. *Brandon Charter Township v Tippet*, 241 Mich App 417, 422; 616 NW2d 243 (2000).
2. A court interpreting a zoning ordinance will try to avoid interpretations that cause absurd zoning results. *Detroit International Bridge Company v Commodities Exp Co*, 279 Mich App 662, 674; 760 NW2d 565 (2008).
3. Where possible, ordinances should be read in harmony with one another as opposed to choosing a reading that poses a conflict. *Knauff v Oscoda County Drain Commissioner*, 240 Mich App 485, 492; 618 NW2d 1 (2000).
4. All words of an ordinance should have meaning, and the reader should not render any provision meaningless unless required by law. *Diallo v LaRochelle*, 310 Mich App 411, 418; 871 NW2d 724 (2015).

The ZBA is empowered to review and affirm, reverse, or modify any order, decision, or determination made by an official and any decisions of the Zoning Administrator. MCL 125.3604. Accordingly, for purposes of the standard to apply, we would recommend the ZBA consider, based on the plain language of the Zoning Ordinance, whether Ms. Cram's decision ***properly considered*** the applicable provisions ***and properly applied*** them in her staff report. If the ZBA finds that Ms. Cram's analysis of the proposed use under the Zoning Ordinance is accurate, then the ZBA would be looking to consider a motion that encompasses either options No. 1 or No. 2.

With respect to Option No. 2, it is our understanding that the Applicant has submitted material regarding correspondence with the prior Zoning Administrator and reference to crushing. The application may not fully develop this, but in light of the ZBA's interpretative authority as well as ability to modify any decision of Ms. Cram, these circumstances as well as the Zoning Ordinance's

authorization to alter a structure would support No. 2. In considering this option, the ZBA would want to identify facts in the records that support such a path, as well as consider any conditions. While this list is not meant to be exhaustive, we provide the following as typical conditions could apply to affirming Ms. Cram, but authorizing the crushing based on the circumstances surrounding the approval and the language related to altering structures:

- Require EGLE permitting and oversight of any crushing activity while the work is performed;
- The property owner address the appropriate removal of the existing building with collapsed roof prior to any crushing of concrete;
- The property owner apply for a land use permit for the temporary crushing of concrete related to demolition of existing structures and surfaces on the property;
- All concrete crushed on the property shall not be used for retail or wholesale use (i.e. must be used on the property);
- Limit crushing activity between the hours of 8am and 5pm;
- Impose time limits on the number of days of crushing, as well as reinstating the approval to do such crushing for a period of time. For example, given the time that has passed to allow the crushing, the ZBA could reinstate the permit. If this is the preferred option of the ZBA, requiring the concrete crushing to commence within 180 days (e.g. during wetter months prior to the growing season), and then be completed within 14 days from its start date could be a condition imposed by the ZBA.
- Address the staff report notes that there are remaining questions about the EGLE permit, by requiring a corrected permit;
- If nuisance concerns remain, require compliance with other local ordinances, address the storage options of the material crush (including length of time) could be addressed by the ZBA; and
- Compliance with all other County and State requirements.

If the ZBA finds that there was an error in the application of the Zoning Ordinance, then the ZBA can consider options No. 3 or 4. Note that if the ZBA only reverses the determination, since the applicable zoning compliance permit has expired, the Applicant will either need to refile or the ZBA will want to address the expiration of the compliance permit.

In conclusion, the preferred decision option for this administrative appeal is entirely within the Zoning Board of Appeal's discretion. The decision should be based on the prescribed review standards. The appeal can include any modifications to the applicant's request, or otherwise reject it in whole or in part. Moreover, to maintain the integrity and fairness of the process, we would note that the ZBA should constrain its review to the items presented in the record, any written comments and submissions, and comments of the applicant's counsel, or the public that presents oral or written comments during the public hearing.

We will be in attendance at the meeting on January 16, 2024, to assist the Zoning Board of Appeals in considering the Request for Administrative Review. Please contact me directly if you have any questions or comments.

Sincerely,

A handwritten signature in black ink that reads "Christopher S. Patterson". The signature is fluid and cursive, with the first name "Christopher" and last name "Patterson" clearly legible.

CHRISTOPHER S. PATTERSON
MEMBER

Direct: 517.381.3205

cpatterson@fsbriaw.com

CSP/kjm

Exhibit A

PENINSULA TOWNSHIP
ZONING BOARD OF APPEALS

IN THE MATTER OF
11586 CENTER ROAD,
TRAVERSE CITY, MI 49686
PARCEL ID# 11-04-008-00

Peninsula Township
Zoning Board of Appeals

LUKE C. MILLER and
MICHAEL J. MILLER,

Appellants,

and

PENINSULA TOWNSHIP
PLANNING & ZONING ADMINSTRATOR,

Appellee.

APPEAL OF ADVERSE DETERMINATIONS BY ZONING ADMINISTRATOR
RELATED TO PROPOSED ACTIVITY TO OCCUR AT PROPERTY LOCATED AT
11586 CENTER ROAD

Gregory M. Luyt (P62778)
Julius S. Moss (P84640)
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Dated: October 23, 2023

INTRODUCTION

Luke Miller (“Luke”) and Michael Miller, (Michael, and collectively with Luke, the “Millers”) own the property commonly known as 11586 Center Rd., Traverse City, Michigan 49684, Parcel ID # 11-04-008-00 (the “Property”). Since the Millers purchased the Property in December of 2020, the Millers have demolished a large pole barn structure and approximately 16,211 square feet of concrete slab on the Property. As part of the continued demolition work on the Property, the Millers seek to crush the broken pieces of concrete slab that are currently gathered into several piles on the Property. Although the Millers have obtained the necessary permits for this work from the Michigan Department of Environment, Great Lakes and Energy (“EGLE”), the Peninsula Township Planning & Zoning Administrator’s office (“Zoning Administrator”) has determined the proposed concrete crushing activities on the Property are prohibited by the Peninsula Township Zoning Ordinance (the “Zoning Ordinance”). Specifically, the Zoning Administrator has interpreted the Zoning Ordinance and made the following determinations:

1. That the proposed concrete crushing activities are not demolition activities that can be authorized by the Zoning Administrator; and
2. That the proposed concrete crushing activities constitute a heavy industrial use of the Property and are therefore not permitted by right or special use permit for the Property.

The Millers now submit this appeal of the Zoning Administrator’s adverse determinations based on an erroneous interpretation that the Zoning Ordinance prohibits these one-time isolated concrete crushing activities as an illegal “use” of the Property. The Millers request that Peninsula Township Zoning Board of Appeals (“ZBA”) overturn the Zoning Administrator’s previous determinations as the term “use” within the Zoning Ordinance refers to permanent and ongoing uses of the

Property, not one-time isolated activities associated with demolition or construction projects. In addition and/or in the alternative, the ZBA should reverse the Zoning Administrator's determination that concrete crushing is a "heavy industrial use" that is not permitted anywhere in Peninsula Township, as that would violate the Michigan Zoning Enabling Act. Lastly, the Millers also set forth an alternative argument that if the proposed concrete crushing activities are a "use" of the Property for purposes of the Zoning Ordinance, that the activities could be deemed to constitute mining activity which is permitted on the Property by right under the Zoning Ordinance.

STATEMENT OF FACTS

The Millers purchased the Property on or about December 28, 2020. At the time the Millers purchased the Property in December of 2020, the Property had two separate structures erected on the Property. The first structure that remains on the Property is a white brick building that previously was utilized as offices for the Kroupa family's agricultural business. The second building was an approximately 7500 square foot pole barn structure that was previously used for storing agricultural equipment and materials. Along with two structures noted above, the Property also contained approximately 16,211 square feet of concrete slab. In September of 2021, the Millers requested approval to demolish the structures and concrete slab. In the Millers' request to the Zoning Administrator on September 17, 2021, the Millers specified that they had a contractor scheduled to "demo the building, tear up the concrete pad, & *crush the concrete.*" (emphasis added). A copy of email correspondence between Luke and a Peninsula Township official regarding the demolition permit is attached as Exhibit A. In response to the Millers' request, the Zoning Administrator approved the request and issued a demolition permit on September 27, 2021. A copy of the issued Demolition Permit is attached as Exhibit B. Neither the Zoning Administrator

nor any other representative of Peninsula Township objected to the proposed crushing of the concrete, or gave any indication that it would not be permitted as a part of the demolition project.

After obtaining the necessary authorization and demolition permit from the Zoning Administrator, the Millers proceeded to obtain a demolition permit from the Grand Traverse County Building Department. A copy of the issued Demolition Permit from the Grand Traverse County Building Department is attached as Exhibit C. After receiving the necessary permits from Peninsula Township and Grand Traverse County, the Millers hired Cornerstone Excavation to begin demolition activities on the Property. Cornerstone Excavation demolished the large pole barn structure and broke up the concrete slab in December of 2021. Critically, the Millers relied upon the fact that the Township did not object to the proposed crushing of the concrete and did not indicate the Township would attempt to require the Millers to haul the concrete offsite rather than crush it. Hauling the concrete offsite would involve significant additional expense, and would deprive the Millers of the use of the resulting crushed concrete material in the restoration of the site.

In February 2022, the Millers entered into a contract with All Aggregates Inc. to crush the pieces of the broken concrete slab. Unfortunately, All Aggregates Inc. backed out of the parties' agreement in or around June of 2022 due to lack of equipment and personnel. In September 2022, the Millers engaged Great Lakes Crushing, LLC ("Great Lakes Crushing") to conduct the concrete crushing activities that were originally going to be performed by All Aggregates Inc. After signing the September 2022 contract with Great Lakes Crushing, the Millers immediately began the permitting process with the Michigan Department of Environment, Great Lakes and Energy ("EGLE") pursuant to the Michigan Natural Resources and Environmental Protection Act ("NREPA"). On July 13, 2023, EGLE's Air Quality Division issued a permit to Great Lakes

Crushing to operate certain concrete crushing equipment on the Property. A copy of the EGLE permit is attached as Exhibit D. As part of EGLE's permit, Great Lakes Crushing must adhere to certain emission limits and implement control devices such as water sprayers to suppress fugitive dust from the concrete crushing activities. These mitigation measures are specifically designed and required to minimize impact on surrounding property owners.

The day before EGLE issued its permit to Great Lakes Crushing, Mr. David Sanger, an ordinance enforcement officer for the Zoning Administrator reached out to Luke requesting a meeting with Luke to discuss the Property and status of the old office building, piles of concrete rubble, and purported dumping on the Property. After responding to Mr. Sanger's request, Luke met with Mr. Sanger, Ms. Jennifer Cram and Mr. Nick Wikar on July 27, 2023, to discuss the Property. At the July 27th meeting, the Zoning Administrator's officials for the first time indicated that they believed the Millers' proposed concrete crushing activities were prohibited by the Zoning Ordinance.

In the wake of this meeting, Luke sent email correspondence to Mr. Sanger and Ms. Cram on July 27th and once again on September 8th requesting additional clarification as to what specific provision within the Zoning Ordinance or other township regulation would prohibit such proposed activities. On September 20th Ms. Cram responded to Luke's request by providing the following response:

The crushing of concrete is considered a heavy industrial use. [the Property] is zoned A-1. This zone district does not allow heavy industrial uses by right or with a special use permit. Light Industrial uses are permitted within the A-1 zone district with the approval of a Special Use Permit per Section 8.7.2(7) and 8.7.3(7). Such light industrial uses are only permitted within a completely enclosed building. The crushing of concrete will produce noise and dust that may be hazardous and/or disturbing to existing uses in the vicinity. One of the requirements for special uses is that they not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by fumes, glare or

odors. The noise ordinance would also apply. Therefore, the existing concrete on-site must be removed to be in compliance with Section 7.2.4 – Outdoor Storage, copied below.

A copy of Ms. Cram’s email correspondence is attached hereto as Exhibit E.

With the necessary permit from EGLE, Great Lake Crushing informed the Millers on or about September 22, 2023, that it could complete the concrete crushing activities the following week. That same day, Luke once again sent email correspondence to Ms. Cram and Mr. Sanger, questioning Ms. Cram’s interpretation of the Zoning Ordinance and determination that the proposed isolated and temporary crushing project constitutes a “use” of the Property, as the definition and examples provided throughout the Zoning Ordinance refer to ongoing activities on the Property, whereas the crushing activities are a temporary project to complete the demolition work on the Property.

However, Ms. Cram concluded that these isolated concrete crushing activities were a prohibited “use” of the Property under the Zoning Ordinance. Ms. Cram determined that the crushing of concrete is considered a “heavy industrial use” and as the Property is zoned A-1, that such use was prohibited “on the property or within Peninsula Township” A copy of Ms. Cram’s October 3, 2023 email correspondence to Luke setting forth Ms. Cram’s interpretation of the Zoning Ordinance is attached as Exhibit F.

The Millers now bring to the ZBA this appeal of the Zoning Administrator’s adverse determinations and interpretations of the Zoning Ordinance.

ARGUMENT

I. The Zoning Administrator erred when interpreting the Zoning Ordinance and determining the proposed concrete crushing activities on the Property are prohibited.

A. The proposed concrete crushing activities do not constitute a “Use” under the Zoning Ordinance.

Section 3.2 of the Zoning Ordinance defines the term “Use” as “the purpose of which land or a building is arranged, designed, or intended, or for which land or a building may be occupied.” This definition section of the Zoning Ordinance goes on to delineate principal and accessory uses by defining a “Principal Use” as the “main use to which the premises are devoted and the principal purpose of which the premises exists” and an “Accessory Use” as a “use customarily incidental and subordinate to the principal use or building located on the same lot as the principal use or building.” These definitions within the Zoning Ordinance focus on the purpose and occupation of real property within Peninsula Township. The proposed temporary and isolated crushing activity does not meet the definition of a “Principal Use” or an “Accessory Use,” and therefore should not be assessed or regulated as a “Use” under the Zoning Ordinance. At a minimum, the absence of a temporal element in the definitions renders the Zoning Ordinance ambiguous as to whether isolated and temporary activities should be considered preparatory activities for other “Uses,” or “Uses” in and of themselves.

It is well established under Michigan law that ambiguous statutes are to be “interpreted as a whole and are construed so as to give effect to each provision and to produce a harmonious and consistent result.” *Fremont Tp. v McGarvie*, 164 Mich. App. 611, 615, 417 NW2d 560, 562 (1987). Therefore, rather than limiting an analysis as to the definition of the term “use” within Section 3.2

of the Zoning Ordinance, we can further look to how the term “use” is used throughout the entirety of the Zoning Ordinance to further ascertain the scope of said term, and where doubt exists, the term must be interpreted in a manner that favors the property owner. *Id.* at 614. (citing *Talcott v Midland*, 150 Mich App. 143, 147, 387 NW2d 845 (1985) (noting that when “interpreting the language of an ordinance to determine the extent of a restriction upon the use of the property, the language must be interpreted, where doubt exists, in favor of the property owner.”)).

Article VI of the Zoning Ordinance establishes ten (10) different zoning districts, and further sets out what uses are permitted by right, under special conditions, or special use permits. Here, the Property at issue is within the A-1 zoning district. Section 6.7.2 of the Zoning Ordinance provides that the following uses are permitted by right in the A-1 district: one-family dwellings; two-family dwellings; mobile homes; field crop and fruit farming; raising and keeping of small animals; raising keeping and boarding of livestock; customary home occupations; roadside stands; cemeteries; agricultural labor camp; licensed agricultural labor camp; tenant house; public areas and public parks; public and private conservation areas, customary uses and structures, mining or removal of top soil; family day care & group day care homes; barn storage; and farm processing facility. As an additional example, Section 6.2.2 of the Zoning Ordinance provides that the following uses are permitted by right in the R-1A zoning district: single family dwellings; public recreation; storage of trailer units; keeping of domestic pets; general farming and horticultural uses; and family day care homes and group day care homes. All of these permitted “Uses,” along with all of the other “Uses” set forth under Article XI of the Zoning Ordinance, pertain to ongoing and continuous uses of property, not preparatory activities.

Temporary and isolated preparatory activities such as demolition, excavation, construction, grading, paving, and irrigating are not included in any of the permitted “Uses” for any of the ten

zoning districts within Peninsula Township. However, it cannot reasonably be argued that those activities are not permitted anywhere in Peninsula Township. Rather, it is clear that these preparatory activities are not considered a “Use” for purposes of the Zoning Ordinance as they are only temporary and isolated activities that allow property owners to use their property in a manner that is permitted by the Zoning Ordinance after such activities are concluded. For example, the Zoning Ordinance does not permit as a “Use” in the R-1 district, residential construction activities. However, such construction activities are clearly permitted, as they are temporary and preparatory in nature, and allow property owners to utilize their property in a manner that is permitted by the Zoning Ordinance after the construction activities are completed. Although Article VII of the Zoning Ordinance includes supplemental regulations regarding certain preparatory activities, these supplemental regulations pertain to how certain structure will exist after the preparatory activities are completed rather than the processes that occur during these preparatory activities.

The proposed concrete crushing activity on the Property is a similar preparatory activity that is a part of the demolition work that the Township previously approved in December of 2021. The proposed concrete crushing activity will take approximately five (5) days and will take the large concrete debris that is currently organized into several piles on the Property and turn the debris into material that can be utilized for grading, landscaping or construction activities on the Property. The purpose for which the Property is arranged, designed, intended, and will ultimately be occupied is not for the proposed concrete crushing activities. Rather, these proposed concrete crushing activities are one of the many necessary steps that will allow the Millers to engage in “Use” of the Property in a manner permitted under the Zoning Ordinance.

The Zoning Administrator has raised concerns about the noise and dust that may be caused by the proposed concrete crushing activities on the Property. However, like other preparatory

activities (e.g., construction activities), the proposed concrete crushing activities are subject to government regulation. The Millers worked with Great Lakes Crushing to ensure that the proposed activities meet the stringent requirement of NREPA, so as to obtain the necessary EGLE permit. This EGLE permit further addresses the Zoning Administrator's concerns by not only demonstrating that the proposed concrete crushing activities meet the NREPA standards, but also by requiring Great Lakes Crushing to implement certain control devices to limit disturbances to the surrounding properties. The Millers have discussed the proposed concrete crushing activity with neighboring property owners, none of whom have objected to the completion of that work with the mitigation measures required under the EGLE permit. The Millers and their neighbors desire the swift completion of the preparatory work necessary to restore the Property from its current state to a more useful and aesthetically pleasing state.

B. The Township is estopped from prohibiting the proposed concrete crushing activities.

The proposed concrete crushing activities are part of the temporal and isolated demolition activities that the Millers previously received a permit from Peninsula Township to undertake. Specifically, in the Millers' application to the Zoning Administrator, the Millers noted that it was their plan to demolish the existing structures and concrete slab on the Property, *and crush the concrete*. The Township did not object to the proposed crushing of the concrete, nor did the Township indicate that it would take the position that concrete crushing activity is a "heavy industrial use" that is not permitted anywhere in the Township. The proposed demolition activities have taken longer to accomplish than the Millers had originally planned, mostly due to delays in receiving the necessary EGLE permit and inability of contractors to complete the demolition work. However, the proposed concrete crushing activities are a continuation of the original demolition plan that was previously approved by the Zoning Administrator.

The Millers relied on the fact that they would be permitted to complete the crushing of the concrete in deciding to move forward with removal of the concrete. Hauling away the concrete involves substantial additional expense. In addition, prohibiting crushing of the concrete deprives the Millers of the resulting recycled concrete aggregate (“RCA”) material to restore the site. Based on the amount of concrete and current prices, for the Millers to purchase back the material after it is crushed by a third party would cost over \$1,000,000.00.

Equitable estoppel arises where a party by representations or silence induces another party to believe facts, the other party justifiably relies and acts upon that belief, and the other party is prejudiced. *See Conagra, Inc v Farmers State Bank*, 237 Mich App 109, 141; 602 NW2d 390 (1999). Here, the Township did not object to the Millers’ proposal to crush the concrete, and did not indicate prior to the initial breaking up of the concrete that the Township would take the position that concrete crushing would constitute a “heavy industrial use” that would not be permitted anywhere in the Township. The Millers proceeded with removal and breaking up of the concrete in reasonable reliance that the Township would permit the concrete to be crushed. Finally, the Millers would clearly be prejudiced if they are not permitted to crush the concrete. They have already expended substantial sums in removing and breaking up the concrete, which they would not have done if they had known crushing was not an option. Requiring them to haul away the concrete would force substantial additional expense, and would deprive the Millers of the use of the resulting aggregate material to restore the site (requiring substantial additional expense to complete that restoration).

Accordingly, the Township is equitably estopped from prohibiting the concrete crushing activity at this stage.

II. The Zoning Administrator's interpretation of the Zoning Ordinance and determination that concrete crushing activities are not authorized within Peninsula Township violates Michigan Zoning Enabling Act.

Peninsula Township enacted the Zoning Ordinance in accordance with the Michigan Township Zoning Act, Public Act 184 of 1943. The Michigan Township Zoning Act was repealed and replaced by the Michigan Zoning Enabling Act, Public Act 110 of 2006. Pursuant to the Michigan Zoning Enabling Act:

A zoning ordinance or zoning decision shall not have the effect of totally prohibiting the establishment of a land use within a local unit of government in the presence of a demonstrated need for that land use within either the local unit of government or the surrounding area within the state, unless a location within the local unit of government does not exist where the use may be appropriately located or the use is unlawful.

MCL 125.3207. Therefore, under the Michigan Zoning Enabling Act, the Zoning Ordinance may not totally exclude a land use where (1) there is a demonstrated need for that land use in the township or surrounding area, (2) the use is appropriate for the location, and (3) the use is lawful.

Here, the Zoning Administrator's October 3, 2023 email to Luke explicitly states that the proposed concrete crushing activities are prohibited "on the property or within Peninsula Township and therefore [the Zoning Administrator] cannot issue a land use permit." The Zoning Administrator's determination is based upon the determination that the proposed concrete crushing activities are a "heavy industrial use" and the fact that the Zoning Ordinance does not permit heavy industrial uses on the Property or any other property within Peninsula Township. Moreover, the Zoning Director's October 3rd email goes on to explain that the Millers cannot seek a variance for such use of the Property, as Section 5.7.3(1)(b) of the Zoning Ordinance provides that any variance from the Zoning Ordinance "shall not permit the establishment within a district any use which is not permitted by right, under special conditions or by special use permit within that zone district"

Although the Millers dispute the Zoning Administrator's determination and interpretation of the Zoning Ordinance in regard to classifying the proposed concrete crushing activities as a "Use" of the Property, the Millers make this argument in the alternative in the case that the ZBA concludes that the activities are indeed a "use" of the Property for purposes of the Zoning Ordinance. If the proposed concrete crushing activities are considered "heavy industrial use" for purposes of the Zoning Ordinance, then the Zoning Administrator has determined that such activities are completely excluded not only on the Property but Peninsula Township as a whole.

Such exclusion of these activities under the Zoning Ordinance is a violation of MCL 125.3207, as the Millers satisfy the three required elements of the statute. First, the Millers have demonstrated a need for the proposed concrete crushing activities. Currently, there are several piles of large pieces of the broken concrete slab that was demolished pursuant to Peninsula Township's authorization and Demolition Permit. These piles will need to be removed or flattened, and certain areas where the concrete slab previously was located will need to be graded and utilized for landscaping and/or driveways for the Millers to utilize the Property as permitted under the Zoning Ordinance. Rather than requiring significant trucking operations to remove the piles of concrete from the Property and then bring in new aggregate material for grading, landscaping, and constructing driveways on the Property as needed (all at *substantial additional expense*), the most efficient, environmentally friendly, and unobtrusive manner to accomplish this needed change to the Property is to crush the concrete debris on site. The EGLE permit that Great Lakes Crushing obtained for these proposed activities further limits disturbances to the neighboring properties, which would be much greater if the Millers were required to bring in heavy machinery and trucking operations to remove the concrete piles and then bring in aggregate material on the Property. As such, the Millers have demonstrated a need for these concrete crushing activities on the Property.

Second, the proposed concrete crushing activities are appropriate for the location. The Property consists of approximately 9.3 acres and sits on Center Rd. The Property sat vacant for many years prior to the Millers' purchase and was previously used as an agricultural storage and processing facility. The proposed concrete crushing activities will only occur for approximately five (5) days and the location of these proposed activities is suitable given the current state of the Property and the need to flatten the concrete piles and further grade the certain portions of the Property where demolition work has previously occurred. Moreover, EGLE has granted the necessary permit under NREPA to allow the proposed concrete crushing activities on the Property in a manner that limits disturbances to the neighboring properties. Therefore, the proposed concrete crushing activities are appropriate for the Property.

Third, the proposed concrete crushing activities are lawful and the Millers can proceed with such activities under the EGLE permit Great Lakes Crushing received after obtaining the necessary authorization from Peninsula Township. Because the Millers have satisfied all three of the necessary elements within MCL 125.3207, the Zoning Ordinance may not totally exclude the proposed concrete crushing activities.

III. In the alternative, the proposed concrete crushing activities constitute a “mining” activity and therefore permitted by right on the Property pursuant to the Zoning Ordinance.

The Millers set forth this final argument in the alternative if the ZBA concludes that the proposed concrete crushing activities constitute a “Use” of the Property for purposes of the Zoning Ordinance. Assuming such proposed concrete crushing activities are considered a “Use” of the Property, then that activity could be considered a “mining” activity on the Property, which is permitted by right under the Zoning Ordinance.

As the Property falls within the zone district A-1, Section 6.7.2(16) of the Zoning Ordinance provides that mining or removal of top soil is a use permitted by right on the Property, subject to provisions of Article VII Section 7.2.3. As Section 7.2.3 pertains to the removal of top soil and open pit mining, those additional do not apply to the proposed concrete crushing activities. Therefore, if the ZBA determines that the proposed concrete crushing activities are considered “mining” for the purposes of the Zoning Ordinance, such use shall be permitted by right on the Property.

The term “mining” is not defined within the Zoning Ordinance. Therefore, the term “mining” shall be “used with a meaning of common or standard utilization” for purposes of the Zoning Ordinance. *See* Section 3.1(7) of the Zoning Ordinance. The term “mining” as defined by Webster’s New World Dictionary, Third College Edition as “1 *a*) to dig (in earth) for ores, coal etc. *b*) to dig (ores, coal, etc.) from the earth 2 to take from (a source)” When the Millers purchased the Property, the concrete slab was affixed to the Property and was for all intents and purposes a part of the earth as it covered approximately 16,211 square feet of the ground surface of the Property. The Millers proceeded to tear up the concrete slab and now desire to further process this source material that was extracted from the Property to create a recycled concrete aggregate (“RCA”) material. This RCA material is a popular alternative to gravel and crushed stone and can be used for a variety of construction projects such as foundations, road construction or driveway materials. As the Millers seek to extract this RCA material from the concrete slab debris that existed on the Property at the time they purchased the Property, the proposed concrete crushing activities can be deemed to fall within the common definition of “mining,” and therefore qualify as a use of the Property that is permitted by right under the Zoning Ordinance.

CONCLUSION

The proposed concrete crushing activities do not fall within the definition of the term “Use” for purposes of the Zoning Ordinance. Rather, these proposed concrete crushing activities are preparatory activities that will allow the Millers to utilize the Property for a use that is permitted under the A-1 zone district regulations set forth in the Zoning Ordinance after said preparatory activities are completed. Because the proposed concrete crushing activities do not meet the definition of a “Use” of the Property, the Zoning Administrator erred in its determination that the proposed concrete crushing activity is prohibited at the Property. As such, the Millers respectfully request that this ZBA reverse the Zoning Administrator’s interpretation of the Zoning Ordinance and determination that the proposed concrete crushing activities constitute a “heavy industrial use” for purposes of the Zoning Ordinance. In additional or in the alternative, the Millers request the ZBA to interpret the Zoning Ordinance in a manner that allows such proposed concrete crushing activities on the Property, as a blanket exclusion of such use would constitute a violation of Section 207 of the Michigan Zoning Enabling Act (MCL 125.3207). Finally, in addition or in the alternative, the Millers request that the proposed concrete crushing activities be permitted on the Property as a mining use.

Respectfully Submitted,

Dated: October 23, 2023

BOWERMAN, FORD, CLULO & LUYT, P.C.

By: 

Gregory M. Luyt (P62778)
Attorneys for Appellant
620-A Woodmere
Traverse City, MI 49686
(231) 941-8048

EXHIBIT A

9/22/23, 10:58 AM

Gmail - Demolition Permit | 11586 Center Rd. (11-004-008-00)



Luke Miller <millerlukec@gmail.com>

Demolition Permit | 11586 Center Rd. (11-004-008-00)

13 messages

millerlukec@gmail.com <millerlukec@gmail.com>

Fri, Sep 17, 2021 at 9:12 AM

To: Zoning <Zoning@peninsulatownship.com>

Hi Christina –

I think we've finally made some headway on getting the 11586 Center Rd. property that we purchased last December cleaned up. I have a contractor scheduled to demo the buildings, tear up the concrete pad, & crush the concrete. Attached is the complete demolition permit along with 4 pictures of the property identifying what is to be removed/demolished.

Once you have a look would you have some time to connect over the phone so I can understand how this process will work going forward regarding any additional information, timing, etc. so that I can then communicate back to my contractor.

Thanks,

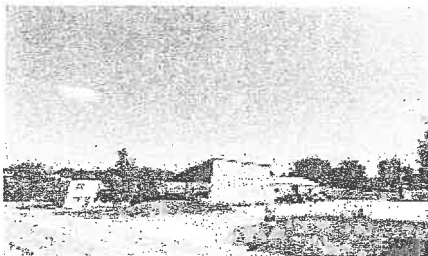
Luke Miller

(269)352-5960

5 attachments



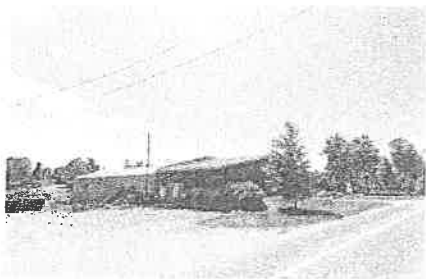
Demolition_Aerial Map.png
1112K



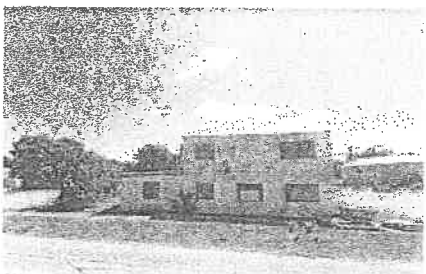
Demolition_Steel Barn & White Building (South View).png
775K

9/22/23, 10:58 AM

Gmail - Demolition Permit | 11586 Center Rd. (11-004-008-00)



Demolition_Steel Barn (North View).png
751K



Demolition_White Building.png
1199K



Demolition Permit.pdf
256K

Zoning <Zoning@peninsulatownship.com>
To: millerlukec@gmail.com

Mon, Sep 20, 2021 at 8:11 AM

9/20/2021

Luke,

I can issue the demolition permit once I receive the fee for the application.

The cost of the land use permit is \$75.00 and can be made payable to Peninsula Township.

You can drop the fee off and deposit it in the drop box located outside the township front office doors.

Or you can mail a check to the following address:

Peninsula Township
13235 Center Rd.,
Traverse City, MI 49686

Once I receive the check then I will process the land use permit.

Please let me know if you have any additional questions.

Respectfully,

Christina

9/22/23, 10:58 AM

Gmail - Demolition Permit | 11586 Center Rd. (11-004-008-00)

[Quoted text hidden]

Luke Miller <millerlukec@gmail.com>
To: Zoning <Zoning@peninsulatownship.com>

Tue, Sep 21, 2021 at 9:36 AM

Christina - thanks for the reply and my apologies for missing the fee portion. I will get that dropped off this week. Should I just put that in an envelope with your name on it for the drop box?

Thanks,

Luke
[Quoted text hidden]

--
Luke Miller

Zoning <Zoning@peninsulatownship.com>
To: Luke Miller <millerlukec@gmail.com>

Tue, Sep 21, 2021 at 2:12 PM

9/21/2021

Luke,

Please just put it in an envelope with my name and drop it in the drop box.
I will call you as soon as the permit is ready and available for you to pick up!

Thank you,

Christina

[Quoted text hidden]

Luke Miller <millerlukec@gmail.com>
To: Dad <flyboymjm@gmail.com>

Wed, Sep 22, 2021 at 6:41 PM

Dad - any chance you'd be able to drop a check off at the township offices for \$75 for our demolition permit? I keep missing it with my work schedule then CJ and I can reimburse you on our next payment.

If not I can probably get there Friday.

Luke

Get Outlook for iOS

From: Zoning <Zoning@peninsulatownship.com>
Sent: Tuesday, September 21, 2021 2:12:21 PM
To: 'Luke Miller' <millerlukec@gmail.com>
Subject: RE: Demolition Permit | 11586 Center Rd. (11-004-008-00)

[Quoted text hidden]

Mike Miller <flyboymjm@gmail.com>
To: Luke Miller <millerlukec@gmail.com>

Wed, Sep 22, 2021 at 9:17 PM

9/22/23, 10:58 AM

Gmail - Demolition Permit | 11586 Center Rd. (11-004-008-00)

Yep

Mike Miller
M.269.352.3072

On Sep 22, 2021, at 6:41 PM, Luke Miller <millerlukec@gmail.com> wrote:

[Quoted text hidden]

Luke Miller <millerlukec@gmail.com>
To: Mike Miller <flyboymjm@gmail.com>

Thu, Sep 23, 2021 at 4:27 AM

Thanks

Luke

Get Outlook for iOS

From: Mike Miller <flyboymjm@gmail.com>
Sent: Wednesday, September 22, 2021 9:17:23 PM
To: Luke Miller <millerlukec@gmail.com>
[Quoted text hidden]

[Quoted text hidden]

Mike Miller <flyboymjm@gmail.com>
To: Luke Miller <millerlukec@gmail.com>

Thu, Sep 23, 2021 at 12:20 PM

Delivered the check.

Mike Miller
Legacy Energy Company
M. 269.352.3072

[Quoted text hidden]

Luke Miller <millerlukec@gmail.com>
To: Mike Miller <flyboymjm@gmail.com>

Thu, Sep 23, 2021 at 3:20 PM

Thanks

Luke

Get Outlook for iOS

From: Mike Miller <flyboymjm@gmail.com>
Sent: Thursday, September 23, 2021 12:20:45 PM
[Quoted text hidden]

[Quoted text hidden]

Luke Miller <millerlukec@gmail.com>
To: Zoning <Zoning@peninsulatownship.com>

Thu, Sep 23, 2021 at 3:21 PM

9/22/23, 10:58 AM

Gmail - Demolition Permit | 11586 Center Rd. (11-004-008-00)

Hi Christina - my schedule was a bit hectic this week so Mike dropped off a check. Wanted to make sure that got to you?

Thanks

Luke

Get Outlook for iOS

From: Luke Miller <millerlukec@gmail.com>
Sent: Tuesday, September 21, 2021 9:36:40 AM
To: Zoning <Zoning@peninsulatownship.com>
Subject: Re: Demolition Permit | 11586 Center Rd. (11-004-008-00)

[Quoted text hidden]

Zoning <Zoning@peninsulatownship.com>
To: Luke Miller <millerlukec@gmail.com>

Mon, Sep 27, 2021 at 8:12 AM

9/27/2021

Luke,

I did receive the check from you on this and will issue the land use permit today.

I will send you an email when it is available to be picked up.

Thank you,

Christina

[Quoted text hidden]

Zoning <Zoning@peninsulatownship.com>
To: Luke Miller <millerlukec@gmail.com>

Mon, Sep 27, 2021 at 3:48 PM

From: Zoning <Zoning@peninsulatownship.com>
Sent: Monday, September 27, 2021 3:42 PM
To: 'Zoning' <Zoning@peninsulatownship.com>
Subject: RE: Demolition Permit | 11586 Center Rd. (11-004-008-00)

9/27/2021

Luke,

Your demolition permit is ready to be picked up. I have left it in the gray drop box outside the front office doors.

9/22/23, 10:58 AM

Gmail - Demolition Permit | 11586 Center Rd. (11-004-008-00)

You will need to check with the Grand Traverse County Construction Code Office to find out if a permit will need to be issued from them for the demolition as well.

Since this property was used in the past for asbestos, chemicals, fertilizers a permit maybe required as this had been deemed a hazardous site.

Please let me know if you have any questions.

Thank you,

Christina

From: Zoning <Zoning@peninsulatownship.com>
Sent: Monday, September 27, 2021 8:13 AM
To: 'Luke Miller' <millerlukec@gmail.com>
Subject: RE: Demolition Permit | 11586 Center Rd. (11-004-008-00)

9/27/2021

Luke,

I did receive the check from you on this and will issue the land use permit today.

I will send you an email when it is available to be picked up.

Thank you,

Christina

From: Luke Miller <millerlukec@gmail.com>
Sent: Thursday, September 23, 2021 3:21 PM

[Quoted text hidden]

[Quoted text hidden]

Luke Miller <millerlukec@gmail.com>
To: Dad <flyboymjm@gmail.com>

Tue, Sep 28, 2021 at 5:16 AM

Here's the information on the demo permit. Keep me posted as I can grab it tomorrow if you're not able to get it today.
Thanks

Luke

Get Outlook for iOS

From: Zoning <Zoning@peninsulatownship.com>
Sent: Monday, September 27, 2021 3:46 PM

9/22/23, 10:58 AM

Gmail - Demolition Permit | 11586 Center Rd. (11-004-008-00)

To: 'Luke Miller'

Subject: FW: Demolition Permit | 11586 Center Rd. (11-004-008-00)

[Quoted text hidden]

EXHIBIT B

9/27/2021
ATE

PERMIT NO. 6306

LAND USE PERMIT

This Permit Must Be Displayed on the Premises

Any Person willfully destroying this permit will
be punished to the fullest extent of the law.

CONSTRUCTION MUST BE COMPLETED BEFORE PERMIT EXPIRES AND PERMIT
HOLDER SHALL NOTIFY THE ZONING ADMINISTRATION WHEN COMPLETED FOR
FINAL INSPECTION OF BUILDING BEFORE OCCUPANCY MAY BE PERMITTED

This permit is issued for the
Area - Bldgs: 2304 sq. ft. office bldg + 16,211 sq. ft. warehouse

Location: 11588 Cottage of Travels City, MI
Demolition of existing structures + concrete pad

Fee \$ 75.00

PENINSULA TOWNSHIP

49686

This Permit Expires

9/27/2022

BY

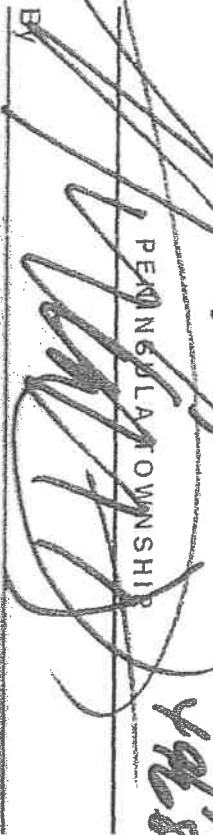


EXHIBIT C



Grand Traverse County
Construction Code
2650 LaFranier Road
Traverse City, MI 49686
(231) 995-6044

Permit NO.: B21-1675	
Permit Type: Building (Residential)	
Work Classification: Demolition	
Permit Status: Issued	
Issue Date: 12/02/2021	Expiration: 05/31/2022

Location Address

11586 CENTER RD, TRAVERSE CITY, MI 49686

Parcel Number

11-004-008-00

Contacts

Luke Miller (269)352-5960 millerlukec@gmail.com	Owner	Michael Miller 10270 Stoneybeach Pointe, Traverse City, MI 49686 flyboymjm@gmail.com	Owner
Michael Miller 10270 Stoneybeach Pointe, Traverse City, MI 49686 flyboymjm@gmail.com	Applicant		

Description: DEMOLITION OF AN EXISTING 7500 SF AG BUILDING. MAINTAIN SITE FREE FROM ALL UNSAFE OR HAZARDOUS MATERIALS. RESTORE ESTABLISHED GRADES OR ERECT NECESSARY FENCES.

Valuation: \$0.00

Total Sq Feet: 0.00

Inspection Requests:

Phone: 231-995-6044

Fees	Amount
Demolition Permit Fee (Residential)	\$75.00
Plan Review Fee - Residential	\$55.00
Total:	\$130.00

Payments	Amt Paid
Total Fees	\$130.00
Credit Card	\$130.00
Amount Due:	\$0.00

Inspections:	
Inspection Type	
Final Demolition	



Grand Traverse County
Construction Code
2650 LaFranier Road
Traverse City, MI 49686
(231) 995-6044

Permit	Permit NO.: B21-1675
	Permit Type: Building (Residential)
	Work Classification: Demolition
	Permit Status: Issued
Issue Date: 12/02/2021	Expiration: 05/31/2022

YOUR SPECIAL ATTENTION is called to the following:

This permit is granted on the express condition that the said construction shall, in all aspects, conform to the Ordinances of this jurisdiction including the Zoning Ordinances, regulating the construction and use of buildings, and may be revoked at any time upon violation of any provisions of said ordinances.

This Building Permit must be displayed on all premises. The Department must be notified and inspection made of prior construction work as requested on permit. All new buildings and additions and alterations to existing buildings require a minimum of three inspections, namely, (1) FOUNDATION. prior to covering any portion with backfill; (2) FRAMING AND MASONRY, after all required electrical, plumbing, and/or mechanical rough inspections have been performed, and prior to concealing any framing; (3) FINAL, prior to occupancy of building structure.

On jobs involving reinforced concrete work, inspection must be made after steel is in place and before concrete is poured.

The department reserves the right to reject any work which has been concealed or completed without first having been inspected and approved by the Department in accordance with the requirements of the various codes.

Any deviation from the approved plans must be authorized by the approval of the revised plans subject to the same procedure established for the examination of the original plans. An additional permit fee is also charged predicated on the extent of the variation from the original plans.

Permits are not valid if construction work is not started within six months from the date the permit is issued.

Final inspection and certificate of occupancy must be obtained before occupying the building.

THIS PERMIT CONVEYS NO RIGHT TO OCCUPY ANY STREET, ALLEY OR SIDEWALK OR ANY PART THEREOF, EITHER TEMPORARILY OR PERMANENTLY. ENCROACHMENT ON PUBLIC PROPERTY NOT SPECIFICALLY PERMITTED UNDER THE BUILDING CODE, MUST BE APPROVED BY THE JURISDICTION. STREET OR ALLEY GRADES AS WELL AS DEPTH AND LOCATION OF PUBLIC SEWERS MAYBE OBTAINED FROM THE DEPARTMENT OF PUBLIC WORKS THE ISSUANCE OF THIS PERMIT DOES NOT RELEASE THE APPLICANT FROM THE CONDITIONS OF ANY APPLICABLE SUBDIVISION RESTRICTIONS.

PERMIT WILL BECOME NULL AND VOID IF CONSTRUCTION WORK IS NOT STARTED WITHIN 6 MONTHS OF DATE THE PERMIT IS ISSUED AS NOTED ABOVE.

NOTICE:

Section 3305.1 of the Michigan Building Code states that "SANITARY FACILITIES SHALL BE PROVIDED DURING CONSTRUCTION, REMODELING OR DEMOLITION ACTIVITIES IN ACCORDANCE WITH THE INTERNATIONAL PLUMBING CODE." Which requires "TOILET FACILITIES SHALL BE MAINTAINED IN A SANITARY CONDITION. CONSTRUCTION WORKER TOILET FACILITIES OF THE NONSEWER TYPE SHALL CONFORM TO ANSI Z4.3." (Michigan Plumbing Code 311.1)

Issued By: Ashley Boardwine

December 02, 2021

Date

Bruce Remai - Building Official

Date

EXHIBIT D

**MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY
AIR QUALITY DIVISION**

July 13, 2023

PERMIT TO INSTALL
87-23

ISSUED TO
Great Lakes Crushing

LOCATED AT
11586 Center Road
Traverse City, Michigan 48654

IN THE COUNTY OF
Ogemaw

STATE REGISTRATION NUMBER
P1311

The Air Quality Division has approved this Permit to Install, pursuant to the delegation of authority from the Michigan Department of Environment, Great Lakes, and Energy. This permit is hereby issued in accordance with and subject to Section 5505(1) of Article II, Chapter I, Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. Pursuant to Air Pollution Control Rule 336.1201(1), this permit constitutes the permittee's authority to install the identified emission unit(s) in accordance with all administrative rules of the Department and the attached conditions. Operation of the emission unit(s) identified in this Permit to Install is allowed pursuant to Rule 336.1201(6).

DATE OF RECEIPT OF ALL INFORMATION REQUIRED BY RULE 203: June 27, 2023	
DATE PERMIT TO INSTALL APPROVED: July 13, 2023	SIGNATURE:
DATE PERMIT VOIDED:	SIGNATURE:
DATE PERMIT REVOKED:	SIGNATURE:

PERMIT TO INSTALL

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COMMON ACRONYMS

AQD	Air Quality Division
BACT	Best Available Control Technology
CAA	Clean Air Act
CAM	Compliance Assurance Monitoring
CEMS	Continuous Emission Monitoring System
CFR	Code of Federal Regulations
COMS	Continuous Opacity Monitoring System
Department/department/EGLE	Michigan Department of Environment, Great Lakes, and Energy
EU	Emission Unit
FG	Flexible Group
GACS	Gallons of Applied Coating Solids
GC	General Condition
GHGs	Greenhouse Gases
HVLP	High Volume Low Pressure*
ID	Identification
IRSL	Initial Risk Screening Level
ITSL	Initial Threshold Screening Level
LAER	Lowest Achievable Emission Rate
MACT	Maximum Achievable Control Technology
MAERS	Michigan Air Emissions Reporting System
MAP	Malfunction Abatement Plan
MSDS	Material Safety Data Sheet
NA	Not Applicable
NAAQS	National Ambient Air Quality Standards
NESHAP	National Emission Standard for Hazardous Air Pollutants
NSPS	New Source Performance Standards
NSR	New Source Review
PS	Performance Specification
PSD	Prevention of Significant Deterioration
PTE	Permanent Total Enclosure
PTI	Permit to Install
RACT	Reasonable Available Control Technology
ROP	Renewable Operating Permit
SC	Special Condition
SCR	Selective Catalytic Reduction
SNCR	Selective Non-Catalytic Reduction
SRN	State Registration Number
TBD	To Be Determined
TEQ	Toxicity Equivalence Quotient
USEPA/EPA	United States Environmental Protection Agency
VE	Visible Emissions

*For HVLP applicators, the pressure measured at the gun air cap shall not exceed 10 psig.

POLLUTANT / MEASUREMENT ABBREVIATIONS

acfm	Actual cubic feet per minute
BTU	British Thermal Unit
°C	Degrees Celsius
CO	Carbon Monoxide
CO ₂ e	Carbon Dioxide Equivalent
dscf	Dry standard cubic foot
dscm	Dry standard cubic meter
°F	Degrees Fahrenheit
gr	Grains
HAP	Hazardous Air Pollutant
Hg	Mercury
hr	Hour
HP	Horsepower
H ₂ S	Hydrogen Sulfide
kW	Kilowatt
lb	Pound
m	Meter
mg	Milligram
mm	Millimeter
MM	Million
MW	Megawatts
NMOC	Non-Methane Organic Compounds
NO _x	Oxides of Nitrogen
ng	Nanogram
PM	Particulate Matter
PM ₁₀	Particulate Matter equal to or less than 10 microns in diameter
PM _{2.5}	Particulate Matter equal to or less than 2.5 microns in diameter
pph	Pounds per hour
ppm	Parts per million
ppmv	Parts per million by volume
ppmw	Parts per million by weight
psia	Pounds per square inch absolute
psig	Pounds per square inch gauge
scf	Standard cubic feet
sec	Seconds
SO ₂	Sulfur Dioxide
TAC	Toxic Air Contaminant
Temp	Temperature
THC	Total Hydrocarbons
tpy	Tons per year
µg	Microgram
µm	Micrometer or Micron
VOC	Volatile Organic Compounds
yr	Year

GENERAL CONDITIONS

1. The process or process equipment covered by this permit shall not be reconstructed, relocated, or modified, unless a Permit to Install authorizing such action is issued by the Department, except to the extent such action is exempt from the Permit to Install requirements by any applicable rule. (R 336.1201(1))
2. If the installation, construction, reconstruction, relocation, or modification of the equipment for which this permit has been approved has not commenced within 18 months, or has been interrupted for 18 months, this permit shall become void unless otherwise authorized by the Department. Furthermore, the permittee or the designated authorized agent shall notify the Department via the Supervisor, Permit Section, Air Quality Division, Michigan Department of Environment, Great Lakes, and Energy, P.O. Box 30260, Lansing, Michigan 48909-7760, if it is decided not to pursue the installation, construction, reconstruction, relocation, or modification of the equipment allowed by this Permit to Install. (R 336.1201(4))
3. If this Permit to Install is issued for a process or process equipment located at a stationary source that is not subject to the Renewable Operating Permit program requirements pursuant to Rule 210 (R 336.1210), operation of the process or process equipment is allowed by this permit if the equipment performs in accordance with the terms and conditions of this Permit to Install. (R 336.1201(6)(b))
4. The Department may, after notice and opportunity for a hearing, revoke this Permit to Install if evidence indicates the process or process equipment is not performing in accordance with the terms and conditions of this permit or is violating the Department's rules or the Clean Air Act. (R 336.1201(8), Section 5510 of Act 451, PA 1994)
5. The terms and conditions of this Permit to Install shall apply to any person or legal entity that now or hereafter owns or operates the process or process equipment at the location authorized by this Permit to Install. If the new owner or operator submits a written request to the Department pursuant to Rule 219 and the Department approves the request, this permit will be amended to reflect the change of ownership or operational control. The request must include all of the information required by subrules (1)(a), (b), and (c) of Rule 219 and shall be sent to the District Supervisor, Air Quality Division, Michigan Department of Environment, Great Lakes, and Energy. (R 336.1219)
6. Operation of this equipment shall not result in the emission of an air contaminant which causes injurious effects to human health or safety, animal life, plant life of significant economic value, or property, or which causes unreasonable interference with the comfortable enjoyment of life and property. (R 336.1901)
7. The permittee shall provide notice of an abnormal condition, start-up, shutdown, or malfunction that results in emissions of a hazardous or toxic air pollutant which continue for more than one hour in excess of any applicable standard or limitation, or emissions of any air contaminant continuing for more than two hours in excess of an applicable standard or limitation, as required in Rule 912, to the Department. The notice shall be provided not later than two business days after start-up, shutdown, or discovery of the abnormal condition or malfunction. Written reports, if required, must be filed with the Department within 10 days after the start-up or shutdown occurred, within 10 days after the abnormal conditions or malfunction has been corrected, or within 30 days of discovery of the abnormal condition or malfunction, whichever is first. The written reports shall include all of the information required in Rule 912(5). (R 336.1912)
8. Approval of this permit does not exempt the permittee from complying with any future applicable requirements which may be promulgated under Part 55 of 1994 PA 451, as amended or the Federal Clean Air Act.
9. Approval of this permit does not obviate the necessity of obtaining such permits or approvals from other units of government as required by law.
10. Operation of this equipment may be subject to other requirements of Part 55 of 1994 PA 451, as amended and the rules promulgated thereunder.

11. Except as provided in subrules (2) and (3) or unless the special conditions of the Permit to Install include an alternate opacity limit established pursuant to subrule (4) of Rule 301, the permittee shall not cause or permit to be discharged into the outer air from a process or process equipment a visible emission of density greater than the most stringent of the following. The grading of visible emissions shall be determined in accordance with Rule 303 (R 336.1303). **(R 336.1301)**
 - a) A six-minute average of 20 percent opacity, except for one six-minute average per hour of not more than 27 percent opacity.
 - b) A visible emission limit specified by an applicable federal new source performance standard.
 - c) A visible emission limit specified as a condition of this Permit to Install.
12. Collected air contaminants shall be removed as necessary to maintain the equipment at the required operating efficiency. The collection and disposal of air contaminants shall be performed in a manner so as to minimize the introduction of contaminants to the outer air. Transport of collected air contaminants in Priority I and II areas requires the use of material handling methods specified in Rule 370(2). **(R 336.1370)**
13. The Department may require the permittee to conduct acceptable performance tests, at the permittee's expense, in accordance with Rule 1001 and Rule 1003, under any of the conditions listed in Rule 1001. **(R 336.2001)**

EMISSION UNIT SPECIAL CONDITIONS

EMISSION UNIT SUMMARY TABLE

The descriptions provided below are for informational purposes and do not constitute enforceable conditions.

Emission Unit ID	Emission Unit Description (Including Process Equipment & Control Device(s))	Flexible Group ID
EUPROCESS	A combination of process equipment (screens, crushers, feeders, conveyors, etc.) located at 11586 Center Road, Traverse City, used to reduce larger materials down to smaller sizes, classify and sort materials into various product types, material handling and transporting of material to storage areas. Control methods include equipment enclosures or enclosed within a building, water sprays, drop chutes and/or pant legs for transfer points.	NA
EUTRUCKTRAFFIC	Truck traffic for delivery of material products to customers; truck traffic from quarry pit to processing area and loader traffic associated with processing equipment, storage pile handling and loading delivery trucks. All commercial truck areas and unpaved road portions from the quarry pit to the process area.	NA
EUSTORAGE	Open area stock piles of various material sizes and product types. Water spray of material products are used when necessary for material storage piles.	NA

Changes to the equipment described in this table are subject to the requirements of R 336.1201, except as allowed by R 336.1278 to R 336.1291.

EUPROCESS EMISSION UNIT CONDITIONS

DESCRIPTION

A combination of process equipment (screens, crushers, feeders, conveyors, etc.) located at 11586 Center Road, Traverse City, used to reduce larger materials down to smaller sizes, classify and sort materials into various product types, material handling and transporting of material to storage areas. Control methods include equipment enclosures or enclosed within a building, water sprays, drop chutes and/or pant legs for transfer points.

Flexible Group ID: NA

POLLUTION CONTROL EQUIPMENT

Water sprays

I. EMISSION LIMIT(S)

1. Visible emissions from the drop point and transfer point portions of EUPROCESS shall not exceed a six-minute average of 7 percent opacity. (R 336.1301, 40 CFR 52.21(c) & (d), 40 CFR 60.670)

II. MATERIAL LIMIT(S)

1. The permittee shall not process any asbestos tailing or waste materials containing asbestos in EUPROCESS pursuant to the National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, Subpart M. (40 CFR Part 61 Subpart M)
2. The permittee shall not process more than 10,000 tons of material through EUPROCESS per 12-month rolling time period as determined at the end of each calendar month. (40 CFR 52.21(c) & (d))

III. PROCESS/OPERATIONAL RESTRICTION(S)

1. The permittee shall not operate any portion of EUPROCESS unless each portion of EUPROCESS meets the specific opacity limit listed in Appendix A of this permit. (R 336.1301, 40 CFR 52.21 (c) & (d), 40 CFR 60.670)
2. The permittee shall not operate EUPROCESS unless the nuisance minimization plan for fugitive dust for all plant roadways, the plant yard, all material storage piles, and all material handling operations specified in Appendix B has been implemented and is maintained. (R 336.1371, R 336.1901)
3. The permittee shall comply with all provisions of the federal Standards of Performance for New Stationary Sources as specified in 40 CFR Part 60 Subparts A and OOO, as they apply to EUPROCESS. (40 CFR Part 60 Subparts A & OOO)

IV. DESIGN/EQUIPMENT PARAMETER(S)

1. The permittee shall not operate any portion of EUPROCESS unless the equipment's specified control device is installed, maintained, and operated in a satisfactory manner as listed in Appendix A. (R 336.1901, R 336.1910, 40 CFR 52.21(c) and (d))
2. The permittee shall install and maintain a belt scale on the 90 foot McCloskey conveyor portion of EUPROCESS which continuously shows the daily throughput rate for the conveyor. (40 CFR 52.21(c) & (d))

V. TESTING/SAMPLING

Records shall be maintained on file for a period of five years. (R 336.1201(3))

1. Within 60 days after achieving the maximum production rate, but not later than 180 days after commencement of trial operation, the permittee shall evaluate visible emissions from EUPROCESS, as required by federal Standards of Performance for New Stationary Sources, at owner's expense, in accordance 40 CFR Part 60 Subparts A and OOO. Visible emission observation procedures must have prior approval by the AQD Technical Programs Unit and District Office. The permittee must submit a complete report of the test results to the AQD Technical Programs Unit and District Office within 45 days following the last date of the test. (R 336.1301, 40 CFR Part 60 Subparts A & OOO)

VI. MONITORING/RECORDKEEPING

Records shall be maintained on file for a period of five years. (R 336.1201(3))

1. The permittee shall complete all required calculations in a format acceptable to the AQD District Supervisor by the 15th day of the calendar month, for the previous calendar month, unless otherwise specified in any monitoring/recordkeeping special condition. (40 CFR 52.21 (c) & (d))
2. The permittee shall keep, in a satisfactory manner, daily and monthly records of the amount of material processed through EUPROCESS. Further, the permittee shall calculate on a monthly basis, the yearly throughput rate based upon the most recent 12-month rolling time period. The permittee shall keep records of the amount of material processed on file and make them available to the Department upon request. (40 CFR 52.21 (c) & (d))

VII. REPORTING

1. The permittee shall provide written notification of construction and operation to comply with the federal Standards of Performance for New Stationary Sources, 40 CFR 60.7. The permittee shall submit this notification to the AQD District Supervisor within the time frames specified in 40 CFR 60.7. (40 CFR 60.7)
2. The permittee shall submit notification to the AQD District Supervisor at least 10 days prior to relocating EUPROCESS to this site; however, if electronic notification is used, the notification shall be submitted at least five days before the change of location or two business days if the owner provided the AQD District Supervisor a list of anticipated operating locations for that calendar year at least 10 days before the change of location and if the proposed location is on that list. (Act 451 324.5505, 40 CFR 52.21 (c) & (d))

VIII. STACK/VENT RESTRICTION(S)

NA

IX. OTHER REQUIREMENT(S)

1. Within 45 days of issuance of this permit, the permittee shall label all equipment using the company ID Numbers in Appendix A, according to a method acceptable to the AQD District Supervisor. Labels shall be in a conspicuous location on the equipment. Within seven days of completing the labeling, the permittee shall notify the AQD District Supervisor, in writing, as to the date the labeling was completed. (R 336.1201)
2. This permit shall be terminated on or before December 31, 2023. (R 336.1201(3))

Footnotes:

¹ This condition is state only enforceable and was established pursuant to Rule 201(1)(b).

EUTRUCKTRAFFIC EMISSION UNIT CONDITIONS

DESCRIPTION

Truck traffic for delivery of material products to customers; truck traffic from quarry pit to processing area and loader traffic associated with processing equipment, storage pile handling and loading delivery trucks. All commercial truck areas and unpaved road portions from the quarry pit to the process area.

Flexible Group ID: NA

POLLUTION CONTROL EQUIPMENT

NA

I. EMISSION LIMIT(S)

1. Visible emissions from all wheel loaders and all truck traffic, operated in conjunction with EUTRUCKTRAFFIC, shall not exceed five (5) percent opacity. Compliance shall be demonstrated using Test Method 9D as defined in Section 324.5525(j) of Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451). (R 336.1301, 40 CFR 52.21(c) & (d))

II. MATERIAL LIMIT(S)

NA

III. PROCESS/OPERATIONAL RESTRICTION(S)

1. The permittee shall not operate EUTRUCKTRAFFIC unless the nuisance minimization plan for fugitive dust for all plant roadways, the plant yard, all material storage piles, and all material handling operations specified in Appendix B has been implemented and is maintained. (R 336.1371, R 336.1901)

IV. DESIGN/EQUIPMENT PARAMETER(S)

NA

V. TESTING/SAMPLING

Records shall be maintained on file for a period of five years. (R 336.1201(3))

NA

VI. MONITORING/RECORDKEEPING

Records shall be maintained on file for a period of five years. (R 336.1201(3))

NA

VII. REPORTING

NA

VIII. STACK/VENT RESTRICTION(S)

NA

IX. OTHER REQUIREMENT(S)

NA

Footnotes:

¹ This condition is state only enforceable and was established pursuant to Rule 201(1)(b).

EUSTORAGE EMISSION UNIT CONDITIONS

DESCRIPTION

Open area stock piles of various material sizes and product types. Water spray of material products are used when necessary for material storage piles.

Flexible Group ID: NA.

POLLUTION CONTROL EQUIPMENT

Include a description of control equipment if applicable. Use NA if no control equipment used.

I. EMISSION LIMIT(S)

1. Visible emissions from each of the material storage piles maintained under EUSTORAGE, shall not exceed five (5) percent opacity. Compliance shall be demonstrated using Test Method 9D as defined in Section 324.5525(j) of Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451). (R 336.1301, 40 CFR 52.21(c) & (d))

II. MATERIAL LIMIT(S)

NA

III. PROCESS/OPERATIONAL RESTRICTION(S)

1. The permittee shall not operate EUSTORAGE unless the nuisance minimization plan for fugitive dust for all plant roadways, the plant yard, all material storage piles, and all material handling operations specified in Appendix B has been implemented and is maintained. (R 336.1371, R 336.1901)

IV. DESIGN/EQUIPMENT PARAMETER(S)

NA

V. TESTING/SAMPLING

Records shall be maintained on file for a period of five years. (R 336.1201(3))

NA

VI. MONITORING/RECORDKEEPING

Records shall be maintained on file for a period of five years. (R 336.1201(3))

NA

VII. REPORTING

NA

VIII. STACK/VENT RESTRICTION(S)

NA

IX. OTHER REQUIREMENT(S)

NA

Footnotes:

¹ This condition is state only enforceable and was established pursuant to Rule 201(1)(b).

APPENDIX A

Equipment Description	ID Number/Serial Number	Opacity Limit (Percent)	Control Device
IRock TJ 2745 150 ton/hr jaw crusher	J45	12	Water sprays
Rubble Master S120 150 ton/hr impact crusher	I120	12	Water sprays
McCloskey ST180 150 ton/hr conveyor	84963	7	Residual moisture
McCloskey 36 x 100 V BIN 150 ton/hr conveyor	83198	7	Residual moisture
McCloskey I44 150 ton/hr impact crusher	01634	12	Water sprays
McCloskey J50V2 150 ton/hr jaw crusher	92268	12	Water sprays

APPENDIX B
Nuisance Minimization Plan for Fugitive Dust

I. Site Roadways / Plant Yard

- A. The dust on the site roadways and the plant yard shall be controlled by applications of water, calcium chloride or other acceptable and approved fugitive dust control compounds. Applications of dust suppressants shall be done as often as necessary to meet all applicable emission limits. A record of all watering/dust suppressant applications shall be kept on file and be made available to the AQD upon request.
- B. All paved roadways and the plant yards shall be swept as needed between applications.
- C. Any material spillage on roads shall be cleaned up immediately.

II. Plant

The drop distance at each transfer point shall be reduced to the minimum the equipment can achieve. The transfer point from the re-circulating belt to the feed belt shall be equipped with an enclosed chute.

III. Storage Piles

- A. Stockpiling of all nonmetallic minerals shall be performed to minimize drop distance and control potential dust problems.
- B. Stockpiles shall be watered on an as needed basis in order to meet the opacity limit of 5 percent. Equipment to apply water or dust suppressant shall be available at the site or on call for use at the site within a given operating day. A record of all watering/dust suppressant applications shall be kept on file and be made available to the AQD upon request.

IV. Truck Traffic

On-site vehicles shall be loaded to prevent their contents from dropping, leaking, blowing or otherwise escaping. This shall be accomplished by loading so that no part of the load shall come in contact within 6 inches of the top of any side board, side panel or tailgate. Otherwise, the truck shall be tarped.

V. AQD/EGLE Inspection

The provisions and procedures of this plan are subject to adjustment by written notification from the AQD if, following an inspection, the AQD finds the fugitive dust requirements and/or permitted emission limits are not being met.

EXHIBIT E

Julius Moss

From: millerlukec@gmail.com
Sent: Friday, September 22, 2023 7:27 PM
To: 'Jennifer Cram'; 'David Sanger'; zoning@peninsulatownship.com
Cc: 'Isaiah Wunsch'; 'Becky Chown'; 'Susan Piehl'
Subject: RE: Property at 11586 Center
Attachments: 01_Demolition Permit_Email.pdf; 02_EGLE Air Quality Permit.pdf

Jenn – thanks for your reply. I'd like to connect in person on Monday given the urgency that this project has recently heightened to. In the meantime, below is the sequence of events that have taken place to get us to where we are today.

- The property was purchased in December 2020, which included two structures and approximately 6 acres of concrete slab.
- In September 2021, we submitted and received approval for a demolition permit from Peninsula Township. From the comments below it doesn't sound like this permit is in the Township files.
 - o I've attached the email chain (01_Demolition Permit_Email) that shows the submission of the permit on 9/17/2021, and there is an email on 9/27/2021 from Christina Deeren which states that the permit will be issued and left in the gray drop box outside the front office doors.
- **More importantly**, the submission email (see attached – 01_Demolition Permit_Email) specifically addresses our intent to **"demo the buildings*, tear up the concrete pad, & crush the concrete."** The Demolition Permit was approved/issued on 9/27/21 without any additional commentary related to our intent in the positive or negative. This is a critical point as we proceeded to make plans and invest significant amounts of money based upon the Townships approval/issuance of the Demolition Permit.
 - o **Note that the original language states buildings in the plural sense. After the demolition permit was approved it was discovered that the white concrete structure was not suitable to demolition until further testing was completed. Such testing has now been completed and discussions are being had as to how to best move forward.*

Under the approved/issued Demolition Permit and stated intent in the permit application, we then proceeded forward with the demolition as outlined below:

- In October 2021, we hired Cornerstone Excavating to begin the first two phases of the demolition work – 1) building demo and 2) pull up concrete/pile onsite. Cornerstone completed most of their work by December 31, 2021, and returned in May 2022 to spread topsoil and do some final restoration work.
 - o Total investment to date ~ \$75,000.
- In February 2022, we signed a contract with a mobile crushing contractor (All Aggregates Inc.) to crush the concrete in June/July 2022. In June 2022, that contractor backed out on the job because of a lack of equipment and personnel.
- In September 2022, we signed a contract with another mobile crushing contractor (Great Lakes Crushing) and immediately began the permitting process with EGLE. In doing so, EGLE required a special use permit from their Air Quality Division based on the location of the work being within the setback boundaries of adjoining properties. That permit was finally issued in July 2023 (see attached – 02_EGLE Air Quality Permit).
 - o Please note that the EGLE Air Quality Permit addresses many of the concerns that were stated during our onsite visit on July 27, 2023 – specifically air quality issues related to dust control by limiting the emissions to a "not to exceed" requirement, by requiring dust control devices (i.e. water sprays and residual moisture), to minimizing the movement of the product onsite – all to reduce the effect of dust.
 - o The permit also references that the permittee "shall not process any asbestos tailing or waste materials". In my conversations with the EGLE Air Quality representative I confirmed that EGLE took 6-8 samples of the site and tested for contamination – all of which came back negative.

- o Ultimately, EGLE Air Quality Division has conducted an evaluation of the proposed work, conducted site visits (including sampling of the location) and approved the work to be completed.

I believe that our isolated/temporary project of crushing concrete does not constitute a “use” as defined or exemplified in the ordinance. The definition and examples provided throughout the ordinances of “use” refer to ongoing activities. For instance, in Article III “use” is defined as, “The purpose for which land or a building is arranged, designed, or intended, or for which land or a building may be occupied.” And further illustrated by the examples of uses that are permitted within the various zoning districts in Article VI – all of which relate to the primary purpose and ongoing use of the land or structure. Lastly, the examples listed in Section 8.7.2. (e.g., sewage treatment and disposal installations, golf courses and country clubs, airports, marinas, etc.) and in Section 8.7.3(7) (examples of what “uses” are allowed as “warehousing and light industrial” – e.g., printing and publishing establishments, research facilities, small warehousing structures, light manufacturing operations employing 25 or less) are all examples of ongoing uses. Whereas, crushing concrete to complete the demolition work is a temporary project that will take approximately 5 days to complete.

All of this to say that we are united with the Township’s desire of beautifying this property along with each of our neighbors who have expressed their verbal support for this project. I want to stress that the actions, time, and money we’ve invested since the issuance of the Demolition Permit have been solely focused on completing the stated intent - “demo the buildings, tear up the concrete pad, and crush the concrete.” It has been almost 2 years since this process started and over \$75,000 invested to date, all of which brings us to this point wherein we have a small window of opportunity to act. I was given notice today that my contractor has availability to start the job next week. I am requesting your urgent attention to this matter as I plan to be at the township offices on Monday morning to hopefully bring this toward a resolution.

Thanks,

Luke

From: Jennifer Cram <planner@peninsulatownship.com>

Sent: Wednesday, September 20, 2023 11:39 AM

To: millerluke@gmail.com; 'David Sanger' <enforcement.peninsulazoning@gmail.com>; Nicholas Wikar <zoning@peninsulatownship.com>

Cc: Isaiah Wunsch <supervisor@peninsulatownship.com>; Becky Chown <clerk@peninsulatownship.com>; Susan Piehl <officemanager@peninsulatownship.com>

Subject: RE: Property at 11586 Center

Luke, please see responses below.

White building. We will secure the white building as requested. There was comments about action being taken and citations related to this building given it’s current state. **Would you please provide reference to the zoning ordinance/rules/regulations that would provide further reference so that I’m able to understand how to best move forward?** We received a complaint from a resident that they believed the white building is dangerous. We therefore had to follow up and thus reached out to you to perform a site inspection. Police Power Ordinance #48 applies. Section 2 notes that no person shall own, occupy or maintain any dangerous structure within the township. Section 3 discusses notice, Section 4 Inspection and Section 5 discusses Penalty/Civil Infraction. A link to Ordinance #48 is included below for reference. We would like to work with you to develop a reasonable timeframe to have this building removed and the site restored.

[https://link.edgepilot.com/s/9a0e58ce/XwfvIOEI5kmbIzeCPss0Jg?u=https://www.peninsulatownship.com/uploads/1/0/4/3/10438394/ordinance 48 - dangerous structures ordinance.pdf](https://link.edgepilot.com/s/9a0e58ce/XwfvIOEI5kmbIzeCPss0Jg?u=https://www.peninsulatownship.com/uploads/1/0/4/3/10438394/ordinance%2048%20-%20dangerous%20structures%20ordinance.pdf)

Concrete pile and crushing. I noted a concern surrounding our intentions to crush the concrete onsite with an unspecified reference to the zoning ordinances prohibiting this activity. **Would you please provide the specific**

reference of the zoning ordinance, or other regulations, that address this operation? The crushing of concrete is considered a heavy industrial use. Your property is zoned A-1. This zone district does not allow heavy industrial uses by right or with a special use permit. Light Industrial uses are permitted within the A-1 zone district with the approval of a Special Use Permit per Sections 8.7.2(7) and 8.7.3(7). Such light industrial uses are only permitted within a completely enclosed building. The crushing of concrete will produce noise and dust that may be hazardous and/or disturbing to existing uses in the vicinity. One of the requirements for special uses is that they not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by fumes, glare or odors. The noise ordinance would also apply. Therefore, the existing concrete on-site must be removed to be in compliance with Section 7.2.4 – Outdoor Storage, copied below.

Section 7.2.4 Outdoor Storage: No land in any of the foregoing Districts shall be used in whole or in part for the storage of unused or discarded equipment or materials, or for the storage of unlicensed cars, boats, salvage, waste and junk outside of properly authorized buildings within said Districts, except as required for the storage of usable farm machinery necessary for permitted agricultural uses and except as permitted in connection with a use otherwise authorized by the Commercial District.

Demolition permit. There was an incorrect reference to a 2015 demolition permit to Wayne Kiley. Our demolition permit was issued in 9/2021 for the demolition of the old metal building that on the corner of Carroll and Center Rd. Would you please provide a copy of this issued permit from 9/2021? We have found no documentation for a demolition permit issued 9/21. We are happy to review any copy that you may have in your records.

Complaints. Would you please provide the specific complaints you've received along with the count of those complaints? We will have to speak to the complainant to see if they wish to be known, or remain anonymous. They complained to our office manager, clerk and supervisor multiple times and so we were asked to look into this matter. I have cc'd our office manager, clerk and supervisor as witness to this statement. When we receive complaints that relate to life safety, we must inspect to see if the complaint is valid. As noted above, there may be several violations that we need to address. We hope to work with you to develop a reasonable timeframe to address violations of the zoning ordinance and police power ordinances.

We would like to meet with you again to discuss next steps at your convenience.

Kind regards,

Jenn Cram

Peninsula Township Director of Planning and Zoning

13235 Center Road

Traverse City MI 49686

phone - 231-223-7314

fax - 231-223-7117

planner@peninsulatownship.com

Office Hours: Mondays 7:30 am to 6:30 pm, Tuesdays – Thursdays 7:30 am to 5 pm and closed Friday – Sunday and Holidays.

From: millerlukec@gmail.com <millerlukec@gmail.com>

Sent: Friday, September 8, 2023 9:49 PM

To: 'David Sanger' <enforcement.peninsulazoning@gmail.com>; Jennifer Cram <planner@peninsulatownship.com>;

Nicholas Wikar <zoning@peninsulatownship.com>

Subject: RE: Property at 11586 Center

Jenn, Dave and Nick –

I hope this finds you all doing well. I wanted to reach out in follow up to the email below as I'm waiting to hear back on the specific questions from our meeting. We are making some progress out at the property and I would like to make sure that our actions are compliant with the township ordinances. In our meeting, there were some generalized statements made which I've identified below and it would be helpful to have specific references to the ordinances or rules so that I can look into these in further detail.

Thanks,

Luke

From: millerluke@gmail.com <millerluke@gmail.com>

Sent: Thursday, July 27, 2023 12:26 PM

To: 'David Sanger' <enforcement.peninsulazoning@gmail.com>; 'Jennifer Cram' <planner@peninsulatownship.com>;

'Planning & Zoning Administrator' <zoning@peninsulatownship.com>

Subject: RE: Property at 11586 Center

Dave, Nick and Jenn –

Thanks for the time this morning. I wanted to follow up with an email so we can make sure there is clarity in what was discussed today at the property. In immediate response, we will have the window and door secured to prevent entry by tomorrow at the latest.

Below is a quick summary and some further requests based on the items we discussed this morning.

- White building. We will secure the white building as requested. There was comments about action being taken and citations related to this building given it's current state. Would you please provide reference to the zoning ordinance/rules/regulations that would provide further reference so that I'm able to understand how to best move forward?
- Concrete pile and crushing. I noted a concern surrounding our intentions to crush the concrete onsite with an unspecified reference to the zoning ordinances prohibiting this activity. Would you please provide the specific reference of the zoning ordinance, or other regulations, that address this operation?
- Concrete contamination. The concrete was tested (8 samples) all of which came back with no indication of contamination. These tests can be made available by submitting a FOIA to EGLE.
- Demolition permit. There was an incorrect reference to a 2015 demolition permit to Wayne Kiley. Our demolition permit was issued in 9/2021 for the demolition of the old metal building that on the corner of Carroll and Center Rd. Would you please provide a copy of this issued permit from 9/2021?
- Complaints. Would you please provide the specific complaints you've received along with the count of those complaints?

Lastly, I wanted to share some feelings in terms of how this mornings meeting came across as it felt much different than the tone of the email that initiated the discussion. I think the quote from the original email that felt a bit like a bait and switch was, "perhaps with some assistance from the Township", wherein the meeting came across as very interrogative and unfriendly. My desire to meet was based on the principle of clear communication with my township officials to create alignment whereas I left the meeting feeling as though the relationship was adversarial. This creates a barrier especially when it comes to disclosing information as it feels extremely threatening to me and my property.

With that being said, my desire is to work with the township on any issues that arise and address them as quickly as possible. I was hopeful that today's discussion would provide some recognition for the work done to date as well as some ideas for how to move forward. Unfortunately, it felt as though I was on the receiving end of a list of complaints

for trying to improve the condition of the property. We've invested a significant amount of time and resources into these properties, and it just felt as though the meeting could have been more clear and understanding as to the best path forward.

Thanks,

Luke Miller
(269)352-5960

From: millerlukec@gmail.com <millerlukec@gmail.com>
Sent: Wednesday, July 19, 2023 1:20 PM
To: 'David Sanger' <enforcement.peninsulazoning@gmail.com>
Cc: 'Jennifer Cram' <planner@peninsulatownship.com>; 'Planning & Zoning Administrator' <zoning@peninsulatownship.com>
Subject: RE: Property at 11586 Center

Dave – thanks for the reply and clarity on the fencing. I spoke with MDOT to make sure I understood their road right of way so I believe I'm all set on that front.

I don't have any printed plans so if you're seeking something specific please just let me know. In terms of complaints, are those related to the three areas in reference? If you're able to provide specific information related to the complaints that would allow me to be better prepared to address them as I'm surprised by the complaints given the state of the property for the past 2 decades prior to our ownership and now our recent efforts to remediate the property to a more useful and appealing state.

Thanks,

Luke

From: David Sanger <enforcement.peninsulazoning@gmail.com>
Sent: Wednesday, July 19, 2023 1:07 PM
To: millerlukec@gmail.com
Cc: Jennifer Cram <planner@peninsulatownship.com>; Planning & Zoning Administrator <zoning@peninsulatownship.com>
Subject: Re: Property at 11586 Center

Luke,

Thanks for the detailed information; we'll use the meeting time to better understand your plans and see if we can help. If possible, please send us any printed materials that may help us understand the issues in more detail. As I mentioned, our interest is to help remediate the property as soon as possible. We have received complaints, and with M-37 designated by MDOT as a Scenic Heritage Highway, it adds some pressure for the Township to get involved.

Also, I will answer your questions, as Jenn is not available and your note states that time is of the essence. I will give you my thoughts now, and defer to Nick for more information.

EXHIBIT F

From: Jennifer Cram <jcram@peninsulatownship.com>

Sent: Tuesday, October 3, 2023 3:50:45 PM

To: Luke Miller <luke.miller@trial.com>; David Senger <enforcement.peninsulazoning@gmail.com>; Nicholas Wilmar <enr@peninsulatownship.com>;
Cc: Isiah Vunuch <supervisors@peninsulatownship.com>; Becky Chown <stcrk@peninsulatownship.com>; Susan Piel <officemanager@peninsulatownship.com>
Subject: Re: Property at 11586 Center

Like, the crushing of concrete is not a use allowed by the Peninsula Township Zoning Ordinance by right, with conditions or with the approval of a special use permit. The closest use that is allowed by special use permit are light industrial uses. Light industrial uses must be conducted in an entirely enclosed building. Please see Sections 6.7 and 8.7.3 (7) of the Peninsula Township Zoning Ordinance.

We now have a copy of the demolition permit that was issued on 9/27/2021 and expired on 9/27/2022. The work authorized by that demolition permit included demolition of existing structures and concrete pad area – 2,304 sq. ft. office building and a 16,211 sq. ft. storage warehouse structure. It did not authorize the crushing of concrete.

We cannot authorize the proposed isolated concrete crushing on the property or within Peninsula Township and therefore cannot issue a land use permit. If you disagree with our determination you may go before the Zoning Board of Appeals and request an interpretation of the Peninsula Township Zoning Ordinance. You are not required to seek a variance. The Zoning Board of Appeals is actually not authorized to grant use variances in the event that they agree with our determination.

We would like to work with you to establish a reasonable timeframe to clean the property up including removing concrete and the demolition and removal of the office building. As the property exists today, it is in violation of the Peninsula Township Zoning Ordinance with regard to outdoor storage under Section 7.2.4 and Police Power Ordinance #48 – Dangerous Structures.

Please let us know what your availability is for a follow up meeting.

Regards,

Jenni Cram

Peninsula Township Director of Planning and Zoning

13235 Center Road

Traverse City, MI 49686

phone - 231-223-7314

fax - 231-223-7117

jcram@peninsulatownship.com

Office Hours: Mondays 7:30 am to 6:30 pm, Tuesdays – Thursdays 7:30 am to 5 pm and closed Friday – Sunday and Holidays.

Jennifer Cram

From: Greg Luyt <Luyt@traverselaw.com>
Sent: Thursday, December 14, 2023 12:07 PM
To: Jennifer Cram; Luke Miller
Cc: Christopher Patterson; David Sanger; Mike Miller; Ginger Blocher
Subject: RE: Update on December 19 ZBA Meeting
Attachments: Demolition Permit Application - Township.pdf; 01_Demolition Permit_Email.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Jenn:

I received a copy of the below e-mail sent yesterday to Luke Miller regarding the pending appeal related to the Township's determination that the Millers' proposed limited concrete crushing activity is not permitted. Respectfully, we disagree that any relevant and necessary information has not been provided in response to the request in your December 5 e-mail, and we believe the Township staff and the Board of Zoning Appeals have all information that is relevant and material to a consideration of the appeal. Accordingly, we object to any request to table the matter, and respectfully request that the public hearing move forward as scheduled on December 19.

With regard to the specific items requested in your December 5 e-mail, please see the responses below in **red**:

- Please provide us with a copy of the complete application that was submitted to EGLE Air Quality Division for the Permit to Install #87-23. **Luke Miller notified you on December 8 that he does not have a copy of the complete application, that he had requested it from EGLE, and that he would provide it if EGLE responds to his inquiry. No such response has yet been received from EGLE, and we do not know that we will be able to obtain a copy of the application. Luke has attempted to call the person at EGLE to whom the application was submitted, but that person is apparently not in the office very often and has not responded. More importantly, however, you have been provided with a copy of the permit issued by EGLE. We do not see how the application is necessary or relevant to the appeal, as the permit dictates what activity is permitted to take place on the property as determined by EGLE.**
- Please provide a copy of the Baseline Environmental Assessment that was completed on the property. **As Luke Miller indicated by e-mail on December 8, we do not see how the Baseline Environmental Assessment is necessary or relevant to the appeal. Mr. Miller asked that you provide further explanation as to why the BEA is being requested, and that explanation has not been provided. Particularly in light of the fact that EGLE has issued a permit authorizing the concrete crushing activity to take place, we do not see any reason that this request for a copy of the BEA should delay the public hearing on the appeal.**
- Please provide the calculations on how much concrete was removed on-site vs. how much will be crushed. **This information was provided in Luke Miller's December 8 e-mail.**
- Please provide the details of what Great Lakes Crushing has been contracted to complete on the property. **This information was provided in Luke Miller's December 8 e-mail.**

- Please provide a copy of the site plan that shows how the crushed concrete will be used on the property. Luke Miller indicated in his December 8 e-mail that no such site plan exists, but he did describe in that e-mail how the crushed concrete will be used.
- Please provide details on the equipment that will be installed on the property to crush concrete. Photos will be helpful. This information, including pictures of the equipment, was provided by Luke Miller via e-mail on December 8.
- Please provide a site plan showing where the equipment will be located on the property and the proximity to adjacent single-family dwellings. This information was provided by Luke Miller via e-mail on December 8.
- Please provide a timeframe for how long it will take to crush the concrete on the property. This information was provided by Luke Miller via e-mail on December 8.
- Please provide the proposed hours of operation that concrete crushing will take place. This information was provided by Luke Miller via e-mail on December 8.
- Please provide us with your plan to remove the existing building with the collapsed roof safely. We do not see how this has anything to do with the issues raised in the appeal. Luke Miller explained the status of this matter in his December 8 e-mail, including that the Millers are in the process of obtaining quotes for demolition and abatement and that no final decisions have been made. As Mr. Miller indicated in his December 8 e-mail, the plan is to address this building after the concrete is crushed, and more information will be provided to the Township when it becomes available.

In your December 13 e-mail below, you also request a copy of the demolition application submitted in 2021. Attached is copy of the application, along with an e-mail exchange between Luke Miller and Christina Deeren which includes additional description of the work to be performed, including crushing of the concrete.

For the above reasons, we do not see any reason why the public hearing on the consideration of the appeal should be delayed. We intend to appear at the meeting on December 19 and to present our appeal at that time.

Finally, if the Township is represented by legal counsel, could you please let me know who that is so that I may contact them directly to discuss these matters?

Thanks,

Greg.

Gregory M. Luyt
 Bowerman, Ford, Clulo & Luyt, P.C.
 620-A Woodmere
 Traverse City, Michigan 49686
 Phone – (231)941-8048
 Fax – (231)941-8192
 E-mail: luyt@traverselaw.com
 Web: www.traverselaw.com

Jennifer Cram

From: Luke Miller <millerluke@gmail.com>
Sent: Friday, December 8, 2023 1:30 PM
To: Jennifer Cram; Gregory Luyt, Bowerman, Bowden, Ford, Clulo & Luyt
Cc: David Sanger; Isaiah Wunsch; Christopher Patterson
Subject: Re: Additional Information Request for Appeal request at ZBA 12/19
Attachments: Support Letter_Schexnaildre.pdf; Support Letter_Kroupa (Peninsula Cellars).pdf; Support Letter_Lambert.pdf; Support Letter_Menzel.pdf; Support Letter_Santucci.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Jenn - per your request the bold items below are the responses.

- Please provide us with a copy of the complete application that was submitted to EGLE Air Quality Division for the Permit to Install #87-23.
 - **Our contractor submitted the permit application and EGLE requires the hard copy to be submitted therefore I do not have a copy of what was submitted. I am reaching out to EGLE to see if they have a copy of the application and will provide it if EGLE responds to my inquiry.**
- Please provide a copy of the Baseline Environmental Assessment that was completed on the property.
 - **We, as buyers, purchased and completed a BEA prior to closing on the property but we are declining to make it available at this time as we don't see the relevancy to the issue at hand. If you are able to provide further explanation as to why this is being requested that would be appreciated.**
- Please provide the calculations on how much concrete was removed on-site vs. how much will be crushed.
 - **We've had 3 contractors estimate between 4.5 to 5.5 ton of concrete.**
- Please provide the details of what Great Lakes Crushing has been contracted to complete on the property.
 - **To crush the concrete.**
- Please provide a copy of the site plan that shows how the crushed concrete will be used on the property.
 - **We do not have a site plan for the property. Our plan is to use the crushed concrete to continue to rehabilitate the property including activities such as leveling ground, creating space to store equipment on, as a base to erect a covering for equipment/hay, etc.**
- Please provide details on the equipment that will be installed on the property to crush concrete. Photos will be helpful.
 - **Mobile concrete crushing equipment - as I understand this will be two units - one to crush down to a certain size then a finishing machine to crush to the finalized product. Also, the following are likely to be involved and/or onsite at some point during the process: loader, excavator, skid steer, dozer, and 2,500 gallon tank for water.**
 - **In regards to pictures, my contractor is currently out of the office and unable to provide pictures as he recently purchased new crushing equipment. He said that he**

will provide these when he is back in the office and I will pass them along when I receive them.

- Please provide a site plan showing where the equipment will be located on the property and the proximity to adjacent single-family dwellings.
 - **In discussions with the contractor the equipment will most likely be located adjacent to the concrete pile as it currently stands, likely north of the pile (anticipated to be within the red outline on the picture below).**



- Please provide a timeframe for how long it will take to crush the concrete on the property.
 - **The estimate is 5 days of crushing operations.**
- Please provide the proposed hours of operation that concrete crushing will take place.
 - **8am to 5pm.**
- Please provide us with your plan to remove the existing building with the collapsed roof safely.
 - **The existing building was not removed as part of the original plan and demolition permit because it was discovered that the building contained asbestos and lead paint. We realized that much more time and work will be required to handle the abatement**

process and we are still analyzing how best to address the demolition. We are currently working with 3 different companies to obtain quotes for the demolition and abatement of this building, but no final decisions have been made. Our plan has been to address this building more fully after the concrete is crushed, and more information can be provided to the Township when it becomes available down the road.

I've also included letters of support for the demolition work from each of our adjoining property owners. Please include these in our meeting packet as well as providing them to the ZBA members in preparation of our 12/19 meeting.

If there any further questions please don't hesitate to reach out.

Enjoy,

Luke Miller
(269)352-5960

From: Jennifer Cram <planner@peninsulatownship.com>

Sent: Tuesday, December 5, 2023 3:41 PM

To: Luke Miller <millerlukec@gmail.com>; Gregory Luyt, Bowerman, Bowden, Ford, Clulo & Luyt <Luyt@traverselaw.com>

Cc: David Sanger <enforcement.peninsulazoning@gmail.com>; Isaiah Wunsch <supervisor@peninsulatownship.com>; Christopher Patterson <cpatterson@fsbrlaw.com>

Subject: Additional Information Request for Appeal request at ZBA 12/19

Luke, some additional information will be helpful for staff and the ZBA to understand the details of what you are proposing related to the use/activity of crushing concrete at 11586 Center Road.

- Please provide us with a copy of the complete application that was submitted to EGLE Air Quality Division for the Permit to Install #87-23.
- Please provide a copy of the Baseline Environmental Assessment that was completed on the property.
- Please provide the calculations on how much concrete was removed on-site vs. how much will be crushed.
- Please provide the details of what Great Lakes Crushing has been contracted to complete on the property.
- Please provide a copy of the site plan that shows how the crushed concrete will be used on the property.
- Please provide details on the equipment that will be installed on the property to crush concrete. Photos will be helpful.
- Please provide a site plan showing where the equipment will be located on the property and the proximity to adjacent single-family dwellings.
- Please provide a timeframe for how long it will take to crush the concrete on the property.
- Please provide the proposed hours of operation that concrete crushing will take place.

Please provide requested information no later than noon on Monday, December 11 to be included in the packet.

Thanks,

Jenn Cram

*Peninsula Township Director of Planning and Zoning
13235 Center Road*

Jennifer Cram

From: Jennifer Cram
Sent: Tuesday, December 5, 2023 3:42 PM
To: Luke Miller; Gregory Luyt, Bowerman, Bowden, Ford, Clulo & Luyt
Cc: David Sanger; Isaiah Wunsch; Christopher Patterson
Subject: Additional Information Request for Appeal request at ZBA 12/19

Luke, some additional information will be helpful for staff and the ZBA to understand the details of what you are proposing related to the use/activity of crushing concrete at 11586 Center Road.

- Please provide us with a copy of the complete application that was submitted to EGLE Air Quality Division for the Permit to Install #87-23.
- Please provide a copy of the Baseline Environmental Assessment that was completed on the property.
- Please provide the calculations on how much concrete was removed on-site vs. how much will be crushed.
- Please provide the details of what Great Lakes Crushing has been contracted to complete on the property.
- Please provide a copy of the site plan that shows how the crushed concrete will be used on the property.
- Please provide details on the equipment that will be installed on the property to crush concrete. Photos will be helpful.
- Please provide a site plan showing where the equipment will be located on the property and the proximity to adjacent single-family dwellings.
- Please provide a timeframe for how long it will take to crush the concrete on the property.
- Please provide the proposed hours of operation that concrete crushing will take place.

Please provide requested information no later than noon on Monday, December 11 to be included in the packet.

Thanks,

Jenn Cram
Peninsula Township Director of Planning and Zoning
13235 Center Road
Traverse City MI 49686
phone - 231-223-7314
fax - 231-223-7117
planner@peninsulatownship.com

Office Hours: Mondays 7:30 am to 6:30 pm, Tuesdays – Thursdays 7:30 am to 5 pm and closed Friday – Sunday and Holidays.

Exhibit B

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686

Ph: 231.223.7322 Fax: 231.223.7117

www.peninsulatownship.com

DEMOLITION OF BUILDINGS

No person shall demolish any building or structure unless he/she has obtained a demolition permit from the Grand Traverse County Construction Codes Office. Peninsula Township's advance authorization of the proposed demolition is required but is provided at no charge.

Property Address: 11586 Center Rd. Traverse City, MI 49686

Parcel Number: 11-004-008-00 (8.15 acres)

Owner Name: Miller Luke C Trust Et Al

Applicant Name: Luke Miller

Applicant Phone: (269) 352-5960 Applicant Email: millerlukec@gmail.com

Attach a photo of building(s) or structure(s) to be demolished.



9/17/2021

Applicant Signature

Dated:



9/17/2021

Owner Signature

Dated:

Township authorization to proceed with County Construction Code Demolition Permit:

By: Name

Title

Dated:

Copy to:

File

Assessing Dept.

Planning & Zoning Administrator

From: millerlukec@gmail.com
Sent: Friday, September 17, 2021 9:12 AM
To: Christina Deeren
Subject: Demolition Permit | 11586 Center Rd. (11-004-008-00)
Attachments: Demolition Permit.pdf; Demolition_Aerial Map.png; Demolition_Steel Barn & White Building (South View).png; Demolition_Steel Barn (North View).png; Demolition_White Building.png

Hi Christina –

I think we've finally made some headway on getting the 11586 Center Rd. property that we purchased last December cleaned up. I have a contractor scheduled to demo the buildings, tear up the concrete pad, & crush the concrete. Attached is the complete demolition permit along with 4 pictures of the property identifying what is to be removed/demolished.

Once you have a look would you have some time to connect over the phone so I can understand how this process will work going forward regarding any additional information, timing, etc. so that I can then communicate back to my contractor.

Thanks,

Luke Miller
(269)352-5960





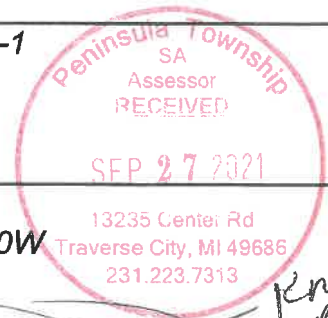




Exhibit C

Land Use Permit-Peninsula Township

Parcel ID: 11-004-008-00	Permit # 6306	Zoned: A-1
Owner: Luke C. Miller Trust Et al		
Address: 2465 Carroll Rd., Traverse City, MI 49686		



Property: Section: 4 **Town:** 28N **Range:** 10W
Address: 11586 Center Rd., Traverse City, MI 49686

Use 1: Demolition of existing structures and concrete pad area- 2304 sq. ft office bldg and a 16,211 sq. ft. storage warehouse structure

Proof of Ownership: Y	Site: Y	HD Permit: NA	Survey: N
9/14/23-SM Kropka Bldg still here			
Driveway: parking lot N	EGLE: N	Soil Erosion: NA	Stormwater: N
scraped	old warehouse gone		
Conforming: Y	Army Corps: N		

Parcel Only Bldg remaining by End **Required**
Width: 330
Depth: ***
Square feet: 9.3 5 ac.
✓ su/fall '23 - will this be demol? *

Inspection Requirements:

Two inspections are required:
First inspection for staking / layout of project prior to construction & footings.
Second inspection required after construction is complete.
Property Owner is responsible to notify the Zoning Administrator when staking is ready for inspection and for the final inspection of the completion of construction.

Setbacks

Front:	35
OHWL:	60
Rear:	50
Side 1:	50
Side 2:	50

Structure

Height:	35
Stories:	2.5
Existing Area:	***
Proposed Area:	***
Total Area:	***

Percent of lot coverage: NA **Maximum:** N/A

Comments: Demolition of existing structures and concrete pad area- 2304 sq. ft office bldg and a 16,211 sq. ft. storage warehouse structure

Check No. 331 \$75.00 Pamel A. Miller 9/23/2021

Stake Inspection must be approved by the Zoning Administrator prior to construction.

Land Use Permit must be posted in a visable location on site

Date Approved: 9/27/2021	Expires: 9/27/2022
Zoning Administrator: Christina Deeren	
Owner/Agent Signature: No signature required due to the COVID 19 shutdown -CMD	

ATE 9/27/2021

PERMIT NO. 6306

LAND USE PERMIT

This Permit Must Be Displayed on the Premises
Any Person willfully destroying this permit will
be punished to the fullest extent of the law.

CONSTRUCTION MUST BE COMPLETED BEFORE PERMIT EXPIRES AND PERMIT
HOLDER SHALL NOTIFY THE ZONING ADMINISTRATION WHEN COMPLETED FOR
FINAL INSPECTION OF BUILDING BEFORE OCCUPANCY MAY BE PERMITTED

This permit is issued for the Demolition of existing structures + concrete pad
Area - Bldgs: 2304 sq. ft. office bldg + 16,241 sq. ft. warehouse
Location: 11568 Gaiters Rd, Traverse City, MI

Fee \$ 75.00

PENNINGTON TOWNSHIP

This Permit Expires 9/27/2022

Exhibit D



Grand Traverse County
Construction Code
2650 LaFranier Road
Traverse City, MI 49686
(231) 995-6044

Permit NO.: B21-1675	
Permit Type: Building (Residential)	
Work Classification: Demolition	
Permit Status: Issued	
Issue Date: 12/02/2021	Expiration: 05/31/2022

Location Address

11586 CENTER RD, TRAVERSE CITY, MI 49686

Parcel Number

11-004-008-00

Contacts

Luke Miller
(269)352-5960
millerluke@gmail.com
Owner

Michael Miller
10270 Stoneybeach Pointe, Traverse City, MI 49686
flyboymjm@gmail.com
Owner

Michael Miller
10270 Stoneybeach Pointe, Traverse City, MI 49686
flyboymjm@gmail.com
Applicant

Description: DEMOLITION OF AN EXISTING 7500 SF AG BUILDING. MAINTAIN SITE FREE FROM ALL UNSAFE OR HAZARDOUS MATERIALS. RESTORE ESTABLISHED GRADES OR ERECT NECESSARY FENCES.

Valuation: \$0.00
Total Sq Feet: 0.00

Inspection Requests:

Phone: 231-995-6044

Fees	Amount
Demolition Permit Fee (Residential)	\$75.00
Plan Review Fee - Residential	\$55.00
Total:	\$130.00

Payments	Amt Paid
Total Fees	\$130.00
Credit Card	\$130.00
Amount Due:	\$0.00

Inspections:

Inspection Type	
Final Demolition	



Grand Traverse County
Construction Code
2650 LaFranier Road
Traverse City, MI 49686
(231) 995-6044

Permit NO.: B21-1675	
Permit Type: Building (Residential)	
Work Classification: Demolition	
Permit Status: Issued	
Issue Date: 12/02/2021	Expiration: 05/31/2022

YOUR SPECIAL ATTENTION is called to the following:

This permit is granted on the express condition that the said construction shall, in all aspects, conform to the Ordinances of this jurisdiction including the Zoning Ordinances, regulating the construction and use of buildings, and may be revoked at any time upon violation of any provisions of said ordinances.

This Building Permit must be displayed on all premises. The Department must be notified and inspection made of prior construction work as requested on permit. All new buildings and additions and alterations to exiting buildings require a minimum of three inspections, namely, (1) FOUNDATION, prior to covering any portion with backfill; (2) FRAMING AND MASONRY, after all required electrical, plumbing, and/or mechanical rough inspections have been performed, and prior to concealing any framing; (3) FINAL, prior to occupancy of building structure.

On jobs involving reinforced concrete work, inspection must be made after steel is in place and before concrete is poured.

The department reserves the right to reject any work which has been concealed or completed without first having been inspected and approved by the Department in accordance with the requirements of the various codes.

Any deviation from the approved plans must be authorized by the approval of the revised plans subject to the same procedure established for the examination of the original plans. An additional permit fee is also charged predicated on the extent of the variation from the original plans.

Permits are not valid if construction work is not started within six months from the date the permit is issued.

Final inspection and certificate of occupancy must be obtained before occupying the building.

THIS PERMIT CONVEYS NO RIGHT TO OCCUPY ANY STREET, ALLEY OR SIDEWALK OR ANY PART THEREOF, EITHER TEMPORARILY OR PERMANENTLY. ENCROACHMENT ON PUBLIC PROPERTY NOT SPECIFICALLY PERMITTED UNDER THE BUILDING CODE, MUST BE APPROVED BY THE JURISDICTION. STREET OR ALLEY GRADES AS WELL AS DEPTH AND LOCATION OF PUBLIC SEWERS MAYBE OBTAINED FROM THE DEPARTMENT OF PUBLIC WORKS THE ISSUANCE OF THIS PERMIT DOES NOT RELEASE THE APPLICANT FROM THE CONDITIONS OF ANY APPLICABLE SUBDIVISION RESTRICTIONS.

PERMIT WILL BECOME NULL AND VOID IF CONSTRUCTION WORK IS NOT STARTED WITHIN 6 MONTHS OF DATE THE PERMIT IS ISSUED AS NOTED ABOVE.

NOTICE:

Section 3305.1 of the Michigan Building Code states that "SANITARY FACILITIES SHALL BE PROVIDED DURING CONSTRUCTION, REMODELING OR DEMOLITION ACTIVITIES IN ACCORDANCE WITH THE INTERNATIONAL PLUMBING CODE." Which requires "TOILET FACILITIES SHALL BE MAINTAINED IN A SANITARY CONDITION. CONSTRUCTION WORKER TOILET FACILITIES OF THE NONSEWER TYPE SHALL CONFORM TO ANSI Z4.3." (Michigan Plumbing Code 311.1)

Issued By: Ashley Boardwine

December 02, 2021

Date

Bruce Remai - Building Official

Date

Exhibit E

Jennifer Cram

From: Donald Olendorf <donald.olendorf@gmail.com>
Sent: Wednesday, January 10, 2024 1:04 PM
To: Jennifer Cram
Subject: Re: Request No. 912, Zoning A-1, Applicant/Owner: Luke C Miller Trust

Re: Request No. 912, Zoning A-1, Applicant/Owner: Luke C Miller Trust

Dear Zoning Board members,

My wife and I are adjacent landowners to the Luke Miller property. We are relieved that the crumbling concrete that is an eyesore on this property will finally be removed and admire Mr. Miller's resolve to return this parcel to an agricultural use. I understand that he will need a relatively short temporary variance to have a company come in to crush and remove the concrete and debris. I've seen operations like this before and have no objections. It would be best if they can do it during these damp winter months so the cold moist air will help keep the dust to a minimum. This is a clean-up opportunity that is long overdue and will rid our OMP of an unattractive nuisance.

Sincerely,
Donald and Donna Olendorf
2399 Carroll Road

12/12, 2023

Peninsula Township Zoning Board of Appeals
c/o Jenn Cram, Director of Planning and Zoning Department
13225 Center Road
Traverse City, Michigan 49686

Re: Support for Variance Application of Luke C. Miller and Michael J. Miller
Property located at 11586 Center Road, Traverse City, Michigan

Dear Zoning Board of Appeals:

I own property which neighbors the property owned by Luke Miller and Mike Miller at 11586 Center Road in Peninsula Township. I am aware that the Millers have filed an application with Peninsula Township seeking approval to crush concrete debris that is currently gathered into several piles on the Miller property. The Millers have shared with me their proposed plans, including that these proposed concrete crushing activities shall take approximately five (5) days to complete and will help to further revitalize and aesthetically enhance this long-vacant Property. The Millers have also shared that to ensure that the work is completed in a manner that limits any temporary disturbances to neighboring property, they have worked with the Michigan Department of Environment, Great Lakes and Energy ("EGLE") to provide for implementation of certain mitigation measures and control devices while the work is being completed. For example, water sprayers will be utilized throughout the crushing process to suppress fugitive dust and particulate matter.

I am writing to voice my support of Michael Miller and Luke Miller's application to the Peninsula Township Zoning Board of Appeals, as I have no objection to the proposed concrete crushing activities at the property commonly known as 11586 Center Road, Traverse City, MI 49684.



Name: Michael J. Miller
Address: 10891 BLUFF / EMERSON LANE DRIVE
Date: 12/12/23

December 5, 2023

Peninsula Township Zoning Board of Appeals
c/o Jenn Cram, Director of Planning and Zoning Department
13225 Center Road
Traverse City, Michigan 49686

Re: Support for Variance Application of Luke C. Miller and Michael J. Miller
Property located at 11586 Center Road, Traverse City, Michigan

Dear Zoning Board of Appeals:

I own property which neighbors the property owned by Luke Miller and Mike Miller at 11586 Center Road in Peninsula Township. I am aware that the Millers have filed an application with Peninsula Township seeking approval to crush concrete debris that is currently gathered into several piles on the Miller property. The Millers have shared with me their proposed plans, including that these proposed concrete crushing activities shall take approximately five (5) days to complete and will help to further revitalize and aesthetically enhance this long-vacant Property. The Millers have also shared that to ensure that the work is completed in a manner that limits any temporary disturbances to neighboring property, they have worked with the Michigan Department of Environment, Great Lakes and Energy ("EGLE") to provide for implementation of certain mitigation measures and control devices while the work is being completed. For example, water sprayers will be utilized throughout the crushing process to suppress fugitive dust and particulate matter.

I am writing to voice my support of Michael Miller and Luke Miller's application to the Peninsula Township Zoning Board of Appeals, as I have no objection to the proposed concrete crushing activities at the property commonly known as 11586 Center Road, Traverse City, MI 49684.

x *John T. Scherz*
Name: John T. Scherz
Address: 11553 Center Rd. TC, MI 49684
Date: 12-5-2023

November 20, 2023

Peninsula Township Zoning Board of Appeals
c/o Jenn Cram, Director of Planning and Zoning Department
13225 Center Road
Traverse City, Michigan 49686

Re: Support for Variance Application of Luke C. Miller and Michael J. Miller
Property located at 11586 Center Road, Traverse City, Michigan

Dear Zoning Board of Appeals:

I own property which neighbors the property owned by Luke Miller and Mike Miller at 11586 Center Road in Peninsula Township. I am aware that the Millers have filed an application with Peninsula Township seeking approval to crush concrete debris that is currently gathered into several piles on the Miller property. The Millers have shared with me their proposed plans, including that these proposed concrete crushing activities shall take approximately five (5) days to complete and will help to further revitalize and aesthetically enhance this long-vacant Property. The Millers have also shared that to ensure that the work is completed in a manner that limits any temporary disturbances to neighboring property, they have worked with the Michigan Department of Environment, Great Lakes and Energy ("EGLE") to provide for implementation of certain mitigation measures and control devices while the work is being completed. For example, water sprayers will be utilized throughout the crushing process to suppress fugitive dust and particulate matter.

I am writing to voice my support of Michael Miller and Luke Miller's application to the Peninsula Township Zoning Board of Appeals, as I have no objection to the proposed concrete crushing activities at the property commonly known as 11586 Center Road, Traverse City, MI 49684.

Joan D. Lambert
Joan D. Lambert

Name: BUCK & LOIS LAMBERT

Address: 2378 CARROLL RD. TRAVERSE CITY, MI 49686

Date: 11/30/2023

November 29, 2023

Peninsula Township Zoning Board of Appeals
c/o Jenn Cram, Director of Planning and Zoning Department
13225 Center Road
Traverse City, Michigan 49686

Re: Support for Variance Application of Luke C. Miller and Michael J. Miller
Property located at 11586 Center Road, Traverse City, Michigan

Dear Zoning Board of Appeals:

I own property which neighbors the property owned by Luke Miller and Mike Miller at 11586 Center Road in Peninsula Township. I am aware that the Millers have filed an application with Peninsula Township seeking approval to crush concrete debris that is currently gathered into several piles on the Miller property. The Millers have shared with me their proposed plans, including that these proposed concrete crushing activities shall take approximately five (5) days to complete and will help to further revitalize and aesthetically enhance this long-vacant property. This property has been an eyesore since I bought my property in 1987. The Millers have also shared that to ensure that the work is completed in a manner that limits any temporary disturbances to neighboring property, they have worked with the Michigan Department of Environment, Great Lakes and Energy ("EGLE") to provide for implementation of certain mitigation measures and control devices while the work is being completed. For example, water sprayers will be utilized throughout the crushing process to suppress fugitive dust and particulate matter.

I am writing to voice my support of Michael Miller and Luke Miller's application to the Peninsula Township Zoning Board of Appeals, as I have no objection to the proposed concrete crushing activities at the property commonly known as 11586 Center Road, Traverse City, MI 49684.

Sincerely,

Marc Santucci

Nov. 29, 2023

Peninsula Township Zoning Board of Appeals
c/o Jenn Cram, Director of Planning and Zoning Department
13225 Center Road
Traverse City, Michigan 49686

Re: Support for Variance Application of Luke C. Miller and Michael J. Miller
Property located at 11586 Center Road, Traverse City, Michigan

Dear Zoning Board of Appeals:

I own property which neighbors the property owned by Luke Miller and Mike Miller at 11586 Center Road in Peninsula Township. I am aware that the Millers have filed an application with Peninsula Township seeking approval to crush concrete debris that is currently gathered into several piles on the Miller property. The Millers have shared with me their proposed plans, including that these proposed concrete crushing activities shall take approximately five (5) days to complete and will help to further revitalize and aesthetically enhance this long-vacant Property. The Millers have also shared that to ensure that the work is completed in a manner that limits any temporary disturbances to neighboring property, they have worked with the Michigan Department of Environment, Great Lakes and Energy ("EGLE") to provide for implementation of certain mitigation measures and control devices while the work is being completed. For example, water sprayers will be utilized throughout the crushing process to suppress fugitive dust and particulate matter.

I am writing to voice my support of Michael Miller and Luke Miller's application to the Peninsula Township Zoning Board of Appeals, as I have no objection to the proposed concrete crushing activities at the property commonly known as 11586 Center Road, Traverse City, MI 49684.

Name: Thomas F. Menzel
Address: 1063 Center Rd. T.C.
Date: 11/29/2023

Menzel's Orchard

Thomas F. Menzel

Summer address:
9704 Edgewood Ave.
Traverse City, MI 49685
menzelt@hotmail.com
231-590-8992



November 29, 2023

Peninsula Township Zoning Board of Appeals
c/o Jenn Cram, Director of Planning and Zoning Department
13225 Center Road
Traverse City, Michigan 49686

Re: Support for Variance Application of Luke C. Miller and Michael J. Miller
Property located at 11586 Center Road, Traverse City, Michigan

Dear Zoning Board of Appeals:

I own property which neighbors the property owned by Luke Miller and Mike Miller at 11586 Center Road in Peninsula Township. I am aware that the Millers have filed an application with Peninsula Township seeking approval to crush concrete debris that is currently gathered into several piles on the Miller property. The Millers have shared with me their proposed plans, including that these proposed concrete crushing activities shall take approximately five (5) days to complete and will help to further revitalize and aesthetically enhance this long-vacant Property. The Millers have also shared that to ensure that the work is completed in a manner that limits any temporary disturbances to neighboring property, they have worked with the Michigan Department of Environment, Great Lakes and Energy ("EGLE") to provide for implementation of certain mitigation measures and control devices while the work is being completed. For example, water sprayers will be utilized throughout the crushing process to suppress fugitive dust and particulate matter.

I am writing to voice my support of Michael Miller and Luke Miller's application to the Peninsula Township Zoning Board of Appeals, as I have no objection to the proposed concrete crushing activities at the property commonly known as 11586 Center Road, Traverse City, MI 49684.



John Kroupa
Peninsula Cellars
11480 Center Rd
Traverse City, MI, 49686
November 29, 2023

Exhibit F





Exhibit G

From: David Sanger <dave.peninsulatruster@gmail.com>
Sent: Monday, September 19, 2022 9:40 AM
To: Isaiah Wunsch <supervisor@peninsulatownship.com>
Cc: Christina Deeren <zoning@peninsulatownship.com>
Subject: Re: FW: Concrete dumping

Isaiah,

I can handle this today. Can you give me a phone number for Paul and the Millers?

Dave

On Mon, Sep 19, 2022 at 8:54 AM Isaiah Wunsch <supervisor@peninsulatownship.com> wrote:

FYI--this is an issue in the little neighborhood where I reside, and I know both parties who are involved. I can try to resolve informally, but it is probably more appropriate for me to hand this one off to the two of you given that my wife and I are friends with both Paul and the Millers.

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

From: Paul Conlen [mailto:pconlen1@gmail.com]
Sent: Thursday, September 15, 2022 12:38 PM
To: Supervisor
Subject: Concrete dumping

Hi Isaiah,

Paul Conlen from Carroll Road here. I just watched today another truck dumping off concrete at the Old Kroupa property. This seems to me like a landfill operation that has been going on all summer. I know the Millers have plans to have the concrete ground up at some point that keeps getting pushed back. I understand grinding up the old building, but the new dumping from other sources seems a bit much. I am concerned as I know a lot of the concrete dust is going to end up at my front porch. Is the dumping from other places allowed?

Thanks

Paul Conlen
2381 Carroll Rd.

Sent from my iPad

Office: 231-216-1212

Cell: 231-342-2152

--

David K. Sanger
Peninsula Township Trustee
13235 Center Road
Traverse City, MI 4686

Office: 231-216-1212

Cell: 231-342-2152

Nicholas Wikar

From: David Sanger <dave.peninsulatruster@gmail.com>
Sent: Monday, September 19, 2022 5:41 PM
To: Christina Deeren; Isaiah Wunsch
Subject: Re: FW: Concrete dumping

Isaiah and Christina,

I spoke with Luke and Paul this afternoon.

Luke was very cordial; he told me that he has not been able to find a contractor to crush the old pavement. The one he had lined up for summer backed out. He is optimistic on a new lead to do the work yet this fall.

Christina confirmed that Luke has a demo Permit for the work.

Luke told me that he brought in several truck loads of sand from a neighbor's project, to fill in low areas on the property.

Summary: no violations

I called Paul and updated him on the work. I did not tell Luke that the complainant was Paul. We do not divulge the name of any complainants, unless we go to Court.

I think that everyone is happy.

Dave

On Mon, Sep 19, 2022 at 12:53 PM Zoning <Zoning@peninsulatownship.com> wrote:

Dave,

Yes, Luke pulled a demo permit for the removal of that structure.

Please see the attached LUP.

Thank you,

Christina

Request #913

Peninsula Township Planning & Zoning Department

STAFF REPORT

ZBA Request # 913

Physical Address of Subject Property: 7470 East Shore Road, Traverse City, MI 49686

Date: January 16, 2024

To: Peninsula Township Zoning Board of Appeals

From: Jenn Cram, AICP, Director of Planning and Zoning

RE: Request # 913

**Zoning
District: R-1C Suburban Residential**

**Hearing
Date: January 16, 2024 – 7:00 PM**

**Applicants/
Owners: Greg and Janet Heinlein, 886 Rosastone Trail, Houston, TX 77024**

**Subject
Property: 7470 East Shore Road, Traverse City, MI 49686**

Tax ID: 28-11-030-023-00

Request:

1. Requesting to replace an existing two (2) story non-conforming structure per Section 7.5.6.
2. Requesting a variance from Section 6.8 of the zoning ordinance to construct a new two (2) story dwelling with attached garage 18-feet from the front property line, where 25-feet is required.
3. Requesting a variance from Section 6.8 of the zoning ordinance to construct a new a new two (2) story dwelling with attached garage, 44-feet from the ordinary high water mark, where 60-feet is required.

Applicant

Statement: Please see the enclosed application submitted by the property owners along with additional information submitted to date, **Exhibit A**.

Background Information:

- The subject property is zoned R-1C – Suburban Residential – Single and Two Family Residential; and the properties to the south are also zoned R-1C. The properties to the north and west are zoned R-1A – Rural and Hillside. The subject property is adjacent to Grand Traverse Bay to the east.
- The subject property is 0.43 acres or 18,730.8 square feet.
- The minimum lot size for the R-1C zone district is 20,000 square feet.
- The Peninsula Township Zoning Ordinance was adopted in 1972.
- The lot was created legally prior to the adoption of the Peninsula Township Zoning Ordinance. Thus, the property is legally non-conforming with regard to lot size.

- The subject property currently contains a one-story residence with attached garage and walk out basement. Based on the definition of basement, the existing dwelling is considered to be a two-story structure.
- According to the Assessor's records the existing residence with attached garage was constructed in 1970 prior to the adoption of the zoning ordinance in 1972 and before Grand Traverse County Construction Code started issuing building permits in 1975.
- The existing residence and attached garage do not meet the required setback from the front property line/right-of-way or the ordinary high-water mark. Thus, the existing structure is non-conforming with regard to setbacks.
- The property owners are proposing two additions. One addition is proposed on the north side of the existing attached garage and the other to the south of the existing nonconforming residence. Both additions meet required setbacks. The property owners wish to retain the existing foundation of the residence and replace the structure above. The replacement of the main floor and roof above do not meet the required setbacks and thus variances are being requested.

Section 3.2 Definitions:

***Practical Difficulty:** To obtain a dimensional variance, the applicant must show practical difficulty by demonstrating all of the following:*

- (a) *Strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for any permitted purpose, or would render conformity unnecessarily burdensome;*

Staff Comment: The existing parcel is approximately 120 feet deep. Because it is on the shoreline there is a greater rear yard setback (60 feet from the ordinary high water mark vs. 30 feet from rear property line). The buildable envelope with all required setbacks considered is relatively shallow.

- (b) *A variance would do substantial justice to the applicant as well as to other property owners in the district, and that a lesser relaxation would not give substantial relief and be more consistent with justice to others;*

Staff Comment: A variance from the front and ordinary high water mark setbacks will allow the applicant to replace an existing non-conforming structure on a non-conforming lot with a contemporary residence (upgraded framing for insulation, taller ceilings, open floorplan, etc.).

- (c) *The plight of the owner is due to unique circumstances of the property; and;*

Staff Comment: The plight of the owners is due to the unique circumstances of the small, shallow lot and location of existing residence.

- (d) *The problem was not self-created. (ADDED BY AMENDMENT 171A)*

Staff Comment: As noted above, this problem was not created by the property owners as the lot was created and existing residence

constructed prior to the adoption of the zoning ordinance.

Section 6.8 Schedule of Regulations: (Revised by Amendment 91), (Amendment 107D)

The Regulations contained herein shall govern the Height, Bulk, and Density of Structures and Land Area by Zoning District:

*R-1C, Suburban Residential: Front setback = 25 feet
Side yard setbacks = 15 feet
Rear yard setback = 30 feet
Ordinary Highwater setback = 60 feet
Allowable percentage of lot coverage = 25%*

TABLE OUTLINES VARIANCE REQUESTS No. 2, No. 3, and No. 4

R-1C Standards (Section 6.8)	Required	Variance	Conforms to Standards?
Minimum Front Setback	25'	No	No – Variance Requested
Minimum North side yard setback	15'	No	Yes
Minimum South side yard setback	15'	No	Yes
Minimum Rear setback	30'	No	Yes
Minimum OHWM	60'	No	No – Variance Requested
Percentage of Lot Coverage:	25% max.	No	Yes

Staff Comment:

The purpose of the front setback is to provide safety and separation of structures from the road.

The purpose of the ordinary high water mark setback is for safety and water quality.

Section 7.5.6 Moving or Replacing Non-Conforming Structure: *The Township Zoning Board of Appeals may grant a variance for moving or replacing a residential structure on a legal non-conforming lot so that the continued intensity of residential use of the lot is substantially the same as in the pre-existing structure, provided all of the following are met:*

- (1) *The moved or replaced structure is less non-conforming than the previous structure;*

Staff Comment: The proposed replacement structure will be less non-conforming than the existing structure since the eaves will be reduced by 6 inches (existing eave = 24 inches and proposed eave = 18 inches). In addition, the footprint of the attached garage will be reduced by 9 inches and shifted west approximately 2 feet to better meet the setback from the ordinary high water mark.

- (2) *There is increased safety to the residents of the structure and to the traveling public on the road providing access to the parcel;*

Staff Comment: The proposed location of the replacement structure is nearly the same as the existing structure except for a minor shift in the garage towards the road.

- (3) *Safety and substantial justice is achieved;*

Staff Comment: As noted above, the proposed location of the replacement structure is nearly the same as the existing structure. The eaves have been reduced by six inches and the garage shifted to the west to be less non-conforming.

- (4) *If the variance allows the structure to encroach into the setback from the Ordinary High Water Line, conditions of approval shall include:*
- (a) *provisions for stabilization of the shoreline so that the structure is not likely to be damaged by high water or wave action;*
 - (b) *there is no additional detriment to adjacent properties;*
 - (c) *shoreline vegetation is existing or established consistent with the intent of Section 7.4.4 Removal of Shore Cover; and*
 - (d) *sea walls will not be allowed unless it is determined that there is no feasible alternative.*

Staff Comment: The requested variances do not require shoreline stabilization, will not likely be a detriment to adjacent properties. No shoreline vegetation is proposed to be removed or added as a result of the requested variances. No seawall is proposed.

- (5) *In addition to (1) through (4) above, the subject parcel shall also meet all of the basic and special conditions as provided for all variances in Section 5.7.3. (REVISED BY AMENDMENT 176B)*

Section 5.7.3 Variances: *The Board of Appeals shall have the power to authorize, upon an appeal, specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, PROVIDED ALL of the basic conditions listed herein can be satisfied:*

1. Basic Conditions:

- (a) *That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.*

Staff Comment: The need for variances is due to the unique circumstances and physical conditions of the property, as the lot was created prior to the adoption of the zoning ordinance. Furthermore, the lot is non-conforming with regard to minimum lot size. The lot is shallow. There is a 60-foot setback from the ordinary high water mark that limits the location of a residence on a shallow lot. The existing residence was constructed on the property prior to

the adoption of the zoning ordinance. The property owners would like to replace the existing non-conforming structure while utilizing the existing foundation.

- (b) That the need for the variance is not the result of actions of the property (self-created) or previous property owners.

Staff Comment: As discussed above, the applicants/property owners did not create the practical difficulty. The lot was created, and the existing residence constructed prior to the adoption of the zoning ordinance.

- (c) That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)

Staff Comment: The buildable area on the subject property is limited based on how deep it is and the required setback from the ordinary high water mark. The existing residence was constructed prior to the adoption of the zoning ordinance and is non-conforming with regard to setbacks. In order to replace the existing structure on the existing foundation, variances are required.

- (d) That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give a substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

Staff Comment: A variance from the front and ordinary high water mark setbacks will allow the property owners to replace an existing non-conforming structure utilizing the existing foundation. The replacement structure will be less non-conforming.

- (e) That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.

Staff Comment: The requested variances will not likely cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood as there is currently a non-conforming structure with regard to setbacks that has existed for approximately fifty-three years. The replacement structure and proposed additions meet the required side yard setbacks and lot coverage requirements. The replacement structure provides for front and rear setbacks as best as possible by reducing the eaves by 6 inches.

- (f) That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use of r which a conditional use or temporary use permit is required.

Staff Comment: The R-1C zone district allows for single and two-family dwellings as uses by right along with associated accessory structures. The proposed replacement structure will be used as a dwelling with attached garage consistent with allowed uses.

2. *Rules: The following rules shall be applied in the granting of variances:*

- (a) The Board of Appeals may specify, in writing, such conditions regarding the character, location, and other features that will in its judgement, secure the objectives and purposes of this Ordinance. The breach of any such condition shall automatically invalidate the permit granted.*

Staff Comments: We recommend that as a condition of approval that the property owners provide a setback certification that confirms the existing setback to eaves as part of the land use permit process.

- (b) Each variance granted under the provisions of this Ordinance shall become null and void unless: the construction authorized by such variance or permit has been commenced within six (6) months after the granting of the variance; and the occupancy of the land, premises, or buildings authorized by the variance has taken place within one (1) year after the granting of the variance.*
- (c) No application for a variance which has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board of Appeals to be valid.*

Draft Conditions of Approval:

1. A demolition permit will be required prior to removing the main floor and roof of the existing structure.
2. A setback certification confirming the existing setbacks measured from the edge of eaves to property lines and the ordinary high water mark shall be provided as part of the land use permit application.

**Peninsula Township
Zoning Board of Appeals**

ZBA Case No. 913

Date of Meeting: January 16, 2024

Peninsula Township
13235 Center Road
Traverse City, MI 49686

Applicants/Owner: Greg and Janet Heinlein, 886 Rosastone Trail, Houston, TX 77024
Address: 7470 East Shore Road, Traverse City, MI 49686

Parcel Code: #28-11-030-023-00

Request:

1. Requesting to replace an existing two (2) story non-conforming structure per Section 7.5.6.

Action by the Zoning Board of Appeals:

(Chair)

☐ Yes

☐ No

(Vice Chair)

☐ Yes

☐ No

(Member)

☐ Yes

☐ No

(Member)

☐ Yes

☐ No

(Member)

☐ Yes

☐ No

Board Action:

**Peninsula Township
Zoning Board of Appeals**

ZBA Case No. 913

Date of Meeting: January 16, 2024

Peninsula Township
13235 Center Road
Traverse City, MI 49686

Applicants/Owner: Greg and Janet Heinlein, 886 Rosastone Trail, Houston, TX 77024
Address: 7470 East Shore Road, Traverse City, MI 49686

Parcel Code: #28-11-030-023-00

Request:

2. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a new two (2) story single-family residence with attached garage 18-feet from the front property line, where 25-feet is required.

Action by the Zoning Board of Appeals:

_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Chair)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Vice Chair)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		

Board Action:

**Peninsula Township
Zoning Board of Appeals**

ZBA Case No. 913

Date of Meeting: January 16, 2024

Peninsula Township
13235 Center Road
Traverse City, MI 49686

Applicants/Owner: Greg and Janet Heinlein, 886 Rosastone Trail, Houston, TX 77024
Address: 7470 East Shore Road, Traverse City, MI 49686

Parcel Code: #28-11-030-023-00

Request:

3. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a new two (2) story single-family residence with attached garage 44-feet from the ordinary high water mark, where 60-feet is required.

Action by the Zoning Board of Appeals:

_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Chair)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Vice Chair)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		
_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Member)		

Board Action:

Exhibit A

Peninsula Township Variance Application

Application Guidelines

13235 Center Road, Traverse City MI 49686

Ph: 231.223.7322 Fax: 231.223.7117

www.peninsulatownship.com

1. Zoning Board of Appeals (ZBA) applications are available from the Peninsula Township Planning & Zoning Department, 7:30 a.m. to 6:30 p.m., Monday, and 7:30 a.m. to 5:00 p.m. Tuesday through Thursday, or online at www.peninsulatownship.com/zoning.
2. **Applications must be submitted to the Planning & Zoning Department at least four (4) weeks prior to the ZBA meeting. Twelve (12) copies must be submitted.**
3. If the applicant is not the property owner, a letter signed by the owner agreeing to the variance must be included with the application.
4. It is the applicant's responsibility to review and address the appropriate sections of the Zoning Ordinance prior to submission.
5. It is the applicant's responsibility to ensure that the application is complete upon submission. **Planning and Zoning Department staff will determine and confirm with the applicant that the application is complete.** An incomplete application will not be considered for review by the ZBA.
6. The application will be forwarded to members of the ZBA for a public hearing.
7. A notice of the public hearing must be mailed to the property owners and occupants within three hundred (300) feet of the subject property not less than fifteen (15) days before the public hearing.
8. The applicant will receive a notice of the public hearing in the mail, and is expected to attend the meeting.
9. ZBA meetings are held on the third Tuesday of every month, beginning at 7:00 p.m. in the Township Hall, 13235 Center Road, Traverse City, MI 49686.
10. If the variance(s) are granted, **construction authorized by such variance(s) must begin within six (6) months after the granting of the variance, and the occupancy of land, premises, or buildings authorized by the variance must take place within one (1) year after the granting of the variance.**
11. If the variance(s) are granted, construction authorized by such variance(s) must comply with all other necessary permits. **A variance is independent from, and does not substitute for, all other permits.**
12. No application for a variance which has been denied wholly or in part by the Board shall be resubmitted for a period of one (1) 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 Board to be valid.

OFFICE USE ONLY		
Date Received:	Fee Received:	Board Action:
Date Complete:	Meeting Date:	

Peninsula Township Variance Application

General Information

A fully completed application form, fee, and all related documents must be submitted to the Planning & Zoning Department at least four (4) weeks prior to the Zoning Board of Appeals meeting. **12 copies are required.**

Applicant Information

Applicant: Name Greg and Janet Heinlein
Property Address Line 1: 7470 East Shore Rd, Traverse City, MI 49686
Mailing Address Line 2: 886 Rosastone Trail, Houston TX 77024
Phone: home (281) 974-2019 Cell: (832) 954-5598
E-mail heinleingreg@gmail.com

Owner: Name The SGBR 2007 Management Trust, Greg and Janet Heinlein, Trustees
Property Address Line 1: 7470 East Shore Rd, Traverse City, MI 49686
Mailing Address Line 2 886 Rosastone Trail, Houston TX 77024
Phone: (281) 974-2019 Cell (832) 954-5598
E-mail heinleingreg@gmail.com

(If the applicant is not the property owner, a letter signed by the owner agreeing to the variance must be included with the application.)

Property Information

Parcel ID 28-11-030-023-00 Zoning R-1C, Suburban Residential
Address Line 1 7470 East Shore Rd,
Address Line 2 Traverse City, MI 49686

Type of Request

Indicate which Ordinance requirement(s) are the subject of the variance request:

☒ Front Yard Setback ☐ Side Yard Setback ☐ Rear Yard Setback
☐ Width to Depth Ratio ☐ Lot Coverage ☐ Off-Street Parking
☐ Signage ☐ Height/Width ☐ Non-Conformity Expansion
☒ Other: Please Describe: Ordinary High Water Mark Setback (60'), and non-conforming lot

Attachments

☐ \$1,000.00 application fee WAIVED
☒ Basic Conditions Worksheet
☒ Site plan drawn to scale showing the following:
 a. Property boundaries; Shoreline properties must show the Ordinary High Water Mark on a certified survey, and the Flood Elevation Line (3 feet above OHWM) if any;
 b. All existing and proposed structures including decks and roof overhangs;
 c. Setbacks for existing and proposed structures (varies by zoning district).
☒ Front elevation diagram drawn to scale.

Peninsula Township Variance Application

Basic Conditions Worksheet

In order for a variance to be justified, the Applicant must meet **all of the Basic Conditions**, as defined in Section 5.7.3(1) of the Peninsula Township Zoning Ordinance. The Applicant must answer the following questions pertaining to the Basic Conditions in detail. Please attach a separate sheet if necessary and label comments on the attached sheet with corresponding number/letter on application.

Section 5.7.3(1) Basic Conditions: The Board shall have the power to authorize, upon an appeal specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, **provided all of the Basic Conditions listed herein can be satisfied.**

(1) BASIC CONDITIONS: The applicant must meet ALL of the following Basic Conditions. That any variance from this Ordinance:

- a) That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.**

Is this condition met? Yes. Please explain: The character of this property including its size, shape, topography, proximity to the water, and the zoning requirements (specifically the setbacks) that are applied to it, reduce the buildable area on the site such that the original home has become non-conforming AFTER adoption of the Ordinance in 1972, on both the road side and the water side. The home was built in 1970. Further, the lot itself is non-conforming. Minimum lot size in the R-1C District is 20,000 sf. The lot, according to the Peninsula Twp. Assessor is .44 acres, or 19,166 sf. The Owner has already accepted the limitations of this lot in designing a new garage addition that will be less than the size required to hold a normal vehicle or truck.

- b) The need for the variance is not the result of actions of the property owner (self-created) or previous property owners.**

Is this condition met? Yes. Please explain: The condition is not self-created. The original home (built 1970) pre-dates the current Ordinance. The Director of Planning & Zoning has denied granting a Land Use Permit even though the new additions are within the conforming setbacks under 7.5.5, and the only structural changes to the existing home fall within the definition of: 1) Alterations under 7.5.4 and; 2) are disputed to fall under 7.5.6. The proposed renovations do NOT increase non-conformity or intensity. The proposed renovations to the existing home use existing wall locations and are simply taking up wall heights from 8' to 10' and the max roof height remains under 35' measured from all sides.

- c) That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)**

condition met? Yes. Please explain: See next page

- d) The proposed renovation for the small garage to the north and the new extension to the south are in compliance with Section 7.5.5 with respect to setbacks, area, frontage, height, and lot coverage. We have designed a roof structure that complies with the lot setbacks under the Ordinance, including the 35' maximum, measured from all sides. If the Owners were not allowed to reconstruct the walls and roof line of the EXISTING home to match the new extensions due to existing non-conformities, the Township would impose a historical home preservation mandate to a home that would injure the Owners values and appearances of the entire home. Non-compliance is only limited to the existing home footprint and is DECREASED by moving the garage approximately 2 feet forward toward the road and away from the water. Compliance with the Ordinance, based on the building envelope created by the required setbacks would significantly limit the size, shape, and construction, creating an impractical home, inconsistent with the neighborhood, and would likely create reductions in property value to the home and neighboring homes.

That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners. Is this condition met? Yes. Please explain: The variance would permit the Owners to modernize the home to enjoy enhanced views of the water and sky, along with current building code upgrades, including improving the home's energy efficiency, creating a safer environment by eliminating old electrical and plumbing with lead soldering, and creating a safer home by moving the stairs out of the main living area. There are also sanitary environmental improvements by moving the septic field roadside, and away from Lake Michigan - meeting both safety and sanitation requirements as outlined in the July 11, 2023 Township Board meeting. In addition, the Owner has designed the new additions to conform with the existing Ordinance.

- e) **That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.**

Is this condition met? Yes. Please explain: No adverse impacts will be created to the surrounding property. Additions on both sides will meet all neighbor setbacks and will not adversely effect neighboring properties. Given the existing home is more than 50 years old, updating it and adding curb appeal will benefit the entire neighborhood and Peninsula Township with improved property tax values. Homeowners nearby have expressed their enthusiasm for the current plans in writing. The owners are including support letters from nearby neighbors. The existing home is a 3-bedroom home, and the new home will maintain 3-bedrooms, with a septic system designed for 3 bedrooms. Site storm water drain plans have been designed to absorb the water within the site, including a rear pervious patio to absorb water rather than run off toward Lake Michigan.

- f) **That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.** Is this condition met? Yes. Please explain: This single family residence will remain a

permanent single family residence, which is an approved use for the R-1C zoning district. The Owners intend to make this their retirement home for the two of them, with visitors only periodically. As the Owners age, they are attempting to make the home modern, upper single floor access for daily living, with a finished walkout downstairs for occasional guests and entertainment.



November 20, 2023

Peninsula Township
Zoning Board of Appeals
13235 Center Rd.
Traverse City, MI 49686

Re: Variance Application

Dear ZBA members:

I am writing on behalf of the SGBR 2007 Management Trust, represented by trustees Greg and Janet Heinlein, regarding a variance request for proposed improvements to their residence at 7470 East Shore Drive, Traverse City, Michigan 49686. Our discussions with township staff and officials have resulted in a cooperative plan addressing the planned additions, with certain elements falling within setbacks and set to be administratively approved under section 7.5.5. However, some improvements necessitate a variance under section 7.5.6.

The enclosed plan details highlight changes in sidewall height, ceiling vaulting, and a transition from a 2 x 4 to a 2 x 6 frame system of the existing permitted non-conforming structure. It is crucial to note that these alterations do not increase the intensity of residential use but rather focus on maintaining the existing structure, and retaining the same number of bedrooms.

We have conducted a thorough analysis considering the applicable conditions under 7.5.6, including those stipulated in section 5.7.3. As outlined below, the variance request is not only consistent with the required standards but also aligns with decisions by this board in previous approvals.

PROPOSED FINDINGS

- (1) THE MOVED OR REPLACED STRUCTURE IS LESS NON-CONFORMING THAN THE PREVIOUS STRUCTURE;

The proposed plan details a 2-foot reduction in the non-conformity of a portion of the building. This reduction is similar to others permitted by this board.

- (2) THERE IS INCREASED SAFETY TO THE RESIDENTS OF THE STRUCTURE AND TO THE TRAVELING PUBLIC ON THE ROAD PROVIDING ACCESS TO THE PARCEL;

There are no changes which would increase the non-conformity. In fact, there is a proposed decrease in the non-conformity for the waterside setback. There is no increase in intensity of use or encroachment along the roadside setback.

(3) SAFETY AND SUBSTANTIAL JUSTICE IS ACHIEVED;

The proposal provides the Applicant the desired use of the property without increasing the intensity. In exchange, the non-conformity is reduced. Necessary safety and substantial justice are achieved by the proposal.

SECTION 5.7.3

THAT ANY VARIANCE FROM THIS ORDINANCE:

(A) WILL NOT BE CONTRARY TO THE PUBLIC INTEREST OR TO THE INTENT AND PURPOSE OF THIS ORDINANCE.

The public policy interest has always been in favor the free use of real property with certain restrictions (zoning and police power ordinances) to further the public health, safety and welfare. With regard to non-conformity the public interest is twofold, 1) assure, that the plan is not an increase in the non-conformity, and 2) that private property rights are maintained. In this case the proposal is reducing the non-conformity and not increasing the intensity, it will remain a single-family home with the same number of bedrooms (three). The proposal does allow for the design preferences of the Applicant of an increased wall height, vaulted ceiling, improved construction quality and energy efficiency. The proposal balances the property owners' personal desires and design objectives while, decreasing the non-conformity, or increasing the intensity of the use.

(B) SHALL NOT PERMIT THE ESTABLISHMENT WITHIN A DISTRICT ANY USE WHICH IS NOT PERMITTED BY RIGHT, UNDER SPECIAL CONDITIONS, OR BY SPECIAL USE PERMIT WITHIN THAT ZONE DISTRICT, OR ANY USE OR DIMENSIONAL VARIANCE FOR WHICH A CONDITIONAL USE PERMIT IS REQUIRED.

The proposal is replacing/remodeling parts of a single-family home. Such use is a use by right in this zoning district.

(C) 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.

The proposal would not have any adverse effect on property values let alone a substantial one. In fact, the investment in the property would have the opposite effect. Increasing the values of the neighboring properties and providing greater tax revenue for essential services.

November 20, 2023

Page 3

(D) 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.

This type of proposed variance is very specific and a specific section of the ordinance deals with just these types of variances. Consequently, such a regulation already exists and there would be essentially no benefit to another.

(E) WILL RELATE ONLY TO PROPERTY THAT IS UNDER CONTROL OF THE APPLICANT.

The proposal is related to the Applicant's property and has no wide spread application outside of the property. The fact specific status of the property makes it uniquely applicable to it, and it alone.

(2) SPECIAL CONDITIONS: WHEN ALL OF THE FOREGOING BASIC CONDITIONS CAN BE CLEARLY DEMONSTRATED:

(A) WHERE THERE ARE PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS WHICH PREVENT CARRYING OUT THE STRICT LETTER OF THIS ORDINANCE, THESE HARDSHIPS OR DIFFICULTIES SHALL NOT BE DEEMED ECONOMIC, BUT SHALL BE EVALUATED IN TERMS OF THE USE OF A PARTICULAR PARCEL OF LAND.

The unnecessary hardship here is that the only way to remodel/improve the home aesthetically, by going vertical is through this variance process. Because there is no other way to exercise their property rights, they must do so through a variance.

(B) 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 OR 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.

For the same reasons stated above the situs of the building on the property and its characteristics are such that the only way to remodel/improve the home aesthetically, by going vertical is through this variance process. The conditions that are applicable to this proposal were not the result of actions of the Applicant but the adoption of standards within the ordinance. The home has permitted non-conforming status.

November 20, 2023

Page 4

(C) WHERE THE LOT OR PARCEL OF LAND WAS OF LEGAL RECORD OR HAD BEEN LAID OUT BY A REGISTERED SURVEYOR PRIOR TO THE EFFECTIVE DATE OF THIS ORDINANCE.

This fact is true.

(D) WHERE SUCH VARIATION IS NECESSARY FOR THE PRESERVATION OF A SUBSTANTIAL PROPERTY RIGHT POSSESSED BY OTHER PROPERTIES IN THE SAME ZONING DISTRICT.

This is essential a remodel of a single-family residence. The proposed design decreases the non-conformity, and goes vertical only in the existing non-conforming setback area. The proposal is consistent with a most common use for such land and is consistent with the rights of others in the same district that don't have the same unique features to contend with.

In light of the foregoing, the Applicant respectfully requests approval for the presented variance. We believe this variance is essential to improving the property without compromising the established standards of the community.

Thank you for your time and consideration. We are available to provide any additional information or clarification as needed.

Sincerely,

KUHN ROGERS PLC



Marc S. McKellar II
Direct Dial: (231) 947-7901 x106
msm@kuhnrogers.com

MSM

Proposed House AND STORM WATER PLAN

[illegible]

DESIGN NOTES:

	•	/	/	To	/	/	DIGITAL TEMPORARY E.E.C. MEASUREMENTS
SITE CLEANING & REMOVALS	•	/	/	To	/	/	
SITE GRADING	•	/	/	To	/	/	
SEPTIC IMPROVEMENTS	•	/	/	To	/	/	
TREES & LANDSCAPING, SURFACE IMPROVEMENTS	•	/	/	To	/	/	
FINAL GRADING & RESTORATION	•	/	/	To	/	/	
SITE CLEANUP	•	/	/	To	/	/	
REMOVE TEMPORARY E.E.C. MEASUREMENTS	•	/	/	To	/	/	

DIRECTION OF SURFACE STORM WATER FLOW

1. EAST LANE-NEARLY LOAMY SANDS, 0-2% SLOPES.
DEPTH TO RESTRICTIVE LAYER: > 80 INCHES
NATURAL DRAINAGE CLASS: SOMEWHAT EXCESSIVELY DRAINED
RUNOFF CLASS: NEGOTIABLE
PERMITATION: 5.95 TO 19.98 IN/HR
DEPTH TO WATER TABLE: > 40 INCHES

2. A/A ALFAMA-EASELIZE GRAVELLY LOAMY SANDS, 0-2% SLOPES.
DEPTH TO RESTRICTIVE LAYER: > 80 INCHES
NATURAL DRAINAGE CLASS: EXCESSIVELY DRAINED
RUNOFF CLASS: NEGOTIABLE
PERMITATION: 1.98 TO 19.98 IN/HR
DEPTH TO WATER TABLE: > 40 INCHES

OTHER: SGBR 2007 MANAGEMENT TRUST
 ADDRESS: 7470 EAST SHORE RD.
 TRAVERSE CITY, MI 49684
 TEL: 28-11-030-023-00

ST GOV LOTS 2 COM CEN POST. TH N D DEG 27' E 688.98 FT; TH E 107°
E S 11 DEG 08' W 327.31 FT ALG C/A TO POB. TH S 87 DEG 14' E 126.4
R OF G BAY, TH SWLY ALG G I BAY 120.92 FT N/VL. TH S 10 DEG E 381
ALG S 17 GOVT LOT 2 N 89 DEG W 120.43 FT; TH ALG C/A EAST 381
.56 FT TO POB.



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4822C Grand River Avenue
Livonia, Michigan 48150
PH: (484) 942-4800 • Fax: (484) 948-4429
Officedirect Office
757 B. Woodbine Ave.
Cuyahoga, Michigan 48236
PH: (800) 775-4400 • Fax: (800) 775-4403
Horn • Wyckoff • Nottig
Owens • Cuyahoga • South St. Marys
Tempe, FL • Williamsport, PA
www.sibco-corp.com

Key Point	No Scale
-----------	----------

Client:
GREG AND JANET
HEINLEIN

Project
RENOVATION
AND ADDITION

7470 EAST CHURCH ROAD
TRAVERSÉ CITY, MI 48809

Date	10-27-23	INVEST FOR
		PERMITS & CONSTRUCTION
	11-28-23	REVISION 1
Drawn		by
Checked		by
Approved		by

Sheet Title:
EX. FLOOR PLANS
DEMOLITION
DESCRIPTIONS

Project Number: **523405**

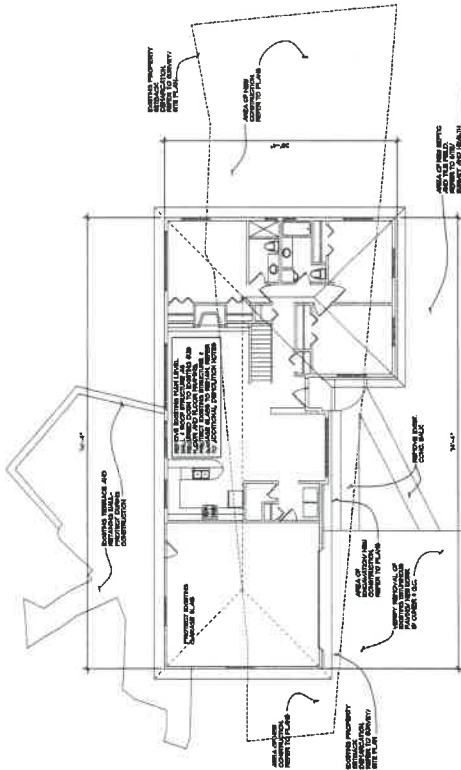
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FIELD VISITS, ALL EDITING, DRAWINGS AND GRAPHICS, PHOTOGRAPHY, TV, RADIO, OTHERS

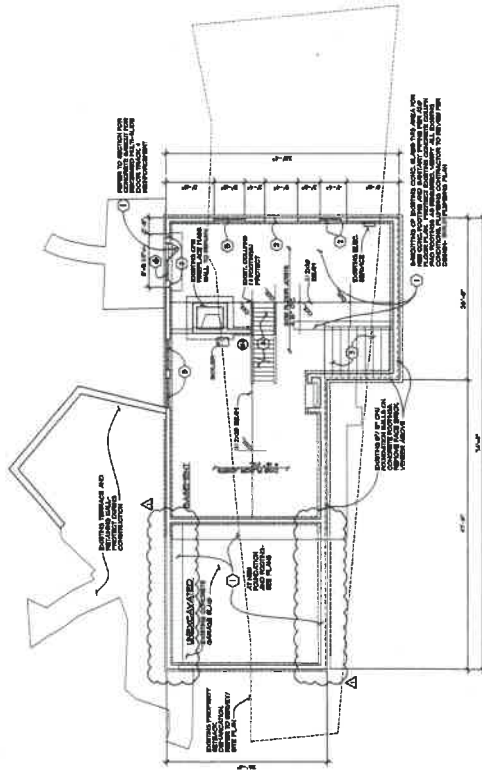
[illegible][illegible]

- [illegible]

SCALE 100% 1-50



SCHEIDT WP-1-07





Sisick Group
ARCHITECTURAL FIRM

Corporate Headquarters
1000 N. 10th Street, Suite 100
Tomball, TX 77375
Tel: 281.358.1234
Fax: 281.358.1235
www.sisickgroup.com

Key Plan: No Scale

Client:
**GREG AND JANET
HEINLEN**

Project:
**RENOVATION
AND ADDITION**

1701 EAST HUNTERS ROAD
TOMBALL, TX 77375

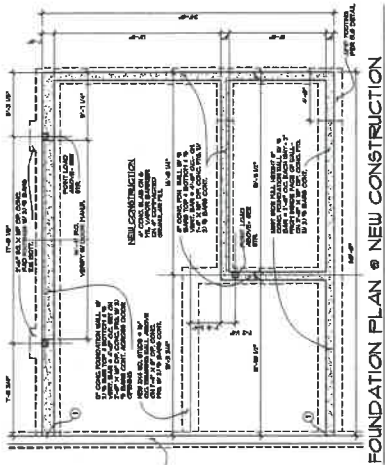
Date: 11/20/23
Project: 1701 EAST HUNTERS ROAD
Revision: 1

Drawn By: [Signature]
Checked: [Signature]
Approved: [Signature]

Sheet Title:
**LOWER LEVEL
FLOOR PLAN
FOUNDATION PLAN**

Sheet Number: 523405
Sheet Size: **A2.0**

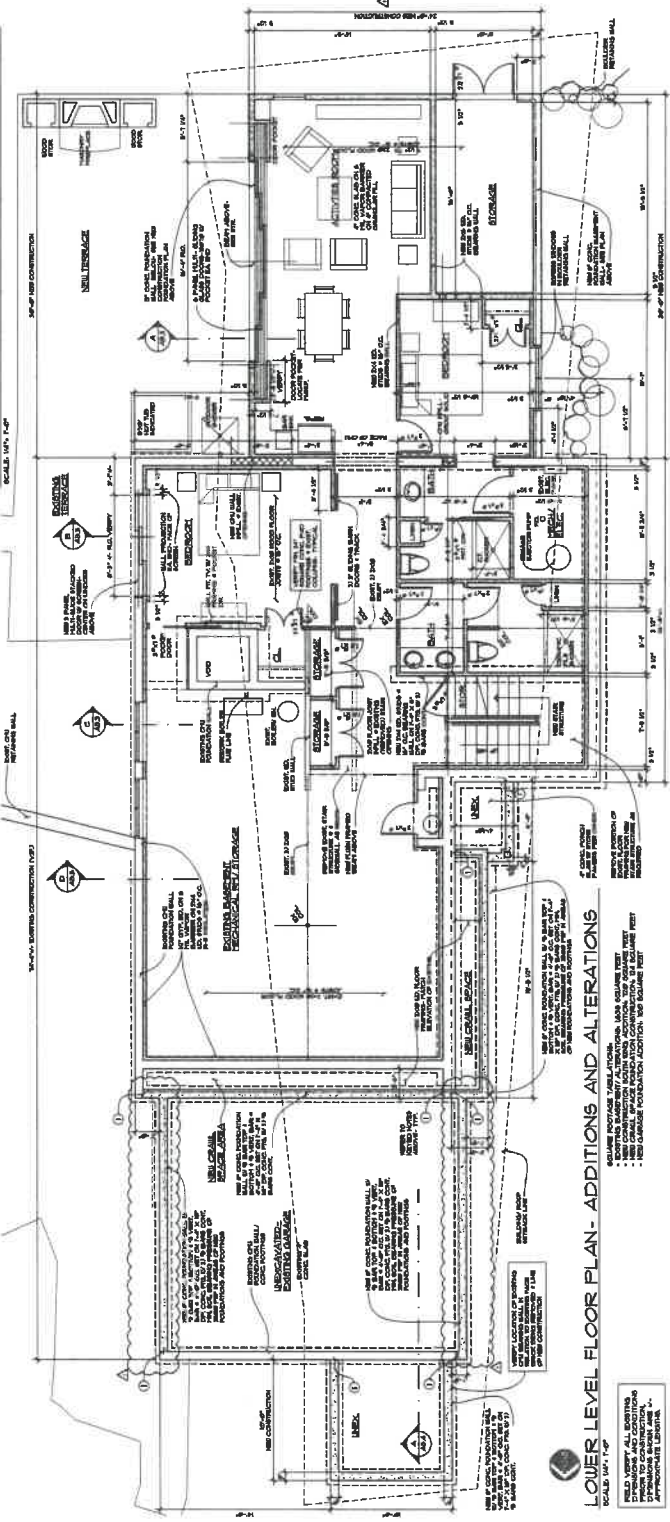
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FOUNDATION PLAN - NEW CONSTRUCTION
SCALE: 1/4" = 1'-0"

KEYED NOTES

1. EXISTING WALLS TO REMAIN: CONCRETE WALLS & FOUNDATION TO REMAIN AS SHOWN ON PREVIOUS SET OF PLANS.
2. NEW CONSTRUCTION: NEW WALLS & FOUNDATION TO BE SHOWN ON THIS SET OF PLANS.
3. EXISTING WALLS TO BE DEMOLISHED: WALLS TO BE DEMOLISHED AS SHOWN ON THIS SET OF PLANS.
4. ATTACHED TO WALL OF EXISTING BUILDING: WALLS TO BE ATTACHED TO EXISTING BUILDING WALLS.



LOWER LEVEL FLOOR PLAN- ADDITIONS AND ALTERATIONS
SCALE: 1/4" = 1'-0"

REVISIONS:
1. NEW CONSTRUCTION: NEW WALLS & FOUNDATION TO BE SHOWN ON THIS SET OF PLANS.
2. EXISTING WALLS TO BE DEMOLISHED: WALLS TO BE DEMOLISHED AS SHOWN ON THIS SET OF PLANS.
3. ATTACHED TO WALL OF EXISTING BUILDING: WALLS TO BE ATTACHED TO EXISTING BUILDING WALLS.

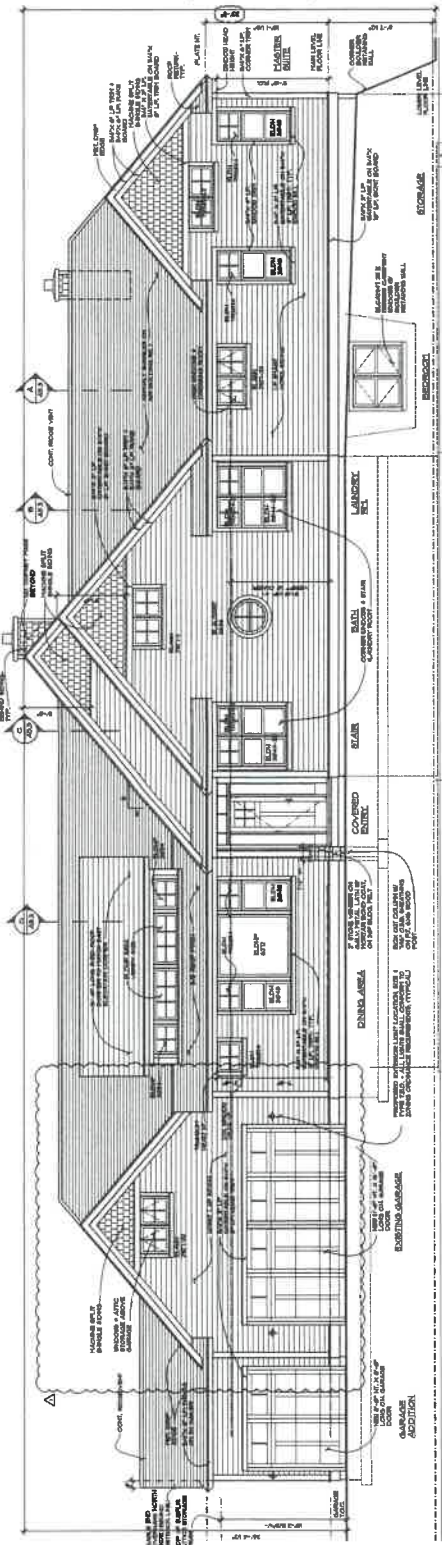
NOTES:
1. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
2. ALL WALLS ARE TO BE CONCRETE UNLESS NOTED OTHERWISE.
3. ALL FLOORS ARE TO BE CONCRETE UNLESS NOTED OTHERWISE.



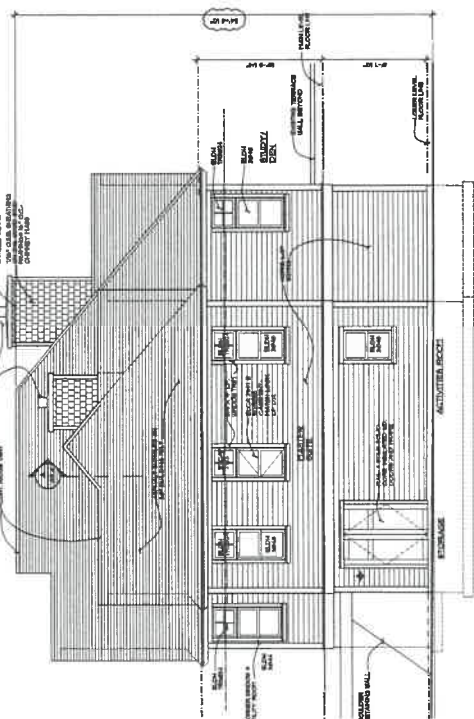
Sidekick Group
ARCHITECTS

Corporate Headquarters
10000 Highway 400
Suite 100
P.O. Box 1000
Greenville, SC 29615
Tel: 864.671.1000
Fax: 864.671.1001
www.sidekickgroup.com

Client: Greg and Janet Heinlein
Project: Renovation and Addition
Scale: 1/4" = 1'-0"



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



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

NOTES:
1. ALL MATERIALS AND FINISHES TO BE APPROVED BY THE ARCHITECT PRIOR TO CONSTRUCTION.
2. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2012 INTERNATIONAL RESIDENTIAL CODE.
3. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2012 INTERNATIONAL ENERGY EFFICIENCY CODE.
4. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2012 INTERNATIONAL PLUMBING CODE.
5. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2012 INTERNATIONAL ELECTRICAL CODE.
6. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2012 INTERNATIONAL MECHANICAL CODE.
7. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2012 INTERNATIONAL FIRE AND SAFETY CODE.
8. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2012 INTERNATIONAL BUILDING DEPARTMENT CODE.

Client: Greg and Janet Heinlein
Project: Renovation and Addition
Scale: 1/4" = 1'-0"

Client: Greg and Janet Heinlein
Project: Renovation and Addition
Scale: 1/4" = 1'-0"

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Project: Renovation and Addition
Scale: 1/4" = 1'-0"

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Scale: 1/4" = 1'-0"

Client: Greg and Janet Heinlein
Project: Renovation and Addition
Scale: 1/4" = 1'-0"



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6969 Grand River Avenue
New, Michigan 48724
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Gryllard Office
757 S. Westcott Ave.
Gryllard, Michigan 48725
Ph: (248) 348-6000 • Fax: (248) 348-4218

New • Wyandotte • Muskegon
Ottawa • Gaylord • Sault Ste. Marie
Tempe, AZ • Williamsport, PA

Know What?	How to Study
<p>1. Read the text carefully. Pay attention to the main idea and the details.</p> <p>2. Take notes. Write down the key points and any questions you have.</p> <p>3. Review the material. Go over your notes and the text again before the test.</p> <p>4. Practice. Do some sample questions to get a feel for the test.</p>	<p>1. Read the text carefully. Pay attention to the main idea and the details.</p> <p>2. Take notes. Write down the key points and any questions you have.</p> <p>3. Review the material. Go over your notes and the text again before the test.</p> <p>4. Practice. Do some sample questions to get a feel for the test.</p>

Client:
**GREG AND JANET
HEINLEIN**

Project
RENOVATION
AND ADDITION

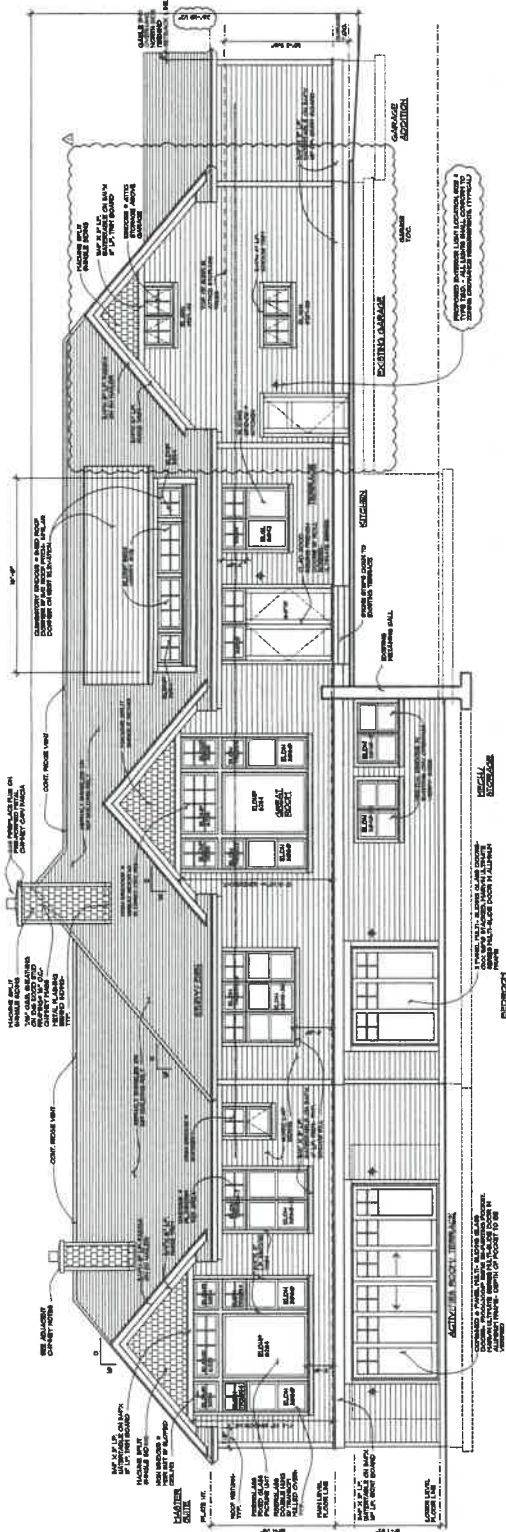
7470 EAST SHORE ROAD
TRAVERS CITY, MI 49889

Date	Issued For
10-27-23	PERMITS & CONSTRUCTION
11-28-23	REVISIONS

Direct: _____
 Check: _____
 Date: _____

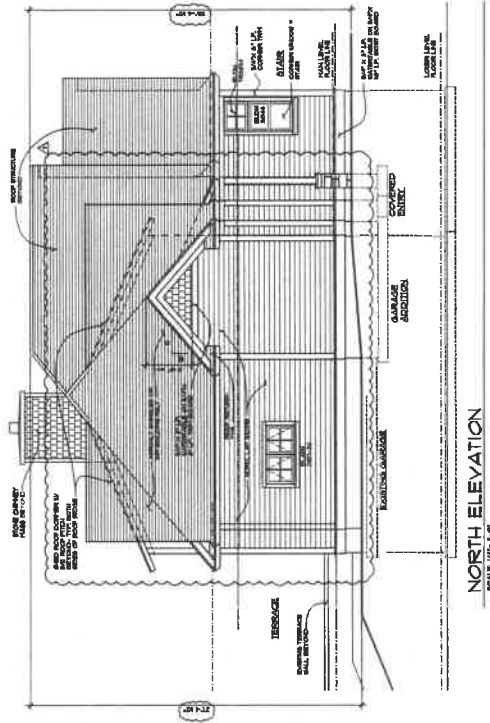
Prison Number: 523405

Sheet Number: **A9.2**

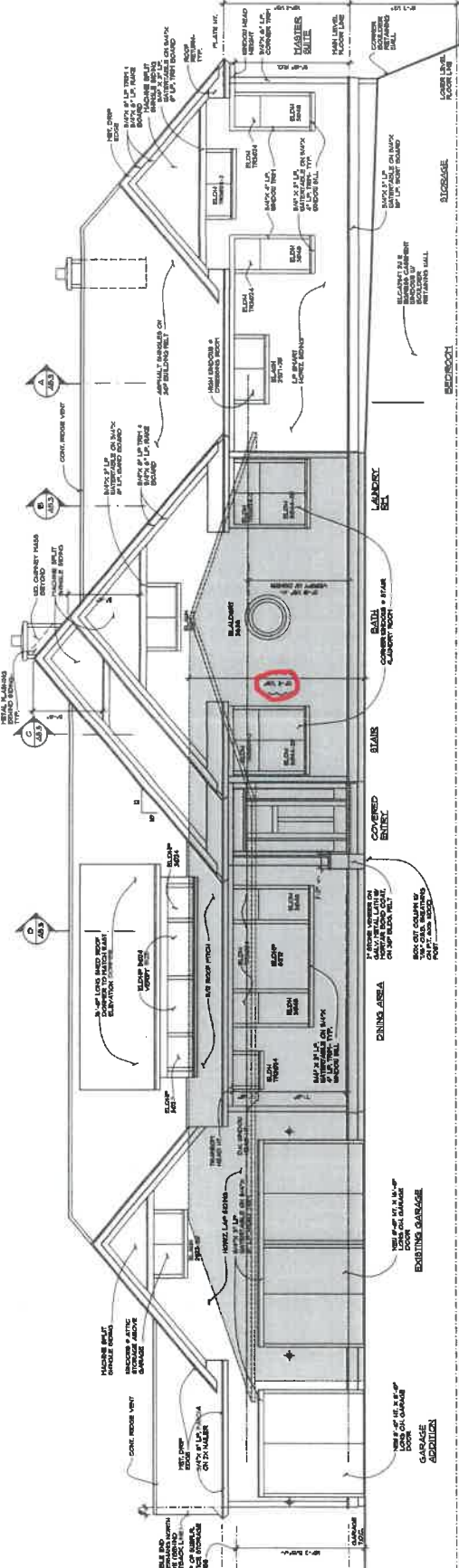


EAST ELEVATION

SCALE: 100" = 1-0"



NORTH ELEVATION



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



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

NOTES:
1. ALL MATERIALS AND FINISHES TO BE AS SHOWN ON THE DRAWINGS.
2. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2009 INTERNATIONAL RESIDENTIAL CODE BOOK.
3. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2009 INTERNATIONAL MECHANICAL CODE BOOK.
4. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2009 INTERNATIONAL ELECTRICAL CODE BOOK.
5. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2009 INTERNATIONAL PLUMBING AND MECHANICAL CODE BOOK.
6. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2009 INTERNATIONAL FIRE AND ALARM CODE BOOK.
7. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2009 INTERNATIONAL BUILDING DEPARTMENT CODE BOOK.
8. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2009 INTERNATIONAL SLEEPING TENANT OCCUPANCY CODE BOOK.
9. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2009 INTERNATIONAL ENERGY EFFICIENCY CODE BOOK.
10. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2009 INTERNATIONAL GREEN BUILDING CODE BOOK.



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www.sfdockgroup.com	Mr. Raula
Mr. Raula	

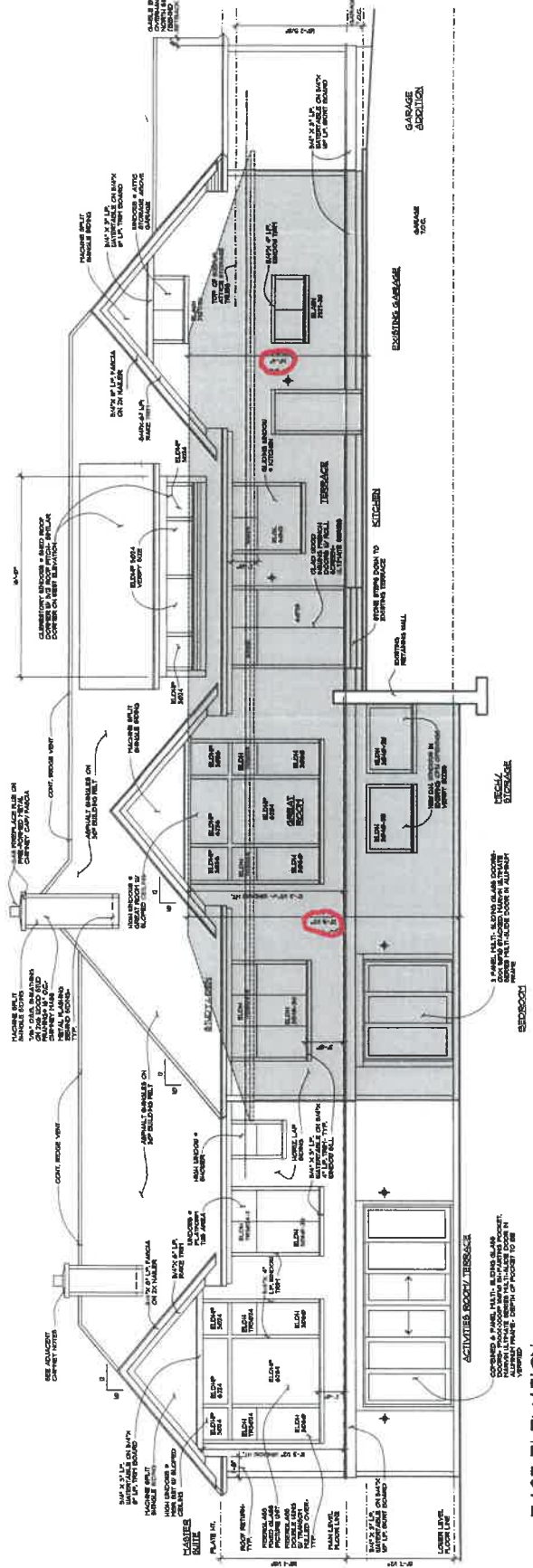
Client
GREG AND JANET
HEINLEIN

Project: **RENOVATION AND ADDITION**479 EAST GILMORE ROAD
TRAVERSE CITY, MI 49606[illegible]

Sheet Title: EAST & NORTH ELEVATIONS

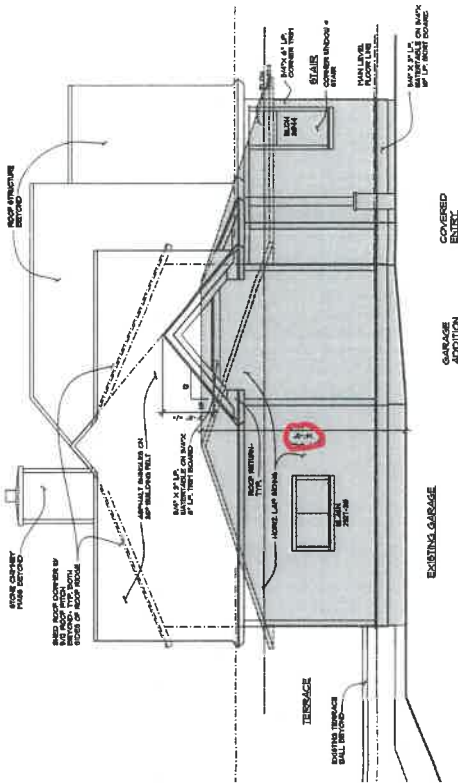
Project Number: 523405

Four samples (A, B, C, D) were taken from the bottom of the lake at different depths (0, 1, 2, 3 m) and analyzed for the presence of the bacteria. The results are shown in the table below.



EAST ELEVATION

SCALE 140-150

[illegible]

NORTH ELEVATION

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

LOWER LEVEL

Minutes

PENINSULA TOWNSHIP

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PENINSULA TOWNSHIP ZONING BOARD OF APPEALS MINUTES

December 19, 2023
7:00 p.m.

1. **Call to Order** by Dolton at 7:00 p.m.
2. **Pledge**
3. **Roll Call** Dolton, Serocki, Dloski, Wahl, Cram, Director of Planning and Zoning, Witte, township attorney
4. **Approval of Agenda** Dolton moved to have Business Item 2 go first. Dloski moved to approve the amended agenda with a second by Dunn. **Approved by consensus**
5. **Conflict of Interest** None
6. **Brief Citizen Comments – (for items not on the Agenda)** None

Dolton: the Director of Planning and Zoning has obtained some of the information required for a staff analysis, but not quite all. The recommendation by legal counsel and the staff is to table Request 912 to a date certain of January 16, 2024. Cram is confident there will be a comprehensive finding of facts for the ZBA to make a good decision.

Dloski: has the applicant been informed of this change?

Cram: yes, while they would rather have this discussed tonight, the recommendation by legal and staff is to make a motion to table this case until a date certain of January 16, 2024.

Dunn made a motion to table Request 912 until January 16, 2024 with a second by Dloski.

Approved by consensus

Greg Luyt, counsel for the applicant: in response to your question, yes, we did object to this being tabled. The applicant would like to move this ahead more quickly. There is an application in the materials provided to the board. It has not been our failure to provide information. We submitted our application on October 27, 2023. The first request we received for additional information was not until December 5, 2023. The deadline to provide this information was given was December 11, 2023. We provided all of the substantial information on December 8, 2023. Several items requested we did not have or did not believe were relevant to the consideration of the application. Based on the information provided, we think a determination could be made tonight.

Dloski: do you want to proceed tonight?

Dolton: we cannot proceed tonight as we agreed to table the discussion, but secondarily the board does not see any information you submit until it is submitted to us in the packet. As the recommendation was to table this item, we did not receive any of the information.

Luyt: we are under a time constraint. We have a contractor lined up to perform the work and would like to move forward as quickly as possible. So we can be assured of a January 16, 2024 hearing?

Dolton: yes.

7. Business:

1. Public Hearing for Request No. 911, Zoning = R-1B – Coastal Zone (Tabled from November 21, 2023, meeting)

Applicant/Owner: Matthew B Myers & Keegan L Myers, 625 & 701 Tucker Point, Traverse City, MI 49686

Property Address: 707 Tucker Point, Traverse City, MI 49686

1. Requesting to replace an existing two (2) story non-conforming structure per Section 7.5.6.
2. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a new garage and dwelling .5-feet from the front property line, where 30-feet is required.
3. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a new garage and dwelling, 12.6-feet from the rear property line, where 30-feet is required.
4. Requesting a variance from Section 6.8 of the Zoning Ordinance to exceed the maximum lot coverage of 15% up to 18%.

Parcel Code # 28-11-565-925-55

Cram: this property is in the Neahtawanta subdivision, which was platted in 1890 prior to the adoption of the Peninsula Township Zoning Ordinance, which was adopted in 1972.

Dolton: Section 7.5.6 has some additional requirements we need to discuss as well.

Keegan Meyers: we are looking to move from not being within the property lines to within the property lines and build a new structure. The existing structure is at the end of use and rather than try to rehab the old structure, we would like to start from scratch. This moves the new structure within the property lines. There is a right-of-way through the property, which has never been used. This right-of-way is on adjacent land, where my mother currently lives, so we see no need to make any changes there. The new structure is like what is there now, with a garage underneath and a living area above. If you have any questions, I can answer them.

Dloski: if you vacated the right-of-way, would you need a variance?

Cram: they would need a variance for the rear setback and the lot coverage.

Dolton: is there any scenario where the right-of-way would need to be utilized?

Cram: within your packets is an aerial view of this area. Everything is owned by the Neahtawanta association, except these 2 parcels. If the owner of the other lot ever wanted to develop this land, they have access from 2 other locations.

Dloski: if we grant this variance, does this take the buildings outside of this right-of-way? Would we be improving this property?

Cram: yes.

Serocki: if the lots are combined, then they will not have an overage on the lot coverage.

Cram: the lots are so small that even if they are combined, they do not meet the minimum lot size and they still have an issue with the lot coverage.

Wahl: so there really is no suitable spot on this lot even if the lots were combined. They need a variance to do what they want to do.

Cram: correct. These 2 lots have not been combined and only have 1 parcel number.

Dolton: to be clear, variance request number 4, which is the lot coverage requires the combining of their 2 lots. Do the other variances require combination of the lots?

Cram: no. Variance requests 1,2, and 3 do not.

Dolton: if there is public comment, it would be expedient to discuss the entire site plan rather than each individual variance. If there is a desire to do each variance, we will.

Dloski: in looking at the proposed elevations of the new home, I cannot read them as the type is too small.

Cram: the length is 44 feet, and they are proposing 48 feet. The width is 26 feet and they are proposing 30 feet. The proposal is slightly larger than what is in your packet, but less than what exists there today.

Dloski: and would you permit this?

Cram: yes, if a plan looks like this, meets the building height, and the footprint matches the site plan in your packet, then yes, I would be able to issue a land use permit provided the variances are granted.

Dloski: what are the numbers for the new footprint?

Cram: currently the footprint is 1,820 square feet and the proposed footprint is 1,650 square feet.

Wahl: does this include the overhangs?

Cram: yes.

Dolton: is there anyone here who wishes to speak for this proposal? Hearing and seeing no one, is there anyone wanting to speak against this proposal? As there are none, I will now close the public hearing portion of the meeting and bring the request back to the board. Variance 7.5.6 comes with 5 additional conditions. I would like a legal opinion; do we need to go through each of the 5 conditions or can we have a general discussion?

Witte: it would be fine if you had a general discussion on these additional points.

Dolton: Section 7.5.6 concerns the moving or replacing of a non-conforming structure. Item 1 requires "the moved or replaced structure must be less non-conforming than the previous structure". Cram's analysis shows they are moving the structure outside of the road right-of-way and shrinking the square footage from the current, existing structure.

Dloski: the applicant is very constricted here by size and a variance here is appropriate. The other item is it takes the property out of the road right-of-way, which is very important.

Wahl, Dloski, Serocki, Dolton, Dunn verbally approve this condition has been met.

Dolton: Item 2 requires “there is increased safety to the residents of the structure and to the traveling public on the road providing access to the parcel”. I am not sure this is even applicable in this case.

Wahl, Dloski, Serocki, Dolton, Dunn verbally approve this condition has been met.

Dolton: Item 3 requires “safety and substantial justice is achieved”.

Dloski: safety is a factor by moving the home or structure out of the road right-of-way. There is another property to the south that does have access, so we are not impeding their access.

Dolton: item 4 is not relevant because this talks about setbacks to the ordinary high-water mark. As special conditions for 7.5.6 have been met, we now need to go through the 6 Basic Conditions.

1. Requesting to replace an existing two (2) story non-conforming structure per Section 7.5.6.

Section 5.7.3 (1) BASIC CONDITIONS: The applicant must meet ALL of the following Basic Conditions.

(A). That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant’s personal or economic hardship.

Yes-Dolton: it is specific to whether it is due to the applicant’s personal or economic hardship, which it is not. I think they need this variance due to the structure of the Neahtawanta platting back in 1890. Most every property there is non-conforming.

Yes-Wahl: if we do not look at the Neahtawanta area in a special way, no one would ever be able to do any expansion. Considering the existing structure is encroaching over property lines, moving it makes the property substantially better and more conforming. This is a unique circumstance due to narrowness and even with combining the 2 properties still results in an oddly shaped piece of property.

Yes-Serocki: the condition has been met.

Yes-Dunn: condition has been met

Yes-Dloski: every property in the Neahtawanta area shares the same issue of being non-conforming. We need to define this as a Neahtawanta specific problem, or suddenly it is going to come down on West and East Bay and everywhere else.

Dolton: when we give our vote of yes or no, we need to state our reasoning.

Witte: given there are 3 additional variance requests after this one, if you want to incorporate by reference your reasoning from one variance to the next, that would add efficiency if we are not interjecting new thoughts.

(B). The need for the variance is not the result of actions of the property owner (self-created) or

previous property owners.

Yes-Dolton: this is not a result of actions of the property owner or previous property owners.

Yes-Wahl: the condition has been met for reasons already stated.

Yes-Serocki: I agree with Dolton.

Yes-Dunn: the condition has been met.

Yes-Dloski: this is not a self-created problem and apparently comes from the platting of the land back in 1890.

(C). That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)

Yes-Dolton: they are lessening the non-conformity of the property. They are currently not in compliance, and they cannot meet the requirements of the zoning ordinance as it now stands. They are lessening the non-conformity.

Yes-Wahl: I agree with the staff comment that there is no buildable area on the parcel and what Dolton stated.

Yes-Serocki: I agree with the staff comments.

Yes-Dunn: I agree with the staff comments and what Dolton stated.

Yes-Dloski: they are taking part of this property out of the road right-of-way. Looking at the way the structure now appears, replacing the structure will certainly be a benefit to the township.

(D). That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

Yes-Dolton: I do not see how a lesser variance would be more consistent with justice to other property owners.

Yes-Wahl: I agree based on staff comments and the previous discussions.

Yes-Serocki: agree with Wahl comments.

Yes-Dunn: I agree based on prior discussions and the staff comments.

Yes-Dloski: I do not see how a lesser variance would even work. I think this is the only suggestion or fix to this property.

(E). That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.

Yes-Dolton: this improves the general site plan compared to what now exists there.

Yes-Wahl: my understanding is the family owns all of the surrounding property and it sounds like the property behind there is part of the conservancy. There is no adverse impact that I can

see.

Yes-Serocki: the property would be less non-conforming, and the house would be within the boundaries.

Yes-Dunn: for the reasons already stated.

Yes-Dloski: for the same reasons stated by Dolton and Wahl.

(F). That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

Yes-Dolton: there is no change in use by right.

Yes-Wahl: condition has been met.

Yes-Serocki: I agree with the staff comments.

Yes-Dunn: condition has been met by what has already been stated.

Yes-Dloski: there is no change in right.

Cram: there was a unanimous yes vote on the special conditions for moving or replacing a non-conforming structure and the additional 6 Basic Conditions.

Dloski moved Variance Request Number 1 be approved with a second by Serocki.

Serocki: Jenn (Cram) when would we mention the draft condition of approval? Do they get mentioned at the end when we vote?

Cram: normally you would include this in the motion that you move to approve this with the recommended conditions as noted in the staff report.

Serocki: okay.

Cram: given you are receiving more detailed staff reports on findings, perhaps I could work with legal counsel to come up with a streamlined process, but for right now we need to do it for each one.

Dloski amended his motion to approve Request Number 1 with the conditions staff noted in the staff report with a second by Dunn.

Roll call vote Yes: Dolton, Wahl, Dunn, Dloski, Serocki

2. Requesting a variance from Section 6.8 of the Zoning Ordinance to construct a new garage and dwelling 0.5-feet from the front property line, where 30-feet is required.

Section 5.7.3 (1) BASIC CONDITIONS: The applicant must meet ALL of the following Basic Conditions.

(A). That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.

Yes-Dolton: for reasons already discussed.

Yes-Serocki: for reasons previously stated.

Yes-Wahl: for reasons previously stated.

Yes-Dunn

Yes-Dloski: the way the property is configured right now, it is basically impossible to construct that garage and dwelling and have it conform. It is just not going to work because of the 1890 plat.

(B). The need for the variance is not the result of actions of the property owner (self-created) or previous property owners.

Yes-Dolton: for prior reasons stated.

Yes-Serocki: for reasons stated.

Yes-Wahl: for reasons stated.

Yes-Dunn: for reasons stated

Yes-Dloski: for reasons stated.

Witte: if the ZBA's reasoning is going to be essentially identical to the last 3 variance requests, I do not think it would be inappropriate to consider them together. If we are just repeating the same stuff for all of the standards, I think we can consider them together and then make a decision on them unless there is anyone that anticipates their reasoning being different. There is not going to be any benefit to the record if we are just repeating the same comments over and over.

Dolton: we will finish this one and then combine requests 3 and 4.

(C). That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)

Yes-Dolton: for reasons stated.

Yes-Serocki: for reasons stated.

Yes-Wahl: for reasons stated.

Yes-Dunn: for the same reasons.

Yes-Dloski: for reasons stated.

(D). That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

Yes-Dolton: for prior reasons stated.

Yes-Serocki: for reasons stated.

Yes-Wahl: for reasons stated.

Yes-Dunn: for the same reasons.

Yes-Dloski: for reasons stated.

(E). That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.

Yes-Dolton

Yes-Serocki

Yes-Wahl

Yes-Dunn

Yes-Dloski

(F). That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

Yes-Dolton

Yes-Serocki

Yes-Wahl

Yes-Dunn

Yes-Dloski: it is residential, and it stays residential.

Cram: in summary, the board had a unanimous yes vote indicating all standards had been met with regard to variance request number 2, which would allow the new garage and dwelling to be constructed 0.5 feet from the property line where 30 feet is required.

Dolton: I would entertain a motion that variance request number 2 be approved subject to the conditions in the staff report.

Wahl moves Variance Request Number 2 be approved subject to the conditions in the staff report with a second by Dunn.

Roll call vote Yes: Dolton, Wahl, Dunn, Dloski, Serocki

Dloski made a motion to combine variance requests 3 and 4 with a second by Dunn.

Wahl: can we combine one request that is about setbacks with the other request is about lot coverage?

Witte: yes.

Dolton: just to be clear. We are voting to combine request 3, which is a variance from Section 6.8 of the Zoning Ordinance to construct a new garage and dwelling, 12.6-feet from the rear property line, where 30-feet is required with an analysis of request 4 for a variance from Section 6.8 of the Zoning Ordinance to exceed the maximum lot coverage of 15% up to 18%, keeping in mind that requires combining lots 9 and 10

Roll call vote Yes: Dolton, Wahl, Dunn, Dloski, Serocki

Dolton: any discussion on either of these?

Dloski: on number 4, why are they increasing lot coverage? Do they just want to build a bigger house?

Cram: the existing structure exceeds the allowed lot coverage. They are proposing to reduce the footprint and better meet the setbacks by moving it onto the property, but they still exceed the allowed lot coverage of 15% for the R1B zone district.

Dloski: do they exceed it by 3%?

Cram: yes.

Dloski: so why don't they just reduce it by 3% and then they would not need a variance?

Wahl: there is a shed and a septic to the east of the property, and it is a very small lot.

Dloski: it is not what they want to build; it is what is buildable under the ordinance given our standards.

Cram: they are reducing the lot coverage because they are reducing the footprint.

Dloski: the volume is increasing but not the footprint.

Wahl: the footprint is decreasing.

Cram: as the property exists right now, the existing structure now exceeds the 15% allowable lot coverage.

Dloski: that clears this up.

Dolton: we are now going to cover both requests 3 and 4 with this analysis.

Section 5.7.3 (1) BASIC CONDITIONS: The applicant must meet ALL of the following Basic Conditions.

(A). That the need for the variance is due to unique circumstances or physical conditions, such as narrowness, shallowness, shape, water or topography, of the property involved and that the practical difficulty is not due to the applicant's personal or economic hardship.

Yes-Dolton

Yes-Serocki

Yes-Wahl

Yes-Dunn: referring to staff notes.

Yes-Dloski: especially on the rear yard setback. The line is so shallow, it is impossible to build on without a variance.

(B). The need for the variance is not the result of actions of the property owner (self-created) or previous property owners.

Yes-Wahl: for reasons already stated.

Yes-Serocki

Yes-Dloski: for reasons already stated.

Yes-Dunn

Yes-Dolton

(C). That strict compliance with area, setback, frontage, height, bulk, density or other dimension requirement will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome. (Because a property owner may incur additional costs in complying with this ordinance does not automatically make compliance unnecessarily burdensome.)

Yes-Wahl: for reasons already stated.

Yes-Serocki

Yes-Dloski

Yes-Dunn

Yes-Dolton

(D). That the variance will do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

Yes-Wahl

Yes-Serocki

Yes-Dloski

Yes-Dunn

Yes-Dolton

(E). That the variance will not cause adverse impacts on surrounding property, property values or the use and enjoyment of property in the neighborhood.

Yes-Wahl

Yes-Serocki

Yes-Dloski

Yes-Dunn

Yes-Dolton

(F). That the variance shall not permit the establishment within a district of any use which is not permitted by right, or any use for which a conditional use or temporary use permit is required.

Yes-Wahl

Yes-Serocki

Yes-Dloski

Yes-Dunn

Yes-Dolton

Cram: for variance requests 3 and 4 the ZBA voted yes unanimously for all conditions.

Wahl moved to approve Variance Request Numbers 3 and 4, subject to the conditions in the staff report with a second by Dloski.

Roll call vote Yes: Dolton, Wahl, Dunn, Dloski, Serocki

Dolton: all 4 variance requests have been approved for case 911.

Business:

2. Public Hearing for Request No. 912, Zoning = A-1 – Agricultural (Tabled to January 16, 2024)

Applicant/Owner: Luke C Miller Trust, 2465 Carroll Road, Traverse City, MI 49686

Property Address: 11586 Center Road, Traverse City, MI 49686

1. Requesting an appeal to the zoning administrator's determination that concrete crushing is a heavy industrial use or activity and not allowed within the A-1 Agricultural District.

Parcel Code # 28-11-004-008-00

8. Approval of Minutes from the November 21, 2023, Meeting

Dunn moved to approve the minutes with a second by Serocki.

Approved by consensus

9. Citizen Comments None

10. Board Comments

Wahl: it is important we state for purposes of the record when we do have property owners from Neahtawanta. We run into issues where we have structures encroaching on other properties. The properties are almost always non-conforming, and we often need to look at those from a different perspective.

Dloski: I am encouraging Cram and the township attorney to work to streamline this procedure. The term practical difficulty is defined in our zoning ordinance, but we may add some additional terms to it. I would like to make sure that is consistent.

11. Adjournment Dloski made a motion to adjourn the meeting with a second by Serocki.

Approved by consensus

Meeting adjourned at 8:11 p.m.