

Robert P. Montgomery, Supervisor
Robert D. Buechler, Clerk
George Wells, Treasurer



Adam Armbruster, Trustee
Scott Bradley, Trustee
Linda Bruckner, Trustee
Robert C. Crawford, Trustee

TO:	Zoning Board of Appeals Members	MEETING DATE:	Tuesday, December 17, 2024
LOCATION:	2959 Maplewood Drive	PARCEL #:	74-20-468-0089-001
ZONING:	R-1A Single Family Residential	MASTER PLAN:	Single Family Residential
OWNER(S):	Allen Shaw and Theresa Turnbull	APPLICANT(S):	Allen Shaw and Theresa Turnbull

The applicant is requesting a Class A designation on the existing structure and variances for portions of a proposed addition and new construction not covered by the Class A Designation. Portions of the existing home may remain. The new construction will require variances outside of the Class A Designation on the existing home, if granted. Contained within this report are the existing conditions and the proposed conditions requiring variances. The proposed 12" overhang around the entire structure does not exist today, and those areas requiring an overhang variance are indicated. Any horizontal or vertical projection over or into an adjacent parcel cannot be granted a Class A or a variance; the Zoning Board of Appeals only has the authority to grant the requests contained wholly within the property lines.

FINDINGS OF FACT:

- Part of two plats, the property is described as Lot 120 of the Lake Huron Manor Subdivision and Lot 1 of the Forrest Subdivision, both platted in 1926; the lots were combined in 2024, and the property is a lawfully existing nonconforming parcel. The lots are exceptionally small, averaging 50'x60'/3,000 SF compared to the minimum required 75'x134'/10,000 SF.
- Both plats contain private roads and driveways. The roads within the subdivision are exceptionally narrow.
- This property is within High-Risk Erosion Area A1, established 07/10/1998, with a 30-year setback of 65'; the proposed structure is shown outside of the HREA. The applicant will verify compliance with Part 323 through EGLE prior to construction.
- Portions of this property are within Special Flood Hazard Area Zone AE with a base flood elevation of 588, per FEMA FIRM 07/19/2022, Panel 0229E. The proposed structure is outside of the SFHA and the lowest floor ranges from EL. 589 to 591.
- The house was built in 1981, and the deck currently encroaches on Lake Huron Manor Park property by approximately 5'. No variance or Class A Designation can be granted on any encroachment. The house is considered a Class B lawfully existing nonconforming structure.
- The 2' setback from the property line to the dwelling wall on the west and south property lines of Lot 120 were established in 1976; the proposed overhang on these sides is new.
- The overall proposed building height is 31'; with a maximum permitted height of 35', no variance is required. The current building height is unknown.
- Public water and public sewer are existing.
- The requests include variances pursuant to sections 38-441 and 38-675, and the Class A pursuant to 38-618.



Attachment A – Survey of existing Conditions: Existing Home Class A Designation Request.

1. The existing nonconforming setbacks of the main dwelling, without overhangs, are as follows:

- North Front Yard – 28' Setback
- South Rear Yard – 2' Setback
- West Side Yard – 2' Setback
- East Side Yard – 4' Setback

The shed and gazebo will be removed, and the existing attached deck cannot be granted a Class A as it encroaches onto shared Lake Huron Manor property.

Attachment B – Survey of Proposed: Class A Designation and Variance Request:

Sections 38-441 & 38-675	Required Setback	Permitted Overhang	Proposed	Request
2. North Front Yard-Maplewood Drive	35'	58"	29' w/12" overhang setback	6' dwelling variance
3. South Rear Yard-Sylvan Drive	35'	33"	33' w/12" overhang setback	2' dwelling variance
4. East Side Yard-Park/Lake	10'	0"	0' setback**	10' dwelling variance*
5. West Side Yard-Manor Neighbor	10'*	4"	2' w/12" overhang setback	8' dwelling/8" overhang variance
6. West Side Yard-Forrest Neighbor	10'*	4"	2' w/12" overhang setback	8' dwelling/8" overhang variance
7. West Side Yard- Forrest Neighbor	10'	6"	3' w/12" overhang setback	7' dwelling/6" overhang variance
8. Overall Lot Coverage-Square Feet	1,829 square feet		Up to 2,200 square feet	370 SF lot coverage variance
9. Class A Designation on proposed additions to existing footprint, as approved.				

*2' setback is existing, the proposed overhang is new.

**The survey indicates that the 12" overhang encroaches onto the Lake Huron Manor deeded park property. The ZBA cannot grant a variance to encroach, and Fort Gratiot cannot permit a structure to encroach.

Sec. 38-675. - Projections into yards.

Architectural features, not including vertical projections, may extend or project into a required side yard not more than two inches for each one foot of width of such side yard and may extend or project into a required front yard or rear yard not more than three feet. Architectural features shall not include those details, which are normally demountable.

STANDARDS OF DETERMINATION

In consideration of all variances, the Zoning Board of Appeals shall review each case individually as to its compliance with each of the following standards:

1. The standard for which the variance is being sought would unreasonably prevent the owner from using property for a permitted purpose or would render conformity unnecessarily burdensome.
2. The variance would do substantial justice to the applicant as well as to other property owners in the zoning district and a lesser relaxation of the standard would not provide substantial relief and be more consistent with justice to others.
3. The problem is due to circumstances unique to the property and not to general conditions in the area.
4. The problem that resulted in the need for the variance was not created by the applicant or previous owners of the property.
5. Issuance of the variance would still ensure that the spirit of the Ordinance is observed, public safety secured, and substantial justice done.

REASONS FOR DECISION. The motion MUST include reasons for the decision based on the findings of fact and standards of determination.

-A request may be **granted** upon findings that:

- (1) Continuance thereof would not be contrary to public health, safety, or welfare.
- (2) The structure does not and is not likely to significantly depress the value of nearby properties.
- (3) The use or structure was lawful at the time of its inception.
- (4) No useful purposes would be served by strict application of the provisions or requirements of this chapter with which the use or structure does not conform.

-A request may be **denied** upon finding that:

- (1) Public services cannot be adequately provided; i.e. water, sewer, gas, electric.
- (2) The proposed construction could hinder public safety response and put the property and surrounding properties at additional risk.
- (3) A hardship (non-financial in nature) or practical difficulty (such as a natural feature of the land) has not been demonstrated.

CONTACTS/COMMUNICATIONS/CORRESPONDENCE – As of 12/13/2024, as follows:

Attachment C. Kathy Lis, Opposed to Encroachment

Attachment D. Lake Huron Manor Association, Opposed to Encroachment

Attachment E. Larry and Theresa Holman, Support

STAFF RECOMMENDATIONS:

-The building official recommends approval with the condition that building permit address and demonstrate compliance with the Michigan Residential Building Code, Section R302.6 – Dwelling, Garage Fire Separation.

-The department of public works recommends approval with no conditions.

-The fire chief recommends approval.

-Items for consideration from the zoning administrator, per request:

1. If the ZBA grants the Class A Designation for the existing structure, the following conditions are recommended: the deck, shed and porch/gazebo are excluded from the Class A, and the setback measurement is from the property line to the exterior of the wall of the dwelling, per the BMJ #2406-18 survey dated 07/17/2024, excluding overhangs and architectural features.

2. North Front Yard-Maplewood Drive: This request exceeds or is consistent with surrounding properties. It is setback farther than the two homes to the west. Two off-street parking spots (9'x19' each) are required, and all off-street parking is provided on the south/Sylvan side. Due to exceptionally narrow streets, the ZBA may want to consider requiring one off-street space on the Maplewood frontage to prevent roadway parking which could prevent emergency access to the park and beach.

3. South Rear Yard-Sylvan Drive: This request exceeds and is consistent with surrounding properties.

4. East Side Yard-Park/Lake: While the property to the east is park and beach area deeded to all property owners within the plats and will not have a home built upon, a setback of zero feet, or allowing the building to be built at the property line is not recommended. Any variation in exterior materials could create an encroachment, and nothing would prohibit either association from requesting to build a retaining wall or barrier along the property line. Additionally, the proposed overhang is a vertical projection which would encroach 12" into the park area and cannot be considered for approval. The ZBA may consider and approve a lessor variance.

5. West Side Yard-Maplewood/Manor: If item 1 was granted, no variance is required for the setback of the exterior wall to the property line, but an 8" overhang variance to permit the 12" proposed overhang would be required. This request places the overhang within 1' of the property to the west. This is not inconsistent with the general area, but with the ordinance amendment requiring that vertical projections be considered for approval, the ZBA may consider the impact on neighboring properties, and the property owners' ability to maintain eaves and prevent runoff. The setback to the building has existed for over 40 years with no known issues, and the garage on the property to the west is also 2'.

6. West (North/South) Side Yard-Sylvan/Forrest: If item 1 was granted, no variance is required for the setback of the exterior wall to the property line, but an 8" overhang variance to permit the 12" proposed overhang would be required. This request places the overhang within 1' of the property to the west. This is not inconsistent with the general area, but with the ordinance amendment requiring that vertical projections be considered for approval, the ZBA may consider the impact on neighboring properties, and the property owners' ability to maintain eaves and prevent drainage. The setback to the building has existed for over 40 years with no known issues. The dwelling on Sylvan is 4' from the shared property line, and except at the corner of each dwelling, the rest of the area is driveway, providing a much larger setback between dwellings than #5.

7. West (East/West) Side Yard-Sylvan/Forrest: If item 1 was granted, no variance is required for the setback of the exterior wall to the property line, but a 6" overhang variance to permit the 12" proposed overhang would be required. This request places the overhang within 2' of the property to the west. This is not inconsistent with the general area, but with the ordinance amendment requiring that vertical projections be considered for approval, the ZBA may consider the impact on neighboring properties, and the property owners' ability to maintain eaves and prevent drainage. The setback to the building has existed for over 40 years with no known issues. The dwelling on Sylvan from this portion of the proposed home is over 11' from the shared property line, providing a much larger setback between dwellings than #5 and #6.

8. Overall Lot Coverage-Square Feet: The lot coverage is consistent with the surrounding area, and due to the irregular shape and exceptionally small lot area, this request is recommended for approval.

9. Class A Designation on proposed additions to existing footprint, as approved: In order to use, alter, enlarge, repair or replace any portion of the home for any reason, including flooding or fire, granting a Class A covering all variances, including conditions, as approved by the ZBA, is appropriate.

Please note: The ZBA cannot grant a variance on any proposal which encroaches on an adjacent parcel. The agenda has the motions written out based on the request as presented, but the ZBA can grant variances less than what is requested without sending out a new notice; the ZBA cannot grant a variance greater than requested. The agenda is meant as a guide.

**FORT GRATIOT CHARTER TOWNSHIP
ZONING BOARD OF APPEALS DEPARTMENTAL REVIEW**

FROM: Building Department, Department of Public Works, Fire Department
 APPLICANT: Allen Shaw & Theresa Turnbull OWNER: Same
 LOCATION: 2959 Maplewood Drive PARCEL I.D. #: 74-20-468-0089-001
 DATE: December 13, 2024 MEETING DATE: Tuesday, December 17, 2024

YES	NO	N/A	BUILDING DEPARTMENT:
X			1. Will the new construction require additional fire proofing?
X			2. Will the existing structure require additional fire proofing?

COMMENTS:
Per Michigan Residential Code 2015; R302.6 Dwelling – Garage Fire Separation.

RECOMMENDATION:
 Deny Approve Approve w/conditions Postpone-additional information requested

Reviewed By: Gary Beem, Building Official Date: 12/4/2024

YES	NO	N/A	DEPARTMENT OF PUBLIC WORKS:
	X		1. Are there conflicting or multiple structures?
	X		2. Are there any common service agreements?
			3. If yes, above, are easements/necessary paperwork recorded?
			4. Will the proposed construction interfere with any:
	X		sewer lines or mains? If yes, please indicate: <input type="checkbox"/> existing or <input type="checkbox"/> future
	X		water lines or mains? If yes, please indicate: <input type="checkbox"/> existing or <input type="checkbox"/> future
	X		storm drains? If yes, please indicate: <input type="checkbox"/> existing or <input type="checkbox"/> future

COMMENTS:

RECOMMENDATION:
 Deny Approve Approve w/conditions Postpone-additional information requested

Reviewed By: Gregory Randall Date: 12/3/2024

YES	NO	N/A	FIRE DEPARTMENT:
X			1. Is there location and adequacy of water lines and fire hydrants?
	X		2. Are additional on-site fire protection systems necessary?
X			3. Can use or building be serviced, in case of fire, from all sides?
X			4. Is there adequate vehicle access for fire equipment?
	X		5. Are there special conditions which may necessitate further study or information? (i.e., paint, solvents, explosives, unstable chemicals)

COMMENTS:
Approved. For added protection recommend the use of smoke detectors and fire extinguishers on premises.

RECOMMENDATION:
 Deny Approve Approve w/conditions Postpone-additional information requested

Reviewed By: Michael F. Fronimos, Fire Chief Date: 12/3/2024

LEGEND OF EXISTING FEATURES

- Property Marker
- Set Iron
- ⊙ Drain
- ⊕ Gas Meter
- ✉ Mailbox
- ⊠ Electrical Riser
- ⊙ Power Pole
- Cable Anchor
- ⊕ Shrubbery/Bush
- ⊕ Small Deciduous Tree
- Top of Slope
- - - Toe of Slope
- - - 8" S Storm Sewer
- - - 8" SS Sanitary Sewer
- Parcel Lines
- Property Line (Survey)

SANITARY STRUCTURE TABLE

STRUCTURE NAME	STRUCTURE DETAILS
MH 4	RIM = 586.77 INV = 581.87 (6" PVC S) INV = 580.72 (6" VCP NE) INV = 580.37 (6" VCP W)
MH 5	RIM = 586.35 INV = 581.00 (6" VCP W)

ZONING:

ZONED R1-A (SINGLE FAMILY RESIDENTIAL)
FORT GRATIOT ZONING MAP DATED 11/29/2006

SETBACKS:

FRONT: 35'
SIDE: ONE SIDE 10' TWO SIDE TOTAL 20'
REAR: 35'

NOTES:

DISCLAIMER: NO TITLE WORK PROVIDED

BENCH MARKS:

DESCRIPTION: LAG SCREW IN SOUTH FACE UTILITY POLE ON THE NORTH SIDE OF MAPLEWOOD DRIVE 100± EAST OF BEACH ROAD.

ELEVATION: 587.31 NAVD 88

WATERMAIN ON MAPLEWOOD LOCATED ALONG NORTH RIGHT OF WAY

HIGH RISK EROSION AREA:

DETERMINED USING FORT GRATIOT TOWNSHIP HIGH RISK EROSION AREAS MAP PROVIDED BY MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES AND ENERGY (DEPARTMENT OF ENVIRONMENTAL QUALITY). DATED 7/10/1998

EROSION HAZARD LINE:

DETERMINES LOCATION OF 30 YEAR/60 YEAR PROJECTED RECESSION DISTANCE USING GREAT LAKES DATUM CONTOUR OF LAKE HURON ELEVATION: 582.35

FOR BOUNDARY INFORMATION SEE PARCEL COMBINATION SURVEY COMPLETED FOR THIS PROJECT

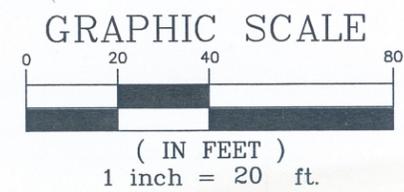
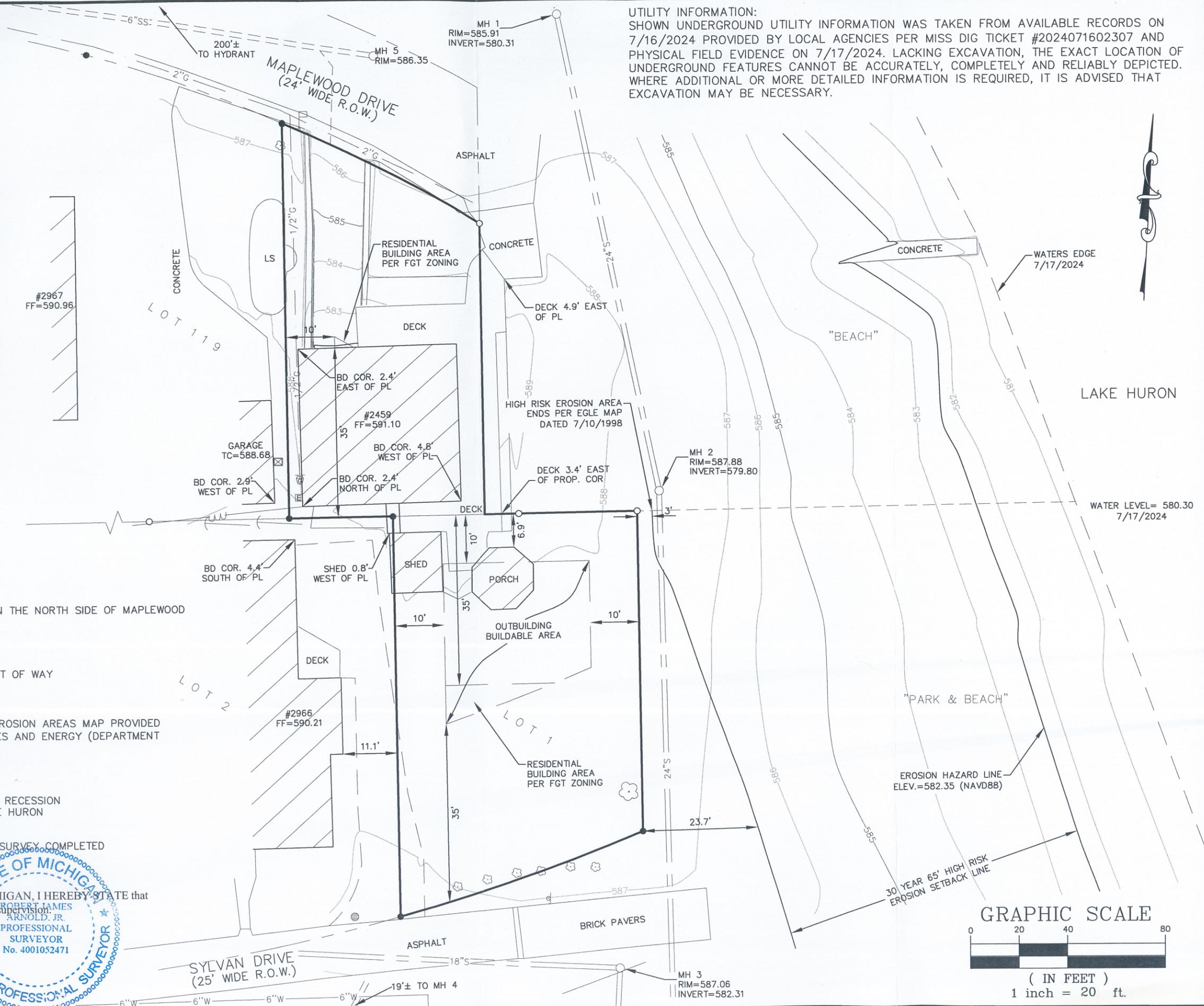
SURVEYOR'S CERTIFICATE:

AS A PROFESSIONAL SURVEYOR IN THE STATE OF MICHIGAN, I HEREBY STATE that the survey work hereon delineated has been performed under my supervision.

Robert J. Arnold Jr.
Robert J. Arnold Jr., P.S. No. 52471



UTILITY INFORMATION:
SHOWN UNDERGROUND UTILITY INFORMATION WAS TAKEN FROM AVAILABLE RECORDS ON 7/16/2024 PROVIDED BY LOCAL AGENCIES PER MISS DIG TICKET #2024071602307 AND PHYSICAL FIELD EVIDENCE ON 7/17/2024. LACKING EXCAVATION, THE EXACT LOCATION OF UNDERGROUND FEATURES CANNOT BE ACCURATELY, COMPLETELY AND RELIABLY DEPICTED. WHERE ADDITIONAL OR MORE DETAILED INFORMATION IS REQUIRED, IT IS ADVISED THAT EXCAVATION MAY BE NECESSARY.



A.

BMJ
ENGINEERS & SURVEYORS, INC.

CIVIL ENGINEERS & LAND SURVEYORS
519 HURON AVE. PORT HURON, MI 48060
TEL: 810-984-5596 FAX: 810-984-8760
Web Page: www.bmjinc.com Email: mail@bmjinc.com

TOPOGRAPHIC SURVEY OF PARCELS #74-20-297-0001-000 & -468-0089-000,
BEING LOT 1 OF "FORREST SUBDIVISION (L.47, P.8) AND LOT 120 OF "LAKE
HURON MANOR" (L.47, P.2) FORT GRATIOT TWP., ST. CLAIR COUNTY, MICHIGAN
FOR: ALLEN SHAW

SCALE: 1"=20'
DATE: 7/17/2024
SURVEYED: AB
DRAWN: BCM
CHKD: RJA
JOB NO. 2406-18
SHEET 1 OF 1

LEGEND OF EXISTING FEATURES

●	Property Marker	⊠	Electrical Riser
○	Set Iron	⊙	Power Pole
⊖	Drain	—	Cable Anchor
⊕	Gas Meter	⊗	Shrubbery/Bush
Ⓜ	Mailbox	⊕	Small Deciduous Tree

---	Top of Slope
- - -	Toe of Slope
- - - - -	Storm Sewer
- - - - -	Sanitary Sewer
---	Parcel Lines
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 FORT GRATIOT ZONING MAP DATED 11/29/2006

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ELEVATION: 587.31 NAVD 88
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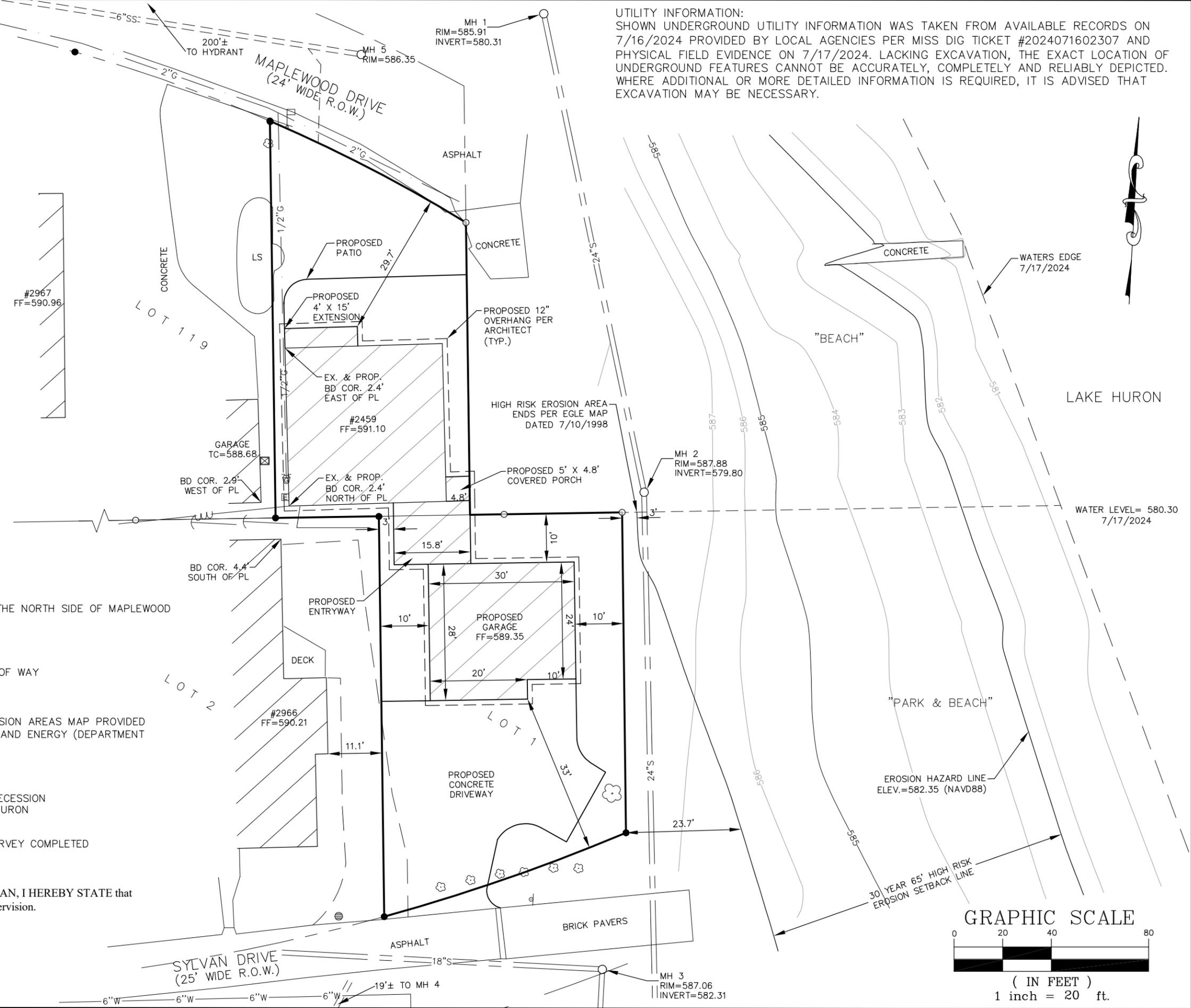
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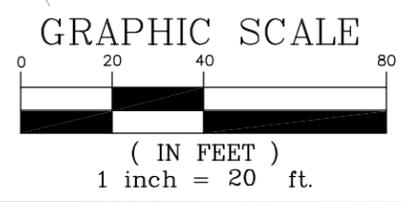
FOR BOUNDARY INFORMATION SEE PARCEL COMBINATION SURVEY COMPLETED FOR THIS PROJECT

SURVEYOR'S CERTIFICATE:
 AS A PROFESSIONAL SURVEYOR IN THE STATE OF MICHIGAN, I HEREBY STATE that the survey work hereon delineated has been performed under my supervision.

Robert J. Arnold Jr., P.S. No. 52471



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B.

CIVIL ENGINEERS & LAND SURVEYORS
 519 HURON AVE. PORT HURON, MI 48060
 TEL: 810-984-5896 FAX: 810-984-8760
 Web Page: www.bmjinc.com Email: mail@bmjinc.com

BMJ
 ENGINEERS & SURVEYORS, INC.

SITE PLAN OF PARCELS #74-20-297-0001-000 & -468-0089-000,
 BEING LOT 1 OF "FORREST SUBDIVISION (L.47, P.8) AND LOT 120 OF "LAKE
 HURON MANOR" (L.47, P.2) FORT GRATIOT TWP., ST. CLAIR COUNTY, MICHIGAN
 FOR: ALLEN SHAW

SCALE: 1"=20'
 DATE: 7/17/2024
 SURVEYED: AB
 DRAWN: BCM
 CHKD: RJA
 JOB NO. 2406-18
 SHEET 1 OF 1

Planning

From: kathy lis <kathylis57@yahoo.com>
Sent: Thursday, December 5, 2024 6:37 PM
To: Planning
Subject: Zone board meeting December 17,2024

Fort Gratiot zoning board,

In regard to the variance request for Lot #1 on Sylvan Dr.

I am not willing to give up my share of our park land to anyone. Please do not grant this variance. These people (lot #1) knew their lot lines before they drew up plans for their new home. The land was properly surveyed. They knew months ago what was their land and what was the parks land. The arrogance of them to assume that the people in the Forrest subdivision would give up any part of the park is crazy. I hope as a home owner in the Forrest subdivision you will considered my request to deny the variance for Lot #1 Sylvan Dr. This park land has belonged to all of us in the Forrest Sub for over 75 years, not just one person, not just one home but every resident on Sylvan Dr., Woodland Dr., Campfire Dr. and Lakeshore Dr.

Thank You

Kathy Lis
2993 Woodland Dr
Fort Gratiot, MI 48059

Fort Gratiot Zoning Board

Fort Gratiot Municipal Center
3720 Keewahdin
Fort Gratiot, MI 48059

12-8-2024

Dear Members of the Fort Gratiot Zoning Board,

On behalf of the Forrest Homeowners Association, I am writing to express our opposition to the 2-foot overhang setback variance requested by Allen Shaw and Theresa Turnbull for Lot #1 on Sylvan. This variance would encroach on a small strip of land owned by the HOA that runs in front of the property and extends toward the Manor Subdivision.

This strip of land is an integral part of our park area and is of shared importance to all residents in our neighborhood. We are concerned that the proposed variance disregards the established boundary lines, suggesting that the architectural plans were not designed with proper adherence to those limits. Approving this request would unfairly ask the HOA and its members to accommodate this oversight, setting a troubling precedent for future development in the area.

We respectfully urge the board to deny this variance and require the property owner to adjust their building plans to fit within the designated boundaries. Doing so would ensure that the rights and shared interests of the community are preserved.

Thank you for your attention to this matter. Please feel free to contact me directly at 586-764-6637 or miwilsonmi@comcast.net if additional information or discussion is needed.

Sincerely,

Laurie Wilson
President
The Forrest Homeowners Association
3002 Woodland Dr.
Fort Gratiot, MI 48059

Lawrence and Therese Holman
2956 Elmwood Avenue
Fort Gratiot MI 48059

December 10 - 2024

E.

Fort Gratiot Charter Township
Zoning Board of Appeals

To Whom It May Concern

Re: 2959 Maplewood Drive

Parcel ID 74-20-468-0089-001

Lot 120

We think the new build will be a
great asset to the neighborhood.

The variances are all reasonable requests
and we are 100% in favor of approval.
We are Lot #1

Sincerely

Lawrence Holman
LAWRENCE HOLMAN

Therese Holman
THERESE HOLMAN