

**CHARTER TOWNSHIP OF GARFIELD
ZONING BOARD OF APPEALS MEETING**

Thursday, May 16, 2024 @ 6:00 p.m. Garfield
Township Hall
3848 Veterans Drive
Traverse City, MI 49684

A G E N D A

ORDER OF BUSINESS

Call meeting to order
Pledge of Allegiance
Roll call of Board Members

1. Review and approval of the Agenda and declaration of a Conflict of Interest
2. Minutes – April 18, 2024
3. Public Hearings:
 - a. A request made by Kathy Boyd, a resident at 1669 Lake Drive, to appeal the issuance of a Land Use Permit for grading and drainage activities on an adjacent parcel. The subject property is located at 1661 Lake Drive with the property number of 05-295-035-00.
4. Unfinished Business
5. Other Business
6. Items for next agenda
7. Public Comment
8. Adjournment

The Garfield Township Board will provide necessary reasonable auxiliary aids and services, such as signers for hearing impaired and audio tapes of printed materials being considered at the meeting to individuals with disabilities upon the provision of reasonable advance notice to the Garfield Township Board. Individuals with Disabilities requiring auxiliary aids or services should contact the Garfield Township Board by writing or calling Lanie McManus, Clerk, Ph: (231) 941-1620.

**CHARTER TOWNSHIP OF GARFIELD
ZONING BOARD OF APPEALS
MEETING MINUTES
April 18, 2024**

Call to Order: Chair Smith called the meeting to order at 6:00pm.

Pledge of Allegiance: Recited by everyone in attendance.

Roll Call of Board Members:

Members Present: Robert Fudge, Kent Rozycki, Scott Swan and Rick Smith

Absent and Excused: Lynne Fricke

Also in Attendance: Zoning Administrator Mike Green

1. Review and Approval of the Agenda – Conflicts of Interest (6:01)

Swan moved and Rozycki seconded to approve the agenda as presented.

Yeas: Swan, Rozycki, Fudge, Smith

Nays: None

2. Review and Approval of Meeting Minutes – March 21, 2024 (6:02)

Fudge moved and Swan seconded to approve the minutes of March 21, 2024 as presented.

Yeas: Fudge, Swan, Rozycki, Smith

Nays: None

3. Unfinished Business (6:02)

- a. A request has been made by VT Construction on behalf of Alan D. Strange for a 16 ft variance from the front setback requirements. The specific request is asking for a variance from 30 ft to 14 ft to allow construction of an addition to an existing dwelling. The property is zoned R-1 Single Family Residential and is currently used as single-family residential. The property is located at 5091 Case Court with a property number of 05- 285-005-00 The parcel is located within the Silver Knoll Acres subdivision and is described as Lot 5 of the Silver Knoll Acres including an interest in Park A. According to Township records and information supplied by the application, the property contains a dwelling with an attached garage along with a detached accessory building. A front yard variance was granted by the Zoning Board of Appeals in 1980 to allow for construction of the attached garage that is located within the front yard. The revised drawings show a proposed 2nd story addition over the existing garage and expanded covered porch. Alan Strange spoke and explained his plans to add on a family room above the garage. A covered porch over the asphalt would also be built. Justin Slagal from VT Construction discussed the plans with board members. The variance

would place the new structure two feet towards the road right-of-way. Board members asked about alternative placement on the site. Board members also discussed the fact that two feet towards the road may be better than two feet towards the water's edge. Also discussed is the fact that the road right of way cul-de-sac takes up lots of space on their property and Wayne Schoonover, Road Commission Engineer has written an email indicating that there are no plans to build out the cul-de-sac in the future.

Board members then went on to discuss the Findings of Fact:

Practical Difficulty:

- A. Special conditions or circumstances exist that are peculiar to the land, buildings, or other structures for which the variance is sought, do not apply generally to lands, buildings, or other structures in the same district, and could not reasonably be addressed through the formation of general regulation for such conditions. Special circumstances or conditions to be considered for variances shall include, but not be limited to, the circumstances as described in § 454.E.(3);

Board members decided unanimously that this condition was **met** because the large portion of road right of way which takes up much of the front yard may not ever be built out according to the road commission. If it were not for the proposed cul-de-sac, the applicant would not need a variance.

- B. The special conditions and circumstances peculiar to the land, buildings or other structures did not result from a self-created condition or action taken by the applicant or an owner of the lands;

Board members decided unanimously that this condition was **met** because the applicant did not create the proposed cul-de-sac.

- C. The special conditions and circumstances are such that strict application of the provisions of this ordinance would deprive the applicant of any reasonable use of the land, building, or structure authorized by this Zoning Ordinance.

Board members discussed this point and determined that the condition was **met** based on the current layout of the home and the property and the fact that the home was built before zoning existed in the township. Smith, Swan and Fudge agreed with this condition while Rozcyki abstained from voting on this condition.

- D. Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this ordinance.

Board members determined that this condition was **met** because the situation is unique and cannot compare to anything in the area. Two feet towards the roadway was preferable to building two feet towards the waterfront. Smith, Fudge and Swan agreed with this condition and Rozycki did not agree with this condition.

- E. For the purpose of this section, a practical difficulty shall not exist because an applicant would incur additional costs to achieve full compliance or could receive additional income with less than full compliance with the ordinance.

Board members determined unanimously that this condition was **met** because the applicant was not claiming a financial hardship.

General Criteria:

- A. The requested variance shall relate only to property that is under the control of the applicant.

All board members determined that this condition was **met**.

- B. No nonconforming neighboring lands, buildings, or other structures, legal or illegal, in the same district, and no permitted buildings, or other structures in adjacent districts, shall be considered as grounds for the issuance of a variance. Board members stated that the applicant was not asking for a variance based on any other non-conformities in adjacent properties or within the R-1 district so this condition was **not applicable**.

- C. The requested variance shall be in harmony with the general purpose and intent of this ordinance and shall not be detrimental to the public health, safety and welfare.

Board members decided unanimously that this condition was **met** because the special conditions highlighted by the applicant and as communicated in this report would likely not set precedent for similar requests.

- D. The requested variance shall not alter the essential character of the area or cause a substantial adverse effect upon properties in the immediate vicinity or in the district in which the property of the applicant is located.

All board members determined that this condition was **met** because the requested variance would not cause a noticeable effect on neighboring properties beyond what is permitted by right.

- E. The requested variance is the minimum variance that will make possible the reasonable use of the land, building, or structure, and there is no reasonable alternative location on the parcel for the proposed improvements for which a variance is sought where such alternative location would eliminate the need for the requested variance or reduce the extent of the condition(s) necessitating the variance.

Board members determined that the condition was **met** because the applicant has demonstrated that there are no other areas on the property that could be reasonably used for an addition.

Board members suggested that the applicant contact road commission regarding adverse possession or abandonment of the proposed cul-de-sac which impedes their property.

Swan moved and Fudge seconded to GRANT the request for variance from Sections 313.E of the Garfield Township Zoning Ordinance to sixteen (16) foot variance based on findings for each Practical Difficulty standard and General Criteria for granting such request being met.

Yeas: Swan, Fudge, Smith

Nays: None

Abstained: Rozycki

4. Other Business (6:34)

None

5. Items for Next Agenda (6:35)

Green gave an overview of next month's ZBA case.

6. Public Comment (6:50)

None

- 7. Adjournment:** *Fudge moved and Rozycki seconded to adjourn the meeting at 6:50pm.*



Charter Township of Garfield

Grand Traverse County

3848 VETERANS DRIVE
TRAVERSE CITY, MICHIGAN 49684
PH: (231) 941-1620 • FAX: (231) 941-1588

ZONING BOARD OF APPEALS STAFF REPORT

Meeting Date: Thursday, May 16, 2024
Case #: 2024-02 Appeal of Zoning Administrator issuance of Land Use Permit
Owner: Bill Waggener & Donna Wytaske
Appellant: Kathy Boyd, resident and owner of 1669 Lake Drive
Property ID #: 05-295-035-00
Property Location: 1661 Lake Drive
Zoning District: R-1 One Family Residential

Parcel Overview and History

The parcel is described as Lot 35 and the North 10 feet of Lot 34 of Silver Pines Resort subdivision. The property is zoned R-1 One Family Residential, and is located at 1661 Lake Drive, with a property number of 05-295-035-00. Adjacent properties within the subdivision and surrounding areas are also zoned R-1 One Family Residential. According to Township records and information supplied by the application, the property contains a dwelling with an attached garage.

Request for Reversal of a Land Use Permit

An appeal of the intended issuance of a Land Use Permit for various site grading work at 1661 Lake Drive has been made by Kathy Boyd, resident and property owner of 1669 Lake Drive. The basis of the appeal is two-fold as outlined below. The first item is the reconstruction of the driveway in the front yard; the second is regarding the stormwater plans presented to the Township Engineer. A copy of the Appeal is provided as an attachment to this report. Staff review of the appeal has been provided in the following pages of this report.

Authority of the ZBA to Consider Appeals (Section 453)

A. Applicability

The Zoning Board of Appeals shall hear and decide appeals where it is alleged that there is an error in a previously granted written order, requirement, decision, interpretation, or determination made by the Zoning Administrator or the Director of Planning in the enforcement of this zoning ordinance that specifically provides for appeal to the Zoning Board of Appeals. Appeals may be filed by any person aggrieved, by the Zoning Administrator, or by an officer of the Township.

B. Initiation

An appeal and supporting documents shall be filed with the Zoning Administrator. The application shall state fully and in detail the basis of the appeal, the variance requested and the special conditions and circumstances applying to the building, other structure or land for which such variance is sought. The Zoning Administrator may reject an application that does not meet the requirements of this ordinance.

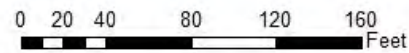
C. Stay of Proceedings

When an appeal is filed to the Zoning Board of Appeals, all proceedings in furtherance of the action affected by the decision being appealed shall be stayed unless a stay would, in the opinion of the Zoning Administrator, cause imminent peril to life or property.

D. Decision

- (1) The Zoning Board of Appeals shall give public notice of the hearing in accordance with State Law, shall hold the hearing, and shall decide the appeal within a reasonable time.
- (2) Any person may appear before the Zoning Board of Appeals at any hearing, in person, or by agent or attorney.
- (3) The Zoning Board of Appeals may:
 - (a) Reverse or affirm, wholly or partly, or may modify a previously granted order, requirement, decision, or determination appealed;
 - (b) Make such order, requirement, decision, or determination as ought to be made; and
 - (c) Exercise all the powers of the officer or agency from whom the appeal is taken.

**Aerial view of subject parcel and adjacent properties
(subject property is highlighted in light blue)**



- 2023 Parcels
- Addresses
- Roads
- Public Right-of-Way

This map is based on digital data provided by Garfield Township. The Township does not warrant, expressly or impliedly, that the information on this map is correct or particularly accurate. Always contact a surveyor for the most accurate property line information.

Garfield Charter Township
 3848 Veterans Drive
 Traverse City, MI 49684
 Phone: 231.941.1620
 Fax: 231.941.1688
www.garfield-twp.com



NOT A LEGAL SURVEY

Garfield Township Zoning Dept. - Printed on: 5/8/2024

2022 Aerial View of the subject property



2014 Aerial View of the subject property



Staff Comments

Please consider the following findings that I used to determine that the Land Use Permit for 1661 Lake Drive meets the standards of the Township Stormwater Ordinance and qualifies as a continued legal nonconforming use per Article 8, Section 812 of the Zoning Ordinance:

1. Stormwater review – Our established procedure is to approve stormwater plans based on a recommendation by the Township Engineer. The decision to issue the permit for 1661 Lake Drive was based on the February 28, 2024 GFA review letter. The April 26, 2024 GFA review letter was issued subsequent to this decision. In light of the highlighted recommendations made in the April 26, 2024 GFA letter, the Zoning Board of Appeals may consider issuing an order to follow their recommendation requiring the applicant to submit a plan to the Township that addresses the concentrated flows as described in the letter as an amendment of the existing Land Use Permit.
2. Review of the driveway reconstruction, including the area of the driveway not meeting the current driveway requirements of Article 5, Section 511 of the current Zoning Ordinance – The decision to allow for the reconstruction the nonconforming driveway within the ten foot setback was based on highlighted language in Section 812 and various legal guidance as provided with this report which supports this position. The reconstructed driveway appears to be substantially in the same location as has been in existence since at least 2014 (prior to adoption of the current Zoning Ordinance). The plans reviewed by GFA appear to support this other than a small area of concrete near the garage that the owner has agreed to remove as a condition of approval.

Possible Motion

Upon review of each finding, the Zoning Board of Appeals may consider a motion to take one of the following actions:

Motion to **AFFIRM** the decision of the Zoning Administrator to issue the Land Use Permit **as requested** based on compliance with the Stormwater Ordinance as demonstrated by the reviews completed by Gourdie Fraser and Associates and based on the reconstruction of the driveway meeting the standards of Section 812 – Nonconforming Sites.

Motion to **AFFIRM IN PART** the decision of the Zoning Administrator to issue the Land Use Permit based on compliance with the Stormwater Ordinance as demonstrated by the reviews completed by Gourdie Fraser and Associates and based on the reconstruction of the driveway meeting the standards of Section 812 – Nonconforming Sites provided the applicant modifies the application to address the overflows onto the property at 1669 Lake Drive as addressed in the April 26, 2024 GFA Review Letter that was peer reviewed and supported by Andy Smits, Grand Traverse County Drain Commissioner in his April 25, 2024 email to Township and GFA staff.

Motion to **REVERSE** the decision of the Zoning Administrator to issue Land Use Permit as requested based on noncompliance with the Stormwater Ordinance as alleged by the Appellant and the based on a determination that the reconstruction of the driveway does not qualify as a legal nonconforming use based on the standards of Section 812 – Nonconforming Sites.

Please feel free to contact me if you have any questions before the meeting.

Sincerely,

Michael Green, Zoning Administrator

Attachments:

1. ZBA Appeal filed by Kathy Boyd, Resident and owner of 1669 Lake Drive
2. Land Use Permit application for site grading and drainage structures filed by Bill Waggener that is subject of appeal by Kathy Boyd.
3. Section 812 of the Zoning Ordinance (Nonconforming Sites).
4. Court Cases and other legal guidance regarding nonconforming uses.
5. Gourdie Fraser and Associates (GFA) Stormwater reviews dated 1-26-2024, 2-28-2024, and 4-26-2024
6. Email correspondence regarding the stormwater review between GFA staff, Township staff, and Andy Smits, County Drain Commissioner.
7. Section 511 – Single and Two Family Residential Driveway Requirements

Kathy Boyd
1669 Lake Drive
Traverse City, Michigan 49685
Klboyd7@gmail.com

April 16, 2024

Zoning Board of Appeals
Attn: Rick Smith, Chairman
Kent Rozycki, Vice-Chair
Robert Fudge, Planning Commission Representative
Scott Swan
Lynn Fricke, Secretary

Garfield Township Zoning Department
The Charter Township of Garfield, Grand Traverse County, Michigan
3848 Veterans Drive
Traverse City, Michigan 49684

RE: Appeal to the Township Zoning Board
1) Enforcement of Zoning Ordinance 511.A
Driveway concrete within 10-foot side yard setback
2) Overturn Stormwater Permit for faulty stormwater drain

Property: 1661 Lake Drive, Traverse City, MI 49685
Property owners: William (Bill) Waggener and Donna Wytaske

April 16, 2024

Mr. Smith, Mr. Rozycki, Mr. Fudge, Mr. Swan, and Ms. Fricke:

As a taxpayer and resident of Garfield Township the last year has been extremely difficult. Over the past year the property owner at 1661 Lake Drive has made many dramatic changes to his property that are in blatant, intentional violation of Township ordinances. These unchecked violations threaten my drinking water, my septic drain-field, and the foundation of my home. The overflowing newly constructed stormwater drain has already eroded my property. Since May 1, 2023 Garfield Township Zoning Administrator Mike Green has been fully informed of the anticipated, ongoing, and completed changes at this property, but has failed to correct the ordinance violations. Today I request your oversight of Mr. Green. Specifically, I request your help in enforcement of Zoning Ordinance 511.A, and reversal of Mr. Green's approval of a Stormwater permit that allows continued use of a faulty drainage system that overflows onto my property.

The first part of this report will show four things:

- 1) The property owner (William Waggener) 1661 Lake Drive was aware of the Township Ordinance requiring a 10 foot side yard setback for driveway concrete (Ordinance 511.A)
 - 2) Mr. Green was aware of Mr. Waggener's intention to expand the driveway, ongoing grading and property changes, and removal of the concrete prior to pouring of new concrete.
 - 3) Mr. Waggener poured concrete with full knowledge of the Ordinance 511.A and without a Land Use permit.
 - 4) Mr. Green had many opportunities to intervene while the property changes were in progress, chose not to intervene, and did not enforce Township Ordinance 511.A
- The Township Zoning Administrator was fully aware of the property changes, yet chose to ignore direct violation of Township ordinances to appease a repeat offender.**

The second part of this report will establish that my property at 1669 Lake Drive (north adjacent to 1661 Lake Drive) receives increased concentrated runoff from the new expanded concrete driveway and the newly constructed Stormwater drain at three separate locations:

- 1) Concentrated overflow that exits the new drain at the lower corner post and runs down my property to the waters of Silver Lake. This runoff has cut a path into my hill, exposed my erosion grid in multiple places, and caused erosion to my beach.
- 2) Runoff from the apron of the driveway to my sidewalk that enters my septic drain field
- 3) Runoff from the concrete within the 10-foot set back and output from the perforated riser upper drain within a few feet of my water well

The land changes and new expanded concrete increase the velocity and volume of water that is now directed toward my property, which is against the law in the State of Michigan.

Countless photographs and videos were provided to the Township of drain construction, drain overflow, and water trespass onto my property over the last year. Mr. Green issued only a letter of violation and a single ticket to Mr. Waggener. In the end, after many months and many reminders, the Township required evaluation and Engineering certification of the stormwater system. Mr. Waggener then provided inaccurate data (impervious surface calculation, actual dimensions of drain, and cubic feet of stone) to the Township engineers. The engineering calculations were based on the inaccurate data. Even with the reduced impervious surface estimations and water volume estimations the Township Engineer deemed the drain system to fall short of the Township Ordinance requirements. Bewilderingly, the drain was then certified based on a phone call to Mr. Waggener, who provided reassurance that the drain functions 'perfectly'. The certification was granted despite the well documented concentrated overflow from the lower drain. Mr. Green's decision to now grant a Stormwater permit to the property owner at 1661 Lake Drive is inappropriate, as the many Ordinance violations on the property have not been corrected. **The Township Zoning Administrator was fully aware of the property changes, yet chose to ignore direct violation of Township ordinances to appease a repeat offender.**

The premise for this request is simple. If the citizens of Garfield Township are held to the standard of obtaining permits and meeting the Township ordinances for changes made to residential property, then the property owner at 1661 Lake Drive should be held to the same standard. Mr. Waggener was fully aware of the established Township ordinances when he made many changes to the property that directly violate the ordinances. **The Township Zoning Administrator was fully aware of the property changes, yet chose to ignore direct violation of Township ordinances to appease a repeat offender.**

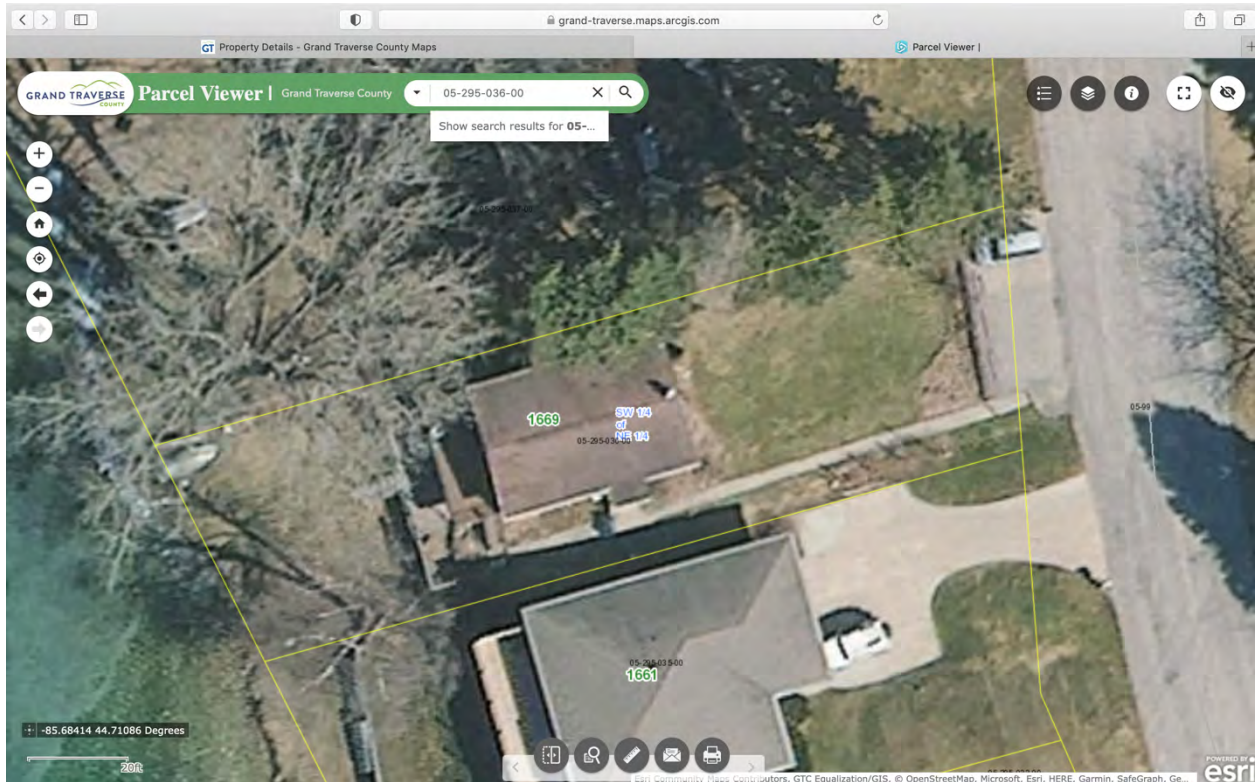
I request that the Board enforce Garfield Township Ordinance 511.A and require removal of the driveway concrete within the 10 foot side yard setback at 1661 Lake Drive. I request that the Board overturn Mr. Green's decision to grant a Stormwater permit to the property owner at 1661 Lake Drive until the current property changes have been brought into compliance with Garfield Township Ordinances and the water trespass has been addressed. Thank you for upholding the integrity of the of the established laws and Ordinances for the residents of Garfield Township and protecting my property from the consequences of these blatant violations.

Very Respectfully,



Kathy Boyd

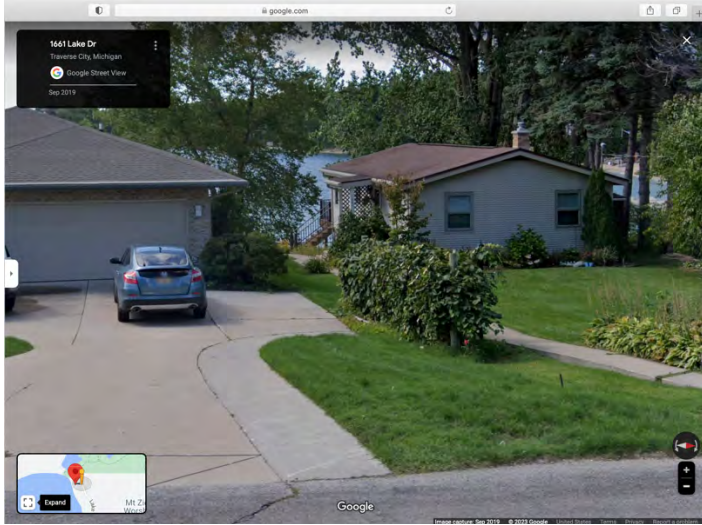
Lay of the Land



Grand Traverse County GIS parcel view 1661 Lake Drive and North adjacent 1669 Lake Drive Per Mr. Waggener’s own measurement concrete at narrowest point of drive is 8 feet (reference: Mr. Waggener’s letter to the Township June 7, 2023)



Zillow listing 1661 Lake Drive – notice the cement extends just beyond the house to a sidewalk area.



From Google Earth

Notice original concrete. The green space between the properties is relatively even.



Original driveway

Notice the existing property corner marker in foreground.

The grape trellis surveyed on to 1669 Lake Drive property



Original concrete at 1661 Lake Drive

Notice elevation of property is relatively even

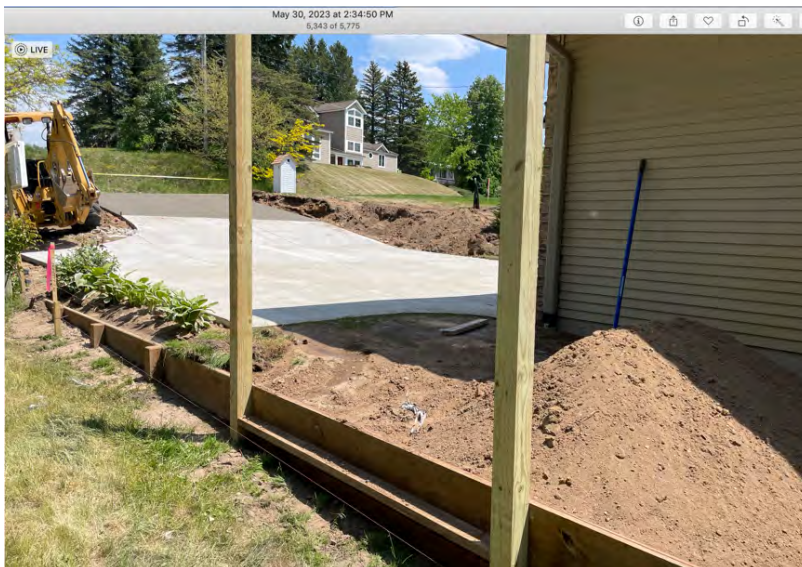
Green space between houses

Notice location of water well at 1669 Lake Drive

Not visible in photo: Existing grate with gravel at base of 1661 Lake Drive that collects runoff from driveway on 1661 property



New Concrete: Note solid concrete from Apron to garage, driveway width now approx. 20ft, new south parking area, expanded north concrete in side yard adjacent to 1669 Lake Drive

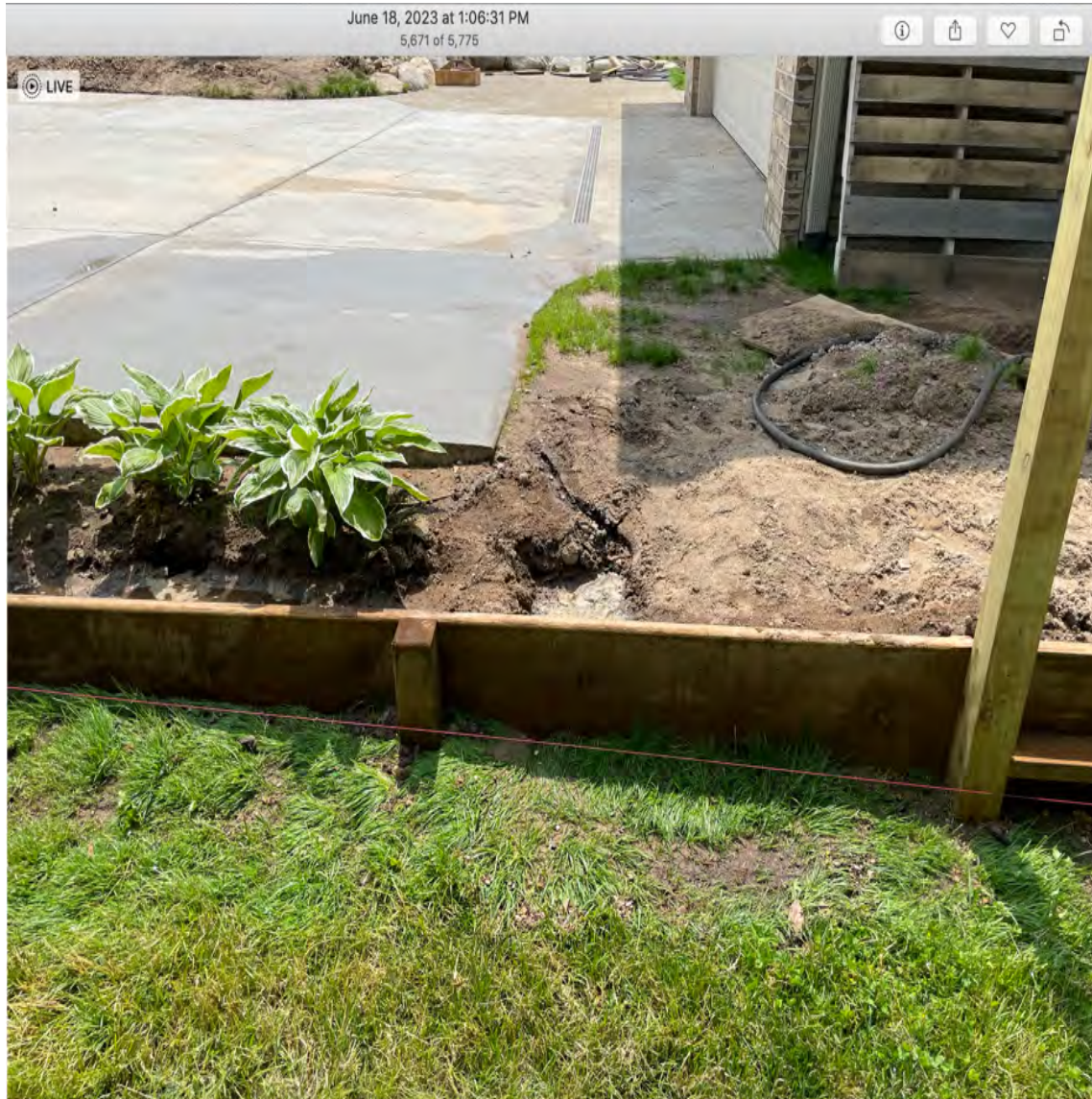


New concrete. Width expanded from 8 feet at narrowest point (see Mr. Waggener's letter to Township) to approximately 20 feet wide.

Apron widened to approximately 20 feet

Concrete within side yard setback extended toward road

Note the new elevation at edge of garage increased by over 11 inches



New parking area to South large enough to park a car.

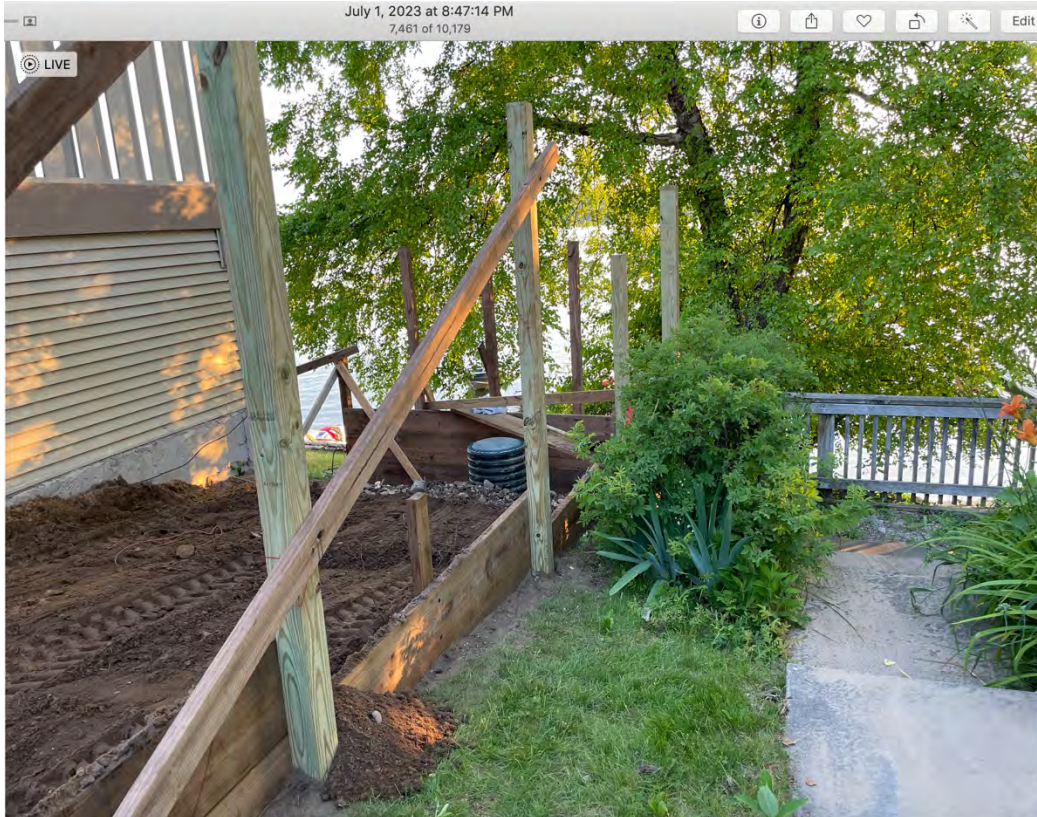
Concrete extended within the 10 foot setback (toward house and toward property line at the edge of the garage). Concrete sloped into apron for intended parking area between homes. Notice where water collects and overflows.



View of property between houses looking West before projects.

Note topography of property is even, slightly sloped toward 1661 Lake Drive

Roof gutter at 1661 Lake Drive drains to greenspace of Lakeside of 1661 Lake Drive property



Property changes looking west, notice Lower drain is set on top of natural slope and then filled



The drain is set on natural slope with rock fill around the perforated chamber. The slope was excavated at the property border to set the corner post and fence boards, creating a new path of 'least resistance' for water drainage. The water is directed to the Northwest corner (large corner post) which is at the property line. The water drains out of the base of the drain and onto 1669 Lake Drive property.



Original property view of Lakeside 1661 Lake Drive from 1669 Lake Drive
Notice Land topography is even at top of hill

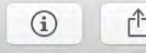
Erosion on slope of 1661 Lake Drive was from a Lawn tractor that became stuck on the slope
(notice the horizontal tracks)

1661 Roof gutter is visible – drains to lower green space on 1661 Lake Drive

1669 Lake Drive has an established erosion grid on slope with green grass

The established retaining wall at 1661 Lake Drive encroaches onto 1669 Lake Drive by
approximately 8 inches

October 11, 2023 at 3:02:20 PM
7,519 of 7,537



LIVE



Current view 1661 Lake Drive lakeside property. Notice extensive fill.
Increased elevation of retaining wall that houses lower drain facilitates drainage from 1661 Lake Drive to 1669 Lake Drive.
The corner post of the retaining wall that houses the lower drain is greater than 7 feet tall
All retaining walls, stairs, and drains were constructed without a Land Use permit from Garfield Township. This area is within 100 feet of Silver Lake.

Part 1: Concrete within the 10 foot side yard setback

In April, 2023 Mr. Waggener stated his intention to replace his driveway and extend the driveway down the side of his garage between our homes. I was concerned about drainage toward my home and did not provide an easement for concrete within side yard setback. Mr. Waggener then proceeded to remove the entire existing driveway cement and pour new driveway concrete, extending the driveway within the 10 foot side yard setback. This was done without obtaining the necessary permits from Garfield Township, and in direct intentional violation of Garfield Township Ordinance 511.A. Despite reassurances of the authority of Garfield Township and the Township Ordinances, Mr. Green failed to intervene during construction of the driveway. Mr. Green failed to require a Land Use permit, a Stormwater permit, and a Grand Traverse County Road Commission permit for the driveway replacement. Mr. Green failed to enforce Ordinance 511.A.

September 19, 2022: Mr. Waggener contacted the Garfield Township Zoning office to clarify the side yard setback prior to purchase of the property at 1661 Lake Drive.

***Please listen to recorded voicemail from September 19, 2022.** Mr. Waggener purchased the 1661 Lake Drive in October 2022.

April 10, 2023: Mr. Waggener informed me of his intent to replace the concrete of his driveway. He asked to expand the concrete along the property line, widen the apron, and pour additional concrete in the space between our homes. There was much 'confusion' about the location of the property line despite the corner iron that had marked the property corner for 2 decades. *Mr. Waggener set a snow stick marking 10 feet from his garage and declared the location to be the property line because the side yard setback was 10 feet, showing that he was aware of the 10 foot setback.*

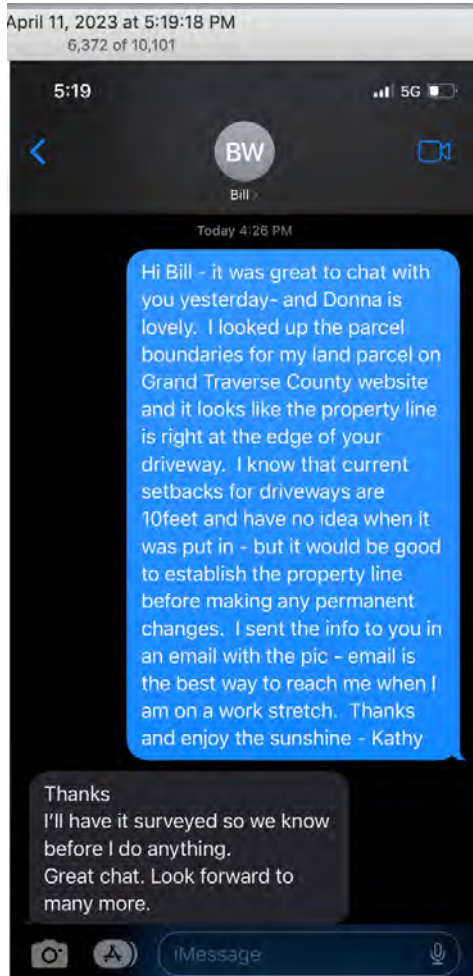


Notice snow stick placed by Mr. Waggener 10feet from garage. My water well is in foreground.

I was not in support of the expansion of concrete toward my property line, as my basement had experienced flooding in the past. I requested a drawing from Mr. Waggener to better understand the project. The proposed concrete changes were shown as 'new driveway'. I was willing to consider the proposal, but was disappointed to learn that Mr. Waggener's actual plans for concrete included a parking pad between our homes and extension of the concrete to the lower property. This plan was not depicted on the drawing. *Notice the driveway in the drawing is depicted as 'New Driveway' and does not include the new parking area to the south.*



I clarified via text and email to Mr. Waggener that I had not given any permissions for concrete expansion near the property line, and my expectation was that he would work with Garfield Township to obtain appropriate permits and make changes in accordance with the established Township ordinances.



April 11, 2023 Text exchange with Mr. Waggener clarifying 10 foot setback for driveway concrete

April 11, 2023: email Boyd to Waggener

“Our chat about the property line made me realize that I should probably educate myself a bit more on the topic before any permanent changes are made. I understand that you are a contractor and trust that you are up to speed on Garfield ordinances re: zoning, permits, setbacks, etc.”

This email was forwarded to M. Green at Garfield Township on April 15, 2023

April 17, 2023: email Boyd to Waggener – Written correspondence denying easement

“Please correct me if I am wrong, but I am concerned that it is your intention to extend the driveway toward my property line and then to a parking slab next to your garage between our homes (this area is not visible on the drawing). I am opposed to extending the concrete toward my property line and I am opposed to a parking slab as this would direct the water from your driveway toward the foundation of my home. I may not have mentioned this before, but water intrusion was initially a problem in my basement and I had a very expensive French drain installed around the east and north side of my home. Also, I believe there may be a drain already present between our houses at the base of the driveway where the grates are attached.”

April 22, 2023: email Boyd to Waggener:

“I remember Donna mentioning that you would need to pour cement for a generator pad on the north side of the garage but there was no mention of a parking pad. I am not opposed to a generator pad (the size of a bathtub) but am opposed to a parking pad or extension of the driveway. **Modifications to improve efficiency of the driveway that are within current zoning laws and setbacks sound like a great idea.**”

May 1, 2023: I visited the Garfield Township office on May 1, 2023 to ask for help. I learned that Mr. Waggener had been to the Zoning office many times to discuss his many projects with Mr. Green. During that visit I was reassured by Mr. Green that Mr. Waggener would not be able to perform work on his driveway without permits, as the property is within 500 feet of Silver Lake. Mr. Green advised me that he needed for me to file a formal complaint to involve the Township.

Township Land Use Permit requirements from the Garfield Township website:

When do I need a Land Use Permit?

A land use permit is needed for a change of use, any addition to an existing structure, a new structure of 100 square feet in size or more (including sheds and decks), or the disturbance of 100 square feet or more of earth.

May 3, 2023: I obtained a property survey to clarify the property boundary, and I submitted the requested formal complaint to the Township for excavation and grading without a permit to the Township Zoning Department.

May 3, 2023: email Boyd to Green:

“I appreciate handing this off to your department and am grateful for the help.

I am concerned mostly about the excavation close to my property line and my well. Bill has already brought in large rocks and poured concrete for a parking pad toward the south neighbors.

I am concerned that excavation of the slope between our houses will destabilize the ground.

I am also concerned about the pouring of concrete close to my property line, and the runoff toward my foundation and my well.”

To my surprise, Mr. Green said there was no Township Zoning Violation and he would not require a Land Use Permit. The excavation of the property at this point had disrupted well over 100 square feet of earth within 200 feet of Silver Lake. **There was no action from the Township.**

May 8, 2023: Email Green to Boyd: Reassurance from Mr. Green that he would visit the worksite at 1661 Lake Drive

“I have reviewed your complaint and supporting documentation. I will drive over at some point this week.”

May 11, 2023: Mr. Waggener had removed the concrete to the lower half of his driveway and brought in many dump trailers of fill dirt. He regraded the property, increasing the overall elevation at the base of the driveway by over 11 inches. I submitted a second complaint for the construction and grading. Mr. Green assured me in his email on May 11, 2023 that he would visit the property. *Mr. Fred Morse from Grand Traverse County Soil and Erosion came out to the site to issue a Stop Work order for work done without a permit.* **The Township Zoning Administrator was fully aware of the property changes, yet chose to ignore direct violation of Township ordinances to appease a repeat offender.**

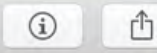
May 15, 2023: I sent photos of the removed concrete from the lower part of the driveway, the new grading, and the new trench drain that was set to direct the driveway runoff toward my property. I believed the construction would need a permit from the Township. **The Township Zoning Administrator was fully aware of the property changes, yet chose to ignore direct violation of Township ordinances to appease a repeat offender.**



May 14, 2023 New concrete parking area to south and New Porch concrete. New trench drain. Notice New south parking area is higher elevation than original concrete.

Lower concrete of driveway has been removed.

May 14, 2023 at 1:22:23 PM
6,695 of 10,096



LIVE



May 14, 2023 New trench drain with output toward 1669 Lake Drive
Excavation and fill dirt, Lower concrete completely removed.

May 15, 2023: Mr. Green clarified via email that if Mr. Waggener poured concrete within the sideyard setback that it would be a violation of the Garfield Township ordinance.



Kathy Boyd <klboyd7@gmail.com>

1661 Lake Drive zoning complaint

Mike Green <Mgreen@garfield-twp.com>
To: Kathy Boyd <klboyd7@gmail.com>
Cc: Jamie Douglass <jdouglass@garfield-twp.com>

Mon, May 15, 2023 at 9:36 AM

Yes, it would be a violation if he pours concrete within the 10 foot setback.

Sincerely,

Michael Green, Zoning Administrator
Charter Township of Garfield
Phone: 231-941-1620
Fax: 231-941-1588

From: Kathy Boyd <klboyd7@gmail.com>
Sent: Monday, May 15, 2023 9:23 AM
To: Mike Green <Mgreen@garfield-twp.com>
Cc: Jamie Douglass <jdouglass@garfield-twp.com>
Subject: Re: 1661 Lake Drive zoning complaint

Hi Mike -

Thank you for your email.

I spoke with Fred Morise (soil erosion) last week and I believe he went out to the site. I just left a voicemail for Fred and hopefully I will follow up with him today.

Could you please clarify for me – Is it against the township ordinance if Bill pours cement for a driveway within the 10 foot setback?

Thanks for your time,

Kathy

May 15, 2023: email Boyd to Waggener

“Good morning Bill -

I noticed when I was home yesterday that you are progressing with your projects, and that the concrete for the lower half of the driveway has been removed.

It seems that the grading for the new driveway is very close to the property line.

I know that you have been in touch with the zoning department about the project and that you are aware of the township ordinances.

Just in case there is any confusion - as you consider the footprint for your new driveway please keep in mind that it is against Garfield Township zoning ordinance to pour cement within the 10 foot setback from the property line.”

This email was forwarded to M. Green at Garfield Township May 15, 2023

The Township Zoning Administrator was fully aware of the property changes, yet chose to ignore direct violation of Township ordinances to appease a repeat offender.

May 28, 2023: I filed a complaint with the Township Zoning Department for new concrete poured within the side yard setback. Mr. Green issued a 'Letter of Information' to Mr. Waggener for Violation of Ordinance 511.A



Charter Township of Garfield
Grand Traverse County

3848 VETERANS DRIVE
TRAVERSE CITY, MICHIGAN 49684
PH: (231) 941-1620 • FAX: (231) 941-1588

LETTER OF INFORMATION

05/30/2023

WYTASKE DONNA MAE
10041 E SAN REMO BLVD
TRAVERSE CITY MI 49684-6822

RE: Activity at 1661 LAKE DR, Parcel Number 05-295-035-00

Dear Owner/Occupant,

This letter is to inform you of the following violation(s) at the location listed above:

Construction of a new parking area within the required ten-foot sideyard setback per Section 511.A of the Zoning Ordinance.

It is our procedure to first inform property owners or occupants of a violation as quite often they are not aware a violation has occurred. **Please remove the violation within 14 days of receipt of this letter to resolve this issue.**

Thank you in advance for your cooperation in this matter as it is our desire to attain voluntary compliance and avoid the need for further enforcement actions. Should you have any questions, comments or concerns regarding this letter, please do not hesitate to contact the zoning office at by phone, in person by appointment.

Sincerely,

Michael Green,
Zoning Administrator
Charter Township of Garfield
231.941.1620 x 230

Attachment: Article 5, Section 511 of the Twp. Zoning Ordinance

June 13, 2023: I followed up with the Township and was reassured by Mr. Green that Mr. Waggener is 'working with the Township'.



Kathy Boyd <klboyd7@gmail.com>

Updates regarding 1661 Lake Drive

Mike Green <Mgreen@garfield-twp.com>
To: Kathy Boyd <klboyd7@gmail.com>

Tue, Jun 13, 2023 at 8:03 AM

Kathy,

Bill did respond in writing and has expressed interest in resolving the complaint. With that said, I plan to visit his site to look at the driveway project and will follow up with him afterwards.

Sincerely,

Michael Green, Zoning Administrator
Charter Township of Garfield
Phone: 231-941-1620
Fax: 231-941-1588

From: Kathy Boyd <klboyd7@gmail.com>
Sent: Monday, June 12, 2023 10:53 PM
To: Mike Green <Mgreen@garfield-twp.com>; Jamie Douglass <jdouglass@garfield-twp.com>
Subject: Updates regarding 1661 Lake Drive

Good morning Mike/Jamie –

It has been 14 days since a letter of information was sent to Bill Waggener (1661 Lake Drive) for pouring cement in violation of the 10 foot side yard setback.

It seems Bill is simply continuing his projects – now to the area between our homes.

The drain at the base of the driveway seems to be directed to some sort of containment system that sends stormwater toward my property. There is no drain pipe.

Bill has also brought in more dirt to increase the elevation of his property between our homes which also aids in sending the water from his expanded driveway toward my home. He seems to be proceeding with his plan to extend his driveway to a parking area by his garage, which will mean additional impervious surface (gravel) between our houses and more water runoff toward my property. This area is very close to my well.

I am just checking in to see if there have been any updates. Also, if you could please let me know what to expect for the next steps.

Thanks for your time,

Kathy Boyd

June 19, 2023: I obtain Mr. Waggener’s letter via FOIA request. In his letter to the Township Mr. Waggener admits to awareness of the setback ordinance, driveway concrete replacement, expansion of the concrete, and alterations to the driveway footprint. **Mr. Waggener suggests that the Township change their ordinances to accommodate the new driveway. The Township Zoning Administrator was fully aware of the property changes, yet chose to ignore direct violation of Township ordinances to appease a repeat offender.**

From Mr. Waggener’s letter to the Township dated June 7, 2023:

I am aware of the current ordinance relative to driveways and side setbacks, as I visited you early on regarding this work. The existing drive would be out of compliance in the present ordinance without some special permission I assume.

However, I consider the work on this drive to be maintenance and repair driven and strongly believe that it deserves a “grandfathered” status.

Upon initiation of the work, I was advised by the concrete contractor that it would be ill advised to just resurface over the old concrete such as might be done with asphalt.

So the old concrete was removed and new concrete placed largely in the same footprint as the old with some additions and subtractions to correct the logic and so forth. The overall cover is very close to what existed before.

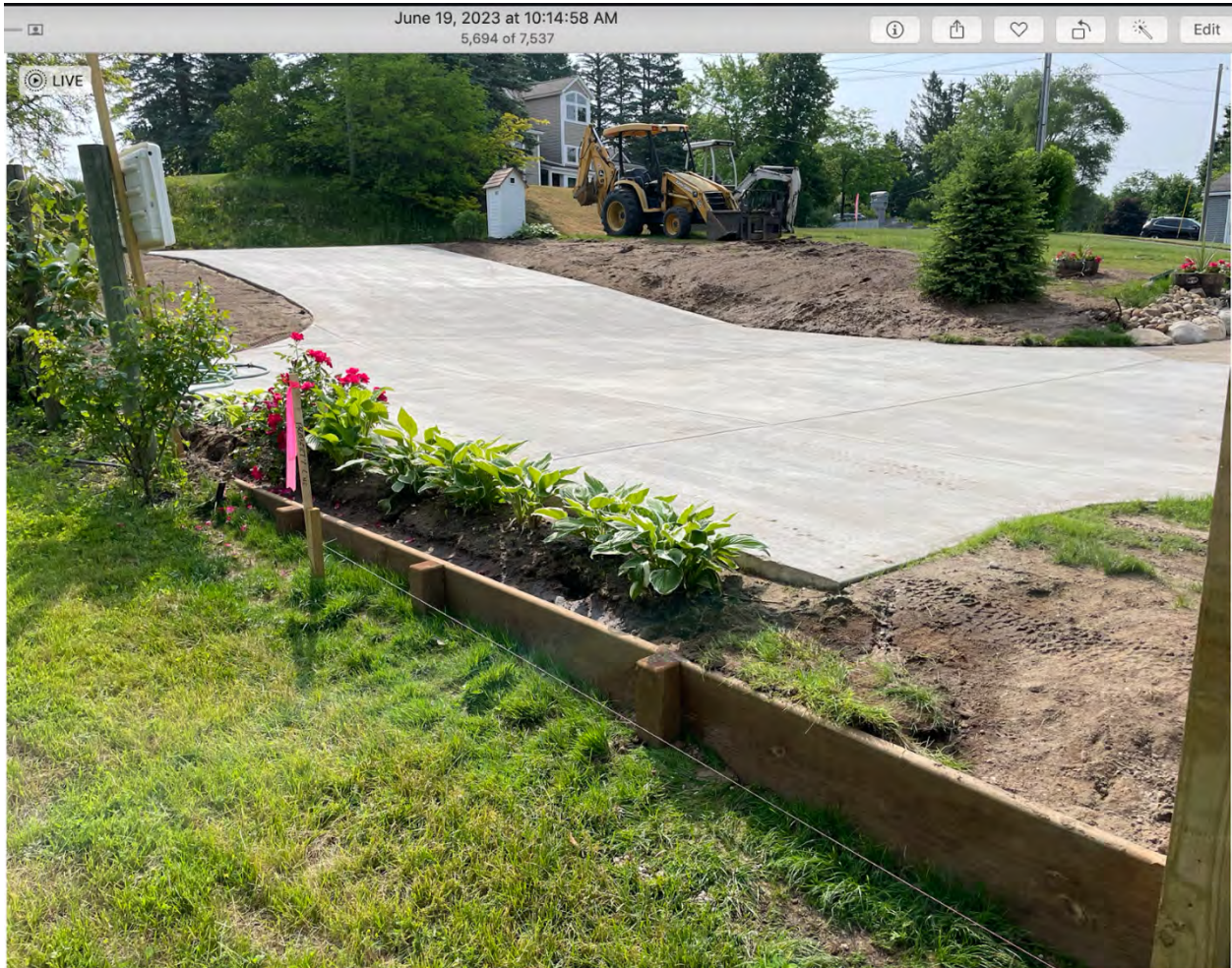
In the process of doing this the angles, pitches and logic in this were all improved upon.

A trench drain was installed near the garage door, the surface was leveled and pitched toward the drain and away from the neighboring property as much as could be done.

And:

I am not sure what would need to be implemented to allow this improvement to remain.

Perhaps some language added to that section in the ordinance that addresses logical exceptions to the rule.



A sea of concrete. Significant expansion of concrete within the 10 foot side yard setback. Obvious significant increase to the overall impervious surface
Grading to the entire upper property has changed the slope and overall elevation. These changes along with the new enlarged footprint mean the new driveway does not meet 'repair' or 'Grandfather' status.



Clear view of the new South parking pad.
Notice the running sprinklers on opposite side of the property create drainage at the 1669 property border.

In conclusion,

- Mr. Waggener showed that he was fully aware of the 10 foot side yard setback.
- The setback requirements were clarified in writing to Mr. Waggener.
- Mr. Waggener declared intention to fully replace the driveway concrete.
- The south parking area was poured at a higher elevation than the original concrete, indication intentional replacement of the concrete, not repairs.
- Mr. Green was made aware of the concrete removal and construction at many points.
- A Land Use Permit and Stormwater permit were required from the Township for the driveway construction according to the Township Guidelines and Ordinances, but not obtained.
- Mr. Green came out to the work site but did not get out of his car.
- After* removal of the driveway concrete and *before* pouring of new concrete I obtained written clarification from Mr. Green that new concrete within the side yard setback would be in violation of the Garfield Township Ordinance.
- After* removal of the driveway concrete and *before* pouring of new concrete Mr. Waggener was again notified in writing that any concrete within the setback would constitute a violation of the Township Ordinance.
- The Township allowed Mr. Waggener to excavate, remove the driveway concrete, fill and regrade the property, and pour new concrete without intervention.
- The Township issued a violation to Mr. Waggener for the concrete within the side yard setback.
- Now the water runoff from the new expanded concrete is concentrated and directed to the property border of 1669 Lake Drive

The Township Zoning Administrator was fully aware of the property changes, yet chose to ignore direct violation of Township ordinances to appease a repeat offender.

Part 2: The Stormwater Permit for an Overflowing Drain

Please view the videos of water runoff from the driveway apron and Lower Drain system:

- a) Voicemail from Bill Waggener inquiring about setbacks in Sept 2022
- b) Narrated video of Lower Drain overflow *April 4, 2024
-This video was taken after drain was 'certified'
-Traverse City received less than 1 inch of snow overnight. Outflow is only snowmelt
-small piece of tin foil placed to show water flow
- c) Video of Lower Drain overflow April 4, 2024 snowmelt
-This video is original video of drain outflow before placement of small piece of tin foil in video labeled 'b' Lower Drain April 2024
- d) Video of Lower Drain overflow August 22, 2023 *last year during light rain
- e) Video of Lower Drain overflow August 22, 2023 *last year with small piece of tin foil to show water flow
- f) Video of driveway Apron runoff during snow melt March 10, 2024
- g) Video of driveway Apron runoff during light rain April 22, 2023 *1 year ago

The videos indicate that no changes have been made to the driveway or drain system to mitigate the runoff from 1661 Lake Drive since driveway and drain construction (August 2023).

Timeline of events

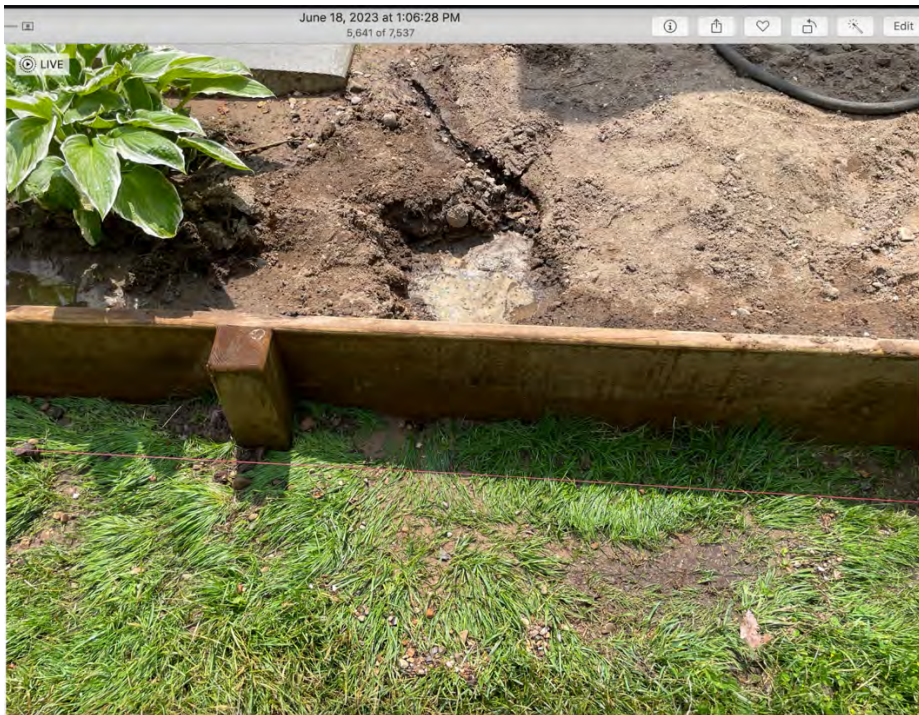
June 5, 2023: Concerned about the buried riser at the property border with no outflow pipe, I shared photos of the drain at the property border with my engineer at Gourdie Fraser, Inc. My engineer contacted Township Engineer Jennifer Hodges, PE. Ms. Hodges contacted Mr. Green at the Township to notify Mr. Green that a Stormwater permit is required for the drain at 1661 Lake Drive.

There is no action taken by the Township.

June 19, 2023: The driveway concrete appears unchanged and Mr. Waggener has connected the trench drain to a leeching system at the property border with no outflow pipe. I am concerned that the system will overflow onto my property if there is a storm. Mr. Green has not addressed the stormwater system. I file a formal complaint with the Township for the drain, which was constructed without a stormwater permit, see email June 19, 2023 Boyd to Green. Mr. Waggener is finally issued a violation for the Stormwater drain.



Notice the washout in the foreground from the sprinklers running on the opposite side of the driveway. The riser is buried between the corner of the garage and the 1669 property border. Drainage from the 1661 Driveway routinely overflows the retaining wall at this location. The elevation of the 1661 property has been increased by over 11 inches.



I have many photos of water at this location at different times



Charter Township of Garfield

Grand Traverse County

3848 VETERANS DRIVE
TRAVERSE CITY, MICHIGAN 49684
PH: (231) 941-1620 • FAX: (231) 941-1588

VIOLATION NOTICE

06/21/2023

WILLIAM WAGGENER
1661 LAKE DRIVE
TRAVERSE CITY, MI 49684-6822

RE: Activity at 1661 LAKE DR, Parcel Number 05-295-035-00

Dear Mr. Waggener,

Thank you for taking time to meet me the other day and for providing a written description of the driveway and landscaping work. Based on the information provided, the recent site visit, and information provided by our engineer, the driveway and other landscaping work is subject to stormwater review pursuant to our Stormwater Management Ordinance and will require a Land Use Permit. Additionally, portions of the newly surfaced driveway may be subject to removal if they are found to be noncompliant with the Stormwater Ordinance as well as portions of the driveway within the ten-foot side yard located in areas not previously hard-surfaced.

Please be further advised that pursuant to the information above, the work completed is found to be in violation of the Stormwater Ordinance (Ordinance No. 49) and the Zoning Ordinance as it was done prior to stormwater and zoning approval. This letter will serve both as a Letter of Violation and Notice of Civil Infraction, which if issued, will require your presence before the Grand Traverse County District Court. Applications for stormwater escrow and Land Use Permits are attached.

Please contact our office upon receipt of this violation to assist you in reaching compliance. Thank you in advance for your cooperation in this matter as it is our desire to attain voluntary compliance and to avoid any further enforcement actions. Should you have any questions, comments, or concerns, please do not hesitate to contact me at 231-941-1620.

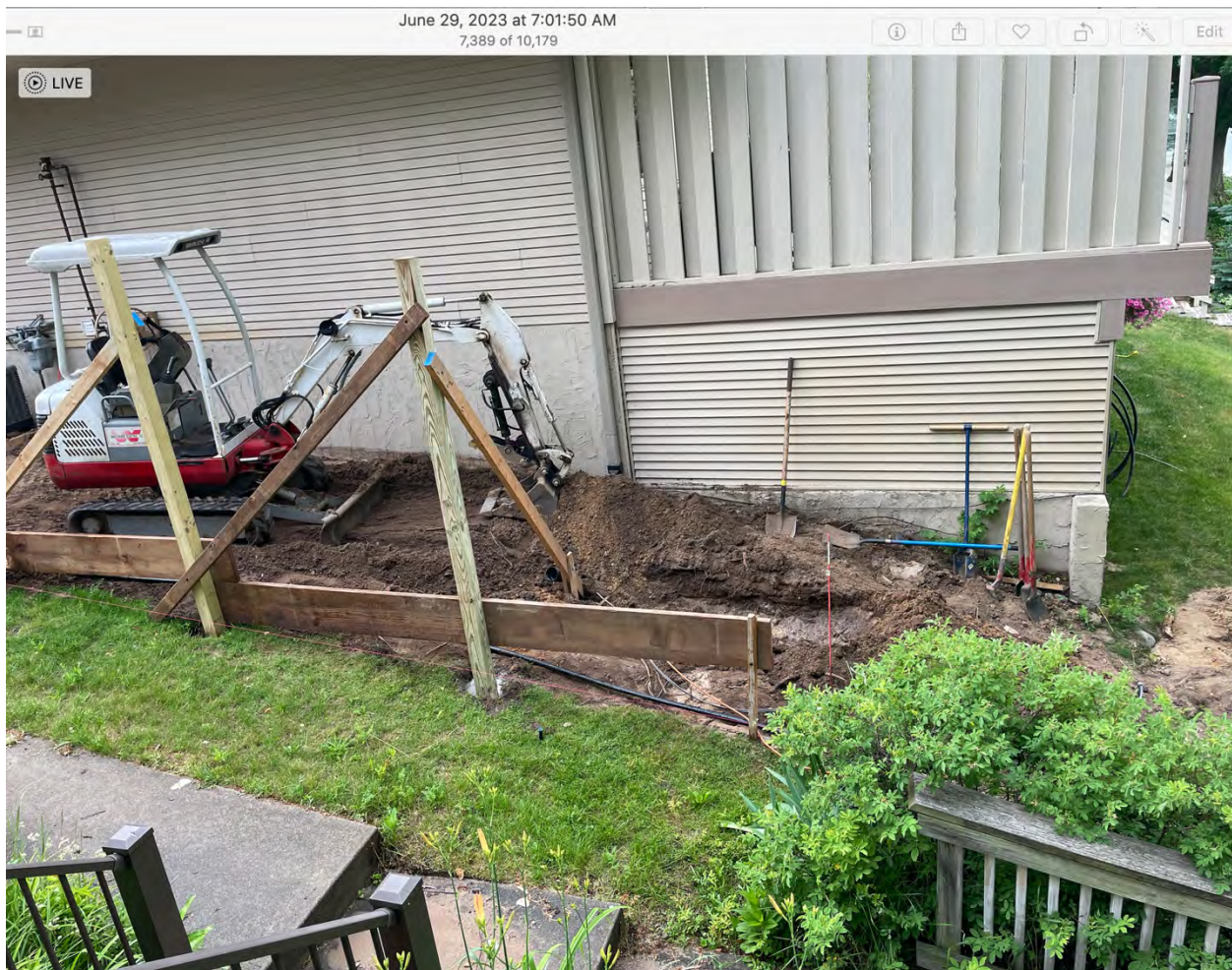
Sincerely,

Michael Green,
Zoning Administrator
Charter Township of Garfield
231.941.1620 Ext. 230

Cc: Donna Mae Wytaske; 10041 E San Remo Blvd., Traverse City MI 49684-6822 (letter only)

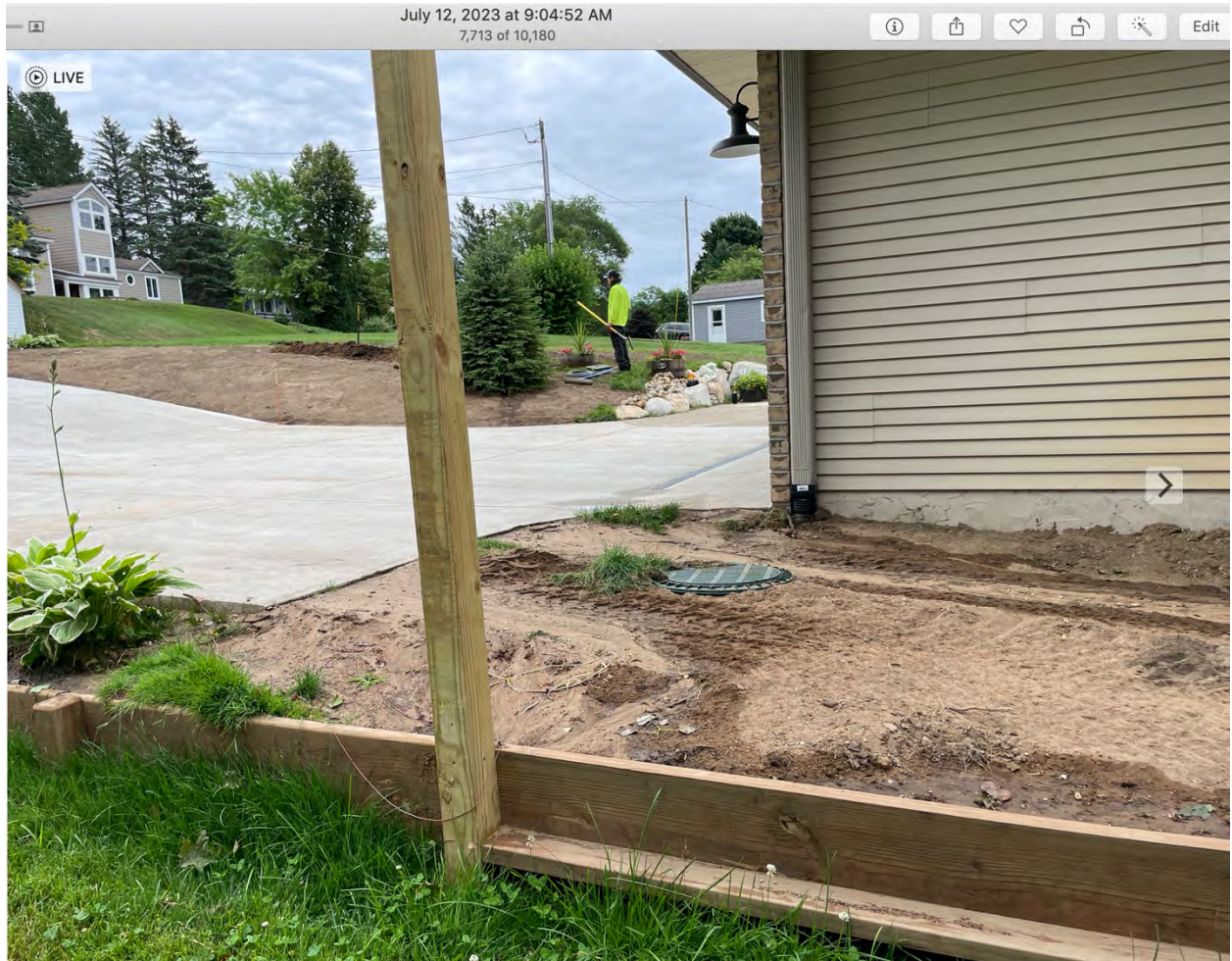
Attachments: Land Use Permit application and Escrow application (for stormwater review)

June 25, 2023: An intense overnight rainstorm sends sediment into Mr. Waggener's new leeching system. (It was labeled a 'leeching system' because it did not contain an outflow pipe. The sediment caused water to back up into the trench drain and flow toward Mr. Waggener's house/foundation. The washout from this storm extended 18+ feet onto my property. Mr. Waggener immediately excavates the drain and sets an overflow pipe to the lower property. Mr. Waggener immediately reburies the system. Mr. Fred Morse visits the property.

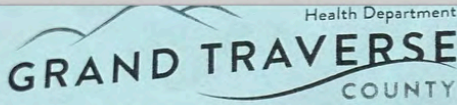




Notice the increased elevation of the property at 1661 Lake Drive. The upper drain (according to the stormwater application is still a perforated riser) was excavated, revised, and immediately reburied. My water well is in the planting in foreground.



Drainage pattern from revised upper chamber. Notice the location of direct runoff from the concrete to the property border, as well drainage from the buried perforated riser.



ENVIRONMENTAL HEALTH
2650 LaFranier Rd.
Traverse City, MI 49686
231-995-6051
eh@gtcountymi.gov

VIA CERTIFIED MAIL

William Waggener
1661 Lake Dr
Traverse City, MI 49685

June 30, 2023

Re: Parcel 28-05-295-035-00
1661 Lake Dr
Traverse City, MI 49685
Permit # 23-02135

It has been determined that the above referenced property is in violation of Part 91, Soil Erosion and Sedimentation Control of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, and the Grand Traverse County Soil Erosion and Sedimentation Control Ordinance #32. These violations are specifically noted below:

1. Silt fence overrun with soil and/or sediment.
2. Soil and sediment deposited across south property line onto adjacent parcel.

THE FOLLOWING MEASURES SHALL BE IMPLEMENTED IMMEDIATELY TO MEET COMPLIANCE WITH PART 91:

1. **Install temporary measures (straw waddles and/or silt fence) as needed to manufacturer's specifications.**
2. **Work with property owner to remove soil and sediment that has left the project site to the approved earth change area and restore damaged areas as needed.**

SITE CONDITIONS AND STATUS OF SEDIMENTATION CONTROL MEASURES SHALL COMPLY WITH ORDINANCE REQUIREMENTS WITHIN 5 DAYS OF THE MAILING OF THIS NOTICE.

A person who continues to violate this Ordinance or Part 91 after receiving a Notice of Violation (NOV) may be responsible for the payment of a civil fine of not less than \$2,500.00 for each day of violation. Please correct violation(s) within the specified time frame to avoid legal action by the Grand Traverse County Prosecuting Attorney's Office.

Please contact this office with any questions. Your anticipated cooperation is greatly appreciated.

A handwritten signature in black ink, appearing to read "Fred Morse", is written over a circular stamp.

Fred Morse, Sanitarian
Grand Traverse County Environmental Health Department
(231) 995-6057

Cc: Brent Wheat, Environmental Health Director

www.gtchd.org

Mr. Morse issued a violation for storm washout

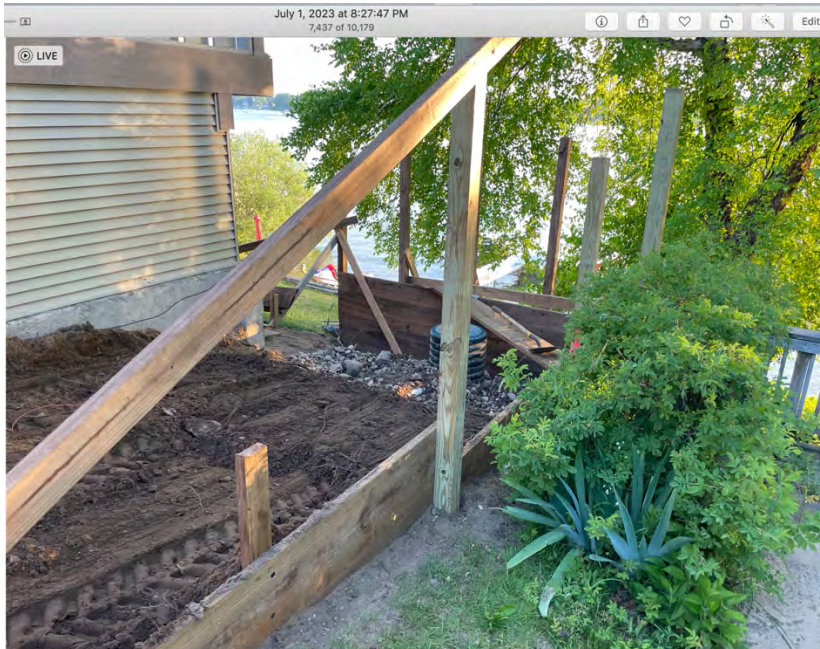
June 28, 2023: The corner post for the lower drain retaining wall was set. This post was surveyed by Gourdie Fraser to be on the property line. Notice the slope of the property and relation to my established porch and railing. The distance from the ground at the base of the post to the top of the established 1669 Lake Drive railing is 7 feet. The digging extends onto my property and exposes my erosion grid (foreground).





Mr. Waggener constructed the lower drain after he was issued a Violation for not obtaining a Stormwater permit on June 21, 2023.

The lower drain was constructed without a Stormwater permit.

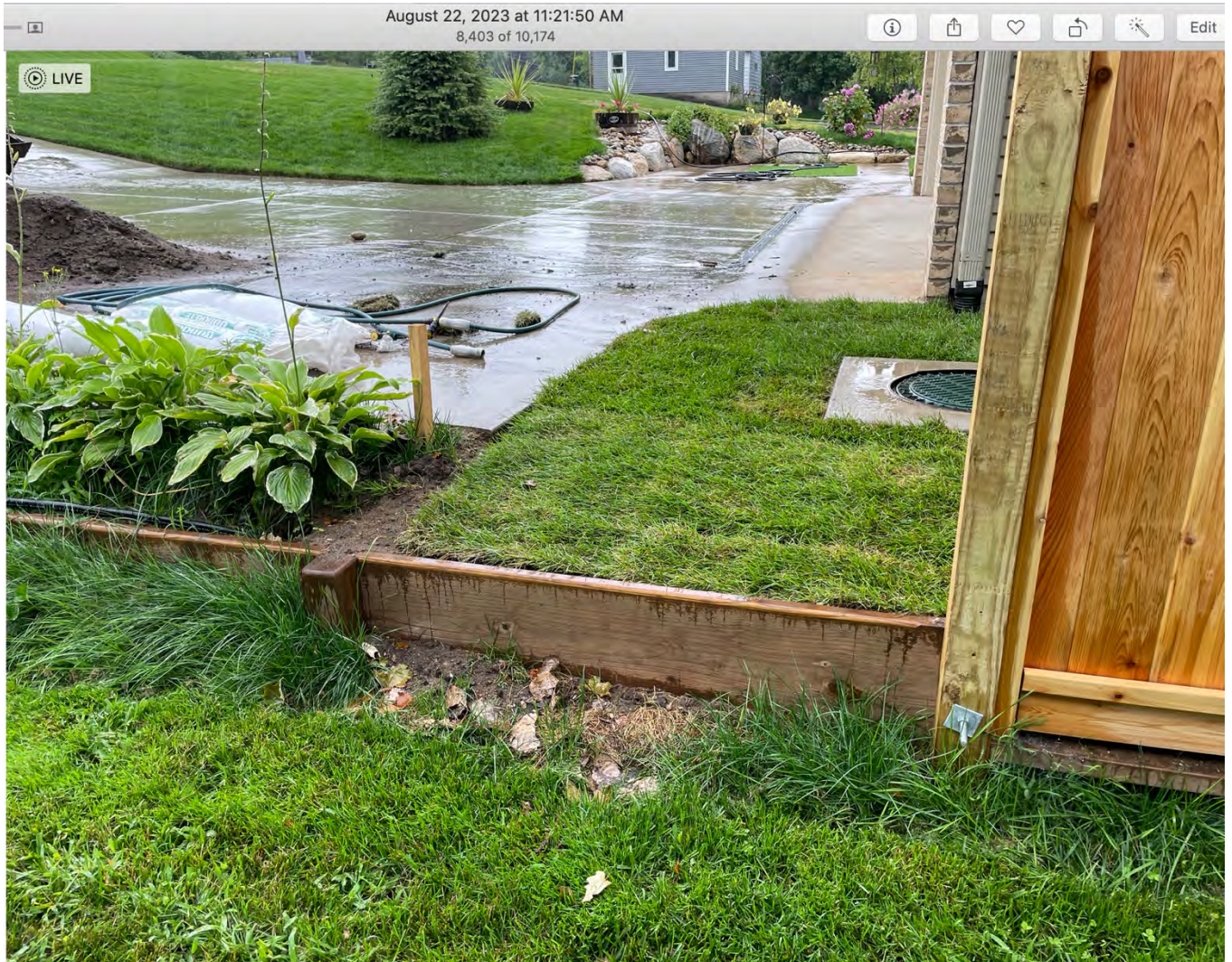




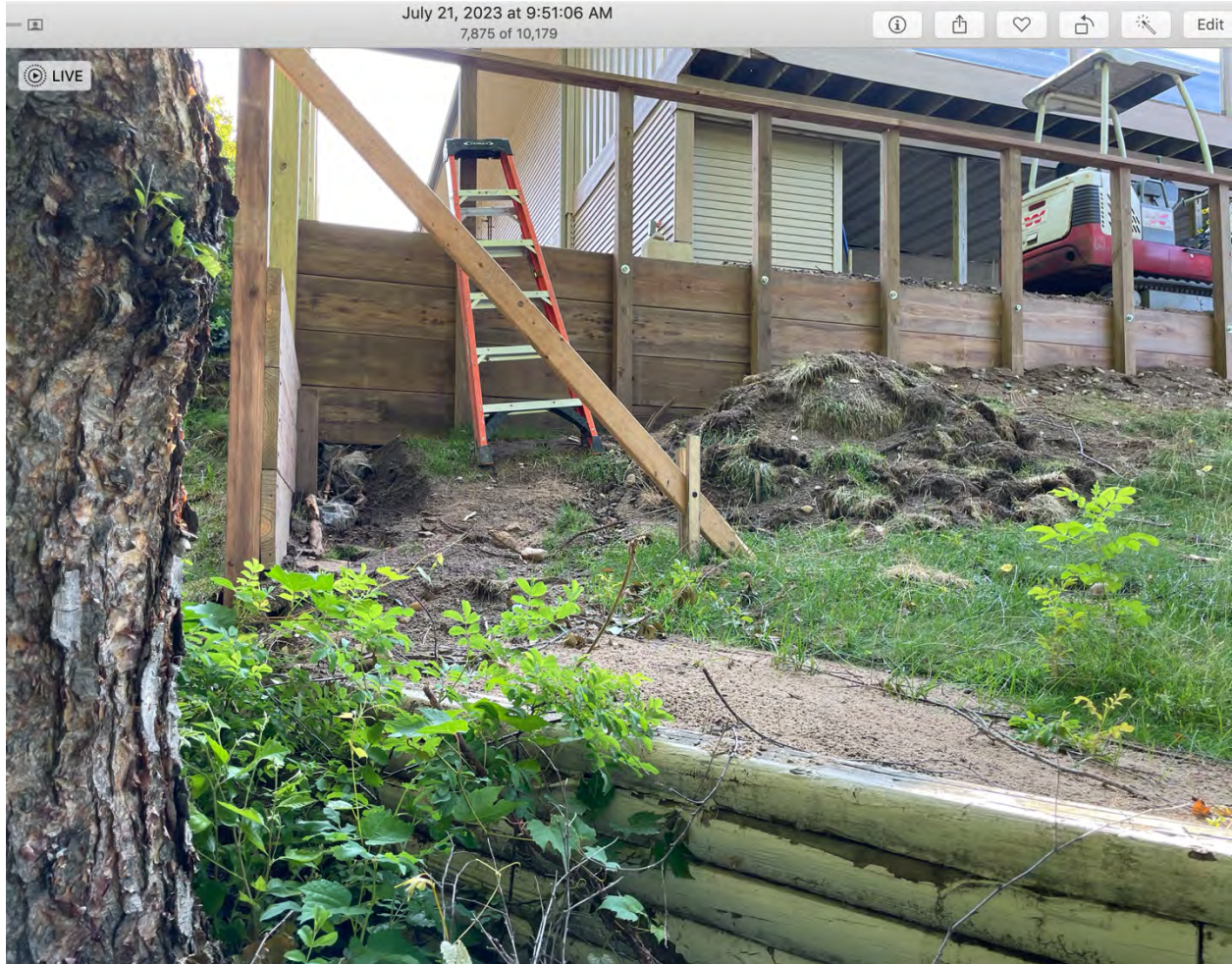
The retaining wall housing the Lower Drain was constructed without a Land Use Permit or a Stormwater Permit. The corner post is on the property line verified by Gourdie Fraser Surveyor.



Direct runoff from concrete in 10 foot setback sends water to the retaining wall, where it escapes onto my property



Overflow/water escaping under retaining wall at this location (edge of driveway/upper drain) after completion



Construction continues on the Lakeside of 1661 Lake Drive without a Land Use permit or a Stormwater permit

July 25, 2023: Mr. Green's first visit to the 1661 Lake Drive property where Mr. Green got out of his car and spoke with Mr. Waggener. Mr. Green told Mr. Waggener to stop work at the site until the necessary permits were obtained.

August 29, 2023: Mr. Waggener proceeded to move 2 large dump trailers to the lower property and set 7 more posts for a retaining wall after Mr. Green told him to stop work. *Garfield Township finally issued a ticket to my neighbor at 1661 Lake Drive for continued work on the property without a permit.*

From: Derek Morton <dmorton@garfield-twp.com>
 Sent: Tuesday, August 29, 2023 1:40 PM
 To: billwaggs@gmail.com
 Cc: Mike Green <Mgreen@garfield-twp.com>; Jamie Douglass <jdouglass@garfield-twp.com>; Sean Kehoe <skehoe@garfield-twp.com>
 Subject: Citation #0007 - 1661 Lake Drive

Mr. Waggener,

It appears that recent grading has occurred at 1661 Lake Drive. Top soil from the driveway has been moved and the excavator appears to have been grading on the lake side of the home without a permit. Our office has made it clear that 'no grading' should be performed until a storm water plan has been reviewed and approved. Please find a copy of the citation that is being sent to you certified mail, in addition to, section 10 (A) of Ordinance #49.

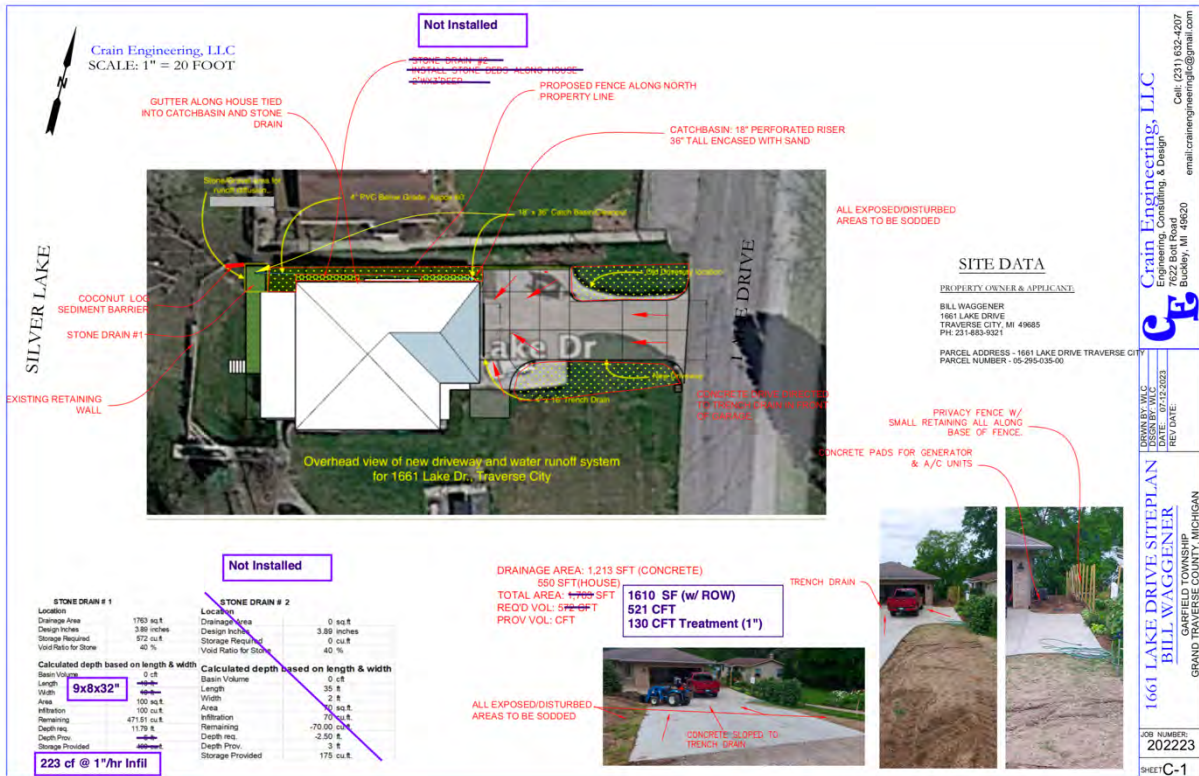
Citation will continue daily if grading persists. You are strongly encouraged to stop grading and contact our office with your storm water plan for its review.

Respectfully,

Derek Morton
 Park Steward
 Code Enforcement Officer
 Charter Township of Garfield
 231.225.3158
dmorton@garfield-twp.com

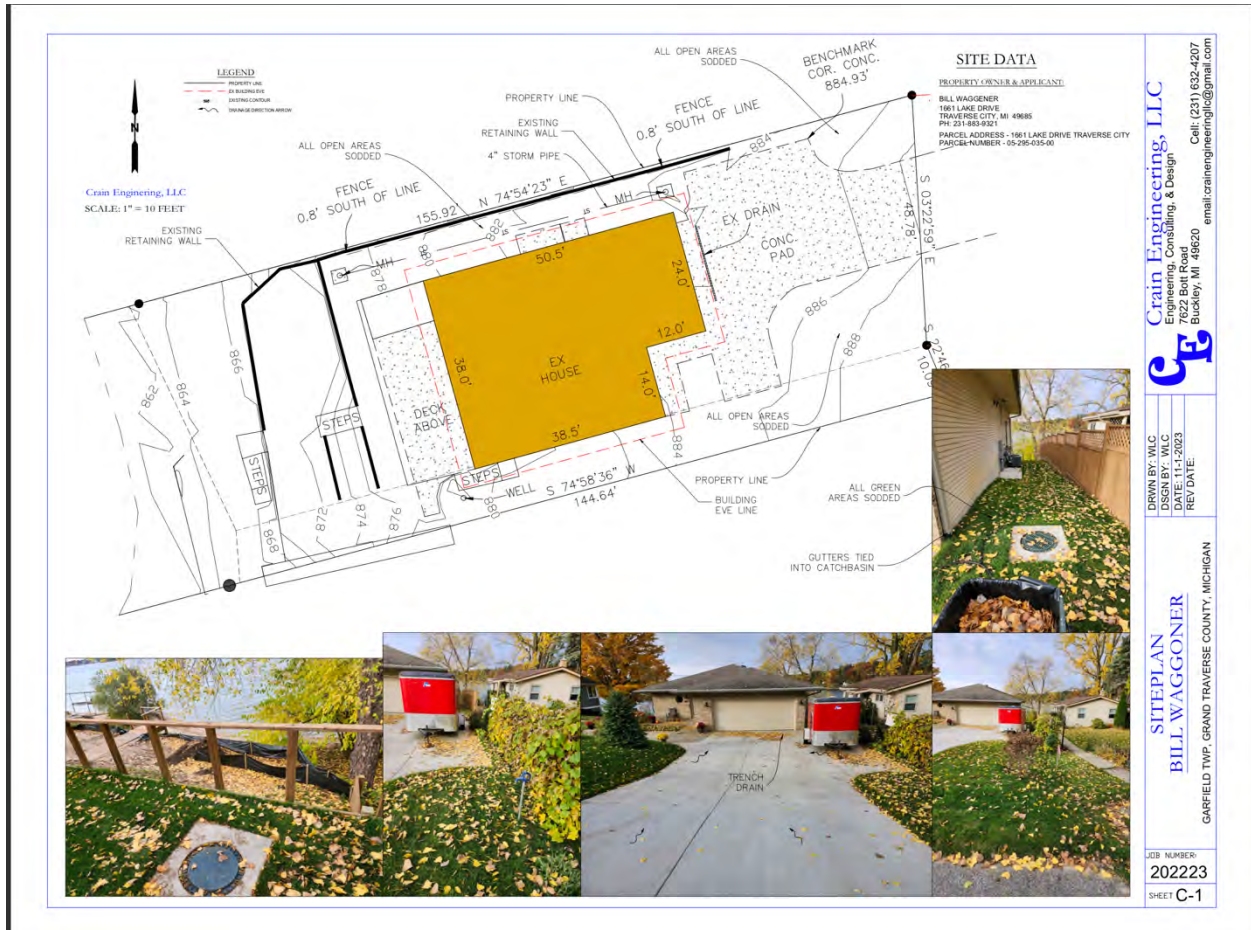


Stormwater application from Mr. Waggener. **Concrete surface area is underestimated** by over 400 square feet. The apron of the driveway measures approximately 20 feet. The distance to the garage is 60 feet. The solid concrete in front of the garage, not including parking areas on either side, is 1200sq ft. On this application Mr. Waggener estimated total concrete at 1213sq ft. The retaining walls are depicted as 'existing' rather than new construction.



Stormwater application as inspected by Gourdie Fraser on December 28, 2024

- Recalculation of impervious surface:
- Driveway concrete estimation is adjusted to 1610 square feet
- Increase in impervious surface drainage to the lower drain location at the property border is significant, as the Roof gutters are tied into the system
- Is the roof impervious surface left out of the calculations? Previously the gutters flowed onto the greenspace of the lower property.
- New concrete poured in the side yard for generator pad and electrical pad is not included
- The reported dimensions of the stone bed were overestimated
- The reported dimensions of cubic foot volume of the stone bed were underestimated
- Stone drain #2 was not installed



Topography map showing topographical changes to property. Original topography at property border is not depicted. Retaining walls are depicted as 'existing' rather than new construction.

January 26, 2024: Gourdie Fraser Stormwater Report

Storm Water Facilities

1. As-built plans vary for the initial submittal.
2. GFA updated the computation according to the as-built plans and field verifications.
3. Limited management volume is provided by the as-built system.
 - The installed system appears to re-route existing flows away from the 1661/1669 property line and directs them down gradient, away from the existing homes.
 - Full ordinance is not met at the ordinance maximum infiltration rate of 1"/hr for underground storage facilities.
 - We note that a higher infiltration rate can be expected in this area.
 - Reduced criteria to manage the increase impervious and the ability to provide treatment volume for the entire catchment is attained with the as-built system.
 - Potential overflows will spill over the timber retaining wall. Overflows generally follow existing flow paths over the 1661 and 1669 properties, west to the Siver Lake.
 - Applicant to ensure overflows are directed onto 1661 properties.
 - Recommend providing a notch in the retaining wall to ensure flows spread over the southerly length of retaining wall. Or provide alternate overflow pipe to direct flow away from 1669 property.

February 28, 2024: Gourdie Fraser Stormwater Report Amendment

3. Limited management volume is provided by the as-built system.
 - The installed system appears to re-route existing flows away from the 1661/1669 property line and directs them down gradient, away from the existing homes.
 - Full ordinance is not met at the ordinance maximum infiltration rate of 1"/hr for underground storage facilities.
 - We note that a higher infiltration rate can be expected in this area.
 - Reduced criteria to manage the increase impervious and the ability to provide treatment volume for the entire catchment is attained with the as-built system.
 - Potential overflows will spill over the timber retaining wall. Overflows generally follow existing flow paths over the 1661 and 1669 properties, west to the Siver Lake.
 - Applicant to ensure overflows are directed onto 1661 properties.
 - Recommend providing a notch in the retaining wall to ensure flows spread over the southerly length of retaining wall. Or provide alternate overflow pipe to direct flow away from 1669 property.
 - Discussion with applicant on 2/9 regarding overflows. The applicant states excess water would seep through the wood retaining wall first and does not cause a concentrated overflow point. This is reasonable and addresses the above recommendation.

It seems that, despite the drain not meeting Ordinance criteria, and despite the many photos and videos provided to the Township of concentrated overflow from the base of the lower drain, the drain was certified based on a discussion with Mr. Waggener where he stated the drain is working properly.

The bottom line: the faulty system continues to discharge water from the base of the lower drain, which runs directly on to my property. Stormwater flows all the way down the hill to the waters of Silver Lake.



Sediment push into Silver Lake from September 2023 storm.
This washout occurred after the storm system was 'completed'

March 5, 2024 at 7:47:25 AM
7,887 of 7,927



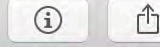
Continued washout at same location after the first Spring storm March 2024

March 5, 2024 at 7:44:50 AM
7,868 of 7,927



Water path from corner of the Lower drain where water exits at the base of the drain.

March 5, 2024 at 7:44:53 AM
7,869 of 7,927



Explore

Water path from the corner of the lower drain. Erosion grid at 1669 Lake Drive is exposed in the foreground

The conclusion of this report is very simple. The entire driveway, first leeching drain system, revised drain system, and all retaining walls were constructed without engineering oversight or proper permits. The drain system does not function properly, even with reduced criteria calculations. The water exits the drain at the base of the system, not through or over the retaining wall. The exit point indicates faulty engineering. The drain was inadequately inspected, and certification was based on reassurance from the applicant that the drain works, which is a violation of engineering ethics. The photos and videos are definitive evidence that the drain system is not functioning properly. Mr. Green's decision to issue a permit to the property owner at 1661 Lake Drive is unwarranted and in violation of the Township Ordinances. I ask that you, the Board, uphold the integrity of the Law in the State of Michigan and the established Garfield Township Ordinances. I ask that you require reversal of Mr. Green's decision, and rescind the Stormwater permit until the drain system is brought into compliance with the Township Ordinances, and the water trespass has been addressed.

List of violations that have been issued to Mr. Waggener from the State of Michigan, Grand Traverse County, and Garfield Township for Work done without Permit:

May 11, 2023 Stop work order from Fred Morse for work without permit
May 30, 2023 Letter of Information from Garfield Township re: concrete within 10 foot setback
June 21, 2023 Violation letter from Garfield Township re: Stormwater Ordinance #49
June 30, 2023 Violation letter from Grand Traverse County Soil and Erosion
August 9, 2023 Violation letter from EGLE for retaining wall built at lakeshore without permit
August 29, 2023 Ticket from Garfield Township for grading without permit
December 21, 2023 Grand Traverse County Electrical Inspection Fail

The referenced emails are in the possession of Garfield Township. If copies of emails, additional photos, and/or additional videos are desired, please feel free to contact me at:

Kathy Boyd
1669 Lake Drive
Traverse City, MI 49685
Klboyd7@gmail.com
615-400-8342



Charter Township of Garfield

Grand Traverse County

3848 VETERANS DRIVE
TRAVERSE CITY, MICHIGAN 49684
PH: (231) 941-1620 • FAX: (231) 941-1588

VIOLATION NOTICE

06/21/2023

WILLIAM WAGGENER
1661 LAKE DRIVE
TRAVERSE CITY, MI 49685

RE: Activity at 1661 LAKE DR, Parcel Number 05-295-035-00

Dear Mr. Waggener,

Thank you for taking time to meet me the other day and for providing a written description of the driveway and landscaping work. Based on the information provided, the recent site visit, and information provided by our engineer, the driveway and other landscaping work is subject to stormwater review pursuant to our Stormwater Management Ordinance and will require a Land Use Permit. Additionally, portions of the newly surfaced driveway may be subject to removal if they are found to be noncompliant with the Stormwater Ordinance as well as portions of the driveway within the ten-foot side yard located in areas not previously hard-surfaced.

Please be further advised that pursuant to the information above, the work completed is found to be in violation of the Stormwater Ordinance (Ordinance No. 49) and the Zoning Ordinance as it was done prior to stormwater and zoning approval. This letter will serve both as a Letter of Violation and Notice of Civil Infraction, which if issued, will require your presence before the Grand Traverse County District Court. Applications for stormwater escrow and Land Use Permits are attached.

Please contact our office upon receipt of this violation to assist you in reaching compliance. Thank you in advance for your cooperation in this matter as it is our desire to attain voluntary compliance and to avoid any further enforcement actions. Should you have any questions, comments, or concerns, please do not hesitate to contact me at 231-941-1620.

Sincerely,

Michael Green,
Zoning Administrator
Charter Township of Garfield
231.941.1620 Ext. 230

Cc: Donna Mae Wytaske; 10041 E San Remo Blvd., Traverse City MI 49684-6822 (letter only)

Attachments: Land Use Permit application and Escrow application (for stormwater review)

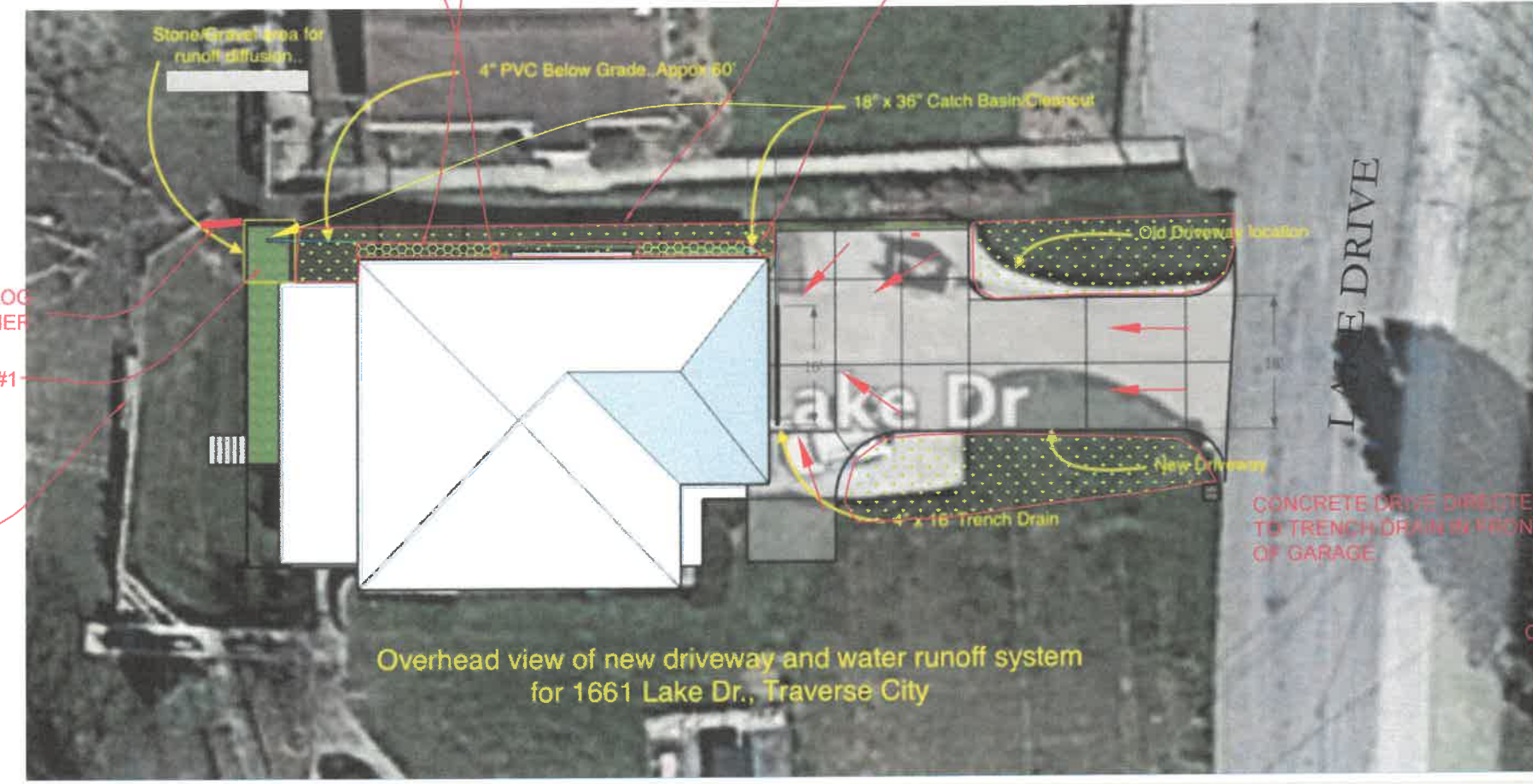


GUTTER ALONG HOUSE TIED INTO CATCHBASIN AND STONE DRAIN

STONE DRAIN #2
INSTALL STONE BEDS ALONG HOUSE
2'WX3'DEEP

PROPOSED FENCE ALONG NORTH
PROPERTY LINE

CATCHBASIN: 18" PERFORATED RISER
36" TALL ENCASED WITH SAND



ALL EXPOSED/DISTURBED
AREAS TO BE SODDED

SITE DATA

PROPERTY OWNER & APPLICANT:

BILL WAGGENER
1661 LAKE DRIVE
TRAVERSE CITY, MI 49685
PH: 231-883-9321

PARCEL ADDRESS - 1661 LAKE DRIVE TRAVERSE CITY
PARCEL NUMBER - 05-295-035-00

Crain Engineering, LLC
Engineering, Consulting, & Design
7622 Bott Road
Buckley, MI 49620
Cell: (231) 632-4207
email: crainengineeringllc@gmail.com

DRWN BY: WLC
DSGN BY: WLC
DATE: 07-12-2023
REV DATE:

1661 LAKE DRIVE SITEPLAN
BILL WAGGENER
GARFIELD TOWNSHIP
GRAND TRAVERSE COUNTY, MICHIGAN

JOB NUMBER:
202223
SHEET C-1

SILVER LAKE

COCONUT LOG
SEDIMENT BARRIER

STONE DRAIN #1

EXISTING RETAINING
WALL

CONCRETE DRIVE DIRECTED
TO TRENCH DRAIN BY FRONT
OF GARAGE

PRIVACY FENCE W/
SMALL RETAINING ALL ALONG
BASE OF FENCE.

CONCRETE PADS FOR GENERATOR
& A/C UNITS

Overhead view of new driveway and water runoff system
for 1661 Lake Dr., Traverse City

DRAINAGE AREA: 1,213 SFT (CONCRETE)
550 SFT(HOUSE)
TOTAL AREA: 1,763 SFT
REQ'D VOL: 572 CFT
PROV VOL: CFT

TRENCH DRAIN

ALL EXPOSED/DISTURBED
AREAS TO BE SODDED

CONCRETE SLOPED TO
TRENCH DRAIN



STONE DRAIN # 1		STONE DRAIN # 2	
Location		Location	
Drainage Area	1763 sq.ft	Drainage Area	0 sq.ft
Design Inches	3.89 inches	Design Inches	3.89 inches
Storage Required	572 cu.ft	Storage Required	0 cu.ft
Void Ratio for Stone	40 %	Void Ratio for Stone	40 %
Calculated depth based on length & width		Calculated depth based on length & width	
Basin Volume	0 cft	Basin Volume	0 cft
Length	10 ft	Length	35 ft
Width	10 ft	Width	2 ft
Area	100 sq.ft.	Area	70 sq.ft.
Infiltration	100 cu.ft.	Infiltration	70 cu.ft.
Remaining	471.51 cu.ft.	Remaining	-70.00 cu.ft.
Depth req.	11.79 ft.	Depth req.	-2.50 ft.
Depth Prov.	6 ft.	Depth Prov.	3 ft.
Storage Provided	400 cu.ft.	Storage Provided	175 cu.ft.



January 26, 2024 (Revised 2/28/24)

Mr. Michael Green, Zoning Administrator
Charter Township of Garfield
3848 Veterans Drive
Traverse City, MI 49684

RE: 1661 Lake Drive
Storm Water Review – Driveway and Drainage Improvements Paving
Parcel #: 05-295-035-00
Garfield Township, Grand Traverse County

Dear Mr. Green,

GFA has reviewed the As-Built plans for 1661 Lake Drive, dated 12-01-23, prepared by Crain Engineering, LLC. The application was submitted following construction of improvements to the driveway.

The following summaries the review to date:

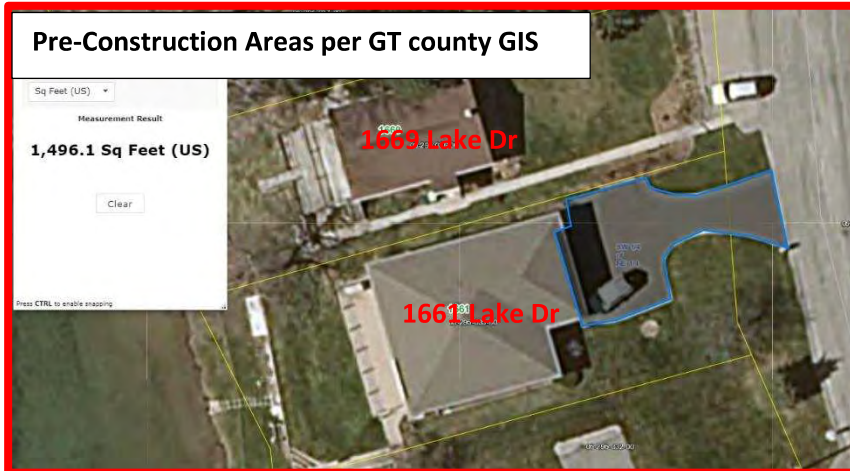
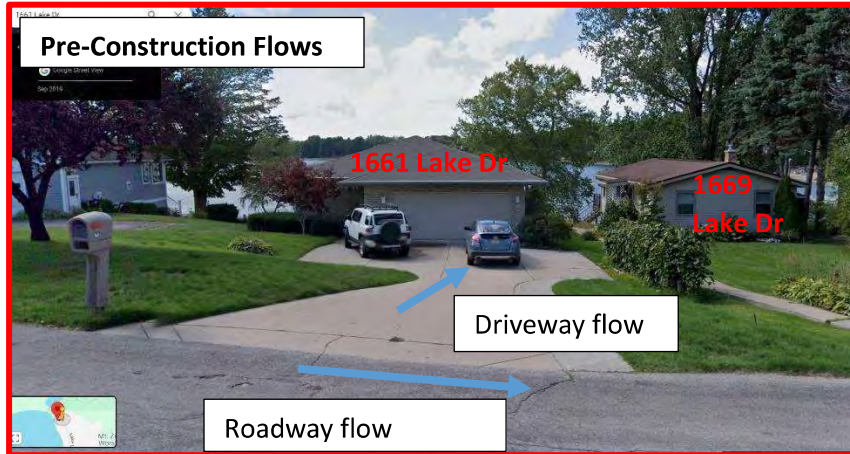
- Initial submittal provided on 7/26/23 prepared by Crain Engineering, LLC. The submittal was made during construction to detail the applicants plan to meet the storm water requirements. Plans indicated measures to collect, convey, and manage storm water from the driveway changes that were under construction at the time.
 - GFA provided an initial review on 8/8/23 requesting additional information to meet the ordinance submittal standards.
 - Plans indicated a trench drain along the garage entrance connecting to a catch basin at the NE corner of the garage. A 2-foot wide by 3-foot deep by 35-foot long stone drain was indicated along the North building line. Storm water from the stone drain and catch basin was routed to a lower-level stone drain bed located at the NW building corner.
 - As-built plans were requested at this time along with clarifications to the provided management volume and more details on the overflow of the NW stone drain.
- As-built plans were provided on 11/1/23.
 - Storm water management items were limited to a trench drain along the garage, catch basin at the NE building corner, and solid drain piping to the lower-level stone infiltration area.
 - GFA provided a second review on 12/12/23 inquiring on the as-built dimensions details on the overflow patterns.
- The applicant provided construction photographs to verify the general dimensions of the installed systems and demonstrate the final drainage patterns.
- GFA performed a wet weather inspection on 12/28/23 following a light rain event.

As the site is less than 500 feet from the OHWM of Silver Lake, the application was reviewed to the requirements of the Uniform Storm Water Control Design and Installation Standards for Municipalities in Grand Traverse County.



PRE-CONSTRUCTION CONDITIONS

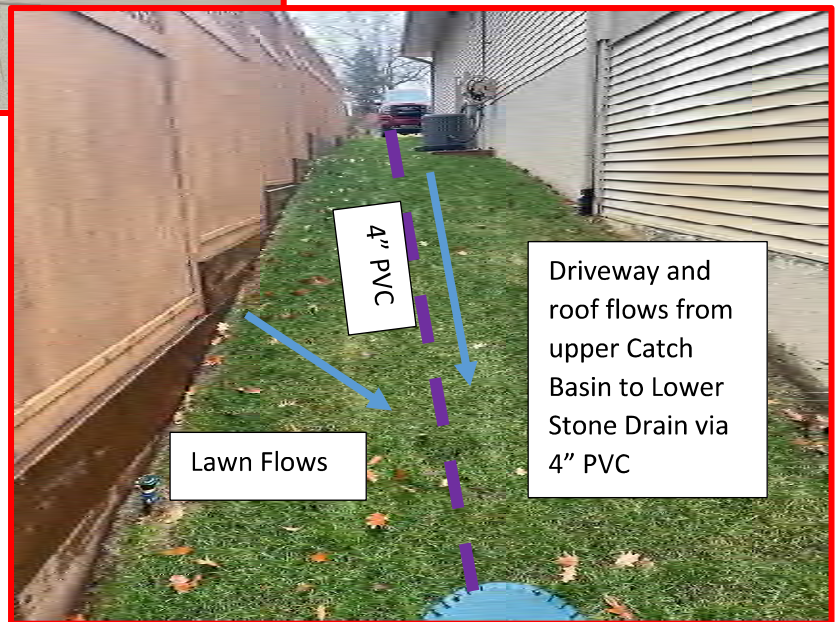
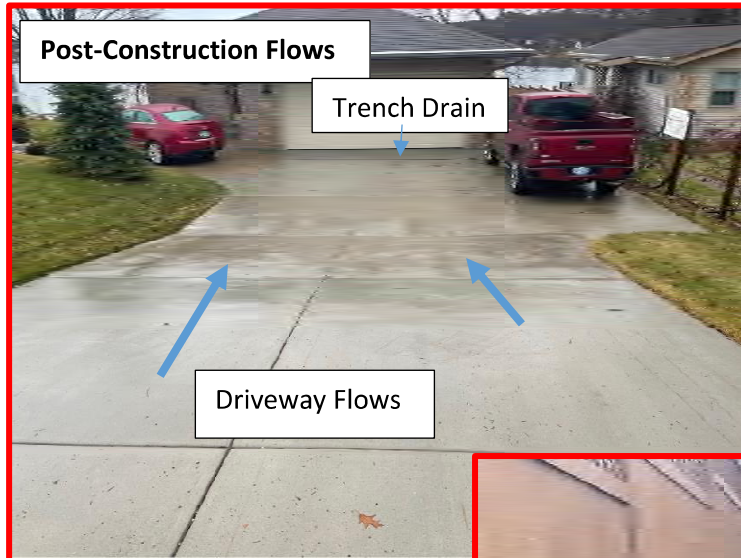
1. The existing site is located on Silver Lake. It is approximately 0.2 ac and slopes east to west towards Silver Lake.
2. The parcel is bound by Lake Dr to the east, Silver Lake to the west, and single family residential to the north and south.
3. Driveway reconstruction took place. Prior to construction there were limited drainage facilities for the site. The existing driveway was steep and appears to shed west towards the existing home. The exiting outlet was to run along the 1661/1669 property line. The north shedding roofs were collected with gutters/downspouts piped to shed westerly towards Silver Lake.





POST-CONSTRUCTION CONDITIONS

1. The As-built plan depicts the installed driveway of ~1325 SF within the property limits. We estimate a total drive area of 1610 SF. ~ 120 SF increase. See attached.
2. Storm water management items were limited to a trench drain along the garage opening, a catch basin at the NE building corner, and solid drain piping to the lower-level stone infiltration area.
3. Field verification made during GFA's wet weather inspection on 12/28/23 as noted below.
 - Grade measurements taken with a level validate the applicant's description of flows in the initial submittal –towards the trench drain.
 - Gutters and trench drain tie into a solid catch basin structure at the NE per the as-built plan.
 - Confirmed 4" pvc solid lines drains west to the lower stone drain per as-built plans.
 - Confirmed depth of stone bed of ~ 32 inch deep. Estimated dimension of 9' x 8' (7 CYDs of stone). This differs from original submittal.
 - Confirmed disturbed areas between home and the 1661 and 1669 property line are stabilized with turf and flow towards the lower stone basin. No surface flows towards 1669.





Determination of Surface Runoff

1. The initial submittal calculation used the ordinance rainfall values to derive the required volumes. This is acceptable.

Storm Water Facilities

1. As-built plans vary for the initial submittal.
2. GFA updated the computation according to the as-built plans and field verifications.
3. Limited management volume is provided by the as-built system.
 - The installed system appears to re-route existing flows away from the 1661/1669 property line and directs them down gradient, away from the existing homes.
 - Full ordinance is not met at the ordinance maximum infiltration rate of 1"/hr for underground storage facilities.
 - We note that a higher infiltration rate can be expected in this area.
 - Reduced criteria to manage the increase impervious and the ability to provide treatment volume for the entire catchment is attained with the as-built system.
 - Potential overflows will spill over the timber retaining wall. Overflows generally follow existing flow paths over the 1661 and 1669 properties, west to the Siver Lake.
 - Applicant to ensure overflows are directed onto 1661 properties.
 - Recommend providing a notch in the retaining wall to ensure flows spread over the southerly length of retaining wall. Or provide alternate overflow pipe to direct flow away from 1669 property.
 - **Discussion with applicant on 2/9 regarding overflows. The applicant states excess water would seep through the wood retaining wall first and does not cause a concentrated overflow point. This is reasonable and addresses the above recommendation.**

Erosion Control

1. The site is restored with turf and appears to have no active erosion concerns.



RECOMMENDATION

We find the installed system meets the intent of the ordinance at reduced criteria of management. The site being on the lakeward side of Lake Drive is subject to feasibility issues to meet full criteria including existing grades and space limitations. The site appears to be stabilized and does not pose current erosion control issues. The proposed improvements appear to redirect flows away from the existing structures. Therefore, we recommend the township consider the site for storm water approval at a reduced criteria. We appreciate the opportunity to assist the Township during the approval of this project. If you have any questions, please don't hesitate to contact me at (231) 946-5874.

Sincerely,

GFA

A handwritten signature in black ink, appearing to read 'Mark Maguire'.

Mark Maguire, P.E.

Project Engineer

cc: Applicant



Not Installed

~~STONE DRAIN #2
INSTALL STONE BEDS ALONG HOUSE
2'WX3'DEEP~~

GUTTER ALONG HOUSE TIED INTO CATCHBASIN AND STONE DRAIN

PROPOSED FENCE ALONG NORTH PROPERTY LINE

CATCHBASIN: 18" PERFORATED RISER 36" TALL ENCASED WITH SAND

ALL EXPOSED/DISTURBED AREAS TO BE SODDED

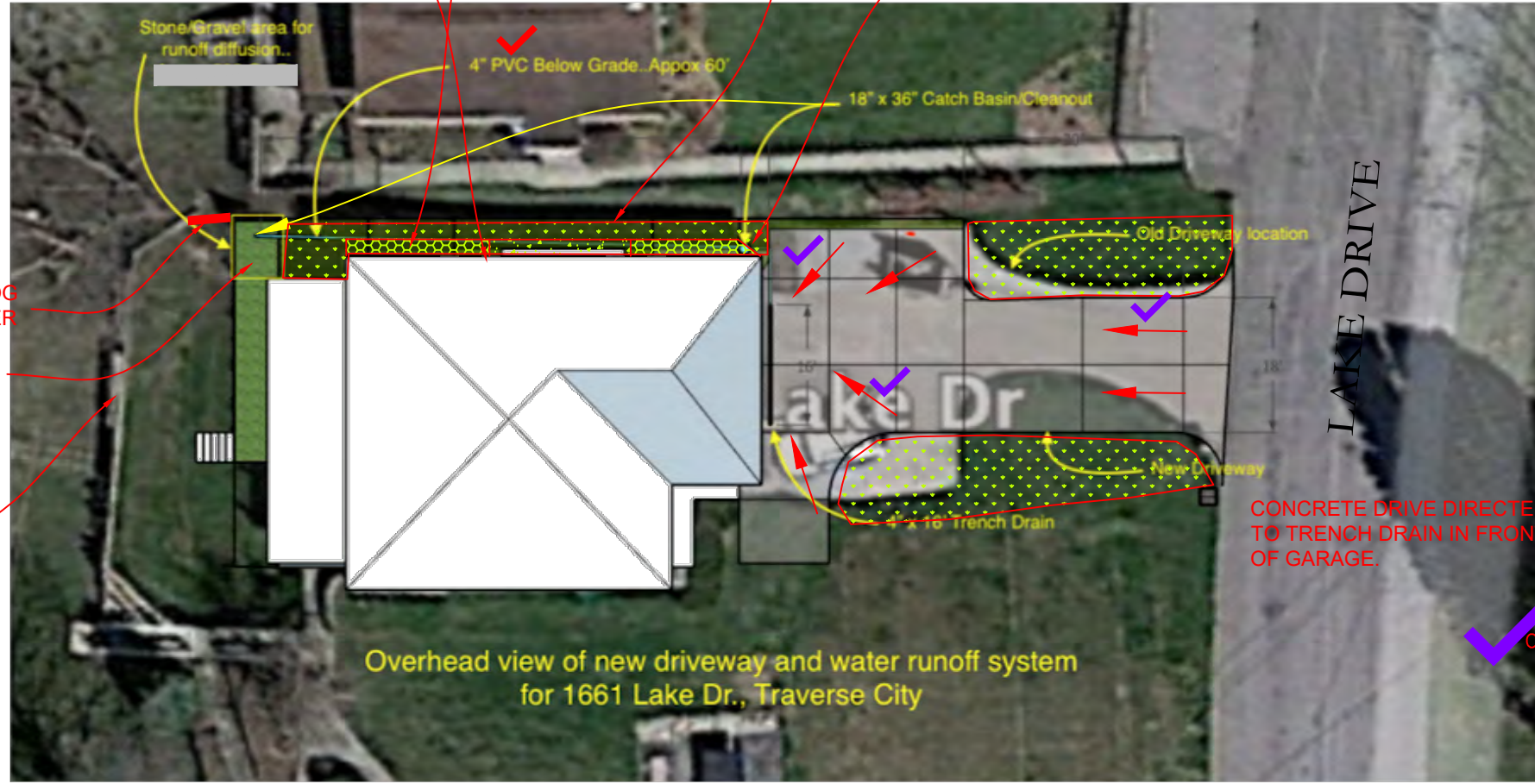
SITE DATA

PROPERTY OWNER & APPLICANT:

BILL WAGGENER
1661 LAKE DRIVE
TRAVERSE CITY, MI 49685
PH: 231-883-9321

PARCEL ADDRESS - 1661 LAKE DRIVE TRAVERSE CITY
PARCEL NUMBER - 05-295-035-00

DRWN BY: WLC
DSGN BY: WLC
DATE: 07-12-2023
REV DATE:



Overhead view of new driveway and water runoff system for 1661 Lake Dr., Traverse City

Not Installed

STONE DRAIN # 1	
Location	
Drainage Area	1763 sq.ft
Design Inches	3.89 inches
Storage Required	572 cu.ft
Void Ratio for Stone	40 %
Calculated depth based on length & width	
Basin Volume	0 cft
Length	48 ft
Width	48 ft
Area	100 sq.ft.
Infiltration	100 cu.ft.
Remaining	471.51 cu.ft.
Depth req.	11.79 ft.
Depth Prov.	6 ft
Storage Provided	480 cu.ft.

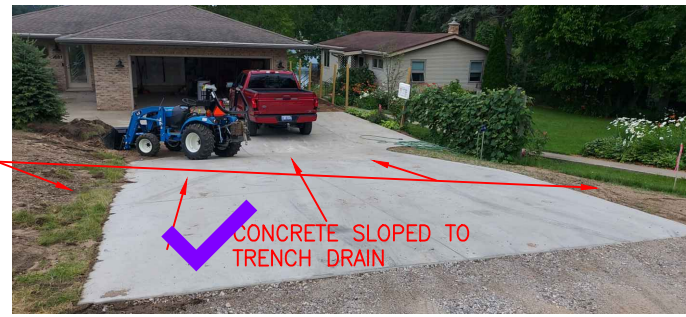
STONE DRAIN # 2	
Location	
Drainage Area	0 sq.ft
Design Inches	3.89 inches
Storage Required	0 cu.ft
Void Ratio for Stone	40 %
Calculated depth based on length & width	
Basin Volume	0 cft
Length	35 ft
Width	2 ft
Area	70 sq.ft.
Infiltration	70 cu.ft.
Remaining	-70.00 cu.ft.
Depth req.	-2.50 ft.
Depth Prov.	3 ft
Storage Provided	175 cu.ft.

223 cf @ 1"/hr Infil

DRAINAGE AREA: 1,213 SFT (CONCRETE)
550 SFT(HOUSE)
TOTAL AREA: 1,763 SFT
REQ'D VOL: 572 CFT
PROV VOL: CFT

1610 SF (w/ ROW)
521 CFT
130 CFT Treatment (1")

ALL EXPOSED/DISTURBED AREAS TO BE SODDED



CONCRETE SLOPED TO TRENCH DRAIN



PRIVACY FENCE W/ SMALL RETAINING ALL ALONG BASE OF FENCE.

CONCRETE PADS FOR GENERATOR & A/C UNITS

Mike Green

From: Mark Maguire <Markm@gfa.tc>
Sent: Monday, March 18, 2024 9:36 AM
To: Mike Green
Cc: Derek Morton; Jennifer Graham
Subject: RE: Activities at 1661 Lake Drive and Water Runoff photos from 03-04-24 Storm

Mike,

The site meets Reduce Criteria. This is based on the scope of the project and the limitations of the site. This is stated in the recommendations section of our letter.

Additionally, the review letter Storm Water Facilities 3. states the constructed improvements provided limited management volume – not enough to meet ordinance for the entire catchment but enough to manage the increased in flows from the nominal impervious expansion and adequate to meet treatment criteria for the entire catchment. This was found to be reasonable based on the feasibility limitations.

-Mark

Mark W. Maguire, PE

Project Engineer

(231) 409-4415



123 W Front Street

Traverse City, MI 49684

(231) 946.5874

[Website](#) | [Phone](#) | [Facebook](#) | [LinkedIn](#)

Confidentiality Note: This e-mail and any attachments are confidential and may be protected by legal privilege. If you have received this e-mail in error, please notify us immediately by returning it to the sender and delete this copy from your system. Thank you.

From: Mike Green <Mgreen@garfield-twp.com>
Sent: Tuesday, March 12, 2024 11:18 AM
To: Mark Maguire <Markm@gfa.tc>
Cc: Derek Morton <dmorton@garfield-twp.com>; Jennifer Graham <jennifer@gfa.tc>
Subject: RE: Activities at 1661 Lake Drive and Water Runoff photos from 03-04-24 Storm

Hi Mark,

I appreciate the additional comments. I just want to make sure I'm clear that the plans that you reviewed meet or exceed the requirements of our Stormwater Ordinance and if so am I correct in issuing a permit?

Sincerely,

Michael Green, Zoning Administrator
Charter Township of Garfield

Phone: 231-941-1620

Fax: 231-941-1588

From: Mark Maguire <Markm@gfa.tc>

Sent: Thursday, March 7, 2024 11:58 AM

To: Mike Green <Mgreen@garfield-twp.com>; Jennifer Graham <jennifer@gfa.tc>

Cc: Derek Morton <dmorton@garfield-twp.com>

Subject: RE: Activities at 1661 Lake Drive and Water Runoff photos from 03-04-24 Storm

Mike,

The review we provided is still consistent. Measures are provided to control flows on site that meet the intent of the ordinance considering the limitations of the site. Flows leaving the site should be non-erosive and compare well to existing conditions. These nuisance issues are beyond the details of our review, however are important for the applicant to resolve. See my notes as follows.

-Direct runoff from the parking area that exists within the 10 foot setback . The slopes on the parking minimal and the paving limits appear to be similar to existing condition parking tab. Possible for 1661 owner to respond with additional fix- such as landscaping curbing or trench drain within stone and connect to CB to eliminate this area?

-Water from the leaching chamber near my well The upper catch basin and piping to the lower basins are not leaching systems. Lower leaching area has reasonable isolation from the well and is downgrade.

-Runoff from the lower drain that reaches the waters of Silver Lake and causes erosion to my beach Photos show concentrated flows at corner of retaining. I don't see evidence of a gully or rill erosion forming at this time. Some sands are pictures being transported, but again, not seeing a huge cut or source of this. If this becomes an issue, recommendations on page 4 were provided for the applicant to consider to ensure flows to neighboring property are limited.

-I also attached previous photos of snow pushed up against my grape trellis and ` piled near the property line as well. This is a new water burden to my property, and would be prevented by requiring a 10 foot setback from the property line No additional comments.

Mark W. Maguire, PE

Project Engineer

(231) 409-4415



123 W Front Street

Traverse City, MI 49684

(231) 946.5874

[Website](#) | [Phone](#) | [Facebook](#) | [LinkedIn](#)

Confidentiality Note: This e-mail and any attachments are confidential and may be protected by legal privilege. If you have received this e-mail in error, please notify us immediately by returning it to the sender and delete this copy from your system. Thank you.

From: Mike Green <Mgreen@garfield-twp.com>

Sent: Thursday, March 7, 2024 10:36 AM

To: Jennifer Graham <jennifer@gfa.tc>

Bill Waggener

1661 Lake Dr.
Traverse City, MI 49685
231 883 9321

June 7, 2023

Mike Green,

Zoning Administrator
Charter Township of Garfield
3848 Veterans Dr.
Traverse City, MI 49684
231.941.1620 x 230

Mike,

I purchased this property on Lake Dr. late last year. It was purchased, as is, with my understanding that come spring there would be many issues that needed attention, the driveway being on the top of the list.

The existing drive was in disrepair from years of neglect. So I developed a plan to deal with the long overdue maintenance that the drive so dearly needed.

The existing drive is quite steep and pitched heavily toward the north property line, as narrow as 8' in one area (which is now non-compliant) and aimed more toward the neighbors house than its own resulting in an awkward situation while backing out and a possible issue with runoff toward the neighbors property.

As I pondered how to do what was needed, I met the neighbor (Kathy Boyd) and shared several, off the cuff ideas, about what I might do. This apparently made Kathy nervous and I began to receive messages from her dictating what she would or would not allow regarding my property. I attempted a couple times to clarify things, but she did not seem to grasp what I was trying to communicate so I discontinued the dialog and proceeded with what needed doing.

Today I received 2 letters in the mail, one from you, another from an attorney, engaged by Kathy, threatening me with many things.

So I stopped by your office and was advised by you to put in writing what I have done etc.

So this is the narrative of what I have been doing.

First, the work on the drive needed to be included in a Soil & Erosion permit for some retaining wall work that I am progressing with. This was done the same day I received the permit from Soil & Erosion and was posted on a post at the work site.

I am aware of the current ordinance relative to driveways and side setbacks, as I visited you early on regarding this work. The existing drive would be out of compliance in the present ordinance without some special permission I assume.

However, I consider the work on this drive to be maintenance and repair driven and strongly believe that it deserves a "grandfathered" status.

Upon initiation of the work, I was advised by the concrete contractor that it would be ill advised to just resurface over the old concrete such as might be done with asphalt.

So the old concrete was removed and new concrete placed largely in the same footprint as the old with some additions and subtractions to correct the logic and so forth. The overall cover is very close to what existed before.

In the process of doing this the angles, pitches and logic in this were all improved upon.

A trench drain was installed near the garage door, the surface was leveled and pitched toward the drain and away from the neighboring property as much as could be done.

The drive is now level until it nears the road as the road drops approximately 12" across the entrance.

The result of this is that the water now runs straight down the new drive, enters the trench drain and is directed underground to the rear of the property.

This also resulted in near zero runoff toward the neighbor.

Kathy has also expressed concerns about what may be parked in this setback area in question.

The area of the drive that exists within this setback has been used for many, years for just that.

In fact, many years before Kathy purchased her property and continuing to the present.

It is puzzling why Kathy would suddenly be so concerned over something that she has heretofore had no interest in.

Parking is also a concern in this work that I am doing and the new layout solves this. Many properties along this road have parking space along the road that is now all non-compliant for several reasons. Kathy has such an area that accommodates 4 cars, situated about 75% on county road right of way as she has no driveway, meeting DOT requirements. Her area is in severe disrepair and in need of maintenance. In her scenario and mandated in the current ordinance, she would not be able to do anything other than allow her parking to continue to deteriorate, resulting in the eventual loss of the parking area leaving only the road, which is not allowed during winter months.

This would be akin to forced blight of the neighborhood.

I intend to park my vehicles in the garage most of the time. My drive will now accommodate visitors that need a spot to park other than the road.

I have included several pictures from Google Earth showing this drive over the years.

It has been added to several times over time.

I have also drawn an overlay of a recent Google Earth shot showing precisely where and what improvements I have made to the drive.

There is a picture from a real estate site showing the drive as I

purchased it and I am including some pictures of the drive as now repaired.

I have not encroached 1" closer to the property line as is being indicated.

The runoff situation that may have existing previously (the old drive pitched more than 12" toward the north) has been completely eliminated.

In addition to the physical repairs made to the drive, new plantings are planted along the north edge to further accommodate any possible water runoff.

In summary, I believe that the repairs made not only benefit my address but greatly benefit the adjacent property both in function and aesthetics. Improvements such as this improve property values, thus tax bases.

I am not sure what would need to be implemented to allow this improvement to remain.

Perhaps some language added to that section in the ordinance that addresses logical exceptions to the rule.

I might also note that the property north of mine is in non-compliance of about every current ordinance in effect presently.

Again, very puzzling why one would be so concerned about another in this circumstance.

Please advise on this as appropriate.

Very Respectively yours,
Bill Waggener

A handwritten signature in blue ink, appearing to read "Bill Waggener", with a stylized, cursive script.



Charter Township of Garfield

Grand Traverse County

3848 VETERANS DRIVE
TRAVERSE CITY, MICHIGAN 49684
PH: (231) 941-1620 • FAX: (231) 941-1588
www.garfield-twp.com

LAND USE PERMIT APPLICATION

1) Owner / Applicant Information

Wm Waggener/D Wytaske

Same

Owner

Applicant

1661 Lake Dr.

Address

Address 2

Traverse City, MI 49685

City, State, Zip Code

City, State, Zip Code 2

231-883-9321

Phone Number

Phone Number 2

billwaggs@gmail.com

Email

Email 2

An applicant who is acting as the authorized agent for the owner of the property listed above shall provide a date of birth and Drivers License number.

11/8/49

W256887297858

Date of Birth

Drivers License #

2) Property Information

Property Address: 1661 Lake Dr.

Parcel ID #: 28-05-295-035-00

Subdivision Name: Silver Lk Estates

Lot#: _____

Proposed Use: Driveway

Current Use: Driveway

Setbacks: F 50 LS 10 RS 10 R 50 Bldg Height: NA

3) Request

Single Family Home: Duplex: _____ Multi-Family: _____ Change of Use: No

Commercial Bldg: _____ Industrial Bldg: _____ Grading: _____ Road: _____

Accessory Structure: _____ Addition: _____ Deck: _____ Other:

Description: Maintenance work on original drive.

4) Permits:

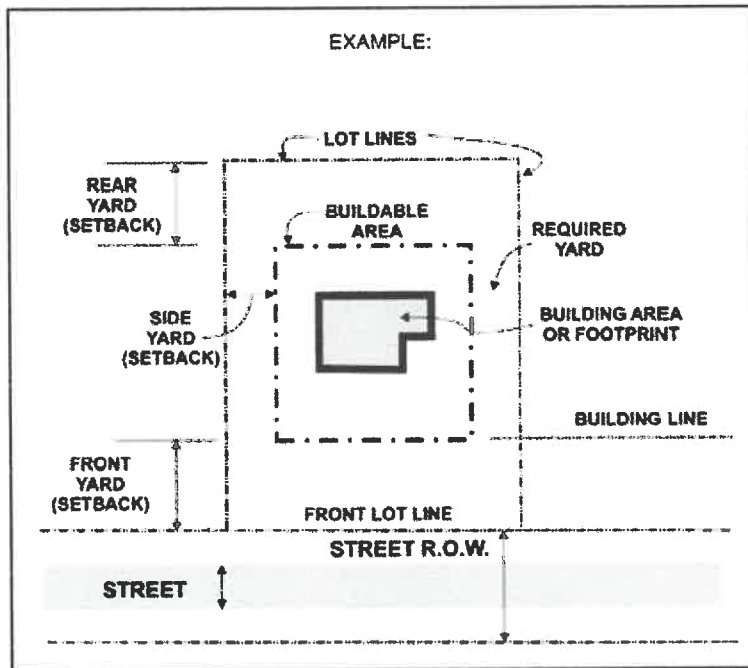
The following agency permits are required (if applicable) prior to the issuance of a Land Use Permit and at the time of submittal of the application:

- Soil Erosion Permit
- Health Department (well/septic) or DPW Permit (water/sewer)
- Driveway Permit (Road Commission or M-DOT)
- MDEQ & Great Lakes Energy Permits
- METRO Fire Site Plan Review

5) Dimensional Site Plan:



Please provide a detailed sketch is required, which includes all structures on the property, proposed structures with dimensions, parcel dimensions, setbacks, Road Right of Way, and height. See example below.

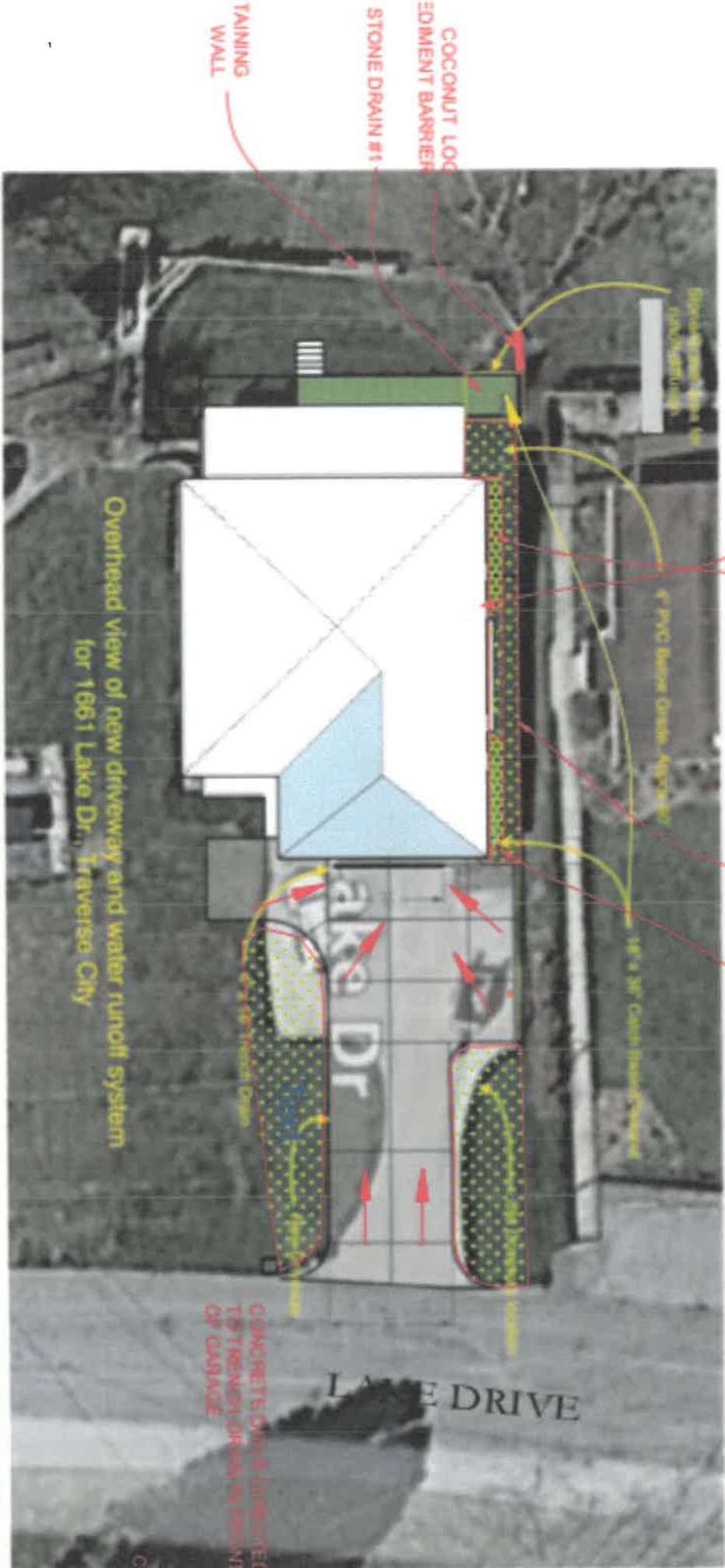
See attachment



6) Affidavit:

The undersigned affirms that he/she or they is (are) the owner, or authorized agent of the owner, involved in the application and all of the information submitted in this application, including any supplemental information, is in all respects true and correct. The undersigned further acknowledges that willful misrepresentation of information will terminate this permit application and any permit associated with this document.

	Wm Waggener	2/29/24
Owner Signature	Print Name	Date
	Wm Waggener	2/29/24
Applicant Signature	Print Name	Date



GUTTER ALONG HOUSE TIED INTO CATCHBASIN AND STONE DRAIN

STONE DRAIN #2
 INSTALL STONE BEDS ALONG HOUSE
 2'WX3'DEEP

PROPOSED FENCE ALONG NORTH
 PROPERTY LINE

CATCHBASIN: 18" PERFORATED RISEN
 36" TALL ENCASED WITH SAND

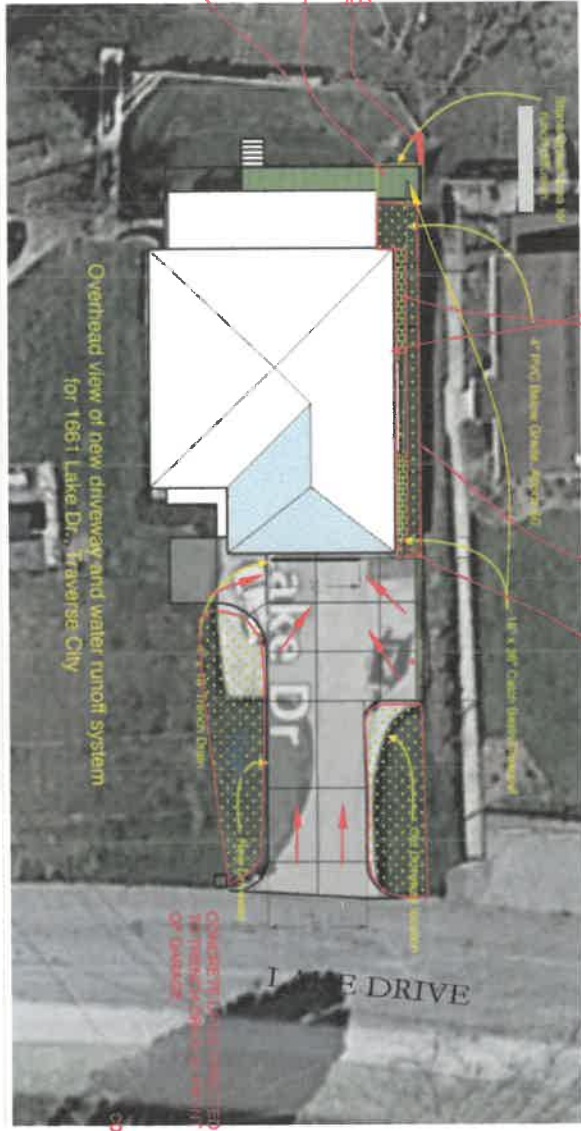
COCOA NUT LOG
 EROSION BARRIER
 STONE DRAIN #1
 TRAINING
 WALL

Overhead view of new driveway and water runoff system
 for 1661 Lake Dr., Traverse City

CONCRETE CURB DIRECTED
 TO TRENCH DRAIN IN FRONT
 OF GARAGE



Crain Engineering, LLC
SCALE: 1" = 20 FOOT



GUTTER ALONG HOUSE TIED INTO CATCHBASIN AND STONE DRAIN

STONE DRAIN #2 INSTALL STONE BEDS ALONG HOUSE 2'Wx3'DEEP

PROPOSED FENCE ALONG NORTH PROPERTY LINE

CATCHBASIN: 18" PERFORATED RISER 36" TALL ENCASED WITH SAND

Bill,
 I did not install the drain stone along the house. I don't think it would do anything. I observed the system during the recent rain we had this week (approx. .5") and the system, as built, had no issues whatsoever. Drain #1 contained all the runoff with no evidence of even escaping the stone bed.

ALL EXPOSED/DISTURBED AREAS TO BE SOODED

SITE DATA

PROPERTY OWNER & APPLICANT:
 BILL WAGGENER
 1661 LAKE DRIVE
 TRAVERSE CITY, MI 49686
 PH: 231-883-9321
 PARCEL ADDRESS - 1661 LAKE DRIVE TRAVERSE CITY
 PARCEL NUMBER - 05-295-055-00

Overhead view of new driveway and water runoff system for 1661 Lake Dr., Traverse City

STONE DRAIN # 1

Location	1783 sq ft
Drainage Area	389 inches
Design Required	572 cu ft
Storage Required	40 %
Void Ratio for Stone	40 %

Calculated depth based on length & width

Basin Volume	0 cu ft
Length	10 ft
Width	100 sq ft
Area	100 sq ft
Height	47.61 cu ft
Retention	11.78 ft
Depth req.	6 ft
Storage Provided	400 cu ft

STONE DRAIN # 2

Location	0 sq ft
Drainage Area	389 inches
Design Required	0 cu ft
Storage Required	40 %
Void Ratio for Stone	40 %

Calculated depth based on length & width

Basin Volume	0 cu ft
Length	35 ft
Width	2 ft
Area	70 sq ft
Height	70.00 cu ft
Retention	-2.50 ft
Depth req.	3 ft
Storage Provided	175 cu ft

DRAINAGE AREA: 1,213 SFT (CONCRETE)
 550 SFT(HOUSE)
 TOTAL AREA: 1,763 SFT
 REQ'D VOL: 572 CFT
 PROV VOL: CFT

ALL EXPOSED/DISTURBED AREAS TO BE SOODED



TRENCH DRAIN

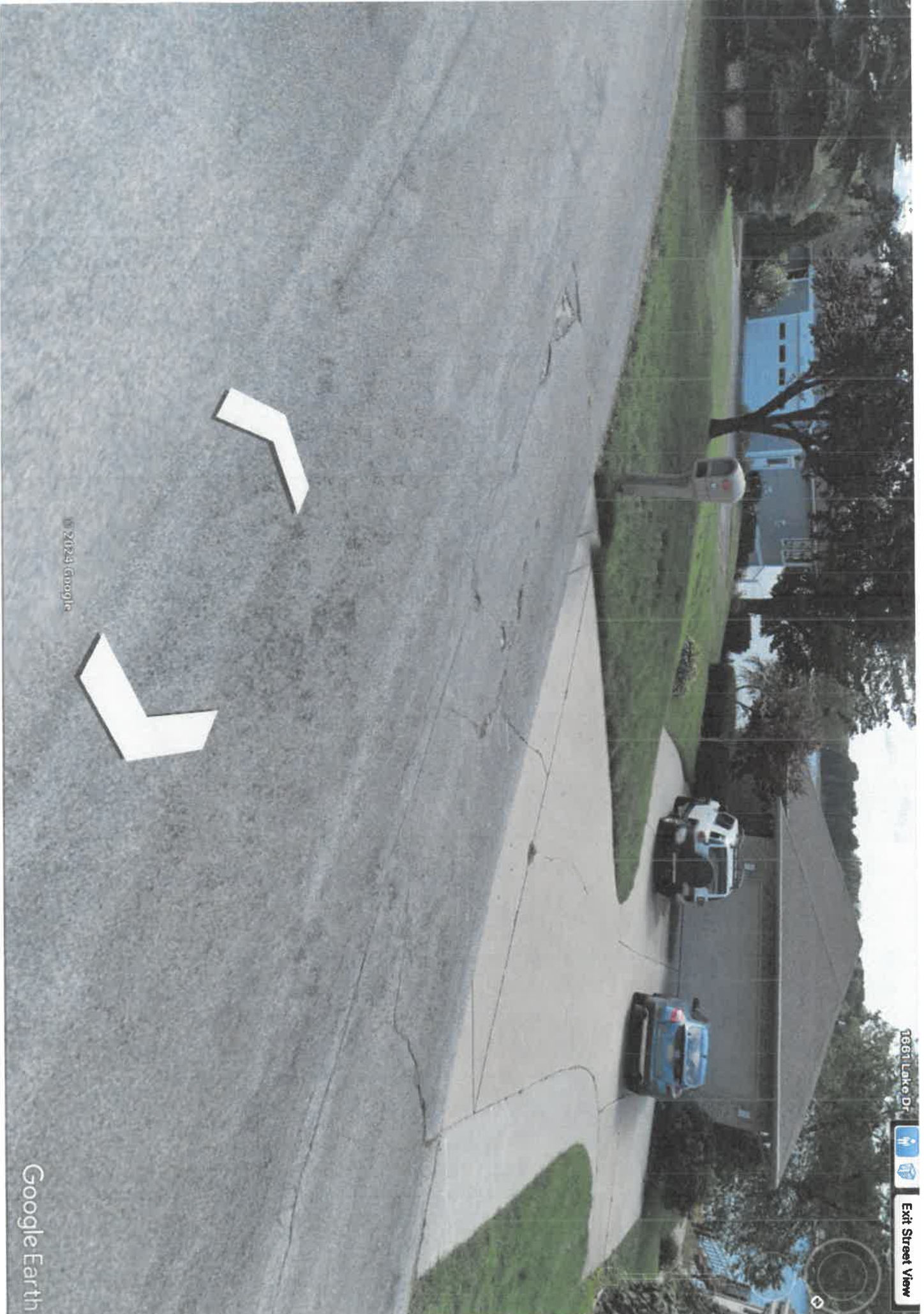
CONCRETE PADS FOR GENERATOR & A/C UNITS
 SMALL RETAINING WALL ALONG BASE OF FENCE
 PRIVACY FENCE W/ RETAINING WALL ALONG BASE OF FENCE



1861 Lake Dr



Exit Street View



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Google Earth



1881 Lake Dr



Exit Street View

© 2024 Google

Google Earth



1661 Lake Dr



1661 Lake Dr

dsat / Copernicus

ubtract.

SECTION 812 NONCONFORMING SITES

A. Applicability

This section applies to the continuation, enlargement, or expansion of a nonconforming site.

B. Generally

Various site design standards are established in Article 5, Development Standards, of this ordinance. Consequently, many development sites do not meet current requirements for such items as parking lot standards, landscaping, storm water requirements and other design specifications. This section requires that such nonconforming sites be brought into conformance with the site development standards prescribed by this ordinance.

C. Authority to Continue

Any legal nonconforming site may be continued so long as it remains otherwise lawful subject to this section.

D. Extension

(1) Generally

A nonconforming site on which there is a conforming use shall not be expanded or contracted unless the site is brought into conformance with the provisions of this ordinance.

(2) Single Family Residential Exception

A single-family residential structure that is located on a legally nonconforming site with respect to required yards, areas, or height may be structurally altered or enlarged, providing the portion of the structure that is altered or enlarged conforms with the provisions of this ordinance.

E. Relocations

No structure shall be relocated within a nonconforming site until the site is brought into conformance with the provisions of this ordinance.

F. Change in Use

No existing structure located on a nonconforming site shall be changed from one use classification to another use classification until the site is brought into conformance with the provisions of this ordinance or a nonconforming site variance has been approved by the Zoning Board of Appeals.

STATE OF MICHIGAN
COURT OF APPEALS

CENTURY CELLUNET OF SOUTHERN
MICHIGAN CELLULAR, LTD,

Petitioner-Appellant,

v

SUMMIT TOWNSHIP,

Defendant-Appellee,

and

LEE BROWN and JANET BROWN,

Intervenors-Appellees.

FOR PUBLICATION

March 29, 2002

9:15 a.m.

No. 225713

Jackson Circuit Court

LC No. 99-096108-AA

Before: O'Connell, P.J., and Sawyer and Smolenski, JJ.

SMOLENSKI, J.

Petitioner appeals as of right from the circuit court's order affirming the decision of the Summit Township Zoning Board of Appeals (ZBA). The ZBA denied plaintiff's application to modify the nonconforming use of its telecommunications tower. We conclude that the ZBA correctly characterized plaintiff's application as a request to extend or expand a nonconforming use. However, we also conclude that Summit Township's zoning ordinance violates the Township Zoning Act, MCL 125.286, to the extent that the ordinance completely prohibits the extension or expansion of a nonconforming use. We reverse and remand for further proceedings before the ZBA.

I. Factual and Procedural Background

In 1996, petitioner constructed a telecommunications tower in Summit Township. The tower supported six panel antennas designed to facilitate wireless telephone services. When petitioner constructed the tower, the township zoning ordinance allowed its construction and operation in the C-2 general commercial district, as a matter of right. However, in 1997, the township amended the zoning ordinance and the operation of petitioner's tower became a nonconforming use in the C-2 district. In 1999, petitioner requested the township's permission to replace the six existing antennas with smaller but more powerful antennas. At the same time, petitioner requested the township's permission to install three additional antennas on the tower.

The additional antennas were intended to facilitate personal communications services, which were not supported by the existing antennas on the tower.

The ZBA treated petitioner's request as an application to expand a nonconforming use, and denied that application under § 5.7.3 of the Summit Township zoning ordinance, explaining its reasoning as follows:

1. Based on the record as a whole, the Board is satisfied that the variance applied for should be denied based on Section 5.7.3(a) of the Summit Township Zoning Ordinance.

2. The above-cited Section provides, in its entirety, as follows:

"No non-conforming use of a structure shall be enlarged, expanded, extended, or altered except in changing the use of such structure to a use permitted in the district in which such structure is located."

3. It is the position of a majority of the members of the Board that the use of the applicant's structure, as distinguished from the structure itself, is nonconforming, and that the applicant was requesting an enlargement, expansion, or alteration of such non-conforming use which is prohibited pursuant to the provisions of the above-cited section.

Petitioner appealed the ZBA's decision to the circuit court, which affirmed. Petitioner now appeals from the circuit court's decision by leave granted. On appeal, we will affirm the decision of a township zoning board unless it is (1) contrary to law, (2) based on improper procedure, (3) not supported by competent, material, and substantial evidence on the record, or (4) an abuse of discretion. Const 1963, art 6, § 28; MCL 125.293a; *Johnson v Robinson Township*, 420 Mich 115, 124; 359 NW2d 526 (1984); *Reenders v Parker*, 217 Mich App 373, 378; 551 NW2d 474 (1996).

II. Nonconforming Uses

"A prior nonconforming use is a vested right in the use of particular property that does not conform to zoning restrictions, but is protected because it lawfully existed before the zoning regulation's effective date." *Belvidere Twp v Heinze*, 241 Mich App 324, 328; 615 NW2d 250 (2000). Generally speaking, nonconforming uses may not be expanded, and one of the goals of local zoning is the gradual elimination of nonconforming uses. *City of Troy v Papadelis (On Remand)*, 226 Mich App 90, 95; 572 NW2d 246 (1997). In *Norton Shores v Carr*, 81 Mich App 715, 720; 265 NW2d 802 (1978), this Court explained:

Expansion of a nonconforming use is severely restricted. One of the goals of zoning is the eventual elimination of nonconforming uses, so that growth and development sought by ordinances can be achieved. Generally speaking, therefore, nonconforming uses may not expand. The policy of the law is against the extension or enlargement of nonconforming uses, and zoning regulations should be strictly construed with respect to expansion.

“[I]t is the law of Michigan that the continuation of a nonconforming use must be substantially of the same size and the same essential nature as the use existing at the time of passage of a valid zoning ordinance.”

The nonconforming use is restricted to the area that was nonconforming at the time the ordinance was enacted. [Citations omitted.]

III. Summit Township Zoning Ordinance

The Summit Township Zoning Ordinance contains several provisions relating to the expansion of nonconforming uses. First, the ordinance describes the township’s general policy regarding nonconforming uses. Section 5.7 provides, in pertinent part:

Where within the districts established by this Ordinance, or by amendments, there exists lots, structures and uses of land and structures which were lawful before this Ordinance was adopted or amended and which would be prohibited, regulated, or restricted under the terms of this Ordinance, or future amendment; it is the intent of this Ordinance to permit these nonconformities to continue until they are discontinued, damaged, or removed but not to encourage their survival. These nonconformities are declared by this Ordinance to be incompatible with the lots, structures, and uses permitted by this Ordinance in certain districts. It is further the intent of this Ordinance that such nonconformity’s [sic] shall not be enlarged, expanded, or extended except as provided herein; nor be used as ground for adding other lots, structures, or uses prohibited elsewhere in the same district.

Next, the ordinance distinguishes between nonconforming structures and nonconforming uses. Section 5.7.2, which governs nonconforming structures, provides, in pertinent part:

Where, on the effective date of adoption or amendment of this Ordinance, a lawful structure exists that could not be built under the regulations of this Ordinance by reason of restrictions upon lot area, lot width, lot coverage, height, open spaces, or other characteristics of such structure or its location upon a lot, such structure may be continued so long as it remains otherwise lawful subject to the following provisions:

a. No such structure shall be enlarged, expanded, extended, or altered in a way which increases its non-conformance.

Finally, § 5.7.3, which governs nonconforming uses, provides, in pertinent part:

Where, on the date of adoption or amendment of this Ordinance, a lawful use of a structure exists that is no longer permissible under the regulations of this Ordinance, such use may be continued so long as it remains otherwise lawful subject to the following provisions:

a. No non-conforming use of a structure shall be enlarged, expanded, extended, or altered except in changing the use of such structure to a use permitted in the district in which such structure is located.

* * *

c. Any structure devoted in whole or in part to any non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing to an extent not to exceed ten (10) per cent of the then current replacement value of the structure, provided that the volume of such structure or the number of families housed therein as it existed on the date of adoption or amendment of this Ordinance shall not be increased.

The ZBA determined, as a factual matter, that petitioner's telecommunications tower qualified as a nonconforming use under § 5.7.3.¹ Applying that section of the zoning ordinance, the ZBA concluded that petitioner was requesting an "enlargement, expansion, or alteration" of its non-conforming use. Furthermore, the ZBA concluded that the ordinance prohibited petitioner's proposed alterations, which would not have changed the use of the tower to a use permitted in a C-2 district.

Petitioner argues that the ZBA erroneously denied its application because its proposed changes to the tower did not constitute an "expansion" of petitioner's nonconforming use. To support this argument, petitioner points to the fact that the total size of the nine new antennas would be smaller than the total size of the six existing antennas. We conclude that petitioner's argument is without merit. Petitioner's proposal includes the addition of three new antennas to its tower. Despite the fact that these antennas would be smaller than the antennas currently attached to the tower, their addition would clearly increase the number of antennas present. Furthermore, their addition would change the positioning of all the antennas on the tower and would increase the density of the antennas present. Given petitioner's request to add three new antennas to its tower array, the ZBA's decision that petitioner sought to expand its nonconforming use was supported by competent, material and substantial evidence. *Reenders, supra* at 378.

IV. The Township Zoning Act

Petitioner next argues that the Township Zoning Act, MCL 125.286, recognizes a property owner's right to "reconstruction, extension, or substitution of nonconforming uses upon reasonable terms," and mandates that local zoning ordinances preserve that right. We agree. As interpreted by existing case law, the act requires townships to enact ordinances that provide for the possibility of extending a nonconforming use. Section 5.7.3 of the Summit Township

¹ The record does not clearly indicate whether petitioner's tower qualified as a nonconforming structure under township zoning ordinance § 5.7.2, particularly in light of the requirements for such towers contained in ordinance § 5.5.9(g). However, the ZBA chose to base its decision solely on § 5.7.3, rather than § 5.7.2. Petitioner does not argue that its tower was not a nonconforming use under § 5.7.3.

Ordinance does not provide for such a possibility. Instead, the ordinance completely prohibits the extension or expansion of a nonconforming use. Therefore, standing alone, we conclude that § 5.7.3 violates the Township Zoning Act. However, because another provision may exist in the instant township's zoning ordinance that may resolve the statutory violation, we must remand to the ZBA for further proceedings.

The Township Zoning Act, MCL 125.286, provides, in pertinent part:

(1) The lawful use of a dwelling, building, or structure and of land or a premise as existing and lawful at the time of enactment of a zoning ordinance, or, in the case of an amendment of an ordinance, then at the time of the amendment, may be continued although the use does not conform with the ordinance or amendment.

(2) The township board shall provide in a zoning ordinance for the completion, restoration, reconstruction, extension, or substitution of nonconforming uses upon reasonable terms set forth in the zoning ordinance. In establishing terms for the completion, restoration, reconstruction, extension, or substitution of nonconforming uses different classes of nonconforming uses may be established in the ordinance with different requirements applicable to each class. [Emphasis added.]

In the present case, we must decide whether the statutory language requires a township to *permit* completion, restoration, reconstruction, extension, or substitution of nonconforming uses, upon reasonable terms. In *Rasmussen v Pennfield Twp*, 104 Mich App 361, 365-366; 304 NW2d 581 (1981), this Court addressed that question and examined the requirements of MCL 125.286, in the context of township zoning ordinances that prohibit extensions, changes, alterations, or enlargements of nonconforming uses:

Since this section of the statute *requires* that any township zoning ordinance provide for the extension of nonconforming uses upon such terms as may be reasonable, it would seem that §§ 7.02 and 7.03 of the Pennfield Township Zoning Ordinance, which effectively preclude the extension of nonconforming uses, are, as the trial court ruled, in direct conflict with the statute and therefore invalid. [Emphasis in original, footnote omitted.]

As with the situation presented in *Rasmussen, supra* at 364, the effect of Summit Township zoning ordinance § 5.7.3 is to preclude a nonconforming use from being “enlarged, expanded, extended, or altered,” unless the change would completely eliminate the nonconforming nature of the use. We conclude that § 5.7.3 of the Summit Township ordinance, standing alone, violates MCL 125.286. We recognize that Michigan law generally disfavors the expansion of nonconforming uses. *Norton Shores, supra* at 720. Nevertheless, we must give force and effect to the intent of the Legislature, as expressed in the Township Zoning Act. That act mandates that townships “shall provide” in a zoning ordinance “for the completion, restoration, reconstruction, extension, or substitution of nonconforming uses upon reasonable terms.” MCL 125.286. We conclude that a township zoning ordinance that completely prohibits the extension or expansion of a nonconforming use violates the terms of the act.

However, the *Rasmussen* Court concluded that the township zoning ordinances under review in that case did not conflict with the statute because the township had enacted a provision allowing its zoning board to “modify any of its rules, regulations or provisions,” in order to observe the spirit of the zoning ordinances and to secure public safety and substantial justice. *Id.* at 366. Therefore, the Pennfield Township zoning board possessed authority to grant a property owner’s request to extend or expand a nonconforming use, in certain circumstances. *Id.* In the present case, the record does not reveal whether Summit Township has enacted an analogous ordinance. We must therefore remand this matter to the ZBA in order for the board to proceed with a new hearing pursuant to § 5.7.3 and any other township zoning ordinance that, taken in conjunction with § 5.7.3, would allow for the possibility that petitioner could modify the nonconforming use of its telecommunications tower. If the Summit Township ordinance does not contain any provisions that would allow the ZBA to grant an application for an extension or expansion of a nonconforming use, under any circumstances, then the ZBA shall consider whether a denial of petitioner’s request would cause any practical difficulties or unnecessary hardships under MCL 125.293, because § 5.7.3 cannot be considered standing alone.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Michael R. Smolenski

/s/ Peter D. O’Connell

/s/ David H. Sawyer

Nonconformities in zoning is the source of much confusion

Mary Reilly<reillym8@msu.edu>, [Michigan State University Extension](#) - December 13, 2019

Updated from an original article written by Kurt H. Schindler, Michigan State University Extension.

Zoning cannot be retroactive and has to grandfather existing land uses. Those are called nonconformities which take on many characteristics and are different than zoning violations.

Maybe one of the most confusing parts of zoning and the source of misunderstanding are zoning nonconformities. Many have heard the complaint; person “A” is able to do something on their land, but person “B” could not get a permit for the same thing. The story then goes on to talk about that being unfair, or a community playing favorites.

A fundamental part of zoning in Michigan is that a zoning ordinance cannot be made retroactive. Zoning cannot be used to go back and stop someone from doing something they have already been doing. Those legal pre-existing land use activities are “grandfathered” and get to continue. This concept is one of the basic private property protection tenants in Michigan zoning law.

The proper term for this “grandfathering” is called “nonconforming uses.” If the activity, parcel, or use was legally being done on the date of the adoption of a zoning ordinance, or amendment to a zoning ordinance, then it must be allowed to continue. (It is redundant to say “legal nonconforming use,” if it was not legal it cannot be nonconforming.)

The passage of time is not enough to establish a property owner has stopped the nonconformity. There are zoning ordinances which will have a statement such as “after one year of disuse, the nonconformity is considered to be abandoned.” That does not work, no matter how much time has passed. To consider a nonconformity to be stopped one has to consider many different factors. It is a determination based on the preponderance of the factors considered.

The zoning ordinance can prohibit or limit the amount of growth of a nonconformity. But such limitation cannot create a situation where the inability to expand the nonconformity would result in violation of another law. For example, if the building expansion is needed so it meets barrier-free requirements, that expansion would have to be allowed to happen, even if zoning does not allow expansion.

A nonconformity can take on a number of different forms:

- It might be a nonconforming parcel. That is the parcel may be too small, or not wide enough, or deep enough, or lacks required access to a public road. But if the parcel was legal when it was created, even though the zoning requirements have since changed, it gets to continue to be used as though it is a conforming parcel.
- It might be a nonconforming building. That is the building may be too small, or large, or tall, or short. It may be the building sits within one or more of the required setbacks. But if the building was legal when it was built, even though the zoning requirements have since changed, it gets to continue to be used as though it is a conforming building.
- It might be a nonconforming land use. That is the activity taking place is a type of land use that is not otherwise allowed in the respective zoning district. But if the land use was legal when it was first started, even though zoning requirements have changed, it gets to continue to be used as through the land use is conforming.
- It might be other dimensional problems. That is the site is such that there are not enough parking spaces, does not have a required buffering or vegetation belt, as well as other measurable/countable site requirements of the zoning ordinance. But if the dimensional problem was legal when it was first started, even though zoning requirements have changed, it gets to continue to be used as through it is conforming.

If in any of the above, the parcel, building, land use, or site requirements, were not legal when it was first started, even though zoning requirements have changed, it is not nonconformity; it is a zoning violation and should be handled with enforcement

measures.

Finally, any nonconformity – like any zoning permit, variance, or decision – travels with the land. That means the owner of a nonconformity can sell it, and the new owner continues to have all the rights and ability to continue use of the nonconformity. The owner can also rent, lease, or otherwise allow another to continue to pursue the nonconformity.

One person may properly be able to continue an activity on their land, while another in the same zoning district is not able to start up the same activity. It is not a result of being unfair or playing favorites. It is a result of protecting someone's property rights and their ability to continue doing what they were doing before new or change zoning regulations were adopted.

Those in Michigan State University Extension that focus on land use provide various training programs on planning and zoning, which are available to be presented in your county. Contact your local land use educator for more information.

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January 26, 2024

Mr. Michael Green, Zoning Administrator
Charter Township of Garfield
3848 Veterans Drive
Traverse City, MI 49684

RE: 1661 Lake Drive
Storm Water Review – Driveway and Drainage Improvements Paving
Parcel #: 05-295-035-00
Garfield Township, Grand Traverse County

Dear Mr. Green,

GFA has reviewed the As-Built plans for 1661 Lake Drive, dated 12-01-23, prepared by Crain Engineering, LLC. The application was submitted following construction of improvements to the driveway.

The following summaries the review to date:

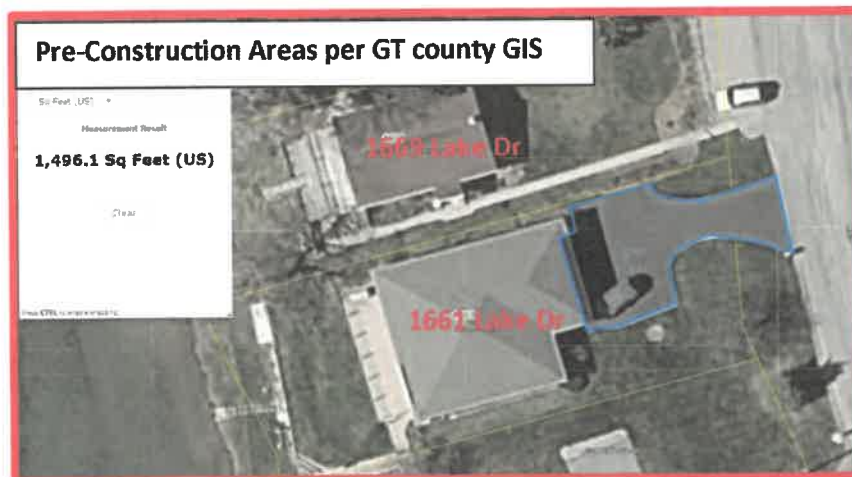
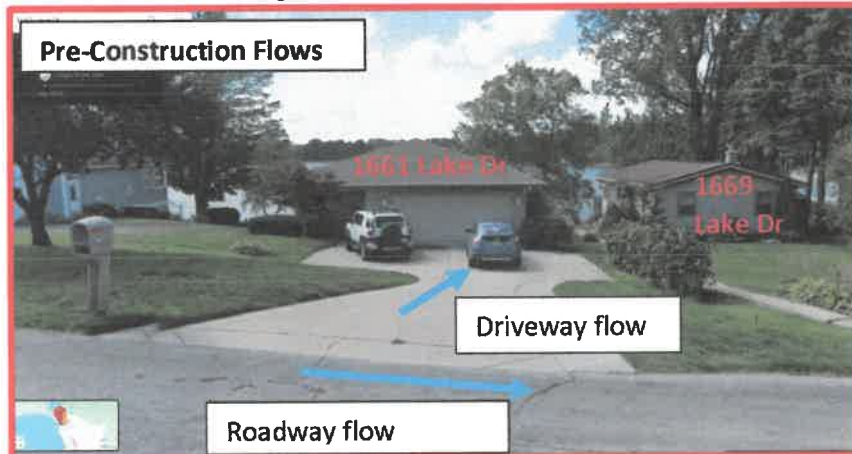
- Initial submittal provided on 7/26/23 prepared by Crain Engineering, LLC. The submittal was made during construction to detail the applicants plan to meet the storm water requirements. Plans indicated measures to collect, convey, and manage storm water from the driveway changes that were under construction at the time.
 - GFA provided an initial review on 8/8/23 requesting additional information to meet the ordinance submittal standards.
 - Plans indicated a trench drain along the garage entrance connecting to a catch basin at the NE corner of the garage. A 2-foot wide by 3-foot deep by 35-foot long stone drain was indicated along the North building line. Storm water from the stone drain and catch basin was routed to a lower-level stone drain bed located at the NW building corner.
 - As-built plans were requested at this time along with clarifications to the provided management volume and more details on the overflow of the NW stone drain.
- As-built plans were provided on 11/1/23.
 - Storm water management items were limited to a trench drain along the garage, catch basin at the NE building corner, and solid drain piping to the lower-level stone infiltration area.
 - GFA provided a second review on 12/12/23 inquiring on the as-built dimensions details on the overflow patterns.
- The applicant provided construction photographs to verify the general dimensions of the installed systems and demonstrate the final drainage patterns.
- GFA performed a wet weather inspection on 12/28/23 following a light rain event.

As the site is less than 500 feet from the OHWM of Silver Lake, the application was reviewed to the requirements of the Uniform Storm Water Control Design and Installation Standards for Municipalities in Grand Traverse County.



PRE-CONSTRUCTION CONDITIONS

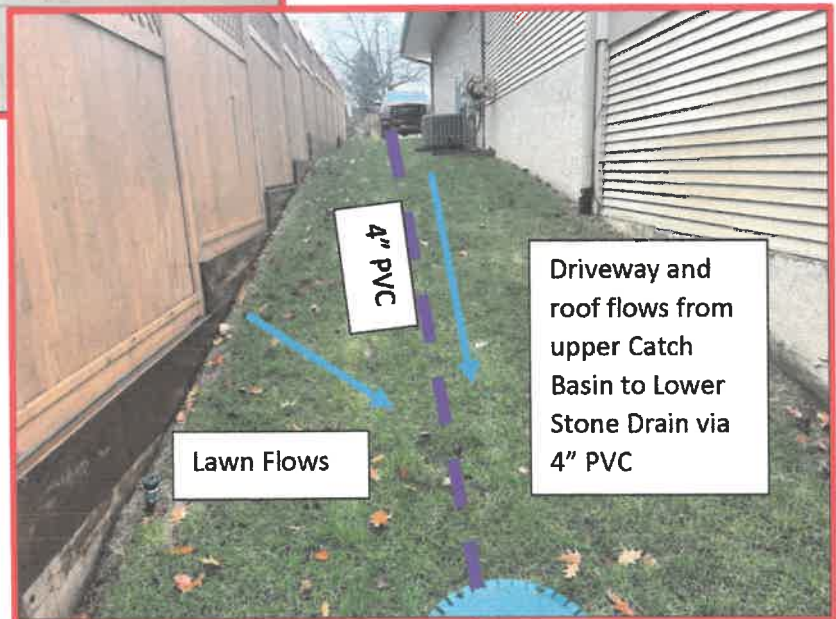
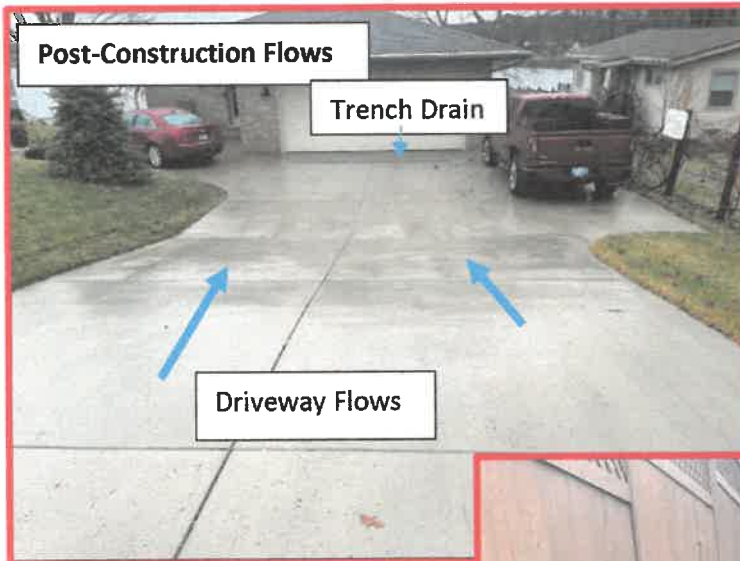
1. The existing site is located on Silver Lake. It is approximately 0.2 ac and slopes east to west towards Silver Lake.
2. The parcel is bound by Lake Dr to the east, Silver Lake to the west, and single family residential to the north and south.
3. Driveway reconstruction took place. Prior to construction there were limited drainage facilities for the site. The existing driveway was steep and appears to shed west towards the existing home. The exiting outlet was to run along the 1661/1669 property line. The north shedding roofs were collected with gutters/downspouts piped to shed westerly towards Silver Lake.





POST-CONSTRUCTION CONDITIONS

1. The As-built plan depicts the installed driveway of ~1325 SF within the property limits. We estimate a total drive area of 1610 SF. ~ 120 SF increase. See attached.
2. Storm water management items were limited to a trench drain along the garage opening, a catch basin at the NE building corner, and solid drain piping to the lower-level stone infiltration area.
3. Field verification made during GFA's wet weather inspection on 12/28/23 as noted below.
 - Grade measurements taken with a level validate the applicant's description of flows in the initial submittal –towards the trench drain.
 - Gutters and trench drain tie into a solid catch basin structure at the NE per the as-built plan.
 - Confirmed 4" pvc solid lines drains west to the lower stone drain per as-built plans.
 - Confirmed depth of stone bed of ~ 32 inch deep. Estimated dimension of 9' x 8' (7 CYDs of stone). This differs from original submittal.
 - Confirmed disturbed areas between home and the 1661 and 1669 property line are stabilized with turf and flow towards the lower stone basin. No surface flows towards 1669.





Determination of Surface Runoff

1. The initial submittal calculation used the ordinance rainfall values to derive the required volumes. This is acceptable.

Storm Water Facilities

1. As-built plans vary for the initial submittal.
2. GFA updated the computation according to the as-built plans and field verifications.
3. Limited management volume is provided by the as-built system.
 - The installed system appears to re-route existing flows away from the 1661/1669 property line and directs them down gradient, away from the existing homes.
 - Full ordinance is not met at the ordinance maximum infiltration rate of 1"/hr for underground storage facilities.
 - We note that a higher infiltration rate can be expected in this area.
 - Reduced criteria to manage the increase impervious and the ability to provide treatment volume for the entire catchment is attained with the as-built system.
 - Potential overflows will spill over the timber retaining wall. Overflows generally follow existing flow paths over the 1661 and 1669 properties, west to the Silver Lake.
 - Applicant to ensure overflows are directed onto 1661 properties.
 - Recommend providing a notch in the retaining wall to ensure flows spread over the southerly length of retaining wall. Or provide alternate overflow pipe to direct flow away from 1669 property.

Erosion Control

1. The site is restored with turf and appears to have no active erosion concerns.

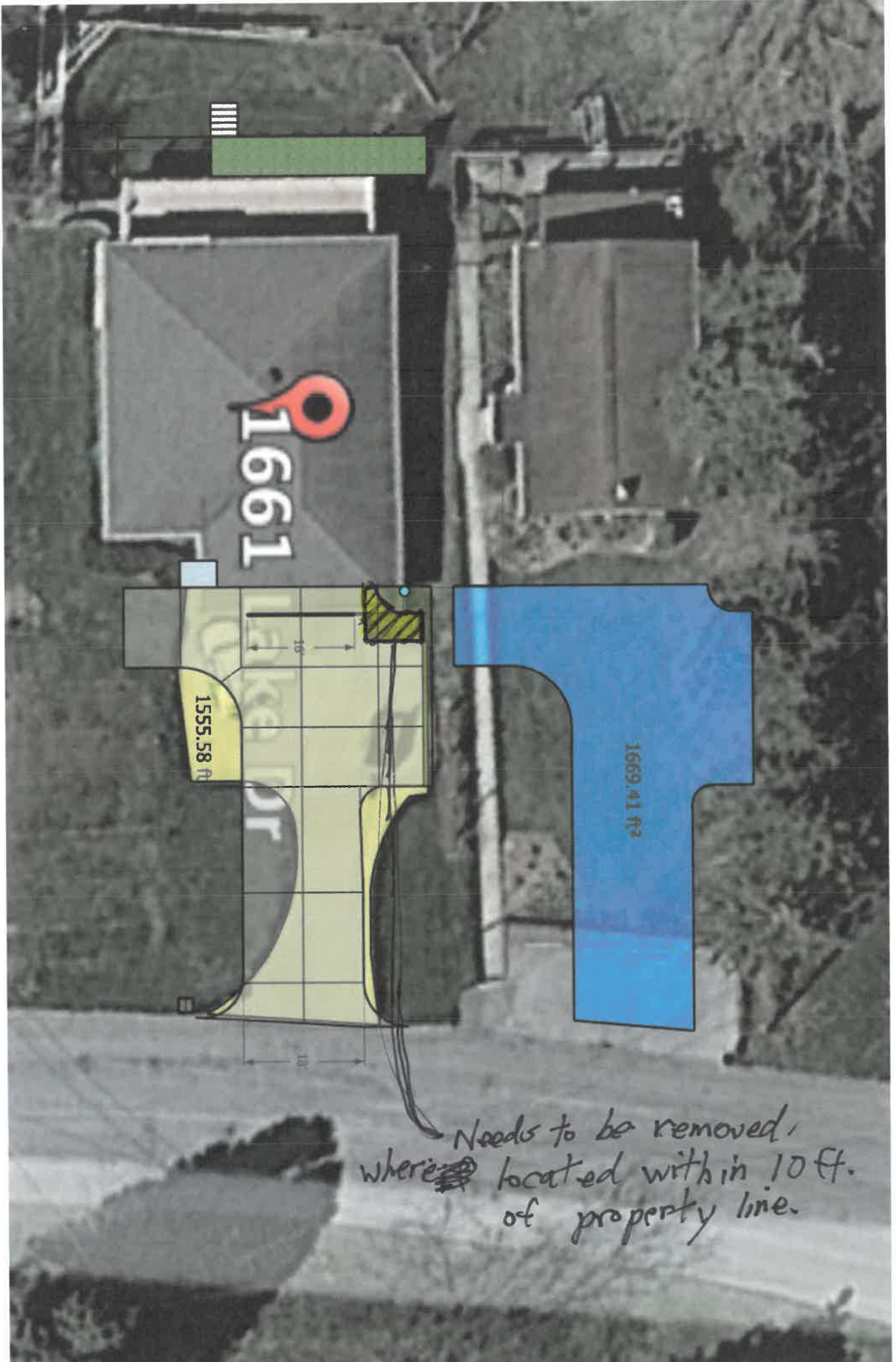
RECOMMENDATION

We find the installed system meets the intent of the ordinance at reduced criteria of management. The site being on the lakeward side of Lake Drive is subject to feasibility issues to meet full criteria including existing grades and space limitations. The site appears to be stabilized and does not pose current erosion control issues. The proposed improvements appear to redirect flows away from the existing structures. Therefore, we recommend the township consider the site for storm water approval at a reduced criteria. We appreciate the opportunity to assist the Township during the approval of this project. If you have any questions, please don't hesitate to contact me at (231) 946-5874.

Sincerely,

GFA

Mark Maguire, P.E.
Project Engineer
cc: Applicant



1661

1555.58 ft²

1669.41 ft²

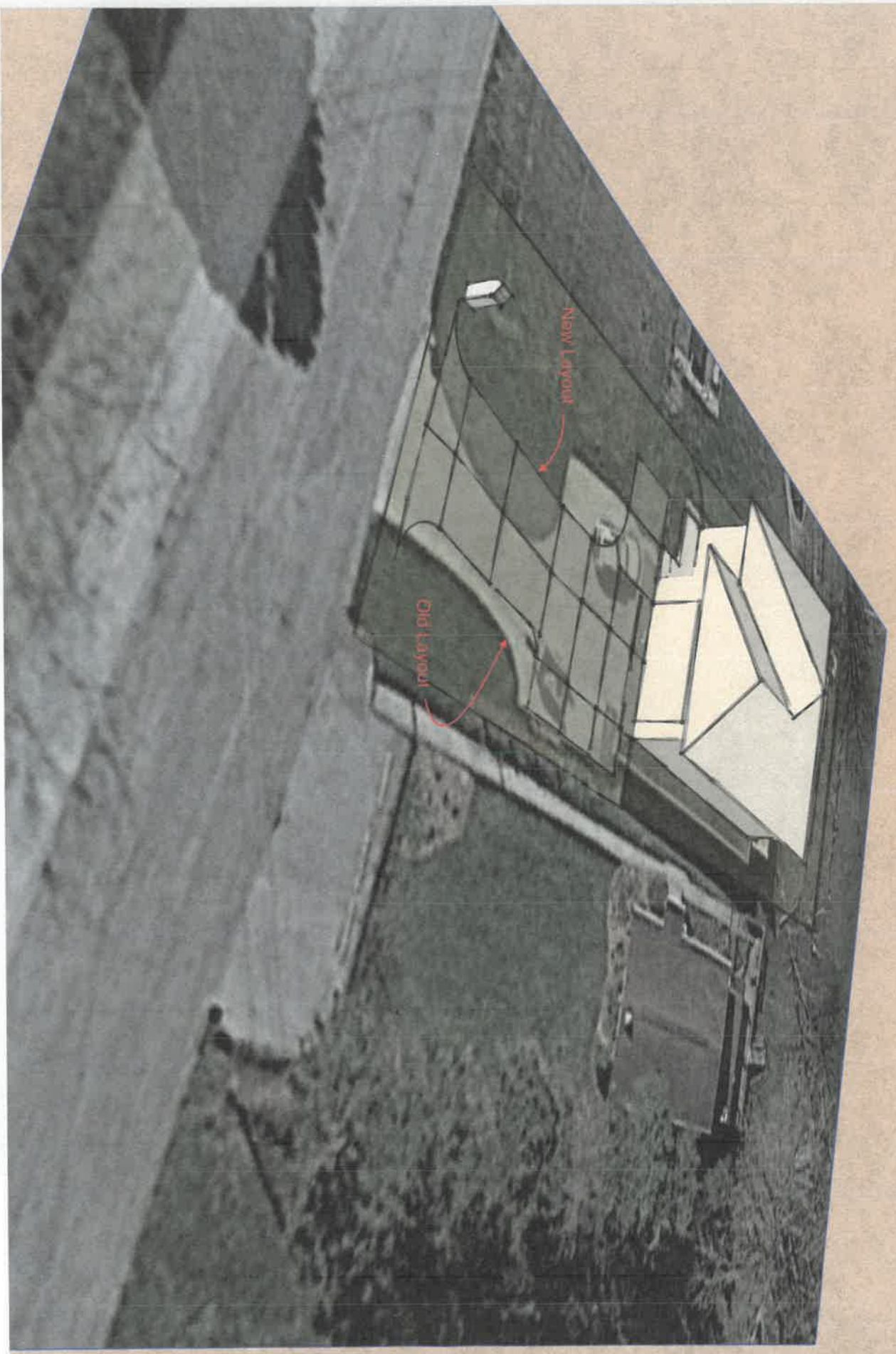
10'

13'

Needs to be removed,
where ~~is~~ located within 10 ft.
of property line.



New Drive 6/7/23 - SketchUp Pro 2021



Click or drag to select objects. Shift = Add/Subtract. Option = Add. Shift + Option = Subtract.

Measurements



Engineering
Surveying
Testing &
Operations

123 West Front Street
Traverse City, Michigan 49684
231.946.5874
231.946.3703

January 26, 2024 (Revised 2/28/24)

Mr. Michael Green, Zoning Administrator
Charter Township of Garfield
3848 Veterans Drive
Traverse City, MI 49684

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 - GFA provided a second review on 12/12/23 inquiring on the as-built dimensions details on the overflow patterns.
- The applicant provided construction photographs to verify the general dimensions of the installed systems and demonstrate the final drainage patterns.
- GFA performed a wet weather inspection on 12/28/23 following a light rain event.

As the site is less than 500 feet from the OHWM of Silver Lake, the application was reviewed to the requirements of the Uniform Storm Water Control Design and Installation Standards for Municipalities in Grand Traverse County.



PRE-CONSTRUCTION CONDITIONS

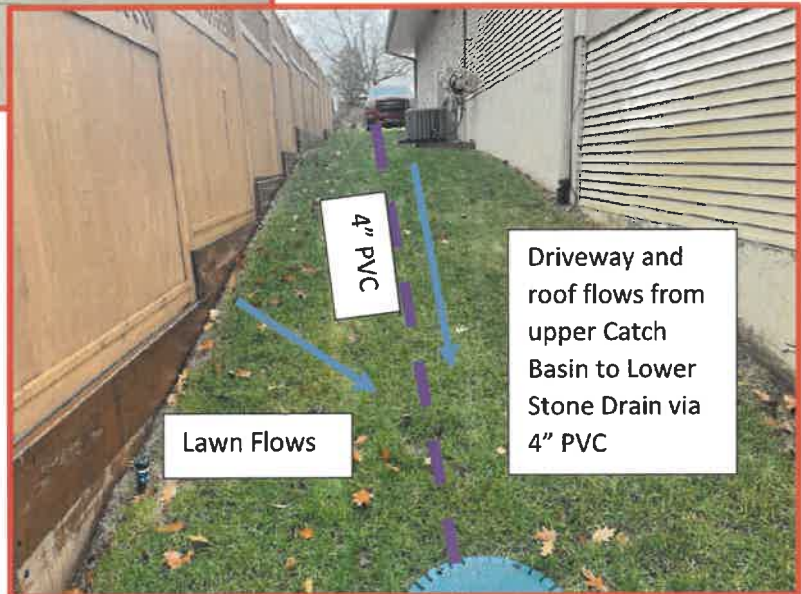
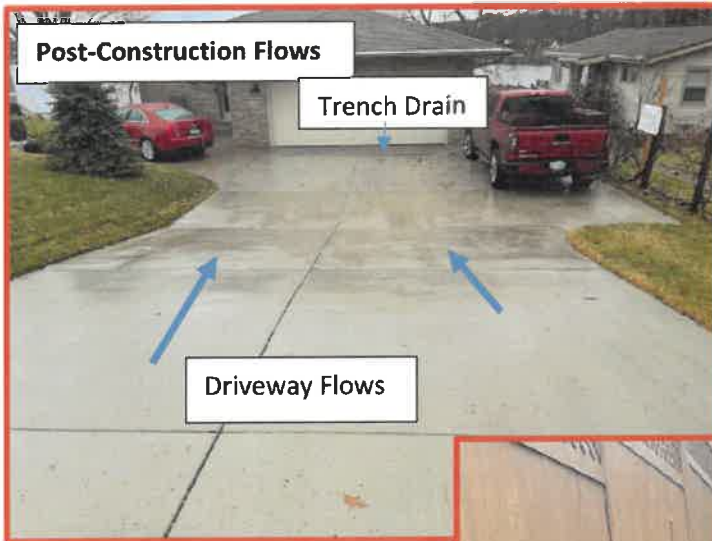
1. The existing site is located on Silver Lake. It is approximately 0.2 ac and slopes east to west towards Silver Lake.
2. The parcel is bound by Lake Dr to the east, Silver Lake to the west, and single family residential to the north and south.
3. Driveway reconstruction took place. Prior to construction there were limited drainage facilities for the site. The existing driveway was steep and appears to shed west towards the existing home. The exiting outlet was to run along the 1661/1669 property line. The north shedding roofs were collected with gutters/downspouts piped to shed westerly towards Silver Lake.





POST-CONSTRUCTION CONDITIONS

1. The As-built plan depicts the installed driveway of ~1325 SF within the property limits. We estimate a total drive area of 1610 SF. ~ 120 SF increase. See attached.
2. Storm water management items were limited to a trench drain along the garage opening, a catch basin at the NE building corner, and solid drain piping to the lower-level stone infiltration area.
3. Field verification made during GFA’s wet weather inspection on 12/28/23 as noted below.
 - Grade measurements taken with a level validate the applicant’s description of flows in the initial submittal –towards the trench drain.
 - Gutters and trench drain tie into a solid catch basin structure at the NE per the as-built plan.
 - Confirmed 4” pvc solid lines drains west to the lower stone drain per as-built plans.
 - Confirmed depth of stone bed of ~ 32 inch deep. Estimated dimension of 9’ x 8’ (7 CYDs of stone). This differs from original submittal.
 - Confirmed disturbed areas between home and the 1661 and 1669 property line are stabilized with turf and flow towards the lower stone basin. No surface flows towards 1669.





Determination of Surface Runoff

1. The initial submittal calculation used the ordinance rainfall values to derive the required volumes. This is acceptable.

Storm Water Facilities

1. As-built plans vary for the initial submittal.
2. GFA updated the computation according to the as-built plans and field verifications.
3. Limited management volume is provided by the as-built system.
 - The installed system appears to re-route existing flows away from the 1661/1669 property line and directs them down gradient, away from the existing homes.
 - Full ordinance is not met at the ordinance maximum infiltration rate of 1"/hr for underground storage facilities.
 - We note that a higher infiltration rate can be expected in this area.
 - Reduced criteria to manage the increase impervious and the ability to provide treatment volume for the entire catchment is attained with the as-built system.
 - Potential overflows will spill over the timber retaining wall. Overflows generally follow existing flow paths over the 1661 and 1669 properties, west to the Silver Lake.
 - Applicant to ensure overflows are directed onto 1661 properties.
 - Recommend providing a notch in the retaining wall to ensure flows spread over the southerly length of retaining wall. Or provide alternate overflow pipe to direct flow away from 1669 property.
 - Discussion with applicant on 2/9 regarding overflows. The applicant states excess water would seep through the wood retaining wall first and does not cause a concentrated overflow point. This is reasonable and addresses the above recommendation.

Erosion Control

1. The site is restored with turf and appears to have no active erosion concerns.



RECOMMENDATION

We find the installed system meets the intent of the ordinance at reduced criteria of management. The site being on the lakeward side of Lake Drive is subject to feasibility issues to meet full criteria including existing grades and space limitations. The site appears to be stabilized and does not pose current erosion control issues. The proposed improvements appear to redirect flows away from the existing structures. Therefore, we recommend the township consider the site for storm water approval at a reduced criteria. We appreciate the opportunity to assist the Township during the approval of this project. If you have any questions, please don't hesitate to contact me at (231) 946-5874.

Sincerely,

GFA

A handwritten signature in black ink, appearing to read 'Mark Maguire'.

Mark Maguire, P.E.
Project Engineer
cc: Applicant



Engineering
Surveying
Testing &
Operations

123 West Front Street
Traverse City, Michigan 49684
231.946.5874 
231.946.3703 

April 26, 2024

Mr. Michael Green, Zoning Administrator
Charter Township of Garfield
3848 Veterans Drive
Traverse City, MI 49684

RE: 1661 Lake Drive
Storm Water Review – Objection/Appeal Response & Storm System Performance Issues
Parcel #: 05-295-035-00
Garfield Township, Grand Traverse County

Dear Mr. Green,

The letter is regarding the 1661 Storm Water Review to provide responses to the items identified by the Ms. Kathy Boyd, neighbor at 1669 Lake Dive:

A) Objections to the Storm Water Review letter dated 2/28/24 per email from Ms. Kathy Boyd dated 4/22/24 regarding “certification of the storm water system at 1661 Lake Drive”.

B) 1661 Lake Drive Storm System Performance Issues as identified by Ms. Kathy Boyd.



A) Objections to the Storm Water Review Response

The following section is in response to objections from Ms. Kathy Boyd of 1669 Lake Drive that were emailed to GFA on 4/22/24. This communication followed Ms. Boyd's filing of an appeal before the ZBA to contest Garfield Township issuing 1661 Lake Drive a Land Use Permit for grading based on the stormwater review.

We are providing the following comments and clarifications:

1) Clarifications on GFA's role:

Ms. Boyd's email states GFA provided certification of the storm water system. As a point of clarification, GFA did not certify the work. GFA did not design, did not observe construction of, nor sign and seal the stormwater plan. GFA's sole responsibility was to conduct a cursory review of the submitted items against the Garfield Township Storm Water Control Ordinance 49.

2) The 4/22/24 email prepared by Ms. Boyd lists objections to the Storm Water Review listed as follows in *italics* with GFA's responses in **bold purple**:

Here are my objections to Mr. Maguire's report regarding 1661 Lake Drive:

1. It seems the impervious surface on the property is still underestimated. Were the measurements validated by GFA or accepted from the property owner?

GFA checked the impervious surface areas during the review as detailed on pg. 2 and 3 of the 2/28/24 review letter, attached. GFA scaled the existing driveway areas as viewed on Grand Traverse County GIS website and scaled the proposed from the provided site plan. GFA's review analysis was limited to the work area of the driveway and estimates an addition of 120 sf of pavements. Pavements under existing overhangs were not counted. These area totals were used to evaluate the installed system size as listed in the review letter.

2. Water has obviously poured out of the lower corner of the lower drain onto my property for nearly a year. Countless photos and videos document the water path that is now cut into my property, including photos from the actual day of Mr. Maguire's inspection (12/28/2023). Clearly the inspection of this system was inadequate/incomplete.

No outflow was witnessed during the 12/28/23 site visit. We did not notice a cut into your property during the inspection. There is evidence of flow here as seen in the leaves in the following photo. We did receive your videos which further confirms the presence of concentrated flows. The flows as documented in the video appeared non-erosive.

Concentrated flows, while small, were observed and documented by Ms. Boyd. Persistent concentrated flows that create issues or damage beyond the existing conditions would be non-compliant with the recommended storm system. Ultimately can be the applicant's responsibility to correct. See Section B of this letter for more details.



Evidence of small flows

12/28/23 Photo 1 Looking NW from corner of 1661 retaining wall onto 1669

3. *The upper drain sends water into the ground/overflows just uphill from my water well. Mr. Maguire responded that the system is not a 'leaching system'. While he is correct in the engineering terminology (the upper drain now has an overflow pipe) he has failed to address that the 'catch basin' is actually a perforated riser that sends water onto my property.*

The installed structure appeared to be a solid structure on the 12/28/23 visit, see photo 2. Note that the Crain Engineering 07/12 site plan depicts 18" perforated riser, but is inconsistent with the site plan (as-built) dated 11/1 the only states manhole. This appears to be installed to plan.

To reiterate, GFA was not responsible to provide construction oversight / management of this project and the ownership to maintain and implement stormwater management falls on the property owner. The Ordinance that currently exists does not provide this level of enforcement to require construction oversight and record keeping.



12/23/23 Photo 2 Upstream Catch Basin with no perforations noted and standing water in the sump.

4. The runoff from the land and concrete changes at the apron of the driveway was not addressed. I have many photos and videos that show concentrated runoff from this location.

This was not addressed in the review letter. Lake Drive has an existing HMA valley curb along both edges that sends water north, see photo 3. Pre-construction conditions are difficult to discern based on photographs, but the small area appears to now sheds towards the road. Previously, these waters appeared to have run through the 1661 property to the 1661/1669 property line, then to the lake. This The road is the primary contributing area in this case.



12/23/24 Photo 3 Lake Drive exhibiting flow along the shallow gutter line of the existing valley gutter.

5. Mr. Maguire noted "full ordinance is not met", yet the drain was certified based on verbal reassurance from the property owner at 1661 Lake Drive (phone call). This is a violation of Engineering ethics.

Respectfully disagree that there was a violation of ethics during this review. This review provided a clear evaluation of the installed system as compared to the Ordinance.

The verbal clarification from the property owner was used in-lue of plan details and expressed the system should disperse flows and not concentrate flows off-site. This level of detail is acceptable for projects of this size and scope where there are no apparent impacts to adjacent structures.

To be clear, GFA's review finds the construction does not meet the ordinance and this was documented in the letter. The review letter also provided detailed facts of the site and evaluated the capacity of the system. The review found that the submitted system, while not providing the full ordinance volume, does provide management without causing significant harm. The plans demonstrate adding storm water management volume more than the net



increase from the new impervious surface area. Additional management capacity is probable if soil testing was performed and increasing the infiltration rate of the underlying soils.

At this point, please recognize that I cannot afford continued delays and placations regarding this faulty drain system. I request oversight of Mr. Maguire, and correction of the deficiencies of this report. If these deficiencies are not addressed by Friday, April 26, 2024, I will request a review of this report by the Michigan Board of Professional Engineers for inaccuracy, inadequate inspection, and violation of Engineering ethics.

GFA scheduled an oversight review meeting with Andy Smits, PE, Grand Traverse County Drain Commissioner on 04/25/24. Here, the review letter and submitted plans were provided prior to the meeting. Mr. Smits' review has the following conclusions:

- No objections to content and reasoning of the review letter.
- Notes that the site does not meet the Ordinance 49.
- Notes the Ordinance 49 is poorly suited for small residential sites, specifically infill renovations and retrofits.
- The Ordinance does not directly spell out the review criteria for smaller projects where the net impacts are less than new construction projects.

Overall GFA provided the best level of effort and detailed review taking into account the majority of the proposed work had already been completed. GFA worked with the applicant and their engineer to understand the storm water management installed where previously none existed, attempting to apply the requirements in the Ordinance to the best of our abilities. As stated by Mr. Smits, the existing ordinance that is in place is antiquated and provides negligible guidance for situations as this.

B) 1661 Lake Drive Storm System Performance Issues as identified by Ms. Kathy Boyd

As noted in the above letter, section A.2.2, some concentrated flows are presented near the NW corner of the system. The flow concentration, while small, is not planned for and could be enlarged over the years. This can be addressed as a non-compliance issue with the recommended storm plan as there was no approved concentrated overflow flow point reviewed.

We recommend the Township seek a plan from the applicant to remedy this issue to bring the outlet configuration into compliance.

Fixes for consideration of the applicant could include addition of properly sized weep holes in the base of the retaining wall on the E/W length on the 1661 property, addition of supplemental storage on the lower retaining wall, and providing permanent erosion control measures such as stone trench for dispersion and stabilization along the toe of the retaining walls. We also recommend additional means to ensure overflows are directed to the 1661 property be installed. Ultimately, applicant needs to provide the Township a remedy and means to demonstrate the functional fix.



Closing Remarks

We are confident that this letter adequately responds to Ms. Boyd's objections, validates Ms. Boyd's drainage concerns regarding outflow from the 1661 storm water management system, and finally provides the Township additional notice and guidance to the apparent performance issues with the 1661 storm water management system.

If you have any questions, please feel free to contact me.

Sincerely,

GF

A handwritten signature in black ink, appearing to read 'Mark Maguire'.

MARK MAGUIRE, P.E.
Project Engineer
cc: Ms. Kathy Boyd

Attached:

- 2/28/24 1661 Lake Drive Storm Water Letter.
- 11-1-23 Rev 1 Plans prepared by Crain Engineering, LLC w/ GFA area scaling of driveway.
- 7/12/23 Initial Plans prepared by Crain Engineering, LLC w/ GFA 12/28/23 field verifications

Mike Green

From: Mark Maguire <Markm@gfa.tc>
Sent: Thursday, April 25, 2024 5:30 PM
To: Mike Green; Jennifer Graham
Cc: Andy Smits
Subject: 1661 Lake Dr SW Rev- 042624.pdf
Attachments: 1661 Lake Dr SW Rev- 042624.pdf

Mike and Jenn,

I've drafted the attached letter regarding the 1661 Lake Drive Storm Water appeal and objections to the review letter. This includes a segment summarizing an oversight review meeting with Andy Smits to identify the need for further audit and ethics issues. Ultimately none needed.

Please let me know if you have any comments for clarity. I'm going to take another look at it tomorrow.

Thank you.

Mike Green

From: Mark Maguire <Markm@gfa.tc>
Sent: Monday, March 18, 2024 9:36 AM
To: Mike Green
Cc: Derek Morton; Jennifer Graham
Subject: RE: Activities at 1661 Lake Drive and Water Runoff photos from 03-04-24 Storm

Mike,

The site meets Reduce Criteria. This is based on the scope of the project and the limitations of the site. This is stated in the recommendations section of our letter.

Additionally, the review letter Storm Water Facilities 3. states the constructed improvements provided limited management volume – not enough to meet ordinance for the entire catchment but enough to manage the increased in flows from the nominal impervious expansion and adequate to meet treatment criteria for the entire catchment. This was found to be reasonable based on the feasibility limitations.

-Mark

Mark W. Maguire, PE

Project Engineer

(231) 409-4415



123 W Front Street

Traverse City, MI 49684

(231) 946.5874

[Website](#) | [Phone](#) | [Facebook](#) | [LinkedIn](#)

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From: Mike Green <Mgreen@garfield-twp.com>
Sent: Tuesday, March 12, 2024 11:18 AM
To: Mark Maguire <Markm@gfa.tc>
Cc: Derek Morton <dmorton@garfield-twp.com>; Jennifer Graham <jennifer@gfa.tc>
Subject: RE: Activities at 1661 Lake Drive and Water Runoff photos from 03-04-24 Storm

Hi Mark,

I appreciate the additional comments. I just want to make sure I'm clear that the plans that you reviewed meet or exceed the requirements of our Stormwater Ordinance and if so am I correct in issuing a permit?

Sincerely,

Michael Green, Zoning Administrator
Charter Township of Garfield

Phone: 231-941-1620

Fax: 231-941-1588

From: Mark Maguire <Markm@gfa.tc>

Sent: Thursday, March 7, 2024 11:58 AM

To: Mike Green <Mgreen@garfield-twp.com>; Jennifer Graham <jennifer@gfa.tc>

Cc: Derek Morton <dmorton@garfield-twp.com>

Subject: RE: Activities at 1661 Lake Drive and Water Runoff photos from 03-04-24 Storm

Mike,

The review we provided is still consistent. Measures are provided to control flows on site that meet the intent of the ordinance considering the limitations of the site. Flows leaving the site should be non-erosive and compare well to existing conditions. These nuisance issues are beyond the details of our review, however are important for the applicant to resolve. See my notes as follows.

-Direct runoff from the parking area that exists within the 10 foot setback . The slopes on the parking minimal and the paving limits appear to be similar to existing condition parking tab. Possible for 1661 owner to respond with additional fix- such as landscaping curbing or trench drain within stone and connect to CB to eliminate this area?

-Water from the leaching chamber near my well The upper catch basin and piping to the lower basins are not leaching systems. Lower leaching area has reasonable isolation from the well and is downgrade.

-Runoff from the lower drain that reaches the waters of Silver Lake and causes erosion to my beach Photos show concentrated flows at corner of retaining. I don't see evidence of a gully or rill erosion forming at this time. Some sands are pictures being transported, but again, not seeing a huge cut or source of this. If this becomes an issue, recommendations on page 4 were provided for the applicant to consider to ensure flows to neighboring property are limited.

-I also attached previous photos of snow pushed up against my grape trellis and ` piled near the property line as well. This is a new water burden to my property, and would be prevented by requiring a 10 foot setback from the property line No additional comments.

Mark W. Maguire, PE

Project Engineer

(231) 409-4415



123 W Front Street

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(231) 946.5874

[Website](#) | [Phone](#) | [Facebook](#) | [LinkedIn](#)

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From: Mike Green <Mgreen@garfield-twp.com>

Sent: Thursday, March 7, 2024 10:36 AM

To: Jennifer Graham <jennifer@gfa.tc>

Cc: Derek Morton <dmorton@garfield-twp.com>; Mark Maguire <Markm@gfa.tc>

Subject: RE: Activities at 1661 Lake Drive and Water Runoff photos from 03-04-24 Storm

Hi Jennifer,

Thank you for responding. I am in the process of reviewing the Land Use Permit that Bill just turned in this week. Barring any further information that comes from this discussion, my plan is to approve the permit and notify Kathy in case she wishes to appeal the permit issuance with the Zoning Board of Appeals. I would like to make sure you are still OK with the stormwater plan before I release any permits, however.

Sincerely,

Michael Green, Zoning Administrator
Charter Township of Garfield
Phone: 231-941-1620
Fax: 231-941-1588

From: Jennifer Graham <jennifer@gfa.tc>

Sent: Thursday, March 7, 2024 9:00 AM

To: Mike Green <Mgreen@garfield-twp.com>; Mark Maguire <Markm@gfa.tc>

Cc: Derek Morton <dmorton@garfield-twp.com>

Subject: FW: Activities at 1661 Lake Drive and Water Runoff photos from 03-04-24 Storm

So I presume from the email below, she has not been made aware that GFA finalized the SW review for the Wagonner Parcel? I know I spoke to her previously and advised her we were reviewing and Mark even conducted a site visit and found everything to be buttoned up and met the ordinance. Mark can you weigh in on a couple of the items she cited below? I am happy to send her the letter we sent but didn't want to circumvent the process and felt communication should probably come from the Township

Related to snow storage I do believe it can no longer be placed within the setback if I recall, that is new a update?

From: Kathy Boyd <klboyd7@gmail.com>

Sent: Thursday, March 7, 2024 5:45 AM

To: Mike Green <mgreen@garfield-twp.com>; Derek Morton <dmorton@garfield-twp.com>

Cc: Jennifer Graham <jennifer@gfa.tc>

Subject: Activities at 1661 Lake Drive and Water Runoff photos from 03-04-24 Storm

You don't often get email from klboyd7@gmail.com. [Learn why this is important](#)

Good morning Mike and Derek –

I am writing again to inquire about updates and to report continued runoff/drainage from Mr. Waggener's driveway and drain.

It has been *ten months* since I first asked the Township for help in managing the activities at 1661 Lake Drive. Now it seems Mr. Waggener has marked out several more points along the shared property line with snow stakes and pink string. This makes me uncomfortable, as it seems Mr. Waggener is moving forward with projects while the driveway and drain are still under Township review.

Monday night (March 4) we received our first thunderstorm of the season. I have attached photos of the water runoff to my property from Mr. Waggener's property.

- Gravel and water runoff from the apron of Mr. Waggener's driveway
- Direct runoff from the parking area that exists within the 10 foot setback
- Water from the leaching chamber near my well
- Runoff from the lower drain that reaches the waters of Silver Lake and causes erosion to my beach
- I also attached previous photos of snow pushed up against my grape trellis and piled near the property line as well. This is a new water burden to my property, and would be prevented by requiring a 10 foot setback from the property line.

We all know that the driveway and drain were constructed in direct violation of the Township Ordinances (Mr. Waggener was notified in writing of the setback prior to pouring concrete). We all know that the drain was constructed without engineering oversight, and the runoff is directed onto my property. We all know that concentrating water runoff and directing the water toward your neighbor's property is against the law and ethically wrong.

At this point I have spent thousands of dollars to defend myself against Mr. Waggener's shenanigans. My rights as a property owner in Garfield Township have been violated by Mr. Waggener's actions.

I am asking for a response from the Township to correct the violation.

Please enforce the Garfield Township Ordinances. Please require that the concrete within the 10 foot setback be removed, as it was poured with full knowledge of the setback requirements and without an easement. Please require that the water runoff (both rain and snow melt) from Mr. Waggener's property be managed on Mr. Waggener's property.

Sincerely,

Kathy Boyd
1669 Lake Drive

03-05-24WaterRunoffPhotos.zip

Mike Green

From: Andy Smits <asmits@gtcountymi.gov>
Sent: Thursday, April 25, 2024 6:36 PM
To: Mike Green; John Sych
Cc: Mark Maguire; Jennifer Graham
Subject: Re: [EXTERNAL SENDER] 1661 Lake Dr SW Rev- 042624.pdf

Mike

Marks letter captures much of my comments regarding this specific evaluation matter. The 1990s era ordinance is well past due for an amendment. I'm working with 3 other Townships who use this same, outdated model to amend theirs. Please consider joining this movement. Tailored to your Township-specific needs, you may realize efficiency in getting onboard. I look forward to discussing with you.

Andy

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From: Mark Maguire <Markm@gfa.tc>
Sent: Thursday, April 25, 2024 5:30:04 PM
To: Mike Green <Mgreen@garfield-twp.com>; Jennifer Graham <jennifer@gfa.tc>
Cc: Andy Smits <asmits@gtcountymi.gov>
Subject: [EXTERNAL SENDER] 1661 Lake Dr SW Rev- 042624.pdf

Mike and Jenn,

I've drafted the attached letter regarding the 1661 Lake Drive Storm Water appeal and objections to the review letter. This includes a segment summarizing an oversight review meeting with Andy Smits to identify the need for further audit and ethics issues. Ultimately none needed.

Please let me know if you have any comments for clarity. I'm going to take another look at it tomorrow.

Thank you.

G. Dwelling on Undersized Legal Lot of Record

A legal lot of record within a residential district which measures less than the minimum area for the district may be used for a single-family dwelling, provided that all required setbacks of the zoning district in which the lot is located are complied with.

H. Reduction of Lot Size or Setback by Governmental Action

Where an existing lot conforming to all requirements of this ordinance is reduced in size as a result of governmental action, and the owner of such lot then does not own sufficient land to enable the lot to conform to the dimensional requirements of this ordinance, such lot may be used as a building site for a single-family residence or other nonresidential use permitted in the district in which the lot is located, provided that:

- (1) All required setbacks of the zoning district in which the lot is located are complied with; or
- (2) The Zoning Administrator has approved, as a building site, a dimension that conforms as closely as possible to the required dimensions of this ordinance..

SECTION 511 DRIVEWAYS FOR SINGLE FAMILY AND TWO-FAMILY PROPERTIES

- A. All residential driveways for single family and two-family properties not built within an access easement shall be placed a minimum of 10 feet from the property line.
- B. Driveways shall be a minimum of 12 feet in width without obstruction to a height of 12 feet.
- C. Driveways may be used for the parking of vehicles, recreation vehicles, boats, campers or trailers provided they are licensed to be used on the roadway and/ or water and in working condition.

SECTION 512 ACCESS MANAGEMENT and RESTRICTIONS

The intent of this Section is to provide safe and efficient travel along public roadways within Garfield Township. Due to the rapid and continuous growth of our community, the implementation of access management standards is necessary for undeveloped lands and the redevelopment of lands. These roadways tend to serve higher volumes of regional traffic and require increased access control measures to preserve their traffic functionality and safety. There is no inherent right to receiving access or additional access to a parcel or parcels.

1. Reviewing Authority

- a. The Planning Commission shall be the reviewing authority regarding access for the development of property and shall have the authority to require a reduction in current or proposed road access locations and/or require shared access to one (1) or more parcels.
- b. The Zoning Administrator shall review driveways to newly created single-family lots with frontage on a County Road.

2. Access Control Measures

All land located within a single property tax code and fronting on a state highway or county road shall be entitled to one (1) driveway or road access per existing parcel. Parcels when subsequently subdivided for the purpose of development, either as metes and bounds described parcels, platted subdivision, condominium developments, and/or projects subject to Sections 422-429 of this Ordinance shall be accessed by public or private roads, service drives, or other approved means of shared access that limits access to public roadways.