

**WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS**

**Agenda for Regular Meeting on Thursday, May 25, 2023**

**7:00 p.m. at the Whitewater Township Hall**

**5777 Vinton Road, Williamsburg, MI 49690**

**Phone 231-267-5141/Fax 231-267-9020**

A Zoom link has been provided and will be available if there is a facilitator available at the meeting.

Join Zoom Meeting

<https://us06web.zoom.us/j/86076521427?pwd=UXJZRVlnaFJwemdLajc0OVdWRSs2UT09>

Meeting ID: 860 7652 1427    Passcode: 701928

One tap mobile +13126266799,,86076521427#,,, \*701928#

Dial by your location +1 312 626 6799

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Set/Adjust Agenda
5. Declaration of Conflict of Interest
6. Approval of Minutes of January 26, 2023
7. Scheduled Public Hearings:
  - ZBA 2023-02 by Steven Gwinn, property address is 780 Starflower Lane, Traverse City.
  - a. Open Public Hearing on ZBA 2023-02
  - b. Zoning Administrator Presentation
  - c. Petitioner Presentation
  - d. Report on Site Visit
  - e. Correspondence
  - f. Public Speaking in Favor of Appeal
  - g. Public Speaking in Opposition to Appeal
  - h. Anyone Wishing to Speak on the Appeal Who Has Not Already Commented
  - i. Close Public Hearing
  - j. Discussion of Appeal
  - k. Findings of Fact
  - l. Conclusion
  - m. Reasons for Conclusion
  - n. Decision
  - o. Motion

ZBA 2023-03 by Don and Winnie Warner, property address 7881 Cook Road, Williamsburg.

- a. Open Public Hearing on ZBA 2023-03
- b. Zoning Administrator Presentation
- c. Petitioner Presentation
- d. Report on Site Visit
- e. Correspondence
- f. Public Speaking in Favor of Appeal
- g. Public Speaking in Opposition to Appeal

- h. Anyone Wishing to Speak on the Appeal Who Has Not Already Commented
  - i. Close Public Hearing
  - j. Discussion of Appeal
  - k. Findings of Fact
  - l. Conclusion
  - m. Reasons for Conclusion
  - n. Decision
  - o. Motion
- 
- 8. Other Matters to be Reviewed by the Zoning Board of Appeals
    - a. Correspondence Received
    - b. Zoning Board of Appeals Members
- 
- 9. Report of Planning Commission Representative
  - 10. Report of Township Board Representative – No representative assigned to the ZBA
  - 11. Report of Zoning Administrator
  - 12. Training and Training Opportunities
  - 13. Adjournment

Whitewater Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities who are planning to attend. Contact the township supervisor at 231-267-5141 ext. 23.

**WHITEWATER TOWNSHIP ZONING BOARD OF APPEALS**  
**Minutes for Regular Meeting on Thursday, January 26, 2023**  
**7:00 p.m. at the Whitewater Township Hall**  
**5777 Vinton Road, Williamsburg, MI 49690**

Call to Order by Chair at 7:08 p.m.

Roll Call: Bowen, Lake, Garza, Wroubel

Absent: Unfilled seat, alternate; Board Rep unassigned

Set/Adjust Agenda Set

Declaration of Conflict of Interest – None

Public Comment - None

Approval of Minutes:

MOTION by Garza, second by Bowen, to approve minutes of August 25, 2022. Roll call vote.  
Wroubel-yes; Lake-yes; Garza-yes; Bowen-yes. Motion carried.

Other Matters to be reviewed by the Zoning Board of Appeals

- a. Election of Officers, Chair, Vice Chair and Secretary

MOTION by Bowen, second by Wroubel to keep Bowen as Chair, Garza as Vice Chair, Lake as Secretary.  
Roll call vote: Bowen-yes; Garza-yes; Lake-yes; Wroubel-yes. Motion carried.

- b. Resolution #ZBA23-01, 2023/2024 Regular Meeting Schedule

MOTION by Bowen, second by Garza to adopt Resolution #ZBA23-01, Meeting Schedule.  
Roll call vote: Garza-yes; Lake-yes; Wroubel-yes; Bowen-yes. Motion carried.

- c. Review Rules of Procedure

MOTION by Bowen, second by Wroubel to keep Rules of Procedure as they are.  
Roll call: Bowen-yes; Garza-yes; Lake-yes; Wroubel-yes. Motion carried.

- d. Review of Zoning Board of Appeals By-laws. Zoning Administrator Hall noted an inconsistency in Section 3 3.1

MOTION by Lake second by Bowen to approve the bylaws as amended.  
Roll call vote: Lake-yes; Wroubel-yes; Bowen-yes; Garza-yes. Motion carried.

Report of Planning Commission Representative, Wroubel: Working in the Master Plan and ordinances.

Report of Township Board Representative, Not Available

Report of Zoning Administrator, Hall: Note presented. Discussion ensued regarding nonconforming uses.

MOTION by Bowen second by Lake to recommend the Planning Commission review Article IV of the Whitewater Township Zoning Ordinance.

Roll call vote: Lake-yes; Wroubel-yes; Bowen-yes; Garza-yes. Motion carried.

Lake has some questions regarding a demolition. He will contact the Zoning Administrator.

Continuing Education: Zoning Board of Appeals Handbook.

Public Comment: None

Comments: None

Next regularly scheduled meeting will be February 24, 2022, if a case is presented.

Adjournment: 8:15 p.m.

Respectfully submitted  
Recording Secretary  
Lois MacLean



# WHITEWATER TOWNSHIP



5777 Vinton Road, PO Box 159 • Williamsburg, MI 49690 • PH (231) 267-5141 Fax (231) 267-9020

ZBA

Case No. 2023-02

Date Rec. 04/27/2023

Fee: \$250

## Property Information

RC# 25158

Date Filed: 4/20/23

Tax ID #: 28-13-031-005-03

Subdivision: WOODLAND TRAILS Lot #: 2 Zoning District: RC-1

Flood Plain: N/A Property Address: 780 STARFLOWER LN Year Property was Acquired: 2021

Size of Lot: Front ~400' Rear: ~500' Side 1: ~600' Side 2: ~650'  
(INCLUDES NORTH OF SUPPLY RD)

Present Use of Property: RECREATIONAL

Past Variances on Property in Question (Y (N))

If So State Case No. and Resolution of Appeal: N/A

## Request Information

TREASURER Lain MacLean DATE: 4/27/23

Request: ☒ Dimensional Variance ☐ Use Variance ☐ Ordinance Interpretation ☐ Appeal Zoning Administrator Decision

Description of Request: ALLOW A REDUCED SUPPLY RD BUILDING SETBACK DISTANCE OF 70'  
FOR NAMED PROPERTY SOUTH OF SUPPLY RD, STARTING AT STARFLOWER LN (NORTHWEST  
PROPERTY CORNER) AND EXTENDING 100' EAST/NORTHEAST ALONG SUPPLY RD.

Square Feet of Existing Structure to be demolished (if any): —

(SEE ATTACHED DRAWING)

New Structure (Y/N) If So, Size of Proposed Structure (Square Feet): 1680

New Addition to Existing Structure (Y (N)) If So,

Size of Addition: — Size of Existing Structure — Size of Existing Structure + Addition: —

Ordinance in Question (if any): WHITEWATER TOWNSHIP GUIDELINES FOR LAND USE PERMITS  
(SECT 12.11)

## Owner/Applicant Information

Owner Name: STEVEN GWINN

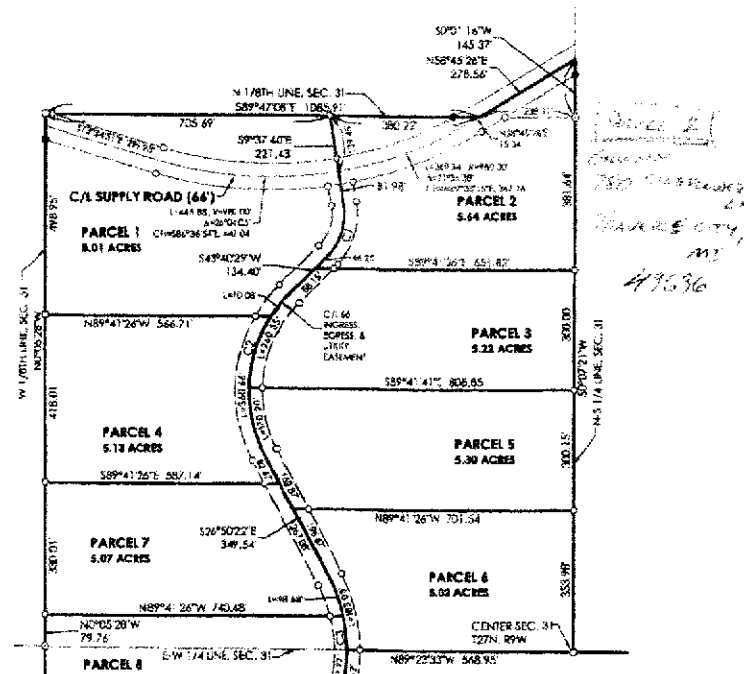
Mailing Address: 18820 S. HAGAN LN City: OLATHE State: KS Zip: 66062

Phone: (913) 706-9771 Fax: ( ) - E-Mail: STEVE.GWINN@GMAIL.COM

Applicant (if different from owner): —

Mailing Address: — City: — State: — Zip: —

Phone: ( ) - Fax: ( ) - E-Mail: —



780 S. Main St.  
HARRIS CITY,  
MO.  
47536

**Legend**

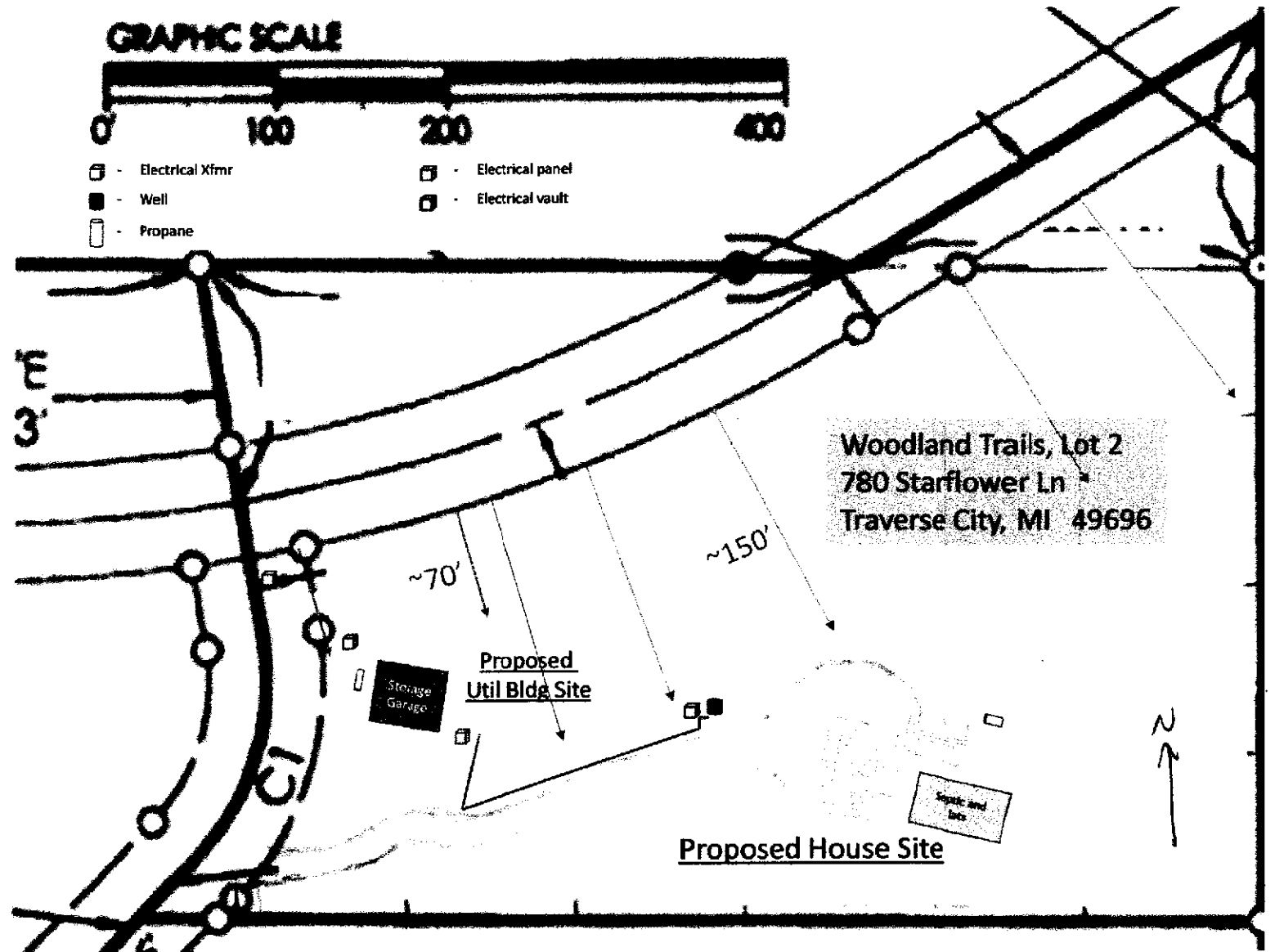
SEE SHEET 11 FOR CURVE TABLE.



- ☐ Iron foundry  
☐ Iron Set  
☐ Concrete Monument  
☒ Government Corner  
☐ Hole foundry  
☐ Hole Set  
☐ Railroad  
☐ Measured  
☒ Fence



COUNTY: <b>Cherokee</b> & <b>Polk</b> of <b>Florida</b> of the <b>State of Florida</b> , do hereby certify that the following number of acres is the present acreage of the land described in the foregoing plat: <b>120.00</b>		CERTIFICATE Great Salt Land Co	
I hereby certify that the above is a true and correct copy of the original of said certificate as the same appears in the records of the Clerk of the County of <b>Cherokee</b> , Florida, and that the same is a true and correct copy of the original of said certificate as the same appears in the records of the Clerk of the County of <b>Polk</b> , Florida.		I hereby certify that the above is a true and correct copy of the original of said certificate as the same appears in the records of the Clerk of the County of <b>Cherokee</b> , Florida, and that the same is a true and correct copy of the original of said certificate as the same appears in the records of the Clerk of the County of <b>Polk</b> , Florida.	
<b>Manfield</b> Land Use Consultants 10000 Highway 100 Suite 100 Tallahassee, FL 32310 Phone: (904) 833-1111 Fax: (904) 833-1112		I hereby certify that the above is a true and correct copy of the original of said certificate as the same appears in the records of the Clerk of the County of <b>Cherokee</b> , Florida, and that the same is a true and correct copy of the original of said certificate as the same appears in the records of the Clerk of the County of <b>Polk</b> , Florida.	
Grand Traverse County, Michigan			



## **Building Dimensions and Notes**

**Utility Building (Storage Garage): 42' wide x 40' deep**

- Note: proposed site will require Setback exception.

**House: ~57' wide x ~46' deep**

**Attached Garage: ~36' wide x ~24' deep (faces perpendicular to house)**

- Total House w/ Attached Garage footprint : ~69' wide x ~82' deep

**4/20/23 note: Land Use permit applications for above structures are being prepared.**





**Whitewater Township**  
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Williamsburg, Michigan 49690

231-267-5141

[www.whitewatertownship.org](http://www.whitewatertownship.org)

**STAFF REPORT/Zoning Board of Appeals  
Case # ZBA-2023-02**

**1. Applicant(s)**

Applicant(s) / Owners: Gwinn, Steven  
18820 S. Hagan Ln.  
Olathe, Kansas 66062

Site Address, 780 Starflower Ln., Williamsburg, Michigan 49690  
Parcel ID# 28-13-031-005-03

Property Description [28-13-031-005-03] PARCEL 2: PART OF SECTION 31, T27N, R9W, WHITEWATER TOWNSHIP, GRAND TRAVERSE COUNTY, MICHIGAN MORE FULLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 31; THENCE S00° 01' 16"W, 1190.39 FEET ALONG THE NORTH-SOUTH QUARTER LINE OF SECTION 31 TO THE POINT OF BEGINNING; THENCE S00° 01' 16"W, 145.37 FEET ALONG SAID NORTH-SOUTH QUARTER LINE TO A CONCRETE MONUMENT WHICH IS N00° 07' 21"E, 1335.77 FROM A CONCRETE MONUMENT AT THE CENTER OF SECTION 31; THENCE 500° 07' 21"W, 381.64 FEET ALONG THE NORTH-SOUTH QUARTER LINE OF SECTION 31; THENCE NB9° 41' 26"W, 651.82 FEET; THENCE N43° 40' 29"E, 46.25 FEET; THENCE 139.55 FEET ALONG THE ARC OF A 150.00 FOOT RADIUS CURVE TO THE LEFT, HAVING AN INCLUDED ANGLE OF 53° 18' 09", AND THE LONG CHORD OF WHICH BEARS N17° 01' 25"E, 134.57 FEET; THENCE N09° 31' 40"W, 221.43 FEET; THENCE S89° 47' 08"E, 380.22 FEET ALONG THE NORTH 1/8TH LINE OF SECTION 31; THENCE N58° 45' 26"E, 278.56 FEET TO THE POINT OF BEGINNING. SUBJECT TO THE RIGHT OF WAY OF SUPPLY ROAD, A 66-FOOT WIDE PUBLIC ROAD. SUBJECT TO AND TOGETHER WITH A PRIVATE ROAD. SPLIT/COMBINED ON 09/16/2020 FROM 13-031-005-01, 13-031-002-02; [see figure #1 top of page #2]

Zoned: RC-Recreational

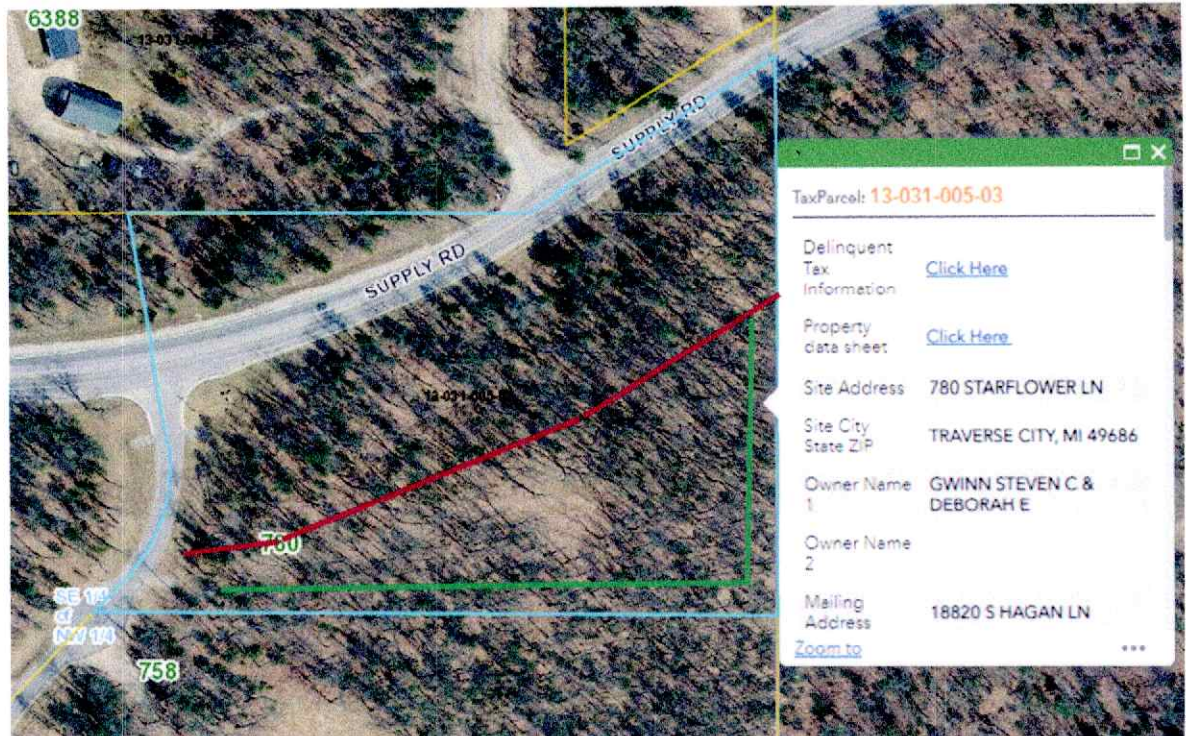
Site Plan: [illustrations / drawings attached]

**2. Development Proposal**

- 2.1 The property owner seeks to build a residential accessory structure (in conjunction with a dwelling) on Parcel #28-13-031-005-03.



**FIGURE #1**



**2.2 Action Report – The Applicant is:**

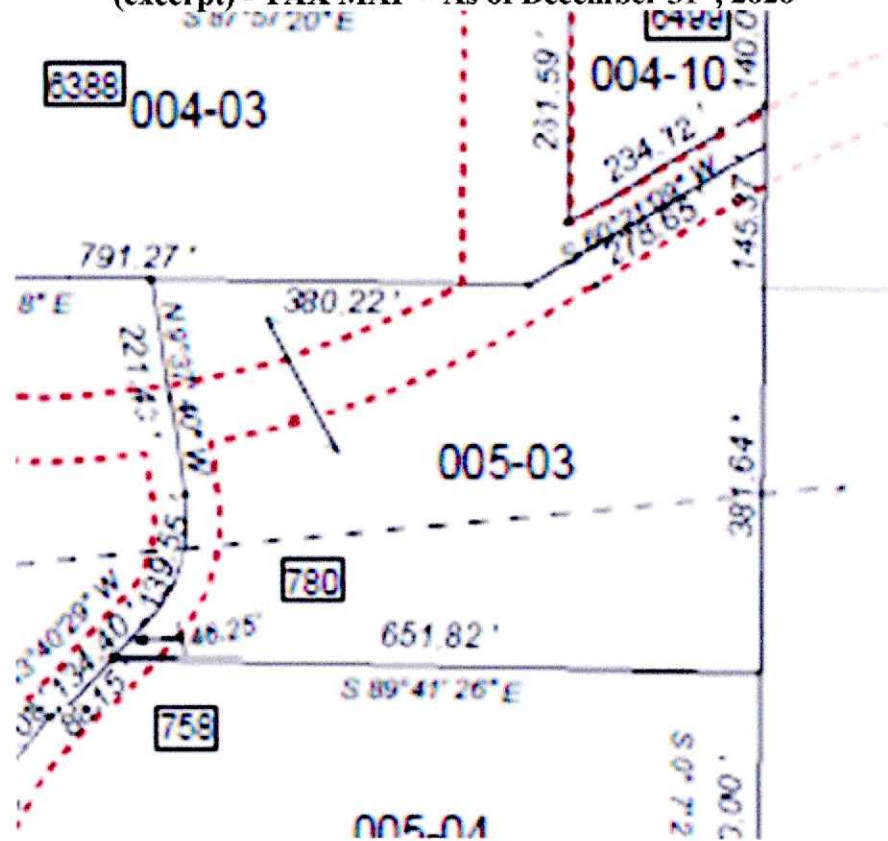
- 1) Property owner is requesting a dimensional variance from the required 150' (one hundred and fifty) setback foot off of Supply Road as listed in Article XII, **Building Sizes, Lot Sizes, and Yard Requirements**, Schedule of Regulations – Section 12.11 in order to permit an encroachment of approximately 80'

**2.3 Background:**

The applicant engaged staff in discussion regarding the proposed location of an accessory building to be built consecutively with a proposed dwelling on the same parcel. It was determined that the submission of a Land Use Permit application would be a moot point and that proceeding directly to a variance request was warranted.

1. The applicant initiated a phone / email inquiry regarding the buildable area of the Subject property in relationship to the required RC zoning district and Supply Road setbacks on April 18<sup>th</sup>, 2023.
2. The applicant(s) submitted the application, site plan, and requisite fee to the Zoning Administrator on April 27<sup>th</sup>, 2023.
3. Posting, publication, and notification were all performed at least 15 days prior to the scheduled May 25<sup>th</sup>, 2023 public hearing of the Zoning Board of Appeals.

(excerpt) - TAX MAP – As of December 31<sup>st</sup>, 2020



**Staff Comment:** Although NOT required by the Whitewater Township Zoning Ordinance, staff recommended and the applicant agreed to submit a basic site plan | visual image to aid the Zoning Board of Appeals in the review and decision-making process.

A Non-Use variance is subject to the ZBA finding that a Practical Difficulty exists demonstrated by the applicant based up the following review standards:

1. Granting the variance will not be contrary to the public interest and will not be contrary to the spirit and intent of this Ordinance.
2. Granting the variance shall not permit the establishment within a zoning district of any use, which is not permitted by right within the district.



**Staff Comment: This is NOT a use variance request – customary residential uses such as dwelling and accessory buildings and structures are permitted by right.**

3. Granting the variance will not cause any significant adverse effect to property in the vicinity or in the zoning district or the Township.
4. There are practical difficulties on the site which unreasonably prevent the owner from using the property for a permitted purpose without presenting an excessive burden and the practical difficulty not resulting from any act of the applicant.
5. The variance will do substantial justice to the applicant, but the decision shall not bestow the property special development rights not enjoyed by other properties in the same district, or which might result in substantial adverse impacts on properties in the vicinity which may endanger the public health, safety or welfare.
6. The requested variance is the minimum necessary to permit reasonable use of the land.
7. The practical difficulty is not self-created.

**Staff Comment: This difficulty was created by the ‘government’, (Whitewater Township) when establishing an excessive setback determined to be associated with a previously deleted article in the zoning ordinance related to environmentally sensitive areas.**

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**Recommendation: staff recommends independent findings and conclusions that would support a decision to approve a minimum setback encroachment into the required 150’ setback from Supply Road**

Respectfully submitted for consideration by the Whitewater Township Zoning Board of Appeals,



Robert (Bob) Hall  
Zoning Administrator

CR # 1579  
Rev. # 25137



# WHITEWATER TOWNSHIP



5777 Vinton Road, PO Box 159 • Williamsburg, MI 49690 • PH (231) 267-5141 Fax (231) 267-9020

Case No. ZBA-2022-03 Date Rec. 11/17/2022 Fee: \$250

## Property Information

Date Filed: 11/13/2022

28-13-127-001-02 ZD 2/A

Tax ID #: 28-13-127-541-02 Subdivision: \_\_\_\_\_ Lot #: \_\_\_\_\_ Zoning District: R1 3A 2/A

Flood Plain: \_\_\_\_\_ Property Address: 7881 COOK ROAD Year Property was Acquired: 1996

Size of Lot: Front \_\_\_\_\_ Rear: \_\_\_\_\_ Side 1: \_\_\_\_\_ Side 2: \_\_\_\_\_

Present Use of Property: RESIDENTIAL 2A 2/A Past Variances on Property in Question (Y/N)

If So State Case No. and Resolution of Appeal: \_\_\_\_\_

## Request Information

Request: ☒ Dimensional Variance ☐ Use Variance ☐ Ordinance Interpretation ☐ Appeal Zoning Administrator Decision

Description of Request: (SEE ATTACHED)

TREASURER: Michelle M. Bener DATE: 11/17/22

Square Feet of Existing Structure to be demolished (if any): \_\_\_\_\_

New Structure (Y/N) If So, Size of Proposed Structure (Square Feet): \_\_\_\_\_

New Addition to Existing Structure (Y/N) If So,

Size of Addition: 70 ft<sup>2</sup> Size of Existing Structure 870 ft<sup>2</sup> Size of Existing Structure + Addition: 940 ft<sup>2</sup>

Ordinance in Question (if any): \_\_\_\_\_

## Owner/Applicant Information

Owner Name: DON + WINNIE WARNER

Mailing Address: 1552 GRACE LANE City: MILFORD State: MI Zip: 48380

Phone: (248) 924-1579 Fax: ( ) - E-Mail: DWARNER5454@COMCAST.NET

Applicant (if different from owner): \_\_\_\_\_

Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: ( ) - Fax: ( ) - E-Mail: \_\_\_\_\_

### Summary of request

Our cabin, known as the “Hemlock”, 7881 Cook Road, is one of 11 cabins in the group owned organization “The Pines Cottages LTD” on Elk Lake in Williamsburg. We have owned the cabin since 1996, and are planning major repairs to the roof, walls, and foundation, specifically,

- Repair foundation under sagging portions of cabin walls as needed
- Level up, strengthen, and repair walls as part of foundation repair
- Remove stone chimney
- Repair and re-cover roof over entire approximate 20 feet wide by 40 feet deep footprint, as well as the front porch
- Address issues with the flow of drain water around the cabin after heavy rainfall periods, with the use of gutters to collect the water flowing off the roof, and strategic use of drainage.

The front porch currently is approximately 7 feet deep by 10 feet wide, carrying from the chimney to the right side of the cabin. We are asking for permission to tear out the chimney and extend the porch across the full front end of the cabin where the chimney was so as to make it approximately 7 feet deep by 20 feet wide. This extension will allow us to better reinforce the front wall so as to better support the roof. It will also allow us to better direct the flow of rainwater off the roof away from the structure.

### Why are these repairs and enhancements needed?

- The chimney is separating, and affects the structural integrity of the roof in front of the cabin. With its removal and expansion of the porch across the front, the roof can be better supported by tying it into scissor trusses across the front porch.
- There is no question that the roof, walls, and foundation require maintenance and repair for the safety and longevity of the cabin. The roof can be seen to be sagging in the middle, and the walls can be seen to be off-level in places.
- The location of the cabin has it in the path of water draining away from the cabins to the East (lakeside) towards the creek to the west. This has resulted in a lot of pooling of water around the cabin after heavy rains, further affecting the structure and contributing to a large amount of mosquito infestation. The improvements will help reduce the pooling and reduce exposure to mosquitos and the risks they pose to health and comfort.
- Performing these repairs and improvements will improves the aesthetics of the Hemlock cabin, while maintaining the style and rustic nature of The Pines, with minimal expansion of the footprint of the cabin. The cabins making up The Pines are all hand crafted, authentic log cabins with similar designs.



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**STAFF REPORT/Zoning Board of Appeals**  
**Case # ZBA-2023-01**

**1. Applicant(s)**

Applicant(s) /	Warner, Don and Winnie 1552 Grace Lane Milford, Michigan 48380
Owners:	The Pines Cottages, LTD 214 E. Liberty Milford, Michigan 48381
Site Address,	7881 Cook Road, Williamsburg, Michigan 49690 Parcel ID# 28-13-127-001-02

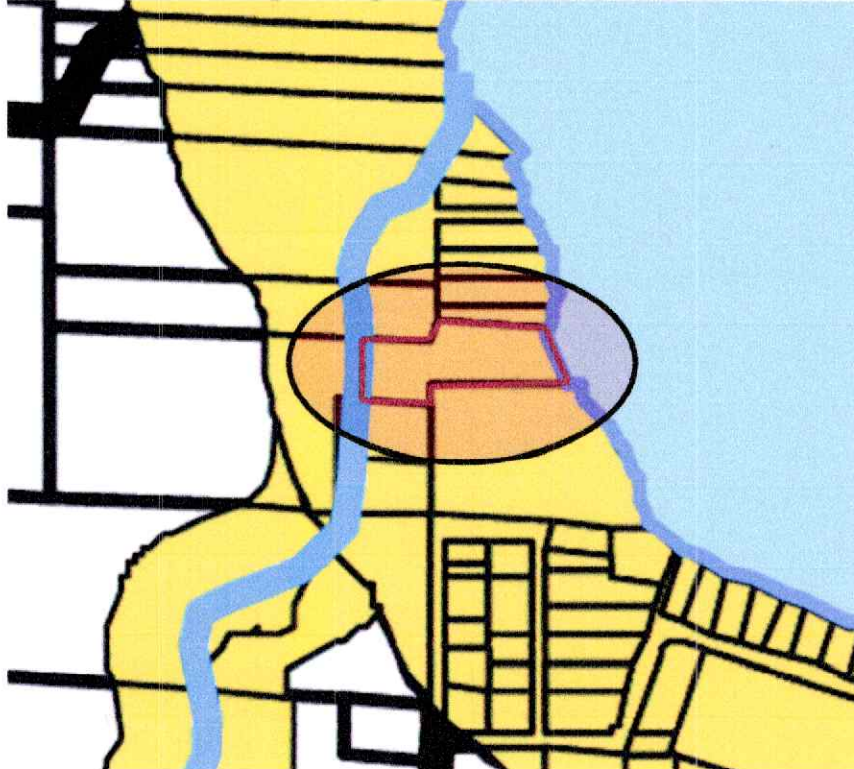
Property Description – PT OF NW 1/4 SEC 27 T28N R9W; COM N 1/4 CRN TH S ALONG N & S 1/4 LN 622.50' TO POB. TH CONT S ALONG 1/4 LN 94.06' TH N 89 DEG 24'50" W 192.24' TO TRAVERSE LN ON EAST BANK OF WILLIAMSBURG CREEK TH ALONG TRAVERSE LN S 33 DEG 44'19" E 60.20' TH S 15 DEG 23'41" E 50.36' TH S 20 DEG 10'56" E 49.38' TH S 17 DEG 18'02" E 73.03' TH S 89 DEG 24'50" E 150.11' TH SN 92.89' TH N 89 DEG 59'0" E 468.13' TH N 18 DEG 15'30" W 174.40' TH N 0 DEG 41'0" W 49.90' TH S 89 DEG 59'0" W 413.33' TO POB. SAID PROPERTY EXTENDING TO CENTER THREAD OF WILLIAMSBURG CREEK. SUBJ TO 10' ESMT, ESMTS ROW, 20' ESMT INGRESS, EGRESS UTILITIES, RESERVATIONS & RESTRICTIONS OF RECORD. AKA PARCEL B.



## Grand Traverse County GIS Image



## Whitewater Township Zoning Map Detail



Zoned: R1-Residential

Site Plan(s): Attached



## 2. Development Proposal

### 2.1 Extension of nonconforming use / structures

Based upon the representations and statements of the contractor and / or property owners, they are proposing to restore the existing structure within the same footprint by reinforcing the roofline, adding a roof between the dwelling and existing accessory structure, and by constructing a roof over the existing / remaining deck area. Upon review, the Zoning administrator has determined that Article IV, Sections 4.13 and 4.15 of the Whitewater Township Zoning Ordinance are applicable.

### 2.2 Action Report – The Applicant is:

- 1) Requesting that the Whitewater Township Zoning Board of Appeals grant the ability to connect an existing accessory structure and the dwelling on the same footprint (existing dwelling and deck with accessory structure) as proposed.
- 2) Requesting that the Whitewater Township Zoning Board of Appeals grant the ability to Extend the nonconforming ‘use’ of the structure through the rebuilding, replacement, and continuation of the nonconforming structure.

### 2.3 Background:

1. The contractor, on behalf of the owner(s) began their initial contact with the Zoning administrator during the early fall of 2022. The Zoning Administrator met on site with the contractor to gain an understanding of the overall proposal.

**NONCONFORMING USE:** A use which lawfully occupied a structure or site prior to the effective date of this Ordinance or any amendment thereto, and which does not conform with the current use regulations of the district in which it is located.

**NONCONFORMING STRUCTURE:** A structure lawfully existing prior to the effective date of this Ordinance or any amendment thereto which does not meet the current zoning ordinance standards for building size or location on a lot for its use and district.

**4.15 EXTENSION OF NONCONFORMING USE OR STRUCTURE.** The extension of any nonconforming use or addition to any nonconforming structure for the purpose of extending such nonconforming use or structure throughout all or a portion of a given lot or parcel of land may be granted by the Zoning Board of Appeals if it shall first be determined that such extension shall not be inimical to public health, safety or welfare, particularly with regard to surrounding property owners.

**4.13 RECONSTRUCTION OF DAMAGED NONCONFORMING STRUCTURE.** Nothing in this Ordinance shall prevent the reconstruction, repair or restoration and the continued use of any nonconforming building or structure damaged by fire, collapse, explosion, acts of God or acts of the public enemy, subsequent to the effective date of this Ordinance, wherein the nonconforming user has first obtained the approval of the Board of Appeals, wherein the Board of Appeals has first determined that the continued use will be substantially the same as the previous nonconforming use and that such continued use will not be detrimental to the health, safety and welfare of surrounding property owners

2. The applicant(s) submitted the application, site plan, and requisite fee to the Zoning Administrator on July 28<sup>th</sup>, 2022.

3. Publication was scheduled for not later than May 7<sup>th</sup>, 2023 in the Traverse City Record Eagle, more than 15 days before the scheduled public hearing.
4. Notices regarding the public hearing were sent to all 'real' property owners of record not later than 15 days before the scheduled public hearing

**Staff Comment:** *Although **NOT** required by the Whitewater Township Zoning Ordinance, staff recommended and the applicant agreed to submit a basic site plan and auxiliary drawings to aid the Zoning Board of Appeals in the review and decision-making process.*

#### **4.15 EXTENSION OF NONCONFORMING USE OR STRUCTURE.**

The extension of any nonconforming use or addition to any nonconforming structure for the purpose of extending such nonconforming use or structure throughout all or a portion of a given lot or parcel of land *may be granted by the Zoning Board of Appeals if it shall first be determined that such extension shall not be inimical to public health, safety or welfare, particularly with regard to surrounding property owners. (emphasis added)*

### **1. ACTION REQUIRED**

#### **3.1 Guidance:**

The Whitewater Township zoning ordinance offers little guidance in this matter other than the language contained in the text of the applicable zoning ordinance text-

***"...may be granted by the Zoning Board of Appeals if It shall first be determined that such extension shall not be inimical to public health, safety or welfare, particularly with regard to surrounding property owners."***

***A thorough search of the Whitewater Township zoning ordinance identifies only the terms provided in the text of Article IV, Section 4.15 which state that the Zoning Board of Appeals 'shall' determine that such extension 'shall not' be inimical to public health, safety or welfare, particularly with regard to surrounding property owners.***

#### **Article II, Section 2.13 - Rules of Interpretation (excerpt)**

1. Terms not defined shall be assumed to have the customary meaning assigned them

Inimical:

1 : **being adverse often by reason of hostility or malevolence** forces inimical to democracy. 2a : having the disposition of an enemy : hostile inimical factions. b : reflecting or indicating hostility : unfriendly his father's inimical glare.

'malevolence': 1 : **having, showing, or arising from intense often vicious ill will, spite, or hatred.**

**Recommendation from staff:**

- Your 'only' guidance is the brief text of the zoning ordinance - This report provides definitions of words for your convenience that are not defined by the Whitewater Township zoning ordinance.
- Staff is of the opinion (based upon the definitions provided above) that the Zoning Board of Appeals must find that there is an extreme and almost purposeful intent to do harm by the extension of the nonconforming building / structures and uses in order to not allow some degree of extension.
- Based upon staffs' opinion, the Zoning Board of Appeals must also make specific findings documenting that the proposed extension will **'not'** be inimical *to public health, safety or welfare, particularly with regard to surrounding property owners...* should an approval be considered.

**Staff Comments:**

Staff was able to confirm the prior issuance or multiple variance requests on the subject property. Although the subject property does not lie within a 'mapped' wetlands area, the land is obviously low with a high-water table (see photographs on page #6 and #7 taken in fall of 2022)

**1997 [Hickory Cabin]:** Land Use Permit issued to replace roof and trusses (structural alteration)

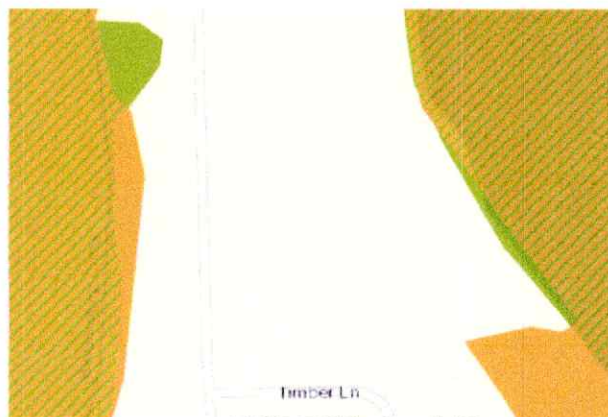
**September / October 1998 [Hemlock Cabin]:** Variance request to demolish existing 468 square foot structure with a new 672 square foot structure – **DENIED**

**October 2002 [Maples Cabin]:** Variance request to Partially demolish and rebuild part of existing structure resulting in an increase of 119 square feet and increase in front porch size by 82 square feet in order to accommodate a handicapped resident – **APPROVED**

**September 2007 [Pine Rest Cabin]:** Variance request to rebuild walls and roof on existing footprint and reduce number of bedrooms from 2 to 1 – this case involved much discussion about the attitude of the Township towards nonconforming uses and buildings noting that there were (and continues to be) eleven (11) - **APPROVED**

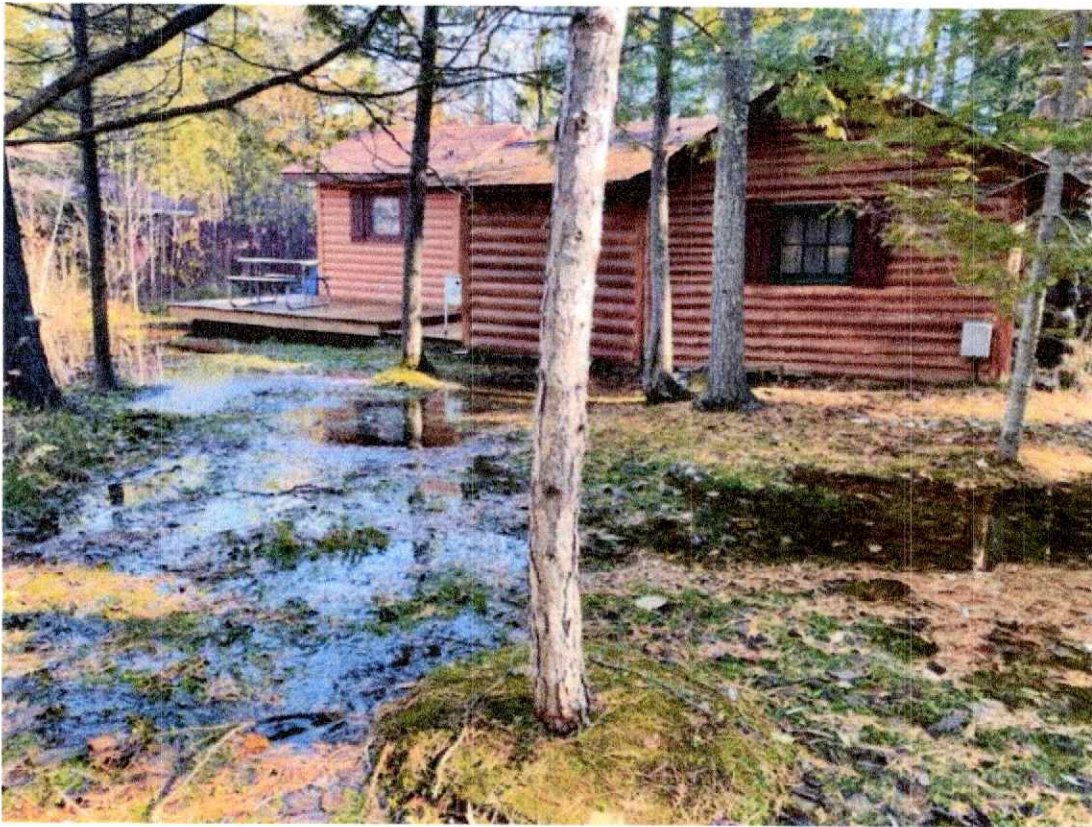


**Grand Traverse County GIS**

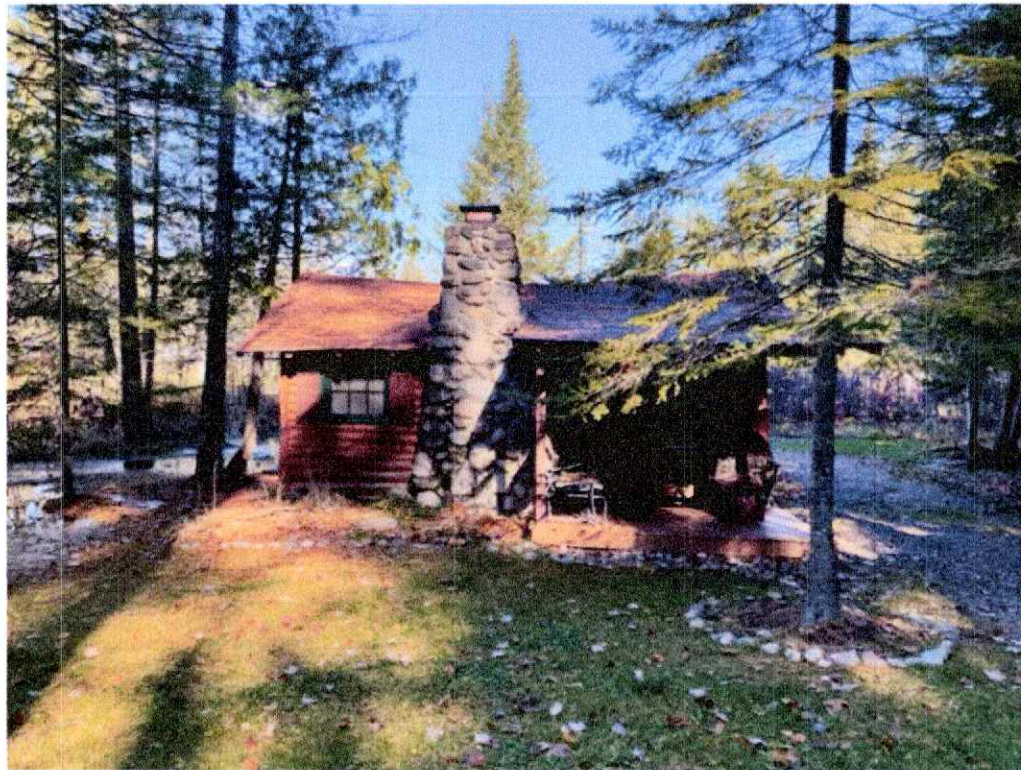


**EGLE Wetland Map Viewer**









The Whitewater Township Zoning Board of Appeals has established a recent history of allowing / permitting nonconforming buildings and structures to be continued, enlarged, or otherwise remain intact to continue and extend their use.

Respectfully submitted for review by the Zoning Board of Appeals,



Robert (Bob) Hall  
Zoning Administrator

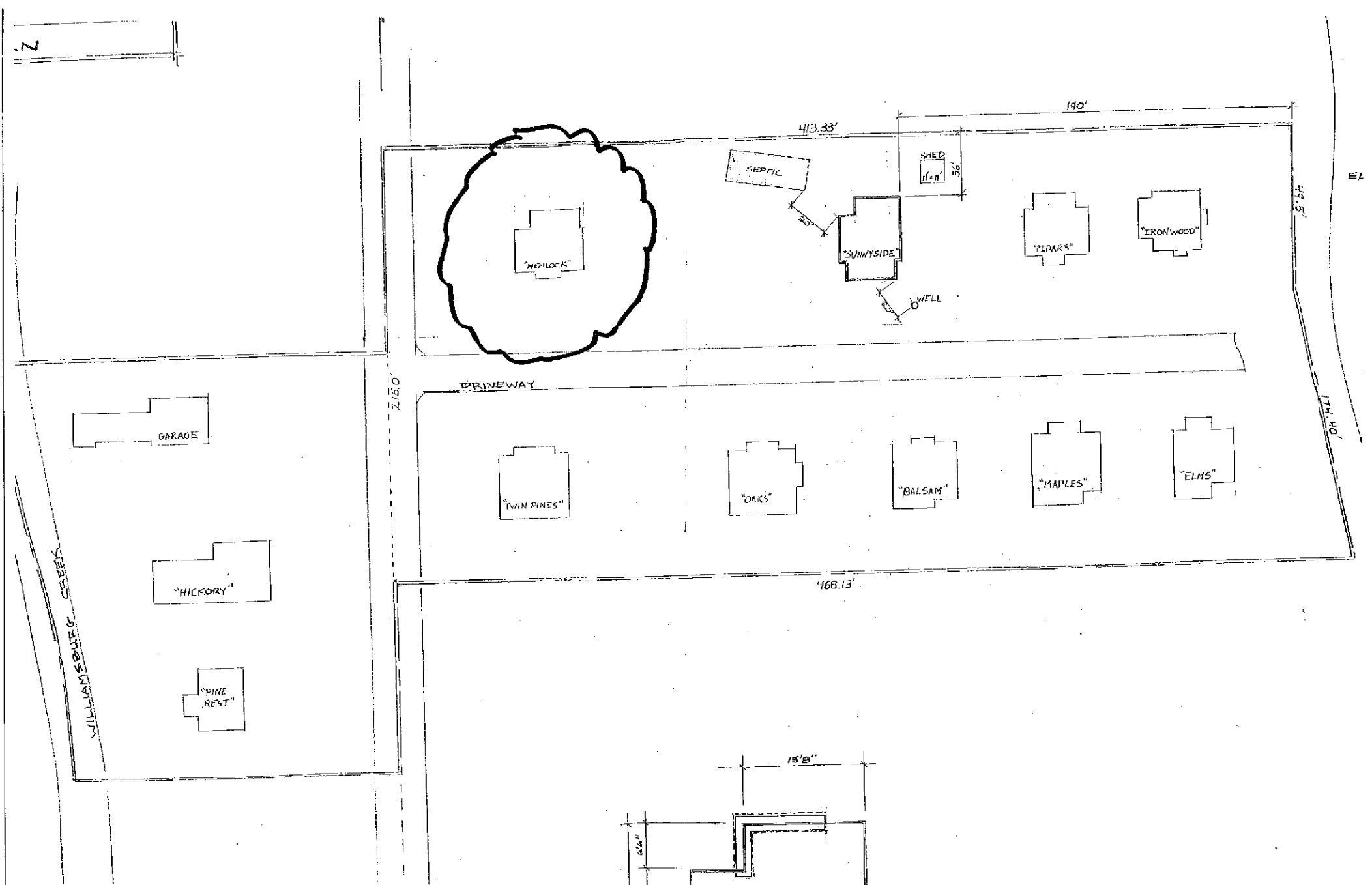
**Notes:**

There are three (3) types of nonconformities –

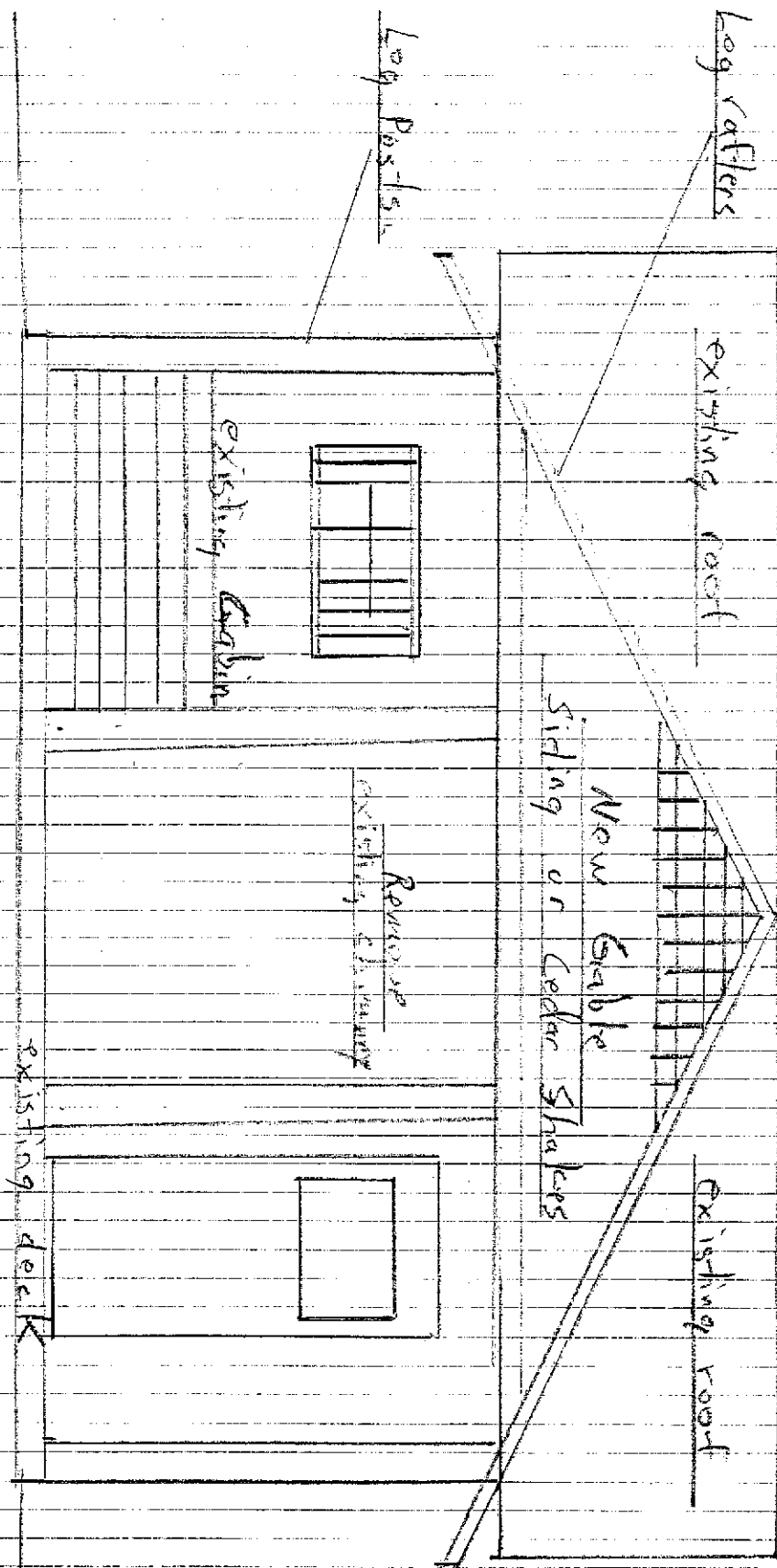
1. Nonconforming Lots / Parcels: (perhaps by reason of size, including width or overall area)
2. Nonconforming Buildings / structures: (perhaps by reason of size, quantity on a parcel)
3. Nonconforming Uses: (a 'use' not otherwise permitted in the zoning district / example: a machine shop established prior to zoning in the R-1 zoning district)

Property Owners / Applicants CANNOT create a nonconformity – they create violations.

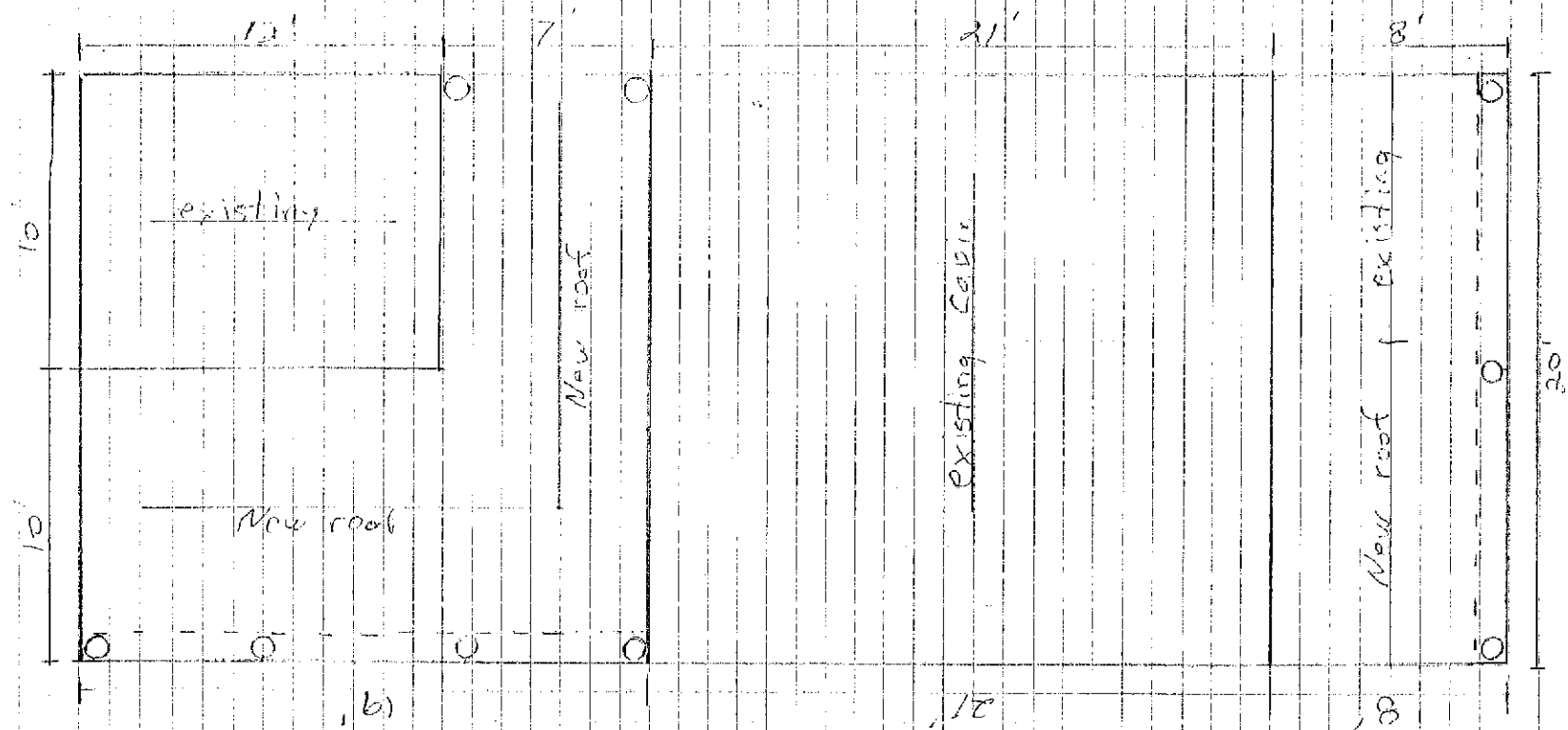
Only the GOVERNMENT creates nonconformities, usually by changes over time in the zoning ordinance effecting minimum and maximum lot sizes, sizes of buildings permitted, and types of uses allowed.







# Warrior Cabin

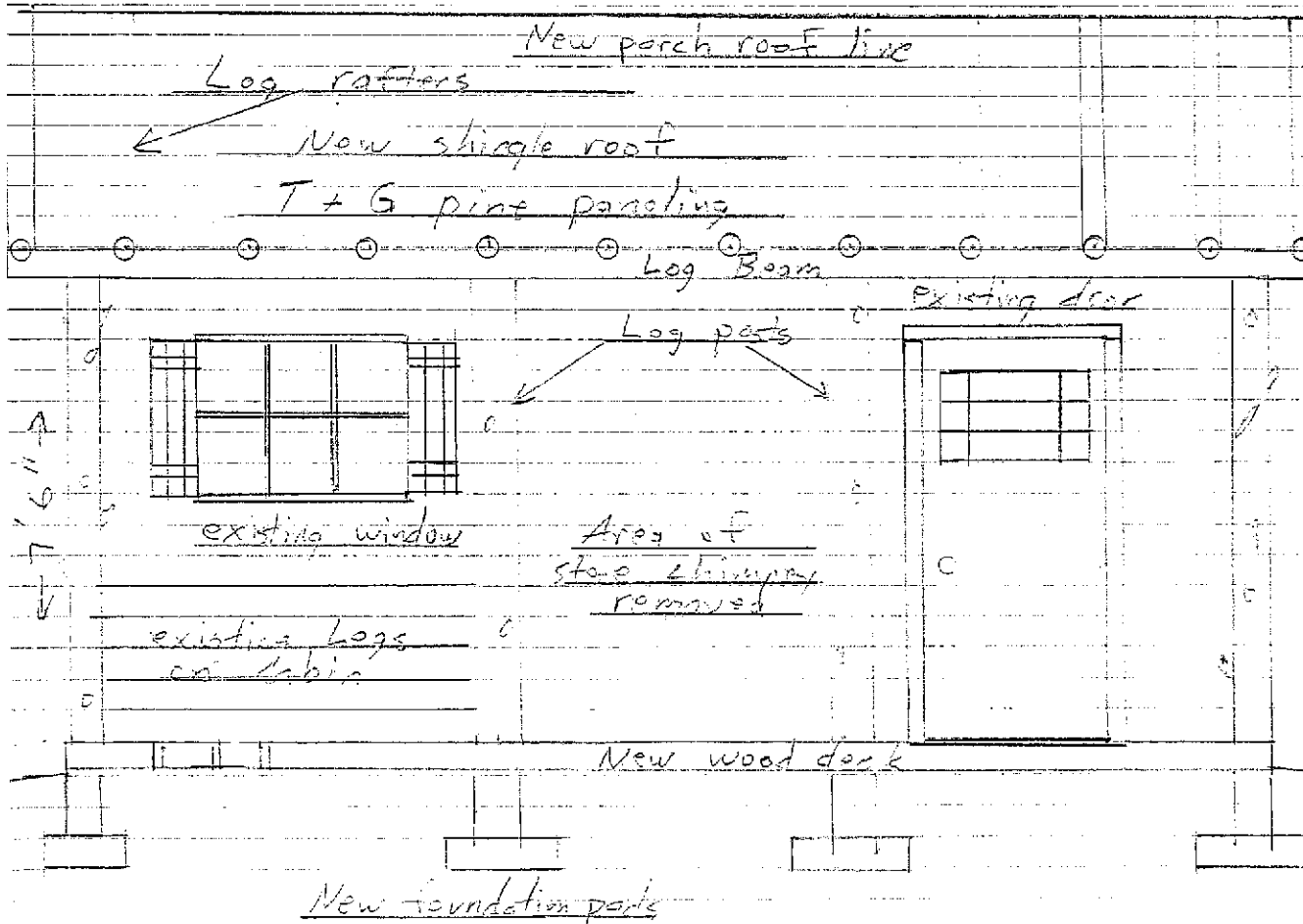


1/4" scale per ft.

Warner Cabin

Front Porch elevation

existing roof line



1/2 per foot scale

# Warner Cabin

