

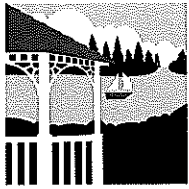
VILLAGE OF PENTWATER

327 South Hancock Street, P.O. Box 622, Pentwater, Michigan 49449
(231) 869-8301 - FAX (231) 869-5120
www.PentwaterVillage.org

Planning Commission Meeting Agenda – Revised 2-22-19 February 26, 2019 - 6:00 P.M.

1. **Opening** - Call to Order, Pledge of Allegiance, and Roll Call.
2. **Approval of Agenda and Minutes**
 - A. Approval of Agenda.
 - B. Approval of Minutes of the Regular Meeting held January 22, 2019.
3. **Public Comments**
4. **Public Hearing** - Proposed Conditional Rezoning of 10 Channel Lane, the Channel Lane Inn, from R-2, Single Family Residential to C4, Hotel Resort.
5. **Old Business**
 - A. Discussion regarding the Conditional Rezoning of 10 Channel Lane from R-2, Single Family Residential to C4, Hotel Resort.
 - B. Review of Final Design for Hancock Street Improvements – Recommendation to Village Council.
 - C. Report from the Pentwater Visioning Team.
6. **New Business**
 - A. Request for approval for a main floor addition to the nonconforming building at 166 Carroll Street.
 - B. Request for support of grant application to the Community Foundation for a Community Assessment – data to be used as part of the 2020 Master Plan process.
7. **Department/Committee Reports**
 - A. Zoning Administrator – See attached report.
 - B. Zoning Board of Appeals – No January meeting, no report.
8. **Communications from Planning Commission Members**
9. **Public Comments**
10. **Adjournment**

Next Scheduled Planning Commission Meeting – March 26, 2019 at 6 pm



VILLAGE OF PENTWATER

Planning Commission

ON PENTWATER LAKE AND LAKE MICHIGAN
327 South Hancock Street, P.O. Box 622, Pentwater, Michigan 49449
(231) 869-8301 – FAX (231) 869-5120

Regular Meeting Minutes – January 22, 2019

Vice Chairperson Michelle Angell-Powell called the regular meeting of the Pentwater Village Planning Commission Meeting to order at 6:01 pm, with the Pledge of Allegiance.

ROLL CALL

Present: Michelle Angell-Powell, Mark Benner, Bruce Koorndyk, Rand Gee, and Kirstin McDonough.

Absent: Ron Christians and Paul Anderson.

Staff Present: Keith Edwards, Zoning Administrator, and Chris Brown, Village Manager.

Also present: Village Council person Claudia Ressel-Hodan and Jeff Hodges.

APPROVAL OF AGENDA

Motion by Benner, second by Koorndyk to approve the Agenda as presented.

Voice Vote: Aye: 5 Nay: 0 Absent: 2 Motion passed.

APPROVAL OF REGULAR MINUTES

Motion by Gee, second by Benner to approve the December 19, 2018 regular meeting minutes as amended.

Voice Vote: Aye: 5 Nay: 0 Absent: 2 Motion passed.

PUBLIC COMMENTS - None

PUBLIC HEARING - None

OLD BUSINESS

A. Amendment for Conditional Rezoning of 10 Channel Lane – Schedule date for Public Hearing.

Motion by Gee, second by McDonough to schedule the public hearing for Tuesday, February 26, 2019 at as soon as possible after the meeting begins at 6 pm.

Voice Vote: Aye: 5 Nay: 0 Absent: 2 Motion passed.

B. Proposed Division of part of Block 94 of Plat 'A' of the Official Map of the Village of Pentwater – Parcel ID No. 64-044-560-094-50.

Motion by Benner, second by Gee to recommend approval of the proposed lot split to Village Council.

Voice Vote: Aye: 5 Nay: 0 Absent: 2 Motion passed.

C. Recommendation of Zoning Ordinance Amendment to Village Council – Conditional Rezoning.

Motion by Koorndyk, second by Gee to recommend approval of the Zoning Ordinance Amendment to the Village Council.

Voice Vote: Aye: 5 Nay: 0 Absent: 2 Motion passed.

D. Report from the Pentwater Visioning Team – Township Appointment and School Board Presentation.

Rand Gee gave a summary report of the activities of the Vision Team for long-term planning to the Planning Commission including the presentation given to the Pentwater School Board on January 21. Please see the attached report.

NEW BUSINESS

A. Intent to Plan – Consideration for Approval of Public Notice.

Staff will provide a draft notice for review at the next Planning Commission meeting.

B. Zoning Plan - Introduction to future Zoning Ordinance Amendments and the Zoning Plan portion of the Master Plan.

The Planning Commission reached consensus to assign coordination of the Zoning Plan portion of the Master Plan to the Zoning Administrator for both the Township and Village, Keith Edwards.

COMMITTEE/DEPARTMENT REPORTS

A. Zoning Administrator – Mr. Edwards' written report was received by the Planning Commission.

B. Zoning Board of Appeals – No meeting in December, 2018.

COMMUNICATIONS FROM PLANNING COMMISSION MEMBERS – None.

PUBLIC COMMENTS – None.

ADJOURNMENT - The meeting was adjourned by Vice-Chairperson Michelle Angell-Powell at 7:10 PM.

Respectfully Submitted,
Keith Edwards, Zoning Administrator

January 29, 2019

Approved by the Village of Pentwater Planning Commission on _____.

MEMORANDUM

To: Planning Commission

From: Keith Edwards, Zoning Administrator

Date: October 10, 2018 – Revised November 20, 2018 and February 19, 2019

**Subject: Proposed Zoning Map Change for 10 Channel Lane
R2, Single Family Residential to C4, Hotel Resort
Property ID 64-044-430-010-00**

Introduction

The current owner of 10 Channel Lane, Lisa McKinney proprietor of the Channel Lane Inn has submitted an application to change the Zoning District of the property from the existing R2, Single Family Residential to C4, Hotel Resort.

The property is located on the northwest corner of Channel Lane and Bridge Street within the Plat of Middlesex, Village of Pentwater, Lots 10, 11 and 12 of Block 30.

The property is currently used as a 7-unit motel, with 6 attached units and one detached unit on the northeast side of the property. There is also the residence of the proprietor/property owner on the second floor, and a detached accessory building (shed) located on the 15,000 sq. ft. property. The existence of the motel is a legal nonconforming use within the R2, Single Family Residential Zoning District, as stated in the attached Consent Judgment dated July 11, 1995.

Background

The Channel Lane Inn has operated as a motel since prior to July 11, 1995 and prior to the existence of the current Zoning Ordinance dated July 29, 1999, as updated through August 14, 2014.

It is important to note that the only property that bears the C4, Hotel Resort Zoning District designation on the Zoning Map is the location of the former, now vacant property, known as the Nickerson Inn on W. Lowell Street.

The first public hearing on this matter was conducted on October 17, 2018. Since then, I received the attached letter from Lisa McKinney of the Channel Lane Inn on December 12, 2018, offering three condition for consideration of the proposed rezoning (see attachment).

On January 22, 2019, the Planning Commission established the date of February 26, 2019 for second public hearing on the rezoning, to include the proposed conditions offered by Lisa McKinney.

Discussion

Unfortunately, the Zoning Ordinance does not contain any criteria or standards for review by the Planning Commission or Village Council in order to consider a proposal for rezoning property. However, Staff has provided the following information from our Zoning Ordinance and Master Plan for your consideration:

Existing - R2, Single Family Residential Zoning District

The following uses are allowed by right within the existing R2, Single Family Residential Zoning District:

- Single-family detached dwellings including home occupations in accordance with the provisions of Section 3.22.
- State-licensed residential facilities and child care centers.
- Parks, community buildings and recreational facilities operated by a public, institutional, or private/nonprofit organization.
- Accessory buildings, structure and uses for Permitted and Special Land Uses as regulated by Section 3.08.

The following uses may be permitted by the Planning Commission as Special Land Uses:

- Two-family dwellings.
- Commercial recreation parks and recreation centers.
- Bed and Breakfast Establishments.
- Hospitals, including associated offices and related uses, such as pharmacies, clinics and other similar uses integral to such use.
- Nursing homes, homes for the aged, state-licensed residential facilities for more than twelve (12) persons and those facilities licensed for the care and treatment of persons released from or assigned to adult correctional facilities.
- Public or private non-profit schools and churches.
- Lodges and private clubs.
- A child care center, group day care home and other care homes licenses for up to six (6) persons.
- Utility and public service buildings.
- Accessory Food Service as part of a Bed and Breakfast establishment.

Proposed - C4, Hotel Resort District

The following uses are allowed by right within the requested C4 Hotel Resort Zoning District:

- Hotels, including restaurants serving food and drink for consumption on the premises in conjunction with the hotel operation.
- Single family dwellings.
- State-licensed residential facilities and child care centers.
- Accessory buildings, structure and uses for Permitted and Special Land Uses as regulated by Section 3.08.

The following uses may be permitted by the Planning Commission as Special Land Uses:

- None

2015 Master Plan and Future Land Use Map

According to the future land use map in the 2015 Master Plan Update, the proposed land use of the subject property is Medium Density Residential (MDR). The Land Use Map appears to bear only one change from the 2009 Future Land Use Map, and that is the removal of the land use category called Neighborhood Services. (See attached 2015 Future Land Use Map)

The MDR category is equated to the R2 Single Family Residential Zoning District on Page 44 of the 2015 Master Plan Update, where:

“The (R2) District is intended to provide a low-density, single and two-family residential living environment and to foster stable, high-quality neighborhoods while providing for additional variety of housing opportunities and choices. The regulations for this district also recognize the need to provide existing housing stock and allow the development of older subdivisions.”

Although the subject site is not designated on the Future Land Use Map of the 2015 Master Plan Update as Central Business, there is a description of the C-4, Hotel Resort District on page 46 of the 2015 Master Plan Update, where:

“The purpose of this District is to accommodate existing hotel resort facilities, oriented to the vacationing and traveling public, located in areas of existing residential uses.”

There are no areas shown on the Future Land Use Map for business categories other than the existing Downtown Pentwater area along Hancock Street including the existing marinas and along Carroll Street south of Second Street.

Building Setbacks and Lot Coverage

In both Zoning Districts, R2 and C4, the required front setbacks are the same at 17 feet, and the side setbacks are 6 feet. Corner lots have two fronts and two sides with no rear setback requirement.

Hotels, Motels, Inns, Lodges and Resorts

It appears that the provisions of the C4 District may have had the former Nickerson Inn in mind when it was created. Additionally, the definitions of Hotel and Motel may have been written similarly separating the two by the existence or nonexistence of accessory uses such as restaurants, bars, gift shops, etc. These definitions are typically however, hotels are often defined in more modern terms as having rooms accessed from interior hallways with limited exterior and/or secured entrances and motels as each unit having its own exterior entrance. Hotels are often associated with more urbanized areas such as Downtown Pentwater and motels are usually associated with suburban areas and close proximity to highway access.

Additionally, our Zoning Ordinance does not specifically address Bars, Conference Centers, Inns, Lodges, Resorts, or Taverns, all of which may considered for our unique community.

Consent Judgment

On July 11, 1995, property owners neighboring the Channel Lane Inn (the plaintiffs) and the former owner Glenn and Donna Schlattman and Village of Pentwater (the defendants) entered into a Consent Judgment (see attachment) that:

- Limits the use of the second floor to single-family residential uses only;
- Limits the first-floor use to six rental units under the single-family residential use above;
- Put stipulations on the use of the rest of the first floor to office, laundry and one other detached motel rental space on the Bridge Street or northeast side of the property.
- Maintains current parking spaces.
- Made certain stipulations regarding the improvement of, removal and placement of exterior lighting including hours of operation of the lighting.
- The Channel Lane Inn may not be used for any other purposes unless it meets the requirements of the Zoning Ordinance and other applicable laws of the Village of Pentwater.

Lastly, rezoning of the property to C4, Hotel Resort effectively negates the above stipulations of the Consent Judgment and would allow and limit the use of the property by a hotel with one or more restaurants, single family dwellings, State-licensed residential facilities and child-care centers, with allowable accessory buildings. I have invited Village Attorney, Brian Monton to attend the October 17, 2018 meeting of the Planning Commission.

Conditional Rezoning

While the Village Council recently approved the Zoning Ordinance Amendment (February 11, 2019) to allow for Conditional Rezoning (included in your meeting packet), such a provision is allowed by the Michigan Zoning Enabling Act, P.A. 110 of 2006 as outlined in MCL 125.3405 et. seq. The applicant must offer the conditions in writing and a municipality shall not require a land owner to offer any conditions nor shall a municipality impose any conditions not offered by the applicant as a requirement for rezoning.

The following is a comparison of the pertinent existing conditions, Zoning District regulations, Consent Agreement provisions and conditions proposed by Lisa McKinney.

Table of Zoning District provisions, Consent Agreement restrictions and Proposed Conditions

	Existing	R2	C4	Consent Ag.	Prop. Cond.
Bldg. Height	unknown	35 ft.	35 ft.	NA	NA
Lot Coverage	48%	50% max.	100%	NA	75% max.
2 Front. Setbacks		17 ft.	17 ft.	NA	NA
2 Side Setbacks	1 ft. N.	6 ft.	6 ft.	NA	NA
Bar/Restaurant	None	NP	Permitted	NP	None
Retail Sales	None	NP	Permitted	NP	None
Residence	Yes	Yes	Yes	Yes SFR Only	NA
Office/Laundry	Yes	No	Yes	Yes Restricted	NA
Rental Units	8	NP	Limited	8	NA
Parking Spaces	12	2	1 Per Unit+Res	Existing	NA
Ext. Lighting	NA	Sect. 3.21	Sect. 3.21	Restricted	NA
Outdoor Rec.	NA	Allowed	Allowed	Not Permitted	NA

NA = Not Applicable; NP = Not Permitted

Recommendation

At this time, I recommend that the Planning Commission consider:

- the public comment offered at the February 26, 2019 public hearing (also see enclosed minutes from the October 17, 2018 public hearing);
- the sections of my report above outlining the provisions of the respective Zoning Districts including land uses and Zoning District regulations;
- conditions offered by Lisa McKinney; and,
- the items addressed in the attached draft consent agreement,

prior to Planning Commission forming a recommendation to the Village Council for changing the Zoning District designation of 10 Channel Lane.



VILLAGE OF PENTWATER

Planning Commission

ON PENTWATER LAKE AND LAKE MICHIGAN
327 South Hancock Street, P.O. Box 622, Pentwater, Michigan 49449
(231) 869-8301 – FAX (231) 869-5120

Regular Meeting Minutes – October 17, 2018

Chairman Ron Christians called the regular meeting of the Pentwater Village Planning Commission Meeting to order at 7:02 PM, with the Pledge of Allegiance.

ROLL CALL

Present: Ron Christians, Mark Benner, Paul Anderson, Rand Gee, Michelle Angell-Powell and Kirstin McDonough.

Absent: Bruce Koorndyk.

Staff Present: Keith Edwards, Zoning Administrator and Barb Siok, Recording Secretary.

Also present: Village Attorney, Brian Monton.

APPROVAL OF AGENDA

Motion by Benner, second by Anderson to approve the Agenda as presented.

Voice Vote: Aye: 6 Nay: 0 Absent: 1 Motion passed unanimously.

APPROVAL OF REGULAR MINUTES

Motion by Angell-Powell, second by Anderson to approve the September 19, 2018 regular meeting minutes as presented.

Voice Vote: Aye: 6 Nay: 0 Absent: 1 Motion passed unanimously.

PUBLIC COMMENTS – None.

PUBLIC HEARING I – Proposed Rezoning of 10 Channel Lane, the Channel Lane Inn, from R-2, Single Family Residential to C4, Hotel Resort.

Motion to open Public Hearing I by Anderson, support by Angell-Powell. By unanimous consent, Chairman Christians opened the public hearing at 7:04 PM.

Public Comments –

Lisa McKinney, proprietor of 10 Channel Lane, explained purpose of application to secure the hotel and her concerns that if there were to be a fire that she would not be able to rebuild it and because it is non-conforming, would not be able to get financing even for improvements. She said that it is her home and because there is no parking is not considering a restaurant or bar. She said that C4 does allow a hotel to include a restaurant serving food and drink for consumption on the premises in conjunction with the hotel operation and if she wanted to provide breakfast for her guests upstairs or lunch, could provide food for her guests in conjunction with a hotel and the new zoning would allow.

Public Comments – continued

Ted Cuchna, 529 Clymer, said there was no attachment for proposed additions or revisions to the property to indicate a request for zoning. He said that if it were approved as non-conforming that it stays that way. His concerns were if the proposed building project did not meet set back or area requirements, it could cause a problem. He said if somebody wanted a bed and breakfast they would ask for a bed and breakfast zoning. He said this was like the Nickerson Inn new developer not issuing a site plan prior to requesting the zoning for a hotel.

Karen Theibert, 84 Mears Street and 443 S. Morris Street, recalled concerns from when the previous owners, the Schlattmans built additions in the 1990's; law suits were filed and there was a Consent Judgement. She said the same concerns remain today regarding lighting, parking, traffic and food. She said her concern is if this gets rezoned, you can never go back.

Dave from Insignia Homes, asked Mr. Edwards if for commercial zoning, does 50% footprint for impervious surfaces apply. Mr. Edwards replied there was no maximum and would allow the entire property to either be utilized for building or parking or other purposes associated with a hotel C4 district, a single family has a 50% maximum.

Laura Voelker, 51 Bridge Street and 80 Bridge Street, said she is concerned about the possible change from 50% to 100% impervious and setbacks. She said the garage drip line is on her lot line and if there was to be an expansion, there would be a considerable potential run off problem and is opposed to any expansion.

Mr. Christians summarized the correspondence received as follows (letters placed on file):

Phil & Susan Carson, 85 Channel Lane, oppose the Channel Lane Inn zoning application.

Sally Fortner, 41 N. Carroll, against zoning change from residential to hotel.

Edward Tave Reser, (195 Channel Lane) 85 Mears Street, support zoning request.

John & Betsy McIntyre, 195 Channel Lane & 35 Channel Lane, in favor of rezoning.

Maxine Macleod, 15 Channel Lane, oppose and concerned regarding rezoning.

Laura Voelker, 51 Bridge Street, does not support request for rezoning.

Tim Diehl, 173 Green Street, family owned since 1930s, opposed to rezoning.

Alicia Diehl, 173 Green Street, states rezoning request must be denied.

Valerie Church McHugh, 160 Green Street, opposed rezoning and stated concerns.

Karen (DiPangrazio), Ann Hayes & Robert DiPangrazio, 84 Mears, does not support rezoning.

Shane McKinney, 10 Channel Lane, supports the rezoning application stating parking is a problem whether it is on Channel Lane or Main Street. He said they have no desire to obtain a liquor license and would like to be able to utilize their garage due to restrictions.

Motion to close Public Hear I by Paul Anderson, support by Rand Gee. By unanimous consent, Chairman Christians closed the public hearing at 7:37 PM.

PUBLIC HEARING II - Zoning Proposed Zoning Ordinance Amendments for Residential Uses and Marinas in the C3, Central Business District.

Motion to open Public Hearing II by Mark Benner, support by Michelle Angell-Powell. By unanimous consent, Chairman Christians opened the public hearing at 7:38 PM.

Public Comments –

Barry Monroe, 370 E Rutledge, 215 S. Hancock, stated that he is in support of proposed zoning.

Mr. Edwards explained Chapter 17 current zoning ordinance parking requirements for residential uses and marinas. The Planning Commission is proposing that the requirement be changed for residential parking in the downtown district from 2 spaces to 1 space per unit and for the Marina, changing from 1 space per boat slip to 1 space for every 2 boat slips. It also allows the Village Council to designate certain spaces to meet the requirements for Chapter 17.

Dan Nugent, 383 S. Rush street and business owner stated his support for rezoning of parking.

Motion to close Public Hearing II by Paul Anderson, support by Mark Benner. By unanimous consent, Chairman Christians closed Public Hearing II at 7:42 PM.

OLD BUSINESS – None.

NEW BUSINESS –

A. Discussion regarding the rezoning of 10 Channel Lane from R-2, Single Family Residential to C4, Hotel Resort.

Michelle Angell-Powell stated even though there are concerns, suggests considerations of conditional rezoning with stipulations. Brian Monton, Village Attorney, said that it is possible to create a new zone. Rand Gee asked if C4 incorporates both hotel and motel and if there was a separate zoning ordinance for a motel. Mr. Edwards replied that it is allowed in the C1 district. He suggested the board continue reviewing what was received tonight and looking through the zoning ordinance with the suggestions from Attorney Monton regarding the rezoning criteria and rezoning issues. Mr. Benner agreed in creating a new zone.

Motion by Michelle Angell-Powell, second by Kirstin McDonough to table the proposed rezoning of 10 channel Lane from R-2, Single Family Residential to C4, Hotel Resort until next month's meeting, November 21, 2018.

Voice Vote: Aye: 6 Nay: 0 Absent: 1 Motion passed unanimously.

Time now 7:55 PM. Recess to reconvene at 8:00 PM.

Chair Ron Christians reconvened the meeting at 8:00 PM.

B. Request for approval for front porch addition to the nonconforming building at 863 E. Park Street.

Mr. Edwards summarized the request from property owners at 863 E. Park Street. He said the information recently presented confirms the building is nonconforming and the existing porch has a roof which extends 6 feet into the required setback. In summary the conditions have all been met. He said by the evidence received, with no detrimental impact, the Planning Commission has the authority to approve the expansion of the porch additional length towards the east and if chooses, endorse the request for the 8 feet. Michelle Angell-Powell stated that she had taken measurements and comparisons. She said there are no utilities on that side of the road and access to gas and sewer will not be blocked. She said it is consistent with the neighborhood and will be an asset to the house. Park Street has a wide right-of-way.

Motion by Mark Benner to approve the application of expansion to extend the front porch line to the existing plain by the authority allowed by the Planning Commission, support by Paul Anderson.

Voice Vote: Aye: 6 Nay: 0 Absent: 1 Motion passed unanimously.

Motion to endorse the request for approval of 863 E. Park Street for a variance to the Zoning Board of Appeals by Michelle Angell-Powell, support by Paul Anderson.

Voice Vote: Aye: 6 Nay: 0 Absent: 1 Motion passed unanimously.

C. Request for approval for main floor addition to the nonconforming building at 599 E. Sixth Street.

Motion by Michelle Angell-Powell to approve the request for the main floor addition to the nonconforming building at 599 E. Sixth Street, support by Paul Anderson.

Architectural drawings were submitted. They start at 100 feet, not zero.

Voice Vote: Aye: 6 Nay: 0 Absent: 1 Motion passed unanimously.

D. Discussion regarding Zoning Ordinance Amendment for Residential Users and Marinas in the C3, Central Business District.

Motion supporting the Zoning Ordinance for Residential Users and Marinas in the C3, Central Business District with a recommendation to the Village Council by Michelle Angell-Powell, support by Mark Benner. Mr. Edwards said this would allow the Village Council to have an active management role to meet the requirements.

Voice Vote: Aye: 6 Nay: 0 Absent: 1 Motion passed unanimously.

E. Discussion regarding Planning Commissioner responses to the questionnaire provided by Mika Meyers for short-term leasing.

Mr. Edwards provided a questionnaire aimed at regulating short-term rentals as presented by Attorney Mark Van Allsburg. Regulation of short-term renting or leasing is aimed at addressing many issues including off-street and on-street parking, number of persons per building and property, building safety, fire safety and public health. The questionnaire is intended to gather Planning Commissioner viewpoints of these and

other issues for return to the attorney in order to craft a regulatory strategy. Request from Planning Commission board to submit to Mr. Edwards by October 31, 2018.

F. Discussion of Existing and Future Land Use in the Downtown Study Area.

Mr. Edwards compared two maps for the downtown area stating the difference is that one shows future land use map. He said the board will be asked consideration of primarily commercial zoning differing from zoning map which extends the commercial district of Second Street to Carroll down to Fifth which are not on the map. He said the board needs to look at First Street North to Lowell Street and whether it should be zoned C3 or if appropriate for a hotel and future commercial land use for Sixth Street.

COMMITTEE/DEPARTMENT REPORTS

A. Zoning Administrator – Mr. Edwards’ written report was received by the Planning Commission.

B. Zoning Board of Appeals - ZBA Meeting for September 5, 2018 minutes received.

COMMUNICATIONS FROM PLANNING COMMISSION MEMBERS – Mr. Benner stated that he will be speaking at the Women’s Club meeting and shared an invitation that was given to the citizens of Mt. Pleasant for their 2050 Master Plan. He asked Chair Christians to put on the agenda for the next meeting, November 21, to officially discuss the Pentwater Master Plan for the future and the community input of the PTW2030 project.

PUBLIC COMMENTS – None.

ADJOURNMENT - The meeting was adjourned by Chairman Ron Christians at 8:55 PM.

Next Scheduled Planning Commission Meeting - November 21,2018

Respectfully Submitted,

Keith Edwards, Zoning Administrator

October 19, 2018

Minutes prepared by Recording Secretary, Barb Siok

October 19, 2018

Approved by the Village of Pentwater Planning Commission on November 28, 2018.



*Received 12/12/18
KE.*

December 11, 2018

Keith Edwards, Zoning Administrator
Village of Pentwater
PO Box 622
Pentwater MI 49449

Dear Keith:

This is in regards to a Rezoning Application I submitted in September of 2018. After hearing the concerns of my neighbors I would like to offer the following conditions relating to the use of my property for which a rezoning is requested.

No bar and/or restaurant.
No retail sales.
75% Maximum lot coverage.

Please provide this proposed conditional rezoning agreement to the Planning Commission for their consideration.

Sincerely,



Lisa McKinney

873 3977

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OCEANA

ROGER MacLEOD, MAXINE MacLEOD,
ARMOND Di PANGRAZIO, MARGE
Di PANGRAZIO, THOMAS HICKS,
CAROLYN HICKS, MARY VOELKER,
LAURA VOELKER, LEE WARREN,
SHIRLEY M. RESER, DOUGLAS EWING
MESSERLIE and DAVID PHILLIP
MESSERLIE,

File No. 94-4717-CE

Hon. Terrence R. Thomas
Circuit Judge

CONSENT JUDGMENT

Plaintiffs,

v

GLENN T. SCHLATTMAN, DONNA J.
SCHLATTMAN, and VILLAGE OF
PENTWATER, a municipal corporation,

Defendants.

G. Thomas Johnson (P15523)
Attorneys for Plaintiffs
Parmenter O'Toole
175 W. Apple, P.O. Box 786
Muskegon, MI 49443-0786
Phone: 616/722-1621

Thaddeus C. Barecki (P10429)
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Robert A. Buchanan (P25508)
Thomas J. McGraw (P48817)
LAW, WEATHERS & RICHARDSON, P.C.
Attorneys for Defendants
Glenn T. and Donna J. Schlattman
Bridgewater Place
333 Bridge Street, N.W., Suite 800
Grand Rapids, Michigan 49504
Phone: 616/459-1171

DEARLY OCEANA CLERK

05 JUL 13 PM 3 03

RECEIVED
CLERK OF COURT
OCEANA COUNTY

At a session of said court held on the 11th
day of July, 1995, in the County of
Oceana, State of Michigan.

PRESENT: HON. TERRENCE R. THOMAS, CIRCUIT JUDGE

The parties having stipulated and the court being fully advised in the premises:

IT IS HEREBY ORDERED that absent any applicable preemption by the law of the zoning ordinance or a zone change, zoning ordinance amendment, or variance as set forth in Paragraph 6, below, Defendants Glenn T. Schlattman and Donna J. Schlattman (and their successors and assigns) are hereby permanently enjoined from using or occupying the following property in violation of the following restrictions, which regulations are required by the Village of Pentwater zoning Ordinance in effect at the time of this Judgment and which shall apply to the following property which is a lawful nonconforming use:

Lots 10, 11, and 12 of the replat of Block 30, and part of vacated Lake Street, of the plat of Middlesex, Village of Pentwater, Oceana County, State of Michigan.

also known as 10 Channel Lane, Pentwater, Michigan (the "Property"):

1. The second-story residential structure located on the Channel Lane Inn building, the construction of which second-story residential structure was commenced in September of 1994, shall not be used for any purpose except as a single-family residential dwelling unit. This restriction includes the prohibition that the said unit shall not be used for commercial purposes in connection with the motel including, but not limited to, food service, food preparation, advertising, motel or area lighting,

or use for any purpose by hotel/motel guests whether for overnight use or daytime use. The said space shall be used solely for single-family residential use. Said restriction shall apply to all floor areas, east and west decks, (no other decks are shown on the plans), rooms or any other space of the single-family residential unit.

2. The space on the first floor of the motel, located underneath the single-family residential second-story addition, and not included in the guest units numbered 1 through 6, shall be used as follows:

(a) The existing office and laundry space shall be used only for said motel purposes and shall not be converted to rental or guest space.

(b) The remainder of the said space shall comprise one (1) guest unit consisting of two (2) bedrooms, closets, a bath or baths, kitchen and living room, and shall not be expanded, partitioned or divided to accommodate or afford additional or separate guest units. The said guest unit shall be used to accommodate no more than eight (8) people staying overnight.

3. Defendants (and their successors and assigns) shall abide by all applicable zoning ordinance requirements and they shall, if at any time lawful repairs or alterations are made to the motel, abide by all applicable building, mechanical, plumbing, electrical, fire, and safety codes affecting properties in the Village of Pentwater (or its successor).

PAGE 6/6 563 1058
CELL 231 752 6772

4. The commercial use of the Channel Lane Inn shall not be changed or increased by the installation of any additional rental or living units or expansion of existing such units now located in the buildings on the Property, nor by the addition outside the building of any facilities or amenities available to motel guests. Such facilities are defined to include, but are not limited to installations such as hot tubs, swimming pools, tennis, basketball, paddle ball or shuffleboard courts, or other outside recreational facilities, additional porches or decks, gazebos, and the like. Incidental equipment or amenities, such as landscaping, (without structures), or outside furniture or gas or charcoal grills on existing improved areas of the motel are not prohibited. This list of examples is not exhaustive and is included in this Judgment by way of illustration to guide the parties in interpreting the prohibitions contained in this Judgment. Motel facilities located anywhere on the Property shall be confined to those areas presently used for parking (improved and unimproved) which shall continue to be used only for parking, and the presently located and existing buildings and improvements presently so used and operated, being Guest Units 1 through 6 on Channel Lane, the single eastern guest unit on the first floor under the new residential space referred to in Paragraph 2(b) hereof, and the separate building containing the seventh guest unit or "cottage" facing Bridge Street.

5. Defendants shall immediately remove the exterior 70-watt area lights from the second-floor addition and may install lights that are no greater than 35 watts. Said exterior lights may be "on" between the hours of 5:00pm and 11:00pm if

such lights are covered with solid, opaque hoods so that they do not project light upward and outward, but only downward, so as not to project onto neighboring premises, said hoods to be installed within 90 days of the date of this Judgment.

Alternatively, Defendants must remove said lighting fixtures and disconnect said lights if they do not take the measures required above. The lights shall remain off until the hoods are installed. With the preceding exceptions, Defendants shall confine all exterior lighting except normal residential lighting to the first floor areas of the motel, limiting such exterior lighting to that which is absolutely necessary for safety or security and reasonable identification and advertising purposes, utilizing and positioning all lights so that no glare occurs on adjoining or neighboring properties. By way of example, the lighting on the first floor exterior of the motel on the date the Complaint in this cause of action was filed constitutes lighting that conforms to the zoning ordinance. Defendants shall comply with Section XIII(E) of the zoning Ordinance at all times.

6. This Judgment (or relevant portions thereof) shall be deemed automatically amended to permit additional or other uses, structures or facilities solely to the extent that any applicable preemption by the law of the zoning ordinance or a zone change, zoning ordinance amendment, or variance permits such uses, structures or facilities which this Consent Judgment has otherwise prohibited. Any zone change, zoning ordinance amendment or variance shall not be effective at the Property

unless authorized by the Village of Pentwater (or its successor) after all Village hearings and procedures required by Michigan law and the Village of Pentwater Zoning Ordinance have been held, and provided, in addition, that the Village of Pentwater has given at least 20 days' prior written notice of all said procedures or hearings by first class mail (or personally) to all persons owning or having an interest in any property located within 300 feet of any boundary of the Property and who appear on the most current assessment roll at the time, said notice to be given at the address shown thereon; the Village is required by this judgment to give such notice.

7. The Channel Lane Inn, the Property and other improvements thereon are hereby deemed lawful, nonconforming uses and structures to the extent that they comply with the terms of this Judgment.

8: All parties to this cause of action (and persons acting in concert with them) shall comply with all applicable laws, respecting persons or property, public or private.

IT IS FURTHER ORDERED that this Judgment shall be in full satisfaction of all claims and controversies between the parties hereto, and shall constitute a complete resolution of the above-captioned matter, subject to enforcement procedures.

IT IS FURTHER ORDERED that this Judgment shall be binding on the parties hereto, their successors and assigns, together with all persons acting on behalf of the parties hereto, their officers, agents, employees, attorneys or persons in active concert or participation with them.

IT IS FURTHER ORDERED that any party to this cause of action or their successors or assigns or a person demonstrating standing as an interested party may enforce this Judgment, which is final, by an appropriate complaint, petition or motion in accordance with the Michigan Court Rules and applicable law.

IT IS FURTHER ORDERED that this Judgment is entered without costs or attorney fees to any party.

TERRENCE R. THOMAS

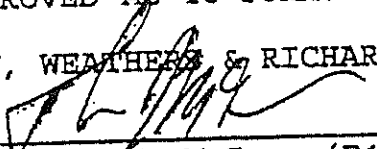
Terrence R. Thomas
Circuit Judge

7-11-95

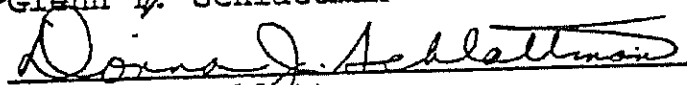
APPROVED AS TO FORM:

LAW, WEATHERS & RICHARDSON, P.C.

By

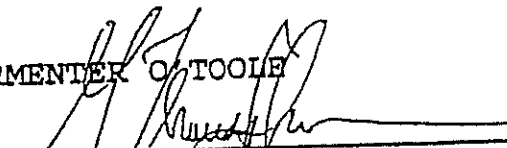

Thomas J. McGraw (P48817)
Attorneys for Defendants Schlattman


Glenn T. Schlattman


Donna J. Schlattman

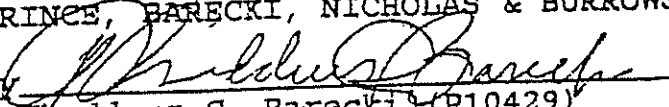
PARMENTER O'TOOLE

By


G. Thomas Johnson (P15523)
Attorneys for Plaintiffs

PRINCE, BARECKI, NICHOLAS & BURROWS

By


Thaddeus C. Barecki (P10429)
Attorney for Defendant Village of
Pentwater

Introduced:
Public Hearing:
Adopted:
Effective:

VILLAGE OF PENTWATER

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP
OF SECTION 19.09 OF THE VILLAGE OF PENTWATER ZONING ORDINANCE**

THE VILLAGE OF PENTWATER ORDAINS:

The Official Zoning Map is hereby amended to conditionally rezone the following described property from R-2, Single Family Residential District, to C-4, Hotel Resort District:

Lot 10, 11 and 12 of the “Re-Plat of Block 30, and part of vacated Lake Street, of Plat of Middlesex, Village of Pentwater”, being located on Government Lot 3 of Section 14, Township 16 North, Range 18 West, Pentwater Township, Oceana County, Michigan. (The “Property”).

Parcel Number: 64-044-430-010-00

Common Address: 10 North Channel Lane, Pentwater, Michigan.

CONDITIONAL REZONING AGREEMENT

This Conditional Rezoning Agreement (the “Agreement”) is made this ____ day of _____, 2019, by and between the VILLAGE OF PENTWATER, a Michigan municipal corporation, with its offices at 327 South Hancock Street, Pentwater, Michigan (the

“Village”), and CHANNEL LANE INN, LLC, a Michigan limited liability company, with its principal offices located at 10 Channel Lane, Pentwater, Michigan (“Channel Lane Inn”), and LISA M. MCKINNEY, individually and as trustee of the LISA M. MCKINNEY TRUST u/a/d March 9, 2009, as amended, of 10 Channel Lane, Pentwater, Michigan (“McKinney”).

THE PARTIES RECITE THAT:

WHEREAS, the Village is a municipal corporation organized and existing under and pursuant to The General Law Village Act, Act 3 of 1895, as amended (codified as MCL 61.1, *et seq*), and exercising all of the powers provided therein; and

WHEREAS, Channel Lane Inn is a Michigan limited liability company organized and existing in good standing under and pursuant to the Michigan Limited Liability Company Act, Public Act 23 of 1993, as amended (codified at MCL 450.4101, *et seq*), and exercising all of the powers provided for therein; and

WHEREAS, Channel Lane Inn and McKinney own certain real property located within the Village of Pentwater located at 10 North Channel Lane, which is currently zoned R-2, Single Family Residential District; and

WHEREAS, the Property is currently being operated as a hotel/motel as a lawful nonconforming use pursuant to a Consent Judgment entered by the 27th Circuit Court for the County of Oceana, Case No. 94-4717-CB, and recorded at the Oceana County Register of Deeds at Liber 1995, Page 6932; and

WHEREAS, Channel Lane Inn and McKinney desire to rezone the Property to C-4, Hotel Resort District, to remove the nonconforming use status;

WHEREAS, under and pursuant to Section 405 of the Michigan Zoning Enabling Act, 2008

PA 110, as amended (codified at MCL 125.3405, *et seq*), certain conditions voluntarily offered by the owner of land, including an agreement between the Village and Channel Lane Inn/McKinney, may become a condition of rezoning of the Property;

WHEREAS, on September ____, 2018, Channel Lane Inn/McKinney submitted a Rezoning application for the Property to the Village;

WHEREAS, on October 17, 2018, the Village Planning Commission held a Public Hearing on the Rezoning Application;

WHEREAS, on December 12, 2018, Channel Lane Inn/McKinney submitted a supplemental amendment to the Rezoning Application voluntarily offering, in writing, certain conditions to rezone the Property from R-2, Single Family Residential District, to C-4, Hotel Resort District, with conditions as set forth in this Agreement;

WHEREAS, on _____, _____, the Village Planning Commission held a public hearing on the Amended Rezoning Application and voted to recommend approval of the request for Conditional Rezoning to the Pentwater Village Council based upon this Agreement; and

WHEREAS, on _____, _____, the Village Council voted to approve the request for Conditional Rezoning and adopted Ordinance No. _____ based upon the conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises hereinafter set forth, the Village and Channel Lane Inn/McKinney agree as follows:

1. **Zoning Use District Regulations.** Except as modified herein, the zoning use district regulations for the Property shall be the C-4, Hotel Resort District, regulations of Chapter 12A of the Village Zoning Ordinance, and the Property shall remain subject to all other

district use and development standards and all other regulations of the Village Zoning Ordinance, the Village Code of Ordinances (codified ordinances), and all other applicable state and local laws, regulations, and requirements for land development.

2. **Additional Conditions.**

- a. The operation of a restaurant on the Property is prohibited.
- b. The operation of a retail business on the Property is prohibited. Nothing in the preceding sentence shall preclude the Property owner/operator from marketing and selling hotel gift shop related merchandise from the Property's office or reception area. The marketing and selling of such hotel gift shop merchandise shall be subordinate and incidental to the operation of the Property as a hotel.
- c. The maximum lot coverage for the Property shall be no greater than 75% of the Property's lot area.

3. **Compliance with Conditions.** Channel Lane Inn/McKinney and their successors, assigns, and/or devisees shall continuously operate and maintain the Property in compliance with all of the conditions set forth in this Agreement. Any failure to comply with a condition contained herein shall constitute a violation of the Village Zoning Ordinance and be punishable accordingly against the owner and/or occupant of the Property. Additionally, any such violation shall be deemed a nuisance *per se* and subject to judicial abatement as provided by law. The Village shall be entitled to recover its actual costs and attorney fees incurred with respect to any action to enforce the terms and conditions of this Agreement.

4. **Transferability/Assignment.** This Agreement shall run with the land and bind the parties and their successors, heirs, assigns, devisees.

5. **Village Right to Rezone.** Nothing in this Agreement shall be deemed to prohibit or preclude the Village from rezoning all or any portion of the Property that is subject to this Agreement to another zoning classification. Any rezoning shall be conducted in compliance with the Village Zoning Ordinance, the Village Code of Ordinances, and the Michigan Zoning Enabling Act, MCL 125.3101, *et seq.*
6. **Entire Agreement.** This Agreement and the documents which are to be executed in accordance with the requirements hereof set forth all of the covenants, agreements, stipulations, promises, conditions, and understandings between the Village and Channel Lane Inn/McKinney concerning the rezoning of the Property as of the date hereof, and there are no covenants, agreements, stipulations, promises, conditions, or understandings, either oral or written, between them other than as set forth herein.
7. **Relationship of the Parties.** The relationship of the Village and Channel Lane Inn/McKinney shall be defined solely by the express terms of this Agreement, including any implementing documents, and neither the cooperation of the parties nor anything expressly or implicitly contained herein shall be deemed or construed to create a partnership, limited or general, or joint venture between the Village and Channel Lane Inn/McKinney, nor shall any party or their agent be deemed to be the agent or employee of any other party to this Agreement.
8. **Modification.** The terms of this Agreement shall not be modified, amended, or altered, except by written agreement duly executed by Channel Lane Inn/McKinney or their successors and the Village as authorized by the Village Council, after a public hearing and notification as required by the Michigan Zoning Enabling Act, MCL 125.3101, *et seq.*

Nothing in this paragraph shall be interpreted as prohibiting or precluding the Village from rezoning the Property pursuant to paragraph 5 above.

9. **No Waiver.** No waiver by any party of any of the provisions of this Agreement shall be effective unless explicitly set forth in writing and signed by the party so waiver. No waiver by any party shall operate or be construed as a waiver regarding any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, or partial exercise of any right or remedy arising under this Agreement shall operate or be construed as a waiver, nor shall it preclude any other or further exercise of the waiver or the exercise of any other right or remedy.
10. **Waiver of Jury Trial.** Each party irrevocably and unconditionally waives, to the fullest extent permitted by applicable law, any right to a trial by jury in any legal action, proceeding, cause of action, or counterclaim arising out of or relating to this Agreement.
11. **Venue.** By execution of this Agreement, the parties consent to venue in Oceana County of any action brought to enforce the terms of this Agreement.
12. **Governing Law.** This Agreement shall be governed by the laws of the State of Michigan.
13. **Recording.** The approved conditions of rezoning set forth in this ordinance and Agreement, or an affidavit or memorandum giving notice thereof, shall be filed by the Zoning Administrator with the Oceana County Register of Deeds.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first set forth above.

**LISA M. MCKINNEY, individually
and as trustee of the LISA M.
MCKINNEY TRUST u/a/d March
9, 2009, as amended:**

DATE: _____

Lisa M. McKinney

**CHANNEL LANE INN, LLC, a
Michigan limited liability company:**

DATE: _____

Lisa M. McKinney, Sole Member

VILLAGE OF PENTWATER:

DATE: _____

Jeffrey Hodges, Village President

DATE: _____

Christopher Brown, Village Manager

Approved as to Form:

Brian J. Monton, Village Attorney

The Village of Pentwater further ordains that this ordinance shall be published within 15 days after its adoption.

The Village of Pentwater further ordains that this ordinance shall become effective 7 days after it is published.

At a regular meeting of the Village Council of the Village of Pentwater, held at the Village Hall, 327

South Hancock Street, Pentwater, Michigan, on the ____ day of _____, _____, at 6:00 p.m.

Members Present: _____.

Members Absent: _____.

The above ordinance and preamble were offered by Member _____ and supported by Member _____.

AYES: Members: _____.

NAYS: Members: _____.

ABSENT: Members: _____.

ORDINANCE DECLARED ADOPTED.

Rande S. Listerman, Village Clerk
Village of Pentwater

STATE OF MICHIGAN)
) ss.
COUNTY OF OCEANA)

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Village Council of the Village of Pentwater at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.

Rande S. Listerman, Village Clerk
Village of Pentwater

CERTIFICATE OF APPLICANT

The undersigned duly authorized representative of the applicant property owner does hereby certify that the conditions to rezoning set forth above in this ordinance and Agreement were freely and voluntarily offered by the property owner to the Village as required by MCL 125.3405(5).

**LISA M. MCKINNEY, individually
and as trustee of the LISA M.
MCKINNEY TRUST u/a/d March
9, 2009, as amended:**

DATE: _____

Lisa M. McKinney

**CHANNEL LANE INN, LLC, a
Michigan limited liability company:**

DATE: _____

Lisa M. McKinney, Sole Member

MEMORANDUM

To: Pentwater Township Planning Commission

From: Keith Edwards, Zoning Administrator

Date: February 15, 2019

**Subject: Proposed Construction of New Main Floor Addition
Nonconforming home at 166 S. Carroll Street
Village of Pentwater – 64-044-690-003-00**

Introduction

Harbor Design and Construction seeks to build a single-story addition on the main floor of the existing residence at 166 S. Carroll Street, where an enclosed porch and a concrete porch exist today. The Baumgartner residence is located on the east side of Carroll Street, just north of Second Street, on the south 42 feet of Lot 3 of Block 20 in the Village of Pentwater.

I have included a site plan, a survey and certain drawings from the blue prints of the project for your review.

Background

The property is located within the R2, Single Family Residential Zoning District. The existing building is nonconforming with respect to the existing front setback. The existing covered front porch on the front of the home is within 7.7 feet of the front property line. The existing lot is also nonconforming with respect to the width of the lot at 42 feet where 66 feet is required and undersize at approximately 5,662.8 sq. ft. where 8,000 sq. ft. is required by today's Zoning Ordinance.

The applicant seeks to remove the existing side porch on the southside of the home and construct a main floor addition that would meet the side setback requirements of six (6) feet, including the overhang. The proposed addition is approximately 97.75 sq. ft. in area. The proposed addition would allow for reconfiguration of the room inside to incorporate the existing fire place into a living room of approximately 11.5 feet by 17 feet or 195.5 sq. ft.

According to the Assessor's Record of the existing property improvements, the existing impervious surface coverage on the property is approximately 1,339 sq. ft., or 23.6%, where up to 50% is allowed. The proposed addition would reduce the impervious surface to 1,283.75 sq. ft. or 22.6%.

Details of the Nonconformities

The required front setback is 17 ft., **existing is 7.7 ft., proposed to remain at 7.7 ft.** The height of the building will not change. The proposed addition is not on the front of the building where the nonconforming setback is located, but on the south side of the building. The proposed addition will meet the setback and lot coverage requirements of the Zoning Ordinance.

Review

Because the single-family residential use of the property will not change, the Planning Commission should direct its focus to Section 3.24.B.1 et seq. and 3.24.B.8 of the Zoning Ordinance to consider the following conditions for approval:

Section 3.24.B Nonconforming Buildings or Structures

1. Nonconforming building(s) or structures may only be extended, enlarged, altered, remodeled or modernized when the Planning Commission determines that the following conditions are met:

- a. The building or structure shall comply with all height, area, and/or parking and loading provisions with respect to such extension, enlargement, alteration, remodeling or modernization.

This condition has been met in accordance with the applicant's proposal.

- b. The enlargement or extension is limited to the same parcel the nonconforming building or structure was located on at the time of the adoption of this Ordinance.

This condition has been met in accordance with the applicant's proposal.

- c. The enlargement or extension will not interfere with the use of other properties in the vicinity.

This condition has been met in accordance with the applicant's proposal.

- d. The enlargement or extension shall not exceed fifty percent (50%) of the GFA of the original building or structure when it became nonconforming; except that the Planning Commission may permit a greater percentage where all yard setbacks for the district in which the building is located are met without need of a variance to such setback(s).

This requirement is met since the proposed addition is only 7% of the existing GFA.

8. Where a building or structure is nonconforming for setback by a distance equal to or less than one-half of the distance required by this ordinance, the nonconforming setback (may) be extended along the same plane as the existing nonconforming setback, provided that in so doing, the setback itself is not further reduced and all other required setbacks are met.

This requirement is met because the existing nonconforming front porch will remain and the proposed addition is on the south side of the building and will meet the setback and lot coverage requirements of the Zoning Ordinance.

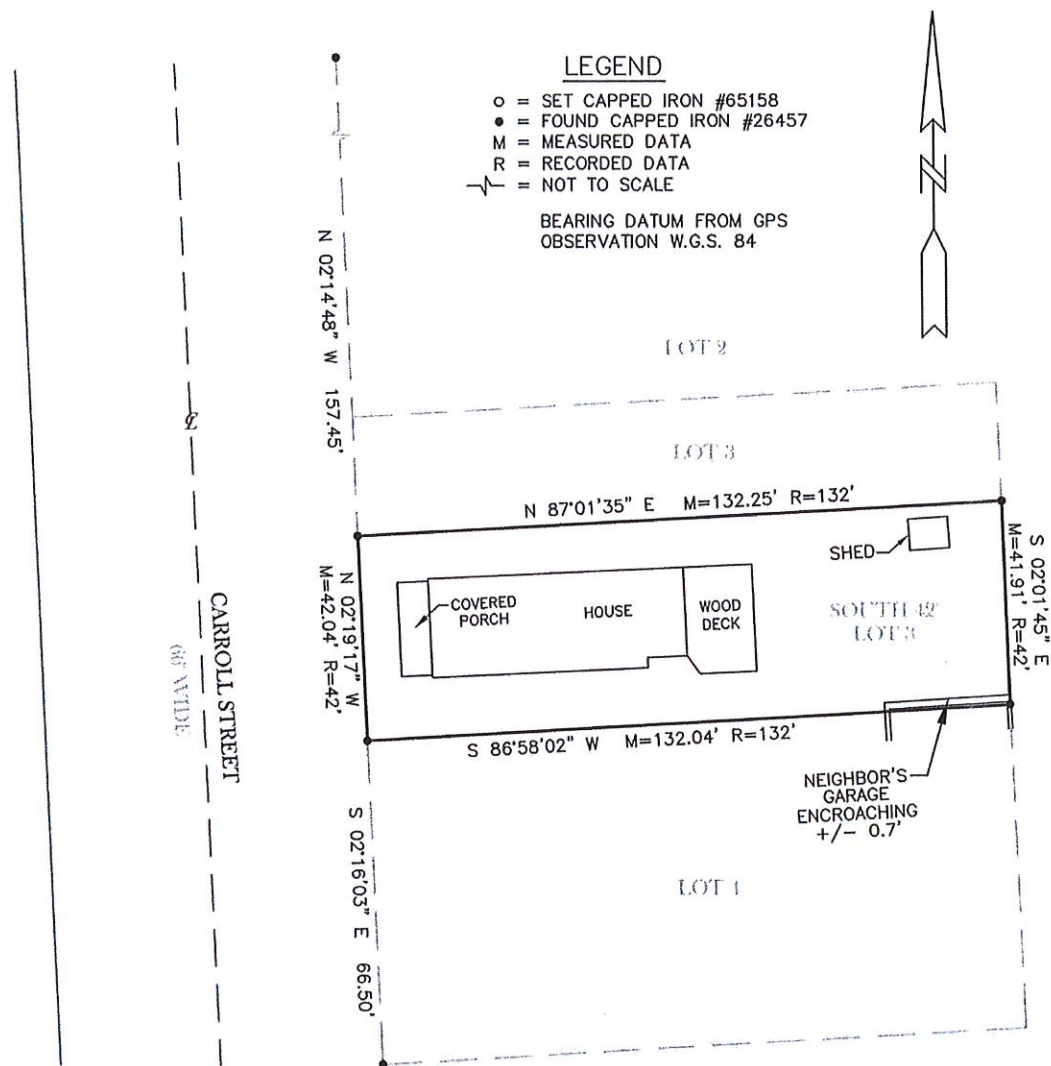
Recommendation

At this time, Staff recommends the Planning Commission consider approval of the proposed addition to 166 S. Carroll Street.

CERTIFICATE OF SURVEY

LEGAL DESCRIPTION PROVIDED:

THE SOUTH 42 FEET OF LOT 3, BLOCK 20, VILLAGE OF PENTWATER, ACCORDING TO THE RECORDED PLAT THEREOF, OCEANA COUNTY, MICHIGAN.



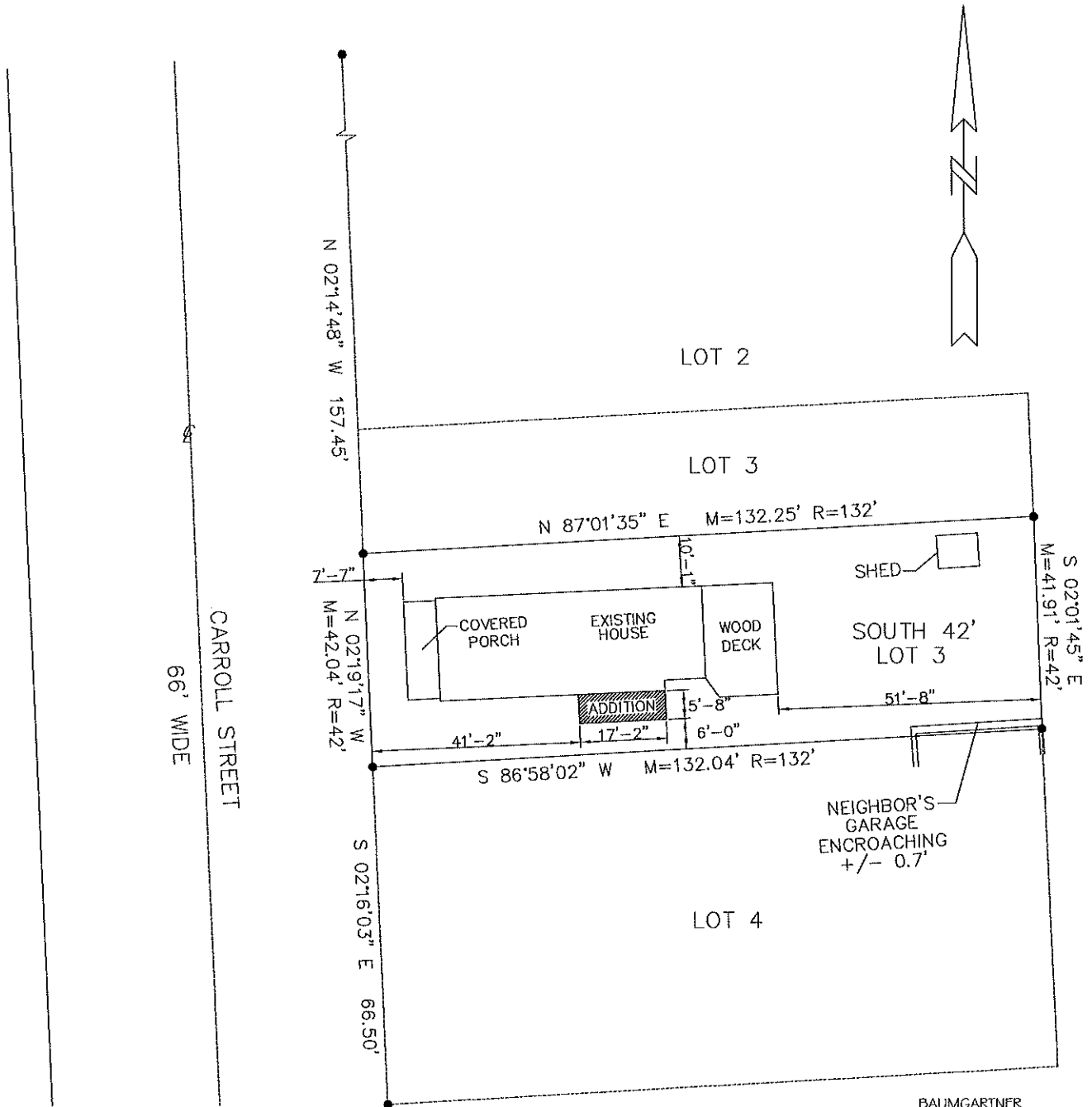
A&A
Land Surveying, Inc.
aalandsurveying@gmail.com
P.O. Box 186
1525 Industrial Park Dr.
Hart, MI 49420
(231) 301-8147

CLIENT: BAUMGARTNER PROPERTY HARBOR DESIGN & CONSTRUCTION C/O JEREMY HORTON	
JOB NO: 19006	DATE: FEBRUARY 1, 2019
SCALE: 1"=30'	DRAWN BY: ALA

ALEX S. ALTMAIER, PS 65158

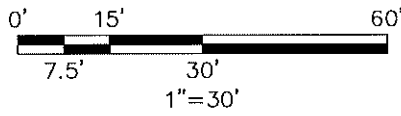
LEGAL DESCRIPTION PROVIDED:

THE SOUTH 42 FEET OF LOT 3, BLOCK 20, VILLAGE OF PENTWATER, ACCORDING TO THE RECORDED PLAT THEREOF, OCEANA COUNTY, MICHIGAN.



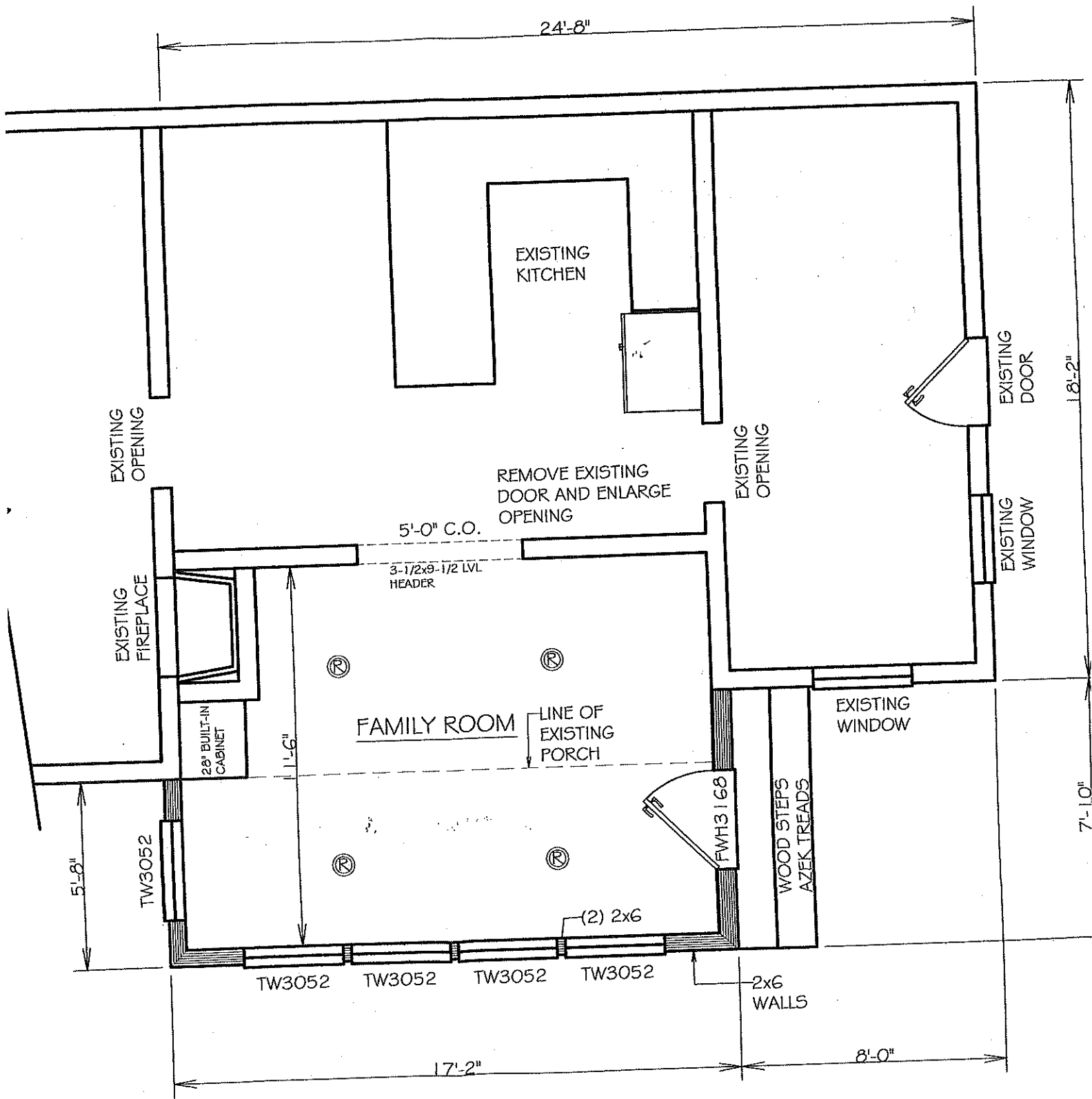
SITE PLAN

BAUMGARTNER
166 Carrol St.
Pentwater, MI 49449



HARBOR DESIGN

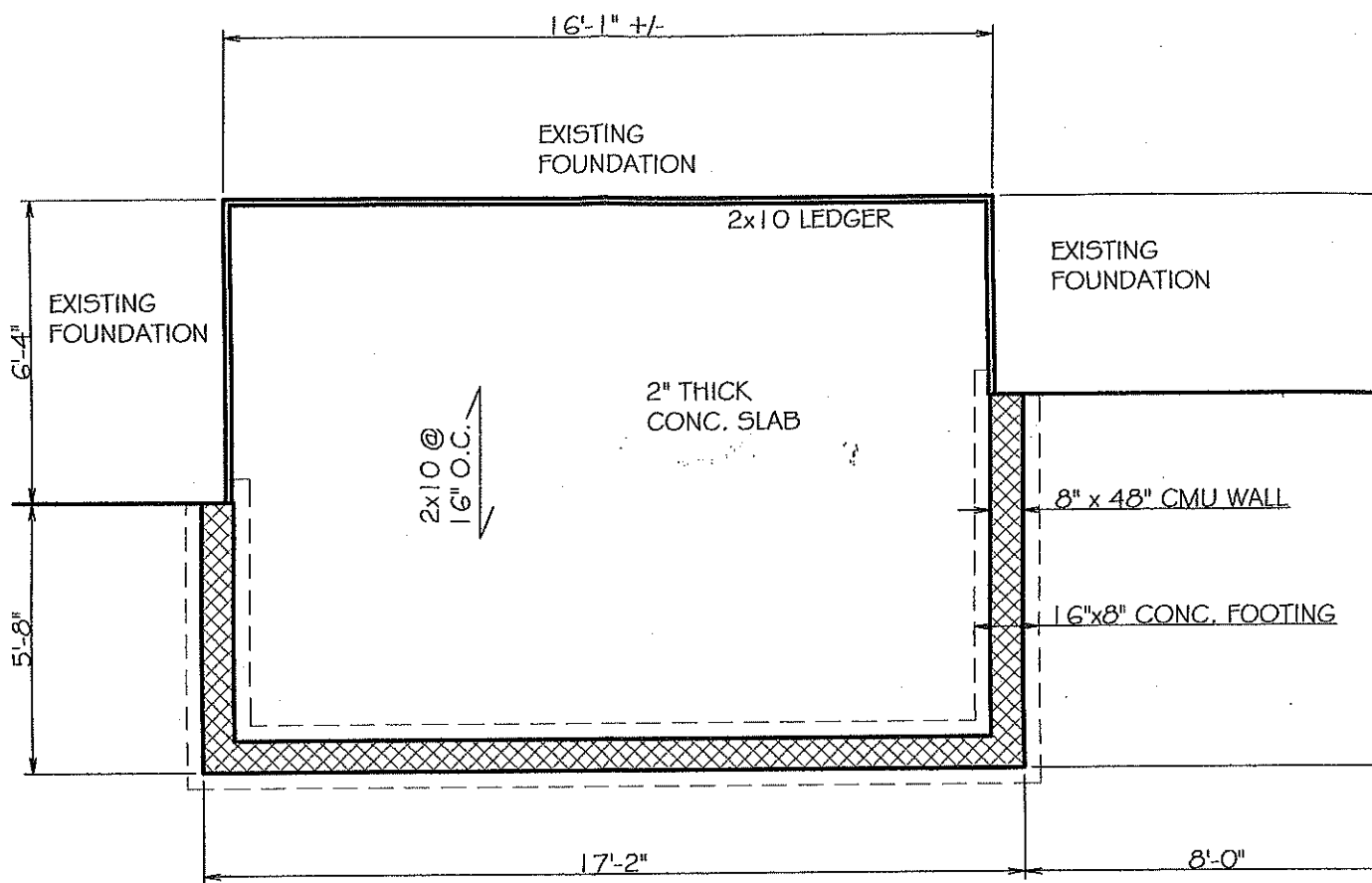
JEREMY HORTON, PE 4870 W. SHELBY RD., SHELBY, MICHIGAN (231) 869-6841



PARTIAL FLOOR PLAN

SCALE

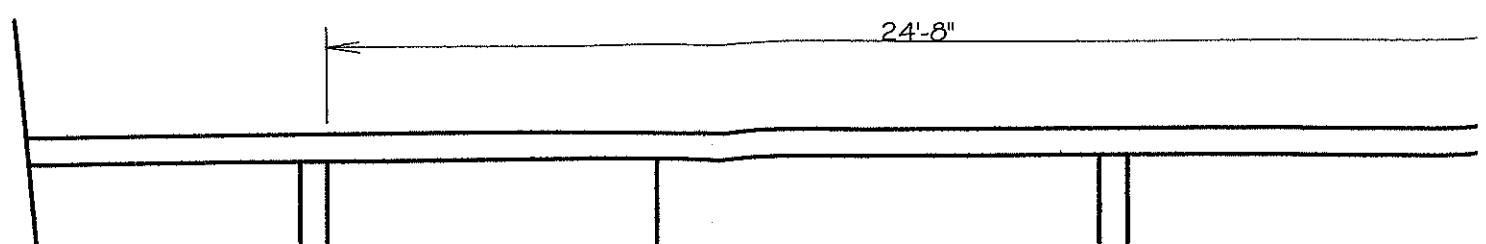
1/4" = 1'-0"



FOUNDATION PLAN

SCALE

1/4" = 1'-0"





WEST ELEVATION

SCALE

1/4" = 1'-0"

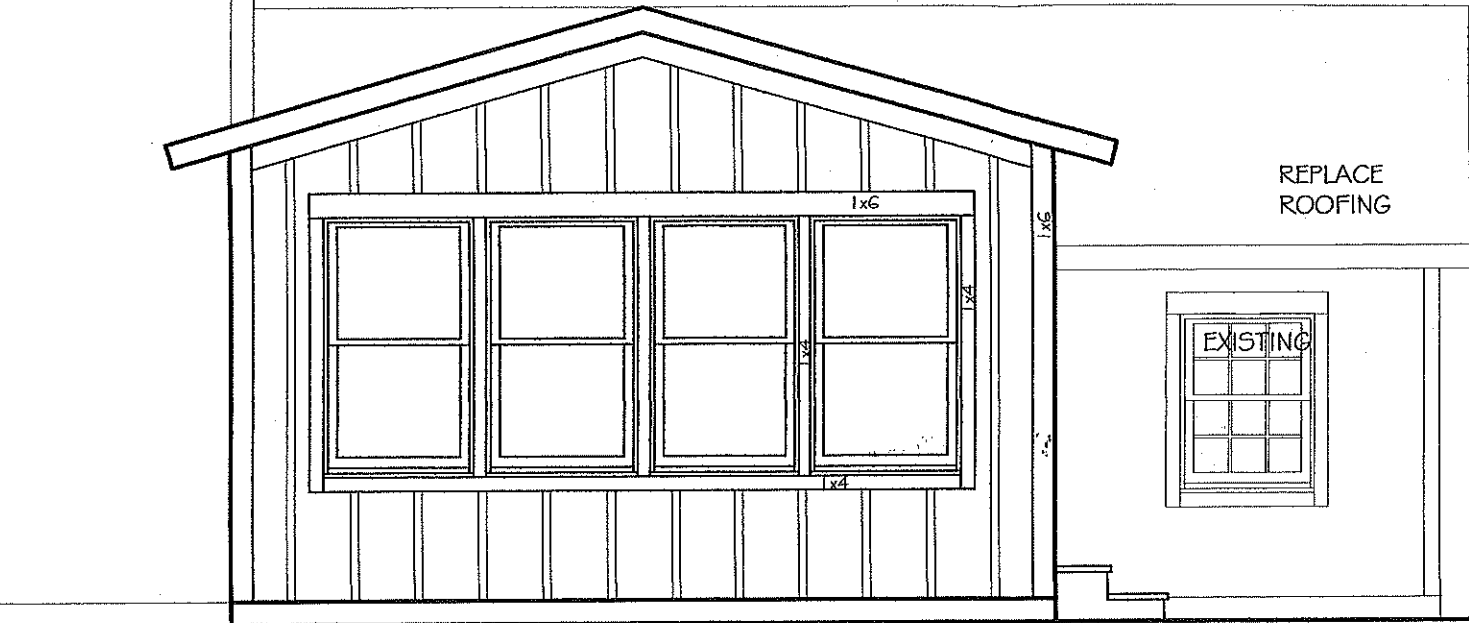


EAST ELEVATION

SCALE

1/4" = 1'-0"

ROOFING



SOUTH ELEVATION

SCALE

1/4" = 1'-0"

4/21/16

**VILLAGE OF PENTWATER
ZONING PERMIT APPLICATION**

(Fences, Decks, Accessory Buildings, New Build, Moving of Building, Demolition, Signs)

JEREMY HORTON
(Applicant)

4870 W. SHELBY RD.
(Address)

SHELBY, MI 49455
(City, State, Zip Code)

231-861-6841
(Telephone)

herbor.jeremy@gmail.com
(E-mail)

OFFICE USE ONLY	
Application number	_____
Date Rec'd	_____
Fee Rec'd \$	_____
If non-conforming, Approval Date by Planning Commission:	_____
Expiration Date:	_____
ZONING PERMIT #	_____

Parcel Number _____
Name _____
Date: _____

APPLICANT'S CAPACITY IF NOT PROPERTY OWNER (circle one):

Builder / Have Option to purchase / Agent / other _____

** If the applicant is not the property owner, an affidavit must be provided by the property owner that the applicant has the authority to apply on his/her behalf.

CONTRACTOR LICENSE # (IF APPLICABLE) 2162193658

PROPERTY OWNER:	BRAD BAUMGARTNER		
OWNER'S MAILING ADDRESS:	10502 Chestnut Hill Cir. Fishers, IN 46037		
OWNER'S PHONE # & E-MAIL:	317-586-5095 brad.baumgartner@gmail.com		
PROPERTY ADDRESS:	166 Carrol St.		
PARCEL NUMBER:	044-690-003-00		
RECORDED PLAT:	Village of Pentwater		
BLOCK: 20	LOT(S): 3	*OR ATTACH LEGAL DESCRIPTION	
ZONING DISTRICT: R2	PRESENT USE:	Residential	
CORNER LOT: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	ROADS:	Carrol St.	
NEW BUILD: <u>No</u> (Basement Acknowledgement is required)	WATER: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	SEWER: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
CURRENT STRUCTURE ON LOT	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	* IF YES, A DEMOLITION PERMIT IS REQUIRED	

PROPOSED PROJECT (Check one):

FENCE	<input type="checkbox"/>	DECK	<input type="checkbox"/>	ACCESSORY BUILDING	<input type="checkbox"/>
ADDITION	<input checked="" type="checkbox"/>	MOVING STRUCTURE	<input type="checkbox"/>	SIGN (Sketch Required)	<input type="checkbox"/>

Village of Pentwater is an equal opportunity Employer and Provider.

<p>NEW BUILD</p> <ol style="list-style-type: none"> 1. The Village of Pentwater advises that basements may not be suitable in all areas of the Village because of the high water table. 2. Sump Pumps are <u>NOT</u> allowed to be connected to the Village Sanitary Sewer (PW Ord §51.05 (A)). 3. All water taps and connections to the main lines of the Village shall be made by Village personnel (PW Ord §50.003 (C)). 4. All sewer taps shall be made under the Supervision of the Village (PW Ord §51.04(L)). 5. All property that is disturbed during the excavations and building of sewer & water installations shall be restored and inspected by the Village of Pentwater at the property owner's expense. (PW Ord §51.04 (M)). A bond at the time of application may be required at the Village's discretion. 6. All water & sewer installation will be inspected by the Village after completion. 7. Water service will not be turned on until the Village Manager inspects and approves all connections. <p>* I, the applicant agree to adhere to all water & sewer requirements. Failure to do so may result in disconnection of services.</p> <p>Signature: _____ Date: _____</p>	
<p>DEMOLITION</p> <p>The contractor must kill the water line at the corporation stop under Village supervision. The sewer lateral will need to be cut, capped and witnessed (by Village Staff) at the property owner's expense, with work completed by the property owner's contractor. A bond at the time of application may be required at the Village's discretion.</p>	

FURTHER EXPLANATION OF PROJECT:

5'-8" x 17'-2" ADDITION TO SOUTH SIDE OF
 (Attach sheets if necessary) Attached HOME.

ATTACH A SITE PLAN OR SKETCH FOR PROPOSED PROJECT. Attached

SETBACKS FROM PROPERTY LINES

FRONT: 7'-7"	RIGHT SIDE: 6'-0"	LEFT SIDE: 10'-1"
REAR: 5'-8"	OTHER:	HEIGHT: 24' EXIST.

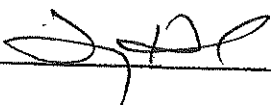
ATTACH A CERTIFIED SURVEY (IF REQUESTED BY THE ZONING ADMINISTRATOR OR PLANNING COMMISSION), (completed by a professional surveyor or engineer for the property at issue [including a written drawing showing structures and stakes set on the property boundaries or corners] in order to insure that all requirements of the Zoning Ordinance will be met.) (See Pentwater Community Zoning Ordinance - Section 19.15)

4/21/16

ATTACH COPIES OF PERMITS FROM OTHER AGENCIES IF REQUIRED FOR CRITICAL DUNES OR WETLANDS. (Attached)

1. <input type="checkbox"/> Legal Description	Number of Pages:
2. <input type="checkbox"/> Proposed Project	Number of Pages:
3. <input type="checkbox"/> Site Plan / Sketch	Number of Pages:
4. <input type="checkbox"/> Survey	Number of Pages:
5. <input type="checkbox"/> Letters or Permits	Number of Pages:
6. <input type="checkbox"/> Acknowledgement of Basement Requirements	Number of Pages:
7. <input type="checkbox"/> Affidavit to Apply:	Number of Pages:
8. <input type="checkbox"/> Other:	

AFFIDAVIT: I agree the statements made above are true, and if found not to be true, any Zoning Permits may be revoked. Further, I agree that all applicable sections of the Pentwater Community Zoning Ordinance and the Pentwater Codified Ordinances will be complied with. Also, I agree to notify the Zoning Administrator for the Village of Pentwater for inspection before the start of construction and when locations of proposed uses are marked on the ground. Further, I agree to give permission for officials of Village of Pentwater to enter the property subject to this permit application for purposes of inspection. Also, I understand any zoning action approved for this application conveys only land use rights, and does not include any representation or conveyance of rights in any other statute, Village Ordinances, building code, deed restriction or other property rights.

Applicant Signature:  Date: 2/18/19

When completed send to: Village of Pentwater Zoning Administrator
327 S. Hancock Street – P.O Box 622, Pentwater, Michigan 49449
Phone: (231) 869-8301 Fax: (231) 869-5120

<u>OFFICE USE ONLY</u>	
SITE PLAN APPROVED _____	SITE PLAN NOT APPROVED _____
PROJECT APPROVED _____	PROJECT NOT APPROVED _____
ZONING ADMINISTRATOR SIGNATURE _____	
DATE _____	EXPIRATION DATE _____
PRE-APPROVAL INSPECTION _____	COMPLETION INSPECTION _____
OTHER INSPECTION DATES _____	
VILLAGE MANAGER SITE PLAN APPROVAL <i>(For projects including Water & Sewer)</i>	
_____	DATE: _____
WATER & SEWER FINAL INSPECTION COMPLETED BY:	
_____	DATE: _____

Village of Pentwater is an equal opportunity Employer and Provider.



VILLAGE OF PENTWATER

ON PENTWATER LAKE AND LAKE MICHIGAN
327 South Hancock Street-P.O. Box 622-Pentwater, Michigan 49449
(231) 869-8301 - FAX (231) 869-5120

Affidavit to Apply for Zoning Permit

I, Brad Baumgartner am the legal property owner of
166 Carrol St., Pentwater, MI 49449.
Parcel # 044-690-003-00

I authorize JEREMY HORTON to apply for a Zoning Permit and
agree to all conditions set forth by the Village of Pentwater on my behalf.

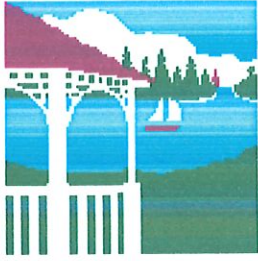
The work to be completed includes:

5'-8" x 17'-2" ADDITION

I agree to give permission for officials of Village of Pentwater to enter the property
subject to this permit application for purposes of inspection. Also, I understand any
zoning action approved for this application conveys only land use rights, and does not
include any representation or conveyance of rights in any other statute, Village
ordinances, building code, deed restriction or other property rights

Property Owner's Signature: 

Date: 2/18/2019



VILLAGE OF PENTWATER

ON PENTWATER LAKE AND LAKE MICHIGAN
327 South Hancock Street, P.O. Box 622, Pentwater, Michigan 49449
(231) 869-8301 FAX (231) 869-5120
www.Pentwatervillage.org

ZONING ADMINISTRATOR'S REPORT

February 1, 2019

The following is a summary of activity conducted by the Zoning Administrator in January, 2019.

Code Enforcement - Nothing outstanding at this time.

Planning Commission

The Planning Commission met on January 22, 2019 to:

- Schedule a public hearing for February 26, 2019 for the amended application for rezoning of 10 Channel Lane, the Channel Lane Inn.
- Review and recommend approval of a lot split for 64-044-560-094-50, a.k.a. 760 E. Hanover.
- Recommend Village Council approval of a Zoning Ordinance amendment to allow for Conditional Rezoning as permitted by the Michigan Zoning Enabling Act.
- Discuss long-term planning including appointments made to the Vision Team by Pentwater Township, the presentation to the Pentwater School District and some requirements of the Michigan Planning Enabling Act.

Zoning Board of Appeals - The Zoning Board of Appeals did not meet in January.

Zoning Permits - The following Zoning Permit was issued in January, 2019:

- 1 412 S. Rutledge for the reconstruction of two porches.

What follows is my annual summary of the Zoning Permits issued for 2018:

	<u>Nos.</u>	<u>Percent</u>
Accessory Buildings	8	25
Decks	5	16
New Residences	6	19
Residential Additions	5	16
Fences	3	9
Signs	0	0
Demolitions	2	6
Sidewalks	0	0
Other	3	9
Totals	37	100%

Other - None

Sincerely,

Keith J. Edwards

Keith Edwards
Zoning Administrator

VILLAGE OF PENTWATER
COUNTY OF OCEANA, MICHIGAN

At a regular meeting of the Village Council of the Village of Pentwater, held at the Village Hall, 327 South Hancock Street, Pentwater, Michigan, on the 11th day of February, 2019, at 6:00 p.m.

Members Present: Hodges, Griffiths, Burdick, Ressel-Hodan, Angell-Powell, Nugent and Powell.

Members Absent: None.

The following ordinance and preamble were offered by Member Angell-Powell and supported by Member Burdick:

ORDINANCE NO. 99-8-2019-1

AN ORDINANCE TO AMEND THE VILLAGE OF PENTWATER'S ZONING ORDINANCE

WHEREAS, the Village Council of the Village of Pentwater has determined that it would be in the best interest of the Village to adopt a zoning ordinance adding Section 19.20 governing the conditional rezoning of land as authorized by MCL 125.3405.

THE VILLAGE OF PENTWATER ORDAINS:

Section 1. Conditional Rezoning.

- A. Intent, application for and processing of conditional rezoning.
 - 1. This section is intended to implement section 405 of the Zoning Enabling Act, MCL 125.3405, authorizing conditional rezonings.
 - 2. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. The offer will be in a proposed conditional rezoning agreement, as described in this section, below. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process; however, the offer must in all events be considered by the Planning Commission before being acted on by the Village Council.

3. The required application and process for considering a rezoning request with conditions will be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.
4. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
5. Approval under this section must not obviate the requirement for special land use approval, variance relief, or site plan approval.
6. If the Village is in the process of proceeding with a conditional rezoning under this section and the applicant has not voluntarily offered the condition (or conditions) being considered, the applicant must inform the Village Clerk in writing of such fact before the final action of the Village Council granting the conditional rezoning.

B. Standards for approval. The following standards, among other factors deemed relevant by the Planning Commission and Village Council shall be considered in determining whether to approve a rezoning with conditional rezoning agreement, provided, the determination on whether the underlying rezoning itself should be granted will be deemed to be a legislative decision of the Village Council equivalent to Village Council action on other amendments to the zoning ordinance:

1. Compatibility with the policies and uses designated for the land and area in the approved master plan;
2. Compatibility of the uses and improvements allowed under the proposed rezoning with conditional rezoning agreement with other zones and uses in the surrounding area;
3. Availability and adequacy of public services and facilities and whether there is likely to be any adverse impact from a development or use allowed under the rezoning with conditional rezoning agreement; and
4. Whether the development that would be approved will advance the public interest, weighing the reasonably expected burdens likely to result from allowing the development against the reasonably expected benefits to be achieved by the development.

C. Approval and effect.

1. If the Village Council, after recommendation from the Planning Commission, determines in its discretion that the proposed rezoning with conditional rezoning agreement should be approved, the conditional rezoning agreement will be incorporated by attachment or otherwise as an

inseparable part of the ordinance adopted by the Village Council to accomplish the requested rezoning with conditional rezoning agreement.

2. The conditional rezoning agreement, as initially submitted, or as may be modified during the course of the rezoning process, will:
 - a. Be in a form recordable with the Register of Deeds for Oceana County or, in the alternative, be accompanied by a recordable affidavit or memorandum prepared and signed by the owner giving notice of the conditional rezoning agreement in a manner acceptable to the Village Attorney.
 - b. Contain a legal description and survey of the land to which it pertains.
 - c. Contain a statement and acknowledgment that the terms and conditions of the conditional rezoning agreement will run with the land be binding on and inure to the benefit of the property owner and the Village and their respective heirs, successors, assigns, and transferees.
 - d. A specification of all conditions proposed by the land owner to be applicable to the use and development of the land, including the following to the extent relevant:
 - (1) The location, size, height, or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture, and other features.
 - (2) Permissible uses of the property and a specification of maximum density or intensity of development and/or use, expressed in terms fashioned for the particular development and/or use, for example, and in no respect by way of limitation, units per acre, maximum usable floor area, hours of operation, and the like.
 - (3) Preservation of natural resources and/or features.
 - (4) Facilities to address any relevant traffic, storm water, and water quality issues.
 - (5) Provisions for maintenance of areas on the land, as relevant.
 - e. Contain a statement acknowledging that the conditional rezoning agreement or an affidavit or memorandum giving notice of it may

be recorded by the Village with the Register of Deeds for Oceana County.

- f. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that the conditional rezoning agreement, as the same may have been modified during the rezoning process (if applicable), has been freely, voluntarily, and knowledgeably offered by such owners and agreed on in its entirety.
3. On the rezoning taking effect, the zoning map will be amended to reflect the new zoning classification along with a designation that the land was rezoned with a conditional rezoning agreement. The Village Clerk will maintain a listing of all lands rezoned with a conditional rezoning agreement.
 4. The approved conditional rezoning agreement or an affidavit or memorandum giving notice of it will be filed by the Village with the Register of Deeds for Oceana County.
- D. Compliance with agreement. Any failure to comply with a condition within the conditional zoning agreement will constitute a violation of this zoning ordinance and be punishable accordingly. In addition, any such violation will be deemed a nuisance per se and subject to judicial abatement as provided by law.
- E. Time period for establishing development or use. Unless a longer or shorter time period is specified in the ordinance rezoning the subject land, the approved development or use of the land authorized in the conditional rezoning agreement must be commenced within 12 months from the effective date of the rezoning and afterwards proceed diligently to completion. This time limitation may on written request of the land owner be extended by the Village Council if (a) it is demonstrated by the land owner and determined by the Village Council in its discretion that there is a strong likelihood that the development or use will commence within the period of extension and proceed diligently afterwards to completion and (b) the Village Council determines in its discretion that there has not been a change in circumstances that would render the current zoning with conditional rezoning agreement incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.
- F. Termination of conditional rezoning agreement. If the approved development or use of the rezoned land does not occur within the time frame specified under the preceding subsection E, above or if the property owner makes a request in writing for termination of the conditional rezoning agreement before making any improvements under the conditional rezoning agreement, the rezoning and conditional zoning agreement will be deemed to be immediately terminated except in the Village's discretion as to that part of the land, if any, that has been developed. In the event of such termination, no new development or use of the land will be

permitted until a new zoning classification is approved by a rezoning of the land. On such termination, the Planning Commission must immediately initiate the process to rezone the land in whole or in part to its prior or other appropriate zoning classification. The procedure for considering and adopting this rezoning will be the same as applied to all other zoning requests. Once the rezoning has occurred, the Village will, on request of the land owner, record with the Register of Deeds for Oceana County a notice that the conditional rezoning agreement, except in the Village's discretion as to that part of the land, if any, that has been developed, is no longer in effect.

Section 2. Should any section, clause, or paragraph of this ordinance be declared by a court of competent jurisdiction to be invalid, the same will not affect the validity of the ordinance as a whole or part of it other than the part declared to be invalid.

Section 3. All ordinances or part of ordinances in conflict with this ordinance are hereby repealed only to the extent necessary to give this ordinance full force and effect.

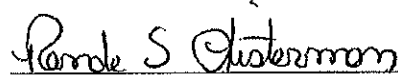
Section 4. This ordinance will become effective seven (7) days after its publication or seven (7) days after the publication of a summary of its provisions in a local newspaper of general circulation in the Village.

AYES: Members: Angell-Powell, Burdick, Palmer, Nugent, Ressel-Hodan, Griffiths and Hodges.

NAYS: Members: None.

ABSENT: Members: None.

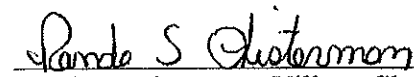
ORDINANCE DECLARED ADOPTED.



Rande S. Listerman, Village Clerk
Village of Pentwater

STATE OF MICHIGAN)
) ss.
COUNTY OF OCEANA)

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Village Council of the Village of Pentwater at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.



Rande S. Listerman, Village Clerk
Village of Pentwater