

**ACME TOWNSHIP
Zoning Board of Appeals**

Oct. 09, 2014

Thursday 7:00 p.m.

Acme Township Hall

Acme, Michigan

Meeting called to Order at 7:02 p.m.

Members present: J. Kuncaitis (Chair), L. LaSusa, T. Forgette, J. Maitland

Members excused: L Belcher

Staff present: N. Lennox; Zoning Administrator, Recording Secretary

1. Review and approval of the agenda, inquiry as to conflicts of interest: None

2. Correspondence: None

3. A. Hearing: 4612 US 31 N. Water's Edge Assisted Living

J. Kuncaitis gives history of site and project. Request is for a deck on the rear of the building partially within the rear set back. Doug Mansfield, representative for the project states that the deck and a walkway to the tart were discussed during site plan review with the PC, due to the traffic and limited side set-backs they are requesting the variance to the rear set-back for the deck for residents.

Public Comment opened 7:21 p.m.: None, Closed: 7:22 p.m.

Motion by: LaSusa, to approve as presented, with all basic conditions met and special condition a. met. 2nd by Maitland. Motion passes unanimously.

B. Hearing: 6597 Deepwater Point Rd. Wentzloff residence. Extension of nonconforming structure. Request to build an exterior stairway within the required side set-back on the North side of the property. Tim Hertler, contractor for applicant states stairway has rotted and needs to be built to code but cannot be rebuilt where it stands due to egress code issues of door on the main floor and the angle of the new stairway. The new stairway would be L shaped and to the West of the 2nd story deck to which it will connect to, and is proposed within the 10' setback.

Kevin Whiting (North adjoining property owner, of 33' drain easement) has complaints that the house is encroaching and is partially over his property line. He is concerned that more will be encroaching onto his property. He thinks some of their landscaping is on our property

J. Maitland comments that a survey should be required to make sure Wentzloff are not encroaching onto the Whiting property. ZBA wants to verify that the new proposed stairway will not be on the neighboring property. Maitland states this needs to be identified and resolved. Lennox will advise applicant to have survey of North line and verify and inform

ZBA members of outcome.

Public Comment opened and closed. No other comments.

Motion by: LaSusa to conditionally approve variance based on applicant surveying property line for compliance. All Basic conditions have been met and special condition b. are met. 2nd by Maitland. Motion passes unanimously.

4. Approval of minutes from the July 23, 2014, meeting.

Motion by: LaSusa 2nd by Forgette. Motion passes.

Motion to Adjourn by: Forgette, second by LaSusa. Motion passes.

ADJOURNED AT 8:03 p.m.

ACME TOWNSHIP
Zoning Board of Appeals
October 9, 2014
Thursday, 7:00 p.m.
Acme Township Hall
Williamsburg, Michigan

Call Meeting to Order
Pledge of Allegiance

Roll Call of Zoning Board Members Kuncaitis___ Belcher ___ LaSusa _____ Forgette___
Maitland _____

Recording Secretary/Staff present: Lennox

- 1. Review and approval of the agenda, inquiry as to conflicts of interest:**
- 2. Correspondence:**
- 3. New Business:**
Application 2014-12Z
An Application from Mansfield Land Use Consultants for a variance request for 4612 US 31 N. Water's Edge Assisted Living. Request for a rear setback variance to build a deck partially within the required B-2 rear setback.

Application 2014-13 Z
An Application from Karly Wentzloff of 6597 Deepwater Point Rd. Request for a side yard setback variance to rebuild exterior stairway partially within the required R-2 10' side set back.
- 4. Approval of minutes from the July 23, 2014 meeting**

Adjournment

Application No.: 2014-127
Parcel No.: 28-01-109-029-00

**Acme Township, Grand Traverse County, Michigan
Zoning Board of Appeals
Application for Hearing/Notice of Appeal**

Owner/Applicant Information: (please type or print clearly)

Name: Mansfield Land Use Consultants Telephone: 231-946-9310

Mailing Address: 830 Cottageview Dr., Suite 201, Traverse City, MI 49685

A. Purpose of Hearing:

- 1. Appeal from a Determination by the Zoning Administrator.
(If checked, disregard Items B. and C. below)
- 2. Apply for a Variance Permit as Authorized by Section(s) Sec. 5.4 of the Acme Township Zoning Ordinance.
- 3. Request Extension or Resumption of a Nonconforming Use.

B. Property Information:

- 1. Address: 4612 N. Highway U.S.-31 N., Traverse City, MI 49686
- 2. Property Description/Parcel Number: 28-01-109-029-00
For Description, see attached
- 3. Proposed Use/Change to Property: Add a deck to the rear of the existing assisted living building
- 4. Names and Addresses of Legal Owners: Senior Care Facilities
848 U.S.-31 South
Traverse City, MI 49685

C. Please Attach the Following Documents:

- 1. **Site Plan/Plot Plan**, showing size and shape of building and accurate location on lot, with dimensions.
- 2. **Elevation drawings**, showing the height of the structure(s).
- 3. **Additional drawings/information as listed below:**
Proposed deck addition to rear of building. Proposed deck would be located partially
within the rear setback. Due to traffic noise generated by Highway U.S.-31 along the front of the property. The best
choice for a reasonably quite, usable space for the Seniors
is to the rear of the building.
- 4. **Fees:** include initial fee as required by Acme Township Ordinance #2004-10, Schedule of Fees
- 5. **Fee Escrow Policy Acknowledgement:** provide completed and signed form with initial fee deposit.

D. **Affidavit:** The undersigned affirms that he/she is the agent (owner, agent, lessee, or other interested party) involved in this petition and that the foregoing answers, statements and information are in all respects true and, to the best of his/her knowledge, correct. By making this application, the undersigned grants all officials and staff of Acme Township access to the subject property as required and appropriate to assess site conditions in support of a determination as to the suitability of the proposed project and/or current or future special use permit and zoning ordinance compliance.

Signature of Owner/Agent

Date

Address: 830 Cottageview Drive, Suite 201, Traverse City, MI 49685

Telephone: 231-946-9310

Township Use/Official Action:

Fee Tendered: 475
Date Received: 9/16/14
Date of Advertising: _____

Application No.: 2014-127
Date of Public Hearing: _____
Action Taken: _____

**Zoning Board of Appeals
Staff Report
Hearing Date: Oct. 9, 2014**

Permit Number/File: 2014-12Z

Parcel No.: 2801-109-029-00

Legal Description: PARCEL I: THE S 130' OF THE N 713.50' OF THAT PART OF GOV'T LOT 3 SEC 9 T27N R10W LYING WE OF RR R/W AND PARCEL II: THAT PART OF GOV'T LOT 3 SECTION 9 T27N R10W COM AT INTERSECTION OF E'LY R/W OF US 31 WITH THE LINE 713.50' S AND PARALLEL TO N LINE OF SD GOV'T LOT 3 TH SW'LY ALONG SD R/W 100' TH E TO THE W RR R/W TH N'LY ALONG RR R/W TO A POINT E OF THE POB TH W TO POB

Address of Parcel: 4612 US 31 N.



Applicant: Mansfield Land Use Consultants, Doug Mansfield

Status of Applicant: Agent for owner

Request: The applicant is requesting a variance of the rear yard set-back requirements of the B-2 District that require a setback of 10% of the rear yard depth not less than `10' and no more than 25'. The formula equates to a rear setback of 14'.

Project Description: Applicant is requesting to build a 14 x 24' ground level deck. 250 sq. ft. of the deck will be located within building setback. 85 sq. ft. is outside of required rear set back.

Background: Applicant is requesting to build the deck at this location behind the building due to the traffic noise generated by Highway US 31 along the front of the property. During site plan review for the property, John Iacoangeli, Planning Consultant from Beckett & Raeder suggested a deck for their residents and guests.

Zoning and Existing Use(s):

The property is zoned B-2 General Business.

Adjacent Zoning:

North: B-2

South: B-2

East: R-2

West: Fronts US-31 and East Bay

Relevant Sections of Zoning Ordinance:

5.4 Non-Use Variances

6.12. Schedule of Regulations: B-2 District rear yard set-back requirement of 10% of depth of lot, not exceed 25', not less than 10'.

Report and Analysis:

The variance request consists of a proposed deck addition to the rear of the building for the enjoyment of the residents and their guests. Location requested is due to high traffic noise. The side yard areas of the property are very limited (to build a deck) as stairways, parking, building generator,

Section 5.4 Nonuse Variances, of the Zoning Ordinance states: "The Zoning Board of Appeals shall have the authority to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the

ordinance, PROVIDED ALL of the BASIC conditions listed herein and any ONE of the SPECIAL conditions listed thereafter can be satisfied.”

The Zoning Board of Appeals may authorize a variance provided ALL of the BASIC CONDITIONS and any ONE (1) of the SPECIAL CONDITIONS found in Section 5.4 can be met. The following is a listing of BASIC conditions and whether or not they have been fulfilled. Specifically:

- a. Is a result of practical difficulties which prevent carrying out the strict letter of this Ordinance. These practical difficulties shall be evaluated in terms of the use of the particular parcel of land, and cannot be solely economic in nature.

A practical difficulty may exist in that the Building was existing on the lot that fronts US 31 highway. The location on the lot where the building sits has limitations to the use of the 22' side yards due to stairways, a generator and parking, along with the traffic noise, making the side yards not large enough, or practical for a deck for the residents. The rear set back of 14'5 feet, puts the rear of the building almost on top of the set back line. The request is not economic in nature, but an amenity for the residents enjoyment.

- b. Will not be contrary to the public interest or to the intent and purpose of this Ordinance.

Condition appears to be met. The Tart Trail is directly behind the facility. The public traverses the trail and may enjoy having the residents utilizing a deck on the rear yard, and the residents may enjoy viewing the public walking or biking the trail.

- c. Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located. *There is no reason to believe that granting the variance will negatively impact nearby property values.*
- d. Is not where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical. *Condition appears to be met.*
- e. Will relate only to property that is under control of the applicant. *Condition is met and only applies to requested property.*
- f. Will not be permitted for a parcel of property that is not a Legal Lot of Record, as defined by this Ordinance. *Condition is met.*

When all of the *Basic Conditions* can be met, a variance may be granted when any one of the following *Special Conditions* can be clearly demonstrated.

- a. Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property uses in the same zoning district. Such circumstances or conditions shall not have resulted from any act of the applicant subsequent to the adoption of this Ordinance.

Condition appears to be met. The site has existing conditions, the traffic and noise of US 31 the narrow side yards, the limited rear yard and placement of the existing building and proximity to the rear set back.

Staff Recommendation:

Approval of the request does not appear contrary to public health, safety, or welfare, particularly that of surrounding property owners, and meets the intent of the ordinance.

Recommend approval.

N.Lennox 09/30/2014





TOWNSHIP OF ACME
NOTICE OF HEARING

PLEASE TAKE NOTICE that the ACME TOWNSHIP Zoning Board of Appeals will hold a public hearing at a meeting on: October 9th, 2014 at 7:00 p.m. in the Acme Township Hall, Acme, Michigan to consider the following:

An application by: Doug Mansfield, Mansfield Land Use Consultants 830 Cottage View Dr. Traverse City, agent for Senior Care Facilities, (Waters Edge Assisted Living) located at 4612 US 31 N., Zoned B-2 General Business, for a variance from the requirements of Acme Township Zoning Ordinance; Article VI, Section: 6.12 Schedule of Regulations to add a deck partially within the rear set-back., pursuant to Article V; Section 5.4 Nonuse Variances.

The property is located at: 4612 US 31-N. Parcel #2801-109-029-00, more legally defined as:
PARCEL I: THE S 130' OF THE N 713.50' OF THAT PART OF GOV'T LOT 3 SEC 9 T27N R10W LYING WE OF RR R/W AND PARCEL II: THAT PART OF GOV'T LOT 3 SECTION 9 T27N R10W COM AT INTERSECTION OF E'LY R/W OF US 31 WITH THE LINE 713.50' S AND PARALLEL TO N LINE OF SD GOV'T LOT 3 TH SW'LY ALONG SD R/W 100' TH E TO THE W RR R/W TH N'LY ALONG RR R/W TO A POINT E OF THE POB TH W TO POB

An application by: Karly Wentzloff of 6597 Deepwater Point Rd., zoned R-2 One Family Urban Residential, for a variance from the requirements of Acme Township Zoning Ordinance Article XV, Section 15.5 Non-Conforming Uses, extension of nonconforming use of structure to replace an exterior stairway partially within the north side required 10' set back.

The property is located at 6597 Deepwater Point Rd, Parcel # 2801-700-015-00, more legally defined as: LOT 15 & SLY 11' OF LOT 16 SUNSET PARK.

All interested persons are invited to attend and be heard at the public hearings before the Zoning Board of Appeals. After each public hearing, the Zoning Board of Appeals may make a decision at said meeting, or continue the matter to another date. In the case of hearings composed of multiple requests, the request may be granted or denied in whole or in part as to each individual request.

All applications may be inspected at the Acme Township Hall between 8:00 a.m. and 5:00 p.m. Monday through Friday, and will be made available via the Acme Township website at www.acmetownship.org prior to the hearing date. Comments and questions may be directed to:

Nikki Lennox- Zoning Administrator

nlennox@acmetownship.org

Acme Township Hall

6042 Acme Road

Williamsburg MI 49690

(231) 938-1350

STATE OF MICHIGAN
DEPT OF TRANSPORTATION
P O BOX 30050
LANSING MI 48909

THE ARACHNID LOG
4620 US 31 N
TRAVERSE CITY MI 49686

BURDICK SCOTT A & KAREN L
4293 FIVE MILE RD
WILLIAMSBURG MI 49690

EICHENLAUB CHARLES ROBERT
THOMAS MADELEINE A
531 RANDOLPH ST
TRAVERSE CITY MI 49684-2245

FAVOUR RENATE
4325 FIVE MILE RD
WILLIAMSBURG MI 49690

KENNEY ANDREW R
1470 W KING ST
OWOSSO MI 48867

RME LLC
4290 US 31 N
TRAVERSE CITY MI 49686

MURDICK DOUGLAS K & DORIS A
P O BOX 400
ACME MI 49610

SENIOR CARE FACILITIES LLC
848 US 31 SOUTH
TRAVERSE CITY MI 49685

CHMURA WALTER
821 BRIARCLIFF DR
GROSSE POINTE MI 48236

CHAPPLE CATHY L
4353 FIVE MILE RD
WILLIAMSBURG MI 49690

MCKENZIE CAROLEE L
4361 FIVE MILE RD
WILLIAMSBURG MI 49690

WISTRAND HAZEL TRUST
P O BOX 631
NEW SMYRNA BEACH FL 32170

KIRT STANLEY
1733 BLACK BARK LN
TRAVERSE CITY MI 49686

DZIERWA STEVEN J & LISA M
4386 FIVE MILE RD
WILLIAMSBURG MI 49690

LLORE EMILY N
856 WEBSTER ST
TRAVERSE CITY MI 49686

WISTRAND WALTER H JR TRUST
P O BOX 631
NEW SMYRNA BEACH FL 32170

LEWIS JOHN J & PAULA K
13740 S CEDAR RUN RD
TRAVERSE CITY MI 49684

SCHMITT JACQUELYN
4733 BUNKER HILL RD
WILLIAMSBURG MI 49690

ADAMS ZACHARY & JULIE
4332 FIVE MILE RD
WILLIAMSBURG MI 49690

BILDERBACK JEREMY & ANDREA
4316 FIVE MILE RD
WILLIAMSBURG MI 49690

Application No.: 2014-132
Parcel No.: 01-700-015-00

**Acme Township, Grand Traverse County, Michigan
Zoning Board of Appeals
Application for Hearing/Notice of Appeal**

Owner/Applicant Information: (please type or print clearly)

Name: Karly Wentzloff Telephone: 231 944 9800
Mailing Address: 6597 Deepwater Point Williamsburg MI / 49690

A. Purpose of Hearing:

- 1. Appeal from a Determination by the Zoning Administrator. (If checked, disregard Items B. and C. below)
- 2. Apply for a Variance Permit as Authorized by Section(s) _____ of the Acme Township Zoning Ordinance.
- 3. Request Extension or Resumption of a Nonconforming Use.

B. Property Information:

- 1. Address: 6597 Deepwater Point
- 2. Property Description/Parcel Number: 01-700-015-00
- 3. Proposed Use/Change to Property:
- 4. Names and Addresses of Legal Owners: Timothy & Karly Wentzloff

C. Please Attach the Following Documents:

- 1. Site Plan/Plot Plan, showing size and shape of building and accurate location on lot, with dimensions.
- 2. Elevation drawings, showing the height of the structure(s).
- 3. Additional drawings/information as listed below:

- 4. Fees: Include initial fee as required by Acme Township Ordinnace #2004-10, Schedule of Fees
- 5. Fee Escrow Policy Acknowledgement: provide completed and signed form with initial fee deposit.

D. Affidavit: The undersigned affirms that he/she is the _____ (owner, agent, lessee, or other interested party) involved in this petition and that the foregoing answers, statements and information are in all respects true and, to the best of his/her knowledge, correct. By making this application, the undersigned grants all officials and staff of Acme Township access to the subject property as required and appropriate to assess site conditions in support of a determination as to the suitability of the proposed project and/or current or future special use permit and zoning ordinance compliance.

Karly Wentzloff 9/18/14
Signature of Owner/Agent Date
Address: 6597 Deepwater Point
Telephone: 231 944 9800

Township Use/Official Action:
Fee Tendered: 300 -
Date Received: 9/18/14
Date of Advertising: _____

Application No.: 2014-132
Date of Public Hearing: 10/9/14
Action Taken: _____

Zoning Board of Appeals Review

Date: September 18, 2014

From: Karly Wentzloff

To:

Nikki Lennox, Zoning Administrator
Members of the Zoning Board of Appeals
6042 Acme, Road
Williamsburg, MI 49690

Project Location:

6597 Deepwater Point Rd.
Williamsburg, MI 49690

Applicant:

Tim and Karly Wentzloff
6597 Deepwater Point Rd.
Williamsburg, MI 49690

Project Designers:

New Leaf Interiors
PO Box 2107
Traverse City, MI 49685

Zoning:

R-2 One Family Urban Residential. All adjacent properties are also zoned R-2.

Proposed Change:

This is an amendment to our original application to add a second story over our garage. That application was approved at the May Board of Review. Now that construction is underway it has come to our attention that we are not able to rebuild our stairs in their current location, because they are currently not built to code (the rise over run is too high). We cannot extend them further to the north to add the additional stairs needed, because there is a doorwall in the way. We need to have stairs to the upper level for egress, as well as moving furniture in and out of the house, as the interior stairs make a turn back on themselves and will not allow moving of beds or other large furniture. We are proposing to have the stairs extend from the upper deck towards the west (water) on the north end of the deck. They would extend toward a landing and then turn to the south and end in our yard. This is within the setback, as our home is located on the north property line. We would appreciate your consideration of this amendment so that we can have safe stairs built to code, that are not adjacent to any windows or doors.

The lot to our South is owned by Sarris. The lot to the north is a 33.8' lot that is an easement to the township for drainage of the area across Deepwater Point. North of that is a vacant parcel

**Zoning Board of Appeals
Staff Report
Hearing Date: Oct. 9, 2014**

Permit Number/File: 2014-13Z Extension of Non-Conforming Use of Structure

Parcel No.: 01-700-015-00

Legal Description: Lot 15 & SLY 11' of Lot 16 Sunset Park.

Address of Parcel: 6597 Deepwater Point Rd.



Applicant:

Karly Wentzloff
6597 Deepwater Point Rd
Williamsburg, MI 49690

Status of Applicant: Applicant is the current landowner, and occupant

Request: The applicant is requesting extension of a nonconforming structure that would allow a replacement of an exterior stairway to an existing single family residence. Stairway to be rebuilt partially within side setback.

Project Description: Replace exterior stairway which presently is located partially in side set back area. Stairs to second story decking are not to code and are rotted. (This has been verified by myself) There is not room in the area where the stairs presently are to rebuild stairway to code.

Background: Applicants received a variance May 8, 2014 for an extension of a nonconforming structure that allowed a 2nd story addition to an existing single family residence. This included construction of a 2nd story 30 x 34' addition over a 30 x 34 non-conforming 1st floor existing single family residence. The addition also include remodeling of existing covered entry to a 2 story vestibule, changing an East side window to a doorway with awning covering.

Zoning and Existing Use(s):

The property is zoned R-2 One-Family Urban Residential.

The property is 66' wide by 141' in depth.

It is used as a single family residence, and contains a 2024 sq. ft. house including attached garage. The township records show the home was constructed in 1968.

Adjacent Zoning:

- North:** R-2 One Family Urban Residential
- South:** R-2 One Family Urban Residential
- East:** R-2 One Family Urban Residential
- West:** R-2 One Family Urban Residential

Relevant Sections of Zoning Ordinance:

15.5 Extension of Nonconforming Use Of Structure - The extension of any nonconforming use or structure throughout all or a portion of a given lot or parcel may be allowed, upon prior application to and permission granted by the Zoning Board of Appeals.

6.12. Schedule of Regulations: R-2 District side set-back requirement of 10 feet.

Report and Analysis:

The variance request consists of a proposed expansion in order to replace exterior stairway to code, on a nonconforming structure that presently lies within the side set-back.

As seen on the aerial photo provided above you can see that the home is located to the North side property line. To the North of the subject property is a 33' drainage easement.

Section 5.4 Nonuse Variances, of the Zoning Ordinance states: "The Zoning Board of Appeals shall have the authority to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the

ordinance, PROVIDED ALL of the BASIC conditions listed herein and any ONE of the SPECIAL conditions listed thereafter can be satisfied.”

The Zoning Board of Appeals may authorize a variance provided ALL of the BASIC CONDITIONS and any ONE (1) of the SPECIAL CONDITIONS found in Section 5.4 can be met. The following is a listing of BASIC conditions and whether or not they have been fulfilled. Specifically:

- a. Is a result of practical difficulties which prevent carrying out the strict letter of this Ordinance. These practical difficulties shall be evaluated in terms of the use of the particular parcel of land, and cannot be solely economic in nature.

A practical difficulty may exist in that the lot is a waterfront lot and has additional restrictions in addition to the district set-backs. This limits the building area on the property. The nonconforming area of the home within the North side set back of the required 10' is a pre-existing nonconformity.

- b. Will not be contrary to the public interest or to the intent and purpose of this Ordinance. The property borders a 33 foot drainage easement to the North. The lot north of the easement is vacant. The replacement of the stairway built to code is for egress purposes.

Condition appears to be met.

- c. Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located. ***There is no reason to believe that granting the variance will negatively impact nearby property values.***
- d. Is not where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical. ***Condition appears to be met.***
- e. Will relate only to property that is under control of the applicant. ***Condition is met as applicant is the owner/occupant of the property.***
- f. Will not be permitted for a parcel of property that is not a Legal Lot of Record, as defined by this Ordinance. ***Condition is met.***

When all of the *Basic Conditions* can be met, a variance may be granted when any one of the following *Special Conditions* can be clearly demonstrated.

- a. Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property

uses in the same zoning district. Such circumstances or conditions shall not have resulted from any act of the applicant subsequent to the adoption of this Ordinance.

Condition appears to be met. The site has an existing nonconforming residential structure on it built in 1968. The site is a waterfront lot with additional set-back requirements. The proposed construction is permissible per Article XV Non-conforming Uses, 15.5 Extension of Nonconforming Uses of Structure. "The extension of any nonconforming use or structure throughout all or a portion of a given lot or parcel may be allowed, upon prior application to and permission granted by the Zoning Board of Appeals. Permission shall be granted by the Zoning Board of Appeals if it finds that said extension is consistent with the public health, safety or welfare, particularly with regard to surrounding property owners."

b. Where such variance is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district. ***Condition appears to be met.*** The proposed construction is permissible per Article XV Non-conforming Uses, 15.5 Extension of Nonconforming Uses of Structure. "The extension of any nonconforming use or structure throughout all or a portion of a given lot or parcel may be allowed, upon prior application to and permission granted by the Zoning Board of Appeals. Permission shall be granted by the Zoning Board of Appeals if it finds that said extension is consistent with the public health, safety or welfare, particularly with regard to surrounding property owners."

Staff Recommendation:

Approval of the request does not appear contrary to public health, safety, or welfare, particularly that of surrounding property owners, and meets the intent of the ordinance.

Recommend approval.

N.Lennox 09/30/2014



ARTICLE V :ZONING BOARD OF APPEALS

5.1 NUMBER OF MEMBERS, APPOINTMENT

The Zoning Board of Appeals shall consist of five members, to be appointed by the Township Board

5.2 ORGANIZATION AND PROCEDURES

The Zoning Board of Appeals' organization and procedures shall be governed by the Michigan Zoning Enabling Act.

5.3 DUTIES AND POWERS

The Zoning Board of Appeals shall have the duties and powers prescribed by the Michigan Zoning Enabling Act. Included among these shall be the power to determine Zoning District boundaries, where uncertainty exists with respect to the location of boundaries as depicted on the Zoning Map.

5.4 NONUSE VARIANCES

The Zoning Board of Appeals shall have the authority to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance, PROVIDED ALL of the BASIC conditions listed herein and any ONE of the SPECIAL conditions listed thereafter can be satisfied.

5.4.1 Basic Conditions: That any nonuse variance granted from this Ordinance:

- 5.4.1.1 Is a result of practical difficulties which prevent carrying out the strict letter of this Ordinance. These practical difficulties shall be evaluated in terms of the use of the particular parcel of land, and cannot be solely economic in nature.
- 5.4.1.2 Will not be contrary to the public interest or to the intent and purpose of this Ordinance.
- 5.4.1.3 Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.
- 5.4.1.4 Is not where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.
- 5.4.1.5 Will relate only to property that is under control of the applicant.
- 5.4.1.6 Will not be permitted for a parcel of property that is not a Legal Lot of Record, as defined by this Ordinance.

5.4.2 Special Conditions: When ALL of the foregoing basic conditions can be satisfied, a nonuse variance may be granted when any ONE of the following special conditions can be clearly demonstrated:

- 5.4.2.1 Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property uses in

the same zoning district. Such circumstances or conditions shall not have resulted from any act of the applicant subsequent to the adoption of this Ordinance.

5.4.2.2 Where such variance is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

5.4.3 Rules: The following rules shall be applied in the granting of nonuse variances:

5.4.3.1 The Zoning Board of Appeals may specify, in writing, such conditions that will in its judgment, secure the objectives and purposes of this Ordinance. Any conditions imposed shall meet the requirements for conditions set forth the Michigan Zoning Enabling Act. Violation of conditions imposed shall nullify the variance.

5.4.3.2 No application for a nonuse variance which has been denied wholly or in part by the Zoning Board of Appeals shall be re-submitted for a period of one year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Zoning Board of Appeals to be valid.

5.5 ESSENTIAL SERVICES

The Zoning Board of Appeals shall have the power to permit the erection and use of a building, or an addition to an existing building, or a public service corporation for public utility purposes, in any permitted district to a greater height or of larger area than the district requirement herein established, and permit the location in any use district of a public utility building, structure or use if the Zoning Board of Appeals shall find such use, height, area, building or structure reasonably necessary for the public convenience and service.

5.6 BOND FOR COMPLIANCE

To ensure compliance with a zoning ordinance and any conditions imposed under a zoning ordinance, the Zoning Board of Appeals may require a performance guarantee, pursuant to the MZEA. MCL 125.3505.

5.7 LOT DIVISION

The subdivision or division of a lot is prohibited unless approved under either the Acme Township Subdivision Control Ordinance or the Acme Township Land Division Ordinance. All lots resulting from such land subdivisions or divisions shall comply with the provisions of this Ordinance.

ARTICLE XV:NON-CONFORMING USES

15.1. INTENT AND PURPOSE:

It is the intent of this Ordinance to permit legal nonconforming lots, structures, or uses to continue until they are removed, but not to encourage their survival. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same Zoning Districts unless the conditions and requirements of this Section are met. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of the enactment of a provision of this Ordinance which made those plans, construction, or use unlawful.

15.2. SUBSTITUTION OF USE:

Whenever the nonconforming use of any structure or land is changed in whole or in part to a conforming use, such use shall not thereafter be reverted to any non-conforming use. If the nonconforming use of any structure or land is discontinued through vacancy, lack of operation or otherwise for a continuous period of 90 days, then any future use of said building, structure or land shall conform, in its entirety, to the provisions of this Ordinance; PROVIDED, that the Zoning Board of Appeals may, upon application within 6 months of the termination of said period, permit the resumption of such nonconforming use. If no structural alterations are made, the Zoning Board of Appeals may authorize the substitution of one nonconforming use for another nonconforming use, PROVIDED the substituted use would be more suitable to the Zoning District in which it is located than the nonconforming use which is being replaced.

15.3. RECONSTRUCTION OF DAMAGED NONCONFORMING STRUCTURES:

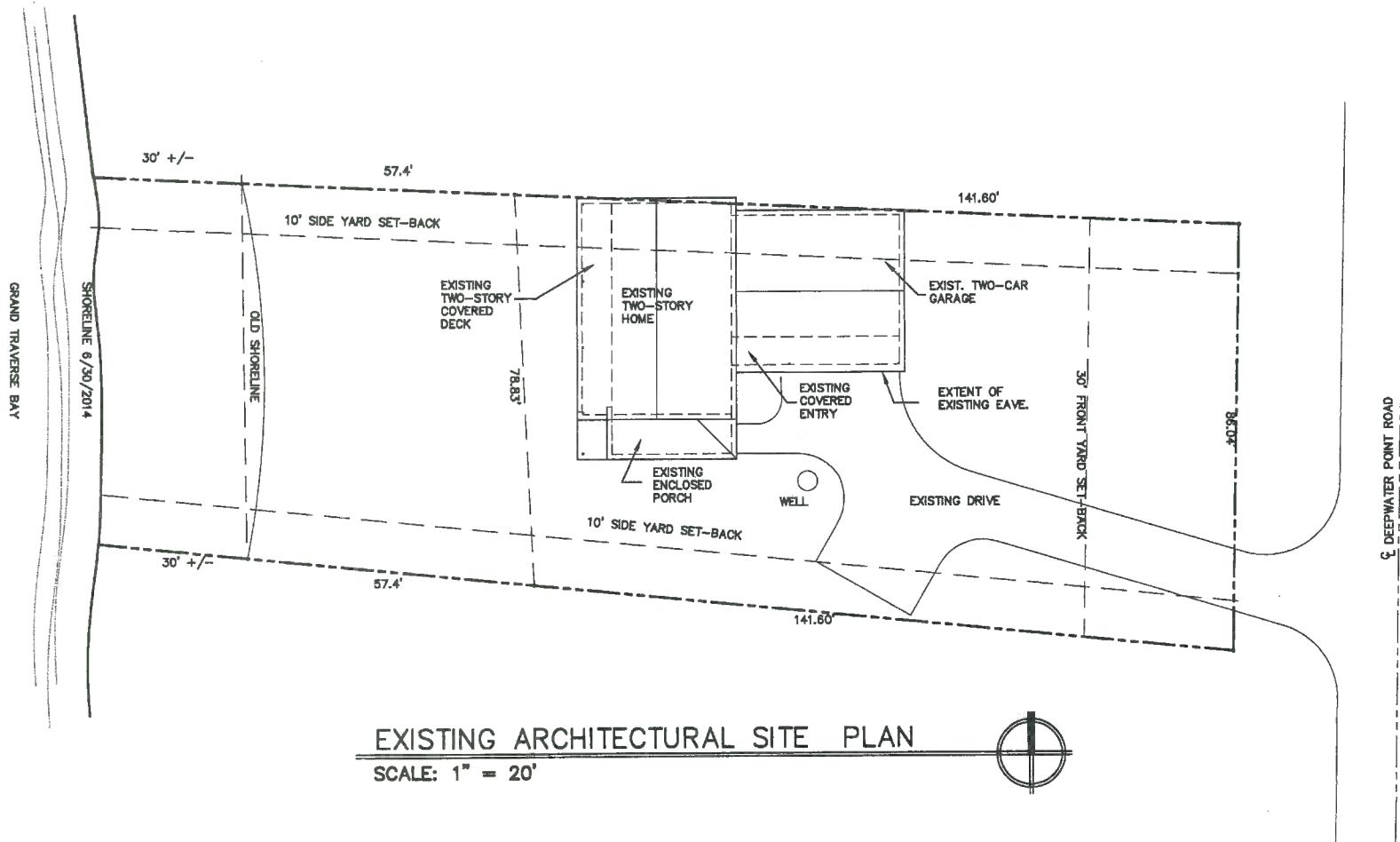
The reconstruction and continued use of any nonconforming structure damaged by fire, collapse, explosion, acts of God or act of the public enemy may be allowed, upon prior application to and permission granted by the Zoning Board of Appeals. Permission shall be granted if the Zoning Board of Appeals finds that the reconstruction and continued use is substantially the same as the previous nonconforming use, and that the continued use will not be detrimental to the health, safety and welfare of the public or surrounding property owners.

15.4. REPAIR OR RESTORATION OF NONCONFORMING STRUCTURES:

Nothing in this Ordinance shall prevent the repair or restoration of a nonconforming structure or part of it; PROVIDED that such repair or restoration does not change the use of said structure or part of it.

15.5. EXTENSION OF NONCONFORMING USE OF STRUCTURE:

The extension of any nonconforming use or structure throughout all or a portion of a given lot or parcel may be allowed, upon prior application to and permission granted by the Zoning Board of Appeals. Permission shall be granted by the Zoning Board of Appeals if it finds that said extension is consistent with the public health, safety or welfare, particularly with regard to surrounding property owners.



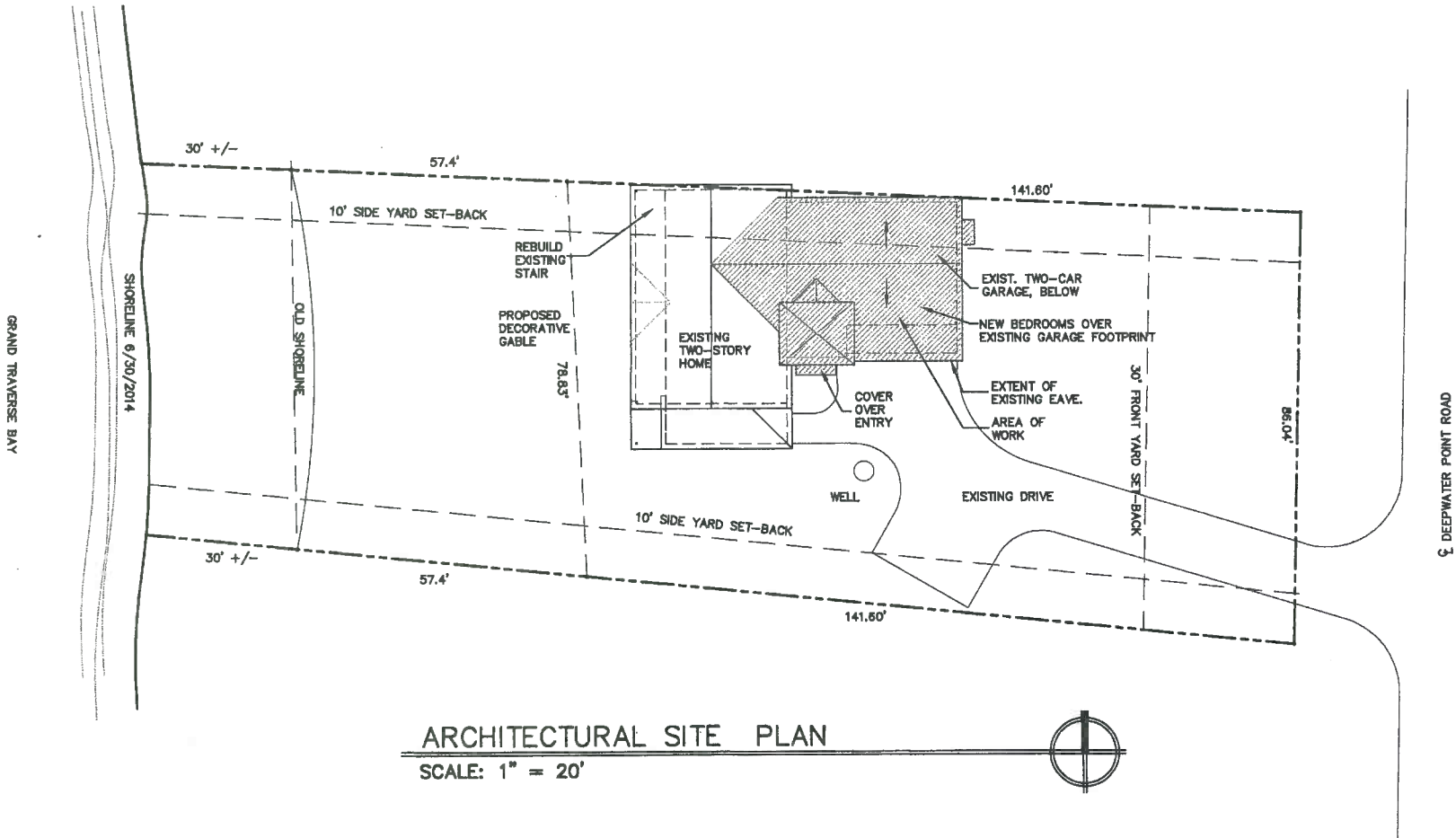
EXISTING ARCHITECTURAL SITE PLAN

SCALE: 1" = 20'



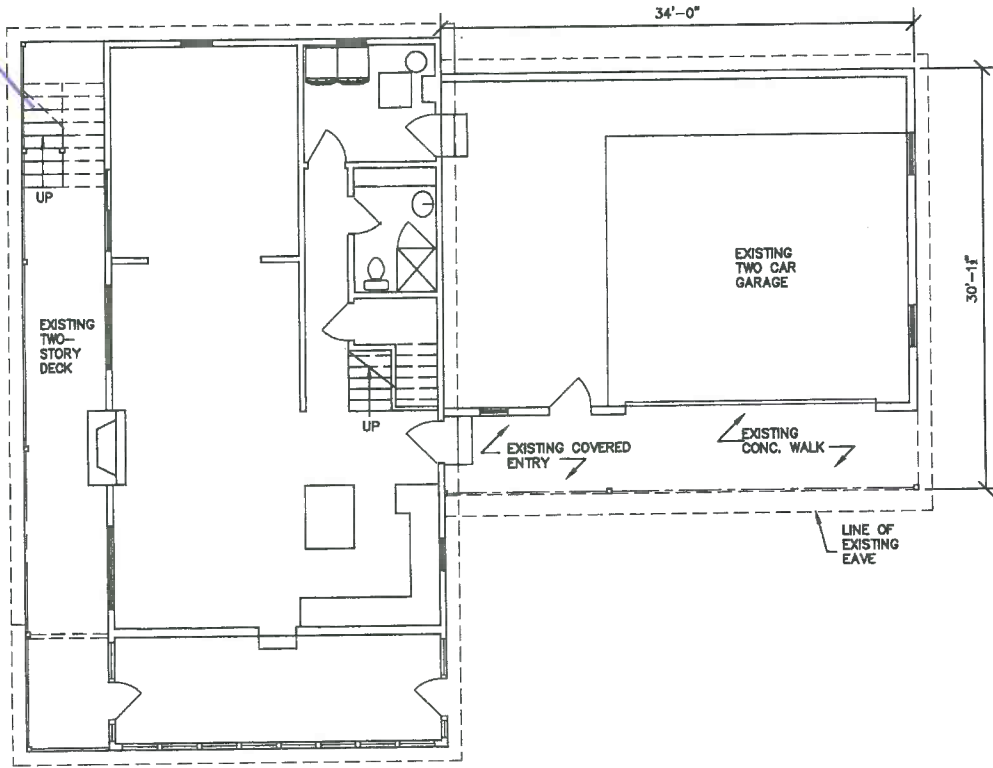
PROJECT BY:	NEW LEAF INTERIORS
SHEET NAME:	EXISTING CONDITIONS SITE PLAN
A RENOVATION PROJECT FOR:	TIM AND KARLY WENTZLOFF RESIDENCE
PROJECT NO:	WENTZLOFF
ADDRESS:	6697 DEEPWATER POINT
CITY:	WILLIAMSBURG, MICHIGAN 49690
DATE:	4-18-2014
SHEET NO:	S1

230 E 14TH STREET
TRAVERSE CITY, MICHIGAN
49686



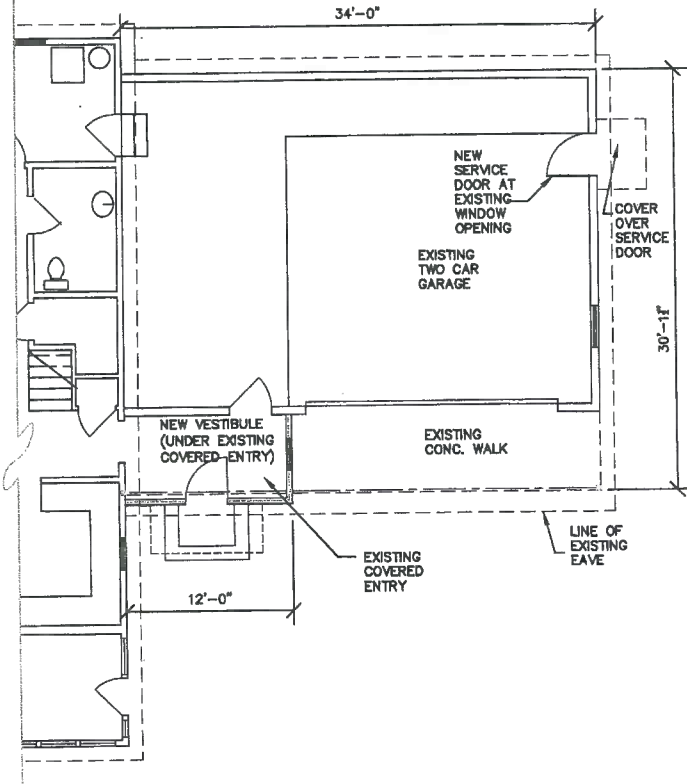
PROJECT NO.	NEW LEAF INTERIORS
SHEET NAME	ARCHITECTURAL SITE PLAN
A RENOVATION PROJECT FOR	TIM AND KARLY WENTZLOFF RESIDENCE
	6597 DEEPWATER POINT WILLIAMSBURG, MICHIGAN 49690
DATE	1-13-2014
SHEET NO.	S2
DATE	1-13-2014
SHEET NO.	S2
PROJECT NO.	NEW LEAF INTERIORS
	230 E 14TH STREET TRAVERSE CITY, MICHIGAN 49686

Existing stairs



EXISTING FLOOR PLAN

1/8" = 1'-0"

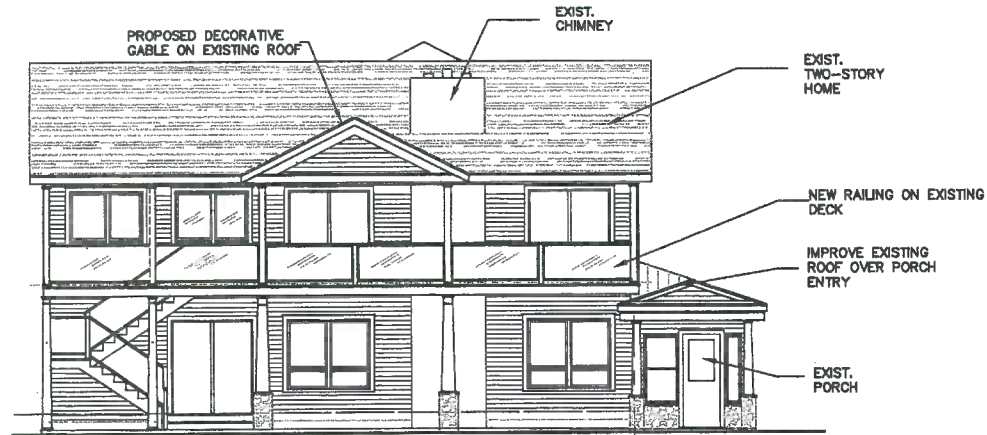


PROPOSED LOWER LEVEL PARTIAL FLOOR PLAN

1/8" = 1'-0"

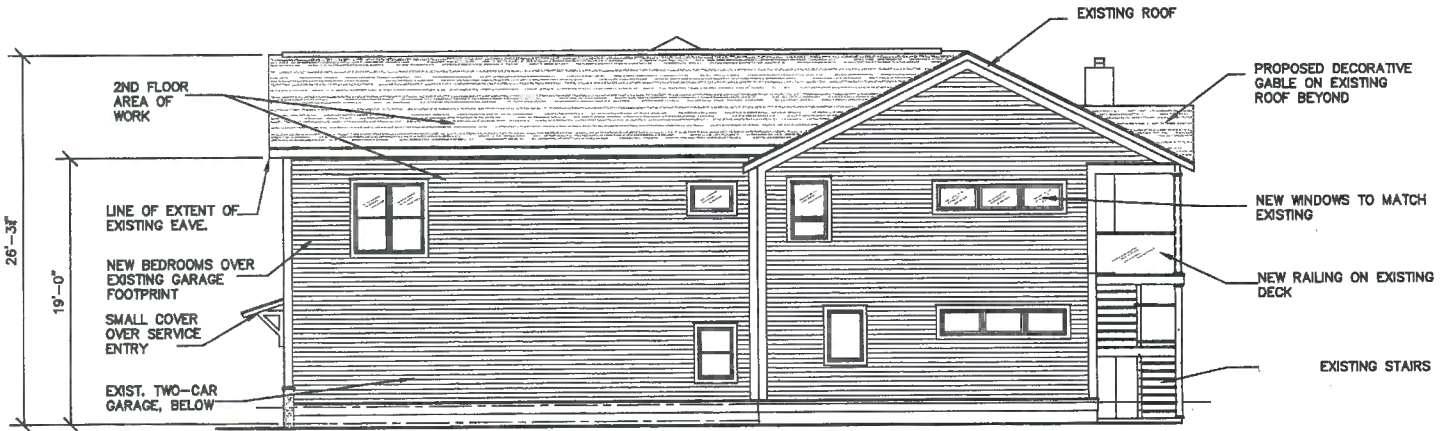


PROJECT NO.	NEW LEAF INTERIORS	49686
SHEET NAME	EXISTING FIRST FLOOR PLAN	
PROJECT NAME	TIM AND KARLY WENTZLOFF RESIDENCE	
PROJECT ADDRESS	230 E 14TH STREET	
PROJECT CITY	TRAVERSE CITY, MICHIGAN	
PROJECT PHONE	6597 DEEPWATER POINT	
PROJECT ZIP	WILLIAMSBURG, MICHIGAN 49690	
DATE	4-08-2014	
SHEET NO.	A1	



WEST ELEVATION

SCALE: 1/8" = 1'-0"



NORTH ELEVATION

SCALE: 1/8" = 1'-0"

PROJECT NO.	48686
PROJECT SITE	NEW LEAF INTERIORS 230 E 14TH STREET TRAVERSE CITY, MICHIGAN
SHEET NAME:	FLOOR PLAN ELEVATION FLOOR PLAN FLOOR PLAN
A RENOVATION PROJECT FOR:	TIM AND KARLY WENTZLOFF RESIDENCE DEEPWATER POINT WILLIAMSBURG, MICHIGAN 49690
PROJECT NO.	WENTZLOFF
SEA	<input type="checkbox"/>
CONSTRUCTION	<input type="checkbox"/>
FINAL RECORD	<input type="checkbox"/>
REVISIONS	
DATE:	4-18-2014
SHEET NO.	A4



ELEVATION STUDY -LAKE SIDE

1/8" = 1'-0"



ELEVATION STUDY -WEST

1/8" = 1'-0"

PROJECT NO. WENTZLOFF	SK
	DATE: 22 JULY 2014
PROJECT BY CFS FOR:	NEW LEAF INTERIORS
	230 E. FOURTEENTH STREET TRAVERSE CITY, MICHIGAN 49686
A RENOVATION AND ADDITION FOR:	TIM AND KARLY
	WENTZLOFF RESIDENCE
	DEEPWATER POINT ACME, MICHIGAN

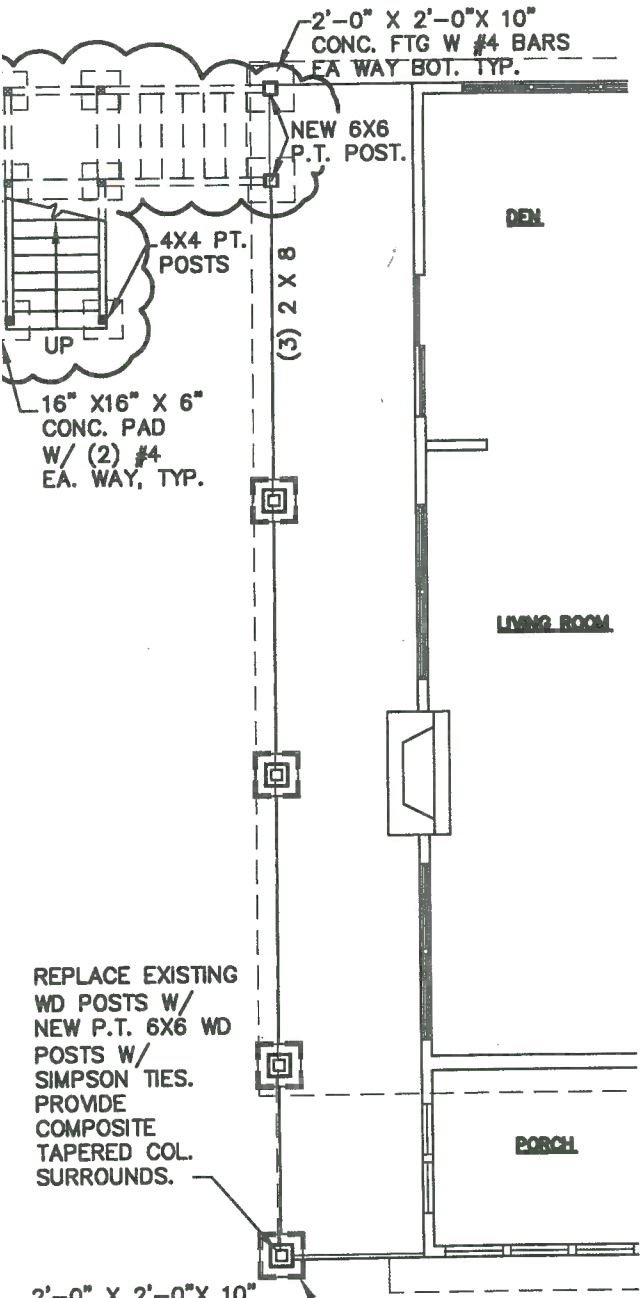


ELEVATION STUDY -
1/8" = 1'-0"



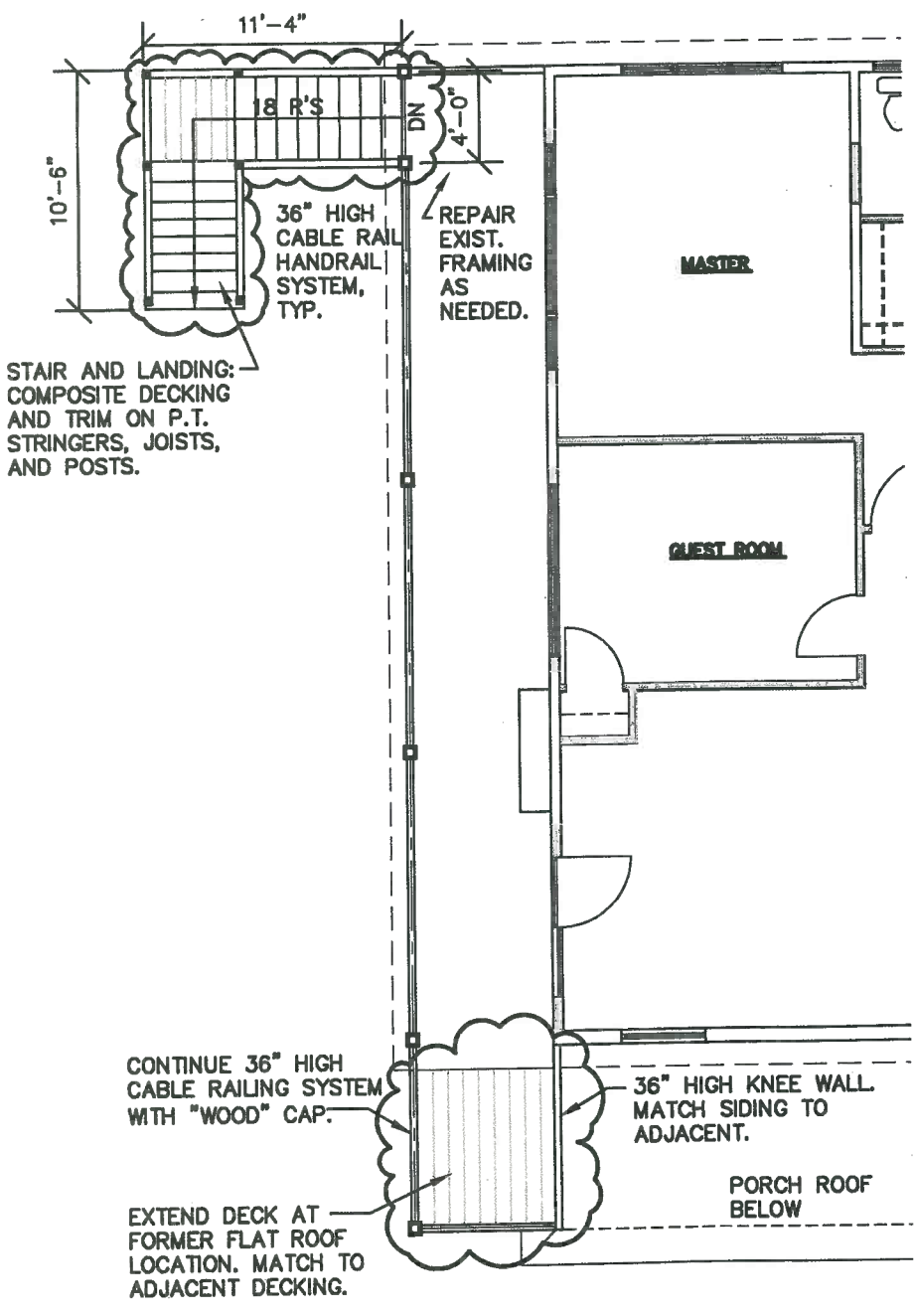
ELEVATION STUDY - WEST
1/8" = 1'-0"

PROJECT NO. WENTZLOFF	SK
	DATE: 29 JULY 2014
PROJECT BY OPS FOR: NEW LEAF INTERIORS	49686
	230 E. FOURTEENTH STREET TRAVERSE CITY, MICHIGAN
A RENOVATION AND ADDITION FOR: TIM AND KARLY	WENTZLOFF RESIDENCE
	DEEPWATER POINT ACME, MICHIGAN



PARTIAL PLAN -LOWER LEVEL DECK

1/8" = 1'-0"



PARTIAL PLAN -UPPER LEVEL DECK

1/8" = 1'-0"

PROJECT NO. WENTZLOFF	SD1
	DATE: 19 SEPT 2014
PROJECT BY CPS FOR: NEW LEAF INTERIORS	
230 E. FOURTEENTH STREET TRAVERSE CITY, MICHIGAN 49686	
A RENOVATION AND ADDITION FOR: TIM AND KARLY WENTZLOFF RESIDENCE DEEPWATER POINT ACME, MICHIGAN	

TOWNSHIP OF ACME
NOTICE OF HEARING

PLEASE TAKE NOTICE that the ACME TOWNSHIP Zoning Board of Appeals will hold a public hearing at a meeting on: October 9th, 2014 at 7:00 p.m. in the Acme Township Hall, Acme, Michigan to consider the following:

An application by: Doug Mansfield, Mansfield Land Use Consultants 830 Cottage View Dr. Traverse City, agent for Senior Care Facilities, (Waters Edge Assisted Living) located at 4612 US 31 N., Zoned B-2 General Business, for a variance from the requirements of Acme Township Zoning Ordinance; Article VI, Section: 6.12 Schedule of Regulations to add a deck partially within the rear set-back., pursuant to Article V; Section 5.4 Nonuse Variances.

The property is located at: 4612 US 31-N. Parcel #2801-109-029-00, more legally defined as: PARCEL I: THE S 130' OF THE N 713.50' OF THAT PART OF GOV'T LOT 3 SEC 9 T27N R10W LYING WE OF RR R/W AND PARCEL II: THAT PART OF GOV'T LOT 3 SECTION 9 T27N R10W COM AT INTERSECTION OF E'LY R/W OF US 31 WITH THE LINE 713.50' S AND PARALLEL TO N LINE OF SD GOV'T LOT 3 TH SW'LY ALONG SD R/W 100' TH E TO THE W RR R/W TH N'LY ALONG RR R/W TO A POINT E OF THE POB TH W TO POB

An application by: Karly Wentzloff of 6597 Deepwater Point Rd., zoned R-2 One Family Urban Residential, for a variance from the requirements of Acme Township Zoning Ordinance Article XV, Section 15.5 Non-Conforming Uses, extension of nonconforming use of structure to replace an exterior stairway partially within the north side required 10' set back.

The property is located at 6597 Deepwater Point Rd, Parcel # 2801-700-015-00, more legally defined as: LOT 15 & SLY 11' OF LOT 16 SUNSET PARK.

All interested persons are invited to attend and be heard at the public hearings before the Zoning Board of Appeals. After each public hearing, the Zoning Board of Appeals may make a decision at said meeting, or continue the matter to another date. In the case of hearings composed of multiple requests, the request may be granted or denied in whole or in part as to each individual request.

All applications may be inspected at the Acme Township Hall between 8:00 a.m. and 5:00 p.m. Monday through Friday, and will be made available via the Acme Township website at www.acmetownship.org prior to the hearing date. Comments and questions may be directed to:

Nikki Lennox- Zoning Administrator

nlennox@acmetownship.org

Acme Township Hall

6042 Acme Road

Williamsburg MI 49690

(231) 938-1350

WHITING SANDRA C TRUST
223 6TH ST
TRAVERSE CITY MI 49684

GARVEY LAUREN M
18834 LAKEVIEW CT
GROSSE PTE MI 48230

YOUSIF FAMILY TRUST
1707 CATHWAY WAY
SACRAMENTO CA 95864

DE MANIGOLD ALBERT JR TRUST
6533 DEEPWATER POINT RD
WILLIAMSBURG MI 49690

CORNER BRENDA E
MUNSEY LARRY A
6538 DEEPWATER POINT RD
WILLIAMSBURG MI 49690

KOZLOWSKI STANLEY & SUSAN
P O BOX 358
ACME MI 49610

SARRIS DIANNE L
6579 DEEPWATER POINT RD
WILLIAMSBURG MI 49690

MENOLD JOHN B & DIANE M
538 RIVERSIDE DR
PORTLAND MI 48875

WENTZLOFF TIMOTHY D & KARLY A
6597 DEEPWATER POINT RD
WILLIAMSBURG MI 49690

FORD THOMAS A & JACQUELYN C TRUST
1601 W SUNSET RD
TUCSON AZ 85704

MCDOWELL SEAN T & JENNIFER L
6620 DEEPWATER POINT RD
WILLIAMSBURG MI 49690

LYON ROGER W & BARBARA L
3515 SE CHARING CROSS LN
PORT ST LUCIE FL 34952

STANLEY JEFFREY S
6632 DEEPWATER POINT RD
WILLIAMSBURG MI 49690

CARR CHARLOTTE
6639 DEEPWATER POINT RD
WILLIAMSBURG MI 49690

RAYMER MARY ANNE
6652 DEEPWATER POINT RD
WILLIAMSBURG MI 49690

FOUCH FAMILY TRUST
FOUCH DONALD E
6850 STATE RD
EAST LANSING MI 48823

HARCOURT ROGER
6664 DEEPWATER POINT RD
WILLIAMSBURG MI 49690

**ACME TOWNSHIP
Zoning Board of Appeals**

July 23, 2014

Wednesday 7:00p.m.
Acme Township Hall
Acme, Michigan

Meeting called to Order at 7:02 p.m.

Members present: J. Kuncaitis (Chair), L. LaSusa, T. Forgette, L. Belcher
Members excused: J. Maitland
Staff present: N. Lennox; Zoning Administrator, Recording Secretary

1. Review and approval of the agenda, inquiry as to conflicts of interest: None

2. Correspondence: None

**2. Hearings: 2013-07Z Variance request for 4528 Five Mile Rd
Belcher reads notice in Record Eagle.**

Applicant Pamela and Roger Smith, 4528 Five Mile Rd. Applicant explains that their home is non-conforming on their property. They wish to add a second story above their home and existing front porch and add a 3 car attached garage which will be conforming. The 2nd story addition will attach to an existing nonconforming second story and attach to the second story over the new garage.

Public Comment Opened 7:16 p.m.: None, Closed: 7:17 p.m.

Motion by L. Belcher to allow an increase in nonconformity upwards, not outwards. Meets nonconforming conditions A and possibly B. (Sec.15.5, and Sec. 5.4.1 and 2, supported by LaSusa. Motion carries unanimously.

4. Approval of minutes from the June 12, 2014, meeting, Lennox discusses clarification of minutes to amend.

Motion by LaSusa to approve amended minutes

Comment by Brian Kelley to add his comments from that meeting.
Kuncaitis; Comments are regarding the Ann Arbor (TSC) store.

Motion by LaSusa to add Brian Kelley's comments "retroactively" to the June 12 minutes, supported by L. Belcher to approve the minutes of the June 12, 2014 with amendments and comments. Motion carries unanimously.

Board discussion regarding tracking of variances.

**Motion to Adjourn by LaSusa, second by Forgette. Motion carries.
ADJOURNED AT 7:45 pm**