

CASCO TOWNSHIP
ZONING BOARD OF APPEALS
Thursday March 19, 2020, 7 PM

1. **Call to Order, Roll Call:** Chairman Dave Hughes called the meeting to order at 7 PM. Present were: Chairman Dave Hughes, Secretary Sam Craig, Board Rep. Paul Macyauski, ZBA member Matt Super. Matt Hamlin was absent.
2. **Approval of agenda:** Election of officers and bylaws were postponed keeping meeting brief in effort to practice social distancing due to the Covid-19 virus.
3. **Approval of previous minutes:** Meeting was called to order by Chairman Hughes at 7:00 PM. A motion by Super, supported by Macyauski to approve minutes. All in favor. Minutes of December 30, 2019 approved as written.
4. **Public comment:** None
5. **New Business:**
 - a. **Election of officers:** Postponed
 - b. **Variance request Tonya Bower (Phillabaum), 1138 Orchard Lake Road, Syracuse IN 46567 (0302-180-146-10) side yard setback; request is for 3 feet of relief from the required 10' setback (Section 3.28B3b(6), to move dwelling away from eroding bluff.**
 1. **Open public hearing:** Chairman Hughes opened the public hearing at 7:07 PM. Olson Bros represented applicant.
 2. **Applicant explain request; ZA staff report:** A representative from Olson Brothers (contractor) explain the variance request in the property owner's absence. As best she knows the property was purchased recently, possibly February. The house is currently up on beams at the bluff and the applicant needs to get it moved quickly. The house was previously the old club house in 1930s. They need a side yard and front yard setback.
 3. **Correspondence:** None
 4. **Audience for / against comments:** Vince Zilkowski asked if the variance is passed and the home is moved, what happens to the bluff? Removing the hard concrete foundation could affect neighboring property. Zilkowski would like the neighbors or association to be notified what the plans are. The DEQ is urging people not to remove this from the bluff. It could be buried and seeded.
 5. **Any further discussion:** Macyauski said the applicant has met every point on the application (attachment #1). He added, "Do not disturb the bluff. Cover and seed the foundation".

6. **Close public hearing:** The public portion of the meeting was closed for deliberation at 6:10 PM.
- c. **Discussion / decision of variance request:** Chairman Hughes said this is a legal nonconforming lot. A motion by Super, supported by Craig to grant the variances. All in favor. The request for a 3' side lot setback was approved.
- d. **Variance request Lotak Trust, 1140 Edgewater Terrace 0302-180-146-00** side yard setback; request is for 5 feet of relief from the required 10' side yard setback (Section 3.28B3b[6]), to move dwelling from side yard setback; the second request is for 13 feet of relief from the required 25' front setback (3.28 B3b[4]), to move dwelling away from the bluff.

Open public hearing at 6:13 PM Vince Ziolkowski represented the homeowners. Zoning administrator Smalley said that since the request was published in the South Haven Tribune stating the variance request was for a 13' front yard setback (lake shore side), a survey has been done and determined the need for a variance is 18'. Due to the emergent nature of getting the house moved, Smalley recommended going forward with the hearing for an 18' variance. Smalley will notify the attorney of the reason for moving forward with the request and see if she needs to take further action due to the change in the request. (emergent nature is due to the danger of the house falling over the bluff, and the fact that the US is dealing with the Covid-19 Pandemic and rescheduling the hearing could be difficult in a timely manner)

1. **Applicant explain request; ZA staff report:** Vince Zilokowski said the side yard variance request is still 5'. Scotts, property owner to the south were present and added to the history of Lotaks property.
2. **Correspondence:** None
3. **Audience for / against comments:** none
4. **Any further discussion:** None
5. **Close public hearing:** The public portion of the meeting was closed at 7:18 PM

Super said because the property is eroding and in effort to save the house he made a motion to grant the variance requests. Motion supported by Craig. All in favor. Variances granted.

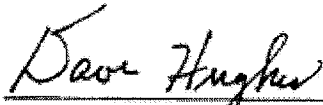
6. **Old Business**
 - a. **Discuss by-laws:** Tabled
 - b. **Anything else that may come before the ZBA:** Nothing
6. **Public Comment:** none

7. Adjournment: 7:20.

Attachment #1: Bower (Phillabaum) application

Attachment #2: Gail Lotak Trust application

Minutes prepared by Janet Chambers, Recording Secretary



Dave Hughes, ZBA Chairman



Sam Craig, ZBA Secretary

3-19-20

Date

3/19/20

Date

CASCO TOWNSHIP

ZONING BOARD OF APPEALS

Thursday March 19, 2020 7:00PM

Casco Township Hall

1. Call to Order, Roll Call
2. Approval of agenda
3. Approval of previous minutes
4. Public comment
5. New Business
 - a. Election of officers
 - b. Variance request Tonya Bower (Phillabaum) 1138 Orchard Lake Road
0302-180-146-10 side yard setback; request is for 3 feet of relief to move dwelling away from eroding bluff
 1. open public hearing
 2. Applicant explain request; ZA staff report
 3. correspondence
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 6. close public hearing
 - c. Discussion / decision of variance request
 - d. Variance request Lotak Trust 1140 Edgewater Terrace
0302-180-146-00 side yard setback; request is for 5 feet of relief to move dwelling away from bluff and front setback; request for 13 feet of relief
 7. open public hearing
 8. Applicant explain request; ZA staff report
 9. correspondence
 10. audience for / against comments
 11. any further discussion
 12. close public hearing
 - e. Discussion / decision of variance request
6. Old Business
 - a. Discuss by-laws
 - b. anything else that may come before the ZBA
7. Public comment
8. Adjournment

CASCO TOWNSHIP, ALLEGAN COUNTY
NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Zoning Board of Appeals of Casco Township will conduct a public hearing and regular meeting concerning the following matters on Thursday, March 19, 2020 at 7:00 p.m. at the Casco Township Hall, 7104 107th Ave, South Haven, MI 49090, within the Township.

PLEASE TAKE FURTHER NOTICE that the items to be considered at said public hearing include the following:

Tonya Brower (Phillabaum) of Syracuse IN has petitioned for a dimensional variance at 1138 Orchard Lake Rd (0302-180-146-10) to move existing dwelling. The request is for 3 feet of relief from required 10 feet side yard setback.

Gail and William Lotak Trust of South Haven MI have petitioned for two dimensional variances at 1140 Edgewater (0302-180-146-00) to move existing dwelling. 1st request is for 5 feet of relief from required 10 feet side yard setback. 2nd request is for 13 feet of relief from required 25 feet front yard setback.

Any other business that may come before the zoning board of appeals

PLEASE TAKE FURTHER NOTICE that the application packets can be reviewed at the Township Hall during regular business hours of regular business days at 7104 107th Ave, South Haven.

PLEASE TAKE FURTHER NOTICE that written comments will be received from any interested person concerning the foregoing by the Township Clerk at the address set forth below, during regular business hours of regular business days or by mail to the Township Clerk at the address set forth below, up to the date of the hearing and will also be received by the Zoning Board of Appeals at the hearing.

Casco Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities at the hearing upon seven (7) days notice to the Casco Township Clerk. Individuals with disabilities requiring auxiliary services should contact the Casco Township Clerk at the address or telephone number listed below.

Cheryl Brenner
Casco Township Clerk
7104 107th Ave, South Haven MI 49090
269-637-4441

Tasha Smalley
Zoning Administrator
1-800-626-5964

Memorandum: Casco Township Zoning Board of Appeals
Date: February 19, 2020
From: Tasha Smalley, Zoning Administrator
RE: STAFF REPORT - Variance request – side yard variance

Meeting date: Thursday, March 19, 2020 7:00PM

Owner: Tonya Bower (Phillabaum)
Mailing Address: 3473 E 1100, Syracuse IN 46567

Subject Property: 1138 Orchard Lake Road
Off Blue Star Hwy, 111th Ave - Glenn Shores
Parcel #: 0302-180-146-10

*Minimize earth
move by Blubb*

Representative: Olson Brothers Contractors

LDR- Low Density Residential District
8.03 District Regulations

Minimum lot area – 20,000 sq ft / s&w 10,000 sq ft
Minimum lot width – 100 feet / s&w 85 ft
Front setback – 50 feet / w&s 30 ft
Side setback – 25 feet / w&s 15 ft
Rear setback – 40 feet
Maximum building height 35 feet

3.28 Non-Conforming Lots, Uses or Structures

B3b Lot width 60 ft
Lot depth 100 ft
Lot coverage – 25% (will not exceed 25%)
Front 25 ft
Rear 20 ft
Side 10 ft

3.28D1c – Should a nonconforming building be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zoning district.

Analysis

Property 0302-180-146-10 is a legal pre-existing non-conforming lot of record
Lot area: 98x123 approx 12,000 sq ft

Emergency house move due to bluff erosion

Front setback – 25 feet

North side setback – 10 feet

**South side setback – 7 feet

Lake side setback – 100+ feet

Applicant is requesting a side setback variance from Section 3.28B3b(6) to move existing home away from eroding bluff. Home will be moved as is. Request is for 3 feet of relief from required 10 feet side setback requirement.

Fee Waived
Twp Board
Feb 2020

Casco Township Zoning Board of Appeals

7104 107th Ave., South Haven, MI 49090 Zoning Administrator: 269-673-3239

Application to the Zoning Board of Appeals to authorize a variance from the requirements of the Zoning Ordinance.

To the Zoning Board of Appeals: Request is hereby made for permission to:

Extend:	Use:
Erect:	Convert:
Alter: <u>Move house</u>	Parcel #: <u>03-02-180-146-10</u>

legal description
↙

Contrary to the requirements of Section(s) 3.2836 b of the Zoning Ordinance, upon the premises known as 1138 Orchard Lake Road and described as:

THE N 98' OF S 188' OF LOT 146 DETER - MINED BY MEASURING ALG A LIN PERP TO THE S'LY LIN OF SD LOT AND BOUNDED ON THE N'LY SIDE BY A LIN PLI WITH S'LY LIN OF SD LOT GLENN SHORES PLAT SEC 6 T1N R16W (88)

The following is a description of the proposed use:

Name of Applicant (if different from the owner) Olson Brothers Contractors
 Address 829 Chambers St; PO Box 310 Phone 269-637-4494
 City South Haven State MI Zip 49090
 Email kristinobc@frontier.com

Interest of Applicant in the premises:

Name of Owner(s) Tonya Bowser (Phillabaum)
 Address 3473 E 1100 Phone 574-518-4504
 City Syracuse State IN Zip 46567
 Email tonyabowser5@gmail.com
 Approximate property dimensions, size approx. 98' x 115'
 Proposed use of building and/or premises residential house
 Present use of building and/or premises residential house
 Size of proposed building or addition to existing building, including height n/a
 Has the building official refused a permit? no

If there has been any previous appeal involving the premises; state the date of filing, nature of the appeal and disposition of same. (use separate sheet)

n/a

Since a variance cannot be authorized by the Board of Appeals unless it finds reasonable evidence that all of the following conditions exist, it is imperative that you give information to show that these facts and conditions do exist. (Reference Section 20.08 of the Zoning Ordinance for additional requirements).

1. Granting the variance will not be contrary to the public interest and will ensure that the spirit of the Ordinance is observed.

The existing house is currently constructed outside of the side yard setback line. We are not asking for any additional encroachment onto the property line, only permission to move it forward.

2. The variance is being granted with a full understanding of the property history.

The property has lost a detrimental amount of lake bank that is now compromising the safety of the structure.

3. Granting the variance will not cause a substantial detriment to property or improvements in the vicinity or in the district in which the subject property is located.

No additions or alterations to the structure are being requested - only to move the house forward to the front yard setback line.

4. The variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for those conditions reasonably practical.

Uncontrollable circumstances of high water levels and an eroding lake bank have caused a significant amount of property to be lost, compromising the safety of the structure.

5. That there are practical difficulties in the way of carrying out the strict letter of these regulations which are caused by exceptional or extraordinary circumstances or conditions applying to the property involved, or to the intended use of property, that do not generally apply to other property or uses in the vicinity in the same zoning district. Exceptional or extraordinary circumstances include any of the following:

- a. Exceptional narrowness, shallowness or shape of a specific property on the date of this ordinance.
- b. Exceptional topographical conditions.
- c. By reason of the use or development of the property immediately adjoining the property in question.
- (d.) Any other physical situation on the land, building or structure deemed by the ZBA to be extraordinary.

Sudden, significant lost lake bank caused by the high water levels and severe erosion.

6. That granting the variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.

Without this variance the owner may have

to demolish the existing house as it is in danger of falling into Lake Michigan.

7. That the variance is not necessitated as a result of any action or inaction of the applicant.

This variance is being requested due to circumstances out of the owner's control - high water levels + significant erosion.

8. The variance if granted, would be the minimum departure necessary to afford relief.

The variance, if granted, will allow the homeowner to move her house into safety without having to alter/demo a section of the house in order for it to fit within

9. If involving a platted subdivision, that there is no practical possibility of obtaining more land and ^{the setbacks,} the proposed use cannot be located on the lot such that the minimum requirements are met.

There is no additional property available on either side of the structure.

Signature of Applicant & Owners (all owners must sign)

(Signature) (OBC)

(see agent authorization form)

Date 02/18/2020

Note: Incomplete applications will be returned

Tonya Bowser (Phillabaum)
1138 Orchard Lake Road
South Haven, Michigan 49090

February 6, 2020

Olson Brothers Contractors
829 Chambers Street
South Haven, Michigan 49090

Subject: Agent Authorization

I, Tonya Bowser (Phillabaum), authorize Olson Brothers Contractors to act as our agent for all matters concerning preparing, revising and submitting the permits pertaining to the project at parcel 03-02-180-146-10 (address: 1138 Orchard Lake Road, South Haven, Michigan), in Casco Township, Allegan, Michigan.



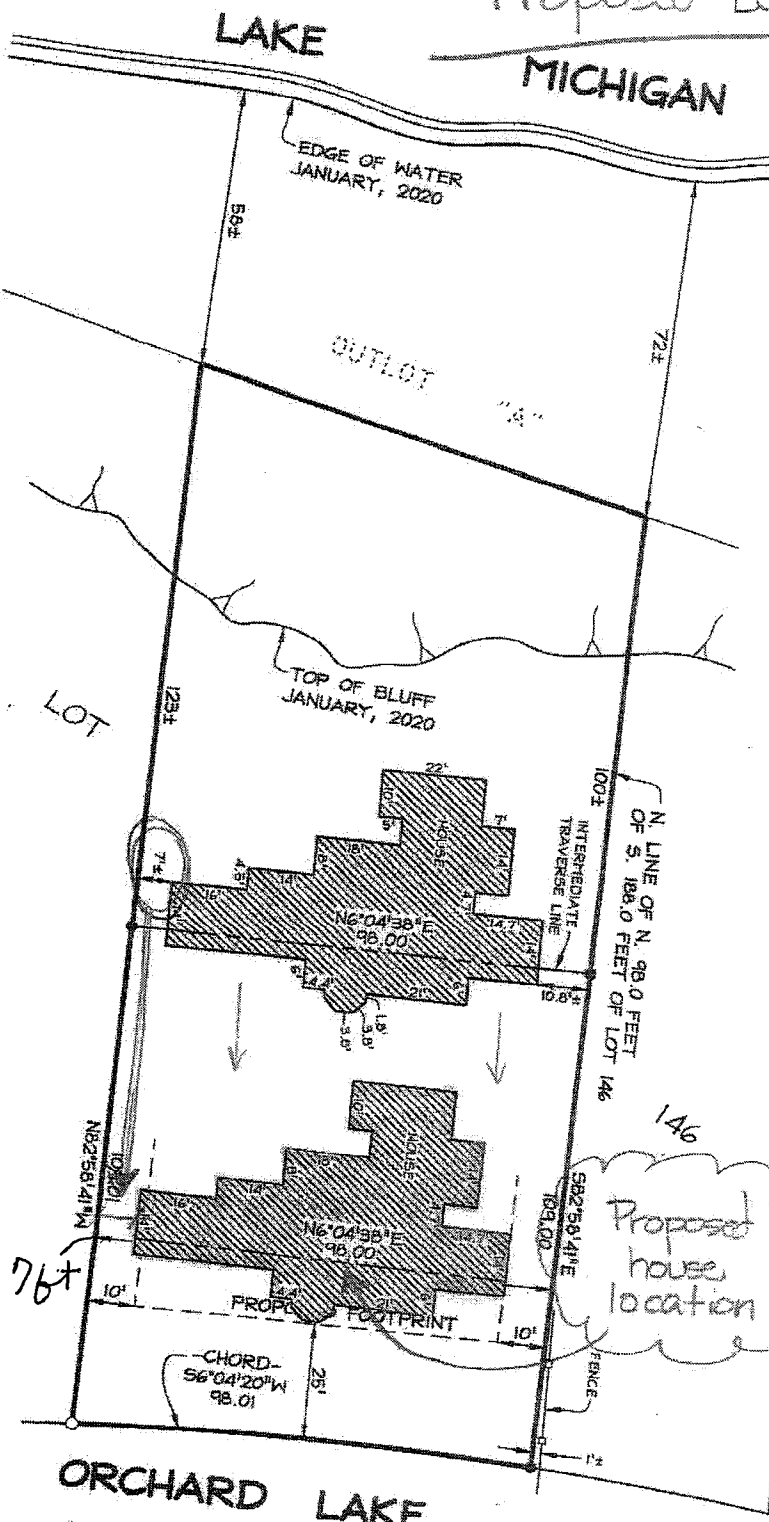
Tonya Bowser (Phillabaum)

Proposed Location

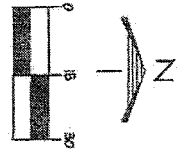
MICHIGAN PLAT OF SURVEY

SEE SHEET 2 FOR DESCRIPTION

BEECHWOOD AVE.



DRIVE



SURVEY NOTES:
 1.) THE RELATIVE POSITIONAL PRECISION OF EACH CORNER IS WITHIN THE LIMITS ACCEPTED BY THE PRACTICE OF PROFESSIONAL SURVEYING.
 2.) BEARINGS ARE REFERENCED TO PREVIOUS SURVEYS IN THE AREA.
 3.) THE INFORMATION SHOWN ON THIS DRAWING IS INTENDED FOR THE ENTITIES AND/OR INDIVIDUALS NAMED IN THE CERTIFICATION. ANY REUSE WITHOUT WRITTEN VERIFICATION AND ADAPTATION BY THE LAND SURVEYOR FOR THE SPECIFIC PURPOSE INTENDED WILL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY OR LEGAL EXPOSURE TO THE LAND SURVEYOR.

LEGEND

FOUND IRON	○
BEY IRON	⊙
MONUMENT	●
RECORDED	— R —
MEASURED	— M —
PLATTED	— P —
DRAWN	— D —

OWN BY J. MITCHELL SCALE 1"=50'
 CK BY _____ DESG. BY _____ CK BY _____
 BOOK _____ FILE _____ PAGE _____ FILE _____ REV _____

The above survey complies with public act 132 of 1970, Act 258 of Michigan public acts of 1987 as amended by public act 591 of 1987 should be checked to see that any property conveyance does not violate that act.

MITCHELL & MORSE LAND SURVEYING
 A DIVISION OF MITCHELL SURVEYS, INC.
 294 VETERANS BLVD.
 SOUTH HAVEN, MICHIGAN 49090
 OFFICE: (269) 637-1107
 FAX: (269) 637-1907

CLIENT MARK PHILLBAUM & TONYA BOWSER
 DATE 2-11-2020 JOB NO. 20-158 SHEET 1 OF 2
 BEING IN THE NW 1/4 SEC. 8 T. 1 N. R. 18 W.
 CASCO TWP. ALLEGAN CO. MICHIGAN

Memorandum: Casco Township Zoning Board of Appeals
Date: February 19, 2020
From: Tasha Smalley, Zoning Administrator
RE: STAFF REPORT - Variance request – front & side yard variance

Meeting date: Thursday, March 19, 2020 7:00PM

Owner: Gail Lotak Trust
Mailing Address: 1140 Orchard Lake Dr, South Haven MI 49090

Subject Property: 1140 Edgewater
Off Blue Star Hwy, 111th Ave - Glenn Shores
Parcel #: 0302-180-146-00

LDR- Low Density Residential District

8.03 District Regulations

Minimum lot area – 20,000 sq ft / s&w 10,000 sq ft
Minimum lot width – 100 feet / s&w 85 ft
Front setback – 50 feet / w&s 30 ft
Side setback – 25 feet / w&s 15 ft
Rear setback – 40 feet
Maximum building height 35 feet

3.28 Non-Conforming Lots, Uses or Structures

B3b Lot width 60 ft

Lot depth 100 ft

Lot coverage – 25% (will not exceed 25%)

Front 25 ft

Rear 20 ft

Side 10 ft

3.28D1c – Should a nonconforming building be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zoning district.

Analysis

Property 0302-180-146-00 is a legal pre-existing non-conforming lot of record

Lot area: 52x208 approx 10,800 sq ft

Emergency house move due to bluff erosion

Front setback

Edgewater – 12 feet

Orchard Lake Dr – 25+ feet

South side setback – 5 feet

Lake side setback – 100+ feet

Applicant is requesting a side setback variance from Section 3.28B3b(4&6) to move existing home away from eroding bluff. Home will be moved as is. Request is for 13 feet of relief from required 25 feet front setback requirement and 5 feet of relief from required 10 feet side setback.

Casco Township Zoning Board of Appeals

7104 107th Ave., South Haven, MI 49090 Zoning Administrator: 269-673-3239

Application to the Zoning Board of Appeals to authorize a variance from the requirements of the Zoning Ordinance.

To the Zoning Board of Appeals: Request is hereby made for permission to:

Extend:	Use:
Erect:	Convert:
Alter: <u>move house</u>	Parcel #: <u>02-180-146-00</u>

Contrary to the requirements of Section(s) 3.28 B3D-#4446 of the Zoning Ordinance, upon the premises known as 1140 EDGEWATER TERRACE and described as: SEE ATTACHED (attach legal description)

The following is a description of the proposed use:

Name of Applicant (if different from the owner) _____

Address _____ Phone _____

City _____ State _____ Zip _____

Email _____

Interest of Applicant in the premises:

Name of Owner(s) GAIL AMMON LOTAK / LOTAK TRUST NO 1

Address 1140 EDGEWATER TERRACE Phone 219-614-7772

City SOUTH HAVEN State MI Zip 49090

Email GLOTAK@SBCGLOBAL.NET

Approximate property dimensions, size 51'4" X 208'6"

Proposed use of building and/or premises Single family home

Present use of building and/or premises " " "

Size of proposed building or addition to existing building, including height 34.8' X 42'

Has the building official refused a permit? no

If there has been any previous appeal involving the premises, state the date of filing, nature of the appeal and disposition of same. (use separate sheet)

Since a variance cannot be authorized by the Board of Appeals unless it finds reasonable evidence that all of the following conditions exist, it is imperative that you give information to show that these facts and conditions do exist. (Reference Section 20.08 of the Zoning Ordinance for additional requirements).

1. Granting the variance will not be contrary to the public interest and will ensure that the spirit of the Ordinance is observed.

Yes. The house will just be closer to Orchard Lake Drive. Our neighbors to the south in OR will be.

2. The variance is being granted with a full understanding of the property history.

Yes. My parents bought this property in the late 1960's. My father built this house in 1987-8.

3. Granting the variance will not cause a substantial detriment to property or improvements in the vicinity or in the district in which the subject property is located.

Yes. The request is just to move the original house away from the lake.

4. The variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for those conditions reasonably practical.

Yes as our property narrows on the east side to 52.8 feet

5. That there are practical difficulties in the way of carrying out the strict letter of these regulations which are caused by exceptional or extraordinary circumstances or conditions applying to the property involved, or to the intended use of property, that do not generally apply to other property or uses in the vicinity in the same zoning district. Exceptional or extraordinary circumstances include any of the following:

- a. Exceptional narrowness, shallowness or shape of a specific property on the date of this ordinance.
- b. Exceptional topographical conditions.
- c. By reason of the use or development of the property immediately adjoining the property in question.
- d. Any other physical situation on the land, building or structure deemed by the ZBA to be extraordinary.

Our property narrows due to Edgewater Terrace which is the reason for this variance application.

6. That granting the variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district.

Yes as this house is very close to the lake

and may drop into the lake very soon.

7. That the variance is not necessitated as a result of any action or inaction of the applicant.

Yes, the variance is not necessitated as a result of any action or inaction of the applicant.

8. The variance if granted, would be the minimum departure necessary to afford relief.

Yes, it would be the minimum departure necessary to afford relief.

9. If involving a platted subdivision, that there is no practical possibility of obtaining more land and the proposed use cannot be located on the lot such that the minimum requirements are met.

Yes, there is no practical possibility of obtaining more land.

Signature of Applicant & Owners (all owners must sign) Neil Amman Lotak

Date 2/26/2020

Note: Incomplete applications will be returned

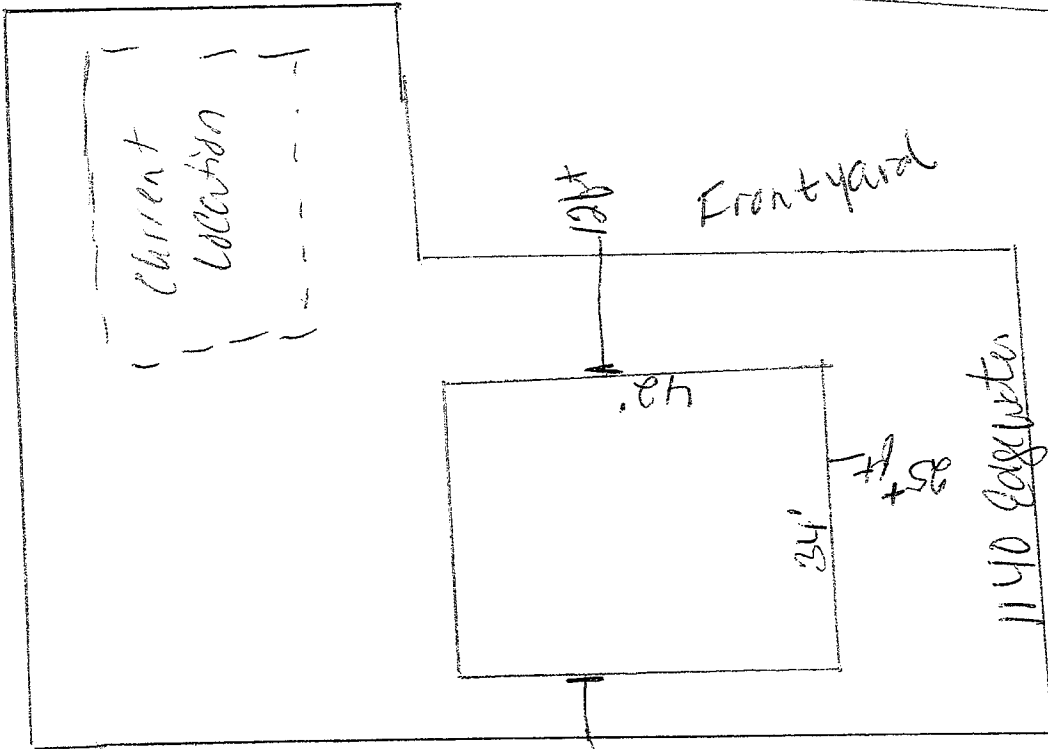


1144

easement

EdgeWaters

Lake Michigan

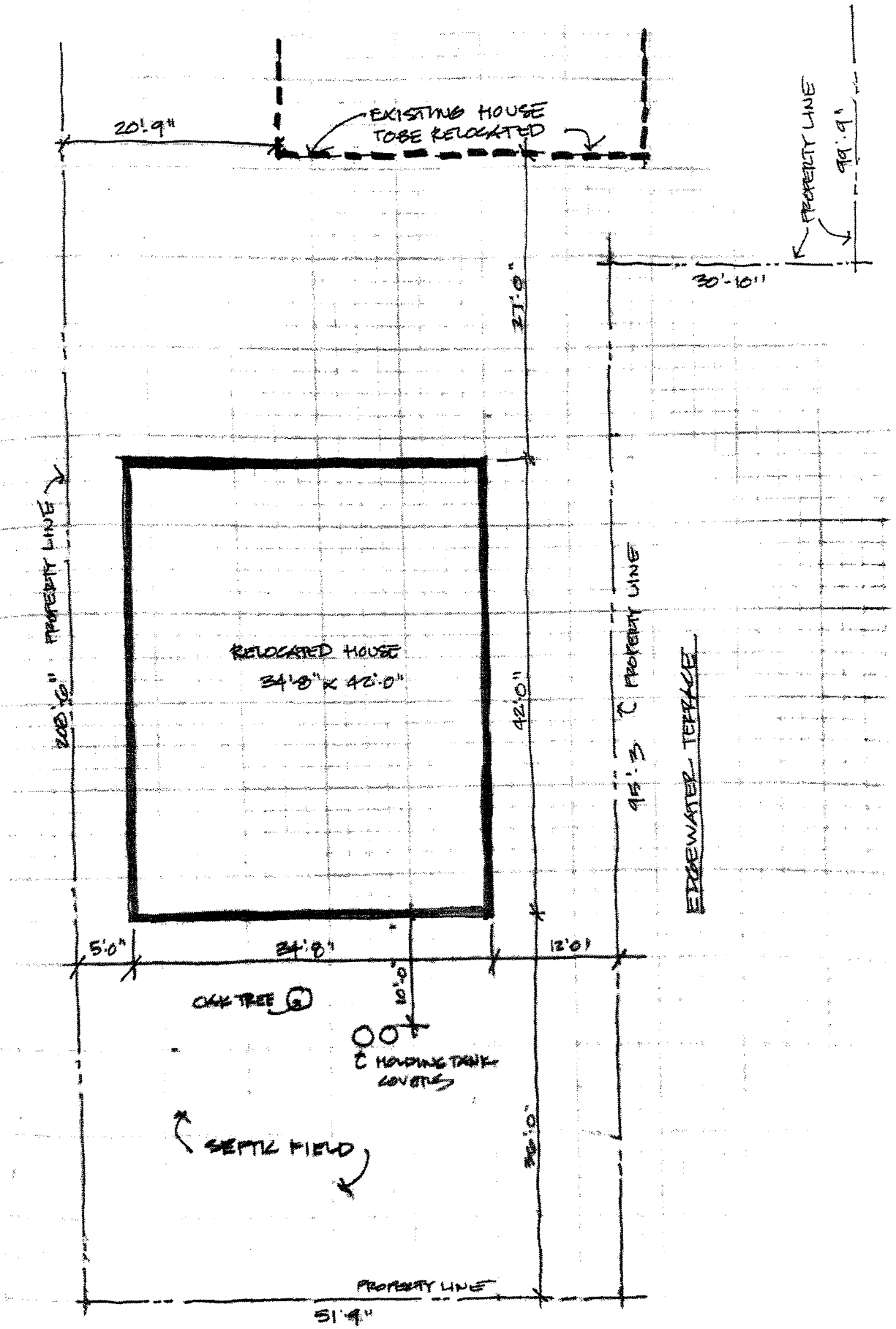


Orchard Lake On

1138

5ft Side yard

Not to Scale



ORCHARD LAKE DRIVE

LOTACK RESIDENCE
 1/8" = 1'-0"