#### CHARTER TOWNSHIP OF VAN BUREN BOARD OF ZONING APPEALS AGENDA Tuesday, May 9, 2023 – 7:00 PM Van Buren Township Hall Board Room 46425 Tyler Road

Per guidance provided by the Wayne County Local Public Health Department for meetings of governmental bodies held under public act 228 of 2020, effective January 1, 2022, the following Zoom link is provided to enable remote participation in a meeting of the public body by the general public:

Please click the link below to join the webinar: https://us06web.zoom.us/j/89388723714 Or One tap mobile: +13017158592,,89388723714# US (Washington DC) Or Telephone: Dial: US: +1 301 715 8592 Webinar ID: 893 8872 3714 International numbers available: https://us06web.zoom.us/u/kcaczfGuVq **CALL TO ORDER PLEDGE OF ALLEGIANCE ROLL CALL** BZA Chair John Herman Planning Commission Alt. Brian Cullin BZA Vice-Chair Amos Grissett **Recording Secretary Brittney Williams** BZA Member / Trustee Kevin Martin **Director Dan Power** BZA Member John Haase **BZA Member Aaron Sellers** Planning Commission Rep. Jeffrey S. Jahr \_\_\_ BZA Alternate Member Charles Larocque\_\_\_ **ACCEPTANCE OF AGENDA APPROVAL OF MINUTES:** Approval of minutes from April 11, 2023 **CORRESPONDENCE** PUBLIC HEARING (new business items)

#### 1. Case Number: 22-056 - Belleville Yacht Club

**UNFINISHED BUSINESS** 

**Location**: Township Lake Property adjacent to 831 East Huron River Drive (Parcel ID# 83 088 99 0005 000), zoned Belleville Lake Shoreline District B – Non-Single Family Residential (BLB). *Adjacent property at 831 East Huron River Drive is zoned R-1C – Single Family Residential District.* 

**Request:** A request for exception, modification, or appeal by Belleville Yacht Club to install two (2) dock structures each with a length not to exceed 85.3 feet, as revised from a previous request with proposed lengths not to exceed 120 feet, subject to approval by the State of Michigan, in contrast to the requirements of Section 3.120(D)(5) of the Van Buren Township Zoning Ordinance which limits the dock

length to 40 feet into Belleville Lake, measured perpendicularly from the shoreline, unless greater length is necessary to reach water with a depth of three feet. The subject site is Township Lake Property adjacent to 831 East Huron River Drive (parcel ID number 83 088 99 0005 000), on the north side of East Huron River Drive between Loza Lane and Evelyn Court. The site is zoned Belleville Lake Shoreline District B – Non-Single Family Residential (BLB). The request will be reviewed by the BZA per the requirements of Section 3.120(F)(7) of the Van Buren Township Zoning Ordinance.

- A. Presentation by Township Staff.
- B. Presentation by the Applicant.
- C. Board of Zoning Appeals Discussion.
- D. Board of Zoning Appeals Action.

#### **NEW BUSINESS**

ANNOUNCEMENTS, COMMENTS, AND OPEN DISCUSSION

**ADJOURNMENT** 

#### CHARTER TOWNSHIP OF VAN BUREN BOARD OF ZONING APPEALS AGENDA Tuesday, April 11, 2023 – 7:00 PM Van Buren Township Hall Board Room 46425 Tyler Road

Per guidance provided by the Wayne County Local Public Health Department for meetings of governmental bodies held under public act 228 of 2020, effective January 1, 2022, the following Zoom link is provided to enable remote participation in a meeting of the public body by the general public:

#### **CALL TO ORDER**

This meeting was called to order at 7:02pm by Chairperson John Herman

#### **PLEDGE OF ALLEGIANCE**

#### **ROLL CALL**

**Present:** John Herman (Chair), Amos Grissett, John Haase, Kevin Martin, Jeff Jahr (Planning Commission Rep.)

**Absent Excused:** Charles Larocque, Aaron Sellers

Staff: Dan Power (Director of Planning & Economic Development), Brittney Williams (Recording Secretary)

#### **ACCEPTANCE OF AGENDA**

Haase motioned; Grissett seconded to accept the Agenda as presented. Motion Carried

#### **APPROVAL OF MINUTES:**

Jahr made a clarification on the minutes from March 14, 2023.

Haase motioned; Martin seconded to accept the clarified meeting minutes from March 14, 2023. **Motion Carried** 

#### **CORRESPONDENCE** None

#### **PUBLIC HEARING (new business items)**

#### 1. Case Number: 23-014 - Dimensional (height) variance - Lawrence Zelanka / 13125 Ormond Drive

**Request**: Request for a dimensional variance by Lawrence Zelanka to construct a 2.5 story home that is approximately 29.6 feet tall. The subject property is located at 13125 Ormond Drive (tax parcel ID 83 080 01 0059 000), located on the east side of Ormond Drive, between Edgar Avenue and Ellen Avenue. The property is zoned R-1B — Single Family Residential District. The request is contrary to the requirements of Section 3.106(D) of the Zoning Ordinance as described below:

- Section 3.106(D) R-1A, R-2A, R-1B, and R-1C, Single-Family Residential Districts Dimensional Regulations
  - Maximum allowable height: 30.0 feet or 2.0 stories, whichever is more restrictive per Section 1.106 of the Van Buren Township Zoning Ordinance.
  - Proposed height (feet): Approximately and not to exceed 30 feet
  - o Proposed height (stories): 2.5
  - Variance requested: 0.5 stories

Jahr motioned; Grissett seconded to open public hearing. Motion Carried

#### Opened to public comment:

- Tim Savas at 13141 Ormond Drive: 3 years ago, came before this board and the shed needed to be removed before Mr. Zelanka received a building permit, the structure is still up. Please look into having him take it down. Would like to see plans that Mr. Zelanka gave to his neighbors but not to Mr. Savas.
- Lenore Razo at 13132 Ormond Drive: Lived here almost 24 years, Larry is very deserving of building this dream home. Has no problem with this being built and this will be an asset to this neighborhood.

Grissett motioned; Haase seconded to close public hearing. Motion Carried

#### **UNFINISHED BUSINESS None**

#### **NEW BUSINESS**

#### 1. Case Number: 23-014 - Dimensional (height) variance - Lawrence Zelanka / 13125 Ormond Drive

**Request**: Request for a dimensional variance by Lawrence Zelanka to construct a 2.5 story home that is approximately 29.6 feet tall. The subject property is located at 13125 Ormond Drive (tax parcel ID 83 080 01 0059 000), located on the east side of Ormond Drive, between Edgar Avenue and Ellen Avenue. The property is zoned R-1B – Single Family Residential District. The request is contrary to the requirements of Section 3.106(D) of the Zoning Ordinance as described below:

- Section 3.106(D) R-1A, R-2A, R-1B, and R-1C, Single-Family Residential Districts Dimensional Regulations
  - Maximum allowable height: 30.0 feet or 2.0 stories, whichever is more restrictive per Section
     1.106 of the Van Buren Township Zoning Ordinance.
  - Proposed height (feet): Approximately and not to exceed 30 feet
  - Proposed height (stories): 2.5
  - Variance requested: 0.5 stories

Director Power summarized letter dated April 5, 2023. Director Power recommended for the BZA to consider granting the requested variance, they will need to conclude that there are positive findings for all four (4) "practical difficulty" criteria and all seven (7) listed standards of approval. If the BZA agrees that these criteria have been met relative to this case, the variance may be granted, on the condition that the applicant will work with staff to ensure the proposed dwelling meets the standards for aesthetically compatibility in design and appearance with other residences in the vicinity, per Section 5.114(F) of the Van Buren Township Zoning Ordinance. Staff also recommends that the applicant explore the addition of dormer windows on the half-story level to break up the mass of this level along the sides of the house.

Applicant Mary and Lawrence Zelanka made comments, and stated they would like to request this approval because of the lot size and it would help the neighborhood.

#### **Board Comments**

Jahr: Mentioned Planning Commission did direct staff to look at allowing 2.5 story houses at the next meeting. Summarized McKenna letter from the packet which will be discussed at tomorrows Planning Commission meeting.

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Martin: Going vertical instead of horizontal makes sense as long as they are staying under the 30ft height.

Jahr: The lot itself is legal non-conforming which makes this a special case not self-created.

Director Power: Staff will follow up with the previous 2019 case conditions.

Haase motioned; Martin seconded **Case 23-014**: I make a motion to **approve** the request by Lawrence Zelanka for 13125 Ormond Drive (tax parcel ID 83 080 01 0059 000) for a variance from Section 3.106(D) (R-1A, R-2A, R-1B, and R-1C, Single-Family Residential Districts – Dimensional Regulations):

- Maximum allowable height: 30.0 feet or 2.0 stories, whichever is more
- restrictive per Section 1.106 of the Van Buren Township Zoning Ordinance.
- Proposed height (feet): Approximately and not to exceed 30 feet
- Proposed height (stories): 2.5Variance requested: 0.5 stories

This motion is based on the findings of fact derived from Section 12.403(C) and (D) of the Van Buren Township Zoning Ordinance:

#### **Practical difficulty** is presented by the following findings

- (1) That strict compliance with area, setbacks, frontage, height, bulk or density **would** unreasonably prevent the owner from using the property for a permitted purpose and would thereby render the conformity unnecessarily burdensome for other than financial reasons;
- (2) That a variance **would** do substantial justice to the applicant, as well as to other property owners in the district, (the BZA, however, may determine that a reduced relaxation would give substantial relief and be more consistent with just to others);
- (3) That plight of the owner is due to the unique circumstances of the property;
- (4) That the problem is not self-created.

**Standards of approval.** In consideration of all appeals and all proposed variances under this Ordinance, the BZA has determined the following:

- (1) That the proposed appeal or variance **is** related to the valid exercise of the police power and purposes which are affected by the proposed use or activity;
- (2) The proposed appeal or variance **will not** not impair an adequate supply of light and air to adjacent property or increase the congestion in public streets;
- (3) Will not increase the hazard of fire or flood or endanger the public safety;
- (4) Will not unreasonably diminish or impair established property values with in the surrounding area;
- (5) **Will not** in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the Township;
- (6) Will not alter the essential character of the neighborhood; and
- (7) **Is** necessary to meet the intent and purpose of the zoning regulations; is related to the standards established in the Ordinance for the land use or activity under consideration, and is necessary to ensure compliance with those standards.

#### **ROLL CALL:**

Yeas (5): Herman, Grissett, Martin, Haase, Jahr

Nays (0):

Absent (2): Sellers, Larocque

**Motion Carried** 

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#### ANNOUNCEMENTS, COMMENTS, AND OPEN DISCUSSION

Director Power stated there will be a meeting in May. Director Power had McKenna and Associates write a letter Dated April 5<sup>th</sup> that will be provided ahead of the May meeting in regards to exceptions as opposed to variances and the Lakeshore District Ordinance.

Please make sure everyone comes to the May meeting, we told the applicant we would have a full board.

To Planning Commission, Staff and Trustees; please look at our Ordinance and clarify 2.5 story building, especially with Lake front and small frontage properties that are only able to build up. This should be for any home; new builds, existing etc. Our neighboring townships have 2.5 stories at 35ft. Also, could consider increase in construction standards when the 2.5 stories are increased.

#### **ADJOURNMENT**

Haase motioned; Jahr seconded to adjourn the meeting at 8:10pm. Motion Carried

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## **DEPARTMENT OF PLANNING & ECONOMIC DEVELOPMENT**

46425 TYLER ROAD, VAN BUREN TOWNSHIP, MI 48111 PHONE (734) 699-8913 FAX (734) 699-8958

| — <del>-</del>   | ZONING A   | APPEALS AP  | PLICATION  |
|--|--|---|--|
| APPLICANT INFORMATION  |  | 1   |  |
| NAME:<br>Scott Jones   |  | PHONE:<br>  313-215-3013  |  |
| ADDRESS:<br>11696 Juniper Drive  |  | CELL PHONE:<br>313-215-3013   |  |
| CITY, STATE & ZIP<br>Van Buren Twp, MI 48111   |  | FAX:  |  |
| EMAIL:<br>SJones@autokiniton.com   |  |   |  |
| PROPERTY OWNER INFORMATION   | N (If different than the ar  | oplicant)   |  |
| NAME:<br>Belleville Yacht Club   |  | PHONE:<br>313-215-3013  |  |
| ADDRESS: 831 East Huron River Drive  |  | CELL PHONE:   |  |
| CITY, STATE & ZIP<br>Van Buren Twp, MI 48111   |  | FAX:  |  |
| EMAIL:   |  |   |  |
| SITE INFORMATION   |  |   |  |
| PROJECT ADDRESS:<br>831 East Huron River Dr  |  |   |  |
|  | e of <u>Huron River Dr</u> R   | load; Between <u>Martinsvill</u>  | le Road and _Edgemont Road.  |
| SIZE OF LOT WIDTH:   | SIZE OF LOT DEPTH:   |   | ACREAGE OF SITE:   |
| DATE PROPERTY ACQUIRED:  |  | TYPE OF OWNERSHIP O   | F PROPERTY:  |
| STATE ALL DEED, SUBDIVISION IMPROVEMENT A  | ND PROPERTY RESTRICTIO   | I<br>DNS IN EFFECT AT THIS TIM  | E, TOGETHER WITH DATES OF EXPIRATION:  |
|  |  |   |  |
| VARIANCE REQUEST   |  |   |  |
| VARIANCE TO ZONING ORDINANCE SECTION(S   | 3): 3.120(D)(5)(Belleville Lake  | e Shorline Districts-Develope Re  | egulations-Dock Lenth & Width) - See Attached  |
| EXPLANATION OF THE PRACTICAL DIFFICULTY OF   |  |   |  |
| ADMINISTRATIVE REVIEW]: In contrast to the requiren unless greater lenth is net subject to approval by the | nent of Section 3.120(D)(5) that cessary to reach water with a constant of Michigan. | at limits the dock lenth to 40 feet<br>depth of three feet, I seek to ins | t into the lake, measured perpendicularly from the shoreline tall two(2) docks each with a length not to exceed 120 feet |
| APPLICANT MUST ALSO SUBMIT PHOTOGRAPHS SHOWING THE DIMENSIONS OF THE LOT AND                               |  |   | IS WELL AS SKETCH PLAN OR PLOT PLAN  |
| OWNER'S AFFIDAVIT  |  |   |  |
| Scott Jones  | 198  | 3   | 12/13/2022   |
| PRINT PROPERTY OWNER'S NAME  | SIGNATURE OF F   | PROPERTY OWNER  | DATE   |
| STATE OF MICHIGAN<br>COUNTY OF WAYNE   |  |   | LYNDSY RUTH TANKERSLEY<br>Notary Public, State of Michigan   |
| The undersigned, being duly sworn, deposes and says that the true and correct.                             | ne foregoing statements and an   |   | companied information หลาย ชายิ หาย n all respects   |
| Subscribed and sworn before me this 13th day of  | December   | _20 <b>_22</b> .  | Acting in the County of  |

وج لوبر Notary Public, Wyane

\_County, Michigan

My Commission expires 02/22, 20 26



## **MEMO**

TO: Van Buren Township Board of Zoning Appeals (BZA)

FROM: Dan Power– Director of Planning and Economic Development

RE: Belleville Yacht Club / 831 East Huron River Drive Special

Exception Request (Report #3 - Revised)

DATE: May 4, 2023

#### **Dear Board Members:**

I have reviewed a request for exception, modification, or appeal by Belleville Yacht Club to install two (2) dock structures each with a length not to exceed 85.3 feet, as revised from a previous request with proposed lengths not to exceed 120 feet, subject to approval by the State of Michigan. Section 3.120(D)(5) of the Van Buren Township Zoning Ordinance limits the dock length to 40 feet into Belleville Lake, measured perpendicularly from the shoreline, unless greater length is necessary to reach water with a depth of three feet. The request will be reviewed by the Board of Zoning Appeals (BZA) per the requirements of Section 3.120(F)(7) of the Van Buren Township Zoning Ordinance. The basic request is for an exception from the 40-foot length requirement under Section 3.120(D)(5). To learn more about the difference between an *exception, modification or appeal* as described here and a *variance* as typically applies to requests for relief from Zoning Ordinance requirements on private property, please see the attached memo from the Township's Planning Consultant and McKenna Associates Senior Principal Planner Vidya Krishnan dated April 5, 2023.

#### **INFORMATION REGARDING THE REQUEST**

File Number: VBT-22-056

**Parcel Size and Tax ID:** The subject site is Township Lake Property adjacent to 831 East Huron River Drive (parcel ID number 83 088 99 0005 000), on the north side of East Huron River Drive between Loza Lane and Evelyn Court. 831 East Huron River Drive is 4.04 acres in area.

**Property Owner:** Belleville Yacht Club

**Zoning and Existing Use:** The site is zoned Belleville Lake Shoreline District B – Non-Single Family Residential (BLB) and is adjacent to an upland private parcel that is zoned R-1C – Single Family Residential and used as a private club with an accessory building and pool. The private club is considered as a use similar to an institutional use, and therefore defines the adjacent lake property as being zoned Belleville Lake Shoreline District B - Non-Single Family Residential (BLB), per Section 3.120(C) of the Township Zoning Ordinance. The site in the Township Lake property previously contained two (2) floating dock structures which extended roughly 56 feet into Belleville Lake and to within 6' from the side lake lot lines. An analytical graphic titled "Certificate of Survey" which roughly compares the extents of previously existing, current existing, and proposed docks provided by the applicant is included at the end of this packet. One of these structures remains in place, however, the other has been replaced by a partially constructed new dock structure. The existing and proposed use is a "marina" as defined in Section 3.120(B)(15) of the Township Zoning Ordinance, as described in

the section below.

**Project Description:** The submitted site plan demonstrates that there will be two (2) dock structures with a total length of 85.3′. Each dock stem will contain one main stem which is four (4) feet wide, along with three (3) perpendicular docks which are each four (4) feet wide x 24′ long. The docks are spaced 24′ to 25.3′ (reduced from 28′) apart. The proposed use will be considered a "marina" as defined in Section 3.120(B)(15) of the Van Buren Township Zoning Ordinance:

 "Marina" means a facility that is owned or operated by an entity, extends into or over an inland Lake or stream, and offers service to the public or members of the marina for docking, loading, or other servicing of recreational watercraft.

Marinas are also defined under the State of Michigan Natural Resources And Environmental Protection Act (PA 451 of 1994), and are regulated by the State of Michigan Department of Environment, Great Lakes and Energy (EGLE).

**Notice**: A public hearing notice for the requested exception from the 40' maximum dock length was published in the Belleville Area Independent on December 21, 2022 in accordance with the Michigan Zoning Enabling Act, and notices were mailed to the owners of real property within 300' of the subject upland parcel on December 21, 2022. A public hearing was held by the BZA on January 10, 2023.

**Special Exception Request: Section 3.120(D)(5)** pertaining to maximum dock length.

- **Allowable maximum:** No dock or any other structure or appurtenance shall extend more than 40 feet into the Lake, measured perpendicularly from the shoreline, unless greater length is necessary to reach water with a depth of three feet, and then no further than necessary to reach such depth.
- **Proposed:** Dock extended to 85.3 feet into the Lake, measured perpendicularly from the shoreline.

#### **REVIEW PROCESS**

In accordance with State law and the Van Buren Township Zoning Ordinance, any approvals or permissions that applied to the previous set of docks, will no longer apply, due to the full replacement and expansion of these docks. The docks are subject to Van Buren Township Belleville Lake Shoreline Districts Ordinance (Section 3.120 of the Zoning Ordinance), referred to herein as "Belleville Lake Ordinance". The review process for the proposed new docks and marina use will require completion of a site plan review in accordance with the requirements of Section 3.120. Marinas are a use that require special approval in the BLB district, and the use requires a public hearing with the Planning Commission and approval by the Township Board of Trustees. These approvals are being sought concurrently with the BZA's approval.

This request requires review by the BZA under a set of requirements that apply to modifications of standards of the Belleville Lake Ordinance. Such exceptions or modifications are not considered *variances* as applied elsewhere within the Van Buren Township Zoning Ordinance and under State law. This report contains basic background information to assist with understanding the reason for the request and the context of the subject site, and contains staff's analysis of the request under the framework of Section 3.120(F)(7). A public hearing is required in accordance with Section 3.120(F)(7)(f) of the Van Buren Township Zoning Ordinance.

#### **BACKGROUND**

Based on application being made for the requested marina with an exception for the proposed dock length in December 2022, public hearings with the BZA and Planning Commission were scheduled. A public hearing was held with the BZA on January 10, 2023 to consider the special exception request. The BZA postponed their decision on this request to allow additional review and commentary on the request and its associated marina site plan to help determine the BZA's decision. A public hearing was held by the Planning Commission to consider the marina special approval and site plan requests on January 11, 2023. At this meeting, the Planning Commission's decision was postponed in order for additional information to be provided on a revised site plan and / or supplemental data, and for action to be taken by the BZA at a future meeting prior to a final decision on the site plan by the Planning Commission. Discussion and analysis during and following the BZA and Planning Commission reviews on January 10<sup>th</sup> and January 11<sup>th</sup> culminated in comments from members in the public, the BZA and the Planning Commission regarding the scope of the site's boating use, the impacts of the proposed docks on navigability, safety, and the uniqueness of the property's attributes or constraints relative to the land use request. A revised 2-page site plan submittal from Hardy Civil Design Services, LLC was submitted to the Township, revision-dated 1/20/2023. This plan set again showed dock at a length of 120'. Based on this plan submittal, the Planning Commission reviewed and provided commentary on the requested exception to allow docks which exceed a length of 40 feet at their regular meeting on February 8, 2023. Based on the feedback received at that meeting, the applicant decided not to pursue dock lengths of 120'. The minutes from this meeting are attached to this staff report packet. The applicant then submitted a revised plan which shows lengths of 85.3' for the two dock structures, a 28.9% reduction in length. The revised site plan now also shows the dock structures being separated by a reduced distance of 42.6', with 21' setbacks to each side lake lot line. Following a postponement at the March 14th regular BZA meeting, the request is now presented again to the BZA for their regular meeting on May 9<sup>th</sup>, 2023.

My remaining comments in this report analyze the content of the site plans included with the BZA's packet, revision-dated February 28, 2023 (to be referred to herein as "revised site plan"), and the criteria the BZA is requested to evaluate in order to make their decision on the requested special exception relative to this content.

#### **DESCRIPTION OF SUBMITTALS AND REVIEW CRITERIA**

I have previously provided a report to the BZA dated January 6, 2023 (revised January 9, 2023) which summarized findings based on the application requirement and various review criteria. Based on the analysis provided in staff reports and based on additional information received throughout the public input process, the BZA should provide findings of fact based on the criteria under Section 3.120 of the Van Buren Township Zoning Ordinance. The BZA will be making findings on the following five (5) criteria in determining whether to approve the requested special exception for excessive dock length, per Section 3.120(F)(7) of the Van Buren Township Zoning Ordinance:

(i) Enforcement of the provision(s) requested for special exception would unnecessarily prevent the reasonable use of the land or boats involved without resulting benefit to the public health, safety and welfare of persons or property;

- (ii) The special exception would not unduly prevent the realization of the purposes of this Ordinance;
- (iii) The special exception would not cause substantial harm or detriment to adjacent or nearby lands or boats or the public interest or safety, nor be contrary to the intent or purposes of this Ordinance;
- (iv) Unusual circumstances or conditions are involved; and
- (v) The special exception is consistent with the goa of providing reasonable, equitable access to all abutting lake owners.

In its analysis of these criteria, the BZA should consider the submittals that has been requested by the Planning Commission throughout the review process, and an analysis of these submittals as provided with the revised site plan, on the "**Description of Submittals**" listing following this report.

The BZA. A special exception to any provision of Section 3.120 unless findings for all criteria specified in Section 3.120(F)(7)(c) of the Van Buren Township Zoning Ordinance. Below, I have additionally listed these criteria, along with **factors for consideration** when evaluating each criterion, along with recommended **conditions of any approval**.:

 Enforcement of the provision(s) requested for special exception would unnecessarily prevent the reasonable use of the land or boats involved without resulting benefit to the public health, safety and welfare of persons or property.

#### > Factors for Consideration:

- Whether a 40' maximum length for docking structures at this property unnecessarily prevents the reasonable use of the land or boats involved.
- Whether a 40' maximum dock length at this parcel results in a significant benefit to the public health, safety, and welfare of persons or property relative to the 85.3' length docking structures with 21' side setbacks as proposed.
- Past and present proposed use of the land.
- 2) The special exception would not unduly prevent the realization of the purposes of this Ordinance. The purpose of the Belleville Lake Shoreline Districts Ordinance is as stated below, per Section 3.120(A) of the Van Buren Township Zoning Ordinance:

Purpose. The Charter Township of Van Buren recognizes and concludes that the proper and safe use of Belleville Lake is desirable to retain and maintain the physical, ecological, cultural and aesthetic characteristics of the Lake in the Township, to preserve and protect the quality and safety of the Lake and shorelines and the rights of adjacent owners and users as well as the Township as a whole, to promote the public health, safety and welfare of all persons making use of the Lake within the Township and properties adjacent to the Lake in the Township, and to ensure compliance with federal and state laws in light of the Township's ownership of the land in and adjacent to Belleville Lake, as well as with the terms of the Federal Energy Regulatory Commission (FERC) license to operate the French Landing Dam. Accordingly, it is the intent and purpose of the Township Board to adopt reasonable regulations for the number and placement of docks, installation of sea walls, earth excavation or grading, and other matters with respect to Belleville Lake in the Township. It is further the intent of the Township Board to restrict the private use of Township-owned Lake property to those water-based uses and structures customarily accessory to a waterfront lot, and to affirm that abutting property

owners are responsible for maintaining both their property at the periphery of the Lake and the Township- owned Lake property abutting to their property clear of fallen trees that impede lake access, reasonably protected from erosion, and otherwise maintained as required under the terms of the FERC license.

#### > Factors for Consideration:

- Whether the proposed docking structure lengths of 85.3' will unduly prevent the retention of Belleville Lake's physical, ecological, cultural, and aesthetic characteristics.
- Whether the proposed docking structure lengths of 85.3' will preserve and protect the quality and safety of the Lake.
- Whether the proposed docking structure length of 85.3' will maintain the rights of adjacent owners and users as well as the Township as a whole.
- Consider what changes, or lack thereof, are made evident by the proposed 85.3' docking structure design relative to current conditions or previous lawfully nonconforming conditions, relative to the characteristics of the Lake, the quality and safety of the Lake, and the rights of adjacent owners and users.
- Note that the proposed dock structures are subject to any necessary review and approval of this application by EGLE and FERC.
- 3) The special exception would not cause substantial harm or detriment to adjacent or nearby lands or boats or the public interest or safety, nor be contrary to the intent or purposes of this Ordinance;

#### > Factors for Consideration:

- Whether the 85.3' long docking structures with 21' side setbacks as proposed, will cause substantial harm or detriment to adjacent or nearby lands or boats or the public interest or safety.
- In reviewing this criterion, the BZA is encouraged to closely review the previously
  discussed site plan submittals provided by the applicant, including schematic and
  detailed plan drawings demonstrating the distances of setbacks, no wake zoned and
  navigable areas around the proposed docking structures.
- 4) Unusual circumstances or conditions are involved;

#### > Factors for Consideration:

- Whether, relative to other BLB-zoned Township Lake Property in the Township, the upland parcel is uniquely constrained in its width.
- Whether there are any unique circumstances or conditions around the property's physical characteristics.
- Whether there are any unique circumstances or conditions around the property's land use history.
- 5) The special exception is consistent with the goal of providing reasonable, equitable access to all abutting lake owners.

#### > Factors for Consideration:

• Whether the proposed docking structure length is consistent with the goal of providing

- reasonable, equitable access to all abutting lake owners.
- Consider what changes, or lack thereof, are made evident by the proposed 85.3' docking structure design relative to providing reasonable, equitable access to all abutting lake owners.

#### **RECOMMENDATION**

For the BZA to consider granting the requested special exception, they will need to conclude that there are positive findings for all five (5) standards for special exceptions described above. I strongly recommend that each member of the BZA should use the motion template attached to this packet to assist in making their decision, and each member should make statements regarding their decision on the case based on the five (5) criteria under Section 3.120(F)(7)(c). If findings in the positive are found for the five (5) criteria under Section 3.120(F)(7)(c), the special exception request may be granted. If the request is granted, it will be subject to the conditions listed below:

- The proposed dock structures and marina are subject to site plan approval by the Township Planning Commission and special approval by the Township Board of Trustees.
- The proposed dock structures and marina are subject to any necessary review and approval of this application by EGLE and FERC.
- The use of the land must otherwise comply with Article VI. of Chapter 42 (Environment) of the Van Buren Township Code of Ordinances (Belleville Lake and Township-Owned Property).

I have provided a motion template with this report to assist the BZA in making their decision on this special exception request. The BZA may grant the requested special exception, with or without conditions, postpone their decision, or deny the request. If the BZA decides to postpone their decision on the request, they should provide specific tabling conditions to instruct staff and the applicant regarding what is required to return for further consideration of the request by the BZA.

Thank you for allowing me to comment on this request.

Sincerely,

Dan Power, AICP

Planning and Economic Development Director

Public Services Department

Charter Township of Van Buren

CC: Ron Akers, AICP – Municipal Services Director, Van Buren Charter Township

#### **DESCRIPTION OF SUBMITTALS**

- 1. Provision of a site plan map showing the lakeshore contour, the slow no wake contour that is allowed without exception, and a contour showing how far the slow-no-wake zone is proposed to be moved into the lake based on the proposed design. The map should be drawn at a radius around the subject site that is large enough to include the same contours on the other side of the lake at the closest point on the opposite shore (about an 800' radius around the subject parcel). This was provided in the "overall site schematic" on page 1 and on the broad view site plan on page 2 of the revised site plan. The slow-no-wake zone around the proposed docks has been reduced from 220' to 185.3'. Sheet 2 shows the connection of the slow-no-wake zone around the subject site to its neighboring sites and presents a picture of the navigability around this zone.
- 2. Indication of the number of buoys included in the project and that no change to number or placement will be made after approval without permission from the township. **No buoys have been proposed.**
- 3. The applicant's dock design should carry a civil engineering stamp, and our township engineer, or another qualified civil engineering consultant, should review it. If no such civil engineering standards exist for this type of commercial dock, then a letter from our Township Engineer confirming that no specific engineering standards apply should be included in the report. The revised site plan does not contain a civil engineering stamp. The applicant understands this may be required, and Township staff has discussed the pending review of plans with the Township Engineer.
- 4. Indication of docking spaces using the standard boat sizes as listed in MCL 324.80124, which defines different fee schedules for boats based on size, and a definition of 'length of the vessel'. For example "two spaces for Motorboats 21 feet or over but less than 28 feet in length, four spaces for Motorboats 16 feet or over but less than 21 feet in length" etc. Note 5 under the revised site plan's use statement states that there will be (16) docking spaces for vessels of up to 28' in length.
- 5. The maximum number of consecutive overnight stays at the docks in the marina for a single boat **must** be noted on the plan. If the applicant intends to make an exception for a service boat, tender, water taxi, or 'club boat' to be docked there seasonally, that should also be called out on the plan. The use statement includes a statement that "Members and guest will not be allowed to park overnight unless pre-approved by Belleville Yacht Club manager. If approved, no boat shall remain at docks for more than 3 nights."
- 6. Hours of operation must be noted. The use statement indicates that dock hours will mirror club hours of Monday and Tuesday closed, Wednesday, Thursday, and Friday 4 pm to 10 pm, Saturday 11 am to 1 am, Sunday 11 am to 10 pm.
- 7. If access to the short-term docked boats is allowed outside of normal club operating hours, then the plan must indicate how access to waste handling facilities will be provided to those boaters. This should include location of dumpsters and trash cans, bathroom access, and how the waste from the boat's head (marine toilet) will be handled. The use statement notes that, "Outdoor bathrooms and waste dumpster are available 24 hours a day to all members".
- 8. There should be a "no sanitary pump out allowed" notation along with the "no fueling" one. The use statement states that "Belleville Yacht Club will have no pump-out service and shall not allow removal of sanitary waste on premises".

- 9. If lighting is *proposed*, then the hours that the lights will be on must be noted in the plan, and should be chosen to correspond with the hours of operation of the marina and the DNR ramp next door. If safety lighting is proposed, a better solution would be for path lighting installed along the edge of the dock, and the position should be shown on the plan. Note 3 under the Site Plan Notes section of the revised site plan states that, "Lighting will be provided to illuminate the docks from dusk until dawn, every day." A drawing showing ornamental dock lighting has been provided on sheet 2 of the site plan. The lighting dimensions are 46" tall x 10" wide.
- 10. A drawing of the current, existing site situation should be shown, so that the reviewers have a clear idea of what the new plan intends to change. A drawing showing existing conditions has been provided on sheet 2 of the revised site plan. The existing 2020 conditions included two (2) dock stems, each containing four (4) docks has been provided (typical dimensions of 4' x 20'). The setback is shown as 6' on the east/side lake lot line and appears to be narrower on the west/side lot line.
- 11. (Suggestion): It would help the reviewers to understand the request for exception if a conforming plan (less than or equal to 40' and equal the maximum frontage extent) showing the number of possible spaces was provided. **Not provided in the revised site plan.**
- 12. A description of the proposed use including the nature of the proposed use and other general information describing the use must be provided. A full use statement has been added to the revised site plan, copied below: <u>Use Statement</u>:
- The Marina will be used for the transient docking of members and guest of the Belleville Yacht Club.
- Members and guest will not be allowed to park overnight unless pre-approved by Belleville Yacht Club Manager. If approved, no boat shall remain at docks for more than 3 nights.
- No maintenance or fueling shall be allowed at the docks. The Belleville Yacht Club will have no pump-out service and shall not allow removal of sanitary waste on premises.
- Dock Hours will mirror club hours of: Monday and Tuesday closed, Wednesday, Thursday, Friday 4pm To 10pm, Saturday - 11 to 1am, Sunday - 11am to 10pm. Outdoor bathrooms and waste dumpster are available 24 hours a day to all members.
- There shall be (16) docking spaces for vessels of up to 28' in length.
- 13. The dock surface material is subject to Planning Commission review. Verify that the materials meet any applicable requirements of EGLE. Please provide detailed descriptions and bring material samples if possible. The revised site plan contains notes indicating that the dock will be constructed using 2"X6" treated lumber wood decking. The applicant has indicated that wolmanized lumber will be used, and that he will bring material samples to the next Planning Commission meeting.
- 14. Provide dimensions that delineate the exact 'boat parking space' length x width dimensions for each parked / moored watercraft. Cleat marks should be shown on the plan where cleats will be installed. *Also see comment 4 above.* The revised site plan contains templates showing the dimensions of a typical 28' long boat, placed within the dock parking spaces in select locations. The plan also now shows cleat spaces.
- 15. Dimensions shall be provided from the exterior limits of any exterior mooring spaces to the adjacent lake lot line, to demonstrate that no boat or portion thereof will be launched, stored, moored or docked within five feet of the side lot lines of an abutting upland lot as extended into the water. **The revised site plan**

**shows side setbacks of 21' for each of the dock structures.** The site plan shows cleat marks for up to two (2) exterior mooring spaces alongside each dock structure, for a total of four (4) exterior mooring spaces in addition to twelve (12) interior spaces. A typical boat width of 8.5' and a typical setback to the lake lot line of 12.5' for broadside mooring spaces is shown. **Any proposed exterior mooring spaces are subject to EGLE approval.** 

- 16. Safety features including the locations of life preservers, exit ladders, lighting, and reflective markings shall be shown in plan view. **The revised site plan includes a proposed post with a life ring along the site's seawall near the easternmost dock.**
- 17.A photometric drawing should be provided to demonstrate that the lighting will meet Section 8.106 of the Van Buren Township Zoning Ordinance, including that the light trespass will not exceed 0.5-foot candles at adjacent property lines. **The revised site plan does not include a photometric drawing.** The applicant has indicated that this will be provided later.
- 18. Bathymetric / depth contours shall be provided to demonstrate the bottom of the lake bed measured at the sea wall and measured at the farthest point of projection. The dock/lake bed cross section drawing included with sheet 1 of the revised site plan shows an approximate depth of 6' near the seawall and an approximate depth of 13'2" at the farthest point of projection. Bathymetric contours are not shown at these locations in the site plan.
- 19. Clarify that the depth you are showing on your site plan cross section is the water depth at the farthest point of projection (or if it is not the furthest depth, please provide the section at the farthest point of projection). The dock/lake bed cross section drawing shows an approximate depth of 6' near the seawall and an approximate depth of 13'2' at the farthest point of projection.
- 20. Show the location of the address marker on the lake side of <u>831 East Huron River Drive</u>. The revised site plan includes the location of the existing ladder along the site's seawall near the easternmost dock.
- 21. Show the exact distance dimensions from the dock's furthest extent to the opposite shoreline. **The Overall Site Schematic plan on sheet 1 notes a distance of 898.55' from shore line to shore line.**
- 22. Work with a design professional to demonstrate the no wake zones, wake zones, and navigable space extending out from the docks. The revised site plan displays no wake zones and navigable spaces extending out from the docks on sheets 1 and 2. The reduced dock length increases the open navigable area to 551' from 516.3'. Sheet 2 on the revised site plan shows a nearby open navigable area of 385'.
- 23. Additionally, the conditions in the staff reports that were previously provided per the BZA staff report from the Planning Director dated 1/9/2023 as revised and the Planning Commission packet from the Planning Director dated 1/10/2023 as revised:
- The water depth at the farthest point of projection must be provided. **This was provided in the revised** site plan as noted.
- A completed application for review by EGLE, and if required, by FERC, must be provided prior to full Township lakeshore authorization being granted, and The construction is subject to any necessary approvals from EGLE and FERC. **This will be required at a later date.** EGLE's purview over this request involves approval of the proposed dock configuration based on guidelines from Part 301 (Act 451

- of 1994). EGLE has stated to staff that their primarily concern is a proposed plan that meets the criteria in Part 301 and that does not result in possible impacts to adjacent riparian owners and publics ability to navigate the waters.
- A description of the proposed use including the nature of the proposed use and other general information describing the use must be provided. **This was provided in the revised site plan as noted.**
- The site shall not be used for fueling. **Notes committing to no fueling or maintenance are included in the revised site plan.**
- Special approval must be obtained from the Township Board of Trustees. **This is to be determined pending outcome of Planning Commission and BZA reviews.**
- Special exception to Section 3.120(D)(5) must be obtained from the Van Buren Township Board of Zoning Appeals (BZA). **This is to be determined.**
- The use of the land must otherwise comply with Article VI. of Chapter 42 (Environment) of the Van Buren Township Code of Ordinances (Belleville Lake and Township-Owned Property). **This is to be verified throughout review process.**
- Staff finds the extension across roughly 81.8% of the lake frontage to be acceptable, and the Planning Commission will have to find the same as part of any approval. **Note that the length of the dockage along the property's frontage has been reduced in the revised site plan to only 90.6 feet, or 68.6 percent of the property's frontage.** The final acceptance of the length of dockage along the property's frontage is to be determined upon the Planning Commission's consideration of final site plan review.
- The dock surface material is subject to Planning Commission review. A material sample will be provided as previously noted.
- 24. Staff was also requested to provide insight regarding the inception of the 40-foot maximum length requirement under the Van Buren Township Zoning Ordinance. It is staff's understanding that at one time, discussion was held regarding extending the required length from 40 feet to 80 feet for BLB-zoned sites. The consensus in the final, published version of the Belleville Lake Shoreline Districts Ordinance was a 40-foot maximum length.
- 25. Discussion was also held regarding the use of a lake traffic impact study. Additional dimensional details have been secured, as summarized previously in this report. These additional details demonstrate the proximity of the docks to nearby lakefront parcels, potential dock construction areas in nearby properties, and wake and no wake zones. While a lake traffic study is not currently available, these details provide a basis for measuring navigability around the Township Lake Property in relation to the docks' design. Navigability will also be closely studied as part of EGLE's review of the proposed docks.

## Memorandum

**TO:** Dan Power, Director of Planning and Economic Development

**FROM:** Vidya Krishnan; Senior Principal Planner **SUBJECT:** Belleville Lake Shoreline Districts Ordinance

**DATE:** April 5, 2023

#### Dear Mr. Power:

Per your request, I have reviewed the Bellville Lake Shoreline Districts Ordinance (Section 3.120) of the Zoning Ordinance especially as it relates to granting exceptions. The shoreline comprises of two districts: BLA (Belleville Lake Shoreline District A – Single Family Residential) and BLB (Belleville Lake Shoreline District B – Non-Single Family Residential). The Ordinance requires an approval process to be followed in order to do any of the following:

- (a) Install, construct or expand a dock, boat cradle, boat lift, boat hoist, ramp, or launch.
- (b) Install, construct or expand a seawall, bulkhead, dike, levee or other erosion control device.
- (c) Install, place or maintain a ski jump or other rigid platform.
- (d) Install, place or maintain a navigational marker or buoy.
- (e) Excavate, grade, or make earth modifications other than those exempted per the Ordinance.

While the uses permitted in BLA [Section 3.120 (c)(1)] and BLB [Section3.120(c)(2)(a)] are subject to administrative review and approval, the uses permitted in BLB and listed under section 3.120(c)(2)(b) are subject to Planning Commission review and approval, and the uses under Section 3.120(c)(2)(c) are subject to special approval by the Township Board of Trustees upon recommendation from the Planning Commission.

**Deviations.** As in the case of every ordinance provision, there is an appeal process for any individual/entity seeking a deviation from the established standards. Due to the unusual nature of the Shoreline Districts and the fact that they are not private property but in fact Township owned land providing access to the water from private/public property, at the time the Ordinance was drafted, the appeals process established was different than the usual standards of a "variance" request before the Board of Zoning Appeals. The process for appealing the standard is called as "special exception" rather than a "variance" and the criteria for evaluation are different. A typical variance request is subject to the standards of practical difficulty and unnecessarily burdensome [Section 12.403(C)]; however, the special exception standards are more detailed and enumerated in Section 3.120 (F)(7)(c) as follows:

- (a) Enforcement of the provision(s) requested for special exception would unnecessarily prevent the reasonable use of the land or boats involved without resulting benefit to the public health, safety and welfare of persons or property;
- (b) The special exception would not unduly prevent the realization of the purposes of this Ordinance;
- (c) The special exception would not cause substantial harm or detriment to adjacent or nearby lands or boats or the public interest or safety, nor be contrary to the intent or purposes of this Ordinance:
- (d) Unusual circumstances or conditions are involved; and
- (e) The special exception is consistent with the goal of providing reasonable, equitable access to all abutting lake owners.

The ordinance does not define the term "exception". However, exception is generally defined as a deviation from a rule. In order to grant such a deviation, the BZA must find that the standards (a) through (e) are met. Subsection (d) further states "Granting a specific special exception does not set a precedent for consideration of future special exception requests, as each request is to be decided on a case by case basis." The statement essentially means that each and every case that appears before the BZA seeking an exception must meet the criteria (a) through (e) with the overarching goal of reaching an equitable conclusion and allocation of use of the Township Lake property for the purposes stated in Section 3.120(A) of the Ordinance. Therefore, if the BZA grants a deviation to one property on the shoreline, it does not necessarily mean other properties on the shoreline will also be granted the same deviation, unless they can demonstrate that they have the exact same conditions or circumstances.

Respectfully,

**McKENNA** 

Vidya Krishnan

Senior Principal Planner

- (7) Exceptions, Modifications and Appeals.
  - (a) Board of Zoning Appeals. For the purposes of this <u>Section 3.120</u>, the Board of Zoning Appeals ("BZA") as established and regulated in <u>Section 13.104</u> of this Ordinance shall be the reviewing body. All provisions of said <u>Article 12, Chapter 4</u> shall apply except as specifically modified in this <u>Section 3.120(F)(7)</u>.
  - (b) Powers. The BZA may interpret the provisions of this <u>Section 3.120</u> if questions arise and may approve modifications to particular provisions of this Section, and grant special exceptions for a given case. In exercising its powers, the BZA shall have the primary goal of reaching an equitable conclusion and allocation of use of the Township Lake property for the purposes stated in <u>Section 3.120(A)</u> of this Ordinance.
  - (c) Standards for Special Exceptions. The BZA shall not grant a special exception to any provision of this <u>Section 3.120</u> unless it first makes all of the following findings:
    - (i) Enforcement of the provision(s) requested for special exception would unnecessarily prevent the reasonable use of the land or boats involved without resulting benefit to the public health, safety and welfare of persons or property;
    - (ii) The special exception would not unduly prevent the realization of the purposes of this Ordinance;
    - (iii) The special exception would not cause substantial harm or detriment to adjacent or nearby lands or boats or the public interest or safety, nor be contrary to the intent or purposes of this Ordinance;
    - (iv) Unusual circumstances or conditions are involved; and
    - (v) The special exception is consistent with the goal of providing reasonable, equitable access to all abutting lake owners.
  - (d) No Precedent. Granting a specific special exception does not set a precedent for consideration of future special exception requests, as each request is to be decided on a case by case basis.
  - **(e) Special Exception.** Upon making the findings above, the BZA may grant a special exception to provisions of this <u>Section 3.120</u> subject to complying with all other requirements of this Ordinance. The BZA may also attach reasonable conditions to the granting of an exception.
  - (f) Public Hearing. Appeals and requests for special exceptions to this Article shall be considered only at a duly held public hearing and meeting of the BZA. Notice of the hearing shall be given in accordance with <u>Article 12, Chapter 6</u>. In addition, the Township shall give at least fifteen (15) days prior written notice of such hearing to any Lake or property owners association if the association has provided its address to the Township beforehand.
- (8) Indemnification. By accepting any Township approval, the applicant agrees to execute an agreement to defend, indemnify and hold harmless the Township and its elected and appointed officials, agents, representatives, employees, boards and commissions against and with respect to any and all actions, suits, proceedings, claims, demands, judgments,

As Amended: December 8, 2019

## **Chapter 4 Variances and Appeals**

#### **Section 12.401** Appeal and Notice Requirements

- (A) Appeal of Planning Commission Decision. An appeal from the Planning Commission shall be taken to the Board of Zoning Appeals, a written appeal shall be filed within thirty (30) days after the decision.
  - (1) No appeal shall be taken to the BZA from a decision of the Planning Commission and/or the Township Board in connection with a special approval use.
  - (2) No appeal shall be taken to the BZA from a decision of the Planning Commission in connection with an approved and/or proposed site plan unless such appeal has first been reviewed by the Planning Commission and comments regarding the variance are provided in the minutes.
- (B) Appeal of Administrative Decision. An appeal may be taken to the BZA by any person, firm or corporation or by any officer, department, board or bureau aggrieved by a decision of the Township Building Official. Such appeal shall be taken within such time as shall be prescribed by the BZA by general rule, by filing with the building official and with the BZA a notice of appeal, specifying the grounds thereof. The building official shall forthwith transmit to the BZA, all of the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the building official certifies to the BZA, after notice of appeal has been filed with him or her, that, by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property, in which case, the proceedings shall not be stayed, otherwise than by restraining order which may be granted by a court of record.
- **(C) Public Hearing Notice.** Notice of a public hearing by the BZA shall be given pursuant to <u>Article</u> <u>12, Chapter 6</u>.

## **Section 12.402 Jurisdiction**

The BZA may reverse or affirm, wholly or partly or may modify the order, requirement decision or determination as in its opinion ought to be made in the promises and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance, the BZA shall have the power in passing upon appeals to vary or modify any of its rules, regulations or provision so that the spirit of this Ordinance shall be observed, public safety secured and substantial justice done. Nothing herein contained shall be construed to give or grant to the BZA the authority to make changes in the Zoning Ordinance or the zoning may, such power and authority being reserved to the Township Board of Trustees in the manner herein provided by law.

#### **Section 12.403 Powers and Duties**

The BZA shall have the following specified powers and duties:

- **(A)** Administrative Review. To hear and decide appeals where it is alleged by the appellant and there is an error in any order, requirement, permit, decision or refusal made by the building official or any other administrative official in carrying out, enforcing, any provision in this Ordinance.
- (B) Interpretation. To hear and decide in accordance with the provisions of this Ordinance:
  - (1) Appeals for the interpretation of the provisions of this Ordinance.
  - (2) Requests to determine the precise location of the boundary lines between the zoning districts as they are displayed on the zoning map, when there is dissatisfaction with the decision on such subject pursuant to <u>Section 3.103</u>.
- **(C) Variances.** The BZA shall have the power to authorized, upon appeal, specific variances from such dimensional requirements as lot area and width regulations, building height and square foot regulations, yard width and depth regulations; such requirements as off-street parking and loading space, requirements, sign regulations and other similar requirements as specified in the Ordinance, provided such modifications will not be inconsistent with the purpose and intent of such requirements. To obtain a variance, the applicant must show "practical difficulty," by demonstrating:
  - (1) That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose and would thereby render the conformity unnecessarily burdensome for other than financial reasons;
  - (2) That a variance would do substantial justice to the applicant, as well as to other property owners in the district, (the BZA, however, may determine that a reduced relaxation would give substantial relief and be more consistent with just to others);
  - (3) That plight of the owner is due to the unique circumstances of the property; and
  - (4) That the problem is not self-created.
- **(D) Standards of approval.** In consideration of all appeals and all proposed variances under this Ordinance, the BZA shall, before granting any appeals or variances in a specific case first determine the following:
  - (1) That the proposed appeal or variance is related to the valid exercise of the police power and purposes which are affected by the proposed use or activity;
  - (2) The proposed appeal or variance will not impair an adequate supply of light and air to adjacent property or increase the congestion in public streets;
  - (3) Will not increase the hazard of fire or flood or endanger the public safety;
  - **(4)** Will not unreasonably diminish or impair established property values with in the surrounding area;

As Amended: <u>December</u>, 2019

- (5) Will not in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the Township;
- (6) Will not alter the essential character of the neighborhood; and
- (7) Is necessary to meet the intent and purpose of the zoning regulations; is related to the standards established in the Ordinance for the land use or activity under consideration, and is necessary to ensure compliance with those standards.

#### **Section 12.404 Prohibited Variances**

- (A) No variance shall be made in connection with a condition attached to a special approval use approved by the Township Board.
- **(B)** No variance shall be made in the use of land, and the Board of Zoning Appeals shall not consider use variance requests.

#### **Section 12.405** Attachment of Conditions

The BZA may impose conditions upon an affirmative decision. The conditions may include, conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all of the following:

- (A) Be designed to protect natural resources, the health, safety and welfare as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the community as a whole.
- **(B)** Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- **(C)** Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in the Ordinance for the land use or activity under consideration and be necessary to ensure compliance with those standards.
- (D) The conditions imposed shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the land owner. The approving authority shall maintain a record of changes granted in conditions.

## Section 12.406 Approval Period

No order of the Board permitting the erection of a building shall be valid for a period longer than six (6) months unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit within one (1) year of the date of the order of the BZA unless a six (6) month extension is granted by the

As Amended: <u>December 8, 2019</u>

**Article 12:** Administrative Procedures **Chapter 4:** Variances and Appeals

BZA to permit completion of any building or buildings. In instances where a building or alteration constructed in conformance with previously granted variance ceases to exist through damage or destruction, reconstruction shall be started and proceed to completion in accordance with the terms of a required building permit within two (2) years of the date of damage unless a six (6) month extension is granted by the BZA to permit completion.

#### Section 12.407 Fees

The Township Board of Trustees may from time to time prescribe and amend by resolution a reasonable schedule of fees to be charged to applications for BZA proceedings. At the time an application is filed, the fees shall be paid to the Township Treasurer.

#### **Section 12.408 Rehearing**

The BZA is without general authority to reconsider a matter it has decided and from reversing its previous decision unless the facts and circumstances which actuated the decision have so changed as to invalidate or materially affect the reason which produced and supported it and no vested rights have intervened.

#### **Section 12.409 Final Decision and Appeals of Decisions**

The decision of the BZA shall be final. An appeal of a decision of the Board of Zoning Appeals shall be taken to the Wayne County Circuit Court within a time period specified in the Michigan Zoning Enabling Act (P.A. 110 of 2006, as amended) and by such persons permitted by State statue and common law. Upon appeal, the court shall review the record and decision of the BZA to insure that the decision complies with the constitution and laws of the state, is based upon proper procedure, is supported by competent, material and substantial evidence on the record and represents the reasonable exercise of discretion granted by law to the BZA. As a result of this review required by this Section, the court may affirm, or modify the decision of the BZA.

As Amended: December, 2019

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ITEM #2: 22-048 - NICOLE'S LITTLE FRIENDS - GROUP DAY CARE HOME - SPECIAL LAND

**USE REVIEW.** 

TITLE: A REQUEST BY NICOLE AND ROBERT BURKE TO BEGIN A DAY CARE, GROUP

HOME USE AS DEFINED PER SECTION 2.102(A)(60)(B) OF THE VAN BUREN TOWNSHIP ZONING ORDINANCE. THE PARCEL IS ZONED R-1B (SINGLE FAMILY RESIDENTIAL). DAY CARE, GROUP HOME IS A SPECIAL LAND USE IN THE R-1B (SINGLE FAMILY RESIDENTIAL) DISTRICT, AND THE PROPOSED SPECIAL LAND USE REQUIRES A PUBLIC HEARING. THIS HEARING IS BEING HELD IN ACCORDANCE WITH ARTICLE 12, CHAPTER 3 (SPECIAL LAND USE REVIEW) OF THE ZONING

ORDINANCE.

THE PROJECT IS PROPOSED TO BELOCATED AT 45921 CHATSWORTH DRIVE

(PARCEL ID #83-061-01-0231-000).

Motion Cullin, Grant second to open the public hearing. Motion Carried.

Director Power gave a brief overview. The applicant is applying to the State of Michigan to operate a licensed Day Care Group Home for 12-14 children. Section 2.102 (A)(60)(b) of the Van Buren Township Zoning Ordinance allows for a private home to provide care and supervision to more than (6) but not more than (12) minor children for periods of less than twenty-four (24) hours a day. A recent change in State Law, will allow Day Care Group Homes to have additional capacity, up to two additional children. All group day care homes are required to be registered with or licensed by the State of Michigan Department of Licensing and Regulatory Affairs (LARA) or successor agency.

No comments from the audience or remote viewers.

Motion Jahr, Cullin second to close the public hearing. Motion Carried.

ITEM #3: 22-059 – BELLEVILLE YACHT CLUB – MARINA SPECIAL APPROVAL.

TITLE: A REQUEST BY THE BELLEVILLE YACHT CLUB FOR SITE PLAN REVIEW AND SPECIAL

APPROVAL TO CONSTRUCT A MARINA AS DEFINED UNDER SECTION 3.120(B)(15) OF THE VAN BUREN TOWNSHIP ZONING ORDINANCE, INCLUDING TWO (2) DOCK STRUCTURES, EACH CONTAINING A SINGLE DOCK STEM WITH UP TO FIVE (5) CONNECTING DOCKS. THE SITE IS ZONED BELLEVILLE LAKE SHORELINE DISTRICT B — NON-SINGLE FAMILY RESIDENTIAL (BLB) AND THE ADJACENT UPLAND PARCEL IS ZONED R-1C — SINGLE FAMILY RESIDENTIAL. MARINAS ARE A USE THAT REQUIRE SPECIAL APPROVAL IN THE BLB DISTRICT, AND THE USE REQUIRES A PUBLIC HEARING. THIS HEARING IS BEING HELD IN ACCORDANCE WITH SECTION 3.120(F)(3) (BELLEVILLE LAKE SHORELINE DISTRICTS — BELLEVILLE SHORELINE DISTRICT APPROVAL PROCESS) OF THE ZONING ORDINANCE.

THE PROJECT IS PROPOSED TO BE LOCATED IN TOWNSHIP LAKE PROPERTY ADJACENT TO 831 EAST HURON, PIVER DRIVE (PARCEL ID #83-088-99-0005-000),

(SINGLE FAMILY RESIDENTIAL) DISTRICT, AND THE PROPOSED SPECIAL LAND USE REQUIRES A PUBLIC HEARING.

THE PROJECT IS PROPOSED TO BELOCATED AT 45921 CHATSWORTH DRIVE (PARCEL ID #83-061-01-0231-000).

Director Power's presentation was provided under New Business Item #2 and there were no additional comments.

No further comments from the Commission, audience or remote viewers.

Motion Jahr, Grant second to postpone preliminary and final site plan until such time as the applicant is able to provide more detail on the site plan for additional review.

#### **Roll Call:**

Yeas: Budd, Grant, Barr, Cullin, Jahr and Kelley.

Nays: None.

Excused: Atchinson. Motion Carried.

ITEM #4: 22-059 – BELLEVILLE YACHT CLUB – MARINA SPECIAL APPROVAL.

TITLE:

A REQUEST BY THE BELLEVILLE YACHT CLUB FOR SITE PLAN REVIEW AND SPECIAL APPROVAL TO CONSTRUCT A MARINA AS DEFINED UNDER SECTION 3.120(B)(15) OF THE VAN BUREN TOWNSHIP ZONING ORDINANCE, INCLUDING TWO (2) DOCK STRUCTURES, EACH CONTAINING A SINGLE DOCK STEM WITH UP TO FIVE (5) CONNECTING DOCKS. THE SITE IS ZONED BELLEVILLE LAKE SHORELINE DISTRICT B – NON-SINGLE FAMILY RESIDENTIAL (BLB) AND THE ADJACENT UPLAND PARCEL IS ZONED R-1C – SINGLE FAMILY RESIDENTIAL. MARINAS ARE A USE THAT REQUIRE SPECIAL APPROVAL IN THE BLB DISTRICT, AND THE USE REQUIRES A PUBLIC HEARING.

THE PROJECT IS PROPOSED TO BE LOCATED IN TOWNSHIP LAKE PROPERTY ADJACENT TO 831 EAST HURON RIVER DRIVE (PARCEL ID #83-088-99-0005-000), ON THE NORTH SIDE OF EAST HURON RIVER DRIVE BETWEEN LOZA LANE AND EVELYN COURT.

Commissioner Kelley believed he has a conflict of interest, being a BYC member and asked to be recused from the discussion.

Motion Budd, Barr second to recuse Commissioner Kelley. Motion Carried.

Director Power informed that he will provide review comments for special approval and site plan review in his presentation. The project involves construction of two (2) dock structures, each containing a single dock stem with four (4) connecting docks located in Belleville Lake property adjacent to a private upland parcel located at 831 E. Huron River Drive, Belleville Yacht Club (BYC). The project is proposed to replace two (2) floating dock structures. Director Power presented his

review letter dated 1-6-23. The items included in the review letter are minor in nature and can be addressed with final site plan adjustments as the project proceeds through engineering and final site plan review and through the creation of "Issued for Construction" drawings. Director Power recommends conditional approval of the plan dated 1-6-23, subject to the following conditions:

- The water depth at the farthest point of projection must therefore be provided.
- A completed application for review by EGLE, and if required, by FERC, must be provided prior to full Township lakeshore authorization being granted and the construction is subject to any necessary approvals from EGLE and FERC.
- A description of the proposed use including the nature of the proposed use and other general information describing the use must be provided.
- The site shall not be used for fueling.
- Special approval must be obtained from the Township Board of Trustees.
- Special exception to Section 3.120(D)(5) must be obtained from the Van Buren Township Board of Zoning Appeals (BZA).
- The use of the land must otherwise comply with Article VI of Chapter 42 (Environment) of the Van Buren Township Code of Ordinances (Belleville Lake and Township-Owned Property).
- Staff finds the extension across roughly 81.8% of the lake frontage to be acceptable and the Planning Commission will have to find the same as part of any approval.

Owner/Applicant, Scott Jones informed that the use is a parking lot for boats to allow members to come and go by boat. Yacht Club of America members can also use the docks. The club does not rent docks out, but does allow members of the club that do not live on the lake to drop in their boat and keep it there over a weekend. BYC hosts major events 5-6 times a year such as the Polar Plunge for the Special Olympics, youth boater permit classes, 4<sup>th</sup> of July Fireworks, Dive Dogs diving classes at the club and Winterfest. New programs are being added to the club with swim classes and sailing programs. The BYC is working to bring the American Power Boat Association back to Belleville Lake and will coordinate with the Township and City of Belleville. The materials for the docks currently are 2 x 6 treated lumber and they intend to remain consistent. EGLE has bounced back and forth weather womanized is an acceptable use over water. Have applied for an EGLE permit, joint use permit, one application form is used for the whole permitting process and it falls under the marina classification. It's called a marine and mooring facility permit. The proposed docks are for the parking of 22 boats, 16 inner and 3 parallel on each side. The two (2) 120-foot docks will have 4-foot piers leaves 60 feet in the middle for the navigation of boats, have 50 feet down the center to bring a boat in. The first two spaces will be 28 feet each, 24 feet allows for two 8-foot boats tied up, with 6 feet of space between them. Boats will be parked on both sides of the pier and the seawall is existing with no proposed changes. The dock serves as access to the upland lot, where the Tiki Bar is located which is angled to not disturb the neighbors and there are no changes to the upland lot. Mr. Jones thanked the Commissioner for their consideration.

Commissioners had the following questions and comments:

How many boats will the docks accommodate and when there is peak traffic will they
double stack? Scott Jones informed there will be no stacking and 22 boats can be docked.

- When the docks are full will you turn people away? Mr. Jones confirmed yes, often people will consolidate to one boat if parking is not available.
- Similar to development on main roads, is there a marine safety impact study? Director Power informed that he is not aware of any, the applicant will have to meet all of EGLES requirements.
- Commissioner inquired if the applicant was using an engineer for the project and if there is a way that can be done. Mr. Jones is using King's Engineering for the project.
- Commissioner commented the applicant is tripling the distance. Mr. Jones commented they had 86-foot noncompliant docks that were taken out.
- Commissioner commented it was at 80-feet nonconforming, was part removed? Mr. Jones commented that the outer legs had been removed, had 30-60 days to remove them.
- Are the docks conforming or non-conforming currently? Director Power informed that they are non-conforming.
- Is the existing non-conforming rolled into the request? Director Power informed that this is a new request. Commissioner inquired what happens if this doesn't go through? Mr. Jones informed there are two (2) T's of floating docks.
- What do you have to prevent boats from parking perpendicularly? Mr. Jones informed that the area is really rough with the boat launch, it would be very difficult to tie a boat up there. Commissioner inquired who is enforcing? Mr. Jones informed that the BYC has a Dock Master in the club.
- Other yacht clubs can come in? Mr. Jones informed that 501(c)(7) social or recreational club organizations can go to other social clubs, they have to call first to accommodate. Commissioner inquired what happens if they come in to stay for the weekend? The club is fully staffed and would not allow it.
- In regard to the 120-foot docks, what's to stop Johnny's, Haywards, Doane's Landing and others from coming and asking to put a marina in? Director Power informed that there is a special set of criteria for the BZA that has to be met, it is not precedent setting, each has to meet at their own merit. Other factors were looked at in the BZA review, the limited frontage. The request is based on a specific service that is provided.
- Concerned that what if the City of Belleville had an agreement, they used to have 60 feet. Director Power informed that a district request would be the purview of the BZA.
- Commission agrees that he thinks we'll see an increase in requests.
- Commissioner is concerned with safety, what is the impact of traffic and safety. Commissioner would prefer to have an expert explain that it does or does not have safety impacts. Director Power informed that there is a layout aspect/volume aspect and asked if the concern is about the volume? The concern is about it all, traffic, pulling people on tubes in the area.
- Commissioner inquired if Director Power knows of any studies in his capacity? Director Power will look into and asked the applicant to describe the circulation of traffic. Mr. Jones informed that it is 898 feet across, 120 feet out, the boat traffic runs in a counter clockwise circulation. The dock to the left is within the first 64 feet, not in the path of traffic and he is not aware of a study.
- Commissioner inquired if the applicant is working with an engineer and if there is any way to ask them to have a graph with boating distances. Mr. Jones is working with King Engineering and can ask King Engineering for a graph to show the distance.

- Commissioner commented that this is definitely a different process, the Planning Commission usually would see before the BZA and the BZA gave no direction on how they feel. Would like to ask to table until we have direction from the BZA and have all questions answered.
- Commissioner commented that the BZA is very concerned with safety due to the length of the dock.
- Commissioner referenced an earlier public comment, that the use didn't serve the public as a whole. Commissioners understanding is that the membership was limited to men only? Mr. Jones informed no, that's not true. Commissioner inquired if women can become members of the Belleville Yacht club? Mr. Jones confirmed yes. Commissioner inquired when was that started. The club was founded in 2009 and they acquired the Moose Lodge in 2012. Commissioner inquired when were women allowed to become members? The by-laws have never excluded women. Commissioner asked if a woman could join today and become a full member. Mr. Jones confirmed, they could. They would have to meet the criteria for membership.
- Commissioner who is an acting BZA representative informed that the BZA has significant concern about safety about the 120-foot dock length and there was a lot of public comment. The Planning Commission has not had the benefit of reviewing the comments and correspondence as the BZA postponed their decision. It is in the applicant's and BZA's best interest to have all information available. The BZA felt that the site plan as presented was lacking for special approval and site plan review. Have not heard specific requests or comments on the site plan, would Commissioners like to make any comments on the site plan? The usage and depth need to be on there. The special exception was not given by the BZA, need to work on what the BZA will approve.
- Commissioner inquired if we approve the special approval are we saying ok to the 120-foot dock? The site plan wasn't sufficient, need to see more on the site plan.
- Commissioner inquired if the Planning Commission is ok with the 81.8% frontage? As long as it is not infringing on other properties. The west side is a boat launch and the east side is residential.
- Commissioner prefers to wait until we have more guidance from the BZA.
- Commissioner suggested including boats on the site plan and the addition of water depth and depth contour would be beneficial. The percentage of frontage excluded needs to be called out, show safety devices such as life jackets, lights, ladders and address. Have all items included on the next site plan.
- Commissioners commented that it would be helpful to have a plan graph to show boating zones and traffic patterns and a radius plan.
- Commissioner inquired regarding the previous public comment why is there not a site
  plan going to the state before coming to the Planning Commission? Director Power
  informed that in the typical process, the Township will make their review first. EGLE has
  been cc'd on the reports so they know where the Township is in the process and Director
  Akers has asked questions of EGLE.

Members of the audience and remote viewers had the following questions and comments:

• Resident read a letter from the State. The BYC has submitted an application, not a revised plan. The property owner had submitted it in the aftermath. If it had been done properly,

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we would not be here today. Resident is tired of political favoritism. The permit was not issued, EGLE recommended a revised site plan, to date the have not received a revised site plan. Based on preliminary review, the docks appear to be limited if boats are docked. Resident asked Mr. Richardson of EGLE if this was usual, he said no, it is highly unusual. Director Power informed that the email letter is in the Commissioners packets.

- Residents big concern is the lake is really busy on summer weekends, who is going to
  enforce the traffic concern. Traffic has to cross in front of the boat launch, would like to
  see some input from law enforcement.
- Resident agrees that most of the issues around safety are valid. Thinks they should plan first and issue variances later. The traffic issue at the boat launch, on Saturdays there are in excess of 20 boats waiting to access the ramp. Another concern is marketing the traffic through the channel itself, it is significantly narrow, there are no buoys to the west end of the boat launch site and there is no sequestered or secluded area. Resident feels that these are all things that should be considered. Once you grant the variance, this will affect traffic patterns at the launch site, determine the traffic pattern first. Resident is not so concerned about setting a precedence as much as safety. The other examples exist in coves of the lake, they wouldn't greatly impede the traffic on the lake. Resident would like to see the planning done first and the variance later.
- Resident commented the 762 feet to the opposite side of the shoreline, 100 feet no wake, minus the 120 feet equaling 542 feet is not acceptable. A lake traffic study is needed, not making a decision in the winter.
- Resident commented the BYC is asking for a variance of a variance.

No further comments from the audience or remote viewers.

Motion Cullin, Budd second to postpone 22-059 BYC Marina special approval to a future time.

#### Roll Call:

Yeas: Barr, Grant, Budd, Cullin and Jahr.

Nays: None.

Excused: Atchinson. Recused: Kelley. Motion Carried.

ITEM #5: 22-059 – BELLEVILLE YACHT CLUB – MARINA PRELIMINARY AND FINAL SITE PLAN

**REVIEW.** 

TITLE:

A REQUEST BY THE BELLEVILLE YACHT CLUB FOR SITE PLAN REVIEW AND SPECIAL APPROVAL TO CONSTRUCT A MARINA AS DEFINED UNDER SECTION 3.120(B)(15) OF THE VAN BUREN TOWNSHIP ZONING ORDINANCE, INCLUDING TWO (2) DOCK STRUCTURES, EACH CONTAINING A SINGLE DOCK STEM WITH UP TO FIVE (5) CONNECTING DOCKS. THE SITE IS ZONED BELLEVILLE LAKE SHORELINE DISTRICT B — NON-SINGLE FAMILY RESIDENTIAL (BLB) AND THE ADJACENT UPLAND PARCEL IS ZONED R-1C — SINGLE FAMILY RESIDENTIAL. MARINAS ARE A USE

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THAT REQUIRE SPECIAL APPROVAL IN THE BLB DISTRICT, AND THE USE REQUIRES A PUBLIC HEARING.

THE PROJECT IS PROPOSED TO BE LOCATED IN TOWNSHIP LAKE PROPERTY ADJACENT TO 831 EAST HURON RIVER DRIVE (PARCEL ID #83-088-99-0005-000), ON THE NORTH SIDE OF EAST HURON RIVER DRIVE BETWEEN LOZA LANE AND EVELYN COURT.

Director Power's presentation was provided under New Business Item #4 and there are no additional presentations.

Commissioners discussed actions moving forward. The BZA is looking for a more detailed site plan, they postponed pending site plan and safety concerns. Commissioners would like to hear what the BZA says and not have preliminary and final site plan reviews together, they can review before it goes back to the BZA. Commissioners would like to review the BZA minutes.

No comments from the audience or remote viewers.

Motion Cullin, Grant second to postpone 22-059 BYC Marina preliminary site plan for further review as per the comments that were reflected to the BYC, prior to a site plan going to the BZA.

#### **Roll Call:**

Yeas: Budd, Grant, Barr, Cullin and Jahr.

Nays: None.

Excused: Atchinson. Recused: Kelley. Motion Carried.

Motion Jahr, Budd second to adjourn the meeting for a 5-minute break. Motion Carried.

#### ITEM #6: 2022 PLANNING COMMISSION ANNUAL REPORT.

Director Power presented the draft 2022 Planning Commission Annual Report dated 1-6-23. The report includes updates on the Planning Commission's progress in implementing the Township-wide 2020 Van Buren Township Master Plan, Engagement Activities and Economic Development Plan (future), as well as an overall listing of the Planning Commissions activities. The Planning Commissions activities include: 17 public hearings, 8 preliminary site plan approvals, 4 final sit plan approvals, 3 combined preliminary and final site plan approvals, 7 special land use approvals, 1 site plan amendment, 4 temporary land use approvals, 4 rezoning recommendations to the Township Board including 1 recommendation for conditional rezoning, 3 zoning text amendments and 2 tree removal permits.

Motion Jahr, Barr second to recommend the 2022 Planning Commission annual report as written for acceptance to the Township Board of Trustees.

### CHARTER TOWNSHIP OF VAN BUREN PLANNING COMMISSION **February 8, 2023 MINUTES - DRAFT**

Vice-Chairperson Jahr called the meeting to order at 5:30 p.m.

#### **ROLL CALL:**

Present: Cullin, Atchinson, Barr, Grant, Budd, Pahle and Jahr.

Excused: None.

**Staff:** Director Power (remote), Director Akers and Secretary Harman.

Planning Representatives: Vidya Krishnan, McKenna Associates and Paul Kammer, Fishbeck

Associates.

Applicant(s) in Attendance: Case 22-059 Belleville Yacht Club: Owner, Scott Jones. Case 21-040 DTE Morton Substation: Barbara Rykwalder, Matt Wolf and Karen Wittman. Case 22-012 Chahal Semi Truck Repair Facility: Steve Davenport, Joe Davenport and Lance Warden. Case 17-026 Metro Park Party Store Gas Station: Timothy Shammas and Andy Shina.

Audience: Forty-seven (47) and Two (2) remote viewers.

#### APPROVAL OF AGENDA:

Motion Budd, Barr second to approve the agenda of February 8, 2023 as amended, removing New Business Item #4, Extension Request: Case 20-012 - Final Site Plan Approval for Jiffy Lube Minor Vehicle Service. Motion Carried.

#### **APPROVAL OF MINUTES:**

Motion Cullin, Budd second to approve the regular meeting minutes of January 11, 2023 as presented. Motion Carried.

#### ANNOUNCEMENT:

Vice-Chair Jahr introduced new Planning Commissioner Jackson Pahle and welcomed him to the Commission.

#### **OLD BUSINESS:**

ITEM #1: 22-059 - BELLEVILLE YACHT CLUB - MARINA PRELIMINARY SITE PLAN REVIEW

AND COMMENT.

BELLEVILLE YACHT CLUB REQUESTS TO CONSTRUCT A MARINA AS DEFINED TITLE:

> UNDER SECTION 3.120(B)(15) OF THE VAN BUREN TOWNSHIP ZONING ORDINANCE, INCLUDING TWO (2) DOCK STRUCTURES, EACH CONTAINING A SINGLE DOCK STEM WITH FOUR (4) CONNECTING DOCKS. THE SITE IS ZONED BELLEVILLE LAKE SHORELINE DISTRICT B - NON-SINGLE FAMILY RESIDENTIAL (BLB). MARINAS ARE A USE THAT REQUIRE SPECIAL APPROVAL IN THE BLB DISTRICT. THE PLANNING COMMISSION IS REQUESTED TO CONSIDER A REVISED PRELIMINARY SITE PLAN ASSOCIATED WITH A REQUEST FOR SITE PLAN AND SPECIAL APPROVAL FOR THE MARINA USE AND TO PROVIDE COMMENTS ON A SPECIAL EXCEPTION REQUEST OF THE BOARD OF ZONING APPEALS (BZA) FOR THE MARINA'S DOCK STRUCTURES TO EXTEND TO A LENGTH NOT TO EXCEED

120', CONTRARY TO SECTION 3.120(D)(5) OF THE ZONING ORDINANCE.

THE PROJECT IS PROPOSED TO BE LOCATED IN TOWNSHIP LAKE PROPERTY ADJACENT TO 831 E. HURON RIVER DRIVE (PARCEL ID NUMBER 83-088-99-0005-000), ON THE NORTH SIDE OF E. HURON RIVER DRIVE BETWEEN LOZA LANE AND EVELYN COURT.

Director Akers gave the presentation. The Planning Commission was asked to provide review and comment on special approval and site plan review for the proposed construction of two (2) multi-dock structures that have a proposed length of 120 feet each. A public hearing was held by the BZA on 1-10-23 to consider the special approval request, the BZA postponed their decision on the request to allow for additional review and commentary on the request and its associated marina site plan. A public hearing was held by the Planning Commission to consider the marina special approval and site plan requests on 1-11-23, the Planning Commission's decision was postponed in order for additional information to be provided on a revised site plan along with supplemental data and for action to be taken by the BZA at a future meeting prior to a final decision on the site plan. The BZA will be making findings on the following five (5) criteria in determining whether to approve the requested special exception for excessive dock length, per Section 3.120(F)(7) of the Van Buren Township Zoning Ordinance:

- Enforcement of the provision(s) requested for special exception would unnecessarily
  prevent the reasonable use of the land or boats involved without resulting benefit to
  the public health, safety and welfare of person or property;
- (ii) The special exception would not unduly prevent the realization of the purposes of this Ordinance;
- (iii) The special exception would not cause substantial harm or detriment to adjacent or nearby lands or boats or the public interest or safety, nor be contrary to the intent or purpose of this Ordinance;
- (iv) Unusual circumstances or conditions are involved; and
- (v) The special exception is consistent with the goal of providing reasonable, equitable access to all abutting lake owners.

The special approval is different than a variance, it takes into consideration the Townships responsibilities with FERC and the responsibility to maintain the integrity of the French Landing Dam. To assist the Planning Commission with analysis and commentary, the applicant was provided direction in the form of an itemized list of twenty-five (25) specific items that are highlighted in the packet. The next steps for the Commission are to make comment on the preliminary site plan submittal and provide commentary for the BZA for their consideration. The comments will be recorded in the meeting minutes and provided to the BZA.

Commissioner Atchinson disclosed that she and her husband are members of the community and BYC members. Commissioner Atchinson asked for permission to retain herself and to be able to vote on this item.

Motion Cullin, Grant second, the Commission has no problem allowing Commissioner Atchinson to remain as a voting member. Motion Carried.

Owner/Applicant, Scott Jones, gave a presentation. Mr. Jones was asked at the previous meeting to provide updates to the plans, which were submitted. A lot of the updates pertained to the 100 foot no wake zone around the property and proposed lighting at the docks, reflective tape and lighting has been added. Mr. Jones commented that the busiest days on the lake are the busiest days at the club. The lights are 48" tall, will illuminate downward onto the dock and should be noticeable from a distance. The added no wake lines take the navigable water down to 518 feet between the two 100 foot no wake zones. The narrowest point on the lake near the BYC is off of Potter Drive, which is down to 400 feet of navigable water, located roughly 700 feet to the west of the BYC. The BYC site is 118 feet wider with the docks and the no wake zones included. Mr. Jones considered everything discussed around safety, he believes they are not impeding the use of the lake, the docks are tucked in behind the narrowest point. Mr. Jones displayed the 100 foot no wake zones, space to navigate the waterway and proposed light fixtures. The DNR Boat Launch next door has proposed adding an extension to their docks with a jetty, the last proposal was a in 2008, however their budget has not allowed them to move forward. Mr. Jones does not know how far they plan to go out, he expects that it will be further than their docks. This will break up the wake in that area, making it safer by restricting the flow in the area. Mr. Jones did receive a question from the Township Board, asking if the BYC was a for profit organization or not. The BYC is a non-profit 501 (C)(7), if dissolved any proceeds would have to go to a like charity. Mr. Jones was available to answer any questions.

#### Commissioners had the following questions and comments:

- With regard to the 518 feet, how was it determined a safe distance for boating purposes? Mr. Jones informed that it will not be the narrowest point on the lake, there is only 400 feet of navigable water to the west and he has not been made aware of any concerns in that area. Mr. Jones had discussed ski ropes and lengths with the Township and how close boats can be to each other. The State of Michigan requires 150 feet behind or in front of a crossing boat. There is no specific language linking the lines for skiing or tubing, but from personal experience they are about 50-75 feet.
- Commissioner commented there are clearances from boat to boat. Boats above no wake speed needs to maintain a 100-foot distance from the shoreline and other boats that are traveling as well. Mr. Jones confirmed, yes.
- Commissioner inquired if the applicant could add the Michigan boating safety laws, to prove the point of safety. Mr. Jones agreed he could state the laws and show how small an 8 ½ foot wide boat is in a 500-foot area.
- Commissioner is not sure if it is safe or unsafe, believes it is the applicant's responsibility to show that it is safe. In the end, the Planning Commission and BZA would need to make their decision based on the evidence to show that it's safe. Mr. Jones agreed he can show some navigable waters. Commissioner thinks that if the applicant applies safe boating laws and requirements then he can prove if it's a safe plan.
- Commissioner needs a little more information than how much distance is needed between boats. Looking at an assumption in regard to safety, need to be more certain. Looking at Section 3.120, it talks about enforcement with provisions for special exemptions and there have been public comments about the dock going out into the lake which is a public resource and this is for a private club. The stated purpose involves lake access and boating education which would be limited by a small subset of the community. Last meeting, the Commissioner asked the question if women could be members of the

club, the Commissioners follow up question is, are there women that are voting members in the club? Mr. Jones informed yes, there are currently seven (7). The current bylaws state that there shall be no requirement for membership in the club that could serve to restrict any applicant based against race, color, sexual orientation, national origin or religion.

- Commissioner inquired, as far as the marina use, there is not really a change in the use?
   Mr. Jones informed, no. It won't be a marina operation in the manner of fueling or maintaining boats, it is only for dockage for members to use the facilities and leave.
- Commissioner has concern with the 120 feet, he has seen people that don't understand what they are supposed to do on the lake and has safety concerns. Commissioner knows that people do not observe the no wake zone. It is only two (2) football fields across the lake at that point, major concern for others using the lake. If more than one (1) boat or jet ski, are they going to be able to maintain enough distance apart. Commissioner likes the idea of the construction of the docks and the way that they look, however has concern for all that use the lake.
- Commissioner asked Mr. Jones if he has considered shorter dock lengths. Mr. Jones responded that to get the 16 boats, they need the 120 feet. Commissioner inquired if they need 16 boats? Mr. Jones commented they would have liked to have more.
- Commissioner commented that if the BZA approves the extension, that does not necessarily mean they will get their dock, this will still need to go to EGLE. Director Akers confirmed that is accurate. Commissioner commented that in addition to EGLE, there would be review by FERC. Director Akers informed, potentially, he will need to confirm.
- Commissioner inquired how the docks are able to be maintained as private? Director Akers informed that the docks are privately owned. Exclusive use in the ordinance transfers certain rights with responsibilities.

Members of the audience and remote viewers had the following questions and comments:

- Resident appreciates the BYC and thinks they bring property values up. Mr. Jones mentioned that there's virtually no traffic and that the width of the proposal is not the narrowest part. Even though it's not the narrowest part, where it is narrower, boats are not going in and out to park. Where this is going to be, there is traffic going in and out. Resident is concerned being only about 5-6 houses away, she sees all the traffic in the summer and doesn't boat on the weekends because its too busy. Resident thinks we need a traffic study to be able to get the data needed to make sure that it's going to be safe. Resident doesn't oppose anything that the BYC is doing, just wants it to be safe.
- Resident, lakefront owner and avid boater. Addressed a few items with safety, the area in question is one of the trickiest putting your boat in and out. Resident suggests that the extension will push those boaters out further into the lake where they belong. To get a traffic study, look a little further down the lake where it is narrower. Coming around the tip of Potter Drive allows the natural trajectory to continue the arch around the area. Traffic studies have been done. The DNR asked in 1998 and 2004 to extend their docks and add a jetty. The only thing stopping them is the funding. The traffic study is done and the DNR project is approved. There are several other areas on the lake that are much narrower.

- Resident disagrees with the previous speaker's comments. The 518 feet of water is not
  enough when pulling tubers. Often more than not, a boat pulling a tuber or a jet ski goes
  in between another obstacle, a huge safety issue. Resident inquired if we have contacted
  the Police to get their view? This is not a gated/private lake. Have to be extremely
  considerate of everyone's safety. The dock is an extended obstacle.
- Resident sat in the previous Planning Commission and BZA meetings, both requested and asked about traffic studies and safety concerns. The typical permit process asks the requestor to provide a site survey. This doesn't just affect the neighboring properties. Earlier resident mentioned a traffic study for the DNR launch, traffic studies change, think it needs to be done again. The request doesn't hold a candle to the original ask. Taking down to the narrowest point, is turning the lake back into a river. EGLE, the deciding factor is waiting for the Township, nowhere else has a dock length restriction. The letter in the Independent commented on the Lake Ordinance Committee. Perhaps reconvene the Lake Ordinance Committee, instead of trying to push this through. The amount of non-permitted docks is not unreasonable. The applicant reminded of what good they do for the community, but the dock length only benefits the club members. Resident stands opposed to the 120 feet, thinks it needs to be looked at further. Resident is opposed that anyone would vote that is a BYC member.
- The original dock held 24 boats, its down to 16 boats. Resident participated in the lakeshore ordinance discussion. The 40-foot limit seems excessive, would be more willing to support an 80-foot dock. Resident also agrees that people that are members of the BYC should not vote.
- 120 feet into the lake is absurd, a lake that the entire state of Michigan can use. Boaters don't pay attention to the rules. 80 feet is ridiculous. Resident is totally opposed.
- Remote viewer supports the BYC in the many things that they do for the community. A lot of people are against the docks, but support the BYC. It's one thing to ask for a variance on land, another thing to take over a lake that you don't own. If approved it sets a precedence for all sorts of other businesses. Resident sent Director Power a video of previously proposed docks at the Liberty Street address that were at 140 feet. The current docks were strategically planned, then the applicant got a stop work order, the applicant could have started then with this request and looked at this in the summer. The lake width in that area is 40 feet plus 100 feet equaling 140 feet, 280 feet for both sides combined, leaving a 590 navigable channel. Allowing them to go out 120 feet reduces 80 feet, almost a 15% reduction to the navigable channel for the private club. If the DNR builds a jetty and docks, then allow the club to build out the same length. Resident agrees that he absolutely disagrees with BYC members on the Commission voting. Resident inquired if there are any other members on the Commission.

Commissioner thanked the public for their comment. After looking at the ordinance, they need to conclude there is a positive finding for all 5 items that the BZA will be reviewing. Commissioner recommended that the BZA should not grant the variance. Additionally, we should not guess on safety. The township needs to look at and consider other buildouts. This is a shared resource.

No further comments from the Commission, audience or remote viewers.

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#### **NEW BUSINESS:**

ITEM #1: 21-040 – DTE MORTON SUSBSTATION – FINAL SITE PLAN.

TITLE: THE APPLICANTS, CHRISTOPHER BECKER AND MATTHEW WOLFE, ON BEHALF OF

DTE ELECTRIC, SEEK SITE PLAN REVIEW FOR THE CONSTRUCTION OF A 120 – 13.2 KV, 80 MVA NINE CIRCUIT SUBSTATION AND RELATED SITE IMPROVEMENTS.

42061 ECORSE ROAD, TAX PARCEL 83-041-99-0004-001. LOCATED ON THE SOUTH SIDE OF ECORSE ROAD BETWEEN HAGGERTY ROAD AND KIRKRIDGE

PARK DRIVE.

Director Akers deferred to Principal Planner Vidya Krishnan for her presentation.

Vidya Krishnan of McKenna Associates presented her review letter dated 2-2-23. The applicant, DTE, is proposing to construct a new circuit substation in collaboration with ITC. The substation will include several structures necessary for the functioning of the site. The applicant received preliminary site plan approval from the Planning Commission on 5-11-22, subject to several conditions. Many of the conditions of preliminary plan approval have been met at this time. The few items remaining to be addressed can be administratively checked or require a resolution with the County. McKenna Associates recommends that the Planning Commission grant final site plan approval for the DTE Energy substation to be located on Ecorse Road, subject to making the necessary corrections to the landscape and lighting plans as noted in the review letter and finding a resolution for the sidewalk design.

Paul Kammer of Fishbeck Associates presented his review letter dated 1-31-23. Fishbeck recommends the Planning Commission grant the DTE Morton substation engineering and final site plan approval, subject to the comments in the review letter and pending Wayne County reviews and permit approvals. If changes occur due to requirements from the County, the Township reserves the right to require the applicant to resubmit and apply for review of the site. Prior to the project continuing to the preconstruction phase, the applicant will be required to address all comments in an issued for construction plan set.

Director Akers presented the Fire Department's review letter dated 11-9-21, there are no changes and the site plan as reviewed is approved.

Barbara Rykwalder, Matt Wolf and Karen Wittman of DTE were present to answer any questions. Matt Wolf informed that they have taken the necessary precautions on the wetlands. Additional improvements have been made to the landscaping to provide better shielding and they will take a look at replacing a shrub for tree.

No comments from the Commission.

No comments from the audience or remote viewers.

# CHARTER TOWNSHIP OF VAN BUREN - CORRECTED BOARD OF ZONING APPEALS PUBLIC HEARINGS

Notice is hereby given that the Charter Township of Van Buren Board of Zoning Appeals (BZA) will hold public hearings on **Tuesday, January 10, 2023 at 7:00 p.m.**, at the Van Buren Township Hall, 46425 Tyler Road, Van Buren Township, MI 48111. The BZA will meet to consider the following requests:

1. <u>Case # 22-042-</u> A dimensional variance request by Tyler Edwards on behalf of Menard's, Inc. to install an addition to an existing accessory canopy, which is attached to the principal building, to within fifteen (15) feet of the side lot line. The project is proposed to be located at 10010 Belleville Road, located on the west side of Belleville Road between Westlake Circle and Tyler Road. The site has tax parcel ID # 83 061 99 0005 726 and is zoned C-2 – Extensive Highway Business District. This is contrary to the requirements of Section 3.112(E) of the Van Buren Township Zoning Ordinance as described below:

Required side yard setback: 25 feet
Existing side yard setback: 35 feet
Proposed side yard setback: 15 feet

• Variance requested: 10 feet

- 2. <u>Case # 22-057-</u> A dimensional variance request by Bazo Construction on behalf of Meijer, Inc. for 9701 Belleville Road (Parcel ID# 83 058 99 0006 710) to install a combined total wall sign area of 628.77 square feet. The site is zoned C-2 Extensive Highway Business District. This is contrary to Section 11.108(B) (Sign Regulations Applicable to the C, C-1, C-2, and FS Districts) as described below:
  - Allowable maximum wall sign area: 3 sq. ft. per linear ft. of building frontage, not to exceed 300 sq. ft. per business or 50% of the façade exclusive of window and door openings.
  - Existing total wall sign area of Meijer store and gasoline station: 266.07 square feet
  - Proposed total wall sign area of Meijer store and gasoline station: 628.77 square feet
  - Variance requested: 328.77 square feet
- 3. <u>Case # 22-056-</u> A request for exception, modification, or appeal by Belleville Yacht Club to install two (2) dock structures each with a length not to exceed 120 feet, subject to approval by the State of Michigan, in contrast to the requirements of Section 3.120(D)(5) of the Van Buren Township Zoning Ordinance which limits the dock length to 40 feet into Belleville Lake, measured perpendicularly from the shoreline, unless greater length is necessary to reach water with a depth of three feet. The subject site is Township Lake Property adjacent to 831 East Huron River Drive (parcel ID number 83 088 99 0005 000), on the north side of East Huron River Drive between Loza Lane and Evelyn Court. The site is zoned Belleville Lake Shoreline District B Non-Single Family Residential (BLB). The request will be reviewed by the BZA per the requirements of Section 3.120(F)(7) of the Van Buren Township Zoning Ordinance.

Members of the public may participate in the meeting electronically per guidance provided by the Wayne County Local Public Health Department for meetings of governmental bodies held under public act 228 of 2020, effective January 1, 2022. Members of the public may access the agenda materials via the Township website — <a href="https://www.vanburen-mi.org">www.vanburen-mi.org</a> by January 9, 2023. On the meeting webpage, members of the public will also gain access to means of participating in the electronic meeting. On the agenda for the meeting, a unique Zoom weblink and dial-in phone number with a meeting ID for meeting videoconference or teleconference access will be provided. The meeting will be available to view live on the Van Buren Township YouTube Channel. Closed captioning will be available after YouTube fully renders meeting video.

A complete **procedure for public comment by electronic means** is provided on a guide which is accessible on the Van Buren Township website (<a href="www.vanburen-mi.org">www.vanburen-mi.org</a>). Participants may also choose to submit written comments that will be read into record during public comment by the Chairperson. Submit any written comments or questions about the meeting via e-mail to <a href="mailto:dpower@vanburen-mi.org">dpower@vanburen-mi.org</a>.

To comply with the Americans with Disabilities Act (ADA), any citizen requesting accommodation to attend a meeting, and/or to obtain this notice in alternate formats, please contact the Clerk's Office at 734.699.8900 extension 9205.

Posted: 12/20/2022 Published: 12/21/2022



Motion: Variance Request BZA 22-056

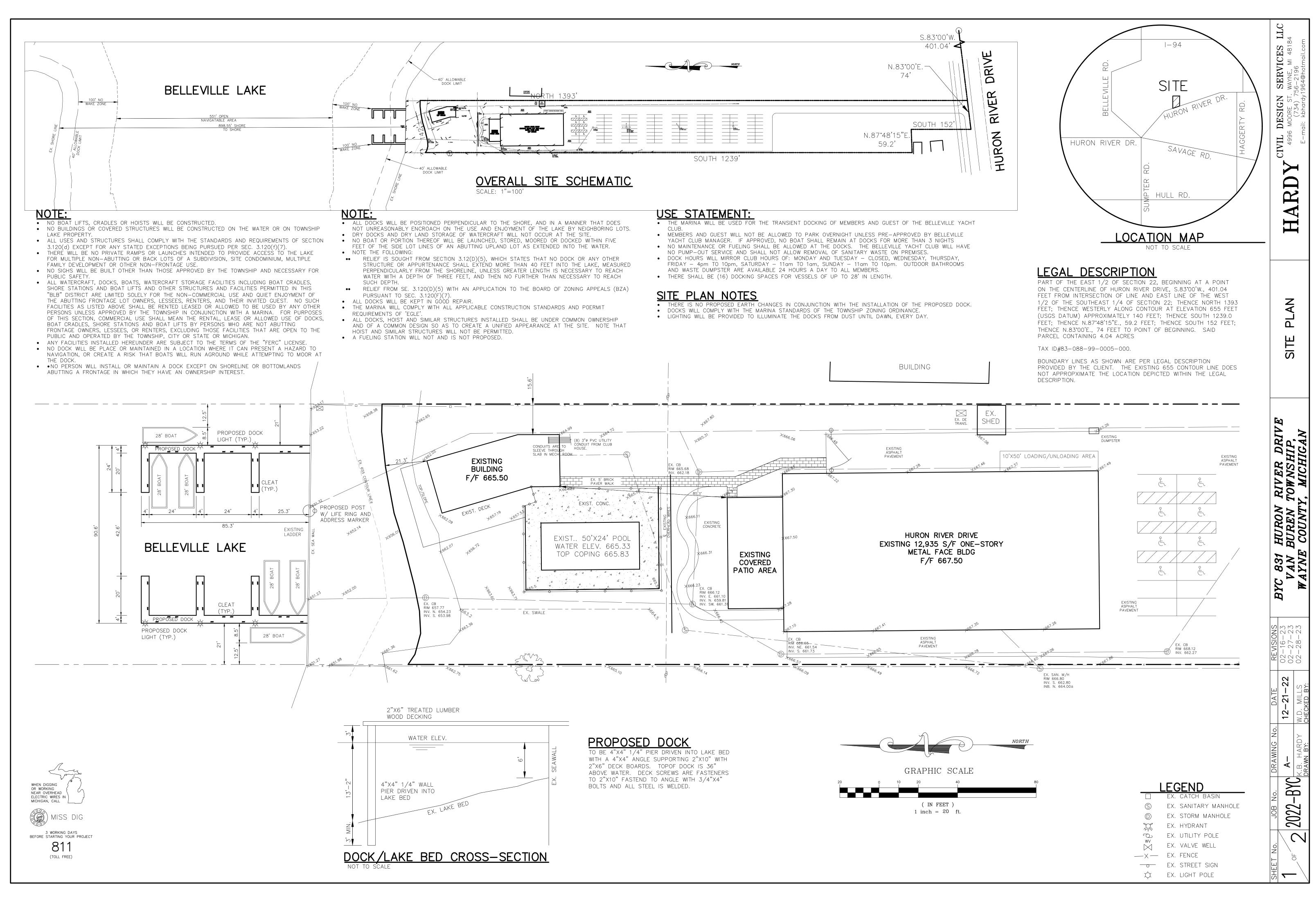
Case 22-056: I make a motion to (approve / deny) the request for exception, modification, or appeal by Belleville Yacht Club to install two (2) dock structures each with a length not to exceed 85.3 feet, subject to approval by the State of Michigan, in contrast to the requirements of Section 3.120(D)(5) of the Van Buren Township Zoning Ordinance which limits the dock length to 40 feet into Belleville Lake, measured perpendicularly from the shoreline, unless greater length is necessary to reach water with a depth of three feet. The subject site is Township Lake Property adjacent to 831 East Huron River Drive (parcel ID number 83 088 99 0005 000), on the north side of East Huron River Drive between Loza Lane and Evelyn Court. The site is zoned Belleville Lake Shoreline District B – Non-Single Family Residential (BLB).

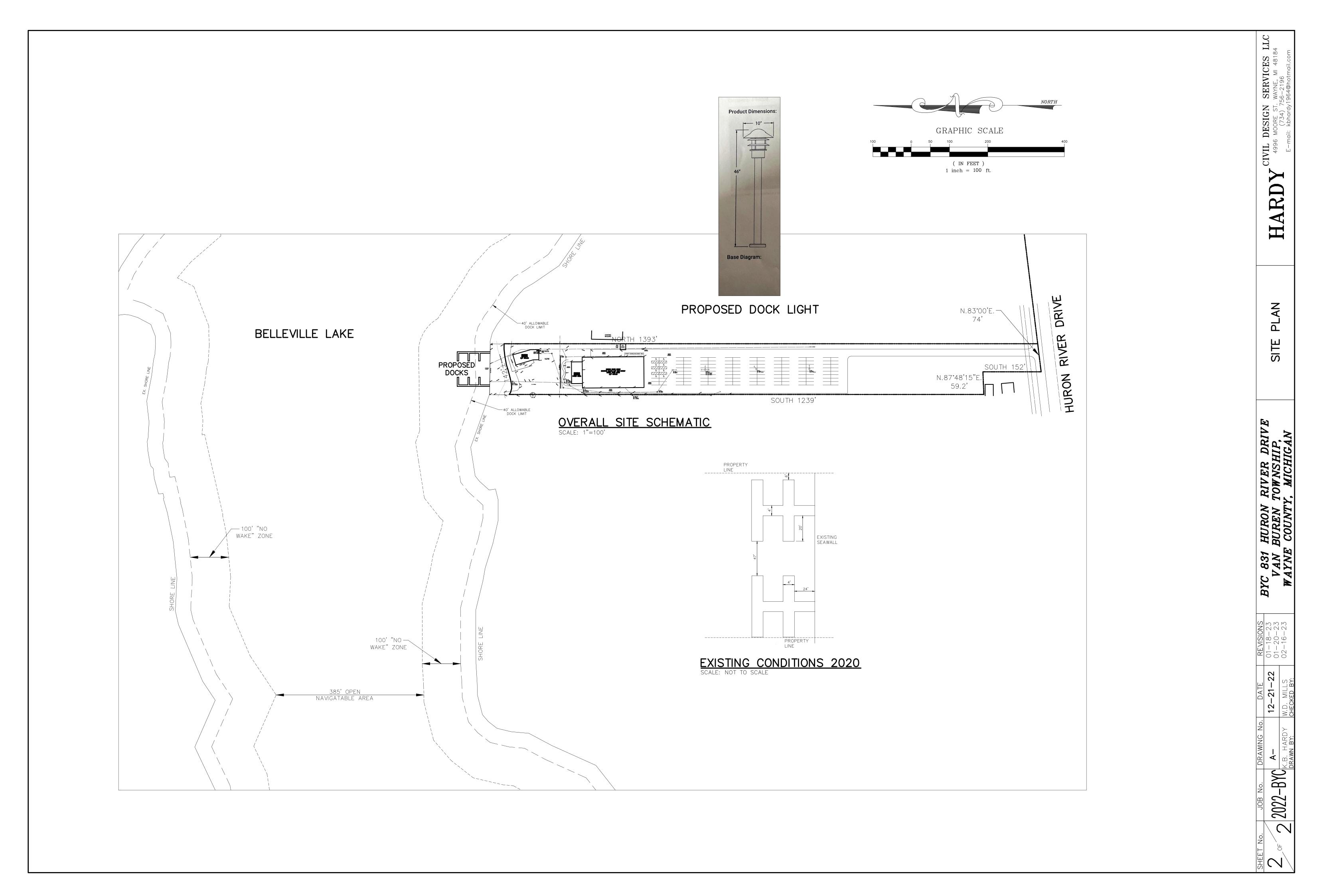
This motion is based on the findings of fact derived from Section 3.120(F)(7) of the Van Buren Township Zoning Ordinance (findings in the affirmative in favor of the exception request are <u>underlined</u> and findings in the negative are *italicized*:

| i.      | Enforcement of the provision(s) requested for special exception <u>would</u> / <i>would not</i> unnecessarily prevent the reasonable use of the land or boats involved without resulting benefit to the public health, safety and welfare of persons or property <b>because</b> |  |  |
|---------|---|--|--|
| ii.     | The special exception <u>would not</u> / would unduly prevent the realization of the purposes of this Ordinance because   |  |  |
| iii.    | The special exception <b>would not</b> / <b>would</b> cause substantial harm or detriment to adjacent or nearby lands or boats or the public interest or safety, nor be contrary to the intent or purposes of this Ordinance <b>because</b>                                     |  |  |
| iv.     | Unusual circumstances or conditions <u>are</u> / <u>are not</u> involved because  |  |  |
| ٧.      | The special exception <u>is</u> / <i>is not</i> consistent with the goal of providing reasonable, equitable access to all abutting lake owners <b>because</b>   |  |  |
| Finding | s of fact:  |  |  |
| Condit  | tions: Recommended Condition (if exception is granted):   |  |  |
| Conditi | on:   |  |  |
| Conditi | on:   |  |  |

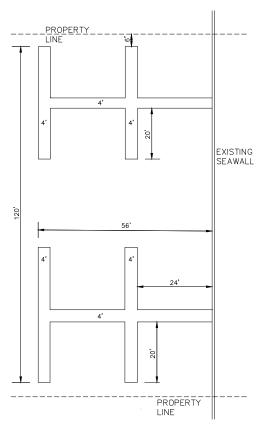


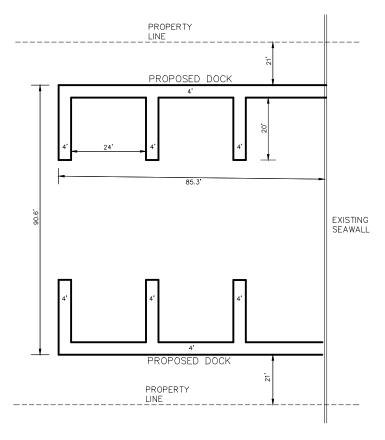
| Motion made by:        |             |  |
|------------------------|-------------|--|
| Support from:          |             |  |
| Ayes: Nays:_           | <del></del> |  |
| Motion carries / fails |             |  |





## CERTIFICATE of SURVEY





## EXISTING CONDITIONS 2020

SCALE: NOT TO SCALE

## PROPOSED DOCK 2023

SCALE: NOT TO SCALE

2020 EX. DOCK AREA = 7950 S/F 2023 EX. DOCK AREA = 8120 S/F PROP. DOCK AREA = 8530 S/F

DATE: 05-04-23
JOB No. 0222-BYC
DWG No. DSHEET: 1 of 1

NTS

SCALE:

SITE PLAN
BYC DOCKS

CITY OF BELLEVILLE, WAYNE COUNTY, MICHIGA##

