

AGENDA

Grand Haven Charter Township Zoning Board of Appeals
Tuesday, June 23, 2015 – 7:00pm

- I. Call To Order
- II. Roll Call
- III. Approval of the May 27, 2015 ZBA Meeting Minutes
- IV. New Business
 - A. ZBA Variance Application No. 15-04 – Rust
- V. Reports
- VI. Extended Public Comments/Questions on Non-Agenda Items Only (*Limited To Four (4) Minutes Please*).
- VII. Adjournment

MEETING MINUTES
GRAND HAVEN CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
WEDNESDAY, MAY 27, 2015 – 7:00 P.M.

I. CALL TO ORDER

The regular meeting of the Grand Haven Charter Township Zoning Board of Appeals was called to order at 7:00 p.m. by Chair Robertson.

The Chair explained both the purpose and procedures of the ZBA.

II. ROLL CALL

Board of Appeals members present: Robertson, Loftis, Behm, Voss, and Slater
Board of Appeals members absent: Rycenga (alternate)

Also present: Planning & Zoning Official Fedewa

Without objection, Fedewa was instructed to record the minutes for the meeting.

III. APPROVAL OF MINUTES

Without objection, the minutes of the April 28, 2015 meeting were approved.

IV. NEW BUSINESS

A. ZBA Case #15-03 – Dimensional Variance – Nelson

Party Requesting Variance:	Donald Nelson
Address:	15275 Widgeon Road
Parcel Number:	70-03-26-454-005
Location:	15275 Widgeon Road

Donald Nelson is seeking to construct a 26' x 28' (728 *square feet*) addition to the rear of the main building. Section 21.02 of the Zoning Ordinance requires a 50 foot rear yard setback in the R-1 Single Family Residential Zoning District, and one corner of the addition would encroach into the required rear yard by 2'9".

Fedewa provided an overview of the application, and staff review, through a memorandum dated May 21st.

The fact-finding portion of the Case was discussed by the ZBA members, which focused on:

- Discussion and clarification of Standard 4.

- Explanation of rear yard layout, and options for addition that would not require a dimensional variance.
- Questioned the ability to vote when dimensions are in question.
- Discussed options for an alternate design that would negate the need for a variance.

Following the initial discussions the Chair invited the applicant to speak:

Donald Nelson – 15275 Widgeon Road:

- Provided history of plat, road installation, lot dimensions, and measurement method.
- Due to uncertainty of dimensions a survey has been ordered, but not completed.

The Board discussed the four standards and noted the following:

1. Exceptional or extraordinary circumstances:
 - Precedence of case law indicates an irregular shaped lot does not amount to an exceptional circumstance.
2. Substantial property right:
 - A large addition to a dwelling does not constitute a substantial property right. Examples of a garage and access to the dwelling were provided.
3. Will not be a substantial detriment to adjacent parcels, or material impact on the intent and purpose of the Ordinance:
 - Standard has been met.
4. Request is not of such a recurrent nature as to make reasonably practical the formulation of a general regulation:
 - Standard was not discussed.

Applicant, Donald Nelson, chose to withdraw the application. The Board ceased discussions on the matter.

V. REPORTS

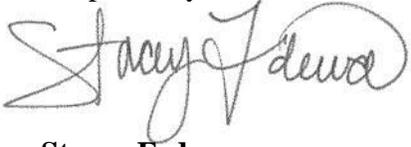
- Fedewa and Behm met with Robbins Road Development owner, Paul VandenBerg. Options for Directional Signs and variance for a Freestanding Sign were discussed.
- Fedewa anticipates a June ZBA meeting for Dale Rust who will request a dimensional variance for a staircase to gain access to the dwelling.

VI. EXTENDED PUBLIC COMMENTS – None

VII. ADJOURNMENT

Without objection, the meeting was adjourned at 7:41 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Stacey Fedewa". The signature is written in black ink and is positioned above the printed name.

Stacey Fedewa

Acting Recording Secretary



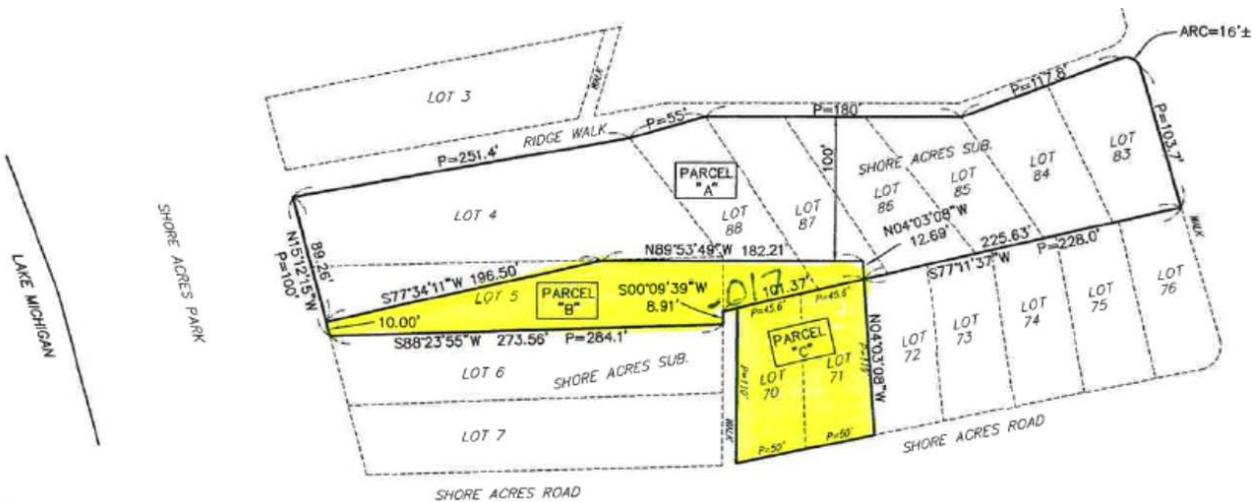
Community Development Memo

DATE: June 18, 2015
TO: Zoning Board of Appeals
FROM: Stacey Fedewa, Planning & Zoning Official
RE: 18165 Shore Acres – Dimensional Variance Application No. 15-04

BACKGROUND

In June 2014, Dale Rust, applied for a variance to construct retaining walls that do not meet the setback requirements of the Zoning Ordinance. The septic system had failed and the proposed drain field required the installation of retaining walls.

The septic system and retaining walls have been installed. In addition, in October 2014, Rust did a land division that increased the lot size and gave him water frontage on Lake Michigan. Per Section 2.13 the definition of a Front Lot Line includes, “...in the case of a lot which abuts upon a lake or river, that side of such lot abutting upon the lake or river shall be considered as the front lot line.” Prior to the land division “Parcel C” encompassed 18165 Shore Acres, but now the same address encompasses “Parcel C” and “Parcel B.” Therefore, the front lot line is along Lake Michigan and the rear lot line is now the eastern boundary line.

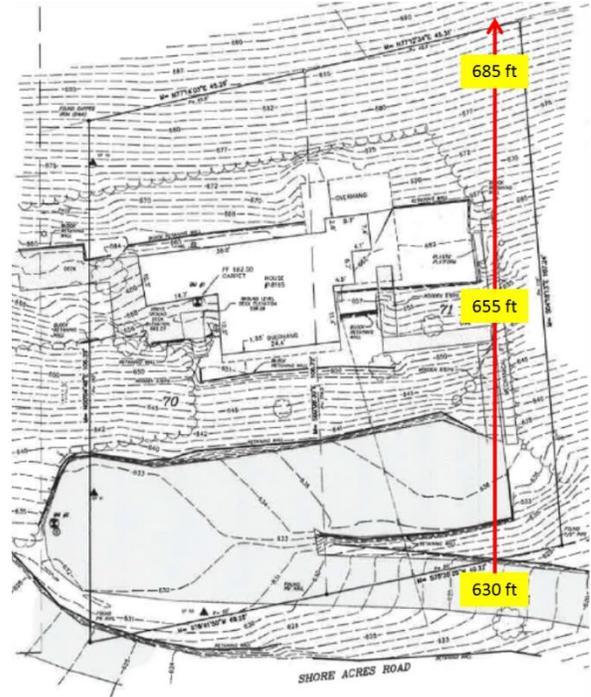


SITE CONDITIONS

The parcel is located within the critical dune area, is zoned R-1, 30 feet exist between the dwelling and rear lot line, and is approximately 21,550 square feet.

The topography change on the parcel is significant. The driveway begins at 630 feet and rises to 685 feet, which is an increase of 55 feet. The grade change between the driveway and house is approximately 25 feet. **Staff recommends each Board member visit the site** in order to appreciate the steep slope and lack of access to the dwelling.

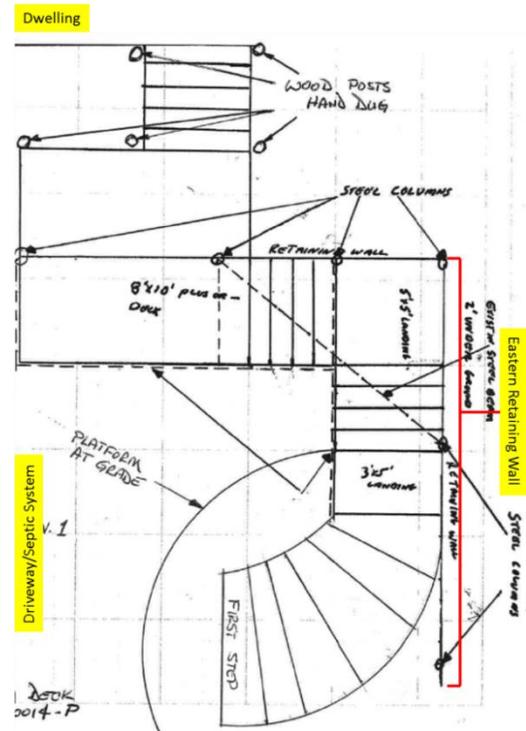
In order to install the septic system, and retaining walls, the existing stairs had to be removed. In doing so, the access to the structure was eliminated. During the last year, Rust has been using a ladder to scale the retaining walls, which are approximately 12 feet in height.



ZBA APPLICATION

Staff determined the proposed stairways and landings (a *minimum of 1 landing is required for every 12 feet of vertical height*) are considered a structure because of Section 20.20.6, which states in part, "...any walk, terrace, or other pavement servicing a like function, and not in excess of 9 inches above the grade upon which placed, shall for the purpose of this Ordinance not be considered to be a structure, and shall be permitted in any required yard." Therefore, the stairways and landings are required to meet the underlying setback requirements of the zoning district (*i.e., 50 feet for a rear yard*).

Based on the location of the septic system, and size of the retaining walls, the contractor has determined the only safe option is to weld the support poles to the metal H-Beam support columns used for the retaining walls.



The stairs cannot be constructed in their original location because the retaining wall cannot support the weight of the stairway and landing because only 2-3 support columns could be utilized. Instead they must be installed parallel to the eastern retaining wall so the weight can be dispersed among six support columns.

The eastern retaining wall is located on the rear lot line. Therefore, the **applicant is requesting a 30 foot rear yard variance to construct the stairs, and landings, in order to gain access to the dwelling.**

VARIANCE STANDARDS

To authorize a dimensional variance from the strict applications of the provisions of this Ordinance, the ZBA shall apply the following standards and shall make an affirmative finding as to each of the matters set forth in each of such standards. Staff has provided their review comments below:



STANDARD 1

There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning classification. Circumstances include:

The applicant meets this standard based on two factors:

1. Exceptional topography (*i.e.*, 25 foot rise from driveway to dwelling).
2. Extraordinary circumstance of the retaining wall locations, and their ability to support the weight of the stairway and landings.

STANDARD 2

The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity, provided that possible increased financial return shall not of itself, be deemed sufficient to warrant a variance.



The applicant meets this standard. Access to the dwelling is necessary for the preservation and enjoyment of the property. Furthermore, some members of the Rust family have been unable to enjoy the property since the stairway was removed to install the septic system and retaining walls.

STANDARD 3

Authorization of such variance will not be of substantial detriment to adjacent property, and will not materially impair the intent and purpose of this Ordinance or the public health, safety, and general welfare of the community.

The applicant meets this standard. Many dwellings located within the Critical Dunes area are accessed by stairways and landings due to the steep slopes. The installation of which may require a variance based on the exceptional and extraordinary circumstances found within the Critical Dunes.



STANDARD 4

The condition or situation of the specific piece of property or the intended use of said property for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such condition or situation, a part of this Ordinance.

The applicant meets this standard. The circumstances of this case are unique due to the limitations imposed by the septic system and retaining walls. Therefore, further zoning regulations would not be warranted.



RECOMMENDATION

Based on the findings above, staff recommends approval of the Dale Rust dimensional variance application because each standard has been affirmatively met. If the Zoning Board of Appeals agrees with the aforementioned recommendation, the following motion can be offered:

Motion to approve a rear yard setback dimensional variance of 30 feet from Section 21.02 of the Grand Haven Charter Township Zoning Ordinance in order to construct a series of stairways and landings to gain access to the dwelling located at 18165 Shore Acres Road (Parcel No. 70-03-32-331-017). Approval of this variance is based upon this Board's findings that all four standards have been affirmatively met.

Please contact me prior to the meeting with questions or concerns.



GRAND HAVEN CHARTER TOWNSHIP

ZONING BOARD OF APPEALS APPLICATION

Fees

Request for Variance or Appeal - \$125.00
Special Meeting - \$250.00
Request for Interpretation - No Charge

Applicant/Appellant information

Name DALE RUST
Phone 847-323-4975 CELL Fax EMAIL DLR.KOENLING@GMAIL.COM
Address 1939 KOENLING RD. NORTHBROOK, IL 60062

Owner information (If different from applicant/appellant)

Name
Phone
Address

Property information

Address/Location 18165 SHORE ACRES RD. GRAND HAVEN, MI 49417
Parcel # 70-03-32-331-017
Subdivision Name (if any) SHORE ACRES
Lot Width feet Lot Depth feet
Subject Property size (acres and square feet) .83 acres 36,560 square feet
Lot Type Typical Lot Corner Lot Interior Lot X (Include a survey or scaled drawing)
Current Zoning R1

General Information

This is a(n) (check one)
(X) Application for Variance
() Request for Interpretation
() Notice of Appeal

VARIANCE REQUESTED (If applicable)

Variance Requested From the Requirements of Section Number(s) 21.02
Relating to 30 FT. REAR YARD DIMENSIONAL VARIANCE
Description of Variance Sought and Why Needed (attach narrative which addresses the four standards)
Structure Use (after Variance) SINGLE FAMILY RESIDENCE
Overall Building Size (after Variance) 2,000 SQ FT.
Setbacks from lot lines (after Variance)
Front Yard 200 feet
Rear Yard 30 feet
Side Yard #1 50 feet
Side Yard #2 50 feet

NOTE: Please provide a scaled drawing with details of your proposed work including the dimensions of any structure(s) (i.e. height, width & length), building materials, the setbacks to ALL property lines, and other existing structures on the parcel, and any other relevant information, as needed.

INTERPRETATION REQUEST (If applicable)

Description of requested interpretation(s) and relevant Section number(s)

APPEALS AND OTHER APPLICATIONS (If applicable)

Description of action being appealed or other matter which is basis of application.

Grounds for appeal or other application

I hereby attest that the information on this application form is, to the best of my knowledge, true and accurate.



Signature of Applicant

5/27/15

Date

Signature of Zoning Administrator

Date

For Office Use Only

Date Received _____

Fee Paid? _____

IF THE SPACES PROVIDED ON THIS APPLICATION ARE INADEQUATE, PLEASE ATTACH ADDITIONAL SHEETS AS REQUIRED

RELEASE FORM

The undersigned has applied to the Grand Haven Charter Township Zoning Board of Appeals for a variance. The undersigned hereby authorizes the members of the Zoning Board of Appeals and appropriate Township staff members to inspect the property (*address stated below*) at reasonable times, in regards to the consideration of my request for a variance.

Dale L. Rust
Applicant's Signature

5/27/15
Date

Dale L. Rust
Owner's Signature

5/27/15
Date

18165 SHORE ACRES ROAD GRAND HAVEN, MI
Property Address
HOUSE #28 49417

ACTION TAKEN BY TOWNSHIP BOARD OF APPEALS

() Application approved

() Application Denied

Description of variance granted or other action taken including conditions imposed, if any:

Grounds for Board action including findings as to standards and requirements prerequisite to imposition of conditions under ordinance:

Signature of Chairman, Z.B.A.

Date

**ZONING BOARD OF APPEALS
PROCEDURAL EXPLANATIONS**

The granting of variances is covered in Section 26.05 of the Grand Haven Charter Township Zoning Ordinance of 1979 as amended. It states that in order to grant a non-use variance that the Board of Appeals shall find affirmatively for each of the following four standards:

1. That there are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning classification.
2. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning District and in the vicinity, provided that possible increased financial return shall not of itself, be deemed sufficient to warrant a variance.
3. That authorization of such variance will not be of substantial detriment to adjacent property, and will not materially impair the intent and purpose of this Ordinance or the public health safety and general welfare of the community.
4. That the condition or situation of the specific piece of property or the intended use of said property for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such condition or situation, a part of this Ordinance.

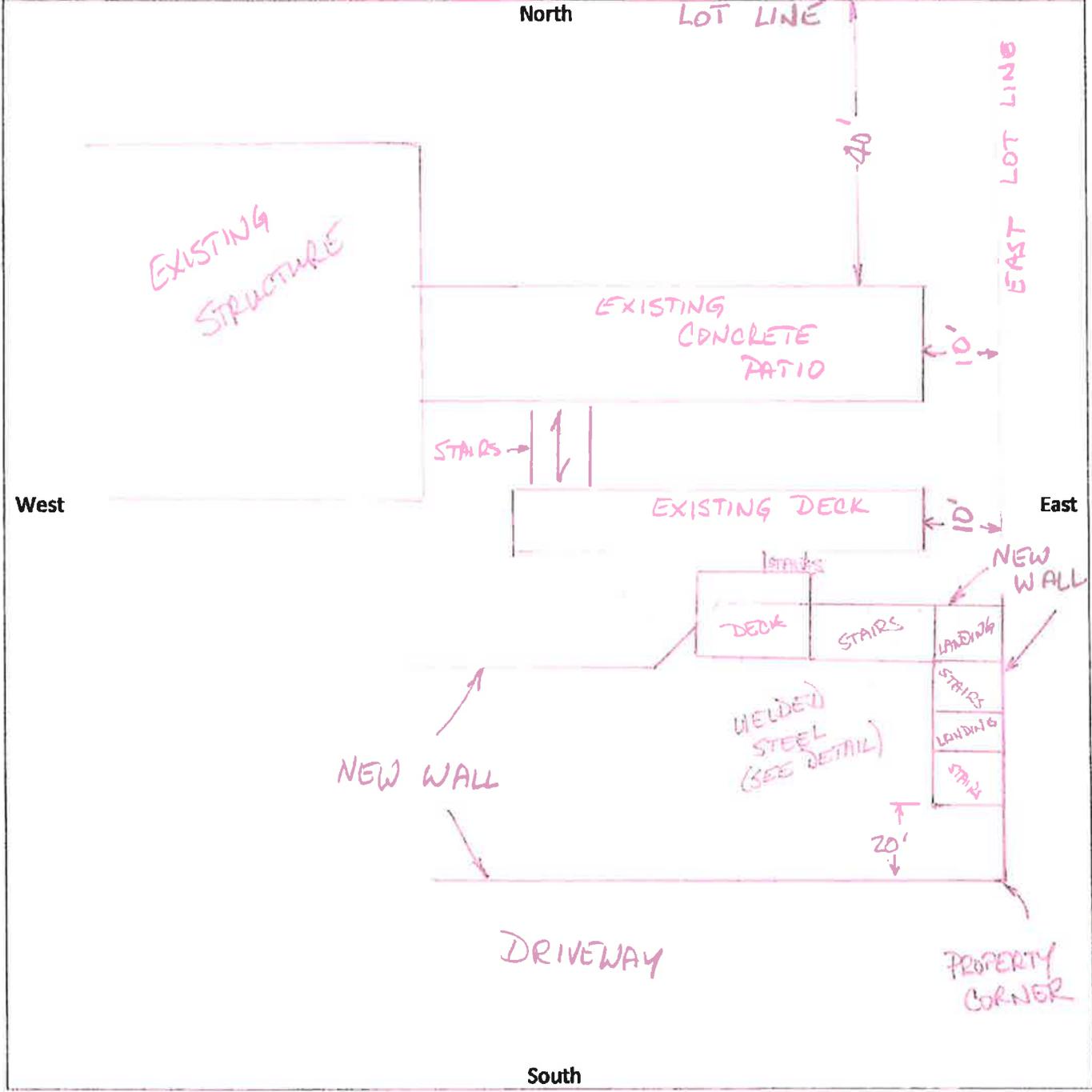
Thus, at the conclusion of the discussion we will vote on each condition. If the majority of the members present find affirmatively for all four standards, then the variance will be approved.

Second, all motions for acting on requested variances are made in the positive; that is, they are worded so that a YES vote grants the variance. This is done not to show personal preference of the motioner, but to prevent confusion when we actually vote on acceptance.

Narrative Addressing the Four Standards:

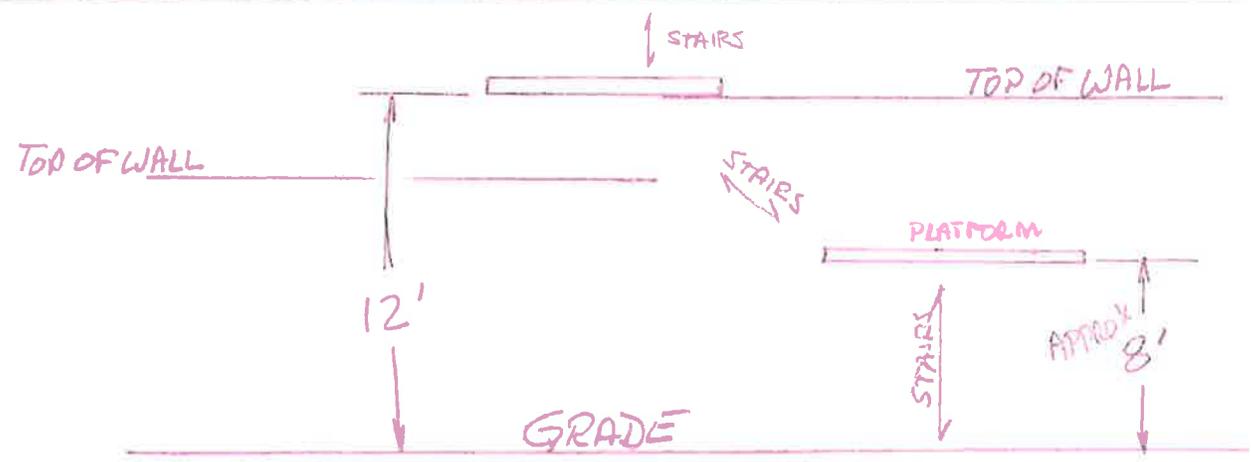
- #1. After a boundary adjustment was made in 2015, my house, as originally built, does not meet the current set back requirements.
- #2. The variance is necessary because access to my house is via stairs which by design need to be along the rear lot line continuing over the retaining wall.
- #3. The proposed stairs are replacing the ones removed because of the construction of the retaining wall. They will be adjacent to the wall and should in no way be a detriment to my neighbors.
- #4. My request for the variance is unique in that the house has been in place for many years on two lots as platted. With the property addition, it makes this specific piece of property unusual in its layout and will not be "recurrent in nature".

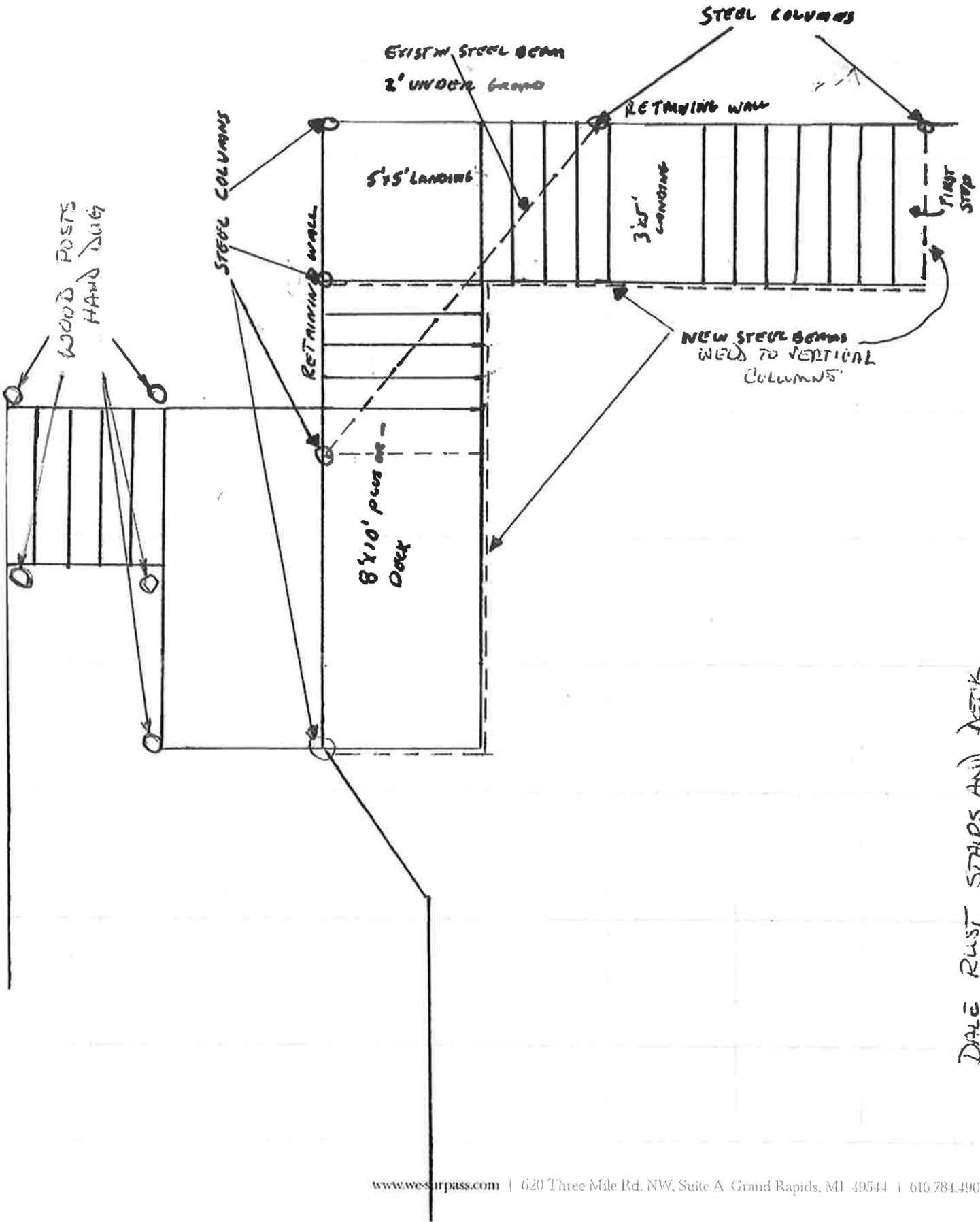
VIII. Site Plan with Setbacks (or attach a site plan and/or survey)



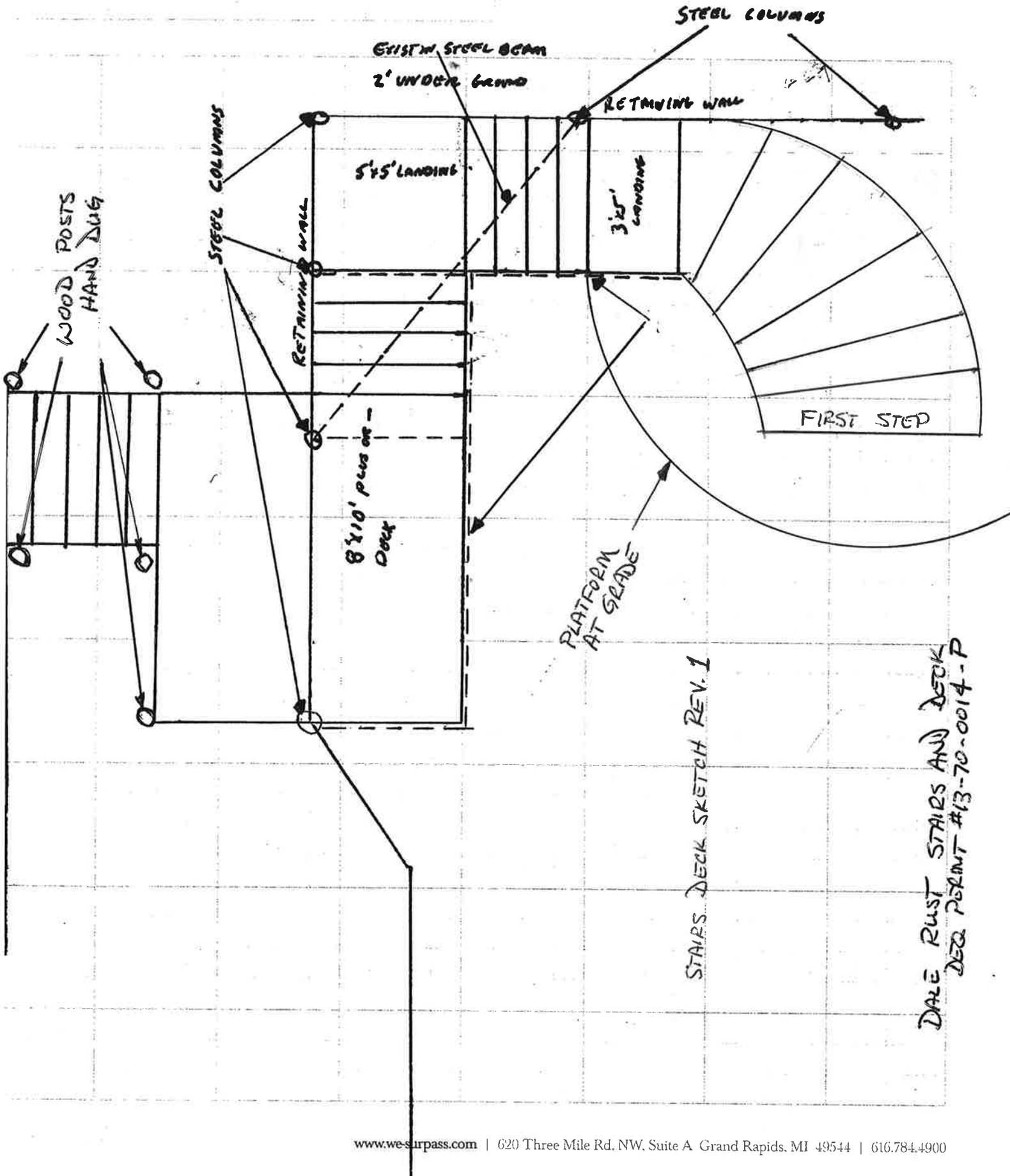
REVISED 3/15/15

Notes:





DALE RUST STAIRS AND DECK
DECK POINT #13-70-0014-P



STAIRS DECK SKETCH REV. 1

DALE RUST STAIRS AND DECK
DECK PERMIT #13-70-0014-P