

January 10, 2022

To: Hayes Township Board of Trustees

From: LuAnne Kozma, Hayes Township resident, 9330 Woods Road

*LuAnne Kozma*

Re: Commercial dining and event facility planned for 10034 Anglers' Cove, Charlevoix.

Please read my letter aloud at tonight's Board of Trustees meeting, and into the minutes.

This letter is regarding a boathouse/dining and event facility building that is being proposed at 10034 Anglers Cove, Hayes Township, waterfront property owned by Scott and Debra Law. I have addressed this issue in the past, but this point needs the Board's and the county's attention and action.

Permits for this project were already twice applied for, to the township, first with a zoning permit application for "boat basin" which the Planning Commission approved in November 2019, and again with a zoning permit application for "boathouse" which the Zoning Administrator, Ron Van Zee, approved on July 8, 2020. The PC's approval and the zoning permit have both expired, as the township has finally admitted in circuit court.

But the project has been going through other approval processes at the state and federal levels, and the State of Michigan has issued a state permit, so it may be just a matter of time before the property owners try again to obtain Township approval.

This requires the board's immediate attention because Mr. Van Zee stated in an affidavit in circuit court (attached) that due to its attachment to the Laws' residence, the structure would be "part of the house" and not an accessory building, and that he would not require a site plan. The township asserted in court documents, speaking for Mr. Van Zee, that he is "likely to approve" it a second time, and in this manner—without a site plan and considering the building "part of the house."

However, the building applied for is a **commercial building**. The property is zoned **R-1**. The floor plans for the building are already in the Township's files, submitted by the Laws in 2020. The building plans (also attached to this letter) show a design with the Main Floor entirely for an "A-2 Assembly occupancy" for dining and associated facilities, according to the International Building Code. It appears designed to comply with ADA, and with men's and women's restrooms off of a hallway, requirements that only commercial buildings comply with. None of the facility indicates residential use. That should be apparent to any Zoning Administrator. The Hayes Zoning Administrator is already aware that the Laws intend to use this commercial building—and all of their 400+ acres of property—for the Laws' employees and charitable foundation, in addition to local organizations. This is commercial activity, not residential use. (Email between Scott Law and Ron Van Zee, obtained by FOIA, is attached).

**It would be an *ultra vires* action for the Township to allow a commercial building in a residential zone.**

The Board needs to instruct the Zoning Administrator that it is beyond his power, and the township's power, to allow commercial buildings or commercial uses in a residential zone. It is forbidden by the Master Plan and by the Zoning Ordinance. The Board needs to put Mr. Van Zee on notice that he is not to put the Township legally at risk for *ultra vires* actions.

Cc: Charlevoix County Building Department

*attachments - Pages 1-13.*

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

LUANNE KOZMA and IRENE FOWLE,

Plaintiffs,

CASE NO. 21-0604-27CZ

v

HON. ROY C. HAYES III

HAYES TOWNSHIP, RON VAN ZEE  
Zoning Administrator, TOM DARNTON,  
Chair of the Zoning Board of Appeals, and  
KRISTIN BARANSKI, Recording Secretary  
of the Zoning Board of Appeals, all in their  
official capacities,

Defendants.

Ellis Boal (P10913)  
Attorney for Plaintiffs  
9330 Woods Road  
Charlevoix, MI 49720  
231-547-2626

Todd W. Millar (P48819)  
PARKER HARVEY PLC  
Attorneys for Defendants  
901 S. Garfield Avenue, Suite 200  
Traverse City, MI 49686  
231-929-4878

**AFFIDAVIT OF RONALD VAN ZEE**

STATE OF MICHIGAN            )  
  )ss.  
COUNTY OF CHARLEVOIX    )

I, Ronald Van Zee, being first duly sworn, depose and state as follows:

1. I am over the age of 18 and would testify consistently with the facts set forth herein if called upon to do so at the time of trial.
2. I am the Supervisor and Zoning Administrator for Hayes Township.
3. In August of 2019, Scott Law filled out a Zoning Permit Application for a boat basin. The application is attached as **Exhibit 1**.



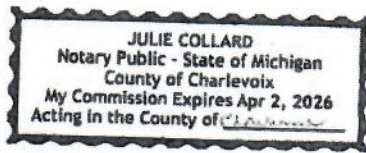
4. Although the "Site Plan Required" line is checked on the application, a site plan as defined in the Zoning Ordinance was not required for this construction.
5. There is nothing in the Hayes Township Zoning ordinance that regulates a boat basin or canal.
6. The boat basin or canal is regulated by EGLE and/or the Army Corp of Engineers.
7. Hayes Township determined in August of 2019 that no Zoning Permit was required from the Township regarding the boat basin or canal.
8. No zoning permit has been issued to Mr. and Mrs. Law as a result of the August 2019 Zoning Permit Application.
9. The Zoning Permit Application did, however, involve excavation within the Shoreland Protection Strip which is regulated in Section 3.14 of the Hayes Township Zoning Ordinance. Applicable sections of Article III of the Hayes Township Zoning Ordinance are attached as **Exhibit 2**.
10. Section 3.14(3) creates a shoreland protection strip located within fifty feet of the ordinary high water mark on Lake Charlevoix.
11. Section 3.14(3) provides further regulations regarding any activity within that fifty-foot area.
12. Section 3.14(8) creates a Shoreland Protection Subcommittee that reviews plans for activity within the protection strip for compliance with the Zoning ordinance and makes recommendations to the Planning Commission.
13. The Shoreland protection Subcommittee reviewed the Law project and made its recommendations to the Planning Commission.

14. On November 19, the Planning Commission reviewed the Subcommittee's recommendations and approved the plan as being in compliance with the Zoning Ordinance subject to several conditions. A copy of the Planning Commission approval and minutes are attached as **Exhibit 3**.
15. On July 6, 2020, I received a Zoning Permit Application from the Laws for an attached boathouse. See **Exhibit 4**.
16. The "Site Plan Required" line was checked on the application by the applicant and not me. A site plan was not required for the boathouse.
17. The Law property is zoned R-1 (Low Density Residential).
18. The Law property is used for a single-family residence which is a permitted use in the R-1 district per Section 4.05 of the Hayes Township Zoning Ordinance. See **Exhibit 5**.
19. Pursuant to Section 3.05(1) of the Zoning Ordinance, Exhibit 2, a building that is structurally connected to the principal building is considered part of the principal building and not subject to regulation as an accessory structure.
20. The boathouse is to be attached to the house making it part of the house and not an accessory structure.
21. The proposed boathouse did not require Planning Commission or site plan review pursuant to Section 5.03 of the Zoning Ordinance (**Exhibit 6**) and is a permitted addition to the house that can be approved by the Zoning Administrator.
22. The July 6, 2020, application is what precipitated the July 8, 2020, "Zoning Permit" that is the subject of my prior affidavit.

Further, Affiant sayeth not.

20 Jan 22  
Ronald Van Zee

Subscribed and sworn to before me this 29 day of November, 2021.



Julie Collard, Notary Public  
Charlevoix County, County, Michigan  
My commission expires: 4.2.26  
Acting in Charlevoix County, Michigan



HAYES TOWNSHIP  
09195 OLD US 31 N, CHARLEVOIX, MI. 49720

ZONING PERMIT APPLICATION

ZONE DISTRICT R-1 PERMIT NUMBER 20-07-01 FEE \_\_\_\_\_ DATE RECEIVED 7-6-20

GENERAL INFORMATION

Property Owner Name(s) Scott + Debra Law  
Mailing Address 11460 N. Meridian St. Carmel Indiana 46032  
Telephone 317-805-4100 Cell: 317-681-0289 EMAIL: slaw@zotecpartners.com

PROPERTY INFORMATION

Property Tax ID Number(s) 15-007-132 - 005 - 25  
Property Address 10034 Anglers Cove Charlevoix Mi. 49720  
Contractor MPN Contractor Contact Information Chris @ ~~MPN~~ mpnbuild.com  
231-384-0388

PROPOSED USE OF PROPERTY

Type of Improvement(s)(describe) boat house attached  
New Construction ☒ Reconstruction \_\_\_\_\_ Addition \_\_\_\_\_ Sign \_\_\_\_\_ Other \_\_\_\_\_  
Dimensions of Proposed Structure 80'6" x 93' HEIGHT 30'

PROPOSED ZONING PERMIT

Special Use \_\_\_\_\_ Type of Special Use \_\_\_\_\_

P.U.D. \_\_\_\_\_ Rezone \_\_\_\_\_ Land Division/Split Involved? \_\_\_\_\_

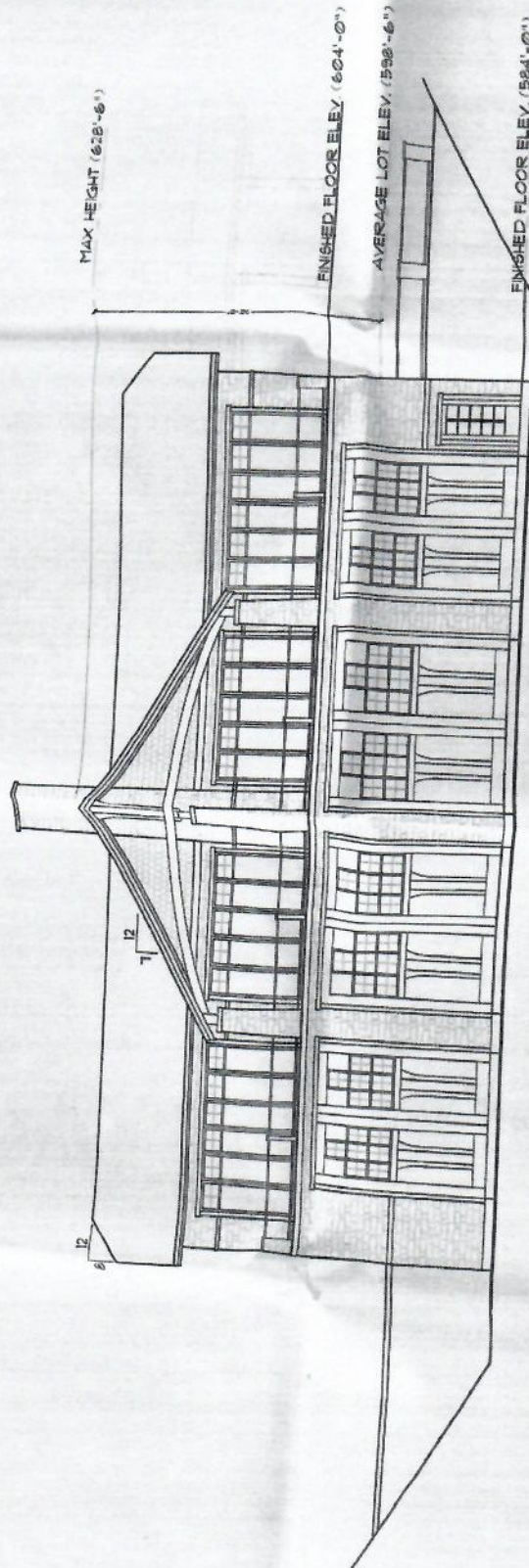
PERMITS & REQUIRED DOCUMENTS

Site Plan Required ☒ Survey Required \_\_\_\_\_ Health Dept. \_\_\_\_\_  
Road Commission \_\_\_\_\_ Soil & Erosion ☒ Corps of Engineers ☒ D.N.R. ☒ D.E.Q. ☒

Owners Signature(s) Robert A. Onest

Zoning Administrator Signature Rm Va 2

SEE REVERSE SIDE



BOATHOUSE LAKE SIDE ELEVATION  
SCALE 1/4" = 1'-0"

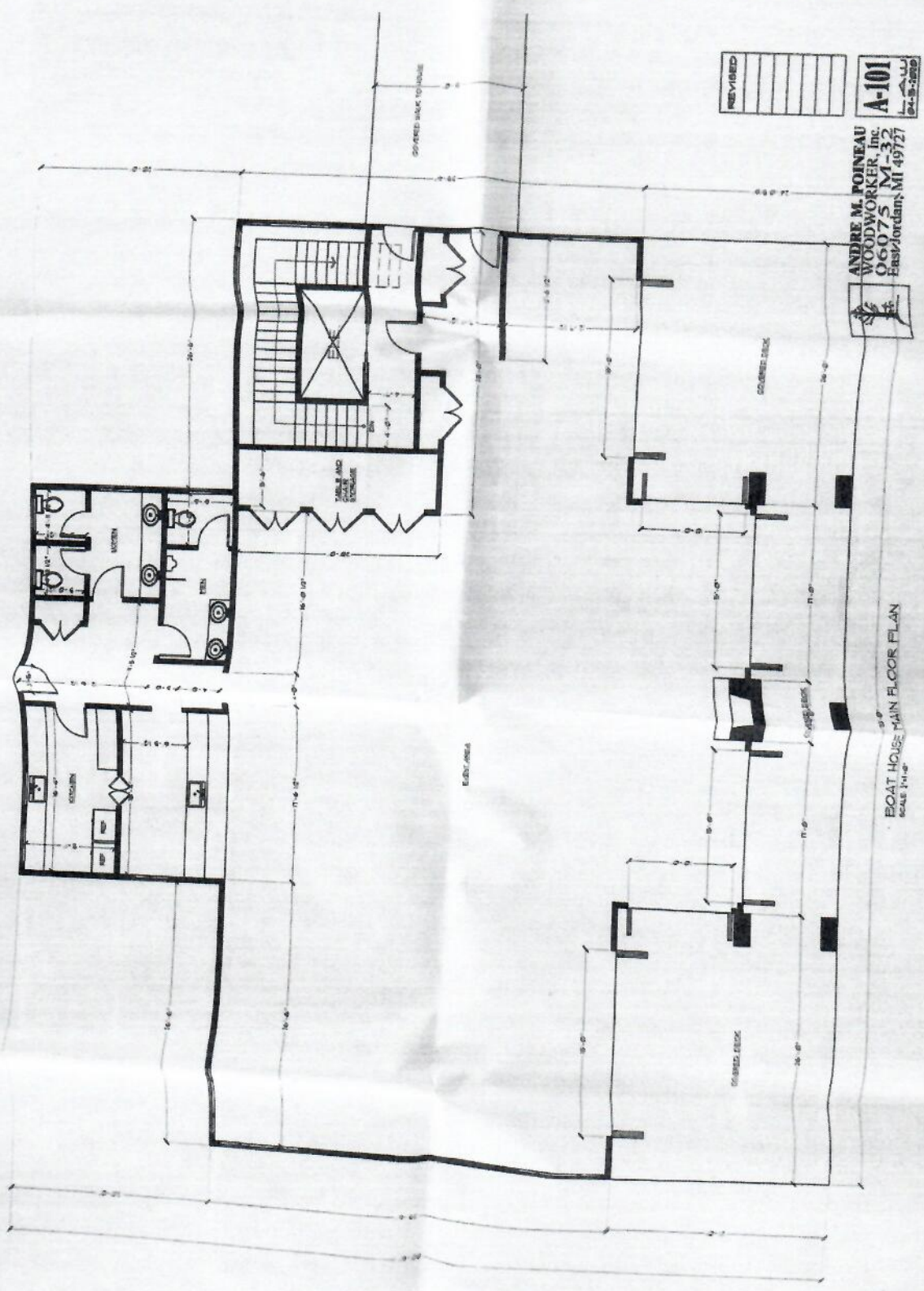
REVISIONS

**A-201**

ANDRE M. POINEAU  
WOODWORKER, Inc.  
06075  
N1-32  
East Jordan, MI 49727





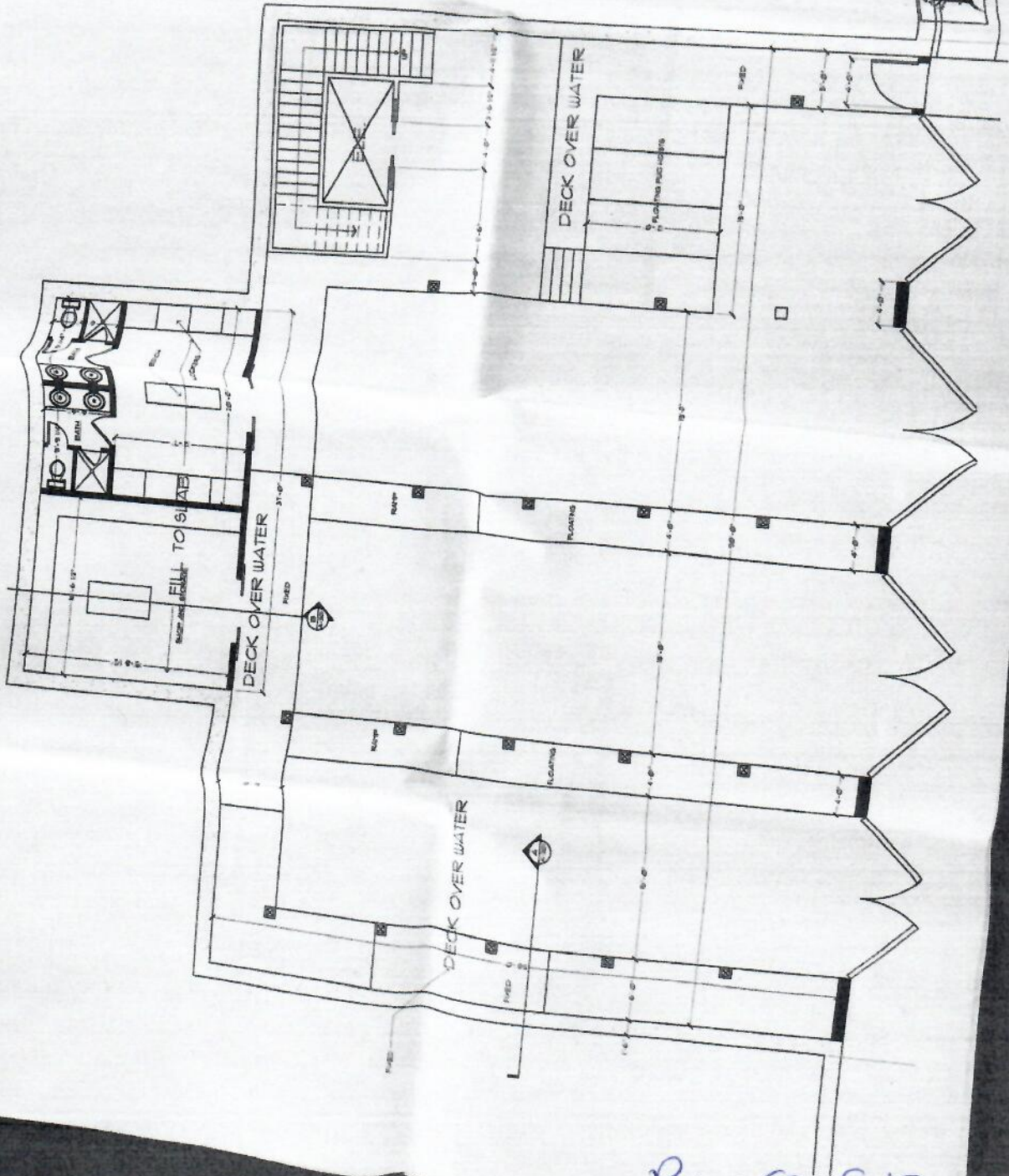




## BOAT HOUSE LAKE LEVEL FLOOR IN A

REVISED							
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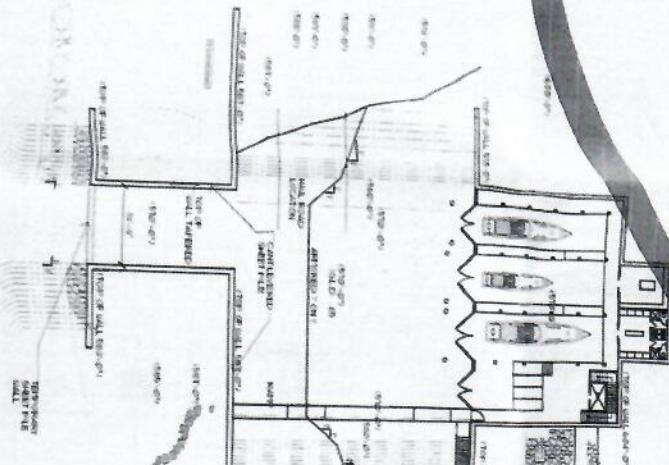
ANDRE M. POINEAU  
WOODWORKER, Inc.  
06075 M-32  
East Jordan, MI 49727





# BOATHOUSE SITE PLAN

10'0" x 10'0"



ANDRE M. POINEAU  
WOODWORKER, INC.  
06075 M-32  
East Jordan, MI 49727

C-100  
64-3-1000

REVISED



HAYES TOWNSHIP

# Zoning Permit

The permit must be visible from the highway frontage

*Any person willfully destroying this permit before the completion of this building  
will be punished to the full extent of the law.*

Date 7-8-20

Permit No. 20-07-01

## ISSUED FOR THE ERECTION OF A

Attached boathouse with covered walkway

Special Conditions Maintain and restore greenbelt area as approved by Planning Commission. Contingent on all appropriate agencies.

Location 10034 Anglers Cove PIN 15-007.132-005.25

Owner Scott & Debra Law Contractor MPN

Rm 3-2  
Zoning Administrator



Hayes supervisor &lt;supervisorhayestownshipmi@gmail.com&gt;

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Re:

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Ron Vanzee <Supervisor@hayestownshipmi.gov>  
To: "T. Scott Law" <slaw545@icloud.com>

Mon, Oct 21, 2019 at 10:09 AM

Scott and Debbie,

It was a pleasure to meet both of you. After hearing your plans and understanding better, not only what you are doing in other places, but also what your intentions are for this property, I would like to thank you for your service to the community.

As we discussed Saturday, often times people are afraid of change and of things they do not understand. Thank you for your letter explaining your long term goals, your hesitation for allowing people on your property during construction, your admission that maybe there had been misunderstandings on both sides, acknowledging concerns from neighbors but mostly for your willingness to share, such an absolutely beautiful place, eventually with so much of the community.

Again, thank you for the tour and your clarification on so many issues. I appreciate your prompt reply and I will make sure the public is informed.

Ron VanZee

On Sun, Oct 20, 2019 at 7:33 PM T. Scott Law <slaw545@icloud.com> wrote:

Ron,

It was a pleasure to meet you with Bob Drost at our property in Charlevoix. During our meeting we discussed many topics and I greatly appreciate your perspective and hope that you gained a better understanding of our plans for the property and some of the "why" behind our desire to improve, use and preserve the beauty of this unique property. In our desire for privacy, we do agree that we have not been as transparent as we could have been with our neighbors about our plans and want to reiterate that we have simply been developing and learning the property ourselves before we felt comfortable to communicate any plans.

I am a trained pilot and one of the first lessons a pilot learns in emergencies is to Aviate-Navigate-Communicate. What this means is first fly the plane, get your arms around how to get wind over the wings so the plane can fly or glide, second Navigate, which means find a place to land safely or pick the best options available for a safe crash, and finally communicate so emergency help can hopefully meet you there or be available to help you as soon as possible. I tell this story because I think its applicable in this particular circumstance as we bought the first property and have been flying the plane, maybe navigating construction very rapidly and can start to communicate better, which is my intent of this email!

When we purchased the original property, which had a beautiful home not done, 50 acres, a barn, and two shooting ranges pointing back towards our neighbors houses! We were assured from the previous owner and local realtor that he used the ranges all the time and shooting was not a problem. Imagine our surprise that the first time we shot skeet (no rifles or tanaride) and we got a letter from our neighbors whom we have never met asking us to stop shooting all together. We had never shot in our lives and part of the appeal was that we had this property to begin a new hobby and activity. We also asked about putting in a helicopter pad on the 50 acres before we bought the property and were told in no uncertain terms that this would be fine. Again the local realtor said this is "Michigan" and why people buy these properties, there are several people on the lake that have helicopters and helipads, it's a beautiful way to enjoy Michigan.

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In 2018, over Labor Day weekend, we had a family reunion as my parents and family are getting older and we wanted to get together with everyone. Our property was the perfect place to host the Reunion and allow everyone to enjoy our property (still original 50 acres). Most of our family would never be able to experience Michigan if we didn't host the event. We rented and paid for over 20 rooms at hotels in Petosky. We rented over 30 rooms in Petosky for the reunion in 2019. We locally rented a tent, and all the extras needed to prepare and serve for meals. We hired local caterers and Bartenders to furnish meals. In 2018, we also put up an inflatable screen to show a video on Saturday night, that was produced from the thousands of pictures of our family members in various stages of life. The video was less than two hours long. Unbeknownst to me, one of our neighbors was swimming at night and noticed the screen. He proceeded to come to our house asked to speak to someone in charge. My brother whom answered the door proceeded to get an ear full after he asked the gentlemen "whats the issue?". The neighbor assumed it was me and he proceeded to tell my brother how having a party with a tent and big screen violated the integrity of the lake and he was filing a complaint because he was a lawyer. I never met the man, never talked to him and no other contact regarding the screen complaint occurred until 10 months later, I received a letter depicting our neighbor's version of events.

In late 2018, we were presented the opportunity to purchase property owned by Bob Powers and various trusts. We negotiated in good faith with Bob and received clear title to all his property with one exception. The exception was one person having "legacy fishing only" rights to the approximate 348 acres, his house, his barn and water front property were all included in our purchase. Bob Powers property included 4 waterfront lots. While Bob may or may not have known the extent of people who used the property, everyone understood that legally transferring property to Debbie and I voided any verbal agreements with Bob and Bob Powers certainly knew of our intention to develop the property, he helped us develop a master plan of the property including location of a shooting shed further away from houses to allow for rifle target shooting and even Tanaride target shooting. We asked Bob Powers about the original complaints on our 50 acre parcel and he reiterated that he has shot for many years, deer hunted in one of 8 blinds on the property and we will have no issues, and if we do, its your property now so keep it legal but do what you want.

During the winter, we improved the trails to allow easy access and navigation to all parts of the property using a wheelchair, bicycles, ride snowmobiles, hike and 4 wheelers. One of the main goals of buying what is now over 400 acres was to allow people from our charitable foundation, our employees, family and friends the opportunity to benefit from this property and hopefully to allow families recovering from traumatic medical or health events to have opportunity to experience Michigan. Additionally we have allowed Bob and his wonderful family to remain on the property, use it like it's theirs and even have allowed several of his people who have respectfully asked to continue to use the property, do so!

We are building log cabins to accommodate our guests on the property with local contractors, lawyers and permitting fees all being paid to accomplish these facilities! Additionally we doubled the property taxes we pay on both properties because we are out of state residence and while I probably could have become a resident I thought this would benefit Hayes township the most!

During our walk of the property, we showed you the cabins we are presently constructing, as well as the extensive work we have done and are doing to build trails, taking into consideration safety, drainage and the environment at every turn! We have spent over a million dollars, hiring local contractors, landscapers, designers and property caretakers, to do the projects I have outlined in this letter. We also discussed that during construction allowing anyone to walk on the trails was an issue of safety and as you may know mud or muck from melting snow is dangerous!

We expressed our concerns allowing neighbors to use these trails without our permission due to us having liability for someone getting hurt during construction or unauthorized hunting on the property without permission resulting in someone getting shot! We have meticulously posted no trespassing signs and we all agreed that it is risky to allow anyone to be on our property during construction as you recently experienced at the park! We built the new shooting shed to point away from the driveway shared by neighbors and to designate or quarantine all such activity in plain sight so nobody would get hurt, we built up burrows of dirt to absorb any bullets and buckshot and frankly we have used it one day and only one day since we built it. We hired the manager of the local Gun Club to supervise design and construct all of the shooting areas. I am not suggesting we will not use it again, but I would like to put some perspective on how often we are actually even on the property let alone using the shooting range. When we do use it we engage the same person who runs the gun club to supervise and ensure safety, we close all gates, put up signs that shooting is in progress and closed all access roads to that section of the property! As for the status of the trails, we are concerned about people walking or bringing their own SUV's on our



Gmail - Re:

property because they are not fully completed and groomed. Even when taking all forms of precautions accidents happen as during our family reunion, one of our guest rolled an ATV fortunately only property damage and no one was hurt. We are not only private people but are being cautious with allowing people, we do not know on the property?

We do also have a helicopter and plan on using it occasionally but worked with our pilots to revise take off and landing patterns over our property only and will try to avoid early morning or late evening landings!

Our future plans include zip lines, horse barn for trail riding and therapeutic activity, a dining facility for guest and events, a winery facility, fly fishing lake and possible golf holes. All private use for friends, family, charity and local organizations as we see fit!

Finally, I would like to thank you for the extra time you have had to invest in hearing complaints from neighbors of ours, our intent is to create a property and welcoming environment that will allow our family, our friends, our charities and perhaps someday our neighbors to get away from the stresses of life in a way that respects the beauty of the land and integrity of the environment but allows the them all to enjoy the pure joy of northern Michigan, I hope our failure to communicate these plans will not ruin this goal, nor will it interfere in anyone else's enjoyment of the lake, their land or their lives. Please also let me know how we can help you as you take on this challenging position and continue to represent and help the people of Hayes township! Thank you for your time and service.

T. Scott Law  
CEO  
Zotec Partners, LLC

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