



# Zoning Board of Appeals

Alberta Falter, Chairperson    Denise M. O'Connell, Trustee  
Michael Mitchell, Vice-Chairperson    Ed Seguin, Member  
Bruce Douglas, Member    Melanie Bartley, Alternate  
James Bunn, Alternate

**Zoning Board of Appeals Special Meeting Agenda**  
**Hartland Township Hall**  
**Wednesday, July 20, 2022**  
**7:00 PM**

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of the By-Laws and Election of Officers
  - a. Hartland Township Zoning Board of Appeals Rules and Procedures (Bylaws)
  - b. Election of Officers
5. Approval of the Agenda
6. Approval of Meeting Minutes
  - a. Special Meeting Minutes of May 19, 2021
7. Public Hearing
  - a. Zoning Board of Appeals Application #22-001  
Applicant: Tim McCotter, McCotter Architecture and Design, PLLC
8. Other Matters to be Review by the Zoning Board of Appeals
  - a. 2022 ZBA Meeting Calendar
9. Report of the Planning Commission Representative
10. Call to Public
11. Adjournment

# Hartland Township Zoning Board of Appeals Rules and Procedures (Bylaws)

(Adopted July 20, 2022)

The following rules of procedure are hereby adopted by the Hartland Township Zoning Board of Appeals to facilitate the performance of its duties as outlined in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, MCL 125.3101, et seq.

## SECTION 1: Duties of the Zoning Board of Appeals

The Zoning Board of Appeals shall perform the following duties:

- A. Act on applications for variances, appeals, interpretations, or other matters as required by the zoning ordinance and Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, MCL 125.3101, et seq.
- B. Provide oversight on the annual budget for the Zoning Board of Appeals' activities.
- C. Attend training sessions, conferences, or meetings as needed to properly fulfill the duties of a Zoning Board of Appeals member, and for which appropriations of funds have been approved by the Township Board, as needed.
- D. Perform other duties and responsibilities as requested by the Township Board or as may be specified in another township ordinance.
- E. Conduct site visits as deemed necessary to evaluate an application and supporting material. Site visits shall be conducted individually.

## SECTION 2: Officers

- A. **Selection and Tenure** - At the first regular meeting of each year, the Zoning Board of Appeals shall select from its membership a Chairperson and Vice Chairperson. An elected township official shall not serve as Chairperson. All officers shall serve a term of one year, or until their successors are selected and assume office, except as noted in B and C below. All officers shall be eligible for re-election for consecutive terms for the same office.
- B. **Chairperson** - The Chairperson shall preside at all meetings, appoint committees and perform such other duties as ordered by the Zoning Board of Appeals or Township Board.
- C. **Vice Chairperson** - The Vice Chairperson shall act in the capacity of the Chairperson in his/her absence. In the event the office of Chairperson becomes vacant, the Vice Chairperson shall succeed to this office for the unexpired term and the Zoning Board of Appeals shall select a successor to the office of Vice Chairperson for the unexpired term.

## SECTION 3: Secretary

- A. **Duties and Responsibilities** - The Township Clerk shall be responsible for acting as secretary or providing secretarial services for the Zoning Board of Appeals. The secretary shall execute documents in the name of the Zoning Board of Appeals, perform duties hereinafter listed below and shall perform such other duties as the Zoning Board of Appeals may determine.
  1. **Minutes** - The secretary shall be responsible for a permanent record of the minutes of each meeting and shall have them recorded in suitable permanent records retained by the Township Clerk. The minutes shall contain a brief synopsis of the meeting, including a complete restatement of all motions and record of votes, conditions or recommendations made on any action and record of attendance.

2. **Attendance** - The secretary shall be responsible for maintaining an attendance record for each Zoning Board of Appeals member and report those records annually to the Zoning Board of Appeals for inclusion in the annual report to the Township Board.
3. **Correspondence** - All communications, petitions, reports or other written materials received by the secretary shall be brought to the attention of the Zoning Board of Appeals.

#### **SECTION 4: Township Board Representative**

- A. **Duties and Responsibilities** - The Township Board Representative to the Zoning Board of Appeals shall report the actions of the Zoning Board of Appeals to the Township Board and update the Zoning Board of Appeals on actions by the Township Board that relate to the functions and duties of the Zoning Board of Appeals.

#### **SECTION 5: Planning Commission Representative**

- A. **Duties and Responsibilities** - The Planning Commission Representative to the Zoning Board of Appeals shall report the actions of the Zoning Board of Appeals to the Planning Commission and update the Zoning Board of Appeals on actions by the Planning Commission that relate to the functions and duties of the Zoning Board of Appeals.

#### **SECTION 6: Zoning Administrator**

##### **A. Duties and Responsibilities**

1. **Correspondence** - The Zoning Administrator shall be responsible for issuing formal written correspondence with other groups or persons, **as** directed by the Zoning Board of Appeals. All communications, petitions, reports or other written materials received by the secretary shall be brought to the attention of the Zoning Board of Appeals.
2. **Notices** - The Zoning Administrator shall issue notices in accordance with the zoning ordinance for all Zoning Board of Appeals' cases.
3. **Coordination** - The Zoning Board of Appeals shall be assisted by the Zoning Administrator in performing the duties of the Zoning Board of Appeals, as noted in Section 1, including but not limited to, processing applications for review, attending Zoning Board of Appeals meetings, preparing and forwarding written reviews on all applications at least one week prior to the scheduled meeting, prepare an annual budget for the Zoning Board of Appeals' activities and submit to the Township Board and perform other duties as may be directed by the Zoning Board of Appeals.

#### **SECTION 7: Other Professional Services**

- A. **Duties and Responsibilities** - The Zoning Board of Appeals may be assisted by other professional or township staff as needed, including the building inspector, township attorney, township engineer or other person or agency.

#### **SECTION 8: Meetings**

- A. **Meetings** -The regular meeting of the Zoning Board of Appeals will be held the third Wednesday of every month at a time to be determined by the Zoning Board of Appeals at the meeting in which the regular meeting schedule is adopted or as otherwise designated by the Chair of the Zoning Board of Appeals. When a regular meeting day falls on a legal holiday or when an occasion of special importance takes place, the Chair shall select a suitable alternative day in the same month. Prior to the end of the year, the Zoning Administrator will submit to the Zoning Board of Appeals the regular meeting schedule for the upcoming year, for their approval.
- B. **Notice** - Meetings shall be noticed in accordance with the requirements of the zoning ordinance. Meeting notices shall state the purpose, time and location of meetings and shall

be posted in accordance with the Open Meetings Act.

- C. **Public Records** - All meetings, minutes, records, documents, correspondence and other materials of the Zoning Board of Appeals shall be open to public inspection in accordance with the Freedom of Information Act, except as may otherwise be provided by law.
- D. **Quorum** - A majority of the membership of the Zoning Board of Appeals shall constitute a quorum for transacting business and taking official action for all matters. The Zoning Board of Appeals shall not conduct business unless a majority of the regular members is present.
- E. **Voting** - To pass or deny any variance, appeal or other official action required by the zoning ordinance, an affirmative vote of at least a majority of the total membership of the Zoning Board of Appeals is required. Voting shall be by voice vote; a roll call vote shall be required if requested by any Zoning Board of Appeals member or directed by the Chairperson. Except in the case of conflict, all Zoning Board of Appeals members, including the Chairperson, shall vote on all matters, but the Chairperson shall vote last.
- F. **Agenda** - The Chairperson shall be responsible for preparing an agenda for Zoning Board of Appeals meetings. The order of business for meetings shall be as follows:

- 1. Call to Order
- 2. Pledge of Allegiance
- 3. Roll Call
- 4. Approval of October 16, 2019 Meeting Agenda
- 5. Approval of Meeting Minutes
- 6. Public Hearing
- 7. Other Matters to be Reviewed by the Zoning Board of Appeals
  - a. Correspondence Received
  - b. Zoning Board of Appeals Members
- 8. Report of Planning Commission Representative
- 9. Call to Public
- 10. Adjournment

- G. **Public Hearings** - All public hearings held by the Zoning Board of Appeals must be held as part of a regular or special meeting of the Zoning Board of Appeals. The following rules of procedure shall apply to public hearings held by the Zoning Board of Appeals:

- 1. Chairperson opens public hearing and announces the subject.
- 2. Chairperson summarizes procedures/rules to be followed during the hearing.
- 3. Applicant presents request.
- 4. Township Zoning Administrator and/or representative presents a summary or analysis of the request.
- 5. Persons wishing to comment on the request are recognized.
- 6. Chairperson closes public hearing and returns to the regular/special meeting.
- 7. Zoning Board of Appeals deliberates and decides.

To ensure that everyone has the opportunity to speak, the Zoning Board of Appeals may elect to limit the time permitted for each person to speak, except that the applicant may be permitted additional time as the Chairperson allows. The Chairperson may also elect to allow persons to speak only once, until all persons have had the opportunity to speak, at which time the Chairperson, in his/her discretion, may permit additional comments. All comments by the public and the Zoning Board of Appeals shall be directed to the Chairperson.

- H. Special Meetings** - Applicants to the Zoning Board of Appeals may request a special meeting, of which all costs shall be paid by the applicant; if there is more than one applicant, the costs shall be shared equally between all applicants. The business the Zoning Board of Appeals may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act. Special meetings shall also be noticed as required by the Michigan Zoning Enabling Act, as amended, the Open Meetings Act and these bylaws.

**SECTION 9: Absences, Removals, Resignations, Vacancies and Alternates**

- A.** To be excused, Zoning Board of Appeals members shall notify the Township Supervisor, Zoning Board of Appeals Chairperson or Zoning Administrator when they intend to be absent from a meeting. Failure to make this notification prior to a meeting shall result in an unexcused absence.
- B.** Members of the Zoning Board of Appeals may be removed by the Township Board, after written charges have been prepared and a hearing conducted, for nonperformance of duty, misconduct in office or upon failure to declare a conflict of interest. For purposes of this section, nonperformance of duty shall mean two or more consecutive, unexcused absences. Alternates shall be notified to attend a meeting any time a regular member will be absent for one or more meetings.
- C.** A member may resign from the Zoning Board of Appeals by sending a letter of resignation to the Township Supervisor, Township Board or Zoning Board of Appeals Chairperson.
- D.** Vacancies shall be filled by the Township Board within one month of resignation or removal of a member of the Zoning Board of Appeals. Successors shall serve out the unexpired term of the member being replaced, with the exception of the Planning Commission representative, whose term shall run consecutively with the term as Planning Commissioner.
- E.** The Township Board may appoint not more than two alternates to the Zoning Board of Appeals. The alternate member may be called to sit as a regular member as provided in the zoning ordinance and the Michigan Zoning Enabling Act.

**SECTION 10: Conflict of Interest**

- A.** Zoning Board of Appeals members shall declare a conflict of interest and abstain from participating in a hearing or deliberations on a request when:
  - 1. A relative or other family member is involved in any request for which the Zoning Board of Appeals is asked to make a decision;
  - 2. The Zoning Board of Appeals member has a business or financial interest in the property involved in the request, or has a business or financial interest in the applicant's company, agency or association;
  - 3. The Zoning Board of Appeals member owns or has a financial interest in neighboring property. For purposes of this section, a neighboring property shall include any property falling within the notification radius for the proposed development, as required by the zoning ordinance or other applicable ordinance, or
  - 4. There is a reasonable appearance of a conflict of interest, as determined by the Zoning Board of Appeals member declaring such conflict.
- B.** The Zoning Board of Appeals member declaring a conflict of interest should state the nature of the conflict and whether he/she believes he or she could impartially consider the request before the Zoning Board of Appeals. He/she should individually decide to abstain from any discussion or votes relative to the matter that is the subject of the conflict. The member declaring a conflict may absent him/herself from the room in which the discussion takes place, unless doing so would violate his/her constitutionally protected rights to participate. He/she should not make any presentations to the Zoning Board of Appeals as a representative of the proposal.

**SECTION 11: Amendments**

These bylaws may be amended at any meeting by a vote of a majority of the membership of the Zoning Board of Appeals.

*Adopted by the Hartland Township Zoning Board of Appeals at a special meeting on July 20, 2022.*

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**Zoning Board of Appeals  
Special Meeting Minutes  
Date: May 19, 2021 at 7:00 p.m.  
Hartland Township Hall**

**Draft Minutes  
until Approved by ZBA Board**

**1. CALL TO ORDER:**

The meeting was called to order at 7:00 p.m. by Chairman Douglass.

**2. PLEDGE OF ALLEGIANCE:**

**3. ROLL CALL:**

Members Present: Chairman Douglass, Falter, Mitchell, O'Connell  
Members Absent: Seguin  
Also present: Troy Langer, Township Planning Director

**4. APPROVAL OF THE BY-LAWS AND ELECTION OF OFFICERS**

**a. By-Laws**

Planning Director Troy Langer stated there were no changes to the Hartland Township Zoning Board of Appeals Rules and Procedures (By-Laws) from the previous year.

**Move to Approve the Hartland Township Zoning Board of Appeals By-Laws.**

Motion: Mitchell Second: O'Connell Voice Vote: Motion Carried 4-0-1

**b. Election of Officers**

Director Langer stated that Bruce Douglass is the current Chair and Mike Mitchell is the Vice Chair. Alberta Falter volunteered to be the Chair.

**Move to approve Alberta Falter as Chair and Mike Mitchell as Vice Chair.**

Motion: Douglass Second: Mitchell Voice Vote: Motion Carried 4-0-1

**5. APPROVAL OF THE MEETING AGENDA:**

**Move to approve the May 19, 2021 Zoning Board of Appeals meeting agenda.**

Motion: O'Connell Second: Douglass Voice Vote: Motion Carried 4-0-1

**6. APPROVAL OF MEETING MINUTES:**

**Move to approve the December 18, 2019 ZBA meeting minutes.**

Motion: Mitchell. Second: Douglass. Voice Vote: Motion Carried: 4-0-1

**7. PUBLIC HEARING:**

**A. Zoning Board of Appeals Application #21-001**

**Applicant:** Robert Harde, Arcadia Homes

**Property Owner:** Michelle and Christopher Ouellette

**Present:** Robert Harde, Michelle Ouellette, Chris Oullette

**Location**

The property is located at 11648 Maxfield Boulevard, Hartland, MI 48353 (Parcel ID# 4708-27-205-027).

**Variance Requested**

The applicant is requesting to add onto a nonconforming residential structure. The applicant intends to construct first floor and second floor additions onto an existing non-conforming residential structure.

Open the Public Hearing at 7:05 p.m.

Chairman Douglass invited the applicant forward to present his variance request.

Mr. Harde came forward to represent Chris and Michelle Oullette

Mr. Harde: Stated he is from Arcadia Homes and is local to the area and then introduced Chris and Michelle Oullette who live at the house that is being discussed for an addition. He stated they are looking to expand the home because of some current foundation issues on one side and the best way to do this is with some engineering involving putting in a concrete structure to support the west side of the house that is in need of repair. To do this they need to go out to the back of the house towards the lake.

Douglass: This looks very close to the incline shown in the photographs.

Mr. Harde: To go towards the lake they need to be on the same plain on the west wall to bridge the footing deficiency. This is why we are asking for this type of variance. They also want to make an improvement to the home to make it more aesthetically pleasing and to bring it up to 2021 standards, so they would like to go up where they can put a master bedroom on the second floor and maybe expand the family room at some point. They are asking for a first floor side variance and a second floor side variance.

Douglass: This is a non-conforming house, but we are not adding to the non-conformance.



Mr. Harde: Stated that from the best he can tell, they are not adding any deficiencies to the neighbors site lines.

Douglass: He did not see any letters from the neighbors, but we don't always see this unless it is invasive. He asked Director Langer to explain how the applicant got to this point and how they worked with the Planning Department to get to this point.

Director Langer: Placed the survey up on the screen and explained that Maxfield Boulevard was to the north side of the house and that the lake would be on the south side of the house. The lot is long and runs north and south and the land is somewhat tilted. He stated he believed the existing house was originally built in 1961. He stated the house is considered non-conforming and at its closest point is three and a half feet from the west lot line. This is just a small protrusion, and the rest of the house is about five feet from the west lot line. What the applicant wants to do with the first-floor addition towards the lake is to continue this so that the addition would also be five feet from the west lot line. The required setback is ten feet from the lot line, so the addition would not conform to the side setback. They also have the second story of the addition that has a portion that would also be about five feet from the west lot line and would also not comply. Therefore, you are looking at a portion of the second story addition and a portion of the main addition that they would need a variance. He stated when he met with the applicant, and they discussed bringing in the first floor addition in five feet to meet the requirement and picking up this lost square footage by reshaping the addition. The applicant actually did explore that possibility, and spent some time looking at that, but there are some limitations with the property. He showed a photograph of the property provided by the applicant that shows the slope in the land that would make the option of reshaping the addition unreasonable to do without increasing the cost. They are proposing a rather small 124 square foot addition and to go into the slope you would be increasing the cost that could make this addition cost prohibitive. The same would be for the second story addition. He stated that they have explored other ways to make it comply, examined what would be fair and reasonable and looked at the size of the house and compared it to the area that it is in to see if it was excessive or if it exceeded what is in the general neighborhood. Ultimately the Planning staff decided that given the unique limitations with this property and the existing circumstances, that this was a case that was a good candidate for approval of a variance, and they are recommending the approval of this variance.

Douglass: Inquired of the applicant if he is familiar with lake lots and that the front of the house is on the lake side.

Mr. Harde: Stated he is familiar with this as has lived on a lake and it all depends on who you talk to. Some people say the front is the road-side even on the water and he is comfortable in calling the lake side the front of the house.

Douglass: Stated that we call the front of the house the lake side for the setback requirements written in the Ordinance. He stated we have been working with the history of lake lots due to the restrictions as to width and depth and features like that and that a lot of homes on the lake were cabins that we re-done, and we give that some consideration and try and work with the people on these issues. He stated that he looks at how much an applicant works with the Planning Department in trying to look at alternatives to avoid having to come in for a variance. He stated that it is the job of the Zoning Board of Appeals (ZBA) to interpret the Ordinances and we are

required to uphold the Ordinances. Decision of the ZBA run with the property for years and there is no taking back the variances we allow. He inquired of the Board if they have any questions.

Falter: Stated she does not really have any questions.

Mitchell: Stated the applicant mentioned tying into the existing foundation and inquired as to which side of the house this would be on.

Mr. Harde: Stated this would be on the west side of the house. We need to expand that footing and support that back corner right now on the existing house.

Douglass: That would be going down the west side of the house.

Mr. Harde: Yes

Mitchell: Okay.

Douglass: You would have to pin it.

Mr. Harde: You would have to pin it, add some steel, widen the footings that would be new if we get this variance to support the deficient footing.

Douglass: Inquired as to what is it doing now that is causing a problem

Mr. Harde: It is just crumbling and starting to give away.

Mitchell: Inquired if the small bump out on the existing structure is a fireplace.

Mr. Harde: Yes, it is a true masonry fireplace that would be difficult to remove.

Douglass: Inquired as to whether any other Board members had any questions.

O'Connell: Stated she thought this look good to her and had no further questions.

No further questions came from the Board

Closed the Public Hearing at 7:20 p.m.

**Move to approve Zoning Board of Appeals Application #21-001 (Parcel ID# 4708-27-205-027) to add on to a non-conforming residential structure as outlined in the Planning Department Memorandum dated May 12, 2021 for 11648 Maxfield Boulevard, Hartland, MI 48353**

Motion: Douglas. Second: Mitchell. Voice Vote: Motion Carried: 4-0-1

## **8. OTHER MATTERS TO BE REVIEWED BY THE ZONING BOARD OF APPEALS:**

Chairman Douglass welcome new Zoning Board of Appeals member Denise O'Connell.

**A. Approval of the 2021 ZBA Calendar**

**Move to approve the 2021 Zoning Board of Appeals Calendar.**

Motion: Mitchell. Second: O'Connell. Voice Vote: Motion Carried: 4-0-1.

**9. REPORT OF THE PLANNING COMMISSION REPRESENTATIVE:**

Commissioner Mitchell gave an overview of a brief overview of the recent Planning Commission (PC) activity. He stated the PC has been approached by Mayberry Homes, the developer of the property at the corner of Pleasant Valley and M-59 with a concept plan idea for this property. The first of several meetings will be held on June 10, 2021 to review the site plan. He also stated that there is a proposal for a development at Hacker Road and M-59 across from St. John's Church called the Villas of Hartland. The property is on the northeast corner of Hacker and M-59 and borders the Grumlaw Church property. The PC reviewed the concept plan and provided suggestions and he expects them to return to the PC in the near future. Commissioner Mitchell also stated the PC approved the Future Land Use Map (FLUM) for six areas that were originally designated as Commercial. Experts were brought in to evaluate how much Commercial land Hartland actually needs and how many residential homes we could support. These studies indicated there was far too many acres of Commercial land that could be developed, so the PC very consciously went through the FLUM and converted it to Multi-Family, based on particular aspect of the property's location. These changes to the FLUM were also approved by the Livingston County Planning Commission. The PC also approved the re-zoning of two parcels east and west of Arena Drive between the Ice Area and the Office Buildings on M-59. These parcels were previously zoned Office/Commercial and there was a request to change the zoning to Multi-Family, which was approved by the PC.

**10. CALL TO THE PUBLIC:**

No one came forward.

**11. ADJOURNMENT:**

**Move to adjourn the meeting at 7:30 p.m**

Motion: Falter. Second: Douglass. Voice Vote: Motion Carried 4-0-1 .

Respectfully Submitted,  
Larry N. Ciofu, Clerk  
Hartland Township



**Board of Trustees**

William J. Fountain, Supervisor  
Larry N. Ciofu, Clerk  
Kathleen A. Horning, Treasurer

Matthew J. Germane, Trustee  
Summer L. McMullen, Trustee  
Denise M. O'Connell, Trustee  
Joseph M. Petrucci, Trustee

**MEMORANDUM**

**DATE:** July 13, 2022  
**TO:** Hartland Township Zoning Board of Appeals  
**FROM:** Planning Department  
**SUBJECT:** Zoning Board of Appeals Application #22-001 requesting to add onto a non-conforming residential structure. The applicant intends to remove an existing sunroom and construct a new sunroom to an existing non-conforming residential structure. The property is located at 5989 Mabley Hill Road, Fenton, MI 48430 (Parcel ID# 4708-02-101-058).

General Information

**Applicant:** Tim McCotter, McCotter Architecture and Design, PLLC  
**Property Owner(s):** Sanford Cook  
**Subject Property:** 5989 Mabley Hill Road  
Fenton, MI 48430  
Parcel ID #4708-02-101-058

Property Information

The property, addressed as 5989 Mabley Hill Road, is in the Lake Tyron Estates No. 2 Subdivision (Lot 34). The residential subdivision was platted in 1948. Per the approved plat map, all lots extend to the water's edge of the lake. The subject property is a lake lot, on Lake Tyrone, and has approximately fifty (50) feet of frontage (lot width) along Mabley Hill Road. The lot width at the lake's edge is approximately fifty-two (52) feet. The lot depth along the south property line is approximately 359.30 feet, and approximately 331.52 feet along the north property line. The property contains approximately 0.40 acres or approximately 17,268 square feet of land. Based on the Township Assessing records, the existing two-story house is approximately 2,196 square feet in size. A detached garage (330 square feet) and shed (144 square feet) are also present on the property. An open breezeway connects the garage to the house.

Background Information

The following information gives some background history associated with the subject site:

- Tyrone Lakes No. 2 Subdivision was platted in 1948.
- Per the Township Assessing information the house was constructed in 1945. Records do not indicate when the sunporch was constructed.

- In 1989 Land Use Permit #2208 was issued for the construction of an approximate 432 square foot addition to the house. It is unclear if this addition was constructed.
- On May 21, 1997, the Township Zoning Board of Appeals granted a variance of three (3) feet from side yard setback (from north lot line), for a proposed addition to the house and new detached garage with breezeway. The required side yard setback was ten (10) feet for a non-conforming lot. The approved variance allowed the house addition to be approximately seven (7) feet from the north (side) lot line (ZBA Case #383). The existing house was seven (7) feet from the north (side) lot line.
- In June 1997, Land Use Permit #3949 was issued for the construction of an addition to the house and new detached garage with a breezeway that connects to the house.
- On December 7, 2021, Land Use Permit 21-286 was approved for a stand-by generator.

### Zoning

The property is zoned SR (Suburban Residential). Section 3.1.6.E. outlines the development standards for SR (Suburban Residential), which requires a minimum lot area of 20,000 square feet if on public sewer and water; 32,670 square feet with no public sewer and water. The SR district also requires a minimum lot width of 120 feet. The subject property is served by public sewer and private well (water). The current required front yard setback for SR zoning is fifty (50) feet. The required side yard setback is fifteen (15) feet, and the required rear yard setback is twenty-five (25) feet.

The subject lot has fifty (50) feet of frontage along Mabley Hill Road and is approximately 17,268 square feet in size. Under current SR (Suburban Residential) zoning standards the subject property does not meet the minimum lot width of 120 feet, or lot area of 20,000 square feet, if on public sewer. As a result, the lot is considered a non-conforming lot of record.

Section 7.2.3.A.i. of the Zoning Ordinance (Non-Conforming Lots of Record) provides yard requirements for a non-conforming lot as follows: the required front yard setback is twenty-five (25) feet; the required side yard setback is ten (10) feet; and the rear yard setback is fifteen (15) feet. For waterfront lots, the front yard is the open space between the house and the lake, and the rear yard is the open space between the house and the street.

The lot is considered a non-conforming lot as the lot area and lot width do not meet the current SR (Suburban Residential) development standards. The existing house is considered non-conforming as the structure does not meet the required side yard setback of ten (10) feet from the north lot line.

A maximum of thirty percent (30%) lot coverage is permitted for buildings. An additional thirty percent (30%) lot coverage is permitted for driveway areas, sidewalks, patios, or other impervious materials. In no case shall there be more than a total of sixty percent (60%) impervious surface on a lot.

Based on the submitted plan dated June 13, 2022, the proposed building coverage is approximately 12.2% and impervious material coverage is approximately 17.5%, including the proposed addition. The plan complies with the allowed lot coverage for buildings and impervious surfacing.

### Proposed Project

The applicant is intending to remove the existing all-season sunroom, on the lake side of the house, which is approximately 22'-6" wide by 8 feet deep, and approximately 181 square feet in area. On the inside of the home, this sunroom is actually open to the main living area and has a roof deck on the roof with a railing system along the outside. This deck is accessed from the second floor. Per the applicant's explanation, the foundation of the sunroom is failing and is rotting from the ground up and cannot be repaired. Instead, the entire sunroom must be removed and re-constructed with a new foundation. The applicant intends to have a similar design with a deck on the roof portion; however, the applicant intends to extend the sunroom an additional four (4) feet in width, making it twelve (12) feet in width.

The existing sunroom, at its closest point, is approximately nine (9) feet from the side (north) lot line. The required setback side setback is ten (10) feet.

A new, all-season sunroom addition with roof deck and railing are proposed, in the same location as the existing sunroom with regard to the side (north) lot line. The proposed sunroom addition is approximately nine (9) feet from the side (north) property line, the same as the current structure. The project will include a new foundation and applicable repairs to the existing house.

The width remains the same as the existing structure, at 22'-6" wide, but the depth is twelve (12) feet, thus an increase of four (4) feet. The sunroom is approximately and 270 square feet in area. This is an increase of approximately 89 square feet as compared to the existing sunroom.

The existing house is considered non-conforming as the structure does not meet the required side yard setback of ten (10) feet from the north lot line. Per the submitted plan, the existing house, at its closest point is approximately seven (7) feet from the side (north) property line.

Section 7.2.2. provides regulations that apply to all non-conforming uses, structures, and lots. Regarding the continuation of non-conforming uses and structures, Section 7.2.2.A., provides the following language:

*Any lawful building or structure existing on the effective date of this Ordinance or amendment thereto may be continued and shall not be considered in violation of this Ordinance, provided that, unless otherwise noted in the Article, the building and land involved shall not be structurally altered, enlarged, or moved, unless such modifications conform to the provisions of the Ordinance for the district in which it is located.*

### Request

The applicant applied for a variance from Section 7.2.4.C. of the Zoning Ordinance, to add onto a non-conforming structure. The proposed sunroom is approximately nine (9) feet from the side yard (north) property line, at the closest point

Following is a summary of the non-conformity (existing and proposed sunroom):

Location	Required Side Setback	Existing/Proposed Side Setback	Amount of non-conformity
Existing sunroom	10 feet	9.0 feet (existing)	1.0 feet
Proposed sunroom	10 feet	9.0 feet (proposed)	1.0 feet
Existing House	10 feet	7.0 feet (existing)	3.0 feet (*)

(\*) Existing House was approved for a variance in 1997.

### Considerations

The Zoning Board of Appeals may grant a dimensional variance only upon a finding by the Board that the spirit of the Zoning Ordinance will be observed, public safety secured, and substantial justice rendered by granting the variance(s). The finding shall confirm that practical difficulties exist, and shall require demonstration by the applicant of all of the following (per Sec. 7.9.3.D of the Zoning Ordinance):

1. Strict compliance with the restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with the Ordinance unnecessarily burdensome.
2. The variance will do substantial justice to the applicant as well as to other property owners.
3. A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.
4. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.
5. The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.

### Analysis

In examining the criteria for a variance, the Township should only grant variances that meet the criteria outlined above. When applying the applicant's request to those criteria; staff has the following comments:

1. ***Strict compliance with the restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with the Ordinance unnecessarily burdensome.*** The existing house is considered non-conforming as it does not comply with the current side yard setback requirement. Construction of the main house occurred in 1945 and predates the current zoning regulations. The proposed sunroom does not encroach any further into the side setback than the current sunroom. Per the applicant strict compliance with the setback requirement would require the entire sunroom to be shifted twelve (12) inches or reducing the overall width. This has implications due to the existing structure, openings and finishes. Moving the sunroom over twelve (12) inches would place the new guardrail in the middle of an existing window on the second floor, which would require substantial restructuring of the lakeside wall, relocation of the second-floor window, and thus expand the scope of the project significantly. Strict compliance with the zoning standard would be unnecessarily burdensome to the applicant and his ability to construct a similar structure in the same location with minimal impacts to the house. The existing sunroom, which is actually part of the house, cannot be repaired since the foundation is failing.

2. ***The variance will do substantial justice to the applicant as well as to other property owners.*** In this case, staff believes that the variance request would allow for the reconstruction of a sunroom in the same location as it currently exists and have minimal impacts on neighboring properties. The addition to the non-conforming building is not excessive in size and is not out of proportion with the neighboring properties. Building the sunroom in the same location as the current sunroom will provide substantial justice to the owner as it will provide additional living space and maintain the connection to the main house with minimal impacts to that structure. Additionally, the proposed project will address foundation issues associated with the existing sunroom.
3. ***A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.*** In this case, the existing non-conforming building does not meet the side yard setback; however, the proposed sunroom does not encroach any further into the side yard than the existing structure. A lesser variance will not give substantial relief to the applicant because the scope of the project would expand if the 10-foot side yard setback were imposed.
4. ***The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.*** Unique circumstances exist on the site as the lot size and lot width do not meet the minimum SR standards, thus the property is considered a non-conforming lot of record. The existing non-conforming building, constructed in 1945, is located approximately seven (7) feet from the side (north) property line. The current building location limits the options for the construction of an addition that would comply with the current zoning standards (side setback).
5. ***The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.*** In this case, the applicant did not create the shape or size of the subject property; and the applicant did not construct the building originally. It appears that the placement of the building and past additions to the house were all done prior to the applicant acquiring the property. As a result, the need for the variance was not self-created by the applicant. The problem and resulting need for the variance is due to the fact that the building is non-conforming, and a variance is required to add onto a non-conforming building.

Based on the analysis of the criteria and based on the evidence that was made a part of this staff memorandum; staff would support and recommend approval of the variance. Variances should only be approved when there is a showing that they meet the criteria for approval of a variance.

The Zoning Board of Appeals may approve the variance application, approve the variance application with conditions, or deny the variance request. Should the Zoning Board of Appeals wish to take one of these actions, the following is offered as recommended motion language:

**Variance request to add onto a nonconforming building:**

**Move to approve** Zoning Board of Appeals application #22-001, a request for a variance to add onto a non-conforming structure, as outlined in Section 7.2.4.C. of the Hartland Township Code of Ordinance, for the property addressed as 5989 Mabley Hill Road, Parcel ID #4708-02-101-058, based on a finding of the following:

1. Strict compliance with the zoning standard would be unnecessarily burdensome to the owner and his ability to construct a similar structure in the same location with minimal impacts to the house.



2. Building the sunroom in the same location as the current sunroom will provide substantial justice to the owner as it will provide additional living area and maintain the connection to the main house with minimal impacts to that structure. Alternate designs are not practicable to be considered that could provide compliance with the required setbacks and still provide substantial justice to the applicant.
3. Granting a lesser variance will limit the size of the floor area/living space and will not give substantial relief to the applicant or be consistent with justice to other property owners.
4. Unique circumstances exist on the subject site that would restrict the applicant from meeting the required setback standards. The lot is a non-conforming lot regarding lot area and the existing structure/house is non-conforming relative to the side yard setback.
5. The circumstances are not self-created as the lot was created in 1948 and the building was constructed in 1945 in its current location. The size of the lot and placement of the existing structure limits the options for an addition to the existing building that would be in compliance with the required setback.

Decision of the variance request:

The approval of the variance was based on the site plan, prepared by McCotter Architecture and Design dated June 13, 2022, and materials submitted by the applicant and presented before the Zoning Board of Appeals. Any modification that would affect the intent of the variance would require approval by the Zoning Board of Appeals. The effective date for the variance is July 20, 2022, the date the Zoning Board of Appeals approved the variance.

Appeals of a ZBA decision may be taken to Livingston County Circuit Court at the discretion of the applicant. An appeal to the Livingston County Circuit Court shall be filed within thirty (30) days after the ZBA certifies its decision in writing or approves the minutes of its decision.

If the ZBA denies a request for a variance, the decision of the ZBA shall not be subject to reconsideration for 365 days, whereupon the applicant may submit a new application for the variance. However, the ZBA may waive the one-year period if conditions upon which their original decision change, or if information relating to their original decision are found to be incorrect or inaccurate.

In the event that the Zoning Board of Appeals has determined that based on the evidence in the memorandum and/or evidence presented at the meeting, there is not sufficient reason to approve the request, the following motion to approve the request has been provided:

- **Move to deny** Zoning Board of Appeals application #22-001 a request for a variance to add onto a non-conforming structure, as outlined in Section 7.2.4.C. of the Hartland Township Code of Ordinance *(based on a finding of the following...)*

Cc: Tim McCotter  
Sanford Cook

**Attachments:**

1. Applicant's summary dated May 20, 2022
2. Survey dated June 13, 2022
3. Photographs from Owner

T:\PLANNING DEPARTMENT\ZONING BOARD OF APPEALS\2022 Zoning Board of Appeals\Applicants\ZBA #22-001 McCotter\Staff reports\ZBA #22-001 5989 Mabley Hill staff report 07.13.2022.docx



May 20, 2022

Zoning Board of Appeals  
Hartland Township  
2655 Clark Road  
Hartland, Michigan

Re: Potential Variance for 5989 Mabley Hill Road, Fenton, Mi

Dear Board of Appeals,

I am writing on behalf of Sanford Cook, who is the current owner of the above mentioned parcel. He has retained me, as an architect, to assist with the repair and expansion of his existing lakefront sunroom. The existing sunroom sits 1' over the side yard setback and projects 8 feet from the main house. After purchasing the home last year, Mr. Cook became aware that the sunroom was rotting from the ground up and in the south corner, lacks any foundation structure at all. We have explored ways of "repairing" this structure, but it has been found that removal and constructing properly is the best path. With this in mind, Mr. Cook would like to expand 4' closer to the lake giving him bit more space within this sunroom. The proposed structure would match the character of the existing sunroom. Additionally, this new sunroom would not encroach any further into the side yard than the existing structure.

Strict compliance with the current ordinance would require shifting the entire sunroom over 12" or reducing the overall width. This has implications due to the existing structure, openings, and finishes. The biggest concern would be on the upper level where a 12" move would require restructuring the existing lakeside wall and interior space to move over a window so as not to conflict with the guard rail. This significantly expands the scope of the desired project.

The 12" side yard variance will provide substantial justice to the Owner as it allows him to reconstruct the sunroom in the same location as it currently exists. This allows connection to the main house without any changes to that structure.

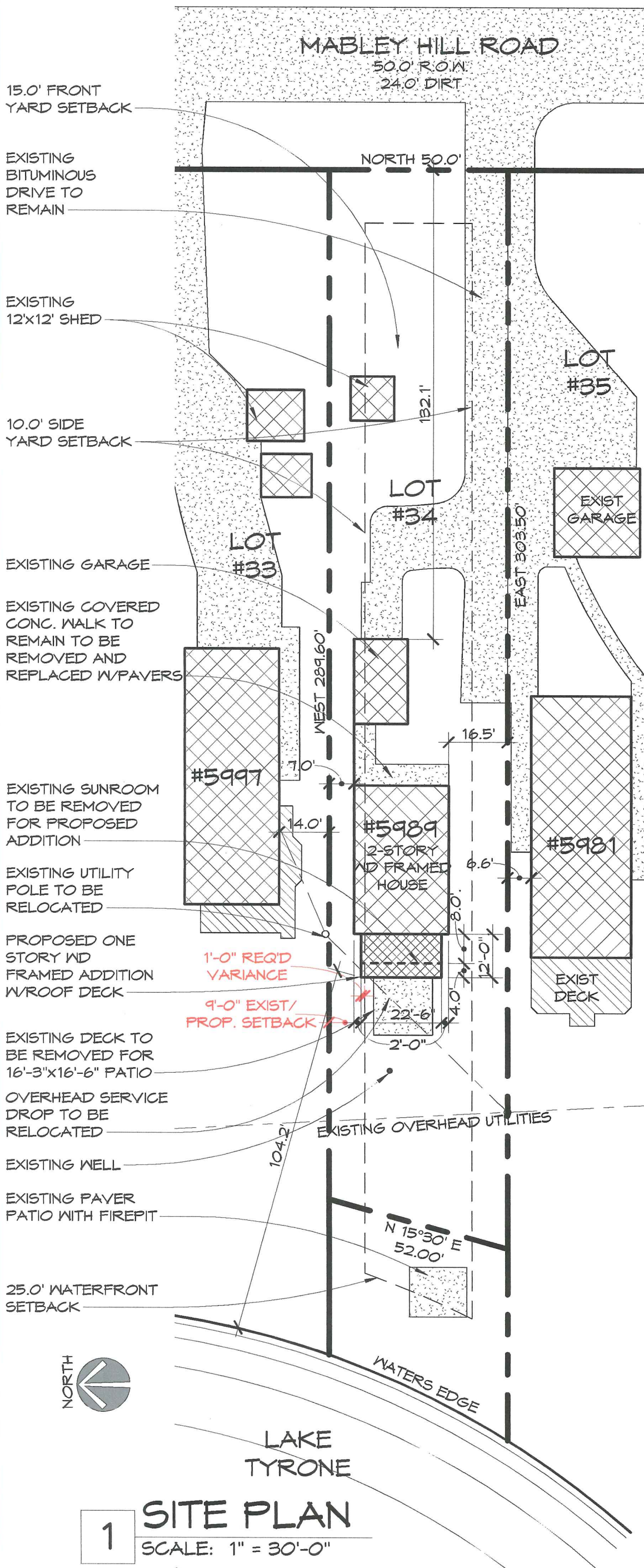
A lesser variance would require the same structural and finish alternations to the main structure as strict compliance requires.

This variance is required due to the existing location of the home which predates the current ordinances. This has required a 3' variance previously for an addition on the east side of the home. We are only requesting a 12" variance as compared to the previous 36" variance which was granted. Being this house has existed prior to the current ordinances, this condition is not self created. In addition, we would not be requesting this variance if the sunroom was not in the extremely damaged condition which it is.

Thank you for your consideration of this variance,

McCotter Architecture and Design, PLLC. by,

Timothy S. McCotter  
Architect.



RECEIVED

JUN 13 2022

HARTLAND TOWNSHIP

TOWN 3 NORTH, RANGE 6 EAST, LAKE TYRONE ESTATES NO 2, LOT #34

TAX ID NO: 4708-02-101-058

ALSO KNOWN AS: 5989 MABLEY RD, FENTON

LOT AREA: 17,268 S.F. (0.40 ACRES)

LEGAL

ZONING JURISDICTION:  
HARTLAND TOWNSHIP

ZONING DISTRICT:  
SR - SUBURBAN RESIDENTIAL

ZONING REQUIREMENTS:

REAR SETBACK:  
REQUIRED - 15.0'  
PROP/EXISTING - 132.1'

SIDE SETBACK:  
REQUIRED - 10.0'  
EXISTING - 7.0'/16.5'  
PROP. ADD - NORTH 9.0'  
SOUTH 18.5'  
1.0' VARIANCE REQ'D FOR NORTH SIDE

WATERFRONT SETBACK (FRONT):  
REQUIRED - 25.0'  
EXISTING - 108.2'  
PROPOSED - 104.2'

MAX. BLDG HGT:  
ALLOWABLE - 35.0'/2.5 ST  
EXISTING - 22.0'/2ST

MAX COVERAGE:  
ALLOWABLE - 30% BLDG  
30% IMPERVIOUS  
PROPOSED - 12.2% BLDG  
17.5% IMPERVIOUS

ZONING REQ'TS

# 1 SITE PLAN

SCALE: 1" = 30'-0"

## COOK RESIDENCE

5989 MABLEY HILL RD  
FENTON, MI

**McCOTTER**  
Architecture  
and Design

## Martha Wyatt

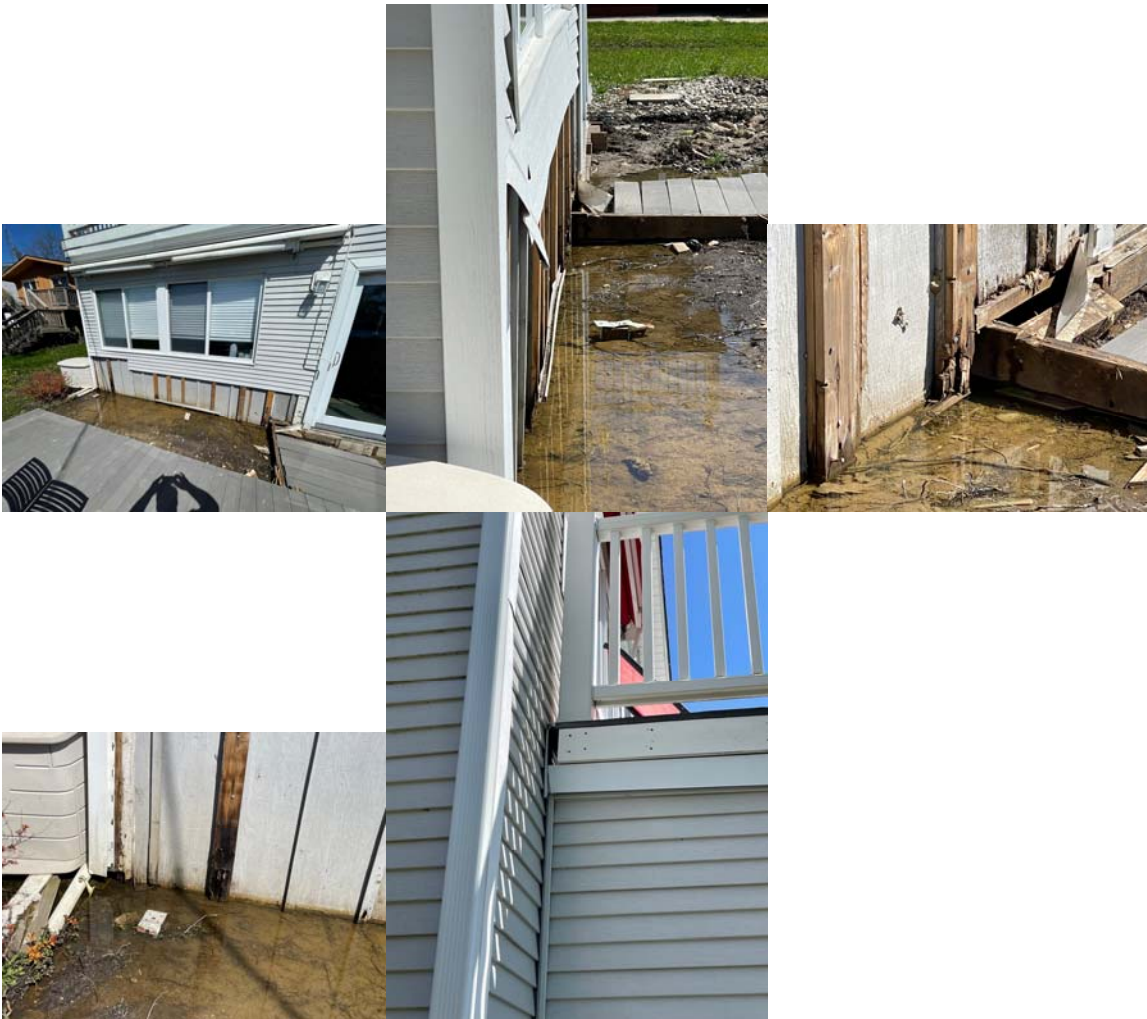
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**To:** Martha Wyatt  
**Subject:** 5989 Mabley Hill photos

This is the exterior pictures of the sunroom with balcony overhead (North is the left side of photos). As we discussed the builder says the structure is collapsing due to no foundation under structure. The structure is sitting on patio stones. As you can see the railing cannot come in 1 foot because the balcony railing will be into the window.



Here are some photos of the poor current condition at ground level. You can see the wall buckling and rot of the structure due to no elevation from a foundation.



Here is the pictures of the inside of our sunroom off the dining room and kitchen. It is an all season room with walk out, windows, heat, electricity and carpet.





The sliding door and windows are not opening/closing properly anymore due to the shifting / bowing of the walls. These are some pictures of visual settling cracks and decay inside.



Please call me to discuss next steps related to variance on the property and options.





**Board of Trustees**

William J. Fountain, Supervisor  
Larry N. Ciofu, Clerk  
Kathleen A. Horning, Treasurer

Matthew J. Germane, Trustee  
Summer L. McMullen, Trustee  
Denise M. O'Connell, Trustee  
Joseph M. Petrucci, Trustee

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## **HARTLAND TOWNSHIP ZONING BOARD OF APPEALS 2022 MEETING DATES**

The Hartland Township Zoning Board of Appeals will hold their regular monthly meetings on the following dates, if requested. All meetings are open to the public.

**January 19, 2022  
February 16, 2022  
March 16, 2022  
April 20, 2022  
May 18, 2022  
June 15, 2022  
July 20, 2022  
August 17, 2022  
September 21, 2022  
October 19, 2022  
November 16, 2022  
December 14, 2022**

Regular meetings are held the third (3<sup>rd</sup>) Wednesdays of every month if requested, beginning at 7:00 PM in the Hartland Township Hall, located at 2655 Clark Road, Hartland, MI.

If an applicant has not requested a Zoning Board of Appeals meeting for any given month, the scheduled meeting for that month will be canceled.

Any questions regarding the Zoning Board of Appeals may be directed to the Hartland Township Planning Department at (810) 632-7498.