



## ZONING BOARD OF APPEALS MEETING

LOCATION: TOWNSHIP ANNEX, 7527 HIGHLAND ROAD, WHITE LAKE, MICHIGAN 48383  
THURSDAY, JULY 27, 2023 – 7:00 PM

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*White Lake Township | 7525 Highland Rd | White Lake, MI 48383 | Phone: (248) 698-3300 | [www.whitelaketwp.com](http://www.whitelaketwp.com)*

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## AGENDA

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF AGENDA
5. APPROVAL OF MINUTES
  - A. [Zoning Board of Appeals Meeting of June 22, 2023](#)
6. CALL TO THE PUBLIC
7. NEW BUSINESS
  - A. [Applicant: Thomas & Ginger Tubbs](#)  
[9474 Bonnie Briar Drive](#)  
[White Lake, MI 48386](#)  
[Location: 9474 Bonnie Briar Drive](#)  
[White Lake, MI 48386 identified as 12-14-205-020](#)  
[Request: The applicants request a post-construction variance to allow an accessory structure within the natural features setback, requiring a variance from Article 3.11.Q, Natural Features Setback.](#)
8. OTHER BUSINESS
9. NEXT MEETING DATE: August 24, 2023
10. ADJOURNMENT

**Procedures for accommodations for persons with disabilities:** The Township will follow its normal procedures for individuals with disabilities needing accommodations for effective participation in this meeting. **Please contact the Township Clerk's office at (248) 698-3300 X-164 at least five days in advance of the meeting.** An attempt will be made to make reasonable accommodations.

**WHITE LAKE TOWNSHIP  
ZONING BOARD OF APPEALS  
JUNE 22, 2023**

**CALL TO ORDER**

Chairperson Spencer called the meeting to order at 7:00 P.M. She then led the Pledge of Allegiance.

**ROLL CALL**

**Present:**

Jo Spencer, Chairperson  
Anthony Madaffer  
Clif Seiber  
Debby Dehart, Planning Commission Liaison

**Absent:**

Niklaus Schillack, Vice Chairperson  
Mike Powell, Board Liaison

**Others:**

Justin Quagliata, Staff Planner  
Sean O'Neil, Community Development Director  
Hannah Micallef, Recording Secretary

7 members of the public present.

**APPROVAL OF AGENDA**

**MOTION by Member Seiber, seconded by Member Madaffer to approve the agenda as presented. The motion CARRIED with a voice vote: (4 yes votes).**

**APPROVAL OF MINUTES**

A. Zoning Board of Appeals Special Meeting of May 25, 2023

**MOTION by Member Dehart, seconded by Member Seiber to approve the Special Meeting minutes of May 25, 2023 as presented. The motion CARRIED with a voice vote: (4 yes votes).**

**CALL TO THE PUBLIC**

There was no public comment.

**OLD BUSINESS**

None.

**NEW BUSINESS**

- A. Applicant: Jessica Shaw  
9101 Hickorywood Drive  
White Lake, MI 48386  
Location: **9101 Hickorywood Drive**  
White Lake, MI 48386 identified as 12-35-476-019  
Request: The applicant requests to enlarge and alter a nonconforming structure (house) to construct an addition, requiring variances from Article 7.23.A, Nonconforming Structures and Article 3.1.6.E, R1-D Single Family Residential Minimum Lot Area and Minimum Lot Width. A variance from Article 7.28.A, Repairs and Maintenance to Nonconforming Structures is also required due to both the value of improvements and the increase in cubic content.

Chairperson Spencer noted for the record 36 owners within 300 feet were notified. 0 letters were received in favor, 0 letters were received in opposition, and 0 letters were returned undeliverable from the U.S. Postal Service.

Staff Planner Quagliata gave a brief report.

Member Dehart asked staff if the side yard setback was included when the case was published. Staff Planner Quagliata confirmed.

Jessica Shaw, 9101 Hickorywood Drive. She wanted to add on the three-season room to be able to see sunshine and her backyard as she did not currently have windows on that side of the house.

Member Seiber asked Ms. Shaw what was the bump out on the west side of the house. Ms. Shaw said it was the stairs to the houses' Michigan basement.

Member Seiber asked Ms. Shaw about the neighbor's trench. Ms. Shaw said the neighbor dug the trench to divert water from his crawl space.

Chairperson Spencer opened the public hearing at 7:07 P.M.

Mike Slay, 2370 East Rose Center Rose, Highland. He stated he was a friend of the Applicant and was helping her with the construction process.

Chairperson Spencer closed the public hearing at 7:09 P.M.

The ZBA discussed the standards from Article 7, Section 37 from the ClearZoning Ordinance:

- A. Practical Difficulty
  - Member Dehart said there was a practical difficulty due to the shape of the lot and age of the house.
- B. Unique Situation
  - Member Seiber said the shape of the property provided a unique situation.
- C. Not Self-Created
  - Chairperson Spencer did not see a self-created problem.
- D. Substantial Justice
  - Chairperson Spencer said substantial justice would be provided.
- E. Minimum Variance Necessary
  - Member Seiber said the 0.6-foot variance was the minimum necessary.

**Member Dehart MOVED to approve the variances requested by Jessica Shaw from Articles 7.23.A and 7.28.A of the Zoning Ordinance for Parcel Number 12-35-476-019, identified as 9101 Hickorywood Drive, in order to construct an addition. Variances from Article 7.23.A are granted to allow the addition to encroach 0.6 foot into the required east side yard setback and exceed the allowed lot coverage by 15%. A variance from Article 7.28.A is granted to exceed the allowed value of improvements to a nonconforming structure by 120%. A 40-foot variance from the required lot width and a 7,460 square foot variance from the required lot area are also granted from Article 3.1.6.E.**

- **The Applicant shall obtain all necessary permits from the White Lake Township Building Division.**
- **A foundation certificate shall be required prior to the backfill inspection by the Building Division.**
- **An as-built survey shall be required to verify the approved setbacks and lot coverage.**

**Member Madaffer supported, and the motion CARRIED with a roll call vote: (4 yes votes)  
(Dehart/yes, Madaffer/yes, Spencer/yes, Seiber/yes)**

- B. Applicant: Arthur Marcum  
326 Vista Terrace  
White Lake, MI 48386  
And Joseph & Michele Fillar  
334 Vista Terrace  
White Lake, MI 48386  
Location: **Parcel Number 12-26-306-001**  
Request: The applicants request to divide a parcel of land, requiring a variance from Article 3.1.5.E, R1-C Single Family Residential Minimum Lot Width.

Chairperson Spencer noted for the record 49 owners within 300 feet were notified. 0 letters were received in favor, 0 letters were received in opposition, and 0 letters were returned undeliverable from the U.S. Postal Service.

Staff Planner Quagliata gave a brief report.

Joe Filar, 334 Vista Terrace, was present to speak on behalf of his case. He liked his house and wanted this variance to maintain his property and keep the split property in its natural state.

Member Seiber asked Mr. Filar his reasoning behind disallowing easements. Mr. Filar said it was a way to maintain the property and to keep its natural beauty.

Member Seiber asked Mr. Filar about the survey's call out to another easement that was not shown. Mr. Filar believed it was an easement for a proposed bridge from years ago, and the plans to construct the bridge were long abandoned.

Chairperson Spencer opened the public hearing at 7:18 P.M. Seeing no public comment, she closed the public hearing at 7:18 P.M.

The ZBA discussed the standards from Article 7, Section 37 from the ClearZoning Ordinance:

- A. Practical Difficulty
  - Member Dehart said there was a practical difficulty due the layout of the school district lines.
- B. Unique Situation
  - Chairperson Spencer said the shape of the property provided a unique situation.
- C. Not Self-Created
  - Member Dehart did not see a self-created problem.
- D. Substantial Justice
  - Chairperson Spencer said substantial justice would be provided.
- E. Minimum Variance Necessary
  - Member Seiber said due to the unique situation, the requested variance was the minimum variance needed.

**Member Seiber MOVED to approve the variance requested by Arthur Marcum and Joseph and Michele Fillar from Article 3.1.5.E of the Zoning Ordinance for Parcel Number 12- 26-306-001 in order to divide a parcel with the partitioning requiring 100-foot lot width variances for Parcel A and Parcel B. This approval will have the following conditions:**

- **The Applicant shall apply for and receive land division approval from the Township Assessor.**
- **The following deed restrictions shall be established:**
  - o **Parcel A shall only be bought and sold in conjunction with 326 Vista Terrace and Parcel B shall only be bought and sold in conjunction with 334 Vista Terrace.**
  - o **No buildings or structures shall be built on Parcel A and Parcel B.**
  - o **No easements shall ever be granted across Parcel A and Parcel B.**

**Member Madaffer supported, and the motion CARRIED with a roll call vote: (4 yes votes) (Seiber/yes, Madaffer/yes, Dehart/yes, Spencer/yes).**

**OTHER BUSINESS**

None.

**NEXT MEETING DATE:** July 27, 2023

**ADJOURNMENT**

**MOTION** by Member Dehart, seconded by Member Seiber to adjourn at 7:21 P.M. The motion **CARRIED** with a voice vote: (4 yes votes).

# WHITE LAKE TOWNSHIP ZONING BOARD OF APPEALS

## REPORT OF THE COMMUNITY DEVELOPMENT DEPARTMENT

**TO:** Zoning Board of Appeals  
**FROM:** Justin Quagliata, Staff Planner  
**DATE:** July 27, 2023

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**Agenda item:** 8a

**Appeal Date:** July 27, 2023

**Appellant:** Thomas & Ginger Tubbs

**Address:** 9474 Bonnie Briar Drive  
White Lake, MI 48386

**Zoning:** R1-D Single Family Residential

**Location:** 9474 Bonnie Briar Drive  
White Lake, MI 48386

**Property Description**

The approximately 0.334-acre parcel identified as 9474 Bonnie Briar Drive is located on Pontiac Lake and zoned R1-D (Single Family Residential). The double lot (Lots 248 and 249 of the English Villas subdivision) contains 90 feet in width at the front property line.

**Appellant’s Proposal**

Thomas and Ginger Tubbs, the Appellants, are requesting a post-construction variance to allow an accessory structure (gazebo) to remain located within the Natural Features Setback.

**Planner’s Report**

Article 3, Section 11.Q of the Zoning Ordinance prohibits buildings or structures from being located closer than 25 feet to any regulated wetland, submerged land, watercourse, pond, stream, lake or like body of water. At its closet point, the accessory structure is located 10.7 feet from the water’s edge of Pontiac Lake.

Note as the structure is under 200 square feet in size, a building permit was not required. However, compliance with the Zoning Ordinance is a requirement for any structure, regardless of size. In 2021 a building permit was issued for repairs to the house on the property resulting from tornado damage. A stipulation of the building permit (attached) stated any rebuilding of accessory structures must meet Zoning Ordinance requirements, including setbacks.

The requested variance is listed in the following table.

Variance #	Ordinance Section	Subject	Standard	Requested Variance	Result
1	Article 3.11.Q	Natural Features Setback	25 feet	14.3 feet	10.7 feet

**Zoning Board of Appeals Options:**

**Approval:** I move to approve the variance requested by Thomas and Ginger Tubbs from Article 3.11.Q of the Zoning Ordinance for Parcel Number 12-14-205-020, identified as 9474 Bonnie Briar Drive, in order to allow an accessory structure to encroach 14.3 feet into the required Natural Features Setback. This approval will have the following conditions:

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**Denial:** I move to deny the variance requested by Thomas and Ginger Tubbs for Parcel Number 12-14-205-020, identified as 9474 Bonnie Briar Drive, due to the following reason(s):

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The Appellant shall remove the accessory structure from the property by September 25, 2023.

**Postpone:** I move to postpone the appeal of Thomas and Ginger Tubbs *to a date certain or other triggering mechanism* for Parcel Number 12-14-205-020, identified as 9474 Bonnie Briar Drive, to consider comments stated during this hearing.

**Attachments:**

1. Variance application dated June 14, 2023.
2. Survey dated June 8, 2023.
3. Building permit dated September 21, 2021.
4. Photos taken by staff.

### 7.37 STANDARDS

General variances: The Zoning Board of Appeals may authorize a variance from the strict application of the area or dimensional standard of this Ordinance when the applicant demonstrates all of the following conditions "A – E" or condition F applies.

- A. Practical difficulty: A practical difficulty exists on the subject site (such as exceptional narrowness, shallowness, shape or area; presence of floodplain; exceptional topographic conditions) and strict compliance with the zoning ordinance standards would unreasonably prevent the owner from using of the subject site for a permitted use or would render conformity unnecessarily burdensome. Demonstration of a practical difficulty shall have a bearing on the subject site or use of the subject site, and not to the applicant personally. Economic hardship or optimum profit potential are not considerations for practical difficulty.
- B. Unique situation: The demonstrated practical difficult results from exceptional or extraordinary circumstances or conditions applying to the subject site at the time the Ordinance was adopted or amended which are different than typical properties in the same zoning district or the vicinity.

- C. Not self created: The applicants problem is not self created.
- D. Substantial justice: The variance would provide substantial justice by granting the property rights similar to those enjoyed by the majority of other properties in the vicinity, and other properties in the same zoning district. The decision shall not bestow upon the property special development rights not enjoyed by other properties in the same district, or which might result in substantial adverse impacts on properties in the vicinity (such as the supply of light and air, significant increases in traffic, increased odors, an increase in the danger of fire, or other activities which may endanger the public safety, comfort, morals or welfare).
- E. Minimum variance necessary: The variance shall be the minimum necessary to grant relief created by the practical difficulty.
- F. Compliance with other laws: The variance is the minimum necessary to comply with state or federal laws, including but not necessarily limited to:
- i. The Michigan Right to Farm Act (P.A. 93 of 1981) and the farming activities the Act protects;
  - ii. The Americans with Disabilities Act of 1990 (as amended), and the needs of handicapped individuals the Act protects, including accessory facilities, building additions, building alterations, and site improvements which may not otherwise meet a strict application of the standards of this Ordinance.

Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

CHARTER TOWNSHIP OF WHITE LAKE  
ZONING BOARD OF APPEALS APPLICATION  
Community Development Department, 7525 Highland Road,  
White Lake, Michigan, 48383  
(248) 698-3300 x5

APPLICANT'S NAME: Thomas Tubbs  
Ginger Tubbs PHONE: 248 396 8766  
ADDRESS: 9474 Bonnie Briar  
APPLICANT'S EMAIL ADDRESS: gtotubbs68@aol.com  
APPLICANT'S INTEREST IN PROPERTY:  OWNER  BUILDER  OTHER: \_\_\_\_\_

ADDRESS OF AFFECTED PROPERTY: 9474 Bonnie Briar PARCEL # 12 - 14-205-020  
CURRENT ZONING: Lot 248+249 PARCEL SIZE: \_\_\_\_\_

STATE REQUESTED VARIANCE AND ORDINANCE SECTION: \_\_\_\_\_  
VALUE OF IMPROVEMENT: \$ \_\_\_\_\_ SEV OF EXISITING STRUCTURE: \$ \_\_\_\_\_

STATE REASONS TO SUPPORT REQUEST: (ATTACH WRITTEN STATEMENT TO APPLICATION)

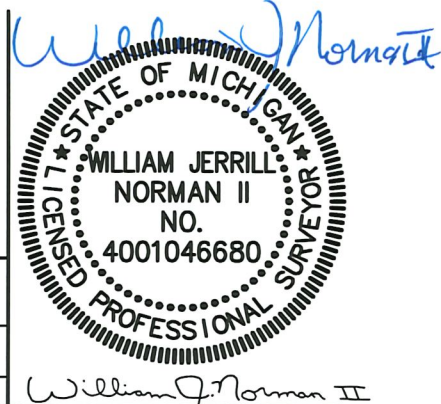
APPLICATION FEE: \$385 (CALCULATED BY THE COMMUNITY DEVELOPMENT DEPARTMENT)  
APPLICANT'S SIGNATURE: [Signature] DATE: 6-14-23  
[Signature]

# KIEFT ENGINEERING, INC.

PROFESSIONAL CIVIL ENGINEERS AND LAND SURVEYORS



5852 South Main Street, Ste #1  
Clarkston, Michigan 48346  
Tel: 248-625-5251  
Fax: 248-625-7110  
www.kiefteng.com



Survey for STEVE TARCZY - JARVIS PROPERTY RESTORATION Date 6-8-2023

Address 41800 EXECUTIVE DR. HARRISON, MI 48045 Job No. 2023.118

*William J. Norman II*

## EXISTING CONDITIONS PLAN

PARCEL 12-14-205-020

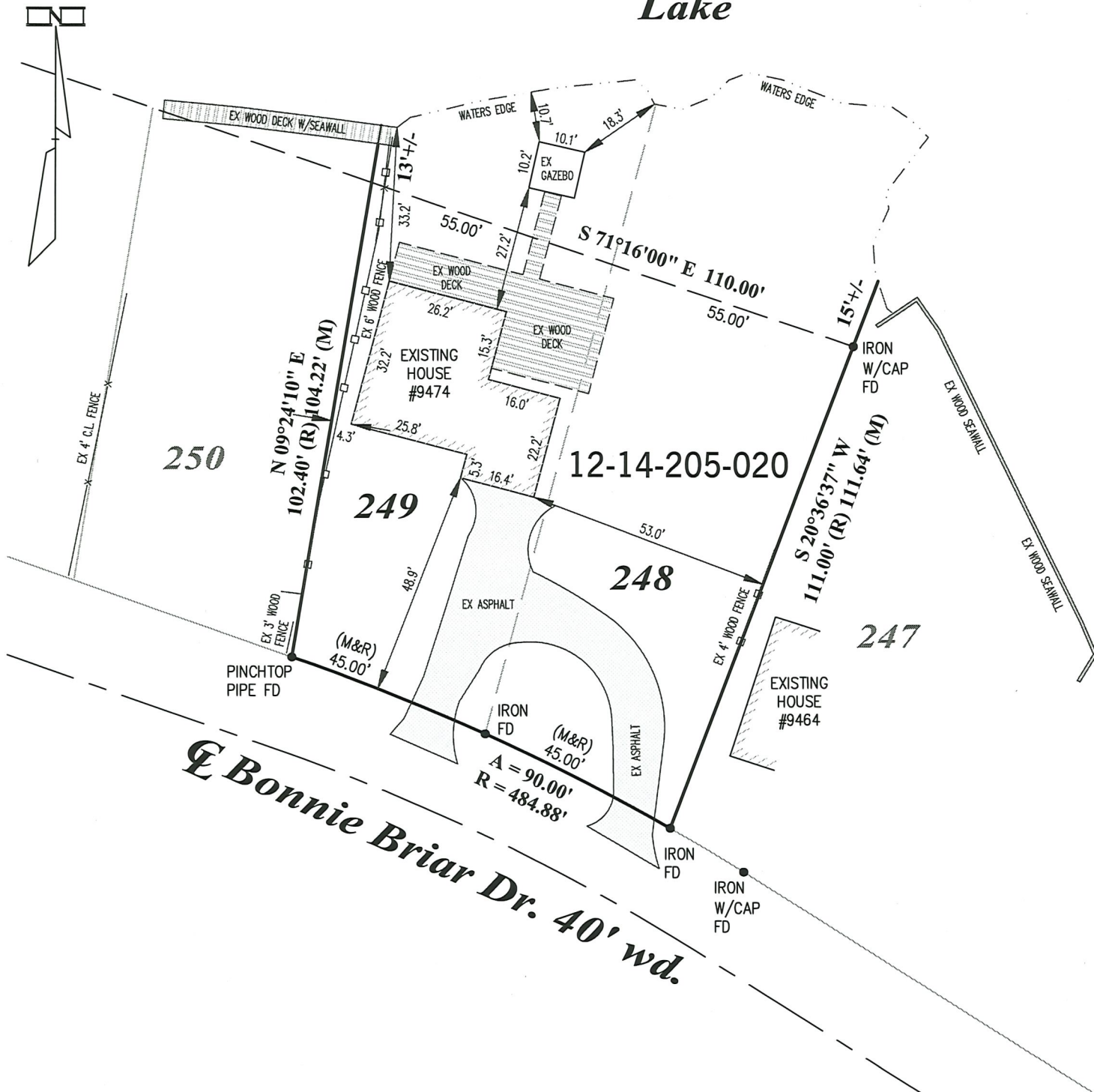
LOT 248 & 249, "ENGLISH VILLAS SUBDIVISION", A SUBDIVISION OF PART OF SECTIONS 11, 13 & 14, T3N, R8E, WHITE LAKE TOWNSHIP, OAKLAND COUNTY, MICHIGAN, AS RECORDED IN LIBER 51 OF PLATS, PAGES 22 & 22A, OAKLAND COUNTY RECORDS.

SCALE: 1" = 30'



Pontiac

Lake



*Bonnie Briar Dr. 40' wd.*



**Building**

PERMIT: P21-02320

Issue Date: 09/21/2021  
 Expiration Date: 09/21/2023  
 Construction Cost 69,647.00  
 Square Footage:

Address/Location 9474 BONNIE BRIAR DR  
 Parcel # Y -12-14-205-020  
 Owner TUBBS, THOMAS  
 Contractor BMS CAT OF MICHIGAN  
 Applicant BMS CAT OF MICHIGAN  
 Description of Work BUILDING PERMIT FOR TORNADO REPAIR

- STIPULATIONS**
1. \*\*\*PLEASE BE ADVISED THAT ANY REBUILDING OF ACCESSORY STRUCTURES MUST MEET CURRENT ZONING AND ORDINANCE REQUIREMENTS, INCLUDING SETBACKS\*\*\*
  2. ADDITIONAL MEP PERMITS AS REQUIRED
  3. REPLACEMENT OR REPAIR OF ROOF TRUSES WILL REQUIRE ENGINEER REVIEW

Permit Item	Work Type	Fee Basis	Item Total
Plan Reviews Up To \$50,000 Value	Standard Item	1.00	50.00
Miscellaneous	Standard Item	69,647.00	514.00
		Fee Total:	\$564.00
		Amount Paid:	\$564.00
		<b>Balance Due:</b>	<b>\$0.00</b>

**SEE NOTES MARKED ON PLANS AND/OR STIPULATIONS HIGHLIGHTED ON PERMIT**

<p>BEFORE YOU DIG                  CALL MISS DIG                  CALL 811                  OR CLICK                  MISSDIG811.ORG</p>	<p>APPROVED PLANS MUST BE RETAINED ON THE JOB AND THIS CARD KEPT POSTED UNTIL INSPECTION HAS BEEN MADE. WHERE A CERTIFICATE OF OCCUPANCY IS REQUIRED, SUCH BUILDING SHALL NOT BE OCCUPIED UNTIL FINAL INSPECTION HAS BEEN MADE.</p>	<p>WHERE APPLICABLE SEPARATE PERMITS ARE REQUIRED FOR ELECTRICAL, PLUMBING AND MECHANICAL INSTALLATIONS.</p>
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