



VILLAGE OF SUTTONS BAY
ZONING BOARD OF APPEALS
Wednesday, May 17, 2023 5:30 PM
Suttons Bay Village Hall
420 N. Front Street
Suttons Bay, MI 49682

AGENDA

1. Call to Order
2. Roll Call and Notation of Quorum
3. Conflict of Interest
4. Approval of the Agenda
5. Approval of Meeting Minutes - April 19, 2023
6. Public Hearing
Variance Request: The applicant, The Friendship Community Center, is seeking a variance for property located at 201 Broadway, Parcel ID# 043-825-019-00, located in the Newer Village Residential District. Specifically, the request is for a variance from the side yard setback from 15 feet to 3.8 feet; and a variance from the max coverage from 30% to 55 %, and a variance of the max impervious coverage from 40% to 55%.
7. Public Comment/Written Communications (concerning items not on the agenda)
8. Adjournment

If you are planning on attending this meeting and are disabled requiring any special assistance, please notify the Village Clerk by calling 231.271.3051 or by email suttonsbay@suttonsbayvillage.org as soon as possible.



VILLAGE OF SUTTONS BAY
ZONING BOARD OF APPEALS
MEETING MINUTES OF APRIL 19, 2023

The meeting was called to order at 5:30 p.m. by Chairperson Popke.

Present: Bahle, Hassevoort, Perkins and Popke. Quorum present.
Absent: Smith
Staff present: Fay, Patmore, and Karrie Zeits (Attorney)
Guests: Andrew Blodgett, Attorney

Approval of Agenda

Bahle moved, Perkins seconded, CARRIED, to approve the agenda as presented.
Ayes: 4, No: 0.

Approval of Meeting minutes

Bahle moved, Hassevoort seconded, CARRIED, to approve the ZBA meeting minutes of February 15, 2023, as presented. Ayes: 4, No: 0.

Public Hearing

Appeal of Zoning Administrator's Interpretation of Section 19-5. B.2a with respect to the applicable lot lines to be used for measuring whether the proposed expansion is "no closer to the applicable lot line than two-thirds (2/3) of the setback area" - for 379 S. Shore Dr., Parcel ID #043-828-036-00, Applicant Michael Sanocki.

Chairperson Popke advises applicants of the majority requirement found in the ZBA Bylaws, Section 2, G.6. Attorney Blodgett responded that the meeting may proceed.

Attorney Andrew Blodgett made a verbal presentation of the applicant's request.

Attorney Zeits presented a PowerPoint in response to the Administrative Appeal.

Chairperson Popke opened the public hearing at 6:06 p.m. A comment was made about a waterside lot line. Applicant Sanocki voiced his appreciation to the ZBA, and explained his intent for the property, which is to be living here in 10 years, create a house and a garage to hide kayaks, etc., and to create a home and legacy for his children. Popke read a written public comment received from Alan and Angela Harris, stating

they had no objection to the applicant's request related to a variance and construction of a garage on the neighboring property. The public hearing closed at 6:14 p.m.

Chairperson Popke clarified that language is important and that the discussions were not about a non-conforming use, but rather a non-conforming structure.

Bahle moved, Perkins seconded, CARRIED to accept the Findings of Facts found in the Zoning Administrator's report and attached to these minutes. Ayes: 4, No: 0.

Hassevoort moved, Perkins seconded, CARRIED, that based upon the Village of Suttons Bay Zoning Ordinance's definition of Lot Lines; Lot Line – Front, the figure on page 20-7 of the Village's Zoning Ordinance, and Figure 4-2 of the Village's Zoning Ordinance, the Village of Suttons Bay Zoning Board of Appeals finds that the referenced lot line for measuring 2/3rds of the setback area as used in Section 19-5.B.2a for the front lot line of the Applicant's property is the South Shore Drive right-of-way line. Ayes: 4, No: 0.

Bahle moved, Hassevoort seconded, CARRIED, that based upon a reading of the Village's Zoning Ordinance as a whole to determine the intent of the Village Council with respect to the Lake Michigan setback and the history of the Zoning Ordinance, the Village of Suttons Bay Zoning Board of Appeals Lake Michigan Setback for the SFWR District, as referenced in the Zoning Ordinance should be measured from the Lake Michigan Historic High Water Mark elevation. (582.3 feet, IGLD 1985); and based on the Ordinance's use of the term lot line in both the definition of setback in the Zoning Ordinance and Section 19-5.B.2a the authors of the Zoning Ordinance intended that the lot line used to measure setbacks and the term lot line as used in Section 19-5.B.2a to measure whether the proposed structure is no closer to the "lot line" than 2/3rds of the setback area are the same; and therefore, the lot line used to measure the 2/3rds distance in 19-5. B.2a for the Lake Michigan lot line of the Applicant's property shall be the Lake Michigan Historic High Water Mark elevation. (582.3 feet, IGLD 1985). Ayes: 4, No: 0.

Bahle moved, Perkins seconded, CARRIED, that following review of the Zoning Administrator's report prepared by Steve Patmore, the Village of Suttons Bay Zoning Board Appeals affirms the Zoning Administrator's determination with respect to the point at which to measure the front lot line and the Lake Michigan lot line of the Applicant's property for purposes of determining whether the proposed expansion on Applicant's property is no closer to the applicable lot line than two-thirds (2/3) of the setback area as set forth in Section 19-5. B. 2a based on the following findings:

1. The Zoning Administrator's decision was not arbitrary or capricious because it was based on a reasoned interpretation of lot line as used in Section 19-5. B.2a of the Zoning Ordinance.
2. The decision was not based on an erroneous finding of material fact. The facts used by the Zoning Administrator in his decision are not in dispute.,

3. The decision did not constitute an abuse of discretion because it was consistent with the intent of the Village Council in enacting the Zoning Ordinance.
 4. The decision was not based on an erroneous interpretation of the zoning ordinance or state law. As determined by the Board, the Zoning Administrator's interpretation of the Zoning Ordinance with respect to the front lot line and the Lake Michigan lot line was correct.
- Ayes: 4, No: 0.

It should be noted that the following documents were submitted for consideration to the Zoning Board of Appeals and made a part of this record:

- Sketch submitted by Zoning Administrator Patmore showing setback lines
- Application received March 10, 2023, and attachments.
- Zoning Administrator's Report and referenced attachments.
- Copy of a PowerPoint presentation prepared by Attorney Zeits
- Copy of Land Survey prepared by Land Surveying dated 7-15-22, submitted by Attorney Blodgett
- Site Plan dated 4-18-23 submitted by Andrew Blodgett

Announcements

The next Zoning Board of Appeals meeting will be held on May 17, 2023 at 5:30 p.m.

The meeting adjourned at 6:24 p.m.

Meeting minutes submitted by Shar Fay, Village Clerk.

**VILLAGE OF SUTTONS BAY
ZONING BOARD OF APPEALS**

ZONING REPORT / SUGGESTED FINDINGS OF FACT

ZONING APPEAL FILED BY MICHAEL SANOCKI

PREPARED BY STEVE PATMORE, ZONING ADMINISTRATOR

For Public Hearing on April 19, 2023

I. REQUEST:

The Village of Suttons Bay received a formal application for an Appeal from Attorney Andrew Blodgett on behalf of Michael Sanocki, who owns property at 379 S. Shore Drive, Suttons Bay.

This Application is an Administrative Appeal of a written Determination/Interpretation made by the Village Zoning Administrator (ZA) dated February 10, 2023 in a memo to the Village of Suttons Bay Zoning Board of Appeals (ZBA) (see Attachment A) for their February 15, 2023 Variance Hearing on the Sanocki request for a new hearing on their original variance request from October 19, 2022.

Specifically, the Appellant is claiming that the ZA erred in the interpretation of Section 19-5.B.2, Expansion of a Non-Conforming Structure, as it relates to the point at which to measure whether the proposed expansion is “no closer to the applicable lot line than two-thirds (2/3) of the setback area”. The ZA determined that the point at which to measure was the right of way line for the front lot line and at the Historic High Water Mark for the Shoreline lot line, and as a result a variance would be needed

This ZA determination was made after Mr. Blodgett suggested in a letter to the ZA dated December 7, 2022 that the Application for Variance that was already submitted to the ZBA, and ruled on in October 2022 may qualify for expansion without a variance under Section 19-5.B.2.

II. PROCESS

Under Section 17-4 of the Village of Suttons Bay Zoning Ordinance (VSBZO), the ZBA has the authority “to hear and decide appeals where it is alleged there is an error of law in any order, requirement, decision, or determination made by the Administrator or the Planning Commission in the enforcement of this ordinance.” (see Attachment B)

Section 17-5 gives the ZBA guidance on Administrative Appeals. (see Attachment B) It provides that in considering an appeal, the Board may reverse or affirm, wholly or partly, or may modify an order, requirement, decision or a determination being appealed and may make an order, requirement, decision or determination as it should be made. The Board may reverse an order of an administrative official or

the Planning Commission only if it finds that the action or decision appealed meets one (1) or more of the following requirements:

1. Was arbitrary or capricious.
2. Was based on an erroneous finding of a material fact.
3. Constituted an abuse of discretion.
4. Was based on erroneous interpretation of the zoning ordinance or state law

Sections 17-4 and 17-7 give the ZBA authority and guidance to interpret the provisions of the ordinance, which will be necessary in deciding this appeal.

III. SUBMITTAL

- Application received March 10, 2023.
- Letter from Attorney Andrew Blodgett.
- Property sketch.

IV. BACKGROUND / HISTORY

1. In 2022, Michael Sanocki submitted an application for dimensional variances to allow construction of an addition to a single-family dwelling.
2. On October 19, 2022, the ZBA conducted a Hearing on the request, and denied the application for the variance request.
3. In December 2022, the Appellant filed a request to the ZBA for a new hearing on a variance request that would allow construction of a slightly modified addition.
4. On February 15, 2023, the ZBA conducted a hearing and determined that the application was a re-application and did not demonstrate changed material conditions under Section 17-10 of the VSBZO that would justify a rehearing of the new application.
5. On March 10, 2023, this application for an administrative appeal was submitted.

V. GENERAL FINDINGS OF FACT (in addition to the facts outlined above)

1. The subject property is located at 379 S. Shore Drive, Suttons Bay. Property No. 45-043-828-036-00.
2. The subject property is owned by Michael Sanocki, 8111 Burt Road, Birch Run, MI 48415.
3. The subject property is currently zoned Single Family Waterfront Residential (SFWR).

4. The subject property currently contains a single-family dwelling and a shed.
5. The required Minimum Primary Street Front Setback in the SFWR District is 25 ft.
6. The required Minimum Lake Michigan Setback in the SFWR District is 50 ft.
7. Figure 4-2 of the Zoning Ordinance illustrates the spatial requirements of the SFWR District. (The Appellant, in their application letter claims that “table 4-3” applies to this District)
8. The existing dwelling on the subject property is a legal non-conforming structure, in that the existing structure does not meet both the required minimum Front and minimum Lake Michigan Setbacks. (this fact does not seem to be disputed, since the Appellant has referenced the non-conforming building section of the ZO as the basis for their appeal.
9. The Use of the subject property (single-family residential) is a Conforming Use in the SFWR District. This is mentioned because the Appellant references on page one of their appeal letter that this is an expansion of a non-conforming use.
10. Measuring from the right of way line for the front yard, the proposed expansion is closer to the front yard lot line than two-thirds (2/3) of the primary street front setback area.
11. Measuring from the Historic High Water Mark for the rear yard/shoreline, the proposed expansion is closer to the Historic High Water mark than two-thirds (2/3) of the Lake Michigan setback area.

IV. SPECIFIC CLAIMS OF THE APPEAL:

The specific claims of the Appeal are contained in the letter from Attorney Andrew Blodgett dated March 9, 2023, and were attached to the Application for Appeal.

1. The Appellant claims that the ZA, in his letter dated February 10, 2023, (See Attachment A) erred in making a determination that the proposed expansion of the non-conforming single-family dwelling submitted by Michael Sanocki, and already denied by the ZBA, did not meet the requirements of Section 19-5.B.2, and therefore required a variance from the ZBA to construct the expansion.
2. The Appellant specifically claims that the ZA used the incorrect reference line when interpreting the “lot lines” referred to in Section 19-5.B.2.a of the zoning ordinance, specifically the Front Lot Line and the lot line fronting Lake Michigan.
3. Also, in doing so, the Appellant claims that the ZA is referencing the incorrect Figure or Table for the zoning district of the Subject Property.
4. The Appellant is claiming that the proposed expansion meets the requirements of Section 19-5.B.2.a of the VSBZO, and therefore, a variance was/is not necessary.
5. The Appellant is claiming that the decision and determination made by the ZA is arbitrary and capricious, based upon an erroneous finding of a material fact, and was based on an erroneous interpretation of the zoning ordinance.

6. The Appellant is requesting that the ZBA direct that a permit for the planned expansion be issued.

V. RESPONSE AND ANALYSIS OF APPEAL:

The following discussion is a response to the Appeal, and is presented to the ZBA for consideration:

1. *Which Figure or Table in the VSBZO applies to the setbacks and spatial requirements of the Single-Family Waterfront Zoning District?*

- The Zoning Administrator, in the February 10, 2023 memo, refers to this as both Table 4-2 and Figure 4-2 (Figure 4-2 is correct) of the VSBZO to illustrate the setbacks in the SFWR District.
- The Appellant, on page 4 of their March 9, 2023 letter refers to Table 4-3, and suggests in a footnote that the Zoning Administrator incorrectly refers to Table 4-2 in his ZA report.
- Attachment D contains Figure 4-2 of the VSBZO, which clearly includes the spatial requirements for single-family dwellings in the SFWR District.
- Figure 4-3, referenced by the Appellant, (also included in Attachment D) clearly refers to spatial requirements of the NVRA and HR Districts, and not the subject property.
- Recommended ZBA Action:

The Village of Suttons Bay Zoning Board of Appeals finds that Figure 4-2 on page 4-6 of the VSBZO is the correct figure to determine the spatial requirements of the Single-Family Waterfront Residential Zoning District in the Village of Suttons Bay.

2. *Which reference lines shall be used as the “lot lines” in determining compliance with Section 19-5.B.2.a of the VSBZO?*

Section 19-5.B.2 provides for a non-conforming structure or building to be enlarged or altered in a way that increases its non-conformity, without a variance, provided that the expansion meets the requirements of 19-5.B.2.a. (see Attachment C)

These limits for expansion contained in Section 19-5.B.2 can be summarized as:

- The expansion can only be located within the existing setback area. (19-5.B.2)
- The expansion is located no closer to the applicable lot line than two-thirds (2/3) of the setback area, as measured from the lot line. (19-5.B.2.a)
- The expansion can be no closer to the lot line than the current building line. (19-5.B.2.a)
- Structures, after any enlargement or alteration, shall meet the lot coverage standards in the zoning ordinance. (19-5.B.2.b)

The ZA maintains that the “setback area” in Section 19-5.B.2 is illustrated by the shaded area in Figure 4-2 SFWR and WC Spatial Requirements – Single Family Dwellings.

A. Which reference line should be used as the reference “lot line” to determine compliance with Section 19-5.B.2.a on the front (road) side of the property?

- The Appellant maintains that the lot line to be used for measurement is the centerline of South Shore Drive because “the lot line extends to the center of the roadway¹, and must be used to measure the 2/3 setback distance.
- The ZA, in the February 10, 2023 letter, determined that the measurement was to take place from the road right-of-way line.
- 19-5 B.2.a expressly provides that the proposed expansion’s distance from the “applicable lot line” is to be measured from the “lot line.”
- There is substantial evidence in the zoning ordinance that the road right-of-way line is the “lot line” for determining setbacks and measuring 19-5.B.2.a.
- “Lot lines” is a defined term in the VSBZO.
- Lot lines are defined on page 20-7 as “the lines bounding a lot, as defined below:”
- The definition of **Lot Line, Front**, (page 20-7), is, in the case of an interior lot, the line separating the lot from the street right-of-way or road easement. Through lots shall have two front lot lines and corner lots shall have a primary and secondary front lot lines.
(Attachment E)
- The illustration above the definition of “lot lines” and the definitions of the various lot lines definitions on page 20-7 of the VSBZO (Attachment E) clearly indicates that the front lot line is located at the Street ROW arrow, and is not the centerline of the street or at any other location dependent upon a property’s legal description in a deed or other instrument of conveyance.
- Figure 4-2 (Attachment D) clearly illustrates that front setbacks in the SFWR District are not measured from the centerline of the road or at any other location dependent upon a property’s legal description in a deed or other instrument of conveyance.
- Also, Figure 4-2 (Attachment D) clearly illustrates that the setback area, as referenced in 19-5.B.2, of the SFWR District does not extend into the road right-of-way.
- It is clear the authors of the VSBZO intended that the referenced lot lines used to measure setbacks and the referenced lot lines used to measure 19-5.B.2.a would be the same reference lines.
- While the property description of the Subject Property may extend to the centerline of South Shore Drive, this does not supersede the definitions and illustrations contained within the zoning ordinance, when it comes to interpreting and applying the zoning ordinance. If a statute or ordinance defines a term, that definition controls. *Capitol Properties Grp., LLC v. 1247 Ctr. St., LLC*, 283 Mich App 422, 770 NW2d 105 (2009)
- **Recommended ZBA Action:**

Based upon the VSBZO definition of Lot Lines: Lot Line- Front, the figure on page 20-7, and Figure 4-2, the Village of Suttons Bay Zoning Board of Appeals finds that the referenced lot line for measuring 2/3 of the setback area shall be the South Shore Drive right-of-way line.

¹ Although Appellant asserts the lot line extends to the center of the road, it is unclear from the documents submitted with this appeal or the two prior applications on what basis this statement is made.

B. Which reference line should be used as the reference “lot line” to measure the 2/3 setback distance referenced in 19-5.B.2.a on the Lake Michigan Waterfront side of the property?

- The Appellant maintains that the referenced lot line to be used in 19-5.B.2a is an original deed line that extends out into the bay, and is shown on the architects drawing submitted with the Application. This line is noted as being lost to high water, and appears to be below the State of Michigan Ordinary High Water Mark.
- Setbacks are measured from the “lot lines” to the building (VSBZO p 20-10) and Section 2-14.
- Section 19-5 B. 2 references the “lot line” in measuring whether a proposed expansion may be allowed.
- The ZA, in the February 10, 2023 letter, acknowledged that there was no definition of Lake Michigan Setback in the ordinance, however, after reviewing the ordinance, determined that the correct reference line for measuring the Lake Michigan Setback should be the Historic High Water Level.
- Consistent with his interpretation regarding measuring the “lot line” in the front of the property, the ZA determined that both the Lake Michigan Shoreline setback area and the area referenced in 19-5.B.2.a should be measured from the same respective referenced line.
- The definition of Lot Line, Rear in the VSBZO does not contain any reference to the shoreline. It states that the Rear Lot Line is the lot line opposite and most distant from the front lot line.
- The current VSBZO does not currently contain a definition of Lake Michigan lot line or Setback Line, although the ordinance requires a Lake Michigan Setback in the SFWR District, the Waterfront Condominium (WC) District, the Central Business District, as well as the Bayview PUD areas.
- Section 2-6 H of the VSBZO establishes a Waterfront Greenbelt with a minimum depth as follows: “A greenbelt a minimum of 25 feet deep will be established and maintained as a condition for new development or redevelopment taking place on waterfront parcels. This strip will be made up of a mixture of low growing shrubs and trees that are well suited for the site. **This strip will be located upland from the Lake Michigan Historic High Water Elevation (582.3’ IGLD 1985)** and no lawn may be maintained between this strip and the water’s edge.” (Emphasis supplied).
- Figure 4-2 clearly illustrates that the Lake Michigan Shoreline Setback should be measured from a line landward of the actual water’s edge and the Lake Michigan Shoreline Setback should be set at a point beyond the 25’ waterfront greenbelt, which is measured from the Lake Michigan Historic High Water mark. Other illustrations in the ordinance show the same.
- Article 7 – Special Areas, has Section 7-3.B, Shoreline Yard and Setback Requirements that references a minimum setback of 50 feet from the established Lake Michigan historic high-water elevation (582.3 feet, IGLD 1985). While Article 7 Special Areas primarily addresses public lands, this definition should be an indicator of the intent of the authors of the VSBZO as the lot line to be used in measuring the Lake Michigan Shoreline setback.
- A previous version of the zoning ordinance from 2011 included a definition of the Lake Michigan Setback (Attachment F) This definition was” All new buildings and structures (except as otherwise noted) will be set back a minimum of 50 feet inland and upland of the Lake Michigan historic high water elevation (582.3 feet IGLD 1985).” Staff believes that the authors of the VSBO inadvertently left out this definition in the latest version of the zoning

ordinance.

- The Appellant has offered no evidence of a bottomlands lease or title for that land shown lake-ward and below the Ordinary High Water Mark (OHWM) of Lake Michigan, as defined by the State of Michigan. Typically, the lands below the OHWM on the Great Lakes are held by the State of Michigan in trust for the People of Michigan, unless there is a lease or title. Staff knows of no exception for lands lost to high water.
- The ZA concludes based on the Ordinance's use of "lot line" in both the setback definition and Section 19-5.B.2.a that the authors of the VSBZO intended that the "lot lines" used to measure setbacks and the reference to lot line used to measure in Section 19-5.B.2.a would be the same.
- The ZA concludes based on evidence of the intent of the ordinance with respect to the Lake Michigan setback, the line to be used is the Historic High Water mark.
- **RECOMMENDED ZBA ACTION:**
In conclusion, based upon the collection of facts given above (not just a single fact), the ZBA is asked to take the following action:

The Village of Suttons Bay ZBA finds, based upon the above findings of facts, that:

1. *The Lake Michigan Setback for the SFWR District, as referenced in the Zoning Ordinance should be measured from the Lake Michigan Historic High Water Mark elevation. (582.3 feet, IGLD 1985), and*
2. *The reference lot line used to measure the distances in 19-5.B.2.a shall be the Lake Michigan Historic High Water Mark elevation. (582.3 feet, IGLD 1985).*

3. Should the ZBA order that a permit be issued for the proposed expansion?

The ZBA does not have authority to issue permits. And even if the ZBA agrees with the Appellant on the reference "lot lines", it is unclear whether the request for expansion of a non-conforming building meets 19-5.B.2.

- A. Is the proposed expansion within the setback areas? – Yes.
- B. Is the proposed expansion within the allowable 2/3 distance as measured from the "lot lines"?
This depends on the findings of the ZBA meeting.
- C. Is the proposed expansion no closer to the lot line than the current building line? This cannot be determined at this time. Two different site plans were submitted, and neither one was drawn to a reasonable scale – to be determined.
- D. Do the structures, after any enlargement or alteration meet the lot coverage standards for the zoning area? No evidence of lot coverage was submitted. The Applicant's representative, at a previous meeting stated that the expansion would meet lot coverage, however, no calculations were provided - To be determined.

Issues C and D noted above must be resolved before a permit can be issued, as well as other

procedural issues such as a Land Use Permit Application, Application Fee, Driveway Permit, Water and Sewer Permit, Soil Erosion permit, etc.

4. Was the Zoning Administrator “arbitrary and capricious in his determination?”

The generally accepted meaning of “arbitrary” is determined by whim or caprice, or arrived at through an exercise of will or caprice, without consideration or adjustment with reference to principles, circumstances, or significance, decisive but unreasoned, and the generally accepted meaning of “capricious” is apt to change suddenly, freakish, whimsical, or humorous. In re TEM, No. 359529, 2022 WL 2760849 (Mich. Ct. App. July 14, 2022), appeal denied sub nom. In re Tem, 981 N.W.2d 353 (Mich. 2022). Staff would hope that the ZBA determines not. The ZA’s determination with respect to where to measure was well considered and based on the VSBZO. A significant amount of time and thought went into the February 10, 2023 letter and interpretation. Significant reasoning was presented in the letter. It should be noted that the Village Attorney was consulted in the preparation of that letter.

6. Was the Zoning Administrator’s determination based upon an erroneous finding of a material fact?

The appeal is based on the ZA’s interpretation of the VSBZO as applied to facts which are not in dispute.

7. Was the Zoning Administrator’s determination based upon erroneous interpretation of the zoning ordinance or state law?

As set forth more fully above, Section 19-5.B.2. requires the distance to be measured from the “lot line.” The determination for the measuring point for the front yard was based on the definition of front yard lot line contained in the Zoning Ordinance. Lot line is a defined term in the Zoning Ordinance, which includes the front lot line. The front lot line is defined as “the line separating the lot from the street right-of-way or road easement.” This is the line that was used to calculate whether the proposed expansion is no closer to the front lot line than two-thirds (2/3) of the setback area.

The determination for the measuring point for the shoreline or waterfront lot line was based on, looking at the VSBZO as a whole, it is clear the shoreline lot line is the Historic High Water Mark. While the ordinance does not contain a definition of shoreline or waterfront lot line, it does (1) require setbacks to be measured from a “lot line,” and (2) utilize the Historic High Water Mark as the lot line from which to measure required setbacks from the lake, such as the waterfront greenbelt and in the Public Lands District. Therefore, it is clear from the Zoning Ordinance that the Lake Michigan Setback is to be measured from the Historic High Water Mark. Therefore, the lot line for the shoreline or waterfront is the Historic High Water Mark.

I hope that this Staff Report will assist the ZBA in making a decision on this Appeal / Interpretation.

Respectfully Submitted, with assistance from the Village Attorney.



Steven W. Patmore
Village of Suttons Bay Zoning Administrator



Office of Planning and Zoning
420 N Front Street
P O Box 395
Suttons Bay, MI 49682
231-271-3051 or 231-392-5828
zoning@suttonsbayvillage.org

ZONING BOARD OF APPEALS APPLICATION

FEES: VARIANCE: \$500 Paid: \$500 Check # 2325
NON-CONFORMING USE: \$500 Paid: _____ Check # _____

Date Rec. 4 / 10 / 23 Hearing Date 5 / 17 / 2023
Above is for office use only

IMPORTANT PLEASE READ THE FOLLOWING:

1. Appeal applications must be submitted in the name of the owner of the property. The owner may be represented by another person, such as, but not limited to; a builder, potential buyer, attorney, or architect.
2. Applications must be signed by the owner. If represented by an authorized agent, he/she must sign also.
3. To process your application, a survey drawn by a professional surveyor (SEE REQUIREMENTS FOR MAKING APPLICATION), must be submitted to the Office of Planning and Zoning thirty (30) days prior to the scheduled Appeals Board meeting at which you wish to appear. The Appeals Board meets on the third Wednesday of each month.
4. The owner is bound by the commitments, concessions and agreements made by their representative/authorized agent.

Owner(s) Name: THE FRIENDSHIP Cm. Center Phone Number: (231) 480 - 6006

Address: 201 W. BROADWAY SUTTONS BAY, MI

Email: liftyonthsb@gmail.com

Authorized Agent's Name: REBEKAH TENBRINK

Address: 201 W. BROADWAY Phone Number: (231) 405 - 0006

Email: SAME

Property Identification Number (PIN): 45-043-825-019-00

Property Location (address if available): _____

Type of Request VARIANCE

- ☒ Variance
 ☐ Special Land Use Denial
 ☐ Temporary Use
 ☐ Conditional Use
☐ Site Plan Review Denial
 ☐ Non-conforming Use
 ☐ Special Exception
☐ Interpretation
 ☐ Other – specify _____

Section of Ordinance Applicable (office use only) _____

If this request is for an appeal from determination by the Zoning Administrator, date of denial: ___/___/___

Have any previous applications regarding this property been submitted to the Board of Appeals?

☐ Yes
 ☒ No
 If yes, what was the description of the prior request? NOT THAT WE

ARE AWARE OF.

Is the subject property ☐ Unplatted ☐ Platted – If Platted, give name of Plat. _____

Describe the request being made with reasons that include the peculiar or unusual conditions which are present. Depict the hardship(s) which will result if the variance is not approved. (Please attach separate sheets if necessary):

SEE ATTACHED

Signature of Owner _____ Date ___/___/___

Signature of Authorized Agent [Signature] Date 3/24/23

~for office use only~

A copy of the site plan and other pertinent information was sent to the following agencies for review and comment:

☐ Leelanau County Road Commission ☐ Leelanau County Soil/Erosion Department

☐ Leelanau County Fire Department ☐ Township Engineer

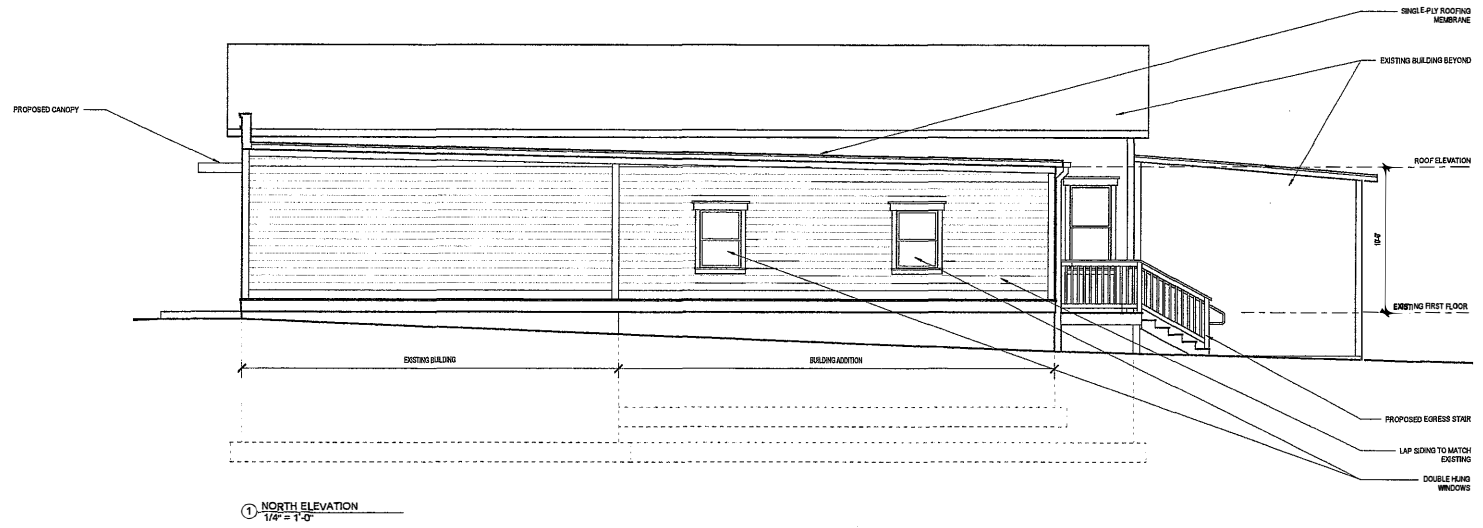
☐ Others _____

ACTION TAKEN: ☐ Approved ☐ Approved w/ conditions ☐ Denied

Note: APPROVALS BY THE BOARD OF APPEALS ARE VOID UNLESS THE CONSTRUCTION AUTHORIZED BY SUCH A VARIANCE HAS RECEIVED A LAND USE PERMIT WITHIN ONE YEAR.

The request for the variance needed is for The Friendship Community Center as we have identified the need for current ADA compliance standards. The bulk of the need stems from restroom accessibility issues. Outlined in the architectural plans you will see the extended and reconfigured restroom plans. As our current facilities do not meet ADA guidelines, we know that it is of utmost importance to our operation that we are able to meet the needs of the community in every way.

In addition to the restroom need, we have identified an accessible, and private meeting space (office) on the main level for our growing staff and community. Currently, our offices are housed in the basement and senior and disabled members of the community are unable to access it.



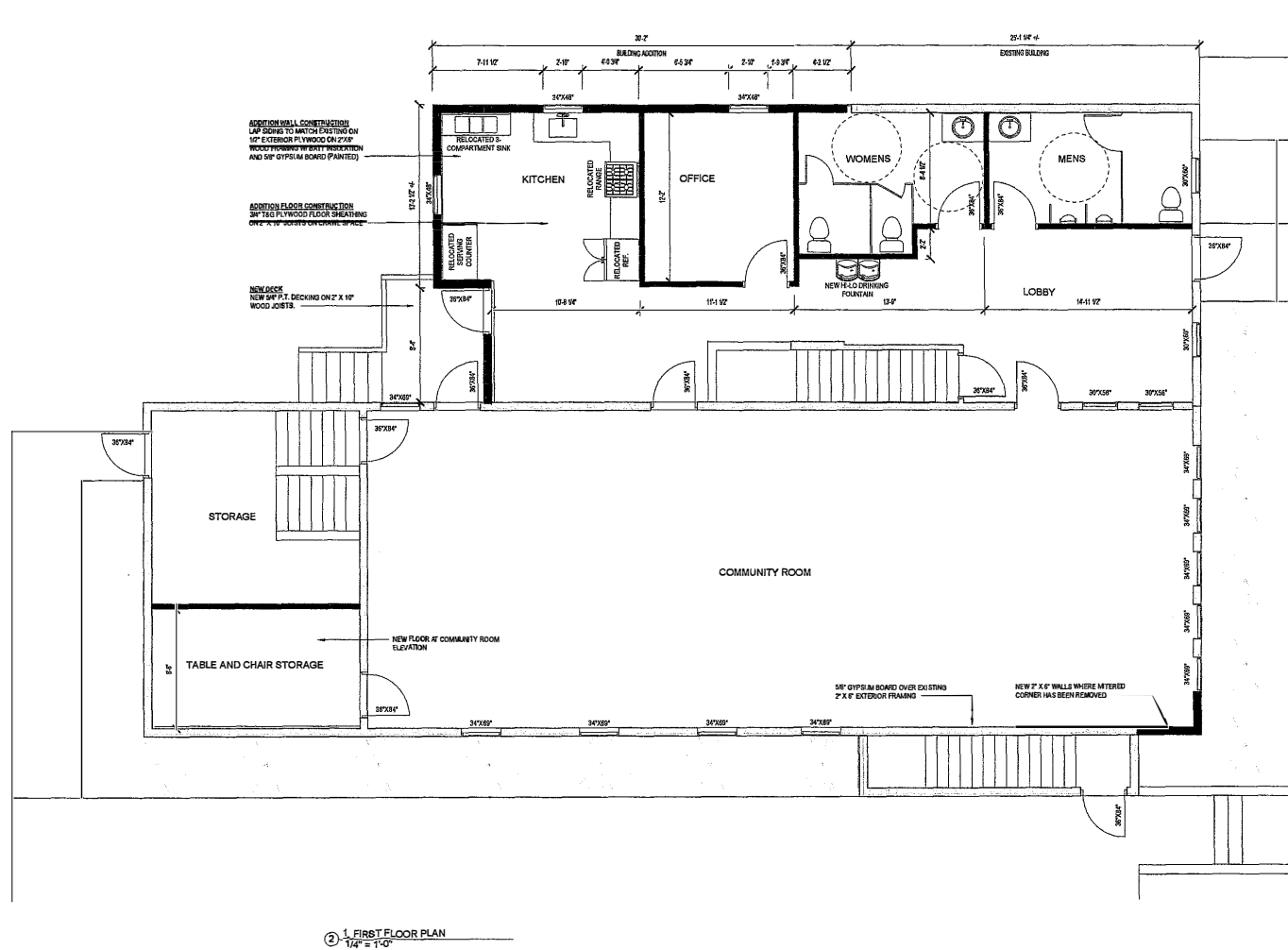
PRELIMINARY

FRIENDSHIP COMMUNITY CENTER
201 Broadway St., Suptone Bay, MI 49682

EXTERIOR ELEVATION

DRAWN
08/23/23
JOB NO.
202005

A4



PRELIMINARY

FRIENDSHIP COMMUNITY CENTER
201 Broadway St., Suttons Bay, MI 49682

FIRST FLOOR PLAN

DRAWN
3/27/2023

JOB NO.
202005

A1 |



PLAIN

DRAWN
03/27/23

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DATE _____

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JOB NO.

202005

C1

52

Keywords:

**VILLAGE OF SUTTONS BAY
ZONING BOARD OF APPEALS**

ZONING REPORT / SUGGESTED FINDINGS OF FACT

**DIMENSIONAL VARIANCE REQUEST
SUBMITTED BY
THE FRIENDSHIP COMMUNITY CENTER**

PREPARED BY STEVE PATMORE, ZONING ADMINISTRATOR

For Public Hearing on May 17, 2023

I. REQUEST:

The Village of Suttons Bay received a formal application from the Friendship Community Center, who owns the subject property at 201 W. Broadway Street, Suttons Bay.

This Application is a request for dimensional variances of the side setback, building coverage, and maximum impervious coverage, and would allow for a 28.1' x 20.7' addition to the existing non-conforming building to provide for ADA bathrooms, ADA Office, and kitchen.

II. PROCESS

Under **Section 17-4** of the Village of Suttons Bay Zoning Ordinance (VSBZO), Powers and Decisions of the Zoning Board of Appeals (ZBA), the ZBA has the authority “to approve dimensional variances in circumstances involving a practical difficulty and the other conditions required for the approval of a dimensional variance

Section 17-6 gives the ZBA guidance on variance requests. It states that the ZBA “ shall have the power to authorize specific dimensional variances from the requirements of this ordinance if it finds based upon competent, material, and substantial evidence following a public hearing that all of the applicable standards provided in this section have been met.

Section 17-6.A.1 gives the Standards for Dimensional Variances, and is discussed further later in this report.

III. SUBMITTAL

- Application received April 10, 2023.
- Explanation of Request
- Scaled Drawings – dated 3/27/23

IV. GENERAL FINDINGS OF FACT (in addition to the facts outlined above)

1. The subject property is located at 201 W. Broadway, Suttons Bay. Property No. 45-043-825-019-00.
2. The subject property is owned by The Friendship Community Center, 201 W. Broadway, PO Box 216, Suttons Bay, MI 49682.
3. The subject property is currently zoned Newer Village Residential (NVR).
4. The subject property currently contains a building that is currently used as the Friendship Community Center.
5. The building formerly was a Grange Hall.
6. According to a Certificate of Survey (attached), the subject property is 50' wide x 150' deep, including the Broadway right-of-way, which calculates to 7,500 square feet of area, or 0.172 acres.
7. According to village records, a dimensional variance was granted in 1988 of the side and front setbacks to allow for an expansion of the building. (see attached)
8. According to Village records, a Land Use Permit was issued for a building expansion in 1989.
9. According to the Application, the Friendship Center wishes to construct a 28.1' x 20.7' addition on the west side (side yard) of the existing building. The addition would allow the Center to expand the existing bathrooms to meet ADA requirements, provide an ADA office/meeting room, and kitchen.
10. The existing building is a legal nonconforming structure as the existing structure does not meet the current Front or Side Setbacks, Building Coverage, or Impervious Coverage.
11. The proposed expansion of this non-conforming building would not qualify for the conditions outlined in Section 19-5 for expansion without a variance.
12. The existing Use as a Civic Building is a legal conforming use in the NVR Zoning District.
13. The required Minimum Primary Street Front Setback in the NVR District is 15 ft. (Table 4-3)
14. The existing building does not meet this setback, however, the proposed addition meets the minimum Front Setback requirements from Broadway Street.
15. The required Minimum Rear Setback in the NVR District is 15 ft. (Table 4-3)
16. The proposed addition meets the minimum Rear Setback requirements.
17. The required Minimum Side Yard Setback in the NVR District is 15 ft. (Table 4-3)

18. According to the Application, the existing building is 3.8' from the Side Lot Line.
19. The Applicants are requesting that the proposed addition be allowed using the same 3.8' Side Setback as the existing building.
20. The maximum Building Coverage in the NVR district is 30%. (Table 4-3)
21. Building Coverage is defined as the area of a parcel covered by a principal and accessory buildings and above grade and at-grade porches and decks. (Page 20-3)
22. Parcel Area is defined as the total land area encompassed within the various property lines including any combination of parcels or parcels of record or portions thereof. (page 20-8)
23. The total building area of the architectural plans, including the addition, calculated by the Zoning Administrator is 3,170 square feet.
24. The Building Coverage of the building with the proposed addition, based upon the gross (total) acreage of the parcel would be $3170/7500 = 42\%$
25. The maximum Impervious Coverage in the NVR district is 40%. (Table 4-3)
26. Impervious surface is defined as any material that substantially reduces or prevents the infiltration of storm water into the earth, including but not limited to any cover on or above the ground which is a building, structure, driveway, patio, paved or gravel street/drive/parking parcel surface, lined pond, swimming pool. (page 20-6)
27. It is estimated that the maximum Impervious Coverage would be 55% based upon the gross acreage of the parcel.
28. The proposed addition will require approval from the Village of Suttons Bay DPW for water and sewer alterations, approval for a Soil Erosion Permit, and Construction Code approval from Leelanau County.

V. SPECIFIC DIMENSIONAL VARIANCE REQUESTS:

1. Side Yard Setback:
 - Required Minimum Setback: 15 feet
 - Existing Building Setback: 3.8 feet
 - Proposed Setback: 3.8 feet
 - Requested Variance: 11.2 feet
2. Building Coverage:
 - Maximum Allowable Building Coverage: 30%
 - Total Area of Parcel: 7,500 sft
 - Proposed Building Area: 3,170 sft
 - Proposed Building Coverage: 42.3% (Variance of 12.3%)

3. Impervious Surface Coverage

- Maximum Impervious Coverage: 40%
- Estimated Impervious Coverage: 55% (variance of 15%)

VI. OTHER CONSIDERATIONS:

- The ZBA should consider if, by allowing the variance request, the request would affect the number of parking spaces required.
- The ZBA can require screening or buffering as a condition, if it would reduce the impact on neighboring properties.
- The ZBA can consider the variance as requested – or a lesser variance

VII. STANDARDS FOR DIMENSIONAL VARIANCES:

Section 17-6.A

Dimensional Variances. The Zoning Board of Appeals shall have the power to authorize specific dimensional variances from the requirements of this ordinance if it finds based upon competent, material, and substantial evidence following a public hearing that all of the applicable standards provided in this section have been met.

1. Standards for Dimensional Variances. To obtain a variance from the dimensional requirements of this ordinance (area, setback, frontage, height, bulk, density or other dimensional requirements) the applicant must demonstrate that a practical difficulty exists by showing all of the following:

(Staff Note: All of these Standards must be met)

- a. The need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and not due to applicant's personal or economic hardship.

The Village of Suttons Bay ZBA finds the following:

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The Village of Suttons Bay ZBA finds that the Application (meets/does not meet/meets with conditions) this standard, or finds that the following information is necessary to make a decision.

- b. That the need for the requested variance is not the result of actions of the property owner.

The Village of Suttons Bay ZBA finds the following:

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The Village of Suttons Bay ZBA finds that the Application (meets/does not meet/meets with conditions) this standard, or finds that the following information is necessary to make a decision.

- c. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.

The Village of Suttons Bay ZBA finds the following:

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The Village of Suttons Bay ZBA finds that the Application (meets/does not meet/meets with conditions) this standard, or finds that the following information is necessary to make a decision.

- d. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give substantial relief to the property owner and be more consistent with justice to other property owners.

The Village of Suttons Bay ZBA finds the following:

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The Village of Suttons Bay ZBA finds that the Application (meets/does not meet/meets with conditions) this standard, or finds that the following information is necessary to make a decision.

- e. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

The Village of Suttons Bay ZBA finds the following:

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The Village of Suttons Bay ZBA finds that the Application (meets/does not meet/meets with conditions) this standard, or finds that the following information is necessary to make a decision.

VIII. POSSIBLE ZBA ACTION:

After reviewing the Findings of Fact, the ZBA can either make a decision or table the action:

1. The ZBA can vote to table the action if additional information is necessary or there are significant questions that must be answered before a decision can be made. The motion should list the items to be provided and/or questions that need to be answered.

2. If the ZBA is ready to make a decision, the following motions can be considered:

- A. Motion to approve the Findings of Fact contained in the Zoning Administrators Report dated May 17, 2023 (as-presented / as-corrected) at this meeting.*
- B. Motion to (approve / approve with conditions / deny) the request from the Friendship Community Center for the dimensional variances listed below pertaining to 201 W. Broadway Street, Suttons Bay. This decision is based upon the Application, Architectural Plans dated 3/27/23, General Findings of Fact, Public Hearing, and the Standards for Dimensional Variances.*

The approved variance is as follows, and is based upon the architectural plans dated 3/27/23.

- *Reduce the required Side Setback from 15 feet to 3.8 feet to construct the addition as shown on the plans.*
- *Increase the allowable Building Coverage from 30% to 42.3% to construct the addition as shown on the plans.*
- *Increase the maximum Impervious Coverage from 40% to 55% to construct the addition as shown on the plans.*

Subject to the following conditions (if any)

I hope that this Staff Report will assist the ZBA in making a decision on this Dimensional Variance

Respectfully Submitted,

Steven W. Patmore 5/12/2023

Steven W. Patmore
Village of Suttons Bay Zoning Administrator

Section 4-3 Spatial Requirements

- A. *Spatial Requirements- Residential Districts.* All lots shall meet the minimum area and width requirements of Table 4-3. New lots shall not be created, except in conformance with these requirements. All structures and their placement on a lot shall conform to the minimum dimensional requirements listed in Table 4-3.

Table 4-3 Spatial Requirements- Residential Districts											
Residential Districts	Min. Depth (ft.)	Min. Width/ Frontage	Setbacks (feet)					Height of Primary (feet)	Stories	Building Coverage	Max. Impervious Coverage
			Primary Street Front	Side Street Front	Side	Rear/ Alley	Lake Michigan				
CR	100	40/40	15-25 ¹	6 ²	6	10	-	30	2.5	40%	50%
NVR	100	80/40	15	15	15	15	-	30	2.5	30%	40%
SFW R	200	100/100	25	25	15	-	50	30 (street) 40 (lowest grade)	2.5	Greater of 30% or 2,500 SF	Greater of 30% or 2,500 SF
HR	100	100/20	40	40	40	40	-	30, 40 for dwellings with walk out basement	2.5	Lesser of 40% or 8,000 SF	Lesser of 50% or 10,000 SF
WC	150	200/200	35	35	Lesser of 35 or height of bldg.	-	50	35	2.5	25%	40%

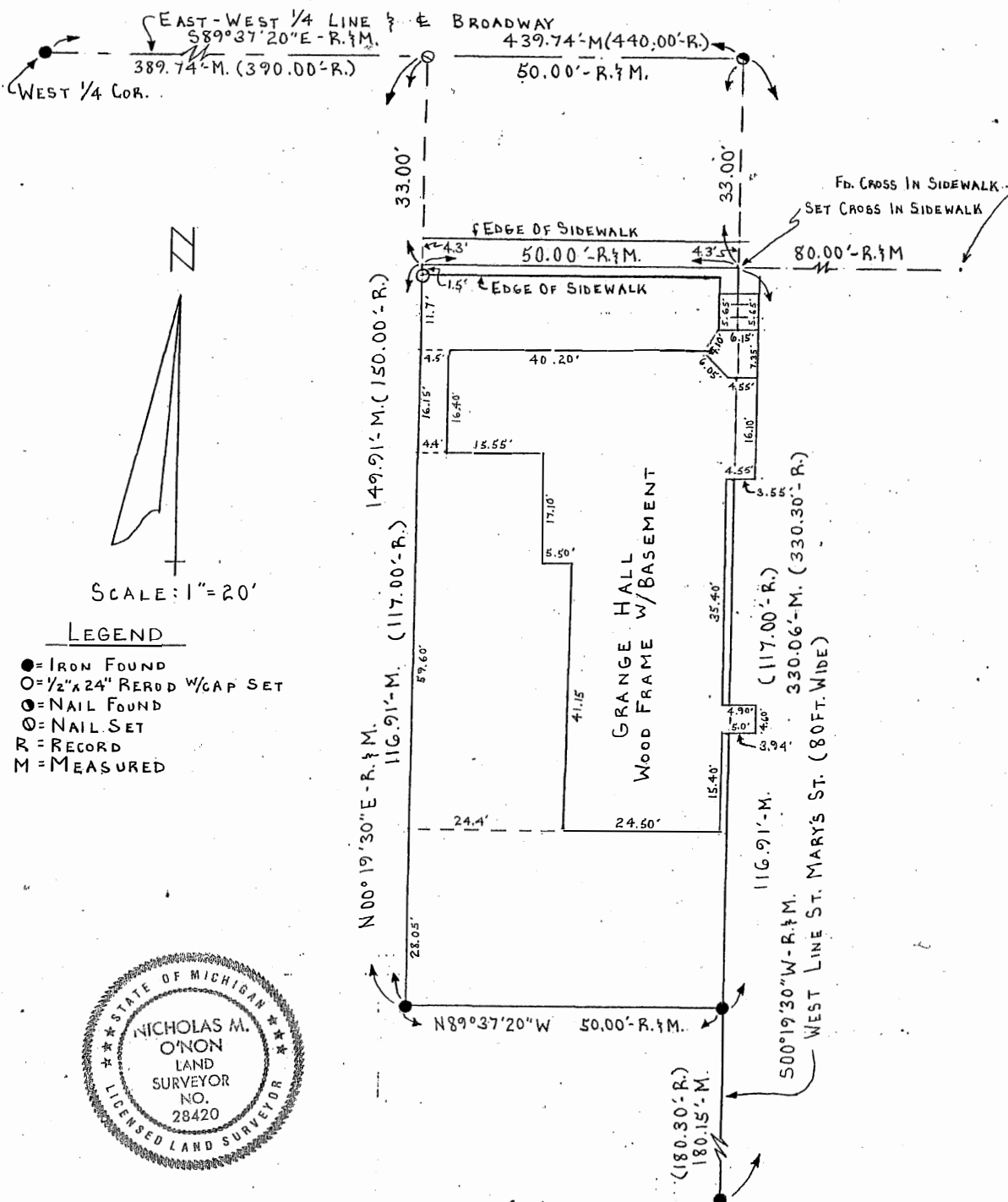
- B. *Single-Family and Two-Family Garages.* If garage doors are oriented toward the primary street frontage, they must be positioned at least five (5) feet behind the primary façade of a house. The total width of garage door openings shall not exceed 40 percent of the total width of any street-facing elevation of the house. On a corner lot, a garage facing a secondary street may be flush with the secondary side elevation or behind.

¹ For the CR district, the minimum setback is 15 feet and the maximum setback is 25 feet.

² The six (6) foot Secondary Street Front Setback is only applicable to the side of dwellings on corner lots. For instance, setbacks from Madison, Jefferson, Park, Adams, Grove, and Concord Streets may only be six (6) if the home faces the other street (Broadway, Lincoln, St. Mary's, Race, and Stratton). If facing the secondary street, two primary street front setbacks shall apply.

CERTIFICATE OF SURVEY

PART OF THE SOUTHWEST 1/4, SECTION 28, TOWN 30 NORTH, RANGE 1 WEST,
VILLAGE OF SUTTONS BAY, SUTTONS BAY TOWNSHIP, LEE LANAU COUNTY, MICHIGAN



I NICHOLAS M. O'NON, REGISTERED LAND SURVEYOR
HEREBY CERTIFY THAT I HAVE SURVEYED AND MAPPED
THE HERON DESCRIBED PARCEL(S) OF LAND; THAT
THE RATIO OF CLOSURE OF THE UNADJUSTED FIELD
OBSERVATIONS IS NOTED AND WITHIN THE ACCEPTED
LIMITS; AND THAT I HAVE FULLY COMPLIED WITH
THE REGULATIONS OF ACT, 132, P.A. 1970.
RATIO OF CLOSURE 10,000

BEARING BASIS P.J. O'NON SURVEY FILE
No. SB-DA-06, FEB. 1972

Nicholas M. O'Non

NICHOLAS M. O'NON
116 ST. JOSEPH'S AVE.
SUTTONS BAY, MI 49682
(616) 271-3255

DATE JULY 6, 1988

FILE NO. 8882-28SB3011

SURVEYED FOR

MICHIGAN STATE GRANGE
C/O BILL GREGORY
P.O. Box 233
SUTTONS BAY, MI. 49682
FOR SUTTONS BAY - BINGHAM
SENIOR CITIZENS, INC.

SUTTONS BAY ZONING BOARD OF APPEALS SPECIAL MEETING MONDAY, NOVEMBER 7, 1988, 7:30 pm
Village Hall.

Present: Chairman Al Perrault; members Ted Schlee, Ron Send, Rick Pauly; Zoning administrator Jay Stratton, Village administrator Punky Idema; residents Bill Gregory, Rita Kiessel, Agens Barrett, Betty Scherf, Ed Newcomb.

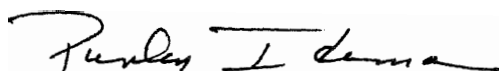
Items for consideration:

Request for continued nonconforming use of the former Grange Hall for the Suttons Bay Bingham Senior Friendship Center. Request variance to the street right of way within 5 feet and within 4.4 feet of side lot line for remodeling purposes. There being no objections from any member or from any of the adjacent neighbors MOVED BY TED SCHLEE, SUPPORTED BY RON SEND TO ALLOW THE VARIANCES REQUESTED. AYES ALL. CARRIED.

Ted Schlee pointed out that a hardship making the granting of a variance necessary would not have been necessary had the building become a residence rather than the senior center. But since the building has been there for many years and the Planning Commission had already granted the Special Use permit he saw no reason that this request should not be granted.

Request from Ed Newcomb, Edwards Furniture for a permit to construct a wood, brick and copper sign 14 inches off the ground and three and one half feet high, non lighted. It will be set back from the sidewalk right of way on the property in front of the building complex. The sign will be done with gold leaf and luminescent paint and there may be overhead lighting from the building. Members complimented Ed on the quality of design of the sign and thought it would be an asset to the Village Business District. MOVED BY RICK PAULY, SUPPORTED BY RON SEND TO GRANT PERMISSION FOR THE SIGN PERMIT. AYES ALL. CARRIED.

Meeting adjourned at 7:50 pm.



Punky Idema, Recorder