AGENDA
Zoning Board of Appeals – Regular Meeting
Tuesday, April 25th, 2023 – 7:00 p.m.

I. Call to Order

II. Roll Call

III. Approval of the September 27th, 2022 ZBA Meeting Minutes

IV. Public Comments & Questions (Agenda Items Only)

V. New Business
   A. ZBA Variance Application No. 22-10 – Zamiara – Dimensional Variance (Walls)

VI. Reports

VII. Extended Public Comments & Questions (Non-Agenda Items)

VIII. Adjournment
MEETING MINUTES  
GRAND HAVEN CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS  
SEPTEMBER 27, 2022  

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

II. ROLL CALL  
Board of Appeals members present: Voss, Loftis, Behm, Slater, Egedy-Bader  
Board of Appeals members absent: Hesselsweet  

Also present: Senior Planner Thibault, Associate Planner Hoisington  

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

III. APPROVAL OF MINUTES  

Without objection, the minutes of the August 23, 2022 ZBA Meeting were approved.

IV. NEW BUSINESS  

A. ZBA Variance Application No. 22-11 – Zamiara – Dimensional Variance  

- Party Requesting Variance: Nancy Zamiara  
- Address: 17461 Lakeside Trail  
- Parcel Number: 70-07-33-125-036  
- Location: 17461 Lakeside Trail  

The applicant is seeking a dimensional variance to construct a building addition and retaining wall. The building addition would result in a 3-story building height where a maximum 2.5-story height is permitted, which is in violation of Section 2.08 of the Zoning Ordinance. The retaining wall would result in a 10’ height where a maximum height of 8’ is permitted and a 1’ side yard setback where 10’ is required, which would violation of Section 14.13.C of the Zoning Ordinance.

Hoisington provided an overview through a memorandum dated September 22nd.

The applicant, Ms. Zamiara, and her representative Chuck Posthumus were present to provide information.

- Presented the Board and Staff with an additional handout illustrating the floor plan of the house.
- Provided an overview of the property and the merits of the request: relating to the location within a Critical Dune area, wetland encumberments, the restriction of areas for an addition, and the relative size of the adjacent house to the south.
• Clarified that Peterson Environmental has compiled the information and submitted the EGLE application. In their opinion the retaining wall for the parking area was outside of the Critical Dunes and therefore exempt from EGLE discretion.
• Opined EGLE prefers to balance cut and fill when reviewing proposed construction in the dunes, and therefore a height variance would be more preferred than construction of a retaining wall system
• Expressed that neighboring properties are in support of the application and would also like to minimize grade disruptions.
• Declared that the height request was not to see the lake, and therefore not of so general or recurrent a request.

The Board discussed the application and noted the following:
• Questioned if the height of the proposed addition is tall than the existing property
  o Staff clarified that according to the definition of how height is measured in the Zoning Ordinance, yes it does – even if the ridgeline is at the same level, the topography impacts the height determination.
• Questioned where in the EGLE process the application was, and if it covered all the proposed improvements
• Opined that the proposed 10-feet tall retaining wall with a 1-foot side yard setback was too close to the property line
• Opined that neither of the proposals from the applicant are guaranteed for an approval

**Standard No. 1** – Exceptional or extraordinary circumstances:
• The property is a legal lot of record and is non-conforming in lot width.
• The property is encumbered by both Critical Dune Area and regulated wetlands.

  Ayes: Egedy-Bader, Loftis, Behm, Slater, Voss
  Nays: None
  Absent: Hesselsweet

**Standard No. 2** – Substantial property right:
• Retaining wall: The wall is needed to support the location of the driveway but does not need to be in that location.
• Building height: Each property owner has the right to expand their home within the regulations of the Zoning Ordinance. The existing home conforms with the required minimum dwelling size. There is no entitlement to a larger or taller home.

  Ayes: None
  Nays: Egedy-Bader, Loftis, Behm, Slater, Voss
  Absent: Hesselsweet
Standard No. 3 – Will not be a substantial detriment to adjacent parcels, or material impact on the intent and purpose of the Ordinance:

- No letters of opposition were received for this application (as of September 22nd).
- Providing a building height request would impair the intent of the Ordinance

  Ayes: None
  Nays: Egedy-Bader, Loftis, Behm, Slater, Voss
  Absent: Hesselsweet

Standard No. 4 – Request is not of such a recurrent nature as to make reasonably practical the formulation of a general regulation:

- Building height: The buildable area of the lot is limited, but the existing home already complies with the Zoning Ordinance. Increased building height is a common desire on lakefront properties.
- Retaining wall: the limitations on the property due to the Critical Dune Area, regulated wetlands, and existing topography limit the buildable area and are unique to the property. However, a more compliant location and height is possible.

  Ayes: Slater
  Nays: Egedy-Bader, Loftis, Behm, Voss
  Absent: Hesselsweet

Motion by Slater supported by Behm, to deny a dimensional variance from Sections 2.08 and 14.13.C of the Zoning Ordinance to construct a home addition and retaining wall at 17461 Lakeside Trail. Denial of this variance is based upon this Board’s findings that all four standards have not been affirmatively met.

Which motion carried unanimously, as indicated by the following roll call vote:

  Ayes: Voss, Loftis, Behm, Slater, Egedy-Bader
  Nays: None
  Absent: Hesselsweet

B. ZBA Variance Application No. 22-10 – Zamiara – Dimensional Variance

| Party Requesting Variance:       | Nancy Zamiara |
| Address:                        | 17461 Lakeside Trail |
| Parcel Number:                  | 70-07-33-125-036 |
| Location:                       | 17461 Lakeside Trail |

The applicant is seeking a variance to construct three new retaining wall systems, herein referred to as A, B, and C. System A would result in a 10’ height where a maximum height of 8’ is permitted; 1’ side yard setback where 10’ is required. System B would result in a 4’ side yard setback where 10’ is required. System C
would result in a 7’ side yard setback where 10’ is required. The retaining walls violate Section 14.13.C of the Zoning Ordinance.

Hoisington provided an overview through a memorandum dated September 22nd. The applicant, Ms. Zamiara, and her representative Chuck Posthumus were present to provide information

- Stated that a lot of the information is a duplicate of the first application and does not change the floor plan or intended use of the addition.
- Clarified that the existing walkway to the main floor of the house would be moved to the North of the retaining walls.
- Opined that the Board should motion to postpone the application because of the outstanding EGLE permit and other questions raised during the first application.

The Board discussed the application and noted the following:

- Questioned where the existing driveway was in relation to the existing grade
  - Staff clarified that it is at grade with a slope

  **Motion** by Loftis, supported by Behm, to **postpone** the dimensional variance application for 17461 Lakeside Trail, and direct the applicant and/or staff to provide the following information:

  1. Provide a copy of the EGLE permit which approves the construction of all items included in this variance request.

  **Which motion carried unanimously**, as indicated by the following roll call vote:

  **Ayes**: Voss, Slater, Loftis, Hesselsweet, Egedy-Bader
  **Nays**: None
  **Absent**: Hesselsweet

V. REPORTS - None

VI. EXTENDED PUBLIC COMMENTS – None

VII. ADJOURNMENT

**Without objection**, the meeting was adjourned at 8:10 pm.

Respectfully submitted,

Rory Thibault
Acting Recording Secretary
Community Development Memo

DATE: April 20, 2023

TO: Zoning Board of Appeals

FROM: Rory Thibault – Senior Planner
Cassandra Hoisington, Associate Planner

RE: 17461 Lakeside Trail – Dimensional Variance Application No. 22-10

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### PARCEL INFORMATION

<table>
<thead>
<tr>
<th>Owner/Applicant</th>
<th>Nancy Zamiara</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Address</td>
<td>17461 Lakeside Trail</td>
</tr>
<tr>
<td>Parcel Number</td>
<td>70-07-33-125-036</td>
</tr>
<tr>
<td>Lot Size</td>
<td>1.78 Acres</td>
</tr>
<tr>
<td>Lot Type</td>
<td>Waterfront Lot, Critical Dunes Area, Legal Lot of Record</td>
</tr>
<tr>
<td>Zoning</td>
<td>R-1 - Single Family</td>
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<tr>
<td>Required Dimensions for a Retaining Wall that Exceeds 4-Feet in Height</td>
<td>Side Yard Setback: 10-feet (due to reduced lot width)</td>
</tr>
<tr>
<td></td>
<td>Maximum Height – 8-feet, single or series</td>
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<tr>
<td>Requested Dimensions for a Retaining Wall that Exceeds 4-Feet in Height</td>
<td>Retaining Wall A: Height – 10-feet Side yard setback – 1-foot</td>
</tr>
<tr>
<td></td>
<td>Retaining Wall Series B: Side yard setback – 4-feet</td>
</tr>
<tr>
<td></td>
<td>Retaining Wall Series C: Side yard setback – 7-feet</td>
</tr>
</tbody>
</table>

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[Location Map]

Critical Dune Area (Pink)
Wetlands (Blue)
Recall, the applicant first brought two applications before the Zoning Board of Appeals in September 2022. The outcome of that meeting denied the variance application for a 3-story building. The second variance application was to alter the grade using a series of retaining walls such that the lowest level could be considered a basement and not a story.

This was postponed based on the applicant obtaining approval from EGLE for the retaining walls prior to reviewing the application again. An EGLE permit has been obtained which includes the retaining walls.

The applicant is requesting a dimensional variance from Section 14.13.C of the Zoning Ordinance, regulating the height and location of retaining walls, in order to construct a building addition which will extend to the east of the existing home. The existing garage would be converted to living space, and the addition would add additional living space and a new garage. By using a series of retaining walls, the grading around the lowest level of the home would be modified such that it will not count as a story, and therefore not exceed the maximum building height requirement of 2.5 stories. The main floor is proposed 5.73-feet above the average grade plane, therefore the main floor is considered the first story because it is less than 6-feet above the average grade plane.
A retaining wall is required to provide a flat surface for a new expanded parking area. The retaining wall is proposed at 10-feet tall and would exceed the maximum retaining wall height of 8-feet. Further, this would be required to meet the side-yard setback of 10-feet. A variance of 2-feet is requested to allow the 10-feet tall retaining wall and a variance of 9-feet is requested to yield a 1-foot setback from the side lot line.

Because of the topography of the area in which the retaining wall is located, it is unlikely that a compliant solution would be found that complied with both the height and setback requirements. A new septic system is proposed underneath the expanded drive area. This retaining wall is not included in the EGLE application as it does not occur within the regulated critical dune area.

A series of retaining walls are proposed directly north of the home to modify the grading. The proposed series is 6.5-feet in height. This would be required to meet the side yard setback of 10-feet because it exceeds 4-feet in height. A variance of 6-feet is requested to yield a 4-feet side yard setback.

A series of retaining walls are proposed directly south of the home to modify the grading. The proposed series is 4.5-feet in height. This would be required to meet the side yard setback of 10-feet because it exceeds 4-feet in height. A variance of 3-feet is requested to yield a 7-feet side yard setback.
To authorize a dimensional variance from the strict applications of the provisions of this Ordinance, the ZBA shall apply the following standards and make an affirmative finding as to each of the matters set forth in the standards.

**STANDARD 1**

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

The property is a legal lot of record and is non-conforming in lot width. The property is encumbered by both Critical Dune Area and regulated wetlands. The ZBA will need to make a determination as to whether this standard is met given the circumstances of this case.

**STANDARD 2**

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

A series of retaining walls are required to maintain appropriate grading to provide a compliant building height for the addition and flat surface for a parking area. The ZBA will need to make a determination as to whether this standard is met given the circumstances of this case.

**STANDARD 3**

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

No correspondence had been received as of the original public hearing deadline of September 22nd nor in the interim. The ZBA will need to make the determination as to whether this standard is met given the circumstances of this case and the findings on standards 1 and 2.

**STANDARD 4**

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

Retaining wall: the limitations on the property due to the Critical Dune Area, regulated wetlands, and existing topography limit the buildable area and are unique to the property. The walls are needed in order to comply with the maximum building height and story requirement. The ZBA will need to make the determination as to whether this standard is met.
If the ZBA determines each standard has been affirmatively met, the following motion can be offered:

**Motion to approve** a dimensional variance from Section 14.13.C of the Zoning Ordinance to construct a series of retaining walls at 17461 Lakeside Trail. This will result in three retaining wall systems: System A – has a 10-feet height and a 1-foot side yard setback. System B – Has a 4-feet side yard setback. System C – Has a 7-feet side yard setback. Approval of this variance is based upon this Board’s findings that all four standards have been affirmatively met.

If the ZBA determines that more information is needed to make an affirmative finding, the following motion can be offered:

**Motion to postpone** the dimensional variance application for 17461 Lakeside Trail., and direct the applicant and/or staff to provide the following information:

1. **List the items**

If the ZBA determines each standard as not been affirmatively met, the following motion can be offered:

**Motion to deny** dimensional variance from Section 14.13.C of the Zoning Ordinance to construct a home addition and retaining wall at 17461 Lakeside Trail. Denial of this variance is based upon this Board’s findings that all four standards have not been affirmatively met.

Please contact staff prior to the meeting with questions or concerns.
ZAMIRA 17461 LAKESIDE TRL

ELEVATIONS
WALL
C.G. PRV WALK
1.8 DRIVE WAY

EXIST. TOPO
C.7 DRIVE WAY
C.6 S.W. SECTION
C.5 SOUTH WALL
C.4 N.W. SECTION
C.3 NORTH WALL
C.2 SITE PLAN
C.1 LOCATION

C1 POSTHUMUS ARCHITECTS PLLC

SITE PLAN EXISTING
PAVEMENT
WALLS & RETAINING
POR

107 WOODSTOCK ST SE
PHONE (612) 437-0432
GRAND RAPIDS, MI 49503
PROPOSED NORTH W/ RETAINING WALL

10' H.
24' H.
30' H.

EXISTING WALL

SCALE: 1/8" = 1'-0"

NEW ROOF
EXISTING ROOF
ZONING BOARD OF APPEALS APPLICATION

<table>
<thead>
<tr>
<th>Application Type</th>
<th>Fee</th>
<th>Escrow*</th>
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<td>Variance or Appeal</td>
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<td>$300</td>
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<tr>
<td>603 Exemption</td>
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<th>Application Type</th>
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<tr>
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<tr>
<td>Interpretation</td>
<td>$125</td>
<td>n/a</td>
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* To cover cost of legal and consulting fees, may be increased as necessary

The full zoning ordinance can be found at www.ght.org/zoning.

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**Applicant/Appellant Information**

Name: Nancy Zamiara
Phone: 517-669-8893
Address: 17461 Lakeside Trail Pvt. West Olive, MI 49460
Email Address: nzamiara@comcast.net

**Owner Information** (if different from applicant/appellant)

Name: ____________________________________________
Phone: _________________________
Address: ____________________________________________
Email Address: ____________________________________________

**Property Information** (Include survey or scaled drawing)

Address: 17461 Lakeside Trail Pvt. West Olive, MI 49460
Parcel No.: 70-07-33-125-036
Lot Width: 60'9"/68'1"
Parcel Size: 37,240 square feet

**General Information** (Check one)

☑ Application for Variance
( ) Request for Interpretation
( ) Notice of Appeal

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

**VARIANCE REQUESTED** (if applicable)

1. Attach a Narrative: Description of Request; Why it is needed; and Addresses each of the 4 Standards
2. Variance Requested From the Requirements of Section Number(s) Section 14.13
3. Relating to Retaining Wall Location and Height
4. Structure/Land Use (After Variance) 21' long x 21' long and up to 10' high
5. Overall Building Size (After Variance) ____________________________________________
6. Setbacks from lot lines (After Variance):
   a. Front Yard ______ feet
   b. Rear Yard ______ feet
   c. Side Yard #1 ______ feet
   d. Side Yard #2 ______ feet
RELEASE FORM

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

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

[Signature]
Applicant’s Signature

8-19-2022
Date

[Signature]
Owner’s Signature (if different from applicant)

Date

17461 Lakeside Trail Ave. West Olive, MI 49460
Property Address

For Office Use Only

Date Received
Fee Paid?

ACTION TAKEN BY TOWNSHIP BOARD OF APPEALS

☐ Application Approved

☐ Application Denied

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

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

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

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

[Signature of ZBA Chairperson]
Date
August 19, 2022

Dear Members of the Zoning Board of Appeals,

Thank you for taking the time to consider our application for a variance to construct a retaining wall that will allow for parking and a safe turn-around for the addition we are seeking to build onto our home.

We purchased our home in the fall of 2010. My husband and I grew up in West Michigan and we wanted to return to the area that we love and where our families have always had a presence. We would like to build an addition to our home to provide enough space for our four adult children and their families. When we purchased this home, it was with the intention to be in a place where our children would want to come home to visit and where our grandchildren would want to spend time with us. As our children will soon be starting their own families, we realize that we are outgrowing the current space of our home.

Due to the constraints on our lot, we will have to move our septic holding tanks to do this addition. The increased driveway area will provide more space for the relocation of these tanks and the dosing chamber. It will also provide a safe turn-around within our narrow lot and a basic parking area. In 2018, in anticipation of the need for this addition, we worked with our neighbors to the south to obtain an easement for the septic system’s drain field due to the unique circumstances of our lot.

We hope that you will grant this variance and that we will be able to make this home the place where we can continue to live now and into our retirement, allowing it to be a place to accommodate our growing family.

Sincerely,

Nancy A. Zamiara
ZONING BOARD OF APPEALS NARRATIVE
17461 LAKESIDE TRAIL, Pvt.

Grand Haven Township ZBA
Zamiara Retaining Wall Variance Narrative
17461 Lakeside Trail, Pvt.

The Zamiara site has exceptional conditions that do not apply generally to other properties in the same zoning classification.

The exceptional topographic conditions of the site includes the burden of Critical Dunes. The no build portion of the legislation limits where buildings and roads and grading changes can happen. The Zamiaras have gotten an EGLE permit to place this retaining wall. They recognize the need to allow the parking and that there is no other place for it.

The dimensional and wall height variance is necessary for the Zamiaras enjoyment of the right to have appropriate parking and safe turn-around space.

The authorization of the retaining wall location and height will not be a detriment to either of the adjacent property owners. From the south it will not be visible. From the north Camp Blodgett has no active use of the adjacent area on its large property.

The situation is unique to the property and not such a recurring condition that would warrant a general regulation.
Hi Nancy,

Thank you for reaching out. I hope the holiday season is off to a good start for you.

We reviewed the submittal and Rory was able to confirm the height will become compliant with the proposed retaining walls.

We will take Ms. Richmond’s email as verification that the proposed driveway walls are not in the regulated CDA.

Please let us know if additional assistance is needed.

Best regards,

Cassie

Cassandra Hoisington
Grand Haven Charter Township
Associate Planner
choisington@ght.org
P:616-604-6340
F:616-842-9419

From: NANCY ZAMIARA <nzamiara@comcast.net>
Sent: Thursday, November 17, 2022 9:53 PM
To: Cassandra Hoisington <choisington@ght.org>; Rory Thibault <rthibault@ght.org>
Cc: Bill Monhollon <bill@billmonhollonbuilders.com>; posthumusarch@gmail.com; Zach VandenBerg <zach@petersonenviro.com>
Subject: Fwd: RE: EGLE Verification - 70-17461 Lakeside Trail-West Olive

Hi Cassie and Rory,

I hope that you are both doing well.

We have been working with EGLE to determine if the new plans that include retaining walls on the north and south of our current home and proposed addition could be considered a minor revision to our existing EGLE permit. They cannot and we will need to apply for a new EGLE permit.

Before we do this, we would like to receive your assurance that the plans we have submitted to you with retaining walls on the north and south will meet the requirements of Section 2.08 of the township ordinance which limits the height of structures. If the addition of the retaining walls and fill on the north and south will result in us being in compliance with the allowed height of our home, we will submit a new application to EGLE for a permit that includes these walls. Upon receipt of the EGLE permit, we will return to the ZBA to request a variance for the retaining walls.

In addition, at the ZBA meeting on September 27 we were asked to provide a letter/email from EGLE regarding the retaining wall associated with the driveway expansion since it was included
on the application submitted to EGLE, but not specifically mentioned in the permit issued. The email chain below illustrates our efforts to get clarity on this. Will you accept the email response from Abigail Richmond as evidence that the driveway retaining wall is outside of the critical dune area and therefore not regulated by EGLE?

Thank you,
Nancy Zamiara

17461 Lakeside Trail
West Olive, MI 49460

---------- Original Message -----------
From: "Richmond, Abigail (EGLE)" <RichmondA3@michigan.gov>
To: Zach VandenBerg <zach@petersonenviro.com>
Cc: "nzamiara@comcast.net" <nzamiara@comcast.net>, Bill Monhollon <bill@billmonhollonbuilders.com>, Chuck Posthumus <posthumusarch@gmail.com>, Remi Masse <remi@petersonenviro.com>
Date: 11/16/2022 8:59 AM
Subject: RE: EGLE Verification - 70-17461 Lakeside Trail-West Olive

Hi Zack, sorry for the slow response. You are correct, the current proposal for the modification will require a new EGLE permit. The northern retaining wall does not meet existing use. Please read through our 008 document. These are the only projects that do not require a permit. The parking retaining wall/parking fill that was shown on the previous permitted plans would be outside of the CDA boundary. This can be seen on the previously permitted plans and within the old application.

Thank you,

Abigail Richmond (she/her)

Environmental Quality Analyst

Water Resources Division | Grand Rapids District Office

Michigan Department of Environment, Great Lakes, and Energy

616-260-7328 | RichmondA3@michigan.gov

Inland Lakes and Streams Program | Wetland Protection Program

---------------------------------------------------------------
Hi Abby,

Following up on my previous emails and voicemails regarding this matter. Please let me know if you have any questions.
Hi Abby,

Wanted to follow up on this to see if you have had a chance to review.
Please let me know if you have any questions regarding this matter.

Thanks,

Zach

Zach VandenBerg

Peterson & VandenBerg Environmental, LLC
Wetlands • Critical Dunes • Permit Assistance
Threatened & Endangered Species • Wetland Mitigation

PO Box 262
Spring Lake, MI 49456

Cell: (616) 928-7983

www.petersonenviro.com

From: Zach VandenBerg
Sent: Monday, October 24, 2022 5:04 PM
To: RichmondA3@michigan.gov
Cc: nzamiara@comcast.net; Bill Monhollon <bill@billmonhollonbuilders.com>; Chuck Posthumus <posthumusarch@gmail.com>; Remi Masse <remi@petersonenviro.com>
Subject: RE: EGLE Verification - 70-17461 Lakeside Trail-West Olive
Hi Abby,

It was good to see you last week.

I wanted to follow up with you on a few items that we discussed.

1. The current proposal for the modification will require a new EGLE permit due to portions of this activity being in areas that were previously not proposed to be impacted.
   - Going one step further, it appears that the northern retaining wall could be included as a modification as it is within areas of existing use. This may allow for the overall house height to meet Township zoning requirements (we are checking to see if this is the case). The southern retaining wall and walkway relocation could then be applied for in a new application, but this would allow for the applicant to obtain the building permit in the meantime. Please verify this.

2. The parking retaining wall/parking fill that was depicted in the previous permitted plan and described in the previous application’s project description is outside of the Critical Dune area (see email below). This activity would therefore not be regulated by EGLE. The Township is requiring that EGLE confirms this before they will issue their permits for this activity. Please confirm this is the case so that we can move forward with the Township.

Per your request, I have attached some updated plans for your review. If you have any questions, please let me know. Once I hear from you, I will prepare a separate new EGLE application for activities that require a new EGLE permit.

Thanks for your help!

Zach
Hi Abby & Bonnie,

I am sending this email to you both as Bonnie issued the attached permit for this project and Abby is currently processing a minor revision to that permit.

This email is unrelated to the proposed minor revision. The applicant is working on obtaining Township approval of activities proposed on this site. The Township is currently unable to permit the retaining wall associated with the parking expansion area as this wall is not included in EGLE’s description of authorized activity in the permit. I have explained that this retaining wall is proposed east of the CDA boundary and
outside of regulated wetlands on this site and, therefore, is not an EGLE-regulated activity. The Township cannot accept my explanation and are requiring a written confirmation of this from EGLE.

This retaining wall is included on the plans that were permitted by EGLE. In the application for regulated activities on this site, this wall was referenced in the project description – describing that the structure was not regulated based on its proposed location relative to the CDA boundary (see screenshot below).

At your convenience, please verify/confirm via email that this retaining wall is not regulated by EGLE. An email should suffice for the Township so that we can continue through their process.

If you have any questions, please let me know.

Have a great weekend!
Zach VandenBerg

PO Box 262
Spring Lake, MI 49456
Cell: (616) 928-7983
www.petersonenviro.com
NOTICE OF AUTHORIZATION

Permit Number: WRP037089 v. 1
Site Name: 70-17461 Lakeside Trail-West Olive: 13-70-0219-P
Date Issued: April 4, 2023
Expiration Date: April 4, 2028

The Michigan Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division, P.O. Box 30458, Lansing, Michigan 48909-7958, under provisions of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended; specifically:

☐ Part 31, Floodplain Regulatory Authority of the Water Resources Protection.
☐ Part 301, Inland Lakes and Streams.
☐ Part 303, Wetlands Protection.
☐ Part 315, Dam Safety.
☒ Part 323, Shorelands Protection and Management.
☐ Part 325, Great Lakes Submerged Lands.
☒ Part 353, Sand Dunes Protection and Management.

Authorized activity:

Remove a 96 square foot area existing walkway; construct a new 225 square foot concrete walkway, 52 linear foot retaining wall on the north side and a 52 linear foot retaining wall on the south side. Place a total of 43 cubic yards of fill all within a critical dune and high risk erosion area. All work shall be completed in accordance with the attached plans and the terms and conditions of this permit.

To be conducted at property located in: Ottawa County, Waterbody: Lake Michigan Section 33, Town 07N, Range 16W, Grand Haven Township

Permittee:
Nancy Zamiara
17461 Lakeside Trail
West Olive, MI 49460

Abigail Richmond
Grand Rapids District Office
Water Resources Division
616-260-7328

This notice must be displayed at the site of work. Laminating this notice or utilizing sheet protectors is recommended. Please refer to the above permit number with any questions or concerns.
Issued To:

Nancy Zamiara
17461 Lakeside Trail
West Olive, MI 49460

Permit No: WRP037089 v.1
Submission No.: HPP-HERM-2DZNW
Site Name: 70-17461 Lakeside Trail-West Olive: 13-70-0219-P
Issued: April 4, 2023
Revised: 
Expires: April 4, 2028

This permit is being issued by the Michigan Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division, under the provisions of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA); specifically:

☑ Part 323, Shorelands Protection and Management
☑ Part 353, Sand Dunes Protection and Management

EGLE certifies that the activities authorized under this permit are in compliance with the State Coastal Zone Management Program and certifies without conditions under the Federal Clean Water Act, Section 401 that the discharge from the activities authorized under this permit will comply with Michigan’s water quality requirements in Part 31, Water Resources Protection, of the NREPA and associated administrative rules, where applicable.

Permission is hereby granted, based on permittee assurance of adherence to State of Michigan requirements and permit conditions, to:

Authorized Activity:

Remove a 96-square-foot area existing walkway; construct a new 225-square-foot concrete walkway, 52-linear-foot retaining wall on the north side and a 52-linear-foot retaining wall on the south side. Place a total of 43 cubic yards of fill all within a critical dune and high risk erosion area. All work shall be completed in accordance with the attached plans and the terms and conditions of this permit.

Waterbody Affected: Lake Michigan
Property Location: Ottawa County, Grand Haven Township,
Town/Range/Section 07N/16W/33,
Property Tax No. 16-70-07-33-125-036
Authority granted by this permit is subject to the following limitations:

A. Initiation of any work on the permitted project confirms the permittee's acceptance and agreement to comply with all terms and conditions of this permit.

B. The permittee, in exercising the authority granted by this permit, shall not cause unlawful pollution as defined by Part 31 of the NREPA.

C. This permit shall be kept at the site of the work and available for inspection at all times during the duration of the project or until its date of expiration.

D. All work shall be completed in accordance with the approved plans and specifications submitted with the application and/or plans and specifications attached to this permit.

E. No attempt shall be made by the permittee to forbid the full and free use by the public of public waters at or adjacent to the structure or work approved.

F. It is made a requirement of this permit that the permittee give notice to public utilities in accordance with 2013 PA 174 (Act 174) and comply with each of the requirements of Act 174.

G. This permit does not convey property rights in either real estate or material, nor does it authorize any injury to private property or invasion of public or private rights, nor does it waive the necessity of seeking federal assent, all local permits, or complying with other state statutes.

H. This permit does not prejudice or limit the right of a riparian owner or other person to institute proceedings in any circuit court of this state when necessary to protect his rights.

I. Permittee shall notify EGLE within one week after the completion of the activity authorized by this permit.

J. This permit shall not be assigned or transferred without the written approval of EGLE.

K. Failure to comply with conditions of this permit may subject the permittee to revocation of permit and criminal and/or civil action as cited by the specific state act, federal act, and/or rule under which this permit is granted.

L. All dredged or excavated materials shall be disposed of in an upland site (outside of floodplains, unless exempt under Part 31 of the NREPA, and wetlands).

M. In issuing this permit, EGLE has relied on the information and data that the permittee has provided in connection with the submitted application for permit. If, subsequent to the issuance of a permit, such information and data prove to be false, incomplete, or inaccurate, EGLE may modify, revoke, or suspend the permit, in whole or in part, in accordance with the new information.

N. The permittee shall indemnify and hold harmless the State of Michigan and its departments, agencies, officials, employees, agents, and representatives for any and all claims or causes of action arising from acts or omissions of the permittee, or employees, agents, or representative of the permittee, undertaken in connection with this permit. The permittee's obligation to indemnify the State of Michigan applies only if the state: (1) provides the permittee or its designated representative written notice of the claim or cause of action within 30 days after it is received by the state, and (2) consents to the permittee's participation in the proceeding on the claim or cause of action. It does not apply to contested case proceedings under the Administrative Procedures Act, 1969 PA 306, as amended, challenging the permit. This permit shall not be construed as an indemnity by the State of Michigan for the benefit of the permittee or any other person.

O. Noncompliance with these terms and conditions and/or the initiation of other regulated activities not specifically authorized shall be cause for the modification, suspension, or revocation of this permit, in whole or in part. Further, EGLE may initiate criminal and/or civil proceedings as may be deemed necessary to correct project deficiencies, protect natural resource values, and secure compliance with statutes.
P. If any change or deviation from the permitted activity becomes necessary, the permittee shall request, in writing, a revision of the permitted activity from EGLE. Such revision request shall include complete documentation supporting the modification and revised plans detailing the proposed modification. Proposed modifications must be approved, in writing, by EGLE prior to being implemented.

Q. This permit may be transferred to another person upon written approval of EGLE. The permittee must submit a written request to EGLE to transfer the permit to the new owner. The new owner must also submit a written request to EGLE to accept transfer. The new owner must agree, in writing, to accept all conditions of the permit. A single letter signed by both parties that includes all the above information may be provided to EGLE. EGLE will review the request and, if approved, will provide written notification to the new owner.

R. Prior to initiating permitted construction, the permittee is required to provide a copy of the permit to the contractor(s) for review. The property owner, contractor(s), and any agent involved in exercising the permit are held responsible to ensure that the project is constructed in accordance with all drawings and specifications. The contractor is required to provide a copy of the permit to all subcontractors doing work authorized by the permit.

S. Construction must be undertaken and completed during the dry period of the wetland. If the area does not dry out, construction shall be done on equipment mats to prevent compaction of the soil.

T. Authority granted by this permit does not waive permit requirements under Part 91, Soil Erosion and Sedimentation Control, of the NREPA, or the need to acquire applicable permits from the County Enforcing Agent (CEA).

U. Authority granted by this permit does not waive permit requirements under the authority of Part 305, Natural Rivers, of the NREPA. A Natural Rivers Zoning Permit may be required for construction, land alteration, streambank stabilization, or vegetation removal along or near a natural river.

V. The permittee is cautioned that grade changes resulting in increased runoff onto adjacent property is subject to civil damage litigation.

W. Unless specifically stated in this permit, construction pads, haul roads, temporary structures, or other structural appurtenances to be placed in a wetland or on bottomland of the water body are not authorized and shall not be constructed unless authorized by a separate permit or permit revision granted in accordance with the applicable law.

X. For projects with potential impacts to fish spawning or migration, no work shall occur within fish spawning or migration timelines (i.e., windows) unless otherwise approved in writing by the Michigan Department of Natural Resources, Fisheries Division.

Y. Work to be done under authority of this permit is further subject to the following special instructions and specifications:

1. Authority granted by this permit does not waive permit or program requirements under Part 91 of the NREPA or the need to acquire applicable permits from the CEA. To locate the Soil Erosion Program Administrator for your county, visit https://www.michigan.gov/egle/about/organization/water-resources/soil-erosion/sesc-overview and select “Soil Erosion and Sedimentation Control Agencies”.

2. The authority to conduct the activity as authorized by this permit is granted solely under the provisions of the governing act as identified above. This permit does not convey, provide, or otherwise imply approval of any other governing act, ordinance, or regulation, nor does it waive the permittee’s obligation to acquire any local, county, state, or federal approval or authorization necessary to conduct the activity.

3. No fill, excess soil, or other material shall be placed in any wetland, floodplain, or surface water area not specifically authorized by this permit, its plans, and specifications.
4. This permit does not authorize or sanction work that has been completed in violation of applicable federal, state, or local statutes.

5. The permit placard shall be kept posted at the work site in a prominent location at all times for the duration of the project or until permit expiration.

6. This permit is being issued for the maximum time allowed and no extensions of this permit will be granted. Initiation of the construction work authorized by this permit indicates the permittee's acceptance of this condition. The permit, when signed by EGLE, will be for a five-year period beginning on the date of issuance. If the project is not completed by the expiration date, a new permit must be sought.

7. Notification shall be provided to EGLE by telephone 72 hours prior to commencing construction, vegetation removal, or grading activity. Contact: Abigail Richmond at richmonda3@michigan.gov or (616) 260-7328.

8. All slopes steeper than one-on-three (33%) must not be disturbed. Impacting the dunes is not authorized outside of the permitted use including activities such as driving machinery on slopes steeper than one-on-three (33%), or storing (permanently or temporarily) machinery, soil, materials, equipment, or removed vegetation, on any slopes steeper than one-on-four (25%).

9. Altering the crest and the area lakeward of the crest by placing retaining walls or other regulated structures, removing soil or vegetation, lowering or raising the elevation of the crest, placing materials or soils lakeward of the crest on the lakeward facing bluff is not permitted.

10. The construction of porches, decks, landscaping (with the exception of planting native dune vegetation), on-grade walkways, on-grade stairways, and retaining walls including the placement of boulders, are considered uses, and not permitted unless specified in the authorized activities of the permit and depicted on the approved plans.

11. All earth moving and contour changes must occur within 10 feet of the permitted use.

12. Vegetation changes are not authorized more than 10 feet outside of the permitted use. All disturbed areas shall be re-vegetated with native dune species and stabilized with temporary measures before or upon commencement of the permitted use and maintained until permanent measures are in place. The removal and re-establishment of vegetation must be in accordance with the submitted vegetation assurance.

13. The tree pest, hemlock woolly adelgid (HWA), is known to infest hemlock and tiger-tail spruce trees in this county. The Michigan Department of Agriculture and Rural Development (MDARD) has issued a quarantine on the movement of all branches, boughs, any tree part bearing twigs and needles and uncomposted, chipped/shredded/ground parts that include twigs and needles. Issuance of this permit does not obviate the need to obtain approval to move hemlock and tiger-tail spruce parts off the project site prior to commencement of construction activity as stated in the quarantine effective on July 5, 2017, by authority of Public Act 72 of 1945, as amended. In Allegan and Ottawa counties contact MDARD Region 2 Supervisor Mike Hansen, hansenmg@michigan.gov or 269-429-0669.

14. Oak wilt, a non-native tree killing fungus, is known to infect oak trees in this county. Damage to the trees from construction, such as cut or broken branches, during the growing season may result in the tree becoming infected and dying shortly thereafter. If possible, do not cut or trim oak trees during the growing season, especially April 15 through July 15. Open cuts on damaged trees should be immediately painted with pruning sealer or tree paint. Contact the local Cooperative Invasive Species Management Area (CISMA) staff for more information, info@michiganinvasives.org or www.michiganinvasives.org.

15. The permitted use and development shall provide for disposal of storm water without serious soil erosion and without sedimentation to any waterbody or wetland.
16. The transport of building materials/excavated sand and access to and from the site shall be via the existing driveway. A separate temporary driveway or access road is not permitted for construction activities.

17. All excess woody debris, concrete, building materials, or other types of soil must be deposited off site, outside of the critical dune area.

18. All man-made debris that has been compromised by erosion and is threatening to be discarded below the Ordinary High Water Mark of a Great Lake, such as stairways, decks, catch basins, septic systems, pool foundations, buildings, sheds, pipes, and concrete, must be removed and deposited in an upland location outside of the Critical Dune Area.

19. If it is not feasible to dispose of excess excavated sand or soil on-site, then it must be deposited off-site, outside of a floodplain, lake, river, stream, or wetland, and stabilized with temporary measures until permanent measures are in place. Permanent measures shall be in place within five (5) days of achieving final grade.

20. Stairway(s)/walkway(s) must be constructed elevated above grade, on a hand dug post foundation, a maximum of five (5) feet in width and shall not have a roof or walls.

21. The proposed structure is within 100 feet of the dune crest and therefore the following requirements must be met:

22. The structure and access to the structure shall be in accordance with a site plan prepared for the site by a registered professional architect or a licensed professional engineer and the site plan shall provide for the disposal of storm waters without serious soil erosion and without sedimentation of any stream or other body of water.

23. Access to the structure shall be from the landward side of the dune.

24. The dune shall be re-stabilized with indigenous vegetation.

25. The crest of the dune shall not be reduced in elevation.

26. This permit was issued after the review of the existing conditions at the project site. The Great Lakes shoreline is always changing. Erosion occurs with fluctuating water levels and storms. Soil types and the presence or absence of plants and trees may also impact the rate of erosion. The location of the landward edge of the zone of active erosion (erosion hazard line) used for this permit may change due to erosion. At the time of construction, the permittee should review the location of the building site with the erosion hazard line and the setbacks. If there are questions, contact the EGLE office that issued this permit.

27. The 30-year projected recession distance from the erosion hazard line for readily moveable structures is 50 feet. The 60-year projected recession distance from the erosion hazard line for non-readily moveable structures is 85 feet. The average annual rate of recession of the shoreline is 1.2 feet per year.
THIS PERMIT MUST BE SIGNED BY THE PERMITTEE TO BE VALID.

I hereby assure that I have read, am familiar with, and agree to adhere to the terms and conditions of this permit.

________________________  ______________
Permittee Signature       Date

cc:  Grand Haven Township Clerk
     Ottawa County Drain Commissioner
     Ottawa County Clerk