

**MARION TOWNSHIP
ZONING BOARD OF APPEALS**

Monday, July 12, 2021
7:30 p.m.

The Township Zoning Board of Appeals will meet in person July 12, 2021 at 7:30 pm

However, there will be virtual access.

Instructions to participate in the meeting are posted on www.mariontownship.com

AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIENCE

INTRODUCTION OF MEMBERS

APPROVAL OF AGENDA July 12, 2021

CALL TO PUBLIC

APPROVAL OF MINUTES FOR: January 4, 2021 Regular Meeting

OLD BUSINESS:

NEW BUSINESS:

- 1) ZBA Case #01-21 Blair Towe 889 Hurley Dr. Howell, MI 48843
Seeking variance for Section 8.04.E.3.a2 side yard setback
4710-35-301-024.

CALL TO PUBLIC:

ADJOURNMENT:

**MARION TOWNSHIP
ZONING BOARD OF APPEALS
REGULAR ELECTRONIC MEETING
JANUARY 4, 2021**

MEMBERS PRESENT: Larry Fillinger, Linda Manson-Dempsey, Larry Grunn, Dan Lowe, and Diane Bockhausen

MEMBERS ABSENT: None

OTHERS PRESENT: Dave Hamann, Zoning Administrator

CALL TO ORDER

Larry Fillinger called the meeting to order at 7:30 p.m. The meeting is also available online.

MEMBERS PRESENT

The members of the Zoning Board of Appeals introduced themselves. All meeting attendees were attending the meeting from their home.

APPROVAL OF AGENDA

Linda Manson-Dempsey motioned to approve the agenda. Dan Lowe seconded. **Motion carried.**

CALL TO THE PUBLIC

No response.

APPROVAL OF MINUTES

October 5, 2020 Regular Meeting and October 27, 2020 Training Meeting: Larry Fillinger said he would like the minutes from the 10/27 training meeting revised to show that Dave Hamann and John Enos were both present, and to include Larry Grunn as a ZBA meeting. Linda Manson-Dempsey motioned to approve the minutes as amended. Diane Bockhausen seconded. **Motion carried.**

OLD BUSINESS

None.

NEW BUSINESS

ZBA Case #07-20—Vern Brockway, 1388 Lucy Rd., Howell, MI, Tax Code #4710-01-400-005; seeking variances for Section 10.01 E 3 a, b and c—Setbacks, and Section 6.13 B 1—Landscape Buffers

Allan Pruss from Monument Engineering Group Associates was present on behalf of the property owner. The applicant is requesting variances for renovations to an existing non-conforming lot and building for a repair shop. Mr. Pruss said this will drastically improve the overall function and appearance of the site. The board members discussed the surrounding property. Dan Lowe said that a visual buffer between two zoning districts is required. Larry Grunn said he also has concerns about the landscape buffer. Dave Hamann said this project will be going

back to the Planning Commission for further review. Diane Bockhausen asked for clarification on lots within an industrial park. Dave Hamann said there are two options in the industrial zoning district: a 20-acre industrial park with one acre lots or a minimum of four acres not in an industrial park. Dan Lowe said he would like six to ten 8' spruce trees on the south side, either concolor fir or Norway spruce

Call to the Public

No response.

Motion

For ZBA Case #07-20—Vern Brockway, 1388 Lucy Rd., Howell, MI, Tax Code #4710-01-400-005, that Brockway seeks to raze the current small, disheveled structure on this parcel and proposes to erect a new 6,000 square foot building to house a repair shop. Applicant is seeking seven variances: four variances of Section 10.01 E 3 regarding yard and setback requirements, and three variances of Section 6.13 B & D regarding screen between land uses and greenbelt buffer, Diane Bockhausen motioned to grant all seven variances, considering the following criteria:

1. **That the restrictions of the township zoning ordinance would unreasonably prevent the owner from using the property for a permitted use.** *The restrictions of the township zoning ordinance would unreasonably prevent Brockway from using the property for the permitted use of light industrial because the site is a legally non-conforming parcel for both minimum lot area and minimum frontage. The required building setbacks and landscape buffer make the site undevelopable. As petitioner pointed out, the site does resemble that of a lot within an industrial park and its use is permitted by right in its zone. The buildable area (312 square feet) created by the required building setback results in an unreasonable lot coverage of one percent. This is a fraction of the allowed lot coverage of 40%. The lot coverage of the proposed new 6,000 square foot building is 15%. The proposed conditions are considerably less than the maximum lot coverage and conforms to the spirit of the township ordinance. Also, the required landscape buffer of 25 feet restricts the development of the parcel by inhibiting the placing of required design elements closer to the property lines as allowed, including a retention basin and onsite disposal field location, both of which are allowed within ten feet of the property line.*
2. **That the variance would do substantial justice to the applicant and a lesser relaxation than that requested would not give a substantial relief to the owner of the property.** *Granting the variance would do substantial justice to Brockway and a lesser relaxation than that required would not give substantial relief because the size of the building proposed is what is necessary to carry out the proposed use that is permitted by right in a Light Industrial zone and the building size is significantly under required lot coverage.*
3. **That the request is due to the unique circumstances of the property.** *The unique circumstances of 1388 Lucy Road make the granting of the variances reasonable. This is a legally non-conforming parcel zoned Light Industrial that is surrounded by parcels zoned as residential. The size of the parcel makes it undevelopable without the requested variances.*
4. **That the alleged hardship has not been created by a property owner.** *The property owner had no part in creating the legally non-conforming lot.*
5. **That the difficulty shall not be deemed solely economic.** *The difficulty is not solely economic. Granting the variance does not provide economic relief but would allow the property to be developed consistent with a permitted Light Industrial use.*

For Section 10.01 E 3: a variance of 49 feet from the front yard which would be the east side of the property/building fronting on Lucy Road; a variance of 26 feet for the north side setback; a variance of 10.4 feet for the south setback; a variance of 31 feet for the rear setback. Linda Manson-Dempsey seconded. Roll call vote: Grunn—yes; Bockhausen—yes; Lowe—yes; Manson-Dempsey—yes; Fillinger—yes. **Motion carried 5-0.**

Diane Bockhausen, for the same reasons stated above, for Section 6.13 B & D, motioned to grant: a variance of 40 feet to accommodate the front landscape buffer; a variance of 15 feet to accommodate the side landscape buffer on

the north side of the property recognizing that the south landscape buffer will comply with the ordinance and be 25 feet from the property line, and will include a minimum of eight 8' Norway spruce or concolor fir trees; a variance of 15 feet to accommodate the rear (west) landscape buffer. Roll call vote: Fillinger—yes; Manson-Dempsey—yes; Lowe—yes; Bockhausen—yes; Grunn—yes. **Motion carried 5-0.**

CALL TO THE PUBLIC

No response.

ADJOURNMENT

Linda Manson-Dempsey motioned to adjourn at 8:21 pm. Diane Bockhausen seconded. **Motion carried.**

APPLICATION TO ZONING BOARD OF APPEALS

ZBA Case # 01-21
Tax Code 4710-35-301-024
Current Zoning RES-1
Fee Paid 400
Date Received 6-9-2021
Received by DA

Applicant BLAIR TOWE
Address 889 HURLEY DRIVE HOWELL 48843
Telephone 313 618 8476
(Home) (Work)

Applicant is (check one): Owner Purchaser Representative

Purchaser or Representative needs a letter of permission from owner

Nature of Request (check applicable one)

- Administrative Review (per Section 5.05 A)
- Interpretation of Ordinance (per Section 5.05 B 1, 2, 3 or 4)
- Variance Request (see below)

1. Zoning Ordinance Section

ERS SIDE SET BACK 8.04.F.3.a.2
REQUESTING 4' ON EACH SIDE

- 2. Letter stating reason request should be granted (per Section 5.05 C)
- 3. Plot Plan—example and checklist attached (requirement per Section 4.03 D)
- 4. Required Livingston County Health Department evaluation

Refer to checklist on last page for additional instructions

By signing this application, permission is granted for official representative(s) of Marion Township to do onsite inspections.

X Blair Towe
Signature

X 6/9/21
Date

Office Use Only

Meeting Date JULY 12, 2021 Action Taken _____
@ 7:30P

Conditions (if applicable) _____

Signed _____

SAMPLE DOCUMENT ADDRESSING SECTION 5.05 C, ITEMS 1 THROUGH 5

1. How the restrictions of the Township Zoning Ordinance would unreasonably prevent the owner from using the property for a permitted use.

THE lot is TOO NARROW.
Without THE VARIANCE would only have 20 FEET USAGE.

2. How the variance would do substantial justice to the applicant and a lesser relaxation than that requested would not give substantial relief to the owner of the property.

THERE IS NO OTHER GARAGE ON THE PROPERTY
Would use it to PARK automobiles and STORAGE.

3. How the unique circumstances of the property create the need for a variance.

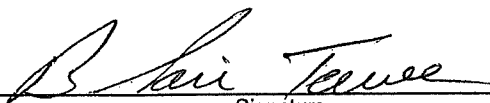
THE lot is TOO NARROW. With existing
ORDINANCE would only LEAVE 20 FEET
to WORK WITH.

4. How the alleged hardship was not created by the property owner

THE lot WAS PURCHASED at 40 FEET
WIDE 60 YEARS AGO.

5. The difficulty shall not be deemed solely economic.

PRIVATE USE ONLY


Signature

X 6/9/21
Date

Section 5.05

Authorized Appeals

The Zoning Board of Appeals shall hear the following specified categories of appeals in accordance with the following standards:

- A. **Administrative Review:** The Zoning Board of Appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by any Township official or by the Planning Commission in administering or enforcing the provisions of the Zoning Ordinance.
- B. **Interpretation of the Ordinance:** The Zoning Board of Appeals shall hear and decide upon requests to:
1. Interpret the provisions of the Zoning Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning. In deciding upon such request, the Zoning Board of Appeals shall ensure that its interpretation is consistent with the intent and purpose of the Zoning Ordinance, the Article in which the language in question is contained, and all other relevant provisions in the Zoning Ordinance.
 2. Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision made by the Zoning Administrator. (See Section 7.04.)
 3. Classify a use that is not specifically mentioned as a part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district. Where there is no comparable permitted or prohibited use, the Zoning Board of Appeals shall so declare, the effect being that use is not permitted in the Township until or unless the text of the Zoning Ordinance is amended to permit it.
 4. Determine the parking space requirements of any use not specifically mentioned by classifying it with one of the groups listed in Article XIV by an analysis of the specific needs. If no comparable use is found, the Zoning Board of Appeals shall so inform the petitioner and indicate that the parking space requirements will have to be established by amendment of the Zoning Ordinance.
- C. **Variances**

The ZBA shall have the power to authorize, upon appeal, specific variances from such dimensional requirements as lot area and width regulations, building height and square foot regulations, yard width and depth regulations, such requirements as off-street parking and loading space, and sign regulations and other similar requirements as specified in the ordinance. The existence of nonconforming structures or buildings on other lands, or in other districts, shall not create a precedent, or be the basis for a variance. To obtain a variance, the applicant shall submit sufficient information to enable the Board of Appeals to determine that a practical difficulty exists, if applicable, by explaining:

1. That the restrictions of the Township Zoning Ordinance would unreasonably prevent the owner from using the property for a permitted use.
2. That the variance would do substantial justice to the applicant and a lesser relaxation than that requested would not give substantial relief to the owner of the property.
3. That the request is due to the unique circumstances of the property.
4. That the alleged hardship has not been created by a property owner.

5. The difficulty shall not be deemed solely economic.

Following review and consideration of the above and in order to grant a variance, the Board of Appeals:

Shall find that the reasons set forth in the application and as explained above justify the granting of the variance and that it is the minimum variance that will make possible the reasonable use of the land, building or structure; and

Shall further find that the granting of the variance will be in harmony with the intent of this ordinance and will not be injurious to the neighborhood or otherwise be detrimental to the public interest.

The ZBA shall not approve an application for a variance unless it has found positively that a practical difficulty exists under the five preceding criteria. If any criteria does not apply, the Zoning Board of Appeals shall justify why it does not apply.

Use variances are strictly prohibited. A variance shall not permit the establishment, within any district, of any use, which is not permitted by right, special use permit or by a temporary land use.

- D. **Conditions:** In granting any variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance (see Section 6.15.) Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and shall automatically invalidate the variance.

E. **Approval Period**

The decision of the Zoning Board of Appeals shall expire after one year unless a building permit for the construction is obtained and construction is started in accordance with the terms of the permit and the requirements of the Zoning Board of Appeals. The Zoning Board of Appeals may grant no more than one extension, for up to one year, provided the applicant demonstrates that they have been diligently working toward completion and the delay is due to conditions beyond their control.

- F. **Rehearing:** No rehearing on an application denied by the Zoning Board of Appeals shall be reconsidered except upon the grounds of newly discovered evidence or a falsehood previously relied upon which is found upon inspection by the Zoning Board of Appeals to be valid. A rehearing shall be processed in the same manner as the original application, including payment of the required fee. A request for rehearing shall be made on behalf of the applicant by either the Township Board or Zoning Board of Appeals within eight (8) days. No land use permit shall be granted which relies upon a variance before eight (8) days following the decision of the Zoning Board of Appeals have expired.

- G. **Reapplication:** After eight (8) days following a decision by the Zoning Board of Appeals, no application for a variance, Ordinance interpretation, or appeal which has been denied, wholly or in part, by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, except on proof of changed conditions found upon inspection by the Board to be valid.

Section 5.06

Appeal Procedures

- A. **Notice of Appeal:** Appeal requests for Ordinance interpretation and requests for variances may be made to the Zoning Board of Appeals by any person aggrieved, or by an officer, or department, board, or bureau of the state or of the Township, by filing a written Notice of Appeal with the Township Clerk on forms established for that purpose and accompanied with such information as is necessary to decide such request. At a minimum, eight (8) copies of the information required to be submitted for a land use permit (either a plot plan or site plan) in Section 4.03.D. shall be submitted. Upon receipt of a Notice of Appeal, the Township Clerk shall promptly transmit the records concerning the appealed action, as well as any related information to the chairperson of the Zoning Board of Appeals. Any appeal from the ruling of the Zoning

Administrator concerning the enforcement of the provisions of this Ordinance shall be filed within thirty (30) days after the date of the Zoning Administrator's decision or the decision shall be final.

B. **Stay:** An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Zoning Board of Appeals after notice of appeal has been filed with he or she, that by reason of facts stated in the certificate a stay would, in the Zoning Administrator's opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order, issued by the Zoning Board of Appeals or by a court of record.

C. **Hearing:** Upon receipt of a Notice of Appeal or of an application for Ordinance interpretation, or variance request, the chairperson of the Zoning Board of Appeals shall schedule a reasonable time and date for a public hearing and give notice as provided in section 103 of PA 110 of 2006, as amended.

Upon receipt of a Notice of Appeal seeking an interpretation of the Zoning Ordinance, or an appeal of an administrative decision, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the Township and shall be sent to the person requesting the interpretation not less than fifteen (15) days before the public hearing.

If the request for an interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request and the time, date, and place of the public hearing on the interpretation request shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question and to all occupants of all structures within three hundred (300) feet of the boundary of the property in question: If a tenant's name is not known, the term "occupant" may be used.

D. **Appearance:** At the hearing, a party may appear in person or by agent or attorney. The Zoning Board of Appeals may recess such hearing from time to time, and, if the time and place of the continued hearing are announced at the time of adjournment, no further notice shall be required.

E. **Decision:** The Zoning Board of Appeals shall render its decision within sixty (60) days of filing of a Notice of Appeal, or application for Zoning Ordinance interpretation or variance, unless in the opinion of Zoning Board of Appeals, an extension of time is necessary to review information pertinent to making the decision. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse an order, requirement, decision, or determination of the administrative official or body, to decide in favor of the applicant on any matter upon which the Zoning Board of Appeals is required to pass under the Zoning Ordinance or to grant a variance in the Zoning Ordinance.

F. **Fee:** A fee as established by the Township Board shall be paid to the Township Clerk at the time the petitioner files an application with the Zoning Board of Appeals. The purpose of such fee is to cover, in part, the necessary advertisements, investigations, hearing records and other expenses incurred by the Board in connection with the appeal. No fee shall be charged if the Township is the moving party.

G. **Performance Guarantee:** In authorizing any variance, or in granting any temporary dwelling permits, the Zoning Board of Appeals may require that a cash deposit, certified check, irrevocable bank letter of credit, or similar instrument acceptable to the Township covering the estimated cost of conditions or improvements associated with a project for which zoning approval is sought, be deposited with the Township Clerk to insure faithful conformance with the conditions or completion of the improvements. Such performance guarantee shall be collected and returned pursuant to the requirements of Section 4.06.

Section 5.07

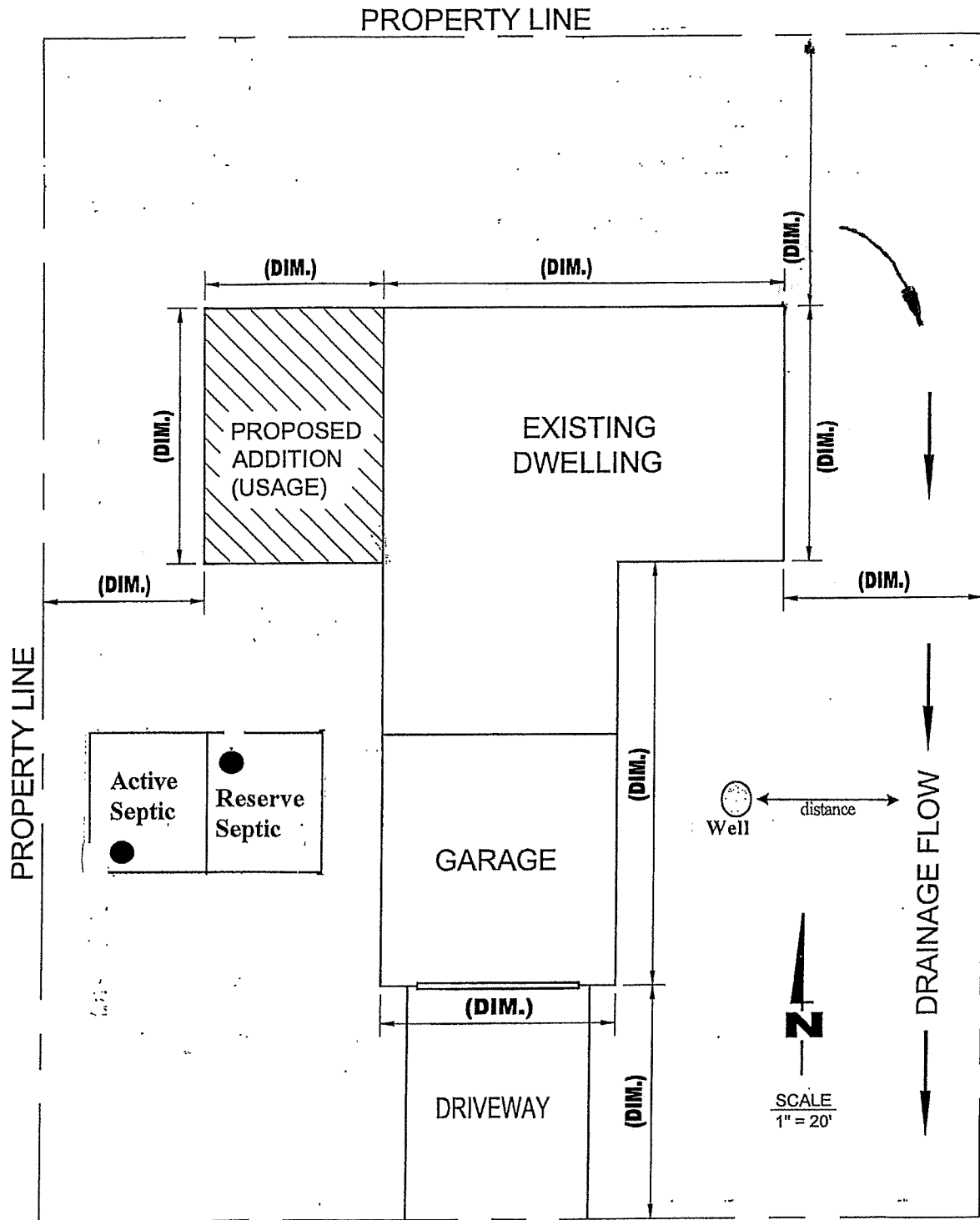
Review By Circuit Court

The decision of the Zoning Board of Appeals shall be final. A party aggrieved by the decision may appeal to the circuit court for Livingston County as provided for in PA 110 of 2006, as amended.

Zoning Board of Appeals meetings are generally held on the first Monday of the month; please refer to the township's meeting schedule for dates at www.mariontownship.com

- **Submit ten copies of all materials you want the Zoning Board of Appeals to review with the exception of the application**
- **Provide plot plan (example attached); ensure that all items on checklist are included**
- **Applicant must include signed document addressing 5.05 C items 1 through 5 (sample attached)**
- **Submit package three weeks prior to the meeting you choose to attend**
- **Provide well & septic documents from the Livingston County Environmental Health showing the location of well/septic field and reserve area**
- **The residential application fee is \$400.00; all other applications are \$1,000.00**
- **If the applicant is representing the owner, the owner must provide a signed letter of permission**
- **If applicable, mark or stake the area on your parcel where you are requesting a variance; place the orange ZBA sign (provided by the township) so the ZBA members can easily identify your property at least one week prior to the meeting**

RESIDENTIAL ADDITION PLOT PLAN EXAMPLE



YOUR NAME
STREET ADDRESS
CITY, STATE ZIP

STREET NAME

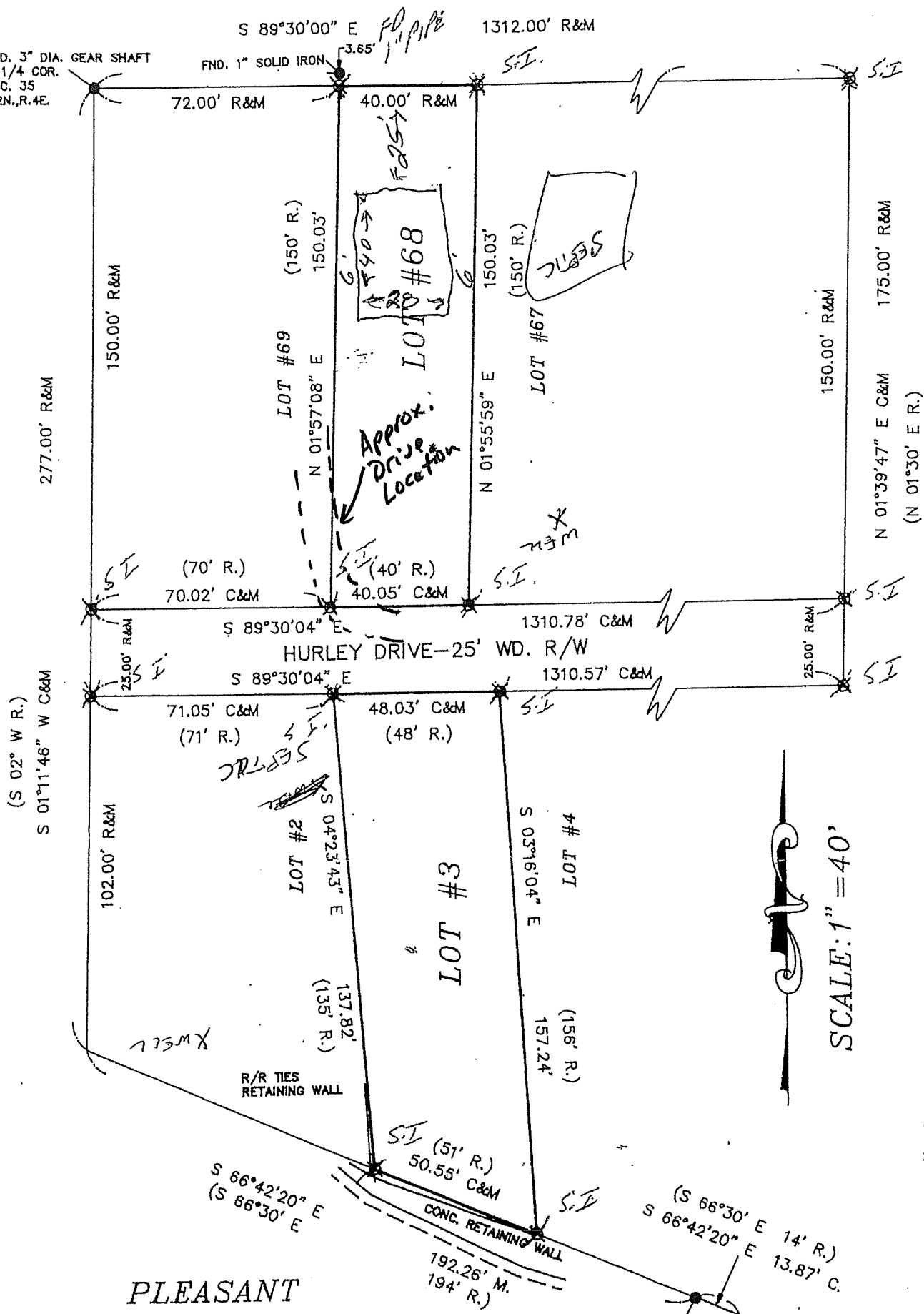
Plot Plan Checklist

- Street name(s)
- Street address
- Drawing scale (optional)
- North arrow
- Location of driveway and sidewalks
- Label existing buildings & structures and indicate usage
- Label proposed buildings/structures and indicate usage
- Dimensions from existing buildings and structures to property lines
- Dimensions from proposed buildings/structures to property lines
- Dimensions of existing buildings and structures
- Dimensions of proposed buildings/structures
- Dimensions of property lines
- Location of well and septic
- Confirmation of lot lines with survey or location of irons

LOT SURVEY for PATRICIA TOWE

FND. 3" DIA. GEAR SHAFT
W 1/4 COR.
SEC. 35
T.2N., R.4E.

S 89°30'00" E 1312.00' R&M
FND. 1" SOLID IRON 3.65'



SCALE: 1" = 40'

PLEASANT