

Wexford Joint Planning Commission

c/o Cherry Grove Township
4830 E. M-55
Cadillac, Michigan 49601

www.wexfordjpc.org

Email: planningandzoning@wexfordjpc.org
(231)775-1138x6

September 13, 2017


Greetings -

The Wexford Joint Zoning Board of Appeals has received an application and will conduct a public hearing as described in the Public Notice below. In accordance with the Michigan Zoning Enabling Act, PA 110 of 2006, owners and occupants of all real property within 300' (feet) of the subject property are to be notified. You are receiving this notice because you are listed as an owner of record on the most recent tax roll. You are not required to take any action. The hearing noticed below is open to the public.

PUBLIC NOTICE

The Wexford Joint Zoning Board of Appeals has received an application requesting dimensional variance(s) from the provisions of the Wexford Joint Zoning Ordinance. The subject property, parcel number 2210-FW0114, also known as: 3265 W. Lake Mitchell Dr., Cadillac, Michigan 49601 is located in the participating municipality of Selma Township. A public hearing will be conducted at the regularly scheduled meeting of the Wexford Joint Zoning Board of Appeals at 6 o'clock in the evening on September 27, 2017 and will be held at the Wexford County Road Commission offices, 85 W. Hwy M-115, Boon, Michigan 49618. Written comments may be mailed to: Wexford Joint Zoning Board of Appeals, c/o Cherry Grove Township, 4830 E. M-55, Cadillac, Michigan 49601 or you may attend this open meeting and speak during the time provided for public comment. Application materials may be viewed at the Cherry Grove Township offices during our regular business hours or on line at: www.wexfordjpc.org

Very truly yours,


Robert (Bob) Hall - Planning and Zoning Administrator

cc: property file

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planningandzoning@wexfordjpc.orgwww.wexfordjpc.org**APPLICATION FOR ZONING BOARD OF APPEALS [page 1 of 2]****[WARNING: THIS FORM IS NOT A LAND USE PERMIT]**

Property Owner: Hufnagel Hugh Phone: (616)-430-1419
Last Name First Name

Owner Address: 7065 Burger Dr. SE Grand Rapids MI 49546
Street # or P.O. Box City State Zip

Project Address: 3265 W. Lake Mitchell Dr Cadillac MI 49601
Street # or P.O. Box City State Zip

Parcel ID # 2210 - FW - 0114 Are property lines and building site staked? (YES) NO
[Circle one]

IF BEING REPRESENTED BY AGENT OR ATTORNEY PLEASE COMPLETE THIS SECTION

Agent / Attorney: _____ / _____
Company Name Individual Name

Agent / Attorney Address: _____
Street # or P.O. Box City State Zip

Agent / Attorney Phone: (____)-____-____ Email: _____

ZONING BOARD OF APPEALS - ACTION BEING REQUESTED(Check Only ONE)

- ☐ Administrative Appeal / Decision
☒ Dimensional Variance Request
☐ Ordinance Text / Map Interpretation

SITE PLAN: When applicable, the Zoning Administrator (on behalf of the Zoning Board of Appeals) may require that this application be accompanied by a legible site plan drawn to scale in accordance with Article 94 of the Wexford Joint Zoning Ordinance.

Please describe (*in detail*) the current use(s) of the buildings, structures, and / or land as applicable: [do not leave blank]

cottage

The project address / property is located in the Selma Zoning District.

Do Not Write Below This Line - For Administrative Use Only

Assigned ZBA Case # ZBA 2017-07 Date Application Received: 09 / 01 / 2017
Fee: \$ 590.00 Receipt # 975305 Date of ZBA Action: ____ / ____ / ____

APPLICATION FOR ZONING BOARD OF APPEALS [page 2 of 2]

DEMONSTRATING PRACTICAL DIFFICULTY

The Zoning Board of Appeals must find that very specific standards can be demonstrated or 'proven' that apply to your particular situation in order to grant a 'variance' from the zoning ordinance. You are encouraged to arrange a pre-application conference with the Zoning Administrator so that you can be presented with information that will assist you in submitting a complete application. **An application to appear before the Zoning Board of Appeals will not be considered complete unless accompanied by the appropriate fee, a site plan (as required), and a narrative that addresses all of the standards that the Zoning Board of Appeals is required to consider.**

AFFIDAVIT: I agree the statements and representations made herein and attached to this application are true and if found not to be true, any zoning (Land Use) permit that may be issued in reliance upon this application may be void. Further, I agree to comply with any conditions and regulations provided with any permit that may be issued in connection with this application. Further, I agree the permit that may be issued is with the understanding all applicable sections of the Wexford Joint Zoning Ordinance (and all conditions attached) will be complied with. Further, I agree to notify the Planning and Zoning Administrator for inspection before the start of construction and when locations of proposed uses are marked on the ground. ***Further, I agree to give permission for the Wexford Joint Zoning Board of Appeals / Planning and Zoning Administrator, the County and the State of Michigan to enter the property subject to this permit application for purposes of inspection.*** Finally, I understand this is an application to appear before the Wexford Joint Zoning Board of Appeals, (not a permit), and that a Land Use Permit, if issued, conveys only land use rights and does not include any representation or conveyance of rights in any other statute, building code, deed restriction or other property rights.

Signed: _____

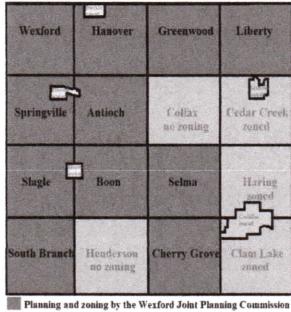
Hugh Heimgard

Date: _____

8-28-17

Please see Article 94 of the Wexford Joint Zoning Ordinance for Site Plan requirements related to any matter before the Zoning Board of Appeals:

www.wexfordjpc.org



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STAFF REPORT/Zoning Board of Appeals Case # ZBA-2017-04

1. Application

Applicant / Owner:	Hufnagel, Hugh 7065 Burger Drive SE Grand Rapids, Michigan 49546
Site Address, And Proposed Location	3265 W. Lake Mitchell Drive, Cadillac, Michigan 49601 Parcel ID# 2210-FW0114
Zoned:	R2 Residential – Lake Mitchell Overlay District(s)
Site Plan:	Attached

2. Development Proposal

- 2.1 Property Description – Parcel ID# 2210-FW0114
LOT 14 BLK. 1 & LOT 20 BLK. 1 EXC E 47 FT FLOWING WELL PARK SEL. SEC.
35 T22N R10W
- 2.2 Action Report – The Applicant is requesting to build closer to the water's edge than permitted by the Wexford Joint Zoning Ordinance.
- 2.3 Background:
 1. Lot #14 is the subject of this request and has the dwelling located upon it. This property has historically been used for the purpose of a single dwelling – there are two (2) lots described by one (1) parcel identification number. The lots are separated by an alley more commonly known as Paul Bunyan Drive.

2. When 2 lots are noted in a single legal description, and they are separated by a right-of-way (such as an alley or road), they have been 'combined' for tax purposes **ONLY** and are not deemed to be contiguous.

2.4 Current Narrative:

1. The applicant (Hugh Hufnagel) submitted the initial Land Use Application on August 2, 2017. The accompanying plot plan did NOT demonstrate compliance and a denial letter was sent to the applicant on August 4, 2017.
2. The applicant communicated with and visited with the Planning and Zoning Administrator on several occasions to discuss the available options. The applicant also attended (as an interested party) the Zoning Board of Appeals meeting conducted on August 23, 2017. The Zoning Board of Appeals application process and procedures were explained.
3. The DENIAL sent to the Applicant on August 4, 2017, explained that the proposed expansion of the dwelling would not meet the waterfront setbacks.
4. Application for a variance was made on September 1, 2017.
5. A Public Notice was caused to be placed in the Cadillac News on or before September 13, 2017 in accordance with the zoning ordinance.
6. On September 13, 2017, notices to all residences within 300 feet were sent out in accordance with the Michigan Zoning Enabling Act, PA 110 of 2006.

NOTE: The minimum parcel width required in this particular zoning district is seventy-five (75) feet. The applicant's is forty-seven (47) feet deeming it nonconforming under 8003.B. The lot / setbacks appear to have been in compliance with the Wexford County Zoning Ordinance No. 5:

Non-Conforming Lots of Record [Wexford County Zoning Ordinance No. 5 excerpt]

Front and back yard setback requirements shall be determined by the average setback of the nearest structure on either side of the substandard lot in case of no nearby structures, to the setback requirements for that district. In no event shall the front yard setback be less than twenty-five (25) feet and the rear yard setback be less than fifteen (15) feet unless authorized by the Zoning Board of Appeals pursuant to Article 13 of this Ordinance. Side yard setbacks shall be not less than eight (8) feet except that a garage may be erected five (5) feet from either side yard lot line on lots fifty (50) feet or less in width.

Supplementary Side Yard Requirements for Non-Conforming Lots

85' to 100' 15 feet

65' to 84' 12 feet

50' to 64' 10 feet

Under 50' 8 feet

Waterfront Non-Conformance

In the event a dwelling or other main building is erected on a lot located on a public road, or on a lot abutting the shoreline of a water body on which a building having a lesser setback than required by this Ordinance has been erected on a lot adjacent thereto prior to the effective date of this Ordinance then the setback of such building shall not be less than the average setback of the buildings on both adjacent lots and, if only one lot, then the setback of such building. (excerpt)

3. Standards for consideration by the Zoning Board of Appeals under the provisions of Article 80, Section 8003.B [Class A Extensions] with Staff Comment and Recommendations

3.1 **According to WJZO Article 8003.B –**

B. If the nonconformity is that the parcel is too small and already has existing uses and structures; then the structures shall not be expanded more than:

1. fifty (50) percent of the ground area occupied by the structure at the time of adoption of this Ordinance, or

2. spatially possible while such expansion shall comply with all applicable setback regulations in this Ordinance.

whichever is less. Any expansion of the structure shall comply with all other provisions of this Ordinance. Nothing here is intended to prevent the acquisition of adjacent land to bring the parcel into compliance, or to lessen the nonconformity if the use is permitted in the zoning district.

4. Standards for granting a variance with Staff Comments and Recommendations

4.1 According to WJZO Article 9604 – The following standards shall be used by the Zoning Board of Appeals when considering a variance request.

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

*Staff Comment and Recommendations: This property was originally platted in 1924. Lot 14 has remained in its current configuration since then without alteration at forty-seven (47) feet wide. It should also be noted that there are at least sixteen (16) contiguous lots in this plat that are approximately the same width and therefore considered nonconforming. **Recommend ZBA** take into consideration the peculiarity of the width of the parcel in relationship to the minimum requirements of the ordinance.*

2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.

Staff Comment and Recommendations: The applicant “enjoys rights commonly enjoyed by others in the same district with perhaps the exception of the dwelling unit encompassing a smaller footprint than many others.

3. That the special conditions and circumstances do not result from the actions of the applicant.

Staff Comment and Recommendations: Applicant did nothing which resulted in the property being nonconforming. This resulted from the actions of the original platting of the property.

4. That granting the variance will not alter the essential character of the area.

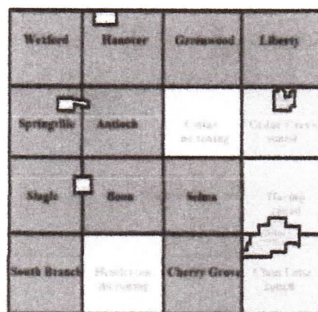
Staff Comments: The essential character of the area has long since been established by the platting of the lots in this subdivision.

*Final Staff Comment and Recommendations: **Recommend** that the Zoning Board of Appeals find that the requested variance is not supported by any practical difficulty of unnecessary hardship but is rather based upon 'wants' of the applicant, and that the variance be DENIED.*

Respectfully submitted for consideration by the Wexford Joint Zoning Board of Appeals,



Robert (Bob) Hall
Planning and Zoning Administrator



Wexford Joint Planning Commission

c/o Cherry Grove Township

4830 E. M-55

Cadillac, Michigan 49601

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(231)775-1138x6

August 4, 2017

Dear Mr. Hugh Hufnagel

Thank you for visiting our office on August 1, 2017 while providing your Land Use Permit Application and accompanying materials.

Your property is located within the R2 Residential District within the Lake Mitchell Overlay District and subject as well to the Land Unit B-1 and Land Unit C regulations within this overlay district.

I had the opportunity on the date of this letter to visit your property located at 3265 W. Lake Mitchell Drive which is the subject of your application. There are many peculiarities with your property (as well as with others nearby) that present administrative challenges associated with setbacks of the existing structure and the proposed addition(s). The 'minimum' setback required from the water's edge as required by the zoning ordinance is fifty (50) feet (Article 10, Section 1011.A). I can offer no administrative relief from that requirement.

For the above stated reason (and because your structure / dwelling already sets closer than permitted), I am required to DENY your application. There may be other requirements (such as lot size, impervious surface area) that are not being met as well.

Listed below are several options that you may choose to act upon in response to this notification of DENIAL:

1. You may choose to accept the decision of the Planning and Zoning Administrator and do nothing.
2. You may choose to 'appeal' the decision of the Planning and Zoning Administrator if you believe that the requirements of the ordinance were improperly administered.
3. You may choose to seek a variance from the regulations of the ordinance standards.

If you choose to appeal or to seek a variance please do not hesitate to contact me at your convenience so they we may fully discuss the process. In the meantime, you may find it helpful to review Article 96 of the Wexford Joint Zoning Ordinance in its entirety.

Very truly yours,

Robert Hall
Planning and Zoning Administrator

Wexford County Assessor's Office

Tax ID 2210-FW0114



Map of Property Location: 14 & 20 BLK. 1 EXC E 47 FT FLOWING WELL PARK SEL. SEC. 35 T22N R10W -CAPS-

Selma Twp., Wexford County

*** Please contact Wexford County Register of Deeds for official ownership information.****Assessment Roll Owner Name(s):** HUFNAGEL, HUGH & SUSAN A**Assessment Roll Owner Address:** 7065 BURGER SE
GRAND RAPIDS MI 49546**Assessment Roll Parcel Address:** 3265 W LAKE MITCHELL DR
CADILLAC MI 49601

Property Information

Jurisdiction:	Selma Twp.
Property Class:	401 Residential Improved
School District:	83010 Cadillac
Assessed Value for 2017:	\$78,500
Year SEV for 2017:	\$78,500
Taxable Value for 2017:	\$65,382
Homestead % for 2017:	0%
Assessed Value for 2016:	\$78,400
Taxable Value for 2016:	\$64,799
Property Square Feet:	4746.29742581 Sq Ft 3952.69075741 Sq Ft
Property Acreage:	0.10896043184 Acres 0.09074165675 Acres

Assessment Roll Description

LOT 14 BLK. 1 & LOT 20 BLK. 1 EXC E 47 FT FLOWING WELL PARK SEL. SEC. 35 T22N R10W -CAPS-

*** Please contact Wexford County Register of Deeds for official legal description.**Powered by Community Center™ software from the [Land Information Access Association](#)

Hugh & Susan Hufnagel
7065 Burger Drive, SE
Grand Rapids, MI 49546

August 28, 2017

Robert Hall, Planning and Zoning Administrator
Wexford Joint Planning Commission
c/o Cherry Grove Township
4830 E. M-55
Cadillac, MI 49601

Dear Mr. Hall,

The purpose of this letter is to request a zoning variance from the Wexford JPC Appeals Board on the recent application for a permit for an expansion of the dwelling located at 3265 West Lake Mitchell Drive in Cadillac, Michigan. The initial application was denied in a letter from you dated August 4, 2017.

Thank you and Ben Townsend for the advice and suggestions that you both have provided over the phone and in several meetings at your office. By the way, as a result of attending the Appeals Board meeting on August 23, 2017 we have decided to reduce the size and location of the proposed deck in order to reduce the requested setback change so that it is closer to the established minimum setback requirements. The enclosed site plan shows this small change.

Having read the Wexford Joint Zoning Ordinance of 2017, it appears that our request is out of compliance in the following areas:

1. Setback from Lake Mitchell (the reason cited in your denial letter)
2. East and west side setbacks
3. Structure size (Our current structure is too small.)

This letter will address these issues and others related to our request.

Setback from Lake Mitchell

Section 1011.A of the Zoning Ordinance says that the minimum setback from the water's edge is fifty (50) feet. We have requested a variance that will enable our setback to be thirty and one half (30.5) feet from the water's edge. Our neighbor on the east is 29.75 feet from the water's edge and our neighbor on the west is 30.25 feet from the water's edge. We do not request going any closer to the water's edge than they already are. Without this variance it will not be possible for us to expand our cottage to meet our family's needs, unless we add a second story to the existing structure, which we do not want to do for at least four reasons: (1) much greater cost to add a second story, (2) climbing stairs will be a future physical barrier for us given our advanced ages, (3) we want to maintain the integrity of the design style of the present one-story building, and (4) we want to maintain the trees presently on the property near the lake. The last item listed also helps the project comply with section 1011.B of the Ordinance.

East and west side setbacks

R-2 Residential District Ordinance section 4604.D.b (3) stipulates a 10 foot side setback for lots between 50 and 64 feet wide. Our lot is 47.25 feet wide on the lake side. Lake Mitchell Overlay District Ordinance 7206 B.1.b says that nonconforming lots "shall be granted some relief from this provision."

The current setback on the east side of our lot is 10.7 feet and we are requesting a setback of 7.7 feet. Currently the setback from an existing deck there is 6.7 feet. Please note that even with the requested setback of 7.7 feet the

distance between our cottage and our neighbors to the east will be 25.8 feet. Also note that while our neighbor to the east has a garage that is right at the property line, it is not in the same area as our proposed addition.

The current setback on the west side of our lot is 12.1 feet and we are requesting a setback of 9.1 feet. In order to minimize the amount of the requested variance so that it is less than one foot, we have removed a deck from the west side of the proposed addition. With this change the distance between our cottage and our neighbors to the west will be 15.8 feet.

Structure size

R-2 Residential District Ordinance section 4604.E.1 stipulates a minimum structure size of 800 square feet. Our present structure is only 672 square feet. With the proposed expansion it will increase to 1,107 square feet and thereby meet the Ordinance requirement.

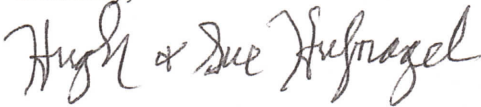
Other issues

1. Impervious surface requirement: R-2 Residential District Ordinance section 4604.E.3 and Lake Mitchell Overlay District Ordinance section 7208.B.1 both require that no greater than 33% of the land be covered with an impervious surface. This proposal meets that requirement by only covering 28% of the land with an impervious surface. (Lot size = 47' x 84' = 3,948 sqft. Existing structure (24' x 28' = 672 sqft) + proposed addition (14.5' x 30' = 435 sqft). Total structure 1,107 sqft (672 + 435)/3,948 lot size = 28%.
2. Appeals Board Ordinance section 9604.A requires that the proposed variance meet four criteria.
 - (1) The special circumstances in this proposal are unique to lakeside land around Lake Mitchell, but are not generally applicable to most other non-lakeside land in the zoning district.
 - (2) The literal interpretation of the provisions of this Ordinance would deprive us of the rights commonly enjoyed by other lakeside properties. Many (if not most) other lakeside property owners have either sought and have obtained similar variances or else have built before the current zoning requirements were established. As a result they enjoy having structures that are larger and can accommodate their family and friends. Even with our addition, our cottage size will be smaller (1,107 sqft) than most other cottages/dwellings on the Lake Mitchell shoreline. The size of the proposed cottage addition is the minimum size needed to accommodate our immediate family members (2 daughters, their spouses and four grandchildren).
 - (3) The small lot size was not due to anything we did or did not do. It was this size when we bought it in 2012.
 - (4) Granting this variance will not alter the essential character of the area. To the contrary, it will continue the property upgrading work steadily done by most of our neighbors over the past decade. As noted above, it will also bring our cottage/dwelling more in line size-wise with all other dwellings in our area.
3. Appeals Board Ordinance section 9604.D requires that the requested variance "is the minimum necessary to make possible the reasonable use of the land, building or structure." We have looked at many other options with our designer and builder and this proposal provides the minimum space needed to add a small (10' x 11') bedroom, a small (5' x 6') bathroom, modest (9' x 9') dining area and modest (12' x 14') living area. Without this variance, the only remaining option is to add a second floor which is not feasible for reasons noted earlier in this letter.
4. Appeals Board Ordinance section 9607.F.2.a indicates that the applicant must demonstrate in the official record that the practical difficulty exists due to each of the following circumstances.
 - (1) The situation exists due to the unique physical conditions (small size, narrowness, shallowness) of the property; and not due to our personal or economic difficulty.
 - (2) The situation (small lot size) is not due to actions we or previous owners of the property have taken. The property was originally platted that way long ago.

- (3) Strict compliance with the dimensional requirements will unreasonably prevent us from enjoying our property with our immediate family members. It will also be inconsistent with nearly all of our neighbors who already enjoy variances from the existing similar zoning requirements.
- (4) The requested variance is the minimum necessary to meet our minimum space needs and is fair to other property owners in the neighborhood in light of the larger dwellings that they have built over the recent years. It is also fair and consistent with variances enjoyed by many others around the Lake Mitchell shoreline.
- (5) The requested variance should have a positive impact on the surrounding properties and increase overall property values in the neighborhood. It should not adversely impact the enjoyment of nearby property owners, given that this will remain a single family dwelling (and not a rental cottage). This expansion will also increase the likelihood that the cottage will be sufficiently-sized so that it can be passed down to and be enjoyed by future generations in our family.

Bob, I hope that we have addressed all of the issues that the Appeals Board will need to consider at their September meeting. Again, thanks to you and Ben for your help in clarifying what the Appeals Board will need to know to make their decision to approve our variance request.

Sincerely,

A handwritten signature in cursive script that reads "Hugh & Sue Hufnagel". The ink is dark and the signature is fluid.

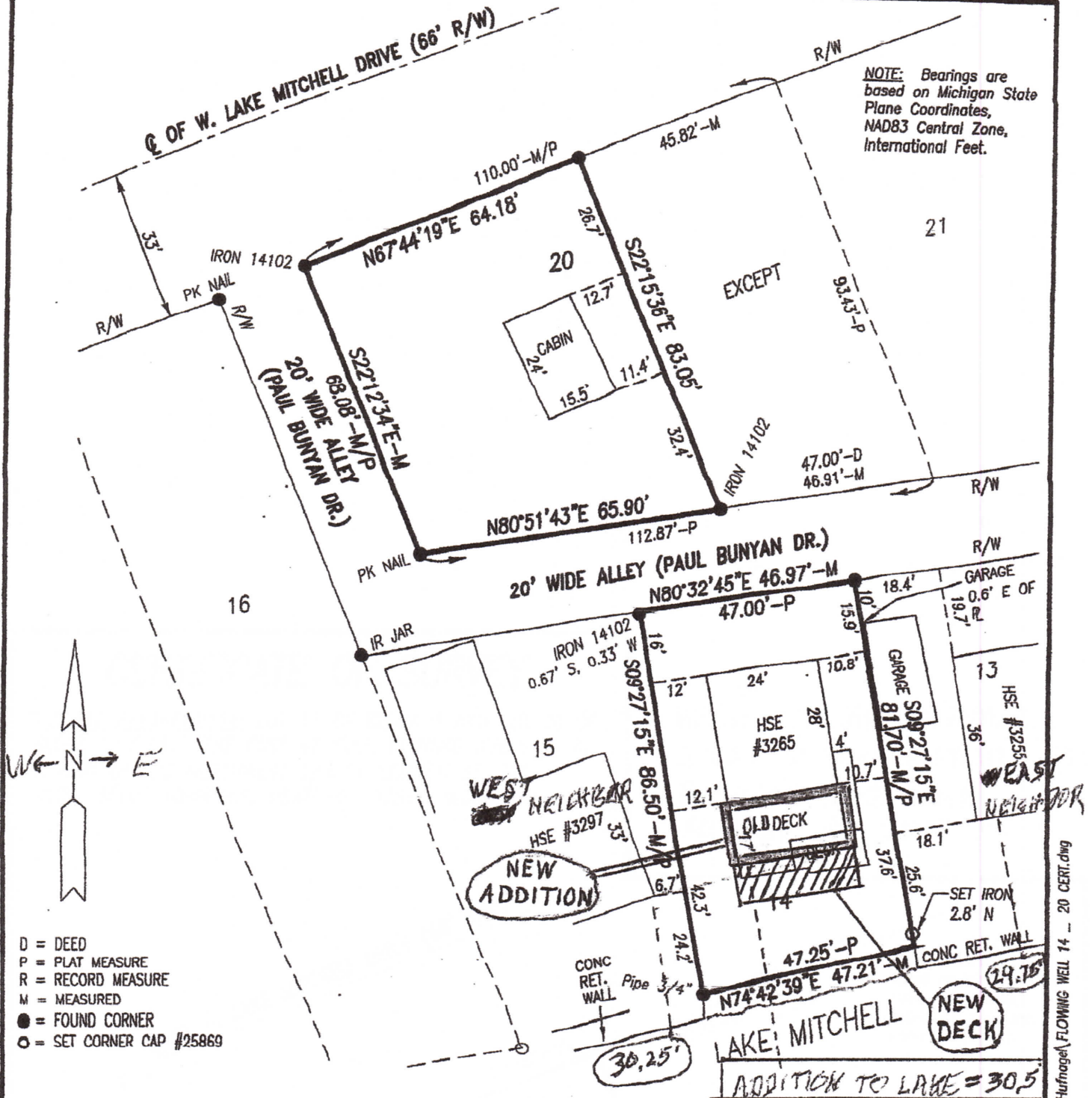
Hugh & Sue Hufnagel

CERTIFICATE OF SURVEY

TAX ID# 2210-FW0114: LOT 14 OF BLOCK 1 AND LOT 20 OF BLOCK 1, EXCEPT THE EAST 47 FEET, FLOWING WELLS PARK, A PART OF THE NORTHWEST 1/4 OF SECTION 35, T22N, R10W, SELMA TOWNSHIP, WEXFORD COUNTY, MICHIGAN.

SURVEY DATE 7-18-17

HUGH & SUCAN HUFNAGEL
3265 W LAKE MITCHELL DR
REVISED SITE PLAN
AUGUST 28, 2017



I hereby certify that I have surveyed and mapped the land platted and/or described hereon that the ratio