

Wexford Joint Planning Commission

% Cherry Grove Township

4830 E. M-55

Cadillac, Michigan 49601

www.wexfordjpc.org

Email: planningandzoning@wexfordjpc.org

(231)775-1138x6

STAFF REPORT/Zoning Board of Appeals Case # ZBA-2019-04

1. Application

Owner(s):	Wiebenga, Bill and Ann 11441 Edgerton Ave Rockford, Michigan 49341
Site Address, And Proposed Location	None Assigned Parcel ID# 2410-RETR-10 Greenwood Township
Zoned:	R1
Site Plan:	Attached

2. Development Proposal

- 2.1 Property Description – LOT 10 & LOT 09 THE RETREAT GW. SEC. 10 T24N R10W -MANTON-
- 2.2 Action Report – The Applicant is requesting a dimensional variance from the required front yard setback of 40' (forty) feet as per the Regulations and Standards listed in Article 43 (R-1 Residential District) of the Wexford Joint Zoning Ordinance. Applicant wishes to place a proposed 1080 (one thousand and eighty) square foot dwelling and an attached 768 square foot accessory building / structure encroaching at least 24' (twenty-four) feet into the required front yard setback.
- 2.3 Background:
 1. This property (both lots #9 and 10) are approximately 56,175 square feet; far exceeding the required minimum of 15,000 (fifteen thousand) square feet.
 2. The property is located in the R-1 Residential Zoning District
- 2.4 Current Narrative:

1. On June 12, 2019 at the request of the applicant, the Zoning Administrator visited the subject property so that an informed opinion could be offered regarding placement of a new dwelling and accessory building. The Zoning Administrator observed that certain improvements had been made to the property such as:
 1. Electric service was at the site.
 2. A well had been installed.
 3. A septic system was installed.
 4. An accessory structure (shed) and an RV were installed on site.
2. The applicant met with the Zoning Administrator in the office on June 19th to further discuss the options available regarding the subject property. After further review of the applicant's proposal, the applicant was advised that an administrative proposal would 'probably' not be possible based upon the information provided to staff and a cursory review of the applicable zoning district regulations.
3. The applicant was advised of the variance process and provided a copy of Article 96; Appeals Board, from the Wexford Joint Zoning Ordinance. After a brief discussion regarding the Zoning Board of Appeals nuances, the applicant decided to apply for a variance. The Zoning Administrator applied the traditional Land Use Permit application fee to the Zoning Board of Appeals application fee, as it was discovered in the conversation that the applicant desired to pursue a variance in lieu of administrative approval.
4. The applicant returned a completed ZBA application and paid the requisite fee on June 26, 2019.
5. ***During report preparation and investigation, the Zoning Administrator could not determine when, and or how, an address of 3803 Riverview Road was issued to the subject property – thus allowing electrical service to be provided and improvements (well / septic) to be made to an otherwise vacant parcel.***
6. Public Hearing Notification was published in the Cadillac News on: July 1, 2019; 23 days in advance of any required public hearing
7. 300 Foot Notices were sent out on July 8, 2019; 16 days in advance of any required public hearing.
8. Packets were sent out to the Zoning Board of Appeals members on July 12, 2019.

3. Article 43: R-1 RESIDENTIAL DISTRICT

- 3.1 Section 4304 of Article 43 describes the regulations applicable to the specific zoning district – the following is presented for review by the Zoning Board of Appeals:
 1. The minimum parcel area is: 15,000 (fifteen thousand) square feet; the subject parcel is approximately 56,000 (fifty-six thousand) square feet.
 2. The minimum buildable area is: 9,000 (five thousand) square feet; the subject

parcel has a buildable area of approximately 7,500 (seven thousand and five-hundred) square feet¹.

3. The minimum parcel width is: 100' (one hundred) feet; the subject parcel (lots 9 and 10) has 155' (one hundred and fifty-five) feet on the road.
4. Setback requirements are as follows:

Front: 4304.D.1.a	the required setback is 40' ²
Side: 4304.D.1.b.(1)	the required setback is 15'
Rear: 4304.D.1.d	waterfront setback is 50'



Figure 1 – Google Earth Image

4. STANDARDS FOR GRANTING A DIMENSIONAL VARIANCE

- 4.1 According to WJZO, Article 9607.F.2.a.(1) thru (5) – The following standards shall be used by the Zoning Board of Appeals when considering a variance request.

1. That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicants personal or economic difficulty.

Staff Comments: *By virtue of the ordinance standards, the subject property does exhibit unique circumstances with a steep slope (estimated by staff at an approximately 30% grade) towards the edge of the river that starts about 100' (one hundred) feet from the visual edge of the road.*

¹ This area is approximated based upon platted dimensions and a personal site inspection by staff. The steep slope area was NOT used in determining the approximate buildable area.

² The parcel is NOT deemed to be nonconforming



2. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

Staff Comments: This subdivision was originally platted in 1969. There is no record of the lot(s) having been altered and / or subdivided. There is, however, the unanswered question of ‘when’ and ‘who’ made the physical improvements to the property by adding electrical service, (a well, and septic drain field), that ‘may’ be considered a self-created hardship.

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

Staff Comments: One of the primary purposes of the Zoning board of Appeals is to ensure that: “...the spirit of the Ordinance is observed, public safety secured, and substantial justice done...” – because of the unique topography of this parcel (lots #9 and 10) strict compliance will unreasonably prevent the property owner from using the property for a permitted purpose – staff believes that the strict application of the ordinance standards would be unnecessarily burdensome. However, if the Zoning Board of Appeals makes a determination that there is a self-created hardship (by virtue of the improvements already upon the property), then the burden should be placed upon the applicant.

4. That the requested variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the district.

Staff Comments: The applicant is requesting a minimal variance while attempting to utilize the property in a manner consistent with the surrounding

characteristics of the dwellings already built along Riverview Road. At the same time, an accessory building is 'not' an absolute right.

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

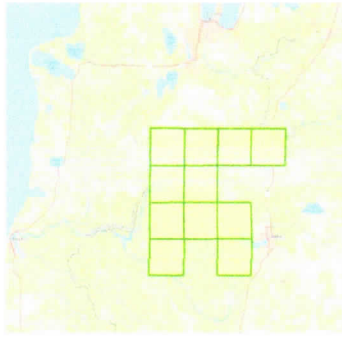
Staff Comments: The applicant has made conscious efforts to minimize the impact on the surrounding property by proposing to position the dwelling on the parcel in harmony with those already present.

Staff recommends that the Wexford Joint Zoning Board of Appeals make independent findings and conclusions that allow the requested front yard setback variance to be granted as demonstrated on the site plan, submitted by the applicant.

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



Robert (Bob) Hall
Zoning Administrator



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

July 8, 2019

Greetings -

the Wexford Joint Zoning Board of Appeals has recieved an application for a variance and will be conducting a public hearing as noticed below. According to the Wexford County records you are the owner of 'real' property within 300' of the subject property; accordingly, you are being notified as required by the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended). No action is required on your part.

All meetings are open to the public.

PUBLIC NOTICE

The Wexford Joint Zoning Board of Appeals has received an application requesting a variance from the terms and conditions of Article 46, Section 4604 of the Wexford Joint Zoning Ordinance regulating parcel and building area, coverage, and setbacks. The subject property is parcel #2410-RETR-10, a vacant parcel located on Riverview Road in Greenwood Township. Copies of the application documents may be viewed / copied at the Cherry Grove Township offices (Wexford Joint Planning Commission office of record) on Wednesday, Thursday or Friday during established office hours or may be viewed on line at: www.wexfordjpc.org. under the ZBA MTGS tab A public hearing will be conducted at the regular July 24, 2019 meeting of the Wexford Joint Zoning Board of Appeals at 6:00 pm at the Wexford County Road Commission offices, 85 W. Highway M-115, Boon, MI 49618. Written comments may be sent to and will be received until noon on July 24, 2019 at: Wexford Joint Planning Commission, c/o Cherry Grove Township, 4830 E. M-55, Cadillac, MI 49601 or emailed to: planningandzoning@wexfordjpc.org

Very truly yours,

A handwritten signature in blue ink that reads "Robert (Bob) Hall".

Robert (Bob) Hall
Planning and Zoning Administrator

Wexford Joint Planning Commission

c/o Cherry Grove Township

4830 E. M-55

Cadillac, Michigan 49601

231-775-1138x6

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: Wiebenga Bill + Ann Phone: (616)-893-9652
Last Name First Name
Owner Address: 3803 Rivercreek Rd Manton MI 49663
Street # or P.O. Box City State Zip
Project Address: 3803 Rivercreek Rd Manton MI 49663
Street # or P.O. Box City State Zip
Parcel ID # 2410 - RETR - 10 Are property lines and building site staked? YES NO
Lots 10+9 [Circle one]

IF BEING REPRESENTED BY AGENT OR ATTORNEY PLEASE COMPLETE THIS SECTION

Agent / Attorney: _____ / _____
Company Name Individual NameAgent / 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]

We are using the land + shed to stay while waiting to build the house + garage!

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

R-1**Do Not Write Below This Line - For Administrative Use Only**

Assigned ZBA Case # ZBA-2019-04 Date Application Received: 06/26/2019
Fee: \$ 590.00 Receipt # 30978 Date of ZBA Action: _____ / _____ / _____

MUST BE IN BY JUNE 20th

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: _____

William A. Wilby

Date: _____

6/20/19

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

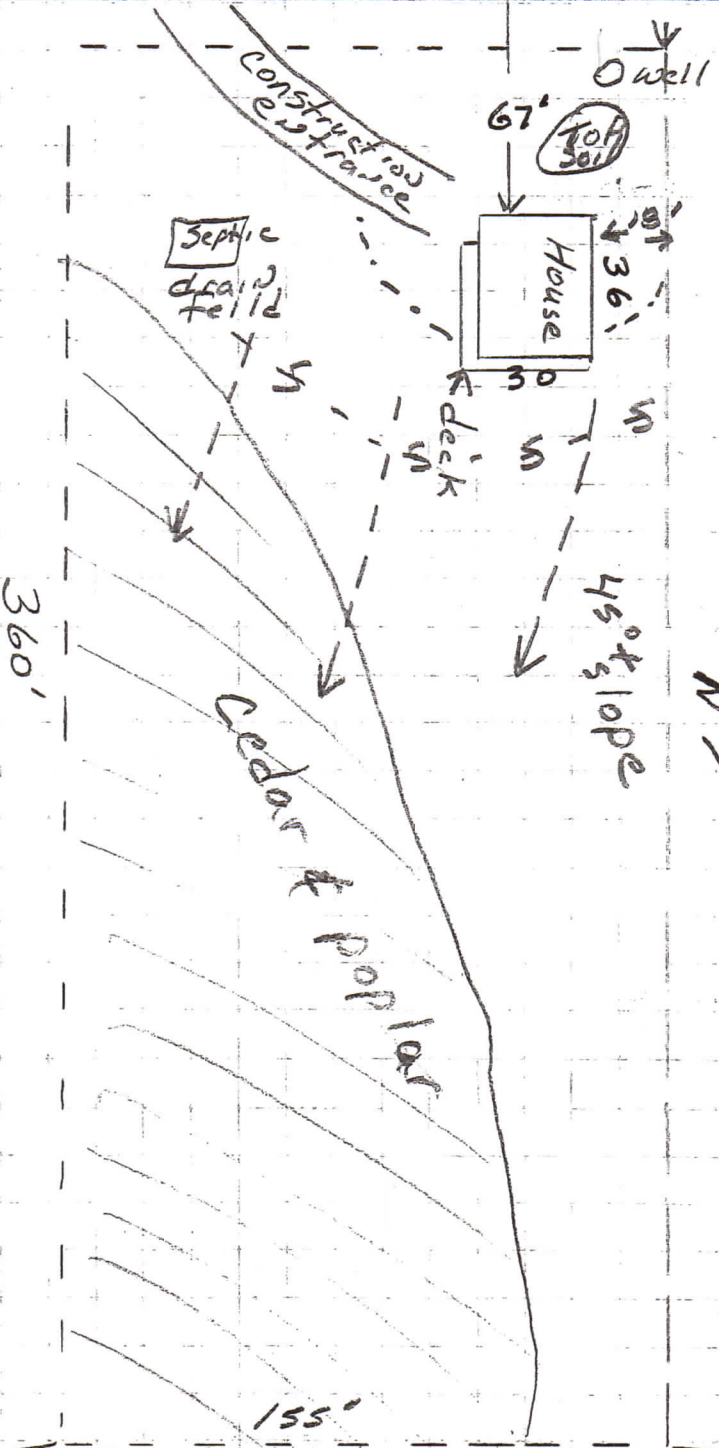
www.wexfordjpc.org

Owner William Wiebenga
PH# 616-893-9652

Scale 1 inch = 50'



River Road



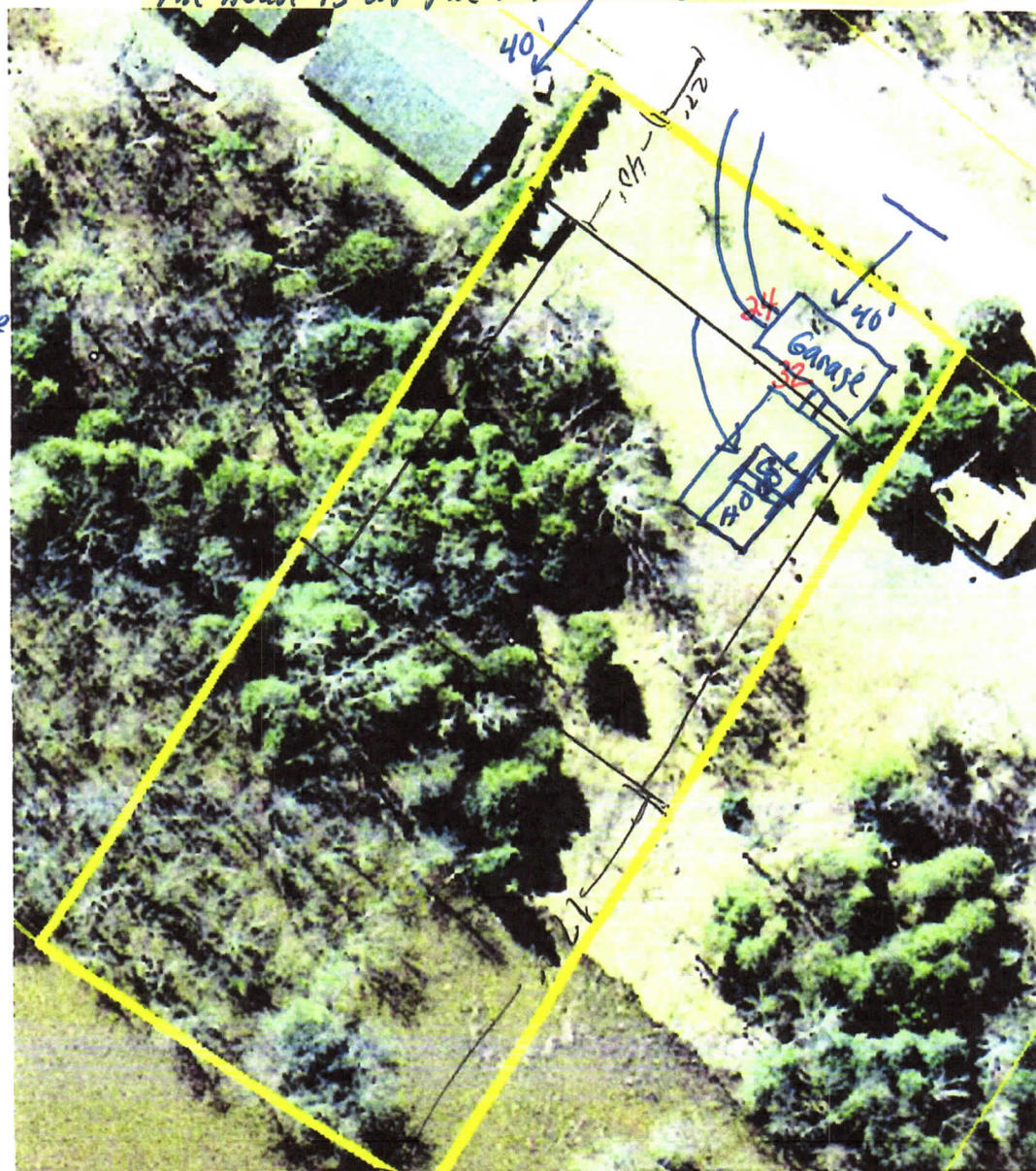
3803 River View Rd
Manton MI 49663

Parcel # 2410 RETR-10
part of Sec. 10 T. 24 N. R. 10 W.
Greenwood Twp Wexford Co. Michigan

Connects
to
N 33 Rd

When me + Ann first Bought the property 5yrs ago the zoning was 27' from the center of the road, so we bought it and loved the view for a retirement home it already had Power and a shed on it. So around 2yrs into it we had Dick Reymen put in the septic + drainfield knowing how we wanted to lay out the house, for the view of the river, and the well at the same time, out of the way of the house, it was inspected. By the view of Just this photo you can see both neighbors are well short of the 67'. Because at the time it was 27' from center of the road, so we never even worried about the zoning because we knew it was 27', not knowing that it had changed a year and 3/4 ago. We received no notice. So we hired a Builder Mike Thomason to help build our house and he wasn't worried or had any knowledge the variance had changed. We feel that every house in this Retreat is well short of the 67' from center so we feel we should be Grandfathered in or allowed the Extra Footage to build our Garage, for the fact is we have no other place to put it, our neighbors are all in agreement, thus, its a private road owned by the Retreat. We would like to build a 24x32 garage so were asking for 27' out of the 67' that would put us 40' from the center. Just like the other properties on the road. We feel this fair and also matches all other properties on this Retreat. Thank You.

Bill + Ann Wiebenga

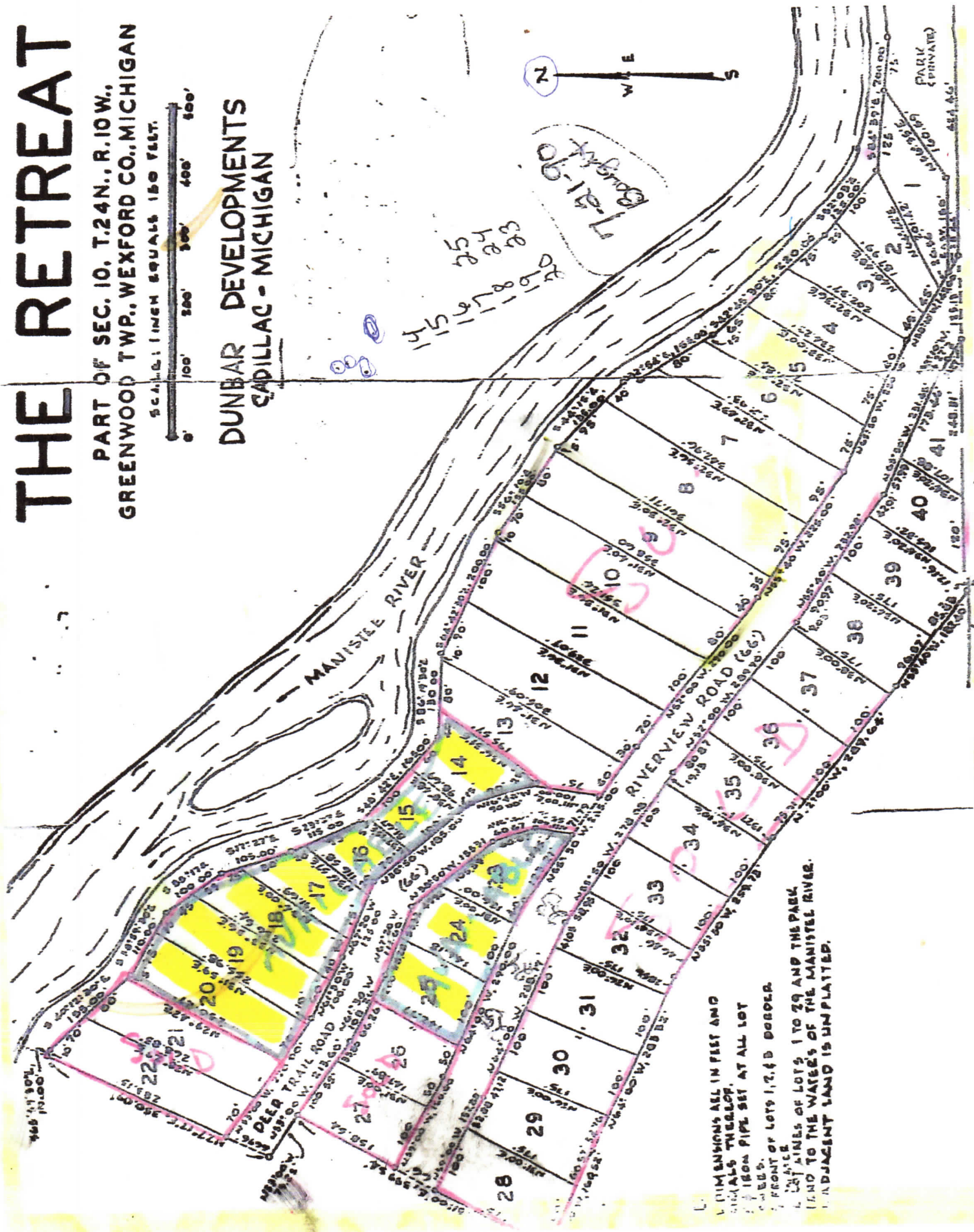


THE RETREAT

PART OF SEC. 10, T.24N., R.10W.
GREENWOOD TWP., WEXFORD CO., MICHIGAN



DUNBAR DEVELOPMENTS
CADILLAC - MICHIGAN



ALL DIMENSIONS ARE IN FEET AND
ALLS THEREOF.
1800 PIPE SET AT ALL LOT
FRONT OF LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41 AND THE PARK
LAND TO THE WATERS OF THE MANISTEE RIVER.
ADJACENT LAND IS UNPLATTED.

KNOW ALL MEN BY THESE PRESENTS, that we, [REDACTED] Leo A. Dunbar & Betty J. Dunbar, his wife, as proprietors [REDACTED] have caused the land embraced in the annexed plat to be surveyed, laid out and platted, to be known as THE RETREAT, Part of Sec. 10, T. 24 N., R. 10 W., Greenwood Twp., Wexford Co., Michigan, and that [REDACTED] as shown on said plat is hereby dedicated to the use of the public and that Park 'A' as shown on said plat is hereby reserved for the use of the lot owners and for the use of the owners of the balance of that part of the Northeast quarter of Section 10, T. 24 N., R. 10 W., lying Southerly of the Manistee River, AND THAT DEED TR [REDACTED] RESERVED FOR THE USE OF THE OWNERS OF LOTS 13 THRU 23 INCLUSIVE. Signed and sealed in the presence of:

Francis Beckner
Francis Beckner

..... (L.S.)

Tax ID 2410-RETR-10

Greenwood Twp., Wexford County

* Please contact Wexford County Register of Deeds for official ownership information.

Assessment Roll Owner Name(s): WEIBENGA, WILLIAM A & ANN M

Assessment Roll Owner Address: 11441 EDGERTON AVE
ROCKFORD MI 49341

Property Information

Jurisdiction: Greenwood Twp.

Property Class: 402 Residential Vacant

School District: 83060 Manton

Assessed Value for 2018: \$20,000

Year SEV for 2018: \$20,000

Taxable Value for 2018: \$16,336

Homestead % for 2018: 0%

Assessed Value for 2017: \$16,000

Taxable Value for 2017: \$16,000

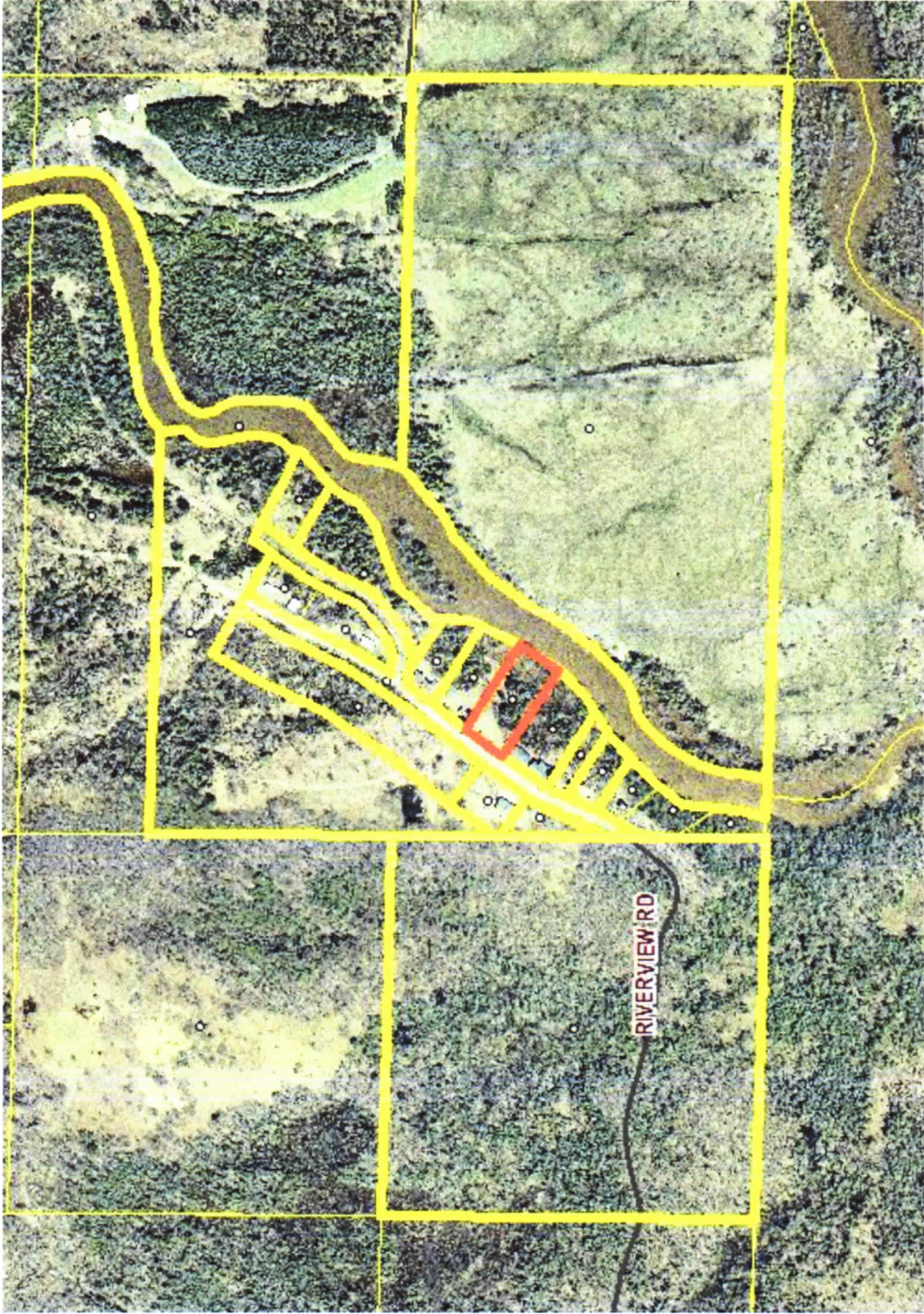
Property Square Feet: 56174.99197 Sq Ft

Property Acreage: 1.28961 Acres

Assessment Roll Description

LOT 10 & LOT 09 THE RETREAT GW. SEC. 10 T24N R10W -MANTON-

* Please contact Wexford County Register of Deeds for official legal description.



A	B	C	D	E	F	G	H	I	J	K
1	TAXI NAME1	NAME2	PARC_ADD1	PARC_CTY	PAF	PARC_	OWNER_ADD	OWNER_CTY	OWN	OWNER_ZIP
2	ROW									
3	241C OLDS, JAMES H.	(ET AL)					11499 BLACKMAN RD.	KINGSLEY	MI	49649
4	241C TERRELL, JEFFERY H.						HC 62	APACHE CREEK	NM	87830
5	MANISTEE RIVER									
6	241C MICHIGAN DEPT OF	NATURAL RESOURCES					GRANTS ADMINISTRATION	LANSING	MI	48909-8235
7	241C BRIDSON, JOSHUA		✓3875 RIVERVIEW RD	MANTON	MI	49663	3875 RIVERVIEW	MANTON	MI	49663
8	241C JAMIESON, MARIA		✓3859 RIVERVIEW RD	MANTON	MI	49663	3859 RIVERVIEW RD	MANTON	MI	49663
9	241C LAXTON, LARRY B.	& SHERRY	✓3845 RIVERVIEW RD	MANTON	MI	49663	3845 RIVERVIEW	MANTON	MI	49663
10	241C WEIBENGA, WILLIAM A & ANN M						✓11441 EDGERTON AVE	ROCKFORD	MI	49341
11	241C ROBSON, MICHELLE L		✓3793 RIVERVIEW RD	MANTON	MI	49663	3793 RIVERVIEW RD	MANTON	MI	49663
12	241C STRATHMANN, ROBERT J		✓3761 RIVERVIEW RD	MANTON	MI	49663	3761 RIVERVIEW RD	MANTON	MI	49663
13	241C FRAGALE, ROBERT L	ETAL	✓3697 RIVERVIEW RD	MANTON	MI	49663	✓7729 TREE SWALLOW DR SE	GRAND RAPIDS	MI	49508
14	241C LAXTON, LARRY B.	& SHERRY					3845 RIVERVIEW RD	MANTON	MI	49663
15	241C LAXTON, LARRY	& SHERRY	✓3836 RIVERVIEW RD	MANTON	MI	49663	3845 RIVERVIEW RD	MANTON	MI	49663
16	241C LAXTON, LARRY B.	& SHERRY					3845 RIVERVIEW RD	MANTON	MI	49663

Affidavit of Publication

RECEIVED JUL 0 8 2019

STATE OF MICHIGAN }
County of Wexford }

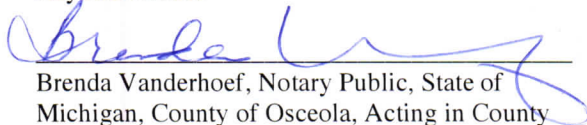
Tara Hall of Cadillac News, a paper published in the County of Wexford and circulated in the Counties of Wexford, Missaukee, Osceola; being duly sworn, deposed and says that she is the Business Department Leader of said newspaper and that a notice, a true copy of which is annexed hereto, has been duly published in said paper on the following date(s):

July 1, 2019



Tara Hall

Subscribed and sworn to before me this 1st day of July A.D. 2019.



Brenda Vanderhoef, Notary Public, State of Michigan, County of Osceola, Acting in County of Wexford

My commission expires: December 16, 2023

WEXFORD JOINT PLANNING COMMISSION PUBLIC NOTICE

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July 1