

**CHARTER TOWNSHIP OF GARFIELD
ZONING BOARD OF APPEALS MEETING**

Wednesday, August 21, 2019 @ 6:00 p.m.
Garfield Township Hall
3848 Veterans Drive
Traverse City, MI 49684

A G E N D A

Call meeting to order
Roll call of Board Members

1. Review and approval of the Agenda and declaration of a Conflict of Interest
2. Minutes – July 17, 2019
3. Public Hearing
 - a. A request made by Peninsula Construction on behalf of Active Brace & Limb for a variance from the setback requirements in Section 319.D of the Garfield Township Zoning Ordinance. The applicant is requesting a variance from the twenty-five (25) foot front setback requirement to build a medical office/lab. The request, if granted, would reduce the front setback from 25 feet to 13 feet. The property is zoned C-O Office Commercial and is located at 5136 N Royal Drive with a property number of 05-347-010-00.
4. Other Business
5. Items for next agenda
6. Public Comment
7. Adjournment

The Garfield Township Board will provide necessary reasonable auxiliary aids and services, such as signers for hearing impaired and audio tapes of printed materials being considered at the meeting to individuals with disabilities upon the provision of reasonable advance notice to the Garfield Township Board. Individuals with Disabilities requiring auxiliary aids or services should contact the Garfield Township Board by writing or calling Lanie McManus, Clerk, Ph: (231) 941-1620, or TDD #922-4412.

Charter Township of Garfield
Zoning Board of Appeals Meeting

Wednesday, July 17, 2019 @ 6:00pm
Garfield Township Hall
3848 Veterans Drive
Traverse City, MI 49684

Chair Rick Smith called the meeting to order at 6:00pm.

Board Members Present: Lynne Fricke, Steve Duell, Kent Rozycki, Scott Swan, and Rick Smith

Staff Present: Zoning Administrator Michael Green

1. **Review and approval of the agenda and declaration of a Conflict of Interest**
Swan moved and Duell seconded to approve the agenda as presented.

Yeas: Swan, Duell, Rozycki, Fricke, Smith
Nays: None

2. **Minutes – June 19, 2019**
Fricke moved and Swan seconded to approve the minutes of June 19, 2019 as presented.

Yeas: Fricke, Swan, Duell, Rozycki, Smith
Nays: None

3. **Public Hearings**
 - a. **A request was made by Peninsula Construction and Design on behalf of Active Brace and Limb for a variance from the stream setback requirements. The specific request is asking for a 5 foot variance from a portion of the proposed building and a 15 foot variance for the parking areas. The property is zoned C-O Office Commercial and is located at 5136 North Royal Drive, with property number of 05-347-010-00.**

The parcel is located in the West Traverse Office Plaza and is zoned C-O Office Commercial. The property address is 5136 North Royal Drive. The property contains an abandoned well house located near the northwest corner of the lot, which was originally used to supply water to the development prior to the supply of municipal water service. The lot is bisected by a tributary of Kids Creek.

The applicant is requesting a 5 foot variance from the 75 foot

stream setback resulting in a 70 foot setback for a portion of the proposed building. A second request asks for a 15 foot variance from the 50 foot stream setback for parking areas. The application states that the 35 foot vegetative buffer will remain intact through the use of retaining walls on the edge of the parking area.

Steven Richardson of Peninsula Construction, representing Active Brace and Limb, presented the application and proposed building plan to board members. He recently did a site walk through with Steve Largent, Drain Commissioner, and Largent suggested a couple changes to mitigate any damage to the stream. Richardson said that he was doing all site planning based on a 2016 wetland survey. Commissioners asked if the site could be built out without any variances and Richardson said that the parking lot was the main issue for the setback variance. Commissioners suggested placing the parking on the lot to the north, which is for sale. Board members expressed concerns with a wetland setback and suggested that a new wetland survey be done to determine current boundaries.

Chair Smith opened the Public Hearing at 6:32pm.

John Nelson of Inchokee Crest Commons said that the township wetland provisions were done when he was serving on the Planning Commission. He explained the importance of honoring the provisions and was against the 15 foot variance.

The Public Hearing was closed at 6:33pm.

Board members suggested that the request be tabled to ask owners about the purchase of an easement on the northern property, moving the building to the west and possibly having another wetlands delineation survey done.

Duell moved and Rozycki seconded to table ZBA Case #2019-03 to allow the applicant to weigh options in regards to the water body setback variance request.

Yeas: Duell, Rozycki, Swan, Fricke, Smith

Nays: None

4. Other Business

None

5. Items for next agenda

None

6. Public Comment

None

7. Adjournment

Swan moved and Fricke seconded to adjourn the meeting at 6:50.

Steve Duell, Secretary



Charter Township of Garfield

Grand Traverse County

3848 VETERANS DRIVE
 TRAVERSE CITY, MICHIGAN 49684
 PH: (231) 941-1620 • FAX: (231) 941-1588

ZONING BOARD OF APPEALS STAFF REPORT

Meeting Date:	August 21, 2019
Case #: 2019-03	Section 535 water body setback variance request
Owner:	Active Brace and Limb
Applicant:	Peninsula Construction & Design
Property ID #:	05-347-010-00
Property Location:	5136 North Royal Drive (undeveloped)
Zoning District:	C-O Office Commercial

UPDATE – REVISED REQUEST, APPLICATION, AND DRAWINGS

The applicant has withdrawn the original request for the waterfront setbacks and is now requesting a reduction in the front yard setback variance from 25 to 13 feet.

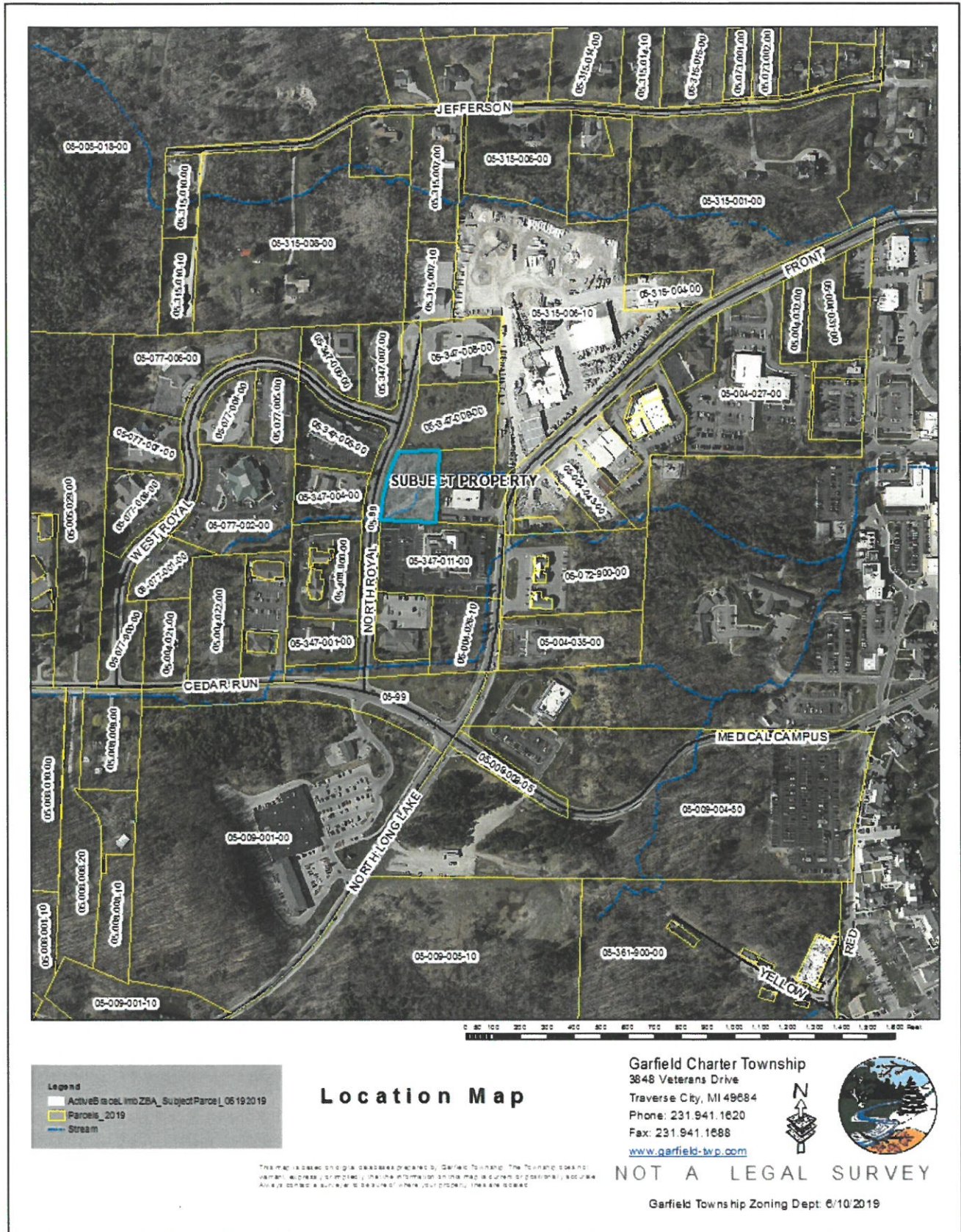
Parcel Overview and History

The parcel is located within the West Traverse Office Plaza, an office park established as a platted subdivision in 1991 and replatted in 1992. The property is zoned C-O Office Commercial, and is located at 5136 North Royal Drive, with a property number of 05-347-010-00. Adjacent properties within the West Traverse Office Plaza are also zoned C-O Office Commercial. According to information obtained through the Township Assessor's office, the property contains an abandoned well house, located near the northwest corner of the lot, originally used to supply water to the development prior to supply of municipal water service. Otherwise, the parcel has remained undeveloped. According to information provided by Steve Largent, County Drain Commissioner and Specialist with the Grand Traverse Conservation District, the lot in question is bisected by an unnamed Kid's Creek tributary. The tributary enters the property just north of the southwest corner and exits the property along the east property line; this tributary is not shown on the subdivision map.

Request

A request has been made by Peninsula Construction & Design on behalf of Active Brace and Limb for a twelve (12) foot variance from the twenty-five (25) foot front yard setback, resulting in a thirteen (13) foot setback for a portion of the proposed building. The purpose of this revised request is to move the site away from a stream and wetland areas that cross the property to avoid the need for the previously sought waterfront setback variances. The application states that the 35 foot vegetative buffer will remain intact through the use of retaining walls on the edge of the parking area. The site plan also shows curbing along the southern edge of the parking area designed to reduce runoff into the unnamed Kid's Creek tributary. If approved by the Zoning Board of Appeals, the applicant will be required to submit a detailed storm water management plan to the Township Engineer for review to ensure compliance with the Township Storm Water Ordinance.

Aerial view of subject parcel and adjacent properties



Aerial View of the subject property



Approval Criteria (Section 454.E)

A variance may only be granted if the Zoning Board of Appeals finds that each of the Practical Difficulty standards under Section 454.E.1 are met, each of the General Criteria under Section 454.E.2 are met, and at least one of the Special Conditions or Circumstances are met.

(1) Practical Difficulty

To qualify for a dimensional variance, the applicant shall be required to show “practical difficulty” by demonstrating compliance with all of the following criteria:

- (a) Special conditions or circumstances exist that are peculiar to the land, buildings, or other structures for which the variance is sought, do not apply generally to lands, buildings, or other structures in the same district, and could not reasonably be addressed through the formation of general regulation for such conditions. Special circumstances or conditions to be considered for variances shall include, but not be limited to, the circumstances as described in § 454.E.(3);
Possible finding in favor: *The subject parcel is bisected by a waterway, resulting in a limited buildable area.*
- (b) The special conditions and circumstances peculiar to the land, buildings or other structures did not result from a self-created condition or action taken by the applicant or an owner of the lands;
Possible finding in favor: *The applicant did not create the hardship as the lot was created by a previous owner. Furthermore, the Township and other public agencies approved the subdivision.*
Possible finding in opposition: *Township Zoning regulations similar to what is in place today were in effect as of 1991/92. Therefore, the developer of the subdivision created the hardship by developing a lot with a limited buildable area.*
- (c) The special conditions and circumstances are such that strict application of the provisions of this ordinance would deprive the applicant of any reasonable use of the land, building, or structure authorized by this Zoning Ordinance;
Possible finding in favor: *Strict application of the provisions of this Ordinance would severely limit the percentage of the lot that is buildable.*
- (d) Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this ordinance;
Possible finding in favor: *Literal interpretation of the provisions of this ordinance would deprive the applicant the right to use a large portion of the lot. Other properties in the district are not subject to the same development limitations, particularly regarding the percentage of the lot that is buildable.*
- (e) For the purpose of this section, a practical difficulty shall not exist because an applicant would incur additional costs to achieve full compliance or could receive additional income with less than full compliance with the ordinance.
Possible finding in favor: *This hasn't been brought up by the applicants as a factor in their decision.*

(2) General Criteria

Where the applicant is able to demonstrate “practical difficulty” by satisfying all of the criteria of § 454.E.(1), a dimensional variance may be granted if it meets the following general criteria:

- (a) The requested variance shall relate only to property that is under the control of the applicant;
Possible finding in favor: *The property is under sole control of the applicant.*
- (b) No nonconforming neighboring lands, buildings, or other structures, legal or illegal, in the same district, and no permitted buildings, or other structures in adjacent districts, shall be considered as grounds for the issuance of a variance;
Possible finding in favor: *The request is not based on any nonconformity related to other properties.*
- (c) The requested variance shall be in harmony with the general purpose and intent of this ordinance and shall not be detrimental to the public health, safety and welfare;
Possible finding in favor: *The requested variance will not be detrimental to the public health safety and welfare due to site modifications made by the applicant to reduce runoff into the stream by preserving the 35 foot vegetative buffer and meeting all other waterway setbacks. Additional modifications may be required as*

necessary by the ZBA to address issues identified during the public hearing and incorporated into the site/storm water plans. Finally, Steve Largent from the Grand Traverse Conservation has stated in the email provided that he has no issues with the variance request as long as the 35 foot vegetative buffer is maintained.

- (d) The requested variance shall not alter the essential character of the area or cause a substantial adverse effect upon properties in the immediate vicinity or in the district in which the property of the applicant is located;

Possible finding in favor: The requested variance will not alter the essential character of the area due to fact that resulting setback variances will still leave a large portion of the lot undeveloped.

- (e) The requested variance is the minimum variance that will make possible the reasonable use of the land, building, or structure, and there is no reasonable alternative location on the parcel for the proposed improvements for which a variance is sought where such alternative location would eliminate the need for the requested variance or reduce the extent of the condition(s) necessitating the variance.

Possible finding in favor: The variance request is needed to allow reasonable use of the property consistent with adjacent property uses.

(3) Special Conditions or Circumstances

Special conditions or circumstances to be considered for the purposes of § 454.E.(1) shall include, but not be limited to, the circumstances as described below:

(a) Physical Conditions

The proposed project site contains physical conditions such as narrowness, shallowness, shape, or topography of the property involved that do not generally apply to other property or uses in the same zoning district.

Possible finding in favor: The subject parcel is bisected by a waterway, resulting in a limited buildable area. The purpose of the front yard setback variance is to ensure compliance with the waterway setback requirements in Section 535 by shifting the site as far away as possible from the stream and wetland areas.

(b) Significant Vegetation or Natural Features

The proposed project site contains significant vegetation or other natural features identified as Stream Environment/Wetland by the Garfield Township Master Plan.

Possible finding in favor: As stated in Special Condition (a), the subject parcel is bisected by a waterway and wetland aread, resulting in a limited buildable area.

(c) Substandard Lot(s)

The proposed project involves the utilization of an existing legal nonconforming lot(s).

(d) Historic Resources

The proposed project site contains historical significance.

(e) Neighborhood Character

The proposed project promotes the established historic or traditional development pattern of a blockface, including setbacks, building height, and other dimensional requirements.

Recommendation

I have provided you with possible findings in favor of each Practical Difficulty standard and all of the General Criteria. As stated in Section 454.E, a variance can be granted only if the Zoning Board of Appeals makes at least one finding in favor of each of these standards. Please feel free to contact me if you have any questions before the meeting.

Sincerely,



Michael Green, Zoning Administrator
Charter Township of Garfield

T. C. RECORD-EAGLE, INC.
120 WEST FRONT STREET
TRAVERSE CITY MI 49684
(231) 946-2000
Fax (231) 946-8273

ORDER CONFIRMATION (CONTINUED)

Salesperson: SHERRY GRAVES

Printed at 07/31/19 14:18 by sgrav

Acct #: 5508

Ad #: 527044

Status: New WHOLD WF

LEGAL NOTICE

CHARTER TOWNSHIP OF GARFIELD

ZONING BOARD OF APPEALS

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Garfield Township Zoning Board of Appeals will hold a public hearing at their regular meeting on August 21, 2019 at 6:00 pm. The hearing will take place at the Garfield Township Hall, located at 3848 Veterans Drive, Traverse City, Michigan 49684. The following request will be heard:

- 1) A request made by Peninsula Construction on behalf of Active Brace & Limb for a variance from the setback requirements in Section 319.D of the Garfield Township Zoning Ordinance. The applicant is requesting a variance from the twenty-five (25) foot front setback requirement to build a medical office/lab. The request, if granted, would reduce the front setback from 25 feet to 13 feet. The property is zoned C-O Office Commercial and is located at 5136 N Royal Drive with a property number of 05-347-010-00.

A copy of the application, zoning ordinance and zoning map may be inspected at the zoning office of the Charter Township of Garfield located at 3848 Veterans Drive, Traverse City, Michigan between the hours of 7:30 am and 6:00 pm Monday through Thursday. All persons will have the right to speak at the Public Hearing. Any written comments with respect to this application may be submitted to the Township zoning department at the address above during regular office hours as described above or during the Public Hearing. The Township's telephone number is 231-941-1620.

Steve Duell - Secretary
Garfield Township Zoning Board
of Appeals
3848 Veterans Drive
Traverse City, MI 49684

Michael Green - Zoning Administrator
Garfield Township
3848 Veterans Drive
Traverse City, MI 49684

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August 4, 2019-1T

527044

July 25, 2019

Garfield Township
3848 Veterans Drive
Traverse City, MI 49684

RE: Active Brace and Limb Front Yard Setback Variance

This site located on North Royal Drive is similar in size as the surrounding already developed sites in the area. The topography does slope off as you go away from the road making it a good site for a walk out lower level to maximize usable building square footage.

Although the site is similar in size to others, the stream that runs through at an angle reduces the usable building area greatly. The southeast portion is completely cut off from the road side of the property and cannot be accessed unless you use the neighboring properties.

With all the setbacks and buffers in place you end up with an unusually small and irregular shape for building area. We have designed an angled building to best use this space as well as broken up the parking lot to follow the building and topography to reduce the impact on the site.

The use of this building and character will match the surrounding areas. The owners are already operating out of a leased building just down from the proposed site. The need for the variance is needed for an increased building size to accommodate the owner's equipment and machines for physical therapy, and manufacturing of their artificial limbs and braces for customers.

All steps will be taken during construction to reduce impact on the site regarding the wetland, stream, and natural vegetation. The building and parking lot design will work with the natural topography to reduce the moving of dirt as much as possible and use the natural slope for storm water drainage. Half of the site will remain natural and untouched since access to that portion is very limited and the previous mentioned setbacks render it unusable. Landscaping and exterior lighting ordinances shall be met.

Given the nature of this property and the setbacks we feel this site does not match the surrounding sites that match the use of this proposed project. The amount of building inside the normal 25' front yard setback will be 620 S.F. The amount of asphalt parking inside the setback will be 780 S.F. The variance we are requesting is to go from a 25' front yard setback to a 13' front yard setback. This will allow Active Brace and Limb the building size they need to

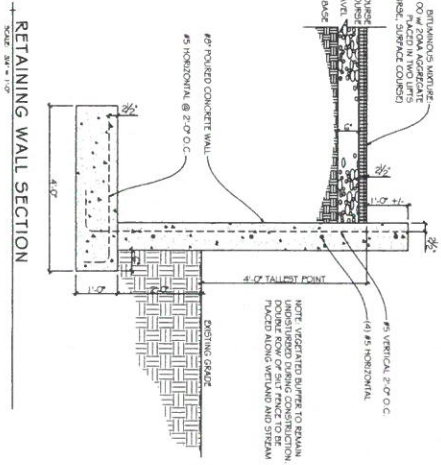
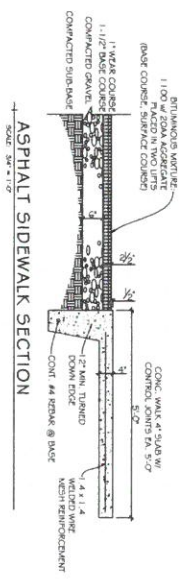
operate and adequate parking for their employees and patients. This variance will also allow the site design to stay out of the 50' stream setback.

The building layout and parking design did not alter much from the original design that impeded on the stream setback. We feel given the layout and area created by the setbacks on this site, this design works with the topography and natural drainage as before. The retaining wall from the original design will remain as well. This will minimize dirt movement and preserve existing vegetation along the stream and wetland setbacks.

Sincerely,

A handwritten signature in blue ink, appearing to read "Steven J. Richardson", with a long horizontal flourish extending to the right.

Steven J. Richardson



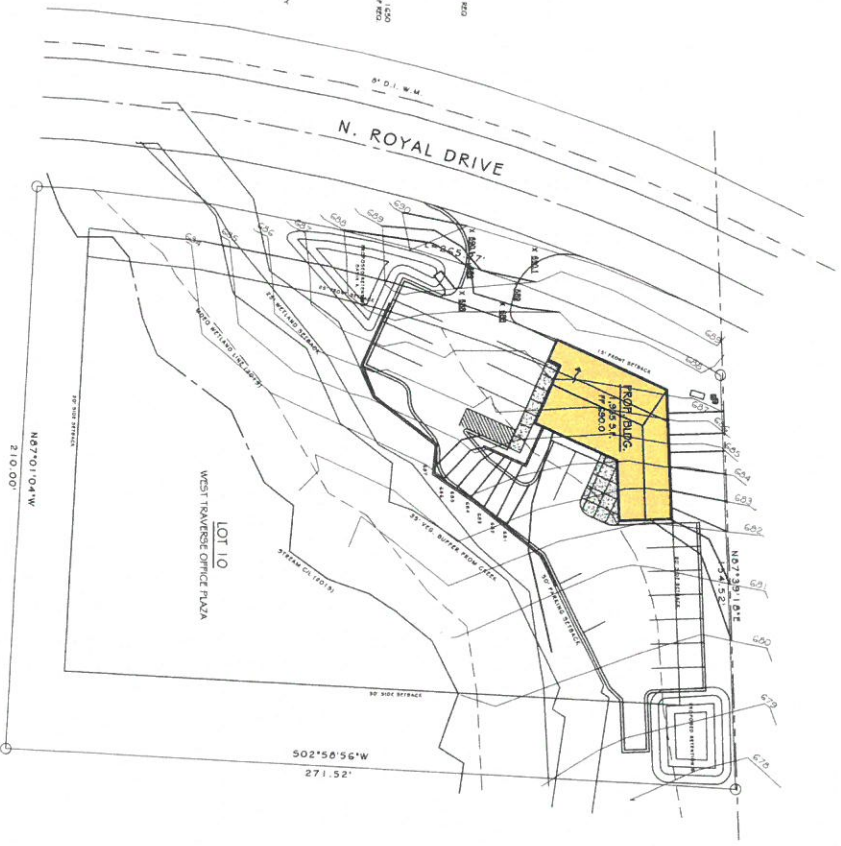
LEGEND

- 1.5' PROPOSED GRADE ELEVATION
- DISTING GRADE ELEVATION
- DIRECTION OF WATER FLOW
- NEW ELEVATION CONTROL
- NEW ASPHALT
- NEW BUILDING
- SILT FENCE

STORMWATER CONTROL DESIGN CALC:

PROPOSED BUILDING: 1,255 SF
 PROPOSED ASPHALT & CONCRETE: 6,400 SF
 TOTAL AREA = 7,655 SF = 0.2237 AC
 TOTAL AREA = 7,655 SF x 0.2237 AC = 1.7137 AC
 RETENTION W. VOLUME = 1,700 GALLONS PER AC x 1.7137 AC = 2,913.29 GALLONS
 TOTAL OF PROPOSED: 1,700 + 2,913.29 = 4,613.29 GALLONS
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STORM WATER PLAN - VARIANCE REQUEST



DATE:	7-26-2017
PROJECT:	ACTIVE BRACE & LIMB
SCALE:	1" = 20'-0"
DATE:	7-26-2017
SCALE:	1" = 20'-0"
DATE:	7-26-2017
SCALE:	1" = 20'-0"

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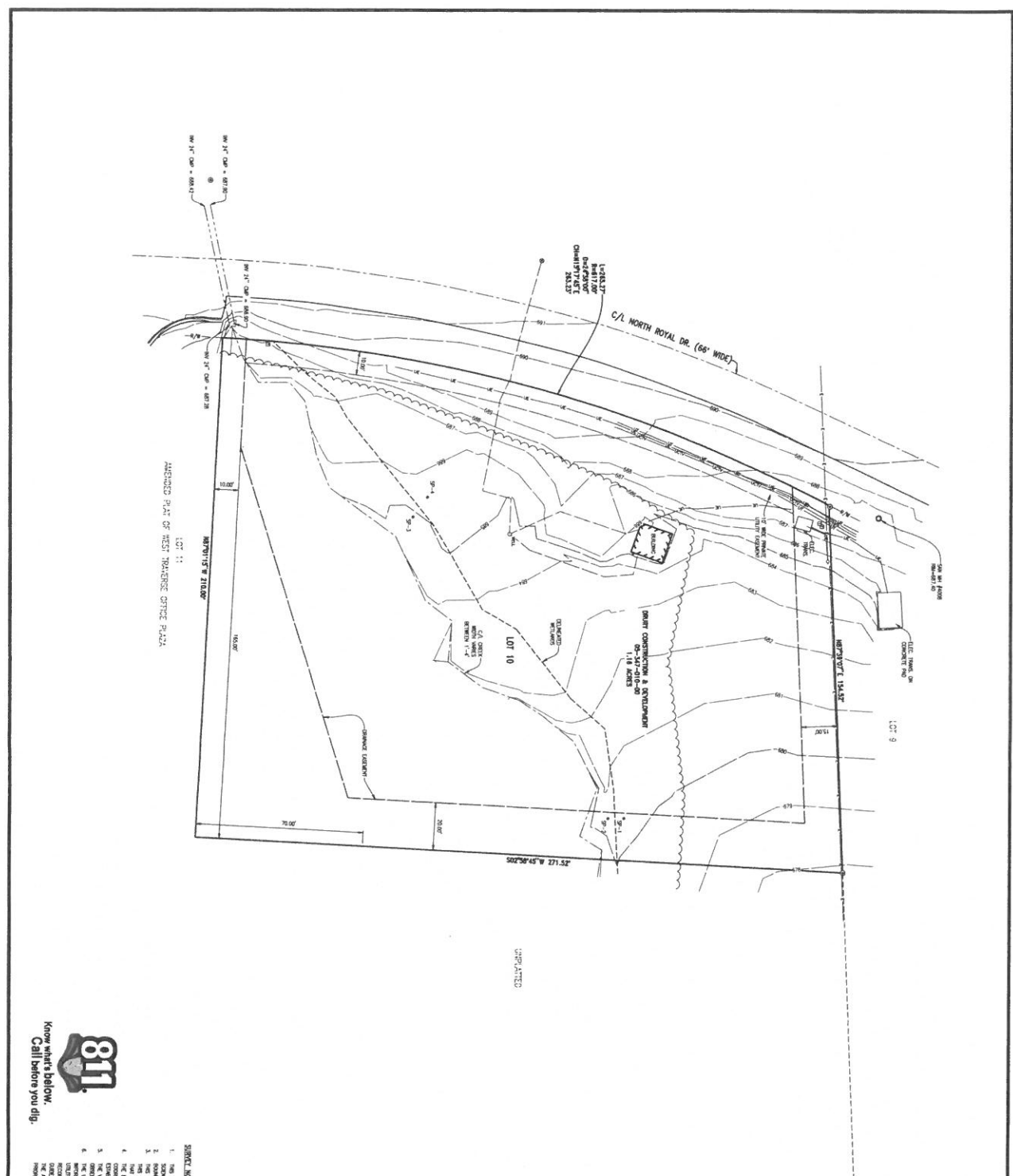
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JOB NAME:
ACTIVE BRACE & LIMB

LOCATION:
 N. ROYAL DRIVE
 TRAVERSE CITY, MI 49604

Peninsula
 Construction & Design

www.PENINSULACONSTDESIGN.com
 P: (231) 947-7951
 1121 BLUEBERRY PARK DR, TRAVERSE CITY, MI 49606



LEGEND

- BOUNDARY MARK
- EXISTING FOUNDATION, SPALL, POLE
- EXISTING BRICK WALL
- EXISTING CURB WALK
- EXISTING UTILITY MARKERS
- EXISTING EXPOSED METE LINE
- EXISTING CHALK IV - UNDEVELOPED
- EXISTING CHALK IV - OPENED
- EXISTING ELEVATION - UNDEVELOPED
- EXISTING ELEVATION - UNDEVELOPED

SCALE 1" = 20'

LEGAL DESCRIPTION: PART 1A, DESCRIPTION OF S41-210-200
 27 ACRES, MORE OR LESS, S41-210-200 CONVEYED TO THE STATE OF MINNESOTA BY DEED DATED 10/11/11.

811
 Know what's below.
 Call before you dig.

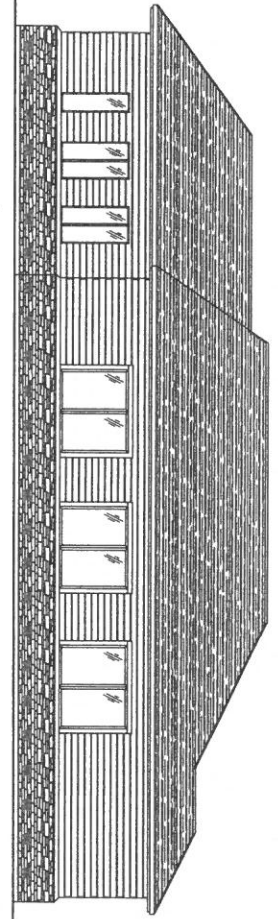
TOPOGRAPHIC SURVEY
LOT 10 WEST TRAVERSE OFFICE PLAZA
PENINSULA CONSTRUCTION

No.	Date	Revision

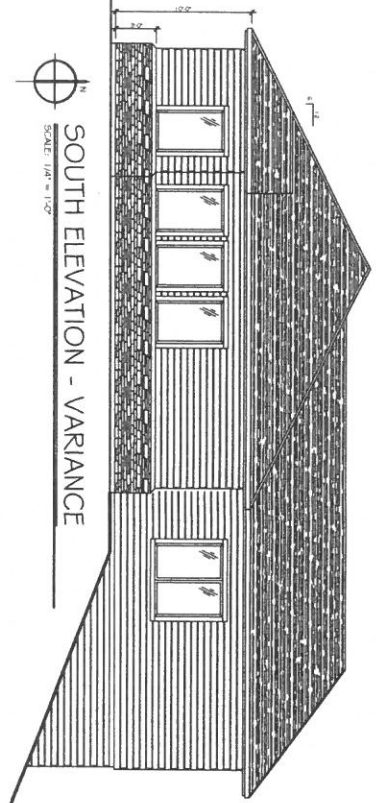
Peninsula Construction
 12800 Bluffview Park Dr.
 Minneapolis, MN 55425
 763-444-8111
 info@peninsulaconstruction.com
 www.peninsulaconstruction.com

ENGINEER
 JAMES J. HANSEN
 PENINSULA CONSTRUCTION SERVICES
 LANDSCAPE ARCHITECTURE

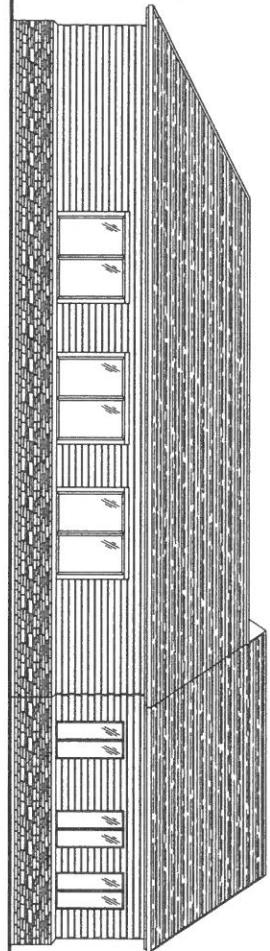
DATE 02/02/11
PROJECT LOT 10 WEST TRAVERSE OFFICE PLAZA
CLIENT PENINSULA CONSTRUCTION
SCALE 1" = 20'
PROJECT NO. 2011090009101



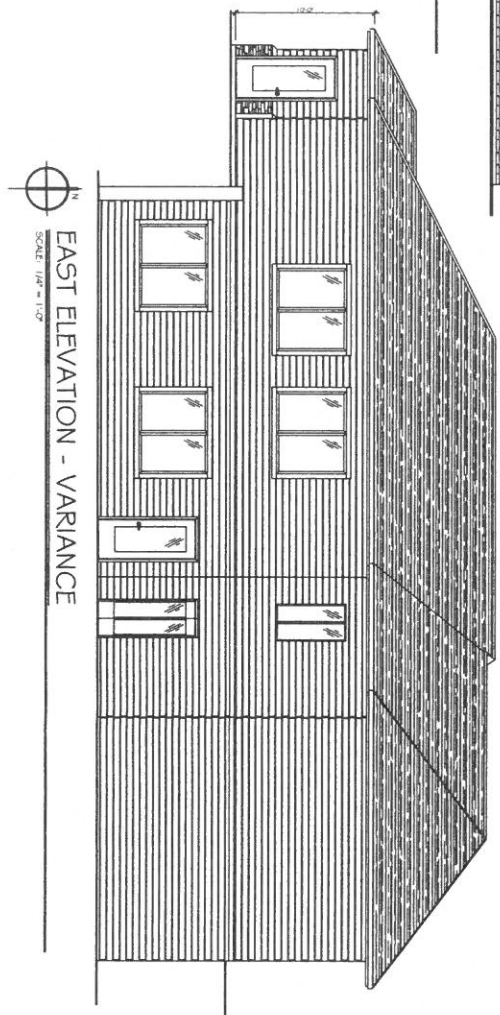
WEST ELEVATION - VARIANCE
SCALE: 1/4" = 1'-0"



SOUTH ELEVATION - VARIANCE
SCALE: 1/4" = 1'-0"



NORTH ELEVATION - VARIANCE
SCALE: 1/4" = 1'-0"



EAST ELEVATION - VARIANCE
SCALE: 1/4" = 1'-0"

REVISIONS:

NO.	DATE	DESCRIPTION

DATE: 3.21.2018
 PROJECT: CONCORD
 SCALE: 1/4" = 1'-0"
 SHEET # 2089
 DRAWN BY: KEVIN KENTON

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 1125 S. BURNHAM ROAD, TRVERSE CITY, MI 49684

A2.V