

AGENDA
Cascade Charter Township Zoning Board of Appeals
Tuesday, October 11, 2016
7:00 pm
Cascade Library Wisner Center
2870 Jacksmith Ave. SE

- ARTICLE 1. Call the meeting to order
Record the attendance**
- ARTICLE 2. Pledge of Allegiance to the flag**
- ARTICLE 3. Approve the current Agenda**
- ARTICLE 4. Approve the Minutes of the September 13, 2016 meeting**
- ARTICLE 5. Acknowledge visitors and those wishing to speak to non-agenda items.
(Comments are limited to five minutes per speaker.)**
- ARTICLE 6. Case #16:3335 Shane Beach
Public Hearing
Property Address: 2755 Shumac Lane
Requested Action: The applicant is requesting a variance to place an accessory building in the front yard.**
- ARTICLE 7. Any other business**
- ARTICLE 8. Adjournment**

Meeting format

- 1. Staff Presentation** *Staff report and recommendation*
- 2. Project presentation-** *Applicant presentation and explanation of project*
 - a. PUBLIC HEARINGS**
 - i. Open Public Hearing. Comments are limited to five minutes per speaker; exception may be granted by the chair for representative speakers and applicants*
 - ii. Close public hearing*
- 3. Commission discussion –** *May ask for clarification from applicant, staff or public*
- 4. Commission decision - Options**
 - a. Table the decision*
 - b. Deny*
 - c. Approve*
 - d. Approve with conditions*
 - e. Recommendation to Township Board*

MINUTES
Cascade Charter Township
Zoning Board of Appeals
Tuesday, September 13, 2016
7:00 P.M.

ARTICLE 1. Chairman Berra called the meeting to order at 7:00 P.M.
Members Present: Berra, Casey, McDonald, Milliken, Pennington
Members Absent: None
Others Present: Community Development Director, Steve Peterson and those listed on the sign in sheet.

ARTICLE 2. Chairman Berra led the Pledge of Allegiance to the flag.

ARTICLE 3. Approve the Agenda.

Motion was made by Member McDonald to approve the Agenda. Support by Member Pennington. Motion carried 5 to 0.

ARTICLE 4. Approve the Minutes of the August 9, 2016 Meeting.

Motion was made by Member McDonald to approve the Minutes as presented. Support by Member Pennington. Motion carried 5 to 0.

ARTICLE 5. Acknowledge visitors and those wishing to speak to non-agenda items.

No visitors who were present wished to speak about non-agenda items.

ARTICLE 6. Case #16:3328 Steven Wessell

Public Hearing

Property Address: 3150 Thornapple River Dr.

Requested Action: The applicant is requesting approval from the Zoning Board of Appeals to demolish the existing home at 3150 Thornapple River Dr. and leave the accessory buildings on the property, before a new home is constructed.

Director Peterson stated the Applicant is requesting a variance of Section 4.09 of the Zoning Ordinance. This section requires a principal structure (a home) on the property before an accessory building. The number of accessory buildings are then limited based on the size of the property. The variance request is the result of the applicant wanting to remove the home in order to construct a new home and leave the accessory building. Unless the applicant builds a new home that does not include an attached garage, they would only be permitted one accessory building since they are under 3 acres. The lot currently has two accessory buildings and the township only has record of the larger building being permitted.

The Zoning Ordinance actually requires that the home be at least 50% complete before an accessory building can be built.

Director Peterson stated that similar past cases were granted variances with the condition that a performance bond be provided to allow the township to remove the accessory building if the property did not come into compliance.

He also presented findings of fact to be sure this request meets the ordinance requirements. He feels this request does meet those requirements.

Director Peterson recommends approval of the variance with the following conditions:

- (1) The home is at least 50% complete (rough-in) within 1 year.
- (2) Provide a performance bond for the removal of the accessory buildings if the home is not at least 50% complete within one year. The amount of the bond will be at a minimum of \$10,000.
- (3) If the home includes an attached garage, one of the accessory buildings must be removed.

Chairman Berra asked if anyone would like to come forward.

Mr. Wessel, applicant, came forward and made brief comments. He also stated his preference to keep the second accessory building.

Member McDonald made a Motion to open the Public Hearing. Supported by Member Milliken. Motion carried 5 to 0.

Chairman Berra asked if anyone would like to come forward to speak on this issue.

Chairman Berra read two memos for the record from neighbors. The first from Rob Beahan, stating that any issues he had with the project had been resolved and supported the project. The second from William and Carol White supporting the project.

Another neighbor, Mr. Ron McCollum came forward. He supports the project and let the Board know that he would like the Board to let the Wessels keep the second accessory building.

Member Casey made a Motion to close the Public Hearing. Supported by Member Milliken. Motion carried 5 to 0.

Member McDonald made a Motion to approve the variance with Staff conditions listed above.

Supported by Member Milliken. Motion was carried as stated 5 to 0.

Case #16-3325 Ron McCollum

Public Hearing

Property Address: 3010 Thornapple River Dr.

Requested Action: The applicant is requesting an appeal of an administrative action. This appeal involves allowing an accessory building on a lot without a home.

Director Peterson stated that this request is necessary due to the removal of the home at 3010 Thornapple River Dr. The applicant has already removed the home and now wants permission to leave the accessory building standing.

Rather than apply for a variance, the applicant chose to apply for an appeal to an administrative decision, essentially he argues that the ordinance does not apply to him because they are not building a new building, but rather simply removing the existing home and leaving the accessory building.

The applicant also states that others in the township have done the same and no enforcement action was taken. This seems to imply that the ordinance does apply in this case, and that we should not enforce it. Director Peterson let the Board know that he has researched the last 10 years of demolition permits, including the property that he indicated, and found nothing to substantiate the applicant's claim. Even if there was an enforcement issue, or lack thereof, with the cases, that would not justify ignoring this case.

If we follow the logic of the applicant, anytime someone demolished or split property they could leave a building on a vacant property. That is contrary to the intent of the rule to have a principal building on the property. As a matter of fact, we also require that the home is built at least 50% (rough-in) before you can start an accessory building.

The very fact that a detached garage is classified as an accessory structure indicates that they have to have a principal building on the property. With no home you violate the very definition of accessory structure.

We have had similar variance requests that we have approved. In these cases, the home was being built along with the accessory building and we had a performance bond to ensure that we could remove a building if no principal structure was built.

This is not a variance application. The Board needs to use standards for an appeal from an administrative action.

Director Peterson feels that the impact of a decision to agree with the applicant would have a detrimental impact on the ordinance. A decision to agree with the applicant would permit anyone to avoid the rule of having a principal structure simply because they were not building it. This would impact demolish permits as well as splits. A ruling to avoid the removal of the accessory building on a vacant lot would be to negate this portion of the ordinance.

Given that we have been without compliance for some time and a lot of that time the applicant was aware of the non-compliance, I would suggest that you make a condition of your approval to uphold the staff interpretation of the ordinance that the applicant have the accessory building removed within the next 30 days.

Chairman Berra asked if the applicant would like to come forward.

Mr. Ron McCollum came forward and presented a copy of his application. He noted that he had checked the box for a variance and another box to request a review of the ordinance by the township attorney. Along with that application he also gave a check to

the township. He stated he doesn't understand why this is an appeal of an administrative decision and not a decision for a variance like he originally asked for.

Mr. McCollum gave a little history. He went through the correct process to demolish the home which took place in April of 2015. At that time, he stated he was not informed that the building also needed to be demolished.

He read from a letter from Stephanie to his realtor. In it, he read - the ordinance states that "No accessory building shall be constructed . . ." Mr. McCollum noted that (1) the building will not "be constructed" as it is and was already there, and (2) the building, as was the home, were all built in the 1970's before this ordinance went into effect. As such, he feels the ordinance does not apply to him and only covers new construction.

The property is currently up for sale and Mr. McCollum would like to keep that building like it is. He has been letting the fire department use the building for practice and has had a request from a potential buyer that they wanted the building. The building, he feels, is an asset to the property, not a detriment.

Discussion followed between the Board and the applicant. Discussed was whether this was an administrative appeal of the ordinance interpretation or a variance. Staff states it is an appeal because applicant stated the ordinance did not apply to him. Applicant says it is a variance request. It was stated that this is an appeal of an administrative decision and the applicant has the option of asking for a variance after this action has been decided upon. Legal review of the ordinance was discussed. The applicant wants a review of the ordinance by the township attorney. The Board felt that is the applicant's responsibility to hire his own attorney. Peterson indicated that the ZBA is the legal process that the township has for residents who disagree with staff or want an exception to the rules.

Member Casey made a Motion to open the Public Hearing. Supported by Member McDonald. Motion carried 5 to 0.

Mr. Jeff Dionne came forward to state that as a licensed builder the ordinance is not clear on this particular issue. The first case today was a great example of how the issue should be handled. Mr. McCollum's issue was not. The ordinance needs to clarify how accessory buildings should be handled at the permit stage. That if a home is being demolished it should state that all existing accessory buildings be demolished also unless a variance is requested. It does not right now.

Member Pennington made a Motion to close the Public Hearing. Supported by Member McDonald. Motion carried 5 to 0.

Motion was made by Member McDonald to deny the applicant's request for an appeal of administrative decision, which upholds the ordinance based on the documented criteria in the ordinance today and staff's recommendation. Applicant has 60 days to remove the accessory building, unless otherwise approved in a variance.

Supported by Member Pennington. Motion carried 5 to 0.

ARTICLE 7. Any other business.

Member McDonald made a request that the Planning Commission review that portion of the ordinance and see if the language should be clarified with respect to what happens to accessory buildings when a principal building is removed.

ARTICLE 8. Adjournment

Motion was made by Member Pennington to adjourn. Support by Member McDonald. Motion carried 5 to 0. The meeting was adjourned at 8:00 p.m.

Respectfully submitted,
Tom McDonald, Secretary

STAFF REPORT

STAFF REPORT: Case #16-3335
REPORT DATE: September 28, 2016
PREPARED FOR: Cascade Charter Township Zoning Board of Appeals
MEETING DATE: October 11, 2016
PREPARED BY: Steve Peterson, Planning Director

APPLICANT:
Shane Beach
2755 Shumac Lane
Ada MI 49301

STATUS
OF APPLICANT: Property Owner

REQUESTED ACTION: The applicant is requesting a variance to place an accessory building in the front yard.

EXISTING ZONING OF
SUBJECT PARCEL(S): ARC

GENERAL LOCATION: North side of 28th st between Buttrick and Snow.

PARCEL SIZE: Approximately 2.57 acres.

EXISTING LAND USE
ON THE PROPERTY: Residential

ADJACENT AREA
LAND USES: Residential

ZONING ON
ADJOINING PARCELS: ARC

STAFF COMMENTS:

- 1) The applicant has placed a small shed (8 x 20) in the front yard of his home. Because the building is under 200 sq ft it did not require a building permit.
- 2) However, we still require smaller buildings to meet the setback requirements for accessory buildings with or without a permit.

- 3) For a building this size they are required to be at least 10 feet off the side and rear property lines. We do not allow them in the front yard.
 - 4) Because they have a corner lot they actually have two front yards, limiting the areas to place the shed.
 - 5) Because the home is placed in the western portion of the lot the back and side yard is extremely limited for a building.
 - 6) The lot also has some topography challenges and the location of the well and septic further limit any viable location of a shed in the back or side yard.
 - 7) I have found some other cases going back to 2001 that are similar to this one. These cases that were denied it appeared that reasonable alternatives existed. One recent example on Streamside Point is probably the closest and we approved that variance mainly due to the site constraints of topography.
- A. Before the Zoning Board of Appeals can grant a variance, it must be assured that the request meets all of the findings of fact listed in the table below:

<i>Findings of Fact</i>	<i>Comment</i>
That there are exceptional or extraordinary conditions or circumstances that are inherent to the property in question and that do not apply generally to the other nearby properties in the same zoning district.	The property is located in a wooded area that has some steep topography in the rear of the site that would make it difficult to locate the building behind the home. The most impacted neighbor to the north would have this building in his "side" yard.
That the exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant taken subsequent to the adoption of this Ordinance (any action taken by an applicant pursuant to lawfully adopted regulations preceding this Ordinance will not be considered self-created)	The conditions of the property are not the result of actions taken by the applicant.
That such variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.	They have placed the building back about 60 feet from the right of way. this is behind the required 35-foot front setback.
That the granting of the variance will not be injurious to the neighborhood	Given the fact that it is behind the required front setback and is about the same location as the home to the north

or otherwise detrimental to the public welfare.	it would not appear to be injurious to the neighborhood.
That the condition or situation of the specific piece of property, or the intended use of the property, for which the variance is sought is not of so general or recurrent nature as to make it more reasonable and practical to amend the Zoning Ordinance.	The topography and well and septic location severely limit the ability to place a shed on the lot in the rear or sideyard.
The Zoning Board of Appeals shall further find that the reasons set forth in application 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.	Given the small size shed, the location of the home, the fact that it's a corner lot with sever topography challenges and the location of the well and septic, the variance is justified.

STAFF RECOMMENDATION

Approve the request.

Attachments: Application
 Site Plan



CASCADE CHARTER TOWNSHIP

2865 Thornhills SE Grand Rapids, Michigan 49546-7140

PLANNING & ZONING APPLICATION

APPLICANT: Name: Shane Beach
 Address: 2755 Shumac Lane
 City & Zip Code: Ada 49301
 Telephone: 616-307-0026
 Email Address: gotitcovered23@yahoo.com

OWNER: * (If different from Applicant)

Name: Same
 Address: _____
 City & Zip Code: _____
 Telephone: _____
 Email Address: _____

NATURE OF THE REQUEST: (Please check the appropriate box or boxes)

- | | |
|--|--|
| <input type="checkbox"/> Administrative Appeal | <input type="checkbox"/> Administrative Site Plan Review |
| <input type="checkbox"/> Deferred Parking | <input type="checkbox"/> P.U.D. - Rezoning * |
| <input type="checkbox"/> P.U.D. - Site Condominium * | <input type="checkbox"/> Rezoning |
| <input type="checkbox"/> Site Plan Review * | <input type="checkbox"/> Sign Variance |
| <input type="checkbox"/> Special Use Permit | <input type="checkbox"/> Subdivision Plat Review * |
| <input checked="" type="checkbox"/> Zoning Variance | <input type="checkbox"/> Other: _____ * |

** Requires an initial submission of 5 copies of the completed site plan*

BRIEFLY DESCRIBE YOUR REQUEST:**

Please see attached.

(**Use Attachments if Necessary)

-SEE OTHER SIDE-

LEGAL DESCRIPTION OF PROPERTY:**

(**Use Attachments if Necessary)

PERMANENT PARCEL (TAX) NUMBER: 41-19 _____

ADDRESS OF PROPERTY: 2755 Shumac Lane

PRESENT USE OF THE PROPERTY: Resident

**NAME(S) & ADDRESS(ES) OF ALL OTHER PERSONS, CORPORATIONS, OR FIRMS HAVING A LEGAL OR
EQUITABLE INTEREST IN THE PROPERTY:**

Name(s)	Address(es)
<u>None</u>	_____
_____	_____

SIGNATURES

I (we) the undersigned certify that the information contained on this application form and the required documents attached hereto are to the best of my (our) knowledge true and accurate. I (we) also agree to reimburse the Cascade Charter Township for all costs, including consultant costs, to review this request in a timely manner. I (we) understand that these costs may also include administrative reviews which may occur after the Township has taken action on my (our) request.

I (we) the undersigned also acknowledge that the proposed project does not violate any known property restrictions (i.e. plat restrictions, deed restrictions, covenants, etc.)



Owner – Print or Type Name
(*If different from Applicant)

Shane Beach

Applicant – Print or Type Name

* _____
Owner's Signature & Date
(*If different from Applicant)

Applicant's Signature & Date

PLEASE ATTACH ALL REQUIRED DOCUMENTS NOTED IN THE PROCESS REVIEW SHEET – THANK YOU

Rev. 7/24/14

Cascade Charter Township

9-20-16

I am asking for a variance on the location of my 8'x20' storage garage located at 2755 Shumac Lane in Ada. My family and I just moved into the house on July 30, 2015. In no way shape or form are we ignoring or purposely disobeying and township rules or laws.

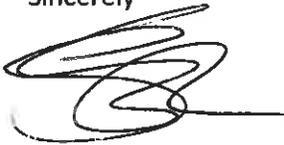
As I understand structures are only permitted in back of a person house. We sit on the corner of Shumac Lane and 28th St. Regardless of which may be considered the back of my house (since on the corner) neither is possible due to a steep incline on one side of the house and a deep gully on the other that may be considered. I placed the shed in consideration of neighbors in the only possible area that is barely visible to anyone.

I Have a deck behind north side of my house, a fully wooded area that goes directly uphill approximately 50' so nothing can be built behind the north end of the home. To the west side of my house is a driveway, beyond the drive the land drops straight down a gully approx. 30' deep so I am unable to put a storage garage there either.

I am asking that a variance be granted in order to keep the 8'x20' storage garage at its present location on the southeast side of the property where it's not very visible with woods and shrubs covering more than 95% of the building when driving by our property on any road. The building newly painted, is attractive looking and does not interfere with anything or anyone. We have very limited storage and this is simply a need for a place to store my yard equipment items that I use on a weekly basis.

Thank you for consideration

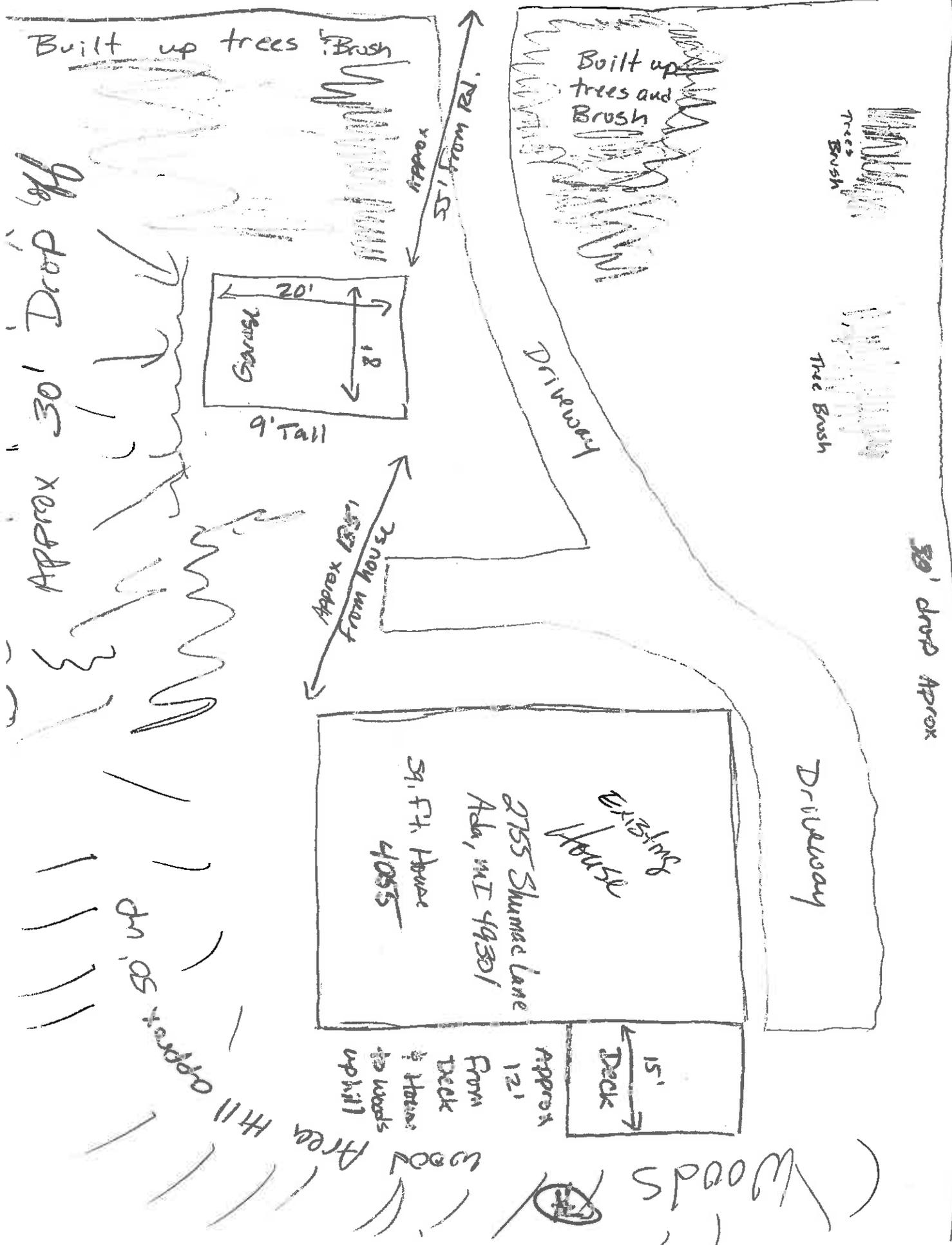
Sincerely

A handwritten signature in black ink, appearing to read 'Shane Beach', with a stylized, cursive flourish.

Shane Beach – Home Owner

Shumac Lane

Shumac Lane



Approx 30' Drop off

Area Hill approx 30' up

Approx 125' From house

Approx 121' From Deck to Woods uphill

Built up trees and Brush

Built up trees & Brush

Approx 51' from Rd.

30' drop Approx

284 St

282 St

Woods

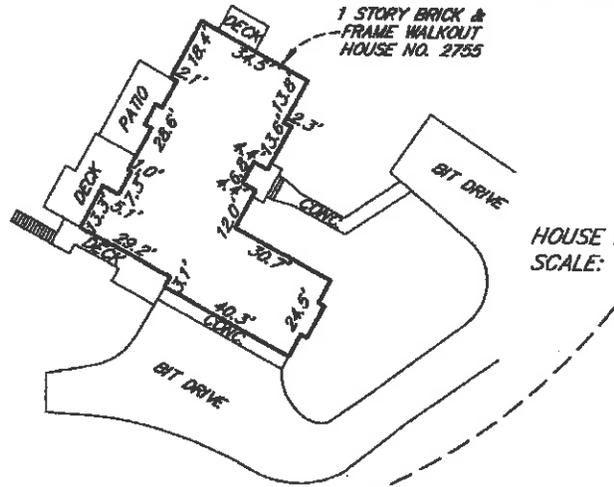
Driveway

Driveway

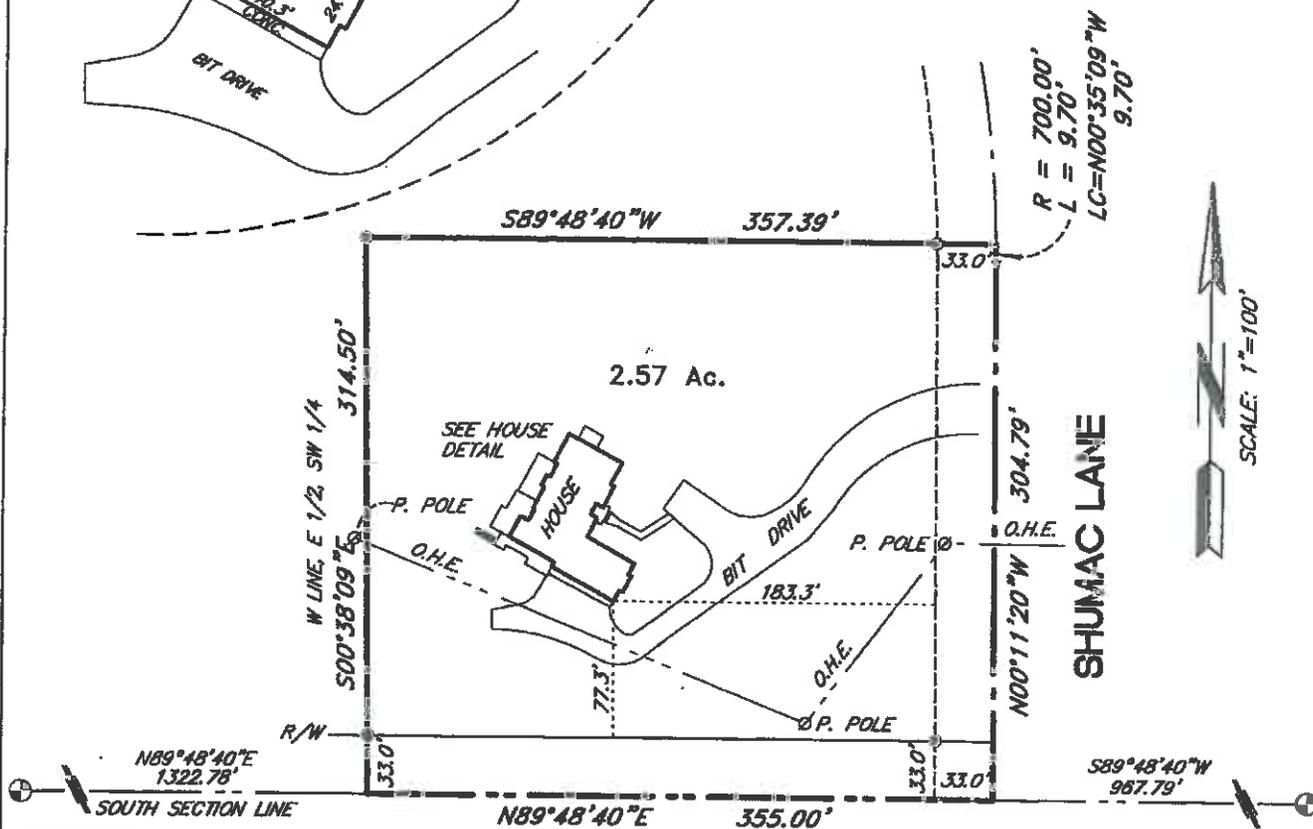
Trees Brush
Tree Brush

LEGAL DESCRIPTION FROM TAX RECORDS

Part of the Southwest 1/4 of Section 12, T6N, R10W, Cascade Township, Kent County, Michigan, Commencing at the Southwest corner of the East 1/2 of the Southeast 1/4; thence East along the South Section line, 355.0 feet to a point 1677.84 feet N89°48'40"E along said Section line from the Southwest corner of said Section; thence N0°11'20"W 304.79 feet; thence Northerly 9.70 feet along a 700.0 foot radius curve to the left, the long chord of which bears N0°35'09"W 9.70 feet; thence S89°48'40"W 357.39 feet to the West line of the East 1/2 of said Southwest 1/4; thence S0°38'09"E along said West line, 314.50 feet to the Place of Beginning. Subject to the road right of way for Shumac Lane and 28th Street over the East 33.0 feet and the South 33.0 feet thereof.



NOTE:
A title insurance policy was not provided at the time of this survey. One should be obtained to compare for accuracy of legal description and easements of record.



SOUTHWEST CORNER, SECTION 12, T6N, R10W, KENT COUNTY REMON.

SOUTH 1/4 CORNER, SECTION 12, T6N, R10W, KENT COUNTY REMON.

I hereby certify that the buildings and Improvements are located entirely thereon and that said buildings and improvements are within the property lines and that there are no existing encroachments upon the lands and property described unless otherwise shown hereon.

- LEGEND**
- o - IRON STAKE - SET
 - ⊙ - IRON FOUND
 - - WOOD STAKE
 - R - RECORDED DIMENSION
 - D - DEED DIMENSION
 - P - PLATTED DIMENSION
 - M - MEASURED DIMENSION
 - ⊕ - CENTERLINE
 - x-x - FENCE LINE

R Roosien & Associates
SURVEYING AND ENGINEERING

5055 PLAINFIELD AVENUE, NE
GRAND RAPIDS, MICHIGAN 49525
TELE. (616) 361-7220
FAX (616) 361-1822

STATE OF MICHIGAN
KEVIN ROOSIEN
LAND SURVEYOR
No. 31604
PROFESSIONAL SURVEYOR

BY

TITLE



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Printed 9/23/2016 9:31:11 AM

Kathleen Hill, R.S., LLC

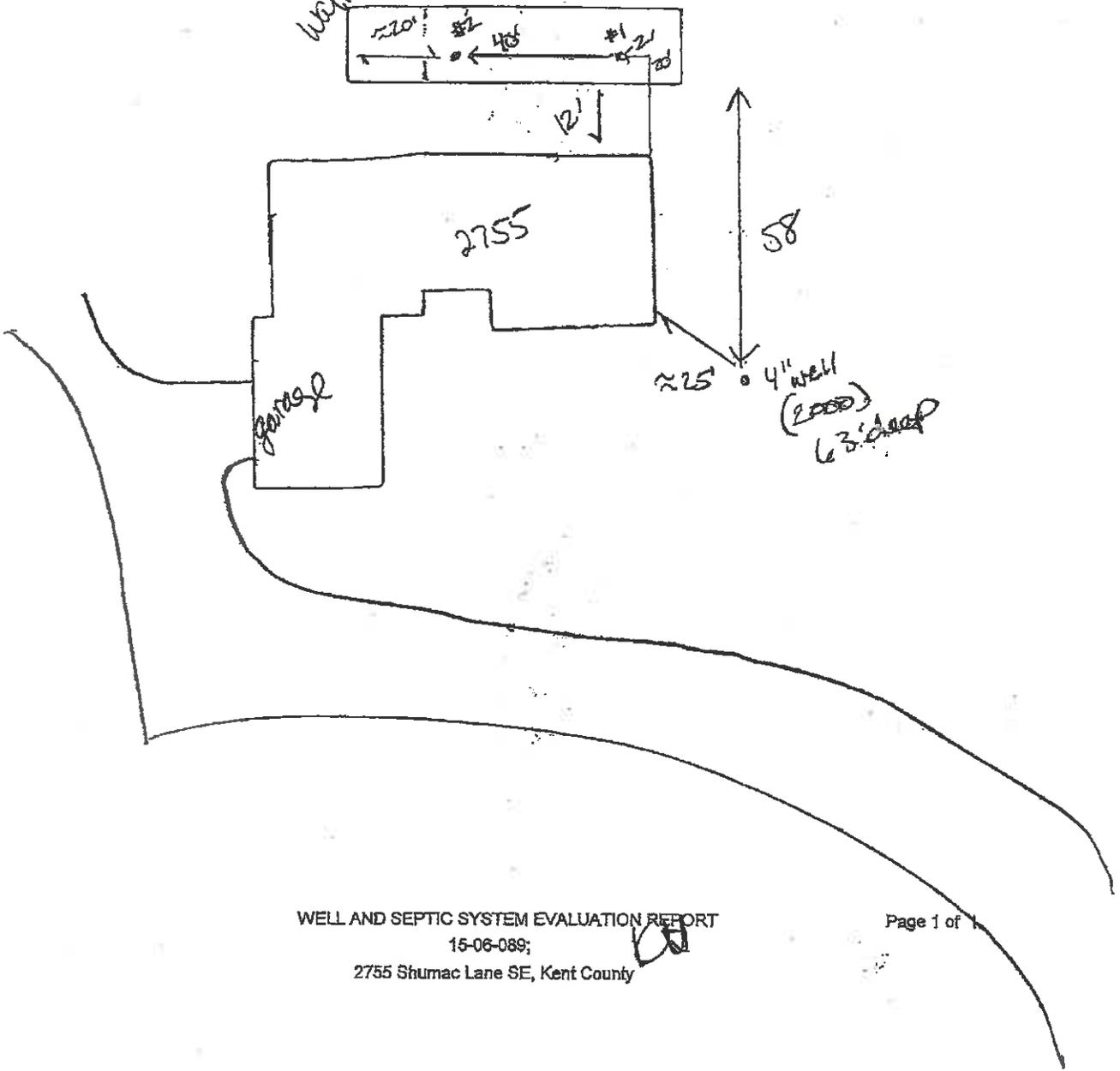
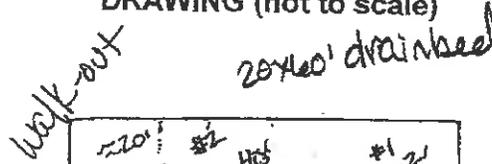
169 Kings Blvd, Sparta, MI 4934

Phone (616) 887-3000 Fax (616) 887-5770

kathleenhill@chartermi.net

www.khillrs.com

DRAWING (not to scale)

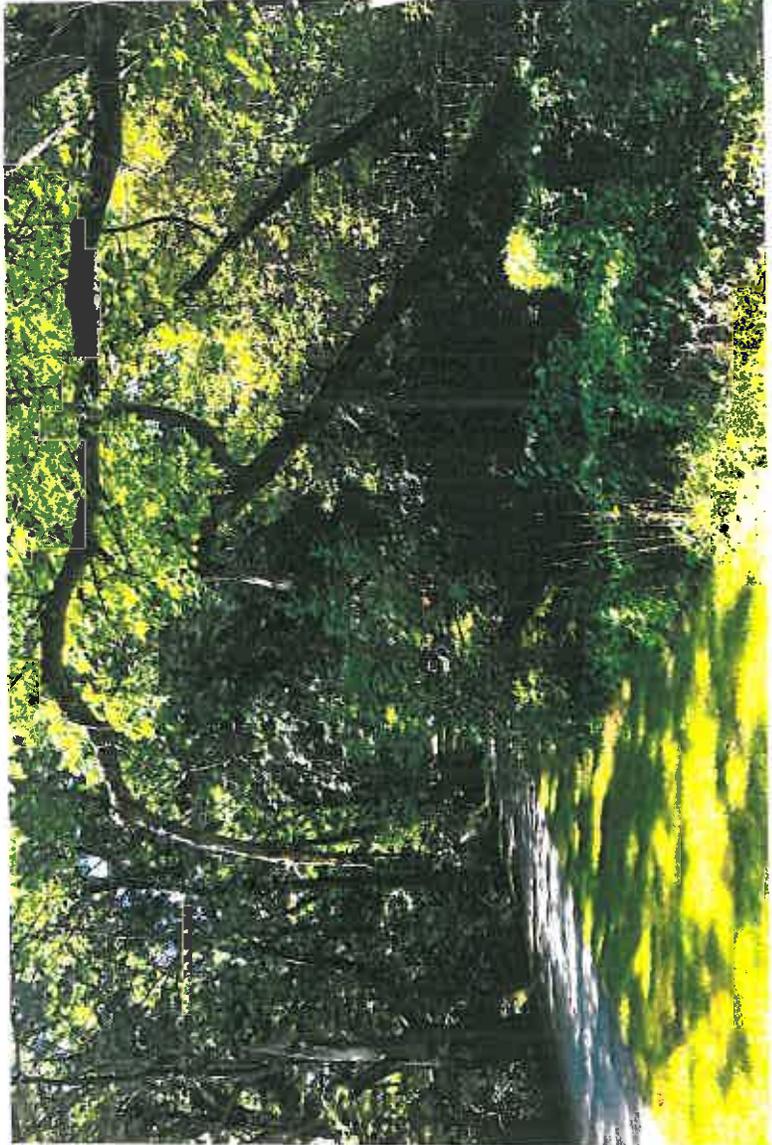


WELL AND SEPTIC SYSTEM EVALUATION REPORT

15-06-089;

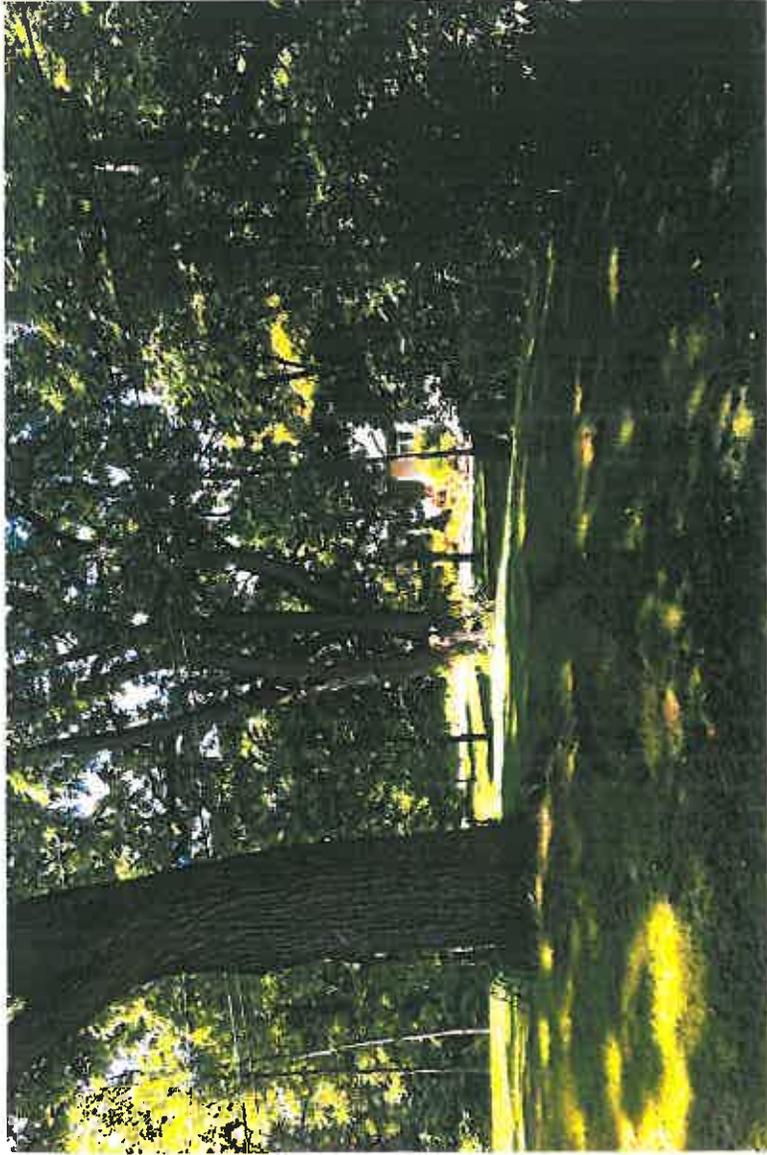
2755 Shumac Lane SE, Kent County

Page 1 of 1

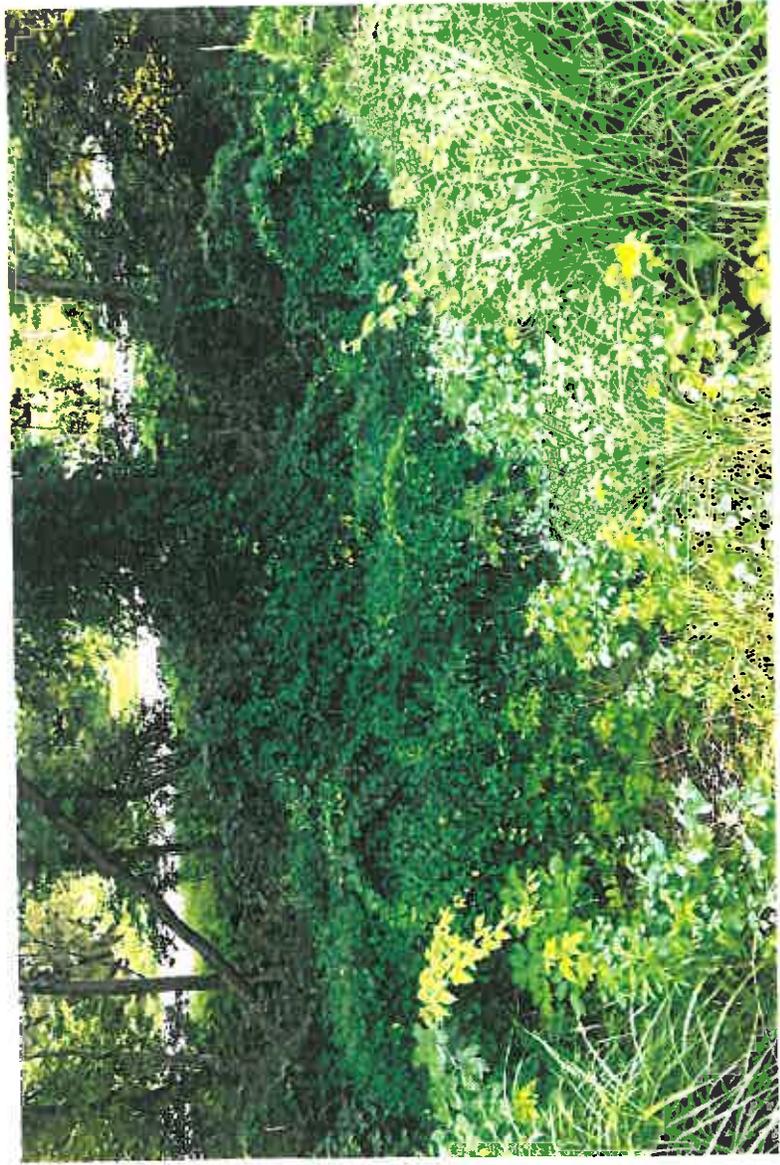
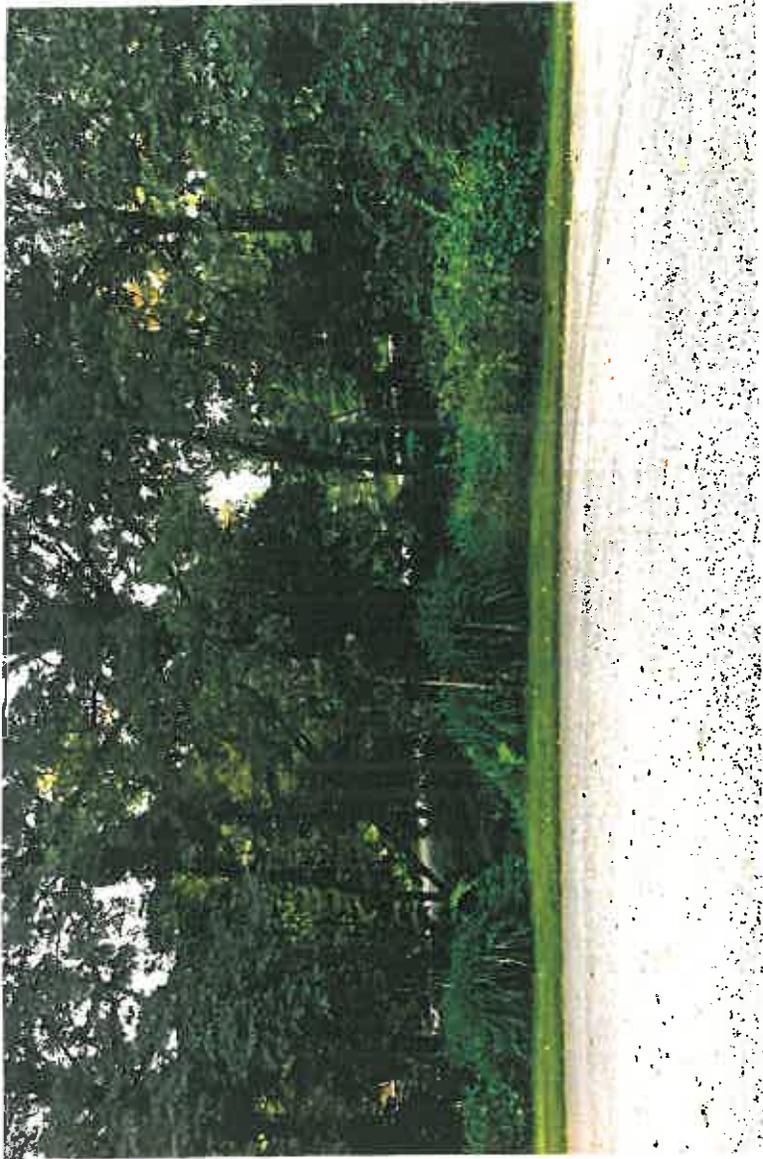


View from Shumac lane
onto driveway of 2755.
The shed is located in these
pictures, but as mentioned
hardly visible.

View From Shumac lane
and corner of Shumac and
28th Street. Shed is in
these pictures, but as
mentioned hardly visible.



West side of
Property. My driveway,
then 30' gully drop
off to 28th st.



North side of property,
off my deck where fully
wooded but most complicating
is the immediate 50 foot
hill all along the north side.

