

City of Streetsboro
Board of Zoning and Building Appeals



AGENDA

Regular Meeting

July 16, 2024 at 7:00 p.m.

555 Frost Rd., Ste. 100, Streetsboro, Ohio 44241

- I. Call to Order
- II. Pledge of Allegiance
- III. Roll Call
- IV. Disposition of Minutes
August 15, 2023, November 21, 2023, December 19, 2023, March 19, 2024, May 21, 2024, June 18, 2024
- V. Old Business
- VI. New Business
Appeal 9098 Diagonal Rd.
Appeal of the administrative decision that denied a lot split application for 9098 Diagonal Rd.
- VII. Citizens' Comments
- VIII. Board Member Comments
The next regularly scheduled Board of Zoning and Building Appeals meeting will be held on Tuesday, August 20, 2024, at 7 p.m. in City Council Chambers, 555 Frost Rd., Streetsboro, Ohio.
- IX. Adjourn

APPLICATION DOCUMENTS RECEIVED 1/8/2024

- Lot split site plan survey dated December 2023 (1 page)
- Septic System site plan (2 pages)

INTERNAL COMMENTS

1.12.24 from Jimmy: Paul and Justin, Upon Planning and Zoning's review of the materials submitted for the proposed lot split for parcel 35-059-00-00-008-000, we are unable to provide a complete review as the following information is not provided on the lot split survey. • Riparian setback boundaries (required by section 1191.10(e)) • Front, side, and rear yard setback lines that meet O-C zoning district requirements – providing evidence of a buildable building envelope. • The location of the Cuyahoga River and the floodplain would also be important to have more clearly drawn with dimensions identified. Based on our existing knowledge of the site our concern is that this proposed lot split would create an unbuildable lot, as our records show that the Riparian setback boundary completely engulfs the proposed parcel. That being said, it is unclear that where the proposed house is preliminarily located on the proposed vacant lot does meets all setback requirements for the O-C zoning district, as dimensions aren't provided.

REVIEW COMMENTS SENT TO APPLICANT:

Mr. Thompson,

The drawing you submitted is adequate as a basis for your lot split application. Your application will not be complete until the drawing is augmented to show:

- *Riparian setback boundaries (required by Streetsboro Zoning Code 1191.10(e)).*
- *Front, side, and rear lot line setbacks applicable in the O/C zoning district (Streetsboro Zoning Code 1123.02, .03, .04) • The location of the Cuyahoga River and the floodplain.*
- *Footprint dimensions of existing structures and distances between them (both proposed lots).*
- *Footprint dimensions of proposed structures. (both proposed lots)*

Applying the above information, your drawing should demonstrate that both of the lots proposed will be buildable after the split. If this is demonstrated to your satisfaction, then you should proceed to order legal descriptions of the proposed lots. Once these items have been submitted, your application will be complete. Please feel free to contact me if there are any questions.

Thank you.

Justin Czekaj

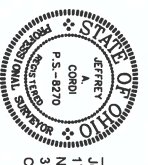
**LOT SPLIT for
9098 DIAGONAL ROAD**

SITUATED IN THE CITY OF STREETSBORO,
PORTAGE COUNTY, OHIO
AND KNOWN AS BEING PART OF ORIGINAL LOTS 50
OF THE FORMER STREETSBORO TOWNSHIP
SCALE: 1" = 40' DATE: DECEMBER, 2023

RECEIVED
JAN - 8 2024

Planning & Zoning Department

- LEGEND:
- IRON PIN FOUND
 - 5/8" REBAR SET (CAP MARKED "CONRO 8270")
 - R/W RIGHT OF WAY
 - CENTERLINE
 - PROPERTY LINE
 - OTHER PROPERTY LINE
 - LOT LINE
 - FLOOD ZONE LIMIT
 - RM/R
 - EXISTING BUILDING



Jeffrey A. Condit, P. S. 8270
170 Hazel Drive
Northfield, Ohio 44067
330-388-8148
ConditSurvey@gmail.com

I certify that this survey was made in accordance with Chapter 4733-37 of the Ohio Administrative code governing minimum standards for boundary surveys. Dimensions on this Plat are expressed in feet and decimal parts thereof.

The Basis of Bearings is the centerline of Diagonal Road, N. 32°11'28"E., as defined on the survey plat indexed in P-18550 of the Portage County Tax Map Records.
SCALE: 1" = 40'

R/W N 32°11'28" E 467.96' R/W DIAGONAL ROAD CH 155.60' R/W N 32°11'28" E 460.66'

PARCEL A
3.0792 total acres
0.3221 acre in R/W
part of 9098 Diagonal Road
Tyler Thompson
Inst. #202217246

PARCEL B
3.0793 total acres
0.3200 acre in R/W
part of 9098 Diagonal Road
Tyler Thompson
Inst. #202217246

2536 State Route 303
Michael Myers
Inst. #202005648

9020 Diagonal Road
Residential
Inst. #201611903
P-2782

Zone AE
Map Number 39133C01310
Effective 8-18-2009

Zone AE
Map Number 39133C01310
Effective 8-18-2009

V/L Price Road
Joseph Robert Harris
Inst. #201906401
P-13501

V/L Price Road
Joseph Harris
Inst. #202314618
P-13588

N 77°45'52" W 390.61' to C/L

S 10°56'27" W 436.60'

N 76°53'21" E 221.06' to C/L
S 10°56'27" W 104.18'

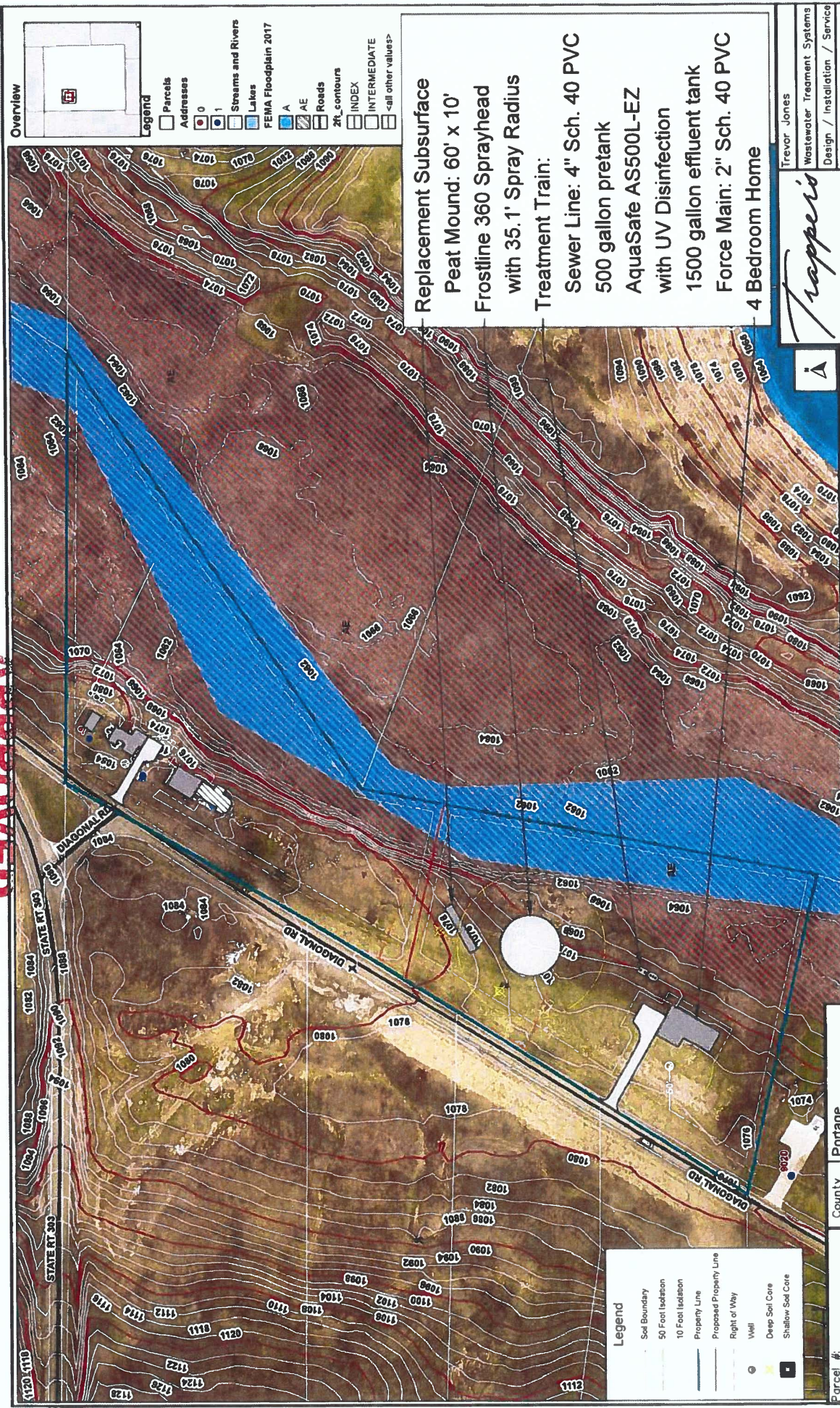
S 58°38'27" W 802.36'

S 89°16'53" E 492.62' to C/L

Lot 50
Lot 60

STATE ROUTE 303 R/W VARIES

APPROVED
17.20.24



Overview

Legend

- Parcels
- Addresses
- Streams and Rivers
- Lakes
- FEMA Floodplain 2017
- AE
- Roads
- 2ft contours
- INDEX
- INTERMEDIATE
- <all other values>

Replacement Subsurface
 Peat Mound: 60' x 10'
 Frostline 360 Sprayhead
 with 35.1' Spray Radius
 Treatment Train:
 Sewer Line: 4" Sch. 40 PVC
 500 gallon pretank
 AquaSafe AS500L-EZ
 with UV Disinfection
 1500 gallon effluent tank
 Force Main: 2" Sch. 40 PVC
 4 Bedroom Home

Trapper Jones
 Wastewater Treatment Systems
 Design / Installation / Service
 330-540-0847
 TrevorJones065@gmail.com
 Date: 12/18/2023

Septic System Site Plan

RECEIVED
 JAN - 8 2024
 Planning & Zoning Department

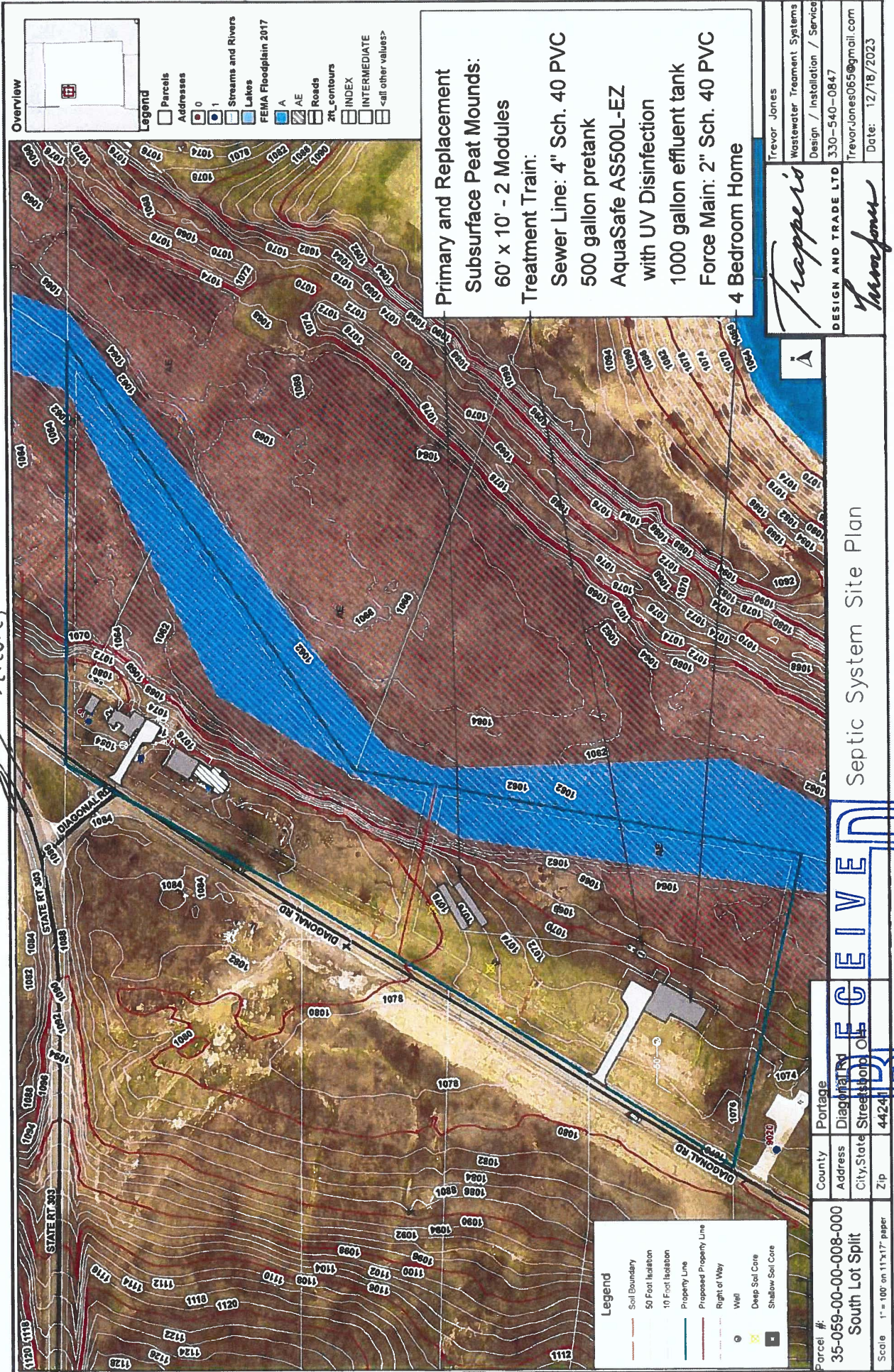
Parcel #:	35-059-00-00-008-000
County:	Portage
Address:	Diagonal Rd
City, State:	Streetsboro, OH
Zip:	44224
Scale:	1" = 100' on 11"x17" paper

Legend

- Soil Boundary
- 50 Foot Isolation
- 10 Foot Isolation
- Property Line
- Proposed Property Line
- Right of Way
- Well
- Deep Soil Core
- Shallow Soil Core

APPROVED

1-20-23



Septic System Site Plan

Trevor Jones
 Wastewater Treatment Systems
 Design / Installation / Service
 330-540-0847
 Trevor.Jones065@gmail.com
 Date: 12/18/2023

Trapper
 DESIGN AND TRADE LTD
Thompson

Parcel #:
 35-059-00-00-008-000
 South Lot Split

County: Portage
 Address: Diagonal Rd
 City, State: Streetsboro, OH
 Zip: 44224

Scale: 1" = 100' on 11"x17" paper

RECEIVED

JAN - 8 2024

Planning & Zoning Department

APPLICATION DOCUMENTS RECEIVED 5/1/2024:

- Legal Description Parcel A (1 page)
- Legal description Parcel B (2 page)
- Deed (4 page)
- Lot split site plan survey dated April 2024 (1 page)

REVIEW COMMENTS TO APPLICANT MAY 6, 2024:

Tyler,

I have reviewed your submittal on April 27, 2024. First thing to note is that the document is not signed or dated by the Surveyor of Record. Any future submittals should include this certification as it required by State Law. Regarding the lot split, the highlighted information below was still not included in the information submitted. Therefore, your application is incomplete.

Thank you.

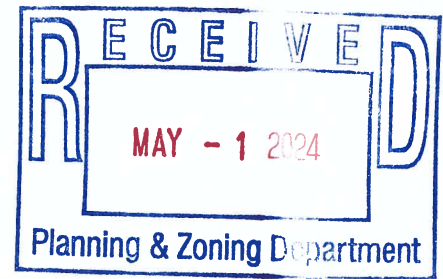
Justin

Highlighted items not included:

- *Riparian setback boundaries (required by Streetsboro Zoning Code 1191.10(e)).*
- *Front, side, and rear lot line setbacks applicable in the O/C zoning district (Streetsboro Zoning Code 1123.02, .03, .04)*
- *Footprint dimensions of existing structures and distances between them (both proposed lots).*
- *Footprint dimensions of proposed structures. (both proposed lots)*

Applying the above information, your drawing should demonstrate that both of the lots proposed will be buildable after the split.

9098 Diagonal Road
PARCEL A
3.0792 total acres
0.3221 acre in R/W



Situated in the City of Streetsboro, Portage County, Ohio and known as being part of Original Lot 50 of the former Streetsboro Township, also being part of land conveyed to Tyler Thompson by deed recorded in Instrument Number 202217246 of the Portage County Records and more fully described as follows:

Commencing at the intersection of the centerline of State Route 303 (right of way varies) and the centerline of Diagonal Road (County Highway 155, 60 foot right of way), witness a 5/8 inch steel rebar found S. 89°28'06"E., 34.95 feet; Thence S. 32°18'32"W., 460.66 feet along the centerline of said Diagonal Road to the **TRUE PLACE OF BEGINNING** for the land herein described, witness a capped 5/8 inch steel rebar set S. 76°46'18"E., 31.74 feet (5/8 inch diameter, 30 inches long, cap marked "CORDI 8270", typical);

1) Thence **S. 76°46'18"E., 221.06 feet** along the new division line to the approximate centerline of the Cuyahoga River and the westerly line of a parcel now or formerly owned by Joseph Harris as recorded in Instrument Number 202314618 of the Portage County Records, witness a capped rebar set N. 76°46'18"W., 100.00 feet;

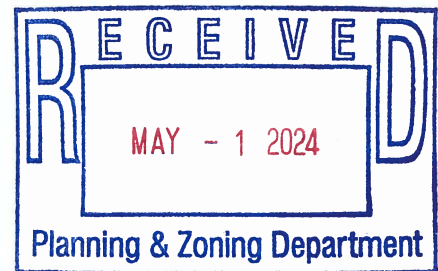
2) Thence **S. 11°03'31"W., 436.60 feet** along the approximate centerline of the Cuyahoga River and the westerly line of said Harris parcel to the northeasterly corner of a parcel now or formerly owned by Randall A. Morrow as recorded in Instrument Number 201611903 of the Portage County Records, witness a capped 5/8 inch steel rebar found N. 78°08'59"W., 108.56 feet;

3) Thence **N. 77°38'47"W., 390.61 feet** along the northerly line of said Morrow parcel to the centerline of said Diagonal Road, witness a 3/4 inch iron pinch pipe found S. 77°38'47"E., 30.31 feet;

4) Thence **N. 32°18'32"E., 467.96 feet** along the centerline of said Diagonal Road to the **TRUE PLACE OF BEGINNING** and containing **3.0792 acres** of land of which 0.3221 acre is within the right of way limits of said Diagonal Road as surveyed by Jeffrey A. Cordi (Ohio Professional Surveyor Number 8270) in April of 2024 and subject to all legal highways easements and restrictions of record.

The Basis of Bearings is Grid North of the Ohio Coordinate System North Zone NAD83.

9098 Diagonal Road
PARCEL B
3.0793 total acres
0.3200 acre in R/W



Situated in the City of Streetsboro, Portage County, Ohio and known as being part of Original Lot 50 of the former Streetsboro Township, also being part of land conveyed to Tyler Thompson by deed recorded in Instrument Number 202217246 of the Portage County Records and more fully described as follows:

Commencing at the intersection of the centerline of State Route 303 (right of way varies) and the centerline of Diagonal Road (County Highway 155, 60 foot right of way) and the **TRUE PLACE OF BEGINNING** for the land herein described witness a 5/8 inch steel rebar found S. 89°28'06" E., 34.95 feet;

1) Thence **S. 89°09'49"E., 492.62 feet** along the southerly line of a parcel now or formerly owned by Michael Myers as recorded in Instrument Number 202005648 of the Portage County Records to the southeasterly corner of said Myers parcel on the approximate centerline of the Cuyahoga River, witness a capped rebar set (5/8 inch diameter, 30 inches long, cap marked "CORDI 8270", typical) N. 89°09'49"W., 100.00 feet;

2) Thence **S. 56°43'31"W., 602.36 feet** along the approximate centerline of the Cuyahoga River and the northerly line of a parcel now or formerly owned by Joseph Robert Harris as recorded in Instrument Number 201706401 of the Portage County Records to the westerly corner of said Harris parcel, also being the easterly corner of a parcel now or formerly owned by Joseph Harris as recorded in Instrument Number 202314618 of the Portage County Records;

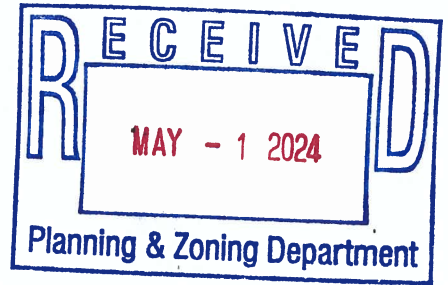
3) Thence **S. 11°03'31"W., 104.18 feet** along the westerly line of said Harris parcel to a point, witness a capped steel rebar set N. 76°46'18"W., 100.00 feet;

4) Thence **N. 76°46'18"W., 221.06 feet** along the new division line to the centerline of said Diagonal Road, witness a capped steel rebar set S. 76°46'18"E., 31.74 feet;

5) Thence **N. 32°18'32"E., 460.66 feet** along the centerline of said Diagonal Road to the **TRUE PLACE OF BEGINNING** and containing **3.0793 acres** of land of which 0.3200 acre is within the right of way limits of said Diagonal Road as surveyed by

Jeffrey A. Cordi (Ohio Professional Surveyor Number 8270) in April of 2024 and subject to all legal highways easements and restrictions of record.

The Basis of Bearings is Grid North of the Ohio Coordinate System North Zone NAD83.



TRANSFERRED 50
Sec.319.54 (G-2)
Sec.319.202: 020.00

OCT 06 2022 *df*

Arnet Espinoza
Portage County Auditor



Doc ID: 006813680004 Type: OFF
Recorded: 10/06/2022 at 12:22:47 PM
Fee Amt: \$50.00 Page 1 of 4
Portage County Ohio
Lori Galcer County Recorder
File 202217246

GENERAL WARRANTY DEED

I, Jeffrey M. Allen, unmarried, the Grantor, for the consideration of TEN DOLLARS (\$10.00) and other valuable consideration received to his full satisfaction do Give, Grant, Bargain, Sell and Convey with general warranty covenants to Tyler Thompson, the Grantee, the following described premises:

Situated in the City of Streetsboro, County of Portage, and State of Ohio:

And known as being part of Lot No. 60 In Streetsboro; beginning at a marked stone in the West Line of said lot, 11 chains, 95 links, 788.70 feet south of the Northwest corner of said lot and running thence North 0 deg, 30' East, 11 chains, 95 links, 788.70 feet to the Northwest corner of the lot; Thence South 88 deg, 30' East 22 chains, 92 links, 1,512.72 feet to the center of the Cuyahoga River; Thence South 54 deg. 30' West, 8 chains, 52 links, 562.32 feet; Thence South 68 deg West, 2 chains, 50 links, 165.00 feet; Thence South 0 deg. 30' West, 1 chain, 50 links, 99 feet; Thence South 9 deg 45' East, 4 chains, 40 links, 290.40 feet; Thence North 89 deg. 30' West, 75 links, 49.50 feet; Thence South 0 deg. 30' West 1 chain, 43 links, 94.38 feet; Thence North 74 deg. 30' West, 5 chains, 55 links, 366.30 feet; Thence North 88 deg. 30' West, 8 chains, 38 links, 553.08 feet to the place of the beginning, containing twenty (20) acres, more or less, but subject to all legal highways.

Excepting therefrom the following Parcels:

PARCEL "A"

106-2022
TAX MAP DEPT.
LEGAL DESCRIPTION
 SUFFICIENT DEFICIENT
 NO DIVISION OF LAND

Situated in the City of Streetsboro, County of Portage and State of Ohio and known as being part of Lot 60 Streetsboro Township and more fully described as follows;
Beginning at the centerline intersection of Lot 60 with Diagonal Road (60' R/W) and State Route 303 (R/W Varies) at which a 1/2" iron pin found;
Thence along centerline of Diagonal Road S 32°11'28" W 329.68 ft. to a point;
Thence N 89°30'20" W 862.89 ft. to a capped iron pin set on the west line of Lot 60 and

Thence along the west line of Lot 60 N 00°34'19" W 284.63 ft. to the NW. Corner of Lot 60 and centerline of State Route 303 and passing over a 1 1/4" iron pipe bent 33.00 ft. off said centerline;

Thence along said centerline and lot line S 89°16'53" E 1041.42 ft. to the place of beginning containing 6.1798 acres more or less and having 0.9813 acres of land in the road right of way.

As surveyed by Glen A. Gibson P.S., #7107 November 2017.

Basis of bearing the north line of Lot 60 Per Plat -13801 Portage County Records N 89°16'53" W.

All iron pin set are 5/8"x 30" rebar capped Glen A. Gibson #7107.

PARCEL "B"

Situated In the City of Streetsboro, County of Portage and State of Ohio and known as being part of Lot 60 Streetsboro Township and more fully described as follows;

Beginning at the centerline intersection of Lot 60 with Diagonal Road (60' R/W) and State Route 303 (R/W Varies) at which a 1/2" iron pin found;

Thence along centerline of Diagonal Road S 32°11'28" W 329.68 ft. to a point and true place of beginning;

Thence continual along said centerlines S 32°11'28" W 200.00 ft. to a point;

Thence N 89°30'20" W 176.30 ft. to a capped iron pin set and passing over a capped iron pin set 35.26 ft. off said centerline;

Thence N 88°09'33" W 578.76 ft. to a capped Iron pin set on the west line of Lot 60;

Thence along the west line of Lot 60 N 00°34'19" W 156.60 ft. to a capped iron pin set;

Thence S 89°30'20" E 862.89 ft., true place of beginning and passing over a capped iron pin set 35.26 ft. off centerline containing 3.0691 acres of land more or less and having 0.1377 acres of land in the road right of way.

As surveyed by Glen A. Gibson P.S. #7107 November 2017.

Basis of bearing the north line of Lot 60 Per Plat -13801 Portage County Records N 89°16'53" W.

All iron pin set are 5/8"x 30" rebar capped Glen A. Gibson #7107.

PARCEL "C".

Situated in the City of Streetsboro, County of Portage and State of Ohio and known as being part of Lot 60 Streetsboro Township and more fully described as follows;

Beginning at the centerline intersection of Lot 60 with Diagonal Road (60' R/W) and State Route 303 (R/W Varies) at which a 1/2" iron pin found;

Thence along centerline of Diagonal Road S 32°11'28" W 529.68 ft. to a point and true place of beginning;

Thence continuing along said centerline S 32°11'28" W 200.00 ft. to a point;

Thence N 82°09'17" W 475.13 ft. to a capped iron pin set on the west line of Lot 60;

Thence along the west line of Lot 60 N 00°34'19" W 123.00 ft. to a capped iron pin set;

Thence S 88°09'33" E 578.76 ft. to a capped iron pin set;

Thence S 89°30'20" E 176.30 ft. true place of beginning and passing over a capped iron pin set 35.26 ft. off said centerline containing 2.4988 acres of land more or less and having 0.1377 acres of land in the road right of way.

As surveyed by Glen A. Gibson P.S. #7107 November 2017.

Basis of bearing the north line of Lot 60 Per Plat -13801 Portage County Records N 89°16'53" W.

All iron pin set are 5/8"x 30" rebar capped Glen A. Gibson #7107.

PARCEL "D"

Situated in the City of Streetsboro, County of Portage and State of Ohio and known as being part of Lot 60 Streetsboro Township and more fully described as follows;

Beginning at the centerline intersection of Lot 60 with Diagonal Road (60' R/W) and State Route 303 (R/W Varies) at which a 1/2" iron pin found;

Thence along centerline of Diagonal Road S 32°11'28" W 729.68 ft. to a point and true place of beginning;

Thence continual along said centerline S 32°11'28" W 200.00 ft. to a point;

Thence N 89°30'20" W 538.14 ft. to a capped iron pin found Szuch #7288 on the west line of Lot 60 and passing over a 1/2" open top pipe found 35.26 ft. off said centerline;

Thence along the west line of Lot 60 N 00°34'19" W 231.00 ft. to a capped iron pin set;

Thence S 82°09'17" E 475.13 ft. to a capped iron pin set;

Thence S 89°30'20" E 176.30 ft. place of beginning and passing over a capped iron pin set 35.26 ft. off said centerline containing 2.6417 acres of land more or less and having 0.1377 acres of land in the road right of way.

As surveyed by Glen A. Gibson P.S. #7107 November 2017.

Basis of bearing the north line of Lot 60 Per Plat -13801 Portage County Records N 89°16'53" W.

All iron pin set are 5/8"x 30" rebar capped Glen A. Gibson #7107.

Parcel Number: 35-059-00-00-008-000 ✓

Property Address: 9098 Diagonal Rd., Streetsboro, OH 44241

Prior Instrument Reference: Instrument #202215621 of the Portage County Records

be the same more or less, but subject to all legal highways.

To Have and to Hold the above granted and bargained premises, with the appurtenances thereof, unto the said Grantee, his heirs and assigns forever.

And the said Grantor for his heirs, executors and administrators covenants with

APPLICATION DOCUMENT RECEIVED 5/7/2024:

- Lot split site plan survey dated May 7, 2024 (1 page)

REVIEW COMMENTS TO APPLICANT MAY 15, 2024:

Mr. Thompson,

The city has reviewed the lot split submitted on May 7, 2024. The lot split as shown does not allow for two buildable lots due to the riparian setback regulations (Chapter 1191) of the City of Streetsboro. The comment from my previous emails has not been satisfied "Applying the above information, your drawing should demonstrate that both of the lots proposed will be buildable after the split". Therefore, the application for the above referenced address is denied. If you would like to appeal this decision, you may submit to the Board of Zoning Appeals. The board will consider appeals based on the regulations set forth in Chapter 1191 of the Codified Ordinances.

Thank you.

Justin

**LOT SPLIT for
9098 DIAGONAL ROAD**

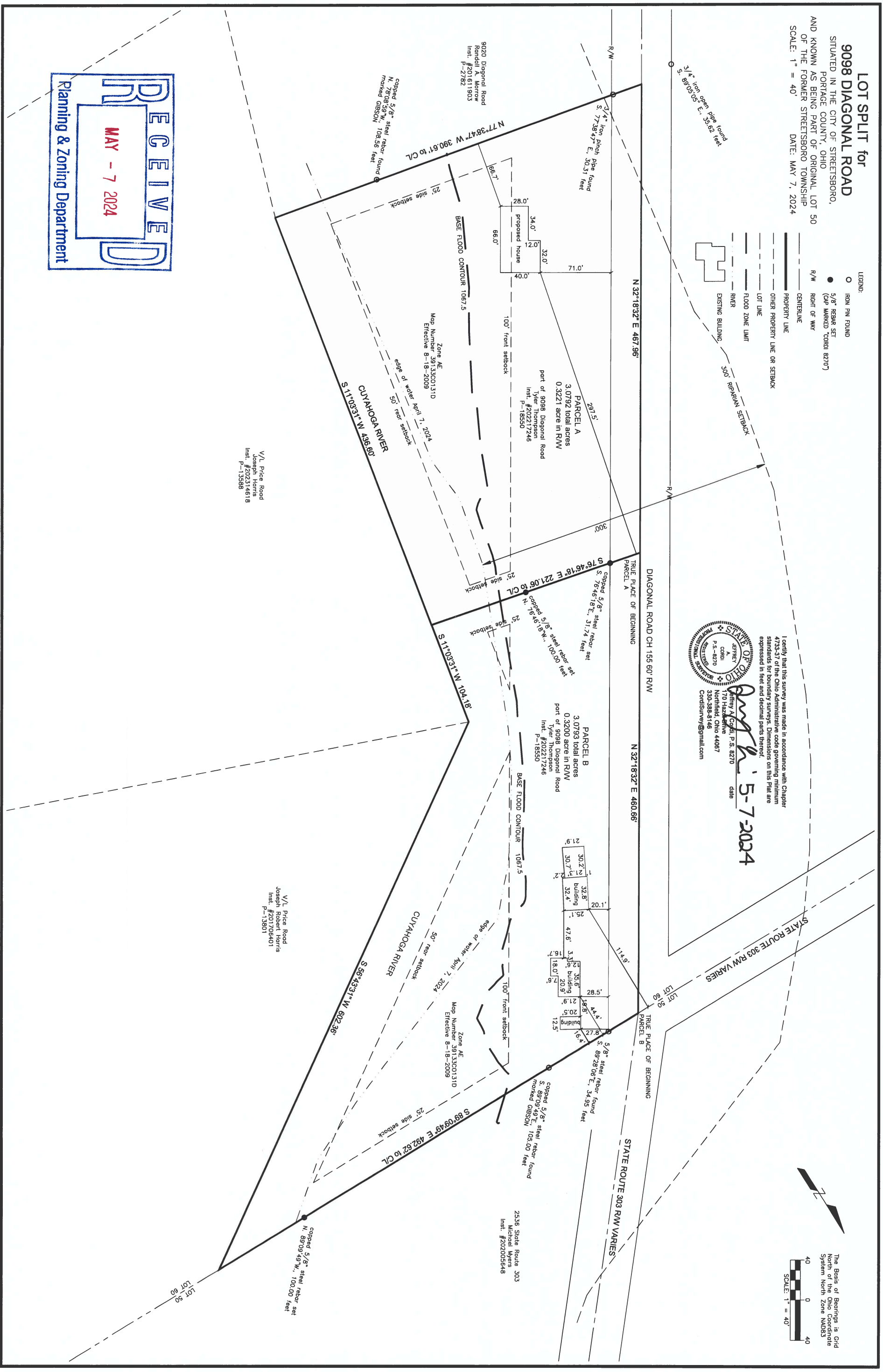
SITUATED IN THE CITY OF STREETSBORO,
PORTAGE COUNTY, OHIO
AND KNOWN AS BEING PART OF ORIGINAL LOT 50
OF THE FORMER STREETSBORO TOWNSHIP
SCALE: 1" = 40'
DATE: MAY 7, 2024

- LEGEND:
- IRON PIN FOUND
 - 5/8" REBAR SET (CAP MARKED (CONR) 8270)
 - R/W
 - RIGHT OF WAY
 - CENTERLINE
 - PROPERTY LINE
 - OTHER PROPERTY LINE OR SETBACK
 - LOT LINE
 - FLOOD ZONE LIMIT
 - RIVER
 - EXISTING BUILDING
 - 300' REAR/IN N SETBACK



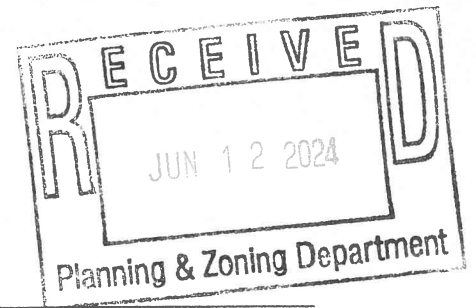
I certify that this survey was made in accordance with Chapter 4733-37 of the Ohio Administrative Code governing minimum standards for boundary surveys. Dimensions on this plat are expressed in feet and decimal parts thereof.

Jeffrey A. Cogli
5-7-2024
date



RECEIVED
MAY - 7 2024
Planning & Zoning Department

BEFORE THE CITY OF STREETSBORO
BOARD OF ZONING AND BUILDING APPEALS



Tyler Thompson, Appellee/Applicant

Case No. _____

Date: June 12, 2024

Background

My name is Tyler Thompson. I want to subdivide my property, 6.161 acres off Diagonal Road in Streetsboro along the Cuyahoga River, into two sublots of about 3 acres each, maintaining the existing structures on the north sublot and building a future single-family dwelling on the south sublot. The existing structures include two dwellings and a garage. I want to (1) convert the dwelling farthest south ("Structure A") into a garage by removing a portion of it, (2) expand the footprint of the other dwelling to conform to the zoning code ("Structure B"), maintaining it as a single-family dwelling; and (3) turn the existing garage into a shed (accessory building for Structure B). See the plan presented to the City engineer, which I discuss at the hearing.

Per Streetsboro Codified Ordinance ("SCO") 1177.03, I submitted a proposed minor subdivision application and plan to the City engineer on May 7, 2024. On May 15, 2024, the City engineer emailed me to deny the application "due to the riparian setback regulations (Chapter 1191) of the City of Streetsboro" (the "May 15 Denial").

While I agree that the existing structures and the future dwelling will be in the riparian setback, SCO Chapter 1191 permits nonconforming structures (Structures A and B) and allows a variance for the future dwelling. I believe my plan qualifies for the variance under the facts and circumstances to be explained at the hearing. I interpret the May 15 Denial to mean that I need to appeal and apply to this Board for a variance from the riparian setback (and, regarding the future dwelling, for an area variance from the front yard setback, SCO 1123.04, see below).

Appeal and Court Action

Per the City's subdivision regulations, SCO 1175.07, an appeal of the May 15 Denial is governed by Ohio R.C. Chapter 711. Specifically, Ohio R.C. 711.09 allows the person whose plat (plan) has been refused (denied) by the City engineer to file a complaint in the common pleas court within 60 days of the refusal.

Further, SCO 1191.17(c) provides that any party aggrieved by a riparian setback determination may appeal to this Board. SCO 1105.11(b)(1) provides that the appeal must be filed with the zoning inspector within 20 business days of the action. See SCO 1105.08.

Therefore, because of the where-to-appeal ambiguity, I will be filing a complaint with the common pleas court (per Ohio R.C. 711.09) along with this application (per SCO 1191.17(c)).

Application for Appeal

Per SCO 1105.11, appeals to this Board may be made by any person who disagrees with the formal action taken by, in this case, the City engineer provided:

(a) The person is the applicant (because he has standing to appeal).

(b)(2) The application is complete and contains all the following:

A. The provision which was the subject of the decision. A copy of SCO Chapter 1191 is attached as **Exhibit A**.

B. The decision or part of the decision that is being appealed. A copy of the May 15 Denial is attached as **Exhibit B**.

C. A clear and concise statement of the decision the applicant wants the Board to consider:

SCO Chapter 1191 governs development within a riparian setback and applies to my plan (SCO 1191.09(c)(1)B-C). The setback is 300 feet from the river's edge and engulfs most of my property. Although the existing structures are within the setback, they are about 60 feet above the river's flow line (and not in the 100-year flood plain). My plan to bring Structure B, the dwelling, and Structure A, the garage, into conformity with the zoning code complies with the setback concerning nonconforming structures.

SCO 1191.15(c) provides that existing structures will be considered nonconforming and may be expanded if (1) the expansion conforms to the zoning code, which my plan does, (2) does not impact the river channel or 100-year flood plain, which my plan will not, and (3) the expansion will not exceed 15% of the existing footprint of the structures, which, considering my plan is to remove a portion of Structure A, the net increase will be less than 15% of the existing footprints of Structures A and B.

However, my plan for a future dwelling on the south subplot will need a variance from the riparian setback (SCO 1191.16). A few court cases have addressed the variance process in ordinances like SCO Chapter 1191 and have found it reasonable and, importantly, often construed to provide relief. *K. Hovnanian Oster Homes, LLC v. Lorain Zoning Bd. of Appeals*, 9th Dist. Lorain No. 14CA010677, 2015-Ohio-5317; *Sumner v. Kent*, 11th Dist. Portage No. 2012-P-0019, 2012-Ohio-5122.

SCO 1191.16(a) provides for variances from the riparian setback. The standard is practical difficulty. Since my residential expansion is less than 15% of the footprints of the existing structures, SCO 1191.16(b)(1)-(4) does not apply. Since my request is for a minor subdivision, SCO 1191.16(c)(1)-(2) does not apply.

SCO 1191.16(e) outlines the factors to consider in determining whether to grant a variance, which will be further addressed at the hearing.

D. Reasons why the City engineer's action was inappropriate:

The City engineer's action was inappropriate because it was incomplete. Recognizing that R.C. Chapter 1191 permits nonconforming structures and expressly provides for a variance from the riparian setback, he should have granted approval subject to my obtaining the variance.

E. Reasons indicating why the relief requested by the applicant is appropriate:

As stated, R.C. Chapter 1191 recognizes that the riparian setback may adversely impact property use and value, providing for variances. As further explained at the hearing, my plan meets the variance requirements.

SCO 1191.16(e) provides that in making a variance determination, the Board shall consider (1) varying the front, rear, and side yard setbacks before the riparian setbacks are varied, and (2) variances should not be granted for asphalt or concrete paving in the riparian setbacks in any situation where gravel or porous pavement will do the job. Neither of these mandatory factors apply here.

SCO 1191.16(f) provides that the board may consider several discretionary factors in determining variance. I will address the relevant factors at the hearing.

Notably, numerous nonconforming structures exist or riparian-setback variances have been granted along my side of Diagonal Road because 10 houses are within the setback (see County Auditor GIS mapping attached as **Exhibit C**, along with Diagonal Road itself and the intersection improvement project at Diagonal Road and SR 303 (Project POR-303-4.50-PID 116254).

F. The appropriate fee per SCO 1107.08, \$150.00, has been paid (plus I will pay the cost of notices).

(3) The zoning inspector shall forward a complete application to the clerk of this Board along with the file of the matter being appealed. The file shall contain all papers constituting the record on which the City engineer decided.

Respectfully submitted by:

Tyler Thompson, 9098 Diagonal Road
Streetsboro, Ohio 44241
330-842-7858

Riparian Setback and Wetland Setback Regulations

- 1191.01 Comprehensive Storm Water Management Plan.
- 1191.02 Purpose.
- 1191.03 Disclaimer of liability.
- 1191.04 Conflicts, severability, nuisances, and responsibility.
- 1191.05 Effective date.
- 1191.06 Definitions.
- 1191.07 Scope.
- 1191.08 Consultations.
- 1191.09 Riparian and wetland setback requirements.
- 1191.10 Establishment of designated watercourses and riparian setbacks.
- 1191.11 Establishment of wetland setbacks.
- 1191.12 Procedure for wetland setbacks.
- 1191.13 Uses permitted in riparian and wetland setbacks.
- 1191.14 Uses prohibited in riparian and wetland setbacks.
- 1191.15 Non-conforming structures or uses in riparian and/or wetland setbacks.
- 1191.16 Variances within riparian and/or wetland setbacks.
- 1191.17 Boundary interpretation and appeals procedure.
- 1191.18 Inspection of riparian and wetland setback.
- 1191.19 Violations.
- 1191.99 Penalties.

CROSS REFERENCES

Construction site soil erosion, sediment and other wastes and storm water runoff regulations - see P. & Z. Chap. 1193

Post-construction water quality run off regulations - see P. & Z. Chap. 1195

Illicit discharge and stormwater rules - see P. & Z. Chap. 1197

1191.01 COMPREHENSIVE STORM WATER MANAGEMENT PLAN.

The Riparian and Wetland Setback Plan developed to meet this regulation will be coordinated and combined with the Post-Construction Water Quality Plan and the Construction Site Conservation Plan that are developed for the same site. These plans will be titled and numbered in one consecutive sequence to make a Comprehensive Storm Water Management Plan for the site. The Comprehensive Storm Water Management Plan so developed will serve as the Storm Water Pollution Prevention Plan (SWP3) required by Ohio EPA as part of the NPDES Storm Water Permit for General Construction. (Ord. 2009-73. Passed 6-22-09.)

1191.02 PURPOSE.

(a) The intent of this regulation is to:

- (1) Protect the receiving stream's physical, chemical, and biological characteristics and to maintain stream functions.
- (2) Establish consistent, technically feasible and operationally practical standards to achieve a level of storm water quantity and quality control that will minimize damage to public and private property and degradation of water resources, and will promote and maintain the health, safety, and welfare of the residents of the Community.
- (3) Preserve to the maximum extent practicable the natural drainage characteristics of the community and building sites and minimize the need to construct, repair, maintain, and replace enclosed storm drain systems.
- (4) Preserve to the maximum extent practicable natural infiltration and ground water recharge, and maintain subsurface flow that replenishes water resources, wetlands, and wells.
- (5) Prevent unnecessary stripping of vegetation and loss of soil, especially adjacent to water resources and wetlands.
- (6) Reduce the need for costly maintenance, costly mitigation, and repairs to roads, embankments, sewage systems, ditches, water resources, wetlands, and storm water management practices that are the result of inadequate storm water control due to the loss of riparian areas and wetlands.
- (7) Reduce the long term expense of remedial projects needed to address problems caused by inadequate storm water control.

(Ord. 2009-73. Passed 6-22-09.)

1191.03 DISCLAIMER OF LIABILITY.

Neither submission of a plan under the provisions herein, nor compliance with the provisions of these regulations, shall relieve any person or entity from responsibility for damage to any person or property that is otherwise imposed by law. (Ord. 2009-73. Passed 6-22-09.)

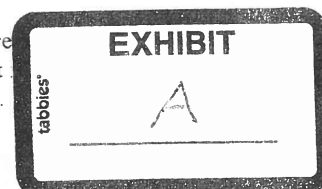
1191.04 CONFLICTS, SEVERABILITY, NUISANCES, AND RESPONSIBILITY.

(a) Where this regulation imposes a greater restriction upon land than is imposed or required by other Community provisions of law, ordinance, contract or deed, the provisions of this regulation shall prevail.

(b) If a court of competent jurisdiction declares any clause, section, or provision of these regulations invalid or unconstitutional, the validity of the remainder shall not be affected thereby.

(c) These regulations shall not be construed as authorizing any person to maintain a private or public nuisance on his or her property. Compliance with the provisions of this regulation shall not be a defense in any action to abate such nuisance.

(d) Failure of the Community to observe or recognize hazardous or unsightly conditions or to recommend corrective action shall not relieve the owner from the responsibility for the condition or damage resulting there from, and shall not result in the Community, its officers, employees, or agents being responsible for any condition or damage resulting there from. (Ord. 2009-73.)

1191.05 EFFECTIVE DATE.

1191.06 DEFINITIONS.

As used in this chapter, the following words and terms are defined as follows:

- (a) APPROVING AUTHORITY: The official responsible for administering the applicable program(s).
- (b) BEST MANAGEMENT PRACTICE (BMP): Any practice or combination of practices that is determined to be the most effective, practicable (including technological, economic, and institutional considerations) means of preventing or reducing the amount of pollution generated by nonpoint sources of pollution to a level compatible with water quality goals. BMPs may include structural practices, conservation practices and operation and maintenance procedures.
- (c) BOG: A rare type of wetland containing acid tolerant mosses, plants insects and animals. Bogs filter and use acidic ground, surface and rain water and prevent flooding by absorption. This very sensitive habitat is of high importance to biodiversity and flood control.
- (d) CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC): A person that has subscribed to the Code of Ethics and has met the requirements established by the CPESC Council of Certified Professional in Erosion and Sediment Control, Inc. to be a Certified Professional in Erosion and Sediment Control.
- (e) CHANNEL: A natural stream that conveys water, or a ditch or channel excavated for the natural flow of water.
- (f) COMMUNITY: Throughout this regulation the Community shall mean the City of Streetsboro, State of Ohio, and its designated agents and representatives.
- (g) CONCENTRATED STORM WATER RUNOFF: Surface water runoff which converges and flows primarily through water conveyance features such as swales, gullies, waterways, channels or storm sewers, and which exceeds the maximum specified flow rates of filters or perimeter controls intended to control sheet flow.
- (h) CONSERVATION: The wise use and management of natural resources.
- (i) DAMAGED OR DISEASED TREES: Trees that have split trunks; broken tops; heart rot; insect or fungus problems that will lead to imminent death; undercut root systems that put the tree in imminent danger of falling; leaning as a result of root failure that puts the tree in imminent danger of falling, or any other condition that puts the tree in imminent danger of being uprooted or falling.
- (j) DEFINED CHANNEL: A natural or man-made depression in the terrain which is maintained and altered by the water and sediment it carries.
- (k) DESIGNATED WATERCOURSE: A watercourse that is contained within, flows through, or borders the Community and meets the criteria set forth in these regulations.
- (l) DETERIORATED STRUCTURE: A structure which has sustained substantial damage from any origin whereby the cost of restoring the structure to its original/installed condition would be equal to, or greater than 50% of the market value of the structure before the damage occurred.
- (m) DEVELOPMENT AREA: Any tract, lot, or parcel of land, or combination of tracts, lots or parcels of land, which are in one ownership, or are contiguous and in diverse ownership, where earth disturbing activity is to be performed.
- (n) DITCH: An excavation, either dug or natural, for the purpose of drainage or irrigation, and having intermittent flow.
- (o) DUMPING: The grading, pushing, piling, throwing, unloading or placing of soil or other material.
- (p) EARTH DISTURBING ACTIVITY: Any grading, excavating, filling, or other alteration of the earth's surface where natural or man-made ground cover is destroyed.
- (q) EROSION: The process by which the land surface is worn away by the action of water, wind, ice or gravity.
- (r) EXISTING: In existence at the time of the passage of this ordinance and these regulations.
- (s) FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA): The agency with overall responsibility for administering the National Flood Insurance Program.
- (t) FEN: A type of rare wetland in the form of a high quality spring flowing freely from the ground or rock formation including the surrounding wetland area it forms by its own drainage. Usually indicating nearby ground water movement, Fens are not acidic, reduce the risk of flooding, and provide valuable habitat for unique plant and animal communities.
- (u) FLOODPLAIN: Land adjacent to a stream, river, wetland, channel, or lake that floods. Floodplains are very important for high water-volume storage, for aquifers or absorption areas, and make up part of the riparian zone.
- (v) FINAL PLAT: A final tracing of all or a phase of a subdivision and its complete survey information.
- (w) GRADING: Earth disturbing activity such as excavation, stripping, cutting, filling, stockpiling, or any combination thereof.
- (x) IMPERVIOUS COVER: Any surface that cannot effectively absorb or infiltrate water. This includes roads, streets, parking lots, rooftops, and sidewalks.
- (y) INTERMITTENT STREAM: A natural channel that may have some water in pools but where surface flows are non-existent or interstitial (flowing through sand and gravel in stream beds) for periods of one week or more during typical summer months.
- (z) INVASIVE PLANTS: Introduced, exotic, hybrid or noxious species of plants taking over a region where they do not belong, altering nutrient cycling and water filtration among other things. Invasive plants require costly and continuous eradication, and devastation to biodiversity and natural cycles. Invasives often occur where established native plants and trees have been removed by human activity. See various websites for constantly updated lists of invasive species.
- (aa) LARGER COMMON PLAN OF DEVELOPMENT OR SALE: A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.
- (bb) LANDSLIDE: The rapid mass movement of soil and rock material downhill under the influence of gravity in which the movement of the soil mass occurs along an interior surface of sliding.
- (cc) LOCAL COUNTY SWCD: The local county Soil and Water Conservation District.
- (dd) NATIONAL WETLANDS INVENTORY MAP: Wetland maps that were created by the Fish and Wildlife Service, United States Department of Interior.
- (ee) NATIVE VEGETATION: Plants, trees, shrubs, etc. living and adapted to the particular environment, biological cycle, and part of the natural ecosystem before European settlement brought in foreign species.

- (ff) NATURAL RESOURCES CONSERVATION SERVICE (NRCS): An agency of the United States Department of Agriculture, formerly known as the Soil Conservation Service (SCS).
- (gg) NATURAL NATIVE SUCCESSION: A gradual and continuous replacement of one kind of native plant and animal group by more complex group. The plants and animals present in the initial group modify the environment through their life activities thereby making it unfavorable for themselves. They are gradually replaced by a different group of plants and animals better adapted to the new environment.
- (hh) NPDES PERMIT: A National Pollutant Discharge Elimination System Permit issued by Ohio EPA under the authority of the USEPA, and derived from the Federal Clean Water Act.
- (ii) NOXIOUS WEED: Any plant species defined by the Ohio Department of Agriculture as a "noxious weed" and listed as such by the Department. For the purposes of this regulation, the most recent version of this list at the time of application of these regulations shall prevail.
- (jj) OHIO EPA: The Ohio Environmental Protection Agency.
- (kk) OHIO RAPID ASSESSMENT METHOD: A multi-parameter qualitative index established by the Ohio Environmental Protection Agency to evaluate wetland quality and function.
- (ll) OHIO WETLANDS INVENTORY MAP: Wetland maps that were created by the Natural Resources Conservation Service, USDA and the Ohio Department of Natural Resources.
- (mm) ORDINARY HIGH WATER MARK: The point of the bank or shore to which the presence and action of surface water is so continuous as to leave a district marked by erosion, destruction or prevention of woody terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- (nn) OUTFALL: An area where water flows from a structure such as a conduit, storm sewer, improved channel or drain, and the area immediately beyond the structure which is impacted by the velocity of flow in the structure.
- (oo) PERSON: Any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, township, county, state agency, the federal government, or any combination thereof.
- (pp) PERENNIAL STREAM: A natural channel that contains water throughout the year, except possibly during periods of extreme drought.
- (qq) PRELIMINARY PLAN: A drawing of a major subdivision for the purpose of study and which, if approved, permits proceeding with the preparation of the final plat.
- (rr) PROFESSIONAL ENGINEER: A person registered in the State of Ohio as a Professional Engineer, with specific education and experience in water resources engineering, acting in strict conformance with the Code of Ethics of the Ohio Board of Registration for Engineers and Surveyors.
- (ss) QUALIFIED FORESTER: Any forester employed by the Ohio Department of Natural Resources, Division of Forestry, or any person attaining the credential of Certified Forester as conferred by the Society of American Foresters.
- (tt) QUALIFIED WETLAND PROFESSIONAL means an individual competent in the areas of botany, hydric soils, and wetland hydrology, and is acceptable to the Engineering Director and/or his or her designees.
- (uu) REDEVELOPMENT: The demolition or removal of existing structures or land uses and construction of new ones.
- (vv) RETENTION BASIN: A storm water management pond that maintains a permanent pool of water. These storm water management ponds include a properly engineered/ designed volume dedicated to the temporary storage and slow release of runoff waters.
- (ww) RIPARIAN AREA: A transitional area between flowing water and terrestrial ecosystems, which provides a continuous exchange of nutrients and woody debris between land and water. This area is at least periodically influenced by flooding. Riparian areas, if appropriately sized and managed, help to stabilize banks, limit erosion, reduce flood size flows and/or filter and settle out runoff pollutants, or perform other functions consistent with the purposes of these regulations.
- (xx) RIPARIAN SETBACK: The area set back from each bank of a stream to protect the riparian area and stream from impacts of development, and streamside residents from impacts of flooding and land loss through erosion. Riparian Setbacks are those lands within the County of Portage that fall within the area defined by the criteria set forth in these regulations.
- (yy) SEDIMENT: Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water, gravity or ice, and has come to rest on the earth's surface either on dry land or in a body of water.
- (zz) SEDIMENT CONTROL: The limiting of sediment being transported, by controlling erosion or detaining sediment-laden water, and allowing the sediment to settle out.
- (aaa) SEDIMENT POLLUTION: A failure to use management or conservation practices to control wind or water erosion of the soil and to minimize the degradation of water resources by soil sediment in conjunction with land grading, excavating, filling, or other soil disturbing activities on land used or being developed for commercial, industrial, residential, or other purposes.
- (bbb) SENSITIVE AREA: An area or water resource that requires special management because of its susceptibility to sediment pollution, or because of its importance to the wellbeing of the surrounding communities, region, or the state and includes, but is not limited to, the following:
 - (1) Ponds, wetlands or small lakes with less than five acres of surface area;
 - (2) Small streams with gradients less than ten feet per mile with average annual flows of less than 3.5 feet per second containing sand or gravel bottoms.
 - (3) Drainage areas of a locally designated or an Ohio designated Scenic River.
 - (4) Riparian and wetland areas.
- (ccc) SHEET FLOW: Water runoff in a thin uniform layer or rills and which is of small enough quantity to be treated by sediment barriers.
- (ddd) SILVICULTURE: The theory and practice of controlling forest establishment, composition and growth.
- (eee) SLIP: A landslide as defined under "Landslides."
- (fff) SLOUGHING: A slip or downward movement of an extended layer of soil resulting from the undermining action of water or the earth disturbing activity of man.
- (ggg) SOIL: Unconsolidated erodible earth material consisting of minerals and/or organics.

- (hhh) SOIL AND WATER CONSERVATION DISTRICT (SWCD): An entity organized under Chapter 1515 of the Ohio Revised Code referring to either the Soil and Water Conservation District Board or its designated employees, hereinafter referred to as the Portage SWCD.
- (iii) SOIL CONSERVATION SERVICE, USDA: The federal agency now titled the "Natural Resources Conservation Service," which is an agency of the United States Department of Agriculture.
- (jjj) SOIL DISTURBING ACTIVITY: Clearing, grading, excavating, filling, or other alteration of the earth's surface where natural or human made ground cover is destroyed and which may result in, or contribute to, soil erosion and sediment pollution.
- (kkk) SOIL EROSION AND SEDIMENT CONTROL PLAN: A written and/or drawn soil erosion and sediment pollution control plan to minimize erosion and prevent off-site sedimentation throughout all earth disturbing activities on a development area.
- (lll) SOIL EROSION AND SEDIMENT CONTROL PRACTICES: Conservation measures used to control sediment pollution and including structural practices, vegetative practices and management techniques.
- (mmm) SOIL SURVEY: The official soil survey produced by the Natural Resources Conservation Service, USDA in cooperation with the Division of Soil and Water Conservation, ODNR and the local Board of County Commissioners.
- (nnn) STORM WATER CONVEYANCE SYSTEM: All storm sewers, channels, streams, ponds, lakes, etc., used for conveying concentrated storm water runoff, or for storing storm water runoff.
- (ooo) STORM WATER POLLUTION PREVENTION PLAN (SWPPP): The plan which describes all the elements of the storm water strategy implemented during and after construction. The plan addresses erosion control and storm water quality.
- (ppp) STORM WATER QUALITY TREATMENT: The removal of pollutants from urban runoff and improvement of water quality, accomplished largely by deposition and utilizing the benefits of natural processes.
- (qqq) STREAM: A surface watercourse with a well-defined bed and bank, either natural or artificial, which confines and conducts continuous or periodical flowing water (ORC 6105.01) in such a way that terrestrial vegetation cannot establish roots within the channel.
- (rrr) SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would be equal to, or greater than 50% of the market value of the structure before the damage occurred.
- (sss) UPLAND: Land at a higher elevation, in general, than the alluvial plain or stream terrace; land above the lowlands along streams.
- (ttt) USEPA: The United States Environmental Protection Agency.
- (uuu) 100-YEAR FLOODPLAIN: Any land susceptible to being inundated by water from a base flood. The base flood is the flood that has a one percent (1%) or greater chance of being equaled or exceeded in any given year. For the purposes of this regulation, the 100-year floodplain shall be defined by FEMA or a site-specific Floodplain Delineation in conformance with standard engineering practices and approved by the Community.
- (vvv) VARIANCE: A modification of the enforcement of the Riparian Setback Ordinance which will not be contrary to the public interest and where, due to conditions peculiar to this property and not the result of the action of the applicant, a literal enforcement of the ordinance would result in undue hardship to the applicant.
- (www) VERNAL POOLS: Small intermittent wetlands generally occurring in woods. Vernal pools collect snowmelt and rain water allowing for slow filtration and evaporation. Most pools dry completely before the next flooding event. Especially critical habitat for amphibians, rare plants and shrimp, regardless if in it's wet or periodic dry stage. Adjacent woodland is also biologically connected to the vernal pools.
- (xxx) WATERCOURSE: Any natural, perennial, or intermittent channel, stream, river or brook.
- (yyy) WATER RESOURCES: All streams, lakes, ponds, wetlands, water courses, waterways, drainage systems, and all other bodies or accumulations of surface water, either natural or artificial, which are situated wholly or partly within, or border upon this state, or are within its jurisdiction, except those private waters which do not combine or affect a junction with natural surface waters.
- (zzz) WETLAND: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas.
- (aaaa) WETLAND, OHIO EPA CATEGORY 2 WETLANDS: Those wetlands classified by the Ohio EPA as Category 2 wetlands under OAC 3745-1-54 (C) (2), or current equivalent Ohio EPA classification, in accordance with generally accepted wetland functional assessment methods acceptable to the U.S. Army Corps of Engineers and Ohio EPA at the time of application of this regulation.
- (bbbb) WETLAND, OHIO EPA CATEGORY 3 WETLANDS: Those wetlands classified by the Ohio EPA as Category 3 wetlands under OAC 3745-1-54(C)(3), or current equivalent Ohio EPA classification, in accordance with generally accepted wetland functional assessment methods acceptable to the U.S. Army Corps of Engineers and Ohio EPA at the time of application of this regulation.
- (cccc) WETLAND SETBACK: Those lands within the Community that fall within the area defined by the criteria set forth in these regulations.
- (dddd) WINTER: October 1st to April 1st of each year.
(Ord. 2009-73. Passed 6-22-09.)

1191.07 SCOPE.

This chapter applies to development areas having new or relocated projects involving highways, underground cables, pipelines, property/parcel splits, industrial projects, commercial projects, building activities on farms, redevelopment of urban areas and all other land uses not specifically exempted. This chapter does not apply to:

- (a) Land disturbing activities related to producing agricultural crops or Silviculture operations regulated by the Ohio Agricultural Sediment Pollution Abatement Rules (1501: 15-3-01 to 1501: 15-3-09 of the Ohio Administrative Code) and existing at the time of passage of this regulation.
- (b) Strip mining operations regulated by Chapter 1513 of the Ohio Revised Code and existing at the time of passage of this

regulation.

- (c) Surface mining operations regulated by Chapter 1514 of the Ohio Revised Code and existing at the time of passage of this regulation.

(Ord. 2009-73. Passed 6-22-09.)

1191.08 CONSULTATIONS.

In implementing these regulations the Engineering Director and/or his or her designees or other Community officials may consult with the local county Soil and Water Conservation District (SWCD), state and federal agencies and other technical experts as necessary. Any costs associated with such consultations shall be assessed to the applicant or his or her designated representative.

(Ord. 2009-73. Passed 6-22-09.)

1191.09 RIPARIAN AND WETLAND SETBACK REQUIREMENTS.

(a) It is hereby determined that the system of wetlands, riparian areas, rivers, streams, and other natural watercourses within the Community contributes to the health, safety, and general welfare of the residents. The specific purpose and intent of this part of these regulations is to regulate uses and developments within riparian and wetland setbacks that would impair the ability of riparian and wetland areas to:

- (1) Reduce flood impacts by absorbing peak flows, slowing the velocity of floodwaters, and regulating base flow.
- (2) Assist in stabilizing the banks of watercourses to reduce bank erosion and the downstream transport of sediments eroded from watercourse banks.
- (3) Reduce pollutants in watercourses during periods of high flows by filtering, settling, and transforming pollutants already present in watercourses.
- (4) Reduce pollutants in watercourses by filtering, settling, transforming and absorbing pollutants in runoff before they enter watercourses.
- (5) Provide watercourse habitats with shade and food.
- (6) Provide habitat to a wide array of aquatic organisms, wildlife, many of which are on Ohio's Endangered and/or Threatened Species listings, by maintaining diverse and connected riparian and wetland vegetation.
- (7) Benefit the Community economically by minimizing encroachment on wetlands and watercourse channels and the need for costly engineering solutions such as dams, retention basins, and rip rap to protect structures and reduce property damage and threats to the safety of residents; provide free water absorption, filtration and well recharge; and by contributing to the scenic beauty and environment of the Community, and thereby preserving the character of the Community, the quality of life of the residents of the Community, and corresponding property values.

(b) The following regulations have been enacted to protect these services of riparian and wetland areas by providing reasonable controls governing structures and uses within a wetland and/or riparian setback along designated watercourses in the Community.

(c) Applicability and Compliance:

- (1) These regulations shall apply to:
 - A. All lands that are within the jurisdiction of the Community and that border designated watercourses and wetlands as defined in these regulations.
 - B. These regulations shall apply to property/parcel split plan approvals, site plan approvals, and land development plan approvals requested of the Community.
 - C. These regulations shall apply to all building permits, which involve soil disturbing activities.
- (2) The Community shall issue no approvals or permits without full compliance with the terms of these regulations.

(Ord. 2009-73. Passed 6-22-09.)

1191.10 ESTABLISHMENT OF DESIGNATED WATERCOURSES AND RIPARIAN SETBACKS.

(EDITOR'S NOTE: Pursuant to Ordinance 2011-06, passed January 24, 2011 Council has enacted Riparian Setback Map. Copies are on file with the Clerk of Council.)

(a) Designated watercourses addressed by this ordinance are those which meet the definition of "stream" of these regulations and are indicated on at least one of the following maps (most recent edition):

- (1) USGS topographical map.
- (2) Portage County/City of Streetsboro Riparian map
- (3) Soils maps located in the Soil Survey for Portage County, Ohio, USDA, NRCS.

(b) Riparian setbacks on designated watercourses are established as follows:

- (1) A minimum of 300 feet on each side of all streams draining an area greater than 300 square miles.
- (2) A minimum of 100 feet on both sides of all watercourses draining an area greater than 20 square miles and up to 300 square miles.
- (3) A minimum of 75 feet on both sides of all watercourses draining an area greater than one half square mile (320 acres) and up to 20 square miles.
- (4) A minimum of 50 feet on both sides of all watercourses draining an area greater than 0.05 square miles (32 acres) and up to one half square mile (320 acres).
- (5) A minimum of 25 feet on both sides of all watercourses draining an area less than 0.05 square miles (32 acres).

(c) Riparian Setback Map:

- (1) The Community shall use the latest edition of the official soil survey that shows drainage features, as the map identifying designated watercourses and their riparian setbacks. The drainage features identified on the paper maps in the official soil survey and the information contained therein shall be believed to be accurate.
- (2) At the time of application of this regulation, if any discrepancy is found between the Riparian Setback Map and the criteria for designated watercourses or riparian setbacks as set forth in these regulations, the criteria shall prevail.
- (3) In reviewing and interpreting the maps the Community may consult with a representative of the local county SWCD and other technical experts as necessary.

- (d) The following conditions shall apply in riparian and wetland setbacks:
- (1) Riparian and wetland setbacks shall be measured in a perpendicular and horizontal direction outward from the ordinary high water mark of each designated watercourse and defined wetland boundary.
 - (2) Except as otherwise provided in this regulation, riparian and wetland setbacks shall be preserved in their natural state and shall be established and marked in the field prior to any soil disturbing or land clearing activities.
 - (3) Where the 100-year floodplain is wider than a riparian setback on either or both sides of a designated watercourse, the riparian setback shall be extended to the outer edge of the 100-year floodplain. The 100-year floodplain shall be determined by the project engineer conducting a hydrologic analysis of the project area in conformance with standard engineering practices and approved by the Engineering Director and/or his or her designees. The 100-year floodplain shall be defined by FEMA.
 - (4) Where wetlands are identified within a riparian setback, the minimum riparian setback width shall be extended to the outer boundary of the wetland. In addition, wetlands shall be protected to the extent detailed in these regulations.
 - (5) Wetlands shall be delineated by a site survey approved by the Community using delineation protocols accepted by the U.S. Army Corps of Engineers and the Ohio EPA at the time of application of this regulation. If a conflict exists between the delineation protocols of these two agencies, the delineation protocol that results in the most inclusive area of wetland shall apply. All wetland delineations shall also include the latest version of the Ohio Rapid Assessment Method for wetland evaluation approved at the time of application of the regulations.

(e) The applicant or his or her designated representative shall be responsible for delineating riparian and wetland setbacks, including any expansions or modifications as required by these regulations, and identifying these setbacks on all property/parcel splits, commercial development or other land development plans, and/or building permit applications submitted to the Community. This delineation may be done by a metes and bounds, or higher level, survey and shall be subject to review and approval by the Community. As a result of this review, the Community may consult with a representative of the local county SWCD or other technical experts as necessary.

(f) Prior to any soil disturbing activity, the Riparian Setback shall be clearly delineated with construction fencing or other suitable material by the applicant on site, and such delineation shall be maintained throughout soil-disturbing activities. The delineated area shall be maintained in an undisturbed state unless permitted by these regulations. All fencing shall be removed when a development project is completed.

(g) No approvals or permits shall be issued by the Community prior to on-site delineation of riparian and wetland setbacks in conformance with these regulations.

(h) Upon completion of an approved property/parcel split, land development, or other improvement, riparian and wetland setbacks shall be permanently recorded on the plat records of the Community.

(i) The following are exempt from the terms and protection of this ordinance: grassy swales, roadside ditches, drainage ditches created at the time of a subdivision to convey storm water to another system, tile drainage systems and stream culverts.

(j) Because the gradient of the riparian corridor significantly influences impacts on the stream, the following adjustment for steep slopes will be integrated into the Riparian Setback formulae for width determination:

Average Percent Slope	Width of Setback
15% through 20%	Add 25 feet
Greater than 20% through 25%	Add 50 feet
Greater than 25%	Add 100 feet

Average percent slope of the stream bank is to be calculated for the area within the Riparian Setback and is to be measured as a line perpendicular to the stream channel at the location where structures or uses are proposed in the plan.
(Ord. 2009-73. Passed 6-22-09.)

1191.11 ESTABLISHMENT OF WETLAND SETBACKS.

Wetland setbacks are established as follows:

- (a) A minimum of 120 feet surrounding and including all Ohio EPA Category 3 Wetlands, or current equivalent Ohio EPA classification.
- (b) A minimum of 75 feet surrounding and including all Ohio EPA Category 2 Wetlands, or current equivalent Ohio EPA classification.
- (c) A minimum of 25 feet surrounding and including all Ohio EPA Category 1 Wetlands, or current equivalent Ohio EPA classification.

(Ord. 2009-73. Passed 6-22-09.)

1191.12 PROCEDURE FOR WETLAND SETBACKS.

- (a) No change to parcel boundaries or land use:
 - (1) Upon filing a request for a building permit that does not involve changing of any parcel boundaries or changes in land use, the applicant will check for indicators of wetlands on the National Wetlands Inventory maps, and Ohio Wetlands Inventory map, and the Portage County Wetlands Inventory (if applicable). A photocopy of the applicable section of each map will be attached to the permit application.
 - (2) If a potential wetland is shown on any of the maps or if there is reason for the Community to believe that an unmapped wetland

exists including but not limited to vernal pools, wet woods, or any well water re-charge areas, or on or within 50 feet of the project site the applicant will retain a qualified wetland professional to evaluate the proposed project site for wetlands or wetland buffer areas. If no wetland or wetland buffer areas are found, the applicant shall submit a letter from the qualified wetland professional with the preliminary plat or permit application verifying his or her negative findings.

(b) New residential or commercial or other type development and projects involving a change to parcel boundaries or a land use change:

- (1) Upon filing a request for approval of a preliminary plat or building permit for new residential, commercial or other type of development that involves changes in any parcel boundaries or changes in land use, the applicant or his or her designated representative shall retain a qualified wetland professional to survey the proposed development site for wetlands. If no wetlands are found, the applicant or his or her designated representative shall submit a letter with the preliminary plat or permit application verifying that a qualified wetland professional has surveyed the site and found no wetlands. If wetlands are found, the following procedures shall be followed:
- (2) A qualified wetland professional, acceptable to the Engineering Director and/or his or her designees, shall determine the presence of Ohio EPA Category 1, 2 or 3 wetlands (or current equivalent Ohio EPA classification) on the proposed development site using the latest version of the Ohio Rapid Assessment Method for wetland evaluation approved at the time of application of this regulation. Acceptance of this determination shall be subject to approval by the Engineering Director and/or his or her designees.
- (3) If Ohio EPA Category 1, 2 or 3 wetlands (or current equivalent Ohio EPA classification) are located on the proposed development site, the applicant or his or her designated representative shall delineate these wetlands and the wetland setback in conformance with these regulations. The applicant or his or her designated representative shall identify all delineated wetlands and their associated setbacks on all property/parcel split plans, land development plans, and/or permit applications submitted to the Community.
 - A. Wetlands shall be delineated by a site survey, approved by the Community, using delineation protocols accepted by the US Army Corps of Engineers and the Ohio EPA at the time of application of this regulation. If conflict exists between the delineation protocols of these two agencies, the delineation protocol that results in the most inclusive area of wetland shall apply.
 - B. Wetland setbacks shall be delineated through a metes and bounds, or higher level, survey subject to approval by the Community.
- (4) Prior to any soil or vegetation disturbing activity, the applicant or his or her designated representative shall delineate wetland setbacks on the development site in such a way that they can be clearly viewed, and such delineation shall be maintained throughout construction.
- (5) No approvals or permits shall be issued by the Community prior to delineation of wetland setbacks in conformance with this regulation.

(c) Upon completion of an approved property/parcel split, commercial development or other land development or improvement, riparian and wetland setbacks shall be permanently recorded on the plat records for the Community and shall be maintained as open space thereafter.

(Ord. 2009-73. Passed 6-22-09.)

1191.13 USES PERMITTED IN RIPARIAN AND WETLAND SETBACKS.

(a) By-Right Uses Without a Permit: Open space uses that are passive in character shall be permitted in riparian and wetland setbacks, including, but not limited to, those listed in these regulations. No use permitted under these regulations shall be construed as allowing public trespass on privately held lands.

- (1) Recreational Activity. Passive recreational uses, as permitted by federal, state, and local laws, such as hiking, non-motorized bicycling, fishing, hunting, picnicking, and similar uses and associated structures including boardwalks, pathways constructed of pervious material, picnic tables, and wildlife viewing areas.
- (2) Removal of Storm Damaged or Diseased Trees. Storm Damaged or diseased trees may be removed. Because of the potential for storm damaged braches to damage downstream properties and/or block ditches or otherwise exacerbate flooding, new logs and branches resulting from the removal of damaged or diseased trees that are greater than 6 inches in diameter, shall be anchored to the shore or removed from the 100-year floodplain. Existing downed logs and braches help stabilize the soil and should not be moved.
- (3) Revegetation and/or Reforestation. The revegetation and/or reforestation of the Riparian Setback shall be allowed without approval of the Portage SWCD. Native Species of shrubs and plants are recommended for stabilizing flood prone areas along streams within the City of Streetsboro are listed in the Appendix.
- (4) Maintenance of lawns, gardens and landscaping: Lawns, gardens and landscaping, that existed at the time this ordinance was passed, may be maintained as long as they are not increased in size, or having increased amounts of fertilizer, pesticides and/or herbicides.

(b) The following uses are permitted by right within the Riparian Setbacks with prior approval of the design:

- (1) Stream bank Stabilization/Erosion Control Measures. Best Management Practices (BMP's) for stream bank stabilization or erosion control may be allowed if such practices are within permitted uses by the local, state, and federal government regulations and are ecologically compatible and emphasize the use of natural materials and native plant species where practical and available. Such stream bank stabilization/erosion control practices shall only be undertaken upon approval of a Storm Water Pollution Prevention Plan (SWPPP or SW3P) by the Portage SWCD.
- (2) Crossings. In reviewing plans for stream crossings, the City may confer with the Portage SWCD, the Ohio Department of Natural Resources, Division of Natural Areas; the Ohio Environmental Protection Agency, Division of Surface Water; the County of Portage Engineer; the Portage County Water Resources Department; the Portage County

Health Department; or other technical experts as necessary.

- A. Limited crossings of designated streams through the Riparian Setback by vehicles, storm sewers, sewer and/or water lines, and public utility lines will be per the approval of local, county, and state governing agencies and as a part of the regular subdivision review process.
 - B. One driveway crossing per stream per tax parcel will be allowed for an individual landowner.
 - C. Roadway crossings for major and minor subdivisions, open space subdivisions, or any other non-single family residential use shall be designed and constructed per the City of Streetsboro Engineer's design standards and as approved by the City of Streetsboro Planning Commission. If more than two crossings per 1,000 lineal feet of stream center are required for these areas, the applicant must apply for a variance.
 - D. All roadway crossings shall be perpendicular to the stream flow and shall minimize disturbance to the Riparian Setback and shall mitigate any necessary disturbances.
- (3) Placement of storm water retention or detention facilities may be considered within the Riparian Setback if:
- A. Storm water quality treatment that is consistent with current state standards is incorporated into the basin.
 - B. The storm water quality treatment basin is located at least 50 feet from the ordinary high water mark of the stream.
- (Ord. 2009-73. Passed 6-22-09.)

1191.14 USES PROHIBITED IN RIPARIAN AND WETLAND SETBACKS.

Any use not authorized under these regulations shall be prohibited in riparian and wetland setbacks. By way of example, the following uses are specifically prohibited; however, prohibited uses are not limited to those examples listed here.

- (a) Construction. There shall be no structures of any kind, except as permitted under these regulations.
- (b) Dredging or Dumping. There shall be no drilling for petroleum or mineral products, mining activity, filling or dredging of soil, spoils, or any material-natural or man-made-except as permitted under these regulations..
- (c) Roads or Driveways. There shall be no roads or driveways, except as permitted under these regulations. There shall be no roads or driveways or roads permitted in wetlands or watercourses without a permit issued by the US Army Corps of Engineers and/or the Ohio EPA.
- (d) Motorized Vehicles. There shall be no use of motorized vehicles of any kind, except as permitted under these regulations.
- (e) Modification of Natural Vegetation. Modification of the natural vegetation shall be limited to conservation maintenance that the landowner deems necessary to control noxious weeds; for such plantings as are consistent with these regulations; for such disturbances as are approved under these regulations; and for the passive enjoyment, access and maintenance of landscaping or lawns existing at the time of passage of these regulations.

Nothing in this section shall be construed as requiring a landowner to plant or undertake any other activities in the Riparian Setback provided the landowner allows natural succession of native species.

- (f) Parking Lots. There shall be no parking lots or other human-made impervious cover, except as permitted under these regulations.
 - (g) New Surface and/or Subsurface Sewage Disposal or Treatment Areas. Riparian and wetland setbacks shall not be used for the disposal or treatment of sewage except in accordance with local county Board of Health regulations in effect at the time of application of this regulation except for:
 - (1) Undeveloped parcels that have received site evaluation approval and/or permit approval prior to the enactment of this ordinance.
 - (2) Dwellings served by disposal/treatment systems existing at the time of passage of these regulations when such systems are properly sited (approved site evaluation) and permitted or in accordance with the Portage County Health Department and/or the Ohio Environmental Protection Agency. Existing failing systems which are located within the Riparian Setback can be upgraded with approval of the Portage County Health Department and/or the Ohio Environmental Protection Agency.
 - (h) Crossings. Crossings of designated riparian and wetland setbacks by publicly and privately owned sewer and/or water lines and small public and small private utility transmission lines without a permit issued by the US Army Corps of Engineers and/or the Ohio EPA.
- (Ord. 2009-73. Passed 6-22-09.)

1191.15 NON-CONFORMING STRUCTURES OR USES IN RIPARIAN AND/OR WETLAND SETBACKS.

(a) Structures and uses within the Riparian and/or Wetland Setbacks, existing at the time of passage of these regulations, that are not permitted under these regulations may be continued but shall not be expanded except as set forth in this title.

(b) If damaged or destroyed, these structures or uses may be repaired or restored within two years from the date of damage/destruction or the adoption of these regulations, whichever is later, at the property owners own risk.

(c) A residential structure or use within the Riparian and/or Wetland Setback existing at the time of passage of these regulations may be expanded subject to the provisions of (1) through (3) below:

- (1) The expansion conforms to existing zoning regulations.
- (2) The expansion must not impact the stream channel or the 100-year flood plain.
- (3) The expansion must not exceed an area of 15% of the footprint of existing structure or use that lies within the Riparian and/or Wetland setback. Expansions exceeding 15% of the footprint within the Riparian and/or Wetland Setback must be obtained through the variance process.

(d) A non-conforming structure or use that is discontinued may be resumed any time within six (6) months from such discontinuance but not thereafter. No change or resumption shall be permitted that is more detrimental to riparian and wetland setbacks, as measured against the intent and objectives of these regulations as determined by the Community, than the existing or former non-conforming structure or use.

(Ord. 2009-73. Passed 6-22-09.)

1191.16 VARIANCES WITHIN RIPARIAN AND/OR WETLAND SETBACKS.

- (a) The Community may grant a variance from this regulation as provided herein. In determining whether there is unnecessary

hardship or practical difficulty such as to justify the granting of a variance, the Community shall consider the potential harm or reduction in riparian and/or wetland area functions that may be caused by a proposed structure or use. The Board of Zoning and Building Appeals may consult with representatives from the Portage SWCD; the Ohio Department of Natural Resources, Division of Natural Areas; the Ohio Environmental Protection Agency, Division of Surface Water; the County Engineer; the Portage County Water Resource Department; the Portage County Health Department; or other technical experts as necessary to consider variance requests.

- (b) Expansions of residential structures or uses exceeding 15% of the footprint area and expansions of all non-residential structures or uses are subject to provisions (1) through (4) below:
- (1) The expansion conforms to the existing zoning regulations.
 - (2) The expansion must not impact the stream channel, wetlands or the 100-year floodplain
 - (3) The expansion of a non-residential structure or use must not affect upstream or downstream hydrologic conditions which could cause damage from flooding or stream bank erosion to landowners in those areas. The hydrologic study must be completed by non-residential applicants only as a process of the variance application.
 - (4) The expansion of a non-residential structure or use will not exceed 25% of the footprint area. The 25% expansion limit is per the portion of the structure or use that lies within the Riparian Setback.
- (c) Requests for variances for subdivisions will be considered for the following:
- (1) An additional stream crossing or crossings for a subdivision or open space development which is necessary for the health, welfare, and safety of the residents of the subdivision.
 - (2) A reduction of the setback width, not to exceed 10% of the prescribed Riparian Setback width.
- (d) No variances shall be granted for expansion of the following structures or uses:
- (1) Facilities which use, store, distribute, or sell petroleum-based products or any hazardous materials. Such facilities include, but are not limited to: asphalt plants, dry cleaners, gasoline services, and road maintenance facilities.
 - (2) Facilities which use, store, distribute, or sell products which may contribute higher than acceptable concentrations of dissolved or particulate matter to storm water runoff around the facility. Such facilities include, but are not limited to: landfills or transfer stations, junk yards, recycling facilities, quarries and borrow pits, sand and gravel extraction operations, and road salt storage barns.
- (e) In making a variance determination, the Community shall consider the following:
- (1) Varying the front, rear and side yard setback before the riparian and wetland setbacks are varied.
 - (2) Variances should not be granted for asphalt or concrete paving in the riparian and wetland setbacks in any situation where gravel or porous pavement (i.e., porous pavers, and similar products) will do the job.
- (f) In making a variance determination, the Community may consider the following:
- (1) A parcel existing at the time of passage of this chapter is made unbuildable.
 - (2) The soil type natural vegetation of the parcel, as well as the percentage of the parcel that is in the 100-year floodplain. The criteria of the Community's flood damage prevention regulations may be used as guidance when granting variances in the 100-year floodplain.
 - (3) The extent to which the requested variance impairs the flood control, soil erosion control, sediment control, water quality protection, or other functions of the riparian and/or wetland area. This determination shall be based on sufficient technical and scientific data.
 - (4) The degree of hardship this regulation places on the landowner, and the availability of alternatives to the proposed activity.
 - (5) Soil disturbing activities permitted in a riparian and/or wetland setback through variances should be implemented in order to minimize clearing to the extent possible, and to include Best Management Practices necessary to minimize soil erosion and maximize sediment control.
 - (6) The presence of significant impervious cover, or smooth vegetation such as maintained lawns, in riparian setback areas compromises their benefits to the Community.
 - (7) A reduction in storm water infiltration into the soil in wetland areas will occur.
 - (8) A requested above ground fence does not increase the existing area of mowed grass or lawn.
 - (9) Modifying parking requirements before varying the riparian setback.
 - (10) Modifying building shape, size or design to avoid or minimize intrusion into the riparian setback.
 - (11) In the case of a lot made unbuildable by this regulation, consider the minimum variance needed to make it buildable for an appropriately sized and compatibly designed structure, while following the guidance provided in this section.
 - (12) Whether the variance will increase the likelihood for flooding or erosion damage to either the applicant's property or to other properties.
 - (13) Culverting of watercourses should be avoided.
 - (14) Whether the variance will result in the need for artificial slope or bank stabilization measures that could interfere with the functions of the riparian zone.
- (g) When a variance is granted that results in a loss of riparian or wetland function, that loss must be mitigated according to the following:
- (1) If the loss will result in increased flooding, stream bank erosion, or in-stream sedimentation, the loss shall be mitigated at the site or upstream of the site in the same watershed.
 - (2) If biological functions are the only loss, mitigation will occur upstream whenever feasible. If not, a downstream site will be sought. If no suitable mitigation sites can be found on the affected stream, a site located anywhere in the community shall be selected.
 - (3) All wetland losses must be mitigated upstream of the disturbed locations.

- (4) Mitigation or riparian and wetland setback losses shall consist of a minimum of 150% of the area disturbed by the variance granted.
- (5) Mitigation of actual wetland losses shall be at the rate of 150% of the area lost by the variance granted.
- (6) Mitigation of wetland setback losses can occur at any previously impacted site in the community or in an upstream tributary area outside of the community.
- (7) Prior to granting any variance that results in a loss of riparian or wetland function or wetland area, the applicant must submit a statement that identifies all requested losses, an evaluation of mitigation needs and documentation of the planned mitigation to offset the losses; this statement will be submitted to Ohio EPA at part of the community's Annual Storm Water Program Report.
- (8) Prior to granting any variance that results in a loss of riparian or wetland function or wetland area, the applicant must submit a statement that legally binds the applicant to complete, at his or her personal expense, any future mitigation and to pay any penalties or fines that may be assessed or assigned to the community by any regulatory authority relative to the granting of any of the applicants requested variances under this ordinance.
- (9) Completion of all mitigation projects resulting from the granting of variances under this section shall be completed before any construction or maintenance guarantee for the project can be released.

(Ord. 2009-73. Passed 6-22-09.)

1191.17 BOUNDARY INTERPRETATION AND APPEALS PROCEDURE.

(a) When an applicant or his or her designated representative disputes the boundary of a riparian or wetland setback or the ordinary high water mark of a watercourse, the applicant or his or her designated representative shall submit documentation to the Community which describes the boundary, the applicant's proposed boundary, and justification for the proposed boundary change.

(b) The Community shall evaluate this documentation and shall make a written determination within a reasonable period of time, not to exceed sixty (60) days, a copy of which shall be submitted to the applicant. If during this evaluation the Community requires further information, it may be required of the applicant. In the event that the Community requests such additional information, the sixty-day limit on the Community's review shall be postponed until the applicant provides such information.

(c) Any party aggrieved by any wetland or riparian setback determination under this regulation may appeal to the Board of Zoning Appeals.

(Ord. 2009-73. Passed 6-22-09.)

1191.18 INSPECTION OF RIPARIAN AND WETLAND SETBACK.

(a) The delineation of riparian and/or wetland setbacks shall be inspected by the Community, as follows:

- (1) Prior to any soil disturbing activities authorized by the Community for a property/parcel split, land development plan, and/or building permit. The applicant or his or her designated representative shall provide the Community with at least five (5) working days notice prior to starting soil disturbing or land clearing activities.
- (2) Prior to starting any of the activities authorized by the Community under the uses permitted in riparian and wetland setbacks section of these regulations, the applicant or his or her designated representative shall provide the Community with at least five (5) working days notice prior to starting such activities.
- (3) Any time evidence is brought to the attention of the Community that uses or structures are occurring that may reasonably be expected to violate the provisions of these regulations.

(Ord. 2009-73. Passed 6-22-09.)

1191.19 VIOLATIONS.

No person shall violate, or cause, or knowingly permit to be violated, any of the provisions of these regulations, or fail to comply with any such provisions or with any lawful requirements of any public authority made pursuant to these regulations, or knowingly use or cause or permit the use of any lands in violation of these regulations or in violation of any permit granted under these regulations.

(Ord. 2009-73. Passed 6-22-09.)

1191.99 PENALTIES.

(a) Whoever violates or fails to comply with any provision of this regulation is guilty of a misdemeanor of the first degree and shall be fined no more than one thousand dollars (\$1,000.00) or imprisoned for no more than one hundred eighty (180) days, or both, for each offense.

(b) A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(c) Upon notice from the Engineering Director and/or his or her designees, or designated representative, that work is being performed contrary to this regulation, such work shall immediately stop. Such notice shall be in writing and shall be given to the owner or person responsible for the development area, or person performing the work, and shall state the conditions under which such work may be resumed; provided, however, in instances where immediate action is deemed necessary for public safety or the public interest, the Engineering Director and/or his or her designees may require that work be stopped upon verbal order pending issuance of the written order.

(d) The imposition of any other penalties provided herein shall not preclude the Community, by or through its Law Director and/or any of his or her assistants, from instituting an appropriate action or proceeding in a Court of Proper Jurisdiction to prevent an unlawful development or to restrain, correct or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, or ordinances, rules or regulations or the orders of the Engineering Director and/or his or her designees.

(Ord. 2009-73. Passed 6-22-09.)

Appendix: Woody Plants Suitable for Riparian Areas

Plant Selections

<i>Acorus calamus</i>	Sweet Flag
<i>Agastache scrophulariifolia</i>	Purple Giant Hyssop
<i>Asclepias incarnate</i>	Swamp Milkweed
<i>Asclepias syriaca</i>	Common Milkweed
<i>Asclepias tuberosa</i>	Butterfly Weed
<i>Aster (Symphyotrichum) novae-angliae</i>	New England Aster
<i>Aster puniceus</i>	Purple-stemmed Aster
<i>Aster umbellatus</i>	Flat-topped Aster
<i>Baptisia australis</i>	Blue Wild Indigo
<i>Chamaecrista fasciculata</i>	Partridge Pea
<i>Campanula rotundifolia</i>	Harebell
<i>Chelone glabra</i>	Turtlehead
<i>Echinacea purpurea</i>	Purple Coneflower
<i>Eryngium yuccifolium</i>	Rattlesnake Master
<i>Eupatorium maculatum</i>	Joe-pye weed
<i>Eupatorium perfoliatum</i>	Common Boneset
<i>Heliopsis helianthoides</i>	Ox Eye Sunflower
<i>Iris versicolor</i>	Northern Blue Flag
<i>Liatris pycnostachya</i>	Prairie Blazing Star
<i>Lobelia cardinalis</i>	Cardinal flower
<i>Lobelia siphilitica</i>	Great Blue Lobelia
<i>Monarda didyma</i>	Bee Balm
<i>Monarda fistulosa</i>	Bergamot
<i>Mimulus ringens</i>	Monkey Flower
<i>Peltandra virginica</i>	Arrow-Arum
<i>Physostegia virginiana</i>	Obedient Plant
<i>Pontederia cordata</i>	Pickering Weed
<i>Pycnanthemum virginianum</i>	Virginia Mountainmint
<i>Rudbeckia</i>	Black-eyed Susan
<i>Saururus cernuus</i>	Lizard's Tail
<i>Solidago (gigantea, ohioensis, riddelli)</i>	Goldenrod
<i>Tradescantia virginiana</i>	Spiderwort
<i>Verbena hastata</i>	Blue vervain
<i>Vernonia gigantea</i>	Tall Ironweed
<i>Vernonia noveboracensis</i>	Common Ironweed

****This is not a comprehensive list****

Shrub Selections

<i>Cephalanthus occidentalis</i>	Buttonbush	White flowers in spring and bright red fruits in late summer.
<i>Cornus amomum</i>	Silky Dogwood	Flat, white flower clusters in spring followed by pale blue berries that turn black and attract birds; dark red twigs in winter
<i>Cornus racemosa</i>	Gray Dogwood	White flowers in spring are followed by white fruit on red pedicles in late summer. Burgundy red fall color.
<i>Cornus sericea</i>	Redosier Dogwood	Small white flowers in early June and white fruit in summer. Bright red winter stems.
<i>Ilex verticillata</i>	Winterberry	Females are adorned with brilliant red fruit in fall which last into winter if not taken by birds. Plant 1 male for every 3 females to ensure good pollination.
<i>Sambucus canadensis</i>	American Elderberry	Large clusters of whitish flowers in June followed by small purple- black fruits in fall that can be used for jams and wine.
<i>Myrica pensylvanica</i>	Northern Bayberry	Semi-evergreen foliage and persistent blue-gray fruit are both fragrant.
<i>Viburnum dentatum</i>	Arrowwood Viburnum	White flower clusters in June give way to steel blue fruit in late summer. The fall color is yellow to burgundy to bright red.
<i>Viburnum trilobum</i>	American Cranberry Bush	White flower clusters are surrounded by a ring of showy flowers in late spring. Bright red fruit. Fall color is bright red to maroon.
<i>Viburnum lentago</i>	Nannyberry Viburnum	White flowers in May and fruit which change from blue to black in fall. The fall color is often a vivid combination of oranges and reds.

Flood Tolerance*	Shade Tolerance**	Common Name
High Flood Tolerance		
Aronia arbutifolia	3	Red chokeberry
Aronia melanocarpa	3	Black chokeberry
Cephalanthus occidentalis	5	Common buttonbush
Clethra alnifolia	2	Summersweet clethra
Cornus amomum	4	Silky dogwood
Cornus Stolonifera (sericea)	5	Redosier dogwood
Hamamelis vernalis	3	Vernal witchhazel
Ilex deciduas	3	Possumhaw
Ilex glabra	2	Inkberry
Ilex verticillata	3	Common winterberry
Itea virginica	1	Virginia sweetspire
Magnolia virginiana	2	Sweetbay magnolia
Myrica pensylvanica	4	Northern bayberry
Physocarpus opulifolius	4	Common ninebark
Potentilla fruticosa	4	Bush cinquefoil
Sambucus Canadensis	1	American elderberry
Salix exigua		Sandbar willow
Viburnum cassinoides	2	Witherod viburnum
Viburnum trilobum		American Cranberry Bush
Parthenocissus quinquefolia	1	Virginia creeper (vine)
Moderate Flood Tolerance*		
Calycanthus floridus	1	Common sweetshrub
Hypericum Kalmianum	5	Kalm St. Johnswort
Viburnum dentatum	2	Arrowwood viburnum
Xanthorhiza simplicissima	1	Yellowroot
Intermediate Flood Tolerance*		
Aesculus parviflora	2	Bottlebush buckeye
Aesculus pavia	2	Red buckeye
Cornus racemosa	2	Grey dogwood
Lindera benzoin	1	Common spicebush
Rosa setigera	4	Prairie rose
Campsis radicans	3	Trumpet creeper (vine)
Corylus Americana	2	American filbert
Fothergilla gardeni	1	Dwarf fothergilla
Fothergilla major	1	Large fothergilla
Hydrangea arborescens	1	Smooth hydrangea
Hydrangea quercifolia	1	Oakleaf hydrangea
Larix laricina		American Larch (Tamarack)
Mahonia aquifolium	1	Oregongrape holly
Rosa carolina	4	Carolina rose
Rubus odoratus	1	Fragrant thimbleberry
Vaccinium stamineum	2	Common deerberry

Low Flood Tolerance		
Arctostaphylos uva-ursi	4	Bearberry
Cornus rogersiana	1	Roundleaf dogwood
Corylus americana	2	American filbert
Fothergilla gardeni	1	Dwarf fothergilla
Fothergilla major	1	Large fothergilla
Hydrangea arborescens	1	Smooth hydrangea
Hydrangea quercifolia	1	Oakleaf hydrangea
Mahonia aquifolium	1	Oregongrape holly
Rosa carolina	4	Carolina rose
Rubus odoratus	1	Fragrant thimbleberry
Symphoricarpos albus	1	Common snowberry
Vaccinium stamineum	2	Common deerberry
No Flood Tolerance		
Ceanothus americanus	3	New Jersey tea
Comptonia peregrina	2	Sweetfern
Dirca palustris	1	Leatherwood
Hypericum frondosum	5	Golden St. Johnswort
Juniperus communis	5	Common juniper
Rhus aromatica	5	Fragrant sumac
Sambucus pubens	1	Scarlet elder
Symphoricarpos albus	1	Common snowberry

***High Flood Tolerance:** Generally lowland wet species surviving when flooded or exposed to high water table more 40% of the growing season.

***Moderate Flood Tolerance:** Generally lowland wet species surviving when flooding or exposed to high water table more than 30% of the growing season but less than 40%.

***Intermediate Flood Tolerance:** Generally lowland wet-mesic species surviving occasional inundation or elevated water table between 20% and 30% of the growing season.

***Low Flood Tolerance:** Generally upland mesic and mesic-dry species rarely inundated or exposed to an elevated water table for periods of short duration, between 5% and 20% of the growing season.

***No Flood Tolerance:** Generally upland dry species exhibiting immediate and rapid decline frequently culminating in death if inundated or exposed to elevated water table for more than 5% of the growing season.

****Shade Tolerance:** Shade tolerance means able to grow in a state of health and vigor beneath dense shade. In this ranking, shrubs and vines are ranked on a scale of 1 to 5, with 1 being very shade tolerant, and 5 being very shade intolerant.

Ohio Stream Management Guide Fact Sheet Series

http://www.dnr.state.oh.us/water/pubs/fs_st/streamfs.htm

National Association of Conservation Districts – Buffer Notes

<http://www.nacdnet.org/buffers/>

Life at the Water's Edge Fact Sheet Series

Tree Selections

American Sycamore Swamp White Oak Bur Oak

Platanus occidentalis *Quercus bicolor* *Quercus macrocarpa*

Pin Oak Red Maple Box Elder

Quercus palustris *Acer rubrum* *Acer negundo*

Honey Locust Shellbark Hickory Hackberry

Gleditsia triacanthos *Carya lucinosa* *Celtis occidentalis*

Black Tupelo (Gum) Alleghany Serviceberry Eastern Redbud

Nyssa sylvatica *Amelanchier laevis* *Cercis Canadensis*

Sweetgum River Birch Sourwood

Liquidambar styraciflua *Betula nigra* *Oxydendron arboreum*

Spicebush Eastern Redcedar Black Cherry

Lindera benzoin *Juniperus virginiana* *Prunus serotina*

American Plum Witchhazel

Prunus Americana *Hamamelis virginiana*

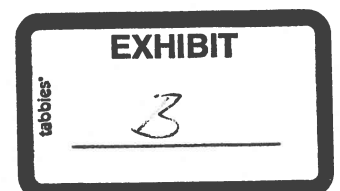
Mr. Thompson,

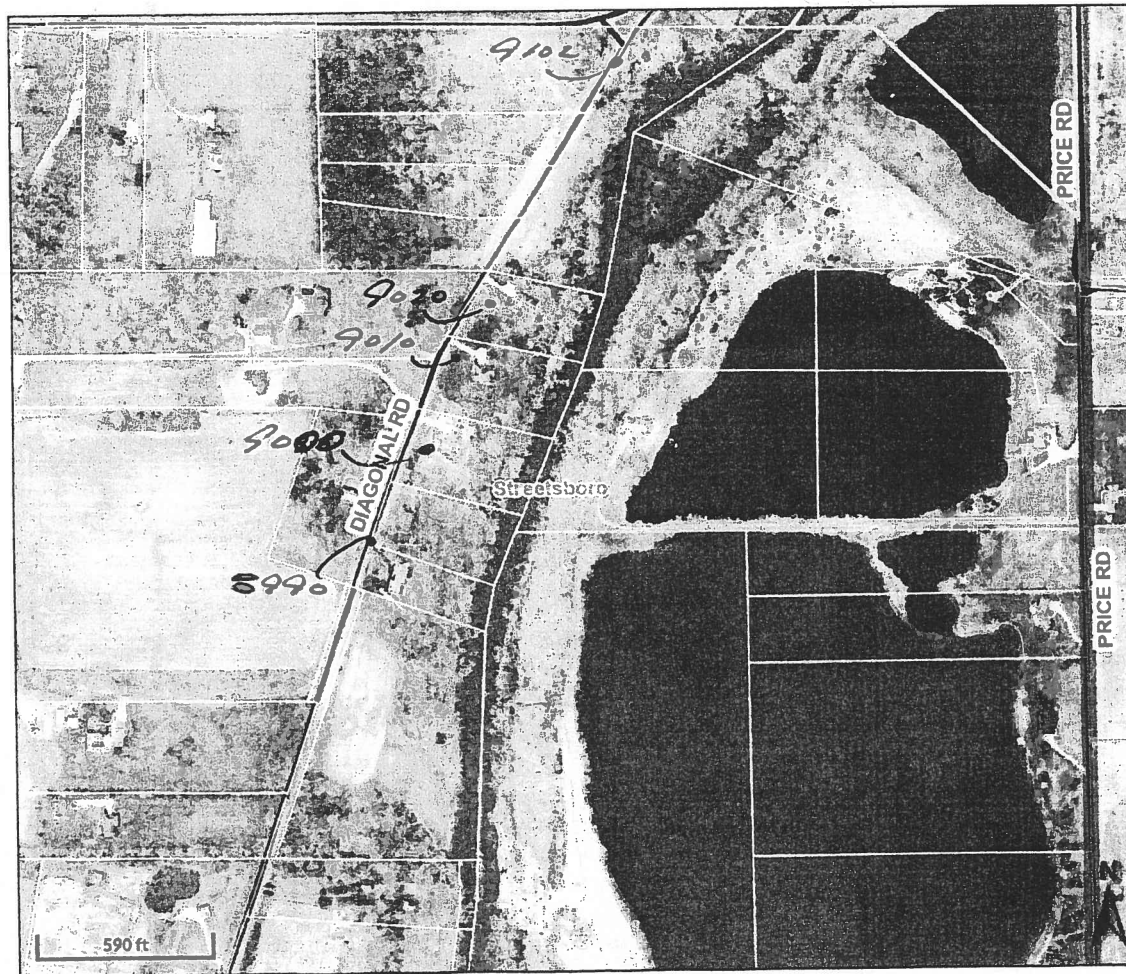
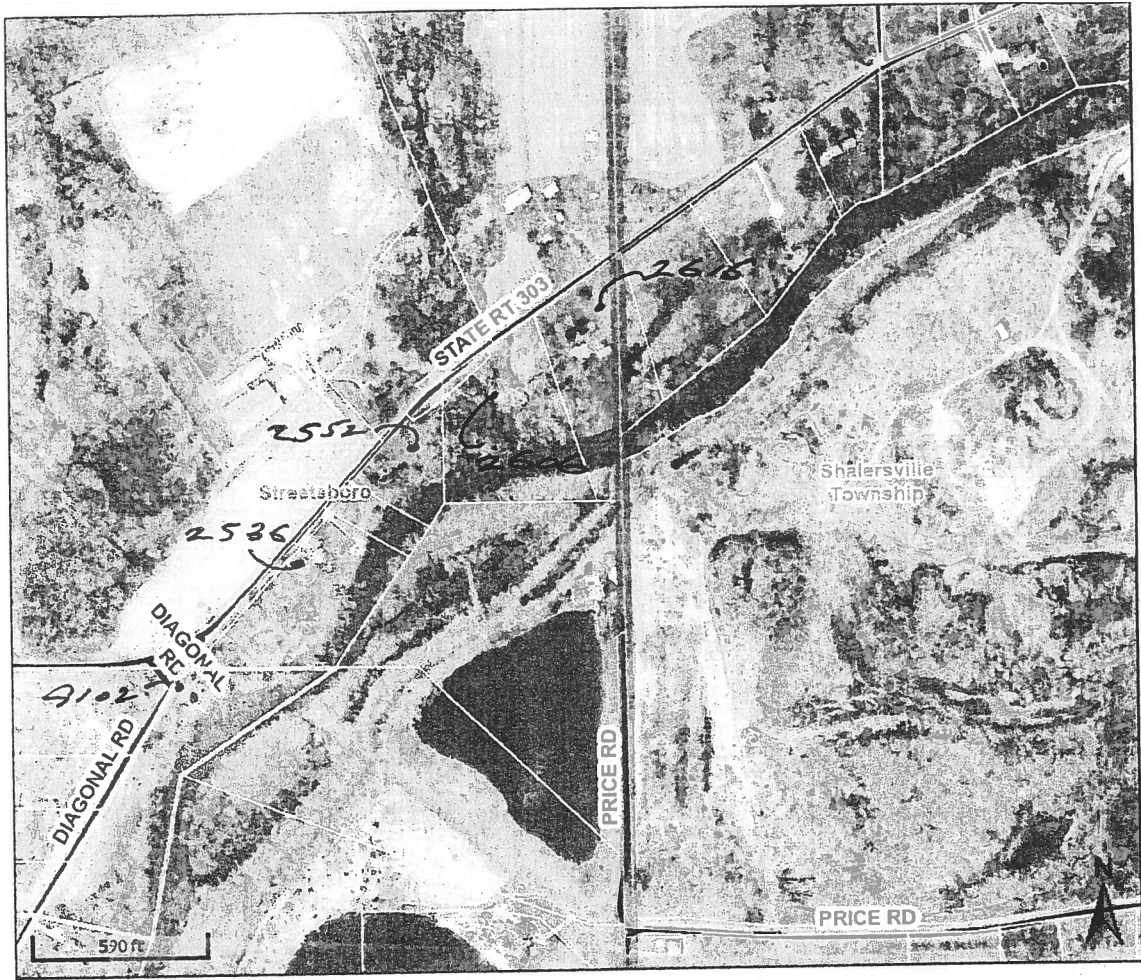
The city has reviewed the lot split submitted on May 7, 2024. The lot split as shown does not allow for two buildable lots due to the riparian setback regulations (Chapter 1191) of the City of Streetsboro. The comment from my previous emails has not been satisfied "Applying the above information, your drawing should demonstrate that both of the lots proposed will be buildable after the split". Therefore, the application for the above referenced address is denied.

If you would like to appeal this decision, you may submit to the Board of Zoning Appeals. The board will consider appeals based on the regulations set forth in Chapter 1191 of the Codified Ordinances.

Thank you,

Justin





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EXHIBIT
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