

Waverly Township  
**Planning and Zoning Commission**  
Special Meeting – Waverly Township Hall

**AGENDA**

26-Jun-06

7:00 PM

- 1) Call to Order / Introductions
- 2) David Walker special land use application – public hearing on request for lesser restrictions for proposed private road.
- 3) Commission Action
- 4) Adjourn

MINUTES

WAVERLY TOWNSHIP

PLANNING AND ZONING COMMISSION

Special Session-Waverly Township Hall  
Public Hearing on David Walker request for lesser restrictions for proposed private road.

June 26, 2006

Members present: Larry Chase, Kathleen Crook, Dave Foerster, Carl Juk, Joe Mayo, and Mike LaPine.

Member absent: John Ruiter

Visitors:	Karen Doloughy	Rev Fr Jim Haack
	Karen Haack	Richard Ruszkowski
	Michelle Ruszkowski	Ardith Owen
	Jennifer McGeath	Joan Hentchel
	Chuck Zolp	Cindy Daines
	Patrick Hudson	

Chairman Dave Foerster called the meeting to order at 7:05 PM. The call to order was delayed to allow Mr. Walker or his representative additional time to arrive. Neither did so. Mr. Walker was not in attendance for this meeting. He did not send a representative for this meeting.

Dave Foerster reviewed Mr. Walker's request as submitted at the June 12, 2006 meeting. See attachment 1.

Dave Foerster reviewed Section 4.10 - Private Roads/ or Drives, of The Waverly Township Zoning Ordinance. See attachment 2.

An item by item review was conducted to compare Mr. Walkers special use proposal to the current Zoning Ordinance. The proposal deviated from the ordinance in many different areas.

Pat Hudson stated that Mr. Walker can sell lots now but they are not buildable until a road is built. A split has not been approved.

Dave Foerster opened the floor to comments from the audience, requesting that the person give their full name and limit their comments to 3 minutes.

Ardith Owen asked how can Mr. Walker claim the Homestead Property Tax Exemption. The reason is that his parcels are adjacent to each other.

Mr. Walker stated that he wanted to build only two houses.

Any exceptions granted would apply to any future divisions made.

Jennifer McGeath commented that Mr. Walker said that he wanted to avoid a mobile home park. A single person wanted to buy it and have horses but was denied a permit to build. Mr. Walker can not guarantee what will happen. What can he build?

Pat Hudson replied that it is zoned R3. That allows 1 acre lots. There could be up to 25 lots created on this parcel.

Pat was asked if a mobile home park could be put on this property. He answered that it is not zoned for a mobile home park. It could be platted and sold for double wide homes.

Fr. Jim Haack asked if we would be sure it was surveyed? Pat answered that it is not part of a normal land division.

Jim commented that he is afraid that once a driveway is in and the divisions begin that it will exceed Mr. Walkers stated intentions.

To address Fr. Hack's concerns about where houses might be built in regard to property lines, Pat stated that current zoning requires a 20 foot setback from rear lot lines. Pat said that we can control the road construction but can't control where he builds other than what is in the zoning ordinance.

Joan Hentchel commented that it is a nice piece of property. She does not like how he is trying to work his way around the ordinances to get what he wants.

Chuck Zolp said that he knew the person who wanted to buy the property, build a barn and have horses. The realtor said that it could not be done on that property. Joe Mayo stated that a house must be built before a barn can be built. Pat stated that it was denied because there was no land division. The only way to do it is to build a road and get a land division. Then the person could do what he wanted.

Karen Haack said the reason Mr. Walker wanted to place a road on the south side of the 66 foot right of way was because it was flatter there and the drive would be easier to build. Run off would go on to the Niles property.

Ardith Owen said that she thinks he should meet all requirements and that his drive should be in the center of the 66 foot right of way.

Pat Hudson stated that the soils map used by Mr. Walker to justify a lesser road bed has a disclaimer that it is not to be used for planning a road site.

Hank Schuller's [sic] letter was read. See attachment 3

Joe Mayo asked if we allowed this request could we later use eminent domain to take over the road. Pat Hudson replied that it is Policy not to take over this type of road.

Pat Hudson presented The International Fire Code which has been adopted by The State of Michigan. It requires a better road than Mr. Walker is proposing. See attachment 4.

Karen Doloughty asked if the surrounding property owners would be notified of the Commissions decision. Dave Foerster replied that a decision would be made during this meeting and the approved minutes would be posted on the Township web site.

Mike LaPine moved to turn down the Special Use Request of Mr. David Walker based on non compliance to the application standards present in The Waverly Township Zoning Ordinance Section 4.10.

Kathleen Crook seconded the motion.

A roll call voice vote was taken. The results are:

Mike LaPine	yes
Larry Chase	yes
Kathleen Crook	yes
Dave Foerster	yes
Joe Mayo	yes
Carl Yuk	yes

Motion passed unanimously.

Carl Yuk moved to adjourn the meeting. Mike LaPine seconded the motion. The motion passed unanimously.

Meeting adjourned 8:30 PM.

Minutes respectively submitted

Larry Chase  
Recording Secretary.

Attachments: 1. Walker Special Use Permit Application  
2. Private Road Zoning Ordinance  
3. Comment letter  
4. International Fire Code excerpt

WAVERLY TOWNSHIP  
SPECIAL USE REQUEST  
NOTICE OF HEARING

PLEASE TAKE NOTICE that the Waverly Township Planning Commission will hold a public hearing on Monday June 12, 2006 at 7:00 P.M. at the Waverly Township hall 42114 M-43 to consider support and objections to the Special Use request from property owners whose parcel # is 80-18-035-022-41 in the vicinity of 47900 CR 665. Request is for a lesser restriction for a private road. (Driveway)

You may make your comments at the hearing in person, or by letter to the Waverly Township Planning Commission, Waverly Township Hall, 42114 M-43 Paw Paw, Mi. 49079 to arrive by Friday June 9<sup>th</sup>.2006

  
A. Jean Dahms, Waverly Township Clerk

Publish Courier:  
June 9

RECEIVED MAY 24 2006

# SPECIAL USE PERMIT APPLICATION

1. Owner: Name: Walker David W  
(LAST) (FIRST) (M.I.)  
 Address: 36862 49th Ave Paw Paw, MI 49079  
(STREET & NO.) (CITY) (STATE) (ZIP)  
 Telephone: (269) 657-7336 (269) 352-9000  
(HOME) (OFFICE)

2. Request is for a Special Use Permit to (Specify Use): Application for lesser restrictions for private road (driveway)

3. Legal Description of Property: See attached

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4. Address of Property: No dwellings, see legal description

5. Present Use and Zoning of Property: R-3

6. Attach an Accurate Drawing Showing:

- |   |  |
|---|--|
| a) Property boundary lines <input checked="" type="checkbox"/>      | d) Existing zoning on the adjacent properties <input checked="" type="checkbox"/>  |
| b) Existing structures <input checked="" type="checkbox"/> NA       | e) Proposed new structures <input checked="" type="checkbox"/> NA                  |
| c) Location of abutting streets <input checked="" type="checkbox"/> | f) Location of building on adjacent properties <input checked="" type="checkbox"/> |

7. Name & Address of All Other Persons, Firms, or Corporations Having a Legal or Equitable Interest in the Property: DAVID WALKER and DENISE WALKER

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8. List of All Deed Restrictions (Attach Additional Sheets if Necessary):

NA

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To: Waverly Township

RECEIVED JUN - 5 2006

From: David Walker

Date: 5/30/2006

This letter is intended to supplement the special use permit application submitted on May 22, 2006 for lesser restrictions for a "Private Road" or driveway providing access into the parcel in section 35 along the township line that contains only 66' of frontage. Township approval of this special use permit is expected to lead to approval in the future of any single residence building permit application.

It is understood that any type of multiple residence building application could not be approved by the township until an improved private road, compliant with township code be constructed.

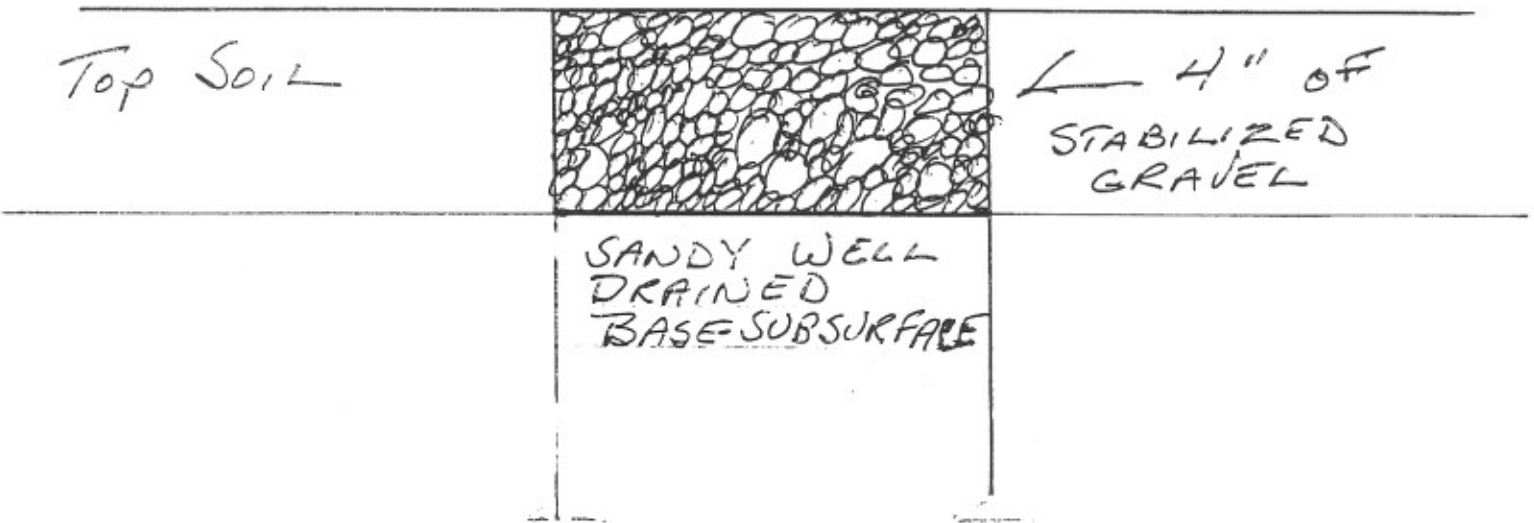


David Walker

CROSS SECTION OF  
PROPOSED PRIVATE  
ROAD (DRIVEWAY)  
FOR DADE WALKER

SPECIFICATIONS

1. REMOVE TOP SOIL  
TO SUBSURFACE
2. ADD 4" OF STABILIZED  
GRAVEL - ROAD GRADE
3. 12 FOOT WIDE BY  
530 FEET WITH A  
TURNAROUND AT  
THE END



REF: GENERAL  
SOIL MAP OF  
VAN BUREN CO.  
AFTER PAGE 155  
IN SOIL SURVEY OF  
VAN BUREN CO. USDA.

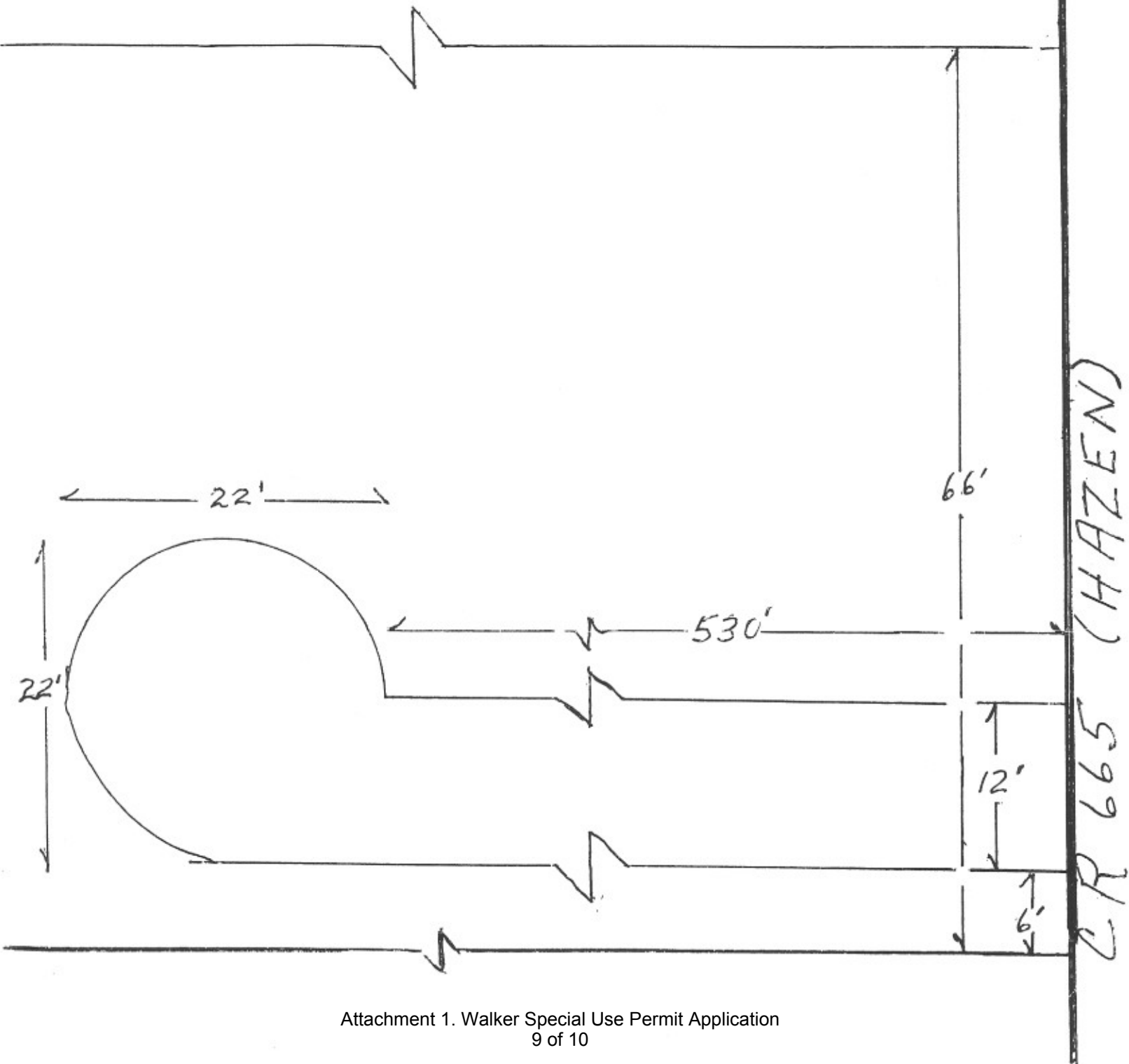




Soil photo (1) – On file at Waverly Township Hall

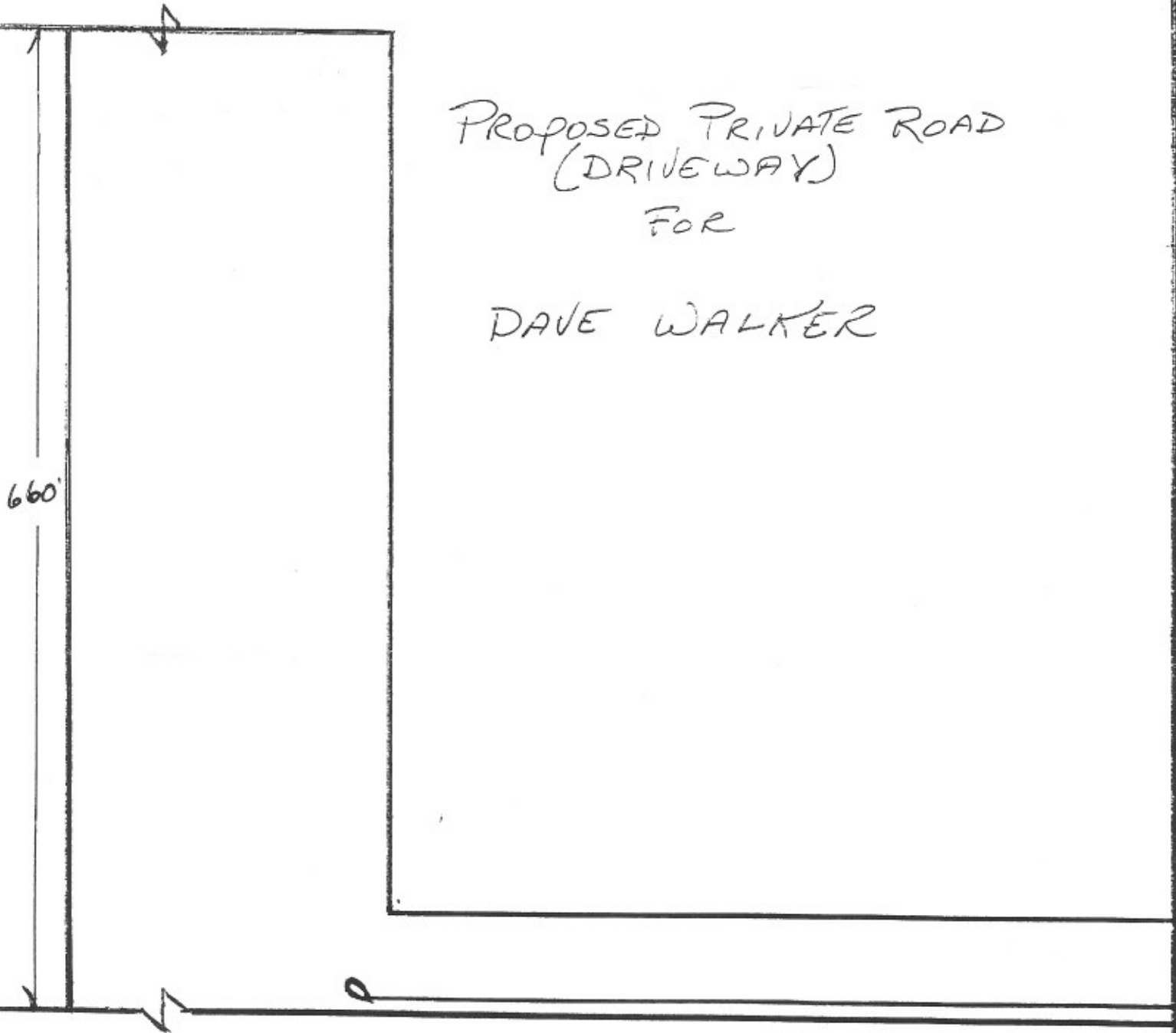
Soil photo (2) – On file at Waverly Township Hall

DETAIL OF PROPOSED PRIVATE  
ROAD (DRIVEWAY) AT  
CR 657 FOR  
DAVE WALKER





PROPOSED PRIVATE ROAD  
(DRIVEWAY)  
FOR  
DAVE WALKER



660'

CR 665 (HAZEN)

Attachment 1. Walker Special Use Permit Application  
TAU 10 of 10  
LINE  
1" = 100'

Section 4.10 - Private Roads / or Drives (Waverly Township Zoning Ordinance)

Whenever private road development occurs in Waverly Township, the following minimum standards shall apply:

- A. All private roads shall be constructed in a good and workmanlike manner upon and parallel to the centerline of a permanent right-of-way easement duly recorded with the Van Buren County Register of Deeds. Right-of-way or easements, while not required to be dedicated, will be reserved for future dedication and preclude any development within this designated area. All plans as submitted for approval must show the private road easement including a legal description, the grade of the road, and any Drainage facilities and structures.
- B. All private roads serving more than two (2) parcels or having an area over six (6) acres, not dedicated to a conservation easement, available for future splits, shall have names approved by the Van Buren County Road Commission and be consistent with the Van Buren County Address Numbering system. There shall be a clear vision zone at corners of intersection roads, or road junctions, consisting of a triangular area defined by the point of intersection of right-of-way lines and the two points extended along such lines a distance of sixty (60) feet from the point of intersection, and within which area no obstruction to vision, excluding existing topography, shall be permitted from a height of two (2) feet to eight (8) feet above the centerline of the road.
- C. A drainage plan shall be submitted on a topographic map, indicating the manner in which surface drainage is to be dispersed. In no case shall runoff from a private road be diverted beyond the limits of that private road onto adjacent roads or property unless appropriate easements are provided. The applicant shall submit a complete set of road construction plans to the Michigan Department of Environmental Quality, Kalamazoo District Office or Successor Agency, for review, comments and state / federal permits. Such permits shall include: NPDES (National Point-Source Discharge Elimination System), Wetlands, Flood plan, and, Waterways Permits. The applicant shall also submit a complete set of road construction plans to the Van Buren County Drain Commissioner and Soil Erosion & Sedimentation Control Officer for review, comment and permit(s).
- D. A private road serving or to serve a maximum of two (2) lots, parcels, or condominium units shall at a minimum meet the following design standards:
  - 1. Shall be located on a right-of-way easement a minimum of sixty-six (66) feet wide. A narrower easement may be approved by the Waverly Township Planning Commission as a part of a Planned

Unit Development.

2. Have a sand and gravel base of not less than twelve (12) inches in depth of which the top six (6) inches in depth shall be at least a minimum road grade gravel.
  3. Have a roadbed not less than nineteen (19) feet wide.
  4. Be constructed over adequate culverts where necessary.
  5. No portion of the road grade shall exceed seven (7 %) percent.
  6. Have all Michigan Department of Environmental Quality (MDEQ) or successor agency approvals and permits as well as all County Road Commission, Drain Commission and Soil Erosion & Sedimentation Control permits.
- E. A private road, serving or to serve, or with a probability of serving a minimum of three (3) parcels, lots, or condominium units or more, shall meet all the standards of the Van Buren County Road Commission for a public road. The probability of serving three (3) or more building sites shall be determined to exist if the area to be accessed has an area of six (6) or more acres not dedicated to a conservation easement. Applications for all such roads shall have the required approvals/permits from MDEQ (or successor) and Van Buren County as listed above (D.6).
- F. All application for private road construction shall be made at the same time as or prior to a land division occurs creating lots without frontage on an existing public road. The application shall contain:
1. Sealed, engineered road construction plans.
  2. Drainage plan with state and county approvals/permits.
  3. Road maintenance agreement and deed restrictions satisfactory to the township attorney, signed by applicant/owner, providing for:
    - a. A method of initiating and financing of such road and/or easements in order to keep the road safe, and in reasonably good and useable condition.
    - b. A workable method of apportioning the costs of maintenance and improvements to current and future users.
    - c. A notice that if repairs and maintenance are not made within six months of the date of official notice from the Waverly Township Board. The board may bring the road up to the design standards of this ordinance and assess

owners of parcels on the private road for the costs of all improvements, plus an administrative fee in the amount of twenty-five (25%) percent of total costs.

- d. A notice that no public funds of Waverly Township are to be used to initially build, thereafter repair, or maintain the private road.
  - e. Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary.
  - f. A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitee, vendors, trade persons, delivery persons, and others bound to or returning from any of the properties have a need to use the road.
  - g. The cost of engineering review and attorney review and all state and county permits/reviews shall be borne by the applicant.
- G. No private road shall be incorporated into the public road system unless built to the specifications of the Van Buren County Road Commission for a public record, and inspected by the Van Buren County Road Commission Engineer or his designee at the time of construction.
- H. Permission to construct a private road shall be granted by the Zoning Administrator provided that proof that all the requirements listed in this section can be met are supplied by the applicant. Land divisions dependent upon such private road may not be granted until the applicant's engineer has delivered "as-built" plans, meeting the requirements of the approved plans, to the Waverly Township Clerk and the Zoning Administrator has issued a letter of final approval to the applicant.
- I. The Planning Commission may grant permission to the applicant to CONSTRUCT SUCH ROAD TO LESSER STANDARD(s) than this section only after a duly noticed public hearing. The Planning Commission must use either the Planned Unit Development process or the Special Use process to APPROVE LESSER STANDARDS than these regulations.

RECEIVED JUN 12 2006

Dear Property Owners or Residents:

At the request of David Walker, 36862 49<sup>th</sup>. Ave. Paw Paw the Waverly Township Board of Appeals will consider a ~~variance request~~ for lesser restrictions for a private road (drive in the vicinity of 47900 CR 665).. *SPECIAL USE*

Copy of the published request is included.

State Law requires that you are given notice of the hearing to be held on Monday June 12, 2006 at 7:00 P.M. at the Waverly Township Hall, 42114 M43 Hwy., Paw Paw, Mi. 49079.

If you have any questions, or comments regarding the variance, please make your comments at the hearing in person, or by letter to the Board of Appeals at 42114 M-43 Paw Paw, Mi. 49079 to arrive by Friday June 9, 2006.

A. Jean Dahms Waverly Township Clerk

To Whom it may concern:

I am totally against the variance for lesser restrictions for a private road. The location already has a very poor visibility in both directions. This land owner thinks he can <sup>property owner</sup> ~~do~~ <sup>do</sup> anything he wants, whether it is for sale or not! The drive would only end up causing accidents! Please refuse the variance on my behalf, as I'm very much against it. Thank you!

## Chapter 5

# FIRE SERVICE FEATURES

### SECTION 501 GENERAL

**501.1 Scope.** Fire service features for buildings, structures and premises shall comply with this chapter.

**501.2 Permits.** A permit shall be required as set forth in Sections 105.6 and 105.7.

**501.3 Construction documents.** Construction documents for proposed fire apparatus access, location of fire lanes and construction documents and hydraulic calculations for fire hydrant systems shall be submitted to the fire department for review and approval prior to construction.

**501.4 Timing of installation.** When fire apparatus access roads or a water supply for fire protection is required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction except when approved alternative methods of protection are provided. Temporary street signs shall be installed at each street intersection when construction of new roadways allows passage by vehicles in accordance with Section 505.2.

### SECTION 502 DEFINITIONS

**502.1 Definitions.** The following words and terms shall, for the purposes of this chapter and as used elsewhere in this code, have the meanings shown herein.

**FIRE APPARATUS ACCESS ROAD.** A road that provides fire apparatus access from a fire station to a facility, building or portion thereof. This is a general term inclusive of all other terms such as fire lane, public street, private street, parking lot lane and access roadway.

**FIRE COMMAND CENTER.** The principal attended or unattended location where the status of the detection, alarm communications, and control systems is displayed, and from which the system(s) can be manually controlled.

**FIRE DEPARTMENT MASTER KEY.** A limited issue key of special or controlled design to be carried by fire department officials in command which will open key boxes on specified properties.

**FIRE LANE.** A road or other passageway developed to allow the passage of fire apparatus. A fire lane is not necessarily intended for vehicular traffic other than fire apparatus.

**KEY BOX.** A secure, tamperproof device with a lock operable only by a fire department master key; and containing building entry keys and other keys that may be required for access in an emergency.

### SECTION 503 FIRE APPARATUS ACCESS ROADS

**503.1 Where required.** Fire apparatus access roads shall be provided and maintained in accordance with Sections 503.1.1 through 503.1.3.

**503.1.1 Buildings and facilities.** Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet (45 720 mm) of all portions of the facility or any portion of the exterior wall of the first story of the building as measured by an approved route around the exterior of the building or facility.

**Exception:** The code official is authorized to increase the dimension of 150 feet (45 720 mm) where:

1. The building is equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3.
2. Fire apparatus access roads cannot be installed due to location on property, topography, waterways, non-negotiable grades or other similar conditions, and an approved alternative means of fire protection is provided.
3. There are not more than two Group R-3 or Group U occupancies.

**503.1.2 Additional access.** The code official is authorized to require more than one fire apparatus access road based on the potential for impairment of a single road by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access.

**503.1.3 High-piled storage.** Fire department vehicle access to buildings used for high-piled combustible storage shall comply with the applicable provisions of Chapter 23.

**503.2 Specifications.** Fire apparatus access roads shall be installed and arranged in accordance with Sections 503.2.1 through 503.2.7.

**503.2.1 Dimensions.** Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm), except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm).

**503.2.2 Authority.** The code official shall have the authority to require an increase in the minimum access widths where they are inadequate for fire or rescue operations.

**503.2.3 Surface.** Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities.

**503.2.4 Turning radius.** The required turning radius of a fire apparatus access road shall be determined by the code official.

**503.2.5 Dead ends.** Dead-end fire apparatus access roads in excess of 150 feet (45 720 mm) in length shall be provided with an approved area for turning around fire apparatus.

**503.2.6 Bridges and elevated surfaces.** Where a bridge or an elevated surface is part of a fire apparatus access road, the bridge shall be constructed and maintained in accordance with *AASHTO Standard Specification for Highway Bridges*. Bridges and elevated surfaces shall be designed for a live load sufficient to carry the imposed loads of fire apparatus. Vehicle load limits shall be posted at both entrances to bridges when required by the code official. Where elevated surfaces designed for emergency vehicle use are adjacent to surfaces which are not designed for such use, approved barriers, approved signs or both shall be installed and maintained when required by the code official.

**503.2.7 Grade.** The grade of the fire apparatus access road shall be within the limits established by the code official based on the fire department's apparatus.

**503.3 Marking.** Where required by the code official, approved signs or other approved notices shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. Signs or notices shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility.

**503.4 Obstruction of fire apparatus access roads.** Fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles. The minimum widths and clearances established in Section 503.2.1 shall be maintained at all times.

**503.5 Required gates or barricades.** The code official is authorized to require the installation and maintenance of gates or other approved barricades across fire apparatus access roads, trails or other accessways, not including public streets, alleys or highways.

**503.5.1 Secured gates and barricades.** When required, gates and barricades shall be secured in an approved manner. Roads, trails and other accessways that have been closed and obstructed in the manner prescribed by Section 503.5 shall not be trespassed on or used unless authorized by the owner and the code official.

**Exception:** The restriction on use shall not apply to public officers acting within the scope of duty.

**503.6 Security gates.** Where security gates are installed, they shall be maintained and an approved means of emergency operation shall be provided and maintained.

## SECTION 504 ACCESS TO BUILDING OPENINGS AND ROOFS

**504.1 Required access.** Exterior doors and openings required by this code or the *International Building Code* shall be maintained readily accessible for emergency access by the fire department. An approved access walkway leading from fire

apparatus access roads to exterior openings shall be provided when required by the code official.

**504.2 Maintenance of exterior doors and openings.** Exterior doors and their function shall not be eliminated without prior approval. Exterior doors that have been rendered nonfunctional and that retain a functional door exterior appearance shall have a sign affixed to the exterior side of the door with the words **THIS DOOR BLOCKED**. The sign shall consist of letters having a principal stroke of not less than 0.75 inch (19.1 mm) wide and at least 6 inches (152 mm) high on a contrasting background. Required fire department access doors shall not be obstructed or eliminated. Exit and exit access doors shall comply with Chapter 10. Access doors for high-piled combustible storage shall comply with Section 2306.6.1.

**504.3 Stairway access to roof.** New buildings four or more stories in height, except those with a roof slope greater than four units vertical in 12 units horizontal (33.3-percent slope), shall be provided with a stairway to the roof. Such stairway shall be marked at street and floor levels with a sign indicating that the stairway continues to the roof. Where roofs are used for roof gardens or for other purposes, stairways shall be provided as required for such occupancy classification.

## SECTION 505 PREMISES IDENTIFICATION

**505.1 Address numbers.** New and existing buildings shall have approved address numbers, building numbers, or approved building identification placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 0.5 inch (12.7 mm).

**505.2 Street or road signs.** Streets and roads shall be identified with approved signs. Temporary signs shall be installed at each street intersection when construction of new roadways allows passage by vehicles. Signs shall be of an approved size, weather resistant and be maintained until replaced by permanent signs.

## SECTION 506 KEY BOXES

**506.1 When required.** Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the code official is authorized to require a key box to be installed in an accessible location. The key box shall be of an approved type and shall contain keys to gain access as required by the code official.

**506.1.1 Locks.** An approved lock shall be installed on gates or similar barriers when required by the code official.

**506.2 Key box maintenance.** The operator of the building shall immediately notify the code official and provide the new key when a lock is changed or rekeyed. The key to such lock shall be secured in the key box.