

**AGENDA
CITY OF SWARTZ CREEK
ZONING BOARD OF APPEALS
WEDNESDAY, AUGUST 21, 2019
6:00 P.M.**

- 1. CALL TO ORDER:**
- 2. PLEDGE OF ALLEGIANCE:**
- 3. ROLL CALL:** Commissioners: Gilbert, Packer, Plumb, Smith, Stephens.
Alternates: Wyatt, Fountain
- 4. APPROVAL OF AGENDA:**
- 5. APPROVAL OF MINUTES:**
- 6. CORRESPONDENCE:**

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- 7. MEETING OPENED TO THE PUBLIC:**
- 8. VARIANCE APPLICATION:**
 - A. 58-03-400-013; Vacant Land-Seymour Road
- 9. OTHER BUSINESS: None**
- 9. MEETING OPENED TO THE PUBLIC:**
- 10. ADJOURNMENT:**

**RESOLUTIONS
CITY OF SWARTZ CREEK
ZONING BOARD OF APPEALS
WEDNESDAY, AUGUST 21, 2019
6:00 P.M.**

Resolution No. 190821-01

(Carried/Denied)

Motion by Boardmember _____, support by Boardmember _____, the Swartz Creek Zoning Board of Appeals approves the agenda for the August 21, 2019 ZBA meeting.

YES: _____.

NO: _____. Motion declared carried/denied.

Resolution No. 190821-02

(Carried/Denied)

Motion by Boardmember _____, support by Boardmember _____, the Swartz Creek Zoning Board of Appeals approves the minutes for the March 20, 2019 ZBA meeting.

YES: _____.

NO: _____. Motion declared carried/denied.

Resolution No. 190821-03

(Carried/Denied)

Motion by Boardmember _____, support by Boardmember _____, the Swartz Creek Zoning Board of Appeals makes the following findings in relation to the use variance application for vacant land on Seymour Road, PID 58-03-400-013:

1. The site is unique because it does not have practical access to required water or sewer utilities, making it unable to support primary uses in the single family zoning district.
2. The peculiarities of the property are not generally applicable in the community, which generally provides such utility access.
3. The hardships, including the lack of utilities, are not created by the owner and are not expected to be rectified in the foreseeable future.
4. Public infrastructure and services, with the exception of the initial impact on Seymour Road, will not be significantly compromised.
5. The variance request otherwise meets expectations for a use variance as enumerated in the current codification of Zoning Appendix A Section 22.06B.
6. _____

YES: _____.

NO: _____. Motion declared carried/denied.

Resolution No. 190821-04

(Carried/Denied)

Motion by Boardmember _____, support by Boardmember _____, the Swartz Creek Zoning Board of Appeals approves/denies the use variance request for the application of fill to a vacant parcel, PID 58-03-400-013 with the following conditions:

- 1. Structures shall not be permitted on the parcel unless otherwise approved by the Zoning Board of Appeals
- 2. The applicant shall acquire and maintain in good standing: a soil erosion permit, EGLE floodplain permit, and a right-of-way permit
- 3. _____

YES: _____.
NO: _____. Motion declared carried/denied.

Resolution No. 190821-05 **(Carried/Denied)**

Motion by Boardmember _____, support by Boardmember _____, the Swartz Creek Zoning Board of Appeals adjourns the August 21, 2019 Zoning Board of Appeals meeting.

YES: _____.
NO: _____. Motion declared carried/denied.

**CITY OF SWARTZ CREEK
SWARTZ CREEK, MICHIGAN
MINUTES OF THE ZONING BOARD OF APPEALS
MARCH 20, 2019**

The Regular Meeting was called to order at 6:02 pm by Chairman Packer in the Swartz Creek City Council Chambers, 8083 Civic Drive.

Board members Present: Packer, Plumb, Smith & Stephens.

Alternates Present: Alternate Fountain (6:05).

Board members Absent Gilbert & Alternate Barclay.

Staff Present: Adam Zettel.

Others Present: None.

APPROVAL OF AGENDA

Resolution No. 190320-01

(Carried)

Motion by Board Member Stephens
Second by Board Member Smith

The Swartz Creek City Zoning Board of Appeals hereby approves the Agenda of the Regular Board Meeting of March 20, 2019 as printed.

Unanimous Voice Vote
Motion declared carried

APPROVAL OF MINUTES:

Resolution No. 190320-02

(Carried)

Motion by Board Member Plumb
Second by Board Member Smith

The Swartz Creek City Zoning Board of Appeals hereby approves the Minutes of the Regular Board Meeting March 21, 2018, to be approved.

Unanimous Voice Vote
Motion declared carried

Meeting Open To The Public: No comments.

VARIANCE APPLICATION: None.

INTERPRETATION: None.

APPEALS: None.

OTHER BUSINESS:

Training: Mr. Zettel conducted a training session consisting of a PowerPoint slide show (on file) and Q&A session. The training lasted about 50 minutes.

Selection of Offices (Added to Agenda by Chairman with voice consent)

Resolution No. 190320-03 **(Carried)**

Motion by Zoning Board of Appeals Board Member Stephens
Second by Board Member Smith

I Move, the Swartz Creek Zoning Board of Appeals selects Board Member Packer to serve as the ZBA Chairperson, Board Member Plumb to serve as the ZBA Vice-Chairperson, and Board Member Smith to serve as the ZBA Secretary for a twelve month period commencing immediately and ending at the next annual meeting or as stated in the bylaws.

Unanimous Vote
Motion declared carried

Meeting Open To The Public: None.

Adjourn

Resolution No. 190320-04 **(Carried)**

Motion by Zoning Board of Appeals Board Member Smith
Second by Board Member Fountain

I Move the Swartz Creek Zoning Board of Appeals adjourns the March 20, 2019 ZBA meeting.

Unanimous Voice Vote
Motion declared carried

The board unanimously declared the meeting adjourned at approximately 7:05 p.m.

Ronald Smith
Secretary



Adam Zettel, AICP
City Manager
azettel@cityofswartzcreek.org

Date: August 14, 2019

To: Zoning Board of Appeals
From: Adam Zettel, AICP
Subject: August 21, 2019 ZBA Meeting

Hello everyone,

The Zoning Board of Appeals shall convene at 6:00pm on Wednesday, August 21, 2019 in the city council chambers of the Paul D. Bueche Municipal Building.

The exclusive purpose of this meeting is to hear an use variance to use vacant land, zoned for single family residential, for fill and grading activities. Enclosed, you will find the meeting agenda, March 20, 2019 meeting minutes, and the variance application materials. **Please read and study all materials carefully!**

The applicant proposes to add fill and spoils to the site, above the floodplain, thereby eliminating the site suitability for residential development. This is a Use Variance

The petitioner's proposal is reviewed under ordinance Section 22.06.B (current codification edition):

Use *variance*: The zoning board of appeals may grant a use variance only upon a finding that an unnecessary hardship exists that prevents use of the property as currently zoned. A use variance is a variance that permits a use that is otherwise not provided for in a zoning district. A finding of an unnecessary hardship shall require demonstration by the applicant of all of the following:

1. The applicant has demonstrated that the site can not reasonably be used for any of the uses allowed within the current zoning district designation. The zoning board of appeals may require submission of documentation from real estate or market experts, or a certified appraiser, to substantiate this finding.

I can attest that the site could not be reasonably developed because of its location and access to utilities. The county health department, drain commission, and city codes require connection to public water and sewer based upon the proximity to existing utilities (north of the creek). Connecting utilities under the creek to this site would be cost prohibitive due to the requirement to bore and the

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Swartz Creek Michigan 48473
Phone: (810)-635-4464 Fax: (810)-635-2887
www.cityofswartzcreek.org ftp://cityofswartzcreek.org

lack of elevation to gravity feed a sewer line. The county has not deviated from this requirement in the past, despite apparent hardships and appeals. As such, using this site for residential uses would require connection to the water and sewer system on the other side of the creek, something that cannot be reasonably accomplished at this point in time. There are no plans to extend water or sewer, though the city is advocating for a water connection to Hill Road in the future.

2. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district. The applicant must prove that there are certain features or conditions of the land that are not generally applicable throughout the zone and that these features make it impossible to earn a reasonable return. In those situations where the difficulty is shared by others, the zoning board of appeals may find that relief should be accomplished by an amendment to the zoning ordinance, not a variance.

The proximate location of utilities, compounded with the practical inability to connect to them is limited to two properties that the city is aware of.

3. The problem and resulting need for the variance has not been self-created by any action of the applicant or the applicant's immediate predecessor.

The problem resulted from regulatory acts of county governance, which were not the result of the owner or predecessor.

4. The capacity and operations of public roads, utilities, other facilities and services will not be significantly compromised.

Permanent use of the site will not require remarkable use of roads, utilities, or services. Initial fill will require heavy truck traffic. The city should ensure that a right-of-way permit is on file and any damage to the road or shoulder caused by activities is repaired by the petitioner.

5. The use variance will not alter the essential character of the neighborhood nor be of detriment to adjacent properties.

This finding appears to be the most subjective and will need findings of ZBA members and the public. The result will be a much higher berm that could alter the view shed of neighbors and the diffusion of sound from the rail way. The DEQ (now EGLE) has reviewed and approved the site fill plan as it relates to the impact and function of the creek and related floodplain. A soil erosion permit will be required, with the intent of protecting the adjacent areas and waterbody from runoff and erosion.

August 21, 2019
Zoning Board of Appeals

Summary Findings

Staff does not object to this variance application. The input of any attending public, the petitioner presentation, and the deliberation of the ZBA will further vet the suitability of this proposal. Should the ZBA move to approve it, I suggest that the future placement of structures is prohibited and that road damage that is a direct result of the project be repaired by the petitioner.

Following standard resolution drafting practice, the resolutions have been drafted in the affirmative. Findings and conditions reflect the staff report. This is a starting position only and can be altered prior to or after reading to add, alter, and eliminate content.

If you have any questions or have comments, please contact the city office or send me an email. I shall see you at the meeting.

Sincerely,



Adam H. Zettel, AICP
City Manager
City of Swartz Creek



APPLICATION FOR VARIANCE
City of Swartz Creek
8083 Civic Drive
Swartz Creek, MI 48473
810-635-4464

Fee Received: \$250 Date: 7/23/19 Receipt No: 227406

NOTICE TO APPLICANT:

This application for Variance must be filed approximately twenty (20) days before a meeting may be scheduled.

The property sought to be used as a "Special Use" is located and described, as follows:
Assessment Roll Description No. 58-03 - 400 - 013,

See Attached Exhibit - A

It has a frontage of: 460 feet and a depth of: 2,300 feet.

PRESENT ZONING: Low density Single family

TO THE ZONING BOARD OF APPEALS:

I, (We), the undersigned, do hereby respectfully make application for a Variance, for the following reason:

A. This property does not have a sewer or water lead.

B. Extending the sewer and water Mains under the creek creates an undue hardship

PROPERTY SOUGHT FOR VARIANCE IS OWNED BY:

Name: Alan D. Jory

Address: 6590 Bennett LK Rd., Fenton, MI 48430

Phone Number: 810-938-8472

CRUCIAL POINTS OF VARIANCE: (All elements must be present)

- A. Undue Hardship
- B. Unique Circumstances

Attached hereto are two (2) prints of the subject property plot plan showing the lot or parcel location within the City. These prints are made a part of this petition and are drawn to scale showing the existing and proposed structures. / Fill

Alan J. Gray
Signature of Applicant

Address: 6590 Bennett Lk Rd, Fenton, ME 48473

Phone Number: 810-938-8472

Email Address: RBF410@gmail.com

A. Action Taken by the Zoning Board of Appeals:

- 1. Date application: ___/___/___
- 2. Date of Public Hearing: ___/___/___
- 3. Findings of Zoning Board of Appeals:

B. Final Disposition of Zoning Board of Appeals:

By: _____
Chairman

Secretary

EXHIBIT "A"

Land situated in the City of Swartz Creek, County of Genesee, State of MI described as follows:

All that part of the Southeast 1/4 of Section 3, Township 6 North, Range 5 East lying South of Winchester Village and Winchester Village No. 6 and North of the C&O Railroad right-of-way and East of Seymour Road.

Described on the tax rolls as:

ALL THAT PART OF SE 1/4 LYING S OF HILL RD WINCHESTER VILLAGE & WINCHESTER VILLAGE NO 6 & N OF C & O R R R/W EXCEPT WINCHESTER MEADOWS & WINCHESTER MEADOWS NO 1 ALSO EXCEPT A PARCEL OF LAND BEG AT NW COR OF WINCHESTER MEADOWS TH S 0 DEG 22 MIN 54 SEC E 1441.74 FT TH S 69 DEG 54 MIN 36 SEC W TO N & S 1/4 LINE OF SEC TH N TO C L OF HILL RD N 89 DEG 59 MIN 06 SEC E 107.34 FT TO PL OF BEG ALSO EXCEPT A PARCEL OF LAND BEG S 2 DEG 17 MIN 11 SEC E 1328.34 FT & N 89 DEG 37 MIN 09 SEC E 1862.11 FT & N 62 DEG 47 MIN 34 SEC E 231.26 FT & N 89 DEG 59 MIN 06 SEC E 349.81 FT & S 0 DEG 00 MIN 54 SEC W 200 FT FROM W 1/4 COR OF SEC TH S 89 DEG 59 MIN 06 SEC E 880 FT TH S 54 DEG 12 MIN 26 SEC E 160.42 FT TH S 35 DEG 47 MIN 34 SEC W 228.68 FT TH ON CURVE TO LEFT -CHORD- S 23 DEG 37 MIN 04 SEC W 196.61 FT TH N 88 MIN 21 SEC W 794.93 FT TH N 0 DEG 22 MIN 54 SEC W 439.66 FT TO PL OF BEG ALSO EXCEPT A PARCEL OF LAND BEG N 89 DEG 56 MIN 51 SEC 3 2041.45 FT & N 70 DEG 05 MIN 11 SEC E 98.93 FT & N 70 DEG 05 MIN 11 SEC E 98.93 FT & N 70 DEG 08 MIN 44 SEC E 317.44 FT & N 69 DEG 53 MIN 28 SEC E 304.71 FT FROM SW COR OF SEC TH N 0 DEG 14 MIN 17 SEC W 767.51 FT TH S 88 DEG 35 MIN 13 SEC E 797.25 FT TO CL OF SEYMOUR RD TH S 11 DEG 38 MIN 52 SEC W 461.03 FT TH ALG N R/W OF GTWRR S 66 DEG 07 MIN 28 SEC W 292.65 FT & S 66 DEG 34 MIN 32 SEC W 172.61 FT & S 67 DEG 45 MIN 26 SEC W 146.98 FT & S 68 DEG 55 MIN 08 SEC W 145.67 FT TO PL OF BEG SEC 3 T6N R5E





**MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER RESOURCES DIVISION
PERMIT**

Issued To:

Mr. Alan Jory
4140 Morrish Road
Swartz Creek, MI 48473

Permit No: WRP014385 v.1
Submission No.: HNF-BZJ6-JC7SM
Site Name: 25-5480 Seymour Rd-Swartz Creek
Issued: November 14, 2018
Revised:
Expires: November 14, 2023

This permit is being issued by the Michigan Department of Environmental Quality (MDEQ), Water Resources Division, under the provisions of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA); specifically:

- | | |
|---|---|
| <input type="checkbox"/> Part 301, Inland Lakes and Streams | <input type="checkbox"/> Part 323, Shorelands Protection and Management |
| <input type="checkbox"/> Part 303, Wetlands Protection | <input type="checkbox"/> Part 325, Great Lakes Submerged Lands |
| <input type="checkbox"/> Part 315, Dam Safety | <input type="checkbox"/> Part 353, Sand Dunes Protection and Management |
| <input checked="" type="checkbox"/> Part 31, Water Resources Protection (Floodplain Regulatory Authority) | |

Permission is hereby granted, based on permittee assurance of adherence to State of Michigan requirements and permit conditions, to:

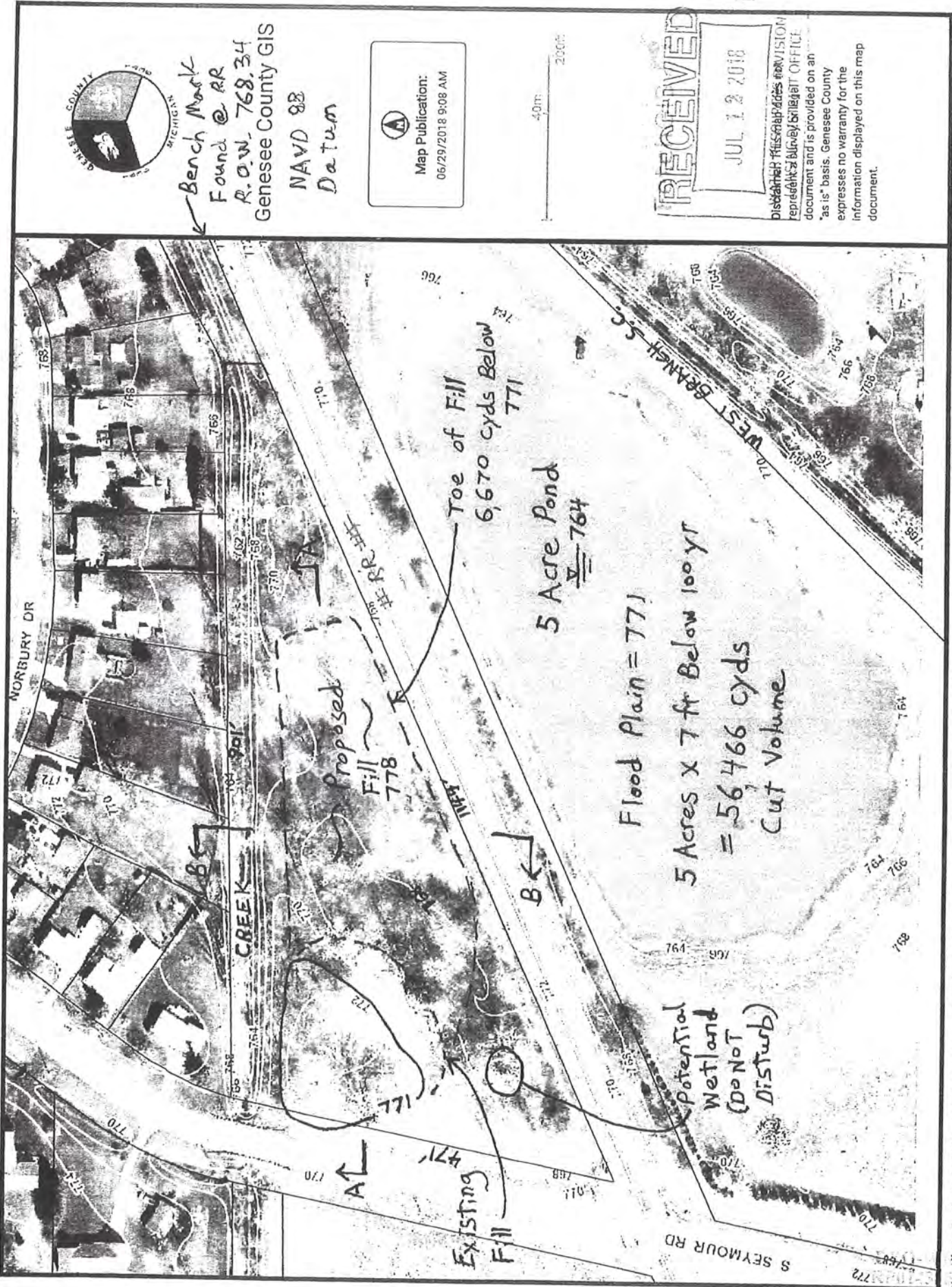
Authorized Activity:

Place approximately 6670 cubic yards of fill After-The Fact within the 100-year floodplain of the West Branch Swartz Creek.

Waterbody Affected: West Branch Swartz Creek (Alger Creek/Crapo Drain Backwater)
Property Location: Genesee County, City of Swartz Creek, Town/Range/Section 06N05E03, Property Tax No. 58-03-400-013

Authority granted by this permit is subject to the following limitations:

- A. Initiation of any work on the permitted project confirms the permittee's acceptance and agreement to comply with all terms and conditions of this permit.
- B. The permittee, in exercising the authority granted by this permit, shall not cause unlawful pollution as defined by Part 31 of the NREPA.
- C. This permit shall be kept at the site of the work and available for inspection at all times during the duration of the project or until its date of expiration.
- D. All work shall be completed in accordance with the approved plans and specifications submitted with the application and/or plans and specifications attached to this permit.
- E. No attempt shall be made by the permittee to forbid the full and free use by the public of public waters at or adjacent to the structure or work approved.



Bench Mark
 Found @ RR
 R.O.W. 768.34
 Genesee County GIS
 NAVD 88
 Datum

Map Publication:
 06/29/2018 9:08 AM



RECEIVED

JUL 12 2018
 Disbaird Properties DIVISION
 REPRESENTED BY GUY GRIFFAIT OFFICE
 document and is provided on an
 "as is" basis. Genesee County
 expresses no warranty for the
 information displayed on this map
 document.