AGENDA CITY OF SWARTZ CREEK ZONING BOARD OF APPEALS WEDNESDAY, OCTOBER 16, 2019 6:00 P.M.

1.	CALL TO ORDER:		
2.	PLEDGE OF ALLEGIANCE:		
3.	ROLL CALL:	Commissioners: Gilbert, Packer, Plumb, Smith Alternates: Wyatt, Fountain	ı, Stephens.
4.	APPROVAL OF AGENDA:		
5.	APPROVAL OF MINUTES:		
6.	CORRESPONDENCE:		Page
	A. ResolutionsB. Minutes AugustC. Meeting Staff LoD. Variance Applic	etter	02 04 07 10
7.	MEETING OPENED TO THE PUBLIC:		
8.	VARIANCE APPLICATION:		
	A. 58-03-400-0	13; Vacant Land-Seymour Road	
9.	OTHER BUSINES	S: None	
9.	MEETING OPENED TO THE PUBLIC:		
10.	ADJOURNMENT:		

RESOLUTIONS CITY OF SWARTZ CREEK ZONING BOARD OF APPEALS WEDNESDAY, OCTOBER 16, 2019 6:00 P.M.

Resolution No.	191016-01	(Carried/Denied)
Mo ag	otion by Boardmember, the Swartz Creek Zoning enda for the October 16, 2019 ZBA n	, support by Boardmember g Board of Appeals approves the neeting.
	S: D: Motion declared carr	ried/denied.
Resolution No.	191016-02	(Carried/Denied)
	otion by Boardmember, the Swartz Creek Zoning nutes for the August 21, 2019 ZBA m	
YE NC	ES: D: Motion declared carr	ried/denied.
Resolution No.		(Carried/Denied)
the rel: PII 1. 2. 3.	otion by Boardmember	eals makes the following findings ir for vacant land on Seymour Road, not have practical access to king it unable to support primary rict. not generally applicable in the es such utility access. utilities, are not created by the ectified in the foreseeable future. with the exception of the initial e significantly compromised. ets expectations for a use variance
6. YE	,	
NC		ried/denied.

ZBA Packet 2 October 16, 2019

(Carried/Denied)

Resolution No. 191016-04

	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:
	 Structures shall not be permitted on the parcel unless otherwise approved by the Zoning Board of Appeals The applicant shall aquire and maintain in good standing: a soil erosion permit, EGLE floodplain permit, and a right-of-way permit
	YES: NO: Motion declared carried/denied.
Resolution	No. 191016-05 (Carried/Denied)
	Motion by Boardmember, support by Boardmember, the Swartz Creek Zoning Board of Appeals adjourns the October 16, 2019 Zoning Board of Appeals meeting.
	YES: NO: Motion declared carried/denied.

Swartz Creek Zoning Board of Appeals

Draft Minutes: August 21, 2019

CITY OF SWARTZ CREEK SWARTZ CREEK, MICHIGAN MINUTES OF THE ZONING BOARD OF APPEALS AUGUST 21, 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, Gilbert, Smith & Stephens.

Alternates Present: Wyatt & Fountain (Participating).

Board members Absent Plumb.

Staff Present: Adam Zettel.

Others Present: Alan Jory, Mike Dunsire, Jack Tanner, Maynard T. Boyd,

Andrew Williams, Patricia Williams, Sandy Cleomaude,

David Schlader.

APPROVAL OF AGENDA

Resolution No. 190821-01

(Carried)

Motion by Board Member Smith Second by Board Member Gilbert

The Swartz Creek City Zoning Board of Appeals hereby approves the Agenda of the Regular Board Meeting of August 21, 2019 as printed.

Yes: Packer, Fountain, Gilbert, Smith, Stephens.

No: Motion declared carried.

APPROVAL OF MINUTES:

Resolution No. 190821-02

(Carried)

Motion by Board Member Stephens Second by Board Member Gilbert

The Swartz Creek City Zoning Board of Appeals hereby approves the Minutes of the Regular Board Meeting March 20, 2019, to be approved.

Yes: Fountain, Gilbert, Smith, Stephens, Packer.

No: Motion declared carried.

Meeting Open To The Public: No comments.

VARIANCE APPLICATION:

58-03-400-013; Vacant Land-Seymour Road

Alan Jory, owner of Vacant Land - Seymour Road, requesting variance to use vacant land for fill and grading activities. If variance is approved he would restrict hours of dumping from 9:00 a.m. to 6:00 p.m, and only RBF Construction would be doing the dumping. Our DEQ permit is only for organic materials and is only for five years.

Boardmember Gilbert would like to know what the plans for this property

Boardmember Smith questioned

Public Hearing Open 6:52 p.m

Sandy Cleomaude is opposed.

Andrew Williams, 9159 Norbury Drive, opposed and concerned about flooding and appearance.

Michael Dunsire, 9127 Norbury Drive, opposed and concerned about the flooding.

Maynard T. Boyd, 9171 Norbury Drive, watched dumping of concrete and is opposed for flooding reasons.

David Schlader, 5463 Seymour Road, opposed. Concerned about flooding and concrete dumping.

Jack Tanner, 9111 Norbury Drive, west of his property there is a sink hole in the front yard and sidewalk is caving in.

Closed 7:12 p.m.

Alan Jory, flooding should not be an issue, soil erosion is good. He is willing to cover up any unsightly concrete. He requested to postpone in order to collect more data.

Resolution No. 190821-03

(Carried)

Motion by Board Member Stephens, support by Board Member Gilbert, to postpone variance application for vacant land on Seymour Road, PID 58-03-400-013 in order to collect more data.

Yes: Gilbert, Smith, Stephens, Packer, Fountain.

No: Motion declared carried.

Swartz Creek Zoning Board of Appeals Draft Minutes: August 21, 2019

OTHER BUSINESS: None.

Meeting Open To The Public: None.

Adjourn

Resolution No. 190821-04

(Carried)

Motion by Board Member Gilbert Second by Board Member Fountain

I Move the Swartz Creek Zoning Board of Appeals adjourns the August 21, 2019 ZBA meeting.

Unanimous Voice Vote Motion declared carried

The board unanimously declared the meeting adjourned at approximately 7:25 p.m.

Ronald Smith

Secretary



Adam Zettel, AICP

City Manager

azettel@cityofswartzcreek.org

Date: October 15, 2019

To: Zoning Board of Appeals

From: Adam Zettel, AICP

Subject: October 16, 2019 ZBA Meeting

Hello everyone,

ZBA Packet

The Zoning Board of Appeals shall convene at 6:00pm on Wednesday, October 16, 2019 in the city council chambers of the Paul D. Bueche Municipal Building.

This meeting is a continuation of the meeting and public hearing related to an use variance to use vacant land, zoned for single family residential, for fill and grading activities. Enclosed, you will find the meeting agenda, August 21, 2019 meeting minutes, and the variance application materials.

Note that the applicant has submitted additional technical and narrative information for their case. Letters have been sent out to all owners of record within 300', as well as attendees that left contact information. Please read and study all materials carefully!

The original review follows [new comments are in bold/brackets]:

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 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.

[A primary concern of the public was the ability of the creek and overflow pond to manage water that could be displaced. The applicant has submitted additional information related to this concern]

October 16, 2019 Zoning Board of Appeals

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. [see minutes for recorded comments from the public, which generally reflected concerns over the unsightliness of the current and proposed fill] 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.

Summary Findings

This is a difficult case. While the hardships for the parcel appear relatively objective, it has been a challenge to make findings regarding the post-fill impact on the area. The resulting appearance is also a matter of public concern as it relates to the proposed final grade and the applicants ability to control the outcome.

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

ZBA Packet

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: 7123/19 Receipt No: 201406			
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 sever or water lead.			
B. Extending the sewer and water Maines under			
the creek creats 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 PO	INTS OF	VARIANCE: (A	All elements	must be i	present)
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- 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.

Signature of Applicant					
	Address: 6590 Bennett LK Rd, Fenton, MI 48473 Phone Number: 810-938-8472				
Ema	il Address: RBF 410@G	- Mail i Culy			
A.	Action Taken by the Zonin 1. Date application: 2. Date of Public Hear 3. Findings of Zoning	// ring:///			
В.	Final Disposition of Zoning	g Board of Appeals:			
Ву:	Chairman	Secretary			

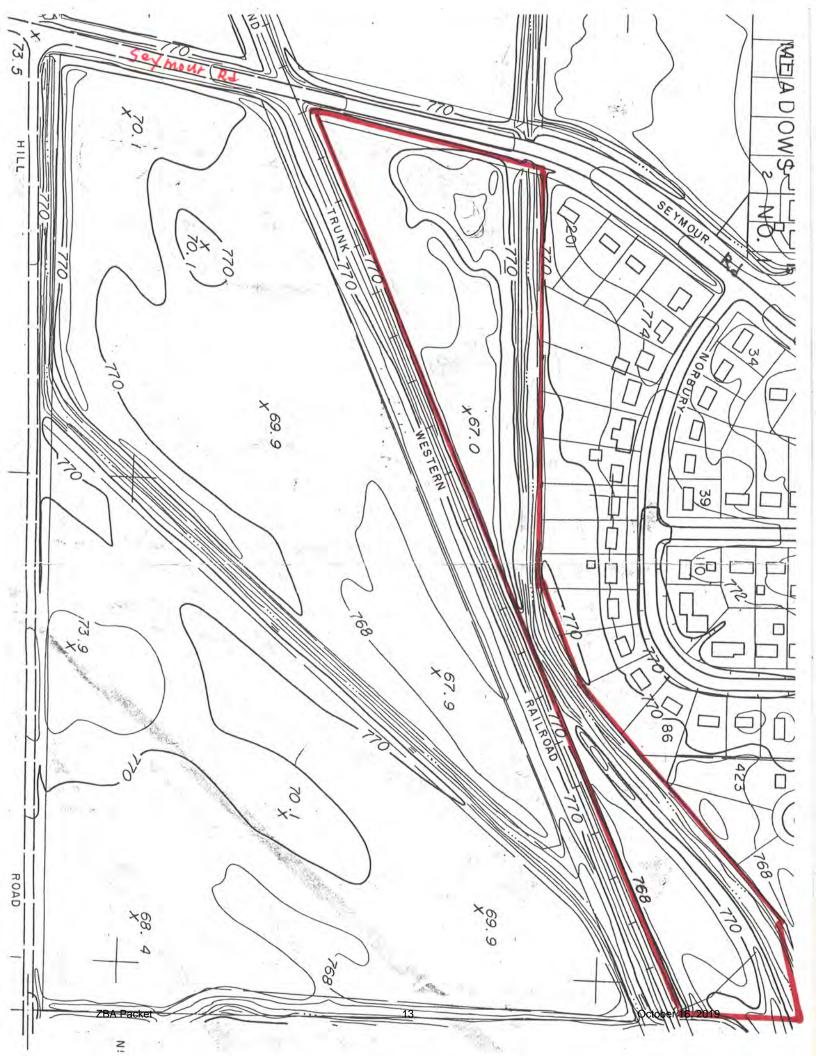
EXHIBIT "A"

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 FTTH 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 4	
Permit No: Submission No.: Site Name: Issued: Revised: Expires:	WRP014385 v.1 HNF-BZJ6-JC7SM 25-5480 Seymour Rd-Swartz Creek November 14, 2018
Expires;	November 14, 2023
Water Resources Protection Act, 19 Part 301, Inland Part 303, Wetland Part 315, Dam S	Safety Part 353, Sand Dunes Protection and Managemen
Part 31, Water	Resources Protection (Floodplain Regulatory Authority)
Permission is here requirements and	eby granted, based on permittee assurance of adherence to State of Michigan permit conditions, to:
Authorized Activit	y:
Place approximatel West Branch Swart	y 6670 cubic yards of fill After-The Fact within the 100-year floodplain of the z Creek.
Waterbody Affected	I: West Branch Swartz Creek (Alger Creek/Crapo Drain Backwater) Genesee County, City of Swartz Creek, Town/Banga/Saction 200005500

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

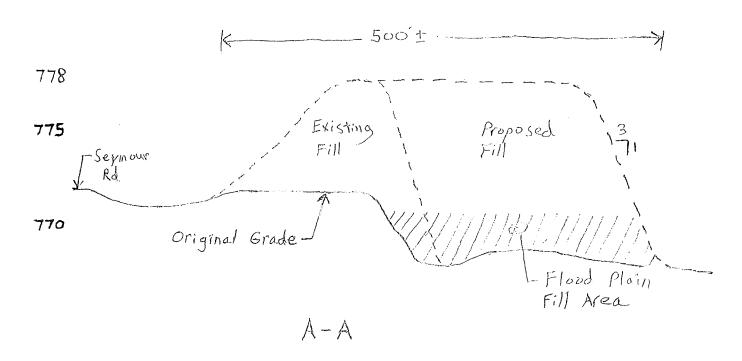
application and/or plans and specifications attached to this permit.

Property Tax No. 58-03-400-013

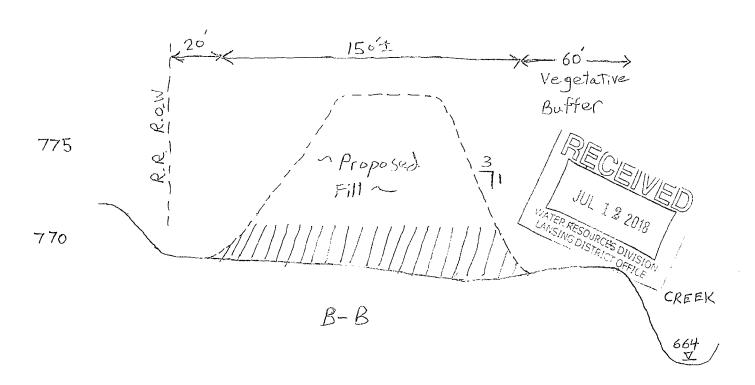
E. No attempt shall be made by the permittee to forbid the full and free use by the public of public waters at or adjacent to the full and free use by the public of public waters at or adjacent to the full and free use by the public of public waters at or adjacent to the full and free use by the public of public waters at or adjacent to the full and free use by the public of public waters at or adjacent to the full and free use by the public of public waters at or adjacent to the full and free use by the public of public waters at or adjacent to the full and free use by the public of public waters at or adjacent to the full and free use by the public of public waters at or adjacent to the full and free use by the public of public waters at or adjacent to the full and free use by the public waters at or adjacent to the full and free use by the public waters at or adjacent to the full and free use by the public waters at or adjacent to the full and free use by the full and free use b

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MICHIGAN CONCRETE ASSOCIATION



Fill Volume = 400' x 150' x 3' = 27 = 6,670 cyds Flood Plain Fill

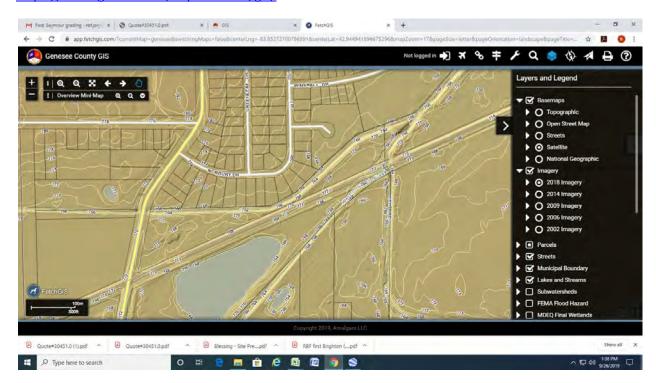




To Whom It May Concern,

- 1. Flint Survey & Engineering provided a survey confirming there is no unpermitted berm between the CN trestle and existing Fick pond. The highest point restricting flood waters from entering the pond is elevation 767, four feet below the 1% flood elevation of 771.
- 2. The pond and West branch of the Swartz Creek are hydrologically connected through the rail trestle to the northwest spur of the Swartz Creek, which drains the property in question. The interconnected ditch bottoms range between 760 and 764. Free contour maps are available online through the GIS department linked below. Also attached is the FEMA flood map confirming the floodplain and floodway (following the creeks).

https://www.gc4me.com/departments/gis/



- 3. Flint Survey included pictures of the rail trestle showing it is an open bridge, not a culvert that could potentially restrict flow.
- 4. When considering the entire impacted floodplain, which is approximately 1 square mile in area, the proposed fill volume of 6,670 cubic yards will have an impact of less than one tenth of one inch (approximately 0.08"). See attached FEMA map for floodplain limits.

Sincerely, Alan D. Jory



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FEMA ((//www.fema.gov/). FEMA Flood Map Service Center: Search By Address

Enter an address, place, or coordinates: (2)

swartz creek, mi

Search

Whether you are in a high risk zone or not, you may need <u>flood insurance (https://www.fema.gov/national-flood-insurance-program)</u>, because most homeowners insurance doesn't cover flood damage. If you live in an area with low or moderate flood risk, you are 5 times more likely to experience flood than a fire in your home over the next 30 years. For many, a National Flood Insurance Program's flood insurance policy could cost less than \$400 per year. Call your insurance agent today and protect what you've built.

Learn more about steps you can take (https://www.fema.gov/what-mitigation) to reduce flood risk damage.

Search Results—Products for GAINES, TOWNSHIP OF

Show ALL Products » (https://msc.fema.gov/portal/availabilitySearch?addcommunity=260293&communityName=GAINES, TOWNSHIP OF#s@

The flood map for the selected area is number 26049C0278D, effective on 09/25/2009 (2)

DYNAMIC MAP



MAP IMAGE



filepath=/26/P/Firm/26049C0278D.png&productTypeID=FINAL PRODUCT&productSubTypeID=FIRM PANEL&productID=26049

Changes to this FIRM ②

Revisions (0) Amendments (37) Revalidations (1)

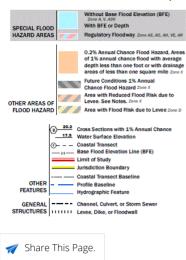
You can choose a new flood map or move the location pin by selecting a different location on the locator map below or by entering a new location in the search field above. It may take a minute or more during peak hours to generate a dynamic FIRMette. If you are a person with a disability, are blind, or have low vision, and need assistance, please contact a map specialist (https://msc.fema.gov/portal/resources/contact).

 $Go\ To\ NFHL\ Viewer\ "ohttps://hazards-fema.maps.arcgis.com/apps/webappviewer/index.html?id=8b0adb51996444d4879338b5529aa9cd$



prin property location propert

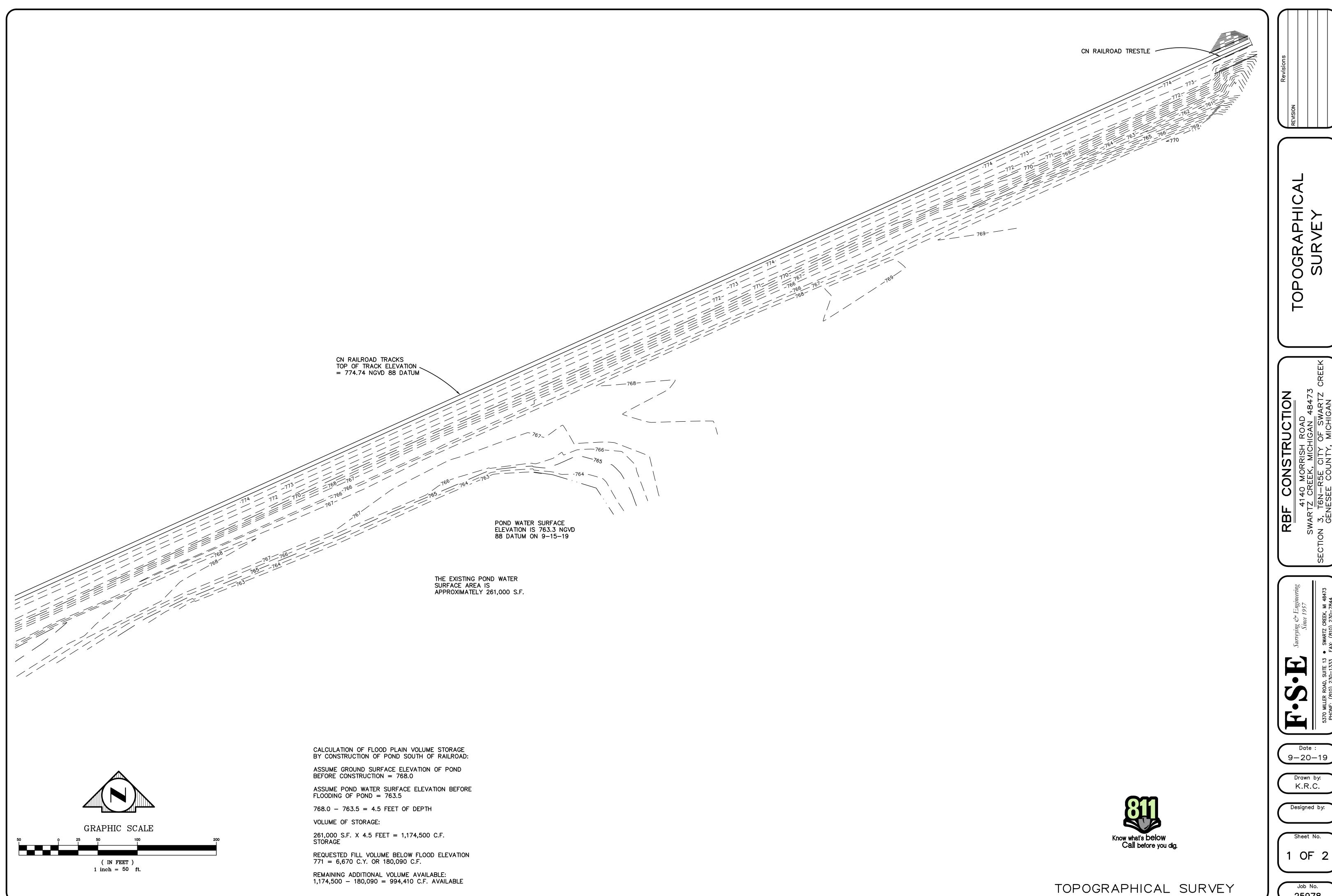
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Official website of the Department of Homeland Security



ZBA Packet



Know what's below Call before you dig.

TRAIN TRESTLE PHOTO'S EAST OF POND

TOPOGRAPHICAL SURVEY WITH AERIAL OVERLAY

Job No. 25978

ZBA Packet