



SAUGATUCK TOWNSHIP FIRE DISTRICT

Proudly serving : Douglas | Saugatuck | Saugatuck Township



3342 Blue Star Highway
Saugatuck, MI 49453
269 857-3000 / Fax: 269 857-1228
E-mail: info@saugatuckfire.org

FIRE CODE BOARD of APPEALS MEETING

3:30pm – January 27th, 2025

APPROVED MINUTES

1. Call to Order / Roll Call: Meeting called to order by Chairperson Beckman at 4:00pm.
PRESENT: J. Verplank, E. Beckman, C. North.
ABSENT: None
Also Present: Chief Greg Janik, D.C. Mantels, A.C.O.T. M. Betts, Capt. C. Bernhardt, C. Hosier, W. Bales, and Attorney's A. Gordon, and Randy Schipper.
2. Reminder: It is requested that the board silences cell phones and put them away for the duration of the meeting.
3. Approval of Agenda (*additions / deletions*):
Motion by C. North, second by J. Verplank, to approve the agenda as presented. No discussion.
Motion passes unanimously by voice vote.
4. Approval of Minutes
 - A. **January 6th, 2025 – Annual Meeting**
Motion by C. North, second by J. Verplank, to approve the minutes of the 1/6/2025 regular meeting as presented. No discussion. Motion passes unanimously by voice vote.
 - B. **January 13th 2025 – Site Visit**
Motion by J. Verplank, second by C. North, to approve the minutes of the 1/13/2025 site visit as presented. No discussion. Motion passes unanimously by voice vote.
- 1) Unfinished Business:
C. NONE
5. New Business:
 - A. **Public Hearing to Consider Appeal of 6545 Clearbrook Drive., K & E Ventures, LTD.**
 - i. **Open Hearing (Chair):**
 - a. Chair Eric Beckman stated that the Board of Appeals has no authority to enforce the codes, or any other code presented in this hearing.
 - ii. **Presentation by applicant or designee. (limit 15 minutes):**
 - a. **Attorney – Mr. Randy Schipper presented his presentation in this hearing.**
 - i. The Applicant's will not consider widening the driveway due to it being an extra expense.
 - ii. Stated smaller fire apparatus were enough to make it to the residence utilizing the current driveway off Blue Star Highway verses utilizing larger fire apparatus to access driveway.
 - iii. Mr. Schipper stated that neighboring properties gave verbal consent to the Applicant in the event of an emergency the Saugatuck Township Fire Department could access the property of 6545 Clearbrook Drive via the neighboring driveway off Clearbrook Drive. Mr. Schipper did acknowledge the neighboring property owner(s) would not give written consent.



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- iv. Mr. Schipper stated that the Fair Housing Act outweighs any local ordinances and local authorities should comply.
 - v. Mr. Schipper stated the Applicants would have the new home sprinkled and built with fire-resistant materials.
- iii. **Presentation by the Fire Code Official or designee. (limit 15minutes)**
- a. **Chief Greg Janik and D.C. Chris Mantels presented their presentation which outlined the International Fire Code.**
 - i. Chief Greg Janik and D.C. Chris Mantels presented to the Board of Appeals regarding the location of 6545 Clearbrook Drive and where access to the property can be made.
 - ii. Chief Greg Janik and D.C. Chris Mantels stated Mr. Schipper's appeal letter appears to argue waving access requirements due to proximity of the hydrants. This is unrelated to the ambulance / fire apparatus access argument
 - iii. ICC Confirms 102.5 applies to detached one-and-two family dwellings including fire apparatus access and water supplies.
 - iv. Mr. Schipper has emailed on the 8/9/2022, closing in part: "refusing to issue a permit...would be unreasonable and so violate the Fair Housing Act."
 - v. Although not within the scope of IFC, a brief background on the FHA.
 - A "reasonable accommodation" is a change, expectation, or adjustment to rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common spaces.
 - To show that a requested accommodation may be necessary, there must be an identifiable relationship, or nexus, between the requested accommodation and individual's disability.
 - vi. Chief Janik and D.C. Mantels stated AMR and Life EMS would not consider utilizing the current driveway due to concerns of damaging the ambulance.
 - vii. Concerns about safely moving occupants from the home via stretcher across the property to the Northpoint Strip Mall in the winter with the possibility of large snow piles in the way making it extremely difficult for STFD staffing and ALS to safely transfer the occupant(s) to the ambulance.
 - viii. The possibility of Northpoint Strip Mall installing a fence would also make accessing the property difficult if a fence were installed.
- iv. **Presentation by other parties (limit 3 minutes):**
- a. **Attorney – Andy Gordon attorney for Saugatuck Township Fire Department presented his presentation.**
 - i. Mr. A. Gordon gave legal advice to the BOA on what actions they may take once the BOA has decided upon how the BOA renders action pertaining to the property at 6545 Clearbrook Drive.
 - ii. Mr. Gordon offered to present a draft of the final decision made by the BOA and submit it to the Applicant.
 - iii. Mr. Gordon stated although the Saugatuck Township Fire District was exempt from trespassing while accessing the property in the event of an emergency but stressed it would be considered as trespassing by state law.



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- v. Discussion:
 - a. None

 - vi. Close Hearing
 - a. Motion by Verplank, 2nd by North to close the hearing at 4:30pm. Motion passes by unanimous voice vote and the hearing was closed.

 - vii. Action by the Board:
 - a. Motion J. Verplank, second by C. North, to table the decision until the BOA Meeting on 2/3/2025 at 3:30pm. No discussion. Motion passes unanimously by voice vote.
6. Public Comments: (Limit 3 minutes):
- A. None
7. Board of Appeal Member Comments:
- J. Verplank – Would like to talk to Saugatuck Township prior to rendering a decision on what actions should take place regarding this hearing.

 - E. Beckman – There were topic presented that going on beyond the scope of the Board of Appeals. I have lived on Clearbrook Dr for 28 years and never knew where the property of 6545 Clearbrook Drive was nor where it was located.

 - C. North – None
8. Adjournment:
- A. Meeting Adjournment at 4:40pm.

NOTICE

Request for accommodations or interpretive services must be made 48 hours prior to this meeting.
Please contact Saugatuck Township Fire District at 269-857-3000 for further information.

01/27/2025 Fire BOA Outline

Randy Schipper for Culver and Karen Lamb, through their LLC, K&E Ventures, Ltd.

We are appealing the refusal of the STF District to allow the existing access to the existing parcel to continue serving that parcel if the old house is replaced with a new house.

The Lambs can legally continue occupying the existing residence with no further approval. But it is unsafe for handicapped persons in their family due to its cramped size, non-fire retardant materials, not being up to current code, and lack of sprinkling.

All the Lambs want to do is replace that old house with one that is handicap accessible, of fire-retardant materials, with sprinkling, and up to current building codes.

You want them to upgrade their driveway to current fire codes. They cannot create the IFC required turnaround within their parcel. Their architect has tried a number of different layouts and could not come up with one that met the requirements of the IFC and township while still leaving a feasible building footprint for a new ADA compliant residence. If they cannot achieve that, widening the driveway throughout the 750 ft easement providing access, clearing overhead, and beefing up the weight-bearing capacity to 80k lbs would be wasted money: fire trucks would still not be able to use the driveway due the lack of a sufficient turnaround. Standard size passenger vehicles and comparable emergency vehicles can use the driveway. The Lambs could make improvements to the driveway sufficient for ambulances to use it, including a turnaround sufficient for them, but cannot place a turnaround to IFC standards within their property and the owners of the land over which the easement runs have threatened legal action to block the removal of trees to widen the driveway.

However, there are two fire hydrants less than 200 ft from the proposed dwelling that we fully expect would be used in the event of an emergency. The owners whose property would be crossed welcomed that, to put out the fire before their properties were damaged. Chief Janik and Deputy Chief Mantels have said their personnel cannot cross those properties without an easement. **Yet, during our site visit, all of us crossed the property between Clearbrook Drive and the house**

without a second thought to having an easement, and the neighbor did not complain. If you were willing to cross in a non-emergency situation, it hardly seems likely that your personnel would not do so in an emergency.

In this situation, the local fire code must give way to the federal Fair Housing Act, as set out in our appeal of December 2, 2024. The township requires your approval of the driveway for a new residence. The Lambs have acknowledged they cannot install a driveway that meets IFC requirements, particularly the turnaround. Yet replacing the old house with a new one is necessary for the handicapped members of their family to occupy their property.

The federal Fair Housing Act makes it unlawful to discriminate or otherwise make unavailable or deny a dwelling to a person residing in or intending to reside in that dwelling because of a handicap of that person. 42 USC §3604(f)(1)(B). Discrimination includes a refusal to make reasonable accommodations or modifications in rules, policies, practices and services when such accommodations may be necessary to afford such person the opportunity to use a dwelling. 42 USC §3604(f)(3)(B). Our federal courts have held that this applies to zoning and building ordinances and codes. *See Smith & Lee Assocs, Inc v City of Taylor*, 102 F3d 781, 794-795 (6th Cir 1996); *City of Edmonds v Washington State Bldg Code Council*, 18 F3d 802, 806 (9th Cir 1994), *affd*, 514 US 725, 115 S Ct 1776, 131 L ed2d 801 (1995) (“The FHAA imposes an affirmative duty to reasonably accommodate handicapped people.”); *Dadian v Village of Wilmette*, 269 F3d 831 (7th Cir 2001); *Howard v City of Beavercreek*, 276 F3d 802 (6th Cir 2002); *A Helping Hand v Baltimore County*, 515 F3d 356 (4th Cir 2008). Following the rationale of *Howard*, a federal court in Ohio held that a local unit of government had to allow a person to have a driveway off an alley in the rear of her property instead off the street in front because the rear access would not require her to climb 18 stairs to get into her home. *Vance v City of Maumee, Ohio*, 960 F Supp 2d 720 (2013). The court accepted that, with her suffering a degenerative disease, what was tolerable before was no longer tolerable so the local unit of government had to modify its rules regarding access. Applying both the Americans with Disabilities Act and Fair Housing Act, the court made the following points:

--The disabled person’s request for an accommodation must be granted if it is both reasonable and necessary;

--The municipality bears the burden of showing that a requested accommodation is unreasonable;

--Reasonableness is determined using a commonsense approach that balances the needs of the parties involved;

--Generally, an accommodation is reasonable unless it requires a fundamental alteration in the nature of a program or imposed undue financial and administrative burdens;

--“Necessity” under anti-discrimination laws does not have its usual meaning: at a minimum it requires a showing that the desired accommodation will affirmatively enhance a disabled person’s quality of life by ameliorating the effects of the disability, but the person’s physical ability to do without an accommodation does not ipso facto invalidate a claim that an accommodation is necessary.

Refusing their requested reasonable accommodation, to be able to replace the old unsafe house with a new safe house, violates federal law unless the fire district can show the requested accommodation is unreasonable, per 6th Circuit US Court of Appeals precedent.

A person is disabled if he or she has a physical impairment, such as mobility impairment, that substantially limits a major life activity, such as walking. In this case, Karen Lamb and their son-in-law have mobility impairments. As a result, they are unable to walk unassisted. In the current house, the rooms and passageways are too narrow to enable them to use a wheelchair or walker to be able to exit the house quickly. They desire to replace the current home with one that is handicap accessible so that they can use a wheelchair or walker to enhance their mobility, especially in the event of an emergency. The new home would also be of fire-retardant materials and sprinkled so, in the event of a fire, they would have more time to exit the residence.

Now, I know your attorney’s letter to you of January 24, 2025, says that the township does not authorize you to waive the requirements of the IFC. It should be obvious that federal law supersedes a local ordinance, and under the federal Fair Housing Act, you must make a reasonable accommodation if necessary for a handicapped person to use his or her property. In the *Vance* case, for example, a

local requirement that barred accessing properties from a rear alley had to give way to the property owner's difficulty in climbing 18 steps from the street in front to her house.

We all agree that emergency access to this property is not up to current codes. However, the Lambs cannot make the fundamental changes you request for a fire truck turnaround at the end of the driveway on their property, and the other requested changes, which would likely cost over \$40,000 in today's dollars, would not enable fire trucks to use the driveway without a turnaround. And the Lambs can continue to occupy the existing house without making any changes. An exemption from compliance with the IFC Code would enable them to replace that firetrap with a new, much safer home.

As I stated during our site visit earlier this month, our menu is limited. We have *bad*: the Lambs continue to use the unsafe fire trap currently on their property, or *better*: the Lambs replace the existing fire trap with an ADA-accessible home, of fire retardant materials, with sprinkling, and up to current codes. What we don't have on the menu is *perfect*: that they replace the firetrap with a new safer home and replace the existing access with access meeting the IFC and township requirements. They simply cannot do that.

Where "perfect" is not available, the federal Fair Housing Act requires local units of government to accept "better", a reasonable accommodation that allows a handicapped person to enjoy his or her property as others can.



SAUGATUCK TOWNSHIP FIRE DISTRICT

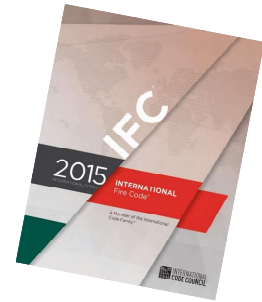
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Fire Code Board of Appeals



6545 Clearbrook Dr.
K&E Ventures, LTD.
K&E Ventures, LLC.



Presented by Chief Greg Janik and Deputy Chief Chris Mantels
January 27th, 2025 – 4:00pm

Subject Parcel



6545 Clearbrook Dr
Parcel #0320-003-060-00



Applicants Appeal

NATURE OF THIS APPEAL

I respectfully bring this appeal before the International Fire Code (IFC) Board of Appeals because I believe and intend to prove the following: (check any appropriate box/s)

- The code has been incorrectly interpreted.
 The provisions of the code do not fully apply.
 An equivalent method of protection or safety is proposed.

IFC Code Section being appealed:

Describe in detail why you feel the code section does not apply: SEE ATTACHED LETTER.

If there is any information that you would like to make available at this time, please attach it to this form. I certify that the statements above are true to the best of my information, knowledge, and belief.


 Applicant Signature

11-28-2024
 Date

- Initial Application was incomplete.
- IFC Code Section being appealed?



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Applicants Appeal

From: Culver Lamb <culver@culverlambcpa.com>
 Sent: Friday, December 20, 2024 8:25 AM
 To: Andy Gordon <andy@bloomsjuggett.com>
 Cc: Randy Schipper <randy@cunninghamdalman.com>; Linda Clark <linda@cunninghamdalman.com>
 Subject: Culver & Karen Lamb Application for Appeal

Dear Mr. Gordon,

We are appealing the following codes -

IFC 503.2.1 - Fire apparatus access road must be 20' wide with 13'6" minimum clearance across 20'.
 IFC 503.2.3 - The driveway must support 80,000-pound load.
 IFC 503.2.5 - Turnaround required for dead-end driveways.
 IFC 503.2.7 - Maximum grade is 10%.
 IFC 505.1 - The address needs to be changed to Blue Star Highway.
 IFC 3310.1 - Fire apparatus access road installed prior to construction.

Is this email sufficient to complete the application or do you need some other format or more information?

Thank you for your consideration,
 Culver S. Lamb

- Follow up email on 12/20/2024 outlines the six codes being appealed.
- Unsure why they are appealing 503.2.7 as the grade is relatively flat, far less than 10%.



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Applicants Appeal

to replace that with a modern, safe home meeting ADA accessibility requirements and the Michigan Building Code safety standards. That will greatly enhance the safety of their family members. Unfortunately their property is a small parcel served by a several hundred foot driveway, and it is simply not feasibly possible to comply with IFC accessibility requirements, especially for the hydrants being less than 200 feet from the proposed dwelling. The poor access for large firefighting equipment is greatly alleviated, though, by two fire hydrants being less than 200 feet from the proposed dwelling. The federal Fair Housing Act requires a local unit of government to make reasonable accommodations to enable a handicapped person to use a dwelling. The current dwelling, which the Lamb family may continue using without upgrading the driveway, poses unnecessary safety risks, and those risks can be eliminated by replacing that dwelling with a modern dwelling. The Fire District cannot refuse to allow that replacement based on its insistence with the driveway be upgraded when that is not feasibly possible and there are two fire hydrants less than 200 feet of the proposed dwelling.

We respectfully request that you waive the requirement to upgrade the driveway as a reasonable accommodations necessary to allow the existing fire trap to be replaced by a modern, safe home.

Very truly yours,
Randy
 Randall S. Schipper

Cc: Culver Lamb
 Exhibits A - E

- “The **poor access** for large firefighting equipment is **greatly alleviated**, though, by two fire hydrants being less than 200 feet from the proposed dwelling.”
- Mr. Schipper’s appeal letter appears to argue **waiving access requirements** due to **proximity of fire hydrants**.
- This is **unrelated** to the ambulance / fire truck **access argument**.
- Respectfully, what **qualifications** does Mr. Schipper possess to weigh in on fire and EMS emergency response?



International Fire Code – 2015 Edition

This email is in response to your email correspondence regarding the applicability of the 2015 IFC to buildings regulated by the 2015 International Residential Building Code (IRC). All comments are based on the 2015 International Fire Code (IFC) unless noted otherwise.

While the IFC does not address specific land-use agreements, Section 102.5 clarifies the extent to which the IFC is intended to be applicable to buildings built in accordance with the 2015 IRC. As stated in Section 102.5, this would include construction and design provisions pertaining to the exterior structure of IRC buildings (detached one-and two-family dwellings and townhouses) including, but not limited to, premises identification, fire apparatus access and water supplies. Attached is a copy of the 2015 IFC Commentary for Section 102.5 for your consideration.

IFC Technical code opinion offered by ICC

ICC Confirms 102.5 applies to detached one-and-two-family dwellings including.....
fire apparatus access and water supplies.



Only the Fire Code Official can interpret the code

SECTION 104 GENERAL AUTHORITY AND RESPONSIBILITIES

[A] 104.1 General. The fire code official is hereby authorized to enforce the provisions of this code and shall have the authority to render interpretations of this code, and to adopt policies, procedures, rules and regulations in order to clarify the application of its provisions. Such interpretations, policies, procedures, rules and regulations shall be in compliance with the intent and purpose of this code and shall not have the effect of waiving requirements specifically provided for in this code.

2015 INTERNATIONAL FIRE CODE®



International Fire Code – 2015 Edition

Part III—Building and Equipment Design Features

CHAPTER 5 FIRE SERVICE FEATURES

SECTION 501 GENERAL

501.1 Signs. 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 105.9 and 105.7.
501.3 Construction documents. Construction documents for proposed fire apparatus access, location of fire lines, security gates access for apparatus access roads 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 Fixing of installation. Where fire apparatus access roads or a water supply for fire protection are 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 where construction of new roadway allows passage by vehicles in accordance with Section 503.2.

SECTION 502 DEFINITIONS

502.1 Definitions. The following terms are defined in Chapter 2:
AGENCY.
FIRE APPARATUS ACCESS ROAD.
FIRE COMMAND CENTER.
FIRE DEPARTMENT MASTER KEY.
FIRE LANE.
KEY BOX.
TRAFFIC CALMING DEVICES.

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 and structure of a certain size. 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 por-

tions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.

Exceptions:
1. The fire code official is authorized to increase the minimum of 150 feet (45 720 mm) where any of the following conditions occur:
1.1 The building is equipped throughout with an approved automatic fire protection system installed in accordance with Sections 903.1.1, 903.1.2 or 903.1.3.
1.2 Fire apparatus access roads cannot be installed because of location on property, topography, waterways, unobtainable grades or other similar conditions, and an approved alternative means of fire protection is provided.
1.3 There are not more than two Group R-3 or Group U occupancies.
2. Where approved by the fire code official, fire apparatus access roads shall be permitted to be exempted or modified for solar photovoltaic power generation facilities.
503.1.2 Additional access. The fire code official is authorized to require more than one fire apparatus access road based on the potential fire exposure 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 approved in accordance with Sections 503.2.1 through 503.2.3.
503.2.1 Dimensions. Fire apparatus access roads shall have a minimum width of not less than 30 feet (9096 mm), exclusive of shoulders, except for approved emergency 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 fire code official shall have the authority to require or permit modifications to the required access widths where they are adequate for fire or rescue operations or where necessary to meet the public safety objectives of the jurisdiction.

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 and all portions of the exterior walls of the first story of the building as measured by an **approved route** around the exterior of the building or facility.



International Fire Code – 2015 Edition

Exceptions:

1. The *fire code official* is authorized to increase the dimension of 150 feet (45 720 mm) where any of the following conditions occur:
 - 1.1. 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.
 - 1.2. Fire apparatus access roads cannot be installed because of location on property, topography, waterways, nonnegotiable grades or other similar conditions, and an **approved alternative** means of fire protection is provided.
 - 1.3. There are not more than two Group R-3 or Group U occupancies.
2. Where approved by the *fire code official*, fire apparatus access roads shall be permitted to be exempted or modified for solar photovoltaic power generation facilities.

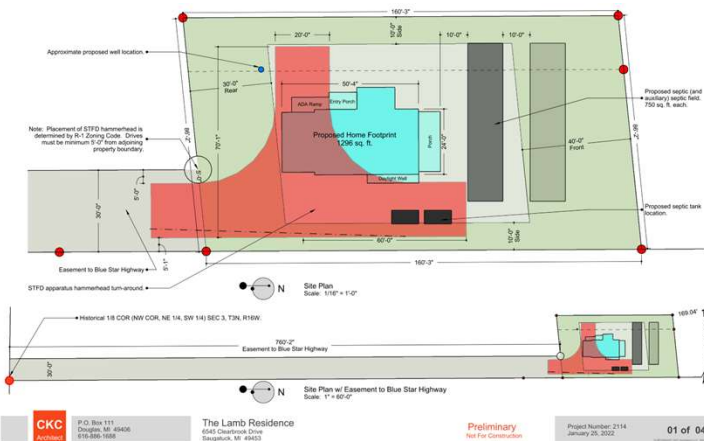
- Although a suppression system reduces the risk of fire, it does **not negate** the need with rapid access for EMS or other emergency situations.
- Only **3.1%** of our 2024 calls were **fire** related. Whereas **58.3%** were **medically** related.
- This equates to the likelihood of needing an EMS/Ambulance being **1,780% greater** than the potential of a fire engine.



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6545 Clearbrook Drive - Site View



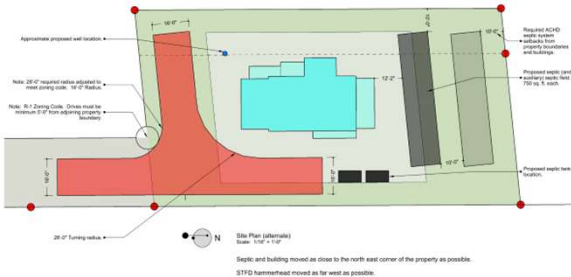
- Preliminary submittal from 1/25/2022 showed how the compliant turnaround was challenging to fit.
- CKC Architect and D.C. Mantels discussed options and solutions.



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6545 Clearbrook Drive – 16' Turnaround



CKC 200 Blue Hill, Suite 100, Portland, ME 04103
 The Lamb Residence, 6545 Clearbrook Drive, Portland, ME 04103
 Preliminary Not for Construction, Project Number: 2114, Date: 01 of 01

- STFD agreed to a reduced 16' wide turnaround on 6/27/2022, as the applicant's architect offered a NFPA 13D suppression system allowing us to reduce the turnaround width as an alternative.
- Additionally, STFD agreed to negate the 20' wide driveway for the shared portion to the existing neighbor's driveway.



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Mr. Schipper's Email – 8/9/2022

You have suggested my client get an access easement from Northpoint Plaza. Zoning would not allow a residence to have a driveway through a commercial property. We can request an easement for fire fighter access to my client's property but they may not be willing to grant such an easement—if I were representing them, I don't know that I would recommend granting one—and such an easement is not necessary for the fire department to use Northpoint Plaza property to fight a fire on my client's property. That is the quickest point of access to my client's property from the fire station and there is a fire hydrant there. You have also suggested that my client have his address changed from Blue Star Way to Clearbrook Drive to avoid confusion about access to his property in the event of a fire. However, for the reasons set out above, the driveway off Blue Star is not the logical point of access to my client's property if there is a fire. You have acknowledged your truck would access the property by way of North Pointe Plaza, even if the driveway were brought up to current fire access codes and the address changed.

In my opinion, refusing to issue a permit for the replacement dwelling necessary to accommodate a handicapped occupant would be unreasonable and so violate the Fair Housing Act. The changed you call for would cost my client tens of thousands of dollars but do nothing to enhance the access to his client's house in the event of a fire.

We would request that your department determine that upgrading of the driveway is not necessary in this situation.

Randy
 Randall S. Schipper
 rschipper@cunninghamdalman.com
 CUNNINGHAM DALMAN PC
 ATTORNEYS AT LAW
 Cumberland Station P.O. Box 2023
 117 North Main Street, 4th Floor, 04103
 Portland, ME 04103 | www.cunninghamdalman.com

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Chris Martels

From: Randy Schipper - rnschipper@cunninghamdalman.com
 To: Chris Martels
 CC: Chris Martels
 Date: 8/9/2022 10:52 AM
 Subject: 6545 Clearbrook Drive

Mr. Martels:

We represent Cullen Lamb. We raised with you your requirement that he upgrade the driveway providing access to his property identified as 6545 Clearbrook Drive in order to get a permit to replace his existing residence with a newer one—even as you have acknowledged that your the truck would not use that Plaza. I do not know why this is a factor for requesting an existing home.

A key reason my client needs to replace the existing dwelling is that a member of the family is wheelchair bound. The existing house is old and not at all handicap accessible. The new house would be of much more fire resistant materials, all on one floor, and, as an added safety measure, have sprinklers for fire suppression. That last item is not required by law but my client is willing to spend the extra money to better secure the wheelchair bound person in the event of a fire. Having the driveway to the house is a key factor in requesting a building permit for a new, safer house, is a reasonable accommodation required under the Federal Fair Housing Act.

It is not feasible to bring the driveway up to current fire access codes. The improvements you have called for would cost at least \$20,000, and the owners of the properties burdened by the easement may not allow them. First, it would require including the access of Blue Star Highway so that northbound fire trucks could make the very tight 180° turn to the right from Blue Star Way onto a driveway easement only 16' wide. Second, the driveway is nearly 750 ft. long, long for the access would increase the distance from the fire station to my client's house by about 50% from the more practical access.

Third, there is not sufficient room for a turnaround for fire vehicles on my client's property, at least not allowing sufficient turning for a house, leaving in need the need that it be all on street for handicap accessibility.

Fourth, the driveway is basically a two truck turn width enough for a standard passenger vehicle with a clear canopy overhead. Clearing it wider and higher would be expensive and the owners of the land over which it passes may not allow that. Generally speaking, an easement holder can only require an easement to the extent necessary for the actual use of the intended purpose and it is not clear that the improvements you have called for are, in fact, necessary in light of your acknowledgement that the truck would not actually use the driveway to get to my client's house.

Against these impracticalities, you have acknowledged that your fire fighters would not use the driveway to get to my client's property, no matter how good the driveway is. They would instead approach from the south side of North Pointe Plaza, where they can get to within feet of the proposed house, and where there is a readily accessible fire hydrant. The alternative would be to bring a truck to the driveway and then my client's house and narrow driveway.

- Mr. Schipper emailed on 8/9/2022, closing in part: “refusing to issue a permit...would be unreasonable and so violate the Fair Housing Act.”**



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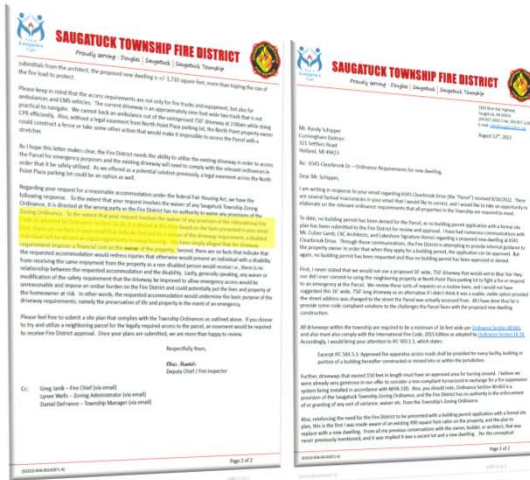
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Fair Housing Act

- Although not within the scope of the IFC, a brief background on the FHA.
- A “reasonable accommodation” is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces.
- To show that a requested accommodation may be necessary, there must be an identifiable relationship, or nexus, between the requested accommodation and the individual’s disability.



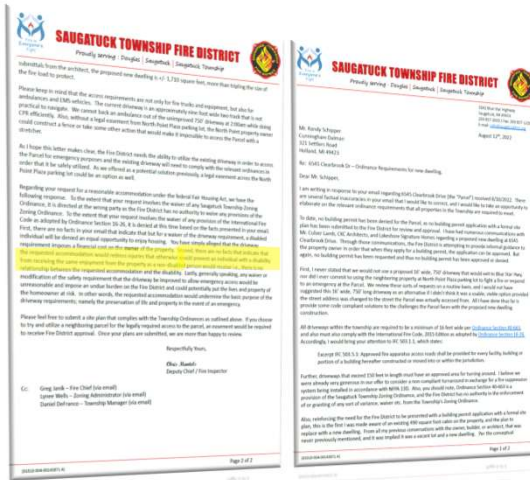
Fire District Response on 8/12/2022



- To the extent that your request involves the waiver of any provision of the International Fire Code as adopted by Ordinance Section 16-26, it is denied at this time based on the facts presented in your email.
- First, there are **no facts** in your email that indicate that but for a waiver of the driveway requirement, a disabled individual will be denied an equal opportunity to enjoy housing. You have simply alleged that the driveway requirement imposes a financial cost on the owner of the property.



Fire District Response on 8/12/2022

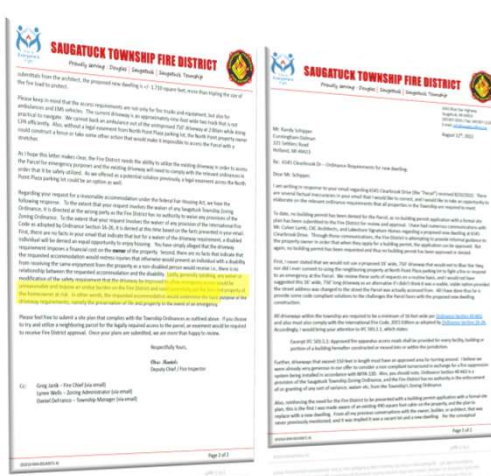


- Second, there are **no facts** that indicate that the requested accommodation **would** redress injuries that otherwise would **prevent** an individual with a **disability** from receiving the same enjoyment from the property as a non-disabled person would receive i.e., there is **no relationship** between the **requested accommodation** and the **disability**.



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Fire District Response on 8/12/2022



- Lastly, generally speaking, any waiver or **modification** of the **safety** requirement that the driveway be improved to allow emergency access **would be unreasonable** and impose an **undue burden** on the Fire District **and** could potentially put the **lives and property of the homeowner at risk**. In other words, the requested **accommodation** would **undermine** the basic purpose of the driveway requirements; namely the **preservation of life and property** in the event of an emergency.



16

Were other Safety Codes – Followed or requested accommodations due FHA?



GFCI Outlets?



Safety Railings?



Smoke Alarms?



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Building Official's Opinion

Greg,

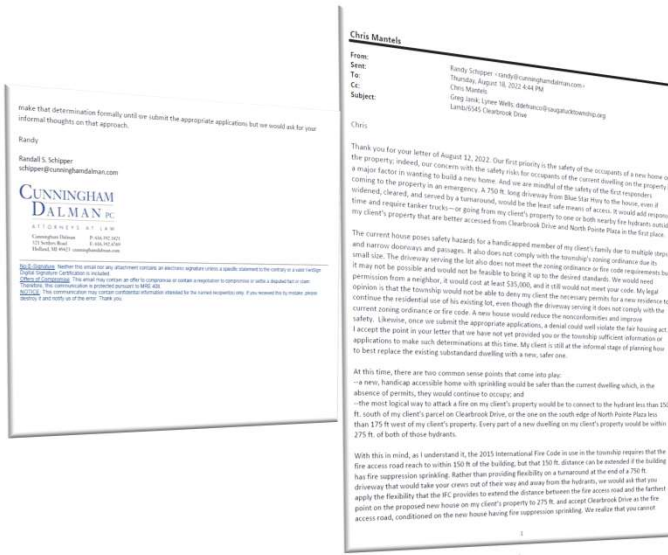
The building code references Michigan Barrier-Free Design Standards, which reflects much of the technical requirements of the ADA, however, the ADA is civil rights legislation that allows the physically disabled to file suit when faced with discrimination. The ADA and the Fair Housing Act prohibit zoning ordinances and local regulations from discriminating against the physically disabled. I do not know of any text in these regulations that would exempt these projects from the safety standards that are imposed on the rest of the community.

Dan

18

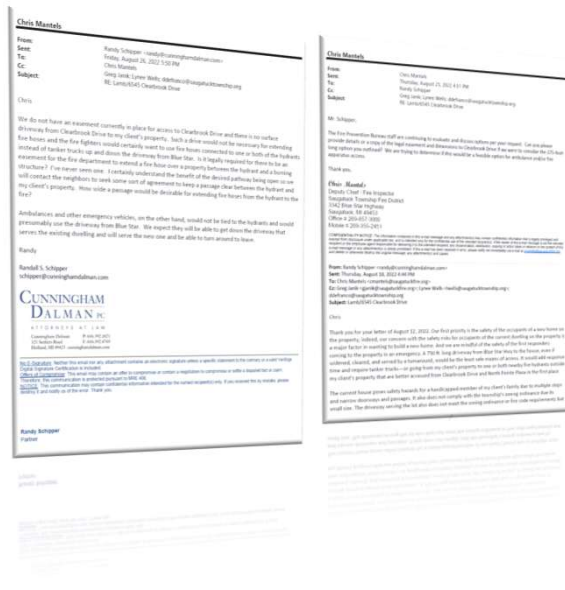
18

Mr. Schipper Email on 8/26/2022



"we would ask that you apply the flexibility that the IFC provides to extend the distance between the fire access road and the farthest point on the proposed new house on my client's property to 275 ft. and accept Clearbrook Drive as the fire access road, conditioned on the new house having fire suppression sprinkling."

D.C. Mantels / Mr. Schipper Emails

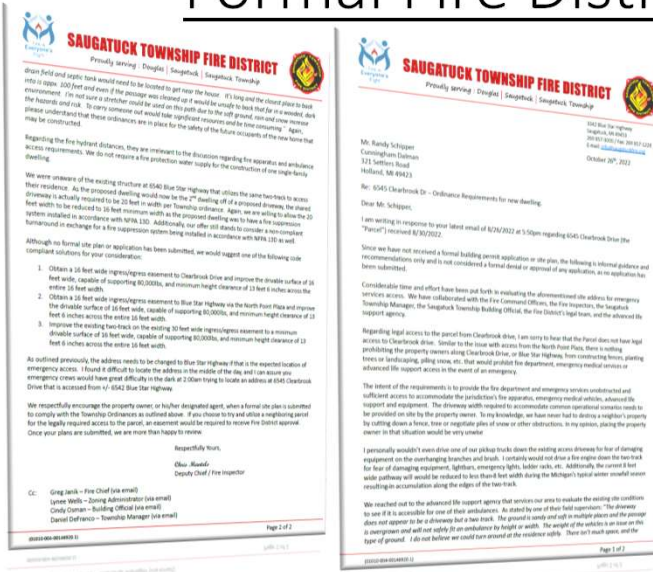


D.C. Mantels asks:
"Can you please provide details or a copy of the legal easement and dimensions to Clearbrook Drive if we were to consider the 275-foot-long option you outlined? We are trying to determine if this would be a feasible option for ambulance and/or fire apparatus access."

Mr. Schipper Responds:
"We do not have an easement currently in place for access to Clearbrook Drive and here is no surface driveway from Clearbrook Drive to my client's property."

"Ambulances and other emergency vehicles, on the other hand, would not be tied to the hydrants and would presumably use the driveway from Blue Star. We expect they will be able to get down the driveway that serves the existing dwelling and will serve the new one and be able to turn around to leave."

Formal Fire District Response

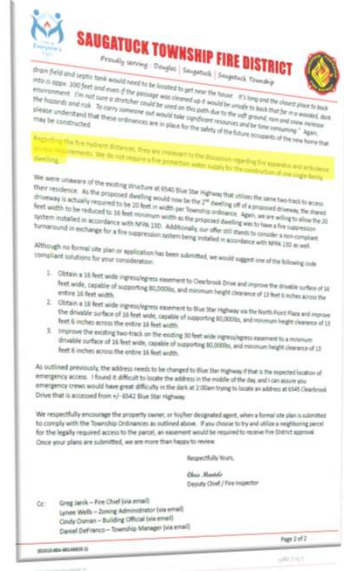


- **October 22nd, 2022**
Letter from the Fire District to Attorney, Mr. Randy Schipper

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6545 Clearbrook Drive – Water Supply



10/26/2022 Letter to Mr. Schipper:

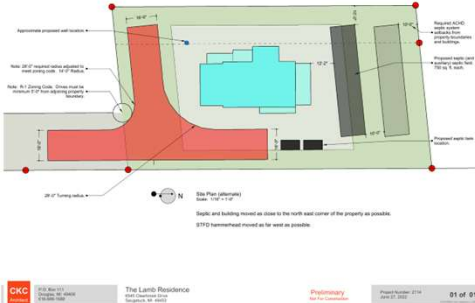
- Regarding the fire hydrant distances, they **are irrelevant** to the discussion regarding **fire apparatus** and **ambulance access** requirements. We do not require a fire protection water supply for the construction of one single-family dwelling.

22

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Reasonable Accommodation

- Although the Fire District questions whether the applicant has met the nexus criteria for a reasonable accommodation, we have offered it anyway by:
 - Agreeing to a reduced non-compliant turnaround.
 - Reducing the shared drive width from 20 ft wide to 16 ft wide.
 - Both of the above in exchange for the NFPA 13D Suppression system being installed.
- Our goal was a spirit of cooperation, and an interest to move the project forward for all parties involved.



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6545 Clearbrook Drive – 16’ Turnaround

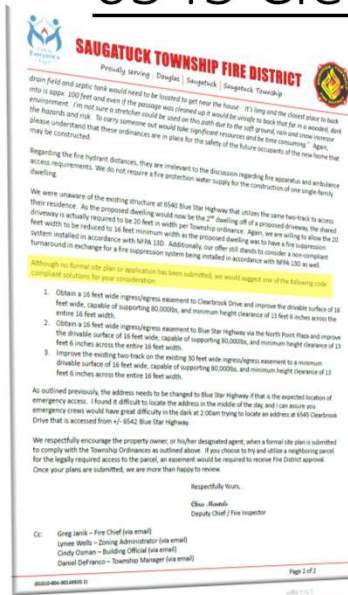
Reasonable accommodation in 2022:

“Again, we are willing to allow the 20 feet width to be reduced to 16 feet minimum width as the proposed dwelling was to have a fire suppression system installed in accordance with NFPA 13D. Additionally, our offer still stands to consider a non-compliant turnaround in exchange for a fire suppression system being installed in accordance with NFPA 13D as well.”

24

24

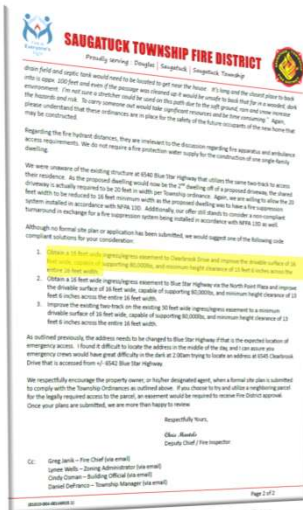
6545 Clearbrook Drive – Options



Further, our 10/26/2022 Letter to Mr. Schipper offered three potential solutions:

- *“Although no formal site plan or application has been submitted, we would suggest one of the following code compliant solutions for your consideration:”*

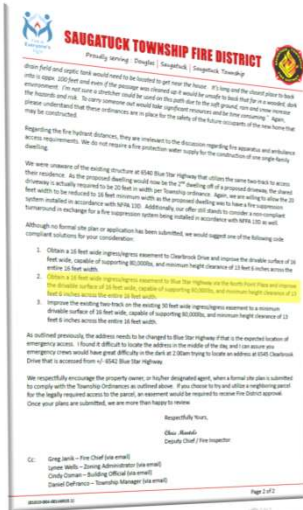
6545 Clearbrook Drive – Option #1



Suggested Option #1

- Obtain a 16 feet wide ingress/egress easement to Clearbrook Drive and improve the drivable surface of 16 feet wide, capable of supporting 80,000lbs, and minimum height clearance of 13 feet 6 inches across the entire 16 feet width.

6545 Clearbrook Drive – Option #2

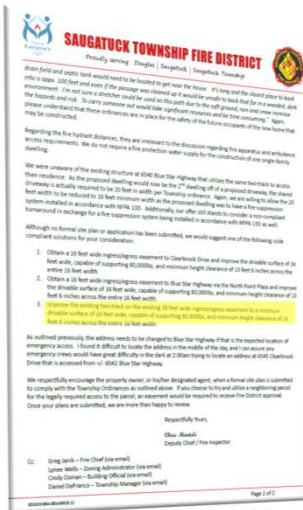


Suggested Option #2

Obtain a 16 feet wide ingress/egress easement to Blue Star Highway via the North Point Plaza (aka Dollar General building) and improve the drivable surface of 16 feet wide, capable of supporting 80,000lbs, and minimum height clearance of 13 feet 6 inches across the entire 16 feet width.



6545 Clearbrook Drive – Option #3

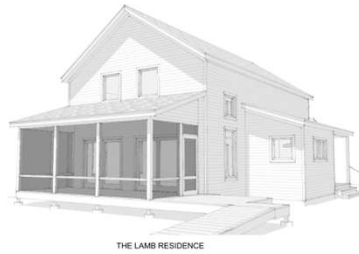
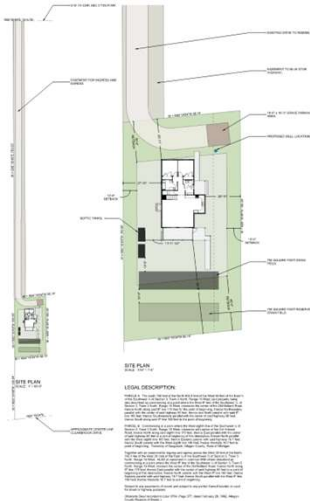


Suggested Option #3

Improve the existing two-track on the existing 30 feet wide ingress/egress easement to a minimum drivable surface of 16 feet wide, capable of supporting 80,000lbs, and minimum height clearance of 13 feet 6 inches across the entire 16 feet width.

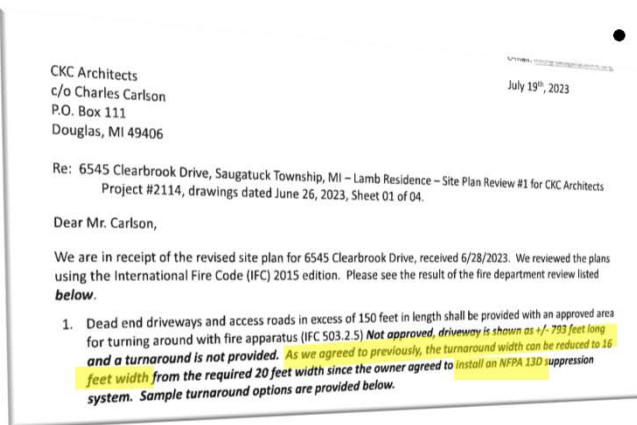


Formal Permit Submittal



- Formal permit submittal on 6/27/2023 omitted the previously agreed upon 16' wide turnaround

6545 Clearbrook Drive – 16' Turnaround



- The formal plan review letter on 7/19/2023 reminded them **“As we agreed previously...”** of our 2022 agreement of the as our understanding the owner agreed to install the NFPA 13D suppression in exchange.

6545 Clearbrook Drive – 16’ Turnaround

- 12. 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 fire code official is authorized to require a key box to be installed in an approved location. The key box shall be of an approved type listed in accordance with UL 1037, and shall contain keys to gain necessary access as required by the fire code official. (IFC 506.1) **Not applicable**
 - 13. An approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises upon which facilities, buildings, or portions of buildings are hereafter constructed or moved into or within the jurisdiction. (IFC 507.1) **Not applicable**
 - 14. The fire code official shall be notified prior to the water supply test. Water supply tests shall be witnessed by the fire code official, or approved documentation of the test shall be provided to the fire code official prior to final approval of the water supply system. (IFC 507.4) **Not applicable**
 - 15. A hydrant is required within 400 ft. of any exterior portion of a non-sprinklered building or 600 ft. for an R-3 occupancy or sprinklered building. (IFC 507.5.1) **Not applicable**
 - 16. An approved water supply for fire protection, either temporary or permanent, shall be made available as soon as combustible material arrives on the site. (IFC 3312.1) **Not applicable**
 - 17. Upon completion of construction, physical testing with apparatus will be required. If the apparatus is unable to navigate the completed road and driveway in a safe and efficient manner, modifications may be required.
 - 18. Anything omitted in this plan review is subject to field inspection. (IFC 105.4.4)
- Please revise plans to include all of the above information and documentation and submit for review. Once received, plans will be reviewed accordingly. Please let us know if you have any questions.*

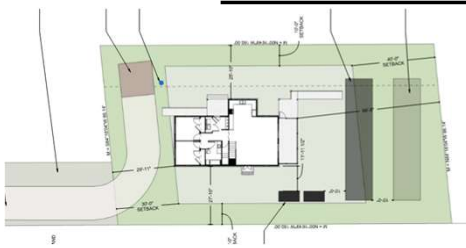
- Further, the 7/19/2023 plan review clearly outlines the requirements for water supply per IFC 507 as **NOT APPLICABLE**



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Formal Permit Submittal



- Formal permit submittal on 6/27/2023 omitted the previously agreed upon 16’ wide turnaround



- When overlaying the two together, it appears the reduced 16’ turnaround **still fits** on formal permit submittal drawings



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Access via the Neighbors Private Property

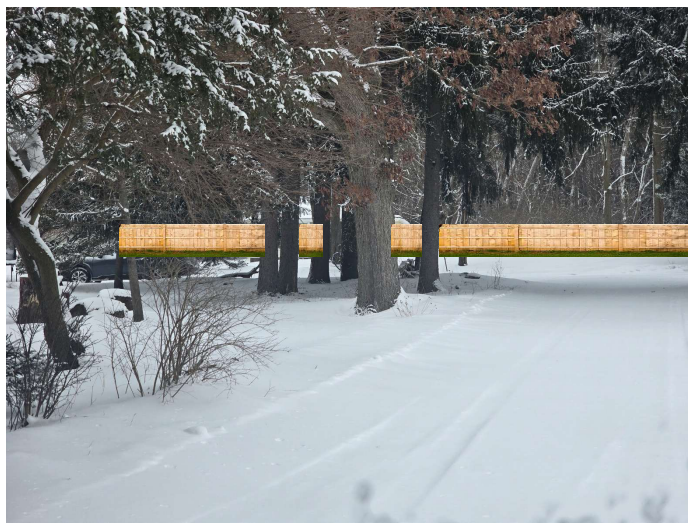


- Current view of access via 6549 Clearbrook Dr Private Property.
- Also where the **GPS will take** the Fire/EMS Crews.

33

33

Access via the Neighbors Private Property

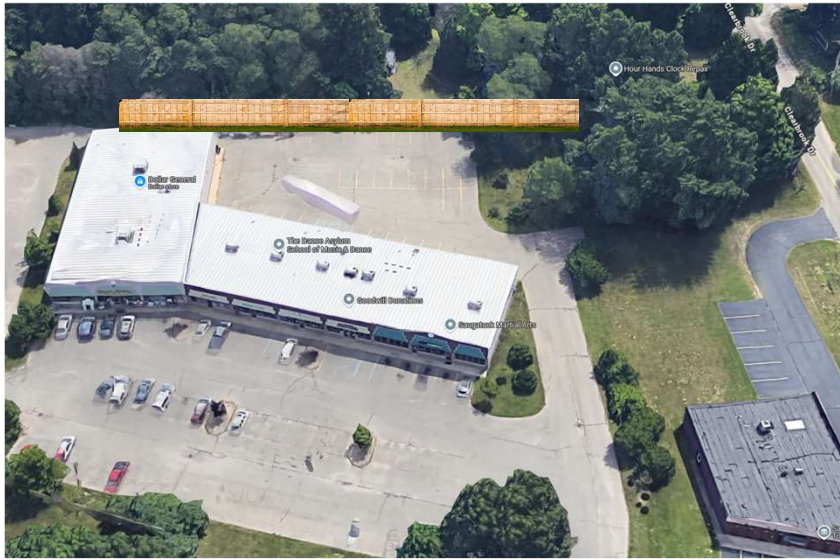


- This is a current view from the neighbors @ 6549 Clearbrook Dr. Driveway....
- **Until there is a Fence...**

34

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Access via Blue Star Highway Private Property



Until
there is a
Fence...



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Access via Blue Star Highway Private Property ??



Or a Snow
Mound....



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Logistics of Moving a Patient



Stretcher = +/- 125#



Avg. Patient = +/- 205#



Combined Weight = +/- 330#

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Logistics of Moving a Patient

How do they....



Lift this +/- 330#...



Over this ??

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Neighboring Parcel Access

- In 24 years of having an adopted fire code, the Fire District has never accepted primary access to a property across a neighboring parcel.
 - Neighbors Change.
 - Fences, sheds, gardens, greenhouses, etc. are built.
 - Without a deeded easement, neighboring property owners can revoke access at any time.



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ALS Provider's Can't Access

From: "Rubin, Scott" <srubin2@gmr.net>
 Date: August 31, 2022 at 16:34:02 EDT
 To: "Truman, Alexandria" <Alexandria.Truman@gmr.net>
 Subject: RE: EXT: Fwd: Lamb/6545 Clearbrook Dr.

Hi Alex,

I went to the property today for an assessment:

The address for this house was found accurately using the GPS on my phone and it took me the strip mall. It did not take me direct to 6545 Clearbrook. There is a shared driveway off BlueStar noted as 3493 and the driveway for Clearbrook runs off 3493's driveway. **The driveway does not appear to be a driveway but a two track.** The ground is sandy and soft in multiple places and the passage is overgrown and will not safely fit an ambulance by height or width. The weight of the vehicles is an issue on this type of ground. I do not believe we could turn around at the residence safely. There isn't much space and the drain field and septic tank would need to be located to get near the house. I walked the driveway and it's long and the closest place to back into is appx. 100 feet and even if the passage was cleaned up it would be unsafe to back that far in a wooded, dark environment. I'm not sure a stretcher could be used on this path due to the soft ground, rain and snow increase the hazards and risk. To carry someone out **would take significant resources and be time consuming.** If we receive a call to this address the best access is behind the strip mall located at 3467 Bluestar. The parking lot is very close to the house but that may change with any construction and there is more than enough space to access the residence. For a 911 call I would cross properties, if there are legal concerns we should contact the property owners for formal permission.

Scott

SCOTT

2022/08/31 16:34:02 EDT

AMR evaluation on 8/31/2022.

“The driveway does not appear to be a driveway but a **two track**”

“I’m not sure a stretcher could be used on this path due to the soft ground, rain and snow increase the hazards and risk. **To carry someone out would take significant resources and be time consuming.**”



40

40

ALS Provider's Can't Access

Life EMS evaluation on 1/15/2025.

“Based on my evaluation of the residence access, I have determined that in its current state, it is **not safe** to access via ambulance.”

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K&E Ventures, LTD

6545 Clearbrook Drive is owned by K&E Ventures LTD, dba K&E Ventures LLC.

Information from source 1/16/2025

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K&E Ventures LTD/LLC

on the administrator is: **(Must be different than the resident agent)**

Name: CULVER S. LAMB
 Street Address: 576 COMMONWEALTH DRIVE
 Address 2 :
 City : CINCINNATI
 Country : United States Zip Code: 45244
 State: OH

9. The specific business which the limited liability company is to transact in Michigan is as follows:
REAL ESTATE OWNERSHIP AND SHORT-TERM LEASING.

The document shall be signed by a person with the authority to do so under the laws of the jurisdiction of
 Signed this 12th Day of July, 2022 by:

Signature	Title	Title
Culver S. Lamb	Member	

- Is this a home for family members.....
- Or a new Short-Term Lease (Rental)??

Information from source 1/16/2025

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Similar Projects

- We conducted reviews of 77 single-family dwellings in 2024 alone, and all of them have been treated the EXACT same way, installing a 16-foot-wide driveway, and a 20-foot wide IFC complaint turnaround when applicable.

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Other CKC Projects

- An example of another CKC Architect project from 9/6/2024 where a compliant driveway and turnaround was installed.
- Further, this was an existing dwelling that was demolished to install a newer, more modern one.

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IFC BOA

SECTION 108 BOARD OF APPEALS

[A] 108.1 Board of appeals established. In order to hear and decide appeals of orders, decisions or determinations made by the fire code official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The fire code official shall be an ex officio member of said board but shall not have a vote on any matter before the board. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the fire code official.

[A] 108.2 Limitations on authority. An application for appeal shall be based on a claim that the intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent method of protection or safety is proposed. The board shall not have authority to waive requirements of this code.

[A] 108.3 Qualifications. The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to hazards of fire, explosions, hazardous conditions or fire protection systems, and are not employees of the jurisdiction.

IFC 108.2 Limitations on authority.

An application for appeal shall be based on a claim that the intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent method of protection or safety is proposed. The board shall not have authority to waive requirements of this code.

46

46

IFC BOA

We respectfully request that you waive the requirement to upgrade the driveway as a reasonable accommodations necessary to allow the existing fire trap to be replaced by a modern, safe home.

Very truly yours,
Randy
 Randall S. Schipper

Cc: Culver Lamb
 Exhibits A - E

EXHIBIT V - E
 CC: CHANG GROUP

- Respectfully, it is not within the scope of the BOA to “WAIVE” fire code requirements as requested by Mr. Schipper.
- The BOA can only rule on the three criteria.

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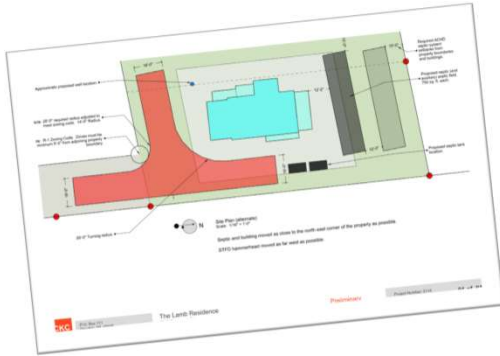
Our Position

- The Fire District did not misinterpret the code
- IFC 102.5 and 503 do fully apply.
- There has not been an acceptable equivalent method of apparatus (*ambulance or fire engine*) access provided or approved
- Only by following the code, can the Fire District ensure we can provide a reasonable level of safety and property protection from the hazards of fire, explosion or dangerous conditions.

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OFFER STANDS! – Reasonable Accommodation



- STFD stands behind our 2022 offer
- Although the Fire District questions whether the applicant has met the nexus criteria for a reasonable accommodation, we stand behind our previous offer anyway:
 - Agreeing to a reduced non-compliant turnaround
 - Reducing the shared drive width from 20 ft wide to 16 ft wide.
 - Both of the above are contingent on the home being protected year-round with the NFPA 13D suppression system as we agreed previously.
- Our goal is still a spirit of cooperation, and an interest to move the project forward.

49

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THANK YOU



We greatly appreciate all of the hours Board of Appeals members have committed to hearing our case, and protecting our citizens, and the Fire District's most valuable asset, our personnel.

References

1. International Fire Code – 2015 Edition
2. IFC Technical code opinion offered by ICC on 1/12/2021
3. <https://www.hud.gov/sites/documents/huddojstatement.pdf>
4. https://www.hud.gov/program_offices/fair_housing_equal_opp/faq_accessibility_first
5. <https://www.justice.gov/crt/us-department-housing-and-urban-development>
6. <https://www.justice.gov/crt/fair-housing-act-1#group>

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