

From: Amy Seetoo <amyseetoo@gmail.com>

Sent: Wednesday, June 22, 2022 11:16 AM

To: Barrett, Jon <JBarrett@a2gov.org>; Gale, Mia <RGale@a2gov.org>; Planning <Planning@a2gov.org>

Cc: Wendy Carman <wjcarman@umich.edu>

Subject: ZBA 22-2008:3095 Cedarbrook Road

To: Candice Briere, Chair; Members of the ZBA, Jon Barrett, Mia Gale, planning@a2gov.org

From: Amy Seetoo, Board member of OHMHA, 3111 Cedarbrook Road

Date: 06/21/2022

RE: ZBA 22-2008: 3095 Cedarbrook Road

I am the homeowner of 3111 Cedarbrook Road, two houses away from the petitioners' house at 3095 Cedarbrook Road.

I am supporting the letter submitted by Dr. Wendy Carman, President of OHMHA, on May 23, in opposition to the request for variance to construct a sunroom in the rear of the house, unless certain conditions are met. In her letter, Dr. Carman listed five standards that the request for variance does not meet, on an already non-conforming property. Dr. Carman is well versed with ZBA standards, having served on ZBA many years. She is very concerned about water issues in our community as her own basement has been flooded 7 times.

I. Analyses of Signers of Approval and Non-Signers

1. Friendly Neighborhood on Cedarbrook Road

To begin with, the 28 families on Cedarbrook Road are friendly to one another, saying "hi" when they walk dogs and children play together. Naturally, when one homeowner asked some neighbors to sign

the “Approved Signatures for sunroom addition (ZBA)” form under the headline of “Four Seasons Sunrooms” and the owners’ names, neighbors would generally not refuse.

Among the nine signers, four ((3080, 3088, 3104 Cedarbrook) live across the street from 3095 Cedarbrook. The proposed sunroom would not be visible from where they live. Their signatures are nice, but carry no significance.

Before I say anything about the locations of the other five signers, I need to describe the topography of Cedarbrook Road. The street is sloping from west to east, with houses with lower house numbers on higher ground, and those houses with higher house numbers on lower ground. Thus, the four signers at 3063, 3079, 3087 Cedarbrook Road live in higher ground than the petitioners at 3095. Any groundwater produced at 3095 Cedarbrook will not affect the houses of these signers.

It is curious, however, that the signers at 3087 Cedarbrook signed and gave approval, not knowing that **“the survey shows that the patio **encroaches into the yard of the neighbor to the left [3087 Cedarbrook] and onto the park property north of the owners’ lot.**”**

In addition, my deceased husband regarded the petitioners as his best friends, having left more than \$50,000 in his will for them. We spent many an afternoon on the rear patio at 3095 Cedarbrook, not knowing that the source of the extra water in our backyard that required us to hire Twin Oaks Company to mitigate water problems twice, in 2010 and in 2021, was actually from the raised patio (at least 27 inches above the drain. See photo) (More about the drain later). In addition, my husband celebrated his last birthday in October 2021 in the petitioners’ newly renovated large kitchen!

2. Relatively New Neighbors on Cedarbrook

All the signers moved to Cedarbrook after 1995, when my deceased husband and I moved here. The newcomers were not aware of the history of Cedarbrook, from wetlands, to Windemere Subdivision, to an agreement between the developer and the City in mitigating water, which was not honored by either the developer, that conveniently declared bankruptcy, or the City of Ann Arbor, which did not follow through.

I, on the other hand, being an immigrant, have been eager to learn all about my community and my neighbors by participating in various community organizations, such as the OHMHA Board, the Police Department Neighborhood Watch Program, and the new Community Partnership Outreach Team (CPOT of the Ann Arbor Police), and by being a City Council candidate in 2003. That was how I learned about the history of Cedarbrook Road and its water problems.

3. Who did not sign?

The owners at 3103 and 3111 Cedarbrook did not sign, because we knew that more water will come our way once a sunroom is built, making the backyard at 3095 more impervious.

II. Lifestyles Changes in Recent Years and the Questions about Permits

By perusing topics of HGTV website, one can sense the outdoor trending. Both builders and homeowners demand outdoor kitchens, outdoor dining rooms, patios, outdoor spaces (decks, porches), sunrooms, fire pits, outdoor fire places, outdoor furniture, etc. Ann Arborites are no exceptions and desire the same amenities. However, it is not well known if **permits are needed to build a patio**. What standards are used to pass inspection of a patio permit? If homeowners build the patio themselves, does it require a permit? For example, is it acceptable to build up a patio 27

inches higher than the surrounding backyards, thus making water flow to neighbors' yards, rather staying in the same backyard longer?

III. Complicated Case on Cedarbrook Road

Evan Pratt, Washtenaw County Water Resource Commissioner, in an email message dated June 6, 2022, wrote, "...there is an easement that was dedicated to our office, the **developer did not complete the rest of the required procedures and paperwork to "legally establish" a County Drain.** That legal establishment is required for our office to have any authority to require corrective action, perform work, etc. He further wrote, "Unfortunately, there are a number of these situations around the County. It is often unclear in our records what the cause was (of changing from a plan of public drainage infrastructure to private) because we often are not aware of the reason we stop receiving resubmittals during a review process."

In other words, the development agreement regarding the Cedarbrook development called for drainage easements and a detention pond and addressed other concerns. The fact that they were not addressed and the City did not enforce the development agreement is a major concern.

IV. The Trend of Increasing Precipitation in Washtenaw County

According to the National Centers for Environmental Information, the 12-month total precipitation in Washtenaw County increased 17.5 inches from June 1963 to May 2022. (From June 1963 to May 2022, the average 12-month total precipitation was 32.3 inches.) (Source: [National Centers for Environmental Information](#))

With climate change, Washtenaw County has seen increase in precipitation. It means more water on the ground.

V. Regulations Have Not Kept up with Growth of Washtenaw County and Ann Arbor City

It is well known that the water table of the City of Ann Arbor in particular and Washtenaw County in general is relatively high, with many creeks and rivers in the area. The populations of the City and the County have doubled since 1960. Between the 1960 Census and the 2020 Census, the City of Ann Arbor population grew 2.6 times, and Washtenaw County population grew 2.2 times.

	Population		Growth Rates
	1960	2020	
Washtenaw County	172,440	372,258	2.2 times
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Many buildings and houses have been built since 1960's, making water mitigation a challenge. For example, planners are concerned about the 50-year-flood or the 100-year-flood, etc.

Yet, the County and the City still rely on the same "Drain Law for Michigan Landowners from September 1963 and updated by the County in October 2003. (DRAIN LAW For MICHIGAN LANDOWNERS Extension Bulletin E-382 FARM SCIENCE Series September 1963 Cooperative Extension Service Michigan State University East Lansing In cooperation with Farm Production Economics Division Economic Research Service U.S. Department of Agriculture Updated by Washtenaw County Water Resources Commissioner's Office October 2003.)

According to this document, it says, "NATURAL FLOW RIGHTS: The Michigan courts have accepted the general rule of natural flow. This means

that natural surface waters created by rain or snow must be allowed to flow unrestricted on to lower land holdings over the natural water courses. As a general rule, **landowners may not artificially concentrate or increase the velocity of surface waters.**” To build **up a patio 27 inches higher** is a means to artificially increase the velocity of surface waters. This should not be allowed. How should water be mitigated? By building a dry well, a catch basin, or a rain garden at 3095 Cedarbrook? Should the raised patio be allowed to stay?

This 1963 document also states that “...The above description of property rights indicates some of the general rules governing disputes between landowners over the disposal of excess surface water. **For information on a specific case, it would be well to consult a lawyer.** Most drainage conflicts are settled informally but in the final analysis, right cannot be determined except by court of law.”

In other words, water being an important issue here, the County and the City did not take the responsibility to update the laws governing water while the populations in the city of Ann Arbor and Washtenaw County doubled. Instead, the governments rely on homeowners to sue each other to solve problems, ruining friendships in the process. Are the City and the County prepared for increasing precipitation? It is time to update the law governing mitigating water in the City.

Finally, I'm now prepared to hire Twin Oaks the **third time** to deal with the water in my backyard that is actually part of the Sugarbush Park so that mosquitos will not breed there this summer, since it is predicted that the mosquito problems are going to be serious this year. **From a raised impervious patio adjacent to the proposed sunroom project to a public health hazard, this sunroom project is questionable.**

I, therefore, propose that the sunroom project at 3095 Cedarbrook be on hold until the laws governing mitigating water in the City are resolved.

Please see attached photos showing the impervious and raised patio sloping toward neighbors' yard.

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