



**Gandee Law Firm, LLC**  
5676 State Route 521, Suite A  
Delaware, Ohio 43015  
E: [ggandee@gandeelaw.com](mailto:ggandee@gandeelaw.com)  
T: 614.893.8205

**Garrett T. Gandee, Esq.**

March 4, 2024

Delaware County Regional Planning Commission  
Scott Sanders, AICP, Executive Director  
109 N. Sandusky Street  
Delaware, Ohio 43015

Re: Variance Request for BET-FISH CAD (Brown Twp., Delaware County)

Mr. Sanders,

On behalf of our client Lawrence Bettler and his partner/neighbor Keith Fisher in the development of the BET-FISH Common Access Driveway (CAD) Subdivision (RPC# 24-01-S), we would ask the Commission to consider a variance from §306.02 of the Delaware County Subdivision Regulations.

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Delaware County Subdivision Regulations §306.02 Number of Lots.

The CAD may serve and provide access for up to three (3) lots as shown on the CAD subdivision plat. Two (2) additional lots contiguous to the CAD at the point of access to the public or private road by the CAD and which would meet the current applicable zoning requirements as free-standing lots may, at the discretion of the Commission, be accessed by the CAD.

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Mr. Bettler & Mr. Fisher seek to create a total of five (5) lots with the BET-FISH CAD. Four (4) lots served and accessed by the CAD, and one (1) lot contiguous to the CAD at the point of access to Hogback Road. All five lots otherwise meet the applicable Township zoning and County subdivision requirements.

In accordance with §102.08 of the Subdivision Regulations we will demonstrate that in this specific case extraordinary and unnecessary hardship will result to our client if he is forced to strictly comply with §306.02.

- 1. The conditions upon which this variance is based are unique to the property for which this variance is sought.*

The circumstances in this particular case are very unique to the land itself and will be discussed in detail below.

Mr. Fisher approached engineer Aaron Heydinger (Gandee Heydinger Group, LLC) in winter of 2023 to discuss placement of a common access drive subdivision on his property. Mr. Fisher has two heirs who wish to build homes on his property; likewise, Mr. Fisher is in his 70s and would like to have his family living nearby as he continues to age. He would also like to preserve as much of his land as farmland as possible.

Concurrently, Mr. Bettler, also in his 70s, was researching options to construct additional lots on his parcel next door so that his relatives would have the option to build on his land. A farmer himself, Mr. Bettler would also like to continue to farm as much of his land as possible. Mr. Bettler talked to Mr. Fisher, learned about the Common Access Drive Subdivision process and subsequently also contacted engineer Aaron Heydinger.

During due diligence, several unique issues related to Mr. Fisher's **land** were identified by Mr. Heydinger that would make the construction of a CAD more challenging on a large portion of the southern half of Mr. Fisher's property:

- a) A large network of field drainage tiles throughout this area that drain both on-site and off-site areas.**
- b) The presence of a large swale carrying stormwater runoff and farm pond overflow from an adjacent property to the east to Hogback Road/Alum Creek Reservoir.**
- c) The presence of an on-site sanitary treatment system on the southern side of the property along Hogback Road.**

These first three items result in lack of suitable home sites on the southern half of Mr. Fisher's property. The preferred building sites are located in the northeastern portion of Mr. Fisher's land, adjacent to Mr. Bettler's land. However, construction of a CAD driveway on the northern side of Mr. Fisher's land would not be possible due to Item "d" below:

- d) The presence of existing agricultural buildings on the northern side of the property along Hogback Road.**

These problems are unique to Mr. Fisher's property and are not generally shared among other properties in the zoning district.

2. *Due to the physical surroundings, shape, or characteristics of the property, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these Regulations were carried out.*

The unique site conditions listed above would prevent a hardship that vastly exceeds a mere inconvenience for the following reasons:

Mr. Bettler needs to create three lots, and Mr. Fisher needs to create two lots. Due to unique site conditions, if this variance is not approved the only solution by which to do so would be to have both Mr. Bettler and Mr. Fisher each create their own CAD Subdivision on neighboring parcels. This would result in the following hardships to the owners:

- a) **Creation of a very long and unnecessarily impactful common access drive for Fisher** (if Fisher were to build his own CAD Subdivision separate from Bettler). Due to site conditions previously discussed, his ideal building site for these two lots is in the northeast corner of his property. However, due to the existing septic treatment area and agricultural buildings that need to be maintained, the common access driveway would have to access Hogback Road at the southwestern-most corner of his property. This would result in an extremely long common access driveway running from the southwest to the northeast of the entire existing parcel. The location of this driveway entrance would also be unnecessarily close to Mr. Fisher's neighbor to the South.

This routing of the common access driveway would also result in a large number of drainage tiles needing to be repaired, and the installation of unnecessary additional culverts. Both of these items have the potential for negative impacts (e.g., long term maintenance of culverts and tile, potential for future failure, etc.) in the future that could be avoided.

- b) **Creation of two Common Access Drive Subdivisions on adjacent parcels when only one would satisfy the needs of both parties and be less impactful to the surrounding area.** The proposed solution requested in this variance meets the needs of both parties and creates only one Common Access Drive Subdivision on Hogback Road. Common Access Drive Subdivisions are very expensive endeavors, requiring engineering, surveying, planning, legal fees, and significant construction costs often exceeding six figures.

This solution only requires the creation of one CAD, locates all lots on sound building sites, avoids significant site-specific issues, and features an extremely efficient driveway layout.

3. *The granting of this variance will not vary the provisions of applicable zoning regulations, comprehensive plans, or other existing development guidelines and regulations, nor shall it otherwise impair the intent and purpose of these regulations, or the desirable development of the neighborhood and community.*

With the exception of the variance requested, we believe this solution is compliant with the standards of the Brown Township Zoning Resolution and the Delaware County Subdivision Regulations.

4. *The granting of this variance shall not be detrimental to the public health, safety and welfare, and not injurious to other property.*

This proposed CAD configuration does not create more than a total of five lots, which should not negatively impact health, safety, or welfare. The lots being created by this CAD are along the interior shared property line of Bettler and Fisher, and will not be

contiguous to any other residential parcels other than those of Bettler and Fisher themselves. Therefore these lots should not be injurious to other property.

For the above reasons, it is clear that the hardships being faced by Mr. Bettler and Mr. Fisher are extraordinary; sufficiently unique so as not be considered hardships that are generally prevalent amongst similar properties of this type in Delaware County. Additionally, these hardships are entirely unnecessary; the proposed solution eliminates these hardships while also mitigating any negative impacts of the project on the landowners, neighbors, and public at large.

Please feel free to contact me with any questions. We appreciate your time in considering this variance request.

Sincerely,

A handwritten signature in black ink, appearing to read "Garrett T. Gandee". The signature is fluid and cursive, with the first name "Garrett" being more prominent and the last name "Gandee" following in a similar style.

Garrett T. Gandee  
Attorney for Lawrence Bettler  
Gandee Law Firm, LLC

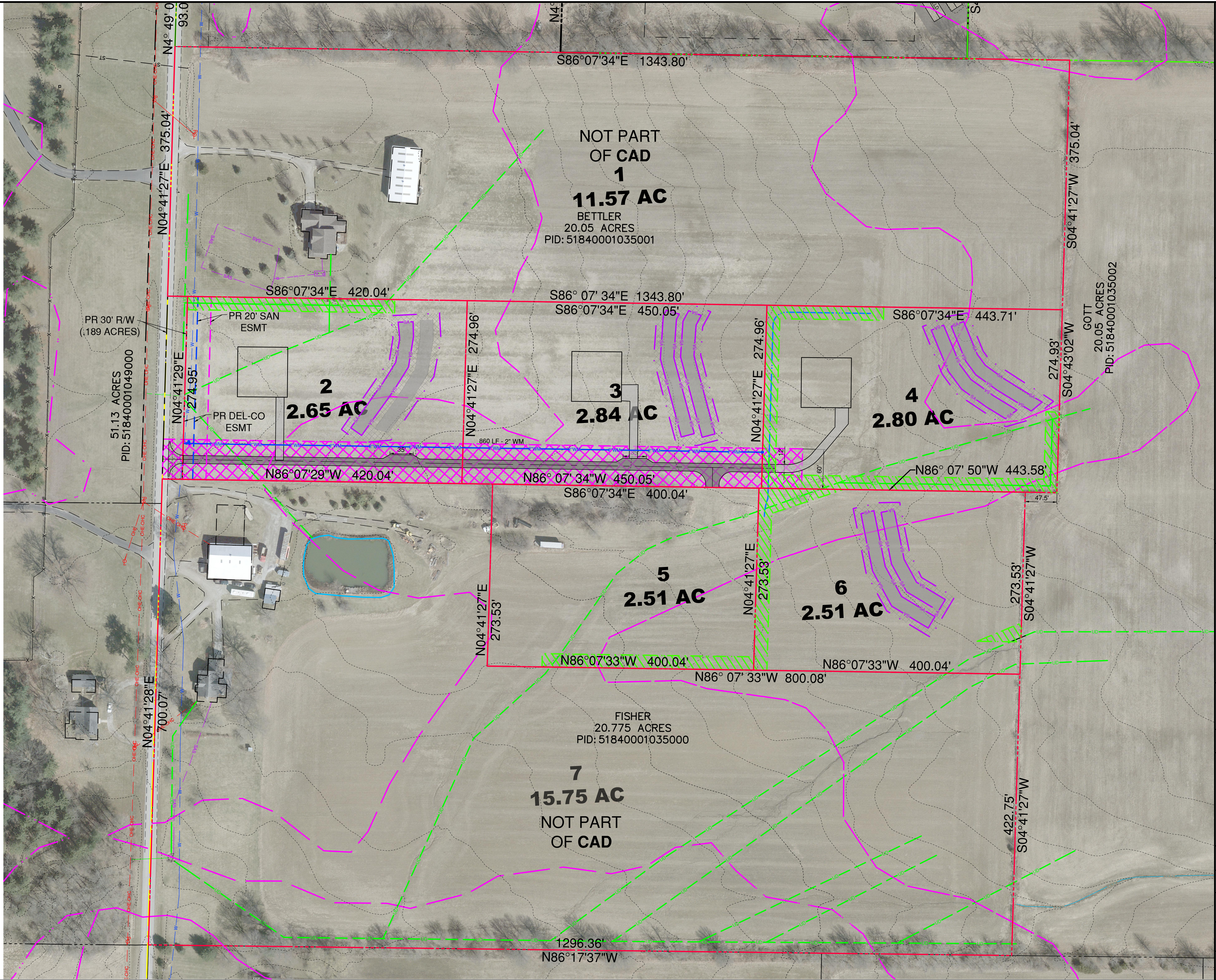
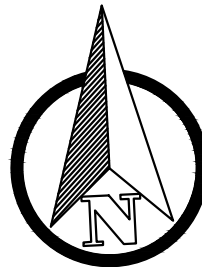
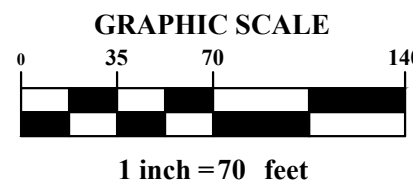


C:\Users\ghaydinger\Gandee\Gandee\Group\GKG Team - Documents\General\Projects\23-086-14-ENG-2242 Hogback\Production Drawings\Exhibit\Bett Fish CAD concept.dwg PLAN Mar 04, 2024 -- 3:39:55pm ghaydinger

LEGEND

- EXISTING STORM SEWER
- EXISTING STORM STRUCTURES
- EXISTING SANITARY SEWER MAIN
- EXISTING SANITARY FORCE MAIN
- EXISTING SANITARY SEWER SERVICE
- EXISTING WATERLINE
- EXISTING WATER METER, VALVE, HYDRANT
- EXISTING GAS
- EXISTING GAS VALVE
- EXISTING ELECTRIC
- EXISTING OVERHEAD UTILITIES
- EXISTING TELECOMMUNICATION
- EXISTING FIBER OPTIC
- EXISTING ELECTRIC OR TELECOM BOXES
- EXISTING UTILITY POLE
- EXISTING LIGHT POLE
- EXISTING CONTOUR
- EXISTING FENCE
- EXISTING AIR CONDITIONER UNIT
- EXISTING SIGN
- EXISTING TREE
- EXISTING TREELINE
- EXISTING PARCEL LINE
- PROPOSED PARCEL LINE
- CAD EASEMENT LIMIT
- EXISTING BUILDINGS
- PROPOSED CAD DRIVE
- PROPOSED CAD EASEMENT LIMIT HATCH
- PROPOSED DRAINAGE EASEMENT

SITE DATA	
ZONING	FR-1
MINIMUM AREA	2.0 ACRES
MINIMUM FROATAGE 2 AC.	200 FEET
2-3 ACRES	225 FEET
3-4 ACRES	250 FEET
4-5 ACRES	300 FEET
5+ ACRES	350 FEET
FRONT SETBACK	90 FEET
SIDE SETBACK	25 FEET
REAR SETBACK	80 FEET



PLAN PREPARED FOR:

PLAN PREPARED BY:



BROWN TOWNSHIP, DELAWARE COUNTY, OHIO

BET FISH CAD  
PID: 51840001035000 & 51840001035001  
2242 & 2418 HOGBACK ROAD  
CONCEPT PLAN

REVISION DESCRIPTION

DATE

NO.

A

B

C

DATE:

3 / 4 / 2024

SCALE:

AS SHOWN

DRAWN BY

GG

CHECKED BY

AH

PROJECT NUMBER

23-086-14

DRAWING NUMBER

SHEET NUMBER