



DEPARTMENT OF PLANNING, BUILDING & ZONING

111 West Fox Street • Room 203
 Yorkville, IL • 60560
 (630) 553-4141 Fax (630) 553-4179

**Petition 21-22
 James Bauler
 Fence Building Height Variance**

INTRODUCTION

The Petitioner owns 68 Saugatuck Road (Lot 53 in Boulder Hill Unit 19) and installed a fence eight feet (8') in height on the west side of the property. The Petitioner was advised that Section 4:14.A.3.a restricts the height of fences to six feet (6') in the side and rear yards. The Petitioner installed a fence at six feet (6') in height on the east and south sides of the property. Rather than lower the portion of the fence that is above the required height, the Petitioner chose to seek a variance.

The application materials are included as Attachment 1. The plat of survey showing the location of the fence is included as Attachment 2. The aerial of the property is included as Attachment 3. A picture of the fence is included as Attachment 4.

SITE INFORMATION

PETITIONER James Bauler

ADDRESS 68 Saugatuck Road, Montgomery

LOCATION Lot 53 in Boulder Hill Unit 19

TOWNSHIP Oswego

PARCEL # 03-04-455-007

LOT SIZE 0.3 +/- Acres

EXITING LAND USE Single Family Residential

ZONING R-6 One Family Residence District

LRMP	Current Land Use	Single Family Residential
	Future Land Use	Suburban Residential (1.00 DU/Acre Max)
	Roads	Saugatuck Road is a Local Road Maintained by Oswego Township.
	Trails	None
	Floodplain/Wetlands	None

REQUESTED ACTION Variance to allow installation of a fence at eight feet (8') in height instead of the maximum six feet (6') in the side yard.

APPLICABLE § 4:14.A.3.a – Fences

REGULATIONS

§13:04 – Variation Procedures and Requirements

SURROUNDING LAND USE

Location	Adjacent Land Use	Adjacent Zoning	LRMP	Zoning within ½ Mile
North	Single-Family Residential	R-6	Suburban Residential (1.00 DU/Acre Max)	N/A
South	Comed ROW	R-6	Comed ROW	N/A
East	Single-Family Residential	R-6	Suburban Residential	N/A
West	Single-Family Residential	R-6	Suburban Residential	N/A

GENERAL INFORMATION

According to Attachment 1, Page 4, the Petitioner wants the fence for security reason. The Petitioner has not contacted the Kendall County Sheriff’s Department regarding this matter.

OSWEGO TOWNSHIP

Oswego Township was emailed this proposal on May 25, 2021.

OSWEGO FIRE PROTECTION DISTRICT

The Oswego Fire Protection District was emailed this proposal on May 25, 2021.

FINDINGS OF FACT

§ 13.04.A.3 of the Zoning Ordinance outlines findings that the Zoning Board of Appeals must make in order to grant variations. They are listed below in *italics*. Staff has provided findings in **bold** below based on the recommendation:

That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. **There are no topographic conditions that result in a particular hardship or practical difficulty.**

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. **Any property owner with R-6 zoned property, including other properties in Boulder Hill, could request a similar variance and for the same reasons.**

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. **The owner does not have a hardship, but would like to keep the fence at the height requested.**

That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. **The requested variance should not negatively impact any of the neighbors and will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood.**

That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. **Adding the proposed fence will not impair any of the above items and will not impact the roadway.**

RECOMMENDATION

Staff recommends denial of the request variance. However, if the Board wishes to grant the variance, Staff recommends the following conditions:

1. The maximum height of the fence shall be eight feet (8') on the west side of the subject property.
2. The variance shall apply to fences on the west side of the subject property only.
3. This variance shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns.

ATTACHMENTS

1. Application (Including Petitioner's Findings of Fact)
2. Plat of Survey
3. Aerial
4. Fence Picture



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APPLICATION

PROJECT NAME Approval of 8ft fence FILE #: _____

NAME OF APPLICANT		
<u>James Bauler</u>		
CURRENT LANDOWNER/NAME(S)		
<u>James Bauler 108 Saugatuck Rd Montgomery, IL</u>		
SITE INFORMATION	SITE ADDRESS OR LOCATION	ASSESSOR'S ID NUMBER (PIN)
ACRES		
<u>.31 Acres</u>	<u>Residential</u>	
EXISTING LAND USE	CURRENT ZONING	LAND CLASSIFICATION ON LRMP
REQUESTED ACTION (Check All That Apply):		
<input type="checkbox"/> SPECIAL USE	<input type="checkbox"/> MAP AMENDMENT (Rezone to _____)	<input checked="" type="checkbox"/> VARIANCE
<input type="checkbox"/> ADMINISTRATIVE VARIANCE	<input type="checkbox"/> A-1 CONDITIONAL USE for: _____	<input type="checkbox"/> SITE PLAN REVIEW
<input type="checkbox"/> TEXT AMENDMENT	<input type="checkbox"/> RPD (<input type="checkbox"/> Concept; <input type="checkbox"/> Preliminary; <input type="checkbox"/> Final)	<input type="checkbox"/> ADMINISTRATIVE APPEAL
<input type="checkbox"/> PRELIMINARY PLAT	<input type="checkbox"/> FINAL PLAT	<input type="checkbox"/> OTHER PLAT (Vacation, Dedication, etc.)
<input type="checkbox"/> AMENDMENT TO A SPECIAL USE (<input type="checkbox"/> Major; <input type="checkbox"/> Minor)		
PRIMARY CONTACT	PRIMARY CONTACT MAILING ADDRESS	PRIMARY CONTACT EMAIL
<u>James Bauler</u>	[REDACTED]	[REDACTED]
PRIMARY CONTACT PHONE #		PRIMARY CONTACT PHONE #
[REDACTED]		[REDACTED]
ENGINEER CONTACT	ENGINEER MAILING ADDRESS	ENGINEER EMAIL
ENGINEER PHONE #	ENGINEER FAX #	ENGINEER OTHER # (Cell, etc.)
I UNDERSTAND THAT BY SIGNING THIS FORM, THAT THE PROPERTY IN QUESTION MAY BE VISITED BY COUNTY STAFF & BOARD/ COMMISSION MEMBERS THROUGHOUT THE PETITION PROCESS AND THAT THE PRIMARY CONTACT LISTED ABOVE WILL BE SUBJECT TO ALL CORRESPONDANCE ISSUED BY THE COUNTY.		
I CERTIFY THAT THE INFORMATION AND EXHIBITS SUBMITTED ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND THAT I AM TO FILE THIS APPLICATION AND ACT ON BEHALF OF THE ABOVE SIGNATURES.		
SIGNATURE OF APPLICANT		DATE
[REDACTED]		<u>4/20/2021</u>

FEE PAID:\$ 475.00
 CHECK #: [REDACTED]

¹Primary Contact will receive all correspondence from County

²Engineering Contact will receive all correspondence from the County's Engineering Consultants

To whomever this may concern,

Hello, my name is James Bauler, and I am the proudful homeowner that resides at 68 Saugatuck Rd in Montgomery Illinois. I live with my beautiful girlfriend of 16 years and have 2 Kids our daughter who is [REDACTED] and our son who is [REDACTED]. I am writing to the County in regards to my fence height located on the west side of my property. The height for that fence is for good reason as I will detail later.

To begin with when I sat down with my girlfriend about a fence, she had agreed with me on putting a higher side, but had asked what I had to do in order to start this whole fence process.

I told her I did not know but to make a phone call to the County to see what was OK and what wasnt. I call Kendall County and a lady answered saying not her name but Kendall County, I said "Hi I have a few questions about putting up a fence," she replied "I can help you with that" so Im thinking awesome not knowing she would grant me faulty information.

I had asked her 3 questions, Do I need a permit? Why cant I put a metal fence up? and what are my height requirements?

She had replied well what is your address and I told her, She said you're unincorporated Montgomery and you dont need a permit, she said Montgomery doesnt want metal fences up because after years they dont look as good unless there is already a metal fence up then it can stay. She said if you wanted to replace the metal fence then it would have to be done with a wood or plastic one, then she said since you're unincorporated your height restrictions are waved. I said well im not looking to put up 10 foot fences, I just want to all around except the west side. I only want an 8 foot on that side. She not once said anything to me about zoning or that I could apply for a Variance. She gave me my answers and I called a fence company.

I made the phone call, I thought I did what I was suppose to do, but according to Brian Holdiman I had recieved faulty information. I seek no harm and only try

to do what's right, if I would have known I had to apply for this variance first I surely would have done so. I don't look to neglect rules or laws, I would have done the right thing in the first place had I received correct guidance.

My reasoning for putting up that 8 foot fence on the west side of my property is because in July of 2020, the weekend before my daughter's birthday which was the 11th into the 12th, she and her friend were wanting to sleep in our camper which is parked in front of our garage on the west side of driveway. It was late at night and they were heading in the camper with her friend going in first and my daughter behind her and my daughter said she had seen the silhouette of someone looking into the camper from behind the next door neighbor's yard. Now her mom and I usually check on our kids a lot even when they're in the house, but when she came back inside within minutes I knew something wasn't right.

I had asked her are you ok? whats wrong because she is now scared and she said she saw someone she didnt know who, or have any description looking directly at her and when she made a face like "oh my God" who ever it was realized they had been seen and took off. so I had went outside to check around the yard and back behind where Comeds property is and I didnt see anything.

I did not go next door and tell them anything because our relationship with them is simply a Hi and a bye, we dont really talk. We had no description she didnt know who it could have been, but she was now scared and wasnt sure about being outside on her own property at her own home. I and her mom put this 8 foot fence up on the west side of our home for the safety of our kids and any kid for this matter.

She now has peace of mind and cant wait to sleep in the camper. It was more than comforting when the fence was finished her telling me thank you cause now she feels safe. Even though shes young she still deserves privacy and quality of life

and I know we did that by only adding 2 feet to the west side. So I ask all involved with the Variance process to please let me keep this side of the fence at 8 feet. our kids are our future and the next generation deserves that privacy as well.

Thank you -



Legal Description

Lot 53 in Boulder Hill, Unit No. 19, in the Township of Oswego, Kendall County, Illinois

MIN	LOAN # [REDACTED]
FHA Case No [REDACTED]	

FIXED INTEREST RATE RIDER
FHA

THIS Fixed Interest Rate Rider is made this **21ST** day of **November, 2013** and is incorporated into and shall be deemed to amend and supplement the Mortgage (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Note to **NewCastle Home Loans, LLC, a Limited Liability Company**

(the "Lender") of the same date and covering the Property described in the Security Instrument and located at **68 Saugatuck Road
Montgomery, IL 60538**

Fixed Interest Rate Rider COVENANT In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree that

The interest that is referenced in subsections (a) and (b) of the first paragraph is at the rate of **4.250 %**

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Fixed Interest Rate Rider

[Signature] _____ **11/21/13** (Seal)
JAMES BAULER _____ **DATE**

FHA Illinois Fixed Interest Rate Rider
Ellie Mae Inc



Attachment 1 Page 9
Please fill out the following findings to the best of your capabilities. § 13:04 of the Zoning Ordinance outlines findings that the Zoning Board of Appeals shall take into consideration the extent to which the following conditions have been established by the evidence:

This variance is based on my minor childrens privacy and their right to obtain that privacy on 68 Saugatuck, not where the fence is located. The county can come over and see it all out.

That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out.

Every party involved with this variance is more than welcome to come to my house and see for themselves.

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification.

This Variation Application is completely on my property as seen on my plat of survey. Everything is legit.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property.

Nope, I plan on being here at this property for a long time. My kids love it here and feel much safer now.

That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located.

Its Neighbor to Neighbor theres no street signs or buisness that its blocking. Its from the southwest end to about 140 Feet North from there.

That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood.

Not at all, this fence is on the West side of my property only, and does not impaire sight from Saugatuck Road what so ever.



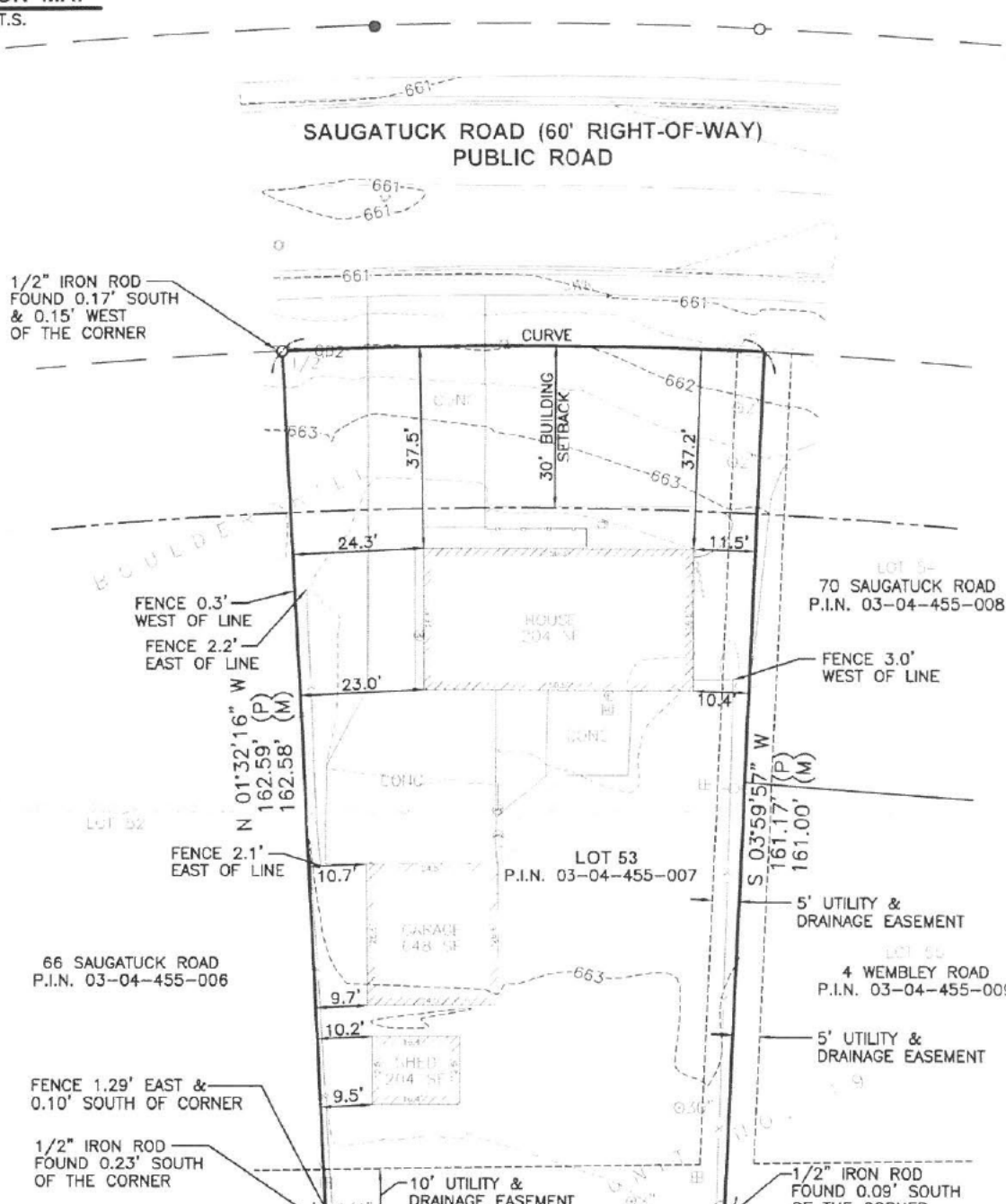
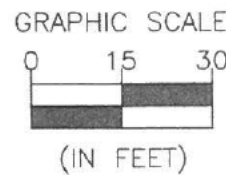
LOCATION MAP
N.T.S.

SURVEYOR
CHAMLIN & ASSOCIATES, INC.
221 WEST WASHINGTON STREET
MORRIS, IL 60450
MORRIS@CHAMLIN.COM

OWNER / ADDRESS
JAMES BAULER
68 SAUGATUCK ROAD
MONTGOMERY, IL 60538
P.I.N. 03-04-455-007

ZONING
R6 - ONE FAMILY RESIDENTIAL

- NOTES**
- NO PART OF PROPERTY IS LOCATED WITHIN A FLOODPLAIN ACCORDING TO FEMA FLOOD MAP PANEL 17093C0054G DATED 2-4-2009
 - VERTICAL DATUM NAVD-88 GPS OBTAINED



CURVE
Δ = 05°32'16"
R = 931.16'
T = 45.04'
L = 90.00'
CHORD
S 88°27'58" E
89.96'

LEGEND

- BOUNDARY OF PROPERTY
- - - EXISTING RIGHT-OF-WAY
- - - BUILDING SETBACK LINE
- - - EXISTING EASEMENT LINE
- - - EXISTING LOT LINE
- - - ELEV.
- - - EXISTING CONTOUR
- x EXISTING FENCE
- EXISTING HANDRAIL
- EXISTING MANHOLE
- EXISTING CATCH BASIN
- EXISTING CLEANOUT
- EXISTING WATER SERVICE VALVE
- EXISTING ELECTRIC BOX
- EXISTING TV CABLE BOX
- EXISTING TELEPHONE BOX
- EXISTING GAS METER
- EXISTING ELECTRIC METER
- EXISTING AIR CONDITIONER
- EXISTING LIGHT
- EXISTING UTILITY POLE
- EXISTING TREE
- EXISTING GATE POST
- 3/4" IRON PIPE FOUND
- 1/2" IRON ROD FOUND
- CONC
- (M) MEASURED
- (P) PLAT

LEGAL DESCRIPTION

Lot 53 in Boulder Hill, Unit No. 19, in the Township of Oswego, Kendall County, Illinois.

CERTIFICATION

I, Michael W. Soenksen, Professional Land Surveyor No. [REDACTED] do hereby certify that the within plat is true and correct representation of a survey made under my direction for James Bauler being completed in the field April 29, 2021. This Professional Service conforms to the current Illinois minimum standards for a boundary survey.

This certificate runs to the benefit of James Bauler and creates no rights in or responsibility to any party not named in this certificate.

Dated this 12th day of May, A.D., 2021.

[REDACTED]
Michael W. Soenksen
Illinois Professional Land Surveyor
Number [REDACTED]
License Expires November 30, 2022

CHAMLIN & ASSOCIATES, INC. © 2021
Drawing Name: M:\AUGUST\158980-00_BAULER_JAMES.mxd
Drawing Date: 05/17/2021
Drawing Title: 158980-00

Professional Design Firm
License No. [REDACTED]

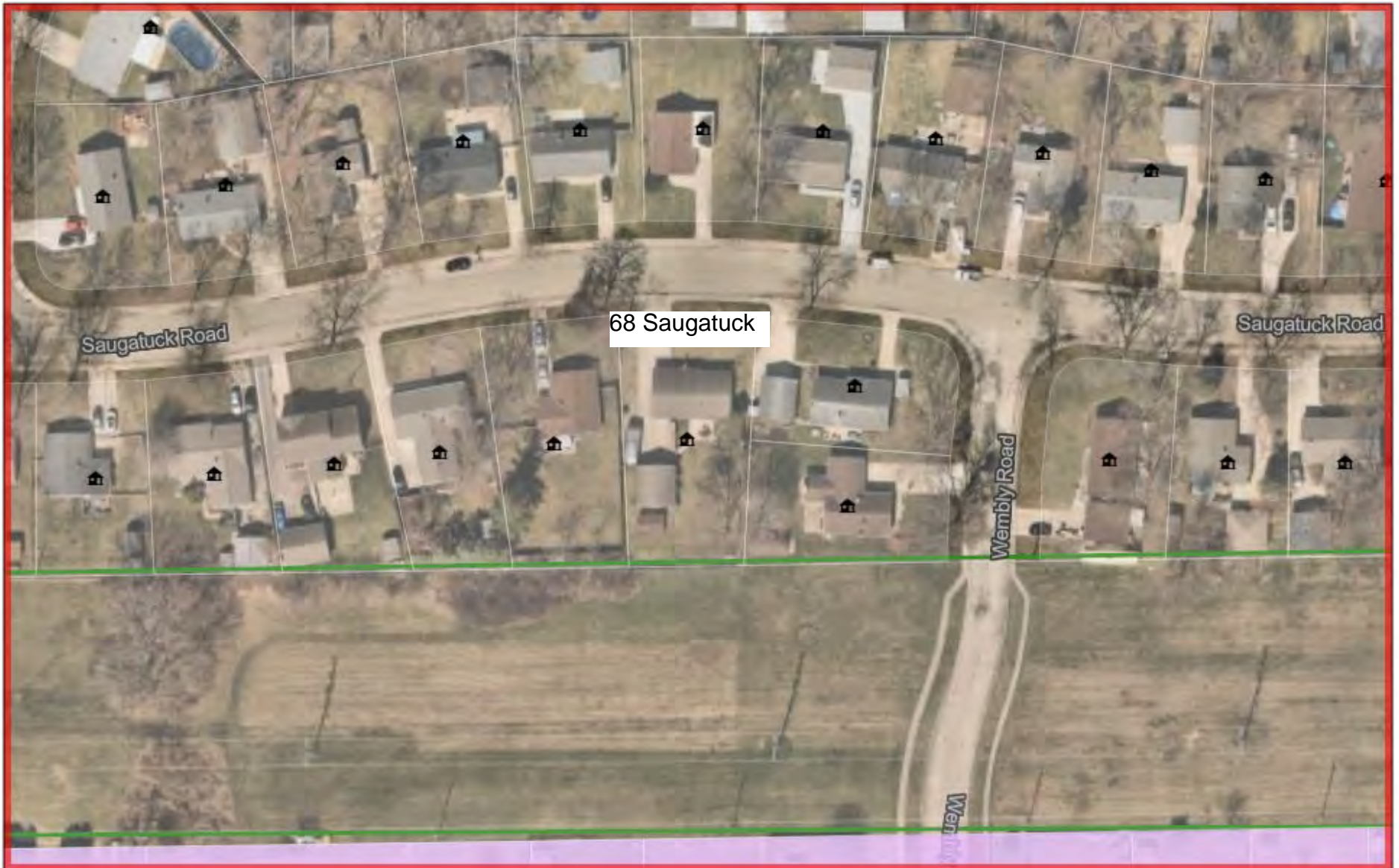
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REVISIONS

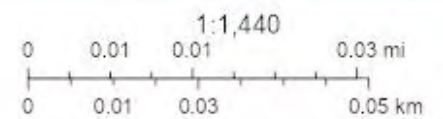
JAMES BAULER - LOT 53 BOULDER HILL, UNIT NO. 19, S.E. 1/4 SEC. 14-37-8, 3RD P.M. OSWEGO TOWNSHIP, KENDALL COUNTY, ILLINOIS		
DRAWN BY: NET	SURVEYED BY: KH & KH	SHEET NUMBER: 1 OF 1
SCALE: AS NOTED	DATE: 05/17/21	FILE NUMBER: 13593
PLAT OF SURVEY		JOB NUMBER: M8980-00

Attachment 3
Kendall County Web GIS



May 20, 2021

-  Kendall County Address Points
-  Incorporated Areas
-  Parcels
-  Oswego
-  Ownership Parcel



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04/30/2021 07:50