



**Hamburg Township
Planning Commission
Hamburg Township Board Room
Wednesday, September 16, 2020 7:00 P.M.**

AGENDA

- 1. Call to order**
- 2. Pledge to the Flag**
- 3. Approval of the Agenda**
- 4. Approval of Minutes**
 - a) July 15, 2020 Planning Commission Meeting Minutes
- 5. Call to the Public**
- 6. New Business**
 - a) **ZTA20-003 (Public Hearing):** Zoning Text Amendment (ZTA 20-003) to revise the Township Zoning Ordinance to allow detached accessory dwelling units (ADUs) on lots that abut a waterbody or have access to a water body in the Water Front Residential (WFR) and Natural River (NR) Zoning District. This change would amend the regulations on Section 8.27 Accessory Dwelling Units of the Zoning Ordinance.
 - b) **Discussion of ZTA 20-004 Riparian Frontage Regulations (Public Hearing):** Proposed Zoning Text Amendment to required minimum riparian frontage regulations for newly created waterfront lots and existing lots with newly created riparian frontage. The draft regulations would amendment Article 2 and Article 9, Section 9.5 and 9.7.
- 7. Old Business**
- 8. Zoning Administrator's Report**
- 9. Adjournment**



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P.O. Box 157
10405 Merrill Road
Hamburg, Michigan 48139

**Hamburg Township
Planning Commission
Wednesday, July 15, 2020
7:00 P.M.**

1. CALL TO ORDER:

The meeting was called to order by Chairman Muck.

Present: Bohn, Hamlin, Leabu, Muck, & Priebe

Absent: Koeble & Muir

Also Present: Scott Pacheco, Township Planner & Amy Steffens, Planning & Zoning Administrator

2. PLEDGE TO THE FLAG:

3. APPROVAL OF THE AGENDA:

Chairman Muck stated that the site plan review for Chilson Commons is not a public hearing. Planner Pacheco stated that comments on that issue should be made during the call to the public.

Motion by Muir, supported by Leabu

To approve the agenda as presented

Voice Vote: Ayes: 5 Nays: 0 Absent: 2 MOTION CARRIED

4. APPROVAL OF MINUTES:

a) June 17, 2020 Planning Commission Meeting Minutes

Planner Pacheco stated that he has a few suggestions and corrections to be made.

Motion by Bohn, supported by Priebe

To approve the minutes of the June 17, 2020 meeting with the corrections as suggested by staff

Voice Vote: Ayes: 5 Nays: 0 Absent: 2 MOTION CARRIED

5. CALL TO THE PUBLIC:

Chairman Muck opened the call to the public. He stated that Items 6a & 6b are public hearings and we will take public comment on those two issues during those public hearings.

Mr. Clyde Schultes of 5859 E. M-36 stated that within the last two weeks he and his wife have submitted letters concerning two issues with Chilson Commons. He understands that the issue of the developer asking for additional

building sites was dealt with at the last meeting with the Commission voting no to those additional sites. He thanked the Commission for their good judgement. The development has never been close to full capacity, and it would be ludicrous to allow them to build more. He also understands that the Commission is considering letting Chilson Commons cut back part of the greenbelt along M-36. He is most concerned about the property that abuts the Conservation Club. He would like to see that left alone. He will continue to watch as things are proposed.

Hearing no further comment, the call was closed.

6. NEW BUSINESS:

a) **The 2020 Master Plan and 2020 Update to the Village Center Master Plan (Public Hearing):**

The 2020 Master Plan and the Village Center master Plan are comprehensive documents, long-range in their views, and includes specific goals, objectives, and public policy recommendations regarding land use and future growth. Per the Michigan Planning Enabling Act (Public Act 33 of 2008, as amended), the plans are intended to serve as a guide for future Township decision-making related to land use, community development, and capital improvement projects.

Chairman Muck opened the public hearing. Hearing no response, the public hearing was closed.

Planner Pacheco stated that we are in the final stages of the Master Plan. The Commission approved the distribution of the plan in February and the Township Board approved the distribution in March. Staff distributed it to the interested agencies and posted it on the website on April 15th. The 63-day period closed June 17, 2020. The only comments we received were from the Livingston County Planning. They were very complimentary and recommended approval. We had received some public comment earlier in the process. The Huron River Highlands Property Owners' Association were concerned about the potential road connection from their subdivision to Winans Lake Road. This was also included in the 2011 Master Plan. Their roads are public roads, and at the time of their development, it was required that the road be extended to the edge of the property for future road extensions. This is good planning practice. He further discussed the connections. Their second item of concern is that their future land use designation is high-density. That was a carryover from the 2011 map. That area has been subdivided and their average lot size is between 20-40,000 square feet. It would be more appropriate for the Future Land Use Map to designate that as medium density. The Zoning Map does not need to change as it designates that as Waterfront Residential, which would comply with what is there and the Future Land Use Map. He further stated that the other item to be addressed is the Chilson Commons. That item will be going to the Township Board in August, and he would suggest that the Future Land Use Map as well as the Zoning Map be changed based on whatever that decision the Board makes. The last correspondence we received was from Michelle Ormanian. Her concern is with the Village Center Master Plan and the density proposed in that Master Plan. The Village Center Master Plan was created to direct the density of the Township to a certain area. She does not want density anywhere in the Township, which is a valid comment. We did look at this a few years ago, and at that time we decided that we were not going to change the Village Center Master Plan and move forward with it the way it was designed, to create a village-type node. We would direct our growth to that area so that we can preserve the rest of the Township. He further discussed her concerns and explained the changes in the housing development versus population from years past.

Pacheco stated that at this point, the Commission would adopt a resolution. If that resolution is to approve the Master Plan, it then goes to the Township Board who as asserted their right to approve or deny the plan.

Commissioner Hamlin stated that he did question whether the Huron River Highlands road connector was in the 2011 Master Plan as well as their site plan, and that question was answered. His other question was if the Commission wished to make the suggested changes, what would be the process. Pacheco stated that the two changes he is suggesting are both minor changes. Because Huron River Highlands has already been subdivided, it is very unlikely that any change in the Future Land Use Map would have an impact.

Chairman Muck read the letter from the Livingston County Planning Commission, and he would like to commend the staff and the Committee for their hard work.

Motion by Bohn, supported by Hamlin

WHEREAS, the Michigan Planning Enabling Act (MPEA) authorizes the Planning Commission to prepare a Master Plan for the use, development and preservation of all lands in the Township, and WHEREAS, the Planning Commission prepared a Draft 2020 Hamburg Township Master Plan and submitted the plan to the Township Board for review and comment, and

WHEREAS, on March 3, 2020, the Township Board received and reviewed the Draft 2020 Hamburg Township Master Plan prepared by the Planning Commission and authorized distribution of the Master Plan to the interested agencies as identified in the MPEA, and

WHEREAS, notice was provided to the interested agencies and the timeframe to responded was provided as required in the MPEA, and

WHEREAS, the Planning Commission held a public hearing on July 15, 2020 to consider the comments from the interested agencies and from the public on the proposed Master Plan and to further review and comment on the proposed Master Plan, and

WHEREAS, the Planning Commission finds with the proposed changes suggested by staff to the Future Land Use Map and the Zoning Map that the 2020 Hamburg Township Master Plan is desirable and proper and furthers the use, preservation, and development goals and strategies of the Township, and

WHEREAS, the MPEA authorizes and the Hamburg Township Board has asserted the right by resolution to approve or reject the proposed Master Plan. The Planning Commission Resolution to Adopt the 2020 Hamburg Township Master Plan will be forwarded to the Hamburg Township Board for final approval of the Master Plan.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. Approval of the 2020 Hamburg Township Master Plan. The Planning Commission hereby approves the adoption of the 2020 Hamburg Township Master Plan, including all of the chapters, figures, maps and tables contained therein. Pursuant to MCL 125.3843,

2. Findings of Fact. The Planning Commission has made the foregoing determination based on a review of the existing demographic trends, the existing land uses in the Township, the public input, existing Master Plan provisions and maps, and with the assistance of planning staff and finds that the 2020 Hamburg Township Master Plan will accurately reflect and implement the Township’s goals and strategies for the use, preservation, and development of lands in Hamburg Township. 3. Next Step. Because the Township Board has asserted by resolution its right to approve or reject the proposed master plan, the Planning Commission resolution along with the 2020 Hamburg Township Master Plan will be forwarded to the Hamburg Township Board for review and a final determination on the adoption of the plan as provided in MCL 125.3843.

3. Effective date. Because the Hamburg Township Board has asserted their right to approve or reject the final Master Plan the 2020 Hamburg Township Master Plan shall be effective as of the date of adoption of the Township Board Resolution regarding the Master Plan.

Roll Call Vote: Ayes: 5 (Bohn, Hamlin, Leabu, Muck, & Priebe) Nays: 0 Absent: 2

MOTION CARRIED

- b) **ZTA 20-001 Minimum house size (Public Hearing):** Zoning Text Amendment to revise the required minimum house size regulations in sections 7.6.1 Schedule of Area, Height, and Bulk Regulations and section 8.5 Single-Family Dwellings, Mobile Homes, Prefabricated Housing.

Chairman Muck opened the public hearing. Hearing no response, the public hearing was closed.

Planner Pacheco stated that this issue was brought up at the February joint meeting as well as the 2019 joint meeting, and in March this was brought to the Commission for review and discussion. At that time, it was discussed to remove minimum house size requirements from the Zoning Ordinance as well as the requirements for the design features that would be a problem on smaller houses. He has removed everything dealing with minimum house size except for the house size in the ECHO housing developments, which requires 400-980 square feet. He did, however, remove it from the Cottage Housing regulations.

Motion by Bohn, supported by Leabu

To recommend to the Township Board approval of ZTA 20-001 Minimum House Size as presented

Voice Vote: Ayes: 5 Nays: 0 Absent: 2 MOTION CARRIED

7. OLD BUSINESS:

- a) **Site Plan 20-002 (continued):** Site Plan Review (SPA 20-002) to amend the Site Plan associated with the Hardship Planned Unit Development agreement for the Chilson Commons Shopping Center.

Chairman Muck stated tonight we are dealing with the site plan amendment only. The Commission made the determination on the HPUD agreement and the zoning change at our June meeting. Because the site plan is linked to the HPUD agreement, the Commission needs to make a recommendation to not approve the amendments to the site plan. Once that is done, the zoning change, Agreement and the site plan can all go to the Township Board.

Mr. Ron Nadis representing the developer, explained their request including the addition of three units, rezoning and amendments to the HPUD Agreement.

Planner Pacheco stated that the original site plan had units 1-8 and the original HPUD agreement dealt with those units. The site plan enacted the HPUD Agreement. Because the Planning Commission is recommending not moving forward with the amendment to add units 9, 10 and 11, the only change being proposed tonight is the site plan with 9 units. If you use the original agreement that deals with the 66 acres along with another site plan, it is no longer applicable. We have to approve the agreement and the site plan together. We need wording in the agreement in order to approve the additional lot. At the last meeting, the Commission neglected to include the site plan amendment in their recommendation. The Township Board will have an opportunity to make a determination on the project together at one meeting.

Mr. Nadis explained the economic and financial difficulties the developer has faced over the years. He stated that through it all, the developer has stuck with this development and maintained it in a first-class fashion. He stated that the requests that they have made are fairly modest. They are asking that the property that is only suitable as commercial be pulled into the commercial development and the property be recognized for what it is. He discussed the difficulty in luring tenants in this situation.

Discussion was held on the trimming and thinning of the vegetation. Planner Pacheco stated that on June 17th, the Commission made a recommendation that the only amendment to the HPUD Agreement would be that the trimming and thinning of the landscaping on Parcel 2 and around the sign. Mr. Nadis has sent him some wording for that but that will go to the August Township Board with the recommendation. The Township Board could approve the project as originally submitted or approve the Planning Commission's recommendation. It is an agreement between the Township Board and the Developer. Discussion was held on the developer working with the Township for the thinning and trimming.

Motion by Hamlin, supported by Leabu

To recommend denial of the proposed amendments to the Chilson Commons site plan as presented at the June 17, 2020 meeting

Voice Vote: Ayes: 4 Nays: 1 Absent: 2 MOTION CARRIED

- b) **Discussion of ZTA 20-002 (continued):** Proposed zoning text amendment that explains the locations where ADUs are allowed on properties within the WFR and NR districts that abut a waterbody or have access to a water body.

Planner Pacheco stated that in May 2015 the Commission started working on an ADU ordinance and a zoning text amendment was approved. One of the Township Board Members did not want ADUs on water bodies and the Planning Commission revised the language to add "An accessory dwelling unit shall not be permitted on lots within

the Waterfront Residential or Natural River Districts that abut the water or have access to a water body.” At the February 2020 joint meeting we continued discussion on this issue, and the Board continued that discussion at their May 5, 2020 Board meeting. They wanted to ensure that prior to sending it back to the Planning Commission, there was Board support. They would like to allow ADUS in the WFR and NR districts, but they do not want to allow detached accessory dwelling units. They believe that the property owner would have more control over who they rent to if the unit was attached.

Discussion was held on what constitutes an attachment. Pacheco stated that this is simply a discussion item tonight, and he will bring back clarification when it comes back for final approval. Discussion was held on creating a definition that the Board would approve.

- c) **Discussion of ZTA 20-003 (continued):** Proposed zoning text amendment to Section 11.3.1., permitted expansion of residential buildings, to permit second story additions over non-conforming dwellings without variance approval

Planner Pacheco stated that in August 2017 the Planning Commission made a recommendation to approve a zoning amendment to require that an expansion of a second story into a required setback would require a variance. Since that time there has been seven appeals, and all of them have been approved by the Zoning Board of Appeals. Prior to that amendment, if you had an existing structure, you could build on top of that no matter how close you were to the property line as long as you were building within the existing footprint. He stated that he believes that there are impacts from second story additions to neighboring property owners. He provided diagrams and photos of houses where the second story is setback. He further discussed the impact of a second story versus a single story.

The question was asked if any of the seven appeals were not on waterfront. Steffens stated that most of them are on waterfront. Pacheco stated that on occasion you will see cases not on waterfront, but may still be in the Waterfront Residential District where the lots are still very small. He further stated that if the ZBA is approving all of the same requests, then there is something wrong with the ordinance or there is something wrong with the ZBA approving them all. What we are trying to do is correct what is wrong.

Commissioner Hamlin stated that he feels that in some cases, we are appealing one neighbor to the detriment of another. He feels that the requirement should stay and less of the variances granted.

Discussion was held on the size and current setbacks on these lakefront lots.

Commissioner Leabu stated that he is in favor of keeping the requirement in the ordinance. He stated that in some cases, it just cannot be done through no fault of the homeowner. He just does not want it to be automatic that the ZBA approves them. He further discussed the non-conformities of lake lots and the changes that they have made to the ordinance recognizing them.

Continued discussion was held on leaving this as a variance issue.

Amy Steffens, Planning & Zoning Administrator, stated that some of the frustration is that in some cases the ZBA is approving not only a second story, but also going out further. Staff is left wondering what will the ZBA deny. If the ZBA is going to approve them all, it is not logical to make the homeowner pay the fee for a variance.

Discussion was held on training the ZBA members. Steffens stated that she brought the Township Attorney in to discuss the findings of fact, and there has been no different result. Further discussion was held on the ZBA decisions, standards that need to be met to approve an appeal, and the nonconformity of the lake lots.

Discussion was held on ensuring that the ZBA receives the proper direction from the Township Board regarding enforcement of the regulations.

The consensus of the Commission was to leave the ordinance Section 11.3.1 as is. It was stated that we can then have a discussion at the next joint meeting with regard to how this ordinance should be enforced.

8. ZONING ADMINISTRATOR’S REPORT: None

9. ADJOURNMENT

Motion by Hamlin, supported by Bohn

To adjourn the meeting

Voice Vote: Ayes: 5 Nays: 0 Absent: 2 MOTION CARRIED

The Regular Meeting of the Planning Commission was adjourned at 8:32 p.m.

Respectfully submitted,

Julie C. Durkin
Recording Secretary

The minutes were approved as presented/Corrected:_____

Jeff Muck, Chairperson

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P.O. Box 157
10405 Merrill Road
Hamburg, Michigan 48139-0157

To: Planning Commissioners

From: Scott Pacheco, AICP

Date: September 16, 2020

Agenda

Item: 6a

Re: ZTA20-003 Accessory Dwelling Units on lots with access to waterways

Project History:

In May of 2015 the Township Board approved a zoning text amendment which allowed and regulated Accessory Dwelling Units (ADUs) on specific lots within the Township. However, with the original regulations the Board was concerned with the impact that allowing ADUs would have on the Township waterbodies. Because of this concern the regulations for ADUs did not permit ADUs on lots within the Waterfront Residential and Natural Rivers Zoning District if the property abutted or otherwise had access to a waterbody.

At the February 2020 joint meeting with the Township Board, Planning Commission and Zoning Board of Appeals it was discussed that ADUs should be allowed on properties that have access to a waterbody. The reasons for the Township allowing ADUs on these additional properties is because ADUs provide opportunities for multigenerational livings, aging in place, and more affordable living units. All of these types of opportunities are needed on these properties.

On May 5, 2020 the Township Board reviewed the original ADU regulations and discussed the regulations regarding ADUs on lots that abut a waterbody or have access to a waterbody. The Board directed staff to prepare a zoning text amendment that would allow ADUs in the WFR and NR district on properties that abut a water body or have access to a water body as long as they are attached to the main dwelling unit and meet all of the rest of the current regulations regarding ADUs.

On July 15, 2020 the Planning Commission reviewed the Township Board's suggestions to allow attached ADU's on properties that abut a water body or have access to a water body. At this meeting it was discussed that although the Planning Commission believed that attached and detached ADU's should be allowed on these property they agreed that the step to allow attached ADUs on these properties is a step forward. The Planning Commission recommended approval of allowing attached ADUs on properties in the Water Front Residential (WRF) and Natural Rivers (NR) zoning district that abut a water body or have access to a waterbody the Township Board.

Analysis:

The current regulations regarding Accessory Dwelling Units (ADUs) are located in the Hamburg Township Zoning Ordinance; Chapter 8, Supplementary Provisions; Section 8.27, Accessory Dwelling Units (Attachment A). There are 15 regulations that restrict the use, design, and location of Accessory Dwelling Units within Hamburg Township. The regulations also determine who has the authority to approve an ADU on a property and includes standards for approval of ADUs.

To be able to allow attached ADUs in WFR and NR zoning districts on properties that abut a waterbody or have access to a waterbody, the restriction under Section 8.27.1 (J) will need to be altered. Below is the current regulations in **bold** followed by the proposed revisions with the revised wording in red:

Current Regulations

Section 8.27.1 (J) Accessory Dwelling Units shall not be permitted on lots within the Waterfront Residential and Natural Rivers Districts that abuts a waterbody or have access to a waterbody.

Proposed Regulations

Section 8.27.1 (J) Detached Accessory Dwelling Units shall not be permitted on lots within the Waterfront Residential and Natural Rivers Districts that abuts a waterbody or have access to a waterbody.

This change will not allow detached ADUs to be permitted on a lot within the WFR or NR district that abuts a waterbody or has access to a waterbody. However it now will allow attached ADUs on a lot within the WFR or NR district that abuts a waterbody or has access to a waterbody as long as all of the other regulations of the zoning code can be met.

The approval of these attached ADUs will follow the current code regulations. The code allows the Zoning Administrator to approve an attached ADU in the WFR and NR district if the ADU meets all the requirements of section 8.27 including the ADU standards in 8.27.1 (N) and the ADU is:

- 1) on a lot greater than 2 acres and
- 2) located on a conforming lot.

Planning Commission may approve an attached ADU in the WFR and NR districts where the lot does not meet the above criteria as long as the ADU meets all the requirements of section 8.27.

The proposed amendment to the zoning ordinance will allow greater use of private property, a larger diversity in the housing types and will provide for more affordable housing units. ADUs allow property owner the opportunity for multi-generational living and aging in place. At the same time these uses can help can help the property owner with finances during hard times. Some of the community goals in the master plan are to protect and promote the public health, safety, comfort and general welfare, to promote a mix of development types and to manage sustainable growth, but ensuring the development is in harmony with the natural features and the unique environmental requirements of the Township. Allowing attached accessory dwelling units on properties that abut or have access to a waterbody would benefit the community's physical development and be constant with the goals of the master plan. Allowing the additional units would not increase the size of the structure allowed on the sites or the amount of impermeable surfaces allowed on the sites.

RECOMMENDATION:

Staff suggests that the Planning Commission discuss and review the proposed zoning text amendment (ZTA20-003) regarding the regulations for ADUs on lots with access to a waterbody in terms of its own judgment on particular factors related to the individual proposal, the most likely effect on the community's physical development, and conformance with the Township Master Plan. The Planning Commission should then make a recommendation on the proposed zoning text amendment to the Township Board.

EXHIBITS

Exhibit A- Draft ADU regulations Section 8.27

Section 8.27 Accessory Dwelling Unit

Intent To address the identified need of providing and preserving affordable and secure housing for all the population of the Township, while preserving the appearance and character of the Township's residential areas; by permitting, as an accessory use, the creation of a separate self-contained dwelling unit within, incidental and subordinate to, an existing single-family residence. The creation of such accessory dwelling units will promote the general welfare of the Township, without increasing the number of residential buildings, by allowing all the population to continue to live in the Township, either in their present home or in the accessory dwelling units permitted hereunder.

8.27.1 The following regulations shall apply to all accessory dwelling units whether on conforming or non-conforming lots:

- A. The principal dwelling or the accessory dwelling unit must be declared the main residence of the owner of the property.
- B. The accessory dwelling unit shall be a maximum of forty (40) percent of the gross floor area of the principle structure, not to exceed 1,000 square feet.
- C. The number of off-street parking spaces for the accessory dwelling unit shall be not less than one (1) and shall not block the required parking for the main residence.
- D. The accessory dwelling unit shall have a maximum of two bedrooms.
- E. The occupancy of the accessory dwelling unit shall be no more than two (2) persons.
- F. Accessory dwelling units and the principal structure must be connected to sewer if available.
- G. Access to an attached accessory dwelling unit shall be limited to a common entrance foyer or exterior entrance to be located on the side or rear of the building;
- H. Detached accessory dwelling must be located closer to the principal residence on the subject site than the principal residence on an adjacent property.
- I. The principal residence and the accessory dwelling unit shall share the same vehicular access to the property.
- J. **Detached** Accessory Dwelling Units shall not be permitted on lots within the Waterfront Residential and Natural Rivers Districts that abuts a waterbody or have access to a waterbody.
- K. All zoning district bulk and setback requirements shall apply to the site.
- L. Accessory dwelling units are allowed on conforming lots of record in the following circumstances (See Table 1):
 - 1. In the Single Family Low Density Residential (RAA), Single Family Medium Density Residential (RA), Village Center (VC), and Village Residential (VR) zoning districts with review and approval by the Zoning Administrative under 8.27.1 (N).
 - 2. Attached units in the Waterfront Residential (WRF) and Natural Rivers (NR) districts with review and approval by the Zoning Administrative under 8.27.1 (N).
 - 3. Detached units in the Waterfront Residential (WRF) and Natural Rivers (NR) districts on lots greater than two (2) acres with review and approval by the Zoning Administrative under 8.27.1 (N).

3. Detached units in the Waterfront Residential (WRF) and Natural Rivers (NR) districts on lots less than two (2) acres with review and approval by the Planning Commission under section 8.27.1 (N).
- M. Accessory dwelling are allowed on a non-conforming lots of record in the following circumstances (See Table 1):
1. In the Single Family Low Density Residential (RAA), Single Family Medium Density Residential (RA), Village Center (VC), and Village Residential (VR) with Planning Commission review and approval under section 8.27.1 (M).
 2. In Waterfront (WFR) and Natural River (NR) with the following requirements:
 - a. Attached accessory units with Planning Commission review and approval under section 8.27.1 (N).
 - b. Detached units shall require Special use approval under section 3.5.
 - c. Accessory dwelling units are subject Section 9.8, Common Use (Keyhole) Ordinance.
 - d. The accessory dwelling unit must meet the requirements under section 8.27.1 (N).

Table 1: ADU Reviewing Body

ZA:Zoning Administrator
 PC: Planning Commission
 SUP: Special Use Permit

Zoning District	Conforming Lots	Non-conforming Lots
Country Estates (CE)	ZA	PC
Single Family Low Density Residential (RAA)	ZA	PC
Single Family Medium Density Residential (RA)	ZA	PC
Water Front Residential (WFR)	ZA/PC*	PC/SUP**
Natural Rivers (NR)	ZA/PC*	PC/SUP**
Village Center (VC)	ZA	PC
Village Residential (VR)	ZA	PC

*ZA approval for attached ADUs on conforming lots and detached ADUs on conforming lot greater than 2 acres

** PC approval of attached ADUs on Non-conforming lots and SUP approval of Detached ADUs on non-conforming lots.

- N. Accessory dwelling units shall be reviewed to ensure compliance to the following standards:
1. Architectural design, style and appearance of the principal residential building must be maintained; In considering this factor the existing facade,

- roof pitch, building materials, colors and windows of an attached or detached accessory dwelling unit shall be consistent with the principal structure;
2. The proposed development does not impair the existing views, block access to light and air, or infringe on the privacy of neighbors in a substantial fashion. In considering this factor, decision makers shall balance the importance of minimizing impacts on neighboring properties and the applicant's ability to develop the property.
 3. The proposed development is compatible with existing land uses in the area, would not be detrimental to the safety or convenience of vehicular or pedestrian traffic.
- O. If public water and sewer are not available to the residence, the use of private water and septic systems for the accessory dwelling unit shall be subject to the approval of the County Health Department. The accessory dwelling unit shall comply with all applicable housing, building, fire and health code requirements.
- P. The Zoning Administrator may defer a decision on an ADU application to the Planning Commission for any reason. A decision by the zoning administrator on an ADU application is appeals to the Planning Commission.
- Q. Private restrictions on the use of property shall remain enforceable and take precedence over these additional district regulations. Private restrictions include but are not limited to deed restrictions, condominium master deed restrictions, neighborhood association bylaws, and covenant deeds. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.

8.27.2 Application Procedure

- A. The applicant shall submit the following information for review:
1. A plat plan showing the location of the proposed accessory dwelling unit, lot identification (address and property number), size of lot, dimension of lot lines, existing improvements on the lot, location of structures on adjacent lots, abutting streets, driveways, and parking areas
 2. Sufficient architectural drawings or clear photographs to show the exterior building alterations proposed.
 3. Interior floor plans showing the floor area of the proposed accessory dwelling unit and the primary dwelling.
 4. Any additional information deemed necessary by the township for review.
- B. Prior to granting approval, the approving body must determine that a proposed accessory dwelling unit meets the standards in section 8.27.1 (M).

8.27.3 Duration and Revocation

- A. The approval of an accessory dwelling unit shall expire within one (1) year after the date of such approval, unless a Land Use Permit has been issued and construction has commenced.

- B. The permit and any other form of approval for an accessory dwelling unit issued shall be subject to revocation by the Township upon a finding by the Township or its lawfully authorized designee, that there is in fact noncompliance with the conditions and requirements contained in Section 8.27.

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P.O. Box 157
10405 Merrill Road
Hamburg, Michigan 48139-0157

To: Planning Commissioners
From: Scott Pacheco, AICP
Date: September 16, 2020
Agenda Item: 6b
Re: ZTA20-004 Riparian Frontage Regulations

PROJECT HISTORY:

The Township Board directed staff at the 2020 joint meeting in February to propose an ordinance amendment that would add requirements for newly created lots that abut a waterbody to have minimum dimensions along the waterbody.

ANALYSIS:

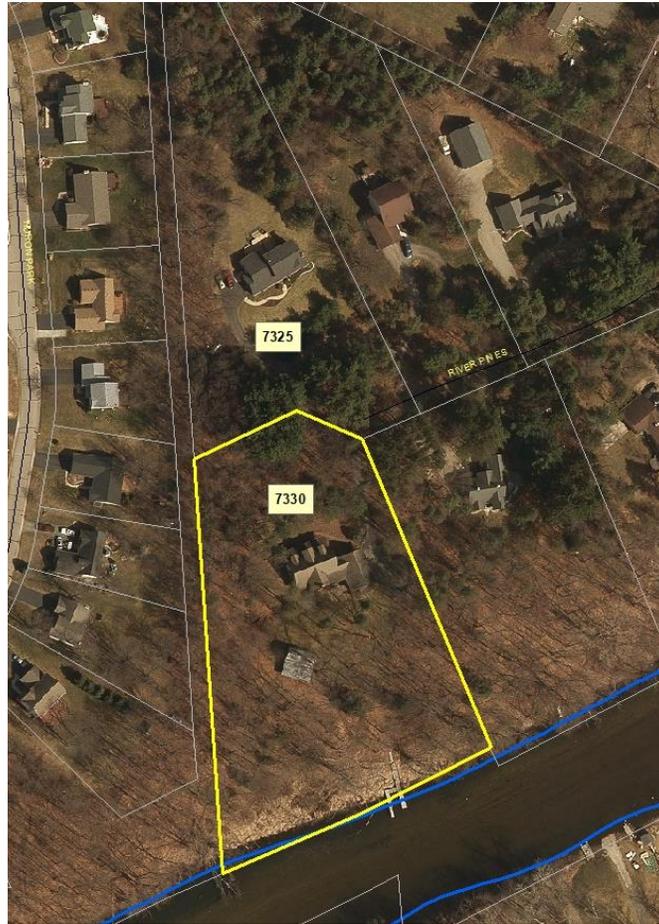
Lake Frontage for Newly Created Properties: Planning and Zoning Staff has made the following observation that during exempt land divisions and boundary adjustment that the Township currently has very little control over property owners creating oddly shaped lots to create access to the Townships Lakes and Rivers.

To further explain I would like to start with some examples of what township staff has seen:

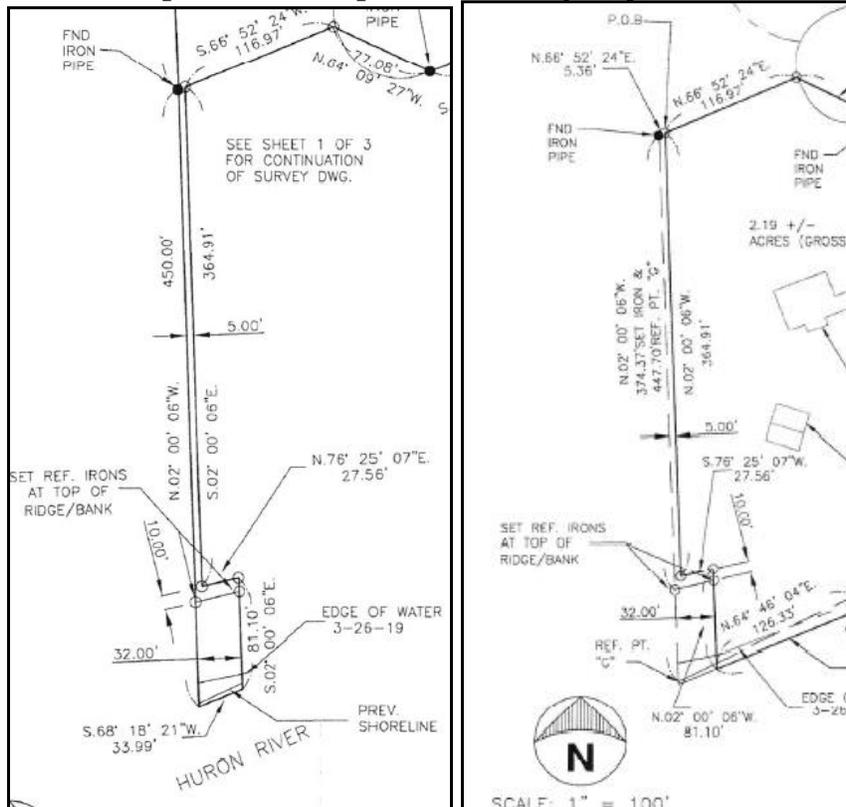
1) Boundary Adjustment: River Pines Trail

The Existing two sites are shown in **Map 1** and both properties access off the end of River Pines. The boundary adjustment allowed the property to the north at 7325 River Pines to take a 5 foot strip of land from the west side of the property to the south at 7330 River Pines. This five foot strip then widens out when it reaches the river to allow enough room for a dock (**Maps 2 and 3**).

Map 1: Existing Properties



Maps 2 and 3 Proposed Boundary Adjustment



2) Land Divisions: Cedar Bend

This land division took one lot (Map 4) and created 4 lots (Map 5) each of the 4 new lots proposed would have had an 8 foot strip to Whitewood Lake that would have expanded at the lake to 15 feet to be able to put a dock in.

Map 4: Existing Lot



Map 5 Proposed 4 lots



After review of the Hamburg Township Zoning Ordinance it appears that regulations regarding riparian frontage regulations would be most appropriate in *Article 9 Environmental Provisions*. Along with the regulations regarding Riparian Frontage Staff would also suggest that the following definition of Riparian Frontage be added to *Article 2 Definitions*.

RIPARIAN FRONTAGE shall be measured by a straight line which intersects each side lot line at the water's edge. Artificially created shoreline may not be used to increase the calculated riparian frontage.

This is the definition of Riparian frontage that can be found in the *Section 9.8 Common Use (Keyhole) Ordinance*.

Along with the amendment to add regulations regarding Riparian Frontages, the zoning text amendment suggests moving the Engineering Standards in *9.7 EGINEERING DESIGN STANDARDS* to *9.5 Performance Standards (Section 9.5.12 Engineering)* and using Section 9.7 for the Regulations for Waterfront Lots.

Staff has proposed the following two options for the Riparian Frontage regulations:

Option 1:

- A. Newly created waterfront lots or existing lots with newly created riparian frontage shall provide the following riparian frontage requirements:

Zoning District	Riparian frontage per lot served
WFR	50 feet/lot
NR	100 feet/lot
All other districts	75 feet/lot

- B. The lot width from the riparian frontage to the required setback from the ordinary high water mark shall be no less at any point than the required riparian frontage in Section 9.7 (A).

Option 2:

- A. On newly waterfront lots or existing lots with newly created riparian frontage, the riparian frontage shall be the same as the lot width requirement for the zoning district in which the lot is located.
- B. The lot width from the riparian frontage to the required setback from the ordinary high water mark shall be no less at any point than the required riparian frontage in Section 9.7 (A).

The zoning amendment would limit the number of properties that can be created abutting a waterbody. The proposed zoning amendment would be consistent with the 2020 Master Plan Goals to preserve the natural and historic character of Hamburg Township by accommodating a reasonable amount of development, but ensuring the development is in harmony with the natural features and the unique environmental requirements of the Township and to protect, preserve,

and enhance whenever possible the unique and desirable natural amenities of Hamburg Township.

RECOMMENDATION:

Staff suggests that the Planning Commission discuss and review the proposed zoning text amendment (ZTA 20-004) and direct staff to make any recommended changes and notice the ZTA for a public hearing.

EXHIBITS

Exhibit A: Draft Zoning Text Amendment 20-004 Riparian Frontage Regulation

**DRAFT
ZTA (20-004)**

**ARTICLE 2
DEFINITIONS**

RIPARIAN FRONTAGE: Is the dimension on a waterfront lot measured by a straight line which intersects each side lot line at the water's edge (if the lot is adjacent to the water but does not intersect the water's edge the measurement shall be taken as if the side lot lines where extended in a straight line to the water's edge). Artificially created shoreline may not be used to increase the calculated riparian frontage.

**ARTICLE 9
ENVIRONMENTAL PROVISIONS**

Section 9.5 Performance Standards

No use otherwise allowed shall be permitted within any district which does not conform to the following standards of use, occupancy, and operation, which standards are hereby established as the minimum requirements to be maintained within said area.

9.5.1 Fire and Explosion Hazards. All buildings, storage and handling of flammable materials and other activities shall conform to Township building and fire ordinances and to any applicable state and federal regulations or requirements. No use or building shall in any way represent a fire or explosion hazard to a use on adjacent property or to the public on a public street. Any activity involving the use or storage of flammable material shall be protected by adequate fire fighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material.

9.5.2 Smoke. It shall be unlawful for any person, firm, or corporation to permit the emission of any smoke from any source whatever to a density greater than that density described as No. 1 on the Ringlemann Chart; provided that the following exceptions shall be permitted: smoke, the shade or appearance of which is equal to but not darker than No. 2 of the Ringlemann Chart for a period or periods, aggregating four (4) minutes in any thirty (30) minutes. For the purpose of grading the density of smoke, the Ringlemann Chart, as now published and used by the United States Bureau of Mines, which is hereby made a part of this Ordinance, shall be the standard. However, the umbrascope readings of smoke densities may be used when correlated with Ringlemann's Chart.

9.5.3 Dust, Dirt, and Fly Ash. No person, firm, or corporation shall operate or cause to be operated, maintain or cause to be maintained, any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, without maintaining and operating, while using said process or furnace or combustion device, recognized and approved equipment, means, methods, device or contrivance to reduce the quantity of gasborne or airborne solids of fumes emitted into the open air, which is operated in conjunction with said process, furnace, or combustion device so that the quantity of gasborne or airborne solids shall not exceed 0.20 grain per cubic foot of the charring medium at the temperature of five hundred (500) degrees

Fahrenheit. For the purpose of determining the adequacy of such devices, these conditions are to be conformed to when the percentage of excess air in the stack does not exceed fifty (50) percent of full load. The foregoing requirements shall be measured by the ASME Test Code for dust-separating apparatus. All other forms of dust, dirt, and fly ash shall be completely eliminated insofar as escape or emission into the open air is concerned. The Building Inspector may require such additional data as is deemed necessary to show that adequate and approved provisions for the preventions and elimination of dust, dirt, and fly ash have been made.

9.5.4 Odor. The emission of odors which are generally agreed to be obnoxious to any considerable number of persons at their place of residence shall be prohibited.

9.5.5 Gasses. SO₂, as measured at the property line, shall not exceed an average of 0.3 ppm over a 24-hour period; provided, however, that a maximum concentration of 0.5 ppm will be allowed for a one-hour period out of a 24-hour period; H₂S shall not exceed 0.1 ppm; fluorine shall not exceed 0.1 ppm; nitrous fumes shall not exceed 5 ppm; CO shall not exceed 15 ppm.

9.5.6 Airborne Matter, General. In addition to 9.5.1.through 9.5.4. above, there shall not be discharged from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment or nuisance to the public or which endanger the comfort, repose, health, or safety of persons or which cause injury or damage to business or property.

9.5.7 Glare and Radioactive Materials. Glare from any process (such as or similar to arc welding, or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines. Radioactive materials and wastes, and including electro magnetic radiation such as X-ray machine operation, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.

9.5.8 Noise. The emission of measurable noises from the premises shall not exceed sixty-five (65) decibels as measured at the boundary property lines, except that where normal street traffic noises exceed sixty-five (65) decibels during such periods, the measurable noise emanating from premises may equal, but not exceed, such traffic noises. In addition, objectionable sounds of an intermittent nature, or characterized by high frequencies, even if falling below the aforementioned decibel readings, shall be controlled so as not to become a nuisance to adjacent uses.

9.5.9 Vibration. Machines or operations which cause vibration shall be permitted in industrial districts, but no operation shall cause a displacement exceeding 0.003 of one (1) inch as measured at the property line.

9.5.10 Waste Disposal. All solid, liquid, and sanitary waste shall be treated and disposed in accordance with the standards of the Township of Hamburg, Livingston County Health Department, Michigan Department of Natural Resources and Michigan Department of Public Health and other applicable agencies.

9.5.11 Lighting. All exterior lighting shall be so installed that the surface of the source of light shall not be visible from the nearest residential district boundary and it shall be so arranged to

reflect light away from any residential use. In no case shall any lighting become a nuisance as regulated in the Township Nuisance Ordinance.

9.5.12 Engineering. Proposed development shall conform to the adopted Hamburg Township Engineering and Design requirements. These requirements are intended to help protect the health, safety, and environmental resources of the Township.

Section 9.7. ~~Engineering and Design Standards Regulations for Waterfront Lots~~

~~Proposed development shall conform to the adopted Hamburg Township Engineering and Design Standards. These standards set minimum design requirements intended to help protect the health, safety, and environmental resources of the Township.~~

Option 1:

- A. Newly created waterfront lots or existing lots with newly created riparian frontage shall provide the following riparian frontage requirements:

Zoning District	Riparian frontage per lot served
WFR	50 feet/lot
NR	100 feet/lot
All other districts	75 feet/lot

- B. The lot width from the riparian frontage to the required setback from the ordinary high water mark shall be no less at any point than the required riparian frontage in Section 9.7 (A).

Option 2:

- A. On newly waterfront lots or existing lots with newly created riparian frontage, the riparian frontage shall be the same as the lot width requirement for the zoning district in which the lot is located.
- B. The lot width from the riparian frontage to the required setback from the ordinary high water mark shall be no less at any point than the required riparian frontage in Section 9.7 (A).