

**Hamburg Township  
Zoning Board of Appeals  
Hamburg Township Board Room  
Wednesday, March 14, 2018  
7:00 P.M.**

**AGENDA**

- 1. Call to order**
- 2. Pledge to the Flag**
- 3. Roll call of the Board**
- 4. Correspondence**
- 5. Approval of agenda**
- 6. Call to the public**
- 7. Variance requests**
  - a) ZBA 2018-003**

Variance application to allow for the construction of a 2,208-square foot dwelling with a 13.5-foot rear yard setback (30-foot rear yard setback required, Section 7.6.1.) and a 31.1-foot setback from the ordinary high water mark of Ore Lake (50-foot setback from the ordinary high water mark required, Section 7.6.1.).
- 8. New/Old business**
  - a. Approval of November 8, 2017 meeting minutes and findings of fact for ZBA 17-021
  - b. Approval of February 14, 2018 meeting minutes and findings of fact for ZBA 18-001 and 18-002
- 9. Adjournment**



# Zoning Board of Appeals Staff Report

## AGENDA ITEM: 7a



**TO:** Zoning Board of Appeals  
(ZBA)

**FROM:** Amy Steffens, AICP

**HEARING DATE:** March 14, 2018

**SUBJECT:** ZBA 18-003

**PROJECT SITE:** 8606 Riverside Drive  
TID 15-13-403-003

**APPLICANT/  
OWNER:** Michael and Karen Basile

**PROJECT:** Variance application to allow for the construction of a 2,208-square foot dwelling with a 13.5-foot rear yard setback (30-foot rear yard setback required, Section 7.6.1.) and a 31.1-foot setback from the ordinary high-water mark of Ore Lake (50-foot setback from the ordinary high water mark required, Section 7.6.1.).

**ZONING:** WFR (waterfront residential district)

### Project Description

The subject site is a 6,970-square foot parcel that fronts onto Riverside Drive to the south; Ore Lake is to the north, and single-family dwellings are located to the west and east of the site. The dwelling shown in the site map (above) has been demolished to accommodate the construction of a new single-family dwelling.

If approved, the variance request would permit the construction of a 2,208-square foot dwelling with a 13.5-foot rear yard setback, where a 30-foot rear yard setback would be required (Section 7.6.1.) and a 31.1-foot setback from the ordinary high-water mark of Ore Lake, where a 50-foot setback would be required (Section 7.6.1.). The portion of the dwelling that would encroach into both the rear yard and ordinary high-water mark setbacks is a 240-square foot

covered paved patio.

The dwelling's existing and proposed setbacks are noted in the table below.

	<b>Proposed</b>	<b>Required</b>
<b>North (rear)</b>	13.5 feet	30 feet
<b>Ordinary high water mark</b>	31.1 feet	50 feet
<b>South (front)</b>	25 feet	25 feet
<b>West (side)</b>	10.2 feet	10 feet
<b>East (side)</b>	10.2 feet	10 feet

Based on the site plan, dated January 16, 2018, the entire site lies within the 100-year floodplain. The 100-year floodplain elevation for Ore Lake has been estimated to be 859.3 N.A.V. Datum of 1988. The Michigan Residential Building Code requires that the lowest floor be elevated at least one-foot above the design flood level.

Hamburg Township participates in the National Flood Insurance Program (NFIP). Proper enforcement of the building code standards is a prerequisite of the township's participation in the NFIP. In NFIP communities, flood insurance must be purchased as a condition of obtaining a federally insured mortgage in federally identified 100-year floodplain areas. Insurance rates can be very high for new construction if the lowest floor elevation standards are not met.

For any development on this site, elevation certificates will be required for the issuance of a land use permit, at the time the foundation is completed, and at final zoning inspection. Should the applicant submit a LOMR-f community acknowledgement form to the township, additional information, including but not limited to an engineered compaction report, would be required. Additionally, because the applicant proposes more than 50 cubic yards of fill to be placed on this site, an engineered grading and drainage plan will be required for any development on the site; the ordinance also requires an engineered drainage and grading plan for lot coverage over 40 percent.

### **Standards of Review**

The Zoning Board of Appeals (ZBA) decision in this matter is to be based on the findings of facts to support the following standards. The applicable discretionary standards are listed below in bold typeface followed by staff's analysis of the project as it relates to these standards. A variance may be granted only if the ZBA finds that all of the following requirements are met.

- 1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.**

The ordinance requiring a 50-foot setback from the ordinary high-water mark of a water body is intended to maintain an open vista of the water from neighboring properties and preserve the shore from encroachment of residential structures. Covering the porch creates the need for a variance and is therefore self-imposed and is not a condition of the property. The

property can, as evidenced by the site plan (Exhibit B) and the location of the previous dwelling (Exhibit C), comply with the setback requirements for the primary structure.

- 2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.**

The site is zoned for single-family residential uses, has been developed for such uses, and can continue to be used for such use with a conforming structure. A covered porch is not necessary to use the site for residential purposes and is solely a personal preference of the homeowner. The covered porch could be removed and the proposed dwelling would meet all the required setback standards. A proposed covered porch that encroaches into the required setbacks is a self-imposed practical difficulty.

- 3. That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.**

As stated under standard one, the setback is intended maintain an open vista of the water from neighboring properties and preserve the shore from encroachment of residential structures. The dwellings to the east and west have been constructed to comply with the 50-foot setback from Ore Lake.

- 4. That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.**

The subject site is in the Northeast Hamburg/Winans Lake planning area of the Master Plan. This area envisions medium density residential development in the developed areas around Ore Lake. The proposed request would not adversely affect the purpose or objectives of the Master Plan.

- 5. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.**

There is no condition or situation of the subject site that is not of so general or recurrent a nature that the proposed second story addition cannot comply with the required rear and ordinary high-water mark setback standards. The dwellings to the east and west have been constructed to comply with the required setbacks, and the dwelling that was demolished appears to have met the setback standards. The need for the variance arises from a personal preference and not a condition specific to the property.

- 6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district.**

The use of the site is single-family residential and the proposed variance would not change the use.

**7. The requested variance is the minimum necessary to permit reasonable use of the land.**

The proposed design creates both a self-imposed practical difficulty and a non-conforming structure. Clearly, the lot can accommodate a conforming structure (Exhibits B and C). The property must be considered, not the design preference of the applicant, in determining if the variance is the minimum necessary to permit reasonable use of the land. There is nothing peculiar about the property, such as topographical changes or significant environmental features, that warrants variance approval for a covered porch.

“Practical difficulty” exists on the subject site when the strict compliance with the Zoning Ordinance standards would render conformity unnecessarily burdensome (such as exceptional narrowness, shallowness, shape of area, presence of floodplain or wetlands, exceptional topographic conditions)

**Recommendation**

Staff recommends the ZBA open the public hearing, take testimony, close the public hearing, evaluate the proposal for conformance with the applicable regulations, and deny or approve the application. In the motion to deny or approve the project the ZBA should incorporate the ZBA’s discussion and analysis of the project and the findings in the staff report. The ZBA then should direct staff to prepare a memorialization of the Board’s decision that reflects the Board’s action to accompany the hearing minutes and to be reviewed and approved at the next ZBA hearing.

**Denial Motion:**

Motion to deny variance application ZBA 18-003 at 8606 Riverside Drive to allow for the construction of a 2,208-square foot dwelling with a 13.5-foot rear yard setback (30-foot rear yard setback required, Section 7.6.1.) and a 31.1-foot setback from the ordinary high-water mark of Ore Lake (50-foot setback from the ordinary high-water mark required, Section 7.6.1.).

The variance does not meet variance standards one, two, three, five, or seven of Section 6.5 of the Township Ordinance and a practical difficulty does not exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at the meeting tonight and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

**Exhibits**

Exhibit A: Application materials

Exhibit B: site and construction plans (to be included in hard copy of report)

Exhibit C: site plan of previous dwelling



FAX 810-231-4295  
PHONE 810-231-1000

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

**APPLICATION FOR A ZONING BOARD OF APPEALS (ZBA)  
VARIANCE/INTERPRETATION  
(FEE \$500 plus \$50 each additional)**

1. Date Filed: 1/22/18

2. Tax ID #: 15- 471513403003 Subdivision: Reive Lakewood Sub Lot No.: 3

3. Address of Subject Property: 8606 Riverside Dr., Brighton, MI 48116

4. Property Owner: Michael & Karen Basile Phone: (H) 810-814-2590  
 Email Address: k19basile@gmail.com (W) \_\_\_\_\_  
 Street: 4958 Fairways Dr. City Brighton State MI

5. Appellant (If different than owner): \_\_\_\_\_ Phone: (H) \_\_\_\_\_  
 E-mail Address: \_\_\_\_\_ (W) \_\_\_\_\_  
 Street: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_

6. Year Property was Acquired: 2017 Zoning District: \_\_\_\_\_ Flood Plain \_\_\_\_\_

7. Size of Lot: Front 60'55" Rear 66' Side 1 111'.06" Side 2 112'51" Sq. Ft. 7075

11. Dimensions of Existing Structure (s) 1st Floor \_\_\_\_\_ 2nd Floor \_\_\_\_\_ Garage \_\_\_\_\_

12. Dimensions of Proposed Structure (s) 1st Floor 40 x 56 2nd Floor 40 x 44 Garage included

13. Present Use of Property: 39% including driveway, front and side porches

14. Percentage of Existing Structure (s) to be demolished, if any \_\_\_\_\_ %

15. Has there been any past variances on this property? Yes \_\_\_\_\_ No X

16. If so, state case # and resolution of variance application \_\_\_\_\_

17. Please indicate the type of variance or zoning ordinance interpretation requested:  
Requesting that house footprint be placed in to the waterside setback. It will be 4'7" on the left and 1'7" on the right.  
Also requesting a 16' roof extension on the lake side of the property.

6970

18. Please explain how the project meets each of the following standards:

- a) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.

Lot is irregularly shaped. We have already spent \$8,900 on Architect and Survey fees. Adjacent lots are both in front of our properties 50' setback and will block our view of the lake. 16' Open Deck overhang is also requested at the same time.

- b) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.

We need to place the house adjacent to neighboring properties. Covered deck will protect owners and guests from sun damage, & will allow property function & enjoyment during inclement & will preserve the furniture and deck itself from weather damage.

- c) That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.

Use of back yard and future deck is limited by seasonal falling tree debris without a covered porch. This should be constructed at the same time. The hardship is specific to the property and not to conditions that are neighborhood-wide or widespread.

- d) That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township. There will be no affect on the Township master plan.

- e) That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.

The condition will not recur. We will be using long lasting metal roofing materials to match the house.

There is no impact on privacy, or environmental protection, as the design is OPEN. Sun safety will be improved to owner/guests.

- f) Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district;

The variance will not violate any established use.

- g) The requested variance is the minimum necessary to permit reasonable use of the land.

Granting the variance(s) would offer greater enjoyment and use of the property. Precedence has already been established.

These changes have been reviewed with the neighbors and will not cause any harm to them or public interest.

- I hereby certify that I am the owner of the subject property or have been authorized to act on behalf of the owner(s) and that all of the statements and attachments are true and correct to the best of my knowledge and belief.
- I acknowledge that approval of a variance only grants that which was presented to the ZBA.
- I acknowledge that I have reviewed the Hamburg Township Zoning Ordinance, The ZBA Application and the ZBA Checklist and have submitted all of the required information.
- I acknowledge that filing of this application grants access to the Township to conduct onsite investigation of the property in order to review this application.
- I understand that the house or property must be marked with the street address clearly visible from the roadway.
- I understand that there will be a public hearing on this item and that either the property owner or appellants shall be in attendance at that hearing.
- I understand that a Land Use Permit is required prior to construction if a variance is granted.

*Karen Basile* 1/22/18  
 Owner's Signature Date

*Michael Basile* 1/22/18

\_\_\_\_\_  
 Appellant's Signature Date

January 22, 2018

TO: Hamburg Board of Appeals:

RE: 8606 Riverside Dr., Brighton, MI 48116

When we purchased this property, and had it surveyed, we did not intend to infringe on the setbacks. It is the irregular shape of the lot that causes the problem. If our seawall was straight across, like it is with both neighbors; the placement would not be a problem. We have already designed and fell in love with the design of our dream home and have discussed making revisions to the plan in order to meet the setbacks. Essentially, we would have to start over. Our request seems reasonable, for the reasons listed on the application.

The setbacks on this expensive property account for more than the buildable footprint. We are hopeful that you will grant us the variance for the placement of the home. While you might consider giving us the variance on the road side instead of the lakeside, please consider the following:

- a) The placement we are requesting makes us exactly aligned with both adjacent properties. If we were to move the house closer to the road, our views would be blocked.
- b) This will also allow us to meet the grinder pump setback and prevent us from having to move it.

As for the roof extension, it's about enjoying the property. We understand that you would probably not approve an "enclosed" room, which might block the view for the neighbors, but are optimistic that the overhead will be allowed. It will not protrude beyond the house which is 2 doors over, and neighbors on both sides will be able to see right through it. We are optimistic that the roof extension will give us what we need to be able to cook, sit out and enjoy the lake WITHOUT blocking anyone's view, and represent a good compromise. More importantly, we will be able to protect ourselves from the damaging sun rays, while still being able to sit outside and enjoy the limited summer months.

Essentially, it's the same variance, for the same reasons, but will put us <sup>~12'</sup>~~30'~~ in to the setback, but still a considerable distance to the lake, and a grassy path for neighbors to walk back and forth.

My daughter, Alison Wiener will attend and represent us at the meeting. We will be on the phone with her and available to answer questions or provide additional information as requested. If this is not acceptable, or is believed to hinder our chances of getting the variance, please contact me so that we can purchase flights and make arrangements to travel back to Michigan for the meeting.

Respectfully,

  
Karen Basile

810-814-2590

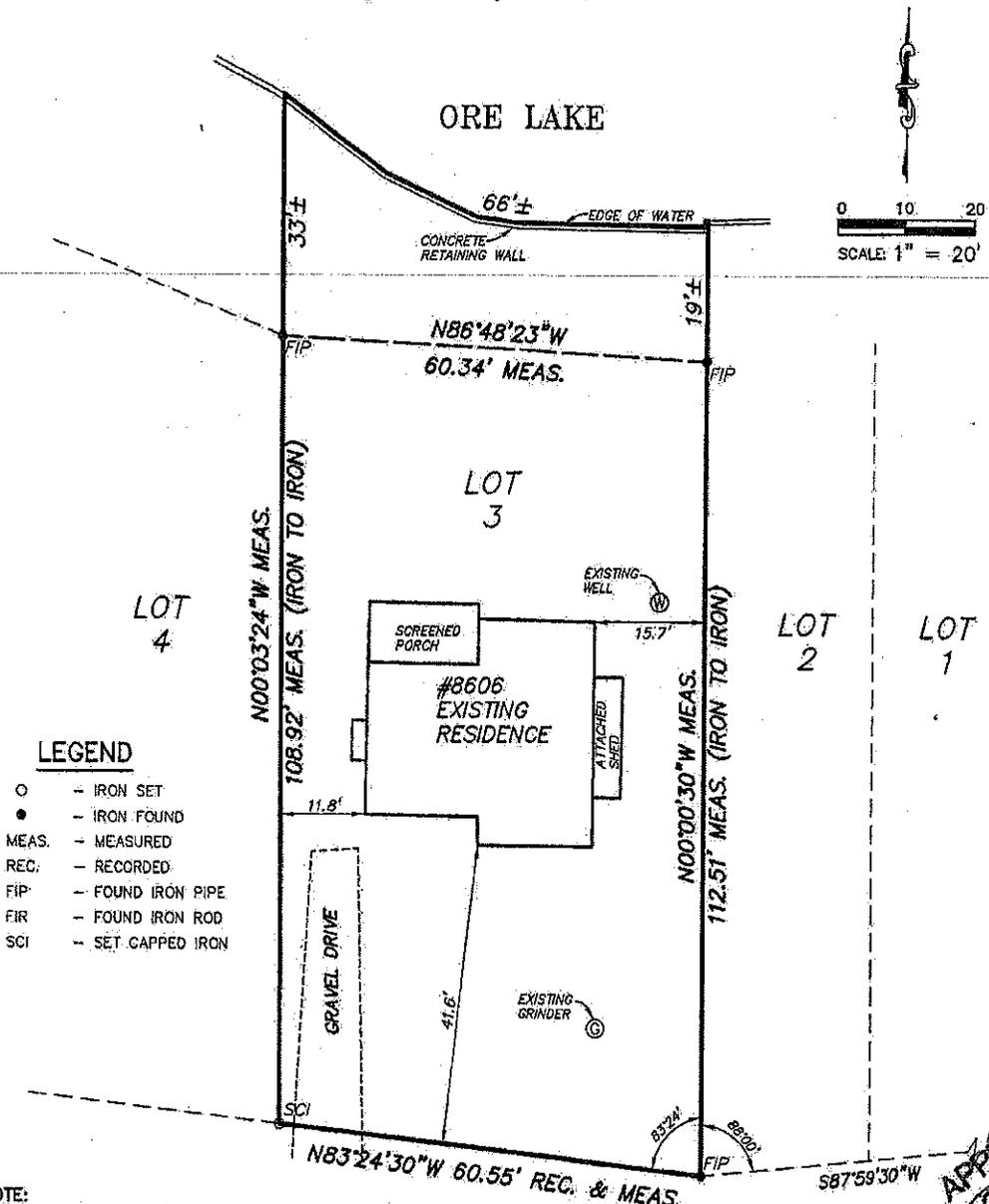
Exhibit B: large size plans available at the township hall offices  
and during the March 14, 2018 hearing

**CERTIFICATE OF SURVEY**

Prepared For: Karen Basile

**Legal Description:**

Lot 3, "E. J. REIVE'S LAKEWOOD SUBDIVISION", being a part of the Southeast 1/4 of Section 13, T. 1 N., R. 5 E., Hamburg Township, Livingston County, Michigan recorded as Document No. 28027 in Livingston County Records.



**LEGEND**

- - IRON SET
- - IRON FOUND
- MEAS. - MEASURED
- REC. - RECORDED
- FIP - FOUND IRON PIPE
- FIR - FOUND IRON ROD
- SCI - SET-CAPPED IRON

NOTE:  
NO TITLEWORK WAS SUPPLIED BY CLIENT, THEREFORE ALL EASEMENTS OF RECORD MAY NOT BE SHOWN.

**RIVERSIDE DRIVE**  
(30' WIDE)

BEARING BASIS:  
HELD BEARING BASIS  
AS PER PLAT OF RECORD.

I hereby certify only to the parties hereon, that we have surveyed, at the direction of said parties, the above described lot, and that we have found or set as noted hereon, permanent markers at the exterior corners of said lot and that all visible encroachments of a permanent nature upon said lot, are as shown on this survey. Said lot subject to all easements and restrictions of record.



*Karol L. Grove*  
KAROL L. GROVE  
LICENSED PROFESSIONAL SURVEYOR #39075

**ALPINE**  
Land Surveying, Inc.  
11560 HIGHLAND ROAD, SUITE #100  
HARTLAND, MICHIGAN, 48353  
PHONE: 810-207-8050, FAX: 419-735-0121

FIELD: KG      DATE: SEPT 28, 2017  
DRAWN: DS      JOB NO: 17-3219  
CHECKED: KG      SHEET: 1 OF 1  
REVISED:

LUP# 17-0526 DATE 10/9/2017  
HAMBURG TOWNSHIP  
APPROVED FOR ZONING

BY: *Stefanus*

ONLY RED INK STAMP IS VALID!!

APPROVED  
Livingston County Department  
of Public Health  
Name \_\_\_\_\_  
Date 10/4/17

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

(810) 231-1000 Office  
(810) 231-4295 Fax



**Supervisor:** Pat Hohl  
**Clerk:** Mike Dolan  
**Treasurer:** Jason Negri  
**Trustees:** Bill Hahn  
Annette Koeble  
Chuck Menzies  
Jim Neilson

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**Hamburg Township  
Zoning Board of Appeals Minutes  
Hamburg Township Board Room  
Wednesday, November 8, 2017 Minutes  
7:00 P.M.**

**1. Call to order:**

The meeting was called to order by Chairperson Priebe at 7:00 p.m.

**2. Pledge to the Flag:**

**3. Roll call of the Board:**

Present: Bohn, Hollenbeck, Neilson, Priebe and Watson

Absent: None

Also Present: Amy Steffens, Planning & Zoning Administrator & Mike Beck, Zoning Coordinator

**4. Correspondence:** None

**5. Call to the public:**

Chairperson Priebe opened the hearing to the public for any item not on the agenda. There was no response. The call was closed.

**6. Variance requests:**

ZBA 2017-021

Owner: Dennis J. Pennington Living Trust

Location: 5313 Gallagher Boulevard

Parcel ID: TID 15-27-301-201

Request: Variance application to permit the construction of a 24-foot by 35-foot detached accessory structure with an eight-foot setback from the boundary or edge of a regulated wetland (50-foot setback from the boundary or edge of any regulated wetland required, Section 9.9.3.B.).

Mr. Pennington stated that he is requesting a variance to build an accessory building. There is actually enough room on the property to meet the 50 foot setback. However, there is also a requirement of the Homeowner's Association for a 60 foot setback from the center of the road, which means there is no other location on the property for the structure.

Mike Beck, Zoning Coordinator stated that the applicant is requesting a variance to construct a garage within the 50 foot natural features setback requirement. The homeowner made application to construct a garage in 2016, however the permit did expire. When he re-applied in 2017, the presence of the wetlands was noted. The Township Zoning Ordinance does allow for an administrative review to approve a different or reduced setback or eliminate the setback based on certain criteria which details the future protection of the natural features and/or mitigation of the natural features. He could submit an engineered drainage plan, he could construct a physical barrier to protect the wetlands, or record a wetlands easement to protect the wetlands into the future. Today we did receive the engineering plan from the applicant's engineering firm. The survey does indicate that the wetlands and the proposed site of the garage still exceeds the eight foot setback that he

has requested. It is the recommendation of the Planning & Zoning staff to have an administrative approval of the setback versus a variance. Planning & Zoning Administrator Steffens reiterated that the ordinance allows the Zoning Administrator or the body undertaking review to not require a variance but to allow for an administrative approval of a reduced setback. If it is the Board's intention to approve this project in some way, we would suggest that you do it as an administrative step and not as a variance approval with at least one of the conditions as outlined.

Chairperson Priebe stated that the Board does not have any jurisdiction or any authority over civil matters, deed restrictions, etc. We are only looking at the Zoning Ordinance requirements.

Chairperson Priebe opened the public hearing.

Mr. Craig Haitz, President of the Strawberry Court Homeowner's Association, stated that he is representing both the their Homeowner's Association as well as the neighboring Homeowner's Association, Strawberry Estates. In reviewing the Standards of Review, they are in agreement that there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone. Addressing the second point that such a variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity, he would like to point out that the applicant currently has a 720 square foot garage, and other parcels within 300 feet of this property currently have 604 square foot garages. That is 19% larger. If this garage is approved, they would have a 264% larger garage at 1,595 square feet. His last point is to the review standard that "the requested variance is the minimum necessary to permit reasonable use of the land". The variance would establish a second garage on the parcel. The property is developed with a single family home and garage. Reasonable use of the property has already been established. He would hope that the Board would simply apply the requirements and protect the wetlands.

Mr. Gary Parsons of 5295 Gallagher stated the ordinance requires a 50 foot setback from the regulated wetland for the purpose of protecting the wetlands. We are calling this an accessory structure, but it is a garage, and it is not just a question of engineered drainage for rainwater or run-off. Garages have gasoline, oil, vehicles, etc. He does not feel that waiving the setback is appropriate to protect the wetlands. An 8 foot setback is significant. You have to ask, if the Board approves this, is there anything that you won't approve. He opposes the request.

Gary and Ruth Ann Fett of 5306 Gallagher were present. Mrs. Fett stated that they live across the street from the proposed structure. The proposed area is very low and they are concerned about what kind of fill would be required to build the structure. Mr. Fett stated that they are not only concerned about the wetland, but also the lake. He further stated that years ago, they built a sunroom off the back of their house, and like many of the neighbors, they are able to see the lake. This is one of the reasons they live there and contributes to the value of their home. If this structure is built, it will take away their view of the lake. Mrs. Fett stated that a study should be done. If there is going to be run-off, it could flood their access. Mr. Fett stated that they are also concerned about what the building would be used for, what kind of equipment would be in it, etc. and the potential impact that could have.

Mr. Haitz stated that he would like to officially put on record that the HOA Board is opposed to the structure being built.

Mr. Frank Swanson of 5197 Gallagher stated that they have lived in their home since 1980 and have served on the Board many times. They have tried to maintain the original rules for their properties and whole neighborhood. Things should be approved by the Association. If they have to go to court to settle this, it will cost a lot of money. It is hard to believe that somebody who has checked on what the rules are would make such a request and make so many enemies before they move in. They would ask that this Board not allow this to happen.

Ms. Kamille Karlson of 5221 Gallagher asked if this is approved, would it set a precedent for the whole neighborhood.

Hearing no further public comment, Chairperson Priebe closed the public hearing.

Chairperson Priebe stated that the ZBA looks at each request individually. They look at the practical difficulty, and financial impact is not a consideration. They look at the size, shape and configuration of the property in making a determination. Again, they do not consider deed restrictions.

Member Bohn stated that the letter from the MDEQ appears to be in response to a request for a full wetlands delineation. It concludes that a permit is required, however the State law does not require a setback. They regulate the feature. Mr. Pennington stated that the MDEQ indicated that a permit would be required because the way it was laid out, it would go into the wetland, which he was not aware of. He reduced the size of the structure. Member Bohn stated that what he understands is that the MDEQ has accepted ASTI's survey. He further asked if the 8 feet is measured from the corner of the proposed structure. Steffens indicated that it is. Member Bohn asked the reason why they would not move the structure closer to the residence but keeping the 60 foot HOA requirement. Mr. Pennington stated that he could do that, but not meet the 50 feet and there is a hill there as well as a driveway. Discussion was held on the topography of the site.

The question was asked about the administrative review process. Zoning Coordinator Beck stated that one of the differences between the administrative approval and a variance is that administrative approval would not run with the land but rather be limited to the current structure. Planning & Zoning Administrator Steffens stated that Section 9.9.3 requires a 50-foot setback from the boundary or edge of a regulated wetland. However, the Zoning Administrator or body undertaking plan review may reduce or eliminate the setback upon review of a request which details the future protection of the natural feature(s) and or mitigation of the natural feature(s). The letter from the MDEQ and the letter from ASTI indicates that these are regulated wetlands. The MDEQ does not have a setback requirement. They will issue permits for encroachments into a wetlands if the proper engineering is done. It was stated that the proposal does not encroach the wetlands, but rather 8 feet from the wetlands. Member Bohn stated that the thing that protects the wetland is a buffer, which in the case, is the engineered drainage plan. Steffens stated that engineered grading and drainage plan would only be required with the issuance of a land use permit. We are concerned about drainage going into the wetlands, so the plan is going to have to show us that all storm water run-off is managed on site and the wetlands are not being impacted negatively by run-off of the additional impervious area. Member Bohn asked if the plan would also show where the gutters are directed to, etc. Steffans stated that it would. One of the things the inspector looks at during final inspection is what direction the downspouts are facing, and must be into the internal part of the lot. The question was asked about the pitch of the roof. Mt. Pennington stated that it would be 8/12.

Discussion was held on the adjacent park. Mr. Pennington stated that there is a relatively thick vegetation area between his property and the park. Discussion was held on the use of the structure. Mr. Pennington stated that the storage is not for vehicles. He stated that people store their boats in the driveways, around their house, etc. He would prefer to have his blue-tarped boat within a structure as well as kayaks and other storage. It is more harmonious to the neighborhood, and what he is proposing is a structure that ties into his house.

Zoning Coordinator Beck reviewed the Boards options.

The question was asked if there would be any fill required. Mr. Pennington stated that the building would not require any fill. It may require cutting into the hill if he moves it to the left. The question was asked how much more to the left could the building be moved reasonably, understanding that you would have to cut into the hill. Mr. Pennington stated that it could be moved over approximately two feet, but he would still like to request the eight foot setback.

Further clarification was made for the administrative review of the setback versus a variance. The replacement for the setback is the drainage plan. The setback could be limited to something less than 50 feet.

Member Neilson asked the type of driveway would be used for the building. Mr. Pennington stated that he intends to leave it the way it is, which is grass. The building is for storage and will not be something that will be in and out all the time. The question was asked if it is going to simply be storage, why couldn't the building be put behind the house. Discussion was held on the setbacks, wetlands and other constraints.

Motion by Bohn, supported by Hollenbeck

Motion to approve variance application ZBA 17-021 at 5313 Gallagher Boulevard to permit construction of a 24-foot by 35-foot detached accessory structure. The garage will be not less than 8 feet from the designated wetland (50-foot setback is required, Section 9.9.3 (B)(1)). The variance meets the variance standards numbers one through seven of Section 6.5 of the Township Ordinance and a "Practical Difficulty" exists partially as a result of State regulated wetlands and the existing structures and the topography of the site as discussed at tonight's hearing and as presented in the staff report. The wetlands have been delineated as per the ASTI report dated November 1, 2017 and attachments to the report including the survey dated November 7, 2017. In addition, the applicant must provide a storm water drainage and grading plan acceptable to staff prior to issuance of a land use permit. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

The question was asked if the three conditions as outlined in the staff report would also be required. Beck stated that it would be required only as part of the motion. It was stated that an engineered drainage plan is required per the motion.

Bohn revised the motion, Hollenbeck supported

to include: if necessary and determined by staff, in their reasonable discretion, to construct a physical barrier along the State wetland boundary to preserve the wetland from lawn equipment or any other trampling of that area, preferably a natural, vegetation barrier such as an earthen berm as opposed to a man-made structure that requires maintenance as needed to deflect drainage from the structure

Voice vote: Ayes: 3 Nays: 2 Absent: 0 MOTION CARRIED

## 7. New/Old Business:

1. Approve October 11, 2017 meeting minutes and memorialization of findings for ZBA 17- 020.

Motion by Watson, supported by Neilson

To approve the October 11, 2017 minutes and memorialization of Findings for ZBA 17-020

Voice vote: Ayes: 5 Nays: 0 Absent: 0 MOTION CARRIED

Planning & Zoning Administrator Steffens stated that tomorrow at the Township Board meeting, the Board will be discussing the Zoning text amendment dealing with the 50% rule as well as the Waterfront Residential district text amendment for lots less than 60 feet to have a reduced minimum setback. These will be discussed at their 2:30 p.m. meeting.

Planning & Zoning Administrator Steffens stated that at this point, we have no cases for the December meeting.

Member Bohn stated that the language dealing with a reduced setback and future protection of the wetlands is a good tool to have. Steffens agreed and stated that they still like the ZBA members look at it because it is

problematic and there are a lot of opinions on the matter. It is up to the Board to put it back to say an administrative review is appropriate.

Further discussion was held on the approved variance. Discussion was held on the view of the lake from surrounding neighbors.

Planning & Zoning Administrator Steffens stated that in September, one of the cases heard was for 10260 Langly Drive. Zoning Coordinator Beck stated that the case involved major reconstruction of more than 50% and adding a small addition to expand the structure 7.8 feet from the south property line. As of today, they have taken the structure down to its foundation. The question it raises is what was the ZBA's intent in approving this. It was stated that the intent was to simply "square off" the building, not tear down the entire structure. Steffens stated that what was submitted was a plan showing the existing walls and the new walls. It was an addition, and they were going up as well. It appears that they are using the same foundation and footprint. The question is, if the Board knew that they would be tearing down the structure, would you have approved the non-conforming setbacks.

The question was asked how they received a demo permit. Steffens stated they did not. The County will not issue a permit until we do, and we require shut-off notices from the utility companies.

Discussion was held on a required explanation from the applicant. It is different if you find something unanticipated, but another to tear down the entire structure. Steffens asked if the footprint has not changed, are we good to proceed. We will follow up with the Livingston County Building Department tomorrow to see what was issued. They filed for their land use permit based on their variance approval and then came back later to show us they were raising the house. They did not tell us they were taking it down to the foundation. Discussion was held on the type of foundation. It was stated that it is a crawl space. Steffens stated that we will follow up with the Building Department and go out and do an inspection.

The question was asked if our staff receives any training on wetland identification. Steffens stated that we do not. We rely on the applicant's engineering work to tell us whether or not there are wetlands and if they are regulated by the DEQ. Beck stated that we rely on the DEQ's wetlands map and data that they prepare as well. He described the wetland identification process. Further discussion was held on wetlands.

Discussion was held on the opposition from the neighbors regarding the Gallagher appeal. The Board is bound by seven questions of the findings of fact. If you find that it meets the findings of fact and a practical difficulty exists that they could not meet the standards, then you must vote yes. People are very protective of their property, particularly on the lakefront lots, and personality conflicts do arise. It was stated that if the concern is the wetlands, there are reasonable rules the homeowner's association can pass as well.

## **8. Adjournment:**

Motion by Bohn, supported by Neilson

To adjourn the meeting

Voice vote: Ayes: 5    Nays: 0    Absent: 0    MOTION CARRIED

The meeting was adjourned at 8:15 p.m.

Respectfully submitted,

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Julie C. Durkin

Recording Secretary

The minutes were approved  
As presented/Corrected: \_\_\_\_\_

\_\_\_\_\_  
Joyce Priebe, Chairperson



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10405 Merrill Road  
Hamburg, Michigan 48139

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**ZONING BOARD OF APPEALS  
MEMORIALIZATION OF FINDINGS**

**November 8, 2017**

**Approval of Variance (17-021)**

**Project Location:** 5313 Gallagher Blvd.  
(TID 15-27-301-201)  
**Agent:** None  
**Owner:** Dennis J. Pennington Living Trust  
**Project Planner:** Amy Steffens

**PART I – PROJECT DESCRIPTION**

Variance application to permit the construction of a 24-foot by 35-foot detached accessory structure with an eight-foot setback from the boundary or edge of a regulated wetland (50-foot setback from the boundary or edge of any regulated wetland required, Section 9.9.3.B.).

**PART II– FINDINGS FOR APPROVAL**

The Zoning Board of Appeals approves the project described above because the Board finds that the project complies with the applicable standards of the township ordinance including the applicable variance standards as follows:

**Variance Standards**

- 1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.**

The 50-foot regulated wetlands setback requirement applies generally to all properties in Hamburg Township, however, the presence of this wetland encroachment is unique to this parcel. The approximated location of the wetland on this property adds practical difficulty to siting a garage within all required setbacks.

- 2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and**

**vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.**

See analysis under standard number one.

- 3. That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.**

The parcel immediately south of the subject site is a vacant parcel owned in common by the Strawberry Hill Estates homeowners' association. This parcel currently provides keyhole lake access to Strawberry Lake homeowners, and is unlikely to have a residence established on the lot in the future. The addition of a garage would have minimal effect on traffic or land use in the district. Siting a garage as proposed would not be detrimental to public welfare or materially injurious to other properties or improvements in the same zone or district, provided the wetland is adequately protected.

- 4. That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.**

This site is located in the South Hamburg/Strawberry planning area in the Master Plan. This planning area is predominately lower-density rural residential. Parcels in the applicant's subdivision are closely tied to lake waterfronts. Because of the proposed garage exercises a substantial property right of single family homeowners and does not affect housing density, the proposed project would not adversely affect the purpose or objectives of the Master Plan.

- 5. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.**

Because of the presence of the wetland encroachment on the property, the request for the variance is not of so general or recurrent a nature.

- 6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district.**

The use is currently single family residential and the proposed project will not change the use of the property.

- 7. The requested variance is the minimum necessary to permit reasonable use of the land.**

A garage is a customary residential use and will not be impactful to neighboring properties. Any negative impact to the wetlands from the reduced setback can be mitigated by a vegetated buffer and an engineered grading and drainage plan to further protect the wetlands.

Approval by the Hamburg Township Zoning Board of Appeal at a regular meeting on November 8, 2017 by the following vote:

AYES:	BOARD MEMBERS:	Priebe, Watson, Bohn, Neilson and Hollenbeck
NOES:	BOARD MEMBERS:	
ABSENT:	BOARD MEMBERS:	

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**Supervisor:** Pat Hohl  
**Clerk:** Mike Dolan  
**Treasurer:** Jason Negri  
**Trustees:** Bill Hahn  
Annette Koeble  
Chuck Menzies  
Jim Neilson

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**Hamburg Township  
Zoning Board of Appeals Minutes  
Hamburg Township Board Room  
Wednesday, February 14, 2018 Minutes  
7:00 P.M.**

**1. Call to order:**

The meeting was called to order by Chairperson Priebe at 7:00 p.m.

**2. Pledge to the Flag:**

**3. Roll call of the Board:**

Present: Bohn, Hollenbeck, Neilson, Priebe and Watson

Absent: None

Also Present: Amy Steffens, AICP, Planning & Zoning Administrator

**4. Correspondence:** None

**5. Approval of Agenda:**

Motion by Neilson, supported by Watson

To approve the agenda as presented

Voice vote: Ayes: 5    Nays: 0    Absent: 0    MOTION CARRIED

**6. Call to the public:**

Chairperson Priebe opened the hearing to the public for any item not on the agenda. There was no response. The call was closed.

**7. Variance requests:**

a. ZBA 2018-0001

Owner: Michael Mulvihill

Location: 3686 Colonial Drive

Parcel ID: 15-29-403-021

Request: Variance application to permit construction of a second-story addition to a nonconforming dwelling. The second-story addition will have a 4-foot east side yard setback (10-foot side yard setback required, Sections 7.6.1. and 11.3.2.) to match the non-conforming east side yard setback of the existing dwelling.

Mr. John Mulvihill, Attorney representing the property owners, reviewed the process the applicant followed starting in August 2017. He stated that this is an older house which needs substantial updating. They have lived there for the past 21 years and plan to stay for the foreseeable future. Jeff Hoard, builder submitted plans for the updating in 2017 and never received a reply. He called several times and never received a call back. He came in a month later and was told that he needed to submit a variance request. He submitted an

application and waited and received no response. He came back in and was told that they needed to combine the two lots. In November 2017 the ordinance was amended and the plans they submitted no longer complied to the new ordinance. They came in and met with Supervisor Hohl and Mike Beck of the Zoning Department. They were presented with a memo indicating additional detail was requested. The only variance mentioned in that memo is for a front porch overhang that encroached into the 25' front yard setback by one foot. There is no reference of having to combine the lots. Further, there is no mention of a variance needed for the second floor expansion. They never saw the memo. They could have done what was requested and been on the agenda for September or October before the ordinance amendment. They feel that they have not been treated fairly and feel that they should be treated under the ordinance at the time the application was submitted. What it says now is that if it is a non-conforming lot, even if they are not changing the footprint, if you put on a second story, you have to make it compliant with the new ordinance. He discussed the review letter from Amy Steffens relating to the standards of review. He stated that the addition is only 520 square feet and is not going to dwarf the existing house or any house in the neighborhood. They are not doing this for financial gain. Ms. Steffens indicates that it would only require minor modifications to the plans to make the addition compliant. However, there is some real practical difficulty to adjusting these plans to comply with the 10 foot side yard setback. There is a chimney on the east wall which is a load bearing wall. To move that back 6 feet would create some problems and create some structural issues. There is no impact to the public welfare or detriment to the houses in the area and has not impact on the Master Plan. Again, Ms. Steffens has stated that it would be a minor modification to the plans to meet the setback, and they do not feel that is the case. They feel that the Township is required to address this as the plans submitted back in August of 2017 under the ordinance in place at that time. There is no excuse after the plans were submitted in August that there was no decision made on it until November. He is not suggesting that this was done intentionally, but if they have to go through and amend their plans, it will pose a real hardship and financial issues.

Planning & Zoning Administrator Steffens stated that she appreciates that Mr. Mulvihill is not suggesting that they sat on this application. That is not the way their department works. They would never intentionally hold up someone's permit. She stated that the application was made in August. However, the plans did not match the aerial that they had and there was missing information on the application. At the time, what was required was a variance to the 50% rule.

Member Bohn stated that he means no disrespect to Mr. Mulvihill or what happened, but he would request that the report be limited to the variance request that the Board can act upon. Mr. Mulvihill can choose whatever recourse available. Ms. Steffens stated she did not want to leave the impression that action was not being taken on this plan. She stated that the lot is fairly sizeable for a lot within the WFR zoning district. It fronts Colonial Drive to the northeast and a vacant lot used by the Whitelodge Country Club to the north and single family homes to the west, east and south. The footprint of the house is 1,737 square feet with 576 square foot attached garage. The Assessor's office categorizes this as having a  $\frac{3}{4}$  story, 643 square feet of living space. On November 9, 2017 the Township Board voted to amend the ordinance which now requires that anything being added to a non-conforming structure has to meet the setbacks. That is why the Mulvihills are here. It is a non-conforming structure which has a 4 foot east side yard setback. They want to continue the footprint and go up to a full 2nd story. We are not talking about simply an additional few hundred square foot, but rather the bulk of the structure is going to be at that 4 foot setback. She reviewed the findings of fact, which is what the board must determine when considering a request. She stated that most of our variance requests are within the waterfront district, which typically are small lots and are usually non-conforming. It is not unusual to have a non-conforming setback. Continuing that non-conforming setback going up would be in character of the homes within the vicinity. We are not simply looking at the site plan, but rather the impact of the entire project. Staff believes that it is impactful to the adjacent properties. Granting the variance would increase the nonconformity and that was the point of the zoning text amendment. It is intended to phase out nonconforming structures and bring them into conformity with the current setback requirements. The other piece of the ordinance that was amended was the width and setback requirements. If the lot is less than 60 feet, then we would go back to the side-yard setback of 15 feet, no less than 5 feet. This lot is 80 feet wide so it does not meet that, Therefore, it has to comply with the 10 foot setback. We were not provided an existing interior floor plan nor existing elevations, however staff believes that there are alternate designs that could meet the required setbacks or at least re-designed so that the bulk of the structure is not at

that 4 foot setback the entire length of the house. Mr. Mulvihill indicates that they have lived there for over 21 years which shows that the house can be used as single family purposes and could continue to be used for that purpose. The variance is not the minimum necessary to use the lot, and there are other alternatives to the plan that have been submitted.

Member Bohn asked if there is an existing chimney. Mr. Hoard, Builder, stated that there is an existing chimney. To meet code, the chimney would have to be a minimum of 2 feet above the roof line.

Discussion was held on the memorandum from Mike Beck that did not get to the applicant. Member Neilson stated that on behalf of the Township, he apologizes that happened. That is not the way the Township operates.

Chairperson Priebe opened the public hearing. Hearing no comment, she closed the public hearing.

Mike Mulvihill, applicant, stated that they have lived in the house for the past 21 years. They love the neighborhood and always intended to upgrade the home and live there into the future. The home was built in the 1950s and needs to be re-done. They have come up with a beautiful design and everything was supposed to comply with the ordinance. It is a bungalow and they are only moving up 8 feet. They are not changing the foot print at all. The neighbor's house is a 2-story that spans the whole length of the house.

It was stated that these buildings will always be 4 feet apart whether there is a second story or not. The home to the east is already a two-story, therefore building a second story on this home will not change the aesthetic.

The question was asked if we received any feedback from the neighbors. Steffens stated that we received an email from the neighbors to the east. Their concern was the fire hazard. She has spoken to the Livingston County Building Department and their concern too is fire. When a structure is less than 5 feet from the property boundary, it must be a fire-rated wall.

Discussion was held on a drainage plan. Steffens stated that the grade of the property is not changing. If they were adding a garage and a driveway, we would require an engineered drainage plan. She further stated that gutters are not required under the residential building code.

It was stated that the builder has pointed out that the site is unique given the existing fireplace.

Chairperson Priebe pointed out that even in August, the addition could not have been built without a variance not only because of the 4 feet, but also the 50% rule. We have actually made it easier even though it may not seem that way.

Motion by Bohn, supported by Watson

Motion to approve variance application ZBA 18-001 at 3686 Colonial Drive to permit construction of a second-story addition to a non-conforming dwelling. The second-story addition will have a 4-foot east side yard setback (10-foot side yard setback required, Sections 7.6.1. and 11.3.1.) to match the non-conforming east side yard setback of the existing dwelling. The variance does meet variance standards one through seven of Section 6.5 of the Township Ordinance as discussed at tonight's meeting, most notably the existence of a historic chimney and the requirement that there be substantial support if it were to be free-standing and that it would remain at the 4 foot setback and a practical difficulty does exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at the tonight's meeting and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

Voice vote: Ayes: 5    Nays: 0    Absent: 0    MOTION CARRIED

b. ZBA 2018-0002

Owner: Timothy Hutchins

Location: 11272 Algonquin Drive

Parcel ID: 15-31-102-011

Request: Variance application to permit the construction of a 426-square foot addition to the east façade of an existing dwelling and a 6-foot by 7-foot detached roofed structure between the addition and existing detached garage. The addition will have a 4.8-foot separation and the roofed structure will have a zero-foot separation from the existing garage (an accessory building which is detached from the principal building shall not be located nearer than 10 feet to any separate building or structure on the lot, Section 8.3.4.).

Mr. Tim Hutchins, applicant, stated that he purchased this home in August. Prior to doing so, he came in and talked with the Zoning Department about what he wanted to do. At that time, they indicated that although they could not give any assurances, what he wanted to do could be done without a variance. He came in with his proposal and found out that he did not need a variance until he went to the County. They require a 42 inch footing on the garage to attach the roof with a small breeze-way to meet the Township Ordinance that no two structures can be within 10 feet of each other. He is attempting to make this look like the two buildings are tied into one. If you were to have unlimited resources, the lot could be reconfigured to change the addition and tear off the existing roof. However, what he is able to do is add a 426 square foot addition, not tear off the existing roof and just put a new roof on the addition.

Planning & Zoning Administrator Steffens stated that this site is slightly over 8,000 square feet fronting on Algonquin Drive on the east and Portage Lake to the west and single family dwellings on either side. This is a typical waterfront lot that we see so many of. Mr. Hutchins is correct. We did give him a permit for exactly what he wants to do. The ordinance requires a 10 foot separation from the dwelling to any detached accessory structures, but if you attach it via the roof line, you can be closer than 10 feet. When he went to the Building Department, they required 42 inch footings on the garage. The reason that is in place is if you attach your house which has 42 inch footings to a structure that does not, and the structure that does not heaves, it is going to impact the house. Even if they are not attached via the roofline, if they are touching, they have to have the 42 inch footings. What is being proposed now is the same exact thing that we issued a permit for, but without the attached breezeway. Now he is proposing a freestanding covered walkway between the two structures. Because they are no longer attached, we have to apply the 10 foot separation requirement. We still have to find that practical difficulty exists. The point of the 10 foot separation is to provide ease of movement, etc.

Discussion was held on the lack of definition of an attached structure.

Discussion was held on the applicant's options. He could remove a portion of the garage, install the footings or provide the 10 foot setback. It was stated that the applicant has provided an alternate solution.

Chairperson Priebe opened the public hearing. Hearing no public comment, the public hearing was closed.

Discussion was held on the reason for the 10 foot separation. Discussion was held on separation for fire and emergency services. Steffens stated that if you ask the fire department, they will say that they will get to it no matter what. She further stated that it is also for aesthetics and free movement around the structures. If he provided the 42 inch footings, he could enclose that breezeway as well. It was stated that there is the park on the one side as well, so it is open.

Motion by Neilson, supported by Watson

Motion to approve variance application ZBA 18-002 at 11272 Algonquin to permit the construction of a 426-square foot addition to the east façade of an existing dwelling and a 6-foot by 7-foot detached roofed structure between the addition and existing detached garage. The addition will have a 4.8-foot separation and the roofed structure will have a zero-foot separation from the existing garage

(an accessory building which is detached from the principal building shall not be located nearer than 10 feet to any separate building or structure on the lot, Section 8.3.4.). 5 The variance does meet variance standards one through seven of Section 6.5 of the Township Ordinance and a practical difficulty does exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at the tonight's meeting and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project

Voice vote: Ayes: 5 Nays: 0 Absent: 0 MOTION CARRIED

**8. New/Old Business: None**

**9. Adjournment:**

Motion by Hollenbeck, supported by Watson

To adjourn the meeting

Voice vote: Ayes: 5 Nays: 0 Absent: 0 MOTION CARRIED

The meeting was adjourned at 7:54 p.m.

Respectfully submitted,

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Julie C. Durkin  
Recording Secretary

The minutes were approved  
As presented/Corrected: \_\_\_\_\_

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Joyce Priebe, Chairperson



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PHONE 810-231-1000

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**ZONING BOARD OF APPEALS  
MEMORIALIZATION OF FINDINGS**

**February 14, 2018**

**Approval of Variance (18-001)**

**Project Location:** 3686 Colonial  
(TID 15-29-403-021)  
**Agent:** None  
**Owner:** Michael Mulvihill

**PART I – PROJECT DESCRIPTION**

Variance application to permit construction of a second-story addition to a non-conforming dwelling. The second-story addition will have a 4-foot east side yard setback (10-foot side yard setback required, Sections 7.6.1. and 11.3.1.) to match the non-conforming east side yard setback of the existing dwelling.

**PART II– FINDING FOR APPROVAL**

The Zoning Board of Appeals approves the project described above because the Board finds that the project complies with the applicable standards of the township ordinance including the applicable variance standards as follows:

**Variance Standards**

- 1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.**

The existing dwelling was constructed with a non-conforming side yard setback, and many of the homes in the vicinity of the site were constructed with reduced side yard setbacks, and an existing chimney would make expansion of the second story with a conforming side yard setback difficult and therefore there are circumstances applicable to the property involved.

- 2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.**

Due to the existing and neighboring home to the east being two-story, adding additional second story living space on this home would afford a substantial property right possessed by other properties in this zone.

3. **That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.**

Because there are no physical footprint expansions of the house, there would be no impact to the public welfare or detriment to the houses in the area and have no impacts to the surrounding zone or district.

4. **That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.**

The Master Plan envisions WFR districts a transition to lower density residential areas. The purpose or objectives of the master plan will not be adversely affected.

5. **That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.**

See analysis under standard one.

6. **Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district.**

The permitted use of the site is single-family residential and the proposed variance would not change the use.

7. **The requested variance is the minimum necessary to permit reasonable use of the land.**

A second story addition to the existing non-conforming home is a customary residential use and will not be impactful to neighboring properties.

Approval by the Hamburg Township Zoning Board of Appeal at a regular meeting on February 14, 2018 by the following vote:

AYES:	BOARD MEMBERS:	Priebe, Watson, Bohn, Neilson and Hollenbeck
NOES:	BOARD MEMBERS:	
ABSENT:	BOARD MEMBERS:	



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**ZONING BOARD OF APPEALS  
MEMORIALIZATION OF FINDINGS**

**February 14, 2018**

**Approval of Variance (18-002)**

**Project Location:** 11272 Algonquin Drive  
(TID 15-31-102-011)  
**Agent:** None  
**Owner:** Timothy Hutchins

**PART I – PROJECT DESCRIPTION**

Variance application to permit the construction of a 426-square foot addition to the east façade of an existing dwelling and a 6-foot by 7-foot detached roofed structure between the addition and existing detached garage. The addition will have a 4.8-foot separation and the roofed structure will have a zero-foot separation from the existing garage (an accessory building which is detached from the principal building shall not be located nearer than 10 feet to any separate building or structure on the lot, Section 8.3.4.).

**PART II– FINDING FOR APPROVAL**

The Zoning Board of Appeals approves the project described above because the Board finds that the project complies with the applicable standards of the township ordinance including the applicable variance standards as follows:

**Variance Standards**

- 1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.**

The new addition will extend east off the main structure and will be built 4.8 feet from the existing detached garage, and a free-standing covered structure will be located between the addition and garage. The ordinance requires a ten-foot separation between the dwelling and detached accessory structures.. Because of the location of the existing structure on the size of the subject lot, there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.

- 2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.**

There is an existing 1,025 square foot house on the subject site with a 362 square foot detached garage. The addition conforms to the required setbacks; however, it will be within a distance closer to an existing detached garage less than the required 10 feet setback, and the free-standing structure will have a zero-foot setback from the dwelling. Both the addition and the covered walkway will be in character with the surrounding properties.

- 3. That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.**

The reduced space between the home and the detached garage will have minor impacts on the visual appearance of the property from the adjacent home to the North and South; however, as stated earlier most of the views from these properties are taken towards the lake and not towards the subject site.

- 4. That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.**

The Master Plan envisions WFR districts a transition to lower density residential areas. The purpose or objectives of the master plan will not be adversely affected.

- 5. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.**

See analysis under standard one.

- 6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district.**

The permitted use of the site is single-family residential and the proposed variance would not change the use.

- 7. The requested variance is the minimum necessary to permit reasonable use of the land.**

The proposed addition and free-standing covered structure, both with reduced separation distance to the existing garage, will have minor impacts on the visual appearance of the property from the adjacent homes and the maneuverability within the subject site

Approval by the Hamburg Township Zoning Board of Appeal at a regular meeting on February 14, 2018 by the following vote:

AYES:	BOARD MEMBERS:	Priebe, Watson, Bohn, Neilson and Hollenbeck
NOES:	BOARD MEMBERS:	
ABSENT:	BOARD MEMBERS:	