
**Hamburg Township
Zoning Board of Appeals
Hamburg Township Board Room
Wednesday, November 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 2018-008**

Owner: Richard Olson
Location: 8772 Rushside Dr.
Pinckney MI 48169
Parcel ID: 15-17-402-028
Request: Variance application to allow a 982 square foot second story addition to the existing non-conforming dwelling. The addition will have a 7.1-foot south side yard setback, resulting in an aggregate side yard setback of 12.4 feet (15-foot aggregate side yard setback required, Section 7.6.1 fn. 4).
 - b) ZBA 2018-013**

Owner: Steven and Kimberlie Darling
Location: 11644 Portage Lake Avenue
Pinckney MI 48169
Parcel ID: 15-31-301-006
Request: Variance application to allow for an 852-square foot second-story addition to an existing dwelling. The addition will have a 28-foot west rear yard setback (30-foot rear yard setback required, Section 7.6.1.) and a 38-foot setback from the ordinary high water mark of a Portage Lake lagoon (50-foot setback from the OHM required, Section 7.6.1. fn.3).
- 8. New/Old business**
 - a) Approval of October 10, 2018 minutes
- 9. Adjournment**



Zoning Board of Appeals Staff Report

AGENDA ITEM: 7b



TO: Zoning Board of Appeals
(ZBA)

FROM: Brittany Stein

HEARING DATE: November 14, 2018

SUBJECT: ZBA 18-008

PROJECT SITE: 8772 Rushside Drive
TID 15-17-402-028

**APPLICANT/
OWNER:** Richard Olson

PROJECT: Variance application to allow a 982 square foot second story addition to the existing non-conforming dwelling. The addition will have a 7.1-foot south side yard setback, resulting in an aggregate side yard setback of 12.4 feet (15-foot aggregate side yard setback required, Section 7.6.1 fn. 4).

ZONING: WFR (waterfront residential district)

Addendum for November 14, 2018

On September 12, 2018 the Zoning Board of Appeals, after the public hearing tabled the request to allow the applicant time to redesign the project. The applicant has redesigned the plans for the second story addition, and indicates that due to the existing first floor load bearing walls, cannot support a second story that meet the required setbacks, a second story addition that meets side yard setbacks could not be accommodated without substantial improvements to the existing dwelling's foundation. The revised plans include a second story with dead space within the second story setback rather than living space as originally proposed.

Approval Motion:

Motion to approve variance application ZBA 18-008 at 8772 Rushside Drive to allow for the construction of a 982-square foot second story addition with a 7.1-foot south side yard setback,

resulting in an aggregate side yard setback of 12.4 feet. (15-foot aggregate side yard setback required, Section 7.6.1 fn. 4).

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 meeting tonight and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

Denial Motion:

Motion to deny variance application ZBA 18-008 at 8772 Rushside Drive to allow for the construction of a 982-square foot second story addition with a 7.1-foot south side yard setback, resulting in an aggregate side yard setback of 12.4 feet. (15-foot aggregate side yard setback required, Section 7.6.1 fn. 4).

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.

Project Description

The subject site is a 6,272-square foot that fronts onto Rushside Drive to the East; Rush Lake is to the West, and single family dwellings are located to the north and south of the site. The dwelling shown in the site map (above) is currently one-story.

If approved, the variance request would permit the construction of a 982-square foot second story addition with a 7.1-foot south side yard setback, resulting in an aggregate side yard setback of 12.4 feet. (15-foot aggregate side yard setback required, Section 7.6.1 fn. 4).

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

	Proposed	Required
North (side)	4.6 feet	5 feet
South (side)	7.1 feet	10 feet
West (rear)	50.5 feet	30 feet
Ordinary high water mark	50.5 feet	50 feet
East (front)	35.6 feet	25 feet

Based on the site plan, dated August 1, 2018, the project is not within the 100-year floodplain.

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 15-foot aggregate side setback upon Waterfront Residential lots less than 60 feet wide, is intended to provide adequate space, open vistas, and privacy throughout neighborhoods and between structures on smaller residential lots. The bulk of the structure proposed at the setback neighborhood privacy and open vistas. Constructing a second story onto the existing non-conforming single story dwelling creates the need for a variance and is therefore self-imposed and is not a condition of the property. The property can accommodate a compliant single family dwelling.

- 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 second story on the existing dwelling is not necessary to use the site for residential purposes and is solely a personal preference of the homeowner. The second story could be reconfigured to meet the setback requirements. The proposed second story 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 to provide adequate space, open vistas, and privacy throughout neighborhoods and amid structures on smaller residential lots to preserve side yards from encroachment of residential structures. The dwellings to the east and west have been constructed to comply with the 10-foot side setback requirements.

- 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 West Hamburg/Rush Lake planning area of the Master Plan. This area envisions medium density residential development in the developed areas around Rush Lake. The proposed request would not adversely affect the proposed 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. In November 2017 Section 11.3 of the zoning ordinance was amended to bring future development into compliance: *A residential nonconforming building may be allowed to expand provided the expansion is within a yard which retains compliance with the required setbacks and height, (eg. A second level is added to an existing single story house with a non-conforming side yard setback the second story must not encroach into the required setback even if the existing main level already encroaches into the setback).*

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 more non-conforming structure. Clearly, the lot can accommodate a single family residential dwelling (Exhibit B). 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 second story addition to the existing dwelling.

“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 18-008 at 8772 Rushside Drive to allow for the construction of a 982-square foot second story addition with a 7.1-foot south side yard setback, resulting in an aggregate side yard setback of 12.4 feet. (15-foot aggregate side yard setback required, Section 7.6.1 fn. 4).

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 plan

(Construction plans for the dwelling were too large to include)

HAMBURG TOWNSHIP
Date 08/10/2018 12:23:53 PM
Ref ZBA0180-008
Receipt 1189335
Amount \$500.00

ZBA Case Number 18-0008
\$500



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: 08.10.18

2. Tax ID #: 15-17-402-028 - Subdivision: _____ Lot No.: 503

3. Address of Subject Property: 8772 Rushside Dr. Pinckney, MI 48169

4. Property Owner: Richard Olson Phone: (H) ~~XXXXXXXX~~
Email Address: ~~XXXXXXXXXXXXXXXXXXXX~~ (W) _____
Street: 8772 Rushside Dr. City Pinckney State MI

5. Appellant (If different than owner): Daniel Merritt Phone: (H) _____
E-mail Address: ~~#####~~ (W) ~~#####~~
Street: 9815 Fairfax Ct. City Pinckney State MI

6. Year Property was Acquired: 2014 Zoning District: WFR Flood Plain _____

7. Size of Lot: Front 39.88 Rear 36.92 Side 1 166.20 Side 2 163.40 Sq. Ft. 1071

11. Dimensions of Existing Structure (s) 1st Floor 25'-10" x 28'-3" 2nd Floor _____ Garage _____

12. Dimensions of Proposed Structure (s) 1st Floor 25'-10" x 28'-3" 2nd Floor 25'-10" x 28'-3" Garage _____

13. Present Use of Property: Residential

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

15. Has there been any past variances on this property? Yes _____ No

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

17. Please indicate the type of variance or zoning ordinance interpretation requested:
We request ~3' setback variance on the south side setback of the existing house to allow us to use the existing structural bearing walls to support a second story addition

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.

The property contains an existing one-story residence that is non compliant for a WFR zone with less than 60 feet in lot width.

We run into a structural issue on the NOOrth bearing wall because the bearing point for the second floor due to ordinance would I

- 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.

The variance will allow for additional bedrooms to accomadate family and bring the 1 bedroom residence to match

the multi bedroom neighborhood.

- 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.

The variance will not be materially detrimental to public nor materially injurious to the property. All existing foundations

are being utilized and there is no new increase to building footprint.

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

We do not foresee this addition to at any way adversely affect the currenty master plan of the Township.

- 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 ordinance was implemented after the original house was already built. If the bearing wall had been built within the setback

at the time this would not be an issue. We also are a restricted WFR property due to our lot width be less than the typical 60'

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

There is no change to use. The structure will remain a family residence.

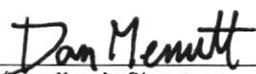
- g) The requested variance is the minimum necessary to permit reasonable use of the land.

We are keeping the same building footprint and there will be no new foundations or dramatic changes to the site.

- 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.



 Owner's Signature Date 8/7/18



 Appellant's Signature Date 8/10/18

VARIANCE: A modification of the literal provisions of the zoning ordinance granted when strict enforcement would cause undue hardship due to circumstances unique to the individual property for which the variance is granted

VARIANCE STANDARDS:

- A. Where, owing to special conditions, a literal enforcement of the provisions of this Zoning Ordinance would involve practical difficulties, the Zoning Board of Appeals shall have power upon appeal in specific cases to authorize such variation or modification of the provisions of this Zoning Ordinance with such conditions and safeguards as it may determine, as may be in harmony with the spirit of this Zoning Ordinance and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the provisions of this Zoning Ordinance shall be granted unless it appears that, at a minimum, the applicant has proven a practical difficulty and that all the following facts and conditions exist:
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.**
 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.**
 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.**
 4. **That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.**
 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.**
 6. **Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district;**
 7. **The requested variance is the minimum necessary to permit reasonable use of the land.**
- B. For the purpose of the above, a "practical difficulty" exists on the subject land 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), and the applicant has proven all of the standards set forth in Section 6.5 (c) (1) through (7). Demonstration of practical difficulty shall focus on the subject property or use of the subject property, and not on the applicant personally.
- C. In consideration of all appeals and all proposed variations to this Zoning Ordinance, the Zoning Board of Appeals shall, before making any variations from this Zoning Ordinance in a specific case, determine that the standards set forth above have been met, and that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public

streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the inhabitants of the Township.

VARIANCE APPLICATION CHECKLIST:

(8) sets of plans must be submitted. The sets are for the individual use of the Zoning Board members and the Township's records. None will be returned to you. The Land Use Permit will not be released until three (3) final construction blueprints and three (3) copies of your site plan are submitted which have been prepared according to the variances granted and conditions imposed at the appeals meeting.

1. ZONING BOARD OF APPEALS APPLICATION FORM

2. SITE/PLOT PLAN

- a. Location and width of road (s) and jurisdiction (public or private road).
- b. Location and dimensions of existing/proposed construction.
- c. Dimensions, designation, and heights of existing structures on property clearly marked.
- d. Dimensions of property.
- e. Measurement from each side of existing and proposed structure to the property lines.
- f. All easements
- g. Any bodies of water (lake, stream, river, canal) with water body name.
- h. Distance from any body of water.
- i. Septic Tank and Field, Sewer Tap (Grinder pump), Water Well
- j. North Arrow
- k. All areas requiring variances clearly marked with dimensions and amount of variance requested.
- l. Any outstanding topographic features that should be considered (hills, drop-offs, trees, boulders, etc.).
- m. Landscaping if required under Section 9.4 of the Township Zoning Ordinance.
- n. Any other information which you may feel is pertinent to your appeal.
- o. Lot coverage calculations:
 - i. Building lot coverage; the total footprint of buildings, parking, paved and gravel storage yards, driveways, streets, roads and sidewalks divided by the size of the site, excluding water bodies and wetlands.
 - ii. Total impermeable surface; the total footprint of buildings, parking, paved and gravel storage yards, driveways, streets, roads, and sidewalks divided by the size of the site, excluding water bodies and wetlands.

3. EXTERIOR BUILDING ELEVATIONS

- a. All proposed and existing exterior elevations showing existing and proposed exterior walls, roof, architectural features, doors, windows, trim, down spouts, exterior wall, roofing materials.
- b. Include full exterior dimensions.
- c. Please distinguish between existing and proposed.
- d. Profile of existing and finished grades.

4. PROPERTY STAKING

- a. Lot corners must be CLEARLY staked.
- b. Lot lines must be marked with string for accurate lot line identification (when applicable).
- c. Project corners must be CLEARLY staked and the building perimeter footprint marked with string.
- d. Lot must be CLEARLY identified with a sign (i.e. "LOT 49" or "SMITH'S LOT") If the property has an address, the address must be visible from the road

5. ADDITIONAL REQUIREMENTS (if necessary)

- a. Floor plan(s):
 - i. All proposed usable floor level area (including basements, attics, detached accessory structures, etc.)
 - ii. All areas to be demolished with proposed walls and existing walls clearly indicated.
 - iii. All proposed rooms clearly identified and labeled for each floor level.
 - iv. All proposed decks, balconies, porches, garages/carports, etc.
 - v. Exterior building dimensions.
 - vi. Doors, windows, bay windows, chimneys, stairways, etc.
- b. Proof of ownership
 - i. Warranty Deed - showing title transaction bearing Livingston County Register of Deeds stamps
 - ii. Letter of authorization signed by the property owner allowing an agent to process an application on their behalf.
- c. A survey prepared and stamped by a licensed surveyor may be required. Note: If a survey is not submitted with the initial application and the ZBA has questions about the location of the property lines for the lot, a decision on the project may be delayed.

VARIANCE PROCESS:

Once a project is submitted:

The Zoning Administrator will review your submittal to make sure you have submitted a complete set of project plans (1 week if complete).

Once the project has been deemed complete by the Zoning Administrator:

The project will be scheduled for a Zoning Board of Appeals (ZBA) hearing. (ZBA hearing are held of the second Wednesday of each month) Your Project will need to be deemed complete by the Zoning Administrator a minimum of three (3) weeks prior to a hearing in order to be schedule for that hearing.

Once the project has been schedule for a ZBA hearing:

All property owners within a three hundred (300) foot radius of the subject property shall be notified of the date and time of the public hearing on your variance request and the basic nature of your proposed project and variances being requested, and the owner's name and address of the subject property. Notices will be sent on or before Fifteen (15) days prior to the hearing date.

A public hearing notice stating all appeals for a given date will be published in the Tuesday Edition of the Livingston County Daily Press & Argus fifteen (15 days) prior to the date of the hearing.

At the ZBA Meeting

1. You or your representative (lawyer, builder, contractor, relative, friend) must attend.
2. Appeals are taken in order of submission.
3. Unless your appeal is tabled due to lack of information, insufficiency of drawings, etc., you will know the disposition of the appeal at the meeting before you leave.
4. **No Land Use Permits will be available for pick up on the night of the meeting, so please do not ask the Zoning Administrator for them that night.**
5. In the event that the Zoning Board of Appeals **does not grant** your variance request there will be **no refund** of the filing fee, as it pays for administration costs, the member's reviewing and meeting time, and noticing costs in the newspaper and for postage.
6. Rehearing requests may be charged \$200.00 for postage and newspaper costs in addition to the original \$325.00 charge, at the discretion of the Zoning Board of Appeals.

Once the project has been approved

You will need to submit a completed Land Use Permit, 3 sets of your final construction blueprints and 3 copies of your site plan from which your project will actually be constructed before your Land Use Permit will be released. If the Board has made special conditions, they must be met before your Land Use Permit will be released.

If the project is denied

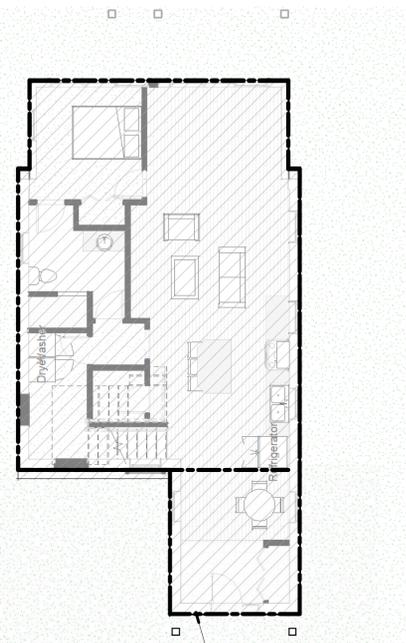
Section 6.6.4 (C) of the Hamburg Township Zoning Ordinance states that a one (1) year period must elapse before a rehearing of the appeal "except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid."

Section 6.7 of the Zoning Ordinance governs appeals to Circuit Court. If you desire to appeal the decision of the Zoning Board of Appeals, you need to contact your attorney for filing appeals to Circuit Court.

8772 RUSHSIDE DR PINCKNEY MI 48169 PIN:15-17-402-028



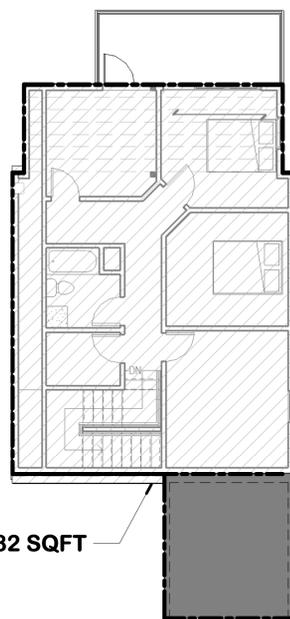
1 BACK PERSPECTIVE



AREA: 1133 SQFT

2 FIRST FLOOR (AREA)

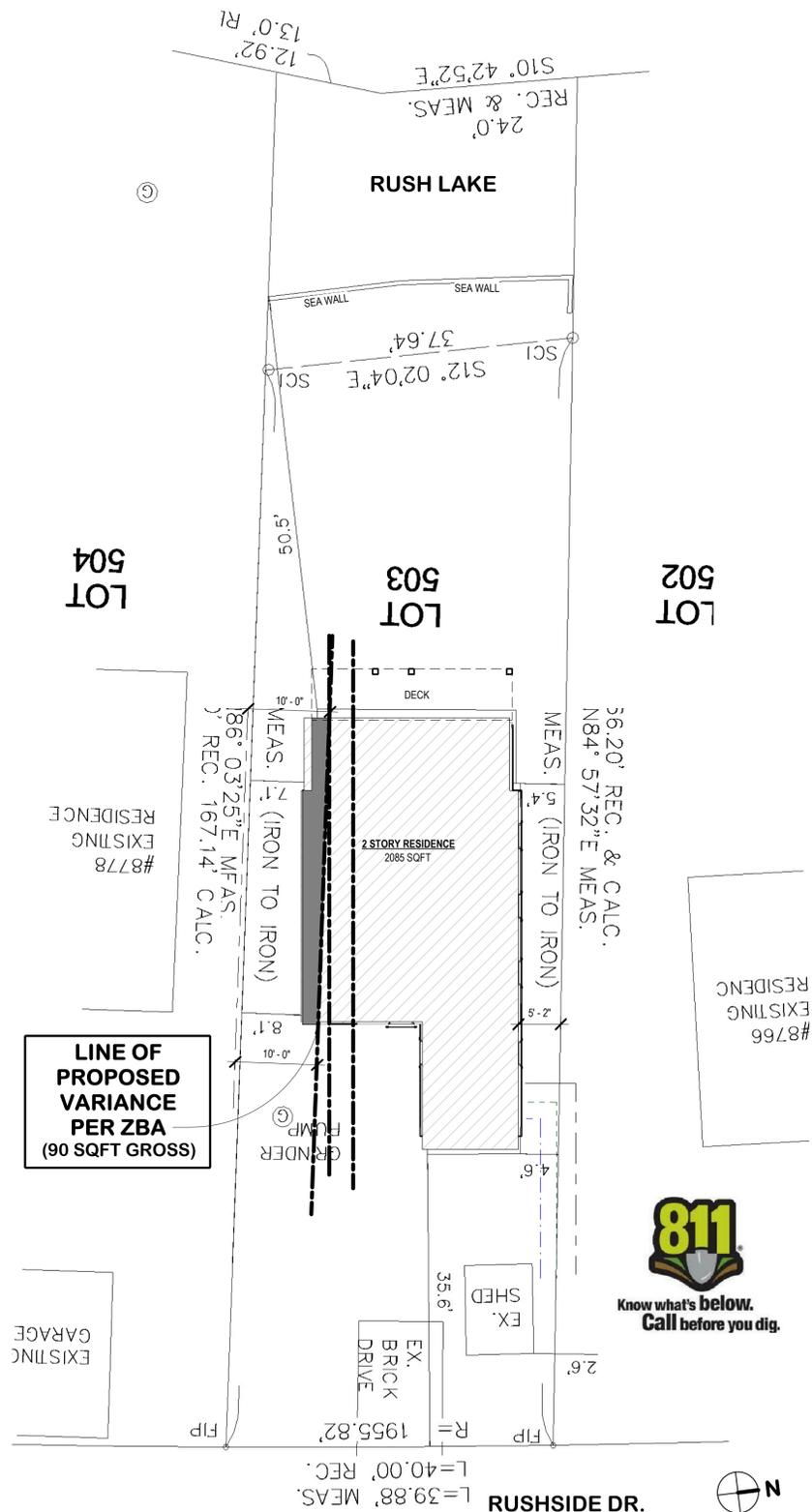
1/8" = 1'-0"



AREA: 982 SQFT

4 SECOND FLOOR AREA

1/8" = 1'-0"



LINE OF PROPOSED VARIANCE PER ZBA (96 SQFT GROSS)

3 KEY PLAN

1/8" = 1'-0"

PROJECT INFORMATION

CLIENT
RICHARD OLSON
8772 RUSHSIDE DR.
PINCKNEY, MI 48169
P:734-262-0508

REGISTERED DESIGN PROFESSIONAL

THESE CONSTRUCTION DOCUMENTS WERE PREPARED FOR COMPLIANCE WITH LOCAL CONSTRUCTION CODES IN AFFECT AT TIME OF PERMIT SUBMITTAL. ALL ENGINEERS, CONTRACTORS, AND SUPPLIERS INVOLVED WITH THIS PROJECT SHALL COMPLY WITH SAME CODES. ISSUED AND APPROVED CODE MODIFICATIONS AND/OR LOCAL CONSTRUCTION BOARDS OF APPEALS RULING AND WHENEVER REQUIRED SHALL PROVIDE SHOP DRAWINGS AND SUBMITTALS CLEARLY DESCRIBING COMPLIANCE TO THE REGISTERED DESIGN PROFESSIONAL IN RESPONSIBLE CHARGE FOR REVIEW AND APPROVAL.

MANUFACTURER'S INSTALLATION INSTRUCTIONS

SHALL BE AVAILABLE ON THE JOB SITE AT THE TIME OF INSPECTION.

TRUSS DESIGN DRAWINGS

IN CONFORMANCE WITH R 802.10.1 SHALL BE PROVIDED FOR ANY PRE-ENGINEERED ROOF TRUSSES. THE DRAWINGS SHALL BE PREPARED BY A REGISTERED DESIGN PROFESSIONAL. DRAWINGS MUST INCLUDE LOADS USED IN THE DESIGN. TRUSS DESIGN DRAWINGS MUST BE SUBMITTED AT THE TIME OF APPLICATION OR PRIOR TO TRUSS INSTALLATION. FLOORS, TRUSSES AND ENGINEERED LUMBER FLOOR MEMBERS SHALL BE DESIGNED BY A REGISTERED DESIGN PROFESSIONAL AND DESIGN SPECIFICATIONS AND DRAWINGS MUST BE SUBMITTED FOR APPROVAL.

ENERGY CODE COMPLIANCE

ENERGY CODE COMPLIANCE (RES CHECK) IS INCLUDED AS PART OF THESE DOCUMENTS. INSULATION CONTRACTOR/INSTALLER SHALL PROVIDE CERTIFICATION OF ENERGY COMPLIANCE @ INSTALLATION.

WINDOW SPECIFICATIONS

WINDOW SPECIFICATIONS SHALL BE PROVIDED FOR COMPLIANCE.

ENERGY REQUIREMENTS

(REFER TO RES CHECK).

DESIGN CRITERIA

THE STRUCTURE MUST COMPLY WITH THE FOLLOWING:

GROUND SNOW LOAD: 25 PSF (VERIFY WITH LOCAL AUTHORITY)
BASIC WIND SPEED: 90MPH
EXPOSURE CATEGORY: B
ULTIMATE WIND SPEED: 115 MPH (VERIFY WITH LOCAL AUTHORITY)

SEISMIC DESIGN CATEGORY:

A WEATHERING PROBABILITY FOR CONCRETE: SEVERE
TERMITE INFESTATION PROBABILITY: SLIGHT

REQUIRED LIVE LOADS:

(MRC TABLE R301.5)
ALL ROOMS OTHER THAN SLEEPING ROOMS: 40 PSF
BALCONIES AND DECKS: 40 PSF
SLEEPING ROOMS: 30 PSF
HABITABLE ATTICS: 30 PSF
ATTICS WITH FIXED STAIRS: 30 PSF
UN-HABITABLE ATTICS - LIMITED STORAGE: 20 PSF
UN-HABITABLE ATTICS WITHOUT STORAGE: 10 PSF

GUARDRAILS AND HANDRAILS:

200# CONCENTRATED LOAD APPLIED AT ANY DIRECTION AT ANY POINT ALONG TOP OF GUARD/HANDRAIL
50# HORIZONTAL LOAD AT INFILL COMPONENTS

PRESUMPTIVE SOIL BEARING

SANDY GRAVEL AND OR GRAVEL: 3000 PSI

WHOLE-HOUSE MECHANICAL SYSTEM

WHERE THE AIR INFILTRATION RATE IS 5 AIR CHANGES PER HOUR OR LESS WHEN TESTED, TESTED WITH A BLOWER-DOOR, THE DWELLING UNIT SHALL BE PROVIDED WITH WHOLE-HOUSE MECHANICAL VENTILATION IN ACCORDANCE WITH M 1507.3.

FOAM PLASTIC

SHALL BE SEPARATED FROM THE INTERIOR OF A BUILDING, INCLUDING CRAWL SPACES, BY A THERMAL BARRIER OF NOT LESS THAN 1/2 IN. GYPSUM WALL BOARD, 23/32 INCH WOOD STRUCTURAL PANELS OR MATERIAL THAT PASSES THE NFPA 275 TESTING CRITERIA. THE THERMAL BARRIER IS NOT REQUIRED WHERE THE CONDITIONS OF R 316.5.4 ARE MET.

FIREBLOCKING

REQUIRED IN THE FOLLOWING LOCATIONS:
• CONCEALED SPACES OF STUD WALLS AND PARTITIONS - VERTICALLY AT THE CEILING AND FLOOR LEVELS AND HORIZONTALLY AT INTERVALS NOT EXCEEDING 10 FT.
• CONNECTIONS BETWEEN HORIZONTAL & VERTICAL SPACES (SOFFITS, DROPPED CEILINGS, COVE CEILINGS, CABINET BULKHEADS, ETC.).
• CONCEALED SPACES BETWEEN STAIR STRINGERS AT THE TOP AND BOTTOM OF THE RUN.
• CEILING AND FLOOR OPENINGS AROUND VENTS, PIPES, DUCTS, CABLES AND WIRES
• CHIMNEYS
• AT CHIMNEYS AND FIREPLACES (SEE R 1003.19).

WHOLE-HOUSE MECHANICAL SYSTEM

WHERE THE AIR INFILTRATION RATE IS 5 AIR CHANGES PER HOUR OR LESS WHEN TESTED, TESTED WITH A BLOWER-DOOR, THE DWELLING UNIT SHALL BE PROVIDED WITH WHOLE-HOUSE MECHANICAL VENTILATION IN ACCORDANCE WITH M 1507.3.

FOAM PLASTIC

SHALL BE SEPARATED FROM THE INTERIOR OF A BUILDING, INCLUDING CRAWL SPACES, BY A THERMAL BARRIER OF NOT LESS THAN 1/2 IN. GYPSUM WALL BOARD, 23/32 INCH WOOD STRUCTURAL PANELS OR MATERIAL THAT PASSES THE NFPA 275 TESTING CRITERIA. THE THERMAL BARRIER IS NOT REQUIRED WHERE THE CONDITIONS OF R 316.5.4 ARE MET.

FIREBLOCKING

REQUIRED IN THE FOLLOWING LOCATIONS:
• CONCEALED SPACES OF STUD WALLS AND PARTITIONS - VERTICALLY AT THE CEILING AND FLOOR LEVELS AND HORIZONTALLY AT INTERVALS NOT EXCEEDING 10 FT.
• CONNECTIONS BETWEEN HORIZONTAL & VERTICAL SPACES (SOFFITS, DROPPED CEILINGS, COVE CEILINGS, CABINET BULKHEADS, ETC.).
• CONCEALED SPACES BETWEEN STAIR STRINGERS AT THE TOP AND BOTTOM OF THE RUN.
• CEILING AND FLOOR OPENINGS AROUND VENTS, PIPES, DUCTS, CABLES AND WIRES
• CHIMNEYS
• AT CHIMNEYS AND FIREPLACES (SEE R 1003.19).

WHOLE-HOUSE MECHANICAL SYSTEM

WHERE THE AIR INFILTRATION RATE IS 5 AIR CHANGES PER HOUR OR LESS WHEN TESTED, TESTED WITH A BLOWER-DOOR, THE DWELLING UNIT SHALL BE PROVIDED WITH WHOLE-HOUSE MECHANICAL VENTILATION IN ACCORDANCE WITH M 1507.3.

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SHEET INDEX

SHEET	NAME	DATE	REV.
T1	COVER SHEET	10.28.2018	
X1	DEMO PLAN	08.10.2018	
A2	FLOOR PLAN	08.10.2018	
A3	SECOND FLOOR PLAN	10.28.2018	
A5	EXTERIOR ELEVATIONS	08.10.2018	

NOTES

CODE
• 2015 MICHIGAN RESIDENTIAL CODE
• LOCAL ZONING ORDINANCE

CONSTRUCTION TYPE

V-B (WOOD FRAMED)

FIRST FLOOR

1133 SQFT

SECOND FLOOR

982 SQFT

TOTAL GROSS

2085 SQFT

DEFERRED SUBMITTALS

ALL PLANS LABELED AS DEFERRED SUBMITTALS SHALL BE SUBMITTED TO THE ARCHITECT AND/OR LOCAL AUTHORITY FOR APPROVAL PRIOR TO INSTALLATION.

NOTES

- DO NOT SCALE PLANS
- COORDINATE ALL DRAWINGS, DETAILS, AND EQUIPMENT SPECS
- ALL TRADES SHALL REVIEW AND HAVE ACCESS TO ENTIRE SET OF PLANS AND SPECS PRIOR TO BIDDING AND DURING CONSTRUCTION.
- SUBMIT WEEKLY UPDATES TO OWNER/ARCHITECT INCLUDING SCHEDULE, PHOTOS, AND PROGRESS REPORT.
- FIELD VERIFY EXISTING CONDITIONS AND REPORT ANY INCONSISTENCIES TO ARCHITECT. G.C. SHALL SUBMIT ALL AS-BUILTS AND DEVIATIONS FROM THE PLANS TO OWNER & ARCHITECT.
- PROVIDE STORAGE FOR ALL EQUIPMENT AND MATERIALS IN ACCORDANCE TO MANUFACTURERS SPECS FOR DURATION OF CONSTRUCTION.
- WORK SHALL NOT COMMENCE PRIOR TO RECEIPT OF ALL APPROVED PERMITS.
- ALL REQUESTS FOR INFORMATION SHALL BE SUBMITTED ELECTRONICALLY.
- THE PLANS AND DETAILS INCLUDED IN THIS PROJECT ARE FOR THE SOLE PURPOSE OF THIS PROJECT. THE USE OF THESE DETAILS ON ANOTHER PROJECT IS STRICTLY PROHIBITED UNLESS APPROVED BY ARCHITECT.
- COPYRIGHT 2018 BIGGDESIGNS, LLC



PROJECT

18167

8772 RUSHSIDE DR.

PINCKNEY MI 48169

ZBA

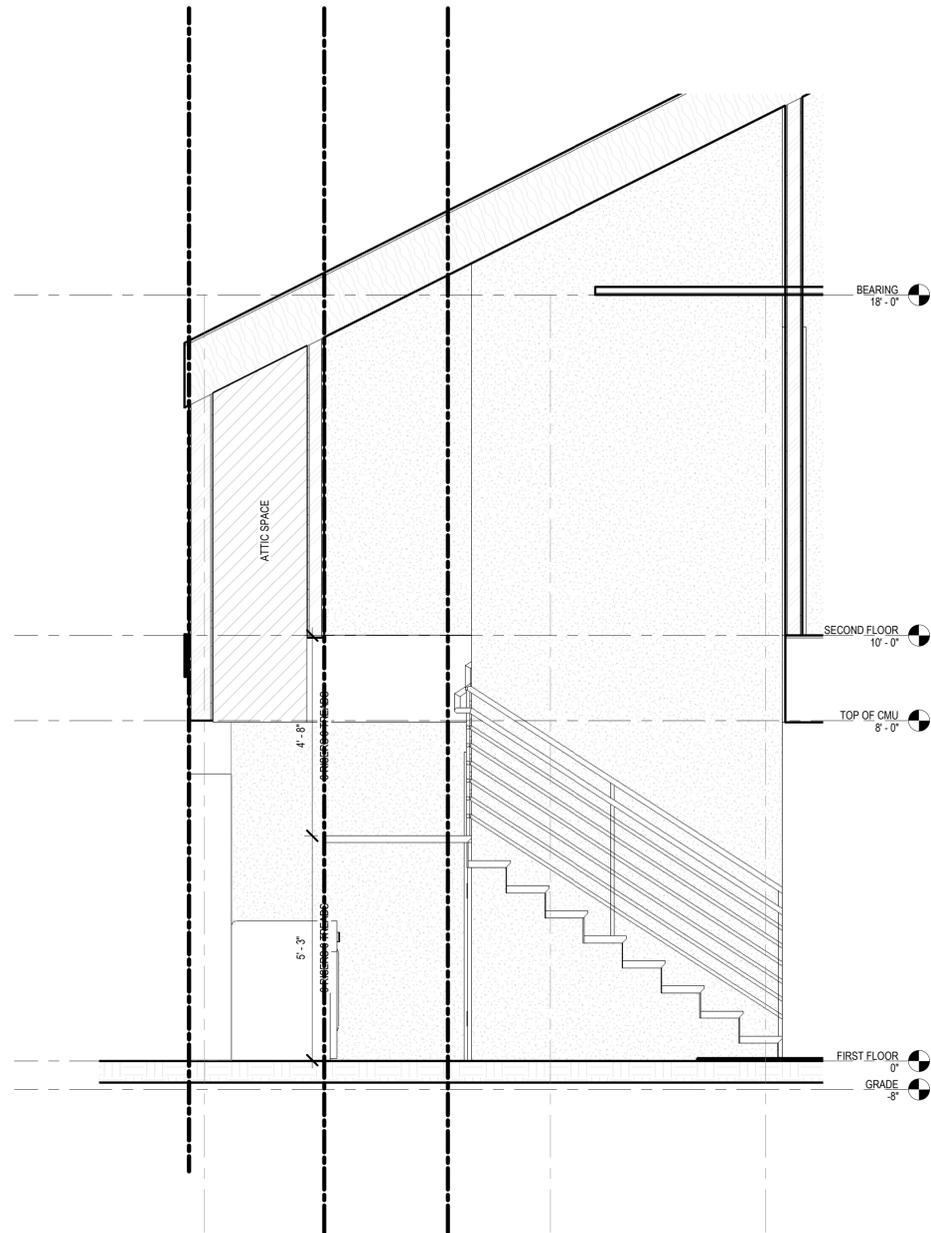
COVER SHEET

10.28.2018

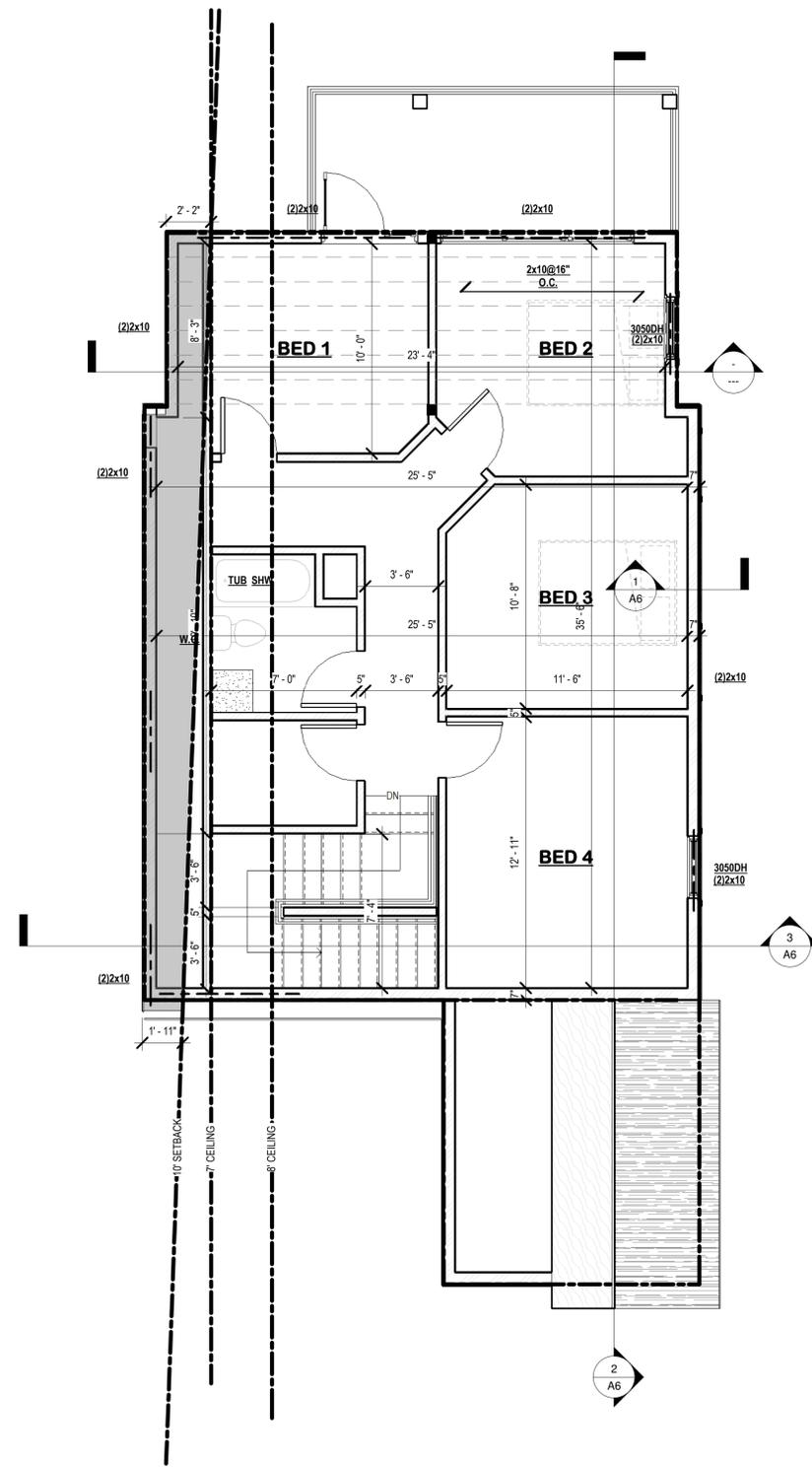
REV

REV NOTE DATE

T1



2 STAIR SECTION
1/2" = 1'-0"



1 SECOND FLOOR
1/4" = 1'-0"

NOTES

- CODE
- 2015 MICHIGAN RESIDENTIAL CODE
- LOCAL ZONING ORDINANCE

CONSTRUCTION TYPE
V-B (WOOD FRAMED)

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- COPYRIGHT 2018 BIGGDESIGNS, LLC

**ARCHITECTURE
BIGGDESIGNS, LLC**
127 E COMMERCE ST.
SUITE 201
MILFORD, MI 48381
248.886.4460
BIGGDESIGNSLLC@GMAIL.COM
WWW.BIGGDESIGNS.COM

PROJECT

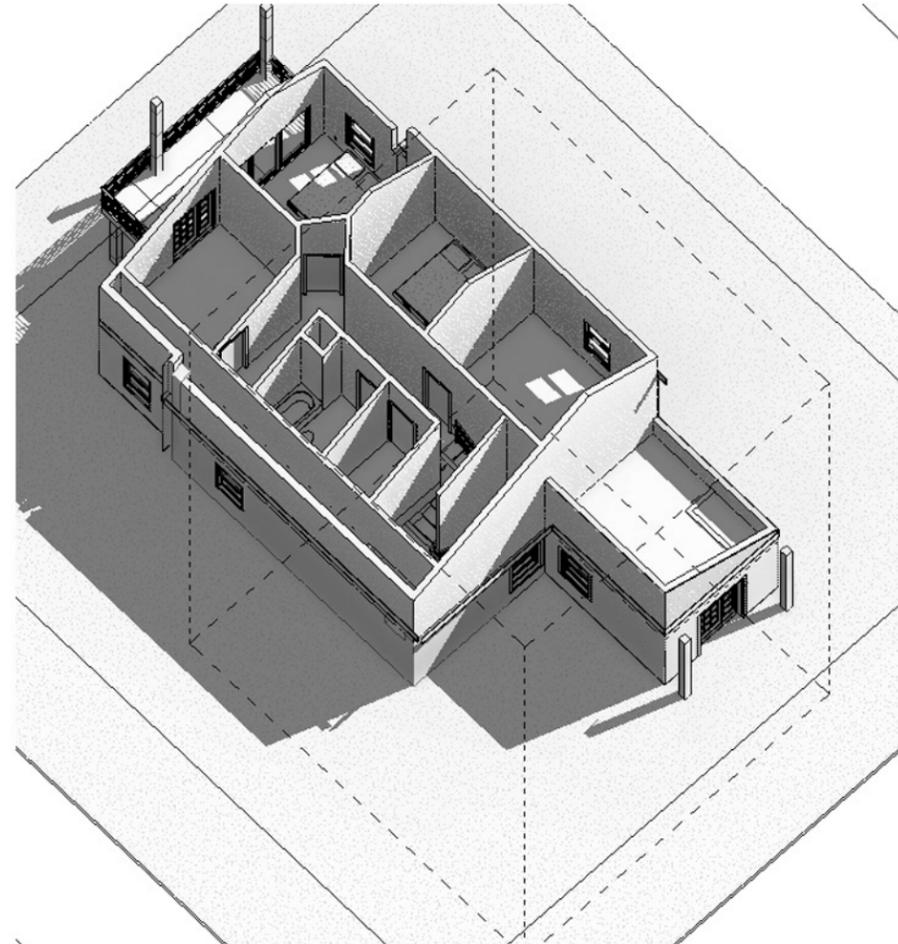
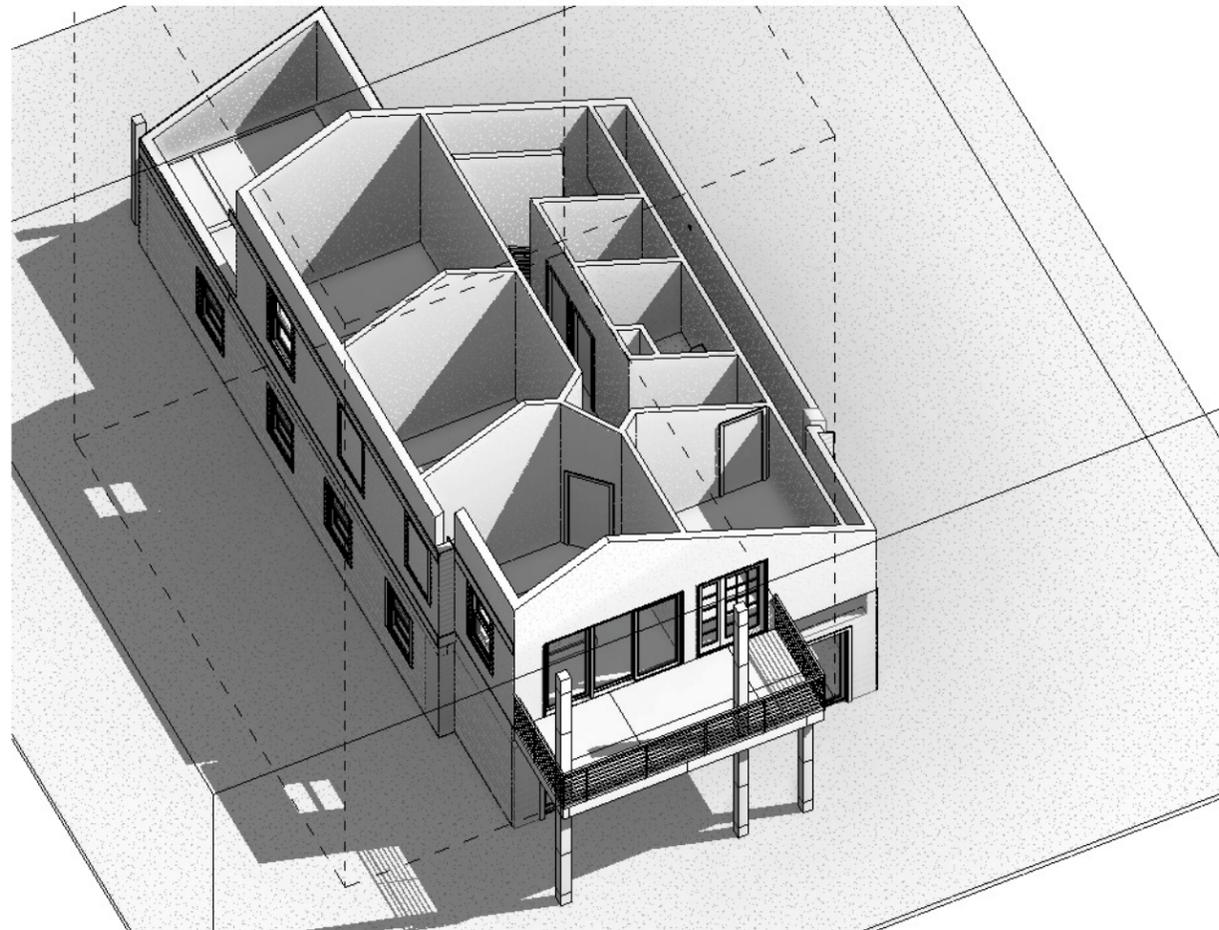
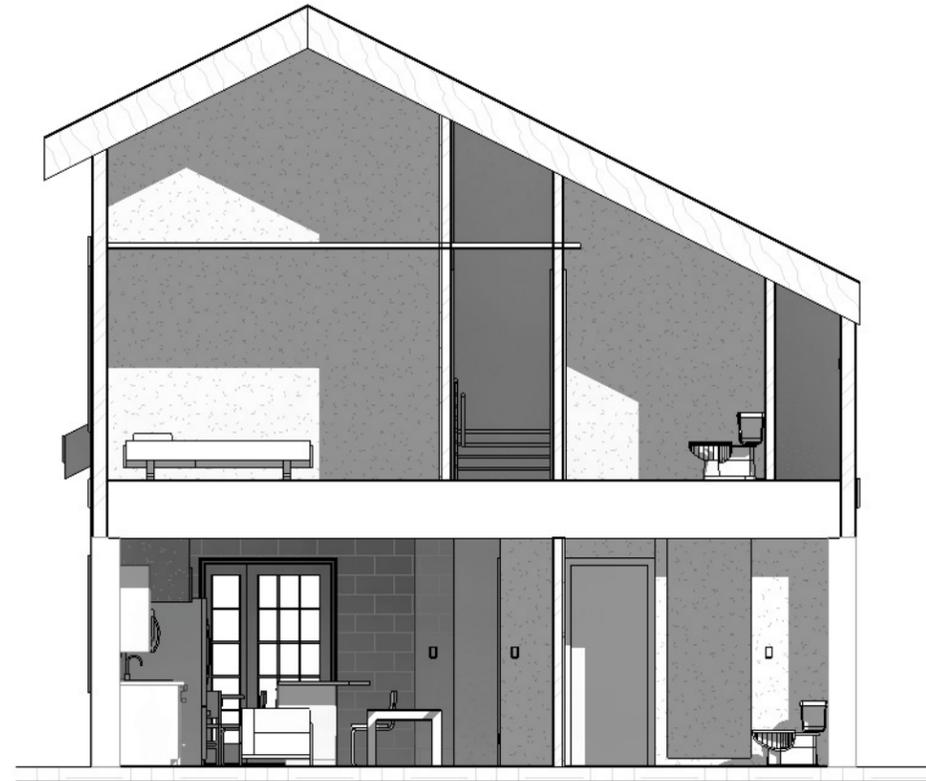
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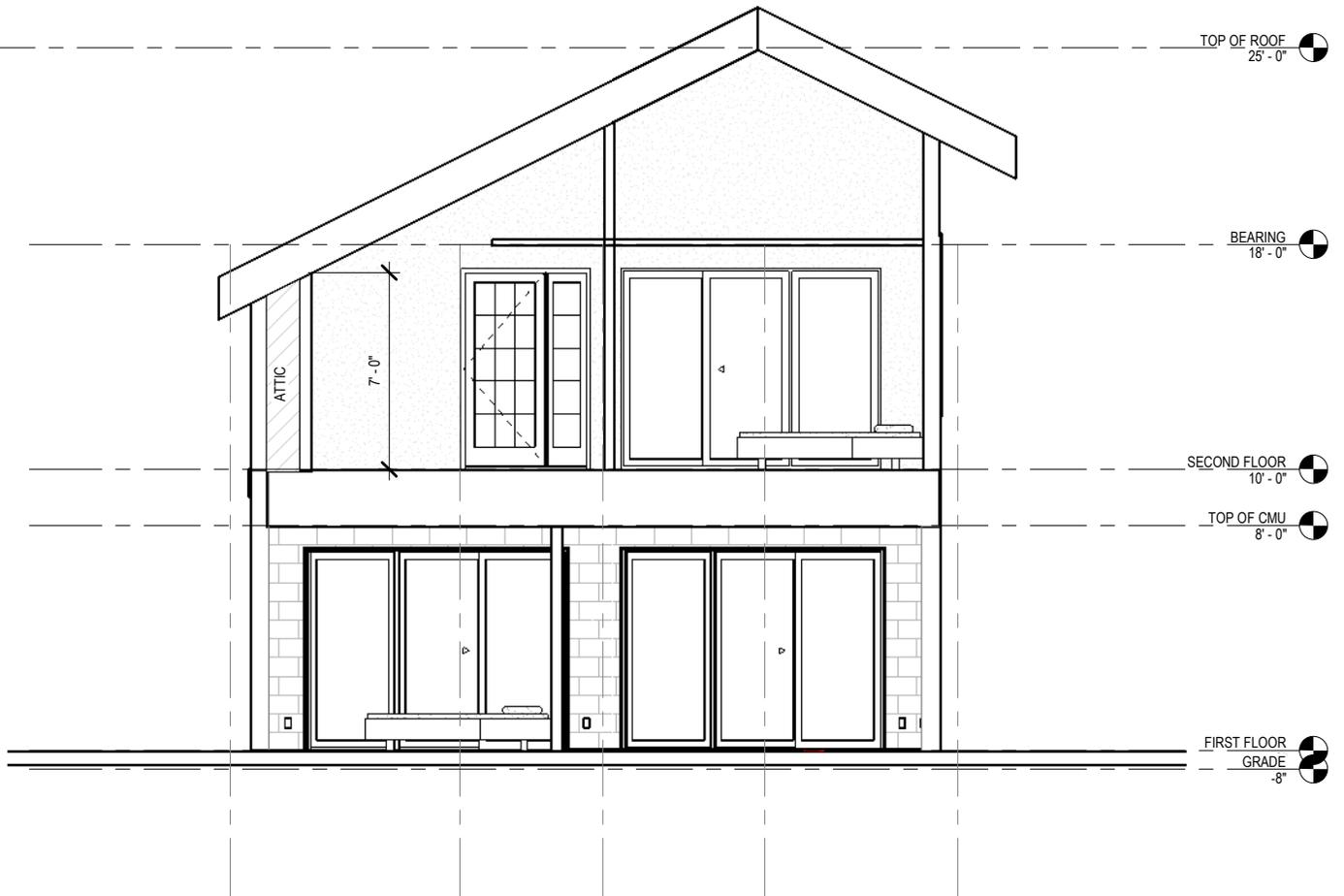
8772 RUSHSIDE DR.
PINCKNEY MI 48169
ZBA
SECOND FLOOR PLAN
10.28.2018

REV

REV	NOTE	DATE
-----	------	------

A3





TOP OF ROOF
23' - 0"

BEARING
18' - 0"

SECOND FLOOR
10' - 0"

TOP OF CMU
8' - 0"

FIRST FLOOR
GRADE
-8"

CERTIFICATE OF SURVEY

Prepared For: RICHARD OLSEN

Legal Description:

Lot 503, HERNDON'S RUSH LAKE ESTATES, a subdivision of part of the S.E. 1/4 of Section 17, T.1N., R.5E., Hamburg Township, Livingston County, Michigan, as recorded in Livingston County Records.

RUSHSIDE DRIVE

(60' WIDE)

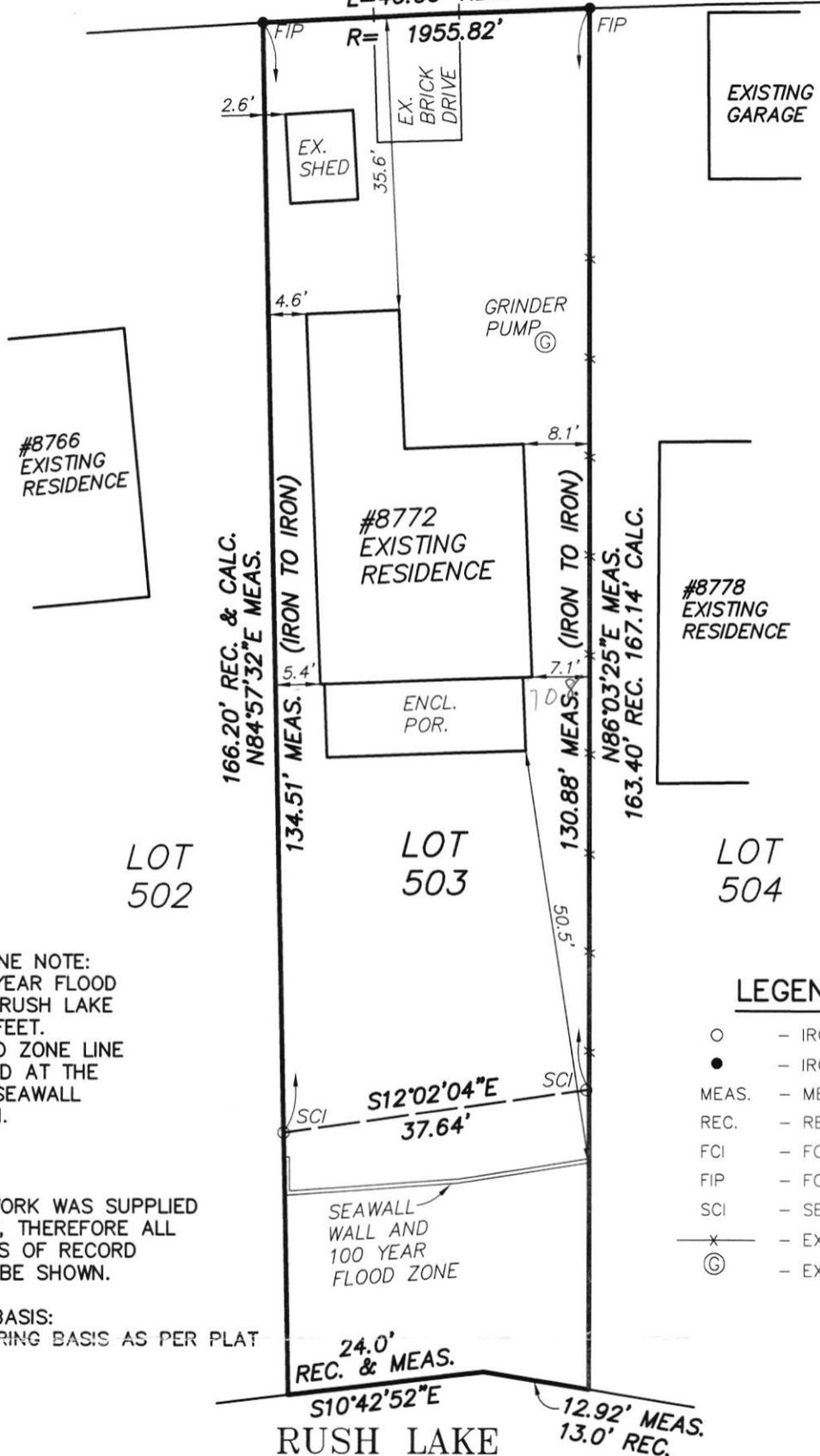
L=39.88' MEAS.

L=40.00' REC.



0 10 20

SCALE: 1" = 20'



FLOOD ZONE NOTE:
THE 100 YEAR FLOOD ZONE ON RUSH LAKE IS 879.6 FEET. THE FLOOD ZONE LINE IS LOCATED AT THE EXISTING SEAWALL AS SHOWN.

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

BEARING BASIS:
HELD BEARING BASIS AS PER PLAT

LEGEND

- - IRON SET
- - IRON FOUND
- MEAS. - MEASURED
- REC. - RECORDED
- FCI - FOUND CAPPED IRON
- FIP - FOUND IRON PIPE
- SCI - SET CAPPED IRON
- x — - EXISTING FENCE LINE
- Ⓞ - EXISTING GRINDER PUMP

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
 LICENSED PROFESSIONAL SURVEYOR #39075

ALPINE
Land Surveying, Inc.

11590 HIGHLAND ROAD, SUITE #100
HARTLAND, MICHIGAN, 48353
PHONE: 810-207-8050, FAX: 419-735-0171

FIELD: KG	DATE: AUGUST 1, 2018
DRAWN: DS	JOB NO: 18-3746
CHECKED: KG	SHEET: 1 OF 1
REVISED:	



Zoning Board of Appeals Staff Report

AGENDA ITEM: 7b

TO: Zoning Board of Appeals
(ZBA)

FROM: Amy Steffens, AICP
Zoning Administrator

**HEARING
DATE:** November 14, 2018

SUBJECT: ZBA 18-013

**PROJECT
SITE:** 11644 Portage Lake
Avenue
(TID 15-31-301-006)

**APPLICANT/
OWNER:** Steve and Kimberli Darling

AGENT: None



Request: Variance application to allow for an 852-square foot second-story addition to an existing dwelling. The addition will have a 28-foot west rear yard setback (30-foot rear yard setback required, Section 7.6.1.) and a 38-foot setback from the ordinary high water mark of a Portage Lake lagoon (50-foot setback from the OHM required, Section 7.6.1. fn.3).

Site description and history

The subject site is a 5,489-square foot parcel improved with a 1,148-square foot, single-story dwelling. The site fronts onto Portage Lake Avenue to the east; a lagoon of Portage Lake is to the west, and single-family dwellings are to the north and south.

If approved, the variance request would allow for the construction of an 852-square foot second story addition over the west rear portion of the existing dwelling. The addition would have a 28-foot rear yard setback where a 30-foot rear yard setback would be required (Section 7.6.1.) and 38-foot setback from the ordinary high water of the lagoon where a 50-foot setback would be required (Section 7.6.1. fn.3.).

The subject structure is mapped within FEMA's 1 percent floodplain. Hamburg Township participates in the National Flood Insurance Program (NFIP). Proper enforcement of the building code standards is a prerequisite of the community'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. The NFIP would consider a vertical addition to be a substantial improvement if the cost of the addition and interior work on the existing first floor to accommodate the addition amounted to more than 50 percent of the market value of the existing structure, or more than \$45,597. Prior to the issuance of any land use permit for this site, an estimate prepared by a licensed contractor must be submitted to the township. If the cost estimate is more than \$45,597 an elevation certificate or a LOMA issued by FEMA would be required prior to the issuance of a land use permit. In the event that the proposed work is a substantial improvement and the existing structure does not comply with the Michigan residential building codes, the existing structure must be brought into compliance with floodplain building standards. The NFIP guidance documents on substantial improvements may be found at www.fema.gov/addition.

Standards of Review

The Zoning Board of Appeal's (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 only be granted 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.**

Setback standards of the zoning ordinance serve multiple purposes: encourage orderly development of parcels, maintain open vistas of a neighborhood, and protect adjoining properties from negative impacts from development on adjoining parcels. There is nothing exceptional or extraordinary about the property that would warrant a deviation from the zoning ordinance. The proposed addition could be relocated from the rear of the house to the front of the house and made to comply with the required setback standards. The lot is 100 feet deep, which would allow for a conforming second-story addition with a 25-foot front yard setback, a 45-foot deep house as proposed, a 30-foot rear yard setback, as well as the 50-foot setback from the OHM. The need for the variance is based on a personal preference and not an exceptional or extraordinary circumstance or condition applicable to the property.

- 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.**

Property rights are not advanced based on a single proposed site plan or architectural design. The property is currently zoned, developed, and used for residential purposes

and complying with the required setbacks would not be deny the property's continued use for residential uses.

- 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.**

See analysis under standard number one.

- 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 North Chain of Lakes planning area in the Master Plan. This area envisions continued residential development closely tied to the lake waterfronts. The proposed project would not adversely affect the purpose of 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.**

The condition or situation of the specific piece of property, or the intended use of the property for which the variance is sought, is not of so general or recurrent a nature because this is a typical residentially-zoned parcel, developed and used for its intended purpose and zoning district.

An amendment to the zoning ordinance Section 11.3., non-conforming buildings and structures, was adopted in November, 2017. The ordinance previously allowed an expansion without ZBA approval of a non-conforming structure up to fifty percent of the market value of the existing structure. However, with the zoning text amendment the ordinance requires all new construction to come into compliance with the setback standards of the ordinance. Staff offers Section 11.3. as a reminder that the zoning ordinance is written to phase out non-conforming structures, not encourage or create them. The proposed variance is directly contrary to the intent of the ordinance amendment and is an expansion of a non-conforming situation.

- 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 property is currently used for single-family residential use and the use will not change if the proposed variance request is granted.

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

The proposed site plan creates a self-imposed practical difficulty. The site and existing dwelling can accommodate a conforming second story addition. The property itself, and not the design preference of the application, must be considered in determining if the variance request is the minimum necessary to permit reasonable use of the land.

Exacerbating a non-conforming situation by expanding the non-conformity when a reasonable, conforming alternative exists creates a self-improved practical difficulty.

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 approve or deny the application. In the motion to approve or deny the project the ZBA should incorporate the ZBA's discussion and analysis of the project and the findings in the staff report. The Board then should direct staff to prepare a memorialization of the ZBA decision that reflects the board's action to accompany the hearing minutes and to be reviewed and approved at the next ZBA hearing.

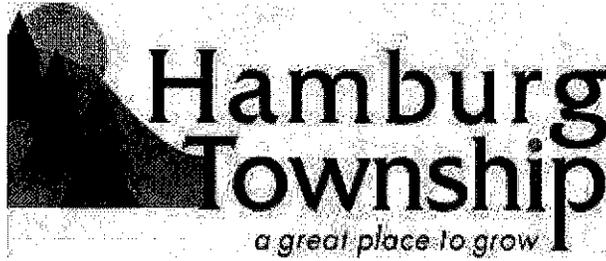
Denial Motion:

Motion to deny variance application ZBA 18-013 at 11644 Portage Lake Avenue to allow for an 852-square foot second-story addition to an existing dwelling. The addition will have a 28-foot west rear yard setback (30-foot rear yard setback required, Section 7.6.1.) and a 38-foot setback from the ordinary high water mark of a Portage Lake lagoon (50-foot setback from the OHM required, Section 7.6.1. fn.3). 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 tonight's hearing and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

Exhibit A: Application Materials (including project plans)

Next Dates: Nov. 14
Dec. 12
(1 month before)

HAMBURG TOWNSHIP
Date 10/15/2018 9:17:35 AM
ZBA Case Number 18-0013
Amount \$500



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: 10-11-2018
2. Tax ID #: 15-31-301-006 Subdivision: _____ Lot No.: _____
3. Address of Subject Property: 11644 PORTAGE LAKE AVE.
4. Property Owner: STEVE + KIMMY DARLING Phone: (H) 419-902-1635 KIMMY
 Email Address: AGROWELL@AOL.COM (W) 517-358-6641 STEVE
 Street: 11644 PORTAGE LAKE AVE. City PINCKNEY State MI. 48169
5. Appellant (if different than owner): SAME Phone: (H) _____
 E-mail Address: _____ (W) _____
 Street: _____ City _____ State _____
6. Year Property was Acquired: 2013 Zoning District: _____ Flood Plain NO
7. Size of Lot: Front 45 Rear 55 Side 1 100 Side 2 100 Sq. Ft. 5489
11. Dimensions of Existing Structure (s) 1st Floor 27-45 2nd Floor N/A Garage NO
12. Dimensions of Proposed Structure (s) 1st Floor 27-45 2nd Floor 27-20 Garage NO
13. Present Use of Property: HOME
14. Percentage of Existing Structure (s) to be demolished, if any 44.5 %
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:
35 FT TO WATER NEED 50 FT.

*have paid
for
10/14/18*

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.

No - buildable area too small - building to accommodate elderly parents who sold their home

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.

YES -

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.

YES

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

YES will continue as single family home, only larger (building up not out)

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.

No, not to our knowledge

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

No change in zoning district

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

To remain as single family home within existing footprint of the current structure

- 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.
- I understand that any order of the ZBA permitting the erection alteration of a building will be void after six (6) months, unless a valid building permit is obtained and the project is started and proceeds to completion (See Sec. 6.8 of the Township Zoning Ordinance).

Stephan L. Daulton 10/7/18
Owner's Signature Date

Appellant's Signature Date

LAGOON

EASEMENT

10'

55

14'

14'

Deck

38'

to water edge

● WELL

28'2"

28"

100'

Existing Home

45'

15'10"

~~28'~~

45'

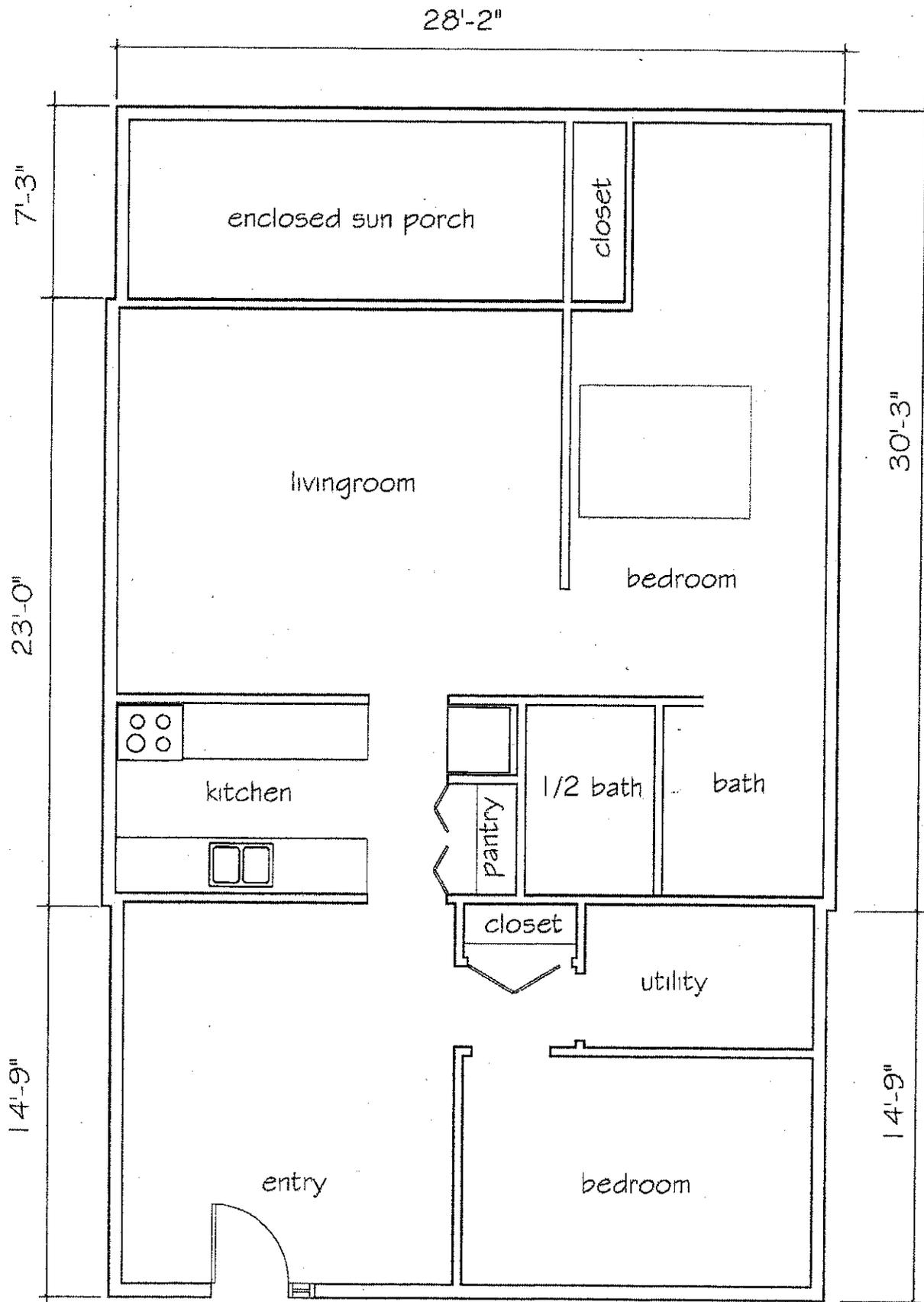
11"

28'2"

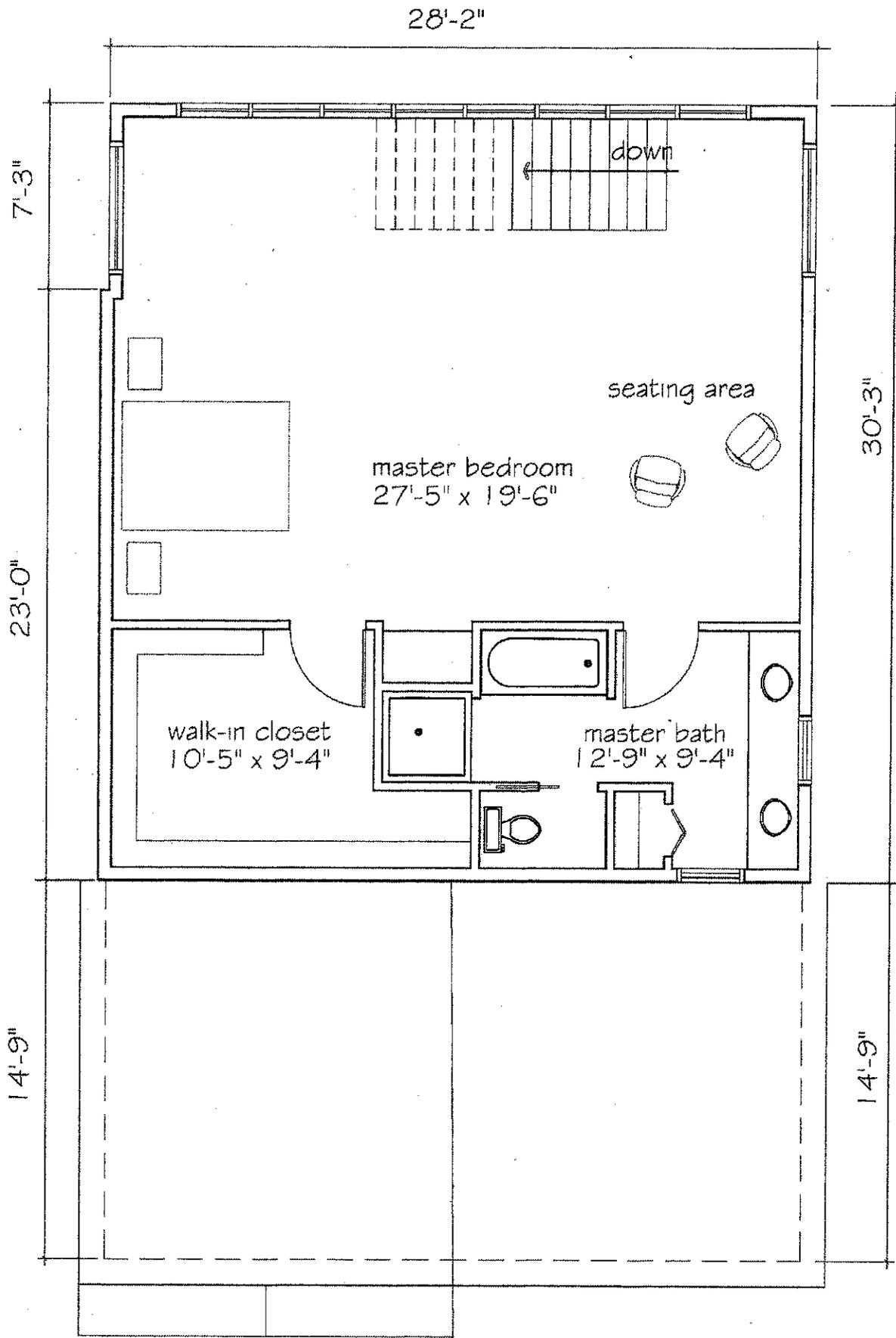
27'

55'



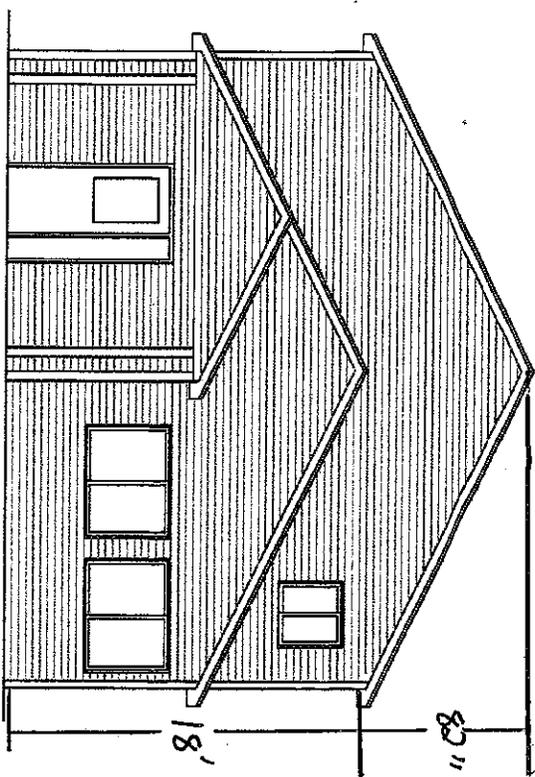


EXISTING FLOOR PLAN

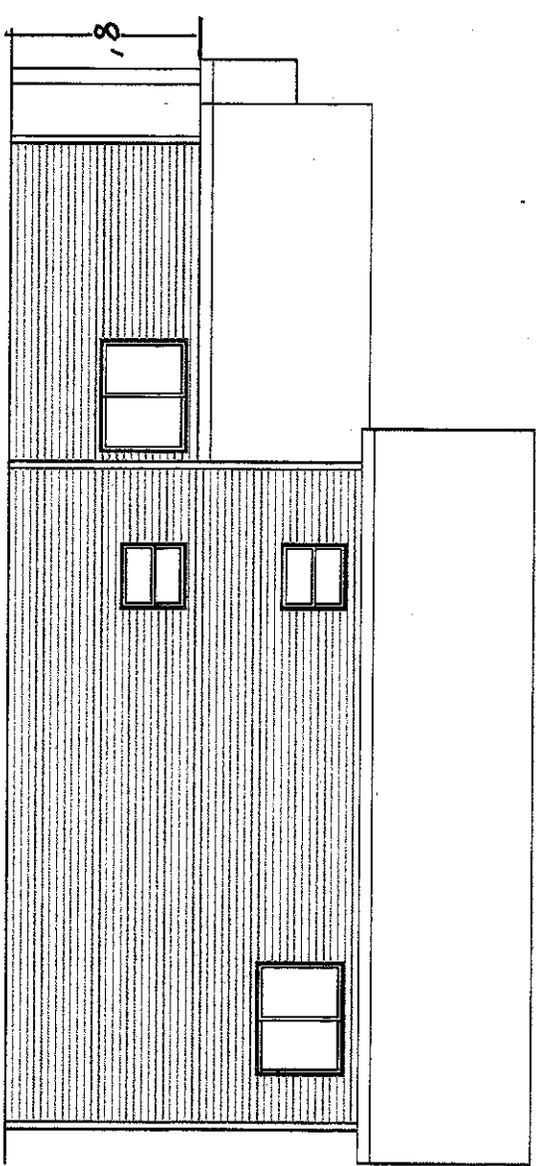


SECOND FLOOR PLAN

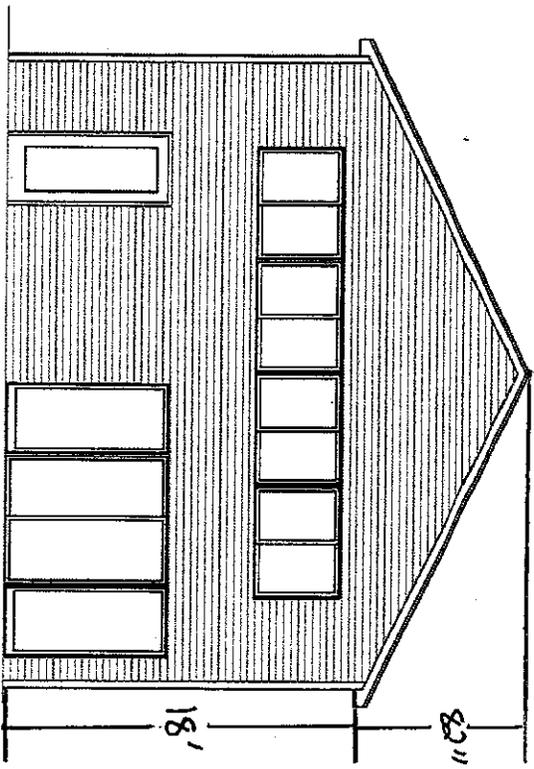
6 1/2



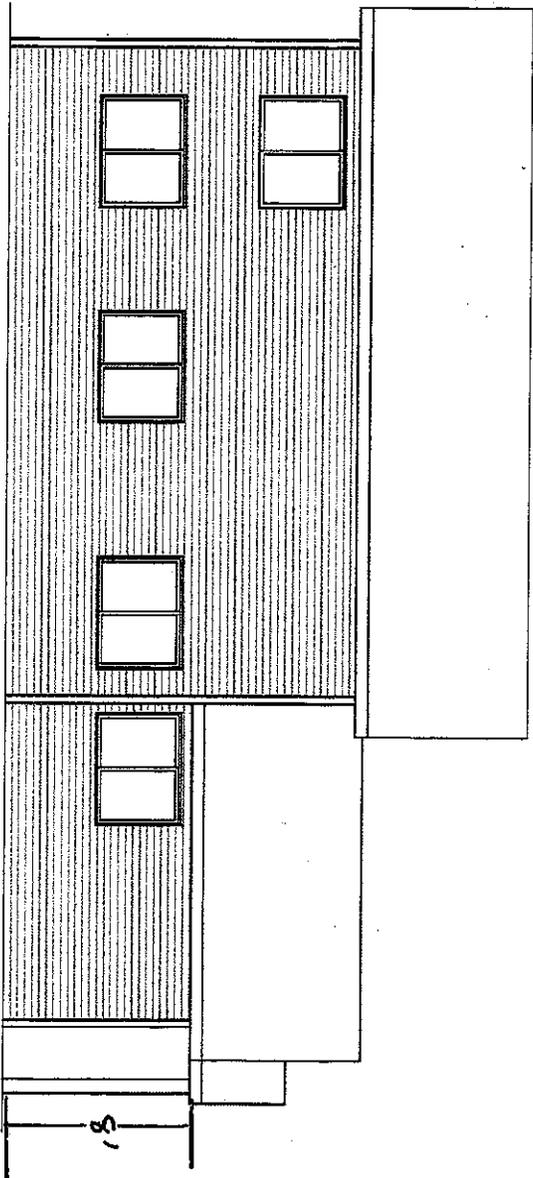
EAST ELEVATION



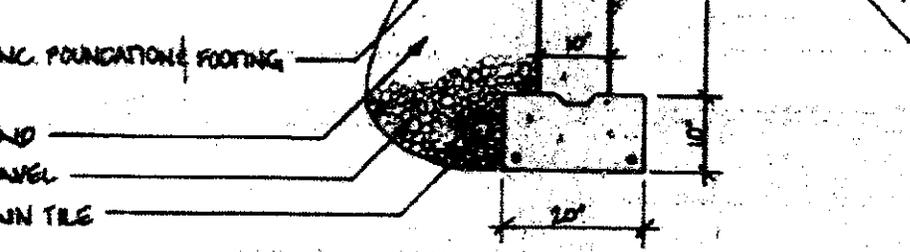
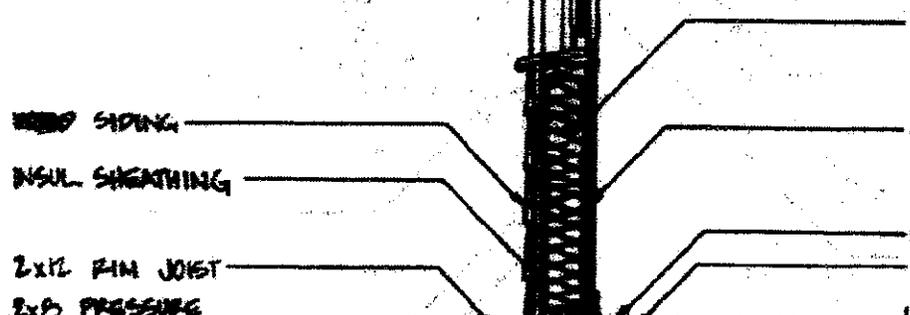
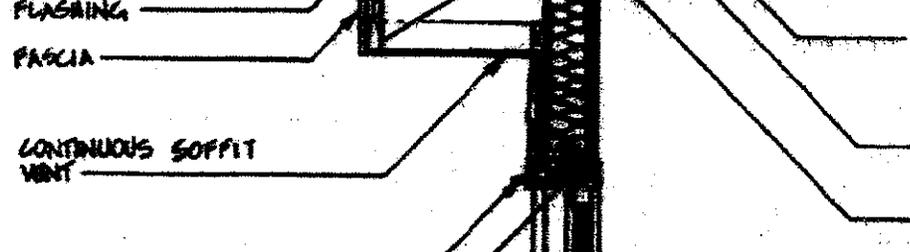
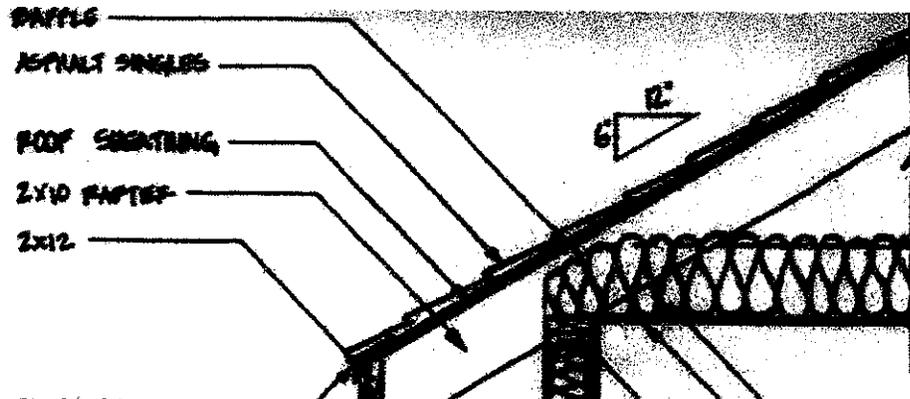
NORTH ELEVATION



WEST ELEVATION



SOUTH ELEVATION



2x10 CEILING JOIST @ 24" O.C. w/ 12" BATT INSULATION R-38

4 MIL POLY VB

2 2x6

2x6 STUD WALL @ 16" O.C. w/ R-19 BATT INSULATION

4 MIL POLY VB

FINISHED FLOOR

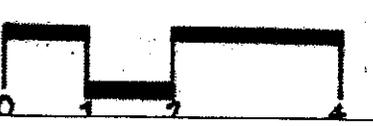
4 MIL POLY VB

PLYWOOD SUBFLOOR

2x12 FLOOR JOIST w/ 12" BATT INSULATION

3'-0" VENTED CRAWL SPACE

4 MIL POLY VB



GROUND LEVEL

20"

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

**Hamburg Township
Zoning Board of Appeals Minutes
Hamburg Township Board Room
Wednesday, October 10, 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: Auxier, Bohn, Neilson, Priebe, and Watson

Absent: None

Also Present: Amy Steffens, Planning & Zoning Administrator & Brittany Stein, Planning/Zoning Coordinator

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:

1. ZBA 2018-0010

Owner: Richard and Kristine Mancik

Location: 5229 Post Drive Pinckney MI 48169

Parcel ID: 15-27-105-039

Request: Variance application to allow the demolition and reconstruction of a 1,053-square foot dwelling, with a walkout basement and partially constructed 729-square foot attached garage. The proposed dwelling would have a 7-foot, 3-inch north side yard setback (10-foot side yard setback required, Section 7.6.1.), and a 576-square foot elevated deck with a 6-foot, 6-inch north side yard setback (8-foot setback required, Section 8.17.1.).

Mr. Mancik explained his proposal. He stated that they are not proposing to change the existing footprint. The roof-line would change slightly. They would also be adding a deck which would be the mirror image of the lower level.

The question was asked regarding the adjacent lot. Mr. Mancik stated that there are two separate lots. The home sits on a 100 foot lot and the septic sits on a 50 foot lot. He has purchased the 50 foot lot on land contract. It has been agreed that it would be best suited to put in a new grinder pump with the home and leave the existing pump. They have drawn up an easement at the back of the 100 lot giving access. This will have to go to the Sewer Board for approval.

Amy Steffens, Planning & Zoning Administrator stated that the subject site is a 20,603-square foot parcel improved with a 1,053-square foot, single-story dwelling with a walk-out basement and a partially constructed 729-square foot attached garage. The site fronts onto Post Drive to the south; Zukey Lake is to the west, a vacant residential parcel is to the north, and a park and a single-family dwelling are to the south. If approved, the variance request would allow for the demolition of the existing dwelling and the reconstruction, using the same footprint, of the 1,053-square foot dwelling. The dwelling would have a 7-foot, 3-inch north side yard setback, where a 10-foot side yard setback is required. Additionally, they are proposing a 576-square foot elevated deck. An elevated deck can encroach into a yard no more than 6 feet, but it has to be no nearer than 8 feet to the property boundary. The Mancik's are proposing an elevated deck 6 feet 6 inches to the north side yard setback.

Steffens stated that on September 2, 2014, the Township issued a land use permit for the construction of a 729-square foot attached garage. However, on November 7, 2017, the Livingston County Building Department notified the township that, due to a lack of progress or job abandonment, the county permits were closed. On May 1, 2018, the Township confirmed that the attached garage had been partially completed and that the lack of completion was a violation of General Ordinance 38-C, Anti-blight and anti-nuisance. At that time, the property owner indicated that a completed land use permit application for the completion of the garage would be submitted by May 3, 2018. The plans submitted in July did not address all of the requirements; however, after revising the plans, the applicant decided to demolish the existing structure and re-build in the same footprint. As you know, the Board is bound by the findings of fact relating to a practical difficulty of the property, not the property owners. She reviewed the Standards. She stated that setbacks serve a couple purposes. It encourages orderly development of parcels, neighborhoods, etc. and helps maintain open vistas of the neighborhoods, streets and adjoining property. They also protect adjoining properties from the negative impact from development on adjacent parcels. There is nothing exceptional or extraordinary about the property to warrant a deviation from the Zoning Ordinance. Of the 28 parcels that would have received the legal notification, the subject site is larger than 19 of them and would be large enough to accommodate a dwelling and elevated deck and meet the ordinance requirements. The applicant has indicated that the location of the house is due to an existing stone stairway to the rear of the property. The stairway could be maintained with a house in a conforming location. The house would have a 50 foot south side yard setback indicating to staff that there is room on the property itself to build a conforming structure. Property rights are not advanced based on a single proposed site plan or architectural design. The building could be relocated to a compliant location and the deck could be reduced in size to meet the ordinance. An elevated deck does not preserve a substantial property right nor does creating a non-conforming structure where one does not currently exist. The subject site is in the North Chain of Lakes planning area of the Master Plan. This area envisions medium density residential development in the developed areas around the chain of lakes. The proposed request would not adversely affect the propose or objectives of the Master Plan.

Steffens stated that we recently amended the Zoning Ordinance. The previous ordinance allowed an expansion of a non-conforming structure without ZBA approval up to 50% of the market value of the existing structure. We had more variance requests to that section of the ordinance than any other. On these lake front lots, these homes are small, most are non-conforming and it was driving the need for a lot of these requests. We changed it to make it easier for people to improve or add on to a non-conforming structure. The ordinance recognizes that non-conforming structures and uses are something we are trying to fade out. Therefore, moving forward, our ordinance says that on a non-conforming structure, anything new must meet

the setbacks. If there is some type of natural disaster that causes damage to the structure, you can put it back. However, the ordinance is very clear that if a structure is removed for any other reason other than a natural disaster, it must come into conformance with the setback standards. Additionally, an amendment was made in 2016 to relax the setback standards for elevated decks. Again, this was based on the smaller lake front lots. It allows for anything over 24 inches above grade to encroach into the required setback up to 6 feet but you may not be closer than 8 feet to the setback standard. Staff does believe that the requests have been addressed adequately by the Zoning Ordinance and there is no other text amendment that could be offered to this property so the property owner would not have to file for a variance. She stated that the use of the site is single-family residential and the proposed variance would not change the use. The proposed site plan is what is creating a practical difficulty. The site can accommodate a conforming structure. 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 that warrants variance approval for a second story addition to the existing dwelling over an attached garage. Demolishing the structure entirely gives the opportunity to bring the structure into compliance. And, the Zoning Ordinances have been amended to offer greater flexibility on constrained lots within our waterfront district.

Discussion was held on the building being an existing non-conforming structure. Steffens stated that the deck would be an additional non-conformity if it was approved. The patio itself is conforming.

Discussion was held on the need for pilings for many of the homes constructed along the lakes and the large expense associated with it. Steffens stated that she does not know what the building department would require. However, when you start considering what one person is going to pay versus another, you take out the intent of the findings, which is that they are specific to the property.

Member Bohn made the point that most of the house does meet the 10 foot setback and the owner also owns the adjacent parcel. He would agree that the purpose of the setback is correct to have conformity and avoid adverse impact to the adjacent owner. In this case, the applicant is the impacted owner as well. He further stated that they strive to preserve things that are unique and interesting. If he had to do pilings, most of the hard work on the stairways from 1921 would be destroyed. That is unique to this piece of property.

Member Auxier asked if the applicant would entertain changing the deck, the house would only encroach the setback 1.5 feet. This is one of the most open areas in that bay and he would not see how any of the neighbors would be impacted or a potential new neighbor on the adjacent lot. Mr. Mancik stated that the deck he proposed was simply a mirror image of the patio so there is already entertainment on the deck below. It would be nice to have a deck off the main living area, but if the deck is the main issues, he would leave it off. It was stated that the deck could be reduced. Mr. Mancik stated that it would not be symmetrical.

It was stated that the two lots could be combined and there would be no problem. Mr. Mancik stated that they do intend to sell that in the future, which is why they came to the understanding about putting in the new sewer/grinder pump for the house.

Steffens stated that it is the recommendation of the DPW that the grinder pump issue be resolved prior to the issuance of a land use permit. Staff would suggest that be part any approval. Mr. Mancik stated that he has a problem with that because until he sells it, that issue should not be a factor. He will make it part of the project, but should not be before he can have a permit. Steffens stated a condition of the permit would be that the sewer connection application would be made and the sewer connection fee paid in full prior to the issuance of a Certificate of Occupancy. Mr. Mancik stated that he does not have a problem with that. Steffens stated that this should be a condition of approval.

Member Auxier stated that his opinion is that the non-conforming part of this request is so small and there is a lot of space involved. The area is very secluded. He does not see any impact on anyone around with the exception of a future home.

Steffens stated that ZBA approval is good for six months. Therefore permits must be pulled and construction must begin within six months.

Discussion was held on the slope of the lot.

Chairman Priebe opened the public hearing. There was no response. The call was closed.

Member Watson stated that his opinion is that this would be a new structure and should be conforming even if the request is minor. This is a big lot, therefore it is difficult not to stick with that. Member Nielson agreed. However, there are special circumstances.

Mr. Mancik stated that there is an existing basement. He could fix and repair what is there or take everything down to the foundation. Everything there from the structure to the mechanical, etc. is sub-standard. He further stated that he could tear everything out and build a much larger home, but that is not what he is trying to do. There is a lot of value with the existing basement.

Motion by Auxier, supported by Bohn

Motion to approve variance application ZBA 18-0010 at 5229 Post Drive to allow the demolition and reconstruction of a 1,053-square foot dwelling, with a walkout basement and partially constructed 729-square foot attached garage. The proposed dwelling would have a 7-foot, 3-inch north side yard setback (10-foot side yard setback required, Section 7.6.1.), and a 576-square foot elevated deck with a 6-foot, 6-inch north side yard setback (8-foot setback required, Section 8.17.1.) as proposed contingent upon the sewer issue being resolved prior to the issuance of a land use permit and be that the sewer connection application be made and the sewer connection fee paid in full prior to the issuance of a Certificate of Occupancy.

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

2. ZBA 2018-012

Owner: David and Sharon Gauntlett

Location: 2105 Cardinal Court Pinckney MI 48169

Parcel ID: 15-31-302-020

Request: Variance application to allow for an 875-square foot second-story addition to an existing dwelling. The addition will have a 24.1-foot south front yard setback along Cardinal Court and a 20.5-foot west front yard setback along Algonquin Drive (25-foot front yard setback required along both street frontages, Section 7.6.1.fn4.). Variance application to allow for a 1,166-square foot, two-story addition to the north façade of the dwelling. The addition will have a 16-foot west front yard setback along Algonquin Drive (25-foot front yard setback required, Section 7.6.1.fn4.) and a 15-foot north rear yard setback (30-foot rear yard setback required, Section 7.6.1.).

Mr. Gauntlett stated that this was his childhood home. With the passing of his parents, he assumed ownership. He would like to move his family here, but it is a little too small. They are proposing to make it longer with a garage as well as a second story. There is currently only two bedrooms with a very small bathroom.

Discussion was held on the current non-conformity. Mr. Gauntlett stated that it is also a corner lot with the road frontages.

Brittany Stein, Planning/Zoning Coordinator, stated that the subject site is a 6,142-square foot lot that fronts onto Cardinal Court to the south; Algonquin Drive to the west, and single family dwellings are located to the north and east of the site. If approved, the variance request would permit the construction of an 875-square foot second story addition to an existing dwelling. The addition will have a 24.1-foot south front yard setback along Cardinal Court and a 20.5-foot west front yard setback along Algonquin Drive where a 25-foot front yard setback required along both street frontages. If approved, the variance request would permit the

construction of a 1,166-square foot, two-story addition to the north façade of the dwelling. The addition will have a 16-foot west front yard setback along Algonquin Drive where a 25-foot front yard setback required and a 15-foot north rear yard setback where a 30-foot rear yard setback is required. The property is within FEMA's mapped 100-year floodplain. Any development of this site would require a sealed topographical survey with the base flood elevation noted to the nearest tenth of a foot. 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. NFIP communities, flood insurance must be purchased as a condition of obtaining a federally insured mortgage in federally identified 100-year floodplain area. If the location of the proposed addition and location of the existing dwelling is found to be in the floodplain, the top of the bottom floor must be at least one-foot above the base flood elevation. Additionally, if the project constitutes a significant improvement under the NFIP, the existing structure may need to be brought up to standards for buildings in the floodplain. She reviewed the seven findings of fact. This site is a corner lot requiring the primary structure to have a front yard setback from both Cardinal Court and from Algonquin Drive. The setback requirements are intended to provide adequate space, open vistas, and privacy throughout neighborhoods and between structures on smaller residential lots. Development of a single family dwelling on this corner lot is constrained by the size of the lot which results in a small building envelope. The property cannot accommodate a compliant single family dwelling. Currently, the lot is improved with a 1,080-square foot dwelling with no garage. The proposed addition to include a garage with living space above does not meet the ordinance, however corner lots provide reduced side, front and rear yard setbacks to adequately accommodate a detached garage that does meet the standards of the zoning ordinance. Because it is a corner lot, a detached garage could meet the zoning ordinance. It could be 10 feet from the road side and 5 feet from the back if it was detached with no living space above. Having frontage on two sides of this lot, with a 30-foot rear yard setback does constrain development possibilities for the single family dwelling. Therefore, the lot may not accommodate a conforming dwelling. The plans propose an attached garage with living space above attached to the existing dwelling, however the plans could be redesigned to meet the requirements of the zoning ordinance to accommodate a detached garage. It would also have to be 10 feet from any other structure. The provision of a 15-foot rear yard setback for the garage & living space might be less detrimental than a garage built with a 5-foot rear and side yard setback. The subject site is in the North Chain of Lakes planning area of the Master Plan. This area envisions medium density residential development in the developed areas around the chain of lakes. The proposed request would not adversely affect the proposed or objectives of the Master Plan. There is a condition or situation of the subject site that is of so general or recurrent a nature that the proposed second story addition can comply with the required front and rear setback standards. The surrounding dwellings have been constructed to comply with the required setbacks. The plans propose an attached garage with living space above attached to the existing dwelling, however the plans could be redesigned to meet the requirements of the zoning ordinance to accommodate a detached garage. Given the small size of the corner lot with double frontage, there is a practical difficulty in constructing a compliant structure. However, due to the extent of the proposed plans of the two-story addition, the design creates a self-imposed practical difficulty. The lot can accommodate a detached garage that meets the zoning ordinance requirements. 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 that warrants variance approval for a second story addition to the existing dwelling over an attached garage.

Chairman Priebe opened the public hearing. There was no response. The call was closed.

Member Bohn stated that this is an unusual lot. The most compelling argument is that the provision of a 15-foot rear yard setback for the garage & living space might be less detrimental than a garage built with a 5-foot rear and side yard setback.

The question was asked if the applicant had looked at flood insurance. Mr. Gauntlett stated that he does not believe that the home is in the floodplain although very close. Planning/Zoning Administrator Steffens stated that as a reminder, the applicant will have to provide a topographical survey. If the floodplain was not an issue, we would not require a survey.

Discussion was held on the lot and the impact of the road.

The question was asked if the shed would be removed. Mr. Gauntlett stated that it would. That is where the garage would be located.

Motion by Bohn, supported by Neilson

Motion to approve variance application ZBA 18-0012 at 2105 Cardinal Court to allow for the construction of an 875-square foot second-story addition to an existing dwelling. The addition will have a 24.1-foot south front yard setback along Cardinal Court and a 20.5-foot west front yard setback along Algonquin Drive (25-foot front yard setback required along both street frontages, Section 7.6.1.fn4.) and approve variance application ZBA 18-0012 at 2105 Cardinal Court to allow for a 1,166- square foot, two-story addition to the north façade of the dwelling. The addition will have a 16-foot west front yard setback along Algonquin Drive (25-foot front yard setback required, Section 7.6.1.fn4.) and a 15-foot north rear yard setback (30-foot rear yard setback required, Section 7.6.1.). 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 meeting tonight (with one example being the configuration of the lot and adjacent streets) 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:

1. Approval of September 12, 2018 minutes and 2018-007 and 2018-009 memo of findings

Motion by Bohn, supported by Watson

To approve the September 12, 2018 minutes and 2018-007 and 2018-009 memo of findings

Voice vote: Ayes: 4 Nays: 0 Absent: 0 Abstain: 1 MOTION CARRIED

Chairperson Priebe welcomed Member Auxier as a permanent member of the Board.

2. 2019 ZBA meeting dates

Planning/Zoning Administrator Steffens stated that this does not require action. She was providing this as information to the Board.

Discussion was held on the number of cases for the year. Steffens stated that the Zoning Text Amendments did exactly what we intended them to do. We have had less cases as a result.

Discussion was held on the Master Plan Update. Steffens stated that the public participation section is closed. We had a Steering Committee meeting last week to review the survey results. Now the hard work begins with the draft. We are planning to have that done by December or January. We are not making any major changes. There are a few things in our current master plan that are not addressed adequately. We are planning on rolling the Village Center Plan into the Master Plan so that it is used more often and provide some cohesion between the two plans. The survey shows that we are doing what everyone wants. The last update was major.

9. Adjournment:

Motion by Priebe, supported by Bohn

To adjourn the meeting

Voice vote: Ayes: 5 Nays: 0 Absent: 1 MOTION CARRIED

The meeting was adjourned at 8:06 p.m.

Respectfully submitted,

Julie C. Durkin
Recording Secretary

The minutes were approved
As presented/Corrected: _____

Chairperson Priebe