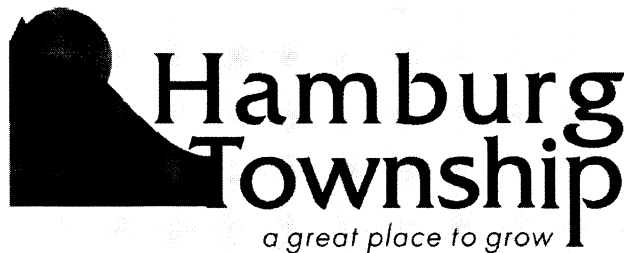


P.O. Box 157
10405 Merrill Road
Hamburg, Michigan 48139-0157

(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, May 9, 2018 Minutes
7:00 P.M.**

1. Call to order:

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

2. Pledge to the Flag:

3. Roll call of the Board:

Present: Auxier (alternate Member), Bohn, Hollenbeck, Neilson, and Watson

Absent: Priebe

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:

Acting Chairperson Bohn 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 2018-005

Owner: Daniel and Kristin Hall

Location: 5150 Redding Drive Pinckney MI 48169

Parcel ID: 15-22-300-047

Request: Variance application to allow for the construction of a 732-square foot attached garage with a 3.9-foot east front yard setback (15-foot front yard setback required, Section 8.3.2.).

Mr. Daniel Hall, applicant stated that this property has been in his family for approximately 30 years and it is need of repair and remodel. He and his wife have made the decision to relocate to Hamburg and make this their retirement home. What the Board is seeing is Phase 1 of the total outside remodel. They will be looking at adding a dormer onto the existing structure to match the garage dormer, match the siding around the structure and also some remodeling on the inside. They have tried to come up with a plan to make the most efficient use of the property without blocking anyone's views of the lake. They are proposing to use an area of the site that has been used as a dumping area, overgrown with weeds, what is left of an old shed, etc. If this is approved, the old foundation will be dug up and removed. He is unaware of the process, but the memo from staff outlines the reasons why his request should not be approved along with a proposed denial motion. There is no reason to go through the request if there is an assumption already made. He stated that he has been in construction for over ten years including several new homes as well as remodels. He has come up with a plan that would not encroach on anyone else's property, limit the use of their property or block their lake views and still have the most efficient use of the property. His goal is to get everything under one roof and not have sheds spread across the property. There are some existing hardships on the property not caused by him. The placement of the current house does not give him enough room for even a standard two-car garage. Even a 24-foot by 24-foot garage would require a variance. Asking for the additional 6' would eliminate the need for a shed or sheds that would not be aesthetically pleasing. The area that he is asking for a variance would not block anyone's view or affect public welfare or safety in any way and would allow adequate emergency access. He has spoken to all of the neighbors and they all felt that it was a great idea, and there is already some redevelopment in the area. He has tried several different configurations on the property and can find no place to put it and effectively utilize the property. He understands that he could put a single car garage without a variance. He realizes that financial considerations are not part of this, but adding a one car garage is not financially feasible. He does not think that it would improve the property to the point where he would recoup the cost. At the northern end of the current structure, it refers to as a garage. Maybe at some point it was, but it is 11 feet wide with a 7-foot ceiling and swing doors. It is almost impossible to park a car and is simply a storage area. If he is going to remodel, it will probably have to be brought up to standards, and it does lend itself to living space possibly laundry or bathroom. Mr. Hall stated that the DPW review letter discusses the need to demolish an existing garage, yet that garage is no longer there. At one point there was a single car garage or two structures side by side that was labeled as a garage. Finally, he does understand that to go ahead with this project, they do need to move the sewer line that currently runs down the center of the property. There is only one access to the property which is through easement through an adjacent property so he could not move the driveway to accommodate anything else. He stated that in the review letter, it states that granting the variance would create development constraints on the parcel and he does not understand what future development that would refer to. He stated that most of the homes in the area have access to a two-car garage and that is standard these days. Not having a garage does restrict the property. He does not feel that it would affect the public welfare or safety. It would not hinder any construction on any adjacent property. The review letter talks about compounding the irregular or disordered development of the property and he is not sure what that means.

Amy Steffens, Planning & Zoning Administrator, reviewed the details of the property. There is currently a 1,248 square foot dwelling. There is a shed in the front yard that does not conform to our ordinance nor was there any permit pulled. It either needs to be removed from the property or made compliant. The applicant is asking for a 732 square foot attached garage. Instead of the required 15-foot required setback, the garage would have a 3.9 foot east front yard setback. No part of the existing structure is being proposed to be demolished. One of the issues they deal with on a regular basis is the flood plain. A portion of this property is within FEMA's Special Flood Hazard area so any development on the site will require a sealed topographical survey. We need to make sure that you are not going to build into the 100-year floodplain. Staff did note an area of blight which was the hot water heater which does need to be removed before we

issue any permits. The ZBA considers requests for variances on a site by site basis, and what we have to look at are the seven standards of review. These apply to the property, not the owner. She reviewed those standards. The existing structure conforms to the ordinance. There is nothing about this lot nor the placement of the structure that is non-conforming. What is driving the need for the extreme variance request is the size of the garage that is being proposed, not something particular to the site itself. The size of the garage could be reduced to a two-car garage, which would still require a variance but lessen the scope of the variance, or it could be relocated on the site to comply with the Zoning Ordinance. It should also be noted that we have had two recent ordinance amendments that deal with non-conforming structures and waterfront lots. The setback restrictions for accessory structures between the water and the road were recently relaxed because the Board was seeing a lot of requests for lakefront lots, and the accessory structures on the road side had to comply with the 25 foot setback. We realized that was not appropriate in many cases and impossible in many cases. We reduced that requirement from a 25 foot to a 15-foot front yard setback for accessory structures to give property owners room to develop their site. Also the 50% of the market value rule for the non-conforming section of the ordinance was removed but said that you do need to come into compliance with the zoning ordinance. Our ordinance is set up to amortize non-conforming structures by requiring compliance with the setback requirements. What this request does is make a non-conforming situation where one does not exist. It also constrains future development because if living space is ever desired over the garage, it would not be permitted because you would have to go back 25 feet to meet the setback standard so are we setting ourselves up where another variance would be required. Ms. Steffens stated that the Board cannot consider any financial concerns the applicant may have over building a one-car garage versus a two-car garage. We are looking at whether a variance is necessary to further a property right. A garage is a customary residential structure, but creating a non-conforming structure where one does not exist does not preserve a substantial property right when the site is zoned, developed and constructed and has been used for single family residential uses. A substantial property right is not advanced or preserved based on granting a variance for a single particular architectural design. The proposed garage could be reduced in size to comply with the setback standards or a reduced variance request could be made so that we would not have the 3.9-foot front yard setback. One of the purposes of a Zoning Ordinance is to create an order to development, not restrict development but to make it orderly, particularly in neighborhoods and particularly in our higher density areas like our waterfront lots. This portion of Redding Drive has been developed with access easements and non-conforming structures and not the organized pattern we are trying to achieve through our zoning code. Creating a non-conforming structure does not take any steps toward developing the area orderly. The house being built adjacent to this lot is being built without variances so it can be done. Staff is suggesting that it can be done on this property by reducing the project or relocating it. This site is in the North Chain of Lakes Planning Area and the plan would not adversely affect the intent of the Master Plan. Staff believes there is no condition or situation that is so general or recurrent in nature that the proposed accessory structure cannot comply with the setback requirements. We have addressed many conditions that are recurring by our recent zoning text amendments. There is no amendment appropriate in this situation that would address anything on this property. The variance request would not change the use from single family residential to another use that is not permitted outside of the Zoning Ordinance. Again, it is the size of the proposed structure that is driving the need for the 3.9-foot front yard setback and there is nothing here that would warrant deviation to the Zoning Ordinance.

Discussion was held on the property lines and access easements.

The question was asked if there are any supporting letters from the neighbors. Mr. Hall stated he did show

the neighbors his plans and they have all indicated that they would provide support. It was stated that all of the neighbors would have received notice from the Township. If they objected, they would be here.

Member Bohn asked what the current allowance is for an accessory structure or traditional shed that does not require a site plan. Steffens stated that everything requires a plot plan and land use permit. If it is under 200 square feet, you do not need to go to the County for a building permit. Member Bohn asked if it would require the same setback requirement. Steffens stated that it does.

Member Bohn stated that traditionally homes have a two-car garage and the homes in the area all have two-car garages, which are typically 24 x 24 feet. Steffens stated that if they reduced the garage to 24 x 24 feet, that would give them a 10-foot setback and a net loss of 146 square feet which would come closer to complying with the Zoning Ordinance. Mr. Hall stated that would require him to have a shed for his snowmobile and other equipment. Furthermore, he stated that the standard is going toward a three-car garage for single family homes. It was stated that the garage could be deeper, but it would be more complicated getting equipment in and out. Mr. Hall stated that he also has a sewer line that runs through the property that he does not know how it could be re-routed. Further discussion was held on the sewer line.

Discussion was held on the grade of the property as well as the floodplain area.

Further discussion was held on reconfiguring the garage. Mr. Hall discussed the difficulty in tying in the roof line and architectural design. If the board decides to ultimately grant a variance for a smaller garage he would look at it. He currently has a 22' x 22' foot two-car garage that he can barely fit his two cars and has to have two sheds for his remaining equipment. If he was going to ask for a variance anyway, he was going to ask for a larger variance to get what he ultimately wanted.

The question was asked if this were to be tabled, would the applicant have to pay an additional fee. Steffens stated that the Board could table the request and ask for the applicant to submit an alternative design, which would not require an additional fee. The Board could also approve the request with a smaller footprint. The Board could deny the request, but unless the applicant submitted a plan substantially different than this request, they would have to wait a year to re-apply. Mr. Hall stated that he would not have a problem with delaying the decision. It was stated that it seems to be a consensus of the Board that they want to give the applicant the size garage he wants, just not in the requested configuration and having a reduced variance to the setback. Mr. Hall stated that he does not have a problem with looking at a different configuration. Discussion was held on the existing storage area in the existing structure.

Mr. Hall stated that if the Board would consider approving a 24' x 24' garage, he would consider if that is something he could live with, and it would be basically the same plan simply taking 6 feet off the front. He would then consider an area where he could put up a shed that complies. That is what he was trying to avoid.

The Board could consider the 24 'x 24' garage tonight or the applicant could request that it be tabled to the June 13th meeting to give him time to review and submit an alternate plan. Steffens stated that the notice was for a 732 square foot garage, and we would not have to re-notice this if he were to come back with a 24'x24' garage. If he reduces the setback request but increases the square footage, we would have to re-notice it. The notification for the June 13th meeting would have to be on the paper by May 24th. If we have to re-notice, the applicant would be required to pay the cost for re-noticing. Mr. Hall asked if he comes back and requests the

simple reduction to 24' x 24' would he have to submit additional plans. It was stated that he would not, but he would have to submit new plans when applying for the permit. Mr. Hall asked that the Board table his request at this time.

Motion by Bohn, supported by Neilson

To table variance application ZBA 18-005 at 5150 Redding to the June 13, 2018 meeting.

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

Mr. Hall asked how close a detached structure could be from the existing structure. Ms. Steffens stated that the required setback would be 10 feet unless it is attached, and attached could be a canopy or breezeway. Mr. Hall thanked the Board for their help and consideration.

Discussion was held on the floodplain and topographical survey.

8. New/Old Business:

- a. Approval of April 11, 2018 meeting minutes and findings of fact for ZBA 18-004

Steffens stated that she would like to remove adoption of the minutes from the agenda because there is some concern that the motion for last month's hearing was done incorrectly.

9. Adjournment:

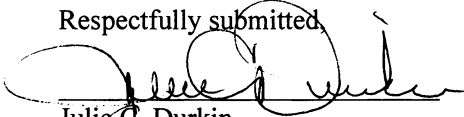
Motion by Neilson, supported by Auxier

To adjourn the meeting

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

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

Respectfully submitted,


Julie C. Durkin
Recording Secretary

The minutes were approved

As presented/Corrected: 6-13-18


Acting Chairperson Bohn