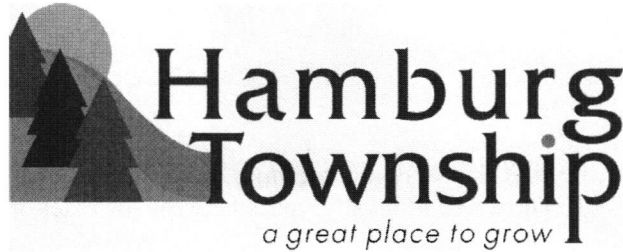


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**Supervisor:** Pat Hohl  
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**Treasurer:** Jason Negri  
**Trustees:** Bill Hahn  
Annette Koeble  
Chuck Menzies  
Jim Neilson

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

**1. Call to order:**

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

**2. Pledge to the Flag:**

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

Present: Bohn, Priebe, Watson, Alternate Rill, and Alternate Hollenbeck

Absent: Auxier, & Neilson

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

**4. Correspondence:** None

**5. Approval of Agenda:**

Motion by Watson, supported by Bohn

To approve the agenda as presented

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

**6. Call to the public:**

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

**7. Variance requests:**

a) ZBA 2018-008

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 nonconforming 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).

Dan Merrick representing the homeowner stated that at the last meeting, we had the issue of the second story and the one bearing wall. We went back and set a seven-foot knee wall at the livable area at the setback.

They minimized what is to be built on that non-conforming wall. Instead of a full wall, they are only building 5-6 feet up and then the roof. There will be an attic space between the exterior wall and the livable area.

Brittany Stein, Planning/Zoning Coordinator stated that the subject site is a 6,272-square foot home 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 on the site map 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. On September 12, 2018 the Zoning Board of Appeals tabled the request after the public hearing to allow the applicant time to redesign the project. The applicant has redesigned the plans for the second story addition, and indicates that 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.

Chairperson Priebe stated that we received a letter from Scott and Sandy Rogers of 8766 Rushside Drive in support of the applicant's request.

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

Member Watson asked about the "dead space." Mr. Merrick stated that anything past the 7-foot wall to the bearing wall is low to have habitable space. It will be attic, and he will run the plumbing and mechanical through it.

Discussion was held on the fact that the variance request has not changed. It was stated that they are still asking for a 7.1-foot south side yard setback. It still does not conform. It was stated that the only way to make it conform would be to tear down the building and re-build because that is the existing setback. Mr. Merrick stated that he was trying to minimize the setback. There is no way to make it conform the way the walls are existing. He stated that the existing second story does not conform either, it actually cantilevers over the setback. Further, they have decreased the scope so there is not as much structure at the setback. He has lowered the wall as much as he can.

Priebe stated that she does not have a problem with the request because there is already a second story, and it is not changing the foot print at all. Watson stated that the new guidelines state that even though the existing home does not conform, the new upper level should conform.

Discussion was held on the surrounding properties. Member Bohn stated that one of the practical difficulties is the width of the lot in relation to others in the same neighborhood.

Motion by Priebe, supported by Bohn

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.

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

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)

Mr. Steve Darling, applicant, stated that they wish to add the addition so that they can care for his elderly in-laws. They are going to stay within the same footprint and add the second story and make the home wheelchair accessible. They also have the LOMA certificate which states that they are not within the floodplain.

Amy Steffens, Planning & Zoning Administrator stated that 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 rear west 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 and 38-foot setback from the ordinary high water of the lagoon where a 50-foot setback would be required. The staff report does talk about the floodplain, however if the applicant does have a LOMA certificate, the floodplain development ordinance would potentially not apply.

Steffens stated that as we talked about many times, setback standards serve a few purposes. They encourage orderly development of parcels, maintain open vistas in the neighborhood and protect adjoining parcels from negative impact of development on adjoining properties. 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 and meet all of the setback standards. The need for the variance is based on a personal preference and not an exceptional or extraordinary circumstance or condition applicable to the property. She stated that a property right is not based on one design or architectural plan. 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 or deny furtherance of their property rights. We do have extra setback on Waterfront properties, the extra 50 foot from the high watermark. We do not know precisely where the ordinary high watermark is for this property. Therefore in this case, we are using the edge of the lagoon. We have that extra setback as extra protection for neighboring waterfront properties and those not on the water but in the vicinity protecting the vistas of everyone in that neighborhood. Staff finds that because there is a way to build a compliant second story, a deviation from that 50 foot setback is not warranted in this case.

Steffens stated that 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. This is a typical residentially-zoned parcel, developed and used for its intended purpose and zoning district. Staff would remind board members that Section 11.3 of our ordinance was amended in 2017. The ordinance previously allowed an expansion of a non-conforming structure without ZBA approval of up to 50% of the structures market value. That was becoming problematic. Our ordinance is designed to phase out non-conforming situations. What we have here is an existing non-conforming structure. The ordinance was changed a year ago to say that if you are doing anything to a nonconforming structure, you must come into compliance with the setback standards. If you are going up, you have to meet the setback standards in all directions. If you are making a lateral addition, that addition must meet the setbacks. It is the Township's way of making sure that non-conformities are not expanded. In this case we are compounding a non-conforming situation with a very impactful second-story addition.

Steffens stated that the property is currently used for single-family residential use and the use will not change if the proposed variance request is granted. The proposed site plan and architectural plan is driving the need for a variance. It is 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 that the Board must consider when deciding whether or not the property warrants deviation from the zoning ordinance.

Member Bohn asked the reason why the addition is toward the lake rather than the street. Mr. Darling stated that it is just personal preference. He stated that they do have a three-season porch on the lake side. They have had an ice dam and it leaks, and they wanted to fix that problem as well.

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

Member Bohn stated that we have the 50 foot setback to protect the water as well as the vistas. If we approve this and the neighbor immediately to the north of this property, which is vacant, came in for a variance to move their home to be in line with the existing homes, we would be hard-pressed not to grant it because their vista would be affected by imposing a 50 foot setback. The homes to the north are clearly closer than 50 feet now. It was stated that a new home would have to conform to the setbacks.

Discussion was held on not knowing where the high water mark is for the lagoon.

Member Watson asked why the addition could not be put on the street side. Mr. Darling stated that they like to look at the water. He discussed the existing layout of the house being a factor as well. It is more practical to put it on the lagoon side.

Chairperson Priebe stated that this is similar to the previous request for a second story. She would like the Planning Commission to take a look at the ordinance again with regards to second story additions.

Motion by Bohn, supported by Hollenbeck

Motion to approve 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 presumed 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 meet variance standards one through seven of Section 6.5 of the Township Ordinance and a practical difficulty does exist on the subject site (predominantly the existing structure and its orientation to the water and whether or not there is an ordinary high water mark established) 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.

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

## 8. New/Old Business:

1. Approval of October 10, 2018 minutes

Motion by Bohn, supported by Watson

To approve the October 10, 2018 minutes

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

Steffens stated that it appears that we will not have a December meeting. She stated that in the next month or two, the Board will be receiving information regarding the joint meeting with the Township Board, Planning Commission and Parks and Recreation. We will do a year in review and look ahead to next year. She discussed the Master Plan update.

Steffens stated that the Township has issued the RFP for the senior housing development we are hoping to pursue at the Campbell property on M36. Discussion was held on the type of facility we are looking for such as multiple building and multiple housing types.

The question was asked regarding the apartment development in the village. Steffens stated that it appears to be a dead issue at this point. It could be a timing issue.

**9. Adjournment:**

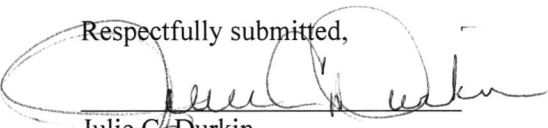
Motion by Watson, supported by Bohn

To adjourn the meeting

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

The meeting was adjourned at 7:44 p.m.

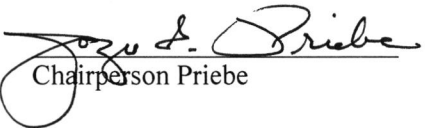
Respectfully submitted,



Julie C. Durkin  
Recording Secretary

The minutes were approved

As presented/Corrected: 1-9-19



Chairperson Priebe