

**Hamburg Township
Zoning Board of Appeals
Hamburg Township Board Room
Wednesday, January 9, 2019
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 2018-014**

Owner: Vickie Neff and David Gabbey
Location: 11332 Algonquin Drive
Pinckney MI 48169
Parcel ID: 15-31-102-039
Request: Variance application to allow for a second-story addition and an elevated deck to the existing dwelling. The addition will have a 46-foot setback from the ordinary high water mark of Portage Lake (50-foot setback from the OHM required, Section 7.6.1. fn.3). The deck will have a 34-foot setback from the ordinary high water mark (44-foot setback from the OHM required, Section 8.17).
- 8. New/Old business**
 - a) Approval of November 14, 2018 minutes
- 9. Adjournment**



Zoning Board of Appeals Staff Report

AGENDA ITEM: 7a



TO: Zoning Board of Appeals
(ZBA)

FROM: Amy Steffens

**HEARING
DATE:** January 9, 2019

SUBJECT: ZBA 19-001

**PROJECT
SITE:** 11332 Algonquin Drive
TID 15-31-102-039

APPLICANT: Angelini & Associates
Architects

OWNER: Vickie Neff and David
Gabbey

PROJECT: Variance application to allow for a second-story addition and an elevated deck to the existing dwelling. The addition will have a 46-foot setback from the ordinary high water mark of Portage Lake (50-foot setback from the OHM required, Section 7.6.1. fn.3). The deck will have a 34-foot setback from the ordinary high water mark (44-foot setback from the OHM required, Section 8.17).

ZONING: WFR (waterfront residential district)

Project Description

The subject site is a 8,364-square foot parcel that fronts onto Algonquin Drive to the east; Portage Lake is to the west, and single-family dwellings are to the north and the south. The site is currently improved with a 2,872-square foot two-story single-family dwelling and a 545-square foot attached garage.

If approved, the variance request would allow for a one-foot, seven-inch lateral addition of the

existing second story west wall to improve the structural integrity of a previous second-story addition. The existing second-story west wall is not resting on the first-story load bearing wall, causing the ceiling to crack. The lateral addition would allow for raising the ceiling on the second story from its existing seven-foot, four-inch height. The existing second-story has a setback from the ordinary high water mark (OHM) of Portage Lake of 48 feet, one inch; if approved, the resulting second-story setback would be 46 feet, five inches. Section 7.6.1. requires a 50-foot setback from the OHM of Portage Lake.

Additionally, the variance request would allow for the creation of an elevated deck over the existing enclosed sun-room. The existing sunroom has a 34.5-foot from the OHM and the proposed elevated deck would also have a 34.5-foot setback from the OHM. Section 8.17. allows for an elevated deck to encroach six feet into the required 50-foot setback.

The existing and proposed setbacks for the dwelling and garage are noted in the table below.

	Existing	Proposed	Required
Dwelling			
East (front)	5 feet (garage) 26 feet (dwelling)	No changes	15 feet 25 feet
North (side)	10 feet	No changes	10 feet
South (side)	10 feet	No changes	10 feet
West (rear)			
Dwelling			
--existing sunroom	34.5 feet	No changes	50 feet from OHM
--existing second story	48 feet, 1 inch	46 feet, 5 inches	50 feet from OHM
Elevated deck	NA	34.5 feet	44 feet from OHM

Based on FEMA’s floodplain maps, the existing structure could be in the 100-year 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. 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, along with other improvements to the existing structure, amounted to more than 50 percent of the market value of the existing structure. 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 50 percent of the market value of the structure 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 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 dwelling's existing first-story sunroom encroaches into the OHM setback by 14.5 feet, which will not change, while the existing second-story encroaches into the setback by 3.5 feet. However, the proposed second-story addition would encroach no more than an additional 20 inches, which would not be noticeable or impactful change. The existing sunroom would be reframed to permit the roof of the sunroom to be used as an elevated deck. Given the siting of the dwelling on the subject site, the siting of the adjacent dwellings, and the configuration of the shoreline and property boundaries, the adjacent properties are not likely to be negatively impacted by the proposed improvements, nor would the proposed lateral addition be a discernable change from the existing second-story location.

- 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.**

A substantial property right is not preserved based on granting a variance for a particular architectural design. 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. The site could not accommodate a compliant, usable elevated deck, although having an accessory structure does not advance a substantial property right.

However, the encroachment into the OHM for the second-story addition would be a minor deviation to the zoning ordinance due to the siting of the existing structure on the lot and the siting of dwellings on the adjacent properties and are not likely to have negative impacts on those properties.

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

As stated in standard number one, due to the configuration of the vicinity and adjacent dwellings the proposed improvements are not likely to be materially injurious to the property or improvements in the zone or district.

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

The subject site is in the North Chain of Lakes planning area of the Master Plan. This area envisions waterfront and natural river district zoning closely tied to the lakes and Huron River. The proposed request would not adversely affect the purpose or objectives of the Master Plan.

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

There is no condition or situation of the subject site that is not of so general or recurrent a nature that the proposed dwelling cannot comply with the ordinary high-water mark setback standards for the accessory deck. The site could accommodate a compliant at-grade deck.

- 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 second-story addition is a minor deviation from the ordinance and would allow for improvements to the structural integrity of the dwelling. There is no compliant location on the site for an elevated deck, but the site could accommodate an at-grade deck; an elevated deck is not the minimum necessary to permit reasonable use of the land.

“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.

Approval Motion:

Motion to approve variance application ZBA 19-001 at 11332 Algonquin Drive to allow for a second-story addition and an elevated deck to the existing dwelling. The addition will have a 46-foot setback from the ordinary high water mark of Portage Lake (50-foot setback from the OHM required, Section 7.6.1. fn.3). The deck will have a 34-foot setback from the ordinary high water mark (44-foot setback from the OHM required, Section 8.17). 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 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.

Denial Motion:

Motion to deny variance application ZBA 19-001 at 11332 Algonquin Drive to allow for a second-story addition and an elevated deck to the existing dwelling. The addition will have a 46-foot setback from the ordinary high water mark of Portage Lake (50-foot setback from the OHM required, Section 7.6.1. fn.3). The deck will have a 34-foot setback from the ordinary high water

mark (44-foot setback from the OHM required, Section 8.17). The variance does not meet variance standards two or five 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.

Exhibits

Exhibit A: Application materials (site plan too large to include in digital packet)

Exhibits

HAMBURG TOWNSHIP
Date 12/10/2018 4:53:38 PM
Ref ZBA00110014
ZBA Case Number 18.0014
Amount \$550
\$550

RECEIVED

DEC 10 2018

Hamburg Township
Planning and Zoning Department



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: 12/10/2018
2. Tax ID #: 15-31-102-039 Subdivision: Mumford Park #3 Lot No.: 39/15' of 40
3. Address of Subject Property: 11332 Algonquin Drive
4. Property Owner: Vickie Neff & David Gabbey Phone: (H) _____
Email Address: vneff@charter.net, dgabbey@charter.net (W) 248-821-9485 (Dave)
Street: 11332 Algonquin Drive City Pinckney State MI
5. Appellant (If different than owner): Angelini & Associates Architects Phone: (H) N/A
E-mail Address: tangelini@angeliniarchitects.com (W) 734-998-0735
Street: 113 East Ann City Ann Arbor State MI
6. Year Property was Acquired: 1997 Zoning District: WFR Flood Plain On lot, not at house
7. Size of Lot: Front 68.12' Rear 79.25' Side 1 127.44' Side 2 124.56' Sq. Ft. 8,611 sf
11. Dimensions of Existing Structure (s) 1st Floor 53'-10" x 45'-8" 2nd Floor 52'-3" x 41'-3" Garage 25'-6" x 22'-0"
12. Dimensions of Proposed Structure (s) 1st Floor 53'-10" x 45'-8" 2nd Floor 53'-10" x 41'-3" Garage 25'-6" x 22'-0"
13. Present Use of Property: single family residential, permanent residence
14. Percentage of Existing Structure (s) to be demolished, if any < 10 %
15. Has there been any past variances on this property? Yes No
16. If so, state case # and resolution of variance application Case ZBA05-017 approved in June 2005
17. Please indicate the type of variance or zoning ordinance interpretation requested:
please see the attached document for responses to questions 17 through 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.

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.

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.

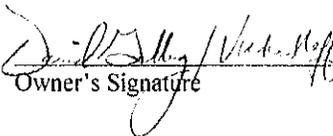
d) That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.

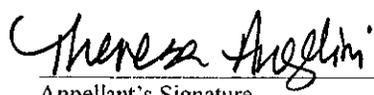
e) That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.

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

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

- 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.

 08 DEC 2018
Owner's Signature Date

 Dec 10, 2018
Appellant's Signature Date

Variance Application Request for 11332 Algonquin Drive, Pinckney, MI

17. Please indicate the type of variance or zoning ordinance interpretation requested:

Issue 1 – Replace the existing pitched roof on the sunroom with an elevated deck:

We request a variance to allow the removal of the existing pitched roof on the three-season sunroom and replacement with an elevated roof deck, accessed from the second floor bedrooms. The existing sunroom varies from 34'-6" to 34'-10-1/2" back from Portage lake. (Section 7.6.1 WRF District requires 30' rear setback (met) and Footnote 3 requires 50 foot setback from any body of water)

An elevated deck may project into a required yard a distance not to exceed 6 feet (Section 8.17.2), which would allow an elevated deck within 44 feet of the lakefront.

Therefore, we are asking for a variance of 9 feet 6 inches (44' minus 34'-6") to replace the existing pitched roof on the three-season sunroom with an elevated roof deck with transparent railings facing the lake.

Issue 2 – Move (rebuild) the second floor west bedroom wall and roof above to bear on the existing west wall of the original house. The existing west wall of the original house (first floor) varies from 46'-5-1/2" to 46'-9 1/2" from the waterfront. The remodeling of the second floor by a previous owner constructed a dormer wall 1'-7-3/4" east of that wall, which does not align with the lower bearing wall and now cracks are evident in the second floor ceiling since it is not bearing on the wall below.

The existing second floor west wall varies from 48'-1" to 48'-5" back from Portage lake. (Section 7.6.1 WRF District requires 30' rear setback (met) and Footnote 3 requires 50 foot setback from any body of water (variance requested))

Section 8.17.4 allows chimneys, flues, bay windows, cornices, eaves, gutters, etc. to project into a required yard a maximum of 24 inches. This would result in a setback of 48 feet from Portage Lake for the second floor.

In summary, we are asking for a variance to allow the second floor west wall to be rebuilt to align with the first floor wall at 46'-5-1/2" to 46'-9-1/2" from the waterfront, which requires a variance of 3'-6-1/2". (50' minus 46'-5-1/2" = 3'-6-1/2") Section 8.17.4 may already allow for 2' of this 3'-6-1/2" request, though we would want to allow at least one foot for roof overhangs and gutters.

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 itself is not extraordinary in that lot 39 is approximately 50' wide by 124-127' long with an additional 15' in width of lot 40. The width of the property is not a problem in meeting the required 10 foot side yard setbacks.

The unique condition or practical difficulty of the property is the location of the existing house that was built almost 60 years ago. Specifically, the existing west wall of the house and the attached three-season sunroom were built within the 50 foot setback from the waterfront. The house was originally built in the 1960's and was designed by David Osler, a well-respected mid-century modern architect. The house overall is generally in good condition (It is not a candidate for a tear down and replacement).

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 existing roof on the three-season sunroom has a low pitch of 2.5 over 12, which is lower than the 3:12 pitch allowable for asphalt roof shingles with continuous ice and water shield. The existing roof is failing and must be replaced. Replacing it with an elevated roof deck with a waterproofed flat roof would allow for proper roof material installation (composite decking or tile on a waterproof membrane). Removing the pitched roof and having an elevated roof deck would also allow the window sills of the second floor to be lower to view the lake and it would minimize the bulk of the existing roof above the sunroom. Most other properties on the lake with windows on the second floor provide a good view of the lake from the bedrooms. A variance for an elevated roof deck on the second floor is necessary for providing space enjoyed by a substantial number of property owners on the lake. The roofing material must be replaced at this time since it is leaking and the existing roof structure is not appropriate for fiberglass asphalt roof shingles.

Moving the west wall of the second floor 1'-7-3/4" toward the lake to align with the bearing wall below would allow for the ceiling height within the bedrooms to be higher than the current 7'-4", which is low in comparison to other homes. Due to the second floor wall not bearing directly on the wall below, there appears to be structural deflection and cracks are visible in the drywall of the second floor ceiling. The window sills and heads are also too low in comparison to most lakefront second floor master bedrooms. Allowing the west second floor wall of the bedroom to be built to align with the wall below would allow for structural integrity enjoyed by most property owners and would allow for taller lakefront windows (if the elevated roof deck is allowed) and a second floor ceiling height of at least 8 feet tall, which enjoyed by most other lakefront property owners.

This change to the west wall would also free up interior space for the second floor bathroom to have adequate head height. The bathroom is currently accessed by a narrow space near the vanity that is 6'-8" tall for a width of 1'-8", which does not meet code. The bathroom itself is so tight that a bifold door is required to enter the small space that includes a tub/shower and toilet.

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 granting of the elevated roof deck on the second floor allowing private access from the bedrooms would not be detrimental to the public welfare, nor would it be materially injurious to the property, improvements in the WFR zone or the district.

The granting of moving the west bedroom wall to allow for structural integrity and head height within the bedroom would not be detrimental to the public welfare, nor would it be materially injurious to the property, improvements in the WFR zone, or the district. It would not affect the views from the adjacent properties, one of which is separated by the 20 foot easement to the south. Both homes have west walls that appear to be further west than on this property. The structures east of Algonquin appear to have no views affected by this request.

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

In reviewing the goals of the 2011 Master Plan, the proposed variance requests would result in no change to the footprint of the existing house and they would not negatively affect any natural amenities. The changes would improve this residence, contributing to the goal of protecting and promoting the public health, safety, comfort, and welfare of the area. The architectural design of the house would be in character and in harmony with the design of the original house, which some would believe to have a respected historic architectural character of mid-century modernism.

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.

This house is unique in its original mid-century modern design by David Osler in the 1960's. The condition of the footprint of the house is unique to this property – the three-season sunroom has a low-pitched roof that is too low for standard asphalt shingle installation and the west wall of the second floor is not bearing on the bearing wall below, which is causing structural problems. These are not issues that are general or recurrent in nature – they are specific to this property. There is no change in the use of this property.

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 proposed to the existing use as a single family residential home that is permitted within this WFR Waterfront Residential zoning district.

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

The proposed elevated roof deck on top of the existing sunroom is proposed to be minimum. It will be no larger than the roof of the existing sunroom below and we see no options to make the elevated deck any smaller than the existing roof. If the existing pitched roof was required to remain on this sunroom, it would require roofing other than fiberglass asphalt roof shingles (rubber roofing, asphalt sheet roofing, etc.) and that would be unattractive when viewed from the lake and from the interior of the second floor. The existing pitched roof is also resulting in geometry that results in window sills being higher than desirable for views of the lake from the interior bedrooms and the proposed flat roof deck eliminates that problem, permitting bedroom windows with a reasonable head and sill.

The relocation of the west second floor bedroom wall is the minimum revision required to result in the second floor wall bearing on the first floor bearing wall and foundation in order to stabilize the structure. It is also the minimum required to allow for windows with a lower sill allowing better visibility of the lake from the bedrooms and a ceiling of at least 8 feet tall within the space. The relocation of this wall then frees up space within the second floor to locate a new bathroom with adequate head height.

The resulting house will include three bedrooms and 2.5 baths, which is comparable or less than the number of bedrooms and baths in similar nearby properties. The current house has four bedrooms (all small) with 2.5 baths, one of which is compromised by inadequate head height at the vanity and inadequate clearance at the toilet and tub. (inadequate code-required clearances at the plumbing fixtures)

The granting of these variances would allow for the structural integrity of the second floor to be corrected, proper roofing materials to be installed (including roof decking), adequate interior code-required height heights to be provided, adequate code-required clearances to be provided at the second floor bathroom plumbing fixtures, and enjoyment of the lake views, which should be a right for all lakefront home owners.

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.

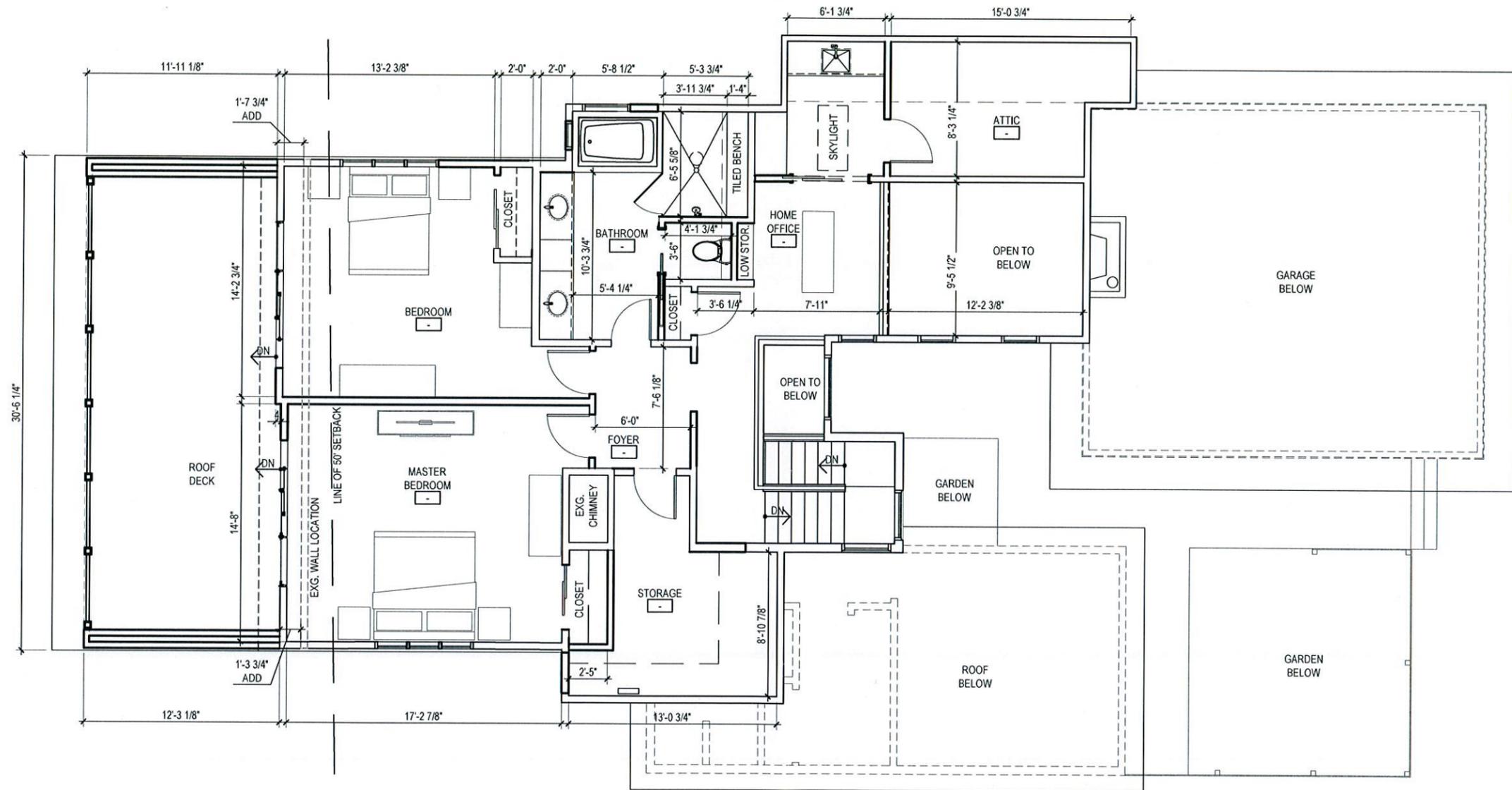
Once the project has been approved

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.



RECEIVED

DEC 10 2018

Proposed Second Floor Plan

1/8" = 1'-0"

12/10/2018



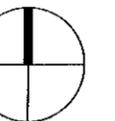
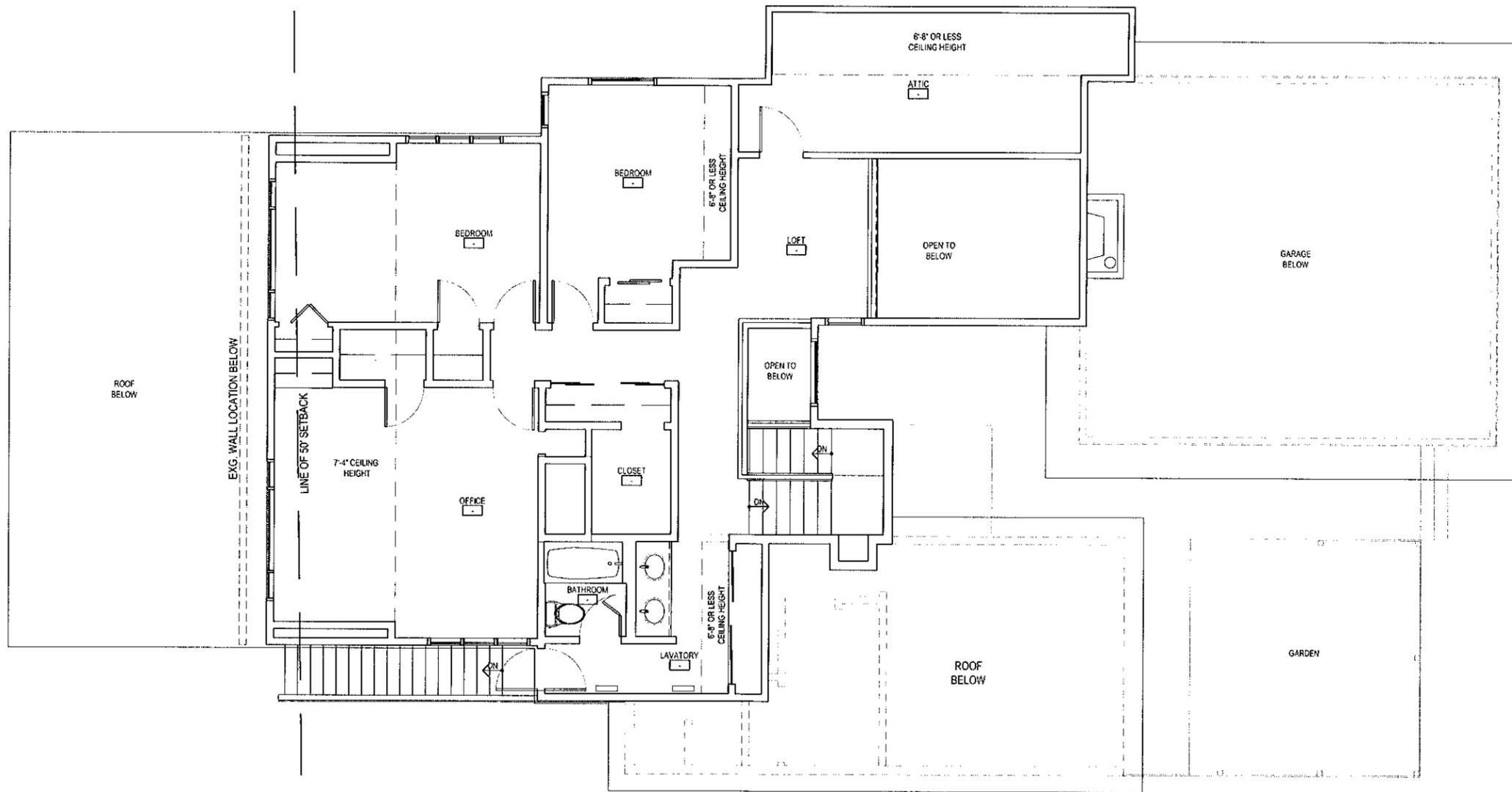
Angelini & Associates
Architects

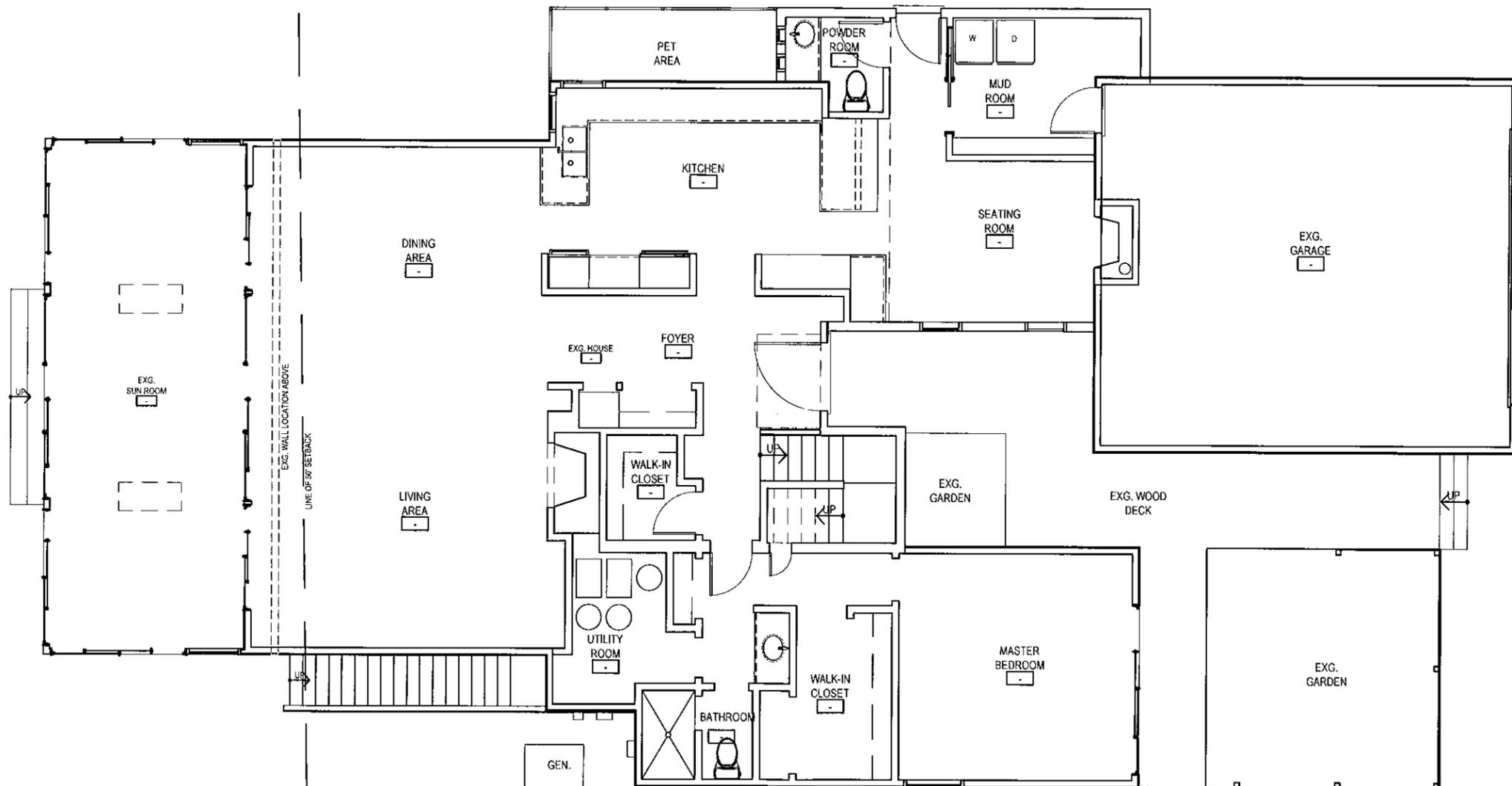
113 East Ann Street
Ann Arbor, Mi. 48104
(734) 998-0735

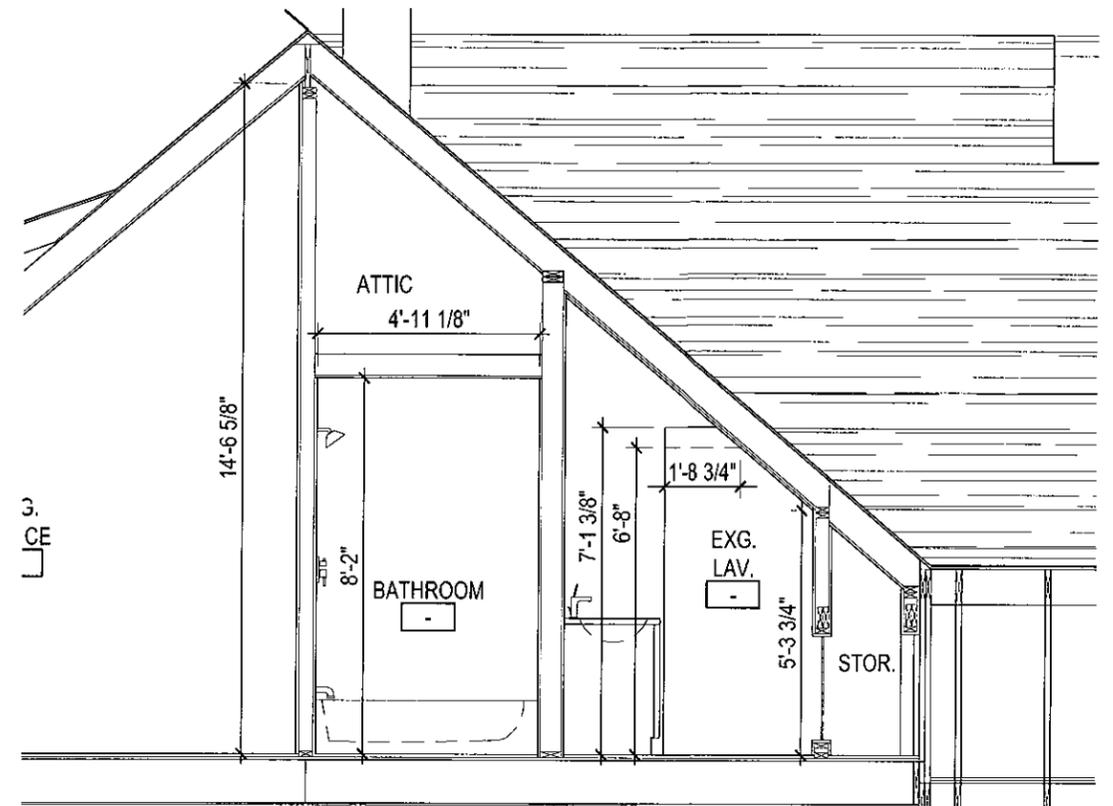
Neff Lakehouse

ZBA Variance Application

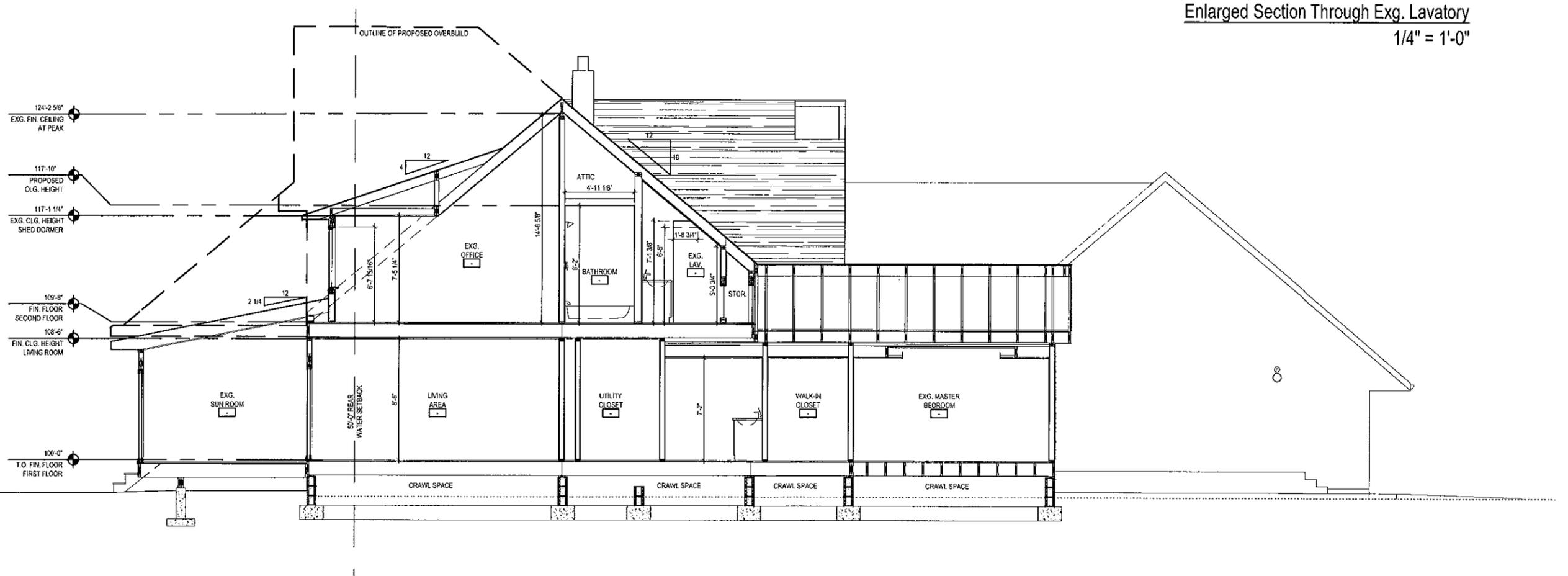
Hamburg Township
Planning and Zoning Department

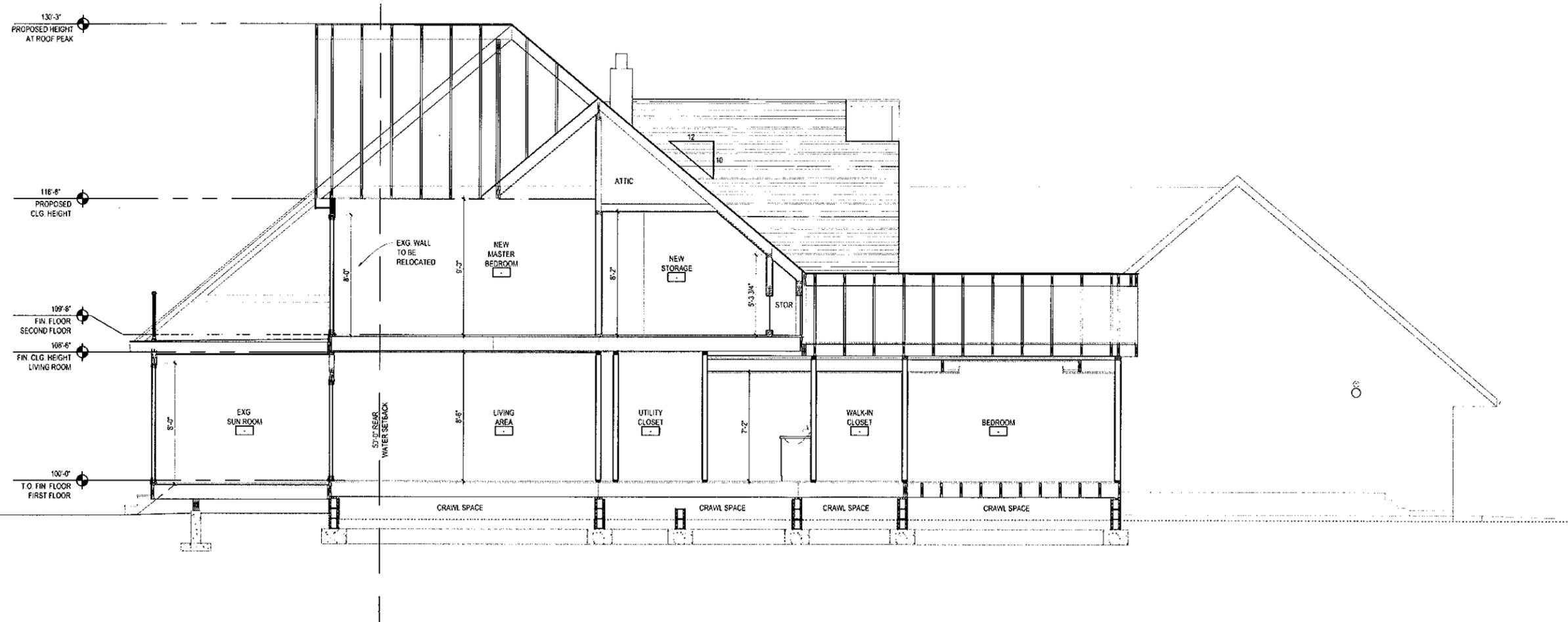






Enlarged Section Through Exg. Lavatory
1/4" = 1'-0"



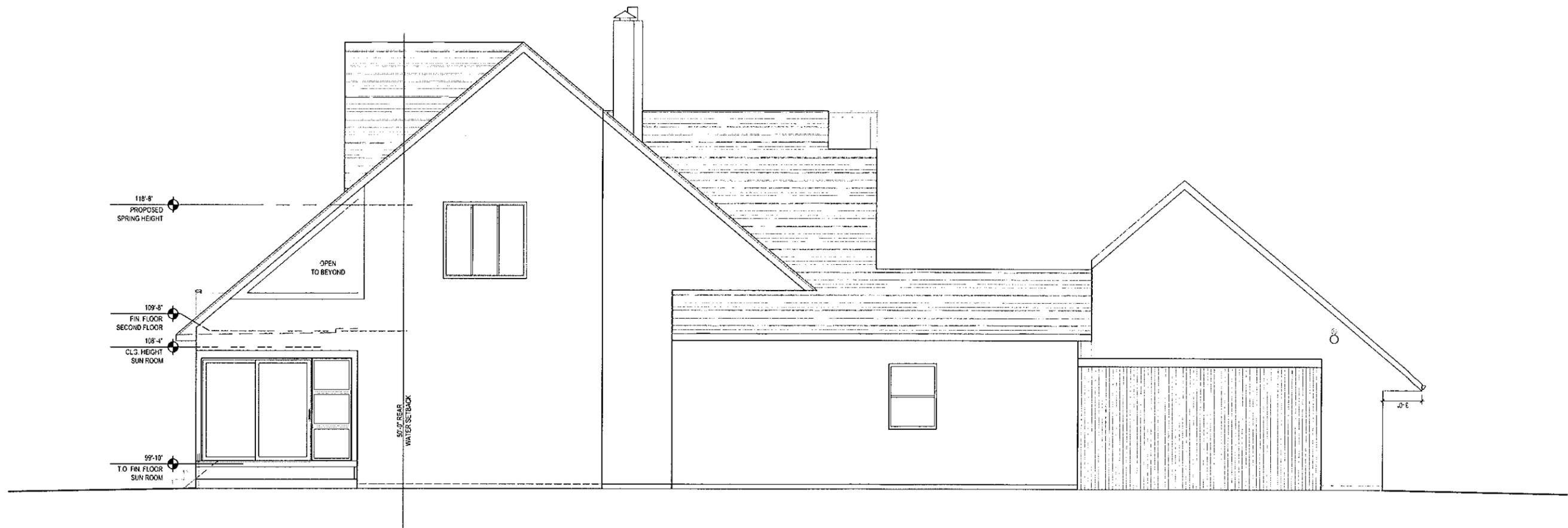


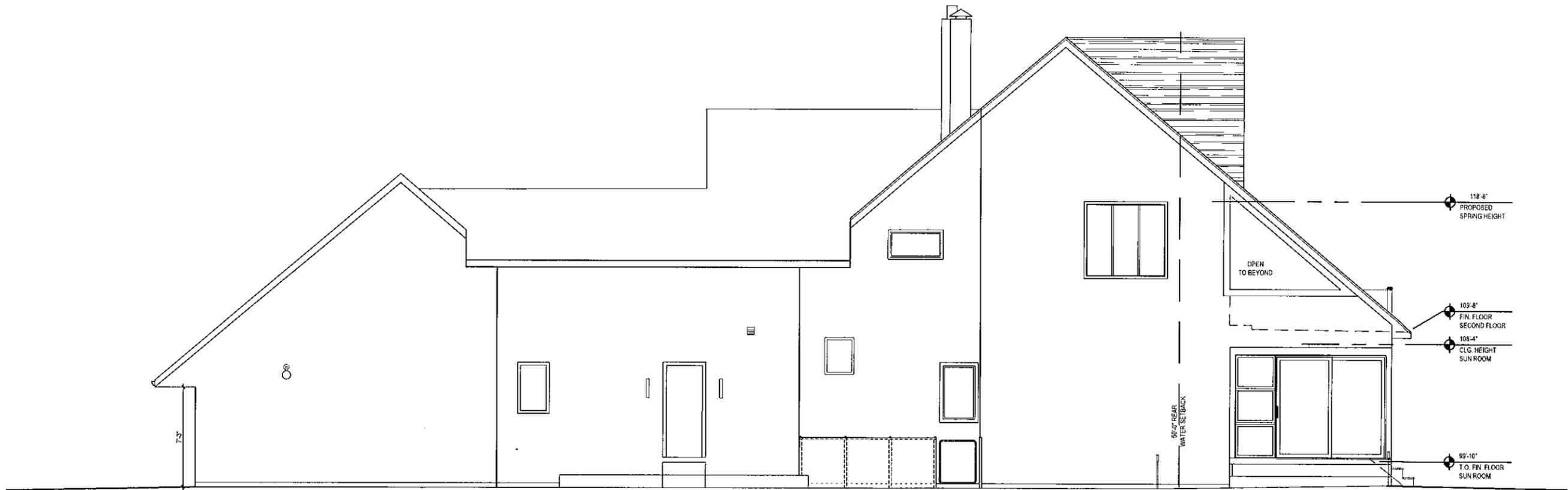


Angelini & Associates
Architects
113 East Ann Street
Ann Arbor, Mi. 48104
(734) 998-0735

Neff Lakehouse
ZBA Variance Application

Proposed West Elevation
1/8" = 1'-0"
12/10//2018





118'-8"
PROPOSED
SPRING HEIGHT

109'-8"
FIN. FLOOR
SECOND FLOOR

108'-4"
CL.G. HEIGHT
SUN ROOM

99'-10"
T.O. FIN. FLOOR
SUN ROOM

OPEN
TO BEYOND

60'-0" REAR
WATER SETBACK



P.O. Box 157
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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, 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 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: _____

Chairperson Priebe