
**Hamburg Township
Zoning Board of Appeals
Hamburg Township Board Room
Wednesday, April 10, 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**

ZBA 2019-004

Applicant: James and Jennifer Gauntlett

Location: 2105 Cardinal Court
Pinckney, MI 48169

Parcel ID: 15-31-302-020

Request: Variance application to allow for the demolition of an existing dwelling and construction of a new 1,440 square foot single family dwelling with an attached two-car garage. The dwelling will have a 24.1-foot south front yard setback along Cardinal Court and 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.).

- 8. New/Old business**
 - a) Approval of March 13, 2019 ZBA Minutes
 - b) Approval of February 27, 2019 ZBA (Special Joint Meeting) Minutes
 - c) 19-0003 Memo of Findings
- 9. Adjournment**



Zoning Board of Appeals Staff Report

AGENDA ITEM: 7a



TO: Zoning Board of Appeals
(ZBA)

FROM: Brittany Stein

HEARING DATE: April 10, 2018

SUBJECT: ZBA 19-0004

PROJECT SITE: 2105 Cardinal Ct.
TID 15-31-302-020

**APPLICANT/
OWNER:** James & Jennifer Gauntlett

PROJECT: Variance application to allow for the demolition of an existing dwelling and construction of a new 1,440 square foot single family dwelling with an attached two-car garage. The dwelling will have a 24.1-foot south front yard setback along Cardinal Court and 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.).

ZONING: WFR (waterfront residential district)

Project Description

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. The existing dwelling has an 864 square foot footprint, and is one and a half story. Additionally, the site plan indicates an existing non-conforming shed in the rear yard.

If approved, the variance request would permit the demolition of an existing dwelling and construction of a new 1,440 square foot single family dwelling with an attached two-car garage. The dwelling will have a 24.1-foot south front yard setback along Cardinal Court and 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 dwelling’s existing and proposed setbacks are noted in the table below.

	Existing	Proposed	Required
North (rear)	35.0 feet	15.4 feet	30 feet
South (front)	24.1 feet	24.1 feet	25 feet
West (front)	20.5 feet	16.0 feet	25 feet
East (side)	10.4 feet	10 feet	10 feet

Based on FEMA’s Flood Insurance Rate Map (FIRM), a portion of the site lies within the 100-year floodplain. Any development of this site would require an elevation certificate. Hamburg Township participates in the National Flood Insurance Program (NFIP). Proper enforcement of the building code standards is a prerequisite of the township’s participation in the NFIP. In NFIP communities, flood insurance must be purchased as a condition of obtaining a federally insured mortgage in federally identified 100-year floodplain areas. 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.

History

October 10, 2018: (ZBA 18-0012) ZBA hearing for second story addition and two-story addition, including garage onto existing house was approved.

March 2019: Contractor/Builder wanted to obtain a land use permit for the project, described as removing all walls of existing structure and rebuilding, therefore not meeting the approvals of the October 10 ZBA.

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.**

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 (25-foot front yard setback) 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 an 864-square foot one and half story dwelling with no garage. The site is a corner lot requiring a 25-foot front yard setback from both Cardinal Court and from Algonquin Drive. The proposed two-story dwelling which includes a garage 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. (8.3.5. *On a corner lot in any Residential District, no accessory building shall be located nearer to the side street lot line than the side yard setback of the principal building on said lot. In all cases, the garage entrance shall be located to allow adequate sight distance and off-street parking. When the rear lot line forms a part or all of a side lot line of an adjacent lot, a garage shall be no nearer than five (5) feet to the rear lot line.*)

- 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.**

Having frontage on two sides of this lot, requiring a 25-foot front yard setback, and 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.

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

The rear yard abuts a lot with only an accessory structure, and the closest neighbor to the west is across Algonquin Drive. A detached garage could have five-foot setbacks from the rear and east side boundaries, which staff believes would be more impactful than what is proposed. The provision of a 15-foot rear yard setback for the proposed garage attached to the home might be less detrimental than a detached garage built with a 5-foot rear and side yard setback.

- 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 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.

- 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 a condition or situation of the subject site that is of so general or recurrent a nature that the proposed new dwelling cannot comply with the required front and rear setback standards. The surrounding dwellings have been constructed to comply with the required setbacks.

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.

Given the small size of the corner lot with double frontage, there is a practical difficulty in constructing a compliant 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.

Approval Motion:

Motion to approve variance application ZBA 19-0004 at 2105 Cardinal Court to allow for the demolition of an existing dwelling and construction of a new 1,440 square foot single family dwelling with an attached two-car garage. The dwelling will have a 24.1-foot south front yard setback along Cardinal Court and 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.). Approval is subject to removal of existing non-conforming shed or moving shed to meet Zoning Ordinance requirements.

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.

Exhibits

Exhibit A: Application Materials

Exhibit B: Site plan

Exhibit C: Lot coverage calculation

Exhibit D: October 10, 2018 ZBA Minutes

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

HAMBURG TOWNSHIP
Date 03/13/2019 4:13:20 PM
Ref ZBA1900-0
ZBA Case Number 19-0004
Amount \$600.00 \$ 600



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: _____
2. Tax ID #: 15-31-302-20 Subdivision: Fox Point Beach #1 Lot No.: 141
3. Address of Subject Property: 2105 Cardinal Ct. Pinckney MI 48169
4. Property Owner: Jamie Gauntlett Phone: (H) 734-395-3804
Email Address: jamiegauntlett@yahoo.com (W) _____
Street: 2105 Cardinal Ct. City _____ State _____
5. Appellant (If different than owner): Bruce Donovan Construction Phone: (H) 810-231-3633
E-mail Address: bruce@brucedonovanconstruction.com (W) _____
Street: P.O. Box 308 City Hamburg State MI
6. Year Property was Acquired: _____ Zoning District: _____ Flood Plain _____
7. Size of Lot: Front _____ Rear _____ Side 1 _____ Side 2 _____ Sq. Ft. _____
11. Dimensions of Existing Structure (s) 1st Floor _____ 2nd Floor _____ Garage _____
12. Dimensions of Proposed Structure (s) 1st Floor _____ 2nd Floor _____ Garage _____
13. Present Use of Property: _____
14. Percentage of Existing Structure (s) to be demolished, if any 0 %
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:
The west side & rear setbacks to add garage & 2nd story.

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.

Corner lot, 2 right of ways & a rear setback
most lots have 2 side setbacks

- 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.

Without the 2 smaller side setbacks. We are unable
to use the same percentage of our lot as others in the vicinity

- 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.

No the lot coverage requirements will be met.

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

It will remain a single family dwelling. The area is
zone for that

- 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 corner lot of this size with two right of ways is
not a common occurrence.

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

The variance will not change to use of land, it will
remain a single family dwelling.

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

I consider the garage a very reasonable
accessory for 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.
- 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).

Janice Hawthorth 3/13/19
 Owner's Signature Date

[Signature] 3/13/19
 Appellant's Signature Date

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**
All Drawing should have a north arrow and be to scale
- _____ 2. **Site Plan with following information:**
 - 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) Location and dimensions of required setbacks
 - f) Measurement from each side of existing and proposed structure to the property lines.
 - g) All easements
 - h) Any bodies of water (lake, stream, river, canal) with water body name.
 - i) Distance from any body of water.
 - j) Septic Tank and Field, Sewer Tap (Grinder pump), Water Well
 - 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) Any other information which you may feel is pertinent to your appeal.
 - n) If the variance is to a setback requirement a licensed professional stamp shall be on the site plan.
- _____ 3. **Preliminary sketch plans** may be submitted for the Appeal in lieu of final construction drawings.
 - a) Elevation:
 - i. Existing and proposed grade;
 - ii. Finished floor elevations
 - iii. Plate height
 - iv. Building height

- v. Roof Pitch
- b) Floor plans:
 - i. Dimension of exterior walls
 - ii. Label rooms
 - iii. Clearly identify work to be done
 - iv. Location of floor above and floor below
- c) All other plans you may need to depict the variance. (grading plans, drainage plans etc.....)

4. Proof of Ownership: Include **one** of the following:

- a) Warranty Deed - showing title transaction bearing Livingston County Register of Deeds stamps
- b) Notarized letter of authorization from seller of property giving the purchaser authorization to sign a Land Use Permit

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.

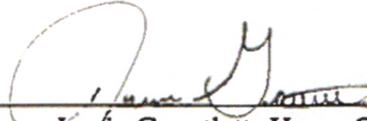
If the project is denied

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.

To whom it may concern,

This authorization is to allow Bruce Donovan/Bruce Donovan Construction Inc. permission to pull all permits regarding the remodel of 2105 Cardinal Court, Pinckney, MI 48169 on my behalf.



Jamie Gauntlett- Home Owner

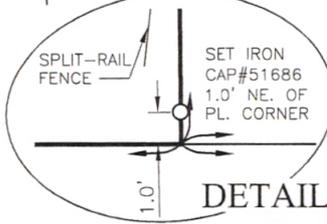
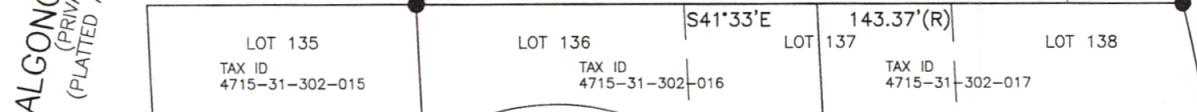
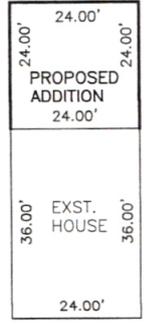
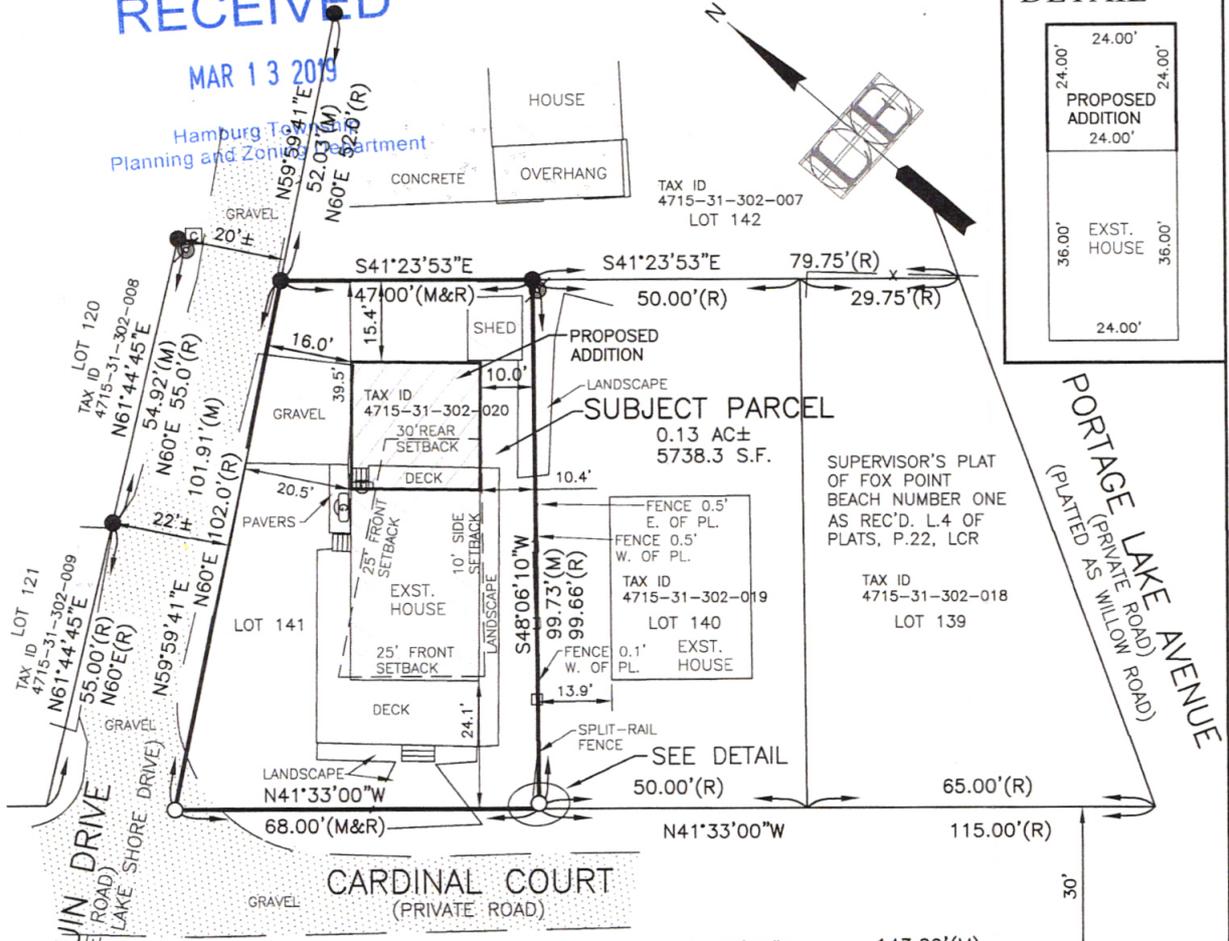
2-27-19
Date

RECEIVED

MAR 13 2019

PLOT PLAN

HOUSE
DETAIL



LEGAL DESCRIPTION
SUBJECT PARCEL

Lot 141 of "SUPERVISOR'S PLAT OF FOX POINT BEACH NUMBER ONE" as recorded in Liber 4 of Plats, on Pages 22, Livingston County Records.
 Tax Id #4715-31-302-020
 2105 Cardinal Ct., Pinckney, MI 48169

Bearings were established from the plat of "SUPERVISOR'S PLAT OF FOX POINT BEACH NUMBER ONE" as recorded in Liber 4 of Plats, on Pages 22, Livingston County Records.

CURRENT ZONING: WFR
(WATERFRONT RESIDENTIAL)

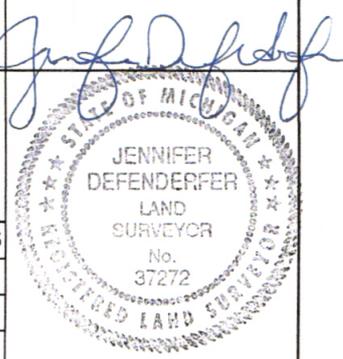
MIN. LOT AREA: 43,560 Sq.Ft.
 MIN. LOT WIDTH: 125 Ft. (80' at street for irregularly shaped lots)
 MAX. BUILDING HGT: 2.5 STORIES/35 FT.
 MAX. LOT COVERAGE (%): BUILDINGS / IMPERV. SURFACE: 35/40%
 SETBACK REQUIREMENTS:
 FRONT: 25' MIN.
 SIDES (EA.): 10' MIN. (5' with an aggregate 15' for lots less than 60' wide)
 REAR: 30' MIN.

PROPOSED COVERAGE (%):
 BUILDINGS = 25%
 BUILDINGS/IMPERV. SURFACES = 34%

LEGEND

SECTION CORNER	SET IRON ROD	FOUND MONUMENT
FENCE	FOUND IRON ROD/PIPE	SOIL BORING

LIVINGSTON ENGINEERING
 CIVIL ENGINEERING SURVEYING PLANNING
 3300 S. OLD U.S., BRIGHTON, MI 48114
 INTERNET: WWW.LIVINGSTONENG.COM PHONE: (810) 225-7100 FAX: (810) 225-7699



CLIENT DONOVAN	0' 30' 60'	DATE 2018-08-13
DESCRIPTION SOUTHWEST 1/4, SEC.31, T1N-R5E, HAMBURG TWP. LIVINGSTON COUNTY, MICHIGAN	SCALE 1"=30'	REV. 2018-09-10
	JOB No. 18198	CREW AJS
	SHEET No.1 of 1	DRAWN R.PARAMO
	CHECK	

How to use this lot coverage calculator: Fill in the property address or tax identification number, then fill in the square footage of the lot and the square footages of buildings and impermeable surfaces (purple boxes). Remember that the square footage you fill in on the spreadsheet should be the sum of the existing AND proposed square footages for your project. Lot coverage will be automatically calculated for you. If one of the options, such as a shed or parking pad, does not apply to your lot leave the space blank. Print the page out and submit it with your land use permit application.

Project address or tax identification number

2105 Cardinal Ct.

Square footage

Lot size*	6,142
------------------	-------

Building coverage (square feet)

dwelling/principal building (and attached garage)	1,440
detached garage	
pole barn 1	
pole barn 2	
shed	
carport	
Proposed total building square footage	1,440
Total building coverage permitted (35%)	2,150
Percentage building coverage	23.4%

Is proposed building coverage within permissible limit? YES

Impermeable surface coverage (square feet)

driveway (paved and gravel)	
sidewalk (paved and gravel)	
patio (paved and gravel)	
roads/streets	
parking pad (paved and gravel)	
storage area (paved and gravel)	
Proposed total impermeable surface coverage	0

Lot coverage (square feet)

total proposed building coverage	1,440
total proposed impermeable surface coverage	0
Total proposed lot coverage	1,440
Total lot coverage permitted (40% of lot)	2,457
Percentage lot coverage	23.4%
Is lot coverage within permissible limit? YES	

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

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Clerk: Mike Dolan
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Trustees: Bill Hahn
Annette Koeble
Chuck Menzies
Jim Neilson

**Hamburg Township
Zoning Board of Appeals Minutes
Hamburg Township Board Room
Wednesday, March 13, 2019 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, & Watson,

Absent: None

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

4. Correspondence: None

5. Approval of Agenda:

Motion by Auxier, 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:

ZBA 2019-002

Applicant: Stephen and Crystal Shuster

Location: Vacant on Kice Drive Pinckney MI 48169

Parcel ID: 15-07-300-071

Request: Variance request to construct a 3,578-square foot dwelling with a 1,139- square foot attached garage. The dwelling will have a 27-foot setback from a regulated wetland and the garage will have a 45-foot setback from a regulated wetland (50-foot setback from a regulated wetland required, Section 9.9.3.B.).

Mr. Stephen Shuster, applicant, stated that they purchased the property on a land contract approximately 2 years ago. They had the ASTI survey done to determine the wetlands. They hired Boss Engineering, and they are the ones that placed the footprint of the house on the knoll, which is the high area at the center of the lot. It is also the cleared area. There is a significant amount of trees along the road frontage that they would like to keep. The knoll also allows them to do the walk out. They are not looking to change the wetland outline at all. What is not

showing on the plan is the potential for a retaining wall to keep the fill from going into the wetland. At first it would be a temporary wall during construction then a permanent wall after construction. They do not want to touch the wetlands at all.

Brittney Stein, Zoning Coordinator, stated that the subject site is a four (4) acre parcel that fronts onto Kice Drive to the east, Putnam Township Rural Residential Zoning District is to the west, and single-family dwellings are located to the north, south, east and west of the site. The site is currently vacant, and there are wetlands on the north and the south sides of the property. A Wetland Delineation Report has been submitted to Hamburg Township. The Report indicates Wetland A (north pocket) is 0.60 acres in size, while Wetland B (south area) is 0.81 acres in size. Any wetlands which are greater than five acres in size are regulated by the Michigan Department of Environmental Quality (MDEQ). The wetland to the south is part of the Hay Creek wetlands. An email was sent to Jeff Pierce with the MDEQ, who confirmed there would not be a direct impact to the wetlands. Therefore, they would not need a DEQ permit.

Stein discussed the Standards of Review. She stated that the 50-foot regulated wetland setback requirement applies to all residential properties in the Township. This parcel is unique as it has two wetland areas. The location of the wetlands with the 50-foot setback requirement on this parcel creates a smaller buildable area, which limits the location where the house could be located. However, in looking at the plans, they did determine that there is a compliant location for the home on the lot that would not require any variance. Staff created a revised site plan by moving the same size home only 80 feet forward towards the front property line. Also, in reviewing the elevation plan, it was noted that they are proposing a barricaded sliding door. This indicates the possibility of a future elevated deck. The elevated deck is not proposed at this time. In the location proposed by the applicant, any future addition, deck, etc. would also require a variance to the 50-foot wetland setback. The requested variance would permit construction of a new single family dwelling on a vacant lot within the required 50-foot wetlands setback. The size and placement of a new home, especially on larger lots, is based on personal preference. The site could accommodate a compliant location for the home which would meet the Zoning Ordinance without the need of a variance. The requested variance may be materially injurious to the property or the zone or district as the proposed home is nearer the wetlands than the 50-foot requirement. It may affect storm water events in the future. The subject site is in the North Hamburg planning area of the Master Plan. This area of the Township is largely in a natural state and contains large areas of woodlands, wetland and wildlife habitat. Future development of any kind in areas surrounding wetlands could significantly impact wetland resources. Therefore, developers and community leaders should evaluate viable alternatives to avoid the impact. Moving the house forward may not be as detrimental. The wetlands also contribute significantly to the aesthetic character of the community. As the Master Plan states, wetlands are undevelopable, the open areas should remain natural. The proposed request would adversely affect the purpose or objectives of the Master Plan. 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 50-foot wetland setback requirement. The site could accommodate a compliant new dwelling unit. The wetlands setback applies to all properties in Hamburg Township. The use of the site is zoned for single-family residential and the requested variance would not change the use. The Applicant has created a practical difficulty where one does not exist. Moving the home's location would allow for the 50-foot wetland setback protection, the same size dwelling, future development without a variance, and no variance for the new home.

Member Bohn stated that the question regarding a future deck is a bit of concern. He further stated that with a 4.48 acre parcel, the intent is to have a natural look from all sides. If the home were to be moved forward, one of the impacts would be removal of some of those trees. The DEQ is taking a pass as far as any impacts on the State regulated wetlands. So, what we are talking about here is the buffer that we are imposing to maintain natural resources. He asked if there would be the ability in the future to split this parcel. If so, would the applicant agree to reasonable restrictions so that this would remain a single parcel.

Member Watson stated that he feels that with new construction, they should do everything they can to meet the ordinance without variance.

Member Auxier asked the relationship between the DEQ and the Township in terms of establishing setbacks from the wetlands. The DEQ has already said that this structure will not impact the wetlands, and they are the experts in the State when it comes to wetlands preservation. Stein stated that if the home was closer to the wetlands, they may have a concern. There is a difference between the DEQ's responsibility and the Township's responsibility. The Township is looking at it through a different lens.

Planning & Zoning Administrator Steffens determined that the property is not splittable.

Mr. Shuster stated that they would have to kill a significant number of trees in order to move the house forward, possibly dozens. He stated that there is a very large, old tree that would have to be removed. On their plan, they have laid out the driveway so as to not impact the root system of that tree. The .61 acre wetland to the north is a seasonal wetland. It is still a wetland, but during the summer months, it is just like walking through the woods. Mrs. Shuster stated that they did not realize that it was wetland when they purchased the property. It is regulated because it is within 500 feet of the Hay Creek wetlands.

Member Bohn asked that the future deck use be addressed. Mr. Shuster stated that this is a 3 year process for them. Mrs. Shuster presented a revised plan that would keep them further from the road, preserve the trees and have minimal impact on the setback. It was stated that with the new plan, the house is outside the 50 foot setback and allow them to build the deck at a future date. Mr. Shuster stated that they would need a variance to build the retaining wall. Mrs. Shuster stated they do not yet have an elevation plan. Further discussion was held on the location of the retaining wall. It was stated that if you had to do a retaining wall within the wetland setback, it would require a variance, but one with a lot less impact. Stein stated that a retaining wall does meet the definition of development and would need a variance depending on the location. Steffens stated that there is a provision within our ordinance that allows for an administrative review of any wetland development. She further stated that the intent of the ordinance is to protect the wetlands. If a retaining wall would provide protection of the wetlands, it would not be unreasonable to direct staff to work with the applicant and administratively review a retaining wall into the wetlands at the time the wall is required.

Chairperson Priebe opened the hearing.

James Nowacki, owner of the property to the south of the subject property, stated that he has talked to the Shusters. It looks like a beautiful house that they are planning. He stated that he has lived there approximately 20 years, and feels that what they are proposing is great. It is a tough property to build on because of the wetlands, but they have done their homework.

Chairperson Priebe stated that we received two letters. John and Amy Banfield are in support, and Herbert and Diane Park are opposed.

There being no further comment, Chairperson Priebe closed the public hearing.

Member Auxier reviewed the request. He stated that the applicant is proposing to change their plans for the home, which would not require a variance. However, we need to direct the staff to work with the applicant administratively to help preserve the wetlands through the use of a retaining wall.

Motion by Priebe, supported by Bohn

To table variance application ZBA 19-002 at vacant property on Kice Drive (TID 15-07-300- 071) to allow the applicant and staff to work together for a revised plan and relocation of the house to meet the setbacks and review the provisions of the ordinance to determine, if a retaining wall is needed, and if its placement meets the spirit of the ordinance, that it be approved administratively

Steffens stated that if the new site plan meets the 50 foot setback from the wetlands and there is not a problem with the retaining wall, then we can issue the land use permit without the need to come back to the ZBA. It would be in the best interest of the applicant to withdraw their application at that time.

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

ZBA 2019-003

Applicant: Joan Fitzgibbon

Location: 3574 Windwheel Pointe Pinckney MI 48169

Parcel ID: 15-32-102-040

Request: Variance request to construct a 336-square foot enclosed sunroom over an existing patio. The sunroom will have an 8-foot west rear yard setback (30-foot rear yard setback required, Section 7.6.1.).

Mr. Chris Childs of Tri-County Builder, representing the applicant, stated that the homeowners are excited to do a remodel to their existing porch. They did have a covered porch in place. He stated that as far as the percentages, the impact and the LOMA, they do meet those requirements. They did get a Floodplain Certificate completed. They are at 33.35% with the structures and 36% of the impervious surfaces. He presented photos of the covered porch which has been partially removed. As far as impact on surrounding properties, there should be no further impact. They have four letters from the impacted property owners all stating that they are okay with the request.

Amy Steffens, Planning & Zoning Administrator, stated that the subject site is an 8,146-square foot parcel improved with a 2,280-square foot dwelling, including the attached 616-square foot garage. The site fronts onto Windwheel Pointe to the east; Whitewood 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 a 336-square foot enclosed sunroom over an existing raised patio at the rear of the house. The sunroom would have an eight-foot west rear yard setback where a 30-foot rear yard setback would be required per Section 7.6.1. Whenever there is an issue within the floodplain, staff addresses this issue within its staff report. We have received a LOMA which removes the existing structure from FEMA's flood hazard area. We have sent that to the DEQ, and we are looking to see if they have authority over this floodplain area. They do not have authority over every floodplain, but we always want them to tell us yes or no. DEQ has asked for an elevation certificate to ensure that the LOMA was issued for the elevations as they are now and they are current grades so that we know that the house is out of the floodplain. She reviewed the seven findings of fact. The subject site is a typical waterfront lot located within a platted subdivision; the plat indicates the lot runs to the water's edge. The applicant believes that because the plat specifies that the lot runs to the water's edge, the rear yard setback from the property boundary would not apply. However, the ZBA and previous Zoning Administrators have used the platted line. If the Township would like to make the determination that we use the rear yard setback differently, staff simply needs that direction. But for the current project, we are using the platted lot line. If approved, the sunroom would encroach farther into the rear yard than surrounding properties. The ZBA can also take into consideration that the edge of water is approximately 20 feet from the rear lot line and could mitigate the impact of having a covered structure there. 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 deny the property's continued residential and riparian uses. Given the way the site was developed, the site cannot accommodate any further development to the rear of the dwelling without the granting of a variance. However, there is room on the front for additional enclosed living space. The way the property was developed does not leave any room on the water side for a compliant structure. You can look at the 20 feet between the water and the property line as way to mitigate the impact of the enclosed space. The subject site is located in the North Chain of Lakes planning area of the Township's Master Plan, and the proposed project does not impact the Master Plan. This is a situation of the subject site that is not of a recurrent nature. A setback from the rear property boundary line applies to all development on every parcel in Hamburg Township. The platted lot line is used to determine only the setback line, not riparian rights or access or the land encompassed by property rights. You could also make the argument that there is not a condition like this parcel due to how the plat was originally noted. The property is currently used for single-family residential use, and the use will not change if the proposed variance request is granted. An enclosed sunroom that encroaches farther into the rear yard setback than the

adjacent properties is not the minimum necessary to permit reasonable use of the land. An unenclosed covered patio would be less impactful than an enclosed sunroom. However, the fact that the top of the water is about twenty feet from the property boundary could help mitigate any visual impact of the encroachment into the rear setback.

Discussion was held on where the ordinary high water mark is and the location of the permitted seawall. It was stated that it is 54 feet from the seawall to the back of the proposed sunroom.

Discussion was held on how the ordinary high water mark is determined. Steffens stated that the ordinance does allow us to look at the top of the water absent any other information.

Discussion was held on riparian rights. The question was asked who owns the property between the platted lot line and the ordinary high water mark. It was stated that there should be a conversation at a later date how staff would like to interpret that rear lot line. Discussion was held on some plats which designate that portion to be park. The proprietor did not intend for those lots to be waterfront where others did. It is not always clear on the plats, which is why the 30 foot setback has been used from the lot line. It was stated that this is something that the Township Board, Planning Commission and ZBA should review. Mr. Childs discussed how he was measuring from the permitted seawall and how he has determined setbacks in other situations on lake lots.

Member Auxier stated that his feeling is that if that portion between the platted lot and the water is not designated for some use, then we should be using the ordinary high water mark. And, we should be using it for this case. He discussed the two adjacent properties. Chairperson Priebe stated that we can take it into account, but as it is written, we need to use the property line.

Chairperson Priebe opened the hearing.

Nancy Cox of 3574 Windwheel Pointe stated when they started this project, they had no idea that they would be discussing variances and high water marks because there was an existing structure there. During the winter months, they could not use the roof and did not want to pull it off each year. That is what precipitated them wanting a three-season room. She thanked everyone for their time.

There being no further comment, Chairperson Priebe closed the public hearing.

Motion by Auxier, supported by Watson

Motion to approve variance application ZBA 19-003 at 3574 Windwheel Pointe to allow for the construction of a 336-square foot enclosed sunroom over an existing patio. The sunroom will have an 8-foot west 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 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: 5 Nays: 0 Absent: 0 MOTION CARRIED

8. New/Old business

a) Approval of February 13, 2019 minutes

Motion by Auxier, supported by Neilson

To approve the February 13, 2019 minutes as written

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

Steffens stated that we will be having an April meeting.

9. Adjournment

Motion by Watson, supported by Bohn

To adjourn the meeting

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

The meeting was adjourned at 8:11 p.m.

Respectfully submitted,

Julie C. Durkin
Recording Secretary

The minutes were approved as presented/Corrected:_____

Chairperson Priebe

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 BOARD OF TRUSTEES, ZONING
BOARD OF APPEALS, PLANNING COMMISSION, PARKS
AND RECREATION
Special Joint Meeting
Hamburg Township Hall Board Room
Wednesday, February 27, 2019
7:00 p.m.**

1. Call to Order

Supervisor Hohl called the meeting to order at 7:00 p.m.

2. Pledge to the Flag

3. Roll Call of the Board

Hamburg Township Board

Present: Supervisor Hohl, Dolan (also on Parks & Recreation), Negri, Koeble (also on Parks & Recreation and Planning Commission), and Neilson (also on the Zoning Board of Appeals).

Absent: Hahn, Menzies (also on the Planning Commission,)

Planning Commission

Present - Leabu, Goetz, Muir, Priebe (also on Zoning Board of Appeals), Muck, Hamlin, Koeble (Trustee on the Township Board and on Parks & Recreation)

Absent: None

Zoning Board of Appeals

Present: Chairman Priebe (also on Planning Commission), Watson, Neilson (Trustee on the Hamburg Township Board), Bohn

Absent: Auxier (also on Parks & Recreation)

Parks & Recreation

Present: Dolan (Hamburg Township Clerk), Koeble (Trustee on the Hamburg Township Board and on Planning Commission), Muck

Absent: Auxier (also on ZBA)

Also Present: Amy Steffens, Planning Commission and Zoning Board of Appeals Administrator; Scott Pacheco, Township Planner; Deby Henneman, Parks Coordinator; Brittany Stein, Zoning Department Coordinator; Bill Anderson, Livingston County Planning Commissioner; Kathleen Kline-Hudson, Livingston County Planning; Brenda Richardson, Township Videographer

4. Call to the Public

Brenda Richardson, 1658 Sandy Shore Dr, Township Videographer for the joint meeting, discusses how to use the microphones in the room to produce good audio levels for the live streaming and video recording of the meeting.

5. Correspondence

There was no correspondence presented.

6. Approval of Agenda

Motion by Dolan, second by Neilson, to approve the Agenda as presented.

Voice Vote: AYES – 5, ABSENT – 2 (Hahn, Menzies)

MOTION CARRIED

7. Current Business

A. Kathleen Kline-Hudson, Livingston County Planning, presentation of Livingston County Master Plan Update

Kline-Hudson presented and handed out a summary of the Livingston County Master Plan that was adopted in October of 2018. This summary includes the Vision Plan as well as Current Trends with the “Best Practices” of how to support the trend. A collection of Planning & Zoning ideas that they hope each one of the local communities will look at and incorporate. To make this inclusion easier the 2018 Livingston County Master Plan includes links within it that will assist in language and ideas. Kline-Hudson is looking forward to serving as a member on the committee for our own Master Plan. She also informed the group about the Press Release that was handed out at the table for the 30 Day public review and comment on the Livingston County Parks & Open Space Plan.

B. Parks and Recreation Committee Parks Master Plan update

Henneman reviewed the Parks & Recreation Master Design Plan that included many new projects. Some of these being walking trails in East Park, completion of trails in West Park, baseball diamond irrigation, ADA bathrooms, a pickleball court, updated playgrounds and a new tot lot, additional parking, phase two of the adult workout area, and the addition of a picnic area. Henneman also informed about the progress and next steps of the General Ordinance Project which is moving right along and will soon be ready for codification.

C. Planning and Zoning Department 2018 year in review

Steffens reviewed her 2018 Annual Report for the Planning Commission, Zoning Board of Appeals, and the Planning & Zoning Department. Starting with the Planning Commission, Steffens stated that they had three special meetings and eight regular meetings presenting a chart showing a brief description of those meetings and what the results were. She also went over the 2018 Floodplain Activity and asked that the township direct the staff to research the necessity and impact of adopting a “cumulative value” ordinance into the floodplain regulations. Steffens went over CRS (community rating system) and that FEMA has scheduled our audit for April 9, 2019. Steffens stated that staff processed 8 lot combinations, 2 land divisions, and 6 boundary adjustments.

Stein then went over the Zoning Board of Appeals functions and stated that the ZBA considered 12 variances in 2018, of those 12 variances that were heard by the ZBA, 10 were approved, and 2 were denied. Those variances were presented in the packet. Stein also covered Land Use Permits stating the process used to issue a Land Use Permit and showed a chart showing that in 2018, 586 Land Use permits were issued. Stein stated that the township received 26 permits issued by the DEQ for projects. Stein also went over the training and professional activities that the staff participated in throughout 2018 and touched on training opportunities for 2019.

D. 2018 Code Enforcement year in review

Steffens discussed the 2018 Code Enforcement introducing Code Enforcement Officer Mike Sumeracki and his theory to approaching Code Enforcement, the “Broken Windows Theory”, if you take care of the small things then the big things don’t become so big. In 2018, we received 181 new complaint cases, with 150 of those being closed in 2018. The largest number of complaints in 2018 was blight. She also discussed the Code Enforcement Goals for 2019.

E. Zoning Amendments 2018-2019

Pacheco reviewed Zoning Text Amendments (ZTAs) of 2018 and upcoming Zoning Text Amendments for 2019 including fence revisions, wireless revisions, planned unit development (PUD) revisions, wind and solar farms, senior housing ordinance (overlay district), short term rental use, tiny houses, village center zoning district revisions, collection drop boxes, public hearing notification requirements, and expansion of non-conforming structures. Pacheco also stated that the staff is cleaning up the General Ordinances working toward the codification of the Township Municipal Code.

Motion by Hohl, second by Neilson, to direct the Zoning Department to prioritize a list including the following: an amendment to the fence ordinance (eliminating the back yard fence), revisions to the wireless ordinance, revisions to the PUD development including but not limited to specific definitions of exemplary projects, specific schedules for density bonuses, and to consider home and lot size and cottage home construction oriented to empty nesters. Not to make a priority of solar and wind farm ZTAs. To proceed with discretion on a senior housing overlay district. And to bring back to the Board for approval a revision of the 2015 proposal for short term rentals, provide proposals for tiny housing, village center district revisions that will enhance development in the village center district specific to development in close proximity to historic village, collection drop boxes, on-site public notice to include administrative function, eliminate unintended consequences of Section 11.3.1. which have negative impact on applicants while maintaining integrity of district, and amendment to the Accessory Dwelling Unit (ADU) ordinance to allow ADUs on riparian lots.

Voice Vote: AYES: 5, ABSENT: 2

MOTION CARRIED

F. 2020 Master Plan Update Timeline and Process

Pacheco reviewed the 2020 Master Plan Update. Stating that they are looking at a September 2019 approval date.

8. Call to the Public

A call was made with no response.

9. Zoning Board of Appeals Comments

None.

10. Adjournment

Motion by Bohn, second by Watson, to adjourn meeting.

Voice Vote: AYES: 4, ABSENT: 1

MOTION CARRIED

Meeting adjourned at 9:23 p.m.

Respectfully submitted,



Courtney L. Paton
Recording Secretary

Joyce Priebe, Chair
Zoning Board of Appeals



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

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

ZONING BOARD OF APPEALS MEMORIALIZATION OF FINDINGS

March 13, 2019

Approval of Variance 19-003

PROJECT SITE: 3574 Windwheel Pointe
TID 15-32-102-040

APPLICANT/OWNER: Joan Fitzgibbon

PART I – PROJECT DESCRIPTION

Variance request to construct a 336-square foot enclosed sunroom over an existing patio. The sunroom will have an 8-foot west rear yard setback (30-foot rear yard setback required, Section 7.6.1.).

PART II– FINDINGS FOR APPROVAL

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

Variance Standards

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

If approved, the sunroom would encroach farther into the rear yard than surrounding properties. The edge of water is approximately 20 feet from the rear lot line and could be considered an exceptional or extraordinary circumstance of the subject site that would mitigate the visual impact of the encroachment into the rear yard of the proposed sunroom.

- 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.**

Given the way the site was developed, the site cannot accommodate any further development to the rear of the dwelling without the granting of 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.**

See analysis under standards one and two.

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 located in the North Chain of Lakes planning area of the township's Master Plan. This planning area is closely tied to lake waterfronts and envisions continued waterfront residential designation to minimize development pressure on the waterfronts.

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.**

A setback from the rear property boundary line applies to all development on every parcel in Hamburg Township. The platted lot line is used to determine only the setback line, not riparian rights or access or the land encompassed by property rights.

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 fact that the top of the water is about twenty feet from the property boundary could help mitigate any visual impact of the encroachment into the rear setback.

Approved by the Hamburg Township Zoning Board of Appeal at a regular meeting on March 13, 2019 by the following vote:

AYES:	BOARD MEMBERS:	Priebe, Watson, Neilson, Bohn, Auxier
NOES:	BOARD MEMBERS:	
ABSENT:	BOARD MEMBERS:	