

**Hamburg Township
Zoning Board of Appeals
Hamburg Township Board Room
Wednesday, July 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 2019-0014

Owner: Bradley and Patricia Zalewski

Location: 8491 Baudine Rd.
Pinckney MI 48169

Parcel ID: 15-17-301-070

Request: Variance application to allow for the construction of a 736-square foot addition on the south side of an existing dwelling. The addition will have an 11-foot west front yard setback along Baudine Road (25-foot front yard setback required, Section 7.6.1.) and a 35-foot setback from the ordinary high water mark of Rush Lake (50-foot setback from the OHM required, Section 7.6.1.fn3).

- 8. New/Old business**
 - a) Approval of June 12, 2019 ZBA Minutes
- 9. Adjournment**



Zoning Board of Appeals Staff Report

AGENDA ITEM: 7a



TO: Zoning Board of Appeals
(ZBA)

FROM: Brittany Stein

HEARING DATE: July 10, 2019

SUBJECT: ZBA 19-0014

PROJECT SITE: 8491 Baudine Rd.
TID 15-17-301-070

**APPLICANT/
OWNER:** Bradley & Patricia Zalewski

PROJECT: Variance application to allow for the construction of a 736-square foot addition on the south side of an existing dwelling. The addition will have an 11-foot west front yard setback along Baudine Road (25-foot front yard setback required, Section 7.6.1.) and a 35-foot setback from the ordinary high water mark of Rush Lake (50-foot setback from the OHM required, Section 7.6.1.fn3).

ZONING: WFR (waterfront residential district)

Project Description

The subject site is a 19,000-square foot lot that fronts onto Baudine Road to the west, Rush Lake to the east and south, and single family dwellings are located to the north, east, and west of the site. The existing dwelling is one-story 1,632 square foot, with a detached 270 square foot garage.

If approved, the variance request would permit the construction of a 736-square foot addition on the south side of an existing dwelling. The addition will have an 11-foot west front yard setback along Baudine Road (25-foot front yard setback required, Section 7.6.1.) and a 35-foot setback from the ordinary high water mark of Rush Lake (50-foot setback from the OHM required,

Section 7.6.1.fn3).

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

	Existing	Proposed	Required
South (high water mark)	70 feet	51 feet	50 feet
West (high water mark) (Variance)	26 feet	35 feet	50 feet
East (front) (Variance)	25 feet	11 feet	25 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. An Elevation Certificate must be provided prior to issuing a land use permit.

The image below indicates the "A" Flood Zone of Rush Lake.



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 has water on two sides, requiring a 50-foot setback on two sides. Additionally, all WFR zoned properties require the primary structure have a 25-foot front yard setback. Both setback requirements are intended to provide adequate space, open vistas, and privacy throughout neighborhoods and between structures on smaller residential lots. Development of a compliant single family dwelling additions on this corner lot is constrained by the lot depth which results in a small building envelope. This parcel and home constructed on the lot is considered non-conforming to the Zoning Ordinance.

- 2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.**

The lot is constrained by multiple factors: the lot is 83 feet deep from west to east; the street frontage is on the west side of the property boundary and requires a 25-foot front yard setback; and there is a required 50-foot setback from water on two sides of the lot. A 25-foot front yard setback is required along Baudine Road to the west and a 50-foot setback from the Ordinary high water mark is required from the east, leaving an approximately an 8-foot wide potential buildable area on the site. Development possibilities are constrained on this lot, however it is encourage to consider constructing a more compliant addition to the home, although no addition of this proposed size to the home would be compliant to the Zoning Ordinance.

- 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 existing home is setback 25 feet from the front property line. The proposed addition encroaches towards the front property line 11 feet. This addition would impact the surrounding properties and the improvements would likely create sight visibility problems given the fact that the dwelling would be about 25 feet from the traveled roadway. The ordinance requirement for these required setbacks is intended to provide adequate space, open vistas, and privacy throughout neighborhoods and between structures on smaller residential lots. The addition which encroaches towards the front property line is more impactful than the proposed setback from the ordinary high water mark of Rush Lake. The existing house meets the required 25-foot front yard setback, but is currently 26 feet from the ordinary high water mark of Rush Lake. The proposed addition is setback further than the existing home from the Lake, which is likely not impactful for neighboring properties, but the

portion of the addition into the front yard setback is going to be most impactful. It is encouraged to shift the proposed addition to meet the 25-foot front yard setback requirement.

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

The subject site is in the West Hamburg/Rush Lake planning area of the Master Plan. This area envisions medium density residential development in the developed areas around Rush Lake. The proposed request would not adversely affect the proposed or objectives of the Master Plan.

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

There is a condition or situation of the subject site that is of so general or recurrent a nature that the proposed addition to the existing dwelling cannot comply with the required front yard setback standards and ordinary high water mark setback standards. The short depth of this waterfront lot constrains development on this site for single family residential purposes.

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 constrained size of the buildable area on the waterfront lot with a front yard setback from the west property line of Baudine Rd. and an ordinary high water mark setback from two sides of the property, there is a practical difficulty in constructing a compliant dwelling and any customary additions on the lot.

“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 an approval to the requested variance considering a thorough review and discussion among ZBA members of the surrounding impacts and any other potential options for the homeowner to redesign an addition of additional living space to the existing home.

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 19-0014 at 8491 Baudine Rd. to allow for the construction of a 736-square foot addition on the south side of an existing dwelling. The addition will have an 11-foot west front yard setback along Baudine Road (25-foot front yard setback required, Section 7.6.1.) and a 35-foot setback from the ordinary high water mark of Rush Lake (50-foot setback from the OHM required, Section 7.6.1.fn3).

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.

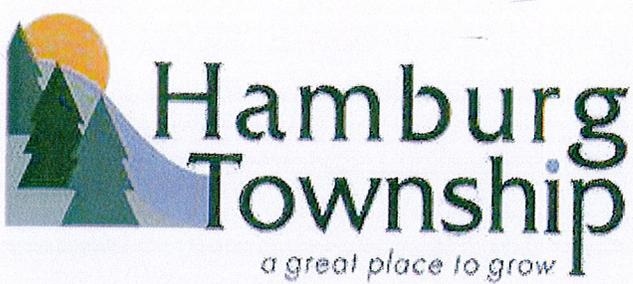
Exhibits

Exhibit A: Application Materials

Exhibit B: Site plan

Exhibit C: Construction Plans

HAMBURG TOWNSHIP
ZBA Case Number 19-0014
Ref ZBA0019-14
Receipt 12076014 \$500
Amount \$500.00



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: June 11, 2019 (Revised 6/19/19)
2. Tax ID #: 15- 17301070 Subdivision: Watson's Rush Lake #1 Lot No.: 28
3. Address of Subject Property: 8491 Baudine Road
4. Property Owner: Bradley & Patricia Zalewski Phone: (H) 734-730-0598 (Brad)
Email Address: zalewskifive@comcast.net (W) 810-333-0160 (Tricia)
Street: 8491 Baudine Road City Pinckney State MI
5. Appellant (If different than owner): Same Phone: (H) _____
E-mail Address: _____ (W) _____
Street: _____ City _____ State _____
6. Year Property was Acquired: 2019 Zoning District: _____ Flood Plain Zone A
7. Size of Lot: Front 231.86' Rear 198.48' Side 1 91.45' Side 2 86.44' Sq. Ft. 19,138 ft²
11. Dimensions of Existing Structure (s) 1st Floor 48'x34' 2nd Floor None Garage 24'x30'
12. Dimensions of Proposed Structure (s) 1st Floor 67'x38' 2nd Floor None Garage 24'x30'
13. Present Use of Property: Single Family Home
14. Percentage of Existing Structure (s) to be demolished, if any 5 %
15. Has there been any past variances on this property? Yes _____ No X
16. If so, state case # and resolution of variance application _____
17. Please indicate the type of variance or zoning ordinance interpretation requested:

Three Variance Summary

1. Proposed addition is currently planned to be 35' from the canal; need variance from 50' from the body of water.
2. Proposed addition is currently planned to be 11' from the Baudine Road; need variance from 25' from the road.
3. Proposed patio is currently planned to be 36' from Rush Lake; need variance from 50' from the body of water.

Note: Once the variance is granted to the home owners; final drawings will be submitted building department with the application for permits.

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.

There are NO exceptional or extraordinary circumstances or conditions.

- 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.

None

- 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.

This addition still provides sufficient distance to all bodies of water.

This proposal will not affect any of the public's welfare or township.

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

Will not affect master plan of Hamburg 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.

Detailed plan is attached.

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

None is planned.

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

Once the variance is granted to the home owners; final drawings will be submitted to Hamburg Township with the application for permits.

- 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).

Brad Zalewski Digitally signed by Brad Zalewski
Date: 2019.08.04 15:51:27 -0400 **6/11/19**
 Owner's Signature _____ Date _____

 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

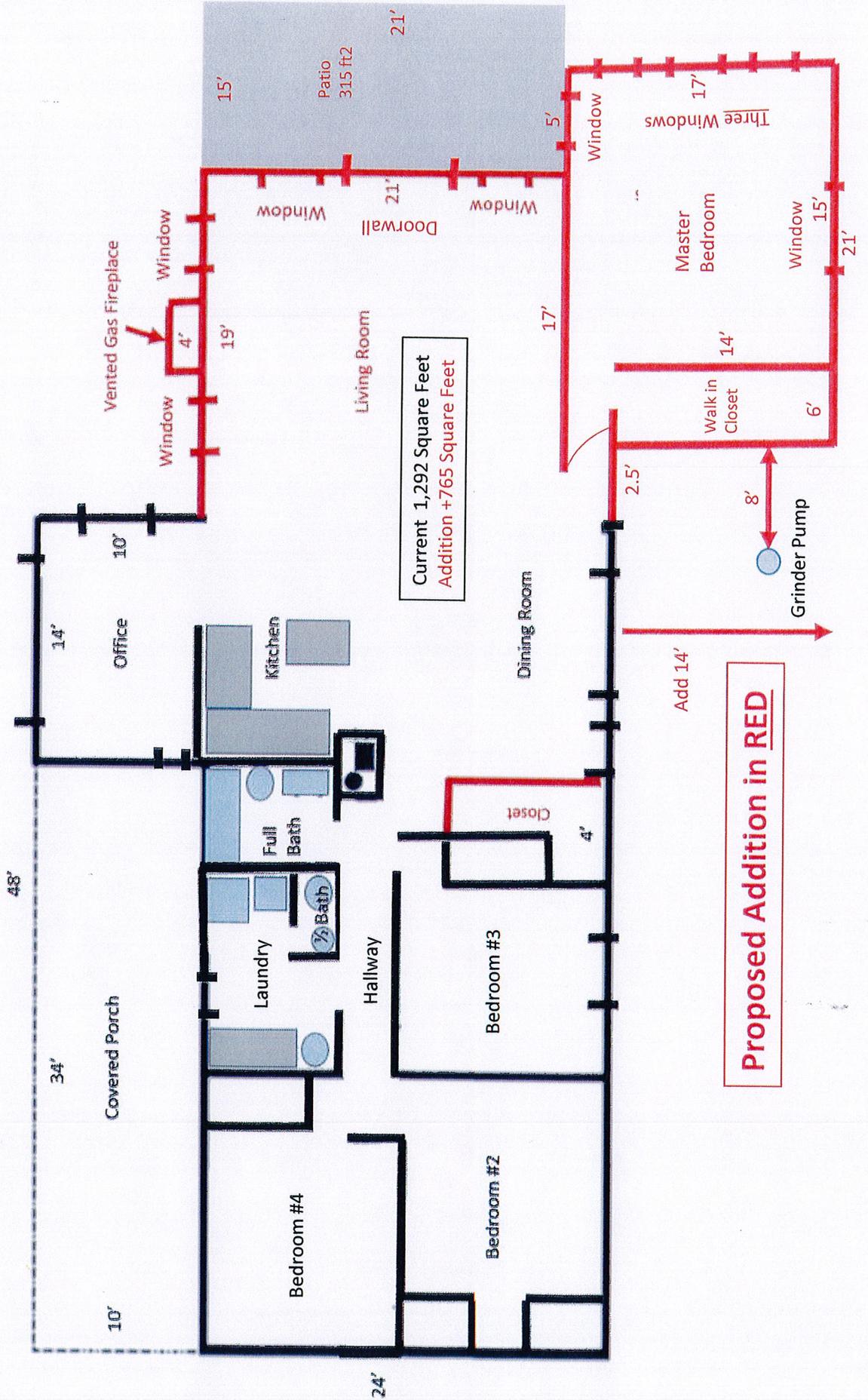
Section 6.6.4 (C) of the Hamburg Township Zoning Ordinance states that a one (1) year period must elapse before a rehearing of the appeal "except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid."

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.

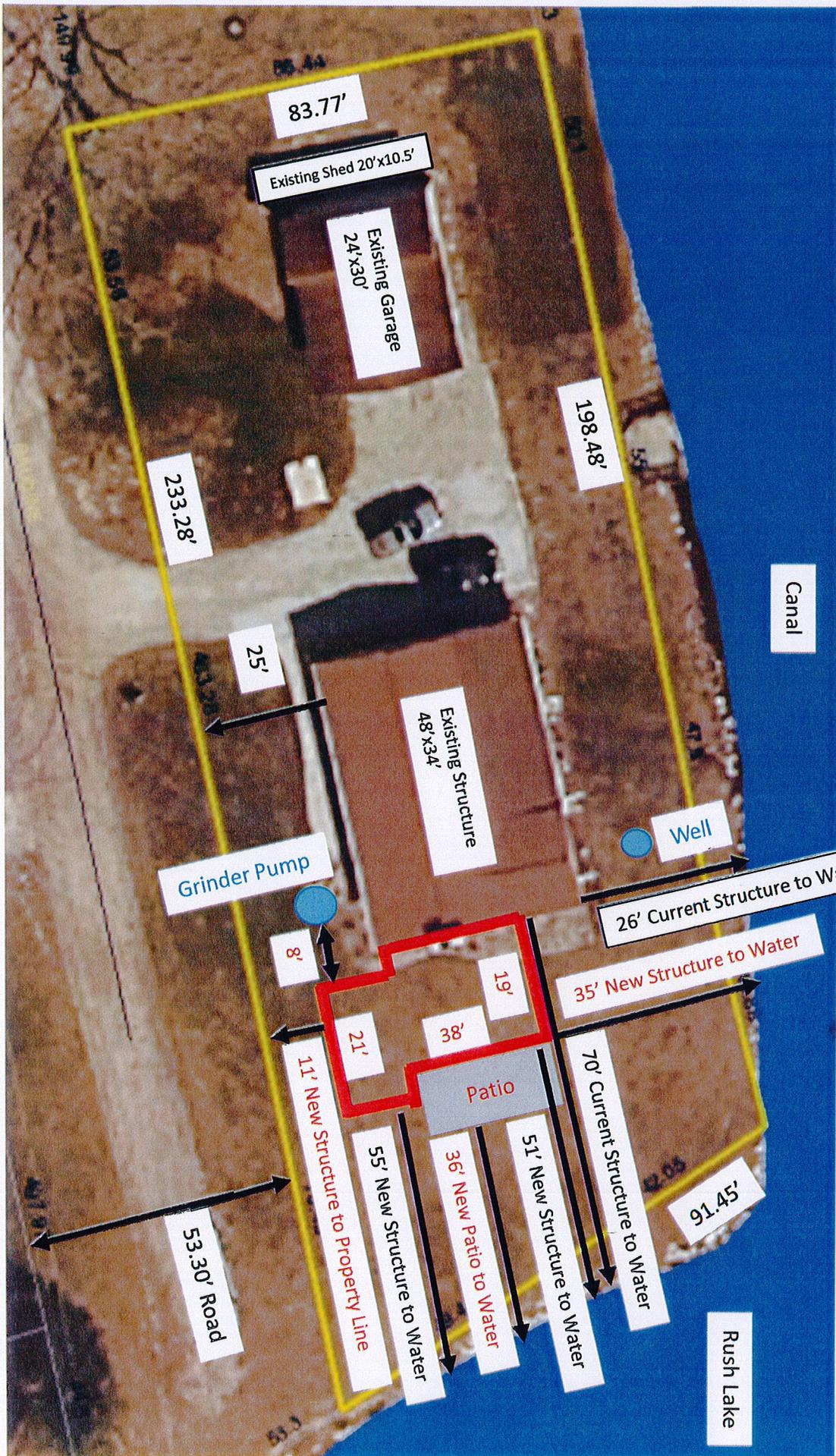
Floor Plan



Current Structure in **BLACK**



Site Plan



Proposed Addition in RED

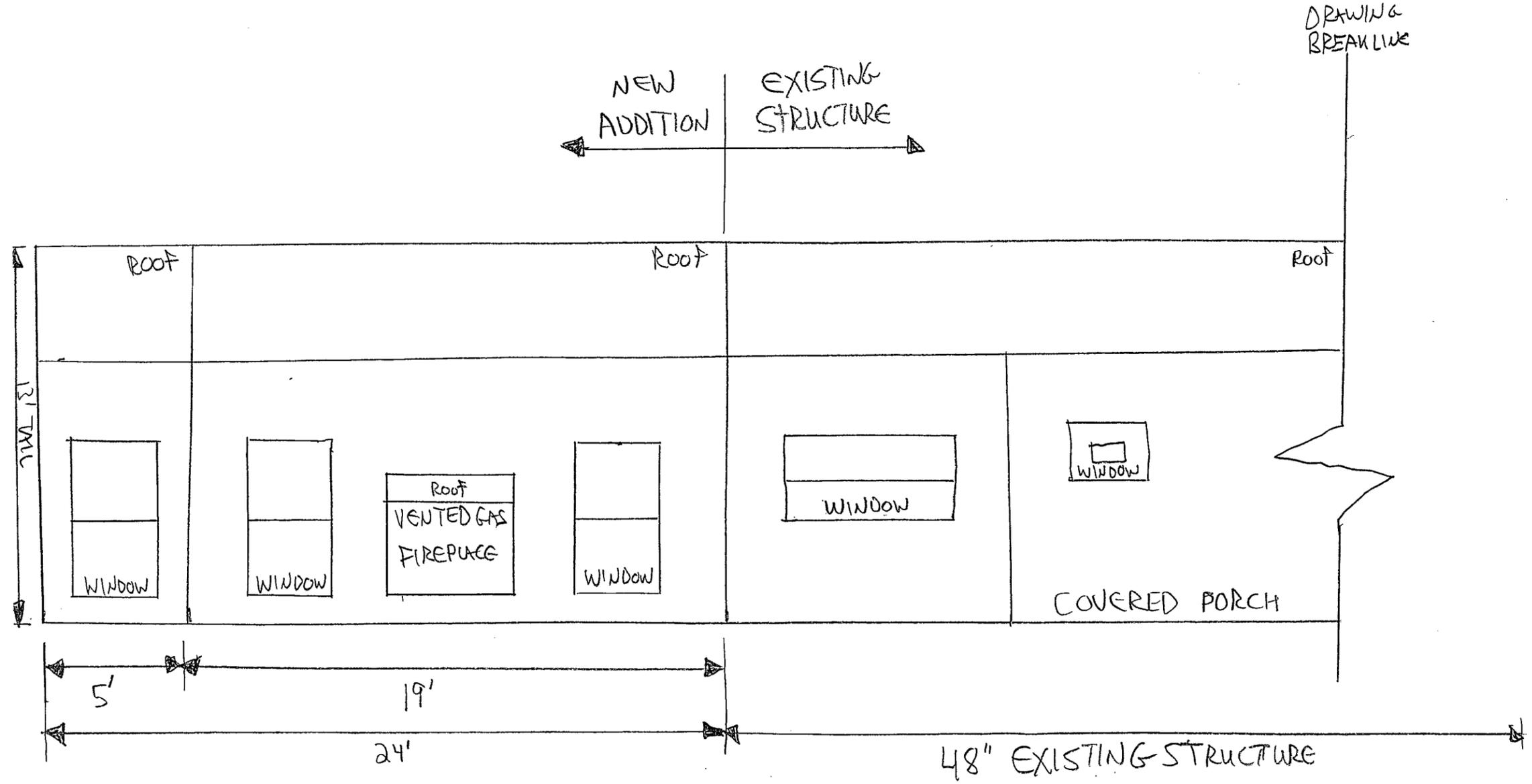
Three Variance Summary

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3. Proposed patio is currently planned to be 36' from Rush Lake; need variance from 50' from the body of water.

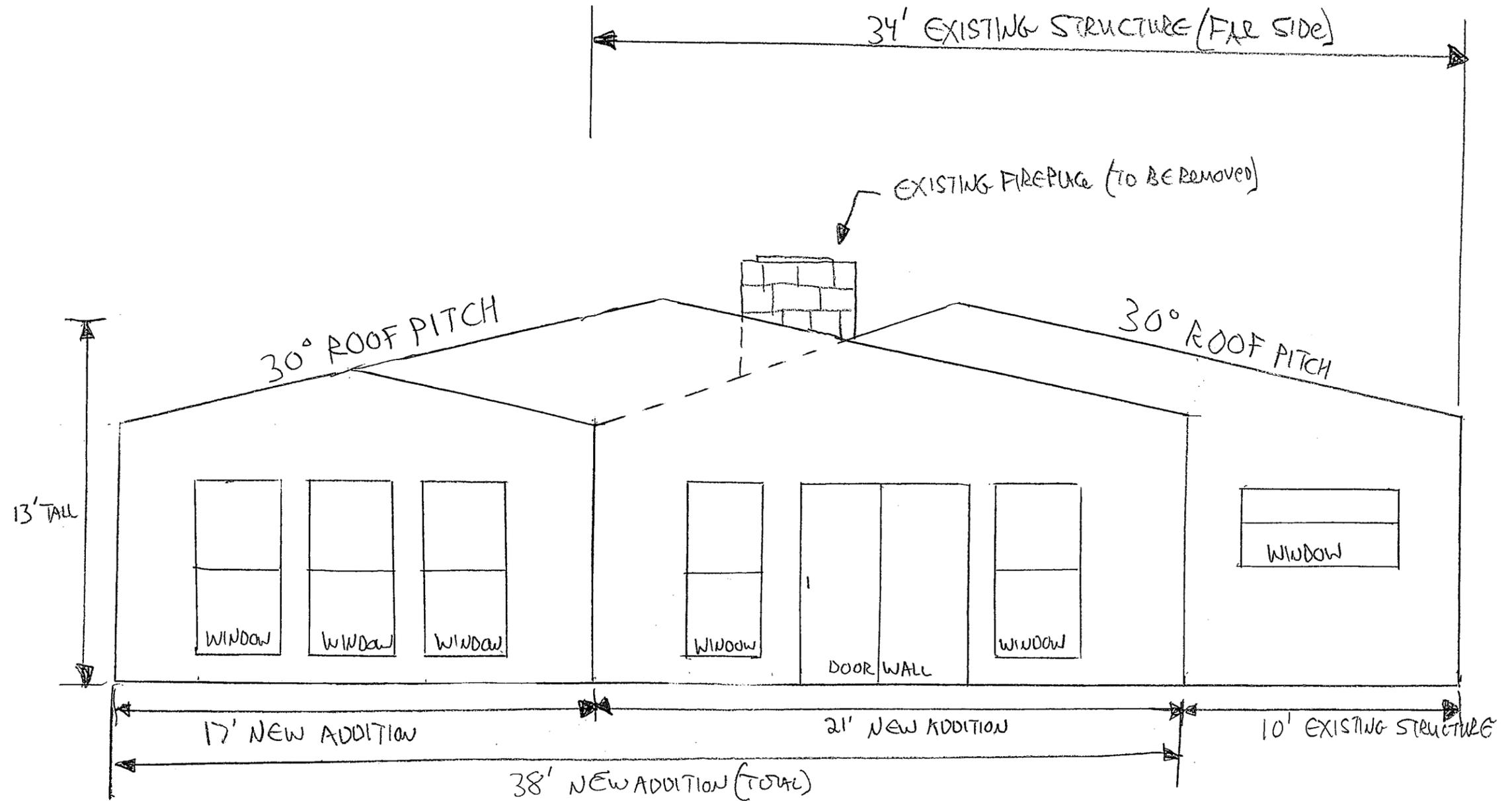
Note: Once the variance is granted to the home owners; final drawings will be submitted building department with the application for permits.



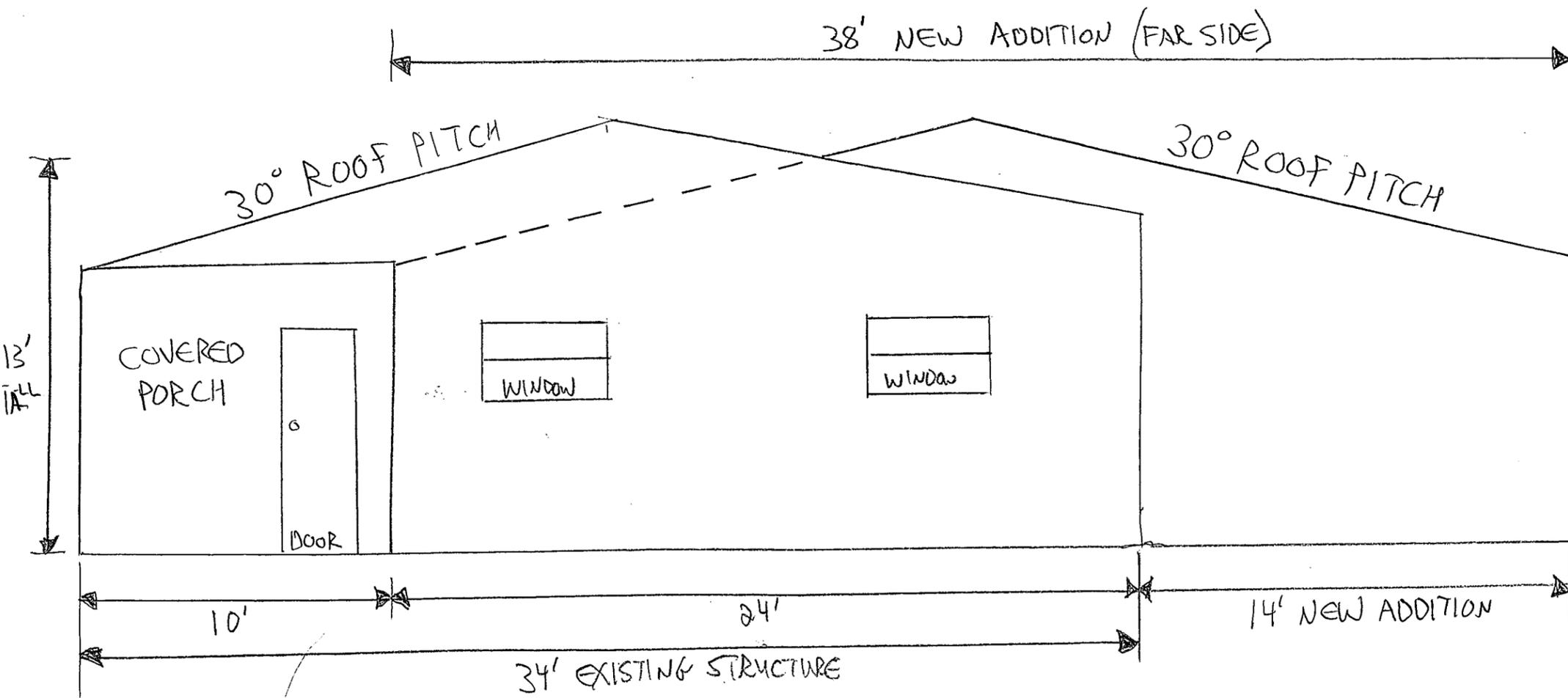
ELEVATION - REAR (EAST)



ELEVATION - RIGHT SIDE (SOUTH)



ELEVATION - LEFT SIDE (NORTH)



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, June 12, 2019
7:00 P.M.**

1. Call to order:

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

2. Pledge to the Flag:

3. Roll call of the Board:

Present: Auxier, Bohn, Hollenbeck, Rill & Watson,

Absent: Priebe

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

4. Correspondence: None

5. Approval of Minutes:

Motion by Auxier, supported by Rill

To approve the May 8, 2019 minutes as written

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

6. Call to the public:

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

7. Approval of Agenda:

Motion by Auxier, supported by Rill

To approve the agenda as presented

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

8. Variance requests:

ZBA 2019-0010

Owner: Andrew and Justyn Yavello

Location: 10125 Imus Road, Pinckney MI 48169

Parcel ID: 15-28-204-052

Request: Variance application to allow for the construction of a 728-square foot second-story addition on the north east side of an existing non-conforming dwelling. The addition will have a 41.5-foot setback from the ordinary high water mark of Strawberry Lake (50-foot setback from the OHM required, Section 7.6.1.fn. 3; second-story additions must comply with required setback, Section 11.3.1.).

Andy Yavello, applicant, stated that they are lucky to have moved to the neighborhood with the neighbors that they have. They are more than just friends, and they are unanimously in support of this project. When they looked at expanding to accommodate their growing family, they looked at building over the existing footprint, which seemed to be the most logical and efficient plan. He explained the layout of the existing home and the difficulty in not having the family with bedrooms all on one level. This addition would allow them to do that. They are not asking to go any closer to the water than the existing home. They simply would like to complete the second story. It will create an aesthetically pleasing home and not be any more out of compliance. To put an addition on the back of the home or between the house and garage would create an odd looking home. This project would allow them to not do any foundation work. The description of the request does include a sunroom, which they do not consider livable space.

The question was asked if one of the letters of support is from the neighbor to the right. Mr. Yavello stated that there is a letter from them. He presented pictures from the neighbor's yard showing what their view would be.

The question was asked if the height of the addition would be the same as the current height. Discussion was held on the peak of the roof.

Acting Chairperson Bohn opened the hearing to the public.

Mr. Greg Meloche of 10110 Imus Drive stated that he and his wife have been members of that subdivision for 35 years. The Yavellos are the finest neighbors they have had, and he would personally vouch for their integrity, character and standards. They understand that they are close to the water, but they are not asking to change the footprint of their house. He would urge the Board to approve their request.

Hearing no further public comment, the call was closed.

Amy Steffens, Planning & Zoning Administrator stated that the subject site is an 11,761-square foot irregularly shaped parcel that fronts onto Imus Drive to the west; Strawberry Lake is to the south; single-family dwellings are to the north, east, and west. The site is currently improved with a 2,684 square foot two-story single-family dwelling and a detached 676 square foot garage. If approved, the variance request would allow for the construction of a 728 square foot second-story addition on the north east of the existing dwelling. The addition would have the same OHM setback as the existing first-floor footprint of the dwelling. Per Section 7.6.1 fn 1, there needs to be a 50-foot setback from the OHM. Second-story additions must comply with the required zoning ordinance setbacks. Based on FEMA's floodplain maps, the existing structure is in the 100-year floodplain. Hamburg Township participates in the National Flood Insurance Program (NFIP). Proper enforcement of the building code standards is a requirement of the community's participation in the NFIP. The property owners have obtained and provided Hamburg Township with a copy of the LOMA (Letter of Map Amendment) from FEMA from 2011, which removed the structure from the 100-year floodplain. It also removes the floodplain development standards of the Michigan Residential Building Code. She discussed the seven findings of fact. She stated that the dwelling's existing first-story encroaches into the OHM setback by 5 feet, which would not change with the second-story addition. What encroaches into the required OHM setback, however, is a single-story dwelling. What must be considered is not just the footprint of the dwelling relative to the required setbacks but also the bulk of the structure. A single-story dwelling is far less impactful than a two-story dwelling especially with a deficient yard setback. Additionally, the property owner's family circumstances are not something that the Board should take under consideration when deciding the variance. A substantial property right is not based on a single or particular architectural design or site plan. The site is zoned for single-family residential uses, has been developed for such a use with a much larger structure than the minimum required, and can continue to be used for such use without further enlarging the nonconforming structure in a non-conforming location. Recent zoning text

amendments to Section 11.3. support the community's desire to phase out non-conforming structures, not expand them. Due to the configuration of the subject site, which is a very oddly shaped parcel, and the adjacent dwellings, the dwelling to the north would likely be negatively impacted by an approved variance request. The bulk of the structure within the OHM setback would be substantially increased. The proposed request would not adversely affect the purpose or objectives of the Master Plan. There is nothing so peculiar about the subject site that warrant a deviation from the ordinance. There is ample space on the subject site to enlarge the structure that would not necessitate expanding a non-conforming structure, variance approval, or a zoning text amendment. The use of the site is single-family residential and the proposed variance would not change the use. The ZBA could find that the 5 foot encroachment into the OHM is a reasonable and minor deviation. However, the ZBA could also find that expanding a non-conformity is not the minimum to permit reasonable use of the land.

Member Bohn stated asked how the OHM was determined in this situation. He asked if this lake has a statutory OHM. Mr. Mark Hewison, friend of the applicant, stated that it was something that they had in the documents when they purchased the property. They also used that when they built a garage a number of years ago.

Member Auxier stated that in looking at the property, there appeared to be no impact to adjacent property. He stated that in his opinion, it is a minor deviation to the Zoning Ordinance.

Motion by Auxier, supported by Rill

Motion to approve variance application ZBA 19-0010 at 10125 Imus Road to allow for construction of a 728-square foot second-story addition on the north east side of an existing non-conforming dwelling. The addition will have a 45-foot setback from the ordinary high water mark of Strawberry Lake (50-foot setback from the OHM required, Section 7.6.1. fn.1; second-story additions must comply with required setback, Section 11.3.1.). 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: 1 MOTION CARRIED

ZBA 2019-0011

Owner: Nell Nelson

Location: 8854 Lagoon, Brighton MI 48116

Parcel ID: 15-13-402-060

Request: Variance application to allow for the construction of a 147-square foot enclosed sunroom and an 83-square foot covered porch on the north façade of the existing dwelling. The enclosed sunroom will have an 18.8 foot north rear yard setback and the covered porch will have a 23-foot north rear yard setback (30-foot rear yard setback required, Section 7.6.1.).

Nell Nelson, applicant, stated that their home is located across from Little Ore Lake. They currently have a 9 foot deck that extends across 21 feet across. With the sun and bugs, they would like to enclose a portion of that deck and extend it out an additional 2 feet. She described the view from the adjacent homes and stated that there would not be much impact to them. It would be an attractive addition to the home. She discussed the potential of putting a gazebo or other structure in that area because it is considered the rear yard.

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

Member Watson stated that it may be only 2 feet larger, but because it is an enclosed structure, it does make it appear much larger.

Brittany Stein, Zoning Coordinator, stated that the subject site is a 6,223 square foot through lot that fronts onto Reive Court to the south, Lagoon Drive to the north, and single family dwellings are located to the east, south, and west of the site. The parcel includes a 1,200 square foot combined lot directly across Lagoon Drive. The existing dwelling is a two-story, 960 square foot structure, including an attached 438 square foot garage. If approved, the variance request would permit the construction of a 147-square foot enclosed sunroom and an 83-square foot covered porch on the north façade of the existing dwelling. The enclosed sunroom will have an 18.8-foot north rear yard setback and the covered porch will have a 23-foot north rear yard setback. A 30-foot rear yard setback is required per Section 7.6.1. Additionally, if approved, the variance request would permit the construction of a 75-square foot attached accessory structure on the west façade of the dwelling. The accessory structure will have an 18.5-foot south front yard setback where a 25-foot front yard setback is required per Section 7.6.1. She reviewed the seven standards of review. This site is a through lot, which our ordinance does not address, but requires the primary structure to have a 25 foot front yard setback from the access point of Reive Court, while having a 30-foot rear yard setback from Lagoon Drive. Because the property is accessed by Reive Court, the rear property line is along Lagoon Drive. The proposed sunroom and porch addition would significantly impact the neighborhood. The existing dwelling is non-conforming, therefore does not currently meet the required setback. The dwelling currently is 28.3 feet to the rear property line, and the proposed addition would encroach further into the setback, being 18.8 feet to the rear property line. This proposed sunroom addition would encroach farther into the rear yard than surrounding properties. This site is a through lot requiring the primary structure to have a 25 foot front yard setback from the access point of Reive Court. The proposed addition of the attached accessory structure to the side of the house would not significantly impact the neighborhood any more than the existing structure already is. The existing dwelling is 17.9 feet to the front property line, and the proposed addition is at 18.5 feet to the front property line. The property directly to the west is developed with a detached garage. Also on that parcel is a single family dwelling which is distanced from this site. The impact on this neighboring property would be less impactful than constructing the accessory structure in any other location on the lot. Our ordinance makes it easier to put an accessory structure in the rear yard because typically it is less impactful. An accessory structure could be put 5 feet from the rear property line, which would be more impactful than the proposed attached structure. There are two different setbacks for the two portions of the request. Although the lot is a through lot, the rear yard is always opposite of the front yard of which access to the property is taken. The site is zoned for single-family residential uses, has been developed for such uses, and can continue to be used for such use without further enlarging the non-conforming structure in a non-conforming location. Recent zoning text amendments to Section 11.3. support the community's desire to phase out non-conforming structures, not expand them. The lot is 41.6 feet wide. A recent zoning text amendment did make it easier for this resident in the WFR zoning district to have reduced side yard setbacks for the dwelling unit. Lots that are 60 feet wide or less can have a reduced side yard setback of 10 and 5 feet or aggregate of 15, which they do meet. Although, this does not affect the required 25-foot front yard setback, the lot could accommodate a more compliant location for the attached accessory structure, but it is the least impactful upon neighboring properties in this proposed location. The sunroom is going to be more impactful on the side because of the reduced setback and they would be losing the open space on that side of the property. The accessory structure to the side would be the least impactful in that location. The subject site is in the Northeast Hamburg/Winans Lake planning area of the Master Plan. This area envisions mixed density waterfront and natural river zoning districts. The proposed request would not adversely affect the purpose or objectives of the Master Plan. Regarding the proposed sunroom and porch addition, rear yard setbacks of 30 feet is required on all WFR zoned properties. The size of the lot is similar, relative to other neighboring properties. The configuration of this through lot is similar to both neighboring parcels. The zoning ordinance has recently been updated allowing easier development of compliant single-family dwellings. Development of an addition to the home in the rear yard towards Lagoon Drive would significantly impact the aesthetic appearance and open spaces of the neighborhood, if developed in this location. The addition of an attached accessory structure is a minor less impactful addition in this proposed location, rather than approving the construction of a compliant accessory structure in a different location on the property. The use of the site is single-family residential and the proposed variance would not change the use. Although, for the requested variance for the sunroom addition, this addition is only for personal preference and enjoyment for the residents of the lot. The site has been developed for a single-family dwelling and can continue to be used for such use without further enlarging the non-conforming structure in a non-conforming location.

Given the narrow size of the lot with a front yard setback from the south property line of Reive Ct., there is a practical difficulty in constructing a more compliant accessory structure on the lot.

Member Auxier asked if there is any other through lots in this area. Stein stated that the two neighbors on either side have similar lots. Further discussion was held on the neighboring lots.

The question was asked if an accessory structure could be put on the lake side. Stein stated that it could, but it would have to meet the setbacks, and the lot is only 20 feet wide. It was stated that this is one legal lot. Further discussion was held on the setback for a detached structure versus attached to the structure. Rear yard cannot be more than 30 percent covered by structures.

The question was asked if variances were granted for the two new houses on Lagoon. Steffens stated that the two that burned were allowed to go back to their original locations.

Discussion was held on the request being a better option.

Motion by Watson, supported by Hollenbeck

Motion to approve variance application ZBA 19-0011 at 8854 Lagoon Dr. to allow for the construction of a 147-square foot enclosed sunroom and an 83-square foot covered porch on the north façade of the existing dwelling. The enclosed sunroom will have an 18.8-foot north rear yard setback and the covered porch will have a 23-foot north rear yard setback (30-foot rear yard setback required, Section 7.6.1.).

Also, to approve a variance to allow for the construction of a 75-square foot attached accessory structure on the west façade of the dwelling. The accessory structure will have an 18.5-foot south front yard setback (25-foot front 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 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: 1 MOTION CARRIED

ZBA 2019-0012

Owner: Jon and Lori Fairchild

Location: 8213 Kimble Drive, Pinckney MI 48169

Parcel ID: 15-16-101-019

Request: Variance application to allow for the construction of a 14-foot by 45-foot elevated deck on the south east façade of the dwelling. The elevated deck will have a 17.6-foot rear yard setback (24-foot rear yard setback required for elevated deck, Sections 7.6.1. and 8.18).

Jon Fairchild, applicant, stated that they had an older deck. They would like to extend the deck to the end of the house. The property behind the house is woods and cannot be built on. It would not interfere with anyone in that area.

Brittany Stein, Zoning Coordinator, stated that the subject site is a 10,467 square foot lot that fronts onto Kimble Drive to the northwest, single family dwellings to the north, west and south, and preserved open space of a neighboring subdivision to the east. The dwelling is a two-story 1,062 square foot home. Also on the lot is a detached 600 square foot garage. The old elevated deck was 10-foot by 18-foot on the rear of the dwelling. They are requesting a 14-foot by 45-foot elevated deck on the south east façade of the dwelling the length of the house. It would have a 17.6-foot rear yard setback. A 24-foot rear yard setback is required because our ordinance says that we do not want an elevated deck to go further than 6 feet into the rear yard setback, which is 30 feet. She discussed the standards of review. The size of the site does not constrain the development possibilities for an

attached elevated deck to the rear of the dwelling. There is a compliant location and ample space in the rear yard for an elevated deck of a smaller size. Although the applicant prefers to preserve the concrete slab below, this is not an exceptional or extraordinary condition of the property. She stated that they could build an 8 foot x 22 foot deck. The lot is wider than it is deep, making it non-typical. The dwelling unit is setback from the front property line 30 feet, leaving a smaller rear yard area than most lots. Due to the location of the dwelling on the lot, which is conforming to the zoning ordinance, this provides enough area to construct a compliant elevated deck, but of smaller size in this location. The existing home is 31.5 feet setback from the rear property line, where 30-foot rear yard setback is required. An elevated deck may encroach into the required setback no more than 6 feet leaving the 24-foot setback requirement. The proposed elevated deck is 14 feet by 45 feet, this is doubling the size of the deck that was existing. The size of the deck is based on personal preference for enjoyment of the property owners. While the rear of the site abuts a neighboring subdivision's open space, the proposed variance request for the deck would not impact the surrounding properties nor would the improvements likely create sight visibility problems given the fact that the deck would be more than 30 feet from the nearest neighboring residence, and more than 100 feet from the next neighboring residence. This area of the Township is largely in a natural state and contains large areas of woodlands, wetland and wildlife habitat as well as larger lots in medium density areas. This proposed variance request would not affect the aesthetic character of the community. The proposed request would not adversely affect the purpose 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 elevated deck to the existing dwelling cannot better comply with the required rear yard setback standards. The short depth and grade change of the rear yard on this lot constrains development on this site for compliant elevated deck. The use of the site is single-family residential and the proposed variance would not change the use. The lot has a small rear yard. Although the size of the deck is based on personal preference of the property owners, there is not a practical difficulty in constructing a compliant rear elevated deck on the lot.

The question was asked what the depth of the current deck is. Mr. Fairchild stated that it is 10 feet. The question was asked if they planned on extending the concrete slab. Mr. Fairchild stated that they would not. Discussion was held on the overhang of the elevated deck and the location of the posts. Discussion was held on the measurement of the actual deck to the property line regardless of the location of the posts.

Discussion was held on the open space in the rear. Stein stated that it is open space for a neighboring development. It may be wetlands, but it is not buildable.

Member Auxier stated that he saw nothing that would impact the neighborhood or the surrounding properties with this deck.

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

Motion by Hollenbeck, supported by Rill

Motion to approve variance application ZBA 19-0012 at 8213 Kimble Dr. to allow for the construction of a 14-foot by 45-foot elevated deck on the south east façade of the dwelling. The elevated deck will have a 17.6-foot rear yard setback (24-foot rear yard setback required for elevated deck, Sections 7.6.1. and 8.18). 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: 1 MOTION CARRIED

ZBA 2019-0013

Owner: John and Renee Johnston

Location: 6361 Buckshore Drive, Whitmore Lake MI 48189

Parcel ID: 15-23-306-100

Request: Variance application to allow for the construction of a 630-square foot second-story addition on the south side of an existing non-conforming dwelling. The addition will have a 16.25-foot rear yard setback (30-foot rear yard setback required, Section 7.6.1.; second-story additions must comply with required setback, Section 11.3.1.).

John Johnston, applicant, stated that they are looking at putting a modest addition on their existing garage. It would be in line with the aesthetics of the neighborhood and have minimal impact to their neighbors. He referred to an aerial photo of the property. The house is set very far back on the property, and given the topography of the property, you can see why they did that. It is in line with the house to the side. The property is irregular-shaped and the rear property line is not in line with the house. There are three undeveloped lots to the south and to the west. Building in the proposed area would be the least impactful.

Discussion was held on the existing fence. Mr. Johnston stated that it was put in by the previous owner of the rear property. They have owned their home and maintained that property to the fence for approximately 20 years. Discussion was held on adverse possession.

Member Auxier asked if they looked at expanding in other locations. Mr. Johnston discussed the problems with the hill and the location of a sunroom on the front of the home, etc. What they are proposing is the least impactful and they would be able to continue to live in the current living space.

Amy Steffens, Planning & Zoning Administrator, stated that the subject site is a one-quarter acre parcel that fronts onto Buckshore Drive to the east; single family dwellings are to the north, west, and east; a vacant parcel is located to the south. The site is currently improved with a 920-square foot single-story single-family dwelling and an attached 576-square foot attached garage. If approved, the variance request would allow for a 630-square foot second story addition over the existing attached garage on the south side of the parcel. The existing dwelling has a 16.25-foot rear yard setback and the proposed second-story addition would have the same rear yard setback. Section 7.6.1. requires a 30-foot rear yard setback and Section 11.3. requires that second-story additions to a non-conforming dwelling must comply with the required rear yard setbacks. She discussed the seven findings of fact. She stated that the existing dwelling encroaches into the required 30-foot rear yard setback by 13.75 feet, and the second-story would maintain that setback. They are going up rather than out. The existing dwelling was constructed with a large front yard setback of approximately 90 feet, rather than the required 25-foot front yard setback required. Given the way the property has been developed, complying with the required 30-foot rear yard setback for a second-story addition would be impossible. Conversely, however, the extreme front yard setback also means that there is more than adequate space to construct additional living space in a compliant location with a lateral addition rather than a vertical addition. A substantial property right is not preserved based on particular site or site plan. The site is zoned for single-family residential uses, has been developed and used for such a use and can continue to be used for that purpose. The encroachment into the rear yard for the second-story addition could be considered a minor deviation to the zoning ordinance due to the way that the house was constructed on the lot with the extreme front yard setback. The adjacent properties are not likely to be negatively impacted. The house to the north is not likely to be affected at all, and if the parcels to the south are ever developed, then they have decided to develop on a parcel next to a parcel with a deficient setback. As stated, due to the configuration of the dwelling on the parcel and adjacent dwellings, the proposed variance is not likely to be materially injurious to the property or improvements in the zone or district. The subject site is in the Northeast Hamburg/Winans Lake planning area of the Master Plan. This area envisions mixed density waterfront and natural river zoning districts. The proposed request would not 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 second story addition could not comply with the zoning ordinance requirements for setbacks. There could be a lateral, compliant addition. This parcel is an exceptionally large parcel for the WFR zoned district and has a building envelope of approximately 7,500 square feet in which to develop. The use of the site is single-family residential and the proposed variance would not change the use. The proposed second-story addition could be considered a minor deviation from the zoning ordinance setback requirements but there is a compliant location for additional living space. There is a significant topography issue on the site, and the house has been pushed to the extreme

rear yard. That could be a reason to approve the variance. However, there is compliant location for additional living space on the site as well.

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

Motion by Rill, supported by Auxier

Motion to approve variance application ZBA 19-0013 at 6361 Buckshore Drive to allow for the construction of a 630-square foot second-story addition on the south side of an existing nonconforming dwelling. The addition will have a 16.25-foot rear yard setback (30-foot rear yard setback required, Section 7.6.1.; second-story additions must comply with required setback, Section 11.3.1.).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: 1 MOTION CARRIED

9. New/Old business:

Amy Steffens, Planning & Zoning Administrator, stated that this is Member Bohn's last ZBA meeting. We are recommending that the Township Board approve his appointment to the Planning Commission.

10. Adjournment:

Motion by Auxier, supported by Hollenbeck

To adjourn the meeting

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

The meeting was adjourned at 8:26 p.m.

Respectfully submitted,

Julie C. Durkin
Recording Secretary

The minutes were approved as presented/Corrected:_____

Acting Chairperson Bohn