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**Hamburg Township  
Zoning Board of Appeals  
Hamburg Township Board Room  
Wednesday, September 11, 2019**

**AGENDA**

- 1. Call to order**
- 2. Pledge to the Flag**
- 3. Roll call of the Board**
- 4. Correspondence**
- 5. Approval of agenda**
- 6. Call to the public**
- 7. Variance requests**

**a) ZBA 19-0015**

Owner: Kim and Kevin Muszynski  
Location: 3816 Langley  
Pinckney MI 48169  
Parcel ID: 15-29-202-033  
Request: Variance application to allow for the construction of a 5-foot by 12-foot elevated deck with a 5-foot east side yard setback (8-foot side yard setback required for elevated decks, Section 8.18.2.).

**b) ZBA 19-0016**

Owner: Richard Olson  
Location: 8772 Rushside Dr.  
Pinckney MI 48169  
Parcel ID: 15-17-402-028  
Request: Variance application to allow for the construction of a new two-story single family dwelling with a 1,133 square foot footprint. The proposed dwelling will have a 7.1-foot south side yard setback, resulting in an aggregate side yard setback of 12.4 feet (15-foot aggregate side yard setback required, Section 7.6.1 fn. 4).

**8. New/Old business**

- a) Approval of July 10, 2019 ZBA Minutes
- b) Memorialization of findings: 19-005, 19-006, 19-007, 19-008, 19-009, 19-010, 19-011, 19-012, 19-013, 19-014

**9. Adjournment**



# Zoning Board of Appeals Staff Report

## AGENDA ITEM: 7a



**TO:** Zoning Board of Appeals  
(ZBA)

**FROM:** Amy Steffens, AICP

**HEARING  
DATE:** September 11, 2019

**SUBJECT:** ZBA 19-0015

**PROJECT  
SITE:** 3816 Langley  
TID 15-29-202-033

**APPLICANT/  
OWNER:** Kim and Kevin Muszynski

**PROJECT:** Variance application to allow for the construction of a 5-foot by 12-foot elevated deck with a 5-foot east side yard setback (8-foot side yard setback required for elevated decks, Section 8.18.2.).

**ZONING:** WFR (waterfront residential district)

### Project Description

The subject site is a 6,621-square foot parcel that fronts onto Langley Drive to the north; Cordley Lake is to the south; single-family dwellings are to the north, east, and west. The site is improved with a 1,156-square foot single-family dwelling, with a 976-square foot walk-out basement and a 776-square foot attached garage.

If approved, the variance request would allow for the construction of a 5-foot by 12-foot elevated deck with a 5-foot east side yard setback (8-foot side yard setback required for elevated decks, Section 8.18.2.). Section 8.18., yard encroachments, specifies that an elevated deck (a deck that is more than 24 inches above grade) may project into a required yard not to exceed six feet provided that the structure is no closer than eight feet to the property line. As proposed, the elevated deck would have a 5.2-foot east side yard setback where an eight-foot side yard setback would be

required.

### **Project History**

On or about April 11, 2018, Hamburg Township received a land use permit application for the construction of a new single-family dwelling on a vacant parcel. Because additional information was needed, including lot coverage calculations and a hold harmless agreement for the location of the grinder pump, the permit application was put on hold.

On May 6, 2018, the zoning administrator emailed the contractor to inquire about an elevated deck that was shown on the proposed floorplans but not on the site plan (Exhibit B). At that time, the zoning administrator indicated that based on the site plan submitted with the permit application the proposed elevated deck might not comply with the zoning ordinance setback requirements. In follow up telephone conversations between the zoning administrator and the contractor, it was suggested that the size of the deck could be reduced to no more than five feet in any horizontal direction so that it could be permitted as a stoop. The decision was made to remove the deck from the floorplans and the site plan. On May 7, 2018, land use permit 18-011 was issued for the construction of the dwelling without the elevated deck (Exhibit C).

On June 4, 2018, the contractor emailed staff to inquire again about the elevated deck requirements (Exhibit B).

On January 4, 2019, zoning staff conducted a final inspection of the construction of the dwelling and noted that no elevated deck had been installed. After a performance bond was placed for the street trees, staff released the final zoning compliance to allow the Livingston County Building Department (LCBD) to issue a certificate of occupancy (CO); the CO clearly indicates that no deck was permitted or constructed (Exhibit D).

On May 1, 2019, zoning staff was made aware that the elevated deck was installed without either a land use permit or a building permit (Exhibit E).

### **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.**

There is no exceptional or extraordinary circumstance or condition applicable to this property that do not apply generally to other properties in the same district or zone. The applicant suggests that the elevated deck was built in this location to minimize grading issues. However, as shown in staff photographs there is no grade change that could not accommodate a compliant structure (Exhibit E). The elevated deck could be reduced in size to comply with the zoning ordinance for a stoop, which can be no greater than five feet in any horizontal direction and can encroach up to five feet into a required setback. The dwelling was built to accommodate the grade change from the lake side to the street side, and the

site work done in the location of the elevated deck is adequate for a reduced size structure. Furthermore, recent zoning text amendments to Section 11.3. support the community's desire to phase out non-conforming structures, not expand or create them.

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

A substantial property right is not preserved based on granting a variance for a particular architectural design. The site is zoned for single-family residential uses, has been developed for such uses, and can continue to be used for such use with a compliant egress structure in this location. The applicant suggests that there was a misunderstanding about the elevated deck on the part of all parties even though staff advised that the deck would not meet the zoning requirements and suggested a remedy, the CO had already issued by the LCBD, and no permit was issued for the elevated deck.

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

As stated above, there is a compliant remedy to allow egress from the east side of the home that would be less visually impactful to adjacent properties. Creating a non-conformity when a compliant alternative exists is detrimental to the public welfare. The applicant has not demonstrated that there is a practical difficulty based on any circumstance related to the property itself. Approving the proposed elevated deck based on the circumstances of the applicant does not support the intent of the community's vision as promulgated by the zoning ordinance standards.

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

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

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

The need for the variance is self-created and not a condition of the property. The zoning ordinance would allow, under Section 8.18.8., for a stoop that does not exceed five feet in any horizontal direction at this location.

Hamburg Township adopted a zoning text amendment in 2016 that defined a deck and an elevated deck, with associated standards for each. A deck that is less than 24 inches above

grade has a less restrictive setback than an elevated deck more than 24 inches above grade because of the privacy and impact concerns associated with an elevated deck. An at-grade deck has no greater impact than a lawn in its natural state, but an elevated deck is visually impactful, presents privacy concerns for adjacent properties, and serves a different purpose than a stoop that is used solely for egress. The proposed elevated deck is 60 square feet in size, nearly two and a half times larger than the stoop that is permitted by the zoning ordinance. Additionally, recent changes to Article 11, commonly called the non-conforming article, support the community's desire to phase out non-conforming situations to bring buildings and uses into conformance with the zoning ordinance and the Master Plan.

There is no condition or situation of the subject site that is not of so general or recurrent a nature that egress to the dwelling could not be achieved without need for variance.

**6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district.**

The use of the site is single-family residential and the proposed variance would not change the use.

**7. The requested variance is the minimum necessary to permit reasonable use of the land.**

The site is zoned for single-family residential uses, has been developed for such uses, and can continue to be used for such use with a compliant egress structure in this location. There is no practical reason why the elevated deck cannot be reduced in size to comply with the zoning ordinance setback requirements. There would be no change to the front elevation, as suggested by the applicant, nor would reducing the size of the structure be out of character with the neighborhood. The necessity for the variance is self-created.

“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.

**Denial Motion:**

Motion to deny variance application ZBA 19-0015 at 3816 Langley to allow for the construction of a 5-foot by 12-foot elevated deck with a 5-foot east side yard setback (8-foot side yard setback required for elevated decks, Section 8.18.2.). The variance does not meet variance standards one, two, three, five, or seven of Section 6.5. of the Township Ordinance and a practical difficulty does not exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight's hearing and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

**Exhibits**

Exhibit A: Application materials

Exhibit B: Staff emails

Exhibit C: Land use permit 18-011

Exhibit D: Certificate of Occupancy

Exhibit E: Staff pictures



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 #: 15-21-202-033 Subdivision: Cedar Beach Lot No.: 33
3. Address of Subject Property: 3816 Langley Rd. Pinkney MI 48169
4. Property Owner: Kim & Kevin Muszynski Phone: (H) 810-836-3097  
Email Address: marlanakim39@yahoo.com (W) \_\_\_\_\_  
Street: 3816 Langley City Pinkney State MI
5. Appellant (If different than owner): \_\_\_\_\_ Phone: (H) \_\_\_\_\_  
E-mail Address: \_\_\_\_\_ (W) \_\_\_\_\_  
Street: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_
6. Year Property was Acquired: \_\_\_\_\_ Zoning District: \_\_\_\_\_ Flood Plain \_\_\_\_\_
7. Size of Lot: Front 70.74 Rear 50' Side 1 105.48 Side 2 131.32 Sq. Ft. \_\_\_\_\_
11. Dimensions of Existing Structure (s) 1st Floor 34x34x34 2nd Floor \_\_\_\_\_ Garage 24x24x24x24  
x34
12. Dimensions of Proposed Structure (s) 1st Floor \_\_\_\_\_ 2nd Floor \_\_\_\_\_ Garage \_\_\_\_\_
13. Present Use of Property: Single Family Resident
14. Percentage of Existing Structure (s) to be demolished, if any \_\_\_\_\_ %
15. Has there been any past variances on this property? Yes \_\_\_\_\_ No
16. If so, state case # and resolution of variance application \_\_\_\_\_
17. Please indicate the type of variance or zoning ordinance interpretation requested:  
Deck 5x12 ...  
5'2" from property line

**RECEIVED**

**AUG 08 2019**

Hamburg Township  
Planning and Zoning Department

ADDENDUM TO APPLICATION TO ZONING BOARD OF APPEALS

Address: 3816 Langley Road, Pinckney, MI 48169

Tax ID: 4715-29-202-033

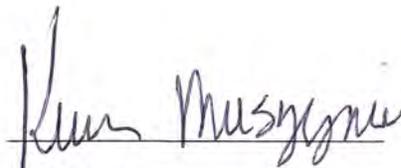
Factual basis to determine the existence of a practical difficulty or unnecessary hardship

The variance sought by the Applicants is a dimension variance to allow a portion of their existing deck to remain in place, as built, where the side of the deck was built 5.2 feet from the property line. The requirements to show a practical difficulty or unnecessary hardship exists, are as follows:

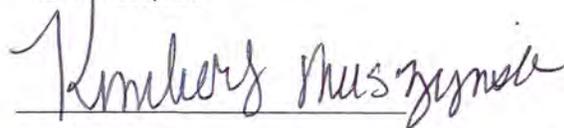
1. The restrictions of the Township Zoning Ordinance would cause an unnecessary hardship if the said deck had to be removed, thereby depriving the homeowner rights to fully enjoy the home in a timely and cost efficient manner. The practical difficulty exists where the deck cannot be easily or reasonably removed or modified to eliminate the encroachment
2. The plight of the applicant is due to the 8 foot setback to any property line, however; all portion of the house are within the building envelope requirements. The lake at the rear of the property caused major concern to both the homeowner and the builder, and the deck needed to built as close to the side setbacks as possible to minimize any grading issues.
3. This was not intentional to build the deck without a permit and was an oversight when building the house by all parties, however; the deck sets back approximately 5.2 feet from the south east side of the house.
4. The applicant has no knowledge of other properties within the same zoning district which have similar circumstances or conditions. Thus this applicant is not asking for special privileges that are denied other properties
5. The difficulty is not solely economical, altering/modifying the front elevation would change the esthetics of the residence and would be out of character of the neighborhood.

In conclusion, in carrying out the strict letter of the ordinance, practical difficulties or unnecessary hardship would result. It is respectfully submitted that factual basis exists which meets the requirements as aforementioned, thus justifying the granting of the variance requested.

Date: August 5, 2019



Kevin Muszynski



Kimberly Muszynski

prepared by M.H. Bids

18. Please explain how the project meets each of the following standards:

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

\_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

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

2.10 feet.

- I hereby certify that the statements
- I acknowledge
- I acknowledge
- have submitted
- I acknowledge
- review thereof
- I understand
- I understand
- that he/she
- I understand
- I understand
- buildings

\_\_\_\_\_ of the subject property or have been authorized to act on behalf of the owner(s) and that all of the \_\_\_\_\_ of my knowledge and belief.

\_\_\_\_\_ was presented to the ZBA.

\_\_\_\_\_ Zoning Ordinance, The ZBA Application and the ZBA Checklist and \_\_\_\_\_

\_\_\_\_\_ Township to conduct onsite investigation of the property in order to \_\_\_\_\_

\_\_\_\_\_ street address clearly visible from the roadway.

\_\_\_\_\_ and that either the property owner or appellants shall be in attendance at \_\_\_\_\_

\_\_\_\_\_ action if a variance is granted.

\_\_\_\_\_ alteration of a building will be void after six (6) months, unless a valid \_\_\_\_\_

\_\_\_\_\_ to completion (See Sec. 6.8 of the Township Zoning Ordinance).

*not answered specifically 9-3*

*Please E mail today*

Owner \_\_\_\_\_

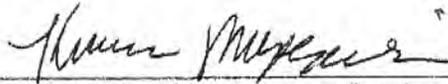
Appellant's Signature \_\_\_\_\_ Date \_\_\_\_\_

AUTHORIZATION TO OBTAIN PERMITS

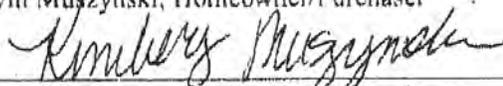
I/we Kevin and Kimberly Muszynski, instruct all townships, municipalities and county offices to allow authorized agents for Mitch Harris Building Company, Inc. to obtain any and all permits necessary for construction.

4-12-17

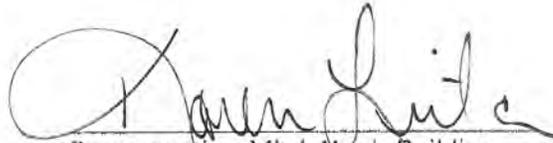
Dated



Kevin Muszynski, Homeowner/Purchaser

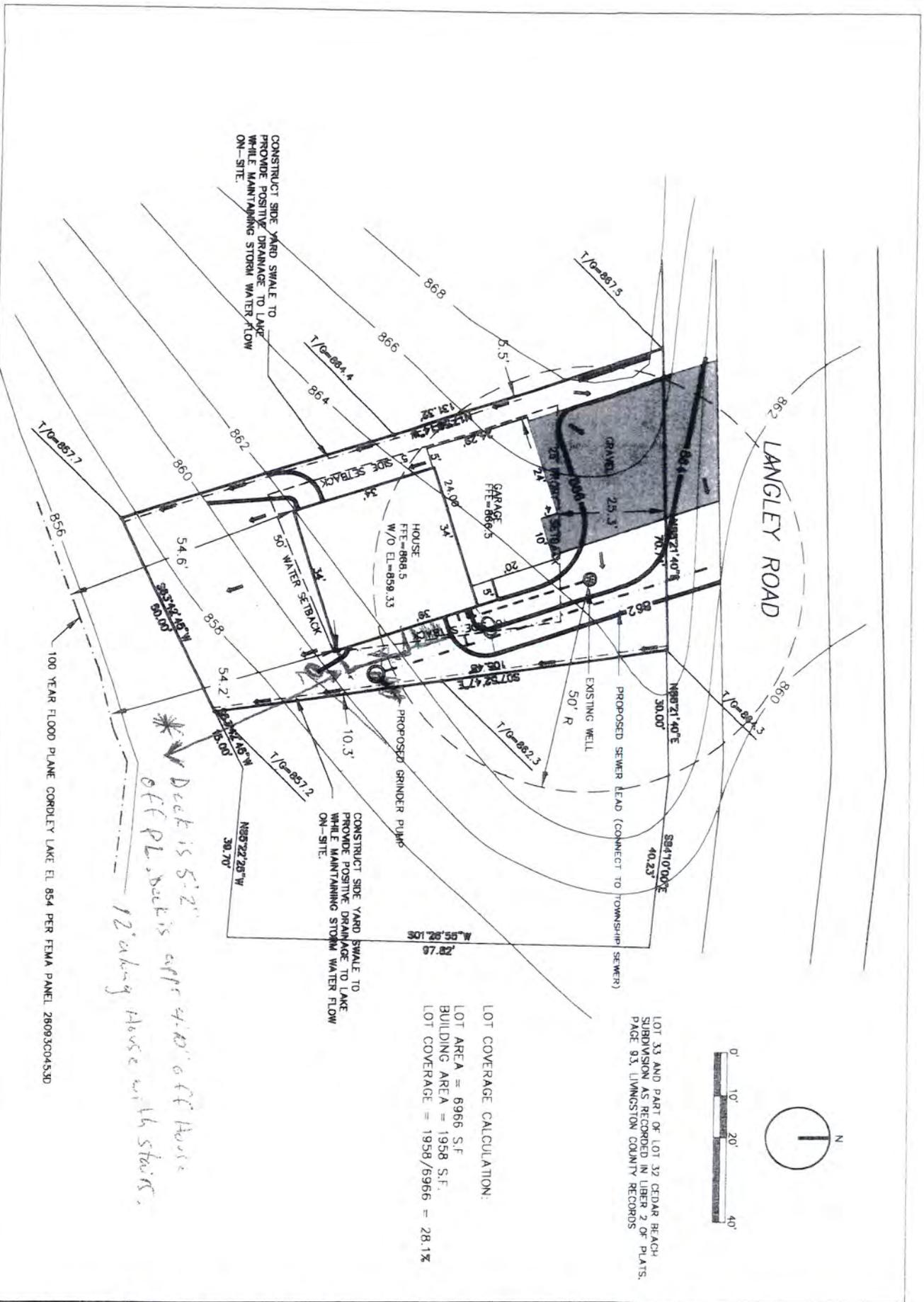


Kimberly Muszynski, Homeowner/Purchaser



Representative, Mitch Harris Building Company

Document dated 04-10-2018



**ACE CIVIL ENGINEERING**  
 3816 LANGLEY ROAD  
 SITE PLAN

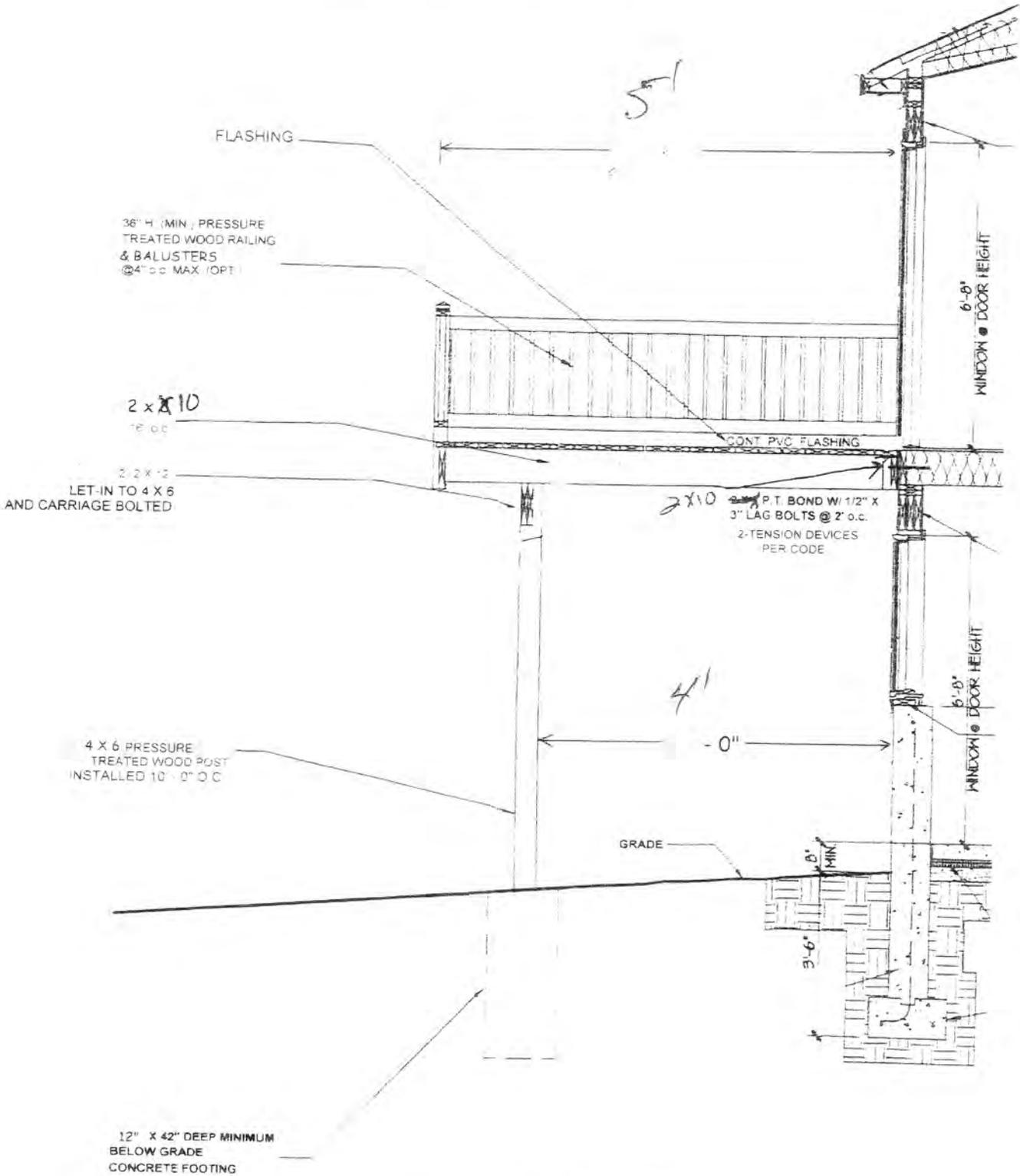
3816 LANGLEY ROAD  
 SITE PLAN

8  
 NITCH HARBOR BUILDING  
 201 N. FIRST STREET  
 LEBANON, OH 45031  
 513-333-1234

1	DATE: 04-04-18	PROJECT: 3816 LANGLEY ROAD	SCALE: 1" = 20'
2	DATE: 04-04-18	PROJECT: 3816 LANGLEY ROAD	SCALE: 1" = 20'
3	DATE: 04-04-18	PROJECT: 3816 LANGLEY ROAD	SCALE: 1" = 20'
4	DATE: 04-04-18	PROJECT: 3816 LANGLEY ROAD	SCALE: 1" = 20'
5	DATE: 04-04-18	PROJECT: 3816 LANGLEY ROAD	SCALE: 1" = 20'
6	DATE: 04-04-18	PROJECT: 3816 LANGLEY ROAD	SCALE: 1" = 20'
7	DATE: 04-04-18	PROJECT: 3816 LANGLEY ROAD	SCALE: 1" = 20'
8	DATE: 04-04-18	PROJECT: 3816 LANGLEY ROAD	SCALE: 1" = 20'
9	DATE: 04-04-18	PROJECT: 3816 LANGLEY ROAD	SCALE: 1" = 20'
10	DATE: 04-04-18	PROJECT: 3816 LANGLEY ROAD	SCALE: 1" = 20'

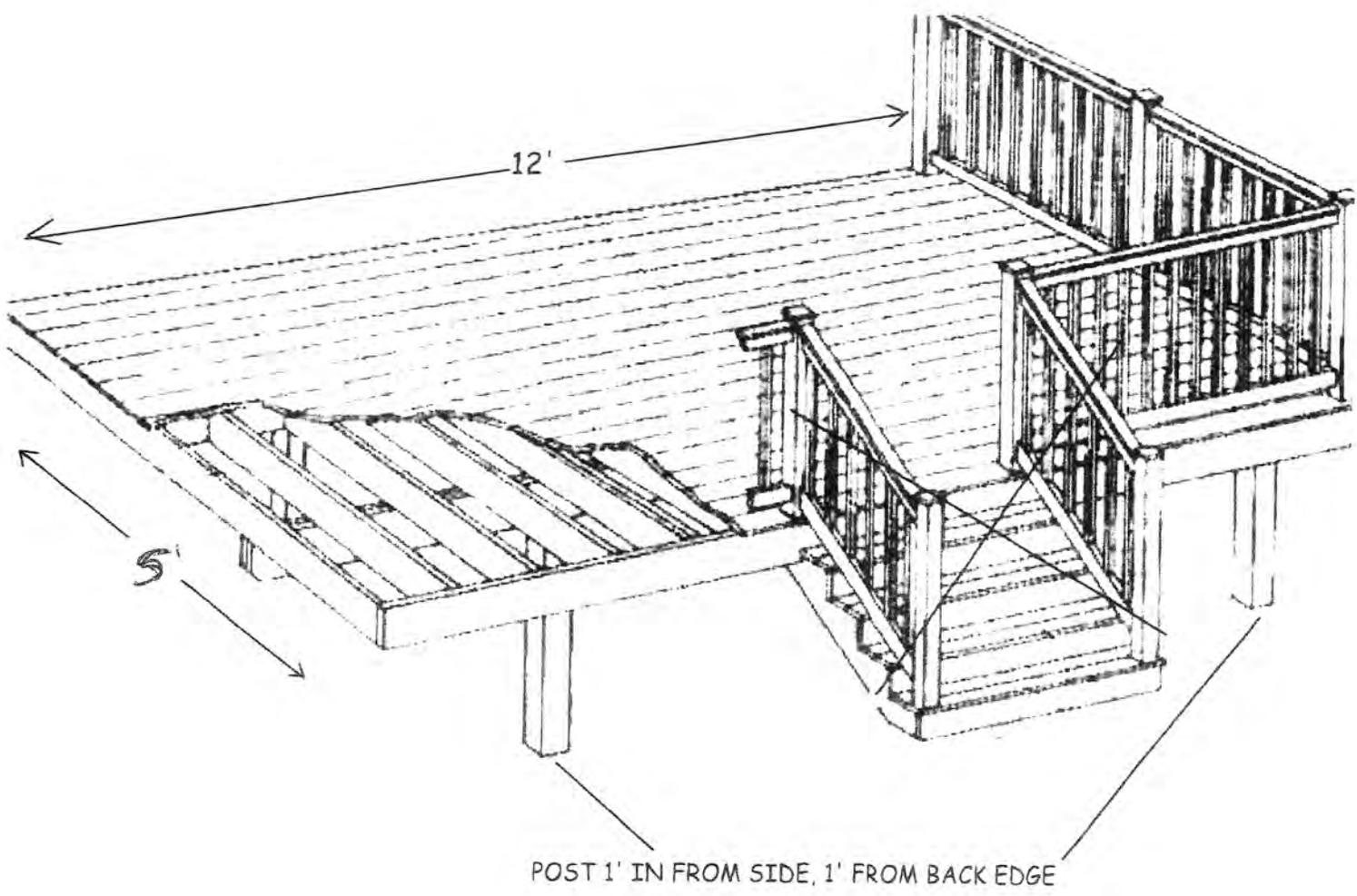
# 1245 Deck

5'



TYPICAL DECK CROSS SECTION

Not to scale





**LAND USE PERMIT FORM**

Hamburg Township Zoning Department  
10405 Merrill Rd., P.O. Box 157  
Hamburg, MI 48139 (810) 231-1000

**PROJECT ADDRESS/TAX IDENTIFICATION NUMBER:**

**OWNER**

Name: Kim and Kevin Muszynski Phone Number(s): 810-836-3097

Address: 3816 Langley Dr.

City: Pinckney State: MI Zip 48169

E-Mail: tmack@mitchharris.net

**CONTRACTOR**

Name: Mitch Harris Building Company Phone Number(s): 810-229-7838

Address: 211 N. First St. Suite 100

City: Brighton State: MI Zip 48116

E-Mail: tmack@mitchharris.net

**DESCRIBE WORK TO BE DONE:**

Building a 5 x 12 Deck

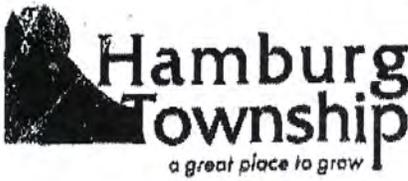
**APPLICANT CERTIFICATION:** I hereby certify that all structures and uses for which this application is made shall conform to the Ordinances of Hamburg Township, Livingston County and the State of Michigan. All information submitted for this permit is to my knowledge accurate. If the information is determined either now or in the future to be inaccurate the permit shall be void and any structures built or uses approved may be in violation of the required ordinances and must otherwise be brought into compliance with all regulations.

The accuracy of the lot lines, dimensions and other information presented in the project plans are the sole responsibility of the property owner and in NO way does the Zoning Inspector signature on the permit guarantee the accuracy of the information provided by the applicant for this permit. Applications to construct fences, decks, accessory structures, new construction and additions require staking property boundaries and project boundaries for inspection prior to issuance of the land use permit. However, a site inspection also does not guarantee the location of the property boundaries.

**Applicant Signature:**  **Date:** 5/1/19

If the applicant is not the owner of the property a signed copy of a contract for the work to be completed or a letter authorizing the work to be done by another party will be required with the submittal of the LUP form.

Please review the Land Use Permit checklist on pages 2 and 3 of the Land Use Permit Packet on-line at <http://www.hamburg.mi.us/2018%20Land%20Use%20Packet.pdf>. If all items of the checklist are not submitted your LUP may be denied based on lack of information.



**Hamburg Township**

10405 Merrill Rd P.O. Box 157 Hamburg MI 48139 (810) 231-1000

**ZONING DEPARTMENT**

HAMBURG TOWNSHIP

Date 05/07/2018 1:21:09 PM

Permit: PLUP18-0111

Ext: 231-1000

Receipt: 1184523

Amount: \$100.00



**Home**

**SCANNED**

Flood Plain: No

**PLUP18-0111**

Issued: 05/07/2018  
Expires: 05/07/2019

JOB LOCATION	OWNER	CONTRACTOR
3816 LANGLEY DR 4715-29-202-033 Lot: Plat/Sub: ZONING WFR	MUSZYNSKI KIMBERLY A & KEVI 9246 LAKE PINE DRIVE WHITMORE LAKE MI 48189 Phone: Email:	Micht Harris Building Co 211 N First St Brighton MI 48116 Phone: (810) 229 7838 Email:

Permit Item	Work Type	Fee Basis	Item Total
		Fee Total:	\$0.00
		Amount Paid:	\$0.00
		Balance Due:	\$0.00

Dg Pt. Home **WORK DESCRIPTION:**

construction of a 1056 with walk out basement and 3 car garage. No elevated deck to be constructed at this time; if stoop/deck to be constructed at a later date, will require amended plans and site plan.

**REQUIREMENTS FOR FINAL ZONING COMPLIANCE:**

All Construction Debris Removed. Final Grading of Site. All storm water run-off to be managed on site. Two (2) canopy (deciduous) trees along any collector or local street within 20 feet of the front line. NO FILL TO BE PLACED IN THE SFHA. Sump pump not to be connected to grinder pump/sewer system.

<input checked="" type="checkbox"/> Zoning Review Comment:	Public4	05/07/2018
<input checked="" type="checkbox"/> Utilities Review Comment:	Public4	05/07/2018
<input checked="" type="checkbox"/> Treasurers Review Comment:	noreenz	04/13/2018
<input checked="" type="checkbox"/> Assessing Review Comment:	DonB	05/07/2018

**APPLICANT CERTIFICATION:** I hereby certify that all structures and uses for which this application is made shall conform to the Ordinances of Hamburg Township, Livingston County and the State of Michigan. All information submitted for this permit is to my knowledge accurate. If the information is determined either now or in the future to be inaccurate the permit shall be void and any structures built or uses approved may be in violation of the required ordinances and must otherwise be brought into compliance with all regulations.

Applicant Signature: [Signature] Date: 05/07/2018 Date Received: \_\_\_\_\_  
ZONING ADMINISTRATOR: [Signature] DATE: 05/07/2018

The accuracy of the lot lines, dimensions and other information presented in the project plans are the sole responsibility of the property owner and in NO way does the Zoning Inspector signature on this permit guarantee the accuracy of the information provided by the applicant for this permit. A site inspection can be required by Hamburg Township; however a site inspection also does not guarantee the location of the property boundaries

**Please call 1-810-231-1000, Ext. 230 to schedule your inspections (requirements listed above). This will help to eliminate any delays in the issuance of the Certificate of Occupancy from the Livingston County Building Department.**

If the above marked items cannot be completed prior to the request for Final Zoning Compliance, the Zoning Department will require a cash bond for issuance of a Temporary Zoning Compliance. A re-inspection fee will be required. The bond will be returned when items are completed.

**FINAL ZONING COMPLIANCE INSPECTION**

## Amy Steffens

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**From:** Amy Steffens  
**Sent:** Sunday, May 06, 2018 2:33 PM  
**To:** 'Tracy Mack'; Genal Pratt  
**Cc:** Brittany Stein  
**Subject:** RE: 3816 Langley Rd.

Tracy,

I went out and measured the setbacks for the house on Langley and what I measured is spot-on. As I was just getting ready to process the permit, however, I reviewed the floorplan and there is an elevated deck on the house plans that is not on the site plan (which is what Genal and I were using for our measurements for setbacks). An elevated deck is permitted to encroach into the setback by 6 feet but cannot be closer than 8 feet to the property line. I have my doubts that the deck meets those setbacks. Can you please provide the site plan with all proposed improvements so we can determine if the deck is good or not?

Thanks,

Amy Steffens, AICP  
Hamburg Township Planning and Zoning Administrator  
(810)222-1167

**From:** Tracy Mack <tmack@mitchharris.net>  
**Sent:** Thursday, May 03, 2018 3:07 PM  
**To:** Genal Pratt <gpratt@HAMBURG.MI.US>  
**Cc:** Amy Steffens <asteffens@HAMBURG.MI.US>  
**Subject:** 3816 Langley Rd.

Hi Genal,

Attached is the most current Site Plan for Langley rd.. I also included the proposed coverage sheet so you would have it handy. Let me know if you need anything else.

Thank you,

Tracy C. Mack  
Administrative Assistant  
Mitch Harris Building Company  
211 N. First St., Suite 100  
Brighton, MI 48116  
810-229-7838  
[tmack@mitchharris.net](mailto:tmack@mitchharris.net)

## Amy Steffens

---

**From:** Amy Steffens  
**Sent:** Monday, June 04, 2018 10:01 AM  
**To:** 'Tracy Mack'  
**Subject:** RE: 3816 Langley Dr.

Tracy,

A deck that is more than 24 inches above grade cannot be closer than eight feet to the property line. What you show on the attached plan would not be permitted. If the size of the elevated deck was decreased in size to be no more than five feet in any horizontal direction we would consider it to be a stoop and not an elevated deck; a stoop can be no closer than five feet to any property line.

Amy

**From:** Tracy Mack <tmack@mitchharris.net>  
**Sent:** Monday, June 04, 2018 9:33 AM  
**To:** Amy Steffens <asteffens@HAMBURG.MI.US>  
**Subject:** 3816 Langley Dr.

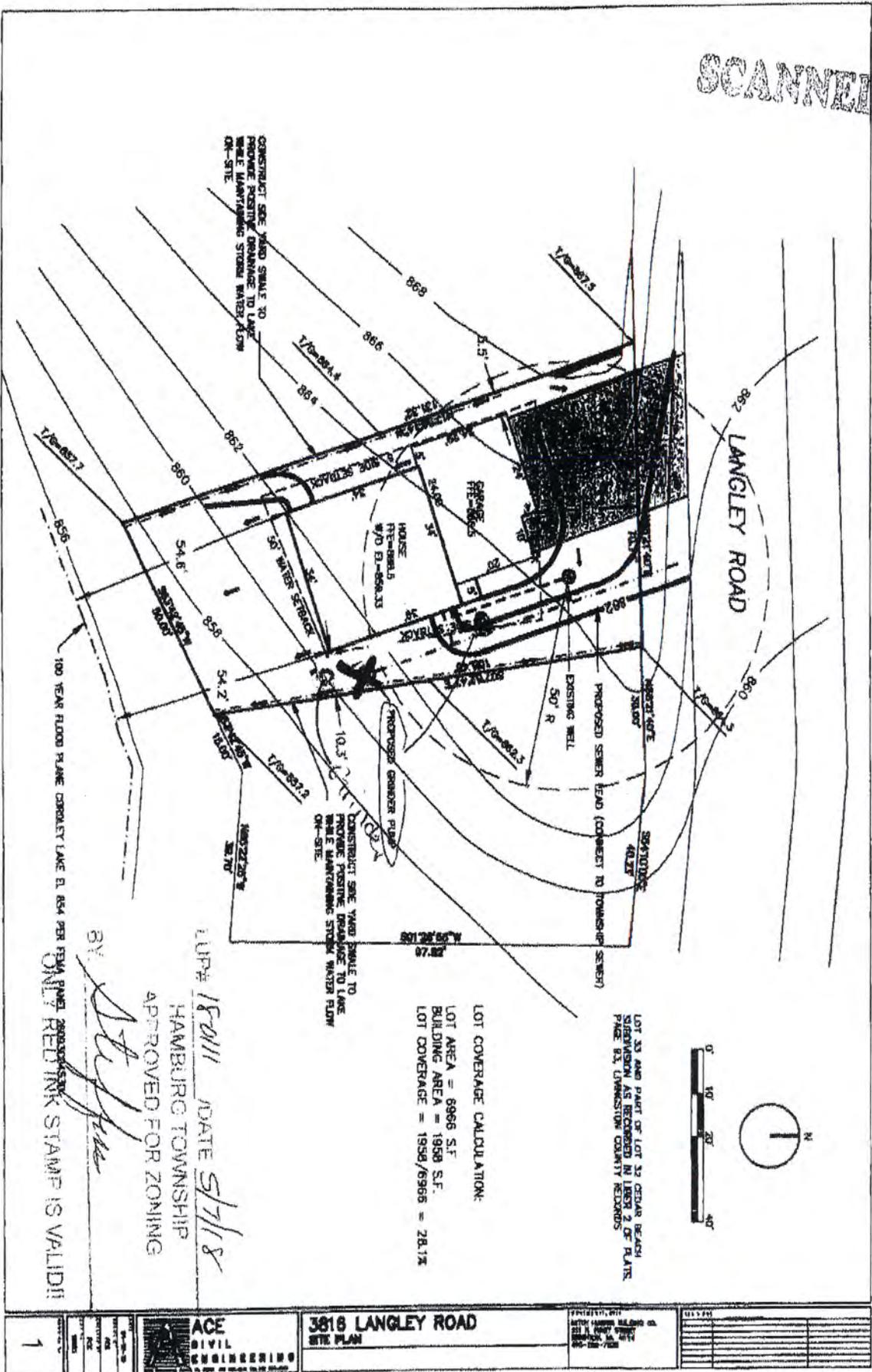
Hi Amy,

I have attached a revised Plan for 3816 Langley Rd.. It includes the deck. Can you remind me again what the minimum distance a deck can be from the lot line?

Thanks for your help!

Tracy C. Mack  
Administrative Assistant  
Mitch Harris Building Company  
211 N. First St., Suite 100  
Brighton, MI 48116  
810-229-7838  
[tmack@mitchharris.net](mailto:tmack@mitchharris.net)

SCANNED



LOT 33 AND PART OF LOT 32 CEDED BEYOND DIVISION AS RECORDED IN BOOK 2 OF PLATS PAGE 83, UNDIVISION COUNTY RECORDS

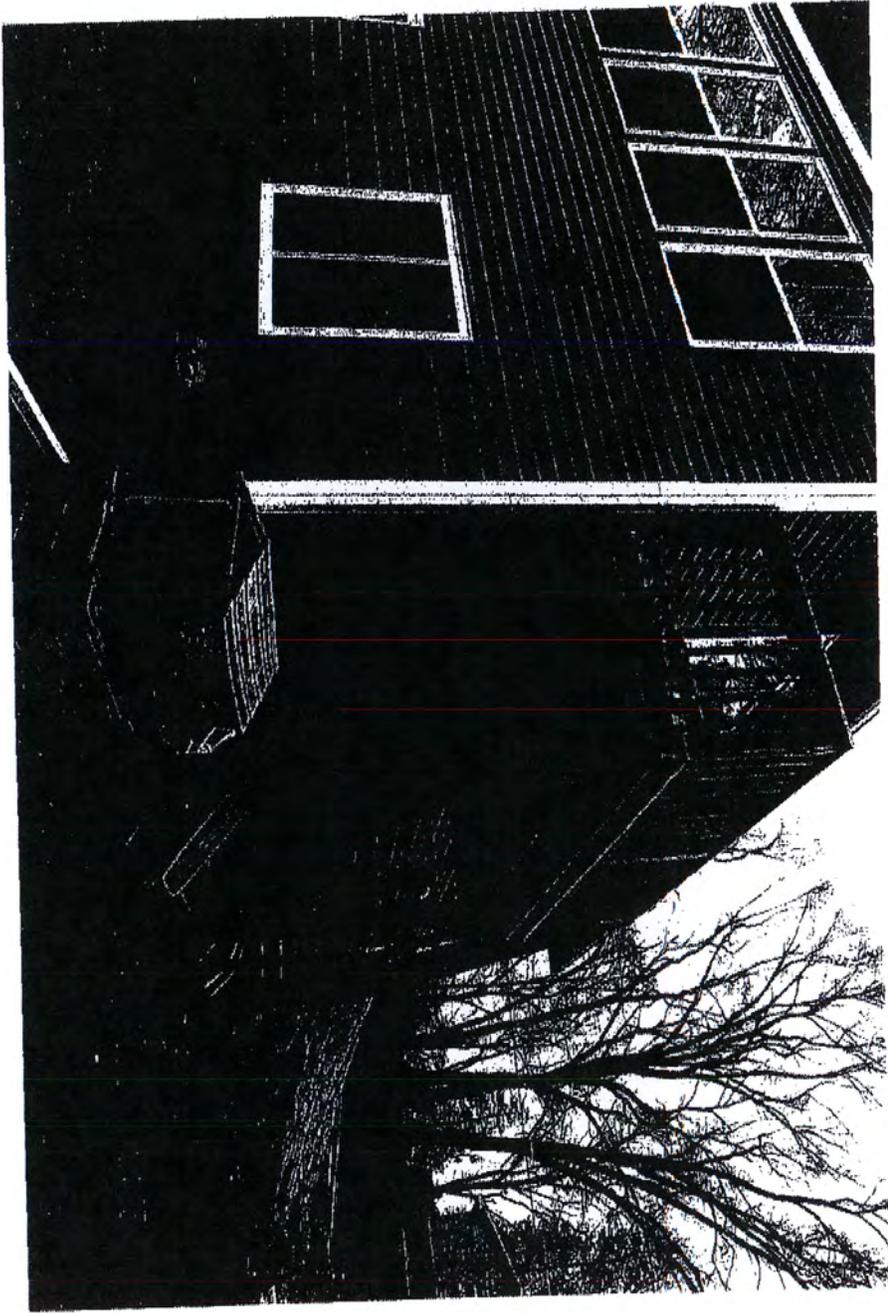
LOT COVERAGE CALCULATION:  
 LOT AREA = 8966 S.F.  
 BUILDING AREA = 1958 S.F.  
 LOT COVERAGE = 1958/8966 = 21.7%

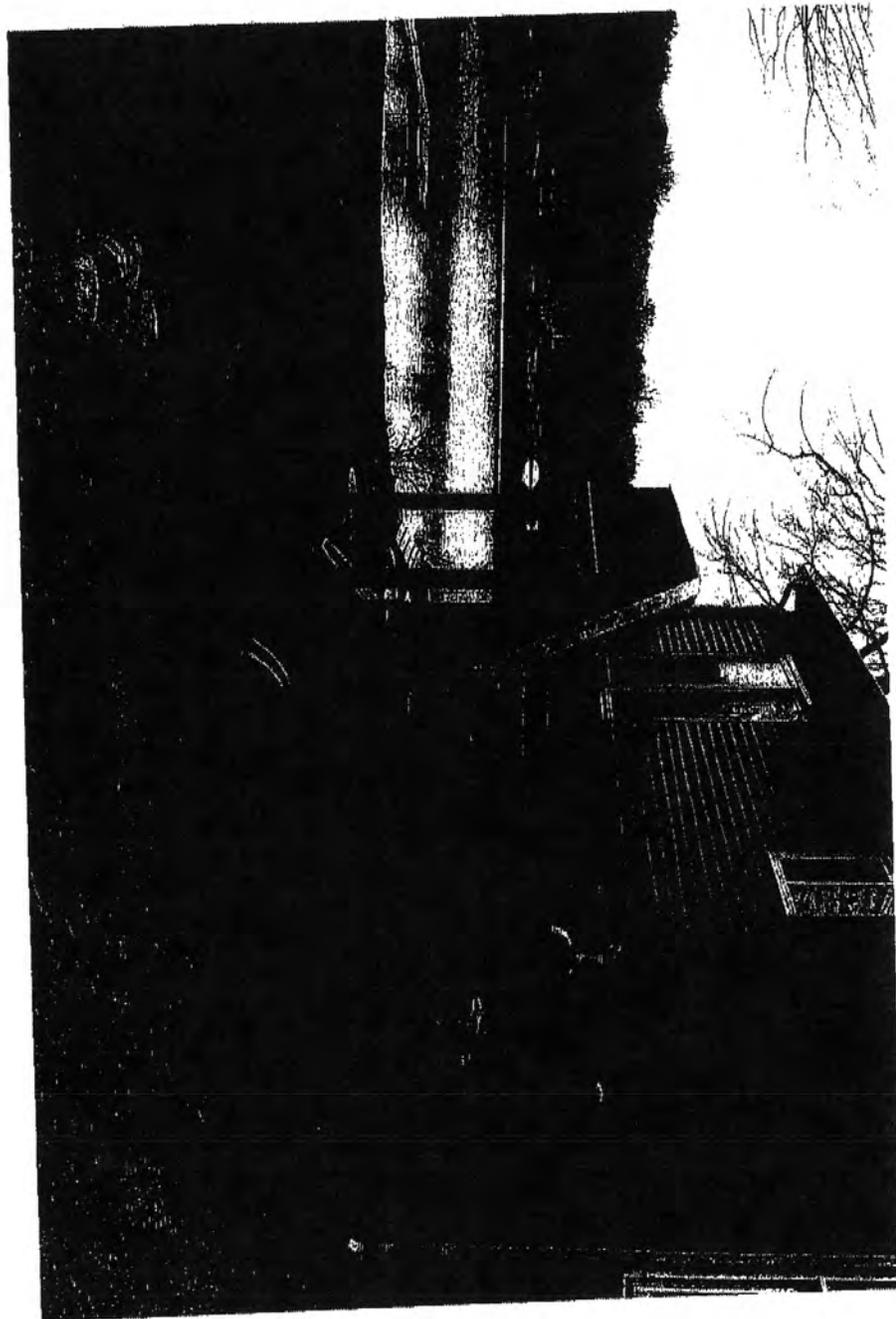
CONSTRUCT SIDE YARD SWALE TO PROVIDE POSITIVE DRAINAGE TO LAKE WHILE MAINTAINING STORM WATER FLOW ON-SITE.

CONSTRUCT SIDE YARD SWALE TO PROVIDE POSITIVE DRAINAGE TO LAKE WHILE MAINTAINING STORM WATER FLOW ON-SITE.

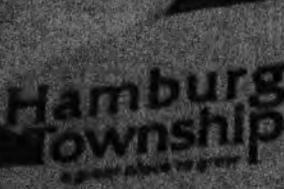
LUP# 180111 DATE 5/1/18  
 HAMBURG TOWNSHIP  
 APPROVED FOR ZONING  
 BY *[Signature]*  
 ONLY RED INK STAMP IS VALID!!

	<b>3816 LANGLEY ROAD</b> SITE PLAN	SHEET NO. 1 TOTAL SHEETS 1
	DATE: 5/1/18 DRAWN BY: [Name] CHECKED BY: [Name]	SCALE: AS SHOWN PROJECT NO.: 180111





1244



**Hamburg Township**  
 10405 Merrill Rd P.O. Box 157 Hamburg MI 48139 (810) 231-1000  
**ZONING DEPARTMENT**

HAMBURG TOWNSHIP  
 05/16/2018 07:10:18 1123-009 PW  
 05/16/2018 07:11  
 05/16/2018 11:04:23  
 05/16/2018 11:00:00

**SCANNED**

PLUP18-0111  
 Issued: 05/07/2018  
 Expires: 05/07/2019



Flood Plain No

<b>JOB LOCATION</b> 3316 LANGLEY DR 4715-29-202-033 Plot/Sub: ZONING WFR	<b>OWNER</b> MUSZYNSKI KIMBERLY A & KEVI 9246 LAKE PINE DRIVE WHITMORE LAKE MI 48189 Phone: Email:	<b>CONTRACTOR</b> Micht Harris Building Co 211 N First St Brighton MI 48116 Phone: (810) 229 7838 Email:
--	---	---

Permit Item	Work Type	Fee Basis	Item To
		Fee Total:	
		Amount Paid:	
		Balance Due:	

33 Pt Home WORK DESCRIPTION:  
 construction of a 1056 with walk out basement and 3 car garage. No elevated deck to be constructed at this time; if stoop/deck to be constructed at a later date, will require amended plans and site plan.

**REQUIREMENTS FOR FINAL ZONING COMPLIANCE:**  
 All Construction Debris Removed. Final Grading of Site. All storm water run-off to be managed on site. Two (2) canopy (deciduous) trees along any collector or local street within 20 feet of the front line. **NO FILL TO BE PLACED IN THE SFHA.** Sump pump not to be connected to grinder pump/sewer system.

- Zoning Review Public4 05/07/2018  
Comment:
- Utilities Review Public4 05/07/2018  
Comment:
- Treasurers Review noreenz 04/13/2018  
Comment:
- Assessing Review DonB 05/07/2018  
Comment:

**APPLICANT CERTIFICATION:** I hereby certify that all structures and uses for which this application is made shall conform to Ordinances of Hamburg Township, Livingston County and the State of Michigan. All information submitted for this permit is to my knowledge accurate. If the information is determined either now or in the future to be inaccurate the permit shall be void and any work or uses approved may be in violation of the required ordinances and must otherwise be brought into compliance with all requirements.

Applicant Signature: [Signature] Date: 05/07/2018 Date Received: \_\_\_\_\_  
 ZONING ADMINISTRATOR: [Signature] DATE: 05/07/2018

The accuracy of the lot lines, dimensions and other information presented in the project plans are the sole responsibility of the property owner and in NO way does the signature of the Zoning Inspector on this permit guarantee the accuracy of the information provided by the applicant for this permit. A site inspection can be conducted by the Zoning Inspector, however a site inspection also does not guarantee the location of the property boundaries.

**Please call 1-810-231-1000, Ext. 230 to schedule your inspections (requirements listed above). This will help to eliminate delays in the issuance of the Certificate of Occupancy from the Livingston County Building Department.**

Items above marked items cannot be completed prior to the request for Final Zoning Compliance, the Zoning Department will require a cash bond for a Temporary Zoning Compliance. A re-inspection fee will be required. The bond will be returned when items are completed.

*amy steffens*

From: Amy Steffens  
Sent: Sunday, May 06, 2018 2:33 PM  
To: 'Tracy Mack'; Genal Pratt  
Cc: Brittany Stein  
Subject: RE: 3816 Langley Rd.

Tracy,

I went out and measured the setbacks for the house on Langley and what I measured is spot-on. As I was just getting ready to process the permit, however, I reviewed the floorplan and there is an elevated deck on the house plans that is not on the site plan (which is what Genal and I were using for our measurements for setbacks). An elevated deck is permitted to encroach into the setback by 6 feet but cannot be closer than 8 feet to the property line. I have my doubts that the deck meets those setbacks. Can you please provide the site plan with all proposed improvements so we can determine if the deck is good or not?

Thanks,

Amy Steffens, AICP  
Hamburg Township Planning and Zoning Administrator  
(810)222-1167

From: Tracy Mack <tmack@mitchharris.net>  
Sent: Thursday, May 03, 2018 3:07 PM  
To: Genal Pratt <gpratt@HAMBURG.MI.US>  
Cc: Amy Steffens <asteffens@HAMBURG.MI.US>  
Subject: 3816 Langley Rd.

**Amy Steffens**

---

**From:** Amy Steffens  
**Sent:** Sunday, May 06, 2018 2:33 PM  
**To:** 'Tracy Mack'; Genal Pratt  
**Cc:** Brittany Stein  
**Subject:** RE: 3816 Langley Rd.

Tracy,

I went out and measured the setbacks for the house on Langley and what I measured is spot-on. As I was just getting ready to process the permit, however, I reviewed the floorplan and there is an elevated deck on the house plans that is not on the site plan (which is what Genal and I were using for our measurements for setbacks). An elevated deck is permitted to encroach into the setback by 6 feet but cannot be closer than 8 feet to the property line. I have my doubts that the deck meets those setbacks. Can you please provide the site plan with all proposed improvements so we can determine if the deck is good or not?

Thanks,

Amy Steffens, AICP  
Hamburg Township Planning and Zoning Administrator  
(810)222-1167

---

**From:** Tracy Mack <[tmack@mitchharris.net](mailto:tmack@mitchharris.net)>  
**Sent:** Thursday, May 03, 2018 3:07 PM  
**To:** Genal Pratt <[gpratt@HAMBURG.MI.US](mailto:gpratt@HAMBURG.MI.US)>  
**Cc:** Amy Steffens <[asteffens@HAMBURG.MI.US](mailto:asteffens@HAMBURG.MI.US)>  
**Subject:** 3816 Langley Rd.

Hi Genal,

Attached is the most current Site Plan for Langley rd.. I also included the proposed coverage sheet so you would have it handy. Let me know if you need anything else.

Thank you,

[Tracy C. Mack](#)  
[Administrative Assistant](#)  
[Mitch Harris Building Company](#)  
211 N. First St., Suite 100  
Brighton, MI 48116  
810-229-7838  
[tmack@mitchharris.net](mailto:tmack@mitchharris.net)

## Amy Steffens

---

**From:** Amy Steffens  
**Sent:** Monday, June 04, 2018 10:01 AM  
**To:** 'Tracy Mack'  
**Subject:** RE: 3816 Langley Dr.

Tracy,

A deck that is more than 24 inches above grade cannot be closer than eight feet to the property line. What you show on the attached plan would not be permitted. If the size of the elevated deck was decreased in size to be no more than five feet in any horizontal direction we would consider it to be a stoop and not an elevated deck; a stoop can be no closer than five feet to any property line.

Amy

**From:** Tracy Mack <[tmack@mitchharris.net](mailto:tmack@mitchharris.net)>  
**Sent:** Monday, June 04, 2018 9:33 AM  
**To:** Amy Steffens <[asteffens@HAMBURG.MI.US](mailto:asteffens@HAMBURG.MI.US)>  
**Subject:** 3816 Langley Dr.

Hi Amy,

I have attached a revised Plan for 3816 Langley Rd.. It includes the deck. Can you remind me again what the minimum distance a deck can be from the lot line?

Thanks for your help!

Tracy C. Mack  
Administrative Assistant  
Mitch Harris Building Company  
211 N. First St., Suite 100  
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810-229-7838  
[tmack@mitchharris.net](mailto:tmack@mitchharris.net)



# Hamburg Township

10405 Merrill Rd P.O. Box 157 Hamburg MI 48139 (810) 231-1000

## ZONING DEPARTMENT

Exhibit C

HAMBURG TOWNSHIP  
Date 05/07/2018 1:21:09 PM  
Ref LUP18-0111  
Receipt 1184523  
Amount \$100.00

**PLUP18-0111**

Issued: 05/07/2018  
Expires: 05/07/2019

**Land Use**

**Home**

**SCANNED**

Flood Plain: No

JOB LOCATION	OWNER	CONTRACTOR
3816 LANGLEY DR 4715-29-202-033 Plat/Sub: ZONING WFR	Lot: MUSZYNSKI KIMBERLY A & KEVI 9246 LAKE PINE DRIVE WHITMORE LAKE MI 48189 Phone: Email:	Micht Harris Building Co 211 N First St Brighton MI 48116 Phone: (810) 229 7838 Email:

Permit Item	Work Type	Fee Basis	Item Total
		Fee Total:	\$0.00
		Amount Paid:	\$0.00
		Balance Due:	\$0.00

*38 Ft. Home*

### WORK DESCRIPTION:

construction of a 1056 with walk out basement and 3 car garage. No elevated deck to be constructed at this time; if stoop/deck to be constructed at a later date, will require amended plans and site plan.

### REQUIREMENTS FOR FINAL ZONING COMPLIANCE:

All Construction Debris Removed. Final Grading of Site. All storm water run-off to be managed on site. Two (2) canopy (deciduous) trees along any collector or local street within 20 feet of the front line. NO FILL TO BE PLACED IN THE SFHA. Sump pump not to be connected to grinder pump/sewer system.

<input checked="" type="checkbox"/>	Zoning Review Comment:	Public4	05/07/2018
<input checked="" type="checkbox"/>	Utilities Review Comment:	Public4	05/07/2018
<input checked="" type="checkbox"/>	Treasurers Review Comment:	noreenz	04/13/2018
<input checked="" type="checkbox"/>	Assessing Review Comment:	DonB	05/07/2018

APPLICANT CERTIFICATION: I hereby certify that all structures and uses for which this application is made shall conform to the Ordinances of Hamburg Township, Livingston County and the State of Michigan. All information submitted for this permit is to my knowledge accurate. If the information is determined either now or in the future to be inaccurate the permit shall be void and any structures built or uses approved may be in violation of the required ordinances and must otherwise be brought into compliance with all regulations.

Applicant Signature *Amy C. Val* Date: 05/07/2018 Date Received: \_\_\_\_\_  
ZONING ADMINISTRATOR *Amy Steffens* DATE: 05/07/2018

The accuracy of the lot lines, dimensions and other information presented in the project plans are the sole responsibility of the property owner and in NO way does the Zoning Inspector signature on this permit guarantee the accuracy of the information provided by the applicant for this permit. A site inspection can be required by Hamburg Township; however a site inspection also does not guarantee the location of the property boundaries.

**Please call 1-810-231-1000, Ext. 230 to schedule your inspections (requirements listed above). This will help to eliminate any delays in the issuance of the Certificate of Occupancy from the Livingston County Building Department.**

If the above marked items cannot be completed prior to the request for Final Zoning Compliance, the Zoning Department will require a cash bond for issuance of a Temporary Zoning Compliance. A re-inspection fee will be required. The bond will be returned when items are completed.

### FINAL ZONING COMPLIANCE INSPECTION





Livingston County Building & Safety Engineering Department  
2300 E. Grand River Ave., Suite 104  
Howell, MI 48843-7580  
517.546.3240 \* 517.546.3000 \* 517.546.3290  
517.546.7461 FAX

SCANNED

### CERTIFICATE OF OCCUPANCY

This certificate is issued pursuant to the requirements under the Michigan State Construction code: MRC 2015 and other applicable codes and ordinances certifying that at the time of issuance is in compliance with the above mentioned codes and ordinances. It is specifically understood that this certificate becomes null & void when changes in construction, occupancy or use are made without department approval.

Use Class: New Construction Single Family Residential Bidg. Permit No: PBLD2018-01012  
Use Group: R-3 Type Construction: V-B  
Occupancy Load: 00 Automatic Sprinkler System: No

Description of Work: Split level single family house with lower lever walk-out. Attached three car garage. Covered front porch, no deck. FOUNDATION: 10" by 20" footing, 10" poured wlls INSULATION: R-38 ceiling, R-19 walls, R-9 basement – Energy Diagnostics Rating System.

Owner: MUSZYNSKI KIMBERLY A & KEVIN JOH Contractor: MITCH HARRIS BUILDING CO INC  
9246 LAKE PINE DRIVE 211 N 1ST ST STE 100  
WHITMORE LAKE MI 48189 BRIGHTON MI 48116

Building Address: 3816 LANGLEY DR  
PINCKNEY, MI 48169

Parcel Number: 15-29-202-033

Building Official:

Date: 01/17/2019



12x4



2019/05/01 02:53



# Zoning Board of Appeals Staff Report

## AGENDA ITEM: 7b



**TO:** Zoning Board of Appeals  
(ZBA)

**FROM:** Brittany Stein

**HEARING DATE:** September 11, 2019

**SUBJECT:** ZBA 19-0016

**PROJECT SITE:** 8772 Rushside Drive  
TID 15-17-402-028

**APPLICANT/  
OWNER:** Richard Olson

**PROJECT:** Variance application to allow for the construction of a new two-story single family dwelling with a 1,133 square foot footprint. The proposed dwelling will have a 7.1-foot south side yard setback, resulting in an aggregate side yard setback of 11.7 feet (15-foot aggregate side yard setback required, Section 7.6.1 fn. 4).

**ZONING:** WFR (waterfront residential district)

### **Project Description**

The subject site is a 6,272-square foot lot that fronts onto Rushside Drive to the East; Rush Lake is to the West, and single family dwellings are located to the north and south of the site. The dwelling shown in the site map (above) is currently one-story.

If approved, the variance request would permit the construction of a new two-story single family dwelling with a 1,133 square foot footprint with a 7.1-foot south side yard setback, resulting in an aggregate side yard setback of 11.7 feet. (15-foot aggregate side yard setback required, Section 7.6.1 fn. 4).

When staff further reviewed the plans, the proposed side yard setback of 7.1 feet to the south and 4.6 feet to the north created an 11.7-foot aggregate side yard setback, where originally the variance request stated an aggregate side yard setback of 12.4 feet. This has been corrected throughout this staff report.

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

	Existing & Proposed	Required
North (side)	4.6 feet	5 feet
South (side)	7.1 feet	10 feet
West (rear)	50.5 feet	30 feet
Ordinary high water mark	50.5 feet	50 feet
East (front)	35.6 feet	25 feet

Based on the site plan, dated August 1, 2018, the project is not within the 100-year floodplain.

**Project History**

On September 12, 2018 the Zoning Board of Appeals held a public hearing regarding a proposed 982 square foot second story addition to the existing non-conforming dwelling. After the public hearing, the ZBA discussed the project in depth. According to the minutes of this meeting the following discussion occurred:

*Member Bohn asked if the structure that is there was going to be demolished. The applicant stated that they would be using the existing block foundation that is there.*

*Member Bohn stated that although he understands using the foundation, there is a way to design this without the need for a variance. These are beautiful plans, however we have had a recent ordinance amendment that speaks directly to this type of circumstance.*

*Chairperson Priebe stated that it is possible to meet the setbacks, but may not be practical. She discussed the lot and location of the lake. Given the width, she does not see how to fit a home without some type of variance.*

Discussion continued and the ZBA later tabled the request to allow the applicant time to consider redesigning the project.

On November 14, 2018 the ZBA held the continuation of the hearing. The applicant had redesigned the plans for the proposed second story addition, and indicated that due to the existing first floor load bearing walls, cannot support a second story that meets the required setbacks, a second story addition that meets side yard setbacks could not be accommodated without substantial improvements to the existing dwelling's foundation. The revised plans included a second story with dead space within the second story setback rather than living space as originally proposed.

According to the minutes of this meeting the following discussion occurred:

*Dan Merrick representing the homeowner stated that at the last meeting, we had the issue of the second story and the one bearing wall. We went back and set a seven-foot knee wall at the livable area at the setback. They minimized what is to be built on that non-conforming wall.*

*Instead of a full wall, they are only building 5-6 feet up and then the roof. There will be an attic space between the exterior wall and the livable area.*

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

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

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

This proposed variance request was approved on November 14, 2018.

On January 17, 2019 a Land Use Permit for the approved project was issued with the following description: *Second story addition, remodel first floor, new 6.5' x 22.5' elevated deck (meets setbacks). Per ZBA 18-008 Approvals Nov. 14, 2018 (Exhibit E).*

On August 9, 2019 Staff was made aware that the work on the house exceeded what was approved by the ZBA (18-008) and what was permitted under land use permit 19-0011. Upon investigation, staff noted that more than 50 percent of the exterior walls had been removed, which is a violation of Section 11.3.3. *Permitted Repairs: Nothing in this Ordinance shall prevent the repair, reinforcement, reconstruction, building construction, or other such improvements of a nonconforming building, or part thereof, rendered necessary by wear and tear, deterioration, flood, fire or vandalism provided that a land use and building permit shall be obtained for such work, the work does not increase or alter the footprint and the work does not consist of the removal of more than 50% of the exterior perimeter walls of the non-conforming structure, except as provided in this Section.*

On August 9, 2019 the property owner was issued a stop work order because of this violation. (Exhibit B indicates the walls that were removed and those that remained, exhibit C contains photos from the site before and after construction, and exhibit D contains the stop work order.) Therefore, this halted all permits and all approved variances issued on this property. The property owner and agent approached staff promptly and filed a new variance request. The proposed variance is requesting this to be a rebuild of a new single family dwelling within the same footprint as the existing dwelling was, plus the addition of a 982 square foot second story. This request is for setbacks of 7.1-foot to the south and 4.6-foot to the north, creating an 11.7-foot aggregate side yard setback, where 15 feet is required.

## **Standards of Review**

The Zoning Board of Appeals (ZBA) decision in this matter is to be based on the findings of facts to support the following standards. The applicable discretionary standards are listed below in bold typeface followed by staff's analysis of the project as it relates to these standards. A variance may be granted only if the ZBA finds that all of the following requirements are met.

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

The ordinance, requiring a 15-foot aggregate side setback upon Waterfront Residential lots less than 60 feet wide, is intended to provide adequate space, open vistas, and privacy throughout neighborhoods and between structures on smaller residential lots. The bulk of the structure proposed at the setback neighborhood privacy and open vistas. Constructing a new two-story dwelling creates the need for a variance and is therefore self-imposed and is not a condition of the property. Due to the fact that during construction more than 50 percent of the exterior walls had been removed this creates the need for the additional variance because this is now treated as a new dwelling unit. The property can accommodate a compliant single family dwelling.

**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 site is zoned for single-family residential uses, has been developed for such uses, and can continue to be used for such use with a conforming structure. A two-story dwelling in the same footprint as was the existing dwelling is solely a personal preference of the homeowner. The two-story dwelling could be reconfigured to meet the setback requirements. The proposed dwelling, which encroaches into the required setbacks is a self-imposed practical difficulty.

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

As stated under standard one, the setback is intended to provide adequate space, open vistas, and privacy throughout neighborhoods and amid structures on smaller residential lots to preserve side yards from encroachment of residential structures.

**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 no condition or situation of the subject site that is not of so general or recurrent a nature that the proposed two-story dwelling cannot comply with the required side yard setbacks. The need for the variance arises from a personal preference and not a condition specific to the property.

In November 2017 Section 11.3 of the zoning ordinance was amended to bring future development into compliance: *A residential nonconforming building may be allowed to expand provided the expansion is within a yard which retains compliance with the required setbacks and height, (eg. A second level is added to an existing single story house with a non-conforming side yard setback the second story must not encroach into the required setback even if the existing main level already encroaches into the setback).*

Prior to this zoning text amendment the Zoning Ordinance previously stated the following: *A residential nonconforming building may be allowed to expand provided the expansion does not increase the size of the established footprint, or the expansion is within a yard which retains compliance with the required setback and height (eg. a home with a nonconforming front yard setback may be expanded in the rear so long as the rear yard setback remains conforming). Provided further that the following criteria are met for the subject building: A. The cost of such work shall not exceed fifty (50) percent of the market value of such residential building prior to the time such work is started.*

This ordinance was relaxed to remove this requirement and instead uses 50 percent of the exterior walls.

**6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district.**

The use of the site is single-family residential and the proposed variance would not change the use.

**7. The requested variance is the minimum necessary to permit reasonable use of the land.**

The proposed design creates both a self-imposed practical difficulty and a non-conforming structure. Clearly, the lot can accommodate a single family residential dwelling. 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, such as topographical changes or significant environmental features that warrants variance approval for a two-story dwelling on this 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 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.

**Denial Motion:**

Motion to deny variance application ZBA 19-0016 at 8772 Rushside Drive to allow for the construction of a new two-story single family dwelling with a 1,133 square foot footprint. The proposed dwelling will have a 7.1-foot south side yard setback, resulting in an aggregate side yard setback of 11.7 feet (15-foot aggregate side yard setback required, Section 7.6.1 fn. 4).

The variance does not meet variance standards one, two, three, five, or seven of Section 7.6.1 of the Township Ordinance and a practical difficulty does not exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at 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.

**Approval Motion:**

Motion to approve variance application ZBA 19-0016 at 8772 Rushside Drive to allow for the construction of a new two-story single family dwelling with a 1,133 square foot footprint. The proposed dwelling will have a 7.1-foot south side yard setback, resulting in an aggregate side yard setback of 11.7 feet (15-foot aggregate side yard setback required, Section 7.6.1 fn. 4).

The variance does meet variance standards one through seven of Section 7.6.1 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: Plan showing footprint
  - Exhibit C: Photos
  - Exhibit D: Stop Work Order issued August 9, 2019
  - Exhibit E: Land Use Permit 19-0011 issued January 17, 2019
  - Exhibit F: Minutes from September 12, 2018 ZBA Meeting
  - Exhibit G: Minutes from November 14, 2018 ZBA Meeting
- (Site plans and construction plans for the dwelling were too large to include)



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

\$500  
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: August 13, 2019
2. Tax ID #: 15-17-402-028 Subdivision: \_\_\_\_\_ Lot No.: 305
3. Address of Subject Property: 8722 PUSHSIDE DR
4. Property Owner: RICHARD OLSON Phone: (H) 734-262-0508  
Email Address: rdolson@umich.edu (W) 734-647-8134  
Street: 8722 PUSHSIDE DR City PINKNEY State MI
5. Appellant (If different than owner): DAN MERRITT Phone: (H) 734-476-5163  
E-mail Address: DM@biggdesigns.com (W) \_\_\_\_\_  
Street: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_
6. Year Property was Acquired: 2014 Zoning District: \_\_\_\_\_ Flood Plain \_\_\_\_\_
7. Size of Lot: Front 39.8 Rear 37.64 Side 1 167 Side 2 184 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: Residential
14. Percentage of Existing Structure (s) to be demolished, if any \_\_\_\_\_ % Sun room, south wall demo'd to 2 courses of CMU remaining
15. Has there been any past variances on this property? Yes X No \_\_\_\_\_
16. If so, state case # and resolution of variance application ZBA 18-008
17. Please indicate the type of variance or zoning ordinance interpretation requested:  
side yard setback on non conforming dwelling.

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.

Unforeseen circumstance with existing CMU south wall structure. Needed to come down, unsafe

- 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.

current house is currently demold and is not useable in current state

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

The south cmu wall was in danger of collapse. Builder chose to remove wall to maintain public welfare

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

Does not affect the master Plan

- 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.

Unforeseen structural damage found during demo

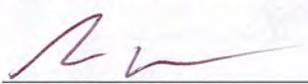
- f) Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district;

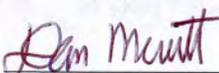
Remains Residential property

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

This allows us to continue with plans that were approved in ZBA-18-008

- 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).

 8/13/19  
Owner's Signature Date

 8/13/19  
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.

NOTE'S

DAN

734-476-5163

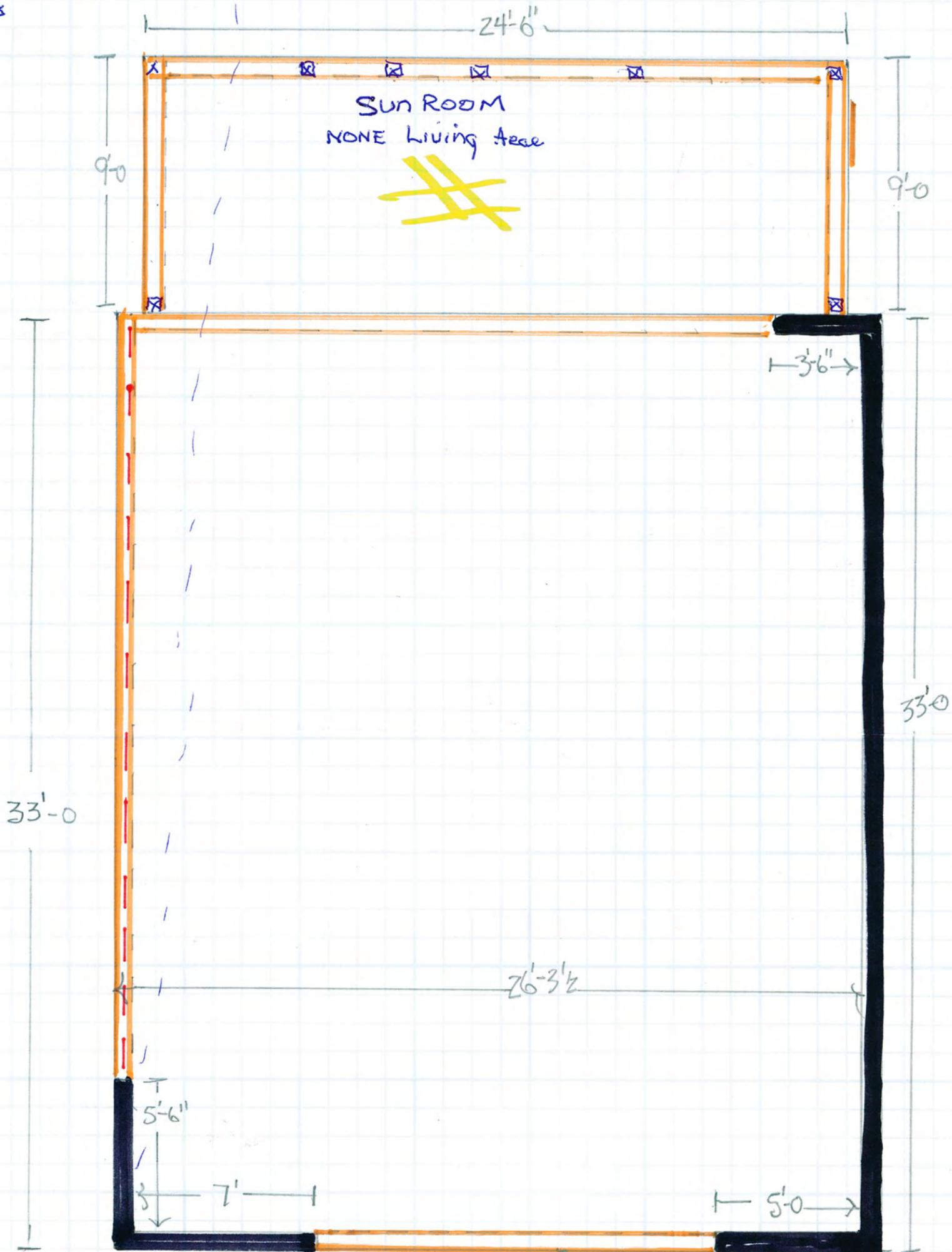
**24"-0 FOOTINGS & 2 COURSES OF BLOCK STANDING**

**EXISTING BLOCK STANDING 8' TALL**

**4"-5" CEMENT SLAB**

**3" OUT OF PLUMB - <sup>O/C</sup> HIGHLY DANGEROUS TO BE KEPT**

4x4's



NOTE'S

**36" FOOTINGS - 4" SLAB**

**4"-5" CEMENT SLAB**

RICHARD K. OLSON  
 8772 RUSHSIDE DR.  
 PINCKNEY MI. 48169

Storage

Exhibit C - Before Construction



Exhibit C - Before Construction



Exhibit C - During Construction



Exhibit C - During Construction



Exhibit C - During construction



Exhibit C - After walls Removed



Exhibit C - After walls Removed



Exhibit C - After walls removed / Stop work order.



Exhibit D

NOTICE DATE: AUGUST 9, 2019  
PROPERTY LOCATION ADDRESS:  
8772 RUSHSIDE  
TAX CODE NUMBER(S):  
4715-17-402-028

# STOP WORK ORDER

=====
YOU ARE HEREBY ORDERED TO CEASE WORK IMMEDIATELY AT THIS JOB SITE
=====

TO: Richard K Olson Jr.
8772 Rushside Drive
Pinckney MI 48169

NOTICE SERVED VIA:
[ ] First Class Mail
[X] Posted at Site
[ ] Personal Service by:

VIOLATION ACTIVITY OCCURRING:

FIRST FLOOR WALLS WERE REMOVED IN VIOLATION OF LAND USE PERMIT 19-0011, ZBA 18-0008, AND ZONING ORDINANCE SECTIONS 3.3.1. AND 11.3.

YOU MUST STOP ALL WORK AND CONTACT THE ZONING DEPARTMENT IMMEDIATELY.

Time of Action: August 9, 2019

BE ADVISED THAT YOU ARE IN VIOLATION BECAUSE OF THE ACTION DESCRIBED ABOVE THAT [ ] HAS OCCURRED [X] IS OCCURRING.

VIOLATION OF:

- [ ] Hamburg Township General Ordinance -
[X] Hamburg Township Zoning Ordinance – Sections 3.3.1. and 11.3.
[ ] Michigan Department of Natural Resources Permit Required
[X] Other: LUP 19-0011 and ZBA 18-0008

REQUIRED CORRECTIVE ACTIONS TO BE TAKEN:

- [ X ] Land Use Permit Required [ ] Building Permits Required [ ] DNR/Other Permits Required

See attached demolition process handout. A land use permit from Hamburg Township is required for demolition, reconstruction, interior, or exterior modifications to the structure. A Livingston County building permit might also be required. Please contact the building department at (517) 546-3240 for their permit requirements.

ABSOLUTELY NO WORK IS TO CONTINUE UNTIL THE ORDER IS LIFTED!

[X] LAND USE PERMITS are required for (1) the excavation, alteration (remodeling and repairs of structures) or filling of land; (2) the new use or change in use of land, except for the conduct of agricultural activity; (3) the new use or change in use of an existing building or structure. A Land Use Permit must be obtained from Hamburg Township before County building permits may be obtained.

[ ] VIOLATIONS ARE A NUISANCE. Buildings erected, altered, moved, razed or converted, or any use of land or premises carried on in violation of any provision of the Hamburg Township Zoning Ordinance are declared to be a nuisance per se. (Zoning Ordinance, Section 5.1.1).

**CORRECTION PERIOD:** A violation not corrected within the period stated shall be reported to the Township Attorney who shall initiate prosecution procedures. (Zoning Ordinance, Section 5.1.3).

**PENALTIES AND REMEDIES FOR FAILURE TO COMPLY WITH THIS STOP WORK ORDER:** Violation, disobedience, omission, neglect or refusal to comply with the Zoning Ordinance or any lawful order of the Zoning Administrator, Zoning Board of Appeals, Planning Commission or Township Board shall be responsible for a Class C municipal civil infraction (Zoning Ordinance, Section 5.2).

**BLIGHT, BLIGHTING FACTORS, NUISANCES, ETC.:** Hamburg Township General Ordinance No. 38 prohibits blighting, blighting factors and nuisances including, but not limited to, keeping, maintaining, accumulating or storage of junk, trash or litter, parts of machinery, automobiles, or other motorized vehicles, remnants of wood (other than cut and stacked firewood or construction materials), stoves, refrigerators, televisions, furniture, other appliances, scrap materials, broken glass, refuse, garbage, waste, dead animals, ashes, branches, leaves or yard clippings, and noxious materials, etc. This includes the throwing or depositing of any litter, debris or similar substance in any fountain, pond, lake, stream or other body of water, or any private property, whether occupied or vacant. For a complete list of prohibited actions and negligent conditions, see Ordinance 38.

**RIGHT OF APPEAL:** You are hereby notified that Section 6.6.1 of the Hamburg Township Zoning Ordinance gives you the right to appear before the Hamburg Township Zoning Board of Appeals for review of this matter. All work must cease until the Zoning Board of Appeals has reached a decision. The Zoning Board of Appeals "shall hear and decide appeals from and review any order, requirement, decision, or determination made in the administration of this Ordinance by the Zoning Administrator or Planning Commission." Contact the Township regarding information on filing an appeal.

***THIS STOP WORK ORDER IS IN EFFECT UNTIL LIFTED BY THE ZONING ADMINISTRATOR.***

\_\_\_\_\_  
Amy Steffens, AICP  
Hamburg Township Zoning Administrator  
(810) 222-1167  
asteffens@hamburg.mi.us

DATE: August 9, 2019

=====

FOR OFFICE USE:

Violation(s) corrected as of the date of \_\_\_\_\_. Inspected and approved by: \_\_\_\_\_

Violation not corrected as required as of date of \_\_\_\_\_. Inspected by: \_\_\_\_\_

Refer file to Township Attorney for further prosecution.

Other action to be taken: \_\_\_\_\_



# Hamburg Township

10405 Merrill Rd P.O. Box 157 Hamburg MI 48139 (810) 231-1000

## ZONING DEPARTMENT

**PLUP19-0011**

Issued: 01/17/2019  
Expires: 01/17/2020

**Land Use**

**Addition**

Exhibit E

Flood Plain: No

JOB LOCATION	OWNER	CONTRACTOR
8772 RUSHSIDE DR 4715-17-402-028 <b>Lot:</b> <b>Plat/Sub:</b> <b>ZONING WFR</b>	OLSON RICHARD K JR 8772 RUSHSIDE DR PINCKNEY MI 48169 <b>Phone:</b> <b>Email:</b>	Kirk Wilson  <b>Phone:</b> (248) 481 1217 <b>Email:</b>

Permit Item	Work Type	Fee Basis	Item Total
\$70		<b>Fee Total:</b>	\$0.00
		Amount Paid:	\$0.00
		<b>Balance Due:</b>	\$0.00

**WORK DESCRIPTION:**

Second story addition, remodel first floor, new 6.5' x 22.5' elevated deck (meets setbacks).  
Per ZBA 18-0008 Approvals Nov. 14, 2018.

**REQUIREMENTS FOR FINAL ZONING COMPLIANCE:**

All Construction Debris Removed. Final Grading of Site.  
All storm water run-off to be managed on site.

- |                                     |   |           |            |
|-------------------------------------|---|-----------|------------|
| <input checked="" type="checkbox"/> | Zoning Review   | BrittanyJ | 01/17/2019 |
|                                     | Comment:  |           |            |
| <input checked="" type="checkbox"/> | Utilities Review  | Brittany  | 01/15/2019 |
|                                     | Comment: Proposed addition and deck will not interfere with sewer structures. |           |            |
| <input checked="" type="checkbox"/> | Treasurers Review   | SusanD    | 01/17/2019 |
|                                     | Comment:  |           |            |
| <input checked="" type="checkbox"/> | Assessing Review  | BrendanS  | 01/14/2019 |
|                                     | Comment:  |           |            |

**APPLICANT CERTIFICATION:** I hereby certify that all structures and uses for which this application is made shall conform to the Ordinances of Hamburg Township, Livingston County and the State of Michigan. All information submitted for this permit is to my knowledge accurate. If the information is determined either now or in the future to be inaccurate the permit shall be void and any structures built or uses approved may be in violation of the required ordinances and must otherwise be brought into compliance with all regulations.

Applicant Signature  Date: 01/17/2019 Date Received: \_\_\_\_\_

ZONING ADMINISTRATOR  DATE: 01/17/2019

The accuracy of the lot lines, dimensions and other information presented in the project plans are the sole responsibility of the property owner and in NO way does the Zoning Inspector signature on this permit guarantee the accuracy of the information provided by the applicant for this permit. A site inspection can be required by Hamburg Township; however a site inspection also does not guarantee the location of the property boundaries.

**Please call 1-810-231-1000, Ext. 230 to schedule your inspections (requirements listed above). This will help to eliminate any delays in the issuance of the Certificate of Occupancy from the Livingston County Building Department.**

If the above marked items cannot be completed prior to the request for Final Zoning Compliance, the Zoning Department will require a cash bond for issuance of a Temporary Zoning Compliance. A re-inspection fee will be required. The bond will be returned when items are completed.

**FINAL ZONING COMPLIANCE INSPECTION**

**THIS PROJECT DID PASS FINAL ZONING COMPLIANCE. THE CERTIFICATE OF OCCUPANCY MAY BE ISSUED BY THE LIVINGSTON COUNTY BUILDING DEPARTMENT.**

ZONING ADMINISTRATOR/INSPECTOR: \_\_\_\_\_ DATE: \_\_\_\_\_



19-0011  
LAND USE PERMIT FORM

\$70

Hamburg Township Zoning Department  
10405 Merrill Rd., P.O. Box 157  
Hamburg, MI 48139 (810) 231-1000

PROJECT ADDRESS/TAX IDENTIFICATION NUMBER: 15-17-402-028

OWNER  
Name: Richard Olsen Phone Number(s): 734 262 0508  
Address: 8772 Rushside dr.  
City: Pinckney State: MI Zip 48169  
E-Mail: rkolson227@gmail.com

CONTRACTOR  
Name: Kirk Wilson Phone Number(s): 248 481 1217  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-Mail: \_\_\_\_\_

DESCRIBE WORK TO BE DONE:  
Addition or 2nd story. Rework of first floor. New 7' deck.

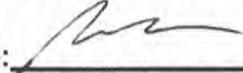
RECEIVED

JAN 14 2019

Hamburg Township  
Planning and Zoning Department

**APPLICANT CERTIFICATION:** I hereby certify that all structures and uses for which this application is made shall conform to the Ordinances of Hamburg Township, Livingston County and the State of Michigan. All information submitted for this permit is to my knowledge accurate. If the information is determined either now or in the future to be inaccurate the permit shall be void and any structures built or uses approved may be in violation of the required ordinances and must otherwise be brought into compliance with all regulations.

The accuracy of the lot lines, dimensions and other information presented in the project plans are the sole responsibility of the property owner and in NO way does the Zoning Inspector signature on the permit guarantee the accuracy of the information provided by the applicant for this permit. Applications to construct fences, decks, accessory structures, new construction and additions require staking property boundaries and project boundaries for inspection prior to issuance of the land use permit. However, a site inspection also does not guarantee the location of the property boundaries.

Applicant Signature:  Date: 1/14/19

If the applicant is not the owner of the property a signed copy of a contract for the work to be completed or a letter authorizing the work to be done by another party will be required with the submittal of the LUP form.

Please review the Land Use Permit checklist on pages 2 and 3 of the Land Use Permit Packet on-line at <http://www.hamburg.mi.us/2018%20Land%20Use%20Packet.pdf>. If all items of the checklist are not submitted your LUP may be denied based on lack of information.

Architect: Dan Merritt  
248-886-4460 (office) or 734-476-5163 (cell)



# Hamburg Township

10405 Merrill Rd P.O. Box 157 Hamburg MI 48139 (810) 231-1000

## ZONING DEPARTMENT

**PLUP19-0011**

**Land Use**

Issued: 01/17/2019  
Expires: 01/17/2020

**Addition**

Flood Plain: No

JOB LOCATION	OWNER	CONTRACTOR
8772 RUSHSIDE DR 4715-17-402-028 <b>Lot:</b> <b>Plat/Sub:</b> ZONING WFR	OLSON RICHARD K JR 8772 RUSHSIDE DR PINCKNEY MI 48169  <b>Phone:</b> <b>Email:</b>	Kirk Wilson  <b>Phone:</b> (248) 481 1217 <b>Email:</b>

Permit Item	Work Type	Fee Basis	Item Total
		Fee Total:	\$0.00
		Amount Paid:	\$0.00
		<b>Balance Due:</b>	<b>\$0.00</b>

**WORK DESCRIPTION:**

Second story addition, remodel first floor, new 6.5' x 22.5' elevated deck (meets setbacks).  
Per ZBA 18-0008 Approvals Nov. 14, 2018.

3-19-2019: Additional detailed plans received - per Livingston County Requirements. New Pages: A5, A6, A8. No change in structural plans. BES

**REQUIREMENTS FOR FINAL ZONING COMPLIANCE:**

All Construction Debris Removed. Final Grading of Site.  
All storm water run-off to be managed on site.

- |   |           |            |
|---|-----------|------------|
| <input checked="" type="checkbox"/> Zoning Review                             | BrittanyJ | 01/17/2019 |
| Comment:  |           |            |
| <input checked="" type="checkbox"/> Utilities Review                          | Brittany  | 01/15/2019 |
| Comment: Proposed addition and deck will not interfere with sewer structures. |           |            |
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| Comment:  |           |            |
| <input checked="" type="checkbox"/> Assessing Review                          | BrendanS  | 01/14/2019 |
| Comment:  |           |            |

**APPLICANT CERTIFICATION:** I hereby certify that all structures and uses for which this application is made shall conform to the Ordinances of Hamburg Township, Livingston County and the State of Michigan. All information submitted for this permit is to my knowledge accurate. If the information is determined either now or in the future to be inaccurate the permit shall be void and any structures built or uses approved may be in violation of the required ordinances and must otherwise be brought into compliance with all regulations.

Applicant Signature  Date: 03/18/2019 Date Received: \_\_\_\_\_  
 ZONING ADMINISTRATOR  DATE: 03/18/2019

The accuracy of the lot lines, dimensions and other information presented in the project plans are the sole responsibility of the property owner and in NO way does the Zoning Inspector signature on this permit guarantee the accuracy of the information provided by the applicant for this permit. A site inspection can be required by Hamburg Township; however a site inspection also does not guarantee the location of the property boundaries.

**Please call 1-810-231-1000, Ext. 230 to schedule your inspections (requirements listed above). This will help to eliminate any delays in the issuance of the Certificate of Occupancy from the Livingston County Building Department.**

If the above marked items cannot be completed prior to the request for Final Zoning Compliance, the Zoning Department will require a cash bond for issuance of a Temporary Zoning Compliance. A re-inspection fee will be required. The bond will be returned when items are completed.

**FINAL ZONING COMPLIANCE INSPECTION**

**THIS PROJECT DID PASS FINAL ZONING COMPLIANCE. THE CERTIFICATE OF OCCUPANCY MAY BE ISSUED BY THE LIVINGSTON COUNTY BUILDING DEPARTMENT.**

**ZONING ADMINISTRATOR/INSPECTOR: \_\_\_\_\_ DATE; \_\_\_\_\_**

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, September 12, 2018 Minutes  
7:00 P.M.**

**1. Call to order:**

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

**2. Pledge to the Flag:**

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

Present: Bohn, Neilson, Priebe, Rill (alternate) and Watson

Absent: Auxier

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

**4. Correspondence:** None

**5. Approval of Agenda:**

Steffens stated that she would like to add 8b for discussion of ZBA Case 18-002. A question has come up during construction, and she would like clarification from the Board as to their intent.

Motion by Neilson, supported by Watson

To approve the agenda as amended

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

**6. Call to the public:**

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

**7. Variance requests:**

**a. ZBA 2018-007**

Owner: Lynda Chaney

Location: 6203 Hiawatha Ave., Whitmore Lake MI 48189

Parcel ID: 15-23-306-001

Request: Variance application to allow the construction of a new dwelling with a 1,309 square foot footprint, a 1,200 square foot walk out basement, and a 618 square foot attached garage. The proposed home will have a 13.2-foot west front yard setback from the right-of-way of M-36 (25-foot front yard setback required, Section 7.6.1), a 7.89-foot north rear yard setback (30-foot rear yard setback required, Section 7.6.1), and an 82 square foot elevated

deck with a 4.32-foot north rear yard setback. (Elevated deck may project into required yard not to exceed 6 feet; 24-foot setback required, Section 8.17.2).

Linda Chaney, applicant, stated that they are not proposing any changes to the existing footprint. They are looking to construct living space above the current screened-in porch. Originally there was a road platted in the 1920s for which they are currently going through the vacation process which should take care of all of the rear yard issues. Apparently, the house is currently non-conforming.

Steffens stated that the subject site is an 11,761-square foot lot that is divided into two parts by the unimproved, platted Riverside Drive right-of-way. The southern portion of the lot, zoned WFR, fronts onto Hiawatha Avenue to the south, the M-36 right-of-way to the west, and Riverside Drive to the north. The northern portion of the site, zoned NR, fronts only Riverside Drive to the south, the M-36 right-of-way to the west and the Huron River to the north. The southern portion of the site, along Hiawatha Avenue, is improved with a 928-square foot dwelling with a walk-out basement; the northern portion of the site is unimproved. Single-family dwellings are located to the east and south along Hiawatha Drive. This site actually is a triple frontage lot, which our ordinance does not contemplate at all. It only contemplates double frontage when the frontage is on non-parallel sides. This is a corner lot but we have right-of-way on three sides. The dwelling must meet the 25-foot required front yard setback for both Hiawatha Avenue and M-36. Even though Riverside Drive is unimproved, it is platted right-of-way and technically it is the rear yard with a setback of 30 feet. The remaining side would have a setback of 10 feet. The petitioner has begun proceedings to have Riverside Drive vacated, which is a process that goes through the Michigan circuit courts. If approved, the variance request would allow for the demolition of the existing dwelling and reconstruction of a dwelling on the existing foundation with a footprint of 1,309 square feet, a 1,200-square foot walkout basement, and a 604-square foot attached garage.

Steffens reviewed the findings of fact. She stated that because this is a triple frontage lot, it is not typical and 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. Right-of-way on three sides of this lot does constrain development possibilities. However, the dwelling could be shifted to the east, toward Hiawatha Avenue, to meet the 30-foot required rear yard setback. It is not likely that the rear-yard setback would be impactful to the adjoining properties nor is anyone going to notice that the front yard setback along the M-36 right-of-way is short. You cannot even see this dwelling from the road so it is not likely going to be impactful to surrounding neighbors or people passing by M-36. The subject site is within the Northeast Hamburg/Winans Lake Area of the Master Plan which calls for medium density single family residential. The proposed variance would not adversely affect the objectives of the Master Plan. A lot with frontage on three roads is an unusual circumstance and not a general or recurrent situation that should be addressed by an ordinance amendment. In this instance, variance approval could be an appropriate remedy to the constrained development possibilities of the subject site. The property is currently used for single-family residential and the use will not change if the proposed variance request is granted. Again, given the triple frontage of the lot, there is a practical difficulty in developing the site without variance approval.

Discussion was held on Riverside Drive.

Chairperson Priebe opened the public hearing. Hearing no comment, the public hearing was closed.

Member Bohn asked if Riverside Drive was vacated, would it eliminate one of these variances. Steffens stated that it would.

Motion by Neilson, supported by Bohn

Motion to approve variance application ZBA 18-007 at 6203 Hiawatha Avenue to allow the construction of a new dwelling with a 1,309 square foot footprint, a 1,200 square foot walk out basement, and a 618 square foot attached garage. The proposed home will have a 13.2-foot west front yard setback from the right-of-way of M-36 (25-foot front yard setback required, Section 7.6.1), a

7.89-foot north rear yard setback (30-foot rear yard setback required, Section 7.6.1), and an 82 square foot elevated deck with a 4.32-foot north rear yard setback. (Elevated deck may project into required yard not to exceed 6 feet; 24-foot setback required, Section 8.17.2). 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

**b. ZBA 2018-008**

Owner: Richard Olson

Location: 8772 Rushside Dr., Pinckney MI 48169

Parcel ID: 15-17-402-028

Request: Variance application to allow a 982 square foot second story addition to the existing nonconforming dwelling. The addition will have a 7.1-foot south side yard setback, resulting in an aggregate side yard setback of 12.4 feet (15-foot aggregate side yard setback required, Section 7.6.1 fn 4).

Mr. Richard Olson, applicant, explained his request and the existing configuration of the home. He stated that he does have a letter from the neighbors to the south and the neighbor across the street in support of his request. The Architect for the applicant stated that if they had to dig new footings, it could compromise the existing footings. Furthermore, if they were to meet the setbacks, it may look awkward.

Planning/Zoning Coordinator Stein stated that because the lot is less than 60 foot wide, the new ordinance requiring an aggregate of 15 feet applies. The subject site is a 6,272-square foot lot that fronts onto Rushside Drive to the East; Rush Lake is to the West, and single family dwellings are located to the north and south of the site. The dwelling shown on the site map is currently one-story. If approved, the variance request would permit the construction of a 982-square foot second story addition with a 7.1-foot south side yard setback, resulting in an aggregate side yard setback of 12.4 feet. She stated that according to the ordinance that was adopted in November, any addition or expansion of a non-conforming dwelling would have to meet the setbacks. She reviewed the findings of fact. The ordinance requiring a 15-foot aggregate side setback upon Waterfront Residential lots less than 60 feet wide, is a new ordinance recently adopted to reduce the side yard setback requirement. Constructing a second story onto the existing non-conforming single story dwelling creates the need for a variance and is therefore self-imposed and is not a condition of the property. The property can accommodate a compliant single family dwelling. The site is zoned for single-family residential uses, has been developed for such uses, and can continue to be used for such use with a conforming structure. A second story on the existing dwelling is not necessary to use the site for residential purposes and is solely a personal preference of the homeowner. The second story could be reconfigured to meet the setback requirements. The proposed second story that encroaches into the required setbacks is a self-imposed practical difficulty. As stated, the setback is intended to provide adequate space, open vistas, and privacy throughout neighborhoods and amid structures on smaller residential lots to preserve side yards from encroachment of residential structures. The dwellings to the east and west have been constructed to comply with the 10-foot side setback requirements. 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. 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 cannot comply with the required rear and ordinary high-water mark setback standards. The

dwellings to the east and west have been constructed to comply with the required setbacks, and the dwelling that was demolished appears to have met the setback standards. The need for the variance arises from a personal preference and not a condition specific to the property. The use of the site is single-family residential and the proposed variance would not change the use. The proposed design creates both a self-imposed practical difficulty and a more nonconforming structure by adding the second story. Clearly, the lot can accommodate a single family residential dwelling.

Member Bohn asked if the structure that is there going to be demolished. The applicant stated that they would be using the block foundation that is there.

Chairperson Priebe opened the public hearing. Hearing no comment, the public hearing was closed.

Member Bohn stated that although he understands using the foundation, there is a way to design this without the need for variance. These are beautiful plans, however we have had a recent ordinance amendment that speaks directly to this type of circumstance.

Chairperson Priebe stated that it is possible to meet the setbacks, but may not be practical. She discussed the lot and the location of the lake. Given the width, she does not see how to fit a home without some type of variance.

Further discussion was held on the narrowness of the home. Discussion was held on using the existing posts and if you move that back, it would make the interior awkward.

The question was asked if the applicant can go back and look at this a second time to come more into compliance. The applicant stated that they can, however this was the most efficient way to build that second story. The applicant discussed raising the first story height and then going up from there. Steffens stated that there is a height restriction of 35 feet. The ordinance does not speak to going up if you are not adding living space. You could go up to get the 8-9 foot ceiling of the first story. Once you add the living space then you have to meet the conforming setbacks. Further discussion was held on the definition of living space.

Chairperson Priebe stated that you already have a partial second story and they are not talking about expanding the footprint. Steffens stated that the variance request should be considered as is. If it is the pleasure of the Board, a condition of approval can be made that the additional space cannot be used as living space.

Steffens reminded the applicant that if the variance is denied, you cannot make another application for 12 months unless you have a substantially different project. If approved, it is good for six months unless you pull a permit and begin construction. If the Board tables the request you can come back without additional fees as long as the scope of the variance does not increase.

Motion by Bohn, supported by Rill

Motion to table variance ZBA 18-008 at 8772 Rushside Drive to the October meeting to allow the applicant to revise his plan and not increase the scope of the variance and addresses the issues as discussed tonight

Steffens stated that as long as the variance request does not increase, there is no need to re-advertise the request.

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

c. ZBA 2018-009

Owner: Jason Muller

Location: 2260 Mumford, Pinckney, MI 48169

Parcel ID: 15-31-102-001

Request: Variance application to allow construction of a 2,240-square foot pole barn, with a 4/12 pitch resulting in a height of 17.3 feet (detached accessory buildings located within residential districts which have a roof pitch less than 8/12 shall not exceed 14 feet in height, Section 8.3.8.), and a 10- foot west rear yard setback (30-foot rear yard setback required, Section 7.6.1.).

Chairperson Priebe stated that she understands that the applicant has withdrawn the request to expand the height.

Mr. Muller presented the Board with additional drawings. He thanked the board for allowing him to present his case and thanked Amy and Brittany for the time they have put in reviewing his request. He was originally applying for two variances. One is for the rear yard setback the other was for a height variance. He has since withdrawn the request for the height variance after receiving input from people in his subdivision association as well as the Township Zoning Department. He does believe that his lot has special circumstances that creates practical difficulty. He stated that he does own three lots. The overhead power line between lots 2 & 3 is not parallel to the lot line. Most of the lots in Mumford Park are narrow. His lots are roughly 60 foot wide each. The variance he is requesting would allow the proposed building to be between the 10 foot setback and the power line. If the three lots had not been combined and lot 3 was by itself, the western property line would have been a side lot line with a setback of 10 feet. It is now a corner lot. Building a structure with a 30 foot setback would leave a building only roughly 20 foot wide depending on the power lines. This is narrower than a 2-car garage. In reading the staff report, it is noted the possibility of removing the existing garage to make room for the building. In his opinion, removing a good structure is on the extreme side. If he did not have a completely vacant lot, he may agree with that. With the proposed setback, he would still have considerable yard space on three sides of the building. He stated that his neighbor which is most directly impacted has submitted a statement in support of his building. He has also provided letters from the three neighbors directly across the street that are in support as well. He addressed the letters submitted in opposition. He stated that one comment was that no pole barns should be allowed, however there are four within Mumford Park. He discussed other neighbors who have 3-4 car garages as well. Others have stated that the building will be too close to the road, however what he is proposing is roughly 40 feet from the side of the road. Another comment was that the view of the building will be bad for Mumford Park, however he has not even chosen the building materials yet. He discussed the drainage concern. He stated that there is a lot coverage calculation and drainage requirements. He stated that he also plans to install gutters so as not to create drainage issues for his neighbors. He plans to build an attractive structure that is compatible with the design of his home and neighborhood. He has made vast improvements to his property and does not plan to build a structure to bring down anyone's property value. He stated that there have also been comments about deed restrictions. It is his understanding that deed restrictions are not enforced by the Township and should have no impact on the variance. He has every intention of working with the association. He did not know of any deed restrictions. He is simply looking to build a building to store and work on his boat and other toys and he feels that it will be aesthetically pleasing. He is not opposed to something smaller, he did not want to build something small and wish he had gone bigger. He believes comments #3 & 4 of the staff report refers to the height restriction and he has dropped that request.

Chairperson Priebe stated that the comment about the deed restrictions is correct. It is not the job of the ZBA to enforce any deed restriction. They are only allowed to deal with the Zoning Ordinance.

Steffens stated that the subject site is a 22,390-square foot lot that fronts onto McGregor Road to the east and Mumford Road to the north; the site gains access from Mumford Drive. The site is improved with a 1,066-square foot single-story dwelling plus an additional 432-square feet of living space which she originally thought was an attached garage, and a 624-square foot detached garage. Single family dwellings are located in all directions from the site. If approved, the variance request would allow for the construction of a 40-foot by 56-foot pole barn with a 10-foot west rear yard setback where a 30-foot rear yard setback is required. This site is a corner lot so the primary structure must comply with the required front yard setback for both street frontages. However, the ordinance recognizes that often corner lots tend to be either oddly shaped or shallow in depth so the ordinance allows accessory structures to comply with only one front yard setback, rather than the front yard setback along both front property lines. Because the existing dwelling was constructed with a 10-foot side yard setback from the south property line, the McGregor side, the south yard was determined to be the side yard and therefore the rear property line is the west lot line. The rear yard setback for any structure on the lot would be 30 feet from the west lot line.

Steffens stated that in June, 2014 The Township received a complaint indicating that the site was being used for repair of boats, lawn mowers, snowmobiles, and boat hoists. Staff did a site inspection and found no evidence of a business. Any home occupation at this site must comply with Section 8.1 of the Zoning Ordinance.

Steffens discussed the findings of fact. She stated that setback standards of the zoning ordinance serve multiple purposes: encourage orderly development of parcels, maintain open vistas of a neighborhood, and protect adjoining properties from negative impacts from development on adjoining parcels. The abutting property to the west has an expectation that the rear yard setback of 30 feet would apply to future development of the subject site. There is a powerline that traverses the site from north to south. The power line could be an exceptional circumstance applicable to the property, however it is the size and location of the proposed pole barn that is a self-created practical difficulty that requires variance approval. There is space in the side yard along McGregor Road for a compliant pole barn. The site is zoned and used for single-family residential uses and currently has a compliant accessory structure. The existing garage could be removed to make room for the proposed structure. Constructing an accessory structure that requires variance approval does not meet the finding that the variance is necessary for the preservation and enjoyment of a substantial property right possessed by neighboring properties. An accessory structure is a customary residential use found on other properties in the vicinity. However, the sheer bulk would dominate the site even if it meets the height requirements, because it is so close to what we consider the rear yard setback. If the 10 foot setback is approved, that would mean that this site does not have a rear yard at all. As the bulk of a structure moves closer to the property line, the visual impact grows. When you look at a site plan, it may not look that bad, but when you are standing in front of a large structure that is built too close, the impact is quite noticeable. Steffens stated that the subject site is within the North Chain of Lakes planning area, which calls for continued residential development. The condition or situation of the specific piece of property, or the intended use of the property for which the variance is sought, is not of so general or recurrent a nature because this is a typical residentially-zoned parcel, developed for its intended use, and the relaxed standards for accessory structures on corner lots can be applied to result in a compliant structure. The property is currently used for single-family residential and the use will not change if the proposed variance request is granted. The proposed site plan and architectural design both create a self-imposed practical difficulty. The site can accommodate a conforming structure. The property itself, and not the design preference of the application, must be considered in determining if the variance request is the minimum necessary to permit reasonable use of the land.

Discussion was held on the process of moving the power line. Steffens stated that again, there is a compliant location on the McGregor side of the property. Mr. Muller stated that one concern on the McGregor side is that numerous cars have come through that intersection.

Member Watson stated that this is a new structure and should conform to the ordinance.

Chairperson Priebe opened the public hearing.

Mr. Al Metty of 11294 Algonquin, stated that it is important that this neighborhood remain residential. Variances should not be given to just let people do what they want. There is no injustices that would warrant an approval. The proposed building is greatly out of character of the neighborhood. Granting this variance would be detrimental to the public welfare and materially injurious to the neighboring properties. It would adversely impact the values of their property. He discussed the location of other pole barns in the area that are not part of the platted subdivision. He discussed the deed restriction that prohibits the construction of a second garage.

Mr. Larry Oesterle of 2271 Mumford stated that he is directly across the street and would like to go on record as being opposed the variance.

Mr. David Gabbey whose property is adjacent to the applicant's property discussed the location and size of the subject property.

Hearing no further comment, Chairperson Priebe closed the public hearing.

Further discussion was held on the concern about the size of the building. Mr. Muller stated that he wanted to make sure to build something to hold all of this stuff. He would not be opposed to something smaller if the Board would like to make a suggestion.

Chairperson Priebe stated that this Board in the past has chosen not to create a non-conformity if the site is conforming.

Motion by Watson, supported by Bohn

Motion to deny variance application ZBA 18-009 at 2260 Mumford Drive to allow construction of a 2,240-square foot pole barn, with a 10-foot west rear yard setback (30-foot rear yard setback required, Section 7.6.1.). The variance does not meet variance standards one, two, three, five, or seven of Section 6.5 of the Township Ordinance and a practical difficulty does not exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight's hearing and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

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

#### **8. New/Old Business:**

- a. Approval of June 13, 2018 minutes

Motion by Neilson, supported by Watson

To approve the June 13, 2018 minutes as written

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

- b. Discussion of ZBA Case 18-002 – Request for clarification

Steffens stated that the request was for 11272 Algonquin where they were proposing a small bedroom addition on to an existing dwelling. He was going to connect the addition to an existing garage. Our ordinance requires a 10 foot distance between the primary dwelling and a detached accessory structure. When he went to the County for a permit, they told him no because the existing detached garage has 24 inch

footings. Anything attached to the house, even if only by the roof, has to have 42 inch footings. He came back for the variance for the addition with a 4'8" separation between the addition and the garage where 10 feet would be required. Then he was going to build a covered, freestanding walkway with 0 setback from both the garage and home, which was on the plan. This was approved in February. It was in the notice that it would have a 4'8" from the addition to the existing garage. He is almost done with the project and had a conversation with Brittany that he never intended to build the freestanding structure. The intent was always to have the open space between the bedroom addition and the detached garage. Her question is was the approval of the variance contingent upon the free standing covered structure. The consensus of the Board was that the approval was not made contingent upon the covered walkway.

**9. Adjournment:**

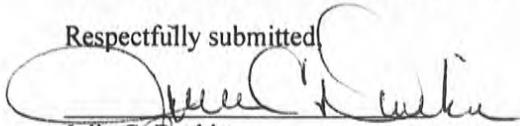
Motion by Neilson, supported by Watson

To adjourn the meeting

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

The meeting was adjourned at 8:44 p.m.

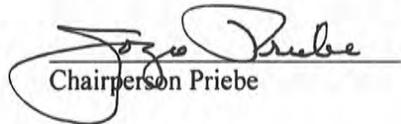
Respectfully submitted,



Julie C. Durkin  
Recording Secretary

The minutes were approved

As presented/Corrected: 11-14-18

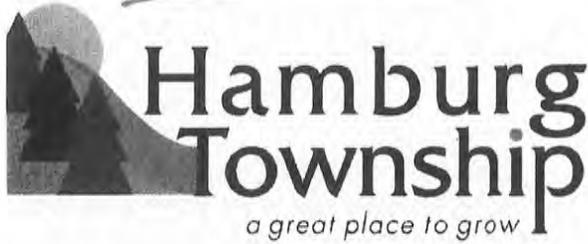


Chairperson Priebe

Exhibit G

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

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

**1. Call to order:**

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

**2. Pledge to the Flag:**

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

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

Absent: Auxier, & Neilson

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

**4. Correspondence:** None

**5. Approval of Agenda:**

Motion by Watson, supported by Bohn

To approve the agenda as presented

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

**6. Call to the public:**

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

**7. Variance requests:**

a) ZBA 2018-008

Owner: Richard Olson

Location: 8772 Rushside Dr. Pinckney MI 48169

Parcel ID: 15-17-402-028

Request: Variance application to allow a 982 square foot second story addition to the existing nonconforming dwelling. The addition will have a 7.1-foot south side yard setback, resulting in an aggregate side yard setback of 12.4 feet (15-foot aggregate side yard setback required, Section 7.6.1 fn. 4).

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

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

Brittany Stein, Planning/Zoning Coordinator stated that the subject site is a 6,272-square foot home that fronts onto Rushside Drive to the East; Rush Lake is to the West, and single-family dwellings are located to the north and south of the site. The dwelling shown on the site map is currently one-story. If approved, the variance request would permit the construction of a 982-square foot second story addition with a 7.1-foot south side yard setback, resulting in an aggregate side yard setback of 12.4 feet. On September 12, 2018 the Zoning Board of Appeals tabled the request after the public hearing to allow the applicant time to redesign the project. The applicant has redesigned the plans for the second story addition, and indicates that the existing first floor load bearing walls cannot support a second story that meet the required setbacks. A second story addition that meets side yard setbacks could not be accommodated without substantial improvements to the existing dwelling's foundation. The revised plans include a second story with dead space within the second story setback rather than living space as originally proposed.

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

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

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

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

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

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

Motion by Priebe, supported by Bohn

Motion to approve variance application ZBA 18-008 at 8772 Rushside Drive to allow for the construction of a 982-square foot second story addition with a 7.1-foot south side yard setback, resulting in an aggregate side yard setback of 12.4 feet. (15-foot aggregate side yard setback required, Section 7.6.1 fn. 4). The variance does meet variance standards one through seven of Section 6.5 of the Township Ordinance and a practical difficulty does exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at the meeting tonight and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

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

b) ZBA 2018-013

Owner: Steven and Kimberlie Darling

Location: 11644 Portage Lake Avenue Pinckney MI 48169

Parcel ID: 15-31-301-006

Request: Variance application to allow for an 852-square foot second-story addition to an existing dwelling. The addition will have a 28-foot west rear yard setback (30-foot rear yard setback required, Section 7.6.1.) and a 38-foot setback from the ordinary high water mark of a Portage Lake lagoon (50-foot setback from the OHM required, Section 7.6.1. fn.3)

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

Amy Steffens, Planning & Zoning Administrator stated that the subject site is a 5,489-square foot parcel improved with a 1,148-square foot, single-story dwelling. The site fronts onto Portage Lake Avenue to the east; a lagoon of Portage Lake is to the west, and single-family dwellings are to the north and south. If approved, the variance request would allow for the construction of an 852-square foot, second story addition over the rear west portion of the existing dwelling. The addition would have a 28-foot rear yard setback where a 30-foot rear yard setback would be required and 38-foot setback from the ordinary high water of the lagoon where a 50-foot setback would be required. The staff report does talk about the floodplain, however if the applicant does have a LOMA certificate, the floodplain development ordinance would potentially not apply.

Steffens stated that as we talked about many times, setback standards serve a few purposes. They encourage orderly development of parcels, maintain open vistas in the neighborhood and protect adjoining parcels from negative impact of development on adjoining properties. There is nothing exceptional or extraordinary about the property that would warrant a deviation from the zoning ordinance. The proposed addition could be relocated from the rear of the house to the front of the house and made to comply with the required setback standards. The lot is 100 feet deep, which would allow for a conforming second-story addition and meet all of the setback standards. The need for the variance is based on a personal preference and not an exceptional or extraordinary circumstance or condition applicable to the property. She stated that a property right is not based on one design or architectural plan. The property is currently zoned, developed, and used for residential purposes and complying with the required setbacks would not be deny the property's continued use for residential uses or deny furtherance of their property rights. We do have extra setback on Waterfront properties, the extra 50 foot from the high watermark. We do not know precisely where the ordinary high watermark is for this property. Therefore in this case, we are using the edge of the lagoon. We have that extra setback as extra protection for neighboring waterfront properties and those not on the water but in the vicinity protecting the vistas of everyone in that neighborhood. Staff finds that because there is a way to build a compliant second story, a deviation from that 50 foot setback is not warranted in this case.

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

Steffens stated that the property is currently used for single-family residential use and the use will not change if the proposed variance request is granted. The proposed site plan and architectural plan is driving the need for a variance. It is a self-imposed practical difficulty. The site and existing dwelling can accommodate a conforming second story addition. The property itself, and not the design preference of the application that the Board must consider when deciding whether or not the property warrants deviation from the zoning ordinance.

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

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

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

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

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

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

Motion by Bohn, supported by Hollenbeck

Motion to approve variance application ZBA 18-013 at 11644 Portage Lake Avenue to allow for an 852- square foot second-story addition to an existing dwelling. The addition will have a 28-foot west rear yard setback (30-foot rear yard setback required, Section 7.6.1.) and a 38-foot setback from the presumed ordinary high water mark of a Portage Lake lagoon (50-foot setback from the OHM required, Section 7.6.1. fn.3). The variance does meet variance standards one through seven of Section 6.5 of the Township Ordinance and a practical difficulty does exist on the subject site (predominantly the existing structure and its orientation to the water and whether or not there is an ordinary high water mark established) when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight's hearing and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

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

#### 8. New/Old Business:

1. Approval of October 10, 2018 minutes

Motion by Bohn, supported by Watson

To approve the October 10, 2018 minutes

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

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

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

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

**9. Adjournment:**

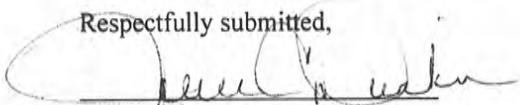
Motion by Watson, supported by Bohn

To adjourn the meeting

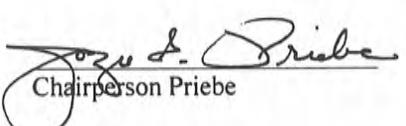
Voice vote: Ayes: 5    Nays: 0    Absent: 1    MOTION CARRIED

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

Respectfully submitted,

  
Julie C. Durkin  
Recording Secretary

The minutes were approved  
As presented/Corrected: 1-9-19

  
Chairperson Priebe

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

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**Hamburg Township  
Zoning Board of Appeals Minutes  
Hamburg Township Board Room  
Wednesday, July 10, 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: Alternate Diepenhorst, Neilson, Priebe, Rill & Watson,

Absent: Auxier

Also Present: Amy Steffens, Planning & Zoning Administrator & Brittany Stein, 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: 1 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 2019-0014

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).

Mr. Zalewski stated that they moved here into a 1300 square foot home in March of this year. They are looking to add on to the home toward the water. He provided a brief slide show presentation. He stated that they are proposing a 164 square foot addition with a new master bedroom as well as extending the living room area. He further explained the interior renovations. It will be a better view of the lake and a pleasant view from the lake.

He presented pictures of the view of the home. He explained the proposed building setbacks. He explained what could be built if they met all of the setbacks. He presented pictures of other properties with setbacks less than the required 50 feet from the water as well as those that are less than 25 feet from the road.

Chairperson Priebe stated that we have received an email from Shari Gordy opposing the request.

Brittany Stein, Zoning Coordinator, stated that the variance application is to allow for the construction of a 736-square foot addition on the south side of an existing dwelling. A single-story dwelling is existing and a single-story addition is proposed. The addition will have an 11-foot west front yard setback along Baudine Road where a 25-foot front yard setback is required and a 35-foot setback from the ordinary high water mark of Rush Lake where a 50 foot setback is required. 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 a one-story, 1,632 square foot dwelling with a detached 270 square foot garage. A portion of the site lies within the 100 year floodplain. If the variance is approved, we will need an Elevation Certificate prior to issuing a land use permit. She discussed the seven findings of fact. This site has water on two sides, requiring a 50-foot setback on both sides, one being the canal and the other Rush Lake. Additionally, all WFR zoned properties are required to 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 addition 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. 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 approximate 8 foot wide potential buildable area on the site. Development possibilities are constrained on this lot, however it is encouraged 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. 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. These required setbacks are 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 it 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. 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. 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. The use of the site is single-family residential and the proposed variance would not change the use. 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.

Discussion was held on the neighbor's property across the street. Discussion was held on the letter of opposition. It was stated that her home is a canal front home, not a lake front home. It was stated that although we are sensitive to neighbors, there is nothing in our ordinance that guarantees view of the water from neighboring lots.

The question was asked if a vertical addition would comply with the terms of the ordinance. Stein stated that such an addition would not comply because of the non-conforming ordinance. Discussion was held on the very small addition that could be accomplished while meeting the setbacks.

Discussion was held on possible better location for an addition between the garage and the house. Ms. Zalewski stated that they talked about if they were going to put on an addition, they would like it closer to the water for better view given the location of the living room and master bedroom. Further discussion was held on the interior layout. Stein stated that much of this variance is based on personal preference, which cannot be considered when deciding the variance request.

Discussion was held on the road being a dead-end. Discussion was held on the limitations of the site.

Motion by Rill, supported by Watson

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.

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

## **8. New/Old business:**

- a. Approval of June 12, 2019 Meeting Minutes

Chairperson Priebe stated that it should be noted that Member Neilson was absent.

Motion by Watson, supported by Rill

To approve the June 12, 2019 minutes as amended

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

Amy Steffens, Planning & Zoning Administrator, stated that the Township Attorney will be here on September 11<sup>th</sup>, which is a regularly scheduled meeting date. She will be providing training on ZBA member responsibilities and how to make findings defensible should the Township ever be sued over a ZBA decision. If we have a ZBA case, we will start the case at 6:00 p.m. and the Attorney will begin her presentation at 7:00 p.m. If there is something specific a member would like discussed, please let her know ahead of time. She further discussed other training opportunities that may be available to the board members.

## **9. Adjournment:**

Motion by Neilson, supported by Rill

To adjourn the meeting

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

The meeting was adjourned at 7:39 p.m.

Respectfully submitted,

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Julie C. Durkin  
Recording Secretary

The minutes were approved as presented/Corrected: \_\_\_\_\_

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Chairperson Priebe



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

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

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## ZONING BOARD OF APPEALS MEMORIALIZATION OF FINDINGS

May 8, 2019

### Approval of Variance 19-005

**PROJECT SITE:** 10311 Kress Road  
TID 15-28-203-015

**APPLICANT/OWNER:** Edward Murawski

### PART I – PROJECT DESCRIPTION

Variance request to allow for the construction of a 100-square foot shed with a five-foot north side yard setback and a 10-foot east rear yard setback (10-foot side yard and 30-foot rear yard setbacks required, Section 7.6.1. and 8.3.).

### 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.**

The subject site is constrained by extraordinary circumstances or conditions applicable to the property: the location of the home on the far east of lot means that the shed cannot go behind the home in a compliant location (10-foot distance separation required between the dwelling and detached accessory structures) to make use of the relaxed setbacks of five feet to the side and rear property boundaries for accessory structures located behind the dwelling.

- 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 site is constrained because of the location of the existing dwelling in relation to the property boundaries. While a shed is not necessary for the preservation of substantial property rights, the proposed 100-square foot shed is a relatively small improvement and is a customary and reasonable accessory in a residential zone.

**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 proposed five-foot setback from an improved right-of-way would be detrimental to the public welfare or materially injurious to the property or improvements in the district and the dwelling’s ten-foot setback could be more impactful than a 100-square foot shed with the same 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 property is designated Medium Density Rural Residential development in the future use map and is within the North Chain of Lake Planning Area in the Township Master Plan. The Plan envisions single family residential development tied to 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.**

See analysis under standard number one

**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 proposed location is a less impactful location aesthetically and functionally than the single compliant location available for an accessory structure.

Approved by the Hamburg Township Zoning Board of Appeal at a regular meeting on May 8, 2019 by the following vote:

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



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**ZONING BOARD OF APPEALS  
MEMORIALIZATION OF FINDINGS**

**May 8, 2019**

**Approval of Variance 19-0006**

**PROJECT SITE:** 10450 Kress Rd.  
TID 15-28-301-001  
**OWNER:** Jeffery Settle

**PART I – PROJECT DESCRIPTION**

Variance application to construct a 486 square foot addition on the north facade and a 282 square foot addition on the east facade of the existing dwelling. The resulting dwelling will have a 15.9-foot east front yard setback (25-foot front yard setback required, Section 7.6.1.fn4).

**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.**

This site is a corner lot requiring the primary structure to have a front yard setback from both Kress Road and from Cordley Lake Road. 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 compliant single family dwelling additions on this corner lot is constrained by the lot width which results in a small building envelope.

- 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 only 48 feet deep from west to east, with frontage on two right-of-ways. A 25-foot front yard setback is required along Kress Road to the east and a 30-foot rear yard setback is required to the west, meaning that the total required setback is five feet deeper than the physical dimensions of the lot. Development possibilities are constrained on this lot.

- 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 15.9 feet setback from the front property line, where 25-foot front yard setback is required. The proposed additions would not impact the surrounding properties nor would the improvements likely create sight visibility problems given the fact that the dwelling would be more than 15 feet from the traveled roadway, plus an additional 15 feet back from the property boundary.

- 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 additions to the existing dwelling cannot comply with the required front yard setback standards. The short depth of this corner 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 small narrow size of the corner lot with a front yard setback from the east property line of Kress Rd. and a rear yard setback from the west side property line, there is a practical difficulty in constructing a compliant dwelling on the lot.

Approved by the Hamburg Township Zoning Board of Appeal at a regular meeting on May 8, 2019 by the following vote:

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



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**ZONING BOARD OF APPEALS  
MEMORIALIZATION OF FINDINGS**

**May 8, 2019**

**Approval of Variance 19-007**

**PROJECT SITE:** 5229 Post Drive  
(TID 15-27-105-039)

**APPLICANT/OWNER:** Richard Mancik

**PART I – PROJECT DESCRIPTION**

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.).

**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.**

Reconstructing the dwelling in its existing non-conforming location would preserve both the existing foundation and a 100-year old stone staircase. The dwelling would be constructed in the existing footprint. The elevated deck with a 6-foot, 6-inch setback would be a minor encroachment into the required eight-foot setback. There is a grade change from east to west that would mitigate any impact of the reconstructed dwelling on adjacent properties.

- 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.**

See analysis under standard number one.

**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 reconstructed dwelling would be built in the exact footprint as the existing dwelling and would not likely be impactful to adjacent properties given the contouring of the property from east to west.

**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 in the Master Plan. This area envisions continued residential development closely tied to the lake waterfronts. The proposed project would not adversely affect the purpose of objectives of the Master Plan.

**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.**

The properties in the vicinity surrounding the subject site have been developed with non-confirming setbacks, and the proposed reconstructed dwelling would not be out-of-character to the neighborhood.

**6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district.**

The use of the site is single-family residential and the proposed variance would not change the use.

**7. The requested variance is the minimum necessary to permit reasonable use of the land.**

The proposed dwelling would be reconstructed in the existing non-confirming footprint. The elevated deck would not likely be impactful because it is an open, unenclosed structure.

Approved by the Hamburg Township Zoning Board of Appeal at a regular meeting on May 8, 2019 by the following vote:

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

ABSENT:	BOARD MEMBERS	



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**ZONING BOARD OF APPEALS  
MEMORIALIZATION OF FINDINGS**

**May 8, 2019**

**Approval of Variance 19-0008**

**PROJECT SITE:** 5308 Gallagher Blvd.  
TID 15-27-301-089

**OWNER:** Gary Phillips & Marilyn Kellepourey

**PART I – PROJECT DESCRIPTION**

Variance application to allow for the demolition of an existing dwelling and construction of a new 2,284 square foot single family dwelling with an attached 1,012 square foot two-car garage. The dwelling will have a 24.6-foot setback from a regulated wetland (50-foot setback from a regulated wetland required, Section 9.9.3.B.).

**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.**

The 50-foot regulated wetlands setback requirement applies generally to all properties in Hamburg Township. This parcel is unique as it is a small parcel with an existing home that is not ordinated on the lot parallel to the lot lines and has a large wetland area to the south. Because of the proximity of the wetlands and the 50-foot wetlands setback requirement, there is no compliant buildable area for the home on the lot.

- 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 requested variance would permit the demolition of an existing dwelling and construction of a new single family dwelling within the required 50-foot wetlands setback. The site could not accommodate a compliant location for a home due to the wetlands.

**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 requested variance will not be materially injurious to the property or the zone or district because there will be a wetlands setback sufficient for minimal impact to the wetlands. If the proposed development was more intense than a single family residential dwelling, the impact to the wetlands could potentially be greater.

**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 South Hamburg/Strawberry planning area of the Master Plan. This area of the Township contains areas of farmland, large wetland areas and residential areas. The proposed request would not adversely affect the purpose or objectives of the Master Plan.

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

The wetlands setback applies to all properties in Hamburg Township and is intended to preserve the natural, beneficial functions of wetlands such as flood protection, wildlife habitat, and improved water quality. The subject site is a small platted lot, constrained by wetlands which greatly impedes development on this lot.

**6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district.**

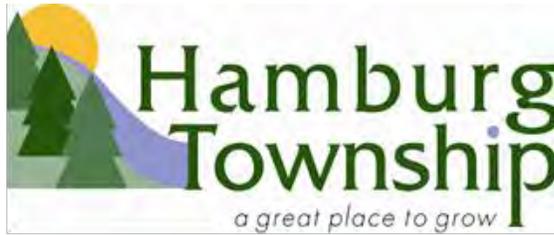
The use of the site is single-family residential and the proposed variance would not change the use.

**7. The requested variance is the minimum necessary to permit reasonable use of the land.**

Given the small size of buildable area on the lot with the wetlands setback restriction on the lot, there is a practical difficulty in constructing a compliant dwelling.

Approved by the Hamburg Township Zoning Board of Appeal at a regular meeting on May 8, 2019 by the following vote:

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



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10405 Merrill Road  
Hamburg, Michigan 48139

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**ZONING BOARD OF APPEALS  
MEMORIALIZATION OF FINDINGS**

**May 8, 2019**

**Approval of Variance (19-009)**

**PROJECT SITE:** 9658 Zukey Drive  
TID 15-22-301-001

**APPLICANT:** Angelini & Associates Architects

**OWNER:** Stephen and Catherine Boston

**PART I – PROJECT DESCRIPTION**

Variance application to allow for the removal of 100 percent, or 29 linear feet, of a dwelling's non-conforming perimeter exterior walls and reconstruction of the walls in the existing footprint (no more than 50 percent of the exterior perimeter walls of the nonconforming structure shall be removed, Section 11.3.3.). The proposed dwelling will have a 43-foot setback from the ordinary high water of Zukey Lake (50-foot setback from the ordinary high water 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.**

The fluctuating water level was a variable not accounted for in the plans or removal of 100 percent of the structure.

- 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 proposed setback would be greater than the setback on adjacent properties.

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

The proposed setback would be greater than the setback on adjacent properties.

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

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

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

No ordinance amendment could contemplate unpredictable existing building conditions.

- 6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district.**

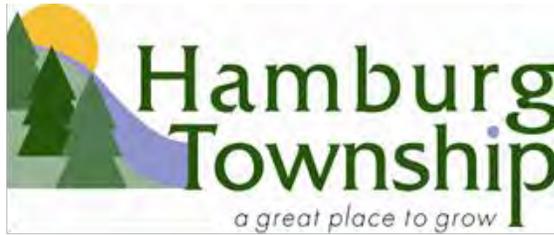
The use of the site is single-family residential and the proposed variance would not change the use.

- 7. The requested variance is the minimum necessary to permit reasonable use of the land.**

Existing site conditions make it impractical and impossible to reuse more than 50 percent of the structure.

Approved by the Hamburg Township Zoning Board of Appeal at a regular meeting on May 8, 2019 by the following vote:

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



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## ZONING BOARD OF APPEALS MEMORIALIZATION OF FINDINGS

June 12, 2019

### Approval of Variance 19-0010

**PROJECT SITE:** 10125 Imus  
TID 15-28-204-052

**APPLICANT/OWNER:** Andrew and Justy Yavello

### PART I – PROJECT DESCRIPTION

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 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.).

### 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.**

The dwelling's existing first-story encroaches into the OHM setback by 5 feet, which would not change with the second-story addition. The existing dwelling was constructed with a larger than required front yard setback, making the OHM setback difficult to meet.

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

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

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

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

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

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

See analysis numbers one and two.

**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 encroachment into the OHM for the second-story addition could be a minor deviation to the zoning ordinance.

Approved by the Hamburg Township Zoning Board of Appeal at a regular meeting on June 12, 2019 by the following vote:

AYES:	BOARD MEMBERS:	Auxier, Bohn, Rill, Watson, Hollenbeck
NOES:	BOARD MEMBERS:	
ABSENT:	BOARD MEMBERS:	



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**ZONING BOARD OF APPEALS  
MEMORIALIZATION OF FINDINGS**

**June 12, 2019**

**Approval of Variance 19-0011**

**PROJECT SITE:** 8854 Lagoon  
TID (15-13-402-060)  
**OWNER:** Nell Nelson

**PART I – PROJECT DESCRIPTION**

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.).

Variance application 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.).

**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.**

The proposed addition of the attached accessory structure and the attached rear sunroom and covered porch addition would not significantly impact the neighborhood. The impact on this neighboring property would be less impactful than constructing, perhaps, a detached accessory structure in any other location on the lot that may be more compliant to the zoning ordinance. Because of the small size of the subject through lot, 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.**

See analysis under standard number one.

- 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 proposed attached sunroom and porch addition and the proposed attached accessory structure garage attached to the home is less detrimental than a detached structure built with a 5-foot rear and side yard setback in the rear yard, which is along Lagoon Dr.

- 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 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.

- 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.**

See analysis under standard number one.

- 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 narrow size of the lot with a front yard setback of 25 feet from the south property line of Reive Ct. and a rear yard setback of 30 feet from the north property line of Lagoon Dr., there is a practical difficulty in constructing a more compliant accessory structure or addition on the lot.

Approved by the Hamburg Township Zoning Board of Appeal at a regular meeting on June 12, 2019 by the following vote:

AYES:	BOARD MEMBERS:	Acting Chair: Bohn, Watson, Auxier, Alternate(s): Hollenbeck, Rill,
NOES:	BOARD MEMBERS:	
ABSENT:	BOARD MEMBERS:	



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**ZONING BOARD OF APPEALS  
MEMORIALIZATION OF FINDINGS**

**June 12, 2019**

**Approval of Variance 19-0012**

**PROJECT SITE:** 8213 Kimble Dr.  
TID 15-16-101-019  
**OWNER:** Jon and Lori Fairchild

**PART I – PROJECT DESCRIPTION**

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).

**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.**

The size of the site does constrain the development possibilities for an attached elevated deck to the rear of the dwelling. There is not a compliant location for an elevated rear deck. There is an exceptional or extraordinary condition of the property.

- 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 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, there is insufficient space in the rear yard to construct the proposed deck.

**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 requested variance will not be materially injurious to the property or the zone or district. 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 (24-foot setback required). The proposed elevated deck is 14 feet by 45 feet. 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.

**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 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 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.

**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. Given the short depth and grade change of the rear yard on this lot constrains development on this site for compliant elevated deck.

**6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district.**

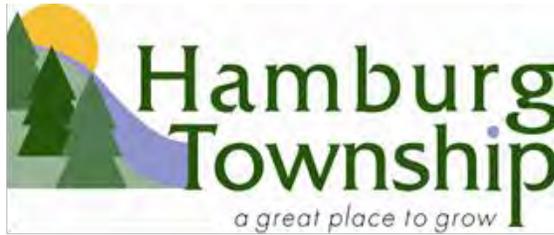
The use of the site is single-family residential and the proposed variance would not change the use.

**7. The requested variance is the minimum necessary to permit reasonable use of the land.**

The lot has a small rear yard, and given the short depth and grade change of the rear yard on this lot there is a practical difficulty in constructing a compliant rear elevated deck on the lot.

Approved by the Hamburg Township Zoning Board of Appeal at a regular meeting on June 12, 2019 by the following vote:

AYES:	BOARD MEMBERS:	Acting Chair: Bohn, Watson, Auxier, Alternate(s): Hollenbeck, Rill,
NOES:	BOARD MEMBERS:	
ABSENT:	BOARD MEMBERS:	



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## ZONING BOARD OF APPEALS MEMORIALIZATION OF FINDINGS

June 12, 2019

### Approval of Variance 19-0013

**PROJECT SITE:** 6361 Buckshore  
TID 15-23-306-100

**APPLICANT/OWNER:** John and Renee Johnston

### PART I – PROJECT DESCRIPTION

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.).

### 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.**

The existing dwelling encroaches into the required 30-foot rear yard setback by 13.75 feet, and the second-story would maintain that setback. 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 difficult.

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

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

Due to the configuration of the dwelling on the parcel and adjacent dwellings the proposed improvements are not likely to be materially injurious to the property or improvements in the zone or district.

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

The subject site is in the 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.

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.**

See analysis numbers one and two.

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 proposed second-story addition could be a minor deviation from the zoning ordinance setback requirements.

Approved by the Hamburg Township Zoning Board of Appeal at a regular meeting on June 12, 2019 by the following vote:

AYES:	BOARD MEMBERS:	Auxier, Bohn, Rill, Watson, Hollenbeck
NOES:	BOARD MEMBERS:	
ABSENT:	BOARD MEMBERS:	



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**ZONING BOARD OF APPEALS  
MEMORIALIZATION OF FINDINGS**

**July 10, 2019**

**Approval of Variance 19-0014**

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

**OWNER:** Bradley & Patricia Zalewski

**PART I – PROJECT DESCRIPTION**

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).

**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.**

This site has water on two sides, requiring a 50-foot setback on two sides. 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 compliant single family dwelling additions on this water front lot is constrained by the lot depth which results in a small building envelope.

- 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, and that no addition 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. The proposed addition would not impact the surrounding properties.

**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.

Approved by the Hamburg Township Zoning Board of Appeal at a regular meeting on July 10, 2019 by the following vote:

AYES:	BOARD MEMBERS:	Priebe, Watson, Neilson, Rill, Alternate(s): Diepenhorst,
NOES:	BOARD MEMBERS:	
ABSENT:	BOARD MEMBERS:	