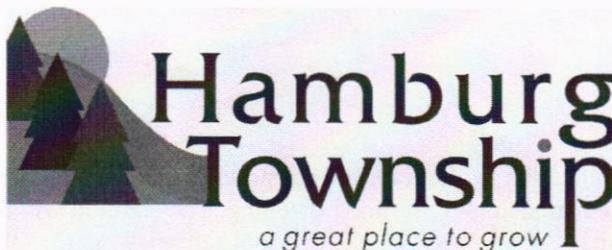


P.O. Box 157
10405 Merrill Road
Hamburg, Michigan 48139-0157

(810) 231-1000 Office
(810) 231-4295 Fax



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

**Hamburg Township
Zoning Board of Appeals Minutes
Hamburg Township Board Room
Wednesday, June 12, 2019
7:00 P.M.**

1. Call to order:

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

2. Pledge to the Flag:

3. Roll call of the Board:

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

Absent: Priebe *Nielsen*

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

4. Correspondence: None

5. Approval of Minutes:

Motion by Auxier, supported by Rill

To approve the May 8, 2019 minutes as written

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

6. Call to the public:

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

7. Approval of Agenda:

Motion by Auxier, supported by Rill

To approve the agenda as presented

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

8. Variance requests:

ZBA 2019-0010

Owner: Andrew and Justyn Yavello

Location: 10125 Imus Road, Pinckney MI 48169

Parcel ID: 15-28-204-052

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

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

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

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

Acting Chairperson Bohn opened the hearing to the public.

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

Hearing no further public comment, the call was closed.

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

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

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

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

Motion by Auxier, supported by Rill

Motion to approve variance application ZBA 19-0010 at 10125 Imus Road to allow for construction of a 728-square foot second-story addition on the north east side of an existing non-conforming dwelling. The addition will have a 45-foot setback from the ordinary high water mark of Strawberry Lake (50-foot setback from the OHM required, Section 7.6.1. fn.1; second-story additions must comply with required setback, Section 11.3.1.). The variance does meet variance standards one through seven of Section 6.5. of the Township Ordinance and a practical difficulty does exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight's hearing and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

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

ZBA 2019-0011

Owner: Nell Nelson

Location: 8854 Lagoon, Brighton MI 48116

Parcel ID: 15-13-402-060

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

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

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

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

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

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

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

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

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

Discussion was held on the request being a better option.

Motion by Watson, supported by Hollenbeck

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

Also, to approve a variance to allow for the construction of a 75-square foot attached accessory structure on the west façade of the dwelling. The accessory structure will have an 18.5-foot south front yard setback (25-foot front yard setback required, Section 7.6.1.). The variance does meet variance standards one through seven of Section 6.5 of the Township Ordinance and a practical difficulty does exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at the meeting tonight and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

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

ZBA 2019-0012

Owner: Jon and Lori Fairchild

Location: 8213 Kimble Drive, Pinckney MI 48169

Parcel ID: 15-16-101-019

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

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

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

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

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

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

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

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

Motion by Hollenbeck, supported by Rill

Motion to approve variance application ZBA 19-0012 at 8213 Kimble Dr. to allow for the construction of a 14-foot by 45-foot elevated deck on the south east façade of the dwelling. The elevated deck will have a 17.6-foot rear yard setback (24-foot rear yard setback required for elevated deck, Sections 7.6.1. and 8.18). The variance does meet variance standards one through seven of Section 6.5 of the Township Ordinance and a practical difficulty does exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at the meeting tonight and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

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

ZBA 2019-0013

Owner: John and Renee Johnston

Location: 6361 Buckshore Drive, Whitmore Lake MI 48189

Parcel ID: 15-23-306-100

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

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

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

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

Amy Steffens, Planning & Zoning Administrator, stated that the subject site is a one-quarter acre parcel that fronts onto Buckshore Drive to the east; single family dwellings are to the north, west, and east; a vacant parcel is located to the south. The site is currently improved with a 920-square foot single-story single-family dwelling and an attached 576-square foot attached garage. If approved, the variance request would allow for a 630-square foot second story addition over the existing attached garage on the south side of the parcel. The existing dwelling has a 16.25-foot rear yard setback and the proposed second-story addition would have the same rear yard setback. Section 7.6.1. requires a 30-foot rear yard setback and Section 11.3. requires that second-story additions to a non-conforming dwelling must comply with the required rear yard setbacks. She discussed the seven findings of fact. She stated that the existing dwelling encroaches into the required 30-foot rear yard setback by 13.75 feet, and the second-story would maintain that setback. They are going up rather than out. The existing dwelling was constructed with a large front yard setback of approximately 90 feet, rather than the required 25-foot front yard setback required. Given the way the property has been developed, complying with the required 30-foot rear yard setback for a second-story addition would be impossible. Conversely, however, the extreme front yard setback also means that there is more than adequate space to construct additional living space in a compliant location with a lateral addition rather than a vertical addition. A substantial property right is not preserved based on particular site or site plan. The site is zoned for single-family residential uses, has been developed and used for such a use and can continue to be used for that purpose. The encroachment into the rear yard for the second-story addition could be considered a minor deviation to the zoning ordinance due to the way that the house was constructed on the lot with the extreme front yard setback. The adjacent properties are not likely to be negatively impacted. The house to the north is not likely to be affected at all, and if the parcels to the south are ever developed, then they have decided to develop on a parcel next to a parcel with a deficient setback. As stated, due to the configuration of the dwelling on the parcel and adjacent dwellings, the proposed variance is not likely to be materially injurious to the property or improvements in the zone or district. The subject site is in the Northeast Hamburg/Winans Lake planning area of the Master Plan. This area envisions mixed density waterfront and natural river zoning districts. The proposed request would not adversely affect the purpose or objectives of the Master Plan. There is no condition or situation of the subject site that is not of so general or recurrent a nature that the proposed second story addition could not comply with the zoning ordinance requirements for setbacks. There could be a lateral, compliant addition. This parcel is an exceptionally large parcel for the WFR zoned district and has a building envelope of approximately 7,500 square feet in which to develop. The use of the site is single-family residential and the proposed variance would not change the use. The proposed second-story addition could be considered a minor deviation from the zoning ordinance setback requirements but there is a compliant location for additional living space. There is a significant topography issue on the site, and the house has been pushed to the extreme

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

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

Motion by Rill, supported by Auxier

Motion to approve variance application ZBA 19-0013 at 6361 Buckshore Drive to allow for the construction of a 630-square foot second-story addition on the south side of an existing nonconforming dwelling. The addition will have a 16.25-foot rear yard setback (30-foot rear yard setback required, Section 7.6.1.; second-story additions must comply with required setback, Section 11.3.1.). The variance does meet variance standards one through seven of Section 6.5. of the Township Ordinance and a practical difficulty does exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight's hearing and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

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

9. New/Old business:

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

10. Adjournment:

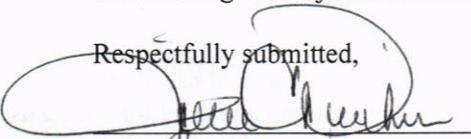
Motion by Auxier, supported by Hollenbeck

To adjourn the meeting

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

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

Respectfully submitted,


Julie C. Durkin
Recording Secretary

The minutes were approved as presented/Corrected: 7-10-19


Acting Chairperson Bohn