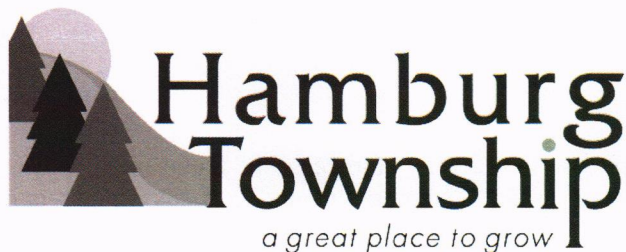


P.O. Box 157
10405 Merrill Road
Hamburg, Michigan 48139-0157

(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, January 9, 2019 Minutes
7:00 P.M.**

1. Call to order:

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

2. Pledge to the Flag:

3. Roll call of the Board:

Present: Auxier, Bohn, Neilson, Priebe, Watson,

Absent: None

Also Present: Amy Steffens, Planning & Zoning Administrator

4. Correspondence: None

5. Approval of Agenda:

Motion by Auxier, supported by Watson

To approve the agenda as presented

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

6. Call to the public:

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

7. Variance requests:

a) ZBA 2018-014

Owner: Vickie Neff and David Gabbey

Location: 11332 Algonquin Drive Pinckney MI 48169

Parcel ID: 15-31-102-039 Request:

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

Mr. Gabbey, applicant, stated that their home is located on lot 39 in Mumford Park, and they also own lot 46 which is across Algonquin with a stand-alone garage. They have lived in the home for 21 years and plan to stay in the home for the rest of their lives. Over the years they have made quite a few improvements. The home was built in the 1960s and have smaller rooms. To bring their home to more current standards, they

have looked at different options. In order to not increase the footprint of the home, reconfiguring the second floor became the most obvious option. The proposed modifications would require approval of two variances.

Theresa Angelini, Architect for the applicant gave a Powerpoint presentation of their request. She stated that the house was designed in the 1960s and built in 1966. A second floor dormer was added in 1974, the sunroom was added in the late 1970s, and the house was connected to the garage in 2005. She stated that there is a 20 foot easement to the south. Portage Lake is to the west, and the lot length is 131 feet which is 18 feet shorter than the neighboring lots. The surrounding homes do not have a 50 foot setback with the exception of a newer home to the north where there were two lots combined. She discussed the views of the surrounding homes. She discussed the leaking roof on the sunroom and the pitch of the roof. She discussed the bearing walls of both the second story dormer and the first floor and evidence of movement. She presented a site plan showing that the house being forward from the 50 foot setback. The 46.5 feet is where the existing first floor wall is. That is where they would like to start the second story. The requested 34 feet is from the face of the deck to the lake. She presented a floor plan of the new second story. The new addition is 43 square feet. The replacement of the sunroom roof is 366 of roof deck. It is that size because of the sunroom below. She showed the proposed west elevation.

Ms. Angelini reviewed the Standards of Review and exceptional circumstances. The existing first floor sunroom encroaches into the 50 foot setback at 34.5 feet from the water. Re-framing that roof allows for the elevated deck. It has no negative affect on neighboring views. It would be exactly in the footprint of the existing house. The second floor dormer currently encroaches into the setback by 2 feet. Their proposal moves that 20 inches to be 46.5 feet back from the water so that it aligns with the first floor wall. The goal is to improve the structural integrity. Putting the roof deck on the existing structure would not have a negative impact on surrounding properties. She stated that the practical difficulty is the location of the house on the site and the length of the property being 18 feet less than the ones around it. They recognize the need to repair the house so that they can live in it comfortably for the next many years.

Amy Steffens, Planning & Zoning Administrator stated that the subject site is a 8,364-square foot parcel that fronts onto Algonquin Drive to the east; Portage Lake is to the west, and to the north and south you will find single-family uses. The site currently has a 2,872-square foot two-story single-family dwelling and a 545-square foot attached garage. They are requesting to move the second story wall on the west less than two feet to correct some structural problems. Then they will remove the slightly pitched roof over the existing sunroom and turn that into an elevated deck. The first floor foot print is not changing at all. The elevated deck would be required to have a 44 foot setback from the ordinary high watermark. An elevated deck is anything over 24 inches above grade and is allowed to encroach into a required setback no more than six feet. They are asking for a setback of 34.5 feet. She has provided a table showing the existing and proposed setbacks for both the existing house as well as the proposed improvements. She further stated that based on FEMA's floodplain maps, it appears that a portion of the special flood hazard area or 100 year flood plain, could encroach onto the existing structure. Hamburg Township does participate in the NFIP program, and one of our requirements is that we have to enforce proper floodplain development standards. If any work is done on this structure, we would need an estimate prepared by a licensed contractor showing the value of the work. If this is a substantial improvement, anything more than 50% of the market value of the structure, we would need an elevation certificate or a LOMA issued by FEMA showing that the house is out of the floodplain or if it is, it meets the floodplain standards.

Steffens reviewed the Standards of Review. She stated that the dwelling's existing first-story sunroom encroaches into the ordinary high water mark setback by 14.5 feet, which will not change. The proposed second-story addition would encroach no more than an additional 20 inches. Staff believes that would not be noticeable by adjacent properties or impactful. The existing sunroom would be reframed to permit the roof of the sunroom to be used as an elevated deck. Given the siting of the dwelling on the subject site, the siting of the properties to the north and the south, and the configuration of the shoreline, it is not likely to be negatively impacted by the 20 inch addition to the second story wall nor the elevated deck.

Steffens stated that a substantial property right is not preserved based on granting a variance for a particular architectural design. The site is zoned for single-family residential uses, has been developed for such uses, and can continue to be used for such use with a conforming structure or conforming addition. The site could not accommodate a compliant, usable elevated deck anywhere on the site. Having an accessory structure does not advance a substantial property right. However, the encroachment into the ordinary high water mark for the second-story addition would be a minor deviation to the zoning ordinance. The granting of a variance or modification would not be materially detrimental to the public welfare. Again, because of the way the house sits on the lot in relation to the shoreline and the way that the house to the south comes more forward into the ordinary high water mark, staff does not believe that the improvements would be materially injurious to the property or improvements in the district. The proposed request would not adversely affect the purpose or objectives of the Master Plan. The site could not accommodate a compliant elevated deck, however it could accommodate a compliant at-grade deck. The use of the site is single-family residential and will continue to be single family residential. The improvements would not change that. A second story addition is a minor deviation from the ordinance and would allow for improvements to the structural integrity of the dwelling. It is up to the Board to determine whether the requested variance is an acceptable deviation from the ordinance for the elevated deck.

Discussion was held on the applicant obtaining a LOMA. Steffens stated that they purchased the home prior to the adoption of the current flood plain maps. She stated that the only way to determine whether they are in the floodplain is by either a topographical survey or elevation certificate.

Chairperson Priebe opened by public hearing.

Chairperson Priebe stated that we have received a letter of support from Robert Barns and email in support from Raymond and Tamara Havermahl.

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

Priebe asked if the exterior stairway is going to remain. Applicant stated that it will be removed.

Member Auxier stated that the plan is well done. He did not see any issues with the homes in the area or that would impede the line of sight. Having a site that met the ordinance may impede the sight lines more.

Member Bohn stated that existing conditions dictate a great deal. Priebe stated that she appreciates that they are containing the improvements within the existing footprint.

Motion by Bohn, supported by Neilson

Motion to approve variance application ZBA 19-001 at 11332 Algonquin Drive to allow for a second story addition and an elevated deck to the existing dwelling. The addition will have a 46-foot setback from the ordinary high water mark of Portage Lake (50-foot setback from the OHM required, Section 7.6.1. fn.3). The deck will have a 34-foot setback from the ordinary high water mark (44-foot setback from the OHM required, Section 8.17). The variance does meet variance standards one through seven of Section 6.5. of the Township Ordinance and a practical difficulty does exist on the subject site (that it is a short lot in comparison to the surrounding lots and the existing structure dictates improvements that need to be done) when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight's hearing and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

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

8. New/Old Business:

a. Approval of November 14, 2018 minutes

Motion by Neilson, supported by Watson

To approve the November 14, 2018 minutes as presented

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

Planning & Zoning Administrator Steffens stated that February 27th is our annual joint meeting with the Township Board, Planning Commission, Parks and Recreation and ZBA. There will be a review of everything the Boards accomplished in 2018. We will also discuss the Master Plan Update which is slowly progressing. She would like the ZBA Members to think about any zoning text amendments they think we should consider pursuing in 2019, any clarifications that may be useful.

Member Bohn asked if there is a particular section that we see repetitive requests for variance. Steffens reviewed the changes that have been made that have reduced the number of requests. She asked do we want to address the 50 foot setback from the ordinary high water mark? She stated that probably not. That is the one that we see all the time. Priebe stated that she would like to address the second story on non-conforming structures. She stated that may have been an unintended consequence to the wording in that part of the ordinance. Further discussion was held on side setbacks versus front. Steffens stated that when you are talking about a side yard setback, there is a big difference between a single story and a two-story. The bulk of a structure at the setback can be quite impactful to the neighbors. It was stated that the ordinance allows for the Board to take a look at the impact before allowing it.

Priebe stated that she has concern with the PUD ordinance and the increase density thereby allowing 40-50 foot wide lots. She further discussed the unintended consequences when certain ordinances are changed.

Steffens stated that if there are any training classes the Board would like to attend, please let her know and she will see what is available.

Steffens stated that the Township Attorney gave a presentation to the Township Board on the legalization of recreational marijuana and suggested that the ZBA members take a look at that because it is something that will be discussed at the joint meeting. We also need to address short-term rentals. Discussion was held on enforcement of these short-term rentals and the potential to see an increase when the wedding barn becomes operational.

9. Adjournment:

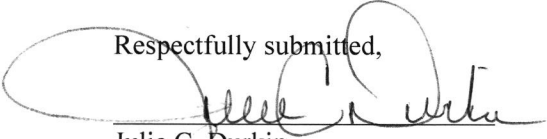
Motion by Auxier, supported by Watson

To adjourn the meeting

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

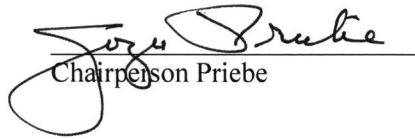
The meeting was adjourned at 7:53 p.m.

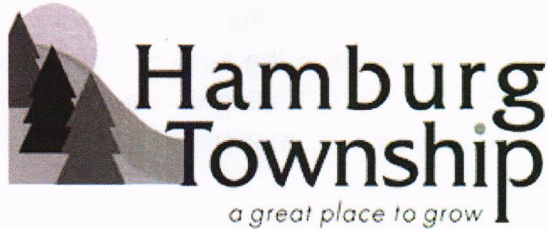
Respectfully submitted,


Julie C. Durkin
Recording Secretary

The minutes were approved

As presented/Corrected: 2-13-19


Chairperson Priebe



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

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

ZONING BOARD OF APPEALS MEMORIALIZATION OF FINDINGS

January 9, 2019

Approval of Variance (18-014; heard as 19-001)

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

APPLICANT/OWNER: Vickie Neff and David Gabbey

PART I – PROJECT DESCRIPTION

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

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.**

Given the siting of the dwelling on the subject site, the siting of the adjacent dwellings, and the configuration of the shoreline and property boundaries, the adjacent properties are not likely to be negatively impacted by the proposed improvements, nor would the proposed lateral second-story addition be a discernable change from the existing second-story location.

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

The encroachment into the OHM for the second-story addition and the elevated deck 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 is not likely to have a negative impact on those properties.

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

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

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

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

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

See analysis under findings one and three.

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

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

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

The proposed second-story addition is a minor deviation from the ordinance and would allow for improvements to the structural integrity of the dwelling. There is no compliant location on the site for an elevated deck.

Approved by the Hamburg Township Zoning Board of Appeal at a regular meeting on January 9, 2019 by the following vote:

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