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**Supervisor:** Pat Hohl  
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**Treasurer:** Jason Negri  
**Trustees:** Bill Hahn  
Annette Koeble  
Chuck Menzies  
Patricia Hughes

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**Hamburg Township  
Zoning Board of Appeals Minutes  
Hamburg Township Board Room  
Wednesday, March 11, 2020  
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: Priebe, Watson, Dolan, Auxier, Rill

Absent: None

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

**4. Correspondence:** None

**5. Approval of Agenda:**

Motion by Auxier, supported by Watson

To approve the agenda as presented

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

**6. Call to the public:**

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

**7. Variance requests:**

**a) ZBA 20-0002**

Owner: Zalewski Construction Co.  
Location: Vacant on Rush Lake Road, west of 3267 Rush Lake Road  
Pinckney MI 48169  
Parcel ID: 15-17-302-093  
Request: Variance application to allow for the construction of a two-story, 1,872 square foot dwelling with an 864-square foot walk-out basement, an attached 420-square foot garage, and an 80-square foot elevated deck on the dwelling's north façade. The dwelling will have a nine-foot setback from a regulated wetland and the elevated deck will have a two-foot setback from a regulated wetland (50-foot setback from a regulated wetland required, Section 9.9.3.B).

Larry Zalewski, property owner, described the request to construct a home with a nine-foot setback and an elevated deck with a two-foot setback.

Amy Steffens, Zoning Administrator, presented the staff report. She stated that the subject site is a 0.18-acre parcel that fronts onto Rush Lake Road to the south and the Rush Lake Hills Golf Club to the north; single-family dwellings are located to the south and east. The site is unimproved. If approved, the variance request would allow for the construction of a two-story, 1,872 square foot dwelling with an 864-square foot walk-out basement, an attached 420-square foot garage, and an 80-square foot elevated deck on the dwelling's north façade. The dwelling will have a nine-foot setback from a regulated wetland and the elevated deck will have a two-foot setback from a regulated wetland where a 50-foot setback from a regulated wetland is required. In 2018, the subject site and the site to the east applied for, and were granted, a property boundary adjustment. The adjustment resulted in the subject site gaining an additional 20 feet of width at the road for a lot width of 60 feet. Because this was a property boundary adjustment between two existing platted lots, no verification of building envelope, driveway approval, or sanitary requirements was requested or verified. There are existing, regulated wetlands on the property that require a 50-foot setback per Section 9.9.3.B. regardless of lot size. The addition of property from the adjacent site does help to make the subject site more conforming to the zoning ordinance in terms of lot size and dimensional requirements. Section 9.9.3. requires a 50-foot setback from the boundary or edge of a regulated wetland. However, the Zoning Administrator or body undertaking plan review may reduce or eliminate the setback upon review of a request which details the future protection of the natural feature(s) and or mitigation of the natural feature(s). The ZBA may either deny or grant the variance based on findings related to the proposed variance, or request that the owner detail the future protection of the wetland and direct the zoning administrator to administratively approve the encroachment. The ZBA could request a property owner protect the wetlands with conditions. The homeowner could submit an engineered drainage plan for the property, prepared either by a civil engineer or registered landscape architect that would ensure runoff from the garage does not drain into the wetlands. The homeowner could construct a physical barrier along the wetlands to preserve the wetland from further encroachment by lawn equipment or any other trampling of the area. The homeowner could record an open space or wetland easement over the wetland portion of the site to restrict development and interference with the natural vegetation of the area in the future. A wetlands delineation report has been submitted to Hamburg Township and forwarded to EGLE's Water Resources Division for comment. The applicant should show the limits of grading on the plot plan prior to the issuance of any permits for earth work or construction. Any allowed setback variance granted as a result of this hearing will apply to the identified boundary of the wetland.

Steffens outlined the Standards of Review. The 50 foot regulated wetlands setback requirement applies generally to all properties in Hamburg Township. However, the presence of this regulated wetland encroachment onto the parcel is not a circumstance that generally is found on other properties in the same zone or district. The location of the wetland on this property adds practical difficulty to siting a dwelling within all required setbacks. The design preference of the applicant is partly driving the necessity of the variance request; the size of the house could be reduced thereby moving farther away from the regulated wetlands or the house could be reconfigured to make better use of the southern portion of the lot. There is an exceptional or extraordinary circumstance or condition applicable to the property involved that does not apply to other properties in the same district or zone. The wetlands area does make placement of a compliant structure on the site difficult, although the dwelling could be reduced in size or reconfigured to reduce the encroachment into the wetlands setback. She provided an excerpt from the Hamburg Township Master Plan, Natural Resources Management Strategies and stated that the intent of the 50-foot setback is to protect the environmental features that serve important ecological purposes. Wetlands protect against flooding, provide wildlife habitat, and naturally filter contaminants from water. Because of the presence of the wetland encroachment on the property, the request for the variance is not of so general or recurrent a nature. The site is zoned for single-family residential and the proposed variance would not permit the establishment of a use not permitted by right within the district. The Master Plan recommendations and the Zoning Ordinance requirements for wetlands setbacks clearly intend to protect the integrity of ecological features and their ability to continue to function without impediment. Staff also is considerate of the property rights of the owner and the intended purpose of the subject site, that is, to be used for a single family dwelling. The ZBA should balance the ecological importance of the wetlands and the property rights of the applicant. Requesting that the house size be reduced to provide a greater wetlands setback, placing the wetlands into an easement,

providing a drainage plan, and creating a physical barrier to the wetlands would all be appropriate considerations that would permit the reasonable use of the land.

Chairperson Priebe opened the public hearing.

David Flowers, 3230 Rush Lake Road, raised concerns that his lot, which sits higher than the subject lot, would flood if the proposed dwelling were built within 9 feet of the wetlands.

Peggy Pietras, 3253 Rush Lake Road, raised concerns that her lot, raised flooding concerns.

Chairperson Priebe closed the public hearing.

Member Dolan asked if there were wetlands mitigation measures that could be implemented. Staff indicated that there were several options listed in the staff report.

Member Auxier asked if a grading plan had been submitted. Applicant indicated a plan had not been submitted.

Motioned by Rill, supported by Auxier, to table the request to the April 8, 2020 hearing to allow the applicant the opportunity to submit a grading plan.

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

**b) ZBA 20-0003**

Owner: Leonard and Melissa Morgan  
Location: 2946 Indian Trail Dr.  
Pinckney MI 48169  
Parcel ID: 15-32-402-015  
Request: Variance application to allow for the construction of a two-story, 1,272 square foot dwelling with a 1,269 square foot second story. The dwelling will have a 21.7-foot north front yard setback (25-foot front yard setback required, Section 7.6.1.), and a 2.9-foot east side yard setback, resulting in an aggregate side yard setback of 7.9 feet (15-foot aggregate side yard setback required, Section 7.6.1. fn. 4), and a 44-foot south rear yard setback from the ordinary high water mark of Base Line Lake (50-foot setback from the OHM required, Section 7.6.1. fn. 3), and a total lot coverage of 56 percent, (Maximum 50 percent lot coverage allowed, Section 7.6.1. fn. 7).

Bruce Donovan, applicant's agent, described the variance request and explained that there is a platted walkway to the east of the subject site that presents an extraordinary circumstance to the subject site because the walkway would not be developed for single-family residential uses. Therefore, a reduced east side yard setback would not be injurious to the adjacent property.

Leonard Morgan, property owner, explained the request and indicated the current house is not suitable for the owner's needs.

Brittany Stein, Zoning Coordinator presented the staff report and alternative site plan with a compliant dwelling. She stated that the subject site is a 4,300-square foot lot that fronts onto Indian Trail Drive to the north, Base Line Lake to the south, and single family dwellings are located to the north, east, and west of the site. The existing dwelling is one-story 1,550 square foot, with a detached 504 square foot garage. If approved, the variance request would permit the construction of a two-story, 1,272 square foot dwelling with a 1,269 square foot second story. The dwelling will have a 21.7-foot north front yard setback where a 25-foot front yard setback is required, a 2.9-foot east side yard setback, resulting in an aggregate side yard setback of 7.9 feet where a 15-foot aggregate side yard setback is required, and a

44-foot south rear yard setback from the ordinary high water mark of Base Line Lake where a 50-foot setback from the OHM is required. The lot coverage, will be 56 percent, where a maximum 50 percent lot coverage is allowed. She discussed the dwelling's existing and proposed setbacks. Based on FEMA's Flood Insurance Rate Map (FIRM), a portion of the site lies within the 100 year floodplain. Any development of this site would require an elevation certificate. If the location of the proposed addition and location of the existing dwelling is found to be in the floodplain, the top of the bottom floor must be at least one-foot above the base flood elevation. An Elevation Certificate must be provided prior to issuing a land use permit. She stated that this subject site is a 4,300 square foot lot that is approximately 39 feet wide at the street and 45 feet wide at the lake. There is a 10-foot wide platted walkway to the east of this site, which is a designated walkway to provide access to the lake for the property owners within the Glenwood on the Lakes subdivision. There is a 25-foot wide platted unimproved right of way for Indian Trail Dr. in front of the lot. Additionally, there is a platted 60-foot wide right of way also for Indian Trail Dr. part of the Tamarina Subdivision Plat of 1961, which is north of the Glenwood on the Lakes plat. The property abuts the water, requiring a 50-foot setback from the Ordinary High Water Mark of Base Line Lake. A variance request for the garage was approved in May 2015 to have a 0.7-foot front yard setback, where a 15-foot setback would be required. The garage is now existing, and the proposal is to attach the new home to the garage. This variance request was approved based on these reasons: the small size of the lot, the location of the existing home, the location of the traveled roadway, and the walkway to the east.

Stein discussed the Standards of Review. This subject site is a 4,300 square foot lot that abuts the water, requiring a 50-foot setback from the Ordinary High Water Mark of Base Line Lake, where the proposed house will be 44 feet from the water. Additionally, all WFR zoned properties require the primary structure 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. The required front yard setback is 25 feet, the current house is setback 27.7 feet. The proposed house would be setback from the front property line at 21.7 feet and attached to the garage. Because the lot is less than 60 feet wide in WFR zoning district, the lot has reduced side yard setbacks of an aggregate of 15 feet. The current single-story house has an aggregate side yard setback of 7.9 feet. However, proposed is a two-story house that increases the footprint of the non-conforming side yard setback. The proposed new house would be constructed at the same side yard setbacks as the existing house, at 5 feet from the west side property line and 2.9 feet to the east side property line, leaving an aggregate side yard of 7.9 feet. There is no exceptional or extraordinary circumstance of condition applicable to the property involved that does not apply to other properties in the same district or zone. The possibility of increased financial return shall not be deemed sufficient to warrant a variance. There are 16 existing homes within 300 feet of the subject site. The average size of the homes within 300 feet of the subject lot is approximately 2,000 square feet, and the proposed dwelling would be 1,272 square feet, attached to the existing 504 square foot garage. A substantial property right is not preserved based on granting a variance for a particular architectural design. The proposed dwelling, in the same footprint as the existing home, is a personal preference of the property owners. The home could be redesigned and reconfigured to meet the required setbacks. Based on the request to rebuild a single family dwelling, there is a compliant location on the property for a new two story single family dwelling with a 960 square foot footprint. The existing home is setback an aggregate of 7.9 feet to the side property lines, and currently 44 feet from the Ordinary High Water Mark. The proposed house would also have these same setbacks. The existing house is 27.7 feet setback from the front lot line, and the proposed house would be 21.7 feet to the front lot line, where 25 feet is required; therefore increasing the non-conformity on the lot. The demolition of a single-story dwelling and construction of a new two-story single family dwelling with a larger footprint at the same side yard setbacks would have an increased impact to surrounding properties. The ordinance requirement for these required setbacks is intended to provide adequate space, open vistas, and privacy throughout neighborhoods and between structures on smaller residential lots. It is encouraged to construct a more compliant dwelling on the lot to decrease the impact on surrounding properties. The subject site is in the North Chain of Lakes planning area of the Master Plan. The proposed request would not adversely affect the purpose or objectives of the Master Plan. The subject site is a residentially zoned, developed, and used property. The site is 4,300 square feet, with a compliant buildable area on the property for a single-family dwelling. The proposed location of the new home is a personal preference and is not a condition specific to the subject site. There is no condition or situation that is so general or recurrent a nature as to warrant approval of the proposed variance request. A home a smaller size could comply with the required front and side yard setback standards and ordinary high water mark setback standards. The lot coverage could also be reduced by decreasing the size of the patio and other sidewalks on the property.

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

Member Dolan raised the possibility that the house could be reduced in size, similar to the plan presented by staff. Discussion was held between members, staff, agent, and owner.

The agent and owner requested that the item be tabled to the April 8, 2020 hearing to allow a revised site plan to be submitted.

Motion by Dolan, supported by Rill, to table the request to the April 8, 2020 hearing to allow the owner to submit revised plan that reduced the dwelling size and reduced lot covered to below 50 percent.

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

**8. New/Old business**

a) Approval of January 8, 2020 ZBA Minutes

Motion by Auxier, supported by Rill

To approve the minutes of the January 8, 2020 meeting minutes as written

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

b) Memorialization of findings for ZBA 19-0019 and 20-0001.

**9. Adjournment:**

Motion by Auxier, supported by Dolan

To adjourn the meeting

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

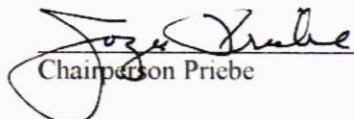
The meeting was adjourned at 8:01 p.m.

Respectfully submitted,

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Amy Steffens, Planning & Zoning Administrator

\_\_\_\_\_  
Julie Durkin, Recording Secretary

The minutes were approved as presented/corrected: 5-13-20

  
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Chairperson Priebe