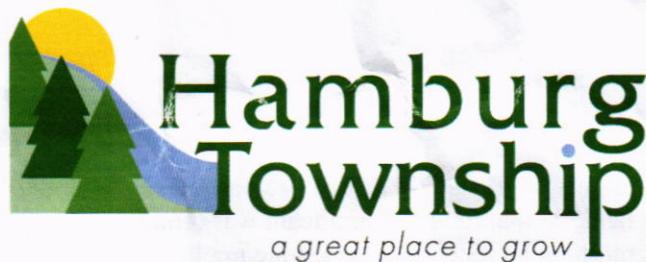


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Patricia Hughes

**Hamburg Township  
Zoning Board of Appeals Minutes  
Meeting Held Remotely due to COVID-19  
Wednesday, May 13, 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 & Erik Perdonik

**4. Correspondence:** None

**5. Approval of Agenda:**

Motion by Auxier, supported by Rill

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 420square 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, stated that he has submitted his grading plan and new plan with all of the benchmarks. As noted, the basement will be 1 foot higher than the wetlands.

Amy Steffens, Planning & Zoning Administrator, stated that this project was tabled at the March 11, 2020 ZBA meeting after the public hearing was held. At that time, the applicant was requested to submit a grading plan. On April 21, 2020, the applicant submitted a grading plan. Staff forwarded the grading plan to EGLE for comment regarding potential impact to the wetlands. They have responded indicating that it appears that the grading and house construction will be outside of the wetland and no permit would be required. The applicant is required to put up construction fencing around the wetland prior to any work. Staff continues to recommend approval of this request with wetlands protections as deemed appropriate by the ZBA. She discussed the options for the wetlands protection. The project has not changed since it came before the Board on March 11<sup>th</sup>. 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.

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

Member Auxier questioned the two-foot strip between the wetlands and the lot line. He asked if it would be raised up to meet the grade of the lot. Mr. Zalewski stated that the engineer included paver stones as a barrier. He could raise it up, but it would cause that area to be almost flat. Steffens stated that she would like to see a small landscape type fence that would actually barricade the yard from the wetlands.

Member Dolan stated that he would be comfortable with approving the variance request with the requirement that a physical barrier acceptable to the Zoning Administrator be installed. Discussion was held on a physical barrier as well as the pavers. Discussion was held on the different options.

Motion by Auxier, supported by Watson

To approve variance application ZBA 20-0002 at 15-17-302-093 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.).

Variance approval is granted based on the following conditions: the applicant shall show the limits of grading on the plot plan at the time of land use permit issuance and construct a raised physical barrier that is acceptable to the Zoning Administrator along the wetlands to preserve the wetland from further encroachment by lawn equipment or any other trampling of the area.

The variance does meet 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 meeting 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

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).

Chairperson Priebe stated that this item had been previously tabled and will be postponed again until next month to allow the applicant additional time.

c) ZBA 20-0004

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 423-square foot addition to the south façade of an existing dwelling. The addition will have a 20-foot east rear yard setback (30-foot rear yard setback required, Section 7.6.1.) and a 25-foot setback from the ordinary high water mark of the canal to the east (50-foot setback from the ordinary high water mark required, Section 7.6.1.fn3).

Mr. Zalewski, applicant, stated that they were before the board last July. Since that time they have scaled down the addition. Today they are simply asking for a variance from the canal to the house.

Erik Perdonik of the Zoning Department stated that The subject site is a 19,138-square foot parcel that fronts on Baudine Road to the west, and Rush Lake canal to the east. Single-family dwellings are located to the north, east, and west of the site. The existing dwelling is one-story, 1,632 square feet, with a detached 270-square foot garage. The subject site was granted a variance at the July 10, 2019 Zoning Board of Appeals meeting to construct a 736-square foot addition to the south façade of the existing dwelling. This addition was never constructed, but it was approved to be constructed with 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 OHWM of Rush Lake where a 50-foot setback from the OHWM required. The applicants have since revised their plans for the addition, and these new plans also require a variance, which is why the applicant is before the ZBA again this evening. A significant portion of the property is within the Federal Emergency Management Agency's 100 year flood plain. Therefore, at the time of land use permit issuance, an elevation certificate will need to be submitted.

Perdonik discussed the Standards of Review. He stated that unlike most properties in the WFR District, the subject site is bounded by water along its south and east sides, which results in a 50-foot setback from the OHWM being required on both of those sides. In addition, all properties zoned WFR require that the primary structure have a 25-foot front yard setback and a 30-foot rear yard setback. These setback requirements are intended to provide adequate space, open vistas, and privacy throughout neighborhoods and between structures on smaller residential lots. However, on the subject site, these setback requirements, taken together with a relatively shallow average lot depth of 87.61 feet, result in an exceptionally constrained buildable area, just eight feet in approximate width, making the development of a compliant addition to the existing single-family dwelling practically difficult. In fact, the lot and existing dwelling are considered nonconforming to the Zoning Ordinance. The variance preserves a substantial property right possessed by other property in the same zone and vicinity; in this case, the right to construct a complaint addition to a single-family home in a district in which it is customarily permitted. In fact, no addition of the proposed size would comply with the Zoning Ordinance, regardless of how it was situated, and the applicants have already chosen to reduce the size of the proposed addition by 313 square feet since a variance was approved for a larger 736-square foot addition at the ZBA's July 10, 2019 meeting. In addition, the applicants are also now proposing to comply with the required 25-foot front yard setback, whereas their previously approved plans encroached 14 feet into that setback. Most other properties in the same zone and vicinity are only constrained by one 50-foot OHWM setback, rather than two, and this lot has a relatively shallow average depth of 87.61 feet. The existing dwelling has a 20-foot rear yard setback and a 25-foot setback from the OHWM to the east. Because the proposed addition would also have a 20-foot rear yard setback and a 25-foot setback from the OHWM to the east, significant impairment of visibility is not foreseeable such that the proposed addition would be materially detrimental to the public welfare or materially injurious to the property or improvements in the WFR District, especially considering that the proposed addition, like the existing dwelling, would be 13 feet in height. The subject site is within the West Hamburg/Rush Lake planning area of the Master Plan, which envisions medium-density residential development at one unit per acre in the developed areas surrounding Rush Lake. Because the variance request does not propose an increase in density beyond the one dwelling, granting the request will not adversely affect the purpose or objectives of the Master Plan. The condition or situation of the subject site for which the variance is sought is not of so general or recurrent a nature in light of the presence of water along the south

and east sides of the site, the two 50-foot setbacks from the OHWM that result from the presence of water on two sides, and the relatively shallow average lot depth of 87.61 feet. The use of the site is presently single-family residential, which is a use permitted by right in the WFR District in which it is located, and granting a variance to permit the construction of an addition to the existing single-family dwelling will not change the present use. Given the exceptionally constrained size of the buildable area on the lot as well as the relatively shallow average lot depth, practical difficulty exists on the subject site with regard to constructing a compliant dwelling and any customary additions thereto on the lot. The proposed 423-square foot addition is a reasonable use of the land considering its WFR zoning, and further reducing the size of the addition may be unnecessarily burdensome. Once again, the site has an exceptionally constrained buildable area at just eight feet in approximate width in light of the setback requirements and lot depth.

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

Chairperson Priebe stated that she is pleased to see that the size has been reduced and the request is more conforming than the previous request.

Member Auxier stated that he feels that there is a practical difficulty due to the narrowness of the lot.

Motion by Watson, supported by Auxier

Motion to approve variance application ZBA 20-004 at 8491 Baudine Road to permit the construction of a 423-square foot addition to the south facade of the existing dwelling. The addition will have a 20-foot east year yard setback (30-foot rear yard setback required, Section 7.6.1), and a 25-foot setback from the OHWM of the Rush Lake canal to the east (50-foot setback from the OHWM required, Section 7.6.1.fn3).

Variance approval is granted based on the following conditions: the applicant shall show the limits of grading on the site plan at the time of Land Use Permit issuance and Prior to the issuance of a Land Use Permit, the applicants shall provide an Elevation Certificate demonstrating that the floors of the existing dwelling and proposed addition are one (1) foot above base flood elevation. The variance meets variance standards one (1) through seven (7) of Section 6.5 of the Hamburg Township Zoning Ordinance and a practical difficulty exists on the subject site when strict compliance with the Zoning Ordinance standards is applied, as discussed at the meeting this evening and as presented in this staff report. The Board directs Staff to prepare a memorialization of the ZBA's findings for the request.

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

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

- a) Approval of March 11, 2020 ZBA Minutes

Motion by Auxier, supported by Rill

To approve the minutes of the March 11, 2020 meeting minutes as written

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

#### **9. Adjournment:**

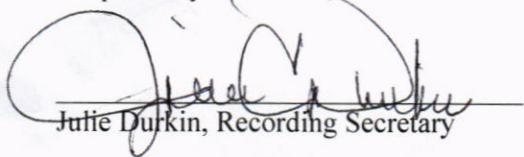
Motion by Watson, supported by Dolan

To adjourn the meeting

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

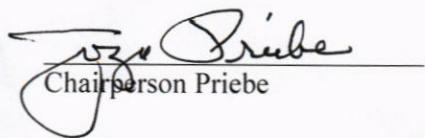
The meeting was adjourned at 7:44 p.m.

Respectfully submitted,



Julie Durkin, Recording Secretary

The minutes were approved as presented/corrected: 6-10-20



Chairperson Priebe