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

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**Hamburg Township  
Zoning Board of Appeals Minutes  
Wednesday, September 9, 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: Auxier, Dolan, Priebe, Rill and Watson

Absent: None

Also Present: Amy Steffens, Planning & Zoning Administrator

**4. Correspondence:** None

**5. Approval of Agenda:**

Motion by Dolan, supported by Auxier

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 20-0013**

Owner: Thomas A. Thill

Location: Vacant on Valley Forge, Brighton, MI 48116

Parcel ID: 15-24-300-015

Request: Variance application to permit the construction of a 2,547-square foot dwelling, with a walk-out basement and finished attic space, and a 162-square foot elevated deck on the north rear façade. The proposed dwelling will have a 117-foot setback and the elevated deck will have a 111-foot setback from the ordinary high water mark or river's edge of the Huron River (125-foot setback from the ordinary high water mark or river's edge required, Hamburg Township Zoning Ordinance Section 7.6.1.fn3 and Department of Natural Resources Natural Rivers Zoning Rule 51(1)(a)(i)).

Thomas & Holly Thill, applicants were present. Ms. Thill stated that they purchased the property thinking that they could build an 80 foot wide by 44 foot deep home. When the design was complete, they were looking at an 80 foot wide by 27 foot deep dwelling. At that time, they were told by the Township that they could not have the rise over the

river They have reduced their room sizes to try to fit it within the ordinance, however they were not able to make it work without making it a two-story home. On their street there are mostly ranch style homes, but there are a couple two-story homes. They would also like to have a living space on the main floor for in-laws. They did consider making the house wider, but knew that they would be blocking the views from across the street. If approved, the house would be even with the neighbor to the north and behind the neighbor to the south. The neighbor to the south is much further out than what they are proposing. Mr. Thill discussed the private drive and their original intent was that the garage would be on the east side and the house would be on the west side. When they purchased the property, the only property available was the river side.

Amy Steffens, Planning & Zoning Administrator stated that the subject site is an approximate 0.47-acre property that fronts on Valley Forge to the south and the Huron River to the north. Single-family dwellings are located to the north, south, and west of the site. The project proposes a new single-family home with 5,310 square feet including the finished attic space above. If approved, the variance request would permit the construction of a single-family home with a 117 foot setback and an elevated deck structure with a 111-foot setback from the main bank of the Huron River, where a 125-foot setback from the Ordinary High Watermark or river's edge of the Huron River is required. She discussed the rules for all rivers within the State and what the Township has adopted. She further stated that in addition to the zoning ordinance variance, the notice also indicates a variance to the Natural Rivers Rules. A portion of the property is mapped within FEMA's 1 percent floodplain. Hamburg Township participates in the National Flood Insurance Program and proper enforcement of the building code standards is a prerequisite of the community's participation in the NFIP. We have a topographic survey provided by the applicant in the project plans which shows that the proposed structure will not be within the 100 year flood plain as identified by FEMA. Our ordinance says that any structure setback is 125 feet. The Huron River is one of our greatest assets so we want to protect encroachment into the area and protect the natural views and natural vistas. Our ordinance says that if there is a river bank height differential, of 10 feet, then the setback can be reduced by 10 feet. That is also in the Natural Rivers Rules from the DNR. It does not however address the bank height. Therefore, we have been using the vertical face immediately adjacent to the river. The plan in front of the Board is using the natural grade of the property from the river to the setback. In addition to the variance request, the ZBA should make a determination as to what is the intent of that setback. The question is whether we are talking about the bank that has a vertical rise or are we talking about the run and the rise of the land from the river to the setback. She further discussed the definition of a bluff. The ZBA can grant or deny a variance based on the specific circumstances of the property. This property does have a 10 foot rise from the river to the building envelope. Furthermore, this house as proposed would be in line with the adjacent houses.

Steffens reviewed the seven findings of fact. She stated that the 125-foot setback required from the OHWM or river's edge of the Huron River under Section 7.6.1.fn3 of the Zoning Ordinance, and Department of Natural Resources Natural Rivers Zoning Rule 51(1)(a)(i), applies generally to all properties in the NR District rather than just the subject site. However, there is the footnote that talks about the 10 foot rise. One particular architectural design does not advance a property right. However, it is up to the Board to determine if this is a reasonable project given the location and topographical changes, and what is on adjacent lots.

The question was asked if the 10 foot variation could be applied administratively. Steffens stated that it could.

Steffens further discussed the findings of fact and stated that the 125-foot setback required from the OHWM or river's edge of the Huron River under Section 7.6.1.fn3 of the Zoning Ordinance, and Department of Natural Resources Natural Rivers Zoning Rule 51(1)(a)(i), is intended to preserve water quality, help to slow erosion, and to protect habitat, ecosystems, and floodwater capacity, among other important benefits. Variances from such a setback requirement considered individually may not appear, at first, materially injurious to the property or improvements in such zone or district in which the property is located, but multiple variances to that effect granted over time have the cumulative potential to cause significant impacts which are materially detrimental to the public welfare. However, the adjacent properties are already developed similar to what the applicant is requesting. A particular design is creating a practical difficulty. One of the goals of the 2020 master plan is to "Protect, preserve, and enhance, whenever possible, the unique and desirable natural amenities of Hamburg Township" the Master Plan discusses preserving the Huron

River by requiring the Natural Rivers setback to better preserve the river as an important natural feature of the Township.

Discussion was held on the variation of 10 feet being increments of 10 as long as you have the full 10 foot height differential. Further discussion was held on the elevated deck. Steffens stated that we hold firm at the 125 foot setback. The change to allow encroachments for at grade or elevated decks does not apply to the Natural River District. The elevated deck would still require a variance approval.

Steffens stated that the 125-foot setback requirements of the Huron River under Section 7.6.1.fn3 of the Zoning Ordinance, and Department of Natural Resources Natural Rivers Zoning Rule 51(1)(a)(i), is applicable generally to all properties along the river and is not a condition specific to the subject site. The site is zoned for single-family dwellings and related appurtenances. Approval of the variance request would not permit the establishment of a use not permitted by right within the district. Steffens stated that you could build a smaller structure that meets all of the setbacks.

Member Auxier questioned the side yard setback requirements. Steffens stated that Natural River District has the same front and side yard setbacks as RA and WFR which is 25 on the front and 10 on each side. You do not get the 5 foot and 10 foot requirements as the WFR.

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

Chairperson Priebe stated that when she first started on the Board, the requirement was 75 feet.

Member Auxier stated that when the applicant was looking at the original plan, they were planning wider footprint, not as deep. He questioned what was the obstacle to create more space. It appears to have a lot of room on the sides. Ms. Thill stated that they were trying to fit the rooms, and they could not come up with a layout that made sense and flow with the house. She stated that it is somewhat an odd set up and they were trying not to block the house to the side.

Member Dolan stated that he is comfortable with the 10 foot rise and the grade of the yard rather than seeing it vertically. We are only talking about a 4 foot setback, which when you are talking about a 10 foot side setback, it could be very significant. Here we are only talking about a 4 foot setback based on the 125 foot requirement. Based on the complexities of this situation, he is comfortable with approving it. We would also be relying on the 10 foot topography as well rather than talking about a street vertical. Auxier stated that we are talking about 4 feet of a deck also.

Motion by Dolan, supported by Watson

To approve variance application ZBA 20-013 to permit the construction of a 2,547-square foot dwelling, with a walk-out basement and finished attic space, and a 162-square foot elevated deck on the north rear façade at the vacant site (parcel 15-24-300-015) on Valley Forge. The proposed dwelling will have a 117-foot setback and the elevated deck will have a 111-foot setback from the ordinary high water mark or river's edge of the Huron River (125-foot setback from the ordinary high water mark or river's edge required, Hamburg Township Zoning Ordinance Section 7.6.1.fn3 and Department of Natural Resources Natural Rivers Zoning Rule 51(1)(a)(i)). The variance meets variance standards one through seven 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. The Board directs Staff to prepare a memorialization of the ZBA's findings for the request.

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

**b) ZBA 20-0014**

Owner: Joshua Satur and Nicole Saunders  
Location: 10503 Hickory Drive, Pinckney MI 48169  
Parcel ID: 15-28-402-034

Request: Variance application to permit the construction of a 176-square foot addition to the east façade of an existing dwelling. The dwelling will have an aggregate side yard setback of 9.8 feet (15-foot aggregate side yard setback required, Section 7.6.1.).

Joshua Satur and Nicole Saunders were present. Mr. Satur stated that they had three trees fall on their house last summer. After having a survey done, they found out that two trees were not on their property as they thought. There is an easement, which is lot 32. There is no one living on that lot. They are on lot 33. Ms. Saunders stated that there is a bump-out on that side and they are looking to make it square and add 176 square feet. This would also address the damage done by the trees. Mr. Satur stated that in doing this, they did find out that the existing bump-out is not on concrete as well as other issues that were brought up.

Amy Steffens, Planning & Zoning Administrator stated that the subject site is a 12,000-square foot lot that fronts onto Hickory Drive to the west, Strawberry Lake to the east, and single family dwellings are located to the north and south of the site. The existing dwelling is one-story, approximately 1,300 square foot, with an attached 768 square foot garage. If approved, the variance request would permit the construction of a 176-square foot two-story addition to the east façade of an existing dwelling. The dwelling will have an aggregate side yard setback of 9.8 feet where a 15-foot aggregate setback is required. She stated discussed the changes in our Zoning Ordinance to allow smaller lots within the WFR that are less than 60 feet wide then you can have an aggregate side set back of 15 feet rather than the 10 feet on each side as long as the setback is not less than 5 feet. The Ordinance also states that on a non-conforming structure, you still need to meet the side yard setback. She would also like to direct the Board's attention to the survey. It is important to look at the existing side yard setbacks on the south. It shows that there is a 3.2 side yard setback for the house which is not being touched. They are proposing to reduce the side yard setback on the north from 7.7 to 6.6 feet at the rear of the house. The aesthetic would not change from Hickory Drive. The lot is only 46 feet wide at the street and narrows to 27 feet wide towards the water. At the widest area of the house, the side yards total 13.5 feet.

Steffens discussed the findings of fact. She stated that this subject site is a 12,000 square foot lot in the waterfront residential zoning district, and is less than 60 feet wide at the front lot line, requiring a 15-foot aggregate side yard setback. This setback requirement is intended to provide adequate space, open vistas from inside and outside of the site, and privacy throughout neighborhoods. The addition is going to the back of the house next to an undeveloped easement. When we have a second story addition, we are always concerned about privacy, but the location of this addition does mitigate some of those concerns. The current house has an aggregate side yard setback of 10.9 feet. The proposed addition to the existing house will have an aggregate side yard setback of 9.8 feet. The setback requirement is for the entire structure. The home is existing nonconforming with a 3.2-foot south setback at the front corner of the garage and a 7.7-foot north setback at the rear of the house. The proposed addition to the home will be a full second story where there is currently a 1.5 story home, and a two-story expansion to the east where there is currently an at grade deck. Additionally, there is a proposed elevated deck and at grade deck at the rear of the house. Given the narrow lot size, and uniqueness of the lot, it would be very difficult to build a compliant addition to the home unless they wanted to rebuild a compliant home. Steffens stated that there are similar size homes to the north and south on similar lot sizes that appear to also be nonconforming, some single story and some two-story. The variance preserves a substantial property right possessed by other property in the same zone and vicinity. The existing dwelling has an aggregate side yard setback of 10.9 feet. Because the proposed two-story addition would create a 9.8-foot aggregate side yard setback, and the two-story portion of the proposed home would now create a side yard setback of 20.8 feet at the narrowest part of the lot where the structure is located, the proposed addition would not be materially detrimental to the public welfare or materially injurious to the property or improvements in the WFR District and does seem a reasonable deviation to the ordinance. The proposed future land use of this property and surrounding area envisions waterfront residential zoning district. The use of the site is single-family residential and the proposed variance would not change the use. The proposed two-story addition is a reasonable use of the land and the home would still be similar to the homes on the neighboring lots, considering they are similar narrow lots.

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

Member Dolan stated that he does not see the practical difficulty for adding the addition. However, there is one with regards to the setbacks. He discussed the design of the structure and the setbacks of the existing home. It was stated that it is unusual to see the proposed addition is more compliant than the existing home.

Motion by Auxier, supported by Rill

To approve variance application ZBA 20-0014 at 10503 Hickory Dr. to allow for the construction of a 176-square foot addition to the east façade of an existing dwelling. The dwelling will have an aggregate side yard setback of 9.8 feet (15-foot aggregate side 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 due to the shape, size, and narrowness as well as the structure that is currently in place on the lot 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: 0 MOTION CARRIED

**8. New/Old business**

a) Approval of August 12, 2020 minutes

Motion by Dolan, supported by Auxier

To approve the minutes of the August 12, 2020 meeting as written

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

c) Memo of findings

Steffens stated that the Township Board has approved the Master Plan.

Steffens stated that we do have a couple Zoning Ordinance amendment that will be going to the Planning Commission for a brief discussion next week including allowing Accessory Structures on waterfront lots. Discussion was held on slopes and bluffs as well as the rise along the Huron River.

**9. Adjournment:**

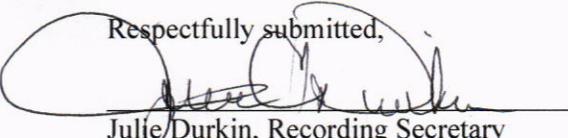
Motion by Auxier, supported by Rill

To adjourn the meeting

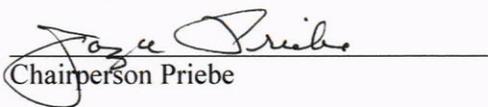
Voice vote: Ayes: 5 Nays: 0 Absent: 0 MOTION CARRIED

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

Respectfully submitted,

  
Julie Durkin, Recording Secretary

The minutes were approved as presented/corrected: 9-14-20

  
Chairperson Priebe