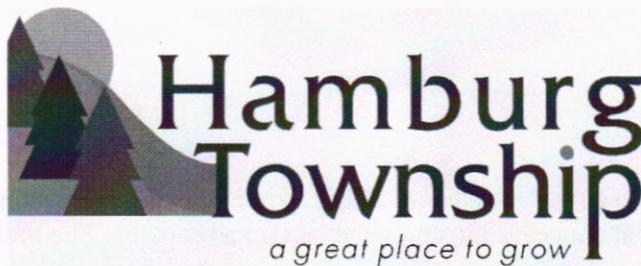


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**Hamburg Township
Zoning Board of Appeals Minutes
Wednesday, October 14, 2020
7:00 P.M.**

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 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 2020-0012

Owner: Heather and Paul Gowette

Location: 4203 Shoreview Lane Whitmore Lake, MI 48189

Parcel ID: 15-33-110-243

Request: Variance application to permit the construction of a two and a half story, 2,990 square foot dwelling, with a 16-foot north front yard setback (25-foot front yard setback required, Section 7.6.1.), a 40-foot setback from the ordinary high water mark of Long Lake (50-foot setback from the OHM required, Section 7.6.1. fn 3), and an elevated deck on the south façade with a 31.7-foot setback from the OHM (44-foot setback required for elevated decks, Section 8.18.2).

Heather Gowett, applicant, stated that they are full-time residents and it is their desire to build a home across the street from their residence where her mother will reside. They have also taken into consideration her accessibility and mobility. She addressed #2 of the Standards of Review. After research, she has determined that of the 74 lakefront homes on the island, 62 of them have garages. She feels that it is safe to assume that is a reasonable enjoyment and an

asset they could consider. 100% of the homes have either a deck, porch or patio. When considering the footprint of the home, they felt that these are items that are needed to enjoy the lakefront property. She reviewed Review Standard item #1, exceptional or extraordinary circumstance of the lot. She stated that in the diagram included in the Board's packet, you can see clearly how the slope of the road and the slope of the lake impacts their buildable area. She discussed the lake setback and road setback which gives them a buildable area of 30 feet long by 33 feet wide. She further discussed the 22 foot by 22 foot garage and an 8 foot deck, which is reasonable. That leaves them with about 660 square feet to plan the base level of the home. That is not typical of what is on the island. There are small cottages but there are also full-time homes on the island. Their difficulty in trying to fit within the footprint and the slope of the road and the lake is why they went up. The house directly across the street is a 2.5 story house. She disagrees with the comment from the reviewer that said that building within the setbacks would allow an adequately sized home that would permit reasonable use of the land. A reasonable use should include a garage for storage and a deck for enjoyment and reasonable square footage. The reviewer also indicates that most of the properties in the area meet the required setbacks or are smaller. If you drove around the island, you could clearly see that at least 30 homes on the island have garages within feet of the road or the side lot line. The reviewer further indicates that the variances would be materially detrimental to the public welfare or materially injurious to the property and improvements in the area. She stated that she disagrees with comments such as "the structure looms over the street" or "the sheer bulk will impact views". They are not within feet of the road like those other garages. Furthermore, the house across the street, which is 2.5 stories, seems to fit in with the neighborhood and they are aware of other 2.5 story buildings built in Hamburg Township on the chain of lakes. She stated that she would like to hear from the Board and possibly come up with a compromise.

Amy Steffens, Planning & Zoning Administrator, stated that on January 6, 2020 the Property Owners where granted a land division by Hamburg Township. Originally, the subject site was combined for tax purposes with the property across Shoreview. In January 2020, the property owners where granted a land division to split off the subject property from a property they own at 4230 Shoreview Lane, on the north side of Shoreview Drive. That was able to be split because there was no contiguous road frontage, which is much different than most lot splits that we see in the Township. The subject site is approximately 50 feet wide by 110 deep or 5270 square feet. It fronts Shoreview Lane on the north and abuts Long Lake to the south. There is a single family dwelling to the east at 4200 Shoreview Lane on a double lot and to the west is a garage that is used by the property to the north at 4185 Shoreview Lane. The project proposes a new single-family home with square footage as indicated in the staff report or a total of about 4,258 square feet. The variance requests are for the front yard, where 25 feet is required, they are asking for 16 feet. Where a 50 foot setback is required from the Ordinary High Watermark of Long lake, they are asking for 40 feet for the main structure. They are also proposing an elevated deck on the lake side. An elevated deck may project up to 6 feet into any required yard except in the Natural Rivers District. They are asking for a 31.7 foot setback where 44 feet is required. They are not asking for a side yard variance.

Steffens discussed the seven findings of fact. She stated that on the 5,270 square foot lot, the structure is going to have a footprint of 1,632 square feet. The front property line along Shoreview Lane and the rear property line abutting Long Lake does have a slight impact on the angle of the buildable area. However, the lot is mostly flat and there is ample room within the buildable area to build an adequately sized structure that meets the requirements of the code, not the individual needs or desires of the property owners. All of the findings of fact deal with what is so peculiar with the property that you cannot meet the terms of the Zoning Ordinance. This lot already allows for the reduced side yard setbacks of 5 feet minimum and 15 feet aggregate because the lot is under 60 feet wide. The garage space would be allowed to have a 15 foot front setback. Both of these are due to recent text amendments to allow for greater possibilities on our lakefront lots. To have the front yard and rear yard setback requests are due to design preferences of the applicants and not an exceptional or extraordinary circumstance applicable to the property. This is a standard lakefront lot. There is a buildable, compliant area that is 33'x30' which is an adequate building size. There is nothing peculiar about the lot that would warrant a deviation from the requirements. It appears that most of the properties in the area that consist of a single lot of record have homes that either meet the required setback, or if the homes do encroach into the setbacks, the homes are not as large as the proposed structure. The report includes a table that compares the proposal with the surrounding properties. Ultimately, granting the requests with both a variance to the front yard setback and the Ordinary High Watermark for both the house and the deck, is not necessary for the preservation and enjoyment of a substantial property right by other properties in the same zone. A smaller structure could be built on

this site that complies with all the zoning requirements and still takes into account any slope that the applicant argues warrants a front yard and rear yard setback. The intent of the front yard setback is to require enough space between the roadway and the structure so that structures do not loom over the street or adjacent properties. The ZBA can and should consider the bulk of the structure at the setback. You are looking at a plan view, but when it is built, you are not looking at a plan view but the bulk of the structure at the reduced setback that potentially has a detrimental effect not only on the streetscape and the aesthetics of Shoreview, but also on adjacent properties. Because of the size and the height of the proposed structure, placing the structure within the required lake and front setbacks will have a greater impact of the views of the structure from both the lake and Shoreview Lane. She stated that with the staff report, there are two scaled mock-ups showing what happens when you have compliant structures next to each other and single stories and then a second Story addition that meets the setback requirement and finally a second story addition that is setback the same distance as the existing structure. This is a good depiction of what happens when structures get larger and taller and how it impacts structures on adjacent properties. 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". Building a house there will not affect the intent of the Master Plan, but the setbacks uphold the intent of the Master Plan, and it is up to the ZBA to determine if a variance request upholds that intent. The lot size of the subject site is small, and we have already addressed small waterfront lots in recent zoning text amendments. The entire Cornwell Acres Subdivision was developed with small lots. The lot is relatively flat. It does not appear that there is a condition or situation of the subject property, not the owners' desires, for which the variance is sought, that is not of a general or recurrent nature. The site is zoned for single-family dwellings and related appurtenances. The proposed project is a single-family dwelling. Finally, there is a completely compliant building envelope on this site for a home. Whether or not that meets the wants of the applicant is not something that the ZBA can consider. The ZBA has to consider whether there is anything peculiar to the property. There is not. Furthermore, an at-grade deck can go up to five feet to the property line. There is no reason to have that elevated deck 31 feet from the Ordinary High Watermark. Staff finds that there is nothing that would warrant a deviation from the ordinance.

Member Watson stated that this is a new build, and with a new dwelling, you need to come closer to meeting the ordinance.

Ms. Gowett stated that as she indicated, the slope affects the buildable area, and it is unreasonably small.

Chairperson Priebe opened the public hearing.

Mr. David Cowhy of 4200 Shoreview stated that their home is directly impacted by the applicant's lot. He stated that he is favor of their plan. He understands that the slope of the road as well as the lake affects their building. There is a 2.5 story home across the street, which is a beautiful home.

Ms. Carol Kuehne of 4166 Shoreview stated that she agrees that they should be able to build the house as proposed.

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

Member Auxier asked if the garage being proposed is 22'x22'. Ms. Gowett stated that she was trying to give an example of trying to build on the 33' x 30 buildable area. She was stating that having a reasonable sized garage and a reasonably sized deck left the 660 square foot base level of the house. That is the reason they decided to build up. She was trying to use this as an example. Member Auxier asked the width and length of the house. Ms. Gowett stated that it is 40'x33'. Steffens stated that the lot is 50 feet wide, therefore the width could be 35 feet across by 33 feet deep. The garage can be up to 15 feet to the property line and could be move forward. Ms. Gowett further discussed the deck which leaves 30'x33' for the home. Further discussion was held on other options to get a fairly significant home and still be within the 33'x35 foot building envelope. He stated that would still allow at least at 2,500 square foot home.

Member Rill asked when the project started, did the applicant take into consideration the buildable site on the lot and what the restrictions are. Ms. Gowett stated that it is very difficult to find a plan that meets the requirements and still work with what she was desiring for her mother. They got close and figured that there are variances all over the island.

They also spoke with many of the neighbors. Member Rill stated that if you know what the building envelope is, it appears like you chose what you wanted to do rather than what would fit on the lot. Ms. Gowett stated that she started with an existing plan rather than start from scratch.

Steffens stated that there is one anonymous letter in opposition to the variance that was included in the Board packet.

Member Auxier stated that he is not in support of this plan, but he hears that the applicant is interested in working toward a plan that will work. Chairperson Priebe stated that there is room for the applicant to make some adjustments. She would like to give them an opportunity to come back with a different plan. As is, she does not feel that there would be support for such a large house on this particular piece of property. She stated that tabling the request may be more advantageous than just denying it. If they find a way to meet the requirements, then they would not have to come back before the Board.

Motion by Auxier, supported by Dolan

To table variance application ZBA 20-012 to allow the applicant an opportunity to work within the building envelope

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

b) ZBA 2020-0015

Owner: Donald & Lynn Pettijohn

Location: 3774 Lancaster Drive, Pinckney, MI 48169

Parcel ID: 15-29-202-215

Request: Variance application to permit the construction of a 120-square foot second story addition to the north façade of an existing dwelling. The dwelling will have a 6-foot side yard setback (10-foot side yard setback required, Section 7.6.1.).

Mr. Don Pettijohn, applicant, stated that his grandfather purchased this lot as well as the two adjacent in 1938. His family has been here for a long time. His father lived in the home next to this at 3780 Lancaster Drive, and he passed away in December. He and his wife purchased this home next door and combined the two lots together. They received the approval to combine them in February, and they are attempting to make the two houses look similar. They are looking to add a second story over an existing structure and go out an additional six feet toward the road. It would not affect anyone's view.

Member Dolan asked if it is important for the Zoning Administrator to read her report in its entirety. The Board members receive them in their packets and he assumes that the members read them. Member Auxier stated that he feels that it is helpful to review the high points at the very least.

Amy Steffens, Planning & Zoning Administrator, stated that the subject site is a 21,431-square foot parcel that fronts onto Lancaster Drive to the south and west; Cordley Lake is to the south, and single-family dwellings are located to the west and east of the site. She stated that the three parcels as seen on the map are actually one parcel and reviewed the combination. She stated that it is one parcel that is actually split into two by Lancaster Drive. The parcel on the north side of Lancaster is improved with a 792-square foot garage; the subject site on the south side of Lancaster is improved with a 2,088-square foot dwelling and 293-square foot detached garage as well as a 1,180-square foot dwelling that has had the kitchen removed. It had to not be a home when we combined the parcels so they removed the kitchen in anticipation of the Township issuing a land use permit for an addition to connect the two homes. If approved, the variance request would permit the construction of a 120-square foot second story addition to the north façade of the former dwelling on the eastern half of the parcel. The second-story addition would have a six-foot side east side yard setback where a 10-foot side yard setback would be required per Section 7.6.1. The Zoning Ordinance allows on lots that are less than 60 feet wide a reduced side yard setback for an aggregate of 15 feet. By combining the lots, they now have a larger lot that can no longer take advantage of that reduced side setbacks. Any new construction would have to meet the 10 foot setback on both sides. In this case, they are asking for an addition over an existing structure that has a

deficient setback now that they have been combined. They have essentially created a practical difficulty because now they have a larger lot. They have to meet the 10 foot setback even for a second story addition. And, this is a much larger structure than any adjacent properties. The site is not constrained in size and has been zoned, developed and used for residential purposes as is without the second story addition. There is nothing extraordinary about the property that the addition cannot meet the 10 foot setback, and there is nothing peculiar about the property that warrants a variance request. It is a relatively small project at 120 square feet and only 6 linear feet of that is going to be within the setback. In this instance, the second story with a deficient side yard setback, given that it is a small addition, could be considered a reasonable deviation from the terms of the Zoning Ordinance. She further stated that a single architectural design does not advance a substantial private property right. The subject site is notably larger than adjacent properties and has just recently received a land use permit for an addition to connect the two homes on the newly combined larger lot that meets all of the Zoning Ordinance requirements. The applicant's design preference requiring a variance request is a self-imposed practical difficulty. The second-story addition would have a front yard setback of 64 feet, which is an extreme setback, especially in the WFR zoning district. From the front, you will not be able to tell that there is another 120 square foot of second story. The extreme setback will help minimize any aesthetic or privacy impacts that we would be concerned about. This property is located within the waterfront residential-zoned future land use district in the 2020 Master Plan, which is a district that allows for residential properties and is intended to protect the existing character of the area. The proposed project would not adversely affect the purpose or objectives of the 2020 Master Plan. There is no condition or situation of the subject site that is not of so general or recurrent in nature that applies to grant a variance. The use of the site is single-family residential and the proposed variance would not change the use. This is a relatively small addition to an existing second-story and the ZBA will have to determine if the 10 foot setback should not apply for this 120 square foot addition.

Member Dolan stated that this is a unique situation. The fact that combining the two lots created a setback situation is very unique. He stated that this is such a small, minor variance request, and he would be comfortable with approving the project. The other members of the Board concurred.

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

Motion by Dolan, supported by Watson

To approve variance application 2020-0015 at 3774 Lancaster Drive (TID 15-29- 202-215) to permit the construction of a 120-square foot second-story addition to the north facade of an existing dwelling. The dwelling will have a six-foot side yard setback (10- foot side yard setback required, Section 7.6.1.). 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 the staff report. 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

c) ZBA 2020-0016

Owner: Jeffrey and Heather Evans

Location: 4101 Shoreview Lane, Whitmore Lake, MI 48189

Parcel ID: 15-33-110-119

Request: Variance application to permit the enclosure of an existing 320-square foot covered patio on the west façade of the dwelling. The enclosed addition will have 35-foot setback from the ordinary high water mark of Long Lake (50-foot setback from the OHM required, Section 7.6.1. fn 3).

Mr. Jeffrey Evans, applicant, stated that they purchased the property in July. At the closing they were presented plans completed by Dexter Builders for the previous owners dated 2018. The home was built in 1973 including the porch on the west side of the living area. They would like to create a 3-seasons room adding windows and a door to enclose the porch. Adding windows would not impede their neighbors view of the lake. There were also concerns that the porch was in a floodway. A LOMA (Letter of Map Amendment) was created and filed on 9/23/20. It was determined in the

report that the porch is not within the floodplain area. It is worth noting that the finished floor elevation of the home is 855.8, which is 1.8 feet above the floodway elevation. The finished floor of the porch is approximately 4 inches below the finished floor of the house. No excavation will take place anywhere on this project. They are simply adding windows to an existing porch. They realize that the rear yard setback is 50 feet, and the porch is 34 feet from the water. Since the structure has existed since 1973, they respectfully request that the ZBA approve their variance request. He stated that there are three neighboring families present in support of their project.

Amy Steffens, Planning & Zoning Administrator, stated that the subject site is a 14,117-square foot parcel that fronts onto Shoreview Lane to the east; Gallagher Lake channel is to the west, and single-family dwellings are located to the north and south of the site. If approved, the variance request would permit the enclosure of an existing, nonconforming 320-square foot covered patio on the west rear facade of the dwelling. The enclosed addition will have a 34-foot setback from the ordinary high water mark of the lake where a 50-foot setback is required per Section 7.6.1.(fn 3). The reason this request is before the Board is even though the porch is already covered and does not meet the setbacks, under Article 11, which is our non-conforming ordinance, they are actually increasing the nonconformity. The applicant has addressed the floodplain issue. That is not something that the ZBA needs to concern themselves with it. The ordinance requires a 50-foot setback from the ordinary high-water mark of a water body and intended to maintain an open vista of the water from neighboring properties and preserve the shore from encroachment of residential structures. The existing non-conforming covered patio encroaches 16 feet into the required yard setback. It is doubtful that the 50 foot setback was required in 1973 when the structure was built, but it is non-conforming to today's ordinance. 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 expanding the nonconforming structure with a deficient setback. An enclosed addition is not necessary for use of the site for residential purposes and is solely a personal preference of the homeowner. It does not preserve a substantial property right. The house has been used as a single family dwelling without the enclosed porch and variance request. The ZBA can determine if this is an acceptable deviation of the requirements of the ordinance. The proposed future land use of the area is envisioned as waterfront residential, with a WFR designation, and would not be adversely affected by the granting of the variance. There is no condition or situation of the subject site that is not of so general or recurrent a nature. This 50 foot setback is a requirement of all properties within the Township regardless of the zoning designation. Requesting a variance to expand a non-conforming structure is a self-imposed practical difficulty. The use of the site is single-family residential and the proposed variance would not change the use. The house was built in 1973 without an enclosed porch, and the site can continue to be used for single family residential without an enclosed porch.

Member Watson stated that it is a nonconforming porch to begin with, and even though it is covered, it is open.

Member Auxier stated that on the plan, it shows a covered porch that is not included in this variance request. Mr. Evans stated that is not going to happen. They are simply asking to enclose the existing structure. No other changes will be taking place. Auxier stated that when he was at the site, he looked to see what the impact would be to the surrounding homeowners and saw none.

Member Dolan stated that there is a uniqueness to the property with regard to where it sits.

Chairperson Priebe opened the public hearing.

Leslie Stalker of 4106 Shoreview stated that she owns the property directly next door to the south. She supports them being able to enclose the porch. It does not impede their view of the water at all.

Tom and Kim Good of 4130 Shoreview stated that they support the request for a variance. They feel that it would add to the community and the property value.

Mr. Greg Karmineke of 4145 Shoreview stated that he lives directly to the east of the applicant. He cannot see their house much from his, but he feels that it would be good for the community.

Discussion was held the location of surrounding buildings.

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

Member Dolan stated that taking everything into account on this site, he could agree that this is an acceptable deviation from the regulations.

Member Rill stated that given that the structure was built in 1973 and it conformed at that time, he has no issues.

The question was asked if the Board could make a stipulation that it be glass enclosure only. Steffens stated that the Board can put in any condition they choose. Dolan stated that there would have to be support structure as well as the glass.

Motion by Auxier, supported by Rill

To approve variance application ZBA 20-0016 at 4101 Shoreview Lane to permit the enclosure of an existing 320-square foot covered patio on the west façade of the dwelling. The enclosed addition will have 34-foot setback from the ordinary high water mark of Long Lake (50-foot setback from the OHM required, Section 7.6.1. fn 3). The variance does meet variance standards one (1) through seven (7) 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: 0 MOTION CARRIED

d) ZBA 2020-0017

Owner: James and Sarah Seta

Location: 11190 Algonquin Drive, Pinckney, MI 48169

Parcel ID: 15-31-102-020

Request: Variance application to permit the construction of a new 3,100-square foot two story dwelling with an 862-square foot attached garage. The proposed dwelling will have a 24-foot east front yard setback (25-foot front yard setback required, Section 7.6.1.) and a 16-foot south setback from the ordinary high water mark of a Portage Lake canal (50-foot setback from the OHM required, Section 7.6.1. fn 3).

Mr. Jim Seta, applicant, thanked the Board Members for allowing them to address the Board and for coming out and looking at the property. He stated that since they purchased the home in 2014, they have made some substantial improvements to the property including seawalls, etc. to provide a better environment for the public in general. They do feel that they have a practical difficulty given that their home is currently very close to the canal. You can see on the plans where the home is today as well as where they plan to build. Their plan is to make this their permanent residence versus a summer cottage. The one foot setback variance is for the second story above the garage which will be a rec room. Staff has indicated that the home could be moved back one foot. However, half of the house is going to be where it is today. To move it back one foot would require them to complete tear down the house. They would also be impeding the neighbor's view of the lake, which is why they chose to put the second story where they are proposing. The house across the street is a two-story home as well and they did not want to impede their view either. The home today is 1,600 square feet and they are wanting to go up. They are requesting approval of their plan and believe that it is a betterment to the community. He presented pictures of other garages in the area that are extremely close to the road. Their existing garage, which they will be removing is only 7.2 feet from the property line. Now the garage will be moved back to roughly 19 feet from the property line. They believe that they are making the street view much better. Their home is directly next to the bridge and canal and will make it safer for people to pass because the bridge is only a one lane bridge.

Amy Steffens, Planning & Zoning Administrator, stated that the subject site is a 10,210-square foot lot that fronts onto Algonquin Drive to the east, Portage Lake to the west, and single family dwellings are located to the north and south of the site. The existing dwelling is one-story, approximately 1,600 square foot, with a detached 440 square foot garage.

If approved, the variance request would permit the construction of a new 3,110-square foot two story dwelling with an 862-square foot attached garage. The proposed dwelling will have a 24-foot east front yard setback where 25 feet is required, and a 16-foot south setback from the ordinary high water mark of a Portage Lake canal where 50 feet is required. She provided a table showing what is currently there and what is proposed. This is the kind of lot that the variance process was created for. This subject site is a 10,210 square foot lot, which is almost twice the size of the first lot that we considered this evening, and it is going to be a similarly sized house. However, the lot is 68.8 wide. If it was a normal lot without the canal on the side, we would have a setback requirement of 10 feet on each side. With the 10 foot on one side and 50 feet from the canal side, that leaves them a building envelope of 8 feet wide. There is no compliant location for a house on this lot. The current house is setback 16.1 feet from the canal and the new proposed two-story house will be setback the same 16.1 feet from the canal. The existing structure is one-story, and proposed is two-story. The outside wall of the proposed garage will be 19 feet to the front lot line, where a 15-foot setback is required for an accessory structure located between the dwelling and the water. What is triggering the front yard setback is the new proposed two-story addition. They are proposing 24 feet rather than the required 25 feet. It is the second story that does not meet the setback. They are not proposing to remove the wall on the north side. If it comes down, then we have a problem. They cannot remove more than 50% of that wall. The house could be shrunk down in size. It is up to the ZBA to determine whether or not this is an appropriate sized structure for this lot. There are similar size homes in the surrounding area of the subject site on similar lot sizes that appear to also be nonconforming, both from the front lot line and the canal, but most of the homes are single story. The proposed addition will be a two-story home where a ranch style home existed. The variance preserves a substantial property right possessed by other property in the same zone and vicinity. However, whether it is an appropriate size for the site is up to the ZBA to decide. As proposed, the new dwelling will be setback at nearly the same setbacks as the existing home. However, the proposed dwelling is two-story, and the ZBA should consider the doubling of bulk at the setbacks. The lot has a required north side yard setback of 10 feet. Because the applicant is proposing to keep the non-conforming north side wall of the home, the wall can remain and be attached to the new proposed structure without a variance, unless 50% or more of the wall is removed. The existing garage on the lot is detached from the home and is only 7 feet from the front lot line. The new home will have an attached garage that is 19 feet from the front lot line. This proposed home with an attached garage is less impactful and more conforming to the front lot line at the street. It is not likely that the proposed new dwelling would be materially detrimental to the public welfare or materially injurious to the property or improvements in the WFR District. The proposed future land use of this property and surrounding area envisions waterfront residential zoning district. With the water on two sides, we are constrained by the required setbacks. Furthermore, she believes that this canal is man-made and we are not only asking that this property to be burdened by a natural feature, but a canal that is man-made. The use of the site is single-family residential and the proposed variance would not change the use. The proposed two-story dwelling for a single family is a reasonable use of the land. The question is whether the size is reasonable, and that is up to the ZBA to decide. After the packet was created, we did receive two letters regarding this request. She read an email received October 8th from Greg and Micelle Towler of 11175 Algonquin who feel that they should only be allowed to build a home that would fit into the Township's requirements. She further read a letter from Jennifer Maxum of 2264 Wayne Drive who objects to the plans and is in favor of them building a home within the Township's ordinances. (see attached email and letter as part of the minutes). Steffens addressed the LOMA and stated that this only applies to the structure that is on the lot now. Any development would have to meet our Floodplain Development Ordinance that will require new elevation certificates unless you receive another LOMA once the foundation is put in.

Member Watson stated that he is in favor of the request. It appears to be a plus for the area. Member Auxier asked if the bulk of the structure could be moved further away from the canal. It was stated that it is already at 7 feet. Auxier further stated that it is not an excessively large sized home. The rec room is similar to a basement.

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

Member Auxier addressed the two letters that were received indicating that they would be in favor of building within the Zoning Ordinance, yet nothing would comply.

Chairperson Priebe stated that they have set it back from the road which is an improvement. It was stated that currently it is at 7 feet and the new garage will be 25 feet with a "bump-out" at the top. Mr. Seta stated that it will

actually be 32 feet from the road. There is approximately 9 feet from the property line to the road. He further stated that when they purchased the home, the seawall was falling into the canal, and they spent \$30,000 on a new seawall. It is interesting now that there are neighbors who are saying that they want to be able to go through the canal. Others are enjoying the canal because of the investment they have made. He further stated that he also feels that the applicant should be made aware of any letters received by staff prior to the meeting.

Discussion was held on the canal.

Motion by Rill, supported by Watson

To approve variance application ZBA 20-0017 at 11190 Algonquin Dr. to permit the construction of a new 3,100-square foot two-story dwelling with an 862-square foot attached garage. The proposed dwelling will have a 24-foot east front yard setback (25-foot front yard setback required, Section 7.6.1.) and a 16-foot south setback from the ordinary high water mark of a Portage Lake canal (50-foot setback from the OHM required, Section 7.6.1. fn 3). 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: 0 MOTION CARRIED

e) ZBA 2020-0018

Owner: Judith Majoros

Location: 2496 Baseview Blvd. Pinckney, MI 48169

Parcel ID: 15-31-304-037

Request: Variance application to permit the construction of a new 2,540-square foot two story dwelling. The proposed dwelling will have an 8-foot west front yard setback (25-foot front yard setback required, Section 7.6.1.) and a 10-foot east rear yard setback (30-foot rear yard setback required, Section 7.6.1).

Steven Majoros, family member representing the applicant was present. He stated that Judith could not be present this evening. He lives in Farmington, Michigan but has spent a lot of summers here in Hamburg Township. He serves on the Planning and Zoning Committee in his community as well so he appreciates the hard work the Board puts into this. His father came to this area for not only the lakefront living but also because he liked the sense of neighborhood, community and harmony. Their desire is to make their seasonal cottage into a more permanent residence that he and his brother can deal with in succession and estate planning, etc. They want to stay consistent with the neighbors, the standards that have been set for properties like this and lakefront living. They are trying to be respectful of all of that. He stated that Don Maybee, their neighbor, could not be present this evening but he enthusiastically endorses their project.

Mr. Roger Young, Architect, stated that he has been working with Mr. Majoros and his family on the design of their new home on the lake. They want to be sensitive to the neighboring homes not only in terms of scale of the home but also the proximity and protection of the natural features. He discussed the landmark trees in relation to the new proposed construction.

Amy Steffens, Planning & Zoning Administrator, stated that this is an unusual situation and again another reason why there is a ZBA. She stated that the subject site is one lot originally platted as two lots in a plat from almost 100 years ago. If you look at the plat, there is no roadway access to any of these lots to the west, and this lot is the last lot of the plat. At some point, possibly in the 1960s, they re-platted a portion at the north of the plat including an easement so that people had access to their lots. However, that easement dead-ends at the west property boundary of this lot. They cannot legally use Baseview that goes east from the subject site. There is no road frontage for this site. The eastern end of Baseview Drive terminates at the west property line of the subject property. The properties east of the subject site are in the Sunset Cove Subdivision. Like many of the homes along Baseview Drive, the existing and the proposed house on the subject site are oriented toward Baseview Lake to the south. Because the subject site accesses Baseview

Drive from the west side of the property, the front property line according to our Zoning Ordinance, would be considered the west property line, while the east property line would be considered the rear property line. The west property setback would be 25 feet and the east would be 30 feet. The proposed project will demolish the existing home and reconstruct a new main home on the site. The new home is proposed to be 8 feet from the west property line where 25 feet would be required and 10 feet from the east property line where 30 feet is required. The project proposes a new single family home with the total square footage of 3,222 square feet. There is also a 180 square foot covered porch off the south side of the structure that will be 50 feet from the OHM of Baseview Lake and a 230 square foot patio off of the south side of the structure that will be less than 24 inches above grade and therefore can encroach into the water setback. Because of the orientation of the lot, and the way that Baseview easement terminates, the applicant has asked for variances to the front and rear setbacks. The applicant would like the ZBA to consider allowing the reduced front and rear setbacks because the orientation of the house does not match the required setbacks. The house is oriented toward the lake to the south so the applicant would prefer the west and east setbacks be considered side setbacks instead of front and rear setbacks as required by the code. If this was a normal lot and Baseview went through, the setbacks would be 10 feet and 10 feet. The subject property is mapped within FEMA's 1 percent floodplain. Prior to issuance of a building permit, an elevation certificate would be required to ensure that any improvements would meet the floodplain development standards of Hamburg Township. Because Baseview Drive does not traverse the subject property, this site does appear to have an extraordinary circumstance in regards to its access off of the west end of Baseview Drive, and the way the Zoning Ordinance defines the front and rear property boundaries. The access changes the orientation of this lot. There is nothing peculiar about the property itself except for the fact that Baseview terminates and we have the definitions to apply. It is up to the ZBA to determine if the requested setbacks are acceptable. Staff is suggesting that the applicant at least meet the minimum side yard setback of 10 feet and 10 feet. The rest of the lots along Baseview Drive in this location are either accessed off of the north or south sides of Baseview Drive, making the north or south side the front or rear property lines on these properties. The applicant is asking for an 8-foot setback from the west property line and the existing home on the property at 2488 Baseview Drive is only approximately 1 foot from the shared property line. Staff would suggest that the subject property at least maintain a 10 foot minimum setback to allow adequate space between the two homes for access to and from the lake. This additional setback along with the orientation of the house slightly angled away from the house at 2488 Baseview Drive will also help to reduce any impacts the massing of the new structure may have on the neighboring property. Again, this lot has an odd situation due to its access from the end of Baseview Drive. There are no other lots in the area that have this similar situation. The purpose of the front setback is to allow distance between the roadway and the structure so that structure does not loom over the street. The rear setbacks are required to allow room between adjacent home to the rear of the site to allow for open greenspace and yard for the homes. This property is located within the Waterfront Residential future land use district in the 2020 Master Plan. This district allows for residential properties and is intended to protect the existing character of the area. The proposed structure is a reasonably sized 2,550 square feet and is only 22 feet tall to the top of the roof ridge. Because of the size and design of the home, it appears to meet the intent of the Waterfront Residential future land use district. There is something strange about the orientation of this lot. Granting the variance is not going to establish anything other than a single-family dwelling. Approval of the variance request would not permit the establishment of a use not permitted by right within the district. A house could be built on this lot that could meet the required 25 foot front and 30 foot rear yard setbacks. However, the house would be narrower and longer and may require removal of more vegetation from the site. Staff is recommending approval of the request because of these mitigating factors. The ZBA could also consider a condition that the east and west setbacks be maintained at 10 feet.

Member Dolan asked if the orientation of the house could be changed slightly to meet the 10 foot setbacks on the east and west. Mr. Majoros presented a diagram showing that the only area that is encroaching the 10 foot setback is approximately 7.5 square feet. The answer to the question is yes they could rotate the house and rotate it to fit, however they are trying to be respectful to the neighbors. The neighbor, at it's closest point is one foot from the lot line, and the more rotation they do toward the neighbor will actually have more impact. They have moved the structure back to be more respectful to the neighbors on both sides and preserve their site lines. Further discussion was held on the orientation due to the determination of the front yard. Mr. Young discussed the requirements for the narrow waterfront lots and the lack of clear definition on how you determine the exceptionally narrow lot. Steffens stated that it is actually very clear. It is the lot width at the required setback. She further explained that if this were a typical lot, the lot would be greater than 60 feet at the required setback. Discussion was held on the determination of

the front yards. Mr. Young discussed the property owner's access to the lake on the east side of the property and the placement of the neighbor's house and other structures such as air conditioning units, proposed generator, etc.

Member Auxier stated that the proposed placement works and the small portion is minimal. He does like the idea of preserving the trees on the property.

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

Chairperson Priebe stated that the lot does get narrower toward the north. She does not have a problem with the request.

Member Watson stated that if the neighbor to the west installs an air conditioner and generator, nothing will be able to get through that area. Mr. Majoros stated that the air conditioner is already there at the corner of his garage, and the generator has just been a discussion. His point was that their access from back to front is on the east side. It was further stated that there is quite a distance between the garage and the house as well for access. Steffens stated that the house to the west would not be able to put mechanical equipment in that yard. It would have to meet the ordinance.

Discussion was held on the staff recommendation. Member Dolan stated that staff is recommending a minimum of 10 feet on each side. Even with that, the Board is considering a very large variance. He does feel that the 10 feet on each side is a good compromise. He understands the reluctance, but it is minor to accommodate the 10 feet. Mr. Majoros stated that the other consideration when they were considering the pivot point was that the lake front is not straight across. They are almost at the peak of Baseline Lake. They also have a very old maple tree that they have spent considerable amount of money to preserve. They have done a lot of things to preserve the view and would prefer to keep the 8 foot setback and not touch the maple tree or other trees. The question was asked if the trees would have to be removed if they pivot the house. Mr. Majoros stated they would not have to remove them, but they are talking about their views, etc.

Member Watson stated that he would like to see a sketch or diagram showing the house pivoted if the other members feel that it is important to maintain that 10 feet. It was stated that it would not change any of the building plans.

Member Auxier stated that if it were a safety concern, it would be a bigger issue, but it is not. We are talking about a 7.5 square foot corner.

Chairperson Priebe stated that she does not feel that it is a big issue to move the house slightly. However, if it is moved, it does affect the side of the neighbor's house. Discussion was held on privacy of both the applicant and the neighbors.

Member Auxier, supported by Rill

To approve variance application ZBA 20-018 to permit the construction of a new 2,540- square foot two-story dwelling. The proposed dwelling will have a 8-foot west front yard setback (25-foot front yard setback required, Section 7.6.1.) and a 10-foot east rear yard setback (30-foot rear yard setback required, Section 7.6.1). 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 the staff report. The Board directs Staff to prepare a memorialization of the ZBA's findings for the request

Member Dolan stated that he realizes that a 2 foot variance is not that big, however he does not see a practical difficulty in not slightly changing the orientation of the home to meet the ordinance. It would still give them a tremendous variance.

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

8. New/Old business

a) Approval of September 9, 2020 minutes

Motion by Auxier, supported by Watson

To approve the minutes of the September 9, 2020 meeting as written

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

b) Adoption of 2021 Zoning Board of Appeals 2021 meeting dates

Motion by Dolan, supported by Watson

To adopt the 2021 Zoning Board of Appeals meeting dates as presented

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

9. Adjournment:

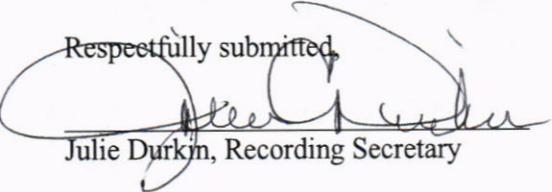
Motion by Dolan, supported by Watson

To adjourn the meeting

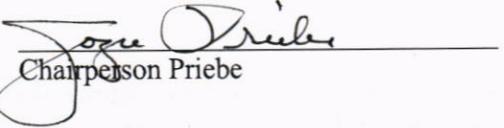
Voice vote: Ayes: 5 Nays: 0 Absent: 0 MOTION CARRIED

The meeting was adjourned at 9:16 p.m.

Respectfully submitted,


Julie Durkin, Recording Secretary

The minutes were approved as presented/corrected: 11-12-20


Charperson Priebe