



**Hamburg Township
Zoning Board of Appeals Minutes
Thursday, November 12, 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, Diepenhorst (alternate), Priebe, Rill and Watson

Absent: Dolan

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

4. Correspondence: None

5. Approval of Agenda:

Motion by Auxier, supported by Diepenhorst

To approve the agenda as presented

Voice vote: Ayes: 5 Nays: 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 2020-0019

Owner: Kim Simecek

Location: 11585 Old Hamburg Road, Whitmore Lake, MI 48189

Parcel ID: 15-36-300-062

Request: Variance application to permit the construction of a new 672-square foot detached accessory building. The proposed accessory building will have a 4-foot west front yard setback (25-foot front yard setback required, Section 7.6.1.)

Property owners Kim Simecek and Ryan Olson were present. Ms. Simecek thanked the Board for letting them give their presentation. She stated that they believe that the location of the proposed garage is the best location to utilize the property and have minimal impact on the land. This would result in a 4-foot setback. They would still have a 25 setback from the road edge. This is not a design issue, but rather they would like the minimal impact on the land. They do not want their property to be loaded with concrete, asphalt, etc. She discussed their options and driveway configurations. With their proposed location, they would be able to use their current driveway and have a greater

setback from the wetlands. She discussed the language in the NREPA discussing using all uplands to the greatest degree possible, which is what they are trying to do. She discussed the buffer in place. Mr. Olson presented visuals showing the proposed site, how the cars would be moved in and out of the garage, and their options with a new driveway and concrete pad. Ms. Simecek discussed the amount of green space and their goal to preserve the land as much as possible and protect the wetlands.

Amy Steffens, Planning & Zoning Administrator, stated that the subject site is a 0.76-acre parcel that fronts onto Old Hamburg Road to the west; Hamburg Lake is to the east. Vacant parcels and single-family dwellings are located to the west, south, and north. If approved, the variance would permit the construction of a 24-foot by 28-foot detached garage with a four-foot front yard setback where a 25-foot front yard setback is required. In 2019, the lot with the dwelling was combined with two lots to the south, which added an additional 0.38-acre to the south side of the lot where the garage is proposed to be constructed. The subject property is mapped within FEMA's 1 percent floodplain. Hamburg Township participates in the National Flood Insurance Program (NFIP). Prior to issuance of a building permit, an elevation certificate would be required to ensure that any improvements would meet the floodplain development standards. She discussed the seven findings of fact. The ZBA must find that all of the standards are met. There is no exceptional or extraordinary circumstance applicable to this property that does not apply to other properties in the same district or any property in Hamburg Township. The site is a sizable 33,106 square feet and is significantly larger than a typical WFR-zoned parcel. This Board is used to dealing with the smaller lots that are constrained by a shallow lot depth and a waterfront setback. This lot does not have those constraints. There are wetlands on the site, but we have not received a wetlands delineation survey of those wetlands. There is a compliant location, outside of the 50-foot setback of the wetlands and meets all of the requirements of the Zoning Ordinance. The applicant has submitted a site plan that clearly shows multiple locations where this garage could go. The location of the garage is a self-imposed practical difficulty and staff would not support a variance request with no practical difficulty. A 50-foot setback is required from a regulated wetland to provide a buffer to a sensitive ecological feature. The submitted plot plan shows that there is a compliant location in regards to the wetlands. The applicant's findings of fact indicate that the proposed location would create less disruption for wetlands, waterfowl and other marine life but nothing has been submitted to support this claim. The 50-foot setback required by the township is greater than what EGLE requires for a wetland setback. The entire garage could be moved directly east to meet the wetlands, front yard, and separation setback requirements and would be able to make use of the existing driveway. A front yard setback serves multiple purposes. In a typical residential area, you do not want structures right at the setback. In a downtown or high density area, that works well, but this is not one of those areas. The Township has set a 25-foot setback for a reason. It provides a visual buffer between the roadway and the structure, provides safe site lines, and orderly development of land. A request for a four-foot front yard setback when multiple compliant locations exist is a self-imposed practical difficulty and is not supportable by staff. 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. Because of the size and design of the garage, it appears to meet the intent of the Waterfront Residential future land use district. The front yard setback applies to all properties in the Township and is intended to protect vistas and site vision up and down a roadway. The submitted findings of fact indicate that the wetland setback and right-of-way affects finding a suitable location of the accessory structure. However, there are multiple compliant locations for the accessory structure that meets the front yard setback and the wetlands setback. This site is deeper than a typical WFR zoned lot and the additional square footage added to the lot in 2019 provides ample room for not only the proposed garage but a garage with a larger footprint. 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. This site is zoned, developed, and used for a single-family residential purpose. While a garage is a customary accessory structure, approving a structure to have 28 linear feet of bulk at four feet from the right-of-way is not the minimum necessary to permit reasonable use of the land given that the applicant has shown that there is a compliant building envelope. The applicants have indicated that this is not a design preference, but their exhibits clearly show a design preference by not wanting to add a driveway or concrete pad in order to build in a compliant location. An asphalt driveway or concrete pad are not required by the ordinance. Again, this is a design preference. Because staff does not believe that the request meets findings one, two, three, five, or seven, they find that this request is not supportable.

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

Discussion was held on the size of the garage. The question was asked if the applicant could modify the size and still have the use desired. Ms. Simecek stated that they could, but ideally they would like a two-car garage. Mr. Olson stated that at that location, it could not be modified to meet the setback. It was stated that it would have to be moved 21 feet to meet the ordinance. Ms. Simecek stated that would put it in the middle of their yard, and it would impact the use of their property. It does not make sense to them as far as use of the land and environmental impacts.

The question was asked if they thought about adding on to the current garage. Ms. Simecek stated that they have thought about that and asked if that would meet approval. It was stated that adding on would meet the ordinances. Discussion was held on the different options using the current garage. Steffens stated that they would have to meet the 50 foot setback from the wetlands, but again we have not received a wetland delineation. Further discussion was held on modifying the existing garage.

Chairperson Priebe stated that we are being asked to consider the request that is before us, but there is a place that is compliant rather than one that is not.

Motion by Auxier, supported by Rill

To deny variance application ZBA 20-0019 to permit the construction of a new 672-square foot detached accessory building. The proposed accessory building would have a 4-foot west front yard setback (25-foot front yard setback required, Section 7.6.1.). The variance does not meet variance standards one, two, three, five, or seven of Section 6.5 of the Hamburg Township Zoning Ordinance, and no practical difficulty exists on the subject site when strict compliance with the Zoning Ordinance standards is applied, as discussed at the meeting this evening.

Voice vote: Ayes: 5 Nays: 0 MOTION CARRIED

b. ZBA 2020-0020

Owner: Jeffrey Weiss

Location: Vacant on Baudine Road, Pinckney MI 48169

Parcel ID: 15-17-301-086

Request: Variance application to allow for the construction of an 820-square foot second-story addition to an under-construction dwelling. The second-story addition will have a 47-foot setback from the ordinary high water mark of Rush Lake (50-foot setback required, Section 7.6.1.fn.3). The under construction dwelling was approved per ZBA 2019-0017

Mr. Weiss, applicant, stated that the reason for the change at this point is the historically low interest rates. They are proposing a second story across to the garage, but does not encompass the entire garage. He further discussed his proposal. With the 820 square feet additional, it would be 2570 square feet. The home would be more valuable as a four-bedroom instead of three. They would also move the utility room upstairs and the dimensions of each bedroom would expand. He stated that with the original floor plan, everything was very tight. Neither the original footprint nor the location of the house changed.

Brittany Stein, Zoning Coordinator, stated that the subject site is a 14,402-square foot parcel that fronts onto Baudine Road to the west and a Rush Lake canal to the east. Single-family dwellings are located to the north, south, and east. The site is currently unimproved. If approved, the variance request would allow for the construction of an 820-square foot second story addition to an under-construction dwelling. The second-story addition will have a 47-foot setback from the ordinary high water mark of Rush Lake where a 50-foot setback required. The under-construction dwelling was approved per ZBA 2019-0017. On August 9, 2017, the ZBA approved a variance application on this site to allow for the construction of a new 1,699-square foot single-story dwelling with an attached 660- square foot garage at the same location. Since that approval, the ZBA approved additional changes. A new home design was approved in 2019 to include a different orientation of the dwelling, a second story, a larger garage, a covered front porch, and an elevated balcony on the rear of the home. On October 9, 2019, the Zoning Board of Appeals approved a variance application to allow for the construction of a new two-story 1,660 square foot single family dwelling with an attached 1,165 square

foot garage, an 88-square foot covered front porch, and a 68-square foot elevated deck on the rear of the dwelling. Since that time, the came back to add square footage to the second floor of the dwelling that was approved. Stein discussed the Standards of Review. She stated that the property is one-third of an acre and is constrained by two factors: the canal to the east and the shallow lot depth creating a narrow, long building envelope. However, the chosen design of the proposed addition of living space above the garage is solely based on personal preference. There has been an approved two-story 1,660 square foot single family dwelling to be constructed on this lot. Since this variance was approved the floor plan has been revised to create larger bedrooms on the second floor and add a fourth bedroom. The new home will be 2,480 square feet with an attached 1,165 square foot garage. With an 820 square foot second story addition at a setback of 47 feet from the OHM of Rush Lake, where 50- foot setback is required, it is recommended to redesign the floor plan of the second floor to meet the setback requirement. The 820 square foot second story addition over the garage is a personal preference of the applicant and are the factors that necessitate the variance request. The second floor plan could be redesigned to be setback an additional 3 feet to meet the required 50-foot setback from the OHM. The bulk of the structure increases when adding a second story over the attached garage and could potentially be materially detrimental to the property or improvements in the zone in which the property is located. This proposed addition to the approved home creates a dwelling with much larger floor area than the neighboring homes on Baudine Dr. Neighboring homes vary in size from approximately 900 square feet single-story to 1,900 square feet two-story or bi-level homes. The subject site is a waterfront lot on Rush Lake in the Watson's Rush Lake Subdivision #1. Parcels in this area are primarily residential and zoned in the waterfront residential district. The proposed addition would not adversely affect the objectives of the Master plan. There is no condition or situation of the subject site that is not of so general or recurrent a nature that the second story addition could not meet the required 50-foot setback from the OHM. 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. As stated, the chosen design of the proposed addition to the second story for added living space above the garage is solely based on personal preference. This variance request is not the minimum necessary to permit reasonable use of the land and should be denied.

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

Member Auxier stated that this lot has a very small footprint between the road and the water which is why we have gotten to this point. He discussed the roof line. He discussed the bulk of the structure. He asked if there was consideration of moving the dormer three feet forward. Mr. Weiss stated that as far as the aesthetics, it would look like an after-thought. It was simpler to run a straight line. As discussed in the variance request last year, this footprint is much smaller than the previous ranch style home. He stated that it would look odd if you brought that wall in three feet. Member Auxier stated that the bulk of the structure will still be there regardless. He does not have a problem with the three feet.

Discussion was held on the size of homes and lots in the area.

Member Watson stated that he does not see a problem with the request given the distance to other structures.

Motion by Rill, supported by Watson

To approve variance application ZBA 20-0020 at parcel 15-17-301-086 to allow for the construction of an 820-square foot second-story addition to an under-construction dwelling. The second-story addition will have a 47-foot setback from the ordinary high water mark of Rush Lake (50-foot setback required, Section 7.6.1.fn.3). The under-construction dwelling was approved per ZBA 2019-0017. 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

Voice vote: Ayes: 5 Nays: 0 MOTION CARRIED

New/Old business:

a) Approval of October 14, 2020 minutes

Motion by Auxier, supported by Diepenhorst

To approve the minutes of the October 14, 2020 meeting as written

Voice vote: Ayes: 5 Nays: 0 MOTION CARRIED

8. Adjournment:

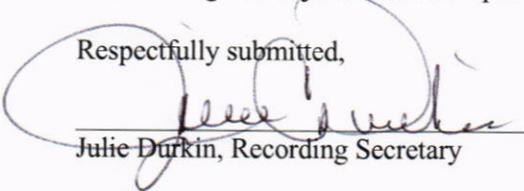
Motion by Auxier, supported by Rill

To adjourn the meeting

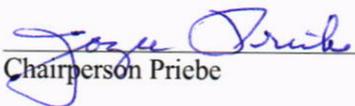
Voice vote: Ayes: 5 Nays: 0 MOTION CARRIED

The meeting was adjourned at 7:50 p.m.

Respectfully submitted,


Julie Durkin, Recording Secretary

The minutes were approved as presented/corrected: 5-9-20


Chairperson Priebe