



**HAMBURG TOWNSHIP BOARD OF TRUSTEES, PLANNING COMMISSION, ZONING
BOARD OF APPEALS, PARKS AND RECREATION COMMITTEE
SPECIAL MEETING**

The public may access the electronic meeting from a computer, tablet, or smartphone. To participate in the public hearing go to <https://global.gotomeeting.com/join/322398029>

You can also dial into the meeting using your phone +1 (408) 650-3123

Access code: 322-398-029

Wednesday, February 24, 2021

7:00pm

AGENDA

1. Call to Order
2. Pledge to the Flag
3. Roll Call of the Board of Trustees, Planning Commission, Zoning Board of Appeals, Parks and Recreation Committee
4. Call to the Public
5. Correspondence
6. Approval of the Agenda
7. Current Business:
 - A. Kathleen Kline-Hudson, Livingston County Planning update
 - B. Parks and Recreation Committee update
 - C. Municode codification update
 - D. Planning and Zoning department 2020 year in review
 - E. 2020 code enforcement year in review
 - F. Proposed zoning text amendments 2020-2021
8. Call to the Public
9. Board Comments
10. Adjournment

Hamburg Township

Planning Commission Zoning Board of Appeals Planning & Zoning Department



2020 Annual Report

Prepared by: Planning & Zoning Department Staff
February 24, 2021

Introduction

Planning Commission

- **Purpose**
- **Members**
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Zoning Board of Appeals

- **Purpose**
- **Members**
- **Meetings**

Planning & Zoning Department

- **Staff**
- **Land Use Permits**
- **Floodplain Activity**
- **CRS Activity**
- **DEQ Activity**
- **Land Splits, Combos, etc.**
- **Code Enforcement**
- **Staff Training**

Zoning Text Amendments

Planning Commission

Purpose

The Hamburg Township Planning Commission reviews and approves site plans, special use permits, planned unit developments, zoning text and map amendments, and master plans. The Planning Commission advises the Township Board concerning site plans, zoning text and map amendments, and the Master Plan.

Members

Chair: Jeff Muck

Township Board Representative: Patricia Hughes

ZBA Representative: Joyce Priebe

Member: Ron Muir

Member: John Hamlin

Member: Victor Leabu

Member: Paul Bohn

Meetings

The PC recommended approval on two (2) site plans, seven (7) zoning text amendments, and recommended final approval of the Master Plan update. A full account of the PC’s activity in 2020 is shown in the table below.

2020 PC Meetings

<u>PC Case Number</u>	<u>Applicant/Parcel ID/Address</u>	<u>Project Description Considered</u>	<u>Result / Status</u>
January 15, 2020			
No PC Meeting - Cancelled - No Agenda			
February 19, 2020			
<u>SPR 18-002</u>	Applicant/Owner: Scott & Lauren Tharp 5550 Strawberry Lake Rd. (4715-34-200-003)	Application to consider allowing a major agricultural commercial/tourism business on the 98-acre property. The proposed business will include a u-pick apple orchard, u-pick pumpkin patch, corn-maze, raised gardens, nature-based kid play area, hiking trail, a sign, a farm market retail/restaurant structure, a 300-person wedding barn, and other agricultural based amenities.	Site plan review: Recommended approval
<u>ZTA 19-009</u>		Public hearing to consider adding regulations regarding collection bins. The regulation will allow collection bins within the Commercial and Industrial districts as long as some specific requirements can be met.	Recommended Approval
<u>Master Plan update (2020)</u>		Presentation of Draft 2020 Master Plan and updated Village Center Master Plan.	Recommended Approval to TB distribution of the draft with minor changes.
February 26, 2020 - Special Joint Meeting (TB & ZBA)			
March 18, 2020			
No PC Meeting - Cancelled – Covid-19			
April 15, 2020			

<u>OSPUD 20-001</u>		Public Hearing to consider Amendment to the Mystic Ridge Planned Unit Development approved by the Township Board on May 21, 2002. The amendment requests will: 1) Change the approval language for the PUD from requiring Scully Road to be open for public automobile traffic prior to issuance of 98 land use permit; to requiring Scully Road or an alternative secondary access roadway to be open for automobile traffic prior to issuance of 98 land use permits for single family homes.	Recommended Approval to TB for OSPUD & Site Plan, with conditions
<u>ZTA 20-001</u>		Discussion and review of possible Zoning Text Amendment to revise the required minimum house size regulations in sections 7.6.1 Schedule of Area, Height, and Bulk Regulations and section 8.5 Single-Family Dwellings, Mobile Homes, Prefabricated Housing	
May 20, 2020			
<u>HPUD 20-001, SPA20-002 and ZMA19-002</u>		Proposed amendments to the Chilson Commons Hardship Planned Unit Development (HPUD) Agreement approved by the Township Board on December 17, 2002 and finalized as signed by both parties on January 28, 2004 and the Chilson Commons Site Plan approved by the Township Board on November 25, 2003. Changing the zoning designation of the underlying property in the Chilson Commons Shopping Center from Water Front Residential to Community Service.	
June 17, 2020			
<u>Continued Public Hearing for HPUD 20-001, SPA20-002 and ZMA19-002</u>		Proposed amendments to the Chilson Commons Hardship Planned Unit Development (HPUD) Agreement approved by the Township Board on December 17, 2002 and finalized as signed by both parties on January 28, 2004 and the Chilson Commons Site Plan approved by the Township Board on November 25, 2003. Changing the zoning designation of the underlying property in the Chilson Commons Shopping Center from Water Front Residential to Community Service.	Recommended Approval
<u>ZTA 20-002</u>		Discussion of proposed zoning text amendment that explains the locations where ADUs are allowed on properties within the WFR and NR districts that abut a waterbody or have access to a water body.	
<u>ZTA 20-003</u>		Discussion of proposed zoning text amendment to Section 11.3.1., permitted expansion of residential buildings, to permit second story additions over non-conforming dwellings without variance approval.	
July 15, 2020			
<u>Master Plan update (2020)</u>		Public Hearing for the 2020 Master Plan and 2020 Update to the Village Center Master Plan	Recommended Approval
<u>Continued Public Hearing for HPUD 20-001, SPA20-002 and ZMA19-002</u>		Site Plan Review (SPA 20-002) to amend the Site Plan associated with the Hardship Planned Unit Development agreement for the Chilson Commons Shopping Center by adding Units 9, 10, and 11 to the existing site plan.	Recommended Denial
<u>ZTA 20-001</u>		Public Hearing: Zoning Text Amendment to revise the required minimum house size regulations in sections 7.6.1 Schedule of Area, Height, and Bulk Regulations and section 8.5 Single-Family Dwellings, Mobile Homes, Prefabricated Housing.	Recommended Approval
<u>ZTA 20-003</u>		Discussion of proposed zoning text amendment that explains the locations where ADUs are allowed on properties within the WFR and NR districts that abut a waterbody or have access to a water body.	

<u>ZTA 20-002</u>		Discussion of proposed zoning text amendment to Section 11.3.1., permitted expansion of residential buildings, to permit second story additions over non-conforming dwellings without variance approval.	
August 19, 2020			
No PC Meeting - Cancelled - No Agenda			
September 16, 2020			
<u>ZTA 20-003</u>		Public Hearing to consider the Zoning Text Amendment (ZTA 20-003) to revise the Township Zoning Ordinance to allow detached accessory dwelling units (ADUs) on lots that abut a waterbody or have access to a water body in the Water Front Residential (WFR) and Natural River (NR) Zoning District. This change would amend the regulations on Section 8.27 Accessory Dwelling Units of the Zoning Ordinance.	Recommend Approval
<u>ZTA 20-004</u>		Discussion on proposed Zoning Text Amendment to required minimum riparian frontage regulations for newly created waterfront lots and existing lots with newly created riparian frontage. The draft regulations would amend Article 2 and Article 9, Section 9.5 and 9.7.	
October 21, 2020			
<u>ZTA 20-004</u>		Public Hearing to consider the proposed Zoning Text Amendment to require minimum riparian width regulations for newly created waterfront lots and existing lots with newly created riparian frontage and to clarify the setback for docks, patios and terraces that abut a waterbody. The draft regulations would amend Article 2; Article 7, Section 7.5.1(G); Article 8, Section 8.18.9; Article 9, Section 9.5 and 9.7.	Recommend Approval
November 18, 2020			
<u>ZTA 20-006</u>		Public Hearing to consider the proposed Zoning Text Amendment to propose revisions to Section 9.6., Regulation of Floodplain Areas. The proposed amendment would clarify the NFIP requirements; identify the special flood hazard area the township administers; and require a one-foot freeboard, including for equipment or mechanical items, for all residential buildings constructed, substantially improved, and/or reconstructed due to substantial damage throughout the floodplain area.	Recommended Approved
<u>ZTA 20-007</u>		Public Hearing to consider the proposed Zoning Text Amendment to propose revisions to Article 14 Planned Units Development (PUD). The proposed amendment includes revising wording for clarification purposes, amending the area, height, bulk and layout regulations for ECHO and CHPUD projects, adding regulations to allow more than one type of PUD to be in a single project, and consolidating the review standards for all PUD projects.	Recommend Approval
December 16, 2020			
No PC Meeting - Cancelled - No Agenda			

Zoning Board of Appeals

Purpose

Variance approval from the Zoning Board of Appeals is necessary when a proposed project does not comply with the bulk and setback standards of the ordinance. The ZBA may also issue interpretations of the Zoning Ordinance and hear appeals of the activities of the Zoning Administrator. Below is a summary of the variance process:

1. The variance or ordinance interpretation application and project plans are submitted to the Planning and Zoning Department at least four weeks prior to the ZBA hearing.
2. After review to ensure the application is complete, staff prepares legal notices that are mailed to adjoining property owners and occupants within 300 feet of the subject site; legal notice is published in the Press and Argus. Legal notice must be made 15 days prior to the hearing.
3. Staff prepares the report and exhibits. The staff report packet is published 10 days prior to the hearing; board members and applicants receive the packet via email.
4. Staff prepares the meeting room and attends the board meeting.
5. After hearing, staff prepares memorialization of findings for board approval at next hearing.

Members

Chair/PC Representative: Joyce Priebe

Township Board Representative: Jason Negri

Member: Ken Watson

Member: Bill Rill

Member: Cliff Auxier

Alternate: Mike Diepenhorst

Alternate: Jim Hollenbeck

Meetings

The number of variance applications per year has fluctuated based on multiple factors such as the health of the economy, the constrained size of waterfront lots available for residential construction, code enforcement activity, and staff working with homeowners to design a project that would comply with the ordinance.

In 2020 there were 20 cases (27 variances total) heard by the ZBA. 25 of the 27 variances were granted in 2020. One was withdrawn to meet the setbacks and one was denied. Of the approved variances, twelve (12) of them were waterfront lots, eight (8) of them were additions (lateral & vertical), five (5) were new homes (including demo and rebuilds), two (2) were for accessory structures, and one (1) was for a patio.

2020 ZBA Meetings

<u>ZBA Case Number</u>	<u>Owner/Applicant/Parcel ID/Address</u>	<u>Project Description/Variance Requested/Appeal</u>	<u>Result / Status</u>
January 8, 2020			
<u>ZBA 20-001</u>	Della Ann and Richard Cieciek 7875 Maltby Road (4715-12-200-031)	Variance: Construction of additions to an existing dwelling: 192-square foot addition to the northwest façade; a 58-square foot addition to the southwest façade; and a 376-square foot covered deck addition to the south façade. The additions will have a 6-foot west front yard setback (25-foot front yard setback required, Section 7.6.1.).	Approved, Permit Issued
February 12, 2020			
No ZBA Hearing held - Meeting Cancelled - No Agenda			

February 26, 2020 - Special Joint Meeting (TB & PC)			
March 11, 2020			
<u>ZBA</u> <u>20-002</u>	Zalewski Construction Co. Vacant on Rush Lake Rd., west of 3267 Rush Lake Rd. (4715-17-302-093)	Variance: 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).	Tabled ZBA requested grading plan
<u>ZBA</u> <u>20-003</u>	Leonard and Melissa Morgan 2946 Indian Trail Dr. (4715-32-402-015)	Variance: 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).	Tabled
April 8, 2020			
No ZBA Hearing held - Meeting Cancelled - Covid-19			
May 13, 2020			
<u>ZBA</u> <u>20-002</u>	Zalewski Construction Co. Vacant on Rush Lake Rd., west of 3267 Rush Lake Rd. (4715-17-302-093)	Variance: 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).	Approved, Permit Issued
<u>ZBA</u> <u>20-003</u>	Leonard and Melissa Morgan 2946 Indian Trail Dr. (4715-32-402-015)	Variance: Construction of a two-story dwelling. The dwelling will have a 21.7-foot north front yard setback (25-foot front yard setback required, Section 7.6.1.), a 5.2-foot east side yard setback, resulting in an aggregate side yard setback of 10.3 feet (15-foot aggregate side yard setback required, Section 7.6.1. fn. 4), and a 41.1-foot south setback from the ordinary high water mark of Base Line Lake (50-foot setback from the OHM required, Section 7.6.1. fn. 3). An elevated deck will have a 41.1-foot setback from the OHM (44-foot setback required, Section 7.6.1. fn.3.) The proposed lot coverage would be 56 percent, (maximum 50 percent lot coverage allowed, Section 7.6.1. fn. 7).	Tabled
<u>ZBA</u> <u>20-004</u>	Bradley and Patricia Zalewski 8491 Baudine Rd. (4715-17-301-070)	Variance: 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).	Approved, Permit Issued
June 10, 2020			
<u>ZBA</u> <u>20-003</u>	Leonard and Melissa Morgan 2946 Indian Trail Dr. (4715-32-402-015)	Variance: Construction of a 2,594-square foot two-story dwelling. The dwelling would have a 1.1-foot north front yard setback (25-foot front yard setback required, Section 7.6.1.); a 5.2-foot east side yard setback, resulting in an aggregate side yard setback of 10.3 feet (15-foot aggregate side yard setback required, Section 7.6.1. fn. 4); and a 48-foot south rear setback from the ordinary high water mark of Base Line Lake (50-foot setback from the OHM required, Section 7.6.1. fn. 3). A 134-square foot balcony would have a 41.1-foot setback from the OHM (44-foot setback from the OHM required, Section 8.18.2). Total lot coverage would be 52 percent, (maximum 50 percent lot coverage allowed, Section 7.6.1. fn. 7).	Approved, Permit Issued
<u>ZBA</u> <u>20-005</u>	Dennis J Pennington 5313 Gallagher Blvd. (4715-27-301-201)	Variance: Construction of a 12-foot by 15-foot detached accessory structure with an eight-foot setback from the boundary or edge of a regulated wetland (50-foot setback from the boundary or edge of any regulated wetland required, Section 9.9.3.B.).	Approved, Permit Issued
July 8, 2020			

Zoning Board of Appeals

<u>ZBA 20-006</u>	Katherine Panczak/Keith Phillips 9049 & 9039 Riverside Dr. (4715-24-102-085 and 4715-24-102-086)	Variance: Construction of a patio structure with a 108.3-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)).	Withdrawn will meet setbacks, permit issued
July 27, 2020 - Special Meeting			
<u>ZBA 20-007</u>	Tyler and Kara Lenling 5156 Girard Drive (4715-22-300-010 and 4715-22-300-060)	Variance: Construction of a 2,830-square foot addition to an existing dwelling. The addition would have up to a 12.5-foot east rear yard setback (30-foot rear yard setback required per Section 7.6.1.)	Approved, Permit issued
August 12, 2020			
<u>ZBA 20-008</u>	Michael Dolen 10910 Bob White Beach Blvd (4715-27-401-037)	Variance: Construction of a 1,010-square foot accessory structure, with approximately 820 square feet of second-story loft space, with a 15-foot front yard setback (25-foot front yard setback required, Section 8.3.) and a 15.3-foot setback from a regulated wetlands (50-foot setback from a regulated wetlands required per Section 9.9.3.B.).	Approved
<u>ZBA 20-009</u>	Linda Lee Lamb 8633 Country Club Dr. (4715-17-404-006)	Variance: Construction of a ten-foot by thirty-foot patio structure with up to a one-foot south side yard setback (five-foot south side yard setback required, Section 8.18.1).	Approved, Permit Issued
<u>ZBA 20-010</u>	Phillip Hatfield 3840 Langley Drive (4715-29-202-030)	Variance: Application to permit the addition of a twelve-foot by twenty-three-foot attached accessory structure to the west facade of the existing dwelling, with up to a three-foot aggregate side yard setback (fifteen-foot aggregate side yard setback required, Section 7.6.1.fn4).	Approved, Permit Issued
<u>ZBA 20-011</u>	Mark S. Ramsey IV 8424 Hillpoint Drive (4715-13-102-068)	Variance: To allow a land division of parcel 15-13-102-068 to create lot A with a lot size of 0.33 acres and lot B with a lot size of 0.25 acres (one-acre minimum lot size required in the waterfront residential zoning district per Section 7.6.1.).	Approved, Complete
September 9, 2020			
<u>ZBA 20-013</u>	Thomas A. Thill Vacant on Valley Forge (4715-33-110-243)	Variance: 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)).	Approved, Permit issued
<u>ZBA 20-014</u>	Joshua Satur and Nicole Saunders 10503 Hickory Dr. (4715-28-402-034)	Variance: 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.).	Approved
October 14, 2020			
<u>ZBA 20-012</u>	Heather and Paul Gowette 4203 Shoreview Lane (4715-33-110-243)	Variance: 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).	Tabled
<u>ZBA 20-015</u>	Donald & Lynn Pettijohn 3774 Lancaster Drive (4715-29-202-215)	Variance: 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.)	Approved, Permit issued
<u>ZBA 20-016</u>	Jeffrey and Heather Evans 4101 Shoreview Lane (4715-33-110-119)	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).	Approved, Permit issued
<u>ZBA 20-017</u>	James and Sarah Seta 11190 Algonquin Drive (4715-31-102-020)	Variance: 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).	Approved

Zoning Board of Appeals

<u>ZBA</u> <u>20-018</u>	Judith Majoros 2496 Baseview Blvd. (4715-31-304-037)	Variance: 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).	Approved
November 12, 2020			
<u>ZBA</u> <u>20-019</u>	Kim Simecek 11585 Old Hamburg Road (4715-36-300-062)	Variance: 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.)	Denied
<u>ZBA</u> <u>20-020</u>	Jeffrey Weiss Vacant on Baudine Rd. (4715-17-301-086)	Variance: 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.	Approved
December 9, 2020			
<u>No ZBA Hearing held - Meeting Cancelled - No Agenda</u>			

The table below illustrates the number of cases the ZBA has heard in previous years.

<u>2020</u>	<u>2019</u>	<u>2018</u>	<u>2017</u>	<u>2016</u>	<u>2015</u>
20	21	14	20	26	35

Planning & Zoning Department

Staff

Zoning Administrator (part-time): Amy Steffens

Zoning Coordinator (full-time): Brittany Stein

Code Enforcement Officer / Permit Tech. (part-time): Ted Michowski

Township Planner (part-time): Scott Pacheco

Summer Temporary: Erik Perdonik¹

1.) From March to July 2020 Erik was hired on to cover the zoning office while Brittany was out on maternity leave and to help in the zoning department.

Land Use Permits

Land use permits are issued by the Township Zoning Department to certify that a project or use meets the standards of the Zoning Ordinance. Land use permits are required for the following projects, including, but not limited to: the erection of a new building, accessory structure or the alteration of an existing structure (i.e.: house, garage, shed, deck, fence, interior remodel, patio, gazebo, porch, pool, generator, etc.), the excavation, alteration or filling of land, a new use or change in use of land or an existing building, home occupations, seasonal sales, and signs. The replacement of a door, window, siding, roof, and gutter work require a land use permit waiver.

When an applicant applies for a land use permit, the following process is followed:

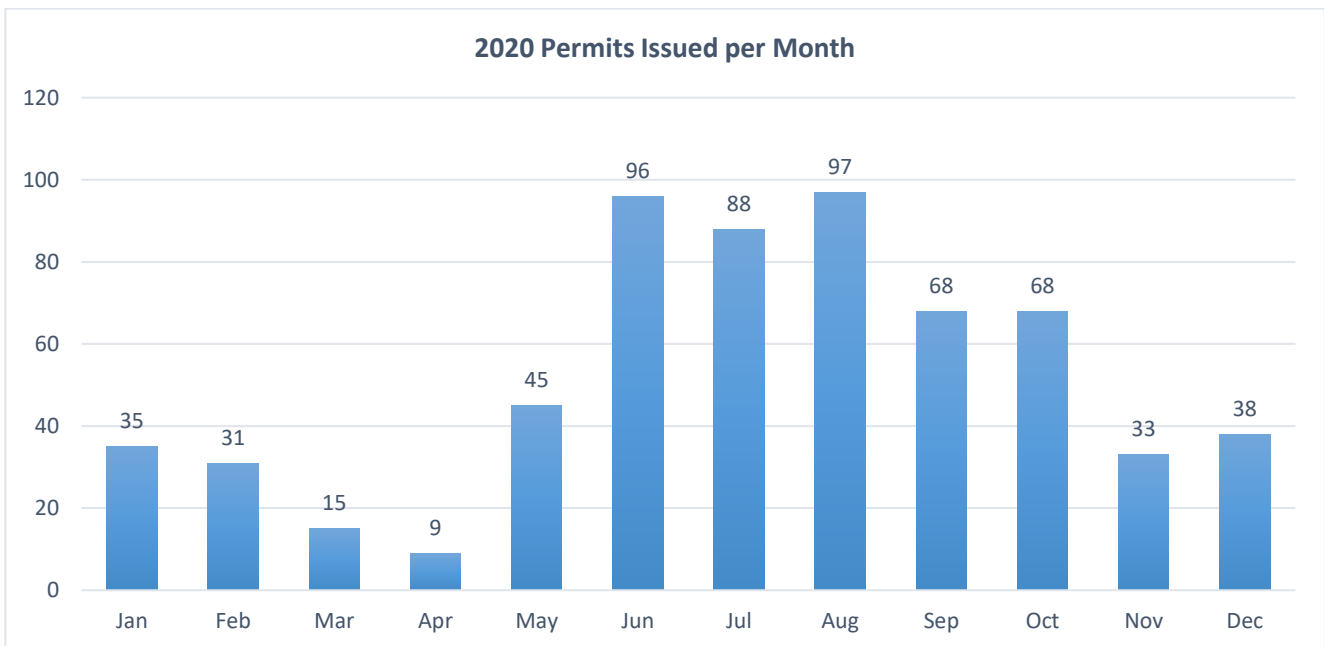
1. A completed land use permit application is submitted to the Planning and Zoning Department (either in person, or via email or mail), along with three copies of project construction plans and three copies of the site plan. The site plan must accurately show property boundaries, location of grinder pump, well, septic field, and all existing and proposed improvements. The site and project footprint must be staked prior to the submittal of the land use permit.
2. After the application is reviewed for completeness, zoning staff conduct a site inspection, if necessary depending on the project, to verify the information on the plans. (Repairs, such as siding, windows, and roofs, do not require an inspection prior to issuing the land use permit waiver).
3. The land use permit must be approved by the Assessing, Treasury, and Utilities Departments prior to the Zoning Department issuing the permit. Once the permit is approved and issued, the applicant is contacted to pay for and pick-up the approved plans and permit.
4. If required, the applicant files for permits from the Livingston County Building Department.
5. Upon project completion, the applicant must contact the Planning and Zoning Department for a final inspection. Staff will visit the site to verify that the project appears to be built to plan and that all final zoning compliance requirements, such as final grading, removal of construction debris, or drainage management, are complete. Once the inspection is complete, staff contacts the building department to inform them that the final zoning inspection has been approved.

2020 Land Use Permits

Hamburg Township issued 623 land use permits in 2020. The following table shows how many permits were issued per month by permit type.

Planning & Zoning Department

Category	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Issued
Accessory Dwelling Unit	-	-	-	-	-	-	-	-	-	-	-	-	0
Addition	3	-	2	-	1	6	2	4	3	-	1	1	23
Alteration, Interior Remodel	6	3	1	-	-	3	1	4	4	5	-	2	29
Bed and Breakfast	-	-	-	-	-	-	-	-	-	-	-	-	0
Change of Use	-	-	-	-	-	-	-	-	-	-	-	-	0
Commercial New Construction	-	-	-	-	-	-	-	-	-	-	-	-	0
Commercial Tenant Improvement	-	-	-	-	-	-	-	-	-	-	-	-	0
Deck	1	1	1	1	4	13	7	11	5	3	7	2	56
Demolition	-	-	-	-	-	-	1	3	-	2	-	-	6
Fence	-	-	-	3	4	9	1	9	3	4	1	3	37
Garage	-	-	1	-	1	7	1	3	1	2	-	-	16
Grading	-	-	-	-	-	-	-	2	-	-	-	1	3
Home	1	11	-	-	4	5	14	6	7	7	3	9	67
Home Occupation	-	-	-	-	-	-	-	-	-	2	-	-	2
Mechanical equipment	6	2	-	2	5	10	12	9	5	8	4	8	71
Mobile Home	1	-	-	-	-	-	-	-	-	-	-	-	1
Other	1	-	1	-	-	3	2	1	2	-	-	1	11
Patio	-	-	1	-	-	2	2	1	3	1	-	-	10
Pole Barn	-	-	1	-	-	-	1	1	1	-	-	-	4
Pool, above-ground	-	-	-	-	-	1	-	-	-	-	-	-	1
Pool, inground	-	-	1	-	1	2	1	-	-	-	-	1	6
Porch	-	-	-	-	1	1	2	1	1	-	-	-	6
Repair, Reroof, Windows	12	13	6	2	22	29	33	41	28	27	16	9	238
Seasonal Sales	-	-	-	-	-	-	-	-	-	-	-	-	0
Seawall	1	1	-	-	1	1	-	-	-	-	-	-	4
Shed	-	-	-	1	1	2	4	1	3	5	1	-	18
Sign	1	-	-	-	-	-	-	-	1	1	-	-	3
Solar Panels	1	-	-	-	-	1	3	-	1	1	-	-	7
Temporary Building or Use	-	-	-	-	-	1	1	-	-	-	-	1	3
Wireless Communication Facilities	1	-	-	-	-	-	-	-	-	-	-	-	1
TOTAL:	35	31	15	9	45	96	88	97	68	68	33	38	623



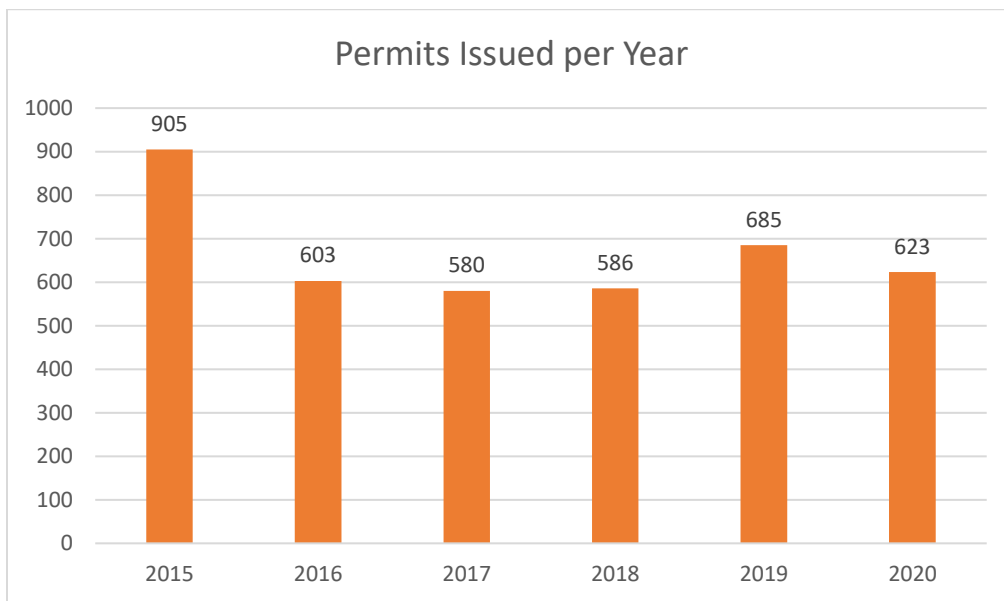
Land Use Permits Issued per Year:

2020

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
35	31	15	9	45	96	88	97	68	68	33	38	623

2019

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
23	20	38	55	88	63	72	81	71	89	46	39	685



From 2019 to 2020 there was a 10% decrease in the number of total land use permits issued (decrease in 62 permits). Each year repair permits account for the majority of permits issued, typically making up of around 40% of all permits issued. Due to the Covid-19 restrictions set in mid-March through early June there was drastic drop in construction and permits issued. When offices began reopening the permits came in heavier than past years through the summer months. 58 new home permits have been issued for Regency Village to date and 39 home permits have been closed out. Staff anticipates a slight decrease in the number of new home permits through 2021 as Regency Village is nearing completion. Staff expects the total number of land use permits issued through 2021 to remain steady between 600 and 700.

Code Enforcement

Ted Michowski, Code Enforcement Officer

2020 Code enforcement year-in-review & 2021 Goals:

The 2020 year was a little different for the process of Code Enforcement and Permit inspections. Just when I was starting to get my feet settled into my new position, the process and ways of doing things changed as they did for all members of the township. We all had to adjust to being close to one another to social distancing and wiping down everything we touched. Some moved from our normal work stations to different offices, buildings or rooms in their own homes. This was a stressful time for all. With that said it was a stressful time for the citizens of Hamburg Township. I made even more of an effort to be sympathetic in my dealings with code enforcement investigations. At times things were cleaned up quicker because more residents were home. Some at times took longer to resolve. Some residents were more upset with the complaints made against them by fellow neighbors. During these times I was more sympathetic to each resident’s issues. I also had to make adjustments to the issuing and inspections of land use permits. At times I was even delivering the permits to resident’s homes since I was already out driving around the township. Just as our residents did, we adjusted and continued to do our jobs the best we could.

2020 New Code Enforcement Complaints

In 2020, there were 134 new complaint cases that were submitted. Out of those complaints submitted, 111 were closed in 2020. There are a number of remaining open cases from 2020 and prior that are in various stages. Some are still in the clean-up process. Most are making positive improvements. Some of these cases have been going on for a number of years and are either in the beginning stage of court proceedings or currently involved in a court case.

<u>Type</u>	<u>Jan.</u>	<u>Feb.</u>	<u>Mar.</u>	<u>Apr.</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>Aug.</u>	<u>Sep.</u>	<u>Oct.</u>	<u>Nov.</u>	<u>Dec.</u>	<u>Total</u>
Accessory Structure													
Animals	2					1	2		1	2			8
Blight	4	3	7	2	6	11	10	6	3	2	4		58
Building no Permit		1		2	3	3	4	1	3	3	1		21
Business – not permitted									1				1
Grading – no permit					1	1			1				3
Commercial vehicles – not permitted						1					1		2
DEQ Permit required			1		1	1	1	2	1				7
Dumping													
Fence Violation									1			1	2
General Nuisance						2				1	2		5
Illegal Storage													
Illegal Temp. Structure									1	1			2
Illegal Yard Sale													
Lighting Violation	1												1
Other	1	1	2			1		1	1	1			8
Outside Storage													
Seawall Permit Req.								1					1
Sign Violation			1								1		2
Structure in ROW													
Tall Grass/Weeds									1				1
Temporary Structure													
Unlicensed Inoperable Vehicle	1						2	1	3		3	1	11
Unsafe Structure		1											1
Total	9	6	11	4	11	21	19	12	17	10	12	2	134

2020 Closed Code Enforcement Violations

2020 Closed Enforcements/Complaints													
Type	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sep.	Oct.	Nov.	Dec.	Total
Accessory Structure													
Animals	1	1					2			2		1	7
Blight	2	2	2		3	7	10	7	3	4	6	3	49
Building no Permit	2		1		1	2	6	1	1	1	1		16
Business – not permitted	1	1							1				3
Grading – no permit							1	1	1				3
Commercial vehicles – not permitted									1				1
DEQ Permit required			1				1	1			1	1	5
Dumping													
Fence Violation											1		1
General Nuisance							1			1	1	1	4
Illegal Storage													
Illegal Temp. Structure										1			1
Illegal Yard Sale													
Lighting Violation							1						1
Other	1		2		1		1	1					6
Outside Storage													
Seawall Permit Req.								1					1
Sign Violation			1										1
Structure in ROW													
Tall Grass/Weeds			1					1	1				3
Temporary Structure													
Unlicensed Inoperable Vehicle	1	2			1				2	1	2		9
Unsafe Structure													
Total	8	6	8		6	9	23	13	10	10	12	6	111

The position of Code Enforcement is much more labor intensive requiring multiple trips to the subject property, inspect/confirm, take photographs, meet with the property owners, meet with neighbors, post notices/send letters, if necessary prepare violations and lastly, when necessary, court appearance. The existing policy in Planning & Zoning is complaint based meaning I respond when a resident/passers-by feels aggrieved. There are complaint forms at the front desk or we take phone complaints and many are also received through emails. We also accept and investigate anonymous complaints. There are two exceptions to the complaint required code enforcement action: building without a permit and activity in the wetlands. I will investigate building without permits because unpermitted construction could constitute a danger to public safety and welfare, and is more expensive for the property owner to correct after-the-fact. Unpermitted activity in the wetlands not only could constitute a drainage or flooding hazard for adjacent properties but is also extremely expensive to remediate after-the-fact if the activity does constitute a violation of local and state laws.

Issuing violations are a last resort as residents are given a minimum of three warnings before a violation is written. Please note, that each progressive step necessitates a separate trip to the property to check on compliance. In my experience, thus far, residents eventually conform to the ordinance after a letter or meeting. Others will string you along until the final warning is issued. Some are closed quickly with an educational meeting related to the ordinance and why it is in place and the impact it has on one’s quality of life. Pursuing frequent violators is expensive if we must engage our township attorney to begin court proceedings. I work with the property owner to comply, which results in a more positive outcome for the owner and the township.

We must remember, that the complainant is also typically a township resident. Many times a resident/complainant does not like the lifestyle of their neighbor and wants to impose their life's standard on the neighbor. This is where diplomacy is important. Acknowledging the frustration of the complainant, while educating them about the ordinance and the limits of my enforcement arm. Some complaints simply are not enforceable.

A Code Enforcement Officer is a mediator. Think about how many times a typical resident has some sort of interaction with a township representative. Each of us can articulate in every detail about our last interaction with a police officer, fire marshal, zoning official, building inspector. They do not occur very often and should have a positive impact on the resident. For the complainant, it was important enough to take time out of their day to file a complaint, even though it may appear very petty at times. For the violator, you may be asking them to remove or dispose their personal property, rearrange their yard which may be conceived as violating their personal space.

Code Enforcement Process

- 1) Received Code Compliance Request Form via in person, written, phone or email.
- 2) Create a code enforcement file in BS&A where it is assigned a number. Visit the site, speak with homeowner, (if they answer the door), verify a code violation, and take pictures. Return to the office and write a warning letter, file scan letter and update BS&A file. Typically, a resident is given 14 days to rectify the violation.
- 3) Revisit site after the 14 days have passed. If the violation still exists, more pictures may be warranted, another attempt to speak with the resident, a second notice is prepared and mailed and the computer is updated.
- 4) Revisit site again to see if the violation still exists, more pictures may be warranted, another attempt to speak with the resident.
- 5) Revisit the site after the time has passed. If the conditions have not improved or worsened a third and final letter is prepared. This letter is sent as certified mail with return receipt or hand delivered. The letter clearly indicates this is the **final** warning.
- 6) After the time period has elapsed, a civil infraction violation is prepared as an E-ticket. If personal service cannot be made a copy is mailed first-class mail and an additional copy is posted on the property per the Civil Infraction Ordinance #71.
- 7) Once the court appearance date has passed and the property owner has not addressed the initial violation the ordinance does provide for another violation to be written. The second violation assesses the fine at twice the listed amount in the ordinance.
- 8) Prior to any court proceeding, another pass is made by the location in question where pictures are taken depicting the condition of the property.

(These are recommended steps. Each complaint is handled with the best interest of all individuals involved.)

2021 Goals

1. Continuing to familiarize myself with the Zoning Ordinances. The Zoning Ordinance is not something you can just read and remember. It actually requires a process of seeing, doing and learning. Each day I learn a little more with each permit or question that presents its self.
2. Assist each resident make every home or business a little better for each of their neighbors in Hamburg Township.

Land Divisions, Boundary Adjustments, and Combinations

In 2020, staff processed applications for 13 lot combinations, two (2) land divisions, and five (5) boundary adjustments. However, there are some applications that are still pending, either for incorrect legal descriptions, surveys required, or for delinquent taxes. There was an increase in the number of lot combinations processed due to the creation of a few special assessment districts for road maintenance. By combining platted lots of common ownership, this alleviates multiple assessments per property owner.

	<u>2020</u>	<u>2019</u>	<u>2018</u>	<u>2017</u>
<u>Lot Combinations</u>	13	31	8	21
<u>Land Divisions</u>	2	6	2	3
<u>Boundary Adjustments</u>	5	6	6	4

This is the process for applying for a land division, combination, or boundary adjustment:

1. An application for a division, combination, or adjustment is submitted to the Planning and Zoning Department.
2. Planning staff reviews the application to ensure that it complies with G.O. 95A and the Land Division Act (for land divisions).
3. Planning staff distributes the application materials to the Assessing, Utilities, Treasury, and Accounting Departments.
4. Once the departments have signed off on the application, planning staff gives the approved application to the Assessing Department for processing, which includes assignment of a property identification number and preparation of final paperwork.
5. The Assessing Department staff sends an approval letter and necessary paperwork to the applicant.

Floodplain Activity

The flood-inundation study and maps, prepared in cooperation with U.S. Army Corps of Engineers, Hamburg Township and Green Oak Township, have been released to Hamburg Township. According to the the USGS website “Digital flood-inundation maps for an 8-mile (mi) reach of the Huron River near Hamburg, Michigan (station number 04172000), from downstream of Rickett Road to Strawberry Lake, were created by the U.S. Geological Survey (USGS), in cooperation with Green Oak and Hamburg Townships, Michigan, and the U.S. Army Corps of Engineers. The flood-inundation maps also include a 1.16-mi reach of the Ore Lake Tributary until it joins the Huron River, approximately 2.22 mi downstream of Rickett Road. The flood-inundation maps, which can be accessed through the USGS Flood Inundation Mapping Science website at http://water.usgs.gov/osw/flood_inundation/, depict estimates of the areal extent and depth of flooding corresponding to selected water levels (stages) at the USGS streamgage on the Huron River near Hamburg, Michigan (station number 04172000). Near real-time stages at this streamgage may be obtained on the Internet from the USGS National Water Information System at <http://waterdata.usgs.gov/> or the National Weather Service (NWS) Advanced Hydrologic Prediction Service at <http://water.weather.gov/ahps/>. The NWS Advanced Hydrologic Prediction Service also provides forecasted flood hydrographs at this website.”

When property owners ask the township whether or not a property is in the floodplain, typically what they want to know is whether they will be required to purchase flood insurance. Flood insurance is required for structures in the floodplain that carry a federally back mortgage. However, for insurance requirements for these mortgages, FEMA cares only about the floodplain they have identified--the special flood hazard area (SFHA). FEMA defines the SFHA as that area that will be inundated by a flood event having a one percent chance of being equaled or exceeded in any given year; this area is commonly referred to as the 100-year flood or the base flood.

FEMA’s Flood Insurance Rate Maps (FIRM) and the Flood Insurance Study (FIS) identify the 100-year flood zones and the base flood elevations for the flood zones. FEMA defines the base flood elevation (BFE) as “the computed elevation to which floodwater is anticipated to rise during the base flood. Base Flood Elevations (BFEs) are shown on Flood Insurance Rate Maps (FIRMs) and on the flood profiles. The BFE is the regulatory requirement for the elevation or floodproofing of structures. The relationship between the BFE and a structure's elevation determines the flood insurance premium.”

FEMA adopted the SFHA maps, or the 100-year flood zone maps, for Hamburg Township in 2008; the 2008 maps replaced maps that were originally adopted in 1986. The township relies heavily on the FIRM and the FIS to determine the BFE and if further floodplain information is required by the property owner. The scale of FEMA’s maps is 1:1,000, making using the maps at the parcel level nearly impossible. When there is a question as to whether or not the structure or property is within the SFHA, staff asks for a topographical survey. A topographical survey shows the elevations of the existing structure, the lowest adjacent grades to the structure, the finished floor elevation, and most importantly, the limit of the BFE. If it clear from the FEMA map that the structure is located in the SFHA, we require that an elevation certificate be submitted. The elevation certificate is a FEMA document that is filled out by a surveyor or engineer and provides critical information about the structure’s location in or out of the floodplain.

Michigan Residential Building Code regulates floodplains based on elevations and not the SFHA and requires that a home in the floodplain be elevated at least one foot above the BFE; this elevation is called one-foot freeboard. The one-foot freeboard requirement applies to new construction as well as lateral additions to existing homes. (An accessory structure, because it has a different insurance rating than a home, has different elevation requirements.)

There is only one way to determine if a structure is truly in the floodplain based on elevations and that requires a topographical survey. Once the determination has been made that the structure is in the floodplain—whether by the mapped SFHA or by elevations—an elevation certificate is required at three points during the construction process:

prior to receiving a land use permit; when the foundation is installed and prior to vertical construction; and prior to final certificate of occupancy.

Hamburg Township property owners are able to purchase flood insurance policies because we participate in the National Flood Insurance Program (NFIP). The NFIP underwrites flood insurance coverage only in communities that adopt and enforce floodplain management regulations through an ordinance that meets or exceeds NFIP criteria. Because we participate in the NFIP, it is essential that the township enforce our floodplain ordinance for every property in the SFHA.

Our ordinance mirrors the Michigan building requirement that all substantial improvements of residential structures shall have the lowest floor elevated at least one foot above the BFE. FEMA defines a substantial improvement as any improvement of a structure, the cost of which exceed 50 percent of the market value of the structure prior to commencement of the improvement.

CRS Activity

The township voluntarily participates in NFIP's Community Rating System. CRS is an incentive program that recognizes and encourages community floodplain management activities that exceed the minimum NFIP requirements. Because of our participation in the CRS and because we undertake additional regulatory activities, such as the one-foot freeboard requirement, Hamburg Township property owners are able to purchase flood insurance at a discounted premium rate. Every part of our participation in the CRS program is administrative—residents do not know that we undertake these activities on their behalf to reduce their flood insurance premiums.

The township earns points for various administrative activities, such as sending floodplain informational letters to lenders, realtors, and insurers; sending informational letters to homeowners in the repetitive loss areas of the township; maintaining elevation certificates for every project in the SFHA; updating our flood maps; and ensuring that projects in the SFHA are properly permitted.

FEMA audits CRS communities on a five-year cycle. Hamburg Township was audited on April 9, 2019. In addition to the routine administrative tasks associated with being a CRS participant, staff spent upwards of 80 hours preparing for the audit and responding to the auditor's requests for additional information. After the auditor reviewed township's documents and activities, we were advised that we remain a Class 8 CRS community, which offers home owners a ten percent discount on flood insurance premiums.

EGLE Activity

In 2020, staff received notice of 29 permits issued by the Michigan Department of Environment, Great Lakes & Energy for projects such as seawalls, dredging of a waterbody, wetlands activity, and development in the floodplain. Township staff follows up on EGLE permits with a letter to the property owner that specifies what type of township land use permit is required.

Staff Training & Professional Activities

The planning department attended the following training and continues to be involved in the following professional activities:

Scott attended the trainings and participated in professional activities listed below:

- Webinars: A Planner's Response to the Pandemic: Virtual Community Engagement, April 23, 2020;
- Lunch Learn Link: Preparing for Post Emergency Development, April 28, 2020;
- Lunch Learn Link: Master Plans and Zoning Ordinances – What Can you Do Now to Get Ahead, May 5, 2020;
- Webinars: A Planner's Response to the Pandemic: Scenario Planning, May 14, 2020;
- Planning Law Seminar: Michigan Planning Enabling Act, Part 2, May 19, 2020;
- Annual American Planning Association virtual conference, April 29-30 & May 1, 2020 (registration not paid by township)
 - Ethics Cases of the Year: 2020;
 - What the Gig? Private Practice Today;
 - Webinars: A Planner's Response to the Pandemic: Economic Response and Recovery;
 - From the Trenches: Abolishing Parking Minimums;
 - Pathways to Prosperity: Differentiating Rural Assets;
 - Reaching Beyond Single-Family Zone Districts;
 - Attainable Housing Challenges: Rules and Engagement;
 - Opening Keynote: Rebuilding Community;
- Planetizan online trainings:
 - Incremental Code Reform: Enabling Better Places;
 - Form-Based Codes 101: Preparing a Form-Based Code;
 - Form-Based Codes 101: Introduction;
 - Form-Based Codes 101: Neighborhoods;
 - Form-Based Codes 101: Corridors;
 - Form-Based Codes 101: Learning How To Look
- MTA online trainings:
 - Emerging Issues in Planning and Zoning 2020 – Taking Your PC and ZBA meeting virtual;
 - Mining Operations and Short Term Rentals;
 - Introduction to Planning and Zoning for Renewable Energy;
 - Planning and Zoning for Utility Scale Solar Energy;

Amy attended the trainings and participated in professional activities listed below:

- March 2020: Michigan Stormwater and Floodplain Association Annual Conference, Ann Arbor (attending virtual meeting March, 2021)
- Annual American Planning Association virtual conference, April 29-30 & May 1, 2020 (registration not paid by township)

Brittany attended the trainings and participated in the professional activities listed below:

- February 25, 2020: Webinar – Smart Growth America “Parking Reform for 21st Century Communities”
- December 14, 2020: Webinar – Smart Growth America “Fiscal Benefits of Smart Growth”
- Remains a Notary Public

Upcoming 2021 Training Opportunities

- Michigan Stormwater and Floodplain Association Annual Conference, March 4, 2020; Virtual.
- American Planning Association, National Planning Conference, May 5-7, 2021; Virtual.

- Michigan Township Association Annual Conference and Expo, Virtual;
<https://www.michigantownships.org/conference.asp>.
- Michigan Association of Planning offers trainings on Planning and Zoning Essentials;
<https://www.planningmi.org/>
- MSU Extension offers a variety of trainings; <https://www.canr.msu.edu/planning/events>
- Livingston County Planning – Brown Bag Lunch (Lunch & Learn) Presentations
<https://www.livgov.com/plan/Pages/lunch-and-learn.aspx>
- Michigan Economic Development Corporation offers trainings for re-development ready communities;
<https://www.miplace.org/events/>

Zoning Text Amendments

ZONING TEXT AMENDMENTS 2020:

ZTA19-008 (Approved Feb 4, 2020) revised the attached accessory structure regulations in Article 8, Section 8.3.1 Accessory Buildings and Structures. The proposed revision clarified the regulations regarding attached accessory structures by eliminating patio as a structure that could be used to connect an accessory building to a principle structure and changing the required fence height around pools to between 4 and 6 feet.

ZTA 19-009 (Approved June 2, 2020) added regulations to allow collection bins in the NS, CS, VC, LI, GI zoning districts with restrictions; new regulations regarding the allowed location, size, number, materials, and signage of Donation/Collection Bins within Hamburg Township was added to Article 8, Section 8.30 Collection Bins.

ZTA 20-001 (Approved September 1, 2020) removed regulations in the zoning ordinance that restrict the minimum house size.

ZTA 20-002 (Discussed and tabled July 15, 2020) This item was to discuss the possibility of changes to the non-conforming regulations under section 11.3 Nonconforming Buildings and Structures specifically the regulations regarding additions over existing structures that encroach into the required setbacks. At the July 15, 2020 planning Commission meeting the regulations were discussed and it was determined that more direction from the Township Board should be requested prior to any possible changes to this section are made. (See Discussion on page 20 of this report below)

ZTA 20-003 (Approved November 5, 2020) revised the regulations under Article 8, Section 8.30 to allow attached Accessory Dwelling Units on properties in the WRF and NR zoning district if all regulations can be met.

ZTA 20-004 (Approved December 15, 2020) added definitions of riparian frontage and width to Article 2, clarified the regulations on docks in Article 8 Section 8.18 and added regulations in Article 9 Section 9.7 requiring that newly created lots or existing lots with newly created riparian frontage to have a minimum riparian width.

ZTA 20-005 (Skipped)

ZTA 20-006 (Approved January 5, 2021) amended Article 9 Section 9.6., Regulation of Floodplain Areas to revise the regulations for construction within the flood plain to better comply with the CRS requirements as required by the NFIP coordinators 2020 compliance review letter.

ZTA 20-007 (Approved January 5, 2021) amended Article 14 Planned Unit Development to revise the ECHO and CHOPUD regulations to provide clarification, to add regulations to all Mixed Planned Unit Developments, and to consolidate the Planned Unit Development standards.

ZMA 20-001 (Approved August 4, 2020 and Reapproved October 20, 2020) changed the zoning designation on the underlying zoning of the developable area within the Chilson Commons development from the Water Front Residential District (WFR) to Community Service District (CS).

Other projects done in 2020:

2020 HAMBURG TOWNSHIP MASTER PLAN (March 17, 2020 and August 18, 2020): On March 14, 2020 the Township Board approved the Draft Master Plan for distribution for comments and on August 18, 2020 the Township Board approved the 2020 Hamburg Township Master Plan.

ZONING TEXT AMENDMENTS 2021:

In 2021 Township Planning Commission and Zoning Staff will be looking to make more changes to the zoning regulations. The following are recommended Zoning Text Amendments for Staff to work on in 2021:

Alternative Energy Regulations:

Michigan has seen a recent growth of renewable energy partially due to Public Act 295 of 2008 and Public Act 342 of 2016. The 2008 Act required Michigan's energy providers to maintain at least 10% of their energy from renewable energy sources. The 2016 Act increases this requirement, mandating that an energy provider's portfolio be 12.5% renewable energy by 2019, with a later increase to 15% in 2021 and the goal is to have 35% of electric needs met through energy waste reduction and renewable energy by 2025. To meet these requirements, utility companies have undertaken a rapid expansion in developing Michigan's renewable energy sources, including wind and solar power. This expansion has increased the development pressures for these type of uses within local municipalities.

Currently the Township zoning regulations do not address solar or wind energy facilities. Zoning Department Staff has been addresses these type of use as follows; if the wind turbine or solar panels are uses to support the energy needs of the structures on a residential property and does not create more energy than needed for the structure on the subject site than these items are considered either accessory structure if they are not attached to another structure or as part of the structure if they are attached to a structure and can be approved with a Land Use Permit. If the wind turbines or solar arrays are created to provide more energy than needed on the subject property, they are considered a commercial uses and only allowed in industrial districts.

Solar or wind ordinances are comprehensive regulations of solar or wind energy within the Township, including what types of solar or wind energy systems are permitted, where they may be located, and what limitations apply to them. These ordinances are often written to address small and large wind and solar facilities differently. A well-drafted wind and solar ordinances protects the Township's interests while also ensuring that it does not run into exclusionary zoning issues.

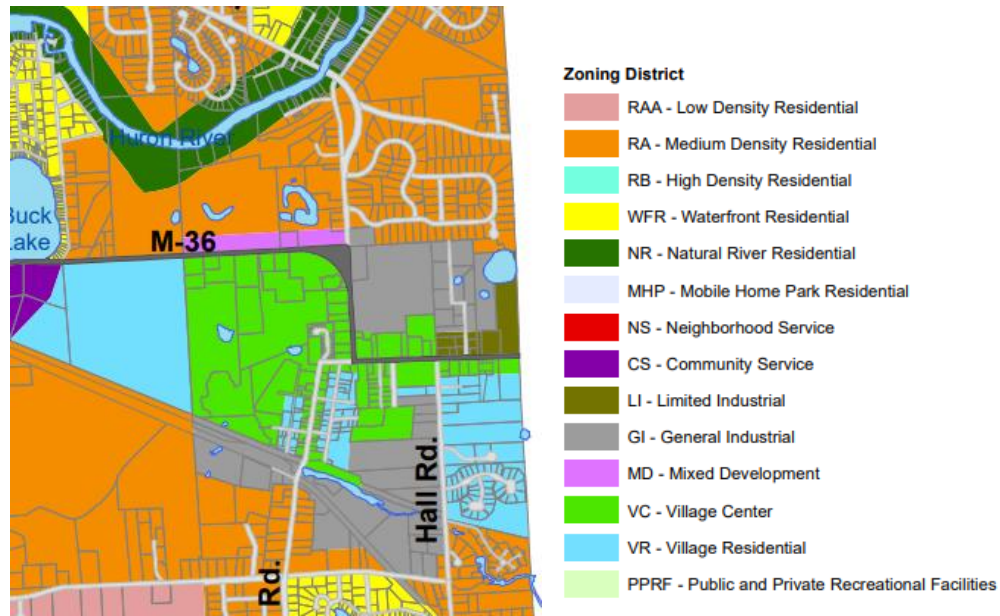
At the 2020 Joint Meeting the Township Board directed staff to move forward with researching these regulations. I have started the research on this item and will be presenting it to the Planning Commission in the coming months.

Village Center Area Zoning Districts and Regulations:

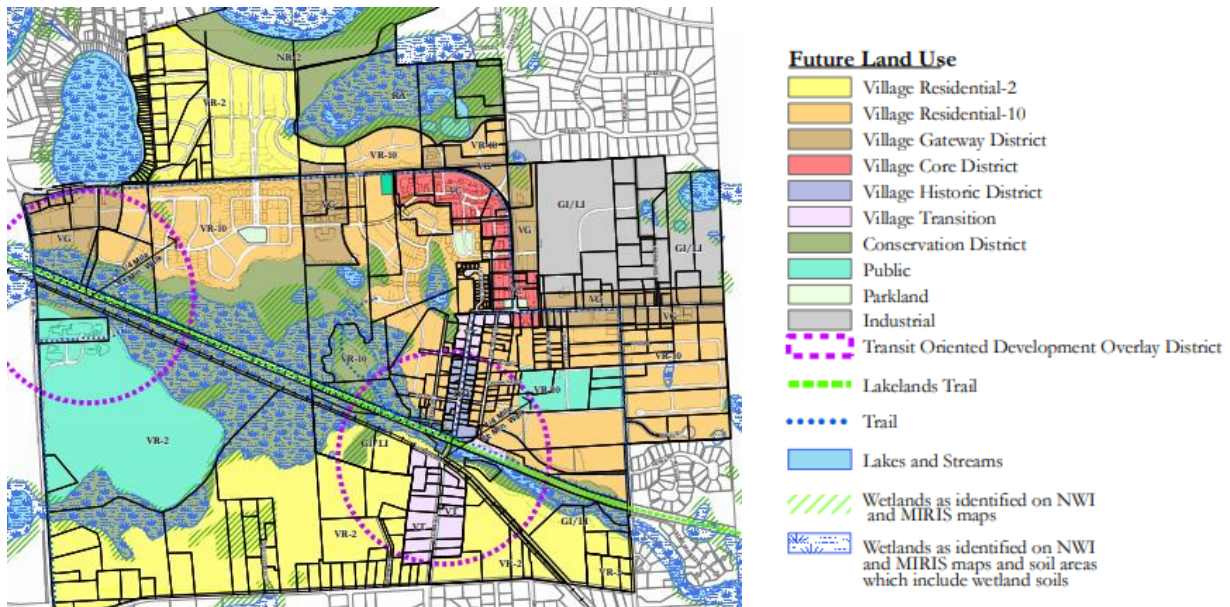
The Village Center Master Plan (VCMP) has been in place since 1995 and had a major upgrade in 2010. This plan was created to allow the area around the Old Hamburg Downtown to become a more vibrant village center. The Township should take a deep look at the recommendations in the Village Center Master Plan and create zoning regulations that will help to promote those regulations.

Some of the items that the Township should consider is creating new zoning districts and rezoning the properties within the Village Center Area to comply with the Village Center Future Land Use Designations. Below is the current zoning map followed by the Village Center Future Land Use Map.

Current Zoning Map:



Village Center Future Land Use Map and Future Zoning Districts



When the Village Center Master Plan (VCMP) was amended in 2010 the first priority in the Plan Implementation Schedule was to update the Zoning Ordinance. A lot of information in the VCMP was created as a guide for creating new zoning districts and regulations. The Current Zoning regulations and zoning districts within the village center area do not fully enact the VCMP. To enact the recommendation of the VCMP the following new Zoning District would need to be created each with their own use and dimensional regulations; Village Residential-2 (VR-2), Village Residential-10 (VR-10), Village Gateway (VG), Village Core (VC), Village Transition (VT), and Old Hamburg (OH). Possible uses, regulations and the intent of each of these districts is discussed within the VCMP. Staff would suggest that the Township utilize the recommendations and information within the VCMP to create the new zoning regulations for the Village Center Area.

Creating clear zoning regulations that are user friendly and allow for a mix in development types in the Village Center area will also allow the implementation of the following 2020 Hamburg Township Master Plan Goals and Objectives:

Goal: Preserve the natural and historic character of Hamburg Township by accommodating a reasonable amount of development, but ensuring the development is in harmony with the natural features and the unique environmental requirements of the Township.

- Direct future development to areas most suited for that type of development.
- Encourage residential clustering and allow for a wider variety of uses on land that is actively farmed, develop additional practical alternatives for farmers to reduce the necessity to convert prime farmland to other uses.
- Cluster and contain future commercial development around existing commercial areas in the Hamburg Village, Village Center, M-36/Chilson Road, Lakeland, Hamburg Road and Ore Lake Road, M-36/Pettysville Road areas to enhance and serve the residents of the surrounding neighborhoods and motorists on M-36.
- To retain industrial growth within the area of the Township where it will least conflict with surrounding land use.

Goal: Promote a mix of development types to manage sustainable growth.

- Provide an avenue to allow for a diversity in housing types to support the changing demographics, such as young professionals, empty nesters and the increasing elderly population.
- Encourage development in the Village Center area as indicated in the Village Center Master Plan.

Goal: Create a more visible identity for Hamburg Township and promote a sense of place within Hamburg Township.

- Encourage the development of the Village Center as indicated in the Village Center Master
- Prioritize the economic development along the M-36 commercial corridor and in the Village Center area.
- Promote revitalization of the commercial properties.

Revising the zoning regulations to execute the goals and objectives of the Village Center Master Plan was also included as an implementation measure in the 2020 Hamburg Township Master Plan.

Short Term Rental:

On June 5, 2020 the Michigan Supreme Court’s decisions on *Reaume v Township of Spring Lake* case held that short term rentals can be considered commercial uses depending on the Townships zoning regulations.

Since this court case many municipalities have been reviewing their zoning regulations to make sure they are consistent with the finding of the case. The *Reaume v Township of Spring Lake* case found that the Township of Spring Lake could restrict short term rentals from Residential Districts because the ordinance’s definition of dwelling excludes plaintiff’s property because the property is a motel, which the ordinance defines to include a “[b]uilding . . . containing sleeping . . . [u]nits which may or may not be independently accessible from the outside with garage or [p]arking [s]pace located on the [l]ot and . . . occupied by transient residents.” So because the definition of a motel in the Township of Spring Lake was worded as stated, the Michigan Supreme Court decision determined that a Short Term Rental use would be considered a Motel and therefore only allowed in district where motels are allowed.

The Michigan Supreme Court findings did not uphold the Michigan Appeals Court determination that the short term rentals were not allowed in residential areas because of the definition of Family and the inclusion of transient in that definition. The reasoning for this was the use of transient in the definition of family was found to be in regards to relationships and not for the use of the property. This decision set the precedent that short term rentals can be regulated as commercial uses and therefore may be restricted in residentially zoned districts.

Hamburg Township Current Regulations:

The Township currently regulates Short Term Rentals as commercial uses but only enforces these requirements if complaint are received.

Under the Townships current zoning regulations the Short Term Rental use is not allowed in the Residential Districts because the Definitions of Dwellings only allow occupancy by a Family and the Definition of a Family excluded “a group occupying a boarding house, lodging house, hotel, any society, club, fraternity, sorority, association, organization or similar dwelling for group use where the common living arrangement and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration.” Below are definitions for Dwellings and Family as stated in the Hamburg Township Zoning Ordinance:

*DWELLING: Any building, or part thereof, containing sleeping, kitchen, and bathroom facilities designed for and occupied by **one family**. In no case shall a travel trailer, motor home, automobile, tent or other portable building not defined as a recreational vehicle be considered a dwelling. In the case of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purposes of the Zoning Ordinance.*

DWELLING, ONE-FAMILY OR SINGLE-FAMILY: An independent, detached residential dwelling designed for and used or held ready for use by one (1) family only.

DWELLING, TWO-FAMILY OR DUPLEX: A detached building, designed exclusively for and occupied by two (2) families living independently of each other, with separate housekeeping, cooking, and bathroom facilities for each. Also known as a duplex dwelling.

DWELLING, MULTIPLE-FAMILY: A building designed for and occupied by three (3) or more families living independently, with separate housekeeping, cooking, and bathroom facilities for each. Multiple-family dwelling units may also be known as apartments.

DWELLING UNIT: One or more rooms, along with bathroom and kitchen facilities, designed as a self-contained unit for occupancy by one (1) family for living, cooking, and sleeping purposes.

DWELLING UNIT, SINGLE-FAMILY ATTACHED: A self-contained single-family dwelling unit attached to a similar single-family dwelling unit with party or common walls, designed as part of a series of three (3) or more dwelling units, each with: - a separate entryway with direct access to the outdoors at ground level; - a separate basement, if applicable;

FAMILY: means either of the following:

a. A domestic family: an individual, or two (2) or more persons related by blood, marriage, or adoption, together with not more than two (2) additional unrelated persons, occupying the premises and living as single non-profit housekeeping unit with single culinary facilities. The usual domestic servants residing in the premises shall be considered as a part of the family.

*b. The functional equivalent of the domestic family: a maximum of four (4) persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family with a demonstrable and recognizable bond which constitutes the functional equivalent of the bonds which render the domestic family a cohesive unit. All persons of the functional equivalent of the domestic family must be cooking and otherwise operating as a single housekeeping unit. **This definition excludes a group occupying a boarding house, lodging house, hotel, any society, club, fraternity, sorority, association, organization or similar dwelling for group use where the common living arrangement and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration.***

Although these regulations appear to be clear in the *Reaume v Township of Spring Lake* case the Michigan Supreme Court (MSC) did not uphold the Township of Spring Lake’s reasoning that a short term rental would not be allowed because of their definition of a “family” excluded “individuals whose relationship is of a transitory or seasonal nature.” The MSC believed that the phrase “transitory or seasonal” referred to the relationship of the individuals to each other, not to the period during which they might occupy a dwelling. This may also be the case for Hamburg Township’s definition of family.

However the MSC did make the findings that the Short Term Rental uses were not allowed in the residential districts in the Township of Spring Lake on the basis that the short-term rental of property fell within the Township’s definition of a “motel,” not a dwelling; because the definition of Motel in Spring Lake Township was a “[b]uilding . . . containing sleeping . . . [u]nits which may or may not be independently accessible from the outside with garage or [p]arking [s]pace located on the [l]ot and . . . occupied by transient residents.”

The main information provided in the Township of Spring Lake case is that Townships can regulate Short Term Rentals, as the current Township of Spring Lake regulations allow short term rental in residential district with restrictions.

Staff would suggest that Hamburg Township make the Township’s regulations on short term rentals (STRs) clear in the Zoning Ordinance. The regulations should clearly define STRs and in which districts STRs are allowed. If the Township determines that STR should be allowed in residential areas staff would suggest regulations on the number, location, and use of the units. If the Township wishes to go this route they should direct staff to review other municipal regulations regarding Short Term Rentals and create the best regulations for the Townships needs. If the Township determines the STR should only be allowed in commercial they should directing staff to create regulations that clearly define a STR and make them permitted use in the Neighborhood Service (NS) District or other commercial districts.

At a minimum if the Township wishes to keep enforcing the restrictions that STRs are not allowed in residential district when code enforcement complaints are submitted, the Township’s current regulations should at a minimum be revised to comply with the *Reaume v Township of Spring Lake* findings. If the Township does not want to add a definition of short term rentals to the ordinance and restrict where they can be located staff would suggest changing the definition of lodging house from “*LODGING HOUSE: A building where lodging only is provided for compensation to three (3) or more persons, as opposed to hotels open to transients*” to “*LODGING HOUSE: A building where lodging is provided for compensations on a limited of temporary duration to one or more persons, that is not considered a hotel*” and restricting lodging houses to the Neighborhood Service (NS) District. Or the Township could change the definition of Motel to comply with the Township of Spring Lake case from:

MOTEL: A combination or group of two (2) or more detached, semi-detached, or connected permanent buildings occupying a building site integrally owned, and used as a unit to furnish living accommodations for transients only and providing for accessory off-street parking facilities. The term "motel" includes buildings designated as tourist courts, motor courts, motels and similar appellations which are designed as integrated units of individual rooms, or cabins under common ownership.

to

MOTEL: A Building or group of Buildings on the same Lot, whether Detached or in connected rows, containing sleeping or Dwelling Units which may or may not be independently accessible from the outside with garage or Parking Space located on the Lot and designed for, or occupied by transient residents. The term shall include any Building or Building groups designated as a Hotel, motor lodge, transient cabins, cabanas, or by any other title intended to identify them as providing lodging, with or without meals, for compensation on a transient basis.

Motels in Hamburg Township are an allowed permitted use in the Community Service District.

ECHOPUD regulations:

At the November 18, 2020 Planning Commission public hearing regarding the amendment to the PUD regulations (ZTA20-007) initiated by the applicant for the Murie Glen project, the Planning Commissioners suggested that staff should review the ECHOPUD regulations to ensure that a single property could not be subdivided into multiple lots in an attempt to propose multiple ECHO village projects on the divided properties. (Example under the current regulations a 9.2 acres site in the RA zoning district could be divided into two 4.6 acres sites and a developer could propose two ECHOPUD projects one on each of the new parcels. Each of the projects with 20 ECHO units for a total of 40 ECHO units on the two sites.) The ECHOPUD regulations in section 14.2 require that an ECHO village size be restricted to between 4 and 20 ECHO units; however there is nothing in the regulations that would restrict the scenario in the example where two ECHO villages are built next to each other. The intent of regulating the number of ECHO units in a project is to allow a variety of housing types and use throughout the Township. A large number of ECHO units in a single project could create a community that is not diverse in the type of building created and demographics. An Extreme Example would be something like the Villages in Florida, which has approximately 46,000 units all restricted to 55 plus.

To restrict the number of ECHOPUD projects (ECHO villages) in a specific area of the Township, the Township may wish to add zoning regulations to section 14.2 that restrict the proximity of an ECHO Village from another ECHO Village in the community. Regulations could be added that require a specific distance between ECHO Villages or a regulation could be added that during the Planning Commission review of an ECHO Village project the Planning Commission should consider the proximity of other ECHO Villages or ECHO units and determine if the additional ECHO units would be appropriate for the area or the Township as a whole.

Table of Permitted Uses:

A table of permitted uses allows a more user friendly interface for the public to determine the allowed permitted and special uses within the existing zoning districts. This table would consolidate the regulations in Sections 4.5 (A – Q) into a more user friendly table format. This change would not change any of the existing permitted and special uses allowed by the regulations instead it would reorganize these uses into an easy to read table. An example of a portion of a Table of Permitted use is provided below:

Permitted Uses

A. Schedule of Permitted Uses

Provisions for the MH-1 Manufactured Housing district can be found in [Section 3.11](#).

Residential Uses														
Use	R-1	R-2	R-3	PF	DT	T-1	T-2	PED	I-1	I-2	MI	RC	Use Standards	
Accessory Dwelling Unit (ADU) Attached		P	P										Section 4.01	
Accessory Dwelling Unit (ADU) Detached	P	P	P										Section 4.01	
Agricultural Uses	P													
Economy Efficient Dwelling (EED)			P										Section 4.07	
Home Occupation	P	P	P										Section 4.09	
Multi-Family Dwelling			P		P	P	P						Section 4.14	
Senior Housing, Assisted Living	S	S	S		P	P	P		P		P		Section 4.18	
Senior Housing, Independent	S	S	S		P	P	P		S	S	S			
Single-Family Dwelling	P	P	P											
State Licensed Child Care Center	S	S	S	S	S	S	S					S	Section 4.20	
State Licensed Day Care	S	S	S	S	S	S	S					S	Section 4.21	
State Licensed Residential Facility	P	P	P									S	Section 4.22	
Townhome			P		P	P	P							
Two-Family Dwelling (Duplex)		P	P											
Public/Institutional/Recreational														
Use	R-1	R-2	R-3	PF	DT	T-1	T-2	PED	I-1	I-2	MI	RC		
Essential services	P	P	P	P	P	P	P	P	P	P	P	P		
Fitness Center/Health Club					P	P	P							
Golf Course/Country Club	S											S		
Government building	S	S	S	P	P	S	S	P				P	P	
Helipad												P		
Hospital						S	S					P		
Outdoor Recreation, Private	S	S	S					P					P	

Floodplain Regulations:

Hamburg Township property owners are able to purchase flood insurance policies because we participate in the National Flood Insurance Program (NFIP). The NFIP underwrites flood insurance coverage only in communities that adopt and enforce floodplain management regulations through an ordinance that meets or exceeds NFIP criteria. Because we participate in the NFIP, it is essential that the township enforce our floodplain ordinance for every property in the SFHA.

Additionally, the township voluntarily participates in NFIP’s Community Rating System. CRS is an incentive program that recognizes and encourages community floodplain management activities that exceed the minimum NFIP requirements. Because of our participation in the CRS and because we undertake additional regulatory activities, such as the one-foot freeboard requirement, Hamburg Township property owners are able to purchase flood insurance at a discounted premium rate. Every part of our participation in the CRS program is administrative—residents do not know that we undertake these activities on their behalf to reduce their flood insurance premiums.

The township earns points for various administrative activities, such as sending floodplain informational letters to lenders, realtors, and insurers; maintaining elevation certificates for every project in the SFHA; updating our flood maps; and ensuring that projects in the SFHA are properly permitted.

FEMA audits CRS communities on a five-year cycle. Hamburg Township was audited on April 9, 2019. After the auditor reviewed township's documents and activities, we were advised that we remain a Class 8 CRS community, which offers home owners a ten percent discount on flood insurance premiums.

However in June of 2020 the township was once again advised by the CRS that in order to remain a Class 8 Community a pre-requisite is to adopt a one-foot freeboard requirement, including for equipment or mechanical items, for all residential buildings constructed, substantially improved, and/or reconstructed due to substantial damage throughout the floodplain area.

In January of 2021 the Township approved ZTA20-007 to revise the floodplain regulations to comply with the requirements of the CRS program to remain a Class 8 Community.

During the 2020 review of the floodplain regulations it was discussed that the Township may wish to make some changes to these regulations that would better protect property owners that choose to build within a floodplain. These changes could also raise the participation class level of the Township in the CRS program from a Class 8 to a Class 7. This change could potentially save the citizen with flood insurance an add 5% off of their premiums.

The benefits of revisions to the floodplain regulations are that future development within the area of the Township in the regulated floodplain would be safer and less likely to be significantly damaged by future floods; however, the drawbacks to the revisions would be to the increased costs of construction within these floodplain areas.

Some of the suggested changes to discuss would be to increase the required freeboard from 1 foot to 2 foot. Freeboard is the elevation of a building's lowest floor to a height above the minimum base flood elevation (BFE) during the initial construction process. The Township code section 9.6.4 (B) current requires:

“Residential structures: new construction, substantial improvements, and/or reconstruction due to substantial damage shall have the lowest floor, including basement, elevated at least one (1) foot above the base flood elevation.” and “All new construction and substantial improvements of nonresidential structures shall

have either: a. The lowest floor, including basement, elevated at least one (1) foot above the base flood elevation” or “b. Be constructed such that below base flood elevation, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subparagraph are satisfied, and that the flood-proofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood in the location of the structure.”

If these regulations were increase from 1 foot above the base flood elevation to 2 feet above the base flood elevation it would make future construction less likely to be damage by floods moving forward.

The floodplain regulations are only administered if a project is within the one percent floodplain, commonly known as the 100-year floodplain. This regulation could be expanded to be required also in the 0.2 percent floodplain, commonly known as the 500 year floodplain. This would increase the number of properties that would be required to meet the more stringent building requirements.

The code references substantial improvements multiple times under the flood plain regulations. Substantial Improvements are defined as any reconstruction, rehabilitation, addition or other improvement to a structure, the total cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This requirement can be circumvented by creating and completing multiple project all of which are under 50 percent of the market value of the structure. For example you can remodel the kitchen in one project and once that project is done and the permit is closed you can than pull a permit to remodel the master bedroom and bathrooms. Both these projects alone do not add up to 50 percent of the market value of the structure and therefore you do not need to upgrade the property to be compliance with the floodplain regulations, even

though you have now upgraded the structure that has the potential to be damaged by a flood. However if these projects were in a single permit and the costs were added together they would be over the 50 percent of the market value of the house and the property owner would have needed to make the existing structure comply with the floodplain regulations making the improved structure safer from future floods.

One way to stop this circumvention of the regulations is to create regulations that require project or permits within a specific time frame to be counted as a single project, this type of regulations better is known as a cumulative regulations.

MINOR ZONING TEXT AMENDMENTS AND CODE CLARIFICATIONS

The following is a list of minor modification and changes that have been requested by the Township Planning and Zoning Staff. These changes are suggested to clarify the zoning regulations to allow easier use of the code. Most of the proposed minor revisions are items that have been brought to the department's attention through the use of the code in 2020 when issuing building permit or answering zoning questions. These minor amendments can all be included in a single Zoning Text Amendment.

Non-Contiguous Wind Breaks:

Section 8.18.1 allows decks, terraces and patios to project into a required yard with regulations and also allows these structure to include non-contiguous windbreaks, visual screens, or walls not exceeding eight (8) feet in height in a rear yard, or four (4) feet in height in a front or side yard, and not enclosing more than one-half the perimeter of said deck, terrace, patio, or similar structure.

8.18.1. Decks, Terraces and patios may project into a required yard provided that such structures are:

D. That such structures may have non-contiguous windbreaks, visual screens, or walls not exceeding eight (8) feet in height in a rear yard, or four (4) feet in height in a front or side yard, and not enclosing more than one-half the perimeter of said deck, terrace, patio, or similar structure.

The wording is confusing and staff believe that non-contiguous windbreaks, visual screens or walls are all considered under the fence regulations. Staff believe this section 8.18.1 (D) could be eliminated and instead the fence regulations would need to be met for a windbreak, screen or wall around a deck, terrace or patio.

Horses and Chickens on Vacant Sites:

Section 7.7.1 (B) and (C) allows for the raising and keeping of Horses and Poultry with regulations in single family zoning districts (CE, RAA, RA, WRF, NR). This section currently does not restrict the raising and keeping of horses or poultry on vacant sites.

Staff has received some complaint about the keeping of chickens on vacant sites. The problems with allowing someone to raise or keep horses or poultry on a vacant site is that the property owner is not around to manage the horses or birds if there is a problem and there for all of the impacts may be on the adjacent property owners. The intent of section 7.7.1 (B) and(C) was to allow residents to have a small number of horses or chicken at their property for personal enjoyment and to allow small urban farming.

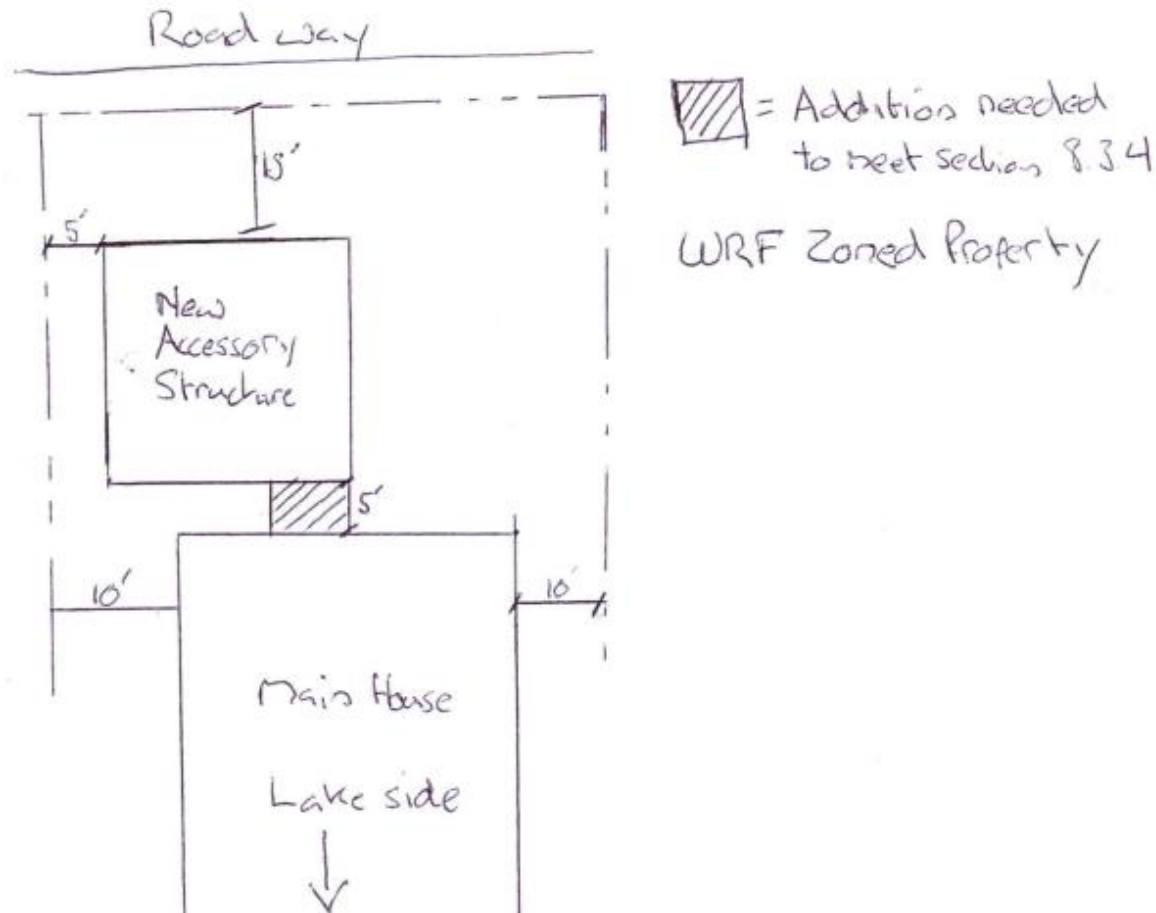
Staff would suggest that a regulation be added to these sections that restrict the keeping and raising horse or poultry as an ancillary use to the single family residential use of a property.

Definition of Attached:

Staff has some concerns regarding the regulations requiring a 10 foot separation between structures (Section 8.3.) and an allowing attached accessory structure to be allowed meet the same height requirements of the main house (35 feet) and restricting detached accessory structure to 14 feet or 17 feet depending on the roof pitch (Section 8.3.8).

Applicants have wanted to build a detached garage or shed that was less than 10 feet from the main structure. Staff has informed them a variance would be require from the 10 foot separation requirement. Because their lot is too small to accommodate the 10 foot separation they then have come back with a small room or roof between the proposed detached structure and the main structure so that they are considered attached instead of detached.

(Example 1)

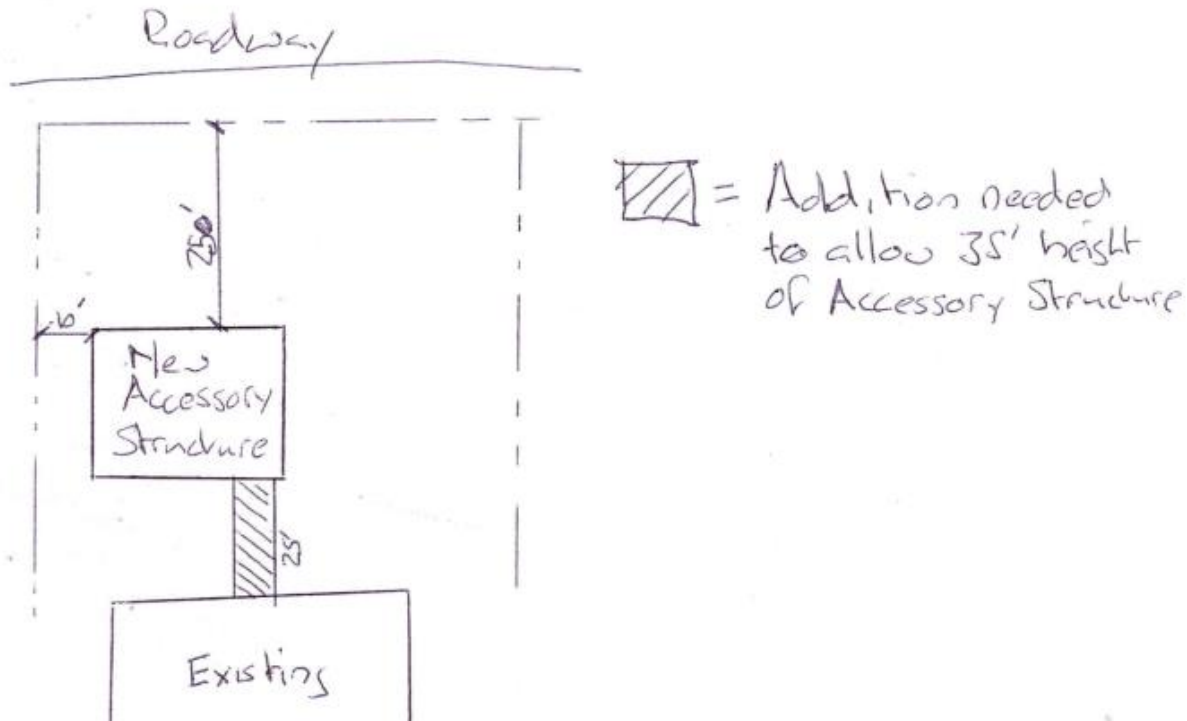


My question under this example is what is the benefit of requiring the 10 foot separation between structures if all other setback requirements are met? I have heard that this 10 foot separation may be to allow fire access between the two structures, but if a small addition is created as shown in Example 1, the fire access is still blocked. Also there is still fire access around the side yard setback of the structures either way. Staff believe that the Township should consider removing the 10 foot separation between structures as long as the structure meets the setback regulations.

In other cases an applicant will want an accessory structure to be higher than the maximum height allowed under section 8.3.8 to accommodate RV parking or other large storage needs. Staff will have informed them of the height regulations for detached accessory structure and that they would need a variance to allow the greater heights, which is unlikely to be granted due to the fact that no particular difficulty or undue hardship is occurring that would allow a single property to have a taller accessory structure than all other properties within the Township are allowed to have. So because the applicant still wants a storage area for their RV they come back with an

addition that attaches the accessory structure to the house and they then can build it to the 35 foot height requirements.

(Example 2)



I believe the intent of the reduced height regulations on detached accessory structure is to decrease the impacts of the accessory structure on the adjacent properties due to the reduced 5' side and rear setbacks allowed for detached accessory structures under section 8.3.2 and 8.3.3. However, if the accessory structure meets all the setback regulations for the main structure what is the benefit of the reduced height regulations if a main structure built in the same location can have a taller height? Staff believes the regulations could be revised to allow Detached Accessory Structures that meet the setback regulations for main structure in the zoning district to have the same height restrictions as the main structure.

Accessory Structures on Rear Lots:

The Township Planning and Zoning Departments would suggest that the regulations under section 8.3.10 be eliminated from the zoning ordinance. It is current township practice to require that these rear lots be combined with the front (lake side property) in order to allow construction of an accessory building. The reason that combining these lots is more beneficial to the Township is that the lots are easier to track moving forward. If a lot is developed under section 8.3.10 with an 800 sq. ft. garage, the township needs to make sure this lot is not sold as a separate site in the future. The Assessor Office does not inform the Planning and Zoning Department every time a lot is sold within the Township. Also during the housing bubble in the mid 2000 banks foreclosed on some homes within the Township, if a home was taken by a bank and the mortgage was only on the lake front parcel, the bank did not take the rear property. This left some rear properties with garages under independent ownership, creating non-conforming situation. If the Township requires that the lots be combined the two lots cannot be sold separately in the future, without township approval of a lot split.

~~8.3.10. Accessory Buildings, Structures and Uses in Waterfront Districts. In the Waterfront Residential District (WFR) and the Natural River Residential District (NR), accessory garage structure(s) may be placed on a separate lot of record than the principal structure if the following provisions are met and a permit has been issued by the Zoning Administrator:~~

~~A. The lot upon which the principal building is located must be a waterfront or riparian lot.~~

~~B. The garage can only be constructed on a non-waterfront lot.~~

~~C. The accessory structure(s) can be used only for a garage or storage facility. Garages or storage facilities may not exceed a combined total of 800 square feet of ground floor area. One shed may be permitted in addition to the 800 square feet of accessory buildings.~~

~~D. There shall be common ownership between the principal building or residence and lot being used for the garage.~~

~~E. The lot upon which the principal building is located must not be more than 66 feet from the lot being used for the garage.~~

~~F. The accessory structure(s) shall maintain all required front, side, rear yard setbacks and lot coverage regulations associated with a principal structure as specified in Section 7.6.1. Height shall conform with Section 8.3.8.~~

Minimum house size:

In September of 2020 Hamburg Township approved ZTA 20-001 that removed the requirements for minimum house sizes in residential zoning districts throughout the Township. The regulations in section 7.3.2 (E) below references the minimum house size regulations that have been removed and staff believes that item (E) should also be eliminated.

7.3.2. No building shall hereafter be erected or altered except by appeal as herein described by this Ordinance, to:

~~*E. Provide less living space per dwelling unit than is specified for the district in which such building is located.*~~

Cutting and Filling on Flood Plains:

Section 7.5.1 (G) F.1 prohibits the cutting and filling for buildings within a floodplain and requires a permit for dredging and fillings of fish and wildlife ponds within 500 feet of a river. The Public Act 346 of 1972 has been updated to reduce the need to change the zoning regulations when the state changes its laws a more generic reference to a state permit requirement is proposed for this section.

F. Land Alteration.

1. Cutting and Filling. Cutting or filling for building (including appurtenances) on the flood plain is prohibited. Cutting and filling for building on the upland shall meet all state, county and township regulations. ~~Permits are required from the State of Michigan for Dredging and filling for the construction of fish or wildlife ponds within 500 feet of the river~~ requires a permit under Public Act 346 of 1972, as amended. However, no lake shall be constructed within the Natural River District.

Alternative Front Yard Setbacks:

Township Planning and Zoning Staff have never utilized this alternative front yard setback regulations in Section 7.6.1 Footnote 3. The regulation regarding the alternative minimum front yard setback is confusing and should be eliminated. The corner lots requirements are frequently referenced and should remain.

Section 7.6.1 Footnote 3. ~~Minimum front yard setbacks are required as shown except where established buildings on adjacent lots vary from this minimum. In such case, a new building shall be constructed with a front yard of no less depth than the average front yards of buildings located on each side of the proposed building. In no case shall this provision be interpreted to allow a front yard of more than forty (40) feet or less than twenty (20) feet.~~ On corner lots, both street yards shall provide the minimum front yard setback. The size of corner lots shall be large enough to accommodate both front yard setbacks and a building of a similar size to those on non-corner lots.

Reduced Setback from a waterbody:

Under section 7.6.1 Footnote 4 there is a provision that allows a reduction in the required waterbody setback in the Natural River District. Because of the definition of a bank in the Zoning Ordinance staff would suggest changing the term Bank Height to Elevation to clarify this regulation.

Section 7.6.1 Footnote 4. In any District, a principal building, all attached structures, fences, and accessory structures shall not be permitted within fifty (50) feet of the ordinary high water mark of any body of water unless otherwise stated as in Section 8.3.11 Accessory Structures. In the Natural River Residential (NR) zoning district in addition to required front, side, and rear yard setbacks, all new buildings and structures shall be required to be setback a minimum of 125 feet from the ordinary high water mark, or if the ordinary high water mark cannot be determined, the setback shall be from the river's edge. The 125 foot setback may be decreased ten (10) feet for every ten (10) foot rise in ~~elevation bank height~~ to a minimum of seventy-five (75) feet from the ordinary high water mark.

Wetland Regulations:

Currently Section 3.6 Wetland Determination and Section 9.10 Wetland Determination are duplicated regulations. Staff suggest the removal of the duplicated regulations from 3.6 and leaving the regulations in section 9.10 with some slight revisions.

Also currently the zoning regulations do not allow construction within the Wetland or Water Way setbacks (Section 9.9) or within a regulated or now regulated wetland. However, the State of Michigan (EGLE) issues permits for construction within a wetland for items such as sea walls, boardwalks, and grading. Staff suggest adding a note to section 9.9 that exempts structure and other constructions within the wetland or wetland boundary for items with State of Michigan (EGLE) approval.

9.9.3 Setback Standards

A. The point of measurement in establishing the natural features setback shall be from the delineated boundary of the natural feature. The delineated boundary shall be determined by a qualified individual such as an environmental scientist. The applicant or the applicant's agent shall supply a written description of the natural feature (s) and the name, address, telephone number, a resume and list of experience of the applicant's agent, firm or individual preparing the determination. If required an NFIS is required, this information may be included with the report and will be subject to review and approval of the ZA.

*B. Unless otherwise determined by the body undertaking the plan review, the following setbacks shall apply to any new development excluding the following: open space developments; developments within the Village Center (VC), Village Residential (VR), Neighborhood Service (NS), Community Service (CS), Limited Industrial (LI), ~~and~~ General Industrial (GI) districts **or developments in any zoning district with State of Michigan approvals**. All terms related to natural features setback standards are defined in Article 2.00. The Zoning Administrator or body undertaking plan review may reduce or eliminate the following setbacks upon review of a request which details the future protection of the natural feature(s) and or mitigation of the natural feature(s).*

- 1. A 50-foot setback from the boundary or edge of any regulated wetland. Wetland boundary as determined by the applicant consistent with Section 9.10 Wetland Determination.*
- 2. A 50-foot setback from any watercourse, including but not limited to, streams and creeks, excluding rivers and lakes. The setback shall be measured from an established high water mark.*
- 3. A 50-foot setback from the outlet of areas constructed to receive, control and filter stormwater run-off prior to entering any fragile ecosystem (i.e. wetlands, lakes, streams) Defined as a stormwater first flush or sediment forebay area in the Township Stormwater Ordinance. The setback shall be measured from the edge of the forebay.*

Section 9.10 Wetland Determination

9.10.1 Filing Procedure/Wetlands Determination. Any person desiring a land use permit for any activity requiring a Township permit or land use review such as: constructing a building, filing a tentative preliminary plat, submitting a site plan, a planned unit development, condominium or site condominium, a special use permit or requesting a lot split shall apply to the Zoning Administrator for a preliminary wetland determination.

9.10.2 Preliminary Wetland Determination. If the Zoning Administrator or the Planning Commission determines, after reviewing available wetland maps, the USDA Soil Survey maps, and other related information, that the proposed activity may encroach into a MDNR regulated wetland as defined, then a final wetland determination shall be conducted by the applicant prior to further processing of the land use permit application. If the Zoning Administrator or the Planning Commission determines that a site is buildable that there is no potential for the activity to impact a ~~MDNR State of Michigan~~ regulated wetland, and finds all other applicable Township requirements satisfied, the Zoning Administrator can issue a land use permit without submittal of a final wetland determination.

9.10.3 Final Wetland Determination. If the Zoning Administrator or the Planning Commission determines the proposed activity may encroach into a ~~MDNR State of Michigan~~ regulated wetland area, the applicant shall arrange to have a final wetland determination completed by an experienced wetland consultant before the land use permit can be processed. The study shall be prepared by an experienced consultant in the delineation and composition of wetlands. This does not preempt any responsibility of the applicant to also apply to ~~MDNR State of Michigan~~ for the required wetland permits.

A. Required Information (Final Wetland Determination). The applicant or his/her agent shall supply the following information for a final wetland determination. The wetland boundary shall be flagged on-site at an interval of not more than twenty five (25) feet to permit on-site inspection and verification by Township officials.

- 1. The name, address and telephone number of the applicant.*
- 2. The name, address, telephone number, a resume and list of experience of the applicant's agent, firm or individual preparing the wetland determination*
- 3. The owner of the property if different from the applicant, and the applicant's interest in the property.*
- 4. A legal description of the property, including the total area, exclusive of public road right-of-way, accurate to the nearest hundredths of an acre.*
- 5. Written and graphic descriptions of the proposed activity.*

6. *An accurate graphic description of the wetlands complete with all of the following. The Zoning Administrator or the Planning Commission may reduce the requirements for minor projects at his/her discretion.*

- *A written summary of how and when the wetland was delineated;*
- *Major plant species and animal breeding habitat that are present and an estimation of how the wetland functions or relates to its general environment;*
- *The presence of any hills or springs;*
- *An accurate measurement of the wetland area in acres and square feet, to the nearest hundredth of an acre; and,*
- *Any proposed remedial or mitigating actions to be completed as part of the activity proposed in the land use request.*

B. Submittal Review Process. Upon receipt of the final wetland determination, the Zoning Administrator or the Planning Commission shall review the proposed activity to determine if it encroaches into a regulated wetland. The Zoning Administrator or the Planning Commission may refer final wetland determinations to an environmental consultant for review and comment, as described in Section 3.7. If the proposed activity is determined to encroach into a State regulated wetland, the applicant shall be required to produce written evidence of compliance with ~~applicable the Goemere Anderson Wetland Protection Act, P.A. 203 of 1979 or any other~~ applicable State and/or Federal regulation, in the form of a permit or a letter of non-jurisdiction from the State. The applicant shall provide the Zoning Administrator with a copy of any application to the State for a wetland use permit, at the time that the application is filed with the State. The Zoning Administrator shall forward a copy of the State wetland use permit application to an environmental consultant review under the provisions of section 3.7.2.

Historic Buildings in the VC and VR district:

Section 7.7.9.1 (E) of the code includes a provision to preserve the appearance buildings over 50 years old that have a historic, architectural and cultural importance in the Village Center and Village Residential Zoning Districts. The requirements of this section are already addressed in the Special Use Permit and Site Plan Review Standards under Article 4 and Section 3.5 of the zoning ordinance. The special use permit standards require that project be harmonious with the regulations of the Master Plan, Surrounding Area and Adjacent Improvement. The Site Plan review standard have strict design standards for commercial, office, industrial and multifamily development including *“development shall utilize quality architecture to ensure that buildings are compatible with surrounding uses, protect the investment of adjacent landowners, blend harmoniously into the streetscape and meet the objectives the Township Master Plan. New buildings, additions and renovations shall be designed to preserve or complement the design character of existing development, provide visual harmony between old and new buildings, and create a positive image for the Township's various commercial shopping nodes.” “Buildings within the area designated on the Master Plan and Village Center Master Plan as the "Hamburg Village" shall be compatible with the historic character of the unincorporated place commonly referred to as the "Old Hamburg Village.” “Building materials and colors shall relate well and be harmonious with the surrounding area. Roof shape and materials shall be architecturally compatible with adjacent buildings and enhance the predominant streetscape.” “Buildings shall possess architectural variety, but enhance the overall cohesive community character.”*

The first paragraph of section 7.7.91 (E) is applicable to project that require site plan review or a special use permit in the Village Center or Village Residential Zoning districts:

On sites which contain commercial structures over fifty (50) years old, no exterior portion of any commercial building or structure (including walls, fences, light fixtures, steps, pavement, or other appurtenant features), or above ground utility structures shall be erected, altered, restored, moved or demolished without the review of the Planning Commission prior to the issuance of a land use permit. The purpose of the Planning Commission-review

is to advise on actions which may or may not be compatible with the desirable historic, architectural or cultural aspects of the District. The Planning Commission may consider-Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings prepared by the U.S. Department of Interior for reviewing actions within the Old Hamburg Village. Such standards are made part of this Ordinance.

Staff believes this paragraph can be removed because the requirements for a project that requires a special use permit or site plan review in the VC or VR district to be compatible with the desirable historic, architectural or cultural aspects of the District is already required as part of the discretionary review standards in section 3.5 and Article 4 making this requirement redundant.

The second paragraph under section 7.7.9.1 (E) is applicable to project that do not require site plan review or special use permit and therefor only require administrative approval of a land use permit. This would be general maintenance project such as small additions, residing, adding new windows, repainting, replacing fixtures, addition new fences, and other small projects. Staff believe these regulations are still needed to preserve existing historic, architectural interest and culturally important structures, however requiring Planning Commission review is not development friendly due to the timing of the review. Staff believe that the zoning administrator could review these project during the land use permitting process to make sure the integrity of the important structures within the VC and VR districts are maintained.

For proposed alterations to commercial structures for which site plan review is not required under Article 4.00, the Zoning Administrator shall review the compatibly of the project with the desirable historic, architectural or cultural aspects of the District; if deemed necessary advisory review of the Planning Commission ~~shall be advisory to the Zoning Administrator~~ may be requested prior ~~in~~ the issuance of a land use permit. The provisions of this section shall not be construed to prevent the ordinary maintenance or repair of any exterior feature. Further, the provisions of this section shall not prevent the construction, alteration, restoration or demolition of any feature which the Building Inspector certifies is required because of a threat to public safety.

If the Township Board wishes to move forward with the implementation of the Village Center Master Plan as described on pages 3 through 5 of this report this section of the zoning regulations will be entirely reconfigured and added to the new Village Center area zoning districts and regulations. However until that time staff believe the above mentioned changes should be implemented to clarify and streamline the zoning processes within the township.

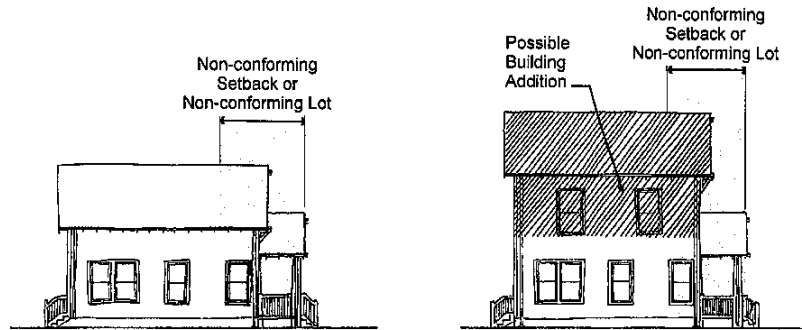
CONTINUED CONVERSATIONS AND CLARIFICATION:

Non-Conforming Regulations:

At the 2020 Joint Meeting in February the Township discussed problems with the way the regulations regarding expansion of Non-conforming structure where being enforced, specifically expansion of second stories over existing non-conforming single structures (See Diagram F). It was determined at this Joint meeting that the Planning Commission should discuss this item further to see if these regulations should be removed from the ordinance or if there is another solution to allow better enforcement of these regulations. Discussion was held on this item at the July 15, 2020 PC meeting. The Planning Commission for the most part where in favor of the keeping regulations regarding second story expansions; however they believe that the way these regulations are being enacted should once again be discussed at the 2021 Joint meeting, to make sure everyone interacting with these regulations.

On August 17, 2017, the Planning Commission recommended approval of a zoning text amendment (ZTA 17-005) to Section 11.3.1., Permitted expansion of residential buildings. One new regulations that was added as a part of the ZTA 17-005 was that if a second story addition was added over and existing structure that encroached into a required setback a variance would be required for the proposed expansion (See Below).

Diagram F: Addition of a second story to a non-conforming structure



This addition will require a variance from the Zoning Board of Appeals

This regulation was put into place to reduce the impact of additions that could not meet the required setbacks on the adjacent neighbors. In short, even though an existing single story structure may be close to the property line adding a second story that is just as close to the property line would more than likely further impact the adjacent property owner. However, since this ordinance amendment went into place in 2017 there have been __ variance requests for additions to second stories all of these requests have been approved by the Zoning Board of Appeals. The variance requests are discussed below:

- 1) **ZBA 20-015:** 3774 Lancaster, a 120 Square foot second story addition over and existing main level 6 feet from the side property line where 10 feet is required.
Status: Approved, permit issued, combined lot with 3780 Lancaster (Combine 15-29-202-207 and -040 to build an addition linking two homes) building an addition to connect 2 homes now on 1 lot.
- 2) **ZBA 20-003:** 2946 Indian Trail, ½ story addition to an existing garage that was built within the required rear and side yard setbacks.
Status: Approved for a demo and rebuild of new home attaching to the existing garage.
- 3) **ZBA19-013:** 6361 Buckshore Dr, a 630-square foot second-story addition on the south side of an existing non-conforming dwelling. The addition will have a 16.25-foot rear yard setback (30-foot rear yard setback required, Section 7.6.1.; second-story additions must comply with required setback, Section 11.3.1.).
Status: Approved, permit issued, complete.
- 4) **ZBA19-010:** 10125 Imus Rd. Variance: Construction of a 728-square foot second-story addition on the north east side of an existing non-conforming dwelling. The addition will have a 41.5-foot setback from the ordinary high water mark of Strawberry Lake (50-foot setback from the OHM required, Section 7.6.1.fn. 3; second-story additions must comply with required setback, Section 11.3.1.).
Status: Approved, permit issued, complete.
- 5) **ZBA 18-014:** 11332 Algonquin Dr. a second-story addition and an elevated deck to the existing dwelling. The addition will have a 46-foot setback from the ordinary high water mark of Portage Lake (50-foot setback from the OHM required, Section 7.6.1. fn.3). The deck will have a 34-foot setback from the ordinary high water mark (44-foot setback from the OHM required, Section 8.17).
Status: Approved, permit issued, complete.
- 6) **ZBA18-013:** 11644 Portage Lake Ave. an 852-square foot second-story addition to an existing dwelling. The addition will have a 28-foot west rear yard setback (30-foot rear yard setback required, Section 7.6.1.) and a 38-foot setback from the ordinary high water mark of a Portage Lake lagoon (50-foot setback from the OHM required, Section 7.6.1. fn.3).
Status: Approved and permit issued, owner at the time sold house and addition never built.

- 7) **ZBA18-012:** 2105 Cardinal Ct. an 875-square foot second-story addition to an existing dwelling. The addition will have a 24.1-foot south front yard setback along Cardinal Court and a 20.5-foot west front yard setback along Algonquin Drive (25-foot front yard setback required along both street frontages, Section 7.6.1.fn4.).
Status: Approved, the house was basically demolished – re-noticed and went back to ZBA for whole new house – approved.

- 8) **ZBA 18-008:** 8772 Rushside Dr. a 982 square foot second story addition to the existing non-conforming dwelling. The addition will have a 7.1-foot south side yard setback, resulting in an aggregate side yard setback of 12.4 feet (15-foot aggregate side yard setback required, Section 7.6.1 fn. 4).
Status: Approved, more than 50% of the exterior walls that were non-conforming were removed – Re-noticed and went back to ZBA for whole new house – tabled. Withdrawn – permit issued to meet ZO.

- 9) **ZBA 18-001:** 3686 Colonial a second-story addition to a non-conforming dwelling. The second-story addition will have a 4-foot east side yard setback (10-foot side yard setback required, Sections 7.6.1. and 11.3.2.) to match the non-conforming east side yard setback of the existing dwelling.
Status: Approved, Permitted – Complete.

Since 2018 there have been 53 variance requests 17% of those have been for second stories over existing non-conforming. All of the variance request for second story additions over existing non-conforming single story structures have been approved.

Staff believe that if there is a regulations in place that is not being enforced than that regulations should be revised or removed. Leaving the item unaddressed create additional work for staff and does not have a benefit for the community. There are two possibilities to address the concerns over this regulations one would be to remove the regulations and the other would be to enforce the regulations.

I have attached the staff report and minutes for this item from the July 15, 2020 Planning Commission minutes (Attachment A) and the Staff Report for this item from the February 26, 2020 Joint Meeting (Attachment B) for your review and for discussion. Also attached are two sets of the project plans from the variances listed above to show the type of project and the potential impact a second story addition may have (Attachment C)

Attachment A: July 15, 2020 Planning Commission Minutes and Staff Report.

Attachment B: February 26, 2020 Joint Meet Report.

Attachment C: Project Plans from above variances.

PHONE: 810-231-1000
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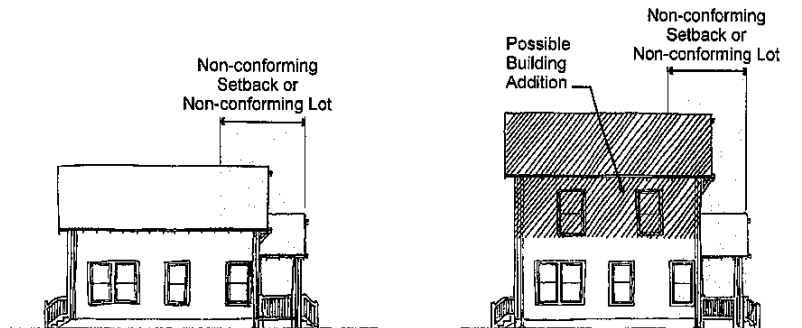
P.O. Box 157
10405 Merrill Road
Hamburg, Michigan 48139-0157

To: Planning Commissioners
From: Scott Pacheco, AICP
Date: February 19, 2020
Agenda Item: 7c
Re: ZTA20-003 Non-conforming second story regulations

Project History:

On August 17, 2017, the Planning Commission recommended approval of a zoning text amendment (ZTA 17-005) to Section 11.3.1., Permitted expansion of residential buildings. One new regulations that was added as a part of the ZTA 17-005 was that if a second story addition was added over an existing structure that encroached into a required setback a variance would be required for the proposed expansion (See Below).

Diagram F: Addition of a second story to a non-conforming structure



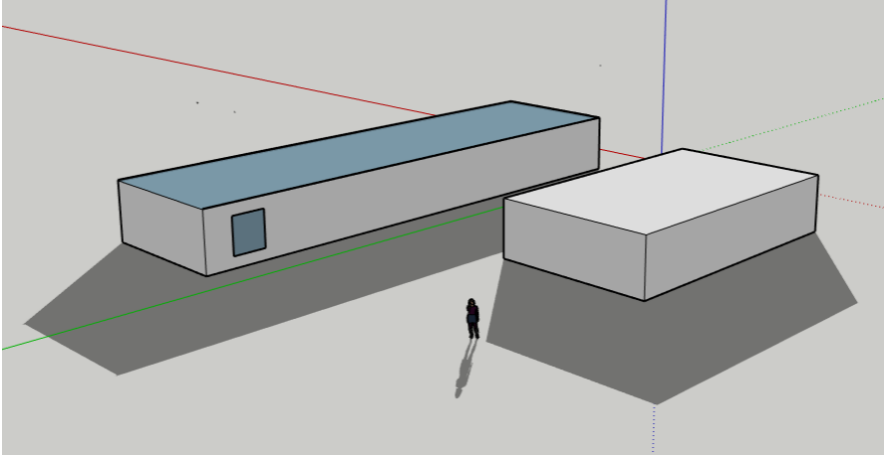
This addition will require a variance from the Zoning Board of Appeals

This regulation was put into place to reduce the impact of additions that could not meet the required setbacks on the adjacent neighbors. In short, even though an existing single story structure may be close to the property line adding a second story that is just as close to the property line would more than likely further impact the adjacent property owner.

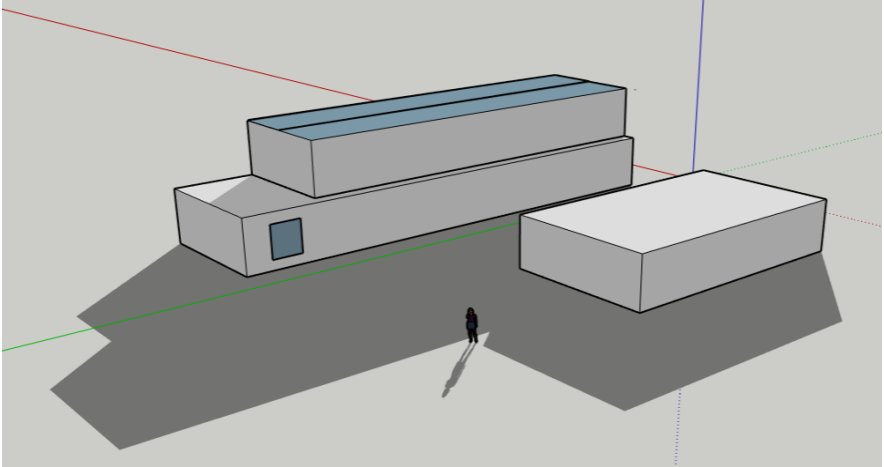
The following pictures were created to show a basic example of how a second story addition could have possible impacts on a neighboring property if they were allowed to encroach into the required setbacks just because the first level encroached into the required setbacks.

Things to consider: these properties could be on a lake, each story in these pictures are 10 foot tall, the two houses shown are 25 feet apart. Picture 1 depicts an existing single story cottage that encroaches into the side yard setback closest to the neighboring house shown in the picture and the setback from the waterbody, Picture 2 depicts a second story addition that meets all setbacks, and Picture 3 depicts a second story addition that has the same setbacks as the existing cottage:

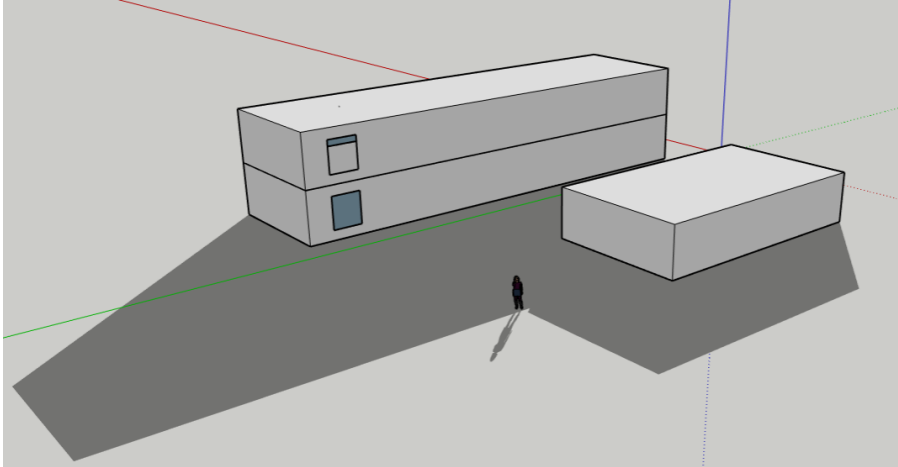
Picture 1: Existing Single Story:



Picture 2: Second Story Addition that meets the setback requirement

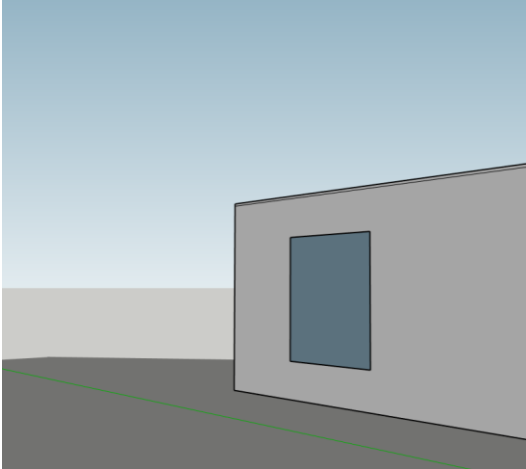


Picture 3: Second Story Addition that is setback the same distance as the existing structure:

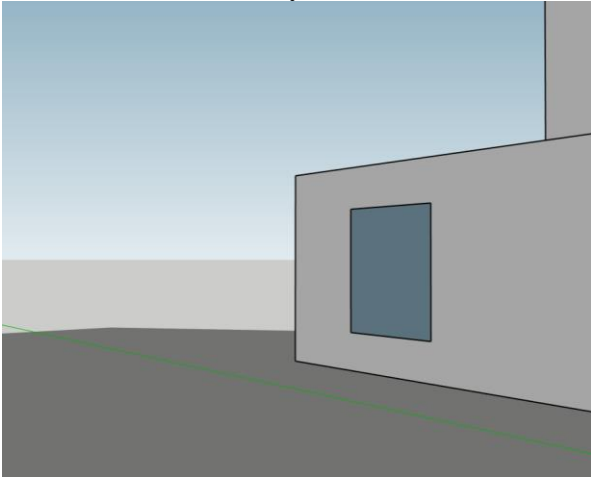


The following Pictures show what a 6 foot tall person would see when standing at the rear corner of the neighboring house that is closest to the proposed property where the addition is being built. Again Picture 1 depict the existing situation, Picture 2: depicts the view if the addition was built to meet the required setbacks, and Picture 3 depicts if the addition was built at the same setbacks as the existing cottage.

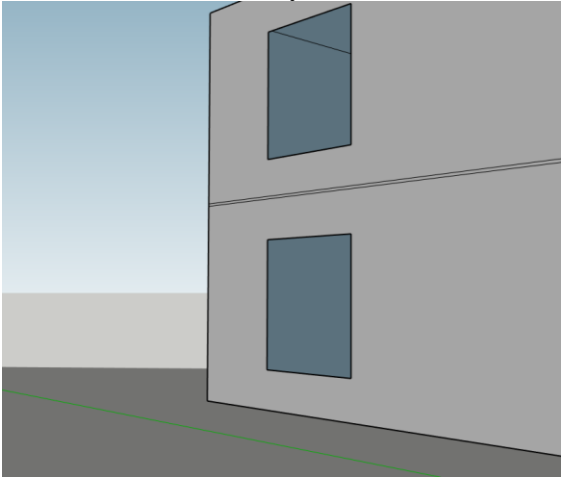
Picture 1: Existing



Picture 2: Second Story addition built to meet required setbacks.



Picture 3: Second Story addition built at same setbacks as existing cottage.

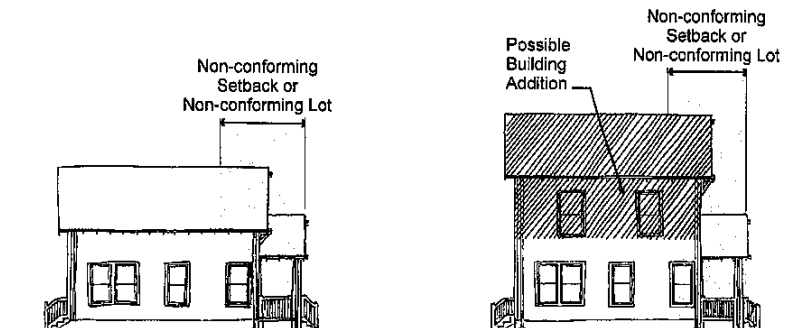


However, since this ordinance amendment went into place in 2017 there have been 7 variance requests for additions to second stories that encroach into the required setback but are all of these requests have been approved by the Zoning Board of Appeals.

Some members of Zoning Board of Appeals have asked staff to revise this section 11.3.1 to eliminate the requirements for a variance if a new second story is built over an existing non-conforming structure as they do not see a situation where they would deny a variance for this type of addition. The following changes to Article 11, Section 11.3.1 would eliminate second story addition over and existing non-conforming structure to be built without the need for a variance.

*“11.3.1. Permitted Expansion of Residential Buildings: A residential nonconforming building may be allowed to expand provided the expansion **does not increase the size of the established footprint, or the expansion** is within a yard which retains compliance with the required setbacks and height, (eg. A home with a nonconforming front yard setback may be expanded in the rear so long as the rear yard setback remains conforming, (see Diagrams B,C and D) ~~this includes expansions to upper levels~~ (eg. A second level is added to an existing single story house with a non-conforming side yard setback the second story ~~can must not~~ encroach into the required setback ~~even if the~~ as long as the existing main level already encroaches into the setback, see Diagram F).”*

Diagram F: Addition of a second story to a non-conforming structure



This **second story** addition ~~will~~ **does not** require a variance from the Zoning Board of Appeals

As staff I disagree and believe a second story addition can have a detrimental impact on a neighbor and the closer the second story is to the neighbor the greater the impact. The house in the example above is an extreme case but even a two story house that is 5 feet from the property line can have more impact than a single story house that also close to the same shared property line. Making the new second story addition step back off of the main level to meet the required setback may cost more to construct but it is not impossible and it help to mitigate the impact of the one large solid wall by breaking up the elevation and moving the second story slighting farther from the existing neighboring house. You see second stories off set from the level below a lot over garages because this is the front of a home and the architects are trying to give this elevation some architectural details (Pic 1 and 2) but you also see this on sides and rear elevations also (Pic 3, 4, and 5).



Another item that I believe could be a problem with allowing a second story to be built over existing single story non-conforming areas of a house is that a property owner could come into the Township and file for a variance for a single story addition 5 feet from the neighboring lot, and then once that addition is complete that same property owner could decide they need a larger house and add a second story over the entire house that they got a variance to build. No new variance would be required to this second story addition because the foundation of the structure is not being expanded. The neighbors may not have had a problem with the single level structure because it had less of an impact on their property but they may have a problem with a two story structure in the same location. Because no variance is required the neighbor does not have an opportunity to voice their concerns and will then feel that they were deceived into thinking the variance would only be for a single story structure.

RECOMMENDATION:

Staff suggests that the Planning Commission consider the proposed amendment in terms of its own judgment on particular factors related to the individual proposal, the most likely effect on the community's physical development, and conformance with the Township Master Plan. The Planning Commission may recommend any additions or modifications to the proposed amendment. The Planning Commission should then make a recommendation to approve/deny the proposed Zoning Text Amendment to the Township Board.

Staff will forward the proposed zoning text amendment along with the Commission's recommendation to the Livingston County Planning Commission for review. Staff will then forward both the Township Planning Commission and the Livingston County Planning Commission recommendations to the Township Board for a final decision on the proposed amendment.



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P.O. Box 157
10405 Merrill Road
Hamburg, Michigan 48139

**Hamburg Township
Planning Commission
Wednesday, July 15, 2020
7:00 P.M.**

1. CALL TO ORDER:

The meeting was called to order by Chairman Muck.

Present: Bohn, Hamlin, Leabu, Muck, & Priebe

Absent: Koeble & Muir

Also Present: Scott Pacheco, Township Planner & Amy Steffens, Planning & Zoning Administrator

2. PLEDGE TO THE FLAG:

3. APPROVAL OF THE AGENDA:

Chairman Muck stated that the site plan review for Chilson Commons is not a public hearing. Planner Pacheco stated that comments on that issue should be made during the call to the public.

Motion by Muir, supported by Leabu

To approve the agenda as presented

Voice Vote: Ayes: 5 Nays: 0 Absent: 2 MOTION CARRIED

4. APPROVAL OF MINUTES:

a) June 17, 2020 Planning Commission Meeting Minutes

Planner Pacheco stated that he has a few suggestions and corrections to be made.

Motion by Bohn, supported by Priebe

To approve the minutes of the June 17, 2020 meeting with the corrections as suggested by staff

Voice Vote: Ayes: 5 Nays: 0 Absent: 2 MOTION CARRIED

5. CALL TO THE PUBLIC:

Chairman Muck opened the call to the public. He stated that Items 6a & 6b are public hearings and we will take public comment on those two issues during those public hearings.

Mr. Clyde Schultes of 5859 E. M-36 stated that within the last two weeks he and his wife have submitted letters concerning two issues with Chilson Commons. He understands that the issue of the developer asking for additional

building sites was dealt with at the last meeting with the Commission voting no to those additional sites. He thanked the Commission for their good judgement. The development has never been close to full capacity, and it would be ludicrous to allow them to build more. He also understands that the Commission is considering letting Chilson Commons cut back part of the greenbelt along M-36. He is most concerned about the property that abuts the Conservation Club. He would like to see that left alone. He will continue to watch as things are proposed.

Hearing no further comment, the call was closed.

6. NEW BUSINESS:

a) **The 2020 Master Plan and 2020 Update to the Village Center Master Plan (Public Hearing):**

The 2020 Master Plan and the Village Center master Plan are comprehensive documents, long-range in their views, and includes specific goals, objectives, and public policy recommendations regarding land use and future growth. Per the Michigan Planning Enabling Act (Public Act 33 of 2008, as amended), the plans are intended to serve as a guide for future Township decision-making related to land use, community development, and capital improvement projects.

Chairman Muck opened the public hearing. Hearing no response, the public hearing was closed.

Planner Pacheco stated that we are in the final stages of the Master Plan. The Commission approved the distribution of the plan in February and the Township Board approved the distribution in March. Staff distributed it to the interested agencies and posted it on the website on April 15th. The 63-day period closed June 17, 2020. The only comments we received were from the Livingston County Planning. They were very complimentary and recommended approval. We had received some public comment earlier in the process. The Huron River Highlands Property Owners' Association were concerned about the potential road connection from their subdivision to Winans Lake Road. This was also included in the 2011 Master Plan. Their roads are public roads, and at the time of their development, it was required that the road be extended to the edge of the property for future road extensions. This is good planning practice. He further discussed the connections. Their second item of concern is that their future land use designation is high-density. That was a carryover from the 2011 map. That area has been subdivided and their average lot size is between 20-40,000 square feet. It would be more appropriate for the Future Land Use Map to designate that as medium density. The Zoning Map does not need to change as it designates that as Waterfront Residential, which would comply with what is there and the Future Land Use Map. He further stated that the other item to be addressed is the Chilson Commons. That item will be going to the Township Board in August, and he would suggest that the Future Land Use Map as well as the Zoning Map be changed based on whatever that decision the Board makes. The last correspondence we received was from Michelle Ormanian. Her concern is with the Village Center Master Plan and the density proposed in that Master Plan. The Village Center Master Plan was created to direct the density of the Township to a certain area. She does not want density anywhere in the Township, which is a valid comment. We did look at this a few years ago, and at that time we decided that we were not going to change the Village Center Master Plan and move forward with it the way it was designed, to create a village-type node. We would direct our growth to that area so that we can preserve the rest of the Township. He further discussed her concerns and explained the changes in the housing development versus population from years past.

Pacheco stated that at this point, the Commission would adopt a resolution. If that resolution is to approve the Master Plan, it then goes to the Township Board who as asserted their right to approve or deny the plan.

Commissioner Hamlin stated that he did question whether the Huron River Highlands road connector was in the 2011 Master Plan as well as their site plan, and that question was answered. His other question was if the Commission wished to make the suggested changes, what would be the process. Pacheco stated that the two changes he is suggesting are both minor changes. Because Huron River Highlands has already been subdivided, it is very unlikely that any change in the Future Land Use Map would have an impact.

Chairman Muck read the letter from the Livingston County Planning Commission, and he would like to commend the staff and the Committee for their hard work.

Motion by Bohn, supported by Hamlin

WHEREAS, the Michigan Planning Enabling Act (MPEA) authorizes the Planning Commission to prepare a Master Plan for the use, development and preservation of all lands in the Township, and WHEREAS, the Planning Commission prepared a Draft 2020 Hamburg Township Master Plan and submitted the plan to the Township Board for review and comment, and

WHEREAS, on March 3, 2020, the Township Board received and reviewed the Draft 2020 Hamburg Township Master Plan prepared by the Planning Commission and authorized distribution of the Master Plan to the interested agencies as identified in the MPEA, and

WHEREAS, notice was provided to the interested agencies and the timeframe to respond was provided as required in the MPEA, and

WHEREAS, the Planning Commission held a public hearing on July 15, 2020 to consider the comments from the interested agencies and from the public on the proposed Master Plan and to further review and comment on the proposed Master Plan, and

WHEREAS, the Planning Commission finds with the proposed changes suggested by staff to the Future Land Use Map and the Zoning Map that the 2020 Hamburg Township Master Plan is desirable and proper and furthers the use, preservation, and development goals and strategies of the Township, and

WHEREAS, the MPEA authorizes and the Hamburg Township Board has asserted the right by resolution to approve or reject the proposed Master Plan. The Planning Commission Resolution to Adopt the 2020 Hamburg Township Master Plan will be forwarded to the Hamburg Township Board for final approval of the Master Plan.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. Approval of the 2020 Hamburg Township Master Plan. The Planning Commission hereby approves the adoption of the 2020 Hamburg Township Master Plan, including all of the chapters, figures, maps and tables contained therein. Pursuant to MCL 125.3843,

2. Findings of Fact. The Planning Commission has made the foregoing determination based on a review of the existing demographic trends, the existing land uses in the Township, the public input, existing Master Plan provisions and maps, and with the assistance of planning staff and finds that the 2020 Hamburg Township Master Plan will accurately reflect and implement the Township's goals and strategies for the use, preservation, and development of lands in Hamburg Township. 3. Next Step. Because the Township Board has asserted by resolution its right to approve or reject the proposed master plan, the Planning Commission resolution along with the 2020 Hamburg Township Master Plan will be forwarded to the Hamburg Township Board for review and a final determination on the adoption of the plan as provided in MCL 125.3843.

3. Effective date. Because the Hamburg Township Board has asserted their right to approve or reject the final Master Plan the 2020 Hamburg Township Master Plan shall be effective as of the date of adoption of the Township Board Resolution regarding the Master Plan.

Roll Call Vote: Ayes: 5 (Bohn, Hamlin, Leabu, Muck, & Priebe)

Nays: 0

Absent: 2

MOTION CARRIED

- b) ZTA 20-001 Minimum house size (Public Hearing):** Zoning Text Amendment to revise the required minimum house size regulations in sections 7.6.1 Schedule of Area, Height, and Bulk Regulations and section 8.5 Single-Family Dwellings, Mobile Homes, Prefabricated Housing.

Chairman Muck opened the public hearing. Hearing no response, the public hearing was closed.

Planner Pacheco stated that this issue was brought up at the February joint meeting as well as the 2019 joint meeting, and in March this was brought to the Commission for review and discussion. At that time, it was discussed to remove minimum house size requirements from the Zoning Ordinance as well as the requirements for the design features that would be a problem on smaller houses. He has removed everything dealing with minimum house size except for the house size in the ECHO housing developments, which requires 400-980 square feet. He did, however, remove it from the Cottage Housing regulations.

Motion by Bohn, supported by Leabu

To recommend to the Township Board approval of ZTA 20-001 Minimum House Size as presented

Voice Vote: Ayes: 5

Nays: 0

Absent: 2

MOTION CARRIED

7. OLD BUSINESS:

- a) **Site Plan 20-002 (continued):** Site Plan Review (SPA 20-002) to amend the Site Plan associated with the Hardship Planned Unit Development agreement for the Chilson Commons Shopping Center.

Chairman Muck stated tonight we are dealing with the site plan amendment only. The Commission made the determination on the HPUD agreement and the zoning change at our June meeting. Because the site plan is linked to the HPUD agreement, the Commission needs to make a recommendation to not approve the amendments to the site plan. Once that is done, the zoning change, Agreement and the site plan can all go to the Township Board.

Mr. Ron Nadis representing the developer, explained their request including the addition of three units, rezoning and amendments to the HPUD Agreement.

Planner Pacheco stated that the original site plan had units 1-8 and the original HPUD agreement dealt with those units. The site plan enacted the HPUD Agreement. Because the Planning Commission is recommending not moving forward with the amendment to add units 9, 10 and 11, the only change being proposed tonight is the site plan with 9 units. If you use the original agreement that deals with the 66 acres along with another site plan, it is no longer applicable. We have to approve the agreement and the site plan together. We need wording in the agreement in order to approve the additional lot. At the last meeting, the Commission neglected to include the site plan amendment in their recommendation. The Township Board will have an opportunity to make a determination on the project together at one meeting.

Mr. Nadis explained the economic and financial difficulties the developer has faced over the years. He stated that through it all, the developer has stuck with this development and maintained it in a first-class fashion. He stated that the requests that they have made are fairly modest. They are asking that the property that is only suitable as commercial be pulled into the commercial development and the property be recognized for what it is. He discussed the difficulty in luring tenants in this situation.

Discussion was held on the trimming and thinning of the vegetation. Planner Pacheco stated that on June 17th, the Commission made a recommendation that the only amendment to the HPUD Agreement would be that the trimming and thinning of the landscaping on Parcel 2 and around the sign. Mr. Nadis has sent him some wording for that but that will go to the August Township Board with the recommendation. The Township Board could approve the project as originally submitted or approve the Planning Commission's recommendation. It is an agreement between the Township Board and the Developer. Discussion was held on the developer working with the Township for the thinning and trimming.

Motion by Hamlin, supported by Leabu

To recommend denial of the proposed amendments to the Chilson Commons site plan as presented at the June 17, 2020 meeting

Voice Vote: Ayes: 4

Nays: 1

Absent: 2

MOTION CARRIED

- b) **Discussion of ZTA 20-002 (continued):** Proposed zoning text amendment that explains the locations where ADUs are allowed on properties within the WFR and NR districts that abut a waterbody or have access to a water body.

Planner Pacheco stated that in May 2015 the Commission started working on an ADU ordinance and a zoning text amendment was approved. One of the Township Board Members did not want ADUs on water bodies and the Planning Commission revised the language to add "An accessory dwelling unit shall not be permitted on lots within

the Waterfront Residential or Natural River Districts that abut the water or have access to a water body.” At the February 2020 joint meeting we continued discussion on this issue, and the Board continued that discussion at their May 5, 2020 Board meeting. They wanted to ensure that prior to sending it back to the Planning Commission, there was Board support. They would like to allow ADUS in the WFR and NR districts, but they do not want to allow detached accessory dwelling units. They believe that the property owner would have more control over who they rent to if the unit was attached.

Discussion was held on what constitutes an attachment. Pacheco stated that this is simply a discussion item tonight, and he will bring back clarification when it comes back for final approval. Discussion was held on creating a definition that the Board would approve.

- c) **Discussion of ZTA 20-003 (continued):** Proposed zoning text amendment to Section 11.3.1., permitted expansion of residential buildings, to permit second story additions over non-conforming dwellings without variance approval

Planner Pacheco stated that in August 2017 the Planning Commission made a recommendation to approve a zoning amendment to require that an expansion of a second story into a required setback would require a variance. Since that time there has been seven appeals, and all of them have been approved by the Zoning Board of Appeals. Prior to that amendment, if you had an existing structure, you could build on top of that no matter how close you were to the property line as long as you were building within the existing footprint. He stated that he believes that there are impacts from second story additions to neighboring property owners. He provided diagrams and photos of houses where the second story is setback. He further discussed the impact of a second story versus a single story.

The question was asked if any of the seven appeals were not on waterfront. Steffens stated that most of them are on waterfront. Pacheco stated that on occasion you will see cases not on waterfront, but may still be in the Waterfront Residential District where the lots are still very small. He further stated that if the ZBA is approving all of the same requests, then there is something wrong with the ordinance or there is something wrong with the ZBA approving them all. What we are trying to do is correct what is wrong.

Commissioner Hamlin stated that he feels that in some cases, we are appealing one neighbor to the detriment of another. He feels that the requirement should stay and less of the variances granted.

Discussion was held on the size and current setbacks on these lakefront lots.

Commissioner Leabu stated that he is in favor of keeping the requirement in the ordinance. He stated that in some cases, it just cannot be done through no fault of the homeowner. He just does not want it to be automatic that the ZBA approves them. He further discussed the non-conformities of lake lots and the changes that they have made to the ordinance recognizing them.

Continued discussion was held on leaving this as a variance issue.

Amy Steffens, Planning & Zoning Administrator, stated that some of the frustration is that in some cases the ZBA is approving not only a second story, but also going out further. Staff is left wondering what will the ZBA deny. If the ZBA is going to approve them all, it is not logical to make the homeowner pay the fee for a variance.

Discussion was held on training the ZBA members. Steffens stated that she brought the Township Attorney in to discuss the findings of fact, and there has been no different result. Further discussion was held on the ZBA decisions, standards that need to be met to approve an appeal, and the nonconformity of the lake lots.

Discussion was held on ensuring that the ZBA receives the proper direction from the Township Board regarding enforcement of the regulations.

The consensus of the Commission was to leave the ordinance Section 11.3.1 as is. It was stated that we can then have a discussion at the next joint meeting with regard to how this ordinance should be enforced.

8. ZONING ADMINISTRATOR'S REPORT: None

9. ADJOURNMENT

Motion by Hamlin, supported by Bohn

To adjourn the meeting

Voice Vote: Ayes: 5 Nays: 0 Absent: 2 MOTION CARRIED

The Regular Meeting of the Planning Commission was adjourned at 8:32 p.m.

Respectfully submitted,

Julie C. Durkin
Recording Secretary

The minutes were approved as presented/Corrected: _____

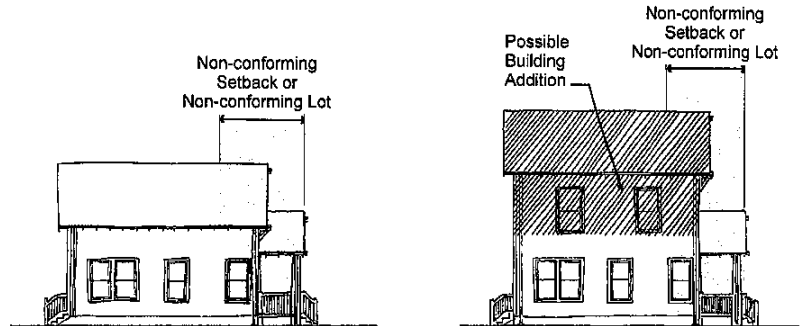


Jeff Muck, Chairperson

Attachment B – Excerpt from 2020 Joint Meeting Report

- **Non-Conforming Regulations:** On August 17, 2017, the Planning Commission recommended approval of a zoning text amendment (ZTA 17-005) to Section 11.3.1., Permitted expansion of residential buildings. One new regulations that was added as a part of the ZTA 17-005 was that if a second story addition was added over and existing structure that encroached into a required setback a variance would be required for the proposed expansion (See Below).

Diagram F: Addition of a second story to a non-conforming structure



This addition will require a variance from the Zoning Board of Appeals

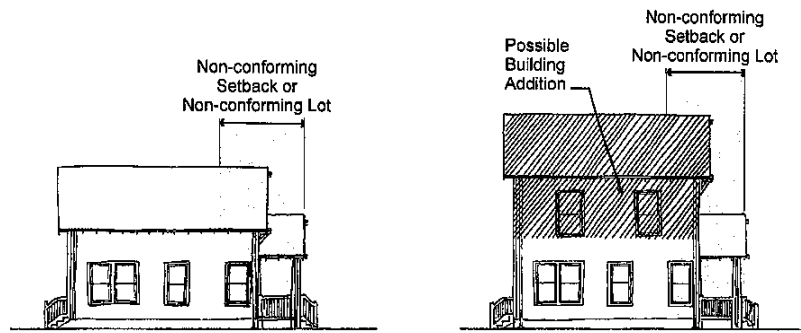
This regulation was put into place to reduce the impact of additions that could not meet the required setbacks on the adjacent neighbors. In short, even though an existing single story structure may be close to the property line adding a second story that is just as close to the property line would more than likely further impact the adjacent property owner. However, since this ordinance amendment went into place in 2017 there have been 7 variance requests for additions to second stories all of these requests have been approved by the Zoning Board of Appeals. Some members of Zoning Board of Appeals have asked staff to revise this section 11.3.1 to eliminate the requirements for a variance if a new second story is built over an existing non-conforming structure as they do not see a situation where they would deny a variance for this type of addition.

This would be a very simple Zoning Text Amendment:

*“11.3.1. Permitted Expansion of Residential Buildings: A residential nonconforming building may be allowed to expand provided the expansion **does not increase the size of the established footprint, or the expansion is within a yard which retains compliance with the required setbacks and height,** (eg. A home with a nonconforming front yard setback may be expanded in the rear so long as the rear yard setback remains conforming, (see Diagrams B,C and D) ~~this includes expansions to upper levels~~ (eg. A second level is added to an existing single story house with a non-conforming side yard setback the second story ~~can~~ **must not** encroach into the required setback ~~even if the as long as the~~ existing main level already encroaches into the setback, see Diagram F).”*

Diagram F: Addition of a second story to a non-conforming structure

Attachment B – Excerpt from 2020 Joint Meeting Report



This **second story** addition ~~will~~ **does not** require a variance from the Zoning Board of Appeals



Zoning Board of Appeals Staff Report

AGENDA ITEM: 7d



TO: Zoning Board of Appeals
(ZBA)

FROM: Amy Steffens

**HEARING
DATE:** June 12, 2019

SUBJECT: ZBA 19-0013

**PROJECT
SITE:** 6361 Buckshore Drive
TID 15-23-306-100

**APPLICANT/
OWNER:** John and Renee Johnston

PROJECT: Variance application to allow for the construction of a 630-square foot second-story addition on the south side of an existing non-conforming dwelling. The addition will have a 16.25-foot rear yard setback (30-foot rear yard setback required, Section 7.6.1.; second-story additions must comply with required setback, Section 11.3.1.).

ZONING: WFR (waterfront residential district)

Project Description

The subject site is a one-quarter acre parcel that fronts onto Buckshore Drive to the east; single-family dwellings are to the north, west, and east; a vacant parcel is located to the south. The site is currently improved with a 920-square foot single-story single-family dwelling and a 576-square foot attached garage.

If approved, the variance request would allow for a 630-square foot second story addition over the existing attached garage on the south side of the parcel. The existing dwelling has a 16.25-foot rear yard setback and the proposed second-story addition would have the same rear yard setback.

Section 7.6.1. requires a 30-foot rear yard setback and Section 11.3. requires that second-story additions to a non-conforming dwelling must comply with the required setbacks.

Standards of Review

The Zoning Board of Appeals (ZBA) decision in this matter is to be based on the findings of facts to support the following standards. The applicable discretionary standards are listed below in bold typeface followed by staff's analysis of the project as it relates to these standards. A variance may be granted only if the ZBA finds that all of the following requirements are met.

- 1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.**

The existing dwelling encroaches into the required 30-foot rear yard setback by 13.75 feet, and the second-story would maintain that setback. The existing dwelling was constructed with a large front yard setback of approximately 90 feet, rather than the required 25-foot front yard setback required. Given the way the property has been developed complying with the required 30-foot rear yard setback for a second-story addition would be difficult. Conversely, however, the extreme front yard setback also means that there is more than adequate space to construct additional living space in a compliant location.

- 2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.**

A substantial property right is not preserved based on granting a variance for a particular architectural design. The site is zoned for single-family residential uses, has been developed for such uses, and can continue to be used for such use with a conforming structure. The site could not accommodate an addition in a location that complies with the zoning ordinance requirements. However, the encroachment into the rear yard for the second-story addition would be a minor deviation to the zoning ordinance due to the siting of the existing structure on the lot and the siting of dwellings on the adjacent properties and are not likely to have negative impacts on those properties.

- 3. That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.**

As stated in standard number two, due to the configuration of the dwelling on the parcel and adjacent dwellings the proposed improvements are not likely to be materially injurious to the property or improvements in the zone or district.

- 4. That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.**

The subject site is in the Northeast Hamburg/Winans Lake planning area of the Master Plan. This area envisions mixed density waterfront and natural river zoning districts. The proposed request would not adversely affect the purpose or objectives of the Master Plan.

5. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.

There is no condition or situation of the subject site that is not of so general or recurrent a nature that the proposed second story addition could not comply with the zoning ordinance requirements for setbacks. This parcel is an exceptionally large parcel for the WFR zoned district and has a building envelope of approximately 7,500 square feet in which to develop.

6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district.

The use of the site is single-family residential and the proposed variance would not change the use.

7. The requested variance is the minimum necessary to permit reasonable use of the land.

The proposed second-story addition could be a minor deviation from the zoning ordinance setback requirements but there is a compliant location for additional living space. The requested variance is not the minimum necessary to permit reasonable use of the land.

“Practical difficulty” exists on the subject site when the strict compliance with the Zoning Ordinance standards would render conformity unnecessarily burdensome (such as exceptional narrowness, shallowness, shape of area, presence of floodplain or wetlands, exceptional topographic conditions)

Recommendation

Staff recommends the ZBA open the public hearing, take testimony, close the public hearing, evaluate the proposal for conformance with the applicable regulations, and deny or approve the application. In the motion to deny or approve the project the ZBA should incorporate the ZBA’s discussion and analysis of the project and the findings in the staff report. The ZBA then should direct staff to prepare a memorialization of the Board’s decision that reflects the Board’s action to accompany the hearing minutes and to be reviewed and approved at the next ZBA hearing.

Approval Motion:

Motion to approve variance application ZBA 19-0013 at 6361 Buckshore Drive to allow for the construction of a 630-square foot second-story addition on the south side of an existing non-conforming dwelling. The addition will have a 16.25-foot rear yard setback (30-foot rear yard setback required, Section 7.6.1.; second-story additions must comply with required setback, Section 11.3.1.).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 when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight’s hearing and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

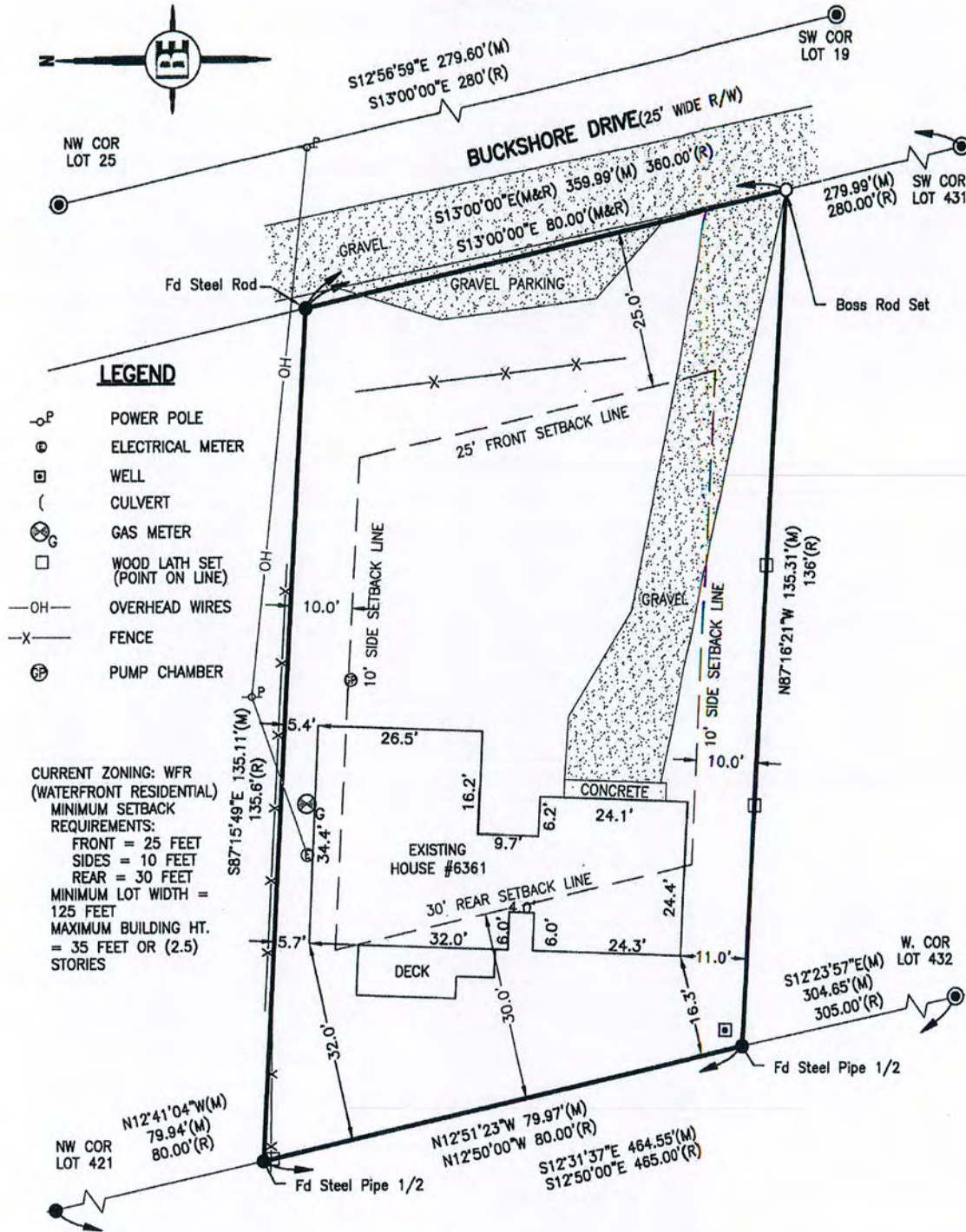
Denial Motion:

Motion to deny variance application ZBA 19-0013 at 6361 Buckshore Drive to allow for the construction of a 630-square foot second-story addition on the south side of an existing non-conforming dwelling. The addition will have a 16.25-foot rear yard setback (30-foot rear yard setback required, Section 7.6.1.; second-story additions must comply with required setback, Section 11.3.1.). The variance does not meet variance standards one, two, five, or seven of Section 6.5. of the Township Ordinance and a practical difficulty does not exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight's hearing and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

Exhibits

- Exhibit A: Application materials
- Exhibit B: Site Plan
- Exhibit C: Construction Plans

SURVEY



LEGEND

- ⊙ P POWER POLE
- ⊙ ELECTRICAL METER
- ⊠ WELL
- (CULVERT
- ⊗ G GAS METER
- WOOD LATH SET (POINT ON LINE)
- OH— OVERHEAD WIRES
- X— FENCE
- ⊕ PUMP CHAMBER

CURRENT ZONING: WFR
(WATERFRONT RESIDENTIAL)
MINIMUM SETBACK REQUIREMENTS:
FRONT = 25 FEET
SIDES = 10 FEET
REAR = 30 FEET
MINIMUM LOT WIDTH = 125 FEET
MAXIMUM BUILDING HT. = 35 FEET OR (2.5) STORIES

GENERAL SURVEY NOTES:

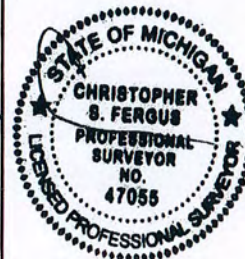
1. BEARINGS WERE ESTABLISHED FROM "HIAWATHA BEACH" SUBDIVISION, AS RECORDED IN LIBER 2, PAGE 82, LIVINGSTON COUNTY RECORDS.
2. SUBSURFACE UTILITIES NOT LOCATED FOR THIS SURVEY MAY EXIST. IT IS THE RESPONSIBILITY OF THE OWNER OF THE RESPECTIVE UTILITY TO ACCURATELY LOCATE SUCH UTILITIES.
3. EASEMENTS OR RESTRICTIONS OF RECORD NOT DEPICTED ON THIS DRAWING MAY EXIST.

DESCRIPTION:

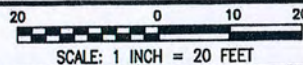
LOTS 423 & 424 OF "HIAWATHA BEACH" SUBDIVISION AS RECORDED IN LIBER 2, PAGE 82, LIVINGSTON COUNTY RECORDS, BEING PART OF THE SOUTHWEST 1/4 OF SECTION 23, T1N-R5E, HAMBURG TOWNSHIP, LIVINGSTON COUNTY, MICHIGAN

BEBOSS
Engineering
Engineers Surveyors Planners Landscape Architects

3121 E. GRAND RIVER AVE.
HOWELL, MI. 48843
517.546.4836 FAX 517.548.1670

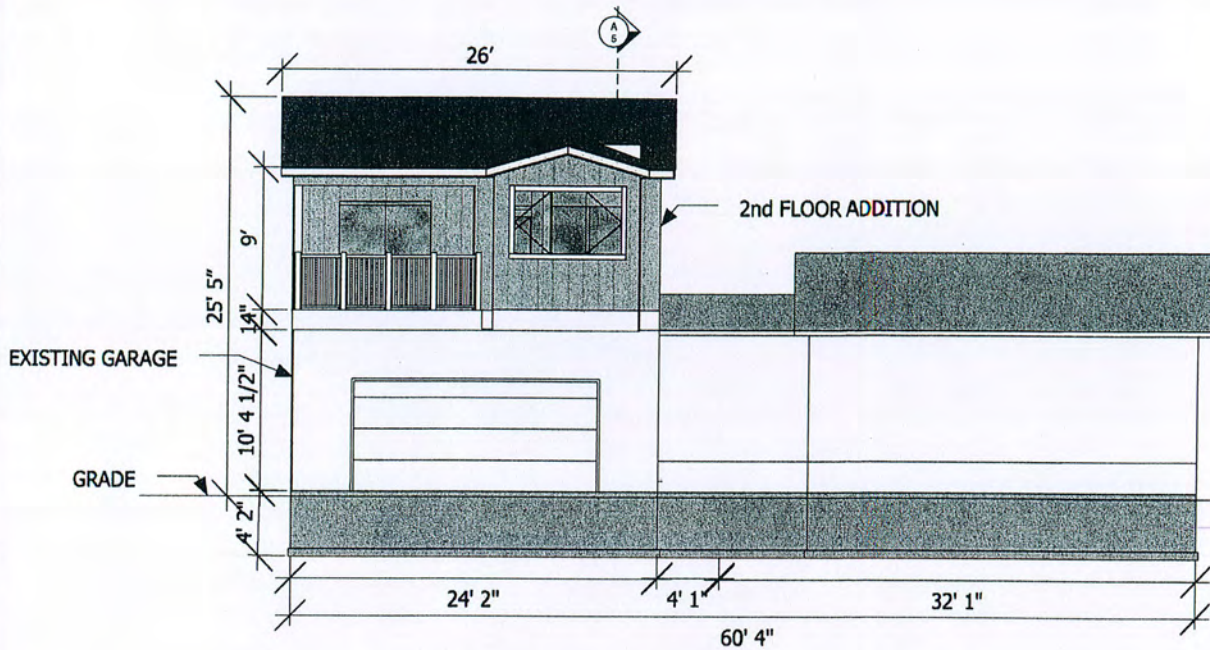


CLIENT:
JOHNSTON

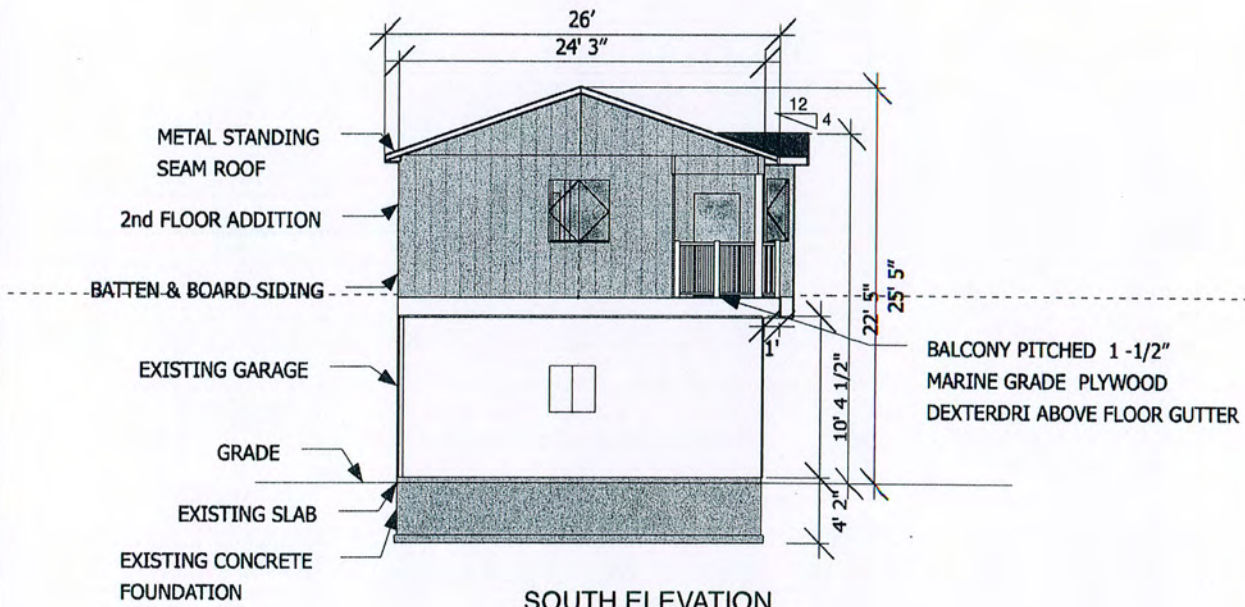


- LEGEND
- ⊙ = IRON SET
 - ⊙ = IRON FOUND
 - ⊙ = MONUMENT FOUND
 - X— = FENCE
 - (R) = RECORDED
 - (M) = MEASURED

JOB NO.	19-130	DATE	05-09-19	05-10-19
SHEET	1 OF 1	FB 565	CREW. GFD	DR. TG CK. <i>WJ</i>



EAST ELEVATION



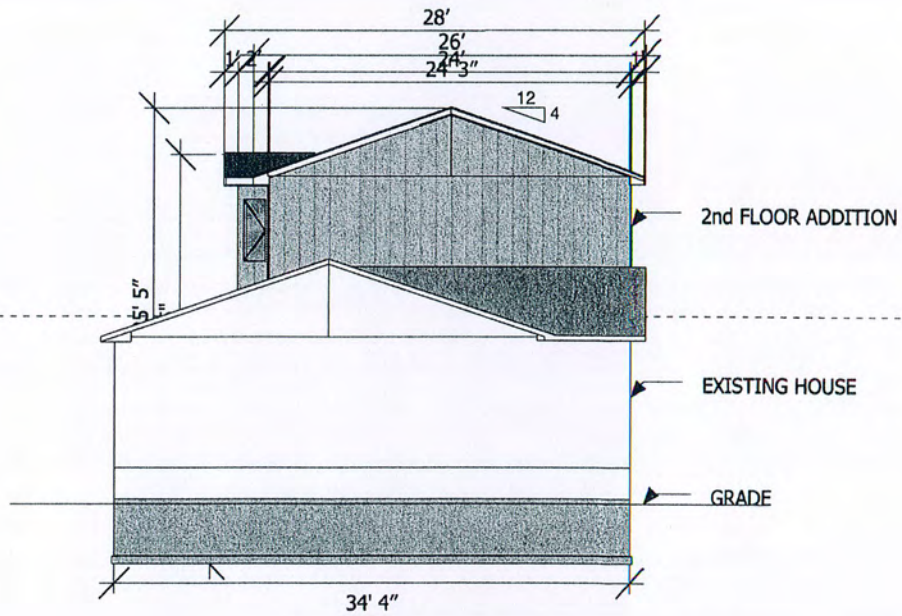
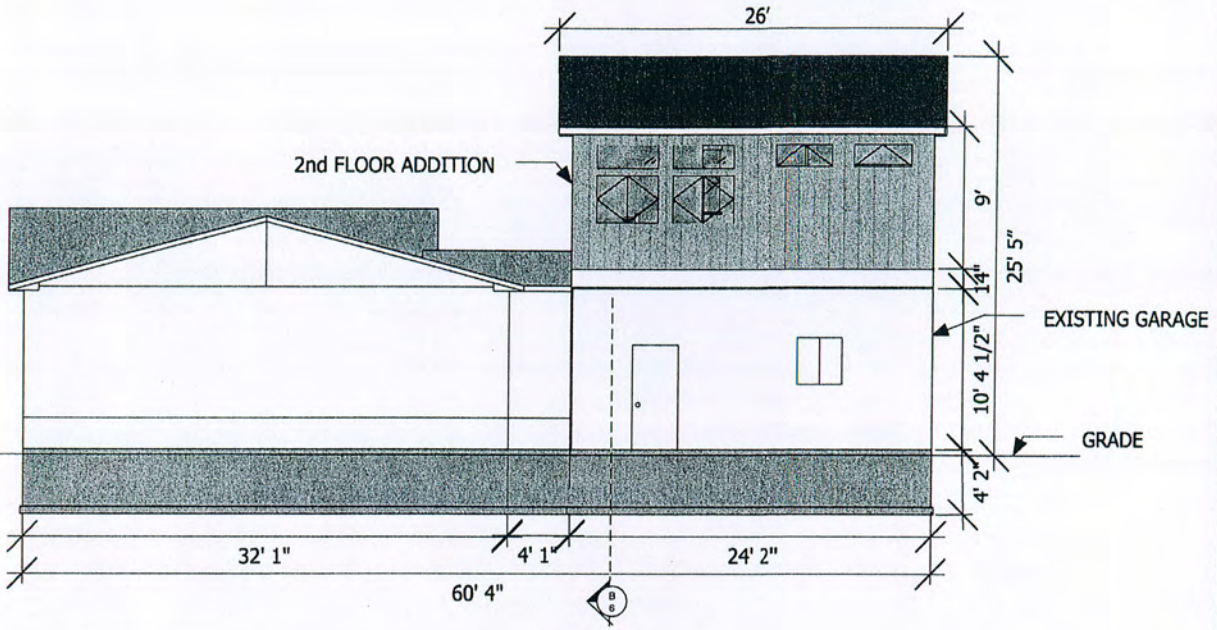
SOUTH ELEVATION

1/8" = 1'

ELEVATION DRAWINGS

HOME OF JOHN & RENEE JOHNSTON
 6361 BUCKSHORE DRIVE
 HAMBURG, MICH.

PROPOSED ADDITION
 OCTOBER 1, 2018

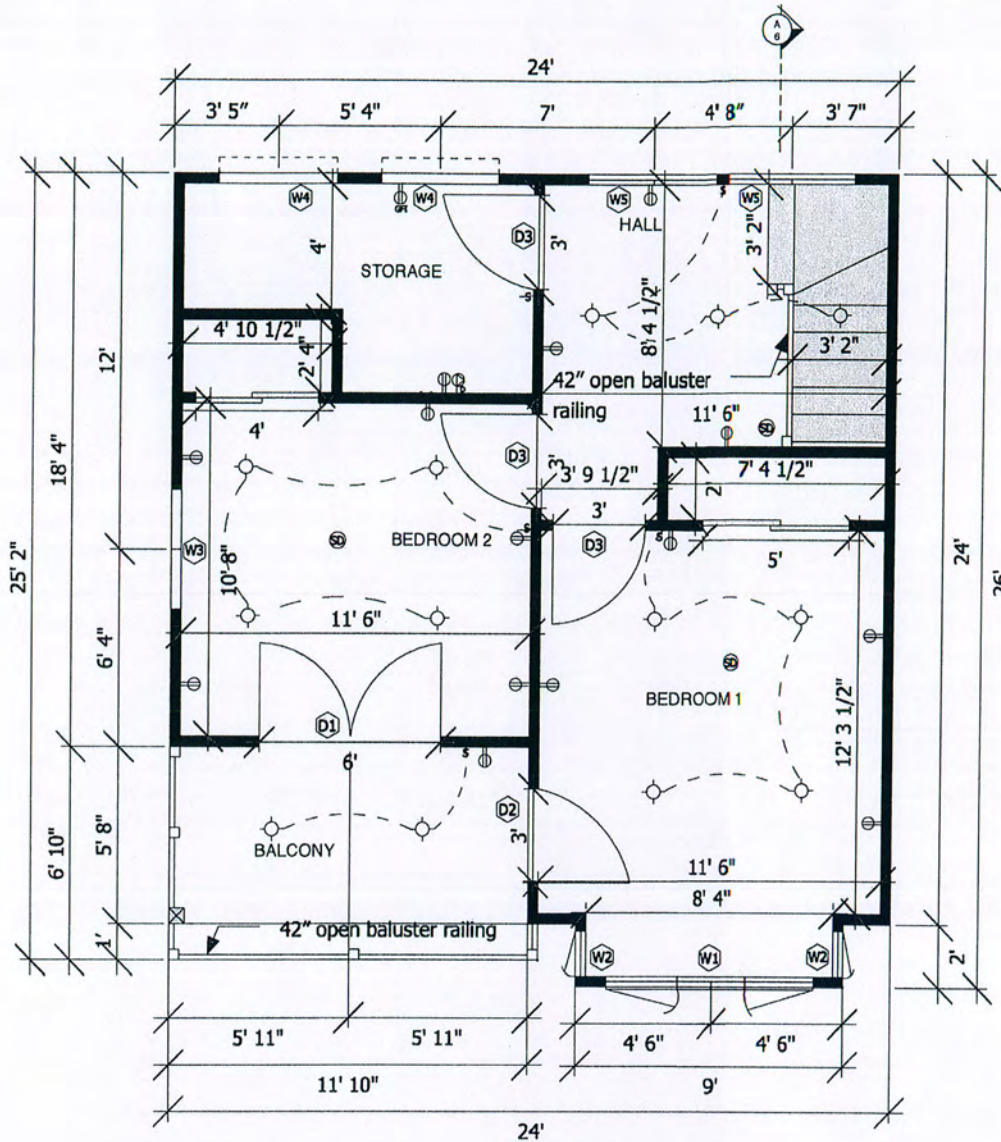


1/8" = 1'

ELEVATION DRAWINGS

HOME OF JOHN & RENEE JOHNSTON
 6361 BUCKSHORE DRIVE
 HAMBURG, MICH.

PROPOSED ADDITION
 OCTOBER 1, 2018



Window and Door Schedule

- W1: ANDERSEN 400 SERIES CASEMENT CW34 4' 0" X 7' 5/8" (ROUGH 4' 1/2" X 7' 1 1/8") U-FACTOR: 0.27hh
- W2: ANDERSEN 400 SERIES CASEMENT CR14 1' 5" X 4' 0" (ROUGH 1' 5 1/5" X 4' 1/2") U-FACTOR: 0.26
- W3: ANDERSEN 400 SERIES CASEMENT C24 4' 0" X 4' 0" (ROUGH 4' 1/2" X 4' 1/2") U-FACTOR: 0.26
- W4: ANDERSEN 400 SERIES AWNING AR41 4' 0" X 1' 5" (ROUGH 4' 1/2" X 1" 5 1/2") U-FACTOR: 0.26
- W5: ANDERSEN 400 SERIES CASEMENT C23 2' 11 15/16" X 4' 0" (3' 1/2" X 4' 1/2") U-FACTOR: 0.26
- W6: ANDERSEN 400 SERIES CRT 4010 4' 0" V 1' 0" (ROUGH 4' 1/2" X 1 1/2") U-FACTOR: 0.25

- D1: ANDERSEN 400 Series French Door FWH 60611APLR 5' 11 1/4" X 6' 10 3/8" (ROUGH 6' 0" X 6' 11") U-FACTOR 0.32
- D2: ANDERSEN 400 Series French Door FWO 31611AR 3' 1/8" X 6' 10 3/8" (ROUGH 3' 1" X 6' 11") U-FACTOR 0.32
- D3: MILLIKEN MILLWORK Z019954R PINE 15-LITE INTERIOR FRENCH DOOR 36" X 80" (ROUGH 38" X 82 1/4")
- D4: JELD-WEN THDJW166100241 20 MINUTE FIRE RATED 6-PANEL Steel Door 36" X 80" (ROUGH 38 1/2" X 82 1/2") - STAIR ENTRY

1/4" = 1'

FLOOR PLAN

HOME OF JOHN & RENEE JOHNSTON
6361 BUCKSHORE DRIVE
HAMBURG, MICH.

PROPOSED ADDITION
OCTOBER 1, 2018



Zoning Board of Appeals Staff Report

AGENDA ITEM: 7a



TO: Zoning Board of Appeals
(ZBA)

FROM: Amy Steffens

HEARING DATE: February 14, 2018

SUBJECT: ZBA 18-001

PROJECT SITE: 3686 Colonial
TID 15-29-403-021

**APPLICANT/
OWNER:** Michael Mulvihill

PROJECT: Variance application to permit construction of a second-story addition to a non-conforming dwelling. The second-story addition will have a 4-foot east side yard setback (10-foot side yard setback required, Sections 7.6.1. and 11.3.1.) to match the non-conforming east side yard setback of the existing dwelling.

ZONING: WFR (waterfront residential district)

Project Description

The subject site is a 9,583-square foot parcel that fronts onto Colonial Drive; a park for use by White Lodge Country Club property owners is to the north; single-family dwellings are located to the south, west and east of the subject site. As seen in the site map above the dwelling was constructed across two single platted lots, which is not permitted. However, the property owner applied on November 29, 2017 to combine the two platted lots into one parcel and the township approved the application. The site is improved with a 2,385-square foot single-family dwelling and an attached 576-square foot garage. The first floor has 1,737 square feet of enclosed living space; the second-story contains 643 square feet of living space.

The dwelling's existing and proposed setbacks are noted in the table below.

	Existing	Proposed	Required
North (front)	30 feet	30 feet	25 feet
South (rear)	36 feet	36 feet	30 feet
West (side)	10 feet	10 feet	10 feet
East (side)	4 feet	4 feet	10 feet*

Proposed lot coverage is 39 percent, which is below the 40 percent permitted. Lot coverage over 40 percent would require an engineered grading and drainage plan.

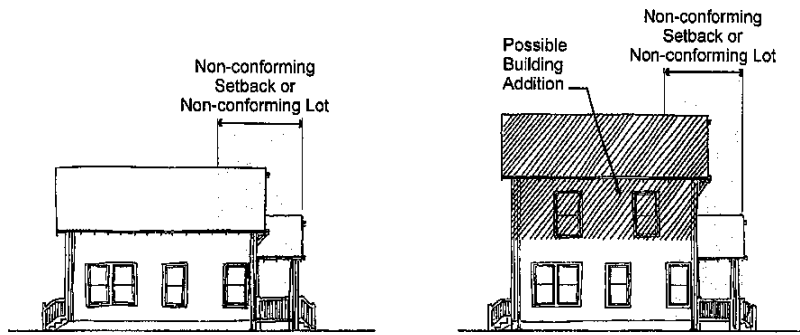
Variance Request

On November 9, 2017, the township board approved a zoning text amendment to Article 11. The amendment removed the "50 percent rule" that required variance approval for improvements to a non-conforming dwelling that exceeded 50 percent of the market value of the structure. Additionally, Section 11.3.1. of the amendment clarifies the expansion of nonconforming buildings to require that second-story additions to a nonconforming building meet required setbacks. Prior to the amendment a second-story addition would be permitted to maintain the same setbacks as the footprint of the existing, non-conforming dwelling.

The applicant proposes to construct an additional 350 square feet of second-story living space, add an elevated deck to the south façade off of the proposed master bedroom, and re-frame the roof. Variance approval is required for the second floor living space addition with a proposed 4.0-foot east side yard setback, where a 10-foot side yard setback would be required (Sections 7.6.1.). Section 11.3.1. requires that a second level addition to an existing single-story house with a non-conforming side yard setback must not encroach into the required setback even if the existing main level already encroaches into the setback (See Section 11.3.1 wording and Diagram F).

11.3.1. Permitted Expansion of Residential Buildings: A residential nonconforming building may be allowed to expand provided the expansion is within a yard which retains compliance with the required setbacks and height, (eg. a home with a nonconforming front yard setback may be expanded in the rear so long as the rear yard setback remains conforming, (see Diagrams B,C and D) this includes expansions to upper levels (eg. A second level is added to an existing single story house with a non-conforming side yard setback the second story must not encroach into the required setback even if the existing main level already encroaches into the setback, see Diagram F).

Any other expansion shall be prohibited unless a variance is granted by the Zoning Board of Appeals.

Diagram F: Addition of a second story to a non-conforming structure

This addition will require a variance from the Zoning Board of Appeals

Standards of Review

The Zoning Board of Appeals (ZBA) decision in this matter is to be based on the findings of facts to support the following standards. The applicable discretionary standards are listed below in bold typeface followed by staff's analysis of the project as it relates to these standards. A variance may be granted only if the ZBA finds that all of the following requirements are met.

- 1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.**

Aerial photographs of the subject site and nearby dwellings show that many of the homes in the vicinity of the site were constructed with reduced side yard setbacks, which is not uncommon for lots in the WFR district. A reduced second-story setback would not be out of character with surrounding properties.

- 2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.**

The site is zoned for single-family residential uses, has been developed for such uses, and can continue to be used for such use. With minor alterations to the plan, the proposed second story living space could comply with the ordinance requirement of a 10-foot side yard setback.

Staff would be concerned about the second-story addition's impact on the dwelling to the east. A reduced side yard setback does not simply reduce the two-dimensional setback shown on the site plan but rather it reduces the setback for the *bulk of the structure*. It is because of the impact of the structure's bulk at a reduced setback that Article 11 of the zoning ordinance was amended in 2017.

- 3. That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.**

The proposed reduced side yard setback further increases the dwelling's nonconformity and the bulk of the structure at the setback will intensify the impact of the reduced setback on the lot to the east.

- 4. That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.**

This site is located in the North Chain of Lake planning area in the Master Plan. Parcels in this planning area are closely tied to lake waterfronts. The plan envisions the WFR district as a transition to lower density residential areas. The proposed project would not adversely affect the purpose or objectives of the Master Plan.

- 5. That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.**

There is no condition or situation of the subject site that is not of so general or recurrent a nature that the proposed second story addition cannot comply with the required 10 feet side yard setback. The need for the variance arises from a personal preference and not a condition specific to the property. The lot, 80 feet wide by 120 feet deep, is a sizeable lot for the waterfront residential district. If the proposed second-story addition were to be built with the required 10-foot side yard setback the living space would be reduced by 218 square feet, a loss which could be replaced with an alternative design.

- 6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district.**

The use of the site is single-family residential and the proposed variance would not change the use.

- 7. The requested variance is the minimum necessary to permit reasonable use of the land.**

The applicant's findings of fact indicate that receiving variance approval is the minimum necessary to permit reasonable use of the land without changing the footprint or nonconformity. The proposed design only increases the nonconformity of the structure. Constructing a second story addition with a four-foot side yard setback is not the minimum necessary to permit reasonable use of the land, as evidenced by the fact that the existing dwelling has been used for single-family residential. The lot can accommodate additional living space, with conforming setbacks, in an alternative design configuration.

“Practical difficulty” exists on the subject site when the strict compliance with the Zoning Ordinance standards would render conformity unnecessarily burdensome (such as exceptional narrowness, shallowness, shape of area, presence of floodplain or wetlands, exceptional topographic conditions)

Recommendation

Staff recommends the ZBA open the public hearing, take testimony, close the public hearing, evaluate the proposal for conformance with the applicable regulations, and deny or approve the application. In the motion to deny or approve the project the ZBA should incorporate the ZBA’s discussion and analysis of the project and the findings in the staff report. The ZBA then should direct staff to prepare a memorialization of the Board’s decision that reflects the Board’s action to accompany the hearing minutes and to be reviewed and approved at the next ZBA hearing.

Approval Motion:

Motion to approve variance application ZBA 18-001 at 3686 Colonial Drive to permit construction of a second-story addition to a non-conforming dwelling. The second-story addition will have a 4-foot east side yard setback (10-foot side yard setback required, Sections 7.6.1. and 11.3.1.) to match the non-conforming east side yard setback of the existing dwelling.

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 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.

Denial Motion:

Motion to deny variance application ZBA 18-001 at 3686 Colonial Drive to permit construction of a second-story addition to a non-conforming dwelling. The second-story addition will have a 4-foot east side yard setback (10-foot side yard setback required, Sections 7.6.1. and 11.3.1.) to match the non-conforming east side yard setback of the existing dwelling.

The variance does not meet variance standards two, three, five, or seven of Section 6.5 of the Township Ordinance and a practical difficulty does not 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.

Exhibits

Exhibit A: Application materials

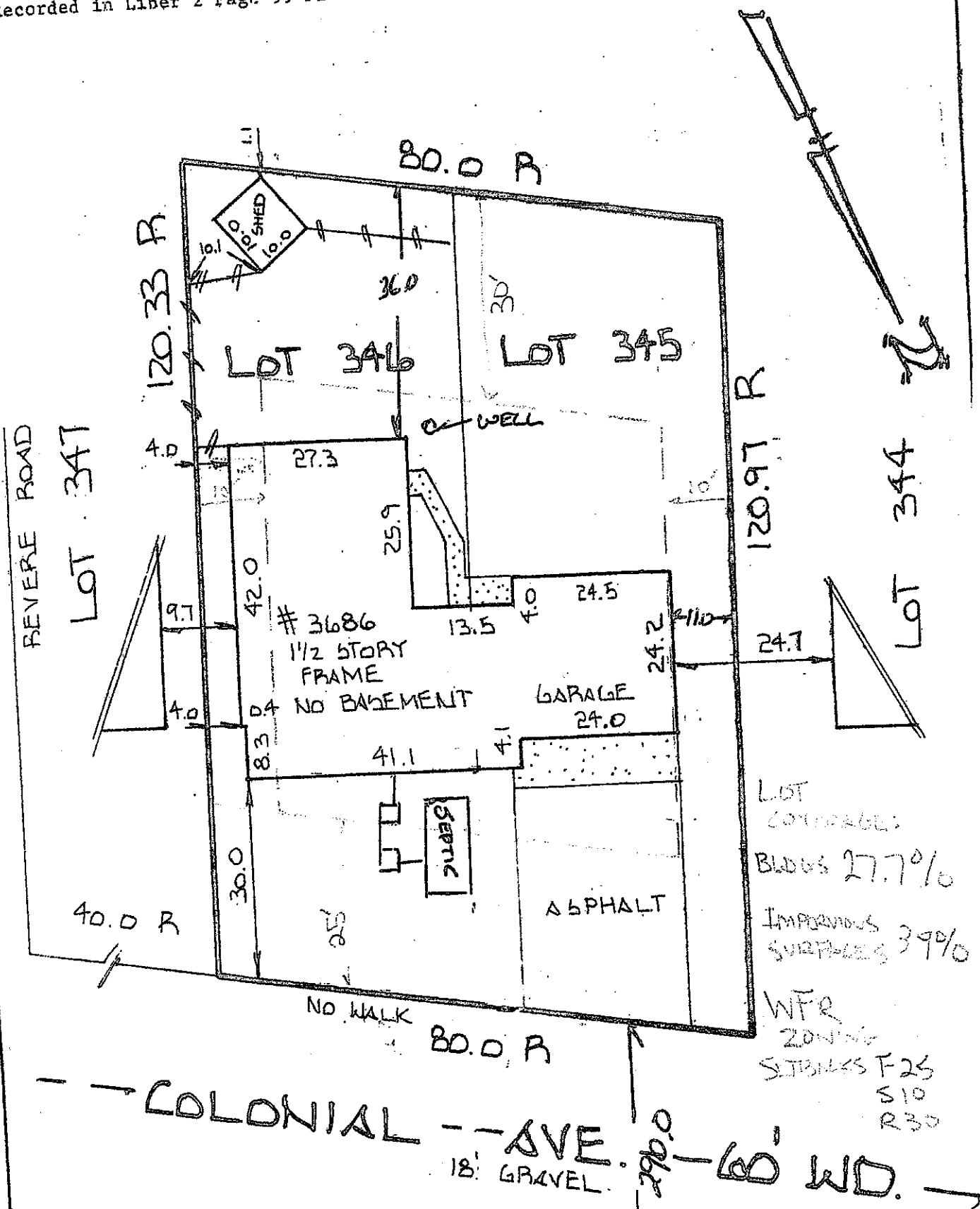
Exhibit B: Article 11, effective date November 28, 2017

Exhibit C: site and construction plans (to be included in hard copy of report)

#4715-29-403-021

Description Lots 345 and 346, White Lodge Country Club, a subdivision of part of Section 29, Town 1 North, Range 5 East, Hamburg Township, Livingston County, Michigan. Recorded in Liber 2 Page 99 Plats L.C.R.

INCOLN ASSOCIATES, INC. 37741 Pembroke, Livonia, MI 48152 (313) 432-9777 Fax (313) 432-9786



WHITE WOOD LK. MORTGAGE CERTIFICATE

