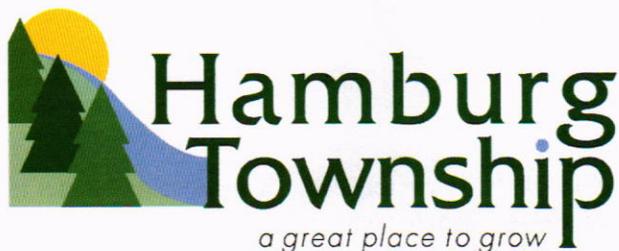


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Supervisor: Pat Hohl
Clerk: Mike Dolan
Treasurer: Jason Negri
Trustees: Bill Hahn
Annette Koeble
Chuck Menzies
Patricia Hughes

**Hamburg Township
Zoning Board of Appeals Minutes
Wednesday, January 13, 2021
Virtual Meeting using GoToMeeting platform
7:00 P.M.**

1. Call to order:

The meeting was called to order by Chairperson Priebe at 7:00 p.m.

2. Pledge to the Flag:

3. Roll call of the Board:

Present: Auxier, calling in from Hamburg Township
Negri, calling in from Hamburg Township
Priebe, calling in from Hamburg Township
Rill, calling in from Hamburg Township
Watson, calling in from Hamburg Township

Absent: None

Also Present: Amy Steffens, Planning & Zoning Administrator

4. Correspondence: None

5. Approval of Agenda:

Motion by Auxier, supported by Negri

To approve the agenda as presented

Voice vote: Ayes: 5 Nays: 0 MOTION CARRIED

6. Call to the public:

Chairperson Priebe opened the hearing to the public for any item not on the agenda. There was no response. The call was closed.

7. Variance requests:

a. ZBA 2020-0021

Owner: Stanley and Bonnie Wojciechowski

Location: 11663 Algonquin Pinckney MI 48169

Parcel ID: 15-31-301-034

Request: Variance application to permit the replacement of a non-conforming accessory structure not damaged by natural disaster (Section 11.3.4.). The accessory structure would have a 2.8-foot east rear setback (five-foot rear yard setback permitted, Section 8.3.).

Mr. Stan Wojciechowski, applicant, stated that they are requesting a variance of 2.8 feet to the rear yard setback to complete a previously started project and allow them to continue the project as a new structure replacing an existing garage with a like 22-foot by 22-foot structure and an additional 18 inches in height. It will be used for cars and storage only. Less than 1% of the structure will be within the 2.8 feet or 4 square feet. They have owned the property for several years and have made several improvements. The garage previously had a make-shift rear wall, holes and broken windows allowing birds to access and the second floor attic had a tree branch through it. It did continue to deteriorate, and at this point, they believe the garage is no longer functional. They have looked at several options for the garage including moving it forward and attaching it to the house, but it became very complicated. He described the difficulties in trying to move it forward. He discussed the property line, neighboring homes, and drainage. They believe that their options are limited and the best place for the new structure is where it is currently residing. He discussed the history of trying to repair the existing structure and related permits. They do believe that the best location for them as well as their neighbors that does not infringe on the view or beauty of the lake is its current location with the additional 18 inches in height, which is below the maximum allowable height. He stated that he has spoken to both of their neighbors and they are supportive of this replacement. If approved, he will be hiring a contractor and ensure that it meets the Hamburg Township and Livingston County building requirements.

Amy Steffens, Planning & Zoning Administrator, stated that the subject site is a 6,882 square foot parcel that fronts onto Algonquin Drive to the west and a lagoon of Portage Lake to the north. Single-family dwellings are located to the north, east, south, and west. The site is improved with a 2,440 square foot dwelling and a partially constructed 484-square foot detached garage. On July 15, 2020, Hamburg Township issued a land use permit to re-roof the detached garage and replace trusses. On October 19, 2020, the zoning department was contacted by Justin Lay, a building inspector with the Livingston County Building Department, to advise that work was being undertaken that was not permitted by either the township or the county. Walls were removed and replaced with a wall plate that was 18 inches taller than what had been removed. The county posted a stop work order as well as the township. Mr. Lay indicated that he would ask Jim Rowell, the county building official to also visit the site. A subsequent email from Mr. Rowell is included for the Board's review. He indicated that the work being done on the garage was not consistent with the project that was approved and there may be some structural concerns. If approved, the variance would permit the 100 percent replacement of a 22-foot by 22-foot detached garage. The garage would have a 2.8-foot rear yard setback where a 5-foot rear yard setback is required per Sections 8.3.2. and 8.3.3. Additionally, Section 11.3.4. specifies the following: Permitted Replacement: A nonconforming building and its accessory structures and uses damaged by Natural Disaster or by vandalism may be repaired or replaced subject to certain requirements, and the section continues. Anything outside of that requires ZBA approval, which is why this is before the Board at this time. It is a 100% replacement not caused by a natural disaster.

Steffens discussed the seven findings of fact. She stated that there is no exceptional or extraordinary condition of this property that does not apply to other properties in the vicinity. That five-foot setback applies to all properties in the Township regardless of unusual layout. This is not an unusual layout, but a rather large property for waterfront residential district and there are multiple locations for the construction of a compliant accessory structure. The proposed location is a result of a design preference, not a condition specific to the property. Additionally, the reason why the applicant is here is because of work that was undertaken outside of the zoning ordinance. The proposed variance is not the minimum necessary for the continued use of the site as single-family residential. The owner's stipulate that the replacement garage, in the same location as the garage that was removed, will not be detrimental to adjacent properties but do not address the increased height of the replacement structure. It is not just the planned view, but it is the bulk of the structure within the setback that raises additional concern about the impact of the reconstructed garage. By raising the structure 18 inches in height, although it conforms to the height requirements, it is the bulk of the structure we need to consider. The intent of the rear yard setback is to require enough space between the roadway and the structure so that structures do not loom over the street and the intent of the lake setback is to reduce the environmental impacts that a structure will have on the lake and also to reduce the visual impact that a structure would have as viewed from the lake. The rear yard setback is relaxed for any structure located completely behind the house because we want people to have the ability to construct customary structures. In this case, it is rear yard to rear yard, but it is also impactful to the property to the south as well as to the southeast because of the way the property boundaries line up. The granting of the variance will have no impact on the Master Plan. The condition or situation of the specific piece of property is of a general and recurrent nature. An accessory structure is a common and customary

accessory structure that is granted relaxed setback requirements in the zoning ordinance. Additionally, the intent of the ordinance is to allow the replacement of a structure that is non-conforming that has been removed through no fault of the property owner. In this case, by not only allowing the applicant to replace a non-conforming structure and increased non-conforming structure, does not support the intent of the zoning ordinance to bring properties into compliance as structures are removed and developed. The site is zoned for single-family dwellings and related appurtenances. Approval of the variance request would not permit the establishment of a use not permitted by right within the district. As stated, because there is a complaint building envelope, the requested variance is not the minimum necessary to permit reasonable use of the land.

Chairperson Priebe opened the public hearing.

Christina Bernette of 11660 Portage Lake Ave. stated that they are the neighbors directly behind the applicant. When they moved in, the garage was where it stands now. The applicants have worked to improve the neighborhood and they have no issue where the garage currently is or the additional height. It does not impede their view at all. However, if they were to move that garage to the south, it would completely block their view of their lake access.

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

Member Rill asked if they had not raised the height of the structure, would we still be here. Steffens explained that it is the fact that the entire structure was removed, and it was a non-conforming structure. Our ordinance says that it has to meet the zoning ordinance.

Member Auxier asked the applicant's neighbors if the building were moved 2 feet 4 inches toward the driveway, would it make any difference. Ms. Bernette stated that she is not sure if that would make any difference for them. Mr. Wojciechowski stated that one of the reasons they did not move it forward was because the foundation was already there. It is also his understanding that there is another section of the ordinance that says that a detached garage needs to be 10 feet from the house. He further discussed the existing sidewalk and drainage. Mrs. Wojciechowski stated that if they moved it forward, it would also have to move south in order to get to the 10 feet. This would then block the view of their west neighbor.

Member Auxier stated that he feels that making the applicant move the garage or change the height because of 1%, is not reasonable and sees no value to anyone. He is comfortable with leaving the garage where it is including the height of the roof. Member Negri concurred and stated that the two neighbors directly impacted have expressed their support. Given the unusual angle of this property and the fact that moving it to the south would be more detrimental to the neighbors, keeping status quo is not going to harm anyone and looks like the best option.

Chairperson Priebe stated that we have received correspondence from both Shane Davis and Patrick and Danielle Wehrman, neighbors who have expressed support.

Chairperson Priebe stated that it is very interesting to see how the property boundaries come together back there. She does not see any problems with the request.

Motion by Auxier, supported by Rill

To approve variance application ZBA 20-0021 at 11663 Algonquin (TID 15-31-3010-034) to permit the replacement of a non-conforming accessory structure not damaged by natural disaster (Section 11.3.4.). The accessory structure would have a 2.8-foot east rear setback (five foot rear yard setback permitted, Section 8.3.). The variance meets variance standards one (1) through seven (7) of Section 6.5 of the Hamburg Township Zoning Ordinance, and a practical difficulty exists on the subject site when strict compliance with the Zoning Ordinance standards is applied, as discussed at the meeting this evening and as presented in the staff report. The Board directs Staff to prepare a memorialization of the ZBA's findings for the request.

Roll Call Vote: Auxier - Yes
Negri - Yes
Priebe - Yes
Rill - Yes
Watson – Yes

MOTION CARRIED

b. ZBA 2020-0022

Owner: Lewis and Nancy Walker

Location: 9020 Rushside Drive Pinckney MI 48169

Parcel ID: 15-17-402-126

Request: Variance application to permit the construction of 13-foot by 13-foot enclosed sunroom. The sunroom will have a 22-foot south front yard setback (25-foot front yard setback required, Section 7.6.1.).

Chairperson Priebe stated that we have been requested to table this appeal for additional information.

Motion by Rill, supported by Negri

To table request ZBA 2020-0022 until the next meeting

Roll Call Vote: Auxier - Yes
Negri - Yes
Priebe - Yes
Rill - Yes
Watson – Yes

MOTION CARRIED

c. ZBA 2020-0023

Owner: Gary Marker

Location: 10281 and 10283 Kress Road Pinckney MI 48169

Parcel ID: 15-28-200-051 and 15-28-200-052

Request: Variance application to permit a boundary adjustment of two existing WFR-zoned, nonconforming parcels to correct for a driveway encroachment. If approved Parcel 15-28-200-051, currently 0.69 acres, would be 0.80 acres in size and Parcel 15-28-200-052, currently 0.68 acres, would be 0.58 acres. Minimum lot size in the WFR-zoned district is one acre (Section 7.6.1.).

Planning & Zoning Administrator Steffens stated that the applicant's presence is not a requirement. She stated that the subject sites are two contiguous parcels on Kress Road. Parcel 15-28-200-052, addressed as 10283 Kress, is the western parcel in the above aerial; parcel 15-28-200-051, addressed as 10281 Kress, is the eastern parcel. Both parcels are improved with single family dwellings. The driveway servicing 10281 Kress was inadvertently installed over the shared property boundary. If approved, the variance would permit a boundary adjustment between these two parcels to move the common property boundary to the west to correct for the driveway encroachment. The minimum lot size in the WFR zoned district is one acre and both parcels are considered non-conforming minimum lot size. If a new parcel were being created the Land Division Act would apply as would the zoning ordinance requirements for minimum lot size and road width. Property boundary adjustments are not addressed in the LDA thus a boundary adjustment is reviewed only in terms of the compliance with the zoning ordinance standards. 10283 Kress is currently 0.68 acre but would be 0.58 acre if the variance were approved and would lose 12 feet of frontage along Kress. 10281 Kress is currently 0.69 acre but would be 0.80 acre and would gain 12 feet of frontage. The dwellings on both parcels have non-conforming rear yard setbacks, and any approval of the variance request for the boundary adjustment would not make conforming the existing setbacks. Additionally, the boundary adjustment will need to go through the normal township administrative process for adjustments. She discussed the findings of fact. She stated that the boundary adjustment is sought to correct a driveway encroachment, which is a condition or circumstance applicable to the properties involved that do not apply generally to other properties in the same district or zone. However, it is a self-created circumstance. Staff finds that adjusting the property boundary as proposed does not create a situation for either

parcel that would not apply to the other parcels off of the private Kress Road easement. The average lot size in this area is 0.63 acres. It will not give either parcel property rights not possessed by other properties within the same zone or vicinity. We are not creating a new lot or anything new. We are only adjusting the legal descriptions and the adjoining property boundary. Adjoining properties will not be materially impacted because the driveway encroachment serves as a de facto visual boundary between the two subject lots; changing the legal descriptions will not have an impact on adjacent properties or related improvements. It has no impact on the Master Plan or what it envisions. The proposed future land use will continue as waterfront residential. The condition of the driveway encroachment is not of so general or recurrent a nature. While the encroachment is a self-created practical difficulty the boundary adjustment does not impact access, improvements, or enjoyment of adjacent properties. The use of these sites is single-family residential and the proposed variance would not change the uses of either parcel. Again, this is not going to impact any adjacent properties at all, and staff is recommending approval.

The question was asked if the applicant owns both properties. Steffens stated that he is the owner of record for both parcels.

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

Motion by Auxier, supported by Rill

To approve application ZBA 20-0023 at 10281 and 10283 Kress Road to permit a boundary adjustment of two existing WFR-zoned, non-conforming parcels to correct for a driveway encroachment. If approved Parcel 15-28-200-051, currently 0.69 acres, would be 0.80 acres in size and Parcel 15-28-200-052, currently 0.68 acres, would be 0.58 acres. Minimum lot size in the WFR-zoned district is one acre (Section 7.6.1.). The variance does meet variance standards one through seven of Section 6.5 of the Township Ordinance and a practical difficulty does exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at the meeting tonight and as presented in the staff report.

Roll Call Vote: Auxier - Yes
Negri - Yes
Priebe - Yes
Rill - Yes
Watson - Yes

MOTION CARRIED

New/Old business:

- a) Approval of November 12, 2020 minutes

Motion by Auxier, supported by Watson

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

Roll Call Vote: Auxier - Yes
Negri - Yes
Priebe - Yes
Rill - Yes
Watson - Yes

MOTION CARRIED

Steffens reminded the Board that the annual joint meeting will be on February 24, 2021 at 7:00 p.m. If there are any sections of the ordinance that anyone would like addressed, either for discussion or potential zoning text amendment, please let her know so that she may begin work on it. It will be a year in review of planning and zoning activities and will be used to set our work for the coming year.

8. Adjournment:

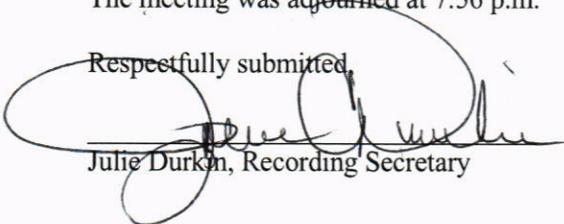
Motion by Negri, supported by Rill

To adjourn the meeting

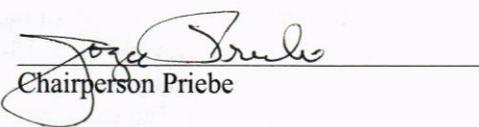
Voice vote: Ayes: 5 Nays: 0 MOTION CARRIED

The meeting was adjourned at 7:56 p.m.

Respectfully submitted,


Julie Durkin, Recording Secretary

The minutes were approved as presented/corrected: 2-10-21


Chairperson Priebe