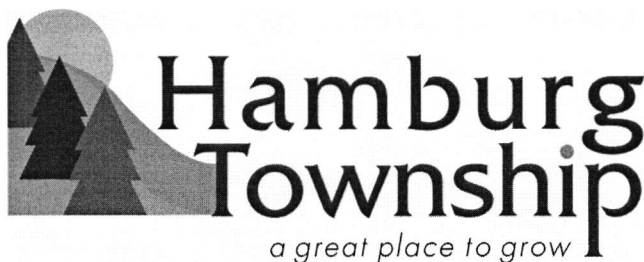


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**Hamburg Township
Zoning Board of Appeals Minutes
Hamburg Township Board Room
Wednesday, October 10, 2018 Minutes
7:00 P.M.**

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, Bohn, Neilson, Priebe, and Watson

Absent: None

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

4. Correspondence: None

5. Approval of Agenda:

Motion by Neilson, supported by Watson

To approve the agenda as presented

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

6. Call to the public:

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

7. Variance requests:

1. ZBA 2018-0010

Owner: Richard and Kristine Mancik

Location: 5229 Post Drive Pinckney MI 48169

Parcel ID: 15-27-105-039

Request: Variance application to allow the demolition and reconstruction of a 1,053-square foot dwelling, with a walkout basement and partially constructed 729-square foot attached garage. The proposed dwelling would have a 7-foot, 3-inch north side yard setback (10-foot side yard setback required, Section 7.6.1.), and a 576-square foot elevated deck with a 6-foot, 6-inch north side yard setback (8-foot setback required, Section 8.17.1.).

Mr. Mancik explained his proposal. He stated that they are not proposing to change the existing footprint. The roof-line would change slightly. They would also be adding a deck which would be the mirror image of the lower level.

The question was asked regarding the adjacent lot. Mr. Mancik stated that there are two separate lots. The home sits on a 100 foot lot and the septic sits on a 50 foot lot. He has purchased the 50 foot lot on land contract. It has been agreed that it would be best suited to put in a new grinder pump with the home and leave the existing pump. They have drawn up an easement at the back of the 100 lot giving access. This will have to go to the Sewer Board for approval.

Amy Steffens, Planning & Zoning Administrator stated that the subject site is a 20,603-square foot parcel improved with a 1,053-square foot, single-story dwelling with a walk-out basement and a partially constructed 729-square foot attached garage. The site fronts onto Post Drive to the south; Zukey Lake is to the west, a vacant residential parcel is to the north, and a park and a single-family dwelling are to the south. If approved, the variance request would allow for the demolition of the existing dwelling and the reconstruction, using the same footprint, of the 1,053-square foot dwelling. The dwelling would have a 7-foot, 3-inch north side yard setback, where a 10-foot side yard setback is required. Additionally, they are proposing a 576-square foot elevated deck. An elevated deck can encroach into a yard no more than 6 feet, but it has to be no nearer than 8 feet to the property boundary. The Mancik's are proposing an elevated deck 6 feet 6 inches to the north side yard setback.

Steffens stated that on September 2, 2014, the Township issued a land use permit for the construction of a 729-square foot attached garage. However, on November 7, 2017, the Livingston County Building Department notified the township that, due to a lack of progress or job abandonment, the county permits were closed. On May 1, 2018, the Township confirmed that the attached garage had been partially completed and that the lack of completion was a violation of General Ordinance 38-C, Anti-blight and anti-nuisance. At that time, the property owner indicated that a completed land use permit application for the completion of the garage would be submitted by May 3, 2018. The plans submitted in July did not address all of the requirements; however, after revising the plans, the applicant decided to demolish the existing structure and re-build in the same footprint. As you know, the Board is bound by the findings of fact relating to a practical difficulty of the property, not the property owners. She reviewed the Standards. She stated that setbacks serve a couple purposes. It encourages orderly development of parcels, neighborhoods, etc. and helps maintain open vistas of the neighborhoods, streets and adjoining property. They also protect adjoining properties from the negative impact from development on adjacent parcels. There is nothing exceptional or extraordinary about the property to warrant a deviation from the Zoning Ordinance. Of the 28 parcels that would have received the legal notification, the subject site is larger than 19 of them and would be large enough to accommodate a dwelling and elevated deck and meet the ordinance requirements. The applicant has indicated that the location of the house is due to an existing stone stairway to the rear of the property. The stairway could be maintained with a house in a conforming location. The house would have a 50 foot south side yard setback indicating to staff that there is room on the property itself to build a conforming structure. Property rights are not advanced based on a single proposed site plan or architectural design. The building could be relocated to a compliant location and the deck could be reduced in size to meet the ordinance. An elevated deck does not preserve a substantial property right nor does creating a non-conforming structure where one does not currently exist. The subject site is in the North Chain of Lakes planning area of the Master Plan. This area envisions medium density residential development in the developed areas around the chain of lakes. The proposed request would not adversely affect the propose or objectives of the Master Plan.

Steffens stated that we recently amended the Zoning Ordinance. The previous ordinance allowed an expansion of a non-conforming structure without ZBA approval up to 50% of the market value of the existing structure. We had more variance requests to that section of the ordinance than any other. On these lake front lots, these homes are small, most are non-conforming and it was driving the need for a lot of these requests. We changed it to make it easier for people to improve or add on to a non-conforming structure. The ordinance recognizes that non-conforming structures and uses are something we are trying to fade out. Therefore, moving forward, our ordinance says that on a non-conforming structure, anything new must meet

the setbacks. If there is some type of natural disaster that causes damage to the structure, you can put it back. However, the ordinance is very clear that if a structure is removed for any other reason other than a natural disaster, it must come into conformance with the setback standards. Additionally, an amendment was made in 2016 to relax the setback standards for elevated decks. Again, this was based on the smaller lake front lots. It allows for anything over 24 inches above grade to encroach into the required setback up to 6 feet but you may not be closer than 8 feet to the setback standard. Staff does believe that the requests have been addressed adequately by the Zoning Ordinance and there is no other text amendment that could be offered to this property so the property owner would not have to file for a variance. She stated that the use of the site is single-family residential and the proposed variance would not change the use. The proposed site plan is what is creating a practical difficulty. The site can accommodate a conforming structure. The property must be considered, not the design preference of the applicant, in determining if the variance is the minimum necessary to permit reasonable use of the land. There is nothing peculiar about the property that warrants variance approval for a second story addition to the existing dwelling over an attached garage. Demolishing the structure entirely gives the opportunity to bring the structure into compliance. And, the Zoning Ordinances have been amended to offer greater flexibility on constrained lots within our waterfront district.

Discussion was held on the building being an existing non-conforming structure. Steffens stated that the deck would be an additional non-conformity if it was approved. The patio itself is conforming.

Discussion was held on the need for pilings for many of the homes constructed along the lakes and the large expense associated with it. Steffens stated that she does not know what the building department would require. However, when you start considering what one person is going to pay versus another, you take out the intent of the findings, which is that they are specific to the property.

Member Bohn made the point that most of the house does meet the 10 foot setback and the owner also owns the adjacent parcel. He would agree that the purpose of the setback is correct to have conformity and avoid adverse impact to the adjacent owner. In this case, the applicant is the impacted owner as well. He further stated that they strive to preserve things that are unique and interesting. If he had to do pilings, most of the hard work on the stairways from 1921 would be destroyed. That is unique to this piece of property.

Member Auxier asked if the applicant would entertain changing the deck, the house would only encroach the setback 1.5 feet. This is one of the most open areas in that bay and he would not see how any of the neighbors would be impacted or a potential new neighbor on the adjacent lot. Mr. Mancik stated that the deck he proposed was simply a mirror image of the patio so there is already entertainment on the deck below. It would be nice to have a deck off the main living area, but if the deck is the main issues, he would leave it off. It was stated that the deck could be reduced. Mr. Mancik stated that it would not be symmetrical.

It was stated that the two lots could be combined and there would be no problem. Mr. Mancik stated that they do intend to sell that in the future, which is why they came to the understanding about putting in the new sewer/grinder pump for the house.

Steffens stated that it is the recommendation of the DPW that the grinder pump issue be resolved prior to the issuance of a land use permit. Staff would suggest that be part any approval. Mr. Mancik stated that he has a problem with that because until he sells it, that issue should not be a factor. He will make it part of the project, but should not be before he can have a permit. Steffens stated a condition of the permit would be that the sewer connection application would be made and the sewer connection fee paid in full prior to the issuance of a Certificate of Occupancy. Mr. Mancik stated that he does not have a problem with that. Steffens stated that this should be a condition of approval.

Member Auxier stated that his opinion is that the non-conforming part of this request is so small and there is a lot of space involved. The area is very secluded. He does not see any impact on anyone around with the exception of a future home.

Steffens stated that ZBA approval is good for six months. Therefore permits must be pulled and construction must begin within six months.

Discussion was held on the slope of the lot.

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

Member Watson stated that his opinion is that this would be a new structure and should be conforming even if the request is minor. This is a big lot, therefore it is difficult not to stick with that. Member Nielson agreed. However, there are special circumstances.

Mr. Mancik stated that there is an existing basement. He could fix and repair what is there or take everything down to the foundation. Everything there from the structure to the mechanical, etc. is sub-standard. He further stated that he could tear everything out and build a much larger home, but that is not what he is trying to do. There is a lot of value with the existing basement.

Motion by Auxier, supported by Bohn

Motion to approve variance application ZBA 18-0010 at 5229 Post Drive to allow the demolition and reconstruction of a 1,053-square foot dwelling, with a walkout basement and partially constructed 729-square foot attached garage. The proposed dwelling would have a 7-foot, 3-inch north side yard setback (10-foot side yard setback required, Section 7.6.1.), and a 576-square foot elevated deck with a 6-foot, 6-inch north side yard setback (8-foot setback required, Section 8.17.1.) as proposed contingent upon the sewer issue being resolved prior to the issuance of a land use permit and be that the sewer connection application be made and the sewer connection fee paid in full prior to the issuance of a Certificate of Occupancy.

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

2. ZBA 2018-012

Owner: David and Sharon Gauntlett

Location: 2105 Cardinal Court Pinckney MI 48169

Parcel ID: 15-31-302-020

Request: Variance application to allow for 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.). Variance application to allow for a 1,166-square foot, two-story addition to the north façade of the dwelling. The addition will have a 16-foot west front yard setback along Algonquin Drive (25-foot front yard setback required, Section 7.6.1.fn4.) and a 15-foot north rear yard setback (30-foot rear yard setback required, Section 7.6.1.).

Mr. Gauntlett stated that this was his childhood home. With the passing of his parents, he assumed ownership. He would like to move his family here, but it is a little too small. They are proposing to make it longer with a garage as well as a second story. There is currently only two bedrooms with a very small bathroom.

Discussion was held on the current non-conformity. Mr. Gauntlett stated that it is also a corner lot with the road frontages.

Brittany Stein, Planning/Zoning Coordinator, stated that the subject site is a 6,142-square foot lot that fronts onto Cardinal Court to the south; Algonquin Drive to the west, and single family dwellings are located to the north and east of the site. If approved, the variance request would permit the construction of 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 where a 25-foot front yard setback required along both street frontages. If approved, the variance request would permit the

construction of a 1,166-square foot, two-story addition to the north façade of the dwelling. The addition will have a 16-foot west front yard setback along Algonquin Drive where a 25-foot front yard setback required and a 15-foot north rear yard setback where a 30-foot rear yard setback is required. The property is within FEMA's mapped 100- year floodplain. Any development of this site would require a sealed topographical survey with the base flood elevation noted to the nearest tenth of a foot. Hamburg Township participates in the National Flood Insurance Program (NFIP). Proper enforcement of the building code standards is a prerequisite of the township's participation in the NFIP. NFIP communities, flood insurance must be purchased as a condition of obtaining a federally insured mortgage in federally identified 100-year floodplain area. If the location of the proposed addition and location of the existing dwelling is found to be in the floodplain, the top of the bottom floor must be at least one-foot above the base flood elevation. Additionally, if the project constitutes a significant improvement under the NFIP, the existing structure may need to be brought up to standards for buildings in the floodplain. She reviewed the seven findings of fact. This site is a corner lot requiring the primary structure to have a front yard setback from both Cardinal Court and from Algonquin Drive. The setback requirements are intended to provide adequate space, open vistas, and privacy throughout neighborhoods and between structures on smaller residential lots. Development of a single family dwelling on this corner lot is constrained by the size of the lot which results in a small building envelope. The property cannot accommodate a compliant single family dwelling. Currently, the lot is improved with a 1,080-square foot dwelling with no garage. The proposed addition to include a garage with living space above does not meet the ordinance, however corner lots provide reduced side, front and rear yard setbacks to adequately accommodate a detached garage that does meet the standards of the zoning ordinance. Because it is a corner lot, a detached garage could meet the zoning ordinance. It could be 10 feet from the road side and 5 feet from the back if it was detached with no living space above. Having frontage on two sides of this lot, with a 30-foot rear yard setback does constrain development possibilities for the single family dwelling. Therefore, the lot may not accommodate a conforming dwelling. The plans propose an attached garage with living space above attached to the existing dwelling, however the plans could be redesigned to meet the requirements of the zoning ordinance to accommodate a detached garage. It would also have to be 10 feet from any other structure. The provision of a 15-foot rear yard setback for the garage & living space might be less detrimental than a garage built with a 5-foot rear and side yard setback. The subject site is in the North Chain of Lakes planning area of the Master Plan. This area envisions medium density residential development in the developed areas around the chain of lakes. The proposed request would not adversely affect the proposed or objectives of the Master Plan. There is a condition or situation of the subject site that is of so general or recurrent a nature that the proposed second story addition can comply with the required front and rear setback standards. The surrounding dwellings have been constructed to comply with the required setbacks. The plans propose an attached garage with living space above attached to the existing dwelling, however the plans could be redesigned to meet the requirements of the zoning ordinance to accommodate a detached garage. Given the small size of the corner lot with double frontage, there is a practical difficulty in constructing a compliant structure. However, due to the extent of the proposed plans of the two-story addition, the design creates a self-imposed practical difficulty. The lot can accommodate a detached garage that meets the zoning ordinance requirements. The property must be considered, not the design preference of the applicant, in determining if the variance is the minimum necessary to permit reasonable use of the land. There is nothing peculiar about the property that warrants variance approval for a second story addition to the existing dwelling over an attached garage.

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

Member Bohn stated that this is an unusual lot. The most compelling argument is that the provision of a 15-foot rear yard setback for the garage & living space might be less detrimental than a garage built with a 5-foot rear and side yard setback.

The question was asked if the applicant had looked at flood insurance. Mr. Gauntlett stated that he does not believe that the home is in the floodplain although very close. Planning/Zoning Administrator Steffens stated that as a reminder, the applicant will have to provide a topographical survey. If the floodplain was not an issue, we would not require a survey.

Discussion was held on the lot and the impact of the road.

The question was asked if the shed would be removed. Mr. Gauntlett stated that it would. That is where the garage would be located.

Motion by Bohn, supported by Neilson

Motion to approve variance application ZBA 18-0012 at 2105 Cardinal Court to allow for the construction of 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.) and approve variance application ZBA 18-0012 at 2105 Cardinal Court to allow for a 1,166- square foot, two-story addition to the north façade of the dwelling. The addition will have a 16-foot west front yard setback along Algonquin Drive (25-foot front yard setback required, Section 7.6.1.fn4.) and a 15-foot north rear yard setback (30-foot rear yard setback required, Section 7.6.1.). The variance does meet variance standards one through seven of Section 6.5 of the Township Ordinance and a practical difficulty does exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at the meeting tonight (with one example being the configuration of the lot and adjacent streets) and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

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

8. New/Old Business:

1. Approval of September 12, 2018 minutes and 2018-007 and 2018-009 memo of findings

Motion by Bohn, supported by Watson

To approve the September 12, 2018 minutes and 2018-007 and 2018-009 memo of findings

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

Chairperson Priebe welcomed Member Auxier as a permanent member of the Board.

2. 2019 ZBA meeting dates

Planning/Zoning Administrator Steffens stated that this does not require action. She was providing this as information to the Board.

Discussion was held on the number of cases for the year. Steffens stated that the Zoning Text Amendments did exactly what we intended them to do. We have had less cases as a result.

Discussion was held on the Master Plan Update. Steffens stated that the public participation section is closed. We had a Steering Committee meeting last week to review the survey results. Now the hard work begins with the draft. We are planning to have that done by December or January. We are not making any major changes. There are a few things in our current master plan that are not addressed adequately. We are planning on rolling the Village Center Plan into the Master Plan so that it is used more often and provide some cohesion between the two plans. The survey shows that we are doing what everyone wants. The last update was major.

9. Adjournment:


Motion by Priebe, supported by Bohn

To adjourn the meeting

Voice vote: Ayes: 5 Nays: 0 Absent: 1 MOTION CARRIED

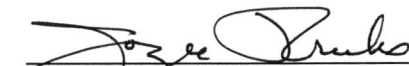
The meeting was adjourned at 8:06 p.m.

Respectfully submitted,


Julie C. Durkin
Recording Secretary

The minutes were approved

As presented/Corrected: 11-14-18


Chairperson Priebe