

P.O. Box 157  
10405 Merrill Road  
Hamburg, Michigan 48139-0157

(810) 231-1000 Office  
(810) 231-4295 Fax



**Supervisor:** Pat Hohl  
**Clerk:** Mike Dolan  
**Treasurer:** Jason Negri  
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**Hamburg Township  
Zoning Board of Appeals Minutes  
Hamburg Township Board Room  
Wednesday, October 9, 2019  
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, Hollenbeck, Neilson, Priebe & Watson,  
Absent: Rill  
Also Present: Amy Steffens, Planning & Zoning Administrator

**4. Correspondence:** None

**5. Approval of Agenda:**

Chairperson Priebe stated that we have a request to add a memorandum from Brittany Stein under Old Business regarding a case that was heard at the last meeting.

Motion by Watson, supported by Auxier

To approve the agenda as amended adding a memorandum under Old Business

Voice vote: Ayes: 5 Nays: 0 Absent: 1 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 19-0017

Owner: Jeffrey Weiss

Location: 0 Baudine Rd. Pinckney MI 48169

Parcel ID: 15-17-301-086

Request: Variance application to allow for the construction of a new two-story 1,660 square foot single family dwelling with an attached 1,165 square foot garage. The dwelling will have a 22-foot west front yard setback (25-foot front yard setback required, Section 7.6.1.), and a 35-foot east rear yard setback from the ordinary high water mark of Rush Lake (50-foot setback from the OHM required, Section 7.6.1.fn3), and a 68 square foot elevated balcony with a 29-foot east setback from the ordinary high water mark of Rush Lake (44-foot setback from the OHM required for elevated decks, Section 8.18.2.).

Mr. Jeffrey Weiss, applicant stated that he was before the Board approximately two years ago for a different variance on a ranch style house with an attached three-car garage. At a later date and prior to construction, he reconsidered a two-story home to give him a smaller footprint leaving more land. When he made inquiries to the Zoning Department, he found out that the variance had expired. He presented a new plan and stated that he feels that this will work out better on his lot. It is in line and consistent with the architecture of the neighborhood.

Amy Steffens, Planning & Zoning Administrator stated that the subject site is a vacant lot almost to the end of Baudine. It is a fairly good sized lakefront lot, 14,402-square feet in size. If approved, the variance request would allow for the construction of a new two-story 1,660 square foot single family dwelling with an attached 1,200 square foot garage, an 88-square foot covered front porch, and a 68-square foot elevated deck on the rear of the dwelling on the canal side. The dwelling will have a 22-foot west front yard setback where a 25-foot front yard setback is required, and a 35-foot east rear yard setback from the ordinary high water mark (OHM) of Rush Lake where a 50-foot setback is required. The elevated balcony will have a 29-foot east setback from the OHM of Rush Lake. Elevated decks can encroach up to six feet into the required yard, therefore it is required to have a 44 foot setback from the OHM. The garage does not need any variances. It does meet the 15 foot setback from the road. She stated that based on FEMA's Flood Insurance Rate Map (FIRM), as well as information provided by the applicant, a portion of the site lies within the 100-year floodplain. If you look at the elevations, you can see that the existing grades of the building envelope are up to a foot below the base flood elevation. Because we participate in the National Flood Insurance Program (NFIP), we must assure that building code standards are complied with and we meet our own floodplain development ordinance. An elevation certificate must be submitted prior to the issuance of a land use permit, when the foundation is completed and before vertical construction, and when the project is complete. She has inquired if EGLE has authority over this floodplain, but she has not heard back yet. If it is, the applicant may be required to obtain a permit from them first. Should the applicant propose to fill the building envelope to elevate the dwelling in order to obtain a LOMR-F, the township will require the applicant to deposit a review escrow for the township engineer to review the plans. These items have nothing to do with the variance, but they are our permitting standards. She gave a history of the site. On August 9, 2017, the Zoning Board of Appeals approved a variance application on this site to allow for the construction of a new 1,699-square foot single-story dwelling with an attached 660-square foot garage. The dwelling would have had a 23.9-foot setback from the OHM where a 50-foot setback is required and a 23.9-foot rear yard setback where a 30-foot rear yard setback is required. The variance lapsed. The property owner neither obtained permits nor began construction on the approved dwelling and the variance approval expired on February 9, 2018. At that time, variances expired after six months. We just approved an amendment to change the ordinance so people will have a full 12 months. Since that time, the property owner has changed the architectural plans for the home as he has presented. Steffens stated that this site is an example of one that deserves some type of variance relief. Even though it is a far larger site than most of our waterfront lots, it is oddly shaped. The most important question for the ZBA is how much of a variance is reasonable. How much are we willing to deviate from the setback standards.

Steffens reviewed the finding of fact. She stated that the site, while a considerable one-third acre, is constrained by two factors: the canal to the east and the shallow lot depth. At its deepest, the lot is 111 feet from the front property boundary to the canal and at its shallowest is 88 feet from the front property boundary to the canal. The required 50-foot setback from the OHM and the 25-foot front yard setback leaves a narrow, long building envelope. Given the configuration of the lot and the setback from the OHM, there does appear to be an exceptional circumstance on this lot that is not applicable to other properties in the same district or zone. Therefore, it could be reasonable to consider that the property deserves some relief from the terms of the zoning ordinance. However, the chosen design of the proposed structure, with the covered front porch and the elevated deck, are not necessarily reasonable deviations from the zoning ordinance. The design of the dwelling drives the need for the front yard setback for the covered porch to have a 22-foot setback and an elevated deck with a 29 foot setback. The porch could be uncovered, thus meeting the definition of a patio, and the home moved forward by five feet, thereby negating the need for the front yard setback and increasing the dwelling's OHM setback to 40 feet rather than the proposed 35 feet. Additionally, the elevated deck on the rear of the dwelling is entirely a personal preference. An elevated deck has a visual, aesthetic, and privacy impact such that the township adopted a zoning text amendment in 2016 to address these concerns and allow an elevated deck to encroach up to 6 feet