
**Hamburg Township
Zoning Board of Appeals
Hamburg Township Board Room
Wednesday, September 9, 2020**

AGENDA

- 1. Call to order**
- 2. Pledge to the Flag**
- 3. Roll call of the Board**
- 4. Correspondence**
- 5. Approval of agenda**
- 6. Call to the public**
- 7. Variance requests**

ZBA 20-0013

Owner: Thomas A. Thill

Location: Vacant on Valley Forge, Brighton, MI 48116

Parcel ID: 15-24-300-015

Request: Variance application to permit the 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)).

ZBA 20-0014

Owner: Joshua Satur and Nicole Saunders

Location: 10503 Hickory Drive, Pinckney MI 48169

Parcel ID: 15-28-402-034

Request: Variance application to permit the 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.).

- 8. New/Old business**
 - a) Approval of August 12, 2020 minutes
 - b) Memo of findings
- 9. Adjournment**



Zoning Board of Appeals Staff Report

AGENDA ITEM: 7a



TO: Zoning Board of Appeals
(ZBA)

FROM: Scott Pacheco, AICP

HEARING DATE: September 9, 2020

SUBJECT: ZBA 20-013

PROJECT SITE: Vacant Lot on Valley Forge
TID 15-24-300-015

**APPLICANT/
OWNER:** Thomas Thill

PROJECT: Variance application to permit the 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)).

ZONING: Natural River District (NR)

Project Description

The subject site is an approximately 20,473-square foot (0.47-acre) property that fronts on Valley Forge to the south and the Huron River to the north. Single-family dwellings are located to the north, south, and west of the site.

The project proposes a new single family home (NSFH) with the following square footages(all spaces calculated have ceiling heights 7 feet or greater):

- 1) Main Level
 - a. Living Space: 2000 square foot
 - b. Garage: 538 square foot
- 2) Lower Level (Walkout Basement):
 - a. Living Space: 850
 - b. Storage: 1,150
- 3) Upper Level (1/2 Story):
 - a. Living Space: 772 square feet

The total square footage of the areas over seven feet in height within this proposed structure would be 5,310 square feet.

If approved, the variance request would permit the construction of a NSFH with a 117 foot setback and an elevated deck structure with a 111-foot setback from the OHWM or river's edge of the Huron River, where a 125-foot setback from the OHWM or river's edge of the Huron River is required (Hamburg Township Zoning Ordinance Section 7.6.1.fn3, and Department of Natural Resources Natural Rivers Zoning Rule 51(1)(a)(i)).

The subject property is mapped within FEMA's 1 percent floodplain. Hamburg Township participates in the National Flood Insurance Program (NFIP). Proper enforcement of the building code standards is a prerequisite of the community's participation in the NFIP. Prior to issuance of a building permit, an elevation certificate would be required to ensure that any improvements would meet the floodplain development standards of Hamburg Township (Section 9.6.).

The topographic surveys provided by the applicant in the project plans (Exhibit B) shows an incorrect river setback of 115 feet. The correct setback is 125 feet. The applicant believed that the regulations in section 7.6.1 footnote 3, could apply to this lot. However, the subject site does not have an elevated riverbank and therefore the regulation in section 7.6.1 footnote 3 below would not apply.

Section 7.6.1 footnote 3: "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 setback may be decreased ten (10) feet for every ten (10) foot rise in bank height to a minimum of seventy-five (75) feet from the ordinary high water mark."

Standards of Review

In accordance with Section 6.5.C of the Hamburg Township Zoning Ordinance, the ZBA's decision on this matter is to be based on findings of fact to support the standards provided below. The applicable discretionary standards are listed below in **bold typeface**, followed by Staff's analysis of the request as it relates to these standards. A variance may be granted only if the ZBA finds that all of the following standards 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 125-foot setback required from the OHWM or river's edge of the Huron River under Section 7.6.1.fn3 of the Zoning Ordinance, and Department of Natural Resources Natural Rivers Zoning Rule 51(1)(a)(i), applies generally to all properties in the NR District rather than just the subject site. In addition, the existing conditions on the subject site are not such that there are applicable exceptional or extraordinary circumstances or conditions that are not present on other properties in the NR District, including when the required 125-foot setback is taken into consideration. None of these conditions is particularly unique to the subject property.

The subject site has an elevation change of approximately 10-12 feet from the river to the roadway, therefore the site is relatively flat. The area of the lot that is outside all of the required setbacks is approximately 80 feet wide by 30 feet deep. This buildable area would provide adequate space to build an adequately sized structure.

- 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.**

Granting this variance request is not necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. Being permitted a larger structure based upon design preference within the 125-foot setback required from the OHWM or river's edge of the Huron River under Section 7.6.1.fn3 of the Zoning Ordinance, and Department of Natural Resources Natural Rivers Zoning Rule 51(1)(a)(i), does not rise to the level of preserving a substantial property right.

- 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 125-foot setback required from the OHWM or river's edge of the Huron River under Section 7.6.1.fn3 of the Zoning Ordinance, and Department of Natural Resources Natural Rivers Zoning Rule 51(1)(a)(i), is intended to preserve water quality, help to slow erosion, and to protect habitat, ecosystems, and floodwater capacity, among other important benefits (see Section 7.5.1(G)B). Variances from such setback requirement considered individually may not appear at first materially injurious to the property or improvements in such zone or district in which the property is located, but multiple variances to that effect granted over time have the cumulative potential to cause significant impacts which are materially detrimental to the public welfare. A particular applicant's preferred design is insufficient reason to outweigh the benefits afforded by the required setback to the applicant's property and other property in the zone or district more broadly, such as reduced stormwater runoff in close proximity to the River.

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

One of the goals of the 2020 master plan is to “Protect, preserve, and enhance whenever possible the unique and desirable natural amenities of Hamburg Township” the Master Plan discusses preserving the Huron River by requiring the Natural Rivers setback to better preserve the river as an important natural feature of the Township.

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.

The condition or situation of the subject property for which the variance is sought is of a general or recurrent nature. The 125-foot setback required from the OHWM or river’s edge of the Huron River under Section 7.6.1.f³ of the Zoning Ordinance, and Department of Natural Resources Natural Rivers Zoning Rule 51(1)(a)(i), is applicable generally to all properties along the river and is not a condition specific to the subject site. In addition, the subject site’s topography is generally consistent with property fronting on the Huron River in this location. None of these conditions is particularly unique to the subject property and none makes compliance with the required 125-foot setback practically difficult.

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 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.

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

As stated in standard number 1, the buildable area outside of the required setback is 80 feet wide by 30 feet deep. This area would allow an adequately sized home to be built that would permit the 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 denial of the variance request considering a thorough review and discussion among ZBA members.

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.

Denial Motion

Motion to deny variance application ZBA 20-013 to permit the 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 at the vacant site (parcel 15-24-300-015) on Valley Forge. 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)).

The variance does not meet variance standards one (1), two (2), three (3), four (4), five (5), or seven (7) of Section 6.5 of the Hamburg Township Zoning Ordinance, and no practical difficulty exists on the subject site when strict compliance with the Zoning Ordinance standards is applied, as discussed at the meeting this evening and as presented in this staff report. The Board directs Staff to prepare a memorialization of the ZBA's findings for the request.

Approval Motion

Motion to approve variance application ZBA 20-013 to permit the 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 at the vacant site (parcel 15-24-300-015) on Valley Forge. 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)).

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. The Board directs Staff to prepare a memorialization of the ZBA's findings for the request.

Exhibits

Exhibit A – Application Materials

Exhibit B – Project Plan (for variance)

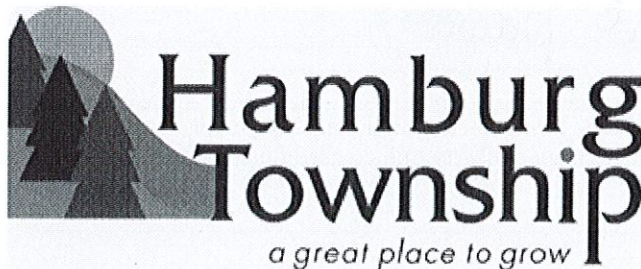
ZBA Case Number 20-0013

\$550

RECEIVED

JUL 13 2020

Hamburg Township
Planning and Zoning Department
FAX 810-231-4295
PHONE 810-231-1000



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

**APPLICATION FOR A ZONING BOARD OF APPEALS (ZBA)
VARIANCE/INTERPRETATION
(FEE \$500, plus \$50 each additional)**

1. Date Filed: 07/13/2020
2. Tax ID #: 15- 24 - 300 - 015 Subdivision: _____ Lot No.: _____
3. Address of Subject Property: Valley Forge Dr.
4. Property Owner: Thomas A. Thill Phone: (H) 734-323-4370
Email Address: hollythill@gmail.com (W) 734-845-0058
Street: 10848 Houghton Dr. City Whitmore Lake State MI
5. Appellant (If different than owner): _____ Phone: (H) _____
E-mail Address: _____ (W) _____
Street: _____ City _____ State _____
6. Year Property was Acquired: 2018 Zoning District: NR Flood Plain Y
7. Size of Lot: Front 100' Rear 100' Side 1 194' Side 2 187' Sq. Ft. 17,800
11. Dimensions of Existing Structure (s) 1st Floor — 2nd Floor — Garage —
12. Dimensions of Proposed Structure (s) 1st Floor 72'-1/4" x 35'-10" 2nd Floor — Garage included in 1st floor.
13. Present Use of Property: Vacant
14. Percentage of Existing Structure (s) to be demolished, if any — %
15. Has there been any past variances on this property? Yes — No ✓
16. If so, state case # and resolution of variance application —

17. Please indicate the type of variance or zoning ordinance interpretation requested:

Land Use Variance for new construction of a
single-family home and proposed deck.

18. Please explain how the project meets each of the following standards:

- a) 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.

see attached page

- b) 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.

- c) 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.

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

- e) 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.

- f) Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district;

- g) The requested variance is the minimum necessary to permit reasonable use of the land.

- I hereby certify that I am the owner of the subject property or have been authorized to act on behalf of the owner(s) and that all of the statements and attachments are true and correct to the best of my knowledge and belief.
- I acknowledge that approval of a variance only grants that which was presented to the ZBA.
- I acknowledge that I have reviewed the Hamburg Township Zoning Ordinance, The ZBA Application and the ZBA Checklist and have submitted all of the required information.
- I acknowledge that filing of this application grants access to the Township to conduct onsite investigation of the property in order to review this application.
- I understand that the house or property must be marked with the street address clearly visible from the roadway.
- I understand that there will be a public hearing on this item and that either the property owner or appellants shall be in attendance at that hearing.
- I understand that a Land Use Permit is required prior to construction if a variance is granted.
- I understand that any order of the ZBA permitting the erection alteration of a building will be void after one (1) year (12 months), unless a valid building permit is obtained and the project is started and proceeds to completion (See Sec. 6.8 of the Township Zoning Ordinance).

Thomas Hill *7/13/2020*

Owner's Signature

Date

Appellant's Signature

Date

Please explain how the project meets each of the following standards:

A. 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.
Due to the setback requirements, the buildable area is a shallow 27 feet. This limits the type of home that can be built as well as outdoor structures on the property.

B. 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 neighboring homes are closer to the river than the 125' setback that is required, which would not allow us to build a ranch style home similar to those neighboring the property. The deck would allow for enjoyment of the river location as well. A ranch style home will also allow for the future of our parents moving in for assistance as they age.

C. 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 project would have proper grading for drainage runoff. The structure will be outside of the 100-year floodplain to not be problematic.

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

The variance would not change the master plan purpose.

E. 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.

The property does not have a seawall, and the riverbank has eroded into the property over the years, decreasing the size of the measurable property by approximately 16 feet.

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

It will not

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

The request is the minimum footprint without adding a 2nd story and changing the look of the neighborhood and potentially blocking views for those on the other side of the street.

VARIANCE (ZBA) APPLICATION CHECKLIST:

Eight (8) sets of plans must be submitted. The sets are for the individual use of the Zoning Board members and for the Township's records. None will be returned to you. The Land Use Permit will not be released until three (3) final construction blueprints and three (3) copies of your site plan are submitted which have been prepared according to the variances granted and conditions imposed at the appeals meeting.

☒ **Zoning Board of Appeals Application Form**

☒ **Site (plot) Plan with the following information:**

- ☒ Location and width of road(s) and jurisdiction (public or private road).
- ☒ Location and dimensions of existing/proposed construction.
- ☒ Dimensions, designation, and heights of existing structures on property clearly marked.
- ☒ Dimensions of property (lot lines).
- ☒ Location and dimensions of required setbacks.
- ☒ Measurement from each side of existing and proposed structure to the property lines.
- ☒ All easements.
- ☒ Any bodies of water (lake, stream, river, or canal) with water body name.
- ☒ Distance proposed structure and existing structures are from any body of water.
- ☒ Septic tank and field, sewer (grinder pump), and water well.
- ☒ All areas requiring variances clearly marked with dimensions and amount of variance requested.
- ☒ Any outstanding topographic features that should be considered (hills, drop-offs, trees, boulders, etc.)
- ☒ Any other information which you may feel is pertinent to your appeal.
- ☒ If the variance is to a setback requirement a licensed professional stamp shall be on the site plan.

☒ **Preliminary sketch plans:**

a) Elevation plans:

- ☒ Existing and proposed grade
- ☒ Finished floor elevations
- ☒ Plate height
- ☒ Building height
- ☒ Roof pitch

b) Floor plans:

- ☒ Dimension of exterior walls
- ☒ Label rooms
- ☒ Clearly identify work to be done
- ☒ Location of floor above and floor below

c) All other plans you may need to depict the variance you're requesting (surveys, grading plans, drainage plans, elevation certificates, topographical surveys, etc.)

☐ **Proof of Ownership:** Include one of the following:

- a) Warranty Deed – showing title transaction bearing Livingston County Register of Deeds stamps, OR
- b) Notarized letter of authorization from seller of property giving the purchaser authorization to sign a Land Use Permit.

VARIANCE PROCESS:

Once a project is submitted:

The Zoning Administrator will review your submittal to make sure you have submitted a complete set of project plans (1 week if complete).

Once the project has been deemed complete by the Zoning Administrator:

The project will be scheduled for a Zoning Board of Appeals (ZBA) hearing. ZBA hearings are held the second Wednesday of each month. Your project will need to be deemed complete by the Zoning Administrator a minimum of three (3) weeks prior to a hearing in order to be scheduled for that hearing.

Once the project has been scheduled for a ZBA hearing:

All property owners within a three hundred (300) foot radius of the subject property shall be notified if the date and time of the public hearing on your variance request and the basic nature of your proposed project and variances being requested, and the owner's name and address of the subject property. Notices will be sent on or before fifteen (15) days prior to the date of the hearing.

A public hearing notice stating all appeals for a given date will be published in the Tuesday edition of the Livingston County Daily Press & Argus fifteen (15) days prior to the date of the hearing.

At the ZBA meeting/hearing:

- You and/or your representative (Lawyer, builder, contractor, relative, friend, etc.) must attend.
- Variance requests/appeals are taken in order of submission.
- Unless your variance request/appeal is tabled due to lack of information, insufficiency of drawings, etc., you will know the disposition of the appeal at the meeting before you leave.
- ***No Land Use Permits will be available for pick up on the night of the meeting, so please do not ask the Zoning Administrator for them that night. You may bring the requirements for the Land Use Permit to the Township Zoning Department on the next business day.***
- In the event that the Zoning Board of Appeals **does not grant** your variance request there will be **no refund** of the filing fee, as it pays for administration costs, the member's reviewing and meeting time, and noticing costs in the newspaper and for postage.
- Rehearing requests may be charged \$200.00 for postage and newspaper costs in addition to the original \$500.00 charge, at the discretion of the Zoning Board of Appeals.

Once the project has been approved:

You will need to submit a completed Land Use Permit, three (3) sets of your final construction plans and three (3) copies of your site plan from which your project will actually be constructed, before your Land Use Permit will be released. If the Board has made special conditions, they must be met before your Land Use Permit will be released.

If the project is denied:

Section 6.8 (C) of the Hamburg Township Zoning Ordinance states that a one (1) year period must elapse before a rehearing of the appeal "except on grounds of newly-discovered evidence or proof of changed conditions found upon inspection of the Zoning Board of Appeals to be valid."

Section 6.8 (E) of the Zoning Ordinance governs appeals to Circuit Court. If you desire to appeal the decision of the Zoning Board of Appeals, you need to contact your attorney for filing appeals to Circuit Court.

VARIANCE STANDARDS:

Variance: (*definition*) A modification of the literal provisions of the zoning ordinance granted when strict enforcement would cause undue hardship due to circumstances unique to the individual property for which the variance is granted.

Section 6.5 (C) & (D) of the Township Zoning Ordinance:

- A. Where, owing to special conditions, a literal enforcement of the provisions of this Zoning Ordinance would involve practical difficulties, the Zoning Board of Appeals shall have power upon appeal in specific cases to authorize such variation or modification of the provisions of this Zoning Ordinance with such conditions and safeguards as it may determine, as may be in harmony with the spirit of this Zoning Ordinance and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the provisions of this Zoning Ordinance shall be granted unless it appears that, at a minimum, the applicant has proven a practical difficulty and that all the following facts and conditions exist:
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.
 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.
 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.
 4. That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.
 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.
 6. Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district.
 7. The requested variance is the minimum necessary to permit reasonable use of the land.
- B. For the purpose of the above, a “practical difficulty” exists on the subject land 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), and the applicant has proven all of the standards set forth in Section 6.5 (C) (1) through (7). Demonstration of practical difficulty shall focus on the subject property or use of the subject property, and not on the applicant personally.
- C. In consideration of all appeals and all proposed variations to this Zoning Ordinance, the Zoning Board of Appeals shall, before making any variations from this Zoning Ordinance in a specific case, determine that the standards set forth above have been met, and that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the inhabitants of the Township.

WARRANTY DEED



File No. LIB104960

The Grantors: David Brian Sherman, a single man

whose address is: 7414 Valley Forge Dr., Brighton, MI 48116

Convey and Warrant to: Thomas A. Thill, a married man

whose address is: 9450 Huron Rapids Dr., Whitmore Lake, MI 48189

the following described premises situated in the Township of Hamburg , County of Livingston, State of Michigan, to wit:

SEE ATTACHED EXHIBIT A/LEGAL DESCRIPTION RIDER

for full consideration of: \$60,000.00 (Sixty Thousand Dollars and No Cents)

Subject to: Existing building and use restrictions and easements and rights of way of record. Liens for any tax and/or assessment which become due and payable on or after the effective date hereof.

This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan right to farm act.

The grantor grants to the grantee the right to make all divisions under Section 108 of the Land Division Act, Act No. 288 of the Public Acts of 1967.

Access to the property is over a private road/easement which is not required to be maintained by any governmental entity.

Rights of the United States, other governmental entities, the public and other riparian owners in that part of the land which extends beyond the mean high water mark of the Huron River.

Rights of others to use that part of the land which lies within the bounds of Huron River Lake.

Dated 11/17/2018

WARRANTY DEED

(Continued)

(Attached to and becoming part of the Warranty Deed between David Brian Sherman, a single man, as Grantor(s) and Thomas A. Thill, a married man, as Grantee(s))

Signed By

By:

David Brian Sherman

STATE OF Michigan
COUNTY OF Livingston

The foregoing instrument was acknowledged before me this 17th day of July, 2018 by David Brian Sherman, a single man.

KELLY ANN PELLETIER
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF GENESEE
My Commission Expires: July 30, 2022
Acting in the County of Livingston

My Commission Expires: _____
Acting in the County of: _____

Notary Public
County

Drafted by: Thomas D. Richardson, Esq.
111 N. Main St.
Ann Arbor, MI 48104

When recorded return to: Thomas A. Thill
9450 Huron Rapids Dr.
Whitmore Lake, MI 48189

Tax Code: 4715-24-300-015

WARRANTY DEED

(Continued)

(Attached to and becoming part of the Warranty Deed between David Brian Sherman, a single man, as Grantor(s) and Thomas A. Thill, a married man, as Grantee(s))

EXHIBIT A/LEGAL DESCRIPTION RIDER

Land is located in the Township of Hamburg , County of Livingston, State of Michigan, and described as follows:

All that certain piece or parcel of land situated and being in the Township of Hamburg, County of Livingston and State of Michigan, being a part of the East half (E1/2) of the West half (W1/2) of Section twenty-four (24), Town one (1) North, Range five (5) East, being more particularly described as follows, to wit: Commencing at the Southwesterly corner of Riverbendwillo Subdivision as duly laid out, platted and recorded in Liber 1 of Plats, page 62, Livingston County Records; thence South 55 degrees 12 minutes West 270.14 feet; thence South 34 degrees 48 minutes East 15.69 feet; thence South 55 degrees 12 minutes West, 323.95 feet to the Northerly line of a fifty (50) foot roadway; thence along said Northerly line of roadway South 65 degrees 19 minutes West 105 feet to the Point of Beginning; thence along said Northerly line of roadway South 65 degrees 19 minutes West 100 feet; thence North 24 degrees 41 minutes West 194 feet more or less to the bank of the Huron River; thence Easterly along the bank of the Huron River 100 feet more or less; thence South 24 degrees 41 minutes East 187 feet more or less to the point of beginning.

The above described property is commonly known as 0 Valley Forge Dr., Brighton, MI 48116.

TOPOGRAPHIC SURVEY

Sec 24 TH-RSE Part of E $\frac{1}{2}$ of W $\frac{1}{2}$ of Sec 24;
Commencing at the Southwesterly corner of Riverbendwillo
Subdivision; thence S 55°12' W, 270.14 feet; thence S
34°48' E, 15.69 feet; thence S 55°12' W, 323.95 feet;
thence along Northerly line of road S 65°19' W, 105 feet to
Beginning; thence S 65°19' W, 100 feet; thence N 24°41' W,
194 feet to bank of Huron River; thence Easterly along river
100 feet; thence S 24°41' E, 187 feet to Beginning.

ZONING CHART

MINIMUM YARD SETBACKS:

WATER SETBACK (REVISED PER TWP ORDINANCE)

RIVERS EDGE	=	ELEV. = 853.8'
115' SETBACK	=	ELEV. = 863.8'

MAXIMUM BUILDING HEIGHT:
2.5 STORIES 35 FEET



Home variance of 8' x 72'2-1/4"
577.5 sq ft.

Deck Variance 6' x 46' 9-1/4"
280.63 sq ft

BENCHMARK

LEGEND

○ - IRON SET FCI - FOUND CAPPED IRON
 ● - IRON FOUND SCI - SET CAPPED IRON
 ⊗ - FOUND MONUMENT +664.68
 MEAS. - MEASURED - EXISTING ELEVATION
 REC. - RECORDED P.O.B. - POINT OF BEGINNING
 - BENCHMARK - 100 YEAR FLOOD PLAIN LINE
 (BM) (858.7' (NAVD 88 DATUM))

0 15 30
SCALE: 1" = 30'

1. NO TITLEWORK WAS SUPPLIED BY CLIENT THEREFORE ALL EASEMENTS OF RECORD MAY NOT BE SHOWN.

2. THE 100 YEAR FLOOD ZONE = 858.7' (NAVD 1988 DATUM)

3. ALL ELEVATIONS ARE SHOWN IN NAVD 1988 DATUM.

UTILITY STANDARDS

LANDSCAPE ARCHITECTS LOCAL TO THE STATE AND THE PLANS ARE SENT FROM UTILITY COMPANIES AND ARE NOT FROM LOCALS.

A NUMBER OF A SCORING LAST POINT TO BECAUSE OF THE FACT THAT THE EXISTING COULD BE THE BEST OF THE BEST, BUT THE EXISTING COULD BE THE BEST OF THE BEST, BUT THE EXISTING COULD BE THE BEST OF THE BEST.

THE CONSTRUCTION SHALL BE RECONSTRUCTED FOR THE PROTECTION AND FOR RECONSTRUCTION OF ALL UTILITIES THAT MAY EXIST OR BE CONSIDERED.

ALPINE
Land Surveying, Inc.
11550 HIGHLAND ROAD, SUITE #100
HARTLAND, MI 48353
PHONE: 810-207-8050, FAX: 810-632-0200

LICENSED PROFESSIONAL SURVEYOR #39075



FIELD: KG DATE: JANUARY 24, 2020
DRAWN: DS JOB NO: 18-3959
CHECKED: KG SHEET: 1 OF 1
REVISION:

Prepared For: THOMAS THILL

TOPOGRAPHIC SURVEY

LEGAL DESCRIPTION (TAX DESCRIPTION):

Sec 24 T1N-R5E Part of E 1/2 of W 1/2 of Sec 24;
Commencing at the Southwesterly corner of Riverbendwillio
Subdivision; thence S 55°12' W, 270.14 feet; thence S
34°48' E, 15.69 feet; thence S 55°12' W, 323.95 feet;
thence along Northerly line of road S 65°19' W, 105 feet to
Beginning; thence S 65°19' W, 100 feet; thence N 24°41' W,
194 feet to bank of Huron River; thence Easterly along river
100 feet; thence S 24°41' E, 187 feet to Beginning.

Parcel ID No. 4715-24-300-015

ZONING CHART

PROPERTY IS ZONED: NR
(NATURAL RIVER RESIDENTIAL DISTRICT)

MINIMUM YARD SETBACKS:

FRONT = 25 FEET
SIDE = 10 FEET

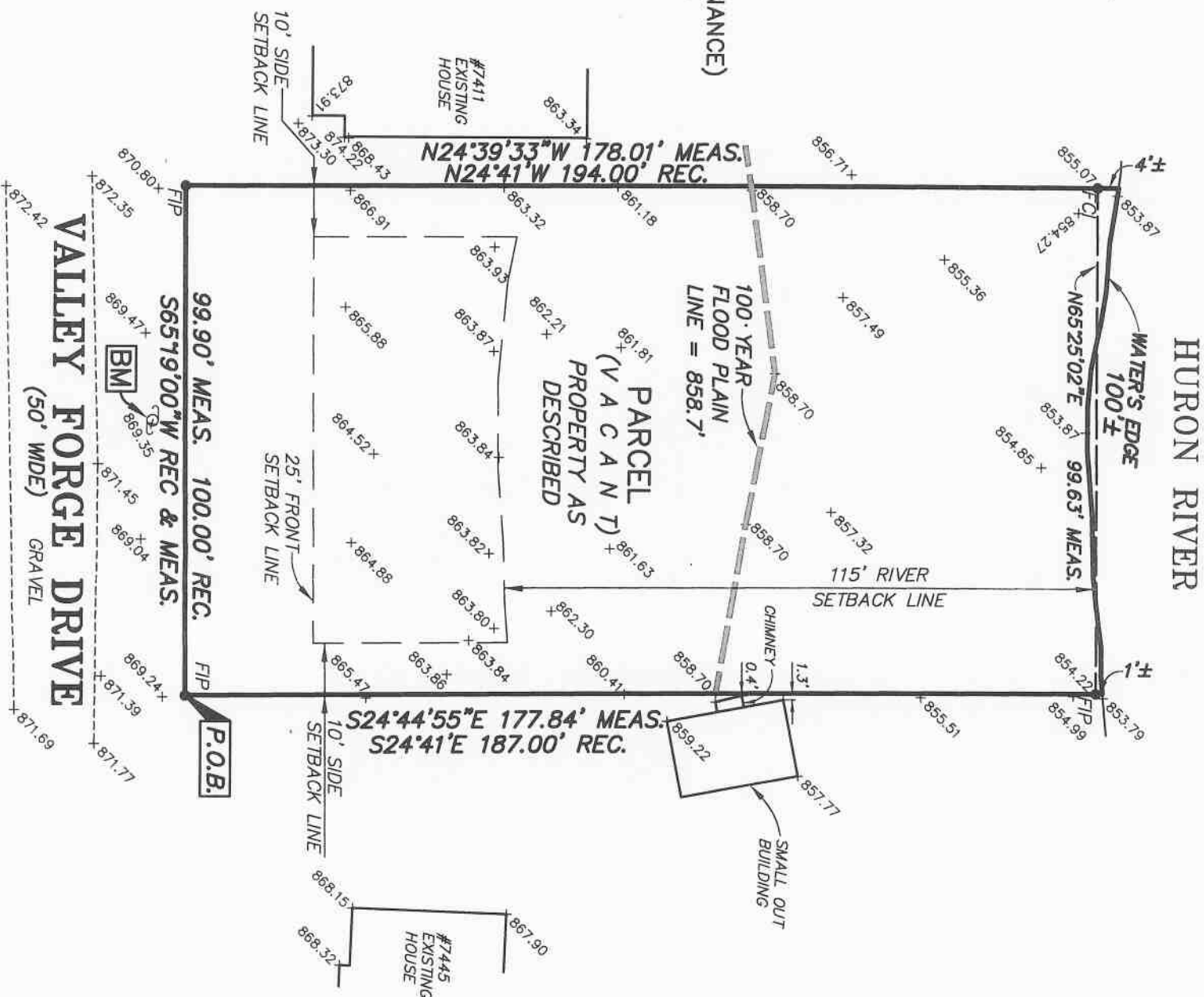
WATER SETBACK (REVISED PER TWP ORDINANCE)

RIVERS EDGE = ELEV. = 853.8'
115' SETBACK = ELEV. = 863.8'

MAXIMUM BUILDING HEIGHT:

2.5 STORIES 35 FEET

- NOTES:
1. NO TITLEWORK WAS SUPPLIED BY CLIENT THEREFORE ALL EASEMENTS OF RECORD MAY NOT BE SHOWN.
 2. THE 100 YEAR FLOOD ZONE = 858.7' (NAVD 1988 DATUM)
 3. ALL ELEVATIONS ARE SHOWN IN NAVD 1988 DATUM.



0 15 30
SCALE: 1" = 30'

BENCHMARK

SITE BENCHMARK
SET RAILROAD SPIKE ON NORTH SIDE OF
POWER POLE.
ELEV. = 869.35' (NAVD 1988 DATUM)

LEGEND

- - IRON SET
- - IRON FOUND
- ⊙ - FOUND MONUMENT
- ⊙ - MEASURED
- REC. - RECORDED
- BM - BENCHMARK
- FCI - FOUND CAPPED IRON
- SCI - SET CAPPED IRON
- ⊙ - EXISTING ELEVATION
- P.O.B. - POINT OF BEGINNING
- 100 YEAR FLOOD PLAIN LINE 858.7' (NAVD 88 DATUM)



KAROL L. GROVE
LICENSED PROFESSIONAL SURVEYOR #39075

ALPINE
Land Surveying, Inc.
11590 HIGHLAND ROAD, SUITE #100
HARTLAND, MI 48353
PHONE: 810-207-8050, FAX: 810-632-0200

FIELD: KG DATE: JANUARY 24, 2020
DRAWN: DS JOB NO: 18-3959
CHECKED: KG SHEET: 1 OF 1
REVISION:



UTILITY WARNING:
UNDERGROUND UTILITY LOCATIONS AS SHOWN ON THE
DRAWING ARE BASED ON THE UTILITY OWNERS AND
RECORDS. THE CONTRACTOR SHALL VERIFY THE
LOCATION OF ALL UTILITIES PRIOR TO ANY
CONSTRUCTION. THE CONTRACTOR SHALL BE
RESPONSIBLE FOR THE LOCATION OF ALL UTILITIES
THAT MAY INTERFERE WITH CONSTRUCTION.





GUTTERS AND
DOWNSPOUTS
AS NEEDED
TYPICAL

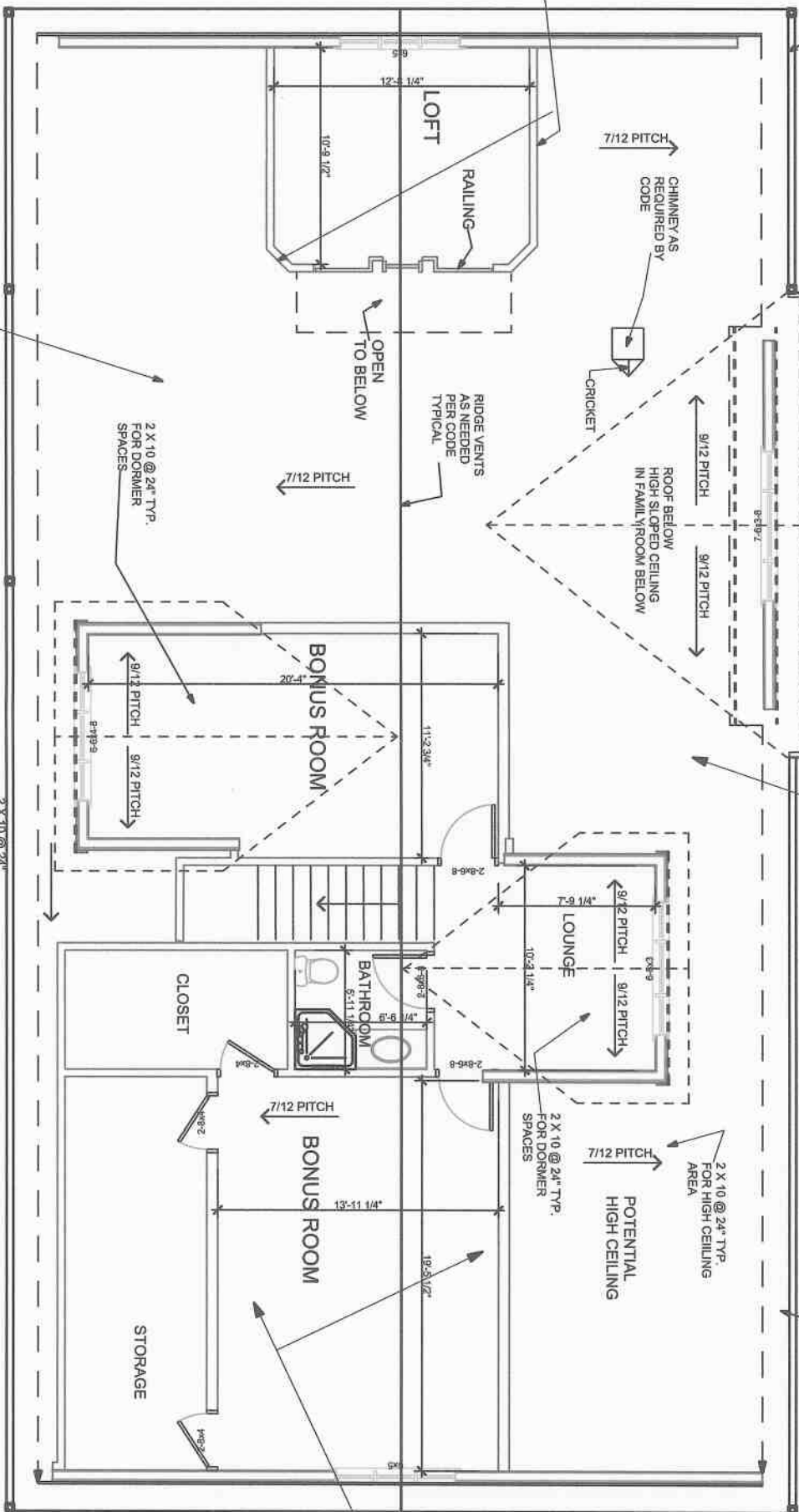
PRE-MANUF TRUSSES @
2'-0" O.C. TYP. ALL ROOFS
UNLESS NOTED OTHERWISE

SOFFITVENTS
AS NEEDED
PER CODE
TYPICAL

PRE-MANUF ATTIC
TRUSSES @
2'-0" O.C. TYP.
FOR LOFT AREA

PRE-MANUF ATTIC
TRUSSES @
2'-0" O.C. TYP.
FOR LOFT AREA

PRE-MANUF TRUSSES OR 2'X10'S @
2'-0" O.C. TYP. ALLOW ROOFS
UNLESS NOTED OTHERWISE



ROOF PLAN

A103 11x17

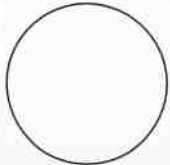
SCALE: 1/8" = 1'-0"

CONSULTANTS



Jarratt Architecture
108 North Lafayette
South Lyon, MI 48178
248-446-1100

Thill House



8-20-20	ZBA Drawing
DATE	DESCRIPTION

PROJECT NO:
MODEL FILE:
DRAWN BY:
CHKD BY:
COPYRIGHT

SHEET TITLE
ROOF PLAN

A103 11x17



10405 Merrill Road ♦ P.O. Box 157
Hamburg, MI 48139
Phone: 810.231.1000 ♦ Fax: 810.231.4295
www.hamburg.mi.us

DPW/UTILITIES DEPT. REVIEW

I have reviewed ZBA Case # ZBA20-013 located at Vacant – Valley Forge Dr. and offer the following:


[X] The parcel will be on sewer.

[X] The parcel is serviced by the Hamburg Township Sanitary Sewer System (HTSSS).

- The property owner is requesting variance to construct 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 grinder pump station and sewer service lateral will be located on the northeast side of the property within the proposed 16'10" side yard setback which will allow for the required 15-foot wide sanitary sewer easement right-of-way.
- Pursuant to the Easement Grant signed by the property owner on September 1st, 2020, the owner shall not construct any new buildings or improvements on the easement area or otherwise use the property in such a way as would interfere with the easement rights of the Township without first obtaining written approval of the Township.
- A Hold Harmless Agreement will be required if the property owners wish to install a concrete or asphalt driveway along the northeast side of the property that would be constructed within the sewer easement right-of-way.
- The DPW/Utilities Department has no objections if this variance is granted.
- The property owner or Builder must contact Miss Dig at 811 at least 3 days prior to any digging or excavation work to confirm the location of the sewer and other utility locations.

Dated: September 3rd, 2020

Respectfully submitted,


Brittany K. Campbell
Hamburg Township Utilities Coordinator



Zoning Board of Appeals Staff Report

AGENDA ITEM: 7b



TO: Zoning Board of Appeals
(ZBA)

FROM: Brittany Stein

HEARING DATE: September 9, 2020

SUBJECT: ZBA 20-0014

PROJECT SITE: 10503 Hickory Dr.
TID 15-28-402-034

APPLICANT/ OWNER: Nicole Saunders & Joshua
Satur

PROJECT: Variance application to permit the 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.).

ZONING: WFR (waterfront residential district)

Project Description

The subject site is a 12,000-square foot lot that fronts onto Hickory Drive to the west, Strawberry Lake to the east, and single family dwellings are located to the north and south of the site. The existing dwelling is one-story, approximately 1,300 square foot, with an attached 768 square foot garage.

If approved, the variance request would permit the construction of a 176-square foot two-story 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.).

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

	Existing	Proposed	Required	
North (side)	7.7 feet	6.6 feet	5 feet	(15 ft. aggregate)
South (side)	3.2 feet	3.2 feet	10 feet	
South-east (side) (Addition)	14.2 feet	14.2 feet		
West (front)	10.5 feet	10.5 feet	25 feet	
East (lake side)	265 feet	259 feet	50 feet	

The lot is 46 feet wide at the street and is 27 feet wide towards the water. At the widest area of the whole house, the side yards total 13.5 feet (10 feet north setback and 3.5 feet south setback). The widest area of the two-story portion of the house at the narrowest side yards, the side yards will total 20.8 feet (6.6 feet north setback and 14.2 feet south setback).

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.**

This subject site is a 12,000 square foot lot in the waterfront residential zoning district, and is less than 60 feet wide at the front lot line, requiring a 15-foot aggregate side yard setback. This setback requirement is intended to provide adequate space, open vistas, and privacy throughout neighborhoods and between structures on smaller residential lots. The current house has an aggregate side yard setback of 10.9 feet. The proposed addition to the existing house will have an aggregate side yard setback of 9.8 feet. The setback requirement is for the entire structure. The home is existing nonconforming with a 3.2-foot south setback at the front corner of the garage and a 7.7-foot north setback at the rear of the house. The proposed addition to the home will be a full second story where there is currently a 1.5 story home, and a two-story expansion to the east where there is currently an at grade deck. Additionally there is a proposed elevated deck and at grade deck at the rear of the house. The location of the proposed addition to the home creates the need for a variance based on design preference. However, based on the design of the two-story addition, the shortest distance from the lot lines the two-story structure will be is an aggregate of 20.8 feet, being 6.6 feet from the north side lot line and 14.2 feet from the south side lot line. Given the narrow lot size, any size addition to the home may require a variance, unless the property owners wanted to rebuild a compliant home, they could on this lot.

- 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.

There are similar size homes to the north and south of the subject site on similar lot sizes that appear to also be nonconforming, some single story and some two-story. The proposed addition will be a two-story home where a ranch style home existed. The variance preserves a substantial property right possessed by other property in the same zone and vicinity.

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 existing dwelling has an aggregate side yard setback of 10.9 feet. Because the proposed two-story addition would create a 9.8-foot aggregate side yard setback, and the two-story portion of the proposed home would now create a side yard setback of 20.8 feet at the narrowest part of the lot where the structure is located, the proposed addition would not be materially detrimental to the public welfare or materially injurious to the property or improvements in the WFR District. The most impactful portion of the house is the front, at the street side the attached garage is only 10.5 feet from the front lot line, where 25 feet is required, the addition is not affecting this side of the home, therefore neighboring properties will not be impacted.

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

The proposed future land use of this property and surrounding area envisions waterfront residential zoning district. 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.

The condition or situation of the subject site for which the variance is sought is not of so general or recurrent a nature, based on the size of the buildable area on a narrow lot, where an existing nonconforming home exists.

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 two-story addition is a reasonable use of the land and the home would still be similar to the homes on the neighboring lots, considering they are similar narrow lots.

“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 an approval to the requested variance considering a thorough review and discussion among ZBA members of the surrounding impacts and any other potential options for the homeowner to redesign an addition of additional living space to the existing home.

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 20-0014 at 10503 Hickory Dr. to allow for the 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.).

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. 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 (Hard copy only - plans too large to include in digital packet)

ZBA Case Number

20-0014

\$500

Sept. 9

HAMBURG TOWNSHIP
Date 08/10/2020 4:25:23 PM
Ref ZBA2000-14
Receipt 1232995
Amount \$500.00
RECEIVED

AUG 10 2020



Hamburg Township
Planning and Zoning Department

FAX 810-231-4295
PHONE 810-231-1000

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

**APPLICATION FOR A ZONING BOARD OF APPEALS (ZBA)
VARIANCE/INTERPRETATION
(FEE \$500, plus \$50 each additional)**

1. Date Filed: 8/10/2020
2. Tax ID #: 15- 28 - 402 034 Subdivision: INDIAN GARDENS SUB SUPERVISORS Lot No.: 33
3. Address of Subject Property: 10503 Hickory Drive Pinckney, MI 48169
4. Property Owner: Joshua Satur & Nicole Saunders Phone: (H) 2485359074
Email Address: nmsatur@gmail.com (W) _____
Street: 10503 Hickory Dr. City Pinckney State MI
5. Appellant (If different than owner): Joshua Satur & Nicole Saunders Phone: (H) 2485359074
E-mail Address: _____ (W) 2485359074
Street: _____ City _____ State _____
6. Year Property was Acquired: 2015 Zoning District: MD Flood Plain NO
7. Size of Lot: Front 26.8 Rear 46.5 Side 1 330.3 Side 2 338.5 Sq. Ft. _____
11. Dimensions of Existing Structure (s) 1st Floor 1124 2nd Floor 331.33 Garage 768
12. Dimensions of Proposed Structure (s) 1st Floor 1299.55 2nd Floor 933.85 Garage 768
13. Present Use of Property: Primary Residential Home
14. Percentage of Existing Structure (s) to be demolished, if any 0 %
15. Has there been any past variances on this property? Yes ☐ No ☒
16. If so, state case # and resolution of variance application _____
17. Please indicate the type of variance or zoning ordinance interpretation requested:
The variance is due to a setback requirement.

18. Please explain how the project meets each of the following standards:

- a) 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 lots within our lake subdivision are very long but quite narrow which presents the need to submit a variance request. The north side of our property line is next to a private easement. In July 2019 a severe storm took down three trees; one on our property and two in easement (1 fell directly on the house). The easement provides private access to the residents on the street behind us. With the trees gone there is more space for folks to get around. The proposed change would leave the structure 5.9' from the property line on the easement side.

- b) 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 variance is necessary so we can address the damage done by the tree falling on our home. Since the property was built in the 30's it was conforming at that time. Any changes needed to the current structure would need a variance request as the structure is non-conforming due to property lines being within 5 feet of the house.

- c) 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 granting of the variance will allow the damage to be addressed and will improve the condition of the property.

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

Throughout the master plan it promotes health, safety, and comfort. In order to continue that not only for our family but our neighbors we would ask that the variance we granted. This is a reasonable amount of development that would not disrupt the harmony of natural features. It is also important to maintain a well-kept residence to improve the Hamburg Township community and we certainly want to do that for our neighbors and children.

- e) 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.

Variance allowance would be a one time request as this was a result of trees falling.

- f) Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district;

Granting the variance would be specific to the current structure and proposed changes only.

- g) The requested variance is the minimum necessary to permit reasonable use of the land.

Due to the narrowness of the property it is necessary to grant the variance to bring the home back to good standing.

- I hereby certify that I am the owner of the subject property or have been authorized to act on behalf of the owner(s) and that all of the statements and attachments are true and correct to the best of my knowledge and belief.
- I acknowledge that approval of a variance only grants that which was presented to the ZBA.
- I acknowledge that I have reviewed the Hamburg Township Zoning Ordinance, The ZBA Application and the ZBA Checklist and have submitted all of the required information.
- I acknowledge that filing of this application grants access to the Township to conduct onsite investigation of the property in order to review this application.
- I understand that the house or property must be marked with the street address clearly visible from the roadway.
- I understand that there will be a public hearing on this item and that either the property owner or appellants shall be in attendance at that hearing.
- I understand that a Land Use Permit is required prior to construction if a variance is granted.
- I understand that any order of the ZBA permitting the erection alteration of a building will be void after one (1) year (12 months), unless a valid building permit is obtained and the project is started and proceeds to completion (See Sec. 6.8 of the Township Zoning Ordinance).

Satur, Nicole M. Digitally signed by Satur, Nicole M.
Date: 2020.08.10 11:58:21 -0400

Owner's Signature

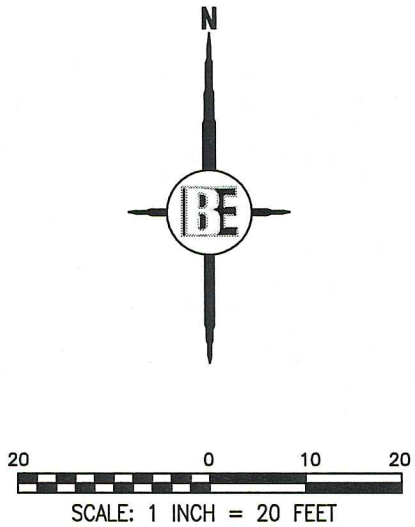
Date

Satur, Nicole M. Digitally signed by Satur, Nicole M.
Date: 2020.08.10 11:58:28 -0400

Appellant's Signature

Date

SURVEY/PLOT PLAN



- LEGEND**
- POWER POLE
 - GUY WIRE
 - ELECTRICAL METER
 - GAS METER
 - AIR CONDITIONING UNIT
 - GRINDER PUMP CHAMBER
 - WELL
 - VALVE
 - OVERHEAD WIRES

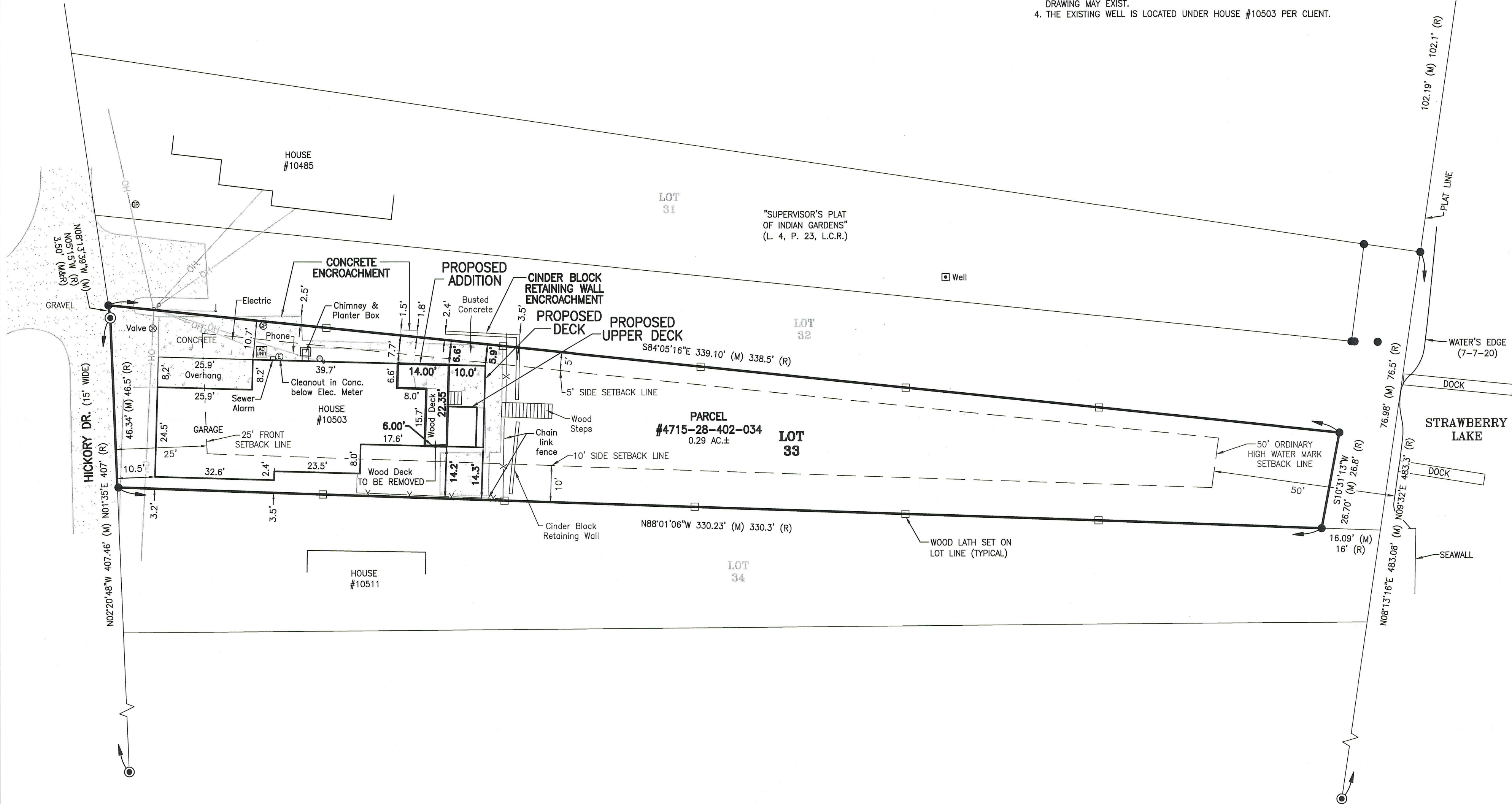
CURRENT ZONING: WFR (WATERFRONT RESIDENTIAL)
MINIMUM SETBACK REQUIREMENTS:
FRONT=25'; SIDES=10' (SEE FOOTNOTE 4 BELOW); REAR=30'
ORDINARY HIGH WATER MARK = 50 FEET
MAXIMUM LOT COVERAGE (BUILDINGS/PARKING) = (35%/40%)
MAXIMUM BUILDING HT. = 35 FEET OR (2.5) STORIES

FOOTNOTE 4 TO SECTION 7.6.1:
IN THE WATER FRONT RESIDENTIAL (WFR) ZONING DISTRICT LOTS THAT HAVE LESS THAN OR EQUAL TO 60 FEET LOT WIDTHS SHALL BE PROVIDED A REDUCED MINIMUM SIDE YARD SETBACK WITH AN AGGREGATE SIDE YARD SETBACK OF 15 FEET.

DESCRIPTION OF PROPERTY:

LOT 33 OF "SUPERVISOR'S PLAT OF INDIAN GARDENS", A SUBDIVISION RECORDED IN LIBER 4 OF PLATS, PAGE 23, LIVINGSTON COUNTY RECORDS, BEING PART OF GOVERNMENT LOT 3 AND PART OF GOVERNMENT LOT 4, SECTION 28, T1N-R5E, HAMBURG TOWNSHIP, LIVINGSTON COUNTY, MICHIGAN

- GENERAL SURVEY NOTES:**
1. BEARINGS ARE BASED ON MICHIGAN STATE PLANE COORDINATE SYSTEM, SOUTH ZONE. RECORD BEARINGS ARE FROM "SUPERVISOR'S PLAT OF INDIAN GARDENS", A SUBDIVISION RECORDED IN LIBER 4 OF PLATS, PAGE 23, 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.
 4. THE EXISTING WELL IS LOCATED UNDER HOUSE #10503 PER CLIENT.



BEBOSS Engineering
Engineers Surveyors Planners Landscape Architects
3121 E. GRAND RIVER AVE.
HOWELL, MI. 48843
517.546.4836 FAX 517.548.1670

PROJECT		10503 HICKORY DRIVE	
PREPARED FOR		NICOLE SATUR 10503 HICKORY DRIVE PINCKNEY, MI 48169 248-535-9074	
TITLE		SURVEY/PLOT PLAN	

THE LOCATION AND ELEVATION OF EXISTING UNDERGROUND UTILITIES AS SHOWN ON THESE DRAWINGS ARE ONLY APPROXIMATE. NO GUARANTEE IS EITHER EXPRESSED OR IMPLIED AS TO THE COMPLETENESS OR ACCURACY THEREOF. THE CONTRACTOR SHALL BE EXCLUSIVELY RESPONSIBLE FOR DETERMINING THE EXACT LOCATION AND ELEVATION OF EXISTING UTILITIES AND PROPOSED UTILITY CROSSINGS IN THE FIELD PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL NOTIFY THE ENGINEER IF ANY CONFLICTS ARE APPARENT OR IF THE LOCATION OR DEPTH DIFFERS SIGNIFICANTLY FROM THE PLANS.





10405 Merrill Road ♦ P.O. Box 157
Hamburg, MI 48139
Phone: 810.231.1000 ♦ Fax: 810.231.4295
www.hamburg.mi.us

DPW/UTILITIES DEPT. REVIEW

I have reviewed ZBA Case # ZBA20-014 located at 10503 Hickory Drive and offer the following:

[X] The parcel is on sewer.

[X] The parcel is serviced by the Hamburg Township Sanitary Sewer System (HTSSS).

- The property owner is requesting a variance to permit the construction of a 176-square foot addition to the east façade of an existing dwelling.
- The grinder pump station and sewer service lateral are located on the north side of the existing home (see attached sketch). It appears at some time the property owner installed concrete on the north side of the house surrounding the grinder pump station and covering the sewer service lateral without permission of the Township.
- The Township will not be responsible for the repair or replacement of the concrete located around the grinder pump station and/or the sewer service lateral if either need to be repaired or replaced as the concrete is in violation of the easement right-of-way.
- Based on the “as-built” drawing for the grinder pump station and sewer service lateral locations, the requested variance to construct the 176 sq. ft. addition will not further interfere with the sanitary sewer structures.
- The DPW/Utilities Department does not object if this variance is granted as the concrete is existing and not part of this variance request.
- The property owner or Builder must contact Miss Dig at 1-800-482-7171 at least 3 days prior to any digging or excavation work to confirm the location of the sewer and other utility locations.

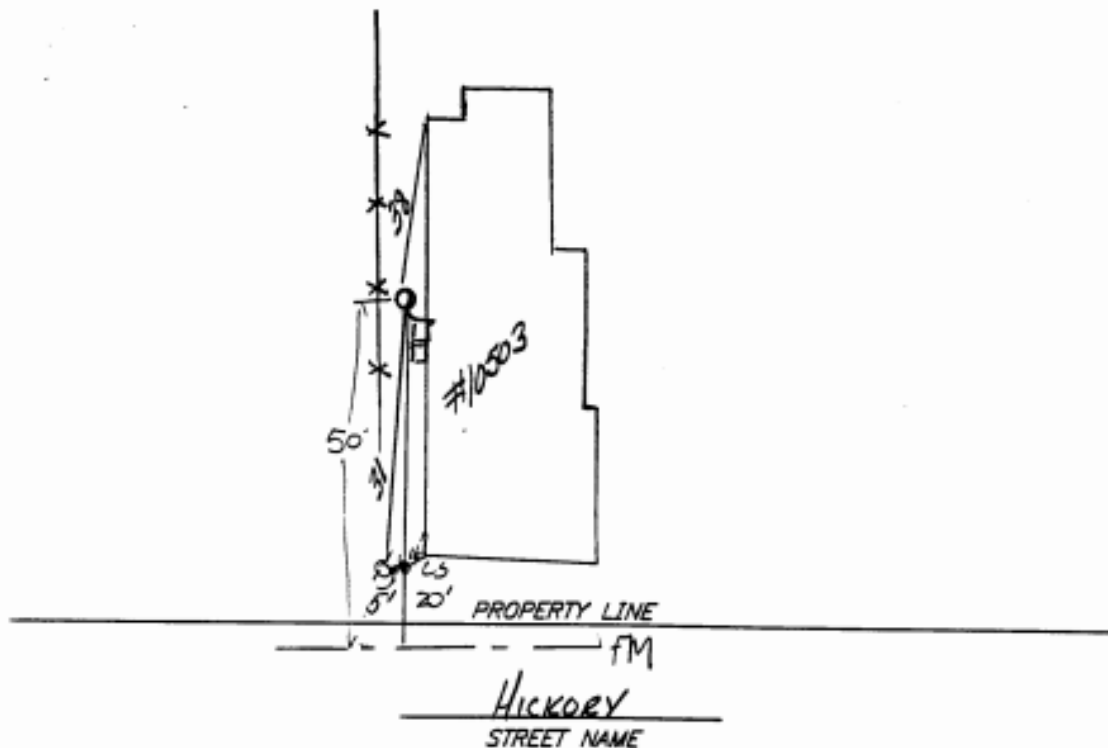
The property owner or Builder must contact Miss Dig at 1-800-482-7171 at least 3 days prior to any digging or excavation work to confirm the location of the sewer and other utility locations.

Dated: September 3rd, 2020

Respectfully submitted,



Brittany K. Campbell
Hamburg Township Utilities Coordinator



ITEMS TO BE SHOWN ON SKETCH

1. LOCATION OF CORPORATION STOP/CHECK VALVE WITH WITNESSES.

2. FORCE MAIN ROUTE FROM PROPERTY LINE TO HOUSE.

3. _____

4. _____

COMMENTS: 50' of Service lateral on 7/10

PROJECT NAME: Strawberry Lake LPCS

CLIENT/CONTRACT NO.: 351.28-S-1

GRINDER PUMP LOCATION SHEET

GROUP: OC.DWG 01-16-95 NAME: /

4051 99971 602

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
Trustees: Bill Hahn
Annette Koeble
Chuck Menzies
Patricia Hughes

**Hamburg Township
Zoning Board of Appeals Minutes
Wednesday, August 12, 2020
7:00 P.M.**

1. Call to order:

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

2. Pledge to the Flag:

3. Roll call of the Board:

Present: Diepenhorst, Dolan, Priebe, Rill and Watson

Absent: Auxier

Also Present: Amy Steffens, Planning & Zoning Administrator

4. Correspondence: None

5. Approval of Agenda:

Motion by Dolan, supported by Diepenhorst

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:

a) ZBA 20-008

Owner: Michael Dolen

Location: 10910 Bob White Beach Boulevard Whitmore Lake MI 48189

Parcel ID: 15-27-40-037

Request: Variance application to permit the construction of a 1,010-square foot accessory structure 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.).

Planning & Zoning Administrator Steffens stated that due to a medical reason, the applicant who is currently in California, was unable to attend this meeting. Neither our Zoning Ordinance nor the Zoning Enabling Act requires that the applicant appear in person. Given the circumstances, it was felt that it would be appropriate for staff to read into the record the applicant's responses to each of the findings of fact as their testimony.

Steffens stated that this is an application for an accessory structure with a 15-foot front yard setback from Bob White Beach Boulevard, where a 25-foot front yard setback would be required, and a 15.3-foot setback from a regulated wetland, where a 50-foot setback would be required.

Steffens read the following response from Michael Dolen, applicant:

18. a) 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.

On the southern half of Bob White Beach, lakefront homes have their garages in back, across the street. Our lot happens to have what may be the smallest piece of land for its garage; 50 by 90 foot. Normally, that would allow for the construction of a 30 by 35 foot garage. However, because the lot is in the shape of a slanted rectangle (parallelogram), that is not possible. The practical difficulty of building an asymmetric parallelogram shaped structure to follow the shape of this lot would render conformity unnecessarily burdensome.

By allowing the garage to encroach the front setback 10 feet, it would allow for a rectangular garage of the same allowable 35 foot depth which would otherwise be permitted, if the lot was rectangular. In order to respect the wetlands in back, an encroachment on the front is preferable versus the rear.

The survey data records the road as being 40 feet wide. In actuality, the literal paved road is between 17 to 19 feet wide. The remaining 21 to 23 feet of "road" is actually a lawn and a gravel driveway. It's entirely on one side of the road – the same side as the garage lot.

This additional land, which is 21 to 23 feet in depth, consists of grass, planters, small trees, and a permanent bench carved out of old tree stumps (all of these were placed by prior owners, not us). It was erroneously assumed to be part of the property by prior owners, as well as us.

Because of this anomaly, even with a 10 foot encroachment on the front setback, the garage is still much further than 25 feet from the actual paved road (it's 35 to 40 ft away). In turn, it still holds true to the spirit of the 25 foot front setback.

For the existing garage, new garage, as well as neighboring garages, these all sit closer than 50 feet from regulated wetlands. Due to the particularly small lot size, it would not be possible to construct a garage that sat 50+ feet away. The average distance from the wetlands for the new garage is no closer than that of the existing garage.

b) 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.

On the east side of Bob White Beach Blvd, where the houses' garages are located, others enjoy having a 2-car (or larger) garage, with depth and storage for watercraft, etc.

While it is true our property currently has a 2-car garage, it's made of old rotted logs, dilapidated, and is subject to wind, rain, and snow getting in. When we purchased the home in 2019, we did sand, paint and repair the garage as much as possible, but it remains unsafe to park cars inside and as such, is only being used as a very large storage shed. As a result, we are unable to enjoy the benefit of having a garage which is customary for the neighborhood.

Nearby properties have built garages which are 40+ feet in depth to accommodate storing boats on trailers. For example, the direct neighboring garages on both the left and right side of us are approximately 47 and 41 feet deep, respectively. Our replacement is less, at 35 feet. Even when encroaching the front setback by 10 feet, its distance to the paved street will be comparable to that of these neighboring garages.

During the off-season, our property's driveway has historically allowed for an unobtrusive placement of a pontoon boat. This is how we have stored it for the past year, as well as the prior owner for at least two decades. However, given the discovery that up to 23 feet of our driveway is government property since it's classified as being a road, it would not be right to continue storing it in such a manner, as it should be clearly and comfortably be on our property. Therefore, it is particularly important that we have adequate depth in our garage, similar to our adjacent neighbors, so we have the ability to store a pontoon inside. Furthermore, we want to respect the line of site for road traffic and neighbors backing out of their driveways.

c) 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 granting of such variance will be an improvement to the public welfare, as well as neighboring properties.

The existing garage sits barely 2 feet from the southern property line. The new garage abides by the 10 foot required setbacks on both sides. Hence, it conforms to current standards and eliminates the crowding next to my neighbor's garage.

Wetland protection has been thoughtfully considered. Gutters will be used on the roof with downspout runoff designed to flow away from the direction of the wetlands. On the existing garage, at its closest point which is its southern corner, the distance is 15.8 feet from wetlands. The average distance for the new garage is no closer than that. Much of it is at a greater distance than 15.8 feet – up to approximately 35 feet away from wetlands, at its northern corner.

Jeff Pierce is the Environmental Quality Analyst assigned to our region from the Michigan Department of Environment, Great Lakes, and Energy (EGLE). He reviewed our wetland delineation report, as well as the site plot showing the locations of the existing and proposed garages. He said this plan *"would not have direct impacts on the wetland."* His letter is attached.

d) That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.

Dating back to the prior owners, the existing garage has long been a running joke with neighbors because it is an eyesore that does not even remotely match the styling of the associated house, or any neighboring houses. The Master Plan Community Goals state Waterfront Residential parcels *"should maintain their existing character and setbacks from the lakes."*

The new garage has been designed to match the existing character and styling of the associated house. This beautifies the neighborhood. Furthermore, since only other garages are found on this side of the road, no houses will have view corridors affected. Since the lake is on the opposite side of the road, with a house between the lake and the road, the garage does not affect lake setbacks, or any aesthetic characteristics of the coastline when viewed from the water.

e) 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.

This is a unique situation specific to this address, as the neighbors' garages to the left and right, as well as along this southern portion of Bob White Beach, have deeper pieces of land for their garages. As such, there is more flexibility in placement.

As you can see, the back of our lot was carved out for an unusual U-shaped lot which abuts the back of it. On a related note, this U-shaped lot is wetlands and does not have a house on it. There is a garage, but it's on the other end of the U, where you see the number 100.

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

With the granting of the variance, the use of the property does not change. It remains a Single Family Residence with detached 2-car garage.

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

A 15 foot front yard setback is a reasonable deviation from 25 foot considering the unusually small lot size (50 x 90 feet), the parallelogram shape, and the fact that there is an additional 21 to 23 feet of open space in front of the lot, before the paved road. The partial encroachment of the 50-foot wetlands setback as required by ordinance is reasonable, given that its average distance to the wetlands is no closer than that of the existing garage.

Planning & Zoning Administrator Steffens stated that the subject site is a 0.26-acre parcel. Strawberry Lake is to the west; single-family dwellings and associated accessory structures are located to the north, south, and east. Bob White Beach Boulevard traverses the site and the eastern portion of the site is the subject area. If approved, the variance request would allow for the construction of a two-story, 1,010-square foot accessory structure, with a building height of 16 feet, 9 inches. The structure would have a 15-foot front yard setback from Bob White Beach Boulevard, where a 25-foot front yard setback would be required, and a 15.3-foot setback from a regulated wetland, where a 50-foot setback would be required. The subject area is developed with a 450-square foot garage with a 15.8-foot setback from the wetlands, a two-foot south side yard setback, and a 34-foot front yard setback. Section 9.9.3 of the Hamburg Township Zoning Ordinance requires a 50-foot setback from the boundary of a regulated wetland. However, the Zoning Administrator or body undertaking plan review may reduce or eliminate the setback upon review of a request which details the future protection of the natural features and or mitigation of the natural features. The ZBA may either deny or grant the variance based on findings related to the proposed variance, or request that the owner detail the future protection of the wetland and direct the zoning administrator to administratively approve the encroachment. The ZBA could request a property owner protect the wetlands with one of the following methods - 1. The homeowner could submit an engineered drainage plan for the property, prepared either by a civil engineer or registered landscape architect that would ensure runoff from the garage does not drain into the wetlands. 2. The homeowner could construct a physical barrier along the wetlands to preserve the wetland from further encroachment by lawn equipment or any other trampling of the area. 3. The homeowner could record an open space or wetland easement over the wetland portion of the site to restrict development and interference with the natural vegetation of the area in the future. The applicant did submit a wetlands delineation report and forwarded to EGLE's Water Resources Division for comment. Exhibit B is an email exchange between the property owner and EGLE. The site is very flat and there would be minimal grading at the building envelope. She would strike the notion that a grading plan be required. If there was to be topographical changes or a considerable amount of grading, she would suggest that be a course of action that the ZBA should take. Any variance granted as a result of this request will apply to the identified boundary of the wetlands as indicated in the wetland delineation report.

Steffens reviewed the staff's response to the seven findings of fact. She stated that the subject area is 50 feet wide at the street and 90 feet deep from west to east. Regulated wetlands encroach into the eastern portion of the site, placing the required wetland setback approximately 21 feet from the front property boundary. The structure also would require a 25-foot front yard setback from the front property boundary. Staff provided a drawing that illustrates the wetlands setback in red, the front setback in green, and the overlapping setbacks in yellow. There is no compliant location on this portion of the parcel to construct a structure of any size. The 50-foot regulated wetlands setback requirement applies generally to all properties in Hamburg Township. The presence of this regulated wetland encroachment onto the parcel is not a circumstance that generally is found on other properties in the same zone or district. The location of the wetland on this property adds practical difficulty to constructing an accessory structure within all required setbacks. However, the size of the proposed structure could be reduced in size to further reduce the variance request. There is an exceptional or extraordinary circumstance or condition applicable to the property involved that does not apply to other properties in the same district or zone although it is the design preference of the applicant that necessitates the extreme wetlands setback request. The wetlands and front yard setback requirements result in no complaint building envelope for any sized accessory structure. While the proposed accessory structure is a customary and reasonable residential use, approval of the variance request does not preserve or advance property rights as the parcel is developed for its zoned and intended use of single-family residential. The parcels to the south north are improved with accessory structures, and the parcel to the east is regulated wetlands. It is not likely that the reduced front yard setback will be aesthetically impactful to the adjacent properties because there is a considerable road easement between the traveled roadway and the property boundary. She read an excerpt from the current Hamburg

Township Master Plan, Natural Resources Management Strategies chapter. The intent of the 50-foot setback is to protect the environmental features that serve important ecological purposes. Wetlands protect against flooding, provide wildlife habitat, and naturally filter contaminants from water. The ZBA should consider requiring the property owner to either create a recorded conservation easement for the portion of wetlands on the parcel or construct a physical or vegetative barrier to further limit encroachment into the wetlands. EAGL permit is not required because they found that there would be no direct impact to the wetlands. It is fairly vegetated at the setback, a natural vegetation berm, but it is mostly scrub material. The applicant suggested that he leave that buffer, however her preference would be to have a physical barrier installed, possibly a short fence to keep foot traffic or lawn mower from accidentally trampling the wetlands. A conservation easement is another option, but given the smaller size of the wetlands, it may not be the best option. Staff is recommending a physical barrier along the length of the structure. Because of the wetland encroachment on the property, the request for the variance is not of so general or recurrent a nature. The site is zoned for single-family residential and the proposed variance would not permit the establishment of a use not permitted by right within the district. As discussed under standard number four, the Master Plan recommendations and the Zoning Ordinance requirements for wetlands setbacks clearly intend to protect the integrity of ecological features and their ability to continue to function without impediment. Staff also is considerate of the property rights of the owner and the intended purpose of the subject site to be used for single-family residential uses. The ZBA should balance the ecological importance of the wetlands, impact of the structure on the wetlands, and the property rights of the applicant. Requesting that the accessory structure be reduced in size to provide a greater wetlands setback, placing the wetlands into a recorded conservation easement, or creating a physical barrier to the wetlands would be appropriate conditions of approval.

Chairperson Priebe opened the public hearing.

Robert Siebert of 10884 Bob White Beach stated that the existing garage is ready to fall down. It is an eyesore. Their boat sits in front of it which blocks the site distance from the road. The new garage would be better for the neighborhood.

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

Motion by Watson, supported by Dolan

To approve variance application ZBA 20-008 at 10910 Bob White Beach Boulevard to permit the construction of a 1,010-square foot accessory structure 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 wetland required, Section 9.9.3.B.), as shown on the plans file dated June 17, 2020 and the wetlands identification report file dated June 2, 2020. Variance approval is granted based on the following condition: Construct a physical barrier along the wetlands to preserve the wetland from further encroachment by lawn equipment or any other trampling of the area. The variance does meet standards one through seven of Section 6.5. of the Township Ordinance and a practical difficulty does exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight's meeting and as presented in the staff report. 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

b) ZBA 20-009

Owner: Linda Lee Lamb

Location: 8633 Country Club Drive Pinckney, MI 48169

Parcel ID: 15-17-404-006

Request: Variance application to permit the 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).

Ms. Lamb, applicant, stated that the lot is quite small with only 10 feet to the property line. She would like to install a patio to place her grill, etc. The property next to hers is very small, and she does not think that anyone would be able to build a house on it.

Planning & Zoning Administrator Steffens stated that the subject site is an approximately 6,400-square foot property that fronts on Country Club Drive to the west. An existing single-story, single-family dwelling with an attached garage is located on the site, with a combined footprint of approximately 1,540 square feet. Single-family dwellings are located to the north, east, south, and west of the site. According to a February 28, 2019 email from Jeff Pierce with EGLE, wetlands are not present on the site. Based on the maps that we receive from Livingston County, there are wetlands on the site, but Jeff Pierce confirmed there were no regulated wetlands. If approved, the variance request would permit the construction of a ten-foot by thirty-foot patio structure with up to a one-foot south side yard setback where a five-foot south side yard setback required per Section 8.18.1. Staff issued a Land Use Permit for the construction of the existing single-family dwelling and attached garage on May 1, 2019. The plans approved for that permit include a proposed five-foot by thirty-foot patio structure in the same location as the proposed ten-foot by thirty-foot patio structure that is the subject of this variance request. It appears that the approved five-foot by thirty-foot patio structure was never constructed. The applicant formally applied for the variance before you this evening on July 08, 2020. In her application, she cites a desire “to have a patio next to the kitchen,” and wanting to provide “an outdoor eating area in an otherwise unused area” as reasons for granting the variance request. Since an existing sliding door on the south wall of the house would provide access to the proposed patio, the chosen location is logical. The site plan dated June 26, 2020 submitted for this variance request shows a proposed drainage system that should ensure that any additional stormwater runoff generated on-site by the proposed patio would be managed on-site. That drainage plan was requested by the builder prior to the Township signing off on the final Certificate of Occupancy. Given the amount of fill brought onto the site and the slope onto adjacent properties, we were concerned that the drainage would not be managed on site. We requested that the builder submit a grading and drainage plan. She suggested that the engineer who did the drainage plan show the drainage contemplating the patio. He proposed and installed a detention in the rear yard as well as a PVC pipe running along the south property boundary and then a small berm on the north property boundary and has provided an as-built. The engineer was confident that the way that the site had been graded along with the other storm water controls would prevent flow onto the neighboring properties. Drainage in Michigan is a civil matter, however we do try to ward off any potential problems when there is an active land use permit.

Steffens discussed the seven findings of fact. She stated that the five-foot side yard setback required for patio structures under Section 8.18.1 of the Zoning Ordinance applies generally to all properties in the WFR District and Township-wide rather than just the subject site. However, the subject site is exceptionally narrow with an average lot width of just 42.5 feet. In addition, the existing dwelling is sited approximately ten feet from the south property line in compliance with the setback requirements of Section 7.6.1 of the Zoning Ordinance. As a result, the buildable area for a patio structure along the south side of the dwelling is just five-feet in width, which limits the usability of the structure. Nevertheless, Staff issued a Land Use Permit on May 1, 2019 for the existing dwelling on the subject site with a compliant five-foot by thirty-foot patio structure proposed in the same location as the proposed ten-foot by thirty-foot patio structure that is the subject of this variance request. The need for the variance is driven by the preference for a larger patio. However, it is staff’s position that the patio function is essentially the same as a lawn. The concern here would be the run-off. Had we not had the as-builts from the engineer certifying that the storm water controls would be adequate for this size patio, it would be a greater concern. There are several locations on the subject site where a compliant and usable patio structure could be constructed, and thus granting a variance to allow a noncompliant patio structure in a particular location is not necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. However, a compliant patio structure along the south side of the existing dwelling in particular would be limited in terms of usability in light of the required five-foot setback, narrow lot width, and location of the existing dwelling. The primary concern with regard to the addition of impermeable surface in a required yard setback by constructing the patio structure is increased stormwater runoff onto property adjoining the subject site. So long as the applicant constructs the drainage system for the patio structure in accordance with the site plan dated June 26, 2020, submitted for the subject variance request, which they have done, granting of the variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the zone or district in which the property is located. The subject site is within the West Hamburg/Rush Lake planning area of the Master Plan, which envisions medium-density residential,

commercial, and public land uses which enhance the Rush Lake area as a secondary center of community activity. In addition, the subject site is classified as High Density Single Family Residential (one dwelling unit per quarter-acre) on the Future Land Use Map. Because the variance request is not based upon an increase in residential density, but rather the addition of a patio structure, granting the request will not adversely affect the purpose or objectives of the Master Plan. The condition or situation of the subject property for which the variance is sought is not of so general or recurrent nature in light of the subject site's exceptionally narrow average lot width of 42.5 feet. In addition, no other variances have been requested for the subject property. This is an at-grade patio. The use of the subject site is presently single-family residential, which is a use permitted by right in the WFR District in which it is located, and granting a variance to permit the construction of a patio structure will not change the present use. With the construction of the dwelling and garage, reasonable use of the land is already permitted. In addition, a complaint patio structure can be constructed along the south side of the dwelling, despite the required five-foot south side yard setback, as evidenced by the applicant's plans, the Township issued a Land Use Permit on May 1, 2019 for the existing dwelling on the subject site with a proposed five-foot by thirty-foot patio structure meeting the required five-foot south side yard setback. Nevertheless, a patio just five feet in width would be limited in terms of its usability.

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

It was stated that if it were a raised patio, it may be a larger concern. It was stated that there is a practical difficulty on the property.

Motion by Dolan, supported by Watson

To approve variance application ZBA 20-0009 at 8633 Country Club Drive to permit the 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). Variance approval is granted based on the fact that there is a storm water management system exists on the property. 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 this staff report. The Board directs Staff to prepare a memorialization of the ZBA's findings for the request

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

c) ZBA 20-010

Owner: Phillip Hatfield

Location: 3840 Langley Drive Pinckney, MI 48169

Parcel ID: 15-29-202-030

Request: 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).

Mr. Hatfield, applicant, stated that this is going to be their retirement home, and they are looking to have a garage with attic storage. They will be re-siding the house as well as the garage. The lot is very narrow and there is no other place to put it. They are looking to build it to the width of their driveway. At some point, there had been a carport which is no longer there. The house has neither an attic nor a basement, therefore there is very little storage.

Planning & Zoning Administrator Steffens stated that the subject site is a very small, approximately 3,480-square foot property that fronts on Langley Drive to the north and Cordley Lake to the south. An existing single-family dwelling and detached accessory structure are located on the site, with a combined footprint of approximately 987 square feet. Single-family dwellings are located to the north, east, and west of the site. If approved, the variance request would 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 where a fifteen-foot aggregate side yard setback required, per Section 7.6.1.fn4. As you can see in the provided site plan, the existing dwelling encroaches upon the subject site's

property lines. The lot to the east onto which the dwelling encroaches is a common use lot. According to assessing records, the dwelling was constructed in 1950, which predates the current Zoning Ordinance. Staff found a 2002 real property settlement agreement that addresses the dwelling encroachment in which the subdivision agreed to permit the encroached-upon portion of the common lot for continued use and occupancy by the property owner. Staff then consulted with the Township Attorney as to whether such agreement precludes the proposed expansion sought via this variance request. After researching the issue, the Attorney found that the agreement does not preclude the proposed expansion or the issuance of land use permits by the Township.

Steffens discussed the seven findings of fact. She stated that the fifteen-foot aggregate side yard setback required for the proposed structure under Section 7.6.1.fn4 of the Zoning Ordinance applies to all parcels sixty feet or less in width in the WFR District rather than just the subject site. However, the subject site is exceptionally narrow with an average lot width of approximately forty feet. The subject site is also exceptionally shallow with an average lot depth of 97.4 feet. In addition, the existing dwelling is oddly sited such that it is angled significantly towards the west, encroaching upon the east property line. The west side yard setback for the existing dwelling is conforming but does not leave much room for a usable garage, especially in light of the angled position of the dwelling. As a result, the buildable area for a compliant attached garage of any usable dimensions on the subject site is extraordinarily constrained, especially with regard to meeting the west side yard setback. Nevertheless, it appears that the applicant could slightly shorten and/or shift the garage to the south so as to slightly reduce the proposed encroachment into the required fifteen-foot aggregate side yard setback. The variance preserves a substantial property right possessed by other property in the same zone and vicinity; in this case, the right to construct a compliant attached accessory structure in a district in which it is customarily permitted, the WFR District. Several properties in the same zone and vicinity as the subject site have a single-car garage, and several properties in the immediate neighborhood have attached garages as well. The exceptionally short lot width and depth of the subject site, as well as the angled position of the existing dwelling, make constructing an attached accessory structure that is both usable and compliant with the Zoning Ordinance difficult. Nevertheless, it appears that the applicant could slightly shorten and/or shift the garage to the south so as to slightly reduce the proposed encroachment into the required fifteen-foot aggregate side yard setback. The proposed attached garage is designed to integrate seamlessly with the existing dwelling and will be compatible with surrounding properties in the WFR District. The scale of the proposed garage is appropriate to the existing dwelling and does not appear to create a foreseeable potential for significant obstruction of views or ingress and egress. So long as all additional stormwater runoff from the proposed garage is managed on-site, granting of the variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the zone or district in which the property is located. The subject site is within the North Chain of Lakes planning area of the Master Plan, which will continue largely as residential areas very closely tied to lake waterfronts. The subject site would continue to be compatible with such pattern. In addition, the subject site is classified as Waterfront Residential. The condition or situation of the subject property for which the variance is sought is not of so general or recurrent a nature in light of the subject site's exceptionally narrow forty-foot average lot width, exceptionally shallow 97.4-foot average lot depth, and the angled position of the existing dwelling. The use of the subject site is presently single-family residential, which is a use permitted by right in the WFR District in which it is located, and granting a variance to permit the construction of an attached accessory structure will not change the present use. At 276 square feet, the proposed garage is appropriately sized to be usable for a variety of vehicle types. The proposed garage's dimensions are not excessive but the minimum necessary to accommodate a larger vehicle. Nevertheless, it appears that the applicant could slightly shorten and/or shift the garage to the south so as to slightly reduce the proposed encroachment into the required fifteen-foot aggregate side yard setback.

Discussion was held on the location of the existing shed. Mr. Hatfield stated that it is approximately three feet back from the house. Discussion was held on the pitch of the roof of the garage.

The question was asked why the garage could not be shifted to the south. Mr. Hatfield stated that they would not be able to match the pitch of the roof to the house.

Chairperson Priebe opened the public hearing.

Chairperson Priebe stated that we received a hand-written note, although it does not say who it is from, indicating that as a resident of Langley Drive, they object to the variance as leaving only a three foot setback is not enough. Setback requirements are there for obvious reasons, please adhere to them.

Hearing no further public comment, the public hearing was closed.

Motion by Rill, supported by Diepenhorst

To approve variance application ZBA 20-0010 at 3840 Langley Drive 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) 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 this staff report. The Board directs Staff to prepare a memorialization of the ZBA's findings for the request.

Voice vote: Ayes: 3 Nays: 2 Absent: 0 MOTION CARRIED

d) ZBA 20-011

Owner: Mark S. Ramsey IV

Location: 8424 Hillpoint Drive Brighton MI 48116

Parcel ID: 15-13-102-068

Request: Variance application 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.).

Mr. Ramsey, applicant, stated that he is attempting to finalize an application that was originally made in 2007. The survey was completed and they are ready to move forward. He thought that he was ready to finalize the split only to find out that it does not meet the new ordinance. Since that time, they purchased the property on the water for the purpose of building a new home.

Planning & Zoning Administrator Steffens stated that this is the first time since she started with the Township that the ZBA has heard a request for a land division. The applicant would like to split the existing developed, 25,487 square foot, parcel 15-13-102- 068 at 8425 Hillpoint Drive into two lots. Lot A would be 14,627 square feet and would contain the existing house and Lot B would be 10,990 square feet and would be vacant. The applicant currently owns the subject property at 8424 Hillpoint Drive and the property to the east across Hillpoint Drive at 8417 Hillpoint Drive. The applicant has indicated to staff that the intent is to construct a garage on Lot B to accompany the house owned at 8417 Hillpoint Drive. In 2007 the applicant combined 6 parcels into the existing single parcel an 8424 Hillpoint Drive. We see people combine parcels all the time for a couple of reasons. Either they combine two parcels to build a larger home or their parcels may be included in a special assessment district. We now have a legal description that encompasses all of the parcels under one parcel number. You have to meet the zoning standards in order to split. Our attorney has advised us that we cannot subdivide or split the parcels into their original configuration. We would have to split the lot in order to meet the Township's zoning requirements for size and minimum road frontage. In 2007, incorrectly the split went to the Township Board who then approved it. However, you cannot split a parcel without having all of the taxes paid. In 2007 there were some taxes that were not completely up to date on some of those parcels so the Township was not able to complete the split. Mr. Ramsey did not realize that the split was nullified because of the outstanding tax issue. We are now in a position that we cannot approve the split because it does not meet the WFR zone requirements for lot size. The Land Division Act states that when you create a lot, the municipality's minimum standards have to be met. The Township's Ordinance #95A addresses land divisions, combinations and boundary adjustments. The Land Division Act does not address boundary adjustments or combinations, only splits. We like the combinations, particularly on the smaller WFR lots, because we are getting to what the Township has adopted as the minimum lot size of one acre. However, Ordinance 95A does address

combinations and boundary adjustments, and there are a number of standards that must be met. We look at a number of issues so that we do not create a site that is not buildable.

The question was asked if an accessory structure could be built alone on a lot. Steffens explained that it is allowed in one instance, which is if you have a waterfront lot and a lot within 66 feet, then it is allowable to build an accessory structure up to 800 square feet if there is common ownership.

Steffens stated that Mr. Ramsey is attempting to create a lot that does not meet the one acre standard. In fact, he is creating two lots that do not meet the standards.

Steffens reviewed the seven findings of fact. She stated that there is no exceptional or extraordinary circumstance or condition applicable to the property involved that does not apply generally to other properties in the same district. The minimum lot size in the WFR district is one acre. However $\frac{3}{4}$ of the platted WFR subdivisions were platted in the 1920s and 1930s. Platting of lots is much different than the creation of a new lot under the LDA. If the Planning Commission allowed the 25,487 sq. ft. subject site to be divided into two smaller lots, both less than the allowed lot size of 43,560 square feet in the zoning district, what would be the reason to not allow land divisions that do not meet the lot size on all lots in the zoning district? The lot size of one acre has been in the Zoning Ordinance for decades. However, a lot line adjustment could be permitted that would create Lot A, with the existing house, and combine Lot B with the parcel owned by the applicant to the east. The lot line adjustment would increase the non-conformity of Lot A but it would decrease the non-conformity of 8417 Hillpoint which is the waterfront lot. We would not be splitting off another lot, but taking some square footage and transferring it to the water side. We would be transferring the non-conformity from one lot to the other. The owner of the subject property is allowed to develop their existing property under the WFR regulations the same as all other properties in the same zone and vicinity. If a land division was allowed it would allow the property owner to develop two nonconforming properties in the WFR zoning district instead of one. This would allow this property owner twice the development as other properties in the same zone and vicinity. Staff recommends that if the ZBA grants approval to request that a lot line adjustment be required. Dividing the existing non-conforming lot into two smaller non-conforming lots would allow Lot B to be developed with any of the allowed uses in the WFR zoning district. The property owners have stated that they would like to build a garage on this lot for their other property at 8417 Hillpoint Drive. This would be an allowed use of this new lot under section 8.3.10 of the zoning regulations because the properties would be within 66 feet of each other and the project could meet the other regulations under this section. The future land use map for this property is High Density Residential which would allow for properties to be as small as $\frac{1}{4}$ of an acre. However some of the goals of the master plan are to protect, preserve, and enhance whenever possible the unique and desirable natural amenities of Hamburg Township; 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. Because of this lot's proximity to the lake and the small size of the existing site, future divisions of this property for development would not appear to preserve or be in harmony with the natural features and unique environmental requirements of the Township. A lot line adjustment would not create a non-conforming parcel would be essentially transfer a non-conformity from 8417 Hillpoint to 8424 Hillpoint. It appears that allowing a land division of an already non-conforming lots of 25,487 square feet in the WFR zoning district may be very general and recurrent in nature as many of the lots in the WFR zoning district are smaller than the required 43,560 sq. ft. minimum lot size. The uses allowed on the lots would be the same as the current uses allowed in the WFR zoning district. However, this single legal non-conforming site would be able to have twice as many of these allowed uses if the ZBA allows the property to be divided into two even more non-conforming sites. Permitting the lot line adjustment, however, assuages the concerns regarding over development of the waterfront district and would permit the property owner to develop both Lot A, Lot B, and 8417 Hillpoint in full compliance with the zoning ordinance. The existing property may be developed with all the uses allowed in the WFR zoning district as long as all the regulations can be met. Therefore, the property as it exists today allows for reasonable use of the land.

The question was asked when the request for the split appeared before the Township Board. Steffens stated that it was in 2007, the same year as the combination of the lots. The split was not realized because of unpaid taxes.

Discussion was held on the location of the two houses. Steffens stated that the houses do not need to line up, they just need to have common frontage.

The question was asked if the taxes are current. Steffens stated that she is not sure.

Member Dolan stated that he has a problem with creating a non-conformity, but he also has a problem with the Township not notifying the applicant that the split was not complete in 2007.

Chairperson Priebe stated that she would be afraid of the precedent that would be set by creating two non-conforming lots.

The question was asked if the split is strictly so that a garage can be built. Mr. Ramsey stated that he has a mortgage on both properties and he needs the split in order to make the financing work. The adjustment is a step in the right direction, but it still leaves a large hurdle to get over for the financing. It was stated that is not something that the Board can consider when making a decision. Mr. Ramsey stated that he has no other plans other than a garage for that property.

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

Member Dolan again reiterated that the Township Board previously took action on this, however the applicant was never informed that the split did not occur. He stated that he is concerned about setting precedent. Steffens stated that in looking at minutes where the Board took action on splits, it was always done with the condition that taxes are paid.

Motion by Dolan, supported by Rill

To approve variance application ZBA 20-001 at 8424 Hillpoint Drive (TID 15-13-102- 068) to allow the lot line adjustment between 15-13-102-068 and 15-13-103-084, as indicated in the staff report, and permitting Lot A to have a lot size of 14,627 square feet. Variance does meet standards one through seven of Section 6.5. of the Township's Ordinance and a practical difficulty does exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight's meeting and as presented in the staff report contingent upon all property taxes being paid, and, that the record reflect that the ZBA was made aware that the Township Board approved action in 2007 allowing for a split of the subject property which did not occur due to unpaid property taxes. The Board directs staff to prepare a memorialization of the ZBA findings for the project

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

8. New/Old business

a) Approval of July 8 and July 27, 2020 minutes

Motion by Dolan, supported by Diepenhorst

To approve the minutes of the July 8, 2020 meeting as written

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

Motion by Rill, supported by Watson

To approve the minutes of the July 27, 2020 special meeting as written

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

b) Memo of findings

Planning & Zoning Administrator Steffens stated that August 18, 2020 at the 7:00 p.m. Township Board meeting, the Board will be finalizing the Master Plan. Member Rill asked if the one-acre requirement was adjusted down in the Master Plan. Steffens stated that it was not. She further stated that she would like to thank Chairperson Priebe for serving on the Steering Committee for that Master Plan.

Member Dolan stated that he would like to commend Amy Steffens for the great presentation this evening, especially the last case. She made it very clear and easy for the Board to understand.

9. Adjournment:

Motion by Dolan, supported by Rill

To adjourn the meeting

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

The meeting was adjourned at 8:40 p.m.

Respectfully submitted,

Julie Durkin, Recording Secretary

The minutes were approved as presented/corrected:_____

Chairperson Priebe