

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



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

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**Hamburg Township  
Zoning Board of Appeals  
Wednesday, May 13, 2020  
Electronic Meeting, pursuant to Executive Order 2020-48**

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**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**

**a) ZBA 20-0002**

Owner: Zalewski Construction Co.

Location: Vacant on Rush Lake Road, west of 3267 Rush Lake Road  
Pinckney MI 48169

Parcel ID: 15-17-302-093

Request: Variance application to allow for the construction of a two-story, 1,872 square foot dwelling with an 864-square foot walk-out basement, an attached 420-square foot garage, and an 80-square foot elevated deck on the dwelling's north façade. The dwelling will have a nine-foot setback from a regulated wetland and the elevated deck will have a two-foot setback from a regulated wetland (50-foot setback from a regulated wetland required, Section 9.9.3.B).



**b) ZBA 20-0003**

Owner: Leonard and Melissa Morgan

Location: 2946 Indian Trail Dr.  
Pinckney MI 48169

Parcel ID: 15-32-402-015

Request: Variance application to allow for the construction of a two-story, 1,272 square foot dwelling with a 1,269 square foot second story. The dwelling will have a 21.7-foot north front yard setback (25-foot front yard setback required, Section 7.6.1.), and a 2.9-foot east side yard setback, resulting in an aggregate side yard setback of 7.9 feet (15-foot aggregate side yard setback required, Section 7.6.1. fn. 4), and a 44-foot south rear yard setback from the ordinary high water mark of Base Line Lake (50-foot setback from the OHM required, Section 7.6.1. fn. 3), and a total lot coverage of 56 percent, (Maximum 50 percent lot coverage allowed, Section 7.6.1. fn. 7).

**c) ZBA 20-0004**

Owner: Bradley and Patricia Zalewski

Location: 8491 Baudine Rd.  
Pinckney MI 48169

Parcel ID: 15-17-301-070

Request: Variance application to allow for the construction of a 423-square foot addition to the south façade of an existing dwelling. The addition will have a 20-foot east rear yard setback (30-foot rear yard setback required, Section 7.6.1.) and a 25-foot setback from the ordinary high water mark of the canal to the east (50-foot setback from the ordinary high water mark required, Section 7.6.1.fn3).

**8. New/Old business**

a) approval of March 11, 2020 meeting minutes

**9. Adjournment**



# Zoning Board of Appeals Staff Report



## AGENDA ITEM: 7a

**TO:** Zoning Board of Appeals  
(ZBA)

**FROM:** Amy Steffens, AICP

## HEARING

**DATE:** May 13, 2020

**SUBJECT:** ZBA 20-002

**PROJECT** Vacant on Rush Lake

**SITE:** Road (west of 3267 Rush  
Lake Road)  
TID 15-17-302-093

## APPLICANT/

**OWNER:** Zalewski Construction Co.

**PROJECT:** Variance application to allow for the construction of a two-story, 1,872 square foot dwelling with an 864-square foot walk-out basement, an attached 420-square foot garage, and an 80-square foot elevated deck on the dwelling's north façade. The dwelling will have a nine-foot setback from a regulated wetland and the elevated deck will have a two-foot setback from a regulated wetland (50-foot setback from a regulated wetland required, Section 9.9.3.B.).

**ZONING:** WFR—Waterfront Residential

### Addendum for May 13, 2020 hearing

This project was tabled from the March 11, 2020 ZBA after the public hearing was held to allow the applicant time complete a grading plan. On April 21, 2020, the applicant submitted a grading plan. Staff forwarded the grading plan to EGLE for comment regarding potential impact to the wetlands. As of this writing no response has been received from EGLE.

Staff continues to recommend approval of this request with wetlands protections as deemed

appropriate by the ZBA. Suggested protection measures are outlined below.

Exhibits for the May hearing:

Exhibit A: application materials including wetlands delineation report

Exhibit B: emails from EGLE

Exhibit C: grading plan file dated April 21, 2020

Exhibit D: DPW review

## **Project Description**

The subject site is a 0.18-acre parcel that fronts onto Rush Lake Road to the south and the Rush Lake Hills Golf Club to the north; single-family dwellings are located to the south and east. The site is unimproved.

If approved, the variance request would allow for the construction of a two-story, 1,872 square foot dwelling with an 864-square foot walk-out basement, an attached 420-square foot garage, and an 80-square foot elevated deck on the dwelling's north façade. The dwelling will have a nine-foot setback from a regulated wetland and the elevated deck will have a two-foot setback from a regulated wetland (50-foot setback from a regulated wetland required, Section 9.9.3.B.).

## **Site History**

In 2018, the subject site and the site to the east applied for, and were granted, a property boundary adjustment. The adjustment resulted in the subject site gaining an additional 20 feet of width at the road for a lot width of 60 feet. Because this was a property boundary adjustment between two existing platted lots, no verification of building envelope, driveway approval, or sanitary requirements was requested or verified. There are existing, regulated wetlands on the property that require a 50-foot setback per Section 9.9.3.B. regardless of lot size. The addition of property from the adjacent site does help to make the subject site more conforming to the zoning ordinance in terms of lot size and dimensional requirements.

## **Wetlands Setback Standard**

Section 9.9.3. requires a 50-foot setback from the boundary or edge 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 feature(s) and or mitigation of the natural feature(s).* 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.



example method #2 – physical wetland barrier

A wetlands delineation report has been submitted to Hamburg Township and forwarded to EGLE's Water Resources Division for comment. Exhibit B is an email exchange between the township and EGLE. The applicant should show the limits of grading on the plot plan prior to the issuance of any permits for earth work or construction. Any allowed setback variance granted as a result of this hearing will apply to the identified boundary of the wetland.

### **Standards of Review**

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

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

The 50 foot regulated wetlands setback requirement applies generally to all properties in Hamburg Township. However, 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 siting a dwelling within all required setbacks. The design preference of the applicant is partly driving the necessity of the variance request; the size of the house could be reduced thereby moving farther away from the regulated wetlands or the house could be reconfigured to make better use of the southern portion of the lot.

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.

- 2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The**

**possibility of increased financial return shall not be deemed sufficient to warrant a variance.**

A substantial property right is not preserved based on granting a variance for a particular architectural design. The wetlands area does make placement of a compliant structure on the site difficult, although the dwelling could be reduced in size or reconfigured to reduce the encroachment into the wetlands setback.

**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.**

See the analysis under standard four below with respect to the function of wetlands.

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

Below is an excerpt from the Hamburg Township Master Plan, Natural Resources Management Strategies chapter (page 100):

*Natural Feature Setback Standards: The Township may enact general zoning standards that apply to all zoning districts. This could be in the form of a natural features setback requirement. The Zoning Ordinance could require that natural buffers be maintained along natural features such as waterways and wetlands. To protect the stability of bluffs surrounding these natural features, the setback requirement should be increased as the slope of the land increases. Standards could also be established to require that this setback be maintained in a natural condition.*

*There is a strong basis for this type of requirement. Development surrounding water features, particularly wetlands, affects the function of the water feature. Development immediately adjacent to a water feature may have the effect of increasing the disturbance to this natural ecosystem and reduce the water feature's ability to perform these functions.*

*For example, wetlands are dependent upon an interaction between the wetland and the surrounding upland. In terms of hydrology, water enters a wetland from the surrounding upland area in a number of ways: overland flow, through the upper layers of the soil and through groundwater. The upland soil and vegetation surrounding the wetland all affect the amount, the means and the rate at which water enters the wetland following a storm or snow melt. Development of the surrounding upland will alter the relative balance between the overland (surface) flow and infiltration, resulting in a greater peak discharge to the wetland. In other instances, physical improvements such as structures, roads and storm sewer systems can intercept surface flow to the wetlands. These alterations to hydrology can result in much greater fluctuations in water levels between wet and dry seasons. The undisturbed soil between the site improvements and the wetlands acts as a buffer to try to maintain the natural upland/wetland interaction that existed prior to development.*

*In addition to the hydrologic function, waterways are natural open space corridors which serve as wildlife habitat. Animals move through suburban areas along remaining undeveloped natural corridors, such as the numerous drainage ways that cross the Township. Development immediately adjacent to these natural features has a detrimental impact on wildlife habitat by moving structures and disturbance further into these natural corridors and increase the constriction of development on these habitats. Protection of the area that lines natural features is also important to wildlife because this is the interface between the aquatic and terrestrial (upland) ecosystems system. This interface is*

*important to animals such as land mammals that need water or birds that will perch on trees while hunting for fish.*

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.

**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.**

Because of the presence of the wetland encroachment on the property, the request for the variance 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.**

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.

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

As discussed under standard number five, 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, that is, to be used for a single family dwelling. The ZBA should balance the ecological importance of the wetlands and the property rights of the applicant. Requesting that the house size be reduced to provide a greater wetlands setback, placing the wetlands into an easement, providing a drainage plan, and creating a physical barrier to the wetlands would all be appropriate considerations 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 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 20-0002 at 15-17-302-093 to allow for the construction of a two-story, 1,872 square foot dwelling with an 864-square foot walk-out basement, an attached 420-square foot garage, and an 80-square foot elevated deck on the dwelling’s north façade. The

dwelling will have a nine-foot setback from a regulated wetland and the elevated deck will have a two-foot setback from a regulated wetland (50-foot setback from a regulated wetland required, Section 9.9.3.B.). The variance does not meet variance standards one, three, four, or seven of Section 6.5 of the Township Ordinance and a practical difficulty does not exist on the subject site when the strict compliance with the Zoning Ordinance standards are applied as discussed at tonight's hearing and as presented in the staff report. The Board directs staff to prepare a memorialization of the ZBA findings for the project.

**Approval Recommendations:**

The Zoning Board of Appeals should consider one or more of the following as a condition of project approval. Any conditions of approval should be enacted prior to the issuance of a land use permit:

1. An engineered drainage plan, prepared either by a civil engineer or registered landscape architect, for the property that would ensure runoff from the garage does not drain into the wetlands.
2. 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. 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.
4. The dwelling size shall be reduced to further reduce the encroachment into the wetlands setback.

Any setback from a wetland boundary granted at this hearing shall apply to the identified wetland boundaries, as determined in the wetlands identification process for this parcel.

**Approval Motion:**

Motion to approve variance application ZBA 20-0002 at 15-17-302-093 to allow for the construction of a two-story, 1,872 square foot dwelling with an 864-square foot walk-out basement, an attached 420-square foot garage, and an 80-square foot elevated deck on the dwelling's north façade. The dwelling will have a nine-foot setback from a regulated wetland and the elevated deck will have a two-foot setback from a regulated wetland (50-foot setback from a regulated wetland required, Section 9.9.3.B.).

Variance approval is granted based on the following conditions: the applicant shall show the limits of grading on the plot plan at the time of land use permit issuance and (INSERT CONDITIONS FROM ABOVE). 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.

**Exhibits**

Exhibit A: Application materials, including wetlands delineation report  
Exhibit B: email from EGLE



# EXHIBIT A: application materials

DocuSign Envelope ID: 59760914-C005-48B0-A23E-36808FBF47FC

HAMBURG TOWNSHIP

Date 02/05/2020 10:59:11 AM

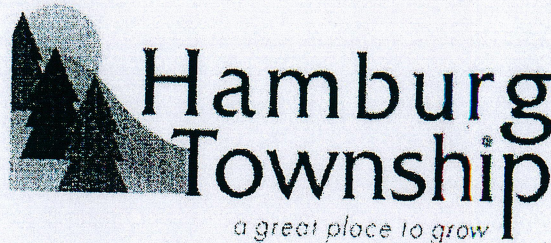
Ref ZBA2020-001

Receipt 1223708

ZBA Case Number 20-001

\$ 550

20-002



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: 2-5-2020
2. Tax ID #: 15- 17302093 - Subdivision: Herndons Rush Lake Estates No. 1 Lot No.: 570 & 1/2 571
3. Address of Subject Property: V/L Rush Lake Road
4. Property Owner: Zalewski Construction Co. Phone: (H) 313-600-0622  
Email Address: tarryzalewski1958@charter.net (W) (810) 636-2950 / cell 313-600-0622  
Street: 7037 Dutch Road City Goodrich 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: Residential Flood Plain No
7. Size of Lot: Front 60 Rear 60 Side 1 120 Side 2 120 Sq. Ft. 7,200
11. Dimensions of Existing Structure (s) 1st Floor N/A 2nd Floor \_\_\_\_\_ Garage \_\_\_\_\_
12. Dimensions of Proposed Structure (s) 1st Floor See Attached 2nd Floor \_\_\_\_\_ Garage \_\_\_\_\_
13. Present Use of Property: Vacant
14. Percentage of Existing Structure (s) to be demolished, if any N/A %
15. Has there been any past variances on this property? Yes \_\_\_\_\_ No X
16. If so, state case # and resolution of variance application \_\_\_\_\_
17. Please indicate the type of variance or zoning ordinance interpretation requested:  
wetland setback  
9' For House  
2' For Elevated Deck



ZBA Case Number \_\_\_\_\_

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 topography of the lot.

- 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 home will be constructed in a similar fashion, footprint and proximity to wetlands as other existing homes in the district.

- 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 variance requested will not adversely affect the district and backs to the golf course.

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

The variance requested is not a zoning variance and shall be contained within the lot.

- 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 one time variance needed to meet a minimal wetland setback.

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

Does not apply.

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

The variance requested is a minimal variance needed.

9' From House to Wetlands  
2' From Elevated Deck

- 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 six (6) 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).

Same  
Owner's Signature \_\_\_\_\_ Date \_\_\_\_\_

Appellant's Signature \_\_\_\_\_

Date \_\_\_\_\_



From: "Dana Knox" <dknox@asti-env.com>  
To: "larryzalewski1958@charter.net" <larryzalewski1958@charter.net>  
Cc: "James Barnwell" <jimb@desineinc.com>  
Date: Thursday September 12 2019 9:25:04AM

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Hi Larry:

Attached please find the wetland delineation letter report for your Hamburg Twp. property. I also provided the GPS data to Jim. Let me know if you have any questions.

**Dana Knox**  
*Wetland Ecologist*



Brighton, Detroit and Grand Rapids, Michigan

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Fax: 810.225.3800

www.asti-env.com

**Sent Via Email Only**

September 12, 2019

Mr. Larry Zalewski  
**Zalewski Construction Co., Inc.**  
7037 Dutch Road  
Goodrich, MI 48439

RE: *Wetland Delineation and Jurisdictional Assessment*  
*Parcel ID 4715-17-302-093, Rush Lake Road Property*  
*Hamburg Township, Livingston County, Michigan*  
*ASTI File No. 11226*

Dear Mr. Zalewski:

On September 4, 2019 ASTI Environmental (ASTI) conducted a site investigation to delineate wetland boundaries on approximately 0.19 acres of property located along Rush Lake Road in Hamburg Township, Livingston County, Michigan (Property). One wetland likely regulated by the Michigan Department of Environment, Great Lakes, and Energy (EGLE) was found on the Property (Figure 1 – *GPS-Surveyed Wetland Boundaries*). Wetland boundary as depicted on Figure 1, were located using a professional grade, hand-held Global Positioning System unit (GPS).

#### **SUPPORTING DATA AND MAPPING**

The United States Geological Survey (USGS) Pinckney, Michigan 7.5' Quadrangle Maps, the USDA Web Soil Survey (WSS), the National Wetland Inventory Map (NWI), EGLE Wetlands Map Viewer web site, and digital aerial photographs were all used to support the wetland delineation and subsequent regulatory status determination. The NWI and EGLE maps indicated the presence of wetland in the northern and eastern portions of the Property. The USGS depicted wetland in the western portion of the Property.

In addition, the WSS indicated the Property is comprised of the following soils Boyer-Oshtemo loamy sands 2 to 6 percent slopes, and Boyer-Oshtemo loamy sands 12 to 18 percent slopes. The soil series of Boyer-Oshtemo loamy sands 2 to 6 percent slopes is on the list *Hydric Soils of Michigan*.



## FINDINGS

ASTI investigated the Property for the presence of any lakes, ponds, wetlands, and watercourses. This work is based on *MCL 324 Part 301 (Inland Lakes and Streams)* and *Part 303 (Wetland Protection)*.

It should be noted that some municipalities have local wetland ordinances and natural features setbacks that may apply to this property. In addition, in some circumstances the US Army Corps of Engineers (ACOE) may also have jurisdiction of wetlands or watercourses on your Property. If either is the case for your site, this information will also be noted in the wetland descriptions below.

The delineation protocol used by ASTI for this delineation is based on the US Army Corps of Engineers' *Wetland Delineation Manual*, 1987, the *Regional Supplement to the Corps of Engineer Wetland Delineation Manual: Midwest Region*, and related guidance/documents, as appropriate. Wetland vegetation, hydrology, and soils were used to locate the wetland boundaries. One wetland area was found on the Property as discussed below.

### Wetland A

Wetland A is an emergent wetland 0.03 acres in size located in the northern portion of the Property (see Figure 1). Dominant vegetation found within Wetland A included hop sedge (*Carex lupulina*), green ash (*Fraxinus pennsylvanica*), poison ivy (*Toxicodendron radicans*), path rush (*Juncus tenuis*), and fall panic grass (*Panicum dichotomiflorum*). Soils within Wetland A were comprised of a sandy loam and are considered hydric because the criteria for sandy redox, sandy loam mineral, and stripped matrix were met. Indicators of wetland hydrology observed within Wetland A included water-stained leaves, geomorphic position, and the FAC-Neutral test.

Dominant vegetation observed within the upland adjacent to Wetland A included fireweed (*Erechtites hieraciifolius*), poison ivy, green ash (*Fraxinus pennsylvanica*), summer grape (*Vitis aestivalis*), and multiflora rose (*Rosa multiflora*). Soils observed in the upland were comprised of sandy loams which are considered hydric because the criteria for depleted below dark surface and thick dark surface were met. However, no indicators of wetland hydrology were observed.

It is ASTI's opinion that Wetland A is regulated by the EGLE under Part 303, Wetland Protection, because it is located within 500-feet of Rush Lake, a regulated inland lake under Part 301. In addition, Hamburg Township requires a 50-foot setback from regulated wetlands per Article 9.9.3, Setback Standards within the Hamburg Township Zoning Ordinance, effective May 6, 2009.



On-site Wetland Flagging

Wetland boundaries were marked in the field with day-glow pink and black striped flagging, located with GPS, and numbered as A-1 through A-8.

Enclosed is a map of the Property showing the GPS-surveyed location of the wetland flagging (Figure 1).

**SUMMARY**

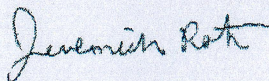
Based upon the data, criteria, and evidence noted above, it is ASTI's professional opinion that the Property includes one wetland (Wetland A) regulated by EGLE under the Natural Resources and Environmental Protection Act (1994 P.A. 451), Part 303 Wetland Protection. Additionally, Hamburg Township requires a 50-foot setback from regulated wetlands per the Hamburg Township Zoning Ordinance, Article 9.9.3, Setback Standards. EGLE has the final authority on the extent of regulated wetlands, lakes, and streams in the State of Michigan. Any proposed impact to the areas that ASTI has identified as regulated will require an EGLE permit.

Attached are Figure 1, which depicts the GPS surveyed locations of wetland flagging on the Property, and completed US Army Corps of Engineers (ACOE) Wetland Data Forms. Please note that the data sheet numbers match the data collection sampling points shown on Figure 1.

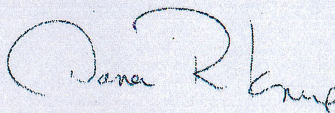
Thank you for the opportunity to assist you with this project. Please let us know if we can be of any further assistance in moving your project forward.

Sincerely yours,

ASTI ENVIRONMENTAL



Jeremiah Roth  
Wetland Ecologist



Dana R. Knox  
Wetland Ecologist  
Professional Wetland Scientist #213

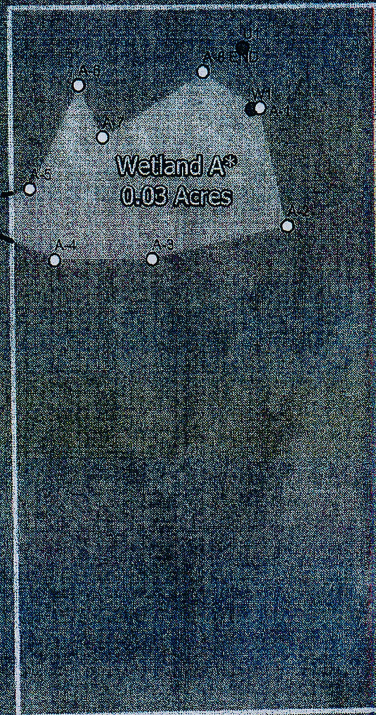
Attachments: Figure 1 – *GPS-Surveyed Wetland Boundaries*  
Completed ACOE Wetland Data Forms



### Legend

- Data Point
- Wetland Flagging Location
- - Off Site Wetland Boundary
- Approximate Project Area
- Emergent Wetland

\* It is ASTI's opinion that this wetland is likely to be regulated by EGLE. This map does not imply an official opinion by EGLE nor is it legally binding.



Rush Lake Road

Zalewski Property

Hamburg Township, MI

0 10 20 40  
Feet



**ASTI**  
ENVIRONMENTAL

Client: Zalewski Construction Co., Inc.  
Created by: RMH, September 6, 2019, ASTI Project 11226  
Imagery: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/  
Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Figure 1 - GPS-Surveyed Wetland Boundaries



# WETLAND DETERMINATION DATA FORM – Midwest Region

Project/Site: Rush Lake Road City/County: Livingston Co./Hamburg Twp. Sampling Date: 09/04/2019  
 Applicant/Owner: Zalewski Consturction Company State: MI Sampling Point: W1  
 Investigator(s): Dana Knox and Jeremiah Roth ASTI Environmental Section, Township, Range: Section 17, 01N, 05E  
 Landform (hillside, terrace, etc.): Depression Local relief (concave, convex, none): concave  
 Slope (%): 0-2 Lat: 42.476171 Long: -83.883246 Datum: NAD 83  
 Soil Map Unit Name: Boyer-Oshtemo loamy sands 12 to 18 % slopes NWI classification: PFO1C  
 Are climatic / hydrologic conditions on the site typical for this time of year? Yes X No      (If no, explain in Remarks.)  
 Are Vegetation No, Soil No, or Hydrology No significantly disturbed? Are "Normal Circumstances" present? Yes X No       
 Are Vegetation     , Soil     , or Hydrology      naturally problematic? (If needed, explain any answers in Remarks.)

## SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes <u>X</u> No <u>    </u>	Is the Sampled Area within a Wetland? Yes <u>X</u> No <u>    </u>
Hydric Soil Present? Yes <u>X</u> No <u>    </u>	
Wetland Hydrology Present? Yes <u>X</u> No <u>    </u>	
Remarks:	

## VEGETATION – Use scientific names of plants.

Tree Stratum	(Plot size: <u>30x30ft</u> )	Absolute % Cover	Dominant Species?	Indicator Status
1. <u>None</u>				
2. <u>    </u>				
3. <u>    </u>				
4. <u>    </u>				
5. <u>    </u>				
		=Total Cover		
Sapling/Shrub Stratum	(Plot size: <u>15x15ft</u> )			
1. <u>None</u>				
2. <u>    </u>				
3. <u>    </u>				
4. <u>    </u>				
5. <u>    </u>				
		=Total Cover		
Herb Stratum	(Plot size: <u>5x5ft</u> )			
1. <u>Carex lupulina</u>		10	Yes	OBL
2. <u>Fraxinus pennsylvanica</u>		10	Yes	FACW
3. <u>Persicaria hydropiper</u>		5	No	OBL
4. <u>Juncus tenuis</u>		10	Yes	FAC
5. <u>Toxicodendron radicans</u>		15	Yes	FAC
6. <u>Panicum dichotomiflorum</u>		15	Yes	FACW
7. <u>Eupatorium perfoliatum</u>		5	No	OBL
8. <u>Digitaria sanguinalis</u>		5	No	FACU
9. <u>Taraxacum officinale</u>		5	No	FACU
10. <u>    </u>				
		80 =Total Cover		
Woody Vine Stratum	(Plot size: <u>30x30ft</u> )			
1. <u>None</u>				
2. <u>    </u>				
		=Total Cover		

**Dominance Test worksheet:**

Number of Dominant Species That Are OBL, FACW, or FAC: 5 (A)

Total Number of Dominant Species Across All Strata: 5 (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: 100.0% (A/B)

**Prevalence Index worksheet:**

Total % Cover of:	Multiply by:
OBL species <u>20</u>	x 1 = <u>20</u>
FACW species <u>25</u>	x 2 = <u>50</u>
FAC species <u>25</u>	x 3 = <u>75</u>
FACU species <u>10</u>	x 4 = <u>40</u>
UPL species <u>0</u>	x 5 = <u>0</u>
Column Totals: <u>80</u> (A)	<u>185</u> (B)

Prevalence Index = B/A = 2.31

**Hydrophytic Vegetation Indicators:**

     1 - Rapid Test for Hydrophytic Vegetation

X 2 - Dominance Test is >50%

X 3 - Prevalence Index is ≤3.0<sup>1</sup>

     4 - Morphological Adaptations<sup>1</sup> (Provide supporting data in Remarks or on a separate sheet)

     Problematic Hydrophytic Vegetation<sup>1</sup> (Explain)

<sup>1</sup>Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

**Hydrophytic Vegetation Present?** Yes X No

Remarks: (Include photo numbers here or on a separate sheet.)



## SOIL

Sampling Point: W1

[illegible]

## HYDROLOGY

Wetland Hydrology Indicators:			
Primary Indicators (minimum of one is required; check all that apply)			
<input type="checkbox"/> Surface Water (A1)	<input checked="" type="checkbox"/> Water-Stained Leaves (B9)		
<input type="checkbox"/> High Water Table (A2)	<input type="checkbox"/> Aquatic Fauna (B13)		
<input type="checkbox"/> Saturation (A3)	<input type="checkbox"/> True Aquatic Plants (B14)		
<input type="checkbox"/> Water Marks (B1)	<input type="checkbox"/> Hydrogen Sulfide Odor (C1)		
<input type="checkbox"/> Sediment Deposits (B2)	<input type="checkbox"/> Oxidized Rhizospheres on Living Roots (C3)		
<input type="checkbox"/> Drift Deposits (B3)	<input type="checkbox"/> Presence of Reduced Iron (C4)		
<input type="checkbox"/> Algal Mat or Crust (B4)	<input type="checkbox"/> Recent Iron Reduction in Tilled Soils (C6)		
<input type="checkbox"/> Iron Deposits (B5)	<input type="checkbox"/> Thin Muck Surface (C7)		
<input type="checkbox"/> Inundation Visible on Aerial Imagery (B7)	<input type="checkbox"/> Gauge or Well Data (D9)		
<input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)	<input type="checkbox"/> Other (Explain in Remarks)		
Secondary Indicators (minimum of two required)			
<input type="checkbox"/> Surface Soil Cracks (B6)			
<input type="checkbox"/> Drainage Patterns (B10)			
<input type="checkbox"/> Dry-Season Water Table (C2)			
<input type="checkbox"/> Crayfish Burrows (C8)			
<input type="checkbox"/> Saturation Visible on Aerial Imagery (C9)			
<input type="checkbox"/> Stunted or Stressed Plants (D1)			
<input checked="" type="checkbox"/> Geomorphic Position (D2)			
<input checked="" type="checkbox"/> FAC-Neutral Test (D5)			
Field Observations:			
Surface Water Present?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Depth (inches): <input type="text"/>	
Water Table Present?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Depth (inches): <input type="text"/>	
Saturation Present?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Depth (inches): <input type="text"/>	
(includes capillary fringe)		Wetland Hydrology Present? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:			
Remarks:			



# **WETLAND DETERMINATION DATA FORM – Midwest Region**

Project/Site: Rush Lake Road City/County: Livingston Co./Hamburg Twp Sampling Date: 09/04/2019  
 Applicant/Owner: Zalewski Consturction Company State: MI Sampling Point: U1  
 Investigator(s): Dana Knox and Jeremiah Roth ASTI Environmental Section, Township, Range: Section 17, 01N, 05E  
 Landform (hillside, terrace, etc.): terrace Local relief (concave, convex, none): convex  
 Slope (%): 0-2 Lat: 42.476203 Long: -83.883253 Datum: NAD 83  
 Soil Map Unit Name: Boyer-Oshtemo loamy sands 12 to 18 % slopes NWI classification: PFO1C  
 Are climatic / hydrologic conditions on the site typical for this time of year? Yes X No      (If no, explain in Remarks.)  
 Are Vegetation No, Soil No, or Hydrology No significantly disturbed? Are "Normal Circumstances" present? Yes X No       
 Are Vegetation     , Soil     , or Hydrology      naturally problematic? (If needed, explain any answers in Remarks.)

## **SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.**

Hydrophytic Vegetation Present? Yes <u>    </u> No <u>X</u>	Is the Sampled Area within a Wetland? Yes <u>    </u> No <u>X</u>
Hydric Soil Present? Yes <u>X</u> No <u>    </u>	
Wetland Hydrology Present? Yes <u>    </u> No <u>X</u>	
Remarks:	

## **VEGETATION – Use scientific names of plants.**

Tree Stratum	(Plot size: <u>30x30ft</u> )	Absolute % Cover	Dominant Species?	Indicator Status
1. <u>None</u>				
2. <u>    </u>				
3. <u>    </u>				
4. <u>    </u>				
5. <u>    </u>				
<u>    </u> =Total Cover				
Sapling/Shrub Stratum	(Plot size: <u>15x15ft</u> )			
1. <u>None</u>				
2. <u>    </u>				
3. <u>    </u>				
4. <u>    </u>				
5. <u>    </u>				
<u>    </u> =Total Cover				
Herb Stratum	(Plot size: <u>5x5ft</u> )			
1. <u>Erechtites hieraciifolius</u>		<u>10</u>	<u>Yes</u>	<u>FAC</u>
2. <u>Persicaria virginiana</u>		<u>3</u>	<u>No</u>	<u>FAC</u>
3. <u>Toxicodendron radicans</u>		<u>10</u>	<u>Yes</u>	<u>FAC</u>
4. <u>Rosa multiflora</u>		<u>2</u>	<u>No</u>	<u>FACU</u>
5. <u>Parthenocissus quinquefolia</u>		<u>10</u>	<u>Yes</u>	<u>FACU</u>
6. <u>Vitis aestivalis</u>		<u>10</u>	<u>Yes</u>	<u>FACU</u>
7. <u>Fraxinus pennsylvanica</u>		<u>10</u>	<u>Yes</u>	<u>FACW</u>
8. <u>Galium mollugo</u>		<u>2</u>	<u>No</u>	<u>FACU</u>
9. <u>    </u>				
10. <u>    </u>				
<u>57</u> =Total Cover				
Woody Vine Stratum	(Plot size: <u>30x30ft</u> )			
1. <u>None</u>				
2. <u>    </u>				
<u>    </u> =Total Cover				

**Dominance Test worksheet:**

Number of Dominant Species That  
Are OBL, FACW, or FAC: 2 (A)

Total Number of Dominant Species  
Across All Strata: 5 (B)

Percent of Dominant Species That  
Are OBL, FACW, or FAC: 40.0% (A/B)

**Prevalence Index worksheet:**

Total % Cover of:	Multiply by:	
OBL species <u>0</u>	x 1 =	<u>0</u>
FACW species <u>10</u>	x 2 =	<u>20</u>
FAC species <u>13</u>	x 3 =	<u>39</u>
FACU species <u>24</u>	x 4 =	<u>96</u>
UPL species <u>0</u>	x 5 =	<u>0</u>
Column Totals: <u>47</u> (A)		<u>155</u> (B)
Prevalence Index = B/A = <u>3.30</u>		

**Hydrophytic Vegetation Indicators:**

1 - Rapid Test for Hydrophytic Vegetation

2 - Dominance Test is >50%

3 - Prevalence Index is ≤3.0<sup>1</sup>

4 - Morphological Adaptations<sup>1</sup> (Provide supporting data in Remarks or on a separate sheet)

     Problematic Hydrophytic Vegetation<sup>1</sup> (Explain)

<sup>1</sup>Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

**Hydrophytic Vegetation Present?** Yes      No X

Remarks: (Include photo numbers here or on a separate sheet.)



# SOIL

Sampling Point: U1

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)								
Depth (inches)	Matrix		Redox Features				Texture	Remarks
	Color (moist)	%	Color (moist)	%	Type <sup>1</sup>	Loc <sup>2</sup>		
0-12	10YR 2/1	100					Sandy	
12-24	10YR 4/2	75	10YR 4/6	25	C	M	Sandy	Sandy/ loam

<sup>1</sup>Type: C=Concentration, D=Depletion, RM=Reduced Matrix, MS=Masked Sand Grains.

<sup>2</sup>Location: PL=Pore Lining, M=Matrix.

## Hydric Soil Indicators:

- |   |   |
|---|---|
| <input type="checkbox"/> Histosol (A1)                                | <input type="checkbox"/> Sandy Gleyed Matrix (S4)   |
| <input type="checkbox"/> Histic Epipedon (A2)                         | <input type="checkbox"/> Sandy Redox (S5)           |
| <input type="checkbox"/> Black Histic (A3)                            | <input type="checkbox"/> Stripped Matrix (S6)       |
| <input type="checkbox"/> Hydrogen Sulfide (A4)                        | <input type="checkbox"/> Dark Surface (S7)          |
| <input type="checkbox"/> Stratified Layers (A5)                       | <input type="checkbox"/> Loamy Mucky Mineral (F1)   |
| <input type="checkbox"/> 2 cm Muck (A10)                              | <input type="checkbox"/> Loamy Gleyed Matrix (F2)   |
| <input checked="" type="checkbox"/> Depleted Below Dark Surface (A11) | <input type="checkbox"/> Depleted Matrix (F3)       |
| <input checked="" type="checkbox"/> Thick Dark Surface (A12)          | <input type="checkbox"/> Redox Dark Surface (F6)    |
| <input type="checkbox"/> Sandy Mucky Mineral (S1)                     | <input type="checkbox"/> Depleted Dark Surface (F7) |
| <input type="checkbox"/> 5 cm Mucky Peat or Peat (S3)                 | <input type="checkbox"/> Redox Depressions (F8)     |

## Indicators for Problematic Hydric Soils<sup>3</sup>:

- ☐ Coast Prairie Redox (A16)
- ☐ Iron-Manganese Masses (F12)
- ☐ Red Parent Material (F21)
- ☐ Very Shallow Dark Surface (F22)
- ☐ Other (Explain in Remarks)

<sup>3</sup>Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

## Restrictive Layer (if observed):

Type: None  
Depth (inches):                     

Hydric Soil Present? Yes        No       

## Remarks:

This data form is revised from Midwest Regional Supplement Version 2.0 to include the NRCS Field Indicators of Hydric Soils, Version 7.0, 2015 Errata. ([http://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/nrcs142p2\\_051293.docx](http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs142p2_051293.docx))

# HYDROLOGY

## Wetland Hydrology Indicators:

Primary Indicators (minimum of one is required; check all that apply)

- |  |   |
|--|---|
| <input type="checkbox"/> Surface Water (A1)                        | <input type="checkbox"/> Water-Stained Leaves (B9)                  |
| <input type="checkbox"/> High Water Table (A2)                     | <input type="checkbox"/> Aquatic Fauna (B13)                        |
| <input type="checkbox"/> Saturation (A3)                           | <input type="checkbox"/> True Aquatic Plants (B14)                  |
| <input type="checkbox"/> Water Marks (B1)                          | <input type="checkbox"/> Hydrogen Sulfide Odor (C1)                 |
| <input type="checkbox"/> Sediment Deposits (B2)                    | <input type="checkbox"/> Oxidized Rhizospheres on Living Roots (C3) |
| <input type="checkbox"/> Drift Deposits (B3)                       | <input type="checkbox"/> Presence of Reduced Iron (C4)              |
| <input type="checkbox"/> Algal Mat or Crust (B4)                   | <input type="checkbox"/> Recent Iron Reduction in Tilled Soils (C6) |
| <input type="checkbox"/> Iron Deposits (B5)                        | <input type="checkbox"/> Thin Muck Surface (C7)                     |
| <input type="checkbox"/> Inundation Visible on Aerial Imagery (B7) | <input type="checkbox"/> Gauge or Well Data (D9)                    |
| <input type="checkbox"/> Sparsely Vegetated Concave Surface (B8)   | <input type="checkbox"/> Other (Explain in Remarks)                 |

Secondary Indicators (minimum of two required)

- ☐ Surface Soil Cracks (B6)
- ☐ Drainage Patterns (B10)
- ☐ Dry-Season Water Table (C2)
- ☐ Crayfish Burrows (C8)
- ☐ Saturation Visible on Aerial Imagery (C9)
- ☐ Stunted or Stressed Plants (D1)
- ☐ Geomorphic Position (D2)
- ☐ FAC-Neutral Test (D5)

## Field Observations:

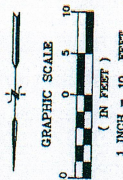
Surface Water Present? Yes        No   X   Depth (inches):             
Water Table Present? Yes        No   X   Depth (inches):             
Saturation Present? Yes        No   X   Depth (inches):             
(includes capillary fringe)

Wetland Hydrology Present? Yes        No   X  

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

## Remarks:





**LEGEND**

- UNDER TMD PLAT LINE
- - - PARCEL BOUNDARY
- - - BUILDING SETBACK LINE
- ▣ UTILITY METERS & BOXES
- ▣ ELECTRICITY WATER METERS
- PHONE BOX, CITY BOX, MAIL BOX, UTIL. BOX
- ⊙ AIR CONDITIONER UNIT
- ⊙ UTILITY HAMMOCK GAS Labeled
- ⊙ UTILITY POLE W/CP WIRE
- OVERHEAD UTILITY LINES ELECTRIC/PHONE/CABLED
- U/G UTILITY LINES
- PHONE/FIBER OPTIC/ELECTRIC/CABLE TV/MISC UTILITIES
- EDGE OF PAVEMENT
- EDGE OF GRAVEL
- 5' CONTOUR
- 5' CONTOUR
- EXISTING SPOT GRADE

**NOTES:**  
 1. Contractor shall perform all work in accordance with the provisions of the applicable Local, County and State Agencies and all other applicable laws, codes and regulations over the project.  
 2. Utility connections shall be coordinated with the appropriate utility provider.  
 3. Verify house dimensions per architectural drawings

**BENCHMARK**

DATUM BASED ON NAD 83 SOLUTION  
 REPORT, DATED JULY 10, 2008 AT 12:33 PM

BENCHMARK #209  
 TOP OF BELL, LOCATED 148 FEET NORTH  
 OF THE SOUTH CORNER OF LOT 518.  
 ELEVATION = 887.23 (NAVD 83)

BENCHMARK #201  
 TOP OF THE NORTH SIDE OF A 20" HOLE,  
 LOCATED 148 FEET NORTH OF THE  
 NORTHWEST CORNER OF LOT 518 ON THE  
 SOUTH SIDE OF RUSH LAKE ROAD.  
 ELEVATION = 887.28 (NAVD 83)

BENCHMARK #202  
 TOP OF THE SOUTHWEST SIDE OF AN  
 UPRIGHT IRON PILE LOCATED 148 FEET NORTH OF  
 THE NORTH LINE OF LOT 518.  
 ELEVATION = 888.02 (NAVD 83)

**DESIGN LINE INC**  
 (810) 227-9533  
 CIVIL ENGINEERS  
 LAND SURVEYORS  
 2183 PLESS DRIVE  
 BRIGHTON, MICHIGAN 48114

SCALE: 1" = 10'

PROJECT No.: 183429

DWG NAME: 3420 PP

SEPT. 30, 2019

CLIENT:

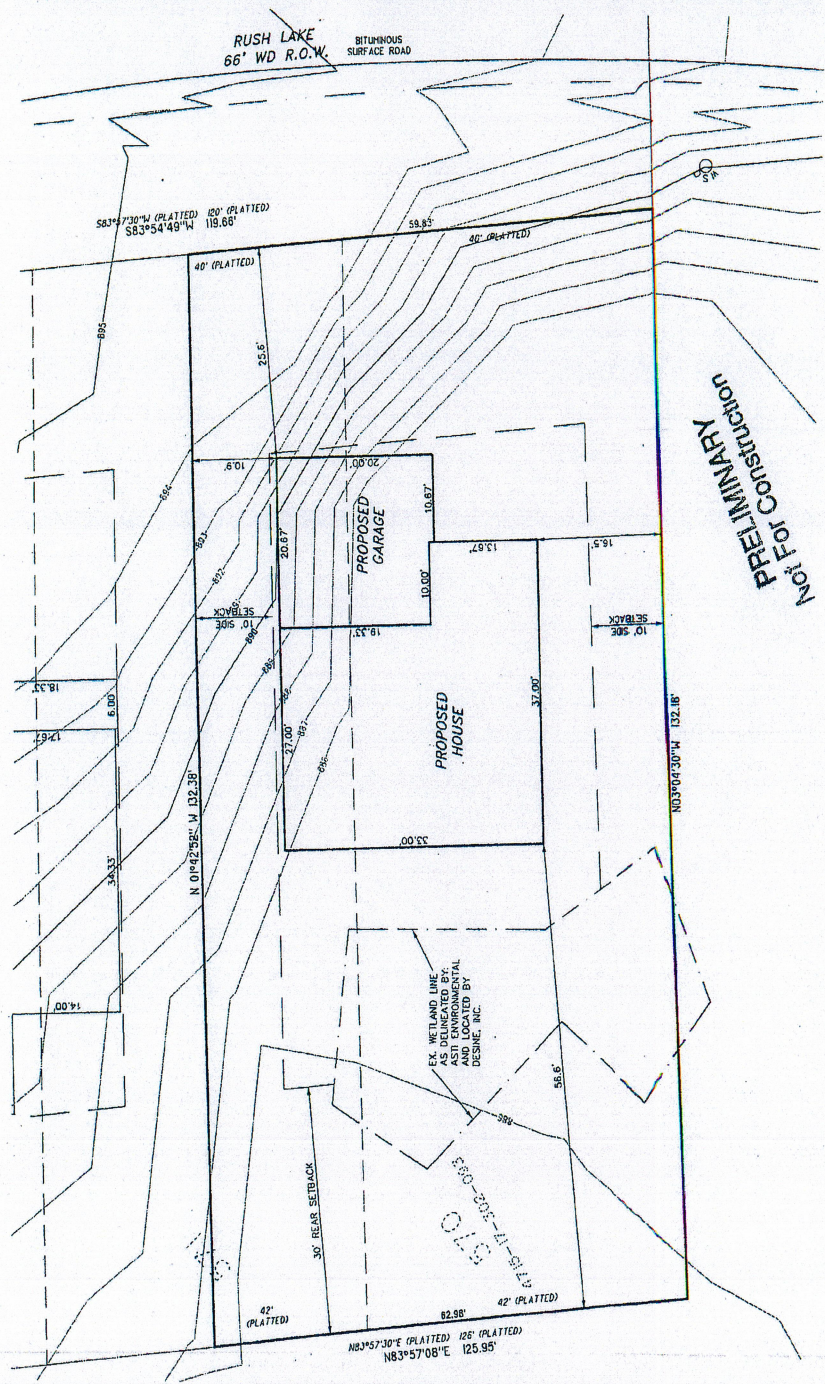
ZALENSKI CONSTRUCTION COMPANY  
 7037 DUTCH RD.  
 GOODRICH, MICHIGAN 48139  
 517-545-2900

**LOTS 570 & 571  
 HERNDORS RUSH LAKE  
 HAMBURG TOWNSHIP**

**REVISION-DESCRIPTION**

DATE

DESIGN: JMB  
 DRAFT: JHG  
 CHECK: JMB





# *Zalewski Construction Company Incorporated*

P.O. Box 211, Ortonville, MI 48462

Cell 313.600.0622

Office 810.636.2950 / 517.545.2900

Fax 810.636.2951

Email: [larryzalewski1958@charter.net](mailto:larryzalewski1958@charter.net)

[www.zalewskiconstruction.com](http://www.zalewskiconstruction.com)

Like us on Facebook

January 26, 2020

To Whom it may concern,  
Initially bought Lot 571 and 572 of Herndons Rush Lake No. 1 from Michael Myers under the impression that a tap was there, and it was a buildable lot.

Then bought Lot 15-17-302-03  
4/Lot 570 from Robert D. Theys and Realtor Tom Rafferty. Also was under the impression it was a buildable lot with a tap.

So, then to make it more desirable for everyone, I combined all 3 lots and made 2 lots. All of this was done through the Township etc. So still under the impression these are buildable lots.

So, then I went to apply for land use, and they have a topography of lots from many years ago and it shows wet land throughout area. Houses are built throughout this entire area.

So, I paid and had ASTI Environmental to test the Lot for wetlands. They found one small area that suggested could be wetlands. I had Engineers draw up House placement to stay away from small area of possible wetlands. They worked with Engineers on house placement to stay away for the wetlands. Since then I have put up a silt fence as per attached survey and staked out House for everyone to see. I am just asking for a variance 15' as per plans. Just hoping to get this matter resolved so we can move forward and build a new house and make neighborhood much more desirable.

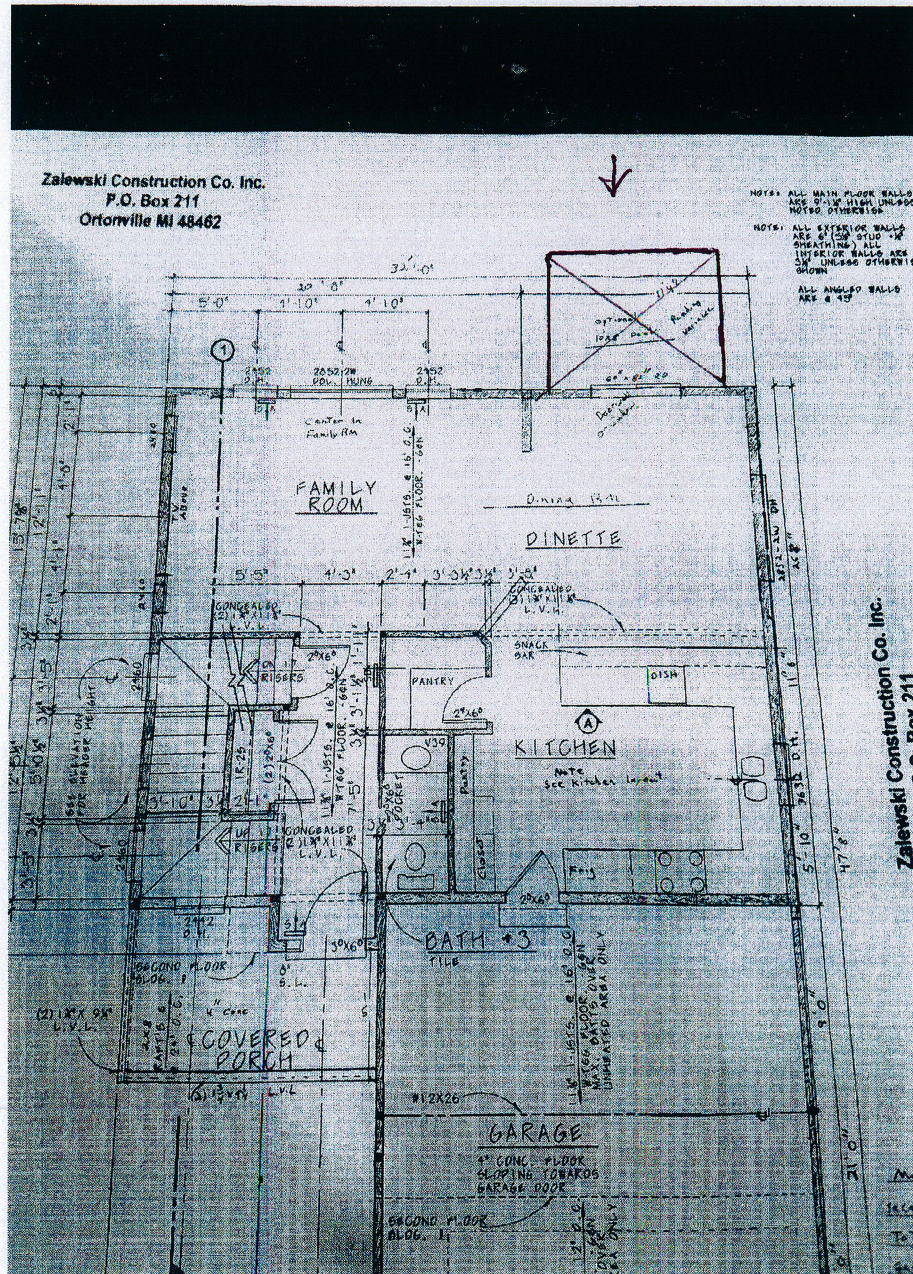
If you need any further information, please let me know.

Thank you for your time,

*Lawrence J Zalewski*



Proposed  
Variance #2





# EXHIBIT B: emails from EGLE

## Brittany Stein

---

**From:** Amy Steffens  
**Sent:** Thursday, March 5, 2020 11:48 AM  
**To:** Brittany Stein  
**Subject:** Please include this email in staff report packet (exhibit B)

---

**From:** Pierce, Jeff (EGLE) <PierceJ2@michigan.gov>  
**Sent:** Thursday, February 13, 2020 9:18 AM  
**To:** Amy Steffens  
**Subject:** RE: Wetlands delineation for Zalewski

Hi Amy,

I do not have any concerns regarding the wetland delineation for the site. However, the plan for the proposed house does not include a grading plan. While the proposed house will technically be outside of the wetland, will they be proposing to fill the wetland to achieve grade for the foundation? I would recommend having them provide a grading plan.

Jeff Pierce  
Environmental Quality Analyst  
Water Resources Division, Lansing District Office  
Michigan Department of Environment, Great Lakes, and Energy

517-416-4297 | [piercej2@Michigan.gov](mailto:piercej2@Michigan.gov)  
[Follow Us](#) | [Michigan.gov/EGLE](https://Michigan.gov/EGLE)

---

**From:** Amy Steffens <asteffens@HAMBURG.MI.US>  
**Sent:** Wednesday, February 12, 2020 11:19 AM  
**To:** Pierce, Jeff (EGLE) <PierceJ2@michigan.gov>  
**Subject:** FW: Wetlands delineation for Zalewski

Jeff,

Sorry to bother you again but I'm working on the staff report for the variance request on this property and I wondered if you had a chance to look at the wetland reports.

Thanks,  
Amy

---

**From:** Amy Steffens  
**Sent:** Wednesday, February 5, 2020 3:57 PM  
**To:** Jeff Pierce ([piercej2@mi.gov](mailto:piercej2@mi.gov)) <[piercej2@mi.gov](mailto:piercej2@mi.gov)>  
**Cc:** Brittany Stein <[bstein@HAMBURG.MI.US](mailto:bstein@HAMBURG.MI.US)>  
**Subject:** Wetlands delineation for Zalewski



Jeff,

Larry Zalewski has filed a variance request to build a new home with an elevated deck closer to the regulated wetlands than the 50-foot setback required by the zoning ordinance. Parcel ID 4715-17-302-093. Attached is ASTI's wetland delineation. Please review and let me know if you believe that an EGLE permit would be required prior to the construction of the proposed house.

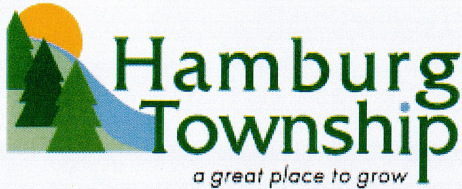
Thanks,

Amy Steffens, AICP  
Hamburg Township Planning and Zoning Administrator  
(810) 222-1167  
(Personal office hours 8 am to 3 pm, Monday, Wednesday, Friday)



SCALE: 1in. = 10ft.  
PROJECT No.: 183429  
DWG NAME: 3429 PP  
MAR. 20, 2023





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 # ZBA20-002 located at Vacant – Rush Lake Road and offer the following:

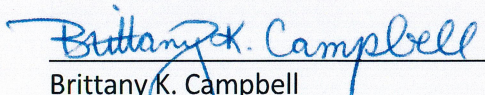
[ ] The parcel is not on sewers.

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

- The property owner is requesting a variance to construct a 1,872 square foot dwelling with an 864 sq. ft. walk-out basement, an attached garage and an elevated deck on the north side of the proposed home which will encroach into the setback from regulated wetlands.
- The property owner will be required to connect to the Hamburg Township Sanitary Sewer System (HTSSS) prior to the completion of the home.
- Since the lot is currently vacant there is no concern with the proposed grinder pump station and service lateral connection. The Utilities Department and DPW staff will work with the property owner to determine proper placement of the sewer structures.
- Based on the plans submitted by the property owner the DPW/Utilities Department does not object if this variance is granted.
- 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: May 6<sup>th</sup>, 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:** Amy Steffens

**HEARING DATE:** May 13, 2020

**SUBJECT:** ZBA 20-0003

**PROJECT SITE:** 2946 Indian Trail Dr.  
TID 15-32-402-015

**APPLICANT/ OWNER:** Leonard and Melissa  
Morgan

**PROJECT:** Variance application to allow for the construction of a two-story dwelling. The dwelling will have a 21.7-foot north front yard setback (25-foot front yard setback required, Section 7.6.1.), a 5.2-foot east side yard setback, resulting in an aggregate side yard setback of 10.3 feet (15-foot aggregate side yard setback required, Section 7.6.1. fn. 4), and a 41.1-foot south setback from the ordinary high water mark of Base Line Lake (50-foot setback from the OHM required, Section 7.6.1. fn. 3). An elevated deck will have a 41.1-foot setback from the OHM (44-foot setback required, Section 7.6.1. fn3.) The proposed lot coverage would be 56 percent, (maximum 50 percent lot coverage allowed, Section 7.6.1. fn. 7).

**ZONING:** WFR (waterfront residential district)

### Addendum for May 13, 2020 hearing

On May 5, 2020, the applicant's agent submitted plans that require additional legal notice before the request can be docketed for a public hearing. Therefore, this request will be scheduled for the next available hearing.



# Zoning Board of Appeals Staff Report

## AGENDA ITEM: 7c



**TO:** Zoning Board of Appeals  
(ZBA)

**FROM:** Erik Perdonik

**HEARING DATE:** May 13, 2020

**SUBJECT:** ZBA 20-004

**PROJECT SITE:** 8491 Baudine Rd.  
TID 15-17-301-070

**APPLICANT/ OWNER:** Bradley & Patricia Zalewski

**PROJECT:** Variance application to permit the construction of a 423-square foot addition to the south façade of an existing dwelling. The addition will have a 20-foot east rear yard setback (30-foot rear yard setback required, Section 7.6.1) and a 25-foot setback from the ordinary high water mark (OHWM) of the canal to the east (50-foot setback from the OHWM required, Section 7.6.1.fn3).

**ZONING:** Waterfront Residential District (WFR)

### Project Description

The subject site is a 19,138-square foot parcel that fronts on Baudine Road to the west, and Rush Lake to the east (the canal) and south. Single-family dwellings are located to the north, east, and west of the site. The existing dwelling is one-story, 1,632 square feet, with a detached 270-square foot garage.

If approved, the variance request would permit the construction of a 423-square foot, one-story addition to the south façade of the existing dwelling (resulting in 2,055 total square feet). The addition will have a 20-foot east rear yard setback (30-foot rear yard setback required, Section 7.6.1), and a 25-foot setback from the OHWM of the Rush Lake canal to the east (50-foot setback from the OHWM required, Section 7.6.1.fn3).

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

	Existing	Proposed	Required
<b>South (Side Yard &amp; OHWM)</b>	65 ft & 70 ft	46 ft & 51 ft	10 ft & 50 ft
<b>East (Rear Yard &amp; OHWM) *Variance</b>	20 ft & 25 ft	*20 ft & *25 ft	30 ft & 50 ft
<b>West (Front Yard)</b>	25 ft	32 ft	25 ft

#### Variance History Overview

The subject site was granted a variance at the July 10, 2019 Zoning Board of Appeals (ZBA) meeting to construct a 736-square foot addition to the south façade of the existing dwelling. This addition was never constructed, but it was approved to be constructed with an 11-foot west front yard setback along Baudine Road (25-foot front yard setback required, Section 7.6.1), and a 35-foot setback from the OHWM of Rush Lake (50-foot setback from the OHWM required, Section 7.6.1.fn3). The applicants have since revised their plans for the addition, and these new plans also require a variance for the reasons described above, which is why the applicant is before the ZBA again this evening.

#### Floodplain Management Considerations

The Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map (FIRM) indicates that a significant portion of the site is within the 100-year floodplain. Hamburg Township participates in the National Flood Insurance Program (NFIP). Proper enforcement of the building code standards is a prerequisite of the Township's participation in the NFIP. The existing dwelling received a letter of map amendment in September, 2019. However, a LOMA applies only to the existing structure; lateral additions in the floodplain must comply with the floodplain development standards of both the township and the residential building code. An elevation certificate must be submitted prior to the issuance of a land use permit, at foundation prior to vertical construction, and at final construction. A revised LOMA application would need to be made to FEMA for a lateral addition for continued exemption to the flood insurance requirements afforded by the current LOMA.

The image below indicates the "A" Flood Zone of Rush Lake.



### **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.**

Unlike most properties in the WFR District, the subject site is bounded by water along its south (Rush Lake) and east (canal) sides, which results in a 50-foot setback from the OHWM being required on both of those sides. In addition, all properties zoned WFR require that the primary structure have a 25-foot front yard setback and a 30-foot rear yard setback. These setback requirements are intended to provide adequate space, open vistas, and privacy throughout neighborhoods and between structures on smaller residential lots. However, on the subject site, these setback requirements, taken together with a relatively shallow average lot depth of 87.61 feet, result in an exceptionally constrained buildable area just eight (8) feet in approximate width, making the development of a compliant addition to the existing single-family dwelling practically difficult. In fact, the lot and existing dwelling are considered non-conforming to the Zoning Ordinance.

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

The variance preserves a substantial property right possessed by other property in the same zone and vicinity; in this case, the right to construct a complaint addition to a single-family home in a district in which it is customarily permitted, the WFR District. In fact, no addition of the proposed size would comply with the Zoning Ordinance, regardless of how it was situated, and the applicants have already chosen to reduce the size of the proposed addition by 313 square feet since a variance was approved for a larger 736-square foot addition at the ZBA's July 10, 2019 meeting. In addition, the applicants are also now proposing to comply with the required 25-foot front yard setback, whereas their previously approved plans encroached 14 feet into that setback. Most other properties in the same zone and vicinity are only constrained by one 50-foot OHWM setback, rather than two, and this lot has a relatively shallow average depth of 87.61 feet.

- 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 a 20-foot rear yard setback and a 25-foot setback from the OHWM to the east. Because the proposed addition would also have a 20-foot rear yard setback and a 25-foot setback from the OHWM to the east, significant impairment of visibility is not

foreseeable such that the proposed addition would be materially detrimental to the public welfare or materially injurious to the property or improvements in the WFR District, especially considering that the proposed addition, like the existing dwelling, would be 13 feet in height.

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

The subject site is within the West Hamburg/Rush Lake planning area of the Master Plan, which envisions medium-density residential development (one unit per acre) in the developed areas surrounding Rush Lake. Because the variance request does not propose an increase in density beyond the one dwelling, granting the request will 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 in light of the presence of water along the south and east sides of the site, the two 50-foot setbacks from the OHWM that result from the presence of water on two sides, and the relatively shallow average lot depth of 87.61 feet.

**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 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 addition to the existing single-family dwelling will not change the present use.

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

Given the exceptionally constrained size of the buildable area on the lot resulting from the two required 50-foot setbacks from the OHWM, as well as the relatively shallow average lot depth of 87.61 feet, practical difficulty exists on the subject site with regard to constructing a compliant dwelling and any customary additions thereto on the lot. The proposed 423-square foot addition is a reasonable use of the land considering its WFR zoning, and further reducing the size of the addition may be unnecessarily burdensome. Once again, the site has an exceptionally constrained buildable area at just eight (8) feet in approximate width in light of the setback requirements and lot depth.

*“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 approval of the variance request considering a thorough review and discussion among ZBA members of the surrounding impacts, and any other potential options for the applicants to redesign the proposed addition to the existing home to be more compliant with the Zoning Ordinance.

*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 Recommendations**

The ZBA should consider the following as a condition of project approval. Any conditions of approval should be enacted prior to the issuance of a Land Use Permit.

1. Prior to the issuance of a Land Use Permit, the applicants shall provide an Elevation Certificate demonstrating that the floors of the existing dwelling and proposed addition are one (1) foot above base flood elevation.

### **Approval Motion**

Motion to approve variance application ZBA 20-004 at 8491 Baudine Road to permit the construction of a 423-square foot addition to the south facade of the existing dwelling. The addition will have a 20-foot east yard setback (30-foot rear yard setback required, Section 7.6.1), and a 25-foot setback from the OHWM of the Rush Lake canal to the east (50-foot setback from the OHWM required, Section 7.6.1.fn3).

Variance approval is granted based on the following conditions: the applicant shall show the limits of grading on the site plan at the time of Land Use Permit issuance and (INSERT CONDITION FROM ABOVE). 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.

### **Exhibits**

- Exhibit A – Application Materials
- Exhibit B – Site Plan
- Exhibit C – Construction Plans
- Exhibit D – DPW review
- Exhibit E – 2019 ZBA meeting minutes



RECEIVED

MAR 09 2020

Hamburg Township  
Planning and Zoning DepartmentFAX 810-231-4295  
PHONE 810-231-1000P.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: March 9, 2020
2. Tax ID #: 15- 17301070 Subdivision: Watson's Rush Lake #1 Lot No.: 28
3. Address of Subject Property: 8491 Baudine Road
4. Property Owner: Bradley & Patricia Zalewski Phone: (H) 734-730-0598 (Brad)  
Email Address: zalewskifive@comcast.net (W) 810-333-0160 (Tricia)  
Street: 8491 Baudine Road City Pinckney State MI
5. Appellant (If different than owner): Same Phone: (H) \_\_\_\_\_  
E-mail Address: \_\_\_\_\_ (W) \_\_\_\_\_  
Street: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_
6. Year Property was Acquired: 2019 Zoning District: \_\_\_\_\_ Flood Plain Zone A
7. Size of Lot: Front 231.86' Rear 198.48' Side 1 91.45' Side 2 86.44' Sq. Ft. 19,138 ft<sup>2</sup>
11. Dimensions of Existing Structure (s) 1st Floor 48'x34' 2nd Floor None Garage 24'x30'
12. Dimensions of Proposed Structure (s) 1st Floor 67'x38' 2nd Floor None Garage 24'x30'
13. Present Use of Property: Single Family Home
14. Percentage of Existing Structure (s) to be demolished, if any 5 %
15. Has there been any past variances on this property? Yes X No \_\_\_\_\_
16. If so, state case # and resolution of variance application 19-0014, Various was approved, but plans have changed.
17. Please indicate the type of variance or zoning ordinance interpretation requested:  
Proposed addition is currently planned to be 25' & 35' from the canal; need variance from 50' from the body of water.



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.

**There are NO exceptional or extraordinary circumstances or conditions.**

- 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.

**None**

- 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.

**Proposed addition will be 25' & 35' from Canal. The current structure is 25' from canal.**

**This proposal will not affect any of the public's welfare or township.**

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

**Will not affect master plan of Hamburg 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.

**Detailed plan is attached.**

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

**None is planned.**

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

**Once the variance is granted to the homeowners; final drawings will be submitted to Hamburg Township with the application for permits.**

- 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 six (6) 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).

Brad Zalewski Digitally signed by Brad Zalewski  
Date: 2019.06.04 15:51:27 -0400

**3/9/20**

Owner's Signature

Date

Appellant's Signature

Date



**VARIANCE:** 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

**VARIANCE STANDARDS:**

- 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.

**VARIANCE APPLICATION CHECKLIST:**

(8) sets of plans must be submitted. The sets are for the individual use of the Zoning Board members and 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.

✓

**1. Zoning Board of Appeals Application Form**

All Drawing should have a north arrow and be to scale

✓

**2. Site Plan with following information:**

- a) Location and width of road (s) and jurisdiction (public or private road).
- b) Location and dimensions of existing/proposed construction.
- c) Dimensions, designation, and heights of existing structures on property clearly marked.
- d) Dimensions of property.
- e) Location and dimensions of required setbacks
- f) Measurement from each side of existing and proposed structure to the property lines.
- g) All easements
- h) Any bodies of water (lake, stream, river, canal) with water body name.
- i) Distance from any body of water.
- j) Septic Tank and Field, Sewer Tap (Grinder pump), Water Well
- k) All areas requiring variances clearly marked with dimensions and amount of variance requested.
- l) Any outstanding topographic features that should be considered (hills, drop-offs, trees, boulders, etc.).
- m) Any other information which you may feel is pertinent to your appeal.
- n) If the variance is to a setback requirement a licensed professional stamp shall be on the site plan.

✓

**3. Preliminary sketch plans may be submitted for the Appeal in lieu of final construction drawings.**

- a) Elevation:
  - i. Existing and proposed grade;
  - ii. Finished floor elevations
  - iii. Plate height
  - iv. Building height



- v. Roof Pitch
- b) Floor plans:
  - i. Dimension of exterior walls
  - ii. Label rooms
  - iii. Clearly identify work to be done
  - iv. Location of floor above and floor below
- c) All other plans you may need to depict the variance. (grading plans, drainage plans etc.....)



**4. Proof of Ownership:** Include **one** of the following:

- a) Warranty Deed - showing title transaction bearing Livingston County Register of Deeds stamps
- 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 hearing are held of 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 schedule for that hearing.

Once the project has been schedule for a ZBA hearing:

All property owners within a three hundred (300) foot radius of the subject property shall be notified of 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 hearing date.

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

1. You or your representative (lawyer, builder, contractor, relative, friend) must attend.
2. Appeals are taken in order of submission.
3. Unless your 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.
4. **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.**



5. 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.
6. Rehearing requests may be charged \$200.00 for postage and newspaper costs in addition to the original \$325.00 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, 3 sets of your final construction blueprints and 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 6.6.4 (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 by the Board to be valid."

Section 6.7 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.



LIVINGSTON COUNTY TREASURER'S CERTIFICATE

areby certify that there are no TAX LIENS OR TITLES held by  
State or any individual against the within description, and all  
XES on same are paid for five years previous to the date of this  
strument or appear on the records in this office, except as stated.

Feb 27, 2018 Jennifer M. Nash, Treasurer By RH 27239

2018 TAX NOT AVAILABLE FOR EXAMINATION

2019R-004594

RECORDED ON

02/28/2019 09:01:24 AM

BRANDON DENBY

REGISTER OF DEEDS

LIVINGSTON COUNTY, MI 48843

RECORDING: 26.00

REMON: 4.00

PAGES: 2

55181011

WARRANTY DEED

Received eRecord 2/27/2019 at 12:38 PM  
LivCo, MI ROD by

File No.: 18-8253-11

THE GRANTOR, Michelle Gervais, a married woman

whose address is: 8491 Baudine Rd, Pinckney, MI 48169

conveys and Warrants to Bradley Zalewski and Patricia Zalewski, husband and wife

whose address is: 10443 Huron Pl, Brighton, MI 48114

The following described premises situates in the Township of Hamburg, County of Livingston and State of Michigan, and particularly described as follows:

Lot 28 through Lot 31, inclusive, Watson's Rush Lake Sub No. 1, according to the recorded plat thereof, as recorded in Liber 6 of Plats, Page 37, Livingston County Records.

Tax Parcel No.: 47 15-17-301-070

Commonly known as: 8491 Baudine Rd, Pinckney, MI 48169

for the sum of THREE HUNDRED THIRTY FIVE THOUSAND AND 00/100 Dollars (\$335,000.00)

The Grantor grants to the Grantee the right to make ALL divisions under section 108 of the land division act, Act 288 of the Public Act of 1967.


If the land being conveyed is unplatted, the following is deemed to be included: "This property may be located within the vicinity of farmland or 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."

Subject to easements, reservations, use, building and other restrictions of record, if any.





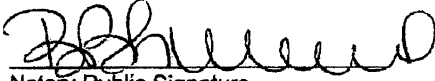
Dated: February 25, 2019.



Michelle Gervais

STATE OF MICHIGAN  
COUNTY OF Livingston

Acknowledged by Michelle Gervais, a married woman before me on 25th day of February, 2019.



Notary Public Signature

Brie A Blackwell  
Notary Public, State of MI  
County of Livingston  
My Commission Expires Jan 10, 2025  
Acting in The County Of Livingston

\_\_\_\_\_  
Notary name

Notary public, State of Michigan, COUNTY OF LIVINGSTON

My Commission Expires:

Recording Fee 30.00

Transfer Tax \$2,512.50

County Revenue Stamps \$368.50

Drafted by:

Michelle Gervais  
8491 Baudine Rd  
Pinckney, MI 48169

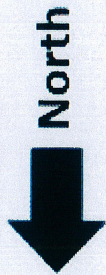
When recorded return to:

Bradley Zalewski  
10443 Huron Pl  
Brighton, MI 48114





# Site Plan



Scale: 1/32" = 1'

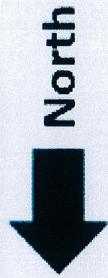
Proposed addition will be 25' & 35' from Canal. The current structure is 25' from canal. A variance is needed to be less than 50' from the body of water.



EXHIBIT B: site plan



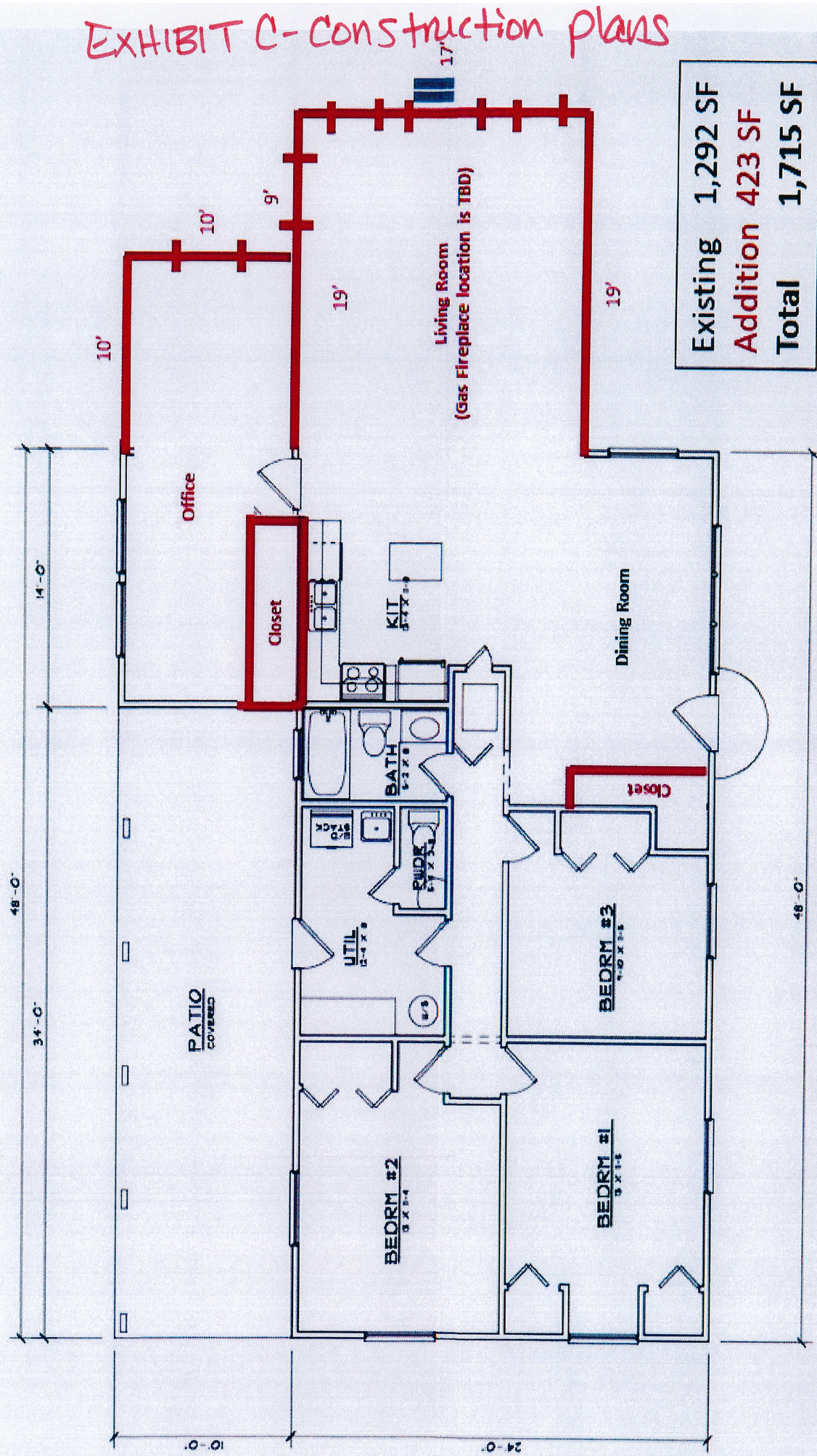
## Floor Plan



Scale:  $1/8'' = 1'$

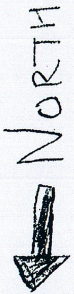
## < Existing Structure in BLACK

## Proposed Addition in RED >



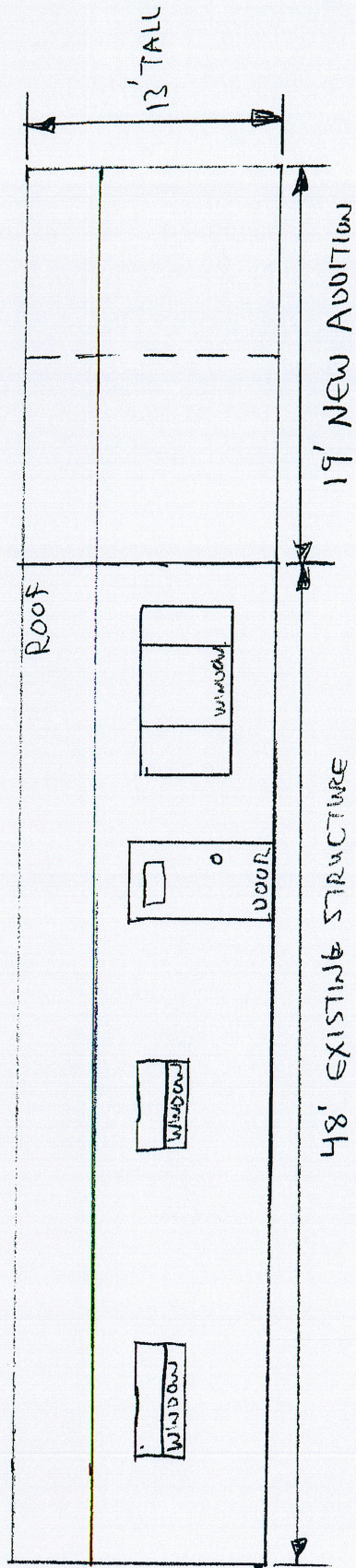


# ELEVATION - FRONT (WEST)



SCALE:  $\frac{1}{8}" = 1'$

4/21/20  
B3000





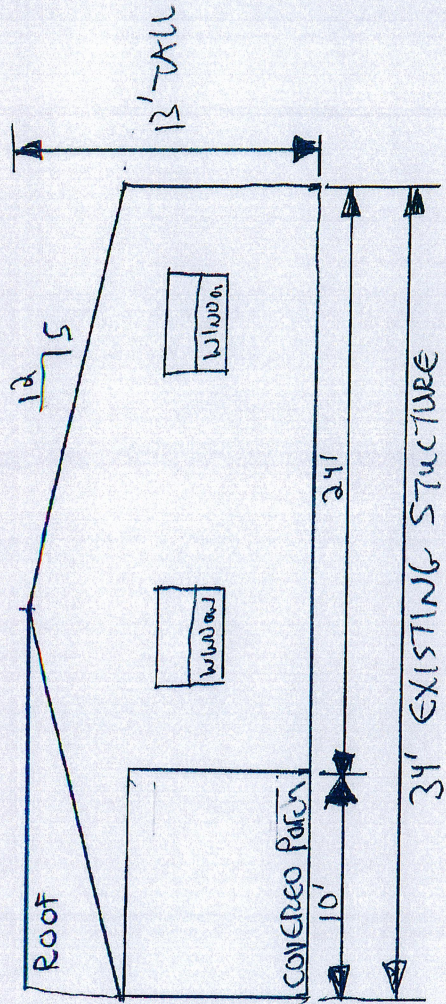
4/21/00  
B2/MS

# ELEVATION - LEFT SIDE (NORTH)



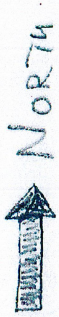
NORTH

SCALE:  $\frac{1}{2}'' = 1'$



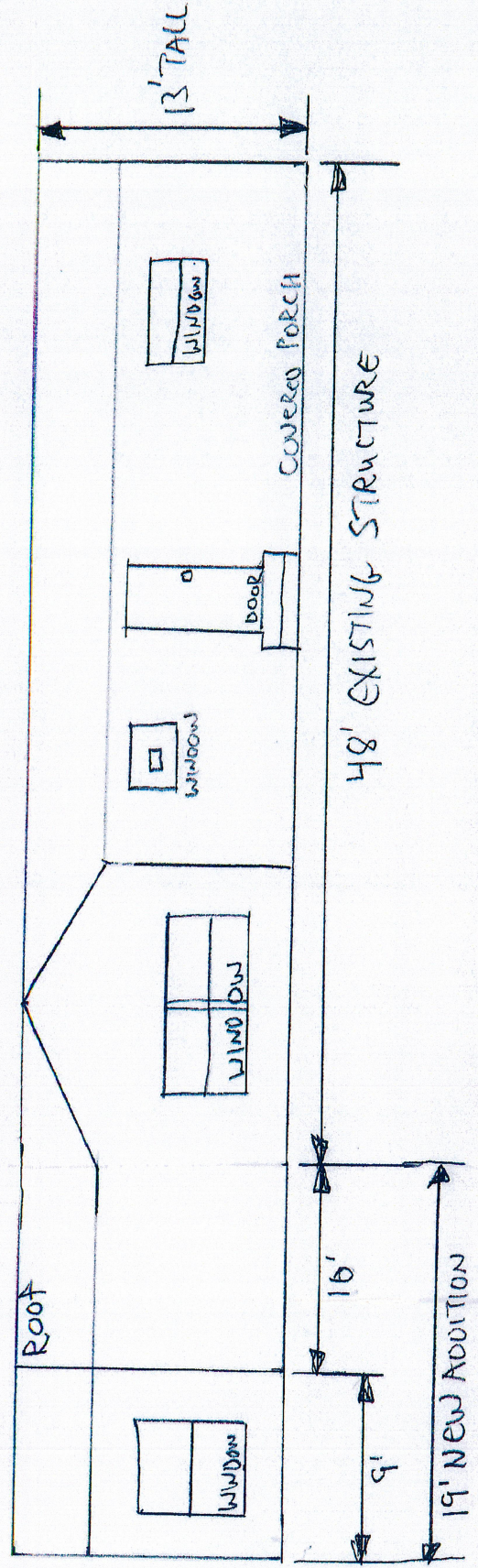


# ELEVATION - REAR (EAST)



SCALE:  $\frac{1}{8}" = 1'$

4/21/20  
B. J. Webb





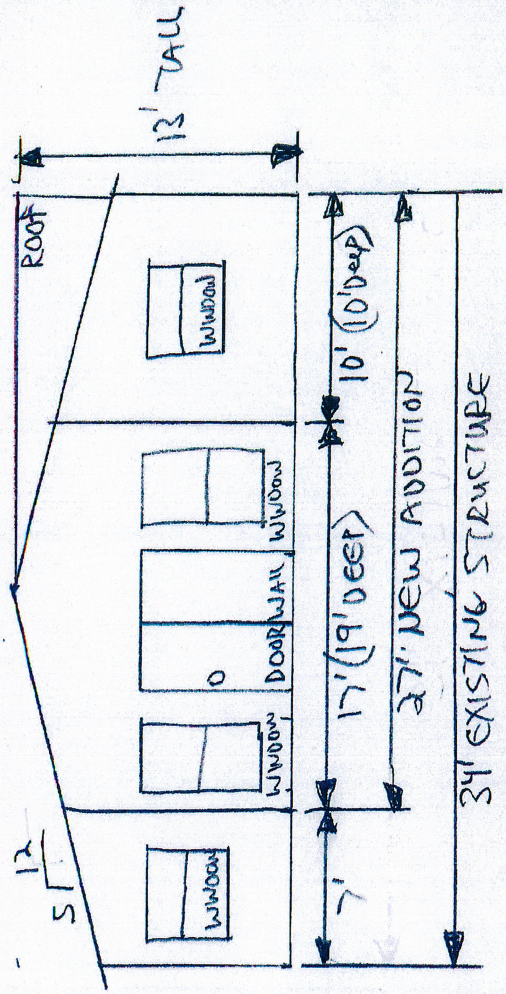
4/21/20  
B.2/mj

# ELEVATION - RIGHT SIDE (SOUTH)

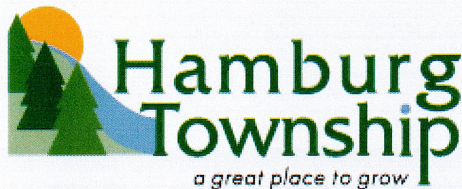
NORTH



SCALE:  $\frac{1}{8}'' = 1'$







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 # ZBA20-004 located at 8491 Baudine Road and offer the following:

[ ] The parcel is not on sewers.

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

- The property owner is requesting variance to construct a 423 sq. foot addition on the south side of an existing dwelling.
- The grinder pump station and sewer service lateral are located on the southwest side of the existing home (see attached sketch).
- The property owners have submitted a proposed site plan showing eight (8) feet from the grinder pump station and sewer service lateral from the existing structure. The new proposed addition will not interfere in the grinder pump station or sewer service lateral location.
- Based on the "as-built" drawing for the grinder pump station and sewer service lateral locations, the requested variance to construct the 423 sq. ft. addition will not interfere with the sanitary sewer structures.
- The DPW/Utilities Department does not object if this variance is granted.
- 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: May 6<sup>th</sup>, 2020

Respectfully submitted,

Brittany K. Campbell  
Hamburg Township Utilities Coordinator



The proposed addition will not pose any issues with the existing location of grinder pump station and/or service lateral. The Utilities Department has no objections to the request for variance.

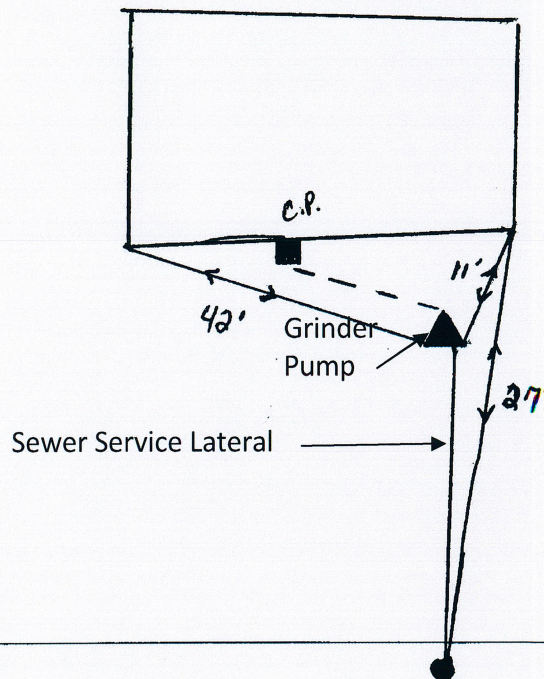
## GRINDER PUMP LOCATION SHEET

**Hamburg Township**

Construction Plan Sheet No. \_\_\_\_\_



N ← S



Service Lateral (LF) 21'  
GPS to C P (LF) 41'  
C P to E P (LF) 3'  
Connect at E P or Meter.

Property Line

Street Name Baudine

Home Owner's Name: Patricia Dwell e

Private Utilities? (List) \_\_\_\_\_

Phone Number: \_\_\_\_\_

Date: 11-3-05

Address: 8491

Sprinklers? Y/N

Baudine

Existing Basement Plumbing to be Served? \_\_\_\_\_

Property Tax No: 15-17-301-070

Water Softener? Y/N

Was Owner Involved In Location of Service YES ☒ NO ☐

Extra Depth GPS Required? \_\_\_\_\_

Signatures: \_\_\_\_\_

Hamburg Township

Contractor

Builder or Homeowner

Comments: \_\_\_\_\_

Project Name: \_\_\_\_\_



P.O. Box 157  
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**Supervisor:** Pat Hohl  
**Clerk:** Mike Dolan  
**Treasurer:** Jason Negri  
**Trustees:** Bill Hahn  
Annette Koeble  
Chuck Menzies  
Jim Neilson

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**Hamburg Township  
Zoning Board of Appeals Minutes  
Hamburg Township Board Room  
Wednesday, July 10, 2019  
7:00 P.M.**

**1. Call to order:**

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

**2. Pledge to the Flag:**

**3. Roll call of the Board:**

Present: Alternate Diepenhorst, Neilson, Priebe, Rill & Watson,

Absent: Auxier

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

**4. Correspondence:** None

**5. Approval of Agenda:**

Motion by Neilson, supported by Watson

To approve the agenda as presented

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

**6. Call to the public:**

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

**7. Variance requests:**

ZBA 2019-0014

Owner: Bradley and Patricia Zalewski

Location: 8491 Baudine Rd., Pinckney MI 48169

Parcel ID: 15-17-301-070

Request: Variance application to allow for the construction of a 736-square foot addition on the south side of an existing dwelling. The addition will have an 11-foot west front yard setback along Baudine Road (25-foot front yard setback required, Section 7.6.1.) and a 35-foot setback from the ordinary high water mark of Rush Lake (50-foot setback from the OHM required, Section 7.6.1.fn3).

Mr. Zalewski stated that they moved here into a 1300 square foot home in March of this year. They are looking to add on to the home toward the water. He provided a brief slide show presentation. He stated that they are proposing a 164 square foot addition with a new master bedroom as well as extending the living room area. He further explained the interior renovations. It will be a better view of the lake and a pleasant view from the lake.



He presented pictures of the view of the home. He explained the proposed building setbacks. He explained what could be built if they met all of the setbacks. He presented pictures of other properties with setbacks less than the required 50 feet from the water as well as those that are less than 25 feet from the road.

Chairperson Priebe stated that we have received an email from Shari Gordy opposing the request.

Brittany Stein, Zoning Coordinator, stated that the variance application is to allow for the construction of a 736-square foot addition on the south side of an existing dwelling. A single-story dwelling is existing and a single-story addition is proposed. The addition will have an 11-foot west front yard setback along Baudine Road where a 25-foot front yard setback is required and a 35-foot setback from the ordinary high water mark of Rush Lake where a 50 foot setback is required. The subject site is a 19,000-square foot lot that fronts onto Baudine Road to the west, Rush Lake to the east and south, and single family dwellings are located to the north, east, and west of the site. The existing dwelling is a one-story, 1,632 square foot dwelling with a detached 270 square foot garage. A portion of the site lies within the 100 year floodplain. If the variance is approved, we will need an Elevation Certificate prior to issuing a land use permit. She discussed the seven findings of fact. This site has water on two sides, requiring a 50-foot setback on both sides, one being the canal and the other Rush Lake. Additionally, all WFR zoned properties are required to have a 25-foot front yard setback. Both setback requirements are intended to provide adequate space, open vistas, and privacy throughout neighborhoods and between structures on smaller residential lots. Development of a compliant single family dwelling addition on this corner lot is constrained by the lot depth which results in a small building envelope. This parcel and home constructed on the lot is considered non-conforming to the Zoning Ordinance. The lot is constrained by multiple factors. The lot is 83 feet deep from west to east, the street frontage is on the west side of the property boundary and requires a 25-foot front yard setback, and there is a required 50-foot setback from water on two sides of the lot. A 25 foot front yard setback is required along Baudine Road to the west and a 50-foot setback from the Ordinary high water mark is required from the east, leaving an approximate 8 foot wide potential buildable area on the site. Development possibilities are constrained on this lot, however it is encouraged to consider constructing a more compliant addition to the home, although no addition of this proposed size to the home would be compliant to the Zoning Ordinance. The existing home is setback 25 feet from the front property line. The proposed addition encroaches towards the front property line 11 feet. This addition would impact the surrounding properties, and the improvements would likely create sight visibility problems given the fact that the dwelling would be about 25 feet from the traveled roadway. These required setbacks are intended to provide adequate space, open vistas, and privacy throughout neighborhoods and between structures on smaller residential lots. The addition which encroaches towards the front property line is more impactful than the proposed setback from the ordinary high water mark of Rush Lake. The existing house meets the required 25-foot front yard setback, but it is currently 26 feet from the ordinary high water mark of Rush Lake. The proposed addition is setback further than the existing home from the Lake, which is likely not impactful for neighboring properties, but the portion of the addition into the front yard setback is going to be most impactful. It is encouraged to shift the proposed addition to meet the 25-foot front yard setback requirement. The subject site is in the West Hamburg/Rush Lake planning area of the Master Plan. This area envisions medium density residential development in the developed areas around Rush Lake. The proposed request would not adversely affect the proposed or objectives of the Master Plan. There is a condition or situation of the subject site that is of so general or recurrent a nature that the proposed addition to the existing dwelling cannot comply with the required front yard setback standards and ordinary high water mark setback standards. The short depth of this waterfront lot constrains development on this site for single family residential purposes. The use of the site is single-family residential and the proposed variance would not change the use. Given the constrained size of the buildable area on the waterfront lot with a front yard setback from the west property line of Baudine Rd. and an ordinary high water mark setback from two sides of the property, there is a practical difficulty in constructing a compliant dwelling and any customary additions on the lot.

Discussion was held on the neighbor's property across the street. Discussion was held on the letter of opposition. It was stated that her home is a canal front home, not a lake front home. It was stated that although we are sensitive to neighbors, there is nothing in our ordinance that guarantees view of the water from neighboring lots.



The question was asked if a vertical addition would comply with the terms of the ordinance. Stein stated that such an addition would not comply because of the non-conforming ordinance. Discussion was held on the very small addition that could be accomplished while meeting the setbacks.

Discussion was held on possible better location for an addition between the garage and the house. Ms. Zalewski stated that they talked about if they were going to put on an addition, they would like it closer to the water for better view given the location of the living room and master bedroom. Further discussion was held on the interior layout. Stein stated that much of this variance is based on personal preference, which cannot be considered when deciding the variance request.

Discussion was held on the road being a dead-end. Discussion was held on the limitations of the site.

Motion by Rill, supported by Watson

Motion to approve variance application ZBA 19-0014 at 8491 Baudine Rd. to allow for the construction of a 736-square foot addition on the south side of an existing dwelling. The addition will have an 11-foot west front yard setback along Baudine Road (25-foot front yard setback required, Section 7.6.1.) and a 35-foot setback from the ordinary high water mark of Rush Lake (50-foot setback from the OHM required, Section 7.6.1.fn3). 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.

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

#### **8. New/Old business:**

##### **a. Approval of June 12, 2019 Meeting Minutes**

Chairperson Priebe stated that it should be noted that Member Neilson was absent.

Motion by Watson, supported by Rill

To approve the June 12, 2019 minutes as amended

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

Amy Steffens, Planning & Zoning Administrator, stated that the Township Attorney will be here on September 11<sup>th</sup>, which is a regularly scheduled meeting date. She will be providing training on ZBA member responsibilities and how to make findings defensible should the Township ever be sued over a ZBA decision. If we have a ZBA case, we will start the case at 6:00 p.m. and the Attorney will begin her presentation at 7:00 p.m. If there is something specific a member would like discussed, please let her know ahead of time. She further discussed other training opportunities that may be available to the board members.

#### **9. Adjournment:**

Motion by Neilson, supported by Rill

To adjourn the meeting

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



The meeting was adjourned at 7:39 p.m.

Respectfully submitted,

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Julie C. Durkin  
Recording Secretary

The minutes were approved as presented/Corrected: \_\_\_\_\_

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Chairperson Priebe



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

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**Hamburg Township  
Zoning Board of Appeals Minutes  
Hamburg Township Board Room  
Wednesday, March 11, 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: Priebe, Watson, Dolan, Auxier, Rill

Absent: None

Also Present: Amy Steffens, Planning & Zoning Administrator and Brittany Stein, zoning coordinator

**4. Correspondence:** None

**5. Approval of Agenda:**

Motion by Auxier, supported by Watson

To approve the agenda as presented

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

**6. Call to the public:**

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

**7. Variance requests:**

**a) ZBA 20-0002**

Owner: Zalewski Construction Co.  
Location: Vacant on Rush Lake Road, west of 3267 Rush Lake Road  
Pinckney MI 48169  
Parcel ID: 15-17-302-093  
Request: Variance application to allow for the construction of a two-story, 1,872 square foot dwelling with an 864-square foot walk-out basement, an attached 420-square foot garage, and an 80-square foot elevated deck on the dwelling's north façade. The dwelling will have a nine-foot setback from a regulated wetland and the elevated deck will have a two-foot setback from a regulated wetland (50-foot setback from a regulated wetland required, Section 9.9.3.B).



Larry Zalewski, property owner, described the request to construct a home with a nine-foot setback and an elevated deck with a two-foot setback.

Amy Steffens, zoning administrator, presented the staff report. Staff discussed possible wetlands mitigation options.

Chairwoman Priebe opened the public hearing.

David Flowers, 3230 Rush Lake Road, raised concerns that his lot, which sits higher than the subject lot, would flood if the proposed dwelling were built within 9 feet of the wetlands.

Peggy Pietras, 3253 Rush Lake Road, raised concerns that her lot, raised flooding concerns.

Chairwoman Priebe closed the public hearing.

Member Dolan asked if there were wetlands mitigation measures that could be implemented. Staff indicated that there were several options listed in the staff report.

Member Auxier asked if a grading plan had been submitted. Applicant indicated a plan had not been submitted.

Motioned by Rill, supported by Auxier, to table the request to the April 8, 2020 hearing to allow the applicant the opportunity to submit a grading plan.

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

**b) ZBA 20-0003**

Owner: Leonard and Melissa Morgan  
Location: 2946 Indian Trail Dr.  
Pinckney MI 48169  
Parcel ID: 15-32-402-015  
Request: Variance application to allow for the construction of a two-story, 1,272 square foot dwelling with a 1,269 square foot second story. The dwelling will have a 21.7-foot north front yard setback (25-foot front yard setback required, Section 7.6.1.), and a 2.9-foot east side yard setback, resulting in an aggregate side yard setback of 7.9 feet (15-foot aggregate side yard setback required, Section 7.6.1. fn. 4), and a 44-foot south rear yard setback from the ordinary high water mark of Base Line Lake (50-foot setback from the OHM required, Section 7.6.1. fn. 3), and a total lot coverage of 56 percent, (Maximum 50 percent lot coverage allowed, Section 7.6.1. fn. 7).

Bruce Donovan, applicant's agent, described the variance request and explained that there is a platted walkway to the east of the subject site that presents an extraordinary circumstance to the subject site because the walkway would not be developed for single-family residential uses. Therefore, a reduced east side yard setback would not be injurious to the adjacent property.



Leonard Morgan, property owner, explained the request and indicated the current house is not suitable for the owner's needs.

Staff presented the staff report and alternative site plan with a compliant dwelling.

Chairwoman Priebe opened the public hearing.

Chairwoman Priebe closed the public hearing.

Member Dolan raised the possibility that the house could be reduced in size, similar to the plan presented by staff. Discussion was held between members, staff, agent, and owner.

Motion by Dolan, supported by Rill, to table the request to the April 8, 2020 hearing to allow the owner to submit revised plan that reduced the dwelling size and reduced lot covered to below 50 percent.

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

The agent and owner requested that the item be tabled to the April 8, 2020 hearing to allow a revised site plan to be submitted.

#### **8. New/Old business**

- a) Approval of January 8, 2020 ZBA Minutes

Motion by Auxier, supported by Rill

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

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

- b) Memorialization of findings for ZBA 19-0019 and 20-0001.

#### **9. Adjournment:**

Motion by Auxier, supported by Dolan

To adjourn the meeting

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

The meeting was adjourned at 8:01 p.m.

Respectfully submitted,

---

Amy Steffens

The minutes were approved as presented/corrected:\_\_\_\_\_

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Chairperson Priebe