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**Hamburg Township
Zoning Board of Appeals Minutes
Wednesday, June 9, 2021
7:00 P.M.**

1. Call to order:

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

2. Pledge to the Flag:

3. Roll call of the Board:

Present: Auxier, Negri, Priebe, Rill, & Watson

Absent: None

Also Present: Brittany Stein, Zoning Coordinator, Scott Pacheco, Township Planner, and Chris Madigan, Planning & Zoning Director

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

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 2021-0007

Owner: Dale Masse and Dawn Allen

Location: 9492 Galatian, Whitmore Lake, MI 48189

Parcel ID: 15-23-200-013

Request: Variance application to allow a land division of parcel 15-23-200-013 to create Lot A with a lot size of 0.50 acres with 106.75 feet of road frontage and Lot B with a lot size of 0.45 acres with 79.62 feet of road frontage (one-acre minimum lot size required and 125-foot minimum road frontage required in the waterfront residential zoning district, Section 7.6.1.).

Ms. Dawn Allen, applicant, stated that her father had wanted to do this years ago. Her brother built the pole barn and they wish to split the parcel with the barn from the house so that they can sell the house.

Planner Pacheco stated that the applicant would like to split the existing lot which is 41,401 square feet, where 43,560 square feet is required for new lots within the Waterfront Residential District. The existing lot is non-conforming although it does have the conforming lot width with approximately 185 feet of street frontage. The split would make two non-conforming lots, one .5 acres and one .45 acres. Both lots would then have non-conforming street frontage, one at 79 feet and one at 106 feet. The reason given is that the father passed away, and they have financial interest in the property. They would like to sell the house and keep the pole barn. Financial interest is not a reason to allow a variance to a zoning regulation. He discussed the Standards of Review. He stated that this is a normal lot along Galatian, so there is no exceptional or extraordinary circumstances or conditions due to the size, shape or topography of the site. Their purpose is to save the pole barn as one of the property owners lives across the street and they would like that space to store things for that property. However, that is not an extraordinary circumstance. This would be creating smaller lots than is allowed in the zoning district and creating smaller street frontages, creating non-conforming lots out of the legal non-conforming lot that is already there. This split is not necessary to preserve the enjoyment of a substantial property right enjoyed by others. The current lot is a developable lot and currently has a single-family home with a garage and other out-buildings. Again, this would be creating non-conforming lots within our Waterfront Residential District. The reason for the one-acre lot size is to preserve the environmental impacts on the surrounding waterways. This would be allowing additional development in that area. In the future, they could always come back and build another home on the lot with the pole barn with a new septic and well. The future land use map designates this property as medium density which allows one unit per acre, again to preserve the waterways from environmental impact by development. This is a 41,170 square foot lot. There are many lots in this area that are non-conforming and if you allow this one, what would prohibit someone else coming in to request a split into more non-conforming lots. It is single family residential and would be the only use allowed. This land is already developed with a single family home with a pole barn, which is a reasonable use of this property. Allowing a split would allow another single family home in the future. The property, currently as one site, allows for reasonable use of that land.

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

Ms. Allen, applicant, stated that they were thinking that they could attach the property that the pole barn is on to her brother's property across the street. The property is not large enough to build another house. Planner Pacheco stated that the Assessor has indicated that the only way you can combine property is if there is a property line adjacent. They discussed the location of the brother's property in relation to the property in question. It does not share a boundary. He further discussed two gap properties that may be purchased if the applicant did a title search. Further, the two properties are in two different subdivisions.

Chairperson Priebe stated that it has been the position of this board to not create non-conformities, if at all possible. If approved, we would be creating a lot more non-conformity than what is existing. In addition, we would be creating a parcel with a pole barn without a primary structure.

Ms. Allen discussed the two gap properties indicating that one is an easement for the subdivision that this property is located, and the other is owned by the State.

Motion by Negri, supported by Rill

To deny variance application ZBA 21-007 at 9492 Galatian Drive (TID 15-23-200-013) to allow the division of the existing .95 acre into two parcels, both of which would be smaller than the minimum lot size for the area of 1 acre (Section 7.7.1) and to further allow an accessory building to be located on a lot without a main structure once the land division was completed (Section 8.3). The variance for the land division does not meet standards 1,3,4,5,6, and 7 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. Because the land division was denied, the variance to allow the pole barn on a site without a primary structure is also denied. The pole barn variance would not meet standards one through 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. The finding that the variances do not meet the required standard was discussed at tonight's meeting and presented in the staff report.

Voice Vote: Ayes: 5 Nays: 0 MOTION CARRIED

b. ZBA 2021-0008

Owner: Todd Dewolfe and Annie Dunskey

Location: 11485 Dunlavy Lane, Whitmore Lake, MI 48189

Parcel ID: 15-33-100-041

Request: Variance application to permit the construction of a 280-square foot covered porch addition to the east façade of the existing dwelling. The proposed covered porch will have a 37.6-foot setback from the ordinary high water mark (OHM) of Long Lake canal (50-foot OHM setback required, Section 7.6.1. fn. 4).

Mr. Todd DeWolfe, applicant stated that they purchased this property, which is a unique piece of property being long and narrow. There is a man-made canal that approaches the front of the house, and the house is setback approximately 250 feet. They are doing a much needed addition with part of that being a roof over an existing deck. They will not be encroaching any further. They are requesting a variance on that part only. The other part of the addition has been approved. It will be 38.5 feet back from the canal, not the lake.

Planner Pacheco stated that this is a large lot because it is long. We are talking about a canal, and because of that, this as well as the two houses to the east are closer to the water's edge than the 50 foot required. The proposal is for a 21 foot by 14 foot roof structure that goes over an existing deck that is located on the lake side of the structure. In April of 2021 the property owners received a land use permit for a 1,120 addition to the existing structure that met all the required setback. He discussed the Standards of Review. The location of this canal is the extraordinary circumstances or condition applicable to the property involved that do not apply generally to other properties in the same district or zone. The canal encroaches back onto this property approximately 225 feet from the edge of Gallagher Lake. The Master Plan preserves the setback from the lakes to preserve the views and the impact on the waterways. In this case, even though it is 37.6 feet back from the canal, it is 250 feet from the lake. Therefore, it is still preserving the views and the impact because it is setback that far from the lake.

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

Motion by Rill, supported by Watson

To approve variance application ZBA 21-0008 to permit the construction of a 21 foot by 14 foot roof structure over the existing deck off the east side of the main structure. The proposed structure will have a 37.5-foot setback from the canal on the property (50-foot setback is required, Hamburg Township Zoning Ordinance Section 7.6.1.fn4). The variance does meet variance standards one through seven 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

Voice Vote: Ayes: 5 Nays: 0 MOTION CARRIED

c. ZBA 2021-0009

Owner: Mark Ramsey

Location: 8417 Hillpoint Drive, Brighton, MI 48116

Parcel ID: 15-13-103-094

Request: Variance application to permit the construction of a 2,548-square foot single family dwelling with a covered porch and an attached garage. The attached garage will have an 11-foot west front yard setback (15-foot front yard setback required, Section 8.3.2). The covered porch will have a 19-foot west front yard setback (25- foot front yard setback required, Section 7.6.1).

Gerald Donovan, General Contractor for the applicant, explained their request to remove the existing house and build a new house. They are requesting a variance to place the building closer to the road than what the ordinance requires. The reason for the request is that there is a steep grade at the road. The farther back they move the house, the more fill they will have to do. When the house is pushed back, it is much farther from the road than every other house along that road. He stated that the road is platted to turn, but it was built straight. He still would have plenty of off street parking. Mr. Ramsey, applicant further discussed pushing the house back further than the rest on the street.

Brittany Stein, Zoning Coordinator stated that the subject site is a 23,478-square foot parcel that fronts onto Hillpoint Drive to the west and Ore Lake to the east. Single-family dwellings are located to the north, south, and west. The site is currently improved with a single family dwelling which is intended to be demolished. On August 12, 2020, the Zoning Board of Appeals approved a variance application for a boundary adjustment between lot 15-13-102-068 (8424 Hillpoint) and 15-13-103-084 (8417 Hillpoint), both owned by Mark Ramsey. This created lot A with a lot size of 0.33 acres and lot B with a lot size of 0.25 acres which was combined to 8417 Hillpoint. She discussed the Standards of Review. She stated that the property is a half acre lot on Hillpoint Drive and is situated on higher ground with a gradual grade sloping toward Ore Lake. The site plan for the proposed house shows the house situated where the garage is nearest the road for easier access at grade. The traveled road, which is gravel, is not situated center to the 40-foot wide platted road right-of-way and is not parallel to the front lot line. Therefore, the distance from the traveled roadway to the proposed house is about 28 feet. Given the Zoning Ordinance could allow for the attached garage to be just 15 feet from the front lot line, the entire proposed structure could be moved east a few feet to meet all zoning requirements, however this would entail an increased amount of grading and require additional fill to the property. Generally, other existing dwellings along the east side of Hillpoint Drive are non-conforming and are situated close to the front lot line also due to the grade change. This makes it easier to access the lot at the elevation the road is situated. It is suggested that if the proposed house was setback 25 feet and the garage at 15 feet, additional grading and fill could be of greater impact to lakefront properties than the impact of the proposed garage attached to the house set at only 11.3-foot from the front lot line. There is an existing dwelling on the lot currently, however the house is non-conforming at the front and side setbacks and in need of improvements. The proposed dwelling will be situated at an 11.3-foot setback and distanced from the travelled road more than that of the existing structure. The extreme grade change of the property is what constitutes this variance request. Granting this variance will not be materially detrimental to the public welfare or materially injurious to the property or surrounding properties within this zoning district. The impact of the house and attached garage could be less than that of increased fill and grading needed if the house would be situated to meet the front setbacks. The travelled road at this property is distanced from the front lot line than other properties located on this road, leaving ample space for off street parking. The subject site is a waterfront lot on Ore Lake in the Ore Lake Shores Country Club plat. Parcels in this area are primarily residential and zoned in the waterfront residential district. The proposed project would not adversely affect the objectives of the Master plan. This variance request could be recurring particularly if other property owners along the east side of Hillpoint were to build, due to the natural steep grade change. Though the house could be redesigned or moved to meet the setbacks, this is not an extraordinary request. The site is zoned for single-family residential and the proposed variance would not permit the establishment of a use not permitted by right within the district. As stated, the property is situated where there is a steep grade change of 20 feet. This could be reasonable to grant a deviation from the zoning ordinance.

Discussion was held on how the road was platted versus where the road exists. It was stated that the setback is from the platted road, not how the road is being used.

Chairperson Priebe opened the hearing to the public.

Mr. Kevin Elliott stated that he lives approximately five houses from this site. He stated that all of the garages along here are very close to the road, and this will have extra road easement with over 15 feet from the traveled road. If he puts the house closer to the lake, he will be blocking other people's views.

Chairperson Priebe stated that we received correspondence from two residents. Carol Debacker of 8413 Hillpoint Drive, next door to the applicant's, indicates that due to the views and impact, they would prefer the structure to be as

close to the road as possible. The second correspondence is from Salvatore Giordano of 8435 Hillpoint who states that he is not opposed to the granting of the variance. Pushing the house deeper into the lot poses two major problems for him; that being that it will block their view of the lake and force Mr. Ramsey to bring in at least 3 feet of fill dirt. He is concerned about the drainage and slope of the grade. He urges the Board to grant the variance.

Chris Madigan, Planning & Zoning Director stated that he spoke to Ms. Debacker, and she is in support of granting the variance.

There was no further response. The call was closed.

Mr. Donovan further discussed the setback from the road. He stated that the other homes are right on the lot line because of the road. He stated that they would like to get it even closer. They chose to request the 11 feet because that is where the existing house is. Chairperson Priebe stated that the request was published as submitted. If the applicant would like to submit something further, they can, but the Board will need to act on what is before them.

Discussion was held on tabling this request to allow the applicant to re-submit. It was stated that it would have to be re-published if they are going to request a variance closer to the road than what was submitted. It was stated that there may be additional cost to the applicant.

Discussion was held on the additional fill on the lake side as well. The more they bring it forward, the closer they get to the existing grade.

Stein stated that for all Waterfront Residential, there is a 25 foot setback. They are requesting 11 feet to the garage and 19 feet to the front porch. The garage can be closer to the road to 15 feet. She further stated that the road is platted at 40 feet wide. Any new road built today is 60 feet. We do not know for certain if that road will stay the way it is. If they were to pave the road, the platted road would not change unless the entire plat was changed. Financial interest of the applicant should not be considered. She would be very concerned if it went to a 0 foot setback.

Discussion was held on the square footage of the house.

Madigan stated that it may be best to table the request to allow the applicant to revise his plan. He further stated that even if the home is moved closer to the road, the practical difficulty is still going to exist, which is the slope. It is present along the entire road. It is not inappropriate to bring this closer to where the other houses are.

Mr. Ramsey requested that his request be tabled.

Motion by Negri, supported by

To table variance application ZBA 21-0009 at parcel 15-13-103-094 to allow the applicant to revise his request and re-submit

Voice Vote: Ayes: 5 Nays: 0

MOTION CARRIED

8. New/Old business:

- a) Approval of May 12, 2021 minutes

Motion by Negri, supported by Watson

To approve the minutes of the May 12, 2021 meeting as written

Voice Vote: Ayes: 5 Nays: 0

MOTION CARRIED

Brittany Stein, Zoning Coordinator, introduced and welcomed Chris Madigan, the new Planning & Zoning Director for the Township. Mandigan provided a summary of his qualifications and work history.

Member Negri requested clarification on the Board's ability to negotiate a variance that is before them. Stein discussed the re-notification needed for a substantial change. Madigan stated that they will research the issue, but for this particular case, we did not want to act on something that could be challenged due to lack of proper notice. Discussion was held on having a firm answer prior to the next meeting.

9. Adjournment:

Motion by Auxier, supported by Negri

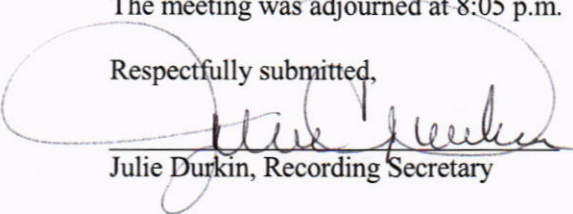
To adjourn the meeting

Voice Vote: Ayes: 5 Nays: 0

MOTION CARRIED

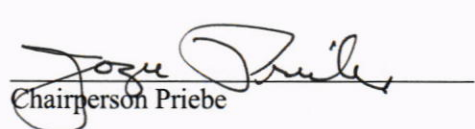
The meeting was adjourned at 8:05 p.m.

Respectfully submitted,



Julie Durkin, Recording Secretary

The minutes were approved as presented/corrected: _____



Chairperson Pribe