



10405 Merrill Road  
P.O. Box 157  
Hamburg, MI 48139  
(810) 231-1000  
[www.hamburg.mi.us](http://www.hamburg.mi.us)

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Supervisor Pat Hohl Clerk Mike Dolan Treasurer Jason Negri Trustees Bill Hahn, Patricia Hughes, Chuck Menzies, Cindy Michniewicz

## ZONING BOARD OF APPEALS MEETING

Wednesday, April 12, 2023, at 7:00 PM  
Hamburg Township Hall Board Room

### MINUTES

#### CALL TO ORDER

Chair Member Priebe called the meeting to order at 7:00 pm.

#### PLEDGE TO THE FLAG

#### ROLL CALL OF THE BOARD

##### Members PRESENT:

Jim Hollenbeck (Alternate)  
Jason Negri  
Joyce Priebe, Chair  
William Rill

##### ABSENT:

Craig Masserant

#### CONSENT AGENDA

**Approval Motion** made by Treasurer Member Negri, supported by Member Rill, to approve Zoning Board of Appeals Agenda for tonight, as presented.

VOTE: MOTION CARRIED UNANIMOUSLY

**GENERAL CALL TO THE PUBLIC**- no comment from public

#### NEW BUSINESS

**a. ZBA 2023-005**

Owner: William and Jennifer Griffin  
Location: 4363 Old Mill Road  
Parcel ID: 15-16-301-026  
Request: Variance application to permit the construction of a covered porch with a 45-foot setback from the ordinary high-water mark of Ibis Lake (50-foot setback required, Section 36-186).

Chair Member Priebe invited the applicant up to the podium to speak. Their contractor Mike came up to represent them since they were detained. Asking for a 5-foot variance setback from the lake due to its curvature. One side of the home allows 50 feet from the water but due to how the waterbody curves, the other side is only 45 feet from the water. Other homes in the neighborhood have homes that are 25 and 30 feet from the water due to the zoning ordinance when their homes were built.

Chair Member Priebe opened the meeting to Amy Steffens, Director of Planning and Zoning. This site has a 2200 square foot home with a 340 sq ft deck in the west rear yard. This 5-foot variance is seeking to build of an unenclosed, covered porch that is only 45 feet from the water body, Ibis Lake. The Standards of Review are as follows:

- 1) **That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.** This is a different type of parcel than the ZBA normally sees when dealing with an OHM setback. This is a small inland lake that is about 5.4 acres in size, and only a dozen houses front onto this lake. Due to the curved shoreline, staff believes there might be a condition that is applicable to this parcel that isn't applicable to other homes on this lake, where an OHM setback would apply.
- 2) **That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zoning and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.** Granting this variance will not guarantee the preservation and enjoyment of a substantial property right, since a smaller project could be built on this parcel. Staff believes that the approximately 45 square feet of covered porch in the setback is negligible and would not be an unacceptable deviation from the ordinance.
- 3) **That the granting of such variance or modification will not be materially detrimental to the public welfare or materially detrimental to the public welfare or materially injurious to the property improvements in such zone or district in which the property is located.** This is a small inland lake that is about 5.4 acres in size, and only a dozen houses front onto this lake. There is a significant curvature to the Ibis Lake shoreline here. Staff believes that these two factors are mitigating on this property.
- 4) **That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.** One of the goals of the 2020 Master Plan is to "preserve, protect and enhance whenever possible, the unique and desirable natural amenities of Hamburg Township" particularly our waterfront lots. Due to this being a small inland lake with only a dozen houses situated on it, staff does not believe that granting this variance would adversely affect the master plan.
- 5) **That the condition or situation of the specific piece of property, or the intended use of the said property, for which the variance is sought, is not of so general or recurrent a nature.** Accessory structure setback zoning requirements have been previously relaxed since we recognize that many of our waterfront lots are constrained in size or by the way that they have been previously developed. However, the setback from the OHM applies to all parcels in the township and serves to protect the views from both adjacent parcels and the water.
- 6) **Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district.** No, this site is zoned, used and developed for single family residential and will remain to be so even if granted a variance.
- 7) **The requested variance is the minimum necessary to permit reasonable use of the land.** This site is developed and used for its intended purpose as single-family residential. A covered porch that does not comply with the setback requirements of the zoning ordinance would not advance the reasonable use of the property.

Chair Member Priebe asked the ZBA Board members if they had any questions or comments before opening the Public Hearing for comment. She opened the Public Hearing to the audience. No attendees approached the podium, so she closed the hearing.

Treasurer Negri asked the contractor if there were any comments from the neighbors. Mike indicated applicants talked to their neighbors about this variance hearing, asking them to send an email or attend tonight's hearing. Amy said no emails had been received. Mike stated that the reason that this is being proposed for the home (a cement patio and a cover) is to allow the residents to watch grandchildren while in the lake.

Chair Member Priebe said she does not have any issues with the 5-foot variance. Treasurer Negri asked Amy for clarification on the allowance for variances in the floodplain area for NFIP Program. He asked if allowing this variance would impact this program certification. She said no because the ordinary high-water mark and flood elevation are two separate standards. She reminded the ZBA that the Township has never granted a variance from our flood plain standards. She stated that is what would jeopardize our flood insurance rating.

**Approval Motion** made by Member Rill, seconded by Alternative Member Hollenbeck, to approve variance application ZBA 23-005 at 4363 Old Mill Road (TID 15-16-301-026) to permit the construction of a covered porch with a 45-foot setback from the ordinary high-water mark of Ibis Lake (50-foot setback required, Section 36-186).

The variance meets variance standards one (1) through seven (7) of Section 36-137 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 the staff report. The Board directs Staff to prepare a memorialization of the ZBA's findings for the request.

**VOTE: MOTION CARRIED UNANIMOUSLY**

**b. ZBA 2023-006**

Owner: James and Suzanne Purdy  
Location: 9155 Riverside Drive  
Parcel ID 15-24-102-099  
Request: Variance application to permit the construction of a two-story addition to an existing dwelling. The addition will have a 5.25-foot south side yard setback (10-foot south side yard setback required, Section 36-186).

Chair Member Priebe invited the applicant to speak at the podium. The applicant, James Purdy, said they purchased the home last year. The home has been abandoned for some 15-20 years now. Currently the home is under 600 square feet in size, so they are looking to create more space. This current home is 5.5' from one side from the side property line. The parcel next door is a vacant lot.

Chair member Priebe opened the public meeting to Amy Steffens, Director of Planning and Zoning. Amy let the ZBA know that this parcel is zoned in the NR (Natural River Residential District). This parcel has different side set backs than a similarly sized lot in the Water Front Residential WFR District would. If approved, this variance request would permit the construction of a 2-story addition to an existing dwelling on the west front façade. The applicant is seeking 5.25 feet where a 10-foot side yard setback is required. The front yard setback is 25 feet, but this parcel does not have the reduced side yard setback if the parcel width is 60 feet or less that is allowed for WFR district. The NR district requires a 125-foot setback in the main stream of Huron River.

Amy read through the Standards of Review from her report. Standards of Review are as follows:

- 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 township zoning ordinance treats the NR district differently because of the significance of the Huron River. One of the marked features of the NR zoning regulations is a required 125-foot setback from the mainstream of the river, which is intended to keep an open vista from the river, provide adequate space for run-off, and maintain an untouched

vegetative condition along the river bank. The applicants are not requesting to move closer to the river but rather to maintain the current 5.25-foot south yard setback. Staff believes that a narrow lot such as this in the NR district deserves some relief from the 10-foot side yard setback requirement.

- 2) **That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by the other property in the same zone and vicinity. The possibility of increasing financial return shall not be deemed sufficient to warrant a variance.** Granting this variance request is not necessary for the preservation and enjoyment of substantial property rights, as the site is currently zoned, developed and used for single-family residential. Staff finds this variance request could be an acceptable and minimal deviation from the zoning ordinance and would not be uncharacteristic with the adjacent properties.
- 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 applicant is proposing a reasonably sized addition, whether the intent is to add to the front of the house or remove the existing structure and rebuild with the same setbacks. Given that the site is 40 feet wide, maintaining 10-foot setbacks would leave a 20-foot-wide building envelope. Staff does not find that the modest addition within the setback would be materially detrimental to the public welfare or materially injurious to adjacent properties. It appears that it will be consistent with the way adjacent lots have developed. Amy reminded the ZBA that the parcel to the south has the development rights as any other parcel in this vicinity.
- 4) **That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.** The Master Plan does give special consideration to the NR district because of the value of the Huron River to the township and the sensitive ecosystem supported by the river. One of the goals of the 2020 master plan is to “protect, preserve, and enhance whenever possible the unique and desirable natural amenities of Hamburg Township.” The required setback regulations are designed to help maintain the character of the area.
- 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 permitted by right within the district.** The condition or situation of the specific piece of property is of a general and recurrent nature. The 10-foot side yard setbacks apply to all properties in the NR district and serve to protect aesthetic views from both adjacent parcels and the water.
- 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, developed, and used for single-family residential purposes. Approval of the variance request would not permit the establishment of a use not permitted by right within the district.
- 7) **The requested variance is the minimum necessary to permit reasonable use of the land.** The site currently is used for its intended purposes and therefore the proposed addition is not necessary to permit reasonable use of the land. However, staff finds that the requested variance would be an acceptable and minor deviation from the zoning ordinance requirements.

Chair Member Priebe asked the ZBA Board members if they had any questions or comments before opening the Public Hearing for comment. She opened the Public Hearing to the audience. No attendees approached the podium, so she closed the hearing.

Chair Member Priebe asked the applicant clarifying questions. The applicant said they are using the original basement footings. Amy clarified that the site plan does show the addition to the home expanding the footprint of this home laterally. After some discussion, an approval motion was presented.

Approval Motion made by Treasurer Negri, seconded by Member Rill, to approve variance application ZBA 23-006 at 9155 Riverside Drive (TID 15-24-102-099) to permit the construction of a two-story addition to an existing dwelling. The addition will have a 5.25-foot south side yard setback (10-foot south side yard setback required, Section 36-186). The variance meets variance standards one (1) through seven (7) of Section 36-137 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 the staff report.

**VOTE: MOTION CARRIED UNANIMOUSLY**

**c. ZBA 2023-007**

Owner: Jet Set Group LLC  
Location: 7749 E M-36  
Parcel ID: 15-25-200-068  
Request: Variance application to permit the relocation of a commercial driveway that will not meet the commercial driveway spacing requirements (Section 36-339).

Chair Member Priebe invited the applicant to speak at the podium. Nick Zander explained he had filed to build a flex space unit on the site. She let them know that they had to file for a driveway variance. Their engineering team has been in contact with MDOT, and he has finally secured preliminary approval based on the engineered drawing that they submitted to Amy on April 11, 2023. MDOT will allow only right-in from M-36.

Chair member Priebe opened the public meeting to Amy Steffens, Director of Planning and Zoning. Amy read through her staff report. She said that on February 28, 2023, the applicant submitted a site plan review application for the construction of a 27,461 square-foot multi-tenant commercial structure and associated parking. This proposed project would relocate the existing driveway location approximately 90 feet to the west to accommodate the multi-use building on the west side of the parcel and parking on the east. The relocated driveway will be approximately 70 feet (centerline to centerline) from the curb cut for commercial use to the east. This report was written before MDOT gave their approval this morning so these stipulations might not be exact.

Section 36-339 of the Zoning Ordinance requires that the minimum spacing between two commercial driveways on the same side of the road shall be determined based upon posted speed limits along the parcel frontage. The posted speed limit along this stretch of M-36 is 40 miles per hour, which requires a minimum driveway spacing of 225 ft, from centerline to centerline. She then walked the ZBA Board members through the Standards of Review, according to Section 36-137 of the Hamburg Township Zoning Ordinance which are as follows:

- 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 need for this variance is due to the size of the existing lot and the location of the existing driveways on the properties adjacent to the subject site. The subject site is only 237 feet wide and the location of the existing access to the parking area at 7785 M-36 is on the property boundary. No commercial access driveway on the subject site could meet the separation requirement of 225 feet or greater (Section 36-339 (a) (1)). There is no place to relocate the driveway. When the project at 7785 M-36 was approved the Township did not require an easement to allow future adjacent properties to utilize their access point on M-36. Staff will recommend to the Planning Commission that an ingress/egress easement be recorded on the subject site as a condition of the site plan approval.
- 2) **That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by the other property in the same zone and vicinity. The possibility of increasing financial return shall not be deemed sufficient to warrant a variance.** The proposed variance request would allow the applicant to relocate an existing driveway location for the new use on the property. There is no compliant location on this site for a driveway. While the applicant could make use of the existing driveway off M-36, staff believe that relocating the driveway to the east will make the parking area for the proposed commercial

use more efficient. The variance will allow site development to be more in-line with the Village Center requirements for aesthetics and placement of building.

- 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 applicant is not requesting a new curb cut but rather relocating the curb cut to make the site design for a new commercial structure more orderly. The Planning Commission will review the site design during the site plan approval. Additionally, MDOT must approve the proposed driveway location, as Mr. Zander has stated they have.
- 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 zoned Village Center (VC). Commercial uses are allowed in this zoning district. The future land use designation for the subject site is Village Gateway District on the southern portion of the parcel, and industrial uses on the north. The purpose of the Village Gateway district is “to provide for community-side retail uses while integrating with smaller scale shops.” The proposed use of the site is a multi-tenant commercial building and associated parking. The existing curb cut that served the previous restaurant is approximately 200 feet from the driveway to the west and 175 feet from the driveway to the east. There is no location on this site that would comply with the 225-foot minimum driveway spacing requirement.
- 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 permitted by right within the district.** As stated above, the parcel is not able to accommodate a driveway in any location that complies with the minimum driveway spacing requirements.
- 6) **Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district.** This site, Zoned Village Center, will be developed and used for its intended purpose with all required site plan approvals. Granting of this variance will not establish a use which is not permitted by right within this district.
- 7) **The requested variance is the minimum necessary to permit reasonable use of the land.** While the existed driveway could be utilized for a commercial use, its placement would limit the reconstruction of an orderly parking lot design that promotes ease of ingress and egress and would further the goals of the Village Center Zoning District for placement of building and aesthetics.

Chair Member Priebe asked the ZBA Board members if they had any questions or comments. Member Hollenbeck asked Amy if she approved the MDOT requirements for this site. Amy said she has no opinion one way or the other on this situation. She was glad to see that MDOT was going to allow them to relocate the driveway that made the most sense with the Village Center district. Amy said that she sent this MDOT approval onto the Township Engineer for his review of the site plan approval letter.

Chair Member Priebe opened the Public Hearing to the audience. No attendees approached the podium, so she closed the hearing. She then asked the ZBA Board Members if they had any questions or comments.

Treasurer Negri and Member Priebe said they were good with this variance. Member Negri asked if the neighboring property owners would share driveway spaces. Mr. Zander said he had tried to work with the neighbors, but there is no interest in a shared driveway.

Chair Member Priebe asked for some clarification regarding the detention pond and dumpster area in the rear of the property.

**Approval Motion** by Treasurer Member Negri, seconded by Member Rill, that the Zoning Board of Appeals approves variance request ZBA 23-007 at 7749 E. M-36 to allow the commercial driveway for this lot to be less than 225 feet from the commercial driveways to the east and the west because the variance request meets variance standards one (1) through seven (7) of Section 36-137 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 tonight meeting and as presented in the staff report.

**VOTE: MOTION CARRIED UNANIMOUSLY**

**APPROVAL OF THE MEETING MINUTES**

**Motion to approve** the March 8, 2023, Zoning Board of Appeals Meeting Minutes as presented. Motion made by Member Rill, seconded by Member Negri.

**VOTE: MOTION CARRIED UNANIMOUSLY**

**ADJOURNMENT**

Motion to adjourn at 7:45 pm.

Motion made by Member Alternative Member Hollenbeck, seconded by Member Rill.

**VOTE: MOTION CARRIED UNANIMOUSLY**

Respectfully submitted,

**Lisa Perschke**

*Planning/Zoning Coordinator & Recording Secretary*

**Amy Steffens**

*Planning & Zoning Director*

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

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Joyce Priebe, Chair