



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

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## **ZONING BOARD OF APPEALS MEETING**

Wednesday, June 14, 2023, at 7:00 PM  
Hamburg Township Hall Board Room

### **MINUTES**

#### **CALL TO ORDER**

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

#### **PLEDGE TO THE FLAG**

#### **ROLL CALL OF THE BOARD**

##### **Members PRESENT:**

Jim Hollenbeck (Alternate)  
Brian Ignatowski  
Craig Masserant  
Jason Negri  
Joyce Priebe, Chair

##### **ABSENT:**

William Rill

#### **CONSENT AGENDA**

**Approval motion** made by Treasurer Negri, seconded by Member Ignatowski, to approve tonight's agenda as presented.

**Voice Vote: Ayes: (5) Absent: (1)**

**VOTE: MOTION CARRIED UNANIMOUSLY**

**GENERAL CALL TO THE PUBLIC** -no public comments

## NEW BUSINESS

### CALL TO THE PUBLIC

A call was made with no response.

#### 1. ZBA 2022-009

Owner: Gina DiCiuccio

Location: 9960 Tioga Court

Parcel ID: 15-19-303-160

Request: Variance application to permit the construction of a 12-foot by 24-foot elevated deck encroaching more than six feet into the required setback (Section 36- 230)

Amy Steffens, zoning administrator, presented the staff report, recommendations and went through the 7 Standards of Review. **1) That there are exceptional or extraordinary circumstances or conditions applicable to the property involve that do not apply generally to other properties in the same district or zone.** This site is unique in that if granted a variance, backs up to adjacent wetlands and thus would not have adverse impact to the golf course to the south or neighboring sites. **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 increase financial return shall not be deemed sufficient to warrant a variance.** Since this parcel is adjacent to open wetlands to the south and has similar residential conditions on neighboring lots, there should be no adverse encroachment conditions if they were granted 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.** The two neighboring lots could be impacted by such an elevated deck but since they take their views to the open space wetlands to the south, this proposed elevated deck will not likely impact those views. The open space wetland area will not be developed and thus will not be impacted by this deck. **4) That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.** The 2020 Master Plan's goals is to "protect, preserve and enhance whenever possible the unique and desirable natural amenities of Hamburg Township." This deck will not be immediately noticeable from Tioga Court or any residential development to the north and it will not have an undesirable impact on the open space wetlands to the south. **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.** Please refer to standards 2 and 3. Staff believes that the open wetland space to the south is a mitigating factor on this property. **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 is zoned and used for a single-family dwelling and related appurtenances. Approval of this variance request would not permit the establishment of a use not permitted by right within the district. **7) The request variance is the minimum necessary to permit reasonable use of the land.** A deck could be constructed within the required setback, but the chosen design of this current purposed deck necessitates this variance request. Staff believes that since this deck is located at the end of a cul-de-sac, the adjacent properties on either side have a similar elevated deck, and there are open area wetlands to the south, this would be a reasonable deviation from the zoning ordinance.

Treasurer Negri asked for clarification from Amy regarding Standard of Review #1 and how it is applied in this case. The applicant is seeking a variance from the set back standards for an elevated deck that has open space wetlands to the south that will not be developed. He stated that he did not feel that a mitigating factor of these open space wetlands does not mean an extraordinary or exceptional circumstance in his mind.

Amy let Chair Priebe know that the neighbor at 9972 Tioga Ct (David Truesdell) did submit a letter of support of this variance request.

#### **CALL TO THE PUBLIC**

- **9948 Tioga Ct- Dennis Schmoekel** addressed the ZBA board from the podium. He expressed his support for this deck variance.
- **6118 Mission Dr-David DiCiuccio (applicant's father)** engineer by trade. He discussed the preservation of the enjoyment of substantial property rights. Their intention, when building the house, was to build an elevated deck in the rear of the home. He agreed that a 6 ft deck could be permitted here which would result in a stoop, but not a deck.

Chair Priebe closed the call to the public period. She mentioned that she used to work in a building department. She said when they put the door wall brace on a rear door for temporary use. There is a necessity for an egress here, but the previous homeowner did not put a deck in. She admitted, in support with David DiCiuccio, that a 6 ft deep deck is not sufficient for the rear of the home, in her opinion. She asked the applicant if her intent would be to leave it as a deck alone or have stairs leading down to the ground. She stated she would only have a stand-alone deck. Chair Priebe stated that the Whispering Pines Golf Course left open spaces so it would allow for heavier development in certain areas and less in others. With open space planning, lots are made smaller to minimize development in this open area of development.

Member Ignatowski mentioned that he visited the parcel a few days ago. He stated that he had met Dennis the neighbor to the applicant. He asked his permission to walk between the homes which Dennis granted. While he was out there, he noticed that all the homes in this area are very staggered. Member Ignatowski stated that he felt this variance would blend in with the surrounding neighborhood.

Member Masserant showed that the neighboring home has the same sized deck and the same encroachment towards the southern wetland open space. He stated that he would not have an issue with allowing this variance.

Treasurer Negri chimed in with support as well of this variance request. He stated that his clarifying question was to help with future interpretation of this Standard of Review. Treasurer Negri stated that he had visited the property yesterday and felt that this request would be supportable.

**Approval motion** made by Treasurer Negri, seconded by Member Ignatowski, to approve variance application ZBA 23-009 at 9960 Tioga Court to permit the construction of a 12-foot by 24-foot elevated deck encroaching more than six feet into the required setback (Section 36-230). This variance meets variance standards one through seven of Section 36-170 (c) 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 this request.

**Voice Vote: Ayes: (5) Absent (1)**

**VOTE: MOTION CARRIED UNANIMOUSLY**

## 2. ZBA 2022-010

Owner: Judith Majoros

Location: 2496 Baseview Dr

Parcel ID: 15-31-304-037

Request: Variance application to permit the construction of a new single-story dwelling. The proposed dwelling will have an eight-foot west front yard setback (25-foot front yard setback required) and a 17-foot east rear yard setback (30-foot rear yard setback required) Section 36-186.

The applicant Steve Majoros approached the podium to address the ZBA Members. He stated that he currently lives at 33745 Schulte, Farmington, MI. He expressed that he shares this property with his brother, Mark. Their engineer is Roger Young who was present at the meeting. He also stated that he serves on the Farmington Planning Commission. We had to reapply for two variances that were granted two years ago since they expired due to the supply chain disruption and economic decline due to the COVID Pandemic. We realized that this is a new situation that needs to be reheard again. This property is unique in how the home sits on the parcel and the shape of the home. We want to enhance this property as it is currently harmonious with neighboring lots and the lake homes on the northside of this lake area. This is a corner lot without the true "corner street lot" defining factors.

Chair Priebe invited Amy Steffens, zoning administrator, to present to the ZBA Members. She briefly read through her staff report, providing her recommendations and 7 Standards of Review. She reminded the members that this case was heard on October 14, 2020, and the applicant was approved to construct a 2,550-square foot, two-story dwelling. Since no building permit was attained nor any building completed, this variance had expired. This time the variance seeks to build a one-story home, with an 8-foot west front yard setback and a 10-foot east rear yard setback. Since no zoning ordinance regulations have changed since 2020, this is the same report with changes to reflect the setback changes. This lot is odd and is the reason that the Zoning Board of Appeals exists. The west property line is the front yard. The rear property line then becomes the east property line. This proposal will demolish the existing home and build a new one-story home. The parcel is in the FEMA 100-year flood zone and will require three Elevation Certificates (one at pre-construction, one during construction, and one after final construction) if home is built in the SHFA.

Amy read through the 7 Standards of Review. **1) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to the other properties in the same district or zone.** Because Baseview does not run along this subject site, an extraordinary circumstance would exist at this location. Staff suggests that the ZBA condition the project approval on a minimum 10-foot setback from the east and west property boundaries. That is what the ZBA did in 2020. **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.** Adjacent properties in this area, access Baseview from the north and south so their side yard setbacks are east and west property lines. This parcel has an unique orientation and so does not follow this normal pattern of accessibility. **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 improvement in such zone or district in which the property is located.** This property does have an unusual orientation and granting this variance on the east and west wouldn't appear to be materially detrimental to the public welfare. Staff suggest that the subject property at least maintain a 10-foot minimum setback to allow adequate space between the two homes for access to and from the lake **4) That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.** The 2020 Master Plan dictates proper setbacks, but it doesn't envision a situation such as this one. Staff believes that this house is modestly sized since it is a one-story dwelling, and due to its design appears to meet the intent of the Waterfront Residential future land use district. **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. See discussion under Standard #2. Due to the odd orientation of the lot in relation to the orientation of Baseview. **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 is zoning for single family dwellings and this proposed project is a single-family dwelling. Approving this variance would not permit a use not permitted by right within this district. **7) The requested variance is the minimum necessary to permit reasonable use of the land.** If a home was built to meet all of the required setbacks of our ordinance, the home would be very narrow and long, and would require the removal of more vegetation on the lot than this proposed dwelling does and would not be characteristic of the homes in the neighborhood.

## CALL TO THE PUBLIC

- **Don Maybee -2488 Baseview Dr** addressed the ZBA board from the podium. He expressed his support for this house variance. He praised the brothers for the dedicated time and energy to explore what options that they have regarding this unique parcel. He stated the existing home that exists here is in need of demolishing and replacement, but they have taken care of it. We feel that this would be an improvement to the neighborhood.

Amy let Chair Priebe know that an email was sent from Carl Wright discussing civil matter issues that are not addressed with this hearing, nor can be addressed by Hamburg Township. With no other public comments, Chair Priebe closed the public hearing portion.

The architecture, Roger Young, approached the podium to address the ZBA members. He stated that the brothers wished to honor the heritage of their parents by keeping the natural features (mature trees onsite) of the site and the existing cottage (maintain modesty). Bruce Donovan will be the builder of this project.

Chair Priebe thanked the applicant for considering the height of the proposed project and amending the proposal to a one-story dwelling.

Treasurer Negri asked for clarification regarding the proposed structure being built on the exact footprint of the existing home. Amy clarified that the new dwelling will be close to the existing structure. The proposed dwelling will not encroach closer to the lake but will encroach to the west property line than the existing home. He also asked Amy if we will be issuing a NFIP variance since the applicant will be rebuilding this structure in the floodplain. She said no because they are not asking for a NFIP variance. Amy explained that the township should never grant a NFIP floodplain variance. Treasurer Negri asked for clarification regarding the home to the west of this site, and the members explained that the address of that home is 2488 Baseview (homeowner the Maybees) who spoke tonight. His third comment was regarding the received email from Carl Wright. He supported that there was nothing that could be done regarding the water runoff. He did state that this email expressed that the applicants are blocking a legitimate use of an easement that is shared by the neighbors. Treasurer Negri explained that he is an attorney that deals with easements a good deal of the time. He stated that he would like to hear a response to this easement issue from the applicants.

Mark Majoros approached the podium to address Treasurer Negri about this issue. He explained that the whole parcel that is north and south of Baseview to the west is part of their parcel here. He has put up a plastic chain to block vehicle access from the west to the east on Baseview, so FedEx and delivery drivers do not endanger the life of neighbors who they allow to access across their property via foot traffic who walk their dogs.

**Don Maybee -2488 Baseview Dr** asked to address Treasurer Negri's question as well. He explained that the applicants have put in flag stones and a bird bath to block vehicle access to this dead-end, but he has an open invitation to the foot traffic of neighbors. Negri explained that the applicants might want to look further into what the scope of this easement is and what it allows, since it might prohibit foot traffic as well. If this easement

allows for the movement of vehicle traffic, then the applicant does not have the right to prohibit it. This is relevant since the neighbor brought it to the ZBA member's attention. Mark came back to the podium and stated that there has been a physical barrier in that dead-end of Baseview since their parents owned the property. There are trees blocking vehicle access. Mark stated that is a condition that has existed since they have owned the property.

Member Masserant asked for clarification regarding what is being request, and if this was a normal lot, what we would have allowed.

**Approval motion** made by Member Masserant, seconded by Member Ignatowski, to approve variance application ZBA #23-0010 to permit the construction of a new one-story dwelling. The proposed dwelling will have an eight-foot west front yard setback (25-foot front yard set back is required) and a 17-foot east rear yard setback (30-foot rear yard setback required) in Section 36-186.

The variance meets variance standards one through seven of Section 36-137 (c) 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 this request.

**Voice Vote: Ayes: (5) Absent (1)**

**VOTE: MOTION CARRIED UNANIMOUSLY**

#### **APPROVAL OF THE MEETING MINUTES**

**Approval motion** was made by Member Hollenbeck, and seconded by Member Ignatowski, to approve the May 10, 2023, ZBA Meeting Minutes as presented.

**Voice Vote: Ayes: (5) Absent: (1)**

**VOTE: MOTION CARRIED UNANIMOUSLY**

#### **ADJOURNMENT**

Approval motion made by Treasurer Negri, seconded by Member Masserant to adjourn at 7:56 pm.

**Voice Vote: Ayes: (5) Absent (1)**

**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