



# Zoning Board of Appeals Staff Report



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

**FROM:** David Rohr

**HEARING DATE:** October 11, 2023

**SUBJECT:** ZBA 23-0015

**PROJECT SITE:** Single Family Home  
3168 Nesbit Rd.

TID 15-17-301-005

**OWNER:** Nick Passucci

**APPLICANT:** Nick Passucci

**PROJECT:** Variance application to permit the construction of a 2,060-square foot single family home. Applicant is requesting three variances. Applicant requests a 19.6-foot variance from the required front yard 25-foot setback, per Section 36-186., a 1.7-foot variance from the required west side setback of 10 feet, per Section 36-186., and., a 6.5-foot variance from the required east side setback of 10 feet, per Section 36-186.

**ZONING:** WFR, Waterfront Residential

## **Project Description**

The subject site is a 0.14-acre parcel (6,143sqft) with an existing single-family home. The parcel has road access from the North by Nisbet Rd. To the south is Rush Lake. Single family residences to the east and west.

The Applicant is requesting three variances. Applicant requests a 19.6-foot variance from the required front yard 25-foot setback, per Section 36-186., a 1.7-foot variance from the required west side setback of 10 feet, per Section 36-186., and., a 6.5-foot variance from the required east side setback of 10 feet, per Section 36-186. The requested variances will allow the applicant and family to reside in the home year-round. The proposed house will reduce the non-conforming structure on the front and west sides.

### **Standards of Review**

In accordance with Section 36-137 of the Hamburg Township Zoning Ordinance, the ZBA's decision on this matter is to be based on findings of fact to support the standards provided below. The applicable discretionary standards are listed below in **bold typeface**, followed by Staff's analysis of the request as it relates to these standards. A variance may be granted only if the ZBA finds that all of the following standards are met:

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

The applicant's parcel is very small, 0.14 acres (6,143sqft). Applicant's current home is non-conforming. The applicant's parcel has an extremely limited buildable area due to the nature of the parcel. Staff supports the variance requests.

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

Granting this variance request is necessary for the preservation and enjoyment of a substantial property right, as there is almost no buildable area on the parcel. Staff believes the proposed home reduces the non-conforming nature of the current home.

- 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 variance setback requests are not likely to be materially detrimental to the public welfare or materially injurious to the property or improvements in the district. Many of the neighboring properties have similar setbacks.

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

One of the goals of the 2020 master plan is to “Protect, preserve, and enhance whenever possible the unique and desirable natural amenities of Hamburg Township” the Master Plan discusses preserving and maintaining the existing character of parcels along lakes. Granting of these variance request will not adversely affect 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 specific piece of property is not of a general and recurrent nature. The parcel is very small, with limited buildable area.

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

The site is zoned for single-family dwellings and related appurtenances. Approval of the variance request would not permit the establishment of a use not permitted by right within the district.

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

Staff finds that the proposed SFH is modest and in keeping with other homes in the area. The proposed SFH will decrease the non-conforming nature of the current house (front and rear) and will have minimal impact on the surrounding properties. Staff believes the location of the proposed structure is well placed and will have minimal impact on the surrounding residents.

*“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.

### **Approval Motion**

Motion to approve variance application ZBA 23-0015 at 3168 Nisbet Rd. (TID 15-17-301-005) a 19.6-foot variance from the required front yard 25-foot setback, per Section 36-186., a 1.7-foot variance from the required west side setback of 10 feet, per Section 36-186., and., a 6.5-foot variance from the required east side setback of 10 feet, per 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.

**Denial Motion**

Motion to deny variance application ZBA 23-0015 at 3168 Nisbet Rd. (TID 15-17-301-005) a 19.6-foot variance from the required front yard 25-foot setback, per Section 36-186., a 1.7-foot variance from the required west side setback of 10 feet, per Section 36-186., and., a 6.5-foot variance from the required east side setback of 10 feet, per Section 36-186.

The variance does not meet variance standards one (1), two (2), or seven (7) of Section 36-137 of the Hamburg Township Zoning Ordinance, and no practical difficulty exists on the subject site when strict compliance with the Zoning Ordinance standards is applied, as discussed at the meeting this evening, and as presented in this staff report.

**Attachments:**

Application  
Project plans